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VOL
60
ISS
70
AP
12
1995
UMI

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Contents

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

Administrative Conference of the United States
NOTICES
Meetings:
Judicial Review Committee, 18575

Agricultural Marketing Service
RULES
Olives grown in California, 18539–18540

Agriculture Department
See Agricultural Marketing Service
See Food Safety and Inspection Service
See Foreign Agricultural Service
See Rural Housing and Community Development Service

Army Department
See Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Fort Ord, CA, 18588
Meetings:
Science Board, 18588

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Community Services Office demonstration partnership program, 18668–18698
Medicaid:
Welfare reform and combined welfare reform/Medicaid demonstration project proposals
March, 18602–18606

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Florida, 18578
Utah, 18579
Washington, 18578

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 18665

Corporation for National and Community Service
NOTICES
Agency information collection activities under OMB review, 18587–18588

Customs Service
RULES
Articles conditionally free, subject to reduced rate, etc.:
Bahamas, The; termination of designation as a beneficiary developing country under the GSP, 18542–18543

Defense Department
See Army Department
See Engineers Corps

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Ganes Chemicals, Inc., 18617–18618
Knoll Pharmaceuticals, 18618
Mallinckrodt Chemical, Inc., 18618
Orpharm, Inc., 18618

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Impact Aid (FY 1995 and FY 1996), 18588–18589
Meetings:
Education Statistics Advisory Council, 18589

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Savannah River Site, SC—
Defense waste processing facility, 18589–18594
Grants and cooperative agreements; availability, etc.:
Integrated resource planning education and training program, 18594
Integrated resource planning research projects, 18594–18595
Meetings:
Environmental Management Site Specific Advisory Board—
Monticello Site, 18595
High Energy Physics Advisory Panel, 18595–18596

Engineers Corps
RULES
Danger zones and restricted areas:
Atlantic Ocean south of Chesapeake Bay entrance, VA, 18543

Environmental Protection Agency
RULES
Hazardous waste program authorizations:
Idaho, 18549–18550
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Beauveria bassiana strain GHA, 18546–18547
Imidacloprid, 18547–18549
Sethoxydim, 18543–18546
PROPOSED RULES
Pesticide programs:
Worker protection standards—
Crop advisor requirements and training requirements for agricultural workers and pesticide handlers; notification to Agriculture Secretary, 18555
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Alachlor, 18558–18560
Cyfluthrin, 18562–18565
Difenoconazole, 18555–18557

VOL
60
ISS
70
AP
12
1995
UMI

Oleyl alcohol, 18557–18558
Sethoxydim, 18560–18562
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 18565–18566
NOTICES
Pesticide registration, cancellation, etc.:
W.P. Grace and Co.-Conn., 18599–18600

Executive Office of the President
See Presidential Documents

Export Administration Bureau
NOTICES
Meetings:
Transportation and Related Equipment Technical Advisory Committee, 18579

Federal Aviation Administration
RULES
Airworthiness directives:
General Electric, 18540–18542
PROPOSED RULES
Air traffic operating and flight rules, etc.:
Grand Canyon National Park; extension of special flight rules in vicinity (SFAR No. 50–2), 18700–18702
Class C airspace, 18552–18554
NOTICES
Airport noise compatibility program:
Saipan International Airport, MP (Mariannas Protectorate), 18656–18657
Exemption petitions; summary and disposition, 18654–18656
Meetings:
Civil Tiltrotor Development Advisory Committee, 18657
Passenger facility charges; applications, etc.:
Chicago Midway Airport, IL, 18658
Chicago O'Hare International Airport, IL, 18657–18658
Cleveland Hopkins International Airport et al., OH, 18658–18659

Federal Emergency Management Agency
NOTICES
Agency information collection activities under OMB review, 18600–18601

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Williston Basin Interstate Pipeline Co., 18596–18597
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp. et al., 18597
Eastern Shore Natural Gas Co., 18597–18598
El Paso Natural Gas Co., 18598
Northern Natural Gas Co., 18598
Richfield Gas Storage System, 18599
Transcontinental Gas Pipe Line Corp., 18599
Williston Basin Interstate Pipeline, 18599

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Ameribank Co., Inc., 18601
Compass Bancshares, Inc., 18601
Financial Trust Corp. et al., 18601–18602
Salvador Vicente Bonilla-Mathe, 18602

Fish and Wildlife Service
NOTICES
Endangered and threatened species:
Recovery plans—
Hyacinth macaw, 18609
Endangered and threatened species permit applications, 18608–18609
Environmental statements; availability, etc.:
Incidental take permits—
Travis County, TX; golden-cheeked warbler, 18610
Meetings:
Garrison Diversion Unit Federal Advisory Council, 18610

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Importation eligibility list—
Czech Republic, 18540
PROPOSED RULES
Meat and poultry inspection:
Fee increases, 18551–18552

Foreign Agricultural Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Agricultural Policy Advisory Committees for Trade et al., 18575–18576

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Illinois
UNO-VEN Co.; oil refinery and petroleum coking complex, 18579–18580
Michigan, 18580
Washington, 18580
Wisconsin, 18580–18581

General Accounting Office
NOTICES
Meetings:
Federal Accounting Standards Advisory Board, 18602

Health and Human Services Department
See Children and Families Administration
See National Institutes of Health
See Public Health Service

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Nooksack Indian Tribe, 18704
Port Gamble S'Klallam Tribe, 18704

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Bay-Delta Advisory Council, 18607

International Trade Administration
NOTICES
Antidumping:
Corrosion-resistant carbon steel flat products et al. from—
Australia, 18581–18582

Countervailing duties:
Cut flowers from—
Ecuador, 18582
Export trade certificates of review, 18582–18583
United States-Canada free-trade agreement; binational panel reviews:
Hot-rolled carbon steel plate, etc., from—
United States, 18583
Solder joint pressure pipe fittings and joint drainage, etc., from—
United States, 18583

International Trade Commission
NOTICES
Import investigations:
Bicycles from—
China, 18611
Carbon steel butt-weld pipe fittings from—
France et al., 18611–18612
Meetings; Sunshine Act, 18665–18666

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Consolidated Rail Corp., 18612

Justice Department
See Drug Enforcement Administration
NOTICES
Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act; proposed implementation guidelines, 18613–18617
Pollution control; consent judgments:
Carl Subler Trucking, Inc., et al., 18612–18613

Labor Department
See Labor Statistics Bureau
See Pension and Welfare Benefits Administration

Labor Statistics Bureau
NOTICES
Meetings:
Business Research Advisory Council, 18618–18619

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
Utah, 18607–18608
Realty actions; sales, leases, etc.:
Wyoming, 18608

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 18665

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Fuel system integrity—
Standards upgrade, 18566–18574
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 18659–18661

National Institute of Standards and Technology
NOTICES
Information processing standards, Federal:
Initial graphics exchange specification test service, 18583–18586

National Institutes of Health
NOTICES
Meetings:
National Institute on Deafness and Other Communication Disorders, 18606
Research Grants Division special emphasis panels, 18606–18607

National Oceanic and Atmospheric Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Sea Grant Review Panel; membership, 18586–18587
Meetings:
Sea Grant Review Panel, 18587

National Park Service
NOTICES
Meetings:
Sudbury, Assabet and Concord Rivers Study Committee, 18610–18611

Nuclear Regulatory Commission
NOTICES
Agency information collection activities under OMB review, 18621
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 18621–18640

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Financial Institutions Retirement Fund et al., 18619–18621

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 18640

Presidential Documents
PROCLAMATIONS
Special observances:
Education and Sharing Day, U.S.A. (Proc. 6785), 18725
Pan American Day and Pan American Week (Proc. 6784), 18707–18708

Public Health Service
See National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
National Institutes of Health, 18607

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 18661–18663

Rural Housing and Community Development Service
NOTICES
Agency information collection activities under OMB review, 18576–18578

VOL
60
ISS
70
AP
12
1995
UMI

Securities and Exchange Commission
NOTICES
Electronic Data Gathering, Analysis, and Retrieval System (EDGAR):
Corporation Finance Division; phase-in changes and corrections, 18640–18648
Meetings; Sunshine Act, 18665
Self-regulatory organizations; proposed rule changes:
Government Securities Clearing Corp., 18648–18649
New York Stock Exchange, Inc., 18649–18653
Applications, hearings, determinations, etc.:
Commonwealth Investment Trust, 18653

State Department
NOTICES
Meetings:
Inter-American Tropical Tuna Commission, United States Section Advisory Committee, 18653–18654

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Arizona, 18710–18721

Tennessee Valley Authority
NOTICES
Agency information collection activities under OMB review, 18663–18664

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 18654
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 18654

Treasury Department
See Customs Service

Separate Parts In This Issue

Part II
Department of Health and Human Services, Administration for Children and Families, 18668–18698

Part III
Department of Transportation, Federal Aviation Administration, 18700–18702

Part IV
Department of the Interior, Bureau of Indian Affairs, 18704

Part V
The President, 18707–18708

Part VI
Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 18710–18721

Part VII
The President, 18725

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6784 18707
6785 18725

7 CFR
932 18539

9 CFR
327 18540
Proposed Rules:
391 18551

14 CFR
39 18540
Proposed Rules:
71 18552
91 18700
135 18700

19 CFR
10 18542

30 CFR
903 18710

33 CFR
334 18543

40 CFR
180 (3 documents) 18543, 18546, 18547
185 18547
186 18547
271 18549
Proposed Rules:
170 18555
180 (5 documents) 18555, 18557, 18558, 18560, 18562
185 18562
186 (2 documents) 18560, 18562
300 18565

49 CFR
Proposed Rules:
571 18566

VOL
60

ISS
70

AP
12

1995

UMI

Rules and Regulations

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV94–932–2FIR]

Olives Grown in California; Expenses and Assessment Rate for 1995 Fiscal Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule that authorized expenses and established an assessment rate for the California Olive Committee (Committee) under Marketing Order No. 932 for the 1995 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer this program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATES: January 1, 1995, through December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone: (202) 720–5127; or Terry Vawter, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 932 (7 CFR part 932), as amended, regulating the handling of olives grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, olives grown in California are subject to assessments. It is intended that the assessment rate specified herein will be applicable to all assessable olives and expenses applied to the 1995 fiscal year, beginning January 1, 1995, through December 31, 1995. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 5 handlers of olives regulated under the marketing order each season and approximately 1,350 olive producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR § 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. None of the handlers may be classified as small entities. The majority of the producers may be classified as small entities.

The marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable olives. Annual budgets of expenses are prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are handlers and producers of California olives. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The Committee's budget is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing the anticipated expenses by actual receipts of olives by handlers. Because that rate is applied to olive receipts, it must be established at a rate which will provide sufficient income to pay the Committee's expected expenses.

The California Olive Committee met on December 8, 1994, and unanimously recommended a total expense amount of $2,881,650, for its 1995 budget. This is $866,640 less in expenses than the previous year.

The Committee also unanimously recommended an assessment rate of $30.04 per ton for the 1995 fiscal year, which is $2.83 more in the assessment rate from the 1994 fiscal year. The assessment rate, when applied to actual receipts of 69,300 tons from the 1994 olive crop, would yield $2,081,772 in assessment income. This, along with approximately $800,000 from the Committee's authorized reserves will be adequate to cover estimated expenses.

Major expense categories for the 1995 fiscal year include $1,479,000 for marketing expenses, $682,000 for food

VOL 60 ISS 70 AP 12 1995 UMI

services, and $178,630 for salaries. Funds in the reserve at the end of the fiscal year, estimated at $200,000 will be within the maximum permitted by the order of one fiscal year's expenses.

An interim final rule was issued on January 18, 1995, and published in the **Federal Register**. That rule provided a 30-day comment period which ended February 23, 1995. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is found that the specified expenses for the marketing order covered in this rule are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995 fiscal year for the program began January 1, 1995. The marketing order requires that the rate of assessment apply to all assessable olives as applicable during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule that is adopted in this action as a final rule without change.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 932 which was published at 60 FR 4531 on January 24, 1995, is adopted as a final rule without change.

Dated: April 6, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–8947 Filed 4–11–95; 8:45 am]

BILLING CODE 3410–02–P

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 94–010F]

Imported Product: Withdrawal of Czechoslovakia; Addition of the Czech Republic to the List of Eligible Countries

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice; affirmation of effective date.

SUMMARY: On February 24, 1995, the Food Safety and Inspection Service (FSIS) published a direct final rule titled Imported Product: Withdrawal of Czechoslovakia; Addition of the Czech Republic to the List of Eligible Countries. This direct final rule notified the public of FSIS' intention to amend the Federal meat inspection regulations by removing Czechoslovakia from the list of foreign countries eligible to import meat products to the United States, and adding the Czech Republic in its place. No adverse comments were received in response to the direct final rule. Therefore, this rule is effective on April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–7164.

SUPPLEMENTARY INFORMATION: This notice affirms the effective date of the direct final rule titled Imported Product: Withdrawal of Czechoslovakia; Addition of the Czech Republic to the List of Eligible Countries that was published on February 24, 1995, at 60 FR 10305. This direct final rule notified the public of FSIS' intention to amend the Federal meat inspection regulations by removing Czechoslovakia from the list of foreign countries eligible to import meat products to the United States, and adding the Czech Republic in its place. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to this rule. Therefore, the effective date of the rule is April 25, 1995.

Done at Washington, DC, on April 5, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–8937 Filed 4–11–95; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–37; Amendment 39–9192; AD 95–08–03]

Airworthiness Directives; General Electric Company CF6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company (GE) CF6–45/-50 series turbofan engines, that requires reduction of the low cycle fatigue (LCF) retirement lives for certain high pressure turbine rotor (HPTR) stage 2 disks, and would provide a drawdown schedule for those affected parts with reduced LCF retirement lives. This amendment is prompted by the results of a refined life analysis performed by the manufacturer which revealed minimum calculated LCF lives significantly lower than published LCF retirement lives. The actions specified by this AD are intended to prevent a LCF failure of the HPTR stage 2 disk, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Effective June 12, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 12, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, OH 45246. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert J. Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7138; fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–45/-50 series turbofan engines was published in the **Federal Register** on December 20, 1994 (59 FR 65513). That action proposed to require a reduction of the published low cycle fatigue (LCF) retirement lives for certain high pressure turbine rotor stage 2 disks, and would provide a drawdown schedule for those affected disks with reduced LCF retirement lives. If the Federal Aviation Administration (FAA) approved rework is accomplished, the LCF retirement life may be increased to 8,750 or 9,700 cycles, depending on the cycles since new of the disk when the rework is performed. The actions would be performed in accordance with GE CF6–50 Service Bulletin No. 72–1069, dated September 12, 1994.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters support the rule as proposed.

Since publication of the NPRM, the FAA has increased its estimate of the average labor cost to $60 per work hour, and has revised the economic analysis of this final rule accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the changes described previously. The FAA has determined that these changes will not increase the scope of the AD.

The FAA estimates that 280 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 194 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $16,383 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,846,440.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–08–03 General Electric Company: Amendment 39–9192. Docket 94–ANE–37.

Applicability: General Electric Company (GE) CF6–45/50 series turbofan engines installed on but not limited to Airbus A300 series, Boeing 747 series, and McDonnell Douglas DC–10 series aircraft.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a low cycle fatigue (LCF) failure of the high pressure turbine rotor (HPTR) stage 2 disk, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Remove from service HPTR stage 2 disks Part Numbers (P/N) 1474M49P04, 1474M49P05, 1474M49P06, 9045M35P15, 9045M35P17, and 9045M35P18, in accordance with the following:

(1) For disks that have accumulated less than 3,500 cycles since new (CSN) on the effective date of this airworthiness directive (AD), remove disk from service prior to accumulating 7,080 CSN.

(2) For disks that have accumulated 3,500 CSN or more, but less than 7,080 CSN on the effective date of this AD, remove disk from service prior to accumulating 7,080 CSN, or prior to accumulating 3,100 cycles in service (CIS) after the effective date of this AD, whichever occurs later, but not to exceed 9,700 CSN.

(3) For disks which have accumulated 7,080 CSN or more on the effective date of this AD, remove disk from service at the next piece-part exposure, but not to exceed 9,700 CSN.

(b) Remove from service HPTR stage 2 disks P/N 9264M58P01, 9264M58P02, and 9264M58P03 prior to accumulating 7,080 CSN.

(c) This AD establishes the following new LCF retirement lives which will be published in Chapter 5 of the CF6–50 Engine Task Numbered Shop Manual, GEK 50481: 7,080 cycles for HPTR stage 2 disk P/N 1474M49P04, 1474M49P05, 1474M49P06, 9045M35P15, 9045M35P17, 9045M35P18, 9264M58P01, 9264M58P02, and 9264M58P03.

(d) GE CF6–50 Service Bulletin (SB) No. 72–1069, dated September 12, 1994, describes an FAA-approved rework procedure for the affected disks. Accomplishment of this rework increases the FAA-approved LCF retirement life to 8,750 or 9,700 cycles, depending on the CSN of the disk when the rework is performed.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) The actions required by this AD shall be done in accordance with the following service bulletin:

VOL 60 ISS 70 AP 12 1995 UMI

Document No.	Pages	Date
GE CF6–50 SB No. 72–1069. Total Pages: 18	1–18	Sept. 12, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, Room 132, 111 Merchant Street, Cincinnati, OH 45246. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(g) This amendment becomes effective on June 12, 1995.

Issued in Burlington, Massachusetts, on March 31, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–8712 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 95–30]

RIN 1515–AB69

Termination of the Bahamas as a Designated Beneficiary Developing Country Under the GSP

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the Generalized System of Preferences (GSP) direct importation requirement by adding the Bahamas to the list of countries whose membership in an association of countries for GSP purposes has been terminated by the President. This amendment is intended to clarify that goods of a current beneficiary developing country (BDC) member of the Caribbean Common Market (CARICOM) may be shipped to the United States through the Bahamas and still be considered to be imported directly, provided other applicable regulatory requirements are met. Also, the authority citation for Part 10 is revised to reference an applicable General Note provision of the North American Free Trade Agreement.

EFFECTIVE DATE: April 12, 1995.

FOR FURTHER INFORMATION CONTACT: Lisa Crosby, Office of Field Operations (202) 927–0163.

SUPPLEMENTARY INFORMATION: Title V of the Trade Act of 1974, as amended (19 U.S.C. 2461–2465), authorizes the President to establish a Generalized System of Preferences (GSP)—a trade preference program—to provide duty-free treatment for articles which (1) are designated by the President as eligible articles for purposes of the GSP, (2) are the growth, product, or manufacture of a country designated by the President as a beneficiary developing country (BDC) for purposes of the GSP, (3) have at least 35 percent of their appraised value attributable to the cost or value of materials produced in the BDC and/or the direct costs of processing operations performed in the BDC, and (4) are imported directly from the BDC into the Customs territory of the United States. The Customs Regulations implementing the GSP are contained in §§ 10.171–10.178 (19 CFR 10.171–10.178).

Limitations on preferential treatment under the GSP are contained in 19 U.S.C. 2464. One of the limitations provided for concerns per capita gross national product of a BDC for the determination year: If the President determines that this measure of a designated BDC exceeds the applicable limit for the determination year, then the country will no longer be treated as a BDC. 19 U.S.C. 2464(f).

On February 3, 1995, the President signed Presidential Proclamation 6767, which provided, *inter alia*, that he had determined that the per capita gross national product of the Bahamas exceeded the applicable limit provided for in the Trade Act of 1974. Accordingly, the Proclamation deleted the Bahamas from the GSP lists of independent countries and member countries of the Caribbean Common Market (CARICOM), set forth in General Note 4(a) of the Harmonized Tariff Schedule of the United States (HTSUS).

Section 10.175 of the Customs Regulations (19 CFR 10.175) concerns the GSP direct importation requirement. Paragraph (e)(1) of § 10.175 permits shipment to the United States from a BDC through the territory of a former BDC whose designation as a member of the same association for GSP purposes was terminated by the President pursuant to 19 U.S.C. 2464, provided certain requirements are met. Paragraph (e)(2) of § 10.175 lists such former BDC association members.

This document amends § 10.175(e)(2) of the Customs Regulations by adding the Bahamas to the list of countries whose membership in an association of countries for Generalized System of Preferences (GSP) purposes has been terminated by the President. This amendment is intended to clarify that goods of a current BDC member of the CARICOM may be shipped to the United States through the Bahamas and still be considered to be imported directly, provided the requirements of § 10.175(e)(1) are satisfied.

Also, the general authority citation for Part 10 is revised to reference certain General Note provisions of the Harmonized Tariff Schedule of the United States (HTSUS): General Note 12, which deals with provisions of the North American Free Trade Agreement, General Note 17, which deals with commingled goods, and General Note 20, which authorizes the Secretary of the Treasury to issue rules and regulations governing the admission of articles under the provisions of the tariff schedule. This document adds these reference changes.

Inapplicability of Public Notice and Comment Requirements, Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Because this regulation is necessary to support the objectives of the existing GSP program and since it constitutes a conforming amendment to a benefit already granted the general public, it is determined pursuant to 5 U.S.C. 553(b)(B) that notice and public procedures are unnecessary and contrary to the public interest. Furthermore, for the above reasons, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) for dispensing with a delayed effective date. Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This amendment does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Customs duties and inspection, Foreign relations, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements (Generalized System of Preferences).

Amendments to the Regulations

For the reasons set forth above, Part 10, Customs Regulations (19 CFR part 10) is amended as set forth below:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

§ 10.175 [Amended]

2. In § 10.175, paragraph (e)(2) is amended by adding "The Bahamas" to the list of countries in appropriate alphabetical order.

Approved: March 8, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 95–8917 Filed 4–11–95; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 334

Danger Zones, Atlantic Ocean South of the Entrance to the Chesapeake Bay, Virginia Beach, Virginia

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending the regulations which establish a danger zone in the waters of the Atlantic Ocean south of the entrance of the Chesapeake Bay due to the relocation of the Southeast Sea lanes of the Atlantic Federal Project Channel. The relocation of the danger zone is necessary to provide an additional measure of safety for vessels operating in the area. As a result of this amendment, the danger zone will be shifted to the south. The overall size and configuration of the danger zone will remain the same.

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Henderson at (804) 441–7653 or Mr. Ralph Eppard at (202) 272–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is amending the danger zone regulations in 33 CFR 334.390.

The Commanding Officer, Fleet Combat Training Center, Atlantic, U.S. Navy, has requested that the danger zone be amended to reflect changes in the routing of the Southeast Sea Lanes. There are no changes which will affect the public's use of the area. As presently configured, the danger zone is in the path of vessel entering and departing the Southeast Sea Lanes south of the entrance to the Chesapeake Bay. This amendment shifts the entire danger zone to the south. On January 20, 1995, we published these amendments in the Notice of Proposed Rules section of the **Federal Register** (60 FR 4134–4135) with the comment period expiring on 19 February 1995. We received on comments in response to the proposed rule and accordingly, we are publishing the final rule as proposed.

Economic Assessment and Certification

This rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 12866 do not apply. The relocation of the danger zone will have only minimal impact on recreational, commercial or fishing vessels within the area because the vessels are not prohibited from use of the area except when firing is in progress at the range. The configuration of the danger zone is not affected by this amendment. There will be no impacts on small businesses or governments in the area. I hereby certify that this regulation will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), transportation, restricted areas.

In consideration of the above, the Corps is amending Part 334 of Title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. In § 334.390, paragraph (a) is revised to read as follows:

§ 334.390 Atlantic Ocean south of entrance to Chesapeake Bay; firing range.

(a) *The danger zone.* A section extending seaward for a distance of 12,000 yards between two radial lines bearing 030° True and 083° True, respectively, from a point on shore at latitude 36°46′48″N, longitude 75°57′24″W; and an adjacent sector extending seaward for a distance of 15 nautical miles between two radial lines bearing 083° True and 150° True, respectively, from the same shore position.

* * * * *

Dated: March 24, 1995.

Stanley G. Genega,

Major General, U.S. Army, Director of Civil Works.

[FR Doc. 95–8958 Filed 4–11–95; 8:45 am]

BILLING CODE 3710–92–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 9F3855, 2F4121, 4F4413/R2121; FRL–4947–2]

RIN 2070–AB78

Sethoxydim; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a pesticide tolerance for the combined residues of the herbicide sethoxydim (2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide)) in or on the raw agricultural commodities (RACs) clover forage at 35 parts per million (ppm), clover hay at 50 ppm, almond hulls at 2.0 ppm and the crop groupings tree nuts at 0.2 ppm and cucurbit vegetables at 4.0 ppm. The BASF Corp. requested these regulations to establish maximum permissible levels for residues of the pesticide in or on the above commodities and crop groupings.

EFFECTIVE DATE: April 12, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 9F3855, 2F4121, 4F4413/R2121], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring

VOL 60 ISS 70 AP 12 1995 UMI

copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail, Robert J. Taylor, Product Manager (PM 25), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6027; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has issued notices in the **Federal Register** announcing that BASF Corp., P.O. Box 13528, Research Triangle Park, NC 27709-3528, had submitted pesticide petitions to EPA proposing to amend 40 CFR part 180 pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establishing regulations to permit the combined residues of the herbicide sethoxydim (2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on certain RACs.

1. *PP 9F3855.* Published in the **Federal Register** of June 29, 1990 (54 FR 26751), the notice proposed establishing a regulation to permit residues of the herbicide on tree nuts at 0.2 ppm and almond hulls at 2.0 ppm.

2. *PP 2F4121.* Published in the **Federal Register** of December 30, 1992 (57 FR 62334), the notice proposed establishing a regulation to permit residues of the herbicide on clover.

3. *PP 4F4413.* Published in the **Federal Register** of February 8, 1995 (60 FR 7541), the notice proposed establishing a regulation to permit residues of the herbicide on the crop grouping cucurbit vegetables at 4.0 ppm.

No comments were received in response to the notices of filing.

The filing notice for PP 2F4121 should have proposed establishing a regulation to permit residues of the herbicide in or on clover forage at 35 ppm and clover hay at 50 ppm. Because clover forage and hay are animal feeds, not human foods, and current tolerances in livestock commodities will not be exceeded as a result of the proposed tolerances on clover forage and hay, there is no potential increase risk to humans. Therefore, an additional period of public comment is not necessary.

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances include:

1. Several acute toxicology studies that place technical sethoxydim in acute toxicity category IV for primary eye and dermal irritation and acute toxicity category III for acute oral, dermal, and inhalation. The dermal sensitization-guinea pig study was waived because no sensitization was seen in guinea pigs dosed with the end-use product Poast (18% a.i.).

2. A 21-day dermal study with rabbits fed dosages of 0, 40, 200, and 1,000 mg/kg/day with a NOAEL (no-observed-adverse-effect level) of greater than 1,000 mg/kg/day (limit dose).

3. A 1-year feeding study with dogs fed dosages (based on consumption) of 0, 8.86/9.41, 17.5/19.9, and 110/129 mg/kg/day (males/females) with a NOEL (no-observed-effect level) of 8.86/9.41 mg/kg/day (males/ females) based on equivocal anemia in males and females at 17.5/19.9 mg/kg/day, respectively.

4. A 2-year chronic feeding/carcinogenicity study with mice fed dosages of 0, 6, 18, 54, and 162 mg/kg/day with no carcinogenic effects observed under the conditions of the study at dose levels up to and including 162 mg/kg/day (highest dose tested [HDT]) and a systemic NOEL of 18 mg/kg/day. A maximum tolerated dose (MTD) was not achieved for females in this study. A determination of the need for an additional study will be made once the replacement chronic feeding/carcinogenicity study in rats is evaluated.

5. A 2-year chronic feeding/carcinogenic study with rats fed dosages of 0, 2, 6, and 18 mg/kg/day (HDT) with no carcinogenic effects observed under the conditions of the study at dosage levels up to and including 18 mg/kg/day (HDT) and a systemic NOEL greater than or equal to 18 mg/kg/day (HDT). This study was reviewed under current guidelines and was found to be unacceptable because the doses used were insufficient to induce a toxic response and a maximum tolerated dose (MTD) was not achieved. This study must be repeated.

6. A chronic feeding/carcinogenic study with rats was submitted to supplement the above study. Rats in this study were fed dosages of 0, 18.2/23.0, and 55.9/71.8 mg/kg/day (males/females) with no carcinogenic effects observed under the conditions of the study at dose levels up to and including 55.9/71.8 mg/kg/day (HDT) (males/females) and a systemic NOEL greater than or equal to 55.9/71.8 mg/kg/day (males/females). The doses used were insufficient to induce a toxic response and failed to achieve an MTD or define a Lowest Effect Level (LEL). Slight decreases in body weights in the final quarter of the study, although not biologically significant, can support a free-standing NOAEL of 55.9/71.8 mg/kg/day (males/females). A new study is necessary to replace both this study and the one discussed above.

7. A developmental toxicity study in rats fed dosages of 0, 50, 180, 650, and 1,000 mg/kg/day with a maternal NOAEL of 180 mg/kg/day and a maternal LEL of 650 mg/kg/day (irregular gait, decreased activity, excessive salivation, and anogenital staining); and a developmental NOAEL of 180 mg/kg/day and a developmental LEL of 650 mg/kg/day (21 to 22% decrease in fetal weights, filamentous tail and lack of tail due to the absence of sacral and/or caudal vertebrae, and delayed ossification in the hyoids, vertebral centrum and/or transverse processes, sternebrae and/or metatarsals, and pubes).

8. A developmental toxicity study in rabbits fed doses of 0, 80, 160, 320, and 400 mg/kg/day with a maternal NOEL of 320 mg/kg/day and a maternal lowest-observable-effect level (LOEL) of 400 mg/kg/day (37% reduction in body weight gain without significant differences in group mean body weights, and decreased food consumption during dosing); and a developmental NOEL greater than 400 mg/kg/day (HDT).

9. A two-generation reproduction study with rats fed dosage levels of 0, 150, 600, and 3,000 ppm (approximately 0, 7.5, 30, and 150 mg/kg/day) with no reproductive effects observed at 3,000 ppm (approximately 150 mg/kg/day) (HDT). However, the Agency considers this study usable for regulatory purposes and has established a free-standing NOEL of 3,000 ppm (approximately 150 mg/kg/ day).

10. Mutagenicity studies included: Ames Assays which were negative for *Salmonella typhimurium* strains TA98, TA100, TA1535, and TA 1537, with and without metabolic activity; sethoxydim did not cause structural chromosomal aberrations at doses up to 5,900 mg/kg in Chinese hamster bone marrow cells *in vivo*; a Host-Mediated Assay (mouse) with *S. typhimurium* was negative at 2.5 grams/kg/day of chemical, and recombinant assays and forward mutations in *Bacillus subtilis*, *Escherichia coli*, and *S. typhimurium* were all negative at concentrations of greater than or equal to 100%; an *in vitro* Unscheduled DNA Synthesis Assay in Primary Rat Hepatocytes had a negative response for DNA repair (UDS) in primary rat hepatocyte cultures exposed up to insoluble (greater than 101 micrograms per milliliter) and cytotoxic (507 micrograms per milliliter) doses.

11. In a rat metabolism study, excretion was extremely rapid and tissue accumulation was negligible, assuming DMSO vehicle does not affect excretion or storage of NP-55 (78% excreted into urine and 20.1% into feces).

The reference dose (RFD) based on a NOEL of 8.86 mg/kg bwt/day in the 1-year feeding study in dogs and an uncertainty factor of 100 was calculated to be 0.09 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) for existing tolerances for the overall U. S. population is 0.032341 mg/kg bwt/day or 35.9% of the RfD. The current action will increase the TMRC by 0.000563 mg/kg bwt/day. These tolerances and previously established tolerances utilize a total of 36.5 percent of the RfD for the overall U.S. population. For U.S. subgroup populations, nonnursing infants and children aged 1 to 6, the current action and previously established tolerances utilize, respectively, a total of 62.75 percent and 73.5 percent of the ADI, assuming that residue levels are at the established tolerances and that 100 percent of the crop is treated.

Cross Reference Note: These studies are also referenced in an EPA proposed rule on sethoxydim appearing in the "Proposed Rules" section of this issue of the **Federal Register**.

Desirable data lacking based on review of data under current guidelines include a repeat of the chronic feeding/carcinogenicity study in rats. Once the rat study is evaluated, a repeat of the mouse carcinogenicity study may be needed. Because the current studies, although unacceptable by current guidelines, provide useful information and these tolerances utilize less than 1 percent of the RfD, the Agency believes there is little risk from establishing these tolerances. Any additional tolerance proposals will be considered on a case-by-case basis.

The pesticide is useful for the purposes for which these tolerances are sought and capable of achieving the intended physical or technical effect. The nature of the residue is adequately understood, and adequate analytical methods, gas chromatography using sulfur-specific flame photometric detection, are available for enforcement purposes. The method for tree nuts and cucurbits is listed in the Pesticide Analytical Manual, Vol. II (PAM II), as Method I. The analytical methods for clover forage and hay are revisions of the above method. Because of the long lead time from establishing these tolerances until publication, the enforcement methodology for clover forage and hay is being made available in the interim to anyone interested in pesticide enforcement when requested by mail from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmenal Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number; Rm. 1130A, CM #2, 1921 Jefferson Davis Hwy., Arlington VA 22202.

There are currently no actions pending against the registration of this chemical. Any expectation of residues occurring in eggs, milk, meat, fat, or meat byproducts of cattle, goats, hogs, horses, and sheep or poultry will be covered by existing tolerances.

Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 would protect the public health. Therefore, EPA is establishing the tolerances as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. 40 CFR 178.20. A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector. 40 CFR 178.27. A request for a hearing will be granted if the Administrater determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the maner sought by the requestor would be adequate to justify the action requested. 40 CFR 178.32.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office Of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligation of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 30, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

VOL
60
ISS
70
AP
12
1995
UMI

2. In § 180.412, by revising the section heading and introductory texts of paragraphs (a) and (b) and by amending paragraph (a) in the table therein by adding and alphabetically inserting new entries for almond hulls; clover, forage; clover, hay; and tree nuts and by revising the entry for cucurbits vegetables, to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one; tolerances for residues.

(a) Tolerances are established for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-(2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the following commodities:

Commodity	Parts per million
* * * * *	
Almond hulls	2.0
* * * * *	
Clover, forage	35.0
Clover, hay	50.0
* * * * *	
Cucurbits vegetables	4.0
* * * * *	
Tree nuts	0.2
* * * * *	

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-(2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the following commodities:

* * * * *

[FR Doc. 95–8731 Filed 4–11–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 4F4318/R2118; FRL–4945–2]

RIN 2070–AB78

Beauveria Bassiana Strain GHA; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement for a tolerance for residues of *Beauveria bassiana* Strain GHA in or on all raw agricultural commodities. Mycotech Corp. requested this exemption.

EFFECTIVE DATE: This regulation becomes effective April 12, 1995.

ADDRESSES: Written objections, identified by the document control number, [PP4F4318/R2118], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. In person, bring a copy of objections and hearing request to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to : EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Patricia A. Cimino, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703)-308-7035; e-mail: Cimino.Patricia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 13, 1994 (59 FR 35718), EPA issued a notice that Mycotech Corp., 630 Utah Drive, P.O. Box 4109, Butte, MT 59701, had submitted pesticide petition PP 4F4318 proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance the residues of the microbial pest control agent *Beauveria bassiana* Strain GHA in or on alfalfa, corn, potatoes, rapeseed, safflower, small grain crops, soybeans, sugarbeets, sunflower, rangeland, improved pastures, and in meat, milk or other animal products from livestock grazed on treated rangeland or improved pastures when applied to growing crops in accordance with good agricultural practices.

There were no comments received in response to the notice of filing.

In the **Federal Register** of February 8, 1995 (60 FR 7543), EPA issued a notice that Mycotech Corp., 630 Utah Drive, P.O. Box 4109, Butte, MT 59701, had submitted an amendment to a pesticide petition, PP 4F4318, proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance the residues of the microbial pest control agent *Beauveria bassiana* Strain GHA in or on all raw agricultural commodities.

Beauveria bassiana Strain GHA is naturally occurring and was originally isolated from indigenous grasshoppers.

The data submitted in the petition and all other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirement of a tolerance for *Beauveria bassiana* Strain GHA in or on all raw agricultural crops include an acute oral toxicity/pathogenicity study, an acute dermal toxicity study, an acute pulmonary toxicity/pathogenicity study, an acute intraperitoneal toxicity/pathogenicity study, and primary eye irritation studies.

The results of these studies indicated that the organism was not toxic to test animals when administered via oral, dermal, pulmonary, or intraperitoneal routes.

The active ingredient was not infective or pathogenic to the test animals in any of the studies. Ocular lesions were observed in the eye irritation studies with the technical-grade active ingredient (TGAI) and a wettable powder (WP) formulation and resulted in a Toxicity Category I rating for these products. Minimal ocular irritation was observed in the eye irritation studies done with oil flowable and emulsifiable suspension end-use product formulations indicating that the lesions observed in the eye irritation tests done with TGAI and the WP formulations may have been due to physical effects of the TGAI and inert ingredients. Slight skin irritation persisted in test animals treated with the TGAI resulting in a Toxicity Category III rating. There have been no reports of hypersensitivity related to the active ingredient. All of the toxicity studies submitted are considered acceptable.

The toxicology data provided are sufficient to demonstrate that there are no foreseeable human health hazards likely to arise from use of *Beauveria bassiana* Strain GHA on the requested food and feed commodities when applied during the growing season in accordance with good agricultural practices.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition because the data submitted demonstrated that this biological control agent is not toxic to humans by dietary exposure. No enforcement actions are expected based on a level of residues in food. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request. This is the second exemption from the requirement of a tolerance for this microbial pest control agent. The first exemption appeared in the **Federal Register** of March 24, 1990 (60 FR 15488).

Based on the information considered, the Agency concludes that establishment of a tolerance is not necessary to protect the public health. Therefore, the exemption from tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections and the relief sought (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticide and pests, Reporting and recordkeeping requirements.

Dated: March 29, 1995.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In Subpart D, by revising § 180.1146, to read as follows:

§ 180.1146 Beauveria bassiana Strain GHA; exemption from the requirement of a tolerance.

Beauveria bassiana Strain GHA is exempted from the requirement of a tolerance in or on all raw agricultural commodities when applied to growing crops according to good agricultural practices.

[FR Doc. 95–8727 Filed 4–11–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 180, 185, and 186

[PP 3F4231 and FAP 3H5675/R2122; FRL–4947–4]

RIN 2070–AB78

Imidacloprid; Pesticide Tolerance and Food/Feed Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance and food/feed additive regulations for residues of the insecticide (1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine) (proposed comon name "imidacloprid") and its metabolites in or on various commodities. Miles, Inc., requested these regulations to establish these maximum permissible levels for residues of the insecticide and to establish the food and feed additive regulations.

EFFECTIVE DATE: This regulation becomes effective March 31, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 3F4231 and FAP 3H5675/R2122], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Product Manager (PM 19), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-3686; e-mail: edwards.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the

VOL
60
ISS
70
AP
12
1995
UMI

Federal Register of October 21, 1993 (58 FR 54354), which announced that Miles, Inc., 8400 Hawthorn Rd., P.O. Box 4913, Kansas City, MO 64120-0013, had submitted pesticide petition 3F4231 and a food/feed additive petition (FAP 3H5675) to EPA requesting that Administrator, pursuant to sections 408(d) and 409(b) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d) and 348(b), establish tolerances for residues of the insecticide imidacloprid, 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine, and it's metabolites in or on fruiting vegetables (including tomato, eggplant, and pepper) at 1.0 part per million (ppm); *brassica* (cole) leafy vegetables (including broccoli, caulifower, brussels sprouts, and cabbage) at 3.5 ppm; lettuce (head and leaf) at 3.5 ppm; grape, fruit at 1.0 ppm; milk at 0.1 ppm; and meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.3 ppm. FAP 3H5675 proposed establishing a food or feed additive to permit residues of imidacloprid and its and it metabolites in or on tomato puree at 2.0 ppm; grape, raisin and grape, juice at 1.5 ppm; tomato pomace, wet at 2.0 ppm; tomato pomace, dry at 6.0 ppm; grape pomace, wet at 2.5 ppm; grape pomace, dry at 5.0 ppm; and grape raisin waste at 15.0 ppm. There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

EPA issued a later notice, published **Federal Register** of February 8, 1995 (60 FR 7543), which announced that Miles, Inc., Agricultural Division, was amending pesticide petition FAP 3H5675. The revised petiton proposed that 40 CFR parts 185 (food additive) and 186 (feed additive) be amended to establish tolerances for combined residues of imidacloprid and its metabolites in the following food additive commodities: Tomato, puree at 3.0 ppm; tomato, paste at 6.0 ppm; and grape, raisin and grape, juice at 1.5 ppm; and in or on the following feed additive commodities: Tomato, pomace (wet or dried) at 4.0 ppm; grape pomace (wet or dried) at 5.0 ppm: and grape, raisin waste at 15.0 ppm.

All relevant materials have been evaluated. The toxicology data considered in support of the tolerance include:

1. A three-generation rat reproduction study with a no-observed-effect level (NOEL) of 100 ppm (8 mg/kg/bwt); rat and rabbit developmental toxicity studies were negative at doses up to 30 mg/kg/bwt and 24 mg/kg/bwt, respectively.

2. A 2-year rat feeding/carcinogenicity study that was negative for carcinogenic effects under the conditions of the study and had a NOEL of 100 ppm (5.7 mg/kg/bwt in male and 7.6 mg/kg/bwt female) for noncarcinogenic effects that included decreased body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm.

3. A 1-year dog feeding study with a NOEL of 1,250 ppm (41/mg/kg/bwt).

4. A 2-year mouse carcinogenicity study that was negative for carcinogenic effects under conditions of the study and that had a NOEL of 1,000 ppm (208 mg/kg/day).

There is no cancer risk associated with exposure to this chemical. Imidacloprid has been classified under "Group E" (no evidence of carcinogenicity) by EPA's OPP/HED's Reference Dose (RfD) Committee.

The reference dose (RfD), based on the 2-year rat feeding/carcinogenic study with a NOEL of 5.7 mg/kg/bwt and 100-fold uncertainity factor, is calculated to be 0.057 mg/kg/bwt. The theoretical maximum residue contribution (TMRC) from published uses is .002594 mg/kg/day. This represents 4.5% of the RfD. The proposed tolerance contributes .005494 mg/kg/bwt/day. This represents 10% of the RfD. Dietary exposure from the existing uses and proposed use will not exceed the reference dose for any subpopulation (including infants and children) based on the information available from EPA's Dietary Risk Evaluation System.

The nature of the imidacloprid residue in plants and livestock is adequately understood. The residues of concern are combined residues of imidacloprid and it metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary GC-MS selective ion monitoring. Imidacloprid and its metabolites are stable in the commodities when frozen for at least 24 months. There are adequate amounts of geographically representative crop field trial data to show that combined residues of imidacloprid and it metabolites, all calculated as imidacloprid, will not exceed the proposed tolerances when use as directed.

There are currently no actions pending against the continued registration of this chemical.

This pesticide is considered useful for the purposes for which the tolerance is sought and capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 will protect the public health. Therefore, these tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180, 185, and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 31, 1995.

Susan Lewis,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.472, by amending paragraph (a) in the table therein by adding and alphabetically inserting the following commodities, to read as follows:

§ 180.472 1-[(6-Chloro-3-pyridinyl) methyl]-N-nitro-2-imidazolidinimine; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Brassica vegetables crop group	3.5
* * * * *	
Fruiting vegetables crop group	1.0
* * * * *	
Grapes	1.0
* * * * *	
Lettuce, head and leaf	3.5
* * * * *	

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348,

b. In § 185.900, by designating the existing text as paragraph (a) and adding new paragraph (b), to read as follows:

§ 185.900 1-[(6-Chloro-3-pryridinyl) methyl]-N-nitro-2-imidazolidinimine; tolerances for residues.

* * * * *

(b) A food additive regulation is established premitting residues of the insecticide 1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidimine in or on the following food commodities:

Food	Part per million
Grape, juice	1.5
Grape, raisin	1.5
Tomato, paste	6.0
Tomato, puree	3.0

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 186.900, by adding new paragraph (c), to read as follows:

§ 186.900 1-[(6-Chloro-3-pyridinyl)methyl]-N-nitro-2 imidazolidinimine; tolerances for residues.

* * * * *

(c) A feed additive regulation is established premitting residues of the insecticide 1-[(6-chloro-3-pyridinyl)methyl]-*N*-2-imidazolidinimine in or on the following feed commodities resulting from application of the insecticide to tomato and grapes:

Feed	Part per million
Grape, pomace (wet or dried)	5.0
Grape, raisin waste	15.0
Tomato, pomace (wet or dried)	4.0

[FR Doc. 95-8733 Filed 4-11-95; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 271

[FRL-5185-3]

Idaho; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Idaho has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Idaho's application and has made a decision, subject to public review and comment, that Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Idaho's hazardous waste program revisions. Idaho's application for program revision is available for public review and comment.

DATES: Final authorization for Idaho shall be effective June 11, 1995 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Idaho's program revision application must be received by the close of business May 12, 1995.

ADDRESSES: Copies of Idaho's program revision application are available Monday through Friday, 8 a.m. to 5 p.m., at the following addresses for inspection and copying: Idaho Department of Health and Welfare, Division of Environmental Quality, Technical Services Bureau, 1410 N. Hilton, Boise, Idaho 83706–1290; phone: (208) 334–5898; USEPA Region 10, Record Center M/S HW–070, 1200 Sixth Avenue, Seattle, WA 98101; phone: (206) 553–4763. Written comments should be sent to Michael Le, USEPA, Region 10, 1200 Sixth Avenue, Mail Stop HW–107, Seattle, WA 98101; phone: (206) 553–1099.

FOR FURTHER INFORMATION CONTACT: Michael Le, USEPA, Region 10, 1200 Sixth Avenue, Mail Stop HW–107, Seattle, WA 98101; phone: (206) 553–1099.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal

VOL
60
ISS
70
AP
12
1995
UMI

hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, 124 and 270.

B. Idaho

Effective on April 9, 1990, Idaho received final authorization for the base program, non-HSWA and HSWA requirements promulgated as of July 1, 1987 and interim authorization for those HSWA corrective action provisions of section 3004(u), promulgated as of July 7, 1987 (see 55 FR 11015 dated March 26, 1990). Effective on June 5, 1992, Idaho received final authorization for those HSWA corrective action provisions of section 3004(u) promulgated as of July 7, 1987 (see 57 FR 11580 dated April 6, 1992). Effective on August 10, 1992, Idaho received final authorization for those HSWA and non-HSWA federal provisions promulgated during the period of July 1, 1987 to June 30, 1990 (see 57 FR 24757 dated June 11, 1992). On January 12, 1995, Idaho submitted its program revision application for all RCRA (non-HSWA and HSWA) federal provisions promulgated during the period of July 1, 1990 to June 30, 1993. Today, Idaho is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Idaho's application, and has made an immediate final decision that Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Idaho. The public may submit written comments on EPA's immediate final decision up until May 12, 1995. Copies of Idaho's application for program revision are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of Idaho's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

Idaho's revision application includes all those RCRA federal provisions promulgated during the period of July 1, 1990 through June 30, 1993. To insure state consistency with federal regulations, the Idaho Board of Health and Welfare's regulatory rule-making incorporated by reference those delegable Federal Regulations in 40 CFR parts 124, 260–266, 268, and 270 that were promulgated and codified in the Code of Federal Regulations, as of June 30, 1993. Thus, at this time, the State is not seeking authorization for any changes made to the Federal program after July 1, 1993. Therefore, the scope, structure, coverage and processes of the Idaho hazardous waste management program is virtually identical to the federal provisions through June 30, 1993.

The Idaho Department of Health and Welfare Rules, Title 1, Chapter 5, "Rules and Standards for Hazardous Waste" incorporate by reference all federal RCRA regulations required for final authorization through July 1, 1993. Accordingly, the State rules are equivalent to the federal regulations. Idaho Administrative Procedures Act, IDAPA 16.01.05.000 *et seq.* The more substantive changes included in this revision application are: Wood Preserving Listings, Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris, Recycled Used Oil Management Standards, and Corrective Action Management Units and Temporary Units. These regulatory changes in this program revision became State regulations effective on February 11, 1994 and amended on June 1, 1994.

This program revision will not authorize the State to operate the RCRA program over any Indian lands; this authority remains with EPA.

C. Decision

I conclude that Idaho's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Idaho is granted final authorization to operate its hazardous waste program as revised.

Idaho now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Idaho also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Idaho's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 30, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–8606 Filed 4–11–95; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. 95–004P]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to increase the fees charged by FSIS to provide overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services to meat and poultry establishments, importers, and exporters. The proposed fees reflect the increased costs of providing these services which are primarily due to the 1995 Federal salary increases allocated by Congress under the Federal Employees Pay Comparability Act of 1990.

DATES: Comments must be received on or before May 12, 1995.

ADDRESSES: Submit written comments in triplicate to Diane Moore, FSIS Docket Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700. All comments should refer to Docket Number 95–004P. Oral comments as provided under the Poultry Products Inspection Act should be directed to Mr. William L. West, at (202) 720–3367. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act must make such request to Mr. West so that arrangements may be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this proposal will be available for public inspection in the FSIS Docket Room from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William L. West, Director, Budget and Finance Division, Administrative Management, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700, (202) 720–3367.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide for mandatory inspection by Federal inspectors of meat and poultry slaughtered and/or processed at official establishments. Such inspection is required to ensure the safety, wholesomeness, and proper labeling of meat and poultry products. The costs of mandatory inspection (excluding such services performed on holidays or on an overtime basis) are borne by FSIS.

In addition to mandatory inspection, FSIS provides a range of voluntary inspection and certification services (9 CFR 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5). The costs of voluntary inspection are totally recoverable by the Federal Government. These services, set forth in Subchapter B—Voluntary Inspection and Certification Service, are provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*) to assist in the orderly marketing of various animal products and byproducts not subject to the Federal Meat Inspection Act or the Poultry Products Inspection Act.

Each year, the fees charged by FSIS for voluntary inspection services provided to operators of official meat and poultry establishments, importers, or exporters are reviewed and a cost analysis [1] is performed to determine whether such fees are adequate to recover the costs FSIS incurs in providing the services. The fees charged are for overtime and holiday inspection, voluntary inspection, identification, certification, or laboratory services.

Based on the projected Fiscal Year 1995 cost analysis, FSIS is increasing the fees for voluntary services. These increased costs are attributable to the average FSIS national and locality pay raise of 3.2 percent for Federal employees effective January 1995; the increasing number of employees covered by the Federal Employees Retirement System and are subject to the Federal Insurance Contributions Act tax; and increased health insurance costs.

FSIS is proposing to increase the fees charged for overtime and holiday inspection, voluntary inspection, identification, certification and laboratory services to meat and poultry establishments.

Section 307.5 of the Federal meat inspection regulations (9 CFR 307.5) provides that FSIS shall be reimbursed for the cost of meat inspection on holidays or on an overtime basis at the rate specified in 9 CFR 391.3, currently $31.80 per hour, per program employee. Similarly, 9 CFR 381.38 of the poultry products inspection regulations provides that FSIS shall be reimbursed for the cost of poultry inspection on holidays or on an overtime basis at the rate specified in 9 CFR 391.3, currently $31.80 per hour, per program employee. FSIS is proposing to increase the fee set forth in § 391.3 to $32.96 per hour, per program employee.

The base time rate for providing voluntary inspection and certification services is currently $31.12 per hour, per program employee, as specified in § 391.2. The overtime and holiday rate for voluntary inspection services is currently $31.80 per hour, per program employee, as specified in § 391.3. As stated above, these fees would be increased to $31.92 per hour and $32.96 per hour, per program employee, respectively.

The rate for laboratory services is currently $52.04 per hour, per program employee, as specified in § 391.4. FSIS is proposing to increase the fee set forth in section 391.4 to $52.92 per hour, per program employee.

Executive Order 12866

This proposed rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. The proposed fee

[1] The cost analysis is on file with the FSIS Docket Clerk. Copies may be requested free of charge from the FSIS Docket Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700.

VOL
60
ISS
70
AP
12
1995
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increases reflect the increased costs of providing certain inspection services due primarily to the 1995 increase in salaries of Federal employees allocated by Congress under the Federal Employees Pay Comparability Act of 1990. Because FSIS is required to recover the reimbursable portion of the increase in employee salaries, FSIS is only providing a 30-day comment period for this proposed rule.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect. Prior to any judicial challenge to the provisions of this proposed rule, all applicable administrative procedures must be exhausted. Under the Federal Meat and Poultry Products Inspection Acts, the administrative procedures are set forth in 7 CFR part 1.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The fees provided for in this document will reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

List of Subjects in 9 CFR Part 391

Fees and charges, Meat inspection, Poultry products inspection.

For the reasons set out in the preamble, 9 CFR part 391 is proposed to be amended as set forth below.

PART 391—FEES AND CHARGES FOR INSPECTION SERVICES

1. The authority citation for part 391 would continue to read as follows:

Authority: 21 U.S.C. 601 *et seq.*, 460 *et seq.*; 7 CFR 2.17(g) and (i), 2.55; 7 U.S.C. 394, 1622, and 1624.

2. Sections 391.2, 391.3, and 391.4 would be revised to read as follows:

§ 391.2 Base time rate.

The base time rate for inspection services provided pursuant to §§ 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $31.92 per hour, per program employee.

§ 391.3 Overtime and holiday rate.

The overtime and holiday rate for inspection services provided pursuant to §§ 307.5, 350.7, 351.8, 351.9, 352.5, 354.101, 355.12, 362.5, and 381.38 shall be $32.96 per hour, per program employee.

§ 391.4 Laboratory services rate.

The rate for laboratory services provided pursuant to §§ 350.7, 351.9, 352.5, 354.101, 355.12, and 362.5 shall be $52.92 per hour, per program employee.

Done at Washington, DC, on April 5, 1995.

Michael R. Taylor,

Administrator, Food Safety and Inspection Service.

[FR Doc. 95–8938 Filed 4–11–95; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AWA–3]

Proposed Modification of the Atlantic City International Airport Class C Airspace Area; NJ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify the Class C airspace area at Atlantic City International Airport, Atlantic City, NJ. This proposed action would delete the 1-mile exclusion around Nordheim Flying K Airport because of its closure, and return this airspace to the surface area of the Class C airspace. In addition, this proposed action would reduce controller workload.

DATES: Comments must be received on or before June 13, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC–200], Airspace Docket No. 94–AWA–3, 800 Independence Avenue, SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: William C. Nelson, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9295.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AWA–3." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class C airspace area at Atlantic City International Airport, Atlantic City, NJ. The proposed modification would eliminate the 1-mile exclusion around Nordheim Flying K Airport due to its closure. The intended effect of this proposal is to return this airspace to the surface area of the established Class C airspace area, thereby completing the 5-mile radius around Atlantic City. Additionally, this proposed action would reduce controller workload. The coordinates for this airspace docket are North American Datum 83. Class C airspace designations are published in paragraph 4000 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document would be subsequently published in the Order.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this NPRM is not "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This NPRM would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade.

This proposed rule would modify the Class C airspace area at Atlantic City International Airport, Atlantic City, NJ. This proposed action would delete the 1-mile exclusion around Nordheim Flying K Airport near Atlantic City.

Costs

The FAA has determined that the implementation of the NPRM to modify the Class C airspace area at Atlantic City International Airport would result in little cost to either the agency or aircraft operators. The revision to aeronautical charts to reflect the airspace modification would be part of the routine and periodic updating of charts. Finally, the proposal would not cause the FAA to incur any additional administrative costs for either personnel or equipment.

Benefits

The NPRM would generate benefits for system users and the FAA primarily in the form of air traffic control instructions. The proposed rule would provide additional controlled airspace for landing and departing at the Atlantic City International Airport.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a NPRM would have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. Small entities are independently owned and operated small businesses and small not-for-profit organizations. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to this NPRM.

The FAA has determined that revising the Class C airspace area at Atlantic City International Airport would not result in a significant economic impact on a substantial number of small entities. This determination was made because there are little or no costs to this proposed rule.

International Trade Impact Assessment

This NPRM would not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries and the import of foreign goods and services into the United States. This NPRM would not impose costs on aircraft operators or aircraft manufacturers in the United States or foreign countries. The modification of Class C airspace would only affect U.S. terminal airspace operating procedures at and in the vicinity of Atlantic City, NJ. This NPRM would not have international trade ramifications because it is a domestic airspace matter that would not impose additional costs or requirements on affected entities.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

AEA NJ C Atlantic City International Airport, NJ [Revised]

Atlantic City International Airport, NJ
(Lat. 39°27'27"N., long. 74°34'38"W.)

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Atlantic City International Airport; and that airspace extending upward from 1,300 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport.

* * * * *

Issued in Washington, DC, on April 4, 1995.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

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VOL 60 ISS 70 APR 12 1995 UMI

ATLANTIC CITY, NJ
CLASS C AIRSPACE AREA

(Not to be used for navigation)

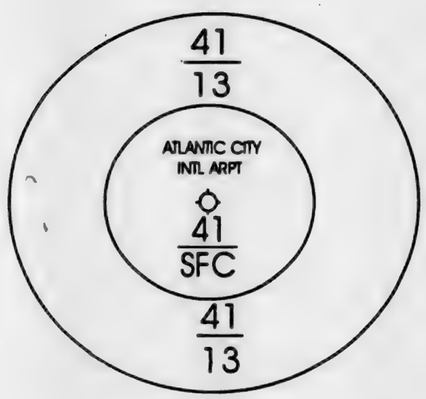

Graphic prepared by the
FEDERAL AVIATION ADMINISTRATION
Publications Branch
(ATP-210)

[FR Doc. 95–8951 Filed 4–11–95; 8:45 am]
BILLING CODE 4910–13–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250103; FRL–4948–5]

RIN No. 2070–AC69 and 2070–AC82

Amendments to the Worker Protection Standard Requirements for Crop Advisors and Training Requirements for Agricultural Workers and Pesticide Handlers; Notification to Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification to Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of Agriculture a final rule amending the crop advisor provisions of the Worker Protection Standard and a final rule amending the training requirements for workers and pesticide handlers. These final rules are being issued under the Federal Insecticide, Rodenticide, and Fungicide Act (FIFRA).

FOR FURTHER INFORMATION CONTACT: Donald Eckerman, Certification and Training, Occupational Safety Branch (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 1101, CM #2, 1921 Jefferson Davis Highway, Arlington, VA., (703) 305–7371.

SUPPLEMENTARY INFORMATION: Pursuant to Section 25(a)(2)(B) of FIFRA, the Administrator shall provide the Secretary of Agriculture with a copy of any final rule before publication in the **Federal Register**. If the Secretary comments in writing to the Administrator regarding the final rule, the Administrator shall issue for publication in the **Federal Register**, with the final rule, the comments of the Secretary of Agriculture, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. The Administrator has forwarded to the Secretary of Agriculture a copy of the final rule amending the requirements for training employees and a final rule amending the requirements for crop advisors.

The Administrator has also provided a copy of these final rules to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture and Forestry of the Senate.

List of Subjects in 40 CFR Part 170

Administrative Practice and Procedures, Occupational Safety and Health, Pesticides and Pests.

Dated: April 5, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–9167 Filed 4–11–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[PP 2E4051/P608; FRL–4943–1]

RIN 2070–AC18

Difenoconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish import tolerances for residues of the fungicide difenoconazole in or on the raw agricultural commodities barley grain, rye grain, and wheat grain at 0.1 part per million; fat, meat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep and eggs at 0.05 ppm; and milk at 0.01 ppm. Ciba-Geigy Corp. requested the proposed regulation to establish a maximum permissible level of the fungicide in or on the commodities.

DATES: Comments, identified by the document control number, [PP 2E4051/P608], must be received on or before May 12, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5540; e-mail: giles-parker.cynthia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is proposing to establish import tolerances for residues of the fungicide difenoconazole, [(2S,4R)/(2R,4S)]/[(2R,4R/2S,4S)] 1-(2-[4-(4-chlorophenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl)-1H-1,2,4-triazole, in or on the raw agricultural commodities (RACs) barley grain, rye grain, and wheat grain at 0.1 ppm; fat, meat, and meat byproducts (mbyp) of cattle, goats, hogs, horses, poultry, and sheep and eggs at 0.05 ppm; and milk at 0.01 ppm. The proposed regulation to establish a maximum permissible level of the fungicide in or on this commodity was requested in a pesticide petition (PP 2E4051) submitted by Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, that requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.475 by establishing import tolerances for residues of the fungicide.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

1. A rat acute oral study with an LD_{50} of 1,453 milligrams (mg)/kilogram (kg).
2. A 13-week rat feeding study with a no-observed-effect-level (NOEL) of 20 ppm (1 mg/kg/day).
3. A 13-week mouse feeding study with a NOEL of 20 ppm (3.6 mg/kg/day).
4. A 26-week dog feeding study with a NOEL of 1,000 ppm (3.3 mg/kg/day).
5. A 21-day rabbit dermal study with a NOEL of 10 mg/kg and reduction in body weight gain and food consumption from exposure to doses equal to or greater than 100 mg/kg.
6. A carcinogenicity study in mice with a NOEL of 30 ppm (5 mg/kg/day) and a lowest-effect-level (LEL) of 300 ppm (50 mg/kg/day) owing to reductions in cumulative body weights. There was limited evidence of carcinogenicity based on the occurrence of increased benign and/or malignant liver tumors in males and females. The carcinogenic effects observed are discussed below.

VOL 60 ISS 70 AP 12 1995 UMI

7. A rat chronic feeding/carcinogenicity study with a NOEL of 20 ppm (1 mg/kg/day) for systemic effects and a LEL of 500 ppm (25 mg/kg/day) owing to reductions in cumulative body weight gains and hepatotoxicity in males. There was no evidence of carcinogenicity under conditions of the study.

8. A 1-year dog chronic feeding study with a NOEL of 100 ppm (3.5 mg/kg/day); the LEL was 500 ppm (18 mg/kg/day) owing to reduction in food consumption and increase in alkaline phosphatase in males at high dose.

9. A two generation reproduction study in rats with a parental and reproductive NOEL of 25 ppm (1.25 mg/kg/day) and an LEL of 250 ppm (12.5 mg/kg/day) owing to reduction of female body weight gain and significant reductions in male pup weight at day 21.

10. A developmental toxicity study in rabbits with a maternal NOEL of 25 mg/kg and an LEL of 75 mg/kg/day owing to decreased body weight, death of one doe and abortion, and a developmental NOEL of 25 mg/kg, and an LEL of 75 mg/kg owing to increased postimplantation loss and resorptions and significantly decreased fetal weight.

11. A developmental toxicity study in rats with a maternal NOEL of 16 mg/kg and an LEL of 85 mg/kg owing to excess salivation, and decreased body weight gain and food consumption, and a developmental NOEL of 85 mg/kg/day, and an LEL of 171 mg/kg owing to increase bifid or unilateral ossification of thoracic vertebrate, increased average number of ossified hyoid, and decrease in average number of sternal centers of ossification.

12. A microbial gene mutation study and an unscheduled DNA synthesis in rat hepatocyte study were both negative. An *in vivo* micronucleus assay/chromosomal analysis study showed no increase in micronucleated polychromatic erythrocytes at any dose tested.

13. A rat metabolism study showed that difenoconazole was adequately absorbed and mainly eliminated via the bile. No evidence of bioaccumulation in any tissue was noted.

The Health Effects Division, Carcinogenicity Peer Review Committee, has concluded that the available data provide limited evidence of the carcinogenicity of difenoconazole in mice and has classified difenoconazole as a Group C (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines, published in the **Federal Register** in 1986 (51 FR 33992; Sept. 24, 1986) and recommended that quantitative risk assessment is not appropriate for the following reasons:

1. The carcinogenic response observed with this chemical, statistically significant increases in hepatocellular adenomas, carcinomas, and combined adenomas/carcinomas in both sexes of CD-1 mice, occurred only at doses considered to be excessively high for carcinogenicity testing.

2. There were no apparent tumor increases in either sex in Sprague-Dawley rats at dietary levels up to 2,500 ppm.

3. Difenoconazole was not mutagenic in three well conducted genotoxic assays.

Based on this evidence, EPA concludes that difenoconazole poses at most a negligible cancer risk to humans and that for purposes of risk characterization the Reference Dose (RfD) and Margin of Exposure (MOE) approaches should be use for quantification of human risk. In a spring wheat processing study, no residues were detected in grain or any processed fraction. Therefore, food/feed additive tolerances are not needed in conjunction with this use on barley, rye, and wheat.

Using a 100-fold safety factor and the NOEL of 1 mg/kg/day determined from the rat chronic feeding study (the most sensitive species), the Reference Dose RfD is 0.01 mg/kg/day. The theoretical maximum residue contribution (TMRC) from the established and proposed tolerances is 0.00042 mg/kg/day and utilizes 4 percent of the RfD for the overall U.S. population. For exposure of the most highly exposed subgroups in the population, children (ages 1 to 6 years old) and nonnursing infants (less than 1 year old), the TMRC is 0.000947 mg/kg/day and 0.000960 mg/kg/day and utilizes 9 and 10 percent of the RfD, respectively.

The dietary acute exposure MOE for developmental toxicity effects was calculated to be 62,500 for high exposure in the females 13+ subgroup. For substances whose acute NOEL is based on animal studies, the Agency is not generally concerned unless the MOE is below 100.

The metabolism of difenoconazole in plants is adequately understood. The tolerances established for milk, eggs, meat, fat, and meat byproducts will cover any dietary exposure from secondary residues in these RACs. There are currently no actions pending against the continued registration of this chemical.

An adequate analytical method, gas chromatography with nitrogen phosphorous detection, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 242, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-4432).

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 2E4051/P608]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 28, 1995.

James J. Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.475, by adding new paragraph (c), to read as follows:

§ 180.475 Difenoconazole; tolerances for residues.

* * * * *

(c) Tolerances are established for difenoconazole, [(2S,4R)/(2R,4S)]/[(2R,4R/2S,4S)] 1-(2-[4-(4-chlorophenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl-methyl)-1H-1,2,4-triazole, in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, grain[1]	0.1
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, mbyp	0.05
Eggs	0.05
Goats, fat	0.05
Goats, meat	0.05
Goats, mbyp	0.05
Hogs, fat	0.05
Hogs, mbyp	0.05
Horses, fat	0.05
Horses, meat	0.05
Horses, mbyp	0.05
Milk	0.01
Poultry, fat	0.05
Poultry, meat	0.05
Poultry, mbyp	0.05
Rye, grain[1]	0.1
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, mbyp	0.05
Wheat, grain	0.1

[1] There are no U.S. registrations as of April 12, 1995 for use on barley and rye.

[FR Doc. 95–8728 Filed 4–11–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300384; FRL–4945–7]

RIN 2070–AC18

Oleyl Alcohol; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that oleyl alcohol (CAS Reg. No. 143-28-2) be exempted from the requirement of a tolerance when used as a cosolvent in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Henckel Corp., Emery Group, requested this proposed regulation.

DATES: Comments, identified by the document control number [OPP-300384], must be received on or before May 12, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, Crystal Mall, Building #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8375; e-mail: Acierto.Amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Henkel Corp., Emery Group, 4900 Este Ave., Cincinnati, OH 45232-1491, submitted pesticide petition (PP) 4E4335 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for oleyl alcohol when used as a cosolvent in pesticide formulations applied to growing crops and raw agricultural commodities after harvest.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aeroso! dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that the data normally required to support the proposed tolerance exemption for oleyl alcohol will not need to be submitted. The rationale for this decision is described below:

VOL 60 ISS 70 AP 12 1995 UMI

1. Available data demonstrate that oleyl alcohol is no more than slightly toxic to mammals, fish, and aquatic invertebrates.

2. Oleyl alcohol is found in fish oils and one of its uses is as a carrier for medicaments. Anticipated residues of oleyl alcohol at the proposed level of use are expected to be of little or no toxicological significance.

3. Oleyl alcohol is approved by the Food and Drug Administration for use as a component of paper and paperboard under 21 CFR 176.170, as defoaming agent under 21 CFR 176.210, and as a component of animal glue under 21 CFR 178.3120.

Based upon the above information and review of its use, the Agency does not believe that a potential for significant hazard exists when used in accordance with good agricultural practice. The Agency believes and that this ingredient is useful and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300384]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 29, 1995.

James J. Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirements of a tolerance.

* * * * *

(c) * * *

Inert Ingredients	Limits	Uses
. . .	. . .	. . .
Oleyl alcohol (CAS Reg. No 143-28-2)	15%	Cosolvent
. . .	. . .	. . .

* * * * *

[FR Doc. 95-8730 Filed 4-11-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 8F3671/P610; FRL-4945-3]

RIN 2070-AC18

Alachlor; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an increased tolerance for residues of the herbicide alachlor (2-chloro-2',6'-dimethyl-*N*-(methoxymethyl) acetanilide) and its metabolites in or on the raw agricultural commodity (RAC) sorghum forage at 2.0 parts per million (ppm). The Monsanto Co. requested the establishment of this maximum permissible residue of the herbicide.

DATES: Comments, identified by the document control number [PP 8F3671/P610], must be received on or before May 12, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to Rm. 1132, CM #2, 1921 Jefferson-Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail, Robert J. Taylor, Product Manager (PM 25), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice in the **Federal Register** of October 12, 1988 (53 FR 39785), that announced that the Monsanto Co., 1101 17th St., NW., Washington, DC 20036, proposed amending 40 CFR 180.249 by establishing a regulation under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, to permit the residues of the herbicide alachlor (2-chloro-2',6'-dimethyl-*N*-(methoxymethyl) acetanilide) and its metabolites in or on sorghum forage at 2.0 parts per million (ppm) (pesticide petition (PP) 8F3671). This increased tolerance was necessary because review of additional data submitted in response to reregistration indicated that the current tolerance of 1.0 for sorghum forage was not adequate and needed to be increased. EPA issued a notice in the **Federal Register** of March 23, 1989 (54 FR 12010), which announced that the Monsanto Co. proposed amending 40 CFR parts 185 and 186 by establishing a regulation under section 409 of the FFDCA, 21 U.S.C. 348, permitting residues of the herbicide alachlor in or on sorghum milling fractions at 0.5 ppm, sorghum milling fractions (except germ) at 0.3 ppm, and sorghum germ at 0.5 ppm (food/feed additive (FAP) 9H5576).

No comments were received in response to these notices of filing.

During the course of its review, the Agency determined that the food/feed additive tolerances for sorghum milling fractions and sorghum germ were not needed and that there is no current evidence of use of sorghum milling fractions as a human food and very limited evidence of use of soghum milling fractions as livestock feed. The petitioner subsequently withdrew FAP No. 9H5576. Because it has been longer than 5 years since the original proposal, the tolerance of 2.0 ppm for sorghum forage is being proposed for 30 days following the date of publication in the **Federal Register** to allow for public comment.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data listed below were considered in support of the proposed tolerance.

1. Several acute toxicology studies place technical alachlor in acute toxicity category IV for primary eye and dermal irritation and, acute toxicity category III for acute oral, dermal, and inhalation.

2. A 1-year feeding study with dogs fed dose levels of 0, 1, 3, and 10 milligrams/kilograms/day (mg/kg/day) with a no-observed effect level (NOEL) of 1.0 mg/kg/day based on hemosiderin storage in kidney and spleen in males at 10 mg/kg.

3. A 2-year chronic feeding/carcinogenicity study in rats fed epichlorohydrin-free alachlor at dose levels of 0, 0.5, 2.5, and 15 mg/kg/day with a NOEL for nonneoplastic toxicity at 2.5 mg/kg/day based on ocular lesions and hepatoxicity at 10 mg/kg/day. Carcinogenic effects included a nasal turbinate tumor in females at 2.5 mg/kg/day, significant increases in nasal turbinate tumors in both males and females at 15 mg/kg/day (highest dose tested (HDT)) and a significant increase in thymus lymphosarcomas and adrenal pheochromocytomas in high-dose females.

4. A second chronic feeding/carcinogenic study with rats fed alachlor, with epichlorohydrin, at dose levels of 0, 14, 42, and 126 mg/kg/day with a systemic NOEL of less than 14 mg/kg/day based on ocular lesions and hepatotoxicity at 14 mg/kg/day. Carcinogenic effects included increased number of nasal turbinate tumor in males and females at 42 mg/kg/day and mg/kg/day, an increase in stomach tumors in both sexes at 126 mg/kg/day, and an increase in thyroid follicular tumors in males at 126 mg/kg/day (HDT).

5. A special chronic feeding study in rats fed a dose level of 126 mg/kg/day. Ocular lesions, mainly, the uveal degeneration syndrome (UDS) occurred in 100% of the animals at the end of the study. This syndrome was irreversible once it began. Alachlor was a positive oncogen with increased nasal turbinate tumors, stomach tumors, and thyroid tumors.

6. An 18-month carcinogenicity study in mice fed dose levels of 0, 26, 78, and 260 mg/kg/day with carcinogenic effects (increased lung bronchiolaraveolar tumors in females at 260 mg/kg/day).

7. A three-generation reproduction study with rats fed dose levels of 0, 3, 10, 11, and 30 mg/kg/day with a reproductive NOEL of 10 mg/kg/day based on kidney effects in F2 and F3 pups at 30 mg/kg/day (HDT).

8. A developmental toxicity study in rats fed dose levels of 0, 50, 150, and 400 mg/kg/day with a developmental toxicity equal to a greater than 400 mg/kg/day with a fetotoxic NOEL of 150 mg/kg/day based on an increase in post-implantation loss and a slight decrease in mean number of viable fetuses at 400 mg/kg/day . The maternal toxicity NOEL for this study is 150 mg/kg/day based on soft stools, hair loss, anogenital staining, and death at 400 mg/kg/day.

9. A developmental toxicity study in rabbits fed doses of 50, 100, and 150 mg/kg/day with a developmental NOEL greater than 150 mg/kg/day greater than 150 mg/kg/day. The maternal NOEL was 100 mg/kg/day based on reduced body weight gain.

10. Mutagenicity studies include several Ames Tests. Alachlor and its metabolites were negative in four Ames assays with *Salmonella* with and without S9 activation at 0.1 to 10 mg/plate. Two metabolites of alachlor were positive in an Ames test with and without S9 activation at 0.01 to 10 mg/plate. Bile from alachlor-treated rates did not induce a mutagenic response towards *Salmonella* strains TA98, TA100, TA1535, and TA1537. Other mutagenicity tests include DNA damage/repair in rat positive for UDS at the HDT = LD_{50} at the 4 doses tested (50, 200, and 1,000 mg/kg)—weakly genotoxic; gene mutation in CHO/HGPRT—negative, and *in vivo* bone marrow chromosome aberration assay—negative.

Alachlor has been classified as a B_2 carcinogen—"Probable Human Carcinogen" by the Agency. Alachlor met all but one of the criteria specified for the B_2 classification. Alachlor produced an increased incidence of nasal turbinate tumors (mostly benign) at the mid and high doses, in both sexes, thyroid follicular tumors in male rats and malignant stomach tumors in male and female rats in Long-Evans rats in three different experiments at more than one dose level via dietary administration. Alachlor also produced a statistically significant increase in lung tumors in female CD-1 mice at two dose levels. In another experiment with Long-Evans rats, nasal turbinate tumors occurred only 5 to 6 months after exposure. The tumor incidence was as high at 50% and tumor site was unusual, i.e., not an increase of normal high background tumor type. A metabolite of alachlor was mutagenic in the Ames Test at 6 dose levels, and alachlor is structurally similar to acetochlor and metolachlor, two other known carcinogens. A detailed discussion of the Agency's classification of alachlor as a B_2 carcinogen was published in the **Federal Register** of December 31, 1987 (52 FR 49480). The publication was entitled "Alachlor, Notice of Intent to Cancel Registrations, Conclusion of Special Review."

For the purpose of risk characterization of alachlor, the use of the linearized multi-stage model, as recommended to EPA's Carcinogenic Risk Assessment Guidelines, was applied to the rat oncogenicity data discussed above. As a result, the cancer potency value for alachlor, known as the "Q^*", was calculated to be 8×10^{-2} or $0.08\ (mg/kg/day)^{-1}$. Refer to the

VOL 60 ISS 70 APR 12 1995 UMI

document published in the **Federal Register** of December 31, 1987 (54 FR 49484) for details.

The reference dose (RFD) based on a NOEL of 1.0 mg/kg/day (1-year feeding study in dogs) and an uncertainty factor of 100 was calculated to be 0.01 mg/kg/day. The theoretical maximum residue contribution (TMRC) for the overall U. S. population from published and proposed uses recommended through reregistration is 0.000532 mg/kg/day or 5.3% of the RfD. For the most highly exposed subgroup, nonnursing infants less than 1 year old, the published and proposed use recommended through reregistration is 0.002184 mg/kg/day or 21.8% of the RfD. The current action of increasing the tolerance on sorghum forage to 2.0 does not contribute any additional TMRC or utilize additional RfD because sorghum forage is not a human food and current tolerances in livestock commodities will not be exceeded as a result of the proposed increase in the tolerance for sorghum forage.

Refinements in residue and percent-crop treated information were considered in calculating the Anticipated Residue Contribution (ARC) for the same population groups above. The ARC is considered the more accurate estimate of dietary exposure. These exposure estimates were then compared to the RfD for alachlor to get estimates of chronic dietary risk. The ARC for the overall U. S. population for published tolerances is 1.3×10^{-5} or 0.1% of the RfD. For the most highly exposed subgroup, nonnursing infants, the ARC is 5.4×10^{-5} or less than 1% of the RfD. The current action does not contribute additional ARC or utilize additional RfD. Other tolerances proposed by reregistration result in an ARC of 4.0×10^{-6} mg/kg/day or 0.04% of the RfD for the overall U.S. population and an ARC of 5.3×10^{-5} mg/kg/day or 0.5% of the RfD for nonnursing infants, less than 1 year old.

Based on a Q^{*1} of 0.08 $(mg/kg/day)^{-1}$ the upper-bound cancer risk was calculated to be 1.4×10^{-6} and contributed through all published and proposed uses for alachlor. The current action for sorghum forage contributes no additional risks.

There are currently no regulations against the registration of this chemical for use on sorghum forage. Even though alachlor is classified as a probable human carcinogen, EPA believes the establishment of this tolerance will not pose an unreasonable risk to humans as a result of dietary exposure.

The pesticide is useful for the purposes for which tolerances are sought. The nature of the residues is adequately understood for the purposes of establishing tolerances. Adequate analytical methods (high-pressure liquid chromatography and gas chromatography) are available for enforcement purposes (PAM II, Method III).

Based on the information considered by the Agency, the Agency has determined that when used in accordance with good agricultural practice, this ingredient is useful and that the tolerance established by amending 40 CFR part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 8F3671/P610]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 30, 1995.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.249, by amending the table therein by revising the entry for sorghum forage, to read as follows:

§ 180.249 Alachlor; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Sorghum, forage	2.0
* * * * *	

[FR Doc. 95–8729 Filed 4–11–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Parts 180 and 186

[PP 8F3646 and FAP 8H5558/P611; FRL–4947–3]

RIN 2070–AC18

Sethoxydim; Pesticide Tolerance and Feed Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to increase the established pesticide tolerance for the combined residues of the herbicide sethoxydim (2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the raw agricultural commodity sugar beet roots to 1.0 part per million (ppm) and to increase the established feed additive regulation on the animal feed commodity sugarbeet molasses to 10.0 ppm. The BASF Corp. requested these regulations to establish the maximum permissible levels for residues of the pesticide in or on the above commodities.

DATES: Comments, identified by the document control number, [PP 8F3646 and FAP 8H5558/P611], must appear on or before May 12, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail, Robert J. Taylor, Product Manager (PM-25), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 241, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6027; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the **Federal Register** of October 12, 1988 (53 FR 39783 and 39785), which announced that BASF Corp., P.O. Box 13528, Research Triangle Park, NC 27709-3528, had submitted pesticide petition (PP) 8F3646 and a feed additive petition (FAP) 8H5558 to EPA. Pesticide petition 8F3646 requests that the Administrator, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR part 180 by establishing a tolerance for the combined residues of the herbicide sethoxydim (2-[1-ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide)) in or on the raw agricultural commodity (RAC) sugarbeet roots at 1.0 part per million (ppm). Feed additive petition 8H5558 requests that the Administrator, pursuant to section 409(e) of FFDCA (21 U.S.C. 348), amend 40 CFR part 186 by establishing a feed additive regulation for the combined residues of the herbicide sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the animal feed sugar beet molasses at 5.0 ppm.

There were no comments or requests for referral to an advisory committed received in response to these notices.

The petitioner subsequently amended the notice for FAP 8H5558 by submitting a revised Section F proposing to increase the established feed additive regulation to permit residues of sethoxydim in the animal feed sugar beet molasses at 10.0 ppm. Because the 10.0 ppm has not been proposed previously and because it has been longer than 5 years since the original proposal, the tolerances of 1.0 ppm on sugar beet roots and 10.0 ppm on sugar beet molasses are being proposed for 30 days to allow for public comment.

The information submitted in the petitions and other relevant material have been evaluated. The pesticide is useful for the purpose for which the tolerances are sought. The toxicological data and other information considered in support of PP 8F3646 and FAP 8H5558 are discussed in the final rule referring to pesticide petitions (PP) 9F3855, 2F4121, and 4F4413, which appears elsewhere in the "Rules and Regulations" section of this issue of the **Fedral Register**.

The reference dose (RfD) based on a NOEL of 8.86 mg/kg/day in the 1-year feeding study in dogs and an uncertainty factor of 100 was calculated to be 0.09 mg/kg bwt/ day. The theoretical maximum residue contribution (TMRC) for existing tolerances for the overall U.S. population is 0.032904 mg/kg bwt/day or 36.5% of the RfD. The current action will increase the TMRC by 0.000299 mg/kg bwt/day. These tolerances and previously established tolerances utilize 36.8% of the RfD for the overall U.S. population. For U.S. subgroup populations, nonnursing infants and children aged 1 to 6, the current action and previously established tolerances utilize, respectively, a total of 63.136 and 74.318% of the RfD, assuming that residue levels are at the established tolerances and that 100% of the crop is treated.

Based on the information and the data considered, the Agency has determined that the tolerances established by amending 40 CFR part 180 would protect the public health, and the establishment of a feed additive regulation by amending 40 CFR part 186 would be safe. Therefore, it is proposed that they be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal as it relates to the section 408 tolerance be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP 8F3646 and FAP 8H5558/P611]. All written comments filed in response to these petitions will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order, i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect of the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements, or establishing or raising food/feed additive regulations do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

VOL
60
ISS
70
AP
12
1995
UMI

List of Subjects in 40 CFR Parts 180 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 30, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follow:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.412(a), by amending the table therein by revising the entry for sugar beet, roots, to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one; tolerances for residues.

(a) * * *

Commodity	Part per million
* * * * *	
Sugar beet, roots	1.0
* * * * *	

* * * * *

PART 186—[AMENDED]

2. In part 186:

a. The authority citation for part 186 continues to read follows:

Authority: 21 U.S.C. 346.

b. In § 186.2800, by revising the section heading and introductory text and by amending the table therein by revising the entry for sugar beet molasses, to read as follows:

§ 186.2800 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one.

Tolerances are established for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the following commodities:

Food	Part per million
* * * * *	
Sugar beet molasses	10.0
* * * * *	

[FR Doc. 95–8732 Filed 4–11–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 180, 185, and 186

[PP 9F3731 and FAP 9H5574/P612; FRL–4946–4]

RIN 2070–AC18

Cyfluthrin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish time-limited tolerances, with an expiration date of November 15, 1997, for residues of the synthetic pyrethroid cyfluthrin in or on the raw agricultural commodities (RAC's) tomatoes; carrots; peppers; radishes; meat, fat, and meat byproducts of cattle, goats, horses, hogs, poultry, and sheep; milkfat; and eggs and in food/feed additive commodities tomato, pomace (dry and wet) and tomato concentrated products. Miles Corp., Animal Products (formerly Mobay Corp.), requested the proposed tolerances and regulations to establish maximum permissible levels for residues of the pesticide.

DATES: Comments, identified by the document control number, [PP 9F3731 and FAP 9H5574/P612], must be received on or before May 12, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 200, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 23, 1989 (54 FR 35434), which announced that Miles Corp. had submitted pesticide petition (PP) 9F3731 and food/feed additive petition (FAP) 9H5574 to EPA.

Pesticide petition (PP) 9F3731 requests that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), amend 40 CFR 180.436 by increasing tolerances for residues of the insecticide cyfluthrin, cyano(4-fluoro-3-phenoxyphenyl)-methyl-3-(2,2-dicloroethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on the raw agricultural commodities alfalfa forage at 5.0 ppm; alfalfa hay at 10.0 ppm; broccoli at 2.0 ppm; brussels sprouts at 0.5 ppm; cabbage at 1.0 ppm; cauliflower at 0.5 ppm; carrots at 0.1 ppm; celery at 1.5 ppm; lettuce at 2.5 ppm; peppers at 0.2 ppm; radishes at 0.5 ppm; spinach at 1.0 ppm; sweet corn at 0.05 ppm; sweet corn forage at 1.0 ppm; sunflower seed at 0.02 ppm; sunflower forage at 1.0 ppm; soybeans at 0.03 ppm; soybean forage at 10.0 ppm; soybean hay at 1.5 ppm; soybean straw at 1.0 ppm; tomato at 0.2 ppm; milk at 0.1 ppm; eggs at 0.01 ppm; meat, fat and meat byproduct of cattle, goats, hogs, horses, and sheep at 1.5 ppm; and meat, fat, and meat byproducts of poultry at 0.01 ppm.

Food/feed additive petition (FAP) 9H5574 requests that the Administrator, pursuant to section 409(e) of the FFDCA (21 U.S.C. 348(e)) amend 40 CFR parts 185 and 186 by establishing a food/feed additive regulation for cyfluthrin in or on processed food commodities tomato concentrated products at 0.5 ppm and feed commodities sweet corn (cannery wastes) at 1.5 ppm; tomato, pomace (wet) at 1.5 ppm; tomato, pomace dry at 5.0 ppm.; soybean hulls at 0.1 ppm; and sunflower hulls at 2.5 ppm.

On July 20, 1993, Miles Corp. requested that the pesticide petition and food/feed additive petition be amended by withdrawing the proposed tolerance for broccoli, brussels sprouts, cabbage, cauliflower, celery, lettuce, soybeans (straw), spinach and the feed additive regulation for sweet corn (cannery wastes) without prejudice to future filing and by raising the tolerances for carrots, peppers, and radishes to 0.2, 0.5 and 1.5 ppm, respectively. In a letter dated November 18, 1993, Miles amended the petition by withdrawing the crops alfalfa, soybeans, sweet corn, and sunflowers from the subject petitions and proposing them under a separate petition. On June 10, 1994, Miles requested that the pesticide petition be further amended by reducing the tolerance for radishes to 1.0 ppm; proposing one tolerance for wet and dry tomato pomace; reducing the animal commodities to 0.4 ppm; and revising the milk tolerances to be expressed as 2.5 ppm milk fat (reflecting 0.08 ppm in whole milk). This amendment was submitted in response to EPA's preference that an integer tolerance (i.e, one significant figure) rather than a fraction be proposed for radishes; EPA's current practice to set one tolerance on tomato pomace, wet and dry, rather than individual tolerances on the two pomaces; and to make the above tolerances for animal commodities consistent with the feed items in this petition.

The scientific data submitted in the petition and other relevant material have been evaluated. All toxicology data necessary to support these tolerances have been previously submitted, reviewed, and accepted. The toxicology data considered in support of the proposed tolerance include:

1. A 12-month chronic feeding study in dogs with a no-observed-effect level (NOEL) of 4 mg/kg/day. The lowest-effect level (LEL) for this study is established at 16 mg/kg/day, based on slight ataxia, increased vomiting, diarrhea, and decreased body weight.

2. A 24-month chronic feeding/carcinogenicity study in rats with a NOEL of 2.5 mg/kg/day and LEL of 6.2 mg/kg/day, based on decreased body weights in males and females, decreased food consumption in males, and inflammatory foci in the kidneys in females. There were no carcinogenic additive regulation for cyfluthrin in or effects observed under the conditions of the study.

3. A 24-month carcinogenicity study in mice. There were no carcinogenic effects observed under the conditions of the study.

4. An oral developmental toxicity study in rats with a maternal and fetal NOEL of 10 mg/kg/day (highest dose tested). An oral developmental toxicity study in rabbits with a maternal NOEL of 20 mg/kg/day and a maternal LEL of 60 mg/kg/day, based on decreased body weight gain and decreased food consumption during the dosing period. A fetal NOEL of 20 mg/kg/day and a fetal LEL of 60 mg/kg/day were also observed in this study. The LEL was based on increased resorptions and increased postimplantation loss.

5. A developmental toxicity study in rats by the inhalation route of administration with a maternal NOEL of 0.0011 mg/L and an LEL of 0.0047 mg/L, based on reduced mobility, dyspnea, piloerection, ungroomed coats, and eye irritation. The fetal NOEL is 0.00059 mg/L and the fetal LEL is 0.0011 mg/L, based on sternal anomalies and increased incidents in runts. A second developmental toxicity study in rats by the inhalation route of administration is currently under review. The issue of whether cyfluthrin directly induces fetotoxicity under these conditions is unresolved at this time.

6. A three-generation reproduction study in rats with a systemic NOEL of 2.5 mg/kg/day and a systemic LEL of 7.5 mg/kg/day due to decreased parent and pup body weights. The reproductive NOEL and LEL are 7.5 mg/kg/day and 22.5 mg/kg/day, respectively.

7. Mutagenicity tests, including a gene mutation assay (reverse mutation and recombination assays in bacteria and a Chinese hamster ovary (CHO)/(HGPRT)); a structural chromosome aberration assay (CHO/sister chromatid exchange assay); and an unscheduled DNA synthesis assay in rat hepatocytes. All test were negative for genotoxicity.

8. A metabolism study in rats showing that cyfluthrin is rapidly absorbed and excreted, mostly as conjugated metabolites in the urine, within 48 hours. An enterohepatic circulation was observed.

A chronic dietary exposure/risk assessment was performed for cyfluthrin using a Reference Dose (RfD) of 0.025 mg/kg bwt/day, based on a NOEL of 50 ppm (2.5 mg/kg bwt/day) and an uncertainty factor of 100. The NOEL was determined in a 2-year rat feeding study. The end-point effects of concern were decreased body weights in males and inflammation of the kidneys in females at the LEL of 150 ppm (6.2 mg/kg/day). The current estimated dietary exposure for the overall U.S. population resulting from established tolerances is 0.001378 mg/kg/bwt day, which represents 5.5 % of the RfD. The current action will increase exposure to 0.002730 mg/kg/ bwt/day or 11% of the RfD. In the subgroup population exposed to the highest risk, nonnursing infants less than 1 year old, the current action will increase exposure to 0.008044 mg/kg bwt/day or 32% of the RfD. Generally speaking, EPA has no cause for concern if total residue contribution for published and proposed tolerances is less than the RfD. EPA concludes that the chronic dietary risk of cyfluthrin, as estimated by the dietary risk assessment, does not appear to be of concern.

Because there was a sign of developmental effects seen in animal studies, the Agency used the rat developmental toxicity study (with a NOEL of 0.00059 mg/L by the inhalation route of exposure) to assess acute dietary exposure and determine a margin of exposure (MOE) for the overall U.S. population and certain subgroups. Since the toxicological end-point pertains to developmental toxicity, the population group of concern for this analysis is women aged 13 and above, the subgroup which most closely approximates women of child-bearing age. The MOE is calculated as the ratio of the NOEL to the exposure. For this analysis the Agency calculated the MOE for women ages 13 and above to be 1,250. Generally speaking, MOE's greater than 100 for data derived from animal studies are acceptable to the Agency.

The metabolism of the chemical in animals for this use is adequately understood. An adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

On August 5, 1988, EPA issued a conditional registration and time-limited tolerance for cyfluthrin for use on cottonseed with an expiration date of October 31, 1991 (see the **Federal Register** of August 15, 1988 (53 FR 30676)). On November 12, 1992, the conditional registration was amended and extended to November 15, 1993, and the tolerance on cottonseed extended to November 15, 1994 (see the **Federal Registers** October 20, 1993 (58 FR 54094) and February 22, 1994 (54 FR 9411)). On November 15, 1993, EPA amended the conditional registration on

VOL 60 ISS 70 AP 12 1995 UMI

cottonseed by extending the expiration date to November 15, 1996, and extending the time-limited tolerance to November 15, 1997. The conditional registration was amended and extended to allow time for submission and evaluation of additional environmental effects data. In order to evaluate the effects of cyfluthrin on fish and aquatic organisms and its fate in the environment, additional data were required to be collected and submitted during the period of conditional registration. Such requirements included a sediment bioavailability and toxicity study and a small-plot runoff study that must be submitted to the Agency by July 1, 1996. To be consistent with the conditional registration and extension on cottonseed, the Agency is proposing to issue a conditional registration with an expiration date of November 15, 1996, and establishing a time-limited tolerance on tomatoes, carrots, peppers, radishes, meat, milk, and egg tolerances with an expiration date of November 15, 1997, to cover residues expected to result from use during the period of conditional registration.

There are presently no actions pending against the continued registration of this chemical.

The pesticide is considered useful for the purposes for which it is sought. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR parts 180, 185, and 186 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 9F3731 and FAP 9H5574/P612]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180, 185, and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 5, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. By amending § 180.436, by revising the table therein, to read as follows:

§ 180.436 Cyfluthrin; tolerances for residues.

* * * * *

Commodities	Parts per million	Expiration date
Carrots	0.20	Nov. 15, 1997
Cattle, fat	0.40	Do.
Cattle, meat	0.40	Do.
Cattle, mbyp	0.40	Do.
Cottonseed	1.0	Do.
Eggs	0.01	Do.
Goats, fat	0.40	Do.
Goats, meat	0.40	Do.
Goats, mbyp	0.40	Do.
Hogs, fat	0.40	Do.
Hogs, meat	0.40	Do.
Hogs, mbyp	0.40	Do.
Hops, fresh	4.0	None
Horses, fat	0.40	Nov. 15, 1997
Horses, meat	0.40	Do.
Horses, mbyp	0.40	Do.
Milkfat (reflecting 0.08 ppm in whole milk)	2.50	Do.
Peppers	0.50	Do.
Poultry, fat	0.01	Do.
Poultry, meat	0.01	Do.
Poultry, mbyp	0.01	Do.
Radishes	1.00	Do.
Sheep, fat	0.40	Do.
Sheep, meat	0.40	Do.
Sheep, mbyp	0.40	Do.
Tomato	0.20	Do.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In § 185.1250, by revising paragraph (a) and removing paragraph (b) and designating it as reserved, as follows:

§ 185.1250 Cyfluthrin.

(a) A tolerance, to expire on November 15, 1997 is established for residue of the insecticide cyfluthrin (cyano(4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dicloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the following food commodities:

Commodity	Parts per million	Expiration date
Cottonseed oil	2.0	Nov. 15, 1997
Tomato, concentrated products	0.5	Do.

(b) [Reserved]

* * * * *

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 186.1250, by revising paragraph (a) and removing paragraph (b) and designating it as reserved, as follows:

§ 186.1250 Cyfluthrin.

(a) A tolerance, to expire on November 15, 1997, is established for residues of the insecticide cyfluthrin (cyano[4-fluoro-3-phenoxyphenyl]methyl-3-(2,2-dicloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the following feed commodities:

Commodity	Parts per million	Expiration date
Cottonseed, hulls	2.0	November 15, 1997
Tomato, pomace (dry and wet)	5.0	Do.

(b) [Reserved]

* * * * *

[FR Doc. 95-9149 Filed 4-10-95; 1:53 pm]

BILLING CODE 6560-50-F

40 CFR Part 300

[FRL-5188-1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Hamilton Island (Site) from the National Priorities List: Request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Hamilton Island site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Washington Department of Ecology (Ecology) have determined that the Site poses no significant threat to public health or the environment and, therefore, remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before May 12, 1995.

ADDRESSES: Comments may be mailed to: Christopher Cora, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop: HW-124, Seattle, Washington 98101.

Comprehensive information on this Site is available through the U.S. Army Corps of Engineers public docket which is available for viewing at the Hamilton Island repositories at the following locations:

North Bonneville City Hall/Community Library North Bonneville, Washington

Bonneville Dam Second Powerhouse and Bradford Island Visitor Center, Skamania County, Washington

U.S. Army Corps of Engineers, Portland District, 333 S.W. First Street, Portland, Oregon 97204

FOR FURTHER INFORMATION CONTACT: Christopher Cora, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop: HW-124, Seattle, Washington 98101, (206) 553-1148.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis of Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region 10 announces its intent to delete Hamilton Island from the National Priorities List (NPL), appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to human health or the environment and maintains the NPL as a list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such actions.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Hamilton Island Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate response under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site *above* levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, where no hazardous wastes are above health based levels and future access does not require restriction, operation

VOL
60
ISS
70
AP
12
1995
UMI

and maintenance activities and five-year reviews will not be conducted. However, if new information becomes available which indicates a need for further action, the federal government may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 10 selected No Action as the selected remedy in the Record of Decision for the Site. The No Action Record of Decision qualifies the Site for inclusion on the Superfund Site Construction Completion List and may be used to initiate Deletion from the NPL procedures. (2) The Washington State Department of Ecology concurred with the proposed deletion decision. (3) A notice has been published in the local newspaper and has been distributed to appropriate Federal, State, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management. As mentioned in Section II of this Notice, § 300.425(e)(3) of the NCP states that deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary if any significant public comments are addressed.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the proposed deletion of this Site from the NPL.

Hamilton Island is located adjacent to the Columbia River, approximately one and an half miles downstream from the Bonneville Dam, in Skamania County Washington, 40 miles east of Portland, Oregon. The area surrounding the Site is part of the Columbia River Gorge National Scenic Area. Adjacent areas to the Site are used for commercial, residential and open space.

The Site was used by the U.S. Army Corps of Engineers (USACE) for the disposal of earthen materials and the old town of North Bonneville during the construction of the Bonneville Dam Second Powerhouse between 1977 and 1982.

The Site was placed on the NPL on October 14, 1992 as a Federal Facility. The basis of the listing was for possible releases of arsenic, copper, lead, zinc and toluene above Ambient Water Quality Criteria to the Columbia River and other sensitive ecological areas. The USACE entered into a Federal Facility Agreement on September 24, 1993 with USEPA and the Department of Ecology to conduct a Remedial Investigation/Feasibility Study and the necessary Remedial Actions.

The Remedial Investigation determined that there was not unacceptable risk to human health or the environment, in fact the only contamination, above federal or state health based levels, detected was low level petroleum contamination in soils. On November 29, 1994 USACE proposed, in consultation with EPA and Department of Ecology to take No Action at the Site. No comments were received in opposition to the proposal.

Human health and ecological risk assessments were performed to assess current or future potential adverse human health or ecological effects associated with exposure to chemicals detected in soils, groundwater, surface water and sediments at Hamilton Island. Based on comparison of site specific analytical data with EPA and State risk-based screening criteria, ecological benchmarks, toxicity values, and the detection frequency and exposure potential of chemical constituents, it was concluded that chemicals at Hamilton Island do not pose an unacceptable risk to human health or the environment, under any land use scenario. Accordingly, EPA will not conduct "five-year reviews" at this Site.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate". EPA, with concurrence of Ecology, believes that this criterion for deletion has been met. It is concluded that there is no significant threat to public health or the environment and, therefore, no further remedial action is necessary. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the docket.

Dated: March 30, 1995.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 95–8882 Filed 4–11–95; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 92–66; Notice 3]

RIN 2127–AF36

Federal Motor Vehicle Safety Standards; Fuel System Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: This notice announces the agency's plans to consider upgrading Federal Motor Vehicle Safety Standard (FMVSS) No. 301, *Fuel System Integrity*, by making the current crash requirements more stringent and by broadening the standard's focus to include mitigation concepts related to fuel system components and environmental and aging tests related to components. This notice requests comments on the agency's plans to explore a three-phase approach to upgrading the standard. The notice also requests data, methods, and strategies, which may assist in the agency's regulatory decisions in defining specific requirements and test procedures for upgrading the standard.

DATES: Comments must be received on or before June 12, 1995.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. William J.J. Liu, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Telephone: (202) 366–2264.

SUPPLEMENTARY INFORMATION:

Introduction

The National Highway Traffic Safety Administration (NHTSA) is announcing its plans to consider upgrading Federal Motor Vehicle Safety Standard (FMVSS) No. 301, *Fuel System Integrity*. The purpose of this rulemaking is to further reduce fatalities and injuries from fires resulting from motor vehicle crashes. Specifically, the agency is considering whether to make more stringent the current crash requirements applicable to vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds (4,536 kg) or less. It is considering also whether to broaden the standard's focus to include ways to prevent or decrease the severity of vehicle fires by exploring regulations related to fuel system components and tests of the resistance of components to environmental and aging factors.

Today's notice outlines NHTSA's plans to explore a three-phase approach to upgrading the standard. In Phase One, the agency would evaluate performance criteria for components to ensure that the flow of fuel from the tank is stopped in a crash. Phase Two would involve defining upgraded crash test performance for frontal, side, and rear impacts (e.g., higher test speeds, additional impact barriers, etc.). During Phase Three, NHTSA would address the effect of environmental and aging factors such as corrosion and vibration on components in the fuel system.

Today's notice also summarizes issues related to vehicle fires and discusses the agency's recent work in this area. The agency is seeking public comment on the merits of the agency's rulemaking efforts to explore alternative ways to upgrade the present standard. Today's notice also supplements a previous notice published on December 14, 1992, in which the agency requested comments about making FMVSS No. 301 more stringent (57 FR 59041, Docket 92–66, Notice 1).

On December 2, 1994, Secretary of Transportation Federico Peña announced a settlement of an investigation by NHTSA of an alleged safety defect in certain General Motors (GM) pickup trucks with fuel tanks mounted outside the frame rails. Under that settlement, GM will contribute over $51.3 million for a variety of safety initiatives. Among other things, the settlement will fund research on ways to reduce the occurrence and effects of post-crash fires. All relevant results of this research will be placed in the public docket for this rulemaking.

The Fire Problem

While vehicle fires are relatively rare events (occurring in only one percent of towed vehicles in crashes), they tend to be severe in terms of casualties. The agency's General Estimates System (GES) reports that, in 1992, approximately 21,000 passenger cars, light trucks, and multipurpose vehicles had a fire related to a crash. Based on an analysis of the agency's Fatal Accident Reporting System (FARS), four to five percent of occupant fatalities occur in crashes involving fire (the fatality being due to burns and/or impact injuries). Overall, the fire itself is deemed to be the most harmful event in the vehicle for about one-third of these fatalities.

An analysis of 1979–1986 National Accident Sampling System (NASS) data (Reference: "Fires and Burns in Towed Light Passenger Vehicles," Docket No. 92–66–N01–001) shows that about 29,000 occupants per year were exposed to fire in towed light passenger vehicles (cars, light trucks, and multipurpose vehicles), of whom three percent received second or third degree burns over at least six percent of the body. The Abbreviated Injury Scale (AIS) defines these burns as moderate and more severe (AIS 2 and greater). Half of those with moderate and more severe burns had second or third degree burns over more than ninety percent of the body; these maximum-severity (AIS 6) burns are always fatal. These estimates are based on all 47 occupants with moderate and more severe burns received in vehicle fires that were investigated as part of the NASS during the eight years from 1979 to 1986.

NASS investigated vehicle fires that involved another 44 occupants with moderate and more severe burns between 1988 and 1990. The eleven years of NASS data suggest that each year 280 surviving occupants and 725 fatally-injured occupants received moderate or more severe burns (AIS 2 or greater). These injuries and fatalities may have been caused by burns or impacts.

NASS 1988 to 1990 data also indicate that potential escape from the fire was made more difficult for most occupants (87 percent) with moderate or more serious burns because they (1) were sitting next to a door that was jammed shut by crash forces, (2) did not have a door at their position, or (3) had a part of their body physically restrained by deformed vehicle structure.

Federal Motor Vehicle Safety Standard No. 301

FMVSS No. 301, *Fuel System Integrity*, first became effective for passenger cars in 1968. The requirements in the current standard apply to all vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds (4,536 kg) or less since September 1, 1977, and to school buses that have a GVWR greater than 10,000 pounds (4,536 kg) GVWR since April 1, 1977. FMVSS No. 301 only applies to vehicles that use fuel with a boiling point above 32 degrees Fahrenheit (0 degree Celsius).

FMVSS No. 301 limits the amount of fuel spillage from fuel systems of vehicles tested under the procedures specified in the standard during and after specified front, rear, and lateral barrier impact tests. The standard limits fuel spillage due to these required impact tests to 1 ounce (28.4 grams) by weight during the time from the start of the impact until motion of the vehicle has stopped and to a total of 5 ounces (142 grams) by weight in the 5-minute period after the stop. For the subsequent 25-minute period, fuel spillage during any 1-minute interval is limited to 1 ounce (28.4 grams) by weight. Similar fuel spillage limits are required for the standard's static rollover test procedure, which is conducted after the front, rear and lateral impact tests.

The required impact tests for all vehicles that have a GVWR of 10,000 pounds (4,536 kg) or less are: a 30 mph (48.3 kmph) frontal fixed rigid barrier impact with the barrier face perpendicular to the line of travel of the vehicle or at any angle up to 30 degrees from the perpendicular; a 30 mph (48.3 kmph) rear moving flat rigid barrier impact with the barrier face perpendicular to the longitudinal axis of the vehicle; and a 20 mph (32.2 kmph) lateral moving flat rigid barrier impact in a direction perpendicular to the longitudinal axis of the vehicle (i.e., with the barrier face parallel to the longitudinal axis of the vehicle). The weight of the moving barrier is 4,000 pounds (1,814 kg). A rollover test is conducted following the barrier impacts.

The required impact test for large school buses that have a GVWR greater than 10,000 pounds (4,536 kg) is a 30 mph (48.3 kmph) moving contoured rigid barrier impact at any point and angle. The weight of the barrier is 4,000 pounds (1,814 kg). The static rollover test is not required for large school buses.

The standard does not apply to large non-school buses or other vehicles that

VOL 60 ISS 70 AP 12 1995 UMI

have a GVWR greater than 10,000 pounds (4,536 kg).

December 14, 1992 Notice

On December 14, 1992, NHTSA published a Request for Comments notice in the **Federal Register** (57 FR 59041, Docket No. 92–66, Notice 1) stating that the agency "is considering initiating rulemaking to upgrade the protection currently provided by" FMVSS No. 301. The notice also requested answers to specific questions related to test impact speeds, impact barriers, effect of vehicle aging on the likelihood of fire, contribution of occupant entrapment to the likelihood of fire-related injuries, etc.

NHTSA received 35 public comments by October 1994 including comments from most of the major vehicle manufacturers, the American Automobile Manufacturers Association (AAMA), Advocates for Highway and Auto Safety (Advocates), the Center for Auto Safety (CAS), and the Insurance Institute for Highway Safety (IIHS). Commenters raised issues regarding the safety need, the adequacy of the current test procedures, the availability and necessity of developing new test procedures, and the existence and feasibility of countermeasures. Many commenters stressed the need for further detailed investigation of real-world crash data to determine the causes of vehicle fires and fire-related occupant fatalities and injuries. In addition to support for the test procedures currently used in FMVSS No. 301, commenters suggested several alternatives, including substituting the dynamic side-impact test procedures of FMVSS No. 214 for those currently specified in FMVSS No. 301, adding frontal offset crash conditions, and developing new barriers that might be more representative of real-world crash conditions.

The agency has initiated work related to several fire safety issues that need to be considered to define mitigation concepts to reduce fatalities and injuries. Due to resource considerations, not all the safety issues discussed in the previous notice are included in this notice. The issues discussed in this ANPRM include crash conditions, origin of fires, and vehicle age.

Agency Efforts Related to Fuel System Integrity

NHTSA has undertaken the following activities to more-fully understand motor vehicle fires. These include comparing fuel system safety requirements in this country with those in other countries, conducting extensive test crashes related to fuel system integrity, and analyzing data of real-world crashes.

Comparison of U.S. and Foreign Fuel System Safety Requirements

FMVSS No. 301's requirements have been compared to the following foreign fuel system integrity standards: (1) The Canadian CMVSS No. 301, *Fuel System Integrity (Gasoline, Diesel);* (2) the Economic Commission for Europe (ECE) Regulation No. 34, *Uniform Provisions Concerning the Approval of Vehicles with Regard to the Prevention of Fire Risks* (01 Series, Amendment 1, January 29, 1979) (Thirteen European countries have agreed to adopt ECE Reg. No. 34, including Germany, France, Italy, Netherlands, Sweden, Belgium, Czechoslovakia, United Kingdom, Luxembourg, Norway, Finland, Denmark, and Romania); and (3) the Japanese Standard, *Technical Standard for Fuel Leakage in Collision etc.* (Amended on August 1, 1989).

The Canadian CMVSS No. 301 has requirements identical to those of the U.S. FMVSS No. 301.

In terms of application to vehicles: FMVSS No. 301 applies to all vehicles 10,000 pounds (4,536 kg) or less GVWR and school buses over 10,000 pounds (4,536 kg) GVWR. ECE Reg. No. 34 only applies to passenger cars, and the Japanese standard applies to passenger cars and multipurpose passenger vehicles 5,600 pounds (2,540 kg) or less.

In terms of required impact tests: As described above, FMVSS No. 301 requires frontal, rear and side impact tests at 30, 30, and 20 mph (48.3, 48.3 and 32.2 kmph), respectively, plus a static rollover test, for vehicles 10,000 pounds (4,536 kg) or less GVWR. FMVSS No. 301 also requires a 30 mph (48.3 kmph) impact test for school buses over 10,000 pounds (4,536 kg) GVWR.

The ECE Reg. No. 34 requires a 48.3 to 53.1 kmph frontal fixed barrier impact test and a 35 to 38 kmph rear moving flat barrier impact test. The flat rigid barrier weighs 1,100+20 kg. A pendulum can be used as the impactor. ECE Reg. No. 34 does not require a rollover test. The standard requires a hydraulic internal-pressure test for all fuel tanks and special tests (impact resistance, mechanical strength, and fire resistance) for plastic fuel tanks.

The Japanese standard requires a 50+2 kmph frontal fixed barrier impact test and a 35 to 38 kmph rear moving flat barrier impact test. The flat rigid barrier weighs 1,100+20 kg. A pendulum can be used as the impactor.

In terms of test performance requirements: all three standards limit fuel spillage. As in FMVSS No. 301, the ECE Reg. No. 34 and the Japanese standard, in general, also limit fuel spillage to about 1 ounce/min (28.4 grams/min). The Japanese standard lists the ECE Reg. No. 34 and FMVSS No. 301 as examples of equivalent standards.

In summary, FMVSS No. 301 applies to more vehicle classes and to higher vehicle weights than the ECE Reg. No. 34 or the Japanese standard. FMVSS No. 301 requires testing in all crash modes (frontal, side, rear, and rollover). ECE Reg. No. 34 and the Japanese standard require only frontal and rear impact tests. FMVSS No. 301 uses a much heavier moving barrier for impact tests than the ECE and Japanese standards (1,814 kg vs. 1,100 kg). However, FMVSS No. 301 does not require a hydraulic pressure test for fuel tanks, a battery retention requirement, or additional tests for plastic fuel tanks; ECE Reg. No. 34 does. In addition, the ECE Reg. No. 34 requires that "no fire maintained by the fuel shall occur" and no failure of the battery securing device due to the impact. Since ECE Reg. No. 34 also requires filling the impacted vehicle's fuel tank "either with fuel or with a non-inflammable liquid," the no-fire requirement is actually interpreted from the observed fuel leakage. It is the agency's understanding that in practice, when the ECE Reg. No. 34 tests are conducted, the fuel tank is filled with non-inflammable liquid.

Safety Issues Related to Vehicle Fires

A. Crash Conditions

The crash conditions discussed in this section refer to real-world crash conditions that result in vehicle fires and their implications for compliance test conditions and performance requirements for the current FMVSS No. 301. To further refine the relationship between real-world and laboratory crash conditions, this notice has examined certain engineering parameters such as impact speeds, impact locations, objects struck, and damage patterns.

Laboratory Crash Test Results

Between 1968 and 1994, the agency has conducted 563 FMVSS No. 301 compliance tests in the frontal impact mode: 14 failures resulted (3%), the last occurring in 1992. Effective September 1, 1976, the standard was amended by requiring rear impact tests for all vehicles and side-impact tests for passenger cars only. Side-impact testing was extended to all vehicles and became effective on September 1, 1977. For model years 1977 through 1994, 331 rear impact and 25 side-impact compliance tests have been conducted; 26 rear impact failures (8%) and 1 side impact failure (4%) resulted. In computing these failure rates, the rollover test is considered a part of the frontal, rear, or side impact test.

The agency conducted a research test program on FMVSS No. 214, *Side Impact Protection*, for light trucks. Since December 1988, 24 crash tests have been conducted, 2 tests produced fuel leakage at a rate higher than FMVSS No. 301 requirements. Both tests used the FMVSS No. 214 test protocol.

Between 1979 and 1986, 12 out of 201 (6%) frontal New Car Assessment Program (NCAP) tests indicated leakage at a rate above the fuel spillage requirements of FMVSS No. 301 at 35 mph (56.3 kmph). In addition, during the same period, NCAP conducted 53 FMVSS No. 301 rear impact tests at 35 mph (56.3 kmph), and 6 (11%) leaked at a rate above the fuel spillage requirements of the standard. Rollover tests were not conducted following any of the frontal or rear impact NCAP tests. Some of these vehicles were retested at 30 mph (48.3 kmph), but none failed. In 1993, NCAP resumed examining FMVSS No. 301 fuel spillage requirements, and added a rollover test following the frontal impact tests. To date, only one of the approximately 80 vehicles tested leaked at a rate above the requirements of the standard at the higher speed.

Between April and June 1993, the agency conducted six baseline vehicle crash tests (all 1993 models) as part of its initial research effort for exploring potential upgrades to FMVSS No. 301. In addition, the Federal Highway Administration (FHWA) conducted a seventh crash test for the agency. Information on the seven tests has been entered into the docket.

The test conditions for the seven crash tests represent a baseline of delta-v (change of velocities), impact barrier, and impact location. The tested cars were chosen based on their high sales volume as well as agency experience with the cars in other test programs.

The six NHTSA tests include two in each of the crash modes: frontal, side, and rear. Three tests used a 4,000-pound (1,814-kg) moving contoured barrier—a frontal impact into a Chevrolet Corsica at 65 kmph (40.5 mph), a side impact into a Toyota Corolla at 49.4 kmph (30.7 mph), and a rear impact into a Ford Escort at 56.6 kmph (35.2 mph). None of these three tests resulted in a loss of fuel system integrity.

The other three tests were: a frontal impact of a Chevrolet Corsica into a 305-mm (12-inch) diameter stationary pole at 56.3 kmph (35 mph), a side impact into a Toyota Corolla with a 1,361-kg (3,000-pound) deformable moving barrier (FMVSS No. 214 side impact barrier) at 87.1 kmph (54.1 mph), and an offset rear impact into a Ford Mustang with the same type of FMVSS No. 214 moving barrier at 84 kmph (52.2 mph).

The only fuel system failure was a ruptured fuel tank from the rear impact to the Ford Mustang by the FMVSS No. 214 deformable moving barrier, resulting in a delta-v of about 39 kmph (24 mph). The head and chest injury measurements on the instrumented driver and passenger dummies exceeded the criteria specified in FMVSS No. 208, *Occupant Crash Protection*. Thus, the survivability of this crash in the absence of a fire is questionable. However, the agency would like to point out that FMVSS No. 208 is for frontal tests and the test dummies used for the tests were not specifically designed to collect impact data for rear impact tests.

The crash test conducted by FHWA was on a Toyota Corolla, which was crashed into a 203-mm (8-inch) diameter stationary pole directed at the fuel tank location, in a side impact orientation at 32.2 kmph (20 mph). There was no fuel system integrity failure. No dummy instrumentation was used in this test.

The agency also conducted other frontal impact tests. These tests primarily consisted of high speed, vehicle-to-vehicle offset crashes. In addition, several side impact tests were conducted using the FMVSS No. 214 test procedure. Since December 1990, a total of 25 crash tests have been conducted. One test, involving a Chevrolet Corsica, resulted in a small fuel leak from the fuel return line (within FMVSS No. 301's limit). This test was conducted in an oblique configuration with a Honda Accord striking the left front corner of the Corsica.

At the request of NHTSA's Office of Defects Investigation (ODI), the Vehicle Research Test Center (VRTC) conducted 24 side-impact crash tests (including one test with no instrumentation to determine appropriate test speed) of the 1973–1987 General Motors full-size pickup trucks and peer pickup trucks of the same vintage. These tests were conducted as a part of a safety defect investigation, EA 92–041. Seven of these tests were FMVSS No. 301 type side impact tests, three were FMVSS No. 214 moving deformable barrier tests, three were vehicle-to-pole side impact tests, and eleven were various vehicle-to-pickup side impact tests. Reports of these tests are included in the public file for EA92–041.

The summary report for this test program notes that the FMVSS No. 301 type tests produced no leaks in a test of a new replacement fuel tank; however, one of the four GM trucks tested with "as received" GM tanks leaked an amount in excess of the FMVSS No. 301 requirements in a rusty area. Non-tank components of one Ford and one GM truck did leak during the static rollover test.

In the three GM truck tests using the FMVSS No. 214 barrier, one at 53.1 kmph (33 mph) and two at 72.4 kmph (45 mph), one caused a leak in the seam of the tank which resulted in a damp area, while the other two did not leak.

In the vehicle-to-vehicle tests, the ride height of the striking vehicle was adjusted to simulate heavy braking. At 72.4 kmph (45 mph) with a Taurus striking car, the GM fuel tank significantly leaked at the sending unit, filler nose, and a rusty area and small cut in the tank. Although no leakage was noted from the fuel tank during a similar test of a Ford F–150, significant fuel leakage was noted from the fuel reservoir mounted on the inside of the left rail.

For the 80.5 kmph (50 mph) tests, significant leaks were noted from the GM vehicles (in "as received" and new condition), but no leaks were noted during a similar test on an F–150.

In the 96.6 kmph (60 mph) tests, both the GM and Ford F–150 vehicles leaked significant amounts, with the GM truck rupturing and the Ford F–150 trucks being punctured, forming small holes.

One pole test was conducted at 48.3 kmph (30 mph) on a GM pickup truck with significant vehicle damage and significant fuel leakage. In the pole tests, at 32.2 kmph (20 mph) the GM tank leaked significantly, but in a similar test of a Ford F–150, no leakage was observed.

Data Analysis of Real-World Crashes

Accurate data on vehicle fires are scarce, which makes it difficult to define cause/effect relationships under all circumstances. Unlike many other crashes, investigations of crashes involving fire are hampered by the destruction of evidence needed for crash reconstruction and analysis. The origin of fire in vehicle crashes needs to be understood better to help define possible countermeasures and performance requirements.

NHTSA has reviewed real-world crashes involving fuel system integrity at great length. This analysis includes a review of the National Accident Sampling System (NASS) file, a recent analysis by the agency of the Fatal Accident Reporting System (FARS) data, a detailed hard copy study of accident cases involving fire from NASS and

VOL 60 ISS 70 AP 12 1995 UMI

FARS, and an analysis of State accident files.

The NASS review referenced in the December 14, 1992, Request for Comments notice, "Fires and Burns in Towed Light Passenger Vehicles" (Docket No. 92–66–N01–001), noted that most fires occurred in crashes with a delta-v of less than 32.2 kmph (20 mph). This figure is from all fires, regardless of injury level.

When the same NASS files were analyzed for occupant burn injuries at AIS 2 or greater, the sample size was very small, even after the 1991 data were added. The delta-v for frontal impacts resulting in fire was estimated to be from 33.8 to 106.2 kmph (21 to 66 mph), with a 66 kmph (41 mph) median, based on 14 cases. The delta-v for side impacts was estimated to be from 16.1 to 66 kmph (10 to 41 mph), with a 43.4 kmph (27 mph) median, based on seven cases. The delta-v for rear impacts was to be estimated from 12.9 to 96.5 kmph (8 to 60 mph), with a 41.8 kmph (26 mph) median, based on 11 cases.

The following are estimates of the delta-v's. For vehicle- to-vehicle crashes, a 32.2 to 64.4 kmph (20 to 40 mph) delta-v range could result from impact speeds in the 64.4 to 128.8 kmph (40 to 80 mph) range for equal mass vehicles. Similarly, the same delta-v range could be the result of other high impact speeds for crashes involving unequal mass vehicles.

The FARS study analyzed real-world crash data related to vehicle fires to establish which barrier design most closely replicates the damage seen in real-world fatal crashes involving fire. Preliminary results of the agency's FARS study indicate that the combined 1979–1992 data from FARS for light vehicles of model years 1978 and later include 9,440 vehicles with a post-crash fire, of which 2,840 were crashes where fire was classified as the most harmful event. Of the latter vehicles, approximately half were involved in single-vehicle crashes, and half were in multi-vehicle crashes.

For frontal and side fatal crashes involving a fire, approximately 60 percent involved multiple vehicles, while for rear-impact crashes involving in a fire, approximately 90 percent of the crashes involved multiple vehicles. Narrow objects, including trees and poles, account for approximately 40 percent of the objects struck in single vehicle crashes resulting in a fire.

The agency recently completed a detailed hard copy study of a sample of accident cases involving fire from NASS and FARS. The detailed case study report has been entered into the docket of this notice. The title of the report is: "Fuel System Integrity Upgrade—NASS & FARS Case Study," a NHTSA sponsored research study, by GESAC, Inc., DOT Contract No. DTNH–22–92–D-07064, March 1994.

The GESAC study selected 150 NASS cases for detailed analysis, which were selected from recent years and involved fire with any occupant injury of AIS 2 or greater. One of the objectives of the analysis was to suggest a laboratory simulation for accidents that led to vehicle fires. The suggested crash simulations include impact mode, speed, barrier, location, and orientation.

The report presents information on a possible barrier test that most accurately "simulates" crashes that resulted in "moderate", "severe", and "very severe" fires. A "moderate" fire is defined as fire damage to between 25% and 50% of the vehicle surface, a "severe" fire has fire damage to between 50% and 75% of the vehicle surface, and a "very severe" fire has fire damage to more than 75% of the vehicle surface.

For this analysis, only the cases for which a simulation was defined were included. Simulations were not defined, for example, for cases where the fire originated outside the vehicle or where the crash conditions were too complicated—these events included multiple impacts, undercarriage impacts, or rollover events, etc. Based on these criteria, there were 64 vehicles selected for simulations.

For vehicles receiving frontal damage, the report indicates that a pole would be the most common simulation barrier type. For rear damage, a moving deformable barrier with a partial overlap (a partial width of the vehicle involved in the crash) was cited most often as a simulation procedure. For side impacts, a pole impact was the most common simulation procedure. The GESAC report also presents information on impact speed for these simulations.

For frontal impacts, the delta-v ranged from 23 kmph to 105 kmph (14 to 65 mph) with a 55 kmph (34 mph) medium delta-v. For rear impacts, the delta-v ranged from 11 kmph to 73 kmph (7 to 45 mph) with a 42 kmph (26 mph) medium delta-v. Overlap, which is defined as the percentage of the frontal or rear width engaged in a crash, ranged from 40% to 100% for frontal crashes, with an average level of 72% overlap. For rear crashes, the overlap ranged from 30% to 95% with an average level of 71%. This real-world crash is similar to the Ford Mustang test, discussed in the previous section, that resulted in a ruptured fuel tank.

Based on these analyses, NHTSA tentatively concludes that in developing any new performance requirements, it should consider alternatives to the FMVSS No. 301 barriers in addition to possible changes in impact speeds. Possible alternatives to be considered are changes to simulate single vehicle crashes, pole tests, and offset tests.

NHTSA also needs to consider the likelihood of an occupant surviving the crash forces in high severity crashes that are associated with many fire fatalities. To address this issue, the agency may have to develop new test dummies that are capable of collecting meaningful data at higher impact speeds and in rear impacts.

To further define crash conditions that lead to fires, NHTSA anticipates conducting additional analysis of the FARS and NASS files, the GESAC study, and experimental crash testing. Additional full-scale crashes are being considered to help identify possible upgraded performance requirements.

Response to the Request for Comments Notice

Impact Speeds

FMVSS No. 301 specifies that the frontal and rear crash tests be conducted at 30 mph (48.3 kmph) and the lateral crash test be conducted at 20 mph (32.2 kmph). The December 1992 notice asked about appropriate test speeds.

In response to that notice, Advocates and CAS supported testing with increased impact speed. Specifically, Advocates stated that impact testing for all crash modes should be conducted at least at 56.3 kmph (35 mph). It also stated that the current side impact 32.2 kmph (20 mph) test speed of existing FMVSS No. 301 is especially inappropriate in light of the agency's current consideration of dynamic lateral test regimens for light trucks. CAS stated that based on crash protection technology in new vehicles, the standard should be amended to provide for no fuel leakage in a 72.4 kmph (45 mph) frontal fixed barrier crash, a 72.4 kmph side moving barrier, and a 72.4 kmph fixed rear barrier.

In contrast, Mazda, Mitsubishi, Volkswagen (VW), Toyota, GM, Chrysler, Mercedes-Benz, BMW, Ford Motor Company and the American Automobile Manufacturers Association (AAMA) questioned the need for testing at higher impact speeds or stated that more data are needed before considering such an increase. For instance, Toyota stated that the data and analyses on injuries and deaths from vehicle fires are insufficient to support a compliance test requirement for higher impact speeds. Similarly, Mercedes stated that increased impact speed as part of a compliance test does not appear to have great potential for increasing real-world fire safety. AAMA stated that the difference in impact speeds for side versus front and rear tests is representative and reasonable.

Impact Barrier, Location, and Orientation

FMVSS No. 301 requires either fixed or moving rigid impact barriers for the crash tests as described previously in this notice. In the December 1992 notice, NHTSA posed several questions about the appropriate barrier, including whether the current impact barriers should be replaced by the moving contoured rigid barrier for testing large school buses.

National Truck Equipment Association (NTEA), Mazda, Advocates, VW, Toyota, AAMA, BMW, and Ford said no; and no commenter favored this approach. NTEA objected to extending the existing contoured barrier to other vehicles because of economic considerations. Mazda stated that the FMVSS No. 214 barrier represents real-world crashes better than the contoured barrier.

In the December 1992 notice, NHTSA also asked whether the current barriers are representative of typical real-world crash situations.

While GM and BMW stated "yes," Advocates, Ford, and Volvo said "no." GM stated that the FMVSS No. 301 moving barrier side impact test is an appropriate surrogate for real-world side impact circumstances because it properly measures the fuel system performance *regardless* of component location. Advocates stated that the current perpendicular barrier crash test conditions for frontal and rear impact tests should be replaced by offset and angle impacts. Advocates also suggested that the current side impact test should be replaced by a pole impact test, claiming that such a test is more representative of real-world situations.

The December 1992 notice also asked whether all vehicles with GVWR of 10,000 pounds (4,536 kg) or less should be subjected to the impact test requirements for large school buses. Advocates, VW, Toyota, AAMA, Mercedes, BMW, and Ford all opposed this approach, while no commenter favored it. These commenters stated that the contoured barrier does not simulate vehicles in use now.

Another question was whether the FMVSS No. 214 dynamic side impact test should be incorporated into FMVSS No. 301, thereby replacing FMVSS No. 301's current lateral requirements. Of the twelve commenters responding to the question 11 answered "yes" (Mazda, Advocates, Mitsubishi, VW, GM, Chrysler, AAMA, Mercedes, BMW, Ford, and Volvo). Only Toyota said "no." In general, the commenters stated that the FMVSS No. 214 side impact test conditions are more representative of real-world accidents than the current FMVSS No. 301 side impact test requirements. GM and AAMA also suggested allowing the FMVSS No. 214 test as an optional test to the FMVSS No. 301 side impact test. In contrast, Toyota stated that available accident data do not demonstrate the need to replace the FMVSS No. 301 test with the FMVSS No. 214 test.

B. Origin of Fires

The origin of fire in vehicle crashes needs to be understood better to help define possible countermeasures and performance requirements.

The agency's NASS collects information on the origin of fires in towed light vehicles. NASS classifies fires as either minor or major. Fires were classified as major if they involved the whole passenger compartment or several different compartments such as the engine compartment, trunk compartment, undercarriage, etc. Approximately 65 percent of crash-induced light vehicle "major" fires began in the engine compartment, 28 percent began in the fuel tank or another part of the fuel system, which includes the fuel supply lines, vent lines, and tank filler neck, and seven percent others.

A recently published British article also concluded that the engine compartment was the most common source of fires. This was attributed to the varied electrical and mechanical systems. The article stated that: "Investigators found that a disproportionately high number of crash/collision fires start in cars built after 1985—especially where the vehicles are fitted with a fuel-injection system. The investigations also showed that fuel line integrity was more at risk from heat and fire than from impact damage." (Ref: "CACFOA Urges Action by Car Manufacturers on Fire Risks," *Fire Prevention*, October 1992.)

C. Vehicle Age and Fires

Both the FMVSS No. 301 evaluation report referenced in the December 14, 1992, Request for Comments notice and more recent analysis of real-world crash results indicate that older vehicles involved in crashes represent a disproportionate number of cases in which there was a fire compared to newer crash vehicles. The agency's FARS analysis showed that vehicle age has a statistically significant relationship to fire in fatal crashes. The agency is conducting an extensive statistical analysis of fire occurrence in fatal and other crashes, as a function of the factors that may influence the likelihood of post-collision vehicle fires. Fire occurrence in FARS was examined in fatal crashes with any occurrence of a fire and in those crashes for which the fire was the "Most Harmful Event." Preliminary results indicate that as vehicles (especially passenger cars) age, the likelihood of a fatal fire increases. The preliminary findings also indicate that while trucks involved in fatal crashes have a somewhat higher rate of fire occurrence than cars, there is not an increase in the likelihood of fire as light trucks age.

Preliminary findings indicate that for cars, light trucks, and vans as a group and with all other factors held constant, a vehicle that is ten years older than another is on average, 29.3 percent more likely to be involved in a fatal fire. Most of this increase is found in cars. Although there is an indication that as light trucks and vans age the probability of a fire increases in fatal crashes, the estimated increase is less than the increase for cars only. However, the number of cases in the current data base is insufficient to produce statistically significant results using vehicle age as a variable.

The combined data for cars, light trucks, and vans do not suggest any relationship between vehicle age and likelihood of involvement in a fatal crash where the most harmful event is fire. Nevertheless, post-crash fires should be avoided to the extent practicable. The possible effect of vehicle aging, therefore may need to be addressed in an upgrade of FMVSS No. 301.

To address the problems associated with older vehicles, requirements may need to address such factors as corrosion, stress cracking, fatigue, and mechanical damage. Various aging tests are available, such as the Salt Spray (Fog) Test (ASTM B117), Humidity Test, Laboratory Cyclic Testing and Electrochemical Testing to simulate corrosive environments. However, if the problem of aging in relation to fuel system leakage and fires were attributed to cracking of fuel hoses, etc. then there are other options. Standards with performance requirements for aging of fuel lines and tanks may be one approach to mitigating this problem.

A question related to this subject was posed in the December 1992 notice. Eight commenters did not support setting up an aging test standard within FMVSS No. 301 (Mazda, Mitsubishi, Toyota, GM, AAMA, Mercedes, BMW, and Ford). Advocates and Volvo

VOL
60
ISS
70
AP
12
1995
UMI

supported a component test procedure for aging. VW opposed aging tests on a total vehicle basis but not for components.

Mitsubishi indicated that the design of various replacement parts, their materials and conditions of use and exposure will all vary, and it is not practical to set up a standard specifying time or mileage limits for each part. BMW stated that age-related degradation can occur not only in fuel system components, but also in other parts, components, and structures and could be a significant factor related to degradation, along with differences in vehicle use, operational and environmental conditions and maintenance.

Mazda, VW, and Volvo recommended periodic inspection or replacement of certain fuel system components. Mazda recommended it be performed by the vehicle owner and VW suggested upgraded periodic inspections for vehicle condition be performed under local or state government programs. Mazda also stated that, in the long term, durability testing of critical fuel system components may be advisable.

Advocates strongly supported simulation of fuel system component deterioration and overall system performance loss due to aging effects. Advocates suggested utilizing test standards to detect the deleterious effects of aging and/or exposure to operating or environmental conditions that degrade fuel system integrity.

The agency requests specific comments on the wisdom and practicability of adopting existing test procedures or developing new component test procedures related to aging effects. Individual fuel system components could be evaluated using accelerated aging or corrosion treatment tests.

Phased Rulemaking Approach

Based on the above discussions and preliminary analyses, the agency is considering research and rulemaking activities to amend FMVSS No. 301 to address the following areas:

1. The definition of performance criteria for fuel system components directed at mitigating the cause and spread of vehicle fires.

2. The modification of the existing FMVSS No. 301 crash test procedures and performance criteria to better simulate the events that lead to serious injury and fatalities in fires.

3. The definition of the role of environmental and aging factors such as corrosion and vibration as it affects fuel system integrity, and, if appropriate, the specification of performance criteria related to this area.

The agency is considering whether to initiate rulemaking using a phased approach. The basis of this approach lies in the varying complexity of addressing the different issues listed above. The initial phase would focus on requirements for component performance, the second phase would address system performance, and the third phase would deal with issues related to environmental and aging effects.

Phase 1: Component Level Performance

A. Objectives of Component Approach

The first phase would focus on the specification of performance criteria, at a component level, to attempt to ensure that the flow of fuel from the fuel tank or fuel lines will stop in a crash. It would also focus on minimizing the possibility of an electrical spark of sufficient intensity to act as an ignition source. These specifications would primarily affect fires that originate in the engine compartment. However, they would also help to shut off the fuel flow for all crash modes, including a rollover crash.

Shutting off the fuel flow quickly during or immediately after a crash will eliminate a major fire and fuel source and therefore should both reduce fire incidents and limit the spread of fire, if one were to start. It also appears that many new vehicles incorporate different techniques for addressing this problem. An electric current shut-off device would minimize the possibility of a spark. The performance associated with the fuel shut-off and the electric current shut-off devices can be incorporated into the present crash tests in FMVSS No. 301 or other compliance tests such as those conducted as part of FMVSS No. 214.

As discussed below, the agency is also seeking comment about component test requirements for fuel tanks, fuel pumps, the vehicle's electrical system, and engine fire extinguishes.

The agency requests information on the performance, cost, and practicability aspects of various systems in shutting off the fuel flow and the electric power. The agency also requests comments on ways to develop a practicable test procedure and to define specific criteria with sufficient objectivity that test variability is reduced to a minimum. In the event that other, more appropriate, component tests would satisfy the objectives of the Phase 1 effort, interested parties are requested to provide this information to the agency.

B. Components Now in Use

The agency believes that technology already exists for detecting and identifying conditions when the fuel flow should be shut off. Most new vehicles sold in the United States are already equipped with devices that shut off the fuel pump in any collision that causes the engine to stop.

In some vehicles, sensors detect the consequence of severe engine damage (rotation stops for camshaft, crankshaft or alternator) and immediately shut off the fuel pump. Often, signals from more than one sensor are used to determine if the engine has stopped running and the decision for fuel pump shut-off is left up to the vehicle's onboard computer (such as the Engine Control Unit or Electronic Control Module). Manufacturers also use a "central" for collecting and routing crash signals through a central collision detection bus.

Other vehicles are equipped with an inertia switch. Inertia switches can be used to shut off the fuel flow as well as the electric current. Inertia switches operate on sudden impact to open the electrical circuit to the fuel pump or the battery during the crash. An inertia switch can be designed to operate at various levels of impact intensity and direction, and thus could be effective in all crash modes.

The agency requests information on the different components used in vehicles for shutting off the fuel flow or electric current.

C. Component Test Procedures

Fuel system components must operate in a real-world environment surrounded by extreme conditions imposed by modern engine technology. The materials and parts used to assemble fuel system components are already subject to manufacturers' specifications, often derived from or directly related to other engineering standards such as the publications of the American Society for Testing and Materials (ASTM). Some of the test requirements are generic to many of the ASTM standards, for example: vibration, shock, endurance testing, temperature cycling, temperature extremes, compatibility with other materials, etc.

Comments are requested regarding the extent and scope of component test requirements that should be developed as part of the FMVSS No. 301.

The agency has identified the following fuel system and vehicle components as potential candidates for this approach:

a. Fuel tank, including filler pipe
b. Fuel pump(s)
c. Vehicle's electrical system
d. Engine fire retardant/extinguisher

The agency has not included fuel lines in this proposed list because the potential to shut down the entire fuel delivery system when the fuel pump shuts down already exists. Comments are requested about this decision.

a. *Fuel tank, including filler pipe.* During a vehicle crash, the fuel tank may receive crash forces great enough to move or dislodge the tank from its mountings and/or to rupture the tank. If the tank moves significantly, the filler pipe, which is attached to the vehicle body to provide access during refueling, may rupture or break away. If the filler pipe ruptures, fuel could spill. Fuel spillage can be expected under some crash conditions even if the fuel pump is shut off.

One concept would include a check valve located in the filler pipe that is normally closed to prevent fuel flow but that would open automatically during refueling. For example, inserting of the pump filler nozzle could cause the closed check valve to open to permit fuel flow; withdrawing the nozzle would cause the valve to close.

Another concept would use a check valve similar in function to the valves used on heavy truck crossover fuel lines. Applied to the filler neck, this concept would require a large valve, normally open, that would close automatically upon detachment of the filler neck due to a crash.

Comments are requested on how filler check valves should be evaluated during safety compliance tests. For example:

1. Should the filler valve pass a simple go no-go test or should the valve be subjected to many cycles of operation?

2. What test condition would be appropriate for filler check valves: dynamic pendulum or other impact tests?

3. What are the critical engineering parameters that would characterize the proper operation of a filler pipe check valve?

4. Are there alternative ways to control spillage from broken filler pipes?

b. *Fuel pump(s).* Today's passenger cars, light trucks, and vans use electrically operated fuel delivery pumps almost exclusively. Some electric fuel pumps shut down if certain engine operating parameters, such as crankshaft rotation, indicate that the engine has stopped. The agency is interested in how manufacturers use engine sensing to control fuel pump operation and under what conditions the fuel pump is shut off. Specifically:

1. Is current sensing time response adequate to prevent fuel spillage? If not, what would improve response time?

2. How does cessation of engine rotation typically relate to the frontal crash pulse; i.e., after engine disintegration begins, how long does it take for the rotating parts to stop?

3. During this time interval, how much fuel spillage could occur, assuming that the crash has damaged the fuel lines, making fuel spillage imminent?

4. How would sensing engine rotation provide benefit to vehicles involved in a rear impact? rollover? side impact? in any crash where engine damage may be slight?

5. With regard to vehicle rollover, would a separate rollover switch prevent fuel spillage? Could this function be practicably combined in a single switch that would respond to all crash modes?

6. Does fuel pump shut-off prevent gravity-induced fuel flow through the pump?

7. Should a single fuel pump cutoff switch be used to replace the functions currently performed by sensing engine rotational parameters?

8. What advantages/disadvantages would such an installation incur? Some manufacturers currently use inertia switches to interrupt the flow of electricity to the fuel pump when a crash is sensed, thereby causing the fuel pump to shut down.

1. Could an inertial switch be substituted for the systems that sense engine shut down to disable fuel pumping?

2. Under what conditions would such a substitution be impracticable or too costly?

3. What sensitivity of operation should an effective inertia switch have?

4. Can inertia switches be manufactured with sufficient durability and reliability to function for long periods of time unattended in a relatively harsh automotive environment?

5. Are there any other features of an inertia switch that would be detrimental to occupant safety; e.g., what measures must an occupant take to restart the vehicle after an inertia switch has stopped fuel flow?

The agency is also interested if manufacturers or others have any alternative techniques for accomplishing fuel shut-off during a crash.

c. *Vehicle's electrical system.* Other means exist to cause the fuel pump to shut down in a crash. For example, a battery shut-off device could remove all electrical power from the vehicle at the onset of a crash. However, battery shut-off may have unintended consequences if electrically operated door locks or windows are rendered inoperative during a crash. Comments are requested regarding the relative costs and practicability of battery shut-off devices.

d. *Engine fire retardant/extinguisher.* After ignition takes place, vehicle fires could be controlled or extinguished if the proper equipment were available and functioning. Examples of equipment that could help control or extinguish a fire include an onboard fire extinguisher mounted in the engine compartment and fire retardant blankets. A fire extinguisher using carbon dioxide or other gaseous mixtures could be operated by means of existing vehicle sensors (such as the inertia switch) or by other signals. Fire retardant blankets attached underneath the vehicle's hood could drop down onto the engine to smother a fire in the event of a crash. Comments are requested on the costs and practicability of these concepts.

Phase 2: System Level Performance

The second phase would focus on the process of defining upgraded crash test performance for frontal, side, and rear impacts. The present crash tests specified in FMVSS No. 301 require a frontal fixed barrier impact at 30 mph (48.3 kmph), a moving barrier impact of 20 mph (32.2 kmph) into the side of a stationary vehicle, and a moving barrier impact of 30 mph (48.3 kmph) into the rear of a stationary vehicle.

From the information discussed in this notice, it appears that the present tests in FMVSS No. 301 may not be representative of the severity of the crash conditions associated with fatal and severe injury-causing fires. However, it is difficult at this time to define specific upgrades to these crash conditions without further tests. Some potential tests that appear promising for upgrading FMVSS No. 301 test procedures are the offset/oblique tests in the frontal mode, the FMVSS No. 214 offset barrier in the rear test mode and a pole impact or FMVSS No. 214 barrier for the side impact.

As identified in the GESAC study, a key objective for such tests may be to limit the engagement to a narrower area than engaged with current barriers. The specific crash conditions that cause fuel system loss of integrity must be defined, along with an understanding of which crashes would be survivable if fire was avoided. Accident data analyses and crash testing are being considered to further explore these issues, which is expected to be the second phase of

VOL
60
ISS
70
AP
12
1995
UMI

rulemaking, which may be conducted concurrently with the first phase.

The agency requests comments on the performance aspects and practicability of this approach.

Phase 3: Environmental and Aging Effects

The third phase would explore the issue of environmental and aging effects on vehicle condition and the possible relationship to fire occurrence. The agency's preliminary analyses of FARS and State accident files indicate that the likelihood of fire increases with the age of the vehicle. The analysis also attempted to determine the possible differences, if any, in the occurrence of fire in fatal crashes in states that typically experience more inclement weather (i.e., snow and ice) and as a result, use more salt and other corrosive substances on public roadways, when compared to other states.

Passenger cars registered in the "salt belt" states and involved in fatal crashes were found to have an approximately 25 percent greater rate of fire occurrence in fatal crashes, compared with passenger cars in fatal crashes in the "sun belt" states. (It should be noted that when the fire itself was deemed to be the most harmful event in the vehicle, the "salt belt" states had a lower rate compared to the "sun belt" states.) It is not clear at this time whether this possible relationship between vehicle aging, weather and use of salt and similar substances and fire occurrence may be due to environmental characteristics, to changes in vehicle design, to differences in operator characteristics, or a combination of these factors. If this disparity can be attributed to environmental factors, it may be possible to add environmental tests, such as corrosion, to FMVSS No. 301.

Further work is needed to associate vehicle fires with environmental and aging factors and to define possible performance tests. Because of this, the agency is considering addressing this problem in a third phase of rulemaking.

The agency requests comments on this phased approach. This approach may be implemented either sequentially or concurrently, depending on the timing of the research.

Rulemaking Analyses

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. The agency has determined that this notice is significant under Department's policies and procedures. The agency notes that the increase in vehicle production costs and corresponding increases in consumer costs that would result from upgrading the requirements of FMVSS No. 301 would depend on the stringency and nature of the new requirements and the extent to which present and planned new production vehicles would already meet them, i.e., the type and extent of vehicle changes that would be necessary. Since the agency is still in the research and analysis phase of the rulemaking, including assessing new vehicle hardware and fuel system crash integrity, it cannot provide a cost estimate at this time. Nevertheless, a more comprehensive discussion of this notice's cost impacts is discussed in the Preliminary Regulatory Evaluation, which has been placed in the public docket.

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the ANPRM will be considered as suggestions for further rulemaking action. Since NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on April 6, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standard.

[FR Doc. 95–9025 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States.

Date: Monday, April 24, 1995, at 2:30 p.m.

Location: Office of the Chairman, Administrative Conference of the United States, Suite 500, 2120 L Street, NW., Washington, DC (Library 5th Floor).

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, Suite 500, 2120 L Street, NW, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The meeting is to continue discussion of (1) draft recommendations based on a report by Professor William Kovacic, visiting at American University, on choice of forum in government contract bid protest disputes; and (2) a draft report by Professor Michael Healy of the University of Kentucky on preclusion of pre-enforcement judicial review in Superfund cases.

Dated: April 7, 1995.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 95–9063 Filed 4–11–95; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Foreign Agriculture Service

Agricultural Policy Advisory Committees for Trade, et al.

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Reestablishment of Agricultural Advisory Committees for Trade.

SUMMARY: Notice is hereby given that the Secretary of Agriculture, after consultation with the United States Trade Representative, has reestablished the following advisory committees: Agricultural Policy Advisory Committee for Trade and five separate Agricultural Technical Advisory Committees (ATAC) for Trade in: Fruits and Vegetables; Animals and Animal Products; Grains, Feed, and Oilseeds; Tobacco, Cotton, and Peanuts; Sweeteners. The purpose of these committees is to provide advice to the Secretary and the U.S. Trade Representative with respect to the trade policy of the United States pursuant to section 135(c) of the Trade Act of 1974 (Pub. L. 93–618) as amended. Meetings of these committees will be open to the public, unless the Secretary or the Trade Representative otherwise determine that the committees will be discussing issues the disclosure of which justify closing such meetings or portions thereof in accordance with matters listed in section 552(c) of Title 5 of the United States Code.

The renewal of such committees is in the public interest in connection with the duties of the Department imposed by the Trade Act of 1974, as amended.

FOR FURTHER INFORMATION CONTACT: Comments regarding the reestablishment of these committees should be addressed to John Winski or Denise Burgess, Foreign Agricultural Service, United States Department of Agriculture, Room 5065–S, Washington, DC 20250–1000.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. Appendix), notice is hereby given that the Secretary of Agriculture and the United States Trade Representative are reestablishing the Agricultural Policy Advisory Committee for Trade and the Agricultural Technical Advisory Committees for Trade. In 1974, Congress established a private sector advisory committee system to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. Congress expanded and enhanced the role of this system in three subsequent trade acts. The private sector advisory system now consists of almost 40 committees, arranged in three tiers; The President's Advisory Committee on Trade and Policy Negotiations (ACTPN); seven policy advisory committees, including the Agricultural Policy Advisory Committee for Trade (APAC); and more than 30 technical advisory committees including the Agricultural Technical Advisory Committees for Trade (ATACs). The duties of the APAC are to provide the Secretary and the Trade Representative with advice concerning: negotiating objectives and bargaining positions before entering into a trade agreement; the operation of an agreement once entered into; and other matters arising in connection with the administration of the trade policy of the United States. The duties of the ATACs are to provide advice and information regarding trade issues which affect both domestic and foreign production and trade concerning the respective agricultural commodities, drawing upon the technical competence and experience of its members. Each committee is required to meet at the conclusion of negotiations for each trade agreement entered into under the Act to provide a report on such agreement to the President, to Congress, and to the U.S. Trade Representative. The APAC consists of 50 members. The members elect a chairperson from the membership of the committee. The Assistant to the Administrator, Foreign Agricultural Service, and the Assistant U.S. Trade Representative, Intergovernmental Affairs and Public Liaison, Office of the U.S. Trade Representative, are the Committee's Joint Executive Secretaries. Each of the ATACs consist of approximately 25 members. The members of each committee elect a chairperson from the membership of the committee. A full-time Federal Officer or employee of the Foreign Agricultural Service shall serve as the Executive Secretary of each Technical Advisory Committee. Each committee is chartered for a period of two years, at which time all appointments expire. Reappointments are made at the discretion of the Secretary and of the U.S. Trade Representative.

VOL
60
ISS
70
AP
12
1995
UMI

Issued at Washington, DC this 31st day of March.

Wardell Townsend, Jr.,

Assistant Secretary for Administration.

[FR Doc. 95–9006 Filed 4–11–95; 8:45 am]

BILLING CODE 3410–10–M

Rural Housing and Community Development Service

Submission of Information Collection to OMB (Under Paperwork Reduction Act and 5 CFR Part 1320)

AGENCY: Rural Housing and Community Development Service, USDA.

ACTION: Notice.

SUMMARY: The information collection requirements described below have been submitted to Office of Management and Budget (OMB) for expedited clearance under 5 CFR 1320.18. The RHCDS solicits comments on the subject submission. This action is necessary in order for RHCDS to inform Multiple Family Housing program borrowers with Section 8 project-based housing subsidy who signed RHCDS interest credit agreements prior to October 27, 1980, that RHCDS may have improperly reduced benefits under the interest credit agreement. Each affected borrower will be advised of available options, ranging from reversal of certain previous RHCDS actions and retroactive application of certain collections to the borrower's loan account. Each affected borrower will be given the opportunity to request correction of the application of interest credit subsidy to their loan account. The intended effect is to restore the affected borrower accounts to their correct accounting status.

ADDRESSES: Interested persons are invited to submit comments regarding this submission. Comments should refer to the proposal by name and should be sent to: Lisa Grove, USDA Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: William F. Daniel, Senior Loan Officer, Multiple Family Housing Servicing and Property Management Division, RHCDS, Ag Box 0782, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 720–1619.

SUPPLEMENTARY INFORMATION: RHCDS has submitted this proposal for collection of information to OMB for expedited clearance as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The supporting statement attached explains the need for informing affected borrowers and requesting them to advise RHCDS concerning their choice of available options in servicing their loan account.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507.

Supporting Statement

Notification of Choice of Options for Borrowers with Section 515/8 and Interest Credit Agreements Signed before October 27, 1980.

Justification

1. The Rural Housing and Community Development Service (RHCDS), successor in part to the Farmers Home Administration (FmHA), is authorized under sections 515 and 521 of title V of the Housing Act of 1949, to provide loans and grants to eligible recipients (borrowers) for the development of rural rental housing to benefit very-low and low-income rural residents. By Memorandum of Understanding (MOU) dated June 23, 1976, the Secretaries of Agriculture and Housing and Urban Development (HUD) agreed that HUD's Section 8 project-based subsidy program could be combined with the FmHA Section 515 program to reduce shelter cost for the beneficiaries (tenants).

On October 27, 1980, FmHA initially issued its regulations [7 CFR part 1930, subpart C (0575–0033)] for the "Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients." Exhibit C of this regulation stipulated conditions that permit the Agency to require the borrower to deposit any excess funds from the subsidy stream into the project reserve account should the HUD Section 8 rent rate exceed rent rates approved by FmHA. In the event the reserve account built to a level exceeding a required amount, FmHA was then permitted to reduce or cancel any interest credit that FmHA provided in meeting its agreement with HUD as stipulated in the MOU. The intended effect was to avoid double subsidy by the Federal Government, namely Interest Credit by FmHA and Section 8 by HUD, for the same span of subsidy need.

During its administration of the combined loan and subsidy programs, FmHA established six interest credit agreement forms as the program regulations developed. In 1994, a challenge to the Agency's ability to reduce or cancel interest credit was filed in Federal court. RHCDS has reviewed all interest credit agreement forms and regulations, including those previously used. RHCDS concluded that any interest credit agreement signed before October 27, 1980, does not support reduction or cancellation of interest credit, collection of overage, or requiring any excess funds to be deposited in the project reserve account resulting from HUD Section 8 rent adjustments, with one exception which is described in the Administrative Notice for the October 13, 1977, interest credit agreement form.

RHCDS intends to issue an Administrative Notice (AN) to all Acting State Directors and District Directors for Rural Economic and Community Development (RECD), who have oversight responsibility for RHCDS programs. The AN will explain the background of factors leading to the conclusion that interest credit agreements signed before October 27, 1980, lack basis for RHCDS or its predecessor Agency, FmHA, to cancel or reduce interest credit, collect overage and require deposit of excess subsidy funds in a project reserve account. The AN will explain the correct administration of interest credit agreements for each of the six versions of the agreement form ever used.

Each RECD servicing office (District Office) will be directed to identify all Section 515 multiple family housing loan accounts that have Section 8 project-based subsidy. Attachment 1 of the AN contains the wording of the notice to be sent by certified mail to each identified loan account borrower. The borrower will have certain choices to request retroactive processing of their loan account or to maintain status quo. Attachment 2 of the AN contains the language of the response that each affected borrower is asked to return to the servicing office by close of business, December 29, 1995, for corrective processing. The public burden will involve the borrower reading Attachment 1, considering choices, and responding to the RECD servicing office, using Attachment 2.

2. The purpose of Attachment 2 of the AN will be to allow affected borrowers to inform the RECD servicing office one time of their choice of available options in the servicing of their loan account. The servicing office will process, within 60 calendar days of receipt, any requests for retroactive application of loan payments and overage that was collected by RHCDS. The loan payments and overage will be reapplied as of the date they were originally applied. Such reapplication will have the effect of paying borrower loan accounts ahead of schedule. The servicing office will honor any request to have RHCDS cease the requirement of depositing excess rent in the project reserve account. Should the borrower choose to continue with the current loan servicing arrangement, no further action by RHCDS will be required other than to file the completed Attachment 2 reply in the borrower casefile. If the collection of information were not to take place using Attachment 2, considerable cost to RHCDS and the borrower would result because of the time it would require for each servicing office to call each affected borrower, explain the content of the AN and solicit a verbal response. Documentation of borrower choices would be seriously weakened by not using Attachment 2.

3. RHCDS is currently working with industry representatives to establish a fully automated interface in communication between servicing office and borrower. It is not yet available for use with this information collection effort.

4. Duplication is not a factor in this one-time information collection effort. RHCDS has no way of knowing what each borrower will select from among the available choice of options in servicing their loan account. Such information will be the result of a conscious conclusion of variable considerations known only to each borrower.

5. The information collection will affect small businesses and organizations. The Attachment 1 notice to borrower and the Attachment 2 response to the servicing office is succinct, consisting of only four pages containing self-explanatory information.

6. This will be a one-time collection of information and will not be repeated.

7. This information collection effort is consistent with the provisions of 5 CFR 1320.6.

8. The following organizations and points of contact were consulted January 27–February 3, 1995, to obtain their views and insights on the availability of data for this one-time collection, clarity of instructions and recordkeeping, disclosure and format of Attachment 2 and the data elements to be reported:

a. Johanna Shreve, Rural Housing Council, National Association of Home Builders, 1201 15th Street, NW., Washington, D.C. 20005, Telephone 202–822–0236
b. Anna Moser, Council for Rural Housing and Development, 1300 19th Street, NW., Suite 410, Washington, D.C. 20037, Telephone 202–296–5159
c. Herb Collins, Boston Capital, 313 Congress Street, Boston, Massachusetts, 02210–1231, Telephone 617–330–0072
d. Art Collings, Housing Assistance Council, Inc., 1025 Vermont Avenue, NW., Suite 606, Washington, D.C. 20005

No major problems were noted during the consultations that cannot be resolved.

9. Discussions were held in professional confidence in generic terms; no particular individual borrower or loan account was discussed.

10. There are no questions in this information collection that are of a sensitive nature, such as sexual behavior, religious beliefs, and other matters commonly considered private.

11. The cost to the Federal Government and to the respondents will occur only one time, thus the estimates of cost shown in this justification are the one-time cost rather than annualized as it would be for an on-going public burden.

The average RHCDS administrative cost is $27.40 per employee hour. This cost is a composite of salary and employment benefits and RHCDS overhead. The RHCDS cost per respondent is estimated at $54.40 for 2 hours of work for each respondent; total cost is estimated at $34,598.

In consultation with the contacts described in Item 8, RHCDS estimates each respondent will devote an average of 2 hours at an average cost of $30.00 per hour to respond. The cost per respondent for this one-time information collection is estimated at $60.00; total cost is estimated at $38,160.

12. RHCDS estimates there are 636 respondents who will respond to the information collection effort. The collection of information will occur only one time. Attachment 1 of the AN will be sent by certified mail to inform each respondent about three choices of options. Attachment 2 of the AN will be used as the response document on which the respondent will identify their choice of each option.

The Federal burden estimate is 2 hours on average to prepare Attachments 1 and 2 of the AN, send them by certified mail, and receive and process each response using Agency automation systems. The public burden estimate is 2 hours on average to receive Attachments 1 and 2 of the AN, read, comprehend, seek and receive professional consultation, make a decision and respond using Attachment 2.

13. This is the first and only time this burden will be necessary. This is a unique burden rather than a reoccurring burden, thus there are no changes in burden.

14. Data collected will not be published.

Attachment 1—Guide Letter

Certified Mail—Return Receipt Requested

Addressee
(Insert Section 515/8 Borrower Name and Address)

Reference: (Project Name)

Dear (Borrower): You have been identified by the Rural Housing and Community Development Service (RHCDS) as a borrower that may be entitled to a reversal of actions previously taken in the administration of your loan account. Your loan documents include an interest credit agreement that was signed before October 27, 1980. The interest credit agreement was executed in conjunction with a Housing Assistance Payment Contract (Section 8 subsidy) administered by the Department of Housing and Urban Development (HUD).

In the course of administering your loan account, RHCDS, formerly known as the Farmers Home Administration (FmHA), cancelled or reduced the amount of interest credit provided by the Agency, and/or required you to pay overage to offset interest credit to prevent the Federal Government from providing a double subsidy to the project. Additionally, you may have been required to deposit excess HUD Section 8 subsidy in the project reserve account.

The Agency has determined in retrospective review that the Agency should not have taken certain actions in the past that resulted in cancellation or reduction of interest credit, payment of overage, and deposit of excess HUD subsidy into the project reserve account.

An exception to what has been stated thus far in this letter will apply if you executed Form FmHA 444–7 (Rev. 10–13–77), "Interest Credit and Rental Assistance Agreement," before October 27, 1980, and the third block of paragraph 2 of the agreement was checked. In this instance, the Agency had a legal basis to take the actions which were taken.

At this time, RHCDS is offering you the following options from which to choose:

1. Have RHCDS retroactively restore any level of interest credit that was cancelled or reduced, and retroactively remove any previous overage charges;

2. Have RHCDS apply amounts equivalent to each collection of the difference between the original note payment under interest credit, and the payment resulting from the elimination of interest credit, and/or each collected overage payment as regular payments to the loan as of the date each payment was originally applied. As a result, the loan balance will show ahead of schedule. The requirement to make regularly scheduled monthly payments will continue;

3. Have RHCDS cease requiring you to deposit excess funds from HUD rent adjustments in the project reserve account; or

4. Continue with your current loan servicing and payment arrangement with the understanding that RHCDS cannot require you to maintain the current arrangement.

The preceding options are offered to you until December 29, 1995. RHCDS is allowing time for you to evaluate the effects of choosing any of the available options on the finances of your project and/or your Federal and State taxes. This offer will not extend beyond December 29, 1995. It will not be repeated nor will a change of choice be permitted at a later date.

We ask that you complete the attached Choice of Options and return it to this

VOL 60 ISS 70 AP 12 1995 UMI

Servicing Office by close of business *December 29, 1995*. Our office will process and submit your Choice of Options within 60 days of receiving the request. If you do not respond by this date, RHCDS will continue with your current loan servicing and payment arrangement.

Please note that RHCDS will not be sending you a reminder to consider and submit your Choice of Options. If you have any questions, please contact us at (to be filled in by the local RHCDS Servicing Office).

Sincerely,

RHCDS Servicing Official

Attachment 2—Guide Letter

Notification of Choice of Options for Borrowers With Section 515/8 and Interest Credit Agreements Signed Before October 27, 1980

Dear RHCDS Servicing Office:

In response to your certified letter dated _____, 1995, we have selected the following options for the further servicing of our loan account. We understand this is a one-time offer by the Rural Housing and Community Development Service (RHCDS) and our choice of *one* of each of the following categories is final and must be received by RHCDS by close of business December 29, 1995. We further understand that adjustments to the loan account will not be in the form of cash refunds from RHCDS.

Interest Credit

[ ] We choose to have RHCDS retroactively reinstate interest credit to its original level and retroactively have amounts equivalent to each collection of the difference between the original note payment under interest credit and the payment resulting from the elimination of interest credit be applied as regular payments to the loan as of the date each payment was originally applied. We understand our loan account will show as paid ahead of schedule after the adjustment and we are to continue paying regularly scheduled monthly loan payments.

[ ] We choose to continue with cancellation or reduction of interest credit as a voluntary choice made now or in a previous year.

Overage

[ ] We choose to have RHCDS retroactively remove previous overage charges and have amounts equivalent to each collection of overage be applied as regular payments to the loan as of the date each payment was originally applied. We understand our loan account will show as paid ahead of schedule after the adjustment and we are to continue paying regularly scheduled monthly loan payments.

[ ] We choose to continue paying overage as a voluntary choice made now or in a previous year.

Deposit of Excess Rent in the Project Reserve Account

[ ] We choose to have RHCDS remove the requirement of depositing excess rent in the project reserve account, additionally:

[ ] We are a limited profit or nonprofit borrower and we choose to apply any excess rent and the amount in the reserve account that is excess to the required reserve account level adjusted for project life-cycle needs on the loan account, *or*

[ ] We are a full profit borrower and we choose to claim as profit any excess rent and the amount in the reserve account that is excess to the required reserve account level adjusted for project life-cycle needs, subject to approval by the RHCDS Servicing Office; (or)

[ ] We choose to continue depositing the excess rent in the project reserve account as a voluntary choice made now or in a previous year.

Sincerely,

(Borrower name and signature of borrower official)

Public reporting for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project, (OMB No. 0575–0033), Washington, DC 20503. Please do not return this form to either of these addresses. Forward to RECD only.

Dated: March 28, 1995.

Maureen Kennedy,

Acting Administrator, Rural Housing and Community Development Service.

[FR Doc. 95–8946 Filed 4–11–95; 8:45 am]

BILLING CODE 3410–07–U

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Tuesday, May 9, 1995, at the Hotel Intercontinental, 100 Chopin Plaza, Trinity Room, 2nd Floor, Miami, Florida 33131. The purpose of the meeting is to provide orientation for the newly appointed Committee, to update members on the Commission, to discuss a draft report on Racial and Ethnic Tensions in Florida, and to discuss civil rights developments in the State and Nation.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Rabbi Solomon Agin, 813–433–0018, or Bobby D. Doctor, Director of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 5, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–9001 Filed 4–11–95; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Washington Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington Advisory Committee to the Commission will convene at 7 p.m. and adjourn 8 p.m. on Thursday, June 8, 1995, at the 6th Avenue Inn, 2000 6th Avenue, Seattle, Washington 98211. The purpose of the meeting is to brief Committee members on procedures and presentors at the forum on June 9, 1995. On Friday, June 9, 1995, the Committee will convene at 9 a.m. and adjourn at 4 p.m. at the Convention Center, 800 Convention Center Place, Seattle, Washington 98181. The purpose of the meeting is to obtain information on disproportionality in the administration of justice for youth.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson William Wassmuth, 206–233–9136, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 5, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–9000 Filed 4–11–95; 8:45 am]

BILLING CODE 6335–01–P

Amendment to Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission originally scheduled for Thursday, April 20, 1995, in Salt Lake City, Utah, has a new date. The meeting will convene on Tuesday, June 6, 1995. The purpose, time, and address of the meeting remain the same as previously published in the **Federal Register** on March 31, 1995, FR Doc 95–7912, 60 FR 16603.

Persons desiring additional information should contact Ki-Taek Chun, Acting Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049).

Dated at Washington, DC, April 7, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–9126 Filed 4–11–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held May 4, 1995, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street and Pennsylvania Avenue NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

General Session

1. Opening remarks by the Chairman
2. Introduction of members and guests
3. Presentation of public papers or comments
4. Discussion on status of Export Administration Regulations (EAR)
5. Discussion on recent changes in the nuclear and chemical weapons control regimes that may affect the transportation sector.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 22, 1994, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call (202) 482–2583.

Dated: April 7, 1995.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 95–8972 Filed 4–11–95; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 12–95]

Foreign-Trade Zone 22, Chicago, Illinois Proposed Foreign-Trade Subzone UNO–VEN Company (Oil Refinery and Petroleum Coking Complex) Will County, Illinois

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Illinois International Port District, grantee of FTZ 22, requesting special-purpose subzone status for the oil refinery and petroleum coking complex of the UNO–VEN Company (joint-venture between VPHI Midwest, Inc. (subsidiary of Petroleos de Venezuela, S.A.), and Midwest 76, Inc. (subsidiary of Union Oil Company of California)), located in Will County, Illinois (Chicago area). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 31, 1995.

The refinery complex (917 acres) consists of 2 sites in Will County, Illinois: *Site 1* (906 acres)—main refinery complex located adjacent to the Chicago Sanitary and Ship Canal at 135th Street, in the Romeoville area, some 30 miles southwest of Chicago (includes on-site coking operation jointly owned by UNO–VEN and Lemont Carbon, Inc.); *Site 2* (11 acres)—UNO–VEN crude oil storage (546,000 barrel capacity) within Texaco Trading and Transport Tank Farm, located at 301 West Second Street, Lockport. Crude oil is transported from the tank farm to the refinery via the Chicap Pipeline.

The refinery (150,000 barrels per day; 730 employees) is used to produce fuels and petrochemical feedstocks. Fuels produced include gasoline, jet fuel, kerosene, gas oil, diesel fuel, fuel oil, residual fuels and naphthas. Petrochemical feedstocks include methane, ethane, mixed butanes, benzene, toluene, xylene, and propane. Refinery by-products include petroleum coke. Almost all of the crude oil (88 percent of inputs), and some feedstocks and motor fuel blendstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from 5.25¢ to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 12, 1995.

Rebuttal comments in response to material submitted during the foregoing period may be submitted during the

VOL 60 ISS 70 APR 12 1995 UMI

subsequent 15-day period (to June 26, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Xerox Center, Suite 2440, 55 E. Monroe St., Chicago, IL 60603

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 5, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–8985 Filed 4–11–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket A(32b1)–4–95]

Foreign-Trade Zone 43—Battle Creek, MI; Request for Export Manufacturing Authority Lotte U.S.A., Inc. (Chewing Gum)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Battle Creek, Michigan, grantee of FTZ 43, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Lotte U.S.A., Inc. (subsidiary of Lotte Company, Ltd., Japan), to manufacture chewing gum under zone procedures for export within FTZ 43. It was formally filed on March 31, 1995.

Manufacturing approval is being requested to permit the establishment of a manufacturing for export operation within FTZ 43 involving chewing gum. Certain materials (accounting for less that 20% of finished product value) would be sourced from abroad, including: Oil and powder-based flavors, natural resin, polyvinyl acetate, monoglyceroid, tea extract, and kenponashi extract. U.S.-origin inputs would include aspartame, gelatine and natural rubber. All finished chewing gum products made under zone procedures would be exported.

Zone procedures would exempt Lotte from Customs duty payments on the foreign materials used in the export activity. The operation will also require authority from the U.S. Food and Drug Administration (FDA) because certain non-FDA approved materials would be used in the products made for export, and FDA will be consulted by the FTZ Board.

In accordance with the Board's regulations, a member of the FTZ Staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 12, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 10-day period (to May 30, 1995).

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: March 31, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–8986 Filed 4–11–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 9–94]

Foreign-Trade Zone 86—Tacoma, Washington; Reissuance of Grant of Authority

A joint request has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Tacoma (Washington), grantee of FTZ 86, and the Puyallup Tribal FTZ Corporation (PTFTZ) for the reissuance of the grant of authority for three parcels (125 acres) within FTZ 86 to the PTFTZ. The request was submitted pursuant to the regulations of the Board (15 CFR Part 400). It was formally filed on March 11, 1994 and amended on March 17, 1995.

The three parcels are part of an area recently transferred from the Port of Tacoma to the Puyallup Indian Tribe Council in accordance with the Washington Indian Land Claims Settlement Agreement (25 USC 1773) in 1991. This request would result in a new zone project with PTFTZ as the new grantee.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 30, 1995.

A copy of the application and accompanying exhibits will be available for public inspection at the following locations:

Port of Tacoma, 1 Sitcum Plaza, Tacoma, Washington 98421

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: April 5, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–8988 Filed 4–11–95; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 13–95]

Foreign-Trade Zone 41—Milwaukee, WI Area Application for Expansion and Request for Manufacturing Authority (Children's Books)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting authority to expand FTZ 41 to include a general-purpose site in Sturtevant, Wisconsin, and requesting authority on behalf of Publications International, Ltd. to assemble children's books within FTZ 41, Milwaukee, Wisconsin area, within the Milwaukee Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 3, 1995. FTZ 41 was approved on September 29, 1978 (Board Order 136, 43 FR 46887, 10/11/78). It currently consists of 4 sites in the Milwaukee area: Site 1 (300 acres)—within the Port of Milwaukee complex; Site 2 (210,000 sq. ft.)—warehouse facility, 1925 E. Kelly Lane, Cudahy; Site 3 (120 acres)—West Allis Industrial Center, in West Allis; and, Site 4 (166 acres)—Milwaukee County Research Park, Wauwatosa.

The applicant is now requesting authority to expand the zone to include a site (10 acres) located within the Grandview Industrial Park at 1333 N. Grandview Parkway, Sturtevant, some 15 miles south of Milwaukee. The site involves a public warehouse facility operated by Warren Industries (Warren), which provides storage, distribution, processing and packaging services for a variety of customers.

The proposed book assembly activity would involve children's touch-sound books, published by Publications International, Ltd. The books, printed elsewhere in the United States, would be sent to FTZ 41 where an electronic touch sound pad would be attached. The sound pad would be sourced from abroad. The finished product with sound device would be classified as a book (duty-free). Publications plans to have Warren conduct the activity on its behalf at the proposed Sturtevant site.

Zone procedures would exempt Publications International from payment of Customs duties on foreign merchandise that is used in products made for export. On its domestic sales, zone procedures would allow the company to choose the duty-free rate that applies to books. The duty rate on the sound pads (classified as electrical machines and apparatus) is 3.9 percent.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below, The closing period for their receipt is June 12, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 26, 1995.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 517 E. Wisconsin Avenue, Room 596, Milwaukee, Wisconsin 53202

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: April 5, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–8987 Filed 4–11–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Notice of Partial Termination of Administrative Review of Antidumping Duty Order; Certain Corrosion-Resistant Carbon Steel Flat Products From Australia, Certain Cold-Rolled Carbon Steel Flat Products From Germany, and Certain Corrosion-Resistant Carbon Steel Flat Products From Korea

In the matter of: (A–602–803)—Certain Corrosion-Resistant Carbon Steel Flat Products from Australia; (A–428–814)—Certain Cold-Rolled Carbon Steel Flat Products from Germany; and (A–580–816)—Certain Corrosion-Resistant Carbon Steel Flat Products from Korea.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of partial termination of antidumping duty administrative review.

SUMMARY: In response to requests from Australian National Industries Corporation Ltd. ("ANI") of Australia; C.D. Wälzholz ("Wälzholz"), J.N. Eberle & Cie., GmBH ("Eberle"), and Röchling Kaltwalzwerk, KG ("Röchling") of Germany; and Pohang Coated Steel Co., Ltd. ("PCS"), the Department of Commerce ("the Department") initiated administrative reviews of these companies on September 8, 1994. The Department received timely requests for withdrawal on October 7 (from Wälzholz), November 3 (from ANI), November 16 (from PCS and Dongkuk), and December 7 (from Röchling). On December 13, 1994, Eberle requested the Department to extend the time limit for it to withdraw from the antidumping duty review. Based upon the consideration of the facts of this case, the Department concluded it would be reasonable to grant Eberle's request to withdraw at this point in the review process. Because there were no other requests for review of these companies from any other interested party, the Department is now terminating these reviews with respect to all of the companies listed above.

EFFECTIVE DATE: April 12, 1995.

FOR FURTHER INFORMATION CONTACT: Sally Gannon (ANI), Bruce Harsh (Eberle), Alain Letort (Wälzholz), Holly Vineyard (Röchling), or Lisa Yarbrough (PCS and Dongkuk); Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION: On August 30, 1994, the Department received requests from Wälzholz, Eberle, and Röchling, for review of the antidumping duty orders on certain cold-rolled carbon steel flat products from Germany, and from PCS for certain corrosion-resistant carbon steel flat products from the Republic of Korea, to conduct administrative reviews of the antidumping duty orders pursuant to section 353.22(a)(2) of the Department's regulations (19 CFR 353.33(a)(2)). On August 31, 1994, the Department received a request from ANI to conduct an administrative review for certain corrosion-resistant carbon steel flat products from Australia pursuant to the same regulations mentioned before.

On September 8, 1994, the Department published in the **Federal Register** a Notice of Initiation for these reviews (59 FR 46391). Wälzholz (October 7, 1994), ANI (November 3, 1994), PCS (November 16, 1994), and Röchling (December 7, 1994) timely withdrew their requests for administrative reviews. These withdrawals were made within the time limits established in section 353.22(a)(5) of the Department—s regulations and so the Department is terminating those reviews.

Further, according to 19 CFR 353.22(a)(5), the Department may extend the 90-day time limit, from the date of publication of notice of initiation, to withdraw a request for review if the Department determines it is reasonable to do so. In this case, Eberle requested that the Department allow it to withdraw from the review six days after the deadline. According to Eberle, the Department's extensive deficiency questionnaire was received and reviewed by the company officials in Germany after the 90-day time limit had expired. In making the request to withdraw, Eberle stressed that the cost and the amount of detailed information that would be required within a relatively short period were greater than the company had anticipated when it requested a review. Additionally, petitioners did not object to Eberle's request. Due to the circumstances of this case, the relative proximity of Eberle's request to the expiration deadline, and because this decision does not encourage manipulation of the review process in an attempt to achieve lower (or higher) margins, the Department has determined that it would be reasonable to grant the withdrawal at this time.

Therefore, in accordance with § 353.22(a)(5) of the Department's regulations, the Department will terminate these administrative reviews for ANI, Wälzholz, Röchling, Eberle, and PCS.

Because we are terminating these reviews, we shall instruct the Customs Service to liquidate entries for Wälzholz, Röchling, Eberle, and PCS at the cash deposit rate established during the original fair-value investigation. With regard to ANI, we will instruct Customs to return all cash deposits to ANI which Customs erroneously collected for merchandise exported by ANI that is specifically excluded from the order on corrosion-resistant steel flat products, *i.e.*, clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters or measures at least twice the thickness. (See 58 FR 44161, August 19, 1993.)

Furthermore, because PCS (as a related company to Pohang Iron and Steel Company, Ltd.) was previously

VOL 60 ISS 70 AP 12 1995 UMI

investigated, the cash deposit rate for PCS will continue to be the company-specific rate found for Pohang Iron and Steel Company in the original (for cold-rolled and corrosion-resistant flat products only). Because Wälzholz, Röchling, and Eberle were not previously investigated companies, the cash deposit rate will continue to be the "all other rate" assigned to their respective countries.

This notice is published in accordance with 19 CFR 353.22(a)(5).

Dated: April 5, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95-8989 Filed 4-11-95; 8:45 am]

BILLING CODE 3510-DS-P

[C-331-601]

Determination to Revoke Countervailing Duty Order; Cut Flowers From Ecuador

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of determination to revoke countervailing duty order.

SUMMARY: The Department of Commerce (the Department) is revoking the countervailing duty order on cut flowers from Ecuador because it is no longer of interest to interested parties.

EFFECTIVE DATE: April 12, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Stephanie Moore, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)482-2786.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1994, the Department published in the **Federal Register** (59 FR 67700) its intent to revoke the countervailing duty order on cut flowers from Ecuador (52 FR 1361; January 13, 1987). Additionally, as required by 19 CFR 355.25(d)(4)(ii)(1994), the Department served, by certified mail, written notice of its intent to revoke this countervailing duty order on each party listed on its most current service list.

Scope of the Order

Imports covered by this order are shipments of Ecuadorian fresh cut miniature (spray) carnations, standard carnations, standard chrysanthemums, and pompon chrysanthemums. This merchandise is currently classified under item numbers 0603.10.30, 0603.10.70, and 0603.10.80 of the *Harmonized Tariff Schedule* (HTS). Daisies are excluded from the scope of the countervailing duty order. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Determination to Revoke

The Department may revoke a countervailing duty order if it concludes that the order is no longer of interest to interested parties. We conclude that there is no interest in a countervailing duty order when no interested party (as defined in §§ 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations) has requested an administrative review for at least five consecutive review periods and when no domestic interested party objects to the revocation (19 CFR 355.25(d)(4)(iii)).

We received no requests for administrative review for the previous five consecutive review periods and no objections to our notice of intent to revoke the countervailing duty order. Therefore, we have concluded that the countervailing duty order covering cut flowers from Ecuador is no longer of interest to interested parties, and we are revoking this countervailing duty order in accordance with 19 CFR 355.25(d)(4)(iii).

Further, as required by 19 CFR 355.25(d)(5), the Department is terminating the suspension of liquidation on the subject merchandise as of the effective date of this notice, and will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise exported from Ecuador on or after January 1, 1994.

This notice is published in accordance with 19 CFR 355.25(d)(4)(iii).

Dated: April 5, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95-8990 Filed 4-11-95; 8:45 am]

BILLING CODE 3510-DS-P

Export Trade Certificate of Review

ACTION: Notice of Application to Amend Certificate.

SUMMARY: The Office of Export Trading Company Affairs (OETCA) International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 92-4A001.

An original Certificate of Review was issued to Aerospace Industries Association of America, Inc. ("AIA") on April 10, 1992 (57 FR 13707, April 17, 1992) and previously amended on September 8, 1992 (57 FR 41920, September 14, 1992), October 8, 1993 (58 FR 53711, October 18, 1993), and on November 17, 1994 (50 FR 60349, November 23, 1994). A summary of the application for amendment follows:

Summary of the Application

Applicant: Aerospace Industries Association of America, Inc. ("AIA"), 1250 Eye Street, NW., Washington, DC 20005, Contact: Mac S. Dunaway, Esquire, Telephone: (202) 862-9700

Application No.: 92-4A001

Date Deemed Submitted: March 28, 1995

Request For Amended Certificate

AIA seeks to amend its Certificate to:

1. Delete the following companies as "Members" of the Certificate: Aluminum Company of America, Cleveland, Ohio; Dynamic Engineering Inc., Newport News, Virginia; Reflectone, Inc., Tampa, Florida; and Vought Aircraft Company, Dallas, Texas.

2. Change the listing of the following current "Members" as follows: change the name of HEICO Corporation to HEICO Aerospace Corporation, Hollywood, California; DuPont Company to E.I. du Pont de Nemours and Company, Wilmington, Delaware; Williams International to Williams International Corporation, Walled Lake, Michigan.

Change the name and address of Aerojet, a Segment of GenCorp, Rancho Cordova, California to Aerojet-General Corporation, Sacramento, California; AlliedSignal Aerospace Company, Torrance, California to AlliedSignal, Inc., Morristown, New Jersey; Dowty Aerospace Los Angeles, Duarte, California to Dowty Decoto, Inc., Yakima, Washington; Lucas Aerospace, Inc., Brea, California to Lucas Industries Inc., Reston, Virginia.

Change the address of Hexcel Corporation from Dublin, California to Pleasanton, California; Digital Equipment Corporation from Marlboro, Massachusetts to Maynard, Massachusetts; ITT Defense and Electronics, Inc. from Arlington, Virginia to McLean, Virginia; and Rockwell International Corporation from El Segundo, California to Seal Beach, California.

Dated: April 6, 1995.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 95-8973 Filed 4-11-95; 8:45 am]

BILLING CODE 3510-DR-P

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: North America Free Trade Agreement (NAFTA), NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final dumping determination made by the Deputy Minister of National Revenue, Customs, Excise and Taxation, respecting Certain Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Plate, Heat-Treated or not, Originating in or Exported from the United States of America, Secretariat File No. CDA-93-1904-04.

SUMMARY: Pursuant to the Memorandum Opinion and Order of the Binational Panel dated February 15, 1995, affirming the investigating authority's determination described above was completed on March 30, 1995.

FOR FURTHER INFORMATION CONTACT: James R. Hobein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: On February 15, 1995, the Binational Panel issued a decision which affirmed the dumping determination of the Deputy Minister of National Revenue, Customs, Excise and Taxation, respecting Certain Hot-Rolled Carbon Steel Plate and High-Strength Low-Alloy Plate, Heat-Treated or not, Originating in or Exported from the United States of America. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no Request for an Extraordinary Challenge was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the Article 1904 Panel Rules, the Panel Review was completed and the panelists discharged from their duties effective March 30, 1995.

Dated: April 4, 1995.

Caraina L. Alston,

Deputy U.S. Secretary, NAFTA Secretariat.

[FR Doc. 95-9033 Filed 4-11-95; 8:45 am]

BILLING CODE 3510-GT-M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: North American Free Trade Agreement (NAFTA), NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final injury determination made by the Canadian International Trade Tribunal, respecting Certain Solder Joint Pressure Pipe Fittings and Joint Drainage, Waste and Vent Pipe Fittings, made of Cast Copper Alloy, Wrought Copper Allow or Wrought Copper, Originating in or Exported from the United States of America, Secretariat File No. CDA-93-1904-11.

SUMMARY: Pursuant to the Memorandum Opinion and Order of the Binational Panel dated February 13, 1995, affirming the investigating authority's determination described above was completed on March 28, 1995.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 1061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: On February 13, 1995, the Binational Panel issued a decision which affirmed the injury determination of the Canadian International Trade Tribunal ("CITT") concerning Certain Solder Joint Drainage, Waste and Vent Pipe Fittings, made of Cast Copper Alloy, Wrought Copper Alloy or Wrought Copper, Originating in or Exported from the United States of America. The Secretariat was instructed to issue a Notice of Completion of Panel Review on the 31st day following the issuance of the Notice of Final Panel Action, if no Request for an Extraordinary Challenge was filed. No such request was filed. Therefore, on the basis of the Panel Order and Rule 80 of the Article 1904 Panel Rules, the Panel Review was completed and the panelists discharged from their duties effective March 28, 1995.

Dated: April 4, 1995

Caratina L. Alston,

Deputy U.S. Secretary, NAFTA Secretariat.

[FR Doc. 95-9032 Filed 4-11-95; 8:45 am]

BILLING CODE 3510-GT-M

National Institute of Standards and Technology

[Docket No. 950317077-5077-01]

RIN 0693-AB13

Proposed Revision of Federal Information Processing Standard (FIPS) 177, Initial Graphics Exchange Specification (IGES)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; Request for comments.

SUMAMRY: NIST is prosing a revision of FIPS PUB 117, Initial Graphics Exchange Specification (IGES). IGES defines a neutral file format for the exchange of product model data and representation among differing computer-aided design and computer-aided manufacturing (CA/CAM) systems. This proposed revision will provided increased clarification and enhancement of the existing standard, and added conformance requirements and application protocols (APs) specified within the American National Standard Digital Representation for

VOL 60 ISS 70 AP 12 1995 UMI

Communication of Product Definition Data, ANSI/US PRO/IPO (United States Product Data Association/IGES PDES Organization—100–1993, Version 5.2.

Prior to the submission of this proposed revision to FIPS 177 to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed revision contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section. Only the announcement section of the standard is provided in this notice. Interested parties may obtain copies of the ANSI/US PRO/IPO–1993 and the specified application protocols (Layered Electrical Product (LEP) Application Protocol; 3–D Piping Application Protocol; and Engineering Drawing (Class II) Subset (MIL–D–28000A)) from the National Computer Graphics Association, 2722 Merrilee Drive, Suite 200, Fairfax, VA, 22031, telephone: (703) 698–9600.

DATES: Comments on this proposed revision must be received on or before July 11, 1995.

ADDRESSES: Written comments concerning the adoption of this proposed revision should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed Revision of FIPS 177, IGES, Technology Building, Room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Lynne Rosenthal, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–3353.

Executive Order 12866

This FIPS notice has been determined to be "not significant" for purposes of E.O. 12866.

Dated: April 4, 1995.

Samuel Kramer,

Associate Director.

Proposed Federal Information Processing Standards Publication 177–1

(Date)

Announcing the Standard for Initial Graphics Exchange Specification (IGES)

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. Name of Standard. Initial Graphics Exchange Specification (IGES) FIPS PUB 177–1).

2. Category of Standard. Software Standard; Graphics and Information Interchange.

3. Explanation. This publication is a revision of the FIPS PUB 177 and supersedes FIPS PUB 177 in its entirety. It provides a substantial, upward-compatible enhancement of IGES Version 4.0. FIPS PUB 177–1 specifies new conformance requirements, the addition and use of application protocols (APs), and increased enhancement, correction, and clarification of the existing specification. It does not contain any new requirements that would make an existing conforming implementation nonconforming.

FIPS PUB 177–1 adopts the American National Standard Digital Representation for Communication of Product Definition Data, ANSI/US PRO/IPO (United States Product Data Association/IGES PDES Organization)–100–1993, Version 5.2, and the specified application protocols. FIPS PUB 177–1 addresses IGES implementation and data file acquisition, interpretation, and conformance.

The purpose of the FIPS for IGES is to enable the compatible exchange of product definition data used by dissimilar computer-aided design and computer-aided manufacturing (CAD/CAM) systems. Utilizing a neutral database format the IGES processor can create or translate two-dimensional (2–D) or three-dimensional (3–D) vector-based digital product model data. The standard specifies file structure and syntactical definition, and defines the representation of geometric, topological, and nongeometric product definition data. The exact specification is in Section 10 of this standard.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (NIST), Computer Systems Laboratory (CSL).

6. Cross Index.

a. American National Standard Digital Representation for Communication of Product Definition Data, ANSI/US PRO/IPO–100–1993, Version 5.2.

b. American Society of Mechanical Engineers/American National Standards Institute (ASME/ANSI) Y14.26M–1989, Digital Representation for Communication of Product Definition Data, IGES Version 4.0.

c. MIL–D–280000A, Continuous Acquisition and Life-Cycle Support Specification, Digital Representation for Communication of Product Definition Data: IGES Application Subsets and IGES Application Protocols, February 10, 1992.

d. American national Standard, 3–D Piping IGES Application Protocol, ANSI/US PRO/IPO–110–1994.

e. IGES Layered Electrical Product Application Protocol, Committee Draft SAND94–2375, December 1, 1994.

7. Related Documents.

a. Federal Information Resources Management Regulations (FIRMR) subpart 201.20.303, Standards, and subpart 201.39.1002, Federal Standards.

b. Federal ADP and Telecommunications Standards Index, U.S. General Services Administration, Information Technology Management Service, October 1994 (updated periodically).

c. FIPS PUB 29–3, Interpretation Procedures for Federal Information Processing Standards for Software.

d. NISTIR 4379, IGES Technical Illustrations Application Guide.

e. NISTIR 4600, IGES 5.0 Recommended Practices Guide.

f. NISTIR 5541, Initial Graphics Exchange Specification (IGES): Procedures for the NIST IGES Validation Test Service.

g. MIL–T–31000, General Specification for Technical Data Packages.

8. Objectives. Federal standards for electronic interchange permit Federal departments and agencies to exercise more effective control over the production, management, and use of the government's information resources. The primary objectives specific to IGES are to:

—Reduce the overall life-cycle cost for digital systems by establishing a common exchange format that allows for the transfer of product definition data across organizational boundaries and independent of any particular CAD/CAM system.

—Exchange digital representations of product definition data in various forms: illustrations, 2–D drawings, 3–D edge-vertex models, surface models, solid models, and complete product models.

—Provide CAD/CAM implementation manufacturers with a guideline for identifying useful combinations of product definition data capabilities in any CAD/CAM system.

—Specify Application Protocols that can be used by Federal departments and agencies to support the exchange of product data when applicable.

9. Applicability.

9.1 This FIPS for IGES is intended for the computer-interpretable representation and exchange of CAD/CAM product definition data among applications and programs that are either developed or acquired for government use. Each CAD/CAM system acquired or developed by a Federal agency shall include an IGES preprocessor and IGES postprocessor capability. FIPS for IGES is designed to support the exchange of 2–D or 3–D product definition data with rich attribute information. It provides a data format for describing product design and manufacturing information that has been created and stored in a computer-readable, device independent form.

9.2 The FIPS for IGES shall be used when one or more of the following situations exist:

—The product definition application or program is under constant review, and changes may result frequently.

—It is anticipated that the life of the data files will be longer than the life of the presently utilized CAD/CAM system.

—The application is being designed centrally for a decentralized system that may employ computers of different makes and models and different CAD/CAM devices.

—The product definition application may run on equipment other than that on which it was developed.

—The product definition data is to be used and maintained by other than the original designer.

—The product definition data is or is likely to be used by organizations outside the Federal Government.

—It is desired to have the design understood by multiple people, groups, or organizations.

9.3 For layered electrical product technology, three dimensional piping, and engineering drawing applications, the use of the appropriate application protocol or subset (as described below) is required for implementation of this FIPS IGES.

An AP or subset provides a means to improve the fidelity of the product data exchanged. APs are developed by domain experts for the purpose of defining the processes, information flows, and functional requirements of an application. An AP defines the scope, context, information requirements, representation of the application information, and conformance requirements. Initial release of this FIPS for IGES publication includes two application protocols and one application subset.

—Layered Electrical Product (LEP) Application Protocol: The LEP AP is used for the transference of 2–D electrical and electro-mechanical product models. This AP is required for layered electrical products technology applications, including specification control drawings, circuitry, fabrication and final assembly of a layered product system.

—3–D Piping Application Protocol: The 3–D Piping AP is used for the exchange of models from one piping modeling application to another. This AP is required for 3–D piping and related equipment models, including the fabrication and assembly of piping systems (e.g. pipe, pipe fittings, attached equipment, piping supports, and insulation).

—Engineering Drawing (Class II) Subset (MIL–D–28000A): The Class II subset is used for exchange of the drawing model; including geometric and annotation entities, attributes such as color and line fonts, and organization information such as levels and subfigures. This subset is required for the exchange of engineering drawings and product data following MIL–T–31000 (General Specification for Technical Data Packages).

10. Specifications. This FIPS adopts ANSI/US PRO/IPO–100–1993 and the specified application protocols: Layered Electrical Product (LEP) Application Protocol; 3-D Piping Application Protocol; and Engineering Drawing (Class II) Subset (MIL–D–28000A). The ANSI/US PRO/IPO–100–1993 standard for IGES, defines the communications file structure and format (i.e., a file of entities), language format, and the representation of product definition data.

New entities and constructs are added with each revision and are upwardly compatible. Thus, a processor conforming to IGES Version 5.2 would be able to read and process an IGES Version 4.0 file, but the converse may not be true. The capabilities brought to the IGES user implementing the IGES Version 5.2 standard are:

—A new character set for the European Community;

—Additional properties to the attribute table for Architecture/Engineering/Construction (AEC);

—The addition of a new form of the drawing entity; and

—The addition of a new class of entity use, termed construction information.

Conformance Requirements. Conformance is mandatory for this standard and is applicable to all Federal department and agency procurements. Conforming data files and processors must adhere to all the rules appropriate to specific features, such as entities, defined within ANSI/US PRO/IPO–100–1993 and any of the specified application protocols. Vendors of processors claiming conformance to this standard shall complete documentation which accurately indicates the processor's support of, and mapping between, native and IGES entities.

A conforming preprocessor shall create conforming IGES data files which represent the native database which was input to the preprocessor. File content shall represent the native entities according to the vendor's completed documentation. It is desirable and recommended that the preprocessor report on any native feature or entity which has not been written to the IGES data file.

A conforming postprocessor shall translate conforming IGES data files into the native database form of a specific CAD/CAM system. It shall convert each supported entity into native constructs, which preserve the functionality and match the geometry, attributes, and relationships of the IGES entity in the file. It is desirable and recommended that the postprocessor report on any IGES entities or features which have been discarded.

Any visual presentation produced by the processor shall accurately and correctly represent the IGES constructs contained in the data file and specified by ANSI/US PRO/IPO–100–1993 and, if applicable, the AP or subset. For example, the display of a design which is filled with a pattern of lines as indicated by the pattern code of the Sectioned Area Entity (type 230) shall resemble the predefined definitions illustrated in the ANSI/US PRO/IPO–100–1993 specification.

Conformance Rules for Application Protocols and Subsets. An application protocol or subset which claims

VOL 60 ISS 70 AP 12 1995 UMI

conformance to this standard, must satisfy the following rule:

—An implementation conforming to an AP shall satisfy the conformance requirements specified in the AP as well as the conformance requirements in the ANSI/US PRO/IPO–100–1993 specification.

11. Implementation. The implementation of this standard involves four areas of consideration: effective date, acquisition, interpretation, and validation.

11.1 Effective Date. This publication is effective six (6) months after date of publication upon final announcement in the **Federal Register**. A transition period of twelve (12) months, beginning on the effective date, allows industry to produce IGES implementations and data files conforming to this is standard. Agencies are encouraged to use this standard for solicitation proposals during the transition period. This standard is mandatory for use in all solicitation proposals for IGES data files and implementations (i.e., computer-aided design and manufacturing systems) acquired twelve (12) months after the effective date.

11.2 Acquisition of IGES Implementations and Data Files. Conformance to this standard should be considered whether the CAD/CAM systems are developed internally, acquired as part of a system procurement, acquired by separate procurement, used under a leasing agreement, or specified for use in contracts for programming services. Recommended terminology for procurement of FIPS IGES is contained in the U.S. General Services Administration publication Federal ADP and Telecommunications Standards Index, Chapter 5, Part 1.

11.3 Interpretation FIPS IGES. Resolutions of questions regarding this standard will be provided by NIST. Procedures for interpretations are specified in FIPS PUB 29–3. All questions concerning the specifications and content should be addressed to: Director, Computer Systems Laboratory, ATTN: FIPS IGES Interpretation, National Institute of Standards and Technology, Gaithersburg, MD 20899.

11.4 Validation of IGES Implementations. Implementations of FIPS for IGES shall be validated in accordance with the NIST Computer Systems Laboratory (CSL) validation procedures for FIPS for IGES, NISTIR 5541, Procedures for the NIST IGES Validation Test Service. Recommended procurement terminology for validation of FIPS for IGES is contained in the U.S. General Services Administration publication Federal ADP and Telecommunications Standards Index, Chapter 5, Part 2. This GSA publication provides terminology for three validation options: Delayed Validation, Prior Validation Testing, and Prior Validation. The agency shall select the appropriate validation option and shall specify appropriate time frames for validation and correction of nonconformities. The agency is advised to refer to the NIST publication Validated Products List for information about the validation status of IGES products. This information may be used to specify validation time frames that are not unduly restrictive of competition.

Implementations shall be evaluated using the NIST IGES Test Suite. The NIST IGES Test Suite was first released in October 1994 to assist users and vendors determine compliance with FIPS PUB 177 and/or MIL–D–28000, Class II subset. The results of validation testing by the NIST IGES Validation Test Service are published on a quarterly basis in the Validated Products List, available from the National Technical Information Service (NTIS).

Current information about the NIST IGES Validation Test Service and validation procedures for FIPS for IGES is available from: National Institute of Standards and Technology, Computer Systems Laboratory, Graphics Software Group, IGES Test Service, Building 225, Room A266, Gaithersburg, MD 20899, (301) 975–3265.

12. Waivers.

Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; Attn: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

[FR Doc. 95–9007 Filed 4–11–95; 8:45 am]
BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Notice of Solicitation for Sea Grant Review Panelists

SUMMARY: This notice responds to Section 209(c) of the National Sea Grant College Program Act, 33 U.S.C. 1128, which requires the Secretary of Commerce to solicit nominations for membership on the Sea Grant Review Panel at least once a year. This advisory committee provides advice on the implementation of the National Sea Grant College Program.

DATES: Resumes should be sent to the address specified and must be received by May 12, 1995.

ADDRESSES: Dr. Chandrakant Bhumralkar, Acting Director, National Sea Grant College Program, 1315 East-West Highway, Room 11618, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Dr. Chandrakant Bhumralkar of the National Sea Grant College Program at the address given above; telephone (301) 713–2448, or fax number (301) 713–0799.

SUPPLEMENTARY INFORMATION: Section 209 of the Act establishes a sea grant review panel to advise the Secretary of Commerce, the Under Secretary for Oceans and Atmosphere, and the Director of the National Sea Grant College Program on the implementation of the Sea Grant Program. The panel provides advice on such matters as:

(a) The Sea Grant Fellowship Program;

(b) Applications or proposals for, and performance under, grants and contracts awarded under section 205 and section 208 of the Sea Grant Program Improvement Act of 1976;

(c) The designation and operation of sea grant colleges and sea grant regional consortia; and the operation of the sea grant program;

(d) The formulation and application of the planning guidelines and priorities under section 204 (a) and (c)(1); and,

(e) Such other matters as the Secretary refers to the panel for review and advice.

The Panel is to consist of 15 voting members composed as follows: Not less than eight of the voting members of the panel should be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields included in marine science. The other voting members shall be individuals who by reason of knowledge, experience, or training, are especially qualified in, or representative of, education, extension services, state government, industry, economics, planning, or any other activity which is appropriate to, and important for, any effort to enhance the understanding, assessment, development, utilization, or conservation of ocean and coastal resources. No individual is eligible to be a voting member of the panel if the individual is (a) the director of a sea grant college, sea grant regional consortium, or sea grant program, (b) an applicant for or beneficiary (as determined by the Secretary) of, any grant or contract under Section 205, or (c) a full-time officer or employee of the United States.

The Director of the National Sea Grant College Program and one Director of a Sea Grant Program also serve as non-voting members. The positions on the panel will become vacant during 1995. Candidates who are selected to fill these vacancies will be appointed for a 3-year term.

Dated: April 5, 1995.

Ned A. Ostenso,

Assistant Administrator for Oceanic and Atmospheric Research.

[FR Doc. 95–8994 Filed 4–11–95; 8:45 am]
BILLING CODE 3510–12–P

Notice of Sea Grant Review Panel Meeting

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will provide and discuss follow-up reports of business transacted at the last Sea Grant Review Panel meeting in the areas of management and organization, budget status, strategic and tactical issues, law and policy, new technology and research, economic development, outreach for enhancement of Department of Commerce goals, and new business.

DATES: The announced meeting is scheduled during 3 days: Thursday, June 1, Noon to 3:30 p.m. and 5 p.m. to 7 p.m.; Friday, June 2, 8 a.m. to 5 p.m.; and Saturday, June 3, 8 a.m. to 3 p.m.

ADDRESSES: Candelero Hotel, Humacao, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Dr. Chandrakant Bhumralkar, Acting Director, National Sea Grant College Program, National Oceanic & Atmospheric Administration, 1315 East-West Highway, Room 11618, Silver Spring, Maryland 20910, (301) 713–2448.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Public Law 94–461, 33 U.S.C. 1128) and advises the Secretary of Commerce, the Under Secretary for Oceans and Atmosphere, also the Administrator of NOAA, and the Director of the National Sea Grant College Program with respect to operations under the act, and such other matters as the Secretary refers to the Panel for review and advice. The agenda for the meeting is:

Thursday, June 1, 1995

Noon to 3:30 p.m.

Introduction of new members
Reauthorization, hearings, appropriations
Strategic Plan and Sea Grant's Future
5–7 p.m.
Sea Grant Management Position Papers
Reports from Thematic Group Meetings

Friday, June 2, 1995

8 to 10:30 a.m.

Perspectives on Sea Grant/NOAA Interactions
National Office/Management Issues
Council of Sea Grant Directors

12–5 p.m.

Industrial Fellows Program
Business/Industry Issues
Caribbean Coastal and Marine Issues

Saturday, June 3, 1995

8–3 p.m.

Report on Perspective Groups
Recertification Reports
Multiple Entities Issues

The meeting will be open to the public.

Dated: April 5, 1995.

Ned A. Ostenso,

Assistant Administrator for Oceanic and Atmospheric Research.

[FR Doc. 95–8995 Filed 4–11–95; 8:45 am]
BILLING CODE 3510–12–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps*NCCC's Proposal for an Information Collection Form

AGENCY: Corporation for National and Community Service.

ACTION: Information collection request submitted to the Federal Office of Management and Budget (FOMB) for review.

SUMMARY: This notice provides information about an information collection proposal by AmeriCorps*National Civilian Community Corps (NCCC), currently under review by the Office of Management and Budget (OMB).

DATES: OMB and AmeriCorps*NCCC will consider comments on the proposed collection of information and recordkeeping requirements received before May 12, 1995. Copies of the proposed forms and supporting documents may be obtained by contacting AmeriCorps*NCCC.

ADDRESSES: Send comments to both—Dan Chenok, Desk Officer, Office of Management and Budget, 3002 New Executive Office Building, Washington, DC 20503. Donald L. Scott, Director, AmeriCorps*NCCC, 1201 New York Avenue, NW., Washington, DC 20525.

VOL 60 ISS 70 AP 12 1995 UMI

FOR FURTHER INFORMATION CONTACT: Kate Becker (202) 606–5000 x 149, Corporation for National Service, AmeriCorps*NCCC, 1201 New York Avenue, NW., Washington, DC 20525.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests.

Office of Action Issuing Proposal: AmeriCorps*NCCC.
Title of Forms: Applicant Medical Prescreening Form.
Need and Use: This information is used for program management, planning, and required recordkeeping.
Type of Request: Submission of new collection.
Respondent's Obligation to Reply: Required to receive benefits.
Frequency of Collection: One time per selected applicant.
Estimated Number of Response: 2,000.
Average Burden Hours Per Response: .5 hours (reporting and recordkeeping).
Estimated Annual Reporting or Disclosure Burden: 500 hours.
Regulatory Authority: The National and Community Service Act of 1990, as amended.

Dated: March 30, 1995.

Donald L. Scott,

*Vice President, Corporation for National Service and Director, AmeriCorps*National Civilian Community Corps.*

[FR Doc. 95–9021 Filed 4–11–95; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Department of the Army

Office of the Secretary of the Army; Notice of Intent to Prepare a Supplemental Environmental Impact Analyses for Disposal and Reuse of Fort Ord

AGENCY: Department of the Army, DOD.

ACTION: Notice of Intent to prepare a Supplemental Environmental Impact Statement (SEIS) for the disposal and reuse of Fort Ord, California, to cover the additional lands to be made available for disposal as a result of downsizing the Presidio of Monterey (POM) Annex and changes in intended reuse identified in the December 12, 1994, Fort Ord Reuse Authority (FORA) Reuse Plan.

SUMMARY: The action evaluated in the SEIS is the disposal and reuse of Fort Ord, California, in accordance with the legislative requirements of the Defense Base Closure and Realignment Act of 1990, Public Law 101–510. The SEIS will cover additional lands to be made available for disposal as a result of downsizing the POM Annex located on the former Fort Ord. Because the opportunity for supplementation has arisen, the environmental effects of changes in land uses between Fort Ord Reuse Group's (FORG's) draft reuse plan of October 1993 and FORA's approved reuse plan of December 1994 that have not been adequately addressed in previous National Environmental Policy Act documentation will also be considered.

ALTERNATIVES: Alternatives to the POM Annex and a no-POM Annex alternative were addressed in the Final EIS. This EIS addressed a range of alternative future land uses. These alternatives will be supplemented with information on the new smaller POM Annex and final Reuse Plan of the Fort Ord Reuse Authority.

PUBLIC INVOLVEMENT: The public will be invited to participate in the scoping process, review of the draft SEIS and a public meeting. The location and time of the scoping meeting to be scheduled during April 1995 will be announced in the local news media. The release dates of the draft SEIS for public comment and the public meeting will also be announced in the local news media, as the dates are established.

POINT OF CONTACT: Mr. Bob Verkade, Scaramento District, U.S. Army Corps of Engineers, (916) 557–7423.

Dated: April 6, 1995.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (IL&E).

[FR Doc. 95–9010 Filed 4–11–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).
Date of Meeting: 24 and 25 April 1995.
Time of Meeting: 1300–1600, 24 April 1995; 0800–1600, 25 April 1995.
Place: Ft. Leavenworth, Kansas—McNair Hall (Bldg. 286).
Agenda: The Army Science Board (ASB) Analysis, Test and Evaluation Issue Group will meet to assess the impact of personnel reductions on mission accomplishment within the Army analytical community. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–9051 Filed 4–11–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.041]

Impact Aid

AGENCY: Department of Education.

ACTION: Notice extending the application deadline date for Impact Aid fiscal year 1995 section 8002 grants and fiscal year 1996 section 8003 grants.

SUMMARY: The Secretary extends the deadline date for the submission of applications for Impact Aid fiscal year 1995 section 8002 grants and fiscal year 1996 section 8003 grants to May 8, 1995. Impact Aid regulations at 34 CFR § 222.10 specify that the annual application deadline is January 31 of the fiscal year for which assistance is being sought. Because the Impact Aid statute was reauthorized on October 20, 1994, as part of the Improving America's Schools Act of 1994, new application forms for those grants had to be developed and approved. Now that the approval process is complete and new applications are available, an extension is being granted to potential applicants under sections 8002 and 8003 for Impact Aid assistance for the respective years specified. Section 8003 applicants should use a survey date for their student counts that is at least three days after the start of the 1994–95 school year and before the extended deadline of May 8, 1995.

The deadline date for the transmittal of comments by State Educational agencies is May 23, 1995. The Secretary will also accept and approve for payment any otherwise approvable application that is received on or before the sixtieth day after May 8, 1995. However, any applicant meeting the conditions of the preceding sentence will have its payment reduced by 10 percent of the amount it would have received had its application been filed by May 8, 1995.

FOR APPLICATIONS OR INFORMATION CONTACT: Impact Aid Program, U.S. Department of Education, 600 Independence Avenue SW., Room 4200 Portals, Washington, DC 20202–6244. Telephone: (202) 260–3907. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 7705.

Dated: April 5, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 95–8927 Filed 4–11–95; 8:45 am]

BILLING CODE 4000–01–M

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics.

ACTION: Teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIME: May 4, 1995 at 10:00 a.m..

ADDRESSES: 555 New Jersey Avenue, N.W., Room 400F, Washington, D.C. 20208.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, Room 400J, Washington, D.C. 20208–7575, telephone: (202) 219–1839.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under Section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. The meeting of the Council is open to the public.

The proposed agenda includes the following:

- A discussion of draft NCES guidelines on standards-based reporting.
- Agenda planning for the next ACES Meeting.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue NW, Room 400J, Washington, D.C. 20208–7575.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–8948 Filed 4–11–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Record of Decision; Defense Waste Processing Facility at the Savannah River Site, Aiken, SC

AGENCY: Department of Energy, DOE.

ACTION: Record of Decision, Defense Waste Processing Facility at the Savannah River Site (SRS), Aiken, South Carolina.

SUMMARY: The U.S. Department of Energy (DOE) is publishing a Record of Decision for the Defense Waste Processing Facility (DWPF). DOE has prepared and issued a Final Supplemental Environmental Impact Statement (EIS) (DOE/EIS–0082–S, November 25, 1994) to assess the potential environmental impacts of completing construction and operating the DWPF, a group of associated facilities and structures, to pretreat, immobilize, and store high-level radioactive waste at the Savannah River Site (SRS). On the basis of the analysis of impacts in the Supplemental EIS, monetary costs, and regulatory commitments, DOE has decided to complete construction and startup testing, and begin operation of DWPF. The facility will be completed and operated as designed, which includes modifications to the conceptual design originally proposed and evaluated in the EIS prepared for the DWPF in 1982 (DOE/EIS–0082). DOE also will implement additional safety modifications to DWPF that will substantially reduce or eliminate potential accidental releases of radioactive material and chemicals in the unlikely event of a severe earthquake. Independent readiness reviews of DWPF facilities will be conducted, and any potential concerns raised in these reviews will be resolved before DOE proceeds with radioactive operations.

High-level radioactive waste at SRS, the result of nuclear materials production, has been stored in large underground tanks at SRS since 1954. This waste now amounts to approximately 129 million liters (34 million gallons) and exists as sludge, soluble salts dissolved in water (supernatant), and crystallized saltcake formed from evaporation of the supernatant. DWPF includes facilities to pre-treat the salt (supernatant and saltcake) and sludge components using existing high-level waste tanks. Pre-treatment of the salt component will involve chemical precipitation in a high-level waste tank followed by filtration for separation of highly radioactive constituents (cesium, strontium, and plutonium) from the salt solution, yielding two output streams: a highly radioactive precipitate slurry and a low radioactivity salt solution. Pre-treatment of the highly radioactive sludge will involve washing it with a sodium hydroxide solution in selected high-level waste tanks to remove aluminum hydroxide and other soluble salts. The highly radioactive constituents in the precipitate slurry and the pre-treated sludge will be immobilized at DWPF by incorporating them in borosilicate glass in a process called vitrification. The highly radioactive vitrified waste will be sealed in stainless steel canisters and stored in vaults at DWPF until a permanent geologic repository becomes available. The low radioactivity salt solution resulting from salt and sludge pre-treatment will be immobilized in the Saltstone Manufacturing Plant (one of the DWPF facilities) by being blended with cement, slag, and flyash, which will harden into a concrete-like material called saltstone. Saltstone will be permanently disposed of in large vaults located near DWPF.

Storage of high-level radioactive waste in tanks presents continued long-term risk from releases to the environment, both from normal operations and potential accidents. Completion and operation of DWPF will provide DOE with facilities to immobilize high-level waste at SRS in a form that will significantly reduce potential long-term hazards to human health and the environment.

FOR FURTHER INFORMATION CONTACT: For further information on DWPF or to receive a copy of the Final Supplemental EIS contact: SR NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, P.O. Box 5031, Aiken, South Carolina 29804–5031, (800) 242–8269. For further information on the DOE National Environmental Policy Act (NEPA) process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–

VOL
60
ISS
70
AP
12
1995
UMI

4600, or leave a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

DOE prepared this Record of Decision pursuant to the regulations of the Council on Environmental Quality for implementing National Environmental Policy Act (NEPA) (40 CFR Parts 1500–1508) and DOE's NEPA Implementing Procedures (10 CFR Part 1021). This Record of Decision is based on DOE's Final Supplemental Environmental Impact Statement (EIS) for the Defense Waste Processing Facility, SRS, Aiken, South Carolina (DOE/EIS–0082–S).

DOE's SRS occupies approximately 800 square kilometers (300 square miles) adjacent to the Savannah River, principally in Aiken and Barnwell counties of South Carolina, about 40 kilometers (25 miles) southeast of Augusta, Georgia, and about 32 kilometers (20 miles) south of Aiken, South Carolina. When established in the early 1950s, SRS's primary mission was to produce nuclear materials to support the defense, research, and medical programs of the United States. SRS's present mission emphasizes waste management, environmental restoration, and decontamination and decommissioning of facilities that are no longer needed.

The process used in the past to recover uranium and plutonium from production reactor fuel and target assemblies in SRS's two chemical separations areas resulted in high-level radioactive waste. This waste, which now amounts to approximately 129 million liters (34 million gallons), is stored in underground tanks at the F- and H-Area Tank Farms. After introduction into the tanks as a liquid, the high-level waste separates into a sludge layer at the bottom of the tanks and an upper layer of salts dissolved in water (supernatant). Evaporation of the supernatant in the tank farms using evaporators has produced a third waste form in the tanks, crystallized saltcake.

In 1979 and 1980, DOE prepared an EIS (DOE/EIS–0023; 44 FR 66320, December 3, 1979) and issued a Record of Decision (45 FR 9763, February 13, 1980) to continue a research and development program to develop technology for removing these wastes from the tanks and immobilizing the highly radioactive constituents in a form suitable for disposal. In its Record of Decision, DOE indicated that immobilization was the process most likely to ensure that the waste would remain contained in a form that would pose the least threat to human health or the environment.

In 1982, DOE published an EIS (DOE/EIS–0082; 47 FR 10901, March 12, 1982) evaluating a proposal to design, construct, and operate the DWPF to immobilize SRS high-level waste in a form suitable for safe storage, transport, and ultimate disposal at a permanent geologic repository. A Record of Decision to construct and operate DWPF was issued on June 1, 1982 (47 FR 23801). Subsequently, after completing an Environmental Assessment (DOE/EA–0179; 47 FR 32778, July 29, 1982), DOE selected borosilicate glass as the medium of choice for stabilization of high-level waste at DWPF.

The DWPF is now mostly constructed, and the major high-level waste pre-treatment processes and the vitrification process are nearly ready to operate. However, DOE has made design changes to the DWPF process since the 1982 EIS to improve efficiency and safety of the facility. Among these changes are modifications to processes for pre-treatment of the salt (i.e., supernatant and saltcake) and sludge components of the high-level waste before vitrification, and modifications in methods used for onsite disposal of the immobilized low radioactivity waste fraction (saltstone) resulting from salt pre-treatment. The potential environmental impacts of these modifications had been considered individually, but not cumulatively, in prior NEPA documentation.

In view of these considerations, DOE determined that a focused EIS-level review of the environmental impacts of the DWPF as now envisioned was timely and appropriate. Thus, on April 6, 1994, DOE published in the **Federal Register** a Notice of Intent (59 FR 16499) to prepare a Supplemental EIS for the operation of the DWPF. This notice initiated a formal scoping period that extended through May 31, 1994.

DOE held three informal public workshops early in the scoping period in North Augusta, South Carolina; Savannah, Georgia; and Columbia, South Carolina on April 12, 19, and 21, 1994, respectively, to provide the public with information on the DWPF. Interested parties were invited to submit comments for consideration in the preparation of the Supplemental EIS. DOE also established a toll-free telephone line allowing interested parties to submit comments by voice or facsimile. Comments were also submitted by mail and at formal public scoping meetings held in Savannah, Georgia, and North Augusta and Columbia, South Carolina, on May 12, 17, and 19, 1994, respectively.

On August 26, 1994, DOE and the U.S. Environmental Protection Agency (EPA) published Notices of Availability of DOE's Draft Supplemental EIS in the **Federal Register** (59 FR 44137 and 59 FR 44143, respectively). EPA's notice officially started the public comment period on the Draft Supplemental EIS, which extended through October 11, 1994. Comments were received by letter, telephone (voice mail), and formal statements made at 10 public hearing sessions. The hearings, which included the opportunity for informal discussions with DOE personnel involved with DWPF, were held in Aiken, South Carolina on September 13, 1994 (2 sessions); Hilton Head, South Carolina on September 14, 1994; Beaufort and Hardeeville, South Carolina, and Savannah, Georgia (first session) on September 15; Savannah, Georgia (second session) on September 16; and Allendale, Barnwell, and Columbia, South Carolina on September 20, 1994.

DOE considered the comments it received from agencies, organizations, and individuals on the Draft Supplemental EIS in preparing the Final Supplemental EIS. On November 18, 1994, DOE announced its completion of the Final Supplemental EIS, and EPA published a Notice of Availability of the document in the **Federal Register** on November 25, 1994 (59 FR 60630), following distribution of approximately 300 copies to government officials and interested groups and individuals.

II. Alternatives

In the Final Supplemental EIS, DOE examined two major alternatives for treating waste at DWPF, and a no-action alternative. These alternatives are described below.

A. Proposed Action

Under this alternative, DOE would complete construction and begin operation of the DWPF as currently designed to immobilize SRS high-level radioactive waste. DOE would continue DWPF process and facility modifications that are underway, complete startup testing activities, and operate the facility upon completion of testing. DOE also would implement safety modifications to substantially reduce or eliminate the probability and consequences of accidental releases of radioactive materials and chemicals in the unlikely event of a severe earthquake. These modifications, which would be implemented before the facility is operated with radioactive waste, address three types of systems: process vessel ventilation systems, building ventilation systems, and systems to prevent or reduce releases of hazardous chemicals. These upgrades could be achieved through additional barriers and within the basic design of the existing facility. The upgrades would ensure that radioactive and hazardous materials would be confined during and following postulated accidents to provide a level of safety to facility workers and the public that is within SRS standards.

Based on operating plans and projected funding used in the SEIS analysis, high-level waste processing would be completed in about 24 years. As analyzed in the SEIS, DWPF includes pre-treatment processes, the Vitrification Facility and associated support facilities and structures, and Saltstone Manufacturing and Disposal, as described below.

Pre-Treatment Processes and Facilities

- Extended Sludge Processing—a washing process that would be carried out in selected H-Area high-level radioactive waste tanks, to remove aluminum hydroxide and soluble salts from the high-level waste sludge. Sludge would be processed in the DWPF, and the wash water would be directed to the Evaporator Feed Tanks. These facilities are built and the sludge washing process is being tested.
- In-Tank Precipitation (ITP)—a process that would be carried out in selected H-Area high-level radioactive waste tanks and associated new facilities to remove dissolved radioactive constituents (strontium, cesium, and plutonium) from the highly radioactive salt solution by chemical precipitation and filtration. The precipitate would be sent to Late Wash, which is now under construction; the remaining low radioactivity salt solution would be sent to Saltstone Manufacturing and Disposal. These facilities are constructed, and testing is nearly complete.
- Late Wash—a process to concentrate residual radioactive constituents and wash the highly radioactive precipitate resulting from ITP to remove a chemical (sodium nitrite) that could potentially interfere with operations in the Vitrification Facility. This facility is being constructed.

Vitrification Facility and Associated Support Facilities and Structures

- Vitrification Facility—a large building that contains processing equipment to immobilize the highly radioactive sludge and precipitate portions of the high-level waste in borosilicate glass. The sludge and precipitate would be treated chemically, mixed with frit (finely ground glass), melted, and poured into stainless steel canisters that would then be welded shut. The facility is presently constructed and undergoing startup testing.
- Glass Waste Storage Buildings—buildings for storage of the radioactive glass waste canisters in highly shielded and ventilated vaults located below ground level. One building is completed; another building is in the planning stage and would be built as part of the proposed action.
- Chemical Waste Treatment Facility—an industrial waste treatment facility that neutralizes nonradioactive wastewater from bulk chemical storage areas and nonradioactive process areas of the Vitrification Facility. This facility is constructed and in operation.
- Failed Equipment Storage Vaults—shielded concrete vaults that would be used for storage of failed process equipment that is too radioactive to allow onsite disposal. These vaults would be used until permanent disposal facilities can be developed. Two vaults are nearly constructed; four more vaults are planned for the near future. DOE estimates that a total of approximately 14 vaults would be needed to accommodate waste generated during the 24-year Vitrification Facility operating period as analyzed in the SEIS.
- Organic Waste Storage Tank—A 568,000-liter (150,000-gallon) capacity aboveground tank that stores a flammable liquid organic waste consisting primarily of benzene, a byproduct of processing precipitate prior to vitrification. During radioactive operations, this waste would contain small amounts of radioactivity, primarily cesium. The tank is constructed and currently stores nonradioactive liquid organic waste generated during nonradioactive chemical testing of the Vitrification Facility.

Saltstone Manufacturing and Disposal

- Saltstone Manufacturing Plant—a processing plant that would blend the low radioactivity salt solution with cement, slag, and flyash to create a mixture that hardens into a concrete-like material called saltstone. The plant is in operation to treat liquid waste residuals from the F- and H-Area Effluent Treatment Facility, an existing wastewater treatment facility that serves the F- and H-Area Tank Farms. The plant is ready for treatment of low radioactivity salt solution produced by ITP.
- Saltstone Disposal Vaults—large concrete disposal vaults into which the mixture of salt solution, flyash, slag, and cement that is prepared at the Saltstone Manufacturing Plant is pumped. After cells in the vault are filled, they are sealed with concrete. The vaults would then be covered with soil, and an engineered cap constructed of clay and other materials would be installed over the vaults to reduce infiltration by rainwater and leaching of contaminants into the groundwater. Two vaults have been constructed. About 13 more vaults would be constructed over the life of the facility for the proposed action.

B. Ion Exchange Alternative

This alternative is as described above for the proposed action, except that DOE would replace the ITP process with an ion exchange process for high-level waste pre-treatment. DOE examined two options for implementing ion exchange for waste pre-treatment: (1) Phased replacement and (2) immediate replacement. In phased replacement, ITP would operate until the ion exchange facility had been designed, constructed, tested, and was available for use, in approximately 14 years. In immediate replacement, ITP would not operate and waste removal from tanks would not begin, meaning the waste would remain in a more mobile state until the ion exchange facility was operational in approximately 10 years. Under the immediate replacement option, the ion exchange facility would be available four years earlier than it would be under the phased replacement alternative. Because ITP would not be operating to empty the high-level waste tanks, DOE would design, construct, and test an ion exchange facility on an accelerated schedule.

C. No Action

Under this alternative, DOE would continue to manage SRS high-level waste in the F- and H-Area Tank Farms for an indefinite period until an alternative to DWPF can be developed to effectively immobilize the high-level waste. DOE would not operate the Vitrification Facility and associated facilities and structures, ITP, or Extended Sludge Processing. DOE would continue current Saltstone Manufacturing and Disposal operations to treat waste residuals from the F- and H-Area Effluent Treatment Facility. DOE would "mothball" the Vitrification Facility for an indefinite period and reduce DWPF operations staff accordingly. At least two additional Saltstone Disposal Vaults would be constructed for disposal of F- and H-Area Effluent Treatment Facility waste residuals.

VOL 60 ISS 70 AP 12 1995 UMI

D. Environmental Impacts of Alternatives Documented in the Supplemental EIS

The alternatives (except the no-action alternative) would result in an overall reduction in risk to human health and the environment associated with management of high-level radioactive waste currently stored in the tank farms. As long as the waste remains in the tanks, particularly in liquid form, releases to the environment could occur as a result of leaks, spills, or tank system rupture. In the process of reducing this overall risk, taking action would have environmental impacts. Although the no-action alternative would not pose these operational impacts, it also would not reduce the continuing risk posed by tank storage of the high-level radioactive waste. Implied in the no-action alternative is the operation at some future time of a replacement immobilization facility (an alternative to DWPF) to treat the high-level radioactive waste. However, the risks and impacts of future alternative immobilization facilities are not known and were not evaluated in the Final Supplemental EIS.

Under all the alternatives, minor impacts would be expected to geologic resources (e.g., soils), surface water, socioeconomic resources, traffic and transportation, and decontamination and decommissioning. No impacts to cultural resources, aesthetic and scenic resources, floodplains and wetlands, or threatened and endangered species would be expected from implementing any of the alternatives. Other impacts are discussed below.

Each alternative considered in the Supplemental EIS, including no action, would result in the unavoidable loss or alteration of land, natural resources, and associated natural resource services (e.g., groundwater for drinking, natural habitats). Land used for the Saltstone Disposal Vaults, approximately 22 hectares (55 acres) under the no-action alternative, and approximately 73 hectares (180 acres) under the proposed action, or under the ion exchange alternatives, would be permanently committed to waste management and would not be available for other purposes (e.g., forestry). Under the no action alternative, two additional vaults would be constructed on land that has already been cleared. Under the action alternatives, further land use impacts would be spaced over time as an additional 13 new Saltstone Disposal Vaults are constructed. Small mammals, reptiles, and birds occupying this habitat would be displaced or disturbed by clearing and construction activities, but local and regional populations of these wildlife species would not be impacted.

Under all alternatives, use of this land for waste disposal would also unavoidably impact groundwater. Some contamination of shallow groundwater at and near the Saltstone Disposal Vaults is projected to occur from leaching of radionuclides and other pollutants (e.g., nitrate). However, releases from the vaults are not expected to reach the shallow groundwater for at least 100 years, and contamination is projected to remain below drinking water standards beyond a distance of 100 meters (328 feet) from the vaults. Peak concentrations of nonradioactive contaminants are expected to occur at least 1,000 years after closure. The peak radiological dose from groundwater contamination will occur 2,000 years after closure and is 100 times less than current EPA dose limits for drinking water.

Under normal operations, radiation exposure to workers and members of the public would be well within DOE and EPA limits for any of the alternatives. DOE does not expect adverse health effects to members of the public. Normal operations under either action alternative could result in approximately one additional fatal cancer from exposure to radiation among DWPF workers over the 24 years of DWPF processing as analyzed in the SEIS.

Under any of the alternatives, wastes would be generated as a result of operations. These wastes would include low-level, hazardous, mixed (hazardous and radioactive), construction debris, and sanitary wastes. In addition to these waste streams, highly radioactive failed equipment such as failed melters, process vessels, and miscellaneous small failed equipment would be generated under the action alternatives. The wastes generated under any alternative would impact the existing and planned SRS waste management infrastructure. The treatment and disposal options for these waste streams, except for the highly radioactive failed equipment (which is specifically designated for storage in the Failed Equipment Storage Vaults) and sanitary waste, are being evaluated in the *SRS Waste Management EIS*, currently being prepared.

Major differences in potential impacts among the alternatives include the following:

- Although long-term risk to human health and the environment would be reduced by immobilizing the waste, the proposed action and either option under the ion exchange alternative would initially pose an increased risk above that posed by continued storage (no action). During the period of DWPF operation, the risk would gradually decrease below that of continued tank storage to a smaller, continuing risk from radioactive glass waste canisters stored underground in the Glass Waste Storage Buildings and from residual radioactivity in the high-level waste tanks and processing facilities. Under the ion exchange immediate replacement option, current levels of risk from tank farm operations would persist for an additional 10 years because high-level waste removal and stabilization would be delayed 10 years. Under the no-action alternative, the risk from managing high-level radioactive waste at the tank farms would continue indefinitely.
- Under either action alternative, radiological releases, resulting from failures of DWPF equipment and systems after a severe earthquake (frequency of once every 5,000 years), could result in a dose of approximately 4,000 rem to a worker located 100 meters (328 feet) from the Vitrification Facility and greater doses to workers located closer to the facility. Such doses would result in death within a few days. These equipment and system failures would also result in doses to the public that exceed the DOE dose standard for normal operations. The proposed action includes safety modifications, which would be implemented before the facility is operated with radioactive waste, to substantially reduce or eliminate the probability and consequences of these failures resulting from a severe earthquake.
- Potential, but unlikely, chemical accidents under each of the action alternatives could result in nitric acid concentrations that may cause nearby workers to experience or develop life-threatening health effects or prevent them from taking protective actions. The proposed safety modifications would be in place to minimize the consequences of these potential accidents.
- Potential, but unlikely, chemical accidents for the proposed action and for the first 14 years of the phased replacement option could result in formic acid and benzene concentrations that may cause nearby workers to experience or develop life-threatening health effects or prevent them from taking protective actions. This potential impact would not exist for the no-action alternative, the immediate replacement ion exchange option, or the last 10 years of the phased replacement ion exchange option. The proposed safety modifications would be in place to minimize the consequences of these potential accidents.
- The ion exchange alternative poses a lower risk from hazardous materials than does operation of ITP because fewer hazardous byproducts, such as benzene, would be produced.
- The ion exchange and no-action alternatives would eliminate the generation of DWPF organic waste as compared to the proposed action.

E. Environmentally Preferable Alternative

DOE considers the alternative that would use ion exchange as an ITP pretreatment replacement to be the environmentally preferable alternative. However, DOE considers either of the action alternatives (i.e., proposed action and ion exchange alternative) environmentally preferable over the no-action alternative because the risk posed by storing the high-level waste at the tank farms under the no-action alternative would continue indefinitely, as long as the high-level radioactive waste remained in the tanks (particularly in liquid form), due to potential releases to the environment from leaks, spills, or tank system rupture.

Although DOE considers the ion exchange alternative environmentally preferable, implementation of ion exchange would result in certain environmental impacts as discussed above. Under the phased replacement option, the proposed action impacts are present during the first 14 years. Under the immediate replacement option, an additional 10 years of risk would exist from tank storage of the high-level radioactive waste. The total impacts of the ion exchange alternative (both phased and immediate replacement options), including the impacts of existing offsite facilities and reasonably foreseeable onsite facilities and operations, would be equal to or less than those of the proposed action.

The advantages of the ion exchange alternative result from the elimination of benzene as a byproduct of ITP. In addition, either ion exchange replacement option would result in a slight decrease in the generation of mixed waste compared to the proposed action. However, the ion exchange alternative would slightly increase the number of radiologically contaminated facilities at SRS requiring eventual decontamination and decommissioning.

The ion exchange alternative which would not produce benzene or use formic acid in the vitrification process, would eliminate the risks caused by these substances in an accident. This alternative would also reduce the likelihood of radiological accidents at the Vitrification Facility by eliminating benzene, which is flammable and could cause explosions under certain accident scenarios. However, under the proposed action, DOE would implement safety modifications, before radioactive operations are initiated, to substantially reduce or eliminate the probability and consequences of such events.

III. Decision

DOE has decided to implement the proposed action as described in the Final Supplemental EIS. DOE will complete construction and begin operation of the DWPF as currently designed to immobilize high-level radioactive waste. DOE will also implement additional safety modifications to DWPF that will substantially reduce or eliminate potential accidental releases of radioactivity and chemicals in the unlikely event of a severe earthquake. DOE will continue the DWPF process and facility modifications that are underway, complete startup testing activities, and meet requirements for independent reviews. Upon completion of these activities, DOE will operate the facility. Based on operating plans and projected funding used in the SEIS analysis, high-level waste processing would be completed in about 24 years.

A. Discussion

On the basis of analyses presented in the Final Supplemental EIS, DOE considers the no-action alternative to be the least favorable of the alternatives considered. DOE considers tank storage of the high-level radioactive waste (i.e., the no-action alternative) to be only a temporary solution to managing this waste, while action alternatives offer a long-term solution, providing for the immobilization of the waste in a form suitable for safe storage and ultimate disposal at a permanent geologic repository. As discussed above, the risk of potential releases to the environment posed by storing the high-level radioactive waste in tanks would continue as long as waste remained in the tanks.

Selection of the no-action or the ion exchange immediate replacement alternative would result in DOE being unable to achieve or maintain timely compliance with environmental requirements and commitments made to environmental regulatory agencies. Since 1982, DOE has entered into two major compliance agreements with regulatory agencies that affect DWPF. The first is the Federal Facility Agreement with the Environmental Protection Agency and the South Carolina Department of Health and Environmental Control (SCDHEC), made effective in August 1993. It was developed to ensure that environmental restoration activities at SRS meet applicable requirements of the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act (RCRA). DOE committed in this agreement to remove the high-level waste from those high-level waste tanks and tank system components that do not meet stringent standards, including adequate secondary containment to minimize the potential for releases to the environment. DOE also committed to develop, and is in the process of negotiating, a waste removal plan and schedule to be approved by EPA and SCDHEC. This plan and schedule is based on operating DWPF, including ITP and Extended Sludge Processing, which EPA and SCDHEC formally recognize in the agreement as appropriate treatment for high-level radioactive waste at SRS.

The second of these agreements is the Land Disposal Restrictions Federal Facility Compliance Agreement between DOE and EPA, first made effective in March 1991 and last amended in June 1994. This agreement specifies actions DOE must take to ensure compliance with the land disposal restriction requirements of RCRA. It applies to certain SRS hazardous wastes that are also radioactive (i.e., mixed wastes), including high-level waste at SRS. The land disposal restrictions require that hazardous and mixed waste be treated to meet specific treatment standards to reduce potential hazards and limit the amount of waste that can be stored in an untreated condition. EPA has specified vitrification as the treatment to be used for high-level waste, and the Land Disposal Restrictions Federal Facility Compliance Agreement requires DOE to vitrify this waste in the DWPF system as necessary to support the waste removal plan and schedule developed in accordance with the Federal Facility Agreement.

Several other factors contributed to DOE's decision to implement the proposed action rather than the ion exchange alternative. First, the difference in impacts between these two alternatives would be small. Although the impacts of the ion exchange alternative would be less than the proposed action, primarily due to the shorter period of benzene production (phased replacement) or the elimination of benzene production (immediate replacement), the benzene emissions would be within regulatory standards. Also, safety modifications will be made

VOL 60 ISS 70 AP 12 1995 UMI

to reduce the likelihood and consequences of accidents that could occur from the presence of benzene. Secondly, construction and implementation of an ion exchange system would be expensive. The total cost of designing and constructing the ion exchange facility is projected to be $500 million. The approximate cost of the immediate replacement option would be $1.1 billion, in addition to the $500 million for designing and constructing the ion exchange facility. Finally, although an ion exchange system is technically feasible, uncertainty exists in designing and implementing this system for DWPF. Large-scale demonstrations would be required to validate the safety basis and the efficiency of the process to remove cesium, strontium, and plutonium, and to demonstrate the impacts on radioactive glass quality.

IV. Mitigation Action Plan

A Mitigation Action Plan is not required (10 CFR 1021.33) because safety improvements have been incorporated into the proposed action to reduce the consequences from potential accidents.

V. Final SEIS Comments

The U.S. Environmental Protection Agency Region IV expressed concern about projected high level waste throughput from storage of foreign research reactor fuel or from acceptance onsite of commercial wastes. The vitrification of waste other than liquid high level waste now in tanks (and small increments produced as a result of site activities) is not proposed at this time. If a proposal is made at a later time, appropriate NEPA review will be undertaken. The final SEIS, taking account of preliminary estimates of reasonably foreseeable actions, including the acceptance of foreign research reactor spent nuclear fuel, containing enriched uranium of United States origin, stated that the incremental volume of high-level radioactive waste than could result from these activities and that might be processed in DWPF is small compared to the volume of high-level waste currently stored in the tank farms (Section 2.2.1) and presented estimates of cumulative impacts (Section 4.1.17). The acceptance of commercial wastes at the Savannah River Site has not been proposed and is therefore outside the scope of the DWPF SEIS.

VI. Conclusion

DOE has determined that the best course of action for immobilizing SRS radioactive high-level waste is to complete construction and startup testing and operate DWPF as currently designed, but include additional safety modifications to reduce or eliminate potential accidental releases of radioactive materials and benzene in the event of a severe earthquake. This conclusion is based on careful consideration of environmental impacts, monetary costs, and regulatory commitments. Storage of high-level radioactive waste in tanks, particularly in liquid form, presents continued risk of releases to the environment, both from normal operation and accidents. Completion and operation of DWPF will effectively reduce potential hazards to human health and the environment posed by this high-level radioactive waste.

Issued in Washington, D.C. on March 28, 1995.

Thomas P. Grumbly,

Assistant Secretary for Environmental Management.

[FR Doc. 95–9004 Filed 4–11–95; 8:45 am]

BILLING CODE 6450–01–P

EERE-Denver Regional Support Office; IRP Education and Training Program

AGENCY: Department of Energy.

ACTION: Notice of Request for Applications, Integrated Resource Planning, Education and Training Program.

SUMMARY: The Office of Utility Technologies, Assistant Secretary for Energy Efficiency and Renewable Energy, through the Denver Regional Support Office, announces the Integrated Resource Planning Education and Training Program. The program will provide assistance for State public officials to participate in training and education opportunities to enhance integrated resource planning (IRP) and demand-side management (DSM) efforts. Two cycles of applications are invited, the first is April 1, 1995 and the second is July 1, 1995. Total funding available is $250,000.

Eligible participants are Commissioners, Governing Officials, and staff of State public utility commissions and State energy offices. Funds may be used for training, including workshops and seminars, to obtain consultant services, to purchase computer software, guidebooks, tutorials, and to subscribe to databases and subscription services. Applications must be submitted to the Denver Regional Support Office. Applications will be evaluated according to the type of assistance requested, and the importance of the funding to IRP/DSM activities and the ability to measure the impact the assistance will have on advancing IRP/DSM in the organization. Awards will not exceed $5,000.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the application procedures, contact Cathy Ghandehari , U.S. Department of Energy, Denver Support Office, 2801 Youngfield St., Suite 380, Golden, CO 80401, Telephone 303–231–5750. Requests may be faxed to Ms. Ghandehari at 303–231–5757.

Issued in Golden, Colorado on: March 23, 1995.

Beth H. Peterman,

Acting Chief, Procurement, GO.

[FR Doc. 95–9019 Filed 4–11–95; 8:45 am]

BILLING CODE 6450–01–P

EERE-Denver Regional Support Office; Solicitation; Integrated Resource Planning

AGENCY: Department of Energy.

ACTION: Notice of Solicitation for Financial Assistance Applications, Number DE–PS48–95R810530, Integrated Resource Planning.

SUMMARY: The Department of Energy, Denver Regional Support Office, pursuant to 10 CFR 600 announces its intention to issue a competitive solicitation and make financial assistance awards to support Research Projects in Integrated Resource Planning (IRP) in furtherance of the provisions of Title I, Energy Efficiency, Section 111 of Public Law 102–486, The Energy Policy Act of 1992.

AVAILABILITY OF THE SOLICITATION: To obtain a copy of the solicitation write to the U.S. Department of Energy, Denver Support Office, 2801 Youngfield St., Suite 380, Golden, CO 80401, Attn: Louise S. Urgo, FY 1995, IRP Solicitation. Only written requests for the solicitation will be honored. For convenience, requests for the solicitation may be faxed to Ms. Urgo at 303–231–5757.

SUPPLEMENTARY INFORMATION: The investor-owned electric utility industry is undergoing rapid and profound change in response to competitive pressures resulting in a fundamental rethinking of industry structure and regulatory policies and programs. Specifically, as industry structure changes and electricity is bought and sold in increasing competitive trade, questions arise as to the necessity for and ability of regulation and public policy generally to pursue aims such as energy efficiency, resource diversity, equity, and environmental quality through traditional regulatory means. The U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, is interested in exploring emerging structures and institutions for ensuring that basic public policy goals continue to be met, increasingly through market-based mechanisms. Specifically, the IRP Program intends to sponsor innovative research to explore the nature of the investor-owned electric utility industry and market transformation, and the development of new institutions supporting energy efficiency, environmental quality, equity, fuel diversity and research and development. Seven (7) broad subject areas in which research can be proposed include: (1) The economic costs and benefits of alternative wholesale and retail market structures. (2) The evolving nature of retail electricity markets. (3) New institutions for promoting and enhancing environmental quality. (4) New institutions for improving energy efficiency. (5) Analytical methods for a competitive market. (6) New structures for resource planning. (7) Emerging issues in the electric utility. More details on the types of projects and activities that might be expected as a result of this competition are included in the solicitation.

Review of applications will begin on or about June 15, 1995. Selections will commence approximately mid-July, with anticipated award issuance during August through September 1995. It is anticipated that the Denver Support Office of the Department of Energy will make multiple financial assistance awards as a result of this solicitation. Approximately $400,000 has been allocated to this program in Fiscal Year 1995. Approximately four (4) to eight (8) awards will be made with Federal share funding levels not to exceed $100,000 for any individual award. Project should be completed within nine (9) months of the award date, unless approved otherwise by a DOE Contracting Officer in writing.

Awards may be either grants or cooperative agreements, depending on the amount of substantial involvement anticipated between the Department of Energy and the recipient during performance of the contemplated activity.

The solicitation will be issued on or about April 15, 1995, and will contain detailed information on funding, cost sharing requirements, eligibility, application preparation, and evaluation. Responses to the solicitation will be due 60 days after solicitation release.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Denver Regional Support Office, 2801 Youngfield St., Golden, CO., 80201, Attention: Louise S. Urgo, Contracting Officer.

Issued in Golden, Colorado on: March 23, 1995.

Beth H. Peterman,

Acting Chief, Procurement, GO.

[FR Doc. 95–9020 Filed 4–11–95; 8:45 am]

BILLING CODE 6450–01–P

[6450–1–RMS]

Environmental Management Site-Specific Advisory Board, Monticello Site

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Board Committee Meeting: Environmental Management Site-Specific Advisory Board, Monticello Site.

DATE AND TIME: Tuesday, April 18, 1995, 6:30 p.m.–8:00 p.m.

ADDRESSES: Monticello City Hall, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Audrey Berry, Public Affairs Specialist, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, C0 81502 (303) 248–7727.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to advise DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

The Environmental Management Site-Specific Advisory Board, Monticello Site, will be discussing issues related to the reorganization of the advisory board.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Audrey Berry's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Audrey Berry, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO 81502, or by calling her at (303)–248–7727.

Issued at Washington, DC on April 7, 1995

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer

[FR Doc. 95–9018 Filed 4–11–95; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research; High Energy Physics Advisory Panel; Notice of open meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the High Energy Physics Advisory Panel.

DATES: Sunday, May 7, 1995, 9:00 a.m. to 5:00 p.m.; and Monday, May 8, 1995, 9:00 a.m. to 5:00 p.m.

ADDRESSES: Cornell University, Clark Hall, Room 700, Ithaca, New York 14853.

FOR FURTHER INFORMATION CONTACT: Dr. P.K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–221, GTN, Washington, D.C. 20585, Telephone: (301) 903–4829.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The Panel will provide advice and guidance with respect to the high energy physics research program.

Tentative Agenda

Sunday, May 7, 1995, and Monday, May 8, 1995:

Discussion of Department of Energy (DOE) High Energy Physics Programs

VOL
60
ISS
70
AP
12
1995
UMI

Discussion of National Science Foundation (NSF) Elementary Particle Physics Programs
Discussion of Status of Large Hadron Collider (LHC) Project and U.S. Participation in LHC
Discussion of University-based High Energy Physics Programs
Reports on and Discussions of Topics of General Interest in High Energy Physics
Presentations of CESR/CLEO Programs at Cornell University
Public Comment (10 minute rule)

Public Participation

The two-day meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C. on April 5, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9005 Filed 4–11–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP95–233–000]

Williston Basin Interstate Pipeline Co.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Billy Creek-Sheridan Replacement Project and Request for Comments on Environmental Issues

April 6, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Billy Creek-Sheridan Replacement Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Williston Basin Interstate Pipeline Company (WBI) wants to replace 13.4 miles of 8-inch-diameter pipeline in Johnson and Sheridan Counties, Wyoming. WBI states that severe corrosion and leaks have been found throughout the Billy Creek-Sheridan Pipeline, and the facilities proposed to be replaced represent the final section of replacement for the pipeline. WBI would use the facilities to transport up to 15,230 thousand cubic feet per day of gas.

The location of the facilities are shown in appendix 1.[2]

Land Requirements for Construction

Most of the proposed project would be built within and near existing right-of-way, but about 40 percent of the new pipeline would be located outside of the existing right-of-way. WBI intends to use a construction right-of-way width that would vary between 50 and 100 feet during construction. About 85 acres would be disturbed during construction.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of these proposed actions and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Land use.
- Cultural resources.
- Public safety.
- Hazardous waste.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for the proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by WBI. Keep in mind that this is a preliminary list. The list of issues may be added to, subtracted from, or changed based on your comments and our analysis. Issues are:

- The project would cross seven perennial streams.
- The project would cross or be near cultural resources/archaeological sites.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

[1] Williston Basin Interstate Pipeline Company's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426;
- Reference Docket No. CP95–233–000;
- Send a *copy* of your letter to: Mr. Jeff Shenot, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Room 7312, Washington, D.C. 20426; and
- Mail your comments so that they will be received in Washington, D.C. on or before May 12, 1995.

If you wish to receive a copy of the EA, you should request one from Mr. Shenot at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an "intervenor". Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (appendix 2).

The date for filing of timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Mr. Jeff Shenot, EA Project Manager, at (202) 219–0295.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–8936 Filed 4–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–298–000]

Columbia Gas Transmission Corporation Columbia Gulf Transmission Co., Notice of Joint Application

April 6, 1995.

Take notice that on April 4, 1995, Columbia Gas Transmission Corporation (Columbia Gas), 1700 MacCorkl Avenue, S.E., P.O. Box 1273, Charleston, West Virginia, 25325–1273, and Columbia Gulf Transmission Company (Columbia Gulf), 1700 MacCorkle Avenue, S.E., P.O. Box 1273, Charleston, West Virginia, 25325–1273, filed a joint application pursuant to Section 7(b) of the Natural Gas Act requesting authority to abandon a transportation service provided by Columbia Gas and Columbia Gulf for FMC Corporation (FMC) performed under Columbia Gas' Rate Schedule X–128, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The transportation service was authorized in Docket No. CP85–606–000 which approved the agreement that Columbia Gas and Columbia Gulf would transport of up to 5,000 Dth/d of gas for FMC's Baltimore, Maryland plant. Columbia Gulf would receive gas from the producer, Amoco Production Company (Amoco) at various points of receipt in Cameron, Vermilion, Lafourche, and Jefferson Davis Parishes, Louisiana. Columbia Gulf transported gas to Columbia Gas at an existing point of interconnection near Leach, Kentucky. Columbia Gas, in turn, would transport the gas to existing points of interconnection with Baltimore Gas and Electric Company (BG&E) for ultimate delivery to FMC in Baltimore, Maryland. Volumes were last transported in March of 1993 under Rate Schedule X–128. The transportation agreement provided for a primary term of three years and could continue on month to month thereafter until terminated by any party upon written notice to the other. On June 23, 1993 Columbia Gas notified FMC of its cancellation of the transportation service to be effective July 25, 1993. Columbia Gas notified Columbia Gulf and BG&E on June 25, 1993, of its intent to terminate the transportation agreement, X–128 to be effective July 25, 1993.

Any person desiring to be heard or to make a protest with reference to said application should, on or before April 27, 1995, file with the Federal Energy Regulatory Commission (825 North Capitol Street, NE., Washington, DC 20426) a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 285.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia Gas or Columbia Gulf to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–8934 Filed 4–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA94–1–23–005 and TA95–1–23–001]

Eastern Shore Natural Gas Co.; Conference To Discuss Settlement

April 6, 1995.

Pursuant to the Commission's notice issued on March 13, 1995, an informal conference will be held to explore the possibility of settlement of the issue raised in the above-captioned proceeding. All parties should come prepared to discuss settlement, and the parties should be represented by principals who have the authority to commit to a settlement.

The conference will be held on Tuesday, April 25, 1995 at 9:00 A.M. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–8929 Filed 4–11–95; 8:45 am]

BILLING CODE 6717–01–M

VOL 60 ISS 70 AP 12 1995 UMI

[Docket No. TQ95-2-23-000 and TM95-8-23-000]

Eastern Shore Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 6, 1995.

Take notice that on April 3, 1995, Eastern Shore Natural Gas Company (ESNG) tendered for filing certain revised tariff sheets included in Appendix A to the filing. Such sheets are proposed to be effective May 1, 1995.

ESNG states that the above referenced tariff sheets are being filed pursuant to Section 154.308 of the Commission's regulations and Sections 21 and 23 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect a reduction in ESNG's jurisdictional rates. ESNG states that the sale rates set forth thereon reflect an overall decrease of ($0.1061) per dt in the Demand Charge, and an overall decrease of ($0.2901) per dt in the Commodity Charge, as measured against ESNG's Quarterly PGA, Docket No. TQ95-1-23-000, *et. al.*, with rate in effect as of February 1, 1995.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-8928 Filed 4-11-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-26-013]

El Paso Natural Gas Co.; Notice of Report of Amounts Due

April 6, 1995.

Take notice that on March 24, 1995, El Paso Natural Gas Company (El Paso) submitted, in accordance with authorizations granted by the Federal Energy Regulatory Commission (Commission) in orders issued November 2, 1994, at Docket No. RP91-26-010 and February 8, 1995, at Docket No. RP91-26-012, its report of amounts that each affected customer was billed.

El Paso states that on February 15, 1995, it invoiced each affected customer its portion of the revised amounts plus the additional interest charged from the 26th of the month following the activity month through February 25, 1995, which was billed to each affected customer.

El Paso states that it invoiced amounts totalling $4,918,643.71, inclusive of interest, comprised of the following: $1,555,413.59 invoiced to sales customers subject to a direct bill; $195,288.09 invoiced to sales customers who paid a bundled, city-gate sales rate which included the throughput surcharge; and $3,167,942.03 invoiced to transportation customers. The applicable periods for assessment of the revised charges are as follows: direct bill—December 1, 1988, through December 31, 1991 (when bundled, city-gate sales service ceased); and transportation—December 1, 1988, through March 31, 1992.

El Paso states that each customer received its pertinent detail (included in Volume No. 2) when it received its monthly invoice. El Paso state that it is not furnishing the complete Volume No. 2 to all affected customers since it contains information commercially sensitive to individual customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Regulations. All such protests should be filed on or before April 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-8930 Filed 4-11-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT95-30-000]

Northern Natural Gas Co., Notice of Distribution of Refunds Paid

April 6, 1995.

Take notice that on March 21, 1995, Northern Natural Gas Company (Northern) submitted worksheets reflecting the distribution of refunds paid to jurisdictional sales customers on March 21, 1995. Northern states that these refunds are being made pursuant to the Commission's Order in *Colorado Interstate Gas Company*, Docket Nos. GP83-11-002 and RI83-9-003 issued December 1, 1993.

The Commission ordered that "any first seller that collected revenues in excess of the applicable maximum lawful price established by the NGPA as a result of the reimbursement of the Kansas ad valorem taxes for sales on or after June 28, 1988, shall refund any such excess revenues to the purchaser . . . ". The Interstate pipelines were then required to make lump-sum cash payments of the Kansas ad valorem tax refunds to the customers who were actually overcharged. Included with Northern's payments is interest covering the period from the date Northern received the refund from the producer until March 21, 1995.

Northern states that a copy of this report is being mailed to each of * * * Northern's affected jurisdictional sales customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 13, 1995. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-8933 Filed 4-11-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-291-000]

Richfield Gas Storage System; Notice of Request Under Blanket Authorization

April 6, 1995.

Take notice that on March 31, 1995, Richfield Gas Storage System (Richfield), Two Warren Place, 6120 S. Yale, Suite 1200, Tulsa, Oklahoma 74136, filed a prior-notice request in Docket No. CP95-291-000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to use an existing tap and side valve as a new delivery point in Morton County, Kansas, under Richfield's blanket certificate issued in Docket No. CP93-679-000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to the public for inspection.

Richfield proposes to deliver natural gas for Associated Gas Services (AGS) to an interconnect with facilities to be constructed by Greeley Gas Company (Greeley) for ultimate consumption by Greeley's end-user customers. Richfield states that it would deliver up to 1,000 Mcf of gas per peak day and up to 150,000 Mcf of gas annually via its existing tap and side valve facilities in Morton County. Richfield also states that it would deliver gas under existing firm and interruptible agreements with AGS and that the proposed deliveries to AGS would have no significant impact on its existing peak day or annual deliveries. Richfield states that it would serve AGS under its FERC Rate Schedules FSS-1 and/or ISS-1.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 314 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-8935 Filed 4-11-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT95-31-000]

Transcontinental Gas Pipe Line Corp.; Notice of Filing

April 6, 1995.

Take notice that on March 22, 1995, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing a report concerning its Refund of Excess Interruptible Transportation/Gathering Revenues.

TGPL states that pursuant to Section 29 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff, Third Revised Volume No. 1, TGPL refunded on March 21, 1995 excess interruptible transportation/gathering revenues for the annual period November 1993 through October 1994. Pursuant to Section 29 of the GT&C, 90% of such excess fixed cost revenue is being refunded to all firm transportation Buyers (except those whose rates are based on an incremental cost of service) based on each respective Buyer's fixed cost contribution as a percentage of the total fixed cost contribution of such Buyers during the refund period. Refunds total $24,516,141.43, including interest of $901,182.67.

TGPL further states that in its orders [*Transcontinental Gas Pipe Line Corporation*, 63 FERC ¶ 61,194 at 62,500, *rehearing denied*, 65 FERC ¶ 61,023 (1993)] approving Section 29 of the GT&C, the Commission expressly excluded interruptible shippers from sharing in refunds of excess interruptible transportation/gathering revenues. Those orders (including the issue of interruptible shipper participation in refunds under Section 29 of the GT&C) have been appealed to the United States Court of Appeals for the D.C. Circuit. In the event that the issue of the right of interruptible shippers to participate in the sharing of excess interruptible transportation/gathering revenues is addressed in that appeal, TGPL provides notice to its affected customers that the amounts refunded are subject to adjustment and that TGPL reserves the right to recoup any portion of the amounts refunded depending upon the final resolution of the issue.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before April 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-8932 Filed 4-11-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT95-10-000]

Williston Basin Interstate Pipeline; Notice of Compliance Filing

April 6, 1995.

Take notice that on April 3, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff.

Williston Basin states that the revised tariff sheets reflect changes to the list of possible shared personnel and updates references to Order Nos. 566, *et seq.*

Williston Basin has requested that the Commission accept this filing to become effective May 3, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 13, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-8931 Filed 4-11-95; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30385; FRL-4945-5]

W.R. Grace and Co.-Conn.; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

VOL 60 ISS 70 AP 12 1995 UMI

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by May 12, 1995.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30385] and the file symbol to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Willie H. Nelson, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8682; e-mail: nelson.willie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications to register the pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 11688–RI. Applicant: W.R. Grace and Co.-Conn., 7379 Route 32, Columbia, MD 21044. Product name: Neemgard. Insecticide. Active ingredient: Neem oil (CAS No. 8002–65–1) at 90 percent. Proposed classification/Use: None. For use to control a variety of foliar plant diseases including rots, mildews, rusts, leaf spots, scab, and blights. Kills/repels insect pests such as whiteflies, aphids, scales, mealybugs, and mites.

2. File Symbol: 11688–I. Applicant: W.R. Grace and Co.-Conn. Product name: Neem Oil TGAI. Biochemical. Active ingredient: Neem oil at 100 percent. Proposed classification/Use: General. For manufacturing use only in the formulation of insecticides.

3. File Symbol: 11688–O. Applicant: W.R. Grace and Co.-Conn. Product name: Neemguard Botantical Fungicide Biochemical. Active ingredient: Neem oil at 90 percent. Proposed classification/Use: General. For effective management of black spot, rusts, and powdery mildew on bedding plants, ornamentals, trees, and shrubs, in and around greenhouses, commercial nurseries, and homes.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–305–5895), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: March 30, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–8500 Filed 4–11–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before June 12, 1995.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Donald Arbuckle, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Muriel B. Anderson, FEMA Information Collections Clearance Officer, Federal Emergency Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2624.

Type: New collection.

Title: National Flood Insurance Program—Community Rating System—Program Evaluation.

Abstract: FEMA is collecting information through written survey, telephone surveys, and focus groups to assess the effectiveness of the Community Rating System (CRS). CRS is a voluntary program that communities participating in the National Flood Insurance Program (NFIP) can join to lower flood insurance rates.

Type of Respondents: Individuals or households, business or other for-profit, and State, Local or Tribal Government.

Estimate of Total Annual Reporting and Recordkeeping Burden: FY 95—634 hours; FY 96—621 hours.

Number of Respondents: FY 95—3,190, FY 96—830.

Estimated Average Burden Time per Response: Ranges from 5 to 20 minutes for each of the 8 written and telephone surveys, and averaged 4 hours for each of the 3 focus groups.

Frequency of Response: One-Time.

Dated: March 31, 1995.

Wesley C. Moore,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 95–8993 Filed 4–11–95; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

Ameribank, Corporation, Inc.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-6789) published on page 14760 of the issue for Monday, March 20, 1995.

Under the Federal Reserve Bank of Kansas City heading, the entry for Ameribank, Corporation, Inc., is revised to read as follows:

1. Ameribank, Corporation, Inc.; Shawnee, Oklahoma; to acquire 29.6 percent of the voting shares of United Oklahoma Bankshares, Inc., Del City, Oklahoma, and thereby indirectly acquire United Bank, Del City, Oklahoma.

Board of Governors of the Federal Reserve System, April 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–8967 Filed 4–11–95; 8:45 am]

BILLING CODE 6210–01–F

Compass Bancshares, Inc.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 5, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Compass Bancshares, Inc., Birmingham, Alabama; to merge with The American Bancorporation of the South, Merritt Island, Florida, and thereby indirectly acquire The American Bank of the South, Merritt Island, Florida.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Texas Financial Bancorporation, Inc., Minneapolis, Minnesota to acquire Delaware Financial Bancorporation, Inc., Wilmington, Delaware; to become a bank holding company; by acquiring 100 percent of the voting shares of First Bank, Houston, Texas.

2. Midland American Bancshares, Inc., Midland, Texas; and MAB Bancshares of Delaware, Inc., Wilmington, Delaware to become bank holding companies by acquiring 100 percent of the voting shares of Midland American Bank, Midland, Texas.

Board of Governors of the Federal Reserve System, April 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–8968 Filed 4–11–95; 8:45 am]

BILLING CODE 6210–01–F

Financial Trust Corp., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 26, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Financial Trust Corp., Carlisle, Pennsylvania; to acquire through Financial Trust Services Company, Carlisle, Pennsylvania, the trust activities of Farmers Trust Company, Carlisle, Pennsylvania; Chambersburg Trust Company, Chambersburg, Pennsylvania; and First National Bank and Trust Company, Waynesboro, Pennsylvania, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166

1. First Banks, Inc., St. Louis, Missouri; to acquire Irvine City Financial, Irvine, California, and thereby indirectly acquire Irvine City Bank, and Federal Savings Bank, both of Irvine, California, and thereby engage in acquiring, owning and operating a savings association; deposit taking activities and lending and other activities, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

VOL 60 ISS 70 AP 12 1995 UMI

Board of Governors of the Federal Reserve System, April 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-8969 Filed 4-11-95; 8:45 am]

BILLING CODE 6210-01-F

Salvador Vicente Bonilla-Mathe; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than April 26, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Salvador Vicente Bonilla-Mathe*, Miami, Florida; to acquire an additional 1.6 percent, for a total of 25.4 percent, of the voting shares of Gulf Bank, Miami, Florida.

Board of Governors of the Federal Reserve System, April 6, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-8970 Filed 4-11-95; 8:45 am]

BILLING CODE 6210-01-F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that a two-day meeting of the Federal Accounting Standards Advisory Board will be held on Wednesday afternoon, April 26 from 1:00 to 4:30 and continuing on Thursday, April 27 from 9:00 A.M. to 4:00 in room 7C13 of the General Accounting Office, 441 G Streets N.W., Washington, D.C.

The agenda for the meeting includes discussions of issues related to the following: draft final recommended Management Cost Accounting Standards, Stewardship Reporting Exposure Draft, and Liabilities project issues.

We advise that other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and to confirm the date of the meeting. Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Executive Staff Director, 750 First Street, NE., Room 1001, Washington, D.C. 20002, or call (202) 512-7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92-463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. secton 10(a)(2) (1988)); 41 CFR 101-6.1015 (1990).

Dated: April 7, 1995.

Ronald S. Young,

Executive Director.

[FR Doc. 95-8968 Filed 4-11-95; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: March 1995

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the month of March, 1995. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since March 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

Comments: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State listed for that project.

Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade SW., Aerospace Building, 7th Floor West, Washington DC 20447. FAX: (202) 205-3598 PHONE: (202) 401-9220.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the **Federal Register** (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

I. Listing of New and Pending Proposals for the Month of March, 1995

As part of our procedures, we are publishing a monthly notice in the **Federal Register** of all new and pending proposals. This notice contains proposals for the month of March, 1995.

Project Title: Arizona—Employing and Moving People Off Welfare and Encouraging Responsibility Program.

Description: Would not increase benefits for additional children conceived while receiving AFDC; limit benefits to adults to 24 months in any 60 month period; allow recipients to deposit up to $200/month (with 50% disregarded) in Individual Development Accounts; require minor mothers to live with parents; extend

Transitional Child Care and Medicaid to 24 months and eliminate the 100-hour rule for AFDC-U cases. Also, in a pilot site, would provide individuals with short-term subsidized public or private OJT subsidized by grant diversion which includes cashing-out Food Stamps.

Date Received: 8/3/94

Type: Combined AFDC/Medicaid

Current Status: Pending

Contact Person: Gail A. Parin, (602) 542-4702

Project Title: California—Work Pays Demonstration Project (Amendment)

Description: Would amend Work Pays Demonstration Project by adding provisions to: reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94

Type: AFDC

Current Status: Pending

Contact Person: Glen Brooks, (916) 657-3291

Project Title: California—AFDC and Food Stamp Compatibility Demonstration Project

Description: Would make AFDC and Food Stamp policy more compatible by making AFDC households categorically eligible for Food Stamps; allowing recipients to deduct 40 percent of self-employment income in reporting monthly income; disregarding $100 per quarter in non-recurring gifts and irregular/infrequent income; disregarding undergraduate student assistance and work study income if payments are based on need; reinstating food stamp benefits discontinued for failure to file a monthly report when good cause is found for the failure; and simplifying vehicle valuation methodology.

Date Received: 5/23/94

Type: AFDC

Current Status: Pending

Contact Person: Michael C. Genest, (916) 657-3546

Project Title: California—Assistance Payments Demonstration Project (Amendment)

Description: Would amend the Assistance Payments Demonstration Project by: exempting certain categories of AFDC families from the State's benefit cuts; paying the exempt cases based on grant levels in effect in California on November 1, 1992; and renewing the waiver of the Medicaid maintenance of effort provision at section 1902(c)(1) of the Social Security Act, which was vacated by the Ninth Circuit Court of Appeals in its decision in Beno v. Shalala.

Date Received: 8/26/94

Type: Combined AFDC/Medicaid

Current Status: Pending

Contact Person: Michael C. Genest, (916) 657-3546

Project Title: California—Work Pays Demonstration Project (Amendment)

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94

Type: AFDC

Current Status: Pending

Contact Person: Eloise Anderson, (916) 657-2598

Project Title: California—School Attendance Demonstration Project

Description: In San Diego County, require AFDC recipients ages 16-18 to attend school or participate in JOBS.

Date Received: 12/5/94

Type: AFDC

Current Status: Pending

Contact Person: Michael C. Genest, (916) 657-3546

Project Title: California—Incentive to Self-Sufficiency Demonstration

Description: Statewide, would require 100 hours CWEP participation per month for JOBS mandatory individuals who have received AFDC for 22 of the last 24 months and are working fewer than 15 hours per week after two years from JOBS assessment and: have failed to comply with JOBS without good cause, have completed CWEP or are in CWEP less than 100 hours per month, or have completed or had an opportunity to complete post-assessment education and training; provide Transitional Child Care and Transitional Medicaid to families who become ineligible for AFDC due to increased assets or income resulting from marriage or the reuniting of spouses; increase the duration of sanctions for certain acts of fraud.

Date Received: 12/28/94

Type: Combined AFDC/Medicaid

Current Status: Pending

Contact Person: Michael C. Genest, (916) 657-3546

Project Title: Delaware: A Better Chance

Description: Statewide, would implement a two-part demonstration. The Welfare Reform Project (WRP), operating from 10/95-6/99, would include: a 2-year limit on cash benefits for cases with able-bodied adults; educational and employment services based on adult's age; in limited cases benefits up to two additional years provided under pay-for-performance workfare program; non-time-limited benefits for unemployable cases; self-sufficiency contract requirements; education and employment-related sanctions to be 1/3 reduction in AFDC and Food Stamp benefits for first offense, 2/3 reduction for second, and loss of Food Stamp benefits until compliance and permanent AFDC loss for third; penalty for failure to comply with other contract requirements of $50 the first month, increasing by $50 per month until compliance; full-family sanction for noncooperation with Child Support; no AFDC increase for additional children; no 100-hour and work history rules for AFDC-UP; exempting special education and business accounts up to $5,000; fill-the-gap budgeting using child support and earnings; auto resource limit of $4,500; $50 bonus to teens who graduate from high school; additional 12 months of transitional child care and Medicaid benefits; no time limit on job search; forward funding of EITC payment; requiring teen parents to live in adult supervised setting, attend school, participate in parenting and family planning education, and immunize children; and providing JOBS services to non-custodial parents. The Family Assistance Plan (FAP), beginning 7/99, would replace the AFDC program and include: services, but no monetary grant, to children of teen parents; benefits for up to two years under pay-for-performance workfare program; welfare diversion payments and services; forward funding of EITC payment; child care assistance; access to Medicaid Managed Care System; no resource test; direct child support to family; small residual cash benefit program for unemployable cases.

Date Received: 1/30/95

Type: Combined AFDC/Medicaid

Current Status: Pending

Contact Person: Elaine Archangelo, (302) 577-4400

Project Title: Georgia—Work for Welfare Project

Description: Work for Welfare Project. In 10 pilot counties would require every non-exempt recipient and non-supporting parent to work up to 20 hours per month in a state, local government, federal agency or nonprofit organization; extends job search; and increases sanctions for JOBS noncompliance. On a statewide basis, would increase the automobile

VOL 60 ISS 70 AP 12 1995 UMI

exemption to $4,500 and disregard earned income of children who are full-time students.
Date Received: 6/30/94
Type: AFDC
Current Status: Pending
Contace Person: Nancy Meszaros, (404) 657–3608

Project title: Kansas—Actively Creating Tomorrow for Families Demonstration
Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and 1/3 income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities.
Date Received: 7/26/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contace Person: Faith Spencer, (913) 296–0775

Project title: Maine—Project Opportunity
Description: Increase participation in Work Supplementation to 18 months; use Work Supplementation for any opening; use diverted grant funds for vouchers for education, training or support services; and extend transitional Medicaid and child care to 24 months.
Date Received: 8/5/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contace Person: Susan L. Dustin, (207) 287–3106

Project title: Maryland—Welfare Reform Project
Description: Statewide, eliminate increased AFDC benefit for additional children conceived while receiving AFDC and require minor parents to reside with a guardian. In pilot site, require able-bodied recipients to do community service work after 18 months of AFDC receipt; impose full-family sanction on cases where JOBS non-exempt parent fails to comply with JOBS for 9 months; eliminate 100-hour rule and work history requirements for AFDC-UP cases; increase both auto and resource limits to $5000; disregard income of dependent children; provide one-time payment in lieu of ongoing assistance; require teen parents to continue education and attend family health and parenting classes; extend JOBS services to unemployed non-custodfal parents; and for work supplementation cases cash-out food stamps.
Date Received: 3/1/94
Type: AFDC
Current Status: Pending
Contace Person: Katherine L. Cook, (410) 333–0700

Project title: Massachusetts—Welfare Reform '95
Description: Statewide, would limit• AFDC assistance to 24 months in a 60-month period, with provisions for extensions, for all non-exempt recipients; reduce benefits for non-exempt recipients by 2.75 percent, while increasing earned income disregard to $30 and one-half indefinitely; establish the Work Program designed to end cash assistance to non-exempt families, requiring recipients who cannot find at least 20 hours per week of paid employment after 60 days of AFDC receipt to do community service and job search to earn a cash "subsidy" that would make family income equal to applicable payment standard; fund subsidized jobs from value of AFDC grant plus cash value of Food Stamps for limited number of volunteer recipients; sanction individuals who fail to comply with the Work Program by a reduction in assistance equal to the parent's portion of the grant; establish an Employment Development Plan (EDP) for non-exempt participants not required to participate in the Work Program, requiring community service for second failure to comply with EDP and full-family sanction for second failure to comply with community service; require teen parents to live with guardian or in supportive living arrangements and attend school; require children under age 14 to attend school; eliminate grandparent-deeming; strengthen paternity establishment requirements and allow the IV-D agency to determine if participants are cooperating; allow courts to order parents unable to pay child support to community service programs; exclude from the grant calculation children born to mothers while on AFDC; require child immunizatiom; pay rent directly to landlords where caretaker has fallen behind six weeks in payments; increase asset level to $2,500; increase equity value of a vehicle to $5,000; establish wage assignment in cases of fraud or other overpayments; increased penalties for individuals who commit fraud, release AFDC fraud conviction information to Department of Revenue and the Social Security Administration for cross-check, and deny benefits to individuals with an outstanding default warrant issued by a State court; allow State to issue a clothing allowance voucher for each child; disregard the first $600 of lump sum income; require direct deposit of benefits for recipients with bank accounts; and disregard the 100-hour rule for eligibility for two-parent families.
Date Received: 4/4/95
S4703
Type: AFDC Only
Current Status: New (replaces application received 3/22/94)
Contact Person: Valerie Foretra, (617) 348–5508

Project Title: Mississippi—A New Direction Demonstration Program—Amendment
Description: Statewide, would amend previously approved New Direction Demonstration Program by adding provision that a family's benefits would not increase as a result of additional children conceived while receiving AFDC.
Date Received: 2/17/95
Type: AFDC
Current Status: Pending
Contact Person: Larry Temple, (601) 359–4476

Project Title: Missouri—Families Mutual Responsibility Plan
Description: Statewide, Missouri would require JOBS mandatory applicants and recipients to sign a self-sufficiency agreement with a 24-month AFDC time limit to be extended an additional 24 months when necessary. The agreement would allow a resource limit of $5000, an earned income disregard of 50 percent of a family's gross earned income for 12 consecutive months, and standard earned income disregards for remaining earned income. The agreement would require job search and CWEP after the 24 or 48 month limit; and would sanction individuals who do not comply without good cause as well as individuals who re-apply for AFDC if they have completed an agreement entered after July 1, 1997, if they received AFDC benefits for at least 36 months. Further, Missouri would require all minor parent applicants and recipients to live at home or in another adult-supervised setting; disregard parental income of minor parents up to 100 percent of Federal Poverty Guidelines; disregard earnings of minor parents if they are students; provide an alternative to standard filing unit requirements for households with minor parents; eliminate work history and 100-hour rule for two-parent families under 21 yrs old; exclude the value of one automobile; and allow non-custodial parents of AFDC children credit against state child support debt for satisfactorily participating in JOBS.
Date Received: 1/30/95
Type: AFDC
Current Status: Pending
Contact Person: Greg Vadner, (314) 751–3124

Project Title: Montana—Achieving Independence for Montanans
Description: Would establish: (1) Job Supplement Program consisting of a set of AFDC-related benefits to assist individuals at risk of becoming dependent upon welfare; (2) AFDC Pathways Program in which all applicants must enter into a Family Investment Contract and adults' benefits would be limited to a maximum of 24 months for single parents and 18 months for AFDC-UP families; and (3) Community Services Program requiring 20 hours per week for individuals who reach the AFDC time limit but have not achieved self-sufficiency. The office culture would also be altered in conjunction with a program offering a variety of components and services; and simplify/unify AFDC and Food Stamp intake/eligibility process by: 1) eliminating AFDC deprivation requirement and monthly reporting and Food Stamp retrospective budgeting; 2) unifying program requirements; 3) simplifying current income disregard policies. Specific provisions provide for cashing out food stamps, expanding eligibility for two-parent cases, increasing earned income and child care disregards and resource limits, and extending transitional child care.
Date Received: 4/19/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contact Person: Penny Robbe, (406) 444–1917

Project Title: New Hampshire—Earned Income Disregard Demonstration Project
Description: AFDC applicants and recipients would have the first $200 plus ½ the remaining earned income disregarded.
Date Received: 9/20/93
Type: AFDC
Current Status: Pending
Contact Person: Avis L. Crane, (603) 271–4255

Waiver Title: New Mexico—Untitled Project
Description: Would increase vehicle asset limit to $4500; disregard earned income of students; develop an AFDC Intentional Program Violation procedure identical to Food Stamps; and allow one individual to sign declaration of citizenship for entire case.
Date Received: 7/7/94
Type: AFDC
Current Status: Pending
Contact Person: Scott Chamberlin, (505) 827–7254

Project Title: North Dakota—Training, Education, Employment and Management Project
Description: Would require families to develop a social contract specifying time-limit for becoming self-sufficient; combine AFDC, Food Stamps and LIHEAP into single cash payment with simplified uniform income, expense and resource exclusions; increase income disregards and exempt stepparent's income for six months; increase resource limit to $5000 for one recipient and $8000 for families with two or more recipients; exempt value of one vehicle; eliminate 100-hour rule for AFDC-UP; impose a progressive sanction for non-cooperation in JOBS or with child support; require a minimum of 32 hours of paid employment and non-paid work; require participation in EPSDT; and eliminate child support pass-through.
Date Received: 9/9/94
Type: AFDC
Current Status: Pending
Contact Person: Kevin Iverson, (701) 224–2729

Project Title: Oregon—Expansion of the Transitional Child Care Program
Description: Provide transitional child care benefits without regard to months of prior receipt of AFDC and provide benefits for 24 months.
Date Received: 8/8/94
Type: AFDC
Current Status: Pending
Contact Person: Jim Neely, (503) 945–5607

Waiver Title: Oregon—Increased AFDC Motor Vehicle Limit
Description: Would increase automobile asset limit to $9000.
Date Received: 11/12/93
Type: AFDC
Current Status: Pending
Contact Person: Jim Neely, (503) 945–5607

Project Title: Pennsylvania—School Attendance Improvement Program
Description: In 7 sites, would require school attendance as condition of eligibility.
Date Received: 9/12/94
Type: AFDC
Current Status: Pending
Contact Person: Patricia H. O'Neal, (717) 787–4081

Project Title: Pennsylvania—Savings for Education Program
Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts.
Date Received: 12/29/94
Type: AFDC
Current Status: Pending
Contact Person: Patricia H. O'Neal, (717) 787–4081

Project Title: Virginia—Welfare to Work Program
Description: Statewide, would provide one-time diversion payments to qualified applicants in lieu of AFDC; change first time JOBS non-compliance sanction to a fixed period of one month or until compliance and remove the conciliation requirement; require paternity establishment as condition of eligibility; remove good cause for non-cooperation with child support and exclude from AFDC grant caretakers who cannot identify, misidentify, or fail to provide information on the father; require minor parents to live with an adult guardian; require AFDC caretakers without a high school diploma, aged 24 and under, and children, aged 13–18, to attend school; require immunization of children; allow $5000 resource exemption for savings for starting business; and increase eligibility for Transitional and At-Risk Child Care. Also: require non-exempt participants to sign an Agreement of Personal Responsibility as a condition of eligibility and assign to a work site under CWEP for a number of hours determined by dividing AFDC grant

VOL 60 ISS 70 AP 12 1995 UMI

plus the value of the family's Food Stamp benefits by the minimum wage; eliminate increased AFDC benefit for additional children born while a family received AFDC; time-limit AFDC benefits to 24 consecutive months; increase earned income disregards to allow continued eligibility up to the federal poverty level; provide 12 months transitional transportation assistance; modify current JOBS exemption criteria for participants; eliminate the job search limitation; and eliminate the deeming requirement for sponsored aliens when the sponsor receives food stamps. In 12 sites, would operate sub-component paying wages in lieu of AFDC benefits and Food Stamps for CWEP and subsidized employment, increase eligibility for transitional Medicaid; plus other provisions.

Date Received: 12/2/94
Type: Combined AFDC/Medicaid
Current Status: Pending
Contact Person: Larry B. Mason, (804) 692–1900

Project Title: Virginia—Virginia Independence Program
Description: Statewide, would provide one-time diversion payments to qualified applicants instead of AFDC; change first time JOBS non-compliance sanction to at least one month continuing until compliance and remove conciliation requirement; make paternity establishment within 6 months a condition of eligibility; suspend grant if mother is not cooperating in paternity establishment; require minor parents to live with adult guardian; eliminate benefit increase for children born while a family receives AFDC; require AFDC caretakers without a high school diploma, aged 24 and under, and children, aged 18 and under, to attend school; require child immunization; allow $5000 resource exemption for savings for starting business; increase Transitional Child Care and Transitional Medicaid eligibility; and eliminate deeming requirement for aliens when their sponsor receives food stamps. Also, VIP would phase in statewide over 4 years a work component (VIEW) that will require participants to sign an Agreement of Personal Responsibility as a condition of eligibility; assign participants to a work activity within 90 days of benefit receipt; time-limit AFDC benefits to 24 consecutive months; increase earned income disregards for continued eligibility up to the federal poverty level; disregard value of one vehicle up to $7,500; provide 12 months transitional transportation assistance; modify current JOBS participation exemption criteria; eliminate limitation on job search; assign participants involuntarily to subsidized work placements; apply full-family sanction for refusal to cooperate with work programs; subject unemployed parents to same work requirements as single recipients; and provide employer subsidies from AFDC plus the value of Food Stamps.

Date Received: 12/2/94 and 3/28/95 (Amendments)
Type: Combined AFDC/Medicaid
Current Status: New (Amendments)
Contact Person: Barbara Cotter, (804) 692–1811

Project Title: Washington—Success Through Employment Program
Description: Statewide, would eliminate the 100-hour rule for AFDC–UP families; impose a 10 percent grant reduction for AFDC recipients who have received assistance for 48 out of 60 months, and impose an additional 10 percent grant reduction for every additional 12 months thereafter, and budget earnings against the original payment standard; and hold the food stamp benefit level constant for cases whose AFDC benefits are reduced due to length of stay on assistance.
Date Received: 2/1/95
Type: AFDC
Current Status: Pending
Contact Person: Liz Begert Dunbar, (206) 438–8350

III. Listing of Approved Proposals Since March 1, 1995

Project Title: Ohio—A State of Opportunity
Contact Person: Joel Rabb, (614) 466–3196.

Project Title: Oklahoma—Mutual Agreement, A Plan for Success
Contact Person: Raymond Haddock, (405) 521–3076.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research.)

Dated: April 7, 1995.

Howard Rolston,
Director, Office of Policy and Evaluation.
[FR Doc. 95–8997 Filed 4–11–95; 8:45 am]
BILLING CODE 4184–01–P

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.
Date: April 28, 1995.
Time: 9:30–11:30 a.m.
Place: 6120 Executive Boulevard, Room 400C, Rockville, MD 20852.
Contact Person: Marilyn Semmes, Ph.D., Acting Chief, Scientific Review Branch, DEA, NIDCD, NIH, EPS Room 400C, 6210 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301/496–8683.
Purpose/Agenda: To review and evaluate a contract proposal.

The meeting, which will be conducted as a telephone conference call, will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The application and/or proposal and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: April 6, 1995.

Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 95–8945 Filed 4–11–95; 8:45 am]
BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.
Name of SEP: Clinical Sciences.
Date: April 25–26, 1995.
Time: 8 a.m.
Place: Holiday Inn, Bethesda, MD.
Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 533 Westbard Ave., Room 219C, Bethesda, MD 20892, (301) 594–7130.

Purpose/Agenda: To review grant applications.
Name of SEP: Multidisciplinary Sciences.
Date: June 4–6, 1995.
Time: 7 p.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5049, Bethesda, MD 20892–7778, (301) 594–7276.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 6, 1995.

Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 95–8944 Filed 4–11–95; 8:45 am]
BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organizations, Functions and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organizations, Functions and Delegations of Authority of the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 60 FR 5940–1, January 31, 1995), is amended to reflect the establishment of the Office of Policy Coordination (OPC) within the National Center for Human Genome Research (NCHGR). The establishment of the OPC will streamline organization within the NCHGR Office of the Director, reduce the number of supervisory layers, and enable the Center to function more efficiently and effectively.

Section HN–B, Organization and Functions is amended as follows:

Under the heading *National Center for Human Genome Research (HN4)*, delete the title and functional statement for *Office of Program Planning and Legislation (HN 415)* in their entirety and substitute the following:

Office of Policy Coordination (HN415).

(1) Advises the Director, Deputy Director, and senior Center staff on a broad range of policy matters; (2) develops and implements the program planning and evaluation activities of the NCHGR: (3) analyzes and tracks legislation impacting on the mission of the Center, and makes recommendations to the Director, NCHGR for legislative proposals; (4) develops a broad communications program aimed at disseminating information about the Human Genome Project and other NCHGR programs; (5) conducts and coordinates policy analysis related to the ethical, legal and social implications (ELSI) of human genome research and oversees the activities of the ELSI Working Group; (6) plans and coordinates compute network operations; and (7) coordinates all aspects of committee management, including the activities of all Congressionally-mandated committees and advisory councils.

Under the heading *Office of Human Genome Communications (HN413)* delete the title and functional statement in their entirety. The activities of this office have been incorporated into the functional statement for the Office of Policy Coordination.

Dated: March 24, 1995

Harold Varmus,
Director, NIH
[FR Doc. 95–8943 Filed 4–11–95; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Bay-Delta Advisory Council; Notice of Establishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is establishing the Bay-Delta Advisory Council. The purpose of the Bay-Delta Advisory Council shall be to provide advice on the development of a long-term solution for problems affecting the public values in the California San Francisco Bay, Sacramento-San Joaquin Delta and its watershed Estuary.

Further information regarding the advisory council may be obtained from the Bureau of Reclamation, Department of the Interior, 1849 C Street, N.W., Washington, D.C. 20241.

The certification of establishment is published below.

Certification

I hereby certify that establishment of the Bay-Delta Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 30 U.S.C. 1–8.

Dated: January 31, 1995.

Bruce Babbitt,
Secretary of the Interior.
[FR Doc. 95–9031 Filed 4–11–95; 8:45 am]
BILLING CODE 4310–10–M

Bureau of Land Management

[UTU–73753]

Cyprus Plateau Mining Corporation; Willow Creek North; Utah—Notice of Invitation To Participate in Coal Exploration Program

Pursuant to section 2(b) of the Mineral Leasing Act of February 25, 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.C. 201(b), and to the regulations adopted as Subpart 3410, title 43, Code of Federal Regulations, members of the public are hereby invited to participate with Cyprus Plateau Mining Corporation, in the proposed exploration of certain Federal coal deposits in the following described lands in Carbon County, Utah:

T. 12 S., R. 9 E., SLM, Utah,
Sec. 25, All;
Sec. 26, E2E2.
T. 12 S., R. 10 E., SLM, Utah,
Sec. 28, NE, NENW, S2NW, S2;
Sec. 29, N2NE, NW, NWSW, E2SE;
Sec. 30, lots 1–4, NE, E2W2, W2SE, NESE.
Containing 2,299.40 Acres, more or less.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, Utah, 84145–0155 and to Ben Grimes, Cyprus Plateau Mining Corporation, P.O. Drawer PMC, Price, Utah 84501 Such written notice must be received within thirty days after publication of this notice in the **Federal Register**.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost of the exploration program. An exploration plan submitted by Cyprus Plateau Mining Corporation, detailing the scope and timing of this exploration program, is available for public review during normal business hours in the Public Room of the BLM State Office, 324 South State Street, Salt

VOL 60 ISS 70 12 1995 UMI

Lake City, Utah, under Serial Number UTU–73753.

Robert A. Henricks,

Acting Deputy State Director, Mineral Resources.

[FR Doc. 95–8957 Filed 4–11–95; 8:45 am]

BILLING CODE 4310–DQ–M

[WY–930–5420–00–K020; WYW 125664]

Recordable Disclaimer of Interest in Land; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of application for a recordable disclaimer of interest in land.

SUMMARY: Charles Byron Jenkins and Jeanne S. Jenkins of Jackson, Wyoming, have filed an application for a Recordable Disclaimer of Interest by the United States.

DATES: Comments or objections to this application should be submitted by July 11, 1995.

ADDRESSES: Send comments to Home Base Chief, Division of Land & Minerals Authorization, Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, Wyoming State Office, (307) 775–6115.

SUPPLEMENTARY INFORMATION: Pursuant to section 315 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1745 (1988), and Title 43 CFR, Subpart 1864, Charles Byron Jenkins and Jeanne S. Jenkins, have filed an application for a Recordable Disclaimer of Interest in the following described land:

Sixth Principal Meridian

T. 41 N., R. 117 W.,

That land riparian to lot 1, of section 35, lying between the meander lines shown on the Plat of Survey approved April 2, 1903, and the subsequent Plat of Survey accepted August 21, 1987, and the thread of the Snake River, excluding Parcels 52 and 53 of T. 41 N., R. 117 W., and lands riparian thereto, as described on the Photogrammetric Survey of Unsurveyed Islands and Omitted Land Areas, Snake River, Wyoming, 1974, now described as Tracts 67 and 68 of T. 41 N., R. 117 W., on Plat of Survey accepted August 21, 1987.

The Bureau of Land Management has determined that the United States has no claim to nor interest in the above described land and issuance of the proposed disclaimer would help remove a cloud on the title to that land.

For a period of 90 days from date of publication of this notice, interested persons may submit written comments on or objections to the proposed disclaimer. If no objections are submitted, the disclaimer will be issued to Charles Byron Jenkins and Jeanne S. Jenkins, their successors or assigns, after the 90 day comment period ends.

Dated: April 5, 1995.

Michael Madrid,

Home Base Acting Chief, Division of Land & Minerals Authorization.

[FR Doc. 95–8982 Filed 4–11–95; 8:45 am]

BILLING CODE 4310–22–P

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–800745

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA.

The applicant requests a permit to import one captive-born female Amur leopard (*Panthera pardus orientalis*) from Tierpark Berlin, Germany, for the purpose of enhancement of the survival of the species through propagation.

PRT–800746

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA.

The applicant requests a permit to import one captive-born Amur leopard (*Panthera pardus orientalis*) from Cricket St. Thomas Wildlife Park, Somerset, England, for the purpose of enhancement of the survival of the species through propagation.

PRT–691840

Applicant: Atkinson Brothers Animal Acts, Davenport, FL.

The applicant requests reissuance of their permit to export and re-import one male and three female captive-bred leopards (*Panthera pardus*) and one male and one female captive-bred tiger (*Panthera tigris*) for the purpose of enhancement of the survival of the species through conservation education. The applicant requests the addition of one male captive-bred leopard to this permit.

PRT–800955

Applicant: Georgia State Univ., Language Research Center, Decatur, GA.

The applicant requests a permit to import one captive-held male bonobo (*Pan paniscus*) from Japan Monkey Centre, Aichi, Japan, for the purpose of enhancement of the survival of the species through propagation.

PRT–758093

Applicant: Florida Marine Research Institute, St. Petersburg, FL.

The applicant requests reissuance of a permit to import tissue, blood, salvaged parts and stomach content samples from green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*) and hawksbill sea turtle (*Eretmochelys imbricata*) as part of an ongoing scientific research project to enhance the survival of the species.

PRT–800958

Applicant: George Hlavac, Oakbrook, IL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaiscus dorcas dorcas*) culled from the captive herd maintained by Mr. H. Kock, "Verborgenfontein", Richmond, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT–800935

Applicant: James Smith, Plancentia, CA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaiscus dorcas dorcas*) culled from the captive herd maintained by the Ciskei government, the Tsolwana Game Reserve, Tarkastad, Republic of South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 7, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–8976 Filed 4–11–95; 8:45 am]

BILLING CODE 4310–55–P

Receipt of Applications for Permit

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

PRT–800533

Applicant: Dr. Theodore H. Fleming, University of Miami, Coral Gables, Florida.

The applicant requests a permit to take lesser long-nosed bats (*Leptonycteris curasoae*) for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days from the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESSES** above.)

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–8979 Filed 4–11–95; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Application(s) for Permit

The following applicant(s) have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

PRT–800892

APPLICANT: Mr. David C. Keller, Los Alamos National Laboratory, Los Alamos, New Mexico.

The applicant requests a permit to take Mexican spotted owl (*Strix occidentalis lucida*) and southwestern willow flycatchers (*Empidonax traillii extimus*) that occur on Los Alamos National Laboratory and adjacent lands in New Mexico for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

PRT–800894

APPLICANT: Mr. Joseph A. Grzybowski, Norman, Oklahoma.

The applicant requests a permit to take black-capped vireos (*Vireo atricapillus*) that occur in several counties in Oklahoma for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

PRT–800897

APPLICANT: Ms. Cornelia Pasche, Houston, Texas

The applicant requests a permit to take red-cockaded woodpeckers (*Picoides [=Dendrocopos] borealis*) that occur in northwest Harris County, Texas for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

PRT–800899

APPLICANT: Mr. Eric J. Berg, Fort Collins, Colorado.

The applicant requests a permit to take several endangered/threatened speciew that occur along the DSE pipeline in New Mexico and Texas for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

PRT–800900

APPLICANT: Sherri L. Kuhl, Lower Colorado River Authority, Austin, Texas.

The applicant requests a permit to take several endangered/threatened species that occur within Lower Colorado River Authority lands and ROW in Texas for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days for the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESSES** above.)

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–8980 Filed 4–11–95; 8:45 am]

BILLING CODE 4310–55–M

Notice of Receipt of Applications for Approval

The following applicants have applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992. 50 CFR 15.26(c).

Applicant: International Aviculturists Society, c/o W. R. Porter, Memphis, TN. The applicant wishes to establish a cooperative breeding program for the Hyacinth macaw (*Anodorhynchus hyacinthinus*). Mr. Porter wishes to be an active participant in this program with several other private individuals. The International Aviculturists Society has assumed the responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 5, 1995.

Dr. Susan Lieberman,

Chief, Branch of Operations, Office of Management Authority.

[FR Doc. 95–8977 Filed 4–11–95; 8:45 am]

BILLING CODE 4310–55–P

VOL 60 ISS 70 AP 12 1995 UMI

Finding of No Significant Impact for an Incidental Take Permit for the Construction of a Single Family Residence at Lot 37, Section 4, Block D, Jester Point 2 Subdivision, Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared an Environmental Assessment for issuance of a Section 10(a)(1)(B) permit for the incidental take of the Federally endangered golden-cheeked warbler (*Dendroica chrysoparia*) during the construction and operation of a single-family residence in Travis County, Texas.

Proposed Action

The proposed action is the issuance of a permit under Section 10(a)(1)(B) of the Endangered Species Act to authorize the incidental take of the golden-cheeked warbler.

The Applicant plans to construct a single-family residence at Lot 37, Section 4, Block D, Jester Point 2 Subdivision. The proposed development will comply with all local, State, and Federal environmental regulations addressing environmental impacts associated with this type of development. Details of the mitigation are provided in the Lot 37, Section 4, Block D, Jester Point 2 Subdivision, Travis County, Texas, Environmental Assessment/Habitat Conservation Plan. Guarantees for implementation are provided in the Agreement. These conservation plan actions ensure that the criteria established for issuance of an incidental take permit will be fully satisfied.

Alternatives Considered

1. No action,
2. Proposed action,
3. Sale of this property and the purchase of another parcel to develop,
4. Alternative site design,
5. Wait for issuance of a regional Section 10(a)(1)(B) permit.

Determination

Based upon information contained in the Environmental Assessment/Habitat Conservation Plan, the Service has determined that this action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of an Environmental Impact Statement on the proposed action is not warranted.

It is my decision to issue the Section 10(a)(1)(B) permit for the construction and operation of the single-family residence at Lot 37, Section 4, Block D, Jester Point 2 Subdivision, Travis County, Texas.

Lynn B. Starnes,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95-8978 Filed 4-11-95; 8:45 am]

BILLING CODE 4310-55-M

Garrison Diversion Unit Federal Advisory Council Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Garrison Diversion Unit Federal Advisory Council established under the authority of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-0294, May 12, 1986). The meeting is open to the public. Interested persons may make oral statements to the council or may file written statements for consideration.

DATES: The Garrison Diversion Unit Federal Advisory Council will meet from 1:30 p.m. to 4:30 p.m. on Tuesday, April 25, and from 8 a.m. to 11 a.m. on Wednesday, April 26, 1995.

ADDRESSES: The meeting will be held at the Dakota Inn, I-94/Highway 281 South, Jamestown, North Dakota.

FOR FURTHER INFORMATION CONTACT:

Dr. Grady Towns, Ecological Services, at (303) 236-8186.

SUPPLEMENTARY INFORMATION: The Garrison Diversion Unit Federal Advisory Council will consider and discuss subjects such as the Kraft Slough status and acquisition, the Garrison Diversion Unit project update and wildlife budget, Garrison Collaborative Process, Wetland Trust, Oakes Test Area, mitigation and enhancement, and Lonetree land acquisition.

Dated: April 5, 1995.

Elliott N. Sutta,

Acting Regional Director

[FR Doc. 95-8981 Filed 4-11-95; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Sudbury, Assabet and Concord Rivers Wild and Scenic Study Massachusetts; Sudbury, Assabet and Concord Rivers Study Committee; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-63, 86 Stat. 770, 5 U.S.C. App. 1 Section 10), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Thursday, May 18, 1995.

The Committee was established pursuant to Public Law 101-628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and Concord River segments specified in Section 5 (a) (110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m., Thursday, May 18, 1995, at the Great Meadows National Wildlife Refuge Headquarters Weir Hill Road, Sudbury Massachusetts. Driving Directions: From south, take Rte. 27 to Water Row in Sudbury, turn right at end on to Lincoln Rd., left on Weir Hill Rd., follow signs to GMNWR Headquarters. From north, take Concord Rd. to Lincoln Rd., turn left, follow Lincoln Rd. to Weir Hill Rd., turn left, follow signs to headquarters building. Or, take Rte 126 north or south to Sherman's Bridge Rd. in Wayland, cross Sudbury River, turn right on Weir Hill Rd.

The agenda is as follows:

I. Welcome and introductions, approval of minutes from 03/16/95 meeting
II. Brief questions and comments from public
III. Report on Town Meeting Votes—Town Representatives
IV. Next steps: Legislation and Study Report—Cassie
V. Issues of Local Concern
VI. Other Business

Adjournment

Interested persons may make oral/written presentations to the Committee during the business meeting or file written statements. Further information concerning the meeting may be obtained from Cassie Thomas, Planner, National Park Service, 15 State Street, Boston, MA 02109 or call (617) 223-014.

Dated: April 4, 1995.

Terry Savage,

Acting Regional Director.

[FR Doc. 95-8916 Filed 4-11-95; 8:45 am]

BILLING CODE 4310-70-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-731 (Preliminary)]

Bicycles from China

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-731 (Preliminary) under section 733(a) of the Tariff Act of 1930, as amended by Section 212(b) of the Uruguay Round Agreements Act (URAA), Pub. L. 103-465, 108 Stat. 4809 (1994) (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of bicycles, provided for in subheadings 8712.00.15, 8712.00.25, 8712.00.35, 8712.00.44, and 8712.00.48 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by May 22, 1995. The Commission's views are due at the Department of Commerce within 5 business days thereafter, or by May 30, 1995.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: April 5, 1995.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-205-3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202-205-1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on April 5, 1995, by Huffy Bicycle Company, Dayton, OH; Murray Ohio Manufacturing Co., Brentwood, TN; and Roadmaster Corp., Olney, IL.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the Federal Register. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the Federal Register. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on April 26, 1995, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-205-3185) not later than April 25 to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 1, 1995, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII, as amended by the URAA. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: April 6, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-8991 Filed 4-11-95; 8:45 am]

BILLING CODE 7020-02-P

[Investigations Nos. 701-TA-360 and 361 (Final) and 731-TA-688 through 695 (Final)]

Certain Carbon Steel Butt-Weld Pipe Fittings From France, India, Israel, Malaysia, The Republic of Korea, Thailand, The United Kingdom, and Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. § 1671d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from India or Israel of certain

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

VOL 60 ISS 70 AP 12 1995 UMI

carbon steel butt-weld pipe fittings, provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Governments of India and Israel. The Commission also determines pursuant to section 735(b) of the Act that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from France,[2] India, Israel, Malaysia, the Republic of Korea, Thailand,[3] the United Kingdom, or Venezuela of certain carbon steel butt-weld pipe fittings that have been found by the Department of Commerce to be sold in the United States at LTFV.

Background

The Commission instituted countervailing duty investigations Nos. 701–TA–360 and 361 (Final) effective June 1, 1994, following preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from India and Israel were being subsidized within the meaning of section 703(b) of the Act (19 U.S.C. § 1671b(b)). The antidumping duty investigations (invs. Nos. 731–TA–688 through 695 (Final)) were instituted effective October 3, 1994, following preliminary determinations by the Department of Commerce that imports of certain carbon steel butt-weld pipe fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of July 20, 1994 (59 FR 37054) and October 19, 1994 (59 FR 52806).[4] The hearing was held in Washington, DC, on February 28, 1995, and persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 3, 1995. The views of the Commission are contained in USITC Publication 2870 (April 1995) entitled "Certain Carbon Steel Butt-Weld Pipe Fittings from France, India, Israel, Malaysia, the Republic of Korea, Thailand, the United Kingdom, and Venezuela: Investigations Nos. 701–TA–360 and 361 (Final) and 731–TA–688 through 695 (Final)."

Issued: April 6, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–8992 Filed 4–11–95; 8:45 am]

BILLING CODE 7020–02–P

[2] Commissioner Don E. Newquist did not participate in this investigation.

[3] Only the certain carbon steel butt-weld pipe fittings exported by Awaji Sangyo (Thailand) Co., Ltd. from Thailand were found to be sold in the United States at less than fair value (LTFV). All other producers and exporters of such product in Thailand are subject to a 1992 antidumping order currently in effect.

[4] Notice of the Commission's revised schedule for the subject countervailing and antidumping duty investigations was published on November 30, 1994 (59 FR 61342).

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-No. 1143)]

Consolidated Rail Corporation—Abandonment—Between North Warren and Kent, in Trumbull and Portage Counties, OH

The Commission has issued a certificate authorizing Consolidated Rail Corporation to abandon its 28.95-mile rail line, known as the Freedom Secondary, between milepost 161.10 at North Warren and milepost 190.05 near Kent, in Trumbull and Portage Counties, OH, subject to environmental, historic, labor protective, and public use conditions. The abandonment certificate will become effective 30 days after this publication unless the Commission finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to continue; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from the publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Office of Proceedings, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: March 30, 1995.

By the Commission, Chairman McDonald, Vice Chairman Morgan, and Commissioners Simmons and Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 95–8974 Filed 4–11–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of the Stipulation and Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on March 28, 1995, a proposed Stipulation and Settlement Agreement in In Re Carl Subler Trucking, Inc., et al., (S.D. Ohio, Bankruptcy Ct., Case Nos. 3–87–02026), was lodged with the United States Bankruptcy Court for the Southern District of Ohio. The United States, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"), 42 U.S.C. 9607, seeks recovery of past response costs incurred and costs to be incurred by the United States in connection with the Peak Oil Superfund Site, Tampa, Florida (the "Site"). The Site is located in Hillsborough County, Florida, and occupies approximately 4 acres. From the mid-1950's until the mid-1980's, the Site was used for recovery and storage of waste oil.

The Stipulation and Settlement Agreement in In Re Carl Subler Trucking, Inc., et al, provides that the Debtor will pay a total of $25,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Stipulation and Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environmental and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530. Comments should refer to In Re Carl Subler Trucking, Inc., et al, D.O.J. Ref. 90–11–2–897F.

The proposed Stipulation and Settlement Agreement may be examined at the Office of the United States Attorney, Southern District of Ohio, 200 W. Second Street, Rm. 602, Dayton, Ohio 45402; Office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, GA 30365; and at the Consent Decree Library, 1120 G Street NW., Washington, DC 20005, (202) 624–0892. A copy of the proposed Stipulation and Settlement Agreement may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $1.50 for the Stipulation and Settlement Agreement (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9002 Filed 4–11–95; 8:45 am]

BILLING CODE 4410–01–M

Office of the Attorney General

[AG Order No. 1962–95]

RIN 1105–AA36

Proposed Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act

AGENCY: Department of Justice

ACTION: Proposed guidelines.

SUMMARY: The United States Department of Justice (DOJ) is publishing Proposed Guidelines to implement the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

DATES: Comments must be received by July 11, 1995.

ADDRESSES: Comments may be mailed to Bonnie J. Campbell, Director, Violence Against Women Office, U.S. Department of Justice, Tenth and Pennsylvania Avenue, NW, Washington, DC 20530. 202–616–8894.

SUPPLEMENTARY INFORMATION: Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–322, 108 Stat. 2038 (codified at 42 U.S.C. § 14071), contains the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (hereafter referred to as the "Jacob Wetterling Act" or "the Act"). The Act provides a financial incentive for states to establish 10-year registration requirements for persons convicted of certain crimes against minors and sexually violent offenses, and to establish a more stringent set of registration requirements for a sub-class of highly dangerous sex offenders, characterized as "sexually violent predators." States that fail to establish such systems within three years (subject to a possible two year extension) face a 10% reduction in their Byrne Formula Grant funding (under 42 U.S.C. 3756), and resulting surplus funds will be reallocated to states that are in compliance with the Act.

Proposed Guidelines

These guidelines carry out a statutory directive to the Attorney General, in § 170101(a)(1), to establish guidelines for registration systems under the Act. Before turning to the specific provisions of the Act, four general points should be noted concerning its interpretation and application.

First, states that wish to achieve compliance with the Jacob Wetterling Act should understand that its requirements constitute a floor for state registration systems, not a ceiling, and that they do not risk the loss of part of their Byrne Formula Grant funding by going beyond its standards. For example, a state may have a registration system that covers a broader class of sex offenders than those identified in the Jacob Wetterling Act, or requires address verification for such offenders at more frequent intervals than the Act prescribes, or requires offenders to register for a longer period of time than the period specified in the Act.

Exercising these options creates no problem of compliance, since the provisions in the Jacob Wetterling Act concerning duration of registration, covered offenders, and other matters, do not preclude states from imposing additional or more stringent requirements that encompass the Act's baseline requirements. The general objective of the Act is to protect people from child molesters and violent sex offenders through registration requirements. It is not intended, and does not have the effect, of making states less free than they were under prior law to impose registration requiremnts for this purpose.

Second, states that wish to achieve compliance with the Jacob Wetterling Act also should understand that they may, within certain constraints, use their own criminal law definitions in defining registration requirements, and will not necessarily have to revise their registration systems to use technical definitions of covered sex offenses based on federal law. This point will be explained more fully below.

Third, the Jacob Wetterling Act contemplates the establishment of programs that will impose registration requirements on offenders who are subsequently convicted of offenses in the pertinent categories. The Act does not require states to attempt to identify and impose registration requirements on offenders who were convicted of offenses in these categories prior to the establishment of a conforming registration system. Nevertheless, the Act does not preclude states from imposing any new registration requirements on offenders convicted prior to the establishment of the registration system.

Fourth, the Act gives states wide latitude in designing registration programs that best meet their public safety needs. For instance, the Act allows states to release relevant information necessary to protect the public, including information released through community notification programs. Some state registration and notification systems have been challenged on constitutional grounds. A few courts have struck down registration requirements in certain cases. *See Rowe* v. *Burton*, No. A94–206 (D. Alaska July 27, 1994) (on motion for preliminary relief); *State* v. *Babin*, 637 So.2d 814 (La. App. 1994), *writ denied*, 644 So.2d 649 (La. 1994); *State* v. *Payne*, 633 So. 2d 701 (La. App. 1993), *writ denied*, 637 So.2d 497 (La. 1994); *In re Reed*, 663 P.2d 216 (Cal. 1983) (en banc). However, a majority of courts that have dealt with the issue have held that registration systems like those contemplated by the Jacob Wetterling Act do not violate released offenders' constitutional rights.

A few recent decisions, currently on appeal, have held that aspects of New Jersey's community notification program violate due process guarantees, or violate ex post facto guarantees as applied to persons who committed the covered offense prior to enactment of the notification statute. *See Artway* v. *Attorney General of New Jersey*, No. 94–6287 (NHP) (D.N.J. Feb. 28, 1995); *Diaz* v. *Whitman*, No. 94–6376 (JWB) (D.N.J. Jan. 6, 1994); *John Doe* v. *Deborah Poritz*, No. BUR–1–5–95 (N.J. Super. Ct. Law Div. Feb. 22, 1995). However, the Department of Justice takes the position in briefs filed that the New Jersey community notification statute at issue in those cases does not violate the Ex Post Facto Clause, and that the Fourteenth Amendment's Due Process Clause of its own force does not require recognition of such a liberty interest on the part of offenders affected by that statute.

The remainder of these guidelines address the provisions of the Jacob Wetterling Act in the order in which they appear in § 170101 of the Violent Crime Control and Law Enforcement Act of 1994.

General Provisions—Subsection (a)(1)–(2)

Paragraph (1) of subsection (a) of § 170101 directs the Attorney General to

VOL
60
ISS
70
AP
12
1995
UMI

establish guidelines for state programs that require:;

(A) Current address registration for persons convicted of "a criminal offense against a victim who is a minor" or "a sexually violent offense," and

(B) Current address registration under a different set of requirements for persons who are determined to be "sexually violent predators."

Paragraph (2) of subsection (a) states that the determination whether a person is a "sexually violent predator" (which brings the more stringent registration standards into play), and the determination that a person is no longer a "sexually violent predator" (which terminates the registration requirement under those standards), shall be made by the sentencing court after receiving a report by a state board composed of experts in the field of the behavior and treatment of sexual offenders.

"State board" in paragraph (2) should be understood to mean a body or group containing twos or more experts that is authorized by state law or designated under the authority of state law. Beyond the requirement that a board must be composed of experts in the field of the behavior and treatment of sexual offenders, the Act affords states discretion concerning the selection and composition of such boards. For example, a state could establish a single permanent board for this purpose, could establish a system of state-designated boards, or could authorize the designation of different boards for different courts, time periods, geographic areas or cases.

Definition of "Criminal Offense Against a Victim Who is a Minor"—Subsection (a)(3)(A)

The Act prescribes a 10-year registration requirement for persons convicted of a "criminal offense against a victim who is a minor". Subparagraph (A) of paragraph (3) of subsection (a) defines the term "criminal offense against a victim who is a minor." "Minor" should be understood to mean a person below the age of 18, consistent with the normal understanding.

The specific clauses in the definition of "criminal offense against a victim who is a minor" are as follows:

(1) Clauses (i) and (ii) cover kidnapping of a minor (except by a parent) and false imprisonment of a minor (except by a parent). All states have statutes that define offenses—going by such names as "kidnapping," criminal restraint," or "false imprisonment"—whose gravamen is abduction or unlawful restraint of a person. States can comply with these clauses by requiring registration for persons convicted of these statutory offenses whose victims were below the age of 18. The Act does not require inclusion of these offenses in the registration requirement when the offender is a parent, but states may choose to require registration for parents who commit these offenses.

(2) Clause (iii) covers offenses consisting of "criminal sexual conduct toward a minor." Such offenses include convictions under general provisions defining sexually assaultive crimes—such as provisions defining crimes of "rape," sexual assault," or "sexual abuse"—in cases where the victim is in fact a minor. Coverage is not limited to cases where the victim's age is an element of the offense (such as prosecutions for specially defined child molestation offenses).

States can comply with clause (iii) by requiring registration for persons convicted of all statutory sex offenses under state law whose elements involve physical contact with a victim, where the victim was below the age of 18 at the time of the offense. Offenses that do not involve physical contact, such as exhibitionism, are not subject to the Act's mandatory registration requirements pursuant to clause (iii), but states are free to require registration for persons convicted of such offenses as well if they so choose.

(3) Clause (iv) covers offenses consisting of solicition of a minor to engage in sexual conduct. This covers any conviction for an offense involving the solicitation of conduct that would be covered by clause (iii) if carried out.

(4) Clause (v) covers offenses consisting of using a minor in a sexual performance. This includes both live performances and using minors in the production of pornography.

(5) Clause (vi) covers offenses consisting of solicition of a minor to practice prostitution.

(6) Clause (vii) covers offenses consisting of any conduct that by its nature is a sexual offense against a minor. This clause is intended to insure uniform coverage of convictions under statutes defining sex offenses in which the status of the victim as a minor is an element of an offense, such as specially defined child molestation offenses, and other offenses prohibiting sexual activity with underage persons. States can comply with this clause by including convictions under these statutes uniformly in the registration requirement.

(7) Considered in isolation, clause (viii) gives states discretion whether to require registration for attempts to commit offenses described in clauses (i) through (vii). However, any verbal command or attempted persuasion of the victim to engage in sexual conduct would bring the offense within the scope of the solicitation clause (clause (iv)), and make it subject to the Act's mandatory registration requirements. Morever, this provision must be considered in conjunction with the Act's requirement of registration for persons convicted of a "sexually violent offense," which does not allow the exclusion of attempts if they are otherwise encompassed within the definition of a "sexually violent offense."

Hence, state discretion to exclude attempted sexual offenses against minors from registration requirements pursuant to clause (viii) is limited by other provisions of the Act. The simplest approach for states would be to include attempted sexual assaults on minors (as well as completed offenses) uniformly as predicates for the registration requirements.

At the conclusion of the definition of "criminal offense against a victim who is a minor," the Act states that (for purposes of the definition) conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger. For example, suppose that state law prohibits sexual relations with a person below the age of 16, where the defendant is more than 4 years older than the victim. Suppose further that an 18-year-old is convicted of violating this prohibition by engaging in consensual sexual relations with a 13-year-old, where the conduct would not violate state law but for the victim's age. Under the provision, if a state did not require such an offender to register, the state would still be in compliance with the Act. However, here again, states are free to go beyond the Act's baseline requirements. The exemption of certain offenders based on age from the Act's mandatory registration requirements does not bar states from including such offenders in their registration systems if they wish. Moreover, the scope of subsection (a)(3)(A)'s exemption is also limited by other provisions of the Act that require registration of persons convicted of "sexually violent offenses" (as defined in (a)(3)(B)), with no provision excluding younger offenders where the criminality of the conduct depends on the victim's age.

Since the Act's registration requirements depend in all circumstances on conviction of certain types of offenses, states are not required to mandate registration for juveniles who are adjudicated delinquent—as opposed to adults convicted of crimes

and juveniles convicted as adults—even if the conduct on which the juvenile delinquency adjudication is based would constitute an offense giving rise to a registration requirement if engaged in by an adult. However, states remain free to require registration for juvenile delinquents, and the conviction of a juvenile who is prosecuted as an adult does count as a conviction for purposes of the Act's registration requirements.

Definition of "Sexually Violent Offense"—Subsection (a)(3)(B)

The Act prescribes a ten-year registration requirement for offenders convicted of a "sexually violent offense," as well as for those convicted of a "criminal offense against a victim who is a minor."

Subparagraph (B) of paragraph (3) defines the term "sexually violent offense" to mean any criminal offense that consists of aggravated sexual abuse or sexual abuse (as described in sections 2241 and 2242 of title 18, United States Code, or as described in the State criminal code), or an offense that has as its elements engaging in physical contact with another person with intent to commit such an offense. In light of this definition, there are two ways in which a state could satisfy the requirement of registration for persons convicted of "sexually violent offenses":

First, suppose that a state has offenses in its criminal code that are designated "aggravated sexual abuse" and "sexual abuse," or has a definitional provision in its criminal code that characterizes certain offenses (however denominated) as constituting "aggravated sexual abuse" and "sexual abuse" for registration purposes or other purposes. Such a state could comply simply by requiring registration for all offenders who are convicted of these state offenses, and all offenders convicted of any state crime that has as its elements engaging in physical contact with another person with intent to commit such an offense.

Second, a state could comply by requiring registration for offenders convicted for criminal conduct that would violate 18 U.S.C. 2241 or 2242—the federal "aggravated sexual abuse" and "sexual abuse" offenses—if subject to federal prosecution. (The second part of the definition in subparagraph (B) of paragraph (3), relating to physical contact with intent to commit aggravated sexual abuse or sexual abuse, does not enlarge the class of covered offenses under the federal law definitions, since sections 2241 and 2242 explicitly encompass attempts as well as completed offenses.)

Specifically, 18 U.S.C. 2241–42 generally proscribe non-consensual "sexual acts" with anyone, "sexual acts" with persons below the age of 12, and attempts to engage in such conduct. "Sexual act" is generally defined (in 18 U.S.C. 2245(2)) to mean an act involving any degree of genital or anal penetration, oral-genital or oral-anal contact, or direct genital touching of a victim below the age of 16 in certain circumstances even without penetration.

States that elect this second option—requiring registration for offenses that consist of aggravated sexual abuse or sexual abuse as defined in federal law provisions (18 U.S.C. 2241–42)—do not necessarily have to refer to these federal statutes in their registration provisions, but could alternatively achieve compliance by requiring registration for the state law offenses that encompass types of conduct proscribed by 18 U.S.C. 2241–42. Moreover, a state does not have to have sex offenses whose scope is congruent with 18 U.S.C. 2241–42 to take the latter approach. If state law does not criminalize some types of conduct that are covered by 18 U.S.C. 2241–42, then a person who engages in the conduct will not be subject to prosecution and conviction under state law, and there will be no basis for a registration requirement. On the other hand, if state sex offenses are defined more broadly than 18 U.S.C. 2241–42, then states are free to require registration for all offenders convicted under these state provisions (notwithstanding their greater breadth), and this would be sufficient to ensure coverage of convictions for criminal conduct that would violate 18 U.S.C. 2241–42 if subject to federal prosecution.

Definition of "Sexually Violent Predator"—Subsection (a)(3)(C)–(E)

Offenders who meet the definition of "sexually violent predator" are subject to more stringent registration requirements than other sex offenders.

(1) Subparagraph (C) defines "sexually violent predator" to mean a person who has been convicted of a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses.

(2) Subparagraph (D) essentially defines "mental abnormality" to mean a disorder involving a disposition to commit criminal sexual acts of such a degree that it makes the person a menace to others. There is no definition of "personality disorder" in the Act; hence, the definition of this term is a matter of state discretion. For example, a state may choose to utilize the definition of "personality disorder" that appears in the Diagnostic and Statistical Manual of Mental Disorders: DSM–IV. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders* (4th ed. 1994).

(3) Subparagraph (E) defines "predatory" to mean an act directed at a stranger or at a person with whom a relationship has been established or promoted for the primary purpose of victimization.

As with other features of the Jacob Wetterling Act, the sexually violent predator provisions only define baseline requirements for states that wish to maintain eligibility for full Byrne Formula Grant funding. States are free to impose these more stringent registration requirements on a broader class of offenders, and may use state law categories or definitions for that purpose, without contravening the Jacob Wetterling Act.

As noted earlier, the Act provides that the determination whether an offender is a "sexually violent predator" is to be made by the sentencing court with the assistance of a board of experts. The Act does not require, or preclude, that all persons convicted of a sexually violent offense undergo a determination as to whether they satisfy the definition of "sexually violent predator." It also does not specify under what conditions such an inquiry must be undertaken. A state that wishes to comply with the Act must adopt some approach to this issue, but the specifics are a matter of state discretion. For example, a state might provide that the decision whether to seek classification of an offender as a "sexually violent predator" is a matter of judgment for prosecutors, or might provide that a determination of this question should be undertaken routinely when a person is convicted of a sexually violent offense and has a prior history of committing such crimes.

Specifications Concerning State Registration Systems Under the Act—Subsection (b)

Paragraph (1) of subsection (b) sets out duties for prison officials and courts in relation to offenders required to register who are released from prison, or who are placed on any form of post-conviction supervised release ("parole, supervised release, or probation").

The duties, set out in subparagraph (A) of paragraph (1), include: (i) Informing the person of the duty to register and obtaining the information required for registration (i.e., address information), (ii) informing the person that he must give written notice of a new address within 10 days to a designated state law enforcement

VOL
60
ISS
70
AP
12
1995
UMI

agency if he changes residence, (iii) informing the person that, if he changes residence to another state, he must inform the registration agency in the state he is leaving, and must also register the new address with a designated state law enforcement agency in the new state within 10 days (if the new state has a registration requirement), (iv) obtaining fingerprints and a photograph if they have not already been obtained, and (v) requiring the person to read and sign a form stating that these requirements have been explained.

Beyond these basic requirements, which apply to all registrants, subparagraph (B) of paragraph (1) of subsection (b) requires that additional information be obtained in relation to a person who is required to register as a "sexually violent predator." The information that is specifically required under subparagraph (B) is the name of the person, identifying factors, anticipated future residence, offense history, and documentation of any treatment received for the mental abnormality or personality disorder of the person.

States that wish to comply with the Act will need to adopt statutes or administrative provisions to establish these duties and ensure that they are carried out. These informational requirements, like other requirements in the Act, only define minimum standards, and states may require more extensive information from offenders. For example, the Act does not require that information be obtained relating to registering offenders' employment, but states may legitimately wish to know if a convicted child molester is seeking or has obtained employment that involves responsibility for the care for children.

Paragraph (2) of subsection (b) states that the responsible officer or court shall forward the registration information to a designated state law enforcement agency. The state law enforcement agency must immediately enter the information into the appropriate state law enforcement record system and notify a law enforcement agency having jurisdiction where the person expects to reside. States that wish to achieve compliance with the Act may need to modify state record systems if they are not currently set up to receive all the types of information that the Act requires from registrants.

The state law enforcement agency is also required to immediately transmit the conviction data and fingerprints to the Federal Bureau of Investigation. No changes will be required in the national records system because the Act only requires transmission of conviction data and fingerprints, which the FBI already receives. The Act should not be understood as requiring duplicative transmission of conviction data and fingerprints to the FBI at the time of initial registration if the state already has sent this information to the FBI (e.g., at the time of conviction).

Paragraph (3) of subsection (b) relates to verification of the offender's address. In essence, annual verification of address with the designated state law enforcement agency is required for offenders generally, through the return within ten days of an address verification form sent by the agency to the registrant. However, the verification intervals are 90 days (rather than a year) for "sexually violent predators." As noted earlier, these are baseline requirements which do not bar states from requiring verification of address at shorter intervals than those specified in the Act.

Paragraph (4) requires the designated state law enforcement agency to notify other interested law enforcement agencies of a change of address by the registrant. Specifically, when a registrant changes residence to a new address, the designated law enforcement agency must (i) notify a law enforcement agency having jurisdiction where the registrant will reside, and (ii) if the registrant moves to a new state, notify the law enforcement agency with which the offender must register in the new state (if the new state has a registration requirement).

Paragraph (5) further requires an offender who moves out of state to register within ten days with a designated state law enforcement agency in his new state of residence (if the new state has a registration requirement). This partially reiterates the requirements concerning notice of changes of address by the offender that were described above.

Subparagraph (A) of paragraph (6) states that the registration requirement remains in effect for ten years. As noted earlier, states may choose to establish longer registration periods.

Subparagraph (B) of paragraph (6) states that the registration requirement for "sexually violent predators" under the Act terminates upon a determination that the offender no longer suffers from a mental abnormality or personality disorder that would make him likely to engage in a predatory sexually violent offense. This provision does not require review of the offender's status at any particular interval. For example, a state could set a minimum period of 10 years before entertaining a request to review the status of a "sexually violent predator," the same period as the general minimum registration period for sex offenders under the Act.

Moreover, this termination provision only affects the requirement that a person register as a "sexually violent predator" under subparagraph (B) of subsection (a)(1) of the Jacob Wetterling Act. It does not limit states in imposing more extensive registration requirements under their own laws, and does not limit any registration requirement that arises independently under other provisions of the Jacob Wetterling Act from the person's conviction of a "criminal offense against a victim who is a minor" or a "sexually violent offense."

Criminal Penalties for Registration Violations—Subsection (c)

The Act provides that a person required to register under a state program established pursuant to the Act who knowingly fails to register and keep such registration current shall be subject to criminal penalties. Accordingly, states that wish to comply with the Act will need to enact criminal provisions covering this situation as part of, or in conjunction with, the legislation defining their registration systems, if they have not already done so. If the violation by a registrant consists of failing to return an address verification form within 10 days of receipt, the state may allow a defense if the registrant can prove that he did not in fact change his residence address, as provided in subsection (b)(3)(A)(iv).

Release of Registration Information—Subsection (d)

Subsection (d) governs the disclosure of "information collected under a State registration program." Restrictions on the release of information under this subsection do not constrain the release of information that a state would have independently of the operation of the registration system. For example, a state will normally have criminal history information about an offender, and will often have current address information as part of general probation or parole supervision requirements, independently of any special requirements imposed as part of the sex offender registration system. The Act does not limit the release of such information.

Subsection (d) states specifically that the information collected under a state registration program shall be treated as private data, except under specified conditions.

The first condition under which disclosure is authorized—paragraph (1)—is that "such information may be disclosed to law enforcement agencies for law enforcement purposes." This exemption permits use of the information for all law enforcement purposes, including all police, prosecutorial, release supervision, correctional, and judicial uses.

Paragraph (2) in subsection (d) says that registration information may be disclosed to government agencies conducting confidential background checks. "Confidential" should be understood to mean a background check where information is disclosed to an interested party or parties—such as a background check conducted by a government agency that provides information concerning prospective employees to public or private employers—as opposed to release of the information to the general public. Release to the public, and other non-law enforcement, non-background check uses, are governed by paragraph (3).

Paragraph (3) in subsection (d) says that the designated state law enforcement agency, and any local law enforcement agency authorized by the state agency, may release relevant information that is necessary to protect the public concerning a specific person required to register under this section. The Act does not impose any limitations on the standards and procedures that states may adopt for determining when public safety necessitates community notification. For example, states could implement this authority by engaging in particularized determinations that individual offenders are sufficiently dangerous to require community notification concerning the offender's presence. Alternatively, states could make categorical judgments that protection of the public necessitates community notification with respect to all offenders with certain characteristics or in certain offense categories.

Releases of information for public-protection purposes short of general community notification—such as giving notice about an offender's location to the victims of his offenses, or to agencies or organizations in specified categories—are also permitted under paragraph (3).

The language in paragraph (3), like that in paragraphs (1) and (2), is permissive, and does not require states to release information. Paragraph (3) also does not deprive states of the authority to exercise centralized control over the release of information, or if the state prefers, to generally authorize local agencies to release information as necessary. In addition to permitting proactive community notification and other notification, as discussed above, paragraph (3) and other provisions of the Act do not bar states from making registration information available upon request, if it is determined that such access is necessary for the protection of the public concerning persons who are required to register.

A proviso at the end of paragraph (3) in subsection (d) states that the identity of the victim of an offense that requires registration under the Act shall not be released.

The purpose of this proviso is to protect the privacy of victims, and its restrictions may accordingly be waived at the victim's options. The proviso only applies to paragraph (3), and does not limit the disclosure of victim identity pursuant to paragraphs (1) and (2), relating to law enforcement uses and confidential background checks.

Immunity for Good Faith Conduct—Subsection (e)

Subsection (e) states that law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under the Act.

Compliance—Subsection (f)

States have three years from the date of enactment to come into compliance with the Act unless the Attorney General grants an additional two years where a state is making good faith efforts at implementation. States that fail to come into compliance within the specified time period will be subject to a mandatory 10% reduction of Byrne Formula Grant funding, and any funds that are not allocated to noncomplying states will be reallocated to states that are in compliance. The reallocated funds will be distributed among complying states in proportion to their populations.

States are encouraged to submit descriptions of their existing or proposed registration systems for sex offenders in conjunction with their applications for Byrne Formula Grant funding, even prior to the expiration of the "grace period" provided by the Act for achieving compliance. Those submissions will enable the Department of Justice to review the status of state compliance with the Act, and to suggest any necessary changes to achieve compliance before the funding reduction goes into effect.

To maintain eligibility for full Byrne Formula Grant funding following the three-year grace period, states will be required to submit information that shows compliance with the Act in at least one program year, or an explanation of why compliance cannot be achieved within that period and a description of good faith efforts that justify an extension of time (but not more than two years) for achieving compliance. States will also be required to submit information in subsequent program years concerning any changes in sex offender registration systems that may affect compliance with the Act.

Dated: April 7, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–8966 Filed 4–11–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 30, 1995, Ganes Chemicals, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)•	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II

The firm plans to manufacturer the controlled substances for distribution as bulk products to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 12, 1995.

VOL 60 ISS 70 AP 12 1995 UMI

Dated: April 4, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–8919 Filed 4–11–95; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 16, 1994, Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Hydromorphone (9150).

The firm plans to produce Hydromorphone bulk product and finished dosage units of Dilaudid for distribution to its customers.

Any other such application and any person who is presently registered with DEA to manufacture such substances may file comments to objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 12, 1995.

Dated: April 4, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–8918 Filed 4–11–95; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 30, 1995, Mallinckrodt Chemical, Inc., Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Methylphenidate (1724)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to produce bulk finished products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed on later than May 12, 1995.

Dated: April 4, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–8920 Filed 4–11–95; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated January 24, 1995, and published in the **Federal Register** on February 6, 1995, (60 FR 7071), Orpharm, Inc., 728 West 19th Street, Houston, Texas 77008, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Methadone intermediate (9254)	II
Levo-alphacetylmethadol (1948)	II

A comment was filed by a registered manufacturer in which it was stated that a hearing would not be requested if the DEA can determine that Orpharm will manufacture methadone and methadone-intermediate solely for the production of LAAM. The DEA has determined that this is the case. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 4, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–8921 Filed 4–11–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meeting and Agenda

The regular Spring meeting of the Committee on Occupational Safety and Health Statistics of the Business Research Advisory Council will be held on May 4, 1995, at 1:00 p.m. The meeting will be held in Meeting Room 9 of the Postal Square Building Conference Center, 2 Massachusetts Avenue, NE., Washington, DC.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meeting is as follows:

Thursday, May 4, 1995

1:00–4:00 p.m.—Committee on Occupational Safety and Health Statistics

1. Report on the demographics of injured/ill workers and the circumstances of their injuries and illnesses as reported in the 1993 Survey of Occupational Injuries and Illnesses
2. Occupational Safety and Health Administration (OSHA) data collection initiative
3. Relative Risk Indicators
4. Survey of Employer-Provided Training

The meeting is open to the public. Persons with disabilities wishing to attend should contact Constance B. DiCesare, Liaison, Business Research Advisory Council, at (202) 606–5887, for appropriate accommodations.

Signed at Washington, DC the 6th day of April 1995.

Katharine G. Abraham,

Commissioner.

[FR Doc. 95–8984 Filed 4–11–95; 8:45 am]

BILLING CODE 4510–24–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 95–31; Exemption Application No. D–09469, et al.]

Grant of Individual Exemptions; Financial Institutions Retirement Fund., et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Financial Institutions Retirement Fund (the Fund) and Financial Institutions Thrift Plan (the Thrift Plan) Located in White Plains, New York

[Prohibited Transaction Exemption 95–31; Exemption Application No. D–09469]

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the provision of certain services, and the receipt of compensation for such services, by Pentegra Services, Inc. (Pentegra), a wholly-owned, for-profit subsidiary corporation of the Fund, to employee benefit plans (the Plans) and to their sponsoring employers (the Employers) that participate in the Fund and the Thrift Plan; provided that the following conditions are met:

(a) A qualified, independent fiduciary of the Fund determines that the services provided by Pentegra are in the best interests of the Fund and are protective of the rights of the participants and beneficiaries of the Fund;

(b) At the time the transactions are entered into, the terms of the transactions are not less favorable to Pentegra than the terms generally available in comparable arm's-length transactions between unrelated parties;

(c) Pentegra receives reasonable compensation for the provision of its services, as determined by the independent fiduciary;

(d) Prior to the offering of services, the independent fiduciary will initially review the services to be provided by Pentegra and will determine that such services are reasonable and appropriate for Pentegra, taking into account such factors as: whether Pentegra has the capability to perform such services, whether the fees to be charged reflect arm's length terms, whether Pentegra personnel have the qualifications to provide such services, and whether such arrangements are reasonable based upon a comparison with similarly qualified firms in the same or similar locales in which Pentegra proposes to operate;

(e) No services will be provided by Pentegra without the prior review and approval of the independent fiduciary;

(f) Not less frequently than quarterly, the independent fiduciary will perform periodic reviews to ensure that the services offered by Pentegra remain appropriate for Pentegra and that the fees charged by Pentegra represent reasonable compensation for such services;

(g) Not less frequently than annually, Pentegra will provide a written report to the board of directors of the Fund describing in detail the services it provided to employee benefit plans and/or their sponsoring employers that participated in the Fund and the Thrift Plan, a detailed accounting of the fees received for such services, and an estimate of the fees Pentegra anticipates it will receive during the following year from such plans and their sponsoring employers;

(h) Not less frequently than annually, the independent fiduciary will conduct a detailed review of approximately 10 percent of all completed transactions, which will include a reasonable cross-section of all services performed; such transactions will be reviewed for compliance with the terms and conditions of this exemption;

(i) Pentegra's financial statements will be audited each year by an independent certified public accountant, and such audited statements will be reviewed by the independent fiduciary;

(j) The independent fiduciary shall have the authority to prohibit Pentegra from performing services that such fiduciary deems inappropriate and not in the best interests of Pentegra and the Fund; and

(k) Each Pentegra contract with a Fund or Thrift Plan employer, or a plan of such employer, will be subject to termination without penalty by Pentegra for any reason upon not more than 90 days written notice to such employer or plan.

VOL 60 ISS 70 AP 12 1995 UMI

Section II. Recordkeeping

(1) The independent fiduciary and the Fund will maintain, or cause to be maintained, for a period of 6 years, the records necessary to enable the persons described in paragraph (2) of this Section II to determine whether the conditions of this exemption have been met, except that (a) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the independent fiduciary and the Fund or their agents, the records are lost or destroyed before the end of the six year period, and (b) no party in interest other than the independent fiduciary and the Board of Directors of the Fund shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (2) below.

(2)(a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this Section II shall be unconditionally available at their customary location during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any employer participating in the Fund or any duly authorized employee or representative of such employer; and

(3) Any participant or beneficiary of the Fund or any duly authorized representative of such participant or beneficiary.

(b) None of the persons described above in subparagraphs (a)(2) and (a)(3) of this paragraph (2) shall be authorized to examine trade secrets of the independent fiduciary, the Fund, or their affiliates, or commercial or financial information which is privileged or confidential.

(3) For purposes of this Section II, references to the Fund shall also include Pentegra.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 30, 1995, at 60 FR 5700.

Written Comments: With respect to the Notice of Proposed Exemption, the Department did not receive any requests for a hearing but did receive 8 telephone inquiries and 10 written comments. With regard to the telephone inquiries, a representative of the Department spoke to the callers and provided the information sought by the callers. Most of the commentators did not raise specific objections with regard to the proposed transactions, but sought further information from the Department. A representative of the Department contacted such commentators and responded to their requests for additional information.

Several of the commentators raised the following issues:

(a) That as the Fund broadens its reach to employers other than banks and thrifts, the safety and soundness of a financially secure retirement fund should not be impaired;

(b) An objection to the additional expenses to be incurred by the Fund in connection with Pentagra; and

(c) Using the Fund as a foundation for launching a for-profit venture that may or may not be successful.

The applicant responded by stating that in its effort to maintain favorable economies of scale in its performance, it seeks, by means of the exemption to increase the number of employers and employee benefit plans using the services of the Fund, and thereby, ensure the sound financial condition of the Fund and its ability to meet its benefit obligations to participants. In addition, the applicant states that the operation of Pentegra will be under the aegis of the qualified, independent fiduciary who is required to provide its prior review and approval of any new service offered by Pentegra to employee benefit plans sponsored by employers that participate in the Fund or the Thrift Plan, or to such employers themselves. In addition to its initial review of the services performed by Pentegra, the independent fiduciary will be required to perform periodic and annual reviews of such services to ensure that the services offered by Pentegra remain appropriate for Pentegra to provide. Also, the independent fiduciary will have the authority to prohibit Pentegra from undertaking and performing services that the independent fiduciary deems inappropriate and not in the best interests of Pentegra and the Fund.

The applicant has requested that the exemption be effective as of January 30, 1995, the date the Notice of Pendency was published in the **Federal Register**. The Department has agreed to the applicant's request.

Accordingly, after consideration the entire record, including the telephone inquiries and written comments submitted, and the applicant's response, the Department has determined to grant the exemption as it was proposed.

EFFECTIVE DATE: This exemption is effective on January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Profit Sharing Plan for Employees of Annis, Mitchell, Cockey, Edwards & Roehn, P.A. (the Plan) Located in Tampa, Florida

[Prohibited Transaction Exemption 95–32; Exemption Application No. D–09906]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan to Annis, Mitchell, Cockey, Edwards & Roehn, P.A. (the Employer), of the Plan's interest (the Interest) in a limited partnership (the Partnership), for $40,000 in cash, provided the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) no commissions or other expenses are paid by the Plan in connection with the sale; and (c) the Plan receives not less than the fair market value of the Interest as of the date of the sale as determined by a qualified, independent expert.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 10, 1995 at 60 FR 8092.

Written Comments: The Department received one written comment with respect to the proposed exemption, which was submitted by the applicant to correct an erroneous representation. The applicant had represented that no shareholder or employee of the Employer individually purchased an interest in the Partnership (see rep. 2 of the notice of proposed exemption). Subsequent to the publication of the proposed exemption, the applicant learned that one shareholder (the SH) of the Employer owns a one-quarter unit interest in the Partnership. The SH acquired his interest at the same time that the Plan acquired its interest, on June 30, 1988. At that time, the SH was not a shareholder of the Employer, but he became one in March of the following year. The applicant represents that the SH was not a trustee of the Plan, nor was he otherwise involved in making investment decisions on behalf of the Plan in 1988, when the Plan acquired its Interest. The applicant further represents that the SH has not participated in any deliberation or decision on behalf of the Plan as to whether to retain or sell the Plan's Interest.

The Department has considered the entire record, including the written comment submitted by the applicant, and has determined to grant the exemption as it was proposed.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 6th day of April, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 95–8915 Filed 4–11–95; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revised, or extension: Revision.

2. The title of the information collection: Proposed Rules, 10 CFR Part 52, Appendix A, "Design Certification Rule for the U.S. Advanced Boiling Water Reactor," and Appendix B, "Design Certification Rule for the System 80+ Design."

13. The form number if applicable: Not applicable.

4. How often is the collection required: Quarterly until the applicant or licensee receives either an operating license under 10 CFR 50, or the Commission makes its findings under 10 CFR 52.103.

5. Who will be required or asked to report: Applicant and holders of construction permits and combined licenses.

6. An estimate of the number of annual respondents: None anticipated in the next three years.

7. An estimate of the number of hours needed annually to complete the requirement or request: For both Appendix A and B, 0 burden hours are anticipated over the next three years. However, when utilized, 8 hours per respondent for reporting will be required.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Applicable.

9. Abstract: The standard design certification rule (10 CFR 52) was codified to establish procedures, standards and criteria governing standard design certification, including informal submittal and recordkeeping requirements. Appendices A–L to Part 52 are reserved to constitute the standard design certification for evolutionary and passive light water reactor design. These proposed rules will certify the Advanced Boiling Water Reactor (ABWR) and System 80+ Standard designs, will be mandatory for those applicants proposing to use Appendix A or B, and will ensure the safety of the public.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0151), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance Office, is Brenda Jo Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 6th day of April, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–8971 Filed 4–11–95; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 17, 1995, through March 31, 1995. The last biweekly notice was published on March 29, 1995 (60 FR 16181).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve

VOL 60 ISS 70 AP 12 1995 UMI

no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 12, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram

Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, IllinoisDocket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: March 23, 1994, as supplemented on July 26, 1994, February 15, 1995, and February 28, 1995.

Description of amendment request: In the submittals of March 23 and July 26, 1994, the licensee requested revisions to the plants' technical specifications (TSs) to permit the use of a slightly positive reactor core moderator temperature coefficient (MTC). The February 15, 1995, submittal requested approval to expand the operating limits report (OLR) to include a cycle specific MTC value and requested approval to maintain the MTC value within the limits specified in the OLR. The maximum upper MTC limit would be specified in the TSs. The February 28, 1995, submittal provided a revised Significant Hazards Consideration. This supplements the information that was published in the Federal Register on August 31, 1994 (59 FR 45037).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

An analysis program was pursued by Commonwealth Edison to justify a positive MTC, reduced reactor coolant system thermal design flow, and increased steam generator tube plugging levels. This analysis identified a need for corresponding increases in the boron concentration levels in the refueling water storage tank (RWST) and safety injection accumulators to assure subcriticality requirements are met following a postulated loss-of-coolant accident (LOCA). The increases in boron concentration are based on the maximum upper limit of the MTC. The corresponding Technical Specification changes required as a result of this analysis program were previously approved by the NRC, including the increases in boron concentration limits, with the exception of the positive MTC change. The safety analyses necessary to support this program are documented in WCAP-13964. The results were reviewed by Commonwealth Edison and found to be acceptable. All Departure from Nucleate Boiling Ratio (DNBR) design limits were determined such that there was a 95 percent probability at a 95 percent confidence level that DNB would not occur on the most limiting fuel rod for any Condition I or Condition II event. The present Technical Specification limit for Nuclear Enthalpy Rise Hot Channel Factor, ... , of less than 1.65 ensures that the DNB design basis stated above would be met, thus fuel integrity will not be challenged.

The accidents which are sensitive to MTC were analyzed as part of the overall program and the results were found to be acceptable. The safety functions of the evaluated systems and components remain unchanged. The analysis performed using the increased MTC value does not affect the integrity of the safety related systems and components such that their function to control radiological consequences is affected and all fission barriers will remain intact. The effects on offsite doses have been considered. The incorporation of a positive MTC, in conjunction with the previously approved reduction in reactor coolant system thermal design flow rate and increase in steam generator tube plugging levels, will result in a small increase in offsite doses; however, the total doses remain a small fraction of the 10 CFR 100 limits. As such, the accident analysis acceptance criteria continue to be satisfied.

On a cycle-by-cycle basis, a deterministic evaluation of the impact on ATWS risk will be performed. An Unfavorable Exposure Time (UET) will be calculated, where UET is defined as the amount of time during the operating cycle for which the reactivity feedback is not sufficient to prevent Reactor Coolant System (RCS) pressure from exceeding 3200 psig for a given plant configuration. The UET methodology is consistent with the Westinghouse Owner's Group methodology presented in WCAP 11992, "ATWS Rule Administration Process" and WCAP 11993, "Assessment of Compliance with ATWS Rule Basis for Westinghouse PWRs". Corrective actions will be taken, as necessary, to assure a UET of less than 5 percent of cycle length.

The relocation of the cycle-specific core operating limits for the MTC from the Technical Specifications has no influence or impact on the probability or consequences of any accident previously evaluated. Byron and Braidwood Stations will continue to operate within the cycle-specific MTC limits contained in the OLR. The proposed amendment will require exactly the same action to be taken when the OLR limits are exceeded as are required by the current Technical Specification. Any change to the MTC values in the OLR will be performed based on NRC-approved methodology as delineated in Section 6.9.1.9 of the Technical Specifications. Each accident analysis addressed in the Updated Final Safety Analysis Report (UFSAR) will be examined with respect to changes in cycle dependent parameters, which are obtained from application of NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analysis. This examination, which will be performed under the requirements of 10 CFR 50.59, ensures that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Therefore, implementation of a positive MTC will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

The methodology and manner of plant operation as a result of the proposed changes is unaffected. Implementation of a positive MTC does not impact the safe operation of the reactor provided that the Limiting Conditions for Operation (LCOs) and the associated action requirements are satisfied. The assumptions do not create any new failure modes that could adversely impact safety related equipment. The reload safety limits and LCOs in the plant Technical Specifications will be evaluated and satisfied for each future reload core design via the 10 CFR 50.59 process. All DNBR limits have been satisfied. Currently installed equipment will not be operated in a manner different than previously designed. No new credible limiting single failure has been created. No new or different accidents or failure modes have been identified for any systems or components important to safety.

The relocation of the cycle specific MTC values to the OLR will not create the possibility of a new or different type of accident. No safety related equipment or safety function will be altered as a result of this proposed change. The cycle specific values are calculated using NRC-approved methods and submitted to the NRC to allow the Staff to continue to trend these limits. The Technical Specifications will continue to require operation within the analyzed core operating limits and appropriate actions will be taken, when, or if, the limits are exceeded.

VOL 60 ISS 70 AP 12 1995 UMI

Therefore, there is not a potential for creating the possibility of a new or different type of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The performance and integrity of the evaluated safety related systems and components are not affected by the proposed change to the MTC. The radiological consequences of all previously analyzed accidents remain within acceptable limits. The proposed change to the MTC will have no effect on the availability, operability, or performance of the evaluated safety related systems or components. The incorporation of a positive MTC, in conjunction with the previously approved reduction in reactor coolant system thermal design flow rate and increase in steam generator tube plugging levels, will result in a small increase in offsite doses; however, the total doses remain a small fraction of the 10CFR100 limits. The methodology, discussed in Attachment E, describes the determination and use of the UET values in the calculation of the Primary Pressure Relief node for the ATWS event tree to determine an overall ATWS risk value. The methodology will be used by ComEd to ensure that a core designed with a positive MTC will not result in an unacceptable risk to core damage frequency due to an ATWS event. The margin of safety associated with the licensing basis safety analysis is not significantly reduced by the proposed changes. All acceptance criteria for the specific UFSAR Chapter 15 safety analyses (non-LOCA and LOCA) have been satisfactorily evaluated and verified using NRC approved methodologies.

The margin of safety is not affected by the relocation of the cycle specific MTC limits from the Technical Specifications. The proposed amendment continues to require operation within the core limits as determined by the NRC-approved reload design and safety analysis methodologies. Appropriate actions will be taken, when, or if, limits are exceeded.

The development of the MTC limits for future reloads will continue to conform to those methods described in the NRC-approved documentation. In addition, each future reload will involve a 10 CFR 50.59 safety review to assure that operation of the unit within the cycle specific limits will not involve a reduction in the margin of safety as defined in the basis for any Technical Specification.

Therefore, there is no significant reduction in the margin of safety as defined in the bases of any Technical Specification.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

NRC Project Director: Robert A. Capra

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: October 20, 1992

Description of amendment request: The proposed amendment would comply with the requirements of Amendment 135 to the Palisades Operating License, dated February 11, 1991, which included a change to Technical Specification 5.3.1a, Primary Coolant System. The safety evaluation for Amendment 135 included a requirement that changes to Section 4.2 of the Palisades Final Safety Analysis Report (FSAR) be made through a formal amendment process. The proposed FSAR change is a result of the steam generator replacement project and includes the following: (1) deletion of a design load since this was not treated as a necessary design condition in the new steam generators; (2) a change in the feedwater temperature from 70°F to 40°F, since this assumption was changed in the analysis for the replacement steam generators; and (3) editorial changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following summary supports the finding that the proposed change would not:

1. *Involve a significant increase in the probability or consequences of an accident previously evaluated.*

The probability of an accident previously evaluated in the FSAR will not be increased by deleting the design load change of 15% per minute or decreasing the minimum feedwater temperature from 70°F to 40°F. There is no design requirement that the plant be capable of 15% per minute load changes. No accident has as an initial condition a 15% per minute load change taking place, and since this FSAR change is the result of the replacement steam generators design, no accident probabilities are increased. The 40°F feedwater temperature affects the steam generators, but nothing else is affected in the primary coolant system (PCS). The replacement steam generators have been shown by the design analysis report to be able to withstand the same number of cycles of the addition of 40°F water as the old steam generators could with 70°F water.

The consequences of an accident previously evaluated in the FSAR are not increased by either of these two changes. Deleting the design load rate of 15% per minute deals with normal plant operation and would not affect the course of a Chapter 14 event since none of the Chapter 14 events involve power level changes with respect to the steam generators. Also, reducing the maximum design load change rate is a conservative change.

Lowering the feedwater temperature could increase the consequences of the main steam line break (MSLB) accident by increasing the likelihood of a return to power event caused by increased core cooling; however, the current FSAR analysis in Section 14.14 used 32°F as the auxiliary feedwater temperature and thus bounds [the] 40°F [temperature].

2. *Create the possibility of a new or different kind of accident from any accident previously evaluated.*

The possibility of a new or different type of accident is not created by these FSAR changes. By deleting the 15% per minute load change rate from the FSAR, the operation of the plant is unaffected because the 5% per minute limit on load rate change is more limiting. There is no license requirement to be able to change power at 15% per minute except as described in the proposed FSAR deletion. Furthermore, FSAR Section 4.3.7.2 states that the pressurizer heaters cannot be uncovered by the outward surge of water following load increases; a 10% step increase and 15% ramp increase. FSAR Section 1.2.4.9.a states that the nuclear steam supply system (NSSS) is capable of a ramp change from 15% to 100% power at 5% per minute, and at a greater rate over smaller load changes up to a step change of 10%.

Another consideration is that the analysis for the original steam generators was not as detailed or exact as the analysis for the replacement steam generators. The thermal analysis section of the original steam generator design analysis report states for the three power change cases, 5% per minute, 15% per minute and a 10% step change, that "... the transient thermal effects of the power changes are small and [negligible]. The situations of significance are due to cycling between steady state conditions at different power levels." Thus, the rate of change was not a consideration in the original design analysis. The replacement steam generator analysis calculated the transient temperature changes with respect to time, so the rate of change was considered. Therefore, the replacement steam generator analysis is more accurate, but does not consider a 15% per minute rate change. The original steam generators were not designed for 15% per minute power changes but could withstand power increases from 50% to 100% [a total of] 15,000 times without considering the rate of power change.

Reducing the analyzed feedwater temperature from 70°F to 40°F does not change the possibility of whether another type of accident or malfunction can occur since the steam generator is analyzed for this.

3. *Involve a significant reduction in a margin of safety.*

The margin of safety as defined by plant licensing basis is not reduced due to the replacement steam generators not being analyzed for a 15% per minute power ramp because the 15% per minute ramp rate was not a licensing basis of the plant design. The original plant Safety Evaluation Report does not mention the design power ramp rates. The basis for Technical Specification 3.1.2 states that all components are designed to withstand the effects of cyclic loads due to primary coolant system temperature and pressure changes induced by load changes, trips, and start-ups and shutdowns. FSAR Section 4.2.2 is referenced. The change of eliminating the analyzed ability to make 15% per minute power changes does not reduce the margin of safety because:

a. the plant is not operated in a manner wherein 15% per minute power increases are made. Rapid power decreases during emergency conditions are not covered by this analysis since they are not controlled to 15% per minute but should be considered analyzed by the 500 trips or 10% step change analysis and,

b. the original steam generator did not use the ramp rate in the analysis and,

c. a 15% per minute power change from 50% to 100% power is a fairly benign change for the steam generator with respect to pressure and temperature changes as compared to heatups and cooldowns because the total changes are small.

The only requirement from the NRC with respect to the number and type of loads is contained in Section II of the NRC Standard Review Plan (SRP) 3.9.1 which states "...The section of the applicant's SAR which pertains to transients will be acceptable if the transient conditions selected for equipment fatigue evaluation are based upon a conservative estimate of the magnitude and frequency of the temperature and pressure conditions resulting from those transients." "... Transients and resulting loads and load combinations with appropriate specified design and service limits must provide a complete basis for design of the reactor coolant pressure boundary for all conditions and events expected over the service lifetime of the plant."

In the intervening years between design of the original steam generators and the replacement steam generators, Combustion Engineering (ABB-CE) decided that a 15% per minute power ramp rate was beyond what was necessary and expected to occur. This position was acceptable to the NRC since ABB-CE letter CPC-90-170, dated October 24, 1990, states that the replacement steam generators are identical in design to the Palo Verde (Arizona Public Service) steam generators. (The ABB-CE letter was concerned with the stress analysis for steam line breaks, therefore, the reference to being identical was with respect to that stress analysis.)

The change in feedwater temperature from 70°F to 40°F maintains the margin of safety because the replacement steam generators have been shown by the design analysis report to be able to withstand the same number of cycles of the addition of 40°F water as the old steam generators could 70°F water.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201

NRC Project Director: Cynthia A. Carpenter, Acting

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of amendment request: September 13, 1993

Description of amendment request: The proposed amendment would relocate audit frequencies of Section 6.5.2.8 of the Technical Specifications to the Quality Assurance Program in Section 17.2 of the Updated Final Safety Analysis Report.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change to relocate the audit program frequency requirements to the Quality Assurance Program does not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated,

This change is administrative in nature and does not impact the operation of the plant or the plant's response to an accident. Because it will allow more flexibility in assigning resources to assess weak or declining performance areas, the plant safety performance will be improved.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated,

This change is administrative in nature and does not affect the operation or design of the plant; therefore, there is no change in the possibility of a new or different kind of accident from any accident previously evaluated.

(3) involve a significant reduction in a margin of safety.

This change is administrative in nature and does not affect the operation of the plant; therefore, there is no change in the margin of safety. Relocating the audit program frequency requirements to the Quality Assurance program will allow a more dynamic and responsive audit program. Audits will be able to be scheduled more effectively based on performance and the status of related activities. This should result in a more effective audit program that will contribute to an improvement in safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226

NRC Project Director: Cynthia A. Carpenter, Acting

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, ArkansasNuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: August 30, 1994, with supplement dated January 19, 1995.

Description of amendment request: The proposed amendment changes requirements related to the site perimeter security system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, excerpts of this analysis are presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The accident mitigation features of the plant are not affected by the proposed change. This change provides an equivalent level of protection as required by 10CFR73.55(c)(4), does not significantly decrease the effectiveness of the security program, and is adequate for preventing an unacceptable risk to public health and safety. Ample protection against a design basis security threat continues to be provided. Therefore, the probability or consequences of an accident previously evaluated is not significantly increased.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from Any Previously Evaluated

This change clarifies the existing configuration of the protected area barrier at the ANO intake structure. New systems, modes of equipment operation, failure modes, or other plant perturbations are not introduced by this change. Therefore, the possibility of a new or different kind of accident from amy previously evaluated is not created.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety

This change clarifies the existing configuration of the protected area barrier at the ANO intake structure. The proposed change does not alter a safety limit, a limiting condition of operation, or a surveillance requirement on equipment to operate the plant. Adequate physical protection of the plant is maintained. Therefore, the margin of safety is not significantly reduced.

VOL 60 ISS 70 AP 12 1995 UMI

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005-3502

NRC Project Director: William D. Beckner

IES Utilities Inc., Docket No. 50-331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of amendment request: March 1, 1995

Description of amendment request: The proposed License Amendment would revise Technical Specification (TS) Sections 4.5 and 4.8 of the DAEC TS to reflect the changes to pump and valve testing criteria. The proposed amendment changes the testing frequency for certain pumps and valves in the Low Pressure Coolant Injection subsystem; Core Spray subsystems; and the Residual Heat Removal Service Water, High Pressure Coolant Injection, Emergency Service Water, and River Water Supply systems. The frequency would change from testing every three months to that specified by DAEC ASME Section XI Inservice Testing (IST) program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The affected pumps and valves in Sections 4.5 and 4.8 will continue to be tested in accordance with ASME Section XI OM-6 and OM-10. The affected pumps and valves will continue to function as before and this change will not result in a decrease in their availability to mitigate the consequences of certain accidents and transients. The proposed amendment will not affect the consequences of these accidents and transients. Therefore, the proposed amendment does not involve a change in the probability or consequences of an accident previously evaluated.

(2) The proposed license amendment does not create the possibility of a new or different kind of accident from any previously evaluated. The safety functions of the affected pumps and valves will remain unchanged. This amendment will result in no physical changes to the affected pumps, valves or systems. Consequently, the proposed license amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) The proposed amendment will not reduce the margin of safety. The actual operation of the affected pumps and valves will remain unchanged. Testing in accordance with ASME Section XI OM-6 and OM-10 will continue to provide assurance that degradation in tested components will be detected and addressed.

The NRC staff has reviewed the licensee's analysis and, based on thisreview, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401

Attorney for licensee: Jack Newman, Kathleen H. Shea, Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036-5869NRC Acting Project Director: Gail H. Marcus

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: January 24, 1995, as supplemented March 22, and March 29, 1995.

Description of amendment request: The amendment request would revise the Technical Specification Section 3.2.3.1.a and Table 2.2-1 to decrease the acceptance criterion for measured reactor coolant system (RCS) flow rate from 387,480 gallons per minute (gpm) to 371,920 gpm.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

...The proposed changes do not involve an SHC because the changes would not:

1. Involve a Significant Increase in the Probability or Consequence of an Accident Previously Evaluated.

An evaluation of the 4% decrease in the RCS total flow rate limit has shown that the change does not significantly impact the design basis analyses. Therefore, the change will not increase the consequences of an accident previously evaluated.

There are no actual plant changes that will result from this technical specification change. Instead, the technical specification requirement for minimum total RCS flow rate is being changed to provide operational benefit without compromising safety. Since there are no plant changes, there is no effect on the probability of occurrence of previously evaluated accidents.

The change will have a negligible impact on the small break loss of coolant accident (LOCA) and large break LOCA analyses. The PCT [peak cladding temperature] acceptance criteria will continue to be met with the assumption of a 4% reduction in RCS flow rate.

For the steam generator tube rupture event, both the FSAR [Final Safety Analysis Report] offsite dose analysis and the margin of steam generator (SG) overfill were evaluated. It was determined that the 4% reduction in RCS flow rate will not adversely affect the offsite doses or the margin to SG overfill and, therefore, the FSAR conclusions remain unchanged.

In the evaluation of non-LOCA transients, the DNB [departure from nucleate boiling] is the most affected parameter due to a change in flow rate. It was concluded that the 4% reduction in RCS flow was acceptable and there was margin to the DNB limit.

It is concluded that there is sufficient margin to the system pressure, PCT and DNB limits to offset the effect of the 4% flow rate decrease and the calculated radiological releases associated with the analysis are not affected. Therefore, there is no effect on the consequences of previously evaluated accidents.

2. Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The low loop flow trip setpoint specified in Technical Specification Table 2.2-1 is set as a fraction of total flow. The flow fraction is not being changed and no hardware changes are required due to the reduction in minimum flow. Also, the reduction in minimum flow will not change the operation of any plant equipment and it does not modify plant operation.

Therefore, the reduction in minimum flow does not introduce any new failure modes or malfunctions and it does not create the potential for a new unanalyzed accident.

3. Involve a Significant Reduction in the Margin of Safety.

The proposed 4% decrease in the technical specification limit for total RCS flow rate will not adversely affect the results of the FSAR accident analysis, and it is concluded that this change is safe. The change does not adversely affect any equipment credited in the safety analysis, and it does not affect the probability of occurrence of any plant accident. Also, the change has a negligible impact on the PCT, and it does not increase the offsite doses or decrease the DNB below its acceptance limit.

Therefore, the change does not have any significant impact on the protective boundaries, and there is no reduction in the margin of safety as specified in the technical specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station,Unit No. 1, Washington County, Nebraska

Date of amendment request: March 1, 1995

Description of amendment request: The proposed amendment to the technical specifications (TS) would make administrative changes to TS 2.5, 2.8, 2.11, 3.2, and 3.10 and, in accordance with Generic Letter (GL) 93-07, "Modification of the Technical Specification Administrative Control Requirements for Emergency and Security Plans," to TS 5.5 and 5.8.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions to Technical Specifications (TS) 5.5 and 5.8 are administrative in nature and follow the guidance of Generic Letter (GL) 93-07. The review and audit functions of the site security and emergency plans and procedures will be retained in a manner that fully satisfies regulatory requirements. Therefore, the proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision to TS 2.5 will still require backup water for the emergency feedwater storage tank to be available. However, several other available sources of water are preferred over river water, such as, the water plant demineralized water system and the outside condensate storage tank. Therefore, the proposed revision does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed deletion of TS 2.8(8) pertaining to fuel handling cranes, deletion of TS 2.11 pertaining to overhead cranes in the Containment and Auxiliary Buildings, and deletion of statements in the bases of TS 2.8 pertaining to crane interlocks does not involve a significant increase in the probability or consequences of an accident previously evaluated. Specifications 2.8(8), 2.11 and the deleted statements in the bases of Specification 2.8 need not be retained in the TS based upon Criteria 1 through 4 of the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993 (58 FR 39132).

Controls and limitations for the operation and testing of these cranes and interlocks will be incorporated into the Updated Safety Analysis Report (USAR). The requirements of TS 2.8(8) and restrictions of TS 2.11 are currently contained in Station procedures to ensure that the handling of fuel assemblies, control element assemblies (CEAs) and heavy loads is accomplished safely and effectively. These revisions make the FCS Technical Specifications more similar to Standard Technical Specifications (STS), which do not contain requirements or restrictions concerning the operation of fuel handling cranes or overhead cranes.

The revision proposed for TS 3.2, Table 3-5, Item 1 will make its surveillance frequency identical to the frequency specified in STS 3.1.5.7. The proposed frequency will require testing CEA drop times prior to reactor criticality after each removal of the reactor vessel closure head, which is the most appropriate time to perform the surveillance. The proposed frequency will ensure that the CEAs drop into the core within the time specified in the safety analysis and, therefore, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed deletion of TS 3.2, Table 3-5, Item 5, which currently requires testing refueling system interlocks prior to the refueling outage does not involve a significant increase in the probability or consequences of an accident previously evaluated. Table 3-5, Item 5, does not need to be retained in the TS based upon Criteria 1 through 4 of the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993. Controls and limitations for testing the refueling system interlocks will be incorporated into the USAR. The requirements for testing refueling system interlocks are already contained in Station procedures. This revision makes the FCS Technical Specifications more similar to STS, which do not contain requirements or restrictions pertaining to testing refueling system interlocks.

The proposed revision to TS 3.2, Table 3-5, Item 10, ensures consistent use of terminology among the frequencies specified in Table 3-5. The proposed revision clarifies the wording and introduces additional operational flexibility such that the surveillance could be performed before 720 hours of system operation, if warranted by plant conditions or beneficial to plant operation. Therefore, the proposed revision does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The remaining TS revisions are administrative in nature in that they correct references, titles, misspelling(s), and page numbers, or revise wording to be consistent with defined intervals within the TS. Therefore, they do not increase the probability or consequences of an accident previously evaluated. None of the proposed TS revisions will impact the function or method of operation of plant systems, structures, or components.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revisions to TS 5.5 and 5.8 which delete the review and/or audit of the emergency, site security and safeguards contingency plans and implementing procedures from the TS are administrative in nature and in accordance with the guidance of GL 93-07. The proposed revisions will not affect the operation of any system, structure, or component and therefore do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revision to TS 2.5 will still require a backup supply of water for the emergency feedwater storage tank to be available. However, several other available sources of water are preferred over river water, such as, the water plant demineralized water system and the outside condensate storage tank. Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed deletion of TS 2.8(8) pertaining to fuel handling cranes, deletion of TS 2.11 pertaining to overhead cranes in the Containment and Auxiliary Buildings and deletion of statements in the bases of TS 2.8 pertaining to crane interlocks does not create the possibility of a new or different kind of accident from any accident previously evaluated. Specifications 2.8(8), 2.11 and the deleted statements in the bases of Specification 2.8 need not be retained in the TS based upon Criteria 1 through 4 of the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993.

The requirements of TS 2.8(8) and restrictions of TS 2.11 are currently contained in Station procedures to ensure that the handling of fuel assemblies, CEAs and heavy loads is accomplished safely and effectively. These revisions make the FCS Technical Specifications more similar to STS, which do not contain requirements or restrictions concerning the operation of fuel handling cranes or overhead cranes.

The proposed revision to TS 3.2, Table 3-5, Item 1, is an administrative revision to the frequency of CEA drop time testing. The proposed frequency is the most appropriate time to perform the surveillance to ensure that the CEAs drop into the core within the time specified in safety analysis and is identical to the frequency specified in STS 3.1.5.7. Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed deletion of TS 3.2, Table 3-5, Item 5, which currently requires testing the refueling system interlocks prior to the refueling outage, does not create the possibility of a new or different kind of accident from any accident previously evaluated. Table 3-5, Item 5, does not need to be retained in the TS based upon Criteria 1 through 4 of the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993. The requirements for testing refueling

VOL 60 ISS 70 AP 12 1995 UMI

system interlocks are currently contained in Station procedures. This revision makes the FCS Technical Specifications more similar to STS, which do not contain requirements or restrictions pertaining to testing refueling system interlocks.

The proposed revision to TS 3.2, Table 3-5, Item 10, ensures consistent use of terminology among the frequencies specified in Table 3-5. The proposed revision clarifies the wording and introduces additional operational flexibility such that the surveillance could be performed before 720 hours of system operation, if warranted by plant conditions or beneficial to plant operation. Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any previously evaluated.

The remaining TS revisions are administrative in nature in that they correct references, titles, misspelling(s), and page numbers, or revise wording to be consistent with defined intervals within the TS. Therefore, they do not create the possibility of a new or different kind of accident.

(3) The proposed changes do not involve a significant reduction in a margin of safety.

The proposed revisions to TS 5.5 and 5.8 concerning the review and/or audit of the emergency, site security and safeguards contingency plans and implementing procedures do not involve a significant reduction in a margin of safety. The audit and review processes are administrative functions which will be retained outside the TS in a manner that fully satisfies regulatory requirements.

Removing the requirement of TS 2.5 that Missouri River water from the fire water system shall be available to provide a backup water supply to the emergency feedwater storage tank improves operational flexibility without reducing any safety margins. Better sources of backup water are available to replenish the emergency feedwater storage tank. Although deleted from TS 2.5, the fire water system is still required to be available to meet the requirements of paragraph 3.F of the FCS Operating License. Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

The proposed deletion of TS 2.8(8) pertaining to fuel handling cranes, deletion of TS 2.11 pertaining to overhead cranes in the Containment and Auxiliary Buildings and deletion of statements in the bases of TS 2.8 pertaining to crane interlocks does not involve a significant reduction in a margin of safety. Specifications 2.8(8), 2.11 and the deleted statements in the bases of Specification 2.8 do not need to be retained in the TS based upon Criteria 1 through 4 of the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993.

The requirements of Specification 2.8(8) and restrictions of Specification 2.11 are currently contained in Station procedures to ensure that the handling of fuel assemblies, CEAs and heavy loads is accomplished safely and effectively. These revisions make the FCS Technical Specifications more similar to STS, which do not contain requirements or restrictions concerning the operation of fuel handling cranes or overhead cranes.

The proposed revision to TS 3.2, Table 3-5, Item 1, is an administrative revision to the frequency of CEA drop time testing. The proposed frequency is the most appropriate time to perform the surveillance to ensure that the CEAs drop into the core within the time specified in the safety analysis and is identical to the frequency specified in STS 3.1.5.7. Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

The proposed deletion of TS 3.2, Table 3-5, Item 5, which currently requires testing the refueling system interlocks prior to the refueling outage does not involve a significant reduction in a margin of safety. Table 3-5, Item 5, does not need to be retained in the TS based upon Criteria 1 through 4 of the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993. The requirements for testing refueling system interlocks are currently contained in Station procedures. This revision makes the FCS Technical Specifications more similar to STS, which do not contain requirements or restrictions pertaining to testing refueling system interlocks.

The proposed revision to TS 3.2, Table 3-5, Item 10, ensures consistent use of terminology among the frequencies specified in Table 3-5. The proposed revision clarifies the wording and introduces additional operational flexibility such that the surveillance could be performed before 720 hours of system operation if warranted by plant conditions or beneficial to plant operation. Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

The remaining TS revisions are administrative in nature in that they correct references, titles, misspelling(s), and page numbers, or revise wording to be consistent with defined intervals within the TS. Therefore, they do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1875 Connecticut Avenue, NW., Washington, DC 20009-5728

NRC Project Director: William H. Bateman

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: March 6, 1995

Description of amendments request: The proposed amendment would relocate the seismic and meteorological monitoring instrumentation from the Technical Specifications to the Final Safety Analysis Report in accordance with the "Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," dated July 22, 1993.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change relocates information from the TS to the FSAR and has no impact on physical plant operation or configuration. The continued capability of the seismic and meteorological instrumentation to perform its intended function will be ensured through controlled change processes governed by 10 CFR 50.59.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The sole function of the seismic and meteorological monitoring instrumentation is to record data. The proposed change will not involve any design change or modification to the plant. The proposed change will not alter the operation of the plant or the manner in which it is operated. Any subsequent change to the Seismic and Meteorological Monitoring Instrumentation requirements will undergo a review in accordance with the criteria of 10 CFR 50.59 to endure that the change does not involve an unreviewed safety question.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

No. The proposed change will relocate Seismic and Meteorological Monitoring Instrumentation requirements from the TS to licensee controlled documents subject to the criteria of 10 CFR 50.59. The proposed change will have no adverse impact on any protective boundary or safety limit.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial

Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama 35201

NRC Project Director: William H. Bateman

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: November 15, 1994; superseded March 7, 1995 (TS 94-12).

Description of amendment request: The proposed change would remove the frequency for each of the audits specified in the administrative controls section of the technical specifications (TS), except those related to the fire protection system. The requirements to perform the audits would be retained, but the frequency for their performance would be controlled by a requirement to be added to the Nuclear Quality Assurance Plan. This would require that the audits listed in the TS (except those related to the fire protection system) be performed on a biennial frequency. In addition, the proposed change would remove the requirement to perform site Radiological Emergency Plan, Physical Security Plan, and the Safeguard Contingency Plan reviews and audits from the TS, since these requirements presently exist in their respective Plans.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The standards used to arrive at a determination that a Technical Specification change request involves no significant hazards consideration are included in the Commission's regulations, 10 CFR 50.92, which states that no significant hazards considerations are involved if the operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each standard is addressed as follows:

1. Operation of the facility in accordance with the proposed technical specifications would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The likelihood that an accident will occur is neither increased or decreased by the Technical Specification change which only affects review and audit frequencies. This Technical Specification change will not impact the function or method of operation of plant equipment. Thus, there is not a significant increase in the probability of a previously analyzed accident due to this change. No systems, equipment, or components are affected by the proposed changes. Thus, the consequences of a malfunction of equipment important to safety previously evaluated in the FSAR are not increased by this change.

The proposed change only affects review and audit frequencies. As such, the proposed change has no impact on accident initiators or plant equipment, and thus, does not affect the probabilities or consequences of an accident.

Therefore, we conclude that this change does not significantly increase the probabilities or consequences of an accident.

2. Operation of the facility in accordance with the proposed technical specifications would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve changes to the physical plant or operations. Since program audits do not contribute to accident initiation, a change related to audit functions cannot produce a new accident scenario or produce a new type of equipment malfunction. Also, this change does not alter any existing accident scenarios. The proposed change does not affect equipment or its operation, and, thus, does not create the possibility of a new or different kind of accident. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

3. Operation of the facility in accordance with the proposed technical specifications would not involve a significant reduction in a margin of safety.

The proposed change concerning conduct of reviews and audits does not directly affect plant equipment or operation. Safety limits and limiting safety system settings are not affected by this proposed change.

Therefore, use of the proposed Technical Specification would not involve any reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on thisreview, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: March 2, 1995

Description of amendment request: The proposed changes would revise Technical Specification 4.6.1.2.a to reference the testing requirements of 10 CFR Part 50, Appendix J, and to state that the Nuclear Regulatory Commission-approved exemptions to the applicable regulatory requirements are permitted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A discussion of these standards as they relate to this ... amendment request follows.

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change ... revises the North Anna Units 1 and 2 Technical Specification Surveillance Requirement 4.6.1.2.a to reference the testing frequency requirements of 10 CFR 50 Appendix J and to state that NRC approved exemptions to the applicable regulatory requirements are permitted. The current Technical Specification requires Type A tests be conducted in accordance with Appendix J to 10 CFR 50. The proposed administrative change simply includes the statement "as modified by NRC-approved exemptions." No new requirements are added, nor are any existing requirements deleted. Any specific changes to the requirements of Appendix J will require a submittal from Virginia Electric and Power Company under 10 CFR 50.12 and subsequent review and approval by the NRC prior to implementation. The proposed change is stated generically to avoid the need for further Technical Specification changes if different exemptions are approved in the future.

The proposed change, in itself, does not affect reactor operations or accident analyses and has no radiological consequences. The change provides clarification so that future Technical Specifications changes will not be necessary to correspond to applicable NRC-approved exemptions from the requirements of Appendix J. This exemption request is consistent with the intent of the regulation.

Therefore, this proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The proposed Technical Specification amendment for Units 1 and 2 provides clarification to a specification that paraphrases a codified requirement.

Since the ... proposed Technical Specifications change would not change the

VOL 60 ISS 70 AP 12 1995 UMI

design, configuration, or method of operation of the plant, the changes would not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety.

The proposed North Anna Units 1 and 2 Technical Specifications change is administrative and clarifies the relationship between the requirements of Technical Specification Surveillance Requirement 4.6.1.2.a, Appendix J, and any approved exemptions to Appendix J. It does not, in itself, change a Safety Limit or a Limiting Condition for Operation. The NRC will directly approve any proposed change or exemption to Appendix J prior to implementation.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: David B. Matthews

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: November 10, 1994

Description of amendment request: The proposed amendment request will clarify the surveillance requirements for the reactor protection and the engineered safeguards system instrumentation and actuation logic.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Operation of Surry Power Station in accordance with the proposed Technical Specifications change will not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated.

The proposed change to clarify the surveillance requirements for the Reactor Protection and Engineered Safeguards Systems instrumentation and actuation logic has no impact on the probability of an accident occurrence. The instrumentation and actuation logic will continue to be operated in the same manner. The actual test frequency is not changing. Rather, surveillance requirements are being clarified to represent the actual testing and the licensing and design bases. Testing of these instruments and actuation logic are presently design limited and would otherwise require using temporary modifications to complete the testing. Since the testing is not changing, the clarification of the actual testing does not contribute to the probability of any previously analyzed accident. The Reactor Protection and Engineered Safeguards Systems instrumentation and actuation logic will be operated in the same manner and the system operability requirements are not being altered. Therefore, the consequences of any design basis accident are not being increased by the proposed change to clarify the surveillance test requirements for the Reactor Protection and Engineered Safeguards System instrumentation and actuation logic.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no plant modifications or changes in methods of plant operation introduced by this change in the clarification of the testing for the Reactor Protection and Engineered Safeguards Systems instrumentation and actuation logic. The plant is not being operated or tested in a different manner due to the proposed change. Therefore, no new accidents or accident precursors are generated by the proposed change to clarify the surveillance test requirements.

Clarifying the surveillance test requirements to represent the original licensing design basis and test conditions does not create the possibility of a new or different accident than previously analyzed.

3.Involve a significant reduction in a margin of safety.

Clarification of the testing for the Reactor Protection and Engineered Safeguards Systems instrumentation and actuation logic surveillance requirements does not affect the margin of safety in that the operability requirements for these safety systems remain unchanged. The existing testing is performed in accordance with plant design and licensing basis and provides adequate indication of the operability of the affected instrumentation or actuation logic. The Reactor Protection and Engineered Safeguards Systems instrumentation and actuation logic are fully tested on a refueling cycle basis which includes complete operation of each relay and end device. Therefore, the margin of safety is not altered by the proposed clarification of the testing for the Reactor Protection and Engineered Safeguards Systems instrumentation and actuation logic.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: David B. Matthews

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: November 22, 1994

Description of amendment request: The proposed amendment request would delete unnecessary descriptive phrases regarding the number of cells in the station and emergency diesel generator batteries.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The deletion of the descriptive references regarding the number of cells in the station and emergency diesel generator batteries is an administrative change and therefore does not:

1. Involve an increase in the probability of occurrence or consequences of an accident previously evaluated.

The proposed change to delete the descriptive references associated with the station and emergency diesel generator batteries (60 cell or 56 cell, respectively) has no impact on the probability of an accident occurrence. The change is administrative in nature and therefore does not affect the operation of the units. The batteries will continue to be operated in the same manner as before the change with operability based on design voltage and capacity requirements necessary to ensure safety functions can be performed. Prescribed surveillance testing will continue to ensure the operability of individual battery cells. Consequently, the proposed change does not contribute to the probability of occurrence or consequences of any design basis accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This is an administrative change to delete the descriptive references associated with the station and emergency diesel generator batteries. There are no plant modifications being implemented by the proposed change and plant operations are not being changed. Provided the required design voltage and capacity are maintained, the batteries remain fully operable and capable of performing their intended safety functions. Individual battery cell surveillance requirements remain unchanged. Therefore, no new accidents or accident precursors are created by the proposed change.

3. Involve a reduction in a margin of safety as defined in the Technical Specifications.

The proposed administrative change to delete the descriptive references associated with the station and emergency diesel generator batteries (60 cell or 56 cell, respectively) is administrative in nature. Provided the required design voltage and capacity are maintained, the batteries remain fully operable and capable of performing their intended safety functions as assumed in the safety analyses. Individual battery cell surveillance requirements remain unchanged. Therefore, the analyzed margin of safety is not reduced by the proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: David B. Matthews

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: January 24, 1995

Description of amendment request: The proposed amendment request would increase the current Technical Specification pressurizer safety valve lift setpoint acceptance criterion from plus or minus 1% as-found and plus or minus 1% as-left to plus or minus 3% as-found and plus or minus 1% as-left.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed Technical Specifications change does not involve a significant hazards consideration because operation of Surry Units 1 and 2 in accordance with this change would not:

a. involve a significant increase in the probability or consequences of an accident previously evaluated. Affected safety-related parameters were analyzed for a change to Surry Units 1 and 2 Technical Specification 3.1.A.3.b. It was determined that the primary and secondary side overpressure safety limits would not be exceeded in the most limiting overpressure transient (Loss of Load, Locker Rotor, and Rod Withdrawal events) with the pressurizer safety valve lift setpoint acceptance criterion increased to [plus or minus] 3%. The DNBR [departure from nucleate boiling ratio] results of transients impacted by the setpoint acceptance criterion increase are not affected by the proposed change. The increased setpoint acceptance criterion will not result in an inadvertent opening of the pressurizer safety valves. Since the proposed change involves no alterations to the physical plant, the probability of occurrence of an accident or malfunction of equipment important to safety previously evaluated is not increased.

b. create the possibility of a new or different kind of accident from any accident previously identified. The proposed change to Surry Units 1 and 2 Technical Specification 3.1.A.3.b does not involve any alterations to the physical plant which would introduce any new or unique operational modes or accident precursors. Only the allowable tolerance about the existing setpoint will be changed.

c. involve a significant reduction in a margin of safety. It was determined that the most limiting overpressure transients do not result in maximum pressures in excess of the primary and secondary side overpressure limits. The DNBR results of affected transients are not made more limiting by the proposed setpoint tolerance increase. Therefore, the margin of safety is unchanged by the proposed increase in the safety valve setpoint acceptance criterion.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: David B. Matthews

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 21, 1995

Description of amendment request: The amendment would revise Surveillance Requirement 4.6.2.1.d for the containment spray system to change the surveillance interval for the performance of the air or smoke test through the containment spray header from once per 5 years to once per 10 years.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed reduced testing frequency of the Containment Spray System nozzles does not change the way the system is operated or the Containment Spray System's operability requirements. The proposed change to the surveillance frequency of safety equipment has no impact on the probability of an accident occurrence nor can it create a new or different type of accident. NUREG-1366 concluded that the corrosion of stainless steel piping is negligible during the extended surveillance interval. Since the Containment Spray System is maintained dry there is no additional mechanism that could cause blockage of the spray nozzles. Thus, the nozzles in the Containment Spray System will remain operable during the ten year surveillance interval to mitigate the consequence of an accident previously evaluated. No clogging or blockage of the nozzles in the Containment Spray System has been discovered during the performance of the five year surveillance tests. Therefore, the testing of the Containment Spray System[']s nozzles at the proposed reduced frequency will not increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed reduced frequency testing of the Containment Spray System nozzles does not change the way the Containment Spray System is operated. The reduced frequency of testing of the spray nozzles does not change plant operation or system readiness. The reduced frequency testing of the Containment Spray System nozzles does not generate any new accident precursors. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created by the proposed changes in surveillance frequency of the Containment Spray System nozzles.

3. The proposed change does not involve a significant reduction in the margin of safety.

Reduced testing of the Containment Spray System nozzles does not change the way the system is operated or the Containment Spray System's operability requirements. NUREG-1366 concluded that the corrosion of stainless steel piping is negligible during the extended surveillance interval. Since the Containment Spray System is maintained dry there is no additional mechanism that could cause blockage of the Containment Spray System nozzles. Thus, the proposed reduced testing frequency is adequate to ensure spray nozzle operability. The surveillance requirements do not affect the margin of safety in the operability requirements of the Containment Spray System remains unaltered. The existing safety analysis remains bounding. Therefore no margins of safety are adversely affected by this proposed change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

VOL 60 ISS 70 AP 12 1995 UMI

satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Ratema:-

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 24, 1995

Description of amendment request: The proposed amendment would add a new action statement to Technical Specification 3.5.1 which would provide a 72-hour allowed outage time (AOT) for one accumulator to be inoperable because its boron concentration did not meet the 2300-2500 parts per million (ppm) band. The amendment would also change the current allowed outage time for other reasons of inoperability from 1 hour to 24 hours.

Changes to the surveillance requirements are also proposed to incorporate the guidance of Generic Letter 93-05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Operation." These proposed changes would base the operability of the accumulator on the contained water volume and cover pressure and would not require verification of the boron concentration after an accumulator volume increase, provided the source of the makeup water is the refueling water storage tank.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The overall protection system performance will remain within the bounds of the accident analysis documented in Chapter 15 of the Updated Safety Analysis Report [(USAR), WCAP-1096-P, and WCAP-11883 since no hardware changes are proposed.

The safety injection accumulators are credited in Section 15.6.5 of the Updated Safety Analysis Report for large and small break LOCA [loss-of-coolant accident]. There will be no effect on these analyses, or any other accident analysis, since the analysis assumptions are unaffected and remain the same as discussed in Section 15.6.5. Design basis accidents are not assumed to occur during allowed outage times covered by the Technical Specifications. As such, the ECCS [emergency core cooling system] Evaluation Model equipment availability assumptions made in Section 15.6.5 remain valid.

The safety injection accumulators will continue to function in a manner consistent with the above analysis assumptions and the plant design basis. As such, there will be no degradation in the performance of nor an increase in the number of challenges to equipment assumed to function during an accident situation.

The proposed technical specifications changes do not involve any hardware changes nor do they affect the probability of any event initiators. There will be no change to normal plant operating parameters, ESF [engineered safety features] actuation setpoints, accident mitigation capabilities, accident analysis assumptions or inputs. Therefore, these changes will not increase the probability of an accident or malfunction.

The corresponding increase in CDF [core damage frequency] due to the proposed change to increase the AOT of the accumulators from one hour to 24 hours is insignificant. Pursuant to the guidance in Section 3.5 of NSAC-125, the proposed increase in AOT does not "degrade below the design basis the performance of a safety system assumed to function in the accident analysis," nor does it "increase challenges to safety systems assumed to function in the accident analysis such that safety system performance is degraded below the design basis without compensating effects." Therefore, it is concluded that these changes do not increase the probability of occurrence of a malfunction of equipment important to safety.

(2) The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. This change is administrative in nature and does not involve any change to the installed plant systems or the overall operating philosophy of WCGS [Wolf Creek Generating Station].

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of these proposed changes. There will be no adverse effect or challenges imposed on any safety-related system as a result of these changes. Therefore, the possibility of a new or different type of accident is not created.

There are no changes which would cause the malfunction of safety-related equipment, assumed to be operable in the accident analyses, as a result of the proposed technical specification changes. No new mode failure has been created and no new equipment performance burdens are imposed. Therefore, the possibility of a new or different malfunction of safety-related equipment is not created.

(3) The proposed change does not involve a significant reduction in the margin of safety.

The proposed change does not involve an significant reduction in a margin of safety. There will be no change to the Departure from Nucleate Boiling Ratio (DNBR) Correlation Limit, the design DNBR limits, or the safety analysis DNBR limits discussed in Bases Section 2.1.1.

As discussed previously, the performance of the accumulators will remain within the assumptions used in the large and small break LOCA analyses, as presented in USAR Section 15.6.5. Also, there will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037

NRC Project Director: William H. Bateman

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Baltimore Gas and Electric Company, Docket No. 50-318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of amendment request: February 24, 1995

Brief description of amendments: The proposed amendment would revise the Calvert Cliffs, Unit No. 2, Technical Specifications (TSs). Specifically, TS 4.G.1.2 would reference 10 CFR Part 50, Appendix J, directly, and any approved exemptions to the Type A testing frequency requirements, rather than paraphrase the regulation. The proposed wording is consistent with that used in NUREG-1432, "Standard Technical Specifications - Combustion Engineering Plants," dated September 1992.Date of publication of individual notice in **Federal Register:** March 8, 1995 (60 FR 12789)

Expiration date of individual notice: April 7, 1995

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: February 23, 1995, as supplemented March 21, 1995.

Description of amendment request: The proposed amendment would revise Technical Specifications 3.8.2.1 and 3.8.3.1 to allow installation of a modification to replace the battery, main and tie breakers in response to an Electrical Distribution Systems Functional Inspection, conducted by the NRC in July 1991. The existing breaker arrangement could result in a trip of both the battery and main breakers if a fault occurs on one of the 125 VDC panelboards. The licensee committed to have these breakers replaced in 1995 with a better coordinated design to eliminate the concern.Date of publication of individual notice in Federal Register: March 8, 1995 (60 FR 12791)

Expiration date of individual notice: April 7, 1995

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: March 1, 1995

Description of amendment request: The proposed amendment would modify the steam generator tube plugging criteria in Technical Specification 3/4.4.5, Steam Generators, and the allowable leakage for Unit 1 in Technical Specification 3/4.4.6.2, Operational Leakage, and the associated Bases.Date of individual notice in the **Federal Register:** March 13, 1995 (60 FR 13478)

Expiration date of individual notice: April 12, 1995

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: March 1, 1995

Description of amendment request: The proposed amendment would change Technical Specification 3/4.4.5, Steam Generators, and the associated Bases to allow the use of an alternate plugging criteria (known in the industry as F*) on steam generator tubes that are defective or degraded within certain areas within the tubesheet. Date of individual notice in the **Federal Register:** March 13, 1995 (60 FR 13481)

Expiration date of individual notice: April 12, 1995

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: March 9, 1994

Description of amendment request: The proposed amendment would revise the Nine Mile Point Nuclear Station, Unit 2, Technical Specifications (TSs). Specifically, TS 4.6.1.2.a would be modified to allow the second Primary Containment Integrated Leakage Rate Test (Type A) to be performed at the fifth refueling outage (RF-05) or 72 months after the first Type A test instead of the fourth refueling outage (RF-04) as currently scheduled.

Date of publication of individual notice in **Federal Register:** March 23, 1995 (60 FR 15310)

Expiration date of individual notice: April 24, 1995

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Rochester, New York

Date of application for amendment: March 13, 1995

Brief description of amendment: The proposed amendment would revise Ginna Station Technical Specification (TS) 4.4.2.4.a to replace specific leakage testing frequencies for containment isolation valves. This TS change will support a proposed Exemption to Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix J, Section III.D.3, requested under separate cover to exempt Type C testing of certain valves during a 1995 refueling outage.

Date of publication of individual notice in **Federal Register:** March 22, 1995 (60 FR 15167)

Expiration date of individual notice: April 21, 1995

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment

VOL 60 ISS 70 APR 12 1995 UMI

under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station,Plymouth County, MassachusettsDate of application for amendment: November 22, 1994

Brief description of amendment: The amendment revises the allowable leak rate for the main steam isolation valves from the current 11.5 standard cubic feet per hour (scfh) for each valve, to a maximum combined main steam line leak rate of 46 scfh.

Date of issuance: March 22, 1995
Effective date: March 22, 1995
Amendment No.: 160
Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 18, 1995 (60 FR 3671) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 22, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station,Plymouth County, Massachusetts

Date of application for amendment: September 6, 1994, as supplemented February 15, 1995.

Brief description of amendment: This amendment revises Technical Specifications (TSs) 3.7.B.1.a, 3.7.B.1.c, 3.7.B.1.e, 3.7.B.2.a, and 3.7.B.2.c and adds Sections 3.7.B.1.f and 3.7.B.2.e. The additional section requires both trains of standby gas treatment and control room high efficiency air filtration system to be operable for the initiation of fuel movement. In the event either train becomes inoperable, the other train must be demonstrated to be operable within 2 hours and fuel handling operations may continue for 7 days with one train inoperable. Additionally, this change allows one train to be defined as operable without its associated emergency power supply, provided one source of normal power (startup transformer or unit auxiliary power) is available.

Date of issuance: March 22, 1995
Effective date: As of the date of issuance to be implemented within 30 days.
Amendment No.: 161
Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1994 (59 FR 53837) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 22, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station,Plymouth County, Massachusetts

Date of application for amendment: September 6, 1994

Brief description of amendment: This amendment would reduce the Reactor Pressure Setpoint at which the shutdown cooling system automatically isolates. This setpoint also isolates the low pressure coolant injection valves when the shutdown cooling system is in operation.

Date of issuance: March 27, 1995
Effective date: To be implemented within 30 days following restart from refueling outage t10
Amendment No.: 162
Facility Operating License No. DPR-35: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1994 (59 FR 53837) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County,North Carolina

Date of application for amendments: October 28, 1994, as supplemented February 16, 1995.

Brief description of amendments: The proposed change will revise TS requirements to increase the surveillance test intervals and the allowable out of service times or instruments of the reactor protection system, isolation actuation system, emergency core cooling system actuation system, control rod withdrawal block system, control room emergency ventilation system, anticipated transient without scram, recirculation pump trip (RPT), end-of-cycle RPT, and the reactor core isolation cooling actuation system.

Date of issuance: March 30, 1995Effective date: March 30, 1995

Amendment Nos.: 175 and 206

Facility Operating License Nos. DPR-71 and DPR-62. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 7, 1994 (59 FR 63114) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 30, 1995.No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North CarolinaDate of application for amendment: October 24, 1994, as supplemented December 6, 1994.

Brief description of amendment: The amendment allows the relocation of TS 3/4.3.4, Turbine Overspeed Protection and associated Bases to be consistent with the new Standard Technical Specifications for Westinghouse plants.

Date of issuance: March 22, 1995

Effective date: March 22. 1995

Amendment No. 55

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** November 23, 1994 (59 FR 60379) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 22, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, IllinoisDocket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: December 22, 1992

Brief description of amendments: These amendments add new requirements to the Technical Specifications (TS) to ensure that an Essential Service Water system (SX) pump and crossover path are available from a shutdown unit to serve as backup to an operating unit. In addition, a new TS is added to require the unit crosstie to be open, or capable of being opened, from the Main Control Room, whenever either, or both units are in an operating mode (MODE 1, 2, 3, or 4).

Date of issuance: March 20, 1995
Effective date: March 20, 1995
Amendment Nos.: 71, 71, 62, and 62
Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 3, 1993 (58 FR 6994) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Consolidated Edison Company of New York, Docket No. 50-247, Indian PointNuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: September 19, 1994

Brief description of amendment: The amendment would revise Technical Specification Section 4.4.A.3, Frequency of Containment Integrated Leakage Rate Test, to reference 10 CFR Part 50, Appendix J, as modified by approved exemptions, directly.

Date of issuance: March 17, 1995
Effective date: As of the date of issuance to be implemented within 30 days
Amendment No.: 181
Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register: February 15, 1995 (60 FR 8744) The Commission's related** evaluation of the amendment is contained in a Safety Evaluation dated March 17, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Duquesne Light Company, et al., Docket Nos. 50-334 and 50-412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, PennsylvaniaDate of application for amendments: April 23, 1990, as supplemented January 21, 1992 and March 17, 1995.

Brief description of amendments: These amendments revise the Appendix A Technical Specifications (TSs) for Unit 1 and Unit 2 by (a) deleting TS Table 3.6-1, "Containment Penetrations," (b) rewording TS Definition 1.8, "Containment Integrity," and TSs 3.6.1.1, 3.6.1.2, 3.6.3.1, and 3.9.4 relating to containment integrity, containment leakage, containment isolation valves, and containment building penetrations respectively to account for the deletion of TS Table 3.6-1, and (c) correcting terminology by replacing the word "door" with "hatch" in TS 3.9.4.a.

The Unit 1 amendment also modifies TS Table 3.3-5, "Engineered Safety Features Response Times," by changing the feedwater isolation response time to reflect total isolation times for the main feedwater regulating valve and bypass feedwater regulating valve. Minor editorial changes were also incorporated in TS Table 3.3-5.

Date of issuance: March 28, 1995
Effective date: March 28, 1995
Amendment Nos.: 185 and 66
Facility Operating License Nos. DPR-66 and NPF-73: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 27, 1990 (55 FR 26283), as supplemented April 1, 1992 (57 FR 11107) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 28, 1995. No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 22, 1994

Brief description of amendment: The amendment changes Technical Specification (TS) Sections 1.6, 3.2.A, 3.9.f.5 and 4.2.A which specify the Shutdown Margin (SDM) requirements that ensure the reactor can be made subcritical and can be maintained sufficiently subcritical to preclude inadvertent criticality in any core condition. The amendment also includes a definition of Shutdown Margin, TS Section 1.45. Administrative changes to TS Sections 1.7 and 3.2.b.2(b) are also included to simplify definitions and eliminate unnecessary notes and references.

Date of Issuance: March 21, 1995Effective date: As of the date of issuance to be implemented within60 days

Amendment No.: 178
Facility Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 20, 1994 (59 FR 37072) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 21, 1995.No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: February 14, 1995

Brief description of amendment: The amendment revises Technical Specification 3.8.2, "AC Sources-Shutdown;" 3.8.5, "DC Sources-Shutdown;" and 3.8.8, "Inverters-Shutdown." The changes revise the operability requirements for the Division 3 diesel generator and the Division 3 and 4 batteries, battery chargers and inverters to apply only when the high pressure core spray system is required to be operable.

Date of issuance: March 21, 1995
Effective date: March 21, 1995
Amendment No.: 99
Facility Operating License No. NPF-62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 17, 1995 (60 FR 9412) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 21, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

VOL 60 ISS 70 AP 12 1995 UMI

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: June 30, 1994, as supplemented March 7, 1995

Brief description of amendment: The amendment revises Technical Specification (TS) 3.2.7.1 to add 8 check valves to Table 3.2.7.1. These valves were installed to add additional protection of the low pressure Core Spray system from the high pressure Reactor Coolant system. Including the valves in the TSs will assure that the proper surveillance testing is done to maintain a high reliability for the valves to protect the Core Spray system.

Date of issuance: March 20, 1995

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 154

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 3, 1994 (59 FR 39593) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 20, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 22, 1994

Brief description of amendment: The amendment deletes the operability and surveillance requirements of the condenser air ejector radiation monitor from the Millstone Unit 2 Technical Specification Tables 3.3-12 and 4.3-12.

Date of issuance: March 27, 1995

Effective date: As of the date of issuance to be implemented within 30 days

Amendment No.: 186

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 25, 1994 (59 FR 27058) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1995. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: March 31, 1994 and August 5, 1994

Brief description of amendment: This amendment revises: Technical Specification (TS) 3.8.1.1.b.2 which maintains diesel operability for a 48-hour period when the fuel storage system of one or more diesel generators contains less than a 7-day supply of fuel: TS 4.8.1.1.2.h.8 by deletion and replacement with surveillance requirement 4.8.1.1.2.k.1 which permits the 24-hour diesel generator endurance run to be performed in any operational condition; establish surveillance requirement 4.8.1.1.2.k.2 which allows the hot restart test to be conducted not only after surveillance requirement 4.8.1.1.2.k.1, but also after the diesel generator has operated between 4300 kw and 4400 kw for one hour or after any time the diesel generator operating temperature has stabilized; revise TS 3.8.1.1 to eliminate the requirements to start the Emergency Diesel Generator (EDG) with an inoperable offsite circuit(s) of AC electrical power; add a provision that eliminates required testing of remaining EDGs when one EDG is inoperable due to an inoperable support system or an independently testable component with no potential for common mode failure for the remaining EDGs. In addition, if testing of the EDGs is required, the surveillance will be performed within 16 hours instead of 24 hours as currently specified; delete the requirement to perform a Loss of Offsite Power (LOOP) test (Surveillance Requirement 4.8.1.1.2.h.b) following the 24-hour EDG endurance run test in its place, a hot restart test (no LOOP load sequencing) will be established.

Date of issuance: March 30, 1995

Effective date: March 30,1995

Amendment No.: 72

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 8, 1994 (59 FR 29630) and October 12, 1994 (59 FR 51625) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1995. No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

South Carolina Electric & Gas Company, South Carolina Public ServiceAuthority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: October 29, 1993, as supplemented on March 11, 1994, May 18, 1994, September 20, 1994, and October 20, 1994.

Brief description of amendment: The amendment changes Operating License NPF-12 to delete License Conditions 2.C.13, 2.C.14, and 2.C.32.

Date of issuance: March 29, 1995

Effective date: March 29, 1995

Amendment No.: 123

Facility Operating License No. NPF-12. Amendment revises the operating license.

Date of initial notice in **Federal Register:** February 16, 1994 (59 FR 7698) and April 28, 1994 (59 FR 22012), as corrected June 30, 1994 (59 FR 33795). The May 18, 1994, September 20, 1994, and October 20, 1994, submittals provided supplemental and clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180

Southern California Edison Company, et al., Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: September 30, 1993, as supplemented by letters dated November 16, 1993, January 18, 1995, and February 2, 1995.

Brief description of amendments: These amendments revised the technical specifications to (1) divide item 7 of Tables 3.3-3, 3.3-4, 3.3-5, and 4.3-2 into item 7a that addresses the existing loss-of-voltage (LOV) function and item 7b that separately addresses the degraded grid voltage (DGV) function; (2) add footnote (d) to Table 3.3-3 to indicate that the DGV actuation relay logic is applicable in Modes 1, 2, 3, and 4 when the diesel generator circuit breaker is open; (3) replace the reference to Figure 3.3-1 in item 7a of Tables 3.3-4 and 3.3-5 with definite voltage and time values; (4) add note 9 to Table 3.3-5 to explain the response time for an LOV signal; and (5) delete Figure 3.3-1, "Degraded Bus Voltage Trip Setting," and the reference to this figure from Table 3.3-4.

Date of issuance: March 17, 1995

Effective date: Unit 2, as of the date of completion of the current refueling outage and must be fully implemented before the plant returns to power; Unit 3, as of the date of the completion of its next refueling outage and must be fully implemented before the plant returns to power.

Amendment Nos.: Unit 2 - Amendment No. 118; Unit 3 - Amendment No. 107

Facility Operating License Nos. NPF-10 and NPF-15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 10, 1993 (58 FR 59755). The additional information contained in the November 16, 1993, January 18, 1995 and February 2, 1995, letters was clarifying in nature, within the scope of the initial notice and did not affect the NRC staff's proposed no significant hazards consideration determination.The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 17, 1995.No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Southern Nuclear Operating Company, Inc., Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama.

Date of amendments request: January 9, 1995

Brief description of amendments: The amendments change the Technical Specifications to implement recommended changes from Generic Letter (GL) 93-05, "Line Item Technical Specification Improvements to Reduce Surveillance Requirements for Testing During Power Operation," dated September 27, 1993. Specifically, the amendments implement TS changes corresponding to the following GL 93-05 line-item improvement issues and numbers: Control Rod Movement Test for Pressurized Water Reactors (4.2.1); Radiation Monitors (5.14); Surveillance of Boron Concentration in the Accumulator/Safety Injection/Core Flood Tank (7.1); Containment Spray System (8.1); Hydrogen Recombiner (8.5); and Special Test Exemptions (12).

Date of issuance: March 20, 1995

Effective date: March 20, 1995

Amendment Nos.: 113 and 104

Facility Operating License Nos. NPF-2 and NPF-8. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register:** February 15, 1995 (60 FR 8756) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: December 6, 1994

Brief description of amendment: This amendment deletes Technical Specification (TS) Surveillance Requirement (SR) 4.1.3.2.2 for the Axial Power Shaping Rods and relaxes surveillance intervals for TS 3/4.1.3.1, "Group Height - Safety and Regulating Rod Groups;" TS 3/4.4.6.2, "Operational Leakage;" TS 3/4.5.2, "ECCS Subsystems - Tavg equal to or greater than 280°F;" TS 3/4.6.2.1, "Containment Spray System;" and TS 3/4.10.4, "Special Test Exceptions Shutdown Margin." Date of issuance: March 21, 1995Effective date: March 21, 1995 and implemented not later than 90 days after issuance

Amendment No.: 196

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 15, 1995 (60 FR 8757) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 21, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: December 6, 1994

Brief description of amendment: This amendment revises Technical Specification (TS) 4.0.5, "Applicability" and its associated Bases to eliminate the need for NRC approval of relief requests prior to implementation and relaxes surveillance test intervals for TS 3/4.1.2.3, "Reactivity Control Systems - Makeup Pump - Shutdown; TS 3/4.1.2.4, "Reactivity Control Systems - Makeup Pumps - Operating; TS 3/4.1.2.6, Reactivity Control Systems - Boric Acid Pump - Shutdown; and TS 3/4.1.2.7, "Reactivity Control System Boric Acid Pumps - Operating" from monthly to quarterly. Date of issuance: March 22, 1995

Effective date: March 22, 1995, and to be implemented within 90 days

Amendment No.: 197

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 15, 1995 (60 FR 8758) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 22, 1995.No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 9, 1994, as supplemented on December 22, 1994.

Brief description of amendment: The amendment revises the Technical Specification (TS) Surveillance Requirement 4.8.1.1.2f.7. The change removes the requirement to perform the hot restart test within 5 minutes of completing the 24-hour endurance test and places that requirement in a separate TS.

Date of issuance: March 20, 1995

Effective date: March 20, 1995, to be implemented within 30 days

Amendment No.: 95

Facility Operating License No. NPF-30. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** February 1, 1995 (60 FR 6315) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 20, 1995. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

VOL
60
ISS
70
AP
12
1995
UMI

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: August 4, 1994, as supplemented on March 14, 1995 and March 28, 1995.

Brief description of amendment: The amendment replaces Technical Specification (TS) 3/4.6.2.2, Spray Additive System, with a new TS 3/4.6.2.2 entitled Recirculation Fluid pH control (RFPC) System. The associated TS Surveillance Requirements and the Bases will also be revised. In addition, the Bases section for the Refueling Water Storage Tank (RWST) System will be revised.

Date of issuance: March 30, 1995

Effective date: March 30, 1995, to be implemented within 30 days

Amendment No.: 96

Facility Operating License No. NPF-30. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** September 28, 1994 (59 FR 49440) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1995. The March 14, 1995, and March 28, 1995, letters provided supplemental information that did not change the initial proposed no significant hazards consideration determination. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: September 8, 1994

Brief description of amendment: The amendment revises the Technical Specification (TS) Bases Section 3/4.9 and changes Final Safety Analysis Report (FSAR) Sections 9.1.3 "Fuel Pool Cooling and Cleanup," 9.1.4 "Fuel Handling System" and 15.4.6 "Chemical and Volume Control System Malfunction That Results in a Decrease in the Boron Concentration in the Reactor Coolant. The changes established procedural controls to address an unreviewed safety question.

Date of issuance: March 31, 1995

Effective date: March 31, 1995, to be implemented within 30 days

Amendment No.: 97

Facility Operating License No. NPF-30. Amendment revises the Technical Specification Bases and FSAR.

Date of initial notice in **Federal Register:** March 1, 1995 (60 FR 11151) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1995. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: December 8, 1994, as supplemented by letter dated February 16, 1995.

Brief description of amendment: The proposed amendment would change Standby Gas Treatment Power Supply Requirements during refueling operations.

Date of issuance: March 23, 1995

Effective date: As of the date of issuance, to be implemented within 30 days

Amendment No.: 143

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 15, 1995 (60 FR 8759) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1995.No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: October 31, 1994

Brief description of amendment: The amendment relocated requirements regarding safety/relief valve position indication instrumentation from the Technical Specifications to other licensee-controlled documents.

Date of issuance: March 27, 1995

Effective date: March 27, 1995, to be implemented prior to restart from the spring 1995 refueling outage

Amendment No.: 135

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 21, 1994 (59 FR 65831) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1995.No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee NuclearPower Plant, Kewaunee County, Wisconsin

Date of application for amendment: December 2, 1994

Brief description of amendment: The amendment revises Kewaunee Nuclear Power Plant (KNPP) Technical Specification (TS) 3.2 by deleting the requirements for the charging pumps, high concentration boric acid in the boric acid storage tanks (BASTs), the boric acid transfer pumps, and boric acid heat tracing. Changes to TS 3.3 and Table TS 3.5.3 add requirements associated with the emergency core cooling system (ECCS) accumulators, remove the requirements associated with the boric acid storage tanks and increase the minimum required boron concentration in the refueling water storage tank (RWST). Additionally, the surveillance requirements involving the BASTs, associated valves and heat tracing located in Table TS 4.1-1, Table TS 4.1-2 and Section 4.5 have been deleted.

Date of issuance: March 28, 1995

Effective date: March 28, 1995, to be implemented within 20 days

Amendment No.: 116

Facility Operating License No. DPR-43. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 4, 1995 (60 FR 508). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 1995. No significant hazards consideration comments received: None.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Notice Of Issuance Of Amendments To Facility Operating LicensesAnd Final Determination Of No Significant Hazards ConsiderationAnd Opportunity For A Hearing (Exigent Public Announcement Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 12, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to

VOL 60 ISS 70 AP 12 1995 UMI

participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Northeast Nuclear Energy Company, Docket No. 50-245, MillstoneNuclear Power Station, Unit 1, New London County, Connecticut

Date of application for amendment: March 17, 1995

Brief description of amendment: The amendment revises Technical Specification (TS) Surveillance Requirement 4.7.D.1.c.1 by replacing the once per quarter stroke test for containment isolation valves (CIVs) with the requirement that the CIVs be tested in accordance with the inservice testing program. In addition, there are some editorial changes, minor renumbering of subsections, to reflect the TS revisions.

Date of issuance: March 21, 1995

Effective date: As of the date of issuance to be implemented immediately

Amendment No.: 81

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated March 21, 1995.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Dated at Rockville, Maryland, this 5th day of April, 1995.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Acting Director, Division of Reactor Projects - III/IV, Office of Nuclear Reactor Regulation

[Doc. 95-8645 Filed 4-11-95; 8:45 am]

BILLING CODE 7590-01-F

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Extension of INV Forms 40–44 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of forms used to request information by mail for use in OPM investigations. These investigations are conducted to determine suitability for Federal employment and/or the ability to hold a security clearance, as prescribed in Executive Orders 10450 and 10577 and 5 U.S.C. 3301.

INV Form 41, Investigative Request for Employment Data and Supervisor Information, is sent to former employers and/or supervisors; INV Form 42, Investigative Request for Personal Information, is sent to references; INV Form 43, Investigative Request for Educational Registrar and Dean of Students Record Data, is sent to educational institutions; and INV Form 44, Investigative Request for Law Enforcement Data, is sent to local law enforcement agencies. In order to accommodate sources for which the collection formats of INV Forms 41–44 are awkward or inappropriate, INV Form 40, General Request for Investigative Data, has been added to the collection.

It is estimated that 1,065,955 individuals will respond annually (186,408 to INV Form 40; 360,115 to INV Form 41; 284,160 to INV Form 42; 76,152 to INV Form 43; and 159,120 to INV Form 44), and that each will require approximately 5 minutes to complete the form, for a total burden of 88,830 hours. For copies of this proposal call Doris R. Benz on 703–908–8564.

DATES: Comments on this proposal should be received on or before May 12, 1995.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: John J. Lafferty, 202–376–3800.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 95–8975 Filed 4–11–95; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. Nos. 33–7156; 34–35572]

Changes and Corrections to EDGAR Phase-In List

AGENCY: Securities and Exchange Commission.

ACTION: Notice.

SUMMARY: The Commission is publishing a list of changes and corrections to the EDGAR phase-in list for companies whose filings are processed by the Division of Corporation Finance.

FOR FURTHER INFORMATION CONTACT: Sylvia J. Reis, Assistant Director, CF EDGAR Policy, Division of Corporation Finance at (202) 942–2940.

SUPPLEMENTARY INFORMATION: In connection with the adoption of the final rules fully implementing the Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system, on December 19, 1994 the Commission published a list of companies whose filings are processed by the Division of Corporation Finance to place registrants on notice as to when they would become subject to mandated electronic filing.[1] The registrants were divided into ten groups, all of which will be phased in by May 1996. Rule 901 of Regulation S–T[2] provides that registrants may request a change to their assigned phase-in dates. Such requests may be granted pursuant to delegated authority. In addition, modifications are made to the list to reflect name changes, corporate restructurings, the addition of new entities, and similar factors. Changes to the Division of Corporation Finance phase-in list are published from time to time in the SEC News Digest. The Commission today is publishing a comprehensive list of all changes in the Division of Corporation Finance phase-in group assignments made since the phase-in list was published in December 1994. This procedure will be repeated from time to time, in order to further notify the public of changes to the list. A change to a company's phase-in date is of particular importance to persons or entities filing documents with respect to that company, since generally such persons must file electronically with the company become subject to mandated electronic filing.[3]

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33–7122 (DECEMBER 19, 1994)

Name	CIK No.	Former group	New group
3DO CO	898441	NONE	CF–10
ABR INFORMATION SERVICES INC	920985	NONE	CF–10
ACCUGRAPH CORP	811703	CF–07	REMOVE
ACCUSTAFF INC	924646	NONE	CF–10
ACME METALS INC /DE/	002093	CF–04	CF–04
Change to ACME METALS INC /DE/	883702	CF–04	CF–04
ACORDIA INC /DE/	863881	NONE	CF–10
ADFLEX SOLUTIONS INC	925743	NONE	CF–10
ADVANCED MEDICAL DYNAMICS INC	823314	CF–10	CF–10
Change to ADVANCED FINANCIAL INC	823314	CF–10	CF–10
ADVANCED SURGICAL INC	887893	NONE	CF–10
ADVANCED TECHNOLOGY MATERIALS INC	912841	NONE	CF–10
ADVOCAT INC	919956	NONE	CF–10
AERO SERVICES INTERNATIONAL INC	350200	NONE	CF–06
AES CHINA GENERATING CO LTD	916792	NONE	CF–10
AES CORP	874761	NONE	CF–10
AFP IMAGING CORP	319126	CF–06	CF–09
AGRIPOST INC	313997	CF–06	REMOVE
AILEEN INC	002904	CF–06	CF–10
ALCO HEALTH DISTRIBUTION CORP /DE/	855042	CF–10	CF–04
Change to AMERISOURCE DISTRIBUTION CORP	855042	CF–10	CF–04
ALDEN JOHN FINANCIAL CORP	822079	NONE	CF–10
ALL AMERICAN BOTTLING CORP	825811	NONE	CF–10
ALLEGHENY GENERATING CO	774459	CF–08	CF–06
ALLTRISTA CORP	895655	NONE	CF–10
ALPHA BETA CO	880800	NONE	CF–04
ALPHA BETA TECHNOLOGY INC	841168	NONE	CF–10
ALUMAX INC	912600	NONE	CF–10
AMERIBANC INVESTORS GROUP	068336	CF–06	CF–09
AMERICAN BUILDINGS CO /DE/	799208	NONE	CF–10
AMERICAN CLASSIC VOYAGES CO	315136	NONE	CF–10
AMERICAN HEALTHCARE INC/DE	704415	NONE	CF–10
Change to AMERICAN HEALTHCORP INC	704415	NONE	CF–10
AMERICAN INTERNATIONAL PETROLEUM CORP	799119	CF–06	CF–07
AMERICAN MIDLAND CORP	066052	CF–06	CF–09
AMERICAN OILFIELD DIVERS INC	906520	NONE	CF–10
AMERICAN ONLINE INC	883780	NONE	CF–10
Change to AMERICA ONLINE INC	883780	NONE	CF–10
AMERICAN PREMIER GROUP INC	933537	CF–10	CF–04
AMERICAN WHITE CROSS INC	887622	NONE	CF–10
ANTEC CORP	908610	NONE	CF–10
APPLIED INNOVATION INC	798399	NONE	CF–10
APOLLO GROUP INC	929887	NONE	CF–07
AQUILA GAS PIPELINE CORP	911535	NONE	CF–10
ARCH PETROLEUM INC	722144	CF–06	CF–06
Change to ARCH PETROLEUM INC /NEW/	320678	CF–06	CF–06

[1] *See* Release No. 33–7122 (December 19, 1994) [59 FR 67752]. The timing for each phase-in group was included in that release as Appendix A, and the phase-in list as Appendix B. As is true with all rules of the Commission, persons making filings with the Commission are responsible for apprising themselves of their new obligations associated with filing on the EDGAR system. While the Commission group by furnishing a copy of the EDGAR Filer Manual and EDGARLink software prior to phase-in, filers will not be relieved of their electronic filing obligations in the absence of such notification.

[2] 17 CFR 232.901.

[3] Rule 901(b) provides that a party making a filing pursuant to Section 13 or 14 of the Securities Exchange Act of 1934 [15 U.S.C. 78m or 78n, respectively] with respect to a registrant that has required to submit that filing in electronic format Consequently, persons filing a Schedule 13D or 13G, a proxy statement, or tender offer material with respect to an electronic filer are required to

VOL 60 ISS 70 AP 12 1995 UMI

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33-7122 (DECEMBER 19, 1994)—Continued

Name	CIK No.	Former group	New group
ARETHUSA OFF SHORE LIMITED	867941	NONE	CF-10
ARGUS PHARMACEUTICALS INC /DE/	854691	NONE	CF-10
ARI HOLDINGS INC	792126	CF-06	CF-09
ARIZONA LAND INCOME CORP	830748	CF-06	CF-10
ARKANSAS BEST CORP /DE/	894405	NONE	CF-03
ASSOCIATED GROUP INC	931183	NONE	CF-10
ASTRUM INTERNATIONAL CORP	914478	NONE	CF-10
ATC CAPITAL GROUP LTD	799900	NONE	CF-10
ATCHISON CASTING CORP	911115	NONE	CF-10
ATLANTIC COAST AIRLINES INC	904020	NONE	CF-10
AUSPEX SYSTEMS INC	860749	NONE	CF-10
AUTOCLAVE ENGINEERS INC	350067	CF-05	CF-06
AYP CAPITAL INC	931750	NONE	CF-10
BABBAGES INC	833443	CF-05	REMOVE
BALLARD MEDICAL PRODUCTS	723534	CF-06	CF-04
BALLYS CASINO HOLDINGS INC	908611	NONE	CF-10
BALLYS GRAND INC /DE/	065297	NONE	CF-10
BALLYS HEALTH & TENNIS CORP	770944	NONE	CF-10
BALTIC INTERNATIONAL USA INC	918545	NONE	CF-10
BARRISTER INFORMATION SYSTEMS CORP	754128	CF-06	CF-09
BAY AREA WAREHOUSE STORES INC	932721	NONE	CF-04
BELCOR INC	099286	CF-06	CF-09
BELL MARKETS INC	880801	NONE	CF-04
BIOLASE TECHNOLOGY INC	811240	NONE	CF-10
BLANCH E W HOLDINGS INC	898438	NONE	CF-10
BLUE SKY MLS INC	939215	NONE	CF-07
BNSF CORP	934612	NONE	CF-04
BOARDWALK CASINO INC	915281	NONE	CF-10
BOONTON ELECTRONICS CORP	013191	CF-06	CF-10
BOYD BROS TRANSPORTATION INC	920907	NONE	CF-10
BROADCAST INTERNATIONAL INC	832411	CF-07	CF-09
BROCK EXPLORATION CORP	014399	CF-06	CF-08
BRODERBUND SOFTWARE INC /DE/	812490	NONE	CF-10
BROOKTREE CORP	764271	NONE	CF-10
BROWNE BOTTLING CO	825813	NONE	CF-10
BT ENERGY CORPORATION	716786	CF-07	CF-10
BUILDING MATERIALS CORP OF AMERICA	927314	NONE	CF-10
CALA CO	880803	NONE	CF-04
CALA FOODS INC	838196	NONE	CF-04
CAMCO INTERNATIONAL INC	913267	NONE	CF-10
CAPT CRAB INC	356622	CF-07	CF-07
Change to BAYPORT RESTAURANT GROUP INC	356622	CF-07	CF-07
CARAUSTAR INDUSTRIES INC	825692	NONE	CF-10
CARROLLTON BANCORP	859222	NONE	CF-10
CASINO & CREDIT SERVICES INC	904902	NONE	CF-10
CENTRAL EUROPEAN MEDIA ENTERPRISES LTD	925645	NONE	CF-10
CENTRAL MORTGAGE BANCSHARES INC /MO/	891286	NONE	CF-10
CENTRAL RENTS INC	926845	NONE	CF-10
CENTRAL TRACTOR FARM & COUNTRY INC	928156	NONE	CF-10
CENTRAL VIRGINIA BANKSHARES INC	804561	NONE	CF-10
CERPLEX GROUP INC	915870	NONE	CF-10
CFB BANCORP INC	932780	NONE	CF-10
CHAMPPS ENTERTAINMENT INC	919862	NONE	CF-10
CHARTER GOLF INC	820774	CF-08	CF-08
Change to ASHWORTH INC	820774	CF-08	CF-08
CIBER INC	918581	NONE	CF-10
CIDCO INC	917639	NONE	CF-10
CIMA LABS INC	833298	NONE	CF-10
CITYFED FINANCIAL CORP	744765	NONE	CF-10
CLAIRES STORES INC	034115	CF-05	CF-04
CLASSICS INTERNATIONAL ENTERTAINMENT INC	894789	NONE	CF-10
CMAC INVESTMENT CORP	890926	NONE	CF-10
CMS ENERGY MICHIGAN LIMITED PARTNERSHIP	937910	NONE	CF-05
CNB HOLDINGS INC	912566	NONE	CF-10
COHESANT TECHNOLOGIES INC	926420	NONE	CF-10
COLOROCS CORP /GA/	789990	NONE	CF-10
COLUMBIA BANCORP	834105	NONE	CF-10
COMCAST UK CABLE PARTNERS LTD	919957	NONE	CF-10
COMMUNICATIONS CENTRAL INC	914249	NONE	CF-10
CONGOLEUM CORP	023341	NONE	CF-10

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33-7122 (DECEMBER 19, 1994)—Continued

Name	CIK No.	Former group	New group
CONTEMPRI HOMES INC	897926	NONE	CF-10
CONTINENTAL CABLEVISION INC	355069	NONE	CF-04
CONTINENTAL WASTE INDUSTRIES INC	876035	NONE	CF-07
CONVERSE INC	716934	NONE	CF-10
COPART INC	900075	NONE	CF-10
CORVITA CORP	925174	NONE	CF-10
CROWN LABORATORIES INC /DE/	847385	NONE	CF-10
CURTIS MATHES HOLDING CORP	755229	NONE	CF-10
CVD FINANCIAL CORP	906549	NONE	CF-10
CYPRUS AMAX FINANCE CORP	925132	NONE	CF-10
DEBARTOLO REALTY CORP	912045	NONE	CF-10
DEFAULT PROOF CREDIT CARD SYSTEM INC /FL/	803260	NONE	CF-10
DIAMETRICS MEDICAL INC	895380	NONE	CF-10
DIMECO INC	898037	NONE	CF-10
DOVATRON INTERNATIONAL INC	899047	NONE	CF-10
DRYPERS CORP	894232	NONE	CF-10
DURACRAFT CORP	911561	NONE	CF-10
EASTERN STAINLESS CORP	836437	CF-07	REMOVE
Change to EASTERN STAINLESS CORP /VA/	843867	CF-07	REMOVE
ELECTRONIC CLEARING HOUSE INC	721773	CF-07	CF-08
ELECTRONIC FAB TECHNOLOGY CORP	916797	NONE	CF-10
ELTRAX SYSTEMS INC	797448	NONE	CF-10
EMCARE HOLDINGS INC	900083	NONE	CF-10
EMMIS BROADCASTING CORP	783005	NONE	CF-10
ENERGY CONVERSION DEVICES INC	032878	CF-06	CF-10
ENTREE CORP	814579	CF-06	CF-05
ENVIRONMENT ONE CORP	033081	CF-07	CF-06
EP TECHNOLOGIES INC	896978	NONE	CF-10
EQUITY INNS INC	916530	NONE	CF-10
EQUITY RESIDENTIAL PROPERTIES TRUST	906107	NONE	CF-10
ESQUIRE RADIO & ELECTRONICS INC	033541	CF-06	REMOVE
EVANS SYSTEMS INC	904901	NONE	CF-10
EVANS WITHYCOMBE RESIDENTIAL INC	925267	NONE	CF-10
EYE CARE CENTERS OF AMERICA INC	759896	NONE	CF-10
FAILURE GROUP INC	851520	NONE	CF-10
FALLEYS INC /KS/	835678	NONE	CF-04
FEDERATED DEPARTMENT STORES INC	034945	CF-02	REMOVE
FF HOLDINGS CORP	838448	NONE	CF-10
FIDELITY MEDICAL INC	320017	CF-07	CF-09
FINANCIAL BANCORP INC	855932	NONE	CF-10
FINLAY ENTERPRISES INC /DE	878731	NONE	CF-10
FINLAY FINE JEWELRY CORP	898684	NONE	CF-10
FIRST ALERT INC	918960	NONE	CF-10
FIRST FIDELITY ACCEPTANCE CORP	789874	NONE	CF-10
FISCHER IMAGING CORP	750901	NONE	CF-10
FISHER SCIENTIFIC INTERNATIONAL INC	880430	NONE	CF-10
FLAMEMASTER CORP	037358	CF-07	CF-10
FLORIDA WEST AIRLINES INC	836190	NONE	CF-10
FOCUS SURGERY INC	909727	NONE	CF-10
FOOD 4 LESS GM INC	886141	NONE	CF-04
FOOD 4 LESS HOLDINGS INC /CA	898470	NONE	CF-04
FOOD 4 LESS HOLDINGS INC /DE	936523	NONE	CF-04
FOOD 4 LESS MERCHANDISING INC	880824	NONE	CF-04
FOOD 4 LESS OF CALIFORNIA INC	880823	NONE	CF-04
FOOD 4 LESS OF SOUTHERN CALIFORNIA INC	880825	NONE	CF-04
FORE SYSTEMS INC /DE/	920000	NONE	CF-10
FOUNTAIN POWERBOAT INDUSTRIES INC	764858	NONE	CF-06
FOURTH SHIFT CORP	905724	NONE	CF-10
FPA MEDICAL MANAGEMENT INC	920173	NONE	CF-10
FREDERICKSBURG NATIONAL BANCORP INC	707177	CF-07	REMOVE
FRESH AMERICA CORP	921614	NONE	CF-10
FSB FINANCIAL CORP	920856	NONE	CF-10
GARTNER GROUP INC	749251	NONE	CF-10
GATEWAY BANCORP INC /NY	758029	CF-05	CF-10
GENEMEDICINE INC	907111	NONE	CF-10
GENERAL GROWTH PROPERTIES INC	895648	NONE	CF-10
GENERAL MEDICAL CORP /VA	880123	NONE	CF-10
GENMAR HOLDINGS INC	823619	NONE	CF-10
GENZYME DEVELOPMENT PARTNERS LP	856312	NONE	CF-10
GEONEX CORP	796318	CF-06	CF-08

VOL 60 ISS 70 AP 12 1995 UMI

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33-7122 (DECEMBER 19, 1994)—Continued

Name	CIK No.	Former group	New group
GEORGIA BANK FINANCIAL CORP /GA	880116	NONE	CF-10
GLOBAL TELECOMMUNICATION SOLUTIONS INC	925004	NONE	CF-10
GNAC CORP	311905	NONE	CF-10
GNC ENERGY CORP	043398	CF-07	CF-10
GREATER ROME BANCSHARES INC	928484	NONE	CF-10
GREAT LAKES AVIATION LTD	914397	NONE	CF-10
GREAT PINES WATER CO INC	906285	NONE	CF-10
GRIFFIN REAL ESTATE FUND II	319716	CF-06	CF-08
GRIFFIN REAL ESTATE FUND IV	728526	CF-06	CF-08
GRIFFIN REAL ESTATE FUND V	760451	CF-06	CF-08
GRIFFIN REAL ESTATE FUND VI	783452	CF-06	CF-08
GRIFFITH CONSUMERS CO	801937	CF-05	CF-09
GROW BIZ INTERNATIONAL INC	908314	NONE	CF-10
GUIDANT CORP	929987	NONE	CF-10
HAGGAR CORP	892533	NONE	CF-10
HALLWOOD HOLDINGS INC	874238	CF-10	CF-08
Change to OAKHURST CAPITAL INC	874238	CF-10	CF-08
HALLWOOD INDUSTRIES INC	046535	CF-06	CF-08
Change to STEEL CITY PRODUCTS INC	046535	CF-06	CF-08
HAMILTON FINANCIAL SERVICES CORP	899161	NONE	CF-10
HAMMONS JOHN Q HOTELS INC	930796	NONE	CF-10
HARBOUR CAPITAL CORP	897082	NONE	CF-10
HARRAHS JAZZ CO	916611	NONE	CF-10
HARRIER INC	789847	CF-07	CF-09
HEALTH MANAGEMENT SYSTEMS INC	861179	NONE	CF-10
HEILEMAN G BREWING CO INC	914982	NONE	CF-10
HELEN OF TROY LTD	916789	NONE	CF-10
H.E.R.C. PRODUCTS INC	919010	NONE	CF-10
HFC REVOLVING CORP	923147	NONE	CF-10
HOMECAPITAL INVESTMENT CORP	320545	NONE	CF-10
HOTEL INVESTORS CORP	316206	CF-04	CF-04
Change to STARWOOD LODGING CORP	316206	CF-04	CF-04
HOTEL INVESTORS TRUST	048595	CF-04	CF-04
Change to STARWOOD LODGING TRUST	048595	CF-04	CF-04
HOUSEHOLD AFFINITY FUNDING CORP	906327	NONE	CF-10
HOUSEHOLD RECEIVABLES FUNDING CORP	877655	NONE	CF-10
HOUSEHOLD RECEIVABLES FUNDING CORP II	894153	NONE	CF-10
HOUSTON OIL TRUST	355118	CF-05	REMOVE
HRSI FUNDING INC	880283	NONE	CF-10
ICU MEDICAL INC /DE	883984	NONE	CF-10
IMAGE SYSTEMS CORP	049852	NONE	CF-10
IN BRAND CORP	909278	NONE	CF-10
INCONTROL INC	871629	NONE	CF-10
INDEPENDENT BANCORP OF ARIZONA INC	915305	NONE	CF-10
INDEPENDENT RESEARCH AGENCY FOR LIFE. INSURANCE INC	354242	NONE	CF-10
INDUSTRIAL TRAINING CORP	764867	NONE	CF-10
INFORMATION SOLUTIONS INC	723574	CF-07	CF-07
Change to IMAGE SOFTWARE INC	723574	CF-07	CF-07
INNERDYNE INC	822084	NONE	CF-10
INNERSPACE INC	891162	NONE	CF-10
INNOVATIVE GAMING CORP OF AMERICA	897795	NONE	CF-10
INSITUFORM SOUTHEAST CORP	799096	CF-06	CF-09
Change to ENVIROQ CORP	799096	CF-06	CF-09
INTEGRACARE INC	912081	NONE	CF-10
INTELLICORP INC	730169	CF-06	CF-10
INTERIM SERVICES INC	914536	NONE	CF-10
INTERLINK ELECTRONICS	828146	NONE	CF-10
INTERTAN INC	803227	NONE	CF-10
INTUIT INC	896878	NONE	CF-10
INVESTORS INSURANCE GROUP INC	043340	CF-06	CF-08
IPC INFORMATION SYSTEMS INC	923071	NONE	CF-04
IPI INC	921753	NONE	CF-10
ITT EDUCATIONAL SERVICES INC	922475	NONE	CF-10
IVI PUBLISHING INC	910391	NONE	CF-10
JACKSON HEWITT INC	840346	NONE	CF-10
JACQUES MILLER REALTY PARTNERS LP	703710	CF-07	REMOVE
JACQUES MILLER REALTY PARTNERS LP IV	784040	CF-06	REMOVE
JEFFERSON SMURFIT CORP	727742	CF-02	CF-02
Change to JSCE INC	727742	CF-02	CF-02

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33-7122 (DECEMBER 19, 1994)—Continued

Name	CIK No.	Former group	New group
JOS A BANK CLOTHIERS INC	814675	NONE	CF-10
JP FOODSERVICE INC	928385	NONE	CF-10
JUPITER NATIONAL INC	043629	NONE	CF-10
KANEB PIPE LINE PARTNERS LP	853890	CF-05	CF-04
KBK CAPITAL CORP	921559	NONE	CF-10
KENETECH CORP	897708	NONE	CF-10
KEPTEL INC	819840	CF-07	REMOVE
KFX INC	912365	NONE	CF-10
KIRLIN HOLDING CORP	930797	NONE	CF-10
KMS INDUSTRIES INC	056355	CF-06	CF-09
KM SYSTEMS INC	730991	CF-06	CF-10
KNICKERBOCKER CAPITAL CORPORATION	818806	NONE	CF-10
KNICKERBOCKER VILLAGE INC	056396	CF-07	CF-09
KP GRUBB & ELLIS REALTY INCOME FUND LP	806186	CF-07	CF-09
KP MILLER REALTY GROWTH FUND I LP	700834	CF-06	CF-09
KRELITZ INDUSTRIES INC	056808	CF-06	REMOVE
KRUPP INSTITUTIONAL MORTGAGE FUND. LTD PARTNERSHIP	757549	CF-06	CF-04
KURZWEIL APPLIED INTELLIGENCE INC /DE/	769191	NONE	CF-10
LANDAIR SERVICES INC	912728	NONE	CF-10
LANDRYS SEAFOOD RESTAURANTS INC	908652	NONE	CF-10
LEADER FINANCIAL CORP	901829	NONE	CF-10
LEASEWAY TRANSPORTATION CORP	313153	NONE	CF-10
LIFECELL CORP	849448	NONE	CF-10
LINCOLN SNACKS CO	914642	NONE	CF-10
LOCKHEED MARTIN CORP	936468	NONE	CF-05
LODGENET ENTERTAINMENT CORP	911002	NONE	CF-10
LOTTERY ENTERPRISES INC	896195	NONE	CF-10
LSB FINANCIAL CORP	930405	NONE	CF-10
LUND INTERNATIONAL HOLDINGS INC	820526	CF-07	CF-09
LXR BIOTECHNOLOGY INC	899504	NONE	CF-10
LYMAN LUMBER CO /MN	889605	NONE	CF-10
MADISON GROUP ASSOCIATES INC /DE/	016926	CF-07	CF-10
MCDERMOTT J RAY SA	934590	CF-10	CF-07
MCMORAN OIL & GAS CO /DE/	921941	NONE	CF-10
MCRAE INDUSTRIES INC /DE	729284	CF-06	CF-05
MEDICALCONTROL INC	897546	NONE	CF-10
MEDITE CORP	934610	CF-10	CF-04
MERIX CORP	921365	NONE	CF-10
MICROCHIP TECHNOLOGY INC	827054	NONE	CF-10
MICRO INTEGRATION CORP /DE/	920863	NONE	CF-10
MICROTEST INC	891920	NONE	CF-10
MICROS TO MAINFRAMES INC	906282	NONE	CF-10
MIDLAND RESOURCES INC /TX/	868424	NONE	CF-10
MMI COMPANIES INC	767308	NONE	CF-10
MNX INC	795425	CF-05	CF-05
Change to MARK VII INC	795425	CF-05	CF-05
MONTEDISON SPA /ITALY/	814287	NONE	CF-07
MORNINGSTAR FOODS INC	832768	CF-03	CF-03
Change to MORNINGSTAR GROUP INC	832768	CF-03	CF-03
MOSLER INC	792851	NONE	CF-10
MOUNTAIN PARKS FINANCIAL CORP	901375	NONE	CF-10
MULTIVEST REAL ESTATE FUND LTD SERIES VI	068842	CF-06	REMOVE
MUTUAL RISK MANAGEMENT LTD	826918	NONE	CF-10
NATIONAL CITY BANCORPORATION	068968	NONE	CF-10
NATIONAL GAMING CORP	929929	NONE	CF-10
NATIONAL GOLF PROPERTIES INC	905897	NONE	CF-10
NATIONAL GYPSUM CO /DE/	910071	NONE	CF-10
NATTEM USA INC	729443	NONE	CF-10
NEOSTAR RETAIL GROUP INC	932790	NONE	CF-08
NETCOM ON LINE COMMUNICATION SERVICES INC	909624	NONE	CF-10
NEURO NAVIGATIONAL CORP	896726	NONE	CF-10
NEVADA ENERGY COMPANY INC	712803	NONE	CF-10
NEW DOSKOCIL INC	938348	NONE	CF-06
NEW WORLD COMMUNICATION GROUP INC	916083	NONE	CF-10
NOEL GROUP INC	829269	NONE	CF-10
NORTHERN STATES FINANCIAL CORP /DE	744485	NONE	CF-10
NORWOOD PROMOTIONAL PRODUCTS INC	902793	NONE	CF-10
NOVA CAPITAL INC	840404	CF-09	CF-09
Change to VISUAL EQUITIES INC	840404	CF-09	CF-09

VOL 60 ISS 70 AP 12 1995 UMI

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33-7122 (DECEMBER 19, 1994)—Continued

Name	CIK No.	Former group	New group
NSC SERVICE GROUP INC	810111	CF-09	CF-09
Change to FIBERCORP INTERNATIONAL INC	810111	CF-09	CF-09
NU KOTE HOLDING INC /DE	812423	NONE	CF-10
NVF CO	073515	CF-05	CF-09
N-VIRO RECOVERY INC	895565	CF-10	CF-10
Change to SYNAGRO TECHNOLOGIES INC	895565	CF-10	CF-10
ODETICS INC	350868	CF-05	CF-06
OF COUNSEL ENTERPRISES INC	912146	NONE	CF-10
OPPENHEIMER LANDMARK PROPERTIES LIQUIDATING TRUST	205741	CF-07	CF-10
OPTEX BIOMEDICAL INC /DE/	920374	NONE	CF-10
OPTIONS CLEARING CORP	074751	NONE	CF-10
ORPHAN MEDICAL INC	929548	NONE	CF-10
OSMONICS INC	075049	CF-05	CF-04
OSULLIVAN INDUSTRIES HOLDINGS INC	915354	NONE	CF-10
OTTAWA FINANCIAL CORP	920604	NONE	CF-10
OXFORD RESOURCES CORP	911570	NONE	CF-10
PACIFIC SUNWEAR OF CALIFORNIA INC	874841	NONE	CF-10
PAGEMART INC	922227	NONE	CF-10
PANDA PROJECT INC	917736	NONE	CF-10
PARALLAN COMPUTER INC	864568	NONE	CF-10
PARIS BUSINESS FORMS INC	789660	CF-06	CF-08
PARKERVISION INC	914139	NONE	CF-10
PATHFINDER CORP	757073	NONE	CF-10
PAXSON COMMUNICATIONS CORP	923877	NONE	CF-10
PENN OCTANE CORP	893813	NONE	CF-10
PEOPLES BANK CORP OF INDIANAPOLIS	796322	NONE	CF-10
PEOPLES FINANCIAL CORP	770460	NONE	CF-10
PERSEPTIVE TECHNOLOGIES II CORP	914842	NONE	CF-10
PETCO ANIMAL SUPPLIES INC	888455	NONE	CF-10
PET FOOD WAREHOUSE INC	909752	NONE	CF-10
PETROCORP INC	911359	NONE	CF-10
PHARMACEUTICAL RESOURCES INC	878088	NONE	CF-04
PHYSICIAN CORPORATION OF AMERICA /DE/	812929	NONE	CF-10
PHYSICIANS CLINICAL LABORATORY INC	890685	NONE	CF-10
PLM EQUIPMENT GROWTH FUND	788813	CF-05	CF-04
PLM TRANSPORTATION EQUIPMENT PARTNERS.			
IXD 1986 INCOME FUND	778794	CF-08	CF-07
PMC COMMERCIAL TRUST /TX	908311	NONE	CF-10
PMT SERVICES INC /TN/	923410	NONE	CF-10
POLARIS INDUSTRIES INC /MN	931015	NONE	CF-04
PREFERRED ENTERTAINMENT INC	905606	NONE	CF-10
PRINCETON NATIONAL BANCORP INC	707855	NONE	CF-10
PRINTRONIX INC	311505	CF-05	CF-04
PROBAC INTERNATIONAL CORP	800401	CF-08	CF-08
Change to TRIDENT ENVIRONMENTAL SYSTEMS	800401	CF-08	CF-08
PROGRAMMING & SYSTEMS INC	080630	CF-06	REMOVE
PROPHET 21 INC	917823	NONE	CF-10
PROTECTION ONE INC	916230	NONE	CF-10
PS CAROLINAS BALANCED FUND LTD	724536	CF-07	REMOVE
QUALCOMM INC /DE/	804328	NONE	CF-10
QUALITY DINING INC	917126	NONE	CF-10
QUALITY SEMICONDUCTOR INC	869886	NONE	CF-10
QUICKRESPONSE SERVICES INC	906551	NONE	CF-10
QUME CORP	812544	CF-05	CF-10
Change to DTC DATA TECHNOLOGY CORP	812544	CF-05	CF-10
RAILTEX INC	877326	NONE	CF-10
RAUCH INDUSTRIES INC	715817	CF-06	CF-09
RECONDITIONED SYSTEMS INC	891915	NONE	CF-10
REDWOOD EQUIPMENT LEASING INCOME FUND LP	857615	NONE	CF-10
RENT WAY INC	893046	NONE	CF-10
RESIDENTIAL ASSET SECURITIES CORP	932858	NONE	CF-04
R H MACY & CO INC	794367	CF-10	CF-06
Change to FEDERATED DEPARTMENT STORES INC /DE/	794367	CF-10	CF-06
RICKEL HOME CENTERS INC	929036	NONE	CF-10
ROSEWOOD CARE CENTERS CAPITAL FUNDING CORP	909110	NONE	CF-10
ROSEWOOD CARE CENTERS INC OF ALSTON	909117	NONE	CF-10
ROSEWOOD CARE CENTERS INC OF EAST PEORIA	909115	NONE	CF-10
ROSEWOOD CARE CENTERS INC OF GALESBURG	909114	NONE	CF-10
ROSEWOOD CARE CENTERS INC OF MOLINE	909118	NONE	CF-10
ROSEWOOD CARE CENTERS INC OF PEORIA	909116	NONE	CF-10

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33-7122 (DECEMBER 19, 1994)—Continued

Name	CIK No.	Former group	New group
ROSEWOOD CARE CENTERS INC OF SWANSEA	909113	NONE	CF-10
ROTOR TOOL CO	085357	CF-05	REMOVE
ROTTLUND CO INC	891329	NONE	CF-10
ROYAL CANADIAN FOODS CORP	911318	NONE	CF-10
ROYAL GRIP INC	910588	NONE	CF-10
RURAL METRO CORP /DE/	906326	NONE	CF-10
S3 INC	850519	NONE	CF-10
SABER SOFTWARE CORP	862564	NONE	CF-10
SAGE TECHNOLOGIES INC	876346	CF-10	CF-10
Change to AMERIDATA TECHNOLOGIES INC	876346	CF-10	CF-10
SALVATORI OPHTHALMICS INC	823187	CF-07	CF-07
Change to AMERICAN CONSOLIDATED LABORATORIES INC	823187	CF-07	CF-07
SANMARK STARDUST INC	093631	CF-05	CF-05
Change to MOVIE STAR INC	093631	CF-05	CF-05
SANTA CRUZ OPERATION INC	851560	NONE	CF-10
SAVOY PICTURES ENTERTAINMENT INC	897079	NONE	CF-10
SBC TECHNOLOGIES INC /DE/	812955	CF-06	REMOVE
SCRIPT SYSTEMS INC	750485	NONE	CF-10
SDO PARENT CO /CA	940170	NONE	CF-06
SEARCH EXPLORATION INC	853630	NONE	CF-10
SECURITY CAPITAL INDUSTRIAL TRUST	899881	NONE	CF-10
SEDA SPECIALTY PACKAGING CORP	912034	NONE	CF-10
SELECT BEVERAGES INC	797279	NONE	CF-10
SELMER CO INC	918904	NONE	CF-10
SENSOR CONTROL CORP	806168	CF-07	CF-07
Change to SAFETYTEK CORP	806168	CF-07	CF-07
SHOE CARNIVAL INC	895447	NONE	CF-10
SIGMATRON INTERNATIONAL INC	915358	NONE	CF-10
SILVER KING COMMUNICATIONS INC	891103	NONE	CF-10
SIMETCO INC	073967	CF-06	REMOVE
Change to OHIO FERRO ALLOYS CORP /OH/	073967	CF-06	REMOVE
SIMMONS OUTDOOR CORP	907585	NONE	CF-10
SIMON PROPERTY GROUP INC	912564	NONE	CF-10
SLB MIDWEST FUTURES FUND LP	924875	NONE	CF-10
SMITH MADRONE VINEYARDS & WINERY	921822	NONE	CF-10
SOFTWARE ETC STORES INC	883999	CF-10	REMOVE
SPECIALTY EQUIPMENT COMPANIES INC	814013	NONE	CF-10
SPECTRANETICS CORP	789132	NONE	CF-10
SPORTS & RECREATION INC	890093	NONE	CF-10
SPRINGHILL LAKE INVESTORS LTD PARTNERSHIP	763399	NONE	CF-10
SP VENTURES INC	927653	CF-04	CF-04
Change to MCKESSON CORP	927653	CF-04	CF-04
STARCRAFT AUTOMOTIVE CORP	906473	NONE	CF-10
STARLOG FRANCHISE CORP	907435	NONE	CF-10
STATER BROS HOLDINGS INC	882829	NONE	CF-10
STRATASYS INC	915735	NONE	CF-10
SUMMIT PETROLEUM CORP	353196	NONE	CF-10
SUN HEALTHCARE GROUP INC	904978	NONE	CF-10
SURGICAL CARE AFFILIATES INC	722692	CF-05	CF-04
SUSSEX VENTURES LTD	876320	CF-10	CF-10
Change to AGRIBIOTECH INC	876320	CF-10	CF-10
SWEETWATER INC	914271	NONE	CF-10
SYBASE INC	768262	NONE	CF-10
SYNTELLECT INC	758830	NONE	CF-10
SYSTEM INDUSTRIES INC	317781	CF-05	CF-07
Change to ANCHOR PACIFIC UNDERWRITERS	317781	CF-05	CF-07
TECHNOLOGY FUNDING PARTNERS I	744964	CF-07	CF-06
TECHNOLOGY FUNDING PARTNERS II	772001	CF-07	CF-06
TECHNOLOGY FUNDING SECURED INVESTORS III	844217	CF-09	CF-06
TERMIFLEX CORP	726431	CF-07	REMOVE
TESSCO TECHNOLOGIES INC	927355	NONE	CF-10
TETRA TECH INC	831641	NONE	CF-10
THOMPSON PBE INC	929035	NONE	CF-10
TIMES MIRROR CO	098349	CF-02	REMOVE
TIMES MIRROR CO /NEW/	925260	NONE	CF-05
TIME WARNER ENTERTAINMENT CO LP	893657	NONE	CF-10
TITAN WHEEL INTERNATIONAL INC	899751	NONE	CF-10
TOWER AUTOMOTIVE INC	925548	NONE	CF-10
TRIPOS INC	920691	NONE	CF-10
ULTIMATE ELECTRONICS INC	911626	NONE	CF-10

VOL 60 ISS 70 AP 12 1995 UMI

CHANGES FROM CORPORATION FINANCE EDGAR PHASE-IN LIST AS PUBLISHED IN SECURITIES ACT RELEASE #33-7122 (DECEMBER 19, 1994)—Continued

Name	CIK No.	Former group	New group
ULTRATECH STEPPER INC	909791	NONE	CF-10
UNAPIX ENTERTAINMENT INC	902787	NONE	CF-10
UNIPHASE CORP /CA/	912093	NONE	CF-10
UNIROYAL INVESTORS MANAGEMENT CO	890096	CF-10	CF-10
Change to UNIROYAL TECHNOLOGY CORP	890096	CF-10	CF-10
UNITED FINANCIAL BANKING COMPANIES INC	714286	CF-06	CF-09
UNITED STATES PAGING CORP	813239	NONE	CF-10
UNITED VANGUARD HOMES INC /DE	021221	NONE	CF-10
UNITED VIDEO SATELLITE GROUP INC	913061	NONE	CF-10
UNITED WASTE SYSTEMS INC	879688	NONE	CF-10
US 1 INDUSTRIES INC	351498	NONE	CF-10
U S ALCOHOL TESTING OF AMERICA INC	853017	NONE	CF-10
UTI ENERGY CORP	912899	NONE	CF-10
VALLEY FINANCIAL CORP /VA/	921590	NONE	CF-10
VANDERBILT MORTGAGE & FINANCE INC	816512	NONE	CF-10
VARCO INTERNATIONAL INC	102993	CF-05	CF-04
VASTAR RESOURCES INC	918252	NONE	CF-10
VEECO INSTRUMENTS INC	103145	NONE	CF-10
VENTRITEX INC	793354	NONE	CF-10
VENTURE ENTERPRISES INC	778165	CF-09	CF-09
Change to HANOVER GOLD COMPANY INC	778165	CF-09	CF-09
VERDIX CORP	722056	CF-06	CF-09
Change to RATIONAL SOFTWARE CORP	722056	CF-06	CF-09
VETERINARY CENTERS OF AMERICA INC	817366	NONE	CF-10
VICON INDUSTRIES INC /NY/	310056	CF-05	CF-06
VIDEONICS INC	932113	NONE	CF-10
VIDEOTELECOM CORP /DE/	884144	CF-10	CF-10
Change to VTEL CORP	884144	CF-10	CF-10
VISTA BANCORP INC	831979	NONE	CF-10
WALKER INTERNATIONAL INDUSTRIES INC	104224	CF-07	CF-09
WALTER INDUSTRIES INC /NEW/	837173	NONE	CF-05
WASHINGTON HOMES INC	104834	NONE	CF-10
WATSON PHARMACEUTICALS INC	864829	NONE	CF-10
WEGENER CORP	715073	CF-06	CF-07
WELLFLEET COMMUNICATIONS INC	876516	CF-10	CF-10
Change to BAY NETWORKS INC	876516	CF-10	CF-10
WHAT A WORLD INC /DE/	931073	NONE	CF-10
WHITE RIVER CORP	913338	NONE	CF-10
WILLIAMS INDUSTRIES INC	107294	CF-05	CF-10
WILSHIRE TECHNOLOGIES INC	891782	NONE	CF-10
WINSLOEW FURNITURE INC	931814	NONE	CF-10
WINSTON HOTELS INC	920505	NONE	CF-10
WISCONSIN REAL ESTATE INVESTMENT TRUST	107835	CF-05	CF-09
WISCONSIN SOUTHERN GAS CO INC	107841	CF-06	REMOVE
ZONAGEN INC	897075	NONE	CF-10

Dated: April 6, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-8925 Filed 4-11-95; 8:45 am]

BILLING CODE 8010-01-P

[Release No. 34-35561; File No. SR-GSCC 94-8]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Mandatory Participation in the Yield-to-Price Conversion Process

April 3, 1995.

On November 8, 1994, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change that will require GSCC netting members to participate in GSCC's yield-to-price conversion process. On February 2, 1995, the Commission published notice of the proposed rule change in the **Federal Register** to solicit comment from interested persons.[2] No comments were received. This order approves the proposal.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35285 (January 27, 1995), 60 FR 6579.

I. Description

On October 16, 1992, GSCC implemented its yield-to-price conversion feature, which allows yield trades to be netted and notated on the night the trade is entered and eliminates the need for double submission of when-issued trades.[3] At that time, in order not to impose undue operational or systems burdens on certain firms, participation in the conversion process was not made mandatory.

The conversion service permits GSCC to compare, convert, and net, prior to the U.S. Treasury auction, trades between members in Treasury note and bond issues that have been executed on the basis of the current market yield. GSCC members submit to GSCC trade data for yield trades with the price field blank. GSCC compares the trade on the basis of the yield. At the time of conversion, GSCC calculates the assumed coupon rate based on the par weighted average yield of trades compared by GSCC in each CUSIP adjusted down to the nearest ⅛%. GSCC then uses the assumed coupon rate to convert yield trades to priced trades based on the U.S. Treasury standard conversion formula.

Each day until the coupon rate is set and publicly available, GSCC recalculates the assumed coupon rate for the issue, converts new yield trades to priced trades, and adjusts the prices of previously converted, compared, and netted yield trades. During the pre-auction period, GSCC calucates the clearing fund contribution and the forward mark allocation for participating and nonparticipating members. On the day of the auction, final price data is submitted to GSCC. At that time, the trades are compared and netted on a final price basis.

GSC believes that participation in the yield-to-price conversion process is important for a netting member and for the settlement process in general because otherwise a netting member's when-issued trades do not have GSCC's guarantee of settlement until auction date. Because of this, since October 1992, GSCC has not admitted an entity into netting system membership unless the applicant has agreed to participate in the yield-to-price process at the time of commencement of participation in the netting system. Currently, only one netting member still is not participating in the conversion process, and it is anticipated that it will commence participation in the yield-to-price process by the end of this year.

As a result, participation in the yield-to-price conversion process by netting members will now be mandatory. However, there may be temporary situations, for example when an entity commences its participation in the netting system, in which there are operational or other considerations that render participation in the yield-to-price conversion process difficult for a member. In such circumstances, GSCC will retain the ability to temporarily exempt such member from the requirement to participate in the yield-to-price conversion process. For GSCC's protection, however, GSCC will calculate such member's clearing fund deposit and forward mark allocation payment obligations as if it were participating in the yield-to-price conversion process.

[3] On September 24, 1991, the Commission approved a proposed rule change on a temporary basis that provided authority for GSCC to implement the yield-to-price conversion service. Securities Exchange Act Release No. 29732 (September 24, 1991), 56 FR 49937. The Commission permanently approved GSCC's conversion service on February 4, 1993. Securities Exchange Act Release No. 31820 (February 4, 1993), 58 FR 8072.

II. Discussion

Section 17A(b)(3)(F) of the Act[4] provides that the rules of a clearing agency must promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in GSCC's custody or under GSCC's control. In the first order temporarily approving GSCC's yield-to-price conversion service, the Commission found that such service was consistent with Section 17A(b)(3)(F) in that it extended the benefits of GSCC's centralized automated netting system to netting members that execute yield trades. The Commission further stated that the service reduces netting members' exposure to the risk arising from contraparty default prior to the settlement of the transaction by allowing GSCC to interpose itself between the parties to a trade and guarantee performance of each netting member's obligation sooner.

In the order permanently approving GSCC's yield-to-price conversion service, the Commission noted its potential concern about the interplay between voluntary submission of compared trades for GSCC netting and the potential financial exposure to GSCC and its members resulting from the exclusion of those trades from GSCC's netting operation. The Commission further encouraged GSCC to reconsider the appropriateness for netting members to withhold from the netting operation yield trades that were compared. GSCC delayed making the netting of such trades mandatory because some GSCC members needed to make further operational changes to accommodate mandatory netting of trades compared through the yield-to-price conversion system. Currently, only one member is not participating in the conversion process, and GSCC anticipates that such member will commence participation in the yield-to-price process by the end of this year.

Accordingly, the Commission believes that it is appropriate to make participation in the yield-to-price conversion process mandatory. By including more trades in GSCC's netting system, the proposal furthers Section 17A's goals of prompt and accurate clearance of securities transactions. Inclusion of more member trades within GSCC's guarantee and margin requirements is consistent with Section 17A's goals of assurance of the safeguarding of securities and funds in GSCC's custody or under GSCC's control. Thus, the Commission believes that the proposed rule change is consistent with Section 17A(b)(3)(F).

Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-GSCC-94-08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-8924 Filed 4-11-95; 8:45 am]

BILLING CODE 8010-01-M

[4] 15 U.S.C. 78q-1(b)(3)(F) (1988).

[Release No. 34-35571; File No. SR-NYSE-95-01]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Domestic Listing Standards

April 5, 1995.

I. Introduction

On January 18, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission (SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend its domestic listing standards.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35301 (January 31, 1995), 60 FR 7245 (February 7, 1995). On February 2, and April 5, 1995, the Exchange submitted to the Commission Amendment Nos. 1 and 2 to the proposed rule change. Each of these amendments made a single, non-substantive change to clarify the language of the original filing and are incorporated into the discussion below.[3]

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1994).

[3] Letter from Robert G. Britz, Senior Vice President, New Listings & Client Service, NYSE, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated January 27, 1995 ("Amendment No. 1"). Amendment No. 1 is further described at note 11, *infra*. Letter from J. Paul Wyciskala, Managing Director, Financial

Continued

VOL 60 ISS 70 AP 12 1995 UMI

The Commission received one comment letter from the National Association of Securities Dealers, Inc. ("NASD")[4] and one letter from the NYSE responding to the NASD's comments.[5] This order approves the proposed rule change, including Amendment Nos. 1 and 2.

II. Overview of Proposal

A. Background

Paragraph 102.01 of the NYSE's *Listed Company Manual* sets forth the standards for domestic companies that want to list their equity securities on the Exchange. These standards require applicants to satisfy the following minimum numerical criteria.[6] First, the company must have at least 2,200 total stockholders, together with an average monthly trading volume of 100,000 shares for the most recent six months, or 2,000 round-lot holders.[7] Second, at least 1.1 million shares of the company's stock must be publicly held.[8] Third, the aggregate market value of the publicly held shares must be at least $18 million. In this regard, Paragraph 102.01 of the Exchange's Listed Company Manual states that, while the NYSE places greater emphasis on market value, an additional measure of size is $18 million in net tangible assets. Fourth, the company must have demonstrated earning power such that its income before federal income taxes and under competitive conditions must equal or exceed (a) $2.5 million in the latest fiscal year and $2 million in each of the preceding two fiscal years or (b) $4.5 million in the most recent fiscal year and an aggregate of $6.5 million for the last three fiscal years, with all three years being profitable.

b. Proposed Amendments

The Exchange proposes to amend Paragraph 102.01 to make four changes to its existing numerical criteria. The first two amendments would increase the existing numerical criteria for the aggregate market value of both publicly held shares and net tangible assets from $18 million to $40 million.[9] The third amendment would adopt an alternate shareholder distribution standard for companies whose shares are very actively traded. Specifically, a company with an average monthly trading volume of one million shares for the most recent 12 months could qualify for listing with 500 total stockholders.[10]

Finally, the proposed amendments would adopt an alternate demonstrated earnings power standard for companies that have a market capitalization of at least $500 million and revenues of at least $200 million in their most recent fiscal year.[11] Under this alternative, such companies could qualify for listing if their adjusted net income, as defined below, is positive for each of the last three fiscal years and not less than $25 million in the aggregate for such period.

For purposes of the proposed amendment to Paragraph 102.01, "adjusted net income" would be calculated by removing from reported net income (before preferred dividends) the effects of all items whose cash effects are investing or financing cash flows as determined pursuant to Paragraph 28(b) of the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 95, "Statement of Cash Flows" ("FASB Statement No. 95"), subject to the limitations noted below. Examples of such items include depreciation, amortization of goodwill and gains or losses on sales of property, plant and equipment. In contrast to FASB Statement No. 95, however, the proposed rule change would limit the adjustment for the following items to reversing the amount charged or credited in determining net income for that period: (a) Discontinued operations; (b) the cumulative effect of an accounting change; (c) an extraordinary item; and (d) the gain or loss on extinguishment of debt.

III. Comments Received by the Commission

The Commission received one comment letter from NASD[12] and one letter from the NYSE supporting its proposal and addressing the NASD's comments.[13]

The NASD stated that it had no comment on the substance of the NYSE's listing amendments, but that the proposed rule change would pose "substantial anti-competitive concerns for The Nasdaq Stock Market" ("Nasdaq") if NYSE Rule 500 were left in place. NYSE Rule 500 contains the shareholder approval requirements that an issuer needs to satisfy before it can voluntarily withdraw its securities from listing on the NYSE.[14] In this context, the NASD noted that approval of the NYSE's proposed rule change would allow the NYSE to solicit a broader range of companies listed on Nasdaq notwithstanding that Rule 500 would "make it difficult, if not impossible, for Nasdaq to seek listings from among a potentially enlarged universe of NYSE-listed companies." Finally, the NASD stated its belief that "expanding the NYSE listing standards without eliminating the anti-competitive effect of NYSE Rule 500 is contrary to a free and open market and the national market system, and imposes a burden on competition that is not otherwise justified or in furtherance of the purposes of the Exchange Act" in violation of Sections 6(b)(5) and (8) and 11A(a)(1)(C)(ii) of the Act.[15] Accordingly, the NASD requested that the Commission require the elimination of the NYSE shareholder approval requirements under Rule 500 before approving the NYSE's alternative listing standards.

Compliance, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated April 5, 1995 ("Amendment No. 2"). Amendment No. 2 is further described at note 10, *infra*.

[4] Letter from Joseph R. Hardiman, President, NASD, to Jonathan G. Katz, Secretary, SEC, dated March 3, 1995 ("NASD Letter").

[5] Letter from James E. Buck, Senior Vice President and Secretary, NASD, to Jonathan G. Katz, Secretary, SEC, dated March 17, 1995 ("NYSE Letter").

[6] In deciding whether to approve the listing of an equity security, the NYSE also takes qualitative factors into consideration. These factors include whether the company is a going concern or a successor thereto, the degree of national interest in the company, the character of the market for its products, its relative stability and position in its industry.

[7] In determining the number of holders for the above distribution standards, the NYSE considers both beneficial and record owners.

[8] Shares held by directors, officers or their immediate families and other concentrated holdings of 10% or more are excluded from the public float. Additionally, if the unit of trading is less than 100 shares, the requirement relating to the number of publicly-held shares will be reduced proportionately.

[9] Paragraph 102.01 of the Listed Company Manual provides for an adjustment to the aggregate market value standard whenever the NYSE's Composite Index is below 55.06. Because the value of the Composite Index has remained substantially higher than 55.06 in recent years, no adjustment has been necessary. The Exchange proposal would make a conforming change in Paragraph 102.01 to provide that any such adjustment would be made to the new $40 million aggregate market value standard.

[10] Amendment No. 2 amended Exhibit A to the NYSE's original filing, which set forth the text of the proposed rule change, to make it clear that the NYSE would consider both beneficial and record owners for purposes of determining whether the alternative shareholder distribution standard has been satisfied.

[11] Amendment No. 1 corrected Exhibit A to the NYSE's original filing, which set forth the text of the proposed rule change, by deleting the word "not" in the phrase "not revenues" as used in the alternate demonstrated earnings power standard. This inaccuracy did not appear, however, in the text of Securities Exchange Act release No. 35301 (January 31, 1995), 60 FR 7245 (February 7, 1995), which published the proposal for comment.

[12] *See* NASD letter, *supra*, note 4.

[13] *See* NYSE letter, *supra*, note 5.

[14] NYSE Rule 500 generally requires that an issuer's proposed withdrawal from listing on the NYSE be approved by the holders of 66⅔% of the outstanding security without the objection of more than 10% of the individual holders thereof.

[15] 15 U.S.C. 78f(b) (5) and (8) and 78k–1(a)(1)(C)(ii) (1988).

In its comment letter, the NYSE asserted that Rule 500 is not related to its pending proposal and that Rule 500 would not affect issuers that list under the proposal any differently from issuers listing under existing requirements. The NYSE also claimed that, if the proposal were adopted, the proposal were adopted, the NYSE would continue to have the highest listing requirements among all domestic equities markets.

IV. Discussion

A. Introduction

After careful consideration of the comments received, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b).[16] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between issuers. The Commission also finds that the proposal is consistent with the requirements of Section 6(b)(8) that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

B. Background

The development and enforcement of adequate standards governing the initial and continued listing of securities on an exchange is an activity of critical importance to financial markets and the investing public. Listing standards serve as a means for an exchange to screen issuers and to provide listed status only to *bona fide* companies with sufficient public float, investor base, and trading interest to ensure that the market for a company's stock has the depth and liquidity necessary to maintain fair and orderly markets. Adequate standards are especially important given the expectations of investors regarding exchange trading and the imprimatur of listing on a particular market. Once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity so that fair and orderly markets can be maintained.

For the reasons set forth below, the Commission believes that the proposed rule change will provide the NYSE with greater flexibility in determining which equity securities warrant inclusion in its market, without compromising the effectiveness of the Exchange's listing standards, and that the standards do not pose a burden on competition among markets.

C. The Proposed Alternative Listing Standards

As discussed above, the NYSE currently requires a company to meet rigorous standards regarding, among other things, its investor base and its public float before qualifying for listing. The Commission agrees with the NYSE, however, that there are *bona fide* companies that do not meet these measures but that nonetheless have sufficient investor interest to ensure that the market for the company's stock has the depth and liquidity appropriate for auction market trading.

In particular, the Commission believes that it is reasonable for the NYSE to list companies with 500 stockholders given that such companies must have an average monthly trading volume of one million shares, which amount is ten times the normal monthly trading volume currently required by the Exchange under one of its stockholder distribution listing standards for domestic equities. This higher trading volume standard will ensure that listed companies with a smaller shareholder base should nevertheless have sufficient interest to support a liquid market.

Additionally, the Commission believes that the proposed alternative to the existing demonstrated earnings power standard, which is based on net income adjusted for the cash effects of investing or financing cash flows, is adequate to ensure that the NYSE lists only *bona fide* issuers. First, only companies that have a market capitalization of at least $500 million and revenues of at least $200 million in their most recent fiscal year are eligible to use the alternative net income standard to satisfy demonstrated earnings power. These threshold requirements, taken together with the actual alternative standard requiring adjusted net income to be positive for the last three fiscal years and not less than $25 million in the aggregate for such period, should ensure that such companies are of sufficient size and substance so as not to compromise the reasonable expectations of investors regarding the companies that are eligible to trade on the NYSE. Second, the other listing requirements including number of stockholders and publicly held shares as well as the increased aggregate market value and tangible net assets standard will apply to all listed companies including those utilizing the alternative demonstrated earning power criteria. As a result of these requirements, the Exchange's domestic listing standards will continue to provide only for the listing of securities with a sufficient investor base to maintain fair and orderly markets and the listing of companies that are viable, going concerns with substantial aggregate market value or tangible net assets.

Third, the alternative standard to demonstrated earning power using net income adjusted for the cash effects of investing or financing cash flows is based, with certain exceptions, on FAST Statement No. 95, which sets forth a uniform accounting standard for calculation of cash flows. Although the proposal limits certain adjustments to net income that are not included in FASB Statement No. 95, the specific limitations are set forth in the NYSE's listing criteria. Accordingly, the NYSE can apply the standard uniformly and companies will be able to know with certainly whether or not they can meet the alternative demonstrated earnings power test based on net income (as adjusted for the cash effects of investing or financing cash flows).

Finally, the Commission agrees with the NYSE's proposal to increase the aggregate market value and net tangible assets requirements from $18 million to $40 million. These requirements have not been updated since 1984.[17] This substantial increase significantly upgrades the NYSE's listing criteria and should offer further assurances that the current amendments do not weaken the high standards that a listing on the NYSE has traditionally represented.

D. Maintenance Criteria

The NYSE's proposal does not contain separate continued listing standards for the newly proposed initial listing standards. Instead, the NYSE has indicated that, in reviewing companies for continued listing under such standards, it would rely on its broad authority to duelist companies set forth in Exchange Rule 499, which states that securities admitted to the list may be suspended from dealings or removed from the list at any time.[18] Further, the

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[16] 15 U.S.C. 78f(b) (1988 and Supp. V 1993).

[17] *See* Securities Exchange Act Release No. 20649 (February 13, 1984), 49 FR 6587 (February 22, 1984).

[18] The Supplementary Material to Rule 499 states that although the Exchange has adopted certain guidelines, ". . .The Exchange is not limited by what is set forth under the heading 'Numerical and Other Criteria.' Rather, it may make an appraisal of,

Continued

VOL 60 ISS 70 AP 12 1995 UMI

NYSE has stated that, in monitoring companies listed under the proposed alternative standards, companies that subsequently fall substantially below those standards would be considered for relisting. In addition the NYSE also would consider factors for continued listing such as: trading volume; the number of publicly held shares; the aggregate market value of publicly-held shares; the inability to meet current debt obligations or adequately Finance operations; or an abnormally low selling price or volume of trading. The Commission believes that the authority in Rule 499, in addition to the NYSE's clarifications on continued listing under the new standards, gives the NYSE sufficient flexibility to adequately monitor companies listed under the alternative standards being adopted herein and delist such companies where appropriate.

Nevertheless, the NYSE has indicated its intention to develop specific continued listing criteria that correlate to the alternative initial listing standards.[19] The Commission believes this will be useful to the NYSE in monitoring such companies to ensure continued depth and liquidity. In addition, in light of the increase in the initial listing criteria for aggregate market value of shares outstanding and tangible net assets from $18 million to $40 million, the Commission believes that the Exchange should consider updating its continued listing standards for these criteria, which are currently set at $8 million.

E. Burden on Competition

The NASD believes the Commission should disapprove the NYSE's alternate listing standards unless the NYSE first rescinds its Rule 500 because, in the NASD's view, the proposal, when coupled with Rule 500, limits competition for listings. The direct effect of the NYSE's proposal, however, will be to increase the number of companies eligible for NYSE listing. Accordingly, the proposal actually will increase competition for new listings between the NYSE and other self-regulatory organizations. The Commission believes that such an increase in competition, on balance, would benefit the securities markets.[20]

In addition, the NYSE's changes are relatively modest in scope. The NASD has not presented any evidence to indicate that the new requirements will broaden significantly the pool of Nasdaq companies that will become eligible for an NYSE listing under the new standards. Indeed, the NASD comment letter states that already "most of Nasdaq's largest companies choose to freely remain on Nasdaq rather than switch to the NYSE." The NASD has not indicated how the NYSE proposal would change this situation.

The NASD, in effect, is asking the Commission to disapprove a pro-competitive proposal because it believes that another rule of the NYSE creates an anticompetitive barrier to delisting from the NYSE.[21] While the Commission is mindful of the competitive consequences of NYSE Rule 500 and believes those issues should be explored further,[22] the Commission does not believe that the current NYSE listing standards should be frozen in place pending such examination. As a practical matter, the immediate effect of this proposal will be to increase competition for listing, which the Commission believes is in the best interest of the securities markets and consistent with the Act.[23] The broader question of whether delisting standards should be revised is a separate matter that should be considered independently. Moreover, such separate consideration is consistent with the Commission's commitment to expedite the processing of rule filings whenever possible.[24]

V. Conclusion

In summary, based upon the analysis set forth above, the Commission believes this rule change will not weaken the high standards for listing on the NYSE. Further, following this change, the Exchange's domestic listing standards will continue to provide only for the listing of securities with a sufficient investor base to maintain fair and orderly markets. Accordingly, the Commission believes that this rule change adequately protects investors and the public interest.

The Commission further believes that these new standards will provide the NYSE with greater flexibility in determining which equity securities warrant inclusion in its market. Such flexibility will increase competition for new listings between the NYSE and other self-regulatory organizations. The Commission believes that this increase in competition will benefit the securities markets. Accordingly, the Commission does not believe that the rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

Finally, the Commission declines to condition its approval on the NYSE's elimination of its Rule 500. While the Commission recognizes the potentially anti-competitive effect of Rule 500 and urges the NYSE to consider modifications thereto, the Commission believes that approval of the NYSE's proposal is in the best interest of, and will actually foster competition among, the securities markets. The Commission believes that the benefits of such competition should not be delayed pending the resolution of the Rule 500 issues.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–NYSE–95–01), including Amendments Nos. 1 and 2, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

[FR Doc. 95–8998 Filed 4–11–95; 8:45 am]

BILLING CODE 8010–01–M

and determine on an individual basis, the suitability for continued listing of an issue in light of all pertinent facts whenever it deems such action appropriate, even though a security meets or fails to meet any enumerated criteria."

[19] Letter from Robert G. Britz, Senior Vice President, New Listings & Client Service, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated February 28, 1995 and letter from J. Paul Wyciskala, Managing Director, Financial Compliance, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated March 21, 1995.

[20] In this regard, the Commission believes it is significant that, pursuant to Rule 19c–3 under the Act, 17 CFR 240.19c–3 (1994), NASD market makers still will be able to trade the NYSE's newly listed securities.

[21] In its comments, the NASD stated its belief "that expanding the NYSE listing standards without eliminating the anticompetitive effect of Rule 500 is contrary to a free and open market and national market system, and imposes a burden on competition that is not otherwise justified or in furtherance of the purposes of the Exchange Act." As support for such statement, the NASD cited, among other sections of the Act, Section 11A(1)(C)(ii), which sets forth the finding by Congress that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition between exchange markets and markets other than exchange markets. To the extent the alternate listing standards allow the NYSE to compete for listings of other market centers, it will assure fair competition between exchange markets and other markets consistent with Section 11A of the Act.

[22] *See* Division of Market Regulation, SEC, "Market 2000, An Examination of Current Equity Market Developments" (January 1994) at 30 and 31 ("The standards embodied in Rule 500 * * * represent a barrier to delisting that is too onerous, * * * Accordingly, the Division recommends that the NYSE submit a proposed rule change to modify the requirements of NYSE Rule 500. * * * The new standards should rely on a determination by an issuer's board of directors rather than shareholder approval. For example, the new standards could require approval by the board of directors and a majority of the independent directors, or it could require a review of the delisting decision by the board's audit committee.").

[23] The Commission notes that the alternative listing standards increase the classes of companies that are eligible for listing on the NYSE based upon objective, numerical criteria that are reasonably related to the purposes underlying the NYSE's listing standards. As such, the Commission finds, in accordance with Section 6(b)(5) of the Act, that these standards do not discriminate unfairly between issuers.

[24] *See* Securities Exchange Act Release No. 35123 (December 20, 1994), 59 FR 66692 (December 28, 1994) (amending Rule 19b–4 to expedite the process by which proposed rule changes of self-regulatory organizations are filed and become effective).

[25] 15 U.S.C. 78s(b)(2) (1988).

[26] 17 CFR 200.30–3(a)(12) (1994).

[Rel. No. IC–20990; 811–0071]

Commonwealth Investment Trust; Notice of Application

April 6, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Commonwealth Investment Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 24, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 1, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 101 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a business trust under the laws of Massachusetts. On October 29, 1940, applicant registered under the Act as an investment company. To the best knowledge of applicant, a registration statement to register its shares under the Securities Act of 1933 was initially filed on or about October 19, 1938. Applicant's initial public offering commenced in 1938.

2. On October 27, 1993, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Eaton Vance Stock Fund, a registered open-end management investment company (the "Acquiring Fund").[1]

3. On December 8, 1993, applicant filed definitive proxy materials with the SEC and mailed such proxy materials to its shareholders. On December 15, 1993, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on December 20, 1993, applicant transferred all, or substantially all, of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On December 17, 1993, applicant had 439,017.095 shares outstanding, having an aggregate net asset value of $8,346,241.30 and a per share net asset value of $19.01.

5. Expenses incurred in connection with the reorganization were approximately $38,291 and were paid by applicant's investment adviser, Invesco Management & Research, Inc.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding.

7. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

[1] According to the proxy statement filed with the Commission by applicant in connection with the reorganization, the board of trustees considered that combining applicant with the Acquiring Fund could produce economies of scale which may be reflected in reduced costs per share. In addition, the board of trustees concluded that the reorganization would allow applicant's shareholders to become affiliated with a fund with similar investment objectives and greater net assets.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–8926 Filed 4–11–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2188]

Advisory Committee to the United States Section of the Inter-American Tropical Tuna Commission

The Advisory Committee to the United States Section of the Inter-American Tropical Tuna Commission (IATTC) will meet on April 26, 1995, from 9:30 a.m. to 12 noon in the Conference Room of the National Marine Fisheries Service Science Center, 8604 La Jolla Shores Drive, La Jolla, California. The meeting will discuss the 1994 fishing year, the status of the tuna and dolphin stocks of the eastern Pacific Ocean, and developments affecting the fishery since the last annual meeting of the Commission. The meeting will be open to the public.

The Advisory Committee will also meet in an afternoon session on April 26, 1995, beginning at 1:30 p.m. This session will not be open to the public inasmuch as the discussion will involve classified matters pertaining to the United States negotiating position to be taken at the Annual Meeting of the Inter-American Tropical Tuna Commission to be held in La Jolla, California, June 13–15, 1995. The members of the Advisory Committee will examine various options for the U.S. negotiating position at this meeting, and these considerations must necessarily involve review of classified matters. Accordingly, the determination has been made to close the afternoon session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 5 U.S.C. 552b(c)(1) and (c)(9).

Requests for further information on the meeting should be directed to Mr. Brian S. Hallman, Deputy Director, Office of Marine Conservation (OES/OMC), Room 7820, U.S. Department of State, Washington, DC 20520–7818. Mr. Hallman can be reached by telephone on (202) 647–2335 or by FAX (202) 736–7350.

VOL
60
ISS
70
AP
12
1995
UMI

Dated: April 5, 1995.

R. Tucker Scully,

Deputy Assistant Secretary for Oceans, Acting.

[FR Doc. 95–8959 Filed 4–11–95; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended March 31, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50241.
Date filed: March 29, 1995.
Parties: Members of the International Air Transport Association.
Subject: COMP Telex Reso 024f, Local Currency Fare Changes—Spain.
Proposed Effective Date: April 15, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–8960 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended March 31, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50239.
Date filed: March 29, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 29, 1995.
Description: Application of Shuttle, Inc., d/b/a USAir Shuttle, pursuant to 49 U.S.C. 41108, applies for a certificate of public convenience and necessity authorizing scheduled foreign air transportation of persons, property, and mail between any point in the United States and any point in Canada, subject to the condition that service to Vancouver and Montreal must be separately authorized for a period of two years, and service to Toronto must be separately authorized for a period of three years, consistent with the phase-in provisions for those three cities in the United States-Canada Air Transport Agreement signed on February 24, 1995.

Docket Number: 50243.
Date filed: March 30, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 27, 1995.
Description: Application of Clipper Air Cargo, Inc., pursuant to 49 U.S.C. section 41102, and subpart Q of the regulations, applies for a certificate of public convenience and necessity authorizing it to engage in foreign charter air transportation of property and mail between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States, and any point or points outside the United States or any territory or possession of the United States.

Docket Number: 50250.
Date filed: March 31, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 28, 1995.
Description: Application of Continental Micronesia, Inc., pursuant to 49 U.S.C. section 41108, and subpart Q of the regulations, to amend Segment 12 of its Route 171 certificate of public convenience and necessity by adding the Philippines to that segment. Continental Micronesia also requests the right to combine service at the points on this route segment with service at other points Continental Micronesia is authorized to serve by certificates or exemptions, consistent with applicable international agreements.

Docket Number: 50251.
Date filed: March 31, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 28, 1995.
Description: Application of Emery Worldwide Airlines, Inc., pursuant to 49 U.S.C. section 41108 and subpart Q of the regulations, applies for an amendment to its certificate of public convenience and necessity for Route 598 authorizing Emery Air to provide scheduled foreign air transportation of property and mail between any point in the United States and any point in Canada. The request is subject to the first year phase-in provisions for all-cargo service at Vancouver, Montreal and Toronto provided for in the U.S.-Canada Air Transport Agreement signed on February 24, 1995.

Docket Number: 50252.
Date filed: March 31, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 28, 1995.
Description: Application of Prime Air, Inc., pursuant to 49 U.S.C. section 41102, and subpart Q of the regulations, for a certificate of public convenience and necessity to engage in foreign charter air transportation of persons, property and mail.

Docket Number: 50253.
Date filed: March 31, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 28, 1995.
Description: Application of Prime Air, Inc., pursuant to 49 U.S.C. section 41102 and subpart Q of the regulations, applies for a certificate of public convenience and necessity to engage in Interstate Charter Air Transportation of persons, property and mail.

Docket Number: 49638.
Date filed: March 27, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 24, 1995.
Description: Amendment to Application of Uzbekistan Airways, pursuant to 49 U.S.C. section 41302 of the Act and subpart Q of the regulations requests that its application for a foreign air carrier permit be amended to authorize scheduled foreign air transportation of persons, property and mail over the following route: "Between a point or points in Uzbekistan, and New York, NY-Newark, NJ, via intermediate points."

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–8961 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–95–16]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal statue of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 28, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 7, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 26237.
Petitioner: MCI Communications.
Sections of the FAR Affected: 14 CFR 91.611.
Description of Relief Sought: To extend Exemption No. 5332, as amended, which allows MCI Telecommunications to continue to conduct certain ferry flights with one engine inoperative in its Falcon Trijet aircraft without obtaining a special flight permit for each flight.

Docket No.: 28043.
Petitioner: Otis Spunkmeyer Air.
Sections of the FAR Affected: 14 CFR 135.1(b)(2).
Description of Relief Sought: To permit Otis Spunkmeyer Air to conduct nonstop sightseeing flights within a 55 status mile radius of the airport at which such flights begin and end.

Docket No.: 28083.

Petitioner: Western Oklahoma State College.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought: To permit Western Oklahoma State College to hold examining authority for the flight instructor and airline transport pilot written tests.

[FR Doc. 95–9026 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–95–17]

Petitions for Exemption Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or emission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 15, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on April 7, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 128116.
Petitioner: Argo Air Associates, Inc.
Sections of the FAR Affected: 14 CFR 91.851 through 91.875.
Description of Relief Sought: To allow Agro Air Associates, Inc., to be considered the operator of its airplanes for the purposes of compliance with the Stage 3 noise regulations.

Dispositions of Petitions

Docket No.: 23147
Petitioner: Boeing Commercial Airplane Group
Section of the FAR Affected: 14 CFR 91.515(a)(1)
Description of Relief Sought/ Disposition: To extend Exemption No. 4783, as amended, which permits noise measurement tests, Ground Proximity Warning system research and development, and FAA certification tests at altitudes lower than 1,000 feet above the surface.
Grant, March 30, 1995, Exemption No. 4783D

Docket No.: 25552
Petitioner: State of Alaska
Sections of the FAR Affected: 14 CFR 45.29(h)
Description of Relief Sought/ Disposition: To extend Exemption No. 5630, which allows persons operating aircraft within, to, or from the State of Alaska to fly their aircraft across the inner boundaries of the Alaskan Air Defense Identification Zone (ADIZ), or the Defense Early Warning Identification Zone (DEWIZ), without displaying temporary or permanent registration marks at least 12-inch high, unless otherwise required by other provisions of the FAR. The amendment, which is denied, would have made this a permanent exemption.
Partial Grant, March 29, 1995, Exemption No. 5630A

Docket No.: 26178
Petitioner: Continental Airlines, Inc.
Section of the FAR Affected: 14 CFR 121.358
Description of Relief Sought/ Disposition: To extend Exemption No. 5256, as amended, which extends the date by which Continental Airlines, Inc. (CAL) must install windshear

VOL
60
ISS
70
AP
12
1995
UMI

detection equipment in all the aircraft CAL operates. This extension is contingent upon the timely compliance with a Precondition for Effectiveness of Exemption and Margin of Error, which states that this extension will become effective on January 1, 1996, on the condition that at least 188 CAL aircraft of the "Target type of aircraft" are equipped with FAA-approved predictive windshear detection equipment by no later than December 31, 1995.

Docket No.: 26412
Petitioner: The Soaring Society of America
Section of the FAR Affected: 14 CFR 61.118
Description of Relief Sought/ Disposition: To extend Exemption No. 5303, as amended, which allows private pilots to log the flight time accumulated while gliders for the Soaring Society of America chapter members, subject to certain limitations.
Grant, March 16, 1995, Exemption No. 5303B

Docket No.: 27609
Petitioner: M. Shannon & Associates
Section of the FAR Affected: 14 CFR 91.9 and 91.531
Description of Relief Sought/ Disposition: To amend Exemption No. 5899, which permits M. Shannon & Associates and the operators of Cessna Citation 500 models (Serial Nos. 0001 through 0349 only) to operate the said aircraft with only one pilot, without a second in command. The amendment affects certain conditions and limitations of the existing exemption.
Grant, March 17, 1995, Exemption No. 5899A

Docket No.: 27750
Petitioner: Trans World Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.339(a)(3)
Description of Relief Sought/ Disposition: To permit Trans World Airlines, Inc., to operate in extended over-water operations with high-intensity hand-held (HIHH) strobe lights in life raft survival kits instead of pyrotechnic flares.
Denial, March 23, 1995, Exemption No. 6044

Docket No.: 27821
Petitioner: Mr. John Saddler
Sections of the FAR Affected: 14 CFR 91.209 (a) and (d)
Description of Relief Sought/ Disposition: To allow the Cedar Rapids Police Department Air Support Division to operate a single-engine land aircraft and single-engine piston and turbine-powered helicopters with their lights turned off for the purpose of covert night surveillance of individuals suspected of involvement in criminal activity.
Grant, March 30, 1995, Exemption No. 6048

Docket No.: 27853
Petitioner: Ms. Frances E. Thomas
Sections of the FAR Affected: 14 CFR 141.35(d)(2)
Description of Relief Sought/ Disposition: *To permit Ms. Thomas to serve as chief flight instructor at Smith Aero Flight School, administering a course of training other than those that lead to the issuance of a private pilot certificate or rating, or an instrument rating or a rating with instrument privileges, without the required minimum of 2,000 hours as pilot in command.*
Grant, March 28, 1995, Exemption No. 6046

Docket No.: 27881
Petitioner: TransNorthern Air Service
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought/ Disposition: To allow pilots employed by TransNorthern Air Service to perform the preventative maintenance function of removing or installing passenger seats in its aircraft that are operated under 14 CFR part 135.
Grant, January 24, 1995, Exemption No. 6031

Docket No.: 28097
Petitioner: Columbia Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 133.19(a)(3) and 133.51
Description of Relief Sought/ Disposition: To allow Columbia Helicopters, Inc., to conduct external-load operations in the United States using a Canadian-registered rotorcraft, specifically, a Boeing Vertol 107.
Grant, March 28, 1995, Exemption No. 6045

[FR Doc. 95–9027 Filed 4–11–95; 8:45 am]
BILLING CODE 4910–13–M

Receipt of Noise Compatibility Program and Request for Review for Saipan International Airport, Saipan, Northern Mariana Islands

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Saipan International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the Commonwealth Ports Authority. This program was submitted subsequent to a determination by the FAA that the associated noise exposure maps submitted under 14 CFR part 150 for Saipan International Airport were in compliance with applicable requirements effective February 14, 1994. The proposed noise compatibility program will be approved or disapproved on or before September 25, 1995.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is March 29, 1995. The public comment period ends May 28, 1995.

FOR FURTHER INFORMATION CONTACT: David J. Welhouse, Airport Engineer/ Planner, Honolulu Airports District Office, Federal Aviation Administration, Box 50244, Honolulu, Hawaii 96850. Telephone 808/541–1243. Street Address: 300 Ala Moana Boulevard, room 7116, Honolulu, Hawaii, 96813. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Saipan International Airport which will be approved or disapproved on or before September 25, 1995. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Saipan International Airport, effective on March 29, 1995. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 25, 1995.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue, SW., room 617, Washington, DC 20591
Federal Aviation Administration, Western-Pacific Region Office, 15000 Aviation Boulevard, room 3012, Hawthorne, California 90261
Federal Aviation Administration, Honolulu Airports District Office, 300 Ala Moana Boulevard, room 7116, Honolulu, Hawaii 96813
Commonwealth Ports Authority, Saipan International Airport, Saipan, Northern Mariana Islands

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Hawthorne, California, on March 29, 1995.

Herman C. Bliss,
Manager, Airports Division, Western-Pacific Region.

[FR Doc. 95–8953 Filed 4–11–95; 8:45 am]
BILLING CODE 4910–13–M

Civil Tiltrotor Development Advisory Committee; Environment & Safety Subcommittee; Meeting

Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act, Public Law 72–362; 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) Environment & Safety Subcommittee will be on April 18, 1995 at the headquarters of the Airport Council International located at 1775 K Street NW., Suite 500, Washington, DC 20006. The meeting will begin at 10:00 a.m. and conclude by 5:00 p.m.

The agenda for the Environment & Safety Subcommittee meeting will include the following:

(1) Discussion of the draft executive summary.
(2) Review issue papers and draft report material.
(3) Review Subcommittee Assumptions.
(4) Review Subcommittee Work Plan/ Schedule.

All persons who plan to attend the meeting must notify Mrs. Karen Braxton at 202–267–9451 *by April 14, 1995.*

Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting.

Members of the public may provide a written statement to the Subcommittee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Mrs. Braxton at least three days prior to the meeting.

Issued in Washington, DC, April 3, 1995.

Richard A. Weiss,
Designated Federal Official, Civil Tiltrotor Development Advisory Committee.

[FR Doc. 95–8765 Filed 4–11–95; 8:45 am]
BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 12, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 258, Des Plaines, IL 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David R. Mosena, Commissioner of the City of Chicago Department of Aviation at the following address: O'Hare International Airport, P.O. Box 66142, Chicago, IL 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 258, Des Plaines, IL 60018, (708) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 27, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Chicago Department of Aviation was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 1, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Actual charge effective date: September 1, 1993
Proposed charge expiration date: December 1, 1999
Total estimated PFC revenue: $532,021,428
Brief description of proposed projects:

Projects To Use PFC

Runway 9R/27L Rehabilitation; Taxiway-Hangar Alley Rehabilitation; Roadway-Hangar Area Lighting; Perimeter Security System—Study/ Design; Concourse E/F Upgrade; Concourse G Upgrade.

Projects To Impose and Use PFC

Military Site Acquisition—Formulation; Shoulder Rehabilitation—

VOL 60 ISS 70 AP 12 1995 UMI

Runway 4R/22L & 9L/27R; ATS Remote Parking Lot Station; Purchase Two New ATS Cars; Oil Separators 1,2,3 Rehabilitation; CTA Dedicated Cars—Study, Cargo Tunnel Structural Repairs.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois, on April 4, 1995.

Ben DeLeon,

Manager, Planning/Programming Branch, Airports division, Great Lakes Region.

[FR Doc. 95–8954 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Chicago Midway Airport, Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago Midway Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 12, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 258, Des Plaines, IL 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David R. Mosena, Commissioner of the City of Chicago Department of Aviation at the following address: O'Hare International Airport, P.O. Box 66142, Chicago, IL 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 258, Des Plaines, IL 60018, (708) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago Midway Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 27, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Chicago Department of Aviation was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 8, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Actual charge effective date: September 1, 1993
Proposed charge expiration date: May 1, 2000
Total estimated PFC revenue: $87,147,158
Brief description of proposed projects:

Impose Only Projects

Runway 4R/22L Reconstruction; Runway Arrestment System.

Projects To Impose and Use

Midway Terminal Development—Planning & Design; Airfield Lighting Control Panel; Land Acquisition—Parcels 50, 57, 64, 65, 66, 68, 70 and 71; Update Part 150; Demonstration Home Soundproofing.

Use Only Projects

Runway 13L/31R Rehabilitation; Landside Pavement Replacement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois, on April 4, 1995.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 95–8955 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule an Application To Impose a Passenger Facility Charge (PFC) at Cleveland Hopkins International Airport, Cleveland, OH and To Use the Revenue From a PFC at Cleveland Hopkins International Airport and Burke Lakefront Airport, Cleveland, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Cleveland Hopkins International Airport and to use the revenue at Cleveland Hopkins International Airport and Burke Lakefront Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 12, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to William F. Cunningham, Jr., A.A.E. Director of the Department of Port Control at the following address: Cleveland Hopkins International Airport, 5300 Riverside Drive, Cleveland, Ohio 44135.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Department of Port Control under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Dean C. Nitz, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Cleveland Hopkins International Airport and use the revenue at Cleveland Hopkins International Airport and Burke Lakefront Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 3, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Cleveland, Department of Port Control, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 30, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: October 4, 1995
Proposed charge expiration date: January 31, 1997
Total estimated PFC revenue: $21,620,642
Brief description of proposed project(s):

Projects To Impose and Use

Cleveland Hopkins International Airport

NASA Acquisition Study; Acquisition of Analex Office Complex: Asbestos Removal in Terminal.

Burke Lakefront Airport

Passenger Loading Bridges and Baggage Claim Improvements.

Impose Only Projects

Cleveland Hopkins International Airport

Waste Water/Glycol Collection System.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Department of Port Control, Cleveland Hopkins International Airport.

Issued in Des Plaines, Illinois, on April 4, 1995.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 95–8956 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–25; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1994 and 1995 Ford Escort RS Cosworth Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 and 1995 Ford Escort RS Cosworth passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1994 and 1995 Ford Escort RS Cosworth passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The closing date for comments on the petition is May 12, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United Sates unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Sun International Racing of Manhattan Beach, California (Registered Importer R–95–050), has petitioned NHTSA to decide whether 1994 and 1995 Ford Escort RS Cosworth passenger cars are eligible for importation into the United States. The petitioner contends that these vehicles are eligible for importation under 49 U.S.C. 30141(a)(1)(B) because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that the 1994 and 1995 Ford Escort RS Cosworth have safety features that comply with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluids*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

VOL 60 ISS 70 AP 12 1995 UMI

The petitioner further contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) inscription of the letters "ABS" on the antilock brake system warning light; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment:* (a) Installation of U.S.-model sealed beam headlamps; (b) installation of sidemarker lamps and reflectors; (c) installation of a high-mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* (a) Replacement of the driver's side rearview mirror with one having a flat reflective surface; (b) inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer system.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate on the left side of the vehicle that is readable from outside the driver's side of the windshield.

Standard No. 118 *Power-Operated Window Systems:* disconnection of the driver's side door jamb switch so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of an air bag warning label; (b) installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with both driver's and passenger side air bags, Type 2 seat belts in the front and rear outboard seating positions, and a Type 1 seat belt in the rear center seating position.

Additionally, the petitioner claims that reinforcing material must be installed for the 1994 and 1995 Ford Escort RS Cosworth to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 6, 1995.

Marilynne E. Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–8963 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 95–24; Notice 1]

Receipt of Petition for Decision That Nonconforming 1994 Porsche 964 Turbo Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 Porsche 964 Turbo passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1994 Porsche 964 Turbo that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATE: The closing date for comments on the petition is May 12, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(A)(1)(a) (formerly section 108(C)(3)(a)(I)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer R–90–005) has petitioned NHTSA to decide whether 1994 Porsche 964 Turbo passenger cars are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1994 Porsche 911 Turbo. Wallace has submitted information indicating that the 1994 Porsche 911 Turbo was certified as conforming to all applicable Federal motor vehicle safety standards and was offered for sale in the United States.

The petitioner contends that it carefully compared the 964 and the 911 Turbos, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the 1994 Porsche 964 Turbo, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1994 Porsche 911 Turbo that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1994 Porsche 964 Turbo is identical to the certified 1994 Porsche 911 Turbo with respect to compliance with

Standard Nos. 102 *Transmission Shift Lever Sequence * * **, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver from the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 Windshield Zone Intrusion, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hours.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model turn signal lenses; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Inscription of the required warning statement on the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* Installation of a safety belt warning system and a microswitch in the driver's seat belt latch. The petitioner states that the 1994 Porsche 964 Turbo is equipped with a passive restraint system consisting of driver and passenger side air bags and knee bolsters that are identical to those found on the U.S. certified 1994 Porsche 911 Turbo. The petitioner also states that all four seating positions in the 1994 Porsche 964 Turbo are equipped with Type 2 seat belts that comply with the standard.

Additionally, the petitioner states that the 1994 Porsche 964 Turbo must be equipped with front and rear bumper shocks to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 6, 1995.

Marilynne E. Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–8962 Filed 6–11–95; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemptions or Applications to Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions or applications to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before April 27, 1995.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

VOL 60 ISS 70 AP 12 1995 UMI

Application No.	Applicant	Renewal of exemption
7073–M	Ethyl Corporation, Baton Rouge, LA (see footnote 1)	7073
10442–M	Quantic Industries, Inc., Hollister, CA (see footnote 2)	10442
10692–M	ProTank, Inc., Port Orange, FL (see footnote 3)	10692
10869–M	Norris Cylinder Co., Longview, TX (see footnote 4)	10869
10883–M	Eastpak Corp., Mt. Kisco, NY (see footnote 5)	10883
*1156–M	Explosives Technologies International, Wilmington, DE (see footnote 6)	11156

[1] To modify exemption to provide for additional commodities classed in Division 6.1 and Class 3 for transportation in non-DOT specification portable tanks.
[2] To modify exemption to provide for shipment of waste material contaminated with small quantities of explosives in 1G/Y60, 1G/Y115 and 4G/Y30 containers.
[3] To modify exemption to provide for additional model non-DOT specification welded pressure vessel for use in transporting Division 2.1 gas.
[4] To modify the heat treatment schedule of non-DOT specification steel cylinders used to transport certain compressed gases.
[5] To modify the exemption to change the container size of polyethylene injection molded bins for the transportation of medical waste.
[6] To modify the exemption to increase the capacity limit to 60 lbs. in specially designed multi-wall plastic lined bags for use in transporting ammonium nitrate-fuel oil mixture, Division 1.5D.

Application No.	Applicant	Parties to exemption
5951–P	DXI Industries, Inc., Houston, TX	5951
8009–P	Sonoma County Transit, Santa Rosa, CA	8009
8236–P	Chrysler Corporation, Center Line, MI	8236
8451–P	California Advanced Environmental Technology Corp., Hayward, CA	8451
8451–P	Advanced Environmental Technology Corporation, Flanders, NJ	8451
8451–P	Breed Technologies, Inc., Lakeland, FL	8451
8554–P	Viking Explosives & Supply, Inc., Rosemount, MN	8554
8958–P	AeroTech, Inc., Las Vegas, NV	8958
9222–P	Clean Harbors Environmental Services, Inc., Quincy, MA	9222
9275–P	Gensia Laboratories, Ltd., Irvine, CA	9275
9769–P	ENSCO, Inc. d/b/a Division Transport, Eldorado, AR	9769
9769–P	Clean Harbors Environmental Services, Inc., Quincy, MA	9769
9779–P	BJ Services Co., Houston, TX	9779
10001P	J. A. Cunningham Equipment, Inc., Philadelphia, PA	10001
10001P	Nordan Smith Welding Supplies, Hattiesburg, MS	10001
10441P	Enviro-Chem Environmental Services, Inc., Apex, NC	10441
10441P	Clean Harbors Environmental Services, Inc., Quincy, MA	10441
10709P	Mariah Corporation, Broussard, LA	10709
10949P	Clean Harbors Environmental Services, Inc., Quincy, MA	11055
11055P	Clean Harbors Environmental Services, Inc., Quincy, MA	11055
11156P	Dole Explosives, Inc., Rosemount, MN	11156
11254P	Apex Wireline, Inc., Houma, LA	11254
11294P	S&W Waste, Inc., South Kearney, NJ	11294
11356P	Ashland Chemical Company, Columbus, OH	11356

This notice of request of applications for modification of exemptions and for party to en exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on April 6, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–8965 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before May 12, 1995.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If conformation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street, SW. Washington, DC.

New Exemptions

Application	Applicant	Regulation(s) affected	Nature of exemption thereof
11432–N	Western Atlas International, Houston, TX.	49 CFR 173.61(c), 173.62, E–141, 177.848(g).	To authorize the transportation in commerce of detonators and igniters, Division 1.4S and 1.4G to be transported in the same specially designed packaging. (Modes 1, 3, and 4.)
11433–N	Teledyne Fluid Systems, Brecksville, OH.	49 CFR 173.306(f)	To authorize the transportation in commerce of limited quantities of compressed gases, Division 2.2, in accumulators which deviate from the required test parameters. (Modes 1 2, 3, 4, and 5.)
11434–N	Fisher Scientific Company, Fair Lawn, NJ.	49 CFR 174.64(j)	To authorize rail cars to remain connected during unloading operation of Class 3 and Division 6.1 materials, without the physical presence of an unloader. (Mode 2.)
11435–N	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.318(a), 176.76(h)(4).	To authorize the manufacture, mark and sale of non-DOT specification portable tank designed and constructed in accordance with ASME Code enclosed in ISO type frame for use in transporting Division 2.2 material. (Modes 1, 3.)
11436–N	B&R Specialties, Inc., Staatsburg, NY.	49 CFR 171.8, 172.101, Col. (8c), 173.197.	To authorize the transportation of regulated medical waste in polyethylene carts mounted on bases with rolling casters transported in specially designed trucks. (Mode 1.)
11439–N	NASA, Washington, DC	49 CFR 173.304(d), 173.34(a)(1).	To authorize the transportation in commerce of a x-ray timing explorer spacecraft equipped with non-DOT specification cylinders containing propane, Division 2.1. (Modes 1, 4.)
11440–N	PPG Industries, Pittsburgh, PA	49 CFR 173.227(c)	To authorize the use of an alternate loading configuration for UN-marked and tested drums containing trimethylacetyl chloride, Division 6.1, PIH, Zone B. (Modes 1, 3, and 4.)
11441–N	Radian Corp., Research Triangle Park, NC.	49 CFR 173.306(e)	To authorize the manufacture, mark and sale of refrigerating machine, containing 7,500 pounds of 1,1,1,2-tetrafluoroethane contained in each pressure vessel to be exempted from specification packaging and placarding requirements. (Mode 3.)
11447–N	Saes Pure Gas, Inc., San Luis Obispo, CA.	49 CFR 173.187(a)	To authorize the transportation in commerce of purifier products containing nickel catalyst classed in Division 4.3, in quantities greater than those currently authorized. (Mode 1.)
11448–N	Amalgamet Canada, Toronto, Ontario, CN.	49 CFR 173.227(b)	To authorize the transportation in commerce of hazard zone B materials that are poisonous inhalation hazards in 55 gallon, stainless steel 1A1 container without an additional overpack (Modes 1, 3.)
9184–N	American Carbide, L.L.C., Newport Beach, CA.	49 CFR 173.1/8	To authorize the shipment of calcium carbide and substances which in contact with water emit flammable gases, solid n.o.s. (strontium aluminate), in polyethylene-lined woven propylene collapsible bags in truckload or carload lots only • (Modes 1, 2.)

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on April 6, 1995.

J. Suzanne Hedgepeth,

Chief, Exemption Programs, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 95–8964 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–60–M

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1980, as amended by Pub. L. 99–591; Information Collection Under Review by the Office of Management and Budget (OMB)

AGENCY: Tennessee Valley Authority.

ACTION: Information Collection Under Review by the Office of Management and Budget (OMB).

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), as amended by Pub. L. 99–591. Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be made within 30 days directly to the Agency Clearance Officer and also to the Desk Officer for the Tennessee Valley Authority, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; Telephone: (202)/395–3084

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority 1101 Market Street (BR 6B), Chattanooga, TN 37402–2801; (615)/751–2523.

VOL
60
ISS
70
AP
12
1995
UMI

Type of Request: Regular submission.
Title of Information Collection: Power Distributors Annual Report to TVA.
Type of Affected Public: Businesses or other for-profit, small businesses or organizations.
Small Businesses or Organizations Affected: Yes.
Federal Budget Functional Category Code: 271.
Estimated Number of Annual Responses: 320.
Estimated Total Annual Burden Hours: 3072.
Estimated Average Burden Hours Per Response: 9.6.
Need For and Use of Information: This information collection supplies TVA with financial and accounting information to help ensure that electric power produced by TVA is sold to consumers at rates which are as low as feasible.

William S. Moore,
Senior Manager, Administrative and Transportation Services.
[FR Doc. 95–8999 Filed 4–11–95; 8:45 am]
BILLING CODE 8120–08–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, April 13, 1995–9:30 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: April 7, 1995.
Sadye E. Dunn,
Secretary.
[FR Doc. 95–9159 Filed 4–10–95; 2:55 pm]
BILLING CODE 6355–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business requires the deletion of the following item from the agenda of the previously announced open meeting (Federal Register, Vol. 60, Page 18171, April 10, 1995) scheduled for Thursday, April 13, 1995.

5. Request for Midflorida Schools Federal Credit Union for a Field of Membership Expansion.

The Board voted unanimously to delete this item from the open agenda, and that no earlier announcement of this change was possible.

The previously announced open items are:

1. Approval of Minutes of Previous Open Meeting.
2. Request from State of Michigan for Exemption under Section 701.21(h), NCUA's Rules and Regulations, Member Business Loans.
3. Proposed Rule: Amendments to Section 701.21(c)(8), NCUA's Rules and Regulations, Prohibited Fees.
4. Proposed Rule: Amendments to Part 704, NCUA's Rules and Regulations, Corporate Credit Unions.

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,
Secretary of the Board.
[FR Doc. 95–9883 Filed 4–10–95; 2:56 pm]
BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 10, 1995.

A closed meeting will be held on Friday, April 14, 1995, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Friday, April 14, 1995, at 10:00 a.m., will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive actions.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: April 10, 1995.
Jonathan G. Katz,
Secretary.
[FR Doc. 95–9144 Filed 4–10–95; 2:55 p.m.]
BILLING CODE 8010–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–95–10]

TIME AND DATE: April 17, 1995 at 2:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. TA–201–64 (Fresh Winter Tomatoes)—briefing and vote on the question of provisional relief.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 7, 1995.
By order of the Commission:
Donna R. Koehnke,
Secretary.
[FR Doc. 95–9095 Filed 4–10–95; 12:12 pm]
BILLING CODE 7020–02–P

VOL
60
ISS
70
AP
12
1995
UMI

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-95-09]

TIME AND DATE: April 26, 1995 at 2:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731-TA-696-698 (Final) (Magnesium from China, Russia, and Ukraine)—briefing and vote.
5. Outstanding action jackets:

1. ID-95-012, Institution of section 332 investigation on Global Competitiveness of U.S. Environmental Technology Industries: Air Pollution Prevention and Control.

In accordance with Commission policy, subject matter listed above, not **disposed of at the scheduled meeting,** may be carried over to the agenda of the following meeting.

Issued: April 7, 1995.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 95-9096 Filed 4-10-95; 12:12 pm]

BILLING CODE 7020-02-P

federal register

Wednesday
April 12, 1995

Part II

Department of Health and Human Services

Administration for Children and Families

Request for Applications Under the Office of Community Services FY 1995 Demonstration Partnership Program (DPP); Notice

VOL 60 ISS 70 AP 12 1995 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–95–05]

Request for Applications Under the Office of Community Services' FY 1995 Demonstration Partnership Program (DPP)

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' Demonstration Partnership Program (DPP).

SUMMARY: The Office of Community Services (OCS) announces that, based on availability of funds, applications will be accepted for grants pursuant to the Secretary's authority under section 408(a) (Pub. L. 99–425), of the Human Services Reauthorization Act of 1986 as amended.

CLOSING DATE: The closing date for submission of applications is June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, Administration for Children and Families, Division of Community Demonstration Programs, 370 L'Enfant Promenade, SW., Fifth Floor, Washington, DC 20447, Attention: Richard Seul, (202) 401–9347.

This Announcement is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a *Guide to Accessing and Downloading* is available from Ms. Minnie Landry at (202) 401–5309.

Table of Contents

Part I. Introduction
- A. Legislative Authority
- B. Eligibility
- C. Definition of Terms

Part II. Background Information
- A. Project Periods and Budget Periods
- B. Availability of Funds and Grant Amounts
- C. Matching Funds
- D. Prohibition on the Use of Funds
- E. Program Beneficiaries
- F. Sub-Contracting or Delegating Projects
- G. Maintenance of Effort
- H. Multiple Submittals and Multiple Grants

Part III. Program Priority Areas
- 1.0 General Demonstration Projects (Approximately $2.4 million available)
- 2.0 Replication Projects (Approximately $1.5 million available, including Urban Youth project)
- 3.0 EZ/EC Continuous Improvement Grants (Maximum of $1,000,000 available)
- 4.0 Urban Youth Projects (Up to $2.5 million available, including Replication project)

Part IV. Application Elements and Review Criteria
- A. Program Elements, Review and Assessment Criteria for Applications under Priority Areas 1.0 and 4.0
- B. Special Program Elements, Review and Assessment Criteria for Applications for Replication Projects under Priority Area 2.0
- C. Program Elements, Review and Assessment Criteria for Applications for EZ/EC Continuous Improvement Grants under Priority Area 3.0

Part V. Application Procedures
- A. Availability of Forms
- B. Application Submission
- C. Intergovernmental Review
- D. Application Consideration
- E. Criteria for Screening Applications

Part VI. Instructions for Completing Application Forms
- A. SF–424—Application for Federal Assistance
- B. SF–424A—Budget Information—Non-Construction Programs
- C. SF–424B—Assurances—Non-Construction

Part VII. Contents of Application

Part VIII. Post-Award Information and Reporting Requirements

Part I. Introduction

A. Legislative Authority

Section 408 of the Human Services Reauthorization Act of 1986, as amended (Pub. L. 99–425), entitled Demonstration Partnership Agreements Addressing the Needs of the Poor, authorizes the Secretary to make grants to eligible entities in order to stimulate the development of new approaches to provide for greater self-sufficiency of the poor, to test and evaluate such new approaches, to disseminate project results and evaluation findings, and for the development and implementation of new and innovative approaches to deal with particularly critical needs or problems of the poor which are common to a number of communities. Additionally, the legislation provides for grants to demonstrate new approaches to dealing with the problems caused by entrenched, chronic unemployment and lack of economic opportunities for urban youth.

Proposed projects must be carried out in partnership with other organizations or institutions, public or private, which can be local, regional or national in character, and should, through these partnerships, strengthen the community's socio-economic infrastructure and the integration, coordination, and redirection of community resources to support progress toward self-sufficiency. Projects must include plans and funding for a third party evaluation which can lead to replication of successful programs.

This solicitation is requesting applications with proposal narratives of not more than twenty (20) pages (accompanied by the usual forms and appropriate appendices) on the basis of which funding decisions will be made.

B. Eligibility

Eligible entities for these grants are all current recipients of Community Services Block Grant funds which are officially designated as Community Action Agencies or Community Action Programs under Section 673(1) of the Community Services Block Grant (CSBG) Act, and which meet all the requirements under Section 675(c)(3) of that Act; and organizations serving migrant and seasonal farmworkers which received CSBG funding in Fiscal Year 1994.

In order to establish eligibility, the application must contain a letter signed by the State Director of the Community Services Block Grant program certifying that the applicant is an "eligible entity" as defined in Section C below and that it has the capacity to operate the proposed project.

C. Definition of Terms

For purposes of this Announcement, the following definitions apply:

—*Budget Period:* The term "budget period" refers to the interval of time into which a multi-year period of assistance (project period) is usually divided for budgetary and funding purposes. (In the case of grants under this Announcement, project and budget periods may run concurrently for up to three years)

—*Case Management:* For purposes of this Announcement, case management includes but is not limited to: assessment of the client's needs, development of a holistic, comprehensive service plan, and delivery of the most efficient and effective mix of services and support in the implementation of that plan.

—*Eligible entity:* Any organization which is officially designated as a community action agency or a community action program under Section 673(1) of the Community Services Block Grant (CSBG) Act, and meets all the requirements under Section 675(c)(3) of the CSBG Act. All "eligible entities" are current recipients of Community Services Block Grant funds, including organizations serving migrant and seasonal farmworkers which received CSBG funding in the previous fiscal year (FY 1994). In those cases where "eligible entity" status is unclear, final determination will be made by OCS/ACF.

—*Family:* For purposes of this Notice, family includes the definition of nuclear family, as well as the inclusion of household members and/or the extended family.

—*Hypothesis:* An assumption made in order to test its validity. It should assert a relationship between an intervention and an outcome on a target population. For example, there will be a significant increase in the proportion of (target population) making progress toward self-sufficiency (outcome) who receive and/or participate in (intervention) as compared to those who do not. The outcome must be measurable.

—*Innovative project:* One that departs from or significantly modifies past program practices and tests a new approach(es).

—*Intervention:* Any planned activity within a project that is intended to produce changes in the target population or the environment, and can be formally evaluated.

—*Outcome evaluation:* An assessment of measured results designed to provide a valid determination of the net effects attributable to the intervention. An outcome evaluation will produce and interpret findings related to whether the intervention produced desirable changes and its potential for replicability. It should answer the question, "Did this program work?"

—*Partnership:* A formal negotiated arrangement between an eligible entity and another organization (or organizations) that provides for substantive collaborative policy and service provision roles for each of the partners in the planning and conduct of the project, the results of which should be better integration of resources and services delivery at the community level.

—*Process evaluation:* Descriptive information that is gathered on the development and implementation of a program/intervention that may serve as a document for replicating the program elsewhere. The evaluation should also identify problems that occurred and how they were dealt with and recommend improved means of future implementation. It should answer the question: "How was the program carried out?" In concert with the outcome evaluation, it should also help explain, "Why did this program work/not work?"

—*Project period:* The term "project period" refers to the total time for which a project is approved for support, including any extensions.

—*Self-sufficiency:* A condition where an individual or family, by reason of employment, does not need and is not eligible for, public assistance.

Part II. Background Information

A. Project Periods and Budget Periods

(See Part I, C, Definitions)

Project and budget periods for all DPP projects will be for a minimum of 30 months and a maximum of 36 months. These will consist of:

1. A *six-month start-up period* during which project staff can be hired, agreements with Project Partners will be finalized, the Third Party Evaluator will be brought on board, and the final Project Evaluation Plan will be completed with the assistance of the approved evaluator and the OCS Evaluation Technical Assistance Contractor. This start-up period should be used to refine the project implementation plan and budget to reflect any changes in the evaluation strategy; and during this period the Project Director and the Evaluator will participate in a workshop conference with staff of OCS and the TA contractor;

2. A *twenty-four month (2 year)* operational period during which the project implementation plan will be carried out; and

3. A *close-out period of up to six months* for completion of the final evaluation and report, and any planned dissemination of project results. To insure funding stability throughout the project period, proposed projects must have sufficient non-OCS funds committed so that, combined with FY 95 OCS grant funds, grantees will have sufficient resources to complete their proposed projects and final evaluations. [Note: Where grantees can show that a significant improvement in the extent or validity of evaluation findings will be the result, projects may receive refunding after the two-year operational period, on a competitive basis and subject to the availability of funds, in an amount not to exceed 80 per cent of the original grant for continuation of the project for an additional period of up to thirty (30) months (a start-up period not being required).]

B. Availability of Funds and Grant Amounts

The total appropriated amount for the FY 1995 Demonstration Partnership Program is $7,977,000, of which approximately $7,000,000 will be available for grants pursuant to this Announcement to support new general project grant awards, replication projects, EZ/EC Continuous Improvement grants, and projects directed at the problems of urban youth.

1. For priority areas 1.0 General Projects and 2.0 Replication Projects grant requests will be considered for an amount up to $350,000 in OCS funds for the total budget/project period of up to thirty-six months, except that, of the four suggested Replication Projects under Priority Area 2.0, one will be considered an Urban Youth Project with a maximum grant amount of $500,000, as explained in Part III, below.

2. For priority area 3.0 EZ/EC Continuous Improvement Projects grant requests will be considered for an amount not to exceed $50,000. The project/budget periods for these grants may be up to thirty-six months.

3. For priority area 4.0 Urban Youth Projects grant requests will be considered for an amount up to $500,000 for the total project/budget period of up to 36 months.

C. Matching Funds

An applicant is required to obtain commitment of at least one private or public sector dollar or equivalent in-kind contribution for each dollar of OCS funds awarded for all priority categories except 4.0 Urban Youth. Thus, if an applicant is requesting $250,000 in OCS funds, at least $250,000 worth of additional resources must be committed to the project from private or public sector sources. For Urban Youth Projects, Priority Area 4.0, OCS will fund 80% of the total cost of each project, that is, 80% of the total of the federal and non-federal shares. This means that the match must be 25% of the OCS grant. Thus, if an applicant is requesting $500,000 in OCS funds, which represents 80% of the total project cost, that total cost will amount to $625,000, and the match 20% of that total, or $125,000, which is 25% of the $500,000 OCS grant amount.

Public sector resources that can be counted toward the minimum match include funds from State and local governments, and funds from various block grants allocated to the States by the Federal Government providing the authorizing legislation for these grants permits such use. (Note, for example, that Community Development Block Grant (CDBG) funds may be counted as matching funds; CSBG funds may not.)

Funds identified by the applicant as those to be counted toward the minimum match requirement may be in the form of grantee-incurred costs, cash, or third-party in-kind contributions fairly valued. OCS is recommending

VOL 60 ISS 70 APR 12 1995 UMI

that at least 50% of the match be provided by the proposed partners through the delivery of specific services or resources to the client population. Such resources must be definitely committed or contingent only upon receipt of an OCS grant, and must be applied to specific project activities within the OCS-approved project and used only for project purposes for the duration of the OCS grant. The firm commitment of the specific amounts of matching funds and/or the dollar value of third-party in-kind contributions must be documented in the project application. Documentation of matching funds must be in the form of letters of commitment or intent to commit from the donor, contingent only upon receipt of OCS grant funds.

If any part of match is to be used as a revolving loan fund, those funds must be cash, specifically set-aside for eligible low-income recipients of the project.

Funds expended prior to the approved OCS starting date for a grant cannot be considered as matching funds.

D. Prohibition on the Use of Funds

The use of funds for the purchase or construction of real property is prohibited.

E. Program Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income persons whose incomes are no more than 125% of the DHHS poverty income guidelines as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS.

Attachment C to this Notice is an excerpt from the guidelines currently in effect. Annual revisions of these guidelines are normally published in February or early March of each year. These revised guidelines may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402. These Guidelines are also accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401–5309.

No other government agency or privately defined poverty guidelines are applicable for the determination of low-income eligibility for this OCS program.

F. Sub-Contracting or Delegating Projects

An applicant will not be funded where the proposal is for a grantee to act as a straw-party, that is, to act as a mere conduit of funds to a third party without performing a substantive role itself. This prohibition does not bar subcontracting or subgranting for specific services or activities needed to conduct the project.

G. Maintenance of Effort

The activities funded under this program announcement must be in addition to, and not in substitution for, activities previously carried on without Federal assistance. Also, funds or other resources currently devoted to activities designed to meet the needs of the poor within a community, area, or State must not be reduced in order to provide the required matching contributions. When legislation for a particular block grant permits the use of its funds as match, the applicant must show that it has received a real increase in its block grant allotment and must certify that other anti-poverty programs will not be scaled back to provide the match required for this project. A signed certificate of Maintenance of Effort must be included with the application (see Attachment J).

H. Multiple Submittals and Multiple Grants

In accordance with the statutory provision that limits grants to any eligible entity to one in any given fiscal year, no eligible applicant will receive more than one grant pursuant to this Announcement.

Part III. Program Priority Areas

1.0 General Demonstration Projects (Approximately $2.4 Million Available)

For Fiscal Year 1995 OCS plans to fund approximately seven General Demonstration Projects at $350,000 or less each.

Applications submitted under this category must focus on developing new and innovative ways of promoting individual and family self-sufficiency among the poor within the context of the communities in which they live. The applicant will be expected to propose solutions that show promise of increasing self-sufficiency and that depart from or modify conventional approaches used by eligible entities. At a minimum, every individual should achieve an economic self-sufficiency goal appropriate to their age group. For adult populations (18 years of age or more) that goal should include a job which will allow individuals to provide for basic needs with the potential for career development that will lead to self-sufficiency within a reasonable period of time, enrollment in an educational program which will lead to such a job, or interim goals on the ladder to self-sufficiency.

While self-sufficiency implies reliance on one's own initiative and abilities, such a transformation cannot occur independently of the context of the relationships, resources, and institutions in the surrounding community. OCS understands the importance to self-sufficiency of such community resources as adequate child care, safe and affordable housing, accessible medical care, good transportation, adequate municipal services and other elements of the community's socioeconomic infrastructure. Also important to real progress toward self-sufficiency is readily available and empathetic help in accessing these institutional resources and the emotional support networks that enable people to overcome adversity and move ahead.

Accordingly, OCS is interested in demonstrations of strategies that offer real promise of transforming the lives of poor individuals and families in part by improving the community infrastructure and the workings of the community's service institutions. Applications should include partnerships with organizations which are providers of services within the community and one of the goals of the partnerships should be a developing shift of focus within these organizations from one of client maintenance to client transformation, and a growing recognition of the value of the agency's services as investments in their clients' communities.

In the spirit of "local initiative" OCS looks forward to innovative proposals that grow out of the experience of community action and the needs of the applicants' clientele and communities, and that will make the fruits of local creativity available broadly to others seeking solutions to similar problems.

At the same time, OCS is again interested in receiving applications that propose a realistic plan for harnessing self-sufficiency support activities to Environmental Justice and Sustainable Community Development initiatives in ways which will offer the poor opportunities for long term career development as well as improving the supportive economic infrastructure and facilities of the community. (See Attachment A for a fuller discussion of Environmental Justice and Sustainable Community Development.)

For the purposes of this Announcement, programs falling within the rubric of Environmental Justice and Sustainable Community Development might include community-based job and career development around lead abatement in low-income dwellings; in clean-up of toxic wastes or leaking underground storage tanks; in holistic "livable house" treatment of low-income dwellings which would combine lead abatement with weatherization and the mitigation of other hazards such as asbestos or radon; in the installation and maintenance of alternative and renewable energy technologies in the homes of the poor; in recycling; in the exploitation of new and non-traditional uses of agricultural crops and products; in forest or watershed restoration; in urban pesticide programs designed to reduce the use of toxic pesticides in low income urban communities through Integrated Pest Management and similar techniques; or in the launching of enterprises involving new and non-polluting manufacturing or other commercial methodologies which can provide needed goods and services in ways which are non-polluting and consistent with sustainable community development.

When, in addition, these community-based improvement initiatives capitalize upon significant new public programs or private market forces that offer good potential for continuing financial support of these activities, the initiatives have reasonable chances of growing and prospering, thereby offering additional jobs to entry-level workers and career prospects to employees who perform well. Applications that offer a sound plan for capitalizing upon such public and/or private market forces to provide real employment and career opportunities for low-income individuals will be especially welcome.

Applications which propose initiatives involving activities which will expose program participants or community residents to toxic or poisonous substances, including, but not limited to, lead paint or dust, asbestos, toxic wastes, radon gas, or toxic pesticides, must include, as an appendix to the application, specific assurances that all applicable federal, state, and local laws and regulations for the protection of workers and community residents will be strictly adhered to.

Applications which include job and career development dependent on the securing of contracts for services or successful marketing of goods and/or services must include assurance that such contracts will be forthcoming or assurance based on market surveys or other means that sufficient markets for the proposed goods or services exist to promise a reasonable expectation of project success. Where the development and management of a new business venture are a major focus of the proposed work plan, applicant must provide assurance that such activities will be under the direction of a person or persons having business experience, and the application must include, as an appendix, a Business Plan based on the outline included as Attachment B to this Announcement.

The interventions that applicants propose for this program should be multi-dimensional in nature in order to provide the kind of comprehensive approach needed as an effective basis for individual transformation. They should, where appropriate, address both individual and family progress toward self-sufficiency, and may also involve two or more generations as both providers and beneficiaries of project services.

2.0 Replication Projects (Approximately $1.5 Million Available, Including 1 Urban Youth Project)

The Demonstration Partnership Program is required by its authorizing legislation to invest at least 10% (but no more than 25%) of its appropriation to replicate, in additional geographic areas, previously funded programs that have demonstrated a significant potential for dealing with particularly critical needs or problems of the poor that exist in a number of communities.

For Fiscal Year 1995 OCS plans to fund up to three general replication projects at up to $350,000 each, and one replication urban youth project at up to $500,000, for a total of up to approximately $1,500,000. OCS seeks to stimulate, with these grants, additional experimentation and application of approaches that seem to offer special promise in fostering social and economic self-sufficiency among a variety of low-income people.

The eligibility, match requirements, and time frame for General Replication Projects are the same as for General Demonstration Projects; for Urban Youth Replication Projects they are the same as for Urban Youth Projects.

For FY 1995, OCS has identified four previously funded Demonstration Partnership Projects that have, in their design and implementation, demonstrated a significant potential for dealing successfully with a number of critical needs and problems of poor people in differing circumstances. The four projects are:

A. *Micro-Enterprise Development Program (MEDP), [Now called the Neighborhood Economic Development Self-Employment Program (NEDSEP)]*, Philadelphia, sponsored by the Mayor's Office of Community Services, which has successfully carried out a project of Micro-Enterprise/Self-Employment development, supported by training and technical assistance, comprehensive case management, and peer counselling, among homeless residents of a North Philadelphia low-income neighborhood. Project partners included the Philadelphia County Assistance Office, the Philadelphia Private Industry Council (PIC), the Minority Business Enterprise Council, the Philadelphia Office of Services for Homeless and Adults, the Service Corps of Retired Executives, and the Beech Consortium, a consortium of 45 local private and public organizations. The Philadelphia Project can be reached through: Rosalind Johnson, Project Manager, Mayor's Office of Community Services, 1608 N. Carlisle St., Philadelphia, PA 19121, (215) 978–5930.

B. *The Success Connection*, Yakima, Washington, sponsored by Yakima Valley Opportunities Industrialization Center, which has successfully carried out a project of Case Management, support groups, skills training, and family involvement for Hispanic at risk teen-age children of Migrant and Seasonal Farmworker families in the Yakima Valley. In partnership with the state Migrant Education Services, Central Washington University, and local school districts, the project reduced truancy and drop-out rates, increased school attendance and achievement, developed employment opportunities, and encouraged post-secondary schooling among participating youth. The success of the program has led to the State of Washington's decision to support its implementation State-wide. The Yakima Project can be reached through: Mr. Henry Beauchamp, Executive Director, Yakima Valley OIC, 815 Fruitvale Blvd., Yakima, WA 98902, (509) 839–2717.

C. *Homeless Opportunity Project*, Bath, Maine, sponsored by Coastal Economic Development, Inc., which has combined three innovative components into a successful program to foster self-sufficiency among the homeless poor. These include a shelter-based job training program, a system-wide change in delivery of services to an integrated case-management approach, and an assessment instrument which can be used in the design of individualized development plans for program participants. Project partners include the area's homeless shelter and three other local non-profit providers, Shoreline Community Mental Health Systems, the Addiction Resource

VOL 60 ISS 70 AP 12 1995 UMI

Center, and the United Way of Mid-Coast Maine. The Maine Project can be reached through: Jessica Harnar, Executive Director, Coastal Economic Development, Inc., 39 Andrews Road, Bath, ME 04530, (207) 442–7963.

D. *Step-Up Young Father Mentor Program*, Phoenix, Arizona, sponsored by the City of Phoenix Human Services Department in partnership with the Valley Big Brothers/Big Sisters of Arizona, which has successfully brought "Big Brother" mentoring to youthful, largely minority (62% Hispanic, 20% Black, 4% Native American) fathers, between the ages of 16 and 22, as part of a comprehensive program of education, pre-employment and skills training, and case management/family development services to enable them to assume greater responsibility for their families. This is the first time that the Big Brother organization nationally has worked with this age group. Additional project partners include the Centers for Advancement of Educational Practices, City of Phoenix Parks, Recreation and Library Dept., Maricopa County Community Colleges, and City of Phoenix Employment and Training. The Phoenix project can be reached through: William Chipman, Project Director, 1250 South 7th Ave., Phoenix, AZ 85007, (602) 262–6907.

OCS is interested in replicating each of these programs in a geographically different but appropriate setting.

The Philadelphia project design should function effectively in another large urban setting with a substantial homeless population. It would seem well suited to a city which has received designation as an Empowerment Zone or Enterprise Community, where activities pursuant to the EZ/EC Strategic Plan could stimulate markets for project participants' enterprises.

The Yakima project design should be tried with Hispanic Farmworker populations in another section of the country, perhaps in California or the Southwest.

The Maine project design should be tried with homeless populations in another rural setting, perhaps in a more economically depressed community to test its applicability to higher concentrations of homeless.

The Phoenix project design should function effectively with minority urban youth in a community with an active Big Brothers/Big Sisters or comparable organization willing to participate as an active partner in the project. In the case of the Phoenix project, the replication project will be considered an Urban Youth project for purposes of grant amount (up to $500,000) and match requirement (25% of the OCS grant amount); but proposals will be reviewed under the Priority Area 2.0 Replication Project Elements and Review Criteria.

In each case, the application for a Replication Project should provide for an extensive site visit or site visits by key staff to the project to be replicated (Host Project), during which such staff can receive orientation training and actually serve a brief apprenticeship in the program. In addition, provision should be made for a site visit by staff of the Host Project to the Replication Project during the first year of its operations. The proposed Project Budget should make provision for the costs of such site visits/apprenticeships, as well as for appropriate consulting fees for staff of the Host Project; and the application should include, as an appendix, a Memorandum of Understanding or Letter of Agreement between the applicant and the Host Project setting forth training/apprenticeship undertakings and the attendant financial arrangements.

3.0 EZ/EC Continuous Improvement Grants (Maximum of $1,000,000 Available)

OCS in FY 1994 made approximately 115 $10,000 DPP grants to CAA's involved locally with developing Strategic Plans for submission to the Departments of HUD and Agriculture seeking designation as Empowerment Zones or Enterprise Communities (EZ/EC). The purpose was to strengthen CAA involvement in the local planning process so as to assure the fullest possible participation of low-income residents of the affected communities.

OCS in FY 1995 is interested in making a number of "Continuous Improvement" grants to CAA's or eligible farmworker organizations which had and have major involvement in the planning and implementation of these Strategic Plans in their communities. The purpose of these grants will be to continue to support the involvement of low income residents in the improvement and implementation of these Strategic Plans through activities which will seek to develop innovative ways to increase the self-sufficiency of the poor. Another important purpose of the grants will be to assist grantees to establish or participate in the establishment of a system of information and data collection that will track the activities carried out and identify those which develop and implement new and innovative approaches to deal with particularly critical needs or problems of the poor which are common to a number of communities, including new approaches to dealing with the problems caused by entrenched, chronic unemployment and lack of economic opportunities for urban youth.

OCS proposes, therefore, to fund up to 20 grants of up to $50,000 apiece, for a maximum total of approximately $1,000,000, to enable applicants eligible for the Demonstration Partnership Program to participate in the continuous planning and improvement, and to monitor the implementation, of these Strategic Plans at the local level. OCS hopes these grants will enable grant recipients, through the collection and use of information about strategic planning, implementation and performance, to influence the shape and priorities of these initiatives, and to make possible the closer monitoring of progress at the local community level.

Each grant under this Priority Area will be for up to $50,000. As with Priority Areas 1.0 and 2.0, a 100% match will be required, which can be in cash or in-kind fairly valued, and the operational project time frame for these Continuous Improvement projects is two years, with up to six additional months for start-up and six months after the operational period to complete evaluation and reporting.

OCS expects the project funds to be used to facilitate participation of low income residents and to expand the grantee's human and/or technical resources, which with OCS support will enable it to broaden its involvement in the implementation and monitoring of the Strategic Plan. Applicants are encouraged to contact their State Corporation for National Service Offices and/or their State Commissioner for National Service to discuss possible national service participation in their projects (e.g. Americorps-VISTA, Americorps USA, National Senior Service Corps, Learn and Serve). Such participation could provide two or more volunteers to support the work of the planner and assist staff in the Continuous Improvement project.

Applicants for these Continuous Improvement grants should represent communities that have developed EZ/EC Strategic Plans and are proceeding to implement them, either with or without the support of designation as an Empowerment Zone/Enterprise Community. OCS hopes to make grants to at least two communities that did not receive EZ/EC designation. But in all cases applicants must provide evidence of close working relationships with those involved in the EZ/EC planning and/or implementation process, the local nominating officials, and the other agencies and resources that participated in the development of the community's strategic plan document. Special emphasis should also be given in

applications to establishing and documenting working relationships with additional data collection and analysis resources such as Historically Black Colleges and Universities and Minority Institutions with strong ties to the low-income community.

4.0 Urban Youth Projects (up to $2.5 Million Available, Including 1 Replication Project)

For FY 1995, OCS expects to award five or six grants of up to $500,000 for a total of up to $2.5 million for projects that propose to demonstrate new approaches to dealing with the problems caused by entrenched, chronic unemployment and lack of economic opportunities for urban youth, between 10 and 25 years of age. As noted above, under Priority Area 2.0, these could include one Urban Youth Project for replication of the Step-Up Young Father Mentor Program in Phoenix, Arizona.

The authorizing legislation provides that "demonstrations shall include such initiatives as peer counseling, mentoring, development of job skills, assistance with social skills, community services, family literacy, parenting skills, opportunities for employment or entrepreneurship, and other services designed to assist such at-risk youth to continue their education, to secure meaningful employment, to perform community service, or to pursue other productive alternatives within the community."

OCS recognizes that greater self-sufficiency and productivity among urban youth will not occur in isolation of new innovative approaches to address the conditions that prevent dependency. Urban youth, between the ages of ten (10) and twenty-five (25), experience a number of systemic conditions that prohibit the achievement of self-sufficiency and independence as they grow into adulthood.

Over two-thirds of urban youth are born to unmarried women. Nationally, families consisting of children in households headed by unmarried females rose from some 10 percent in 1960 to over 35 percent today, according to the Joint Center for Economic Studies. This development alone has serious economic implications. The growth in female-headed families contributes significantly to the overall deepening of poverty among urban children.

Declines in economic opportunities play at least as great a part in increasing the prevalence of poverty as the change in family structure. The growing prevalence and geographic concentration of urban youth tend to be associated with poor schools, high public social service usage, greater exposure to crime, and fewer employment options.

Urban males who grow up in poor, mother-only families appear to be at special risk for a variety of problems. They are at special risk of becoming alienated and marginalized adults.

Today's urban youth find themselves and their parent(s) caught in a downward shift from working poor (mother-only) families to dependent poor (mother-only) families. They are not only subject to greater economic deprivation, but they:

—Are very likely to be unemployed and on public assistance;
—Grow up with few material or educational resources;
—Are likely to engage in substance abuse and/or criminal activities;
—Lack guidance from responsible adults to teach them how to respect themselves and others while they track through adolescence to adulthood;
—Are at special risk for a variety of behavioral problems;
—Are too often inclined to detach themselves from parental authority; and,
—Are likely to assert themselves in gangs and street cultures that support a flamboyant lifestyle through illicit trafficking.

Applicants are encouraged to develop cooperative learning partnerships of the type that will blend regular classroom curriculum and instructions with stay-in-school programs (including college programs) and the world of work. Innovative concepts might include ideas built around matching scholarship and grant funds offered from other public and private sources to promising low income urban youth.

Projects might also include requests for funds to support diversified occupation projects (projects designed to bridge the gap between school-based programs and the world of work). Envisioned is the promotion of joint projects between local public schools and private sector businesses to develop partial or after school and weekend job apprenticeships or placement opportunities for urban youth. Projects seeking to develop opportunities around computer technology repair work, machine tool manufacturing, and career development in the areas of abatement of environmental hazards and pollution are encouraged.

The target group of disadvantaged youth should not be considered in isolation from the community in which they live. Applicants should seek to involve partners in their project that make possible a comprehensive, holistic approach to individual, family, and community development; including agencies that can assist with parenting, housing, family mentoring, vocational training, day care, transportation, apprenticeships and employment, and interventions in violent situations. OCS is interested, for this set-aside as well as for the other grants, in demonstrations that test the targeting and delivery of these and other services to the disadvantaged youths and their urban neighborhoods and that employ computer workstations and similar strategies for improving the efficiency and effectiveness of the delivery of those services.

Applicants should identify any barriers that might hinder efforts by the project team/partnership to help members of the target population become self-sufficient and include in their proposals specific plans to counteract them. OCS is particularly interested in partnerships that propose creative ways to deal with problems of individual and group violence, including violence as a response to conditions in families and communities that have been subjected to historical patterns of oppression. OCS feels that to assure the safety of all program participants and staff it is essential that such programs be closely coordinated with local law enforcement agencies.

Where projects propose to work with youth 10 to 15 years of age, applicants should consider the stages of youth development and seek to counter unhealthy influences on that development by strengthening this population's sense of community through project activities. It is important, in this regard, that project-related contacts and activities be frequent and intense enough to make a positive impact on participating youths. Applications that include linkages with national and local organizations with significant experience in this issue are encouraged.

Applicants seeking guidance on program design, availability of resources, or the identification of persons or organizations in their communities that can provide additional guidance, support, and expertise in the areas of disadvantaged youth and violence prevention may wish to contact one of the following persons for information and assistance:

Clifton Mitchell, Chief, Special Projects Branch, Center for Substance Abuse Treatment, 5515 Security Lane, Rockwall II, 7th Floor, Rockville, MD 20852, (301) 443–6533

VOL
60
ISS
70
AP
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1995
UMI

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Part IV. Application Elements and Review Criteria

The ultimate goals of the projects to be funded under the Demonstration Partnership Program are to realize, through project interventions, significant improvements in the social and economic self-sufficiency of members of the communities served, to evaluate the effectiveness of these interventions and of the project design through which they were implemented, and thus to make possible the replication of successful programs. As noted above, OCS intends to make the awards of all the above grants on the basis of brief, concise applications. The elements and format of these applications, along with the review criteria that will be used to judge them, will be outlined in this Part.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief.

Applications with project narratives (excluding appendices) of more than 20 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding. Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that the overall Project Narrative cannot be longer than 20 pages.

The competitive review of proposals will be based on the degree to which applicants:

(1) Incorporate each of the Elements and Sub-Elements below into their proposals, so as to:

(2) Describe convincingly a project that will develop and implement new and innovative approaches to address particularly critical needs or problems of the poor;

(3) In ways that appear likely to increase their self-sufficiency; and

(4) Test and evaluate such approaches so as to make possible replication of a successful program.

A. Program Elements, Review and Assessment Criteria for Applications Under Priority Areas 1.0 and 4.0

Element I. Organizational Experience and Capability

(Weight of 0 to 5 points in proposal review.)

Applicants should cite their organization's capability and relevant experience in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project. They should also cite the organization's experience in collaborative programming and operations which involve evaluations and data collection. While the proposed project management team will be identified and described elsewhere in the application, applicants should identify agency executive leadership in this section and briefly describe their involvement in the proposed project and provide assurance of their commitment to its successful implementation. An important indicator of the applicant organization's capability will be the certification to that effect by the State CSBG Director in the required letter of eligibility certification. (See Part I. B., Eligibility, above.)

Applicants should use no more than 2 pages for this element.

Element II. Project Theory, Design, and Plan

(Total Weight of 0–25 points in proposal review)

OCS seeks to learn from the application why and how the project as proposed is expected to lead to significant improvements in individual and family self-sufficiency.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework. In the following paragraphs a "logic model", or framework is described, that suggests a way to present a project so as to show the "logic" of the cause-effect relations between project activities and project results. Applicants don't have to use the exact "logic model" language described; but it is important to present the project in a way that makes clear the cause-effect relationship between what the project plans to do and the results it expects to achieve.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions. (Weight of 0–10 points in application review)

The "logic model" begins with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built: the assumptions about the needs of the client population to be served; about the current services available to those clients, and where and how they fail to meet their needs; about why the proposed services or interventions are appropriate, and will meet those needs; and about the impact the proposed interventions will have on the clients.

In other words, the underlying assumptions of the program are the applicant's analysis of the needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those needs and problems to achieve the desired result. Thus a strong application is based upon a clear description of the needs and problems to be addressed and a persuasive understanding of the causes of those problems.

In this sub-element of the proposal the applicant should precisely identify the target population to be served. The geographic area to be impacted should then be briefly highlighted, selectively emphasizing the socioeconomic/poverty and other data that are relevant to the project design. Applicants for environmental justice projects, for instance, might include as much data about neighborhood pollution and recycling markets as they do about poverty conditions.

The needs of this target population should then be clearly defined, and the applicant should state its underlying assumptions about how these needs can be addressed by the proposed project.

Applicants should use no more than 2 pages for this application sub-element.

Sub-Element II(b). Project Strategy and Design Framework: Interventions, Outcomes, and Goals (Weight of 0–10 points in proposal review.)

To continue with the "logic model":

The underlying assumptions concerning client needs and the theory of how they can be effectively addressed, which are discussed above, lead in the project design to the conduct of a variety of project activities or interventions, each of which is assumed to result in immediate changes, or outcomes.

The immediate changes lead to intermediate outcomes; and the intermediate outcomes lead to the final project goals.

So in this sub-element the applicant should describe the major activities, or interventions, which are to be carried out to address the needs and problems identified in the previous sub-element. And it should discuss the immediate changes, or outcomes, which are expected to result. These are the results expected from each service or intervention immediately after it is provided. For example, a job readiness training program might be expected to result in clients having increased knowledge of how to apply for a job, improved grooming for job interviews, and improved job interview skills. Or peer mentoring coupled with training in dispute settlement might be expected to result in young urban clients acquiring skills useful in avoiding violent confrontations.

At the next level are the intermediate outcomes which result from these immediate changes. Often an intermediate project outcome is the result of several immediate changes resulting from a number of related interventions such as training and mentoring. Intermediate project outcomes should be expressed in measurable changes in knowledge, attitudes, behavior, or status/condition. In the above examples, the immediate changes achieved by the job readiness program could be expected to lead to intermediate outcomes of client employment and increased income. The acquisition of dispute settlement skills, coupled with mentoring, could be expected to result in the actual avoidance of confrontation and violence.

Finally, the application should describe how the achievement of these intermediate outcomes will be expected to lead to the attainment of the project goals: Employment, new careers in environmental clean-up, successful business ventures, enrollment in post secondary education, or whatever they may be. Applicants must remember that if the major focus of the project is to be the development and start-up of a new business, then a Business Plan which follows the outline in Attachment B to this announcement must be submitted as an appendix to the Proposal.

Applicants don't have to use the exact "logic model" terminology described above, but it is important to describe the project in a way that makes clear the expected cause-and-effect relationship between what the project plans to do—the activities or interventions, the changes that are expected to result, and how those changes will lead to achievement of the project goals of greater self-sufficiency.

This design section should cover no more than *3 pages* of the proposal.

Sub-Element II(c). Work Plan (Weight of 0–5 points in proposal review).

Once the project strategy and design framework are established, the applicant should present the highlights of a work plan for the project. The plan should explicitly tie into the project design framework and should be feasible, i.e., capable of being accomplished with the resources and partners available. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems. The plan should be presented in such a way that it can be correlated with the budget narrative included earlier in the application.

The applicant should use no more than *2 pages* for this part of this proposal element.

Applicant may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

Element III. Project Partnerships

(Weight of 0–15 points in the proposal review.)

Suitable project partners are a required component of the Demonstration Partnership Program, and are critical to the kind of service concentration and systemic change envisioned by OCS. Project partners should have skills, resources, and experience that complement those of the applicant, so that the partnership is stronger than its individual parts. Applicants should use this section to identify their project partners, describe the roles that they have agreed to play, and document that at least 50% of the matching funds will be provided by these partners through the delivery of specific services or resources to the target population.

The application should include, in an appendix, commitment letters from, or Partnership Agreements with these proposed partners signed by the executive of the partnering entity. These documents should describe the role of the partner in the project, including the relevant skills of the partner, the services to be provided, and the resources and levels of effort to be provided to the project.

Applicants should use no more than *3 pages* for this proposal element (plus the Partnership Agreement(s) in the appendix).

Element IV. Project Innovations

(Weight of 0 to 10 points in the proposal review.)

Applicant should briefly describe the ways in which the proposed project represents a new and innovative approach or approaches to provide for greater self-sufficiency of the poor and/or to deal with particularly critical needs or problems of the poor that are common to a number of communities. Innovation can be in the characteristics of the target population to be served, or the needs to be addressed; the kinds of activities, or interventions, that will be carried out; the ways in which they will be carried out; new and different combinations of activities or interventions that will be implemented; or in the settings in which the project will function: e.g. new and innovative types of work or businesses or institutions in which the project will function.

Applicants should use no more than *1 page* for this proposal element.

Element V. Project Management and Organization

(Weight of 0 to 10 points in the proposal review.)

While the experience of agency leadership is important to project success, the caliber of day-to-day project management is critical. Applicants should identify the Project Director and other key staff they feel are especially important to the success of the project, and include resumes as an appendix to the proposal. Where the staff have not been identified, a position description should be included in the appendix. The application should describe their relevant capabilities for managing this multi-faceted project, with emphasis placed on successful management experience in directing both on-budget and leveraged resources to create community conditions capable of supporting effective interventions and transforming lives. This individuals' commitment and planned level-of-effort

VOL 60 ISS 70 AP 12 1995 UMI

to the project should be specified. Project proposals will be assessed, for this element, on the relevant experience, capabilities, commitment and planned level of effort to the project of the Project Director and key staff members as described in the application.

Applicants should also, in this section, describe (and diagram if necessary) the organization of the project. The relationships among the Project Director and the key officials in the applicant and partnering organizations should be depicted, and the project-related authorities and responsibilities of these key actors should be made clear.

Applicants should use no more than *2 pages* for this proposal element (plus the resumes and/or position descriptions in the appendix).

Element VI. Project Budget

(Weight of 0–5 points in the proposal review.)

Applicants will be required to submit Federal budget forms with their proposals to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (424A). In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Narrative, or explanatory budget information. This Budget Narrative is not considered a part of the Project Narrative, and does not count as part of the twenty pages; but rather is included in the application following the budget forms.

The budget narrative should briefly explain the adequacy of the Federal and match funds to accomplish project purposes, should explain the source and nature of matching funds, and should identify and briefly explain any imbalances between level of activities undertaken and project funds expended. Applicants should nonetheless use no more than two or three pages for this proposal element (not including the federal budget forms).

Resources in addition to the required matching amounts are encouraged by OCS, both to augment project resources and to strengthen the basis for continuing partnerships to benefit the target community. The amounts of such resources beyond the required match, their appropriateness to the project design, and the likelihood that they will continue beyond the project time frame will be taken into account in judging the application.

Element VII. Project Evaluation

(Weight of 0–15 points in the proposal review.)

Sound evaluations are essential to the Demonstration Partnership Program. OCS requires applicants to include in their applications a well thought through outline of an evaluation plan for their project. The outline should explain how the applicant proposes to answer the key questions about how effectively the project is being/was implemented (the Process Evaluation) and whether and why/why not the project activities, or interventions achieved the expected outcomes and goals of the project (the Outcome Evaluation).

Applicants are not being asked to submit a complete and final Evaluation Plan as part of their proposal; but they must include:

(1) A well thought through outline of an evaluation plan which identifies the principal cause-and-effect relationships to be tested, and which demonstrates the applicant's understanding of the role and purpose of both Process and Outcome Evaluations (see previous paragraph);

(2) The identity and qualifications of the proposed third party evaluator, or if not selected, the qualifications which will be sought in choosing an evaluator, which must include successful experience in evaluating social service delivery programs, and the planning and/or evaluation of programs designed to foster self-sufficiency in low income populations; and

(3) A commitment to the selection of a third-party evaluator approved by OCS, and to completion of a final evaluation design and plan, in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the six-month start-up period of the project, if funded.

Applicants should ensure, above all, that the evaluation outline presented is consistent with their project design. A clear project framework of the type recommended earlier identifies the key project assumptions about the target populations and their needs, and the hypotheses, or expected cause-effect relationships to be tested in the project: that the proposed project activities, or interventions, will address those needs in ways that will lead to the achievement of the project goals of self-sufficiency. It also identifies in advance the most important process and outcome measures that will be used to identify performance success and expected changes in individual participants, the grantee organization, and the community.

For these reasons, the evaluator that the applicant expects to work with should be involved—at least briefly but substantively—in the development of the project design and proposal.

The applicant should use no more than *3 pages* for this proposal element, plus the Resume or Position Description for the evaluator, which should be in an Appendix.

Element VIII. Significant and Beneficial Impact

(Weight of 0–10 points in the proposal review.)

OCS seeks, with its Demonstration Partnership Program, to use a modest amount of money to support innovative approaches that will create significant benefits for low-income individuals, families, and communities. Accordingly, it intends to make grants that have a strong likelihood of creating beneficial impacts both within the project communities and, through wide dissemination of useful project results and findings, in other communities facing similar challenges.

The proposed project is expected to lead to tangible achievements toward individual and family self-sufficiency and, as a result, verifiable reductions in the incidence of poverty in the targeted community. Applicants should summarize, in this section, the beneficial impacts that they propose to make in that community, their expectations for the continuation of those benefits beyond the project's life, and the kind of information that they expect to share with OCS and the social service/community development fields from their demonstration project. Project proposals will be assessed, for this element, on the likely value of the project to the target community over time—given the proposed outcomes and the likelihood that they will be realized—and to the larger community of CSBG grantees across the nation.

Applicants should use no more than *1 page* for this proposal element. The score for the element will be based to some extent on the coherence and feasibility of the entire application.

Element IX. Community Empowerment Consideration

(Weight of 0–5 points in proposal review.)

Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an Empowerment Zone or Enterprise Community, high levels of unemployment, and a high incidence of violence, gang activity, crime, or drug use. If such is the case, applicants should document that they

were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner and how the proposed project supports the goal(s) of that plan. (0–5 points)

Applicants should use no more than *1 page* for this proposal element.

B. Special Program Elements, Review and Assessment Criteria for Applications for Replication Projects Under Priority Area 2.0

The Project Narrative should begin with the statement that the proposal is for a replication project in priority area 2.0, and identify which of the projects described in Part II is to be replicated. Note that proposals for replication of the Philadelphia; Yakima, Washington; and Bath, Maine projects are limited to a maximum grant amount of $350,000 with a 100% match, similar to General Demonstrations under Priority Area 1.0. Proposals for replication of the Phoenix project will, for purposes of grant amount and match requirement, be considered Urban Youth Projects under Priority Area 4.0 with a maximum grant amount of $500,000 and a required match of 25% of the OCS grant amount. In all other respects, proposals for replication of the Phoenix project should follow the elements and criteria of this Sub-Part, which follow.

Element I. Organizational Experience and Capability

(Weight of 0 to 5 points in proposal review.)

[This element should be the same as under Priority Areas 1.0 and 4.0, and should take no more than *2 pages* of the Project Narrative.]

Element II. Project Theory, Design, and Plan

(Total Weight of 0–25 points in proposal review.)

OCS seeks to learn from this element of the application why and how the project as proposed is expected to lead to significant improvements in individual and family self-sufficiency.

Applicants may find it helpful to design and present their project in terms of a conceptual cause-effect framework. A "logic model," that may be helpful is developed in the following paragraphs.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions. (Weight of 0–10 points in application review.)

The "logic model" begins with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built: The assumptions about the needs of the client population to be served; about the current services available to those clients, and where and how they fail to meet their needs; about why the proposed services or interventions are appropriate, and will meet those needs; and about the impact the proposed interventions will have on the clients.

In other words, the underlying assumptions of the program are the applicant's analysis of the needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those needs and problems to achieve the desired result. In this sub-element of the proposal the applicant should precisely identify the target population to be served. The geographic area to be impacted should then be briefly highlighted, selectively emphasizing the socioeconomic/poverty and other data that are relevant to the project design.

The needs of this target population should then be clearly defined, with particular attention to whether and how the characteristics and needs of this target population appear to differ from those of the project being replicated (the Host Project). The applicant should state its underlying assumptions about how these needs can be addressed by the proposed project, including its assumptions about any modifications to the design and interventions of the Host Project that it believes are needed to address such differences.

Applicants should use no more than *2 pages* for this application sub-element.

Sub-Element II(b). Project Strategy and Work Plan: Interventions, Outcomes, and Goals. (Weight of 0–15 points in proposal review.)

To continue with the "logic model": The underlying assumptions concerning client needs and the theory of how they can be effectively addressed, which are discussed above, lead in the project design to the conduct of a variety of project activities or interventions, each of which is assumed to result in immediate changes, or outcomes.

The immediate changes lead to intermediate outcomes; and the intermediate outcomes lead to the final project goals.

In this sub-element, applicants for replication projects under Priority Area 2.0 should explain the strategy and design of the project being replicated (the Host Project), and how they plan to implement and/or adapt the activities, or interventions of the Host Project to the particular needs of the new target population and the setting of the replication project, as described in the previous sub-element. The applicant should describe the immediate changes expected to result from the project activities, or interventions, and how they can lead to intermediate outcomes, and in turn to attainment of the final project goals.

Again, applicants don't have to use this exact terminology, but it is important to describe the project in a way that makes clear the expected cause-and-effect relationship between what the project plans to do—the activities or interventions, the changes that are expected to result, and how those changes will lead to achievement of the project goals of greater self-sufficiency.

Finally, the applicant should present the highlights of a work plan for the project patterned after the work plan of the Host Project, and highlight any differences from that plan. It should explicitly tie into the project design framework and should be feasible, i.e., capable of being accomplished with the resources and partners available. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Critical issues or potential problems that might affect the achievement of project objectives should be explicitly addressed, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems. The plan should be presented in such a way that it can be correlated with the budget narrative developed later in the application.

The applicant should use no more than *4 pages* for this proposal sub-element. Applicant may be able to use a simple Gantt or time line chart to convey the work plan in minimal space.

Element III. Project Partnerships

(Weight of 0–30 points in the proposal review.)

Sub-element III(a). Arrangements with Host Project. (Weight of 0–15 points in the proposal review.)

Applicant must have made arrangements with the project to be replicated (the Host Project) for an extensive site visit or site visits by key staff to the Host Project, during which such staff can receive orientation training and actually serve a brief apprenticeship in the program. In addition, provision should be made for a site visit by staff of the Host Project to the Replication Project during the first year of its operations.

In this sub-element applicant should briefly describe the steps that it has taken to learn about the design, work plan, and findings of the Host Project, and the arrangements that have been

VOL 60 ISS 70 AP 12 1995 UMI

made for site visits and/or apprenticeships. The proposed Project Budget should make provision for the costs of such site visits/apprenticeships, as well as for appropriate consulting fees for staff of the Host Project; and the application should include, as an appendix, a Memorandum of Understanding or Letter of Agreement between the applicant and the Host Project setting forth training/apprenticeship undertakings and the attendant financial arrangements.

Applicants should use no more than *3 pages* for this proposal element (plus the Memorandum of Understanding or Letter of Agreement with the Host Project, which should be in an Appendix).

Sub-element III(b). Project Partnerships. (Weight of 0–15 points in the proposal review.)

Suitable project partners are a required component of the Demonstration Partnership Program, and are critical to the kind of service concentration and systemic change envisioned by OCS. Project partners should have skills, resources, and experience that complement those of the applicant, so that the partnership is stronger than its individual parts. Applicants should use this section to identify their project partners, describe the roles that they have agreed to play, and document that at least 50% of the required match will be provided by these partners through the delivery of specific services or resources to the target population.

The application should include, in an appendix, commitment letters from, or Partnership Agreements with these proposed partners signed by the executive of the partnering entity. These documents should describe the role of the partner in the project, including the relevant skills of the partner, the services to be provided, and the resources and levels of effort to be provided to the project.

Applicants should use no more than *2 pages* for this proposal element (plus the Partnership Agreement(s) in the Appendix).

Element IV. Project Management and Organization

(Weight of 0 to 10 points in the proposal review.)

[This element should be the same as Element V under Priority Areas 1.0 and 4.0 and should take no more than *2 pages* of the Project Narrative]

Element V. Project Budget

(Weight of 0–5 points in the proposal review.)

Applicants will be required to submit Federal budget forms with their proposals to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (424A). In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Narrative, or explanatory budget information. This Budget Narrative is not considered a part of the Project Narrative, and does not count as part of the twenty pages; but rather is included in the application following the budget forms.

The budget narrative should briefly explain the adequacy of the Federal and match funds to accomplish project purposes, should explain the source and nature of matching funds, and should identify and briefly explain any imbalances between level of activities undertaken and project funds expended.

Resources in addition to the required matching amounts are encouraged by OCS, both to augment project resources and to strengthen the basis for continuing partnerships to benefit the target community. The amounts of such resources beyond the required match, their appropriateness to the project design, and the likelihood that they will continue beyond the project time frame will be taken into account in judging the application.

For replication projects under Priority Area 2.0 the budget and budget narrative must include provision for the costs of site visits/apprenticeships pursuant to the arrangements between the applicant and the Host Project, as well as for appropriate consulting fees for staff of the Host Project as provided in the Memorandum of Understanding or Letter of Agreement between the parties.

Although as noted, the Budget Narrative does not count against the twenty page limitation on the Project Narrative, applicants should use no more than two or three pages for this proposal element (not including the federal budget forms).

Element VI. Project Evaluation

(Weight of 0–10 points in the proposal review.)

[This element should be the same as Element VII under Priority Areas 1.0 and 4.0, and should not use more than *3 pages* of the Project Narrative.]

Element VII. Significant and Beneficial Impact

(Weight of 0–10 points in the proposal review.)

[This element should be the same as Element VIII under Priority Areas 1.0 and 4.0, and should not use more than *1 page* of the Project Narrative.]

Element VIII. Community Empowerment Consideration

(Weight of 0–5 points in proposal review.)

[This element should be the same as Element IX under Priority Areas 1.0 and 4.0, and should not use more than *1 page* of the Project Narrative.]

C. Program Elements, Review and Assessment Criteria for Applications for EZ/EC Continuous Improvement Grants Under Priority Area 3.0

Element I. Organizational Experience and Capability

(Weight of 0 to 10 points in proposal review.)

[This element should be the same as under Priority Areas 1.0 and 4.0, and should take no more than *2 pages* of the Project Narrative.]

Element II. Relationship to EZ/EC Strategic Planning Process

(Weight of 0–25 points in proposal review.)

Applicants should describe the part they played in the development of the community's EZ/EC Strategic Plan, and provide evidence of a continuing collaborative relationship with the public and private agencies which took part in the planning process. The OCS review process will give the highest scores to applicants who can show that they were intimately involved in the development of the Strategic Plan and will be active participants in its implementation. Letters of support from involved community agencies may be included in the appendix to the proposal to support applicant's role in the process.

[Applicant should use no more than *3 pages* for this proposal element, plus any support letters included in the appendix.]

Element III. Project Goals, Activities, and Work Plan

(Weight of 0–25 points in proposal review.)

In this element the applicant should:

(1) Define its goals in relation to the Strategic Plan implementation, the involvement of low income residents, and the collection of data concerning both the implementation process and the impact of programs carried out as part of the Strategic Plan;

(2) Describe the activities it is proposing to carry out which it expects will lead to the achievement of these goals; and

(3) Present the highlights of a work plan briefly describing the key project tasks and showing the timelines and major milestones for their implementation.

Applicant should use no more than *4 pages* for this proposal element.

Element IV. Partnerships

(Weight of 0–15 points in proposal review.)

Suitable project partners are a required component of the Demonstration Partnership Program, and are critical to the kind of involvement by the applicant in the community's Strategic Plan implementation which is envisioned by OCS. Project partners should also have important roles in the community, and should have skills, resources, and experience that complement those of the applicant. Applicants should use this section to identify their project partners, describe the roles that they have agreed to play, and document that at least 50% of the required match will be provided by these partners through the provision of specific services or resources to the project.

The application should include, in an Appendix, commitment letters from these proposed partners signed by the executive of the partnering entity, and briefly describing the role of the partner in the project, including the relevant skills of the partner, and the resources and levels of effort to be provided to the project.

Applicants should use no more than *3 pages* for this proposal element (plus the partnership letter(s) in the Appendix).

Element V. Project Management and Organization

(Weight of 0–15 points in proposal review.)

Applicants should identify the Project Director and other key staff they feel are especially important to the success of the project, and include resumes as an appendix to the proposal. Where the staff members have not been identified, position descriptions should be included in the appendix. Applicants should also, in this section, describe (and diagram if necessary) the organization of the project. The relationships among the Project Director and the key officials in the applicant and partnering organizations should be depicted, and the project related authorities and responsibilities of these key actors should be made clear.

Applicants should use no more than *2 pages* for this proposal element (plus the resumes and/or position descriptions in the appendix).

Element VI. Project Budget

(Weight of 0–10 points in the proposal review.)

Applicants will be required to submit Federal budget forms with their proposals to provide basic applicant and project information (SF 424) and information about how Federal and other project funds will be used (424A). In addition to and immediately following the completed Federal budget forms, applicants must submit a Budget Narrative, or explanatory budget information. This Budget Narrative is not considered a part of the Project Narrative, and does not count as part of the twenty pages; but rather is included in the application following the budget forms.

The budget narrative should briefly explain the adequacy of the Federal and match funds to accomplish project purposes, and should explain the source and nature of matching funds.

Although as noted, the Budget Narrative does not count against the twenty page limitation on the Project Narrative, applicants should use no more than one or two pages for this proposal element (not including the federal budget forms).

Part V. Application Procedures

A. Availability of Forms

Attachments D through J contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts VI and VII of this Notice contain all the instructions required for submittal of applications.

Additional copies of this Announcement may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT** at the beginning of this announcement. In addition, it is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, a *Guide to Accessing and Downloading* is available from Ms. Minnie Landry at (202) 401–5309.

B. Application Submission

1. *Number of Copies Required.* One signed original application and four copies should be submitted. (Approved by the Office of Management and Budget under Control Number 0970–0062.)

2. *Acknowledgment of Receipt.* All applicants will receive an acknowledgement with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–9365.

3. *Deadlines:* The closing date for receipt of applications is June 12, 1995. To be considered as meeting the deadline, applications must be received before 4:30 p.m. EDST on the deadline date at the ACF Office of Financial Management, Division of Discretionary Grants, 6th Floor OFM/DDG, 370 L'Enfant Promenade, SW, Washington, DC 20447.

4. *Applications Submitted by Other Means.* Applications which are not submitted in accordance with the above criteria shall be considered as meeting the deadline only if they are physically received before the close of business on or before the deadline date. Hand delivered applications will be accepted at the ACF Office of Financial Management, Division of Discretionary Grants, 6th Floor ACF Guard Station, 901 D Street, SW, Washington, DC during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday.

5. *Late Applications:* Applications which do not meet the criteria above will be considered late applications. ACF will notify each late applicant that its application will not be considered in this competition.

6. *Extension of Deadline.* ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc. or when there is a disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

C. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia,

VOL 60 ISS 70 AP 12 1995 UMI

Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs).

Applicants from these nineteen jurisdictions need take no action regarding E.O. 12372. All other applicants should contact their SPOC as soon as possible to alert them of the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards. These comments are reviewed as part of the award process. Failure to notify the SPOC can result in a delay in grant award.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule under 45 CFR 100.10. It is helpful in tracking SPOC comments if the SPOC will clearly indicate the applicant organization as it appears on the application SF–424.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Financial Management, Division of Discretionary Grants, 6th Floor, 370 L'Enfant Promenade, SW, Washington, DC 20447. A list of the Single Points of Contact for each State and Territory is included at Attachment L to this announcement.

D. Application Consideration

Applications which meet the screening requirements in Section E below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to the Legislative Authority, the Priority Areas outlined in Part III, and the Application Elements and Review Criteria set forth in Part IV of this Announcement.

Applications will be reviewed by persons outside of the OCS unit which will be directly responsible for management of the grant. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be considered in rank order of the averaged scores. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including: The timely and proper completion of projects funded with OCS funds granted in the last (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to determine the applicant's performance record.

E. Criteria For Screening Applications

1. Initial Screening

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively:

a. The application must contain a Standard Form 424 "Application for Federal Assistance" (SF–424), a budget (SF–424A) and signed "Assurances" (SF–424B) completed according to instructions published in Part VI and Attachment D to this Announcement.

b. A project narrative must also accompany the standard forms, and must be limited to no more than twenty (20) pages, typewritten on one side of the paper only, in type no smaller than 12 c.p.i., 11 point, or equivalent, with margins no less than one inch. Charts, exhibits, letters of support, cooperative agreements, resumes and position descriptions are not counted against this page limit and should be included in the appendices to the proposal. It is strongly recommended that you follow the format for the narrative discussed in Part IV, Application Elements and Review Criteria.

c. The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

2. Pre-Rating Review

Applications which pass the initial screening will be forwarded to OCS staff prior to the programmatic review to verify that the applications comply with this program announcement in the following areas:

a. Eligibility: Applicant is an "eligible entity" as defined in Part I, Section C. In order to establish eligibility, the application must contain a letter signed by the State Director of the Community Services Block Grant program certifying that the applicant is an "eligible entity" as defined by this program announcement and that it has the capacity to operate the proposed project.

Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

b. Grant Amount: The amount of funds requested does not exceed $350,000 in OCS funds for general or replication projects under Priority Areas 1.0 and 2.0 (other than an application for replication of the Step-Up Young Father Mentor Program in Phoenix, AZ, which may request up to $500,000); does not exceed $50,000 for EZ/EC Continuous Improvement projects under Priority Area 3.0; or does not exceed $500,000 for Urban Youth projects under Priority Area 4.0.

c. Matching Funds: The required match has been firmly committed in the form of letters of commitment or intent to commit the required matching funds contingent only upon receipt of OCS funds. Such letters must be included as appendices to the application.

d. Target Populations: The application clearly serves low-income participants and beneficiaries as defined in Part II, Section E.

e. Partnership Agreements: Partnership arrangements have been briefly described in the application and a copy of the partnership agreement(s) describing the partnership arrangements and containing a letter of commitment or intent to commit from the prospective partner(s), contingent only upon receipt of OCS funds, has been included in the appendix.

f. Project Evaluation: The outline of a third-party project evaluation plan is an element of the application, and includes a commitment to the selection of a third party evaluator approved by OCS and to completion of a final evaluation design and plan in collaboration with the approved evaluator and the OCS Evaluation Technical Assistance Contractor during the six-month start-up period. A resume or position description of the evaluator should be included in the appendix.

g. Replication Project (Priority Area 2.0) only: The proposed project will be operated in a geographic area other than that in which the project being replicated (Host Project) was carried out, and arrangements for site visits/apprenticeships between the applicant and the Host Project are reflected in the proposal narrative and budget.

An application may be disqualified from the competition and returned if it fails to conform to one or more of the above requirements.

Part VI—Instructions for Completing Application Forms

(Approved by the Office of Management and Budget under Control Number 0970–0062.)

The standard forms attached to this announcement shall be used when submitting applications for all funds under this announcement. It is suggested that you reproduce single-sided copies of the SF–424, SF–424A, and SF–424B, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms as well as with the OCS specific instructions set forth below:

A. SF–424—Application for Federal Assistance

Top of Page. Please enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. For the purposes of this announcement, all projects are considered *Applications*. Also for the purposes of this announcement, there are no construction projects.

Item 2. *Date Submitted* and *Applicant Identifier*—Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. *Date Received by State*—N/A.

Item 4. *Date Received by Federal Agency*—Leave blank.

Items 5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled *Federal Identifier* located at the top right hand corner of the form.

Item 7. If the applicant is a non-profit corporation, enter *N* in the box and specify *non-profit corporation* in the space marked *Other*.

Item 8. *Type of Application*—Please check the type of application.

Item 9. *Name of Federal Agency*—Enter DHHS/ACF/OCS

Item 10. *The Catalog of Federal Domestic Assistance Number* for OCS programs covered under this announcement is *93.573*. The title is *Community Services Block Grant Discretionary Awards—Demonstration Partnership Program*.

Item 11. *Descriptive Title of Applicant's Project*—Enter the project title (a brief descriptive title). The following letter designations must be used:

General Projects: *DP*
Replication Projects: *DR*
EZ/EC Continuous Grants: *DE*
Urban Youth: *DY*

Item 12. *Areas Affected by Project*—List only the larger unit or units affected, such as State, county or city.

Item 13. *Proposed Project*—Enter the desirable starting date for the project (start of start-up) and the proposed completion date. Projects may not exceed the maximum duration specified: 36 months for all Applications (including up to 6 months start-up, a 24 months operational period and 6 months for evaluation).

Item 14. *Congressional District of Applicant/Project*—Enter the number of the Congressional District where the applicant's principal office is located and the number(s) of the Congressional district(s) where the project will be located.

Item 15a–e. *Estimated Funding:* Enter the amounts requested or to be contributed by Federal and non-Federal sources for the total project period. Items b, c, d and e should reflect both cash and third-party, in-kind contributions for the total project period.

Item 15f. N/A

Item 15g. Enter the sum of Items 15a–15e.

B. SF–424A—Budget Information-Non-Construction Programs

See Instructions accompanying this page as well as the instructions set forth below:

In completing these sections, the *Federal Funds* budget entries will relate to the requested OCS Demonstration Partnership Program funds only, and *Non-Federal* will include mobilized funds from all other sources—applicant, state, and other. Federal funds other than those requested from the Demonstration Partnership Program should be included in *Non-Federal* entries.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and non-Federal (matching) funds for the entire project period. Section B contains entries for Federal (OCS) funds only.

Section A—Budget Summary

Lines 1–4
Col. (a):
Line 1—Enter *OCS Demonstration Partnership Program:*
Col. (b):
Line 1—*Catalog of Federal Domestic Assistance Number is 93.573.*
Col. (c) and (d): Not Applicable
Column (e)—(g)
Line 1–4. Enter in columns (e), (f) and (g) the appropriate amounts needed to support the entire project period.
Line 5—Enter the figures from Line 1 for all columns completed, (e), (f), and (g).

Section B—Budget Categories

This Section should contain entries for OCS funds only.

Please note: This information supersedes the instructions provided following the SF–424A.

Enter in Column 1: the amounts covering the first 12 months of the project (including any start-up period).

Enter in Column 2: the amounts covering the second twelve months of the project.

Enter in Column 3: the amounts covering the third twelve months of the project (including the six-month evaluation period).

Under Column (5) enter the total funds requested by the Object Class Categories of this section (6a–6j).

Allocability of costs are governed by applicable cost principles set forth in 45 CFR parts 74 and 92.

Budget estimates for administrative costs (*not to exceed 10 percent of the grant amount*) must be supported by adequate detail for the grants officer to perform a cost analysis and review. Adequately detailed calculations for each object class are those which reflect estimation methods, quantities, unit costs, salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class *Other*, identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives, large dollar amounts; local, regional, or other travels, new positions, major equipment purchases and training programs as indicated below:

VOL 60 ISS 70 AP 12 1995 UMI

Object Class Categories—Line 6: Enter the total amount of Federal funds required by the Object Class Categories of this section.

Personnel—Line 6a. Enter the total costs of salaries and wages.

Justification

Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated the project, the individual annual salaries, and the cost to the project of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j.

Justification

Provide a breakdown of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, taxes, etc.

Travel—Line 6c: Enter total costs of all travel by employees of the project. Travel costs to attend two national workshops in Washington, DC by the project director should be included (see Part VIII). Do not enter costs for consultant's travel.

Justification

Include the total number of traveler(s), total number of trips, destinations, number of days, transportation costs and subsistence allowances.

Equipment-Line 6d: Enter the total costs of all non-expendable personal property to be acquired by the project. Non-expendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Justification

Only equipment required to conduct the project may be purchased with Federal funds. The applicant organization or its subgrantees must not already have such equipment, or a reasonable facsimile, available for use in the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies-Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Justification

Specify general categories of supplies and their costs.

Contractual-Line 6f: Enter the total costs of all contracts, including the estimated cost of a third-party evaluation contract. Travel costs for the chief evaluator to attend two national workshops in Washington, DC should be included (see Part VIII). OCS' experience with this program has shown that a quality evaluation contract can be purchased for 8%—10% of the OCS grant funds. [This percentage is a guide for the applicants' use in planning its request for procurement and should not be construed as a minimum nor maximum allowable amount.]

Justification

Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and selection process of the awards as part of the budget justification. Also provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, thus entering into an interagency agreement, the applicant/grantee must submit Sections A and B of this Form SF–424A, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6f. Provide draft Request for Proposal in accordance with 45 CFR part 74. Free and open competition is encouraged for any procurement activities planned using ACF grant funds. Prior approval from OCS is required when applicants anticipate evaluation procurements that will exceed $25,000 and are requesting an award without competition.

The applicant's procurement procedures should outline the type of advertisement appropriate to the nature and anticipated value of the contract to be awarded. Advertisements are typically made in city, regional, and local newspapers; trade journals; and/or through announcements by professional associations.

Construction-Line 6g: Construction costs are not permitted under the Demonstration Partnership Program.

Other-Line 6h: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (non-contractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges-Line 6i. Show the total of Lines 6a through 6h.

Indirect Charges-Line 6j: Enter the total amount of indirect costs. This line generally should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or other Federal agencies. With the exception of local governments, applicants should enclose a copy of the current rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services. If the applicant organization is renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates,* and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. The total amount shown in Section B, Column (5), Line 6k, should be the same as the amount shown in Section A, Line 5, Column (e).

Totals-Line 6k: Enter total amounts of lines 6i and 6j.

Program Income-Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification

Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of *non-Federal* resources that will be used to support the project. *Non-Federal* resources mean other than OCS funds for which the applicant is applying. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Category, (see Part VI, B, SF–424A, Section B, Line 6) and whether it is cash or third-party in-kind. The firm commitment of these required funds must be documented and submitted with the application in order to be given credit in the partnerships' criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment or intent to commit contingent only upon receipt of OCS funds from the organization(s) and/or individuals from which funds will be received.

Justification

Describe all non-Federal resources including third-party, cash and/or in-kind contributions.

Grant Program-Line 8. Grant Program.

Column (a): Enter the project title.

Column (b): Enter the amount of cash or donations to be made by the applicant.

Column (c): Enter the State contribution.

Column (d): Enter the amount of cash and third-party in-kind contributions to be made from all other sources.

Column (e): Enter the total of columns (b), (c), and (d).

Grant Program-Lines 9, 10, and 11 should be left blank.

Grant Program-Line 12.

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasted Cash Needs

Federal-Line 13. Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the first year.

Non-Federal-Line 14. Enter the amount of cash from all other sources needed by quarter during the first year.

Total-Line 15. Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project

Not Applicable.

Section F—Other Budget Information

Direct Charges-Line 21. Include a narrative justification for each Object Class Category required under Section B for the *total project period.* This narrative justification should be on a separate page and should immediately follow the SF–424A in the application package.

Indirect Charges-Line 22. Enter the type of HHS or other Federal agency's approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved and attach a copy of the rate agreement if negotiated with an agency other than the Department of Health and Human Services.

Remarks-Line 23. Please provide any other explanations and/or continuation sheets required or deemed necessary to justify or explain the budget information.

C. SF–424B Assurances-Non-Construction

All applicants must fill out, sign, date and return the *Assurances* (see Attachment D) with the application.

Part VII—Contents of Application

Each application submission should include *a signed original and four additional copies of the application. Pages should be numbered sequentially throughout the application package, beginning with the Proposal Abstract as page number one, and each application must include all of the following, in the order listed below:*

1. An Abstract of the proposal—very brief, on one page, not to exceed 250 words, which identifies the type of project, the target population, the partner(s), and the major elements of the work plan, and that would be suitable for use in an announcement that the application has been selected for a grant award;

2. Table of Contents;

3. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization];

4. *Budget Information-Non-Construction Programs* (SF–424A);

5. A narrative budget justification for each object class category required under Section B, SF–424A;

6. Filled out, signed and dated *Assurances—Non-Construction Programs* (SF–424B), Attachment D;

7. Attachments E and F, setting forth the Federal requirements concerning the drug-free workplace and debarment regulations with which the applicant is certifying that it will comply, by signing and submitting the SF–424.

8. *Certification Regarding Environmental Tobacco Smoke*

9. *Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements:* fill out, sign and date form found at Attachment H;

10. *Disclosure of Lobbying Activities, SF–LLL:* Fill out, sign and date form found at Attachment I, if appropriate;

11. *A project narrative,* limited to no more than twenty (20) pages, which includes *all* of the elements described in Part IV, according to the project Priority Area:

[Specific information/data required under each component is described in Part IV Application Elements and Review Criteria.]

The total number of pages for the narrative portion of the application package must not exceed 20 pages, excluding Appendices. Typewritten on one side of the paper only, in type no smaller than 12 c.p.i., 11 point, or equivalent, with margins no less than one inch. Pages should be numbered sequentially throughout the application package, excluding Appendices, beginning with the Abstract as Page #1.

12. Appendices, including Maintenance of Effort Certification (See Attachment J); letter signed by State CSBG Director; partnership agreements signed by the partners; statement regarding the date of incorporation; Single Point of Contact comments, if applicable and available; resumes and/or position descriptions; a Business Plan if appropriate or required (see Program Sub-Element IIb); Certification Regarding Lobbying, if appropriate; and letters of match commitment or letters of intent.

The application may also contain letters that show collaboration or substantive commitments to the project by organizations other than partners with committed match. Such letters are not part of the narrative and should be included in the Appendices. These letters are, therefore, not counted against the twenty page limit.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip. The submission of bound applications, or applications enclosed in binders is specifically discouraged.

Attachment M provides a checklist to applicants in preparing a complete application package.

Part VIII—Post-Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for

VOL
60
ISS
70
AP
12
1995
UMI

which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total required financial grantee participation.

In addition to the General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, grantees will be subject to the provisions of 45 CFR part 74 or 92.

Project directors and chief evaluators will be required to attend a national DPP evaluation workshop in Washington, DC which will be scheduled shortly after the effective date of the grant, during the 6-month start-up period. They also will be required to attend, as presenters, a workshop on utilization and dissemination to be held after the end of the project period.

Grantees will be required to submit semi-annual progress and financial reports (SF 269) throughout the project period, as well as a final progress and financial report within 90 days of the termination of the project. An interim evaluation report, along with the written policies and procedures resulting from the process evaluation, will be due 30 days after the first twelve months of the project period and a final evaluation report will be due 90 days after the expiration of the grant. These reports will be submitted in accordance with instructions to be provided by OCS, and will be the basis for the dissemination effort to be conducted by the Office of Community Services.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental), 92 (governmental), OMB Circular A–133 and OMB Circular A–128.

Section 1352 of Pub. L. 101–121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantees will pay with profits or *nonappropriated* funds on or after December 22, 1989 and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachments H and I for certification and disclosure forms to be submitted with the applications for this program.

Attachment K indicates the regulations which apply to all applicants/grantees under the Demonstration Partnership Program.

Dated: April 4, 1995.

Donald Sykes,

Director, Office of Community Services.

Attachment A

Environmental Justice and Sustainable Community Development

Environmental Justice and Sustainable Community Development are terms that have come into common usage only recently, with the growing realization that low income and minority people and communities have long suffered inequitable and life- and health-threatening environmental degradation. A 1987 report by the Commission for Racial Justice of the United Church of Christ, *Toxic Waste and Race in the United States*, concluded that race has been a factor in the locating of commercial hazardous waste facilities in the United States, and that the clean-up of uncontrolled toxic waste sites in Black and Hispanic communities should be given the highest possible priority. The findings of this report were confirmed by the Environmental Protection Agency in its own study: *Environmental Equity: Reducing Risks For All Communities*, Vols. I and II, U.S. EPA, June 1992. *Toxic Waste and Race Revisited*, Center for Policy Alternatives, 1994, a study co-sponsored by the Center for Policy Alternatives, the NAACP, and the United Church of Christ Commission for Racial Justice, using data updated to 1993 from the 1990 U.S. Census, found that "Despite growing national attention to the issue of 'environmental justice', people of color today are even more likely than whites to live in communities with commercial hazardous waste facilities than they were a decade ago. The disproportionate environmental impacts first identified and documented in the 1987 report * * * have grown more severe."

A study by the National Law Journal published in 1992 included among many of its findings that over the previous ten years EPA fines against polluters, on average for all types of cases, were 54 percent lower in poor neighborhoods than in wealthy communities; and in the case of violators of RCRA (the Resource Conservation and Recovery Act) which is the law that governs hazardous waste sites, violators in minority communities were fined on average one-fifth the amounts of violators in white areas. EPA's Office of Environmental Justice reports that as a result of both these studies the agency is currently carrying out a comprehensive demographic study, based on 1990 census data, of EPA enforcement and toxic waste sites.

On a related and equally critical front, a Public Health Service Report to the Congress in 1988 stated that 55 percent of Black children below the poverty level have toxic levels of lead in their blood whose permanent effects include reduced intellectual function, aggressive behavior, hearing loss and growth impairment. Since that time the Centers for Disease Control have significantly lowered the threshold for the blood-lead levels that they consider toxic. See: *Preventing Lead Poisoning in Young Children*, A Statement By The Centers For Disease Control—October 1991, U.S. Department of Health and Human Services, Public Health Service.

While the environmental consciousness of many civil rights leaders is thus being raised, many low income and minority persons and communities still see environmental concerns and laws aimed at protecting the environment as roadblocks to their economic advancement, keeping needed jobs out of their communities or causing businesses to move or retrench because of the perceived high costs of practices and safeguards which are required as measures to protect the environment. What they often have not understood is the degree to which they are being subjected to life- and health-threatening conditions such as illegal dumping of toxics, indiscriminate use of pesticides, or homes laden with asbestos, lead, and Radon, and that these very conditions cause physical and mental deterioration of residents and the breakdown of community infrastructure. For low income and minority communities are often contaminated to the point that it presents a serious barrier to economic revitalization. For example, EPA's Office of Solid Waste and Emergency Response (OSWER) reports that Cleveland Tomorrow, that city's forward looking Chamber of Commerce, has after extended study concluded that the "economic rebirth" of Cleveland will never happen until the clean-up of contaminated sites in that city has been accomplished.

Nor has there been until recently a realization that these same environmental justice issues offer unprecedented opportunities for the creation of long term, well paid jobs with career potential in work that can be meaningful and satisfying in terms of human needs. On February 11, 1994 President Clinton issued Executive Order 12898: "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations", calling on each Federal Department and Agency to "develop an agency-wide environmental justice strategy * * * that identifies and addresses disproportionately high and adverse human health or environmental effects of its programs * * *". The Draft Environmental Justice Strategy of the Department of Health and Human Services includes the following Strategy:

"Make the development and support of community-based projects that create environmentally-related jobs and career opportunities for low-income and minority residents a high priority for all the Department's programs that deal with job training, job and economic development, job support services and welfare reform.

By the same token, there is a growing realization that long term survival on the planet will only be possible if we develop a sustainable economy which husbands resources and eliminates waste. The President's Council on Sustainable Development (PCSD) was established by President Clinton and charged with a mandate to develop specific policy recommendations for a national strategy for sustainable development that can be implemented by the public and private sectors.

The Council has written: "* * * sustainable development means a program of domestic economic and political reform that * * * yields broad-based economic progress accomplished in a manner that protects and restores the quality of the natural environment, improves the quality of life for individuals and broadens the prospects for future generations. It means, in other words, maintaining economic growth while producing the absolute minimum of pollution, repairing the environmental damages of the past, using far fewer non-renewable resources, producing much less waste, and extending the opportunity to live in a pleasant and healthy environment to the whole population."

The Council's Sustainable Communities Task Force suggests that: "General principles of community sustainability include social equity, racial justice, population stabilization, improved quality of life, participation of stakeholders invested in the outcome, elimination of waste, reduced consumption, encouragement of local self-reliance, recognition of local ecosystem assets and limitations, urban rehabilitation and clean-up, and improved public health."

Applicants seeking to identify additional resources and/or persons within their communities who can provide guidance and expertise in the areas of environmental justice and sustainable community development may wish to contact one of the following offices for information and assistance:

Sustainable Communities Task Force, President's Council on Sustainable Development, 730 Jackson Place NW., Washington, DC 20503, Contact: Angela Park (202) 408–5342, Information on local and national organizations involved with Sustainable Community Development.

Rural Development Administration, U.S. Department of Agriculture AG 3202, Washington, DC 20250–3202, Contacts: Stanley Zimmerman, (202) 690–2514, szim@rurdev.usda.gov, Information and resources on Rural Economic and Community Development.

Cooperative State Research Service, U.S. Department of Agriculture, 370 L'Enfant Promenade, SW., 3rd Floor, Washington, DC 20250–2260, Contact: Dr. Dan Kugler (202) 401–6861, Deputy Administrator for Special Programs, Information on New Uses and Markets for Agricultural Products, Sustainable Agriculture, and Aquaculture.

Office of Community Planning and Development, HUD, 451 7th Street SW., Room 7244, Washington, DC 20410, Contact: Andy Euston, Leader for Sustainable Community Development Explorations (202) 708–1911, Information on Sustainable Community Development; referral to local and regional resources.

Office of Assistant to the Secretary for Labor Relations, HUD, 451 7th Street SW., Room 7118, Washington, DC 20410, Contact: Richard S. Allan, Deputy Assistant, (202) 708–0370, Information on training for lead abatement and toxic materials, handling and disposal, and Project Step-Up.

Office of Lead Paint Abatement and Poisoning Prevention, HUD, 451 7th Street SW., Room B133, Washington, DC 20410, Contact: Dorothy Allen (202) 755–1771, Information on funded lead abatement projects and resources and T/TA available.

Regional and State Planning Branch, Office of Policy Planning and Evaluation, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Contact: Deborah Martin, Branch Chief, (202) 260–2729, Environmental planning and assistance in understanding and assessing environmental risks.

Energy-Efficiency and Renewable Energy Clearinghouse, U.S. Department of Energy, Write: EREC, PO Box 3048, Merrifield, VA 22116, Call Toll-Free: 1–800–523–2929, Publications, source lists, bibliographies; detailed technical responses on energy efficiency and renewables; business assistance, referrals to associations, labs, state energy offices, and special interest groups.

Attachment B: Outline of Business Plan

The Business Plan should include the following:

1. *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

a. *The Business:* as a legal entity; the general business category;

b. *Description and Discussion of Industry:* Current status and prospects for the industry;

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold;

b. *Proprietary Position:* Describe proprietary features of any of the products, e.g. patents, trade secrets; and

c. *Potential.* Features of the product or service that may give it an advantage over the competition.

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

b. *Market Size and Trends:* State the size of the current total market for the product or service offered;

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services;

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market.

4. *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* If the product, process or service of the

VOL 60 ISS 70 AP 12 1995 UMI

proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

8. *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

9. *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. *Community Benefits:* The proposed project must contribute to economic, community and human development within the project's target area. A section that describes and discusses the potential economic and non-economic benefits to low-income members of the community must be included as well as a description of the strategy that will be used to identify and hire individuals being served by public assistance programs and how linkages with community agencies/organizations administering the JOBS program will be developed. The following project benefits must be described:

Economic

—Number of permanent jobs that will be created for low-income people during the grant period;
—Number of jobs to be created for low-income people that will have career development opportunities and a description of those jobs;
—Number of jobs that will be filled by individuals on public assistance;
—Ownership opportunities created for poverty-level project area residents;
—Specific steps to be taken to promote the self-sufficiency of program participants.

Other benefits which might be discussed are:

Human Development

—New technical skills development and associated career opportunities for community residents;
—Management development and training.

Community Development

—Development of community's physical assets;
—Provision of needed, but currently unsupplied, services or products to community;
—Improvement in the living environment.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

a. Profit and Loss Forecasts-quarterly for each year;

b. Cash Flow Projections-quarterly for each year;

c. Pro forma balance sheets-quarterly for each year;

d. Initial sources of project funds;

e. Initial uses of project funds; and

f. Any future capital requirements and sources.

ATTACHMENT C

Size of family unit	Poverty guideline
1995 Poverty Income Guidelines for All States (Except Alaska and Hawaii) and the District of Columbia	
1	$7,470
2	10,030
3	12,590
4	15,150
5	17,710
6	20,270
7	22,830
8	25,390

For family units with more than 8 members, add $2,560 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

Poverty Income Guidelines for Alaska	
1	9,340
2	12,540
3	15,740
4	18,940
5	22,140
6	25,340
7	28,540
8	31,740

For family units with more than 8 members, add $3,200 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

Poverty Income Guidelines for Hawaii	
1	8,610
2	11,550
3	14,490
4	17,430
5	20,370
6	23,310
7	26,250
8	29,190

For family units with more than 8 member, add $2,940 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

BILLING CODE 4184-01-M

ATTACHMENT D

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED / Applicant Identifier
	3. DATE RECEIVED BY STATE / State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY / Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):	7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐ A State H Independent School Dist. B County I State Controlled Institution of Higher Learning C Municipal J Private University D Township K Indian Tribe E Interstate L Individual F Intermunicipal M Profit Organization G Special District N Other (Specify)
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision. If Revision, enter appropriate letter(s) in box(es): ☐ ☐ A Increase Award B Decrease Award C Increase Duration D Decrease Duration Other (specify):	9. NAME OF FEDERAL AGENCY:
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE:	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):	

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a Applicant	b Project

15. ESTIMATED FUNDING: a Federal	$ .00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____
b Applicant	$ .00	
c State	$ .00	b NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
d Local	$ .00	
e Other	$ .00	
f Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation ☐ No
g TOTAL	$ .00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative	b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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BILLING CODE 4184-01-C

VOL 60 ISS 70 APR 12 1995 UMI

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
- "New" means a new assistance award.
- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicants's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.

BILLING CODE 4184-01-M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1		$	$	$	$	$
2						
3						
4						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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VOL 60 ISS 70 AP 12 1995 UMI

SECTION C - NON-FEDERAL RESOURCES					
	(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.		$	$	$	$
9.					
10.					
11.					
12. TOTALS (sum of lines 8 and 11)		$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Nonfederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT					
	(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
		(b) First	(c) Second	(d) Third	(e) Fourth
16.		$	$	$	$
17.					
18.					
19.					
20. TOTALS (sum of lines 16-19)		$	$	$	$

SECTION F - OTHER BUDGET INFORMATION (Attach additional Sheets if Necessary)	
21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function, or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Column (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agency should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount of Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a) Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will

VOL
60
ISS
70
AP
12
1995
UMI

establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personnel or organizational conflict of interest, or personal gains.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards of a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statues relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or refinancing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.O. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers systems.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of authorized certifying official

Title

Applicant organization

Date submitted

BILLING CODE 4184–01–M

ATTACHMENT E

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

VOL 60 ISS 70 AP 12 1995 UMI

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184-01-C

Attachment F

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statute or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State of local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To be Supplied to Lower Tire Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded form participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Esclusion—Lower Tier Covered Transactions. "without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

Attachment H

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–M

VOL 60 ISS 70 AP 12 1995 UMI

ATTACHMENT I

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184-01-C

Attachment J

Certification Regarding Maintenance of Effort

The undersigned certifies that:

(1) Activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried on without Federal assistance.

(2) Funds or other resources currently devoted to activities designed to meeting the needs of the poor within a community, area, or State have not been reduced in order to provide the required matching contributions.

When legislation for a particular block grant permits the use of its funds as match, the applicant must show that it has received a real increase in its block grant allotment and must certify that other anti-poverty programs will not be scaled back to provide the match required for this project.

Organization

Authorized Signature

Title

Date

Attachment K—DHHS Regulations Applying to All Applicants/Grantees Under the Demonstration Partnership Program

Title 45 of the *Code of Federal Regulations:*

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (non-governmental)
Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):
Sections 74.62(a) Non-Federal Audits
74.173 Hospitals
74.174(b) Other Nonprofit Organizations
74.304 Final Decisions in Disputes
74.710 Real Property, Equipment and Supplies
74.715 General Program Income
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Non-discrimination on the basis of sex in the admission of individuals to training programs
Part 84—Non-discrimination on the Basis of Handicap in Programs
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment L

Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, Attn: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, PO Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, NW., Suite 500, Washington, DC 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, PO Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to:

VOL 60 ISS 70 AP 12 1995 UMI

Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, Fax (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to:

Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, PO. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, Attn: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research and Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, PO Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, PO Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, PO. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct correspondence to:

Linda Clarke, Telephone (809) 774–0750

Attachment M—Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. Proposal abstract—250 words or less.
2. Table of Contents.
3. A completed, *signed* SF–424, "Application for Federal Assistance." The letter code for the priority area should be in the lower right-hand corner of the page.
4. A completed SF–424A, "Budget Information—Non-Construction".
5. Narrative budget justification.
6. A *signed* SF–424B, "Assurances—Non-Construction".
7. Attachments E and F concerning drug free workplace and debarment regulations.
8. Certification regarding Environmental Tobacco Smoke.
9. A *signed* copy of "Certification Regarding Anti-lobbying Activities" (Attachment H).
10. A completed Disclosure of Lobbying Activities, if applicable (Attachment I).
11. A Project Narrative not to exceed twenty pages, which includes *all* of the elements described in Part IV.
12. Appendices, including:

—Maintenance of Effort Certification (Attachment J)
—Letter signed by State CSBG Director certifying eligibility
—Partnership Agreements signed by the partners
—Single Point of Contact comments, if applicable and available
—Resumes and/or position descriptions
—A Business Plan if appropriate or required (see Program Sub-Element IIb in Part IV)
—Letters of match commitment or letters of intent
—Statement regarding worker safety, if appropriate (see Part III, discussion of Program Priority Area 1.0)

[FR Doc. 95–8633 Filed 4–11–95; 8:45 am]

BILLING CODE 4184–01–M

federal register

Wednesday
April 12, 1995

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 91 and 135

Special Flight Rules in the Vicinity of the Grand Canyon National Park; Proposed Rule

VOL 60 ISS 70 12 1995 AP UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 135

[Docket No. 25149, Special Federal Aviation Regulation (SFAR) No. 50–2]

Special Flight Rules in the Vicinity of the Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to extend, for 2 years, the effectiveness of SFAR No. 50–2, which contains procedures governing the operation of aircraft in the airspace above Grand Canyon National Park. SFAR No. 50–2 which originally established the flight regulations for a period of 4 years, has previously been extended to allow the National Park Service (NPS) time to complete studies concerning aircraft overflight impacts on the Grand Canyon, and to forward its recommendations to the FAA. The NPS study, completed in September 1994, recommended alternatives, such as use of quiet aircraft, additional flight-free zones, altitude restrictions, operating specifications, noise budgets, and time limits. This proposal would allow the FAA sufficient time to review thoroughly the NPS recommendations as to their impact on the safety of air traffic at the Grand Canyon National Park, and to initiate any appropriate rulemaking action.

DATES: Comments must be received on or before May 12, 1995.

ADDRESSES: Comments on this NPRM should be mailed, in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 25149, 800 Independence Avenue, SW., Washington, DC 20591. Comments also may be submitted electronically to nprmcmts@mail.hq.faa.gov. The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mrs. Ellen Crum, Air Traffic Rules Branch, ATP–230, Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments are also invited relating to the aeronautical, environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the specified closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a readdressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25149." The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this rule. Persons interested in being placed on a mailing list for future rules should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On March 26, 1987, the FAA issued SFAR No. 50 (subsequently amended on June 15, 1987; 52 FR 22734) establishing flight regulations in the vicinity of the Grand Canyon. The purpose of the SFAR was to reduce the risk of midair collision, reduce the risk of terrain contact accidents below the rim level, and reduce the impact of aircraft noise on the park environment.

On August 18, 1987, Congress enacted legislation that required a study of aircraft noise impacts at a number of national parks and imposed flight restrictions at three parks: Grand Canyon National Park in Arizona, Yosemite National Park in California, and Haleakala National Park in Hawaii (Pub. L. 100–91).

Section 3 of Pub. L. 100–91 required that the Department of the Interior (DOI) submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations (1) provide for substantial restoration of the natural quiet and experience of the Grand Canyon; (2) with limited exceptions, prohibit the flight of aircraft below the rim of the Canyon; and (3) designate zones that were flight free except for purposes of administration of underlying lands and emergency operations.

Further, Pub. L. 100–91 required the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon. It also required that the plan establish a means to implement the recommendations of the DOI without change unless the FAA determined that executing the recommendations would adversely affect aviation safety. In that event, the FAA was required to revise the DOI recommendations to resolve the safety concerns and to issue regulations implementing the revised recommendations in the plan.

In December 1987, the DOI transmitted to the FAA preliminary recommendations for an aircraft management plan at the Grand Canyon. The recommendations included both rulemaking and nonrulemaking actions.

On May 27, 1988, the FAA issued SFAR No. 50–2 revising the procedures for operation of aircraft in the airspace above the Grand Canyon (53 FR 20264, June 2, 1988). The rule implemented DOI's preliminary recommendations for an airspace management plan with some modifications that the FAA initiated in the interest of aviation safety.

Pub. L. 100–91 also required the DOI to conduct a study, with DOT technical assistance, to determine the proper minimum altitude to be maintained by aircraft when flying over units of the National Park System. The research was to include an evaluation of the noise levels associated with overflights. It required that before submission to Congress, the DOI provide a draft report (containing the results of its studies) and recommendations for legislative and regulatory action to the FAA for review. The FAA is to notify the DOI of any adverse effects these recommendations may have on the safety of aircraft operations. Additionally, section 3 of Pub. L. 100–91, required DOI to submit a report to Congress regarding the success of the Grand Canyon airspace management plan, and any necessary revisions, within 2 years of the effective date of the plan. The FAA was to report whether any of these recommendations would have an adverse effect on safety. On June 15, 1992, because of a delay in the completion of the DOI study, the FAA promulgated a final rule to extend the expiration date of SFAR No. 50–2 to June 15, 1995 (57 FR 26766).

On September 12, 1994, the DOI submitted its final report and recommendations to Congress. The report recommends numerous revisions to the current flight restrictions contained in SFAR No. 50–2. In addition, the report recommends the use of quiet aircraft, additional flight-free zones, altitude restrictions, operating specifications, noise budgets, and time limits for flight in the vicinity of the Grand Canyon.

Upon completing a review of the NPS congressional report, the FAA may amend SFAR No. 50–2 through the rulemaking process. However, at the present time, the FAA is reviewing and analyzing these recommendations to determine an appropriate course of action. Therefore, the FAA is proposing to extend the provisions of SFAR No. 50–2 for 2 years from the June 15, 1995, expiration date to allow sufficient time to determine if there is a need to adjust SFAR No. 50–2.

Environmental Review

As discussed above, Pub. L. 100–91 required the DOI to submit a report to Congress within 2 years of implementation regarding the success of the final airspace management plan for the Grand Canyon, including possible revisions. Now that this report has been forwarded to both Congress and the FAA, the FAA is required to comment on whether any of these revisions would have an adverse effect on aircraft safety.

Pub. L. 100–91 essentially reflects a decision by Congress that a final airspace management plan, currently set forth in SFAR No. 50–2, should continue permanently with any appropriate modifications developed as a result of the follow-on study. The statute and its legislative history show that Congress considered the environmental and economic concerns inherent in regulating the navigable airspace over the Grand Canyon. Since Congress, and not the FAA, determined to make permanent an airspace management plan as delineated in SFAR No. 50–2, this extension of SFAR No. 50–2 does not require compliance with the National Environmental Policy Act of 1969 (NEPA).

Assuming, for the sake of argument, that the FAA has discretion to terminate SFAR No. 50–2, the proposal to extend its effectiveness for 2 more years is categorically excluded from the requirements of the NEPA. (See FAA Order 1050.1D, Par. 31(a)(4), "Policies and Procedures for Considering Environmental Impacts.") A documented categorical exclusion has been placed in the docket.

Alternately, the analysis in the 1988 Environmental Assessment (EA) and the Finding of No Significant Impact remain valid and support a determination that this extension is not likely to significantly impact the environment. The proposed extension will not cause significant environmental impacts because it will not change the volume of traffic, the altitude of flight routes, or the noise characteristics of the aircraft typically used in canyon flights between now and 1997.

This extension will enable the FAA to consider recommendations that the DOI forwarded in September 1994 to enhance the effectiveness of the SFAR. Based upon its studies, the DOI has concluded that the SFAR has significantly reduced noise impacts in areas of the Grand Canyon. However, the DOI believes that benefits may be lost unless additional restrictions are adopted.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this NPRM is not "a significant regulatory action" as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This NPRM would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade.

SFAR No. 50–2 was justified based on DOI's December 1987 benefit-cost analysis. This analysis stated that 40 to 45 operators conducted air tours over the Grand Canyon with an estimated revenue of $30 to $50 million per year. The number of operations over the Grand Canyon was growing, with operations at Grand Canyon National Park Airport increasing 300 percent from 1974 to 1980.

The establishment of large flight-free zones was expected to roughly double the time for Tusayan-based operators to reach the canyon rim. The DOI analysis assumed that these operators could adjust for the increased travel time by increasing the overall tour length and passing on any additional costs to the consumer. While the percent of tour time spent over the canyon would decrease, small price increases or slightly decreased flight time over the canyon was not expected to result in a decreased ridership. In addition, even though Tusayan-based companies would incur costs to modify advertising literature and tour narrations due to route change requirements, the DOI analysis assumed that these costs would likely be part of the normal operating program. The benefits to the park resources (natural quiet, wildlife, archeological features, etc.) and the more than 3,315,000 visitors (about 3 million front-country users and over 90 percent of the 350,000 back-country below rim users each year) would accrue primarily from the increased quiet resulting from noise reduction. Thus, DOI concluded that this NPRM would be cost-beneficial because cost to air tour operators would be minimal and the benefits to park resources and visitors would be significant.

For the purpose of this proposal, the FAA updated the DOI's December 1987 data as follows: (1) There are still 40 to 45 air tour operators; (2) the estimated revenue generated by the industry is now over $100 million each year; and (3) the number of ground visitors has increased to almost 5 million. The FAA believes that the proposal to extend the current SFAR No. 50–2 would not alter current industry practices in the Grand Canyon special flight rules area and would not affect growth in air traffic. Additionally, the proposal would not cause significant economic impact because it would not change the volume of traffic, the altitude of flight routes, or the noise characteristics of the aircraft typically used in canyon flights between now and 1997. Therefore the FAA has determined that the proposed extension would not result in additional costs to the air tour operators. Since the rule was first promulgated in 1987, the number of

VOL
60
ISS
70
AP
12
1995
UMI

ground visitors increased by 50 percent. During this period, the estimated number of air tour operators remained unchanged, while the estimated revenue generated by the air tour industry has doubled.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a rule will have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. Small entities are independently owned and operated small businesses and small, not-for-profit organizations. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to this direct final rule. The FAA determined that this NPRM will not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

This NPRM is expected to have neither an adverse impact on the trade opportunities for U.S. firms doing business abroad nor on foreign firms doing business in the United States. This assessment is based on the fact that part 135 air tour operators potentially impacted by this NPRM do not compete with similar operators abroad. That is, their competitive environment is confined to the Grand Canyon National Park.

Conclusion

For the reasons set forth above, the FAA has determined that this NPRM is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this NPRM, if adopted, would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This NPRM is not considered significant under DOT Regulatory Policies and Procedures.

Paperwork Reduction Act

This notice contains no information collection requests requiring approval of the Office of Management and Budget.

List of Subjects in 14 CFR Parts 91 and 135

Aircraft, Air taxis, Air traffic control, Aviation safety.

The Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend SFAR No. 50–2 (14 CFR parts 91 and 135) as follows:

PART 91—[AMENDED]

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

PART 135—[AMENDED]

2. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g).

3. In parts 91 and 135, Special Federal Aviation Regulation No. 50–2, the text of which appears at the beginning of part 91, is amended by revising Section 9 to read as follows:

SFAR No. 50–2 Special Flight Rules in the Vicinity of the Grand Canyon National Park, AZ

* * * * *

Section 9. Termination date. This Special Federal Aviation Regulation expires on June 15, 1997.

* * * * *

Issued in Washington, DC, on April 6, 1995.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 95–8952 Filed 4–11–95; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
April 12, 1995

Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notices

VOL
60
ISS
70
AP
12
1995
UMI

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved second amendment to Tribal/State compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Second Amendment to the Tribal/State Gaming Compact Between the Nooksack Indian Tribe and the State of Washington executed on January 26, 1995.

DATES: This action is effective April 12, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: April 3, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9023 Filed 4–11–95; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal/State compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal/State Gaming Compact between the Port Gamble S'Klallam Tribe and the State of Washington, which was executed on January 26, 1995.

DATES: This action is effective April 12, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: March 31, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9024 Filed 4–11–95; 8:45 am]

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federal register

Wednesday
April 12, 1995

Part V

The President

Proclamation 6784—Pan American Day and Pan American Week

VOL
60

ISS
70

AP

12

1995

UMI

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

Presidential Documents

Title 3—

The President

Proclamation 6784 of April 10, 1995

Pan American Day and Pan American Week, 1995

By the President of the United States of America

A Proclamation

The peoples of the Americas today live in a world of great promise. Fundamental democratic principles, such as the rule of law and free and fair elections, are being embraced throughout the hemisphere. In perhaps one of the most eloquent expressions of the commitment of American nations to democratic rule, Jean Bertrand Aristide was restored to his elected position as President of Haiti. Open markets work, democratic governments are just—and together they offer the best hope for improving the quality of life for all of us.

As we celebrate Pan American Day, 1995, we recognize that the nations of the Western Hemisphere are interdependent, and our futures are intertwined. We are bound together by our shared commitment to democracy, human rights, market economics, and effective governance. These common ideals have enabled us to form an extraordinary network of cooperation, encompassing endeavors from trade and environmental protection to science and technology.

The countries of the Americas have taken important steps to open their economies, create new jobs, and expand opportunities for their citizens. These reforms represent a historic break with the past and begin to pave the road toward higher standards of living in the 21st century. The North American Free Trade Agreement marks an additional milestone on the way to the hemispheric free trade agreement envisioned at the Summit of the Americas.

At that summit in December of this past year, the 34 democratically elected leaders of the hemisphere determined to make our governments more effective, our economic growth more sustainable, and our environments safer and healthier. Our deliberations there were guided by a vital spirit of cooperation, and we continue to move forward today with the knowledge that, now more than ever, the economic prosperity of each of our countries depends on the progress of our neighbors.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Friday, April 14, 1995, as Pan American Day and the week of April 9 through April 15, 1995, as Pan American Week. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States to honor these observances with appropriate ceremonies and activities.

VOL
60
ISS
70
AP
12
1995
UMI

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95-9206
Filed 4-10-95; 5:01 pm]
Billing code 3195-01-P

federal register

Wednesday
April 12, 1995

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 903
Surface Mining and Reclamation Operations Under a Federal Program for Arizona; Final Rule

VOL 60 ISS 70 AP 12 1995 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 903

RIN 1029–AB81

Surface Mining and Reclamation Operations Under a Federal Program for Arizona

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior (DOI) is promulgating a Federal program to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in the State of Arizona. This includes surface effects of underground coal mining. This program is necessary in order to regulate surface coal mining activities that may be undertaken in Arizona under applicable provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), and under OSM regulations on standards and procedures relating to a Federal program for a State in the absence of a State program.

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue NW, Suite 1200, Albuquerque, New Mexico 87102; Telephone (505) 766–1486; or Nancy Broderick, Branch of Federal and Indian Programs, Division of Regulatory Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, DC 20240; Telephone (202) 208–2564.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of Final Rule.
III. Response to Public Comments.
IV. Procedural Matters.

I. Background

Under section 504(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 et seq., the Secretary of the Interior (the Secretary) is required to promulgate a Federal program for a State in which there are or may be conducted surface coal mining operations on non-Federal and non-Indian lands for, among other reasons, the failure of the State to submit a proposed State program to the Secretary. Upon promulgation of a Federal regulatory program, the Secretary becomes the regulatory authority.

Once a decision is made by OSM that a Federal regulatory program is necessary for a State, the Secretary must make several determinations before promulgating a program, as outlined below.

Section 504(a) of SMCRA requires that the Secretary take into consideration the nature of the State's terrain, climate, biological, chemical, and other relevant physical conditions. This requirement is also set forth in the regulations for the promulgation of Federal programs at 30 CFR Part 736.

Section 505(b) of SMCRA and 30 CFR 736.22(a)(1) also provide that if a State has more stringent land use and environmental protection laws or regulations than SMCRA, they shall not be construed to be inconsistent with SMCRA or the Secretary's regulations. If the State's laws or regulations establish more stringent standards than those of SMCRA or the Secretary's regulations, or if the State regulates any aspect of the environment which neither SMCRA nor the Secretary's regulations protect, the Secretary would then specifically preserve those State standards in the Federal program. Thus, the Secretary believes that the requirements of section 505(b) of SMCRA can best be met by identifying any State laws and regulations which impose equivalent or more stringent environmental controls and by listing them in § 903.700(e) of the Federal program.

Also, in promulgating a program for a State, section 504(g) of SMCRA specifies that any State statutes or regulations which regulate surface mining and reclamation operations subject to SMCRA will be superseded and preempted by the Federal program to the extent that they interfere with the achievement of the purposes and requirements of SMCRA and the Federal program. This provision is reinforced by section 505(a) of SMCRA, which states that only those State laws and regulations that are inconsistent with SMCRA and its implementing regulations shall be superseded by the Federal program.

Thus, those State statutes and rules regulating the same activities as those covered by the Federal statute and regulations, but which do not provide as much protection as do the Federal statute and regulations, are considered to interfere with the achievement of the purposes of SMCRA and must be identified and preempted by OSM.

Finally, according to section 504(h) of SMCRA, a Federal program must include a process for coordinating the review and issuance of surface mining permits with other Federal or State permits applicable to the proposed operation. The Federal statutes with which compliance must be coordinated in the issuance of a surface mining permit are set out at 30 CFR 736.22(c). State statutes for which a permit is required must be identified in the process of promulgating a Federal program, and the Federal program must provide for coordination with the permit review and issuance procedures required by those statutes.

Federal programs are based on the Secretary's permanent program regulations, 30 CFR Chapter VII, Subchapters A, F, G, H, J, K, L, and M, which implement five essential aspects of the surface coal mining regulatory program: permitting, performance standards, designation of lands as unsuitable for mining, bonding, and inspection and enforcement. These regulations establish procedures and performance standards under SMCRA and form the benchmark for State and Federal regulatory programs.

The permanent program regulations refer to the "regulatory authority," which is the Secretary under a Federal program. The Secretary has delegated all of his authority under SMCRA to the Assistant Secretary—Land and Minerals Management. (Secretarial Order No. 3013, Nov. 9, 1977, and Order No. 3099, Dec. 22, 1983). With limited exceptions, the Assistant Secretary has in turn redelegated all of this authority under SMCRA to the Director, OSM (216 Departmental Manual 1, November 9, 1977). Thus, the Director of OSM is the official directly responsible for the implementation of a Federal regulatory program.

The parts of the permanent regulatory program regulations that must be included in a Federal program are listed at 30 CFR 736.22(b). They include general requirements and definitions (Parts 700 and 701), the exemption for coal extraction incident to government-financed highway or other construction (Part 707), the designation of lands as unsuitable for surface mining (Parts 761, 762, and 769), permits and permit applications (Subchapter G), small operator assistance (Subchapter H), reclamation bonding (Subchapter J), performance standards (Subchapter K), inspection and enforcement (Parts 842, 843, and 845), and blaster training and certification (Subchapter M).

Federal programs are promulgated by means of cross-referencing the permanent program rules which set the substantive standards. Cross-referencing avoids duplication of the full text of the permanent regulatory program rules for each Federal program. The Federal regulatory program for Arizona is established at 30 CFR part 903. Sections within Part 903 cross-reference the counterpart permanent program rules. For example, for general requirements for permits and permit applications, § 903.773 of the Arizona Federal regulatory program cross-references 30 CFR part 773 of the permanent program rules by stating that 30 CFR part 773 shall apply to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

For each particular permanent program regulation which needs to be modified for use in a Federal program, an additional paragraph or paragraphs has been added under the appropriate section to modify that particular permanent regulatory program standard to make it applicable to the Federal program for a particular State or to add additional requirements or standards.

One effect of cross-referencing in a Federal program is that if a permanent program rule is revised, the corresponding Federal program rule would be similarly revised. However, the notice of proposed rulemaking would invite comments not only on the proposed rule generally, but also on how it might affect a particular Federal program. If certain changes were needed for a Federal program, then a separate provision would be added to the Federal program regulation that is the counterpart to the permanent program rule.

Several provisions of the permanent program rules are already applicable to all Federal programs because they were promulgated for application to all regulatory programs and therefore need not be cross-referenced here. These provisions are 30 CFR Chapter VII, Subchapter P—Protection of Employees; Part 706—Restrictions on Financial Interests of Federal Employees; Part 769—Petition Process for Designation of Federal Lands Unsuitable for Surface Coal Mining; Subchapter D—Federal Lands Program, Part 955—Certification of Blasters in Federal Program States and on Indian lands.

On October 6, 1982, OSM published in the **Federal Register** a proposed Federal program to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands in Arizona (47 FR 44194). During the public comment period, OSM was informed by Arizona officials that all known coal reserves in Arizona are located on Indian lands. Based on this information, OSM determined at that time that a Federal program for Arizona for non-Federal and non-Indian lands was not necessary. Therefore, by notice published in the **Federal Register** on January 4, 1983, OSM withdrew its proposal for a Federal program (48 FR 273).

In November 1993, OSM received a permit application for a surface coal mining operation in New Mexico, including portions extending into Arizona which may constitute activities subject to regulation under SMCRA. Accordingly, OSM determined that a regulatory program in Arizona is needed to regulate any coal exploration and/or surface coal mining and reclamation operations on non-Federal and non-Indian lands in Arizona that may occur in the future.

The State of Arizona has elected not to pursue primacy under a State program at this time. OSM published a proposed Arizona Federal program in the **Federal Register** on August 10, 1994 (59 FR 41208). The notice announced a 60 day comment period ending on October 11, 1994. In addition, OSM published a newspaper notice in The Apache County Observer, St. Johns, Arizona, located in the vicinity of the proposed mining-related activities in Arizona and provided a 30 day comment period. Consequently, pursuant to section 504(a) of SMCRA, OSM is now promulgating a Federal program for Arizona to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands.

II. Discussion of Final Rule

As mentioned above, when promulgating a Federal program for a State, the Secretary is required by Section 504(a) of SMCRA to take into consideration the nature of the terrain, climate, biological, chemical, and other relevant physical conditions of that State. OSM has reviewed the Arizona laws and regulations to determine whether they suggest that special provisions may be necessary or appropriate based on special terrain or other physical conditions in the State.

Review of State Law

OSM has reviewed Arizona State statutes to determine which ones provide regulatory requirements for coal exploration and surface coal mining and reclamation operations as defined by SMCRA, and to identify provisions that might be either more stringent than or inconsistent with the requirements of SMCRA.

The more stringent requirements, whether State or Federal, are adopted for this program by listing in this final rule, the Arizona State statutes that set different controls and for which compliance is required in the surface coal mining and reclamation operation. Although OSM has made a comprehensive search of Arizona law, the list in final § 903.700(c) may not be complete. OSM does not intend an omission to mean that a permit applicant or a permittee does not have to meet those obligations under State law. To the contrary, any relevant State law not superseded by these rules must be complied with by permit applicants and permittees.

Determining whether the State statutes are more stringent than the Federal regulations was done on a case-by-case basis. Citation in the Federal program of State statutes with which compliance is required is not meant as an adoption of those State statutes and regulations for purposes of enforcement by OSM. Citation of such statutes is intended as an aid to persons who must comply with both the Federal program requirements and State statutes.

In accordance with 30 CFR Part 736, OSM identifies and lists at final section 903.700(c) of the Federal program for Arizona the following Arizona statutes which, in certain circumstances, impose stricter environmental controls than are provided for under SMCRA or the Federal regulations. These more stringent Arizona statutes are described and summarized as follows:

(1) The Arizona Department of Agriculture has authority to abate public nuisances including noxious weed seeds. Arizona Revised Statutes (A.R.S.) Sections 3–231 to 3–242. Violation of this statute is a misdemeanor.

(2) It is unlawful to injure any bird or harass any bird upon its nest to remove the nests or eggs of any bird without prior authorization of the Arizona Game and Fish Commission. A.R.S. Section 17–236.

(3) A bridge, dam, dike, or causeway may not be constructed over or in a navigable river or other navigable water without the authorization of the Governor. A.R.S. Section 18–301.

(4) The Department of Mineral Resources has jurisdiction over the mining of minerals, and oil and gas under Title 27 of the Arizona Revised Statutes. One of the functions of that Department is the prevention and elimination of hazardous dust conditions. A.R.S. Section 27–128. Violation of orders of state mine inspectors respecting dust prevention and control is a misdemeanor.

(5) Roads leading into waste dump areas and tailing areas from inhabited or public areas are required to be blocked off and warning signs posted on the perimeter of such areas. A.R.S. Section 27–317.

VOL 60 ISS 70 AP 12 1995 UMI

(6) The primary responsibility for the control and abatement of air pollution rests with the Arizona Department of Environmental Quality and its Hearing Board. The Department is responsible for the establishment and enforcement of air pollution emission standards and ambient air quality standards as a part of a comprehensive air quality plan for Arizona. A.R.S. Title 49.

(7) The Arizona Department of Water Resources has jurisdiction over State water, including "surface waters." "Surface waters" means "the waters of all sources, flowing in streams, canyons, ravines or other natural channels, or in definite underground channels, whether perennial or intermittent, flood, waste or surplus water, and of lakes, ponds, and springs on the surface. For the purposes of administering this title, surface water is deemed to include Central Arizona Project water." A.R.S. Section 45–101. It is a misdemeanor to knowingly use the water of another, or divert water from a stream, waste water or obstruct water flowing into a water work. A.R.S. Section 45–112. Possession of water lawfully denied to the possessor is prima facie evidence of one's guilt. A.R.S. Section 45–112. If water is to be used for mining purposes, the water rights may be severed from the land rights and transferred separately. The separation and transference of water rights are subject to numerous limitations, A.R.S. Section 45–172.

(8) Dams are defined as "any artificial barrier, including appurtenant works for the impounding or diversion of water except those barriers for the purpose of controlling liquid borne material, twenty-five feet or more in height or the storage capacity of which will be more than fifty acre feet, but does not include any such barrier which is or will be less than six feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of fifteen acre feet, regardless of height." A.R.S. Section 45–701. The construction, operation, repair or alteration of any dam without the prior approval of the Director of Water Resources is a misdemeanor. A.R.S. Section 45–702 to Section 45–716.

In the proposed rule, OSM identified at § 903.700(f), the Arizona Open Pits Mining Statute, A.R.S. Section 27–421 to Section 27–425, and the Arizona Administrative Code Rules 11–1–1301 through 11–1–1315, as generally interfering with the achievement of the purposes and requirements of the Act and proposed that they be preempted and superseded to the extent they interfered with the regulation of coal exploration or surface coal mining and reclamation operations subject to regulation under SMCRA in accordance with § 504(g) of the Act. However, in response to a reviewer's comment OSM, reexamined the above statute and regulations, and has now concluded that they do not appear to conflict with or interfere with the application of SMCRA under the Federal program for Arizona. Therefore, in this final rule OSM is not preempting any State laws or regulations, at this time. Final § 903.700(d) provides that, if, in the future, a problem arises in the application of the Federal program for Arizona due to the applicability of these or other State laws and regulations, including any that OSM may not have evaluated due to an omission, OSM will consider whether such laws or regulations interfere with the implementation of SMCRA, and if necessary will preempt and supersede them using the procedures of 30 CFR 730.11(a).

Content and Organization of the Federal Program

The content and organization of the Federal program for Arizona generally follows the permanent program regulations. However, as discussed above, instead of the full text appearing, each section includes only a reference to the pertinent permanent program regulation section. A separate paragraph is added under each section where there are deviations from the Federal permanent program regulations for the Arizona Federal program. These paragraphs will generally be found in a subsection (b).

The content and organization of the Arizona Federal program is based on the following provisions of the Federal permanent program regulations, 30 CFR Chapter VII:

Subchapter A—General
Subchapter F—Areas Unsuitable for Mining
Subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems under Regulatory Programs
Subchapter H—Small Operator Assistance
Subchapter J—Bond and Insurance Requirements for Bonding of Surface Coal Mining and Reclamation Operations
Subchapter K—Permanent Program Performance Standards
Subchapter L—Permanent Program Inspection and Enforcement Procedures
Part 955—Certification Program for Blasters

Technical literature cited by OSM in the preambles to the permanent regulatory program (44 FR 14901–15309, March 13, 1979) and in succeeding rulemaking notices, was relied upon in developing the Arizona Federal program. The reader is referred to those preambles for a discussion of the bases and purposes of the permanent program rules referenced in the Arizona program without substantive change.

The numbering system of the permanent program regulations has been incorporated into the numbering system for the Arizona Federal program. Subchapter T of 30 CFR Chapter VII has been established to include regulatory programs by State in alphabetical order, and each State has been assigned a part number. As previously indicated, the regulatory program for Arizona is assigned Part 903. Program elements have been categorized under headings similar to the subchapter titles of the permanent program in 30 CFR Chapter VII.

Detailed Discussion of the Arizona Program

General

In this final rule, minor technical and editorial changes were made to the proposed rule for clarity and conciseness, including deleting redundant working, and in some places rearranging paragraphs of text in a more logical order.

Final §§ 903.700 (a) and (b) contain general statements on the scope and applicability of the program. Final § 903.700(c), which was proposed as § 903.700(e), lists Arizona State laws that include provisions regulating certain aspects of surface coal mining operations and that, in some instances, are more stringent than SMCRA and the Secretary's regulations.

Proposed § 903.700(f) identified certain State laws and regulations that would be preempted and superseded in the Arizona Federal program. However, as explained above under *Review of State Law*, OSM has determined, in response to a reviewer's comment, that preemption of State laws or regulations is not required at this time. In this final rule, § 903.700(d), which replaces proposed § 903.700(f), provides a procedure for the preemption of Arizona State laws and regulations that interfere with achievement of the purpose of SMCRA and Federal regulations if such laws and regulations would be identified at a future date.

Final §§ 903.701 through 903.707 establish the same provisions, where applicable, as 30 CFR Chapter VII, subchapter A, *General*. Final § 903.701(a) contains all applicable general requirements, including the definitions in 30 CFR 700.5 and 701.5. Subsection (b) of § 903.701 states that, beginning on the effective date of this program and continuing until an operation has a permanent program permit issued by OSM, compliance with the interim program standards in 30 CFR Chapter VII, Subchapter B is required. Section 502(c) of SMCRA provides that all surface coal mining operations on lands on which such operations are regulated by a State shall comply with the interim program standards until a permanent program permit is issued.

Final paragraph (c) of § 903.701 provides that records required by 30 CFR 700.14 to be made available locally to the public shall be retained at the county recorder's office of the county in which an operation is located, and at the OSM Albuquerque Field Office. The provision in the final rule to maintain records at the county recorder's office was added to the proposed provision to maintain records only at the OSM Albuquerque Field Office, to make access easier to the general public.

Section 903.702 establishes the same requirements as Part 702, *Exemption for Coal Extraction Incidental to the Extraction of Other Minerals*. Section 903.707 establishes the same requirements as Part 707, *Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction*.

Permit Fees

Final § 903.736, Permit fees, establishes the same provisions as 30 CFR 736.25.

Areas Designated Unsuitable for Mining

Sections 903.761 through 903.764 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter F, *Areas Unsuitable for Mining*. However, 30 CFR 736.15(b)(1) provides that the procedures and criteria for designating lands unsuitable shall be implemented one year after a Federal program is made effective for a State. Therefore, § 903.764 provides that Part 764 shall apply beginning one year after the effective date of the Arizona program. No separate section for Federal lands is included because 30 CFR Part 769 is directly applicable and need not be made a part of a Federal program for a State.

Permits and Coal Exploration Approvals

Sections 903.772 through 903.785 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter G, *Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Systems Under Regulatory Programs*. The following amplifications are added:

For exploration applications where 30 CFR 772.12 applies, § 903.772(b) requires that, upon receipt of notification from the regulatory authority of the submission of an administratively complete application for an exploration permit, the applicant shall publish one public notice of the filing in a newspaper of general circulation in the county of the proposed exploration area; and provide proof of this publication to the regulatory authority within one week after the newspaper notice is published.

Section 903.772(c) allows 30 days after publication of the public notice for persons adversely affected to file written comments. Section 903.772(d) requires the regulatory authority to act upon a complete exploration application and any written comments within 15 days from the close of the comment period unless additional time is necessary due to the number or complexity of the issues.

In § 903.773, *Requirements for permits and permit processing*, subsection (b), lists Federal laws and corresponding or relevant State laws for which OSM must provide coordination to prevent or minimize duplication of effort with Arizona. Although the proposed rule included The Coastal Zone Management Act in this list, this Federal law does not appear to be relevant in Arizona. Therefore, it has been omitted in final § 903.773(b).

Section 903.773(c), as finalized contains the stipulation that no person may conduct coal exploration or surface coal mining and reclamation operations without first obtaining all other necessary permits from the State. This section lists State laws with which the Secretary will endeavor to coordinate when issuing a permit under this Federal program. For clarity and conciseness, the listing of these State laws in final § 903.773(c) has been rearranged to group them together into related categories, as described below:

(1) Arizona towns and cities are given long-range development and planning responsibility for their jurisdictions. They are authorized to issue zoning ordinances and regulate the industrial use of municipal land and establish special zoning districts (A.R.S. Section 9–461 to Section 9–462.01). Arizona counties have general permitting authority, and violation of a county building permit is a petty offense. A.R.S. 11–322 et seq. Each County's Board of Supervisors has responsibility for promulgating and enforcing the zoning ordinances for the county, and it is unlawful to use land in violation of a zoning regulation, ordinance or permit. Violation of such regulation, ordinance or permit is a misdemeanor. A.R.S. Section 11–808, Section 11–803, and A.R.S. Section 11–821.

(2) The Arizona law concerning the perfection of mining claims and the establishment of claims to mineral rights is found at A.R.S. Section 27–201 to 27–210. Notice of such a claim must be recorded within 90 days in the appropriate office of the County having jurisdiction over the recording of land claims. A.R.S. Section 27–203.

(3) A mineral exploration permit is required before prospecting is allowed on public land. A.R.S. Section 27–251 to Section 27–256.

(4) A permit from the Department of Health Services is required for the discharge of solid wastes and air pollutants. A.R.S. Title 49.

(5) An installation permit is required before any pollution-causing equipment may be installed. Before the equipment can commence operation, an operating permit is required. The permits are not automatically transferable. It is a misdemeanor to violate any air pollution permit, ordinance or statute, and criminal intent is not an element of proof. A.R.S. Title 49.

(6) The Department of Health Services has the responsibility for issuing water pollutant discharge permits. A.R.S. Title 49, Chapter 2.

(7) It is unlawful to discharge wastes or drainage into State waters or reduce water quality below water quality standards or discharge pollutants into waters without a permit from the Department of Health Services. A.R.S. Title 45.

(8) The Department of State Lands has the responsibility for issuing mineral prospecting permits for State lands. A.R.S. Section 37–231.

(9) The waters from all sources belong to the State and are subject to appropriation and beneficial use. In order to appropriate water or make a beneficial use of water, a permit is required from the Director of the Department of Water Resources. The approval of the Director is required before such a permit may be transferred. A secondary permit from the Director is required before use may be made of reservoir waters. A.R.S. Title 45.

Final § 903.773(d) establishes specific permit application review procedures. This is necessary to dispose of flagrantly deficient applications early in processing, to provide a procedure for obtaining additional information, and to indicate the procedure for determinations of completeness. Final § 903.773(e) allows OSM to require an

VOL 60 ISS 70 AP 12 1995 UMI

applicant to submit supplemental information to ensure compliance with applicable Federal laws and regulations other than SMCRA and its implementing regulations. Final § 903.773(f) establishes, pursuant to 30 CFR 773.15(a)(1), a time period of 60 days from the close of the comment period for the regulatory authority to issue a written decision unless additional time is necessary due to the number or complexity of the issues. The final rule at § 903.773(g) establishes a procedure for ensuring confidentiality of qualified permit application information. Such information must be labeled confidential and submitted separately to be reviewed by OSM for withholding from disclosure. In addition, § 903.773(g)(1) requires the public notice required by § 903.773(d)(3) to identify the type of information considered to be confidential. Finally, § 903.773(g)(2) requires OSM to rule on the confidentiality of labeled application information within ten days of the last publication of the notice required under § 903.773(d)(3).

Proposed § 903.774(b) was described as providing that a permit revision shall be considered significant if it may have the potential to adversely impact the potential for the achievement of reclamation and the post-mining land use. However, this provision was included under proposed § 903.774(d). Final § 903.774(c) incorporates proposed § 903.774(d). In addition, final § 903.774(c) provides that OSM's Western Support Center shall consider the following factors as well as other relevent factors in determining the significance of a proposed revision: (1) Changes in production or recoverability of the coal resource; (2) the environmental effects; (3) the public interest in the operation, or likely interest in the proposed revision; and (4) possible adverse impacts from the proposed revision on fish or wildlife, endangered species, bald or golden eagles, or cultural resources. Final § 903.774(c) also provides that a significant revision requires public notice and is subject to a formal hearing if one is requested.

The remaining subparagraphs of proposed § 903.774 have been redesignated as follows. Proposed § 903.774(d) has been incorporated into final § 903.774(c), as discussed above. Proposed § 903.774(e), which has been redesignated as final § 903.774(d), provides that OSM approve or disapprove non-significant permit revisions within a reasonable amount of time. Final § 903.774(e), which was proposed as § 903.774(f), allows 30 days for any person having an interest that is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights to submit written comments after publication of the notice required by 30 CFR 774.17(b)(2). Final § 903.774(f), which was proposed as § 903.774(g), allows interested persons and public entities 30 days from the last publication of the notice to submit written comments on or objections to an application for significant revision or permit renewal.

The permanent program regulations at 30 CFR 779.19(a) give the regulatory authority discretion to require a map that delineates vegetation types in the proposed permit area. The final rule at § 903.779(b) requires the applicant for a surface mining permit to submit such a map. Similarly, the rule at § 903.783(b) requires a vegetation map for underground mining permits.

Small Operator Assistance

Section 903.795 establishes the same standards for the small operator assistance program (SOAP) as are found in Part 795 of the permanent program rules. OSM expects during its administration of the SOAP in Arizona that Federal funds will be sufficient to provide for authorized services, and it does not expect to exercise its option at 30 CFR 795.11(b). That option allows OSM to establish a formula for allocating limited funds to provide the service pursuant to Part 795. OSM will award SOAP contracts to qualified laboratories utilizing a streamlined procurement system that complies with the Federal Acquisition Regulations. Prior to issuing a Request for Proposals, OSM will announce its intention through publication in the Commerce Business Daily or other appropriate publication. OSM will qualify labs as part of its contracting process.

Bonding

Section 903.800 establishes the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter J, *Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations*. The final rule at § 903.800(b) requires the operator to file an application for release of performance bond no later than 30 days prior to the end of the growing season.

Performance Standards

Sections 903.815 through 903.828 establish the same provisions, where applicable, as 30 CFR Chapter VII, Subchapter K, except for the following changes:

As proposed, §§ 903.816(b) and 903.817(b) identified revegetation success standards as those at 30 CFR 816.116(a)(2) and 817.116(a)(2), whereas the actual standards are found at 30 CFR 816.116 (a)(2) and (b) and 817.116 (a)(2) and (b). Therefore, a minor technical correction has been made in this final rule to cross reference the appropriate success standards intended to be cited.

Final § 903.816(b) requires: (1) That the standards for revegetation success for surface mining activities shall be those specified at 30 CFR 816.116 (a)(2) and (b); and (2) that statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan.

Final § 903.817(b) requires: (1) That the standards for revegetation success for underground mining activities shall be those specified in 30 CFR 816.117 (a)(2) and (b); and (2) that statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan.

Inspection and Enforcement Procedures

Sections 903.842, 903.843, 903.845, and 903.846 establish the same provisions as 30 CFR Chapter VII, Subchapter L, *Permanent Program Inspection and Enforcement Procedures*. The final rules at §§ 903.842(b) and 903.843(b) require OSM to furnish to a designated Arizona State agency with jurisdiction over mining, on request, copies of inspection reports and enforcement actions, respectively.

Blaster Training and Certification

Section 903.955 cross-references 30 CFR Part 955 of the permanent program regulations.

III. Response to Public Comments

OSM published a proposed Arizona Federal program in the **Federal Register** on August 10, 1994 (59 FR 41208). The notice announced a 60 day comment period ending on October 11, 1994. A public hearing was scheduled for September 26, 1994, in Phoenix, Arizona, but it was not held because no one requested to testify at the hearing. On February 2, 1995, OSM also published a newspaper notice in The Apache County Observer, St. Johns, Arizona, in the vicinity of the proposed coal mining-related activities in Arizona. This notice stated that OSM would receive comments on the proposed Arizona Federal program until March 6, 1995 and will include them in the Administrative record for this rulemaking, which was reopened for that purpose. The newspaper notice also offered to hold a public hearing during the comment period, but it was not held because no one requested to testify at the hearing.

OSM received comments from two commenters on the proposed Arizona Federal program rule during the comment period of the **Federal Register** notice. No comments were received from the publication of the newspaper notice.

One commenter stated that the preamble to the proposed rules does not adequately explain why OSM reinitiated the process for adopting a Federal program for Arizona and that a more complete discussion of that background should be included in the preamble to minimize the potential for misinterpretation of the intent and effect of a Federal program for Arizona, especially with respect to transportation of coal.

OSM reproposed a Federal program for Arizona to enable OSM to regulate surface coal mining operations that could occur in Arizona in the future either through mining operations or through other associated activities resulting from or incident to a surface coal mining operation, including coal transportation systems. When OSM became aware of a proposed surface coal mining operation in New Mexico that would include transportation facilities extending into Arizona, OSM determined that a Federal program should be in place in the event that these activities are subject to regulation under SMCRA.

The same commenter stated that OSM should make clear that it has not purported to determine that the proposed railroad in Arizona would constitute a "surface coal mining operation" subject to SMCRA. The commenter indicated that the railroad in question has been included in the permit application for the proposed mining operation to avoid undue delay while awaiting a final decision regarding the applicability of SMCRA. The commenter expressed its opinion that the railroad in question is not subject to SMCRA; however, it supports and urges adoption of the Arizona Federal program to avoid delays in connection with the permit process for the proposed mining operation with the contingency that the program should either automatically terminate or be reconsidered upon the conclusion of Interior Board of Land Appeals Case (IBLA) No. 94–366 and OSM's national rulemaking on railroads. The commenter further stated that OSM should make clear that it does not intend to apply the Arizona program to any other railroad or other facilities at this time; and that OSM should provide that the Federal program and any permit for the Arizona segment of the proposed railroad will automatically terminate or be reconsidered when the pending proceedings regarding regulation of railroads have been concluded.

Some railroads are subject to regulation under SMCRA as support facilities resulting from or incident to surface coal mining activities. Currently, this determination is made on a case-by-case basis by the regulatory authority through the permitting process. The determination is based on an evaluation of factors such as function, proximity, and economic dependence of the facility on a surface coal mine. OSM is currently reviewing the adequacy of its regulations and policies concerning the regulation of railroads as support facilities under SMCRA and may undertake national rulemaking at some time in the future to clarify the applicability of OSM's regulations to railroads.

There are also cases pending before the Interior Board of Land Appeals that, when decided, will bear upon this issue. However, OSM believes that it is important to separate the issue of the regulation of specific railroads on a case-by-case basis from the issue of establishing a Federal program for Arizona to regulate any such activities that are determined to be surface coal mining operations. OSM believes that the establishment of a Federal program is not contingent upon whether any particular activity should or should not be subject to regulation under SMCRA. A decision whether to regulate the proposed railroad under the Arizona program will be made separately from the decision to adopt a Federal program and, if necessary, will be subject to separate administrative and judicial review proceedings. The question of which railroads are subject to regulation under SMCRA is a separate issue and is beyond the scope of this rulemaking.

OSM agrees that any permit for railroad facilities under a Federal program for Arizona may be considered for revision or termination based on regulatory or policy changes. OSM will evaluate the effect of regulatory or policy changes on other existing or proposed support facilities at the time that such changes may occur. With respect to termination of the Federal program for Arizona, Federal programs may be terminated under 30 CFR § 736.16 provided that a State program has been approved under 30 CFR Part 732. Terminations could possibly also be accomplished if OSM determines that such a program is not needed.

The commenter stated that OSM should expressly acknowledge that its action is in no way intended to affect, much less preempt, IBLA Case No. 94–366 or the national rulemaking proceeding regarding railroads. OSM agrees with the commenter. OSM is establishing a Federal program in Arizona to allow for regulation of any surface coal mining operations that may occur independently of and without any intent to affect or preempt any pending proceedings on railroad regulatory issues or on any rulemaking proceeding regarding railroads.

Another commenter provided the following comments which consist of corrections to State statutes and regulations referenced in the proposed Arizona Federal program rule:

Reference to the Arizona Department of Agriculture and Horticulture should be changed to read: "Arizona Department of Agriculture;" Reference to the Arizona Department of Health Services should be changed to read: "Arizona Department of Environmental Quality;" Under item (3) in the table included in § 903.773(b), add the following State law equivalent to the Resource Conservation and Recovery Act: "A.R.S. Title 49, Secs, 921–932."

These suggested corrections/additions have been added to this final rule.

This commenter also questioned whether, under § 903.700(f), all cited sections of the Arizona open Pits mining statute (A.R.S. Sections 27–421 to 27–425) are truly less stringent than SMCRA, as indicated in the proposed rule. As mentioned earlier, OSM has reevaluated the cited sections of the subject Act and finds that such preemption is not required at this time.

IV. Procedural Matters

Federal Paperwork Reduction Act

This rule does not contain collections of information which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order 12866

This rule has been reviewed under Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior has determined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant economic impact on a substantial number of small entities because no small entities are expected to apply for permits under the Arizona Federal Program and the total number of permits applied for under the program is expected to be very small.

National Environmental Policy Act

Section 702(d) of SMCRA provides that promulgation of a Federal program shall not constitute a major Federal action under the National

VOL 60 ISS 70 AP 12 1995 UMI

Environmental Policy Act, 42 U.S.C. 433. Thus, no environmental assessment or environmental impact statement is required for this rulemaking.

Executive Order 12778 (Civil Justice Reform)

This rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, "Civil Justice Reform" (56 FR 55195). In general, the requirements of section 2(b)(2) are covered by the preamble discussion of this rule. Individual elements of the order are addressed below:

A. What would be the preemptive effect, if any, to be given to the regulation?

As provided for under SMCRA, the regulatory program has a preemptive effect with respect to State laws and regulations less stringent than SMCRA (see above under *Discussion of Final Rule*).

B. What would be the effect of the regulation on existing Federal law or regulation, if any, including all provisions repealed or modified?

The regulations being adopted implement SMCRA in the State of Arizona, described herein, and are not intended to modify the implementation of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Would the regulation provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of SMCRA.

D. What would be the retroactive effect, if any, to be given to the regulations?

There would be no retroactive effect to the final regulation.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this rule. Prior to any judicial challenge to the application of the rule, however, administrative procedures must be exhausted. Applicable administrative procedures may be found at 43 CFR Part 4.

F. Would the proposed action define key terms, either explicitly or by reference to other regulations or statutes that explicitly define those items?

Terms which are important to the understanding of this rule are set forth at 30 CFR 700.5, 701.5, and 740.5.

G. Would the regulation address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

Author

The principal authors of these final regulations are James B. Smith, Regulatory Programs Branch, Albuquerque Field Office, 500 Marquette Ave. NW, Suite 1200, Albuquerque, NM 87110; and Fred Block, Branch of Federal and Indian Programs, Division of Regulatory Programs, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW, Washington, DC 20240.

List of Subjects in 30 CFR Part 903

Coal mining, Intergovernmental relations, Surface mining, Underground mining, Reporting and recordkeeping requirements.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary—Land and Minerals Management.

Accordingly, OSM is amending 30 CFR Chapter VII, Subchapter T as set forth below:

1. Part 903 is added to read as follows:

PART 903—ARIZONA

Sec.

903.700 Arizona Federal Program.
903.701 General.
903.702 Exemption for coal extraction incidental to the extraction of other minerals.
903.707 Exemption for coal extraction incident to government-financed highway or other construction.
903.736 Permit fees.
903.761 Areas designated unsuitable for surface coal mining by act of Congress.
903.762 Criteria for designating areas as unsuitable for surface coal mining operations.
903.764 Process for designating areas unsuitable for surface coal mining operations.
903.772 Requirements for coal exploration.
903.773 Requirements for permits and permit processing.
903.774 Revision; renewal; and transfer, assignment, or sale of permit rights.
903.775 Administrative and judicial review of decisions.
903.777 General content requirements for permit applications.
903.778 Permit applications—Minimum requirements for legal, financial, compliance, and related information.
903.779 Surface mining permit applications—Minimum requirements for information on environmental resources.
903.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.
903.783 Underground mining permit applications—Minimum requirements for information on environmental resources.
903.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.
903.785 Requirements for permits for special categories of mining.
903.795 Small operator assistance program.
903.800 Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.
903.815 Performance standards—Coal exploration.
903.816 Performance standards—Surface mining activities.
903.817 Performance standards—Underground mining activities.
903.819 Special performance standards—Auger mining.
903.822 Special performance standards—Operations in alluvial valley floors.
903.823 Special performance standards—Operations on prime farmland.
903.824 Special performance standards—Mountaintop removal.
903.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.
903.828 Special performance standards—In situ processing.
903.842 Federal inspections.
903.843 Federal enforcement.
903.845 Civil penalties.
903.846 Individual civil penalties.
903.955 Certification of blasters.

Authority: 30 U.S.C. 1201 *et seq.*

§ 903.700 Arizona Federal Program.

(a) This part establishes a Federal program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and applies to all coal exploration and surface coal mining and reclamation operations in Arizona conducted on non-Federal and non-Indian lands. To the extent required by 30 CFR Part 740, this part also applies to surface coal mining and reclamation operations on Federal lands in Arizona.

(b) Some rules in this part cross-reference pertinent parts of the permanent program rules in this chapter. The full text of a cross-referenced rule is in the permanent program rule cited under the relevant section of the Arizona Federal program.

(c) The following provisions of Arizona law generally provide for more stringent environmental control and regulation of some aspects of surface coal mining and reclamation operations than do the provisions of the Surface Mining Control and Reclamation Act of 1977, and the regulations in this chapter. Therefore, pursuant to section 505(b) of the Act, OSM will not generally construe such laws to be inconsistent with the Act, unless in a particular instance OSM determines that the rules in this chapter establish more stringent environmental or land use controls:

(1) The Arizona Department of Agriculture has authority to abate public nuisances, including noxious weeds and noxious weed seeds, under A.R.S. Section 3–231 to 3–242. Violation of this statute is a misdemeanor.

(2) It is unlawful to injure any bird or harass any bird upon its nest or remove the nests or eggs of any bird without prior authorization of the Arizona Game and Fish Commission. A.R.S. Section 17–236.

(3) A bridge, dam, dike or causeway may not be constructed over or in a navigable river or other navigable water without the authorization of the Governor. A.R.S. Section 18–301.

(4) The Department of Mineral Resources has jurisdiction over the mining of minerals, and oil and gas under Title 27 of the Arizona Revised Statutes. One of the functions of that Department is the prevention and elimination of hazardous dust conditions. A.R.S. Section 27–128. Violation of orders of State mine inspectors respecting dust prevention and control is a misdemeanor.

(5) Roads leading into waste dump areas and tailing areas from inhabited or public areas are required to be blocked off and warning signs posted on the perimeter of such areas. A.R.S. Section 27–317.

(6) The primary responsibility for the control and abatement of air pollution rests with the Arizona Department of Environmental Quality and its Hearing Board. The Department is responsible for the establishment and enforcement of air pollution emission standards and ambient air quality standards as a part of a comprehensive air quality plan for Arizona. A.R.S. Title 49.

(7) The Arizona Department of Water Resources has jurisdiction over State water, including "surface waters." "Surface waters" means "the waters of all sources, flowing in streams, canyons, ravines or other natural channels, or in definite underground channels, whether perennial or intermittent, flood, waste or surplus water, and of lakes, ponds and springs on the surface. For the purposes of administering this title, surface water is deemed to include Central Arizona Project Water." A.R.S. Section 45–101. It is a misdemeanor to knowingly use the water of another, or divert water from a stream, waste water or obstruct water flowing into a water work. A.R.S. Section 45–112. Possession of water lawfully denied to the possessor is prima facie evidence of one's guilt. A.R.S. Section 45–112. If water is to be used for mining purposes the water rights may be severed from the land rights and transferred separately. The separation and transference of water rights is subject to numerous limitations, under A.R.S. Section 45–172.

(8) Dams are defined as "any artificial barrier, including appurtenant works for the impounding or diversion of water except those barriers for the purpose of controlling liquid borne material, twenty-five feet or more in height or the storage capacity of which will be more than fifty acre feet, but does not include any such barrier which is or will be less than six feet in height, regardless of storage capacity, or which has or will have a storage capacity not in excess of fifteen acre feet, regardless of height." A.R.S. Section 45–701. The construction, operation, repair or alteration of any dam without the prior approval of the Director of Water Resources is a misdemeanor. A.R.S. Section 45–702 to Section 45–716.

(d) Any Arizona law or regulation which may be found to interfere with the purposes and achievements of the Act, shall be preempted and superseded to the extent that the State law or regulation is inconsistent with, or precludes implementation of, requirements of the Act or this chapter under the Federal program for Arizona. The Director shall publish a notice to that effect in the **Federal Register** following the procedures set forth in § 730.11(a) of this chapter.

(e) The information collection requirements contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 in its approval of the information collection requirements contained in the permanent regulatory program.

§ 903.701 General.

(a) Sections 700.5, 700.11, 700.12, 700.13, 700.14, 700.15 and Part 701 of this chapter apply to coal exploration and surface coal mining and reclamation operations in Arizona.

(b) Beginning on May 12, 1995, each surface coal mining and reclamation operation in Arizona must comply with Subchapter B of this chapter until issuance of a permanent program permit under the provisions of Subchapter C of this chapter.

(c) Records required by § 700.14 of this chapter to be made available locally to the public shall be made available in the county recorder's office of the county in which an operation is located, and at the OSM Albuquerque Field Office.

§ 903.702 Exemption for coal extraction incidental to the extraction of other minerals.

Part 702 of this chapter, *Exemption for Coal Extraction Incidental to the Extraction of Other Minerals*, applies to any person who conducts coal extraction incidental to the extraction of other minerals for purposes of commercial use or sale.

§ 903.707 Exemption for coal extraction incident to government-financed highway or other construction.

Part 707 of this chapter, *Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction*, applies to surface coal mining and reclamation operations.

§ 903.736 Permit fees.

Section 736.25 of this chapter, *Permit fees* applies to any person who makes application for a permit to conduct surface coal mining and reclamation operations in Arizona.

§ 903.761 Areas designated unsuitable for surface coal mining by act of Congress.

Part 761 of this chapter, *Areas Designated by Act of Congress*, applies to surface coal mining operations.

§ 903.762 Criteria for designating areas as unsuitable for surface coal mining operations.

Part 762 of this chapter, *Criteria for Designating Areas Unsuitable for Surface Coal Mining Operations*, applies to surface coal mining operations.

§ 903.764 Process for designating areas unsuitable for surface coal mining operations.

Part 764 of this chapter, *State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations*, pertaining to petitions, initial processing, hearing requirements, decisions, data base and inventory systems, public information, and regulatory responsibilities, applies to surface coal mining operations beginning June 24, 1996, one year after the effective date of this program.

§ 903.772 Requirements for coal exploration.

(a) Part 772 of this chapter, *Requirements for Coal Exploration*, applies to any person who conducts coal exploration. For those applications where § 772.12 of this chapter applies,

VOL 60 ISS 70 APR 12 1995 UMI

the requirements of paragraphs (b) through (d) of this section shall apply in place of § 772.12(c) (1) and (3) and § 772.12(d)(1) of this chapter.

(b) The applicant, upon receipt of notification from the regulatory authority of the submission of an administratively complete application for an exploration permit, must:

(1) Publish one public notice of the filing in a newspaper of general circulation in the county of the proposed exploration area; and

(2) Provide proof of this publication to the regulatory authority within one week of publication.

(c) Any person having an interest which is or may be adversely affected, shall have the right to file written comments within 30 days after the notice is published.

(d) The regulatory authority shall act upon an administratively complete application for a coal exploration permit and any written comments within 15 days from the close of the comment period unless additional time is necessary due to the number or complexity of the issues. The regulatory authority may approve a coal exploration permit only if based upon a complete and accurate application.

§ 903.773 Requirements for permits and permit processing.

(a) Part 773 of this chapter, *Requirements for Permits and Permit Processing*, applies to any person who applies for a permit for surface coal mining and reclamation operations.

(b) The Secretary will coordinate, to the extent practicable, his/her responsibilities under the following Federal laws with the relevant Arizona laws to avoid duplication:

Federal law	State law
(1) Clean Water Act, as amended, 33 U.S.C. 1251 et seq	A.R.S Title 49, Art. 2, Sec 221–225; A.R.S Title 49, Art. 3, Sec 241–251; A.R.S Title 49, Art. 10, Sec 361–363; A.R.S Title 49, Art. 11, Sec 371–381.
(2) Clean Air Act, as amended, 42 U.S.C. 7401 et seq	A.R.S. Title 49.
(3) Resource Conservation and Recovery Act, 42 U.S.C. 3251, et seq	A.R.S. Title 49, sections 921–932.
(4) National Environmental Policy Act, 42 U.S.C. 4321 et seq	A.R.S. Title 49, section 104.
(5) Archeological and Historic Preservation Act, 16 U.S.C. 469 et seq	Arizona Antiquities Act—A.R.S. Title 41 secs. 821, 841–846, 861, 862, 865, 1352.
(6) National Historic Preservation Act, 16 U.S.C. 470 et seq	A.R.S. Title 13 Secs. 3702, 3702.1; Title 41 secs. 511, 511.04, 821, 861, 862, 1352; Title 44 sec. 123.
(7) Section 208 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.	A.R.S. Sections 49–101, 201 and 371.
(8) Endangered Species Act, 16 U.S.C. 1531 et seq	A.R.S. Title 17 Section 231A.2 Arizona Admin. Code Title 18 Chapter 10, Article 1.
(9) Fish and Wildlife Coordination Act, 16 U.S.C. 661–667.	
(10) Noise Control Act, 42 U.S.C. 4903.	
(11) Bald Eagle Protection Act, 16 U.S.C. 668–668(d)	A.R.S. Title 17 Section 235.

(c) No person may conduct coal exploration operations that result in removal of more than 250 tons of coal in one location or surface coal mining and reclamation operations:

(1) Without a permit issued by the Secretary as required under 30 CFR part 772 or 773; and

(2) Without permits, leases and/or certificates required by the State of Arizona, including, but not limited to the following:

(i) Municipal planning statutes (A.R.S. Section 9–461 to 9–462.01); County planning and zoning statutes (A.R.S. Sections 11–322 et seq., 11–803, 11–808, 11–821);

(ii) Statutes governing perfection and recordation of mining claims (A.R.S. Section 27–201 to 27–210);

(iii) Statutes requiring mineral exploration permits (A.R.S. Section 27–251 to 27–256);

(iv) Solid waste and air pollution discharge permits, installation and operation permits required for equipment causing air pollution and water pollution discharge permits (A.R.S. Title 49);

(v) Mineral prospecting permits for State lands (A.R.S. Section 37–231);

(vi) Permits for discharge into or use of State waters and permits for secondary use of reservoir waters (A.R.S. Title 45).

(d) In addition to the requirements of part 773 of this chapter, the following permit application review procedures apply:

(1) Any person applying for a permit must submit at least five copies of the application to OSM's Western Support Center (WSC) in Denver, Colorado.

(2) WSC shall review an application for administrative completeness and acceptability for further review, and notify the applicant in writing of the findings. WSC may:

(i) Reject a flagrantly deficient application, notifying the applicant of the findings;

(ii) Request additional information required for completeness, stating specifically what information must be supplied; or

(iii) Determine the application administratively complete and acceptable for further review.

(3) When WSC determines the application to be administratively complete, it will notify the applicant. Upon such notification, the applicant must publish the public notice required by § 773.13(a)(1) of this chapter.

(4) A representative of WSC may visit the proposed permit area if necessary to determine whether the operation and reclamation plans are consistent with actual site conditions. WSC will provide the applicant advance notice of the time of the visit.

(5) In determining the completeness of an application, WSC will consider whether the information provided in the application is adequate for OSM to comply with the National Environmental Policy Act, 42 U.S.C. 4322. If necessary, WSC may require specific additional information from the applicant as any environmental review progresses.

(e) In addition to the information required by subchapter G of this chapter, WSC may require an applicant to submit supplemental information to ensure compliance with applicable Federal laws and regulations other than the Act and 30 CFR chapter VII.

(f) In making a decision on an application, the regulatory authority shall review any written comments or objections it has received and the records of any informal conference or hearing it has held on the application. The regulatory authority shall issue a written decision in accordance with the timeframes in the following table:

If * * *	And * * *	Then a written decision shall be issued * * *
OSM has not prepared an EIS	An informal conference has not been held.	Within 60 days of the close of the comment period.
OSM has not prepared an EIS	An informal conference has been held.	Within 60 days of the conclusion of the informal conference (unless additional time is needed because of the number or complexity of the issues).
OSM has prepared an EIS		No earlier than 30 days after the Environmental Protection Agency publishes the notice of availability of the final EIS in the Federal Register.

(g) OSM will consider withholding information from public disclosure under § 773.13(d) of this chapter if the applicant labels the information confidential and submits it separately from the rest of the application.

(1) If the applicant submits information identified as confidential, the notice required by § 773.13(a)(1) of this chapter shall state this and identify the type of information that the applicant has submitted.

(2) OSM shall determine the qualification of any application information labeled confidential within 10 days of the last publication of the notice required under § 773.13(a)(1) of this chapter, unless additional time is necessary to obtain public comment or in the event of unforeseen circumstances.

§ 903.774 Revision; renewal; and transfer, assignment, or sale of permit rights.

(a) Part 774 of this chapter, *Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights*, applies to any such actions involving surface coal mining and reclamation operations permits, except as specified in this section.

(b) No revision to an approved mining or reclamation plan shall be effective until reviewed and approved by WSC.

(c) Any significant revision to the approved mining or reclamation plan shall be subject to the public notice and hearing provisions of §§ 903.773(d)(3) and 773.13 (b) and (c) of this chapter before it is approved and implemented. Any revision to an approved reclamation plan that may have the potential to adversely affect the achievement of reclamation and the post-mining land use is a significant permit revision. In addition, WSC will consider the following factors, as well as other relevant factors, in determining the significance of a proposed revision:

(1) Changes in production or recoverability of the coal resource;

(2) Environmental effects;

(3) Public interest in the operation, or likely interest in the proposed revision; and

(4) Possible adverse impacts from the proposed revision on fish or wildlife, endangered species, bald or golden eagles, or cultural resources.

(d) The regulatory authority will approve or disapprove non-significant permit revisions within a reasonable time after receiving a complete and accurate revision application. Significant revisions and renewals shall be approved or disapproved under the provisions of § 903.773(f).

(e) Any person having an interest that is or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, may submit written comments on the application to WSC. Comments may be submitted within 30 days of either the publication of the newspaper notice required by § 774.17(b)(2) of this chapter, or receipt of an administratively complete application, whichever is later. For purposes of this paragraph, a person includes, but is not limited to an official of any Federal, State, or local government agency.

(f) Within 30 days from the last publication of the newspaper notice, written comments or objections to an application for significant revision or renewal of a permit may be submitted to the regulatory authority by:

(1) Any person having an interest that is or may be adversely affected by the decision on the application; or

(2) Public entities notified under § 773.13(a)(3) of this chapter of the proposed mining operations on the environment within their areas of responsibility.

§ 903.775 Administrative and judicial review of decisions.

Part 775 of this chapter, *Administrative and Judicial Review of Decisions*, applies to all decisions on permits.

§ 903.777 General content requirements for permit applications.

(a) Part 777 of this chapter, *General Content Requirements for Permit Applications*, applies to any person who makes application for a permit to conduct surface coal mining and reclamation operations.

(b) Any person who wishes to conduct surface coal mining and reclamation operations must file a complete application as early as possible before the date the permit is desired and pay to OSM a permit fee in accordance with § 903.736.

(c) Any person who wishes to revise a permit shall submit a complete application as early as possible before the desired approval date of the permit revision and shall pay a permit fee in accordance with 30 CFR 777.17.

§ 903.778 Permit applications—minimum requirements for legal, financial, compliance, and related information.

Part 778 of this chapter, *Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information*, applies to any person who submits an application for a permit to conduct surface coal mining and reclamation operations.

§ 903.779 Surface mining permit applications—Minimum requirements for information on environmental resources.

(a) Part 779 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources*, applies to any person who submits an application to conduct surface coal mining and reclamation operations.

(b) Each permit application must include a map that delineates existing vegetative types and a description of the plant communities within the proposed permit area and within any proposed reference area.

§ 903.780 Surface mining permit applications—Minimum requirements for reclamation and operation plan.

Part 780 of this chapter, *Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan*, applies to any person who submits an application to conduct surface coal mining and reclamation operations.

§ 903.783 Underground mining permit applications—Minimum requirements for information on environmental resources.

(a) Part 783 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources*, applies to any person who

VOL
60
ISS
70
AP
12
1995
UMI

submits an application to conduct underground coal mining operations.

(b) Each permit application must include a map that delineates existing vegetative types and a description of the plant communities within the proposed permit area and within any proposed reference area.

§ 903.784 Underground mining permit applications—Minimum requirements for reclamation and operation plan.

Part 784 of this chapter, *Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan*, applies to any person who submits an application to conduct underground coal mining operations.

§ 903.785 Requirements for permits for special categories of mining.

Part 785 of this chapter, *Requirements for permits for Special Categories of Mining*, applies to any person who submits an application for a permit to conduct certain categories of surface coal mining and reclamation operations as specified therein.

§ 903.795 Small operator assistance program.

Part 795 of this chapter, *Small Operator Assistance Program*, applies to any person who submits an application for assistance under the small operator assistance program.

§ 903.800 Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

(a) Part 800 of this chapter, *Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs*, applies to all surface coal mining and reclamation operations, except for § 800.40(a)(1) of this chapter regarding the bond release application, for which paragraph (b) of this section substitutes.

(b) The permittee may file an application with the regulatory authority for the release of all or part of a performance bond. The application must be filed no later than 30 days before the end of the vegetation growing season in order to allow time for the regulatory authority to properly evaluate the completed reclamation operations. The appropriate times or seasons for the evaluation of certain types of reclamation shall be identified in the mining and reclamation plan required in subchapter G of this chapter and approved by the regulatory authority.

§ 903.815 Performance standards—Coal exploration.

Part 815 of this chapter, *Permanent Program Performance Standards—Coal Exploration*, applies to any person who conducts coal exploration.

§ 903.816 Performance standards—Surface mining activities.

(a) Part 816 of this chapter, *Permanent Program Performance Standards—Surface Mining Activities*, applies to any person who conducts surface mining activities, except § 816.116(a)(1) of this chapter regarding revegetation success standards, for which paragraph (b) of this section substitutes.

(b) Standards for success shall be those identified at § 816.116(a)(2) and (b) of this chapter. Statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan and approved by the regulatory authority.

§ 903.817 Performance standards—Underground mining activities.

(a) Part 817 of this chapter, *Permanent Program Performance Standards—Underground Mining Activities*, applies to any person who conducts underground mining activities, except § 817.116(a)(1) of this chapter regarding revegetation success standards, for which paragraph (b) of this section substitutes.

(b) Standards for success shall be those identified at § 817.116(a)(2) and (b) of this chapter. Statistically valid sampling techniques for measuring success shall be included in the mining and reclamation plan and approved by the regulatory authority.

§ 903.819 Special performance standards—Auger mining.

Part 819 of this chapter, *Special Permanent Program Performance Standards—Auger Mining*, applies to any person who conducts surface coal mining operations that include auger mining.

§ 903.822 Special performance standards—Operations in alluvial valley floors.

Part 822 of this chapter, *Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors*, applies to any person who conducts surface coal mining and reclamation operations on alluvial valley floors.

§ 903.823 Special performance standards—Operations on prime farmland.

Part 823 of this chapter, *Special Permanent Program Performance Standards—Operations on Prime Farmland*, applies to any person who conducts surface coal mining and reclamation operations on prime farmland.

§ 903.824 Special performance standards—Mountaintop removal.

Part 824 of this chapter, *Special Permanent Program Performance Standards—Mountaintop Removal*, applies to any person who conducts surface coal mining and reclamation operations constituting mountaintop removal mining.

§ 903.827 Special performance standards—Coal preparation plants not located within the permit area of a mine.

Part 827 of this chapter, *Permanent Program Performance Standards—Coal Preparation Plants Not Located Within the Permit Area of a Mine*, applies to any person who conducts surface coal mining and reclamation operations which include the operation of a coal preparation plant not located within the permit area of a mine.

§ 903.828 Special performance standards—In situ processing.

Part 828 of this chapter, *Special Permanent Program Performance Standards—In Situ Processing*, applies to any person who conducts surface coal mining and reclamation operations that include the in situ processing of coal.

§ 903.842 Federal inspections.

(a) Part 842 of this chapter, *Federal Inspections*, applies to all coal exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 842 of this chapter, OSM will furnish copies of inspection reports when requested by a designated Arizona State agency with jurisdiction over mining.

§ 903.843 Federal enforcement.

(a) Part 843 of this chapter, *Federal Enforcement*, applies regarding enforcement action on coal exploration and surface coal mining and reclamation operations.

(b) In addition to the requirements of Part 843 of this chapter, OSM will furnish copies of enforcement actions and orders to show cause, upon request, to a designated Arizona State agency with jurisdiction over mining.

§ 903.845 Civil penalties.

Part 845 of this chapter, *Civil Penalties*, applies to the assessment of civil penalties for violations on coal exploration and surface coal mining and reclamation operations.

§ 905.846 Individual civil penalties.

Part 846 of this chapter, *Individual Civil Penalties*, applies to the assessment of individual civil penalties under section 518(f) of the Act.

§ 903.955 Certification of blasters.

Part 955 of this chapter, *Certification of Blasters in Federal Program States and on Indian Lands*, applies to the training, examination and certification of blasters for surface coal mining and reclamation operations.

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VOL
60

ISS
70

AP
12

1995

UMI

federal register

Wednesday
April 12, 1995

Part VII

The President

Proclamation 6785—Education and Sharing Day, U.S.A.

VOL
60
ISS
70
AP
12
1995
UMI

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

Presidential Documents

Title 3—

The President

Proclamation 6785 of April 10, 1995

Education and Sharing Day, U.S.A., 1995

By the President of the United States of America

A Proclamation

As we move toward a complex and challenging new century, excellence in American education is more vital to our Nation's success than ever. We live in an era when advances in science and technology create new questions and demand more of our citizens each day. Only a national commitment to high-quality education can prepare our young people to meet the great responsibilities and opportunities of the future.

Yet an education that prepares a child for a lifetime is more than an accumulation of facts or single-minded preparation for a career. It is also a set of ideals and ethics that unites all Americans and allows us to work together for a just and honorable society. Teachers, families, and communities play vital roles in passing on these shared values and common hopes for a better tomorrow.

Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, well understood the importance of nurturing the heart along with the mind. Throughout his long and rich life, he believed that the education of our young people would only be successful if it sought to build character as well as intellect, if it taught the lessons of honesty, tolerance, and good citizenship, as well as language, math, and science.

This year, let us rededicate ourselves to teaching the love of learning that was championed by Rabbi Schneerson and is strengthened by caring leaders like him throughout our Nation. As we provide our students with the information and practical tools they need, let us also pass on to them the capacity for understanding that can help to give fuller meaning to their lives.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 11, 1995, as "Education and Sharing Day, U.S.A." I call upon Government officials, educators, volunteers, and all the people of the United States to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

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VOL
60
ISS
70
AP
12
1995
UMI

Reader Aids

Federal Register
Vol. 60, No. 70
Wednesday, April 12, 1995

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534
Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3
16979–17190	4
17191–17432	5
17433–17624	6
17625–17980	7
17981–18342	10
18343–18538	11
18539–18726	12

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR
Proclamations:
6781 17979
6782 17981
6783 18537
6784 18707
6785 18725

5 CFR
Ch. LII 17625
Proposed Rules:
316 17655

7 CFR
97 17188
201 16979
272 17628
273 17628
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434
1050 18343
1126 17191
1131 17192
1413 17984
1427 17984
Proposed Rules:
335 18374
956 17274
981 17466

9 CFR
92 17634
327 18540
Proposed Rules:
391 18551

10 CFR
2 18344
436 18326
600 17985
Proposed Rules:
70 18035
52 ..... 17902, 17924, 17947

11 CFR
100 17193
104 17193
113 17193

12 CFR
3 17986
208 17436
215 17635
226 16771
400 17625
Proposed Rules:
792 18036

13 CFR
107 17438

14 CFR
25 17194
39 ..... 16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540
71 ..... 17196, 17442, 18346
97 ..... 17198, 17199
Proposed Rules:
39 ..... 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376
71 ..... 17284, 18038, 18552
91 18700
135 18700

16 CFR
1700 17992
Proposed Rules:
248 17032
409 17491
436 17656
460 17492
1700 17660

17 CFR
200 17201
Proposed Rules:
239 17172
270 17172
274 17172

18 CFR
284 16979
Proposed Rules:
35 17662
141 17726
388 17726

19 CFR
7 18347
10 18542
11 18347
12 18347
18 18347
19 18347
24 18347
54 18347
101 18347
102 18347
111 18347
114 18347
123 18347
128 18347

VOL 60 ISS 70 AP 12 1995 UMI

132.....18347
134.....18347
141.....18347
145.....18347
146.....18347
148.....18347
151.....18347
152.....18347
177.....18347
181.....18347
191.....18347

20 CFR

404.....17443

Proposed Rules:

Ch. III.....17731

21 CFR

20.....16962
101.....17202
176.....18349
178.....18349, 18352
310.....17611
876.....17208
1310.....17636

Proposed Rules:

876.....17611

22 CFR

514.....16785

23 CFR

655.....18520

24 CFR

215.....17388
236.....17388
570.....17445
813.....17388
905.....17388, 18174
913.....17388
950.....18174
3500.....16985

Proposed Rules:

29.....17968

26 CFR

1.....17216

Proposed Rules:

1.....17286, 17731, 18377, 18378

27 CFR

55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:

53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

2.....18353
0.....17456

Proposed Rules:

2.....18378, 18379

29 CFR

580.....17221

30 CFR

903.....18710
914.....16985, 17637
915.....17458
938.....16788

Proposed Rules:

Ch. 1.....18044
901.....18044
902.....17495
904.....17498
906.....17501
913.....17734
914.....17736
915.....17504
916.....17504
917.....17739
918.....17498
920.....18046
924.....18044
925.....17504
926.....17495
931.....17501
934.....17495
935.....17741, 18380
936.....17498
938.....18046
943.....17498
944.....17501
946.....17743
948.....18381
950.....17495

32 CFR

290.....18005
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:

63.....17507
247.....18049

33 CFR

3.....17222
117.....18006
154.....17134
155.....17134
162.....16793
165.....16793, 18008
334.....18543

Proposed Rules:

Ch. I.....17287
117.....18061
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR

350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR

7.....17639
13.....18532

37 CFR

1.....16920

38 CFR

2.....18354
3.....18354

39 CFR

20.....18009
265.....17224

Proposed Rules:

232.....17287

40 CFR

9.....17100, 18009
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
77.....17100
78.....17100
81.....16996
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547
185.....18547
186.....18547
258.....17649
260.....17001
271.....18356, 18358, 18360,
300.....16808, 17004
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:

Ch. I.....17288
51.....17509
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385
55.....17748
58.....17509
63.....16829, 16920, 18071, 18078
70.....17750
72.....18472
81.....17034, 17756
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562
185.....18562
186.....18560, 18562
300.....18565
372.....16830
761.....17510
799.....18079

41 CFR

101–20.....17653

43 CFR

12.....17237

Proposed Rules:

426.....16922
427.....16922

Public Land Orders:

7131.....18030

Proposed Rules:

3100.....18081

44 CFR

64.....17005
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

65.....17758
67.....17035, 17042

45 CFR

Proposed Rules:

2544.....17761

46 CFR

12.....17134
13.....17134
15.....17134
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:

Ch. I.....17287
Ch. II.....17763
67.....17290

47 CFR

73.....17023, 17253

Proposed Rules:

1.....17294
63.....17763
73.....17048

48 CFR

915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023

Proposed Rules:

6.....17295
12.....17184
16.....17295
52.....17184, 17295
Ch. V.....17764

49 CFR

173.....17398
178.....17398
180.....17398
552.....17254
554.....17254
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:

Ch. I.....17049
Ch. II.....18390
190.....17295
191.....17295
192.....17295
193.....17295
194.....17295

195.....17295
196.....17295
197.....17295
198.....17295
199.....17295
234.....17770
571.....18566

50 CFR

650.....17272
655.....17464
663.....16811
672.....17465
675.....17028, 17653

Proposed Rules:

17.....16836, 17296
Ch.VI.....17770
641.....17511
642.....18391
655.....18391
675.....17512

LIST OF PUBLIC LAWS

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H.R. 889/P.L. 104–6

Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Apr. 10, 1995; 109 Stat. 73; 20 pages).

Last List March 27, 1995

VOL
60
ISS
70
AP
12
1995
UMI

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VOL
60

ISS
71

AP
13

1995

UMI

4–13–95
Vol. 60 No. 71

federal register

Thursday
April 13, 1995

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VOL
60

ISS
71

AP
13

1995

UMI

4–13–95
Vol. 60 No. 71
Pages 18727–18948

federal register

Thursday
April 13, 1995

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VOL
60
ISS
71
AP
13
1995
UMI

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Contents

Federal Register
Vol. 60, No. 71
Thursday, April 13, 1995

Administration on Aging
See Aging Administration

Aging Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Discretionary funds program, 18817–18844

Agriculture Department
See Animal and Plant Health Inspection Service
See Food and Consumer Service
See Forest Service
See Rural Utilities Service

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Federal regulatory review, 18783–18784

Animal and Plant Health Inspection Service
RULES
Interstate transportation of animals and animal products (quarantine):
Tuberculosis in cattle and bison—
State and area classifications, 18728–18729
Plant-related quarantine, domestic:
Oriental fruit fly, 18727–18728

Antitrust Division
NOTICES
National cooperative research notifications:
BDM Federal, Inc., 18855
Bell Communications Research, Inc., 18855–18856
BP Chemicals, Inc., 18856
Cable Television Laboratories, Inc., et al., 18856
CuraGen Corp. et al., 18856
E.I. du Pont de Nemours & Co., 18857
Electronics Industries Foundation, 18856–18857
Financial Services Technology Consortium, Inc., 18857
Microelectronics & Computer Technology Corp., 18857
Modular Tanker Consortium Joint Venture, 18857–18858
National Storage Industry Consortium, 18858
Unisys Corp., 18858
UnixWare Technology Group Inc., 18858

Army Department
NOTICES
Meetings:
Science Board, 18804–18805

Coast Guard
PROPOSED RULES
Dangerous cargoes:
Bulk solid materials requiring special handling; carriage; withdrawn, 18793
Regattas and marine parades:
Newport Offshore Grand Prix, 18785–18787
NOTICES
User Interface System (UIS); demonstration, 18873–18874

Commerce Department
See Export Administration Bureau
See National Oceanic and Atmospheric Administration

Consumer Product Safety Commission
NOTICES
Settlement agreements:
Neptune Fireworks Co., Inc., 18801–18804

Customs Service
PROPOSED RULES
Federal regulatory review, 18783

Defense Department
See Army Department
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Contract financing, 18794
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 18804

Education Department
NOTICES
Administrative Law Judges Office hearings:
Claim compromises:
Resource, Inc., 18805

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Fernald, OH—
Operable Unit 2 removal action, 18805–18806
Organization, functions, and authority delegations:
Nevada Operations Office; public reading room relocation, 18806

Energy Efficiency and Renewable Energy Office
PROPOSED RULES
Consumer products; energy conservation program:
Clothes washers, clothes dryers, and dishwashers, 18782–18783

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 18750–18751
Pennsylvania, 18750
Clean Air Act:
Acid rain program—
Nitrogen oxides emission reduction program, 18751–18777
PROPOSED RULES
Air programs:
Outer Continental Shelf regulations—
Florida, 18787–18790
Clean Air Act:
Acid rain program—
Nitrogen oxides emission reduction program, 18792–18793

VOL
60
ISS
71
AP
13
1995
UMI

State operating permits programs—
Ohio, 18790–18792
NOTICES
Confidential business information and data transfer, 18813
Grants, State and local assistance:
Lead-based paint abatement workers; training grants, 18813–18814
Superfund; response and remedial actions, proposed settlements, etc.:
MacGillis & Gibbs/Bell Lumber & Pole Site, MN, 18814–18815

Export Administration Bureau
RULES
Export licensing:
Beta test software; general license G-BETA establishment, 18731–18733

Federal Aviation Administration
RULES
Airworthiness directives:
General Electric Co., 18729–18731
NOTICES
Committees; establishment, renewal, termination, etc.:
Aviation Rulemaking Advisory Committee, 18874–18875
Meetings:
Aviation Rulemaking Advisory Committee, 18875
Civil Tiltrotor Development Advisory Committee, 18876

Federal Communications Commission
RULES
Frequency allocations and radio treaty matters:
Mobile-satellite service at 1610-1626.5 and 2483.5-2500 MHz; pioneer's preference requests denied, 18778–18780
PROPOSED RULES
Television broadcasting:
Prime time access rule; legal and policy justifications assessment, 18793–18794
NOTICES
Meetings:
Network Reliability Council, 18815
Public safety radio communications plans:
New York Metropolitan Area, 18815–18816

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 18881

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Public Service Co. of Colorado, 18806
Applications, hearings, determinations, etc.:
Alabama-Tennessee Natural Gas Co., 18807
ANR Pipeline Co., 18806
Carnegie Natural Gas Co., 18807
NorAm Gas Transmission Co., 18807
Southern Natural Gas Co., 18807–18809
Tennessee Gas Pipeline Co., 18809

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Adair County, MO, 18876
Broome County, NY, 18876–18877
Newport County, RI, 18877

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Southern Pacific Transportation Co., 18877–18878

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Anita Bancorporation, Inc., et al., 18816
Signet Banking Corp. et al., 18816

Fish and Wildlife Service
RULES
Endangered and threatened species:
Red wolves; nonessential experimental populations in North Carolina and Tennessee, 18940–18948
NOTICES
Endangered and threatened species permit applications, 18848–18849

Food and Consumer Service
PROPOSED RULES
Food distribution programs:
State processing program; waiver authority, 18781–18782
NOTICES
Food distribution programs:
Commodity supplemental food program; elderly poverty income guidelines, 18799

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Sponsor name and address changes—
Rhone Poulenc, Inc.; correction, 18740–18741
Color additives:
Astaxanthin, 18736–18739
Food additives:
Adjuvants, production aids, and sanitizers—
Citric acid, etc. (aqueous solution), 18739–18740
NOTICES
Food additive petitions:
BASF Corp., 18845
Johnson Matthey Chemicals, 18845
Medical devices; premarket approval:
Wilmington Partners L.P.; BOSTON Advance Comfort Formula Conditioning Solution, 18845–18846

Forest Service
PROPOSED RULES
National Forest System land and resource management planning, 18886–18932
NOTICES
Environmental statements; availability, etc.:
Native inland fish habitat management; correction, 18799–18800

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Contract financing, 18794
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 18804

Health and Human Services Department
See Aging Administration
See Food and Drug Administration

See Public Health Service

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 18809–18812

Housing and Urban Development Department
NOTICES
Agency information collection activities under OMB review, 18846–18847
Organization, functions, and authority delegations:
Assistant Secretary for Fair Housing and Equal Opportunity; order of succession, 18847–18848

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Income taxes:
Economic performance requirement, 18742–18744
Subchapter K anti-abuse rules, 18741–18742

International Trade Commission
NOTICES
Import investigations:
Chile; economic effect of NAFTA on trade with U.S., 18851–18852

Justice Department
See Antitrust Division
PROPOSED RULES
Privacy Act; implementation, 18784–18785
NOTICES
Pollution control; consent judgments:
Bayard Mining Corp. et al., 18852–18853
Pierce, 18853
Privacy Act:
Systems of records, 18853–18855

Labor Department
See Pension and Welfare Benefits Administration

Land Management Bureau
RULES
Public land orders:
Arizona, 18777
Colorado, 18778
Washington, 18777–18778
NOTICES
Realty actions; sales, leases, etc.:
Arizona, 18849–18850
Utah; correction, 18850
Survey plat filings:
Arkansas, 18850
Colorado, 18850–18851
Idaho, 18851

National Aeronautics and Space Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
Contract financing, 18794
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 18804

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Summer flounder fishery; hearings, 18795–18798
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 18800–18801
North Pacific Fishery Management Council, 18801

Nuclear Regulatory Commission
PROPOSED RULES
Fee schedules revision; 100% fee recovery (1995 FY) Correction, 18882–18884
NOTICES
Applications, hearings, determinations, etc.:
Carolina Power & Light Co., 18860–18862

Pension and Welfare Benefits Administration
NOTICES
Meetings:
Employee Welfare and Pension Benefit Plans Advisory Council, 18859–18860

Public Health Service
See Food and Drug Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Minority health; bilingual/bicultural service demonstration projects, 18934–18937
Organization, functions, and authority delegations:
Management Office, 18846

Rural Utilities Service
NOTICES
Environmental statements; availability, etc.:
Saluda River Electric Cooperative, 18800

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 18862
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 18862–18864, 18867–18869
Midwest Clearing Corp. et al., 18864–18865
New York Stock Exchange, Inc., 18865–18866
Participants Trust Co., 18866–18867
Applications, hearings, determinations, etc.:
Kemper Securities, Inc. et al, 18869–18871

Small Business Administration
NOTICES
Disaster loan areas:
California, 18871

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
North Dakota, 18744–18750

Thrift Depositor Protection Oversight Board
NOTICES
Meetings:
National Advisory Board, 18871

VOL
60
ISS
71
AP
13
1995
UMI

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
Neosho Savings & Loan Association, F.A., 18879–18880

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
NOTICES
NAFTA Land Transportation Standards Subcommittee work program; implementation, 18871–18873

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Customs Service
See Internal Revenue Service
See Thrift Supervision Office
RULES
Securities Exchange Act; form amendments, 18733–18736
NOTICES
Agency information collection activities under OMB review, 18878–18879

Veterans Affairs Department
NOTICES
Meetings:
Veterans' Claims Adjudication Commission, 18880
Wage Committee, 18880
Real property; enhanced use leases:
Richmond, VA Veterans Affairs Medical Center, 18880

Separate Parts In This Issue

Part II
Department of Agriculture, Forest Service, 18886–18932

Part III
Department of Health and Human Services, Public Health Service, 18934–18937

Part IV
Department of the Interior, Fish and Wildlife Service, 18940–18948

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
301.....18727
Proposed Rules:
250.....18781
9 CFR
77.....18728
10 CFR
Proposed Rules:
170.....18882
171.....18882
430.....18782
14 CFR
39.....18729
15 CFR
771.....18731
779.....18731
17 CFR
400.....18733
403.....18733
405.....18733
449 (2 documents).....18733, 18734
19 CFR
Proposed Rules:
Ch. I.....18783
21 CFR
73.....18736
178.....18739
558.....18740
26 CFR
1 (2 documents).....18741, 18742
602.....18742
27 CFR
Proposed Rules:
1 Ch. I.....18783
29 CFR
Proposed Rules:
16.....18784
30 CFR
934.....18744
33 CFR
Proposed Rules:
100.....18785
36 CFR
Proposed Rules:
215.....18886
217.....18886
219.....18886
40 CFR
52 (2 documents).....18750
76.....18751
Proposed Rules:
55.....18787
70.....18790
76.....18792
43 CFR
Public Land Orders:
7132.....18777
7133.....18777
7137.....18778
46 CFR
Proposed Rules:
90.....18793
97.....18793
148.....18793
47 CFR
2.....18778
Proposed Rules:
73.....18793
48 CFR
Proposed Rules:
32.....18794
52.....18794
50 CFR
17.....18940
Proposed Rules:
625.....18795

VOL
60
ISS
71
AP
13
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 71
Thursday, April 13, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 94–117–2]

Oriental Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the Oriental fruit fly regulations by removing the quarantine on a portion of Los Angeles County, CA, and by removing the restrictions on the interstate movement of regulated articles from that area. This action is necessary to relieve restrictions that are no longer needed to prevent the artificial spread of the Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from this portion of Los Angeles County and that the quarantine and restrictions are no longer necessary.

DATES: Interim rule effective April 7, 1995. Consideration will be given only to comments received on or before June 12, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 94–117–2, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 94–117–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, Suite 4C03, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruit, nuts, and vegetables. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks that can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93–10 (referred to below as the regulations), impose restrictions on the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly to noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles. In an interim rule effective on November 7, 1994, and published in the **Federal Register** on November 14, 1994 (59 FR 56375–56376, Docket No. 94–117–1), we amended the regulations in § 301.93–3 by quarantining a portion of Los Angeles County, CA, and restricting the interstate movement of regulated articles from that area.

Based on trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, we have determined that the Oriental fruit fly has been eradicated from the previously quarantined portion of Los Angeles County, CA. The last finding of Oriental fruit fly in this area was October 18, 1994.

Since then, no evidence of Oriental fruit fly infestations has been found in this area. Based on Departmental experience, we have determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that the Oriental fruit fly no longer exists in Los Angeles County, CA. Further, Oriental fruit fly infestations are not known to exist anywhere else in the continental United States. Therefore, we are removing Los Angeles County, CA, from the list of quarantined areas in § 301.93–3(c), and revising § 301.93–3(c) to state that the Oriental fruit fly is not known to exist anywhere in the continental United States.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove an unnecessary regulatory burden on the public. A portion of Los Angeles County, CA, was quarantined due to the possibility that the Oriental fruit fly could be spread from this area to noninfested areas of the United States. Since this situation no longer exists, immediate action is necessary to remove the quarantine on Los Angeles County, CA, and to relieve the restrictions on the interstate movement of regulated articles from that area.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule relieves restrictions on the interstate movement of regulated articles from a portion of Los Angeles County, CA. There is very little commercial activity in the previously quarantined area that may be affected by this rule. There are approximately 516 entities that may be affected by this rule. All would be considered small entities. These include 486 fruit sellers, 13 nurseries, 10 swap meets, 6 wholesale distributors, and 1 farmers market. These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of

VOL
60
ISS
71
AP
13
1995
UMI

California. In addition, these small entities sell regulated articles primarily for local intrastate, not interstate, movement so the effect, if any, of this regulation on these entities appears to be minimal.

The effect on those few entities that did move previously regulated articles interstate was minimized by the availability of various treatments, that, in most cases, allowed these small entities to move regulated articles interstate with very little additional cost.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.93–3, paragraph (c) is revised to read as follows:

§ 301.93–3 Quarantined areas.

* * * * *

(c) The Oriental fruit fly is not known to exist anywhere in the continental United States.

Done in Washington, DC, this 7th day of April 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–9160 Filed 4–12–95; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 77

[Docket No. 95–020–1]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the tuberculosis regulations concerning the interstate movement of cattle and bison by raising the designation of North Carolina from a modified accredited State to an accredited-free State. We have determined that North Carolina meets the criteria for designation as an accredited-free State.

DATES: Interim rule effective April 13, 1995. Consideration will be given only to comments received on or before June 12, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 95–020–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Mitchell A. Essey, Senior Staff Veterinarian, Cattle Diseases and Surveillance, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD, 20737–1231, (301) 734–7727.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is the contagious, infectious, and communicable disease caused by *Mycobacterium bovis*. The tuberculosis regulations, contained in 9 CFR part 77 (referred to below as the regulations), regulate the interstate movement of cattle and bison because of tuberculosis. Cattle or bison not known to be affected with or exposed to tuberculosis are eligible for interstate movement without restriction if those cattle or bison are moved from jurisdictions designated as accredited-free States or modified accredited States. The regulations restrict the interstate movement of cattle or bison not known to be affected with or exposed to tuberculosis if those cattle or bison are moved from jurisdictions designated as nonmodified accredited States.

The status of a State is based on its freedom from evidence of tuberculosis, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the standards contained in the "Uniform Methods and Rules—Bovine Tuberculosis Eradication," which is part of the regulations via incorporation by reference in part 77. A State must have no findings of tuberculosis in any cattle or bison in the State for at least 5 years in order to be designated as an accredited-free State.

Before publication of this interim rule, North Carolina was designated in § 77.1 of the regulations as a modified accredited State. However, North Carolina now meets the requirements for designation as an accredited-free State. Therefore, we are amending the regulations by removing North Carolina from the list of modified accredited States in § 77.1 and adding it to the list of accredited-free States in that section.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted, as North Carolina currently meets the criteria for designation as an accredited-free State. This action provides prospective cattle and bison buyers with accurate and up-to-date information, which may affect the marketability of cattle and bison since some prospective buyers prefer to buy cattle and bison from accredited-free States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the **Federal Register**. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any

amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

There are approximately 31,200 cattle herds in North Carolina. An estimated 95 percent of the herds are owned by small businesses. Changing the status of North Carolina may enhance the marketability of cattle and bison from the State, since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free States. This may result in some beneficial economic impact on some small entities. However, based on our experience in similar designations of other States, the impact should not be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, 9 CFR part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, in the definition for *Modified accredited state*, paragraph (2) is amended by removing "North Carolina,".

3. In § 77.1, in the definition for *Accredited-free state*, paragraph (2) is amended by adding "North Carolina," immediately after "New York,".

Done in Washington, DC, this 7th day of April 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–9161 Filed 4–12–95; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–ANE–25; Amendment 39–9186; AD 91–10–03 R1]

Airworthiness Directives; General Electric Company (GE) CF6–45 and CF6–50 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to General Electric Company (GE) CF6–45 and CF6–50 series turbofan engines, that currently requires repetitive inspections of high pressure compressor (HPC) rear shafts, and also requires installation of a certain rear shaft flange bolt configuration . This amendment clarifies that engines with a Parts Manufacturer Approval (PMA) bolt part number (P/N) installed must accomplish the inspection requirements of the AD, and allow the installation of the PMA bolt in lieu of the GE bolt. This amendment is prompted by the omission of the PMA bolt P/N from the current AD requirements. The actions specified by this AD are intended to prevent an HPC rear shaft fracture, which could result in an inflight engine shutdown and an uncontained engine failure.

DATES: Effective April 28, 1995.

The incorporation by reference of certain publications listed in the regulations was approved by the Director of the Federal Register as of June 17, 1991.

Comments for inclusion in the Rules Docket must be received on or before June 12, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–ANE–25, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from General Electric Company, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7138, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: On March 18, 1991, the Federal Aviation Administration (FAA) issued AD 91–10–03, Amendment 39–6956 (56 FR 19920, May 1, 1991), applicable to General Electric Company (GE) CF6–45 and CF6–50 series turbofan engines, to require repetitive inspections of high pressure compressor (HPC) rear shafts, and installation of a certain rear shaft flange bolt configuration. That action was prompted by reports of 35 HPC rear shafts found cracked in the bolt hole area. That condition, if not corrected, could result in an HPC rear shaft fracture, which could result in an inflight engine shutdown and an uncontained engine failure.

Since the issuance of that AD, the FAA has determined that Parts Manufacturer Approval (PMA) Production Approval Listing, Supplement No. 27, authorizes the use of Valley-Todeco (VT) bolt, Part Number (P/N) VCD0016, in lieu of GE bolt, P/N 1375M69P01. Since VT bolt, P/N VCD0016, and GE bolt, P/N 1375M69P01, are identical in design, paragraphs (a)(1)(v), (a)(2), and (a)(2)(v) of AD 91–10–03 should also apply to HPC rear shafts that are installed with VT bolt, P/N VCD0016.

The FAA has reviewed and approved the technical contents of GE Service Bulletin (SB) No. 72–958, Revision 1, dated October 18, 1990, that describes

VOL
60
ISS
71
AP
13
1995
UMI

procedures for inspection of HPC rear shafts.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD revises AD 91–10–03 to continue the inspection requirements of the current AD, but adds HPC rear shafts that are installed with VT bolt, P/N VCD0016, to paragraphs (a)(1)(v), (a)(2), and (a)(2)(v). The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 90–ANE–25." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–6956 (56 FR 19920, May 1, 1991) and by adding a new airworthiness directive, Amendment 39–9186, to read as follows:

91–10–03 R1 General Electric Company: Amendment 39–9186. Docket 90–ANE–25. Revises AD 91–10–03, Amendment 39–6956.

Applicability: General Electric Company (GE) CF6–45 and CF6–50 series turbofan engines installed on, but not limited to, McDonnell Douglas DC–10 series, Boeing 747 series, and Airbus A300 series aircraft.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a high pressure compressor (HPC) rear shaft fracture, which could result in an inflight engine shutdown and an uncontained engine failure, accomplish the following:

(a) Fluorescent penetrant inspect HPC rear shafts, Part Numbers (P/N) 9127M58P03, 9079M63P12, 9079M63P15, 9079M63P16, 9079M63P17, 9079M63P18, and 9079M63P19, in accordance with the Accomplishment Instructions of GE Service Bulletin (SB) No. 72–958, Revision 1, dated October 18, 1990, as follows:

(1) For HPC rear shafts currently installed with hook bolts, P/N 9012M99G10, 9114M95G07, and 9114M95G10, inspect in accordance with the following schedule:

(i) For shafts which have not been previously inspected and have 10,000 cycles since new (CSN) or greater on the effective date of this airworthiness directive (AD), inspect within the next 1,500 cycles in service (CIS) after the effective date of this AD.

(ii) For shafts which have not been previously inspected and have less than 10,000 CSN on the effective date of this AD, inspect within the next 2,500 CIS from the effective date of this AD, or before accumulating 7,500 CSN, whichever occurs later. However, no shaft may exceed 11,500 CSN prior to inspection.

(iii) For shafts that have been previously inspected and have 3,000 cycles since last inspection (CSLI) or less on the effective date of this AD, reinspect within 4,500 CSLI, or before accumulating 7,500 CSN, whichever occurs later.

(iv) For shafts that have been previously inspected and have greater than 3,000 CSLI on the effective date of this AD, reinspect within the next 1,500 CIS from the effective date of this AD, or before accumulating 7,500 CSN, whichever occurs later.

(v) Remove from service, HPC rear shaft hook bolts identified in (a)(1) of this AD, after any inspection performed in accordance with paragraph (a)(1) of this AD, and replace with new tapered turn-around bolts, P/N 1375M69P01 or VCD0016.

(2) For HPC rear shafts installed with turn-around bolts, P/N 1375M69P01 or tapered turn-around bolts, P/N 1375M69P01 or VCD0016, inspect in accordance with the following schedule:

(i) For shafts which have not been previously inspected and have 6,500 CSN or greater on the effective date of this AD, inspect within the next 2,500 CIS after the effective date of this AD.

(ii) For shafts which have not been previously inspected and have less than 6,500 CSN on the effective date of this AD, inspect prior to accumulating 9,000 CSN.

(iii) For shafts that have been previously inspected and have 3,500 CSLI or less on the effective date of this AD, reinspect within 6,000 CSLI, or before accumulating 9,000 CSN, whichever occurs later.

(iv) For shafts that have been previously inspected and have greater than 3,500 CSLI on the effective date of this AD, reinspect within the next 2,500 CIS from the effective date of this AD, or before accumulating 9,000 CSN, whichever occurs later.

(v) Remove from service, HPC rear shaft turn-around bolts identified in paragraph (a)(2) of this AD, after any inspection performed in accordance with paragraph (a)(2) of this AD, and replace with new tapered turn-around bolts, P/N 1375M69P01 or VCD0016.

Note: Information concerning the tapered turn-around bolt noted in paragraph (a) of this AD can be found in GE SB No. 72–877.

(b) Remove from service, prior to further flight, any shafts found cracked at inspection.

(c) Thereafter, for shafts which have been inspected in accordance with paragraph (a) of this AD, reinspect in accordance with the Accomplishment Instructions of GE SB No. 72–958, Revision 1, dated October 18, 1990, at intervals not to exceed 6,000 CSLI.

(d) Compliance with paragraph (a) of AD 91–10–03 satisfies the corresponding requirements of paragraph (a) of this AD.

(e) An alternative method of compliance or adjustment of the initial compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office . The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Engine Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) The actions required by this AD shall be done in accordance with the following service document:

Document No.	Pages	Revision	Date
GE SB No. 72–958	1–2	1	Oct. 18, 1990.
	3–6	Original	Aug. 15, 1990.
Total pages: 6.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of June 17, 1991. Copies may be obtained from General Electric Company, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on April 28, 1995.

Issued in Burlington, Massachusetts, on April 4, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–9133 Filed 4–11–95; 11:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 779

[Docket No. 950407090–5090–01]

RIN 0694–AB18

Establishment of New General License G–BETA for Exports of Certain Beta Test Software

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by establishing a new General License G–BETA for certain exports of beta test software under the jurisdiction of the Department of Commerce. Under the provisions of this new General License, beta test software programs may be exported to all destinations except Country Groups S and Z, Iran, Iraq, Sudan, and Syria. Exporters are advised that certain restrictions apply, and should consult the EAR before using General License G–BETA.

This new General License eligibility will greatly reduce the number of validated license applications for certain software intended for mass-market distribution.

DATES: This rule is effective April 13, 1995. Comments must be received by May 30, 1995.

ADDRESSES: Written comments (six copies) should be sent to Nancy Crowe, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Nancy Crowe, Regulatory Policy Division, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: This rule amends Part 771 of the Export Administration Regulations (EAR) by establishing a new General License G–BETA for certain exports of beta test software. This change will allow exports, under certain conditions, of software controlled by the Department of Commerce on the Commerce Control List (Supplement No. 1 to Part 799.1 of the EAR), and under Commerce licensing jurisdiction, which would otherwise require a validated license to all destinations except Country Groups S and Z, Iran, Iraq, Sudan, and Syria.

This rule will allow shipment under General License G–BETA of beta test software programs that: (a) Are intended for export and reexport under the provisions of the General Software Note (Supplement No. 2 to Part 799.1 of the EAR) after completion of testing; (b) are provided free-of-charge or at a price that does not exceed the cost of reproduction and distribution; and (c) are designed for user-installation. In addition, the exporter must obtain a statement from each testing consignee prior to shipment certifying that the beta test software will only be used for beta testing purposes, and will not be rented, leased, sold, sublicensed, assigned, or otherwise transferred. Further, the statement must certify that the testing consignee will not transfer or export any product, process, or service that is the direct product of the beta test software. Software shipped under General License G–BETA must be destroyed abroad or returned to the exporter within 30 days of the end of the beta test period as defined by the software producer or, if the software producer does not define a test period, within 30 days of completion of the consignee's role in the test.

The following is a brief description of the development of this rule. In the Fall

VOL
60
ISS
71
AP
13
1995
UMI

of 1994, BXA hosted a large seminar for exporters. At that meeting, BXA invited the exporting community to provide input on administrative changes that might be made to the EAR without the passage of new legislation. In response to that invitation, several of the major exporters of mass market software provided suggestions on a new general license to authorize the export of software for beta testing. BXA also gathered the views of industry on a new general license for beta test software through BXA's Telecommunications Technical Advisory Committee, Regulations & Procedures Technical Advisory Committee, and Computer Systems Technical Advisory Committee. The industry views served as a basis for BXA's development of a regulation on General License G–BETA.

BXA shared with industry its view of the possible changes in the draft regulation and sought information from certain software exporters to determine the industry's best practices for exporting software to Beta testers. For example, BXA collected samples of end-use clauses regularly used by software producers for commercial purposes. BXA then shaped General License G–BETA so that certifications required under the rule are consistent with the standard practices of many members of the industry. This has the benefit of achieving the objectives of the export control system with the least intrusive impact on the exporting community. The industry input provided by the advisory committees and by the companies was highly valuable to BXA in developing General License G–BETA.

This new General License eligibility will reduce the number of validated license applications for certain software intended for distribution to the general public.

Rulemaking Requirements

1. This interim rule has been determined to be not significant for purposes of E. O. 12866.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0007, and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close May 30, 1995. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–5653.

List of Subjects

15 CFR Part 771

Exports, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, Parts 771 and 779 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

PART 771—[AMENDED]

1. The authority citation for 15 CFR Part 771 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); and E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994)

PART 779—[AMENDED]

2. The authority citation for 15 CFR Part 779 continues to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); E.O. 12924 of August 19, 1994 (59 FR 43437, August 23, 1994); and E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994).

PART 771—[AMENDED]

3. Part 771 is amended by adding a new § 771.27 to read as follows:

§ 771.27 General license G–BETA; Exports of beta test software.

(a) *Scope.* A General License designated G–BETA is established subject to the provisions of this section authorizing exports and reexports to eligible countries of beta test software intended for distribution to the general public.

(b) *Eligible countries.* The countries that are eligible to receive exports and reexports under this General License are all countries except those listed in Country Groups S and Z, Iran, Iraq, Sudan, and Syria.

(c) *Eligible software.* All software that is controlled by the Commerce Control List (see Supplement No. 1 to Part 799.1 of this subchapter), and under Commerce licensing jurisdiction, is eligible for export and reexport under General License G–BETA, subject to the restrictions set forth in this section.

(d) *Conditions for use.* Any beta test software program may be exported or reexported to eligible countries if all of the conditions under this section are met:

(1) The software producer intends to market the software to the general public after completion of the beta testing, as described in the General Software Note found in Supplement No. 2 to Part 799.1 of this subchapter;

(2) The software producer provides the software to the testing consignee free-of-charge or at a price that does not exceed the cost of reproduction and distribution; and

(3) The software is designed for installation by the end-user without further substantial support from the supplier.

(e) *Importer statement.* Prior to shipping any eligible software under General License G–BETA, the exporter or reexporter must obtain the following statement from the testing consignee, which may be included in a contract, non-disclosure agreement, or other document that identifies the importer, the software to be exported, the country of destination, and the testing consignee:

We certify that this beta test software will only be used for beta testing purposes, and will not be rented, leased, sold, sublicensed, assigned, or otherwise transferred. Further, we certify that we will not transfer or export any product, process, or service that is the direct product of the beta test software.

(f) *Use limitations.* Only testing consignees that provide the importer statement required by paragraph (e) of this section may execute any software received under General License G–BETA.

(g) *Return or disposal of software.* All beta test software exported under General License G–BETA must be destroyed abroad or returned to the exporter within 30 days of the end of the beta test period as defined by the software producer or, if the software producer does not define a test period, within 30 days of completion of the consignee's role in the test. Among other methods, this requirement may be satisfied by a software module that will destroy the software and all its copies at or before the end of the beta test period.

PART 779—[AMENDED]

4. Part 779.2 is amended in the last sentence by revising the phrase "exports to Canada[7,8]" to read "exports to Canada[7,8], and exports of beta test software eligible for General License G–BETA.".

Dated: April 10, 1995.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 95–9157 Filed 4–12–95; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Parts 400, 403, 405 and 449

Form G–405

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Adoption of form amendments.

SUMMARY: The Department of the Treasury ("Department" or "Treasury") is adopting amendments to Form G–405 (Report on Finances and Operations of Government Securities Brokers and Dealers, or the "FOGS Report"), which is the form that registered government securities brokers and dealers are required to file pursuant to §§ 405.2 and 449.5 of the regulations issued under the Government Securities Act of 1986 (the "Government Securities Act" or "GSA"). The amendments revise Schedule I of the FOGS Report filed with the Securities and Exchange Commission ("SEC") to require registered government securities brokers and dealers to disclose their affiliations, if any, with U.S. banks. The Department is adopting the amendments unchanged from their proposed form.

EFFECTIVE DATE: June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director) or Lee Grandy (Government Securities Specialist) at 202–219–3632. (TDD for hearing impaired: 202–219–3988.)

SUPPLEMENTARY INFORMATION:

Background and Analysis

The Department adopted Form G–405 in the implementing regulations for the GSA issued on July 24, 1987 (52 FR 27910). Sections 405.2 and 449.5[1] of the GSA regulations require that registered government securities brokers and dealers use the form to make the required monthly, quarterly and annual financial reports to the SEC or to their self-regulatory organization in accordance with a plan approved by the SEC. Pursuant to the regulations, registered government securities brokers and dealers are required to file financial reports which include information on their assets, liabilities, liquid capital, total haircuts, and ratio of liquid capital to total haircuts as determined in accordance with § 402.2, among other items, on Form G–405.

To supplement either Part II or IIA of the FOGS Report, registered government securities brokers and dealers are also required to file Schedule I at the end of each calendar year. The purpose of this schedule is to obtain information about the economic and financial characteristics of the reporting government securities broker or dealer.

The Department published the amendments to Form G–405 in proposed form on January 30, 1995,[2] and the comment period closed on March 1, 1995. Treasury received no comments and these final changes to the form are identical to the proposed changes.

The amendments to Form G–405 add a new item 15 to request information about an affiliation with, or control by, a U.S. bank. Current items 15 through 18 become items 16 through 19, respectively. The new inquiry requires a yes or no response, and if the response

[1] 17 CFR 405.2 and 17 CFR 449.5, respectively.

[2] 60 FR 5602 (January 30, 1995).

VOL 60 ISS 71 AP 13 1995 UMI

is yes, the respondent must provide the name of the parent or affiliate and the type of institution. The "General Instructions" to Schedule I also are amended to refer to the definition of "bank" in § 3(a)(6) of the Securities Exchange Act of 1934 ("Exchange Act").[3]

Form G–405 is required to be submitted by registered government securities brokers and dealers to the SEC or to a self-regulatory organization according to an SEC approved plan. Financial institutions that have filed notice as government securities brokers and dealers are not required to file Form G–405.

The disclosure of this additional information would correspond to similar changes made by the SEC to Form X–17A–5, also known as the "FOCUS" Report, in November 1992.[4] The Treasury shares the SEC's belief that having knowledge of the economic and financial characteristics of brokers and dealers, including organizational affiliations with U.S. banks, is useful for regulatory purposes. This form change will also achieve consistency with the SEC approach and will assure consistent treatment for all government securities brokers and dealers.

The amendments to Form G–405 become effective June 12, 1995. The Department has consulted with the National Association of Securities Dealers ("NASD") regarding the implementation of the form changes. The Department understands that the NASD will distribute the amended Form G–405 to its members that are registered government securities brokers and dealers. Copies of the Form G–405 may also be obtained by contacting the NASD.

List of Subjects in 17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, 17 CFR Chapter IV is amended as follows:

[3] 15 U.S.C. 78c(a)(6). Under this section, the term "bank" is defined as: (a) a banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; (c) any other banking institution doing business under the laws of any state or the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under the authority of the Comptroller of the Currency, and which is supervised and examined by state or federal authority having supervision over banks; and (d) a receiver, conservator, or other liquidating agent of any institution or firm included in the above paragraphs.

[4] Securities Exchange Act Release No. 31398 (November 4, 1992), 57 FR 53261 (November 9, 1992).

PART 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 449 continues to read as follows:

Authority: 15 U.S.C. 78o–5(a), (b)(1)(B), (b)(4).

2. Schedule I of Form G–405 is amended to add new instruction 15(a), (b) and (c) to the General Instructions, to redesignate Questions 15–18 as Questions 16–19, and add new Question 15 to read as follows:

Note: The text of Form G–405 does not appear in the Code of Federal Regulations.

Form G–405, Report on Finances and Operations of Government Securities Brokers and Dealers, Schedule I:

* * * * *

General Instructions

* * * * *

15(a), (b) & (c)—Report whether respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank. If the answer is "yes," provide the name of the affiliated bank and/or bank holding company, and describe the type of institution. The term "bank" is defined in § 3(a)(6) of the Securities Exchange Act of 1934.

* * * * *

15. (a) Respondent directly or indirectly controls, is controlled by, or is under common control with, a U.S. bank.

(Enter applicable code: 1=Yes 2=No)

_____

(b) Name of parent or affiliate

_____

(c) Type of institution _____

* * * * *

§§ 400.6 and 405.3 [Amended]

3. For each section indicated in the list above, remove the Office of Management and Budget control number from the parenthetical statement at the end of each section, and add in its place "1535–0089".

§ 403.4 [Amended]

4. Add at the end of § 403.4 the following parenthetical:

§ 403.4 Customer protection—reserves and custody of securities.

(Approved by the Office of Management and Budget under control number 1535–0089)

Dated: April 3, 1995.

Frank N. Newman,

Deputy Secretary.

[FR Doc. 95–9057 Filed 4–12–95; 8:45 am]

BILLING CODE 4810–39–W

17 CFR Part 449

Form G–FIN–4

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Adoption of form amendments.

SUMMARY: The Department of the Treasury ("Department" or "Treasury") is adopting amendments to Form G–FIN–4, which is the form that associated persons of financial institutions that are government securities brokers and dealers are required to file with such financial institutions, pursuant to sections 15C(a), (b)(1)(B) and (b)(4) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78o–5(a), (b)(1)(B) and (b)(4)) and sections 400.4 and 449.3 of the regulations issued under the Government Securities Act of 1986 ("GSA"). The amendments update the disciplinary background provisions of the form to reflect amendments to the federal securities laws, and provide the financial institutions of the associated persons and the appropriate regulatory authorities for the financial institutions with more useful information. The Department is adopting the amendments unchanged from their proposed form.

EFFECTIVE DATE: June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director), or Lee Grandy (Government Securities Specialist) at 202–219–3632. (TDD for hearing impaired: 202–219–3988.)

SUPPLEMENTARY INFORMATION:

I. Background and Analysis

The Department adopted Form G–FIN–4 (Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer) in the implementing regulations for the GSA issued on July 24, 1987 (52 FR 27910). Sections 400.4 and 449.3[1] of the GSA regulations require the form to be used by associated persons of financial institutions that are government securities brokers and dealers to provide the financial institutions and the appropriate regulatory agencies with certain information concerning employment, residence and statutory disqualification. Under the GSA regulations, associated persons that have a current Form U–4 (Uniform Application for Securities Industry Registration or Transfer) or Form MSD–4 (Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer) on file with their financial institution are not required to file Form

[1] 17 CFR 400.4 and 17 CFR 449.3, respectively.

G–FIN–4. Associated persons are not required to file G–FIN–4 forms with their financial institutions if the institutions are exempt from filing notice as government securities brokers or dealers pursuant to Part 401 of the GSA regulations.

The Department published the amendments to Form G–FIN–4 in proposed form on December 27, 1994,[2] and the comment period closed on January 26, 1995. Treasury received no comments in response to the proposed changes.

The changes to the body of Form G–FIN–4 relate to Item 17, which requests information concerning the disciplinary history of the associated person. The changes reflect amendments to the Exchange Act by the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Remedies Act")[3] and the International Securities Enforcement Cooperation Act of 1990 ("ISECA").[4]

Specifically, the amendments to Form G–FIN–4 amend question C of Item 17 to add paragraph (5), which asks the associated person whether the SEC or the Commodity Futures Trading Commission ("CFTC") has ever imposed a civil money penalty on the associated person, or ordered the associated person to cease and desist from any activity. The disclosure of this additional information corresponds to the SEC's expanded administrative and civil enforcement authorities under the Remedies Act.

The amendments to Form G–FIN–4 also add a definition of "foreign financial regulatory authority"[5] to Item 17, and add this term to question 17.D. Thus, question 17.D. now inquires whether the associated person has ever been the subject of a finding by any federal regulatory agency, any state regulatory agency or "foreign financial regulatory authority". The definition of "foreign financial regulatory authority" added to Form G–FIN–4 is essentially the definition the ISECA added to section 3(a)(52) of the Exchange Act. Questions 17.A. and 17.B. have been amended to clarify that the inquiries now apply to information related to foreign as well as domestic courts.

Any associated person that determines that additional disclosure is required under revised Item 17 will need to file an amendment to Form G–FIN–4 on or promptly after the effective date of the Form amendments. See part II below for discussion of new filing requirements.

The amendments also modify Item 5 to reflect the Office of Thrift Supervision as the successor to the Federal Home Loan Bank Board. Thus, the "Director, Office of Thrift Supervision" is now listed as one of the appropriate regulatory agencies with which the financial institutions may be required to file the form.

In light of the technical changes made by the Government Securities Act Amendments of 1993 to the definition of "appropriate regulatory agency",[6] the amendments also make corresponding changes to Item 3 of the general instructions for Form G–FIN–4.

These amendments ensure that Form G–FIN–4 will provide a more complete description of the associated person's disciplinary history. The amendments to Form G–FIN–4 also conform to similar changes made by the National Association of Securities Dealers ("NASD") to Form U–4 in November 1991,[7] and by the SEC to Form BD (Uniform Application for Broker-Dealer Registration) in July 1992.[8]

II. Filing Instructions

The amendments to Form G–FIN–4 become effective June 12, 1995. Thus, all new associated persons of financial institutions that are government securities brokers and dealers filing on or after that date will be required to file the revised Form G–FIN–4 with their institutions, though those filing before the effective date are encouraged to use the revised form. In addition, associated persons that have previously filed a G–FIN–4 should review their G–FIN–4 filings to determine whether they contain all of the information required by amended Item 17. To the extent that revisions to Form G–FIN–4 result in an affirmative answer to a question in Item 17, associated persons will be required to file with their institution an amendment to their Form G–FIN–4 by June 12, 1995 (or as soon as possible after that date). Financial institution government securities brokers or dealers are required to file the new or revised G–FIN–4 forms with their appropriate regulatory agency in accordance with section 400.4(d)(1). Associated persons who answer "no" to all of the questions in amended Item 17 will not be required to file an updated Form G–FIN–4 at that time.

In consultations with the appropriate regulatory agencies on the implementation of the form changes, the Department understands that the agencies will distribute the revised Form G–FIN–4 to their financial institutions that are government securities brokers and dealers so that the institutions can provide the form to their associated persons. Copies of the G–FIN–4 may also be obtained by contacting the appropriate regulatory agencies for financial institutions.

III. Special Analysis

It has been determined that these amendments are not a "significant regulatory action" as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

In the preamble to the proposal, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Department certified that these amendments to Form G–FIN–4, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared. In reviewing the final form amendment herein and in light of the fact that no comments were received, the Department has concluded that there is no reason to alter the previous certification.

List of Subjects in 17 CFR Part 449

Banks, banking, Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, 17 CFR Part 449 is amended as follows:

Part 449—FORMS, SECTION 15C OF THE SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 449 is revised to read as follows:

Authority: 15 U.S.C. 78o–5(a), (b)(1)(B), (b)(4).

[2] 59 FR 66496 (December 27, 1994).

[3] Pub. L. No. 101–429, 104 Stat. 931 (October 15, 1990). The Remedies Act gave the Securities and Exchange Commission ("SEC") the authority to seek civil monetary penalties in court proceedings and to impose monetary penalties and order disgorgement in administrative proceedings. The Remedies Act also provided the SEC with both temporary and permanent cease and desist order authority to prevent violations of securities laws.

[4] Pub. L. No. 101–550, 104 Stat. 2713 (November 15, 1990). The ISECA gave the SEC the authority to bar, suspend or restrict the activities of broker-dealers and associated persons or those persons seeking to become associated with a broker-dealer, based upon the findings of a foreign court or foreign securities authority. By amending the GSA, the ISECA also gave similar authority to the appropriate regulatory agencies for financial institutions that are government securities brokers or dealers regarding associated persons or those persons seeking to become associated with such entities. The ISECA also provided that certain types of actions taken by foreign financial regulatory authorities will be deemed a statutory disqualification.

[5] 15 U.S.C. 78c(a)(52).

[6] Pub. L. No. 103–202, 107 Stat. 2344 (1993).

[7] National Association of Securities Dealers Notice to Members No. 91–73 (November, 1991).

[8] Securities Exchange Act Release No. 34–30958 (July 27, 1992), 57 FR 34028 (July 31, 1992).

VOL
60
ISS
71
AP
13
1995
UMI

2. Form G–FIN–4 is amended to revise Item 5, Item 17 and the general instructions to read as follows:

Note: The text of Form G–FIN–4 does not appear in the Code of Federal Regulations.

Form G–FIN–4—Disclosure Form for Person Associated with a Financial Institution Government Securities Broker or Dealer:

Item 5
Item 17

General Instructions

* * * * *

In Item 5, "Federal Home Loan Bank Board" is deleted and "Director, Office of Thrift Supervision" is added so that the modified question reads: "To be filed with the following (indicate one): Board of Governors of the Federal Reserve System * * * Comptroller of the Currency * * * Federal Deposit Insurance Corporation * * * Director, Office of Thrift Supervision * * * Securities and Exchange Commission."

In Item 17, Definitions, the term "Foreign Financial Regulatory Authority" is added with the following meaning: "Foreign Financial Regulatory Authority—Includes any (A) foreign securities authority; (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of investment or investment-related activities; or (C) membership organization, a function of which is to regulate the participation of its members in the activities listed above."

Item 17.A., "in a domestic or foreign court" is added so that the modified question reads: "Have you, within the 10 years preceding the date of this filing, been convicted of or plead guilty or nolo contendere ("no contest") in a domestic or foreign court to:"

Item 17.B., "domestic or foreign" is added so that the modified question reads: "Has any domestic or foreign court ever:"

Item 17.C.(5) is added to read as follows: "(5) imposed a civil money penalty on you, or ordered you to cease and desist from any activity?"

Item 17.D., "foreign financial regulatory authority" is added so that the modified question reads: "Has any other federal regulatory agency, any state regulatory agency or foreign financial regulatory authority ever:"

Item 17.F., "other than as reported in Items 17.A., B., or D." is added so that the modified question reads: "Has any foreign government, court, regulatory agency, or exchange ever entered an order against you related to investments or fraud other than as reported in Items 17.A., B., or D.?"

In the general instructions to Form G-FIN–4, Items 3.b., 3.c., and 3.d. are revised to read as follows:

3.b. "The Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a foreign bank, an uninsured State branch or State agency of a foreign bank, a commercial lending company owned or controlled by a foreign bank (as such terms are used in the International Banking Act of 1978), or a corporation organized or having an agreement with the Board of Governors of the Federal Reserve System pursuant to section 25 or section 25A of the Federal Reserve Act;"

3.c. "The Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System or a Federal savings bank) or an insured State branch of a foreign bank (as such terms are used in the International Banking Act of 1978);"

3.d. "The Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act) the deposits of which are insured by the Federal Deposit Insurance Corporation; and"

Dated: April 3, 1995.

Frank N. Newman,

Deputy Secretary.

[FR Doc. 95–9056 Filed 4–12–95; 8:45 am]

BILLING CODE 4810–25–W

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 87C–0316]

Listing of Color Additives Exempt From Certification; Astaxanthin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of astaxanthin as a color additive in the feed of salmonid fish to enhance the color of their flesh. This action is in response to a petition filed by Hoffmann-La Roche, Inc.

DATES: Effective May 16, 1995, except as to any provisions that may be stayed by the filing of proper objections; written objections and request for a hearing by May 15, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3078.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of December 2, 1987 (52 FR 45867), FDA announced that a color additive petition (CAP 7C0211) had been filed by Hoffmann-La Roche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199. The petition requested that the color additive regulations in part 73 (21 CFR part 73) be amended to provide for the safe use of astaxanthin as a color additive in the feed of salmonid fish. The petition was filed under section 706(d) (now section 721(d)) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376(d) (now 379e(d)).

II. Safety of the Petitioned Use

Astaxanthin is 3, 3′-dihydroxy-β, β-caroteno-4, 4′-dione. Pure crystalline astaxanthin must be stored in the absence of light, heat, and oxygen to minimize chemical changes and decomposition that would result in loss of color. Thus, it is necessary to produce a stabilized form of astaxanthin for it to be marketed for addition to salmonid feed for the purpose of coloring the fish flesh.

The petitioner manufactures crystalline astaxanthin in a stabilized beadlet form and has presented evidence in the petition to establish the length of the shelf-life of this beadlet. Under § 70.25(a)(4) (21 CFR 70.25(a)(4)), expiration dates for the product in sealed and open containers must be stated on the label of a color additive. FDA finds that, given the concerns about shelf life, the expiration dates are a material fact that must be disclosed on the label of the product under sections 201(n) and 403(a)(1) of the act (21 U.S.C. 321(n) and 343(a)(1).

Astaxanthin occurs in the flesh of wild salmon at levels ranging from about 4 to 34 parts per million and is responsible for its pink or red coloration (Ref. 1). Wild salmon consume astaxanthin as a component of their natural diet and deposit a portion of the astaxanthin unchanged in their flesh

(Ref. 2). The amount of astaxanthin that FDA is permitting for use in finished feed (80 milligrams per kilogram (mg/kg), 72 grams (g) per ton) (§ 73.35(c)(2)) will result in depositions of the color additive in the flesh that will produce a coloration comparable to that in the flesh of wild salmon. This conclusion is supported by the similar values reported for astaxanthin levels in the flesh of aquacultured salmon used in the pigmenting experiments in the petition and in the flesh of wild salmon (Ref. 2). FDA has estimated that this level of astaxanthin in fish flesh, whether caught in the wild or aquacultured, will result in a mean consumer exposure of 15 micrograms/person/day (μ/p/d) and a 90th percentile exposure of 29 μ/p/d.

FDA has evaluated the data in the petition and other relevant information on astaxanthin and concludes that the petitioned use of the color additive is safe. This conclusion is based on the following facts: (1) The very small amount of astaxanthin deposited in salmonid flesh that will result from the petitioned use; (2) synthetic astaxanthin differs only in its optical isomeric distribution from astaxanthin present in the flesh of wild salmon; and (3) human exposure to astaxanthin from consumption of aquacultured salmon fed synthetic astaxanthin is comparable to the exposure to astaxanthin from wild salmon. In addition, the petitioner has submitted results from short-term and long-term toxicity studies using synthetic astaxanthin. The results of these studies support the conclusion that there is a reasonable certainty of no harm from the petitioned use of astaxanthin (Ref. 3).

FDA is adopting an identity and specifications for the color additive in § 73.35(a) and (b) to characterize the additive that has been evaluated and to ensure its safe manufacture and use.

III. Comments on the Petition

Beginning in late 1992, FDA received a total of 21 letters that were submitted as comments on the petition. One comment from a State agency and one comment from a trade association endorsed the petitioned use of astaxanthin. A manufacturer of *Phaffia* yeast, a source of astaxanthin used in some foreign countries, submitted a series of five comments containing considerable information on *Phaffia* yeast and requested that the agency also grant approval for this source, and all other safe and suitable sources, of astaxanthin. The comment also requested that FDA grant authority for other parties to make independent determinations that other sources of astaxanthin may be considered safe and suitable sources of the color additive for use in aquaculture.

The remaining 14 comments from a trade association, a foreign national organization, 4 commercial companies, and 8 academic and research institutes, generally supported the view that the regulation for astaxanthin should be written to include all safe and suitable sources of the color additive. One of the comments requested that the regulation listing astaxanthin for use in salmonid feed be written to include the comment's strain of *Phaffia* yeast as a source of astaxanthin.

As justification for these requests, the comments asserted that there should be no safety concerns with the use of astaxanthin for coloring the flesh of fish because astaxanthin occurs in nature, coloring the flesh of wild salmonids, and also because it occurs in a variety of sources in nature that are consumed without harm as food by wild fish and other wild animals. The comments also suggested that it would be advantageous to the aquaculture industry to be able to use as many sources of astaxanthin as possible, and that it would be an efficient use of the industry and FDA's resources if petitions for these products did not have to be submitted and reviewed individually by the agency. In the event that FDA was unable or unwilling to expand the final regulation as requested, one comment requested that the agency modify the specifications for astaxanthin requested by the petitioner to authorize the use of other sources of astaxanthin, including the source of astaxanthin used by the comment. The comment specifically requested that the proposed specifications for astaxanthin be modified to include a higher percentage of the *cis* isomer and a 10-fold increase in carotenoids other than astaxanthin.

FDA has reviewed these comments and finds that two of the comments fully support the petition, and that none of the comments has raised concerns about the safety of astaxanthin or about its technical effectiveness for the petitioned use. Thus, the agency concludes that all the comments fully support FDA's conclusions regarding the safety of astaxanthin for the petitioned use.

FDA has considered whether it should expand the scope of the listing regulation to include *Phaffia* yeast and other materials containing astaxanthin. The regulation set forth below does not specify the source of astaxanthin or the manufacturing process because the agency has made its safety determination based on the chemical similarity of synthetic astaxanthin to astaxanthin from natural sources. Therefore, any source could be used to produce the color additive as long as the astaxanthin meets the identity, specifications, and stability requirements defined in § 73.35, and it is manufactured in accordance with good manufacturing practice. However, the specifications are listed to convey the fact that FDA has evaluated only a particular form of the color additive.

Several of the comments have requested that they be allowed to use a product derived from an organism such as *Phaffia rhodozyma* as a color additive without isolating the astaxanthin. Thus, they wish to market a biomass product that contains only a small amount of astaxanthin with the rest of the material being residues from the organism. The agency is concerned that deleterious materials may be included in fish feed from these sources because they are not found in the habitat of salmonids. Thus, interested parties should submit information supporting the safety of these products, and that they perform their intended effect, in the form of a new color additive petition to demonstrate that provision for these materials should be made in § 73.35.

FDA also concludes that it cannot expand the scope of this petition because an expanded review would require additional time to evaluate the safety and suitability of other materials containing astaxanthin. Such a review would cause an avoidable delay in the issuance of a final rule for the petitioned use of the color additive. FDA believes that such a delay would be unfair to the petitioner. The petitioner has stated that it would be unwilling to acquiesce in such a delay. Any such delay could cause significant economic loss to the petitioner and could be responsible for a significant delay in the use of astaxanthin by the United States aquaculture industry. Thus, FDA concludes that it is appropriate to require that those parties who wish to use astaxanthin products that do not comply with the listing regulation submit their own color additive petitions for such use.

Regarding the requested modifications in the specifications for astaxanthin, the agency cannot include the 10-fold increase in carotenoids other than astaxanthin in the regulation because a color additive with such a broad specification could be substantially different from the astaxanthin that the agency evaluated for safety.

Regarding the comment on allowing a higher percentage of *cis* isomers, astaxanthin can exist as different geometric isomers, known as *cis-* or *trans*-isomers. In the *cis* configuration, the largest functional groups on either

VOL
60
ISS
71
AP
13
1995
UMI

end of a double bond are on the same side of the molecule. In the *trans* configuration, they are on the opposite sides of the molecule. In the case of astaxanthin, there are nine double bonds that can have *cis* or *trans* configurations to give a bent or nearly linear molecular geometry. These isomers can be easily interconverted to give an equilibrium mixture.

The requested specification for the *cis*-astaxanthin level is unnecessary because no safety concerns have been demonstrated with regard to the proportions of the *cis* and *trans* isomers of astaxanthin. Furthermore, the isomeric forms are readily interconverted (Ref. 1), occur in wild salmon, and color the flesh of salmonids. There is no evidence to suggest that the ratio of isomeric forms would affect the safety of astaxanthin. The proportion of *cis*/*trans* isomers of astaxanthin in the petitioned color additive lies within the range of the ratios found in astaxanthin extracted from the flesh of wild salmon (Ref. 4). Therefore, the regulation presented below does not contain a specification for the amount of *cis*-astaxanthin.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Schiedt, K., F. J. Leuenberger, and M. Vecchi, "Natural Occurrence of Enantiomeric and meso-Astaxanthin," *Helvitica Chimica Acta*, 64:449–457, 1981.

2. Meyers, S. P., and H-M Chen, "Astaxanthin and its Role in Fish Culture," From The Proceedings of Warmwater Fish Culture Workshop. Special Publication No. 3, pp. 153–165, 1992.

3. Welsh, J. J., Memorandum entitled "Final Toxicology Memo on CAP 7C0211 (Astaxanthin in Fish Feed)" from the Additives Evaluation Branch (HFS–227) to the Direct Additives Branch (HFS–217), Center for Food Safety and Applied Nutrition, FDA, May 26, 1993.

4. Turujman, S. A., "Rapid Direct Resolution of the Stereoisomers of All-*trans* Astaxanthin on a Pirkle Covalent L-Leucine Column," *Journal of Chromatography*, 631:197 (abstract), 1993; Poster presented at the 106th Annual AOAC International Meeting, Cincinnati, OH, August 31 to September 3, 1992.

V. Conclusions

FDA has evaluated the data in the petition and other relevant material and concludes that astaxanthin that meets the specifications in § 73.35(b) is safe and suitable for use in salmonid feed to pigment their flesh, and that part 73 should be amended as set out below. In addition, based upon the factors listed in § 71.20(b) (21 CFR 71.20(b)), the agency concludes that certification of astaxanthin is not necessary for the protection of the public health. To ensure its safe use, FDA has limited the amount of astaxanthin that can be incorporated into the finished fish feed to 80 mg/kg (72 g/ton).

To prevent economic fraud in salmonid fish containing added astaxanthin, the regulation requires declaration of the presence of the color additive in accordance with §§ 101.22(k)(2), 101.100(a)(2), and 501.4 (21 CFR 101.22(k)(2), 101.100(a)(2), and 501.4) for labeling of bulk foods. Section 501.4 is referenced in § 73.35(d)(2) to ensure that the presence of astaxanthin in the fish feed will be declared on the ingredient label. Sections 101.22(k)(2) and 101.100(a)(2) are referenced in § 73.35(d)(3) to ensure that, at the retail level, the presence of astaxanthin in the fish will be declared, and that the labeling of the bulk fish container, including a list of ingredients on the container or a counter card with similar information, will be displayed, respectively. Several examples are given in § 101.22(k)(2) for an acceptable statement of declaration of the presence of astaxanthin, e.g., "Artificial Color," "Artificial Color Added," or "Color Added."

VI. Inspection of Documents

In accordance with § 71.15(a) (21 CFR 71.15(a)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15(b), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VII. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m. Monday through Friday.

VIII. Objections

Any person who will be adversely affected by this regulation may at any time on or before May 15, 1995, file with Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR 21 part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: Secs. 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e).

2. New § 73.35 is added to subpart A to read as follows:

§ 73.35 Astaxanthin.

(a) *Identity.* (1) The color additive astaxanthin is 3, 3′-dihydroxy-β, β-carotene-4, 4′-dione.

(2) Astaxanthin may be added to the fish feed only as a component of a stabilized color additive mixture. Color additive mixtures for fish feed use made with astaxanthin may contain only those diluents that are suitable and are listed in this subpart as safe for use in color additive mixtures for coloring foods.

(b) *Specifications.* Astaxanthin shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Physical state, solid.
0.05 percent solution in chloroform, complete and clear.
Absorption maximum wavelength 484–493 nanometers (in chloroform).
Residue on ignition, not more than 0.1 percent.
Total carotenoids other than astaxanthin, not more than 4 percent.
Lead, not more than 5 parts per million.
Arsenic, not more than 2 parts per million.
Mercury, not more than 1 part per million.
Heavy metals, not more than 10 parts per million.
Assay, minimum 96 percent.

(c) *Uses and restrictions.* Astaxanthin may be safely used in the feed of salmonid fish in accordance with the following prescribed conditions:

(1) The color additive is used to enhance the pink to orange-red color of the flesh of salmonid fish.

(2) The quantity of color additive in feed is such that the color additive shall not exceed 80 milligrams per kilogram (72 grams per ton) of finished feed.

(d) *Labeling requirements.* (1) The labeling of the color additive and any premixes prepared therefrom shall bear expiration dates for the sealed and open container (established through generally accepted stability testing methods), other information required by § 70.25 of this chapter, and adequate directions to prepare a final product complying with the limitations prescribed in paragraph (c) of this section.

(2) The presence of the color additive in finished fish feed prepared according to paragraph (c) of this section shall be declared in accordance with § 501.4 of this chapter.

(3) The presence of the color additive in salmonid fish that have been fed feeds containing astaxanthin shall be declared in accordance with §§ 101.22(k)(2) and 101.100(a)(2) of this chapter.

(e) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the act.

Dated: April 10, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9178 Filed 4–12–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 178

[Docket No. 91F–0465]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an aqueous solution of citric acid, disodium ethylenediaminetetraacetate (disodium EDTA), sodium lauryl sulfate (SLS), and monosodium phosphate as a sanitizing solution to be used on food-processing equipment and utensils, including dairy-processing equipment. This action responds to a petition filed by Gycor International, Ltd.

DATES: Effective April 13, 1995; written objections and requests for a hearing by May 15, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell A. Cheeseman, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3083.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 3, 1992 (57 FR 291), FDA announced that a food additive petition (FAP 2B4301) had been filed by Gycor International Ltd., c/o Hogan & Hartson, 555 13th St. NW., Washington, DC 20004. The petition proposed that the food additive regulations be amended in § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) to provide for the safe use of of citric acid, disodium EDTA, SLS, and monosodium phosphate as components of a sanitizing solution intended for general use on food-contact surfaces. The petitioner subsequently amended the petition to limit use of the sanitizer on only food-processing equipment and utensils, including dairy processing equipment.

I. Safety and Functional Effect of Petitioned Use of the Additives

Sanitizing solutions are regulated as mixtures of chemicals that function together to sanitize food-contact surfaces. Each listed component in a sanitizing solution has a functional effect, and the agency evaluates the data submitted in support of the efficacy of the entire sanitizing solution. In addition, FDA regulations permit the addition to a sanitizing solution of any substance that is generally recognized as safe (GRAS) for use in food (§ 178.1010(b)). The subject sanitizing solution is an aqueous solution of citric acid, disodium EDTA, SLS, and monosodium phosphate. The function of these components and the basis for FDA's determination of the safety of these components in the subject sanitizer are described below.

A. Citric Acid

Citric acid functions as an antimicrobial agent in the subject sanitizing solution. Citric acid is listed as GRAS for use in human food under 21 CFR 182.1033. FDA regulations permit the addition to a sanitizing solution of any substance that is GRAS for use in food. On the basis of the data submitted in support of the already-regulated uses of citric acid, and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of citric acid in the subject sanitizing solution is safe (Ref. 1).

B. Disodium Ethylenediaminetetraacetate

Disodium EDTA functions as a chelator in the subject sanitizing solution. Disodium EDTA is regulated as a direct food additive under 21 CFR 172.135. On the basis of the data submitted in support of the already-regulated uses of disodium EDTA and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of disodium EDTA in the subject sanitizing solution is safe (Ref. 1).

C. Sodium Lauryl Sulfate

SLS functions as a surfactant in the subject sanitizing solution. SLS is present in regulated sanitizing solutions under § 178.1010(b)(3), (b)(10), and (b)(37). On the basis of the data submitted in support of the already-regulated uses of SLS and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of SLS in the subject sanitizing solution is safe (Ref. 1).

VOL 60 ISS 71 AP 13 1995 UMI

D. Monosodium Phosphate

Monosodium phosphate functions as a buffer in the subject sanitizing solution. Monosodium phosphate is listed as GRAS for use in human food under 21 CFR 182.1778. FDA regulations permit the addition to a sanitizing solution of any substance that is GRAS for use in food. On the basis of the data submitted in support of the already-regulated uses of monosodium phosphate and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of monosodium phosphate in the subject sanitizing solution is safe (Ref. 1).

E. Conclusion on Safety

As discussed above, FDA has evaluated the data in the petition and other relevant materials. On the basis of this evaluation, the agency concludes that these data and materials establish the use of the additive as a sanitizing solution on food-processing equipment and utensils and on dairy-processing equipment is safe and that it will have its intended technical effect. Therefore, FDA is amending its regulations in § 178.1010 as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

II. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum entitled "Toxicological Evaluation of Citric Acid, Disodium EDTA, Sodium Lauryl Sulfate, and Monosodium Phosphate as Sanitizer Components," dated March 24, 1994.

IV. Filing of Objections

Any person who will be adversely affected by this regulation may at any time on or before May 15, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.1010 is amended by adding new paragraphs (b)(44) and (c)(38) to read as follows:

§ 178.1010 Sanitizing solutions.

* * * * *

(b) * * *

(44) An aqueous solution of citric acid, disodium ethylenediaminetetraacetate, sodium lauryl sulfate, and monosodium phosphate. In addition to use on food-processing equipment and utensils, this solution may be used on dairy-processing equipment.

* * * * *

(c) * * *

(38) The solution identified in paragraph (b)(44) of this section shall provide, when ready for use, at least 16,450 parts per million and not more than 32,900 parts per million of citric acid; at least 700 parts per million and not more than 1,400 parts per million of disodium ethylenediaminetetraacetate; at least 175 parts per million and not more than 350 parts per million of sodium lauryl sulfate; and at least 175 parts per million and not more than 350 parts per million of monosodium phosphate.

* * * * *

Dated: April 3, 1995.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–9089 Filed 4–12–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the correct drug labeler code for Rhone Poulenc, Inc. The agency codified an incorrect drug labeler code. This document corrects that error.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Judith M. O'Haro, Center for Veterinary Medicine (HFV–238), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1737.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 28, 1994 (59 FR 33196), FDA published a document to correct the drug labeler code for Hess & Clark, Inc., from 011801 to 050749. Several regulations were amended including those for roxarsone used in combinations in 21 CFR 558.95, 558.311, 558.355, and 558.550. This amendment inadvertently created an error in the regulations. However, in the

Federal Register of February 13, 1981 (46 FR 10462), the agency amended the regulations to reflect a change of sponsor for several new animal drugs (NADA's) from Hess & Clerk, Inc., Division of Rhone-Poulenc, Inc., to Hess & Clark, Inc. The roxarsone combinations mentioned above were improperly assigned to Hess & Clark, Inc. This document corrects that error by replacing the drug labeler code "050749" with the correct drug labeler code, "011526." Accordingly, 21 CFR 588.95, 558.311, 558.355, and 558.550 are amended to reflect the correct drug labeler code for Rhone-Poulenc, Inc.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.95 [Amended]

2. Section 558.95 *Bambermycins* is amended in paragraphs (b)(1)(x)(*b*) and (b)(1)(xi)(*b*) by removing "050749" and adding in its place "011526".

§ 558.311 [Amended]

3. Section 558.311 *Lasalocid* is amended in the table in paragraph (e)(1), in entry (ii), in the "Limitations" column for the combinations with "Roxarsone 45.4", "Roxarsone 45.4 plus bambermycins 1", "Roxarsone 45.4 plus lincomycin 2.0", "Roxarsone 45.4 plus bacitracin 10 to 25", and "Roxarsone 45.4 plus bacitracin 10 or 30", by removing "050749" and adding in its place "011526".

§ 558.355 [Amended]

4. Section 558.355 *Monensin* is amended in paragraphs (f)(1)(xii)(*b*) and (f)(1)(xx)(*b*) by removing "050749" and adding in its place "011526".

§ 558.550 [Amended]

5. Section 558.550 *Salinomycin* is amended in paragraph (b)(1)(ii)(*c*) by removing "050749" and adding in its place "011526".

Dated: March 13, 1995.

George A. Mitchell,

Director, Office of Surveillance and Compliance, Center for Veterinary Medicine.

[FR Doc. 95–9177 Filed 4–12–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8592]

RIN 1545–AT17

Subchapter K Anti-Abuse Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This final regulation amends the subchapter K anti-abuse rule to provide that the rule applies solely with respect to taxes under subtitle A of the Internal Revenue Code. This document provides guidance to partnerships and the partners of those partnerships.

DATES: This regulation is effective May 12, 1994, except the amendment to § 1.701–2(f) is effective December 29, 1994.

For a discussion of dates of applicability of this regulation, see Explanation of Provisions under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: D. Lindsay Russell on (202) 622–3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On May 17, 1994, a notice of proposed rulemaking was published in the **Federal Register** (59 FR 25581) containing a proposed anti-abuse rule under subchapter K. On January 3, 1995, § 1.701–2 (TD 8588) was published in the **Federal Register** (60 FR 23) containing the final anti-abuse rule under subchapter K.

Explanation of Provisions

Section 1.701–2 is amended to provide that it applies solely with respect to taxes under subtitle A of the Internal Revenue Code. No inference is intended as to the treatment under current law of transactions not covered by the regulation.

This amendment is effective as of the effective dates of § 1.701–2(g) (May 12, 1994, except that paragraphs (e) and (f) are effective December 29, 1994).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to this amendment, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this amendment was submitted to the Small Business Administration for comment on its impact on small business.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.701–2 is amended by:

1. Amending the fourth sentence of paragraph (a)(3) by:

a. Removing the language "*Example 8*" and adding "*Example 6*" in its place.

b. Removing the language "*Example 11*" and adding "*Example 9*" in its place.

c. Removing the language "*Examples 12 and 13*" and adding "*Examples 10* and *11*" in its place.

2. Removing *Examples 5* and *6* of paragraph (d) and redesignating *Examples 7* through *13* of paragraph (d) as *Examples 5* through *11*, respectively.

3. Removing the last sentence of paragraph (f) introductory text.

4. Redesignating paragraph (h) as paragraph (i).

5. Adding a new paragraph (h).

The addition reads as follows:

§ 1.701–2 Anti-abuse rule.

* * * * *

(h) *Scope and application.* This section applies solely with respect to taxes under subtitle A of the Internal Revenue Code, and for purposes of this section, any reference to a federal tax is limited to any tax imposed under subtitle A of the Internal Revenue Code.

* * * * *

VOL 60 ISS 71 AP 13 1995 UMI

Approved: March 28, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

[FR Doc. 95–9049 Filed 4–12–95; 8:45 am]

BILLING CODE 4830–01–U

26 CFR Parts 1 and 602

[TD 8593]

RIN 1545–AT16

Effective Dates of the Economic Performance Requirement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the effective dates of the economic performance requirement. Changes to the applicable laws were made by the Tax Reform Act of 1984. The regulations affect all taxpayers that use an accrual method of accounting.

DATES: These regulations are effective April 7, 1995.

For applicability of these regulations, see **EFFECTIVE DATES** under the **SUPPLEMENTARY INFORMATION** portion of the preamble.

FOR FURTHER INFORMATION CONTACT: James L. Atkinson, (202) 622–4950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–0917. The estimated annual reporting burden per respondent varies from 1 hour to 5 hours, depending on individual circumstances, with an estimated average of 3 hours. The annual recordkeeping burden per respondent varies from .01 hours to .1 hours, with an estimated average of .02 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On May 20, 1985, § 1.461–3T (TD 8024), relating to the effective dates of the economic performance requirement in section 461(h) of the Internal Revenue Code (Code) was published in the **Federal Register** (50 FR 20748). On June 7, 1990, a notice of proposed rulemaking (IA–258–84) concerning the economic performance requirement was published in the **Federal Register** (55 FR 23235). In addition to proposing general economic performance rules, the notice proposed redesignating the temporary regulations as § 1.461–7T. A public hearing on the regulations was held on October 22, 1990. On April 10, 1992, final and temporary regulations (TD 8408) regarding the economic performance requirement were published in the **Federal Register** (57 FR 12411). TD 8408 also redesignated § 1.461–3T as § 1.461–7T (without further change).

Written comments responding to the temporary regulations were received. In lieu of finalizing the temporary regulations issued as TD 8024 and redesignated by TD 8408, this Treasury decision removes § 1.461–7T and incorporates relevant provisions of those regulations into §§ 1.461–4 and 1.461–5, as appropriate.

Explanation of Provisions

Section 91(a) of the Tax Reform Act of 1984 (Pub. L. 98–369, 98 Stat. 598) added section 461(h) to the Internal Revenue Code. This section generally provides that the amount of an item is not incurred under an accrual method of accounting until economic performance occurs.

Section 91(g)(1) of the Tax Reform Act of 1984 provides that except as otherwise provided, section 461(h) of the Code applies to amounts that would be allowable as a deduction after July 18, 1984, under the law in effect before the enactment of section 461(h) (cut-off method). Alternatively, a taxpayer may elect to treat the application of section 461(h) as a change in accounting method to which section 481(a) applies. A taxpayer that makes this election may elect to apply the new method of accounting as of either July 19, 1984 (part-year change in method), or the first day of the taxable year that includes July 19, 1984 (full-year change in method).

On May 20, 1985, the IRS issued temporary regulations (TD 8024) relating to the general section 461(h) effective date, the date of electing alternative effective dates, the manner of making the elections, the scope of the elections, and the section 481(a) adjustment required by the elections. A detailed description of the regulations is set forth in the preamble to TD 8024.

After having considered the public comments received in connection with the temporary regulations, the Service is removing § 1.461–7T and incorporating the relevant provisions of the temporary regulations into §§ 1.461–4 and 1.461–5. Specifically, §§ 1.461–4 and 1.461–5 have been revised to clarify that all references to § 1.461–7T refer to § 1.461–7T as it appears in 26 CFR part 1 as revised April 1, 1995. Although this clarification refers to taxable years ending before April 7, 1995, however, it is not intended to extend the applicability of provisions previously set forth in § 1.461–7T beyond the dates originally provided in those temporary regulations. The reference to April 7, 1995, is necessary only to satisfy requirements of the Office of the Federal Register. In addition, § 1.461–4(k)(1) is revised to include special effective date rules for interest. These rules previously appeared in Q&A–12 of § 1.461–7T. Finally, § 1.461–5(d) has been revised to include an explanation of the term type of item for purposes of the recurring item exception. This explanation previously appeared in Q&A–3(d) of § 1.461–7T.

Rev. Proc. 94–32, 1994–1 C.B. 627, provides guidance regarding requests to make or revoke an election to ratably accrue real property taxes under section 461(c) for the taxpayer's first taxable year beginning after December 31, 1992. This Treasury decision does not affect the application of Rev. Proc. 94–32.

Effective Dates

These regulations are applicable for amounts that would be allowable as a deduction after April 7, 1995.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on their impact on small business.

Drafting Information: The principal author of these regulations is James L. Atkinson, Office of Assistant Chief Counsel (Income Tax and Accounting), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

PARAGRAPH 1. The authority citation for part 1 is amended by removing the entry for § 1.461–7T to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.461–0 [Amended]

PAR. 2. Section 1.461–0 is amended by removing the entry for § 1.461–7T.

PAR. 3. Section 1.461–4 is amended as follows:

1. Paragraph (k)(1) is revised;
2. Paragraphs (m)(1)(i), (ii), and (iii) are revised;
3. Paragraph (m)(2)(ii) is revised.

The revisions read as follows:

§ 1.461–4 Economic performance.

* * * * *

(k) *Special effective dates*—(1) *In general.* Except as otherwise provided in this paragraph (k), section 461(h) and this section apply to liabilities that would, under the law in effect before the enactment of section 461(h), be allowable as a deduction or otherwise incurred after July 18, 1984. For example, the economic performance requirement applies to all liabilities arising under a workers compensation act or out of any tort that would, under the law in effect before the enactment of section 461(h), be incurred after July 18, 1984. For taxable years ending before April 7, 1995, see Q&A–2 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995), which provides an election to make this change in method of accounting applicable to either the portion of the first taxable year that occurs after July 18, 1984 (part-year change method), or the entire first taxable year ending after July 18, 1984 (full-year change method). With respect to the effective date rules for interest, section 461(h) applies to interest accruing under any obligation (whether or not evidenced by a debt instrument) if the obligation is incurred in any transaction occurring after June 8, 1984, and is not incurred under a written contract which was binding on March 1, 1984, and at all times thereafter until the obligation is incurred. Interest accruing under an obligation described in the preceding sentence is subject to section 461(h) even if the interest accrues before July 19, 1984. Similarly, interest accruing under any obligation incurred in a transaction occurring before June 9, 1984, (or under a written contract which was binding on March 1, 1984, and at all times thereafter until the obligation is incurred) is not subject to section 461(h) even to the extent the interest accrues after July 18, 1984.

* * * * *

(m) *Change in method of accounting required by this section*—(1) *In general.*

* * *

(i) For taxable years ending before April 7, 1995, the part-year change in method election described in Q&A–2 through Q&A–6 and Q&A–8 through Q&A–10 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995);

(ii) For taxable years ending before April 7, 1995, the full-year change in method election described in Q&A–2 through Q&A–6 and Q&A–8 through Q&A–10 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995); or

(iii) For taxable years ending before April 7, 1995, if no election is made, the cut-off method described in Q&A–1 and Q&A–11 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995).

(2) * * *

(ii) *Retroactive change in method of accounting for long-term contracts and payment liabilities.* For the first taxable year beginning after December 31, 1989, or the first taxable year beginning after December 31, 1990, a taxpayer is granted the consent of the Commissioner to change its method of accounting for long-term contract liabilities described in paragraph (d)(2)(ii) of this section and payment liabilities described in paragraph (g) of this section (other than liabilities arising under a workers compensation act or out of any tort described in paragraph (g)(2) of this section) to comply with the provisions of this section. The change must be made in accordance with paragraph (m)(1)(ii) or (m)(1)(iii) of this section, except the effective date is the first day of the first taxable year beginning after December 31, 1989, or the first day of the first taxable year beginning after December 31, 1990. For taxable years ending before April 7, 1995, the taxpayer may make the change in method of accounting, including a full-year change in method election under paragraph (m)(1)(ii) of this section and Q&A–5 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995), by filing an amended return for such year, provided the amended return is filed on or before October 7, 1992.

Par. 4. Section 1.461–5 is amended as follows:

1. Paragraph (d)(1) is revised.
2. Paragraphs (d)(2) (i) and (ii) are revised.

The revised provisions read as follows:

§ 1.461–5 Recurring item exception.

* * * * *

(d) *Time and manner of adopting the recurring item exception*—(1) *In general.* The recurring item exception is a method of accounting that must be consistently applied with respect to a type of item, or for all items, from one taxable year to the next in order to clearly reflect income. A taxpayer is permitted to adopt the recurring item exception as part of its method of accounting for any type of item for the first taxable year in which that type of item is incurred. Except as otherwise provided, the rules of section 446(e) and § 1.446–1(e) apply to changes to or from the recurring item exception as a method of accounting. For taxable years ending before April 7, 1995, see Q&A–7 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995) for rules concerning the time and manner of adopting the recurring item exception for taxable years that include July 19,1984. For purposes of this section, items are to be classified by type in a manner that results in classifications that are no less inclusive than the classifications of production costs provided in the full-absorption regulations of § 1.471–11(b) and(c), whether or not the taxpayer is required to maintain inventories.

(2) *Change to the recurring item exception method for the first taxable year beginning after December 31, 1991*—(i) *In general.* For the first taxable year beginning after December 31,1991, a taxpayer is granted the consent of the Commissioner to change to the recurring item exception method of accounting. A taxpayer is also granted the consent of the Commissioner to expand or modify its use of the recurring item exception method for the first taxable year beginning after December 31, 1991.For each trade or business for which a taxpayer elects to use the recurring item exception method, the taxpayer must use the same method of change (cut-off or full-year change) it is using for that trade or business under § 1.461–4(m). For taxable year sending before April 7, 1995, see Q&A–11 of § 1.461–7T (as it appears in 26 CFR part 1 revised April

VOL 60 ISS 71 AP 13 1995 UMI

1, 1995) for an explanation of how amounts are taken into account under the cut-off method (except that, for purposes of this paragraph (d)(2), the change applies to all amounts otherwise incurred on or after the first day of the first taxable year beginning after December 31, 1991). For taxable years ending before April 7, 1995, see Q&A–6 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995) for an explanation of how amounts are taken into account under the full-year change method (except that the change in method occurs on the first day of the first taxable year beginning after December 31, 1991). For taxable years ending before April 7, 1995, the full-year change in method may result in a section 481(a) adjustment that must be taken into account in the manner described in Q&A–8 and Q&A–9 of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995) (except that the taxable year of change is the first taxable year beginning after December 31, 1991).

(ii) *Manner of changing to the recurring item exception method.* For the first taxable year beginning after December 31, 1991, a taxpayer may change to the recurring item exception method by accounting for the item on its timely filed original return for such taxable year (including extensions). For taxable years ending before April 7, 1995, the automatic consent of the Commissioner is limited to those items accounted for under the recurring item exception method on the timely filed return, unless the taxpayer indicates a wider scope of change by filing the statement provided in Q&A–7(b)(2) of § 1.461–7T (as it appears in 26 CFR part 1 revised April 1, 1995).

* * * * *

§ 1.461–7T [Removed]

Par. 5. Section 1.461–7T is removed.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 6. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. In § 602.101, paragraph (c) is amended by removing the entry for 1.461–3T from the table and adding the following entries in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
. . . . .	
1.461–4	1545–0917
1.461–5	1545–0917
. . . . .	

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: April 5, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–9034 Filed 4–7–95; 4:56 pm]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions, a proposed amendment to the North Dakota regulatory program (hereinafter referred to as the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). North Dakota proposed revisions to and additions of rules pertaining to: areas unsuitable for mining; permit applications (environmental monitoring plans); permit application approval procedures; permit revisions, renewals, and transfer or sale; performance bond; resoiling performance standards; sediment pond performance standards; contemporaneous reclamation performance standards; and enforcement actions. The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations, address required program amendments, clarify ambiguities, correct cross-references, and improve program efficiency.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.12, 934.13, 934.15, 934.16, and 934.30.

II. Proposed Amendment

By letter dated November 10, 1994, North Dakota submitted a proposed amendment to its program pursuant to SMCRA (Amendment number XXI, Administrative Record No. ND–V–01, State Program Amendment Tracking System No. ND–031–FOR). North Dakota submitted the proposed amendment in response to the required program amendments at 30 CFR 934.16(u) and at its own initiative. The provisions of the North Dakota Administrative Code (NDAC) that North Dakota proposes to revise or add are: NDAC 69–05.2–04–07(3)(a), lands unsuitable for mining; NDAC 69–05.2–05–09, permit applications (environmental monitoring plans); NDAC 69–05.2–06–01(2), permit applications (identification of interests); NDAC 69–05.2–06–02(6), permit applications (compliance information); NDAC 69–05.2–10–03(5), criteria for permit approval; NDAC 69–05.2–11–02(1)(d), permit revisions; NDAC 69–05.2–11–03(5)(c), permit renewals; NDAC 69–05.2–11–06(1)(c), transfer, sale, or assignment of permit rights; NDAC 69–05.2–12–09(2), performance bond (period of liability); NDAC 69–05.2–15–02(2)(a), performance standards (suitable plant growth materials); NDAC 69–05.2–16–09 (7) and (20), performance standards (sediment ponds); NDAC 69–05.2–21–01(2), performance standards (backfilling and grading, timing requirements); and NDAC 69–05.2–28–03(b), inspection and enforcement (cessation orders).

OSM announced receipt of the proposed amendment in the December 9, 1994, **Federal Register** (59 FR 63738), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. ND–V–06). Because no one requested a public hearing or meeting, none was held. The public comment period ended on January 9, 1995.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds, with certain exceptions, that the proposed program amendment submitted by North Dakota on November 10, 1994, is no less effective than the corresponding Federal regulations in meeting SMCRA's requirements. Accordingly, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to North Dakota's Rules

North Dakota proposed revisions to the following previously-approved rules that are nonsubstantive in nature and consist of minor editorial changes or correction of cross-references (corresponding Federal regulation provisions are listed in parentheses):

NDAC 69–05.2–11–02(1)(d) (30 CFR 774.13(d)), when permit revisions are required;

NDAC 69–05.2–11–03(5)(c) (30 CFR 774.15(b)(2)(iv)), requirements for applications to renew permits;

NDAC 69–05.2–11–06(1)(c) (30 CFR 774.17(a), (d)), requirements for transfer, sale, or assignment of permit rights; and

NDAC 69–05.2–12–09(2) (30 CFR 800.13), period of performance bond liability.

Because the proposed revisions to these previously-approved rules are nonsubstantive in nature, the Director finds that these proposed revisions do not substantively change the North Dakota program as already approved. The Director approves these proposed revisions.

2. Substantive Revisions to North Dakota's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

North Dakota proposed revisions to the following previously-approved rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulation provisions (listed in parentheses):

NDAC 69–05.2–04–07(3)(a) (30 CFR 764.21(c)(1)), database and inventory system for use in designating lands unsuitable for mining; and

NDAC 69–05.2–28–03(6) (30 CFR 843.11(a)(2)) (introductory text), significant imminent environmental harm.

Because these proposed revisions to the North Dakota rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations in meeting SMCRA's requirements. The Director approves these proposed revisions.

3. NDAC 69–05.2–05–09, Consolidated Monitoring Plans

North Dakota proposes to add a new rule to allow a permittee to develop one consolidated monitoring plan (hereinafter, "CMP") for certain required monitoring plans that would cover multiple permits for a particular surface coal mining and reclamation operation. Specifically, North Dakota proposes NDAC 69–05.2–05–09 as follows:

The Commission will allow monitoring plans required by [NDAC] article 69.05 and North Dakota Century Code chapter 38–14.1 to be consolidated by the permittee into one single monitoring plan for each surface coal mining and reclamation operation subject to the following requirements:

1. Each [CMP] will be subject to the approval procedures established for permit revisions.
2. Each mining permit must be revised describing the specific monitoring plan or plans to be consolidated into a single monitoring plan covering the entire surface coal mining and reclamation operation under permit.
3. Each [CMP] will be subject to review by the commission at the time of the midterm review or renewal for each permit covered by the [CMP] in accordance with the requirements of section 69–05.2–11–01.
4. A permittee may propose modifications to a [CMP] by filing a permit revision application to the most recently issued permit covered by the [CMP].

North Dakota also appends to the submittal a written rationale for its proposal at NDAC 69–05.2–05–09 (Amendment XXI, Administrative Record No. ND–V–1, "IV. Appendix"). In that written rationale, North Dakota clarifies that the proposal is directed toward instances where one mine (i.e., one surface coal mining and reclamation operation) is authorized by multiple permits. The proposal would allow, as one example, the ground water monitoring plans for each of the individual permits to be combined into one consolidated ground water monitoring plan. The same allowance would apply for surface water monitoring, alluvial valley floor monitoring, and fish and wildlife monitoring.

A separate CMP would have to be developed for each category of monitoring. North Dakota indicates that this procedure would allow easier review of monitoring plans by both the regulatory authority and the public where one mine is covered by multiple permits.

North Dakota also indicated that individual permits would have to contain appropriate references to the various CMP's and that the CMP's would be a part of each permit. "Since the [CMP] will be considered part of each mining permit it covers, failure to comply with the [CMP] will subject the permittee to the same enforcement action as would the failure to comply with any other part of a mining permit." In this case a single violation would be issued that lists all permits covered by the CMP. North Dakota states that it uses this same practice for violations of performance standards or requirements that are the same in more than one permit.

North Dakota's written rationale further notes that since CMP's may be revised, the reference in each permit will have to be the most recent (i.e., current) CMP. North Dakota proposes to review each CMP as part of the midterm review and renewal review of each included permit, and will require at those times any necessary revisions. North Dakota adds that, as it interprets its rule at NDAC 69–05.2–11–01(2), the commission is not precluded from reviewing permits and requiring permit revisions more frequently than at midterm or every five years (OSM notes that this interpretation would apply to requiring more frequent revisions to CMP's if necessary). The permittee may request revision of a CMP by applying for a permit revision to the most recently issued permit covered by the CMP. When new areas are added to a mining operation by application for new permits, the CMP's for the operation will have to be updated, and the updated CMP will be subject to the approval procedures for permit applications. If a CMP indicates any adverse environmental impacts, the portion of the whole operation affected would be subject to preventative or remedial measures as required by NDAC 69–05.2–09–12(2). Depending on the impacts, that area affected could involve parts of or all of one, several, or all of the permits covering the operation. Following final bond release of any portion of the area covered by a CMP, the permittee would have to continue monitoring that area until the CMP is revised to delete that area from the CMP.

North Dakota also specifically listed the monitoring requirements that could be consolidated, as follows: (1) Ground water monitoring—the requirements of NDAC 69–05.2–09–12(1)(e) and 69–05.2–16–14; (2) surface water

VOL 60 ISS 71 AP 13 1995 UMI

monitoring—the requirements of NDAC 69–05.2–09–12(1)(e) and 69–05.2–16–05; (3) alluvial valley floor monitoring—the requirements of NDAC 69–05.2–08–14(1)(e), 69–05.2–09–16, and 69–05.2–25–03; and (4) fish and wildlife monitoring—the requirements of NDAC 69–05.2–09–17(1)(e) and 69–05.2–13–08(1).

OSM acknowledges that on surface coal mining and reclamation operation may be authorized by a succession of permits for individual areas. Both the State statute at North Dakota Century Code (NDCC) at 39–14.1–15(1) and SMCRA Section 508(a)(1) provide that all permit applications include the identification of "land subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits will be sought." And, OSM agrees with North Dakota that it would be easier for the public, the permittee, and the regulatory authority to review and revise the monitoring plans for the operation, and evaluate the monitoring data submitted, if those materials were in one place rather than spread out through several permit files.

OSM also notes that North Dakota does not propose to eliminate or reduce any monitoring required under the individual permits. For example, in order to be approved, a consolidated ground water monitoring plan would have to contain sufficient monitoring sites, monitoring methodologies, monitoring parameters, monitoring frequency, etc., to meet the requirements of NDAC 69–05.2–09–12(1)(e) and 69–05.2–16–14 for each of the included permit areas. Similarly, all of North Dakota's rule requirements would remain in effect regarding required preventative or remedial changes to surface coal mining and reclamation operations if monitoring data indicates the operation is having unanticipated adverse environmental impacts. North Dakota's written rationale for the provision specifically addresses this requirement at NDAC 69–05.2–09–12(2) (protection of the hydrologic balance), but any other such regulatory requirement (for preventative or remedial changes to the operation) would also be unaffected by this proposal for CMP's. Finally, North Dakota's proposal would not eliminate or reduce any required enforcement actions, since CMP's would be made part of each included permit, meaning that failure to comply with the CMP would mean noncompliance with each of the permits. Since each included permit would be listed in any such enforcement action, the single enforcement action would be considered for potential patterns of violation for each of the included permits.

OSM closely considered two aspects of North Dakota's proposal. First, the proposal would allow a CMP to be revised by submitting a revision application for only one of the permits included in the CMP; since the revised CMP would be incorporated into the other permits by reference, this would in effect revise all of the permits in the particular surface mining operation. But as noted above, the proposal does not eliminate or reduce the regulatory monitoring requirements of the individual permits. Thus in order to be approved, the revision application would in essence have to be revised as a revision to each permit. Further, OSM notes that if a revision to a CMP were considered a significant alteration subject to public notice under NDAC 69–05.2–11–02(5)(a), the public notice required by NDCC 38–14.1–18(1) would have to list all of the permit areas as lying within the "boundaries of the land proposed to be affected by the * * * permit revision." Hence, the public would have adequate notice that all included permits are being revised.

The second aspect that OSM considered is the adoption of revised CMP as part of a permit application to add new permit area to a life-of-mine operation. North Dakota's written rationale, as noted above, addressed this by noting that the proposed revised CMP would in that instance be subject to the approval procedures for permit applications. On its fact, this statement appears to contradict proposed NDAC 69–05.2–05–09(1) (which proposes that CMP's will be subject to the approval procedures established for permit revisions) and proposed NDAC 69–05.2–05–09(4) (which proposes that modifications to a CMP may be proposed by an operator by filing a permit revision application).

OSM does not consider this apparent contradiction to be a deficiency. OSM notes that for any proposal to revise a CMP that would be included in a permit application to be approved, the regulatory authority would have to find (under NDCC 38–14.1–21(3)(a) [written findings for permit approval]) that the proposed CMP complied with NDAC 69–05.2–05–09. Strictly interpreted, that would require that the applicant simultaneously file a permit revision application to the most recent existing permit, and that that revision application be reviewed simultaneously with the application for the new permit. However, OSM observes that nothing would be gained from such a simultaneous dual application and dual review. As noted earlier, a proposed CMP does not eliminate or reduce the regulatory monitoring requirements of the individual permits. Thus, a proposed modified CMP contained in an application for a new permit would, in the review of the new application, be reviewed to ensure that it would fulfill all the regulatory monitoring requirements of all of the included permits. That is precisely the same level of review and approval that would be accomplished under the dual application and review under the strict interpretation. Therefore OSM does not find any deficiency in North Dakota's written intention to have the permit application approval procedures supersede the permit revision procedures under these circumstances. OSM notes that this aspect of the proposal would be clearer if this supersession were incorporated in the North Dakota program at NDAC 69–05.2–05–09, and OSM encourages North Dakota to consider this in the future.

Based upon the above discussion, the Director finds that North Dakota's proposal at NDAC 69–05.2–05–09 is consistent with the Federal regulations, and will assist North Dakota in the efficient administration of its program. Therefore the Director is approving the proposal.

4. NDAC 69–05.2–06–01(2), 69–05.2–06–02(6), and 69–05.2–10–03(5), Permit Application Review and Criteria for Approval, Final Compliance Review

NDAC 69–05.2–06–01(2) currently requires that after a permit application has been approved but before the permit is issued, the applicant shall update or correct the ownership and control (identification of interests) information in the application, or indicate that no change has occurred. North Dakota proposes to revise this provision to require that the update, correction, or indication be made when the application is "deemed ready for approval" but before the permit is issued. Similarly, NDAC 69–05.2–06–02(6) currently requires that after a permit application is approved (but before the permit is issued), the applicant shall update or correct the compliance information (violations list) in the application, or indicate that no change has occurred. North Dakota proposes to revise this provision to require that the update, correction, or indication be made when the permit application is "deemed ready for approval" but before the permit is issued. Finally, NDAC 69–05.2–10–03(5) currently requires North Dakota,

after a permit application is approved (but before the permit is issued) to reconsider its approval decision based on the updates or corrections resulting from the provisions mentioned above. North Dakota proposes to revise this provision to require that after an application is "deemed ready for approval" (but before the permit is issued), the regulatory authority make its decision to approve or disapprove the application, based on the updated or corrected information.

The Federal regulations at 30 CFR 778.13(i) require that after a permit application is approved (but before the permit is issued), the applicant shall update or correct the ownership and control (identification of interests) information in the permit, or indicate that no change has occurred. Similarly, 30 CFR 778.14(d) requires that after an application has been approved (but before the permit is issued), the applicant shall update or correct the violation information in the application, or indicate that no change has occurred. Finally, 30 CFR 773.15(e) requires the regulatory authority, after an application is approved (but before the permit is issued) to reconsider its approval decision, based on the corrected or updated application information submitted under the provisions mentioned above.

In all three cases, North Dakota's proposal would require the submission or review of the updated or corrected information when the application is "deemed ready for approval," while the Federal regulations require that the corrected or updated information be submitted or reviewed after the application is approved but before the permit is issued. OSM interprets the proposed language "deemed ready for approval" to mean that all technical and legal review of the permit application has been completed, all written findings have been completed, and the regulatory authority has determined that all criteria for the approval of the application have been met.

The intent of the Federal regulations cited above was expressed in the preamble to those rules (54 FR 8962; March 2, 1989):

> Experience has shown that the time that elapses between the submission of an application and the issuance of the permit typically is several months at a minimum. Information submitted with the application may become dated by the time of permit issuance, thus making it impossible for the regulatory authority to make an accurate compliance review under [30 CFR] 773.15(b)(1).
>
> This rule adds * * * [a requirement] that before a permit is issued the regulatory authority reconsider its initial § 773.15(b)(1) compliance review in light of any new information submitted pursuant to §§ 778.13(i) and 778.14(d) * * * The final compliance review based on this updated information will [e]nsure that the regulatory authority makes an accurate permitting decision under § 773.15(b)(1).

OSM notes that under North Dakota's proposals, the corrected or updated information would also be required at the very end of the application review period, and would be reviewed by the regulatory authority at that time. The regulatory authority's decision on permit issuance would be based on the updated or corrected information. Thus the Director finds that North Dakota's proposals at NDAC 69–05.2–06–01(2), 69–05.2–06–02(6), and 69–05.2–10–03(5) are no less effective in meeting SMCRA's requirements than the Federal regulations at 30 CFR 773.15(e), 778.13(i), and 778.14(d), and is approving those proposals.

5. NDAC 69–05.2–15–02(2)(a), Performance Standards (Suitable Plant Growth Material)

North Dakota proposes to delete the existing requirement that the regulatory authority must approve the topsoil removal for an area before subsoil removal begins or before any other disturbances occur in that area.

The Federal regulations at 30 CFR 816.22 do not require that the regulatory authority approve the removal of topsoil prior to further operations. Because the Federal regulations do not require regulatory authority approval of topsoil removal prior to further disturbance, the Director finds that North Dakota's proposed deletion of this requirement is not inconsistent with the Federal regulations, and is approving the proposal.

6. NDAC 69–05.2–16–09(7), Performance Standards for Sedimentation Ponds

North Dakota proposes to delete the existing requirement, applicable to all sediment ponds, that there must be no outflow through the emergency spillway from the ten-year, twenty-four-hour precipitation event or lesser events. In its place, North Dakota proposes a new provision that would require (for sedimentation ponds designed to contain the runoff from a ten-year, twenty-four-hour design event) that there must be no spillway outflow as a result of runoff from the design event or lesser runoff events, unless multiple runoff events occur before the pond can be dewatered in accordance with approved plans in the permit. North Dakota adds in a note to the submittal (see Administrative Record No. ND–V–01, side-by-side) that the North Dakota Department of Health requires operators to dewater sedimentation ponds within 10 days after a precipitation event. OSM notes that an existing provision of the North Dakota program, NDAC 69–05.2–16–09(6), states that the design, construction, and maintenance of a sediment pond or other sediment control measures does not relieve the operator from compliance with applicable effluent limitations.

The Federal regulations governing sediment ponds at 30 CFR 816.46 do not prohibit outflow from the emergency spillway in connection with any specified design event. Therefore, North Dakota's proposed deletion of its existing requirement is not inconsistent with those Federal regulations.

Regarding North Dakota's proposed new provision, the Federal regulations at 30 CFR 816.46(c)(iii)(C) require that sediment ponds be designed, constructed, and maintained to, among other things, contain or treat the 10-year, 24-hour precipitation event (lesser events can be approved by the regulatory authority in some specified circumstances). However, there is an implicit exception to the "containment" requirement, for those ponds designed to contain rather than treat the design event, at § 816.46(c)(1)(iii)(D). This regulation requires the provision of a nonclogging dewatering device to maintain the required detention time. In the preamble to this requirement (48 FR 44032, 44044; September 26, 1983), OSM noted that:

> If water accumulates in the pond and is not allowed to exit, the water level will rise and may not recede sufficiently to assure adequate detention time in the event of increased inflow to the pond.

Hence, the Federal rules anticipate that while a pond may be designed to "contain" the design event, the pond may not be able to contain runoff from a subsequent design event that occurs soon after an initial design event, unless some of the stored water is removed. But under § 816.46(c)(1)(iii)(C), that runoff must still be treated.

North Dakota's proposal in essence defines the performance standard of "containment": if a sediment pond is designed to "contain," then there must be no spillway discharge from that desigh event. But it also explicitly recognizes what the Federal regulations only implicitly recognize: the sedimentation pond may not be able to contain subsequent design event that occurs before sufficient time elapses for dewatering the sedimentation pond. However, by requiring that effluent

VOL
60
ISS
71
AP
13
1995
UMI

standards must be met regardless of pond design or maintenance (subsection (6)), North Dakota requires that any resulting discharges be treated.

Based on the above discussion, the Director finds North Dakota's proposed replacement of the existing provision with the new provisions to be no less effective than the Federal regulations at 30 CRR 816.46(c)(1)iii)(C) in meeting SMCRA's requirements, and is approving the proposal.

7. NDAC 69–05.2–16–09(20), Inspection Frequency for Sedimention ponds.

North Dakota proposes to revise this provision to require that impoundments not meeting the criteria of 30 CFR Part 77.216 be inspected quarterly. The provision, as revised, would be substantively the same as the Federal regulation requirement at 30 CFR 816.49(a)(11) as it existed prior to November 21, 1994.

Effective November 21, 1994, OSM's requirement was redesignated as 30 CFR 816.49(a)(12). It was also revised to require that impoundments that meet the Soil Conservation Service (SCS) Class B or C criteria for dams in TR–60 (hereinafter, "SCS criteria"), as well as impoundments that meet the criteria of 30 CFR Part 77.216 (hereinafter, "MSHA criteria"), must be examined in accordance with § 77.216–3 (see 59 FR 53022; October 20, 1994). Under the revised Federal regulation, only impoundments that meet neither the MSHA criteria nor the SCS criteria may be inspected quarterly.

North Dakota's proposed rule would allow sedimentation ponds that do not meet the MSHA criteria, but do meet the SCS criteria, to be inspected quarterly. This would be less effective in meeting SMCRA's requirements than the new Federal regulation at 30 CFR 816.49(a)(12), under which those same sedimentation ponds would have to be examined in accordance with 30 CFR 77.216–3 (in most cases, weekly). However, OSM's rulemaking noted, under the section entitled "Effect on State Programs," that State programs will not be required to meet the requirements of the new regulations until the Director reviews the State programs and informs the States of any deficiencies in accordance with 30 CFR 732.17 (see 59 FR 53022, 53026). North Dakota has to yet been informed by the Director that it must revise its program to conform with the new Federal regulation at 30 CFR 816.49(a)(12); hence, OSM is not at this time requiring North Dakota to revise its proposed rule to require that the new category of impoundments (those that meet the SCS criteria) be inspected in accordance with § 77.216–3.

North Dakota's proposal would require sedimentation ponds that meet neither the MSHA criteria nor the SCS criteria to be inspected quarterly. The Federal regulation at 30 CFR 816.49(a)(12) also requires those same impoundments to be inspected quarterly. Therefore the Director finds that North Dakota's proposal, insofar as it addresses that category of sedimentation ponds, is no less effective than the Federal regulation, and is approving the proposal insofar as it addresses that category (sedimentation ponds that meet neither the MSHA criteria nor the SCS criteria). The Director is not approving the proposal insofar as it allows sedimentation ponds that meet the SCS criteria, to be inspected quarterly.

The Director notes that this partial approval satisfies a required program amendment codified at 30 CFR 934.16(u) that was imposed on the North Dakota program in a rulemaking action on January 9, 1992 (57 FR 807, 827). That action required North Dakota to amend its program to require quarterly inspections of certain impoundments, to be no less effective than then-existing 30 CFR 816.49(a)(11). As noted above, North Dakota's proposal, insofar as approved, fulfills that requirement, and the Director is herewith removing it. OSM notes that the forthcoming notification from the Director in accordance with 30 CFR 732.17 will require North Dakota to amend its program to address those sedimentation ponds that meet the SCS criteria.

8. NDAC 69–05.2–21–01(2), Performance Standards for Contemporaneous Reclamation, Time and Distance Requirements

North Dakota proposes to revise this provision to allow the regulatory authority to grant additional distance (in addition to four spoil ridges behind the pit being worked) for completion of rough backfilling and grading if the permittee can demonstrate that such additional distance is necessary. The existing provision only allows the regulatory authority, in the same circumstances, to grant additional time (in addition to 180 days following coal removal) for completion of rough backfilling and grading.

OSM notes that a statutory requirement of the North Dakota program, at NDCC 38–14.1–24(14), requires, among other things, that permittees ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations.

OSM's time and distance requirements at 30 CFR 816.101 were suspended on July 31, 1992 (57 FR 33874). Therefore OSM must evaluate State time and distance requirements against the general contemporaneous reclamation requirements of 30 CFR 816.100. This regulation requires that all reclamation efforts (including backfilling, grading, topsoil replacement, and revegetation) on all land that is disturbed by surface mining activities shall occur as contemporaneously as practicable with mining operations (except when variances are granted for concurrent surface and underground mining activities).

As noted above, the North Dakota program contains a statutory general contemporaneous reclamation requirement substantively equivalent to 30 CFR 816.100. North Dakota's proposed additional distance allowance at NDAC 69–05.2–21–01(2) provides additional specificity to one aspect of the general statutory requirement at NDCC 38–14.1–24(14) and is not inconsistent with that statutory requirement.

Based on the above discussion, the Director finds North Dakota's proposal at NDAC 69–05.2–21–01(2) to be consistent with the Federal regulations at 30 CFR 816.100, and is approving the proposal.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment (Administrative Record No. ND–V–06), but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the North Dakota program.

The U.S. Bureau of Mines responded on November 30, 1994, that it had no comment (Administrative Record No. ND–V–04). The State Director of the U.S. Department of Agriculture (USDA) Rural Economic and Community Development (formerly the Farmers Home Administration) responded on December 2, 1994, that it had no comment and felt the proposed amendment would not affect its programs (Administrative Record No. ND–V–05). The U.S. Army Corps of Engineers responded on December 8, 1994, that the proposed changes were satisfactory to it (Administrative Record No. ND–V–07). The Agricultural Research Service, USDA, responded on December 13, 1994, that it had no comments or additions to the amendment (Administrative Record No. ND–V–08). The Fish and Wildlife Service responded on December 16, 1994, that it found the proposed changes to be logical and reasonable, and that the proposed rules were not anticipated to have any significant impacts on fish and wildlife resources (Administrative Record No. ND–V–09).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that North Dakota proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. ND–V–03). EPA's Region VIII office responded on December 21, 1994, that it had no comments and that it did not believe there would be any impacts to water quality standards promulgated under the Clean Water Act (Administrative Record No. ND–V–10).

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record No. ND–V–03). Neither SHPO nor ACHP responded to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves, with one exception, North Dakota's proposed amendment as submitted on November 10, 1994. The Director does not approve, as discussed in Finding No. 7, NDAC 69–05.2–16–09(20) (insofar as it would allow sedimentation ponds not meeting the MSHA criteria but meeting that SCS criteria to be inspected quarterly).

The Director approves the rules as proposed by North Dakota with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 934, codifying decisions concerning the North Dakota program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the North Dakota program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by North Dakota of only such provisions.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 7, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 934—NORTH DAKOTA

1. The authority citation for Part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

VOL 60 ISS 71 AP 13 1995 UMI

2. Section 934.15 is amended by revising the heading and by adding paragraph (t) to read as follows:

§ 934.15 Approval of amendments to the North Dakota regulatory program.

* * * * *

(t) With the exception of NDAC 69–05.2–16–09(20) (to the extent that it addresses sedimentation ponds that do not meet the criteria of 30 CFR 77.216 but do meet SCS Class B or C criteria), revisions to the following rules, as submitted to OSM on November 10, 1994, are approved effective April 13, 1995.

North Dakota Administrative Code (NDAC) 69–05.2–04–07(3)(a), lands unsuitable for mining; NDAC 69–05.2–05–09, permit applications (permit monitoring plans); NDAC 69–05.2–06–01(2), permit applications (identification of interests); NDAC 69–05.2–06–02(6), permit applications (compliance information); NDAC 69–05.1–10–03(5), criteria for permit approval; NDAC 69–05.2–11–01(1)(d), permit revisions; NDAC 69–05.2–11–03(5)(c), permit renewals; NDAC 69–05.2–11–06(1)(c), transfer, sale, or assignment of permit rights; NDAC 69–05.2–12–09(2), performance bond (period of liability); NDAC 69–05.2–15–02(2a), performance standards (suitable plant growth material); NDAC 69–05.2–16–09(7) and (20), performance standards (sediment ponds); NDAC 69–05.2–21–01(2) performance standards (backfilling and grading, timing requirements); and NDAC 69–05.2–26–03(6), inspection and enforcement (cessation orders).

§ 934.16 [Amended]

3. Section 934.16 is amended by removing and reserving paragraph (u).

[FR Doc. 95–9176 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA37–1–6370a; FRL–5186–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Withdrawal of Final Rule Pertaining to the Promulgation of SO_2: Conewango Township, Warren County Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On February 15, 1995, EPA published a final rule approving a revision to the State implementation plan for the Commonwealth of Pennsylvania. The revision provides for, and demonstrates, the attainment of the national ambient air quality standards (NAAQS) for sulfur oxides in the Conewango Township, Warren County nonattainment area. This action was published without prior proposal because EPA anticipated no adverse comment. Because EPA received adverse comments on this action, EPA is withdrawing the February 15, 1995 final rulemaking action pertaining to the State implementation plan for Pennsylvania.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Air Programs (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: 215 597–9781.

SUPPLEMENTARY INFORMATION: On February 15, 1995, EPA published a final rule to approve a revision to the Commonwealth of Pennsylvania State implementation plan (SIP) (60 FR 8566). The revision provides for, and demonstrates, the attainment of the national ambient air quality standards (NAAQS) for sulfur oxides in the Conewango Township, Warren County nonattainment area. The implementation plan was submitted by Pennsylvania to satisfy the requirements of the Clean Air Act (CAA) pertaining to nonattainment areas. EPA approved this direct final rulemaking without prior proposal because the Agency viewed it as noncontroversial and anticipated no adverse comments. The final rule was published in the **Federal Register** with a provision for a 30-day comment period. At the same time, EPA published a proposed rule which announced that this final rule would convert to a proposed rule in the event that adverse comments were submitted to EPA within 30 days of publication of the rule in the **Federal Register** (60 FR 8612). By publishing a notice announcing withdrawal of the final rulemaking action, this action would be withdrawn. EPA received adverse comment within the prescribed comment period.

Therefore, EPA is withdrawing the February 15, 1995 final rulemaking action pertaining to the Pennsylvania SIP for sulfur oxides. All public comments received will be addressed in a subsequent rulemaking action based on the proposed rule.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: March 30, 1995.

Stanley Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 95–9045 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[OAQPS CA36–5–6650; FRL–5184–3]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on June 2, 1994. The revisions concern rules from the South Coast Air Quality Management District (SCAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from Pleasure Craft Coating Operations and set general recordkeeping requirements for VOC emissions. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on May 15, 1995.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765–4182.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 L Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Daniel A. Meer, Chief, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION

Background

On June 2, 1994 in 59 FR 28503 EPA proposed to approve the following rules into the California SIP: SCAQMD's Rule 1106.1, Pleasure Craft Coating Operations, and Rule 109, Recordkeeping for Volatile Organic Compound Emissions. Rule 1106.1 was adopted by SCAQMD on May 1, 1992, and Rule 109 was adopted on March 6, 1992. Both rules were submitted by the California Air Resources Board (CARB) to EPA on September 14, 1992. These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPR(s) cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPR(s) cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in [59 FR 28503 and in technical support documents (TSDs) available at EPA's Region IX office (TSDs dated February 16, 1993, Pleasure Craft Coating Operations and February 24, 1993, Recordkeeping for Volatile Organic Compound Emissions).

Response to Public Comments

A 30-day public comment period was provided in 59 FR 28503. EPA received no comments.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 28, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(189)(i)(A)(*6*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(189) * * *

(i) * * *

(A) * * *

(*6*) Rule 109 adopted on March 6, 1992, and Rule 1106.1 adopted on May 1, 1992.

* * * * *

[FR Doc. 95–9042 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 76

[AD–FRL–5186–5]

RIN 2060–AD45

Acid Rain Program: Nitrogen Oxides Emission Reduction Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; response to court remand.

SUMMARY: The EPA is today issuing this final rule in response to a remand by a U.S. Court of Appeals. The rule reinstates emission limitations for nitrogen oxides (NO_X) from coal-fired utility units under section 407 of the Clean Air Act ("the Act"). The emission limitations for NO_X, along with emission limitations for sulfur dioxide from utility plants, will reduce acidic deposition and its serious adverse effects on natural resources, ecosystems, materials, visibility, and public health.

On March 22, 1994, EPA promulgated a rule establishing NO_X emission limitations. The rule established emission limits generally achievable using "low NO_X burner technology" and established a procedure for obtaining an alternative emission limitation (AEL) if a unit could not achieve the prescribed limit using such technology. On November 29, 1994, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the definition of "low NO_X burner technology" in the March 22, 1994 rule exceeded EPA's statutory authority. The Court vacated the rule and remanded it to the Agency for further proceedings. On March 28, 1995, EPA and environmental and utility-industry parties signed an agreement addressing the March 22, 1994 regulations, including issues raised by the Court's remand.

Based on the Court's decision and a review of the record, the Agency is now revising the March 22, 1994 regulations. The low-NO_X-burner-technology definition is revised to comply with the Court's decision. Other provisions concerning the compliance date for Phase I NO_X emission limitations, AELs, and plans for averaging NO_X emissions of two or more units are also revised. In general, the revisions reduce compliance requirements, extend the compliance date, and increase compliance flexibility. The rule revisions are issued as a direct final rule because they are consistent with the Court's decision and no adverse comment is expected. The revisions are also consistent with the March 28, 1995 agreement.

VOL
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71
AP
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1995
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EFFECTIVE DATE: This direct final rule will be effective on May 23, 1995 unless significant, adverse comments are received by May 15, 1995. If significant, adverse comments are timely received on any portion of the direct final rule, that portion of the direct final rule will be withdrawn through a notice in the **Federal Register**.

The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 23, 1995.

ADDRESSES: Docket No. A–92–15, containing information considered during development of the promulgated standards and requirements, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying. Additional data and information pertaining to the rule may be found in Docket No. A–90–39.

FOR FURTHER INFORMATION CONTACT: Peter Tsirigotis, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (for technical matters) at (202) 233–9620; or Dwight C. Alpern (same address) (for legal matters) at (202) 233–9151.

SUPPLEMENTARY INFORMATION: The information in this preamble is organized as follows:

I. Background
  A. Purpose of the Acid Rain NO_X Program
  B. Statutory Framework
  C. EPA's Rulemaking
II. The Court's Decision
III. EPA's Response to the Court's Decision
  A. Changes to the March 22, 1994 Rule
    1. Definitions
    2. Date for Compliance with NO_X Emission Limitations
    3. Alternative Emission Limitations
    4. NO_X Averaging Plans
    5. Phase I NO_X Compliance Extensions
    6. Miscellaneous
  B. Reissuance of the Emission Limits
  C. Permit Status
IV. Administrative Requirements
  A. Executive Order 12866
  B. Unfunded Mandates Act
  C. Paperwork Reduction Act
  D. Regulatory Flexibility Act
  E. Miscellaneous

I. Background

A. Purpose of the Acid Rain NO_X Program

The purpose of the Acid Rain NO_X emission reduction program is to reduce the adverse effects of acidic deposition on natural resources, ecosystems, visibility, materials, and public health by substantially reducing annual emissions of NO_X from coal-fired electric utilities. 42 U.S.C. 7651(a)(1). NO_X, along with sulfur dioxide, is a principal precursor of acidic deposition.

Although sulfate deposition is considered to be the major contributor to long-term aquatic acidification, nitric acidic deposition plays a dominant role in the "acid pulses" associated with the fish kills observed during the springtime meltdown of the snowpack in sensitive watersheds. Furthermore, the atmospheric deposition of NO_X is a substantial source of nutrients that damage estuaries, such as the Chesapeake Bay, by causing algae blooms and anoxic conditions. Nitrogen dioxide and particulate nitrate also contribute to pollutant haze. Moreover, acidic deposition and ozone (formed by the photochemical reaction of NO_X and volatile organic compounds) contribute to the premature weathering and corrosion of building materials such as architectural paints and stones.

Electric utilities are a major contributor to NO_X emissions nationwide; in 1980, they accounted for 30 percent of total NO_X emissions and, by 1990, their contribution rose to 38 percent of total NO_X emissions. Approximately 80 percent of electric utility NO_X emissions come from coal-fired plants of the type addressed by section 407 of the Act.

B. Statutory Framework

Section 407(b)(1) of the Act requires the Administrator to establish NO_X emission limitations for two types of coal-fired utility boilers ("Group 1" boilers): (1) Tangentially fired boilers; and (2) dry bottom wall-fired boilers other than units applying cell burner technology ("wall-fired boilers"). The Act specifies the maximum emission limits (often referred to as "presumptive" emission limits or limits) for these Group 1 boilers: 0.45 lb/mmBtu for tangentially fired boilers; and 0.50 lb/mmBtu for wall-fired boilers. If the Administrator finds that the presumptive limits cannot be achieved using "low NO_X burner technology," the Administrator may set less stringent limitations. 42 U.S.C. 7651f(b)(1). A Phase I coal-fired utility unit with a Group 1 boiler must comply with the promulgated annual NO_X emission limitation on the later of January 1, 1995 or the date the unit is required to meet SO_2 emission reduction requirements under section 404(d) of the Act (*id.*).

Section 407(d) provides a mechanism by which a utility unit may receive an AEL less stringent than the applicable limitation established under section 407(b)(1) for Group 1 boilers. In order to receive an AEL, the owner or operator of the unit must demonstrate that it cannot meet the applicable limitation using properly installed "low NO_X burner technology" designed to meet the limitation. 42 U.S.C. 7651f(d). If the owner or operator makes the necessary showings, then an AEL will be established that does not require "any additional control technology beyond low NO_X burners." 42 U.S.C. 7651f(d).

Section 407(d) also provides that EPA may grant the owner or operator of a Phase I coal-fired utility unit subject to section 407(b)(1) a 15-month extension from the January 1, 1995 compliance deadline. Such an extension may be granted if the technology necessary to meet the promulgated NO_X emission limitation is not in adequate supply to enable its installation and operation at the unit, consistent with system reliability, by January 1, 1995. Section 407(d) specifies the process the Administrator must use in authorizing the Phase I extension.

A more detailed discussion of the statutory framework is set forth at 59 FR 13538–13539 (March 22, 1994).

C. EPA's Rulemaking

As discussed above, the term "low NO_X burner technology" plays an important role in section 407 of the Act. There has been substantial controversy as to whether Congress intended "low NO_X burner technology" to be equivalent to "low NO_X burners" and whether "low NO_X burner technology" includes all forms of combustion air staging or only staging at the burner. On November 25, 1992, EPA published a proposed rule establishing NO_X emission limitations for coal-fired utility units under section 407(b)(1) of the Act and other requirements and procedures for all coal-fired units subject to Phase I and Phase II of the Acid Rain Program (57 FR 55632–55683). In recognition of the controversy surrounding the definition of low NO_X burner technology, the proposed rule contained two regulatory options and an alternative approach for defining that term. Option 1 defined low NO_X burner technology as low NO_X burners incorporating overfire air for wall-fired boilers and as low NO_X burners incorporating separated overfire air (e.g., LNCFS 2 and LNCFS 3) for tangentially fired boilers (57 FR 55642). Option 2 defined low NO_X burner technology as low NO_X burners incorporating separated overfire air for tangentially fired boilers, but excluded overfire air from the definition for wall-fired boilers (*id.*). In addition to the two options set forth, EPA solicited comment on a third approach. This approach was endorsed by the Utility Air Regulatory Group (UARG) (a group made up of utilities that subsequently challenged the March 22, 1994 final rule) and the U.S. Department of Energy (DOE). Under the third approach, low NO_X burner technology was defined as excluding both overfire air for wall-fired boilers and separated overfire air for tangentially fired boilers (57 FR 55644–55645).

On March 22, 1994, EPA published the final NO_X rule (59 FR 13538–13580). In that rule, EPA adopted the Option 1 definition of low NO_X burner technology after considering the chemical process of low NO_X combustion, the history and application of low NO_X combustion technology, Congress' intent in section 407 of the Act, and the actual application of NO_X control technology.

II. The Court's Decision

Following issuance of the March 22, 1994 rule, numerous utilities and the National Coal Association petitioned for judicial review of the rule. The two main issues raised on appeal were: whether EPA's definition of low NO_X burner technology was lawful; and whether EPA was obligated to extend the January 1, 1995 compliance date prescribed in section 407 of the Act because EPA did not issue the rules by the May 15, 1992 issuance date required by section 407.

On November 29, 1994, the U.S. Court of Appeals for the District of Columbia Circuit issued a decision on the petitioners' first issue. The Court held that "[t]he statutory text, structure, and history of section 407 * * * support the 'unmistakable conclusion' that Congress unambiguously intended the term 'low NO_X burner technology' to encompass only low NO_X burners, not overfire air" (*Alabama Power Co.* v. *U.S. EPA*, No. 94–1170 (D.C. Cir, 1994) slip op. at 12). The Court explained that under the AEL provision, "Congress did not intend to require utilities to consider the 'full range of low NO_X combustion technologies' because it *expressly* provided that utilities not be required to install or use any equipment beyond low NO_X burners in their efforts to comply with NO_X emission limits" (*id.* at 11). After concluding that EPA had exceeded its statutory authority, the Court vacated the March 22, 1994 rule and determined that the petitioners' second issue on the compliance deadline was moot.

III. EPA's Response to the Court's Decision

A. Changes to the March 22, 1994 Rule

1. Definitions

Low NO_X burners and low NO_X burner technology. Because the Court determined that, in defining low NO_X burner technology in the March 22, 1994 rule, the Agency exceeded its authority under section 407 of the Act, the revised rule changes the definition of the terms, "low NO_X burners and low NO_X burner technology," in § 76.2. The Court determined that low NO_X burner technology encompasses "only low NO_X burners" (*Alabama Power*, slip op. at 12). The Agency is removing from the March 22, 1994 definition the language that is inconsistent with the Court's determination. In particular, the revised rule eliminates the language stating that low NO_X burner technology includes "any combination of coal and air nozzles ports * * * not restricted to location within the boiler, including * * * NO_X ports, overfire air ports, or staged combustion ports" (59 FR 13565). Other related language (e.g., "at points downstream of the initial flame" (*id.*)) in the March 22, 1994 definition is also removed.

The removed language is replaced by new language explaining that the new definition includes the staging of combustion air using air nozzles or registers located inside any boiler waterwall [1] hole that includes a burner. Additional new language explains that the definition excludes the staging of combustion air using air nozzles or ports located outside any boiler waterwall hole that includes a burner. The new language implements, for both wall- and tangentially-fired boilers, the Court's holding that low NO_X burner technology includes only low NO_X burners.

For wall-fired boilers, two types of NO_X combustion controls have been used: (1) Advanced burner retrofits for reducing NO_X formation ("burner retrofits"); [2] and (2) combustion air staging (i.e., "overfire air" for wall-fired boilers) (57 FR 55640). Burner retrofits must be custom-designed for each boiler and the ease of retrofitting varies from boiler to boiler:

In some cases (of burner retrofits), burner openings must be enlarged via remolding the refractory material at the burner exit or by enlarging the hole (*not* cutting holes in the boiler tubes). If enlargement of the hole requires that tubes be cut and bent slightly to accommodate the burner, however, this procedure does not affect the boiler water circulation since the tubes have been previously bent. The circulation design takes bends into account during initial boiler design. By contrast, cutting holes as required for the addition of (overfire air) affects the boiler circulation. (Docket Item VIII–A–2, Reply Brief of Petitioners, August 29, 1994, Exhibit 1.)

Unlike burner retrofits, overfire air for wall-fired boilers involves diverting some combustion air from waterwall openings that include a burner and injecting the air above the top burner level. This generally requires the cutting of entirely new holes in the waterwall above the highest burners (*id.*; 57 FR 55640).

The new low-NO_X-burner-technology definition, as applied to wall-fired boilers, encompasses all burner retrofits that are essentially within an existing waterwall hole. Such retrofits may involve minor modifications (e.g., of pressure parts or refractory material) to the existing waterwall hole as necessary to accommodate the retrofit essentially within the hole. The new definition excludes all overfire air as applied to wall-fired boilers. This definition meets the Court's requirement that only burners be considered; nothing in the Court's decision excludes retrofit burners requiring minor waterwall modifications. *See, e.g.*, slip op. at 5 footnote 3 (discussing low NO_X burners).

For tangentially fired boilers, all commercially available systems for reducing NO_X formation involve a staged combination of coal and air (57 FR 55641). Three types of control systems for tangentially fired boilers were discussed in detail in the preamble to proposed part 76: (1) The replacement of the original coal and air nozzle array in each corner of the boiler with a new low NO_X configuration of coal and air nozzles and the installation of air nozzles at the upper end of each waterwall hole that contains the new coal and air nozzle array ("LNCFS 1"); [3]

[1] Waterwalls are panels of water tubes running along the length of a boiler. These tubes carry water or steam. Water in these tubes is converted into steam through the heat transfer between combustion gas and this water.

[2] Typical designs of burner retrofits include upgraded air registers that allow for better control of combustion air and a redesigned burner tip. Burner retrofits achieve controlled fuel and air mixing in the flame. This arrangement results in rapid devolatilization and combustion of nitrogen-containing volatile matter under conditions of limited availability of oxygen, with the result that the formation of fuel NO_X is suppressed. The arrangement also results in combustion of air and coal char with a cooler flame than the flame of conventional burners, which suppresses thermal NO_X formation (59 FR 13541).

[3] Several other low NO_X burner designs also use combustion air staging in the waterwall hole where

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VOL 60 ISS 71 AP 13 1995 UMI

(2) the installation of air nozzles in a new air nozzle assembly above the waterwall hole that contains the original coal and air nozzle array in each corner ("LNCFS 2"); and (3) the replacement of the original coal and air nozzle array with a new low NO_X configuration in each corner and the installation of both air nozzles at the upper end of each waterwall hole containing the new array and a new air nozzle assembly above each waterwall hole ("LNCFS 3") (*id.*).

As is the case with wall-fired retrofit burners, LNCFS 1 is custom-designed for each boiler and may require modifications to the existing waterwall hole (59 FR 13546–13547). Retrofit burners and LNCFS 1 respectively involve the injection of air through registers or nozzles located in a waterwall hole that includes the burner: In the case of wall-fired boilers, the air registers are in the burner retrofit itself while in the case of tangentially fired boilers, the air nozzles are in the hole with the coal and air nozzle array.

In contrast with LNCFS 1, LNCFS 2 and LNCFS 3 involve injecting combustion air above the coal and air nozzle array in each corner through a new air nozzle assembly requiring an entirely new waterwall hole above the array (57 FR 55641). The new low-NO_X-burner-technology definition, as applied to tangentially fired boilers, includes the applications of LNCFS 1 (and other low NO_X burner designs)[4] that are essentially within the existing waterwall hole. The included applications may involve minor modifications (e.g., of pressure parts or refractory material) to the existing waterwall hole as necessary to accommodate the NO_X emission controls essentially within the existing hole. The new definition excludes all applications of separated overfire air, e.g., LNCFS 2 and LNCFS 3. This is consistent with the Court's holding in that, as discussed above, LNCFS 1 for tangentially fired boilers is analogous to retrofit burners for wall-fired boilers and thus falls within the Court's prescription that "low NO_X burner technology" be limited to low NO_X burners only.

The Agency notes that its new definition is in essence the same as the definition set forth in the preamble of the November 25, 1992 proposed rule as an alternative to Options 1 and 2 (57 FR 55644–55645). The alternative approach, like the new definition adopted today, excluded overfire air for wall-fired boilers and excluded LNCFS 2 and LNCFS 3 for tangentially fired boilers. The utilities described the alternative approach as involving "the direct replacement of the original equipment manufacturer's coal burners (with low NO_X burners) without major new waterwall penetrations or parts" (Docket Item IV–D–111 at 74). The utilities also noted that their definition under the alternative approach—like the definition in the revised rule—includes "burners[-]only technologies that have recently begun to be offered commercially" for tangentially fired boilers, i.e., the low NO_X burner designs described in footnote 3 above (*id.* at 73). In comments on the November 25, 1992 proposal, the utilities and DOE supported the alternative approach as being consistent with section 407 of the Act (Docket Items IV–D–2 at 1–2 and IV–D–111 at 73–84).

Other defined terms. In light of the new low-NO_X-burner-technology definition adopted today, two other definitions in § 76.2 of the March 22, 1994 rule are now superfluous and are eliminated in the revised rule.[5] In particular, the new low-NO_X-burner-technology definition itself describes what forms of air staging are included or not included in the definition, and, as discussed below, references in other sections of part 76 to "combustion air staging" have been removed. Consequently, there is no need for the definition of "combustion air staging". See 59 FR 13564. Further, the definition of "low NO_X coal and air nozzles" is unnecessary because that term is no longer used in part 76. See 59 FR 13565.

2. Date for Compliance with NO_X Emission Limitations

The revised rule changes the date in § 76.5(a) on which a Phase I unit with a Group 1 boiler begins to be subject to the NO_X emission limitations. Under the March 22, 1994 rule, such a Phase I unit must begin compliance with NO_X emission limitations on the later of January 1, 1995 or the date the unit becomes subject to SO_2 emission reduction requirements under section 404(d) of the Act. Under the revised rule, the January 1, 1995 date is changed to January 1, 1996. Analogous changes in the compliance date are made in §§ 76.1(d) and 76.5(d).[6]

The change in the compliance date is necessary because of the delay in the repromulgation of the NO_X emission limitations. The Court vacated the March 22, 1994 rule on November 29, 1994, only 32 days prior to the compliance deadline. The Court added that the reissued NO_X emission limitations "will undoubtedly take effect after the statutory deadline [for compliance] of January 1, 1995." *Alabama Power*, slip op. at 13. Moreover, the Court noted "the agency's representation at oral argument that it would be inclined to exercise its enforcement discretion in favor of the utilities in order to account for delay in the rulemaking process" (*id.*).

As correctly predicted by the Court, today's revised rule reinstating NO_X emission limitations takes effect after January 1, 1995, despite the Agency's efforts to expedite the rulemaking process. Maintaining the January 1, 1995 deadline for compliance with the NO_X emission limitations would mean that the limitations under the revised rule would have to be applied prior to their effective date.

Not only would this approach raise questions of retroactivity, but also the Agency is concerned about the lack of any lead time between promulgation of NO_X emission limitations and the beginning date for compliance. Under these circumstances, the Agency must determine what Congress would have intended had it addressed the problem of issuance of the NO_X emission limitations after January 1, 1995. Section 407 required the Agency to issue final NO_X regulations within 18 months of enactment of title IV (i.e., by May 15, 1992) and required compliance with such regulations to begin on January 1, 1995. Although these are independent requirements and, the Agency maintains, no specific lead time between rule promulgation and compliance was mandated, it is reasonable to conclude that Congress intended that there be some lead time. Retaining a January 1, 1995 compliance deadline would result in no lead time at all.

Further, the Agency recognizes that the promulgation of the March 22, 1994 low-NO_X-burner-technology definition and the Court's decision vacating the March 22, 1994 rule may have engendered some uncertainty and confusion on the part of utilities concerning their regulatory obligations. This further supports a change in the January 1, 1995 compliance deadline. However, the Agency notes that Phase I units generally proceeded in good faith to take the necessary steps to comply with the March 22, 1994 rule. These steps included obtaining a permit to operate and, where necessary, installing NO_X control equipment, including low NO_X burners. Of the 175 Phase I units with Group 1 boilers on Table A of section 404, all submitted NO_X compliance plans by May 6, 1994 and only 31 requested a compliance date extension.[7] Since complying with the revised rule will, in general, require the same or less effort than the industry has already undertaken, the extension until January 1, 1996 is judged to be reasonable and appropriate.

The establishment of January 1, 1996 as the compliance deadline also reflects the fact that title IV of the Act created an annual program with regard to both SO_2 and NO_X emissions reductions. Units must comply with SO_2 emission limitations by emitting no more SO_2 in a year than is authorized by the number of allowances "held for that unit for that year." 42 U.S.C. 7651b(g). Similarly, emission limitations for NO_X are annual: The generic limits established under section 407(b) are "annual allowable emission limitations"; AELs under section 407(d) are emission rates that can be met "on an annual basis"; and emissions averaging plans under section 407(e) limit NO_X emissions using both "alternative contemporaneous annual emission limitations" and a "Btu-weighted average annual emission rate." Adopting January 1, 1996 as the compliance deadline preserves the annual nature of the Acid Rain Program.

The revised rule also changes language in the March 22, 1994 rule concerning the date for compliance with any revised emission limitations for Group 1 boilers that may be adopted under section 407(b)(2) of the Act. The March 22, 1994 rule states that Group 1, Phase II units must comply with any revised Group 1 emission limitations starting on January 1, 2000. Because EPA has not determined whether to revise the Group 1 emission limitations under section 407(b)(2), it is unnecessary to state, in the rule at this time, the compliance date for such revised limitations. If and when the limitations are revised, the rule will be amended to add both the limitations and the compliance date. Sections 76.5(g) and 76.10(f)(1)(iii) are revised to remove that compliance date.

3. Alternative Emission Limitations

In order to ensure that § 76.10 is consistent with the new definition of the term "low NO_X burner technology," all phrases in the section that elaborated on that term are eliminated. In particular, in §§ 76.10(a)(1) and (2) of the March 22, 1994 rule, the term "low NO_X burner technology" is followed by phrases such as: "including separated overfire air"; "incorporating both close-coupled and separated overfire air"; or "incorporating combustion air staging above the top burner level" (59 FR 13567–13568). The revised rule excludes all of these phrases and is reworded as necessary to reflect their removal. As a result of these changes, units with Group 1 boilers may apply for AELs if they are unable to meet applicable emission limitations using low NO_X burner technology under the new definition in § 72.2.[8]

The revised rule also adds that units with tangentially fired boilers may seek AELs where they cannot meet the applicable emission limitations using separated overfire air. In order to comply with the March 22, 1994 low-NO_X-burner-technology definition, which was then in effect and included close-coupled and separated overfire air, some units installed only separated overfire air. The record information to date indicates that separated overfire air alone is at least as effective in reducing NO_X emissions as low NO_X burner technology as applied to tangentially fired boilers. See Docket Item IV–A–10, Background Document for RIA of NO_X Regulations, appendix A at 21. The Agency therefore maintains that such units should not be disqualified from seeking an AEL because of their efforts to comply with the March 22, 1994 rule. Sections 76.10(a)(1) and (2)(i)(A) are revised to allow such units to seek AELs.

For similar reasons, the definition of "alternative technology" set forth in § 76.2 is revised. Under the revised rule, "alternative technology" is NO_X emission control technology other than low NO_X burner technology but does not include overfire air for wall-fired boilers and separated overfire air for tangentially fired boilers. Under §§ 76.10(a) and (e)(11), a unit using alternative technology, in addition to or in lieu of low NO_X burner technology, to reduce NO_X emissions must show an annual average emissions reduction of greater than 65 percent in order to qualify for an AEL. The revision of the alternative-technology definition excludes units with tangentially fired boilers applying separated overfire air from the 65-percent reduction requirement.[9] This avoids putting at a disadvantage, for purposes of obtaining AELs, units that may have installed separated overfire air because of the March 22, 1994 low-NO_X-burner-technology definition.

Moreover, certain dates in § 76.10(c)(1), concerning the submission of petitions for an AEL demonstration period, and in § 76.10(f)(1), concerning approved AEL demonstration periods, are changed. See 59 FR 13568 and 13570. These revisions reflect the change in the compliance deadline from January 1, 1995 to January 1, 1996.

Finally, certain provisions, concerning information included in petitions for AEL demonstration periods and for final AELs, in §§ 76.14 and 76.15 of the March 22, 1994 rule refer to combustion air or air flow through "overfire air ports" or "combustion air staging ports." Since low NO_X burner technology now excludes air nozzles or ports located outside a waterwall hole that includes a burner, these references are no longer appropriate. The provisions have been modified to apply

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the coal and air nozzle array is located. Some of these are : Foster Wheeler's T-fired/Split Flame (TF/SF) burner; and International Combustion Ltd.'s FAN burner (Docket Item IV–D–111, Comments of the Utility Air Regulatory Group on EPA's Proposed Rules on Nitrogen Oxides Reduction Program, February 8, 1993, at 28, 30 and 115). Both of these designs incorporate air nozzles at the upper end of the waterwall hole that contains the new coal and air nozzle array in each corner of the boiler. Neither, however, incorporates any staging that utilizes injection of air through separate holes (e.g., separated overfire air ports) in the waterwall and that therefore is external to the waterwall hole containing the burner (*id.* at 27).

[4] See footnote 3 above.

[5] As discussed below, the definition of "alternative technology" is also revised.

[6] The language in § 76.5(d) is also revised to make it consistent with § 76.5(a) and clarify that a unit under § 76.5(d) may seek to use a compliance option in §§ 76.10, 76.11, or 76.12.

[7] Twenty-five units applied for a 2-year Phase I extension for SO_2 under § 72.42 (which automatically granted them a 2-year NO_X extension), and 6 units applied for a 15 month Phase I NO_X compliance extension under § 76.12.

[8] Since low NO_X burner technology does not include air nozzles or ports located outside of a waterwall hole that includes a burner, provisions in § 76.10 concerning the technical feasibility of installing such air nozzles or ports are irrelevant. Consequently, the March 22, 1994 provisions in §§ 76.10(a)(3) and (d)(4) are entirely eliminated. See 59 FR 13568–13569. The revised rule also reflects the removal of any reference to these eliminated provisions and the renumbering that results from their elimination. See 59 FR 13568–69 and 13574. In addition, the requirement in § 76.10(g)(1)(ii)(C) that the designated representative revise the AEL demonstration period plan is changed to apply only when the owner or operator identifies *operating* modifications (whether for the boiler or the NO_X emission control system) that improve NO_X reductions. Consistent with § 76.10(a)(2)(iii)(B), this does not require revision of the plan to include operating modifications that would prevent the boiler or NO_X control system from being operated in accordance with the bid and design specifications on which the design of the NO_X control system is based. Plan revision is no longer required for all possible equipment modifications or upgrades since they could be outside the new low-NO_X-burner technology definition. See 59 FR 13570–13571.

[9] In order to avoid repeating in other sections the NO_X control technology requirements set forth in § 76.10(a)(2) for qualifying for an AEL (e.g., that a Group 1 boiler install low NO_X burner technology, alternative technology, or, for a tangentially fired boiler, separated overfire air), the references in §§ 76.10(d)(8) and (e)(2)–(4) and 76.15(c) to specific technologies are replaced by a general reference to the "installed NO_X emission control system" or "NO_X emission control system." Such a system must, of course, meet the requirements in § 76.10(a)(2). In addition, § 76.10(e)(2) is also revised to make it consistent with § 76.10(d)(8).

VOL 60 ISS 71 AP 13 1995 UMI

only to tangentially fired boilers (which may use close-coupled overfire air) and to refer to the "distribution of combustion air" within the "NO_X emission control system." See 59 FR 13574 (§ 76.14(a)(2)(i)) and 13575 (§ 76.15(b)(3) and (d)(2)).[10]

As a result of these changes, the revised rule complies with the Court's decision. The rule provides that, in applying for an AEL, the designated representative for an affected Group 1 unit must demonstrate that the unit cannot meet the presumptive emission limit using properly installed and operated low NO_X burner technology as redefined (or alternative technology or, for tangentially fired boilers, separated overfire air) that is designed to meet the presumptive limit. The designated representative is not required to attempt to meet the presumptive limit using low NO_X burners plus overfire air for wall-fired boilers or separated overfire air for tangentially fired boilers. Rather, in keeping with the Court's decision, the designated representative may base the petition for an AEL on the use of only low NO_X burners. Nothing in the Court's decision mandates any further changes in the AEL provisions.

4. NO_X Averaging Plans

Section 76.11 is revised to change the provisions concerning compliance on an individual basis and on a group basis with the emission limitations in NO_X averaging plans and to clarify language in the formulas implementing the requirements of such plans.

Under § 76.11(d) of the March 22, 1994 rule, units governed by a NO_X averaging plan must comply with both individual-unit limits "and", where applicable, a group emission requirement. 59 FR 13572 (§ 76.11(d)(1)(i)(B)). An averaging plan must state individual-unit limits for all units in the plan, i.e., an alternative contemporaneous annual emission limitation and, in most cases, an annual heat input limit. The formula for setting the individual-unit limits is Equation 1 in § 76.11(a)(6). Each unit's actual annual average emission rate must not exceed that unit's alternative contemporaneous annual emission limitation. Further, if the alternative contemporaneous annual emission limitation is less stringent than the applicable emission limitation, the unit's actual annual heat input must not exceed the unit's annual heat input limit. If the alternative contemporaneous annual emission limitation is more stringent, the unit's heat input must not be less than the heat input limit.

The March 22, 1994 rule also provides that if one or more of the units under the plan fail to meet the individual-unit limits, there must be a showing that the entire group of units under the plan complies with a group emission requirement. The group emission requirement is met where the actual Btu-weighted annual average emission rate for the units in the plan does not exceed the Btu-weighted annual average emission rate for these units if they had operated in compliance with the applicable emission limitation in §§ 76.5, 76.6, or 76.7. The formula for determining group compliance is Equation 2 in § 76.11(d)(1)(ii)(A).

Section 76.11(d)(2) of the March 22, 1994 rule addresses liability where units under the NO_X averaging plan fail to meet any of the requirements of the plan, including the individual-unit limits and the group emission requirement. Under § 76.11(d)(2)(i), the owners and operators of each unit under the plan are liable for any violations of the plan (or of § 76.11) by any unit under the plan. Such liability expressly includes the excess emissions penalty under 40 CFR part 77 and section 411 of the Act and penalties under section 113 of the Act. The only exception to the liability provision in § 76.11(d)(2)(i) is that if the group showing of compliance under § 76.11(d)(1)(ii) is made, then no unit under the plan is subject to the excess emissions penalty. Regardless of whether the group showing of compliance (which is for purposes of excess emissions) is made, the March 22, 1994 rule does not exempt any unit under the plan from liability under section 113 for violation of the individual-unit limits.

In contrast with the March 22, 1994 rule, the revised rule provides that if one or more units fail to meet the individual-unit limits but there is a showing of group compliance for the year, then all units in the plan will be deemed to be in compliance for the year with the individual-unit limits. With regard to their NO_X emissions for the year, all units therefore will be in compliance with the averaging plan and have no potential liability for violation of the plan or part 76. Further, none of the units will have excess emissions for the year under part 77.

The Agency has received public comment to the effect that this revised approach, which was proposed in the original November 25, 1992 proposed NO_X rule, is more consistent with the purposes of section 407 than the approach adopted in the March 22, 1994 rule. Neither section 407(e) nor the legislative history specifically address this matter. However, section 407(e) states that individual units' alternative contemporaneous annual emission limitations must "ensure that the units' actual annual NO_X emission rate" averaged over the units in question does not exceed the "Btu-weighted annual average emission rate for the same units" if they had met the applicable emission limitations under section 407(b). 15 U.S.C 7651f(e). That goal is satisfied where units fail to meet the individual-unit limits in the NO_X averaging plan but can show group compliance with the plan.

Further, even though the March 22, 1994 rule relieves units in such circumstances from liability for excess emissions, the units are still potentially liable for civil penalties, which may be enforceable through Agency action or citizen suits under sections 113 and 304 of the Act. This potential liability is sufficiently significant that a utility with a NO_X averaging plan may, in effect, be forced to comply unit-by-unit with the individual-unit limits even if the group emission requirement could be met without meeting all the individual-unit limits. The individual-unit limits can restrict the utility's flexibility, for example, in dispatching the units in the plan. In order to minimize the likelihood of violating individual-unit limits, some designated representatives have submitted Phase I NO_X averaging plans that set alternative contemporaneous emission limitations equal to the presumptive limits in § 76.5 and that specify no heat input limits. However, under such plans, the individual-unit limits can still restrict the utility's flexibility to choose which units in the plan will be retrofitted with NO_X emission control systems and what types of NO_X emission control systems will be used. The Agency is concerned that the net result of such lack of flexibility is that designated representatives will be encouraged to seek AELs for more units, rather than attempting to average units with higher NO_X emissions with units with lower NO_X emissions. Not only is the case-by-case process of setting AELs administratively burdensome for utilities and the Agency, but also the Agency is concerned that total NO_X emissions are likely to be higher the greater the number of units with AELs.

The Agency concludes that removing the requirement to meet individual-unit limits when there is group compliance under a NO_X averaging plan is a reasonable interpretation of section 407(e) and better implements that provision. Consequently, § 76.11(d)(1)(ii) is revised to state that when the units in a NO_X averaging plan show compliance with the group emission requirement in § 76.11(d)(1)(ii)(A) for a given year, the units will be deemed to comply for that year with their individual emission limitations and heat input limits. Since units meeting group compliance are thereby in compliance with both the individual-unit and group emission requirements of the plan, there is no need to state separately that group compliance relieves the units of any penalties for excess emissions. Section 76.11(d)(2)(ii) is therefore eliminated.[11]

Sections 76.11(a) (6) and (7) and (d)(1)(ii) (A) and (B) are also revised to clarify the formulas (Equations 1 and 2) that govern the selection of individual-unit limits and the showing of group compliance. The language in these sections explaining what "applicable emission limitation" to use in Equations 1 and 2 is confusing. The revised rule clarifies that the limitation to be used in Equations 1 and 2 is the applicable emission limitation for each respective unit in §§ 76.5, 76.6, or 76.7. Consistent with that approach, a unit with an AEL must use the applicable emission limitation in §§ 76.5, 76.6, or 76.7 rather than the AEL. The only exception is that an early election unit, which elects to meet NO_X emission limitations in Phase I but is allowed to participate in a NO_X averaging plan only in Phase II, must use the most stringent applicable limitation in §§ 76.5 or 76.7 (i.e., 0.45 lb/mmBtu or 0.50 lb/mmBtu depending on whether the unit's boiler is wall-fired or tangentially fired) or, if the limitation is revised and made more stringent for Phase II under section 407(b)(2), the revised limitation applicable to the boiler type.

In order to simplify the language in §§ 76.11(a)(7) and (d)(1)(ii)(B) in the March 22, 1994 rule, the references to Phase II units are removed. To capture the concept in the March 22, 1994 provisions that Phase II units cannot participate in averaging plans before January 1, 2000, § 76.11(a)(1) is revised to state that a unit in an averaging plan in Phase I must be a Phase I unit with a Group 1 boiler.

EPA notes that it has received public comments concerning the use of a single NO_X averaging plan for units of two or more operating companies (also referred to as utility systems) that are subsidiaries of a single holding company. In such a case, the operating companies would designate the same designated representative (probably someone at the holding company level) for their units in order to meet the common designated representative requirement for a NO_X averaging plan. Each operating company could still designate its own alternate designated representative. Concern was raised that the designated representative at the holding company level may not be readily accessible and that operating companies may need the flexibility of having two persons at the operating company level with authority to act for the designated representative. The Agency is currently reviewing this matter and, in light of the public comments, will propose, in a future rulemaking, revisions to 40 CFR part 72 that would allow designation of a second alternate designated representative for units under certain limited circumstances. Such circumstances could be where: The unit's utility system is a subsidiary of a holding company with two or more utility-system subsidiaries in two or more states; and, in order to use a NO_X averaging plan involving units of two or more such subsidiaries, all the utility-system subsidiaries of that holding company have the same designated representative. EPA intends to consider this revision, and other revisions to streamline part 72, in a rulemaking to be completed in 1995.

5. Phase I NO_X Compliance Extensions

Section 76.12 is revised in order to reflect the new low-NO_X-burner-technology definition. The March 22, 1994 rule provides for a Phase I NO_X compliance extension where a tangentially fired boiler was designed and guaranteed, but failed, to meet the presumptive emission limit and there is a contract to install close-coupled or separated overfire air on or before January 1, 1996. The March 22, 1994 rule includes similar language, with regard to wall-fired boilers, providing a Phase I NO_X compliance extension where there is a contract to install additional equipment, including overfire air. 59 FR 13572 (§ 76.12(a)(1)(ii) and (iii)). The direct final rule eliminates these provisions and a related provision in § 76.12(b)(3). No extensions were requested under these provisions.

The March 22, 1994 rule also provides for a Phase I NO_X compliance extension for units where low NO_X burner technology designed to meet the presumptive emission limits is not in adequate supply for installation and operation by January 1, 1995, consistent with system reliability. Requests for the extensions were due by October 1, 1994. These provisions are not changed in the revised rule. Extension requests for 6 units under this provision were submitted, and the requests either have already been granted or will be acted on consistent with the revised rule after its effective date.

The Agency is aware that, in very limited circumstances, an additional extension of the compliance date for Phase I NO_X emission limitations may be warranted. These circumstances are as follows: A source has 3 or more units that have extensions under section 404(d) until January 1, 1997 to comply with Phase I NO_X emission limits and, due to claimed operational problems associated with the planned NO_X emission control systems, one unit may need an additional extension to redesign and install low NO_X burner technology. Because of its extension under section 404(d), the unit has not yet installed the NO_X control system that was designed to comply with the low-NO_X-burner technology definition in the March 22, 1994 rule. With the change adopted today in the definition, the unit has flexibility to redesign the NO_X control system to meet the new definition and avoid the claimed operational problems. However, unless an additional compliance extension is granted, there will be insufficient time to install redesigned low NO_X burner technology without causing system reliability problems.

Because the need for an additional extension appears to result from the change in the low-NO_X-burner-technology definition, the Agency maintains that an additional extension may be appropriate in these limited circumstances. In order to provide the designated representative of the unit an opportunity to demonstrate the need for such extension, the revised rule (in § 76.12(e)) requires the submission of a petition for the extension within 15 days of the publication of the revised rule and establishes procedures for acting on the petition. The procedures and the provisions in the revised rule concerning treatment of the unit upon approval of the petition are essentially the same as the procedures and provisions applicable to Phase I NO_X compliance extensions. See 59 FR 13572–13573 (§ 76.12(c) and (d)).

6. Miscellaneous

The revised rule excludes § 76.9(e) of the March 22, 1994 rule, which provides that each ton of excess emissions of

[10] Sections 76.15(a), (b), and (d) are also revised to state, consistent with §§ 76.10(d)(13) and 76.14(a)(2)(v), that the owner or operator "may" use for tests and procedures set forth in § 76.15. Further, the language in § 76.15(b)(6) is clarified, and § 76.15(d)(3) is revised to refer more generally to optimization of the combustion process and to cite burner balancing as an example.

[11] Consistent with these changes, § 76.11(d)(1)(i)(B) is revised to state that units must meet either the individual-unit limits "or" the group emission requirement.

VOL 60 ISS 71 AP 13 1995 UMI

NO_x will be a separate violation. In response to the utilities' challenge of § 76.9(e), EPA moved before the Court for a voluntary remand of the provision. The Court granted the motion and therefore EPA is now deleting the provision.

The revised rule also changes provisions concerning the types of units for which reports of cost data on low NO_x burner technology installations must be prepared and the date by which the reports must be submitted under § 76.14(c). Consistent with the new low-NO_x-burner-technology definition, the cost reports are not required for: wall-fired boilers using only overfire air and not low NO_x burners; and tangentially fired boilers using only separated overfire air and not low NO_x burner technology. Because such boilers are not using low NO_x burner technology, cost data on their NO_x emissions controls are not relevant to setting of Group 2, Phase II NO_x emission limitations under section 407(b)(2) of the Act. An analogous change is made in section 1 of appendix B to part 76.

Also excluded from cost reporting are units that begin installing a new NO_x emission control system after 120 days from publication of the instant direct final rule in the **Federal Register**. In light of the statutory requirement that Group 2, Phase II emission limitations be established by January 1, 1997, the Agency maintains that cost information on those units would be received too late to be useful in the rulemaking on such emission limitations.

Finally, the date for submission of cost reports is revised in § 76.14(c)(3) to take account of the vacating of the March 22, 1994 rule by the Court. As in the March 22, 1994 rule, the cost reports must be submitted within 120 days after completion of the low NO_x burner technology retrofit project. However, in order to provide time for resumption and completion of cost data collection that may have been stopped when the rule was vacated, the revised rule ensures that all projects will have at least 40 days, from the publication of the revised rule in the **Federal Register**, to submit the cost reports. Cost reports on projects completed more than 80 days before publication of the direct final rule must be submitted by the 40th day after such publication.

B. Reissuance of the Emission Limits

Section 407(b)(1) requires the Administrator to adopt by regulation the presumptive emission limits unless she finds that they cannot be achieved using low NO_x burner technology. In the March 22, 1994 rule, the Administrator found that the record evidence showed that the presumptive limits were achievable using low NO_x burners plus overfire air for wall-fired boilers and separated overfire air for tangentially fired boilers (59 FR 13546). In light of the revised low-NO_x-burner-technology definition, the Administrator has reviewed the record concerning the performance of low NO_x burners and concludes that the presumptive limits are still achievable. The revised rule therefore reissues the presumptive limits of 0.50 lb/mmBtu for wall-fired boilers and 0.45 lb/mmBtu for tangentially fired boilers.

The record includes analyses conducted by DOE in which the presumptive limits were examined in light of the low-NO_x-burner-technology definition supported by DOE, i.e., the third approach in the November 25, 1992 proposal. The revised rule adopts in essence the same definition as DOE supported. As discussed below, DOE concluded, and the utilities agreed, that most units could achieve the presumptive limits using low NO_x burners without overfire air for wall-fired boilers and without separated overfire air for tangentially fired boilers. See, *e.g.*, Docket Item IV–D–162, Fourth Supplementary Comments of UARG, February 2, 1994 at 16–23.

After reviewing a number of sources of information on control technology efficiency, DOE estimated control technology performance based primarily on data from ongoing demonstration projects and other recent installations of NO_x control systems. The analysis of data from wall-fired and tangentially fired boilers, fitted with low NO_x burner technology as defined by DOE, indicated that NO_x reductions of 45 to 50 percent would be achieved at wall-fired boilers and of 35 to 37 percent would be achieved at tangentially fired boilers (57 FR 55646–55647). DOE's NO_x control technology performance estimates were consistent with average NO_x reductions projected by the utilities. The utilities projected average NO_x reductions of 47 percent with use of burner retrofits for wall-fired boilers and 35 to 37 percent with the use of LNCFS 1 for tangentially fired boilers (Docket Item IV–D–111 at 59–61).[12] Further, the utilities supported DOE's performance estimates in their brief to the Court in *Alabama Power* (Docket Item VIII–A–1, Brief of Petitioners, July 1, 1994, at 18–19).

DOE's analysis also showed that, assuming 45 percent control efficiency for wall-fired boilers and 35 percent for tangentially fired boilers, less than 10 percent of the Group 1 units would fail to meet the presumptive limits (57 FR 55648). Further, the utilities similarly concluded that "review of the uncontrolled emissions at wall-fired and tangentially fired boilers, and of the capabilities of low NO_x burner technology, show that (the presumptive) limits are aggressive but generally achievable by most Group 1 units with the use of (low NO_x burners) alone" (Docket Item IV–D–111 at 138). The utilities reiterated this conclusion before the Court in *Alabama Power*. The utilities stated that "all of the tangentially fired boiler groupings analyzed by EPA's contractor would comply with the final presumptive emission limitation using low NO_x burners alone for tangentially fired boilers (i.e., LNCFS 1), without the use of separated overfire air" (Docket Item VIII–A–1, Brief of Petitioners at 40).

In the March 22, 1994 preamble, EPA did not adopt DOE's analysis and instead presented its own analysis of control technology performance data available after promulgation of the November 25, 1992 proposal. The EPA found that the majority of wall-fired boilers would be expected to achieve NO_x reductions of 40 to 50 percent using low NO_x burners only and no overfire air (59 FR 13546). The EPA also found that tangentially fired boilers using LNCFS 1 would achieve reduction of 20 to 25 percent. While EPA's finding on wall-fired boilers is consistent with DOE's finding, the two analyses differ concerning tangentially fired boilers. However, upon reconsideration, the Agency finds that the 20 to 25 percent estimate of reductions achievable using LNCFS 1 erroneously excluded the reductions using a form of LNCFS 1 referred to in the March 22, 1994 preamble as "LNCFS 1+." 59 FR 13546–13547. Because "LNCFS 1+" (i.e., Lansing Smith Unit 2)[13] employs the same hardware (i.e., air nozzles in the hole with the burner) as LNCFS 1 applications, there is no basis of distinguishing "LNCFS 1+". The differences between EPA's and DOE's data are eliminated by treating "LNCFS 1+" as included in LNCFS 1 and considering the performance results of "LNCFS 1+" as included in results for LNCFS 1.

Upon reconsideration, EPA concurs with the aforementioned DOE and utilities' analyses. EPA, therefore, retains in the revised rule the presumptive limits for Group 1 boilers.

C. Permit Status

Pursuant to the March 22, 1994 rule, the designated representatives of Phase I units with wall-fired or tangentially-fired boilers submitted NO_x compliance plans. (See 59 FR 13567 (§ 76.9 (a) through (c))). For units lacking Acid Rain permits, the NO_x compliance plans were submitted along with applications for such permits. For units that already had Acid Rain permits covering SO_2 emission limitations, the NO_x compliance plans were submitted as permit revisions. Most of the plans required NO_x compliance commencing on January 1, 1995. Twenty-five units had previously been granted 2-year extensions for NO_x compliance under § 72.42, and designated representatives for 6 more units requested 15-month extensions under § 76.12 of the March 22, 1994 rule.

The Agency followed the applicable permit issuance and revision procedures under part 72 of the Acid Rain permits rule. These procedures required notice of a proposed permit or proposed permit revision and opportunity for public comment prior to issuance of a final permit or final revised permit. Most of the submitted NO_x compliance plans were already approved and included in final permits or final revised permits before the November 29, 1994 *Alabama Power* decision vacating the March 22, 1994 rule. Because of the vacating of the rule, the Agency has deferred action on those plans and extension requests that were not yet approved when the Court issued its decision.

Under the March 22, 1994 rule, NO_x compliance plans had to identify which one of several possible compliance options was proposed for each Phase I unit with a Group 1 boiler. *Id.* (§ 76.9(c)(4)). In the NO_x compliance plans already submitted to the Agency, units sought to comply either with the presumptive limits or through NO_x emissions averaging plans. The units that requested NO_x compliance extensions sought to comply either with the presumptive limits or through NO_x emissions averaging plans after the extensions expire.

If, as anticipated, the revised rule becomes final and thereby reinstates the NO_x emission reduction program, the Agency sees no need for utilities to resubmit and for EPA to reissue, through notice and comment procedures, the NO_x compliance plans that have already been approved and issued in final form in permits or permit revisions. The final permits and permit revisions set forth the applicable NO_x emission limitations and do not state any definition for low NO_x burner technology. The revised rule changes the low-NO_x-burner-technology definition but does not change the presumptive limits or the formulas for setting individual-unit limits or showing group compliance in averaging plans. The revised rule preserves without change the provisions governing the Phase I extensions that were requested and either were approved or that would have been approved under the March 22, 1994 rule. The revised rule also does not change the application requirements in § 76.9 or the permit issuance or permit revision procedures in parts 72 and 76 applicable to NO_x compliance plans.

The only changes that the revised rule makes in the submitted NO_x compliance plans are in the general compliance date and in the effect of group compliance on individual-unit limits in NO_x averaging plans. The general deadline for compliance by a Group 1, Phase I unit with NO_x emission limitations is now the later of January 1, 1996 (rather than 1995) or the date on which a unit is subject to SO_2 emission reduction requirements under section 404(d) of the Act. The revised rule also mandates, for all NO_x averaging plans, that where the units in an averaging plan show they meet the group compliance requirement, the units are deemed to meet their individual-unit limits. All NO_x compliance plans must conform to the revised rule.

As discussed above, the Agency has issued, elsewhere in this **Federal Register**, a notice of proposal requesting comments on the provisions of the revised rule. Any comments concerning the compliance deadline and the group compliance provisions should be made in response to that notice and would not be appropriate in the context of permit issuance. All other aspects of the submitted NO_x compliance plans have already been subject to notice and comment and are unchanged by the revised rule.

The Agency concludes that, once the revised rule becomes final as anticipated, conforming changes in the compliance date and group compliance provisions in otherwise unchanged NO_x compliance plans are properly considered administrative amendments under § 72.83 of the Acid Rain permits rule because there is no basis for requiring notice and comment on the changes. All existing permits that include NO_x compliance plans will be amended under § 72.83 to the extent necessary to make them consistent with the new compliance date and group compliance requirements. The administrative amendments will reinstate the NO_x compliance plans as amended and the approved Phase I NO_x compliance extensions under §§ 72.42 and 76.12 that are referenced in the plans.

With regard to NO_x compliance plans in permits or permit revisions issued in draft form for public comment but not yet issued in final form, the Agency will complete the issuance procedure in accordance with the revised rule once the rule becomes final. Since, except for the compliance date and group compliance provisions, neither the substance of such plans nor the issuance procedures were changed by the revised rule, there is no need to reopen the public comment period on the plans.

Any plans that have not yet been issued in draft form will also be processed by the Agency in accordance with the revised rule and part 72. Similarly, any Phase I NO_x compliance extensions requested under § 76.12 and not acted on before November 29, 1994 will be acted on consistent with the revised rule. It should be noted that, if significant, adverse comment is timely received on relevant portions of the instant direct final rule, the NO_x compliance plans could be subject to further change depending on the outcome of the rulemaking initiated by the notice of proposed rule issued elsewhere in this **Federal Register**.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the

[12] Since the completion of DOE's analysis, other types of low NO_x burner technology have been developed for tangentially fired boilers. See footnote 3 above. Although EPA currently lacks data on the long-term performance of these NO_x controls, the outlook for their performance is promising.

[13] DOE's analysis included Fiddler's Ferry Unit 1 as a unit with LNCFS 1. Since installation of LNCFS 1 in that unit involved major modifications of the existing waterwall holes (i.e., cutting out a waterwall section having a height of 3 feet above each existing waterwall hole and a width equal to the width of the hole), the unit's NO_x control system does not fall within the new low-NO_x-burner technology definition, which includes minor modifications of the existing hole. See Docket Item II–E–11, Record of Telephone Conversations, October 12, 1992. However, eliminating the emission reduction results of that unit does not change the conclusion that LNCFS 1 (e.g., at Lansing Smith Unit 2) can achieve 35 to 37 percent reductions.

VOL 60 ISS 71 AP 13 1995 UMI

environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" because it will have an annual effect on the economy of approximately $276 million starting in 2000. As such, this action was submitted to OMB for review. Any written comments from OMB to EPA and any written EPA response to those comments are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble.

EPA does not believe a revised Regulatory Impact Analysis (RIA) is needed for the direct final rule, which, in large part, reinstates the March 22, 1994 rule and which imposes no new costs beyond what costs were estimated in the RIA to the March 22, 1994 rule. The EPA does not anticipate major increases in prices, costs, or other significant adverse effects on competition, investment, productivity, or innovation or on the ability of U.S. enterprises to compete with foreign enterprises in domestic or foreign markets due to the final rule.

In assessing the impacts of a regulation, it is important to examine: (1) The costs to the regulated community, (2) the costs that are passed on to customers of the regulated community, and (3) the impact of these cost increases on the financial health and competitiveness of both the regulated community and their customers. The costs of this rule to electric utilities are generally very small relative to their annual revenues. (However, the relative amount of the costs will definitely vary in individual cases.) Moreover, EPA expects that most or all utility expenses from meeting NO_X requirements will be passed along to ratepayers. When NO_X requirements are fully implemented in the year 2000, consumer electric utility rates are expected to rise by 0.12 percent on average due to this rulemaking. Consequently, the rule is not likely to have an impact on utility profits or competitiveness.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The budgetary impact statement must include: (i) Identification of the Federal law under which the rule is promulgated; (ii) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal mandate and an analysis of the extent to which such costs to State, local, and tribal governments may be paid with Federal financial assistance; (iii) if feasible, estimates of the future compliance costs and any disproportionate budgetary effects of the mandate; (iv) if feasible, estimates of the effect on the national economy; and (v) a description of the Agency's prior consultation with elected representatives of State, local, and tribal governments and a summary and evaluation of the comments and concerns presented. Section 203 provides that if any small governments may be significantly or uniquely impacted by the rule, the Agency must establish a plan for obtaining input from and informing, educating, and advising any such potentially affected small governments.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative, for State, local, and tribal governments and the private sector, that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or unless the selection of this alternative is inconsistent with law.

Because this direct final rule is estimated to result in the expenditure by State, local, and tribal governments, in aggregate, or the private sector of over $100 million per year starting in 2000, EPA has prepared a supplement to the Regulatory Impact Statement in compliance with the Unfunded Mandates Act. EPA summarizes that supplement as follows.

The direct final rule is promulgated under section 407 of the Clean Air Act. The rule is issued in response to a remand by the U.S. Court of Appeals for the District of Columbia Circuit and, in large part, reinstates the remanded March 22, 1994 rule. Thus, the analysis in the RIA developed in preparation of the March 22, 1994 rule was appropriately considered in response to the requirements of the Unfunded Mandates Act.

Total expenditures resulting from the direct final rule are estimated at: $69 million (of which less than $1 million is by State, local, and tribal governments) per year in 1995–1999; and $276 million (of which $21 million is by State, local, and tribal governments) per year starting in 2000. There are no federal funds available to assist State, local, and tribal governments in meeting these costs. There are important benefits from NO_X emission reductions because atmospheric emissions of NO_X have significant, adverse impacts on human health and welfare and on the environment.

The rule does not have any disproportionate budgetary effects on any particular region of the nation, any State, local, or tribal government, or urban or rural or other type of community. On the contrary, the rule will result in only a minimal increase in average electricity rates. Moreover, the rule will not have a material effect on the national economy.

Prior to issuing the March 22, 1994 rule, EPA provided numerous opportunities, e.g., through the Acid Rain Advisory Committee proceedings, the public comment period, and public hearings, for consultation with interested parties, including State, local, and tribal governments. In general, State and local environmental agencies advocated that EPA adopt more stringent environmental controls while municipally-owned utilities advocated less stringent controls and more compliance flexibility. EPA evaluated the comments and concerns expressed, and the direct final rule reflects, to the extent consistent with section 407 of the Clean Air Act, those comments and concerns. While small governments are not significantly or uniquely affected by the rule, these procedures, as well as additional public conferences and meetings, gave small governments an opportunity to give meaningful and timely input and obtain information, education, and advice on compliance.

The Agency considered several regulatory options in developing the rule. The option selected in the direct final rule is the least costly and least burdensome alternative currently available for achieving the objectives of

section 407. The Agency rejected another alternative that was the most cost-effective alternative because the U.S. Court of Appeals for the D.C. Circuit held that the latter alternative was beyond the Agency's statutory authority.

C. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*, and has assigned OMB control number 2060–0258.

Public reporting burden for this collection of information is estimated at 27,510 hours for all respondents through May 15, 1995. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The Agency notes that this burden estimate was originally developed based on the March 22, 1994 rule. Today's direct final rule includes revisions to cost reporting requirements in the March 22, 1994 rule that result in a small reduction in overall burden. In order to account for this small reduction, the Agency will submit an adjustment to the current Information Collection Report.

Send comments regarding this change in the information collection requirements or any other aspect of this collection of information, including suggestions for reducing the burden, to Chief, Information Policy Branch (PM–223Y), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Paperwork Reduction Project, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA."

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires EPA to consider potential impacts of proposed regulations on small business "entities." If a preliminary analysis indicates that a proposed regulation would have a significant economic impact on 20 percent or more of small entities, then a regulatory flexibility analysis must be prepared.

Current Regulatory Flexibility Act guidelines indicate that an economic impact should be considered significant if it meets one of the following criteria: (1) Compliance increases annual production costs by more than 5 percent, assuming costs are passed onto consumers; (2) compliance costs as a percentage of sales for small entities are at least 10 percent more than compliance costs as a percentage of sales for large entities; (3) capital costs of compliance represent a "significant" portion of capital available to small entities, considering internal cash flow plus external financial capabilities; or (4) regulatory requirements are likely to result in closures of small entities.

Under the Regulatory Flexibility Act, a small business is any "small business concern" as identified by the Small Business Administration under section 3 of the Small Business Act. As of January 1, 1991, the Small Business Administration had established the size threshold for small electric services companies at 4 million megawatt hours per year. Because all of the utilities affected by Phase I of the Acid Rain regulations have generating capacities greater than 4 million megawatt hours, EPA believes that no small businesses are affected by today's revised rule. The EPA's initial estimates are that the burden on small utilities under Phase II is minimal.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant adverse impact on a substantial number of small entities.

E. Miscellaneous

In accordance with section 117 of the Act, publication of this rule was preceded by consultation with appropriate advisory committees, independent experts, and federal departments and agencies.

List of Subjects in 40 CFR Part 76

Acid rain program, Air pollution control, Nitrogen oxide, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: March 31, 1995.

Carol M. Browner,

Administrator.

Title 40, chapter I, of the Code of Federal Regulations is amended as follows:

1. Part 76 is revised to read as follows:

PART 76—ACID RAIN NITROGEN OXIDES EMISSION REDUCTION PROGRAM

Sec.

76.1 Applicability.
76.2 Definitions.
76.3 General Acid Rain Program provisions.
76.4 Incorporation by reference.
76.5 NO_X emission limitations for Group 1 boilers.
76.6 NO_X emission limitations for Group 2 boilers. [Reserved]
76.7 Revised NO_X emission limitations for Group 1, Phase II boilers. [Reserved]
76.8 Early election for Group 1, Phase II boilers.
76.9 Permit application and compliance plans.
76.10 Alternative emission limitations.
76.11 Emissions averaging.
76.12 Phase I NO_X compliance extensions.
76.13 Compliance and excess emissions.
76.14 Monitoring, recordkeeping, and reporting.
76.15 Test methods and procedures.
76.16 [Reserved].

Appendix A to Part 76—Phase I Affected Coal-Fired Utility Units with Group 1 or Cell Burner Boilers

Appendix B to Part 76—Procedures And Methods For Estimating Costs Of Nitrogen Oxides Controls Applied To Group 1, Phase I Boilers

Authority: 42 U.S.C. 7601 and 7651 *et seq.*

§ 76.1 Applicability.

(a) Except as provided in paragraphs (b) through (d) of this section, the provisions apply to each coal-fired utility unit that is subject to an Acid Rain emissions limitation or reduction requirement for SO_2 under Phase I or Phase II pursuant to sections 404, 405, or 409 of the Act.

(b) The emission limitations for NO_X under this part apply to each affected coal-fired utility unit subject to section 404(d) or 409(b) of the Act on the date the unit is required to meet the Acid Rain emissions reduction requirement for SO_2.

(c) The provisions of this part apply to each coal-fired substitution unit or compensating unit, designated and approved as a Phase I unit pursuant to §§ 72.41 or 72.43 of this chapter as follows:

(1) A coal-fired substitution unit that is designated in a substitution plan that is approved and active as of January 1, 1995 shall be treated as a Phase I coal-fired utility unit for purposes of this part. In the event the designation of such unit as a substitution unit is terminated after December 31, 1995, pursuant to § 72.41 of this chapter and the unit is no longer required to meet Phase I SO_2 emissions limitations, the provisions of this part (including those applicable in Phase I) will continue to apply.

(2) A coal-fired substitution unit that is designated in a substitution plan that is not approved or not active as of January 1, 1995, or a coal-fired compensating unit, shall be treated as a Phase II coal-fired utility unit for purposes of this part.

(d) The provisions of this part for Phase I units apply to each coal-fired transfer unit governed by a Phase I extension plan, approved pursuant to

VOL 60 ISS 71 AP 13 1995 UMI

§ 72.42 of this chapter, on January 1, 1997. Notwithstanding the preceding sentence, a coal-fired transfer unit shall be subject to the Acid Rain emissions limitations for nitrogen oxides beginning on January 1, 1996 if, for that year, a transfer unit is allocated fewer Phase I extension reserve allowances than the maximum amount that the designated representative could have requested in accordance with § 72.42(c)(5) of this chapter (as adjusted under § 72.42(d) of this chapter) unless the transfer unit is the last unit allocated Phase I extension reserve allowances under the plan.

§ 76.2 Definitions.

All terms used in this part shall have the meaning set forth in the Act, in § 72.2 of this chapter, and in this section as follows:

Alternative contemporaneous annual emission limitation means the maximum allowable NO_X emission rate (on a lb/mmBtu, annual average basis) assigned to an individual unit in a NO_X emissions averaging plan pursuant to § 76.10.

Alternative technology means a control technology for reducing NO_X emissions that is outside the scope of the definition of low NO_X burner technology. Alternative technology does not include overfire air as applied to wall-fired boilers or separated overfire air as applied to tangentially fired boilers.

Approved clean coal technology demonstration project means a project using funds appropriated under the Department of Energy's "Clean Coal Technology Demonstration Program," up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

Cell burner boiler means a wall-fired boiler that utilizes two or three circular burners combined into a single vertically oriented assembly that results in a compact, intense flame. Any low NO_X retrofit of a cell burner boiler that reuses the existing cell burner, close-coupled wall opening configuration would not change the designation of the unit as a cell burner boiler.

Coal-fired utility unit means a utility unit in which the combustion of coal (or any coal-derived fuel) on a Btu basis exceeds 50.0 percent of its annual heat input, for Phase I units in calendar year 1990 and, for Phase II units in the calendar year 1995. For the purposes of this part, this definition shall apply notwithstanding the definition at § 72.2 of this chapter.

Cyclone boiler means a boiler with one or more water-cooled horizontal cylindrical chambers in which coal combustion takes place. The horizontal cylindrical chamber(s) is (are) attached to the bottom of the furnace. One or more cylindrical chambers are arranged either on one furnace wall or on two opposed furnace walls. Gaseous combustion products exiting from the chamber(s) turn 90 degrees to go up through the boiler while coal ash exits the bottom of the boiler as a molten slag.

Demonstration period means a period of time not less than 15 months, approved under § 76.10, for demonstrating that the affected unit cannot meet the applicable emission limitation under §§ 76.5, 76.6, or 76.7 and establishing the minimum NO_X emission rate that the unit can achieve during long-term load dispatch operation.

Dry bottom means the boiler has a furnace bottom temperature below the ash melting point and the bottom ash is removed as a solid.

Economizer means the lowest temperature heat exchange section of a utility boiler where boiler feed water is heated by the flue gas.

Flue gas means the combustion products arising from the combustion of fossil fuel in a utility boiler.

Group 1 boiler means a tangentially fired boiler or a dry bottom wall-fired boiler (other than a unit applying cell burner technology).

Group 2 boiler means a wet bottom wall-fired boiler, a cyclone boiler, a boiler applying cell burner technology, a vertically fired boiler, an arch-fired boiler, or any other type of utility boiler (such as a fluidized bed or stoker boiler) that is not a Group 1 boiler.

Low NO_X burners and *low NO_X burner technology* means commercially available combustion modification NO_X controls that minimize NO_X formation by introducing coal and its associated combustion air into a boiler such that initial combustion occurs in a manner that promotes rapid coal devolatilization in a fuel-rich (i.e., oxygen deficient) environment and introduces additional air to achieve a final fuel-lean (i.e., oxygen rich) environment to complete the combustion process. This definition shall include the staging of any portion of the combustion air using air nozzles or registers located inside any waterwall hole that includes a burner (commonly referred to as NO_X ports or separated overfire air ports).

Operating period means a period of time of not less than three consecutive months and that occurs not more than one month prior to applying for an alternative emission limitation demonstration period under § 76.10, during which the owner or operator of an affected unit that cannot meet the applicable emission limitation:

(1) Operates the installed NO_X emission controls in accordance with primary vendor specifications and procedures, with the unit operating under normal conditions; and

(2) records and reports quality-assured continuous emission monitoring (CEM) and unit operating data according to the methods and procedures in part 75 of this chapter.

Primary vendor means the vendor of the NO_X emission control system who has primary responsibility for providing the equipment, service, and technical expertise necessary for detailed design, installation, and operation of the controls, including process data, mechanical drawings, operating manuals, or any combination thereof.

Reburning means reducing the coal and combustion air to the main burners and injecting a reburn fuel (such as gas or oil) to create a fuel-rich secondary combustion zone above the main burner zone and final combustion air to create a fuel-lean burnout zone. The formation of NO_X is inhibited in the main burner zone due to the reduced combustion intensity, and NO_X is destroyed in the fuel-rich secondary combustion zone by conversion to molecular nitrogen.

Selective catalytic reduction means a noncombustion control technology that destroys NO_X by injecting a reducing agent (e.g., ammonia) into the flue gas that, in the presence of a catalyst (e.g., vanadium, titanium, or zeolite), converts NO_X into molecular nitrogen and water.

Selective noncatalytic reduction means a noncombustion control technology that destroys NO_X by injecting a reducing agent (e.g., ammonia, urea, or cyanuric acid) into the flue gas, downstream of the combustion zone that converts NO_X to molecular nitrogen, water, and when urea or cyanuric acid are used, to carbon dioxide (CO_2).

Stoker boiler means a boiler that burns solid fuel in a bed, on a stationary or moving grate, that is located at the bottom of the furnace.

Tangentially fired boiler means a boiler that has coal and air nozzles mounted in each corner of the furnace where the vertical furnace walls meet. Both pulverized coal and air are directed from the furnace corners along a line tangential to a circle lying in a horizontal plane of the furnace.

Turbo-fired boiler means a pulverized coal, wall-fired boiler with burners arranged on walls so that the individual flames extend down toward the furnace bottom and then turn back up through the center of the furnace.

Wall-fired boiler means a boiler that has pulverized coal burners arranged on the walls of the furnace. The burners have discrete, individual flames that extend perpendicularly into the furnace area.

Wet bottom means the boiler has a furnace bottom temperature above the ash melting point and the bottom ash is removed as a liquid.

§ 76.3 General Acid Rain Program provisions.

The following provisions of part 72 of this chapter shall apply to this part:

(a) § 72.2 (Definitions);
(b) § 72.3 (Measurements, abbreviations, and acronyms);
(c) § 72.4 (Federal authority);
(d) § 72.5 (State authority);
(e) § 72.6 (Applicability);
(f) § 72.7 (New unit exemption);
(g) § 72.8 (Retired units exemption);
(h) § 72.9 (Standard requirements);
(i) § 72.10 (Availability of information); and
(j) § 72.11 (Computation of time).

In addition, the procedures for appeals of decisions of the Administrator under this part are contained in part 78 of this chapter.

§ 76.4 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in the sections noted. These incorporations by reference (IBR's) were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they existed on the date of approval, and notice of any change in these materials will be published in the **Federal Register**. The materials are available for purchase at the corresponding address noted below and are available for inspection at the Office of the Federal Register, 800 North Capitol St., NW., 7th Floor, Suite 700, Washington, DC, at the Public Information Reference Unit, U.S. EPA, 401 M Street, SW., Washington, DC, and at the Library (MD–35), U.S. EPA, Research Triangle Park, North Carolina.

(b) The following materials are available for purchase from at least one of the following addresses: American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103; or the University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

(1) ASTM D 3176–89, Standard Practice for Ultimate Analysis of Coal and Coke, IBR approved May 23, 1995 for § 76.15.

(2) ASTM D 3172–89, Standard Practice for Proximate Analysis of Coal and Coke, IBR approved May 23, 1995 for § 76.15.

(c) The following material is available for purchase from the American Society of Mechanical Engineers (ASME), 22 Law Drive, Box 2350, Fairfield, NJ 07007–2350.

(1) ASME Performance Test Code 4.2 (1991), Test Code for Coal Pulverizers, IBR approved May 23, 1995 for § 76.15.

(2) [Reserved]

(d) The following material is available for purchase from the American National Standards Institute, 11 West 42nd Street, New York, NY 10036 or from the International Organization for Standardization (ISO), Case Postale 56, CH–1211 Geneve 20, Switzerland.

(1) ISO 9931 (December, 1991) "Coal—Sampling of Pulverized Coal Conveyed by Gases in Direct Fired Coal Systems," IBR approved May 23, 1995 for § 76.15.

(2) [Reserved]

§ 76.5 NO_X emission limitations for Group 1 boilers.

(a) Beginning January 1, 1996, or for a unit subject to section 404(d) of the Act, the date on which the unit is required to meet Acid Rain emission reduction requirements for SO_2, the owner or operator of a Phase I coal-fired utility unit with a tangentially fired boiler or a dry bottom wall-fired boiler (other than units applying cell burner technology) shall not discharge, or allow to be discharged, emissions of NO_X to the atmosphere in excess of the following limits, except as provided in paragraphs (c) or (e) of this section or in §§ 76.10, 76.11, or 76.12:

(1) 0.45 lb/mmBtu of heat input on an annual average basis for tangentially fired boilers.

(2) 0.50 lb/mmBtu of heat input on an annual average basis for dry bottom wall-fired boilers (other than units applying cell burner technology).

(b) The owner or operator shall determine the annual average NO_X emission rate, in lb/mmBtu, using the methods and procedures specified in part 75 of this chapter.

(c) Unless the unit meets the early election requirement of § 76.8, the owner or operator of a coal-fired substitution unit with a tangentially fired boiler or a dry bottom wall-fired boiler (other than units applying cell burner technology) that satisfies the requirements of § 76.1(c)(2), shall comply with the NO_X emission limitations that apply to Group 1, Phase II boilers.

(d) The owner or operator of a Phase I unit with a cell burner boiler that converts to a conventional wall-fired boiler on or before January 1, 1995 or, for a unit subject to section 404(d) of the Act, the date the unit is required to meet Acid Rain emissions reduction requirements for SO_2 shall comply, by such respective date or January 1, 1996, whichever is later, with the NO_X emissions limitation applicable to dry bottom wall-fired boilers under paragraph (a) of this section, except as provided in paragraphs (c) or (e) of this section or in §§ 76.10, 76.11, or 76.12.

(e) The owner or operator of a Phase I unit with a Group 1 boiler that converts to a fluidized bed or other type of utility boiler not included in Group 1 boilers on or before January 1, 1995 or, for a unit subject to section 404(d) of the Act, the date the unit is required to meet Acid Rain emissions reduction requirements for SO_2 is exempt from the NO_X emissions limitations specified in paragraph (a) of this section, but shall comply with the NO_X emission limitations for Group 2 boilers under § 76.6.

(f) Except as provided in § 76.8 and in paragraph (c) of this section, each unit subject to the requirements of this section is not subject to the requirements of § 76.7.

(g) Beginning January 1, 2000, the owner or operator of a Group 1, Phase II coal-fired utility unit with a tangentially fired boiler or a wall-fired boiler shall be subject to the emission limitations in paragraph (a) of this section.

§ 76.6 NO_X emission limitations for Group 2 boilers. [Reserved]

§ 76.7 Revised NO_X emission limitations for Group 1, Phase II boilers. [Reserved]

§ 76.8 Early election for Group 1, Phase II boilers.

(a) *General provisions.* (1) The owner or operator of a Phase II coal-fired utility unit with a Group 1 boiler may elect to have the unit become subject to the applicable emissions limitation for NO_X under § 76.5, starting no later than January 1, 1997.

(2) The owner or operator of a Phase II coal-fired utility unit with a Group 1 boiler that elects to become subject to the applicable emission limitation under § 76.5 shall not be subject to any revised NO_X emissions limitation for Group 1 boilers that the Administrator may issue pursuant to section 407(b)(2) of the Act until January 1, 2008,

VOL
60
ISS
71
AP
13
1995
UMI

provided the designated representative demonstrates that the unit is in compliance with the limitation under § 76.5, using the methods and procedures specified in part 75 of this chapter, for the period beginning January 1 of the year in which the early election takes effect (but not later than January 1, 1997) and ending December 31, 2007.

(3) The owner or operator of any Phase II unit with a cell burner boiler that converts to conventional burner technology may elect to become subject to the applicable emissions limitation under § 76.5 for dry bottom wall-fired boilers, provided the owner or operator complies with the provisions in paragraph (a)(2) of this section.

(4) The owner or operator of a Phase II unit approved for early election shall not submit an application for an alternative emissions limitation demonstration period under § 76.10 until the earlier of:

(i) January 1, 2008; or

(ii) Early election is terminated pursuant to paragraph (e)(3) of this section.

(5) The owner or operator of a Phase II unit approved for early election may not incorporate the unit into an averaging plan prior to January 1, 2000. On or after January 1, 2000, for purposes of the averaging plan, the early election unit will be treated as subject to the applicable emissions limitation for NO_x for Phase II units with Group 1 boilers under §§ 76.5(g) and if revised emission limitations are issued for Group 1 boilers pursuant to section 407(b)(2) of the Act, § 76.7.

(b) *Submission requirements.* In order to obtain early election status, the designated representative of a Phase II unit with a Group 1 boiler shall submit an early election plan to the Administrator by January 1 of the year the early election is to take effect, but not later than January 1, 1997. Notwithstanding § 72.40 of this chapter, and unless the unit is a substitution unit under § 72.41 of this chapter or a compensating unit under § 72.43 of this chapter, a complete compliance plan covering the unit shall not include the provisions for SO_2 emissions under § 72.40(a)(1) of this chapter.

(c) *Contents of an early election plan.* A complete early election plan shall include the following elements in a format prescribed by the Administrator:

(1) A request for early election;

(2) The first year for which early election is to take effect, but not later than 1997; and

(3) The special provisions under paragraph (e) of this section.

(d)(1) *Permitting authority's action.* To the extent the Administrator determines that an early election plan complies with the requirements of this section, the Administrator will approve the plan and:

(i) If a Phase I Acid Rain permit governing the source at which the unit is located has been issued, will revise the permit in accordance with the permit modification procedures in § 72.81 of this chapter to include the early election plan; or

(ii) If a Phase I Acid Rain permit governing the source at which the unit is located has not been issued, will issue a Phase I Acid Rain permit effective from January 1, 1995 through December 31, 1999, that will include the early election plan and a complete compliance plan under § 72.40(a) of this chapter and paragraph (b) of this section. If the early election plan is not effective until after January 1, 1995, the permit will not contain any NO_x emissions limitations until the effective date of the plan.

(2) Beginning January 1, 2000, the permitting authority will approve any early election plan previously approved by the Administrator during Phase I, unless the plan is terminated pursuant to paragraph (e)(3) of this section.

(e) *Special provisions*—(1) *Emissions limitations.*—(i) *Sulfur dioxide.* Notwithstanding § 72.9 of this chapter, a unit that is governed by an approved early election plan and that is not a substitution unit under § 72.41 of this chapter or a compensating unit under § 72.43 of this chapter shall not be subject to the following standard requirements under § 72.9 of this chapter for Phase I:

(A) The permit requirements under §§ 72.9(a)(1) (i) and (ii) of this chapter;

(B) The sulfur dioxide requirements under § 72.9(c) of this chapter; and

(C) The excess emissions requirements under § 72.9(e)(1) of this chapter.

(ii) *Nitrogen oxides.* A unit that is governed by an approved early election plan shall be subject to an emissions limitation for NO_x as provided under paragraph (a)(2) of this section except as provided under paragraph (e)(3)(iii) of this section.

(2) *Liability.* The owners and operators of any unit governed by an approved early election plan shall be liable for any violation of the plan or this section at that unit. The owners and operators shall be liable, beginning January 1, 2000, for fulfilling the obligations specified in part 77 of this chapter.

(3) *Termination.* An approved early election plan shall be in effect only until the earlier of January 1, 2008 or January 1 of the calendar year for which a termination of the plan takes effect.

(i) If the designated representative of the unit under an approved early election plan fails to demonstrate compliance with the applicable emissions limitation under § 76.5 for any year during the period beginning January 1 of the first year the early election takes effect and ending December 31, 2007, the permitting authority will terminate the plan. The termination will take effect beginning January 1 of the year after the year for which there is a failure to demonstrate compliance, and the designated representative may not submit a new early election plan.

(ii) The designated representative of the unit under an approved early election plan may terminate the plan any year prior to 2008 but may not submit a new early election plan. In order to terminate the plan, the designated representative must submit a notice under § 72.40(d) of this chapter by January 1 of the year for which the termination is to take effect.

(iii)(A) If an early election plan is terminated any year prior to 2000, the unit shall meet, beginning January 1, 2000, the applicable emissions limitation for NO_x for Phase II units with Group 1 boilers under § 76.5(g) and, if revised emission limitations are issued pursuant to section 407(b)(2) of the Act, § 76.7.

(B) If an early election plan is terminated in or after 2000, the unit shall meet, beginning on the effective date of the termination, the applicable emissions limitation for NO_x for Phase II units with Group 1 boilers under § 76.5(g) and, if revised emission limitations are issued pursuant to section 407(b)(2) of the Act, § 76.7.

§ 76.9 Permit application and compliance plans.

(a) *Duty to apply.* (1) The designated representative of any source with an affected unit subject to this part shall submit, by the applicable deadline under paragraph (b) of this section, a complete Acid Rain permit application (or, if the unit is covered by an Acid Rain permit, a complete permit revision) that includes a complete compliance plan for NO_x emissions covering the unit.

(2) The original and three copies of the permit application and compliance plan for NO_x emissions for Phase I shall be submitted to the EPA regional office for the region where the applicable source is located. The original and three copies of the permit application and compliance plan for NO_x emissions for Phase II shall be submitted to the permitting authority.

(b) *Deadlines.* (1) For a Phase I unit with a Group 1 boiler, the designated representative shall submit a complete permit application and compliance plan for NO_x covering the unit during Phase I to the applicable permitting authority not later than May 6, 1994.

(2) For a Phase I or Phase II unit with a Group 2 boiler or a Phase II unit with a Group 1 boiler, the designated representative shall submit a complete permit application and compliance plan for NO_x emissions covering the unit in Phase II to the Administrator not later than January 1, 1998, except that early election units shall also submit an application not later than January 1, 1997.

(c) *Information requirements for NO_x compliance plans.* (1) In accordance with § 72.40(a)(2) of this chapter, a complete compliance plan for NO_x shall, for each affected unit included in the permit application and subject to this part, either certify that the unit will comply with the applicable emissions limitation under § 76.5, 76.6, or 76.7 or specify one or more other Acid Rain compliance options for NO_x in accordance with the requirements of this part. A complete compliance plan for NO_x for a source shall include the following elements in a format prescribed by the Administrator:

(i) Identification of the source;

(ii) Identification of each affected unit that is at the source and is subject to this part;

(iii) Identification of the boiler type of each unit;

(iv) Identification of the compliance option proposed for each unit (i.e., meeting the applicable emissions limitation under §§ 76.5, 76.6, 76.7, 76.8 (early election), 76.10 (alternative emission limitation), 76.11 (NO_x emissions averaging), or 76.12 (Phase I NO_x compliance extension)) and any additional information required for the appropriate option in accordance with this part;

(v) Reference to the standard requirements in § 72.9 of this chapter (consistent with § 76.8(e)(1)(i)); and

(vi) The requirements of §§ 72.21 (a) and (b) of this chapter.

(d) *Duty to reapply.* The designated representative of any source with an affected unit subject to this part shall submit a complete Acid Rain permit application, including a complete compliance plan for NO_x emissions covering the unit, in accordance with the deadlines in § 72.30(c) of this chapter.

§ 76.10 Alternative emission limitations.

(a) General provisions. (1) The designated representative of an affected unit that is not an early election unit pursuant to § 76.8 and cannot meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7 using, for Group 1 boilers, either low NO_x burner technology or an alternative technology in accordance with paragraph (e)(11) of this section, or, for tangentially fired boilers, separated overfire air, or, for Group 2 boilers, the technology on which the applicable emission limitation is based may petition the permitting authority for an alternative emission limitation less stringent than the applicable emission limitation.

(2) In order for the unit to qualify for an alternative emission limitation, the designated representative shall demonstrate that the affected unit cannot meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7 based on a showing, to the satisfaction of the Administrator, that:

(i) (A) For a tangentially fired boiler, the owner or operator has either properly installed low NO_x burner technology or properly installed separated overfire air; or

(B) For a dry bottom wall-fired boiler (other than a unit applying cell burner technology), the owner or operator has properly installed low NO_x burner technology; or

(C) For a Group 1 boiler, the owner or operator has properly installed an alternative technology (including but not limited to reburning, selective noncatalytic reduction, or selective catalytic reduction) that achieves NO_x emission reductions demonstrated in accordance with paragraph (e)(11) of this section; or

(D) For a Group 2 boiler, the owner or operator has properly installed the appropriate NO_x emission control technology on which the applicable emission limitation in § 76.6 is based; and

(ii) The installed NO_x emission control system has been designed to meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7; and

(iii) For a demonstration period of at least 15 months or other period of time, as provided in paragraph (f)(1) of this section:

(A) The NO_x emission control system has been properly installed and properly operated according to specifications and procedures designed to minimize the emissions of NO_x to the atmosphere;

(B) Unit operating data as specified in this section show that the unit and NO_x emission control system were operated in accordance with the bid and design specifications on which the design of the NO_x emission control system was based; and

(C) Unit operating data as specified in this section, continuous emission monitoring data obtained pursuant to part 75 of this chapter, and the test data specific to the NO_x emission control system show that the unit could not meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7.

(b) *Petitioning process.* The petitioning process for an alternative emission limitation shall consist of the following steps:

(1) Operation during a period of at least 3 months, following the installation of the NO_x emission control system, that shows that the specific unit and the NO_x emission control system was unable to meet the applicable emissions limitation under §§ 76.5, 76.6, or 76.7 and was operated in accordance with the operating conditions upon which the design of the NO_x emission control system was based and with vendor specifications and procedures;

(2) Submission of a petition for an alternative emission limitation demonstration period as specified in paragraph (d) of this section;

(3) Operation during a demonstration period of at least 15 months, or other period of time as provided in paragraph (f)(1) of this section, that demonstrates the inability of the specific unit to meet the applicable emissions limitation under §§ 76.5, 76.6, or 76.7 and the minimum NO_x emissions rate that the specific unit can achieve during long-term load dispatch operation; and

(4) Submission of a petition for a final alternative emission limitation as specified in paragraph (e) of this section.

(c) *Deadlines.*—(1) *Petition for an alternative emission limitation demonstration period.* The designated representative of the unit shall submit a petition for an alternative emission limitation demonstration period to the permitting authority after the unit has been operated for at least 3 months after installation of the NO_x emission control system required under paragraph (a)(2) of this section and by the following deadline:

(i) For units that seek to have an alternative emission limitation demonstration period apply during all or part of calendar year 1996, or any previous calendar year by the later of:

(A) 120 days after startup of the NO_x emission control system, or

(B) May 1, 1996.

(ii) For units that seek an alternative emission limitation demonstration period beginning in a calendar year after 1996, not later than:

VOL
60
ISS
71
AP
13
1995
UMI

(A) 120 days after January 1 of that calendar year, or

(B) 120 days after startup of the NO_X emission control system if the unit is not operating at the beginning of that calendar year.

(2) *Petition for a final alternative emission limitation.* Not later than 90 days after the end of an approved alternative emission limitation demonstration period for the unit, the designated representative of the unit may submit a petition for an alternative emission limitation to the permitting authority.

(3) *Renewal of an alternative emission limitation.* In order to request continuation of an alternative emission limitation, the designated representative must submit a petition to renew the alternative emission limitation on the date that the application for renewal of the source's Acid Rain permit containing the alternative emission limitation is due.

(d) *Contents of petition for an alternative emission limitation demonstration period.* The designated representative of an affected unit that has met the minimum criteria under paragraph (a) of this section and that has been operated for a period of at least 3 months following the installation of the required NO_X emission control system may submit to the permitting authority a petition for an alternative emission limitation demonstration period. In the petition, the designated representative shall provide the following information in a format prescribed by the Administrator:

(1) Identification of the unit;

(2) The type of NO_X control technology installed (e.g., low NO_X burner technology, selective noncatalytic reduction, selective catalytic reduction, reburning);

(3) If an alternative technology is installed, the time period (not less than 6 consecutive months) prior to installation of the technology to be used for the demonstration required in paragraph (e)(11) of this section.

(4) Documentation as set forth in § 76.14(a)(1) showing that the installed NO_X emission control system has been designed to meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7 and that the system has been properly installed according to procedures and specifications designed to minimize the emissions of NO_X to the atmosphere;

(5) The date the unit commenced operation following the installation of the NO_X emission control system or the date the specific unit became subject to the emission limitations of §§ 76.5, 76.6, or 76.7, whichever is later;

(6) The dates of the operating period (which must be at least 3 months long);

(7) Certification by the designated representative that the owner(s) or operator operated the unit and the NO_X emission control system during the operating period in accordance with: Specifications and procedures designed to achieve the maximum NO_X reduction possible with the installed NO_X emission control system or the applicable emission limitation in §§ 76.5, 76.6, or 76.7; the operating conditions upon which the design of the NO_X emission control system was based; and vendor specifications and procedures;

(8) A brief statement describing the reason or reasons why the unit cannot achieve the applicable emission limitation in §§ 76.5, 76.6, or 76.7;

(9) A demonstration period plan, as set forth in § 76.14(a)(2);

(10) Unit operating data and quality-assured continuous emission monitoring data (including the specific data items listed in § 76.14(a)(3) collected in accordance with part 75 of this chapter during the operating period) and demonstrating the inability of the specific unit to meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7 on an annual average basis while operating as certified under paragraph (d)(7) of this section;

(11) An interim alternative emission limitation, in lb/mmBtu, that the unit can achieve during a demonstration period of at least 15 months. The interim alternative emission limitation shall be derived from the data specified in paragraph (d)(10) of this section using methods and procedures satisfactory to the Administrator;

(12) The proposed dates of the demonstration period (which must be at least 15 months long);

(13) A report which outlines the testing and procedures to be taken during the demonstration period in order to determine the maximum NO_X emission reduction obtainable with the installed system. The report shall include the reasons for the NO_X emission control system's failure to meet the applicable emission limitation, and the tests and procedures that will be followed to optimize the NO_X emission control system's performance. Such tests and procedures may include those identified in § 76.15 as appropriate.

(14) The special provisions at paragraph (g)(1) of this section.

(e) *Contents of petition for a final alternative emission limitation.* After the approved demonstration period, the designated representative of the unit may petition the permitting authority for an alternative emission limitation. The petition shall include the following elements in a format prescribed by the Administrator:

(1) Identification of the unit;

(2) Certification that the owner(s) or operator operated the affected unit and the NO_X emission control system during the demonstration period in accordance with: specifications and procedures designed to achieve the maximum NO_X reduction possible with the installed NO_X emission control system or the applicable emissions limitation in §§ 76.5, 76.6, or 76.7; the operating conditions (including load dispatch conditions) upon which the design of the NO_X emission control system was based; and vendor specifications and procedures.

(3) Certification that the owner(s) or operator have installed in the affected unit all NO_X emission control systems, made any operational modifications, and completed any planned upgrades and/or maintenance to equipment specified in the approved demonstration period plan for optimizing NO_X emission reduction performance, consistent with the demonstration period plan and the proper operation of the installed NO_X emission control system. Such certification shall explain any differences between the installed NO_X emission control system and the equipment configuration described in the approved demonstration period plan.

(4) A clear description of each step or modification taken during the demonstration period to improve or optimize the performance of the installed NO_X emission control system.

(5) Engineering design calculations and drawings that show the technical specifications for installation of any additional operational or emission control modifications installed during the demonstration period.

(6) Unit operating and quality-assured continuous emission monitoring data (including the specific data listed in § 76.14(b)) collected in accordance with part 75 of this chapter during the demonstration period and demonstrating the inability of the specific unit to meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7 on an annual average basis while operating in accordance with the certification under paragraph (e)(2) of this section.

(7) A report (based on the parametric test requirements set forth in the approved demonstration period plan as identified in paragraph (d)(13) of this section), that demonstrates the unit was operated in accordance with the operating conditions upon which the

design of the NO_X emission control system was based and describes the reason or reasons for the failure of the installed NO_X emission control system to meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7 on an annual average basis.

(8) The minimum NO_X emission rate, in lb/mmBtu, that the affected unit can achieve on an annual average basis with the installed NO_X emission control system. This value, which shall be the requested alternative emission limitation, shall be derived from the data specified in this section using methods and procedures satisfactory to the Administrator and shall be the lowest annual emission rate the unit can achieve with the installed NO_X emission control system;

(9) All supporting data and calculations documenting the determination of the requested alternative emission limitation and its conformance with the methods and procedures satisfactory to the Administrator;

(10) The special provisions in paragraph (g)(2) of this section.

(11) In addition to the other requirements of this section, the owner or operator of an affected unit with a Group 1 boiler that has installed an alternative technology in addition to or in lieu of low NO_X burner technology and cannot meet the applicable emission limitation in § 76.5 shall demonstrate, to the satisfaction of the Administrator, that the actual percentage reduction in NO_X emissions (lbs/mmBtu), on an annual average basis is greater than 65 percent of the average annual NO_X emissions prior to the installation of the NO_X emission control system. The percentage reduction in NO_X emissions shall be determined using continuous emissions monitoring data for NO_X taken during the time period (under paragraph (d)(3) of this section) prior to the installation of the NO_X emission control system and during long-term load dispatch operation of the specific boiler.

(f) *Permitting authority's action.—(1) Alternative emission limitation demonstration period.* (i) The permitting authority may approve an alternative emission limitation demonstration period and demonstration period plan, provided that the requirements of this section are met to the satisfaction of the permitting authority. The permitting authority shall disapprove a demonstration period if the requirements of paragraph (a) of this section were not met during the operating period.

(ii) If the demonstration period is approved, the permitting authority will include, as part of the demonstration period, the 4 month period prior to submission of the application in the demonstration period.

(iii) The alternative emission limitation demonstration period will authorize the unit to emit at a rate not greater than the interim alternative emission limitation during the demonstration period on or after January 1, 1996 for Phase I units and the applicable date established in §§ 76.5(g) or 76.6 for Phase II units, and until the date that the Administrator approves or denies a final alternative emission limitation.

(iv) After an alternative emission limitation demonstration period is approved, if the designated representative requests an extension of the demonstration period in accordance with paragraph (g)(1)(i)(B) of this section, the permitting authority may extend the demonstration period by administrative amendment (under § 72.83 of this chapter) to the Acid Rain permit.

(v) The permitting authority shall deny the demonstration period if the designated representative cannot demonstrate that the unit met the requirements of paragraph (a)(2) of this section. In such cases, the permitting authority shall require that the owner or operator operate the unit in compliance with the applicable emission limitation in §§ 76.5, 76.6, or 76.7 for the period preceding the submission of the application for an alternative emission limitation demonstration period, including the operating period, if such periods are after the date on which the unit is subject to the standard limit under §§ 76.5, 76.6, or 76.7.

(2) *Alternative emission limitation.* (i) If the permitting authority determines that the requirements in this section are met, the permitting authority will approve an alternative emission limitation and issue or revise an Acid Rain permit to apply the approved limitation, in accordance with subparts F and G of part 72 of this chapter. The permit will authorize the unit to emit at a rate not greater than the approved alternative emission limitation, starting the date the permitting authority revises an Acid Rain permit to approve an alternative emission limitation.

(ii) If a permitting authority disapproves an alternative emission limitation under paragraph (a)(2) of this section, the owner or operator shall operate the affected unit in compliance with the applicable emission limitation in §§ 76.5, 76.6, or 76.7 (unless the unit is participating in an approved averaging plan under § 76.11) beginning on the date the permitting authority revises an Acid Rain permit to disapprove an alternative emission limitation.

(3) *Alternative emission limitation renewal.* (i) If, upon review of a petition to renew an approved alternative emission limitation, the permitting authority determines that no changes have been made to the control technology, its operation, the operating conditions on which the alternative emission limitation was based, or the actual NO_X emission rate, the alternative emission limitation will be renewed.

(ii) If the permitting authority determines that changes have been made to the control technology, its operation, the fuel quality, or the operating conditions on which the alternative emission limitation was based, the designated representative shall submit, in order to renew the alternative emission limitation or to obtain a new alternative emission limitation, a petition for an alternative emission limitation demonstration period that meets the requirements of paragraph (d) of this section using a new demonstration period.

(g) *Special provisions.—(1) Alternative emission limitation demonstration period.* (i) *Emission limitations.* (A) Each unit with an approved alternative emission limitation demonstration period shall comply with the interim emission limitation specified in the unit's permit beginning on the effective date of the demonstration period specified in the permit and, if a timely petition for a final alternative emission limitation is submitted, extending until the date on which the permitting authority issues or revises an Acid Rain permit to approve or disapprove an alternative emission limitation. If a timely petition is not submitted, then the unit shall comply with the standard emission limit under §§ 76.5, 76.6, or 76.7 beginning on the date the petition was required to be submitted under paragraph (c)(2) of this section.

(B) When the owner or operator identifies, during the demonstration period, boiler operating or NO_X emission control system modifications or upgrades that would produce further NO_X emission reductions, enabling the affected unit to comply with or bring its emission rate closer to the applicable emissions limitation under §§ 76.5, 76.6, or 76.7, the designated representative may submit a request and the permitting authority may grant, by administrative amendment under § 72.83 of this chapter, an extension of the demonstration period for such period of time (not to exceed 12 months) as may

VOL 60 ISS 71 AP 13 1995 UMI

be necessary to implement such modifications or upgrades.

(C) If the approved interim alternative emission limitation applies to a unit for part, but not all, of a calendar year, the unit shall determine compliance for the calendar year in accordance with the procedures in § 76.13(a).

(ii) *Operating requirements.* (A) A unit with an approved alternative emission limitation demonstration period shall be operated under load dispatch conditions consistent with the operating conditions upon which the design of the NO_X emission control system and performance guarantee were based, and in accordance with the demonstration period plan.

(B) A unit with an approved alternative emission limitation demonstration period shall install all NO_X emission control systems, make any operational modifications, and complete any upgrades and maintenance to equipment specified in the approved demonstration period plan for optimizing NO_X emission reduction performance.

(C) When the owner or operator identifies boiler or NO_X emission control system operating modifications that would produce higher NO_X emission reductions, enabling the affected unit to comply with, or bring its emission rate closer to, the applicable emission limitation under §§ 76.5, 76.6, or 76.7, the designated representative shall submit an administrative amendment under § 72.83 of this chapter to revise the unit's Acid Rain permit and demonstration period plan to include such modifications.

(iii) *Testing requirements.* A unit with an approved alternative emission limitation demonstration period shall monitor in accordance with part 75 of this chapter and shall conduct all tests required under the approved demonstration period plan.

(2) *Final alternative emission limitation.*—(i) *Emission limitations.* (A) Each unit with an approved alternative emission limitation shall comply with the alternative emission limitation specified in the unit's permit beginning on the date specified in the permit as issued or revised by the permitting authority to apply the final alternative emission limitation.

(B) If the approved interim or final alternative emission limitation applies to a unit for part, but not all, of a calendar year, the unit shall determine compliance for the calendar year in accordance with the procedures in § 76.13(a).

§ 76.11 Emissions averaging.

(a) *General provisions.* In lieu of complying with the applicable emission limitation in §§ 76.5, 76.6, or 76.7, any affected units subject to such emission limitation, under control of the same owner or operator, and having the same designated representative may average their NO_X emissions under an averaging plan approved under this section.

(1) Each affected unit included in an averaging plan for Phase I shall be a Phase I unit with a Group 1 boiler subject to an emission limitation in § 76.5 during all years for which the unit is included in the plan.

(i) If a unit with an approved NO_X compliance extension is included in an averaging plan for 1996, the unit shall be treated, for the purposes of applying Equation 1 in paragraph (a)(6) of this section and Equation 2 in paragraph (d)(1)(ii)(A) of this section, as subject to the applicable emissions limitation under § 76.5 for the entire year 1996.

(ii) A Phase II unit approved for early election under § 76.8 shall not be included in an averaging plan for Phase I.

(2) Each affected unit included in an averaging plan for Phase II shall be a boiler subject to an emission limitation in §§ 76.5, 76.6, or 76.7 for all years for which the unit is included in the plan.

(3) Each unit included in an averaging plan shall have an alternative contemporaneous annual emission limitation (lb/mmBtu) and can only be included in one averaging plan.

(4) Each unit included in an averaging plan shall have a minimum allowable annual heat input value (mmBtu), if it has an alternative contemporaneous annual emission limitation more stringent than that unit's applicable emission limitation under §§ 76.5, 76.6, or 76.7, and a maximum allowable annual heat input value, if it has an alternative contemporaneous annual emission limitation less stringent than that unit's applicable emission limitation under §§ 76.5, 76.6, or 76.7.

(5) The Btu-weighted annual average emission rate for the units in an averaging plan shall be less than or equal to the Btu-weighted annual average emission rate for the same units had they each been operated, during the same period of time, in compliance with the applicable emission limitations in §§ 76.5, 76.6, or 76.7.

(6) In order to demonstrate that the proposed plan is consistent with paragraph (a)(5) of this section, the alternative contemporaneous annual emission limitations and annual heat input values assigned to the units in the proposed averaging plan shall meet the following requirement:

$$\frac{\sum_{i=1}^{n}(R_{Li} \times HI_i)}{\sum_{i=1}^{n} HI_i} \leq \frac{\sum_{i=1}^{n}(R_{Ii} \times HI_i)}{\sum_{i=1}^{n} HI_i} \quad \text{(Equation 1)}$$

Where:

R_{Li} = Alternative contemporaneous annual emission limitation for unit i, lb/mmBtu, as specified in the averaging plan;

R_{Ii} = Applicable emission limitation for unit i, lb/mmBtu, as specified in §§ 76.5, 76.6, or 76.7 except that for early election units, which may be included in an averaging plan only on or after January 1, 2000, R_{Ii} shall equal the most stringent applicable emission limitation under §§ 76.5 or 76.7;

HI_i = Annual heat input for unit i, mmBtu, as specified in the averaging plan;

n = Number of units in the averaging plan.

(7) For units with an alternative emission limitation, R_{Ii} shall equal the applicable emissions limitation under §§ 76.5, 76.6, or 76.7, not the alternative emissions limitation.

(8) No unit may be included in more than one averaging plan.

(b)(1) *Submission requirements.* The designated representative of a unit meeting the requirements of paragraphs (a)(1), (a)(2), and (a)(8) of this section may submit an averaging plan (or a revision to an approved averaging plan) to the permitting authority(ies) at any time up to and including January 1 (or July 1, if the plan is restricted to units located within a single permitting authority's jurisdiction) of the calendar year for which the averaging plan is to become effective.

(2) The designated representative shall submit a copy of the same averaging plan (or the same revision to an approved averaging plan) to each permitting authority with jurisdiction over a unit in the plan.

(3) When an averaging plan (or a revision to an approved averaging plan) is not approved, the owner or operator of each unit in the plan shall operate the unit in compliance with the emission limitation that would apply in the absence of the averaging plan (or revision to a plan).

(c) *Contents of NO_X averaging plan.* A complete NO_X averaging plan shall include the following elements in a format prescribed by the Administrator:

(1) Identification of each unit in the plan;

(2) Each unit's applicable emission limitation in §§ 76.5, 76.6, or 76.7;

(3) The alternative contemporaneous annual emission limitation for each unit (in lb/mmBtu). If any of the units identified in the NO_X averaging plan utilize a common stack pursuant to § 75.17(a)(2)(i)(B) of this chapter, the same alternative contemporaneous emission limitation shall be assigned to each such unit and different heat input limits may be assigned;

(4) The annual heat input limit for each unit (in mmBtu);

(5) The calculation for Equation 1 in paragraph (a)(6) of this section;

(6) The calendar years for which the plan will be in effect; and

(7) The special provisions in paragraph (d)(1) of this section.

(d) *Special provisions.—(1) Emission limitations.* Each affected unit in an approved averaging plan is in compliance with the Acid Rain emission limitation for NO_X under the plan only if the following requirements are met:

(i) For each unit, the unit's actual annual average emission rate for the calendar year, in lb/mmBtu, is less than or equal to its alternative contemporaneous annual emission limitation in the averaging plan; and

(A) For each unit with an alternative contemporaneous emission limitation less stringent than the applicable emission limitation in §§ 76.5, 76.6, or 76.7, the actual annual heat input for the calendar year does not exceed the annual heat input limit in the averaging plan;

(B) For each unit with an alternative contemporaneous annual emission limitation more stringent than the applicable emission limitation in §§ 76.5, 76.6, or 76.7, the actual annual heat input for the calendar year is not less than the annual heat input limit in the averaging plan; or

(ii) If one or more of the units does not meet the requirements under paragraph (d)(1)(i) of this section, the designated representative shall demonstrate, in accordance with paragraph (d)(1)(ii)(A) of this section (Equation 2) that the actual Btu-weighted annual average emission rate for the units in the plan is less than or equal to the Btu-weighted annual average rate for the same units had they each been operated, during the same period of time, in compliance with the applicable emission limitations in §§ 76.5, 76.6, or 76.7.

(A) A group showing of compliance shall be made based on the following equation:

$$\frac{\sum_{i=1}^{n}(R_{ai} \times HI_{ai})}{\sum_{i=1}^{n} HI_{ai}} \leq \frac{\sum_{i=1}^{n}(R_{Ii} \times HI_{ai})}{\sum_{i=1}^{n} HI_{ai}} \quad \text{(Equation 2)}$$

Where:

R_{ai} = Actual annual average emission rate for unit i, lb/mmBtu, as determined using the procedures in part 75 of this chapter. For units in an averaging plan utilizing a common stack pursuant to § 75.17(a)(2)(i)(B) of this chapter, use the same NO_X emission rate value for each unit utilizing the common stack, and calculate this value in accordance with appendix F to part 75 of this chapter;

R_{Ii} = Applicable annual emission limitation for unit i lb/mmBtu, as specified in §§ 76.5, 76.6, or 76.7, except that for early election units, which may be included in an averaging plan only on or after January 1, 2000, R_{Ii} shall equal the most stringent applicable emission limitation under §§ 76.5 or 76.7;

HI_{ai} = Actual annual heat input for unit i, mmBtu, as determined using the procedures in part 75 of this chapter;

n = Number of units in the averaging plan.

(B) For units with an alternative emission limitation, R_{Ii} shall equal the applicable emission limitation under §§ 76.5, 76.6, or 76.7, not the alternative emission limitation.

(C) If there is a successful group showing of compliance under paragraph (d)(1)(ii)(A) of this section for a calendar year, then all units in the averaging plan shall be deemed to be in compliance for that year with their alternative contemporaneous emission limitations and annual heat input limits under paragraph (d)(1)(i) of this section.

(2) *Liability.* The owners and operators of a unit governed by an approved averaging plan shall be liable for any violation of the plan or this section at that unit or any other unit in the plan, including liability for fulfilling the obligations specified in part 77 of this chapter and sections 113 and 411 of the Act.

(3) *Withdrawal or termination.* The designated representative may submit a notification to terminate an approved averaging plan in accordance with § 72.40(d) of this chapter, no later than October 1 of the calendar year for which the plan is to be withdrawn or terminated.

§ 76.12 Phase I NO_X compliance extension.

(a) *General provisions.* (1) The designated representative of a Phase I unit with a Group 1 boiler may apply for and receive a 15-month extension of the deadline for meeting the applicable emissions limitation under § 76.5 where it is demonstrated, to the satisfaction of the Administrator, that:

(i) The low NO_X burner technology designed to meet the applicable emission limitation is not in adequate supply to enable installation and operation at the unit, consistent with system reliability, by January 1, 1995 and the reliability problems are due substantially to NO_X emission control system installation and availability; or

(ii) The unit is participating in an approved clean coal technology demonstration project.

(2) In order to obtain a Phase I NO_X compliance extension, the designated representative shall submit a Phase I

VOL
60
ISS
71
AP
13
1995
UMI

NO_X compliance extension plan by October 1, 1994.

(b) *Contents of Phase I NO_X compliance extension plan.* A complete Phase I NO_X compliance extension plan shall include the following elements in a format prescribed by the Administrator:

(1) Identification of the unit.

(2) For units applying pursuant to paragraph (a)(1)(i) of this section:

(i) A list of the company names, addresses, and telephone numbers of vendors who are qualified to provide the services and low NO_X burner technology designed to meet the applicable emission limitation under § 76.5 and have been contacted to obtain the required services and technology. The list shall include the dates of contact, and a copy of each request for bids shall be submitted, along with any other information necessary to show a good-faith effort to obtain the required services and technology necessary to meet the requirements of this part on or before January 1, 1995.

(ii) A copy of those portions of a legally binding contract with a qualified vendor that demonstrate that services and low NO_X burner technology designed to meet the applicable emission limitation under § 76.5, with a completion date not later than December 31, 1995 have been contracted for.

(iii) Scheduling information, including justification and test schedules.

(iv) To demonstrate, if applicable, that the supply of the low NO_X burner technology designed to meet the applicable emission limitation under § 76.5 is inadequate to enable its installation and operation at the unit, consistent with system reliability, in time for the unit to comply with the applicable emission limitation on or before January 1, 1995, either:

(A) Certification from the selected vendor(s) (by a certifying official) listed in paragraph (b)(2)(i) of this section stating that they cannot provide the necessary services and install the low NO_X burner technology on or before January 1, 1995 and explaining the reasons why the services cannot be provided and why the equipment cannot be installed in a timely manner; or

(B) The following information:

(*1*) Standard load forecasts, based on standard forecasting models available throughout the utility industry and applied to the period, January 1, 1993, through December 31, 1994.

(*2*) Specific reasons why an outage cannot be scheduled to enable the unit to install and operate the low NO_X burner technology by January 1, 1995, including reasons why no other units can be used to replace this unit's generation during such outage.

(*3*) Fuel and energy balance summaries and power and other consumption requirements (including those for air, steam, and cooling water).

(*3*) To demonstrate, if applicable, participation in an approved clean coal technology demonstration project, a description of the project, including all sources of federal, State, and other outside funding, amount and date for approval of federal funding, the duration of the project, and the anticipated completion date of the project.

(*4*) The special provisions in paragraph (d) of this section.

(c) (1) *Administrator's action.* To the extent the Administrator determines that a Phase I NO_X compliance extension plan complies with the requirements of this section, the Administrator will approve the plan and revise the Acid Rain permit governing the unit in the plan in order to incorporate the plan by administrative amendment under § 72.83 of this chapter, except that the Administrator shall have 90 days from receipt of the compliance extension plan to take final action.

(2) The Administrator will approve or disapprove a proposed NO_X compliance extension plan within 3 months of receipt.

(d) *Special provisions.*

(1) Emission limitations. The unit shall comply with the applicable emission limitation under § 76.5 beginning April 1, 1996. Compliance shall be determined as specified in part 75 of this chapter using measured values of NO_X emissions and heat input only for the portion of the year that the emission limit is in effect.

(2) If a unit with an approved NO_X compliance extension is included in an averaging plan under § 76.11 for year 1996, the unit shall be treated, for purposes of applying Equation 1 in § 76.11(a)(6) and Equation 2 in § 76.11(d)(1)(ii)(A), as subject to the applicable emission limitation under § 76.5 for the entire year 1996.

(e) *Extension until December 31, 1997.* (1) The designated representative of a Phase I unit that is subject to section 404(d) of the Act, has a tangentially fired boiler, and is unable to install low NO_X burner technology by January 1, 1997 may submit a petition for and receive an extension for meeting the applicable emission limitation under § 76.5 where it is demonstrated, to the satisfaction of the Administrator, that:

(i) The unit is located at a source with two or more other units, all of which are Phase I units that are subject to section 404(d) of the Act and have tangentially fired boilers;

(ii) The NO_X control system at the unit was scheduled to be installed by January 1, 1997 and, because of operational problems associated with the NO_X control system, will be redesigned; and

(iii) Installation of the redesigned low NO_X burner technology at the unit cannot be completed by January 1, 1997 without causing system reliability problems.

(2) A complete petition shall include the following elements and shall be submitted by April 28, 1995.

(i) Identification of the unit and the other units at the source;

(ii) A statement describing how the requirements of paragraphs (e)(1)(ii) and (e)(1)(iii) of this section are met;

(iii) The earliest date, not later than December 31, 1997, by which installation of the redesigned low NO_X burner technology can be completed consistent with system reliability; and

(iv) The provisions in paragraph (e)(4) of this section.

(3) To the extent the Administrator determines that a Phase I unit meets the requirements of paragraphs (e)(1) and (e)(2) of this section, the Administrator will approve the petition within 90 days from receipt of the complete petition. The Acid Rain permit governing the unit will be revised in order to incorporate the approved extension, which shall terminate no later than December 31, 1997, by administrative amendment under § 72.83 of this chapter except that the Administrator will have 90 days to take final action.

(4) The unit shall comply with the applicable emission limitation under § 76.5 beginning on the day immediately following the day on which the extension approved under paragraph (e)(3) of this section terminates. Compliance shall be determined as specified in part 75 of this chapter using measured values of NO_X emissions and heat input only for the portion of the year that the emission limit is in effect. If a unit with an approved extension is included in an averaging plan under § 76.11 for year 1997, the unit shall be treated, for the purpose of applying Equation 1 in § 76.11(a)(6) and Equation 2 in § 76.11(d)(1)(ii)(A), as subject to the applicable emission limitation under § 76.5 for the entire year 1997.

§ 76.13 Compliance and excess emissions.

Excess emissions of nitrogen oxides under § 77.6 of this chapter shall be calculated as follows:

(a) For a unit that is not in an approved averaging plan:

(1) Calculate EE_i for each portion of the calendar year that the unit is subject to a different NO_X emission limitation:

$$EE_i = \frac{(R_{ai} - R_{li}) \times HI_i}{2000} \quad \text{(Equation 3)}$$

Where:

EE_i = Excess emissions for NO_X for the portion of the calendar year (in tons);

R_{ai} = Actual average emission rate for the unit (in lb/mmBtu), determined according to part 75 of this chapter for the portion of the calendar year for which the applicable emission limitation R_l is in effect;

R_{li} = Applicable emission limitation for the unit, (in lb/mmBtu), as specified in §§ 76.5, 76.6, or 76.7 or as determined under § 76.10;

$$EE = \sum_{i=1}^{n} EE_i \quad \text{(Equation 4)}$$

HI^i = Actual heat input for the unit, (in mmBtu), determined according to part 75 of this chapter for the portion of the calendar year for which the applicable emission limitation, R_l, is in effect.

$$EE = \frac{\sum_{i=1}^{n}(R_{ai} \times HI_i) - \sum_{i=1}^{n}(R_{li} \times HI_i)}{2000} \quad \text{(Equation 5)}$$

Where:

EE = Excess emissions for NO_X for the year (in tons);

R_{ai} = Actual annual average emission rate for NO_X for unit i, (in lb/mmBtu), determined according to part 75 of this chapter;

R_{li} = Applicable emission limitation for unit i, (in lb/mmBtu), as specified in §§ 76.5, 76.6, or 76.7;

HI_i = Actual annual heat input for unit i, mmBtu, determined according to part 75 of this chapter;

n = Number of units in the averaging plan.

§ 76.14 Monitoring, recordkeeping, and reporting.

(a) A petition for an alternative emission limitation demonstration period under § 76.10(d) shall include the following information:

(1) In accordance with § 76.10(d)(4), the following information:

(i) Documentation that the owner or operator solicited bids for a NO_X emission control system designed for application to the specific boiler and designed to achieve the applicable emission limitation in §§ 76.5, 76.6, or 76.7 on an annual average basis. This documentation must include a copy of all bid specifications.

(ii) A copy of the performance guarantee submitted by the vendor of the installed NO_X emission control system to the owner or operator showing that such system was designed to meet the applicable emission limitation in §§ 76.5, 76.6, or 76.7 on an annual average basis.

(iii) Documentation describing the operational and combustion conditions that are the basis of the performance guarantee.

(iv) Certification by the primary vendor of the NO_X emission control system that such equipment and associated auxiliary equipment was properly installed according to the modifications and procedures specified by the vendor.

(v) Certification by the designated representative that the owner(s) or operator installed technology that meets the requirements of § 76.10(a)(2).

(2) In accordance with § 76.10(d)(9), the following information:

(i) The operating conditions of the NO_X emission control system including load range, O_2 range, coal volatile matter range, and, for tangentially fired boilers, distribution of combustion air within the NO_X emission control system;

(ii) Certification by the designated representative that the owner(s) or operator have achieved and are following the operating conditions, boiler modifications, and upgrades that formed the basis for the system design and performance guarantee;

(iii) Any planned equipment modifications and upgrades for the purpose of achieving the maximum NO_X reduction performance of the NO_X emission control system that were not included in the design specifications and performance guarantee, but that were achieved prior to submission of this application and are being followed;

(iv) A list of any modifications or replacements of equipment that are to be done prior to the completion of the demonstration period for the purpose of reducing emissions of NO_X; and

(v) The parametric testing that will be conducted to determine the reason or reasons for the failure of the unit to achieve the applicable emission limitation and to verify the proper operation of the installed NO_X emission control system during the demonstration period. The tests shall include tests in § 76.15, which may be modified as follows:

(A) The owner or operator of the unit may add tests to those listed in § 76.15, if such additions provide data relevant to the failure of the installed NO_X emission control system to meet the applicable emissions limitation in §§ 76.5, 76.6, or 76.7; or

(B) The owner or operator of the unit may remove tests listed in § 76.15 that are shown, to the satisfaction of the permitting authority, not to be relevant to NO_X emissions from the affected unit; and

(C) In the event the performance guarantee or the NO_X emission control system specifications require additional tests not listed in § 76.15, or specify operating conditions not verified by tests listed in § 76.15, the owner or operator of the unit shall include such additional tests.

(3) In accordance with § 76.10(d)(10), the following information for the operating period:

(i) The average NO_X emission rate (in lb/mmBtu) of the specific unit;

(ii) The highest hourly NO_X emission rate (in lb/mmBtu) of the specific unit;

(iii) Hourly NO_X emission rate (in lb/mmBtu), calculated in accordance with part 75 of this chapter;

(iv) Total heat input (in mmBtu) for the unit for each hour of operation,

(2) If EE_i is a negative number for any portion of the calendar year, the EE_i value for that portion of the calendar year shall be equal to zero (e.g., if $EE_i = -100$, then $EE_i = 0$).

(3) Sum all EE_i values for the calendar year:

Where:

EE = Excess emissions for NO_X for the year (in tons);

n = The number of time periods during which a unit is subject to different emission limitations; and

(b) For units participating in an approved averaging plan, when all the requirements under § 76.11(d)(1) are not met,

VOL 60 ISS 71 APR 13 1995 UMI

calculated in accordance with the requirements of part 75 of this chapter; and

(v) Total integrated hourly gross unit load (in MWge).

(b) A petition for an alternative emission limitation shall include the following information in accordance with § 76.10(e)(6).

(1) Total heat input (in mmBtu) for the unit for each hour of operation, calculated in accordance with the requirements of part 75 of this chapter;

(2) Hourly NO_x emission rate (in lb/mmBtu), calculated in accordance with the requirements of part 75 of this chapter; and

(3) Total integrated hourly gross unit load (MWge).

(c) *Reporting of the costs of low NO_x burner technology applied to Group 1, Phase I boilers.* (1) Except as provided in paragraph (c)(2) of this section, the designated representative of a Phase I unit with a Group 1 boiler that has installed or is installing any form of low NO_x burner technology shall submit to the Administrator a report containing the capital cost, operating cost, and baseline and post-retrofit emission data specified in appendix B to this part. If any of the required equipment, cost, and schedule information are not available (e.g., the retrofit project is still underway), the designated representative shall include in the report detailed cost estimates and other projected or estimated data in lieu of the information that is not available.

(2) The report under paragraph (c)(1) of this section is not required with regard to the following types of Group 1, Phase I units:

(i) Units employing no new NO_x emission control system after November 15, 1990;

(ii) Units employing modifications to boiler operating parameters (e.g., burners out of service or fuel switching) without low NO_x burners or other emission reduction equipment for reducing NO_x emissions;

(iii) Units with wall-fired boilers employing only overfire air and units with tangentially fired boilers employing only separated overfire air; or

(iv) Units beginning installation of a new NO_x emission control system after August 11, 1995.

(3) The report under paragraph (c)(1) of this section shall be submitted to the Administrator by:

(i) 120 days after completion of the low NO_x burner technology retrofit project; or

(ii) May 23, 1995, if the project was completed on or before January 23, 1995.

§ 76.15 Test methods and procedures.

(a) The owner or operator may use the following tests as a basis for the report required by § 76.10(e)(7):

(1) Conduct an ultimate analysis of coal using ASTM D 3176–89 (incorporated by reference as specified in § 76.4);

(2) Conduct a proximate analysis of coal using ASTM D 3172–89 (incorporated by reference as specified in § 76.4); and

(3) Measure the coal mass flow rate to each individual burner using ASME Power Test Code 4.2 (1991), "Test Code for Coal Pulverizers" or ISO 9931 (1991), "Coal—Sampling of Pulverized Coal Conveyed by Gases in Direct Fired Coal Systems" (incorporated by reference as specified in § 76.4).

(b) The owner or operator may measure and record the actual NO_x emission rate in accordance with the requirements of this part while varying the following parameters where possible to determine their effects on the emissions of NO_x from the affected boiler:

(1) Excess air levels;

(2) Settings of burners or coal and air nozzles, including tilt and yaw, or swirl;

(3) For tangentially fired boilers, distribution of combustion air within the NO_x emission control system;

(4) Coal mass flow rates to each individual burner;

(5) Coal-to-primary air ratio (based on pound per hour) for each burner, the average coal-to-primary air ratio for all burners, and the deviations of individual burners' coal-to-primary air ratios from the average value; and

(6) If the boiler uses varying types of coal, the type of coal. Provide the results of proximate and ultimate analyses of each type of as-fired coal.

(c) In performing the tests specified in paragraph (a) of this section, the owner or operator shall begin the tests using the equipment settings for which the NO_x emission control system was designed to meet the NO_x emission rate guaranteed by the primary NO_x emission control system vendor. These results constitute the "baseline controlled" condition.

(d) After establishing the baseline controlled condition under paragraph (c) of this section, the owner or operator may:

(1) Change excess air levels ± 5 percent from the baseline controlled condition to determine the effects on emissions of NO_x, by providing a minimum of three readings (e.g., with a baseline reading of 20 percent excess air, excess air levels will be changed to 19 percent and 21 percent);

(2) For tangentially fired boilers, change the distribution of combustion air within the NO_x emission control system to determine the effects on NO_x emissions by providing a minimum of three readings, one with the minimum, one with the baseline, and one with the maximum amounts of staged combustion air; and

(3) Show that the combustion process within the boiler is optimized (e.g., that the burners are balanced).

§ 76.16 [Reserved]

Appendix A to Part 76—Phase I Affected Coal-Fired Utility Units With Group 1 or Cell Burner Boilers

TABLE 1.—PHASE I TANGENTIALLY FIRED UNITS

State	Plant	Unit	Operator
ALABAMA	EC GASTON	5	ALABAMA POWER CO.
GEORGIA	BOWEN	1BLR	GEORGIA POWER CO.
GEORGIA	BOWEN	2BLR	GEORGIA POWER CO.
GEORGIA	BOWEN	3BLR	GEORGIA POWER CO.
GEORGIA	BOWEN	4BLR	GEORGIA POWER CO.
GEORGIA	JACK MCDONOUGH	MB1	GEORGIA POWER CO.
GEORGIA	JACK MCDONOUGH	MB2	GEORGIA POWER CO.
GEORGIA	WANSLEY	1	GEORGIA POWER CO.
GEORGIA	WANSLEY	2	GEORGIA POWER CO.
GEORGIA	YATES	Y1BR	GEORGIA POWER CO.
GEORGIA	YATES	Y2BR	GEORGIA POWER CO.
GEORGIA	YATES	Y3BR	GEORGIA POWER CO.
GEORGIA	YATES	Y4BR	GEORGIA POWER CO.
GEORGIA	YATES	Y5BR	GEORGIA POWER CO.

TABLE 1.—PHASE I TANGENTIALLY FIRED UNITS—Continued

State	Plant	Unit	Operator
GEORGIA	YATES	Y6BR	GEORGIA POWER CO.
GEORGIA	YATES	Y7BR	GEORGIA POWER CO.
ILLINOIS	BALDWIN	3	ILLINOIS POWER CO.
ILLINOIS	HENNEPIN	2	ILLINOIS POWER CO.
ILLINOIS	JOPPA	1	ELECTRIC ENERGY INC.
ILLINOIS	JOPPA	2	ELECTRIC ENERGY INC.
ILLINOIS	JOPPA	3	ELECTRIC ENERGY INC.
ILLINOIS	JOPPA	4	ELECTRIC ENERGY INC.
ILLINOIS	JOPPA	5	ELECTRIC ENERGY INC.
ILLINOIS	JOPPA	6	ELECTRIC ENERGY INC.
ILLINOIS	MEREDOSIA	5	CEN ILLINOIS PUB SER.
ILLINOIS	VERMILION	2	ILLINOIS POWER CO.
INDIANA	CAYUGA	1	PSI ENERGY INC.
INDIANA	CAYUGA	2	PSI ENERGY INC.
INDIANA	EW STOUT	50	INDIANAPOLIS PWR & LT.
INDIANA	EW STOUT	60	INDIANAPOLIS PWR & LT.
INDIANA	EW STOUT	70	INDIANAPOLIS PRW & LT.
INDIANA	HT PRITCHARD	6	INDIANAPOLIS PWR & LT.
INDIANA	PETERSBURG	1	INDIANAPOLIS PWR & LT.
INDIANA	PETERSBURG	2	INDIANAPOLIS PWR & LT.
INDIANA	WABASH RIVER	6	PSI ENERGY INC.
IOWA	BURLINGTON	1	IOWA SOUTHERN UTL.
IOWA	ML KAPP	2	INTERSTATE POWER CO.
IOWA	RIVERSIDE	9	IOWA-ILL GAS & ELEC.
KENTUCKY	ELMER SMITH	2	OWENSBORO MUN UTIL.
KENTUCKY	EW BROWN	2	KENTUCKY UTL CO.
KENTUCKY	EW BROWN	3	KENTUCKY UTL CO.
KENTUCKY	GHENT	1	KENTUCKY UTL CO.
MARYLAND	MORGANTOWN	1	POTOMAC ELEC PWR CO.
MARYLAND	MORGANTOWN	2	POTOMAC ELEC PWR CO.
MICHIGAN	JH CAMPBELL	1	CONSUMERS POWER CO.
MISSOURI	LABADIE	1	UNION ELECTRIC CO.
MISSOURI	LABADIE	2	UNION ELECTRIC CO.
MISSOURI	LABADIE	3	UNION ELECTRIC CO.
MISSOURI	LABADIE	4	UNION ELECTRIC CO.
MISSOURI	MONTROSE	1	KANSAS CITY PWR & LT.
MISSOURI	MONTROSE	2	KANSAS CITY PWR & LT.
MISSOURI	MONTROSE	3	KANSAS CITY PWR & LT.
NEW YORK	DUNKIRK	3	NIAGARA MOHAWK PWR.
NEW YORK	DUNKIRK	4	NIAGARA MOHAWK PWR.
NEW YORK	GREENIDGE	6	NY STATE ELEC & GAS.
NEW YORK	MILLIKEN	1	NY STATE ELEC & GAS.
NEW YORK	MILLIKEN	2	NY STATE ELEC & GAS.
OHIO	ASHTABULA	7	CLEVELAND ELEC ILLUM.
OHIO	AVON LAKE	11	CLEVELAND ELEC ILLUM.
OHIO	CONESVILLE	4	COLUMBUS STHERN PWR.
OHIO	EASTLAKE	1	CLEVELAND ELEC ILLUM.
OHIO	EASTLAKE	2	CLEVELAND ELEC ILLUM.
OHIO	EASTLAKE	3	CLEVELAND ELEC ILLUM.
OHIO	EASTLAKE	4	CLEVELAND ELEC ILLUM.
OHIO	MIAMI FORT	6	CINCINNATI GAS & ELEC.
OHIO	WC BECKJORD	5	CINCINNATI GAS & ELEC.
OHIO	WC BECKJORD	6	CINCINNATI GAS & ELEC.
PENNSYLVANIA	BRUNNER ISLAND	1	PENNSYLVANIA PWR & LT.
PENNSYLVANIA	BRUNNER ISLAND	2	PENNSYLVANIA PWR & LT.
PENNSYLVANIA	BRUNNER ISLAND	3	PENNSYLVANIA PWR & LT.
PENNSYLVANIA	CHESWICK	1	DUQUESNE LIGHT CO.
PENNSYLVANIA	CONEMAUGH	1	PENNSYLVANIA ELEC CO.
PENNSYLVANIA	CONEMAUGH	2	PENNSYLVANIA ELEC CO.
PENNSYLVANIA	PORTLAND	1	METROPOLITAN EDISON.
PENNSYLVANIA	PORTLAND	2	METROPOLITAN EDISON.
PENNSYLVANIA	SHAWVILLE	3	PENNSYLVANIA ELEC CO.
PENNSYLVANIA	SHAWVILLE	4	PENNSYLVANIA ELEC CO.
TENNESSEE	GALLATIN	1	TENNESSEE VAL AUTH.
TENNESSEE	GALLATIN	2	TENNESSEE VAL AUTH.
TENNESSEE	GALLATIN	3	TENNESSEE VAL AUTH.
TENNESSEE	GALLATIN	4	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	1	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	2	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	3	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	4	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	5	TENNESSEE VAL AUTH.

VOL 60 ISS 71 APR 13 1995 UMI

TABLE 1.—PHASE I TANGENTIALLY FIRED UNITS—Continued

State	Plant	Unit	Operator
TENNESSEE	JOHNSONVILLE	6	TENNESSEE VAL AUTH.
WEST VIRGINIA	ALBRIGHT	3	MONONGAHELA POWER CO.
WEST VIRGINIA	FORT MARTIN	1	MONONGAHELA POWER CO.
WEST VIRGINIA	MOUNT STORM	1	VIRGINIA ELEC & PWR.
WEST VIRGINIA	MOUNT STORM	2	VIRGINIA ELEC & PWR.
WEST VIRGINIA	MOUNT STORM	3	VIRGINIA ELEC & PWR.
WISCONSIN	GENOA	1	DAIRYLAND POWER COOP.
WISCONSIN	SOUTH OAK CREEK	7	WISCONSIN ELEC POWER.
WISCONSIN	SOUTH OAK CREEK	8	WISCONSIN ELEC POWER.

TABLE 2.—PHASE I DRY BOTTOM-FIRED UNITS

State	Plant	Unit	Operator
ALABAMA	COLBERT	1	TENNESSEE VAL AUTH.
ALABAMA	COLBERT	2	TENNESSEE VAL AUTH.
ALABAMA	COLBERT	3	TENNESSEE VAL AUTH.
ALABAMA	COLBERT	4	TENNESSEE VAL AUTH.
ALABAMA	COLBERT	5	TENNESSEE VAL AUTH.
ALABAMA	EC GASTON	1	ALABAMA POWER CO.
ALABAMA	EC GASTON	2	ALABAMA POWER CO.
ALABAMA	EC GASTON	3	ALABAMA POWER CO.
ALABAMA	EC GASTON	4	ALABAMA POWER CO.
FLORIDA	CRIST	6	GULF POWER CO.
FLORIDA	CRIST	7	GULF POWER CO.
GEORGIA	HAMMOND	1	GEORGIA POWER CO.
GEORGIA	HAMMOND	2	GEORGIA POWER CO.
GEORGIA	HAMMOND	3	GEORGIA POWER CO.
GEORGIA	HAMMOND	4	GEORGIA POWER CO.
ILLINOIS	GRAND TOWER	9	CEN ILLINOIS PUB SER.
INDIANA	CULLEY	2	STHERN IND GAS & EL.
INDIANA	CULLEY	3	STHERN IND GAS & EL.
INDIANA	GIBSON	1	PSI ENERGY INC.
INDIANA	GIBSON	2	PSI ENERGY INC.
INDIANA	GIBSON	3	PSI ENERGY INC.
INDIANA	GIBSON	4	PSI ENERGY INC.
INDIANA	RA GALLAGHER	1	PSI ENERGY INC.
INDIANA	RA GALLAGHER	2	PSI ENERGY INC.
INDIANA	RA GALLAGHER	3	PSI ENERGY INC.
INDIANA	RA GALLAGHER	4	PSI ENERGY INC.
INDIANA	FRANK E RATTS	1SG1	HOOSIER ENERGY REC.
INDIANA	FRANK E RATTS	2SG1	HOOSIER ENERGY REC.
INDIANA	WABASH RIVER	1	PSI ENERGY INC.
INDIANA	WABASH RIVER	2	PSI ENERGY INC.
INDIANA	WABASH RIVER	3	PSI ENERGY INC.
INDIANA	WABASH RIVER	5	PSI ENERGY INC.
IOWA	DES MOINES	11	IOWA PWR & LT CO.
IOWA	PRAIRIE CREEK	4	IOWA ELEC LT & PWR.
KANSAS	QUINDARO	2	KS CITY BD PUB UTIL.
KENTUCKY	COLEMAN	C1	BIG RIVERS ELEC CORP.
KENTUCKY	COLEMAN	C2	BIG RIVERS ELEC CORP.
KENTUCKY	COLEMAN	C3	BIG RIVERS ELEC CORP.
KENTUCKY	EW BROWN	1	KENTUCKY UTL CO.
KENTUCKY	GREEN RIVER	5	KENTUCKY UTL CO.
KENTUCKY	HMP&L STATION 2	H1	BIG RIVERS ELEC CORP.
KENTUCKY	HMP&L STATION 2	H2	BIG RIVERS ELEC CORP.
KENTUCKY	HL SPURLOCK	1	EAST KY PWR COOP.
KENTUCKY	JS COOPER	1	EAST KY PWR COOP.
KENTUCKY	JS COOPER	2	EAST KY PWR COOP.
MARYLAND	CHALK POINT	1	POTOMAC ELEC PWR CO.

TABLE 2.—PHASE I DRY BOTTOM-FIRED UNITS—Continued

State	Plant	Unit	Operator
MARYLAND	CHALK POINT	2	POTOMAC ELEC PWR CO.
MINNESOTA	HIGH BRIDGE	6	NORTHERN STATES PWR.
MISSISSIPPI	JACK WATSON	4	MISSISSIPPI PWR CO.
MISSISSIPPI	JACK WATSON	5	MISSISSIPPI PWR CO.
MISSOURI	JAMES RIVER	5	SPRINGFIELD UTL.
OHIO	CONESVILLE	3	COLUMBUS STHERN PWR.
OHIO	EDGEWATER	13	OHIO EDISON CO.
OHIO	MIAMI FORT [1]	5–1	CINCINNATI GAS&ELEC.
OHIO	MIAMI FORT [1]	5–2	CINCINNATI GAS&ELEC.
OHIO	PICWAY	9	COLUMBUS STHERN PWR.
OHIO	RE BURGER	7	OHIO EDISON CO.
OHIO	RE BURGER	8	OHIO EDISON CO.
OHIO	WH SAMMIS	5	OHIO EDISON CO.
OHIO	WH SAMMIS	6	OHIO EDISON CO.
PENNSYLVANIA	ARMSTRONG	1	WEST PENN POWER CO.
PENNSYLVANIA	ARMSTRONG	2	WEST PENN POWER CO.
PENNSYLVANIA	MARTINS CREEK	1	PENNSYLVANIA PWR & LT.
PENNSYLVANIA	MARTINS CREEK	2	PENNSYLVANIA PWR & LT.
PENNSYLVANIA	SHAWVILLE	1	PENNSYLVANIA ELEC CO.
PENNSYLVANIA	SHAWVILLE	2	PENNSYLVANIA ELEC CO.
PENNSYLVANIA	SUNBURY	3	PENNSYLVANIA PWR & LT.
PENNSYLVANIA	SUNBURY	4	PENNSYLVANIA PWR & LT.
TENNESSEE	JOHNSONVILLE	7	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	8	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	9	TENNESSEE VAL AUTH.
TENNESSEE	JOHNSONVILLE	10	TENNESSEE VAL AUTH.
WEST VIRGINIA	HARRISON	1	MONONGAHELA POWER CO.
WEST VIRGINIA	HARRISON	2	MONONGAHELA POWER CO.
WEST VIRGINIA	HARRISON	3	MONONGAHELA POWER CO.
WEST VIRGINIA	MITCHELL	1	OHIO POWER CO.
WEST VIRGINIA	MITCHELL	2	OHIO POWER CO.
WISCONSIN	JP PULLIAM	8	WISCONSIN PUB SER CO.
WISCONSIN	NORTH OAK CREEK [2]	1	WISCONSIN ELEC PWR.
WISCONSIN	NORTH OAK CREEK [2]	2	WISCONSIN ELEC PWR.
WISCONSIN	NORTH OAK CREEK [2]	3	WISCONSIN ELEC PWR.
WISCONSIN	NORTH OAK CREEK [2]	4	WISCONSIN ELEC PWR.
WISCONSIN	SOUTH OAK CREEK [2]	5	WISCONSIN ELEC PWR.
WISCONSIN	SOUTH OAK CREEK [2]	6	WISCONSIN ELEC PWR.

[1] Vertically fired boiler.
[2] Arch-fired boiler.

VOL
60
ISS
71
AP
13
1995
UMI

TABLE 3.—PHASE I CELL BURNER TECHNOLOGY UNITS

State	Plant	Unit	Operator
INDIANA	WARRICK	4	STHERN IND GAS & EL.
MICHIGAN	JH CAMPBELL	2	CONSUMERS POWER CO.
OHIO	AVON LAKE	12	CLEVELAND ELEC ILLUM.
OHIO	CARDINAL	1	CARDINAL OPERATING.
OHIO	CARDINAL	2	CARDINAL OPERATING.
OHIO	EASTLAKE	5	CLEVELAND ELEC ILLUM.
OHIO	GENRL JM GAVIN	1	OHIO POWER CO.
OHIO	GENRL JM GAVIN	2	OHIO POWER CO.
OHIO	MIAMI FORT	7	CINCINNATI GAS & EL.
OHIO	MUSKINGUM RIVER	5	OHIO POWER CO.
OHIO	WH SAMMIS	7	OHIO EDISON CO.
PENNSYLVANIA	HATFIELDS FERRY	1	WEST PENN POWER CO.
PENNSYLVANIA	HATFIELDS FERRY	2	WEST PENN POWER CO.
PENNSYLVANIA	HATFIELDS FERRY	3	WEST PENN POWER CO.
TENNESSEE	CUMBERLAND	1	TENNESSEE VAL AUTH.
TENNESSEE	CUMBERLAND	2	TENNESSEE VAL AUTH.
WEST VIRGINIA	FORT MARTIN	2	MONONGAHELA POWER CO.

Appendix B to Part 76—Procedures and Methods for Estimating Costs of Nitrogen Oxides Controls Applied to Group 1, Phase I Boilers

1. Purpose and Applicability

This technical appendix specifies the procedures, methods, and data that the Administrator will use in establishing "***the degree of reduction achievable through this retrofit application of the best system of continuous emission reduction, taking into account available technology, costs, and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1) (of section 407 of the Act)." In developing the allowable NO_X emissions limitations for Group 2 boilers pursuant to subsection (b)(2) of section 407 of the Act, the Administrator will consider only those systems of continuous emission reduction that, when applied on a retrofit basis, are comparable in cost to the average cost in constant dollars of low NO_X burner technology applied to Group 1, Phase I boilers, as determined in section 3 below.

The Administrator will evaluate the capital cost (in dollars per kilowatt electrical ($/kW)), the operating and maintenance costs (in $/year), and the cost-effectiveness (in annualized $/ton NO_X removed) of installed low NO_X burner technology controls over a range of boiler sizes (as measured by the gross electrical capacity of the associated generator in megawatt electrical (MW)) and utilization rates (in percent gross nameplate capacity on an annual basis) to develop estimates of the average capital cost and cost-effectiveness for Group 1, Phase I boilers. The following units will be excluded from these determinations of the average capital cost and cost-effectiveness of NO_X controls set pursuant to subsection (b)(1) of section 407 of the Act: (1) Units employing an alternative technology, or only overfire air as applied to wall-fired boilers or only separated overfire air as applied to tangentially fired boilers, in lieu of low NO_X burner technology for reducing NO_X emissions; (2) units employing no controls, only controls installed before November 15, 1990, or only modifications to boiler operating parameters (e.g., burners out of service or fuel switching) for reducing NO_X emissions; and (3) units that have not achieved the applicable emission limitation.

2. Average Capital Cost for Low NO_X Burner Technology Applied to Group 1, Phase I Boilers

The Administrator will use the procedures, methods, and data specified in this section to estimate the average capital cost (in $/kW) of installed low NO_X burner technology applied to Group 1, Phase I boilers.

2.1 Using cost data submitted pursuant to the reporting requirements in section 4 below, boiler-specific actual or estimated actual capital costs will be determined for each unit in the population specified in section 1 above for assessing the costs of installed low NO_X burner technology. The scope of installed low NO_X burner technology costs will include the following capital costs for retrofit application: (1) For the burner portion—burners or air and coal nozzles, burner throat and waterwall modifications, and windbox modifications; and, where applicable, (2) for the combustion air staging portion—waterwall modifications or panels, windbox modifications, and ductwork, and (3) scope adders or supplemental equipment such as replacement or additional fans, dampers, or ignitors necessary for the proper operation of the low NO_X burner technology. Capital costs associated with boiler restoration or refurbishment such as replacement of air heaters, asbestos abatement, and recasing will not be included in the cost basis for installed low NO_X burner technology. The scope of installed low NO_X burner technology retrofit capital costs will include materials, construction and installation labor, engineering, and overhead costs.

2.2 Using gross nameplate capacity (in MW) for each unit as reported in the National Allowance Data Base (NADB), boiler-specific capital costs will be converted to a $/kW basis.

2.3 Capital cost curves ($/kW versus boiler size in MW) or equations for installed low NO_X burner technology retrofit costs will be developed for: (1) Dry bottom wall fired boilers (excluding units applying cell burner technology) and (2) tangentially fired boilers.

2.4 The capital cost curves or equations defined above will be used to develop weighted average cost estimates of installed low NO_X burner technology applied to Group 1, Phase I boilers. The weighting factor will be the unit gross nameplate generating capacity (in MW) as reported in the NADB.

3. Average Cost-Effectiveness for Low NO_X Burner Technology Applied to Group 1, Phase I Boilers

The Administrator will use the procedures, methods, and data specified in this section to estimate the average cost-effectiveness (in annualized $/ton NO_X removed) of installed low NO_X burner technology applied to Group 1, Phase I boilers.

3.1 Boiler-specific estimates of annual tons NO_X removed by the installed low NO_X burner technology will be determined for each unit in the population specified in section 1 above.

3.1.1 The baseline NO_X emission rate (in lb/mmBtu, annual average basis) will be estimated prior to retrofitting any low NO_X burner technology controls. For units that have installed and certified continuous emission monitoring systems for measuring the NO_X emission rate pursuant to part 75 of this chapter at least 120 days prior to the low NO_X burner technology retrofit, an estimate of the average annual uncontrolled NO_X emission rate will be developed using continuous emission monitoring data for the 120 days immediately before the low NO_X burner technology retrofit or another continuous 120-day or longer period as approved by the Administrator. (In cases where 120 days of certified and quality-assured continuous emission monitoring data are not available prior to the low NO_X burner technology retrofit, the Administrator may use continuous emission monitoring data over a shorter period or short-term test data to estimate the uncontrolled NO_X emission rate.) Continuous emission monitoring data or other emission rate measurements will be extrapolated to one year of unit operation.

3.1.2 The controlled NO_X emission rate (in lb/mmBtu, annual average basis) will be estimated after installation, shakedown, and/or optimization of all low NO_X burner technology controls have been completed and while the unit is complying with the applicable emission limitation (or alternative emission limitation). Continuous emission monitoring data submitted pursuant to part 75 of this chapter will be used for the 120 days immediately following installation and testing of the final low NO_X burner technology, provided the unit is complying with the applicable emission limitation (or alternative emission limitation), or another continuous 120-day or shorter period as approved by the Administrator. Continuous emission monitoring data will be extrapolated to one year of unit operation.

3.1.3 The NO_X emission reduction (in lb/mmBtu, annual average basis) achieved by the installed low NO_X burner technology will be estimated by subtracting the controlled NO_X emission rate defined in section 3.1.2 from the uncontrolled NO_X emission rate defined in section 3.1.1.

3.1.4 Annual estimates of the NO_X emission reduction achieved by the installed low NO_X burner technology will be converted to annual tons of NO_X removed by multiplying it by the annual heat input (in mmBtu). Unit heat input data submitted pursuant to part 75 of this chapter for calendar year 1994 or for the year immediately following installation and testing of the final low NO_X burner technology, will be used when such data are available prior to October 30, 1995. Such data will be adjusted to an annual basis whenever a nonrecurrent extended outage at the affected unit during the period has taken place.

3.2 The boiler-specific capital costs of installed low NO_X burner technology developed in section 2.1 will be annualized by multiplying them by a constant dollar capital recovery factor based on a 20-year economic life (e.g., 0.115).

3.3 Using cost data submitted pursuant to the reporting requirements in section 4, boiler-specific annual operating and maintenance cost increases (or decreases) will be determined for each unit in the population specified in section 1 above. The scope of the operating and maintenance costs (or savings) attributable to the installed low NO_X burner technology may, but not necessarily will, include incremental increases (or decreases) in: maintenance labor and materials costs, operating labor costs, operating fuel costs, and secondary air fan electricity costs.

3.4 The average annual cost-effectiveness of installed low NO_X burner technology applied to Group 1, Phase I boilers will be estimated as follows: (1) The annualized capital costs defined in section 3.2 and the annual operating and maintenance cost increases (or decreases) defined in section 3.3 will be summed for all units in the population specified in section 1; and (2) these annualized costs will be divided by the sum of the NO_X emission reductions (in tons/year) achieved by the units in the population specified in section 1.

4. Reporting Requirements

4.1 The following information is to be submitted by each designated representative of a Phase I affected unit subject to the reporting requirements of § 76.14(c):

4.1.1 Schedule and dates for baseline testing, installation, and performance testing of low NO_X burner technology.

4.1.2 Estimates of the annual average baseline NO_X emission rate, as specified in section 3.1.1, and the annual average controlled NO_X emission rate, as specified in section 3.1.2, including the supporting continuous emission monitoring or other test data.

4.1.3 Copies of pre-retrofit and post-retrofit performance test reports.

4.1.4 Detailed estimates of the capital costs based on actual contract bids for each component of the installed low NO_X burner technology including the items listed in section 2.1. Indicate number of bids solicited. Provide a copy of the actual agreement for the installed technology.

4.1.5 Detailed estimates of the capital costs of system replacements or upgrades such as coal pipe changes, fan replacements/upgrades, or mill replacements/upgrades undertaken as part of the low NO_X burner technology retrofit project.

4.1.6 Detailed breakdown of the actual costs of the completed low NO_X burner technology retrofit project where low NO_X burner technology costs (section 4.1.4) are disaggregated, if feasible, from system replacement or upgrade costs (section 4.1.5).

4.1.7 Description of the probable causes for significant differences between actual and estimated low NO_X burner technology retrofit project costs.

4.1.8 Detailed breakdown of the burner and, if applicable, combustion air staging system annual operating and maintenance costs for the items listed in section 3.3 before and after the installation, shakedown, and/or optimization of the installed low NO_X burner technology. Include estimates and a description of the probable causes of the incremental annual operating and maintenance costs (or savings) attributable to the installed low NO_X burner technology.

4.2 All capital cost estimates are to be broken down into materials costs, construction and installation labor costs, and engineering and overhead costs. All operating and maintenance costs are to be broken down into maintenance materials costs, maintenance labor costs, operating labor costs, and fan electricity costs. All capital and operating costs are to be reported in dollars with the year of expenditure or estimate specified for each component.

[FR Doc. 95–8742 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7132

[AZ–930–1430–01; AR 06449]

Revocation of Public Land Order No. 1076; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order which withdrew 240 acres of public land for use by the National Park Service in connection with the administration and maintenance of the Wupatki National Monument. The land was added to the Wupatki National Monument by Public Law 87–136, and the revocation is needed to clarify the records and give the National Park Service total jurisdiction. The land has been and will remain closed to surface entry and mining. This is a record clearing action only.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602–650–0509.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 1076, which withdrew the following described public land, is hereby revoked in its entirety:

Gila and Salt River Meridian

T. 25 N., R. 8 E.,
Sec. 3, W½, that part lying west of the west right-of-way line of U.S. Highway 89 (consisting of lot 4, SW¼NW¼, NW¼SW¼, part of the westerly portions of lot 3, SE¼NW¼, and E½SW¼)

The area described contains 240 acres in Coconino County.

2. The land is located within the Wupatki National Monument and will remain closed to surface entry and mining.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–9098 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–32–P

43 CFR Public Land Order 7133

[OR–943–1430–01; GP5–038; OR–50706(WA)]

Withdrawal of National Forest System Lands for Five Seed Orchards; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 496.22 acres of National Forest System lands in the Colville and Kaniksu National Forests from mining for a period of 20 years for the Department of Agriculture, Forest Service, to protect the Brown

VOL 60 ISS 71 AP 13 1995 UMI

Mountain Seed Orchard, Pal Moore Meadows Seed Orchard, Teepee Seed Orchard, Cedar Creek Seed Orchard, and Flowery Trail Seed Orchard. The lands have been and will remain open to such forms of disposition as may by law be made of National Forest System lands and to mineral leasing.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–280–7171.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the investment in five Forest Service seed orchards:

Willamette Meridian

Colville National Forest

Brown Mountain Seed Orchard

T. 35 N., R. 33 E.,
Sec. 16, NW¼NW¼ and N½SW¼NW¼;
Sec. 17, E½E½NE¼NE¼ and E½NE¼SE¼NE¼.

Pal Moore Meadows Seed Orchard

T. 33 N., R. 41 E.,
Sec. 1, W½E½ and W½ of lot 4 and W½SW¼NW¼;
Sec. 2, S½S½ of lot 1, S½SE¼ of lot 2, and S½NE¼.

Teepee Seed Orchard

T. 37 N., R. 42 E.,
Sec. 34, S½SE¼NW¼NE¼, E½SW¼NE¼, W½SE¼NE¼, N½NW¼NE¼SE¼, and N½NE¼NW¼SE¼.

Cedar Creek Seed Orchard

T. 40 N., R. 42 E.,
Sec. 10, SE¼NE¼SW¼, W½E½SW¼, W½SW¼, and NE¼SE¼SW¼.

Kaniksu National Forest

Flowery Trail Seed Orchard

T. 32 N., R. 43 E.,
Sec. 5, S½NE¼SW¼, E½SW¼SW¼, and SE¼SW¼.

The areas described aggregate 496.22 acres in Ferry, Stevens, and Pend Oreille Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–9099 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–33–P

43 CFR Public Land Order 7137

[CO–930–1920–00–4357; COC–62206]

Transfer of Public Land for the Maybell Disposal Site; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order permanently transfers 140.49 acres of public land to the Department of Energy in accordance with the terms of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916 (1988)), as amended.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916 (1988)), as amended, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby permanently transferred to the Department of Energy, and as a result of this transfer, the land is no longer subject to the operation of the general land laws, including the mining and the mineral leasing laws, for the Maybell Disposal Site:

Sixth Principal Meridian

T. 7 N., R. 94 W.,
Sec. 19, lots 10, 12, 14, and 16, W½E½SW¼NE¼, W½E½NE¼SW¼NE¼, W½SW¼NE¼, SE¼NW¼, W½W½NE¼NW¼SE¼, and W½NW¼SE¼.

The area described contains 140.49 acres of public land in Moffat County.

2. The transfer of the above-described land to the Department of Energy vests in that Department full management, jurisdiction, responsibility, and liability for such land and all activities conducted therein, except as provided in paragraph 3.

3. The Secretary of the Interior shall retain the authority to administer any existing claims, rights, and interests in this land established before the effective date of the transfer.

Dated: April 7, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–9048 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–JB–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 92–28; FCC 95–71]

Mobile-Satellite Service at 1610–1626.5 and 2483.5–2500 MHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Second Report and Order denies five pioneer's preference requests submitted by Constellation Communications, Inc. (Constellation), Ellipsat Corporation (Ellipsat), Loral Qualcomm Satellite Services, Inc. (LQSS), Motorola Satellite Communications, Inc. (Motorola), and TRW Inc. (TRW). These parties requested a pioneer's preference for their proposals with regard to non-geostationary (low-Earth orbit, or LEO) mobile-satellite service (MSS) systems. In denying the requests, the Commission has determined that none of these LEO MSS proponents pioneered an innovative new service or technology.

EFFECTIVE DATE: May 15, 1995.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 739–0598.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in ET Docket No. 92–28, adopted February 24, 1995 and released March 30, 1995. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Public Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this Memorandum Opinion and Order also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20036, (202) 857–3800.

Summary of Second Report and Order

1. In the Notice of Proposed Rule Making and Tentative Decision, ET Docket No. 92–28, 7 FCC Rcd 6414, 57 FR 43434 (September 21, 1992), in this proceeding, we decided not to award a pioneer's preference to any of the five applicants proposing to establish LEO MSS systems. We were unable to discern a significant innovation in any of the five proposals that would warrant a preference grant. In each case, the technology relied upon to show innovation appeared to have already been used on existing satellite systems. Further, we found that none of the five applicants demonstrated, at the time of filing of their applications for a pioneer's preference, the technical feasibility of their respective systems. As noted, the Second Report and Order affirmed the Tentative Decision with respect to each of the five applicants. The Commission reason for not awarding preferences to these applicants were as follows.

2. First, Constellation requests a pioneer's preference for its proposed LEO MSS system, stating that its proposal is innovative because it would use: (1) Micro-satellites that are designed as an outgrowth of other satellites that Constellation had pioneered for the U.S. military; (2) dynamic receivers; and (3) a new launch vehicle that enables satellites to be launched into orbit in a more cost-efficient and reliable manner. Constellation proposes a nationwide satellite service that would, *inter alia*, serve areas and people who do not currently have access to any telecommunications service.

3. In the Tentative Decision, we concluded that Constellation's proposal merely combined existing technologies and did not constitute innovative achievements. We also noted that Constellation had neither demonstrated that its micro-satellite and dynamic receiver are unique, nor provided a technical showing to demonstrate that its design surpassed the state-of-art in satellite communications technology. Thus, we concluded that Constellation did not warrant a preference. No commenting party addressed the tentative denial of Constellation's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and therefore, deny Constellation's pioneer's preference request.

4. Second, Ellipsat asserts that it was the first applicant for a LEO system in these bands. Specifically, Ellipsat proposes to operate a nationwide mobile voice and position determination service via small low-Earth orbit satellites. Ellipsat requests a pioneer's preference for its alleged pioneering proposal for a voice and position determination LEO MSS system that: (1) Would be the first commercial use of elliptical orbits that optimize coverage over the U.S.; (2) would provide efficient spectrum use and facilitate sharing and multiple entry by other licensees by using code division multiple access (CDMA) spread spectrum technology; and (3) would utilize "transparent interconnections" between ground and satellite stations resulting in a seamless communications network which will provide low-cost, high-quality voice service. In addition, Ellipsat asserts that it was the first to apply for a LEO MSS system in the 1.6 and 2.4 GHz bands.

5. In the Tentative Decision, we concluded that Ellipsat failed to meet its burden of demonstrating that its proposal is new and innovative. We found that the techniques Ellipsat proposed to use already exist in the satellite community and thus do not demonstrate an innovative contribution. We stated that the elliptical orbits relied upon by Ellipsat to demonstrate innovation have been used by U.S. military satellites and the Russian Molnyia satellite system. Further, we found that Ellipsat had not demonstrated that it had pioneered the use of "transparent interconnections" between ground and satellite components or CDMA technology. Also, we found that Ellipsat did not have a significant lead over the other preference applicants in concept design nor had it performed relevant verifiable experiments. Thus, we stated that it would be inappropriate to single out Ellipsat for a preference based on the timing of its submissions.

6. In comments to the Tentative Decision, Ellipsat supports our decision not to award any pioneer's preferences in this proceeding. Ellipsat states that if any preferences are awarded, it warrants a grant since it was the first to propose a LEO satellite system above 1 GHz. Ellipsat did not submit additional information related to its own proposed system, and no other party commented on the tentative denial of Ellipsat's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and, therefore, deny Ellipsat's pioneer's preference request.

7. Third, LQSS requests a pioneer's preference for its proposed enhanced satellite system that it states can provide data and voice transmission to hand-held portable transceivers and also provide position determination services. LQSS argues that its proposed system reflects substantial development of new system architecture and provides for multiple users and interoperability with the existing public telephone switched network. Further, it claims that its satellite system design using eight satellites per circular orbital plane, spot beams, smooth call hand-off, and a pilot channel for synchronization with gateway stations is innovative. Further, LQSS claims that is high system capacity accommodates thousands of voice and data users simultaneously. LQSS proposes to use CDMA spread spectrum technology that its Qualcomm subsidiary developed and patented. LQSS submits that all of these developments constitute innovations that satisfy the criteria for a pioneer's preference.

8. In the Tentative Decision, we found that LQSS's proposal offers no contribution to communications technology that is significantly innovative. No party commented on the tentative denial of LQSS's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and, therefore, deny LQSS's pioneer's preference request.

9. Fourth, Motorola requests a pioneer's preference for its proposed LEO MSS system that it contends uses an innovative cellular design and spot beam technology. Motorola states that in the case of conventional cellular telephones, a static set of cells serves a large number of mobile units, whereas in its proposed system, cells would, in effect, move rapidly over the Earth while mobile units remain relatively stationary. Motorola claims that the unique elements of its system are its spectral efficiency and innovative design that includes the use of intersatellite links, a combination of frequency division multiple access and time division multiple access techniques, and bi-directional capabilities.

10. In the Tentative Decision, we concluded that Motorola's approach does not offer any significant improvements or innovations in service or technology. We found that Motorola's use of inter-satellite links and its concept of moving cells and spot beams have been utilized in earlier satellite systems and are thus not innovative. As we stated in the Tentative Decision, the U.S. military established inter-satellite link (crosslink) feasibility in 1976. Further, the technique of moving cells and spot beams has been utilized by the Department of Defense on its satellites

VOL
60
ISS
71
AP
13
1995
UMI

to improve coverage and provide frequency reuse. We also disagree that Motorola was the first to conceive and design a LEO satellite system above 1 GHz. From the record, it appears that all of the pioneer's preference applicants were performing research and developing their proposals in approximately the same time frame. Motorola's comments do not persuade us that the above findings were incorrect.

11. Further, we find that even if Motorola's system were innovative, it still would not meet our pioneer's preference criteria because Motorola did not demonstrate the technical feasibility of its proposed system prior to the Notice of Proposed Rule Making and Tentative Decision in this proceeding. Rather, the information submitted by Motorola at that time related to major spacecraft and ground segment systems and did not relate to the subsystem details necessary to establish technical feasibility.

12. Motorola also argues that we erred when we permitted a group of experts from other federal agencies to advise us on the merits of the requests without opening the results of this review to public comment. Motorola contends that this constituted peer review as contemplated by us when we established the pioneer's preference rules in Docket 90–217 (see Report and Order GEN Docket 90–217, 6 FCC Rcd 3488, 56 FR 24011 (May 28, 1991)) and that we should have released the results of the experts' evaluations to the public for comment. However, we disagree that the review performed by representatives of other government agencies constituted peer review. These representatives are employees from other federal government agencies who have expertise in satellite engineering matters. They were detailed by their agencies to the Commission and performed duties as Commission staff. The Commission brought these employees onboard using normal FCC personnel practices. Further, we follow this course of action routinely when we need additional resources or expertise in various matters. Here, the purpose of the work detail was to provide additional analysis by government experts of the pioneer's preference requests, but not to perform independent peer review as discussed in the Report and Order in Docket 90–217, (see Report and Order GEN Docket 90–217, 6 FCC Rcd 3488, 56 FR 24011 (May 28, 1991)). Therein, we contemplated soliciting assistance from either government or non-government experts who would not be functioning as Commission staff. Thus, there was nothing unfair in the Commission's use of employees on detail from other Government agencies to assist in the review of the various proposals. For all of these reasons, the Second R&O concludes that Motorola is not entitled to a pioneer's preference and that the procedure used to reach that decision was appropriate.

13. Finally, TRW requests a pioneer's preference for developing a LEO MSS system that would use higher orbits to provide position determination, voice communications, and data services to mobile users. It claims that its proposed service is a significant and innovative new use because the provision of co-primary mobile voice and data services is not currently authorized in the 1.6 and 2.4 GHz bands. TRW states that its system combines the advantages of LEO and geostationary orbit (GSO) systems by providing low communications time delay compared to the delay associated with GSO systems, while using higher elevation angles than other LEO proponents to minimize obstruction by trees, buildings, and terrain. Finally, TRW states that its proposed system will provide inexpensive service to underserved segments of society, including emergency service providers, farmers, ranchers, truckers, and automobile, sea, and air travelers.

14. In the Tentative Decision, we concluded that although TRW's LEO system would take advantage of higher orbits, its proposal was not sufficiently innovative to warrant a preference. We found that TRW merely had balanced the relative advantages and disadvantages of LEO versus GSO systems.

15. In comments to the Tentative Decision, TRW states that we pursued the most prudent and reasonable course in declining to award any of the applicants a preference. No other party commented on the proposed denial of TRW's request. Accordingly, in the Second R&O, we find no basis in the record to indicate that an award of a pioneer's preference is warranted and, therefore, deny TRW's pioneer's preference request.

16. Accordingly, it is ordered, That the pioneer's preference requests filed by Constellation Communications, Inc., Ellipsat Corporation, Loral Qualcomm Satellite Services, Inc., Motorola Satellite Communications, Inc., and TRW Inc. are denied. This action is taken pursuant to sections 4(i), 303 (c), (f), (g), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303 (c), (f), (g), and (r).

List of Subjects in 47 CFR Part 2

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–9092 Filed 4–12–95; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 60, No. 71
Thursday, April 13, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 250

RIN 0584–AB99

Waiver Authority Under the State Processing Program

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Food Distribution Program regulations by giving the Food and Consumer Service authority to waive provisions contained in the Food Distribution Program regulations at 7 CFR part 250. This authority would be used to conduct, in one or more areas of the United States, demonstration projects designed to test program changes to determine whether the changes would improve the State processing of donated foods.

DATES: To be assured of consideration, comments must be postmarked on or before May 15, 1995.

ADDRESSES: Comments should be sent to Phil Cohen, Chief, Policy and Program Development Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 502, Alexandria, Virginia 22302. Comments in response to this rule may be inspected at 3101 Park Center Drive, room 506, Alexandria, Virginia, during normal business hours (8:30 a.m. to 5 p.m.), Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT: David Seger, Policy and Program Development Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 502, Alexandria, Virginia 22302; or telephone (703) 305–2660.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act

This proposed rule reflects no new information collection requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3502). The OMB control number assigned to the existing recordkeeping and reporting requirements was approved by OMB for Part 250 under control number 0584–0007. The current burden hours will not change as a result of this proposed rule.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, Subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments. For disputes involving procurement by distributing and recipient agencies, this includes any administrative appeal procedures to the extent required by 7 CFR Parts 3015 or 3016.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Consumer Service (FCS) has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. The cost of compliance to State processors of donated foods is expected to be reduced by the changes proposed in this rule.

Background

Section 250.30 of the current Food Distribution Program regulations sets forth the terms and conditions under which distributing agencies, subdistributing agencies, and recipient agencies may enter into contracts with commercial firms for processing donated foods and prescribes the minimum requirements to be included in such contracts.

Discussion of Proposed Rule

The State processing regulations contain provisions specifically intended to ensure that processors account for all donated foods in the manufacture of end products and pass on the full value of the donated food as savings to eligible recipient agencies. In the late 1970's and the early 1980's, audits conducted by the Department of Agriculture's Office of Inspector General disclosed significant abuses in the processing program. As a result of these audits, certain requirements were incorporated to ensure that processors properly account for the donated food, such as the certified public accountant audit report requirement at §§ 250.18(b) and 250.30(c)(4)(xi), the requirement for Agricultural Marketing Service (AMS) acceptance service grading of meat and poultry products at § 250.30(g) and (h), and the performance supply and surety bond requirement at § 250.30(c)(4)(viii)(B).

In recent years, it has been pointed out that some of the provisions contained in the State processing regulations are overly restrictive. As a result of the restrictions, some commercial processors have opted to no longer participate in the program. The Food and Consumer Service (FCS) is aware that new companies are not willing to enter into agreements with the distributing agencies, thus eroding competition. Processors have also commented that compliance with some of the provisions in the regulations has increased their cost of producing end products. These increased costs are in

VOL 60 ISS 71 AP 13 1995 UMI

turn being passed on to the recipient agencies.

In addition, FCS' review of the certified public accountant audit reports submitted by multi-State processors participating in the processing program has disclosed that the majority of processors participating in the program are operating in compliance with the regulations and their processing agreements. Also, representatives from AMS have indicated that processors are properly accounting for meat and poultry.

FCS is interested in attracting more companies to participate in the processing program in order to increase competition. Increased competition should lower costs, improve quality, and provide a greater variety of end products for recipient agencies. Reducing unnecessarily burdensome requirements should further reduce the cost to recipient agencies. FCS has identified certain provisions in the regulations that could be modified or eliminated. The Department is interested in conducting demonstration projects in these areas to determine if changing the rules will result in increased competition and lower costs in the program. In order to conduct such projects, it will be necessary for FCS to waive certain requirements contained in the regulations.

This rule proposes to permit FCS to waive any of the requirements of the Food Distribution Program regulations at Part 250 for the purposes of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

List of Subjects in 7 CFR Part 250

Agricultural commodities, Food assistance programs, Food processing.

For reasons set forth in the preamble, 7 CFR Part 250 is proposed to be amended as follows:

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

1. The authority citation for Part 250 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 612c, 612c note, 1431, 1431b, 1431e, 1431 note, 1446a–1, 1859; 15 U.S.C. 713c; 22 U.S.C. 1922; 42 U.S.C. 1751, 1755, 1758, 1760, 1761, 1762a, 1766, 3030a, 5179, 5180.

2. In § 250.30, a new paragraph (t) is added to read as follows:

§ 250.30 State processing of donated foods.

* * * * *

(t) *Waiver authority.* The Food and Consumer Service may waive any of the requirements contained in this part for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

Dated: April 6, 1995.

William E. Ludwig,

Administrator.

[FR Doc. 95–9085 Filed 4–12–95; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–94–403]

RIN 1904–AA87

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Three Cleaning Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Advance notice of proposed rulemaking; extending comment period for dishwashers.

SUMMARY: Today's notice is to extend the comment period for dishwashers for persons to comment on the Department's Advance Notice of Proposed Rulemaking concerning energy conservation standards for three cleaning products.

DATES: Written comments in response to this document must be received by September 30, 1995.

ADDRESSES: Written comments are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, "Energy Efficiency Standards for Consumer Products," (Docket No. EE–RM–94–403), Room 1J–018, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–7574.

Copies of the public comments received may be read at the Department's Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Anthony T. Balducci, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–431, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8459

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Department published an Advance Notice of Proposed Rulemaking for Energy Conservation Standards for Three Cleaning Products. (59 FR 56423, November 14, 1994). The Department published a notice extending the comment period for dishwashers until April 17, 1995. (60 FR 5880, January 31, 1995).

In its letter of March 24, 1995, to the Department, the Association of Home Appliance Manufacturers (AHAM), on behalf of its members, and the American Council for Energy Efficient Economy, the Natural Resources Defense Council, California Energy Commission, Pacific Gas and Electric, Seattle Water Department and American Water Works Association, and Southern California Edison, requested an extension of the deadline for written comments for dishwashers from April 17, 1995, to September 30, 1995. AHAM stated it and other interested persons need additional time for further data collection and analysis to respond adequately to the issues raised in the advance notice.

In addition, the above parties are engaged in discussions to develop a joint recommendation to the Department regarding standard levels for dishwashers. AHAM and the other organizations need the additional time to collect engineering, energy, and cost data. These data will be used in developing dishwasher standard levels to be recommended to the Department for adoption as part of this rulemaking. The substance and possible results of these discussions may significantly affect the nature of the comments on the advance notice. The extension of time for the comment period should not impair or slow the Department's ability to promulgate standards.

The Department encourages these discussions between AHAM, its members and non-industry persons. Based on these representations, the Department is extending the written comment period to September 30, 1995.

Issued in Washington, DC, April 7, 1995.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 95–9170 Filed 4–12–95; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Chapter I

Review of Customs Regulations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Review of regulations.

SUMMARY: Pursuant to the President directing each agency to conduct a page-by-page review of all of each agency's regulations now in force to eliminate or revise those that are outdated or otherwise in need of reform, this document requests that the public assist Customs to identify regulations that could be modified or eliminated.

DATES: Responses should be submitted on or before April 25, 1995.

ADDRESSES: Responses (preferably in triplicate) shall be addressed to the Chief, Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harold Singer, Regulations Branch, 202–482–6930.

SUPPLEMENTARY INFORMATION:

Background

In a memorandum for Heads of Departments and Agencies signed by the President on March 4, 1995, on the subject of the Regulatory Reinvention Initiative, President Clinton directed each agency, as one of four steps which are an integral part of our ongoing Regulatory Reform Initiative, to conduct a page-by-page review of its regulations now in force and eliminate or revise those that are outdated or otherwise in need of reform. The President requests a report of regulations planned to be eliminated or modified by June 1, 1995. The review should include careful consideration of at least the following issues:

(1) Is this regulation obsolete?

(2) Could its intended goal be achieved in more efficient, less intrusive ways?

(3) Are there better private sector alternatives, such as market mechanisms that can better achieve the public good envisioned by the regulation?

(4) Could private business, setting its own standards and being subject to public accountability, do the job as well?

(5) Could the States or local governments do the job, making Federal regulation unnecessary?

Customs Request for Public Input

As most of Customs customers and stakeholders are aware, Customs is in the midst of its own reorganization and business process improvement. Since the passage of the Customs Modernization Act (the popular name for Title VI of the North American Free Trade Agreement Implementation Act), which allows Customs to streamline and modernize its operations, Customs has been holding public meetings to determine how its business processes should be revised and what revision of its regulations are necessary to best accomplish its mission and serve the international trade community efficiently and effectively. Obsolete regulations are soon to be eliminated as Customs is targeting close to 90 per cent of its regulations for modification. As an extension of the process of getting public input regarding Customs business process improvement and implementation of the Customs Modernization Act, and consistent with the President's Regulatory Reinvention Initiative, Customs is asking the public to assist the agency in identifying any sections of the Customs Regulations that are outdated or in need of reform.

Please bear in mind in responding to this request for input that Customs is not seeking comments in this document regarding specific draft proposals for regulatory changes to implement the Customs Modernization Act or concept papers concerning Customs processes that are being changed pursuant to the Customs Modernization Act that have been publicly discussed and/or released. Persons who have commented on specific Customs Modernization draft proposals or concept papers need not further respond to this request for suggested regulatory changes. Public meetings will continue to be held and draft proposals will continue to be posted on the Customs Electronic Bulletin Board soliciting public input on specific Customs Modernization draft proposals and concept papers. What Customs is looking for in this exercise are particular sections of the Customs Regulations that are believed to be outdated or too burdensome, and that should be eliminated or modified, regardless of how Customs ultimately revises its regulatory procedures pursuant to the Customs Modernization Act.

Customs has prepared the attached outline for use by members of the public who wish to offer suggestions on those Customs regulations which they believe can be eliminated or modified. Recommendations for modification or repeal should be as specific as possible. The information you submit is crucial to any decision to amend or repeal regulations and is necessary to be provided due to the time constraints involved in the program. The more detailed the information Customs receives, the easier it will be for Customs to evaluate the suggestion.

Responses should be submitted no later than April 25, 1995. Comments should be sent directly to: Chief, Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Outline for Public Input

(1) What is the subject of the regulations you are recommending be modified or repealed?

(2) Which sections in particular are you recommending be modified or repealed?

(3) What is the exact nature of your suggestion as how the regulations can be amended or repealed? If you are recommending an amendment, please specify the precise nature of the change.

(4) As far as you are aware, is Customs already in the process of developing an amendment to these regulations based on authority granted to the agency by the Customs Modernization Act?

(5) What is the expected benefit in your suggested modification or repeal? Specify savings in time and/or money and whether to Customs, the public, or both. Quantify, if possible.

Dated: April 11, 1995.

George J. Weise,

Commissioner of Customs.

[FR Doc. 95–9214 Filed 4–12–95; 8:45 am]

BILLING CODE 4820–02–P

Bureau of Alcohol, Tobacco and Firearms

27 CFR Chapter I

[Notice No. 809; 95R–007T]

Review of Existing Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of request for public comment.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is soliciting public comment as to which,

VOL
60
ISS
71
AP
13
1995
UMI

if any, of the regulations and programs which ATF administers may be improved or eliminated. This request is being made to assist ATF in implementing the President's February 21, 1995, regulatory reform initiative.

DATES: Comments for inclusion in the first report to the President must be received on or before April 28, 1995. However, this review is an ongoing process and comments received after the due date will be considered.

ADDRESSES: Send written comments to: Deputy Associate Director, Regulatory Enforcement Programs; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221, Washington, DC 20091–0221; Attn: Notice No. 809.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Regulatory Enforcement, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995,'President Clinton announced a regulatory reform initiative. This initiative included instructions to each agency to:

(a) Conduct a page-by-page review of all regulations to identify those which are obsolete or burdensome and those whose goals could be better achieved through the private sector, self-regulation or state and local governments. This review will include cleanup of old rules, rules that focus on describing organizations and procedures and rules that simply repeat statutory language. Second, the review will resolve any conflicts or overlaps which are found with rules of other agencies. Finally, the review will focus on ways of clarifying or streamlining remaining regulations.

(b) Review the statutes underlying agency regulations and programs and make recommendations for any necessary changes.

(c) Review agency policy and administrative decisions from this new perspective.

In cases where the agency's review discloses statutes, regulations or programs which should be revised or eliminated, the agency will, as soon as possible, suggest changes to the statutes or propose administrative changes to its regulations and programs.

The President also called on agencies to form partnerships with people affected by regulations to insure that reform is guided by reality. ATF plans to send representatives to scheduled industry events in the next few months to advance these ideas.

To further involve the public and regulated industries in this effort, ATF is also soliciting comments through this notice. The Bureau requests that comments be as specific as possible. If the person submitting a comment can cite a specific section of law or regulations, that information will help ATF to organize and analyze the responses. If the cite is not available, at least name the commodity (for instance, wine, cigarettes, ammunition, fireworks) and the activity (producing, labeling, importing) which the comment addresses. We encourage persons who wish to comment to start the process with outline suggestions within the 15-day comment period, with the understanding that more detailed proposals may be submitted later. Most changes which come about as a result of this initiative will be issued as proposed rules, so further opportunity to comment on specific changes will be afforded to interested persons.

ATF will not recognize any submitted material as confidential and comments may be disclosed to the public. Any material which the person commenting considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission (FAX) to (202) 927–8602, provided the comments: (1) are legible, (2) are 81/2" x 11" in size, (3) contain a written signature, and (4) are five pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of five pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Drafting Information. The author of this document is Marjorie D. Ruhf, Wine, Beer & Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority: This notice is issued under the authority in 5 U.S.C. 301, 18 U.S.C. 847 and 926, 22 U.S.C. 2778, 26 U.S.C. 7805, and 27 U.S.C. 205 and 215.

Approved: April 10, 1995.

Richard J. Watkins,

Acting Director.

[FR Doc. 95–9184 Filed 4–12–95; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 99–95]

Exemption of System of Records Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice (DOJ), U.S. Marshals Service (USMS) proposes to amend its Privacy Act regulations. The USMS proposes to exempt a new Privacy Act system of records entitled, "Joint Automated Bookings Stations (JABS), USM–014" from subsections (c) (3) and (4), (d), (e) (1), (2), and (3), (e)(5), (e)(8) and (g) of the Privacy Act (5 U.S.C. 552a). Information in this system of records relates to matters of law enforcement, and the exemptions are necessary to avoid interference with law enforcement responsibilities and to protect the privacy of third parties. The reasons for the exemptions are set forth in the text below.

DATES: Submit any comments by May 15, 1995.

ADDRESSES: Address all comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Information Resources Management, Justice Management Division, Department of Justice, Washington, DC (Room 850, WCTR Bldg.).

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely, (202) 616–0718.

SUPPLEMENTARY INFORMATION: In the notice section of today's **Federal Register**, the USMS provides a description of this system of records.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practices and Procedure, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, it is proposed to amend 28 CFR part 16, as set forth below.

Dated: March 30, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203 (a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. It is proposed to amend 28 CFR 16.101 by redesignating paragraph (s) as paragraph (u), and adding new paragraphs (s) and (t) as set forth below.

§ 16.101 Exemption of U.S. Marshals Service (USMS) Systems—Limited Access, as indicated.

* * * * *

(s) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2), (3), (e)(5) and (e)(8) and (g):

Joint Automated Booking Stations, Justice/USM–014

(t) These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2). Where compliance would not interfere with or adversely affect the law enforcement process, the USMS may waive the exemptions, either partially or totally. Exemption from the particular subsections are justified for the following reasons:

(1) From subsections (c)(3) and (d) to the extent that access to records in this system of records may impede or interfere with law enforcement efforts, result in the disclosure of information that would constitute an unwarranted invasion of the personal privacy of collateral record subjects or other third parties, and/or jeopardize the health and/or safety of third parties.

(2) Where access to certain records may be appropriate, exemption from the amendment provisions of subsection (d)(2) is necessary to the extent that the necessary and appropriate justification, together with proof of record inaccuracy, is not provided, and/or to the extent that numerous, frivolous requests to amend could impose an impossible administrative burden by requiring agencies to continuously review booking and arrest data, much of which is collected from the arrestee during the arrest.

(3) From subsection (e)(1) to the extent that is necessary to retain all information in order not to impede, compromise, or interfere with law enforcement efforts, e.g., where the significance of the information may not be readily determined and/or where such information may provide leads or assistance to Federal and other law enforcement agencies in discharging their law enforcement responsibilities.

(4) From subsection (e)(2) because, in some instances,the application of this provision would present a serious impediment to law enforcement since it may be necessary to obtain and verify information from a variety of sources other than the record subject to ensure safekeeping, security, and effective law enforcement. For example, it may be necessary that medical and psychiatric personnel provide information regarding the subject's behavior, physical health, or mental stability, etc. to ensure proper care while in custody, or it may be necessary to obtain information from a case agent or the court to ensure proper disposition of the subject individual.

(5) From subsection (e)(3) because the requirement that agencies inform each individual whom it asks to supply information of such information as is required by subsection (e)(3) may, in some cases, impede the information gathering process or otherwise interfere with or compromise law enforcement efforts, e.g., the subject may deliberately withhold information, or give erroneous information.

(6) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance and the accuracy of such information can only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability to collect information for law enforcement purposes and may prevent the eventual development of the necessary criminal intelligence or otherwise impede effective law enforcement.

(7) From subsection (e)(8) to the extent that such notice may impede, interfere with, or otherwise compromise law enforcement and security efforts.

(8) From subsection (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

* * * * *

[FR Doc. 95–9104 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–95–007]

Special Local Regulation: Newport Offshore Grand Prix, Narragansett Bay, Newport, RI

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a temporary Special Local Regulation for the Newport Offshore Grand Prix regatta. The regatta will be held on Sunday, May 21, 1995, in the waters of Narragansett Bay, Newport, RI. This regulation is needed to protect the boating public from the hazards associated with high speed powerboat racing in confined waters.

DATES: Comments must be received on or before May 4, 1995.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (j.g.) B.M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (OGD01–95–007), the specific section of the proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½" x 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard

VOL
60
ISS
71
AP
13
1995
UMI

plans no public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

The shortened comment period for this regulation was caused by a delay in receiving necessary information from the event sponsor. The Coast Guard considers this shortened comment period to be adequate because considerable promotional efforts undertaken by the sponsor have effectively publicized the event throughout the local area. The shortened comment period will allow sufficient time for the public to make substantive comments on the proposed rule.

Drafting Information. The drafters of this notice are Lieutenant (j.g.) B.M. Algeo, project Manager, First Coast Guard District, and Lieutenant Commander S.R. Watkins, Project Counsel, First Coast Guard District Legal Office.

Background and Purpose

On September 20, 1994, the sponsor, Boston International Sports Promotions, Inc., submitted a request to hold a powerboat race in Narragansett Bay, Newport, RI. The Coast Guard is considering establishing a temporary regulation in Narragansett Bay for this event known as the "Newport Offshore Grand Prix." The proposed regulation would establish two regulated areas in Narragansett Bay and would provide specific guidance to control vessel movement during the race.

This event will include up to 70 powerboats competing on a rectangular course at speeds approaching 125 m.p.h. Due to the inherent dangers of a race of this type, vessel traffic will be temporarily restricted to provide for the safety of the spectators and participants.

The sponsor will provide a minimum of 25 picket boats and a minimum of 4 medical boats manned by emergency medical technicians. All sponsor resources will be identified with regatta signs or flags, in accordance with American Power Boat Association, to augment the Coast Guard patrol that will be assigned to the event. The race course will be well marked and patrolled, but due to the speed and proximity of the participating vessels, it is necessary to establish a Special Local Regulation to control spectator and commercial vessel movement within this confined area.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a Special Local Regulation on specified waters of Narragansett Bay, Newport, Rhode Island. The Regulated Race Course Area will be closed to all traffic from 10:30 a.m. to 4:30 p.m. on May 21, 1995. The Regulated Milling Area will be closed to all traffic from 12:00 p.m. to 3:30 p.m. on May 21, 1995. However, in emergency situations, provisions will be made to establish safe escort by Coast Guard designated vessels for mariners requiring transit through any regulated area. This regulation is needed to protect spectators and participants from the hazards that accompany a high speed powerboat race in a confined area.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of the DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that have been and will be made to the affected maritime community, and the fact that the event is taking place in an area where the only commercial interests affected are a few marinas and a small fishing fleet.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard is considering the environmental impacts of both the proposed Special Regulations and the Newport Offshore Grand Prix. It is anticipated that an Environmental Assessment (EA) will be written concerning the potential environmental impacts resulting from this high speed power boat race for which the Coast Guard has received an "Application for Marine Event Permit." Comments in this regard should be forwarded to the address listed under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, § 100.35–T01007, is added to read as follows:

§ 100.35–T01007 Newport Offshore Grand Prix, Newport, RI.

(a) *Regulated Race Course Area.* This regulated area provides a 200 yard safety zone around the race course coordinates and includes all waters within the following points:

Latitude	*Longitude*
41°28.15″ N	071° 24.18″ W
41°26.27″ N	071°24.18″ W
41°23.18″ N	071°26.48″ W
41°22.42″ N	071°22.48″ W
41°27.42″ N	071°21.54″ W

(b) *Regulated Milling Area.* This regulated area provides adequate milling spaces for powerboat participants prior to and at the conclusion of the race. It will include all waters within the following points: from Fort Adams, to Mitchell Rock GB 3 (LLNR 17865), to Rose Island LBB 12 (LLNR 17855), to Dumplings LBB 11 (LLNR 17810).

(c) *Special Local Regulations.*

(1) Commander, U.S. Coast Guard Group Woods Hole reserves the right to delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area during the effective period of regulation unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels desiring to transit through the West Passage may do so without Coast Guard approval as long as the vessel remains outside the regulated areas at specified times. No vessel will be allowed to transit through any portions of the regulated Race Course Area during the actual race. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated areas with a Coast Guard designated escort. Vessels encountering emergencies which require transit through the regulated areas should contact the Coast Guard patrol commander on VHF Channel 16.

(4) Spectator craft are authorized to watch the race from any area as long as it remains outside of the designated regulated areas. Spectator craft are required to be at their desired location no later than 12:30 p.m.

(5) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Group Woods Hole or the designated on-scene patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately, then proceed as directed. Members of the Coast Guard Auxiliary will also be present to inform vessel operators of this regulation and other applicable laws.

(d) *Effective period.* This section will be effective from 10:30 a.m. to 4:30 p.m. on Sunday, May 21, 1995, unless otherwise specified in the Coast Guard Local Notice to Mariners and a notice in the **Federal Register**.

Dated: April 3, 1995.

R. R. Clark,

Captain, U.S. Coast Guard, Acting Commander, First Coast Guard District.

[FR Doc. 95–9038 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–5179–5]

Notice of Proposed Rule; Outer Continental Shelf Consistency Update for Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf ("OCS") Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act ("the Act"), the Clean Air Act Amendments of 1990, the applicable requirements for certain areas for Air Pollution from OCS Activities. The portion of the OCS air regulation that is being updated pertains to the requirements for OCS sources for which the State of Florida will be the designated COA. This action proposes to incorporate the requirements contained in "State of Florida Requirements Applicable to OCS Sources" (January 11, 1995). Proposed changes to the existing requirements are discussed below.

DATES: Comments on the proposed update must be received on or before May 15, 1995.

ADDRESSES: Comments must be mailed (in duplicate if possible) to EPA Air Docket, Attn: Docket No. A–93–31, U.S. Environmental Protection Agency, Region IV, Air, Pesticides, and Toxics Management Division, 345 Courtland Street, NE., Atlanta, GA 30365. (Attn: R. Scott Davis).

Docket: Supporting information used in developing the proposed notice and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–31. This docket is available for public inspection and copying Monday through Friday during regular business hours at the following locations:

EPA Air Docket, Attn: Docket No. A–93–31, Environmental Protection Agency, 401 M Street, SW., Washington DC 20460, room M–1500.

EPA Air Docket, Attn: Docket No. A–93–31, Environmental Protection Agency, Region IV Library, 345 Courtland Street, NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: R. Scott Davis, Air, Pesticides, and Toxics Management Division, U.S. EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365. Telephone (404) 347–3555 ext. 4144.

SUPPLEMENTARY INFORMATION: On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to comply with federal and state ambient air quality standards and the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the states, except those located in the Gulf of Mexico west of 87.5 degrees longitude, approximately west of the Florida/Alabama state border. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur: (1) At least annually; (2) upon receipt of a Notice of Intent (NOI) under § 55.4 of the OCS rule; and (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This Notice of Proposed Rulemaking is being proposed in response to the receipt of a NOI, submitted by Chevron U.S.A., Inc., Conoco Inc., and Murphy Exploration & Production Company on February 10, 1995, and represents the second update of part 55 for the State of Florida. The NOI includes general company information, a description of the proposed facility, estimated potential air emissions, emissions points, fuels, air pollution controls, and any proposed operating limitations. Public comments received in writing within 30 days of publication of this notice will be considered by EPA before promulgation of the final updated rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

VOL
60
ISS
71
AP
13
1995
UMI

incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

EPA Evaluation and Proposed Action

In updating 40 CFR part 55, EPA reviewed the state rules for inclusion in part 55 to ensure that they comply with the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources (40 CFR 55.1). EPA has also evaluated the rules to ensure they are not arbitrary or capricious (40 CFR 55.12 (e)). In addition, EPA has excluded administrative or procedural rules.[2]

In today's notice EPA proposes to incorporate the rules applicable to sources for which the State of Florida will be the COA. These rules include revisions to existing rules that already apply to OCS sources and are a result of the recodification and renumbering of Florida air regulations (Adopted 11/30/94) and the adoption of amendments to other existing air regulations:

Florida Administrative Code—Department of Environmental Protection. The following sections of Chapter 62:

4.001 Scope of Part I (Adopted 8/31/88)
4.020 Definitions (Adopted 7/11/93)
4.021 Transferability of Definitions (Adopted 8/31/88)
4.030 General Prohibitions (Adopted 8/31/88)
4.040 Exemptions (Adopted 8/31/88)
4.050 Procedure to Obtain Permit; Application, except (4)(b) through (4)(l) and 4(r) (Adopted 11/23/94)
4.070 Standards for Issuing or Denying Permits; Issuance; Denial (Adopted 3/28/91)
4.080 Modification of Permit Conditions (Adopted 3/19/90)
4.090 Renewals (Adopted 7/11/93)
4.100 Suspension and Revocation (Adopted 8/31/88)
4.110 Financial Responsibility (Adopted 8/31/88)
4.120 Transfer of Permits (Adopted 3/19/90)
4.130 Plant Operation—Problems (Adopted 8/31/88)
4.160 Permit Conditions, except (16) and (17) (Adopted 7/11/93)
4.200 Scope of Part II (Adopted 8/31/88)
4.210 Construction Permits (Adopted 8/31/88)
4.220 Operation Permits for New Sources (Adopted 8/31/88)
4.510 Scope of Part III (Adopted 8/31/88)
4.520 Definitions (Adopted 7/11/90)
4.530 Procedures (Adopted 3/19/90)
4.540 General Conditions for all General Permits (Adopted 8/31/88)
210.100 Purpose and Scope (Adopted 11/23/94)
210.200 Definitions (Adopted 11/23/94)
210.300 Permits Required (Adopted 11/23/94)
210.360 Administrative Permit Corrections (Adopted 11/23/94)
210.370 Reports (Adopted 11/23/94)
210.400 Emission Estimates (Adopted 11/23/94)
210.500 Air Quality Models (Adopted 11/23/94)
210.550 Stack Height Policy (Adopted 11/23/94)
210.600 Enhanced Monitoring (Adopted 11/23/94)
210.650 Circumvention (Adopted 9/25/92)
210.700 Excess Emissions (Adopted 11/23/94)
210.900 Forms (Adopted 11/23/94)
210.980 Severability (Adopted 9/25/92)
212.100 Purpose and Scope (Adopted 2/2/93)
212.200 Definitions (Adopted 2/2/93)
212.300 Sources Not Subject to Prevention of Significant Deterioration or Nonattainment Requirements (Adopted 9/25/92)
212.400 Prevention of Significant Deterioration (Adopted 2/2/93)
212.410 Best Available Control Technology (BACT) (Adopted 9/25/92)
212.500 New Source Review for Nonattainment Areas (Adopted 2/2/93)
212.510 Lowest Achievable Emission Rate (LAER) (Adopted 9/25/92)
212.600 Source Specific New Source Review Requirements (Adopted 9/25/92)
212.700 Source Reclassification (Adopted 9/25/92)
256.100 Declaration and Intent (Adopted 11/30/94)
256.200 Definitions (Adopted 11/30/94)
256.300 Prohibitions (Adopted 11/30/94)
256.450 Open Burning Allowed (Adopted 6/27/91)
256.600 Industrial, Commercial, Municipal and Research Open Burning (Adopted 8/26/87)
256.700 Open Burning Allowed (Adopted 11/30/94)
272.100 Purpose and Scope (Adopted 11/23/94)
272.200 Definitions (Adopted 11/23/94)
272.300 Ambient Air Quality Standards (Adopted 11/23/94)
272.500 Maximum Allowable Increases (Prevention of Significant Deterioration) (Adopted 11/23/94)
272.750 DER Ambient Test Methods (Adopted 9/25/92)
273.200 Definitions (Adopted 9/25/92)
273.300 Air Pollution Episodes (Adopted 9/25/92)
273.400 Air Alert (Adopted 9/25/92)
273.500 Air Warning (Adopted 9/25/92)
273.600 Air Emergency (Adopted 9/25/92)
296.100 Purpose and Scope (Adopted 11/23/94)
296.200 Definitions (Adopted 11/23/94)
296.310 General Particulate Emission Limiting Standards (Adopted 11/23/94)
296.320 General Pollutant Emission Limiting Standards, except (2) (Adopted 2/2/93)
296.330 Best Available Control Technology (BACT) (Adopted 11/23/94)
296.400 Specific Emission Limiting and Performance Standards (Adopted 11/23/94)
296.500 Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Emitting Facilities (Adopted 11/23/94)
296.570 Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities (Adopted 11/23/94)
296.600 Reasonably Available Control Technology (RACT)—Lead (Adopted 8/8/94)
296.601 Lead Processing Operations in General (Adopted 8/8/94)
296.700 Reasonably Available Control Technology (RACT)—Particulate Matter, except (2)(f) (Adopted 11/23/94)
296.800 Standards of Performance for New Stationary Sources (NSPS) (Adopted 11/23/94)
296.810 National Emission Standards for Hazardous Air Pollutants (NESHAP)—Part 61 (Adopted 11/23/94)
296.820 National Emission Standards for Hazardous Air Pollutants (NESHAP)—Part 63 (Adopted 11/23/94)
297.100 Purpose and Scope (Adopted 11/23/94)
297.200 Definitions (Adopted 11/23/94)
297.310 General Test Requirements (Adopted 11/23/94)
297.330 Applicable Test Procedures (Adopted 11/23/94)
297.340 Frequency of Compliance Tests (Adopted 11/23/94)
297.345 Stack Sampling Facilities Provided by the Owner of an Air Pollution Point Source (Adopted 11/23/94)
297.350 Determination of Process Variables (Adopted 11/23/94)
297.400 EPA Methods Adopted by Reference (Adopted 11/23/94)
297.401 EPA Test Procedures (Adopted 11/23/94)
297.411 DER Method 1 (Adopted 11/23/94)
297.412 DER Method 2 (Adopted 12/2/92)
297.413 DER Method 3 (Adopted 12/2/92)
297.414 DER Method 4 (Adopted 12/2/92)
297.415 DER Method 5 (Adopted 11/23/94)
297.416 DER Method 5A (Adopted 12/2/92)
297.417 DER Method 6 (Adopted 11/23/94)
297.418 DER Method 7 (Adopted 12/2/92)
297.419 DER Method 8 (Adopted 12/2/92)
297.420 DER Method 9 (Adopted 11/23/94)
297.421 DER Method 10 (Adopted 12/2/92)
297.422 DER Method 11 (Adopted 12/2/92)
297.423 DER Method 12—Determination of Inorganic Lead Emissions from Stationary Sources (Adopted 11/23/94)
297.424 DER Method 13 (Adopted 12/2/92)
297.440 Supplementary Test Procedures (Adopted 11/23/94)
297.450 EPA VOC Capture Efficiency Test Procedures (Adopted 11/23/94)
297.520 EPA Performance Specifications (Adopted 11/23/94)
297.570 Test Report (Adopted 11/23/94)
297.620 Exceptions and Approval of Alternate Procedures and Requirements (Adopted 11/23/94)

The following rule is proposed to be deleted from the State of Florida requirements applicable to OCS sources. It will be superseded by the provisions of another rule.

297.500 Continuous Emission Monitoring Requirements (Repealed 11/23/94)

Administrative Requirements

A. Executive Order 12291 (Regulatory Impact Analysis)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291. This exemption continues in effect under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities." Small entities include small businesses, organizations, and governmental jurisdictions.

As was stated in the final regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this notice of proposed rulemaking will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final OCS rulemaking dated September 4, 1992, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 35012 *et seq.*, and has assigned OMB control number 2060–0249. This consistency update does not add any further requirements.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Nitrogen oxides, Outer continental shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 16, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is proposed to be amended by revising paragraph (e)(6)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(A) State of Florida Requirements Applicable to OCS Sources, January 11, 1995.

* * * * *

3. Appendix A to part 55 is proposed to be amended by revising paragraph (a)(1) under the heading Florida to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

Florida

(a) * * *

(1) The following requirements are contained in State of Florida Requirements Applicable to OCS Sources, January 11, 1995:

Florida Administrative Code—Department of Environmental Protection. The following sections of Chapter 62:

4.001 Scope of Part I (Adopted 8/31/88)
4.020 Definitions (Adopted 7/11/93)
4.021 Transferability of Definitions (Adopted 8/31/88)
4.030 General Prohibitions (Adopted 8/31/88)
4.040 Exemptions (Adopted 8/31/88)
4.050 Procedure to Obtain Permit; Application, except (4)(b) through (4)(l) and 4(r) (Adopted 11/23/94)
4.070 Standards for Issuing or Denying Permits; Issuance; Denial (Adopted 3/28/91)
4.080 Modification of Permit Conditions (Adopted 3/19/90)
4.090 Renewals (Adopted 7/11/93)
4.100 Suspension and Revocation (Adopted 8/31/88)
4.110 Financial Responsibility (Adopted 8/31/88)
4.120 Transfer of Permits (Adopted 3/19/90)
4.130 Plant Operation—Problems (Adopted 8/31/88)
4.160 Permit Conditions, except (16) and (17) (Adopted 7/11/93)
4.200 Scope of Part II (Adopted 8/31/88)
4.210 Construction Permits (Adopted 8/31/88)
4.220 Operation Permits for New Sources (Adopted 8/31/88)
4.510 Scope of Part III (Adopted 8/31/88)
4.520 Definitions (Adopted 7/11/90)
4.530 Procedures (Adopted 3/19/90)
4.540 General Conditions for all General Permits (Adopted 8/31/88)
210.100 Purpose and Scope (Adopted 11/23/94)
210.200 Definitions (Adopted 11/23/94)
210.300 Permits Required (Adopted 11/23/94)
210.360 Administrative Permit Corrections (Adopted 11/23/94)
210.370 Reports (Adopted 11/23/94)
210.400 Emission Estimates (Adopted 11/23/94)
210.500 Air Quality Models (Adopted 11/23/94)
210.550 Stack Height Policy (Adopted 11/23/94)
210.600 Enhanced Monitoring (Adopted 11/23/94)
210.650 Circumvention (Adopted 9/25/92)
210.700 Excess Emissions (Adopted 11/23/94)
210.900 Forms (Adopted 11/23/94)
210.980 Severability (Adopted 9/25/92)
212.100 Purpose and Scope (Adopted 2/2/93)
212.200 Definitions (Adopted 2/2/93)
212.300 Sources Not Subject to Prevention of Significant Deterioration or Nonattainment Requirements (Adopted 9/25/92)
212.400 Prevention of Significant Deterioration (Adopted 2/2/93)
212.410 Best Available Control Technology (BACT) (Adopted 9/25/92)
212.500 New Source Review for Nonattainment Areas (Adopted 2/2/93)

[2] Upon delegation the onshore area will use its administrative and procedural rules as onshore. In those instances where EPA does not delegate authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

VOL
60
ISS
71
AP
13
1995
UMI

212.510 Lowest Achievable Emission Rate (LAER) (Adopted 9/25/92)
212.600 Source Specific New Source Review Requirements (Adopted 9/25/92)
212.700 Source Reclassification (Adopted 9/25/92)
256.100 Declaration and Intent (Adopted 11/30/94)
256.200 Definitions (Adopted 11/30/94)
256.300 Prohibitions (Adopted 11/30/94)
256.450 Open Burning Allowed (Adopted 6/27/91)
256.600 Industrial, Commercial, Municipal and Research Open Burning (Adopted 8/26/87)
256.700 Open Burning Allowed (Adopted 11/30/94)
272.100 Purpose and Scope (Adopted 11/23/94)
272.200 Definitions (Adopted 11/23/94)
272.300 Ambient Air Quality Standards (Adopted 11/23/94)
272.500 Maximum Allowable Increases (Prevention of Significant Deterioration) (Adopted 11/23/94)
272.750 DER Ambient Test Methods (Adopted 9/25/92)
273.200 Definitions (Adopted 9/25/92)
273.300 Air Pollution Episodes (Adopted 9/25/92)
273.400 Air Alert (Adopted 9/25/92)
273.500 Air Warning (Adopted 9/25/92)
273.600 Air Emergency (Adopted 9/25/92)
296.100 Purpose and Scope (Adopted 11/23/94)
296.200 Definitions (Adopted 11/23/94)
296.310 General Particulate Emission Limiting Standards (Adopted 11/23/94)
296.320 General Pollutant Emission Limiting Standards, except (2) (Adopted 2/2/93)
296.330 Best Available Control Technology (BACT) (Adopted 11/23/94)
296.400 Specific Emission Limiting and Performance Standards (Adopted 11/23/94)
296.500 Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Emitting Facilities (Adopted 11/23/94)
296.570 Reasonably Available Control Technology (RACT)—Requirements for Major VOC- and NO_X-Emitting Facilities (Adopted 11/23/94)
296.600 Reasonably Available Control Technology (RACT)—Lead (Adopted 8/8/94)
296.601 Lead Processing Operations in General (Adopted 8/8/94)
296.700 Reasonably Available Control Technology (RACT)—Particulate Matter, except (2)(f) (Adopted 11/23/94)
296.800 Standards of Performance for New Stationary Sources (NSPS) (Adopted 11/23/94)
296.810 National Emission Standards for Hazardous Air Pollutants (NESHAP)—Part 61 (Adopted 11/23/94)
296.820 National Emission Standards for Hazardous Air Pollutants (NESHAP)—Part 63 (Adopted 11/23/94)
297.100 Purpose and Scope (Adopted 11/23/94)
297.200 Definitions (Adopted 11/23/94)
297.310 General Test Requirements (Adopted 11/23/94)
297.330 Applicable Test Procedures (Adopted 11/23/94)
297.340 Frequency of Compliance Tests (Adopted 11/23/94)
297.345 Stack Sampling Facilities Provided by the Owner of an Air Pollution Point Source (Adopted 11/23/94)
297.350 Determination of Process Variables (Adopted 11/23/94)
297.400 EPA Methods Adopted by Reference (Adopted 11/23/94)
297.401 EPA Test Procedures (Adopted 11/23/94)
297.411 DER Method 1 (Adopted 11/23/94)
297.412 DER Method 2 (Adopted 12/2/92)
297.413 DER Method 3 (Adopted 12/2/92)
297.414 DER Method 4 (Adopted 12/2/92)
297.415 DER Method 5 (Adopted 11/23/94)
297.416 DER Method 5A (Adopted 12/2/92)
297.417 DER Method 6 (Adopted 11/23/94)
297.418 DER Method 7 (Adopted 12/2/92)
297.419 DER Method 8 (Adopted 12/2/92)
297.420 DER Method 9 (Adopted 11/23/94)
297.421 DER Method 10 (Adopted 12/2/92)
297.422 DER Method 11 (Adopted 12/2/92)
297.423 DER Method 12—Determination of Inorganic Lead Emissions from Stationary Sources (Adopted 11/23/94)
297.424 DER Method 13 (Adopted 12/2/92)
297.440 Supplementary Test Procedures (Adopted 11/23/94)
297.450 EPA VOC Capture Efficiency Test Procedures (Adopted 11/23/94)
297.520 EPA Performance Specifications (Adopted 11/23/94)
297.570 Test Report (Adopted 11/23/94)
297.620 Exceptions and Approval of Alternate Procedures and Requirements (Adopted 11/23/94)

* * * * *

[FR Doc. 95–9060 Filed 4–12–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 70

[OH001; FRL–5189–8]

Clean Air Act Proposed Approval of Operating Permit Program; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval.

SUMMARY: The EPA proposes full approval of the operating permit program submitted by the State of Ohio for the purpose of complying with Federal requirements which mandate that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

DATES: Comments on this proposed action must be received in writing by May 15, 1995.

ADDRESSES: Comments should be addressed to Steven Pak at the Region 5 address. Copies of the State's submittal and other supporting information used in developing the proposed full approval are available for inspection during normal business hours at the following location: EPA Region 5, Air and Radiation Division (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Pak, EPA Region 5, Air and Radiation Division (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1497.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

As required under title V of the Clean Air Act ("the Act") as amended by the 1990 Clean Air Act Amendments, EPA promulgated rules on July 21, 1992 (57 FR 32250), which define the minimum elements of an approvable State operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of State operating permit programs. These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V and part 70 require that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. If the State's submission is materially changed during the one-year review period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following receipt of the additional materials. Because Ohio provided EPA with additional materials that materially changed the State's Title V program submittal on September 12, 1994, November 21, 1994, December 9, 1994, and January 5, 1995, EPA has extended the review period and will work expeditiously to promulgate a final decision on the State's program.

EPA reviews State operating permit programs pursuant to section 502 of the Act and 40 CFR part 70, which together outline criteria for approval or disapproval. When a program substantially, but not fully, meets the requirements of 40 CFR part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by November 15, 1995, or by the end of an interim program, it must establish and implement a Federal operating permit program for that State.

II. Proposed Action and Implications

A. Analysis of State Submission

EPA has concluded that the operating permit program submitted by Ohio meets the requirements of title V and part 70 and is proposing to grant full approval to the program. For more detailed information on the analysis of the State's submission, please refer to the technical support document (TSD) included in the docket at the address noted above.

1. Support Materials

Donald Schregardus, Director of the Ohio Environmental Protection Agency and the Governor of Ohio's designee, submitted Ohio's title V operating permit program to EPA on July 22, 1994. The State supplemented the submittal on September 12, 1994, November 21, 1994, December 9, 1994, and January 5, 1995. The submittal contains all required elements of 40 CFR 70.4, including a description of Ohio's operating permit program, relevant permitting program documentation, and the Attorney General's legal opinion that the laws of the State provide adequate authority to carry out all aspects of the program.

2. Regulations and Program Implementation

EPA has determined that the Ohio operating permit program, including State statutes (Ohio Revised Code (ORC) 3704.035, 3704.036, 3704.05, 3704.06, 3704.99, 3745.11, and 3745.112) and regulations (Ohio Administrative Code (OAC) 3745–77 and 3745–78), meets the requirements of 40 CFR 70.2 and 70.3 for applicability; 40 CFR 70.5 for criteria which define insignificant activities[1] and for complete application forms; 40 CFR 70.4, 70.5, and 70.6 for permit content (including operational flexibility); 40 CFR 70.7 and 70.8 for permit processing requirements (including public participation and minor permit modifications); and 40 CFR 70.11 for requirements for enforcement authority. The TSD contains a detailed analysis of Ohio's program and describes the manner in which the State's program meets all the operating permit program requirements of 40 CFR Part 70.

3. Permit Fee Demonstration

EPA has determined that the Ohio operating permit program meets the fee requirements of 40 CFR 70.9. Ohio is adopting the presumptive minimum approach to fees outlined in 40 CFR 70.9(b)(2).

4. Provisions Implementing the Requirements of Other Titles of the Act

a. *Authority for Section 112 Implementation.* In its program submittal, Ohio demonstrates adequate legal authority to implement and enforce all section 112 requirements through the Title V permit. This legal authority is contained in Ohio's enabling legislation and in regulatory provisions defining "applicable requirements" and stating that permits must incorporate all applicable requirements. EPA has determined that this legal authority is sufficient to allow the State to issue permits that assure compliance with all section 112 requirements.

EPA is interpreting the above legal authority to mean that Ohio is able to carry out all section 112 activities with respect to part 70 sources. For further rationale on this interpretation, please refer to the TSD.

b. *Implementation of 112(g).* EPA issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of 112(g) applicability. The notice postpones the effective date of 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States time to adopt rules implementing the Federal rule and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Ohio must have a federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing Federal regulations.

EPA is aware that Ohio lacks a program designed specifically to implement section 112(g). However, Ohio does have a preconstruction review program (OAC 3745–31) that can serve as an adequate implementation vehicle during the transition period because it would allow Ohio to select control measures that would meet MACT, as defined in section 112, and incorporate these measures into a federally enforceable preconstruction permit.

EPA is approving Ohio's preconstruction permitting program (OAC 3745–31) under the authority of Title V and Part 70 solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between 112(g) promulgation and adoption of a State rule implementing EPA's section 112(g) regulations. Although section 112(l) generally provides authority for approval of State air programs to implement section 112(g), Title V and section 112(g) provide for this limited approval because of the direct linkage between the implementation of section 112(g) and Title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purposes of any other provision under the Act (e.g., section 110). This approval will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the 112(g) rule to provide adequate time for the State to adopt regulations consistent with the Federal requirements.

c. *Program for delegation of Section 112 Standards as Promulgated.* The requirements for program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a State program for delegation of section 112 standards, as promulgated by EPA, as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under 40 CFR part 70. Therefore, EPA is also proposing to grant approval, under section 112(l)(5) and 40 CFR 63.91, of Ohio's program for receiving delegation of section 112 standards that are unchanged from the Federal standards as promulgated.

[1] Ohio includes research and development (R&D) units, as defined at Ohio Revised Code (ORC) 3704.01(P), as an insignificant activity. However, this definition of all R&D units as insignificant activities is limited in effect because an R&D unit is not exempt from the State's permit application requirements if the unit's emissions exceed one ton per year of total hazardous air pollutants or has a potential to emit more than five tons per year or twenty percent of an applicable major source threshold under the Act for any regulated air pollutant other than a HAP (OAC 3745–77–02(G)). In addition, Ohio's general provisions governing insignificant activities and emissions levels apply to R&D units. Ohio regulations provide that insignificant activities and emissions levels that are exempted because of size or production rate must be listed in the permit application and do not affect the determination of whether a stationary source is a major source (OAC 3745–77–02(G)). In addition, an applicant may not omit information, including the emissions levels for insignificant activities, that is necessary to determine the applicability of any applicable requirement, to impose any applicable requirement, or to evaluate any fee amount (OAC 3745–77–03(A)).

VOL 60 ISS 71 AP 13 1995 UMI

Because Ohio has historically accepted delegation of section 112 standards through automatic delegation, EPA proposes to approve the delegation of section 112 standards and requirements through automatic delegation. The details of this delegation mechanism will be set forth in a Memorandum of Agreement between Ohio and EPA. This approval applies to both existing and future standards but is limited to sources covered by the part 70 operating permit program.

d. *Limiting HAP Emissions Through a FESOP Program.* On October 25, 1994, EPA conditionally approved OAC 3745–35–07 for establishing a mechanism for creating federally enforceable limits on a sources potential to emit (59 FR 53586). This rulemaking, which became effective on December 27, 1994, authorizes the State to issue federally enforceable State operating permits addressing both criteria pollutants and HAPs.

e. *Title IV.* Ohio's program contains adequate authority to issue permits which reflect the requirements of Title IV and its implementing regulations. Further, Ohio provided a commitment on January 5, 1995, to incorporate by reference the Federal Acid Rain Program regulations (40 CFR part 72) by October 1, 1995.

B. Potential Interim Approval Issue

Ohio's definition of "title I modification" does not include changes reviewed under a minor source preconstruction review program. On August 29, 1994, EPA solicited public comment on whether the phrase "modification under any provision of title I of the Act" in 40 CFR 70.7(e)(2)(i)(A)(5) should be interpreted to mean literally any change at a source that would trigger permitting authority review under regulations approved or promulgated under Title I of the Act (59 FR 44573). EPA is currently reviewing the public comments on this issue and is in the process of determining the proper definition of that phrase. EPA does not believe that it is appropriate to determine whether this is a program deficiency for Ohio until EPA completes its rulemaking on this issue. For a more complete discussion of this issue see the November 9, 1994, approval of the operating permit program for the State of Washington (59 FR 55813).

C. Proposed Action

EPA is proposing to grant full approval of the operating permit program submitted by Ohio on July 22, 1994, and amended on September 12, 1994, November 21, 1994, December 9, 1994, and January 5, 1995. Among other things, Ohio has demonstrated that the program meets the minimum elements of an approvable State operating permit program as specified in 40 CFR part 70.

The scope of the Ohio program that EPA proposes to approve in this notice would apply to all part 70 sources (as defined in the approved program) within the State of Ohio.

As outlined in II.A.4.c., EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

III. Administrative Requirements

A. Request for Public Comments

EPA is requesting comments on all aspects of this proposed full approval. Copies of the State's submittal and other information relied upon for the proposed full approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process; and

(2) To serve as the record in case of judicial review. EPA will consider any comments received by May 15, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permit programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 29, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95–9059 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 76

[AD-FRL–5186–9]

RIN 2060–AD45

Acid Rain Program; Nitrogen Oxides Emission Reduction Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Response to Court remand.

SUMMARY: The EPA is today issuing a proposed rule in response to a remand by a U.S. Court of Appeals. The rule reinstates emission limitations for nitrogen oxides (NO_X) from coal-fired utility units under section 407 of the Clean Air Act ("the Act"). The emission limitations for NO_X, along with emission limitations for sulfur dioxide from utility plants, will reduce acidic deposition and prevent serious adverse effects on natural resources, ecosystems, materials, visibility, and public health.

On March 22, 1994, EPA promulgated a rule establishing NO_X emission limitations. The rule established emission limits generally achievable using "low NO_X burner technology" and established a procedure for obtaining an alternative emission limitation if a unit could not achieve the prescribed limit using such technology. On November 29, 1994, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the definition of "low NO_X burner technology" in the March 22, 1994 rule exceeded EPA's statutory authority. The Court vacated the rule and remanded it to the Agency for further proceedings. On March 28, 1995, EPA and environmental and utility-industry parties signed an agreement addressing the March 22, 1994 regulations, including issues raised by the Court's remand.

Based on the Court's decision and a review of the record, the Agency is now revising the March 22, 1994 regulations. The low-NO_X-burner-technology definition is revised to comply with the Court's decision. Other provisions concerning the compliance date for Phase I NO_X emission limitations, AELs, and plans for averaging NO_X emissions of two or more units are also revised. Because the rule revisions are consistent with the Court's decision and the Agency does not expect to receive adverse comments, the revisions are also being issued as a direct final rule in the Final Rules section of this **Federal Register**. The revisions are also consistent with the March 28, 1995 agreement.

DATES: Comments on the regulations proposed by this action must be received on or before May 15, 1995.

ADDRESSES: *Comments.* All written comments must be identified with the appropriate docket number (Docket No. A–92–15) and must be submitted in duplicate to EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington DC 20460.

Docket. Docket No. A–92–15, containing information considered during development of the promulgated standards and requirements in this proposal, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section at the above address. A reasonable fee may be charged for copying. Additional data and information pertaining to the rule may be found in Docket No. A–90–39.

FOR FURTHER INFORMATION CONTACT: Peter Tsirigotis, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 (for technical matters) at (202) 233–9620; or Dwight C. Alpern (same address) (for legal matters) at (202) 233–9151.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to this proposed rule and the direct final rule in the Final Rules section of this **Federal Register** will automatically go into effect on the date specified in that rule. If significant, adverse comments are timely received on any portion of the direct final rule, that portion will be withdrawn and all public comment received on that portion will be addressed in a subsequent final rule based on the relevant portions of this proposed rule. Because the Agency will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period.

For further supplemental information, the detailed rationale, and the rule revisions, see the information provided in the direct final rule in the Final Rules section of this **Federal Register.**

List of Subjects in 40 CFR Part 76

Environmental protection, Acid rain program, Air pollution control, Nitrogen oxides, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: March 31, 1995.

Carol M. Browner,

Administrator.

[FR Doc. 95–8735 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 90, 97 and 148

[CGD 87–069]

RIN 2115–AD02

Carriage of Bulk Solid Materials Requiring Special Handling

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking; termination.

SUMMARY: The Coast Guard is terminating rulemaking intended to amend the Coast Guard's regulations for the carriage of certain bulk solid materials. The proposed rules would have added to the list of materials permitted under the regulations materials carried under Coast Guard Special Permits issued pursuant to this regulation (Special Permits) and other materials contained in the International Maritime Organization (IMO) Code of Safe Practice for Solid Bulk Cargoes (IMO Bulk Solids Code, or "BC Code"), including coal. The Coast Guard wishes to focus its available resources to actions of the highest priority; therefore, the Coast Guard is terminating further rulemaking under docket number 87–069.

DATES: This proposed rulemaking is terminated April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Hazardous Materials Branch, Office of Marine Safety, Security and Environmental Protection, (202) 267–1217.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 28, 1989, an Advance Notice of Proposed Rulemaking (ANPRM) was published in the **Federal Register** (54 FR 18308). The Coast Guard received 16 letters commenting on the ANPRM. No public hearing was requested, and none was held. The comments received in response to the ANPRM were considered in the development of the Notice of Proposed Rulemaking (NPRM).

On April 12, 1994, a Notice of Proposed Rulemaking was published in the **Federal Register** (59 FR 17418). The public comment period on this NPRM had been scheduled to close on July 11, 1994; however, because of several requests from interested members of the public, the Coast Guard published a supplemental NPRM on August 5, 1994 (59 FR 40004) reopening the public comment period for an additional 30 days ending September 6, 1994.

In response to the NPRM, the Coast Guard received 55 letters containing more than 200 comments. Commenters included shippers, carriers, terminal operators, marine surveyors, trade associations, private individuals, and the Canadian Coast Guard. No public hearing was requested, and none was held.

After a comprehensive review of its active regulatory program, the Coast Guard has determined that this rulemaking is of relatively low priority at this time. The Coast Guard wishes to focus its available resources on actions of the highest priority and has determined that the best course of action is to terminate further rulemaking under docket number 87–069. In keeping with the President's direction to Federal agencies to review their regulations, the Coast Guard will reexamine this issue at some point in the future to determine if further rulemaking is necessary. Based on these considerations, the Coast Guard is terminating further rulemaking under docket number 87–069.

Dated: April 5, 1995.

Joseph J. Angelo,

Acting Chief, Office of Marine Safety Security and Environmental Protection.

[FR Doc. 95–9037 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–123, DA 95–694]

Radio Broadcast Services; Television Program Practices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: The Commission granted a joint request by the Network Affiliated Stations Alliance for an extension of time for filing reply comments in this proceeding. The Commission determined that the extension of time was warranted in light of the time necessary to compile information critical to resolution of the numerous and complex issues raised in this

VOL
60
ISS
71
AP
13
1995
UMI

proceeding. This action will facilitate the development of a full and complete record on these issues.

DATES: Reply comments are now due on May 12, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, (202) 776–1653.

SUPPLEMENTARY INFORMATION:

Adopted: March 31, 1995.
Released: March 31, 1995.

By the Chief, Mass Media Bureau:

1. On October 25, 1994, the Commission released a Notice of Proposed Rule Making in MM Docket No. 94–123, 59 FR 55402 (November 7, 1994) (NPRM), in this proceeding, soliciting comment on the legal and policy justifications, in light of current economic and technological conditions, for the Prime Time Access Rule, § 73.658(k) of the Commission's Rules, and to consider the continued need for the rule in its current form. By an Order adopted on December 7, 1994, the deadline for filing comments was extended to March 7, 1995, and the deadline for filing reply comments was extended to April 6, 1995. See Order Granting Extension of Time for Filing Comments and Reply Comments in MM Docket No. 94–123, 59 FR 64382 (December 14, 1994).

2. On March 24, 1995, a motion for extension of time for filing reply comments in this proceeding was filed by the Network Affiliated Stations Alliance, which states that it is authorized to represent the Association of Independent Television Stations, Inc., Viacom, Inc. King World Productions, Inc., Capital Cities/ABC, Inc., CBS Inc., the National Broadcasting Company, Inc., the Motion Picture Association of America, Inc., and the Media Access Project ("Joint Petitioners") in this request. The motion requests that the deadline for filing reply comments be extended from April 6, 1995, to May 12, 1995.

3. The Joint Petitioners contend that the comments filed in this proceeding include detailed economic studies on all sides of the issues. These parties, who take differing views on the continued need for the Prime Time Access Rule, assert that certain data underlying those studies is now becoming available and is expected to be accessible for public review at the Commission shortly. In order to respond to the comprehensive economic analysis called for in the NPRM and to properly evaluate the comments and economic studies submitted thus far, the Joint Petitioners suggest that absent an extension of time, any meaningful review of this data prior to the deadline for filing reply comments would be virtually impossible. These parties maintain that the grant of this request for a modest extension will serve the public interest by permitting a more thorough public and industry review of the economic data, which would, in turn, facilitate the submission of reply comments that will prove more useful in generating the comprehensive record that the Commission seeks in this proceeding.

4. As set forth in § 1.46 of the Commission's rules, 47 CFR 1.46, it is our policy that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. However, under the circumstances described above, we believe that the requested extension of time to file reply comments is warranted. This extension of time should facilitate the development of a full and complete record on the issues raised in the NPRM and, thus, it appears reasonable to provide the commenting parties additional time to analyze and address these issues.

5. Accordingly, *it is ordered* That the above-mentioned motion for an extension of time is granted, and that the time for filing reply comments in this proceeding is extended to May 12, 1995.

6. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b), 0.283, and 1.45 of the Commission's rules.

List of Subjects in 47 CFR part 73:

Television broadcasting.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 95–9093 Filed 4–12–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 32 and 52

[FAR Case 94–764]

RIN 9000–AG36

Federal Acquisition Regulation; Contract Financing

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule—notice of follow-up public meeting.

SUMMARY: This notice of a follow-up public meeting is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (the Act). The Federal Acquisition Regulatory Council is considering amending Federal Acquisition Regulation (FAR) parts 32 and 52 as a result of changes to 10 U.S.C. 2307 and 41 U.S.C. 255 by Sections 2001 and 2051 of the Act. A public meeting was held concerning this proposed rule on April 3, 1995. Due to the short time frame between publication of the proposed rule in the **Federal Register** (60 FR 14156, March 15, 1995) and the initial public meeting, we are giving the public another opportunity to submit prepared statements for presentation and consideration.

DATES: *Comment Due Date:* Comments on the proposed rule should still be submitted not later than May 15, 1995, to be considered in the formulation of a final rule.

Public Meeting: A follow-up public meeting will be held on April 28, 1995, at 1 p.m.

Oral/Written Statements: Views to be presented at the public meeting should be sent, in writing, to the FAR Secretariat, at the address given below, not later than April 26, 1995.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405, Telephone: (202) 501–4755.

The public meeting will be held at: Office of Personnel Management, 1900 E Street, NW, Room 1350, Washington, DC 20415–0001.

Please cite FAR case 94–764 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. John Galbraith, Contract Financing/Payment Team Leader, at (703) 697–6710 in reference to this FAR case. For general information, contact the FAR Secreatariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 94–764.

Dated: April 7, 1995.

C. Allen Olson,

Director, Office of Federal Acquisition Policy, General Services Administration.

[FR Doc. 95–9083 Filed 4–12–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[I.D. 032295A]

Summer Flounder Fishery; Public Hearings; Supplemental Environmental Impact Statement (SEIS)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare an SEIS; scoping meetings; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) intends to prepare an SEIS for proposed Amendment 7 to the Summer Flounder Fishery Management Plan (FMP). NMFS informs the public herewith of the opportunity to participate in the further development of Amendment 7 to the FMP. All persons affected by, or otherwise interested in, the proposed amendment are invited to participate in determining the scope of significant issues to be considered in the SEIS by submitting written comments. The scoping process also will identify issues that are not significant and will eliminate them from detailed study.

DATES: Written comments must be received by April 14, 1995.

The hearings are scheduled as follows:

1. April 10, 1995, 7 p.m., Manteo, NC;
2. April 10, 1995, 7 p.m., Galilee, RI;
3. April 10, 1995, 7:30 p.m., Ronkonkoma, NY; and
4. April 12, 1995, 7 p.m., Cape May Courthouse, NJ.

ADDRESSES: Send written comments on the scoping process and scope of the SEIS to David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, DE 19904–6790; telephone: 302–674–2331; FAX: 302–674–5399.

The hearings will be held at the following locations:

1. Manteo—North Carolina State Aquarium, Airport Road, Roanoke Island, Manteo, NC 27954;
2. Galilee—Dutch Inn, 307 Great Island Rd., Galilee, RI 02882;
3. Ronkonkoma—Holiday Inn, 3845 Veterans Memorial Highway, Ronkonkoma, NY 11779; and
4. Cape May Courthouse—Cape May County Extension Office, Dennisville Rd., Route 657, Cape May Courthouse, NJ 08210.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, 302–674–2331; FAX: 302–674–5399.

SUPPLEMENTARY INFORMATION:

Problems to be Discussed for This Amendment

1. A Moratorium on Entry of Additional Vessels Into the Commercial Fishery

A moratorium on entry of additional vessels Into the summer flounder commercial fishery was implemented with Amendment 2. The moratorium automatically expires in 1997. Given the large number of unemployed and underemployed fishing vessels in the Northwest Atlantic and the overfished nature of the summer flounder resource, serious consideration should be given to continuing the moratorium.

Extension of the moratorium will provide an opportunity for participants in the fishery to benefit as the resource continues to rebuild as a result of the fishing mortality reduction program. If the moratorium is allowed to lapse, the fishery will revert to open access and new vessels will enter the fishery. This would tend to dissipate any chances of profitability. More likely, the problems experienced by the existing participants in the fishery would be increased in magnitude; more fishermen would be attempting to catch the same quantity of fish, thereby increasing costs and decreasing income.

2. Moratorium Permits

Vessels with documented landings of summer flounder for sale between January 26, 1985, and January 26, 1990, qualify for a moratorium permit to land and sell summer flounder under this moratorium program. The FMP provides that, if a commercial vessel fails to land any summer flounder within any 52-week period, its moratorium permit expires. The theory behind this provision is that the FMP had very liberal qualification rules for a moratorium permit, so a retirement provision was needed to reduce harvesting capacity over time. Another view of this issue is that the retirement rule could force fishermen to participate in the summer flounder fishery only to keep their eligibility, thereby increasing effort to the fishery each year.

3. Vessel Replacement Criteria

The New England Council has requested that the Mid-Atlantic Council adopt the replacement language of the Multispecies FMP in the Summer Flounder FMP.

The Summer Flounder FMP prohibits vessel replacement unless the vessel sinks, burns, or is declared unseaworthy by the Coast Guard. The rule was implemented to prevent increases in fishing power. The New England Council's Northeast Multispecies FMP also contains a vessel moratorium. The Multispecies FMP allows vessel replacement, as long as the horsepower does not increase by more than 20 percent and the length, gross registered tonnage, and net tonnage do not increase by more than 10 percent.

The Multispecies FMP also provides that the moratorium permits issued for a given vessel may not be divided between two vessels. Therefore, under the Multispecies FMP rules, if the owner of a vessel with multispecies and summer flounder permits wants to build a replacement vessel, the owner would not be able to transfer the summer flounder permit to the replacement vessel.

Many vessels are permitted under both FMPs. Of the 4,516 vessels that have commercial multispecies permits, and of the 1,206 vessels that have commercial summer flounder permits, 1,032 vessels have permits under both FMPs.

4. Recreational Catch Limitation Adjustment System

The Summer Flounder FMP provides that, if a state exceeds its commercial quota, the excess is deducted from the next year's quota. There is no parallel system if the coastwide harvest limit for the recreational fishery is exceeded. If the recreational fishery were to exceed its target, it is possible that the overall quota (commercial quota and recreational harvest limit) would need to be reduced for the next year. In other words, the commercial fishery quota may be reduced because the recreational target was exceeded. Some people in the industry believe that this situation presents an equity problem that should be addressed.

If the coastwide recreational management system continues, one management alternative would be to deduct any recreational overage from the harvest target for the following year.

5. Commercial Quota System

When Amendment 2 was being developed, many quota management systems were considered, including a coastwide quota, regional, and state-by-state quotas. A simple coastwide system was not feasible, due to the migratory patterns of summer flounder. Fishermen at the southern end of the range could possibly catch all the quota before fishermen at the northern end of the range had access to the summer flounder.

VOL 60 ISS 71 AP 13 1995 UMI

To mitigate this inequity, the Council adopted a state-by-state quota system. The states are responsible for managing their quotas, and NMFS retains an oversight role to assure that the state quotas are not exceeded. Since then, the FMP has been amended to allow the states to combine or trade quotas.

Some industry representatives would like the Council to consider alternative quota allocation systems. Many of the states have divided their annual quotas into quotas for shorter time periods, e.g., quarterly, and have instituted trip limit systems to reduce the chances of closure. The trip limits may be adequate for resident fishermen, but may be too small to support transient vessels that traditionally have landed in a number of states from Massachusetts to North Carolina.

Another problem with state-by-state quotas is differing trip limits in adjacent states. Vessels will land in the state with the highest trip limit. This problem occurred in Connecticut, where trip limits were considered unnecessary and thus were not imposed. However, in response to a reduction in the Massachusetts trip limit, many vessels landed in Connecticut and filled Connecticut's quota in a few days—before preventative action could be implemented.

In general, any alternative to a state-by-state quota system would have to allow for an equitable allocation of the commercial quota between northern and southern participants, as well as between the smaller day boats and larger offshore vessels. Due to the seasonal nature of the summer flounder fishery, the quota also would have to be divided into smaller temporal units to allow for a fair distribution. One possible approach is a bimonthly quota allocation system. To minimize effects on traditional landings patterns, the allocation to each period would be based on past landings instead of a system that divided the quota equally over the six periods. For example, based on 1992 data, 23 percent would be allocated to period 1 (January–February) and only 6 percent to period 3 (May–June)(Table 1.).

TABLE 1.—THE PERCENT OF THE TOTAL SUMMER FLOUNDER LANDED COMMERCIALLY IN 1992 FOR EACH 2–MONTH PERIOD

Period	Percent
Jan–Feb	22.68
Mar–Apr	13.78
May–Jun	5.97
Jul–Aug	8.29
Sep–Oct	28.13
Nov–Dec	21.14

Source: NMFS Weighout Data.

A coastwide bimonthly quota allocation system would allow fishermen to land in any port along the coast. All commercial landings during a bimonthly period would count toward the quota for that period. When the quota had been landed for a bimonthly period, fishing for and/or landing summer flounder would be prohibited for the remainder of the period. Landings in excess of the allocation for the period would be subtracted from the following year's quota for the same period.

However, bimonthly allocations without trip limits would encourage derby-style fishing practices that would allow the quota to be landed by larger, more mobile vessels at the beginning of each period. Supplies of summer flounder would be discontinuous and smaller boats would be disadvantaged. Therefore, trip limits would be necessary to ensure a safer and more equitable fishery.

The trip limits could be established and modified throughout the 2-month period to allow for a continuous supply of product and equitable distribution of flounder to fishermen using both small and large vessels. For example, a 3,000-lb (1,360.78 kg) trip limit could be established for the beginning of period 1. The limit would decrease to 1,000 lb (453.59 kg) when 50 percent of the allocation was reached, to 500 lb (226.8 kg) when 75 percent of the quota was taken, and to 100 lb (45.36 kg) when 90 percent of the landings were reached. Different trip limit systems could be designed for each period to ensure equitable distribution over each 2-month period.

Unlike the current management program that allows states to design their own systems, NMFS would be responsible for implementing trip limits for each period. Therefore, NMFS will need significant resources to design and implement such a system.

6. Management of the Recreational Fishery

During the development of Amendment 2, much debate arose over whether the recreational fishery should be managed on a state-by-state basis (the same as the commercial fishery), on a regional basis, or coastwide. The final decision was to manage on a coastwide basis.

The recreational fishery is now managed with a combination of minimum fish size limits, possession limits, and seasons that apply coastwide. However, recreational landings are not equally distributed along the coast. For example, summer flounder landings are considerably higher in New York and New Jersey than they are in North Carolina. Coastwide management results in the fishing mortality reduction measures effectively being averaged across all of the states. To ensure greater equity between northern and southern states, the Council has been asked to consider regional or state-by-state management of the recreational fishery.

Regional management could require that different measures be implemented in the three regions along the coast. As an example, the fishing mortality reduction strategy in Amendment 2 called for a reduction of 47 percent in the first 3 years of implementation. The resulting coastwide management measures included a 14-inch (35.6-cm) minimum fish size, a 3-fish possession limit and no closed season on a coastwide basis. Had the fishing mortality reduction strategy been implemented in subregions with the same size limit and season, the possession limit would have been two from Maine to Connecticut, two in the states from New York to Delaware, and six from Maryland to North Carolina.

A state-by-state system would allocate recreational quota to each state. Each state would then be required to develop management measures to ensure that the harvest limit would not be exceeded for that state.

7. Summer Flounder Bycatch in the Sea Scallop Fishery

Although scallop dredges account for approximately 1 percent of the summer flounder landings, they are the second most important gear in the commercial summer flounder fishery (after otter trawls). The scallop fishery is currently managed under the Atlantic Sea Scallop FMP, which placed a moratorium on the entry of additional vessels into the sea scallop fishery and imposed an effort limitation system.

Under the Summer Flounder FMP, sea scallop fishermen, if they qualify for a permit, may land all the summer flounder they catch, as long as they meet the minimum fish size limit and comply with the applicable state trip limits or closures. However, the summer flounder FMP and implementing regulations provide that when a state's commercial quota has been taken, no commercial vessels may land summer flounder. The issue arises then, of whether sea scallop fishermen should be allowed to land their bycatch without regard to state summer flounder trip limits or closures, so long as the flounder meet the minimum fish size limit.

8. Bycatch Allowance

The summer flounder FMP provides that only vessels with moratorium permits may land summer flounder for sale. All other vessels must comply with the recreational seasons, size limits, and possession limits. The issue for scoping is whether commercial vessels that did not qualify for moratorium permits should be allowed to land for sale a specified amount of summer flounder caught as bycatch in fisheries directed at other species.

9. De Minimis Status for States

The Summer Flounder FMP is a joint plan prepared under both the Magnuson Fishery Conservation and Management Act of 1976, as amended, and the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). Under ACFCMA, if a state does not implement measures required by an FMP, the Federal Government may impose a moratorium on landing the species covered by the FMP in that state.

In the case of summer flounder, several states, e.g., Maine, New Hampshire, and Delaware, had historically very small, or de minimis, commercial fisheries and, therefore, received very small quota allocations. A question for resolution under Amendment 7 is whether these states should be required to impose a full array of management measures for what could be a bycatch fishery.

This issue is essentially an Atlantic States Marine Fisheries Commission (ASMFC) concern, because the Director, Northeast Region, NMFS, must ensure no landing of summer flounder by federally permitted vessels once a state's quota has been landed. The Federal minimum fish size limit would apply to summer flounder in commerce. Federally permitted vessels would be required to use the appropriate minimum cod end on otter trawl nets, which is the management measure established by the FMP.

Several states also have de minimis landings in the recreational sector. It must be determined whether adequate conservation reasons exist to incur the governmental costs associated with preparing and implementing regulations. The state-by-state distribution of the 1989 summer flounder recreational catch is shown in Table 2 below.

TABLE 2.—ESTIMATED TOTAL RECREATIONAL CATCH OF ALL SPECIES AND SUMMER FLOUNDER (SF), MAINE TO NORTH CAROLINA, 1989

State	Total catch (lb)	SF catch (lb)	State SF catch as percent of coast SF catch %	State SF catch as percent of state total catch %
ME	2,206,420	.....	.....	.....
NH	1,765,093	6,360	0.2	0.4
MA	14,137,658	26,122	0.9	0.2
RI	4,984,989	120,842	4.3	2.4
CT	5,908,942	33,875	1.2	0.6
NY	20,114,161	449,865	16.0	2.2
NJ	17,176,916	651,288	23.2	3.8
DE	4,371,203	143,750	5.1	3.3
MD	12,791,667	471,839	16.8	3.7
VA	20,127,089	527,566	18.8	2.6
NC	16,852,753	372,652	13.3	2.2

Source: Unpublished NMFS Data.
(Table originally appeared as Table 42 in Amendment 2 to the Summer Flounder Fishery Management Plan)

10. Summer Flounder Landings by Vessels Without Federal Summer Flounder Permits

A better reporting system must be developed for summer flounder caught in state waters. Currently, vessels that land summer flounder caught in state waters are not required to have Federal permits, and therefore, are not required to file Federal logbook reports. In addition, some dealers handle only summer flounder caught in state waters and are thus also not subject to the Federal permitting and reporting requirements.

The commercial quota, however, applies to all summer flounder caught for sale, regardless of where caught. The states must, therefore, implement a reporting system to account for the summer flounder caught in state waters.

11. In-Season Quota Adjustments

The summer flounder FMP allows quotas to be set once a year and to take effect January 1. It may be desirable to change quotas during the year as new information becomes available. This may create uncertainty in the industry, however, and further complicate the quota setting process.

12. Quota Setting Process

The annual quota setting process would be more clearly defined under the alternative proposed in Amendment 7. The summer flounder FMP contains fishing mortality rate targets, factors to be considered in setting the quotas, and a process for the Council to follow in setting the quotas. The FMP does not discuss the limits that may be placed on the Council's discretion in setting the quotas, specifically the probability of achieving the target fishing mortality rates. This alternative would establish guidelines to be used by the Council when it sets annual quotas.

13. Fishing Mortality Rate Reduction Strategy

The current fishing mortality rate reduction strategy, incorporated in Amendment 2, called for a reduction in fishing mortality (F) to 0.53 during the first year that Amendment 2 was in

VOL 60 ISS 71 AP 13 1995 UMI

effect (1993). That rate was to remain constant for a total of three years (1993–95). In 1996, the fishing mortality rate will be reduced to F_{max} (F = 0.23) and remain constant at that level.

Although the fishing mortality reduction program has had some success, the poor 1993 year class will significantly reduce the allowable catch in 1996 in order to meet the fishing mortality rate target. This reduction may have significant negative impact on the fisheries. Therefore, it might be appropriate to readjust the fishing mortality rate reduction strategy in order to reduce the severity of the 1996 reduction.

For example, an alternative strategy could set the fishing mortality rate for 1996 at 0.38, which is halfway between the 1995 target F (0.53) and 0.23. Based on the information provided by the latest stock assessment, this intermediate reduction could allow for a 1996 quota that was approximately 50 percent larger than the one associated with the current strategy (i.e., an F of 0.23). However, this increase in quota would have a slight affect on the spawning stock; stock numbers would only be reduced by 10 percent in 1997 relative to the stock size associated with the current reduction strategy.

Current Management Objectives. (Part of scoping is the possible reevaluation of the existing objectives). The objectives of the FMP are to:

1. Reduce fishing mortality in the summer flounder fishery to assure that overfishing does not occur.
2. Reduce fishing mortality on immature summer flounder to increase spawning stock biomass.
3. Improve the yield from the fishery.
4. Promote compatible management regulations between state and Federal jurisdictions.
5. Promote uniform and effective enforcement of regulations.
6. Minimize regulations to achieve the management objectives stated above.

Commercial Fishery Management Measures. Possible management measures for the commercial fishery include: Minimum and/or maximum fish size, minimum mesh size, closed seasons, quotas (including adjustment among states), moratorium on vessels, ITQs, trip limits, permit limits, and gear restrictions and limits.

Recreational Fishery Management Measures. Possible management measures for the summer flounder recreational fishery include: Minimum and/or maximum fish size, maximum possession limit, closed seasons, closed areas, gear restrictions and limits, quotas (including adjustments among states), and restrictions on the ability to sell recreationally caught fish.

Possible management measures for the summer flounder fishery that carries recreational fishermen for hire include: Minimum and/or maximum fish size, maximum possession limit, closed seasons, closed areas, gear restrictions and limits, quotas (including adjustment among states), and restrictions on the ability to sell recreationally caught fish.

Any measures that are implemented under Amendment 7 would most likely be included in the summer flounder framework. The framework allows the Monitoring Committee, made up of representatives of the three Councils, ASMFC, and NMFS, to review annually the condition of the resource and fishery and recommend adjustments to the measures (e.g., possession limit, quota, etc.) to achieve the desired goals.

Permitting and Reporting. It is not anticipated that the permitting and reporting provisions of the current FMP will be changed as a result of this Amendment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 7, 1995.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9062 Filed 4–10–95; 9:16 am]

BILLING CODE 3510–22–W

Notices

Federal Register
Vol. 60, No. 71
Thursday, April 13, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Commodity Supplemental Food Program: Elderly Poverty Income Guidelines

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of elderly persons applying to participate in the Commodity Supplemental Food Program (CSFP). These poverty income guidelines are to be used in conjunction with the CSFP Regulations.

EFFECTIVE DATE: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Section Head, Household Programs Section, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594, or telephone (703) 305–2661.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112).

Description

On December 23, 1985 the President signed the Food Security Act of 1985 (Pub. L. 99–198). This legislation amended section 5(f) and (g) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require that the Secretary permit agencies administering the CSFP to serve elderly persons if such service can be provided without reducing service levels for women, infants, and children. The law also mandates establishment of income eligibility requirements for elderly participation. Prior to enactment of Public Law 99–198, elderly participation was restricted by law to three designated pilot projects which served the elderly in accordance with agreements with the Department.

In order to implement the CSFP mandates of Public Law 99–198, the Department published interim rules on September 17, 1986 at 51 FR 32895 and a final rule on February 18, 1988 at 58 FR 8287. These regulations defined "elderly persons" as those who are 60 years of age or older. The final rule further stipulated that elderly persons certified on or after September 17, 1986 must have "household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services" (7 CFR 247.7(a)(3)).

These poverty income guidelines are revised annually to reflect changes in the Consumer Price Index. The revision for 1995 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** for February 9, 1995 at 60 FR 7772. At this time the Department is publishing the income limit of 130 percent of the poverty income guidelines by household size to be used for elderly certification in the CSFP for the period July 1, 1995–June 30, 1996.

The poverty income guidelines were multiplied by 1.30 and the results rounded up to the next whole dollar. The table in this notice contains the income limits by household size for the 48 contiguous States and the District of Columbia. The poverty income guidelines for areas outside of the 48 contiguous States have not been included in this notice because the CSFP does not operate in these areas. The revised income guidelines reflect an increase of 2.36 percent over the income guidelines for the previous period.

EFFECTIVE JULY 1, 1995–JUNE 30, 1996—FCS POVERTY INCOME GUIDELINES FOR ELDERLY IN CSFP

[130 Percent of Poverty Income Guidelines]
48 States and the District of Columbia

Family size	Annual	Month	Week
1	9,711	810	187
2	13,039	1,087	251
3	16,367	1,364	315
4	19,695	1,642	379
5	23,023	1,919	443
6	26,351	2,196	507
7	29,679	2,474	571
8	33,007	2,751	635
For each additional family member add	+ 3,328	+ 278	+64

Dated: March 24, 1995.

William E. Ludwig,

Administrator.

[FR Doc. 95–9065 Filed 4–12–95; 8:45 am]

BILLING CODE 3410–30–P

Forest Service

Inland Native Fish Strategy

ACTION: Correction to the proposal to prepare interim direction for native inland fish habitat management.

SUMMARY: In the March 14, 1995, **Federal Register** (Vol. 60, No. 49, pp. 13697–13698), notice was given that the Forest Service, in cooperation with the Bureau of Land Management and US Fish and Wildlife Service, is gathering information in order to prepare an Environmental Assessment (EA) for a proposal to protect habitat and populations of native inland fish.

This EA will address National Forest System lands on the Bitterroot, Boise, Caribou, Challis, Clearwater, Colville, Deerlodge, Deschutes, Flathead, Fremont, Helena, Humboldt, Idaho Panhandle, Kootenai, Lolo, Malheur, Ochoco, Payette, Sawtooth, Wallowa-Whitman, and Winema National Forests in the Northern, Intermountain, and Pacific Northwest Regions. The Salmon National Forest has been removed from this list.

VOL 60 ISS 71 AP 13 1995 UMI

The Forest Service also served notice that the agency is seeking information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. It was requested that written comments should be sent to the agency within 30 days from the date of publication in the **Federal Register**. The comment period has been extended until April 28, 1995.

ADDRESSES: Send written comments to USDA Forest Service, Idaho Panhandle National Forests, 3815 Schreiber Way, Couer d'Alene, Idaho, 83814.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental assessment should be directed to David Wright, Team Leader, Idaho Panhandle National Forests, 3815 Schreiber Way, Couer d'Alene, Idaho, 83814. Phone: (208) 765–7223.

Jack Blackwell, Deputy Regional Forester in Region 4 of the Forest Service, is the responsible official for this EA, and will make a decision regarding this proposal considering the comments and responses, environmental consequences discussed in the EA, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Decision Notice. The Environmental Assessment and Decision Notice are expected to be available in June, 1995.

Dated: April 4, 1995.

David Cross,

Acting Inland Native Fish Team Leader, Idaho Panhandle National Forests.

[FR Doc. 95–9097 Filed 4–12–95; 8:45 am]

BILLING CODE 3410–11–M

Rural Utilities Service

Saluda River Electric Cooperative; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to its action related to the purchase, installation, and operation of a 6,000 kilowatt diesel generation facility by Saluda River Electric Cooperative (Saluda River). The FONSI is based on a Borrower's Environmental Report (BER) submitted to RUS by Saluda River. RUS conducted an independent evaluation of the BER and concurs with its scope and content. In accordance with Environmental Policies and Procedures published by the Rural Electrification Administration, the predecessor of RUS, at 7 CFR § 1794.61, RUS has adopted Saluda River's BER as its environmental assessment of the proposed project.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, RUS, South Agriculture Building, Ag Box 1569, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: The proposed generation facility is to be located adjacent to Saluda River's existing Webb Substation. This substation is located approximately 2.5 miles southwest of Carlisle, South Carolina, on the south side of Highway 72 & 121. The substation and the site of the proposed generation facilities are on property owned by Webb Forging Company.

The generation facility will consist of two 3,000 kilowatt diesel generators with provisions for additional units in the future. The generators will be housed in a pre-engineered metal building covering approximately 3,600 square feet. The fuel for the engines that will turn the generators will be number 2 diesel fuel. A 12,000 gallon fuel storage tank will be located outside the metal building housing the generators. The total area to be graded for the building and fuel tank will not exceed 1 acre. A containment system will be designed and constructed in such a manner to ensure the surrounding environment is protected from pollution in the event of spills from the tank and/or associated piping. The outside piping will be double walled fiberglass. Inside piping will be black iron steel.

The generators will be equipped with supervisory control and data acquisition so that they can be monitored and controlled remotely. Total hours that the generators are run will be metered electronically and logged for maintenance and regulatory purposes.

The alternatives of no action, conservation, purchasing power from other sources, and alternative generation technologies were considered.

Copies of the environmental assessment and FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. Joseph M. Galbreath, Project Manager, Saluda River Electric Cooperative, P.O. Box 929, Laurnes, South Carolina 29360, telephone (803) 682–3169.

Dated: April 6, 1995.

Adam M. Golodner,

Deputy Administrator, Program Operations.

[FR Doc. 95–9163 Filed 4–12–95; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040495F]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings from April 25–27, 1995.

ADDRESSES: The meetings will be held at the Pontchartrain Hotel, 2031 St. Charles Avenue, New Orleans, LA 70140; telephone: (504) 524–0581.

FOR FURTHER INFORMATION CONTACT: Terrance R. Leary (for Mackerel and Shrimp related issues), or Steven M. Atran (for Reef Fish related issues), Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The meeting agenda is as follows:

On April 25 from 10:30 a.m. to 5:00 p.m. Mackerel Advisory Panel (AP); on April 26, from 8:00 a.m. to 12:00 noon Special Mackerel and Standing Scientific and Statistical Committees (SSC); on April 26, from 1:00 p.m. to 5:00 p.m. and April 27 from 8:00 a.m. to 10:00 a.m. Special Reef Fish and Standing SSC; and April 27, 10:00 a.m. to 1:00 p.m. Standing SSC.

The Mackerel AP and SSC will review stock assessment information related to setting total allowable catch (TAC) and trip and bag limits for king and Spanish mackerel and cobia in the Gulf of Mexico. The Reef Fish SSC will review a variety of reef fish management measures in Draft Amendment 11 to the Reef Fish Fishery Management Plan. The Standing SSC will review measures to remove royal red shrimp from the fishery management plan as proposed in Draft Amendment 8 to the Shrimp Fishery Management Plan (FMP).

Issues that will be addressed in Draft Amendment 11 to the Reef Fish Fishery Management Plan (FMP) include: Proposed modifications of the FMP

regulatory framework procedure for the annual specification of total allowable catch including changes in procedures, the definition of optimum yield, and the criteria for specifying the length of a stock recovery program for overfished reef fish species; permitting issues including dealer and vessel permit conditions, transferability provisions, implementation of a new vessel permit moratorium for the fishery, and permits for charter vessels and head boats; allowing hook-and-line harvest of reef fish by shrimp vessels; issues related to enforceability of reef fish regulations; changes to amberjack size and bag limits and a commercial seasonal closure; changes to gag/black grouper and red snapper size limits; and an aggregate bag limit for reef fish.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by April 18, 1995.

Dated: April 7, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9080 Filed 4–12–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 030995A]

North Pacific Fishery Management Council; Agenda Change

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of agenda change.

SUMMARY: An agenda for public meetings of the North Pacific Fishery Management Council (Council) and its advisory bodies, which are scheduled during the week of April 17, 1995, was published on March 17, 1995. Modifications to the agenda were published on March 31, 1995, and the following additional change is made to the meeting agenda. All other information previously published remains unchanged.

FOR FURTHER INFORMATION CONTACT: Dave Witherell, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The initial agenda published on March 17, 1995 (60 FR 14425) was changed to remove two agenda times, add an additional item, and change the schedule on March 31 (60 FR 16621). This additional change adds another agenda item.

Discussion and final approval of a fishery management plan (FMP) for the scallop fisheries in the exclusive economic zone off Alaska has been added to the agenda. This FMP may go forward either as a Council FMP or Secretarial FMP, and may extend regulations implemented by emergency rule published on March 1, 1995, (60 FR 11054). The Council also will discuss how to proceed with further amendments to the plan. Discussion of these topics may occur as early as April 19 (rather than April 21 as shown in the current schedule).

Dated: April 7, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9081 Filed 4–12–95; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 95–C0009]

Neptune Fireworks Company, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission of publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 C.F.R. 1118.20(e)–(h). Published below is a provisionally-accepted Settlement Agreement with Neptune Fireworks Company, Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by April 28, 1995.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 95–C0009, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0626.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: April 7, 1995.

Sadye E. Dunn,

Secretary.

Settlement Agreement and Order

1. Neptune Fireworks Company, Inc. (hereinafter, "Neptune"), a corporation, enters into this Settlement Agreement and Order (hereinafter, "Settlement Agreement") with the staff of the Consumer Product Safety Commission, and agrees to the entry of the Order described herein. The purpose of the Settlement Agreement is to settle the staff's allegations that Neptune Knowingly violated sections 4(a) and (c) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1263(a) and (c).

I. The Parties

2. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory Commission of the United States established pursuant to section 4 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2053.

3. Neptune is a corporation organized and existing under the laws of the State of Florida, since 1984. The firm's principal place of business is located at 768 East Dania Beach Boulevard, Dania, FL 3304. Neptune is an importer and distributor of fireworks.

II. Allegations of the Staff

4. On ten occasions between April 14, 1991, and May 12, 1994, Neptune introduced or caused to be introduced into interstate commerce; or received in interstate commerce and delivered or proffered delivery thereof for pay or otherwise, 23 different kinds of non-complying fireworks (8,116,614 retail units) which are identified and described below:

Sample No.	Product	Collect. date* entry date	Expt/mfg
M–807–1367	Festival Balls	04/14/91	Kwongyen Hangkee.
M–807–1370	News Transmitter	04/14/91	Kwongyen Hangkee.

VOL 60 ISS 71 AP 13 1995 UMI

Sample No.	Product	Collect. date* entry date	Expl/mfg
M-807-3107	Small Festival Balls	04/14/91	Kwongyen Hangkee.
M-807-3109	Blue Palm	04/14/91	Kwongyen Hangkee.
M-807-3110	Killer Bees	04/14/91	Kwongyen Hangkee.
M-807-1374	Air Travel With Report	04/14/91	Kwongyen Hangkee.
M-807-1691	Twitter Glitter	04/27/91	Kwongyen Hangkee.
P-807-2093	Tiger Cluster Cicada	12/28/91	Hop Kee.
P-807-2095	Red Lantern Festival Balls	12/28/91	Hop Kee.
P-807-2533	Moon Traveler	03/25/92	Hop Kee.
P-807-2536	Blue Palm	03/25/92	Hop Kee.
P-807-2545	Artillery Shells	04/22/92	Hop Kee.
P-807-2547	Twitter Glitter	04/22/92	Hop Kee.
P-807-2549	Jumping Jack	04/25/92	Hop Kee.
P-807-2555	Small Festival Balls	05/16/92	Glorious Company.
S-800-2094	Moon Travel	01/17/94	Glorious Company.
S-800-2095	Jumping Jacks	01/17/94	Glorious Company.
S-800-2096	Artillery Shell	01/17/94	Glorious Company.
S-800-2097	Artillery Shell	01/17/94	Glorious Company.
S-800-2616	Jumping Jack	04/18/94	Glorious Company.
S-800-2617	Artillery Shells	04/18/94	Glorious Company.
S-800-2618	Festival Balls	04/18/94	Glorious Company.
S-800-2625	Kaleidoscope	05/12/94	United Fireworks.

5. The firework device identified as Small Festival Balls, No. 0008, Sample No. M-807-1367 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

6. The firework device identified as News Transmitter, No. T2508, Sample No. M-807-1370 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507 and 16 C.F.R. 1500.14, in that when tested, it failed to comply with the side ignition and labeling requirements in 16 C.F.R. 1507.3(a)(1), and 16 C.F.R. 1500.14(a)(7)(ix).

7. The firework device identified as Small Festival Balls, No. 0008, Sample No. M-807-3107 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the side ignition and fuse burn time requirements in 16 C.F.R. 1507.3(a)(1) and (a)(2).

8. The firework device identified as Blue Palm, No. W442, Sample No. M-807-3109 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. Part 1507, in that when tested, it failed to comply with the fuse burn time and pyrotechnic leakage requirements in 16 C.F.R. 1507.3(a)(2) and 1507.5.

9. The firework device identified as Killer Bees, No. W499A, Sample No. M-807-3110 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse attachment and pyrotechnic leakage requirements in 16 C.F.R. 1507.3(b) and 1507.5.

10. The firework device identified as Air Travel With Report, No. T0001, Sample No. M-807-1374 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

11. The firework device identified as Twitter Glitter, No. 0530, Sample No. M-807-1691 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the pyrotechnic leakage requirement in 16 C.F.R. 1507.5.

12. The firework device identified as Tiger Cluster Cicada, No. 2011, Sample No. P-807-2093 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the burnout/blowout requirement in 16 C.F.R. 1507.6.

13. The firework device identified as Red Lantern Festival Balls, No. 0008, Sample No. P-807-2095 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

14. The firework device identified as Moon Traveler, No. 0495, Sample No. P-807-2533 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

15. The firework device identified as Blue Palm, No. W441, Sample No. P-807-2536 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the pyrotechnic leakage requirement in 16 C.F.R. 1507.5.

16. The firework device identified as Artillery Shells, No. N515, Sample No. P-807-2545 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the pyrotechnic leakage requirement in 16 C.F.R. part 1507, in that when tested, it failed to comply with the pyrotechnic leakage requirement in 16 C.F.R. part 1507.5.

17. The firework device identified as Twitter Glitter, No. 0530L, Sample No. P-807-2547 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the pyrotechnic leakage requirement in 16 C.F.R. 1507.5.

18. The firwork device identified as Jumping Jack, No. T3500, Sample No. P-807-2459 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. part 1507.3(a)(2).

19. The firework device identified as Small Festival Balls, No. 0008, Sample No. P-807-2555 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

20. The firework device identified as Moon Travel, No. 0445, Sample No. S-800-2094 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time, fuse attachment, and stick rigidity requirements in 16 C.F.R. 1507.3(a)(2), 1507.3(b) and 1507.10.

21. The firework device identified as Jumping Jacks, No. T3500, Sample No. S-800-2095 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time and burnout/blowout requirements in 16 C.F.R. 1507.3(a)(2) and 1507.6.

22. The firework device identified as Artillery Shell, No. W515B, Sample No. S-800-2096 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

23. The firework device identified as Artillery Shell, No. 515A, Sample No. S-800-2097 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

24. The firework device identified as Jumping Jack, No. T3500, Sample No. S-800-2616 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507 in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

25. The firework device identified as Artillery Shells, No. W515A, Sample No. S-800-2617 in paragraph 4 above is subject to, but failed to comply with, the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

26. The firwork device identified as Festival Balls, No. 0008, Sample No. S-800-2618 identified in paragraph 4 above is subject to, but failed to comply with the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time requirement in 16 C.F.R. 1507.3(a)(2).

27. The firework device identified as Kaleidoscope, No. 2512, Sample No. S-800-2625 identified in paragraph 4 above is subject to, but failed to comply with the Commission's Fireworks Regulations, 16 C.F.R. part 1507, in that when tested, it failed to comply with the fuse burn time and burnout/blowout requirements in 16 C.F.R. 1507.3(a)(2) and 1507.6.

28. Each of the fireworks identified in paragraph 4 above is a "banned hazardous substance" pursuant to section 2(q)(1)(B) of the FHSA, 15 U.S.C. 1261(q)(1)(B); and 16 C.F.R. part 1507 *et seq.*

29. The fireworks device identified as News Transmitter, No. T2508, Sample No. M-807-1370 in paragraph 4 above is a "misbranded hazardous substance" pursuant to section 3(b) of the FHSA, 15 U.S.C. 1262(b) and 16 CFR 1500.14 *et seq.*

30. Neptune knowingly introduced or caused to be introduced into interstate commerce; or received in interstate commerce and delivered or proffered delivery thereof for pay or otherwise, the banned hazardous fireworks and misbranded hazardous fireworks identified in paragraph 4 above, in violation of sections 4(a) and (c) of the FHSA, 15 U.S.C. 1263(a) and (c).

III. Response of Neptune

31. Neptune denies the allegations of the staff set forth in paragraphs 4 through 30 above. Neptune denies it knowingly, or otherwise, introduced or caused to be introduced into interstate commerce; or received in interstate commerce and delivered or proferred delivery thereof for pay or otherwise, the banned hazardous fireworks and misbranded hazardous fireworks identified in paragraph 4 above, in violation of sections 4(a) and (c) of the FHSA, 15 U.S.C. 1263(a) and (c) and/or 16 CFR part 1507 *et seq.* and 15 CFR 1500.14 *et seq.*

32. Neptune enters into this Settlement Agreement with the sole purpose of avoiding the costs of litigation.

IV. Agreement of the Parties

33. The Consumer Product Safety Commission has jurisdiction over Neptune and the subject matter of this Settlement Agreement under the following acts: Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, and the Federal Hazardous Substances Act, 15 U.S.C. 1261 *et seq.*

34. The Commission and Neptune agree, notwithstanding any other statements to the contrary in this Settlement Agreement and Order, that this Settlement Agreement and Order is entered into for the purposes of settlement only and does not constitute a determination by the Commission or an admission by Neptune that Neptune violated the CPSA, FHSA and/or the Commission's regulations.

35. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final order, Neptune knowingly, voluntarily, and completely waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Neptune failed to comply with the FHSA as foresaid, (4) to a statement of findings of fact and conclusions of law, and (5) to any claims under the Equal Access to Justice Act.

36. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint had issued, and the Commission may publicize the terms of the Settlement Agreement and Order.

37. Upon provisional acceptance of this Settlement Agreement by the Commission, the Commission will place the Settlement Agreement and the Provisional Order on the public record, and publish it in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e)–(h). If the Commission does not receive any written requests not to accept the Settlement Agreement within 15 days, the Settlement Agreement shall be deemed finally accepted and the Final Order shall be deemed issued on the 16th day.

38. This Settlement Agreement may be used in interpreting the Provisional and Final Orders. Agreements, understandings, representations, or interpretations apart from those contained in this Settlement Agreement may not be used to vary or to contradict its terms.

39. The provisions of the Settlement Agreement and Final order shall apply to Neptune and each of its successors and assigns.

40. Upon final acceptance of this Agreement, the Commission shall issue the Final Order.

Dated: March 20, 1995.

VOL 60 ISS 71 AP 13 1995 UMI

Respondent Neptune Fireworks Co., Inc.

Itzhak Dickstein,

President, Neptune Fireworks Company, Inc.

Commission Staff.

David Schmeltzer,

Assistant Executive Director, Office of Compliance and Enforcement.

Eric L. Stone,

Acting Director, Division of Administrative Litigation, Office of Compliance and Enforcement.

Dated: March 24, 1995.

Dennis C. Kacoyanis,

Trial Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Order

Upon consideration of the Settlement Agreement entered into between respondent Neptune Fireworks Company, Inc., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Neptune Fireworks Company Inc.; and it appearing that the Settlement Agreement and Order is in the public interest, it is

Ordered, That the Settlement Agreement be and hereby is accepted; and it is

Further ordered, That upon final acceptance of the Settlement Agreement and Order, Neptune Fireworks Company, Inc. shall pay to the Commission a civil penalty in the amount of Forty-Five Thousand and 00/100 Dollars ($45,000.00) in three (3) payments each. The first payment of Fifteen Thousand and 00/100 dollars ($15,000.00) shall be paid by August 15, 1995 or within twenty (20) days after service of the Final Order of the Commission accepting the Settlement Agreement (hereinafter, the "anniversary date"), whichever is later. The second payment of fifteen thousand and 00/100 dollars ($15,000.00) shall be paid on August 15, 1996 or within one (1) year of the anniversary date. The third payment of fifteen thousand and 00/100 dollars ($15,000.00) shall be paid on August 15, 1997 or within (2) years of the anniversary date. Upon the failure by Neptune Fireworks Company, Inc. to make a payment or upon the making of a late payment by Neptune Fireworks Company, Inc. (a) the entire amount of the civil penalty shall be due and payable, and (b) interest on the outstanding balance shall accrue and be paid at the federal legal rate of interest under the provision of 28 U.S.C. 1961 (a) and (b).

Provisionally accepted and Provisional Order issued on the 75 day of April, 1995.

By order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–9047 Filed 4–12–95; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0077]

Clearance Request for Quality Assurance Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0077).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Quality Assurance Requirements.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Supplies and services acquired under Government contracts must conform to the contract's quality and quantity requirements. FAR Part 46 prescribes inspection, acceptance, warranty, and other measures associated with quality requirements. Standard clauses related to inspection (a) require the contractor to provide and maintain an inspection system that is acceptable to the Government; (b) give the Government the right to make inspections and test while work is in process; and (c) require the contractor to keep complete, and make available to the Government, records of its inspection work.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, *960;* responses per respondent, *1;* total annual responses, *950;* preparation hours per response, *.25;* and total response burden hours, *237.5* (238).

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *58,060;* hours per recordkeeper, *.68;* and total recordkeeping burden hours, *39,481.* The total annual burden is *238+39,481=39,719.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0077, Quality Assurance Requirements, in all correspondence.

Dated: April 6, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–9084 Filed 4–12–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).

Date of meeting: 2 & 3 May 1995.

Time of meeting: 0930–1700, 2 May 1995; 0800–1700, 3 May 1995.

Place: 2 May 1995—Norfolk, VA—Atlantic Command (ACOM); Ft. Monroe, VA—TRADOC. 3 May 1995—Ft. Lee, VA—Combined Arms Support Command (CASCOM)

Agenda: The Army Science Board's Logistics and Sustainability Subgroup will meet on current doctrine, missions, functions, force structures and modules, and technologies reference "Army Logistical Support to Military Operations Other Than War." Discussions will cover the ACOM, TRADOC and CASCOM logistics

perspectives on Military Operations Other Than War. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matter to be discussed is so inextricably intertwined so as to preclude opening any portions of these meetings. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–9052 Filed 4–12–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Office of Administrative Law Judges; Intent to Compromise a Claim, Resource, Inc.

AGENCY: Department of Education.

ACTION: Notice of intent to compromise a claim.

SUMMARY: The Department intends to compromise a claim against Resource, Inc. now pending before the Office of Administrative Law Judges (OALJ), Docket No. 94–103–R (20 U.S.C. 1234a(j)).

DATES: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before May 30, 1995.

ADDRESSES: All comments concerning this notice should be addressed to Jeffrey B. Rosen, Office of the General Counsel, U.S. Department of Education, 600 Independence Avenue SW., Room 5411, FB–10B, Washington, D.C. 20202–2242.

FOR FURTHER INFORMATION CONTACT: Jeffrey B. Rosen. Telephone: (202) 401–6009. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: In September 1991 the Rehabilitation Services Administration (RSA), U.S. Department of Education (ED), conducted a compliance review of the grantee, Resource, Inc., in accordance with the Rehabilitation Act of 1973, as amended (the Act), and "RSA Procedures for the Recovery of Disallowed Costs Identified Through Program Monitoring Activities" (Information Memorandum RSA-IM–92–04). The review covered the grantee's performance during fiscal year 1991 under a Projects With Industry (PWI) program grant authorized under Title VI of the Act, 29 U.S.C 795g. RSA issued a Final Monitoring Report on March 24, 1992.

Based upon this monitoring report, the Regional Commissioner, Region V, RSA, and the Director, Grants Division, Grants and Contracts Service, issued a Notice of Disallowance Decision (NDD) on May 31, 1994, in which Resource, Inc. was requested to repay $218,517 of funds misspent under Title VI of the Act. A total of $204,416 was disallowed because the grantee did not meet the requisite cost sharing or matching requirement under the PWI program. In addition, ED disallowed $115,585 for the failure of the grantee to keep time distribution records for its employees who worked on the PWI program. However, because $101,484 of these funds were included in the prior disallowance, the total cost disallowance ($218,517) was less than the total of the costs disallowed for each of the two findings. On June 30, 1994 Resource, Inc. filed an appeal of the NDD with the OALJ.

On November 17, 1994 ED filed a Notice of Reduction of Claim notifying the OALJ that, based upon new information submitted by the grantee, the first issue concerning the matching requirement was resolved. Thus, the total amount outstanding in the appeal was reduced to $115,585, which is covered by the Settlement Agreement.

Under the terms of the proposed agreement, Resource, Inc. owes ED a total of $31,682. The grantee has agreed to make payment in 2 installments over a 1-year period, the first payment to be made within 30 days of execution of the agreement by ED. Resource, Inc. would be assessed interest at a rate of three percent per year if both installment payments are not made in a timely fashion. Failure to make timely payments within 40 days of the due dates would result in a late payment fee of 10 percent of the principal. Finally, under the agreement, the parties would jointly move for dismissal of the appeal. For the following reasons, ED recommends approval of the proposed Settlement Agreement.

There is clearly a litigation risk in attempting to uphold the original finding. The evidence presented by Resource, Inc. demonstrates that the employees in question worked a substantial portion of the time on the PWI grant. While Resource, Inc. clearly had an obligation to keep time distribution records, its evidence, which often was less reliable and circumstantial, could persuade an administrative law judge or a Federal court to rule in substantial part or in full for its position.

Resource, Inc. has agreed to repay $31,682. Based upon the foregoing, ED believes that it is prudent to accept the settlement offer, which represents a recovery of over 27 percent of the original costs disallowed in the PDD for this finding. If this issue is not settled, ED will incur further litigation costs, and there will be some litigation risk during the administrative process. Moreover, Resource, Inc. also would have the right to appeal any decision to the U.S. Court of Appeals. See 20 U.S.C. 1234g. In addition, the grantee has certified in the Settlement Agreement that it is presently in compliance with the time distribution requirements that gave rise to the disallowance at issue in this agreement.

After weighing the risks in litigating the issue that is the subject of the settlement, it is ED's assessment that the proposed Settlement Agreement is the most advantageous resolution.

The public is invited to comment on the ED's intent to compromise this claim. Additional information may be obtained by writing to Jeffrey B. Rosen at the address given at the beginning of this notice.

Program Authority: 20 U.S.C. 1234a(j) (1990).

Dated: April 7, 1995.

Donald R. Wurtz,

Chief Financial Officer.

[FR Doc. 95–9050 Filed 4–12–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Floodplain Involvement For Operable Unit 2 Removal Action No. 30 At the Fernald Environmental Management Project

AGENCY: U.S. Department of Energy (DOE), Fernald Area Office.

ACTION: Notice of floodplain involvement.

SUMMARY: This is to give notice of DOE's actions planned for the Fernald Environmental Management Project (FEMP), located approximately 18 miles (29 kilometers) northwest of downtown Cincinnati, Ohio. The subject of this Notice of Involvement is Operable Unit 2 which is defined by five subunits or areas: the Solid Waste Landfill, Lime Sludge Ponds, Inactive Flyash Pile, South Field, and Active Flyash Pile. The proposed Removal Action No. 30 for Operable Unit 2 involves excavation and construction activities that could

VOL 60 ISS 71 AP 13 1995 UMI

impact floodplain areas in Hamilton County, Ohio. In accordance with 10 CFR part 1022, DOE will prepare a floodplain assessment and will perform this proposed removal action in such a manner to avoid or minimize potential harm to or within floodplain areas.

DATES: Written comments must be received by the DOE at the following address no later than April 28, 1995.

ADDRESSES: For further information on this proposed action, contact: Mr. Wally Quaider, Acting Associate Director, Office of Safety & Assessment, U.S. Department of Energy, Fernald Area Office, P.O. Box 538705, Cincinnati, Ohio 45253–8705, Phone: (513) 648–3137, Facsimile: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE Floodplain/Wetlands environmental review requirements, contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, 3E–080, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: Removal Action No. 30, which consists of removing contaminated sediments in the low area in the southeast corner of the South Field and constructing a seepage collection system to prevent leaching and infiltration of contaminants to the Great Miami Aquifer, could affect the 100- and 500-year floodplain of Paddys Run. Potential indirect impacts to the 100- and 500-year floodplain as a result of the removal activities include surface water runoff and sedimentation loading into the floodplain. Direct physical impact to the floodplain could result in the short-term from the operation of heavy equipment during excavation of contaminated sediments and construction of a sump/pump station and portion of a discharge line within the floodplain. However, engineering controls would be implemented during excavation and construction activities to minimize any impacts. Minimal or no permanent change in flood elevations would occur in the long-term.

In accordance with DOE regulations for compliance with floodplain/wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain assessment for this proposed DOE action. The assessment will be included in the Work Plan being prepared for Removal Action No. 30. A Notice of Floodplain Statement of Findings will be issued separately and published in the **Federal Register**.

Issued in Miamisburg, Ohio on March 29, 1995.

George R. Gartrell,

Acting Deputy Manager, Ohio Field Office.

[FR Doc. 95–9168 Filed 4–12–95; 8:45 am]

BILLING CODE 6450–01–P

Nevada Operations Office; Public Reading Room Relocation

AGENCY: U.S. Department of Energy Nevada Operations Office (DOE/NV).

ACTION: Notice of Relocation of the DOE/NV Public Reading Room to Building B–3, 2621 Losee Road, North Las Vegas, Nevada 89030.

SUMMARY: The DOE/NV announces that, pursuant to Title 10, Code of Federal Regulations, Section 1004.3(b), as of May 1, 1995, the public reading room for DOE/NV is relocating to: 2621 Losee Road, North Las Vegas, Nevada 89030 (Building B–3). Attention: Cynthia Ashley, Telephone (702) 295–1623. Regular operating hours of the facility will be Monday through Friday, 7:30 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, Attn: Janet L. Fogg, Freedom of Information and Privacy Act Officer, P.O. Box 98518, Las Vegas, Nevada 89193–8518, Telephone (702) 295–1821.

Issued in Las Vegas, Nevada, on March 27, 1995.

Jerry A. Vaeth,

Acting Manager, DOE Nevada Operations Office.

[FR Doc. 95–9169 Filed 4–12–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2275–001]

Public Service Company of Colorado; Notice of Availability of Draft Environmental Assessment

April 7, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the existing Salida Hydroelectric Project, located on the South Arkansas River and on Fooses Creek in Chaffee County, Colorado, near Poncha Springs. The Federal Energy Regulatory Commission and the U.S. Forest Service have prepared a Draft Environmental Assessment (DEA) for the relicense proposal.

In the DEA, the staff has analyzed the environmental impacts of the project and has concluded that relicensing the project, with appropriate environmental measures, would not constitute a major federal action that would significantly affect the quality of the human environment. Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 275–001 to all comments. For further information, please contact Vince Yearick, Environmental Coordinator, at (202) 219–3073.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9069 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–221–000]

ANR Pipeline Co.; Notice of Informal Settlement Conference

April 7, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, April 13, 1995, at 9:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b) is invited to attend. Persons wishing to become a party must move to intervene and receive intervener status pursuant to the Commission's regulations (18 CFR 385.214) (1994).

For additional information, please contact William J. Collins (202) 208–0248 or Warren C. Wood (202) 208–2091.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9072 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–237–017]

Alabama-Tennessee Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 7, 1995.

Take notice that on April 4, 1995, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets:

First Sub. Fifth Revised Sheet No. 4
Sub. Seventh Revised Sheet No. 4
Sub. Eighth Revised Sheet No. 4

Alabama-Tennessee proposes that these tariff sheets be made effective September 1, 1994, October 1, 1994 and March 1, 1995, respectively.

According to Alabama-Tennessee, this filing is being made to comply with the Commission's March 20, 1995 order in the above-captioned proceeding.

Alabama-Tennssee states that copies of its filing were served upon the Company's jurisdictional customers and interested public bodies as well as all the parties shown on the Commission's official service list established in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 14, 1995. All such protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9071 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–32–000]

Carnegie Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 7, 1995.

Take notice that on March 24, 1995, Carnegie Natural Gas Company (Carnegie), pursuant to Sections 31.3(b)(5) of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1, tendered for filing a refund report on its flowthrough of refunds received from Texas Eastern Transmission Corporation (TETCO) as part of TETCO's Global Settlement in Docket No. RP85–177–119, *et al.* Article III of the Global Settlement required TETCO to refund to its customers, including Carnegie, certain amounts collected as Contract Assignment Program (CAP) costs, Account N0. 191 transition costs, and Gas Supply Realignment (GSR) costs.

Carnegie states it received the TETCO refunds on December 30, 1994, and, on February 28, 1995, pursuant to Sections 31.3(b)(4) and 32.1 of its tariff, flowed through the jurisdictional portion thereof, $669,417.42, to its former bundled sales customers under Rate Schedules CDS and LVWS. This amount includes applicable interest, an offset for unpaid installments on PGA passthrough amounts which its customers owed Carnegie, as well as a billing adjustment related to the Global Settlement's cap on TETCO's recoverable Account No. 191 transition costs.

Any person desiring to be heard or protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 14, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9068 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–343–007]

NorAm Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

April 7, 1995.

Take notice that on April 3, 1995, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets, to be effective February 1, 1995:

Alternate Original Sheet No. 165
Alternate Original Sheet No. 212
Alternate Original Sheet No. 213
Alternate Original Sheet No. 217
Alternate First Revised Original Sheet No. 231
Alternate First Revised Original Sheet No. 309

Pursuant to the Commission's March 3, 1995 Order Accepting Tariff Sheets, Subject to Conditions, and Denying Motion, NGT is reinstituting its average index price method of cashing out monthly imbalances.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 14, 1995. All such protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9073 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

Southern Natural Gas Co.; Notice of Application

[Docket No. CP95–289–000]

April 7, 1995.

Take notice that on March 30, 1995, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP95–289–000 an application pursuant to Sections 7(b) and (c) of the Natural Gas Act for permission and approval to abandon facilities to be replaced and for a certificate to construct and operate certain facilities, including replacement facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Southern states that its proposal is an integral part of the compromises established in its Stipulation and Agreement (Settlement) filed on March 15, 1995, in Docket Nos. RP89–224, *et al.*, to resolve all of its outstanding rate and gas supply realignment cost proceedings pending before the Commission. Southern thus proposes the following projects and requests Commission approval of the application by no later than October 31, 1995, contingent upon and in conjunction

VOL 60 ISS 71 AP 13 1995 UMI

with approval of the provisions of the Settlement.[1]

(1) Project 1: Construct, install, replace and operate the following facilities: approximately 11.8 miles of 30-inch pipeline in Henry and Clayton Counties, Georgia, to replace 6.1 miles of existing 14-inch Ocmulgee-Atlanta loop pipeline and 5.7 miles of existing 12-inch Macon branch pipeline, and various modifications at the Marietta, South Atlanta No. 1, and Dallas No. 2 meter stations serving Atlanta Gas Light Company (AGL), all of which are to enhance operational flexibility and to increase peak hour flow through various meter stations in the Atlanta, Georgia, area.[2] Southern explains that (a) there would be miscellaneous modifications of piping at the South Atlanta regulator station and South Atlanta No. 1 meter station, (b) the Marietta meter station would be rebuilt with three 8-inch orifice meter runs, and (c) the existing metering facilities at the Dallas No. 2 meter station would be replaced with a 6-inch turbine meter run and appurtenant facilities.

(2) Project 2: Construct and operate approximately 7.8 miles of 20-inch South Main 2nd loop pipeline immediately upstream of the Wrens Compressor Station in Glascock and Jefferson Counties, Georgia, and approximately 3.1 miles of 20-inch loop line immediately upstream of the Hall Gate Compressor Station in Baldwin County, Georgia, to enhance the overall service available and to provide increased service on shoulder days (days before and after peak days) to South Carolina Pipeline Corporation (SCPL).[3]

(3) Project 3: Construct and operate approximately 7.1 miles of 30-inch South Main 3rd loop pipeline immediately upstream of the Auburn Compressor Station in Lee and Macon Counties, Alabama, to provide 8,000 Mcf/day of additional firm transportation service for SCANA Hydrocarbons, Inc., an affiliate of SCPL.[4]

Southern estimates that the total cost of these facilities will be $26,850,250. Southern advises that financing would be accomplished initially through the use of short term financing, available cash from operations, or use of both alternatives and, ultimately, from permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 1995, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate, and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9066 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

[1] Southern indicates that a related filing is being made concurrently in Docket No. CP95–292–000 to abandon approximately 122 miles of its Brunswick Line by sale to AGL, and to construct a meter station at the new interconnect with the portion of the line being sold.

[2] Southern states that, although AGL has contracted for an additional 100,000 Mcf/day of firm transportation service as part of the overall economics necessary to achieve the Settlement, including the installation of these facilities, the facilities involved here do not provide additional firm capacity to meter stations serving the Atlanta area.

[3] Southern advises that although SCPL has contracted for an additional 28,000 Mcf/day of firm transportation service as part of the overall economics necessary to achieve the Settlement, including the installation of these facilities, these facilities do not provide additional firm capacity.

[4] Southern included a copy of a SCANA service agreement dated March 28, 1995, for transportation service under Southern's Rate Schedule FT, as Exhibit I of its application.

[Docket No. CP95–292–000]

Southern Natural Gas Co.; Notice of Application

April 7, 1995.

Take notice that on March 30, 1995, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP95–292–000 an application pursuant to Sections 7(b) and (c) of the Natural Gas Act for permission and approval to abandon a portion of its Brunswick Line and for a certificate to construct and operate a new meter station, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern requests authorization to: (1) Abandon by sale to Atlanta Gas Light Company (AGL) approximately 122 miles of Southern's 12-inch Brunswick Line, commencing at approximately mile post 53.8 in Laurens County, Georgia, and extending to and including Southern's existing AGL–Brunswick Meter Station at mile post 175.3 in Glynn County, Georgia, as well as apurtenant facilities, including six meter stations and one regulator station. Southern identifies the meter stations as Eastman, Alamo, Hazelhurst, Baxley, Jesup and Brunswick, and the regulator station as Belle Vista.[1]

(2) Construct, install, and operate one measurement station, consisting of tap, metering, and appurtenant facilities within Southern's existing property at the Eastman Meter Station on Southern's 12-inch Brunswick Line in Laurens County, Georgia, at the proposed point of division of ownership of the Burnswick Line.

Southern states that the proposed abandonment would not terminate any interruptible or firm service of any customer. Southern explains that AGL is the only customer receiving firm service from the facilities proposed to be abandoned, and all shippers that currently have interruptible transportation contracts for the delivery of gas to AGL at any of the six meter stations proposed to be abandoned would continue to receive service at the new consolidated meter station.

Southern proposes to sell the 122-mile segment of the Brunswick Line and appurtenant facilities at their depreciated book value as of the first day of the month in which the sale closing occurs.[2] Southern estimates that the cost of the new facilities would be $801,500 which would be reimbursed by AGL.

Southern states that its proposal is an integral part of the compromises established in its Stipulation and Agreement (Settlement) filed on March 15, 1995, in Docket Nos. RP89–224, *et al.* to resolve all of its outstanding rate and gas supply realignment cost proceedings pending before the Commission. Southern requests Commission approval of the application by no later than October 31, 1995, contingent upon and in conjunction with approval of the provisions of the Settlement.[3]

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate, and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9067 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

[1] Southern states that these facilities were constructed in 1964 (31 FPC 789, 1387 (1964)).

[2] Southern advises that as of December 31, 1994, the depreciated book value of the facilities was $1,347,404.

[3] Southern indicates that a related filing is being made concurrently in Docket No. CP95–289–000 to provide enhanced service to the Atlanta, Georgia, and South Carolina areas and new firm transportation services for an existing customer.

[Docket No. RP91–203–000, et al. (Phase II)]

Tennessee Gas Pipeline Co.; Notice of Informal Settlement Conference

April 7, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, April 24, 1995, at 11:00 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Dennis H. Melvin (202) 208–0042 or Donald Williams (202) 208–0743.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9070 Filed 4–12–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $866,352.24, plus accrued interest, in refined petroleum product violation amounts obtained by the DOE pursuant to Consent Orders issued to Bell Fuels, Inc., et al., Case Nos. LEF–0061, et al. In the absence of sufficient information to implement direct restitution to injured customers of the consenting firms, the OHA has tentatively determined that if no such customers come forward, the funds obtained from these firms, plus accrued interest, will be made available to state governments for use in four energy conservation programs.

DATES AND ADDRESSES: Comments must be filed in duplicate on or before May 15, 1995, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585. All comments should display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute $866,352.24, plus accrued interest, obtained by the DOE pursuant to Consent Orders issued to eighteen resellers and retailers of refined petroleum products. The Consent Orders settled DOE allegations that, during periods between 1973 and 1981, the firms had sold certain refined petroleum products at prices in excess of the maximum lawful selling price, in violation of Federal petroleum price regulations. The names of the firms, their case numbers, the dates of the settlement periods, the products covered by each Consent Order, and the amounts received from each firm are set forth in the Appendix to the Proposed Decision.

Since it lacks sufficient information to implement a standard first-stage refund process, the OHA has tentatively determined to make all of the funds obtained from the firms available for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. The funds will be distributed to state governments for use in four energy conservation programs. Before making the funds available to the states, however, the OHA will accept refund claims from any injured customers of the consenting firms who come forward and will devise refund procedures based on the information these applicants provide.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30

VOL 60 ISS 71 AP 13 1995 UMI

days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW, Washington, DC 20585.

Dated: April 3, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Names of Firms: Bell Fuels, Inc., *et al.*
Dates of Filing: July 20, 1993, November 16, 1993
Case Numbers: LEF–0061, *et al.*

Date: April 3, 1995.

On July 20 and November 16, 1993, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute the funds received pursuant to Consent Orders entered into by the DOE and the eighteen petroleum resellers and retailers listed in the Appendix to this Decision and Order (hereinafter collectively referred to as the consenting firms). In accordance with the provisions of the procedural regulations at 10 C.F.R. Part 205, Subpart V (Subpart V), the ERA requests in its Petitions that the OHA establish special procedures to make refunds in order to remedy the effects of regulatory violations set forth in the Consent Orders.

I. Background

Each of the consenting firms was a reseller or retailer of refined petroleum products during the periods relevant to this proceeding. ERA audits of the consenting firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of refined petroleum products. Pursuant to these Consent Orders, the firms agreed to pay to the DOE specified amounts in settlement of their potential liability with respect to sales to their customers during the settlement periods. The firms' payments are currently being held in separate interest-bearing accounts pending distribution by the DOE. The names of the firms, their addresses, the dates of the settlement periods and of the Consent Orders, the amount received from each firm, and the products covered by each Consent Order are set forth in the Appendix to this Proposed Decision.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Petroleum Overcharge Distribution and Restitution Act of 1986*, 15 U.S.C. §§ 4501 et seq., *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) *(Vickers)*.

II. Proposed Refund Procedures

In cases where the ERA is unable to identify parties injured by the alleged overcharges or the specific amounts to which they may be entitled, we normally implement a two-stage refund procedure. In the first stage of such a proceeding, those who bought refined petroleum products from the consenting firms may apply for refunds, which are calculated on a pro-rata or volumetric basis. In order to calculate the volumetric refund amount, the OHA divides the amount of money available for direct restitution by the number of gallons sold by the firm during the period covered by the consent order. In the second stage, any funds remaining after all first-stage claims are decided are distributed in accordance with *PODRA*.

In the cases covered by this Proposed Decision, however, we lack much of the information that we normally use to provide direct restitution to injured customers of the consenting firms. In particular, we have been unable to obtain any information on the volumes of the relevant petroleum products sold by the consenting firms during the settlement period. Nor do we have any information concerning the customers of these firms. Based on the present state of the record in these cases, it would be difficult to implement a volumetric refund process. Nevertheless, we will accept any refund claims submitted by persons who purchased the products specified in the Appendix from the consenting firms during the periods shown in the Appendix. We will work with those claimants to develop additional information that would enable us to determine who should receive refunds and in what amounts.

If no claims are received, we propose to distribute all of the funds received from the consenting firms in accordance with the provisions of *PODRA*. *See Green Oil Company*, 20 DOE ¶ 85,450 (1990). *PODRA* requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs.

Before taking this action, we intend to publicize our proposal and solicit comments from interested parties. We invite anyone who has information concerning the consenting firms— sales during the settlement period to submit that information. Comments concerning the tentative distribution process set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the **Federal Register**.

It Is Therefore Ordered That:

The payments remitted to the Department of Energy by the firms listed in the Appendix to this Decision and Order pursuant to the Consent Orders whose dates are set forth in the Appendix will be distributed in accordance with the foregoing Decision.

Appendix

Case No., firm	Address	Settlement period	Date of consent order	Amount received	Product
LEF–0061, Bell Fuels, Inc ...	4116 W. Peterson Ave., Chicago, IL 60646.	1/1/79–11/30/79	8/31/82	$33,973.12	Gasoline.
LEF–0062, Este Oil Company.	5556 Vine St., Cincinnati, OH 45217.	11/1/73–1/28/81	5/13/83	63,033.90	Refined petroleum products.

Appendix—Continued

Case No., firm	Address	Settlement period	Date of consent order	Amount received	Product
LEF–0063, G&G Oil Co. of Indiana, Inc.	220 E. Centennial Ave., Muncie, IN 47305.	4/1/79–12/31/79	2/1/83	49,097.11	Refined petroleum products.
LEF–0064, General Petroleum Products, Inc.	P.O. Box 209, Gary, IN 46402.	11/1/73–4/30/74	7/13/83	23,060.52	Refined petroleum products.
LEF–0065, Reco Petroleum, Inc.	100 N. 4th St., Reading, PA 19601.	3/1/79–1/30/81	2/8/83	26,472.40	Gasoline.
LEF–0066, SOS Monarch Oil Corp.	East Village Rd., Tuxedo, NY 10987.	4/1/79–9/30/79	10/25/82	5,901.03	Gasoline.
LEF–0067, Capitol 66 oil Company.	P.O. Box 2839, Jackson, MS 39207.	11/1/73–3/31/74	9/15/82	15,766.43	Refined petroleum products.
LEF–0068, Cumberland Farms Dairy, Inc.	777 Dedham St., Canton, MA 02021.	1/1/73–1/28/81	4/17/83	183,193.74	Gasoline.
LEF–0069, Kickapoo Oil Co	215 E. Madison, Hillsboro, WI 54634.	3/1/79–8/31/79	9/24/82	40,812.58	Gasoline.
LEF–0070, Lampton-Love, Inc.	P.O. Drawer 1607, Jackson, MS 39205.	11/73–4/74	9/30/82	12,983.93	Gasoline.
LEF–0071, Skinny's Inc	5189 Texas Ave., Abilene, TX 79608.	3/1/79–3/31/80	9/2/82	16,000.00	Gasoline.
LEF–0072, Vermont Morgan Corp.	114 Broadway, Saratoga, NY 12866.	4/1/79–6/30/79	4/5/83	20,275.00	Gasoline.
LEF–0075, Bob's Broadway Shell.	220 W. 17th St., Santa Ana, CA 92708.	8/1/79–5/7/80	10/8/81	2,100.00	Gasoline.
LEF–0076, Clearview Gulf ..	3120 Clearview Parkway, Metairie, LA 70002.	4/1/79–7/15/79	8/14/81	594.84	Gasoline.
LEF–0077, E–Z Serve, Inc .	P.O. Box 3579, Abilene, TX 79604.	8/19/73–1/27/81	12/27/82	368,550.56	Gasoline.
LEF–0079. Millbrae Shell	825 Spruance Ln., Foster City, CA 94404.	8/1/79–11/30/79	3/5/82	2,500.00	Gasoline.
LEF–0080, Bob Hutchinson, Inc.	1334 Breckenridge St., San Leandro, CA 94579.	8/1/79–11/30/79	3/5/82	1,762.00	Gasoline.
LEF–0016, Maxwell Oil Co., Inc.	P.O. Box 1936, Olympia, WA 98507.	5/1/79–12/1/79	9/1/81	275.01	Gasoline.

[FR Doc. 95–9172 Filed 4–12–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of a total of $7,280,202, plus accrued interest, in crude oil overcharges obtained by the DOE from MAPCO, Inc. and MAPCO International, Inc., Case No. VEF–0004 (MAPCO). The OHA has determined that the funds obtained from MAPCO, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986).

DATES AND ADDRESSES: Comments must be filed on or before May 15, 1995, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., S.W., Washington, DC 20585. All comments should display a reference to Case No. VEF–0004.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 C.F.R. 205.282(c), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute a total of $7,280,202, plus accrued interest, remitted to the DOE by MAPCO, Inc. and MAPCO International, Inc. to the DOE. The DOE is currently holding these funds in an interest bearing account pending distribution.

The OHA proposes to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury.

The tentative deadline for filing Applications for Refund is June 3, 1996. As we state in the Proposed Decision, any party who has previously submitted a refund application in the crude oil proceedings should not file another Application for Refund. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the proceedings are finalized.

Dated: April 4, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: MAPCO International, Inc.
Date of Filing: February 23, 1995
Case Number: VEF–0004

VOL 60 ISS 71 AP 13 1995 UMI

Dated: April 4, 1995.

On February 23, 1995, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute crude oil overcharge funds received from MAPCO, Inc. (MAPCO) pursuant to a June 23, 1994 Settlement Agreement. The Settlement Agreement resolved claims and litigation arising from an April 21, 1986 Remedial Order originally issued to MAPCO Inc.'s subsidiary MAPCO International, Inc. (MAPCO International) (Case No. HRO–0193). In accordance with the provisions of the procedural regulations at 10 C.F.R. Part 205, Subpart V (Subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of alleged regulatory violations set forth in the Remedial Order. This Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

During the period relevant to this proceeding, MAPCO International, Inc. was a reseller of crude oil. On June 30, 1983, the ERA issued a Proposed Remedial Order (PRO) to the firm. The PRO alleged that during the period from August 1978 through November 1980 (the audit period), MAPCO International sold crude oil at prices in excess of those permitted by 10 C.F.R. Part 212, Subpart L. After considering and dismissing MAPCO International's objections to the PRO, the DOE issued a final Remedial Order. 14 DOE ¶ 83,019 (1986). MAPCO International appealed the Remedial Order to the Federal Energy Regulatory Commission, which affirmed the Remedial Order. 43 FERC ¶ 63,041 (1988); 56 FERC ¶ 61,063 (1991). Three years of litigation ensued. MAPCO, MAPCO International and the DOE finally resolved all their disputes arising from the Remedial Order with the June 23, 1994 Settlement Agreement. Pursuant to the Settlement Agreement, MAPCO remitted to the DOE the sum of $7,280,202, to which interest has since accrued. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Petroleum Overcharge Distribution and Restitution Act of 1986*, 15 U.S.C. 4501 et seq., *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

We have considered the ERA's petition that we implement Subpart V proceedings with respect to the MAPCO funds and have determined that such proceedings are appropriate. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute these funds. Before taking the actions proposed in this Decision, we intend to publicize our proposal and solicit comments from interested parties. Comments regarding the tentative distribution processes set forth in this Proposed Decision and Order should be filed with the OHA within 30 days of its publication in the **Federal Register**.

III. Proposed Refund Procedures

A. Crude Oil Refund Policy

We propose to distribute the monies remitted by MAPCO in accordance with DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (MSRP). See 51 FR 27899 (August 4, 1986). This policy has been applied in all Subpart V proceedings involving alleged crude oil violations. See Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986) (the August 1986 Order).

Under the MSRP, 40 percent of crude oil overcharge funds will be refunded to the federal government, another 40 percent to the states, and up to 20 percent may initially be reserved for the payment of claims to injured parties. The MSRP also specifies that any funds remaining after all valid claims by injured purchasers are paid will be disbursed to the federal government and the states in equal amounts. See *In re: The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan.), 6 Fed. Energy Guidelines ¶ 90,509 (1986) (the Stripper Well Settlement Agreement) for a more detailed discussion of the MSRP.

On April 10, 1987, the OHA issued a Notice analyzing the numerous comments received in response to the August 1986 Order. 52 Fed. Reg. 11737 (April 10, 1987) (the April 10 Notice). This Notice provided guidance to claimants that anticipated filing refund applications for crude oil monies under the subpart V regulations. In general, we stated that all claimants would be required to (1) document their purchase volumes of petroleum products during the August 19, 1973 through January 27, 1981 crude oil price control period, and (2) prove that they were injured by the alleged crude oil overcharges. End-users of petroleum products whose businesses were unrelated to the petroleum industry would be presumed to have been injured by the alleged crude oil overcharges and would not be required to submit proof of injury. See City of Columbus, Georgia, 16 DOE ¶ 85,550 (1987).

B. Refund Claims

The amount of money covered by this Proposed Decision is $7,280,202, plus accrued interest. In accordance with the MSRP, we propose initially to reserve 20 percent of those funds ($1,456,040 in principal, plus accrued interest) for direct refunds to applicants who claim that they were injured by crude oil overcharges.

We propose to evaluate claims in the MAPCO crude oil refund proceeding in exactly the same manner as in other crude oil proceedings. As we stated in the April 10 Notice, claimants will generally be required to document their purchase volumes of petroleum products and prove that they were injured as a result of the alleged violations.

We propose to base the refunds on a volumetric amount which has been calculated in accordance with the description in the April 10 Notice. We will also presume that the alleged crude oil overcharges were absorbed, rather than passed on, by applicants who were (1) end-users of petroleum products, (2) unrelated to the petroleum industry, and (3) not subject to the regulations promulgated under the Emergency Petroleum Price and Allocation Act of 1973, 15 U.S.C. 751–760h. In order to receive a refund, such claimants need not submit any evidence of injury beyond documentation of their purchase volumes.

As has been stated in earlier Decisions, a crude oil refund applicant will only be required to submit one application for its share of all available crude oil overcharge funds. *See, e.g., A.Tarricone Inc.*, 15 DOE ¶ 85,475 (1987). A party that has already submitted a claim in any other crude oil refund proceeding implemented by the DOE need not file another claim. The tentative deadline for filing an Application for Refund is June 3, 1996. Any claimant that has executed a valid waiver pursuant to one of the escrow accounts established by the Stripper Well Agreement, however, has waived its right to file an application for a Subpart V crude oil refund. *See Mid-American Dairymen v. Herrington*, 878 F. 2d 1448 (Temp. Emer. Ct. App.), 3 Fed. Energy Guidelines ¶ 26,617 (1989); *In re: Department of Energy Stripper Well Exemption Litigation*, 707 F. Supp. 11267 (D. Kan.), 3 Fed. Energy Guidelines ¶ 26,613 (1987).

C. Payments to the States and Federal Government

Under the terms of the MSRP, we propose that the remaining 80 percent of the amount remitted by MAPCO, or $5,824,162 in principal, plus accrued interest, be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the crude oil price control period. The share of the funds allocated to each state is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to the same limitations and reporting requirements that apply to any other crude oil overcharge funds received by the states in accordance with the Stripper Well Agreement.

It Is Therefore Ordered That:

The payment remitted to the Department of Energy by MAPCO, Inc. pursuant to the Settlement Agreement dated June 23, 1994 will be distributed in accordance with the foregoing Decision.

[FR Doc. 95–9171 Filed 4–12–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140231; FRL–4940–7]

ICF International, Incorporated Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, ICF International, Incorporated (ICF), of Fairfax, Virginia, and Washington, DC, for access to information which has been submitted to EPA under 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than April 27, 1995.

FOR FURTHER INFORMATION CONTACT: James B. Willis, Acting Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under contract number 68–D3–0021 contractor ICF, of 9300 Lee Highway, Fairfax, VA, and 1850 K St., NW., Suite 1000, Washington, DC, will assist the Office of Pollution Prevention and Toxics (OPPT) in completing risk characterizations of existing and new chemicals that will be introduced as replacements for ozone-depleting substances that are being phased out under the Clean Air Act Amendments of 1990.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–D3–0021, ICF will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract. ICF personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the **Federal Register** of November 1, 1991 (56 FR 56216), ICF was authorized for access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA. EPA is issuing this notice to extend ICF's access to TSCA CBI under a contract extension.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide ICF access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters, and ICF's Fairfax, VA and Washington, DC facilities. Before access to TSCA CBI is authorized at ICF's sites, EPA will approve ICF's security certification statements, perform the required inspection of its facilities, and ensure that the facilities are in compliance with the manual.

ICF will be authorized access to TSCA CBI at its facilities under the EPA *TSCA Confidential Business Information Security Manual*. Upon completing review of the CBI materials, ICF will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 1995.

ICF personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: march 8, 1995.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–9062 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–00167; FRL–4946–4]

Training Grants for Lead-Based Paint Abatement Workers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for preproposals.

SUMMARY: The safety issues surrounding the activities of lead-based paint abatement workers are a major concern of EPA. Appropriate worker safety training is essential if lead-based paint abatement activities are to be done in a manner that assures the safety of building occupants, the public, the environment, and abatement workers. To ensure that the number of well-trained lead-based paint abatement workers increases at an acceptable rate, EPA has received 1995 congressional add-on funds to provide training grants to nonprofit organizations engaged in lead-based paint abatement worker training and education activities. This year, the Agency is particularly interested in funding nonprofit environmental equity-based organizations that offer worker lead abatement training opportunities for minorities and low income community residents. This grass roots initiative will provide opportunities for communities to develop local-based lead abatement businesses that will employ area residents. Only nonprofit organizations with demonstrated experience in the implementation and operation of health and safety training for lead-based paint abatement workers will be considered for funding. This notice describes the eligibility requirements and the selection criteria for the grants.

DATES: All preproposals must be submitted to EPA no later than May 15, 1995.

ADDRESSES: Preproposals should be sent to the following address: Tim Torma, Chemical Management Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Torma at (202) 260–4595 or write to the EPA Lead Abatement Program at the address listed under the ADDRESSES unit.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce the availability of funds to form cooperative agreements for the purpose of providing support to organizations demonstrating experience in lead-based paint training activities with particular interest in funding nonprofit environmental equity-based organizations. Any nonprofit organization with such experience is eligible to apply. For the purposes of this notice, lead-based paint abatement activities mean activities engaged in by workers that include the removal, disposal, handling, and transportation of lead-based paint and materials containing lead-based paint from public and private dwellings, public and commercial buildings, and bridges and other structures or superstructures where lead-based paint presents or may present an unreasonable risk to health or the environment.

I. Administrative Requirements

This program is subject to matching share requirements. Awards shall be given only to applicants who can fund at least 5 percent of their programs from non-Federal sources, excluding in-kind contributions. (In-kind contributions are defined as the value of a non-cash contribution to meet a recipient's cost-sharing requirements. An in-kind contribution may consist of charges for real property and equipment, or the value of goods and services directly

VOL 60 ISS 71 APR 13 1995 UMI

benefiting the EPA-funded project.) The recipient's matching share may exceed 5 percent.

II. Evaluation Criteria

Preproposals submitted in response to this notice will be evaluated on a competitive basis by an EPA review panel. The following factors, which are weighted by percentage as to their relative importance, will be considered in evaluating the preproposals:

1. *Program Experience (25 percent)*

a. Experience in the development of adult education courses, with emphasis on training individuals with limited education.

b. Experience in the delivery of health and safety course materials to individuals with limited or no English language skills.

c. Demonstrated ability to target the worker population.

2. *Lead-Based Paint Abatement Worker Course Experience (30 percent)*

a. Experience in the delivery of courses, including hands-on training, to lead-based paint abatement workers.

b. Experience in providing community-based training to lead-based paint abatement workers.

c. Demonstrated experience in the implementation and operation of health and safety training for lead-based paint abatement workers.

d. Qualifications of key personnel.

e. The number of students expected to be trained during the project period.

3. *Project Management (25 percent)*

a. Applicant's ability to provide appropriate program staff to the project.

b. Applicant's ability to provide space, equipment, staff time, and other resources required to carry out project responsibilities.

c. Extent to which the applicant has considered a management plan for the project, including the designation of a qualified program administrator.

4. *Budget (20 percent)*

Preproposals should include a detailed budget that specifies the amount of money to be used in all aspects of the proposed worker training, as well as the amount that is to be the non-Federal share (at least 5 percent of the total budget, excluding in-kind contributions). All budgets must include funding for a trip to EPA in Washington, DC to attend an information-sharing meeting for all award recipients. The ability of the applicant to derive a budget estimate that is appropriate to the scope of the project will be considered in the evaluation process. The proposed budget should be clearly justified and consistent with the intended use of the funds set forth in this notice.

III. Application Procedures

The following materials must be provided by all applicants:

1. Documentation that proves the nonprofit status of the applicant.

2. Copies of any lead-related course material already being used by the applicant to teach the course. In addition, any applicants who have received EPA funds for lead worker training in any previous year's program must include in their preproposal a description of how those funds were used.

IV. Acceptable Expenditures

Funds awarded must be spent on activities that directly result in increased numbers of well-trained lead-based paint abatement workers. Since EPA has funded the development of a model course curriculum for workers, the Agency does not wish to fund the development of new courses through this program.

The following lists provide examples of activities that will and will not be considered for funding. The list of acceptable activities is for guidance only; projects may be funded for acceptable activities other than those on the list.

Award recipients may use the monies for the following:

a. Delivery of lead-based paint abatement worker courses.

b. Delivery of train-the-trainer courses.

c. Enhancement of hands-on training programs.

d. Monitoring and evaluating courses.

e. Limited purchasing of supplies.

f. Speakers' fees (expenses and travel).

g. Slide duplication.

h. Rental of facilities.

i. Limited purchase of audio/visual equipment.

j. Workers' tuition.

k. Limited printing and reproduction of materials and manuals.

l. Transporting workers to training sites.

m. Innovative training systems (i.e., community-based training).

Monies may *not* be used for the following:

a. Development of new training course curricula for workers.

b. Stipends to students for room, board, and salaries.

V. Notification of Selection

Preproposals are due no later than May 15, 1995. Preproposals shall be no more than five pages in length. Each applicant is requested to provide seven copies of the preproposal to EPA. EPA plans to award a total of $1.55 million through cooperative agreements to eligible nonprofit organizations. EPA will not allot all of the available award money to any one group or necessarily fund all of the groups.

Dated: April 6, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–9164 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5190–3]

Proposed De Minimis Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act; In the Matter of MacGillis & Gibbs/Bell Lumber & Pole Site, New Brighton, Minnesota

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: Notice of *De Minimis* Settlement: in accordance with Section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), notice is hereby given of a *de minimis* settlement concerning relocation of a petroleum liquids transmission pipeline at the MacGillis & Gibbs/Bell Lumber & Pole Site in New Brighton, Minnesota. U.S. EPA Region 5 has submitted the proposed agreement to the U.S. Department of Justice, and the Assistant Attorney General has rendered her written approval. The work to be performed under this settlement agreement will commence after the public comment process set forth in Section 122(i)(1) of CERCLA has been completed.

DATES: Comments must be provided on or before May 15, 1995.

ADDRESSES: Comments should be addressed to Darryl Owens (Mail Code HSRM–6J), Remedial Project Manager, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and should refer to: In the Matter of MacGillis & Gibbs/Bell Lumber & Pole Site, Docket No. *V–W–95–C–261*.

FOR FURTHER INFORMATION CONTACT: Thomas M. Williams, (Mail Code CS–29A), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The United States and the State of Minnesota have entered into a *de minimis* settlement agreement with the Williams Pipe Line Company that addresses the relocation of a petroleum liquids pipeline at the MacGillis & Gibbs/Bell Lumber & Pole Site ("the Site") in New Brighton, Minnesota. Among the areas to be addressed in response activities at the Site is a disposal pond area, where wood treating process wastes, including sludges and wood scraps containing creosote, pentachlorophenol and chromated copper arsenate, have been placed. The Williams Pipe Line Company operates a petroleum pipeline pursuant to license agreements with the various property owners at and adjacent to the site. The pipeline passes through the disposal pond area, and excavation and treatment of contaminated soils and sediments cannot proceed with the pipeline in place. Neither U.S. EPA nor the State of Minnesota presently has any evidence that Williams Pipe Line Company's operations resulted in the presence of the hazardous substances to be addressed in the disposal pond area. To the contrary, all available information indicates that the presence of these hazardous substances is attributable to adjacent wood treating operations.

U.S. EPA may enter into this settlement under the authority of Section 122(g) of CERCLA. The settlement agreement provides that Williams Pipe Line will obtain the necessary authority from other property owners to relocate its pipeline to a remote location, and proceed to re-route its pipeline accordingly pursuant to an approved work plan and schedule. Actual line relocation is not expected to take more than twenty days. U.S. EPA and the State of Minnesota have agreed to provide funding of up to $198,415 for the project. Payment is to be made upon completion of the work and review of the relocation costs incurred.

A copy of the proposed Administrative Order on Consent and additional background information relating to the settlement are available for review and may be obtained in person or by mail from Thomas M. Williams (Mail Code CS–29A), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The U.S. Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this notice.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*

Joseph M. Boyle,

Acting Director, Waste Management Division

[FR Doc. 95–9058 Filed 4–12–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability Council Meeting

April 7, 1995.

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the eleventh meeting of the Network Reliability Council ("Council"), which will be held at the Federal Communications Commission in Washington, D.C.

DATES: Friday, April 28, 1995 at 1:30 p.m.

ADDRESSES: Federal Communications Commission, Room 856, 1919 M Street, N.W. Washington, D.C. 20554.

FOR ADDITIONAL INFORMATION CONTACT: Robert Kimball at (202) 634–7150.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to explore and recommended measures that would enhance network reliability.

The agenda for the eleventh meeting is as follows: the Council will receive an overview of Steering Committee activities and an update on network reliability performance. Progress reports will be made by three NRC focus group leaders and discussion will follow. The Council will also discuss data collection activities including funding problems.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. The public may submit written comments to the Council's designated Federal Officer before the meeting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–9041 Filed 4–12–95; 8:45 am]

BILLING CODE 6712–01–M

[Gen. Docket No. 88–476; DA 95–590]

Private Wireless Division, New York Metropolitan Area Public Safety Plan Amendment

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Acting Chief, Private Radio Division and the Acting Chief, Spectrum Engineering Division released this Order affirming the November 28, 1994, amendment to the Public Safety Radio Plan for the New York Metropolitan Area (Region 8) As a result of affirming the amendment to the Plan for Region 8, the interests of the eligible entities within the region will be furthered.

EFFECTIVE DATE: March 30, 1995

FOR FURTHER INFORMATION CONTACT: Mark Rubin, Wireless Telecommunications Bureau, Private Wireless Division (202) 418–0680.

SUPPLEMENTARY INFORMATION:

Order

Adopted: March 22, 1995
Released: March 30, 1995

By the Acting Chief, Private Wireless Division, Wireless Telecommunications Bureau and the Acting Chief, Spectrum Engineering Division, Office of Engineering and Technology:

1. On November 28, 1994, the Private Radio Bureau and the Office of Engineering and Technology, acting under delegated authority, approved an amendment to the New York Metropolitan Area (Region 8) Public Safety Plan (Plan). *Order*, Gen. Docket No. 88–476, adopted November 28, 1994, DA 94–1329. In the *Order*, we inadvertently failed to note that Mr. Charles L. Larsen filed a timely comment on August 2, 1994.

2. We have reviewed Mr. Larsen's comment. Mr. Larsen opposed the amendment to the Region 8 Plan noting the scarcity of frequencies in the New York metropolitan area. We note that his objection is not directed against the proposed amendment, but rather the public safety National Planning process. We find that our approval of the amendment was consistent with Commission authority pursuant to *Report and Order*, in Gen. Docket No. 87–112, 53 FR 1022, January 15, 1988.

3. Accordingly, we reaffirm our decision of November 28, 1994, that the Public Safety Radio Plan for the New York Metropolitan Area (Region 8) IS AMENDED, as set forth in the Region's letter of July 11, 1994.

4. For further information, contact Mark Rubin at (202) 418–0680.

VOL 60 ISS 71 AP 13 1995 UMI

Federal Communications Commission
Robert H. McNamara,
Acting Chief, Private Wireless Division
[FR Doc. 95-9094 Filed 4-12-95; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Signet Banking Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than April 27, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Signet Banking Corporation, Richmond, Virginia to acquire through its subsidiaries, Virtus Capital Management, Inc. and Signet Financial Services, Inc., both of Richmond, Virginia, Sheffield Management Company, New York, New York, and thereby indirectly acquire Sheffield Investments, Inc., New York, New York, and thereby engage in acting as investment advisor to the Blanchard Group of Funds, pursuant to § 225.25(b)(4) of the Board's Regulation Y, and providing brokerage, marketing, and related services to the Blanchard Group of Funds, pursuant to § 225.25(b)(15) of the Board's Regulation Y, but will not serve as distributor for the Blanchard Group of Funds or any other mutual fund.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1 Ramsey Financial Corporation, Devils Lake, North Dakota; to acquire through its subsidiary, the Rugby, Cavalier, and Bottineau branches of Heritage Federal Savings Bank, fsb, Cando, North Dakota, First Bank, fsb, Fargo, North Dakota, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 7, 1995.
Jennifer J. Johnson,
Deputy Secretary of the Board
[FR Doc. 95-9091 Filed 4-12-95; 8:45 am]
BILLING CODE 6210-01-F

Anita Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 8, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1 Anita Bancorporation, Inc., Newton, Iowa; to acquire 100 percent of the voting shares of Griswold Bancshares, Inc., Griswold, Iowa, and thereby indirectly acquire Griswold State Bancshares, Inc., Griswold, Iowa, and Griswold State Bank, Griswold, Iowa.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1 Metrocorp, Inc., Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Metrocorp of Delaware, Inc., Wilmington, Texas, and thereby indirectly acquire MetroBank, N.A., Houston, Texas.

In connection with this application, Metrocorp of Delaware, Inc., Wilmington, Delaware, also has applied to become a bank holding company by acquiring 100 percent of MetroBank, N.A., Houston, Texas.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Northeast Portland Community Development Trust and Albina Community Bancorp, both of Portland, Oregon; to become bank holding companies by acquiring 100 percent of the voting shares of Albina Community Bank, Portland, Oregon (in organization).

2. Cache Valley Banking Company, Logan, Utah; to become a bank holding company by acquiring 92.66 percent of the voting shares of Cache Valley Bank, Logan, Utah.

Board of Governors of the Federal Reserve System, April 7, 1995.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 95-9090 Filed 4-12-95; 8:45 am]
BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AOA-95-1]

Fiscal Year 1995 Program Announcement; Availability of Funds and Request for Applications

AGENCY: Administration on Aging, HHS.
ACTION: Announcement of availability of funds and request for applications under the Administration on Aging's Discretionary Funds Program for research, demonstration, training, development, and related capacity-building activities.

SUMMARY: The Administration on Aging (AoA) announces its Fiscal Year (FY) 1995 Discretionary Funds Program (DFP) of knowledge building, program innovation and development, information dissemination, training, technical assistance, and related capacity-building efforts. The FY 1995 DFP is responsive to the major strategic initiatives of the Assistant Secretary for Aging and to specific mandates of the Older Americans Act. Funding for AoA discretionary grants is authorized by Title IV of the Older Americans Act, Public Law 89-73, as amended.

This program announcement consists of three parts. Part I provides background information, discusses the purpose of the AoA Discretionary Funds Program, and documents its statutory funding authority. Part II describes the programmatic priorities under which AoA is inviting applications to be considered for funding. Part III describes, in detail, the application process and provides guidance on how to prepare and submit an application.

All of the forms necessary to submit an application are published as part of this announcement following Part III. No separate application kit is necessary for submitting an application. If you have a copy of this entire announcement, you have all the information and forms required to prepare and submit an application.

Grants will be made under this announcement subject to the availability of funds for the support of the priority area project activities described herein.

DATES: The deadline date for the submission of applications under this announcement is June 12, 1995.

FOR FURTHER INFORMATION CONTACT: Department of Health and Human Services, Administration on Aging, Office of Program Development and Elder Rights, 330 Independence Avenue, S.W., Room 4278, Washington, DC 20201, telephone (202) 619-0441.

SUPPLEMENTARY INFORMATION:

Part I Background

A. The Challenges of an Aging Society

According to the National Center for Health Statistics, life expectancy at birth for Americans in 1991 rose to a record 75.5 years. The Census Bureau predicts that by the year 2020 the average life expectancy will be 82 years for women and 74.2 years for men. At the turn of the century, only 4 percent of the American population was 65 and over. By 1990, it was 12 percent. Beginning in approximately 2010, the percentage is projected to increase rapidly to 20 percent by 2030 and then to increase slowly to about 21% by 2050 and 22% by 2060. By the year 2030, there will be more people age 65 and older than young people under age 15 in the population.

The baby boom generation, which will begin to reach retirement age in little more than a decade, now represents the largest age segment of the U.S. population, numbering approximately 75 million. The current older population, already noted for its heterogeneity, will be significantly more diverse with the aging of the baby boomers in the early decades of the 21st century. Minority populations are projected to represent 25% of the elderly in 2030, up from 13% in 1990. The great increase in the numbers and the diversity of the elderly, combined with dramatic changes in lifestyle (such as four-generation households and more women serving in both caregiving roles and the work force) are important factors to consider in planning for an aging society.

If the Nation is to be well prepared for, rather than daunted by, the burgeoning numbers of older persons in the 21st century, and to be equally well equipped to take advantage of the opportunities arising from concomitant social and economic changes, then today we must grasp the basic implications of an aging society, and act on the basis of those realizations. Our Nation has many different policies and agencies that impact on what people may or may not do when they retire. Although the Department of Health and Human Services and the Social Security Administration provide the bulk of public financing for programs and benefits that directly or indirectly affect older persons, almost every Federal agency is involved in providing services to older persons including the Departments of Housing and Urban Development, Transportation, Justice, Agriculture, Labor, Defense, Energy, and Treasury. By creating the position of Assistant Secretary for Aging, the President and the Secretary of Health and Human Services have provided a focal point for aging policy, whereby the disparate program responsibilities of Federal government agencies can be linked into a more coherent vision of what is needed for an aging society.

B. Older Americans Act Responsibilities of the Assistant Secretary for Aging and the Administration on Aging

The Older Americans Act of 1965, as amended, is designed to provide assistance in the development of new or improved programs to help older persons, through grants to the States and tribal organizations for community planning and services and for research, demonstration and training projects. Through the Act, the Congress has declared that it is the responsibility of the Federal government, the States, and Native American tribal organizations to assist older people as they endeavor to secure an adequate retirement income, the best possible physical or mental health services, suitable housing, long term care services, employment opportunities, and participation in a wide range of civic, cultural, educational and recreational activities.

Title II of the Act declares, further, that it is the responsibility of the Assistant Secretary for Aging to serve as the effective and visible advocate for older individuals within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government. Under Title II, the Assistant Secretary is charged with directly assisting the Secretary of Health and Human Services in all matters pertaining to problems of the aged and aging and with the responsibility to administer the formula and discretionary grant programs authorized by Congress under Titles III, IV, VI and VII of the Act.

1. The AoA Discretionary Funds Program

The Discretionary Funds Program authorized by Title IV of the Older Americans Act constitutes the major research, demonstration, training, and development effort of the Administration on Aging. The Title IV mandate is aimed, generally, at building knowledge, developing innovative model programs, and training personnel for service in the field of aging, and matching these resources to the changing needs of older persons and their families in the coming decades. AoA's research, demonstrations, training and other discretionary projects are focused on:

VOL 60 ISS 71 AP 13 1995 UMI

• Advancing our knowledge and understanding of current program and policy issues, such as community and in-home long term care service systems and programs, significant to the well-being of the older population;

• Improving the effectiveness of Older Americans Act programs by testing new models, systems, and approaches for better providing and delivering services to older persons; and

• Providing training, technical assistance, and information that will increase our ability to serve older Americans with skill, care, and compassion.

2. Coordination With Other Federal Agencies

In accordance with Title II of the Older Americans Act, the Assistant Secretary for Aging and the Administration on Aging (AoA) function as focal points within the Federal government for aging-related concerns. In that capacity, the Assistant Secretary advises the Secretary of Health and Human Services on matters affecting older Americans and provides consultation and information to units across the Federal government on the characteristics, circumstances, and needs of older persons. AoA has a strong commitment to working with other Federal agencies on policy and program development in issue areas of importance to older Americans. To carry out its national level program and advocacy responsibilities, AoA places major emphasis on developing collaborative relationships with other Federal agencies aimed at coordinating diverse and wide-ranging Federal program resources and linking those resources to the similarly diverse needs of older persons.

Dating back two decades, AoA has worked hard to develop and implement a network of Federal Interagency Agreements to better serve older Americans, combining our resources with those of the Departments of Housing and Urban Development, Labor, and Education, the Farmers Home Administration, the Social Security Administration, and the Corporation for National and Community Service (formerly ACTION), as well as with other agencies within the Department of Health and Human Services, such as the Health Care Financing Administration, the Administration for Children and Families, and the Public Health Service, including the National Institute on Aging.

Federal Interagency Agreements cover a spectrum of program efforts—in housing, long term care, elder abuse, etc. They represent a strategic coupling of AoA's resources to serve the nation's elderly, especially those at risk of losing their independence.

3. Dissemination of Title IV Project Results and Products

In keeping with the provisions of the Older Americans Act, all projects funded under Title IV are required to undertake vigorous steps to disseminate the results and products of their projects to appropriate audiences involved in promoting the well-being of older persons. This should include energetic marketing of products and results. Projects are strongly encouraged to utilize appropriate promotional media campaigns and other dissemination strategies in order to ensure that their outcomes receive the widest possible attention. Such campaigns should seek to educate consumers, providers (including the Aging Network), the private sector, and policy sector about their results and to promote use of their products.

As described below in Part III, Section I.2, the most effective dissemination begins at the moment a project is conceptualized and includes the involvement of potential user audiences throughout the project, particularly in the design of products. As part of their dissemination plan, applicants are also encouraged to consider the development, as appropriate, of brief products suitable for widespread dissemination to older persons, their families and other caregivers, and practitioners who serve older persons. Advice on ways to maximize the utilization of a proposed project may be obtained by contacting Saadia Greenberg at the AoA Office of Dissemination and Utilization at (202) 619–0441. Applicants may also be interested in obtaining a publication entitled, Dissemination by Design, which may be requested by calling the above number.

C. Focus of the FY 1995 Discretionary Funds Program Announcement

Through this Title IV Program Announcement, the Assistant Secretary for Aging intends to focus Title IV Discretionary Funds support on AoA's strategic initiatives for (1) building and strengthening systems of home and community based long term care and (2) better understanding of minority aging issues as well as the challenges of a much more diverse aging society in the 21st century. The second major area of emphasis in this Title IV Discretionary Funds Program Announcement derives from several congressional mandates keyed to provisions of the Older Americans Act. These mandates concentrate discretionary funding resources on making a number of aging programs more effective, specifically a national legal assistance support system and legal hotlines to serve older Americans, pension rights information and counseling, and the utilization of older volunteers in multigenerational family program settings.

D. Technical Assistance for Prospective Applicants

Either the central or the regional offices of the Administration on Aging are available to provide guidance and technical assistance to prospective applicants and to respond to questions of a general nature. Questions regarding the programmatic or technical aspects of any of the several priority areas should be directed to the central office in Washington, D.C. The persons to contact are listed below:

City	AoA Contact Person(s)
Washington, D.C	Alfred Duncker/Saadia Greenberg, Albert Byrd, (202) 619–0441.
Boston, Massachusetts	Thomas Hooker, (617) 565–1158.
New York, New York	Judith Rackmill, (212) 264–2976.
Philadelphia, Pennsylvania	Paul E. Ertel, Jr., (215) 596–6891
Atlanta, Georgia	Franklin Nicholson, (404) 331–5900.
Chicago, Illinois	Marion Mengert, (312) 353–3141
Dallas, Texas	John Diaz, (214) 767–2971
Kansas City, Missouri	Larry Brewster, (816) 374–6015.
Denver, Colorado	Percy Devine, (303) 844–2951
San Francisco, California	Frank Cardenas, (415) 556–6003.
Seattle, Washington	Chisato Kawabori, (206) 615–2298.

E Statutory Authority

The statutory authority for awards made under the AoA Discretionary Funds Program is contained in Title II and Title IV of the Older Americans Act. (42 U.S.C. 3001 et seq.), as amended by the Older American Act Amendments of 1992, Public Law 102–375; September 30, 1992.

F Public Comments on this Announcement

AoA invites comments on this Discretionary Funds Program Announcement. In addition, because the field of aging is characterized by rapidly unfolding events, new data, findings and interpretations, and a broad range of issues important to older people, the Administration on Aging is considering the publication of a FY 1996 Discretionary Funds Program (DFP) Announcement as early as October, 1995. Among the general areas under consideration for support in the FY 1996 DFP, Title IV funding levels permitting, are: (1) *Gerontological education and training;* (2) *prevention of crime and violence against the elderly;* (3) *home and community based long term care;* (4) *the national and international aspects of contemporary and future minority aging issues in an increasingly aging society,* and: (5) *follow-up to the salient issues raised by the 1995 White House Conference on Aging.* We invite comments on the content and timing of the FY 1996 DFP Please direct your comments to: Administration on Aging, Office of Program Development and Elder Rights, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Part II—Priority Areas

Part II of the Discretionary Funds Program (DFP) Announcement sets forth the priority areas under which applications will be considered for funding by the Administration on Aging. Part II also provides general guidelines concerning eligible applicants as well as project costs and duration. More specific instructions regarding eligibility, the Federal share of project costs, project duration, and deadline dates for the submission of applications may be found under the individual priority areas.

Applications must be directly and explicitly responsive to the expressed concerns of the particular priority area under which they are submitted. AoA reserves the option of screening out and returning any application which manifestly bears no relation to the priority area under which it has been submitted.

A. Eligible Applicants

As a general rule, any public or nonprofit agency, organization, or institution is eligible to apply under this Discretionary Funds Program Announcement. Where there are exceptions to this rule, they are specified in the appropriate priority area description. The Administration on Aging will not consider grant applications from individuals because they are ineligible to receive a grant award under the provisions of Title IV of the Older Americans Act. For-profit organizations are not eligible applicants, but may participate as subgrantees or subcontractors to eligible public or nonprofit agencies.

Any nonprofit organization applying under this program announcement that is not now a DHHS grantee should include, with its application, Internal Revenue Service or other legally recognized documentation of its nonprofit status. A nonprofit applicant cannot be funded without proof of its status.

B. Project Costs and Duration

Under each priority area, AoA has estimated the number of projects to be funded and offered guidelines regarding both the duration of those projects and the anticipated Federal share of project costs. Because applications are reviewed on a competitive basis within priority areas, they are expected to be comparable in terms of cost and duration. Therefore, applicants are strongly urged to adhere to those guidelines.

C. List of Priority Areas

(1) Neighborhood Senior Care Program
(2) Enhanced Capacity and Management of Home and Community Based Long Term Care Service Systems
(3) Research on Minority Elders in a Diverse Aging Society
(4) National Legal Assistance and Elder Rights Projects
(5) Statewide Legal Hotlines for Older Americans
(6) Pension Information and Counseling Program
(7) National Volunteer Senior Aides/ Family Friends Projects

(1) Neighborhood Senior Care Program

Pursuant to Section 429B of the Older American Act, this priority area is designed to solicit proposals that demonstrate innovative neighborhood senior care programs which encourage professionals to provide volunteer services to local residents who are older individuals and who might otherwise have to be admitted to nursing homes and hospitals.

The Neighborhood Senior Care Program is intended to foster professionally oriented, neighborhood-based volunteer programs for the vulnerable elderly by organizing and providing health, social, and similar services in coordination with other community agencies and organizations. Volunteer services may include peer counseling, chore services, assistance with mail and taxes, transportation, socialization, and health and social services. Health and social services may include skilled nursing care, personal care, social work services, homemaker services, health and nutrition education, health screening, home health aide services, and specialized therapies.

Applicants shall:

(A) Describe the activities for which assistance is sought and the methodology for carrying out activities;

(B) Describe the neighborhood in which services are to be provided and a plan for integrating services within the neighborhood;

(C) Provide assurances that nurses, social workers, community volunteers providing volunteer services, and an outreach coordinator involved with the project, live in the neighborhood. If this is not possible, the applicant shall state the reasons such assurances cannot be provided and assure that the nurses, social workers, community volunteers and outreach coordinator who are not neighborhood residents will be assigned repeatedly to the neighborhood;

(D) Provide for a neighborhood advisory board, at least two thirds of which shall be made up of residents from the community to be served;

(E) Describe how the proposal will be implemented in cooperation with appropriate local service providers, community programs for the elderly, and Area and State Agencies on Aging.

(F) Describe how the program will become self sustaining by the end of the Federal funding period.

(G) Provide for an evaluation of the activities and outcomes of the proposed program.

Applicants are encouraged to consider including in their budget a technical assistance component, as needed, whereby they would be provided state-of-the-art information on how to best implement an effective and innovative neighborhood program, and on how to sustain the program after Federal funding is completed.

The Neighborhood Senior Care Program was modeled in part on the Living at Home/Block Nurse Program. Information about the program is available by contacting the Living at Home/Block Nurse Program, Ivy League Place—Suite 322, 475 Cleveland Avenue North, St. Paul, MN 55104–5101 (612–649–0315).

Preference in awarding funds will be given to applicants who are experienced in operating community programs and meeting the independent living needs of older individuals and who propose new model programs or innovative improvements in existing models. Applicants are advised that they are competing under a national demonstration program authorized by Title IV of the Older American Act. Therefore, applications will be screened by AoA to assure that they are not local service projects, but rather are responsive to issues of national significance, such as the ability of the

VOL
60
ISS
71
AP
13
1995
UMI

elderly to remain independent in their own homes and communities, and will result in findings, reports, and products with national implications such as the effective use of neighborhood resources to promote the independence of older persons.

AoA intends to make approximately 10–13 awards with a Federal share of approximately $100,000-$120,000 for a 17 month project period.

(2) Enhanced Capacity and Management of Home and Community Based Long Term Care Service Systems

Under this priority area, AoA intends to award, through a Cooperative Agreement, one project grant for the purpose of providing expert technical assistance and training to all States aimed at strengthening the capacity of State and Area Agencies on Aging in managing and improving their home and community based long term care service systems. Although the proposed project has general applicability to the critical leadership role of the Aging Network in fostering the growth of home and community based long term care, it is especially timely now in light of the enhanced leadership role of AoA in promoting home and community-based services, and other major legislative changes which may impact on the program and fiscal underpinnings of State long-term care programs.

The Administration is seeking additional Title IV program resources to promote home and community-based services which would be directed toward meeting the major strategic initiative of the Assistant Secretary for Aging aimed at assisting all States and their communities in developing better home and community-based long term care service systems for older persons and persons with disabilities. The focus is on long-term care because it is a critical issue facing the nation. The focus is on home and community-based long term care services because they are, for the overwhelming majority of older and disabled persons and their families, the much more preferred alternative to institutional care. The focus is on States and their communities because they have been, are now, and will be the testing and proving ground in this nation for building an efficient and cost-effective infrastructure of home and community based services that responds to the long term care needs of their citizens.

The proposed Title IV increase is a modest but very much needed down payment toward building our country's future system of home and community-based care. The States are now in varying stages of developing home and community-based long term care service systems. The technical assistance, consultation, and training project to be funded under this priority area is intended to provide to the States and their communities the requisite program information, knowledge base, consultation, staff training guides, and other program resources to capitalize on the core funding provided by Title IV and to demonstrate to critical audiences of policy makers and taxpayers alike that home and community-based care is a compelling alternative to institutional care.

The manner in which funds are provided to States and the way in which programs are operated is being debated. There are divergent viewpoints about the appropriate federal and state role in funding long-term care services. Based on which of these approaches is implemented, States and local aging entities will need assistance in modifying their systems of care to ensure that they remain responsive to individual consumers and are run in an efficient, effective and accountable manner. Based on the approach, decisions will need to be made about consolidation of delivery vehicles in light of different consumer preferences or on how to reach consensus on performance outcomes with federal, state and local representatives having different agendas.

Because of the rapidly changing environment, it is critical that a mechanism be developed for communication among the States, peer consultation, technical assistance, training, and joint ventures for planning and systems design.

The successful applicant under this priority area will be responsible for providing technical assistance and consultation to all States that encompasses key components of the management of effective home and community based long term care service systems. The applicant must demonstrate the ability to respond rapidly to the specific needs of States, and must be mobile and versatile enough to address the diversity of issues facing States in the enhancement of their home and community-based service delivery systems. In this regard, the applicant should serve as an institute without walls, responding wherever assistance is needed.

The applicant must be able to:

(1) Provide opportunities for communication between States, consultation among States, and consultation with experts, training and technical assistance;
(2) Address critical issues identified by States;
(3) Facilitate joint ventures between States in planning and systems design; and
(4) Develop a report on issues identified by States and mechanisms and solutions developed by the States.

The key components of managing an effective systems which the applicant must be capable of addressing include:

- Developing, designing, implementing or enhancing data collection, analysis and reporting systems for programs to provide reliable information about the services delivered and the people served. Technical assistance and training will be aimed at enhancing State capacity to target and track the services provided and to report on program performance and effectiveness, proving that home and community based care is a cost-effective means of serving those at risk of being institutionalized.
- Providing training and consultation programs that draw upon our already extensive base of experience and knowledge in building home and community based long term care systems, such training and consultation programs to use proven best practices an models, well tested guides and manuals, as well as other useful products, for the education and training of State staff, local staff and providers.
- Ensuring better coordination of programs and agencies within their States and communities through interagency agreements, task forces, policy councils and work groups, with an emphasis on leveraging and managing other funds (Social Services Block Grant, Medicaid, and State General Revenue) which address the home and community based long-term care needs of older people and disabled individuals of all ages.

AoA anticipates that the Federal share of project costs for this technical assistance project will be approximately $250,000 per year for a project period of up to three years.

(3) Research on Minority Elders in a Diverse Aging Society

Although research to date has made very important contributions to bettering the lives of older Americans, too little attention has been paid to some key subgroups among the older population. Research on racial and ethnic minorities especially has been in short supply. Without solid research that advances our understanding of minority elders, we are missing that essential knowledge base from which to mount policy and program efforts that are both well informed and well designed to make fundamental changes, not the least of which is to empower minority elders to help themselves. Particularly needed are studies applicable to the economic, social, and health status of minority elders, research that examines and analyzes their impact on, and role in, the increasingly diverse aging society of the 21st century.

Among the applied and policy research topics encompassed by this priority area are the following:

- *In the context of the future aging of the baby boom generation*, we need: (1) To develop accurate forecasts of the changing size and composition of racial and ethnic minority populations and (2) to better understand and respond to the impact of growing proportions of racial and ethnic minorities among this diverse aging cohort.
- *In the context of immigration and aging*: (1) What are the effects of the new wave of immigration and of current immigration policy on an aging society? (2) What are the demographic, economic, health, and related implications of the recent surge in the number of older immigrants (aged 50 and over) which is expected to continue into the next century? and (3) What opportunities and challenges are presented by this infusion of greater diversity into the aging society of the 21st century?
- *In the context of family caregiving and support among minority older population groups*, we need to better understand the factors that sustain and strengthen the family's role as a support network within and across generations, the changing patterns of family support within and across generations, and the consequences these changes have for the long term care of older family members. Among the questions to be studied are: (1) What will be the effects of the independent life styles of current and future generations on traditional norms of obligation and duty to older family members? (2) What models of long term care services are appropriate for minority older persons when the family can no longer manage the care at home? and (3) How can aging services programs win greater acceptability in minority communities as a suitable complement or, when necessary, alternative to family caregiving?
- *In the context of international transfer of knowledge*, we will be able to better serve racial and ethnic minority elders if we have a better understanding of their cultures of origin. Among the questions to be studied: (1) What are the cultural norms, attitudes, and practices identified with aging, particularly in those countries with special relevance to the U.S., such as Central and South America and the Pacific Rim countries? (2) How do the social, economic, and health statuses of the elderly in these other nations influence aging policies, programs, and services? With what implications for the development of a blueprint for responding to the challenges of an aging society in the U.S.? and (3) More specifically, in what areas can we best apply a fuller understanding of the social services, programs, delivery systems and innovations in other countries that would be beneficial to U.S. programs serving racial and ethnic minority elderly? Crosscultural comparative studies examining issues related to the elderly both in the country of origin and in the U.S. are among the acceptable approaches to the questions raised above. Federal funds may be used for international travel.

Applications for funding under this priority area may be either general in scope or focus on individual racial and ethnic groups, including African Americans, Hispanics, Native Americans, and Asian Americans and Pacific Islanders. AoA intends to make approximately 6–8 awards with a Federal share of approximately $100,000 per year for a project period of up to two years.

(4) National Legal Assistance and Elder Rights Projects

The Administration on Aging (AoA) expects to make discretionary project awards aimed at continued support of a national system of legal assistance support activities to State and Area Agencies on Aging which will assist them in developing an elder rights system and providing, developing and supporting legal assistance for older people. In the 1992 amendments to the Older Americans Act, legal assistance was made an integral part of the new Title VII, Vulnerable Elder Rights Protection program. Therefore, AoA is expanding the role of the national system to encompass elder rights systems development.

AoA now funds national resource centers to develop knowledge and apply research findings, provide training and technical assistance, disseminate information, and conduct related activities in support of the *Long-Term Care Ombudsman and Elder Abuse Prevention (Chapters 2 and 3 of Title VII)*. Therefore, these two programs are outside the focus of this priority area.

Awards under this priority area are made under the authority of Title IV, Section 424 of the Older Americans Act and are aimed at building and strengthening the national system of legal assistance in support of the vulnerable elder rights protection program activities of State and Area Agencies on Aging. Proposed projects should have two principal objectives. *First*, enhance the leadership capacity of State and Area Agencies on Aging in accomplishing the mandate of Title VII through such efforts as:

- Assisting in the development of a State-wide elder rights advocacy system, involving a range of agencies involved in elder rights activities;
- Assisting in the development of a responsive State-wide systems of legal assistance, including support for AAA supported legal assistance projects;
- Assisting Area Agencies on Aging in integrating legal assistance programs for older people into existing community based service delivery systems;
- Assisting State Agencies on Aging to develop methods to ensure that legal counsel is available to all Long-Term Care Ombudsmen.

Second, improve the quality and accessibility of the legal assistance provided to older people through such efforts as:

- Providing training to State and Area Agencies on Aging, legal assistance providers, elder rights advocates, and other staff providing assistance to older people;
- Providing training to staff responsible for benefits, insurance, and pension counselling to vulnerable older people; and
- Providing substantive assistance, including case consultation and advice on systems development and implementation, to those agencies and staff that provide legal assistance to older people.

Title IV, Section 424 of the Older Americans Act specifies four component activities of a national legal assistance support system. Each activity is a valuable resource in developing systems of legal assistance for older people, and in improving the quality and accessibility of such services, as part of the overall system of services for older people. AoA expects that the projects funded under this priority area will encompass at least these four components:

(1) *Case consultations*. Appropriate case consultation will be made available to those legal assistance programs funded under Title III of the Older Americans Act. Building on the results of case consultations, grantees should provide such follow-up activities as: Documenting the resolution of those cases and issues which have precedent-setting implications; and making that documentation and analysis available to providers of legal assistance to older

VOL 60 ISS 71 APR 13 1995 UMI

people and State Agencies on Aging nationwide;

(2) *Training.* AoA expects the applicant to propose a strategy for meeting the training and technical assistance needs of legal assistance providers, benefits counselors, elder rights advocates, and other appropriate persons, as identified by State Agencies on Aging. That strategy should describe the training and technical assistance to be provided; the intended target audience; the materials and curricula which will be utilized and made available to State agencies for the replication of such training; and any follow-up activities to assist those who have been trained;

(3) *Provision of substantive legal advice and assistance.* AoA expects the applicant to provide substantive information in areas where legal assistance can assist older people to maintain their independence. The applicant should analyze the substantive issue area, explain its importance to older people, and identify a suitable reporting format (policy paper, newsletter, etc.) and dissemination plan. The substantive areas could include, but are not limited to, such important areas as: income; health care; long-term care; nutrition; housing; utilities; protective services; abuse and neglect; guardianship; age discrimination; pension and health benefits; insurance; consumer protection; surrogate decisionmaking; public benefits; and dispute resolution.

(4) *Assistance in the design, implementation, and administration of legal assistance delivery and elder rights advocacy systems to local providers of legal assistance for older individuals.* The applicant should show how it will assist State and Area Agencies on Aging to work toward the development of a system for providing legal assistance and elder rights protection to older persons throughout the State. Areas for assistance could include the identification of alternative approaches to meeting legal needs and the design of and assistance in implementing strategies for supporting Area Agencies on Aging in their work with local providers. The applicant is expected to show how regular ongoing assistance and consultation in systems issues will be provided in such areas as: targeting; access; evaluation; selection of providers; priority setting; use of pro bono resources; use of volunteers; issues advocacy; and relationships with other parts of the services system.

For each of the activities it proposes to undertake, the applicant should:

- Present the current state of knowledge and experience and document what it perceives to be serious gaps in information and practice;
- Specify the nature and scope of efforts needed to close those gaps, and how those efforts will advance the rights of older people;
- Indicate its plan for achieving national coverage of the assistance to be provided; and
- Provide detailed descriptions of specific products or outcomes proposed for development or modification.

As provided by Title IV, Section 424(c), eligibility is limited to national nonprofit legal assistance organizations experienced in providing support, on a nationwide basis, to legal assistance programs. AoA expects to fund approximately 5–7 projects under this priority area. The Federal share of project costs is expected to range from $75,000 to $150,000 per year depending upon the scope of the component elements of the national legal assistance support system proposed by an approved applicant. Projects may not exceed three years.

(5) Statewide Legal Hotlines for Older Americans

Consistent with Section 424(a)(2) of the Older Americans Act, which provides for the support of "demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs," AoA is inviting applications from public and/or non-profit organizations currently engaged in the provision of legal services to the elderly, to continue existing Statewide Legal Hotlines for older persons or to develop and establish new Hotlines.

With AoA assistance, Statewide Legal Hotlines have been established in Arizona, northern California, the District of Columbia, Florida, Michigan, Maine, New Mexico, Ohio, Pennsylvania, Puerto Rico and Texas. An evaluation of their operations showed that Legal Hotlines and corresponding referral services resolved 81% of callers' legal questions and 50% of their legal problems. The continuation of existing Hotlines and expansion into other States would make legal assistance available to many more older people. In that regard, Legal Hotlines are a valuable resource for implementation of the vulnerable elder rights protection programs set forth in Title VII of the Older Americans Act.

To maximize discretionary program resources and to promote a level playing field of competition, distinctions are made by AoA under this priority area between (A) applicant organizations with existing Legal Hotlines and (B) those organizations which aspire to develop new Legal Hotlines.

Sub-Priority Area 5A: Program Improvement Grants for Existing Legal Hotlines

In order for existing Legal Hotlines to compete for program improvement grants, they must indicate in their application a willingness and intent to focus future efforts of the Hotline on those crucial and urgent concerns facing the at-risk elderly including, but not limited to, income, health care, long-term care, nutrition, housing, utilities, protective services, abuse and neglect, guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decisionmaking, public benefits and dispute resolution.

To better evaluate the progress and the potential for improvement of existing Legal Hotlines competing under this sub-priority area, the application should contain the following information for each of the past three years:

- Number of households/persons served in comparison to the number of older persons in the State and the number of low income older persons in the State;
- Number of cases handled; number of calls handled;
- Average number of 1) calls and 2) cases that a Hotline attorney handles in an hour;
- Total cost per year of operating the Hotline over the past three years;
- Average cost per call; average call per case;
- If available, evaluative data on the Hotline's performance, the source of which is either the elderly clients themselves, or an independent third party, or both.

AoA expects to make 2–4 program improvement awards to existing Legal Hotlines, with a Federal share of approximately $75,000–90,000 per year for an expected project period of approximately 3 years.

Sub-Priority Area 5B: Program Development Grants for New Legal Hotlines

Applications submitted under this priority area to operate new Legal Hotlines should be modeled after previously funded AoA Legal Hotlines. It is the applicant's responsibility to review and adapt the program experience of the District of Columbia, Puerto Rico and States with existing Hotlines to the resources, needs, and realities of their State. Applicants should recognize and reflect in their project plan that considerable time is needed to cement the range of endorsements and agreements, and to develop other resources, essential to both the developmental and the operational phases of the Legal Hotlines project. The applicant is expected to submit a fully developed Legal Hotlines program application, including solid commitments from the appropriate participating organizations and individuals.

Based upon the experience to date, certain elements are essential to the successful establishment and effective operation of a Statewide Legal Hotline to serve older persons.

The applicant must address, at a minimum, these elements:

I. Staffing
- A. A full time managing attorney;
- B. The equivalent of two additional full-time attorneys to take calls and respond directly to older persons in need of assistance; and
- C. Staff persons to answer the phones when the attorneys are busy.

II. Telephones
- A. Two incoming toll-free lines, and one outgoing WATTS line.
- B. Experience has shown that the total telephone budget will be a minimum of $20,000–$25,000 per year after the Legal Hotline is operational.

III. Computer Equipment
- A. An allocation of approximately $20,000 for computer equipment.
- B. Legal Hotline software (included in the above mentioned $20,000) can be researched through the American Association of Retired Persons/ Legal Counsel for the Elderly (AARP/LCE).

IV. Reduced Attorneys Fees
- A commitment to recruit a statewide panel of attorneys in private practice willing to accept significantly reduced hourly rates as well as fee caps on common services such as $45–$50 for a simple will.

V. Training Program
- Develop and provide a training program for the Legal Hotlines attorneys and modify reference materials used in other Legal Hotlines to conform with your State law.

In approving applications for funding, the Assistant Secretary for Aging will pay particular attention to those which focus on providing services (1) to ethnic and/or racial minority older persons and (2) to those elderly in greatest economic and social need.

Applications meeting the following criteria will receive preference:

A. Applications from States which rank in the top third of all States in either (1) population age 60 and above, or (2) percentage of elderly population whose income is less than 125% of the poverty line, or (3) percentage of elderly population comprised of minority elderly (African-Americans, Hispanics, Asians/Pacific Islanders, and Native Americans).

B. Applications that show plans for special outreach activities to low income and minority older populations;

C. Applications which demonstrate the ability to deliver services to the non-English speaking population;

D. Applications which demonstrate that Title III/VII and Legal Services Corporation funded legal services programs within the State are willing to coordinate their services with the proposed Legal Hotline;

E. Applications that offer the largest grantee cost sharing, and thus request the fewest AoA dollars. (The minimum grantee share of project costs is 25%);

F. Applications which offer a practical plan for funding the Legal Hotline once the AoA grant ends.

Endorsements: Applications should include the endorsement of the State Agency on Aging and the State Bar Association, the voluntary and/or mandatory Bar, whichever is appropriate. Special justification must be provided by the applicant if these endorsements are not included in the application.

Geographic Coverage: It is highly unlikely that a single Legal Hotline would be adequate in responding to the unique size and diversity of the older population in New York and California. With the exception of these two States, Legal Hotlines will be expected to serve the entire State. AoA will consider applications which serve either (1) New York City, Nassau, and Suffolk Counties or (2) the rest of New York State, but not both areas. Because AoA is now funding a Legal Hotline which serves northern California, only application(s) to serve the elderly of southern California will be considered from that State.

AoA expects to make 2–4 program development awards for new Legal Hotlines, with a Federal share of approximately $100,000–120,000 per year for an expected project period of approximately 3 years.

(6) Pension Information and Counseling Program

Retirement means many things to different people. For most people, it means an end to the regular workaday world of full time employment and a switch to part time work or leisure time and volunteer activities. For most people, retirement also means a change in the amount and the source of their income.

Depending on a person's age at the time of retirement, he or she will be eligible for social security. But social security does not and was not intended to provide all the income that a person needs in retirement. Most government employees and many people in private industry are covered by some sort of pension plan to assist them in retirement. Employee pensions account for almost 20% of the income of older persons. Overall, two out of every five older household units receive income from public and/or private pension benefits other than Social Security.

The adequacy, availability, coverage, and reliability of pensions remain as issues, however. In particular, problems arise when people move from company to company during their careers, when companies go out of business, or when companies are bought out by other companies and their pension plans take on a different form. Compounding this problem are the myriad of different entitlements and restrictions that are built into different pension plans, occasionally rendering them almost unintelligible to anyone but highly trained legal experts.

Recognizing the large unmet need to provide older Americans with information and counseling in the area of pension benefits, Congress provided in Section 429J of the Older Americans Act for the funding of Pension Rights Demonstration Projects. In response to that mandate, the Administration on Aging (AoA) funded seven demonstration projects in 1993 as well as a training and technical assistance project which has provided technical support to the pension information and counseling effort.

To build on that effort, AoA intends, under priority area 6A, to fund demonstration projects at the State or local level that provide outreach, information, counseling, referral and assistance in the area of pension benefits. Preference in awarding grants will be given to applicants that propose new model programs for providing pension rights information and counseling or innovative improvements in existing models. These proposed projects shall:

- Provide counseling and assistance to individuals needing information that may assist them in establishing rights to, obtaining and filing claims or complaints relative to pension and other retirement benefits;
- Provide information on sources of pension and other retirement benefits;

VOL 60 ISS 71 AP 13 1995 UMI

• Make referrals to legal and other advocacy programs;

• Establish a system of referrals to Federal, State, and local Departments or agencies relative to pensions and other retirement benefits; and

• Establish outreach programs to provide information, counseling, assistance and referral regarding pension and other retirement benefits with particular emphasis on outreach to women, minorities and low income retirees.

Projects should consider the possibility of locating at senior centers or other places where seniors tend to congregate. They should also consider training volunteers to work with claimants on many of the details that do not require legal interventions. This has proven to be a useful vehicle for several of the pension information and counseling projects funded by AoA in 1993. Other operational factors that can be gleaned from the experience of this group of pension projects, and which applicants may wish to build upon, include the following:

• The process of pension counseling is a far more difficult process than health benefits counseling and requires volunteers who are able to cope with complexity;

• Applicants should be established, known presences in their respective communities, and should be led by experienced and enthusiastic directors;

• Imaginative and innovative use of the media for outreach is often a significant factor in a successful project;

• Successful projects develop partnerships with the private sector (e.g., lawyers and actuaries) and community agencies, as well as with local offices of Federal agencies.

• Finally, any of a variety of structures can be used to develop a successful project; e.g., the staff may or may not include lawyers or paralegals or volunteers or stipend volunteers.

Applicant eligibility for pension information and counseling demonstration project awards is limited by statute (Section 429J of the 1992 Older Americans Act Amendments) to State and Area Agencies on Aging and nonprofit organizations with proven experience in the counseling of older persons regarding retirement benefits and pension rights. AoA intends to fund approximately 5–7 projects under priority area 6A with a Federal share of approximately $60,000–$75,000 per year and an expected project period of 2 years. Under exceptional circumstances, the applicant may choose to submit a three year project application, provided that strong justification is made for the additional year of activities.

Under priority area 6B, AoA intends to fund one technical assistance project that will strengthen the role of the demonstration projects, State and Area Agencies on Aging and legal services providers, both public and private, in providing pension assistance and encouraging coordination among these groups. This project will provide technical assistance to the demonstration projects and to legal services projects that seek to develop programs on pension benefits counseling. The project will (1) develop a cadre of trained legal experts who are willing to work with local personnel and claimants who need to access the private pension sector and (2) provide training for professional and volunteer personnel who will work with older Americans at the State and local level in assisting them to understand and better access their pension rights and options.

Applicants for this grant must demonstrate a strong knowledge base and a track record of providing national information, counseling, and advocacy in matters related to pension and other retirement benefits. On the basis of its strong knowledge base and its assessment of the progress of the demonstration projects, the grantee will be expected to analyze the implications of the demonstration projects in the broader context of tax policy, pension reform, and retirement planning, and to offer recommendations for future program initiatives related to pensions and income security for older Americans.

AoA intends to support this project at a Federal share of approximately $150,000 a year for a project period of two years.

(7) Volunteer Senior Aides for Families With Disabled or Chronically Ill Children

In 1991, AoA began implementation of the Volunteer Senior Aides (VSA) Program (based on the Family Friends model) pursuant to the legislative mandate of Section 10404 of the 1989 Omnibus Budget Reconciliation Act (OBRA). Section 10404 authorized this program for community-based demonstrations to determine to what extent volunteer senior aides, by providing basic medical assistance and support to disabled/chronically ill children and their families, can reduce the cost of care for such children. (The prototype for these OBRA provisions was NCOA's Family Friends program.)

In 1991 AoA funded six VSA demonstration sites. Upon completion of their three year project periods, AoA awarded six more grants to six other organizations for new VSA demonstrations.

Because of the continuing need for and the proven success of Family Friends and VSA, AoA is now soliciting applications to develop and implement three additional new VSA projects. Projects should be proposed to demonstrate the use of Volunteer Senior Aides to assist families of disabled/chronically ill children, thereby reducing the cost of care for such children. These projects will effectively employ the unique skills, varied experience, good will, and availability of older volunteers in assisting the Nation's children who are severely disabled or chronically ill.

VSA Project Parameters

Volunteer Senior Aides projects, usually tri-generational, are designed to benefit everyone involved. The children, who have serious, chronic illnesses or disabilities and range in age from infancy to 12 years, receive physical care, self-help instruction, emotional support, and nurturing. Their siblings may receive greater attention or may benefit indirectly as their family is strengthened, empowered. The parents (or, in some cases, grandparents) of these children are given encouragement and respite—intangibles that they need to carry on. The volunteers—aged 55 and older—have a mission and are rewarded with a sense of personal pride and accomplishment. They become less isolated, more involved in the community, and develop an affectionate relationship with their new "granddaughters" or "grandsons" and/or other family members.

The community is strengthened by older citizens voluntarily providing supportive services to younger citizens. Health care costs are reduced. And people learn to rely on each other, connecting with an "extended family" in this era of disconnected families.

The older volunteers ("family friends") are extensively trained to find the best way to help a family. The type of help depends upon what's needed at the time. They may tutor the child, teach personal care and self-help skills, or take the child to recreational/cultural events. These volunteers often act as advocates, serving as "case coordinator" and speaking on behalf of the family to the various professionals who plan and manage the child's care. They also provide social and emotional support and, in many cases, respite to weary parents. (Respite is provided only, however, when the child is medically stable and by agreement of parents, project director, and volunteer and is limited to half of the time the volunteer spends with the child.)

VSA/Family Friends essential program components include:

Recruitment, screening, interviewing, and careful selection of volunteers;

• Recruitment, interviewing, and selection of families/children;

• Sixty (60) hours of intensive training for volunteers;

• Careful matching of volunteers with families, based on compatibility, proximity/transportation, personal styles and needs, health of volunteer, schedules, and language barriers;

• Supervision of volunteers;

• Fund raising and promotion of the program; and

• Project evaluation.

AoA plans to fund approximately three (3) demonstration projects under this priority area at a Federal share of approximately $36,000 per year for a project period of up to approximately three (3) years. Eligible applicants are restricted to public or non-profit community-level agencies, organizations, or institutions proposing new Family Friends or VSA projects at the local level. These funds may not be used for continuation or expansion of existing VSA or Family Friends projects. Each proposal should include participation of both a health care facility and a social service agency. Proposals should include participation in the project by a project advisory board or committee. Because less funding is available this year than in previous years, applicants are strongly encouraged to energetically pursue sources of matching funds beyond the minimum required. AoA expects applicants to propose a level of effort which is realistic and in keeping with their funding level (from all sources).

Proposals should follow the Family Friends/VSA paradigm, briefly outlined above but thoroughly documented in materials available from NCOA's Family Friends Resource Center. Recommended materials include: Bringing Family Friends to Your Community, a manual detailing a step-by-step approach to developing and implementing these projects; and Family Friends—A Program Guide. Prospective applicants may call or write the Family Friends Resource Center at: Address: Family Friends Resource Center, National Council on the Aging, 409 Third Street SW., Washington, DC 20024, Telephone: (202) 479–6675, Fax: (202) 479–0735.

Demonstration projects funded under this priority area will receive technical assistance and guidance in the development and implementation of their projects from the Family Friends Resource Center which was funded in FY 94 for this purpose.

Part III—Information and Guidelines for the Application Process and Review

Part III of this Announcement contains general information for potential applicants and basic guidelines for submitting applications in response to this announcement. Application forms are provided along with detailed instructions for developing and assembling the application package for submittal to the Administration on Aging (AoA). General guidelines on applicant eligibility were provided in Part I. Specific eligibility guidelines were provided in Part II under certain priority areas.

A. General Information

1. Review Process and Considerations for Funding

Within the limits of available Federal funds, AoA makes financial assistance awards consistent with the purposes of the statutory authorities governing the AoA Discretionary Funds Program and this Announcement. The following steps are involved in the review process.

a. *Notification:* All applicants will automatically be notified of the receipt of their application and informed of the identification number assigned to it.

b. *Screening:* To insure that minimum standards of equity and fairness have been met, applications which do not meet the screening criteria listed in Section D below, will not be reviewed and will receive no further consideration for funding under this Announcement.

c. *Expert Review:* Applications that conform to the requirements of this program announcement will be reviewed and scored competitively against the evaluation criteria specified in Section F, below. This independent review of applications is performed by panels consisting of qualified persons from outside the Federal government and knowledgeable non-AoA Federal government officials. The scores and judgments of these expert reviewers are a major factor in making award decisions.

d. *Other Comments:* AoA may solicit views and comments on pending applications from other Federal departments and agencies, State and Area Agencies on Aging, interested foundations, national organizations, experts, and others, for the consideration of the Assistant Secretary for Aging in making funding decisions.

e. *Other Considerations:* In making funding award decisions, the Assistant Secretary for Aging will pay particular attention to applications which focus on older persons with the greatest economic and social need, with particular attention to the low-income minority elderly. Final decisions may also reflect the equitable distribution of assistance among geographical areas of the nation, and among rural and urban areas. The Assistant Secretary for Aging also guards against wasteful duplication of effort in making funding decisions.

f. *Other Funding Sources:* AoA reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant.

g. *Decision-Making Process:* After the panel review sessions, applicants may be contacted by AoA staff to furnish additional information. Applicants who are contacted should not assume that funding is guaranteed. An award is official only upon receipt of the Financial Assistance Award (Form DGCM 3–785).

h. *Timeframe:* Applicants should be aware that the time interval between the deadline for submission of applications and the award of a grant is at least two months and often three months or more in duration. This length of time is required to review and process grant applications.

2. Notification Under Executive Order 12372

This is not a covered program under Executive Order 12372.

B. Deadline for Submission of Applications

The closing date for submission of applications is June 12, 1995. Applications must be either sent or hand-delivered to the address specified in Section D, below. Hand-delivered applications are accepted during the normal working hours of 9:00 a.m. to 5:30 p.m., Eastern Time, Monday through Friday. An application will meet the deadline if it is either:

1. Received at the mailing address on or before the applicable deadline date; or

2. Sent before midnight of the applicable deadline date as evidenced by either (1) a U.S. Postal Service receipt or postmark or (2) a receipt from a commercial carrier. The application must also be received in time to be considered under the competitive independent review mandated by Chapter 1–62 of the DHHS Grants Administration Manual. Applicants are strongly advised to obtain proof that the application was sent by the applicable deadline date. If there is a question as

VOL 60 ISS 71 AP 13 1995 UMI

to when an application was sent, applicants will be asked to provide proof that they have met the applicable deadline date. Private metered postmarks are not acceptable as proof of a timely submittal.

Applications which do not meet the above deadlines are considered late applications. The Office of Administration and Management will notify each late applicant that its application will not be considered under the applicable grant review competition.

AoA may extend a deadline date for applications because of acts of God, such as floods, hurricanes or earthquakes, when there is widespread disruption of the mail, or when AoA determines an extension to be in the best interest of the government. Depending upon the precipitating factor(s), the extension will apply to all potential applicants in the area affected by the natural disaster, or to all potential applicants across the nation. Notice of the extension will be published in the **Federal Register**.

C. Grantee Share of the Project

Under the Discretionary Funds Program, AoA does not make grant awards for the entire project cost. Successful applicants must, at a minimum, contribute one (1) dollar, secured from non-Federal sources, for every three (3) dollars received in Federal funding. The non-Federal share must equal at least 25% of the total project cost. Applicants should note that, among applications of comparable technical merit, the greater the non-Federal share the more favorably the application is likely to be considered.

There are two exceptions to this cost sharing formula. First, for applications submitted by Tribal Organizations the non-Federal share must equal at least 20% of total project costs. Second, applicants from the Virgin Islands, the Northern Mariana Islands, American Samoa, or Guam are covered by Section 501(d) of Public Law 95–134, as amended, which requires the Department to waive "any requirement for local matching funds under $200,000."

The non-Federal share of total project costs for each budget period may be in the form of grantee-incurred direct or indirect costs, third party in-kind contributions, and/or grant related income. Indirect costs may not exceed those allowed under Federal rules established, as appropriate, by OMB Circulars A–21, A–87, and A–122. If the required non-Federal share is not met by a funded project, AoA will disallow any unmatched Federal dollars. A common error is to match 25% of the Federal share rather than 25% of the entire project cost.

D. Application Screening Requirements

All applications will be screened to determine completeness and conformity to the requirements of this announcement. These screening requirements are intended to assure a level playing field for all applicants. Applications which fail to meet either of the two criteria described below will not be reviewed and will receive no further consideration. Complete, conforming applications will be reviewed and scored competitively.

In order for an application to be reviewed, it must meet the following screening requirements:

1. Applications must be either postmarked by midnight, June 12, 1995, or hand-delivered by 5:30 p.m., Eastern Time, on June 12, 1995 to: Department of Health and Human Services, Administration on Aging, Office of Administration and Management, 330 Independence Avenue SW., Room 4644, Washington, D.C. 20201, Attn: AoA–95–1.

2. An application must be relevant and responsive to the priority area under which it was submitted for competitive review and funding consideration and the applicant must meet any eligibility requirements specified by that same priority area. (For everyone's benefit, the applicant should be sure that the priority area has been clearly identified in the application).

Only those applications meeting these screening requirements will be assigned to reviewers.

The applicant is also strongly advised to adhere to the following standards in preparing the application:

- The application should not exceed forty (40) pages, double-spaced, exclusive of certain required forms and assurances which are listed below. Applications whose typescript is single-spaced or space-and-a-half will be considered only if it is determined the applicant has not thereby gained a competitive advantage.
- The following documents are excluded from the 40 page limitation: (1) Standard Form (SF) 424, SF 424A (including up to a four page budget justification) and SF 424B; (2) the certification forms regarding lobbying; debarment, suspension, and other responsibility matters; and drug-free workplace requirements; (3) proof of non-profit status, and; (4) indirect cost agreements.
- The following portions of the application are subject, in the aggregate, to the forty (40) page limitation:
  - —Summary description (suggested length: one page);
  - —Narrative (suggested length: twenty-five to thirty pages);
  - —Applicant's capability statement, including an organization chart, and vitae for key project personnel (suggested length: five to ten pages) and;
  - —Letters of commitment and cooperation (suggested length: four pages).

All applications will be checked against the aggregate forty (40) page limitation. Any material, of whatever content, in excess of the forty (40) page limitation will be withheld from the reviewers.

E. Funding Limitations on Indirect Costs

1. Training projects awards to institutions of higher education and other non-profit institutions are limited to a Federal reimbursement rate for indirect costs of eight (8) percent of the total allowable direct costs or, where a current agreement exists, the organization's negotiated indirect cost rate, whichever is lower. Differences between the applicant's approved rate and the 8% limitation may be used as Federal cost sharing. See Section J–2, Item 6j, below.

2. For all other applicants, indirect costs generally may be requested only if the applicant has a negotiated indirect cost rate with the Department's Division of Cost Allocation or with another Federal agency. Applicants without a negotiated indirect cost rate may apply for one in accordance with DHHS procedures and relevant OMB Circulars.

F. Evaluation Criteria

Applications which pass the screening will be evaluated by an independent review panel of at least three individuals. These reviewers, experts in the field, are from academic institutions, non-profit organizations, state and local government, and, upon occasion, Federal government agencies other than AoA. Based on the specific programmatic considerations set forth in the priority area under which an application has been submitted, the reviewers will comment on and score the applications, focusing their comments and scoring decisions on the criteria below.

Applications are scored by assigning a maximum of 100 points across four criteria:

(1) Purpose and Need for Assistance (20 points),
(2) Approach/Method - Workplan and Activities (30 points)
(3) Anticipated Outcomes, Evaluation and Dissemination (30 points),
(4) Level of Effort (20 points).

1. Purpose and Need for Assistance Weight: 20 points

a. Does the proposed project clearly and adequately respond to the program and/or policy issues of the priority area under which it was submitted?

b. Does the application adequately and appropriately describe and document the key problem(s)/condition(s) relevant to its purpose? Is the proposed project justified in terms of the most recent, relevant, and available information and/or knowledge?

c. Does the applicant, where appropriate, adequately describe the needs of special population groups—low income, minority, women, disabled, rural—in addressing problem(s)/conditions(s) relevant to its proposal?

2. Approach/Method—Workplan and Activities Weight: 30 points

a. Does the proposal clearly express and organize a workplan that systematically includes specific objectives, tasks, and activities which are responsive to the statement of needs and purpose?

b. Does the workplan include a detailed schedule, with sufficient time commitments for key staff, to accomplish the proposed tasks and objectives? Is the sequence and timing of events logical and realistic?

c. Are the roles and contribution of staff, consultants, and collaborative organizations clearly defined and linked to specific objectives and tasks? Does the workplan specify who will be responsible for managing the project; for the preparation and dissemination of project results, products, and reports; and for communications with the Administration on Aging should the project be approved for funding?

3. Anticipated Outcomes, Evaluation and Dissemination Weight: 30 points

a. Are the expected project benefits and/or results clearly identified, realistic, and consistent with the objectives of the project? Are outcomes likely to be achieved and will they significantly benefit older persons through improvement in policy or practice, and/or contribute knowledge to theory and research?

b. Is the plan for project evaluation clear and relevant to the scope of activity proposed? Does this plan identify the type of data to be collected and the method of analysis to be used in measuring project achievement and significance?

c. Does the proposal include a plan for dissemination which is likely to increase the awareness of project activities and events during project performance? Is this plan adequate for communicating project outcomes and products to all appropriate audiences?

4. Level of Effort Weight: 20 points

a. Do the proposed project director(s), key staff and consultants have the background, experience, and other qualifications required to carry out their designated roles?

b. Is the budget justified with respect to the adequacy and reasonableness of resources requested? Are budget line items consistent with workplan objectives?

c. Are letters from participating organizations included and do they express the clear commitment and areas of responsibility of those organizations, consistent with the workplan description of their intended roles and contributions?

d. Are the writers of the proposal identified and will they be involved in its oversight and implementation? If not, is there a logical explanation for their non-participation?

G. The Components of an Application

To expedite the processing of applications, we request that you arrange the components of your application, the original and two copies, in the following order:

- SF 424, Application for Federal Assistance; SF 424A, Budget, accompanied by your budget justification; SF 424B (Assurances); and the certification forms regarding lobbying; debarment, suspension, and other responsibility matters; and drug-free workplace requirements.

Note: The original copy of the application must have an original signature in item 18d on the SF 424.

- Proof of nonprofit status, as necessary:
- A copy of the applicant's indirect cost agreement, as necessary;
- Project summary description;
- Program narrative;
- Organizational capability statement and vitae;
- Letters of Commitment and Cooperation;
- A copy of the Check List of Application Requirements (See Section K, below) with all the completed items checked.

The original and each copy should be stapled securely (front and back if necessary) in the upper left corner. Pages should be numbered sequentially. In order to facilitate the handling and reproduction of the application for purposes of the review, please do not use covers, binders or tabs. Do not include extraneous materials such as agency promotion brochures, slides, tapes, film clips, etc. It is not feasible to include such items in the review process. They will be discarded if submitted as part of the application.

H. Communications with AoA

Do not include a self-addressed, stamped acknowledgment card. All applicants will be notified by mail of the receipt of their application and informed of the identification number assigned to it. This number and the priority area should be referred to in all subsequent communication with AoA concerning the application. If acknowledgment is not received within seven weeks after the deadline date, please notify the Office of Program Development by telephone at (202) 619–0441.

After an identification number is assigned and the applicant has been notified of the number, applications are filed numerically by identification number for quick retrieval. It will be difficult for AoA staff to provide a timely response to inquiries about a specific application unless the identification number and the priority area are given.

Applicants are advised that, prior to reaching a decision, AoA will not release information to an applicant other than that its application has been received and that it is being reviewed. Unnecessary inquiries delay the process. Once a decision is reached, the applicant will be notified as soon as possible of the approval or disapproval of the application.

I. Background Information and Guidance for Preparing the Application

1. Current Projects and Previous Project Results

In the Program Narrative of the application (see Section J–6 below), applicants are expected to demonstrate familiarity with recent and ongoing activity related to their project proposal. With respect to AoA-supported discretionary grant projects, information on current AoA projects may be obtained by contacting the Office of Program Development at 202/619–044. Regarding completed AoA projects, copies of all AoA discretionary grant final reports and printed materials are sent to: the National Aging Information Center (to be established by April/May 1995); the National Technical Information Service (NTIS), a clearinghouse and document source for Federally sponsored reports; Ageline Database, a bibliographic database

VOL 60 ISS 71 AP 13 1995 UMI

service sponsored by the American Association of Retired Persons, available online through BRS and DIALOG; and the U.S. Government Printing Office Library Program, a catalog and microfiche service for 1400 depository libraries located throughout the United States.

Information concerning access to the bibliographic and document referral services provided by these clearinghouses can be obtained through most public and academic libraries.

For direct information, use the following contacts:

(a) National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487–4600

(c) Ageline Database

- BRS Customer Service, 8000 Westpark Drive, McLean, VA 22102, (800) 345–4BRS
- DIALOG Customer Service, 3460 Hillview Avenue, Palo Alto, CA 94304, (800) 3DIALOG, (415) 858–2700 (in California)

(d) U.S. Government Printing Office Acquisition Unit, Library Programs Service, North Capital and H Streets NW., Washington, DC 20401, (202) 275–1070

2. Dissemination and Utilization

The purposes and expectations associated with Title IV discretionary projects extend well beyond the immediate confines of a particular project's local impact. Projects should have a ripple effect in the field of aging in terms of replicating their design, utilizing their results, and applying their benefits to a widening circle of older persons. This section suggests certain principles of dissemination to be considered in developing your application:

- the most useful projects make dissemination and utilization a central, not peripheral, component of the project;
- dissemination starts at the beginning of a project not when it is completed;
- potential users should be involved in planning the project, if possible, and products developed with the needs of potential users in mind;
- dissemination is a networking process;
- at a minimum, dissemination includes getting your final products into the hands of appropriate users and making presentations at conferences; and
- coordination with other related projects may increase the chances of your products being used.

J. Completing the Application

In completing the application, please recognize that the set of standardized forms and instructions is prescribed by the Office of Management and Budget (approved under OMB control number 0348–0043) and is not perfectly adaptable to the particulars of AoA's Discretionary Funds Program. First-time applicants, in particular, may have some misgivings that they have not crossed the final "t" or dotted the last "i" of their application. Any applicant should, of course, take reasonable care to avoid technical errors in completing the application, but the substantive merits of the project proposal are the determining factors. In these instructions, we offer several pointers aimed at clarifying matters; overcoming difficulties, and preventing the more common technical mistakes made by applicants. If the need arises, please call (202) 619–0441 for assistance.

Forms SF 424, SF 424A, SF 424B, and the certification forms (regarding lobbying; debarment, suspension, and other responsibility matters; and drug-free workplace requirements) have been reprinted as part of this **Federal Register** announcement for your convenience in preparing the application. Single-sided copies of all required forms must be used for submitting your application. You should reproduce single-sided copies from the reprinted form and type your application on the copies. Please do not use forms directly from the **Federal Register** announcement as they are printed on both sides of the page.

To assist applicants in completing Forms SF 424 and SF 424A correctly, samples of completed forms have been provided as part of this announcement. These samples are to be used as a guide only. Be sure to submit your application on the blank copies. Please prepare your application consistent with the following guidance:

1. *SF 424, Cover Page:* Complete only the items specified in the following instructions:

Top Left of Page. In the box provided, enter the number of the priority area under which the application is being submitted.

Item 1. Preprinted on the form.

Item 2. Fill in the date you submitted the application. Leave the applicant identifier box blank.

Item 3. Not applicable.

Item 4. Leave blank.

Item 5. Provide the legal name of applicant; the name of the primary organizational unit which will undertake the assistance activity; the applicant address; and the name and telephone number of the person to contact on matters related to this application.

Item 6. Enter the employer identification number (EIN) of the applicant organization as assigned by the Internal Revenue Service. Please include the suffix to the EIN, if known.

Item 7. Enter the appropriate letter in the box provided.

Item 8. Preprinted on form.

Item 9. Preprinted on form.

Item 10. Preprinted on form.

Item 11. The title should describe concisely the nature of the project. Avoid repeating the title of the priority area or the name of the applicant. Try not to exceed 10 to 12 words and 120 characters including spaces and punctuation.

Item 12. Preprinted on form.

Item 13. Enter the desired start date for the project, beginning on or after September 1, 1995 and the desired end date for the project. Projects may be from 17 to 36 months in duration. Check the description of the priority area under which you are applying for the expected project duration.

Item 14. List the applicant's Congressional District and the District(s), if any, directly affected by the proposed project.

Item 15. All budget information entered under item #15 should cover either: (1) The total project period if that period is 17 months or less; or (2) just the first 12 months if the project period is for 24 or 36 months. The applicant should show the Federal grant support requested under sub-item 15a.

Check: Please make sure you have presented budget amounts only for the first year if you are proposing a multi-year project. A common error is to present budget totals for a full project period of 24 or 36 months in item 15. Sub-items 15b-15e are considered cost-sharing or "matching funds". Applicants should review cost sharing or matching principles contained in Subpart G of 45 CFR Part 74 before completing not just Item 15, but the Budget Information Sections A, B and C that follow. It is important that the dollar amounts entered in sub-items 15b-15e total at least 25 percent of the total project cost (total project cost is equal to the requested Federal funds plus funds from non-Federal sources). In general, costs borne by the applicant and cash contributions of any and all third parties involved in the project, including sub-grantees, contractors and consultants, are considered cash matching funds. Most contributions from third parties will be non-cash or in-kind and should not be combined with cash contributions. Examples include volunteered time and use of facilities to hold meetings or conduct project activities. A third form of non-Federal match, is projected program income derived from activities of the grant such as participant fees and sale of publications. Only program income which is to be used as part of the qualifying match should be shown here. (see Form 424, Part B and the narrative budget justification instructions below for how to show program income which is not designated as qualifying non-Federal match.

Item 16. Preprinted on form.

Item 17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

Item 18. To be signed by an authorized representative of the applicant organization. A document attesting to that sign-off authority must be on file in the applicant's office.

2. SF 424A—Budget Information

This form (SF424A) is designed to apply for funding under more than one grant program; thus, for purposes of this AoA program, most of the budget item columns/blocks are superfluous and should be regarded as not applicable. The applicant should consider and respond to only the budget items for which guidance is provided below. Section A—Budget Summary and Section B—Budget Categories should include both Federal and non-Federal funding for the proposed project covering (1) the total project period if that period is 17 months or less or (2) the first 12 months if the project period is for 24, 36, or 48 months.

Section A—Budget Summary. On line 5, enter total Federal Costs in column (e) and total non-Federal Costs (including third party in-kind contributions but not program income) in column (f). Enter the total of columns (e) and (f) in column (g).

Section B—Budget Categories. Use only the last column under Section B, namely the column headed Total (5), to enter the total requirements for funds (combining both the Federal and non-Federal shares) by object class category. Do not include the in-kind (third party) match contributions shown in Item 15 on the face sheet of Form 424.

A separate budget justification should be included which shows the breakdown of budget cost items by Federal, non-Federal, and total funds and which fully explains and justifies each of the major budget items:

personnel, travel, other, etc., as outlined below. Non-Federal funds shown as a separate column in the budget line item portion of the justification is limited to cash match contributions (see instructions for item 15 on the face sheet of the 424 Form). Third party in-kind contributions and program income designated as non-Federal match contributions should be justified below the budget line items.

All budget line and non-cash match justifications must identify both the purpose and basis of dollar estimation. Formulas for application of approved indirect cost rates must be explained. All entries for item 15 on the 424 face sheet and Part B must be described in the justification. The complete budget justification should not exceed four typed pages and should immediately follow the SF 424 forms.

Line 6a—Personnel: Enter total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included under 6h—Other.

Justification: Identify the principal investigator or project director, if known. Specify the key staff, their titles, and time commitments in the budget justification.

Line 6b—Fringe Benefits: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Line 6c—Travel: Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation.

Justification: Include the total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Line 6d—Equipment: Enter the total costs of all equipment to be acquired by the project. For state and local governments, including Federally recognized Indian Tribes, "equipment" is non-expendable tangible personal property having a useful life of more than two years and an acquisition cost of $5,000 or more per unit. For all other grantees, the threshold for equipment is $500 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified as necessary for the conduct of the project. The equipment, or a reasonable facsimile, must not be otherwise available to the applicant or its sub-grantees. The justification also must contain plans for the use or disposal of the equipment after the project ends.

Line 6e—Supplies: Enter the total costs of all tangible expendable personal property (supplies) other than those included on line 6d.

Line 6f—Contractual: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and, (2) contracts with secondary recipient organizations including delegate agencies.

Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line.

Justification: Attach a list of contractors indicating the name of the organization, the purpose of the contract, and the estimated dollar amount. If the name of the contractor, scope of work, and estimated costs are not available or have not been negotiated, indicate when this information will be available. Whenever the applicant/grantee intends to delegate a substantial part (one-third, or more) of the project work to another agency, the applicant/grantee must provide a completed copy of Section B, Budget Categories for each contractor, along with supporting information.

Line 6g—Construction: Leave blank since new construction is not allowable and Federal funds are rarely used for either renovation or repair.

Line 6h—Other: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to: insurance, medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments; and staff development costs.

Line 6i—Total Direct Charges: Show the totals of Lines 6a through 6h.

Line 6j—Indirect Charges: Enter the total amount of indirect charges (costs), if any. If no indirect costs are requested, enter "none." Indirect charges may be requested if: (1) The applicant has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency; or (2) the applicant is a State or local government agency. Applicants other than state and local governments are requested to enclose a copy of this agreement. Local and state governments

VOL 60 ISS 71 AP 13 1995 UMI

should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be also charged as direct costs to the grant.

In the case of training grants to other than state or local governments (as defined in 45 CFR Part 74), Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, stipends, post-doctoral training allowances, contractual items, and alterations and renovations. As part of the justification, applications subject to this limitation should specify that the Federal reimbursement will be limited to 8%.

For training grant applications, the entry for line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a*) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b*) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, alterations and renovations.

(c) Subtract b* from a*. The remainder is what the applicant can claim as part of its matching cost contribution.

Line 6k—Total: Enter the total amounts of Lines 6i and 6j.

Line 7—Program Income: Estimate the amount of income, if any, expected to be generated from this project which you wish to designate as match (equal to the amount shown it Item 15 on Form 424). Warning: Any program income indicated at the bottom of Section B and item 15 on the face sheet of Form 424 will be included as part of non-Federal match and will be subject to the rules for documenting completion of this pledge. If program income is expected, but is not needed to achieve matching funds, do not include that portion here or on Item 15 of the Form 424 face sheet. Non-match anticipated program income should be described in the Level of Effort section of the Program Narrative.

Section C—Non-Federal Resources

Line 12—Totals: Enter amounts of non-Federal resources that will be used in carrying out the proposed project. Do not include program income unless it is used to meet match requirements.

Section D—Forecasted Cash Needs: Not applicable.

Section E—Budget Estimate of Federal Funds Needed for Balance of the Project This section should be completed only if the total project period exceeds 17 months.

Line 20—Totals: Enter the estimated required Federal funds (exclude estimates of the amount of cost sharing) for the period covering months 13 through 24 under column "(b) First;" and, if applicable, for months 25 through 36 under "(c) Second."

Section F—Other Budget Information

Line 21—Direct Charges: Not applicable

Line 22—Indirect Charges: Enter the type of indirect rate (provisional, predetermined, final or fixed) to be in effect during the funding period, the base to which the rate is applied, and the total indirect costs.

Line 23—Remarks: Provide any other explanations or comments deemed necessary.

3. SF 424B—Assurances

SF 424B, Assurances—Non-Construction Programs, contains assurances required of applicants under the Discretionary Funds Program of the Administration on Aging. Please note that a duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances.

With the possible exception of an Assurance of Protection of Human Subjects, no other assurances are required. For research projects in which human subjects may be at risk, an Assurance of Protection of Human Subjects may be needed. If there is a question regarding the applicability of this assurance, contact the Office for Protection from Research Risks of the National Institutes of Health at (301) 496–7041.

4. Certification Forms

Certifications are required of the applicant regarding (a) lobbying; (b) debarment, suspension, and other responsibility matters; and (3) drug-free workplace requirements. Please note that a duly authorized representative of the applicant organization must attest to the applicant's compliance with these certifications.

5. Project Summary Description

On a separate page, provide a project summary description headed by two identifiers: (1) The name of the applicant organization as shown in SF 424, item 5 and (2) the priority area as shown in the upper left hand corner of SF 424. Please limit the summary description to one page with a maximum of 1,200 characters, including words, spaces and punctuation.

Be specific and succinct. Outline the objectives of the project, the approaches to be used and the outcomes expected. At the end of the summary, list major products that will result from the proposed project (such as manuals, data collection instruments, training packages, audio-visuals, software packages). The project summary description, together with the information on the SF 424, becomes the project "abstract" which is entered into AoA's computer data base. The project description provides the reviewer with an introduction to the substantive parts of the application. Therefore, care should be taken to produce a summary which accurately and concisely reflects the proposal.

6. Program Narrative

The Program Narrative is the critical part of the application. It should be clear, concise, and, of course, responsive to the priority area under which the application is being submitted. In describing your proposed project, make certain that you respond fully to the evaluation criteria set forth in Section F above. The format of the narrative should, in fact, parallel the criteria, beginning with an integrated discussion of (A) the project's purpose(s), relevance, significance, and responsiveness to the priority area, which answers the questions of why the project should be undertaken and what it intends to accomplish. The next section of the narrative provides a detailed explanation of (B) the approach(es)/methodology the project will follow to achieve its purpose(s), leading to a discussion of (C) the anticipated outcomes/results/benefits of the project, how these will be evaluated, disseminated, and utilized. The narrative concludes with (D) the level of effort needed to carry out the project, in terms of the Project Director and other key staff, funding, and other resources.

Please have the narrative typed on one side of 8 ½" x 11" plain white paper with 1" margins on both sides. All pages of the narrative (including charts, tables, maps, exhibits, etc.) should be sequentially numbered, beginning with "Objectives and Need for Assistance" as page number one. (Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement). The narrative should also identify the author(s) of the proposal, their relationship with the applicant, and the role they will play, if any, should the project be funded. This narrative guidance is in accordance with that provided in OMB Circular A–102. The checklist (see Section K, below) is consistent with that approved under OMB control number 0937–0189.

7. Organizational Capability Statement and Vitae for Key Project Personnel

The organizational capability statement should describe how the applicant agency (or the particular division of a larger agency which will have responsibility for this project) is organized, the nature and scope of its work and/or the capabilities it possesses. This description should cover capabilities of the applicant not included in the program narrative. Include descriptions of any current or previous relevant experience. Describe the competence of the project team and its record for preparing cogent and useful reports, publications, and other products. Include an organization chart showing the relationship of the project to the current organization. Include vitae for key project staff only.

K. Checklist for a Complete Application

The checklist below should be typed on 8½" x 11" plain white paper, completed and included in your application package. It will help in properly preparing your application.

Checklist

I have checked my application package to ensure that it includes or is in accord with the following:

—One original application plus two copies, each stapled securely (no folders or binders) with the SF 424 as the first page of each copy of the application;

—SF 424; SF 424A—Budget Information (and accompanying Budget Justification); SF 424B—Assurances; and Certifications;

—SF 424 has been completed according to the instructions, signed and dated by an authorized official (item 18);

—The number of the priority area under which the application is submitted has been identified in the box provided at the top left of the SF 424;

—As necessary, a copy of the current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency;

—Proof of nonprofit status, as necessary;

—Summary description;

—Program narrative;

—Organizational capability statement and vitae for key personnel;

—Letters of commitment and cooperation, as appropriate.

L. Points to Remember

1. There is a forty (40) double-spaced page limitation for the substantive parts of the application. Before submitting your application, please check that you have adhered to this requirement which is spelled out in Section D.

2. You are required to send an original and two copies of an application.

3. Indicate the priority area in the box at the top left hand corner of the SF 424.

4. The summary description (1,200 characters or less) should accurately reflect the nature and scope of the proposed project.

5. To meet the cost sharing requirement (see Section C above), you must, at a minimum, match $1 for every $3 requested in Federal funding to reach 25% of the total project cost. For example, if your request for Federal funds is $90,000, then the required minimum match or cost sharing is $30,000. The total project cost is $120,000, of which your $30,000 share is 25%.

6. Indirect costs of training grants may not exceed 8%.

7. In following the required format for preparing the program narrative, make certain that you have responded fully to the four (4) evaluative criteria which will be used by reviewers to evaluate and score all applications.

8. Do *not* include letters which endorse the project in general and perfunctory terms. In contrast, letters which describe and verify tangible commitments to the project, e.g., funds, staff, space, should be included.

9. If duplicate applications are submitted under different priority areas, AoA reserves the right to select the single priority area under which it will be reviewed.

10. If more than one project application is submitted, each should be submitted under separate cover.

11. Before submitting the application, have someone other than the author(s): 1) apply the screening requirements to make sure you are in compliance; and 2) carry out a trial run review based upon the evaluative criteria. Take the opportunity to consider the results of the trial run and then make whatever changes you deem appropriate.

12. Each application must be mailed by midnight, June 12, 1995 or hand-delivered by 5:30 p.m., Eastern Time, on June 12, 1995.

Mail or hand-deliver the application to: Department of Health and Human Services, Administration on Aging, Office of Administration and Management, 330 Independence Avenue SW., Room 4644, Washington, D.C. 20201 Attn: AoA–95–1.

Dated: April 6, 1995

Fernando M. Torres-Gil,

Assistant Secretary for Aging.

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VOL 60 ISS 71 AP 13 1995 UMI

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE: Not Applicable	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name	Organizational Unit
Address (give city, county, state, and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT (enter appropriate letter in box) ☐

A State; B County; C Municipal; D Township; E Interstate; F Intermunicipal; G Special District; H Independent School Dist; I State Controlled Institution of Higher Learning; J Private University; K Indian Tribe; L Individual; M Profit Organization; N Other (Specify) _____

8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A Increase Award; B Decrease Award; C Increase Duration; D Decrease Duration; Other (specify)

9. NAME OF FEDERAL AGENCY: Administration on Aging

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 9 3 . 0 4 8

TITLE: Special Programs for the Aging--Title IV

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT

12. AREAS AFFECTED BY PROJECT (cities, counties, states etc.): Nation-wide Applicability

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF
Start Date	Ending Date	a. Applicant / b. Project

15. ESTIMATED FUNDING		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal	$ .00	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____
b. Applicant	$ .00	b. NO. ☒ PROGRAM IS NOT COVERED BY E.O. 12372
c. State	$ .00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
d. Local	$ .00	
e. Other	$ .00	
f. Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation ☐ No
g. TOTAL	$ .00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

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BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds: Federal (c)	Estimated Unobligated Funds: Non-Federal (d)	New or Revised Budget: Federal (e)	New or Revised Budget: Non-Federal (f)	New or Revised Budget: Total (g)
1		$	$	$	$	$
2						
3						
4						
5 TOTALS	93.048	$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7 Program Income	$	$	$	$	$

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VOL 60 ISS 71 AP 13 1995 UMI

SECTION C - NON-FEDERAL RESOURCES	(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.		$	$	$	$
9.					
10.					
11.					
12. TOTALS (sum of lines 8 and 11)		$	$	$	$

SECTION D - FORECASTED CASH NEEDS	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT	(a) Grant Program	FUTURE FUNDING PERIODS (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.		$	$	$	$
17.					
18.					
19.					
20. TOTALS (sum of lines 16 - 19)		$	$	$	$

SECTION F - OTHER BUDGET INFORMATION (Attach additional Sheets if Necessary)	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

SF 424A (4-88) Page 2
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OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

6.7

2. DATE SUBMITTED: May 30, 1995
3. DATE RECEIVED BY STATE: Not Applicable
4. DATE RECEIVED BY FEDERAL AGENCY:

1. TYPE OF SUBMISSION: Application — ☐ Construction ☐ Non-Construction; Preapplication — ☐ Construction ☐ Non-Construction

Applicant Identifier:
State Application Identifier:
Federal Identifier:

5. APPLICANT INFORMATION

Legal Name: ABC Agency
Organizational Unit: Division on Aging
Address (give city, county, state, and zip code): 1234 Craig Avenue, Parsons, MI
Name and telephone number of the person to be contacted on matters involving this application (give area code): Edwin Wallach Marcus (345) 678-9012

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 23-4567890

7. TYPE OF APPLICANT: (enter appropriate letter in box) B
A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (specify): _____

8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify):

9. NAME OF FEDERAL AGENCY: Administration on Aging

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 93.048
TITLE: Special Programs for the Aging--Title IV

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Improved Long Term Care Services

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): Nation-wide Applicability

13. PROPOSED PROJECT: Start Date 09/01/95; Ending Date 08/31/97
14. CONGRESSIONAL DISTRICTS OF: a. Applicant 3; b. Project 2-5

15. ESTIMATED FUNDING:

a. Federal	$	100,000.00
b. Applicant	$	33,333.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	133,333.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____
b. NO. ☒ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation ☒ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative: Mike Spurlock
b. Title: Executive Director
c. Telephone number: (987)654-3210
d. Signature of Authorized Representative:
e. Date Signed: May 27, 1995

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UMI
1995
APR 13
ISS 71
VOL 60

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS	93.048	$	$	$ 100,000	$ 33,333	$ 133,333

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$ 60,000
b. Fringe Benefits					16,000
c. Travel					5,000
d. Equipment					
e. Supplies					3,333
f. Contractual					7,000
g. Construction					N.A.
h. Other					15,000
i. Total Direct Charges (sum of 6a - 6h)					106,333
j. Indirect Charges					27,000
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$ 33,333	$	$	$ 33,333

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$ 100,000	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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SAMPLE

VOL 60 ISS 71 AP 13 1995 UMI

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F)
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex, (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, (d) the Age Discrimination Act of 1975, as amended (42 U.S.C §§ 6101-6107), which prohibits discrimination on the basis of age, (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse, (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing, (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made, and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

VOL 60 ISS 71 APR 13 1995 UMI

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal Appropriated Funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress in connection with the warding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an Federal contract, grant, loan or cooperative agreement, the undersigned shall complete an submit Standard Form-LLL, "Disclosure Form to Report Lobbing," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Organization

_____

Authorized Signature. Title Date

NOTE: If Disclosure Forms are required, please contact: Margaret A. Tolson, Director; Grants Management Division; 330 Independence Avenue, S.W., Room 4256-COHEN; Washington, D.C. 20201-0001

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency:

(b) have not within a 3-year period preceding this proposal been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

VOL
60
ISS
71
AP
13
1995
UMI

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS
(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transaction." without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"**Controlled substance**" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"**Conviction**" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"**Criminal drug statute**" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"**Employee**" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(Continued on reverse side of this sheet)

VOL
60
ISS
71
AP
13
1995
UMI

HHS–Certification Regarding Drug-Free Workplace Requirements–continued from reverse page

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

[FR Doc. 95–8950 Filed 4–12–95; 8:45 am]

BILLING CODE 4150–04–C

Food and Drug Administration

[Docket No. 95F–0065]

BASF Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that BASF Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a polyamide-ethyleneimine-epichlorohydrin resin as a component of paper and paperboard in contact with aqueous and fatty food.

DATES: Written comments on the petitioner's environmental assessment by May 15, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4452) has been filed by BASF Corp., 1609 Biddle Ave., Wyandotte, MI 48192. The petition proposes to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of a polyamide-ethyleneimine-epichlorohydrin resin as a component of paper and paperboard in contact with aqueous and fatty foods.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before May 15, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 24, 1995

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition

[FR Doc. 95–9180 Filed 4–12–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95F–0064]

Johnson Matthey Chemicals; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Johnson Matthey Chemicals has filed a petition proposing that the food additive regulations be amended to provide for the safe use of silver chloride coated titanium dioxide in resinous and polymeric coatings.

DATES: Written comments on the petitioner's environmental assessment by May 15, 1995

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Diane E. Robertson, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 5B4453) has been filed by Johnson Matthey Chemicals, c/o 1000 Potomac St NW., Washington, DC 20007 The petition proposes to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to provide for the safe use of silver chloride coated titanium dioxide as a preservative in resinous and polymeric coatings.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4 (b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before May 15, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 24, 1995

Eugene C. Coleman,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition

[FR Doc. 95–9179 Filed 4–12–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95M–0068]

Polymer Technology Division of Wilmington Partners L. P.; Premarket Approval of BOSTON Advance® Comfort Formula Conditioning Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Polymer Technology Division of Wilmington Partners L. P , Wilmington, MA, for

VOL 60 ISS 71 AP 13 1995 UMI

premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the BOSTON Advance® Comfort Formula Conditioning Solution. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of March 1, 1995, of the approval of the application.

DATES: Petitions for administrative review by May 15, 1995.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1744.

SUPPLEMENTARY INFORMATION: On December 29, 1992, Polymer Technology Division of Wilmington Partners L. P., Wilmington, MA 01887, submitted to CDRH an application for premarket approval of the BOSTON Advance® Comfort Formula Conditioning Solution. The device is a disinfecting and soaking solution and is indicated for disinfecting and soaking fluoro silicone acrylate and silicone acrylate rigid gas permeable contact lenses.

In accordance with the provisions of section 515(c)(2) of the act (21 U.S.C. 360e(c)(2)) as amended by the Safe Medical Devices Act of 1990, this premarket approval application (PMA) was not referred to the Ophthalmic Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel. On March 1, 1995, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 15, 1995, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: March 24, 1995

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95–9181 Filed 4–12–95; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Statement of Organization, Functions, and Delegations of Authority; Office of the Assistant Secretary for Health

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 60 FR 8410, February 14, 1995) is amended to reflect a title change for the Office of Management, Office of the Assistant Secretary for Health.

Office of the Assistant Secretary for Health

Under Chapter HA, Office of the Assistant Secretary for Health, Section HA–10, Organization, change item.11. Office of Management (HAU) to 11. Office of Management and Budget (HAU).

Under Section HA–20, Functions, following the title and statement for Office of Emergency Preparedness (HAP), change the title for Office of Management (HAU) to Office of Management and Budget (HAU).

Under Chapter HA, Section HA–30, Delegations of Authority, add the following:

Delegations of authority made to and by the Director, Office of Management will continue in the successor position Deputy Assistant Secretary for Health (Management and Budget) pending further redelegation.

Delegations of authority made to and by the Deputy Assistant Secretary for Health Management Operations will continue in the successor position Deputy Assistant Secretary for Health (Management and Budget) pending further redelegation.

Dated: March 28, 1995

Philip R. Lee,

Assistant Secretary for Health.

[FR Doc. 95–9040 Filed 4–12–95; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. R–95–1700; FR–3517–N–03]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: April 5, 1995.

David S. Christy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Grant Program (CGP) (FR–3517).

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: A final Comprehensive Grant Program (CGP) rule was published in the **Federal Register** on August 30, 1994. This rule amended the CGP by simplifying and expediting the planning and funding process for housing authorities that own or operate 250 units or more.

Form Number: HUD–52831, 52832, 52834, 52835, 52836, 52837, and 52840.

Respondents: State, Local, or Tribal Governments and the Federal Government.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collections	904		1		109		98,620

Total Estimated Burden Hours: 98,620.

Status: Revision.

Contact: Gwendolyn A. Watson, HUD, (202) 708–1640; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 5, 1995.

[FR Doc. 95–9139 Filed 4–12–95; 8:45 am]

BILLING CODE 4210–01–M

Office of Fair Housing and Equal Opportunity

[Docket No. D–95–1088; FR–3906–D–01]

Order of Succession

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO), HUD.

ACTION: Notice of order of succession for the Assistant Secretary for Fair Housing and Equal Opportunity.

SUMMARY: In this notice, the Assistant Secretary for Fair Housing and Equal Opportunity designates the Order of Succession for the position of Assistant Secretary for FHEO, and revokes the prior Order of Succession for this position.

EFFECTIVE DATE: April 5, 1995.

FOR FURTHER INFORMATION CONTACT: Dianne D. Taylor, Administrative Officer, Office of Fair Housing and Equal Opportunity, Administrative Support Division, Department of Housing and Urban Development, 451 7th Street SW, Room 5124, Washington, DC 20410–2000; telephone (202) 708–2701. (This is not a toll-free number). A telecommunications device for hearing impaired persons (TDD) is available at 1–800–543–8294.

SUPPLEMENTARY INFORMATION: In this document, the Assistant Secretary for Fair Housing and Equal Opportunity is issuing the Order of Succession of officials authorized to serve as Acting Assistant Secretary for FHEO when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for FHEO is not available to exercise the powers or perform the duties of the office. Succession to act for and exercise the powers of the Assistant Secretary for FHEO pursuant to this order shall be subject to the time limitations specified in the Vacancies Act, 5 U.S.C. 3348. This revised Order of Succession is being issued due to a reorganization of the Office of the Assistant Secretary for FHEO.

Accordingly, the Assistant Secretary for FHEO designates the following officials in the order specified to act for and assume the powers of the Assistant Secretary for FHEO:

Section A. Order of Succession

During any period when, by reason by absence, disability, or vacancy in office, the Assistant Secretary for Fair Housing and Equal Opportunity is not available to exercise the powers or perform the duties of the Office of the Assistant Secretary for FHEO, the following are hereby designated to serve as Acting Assistant Secretary for FHEO:

(1) Deputy Assistant Secretary for Policy and Initiatives;

(2) Deputy Assistant Secretary for Enforcement and Investigations;

(3) Deputy Assistant Secretary for Operations and Management;

(4) Director, Office of Investigations;

(5) Director, Office of Program Standards and Evaluation;

(6) Director, Office of Fair Housing Assistance and Voluntary Programs;

(7) Director, Office of Regulatory Initiatives and Federal Coordination;

(8) Director, Office of Management and Field Coordination;

(9) Director, Office of Economic Opportunity;

(10) Director, Office of Program Compliance and Disability Rights.

These officials shall serve as Acting Assistant Secretary for FHEO in the order specified herein and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason

VOL 60 ISS 71 APR 13 1995 UMI

of absence, disability, or vacancy in office

Authorization to serve as Acting Assistant Secretary for FHEO shall not exceed the time limitations imposed by the Vacancies Act, 5 U.S.C. 3348.

Section B. Authority Revoked

The Order of Succession of the Assistant Secretary for FHEO, published on the **Federal Register** on February 9, 1993, at 58 FR 7809, is hereby revoked.

Authority: Sec.7(d), Department of Housing and Urban Development Act [42 U.S.C. 3535(d)].

Dated: April 5, 1995.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 95–9086 Filed 4–12–95; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT–787392

Applicant: San Bernardino County Museum, Redlands, California.

The applicant requests amendment of their permit to include authorization to take (capture, mark, and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) in Orange, Riverside, and San Diego Counties, California, for the purpose of enhancing the survival of the species.

Permit No. PRT–789266

Applicant, Patricia Ann Hobell, Oceanside, California.

The applicant requests amendment of her permit to include authorization to take (survey populations and monitor nesting) the western snowy plover (*Charadrius alexandrinus nivosus*) and take (survey populations, monitor nesting, band and measure chicks) the California least tern (*Sterna antillarum browni*) in Orange and San Diego Counties, California, for the purpose of enhancing the survival of the species.

Permit No. PRT–797665

Applicant: Regional Environmental Consultants, San Diego, California.

The applicant requests amendment of their permit to include authorization to take (capture, handle, and release) the Pacific pocket mouse (*Perognathus longimembris pacificus*), take (harass by survey, collect and sacrifice voucher specimens) the conservancy fairy shrimp (*Branchinecta conservatio*), vernal pool fairy shrimp (*Branchinecta lynchi*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*), and remove and reduce to possession from areas under Federal jurisdiction (for translocation from disturbed areas) *Eryngium aristulatum* var. *parishii* (San Diego button-celery), *Orcuttia californica* (California Orcutt grass), *Pogogyne abramsii* (San Diego mesa mint), and *Pogogyne nudiuscula* (Otay mesa mint) throughout the range of the species in California for the purpose of enhancing the survival of the species.

Permit No. PRT–799679

Applicant: Santa Barbara Museum of Natural History, Santa Barbara, California.

The applicant requests a permit to take (survey and monitor nesting colonies) the California least tern (*Sterna antillarum browni*) on Vandenburg Air Force Base, Santa Barbara, California, for the purpose of enhancing the survival of the species.

Permit No. PRT–800291

Applicant: Ibis Environmental Services, Tiburon, California.

The applicant requests a permit to take (survey using taped calls) the California clapper rail (*Rallus longirostris obsoletus*) in the San Francisco Bay area, California, for the purpose of enhancing the survival of the species.

Permit No. PRT–800783

Applicant: California Department of Parks and Recreation, Division of Off-Highway Motor Vehicles, Sacramento, California.

The applicant requests a permit to take (harass by survey, collect and sacrifice voucher specimens) the conservancy fairy shrimp (*Branchinecta conservatio*), vernal pool fairy shrimp (*Branchinecta lynchi*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*) from vernal pools in Rancho Cordova and Oroville, California, for the purpose of enhancing the survival of the species.

Permit No. PRT–800783

Applicant: Jepson Prairie Reserve, Solano County, California.

The applicant requests a permit to take (harass by survey, collect and release) the conservancy fairy shrimp (*Branchinecta conservatio*), vernal pool fairy shrimp (*Branchinecta lynchi*), and vernal pool tadpole shrimp (*Lepidurus packardi*) from vernal pools on the Jepson Prairie Reserve, California for educational programs for the purpose of enhancing the survival of the species.

Permit No. PRT–800793

Applicant: Ray Griffiths, Georgetown, California.

The applicant requests a permit to take (harass by survey, collect and sacrifice voucher specimens) the conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool fairy shrimp (*Branchinecta lynchi*), and vernal pool tadpole shrimp (*Lepidurus packardi*) from vernal pools throughout the range of the species in California for the purpose of enhancing the survival of the species.

Permit No. PRT–800794

Applicant: Zentner and Zentner, Inc., Sacramento, California.

The applicant requests a permit to take (harass by survey, collect and sacrifice voucher specimens) the conservancy fairy shrimp (*Branchinecta conservatio*), vernal pool fairy shrimp (*Branchinecta lynchi*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*) from vernal pools throughout the range of the species in California for the purpose of enhancing the survival of the species.

Permit No. PRT–800797

Applicant: Donald L. Davis, Oakview, California.

The applicant requests a permit to take (harass during population and nest monitoring, removal of non-native vegetation from nesting areas, and establishment of predator exclosures) the California least tern (*Sterna antillarum browni*) in Ventura County, California, for the purpose of enhancing the survival of the species.

Permit No. PRT–800924

Applicant: Renee Y. Owens, San Marcos, California.

The applicant requests a permit to take (survey using taped vocalizations and monitor nests) the California gnatcatcher (*Polioptila californica californica*) and the least Bell's vireo (*Vireo bellii pusillus*) in San Diego and Orange Counties, California for the purposes of enhancing the survival of the species.

Permit No. PRT–800926

Applicant: California Department of Transportation, District 8, San Bernardino, California.

The applicant requests a permit to take (survey using taped vocalizations and monitor nests) the California gnatcatcher (*Polioptila californica californica*) and the least Bell's vireo (*Vireo bellii pusillus*) in Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, California for the purpose of enhancing the survival of the species.

Permit No. 801019

Applicant: Aqua Farms, LLC, Portland, Oregon.

The applicant requests a permit to take (collect and sacrifice) Lost River sucker (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostrum*) larvae at the confluence of the upper Klamath Lake, 'A' Canal, and Link River for scientific research for the purpose of enhancing the survival of the species.

DATES: Written comments on the permit applications must be received by May 15, 1995.

ADDRESSES: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents, within 30 days of the date of publication of this notice, to the following office: U.S. Fish and Wildlife Service, Ecological Services, Division of Consultation and Conservation Planning, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. Telephone: 503–231–2063; FAX: 503–231–6243. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: April 6, 1995

David L. McMullen,

Acting Deputy Regional Director, Region 1, Portland, Oregon

[FR Doc. 95–9131 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[AZ-050–05–1430–00; AZA–29060]

Arizona: Realty Action, Recreation and Public Purposes (R&PP) Act Classification; Mohave County and La Paz County, Arizona, AZA–29060.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—Recreation and Public Purposes (R&PP) Act classification; Mohave County, and La Paz County, Arizona.

SUMMARY: The following public lands in Mohave County, and La Paz County, Arizona have been examined and found suitable for classification for lease or conveyance, under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*). The lands will not be offered for lease or conveyance until at least 60 days after the date of publication of this notice in the **Federal Register.** The lands described below have been developed by the Arizona State Parks Department (State Parks) for park purposes, and are currently in use for that purpose. The lands are currently leased to State Parks by the United States pursuant to Reclamation lease authority, and particularly pursuant to the Acts of June 17, 1902, (32 Stat. 388) and August 4, 1939, (53 Stat. 1187, 1196) as amended by the Act of August 18, 1950 (64 Stat. 463). This action will allow lease or conveyance of lands to State Parks under current and more appropriate Recreation and Public Purposes Act authority. All legal descriptions are within the Gila and Salt River Meridian, Arizona.

The following lands are hereby classified suitable for lease to State Parks:

1. Cattail Cove State Park

T 12 N., R 18 W.,
Sec. 19, that portion of lot 4 acquired for use by the Bureau of Reclamation (approximately 18 acres);
T 12 N., R 19 W.,
Sec. 25, lots 1, 2 & 3, NE¼NE¼ (136.82 acres).
Containing 154 82 acres, more or less

2. Lake Havasu State Park

T 13 N., R 20 W.,
Sec. 23, lots 2 & 3, E½SW¼, W½W½SE¼, SE¼NW¼SE¼, E½SW¼SE¼, SE¼SE¼.
Containing 239.39 acres, more or less.
Total lands classified suitable for lease is 394.21 acres, more or less.

The following public lands are hereby classified suitable for conveyance to State Parks:

1. Buckskin Mountain State Park

T 11 N., R. 18 W.,
Sec. 32, all, excepting that portion of the SW¼ lying west of Arizona State Highway 95 as rerouted (approximately 400 acres);
Sec. 33, lots 10, 11 & 12, S½NW¼, S½ (507 38 acres).
Containing 907.38 acres, more or less

2. Cattail Cove State Park

T 12 N , R. 18 W.,
Sec. 19, all, excepting that portion of lot 4 acquired for use by the Bureau of Reclamation (approximately 600 acres);
Sec. 20, W½, excepting that portion east of Arizona State Highway 95 (approximately 200 acres);
Sec. 29, all, excepting that portion east of Arizona State Highway 95 (approximately 500 acres);
Sec. 30, all (481.42 acres);
T 12 N., R. 19 W.,
Sec. 24, all (628.20 acres).
Containing 2409 62 acres, more or less.

3. Lake Havasu State Park

T 13 N., R 20 W.,
Sec. 23, lot 5, NE¼SE¼, NE¼NW¼SE¼ (61.33 acres);
Sec. 26, lots 1–4, NE¼ (290.93 acres).
Containing 352.26 acres, more or less.
Total lands classified suitable for conveyance is 3669.26 acres, more or less.
Total lands classified for lease or conveyance is 4063.47, more or less.

The final lease or patent documents will reflect resurveyed and revised descriptions of certain parcels. The lands are not needed for Federal purposes. Lease or conveyance conforms to the Yuma District Resource Management Plan and would be in the public interest. Leases or patents, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove materials.

4. All prior and existing rights.

5. All lands adjacent to Lake Havasu below 450 feet above mean sea level are excepted and reserved to the United States for the operation of Parker Dam and Lake Havasu.

6. An inundation easement is reserved to the United States for all parcels adjacent to Lake Havasu for those lands between 450 and 455 feet above mean sea level for the operation of Parker Dam and Lake Havasu.

7. An inundation easement is reserved to the United States for those lands

VOL 60 ISS 71 AP 13 1995 UMI

adjacent to the Colorado River downstream from Parker Dam for the operation of Parker and Headgate Dams.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Yuma District, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona. Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Levi Deike, Area Manager, Havasu Resource Area Office, 3189 Sweetwater Avenue, Lake Havasu City, AZ 86406.

CLASSIFICATION COMMENTS: Interested parties may submit comments on the suitability of the lands for park purposes. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with the local planning and zoning, or if the use is consistent with State and Federal programs.

Any adverse comments will be reviewed by the Arizona State Director, Bureau of Land Management, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for park purposes.

FOR FURTHER INFORMATION CONTACT: Joe Liebhauser, Yuma District, Havasu Resource Area Office at the address above, or by telephone at (520) 855–8017.

Dated: April 6, 1995.

Maureen A. Merrell,

Assistant District Manager, Administration/ Acting District Manager.

[FR Doc. 95–9100 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–32–P

[VT–046–01–1430–00]

Notice of Realty Action, Conveyance of Public Land in Garfield County, Utah, Panguitch City Airport, UTU–71137; Correction

SUMMARY: In notice document UTU–71137 beginning on page 9393 in the issue of Friday, February 17, 1995, the lands to be conveyed are incorrectly described. On page 9394, in the first column, under the heading, "Panguitch City Airport", in the land description, in T. 34 S., R. 5 W., "Section 14, SW¼NW¼SW¼NE¼; W½SW¼SW¼NE¼; S½NE¼SE¼NW¼; SE¼NE¼SE¼NW¼; E½SW¼SE¼NW¼; SE¼SE¼NW¼" should read "Section 14, SW¼NW¼SW¼NE¼; W½SW¼SW¼NE¼; S½NE¼SE¼NW¼; SE¼NW¼SE¼NW¼; E½SW¼SE¼NW¼; SE¼SE¼NW¼".

FOR FURTHER INFORMATION: Detailed information concerning this action is available for review at the Kanab Area Office, 318 North 1st East, Kanab, Utah 84741, telephone (801) 644–2272.

Dated: April 7, 1995.

G. Von Swain,

Acting District Manager.

[FR Doc. 95–9101 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–DQ–M

[ES–960–9800–02] ES–047193, Group 85, Arkansas

Filing of Plat of Survey; Arkansas

The plat, in four sheets, of the dependent resurvey of the south boundary, Township 15 North, Range 20 West, a portion of the subdivisional lines, the survey of the subdivision of certain sections, and the survey of certain exceptions to U.S. Forest Service Tracts, Township 14 North, Range 20 West, Fifth Principal Meridian, Arkansas, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on May 22, 1995.

The survey was requested by the U.S. Forest Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor for Cadastral Survey, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., May 22, 1995.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: April 5, 1995.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 95–9053 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–GJ–M

[CO–942–95–1420–00]

Colorado: Filing of Plats of Survey

April 5, 1995.

The plats of survey of the following described land are officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m. on March 31, 1995.

The plat representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and a portion of the subdivision of sections 1 and 2, T. 32 N., R. 13 W., New Mexico Principal Meridian, Colorado, Group No. 725, was accepted March 1, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plat representing the dependent resurvey of a portion of the subdivisional line between sections 13 and 24, T. 3 N., R. 90 W., Sixth Principal Meridian, Colorado, Group No. 1057, was accepted December 16, 1994.

The plat representing the dependent resurvey of a portion of the subdivision of section 34, T. 6 N., R. 100 W., Sixth Principal Meridian, Colorado, Group No. 1066, was accepted December 16, 1994.

The supplemental plat amending the labeling of three easement areas from "wetlands easement" to "flood easement" and "public road easement", in sections 13 and 24, T. 51 N., R. 7 W., New Mexico Principal Meridian, Colorado, was accepted February 9, 1995.

The supplemental plat creating new lots 12 and 13 from original lot 7 in section 24, T. 36 N., R. 6 E., New Mexico Principal Meridian, Colorado, was accepted February 9, 1995.

The supplemental plat, eliminating lot 42 and correcting the boundary and area of lot 33 in the NW 1/4 of section 18, T. 10 S., R. 84 W. Sixth Principal Meridian, Colorado, was accepted March 17, 1995.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of portions of the east and north boundaries, a portion of the subdivisional lines, the subdivision of certain sections, and the metes-and-bounds survey of parcel A and a portion of Parcel B, in section 14, T. 7 N., R. 85 W., Sixth Principal Meridian, Colorado, Group No. 979, was accepted March 2, 1995.

The plat representing the dependent resurvey of a portion of the subdivisional lines, T. 27 S., R. 57 W., Sixth Principal Meridian, Colorado, Group No. 1001, was accepted February 23, 1995.

The plat representing the dependent resurvey of a portion of the Third Standard Parallel South (south boundary), a portion of the north boundary, and a portion of the subdivisional lines, T. 15 S., R. 85 W., Sixth Principal Meridian, Colorado, Group No. 1060, was accepted January 27, 1995.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

Carl F. Nagy,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc. 95–9102 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–JB–P

[ID–942–7130–00–7661]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., April 6, 1995.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines, and meanders of the Middle Fork of the Clearwater River, the subdivision of section 5, and a metes-and-bounds survey in section 5, T. 32 N., R. 4 E., Boise Meridian, Idaho, Group No. 893, was accepted, April 3, 1995.

The plat representing the dependent resurvey of portions of the North Boundary of the Nez Perce Indian Reservation and the subdivisional lines, and the subdivision of section 20, T. 37 N., R. 1 W., Boise Meridian, Idaho, Group No. 897, was accepted April 3, 1995.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs, Northern Idaho Agency.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 6, 1995.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–9103 Filed 4–12–95; 8:45 am]

BILLING CODE 4310–GG–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–359]

Chile: Probable Economic Effect on U.S. Imports, Industries, Consumers, and Exports of Accession to the North American Free Trade Agreement and Report on Services Trade

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: April 6, 1995.

SUMMARY: Following receipt on March 8, 1995, of a request from the U.S. Trade Representative (USTR), the Commission instituted investigation No. 332–359, Chile: Probable Economic Effect on U.S. Imports, Industries, Consumers, and Exports of Accession to the North American Free Trade Agreement and Report on Services Trade, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of—

(a) Advising the President, with respect to each item in chapters 1 through 98 of the Harmonized Tariff Schedule of the United States (HTS), as to the probable economic effect of providing, under the North American Free Trade Agreement (NAFTA), duty-free treatment for imports of products of Chile on industries in the United States producing like or directly competitive articles and on consumers;

(b) Advising the President, with respect to each product sector, of the probable economic effect on U.S. exports to Chile of the removal of Chilean import duties under the NAFTA; and

(c) Preparing a report on U.S. service transactions with Chile that would (1) provide an overview of the nature and extent of such transactions; (2) highlight key U.S. service industries that export services to Chile; (3) identify principal nontariff barriers that impede the participation of U.S. services-providers in the Chilean market; and (4) assess the effects of such barriers on U.S. service providers.

As requested by the USTR, the advice will assume that U.S. nontariff measures that are incompatible with the NAFTA will not be applicable to such imports, and the Commission will note in its report any instance in which the continued application of a U.S. nontariff measure would result in different advice with respect to the effect of the removal of the duty.

Similarly at the request of the USTR, the advice with respect to the removal of Chilean duties on U.S. products will assume that any known Chilean nontariff measures incompatible with the rules of the NAFTA will not be applicable to U.S. products, and any instance where the continued application of such a Chilean nontariff measure would result in different advice will be noted by the Commission.

The Commission expects to submit its report by September 8, 1995.

FOR FURTHER INFORMATION: Information on general topics may be obtained from the project leader, Mr. James Lukes, Office of Industries (202–205–3426) or the assistant project leader, Ms. Gail Burns, Office of Industries (202–205–2501) and on legal aspects, from Mr. William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of Public Affairs (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810). For information on a product basis, contact the appropriate member of the Commission's Office of Industries, as follows:

(1) Agricultural and forest products, Mr. Douglas Newman (202–205–3328)
(2) Chemical, energy-related, textile, apparel, and footwear products, Mr. Lee Cook (202–205–3471)
(3) Minerals, metals, machinery, and miscellaneous manufactures, Ms. Gail Burns (202–205–2501)
(4) Electronic and transportation products, Ms. Deborah McNay (202–205–3425)
(5) Service industries, Mr. Christopher Melly (202–205–3461)

Background

The request letter noted that at the conclusion of the Summit of the Americas meeting in Miami in December, President Clinton, the Prime Minister of Canada, and the Presidents of Mexico and Chile jointly announced their decision to begin the process by which Chile will accede to the NAFTA. The announcement also stated that the Ministers responsible for trade from the four countries would meet by May 31, 1995, and that accession negotiations would begin expeditiously thereafter. The USTR indicated in his request letter that the Commission's assistance is needed in the work of preparing for these negotiations.

The USTR requested that the Commission provide its advice with respect to the removal of U.S. tariffs as if this request had been made pursuant to section 131 of the Trade Act (the Trade Act). If trade agreement negotiating and legislative procedures

VOL 60 ISS 71 AP 13 1995 UMI

requiring advice under section 131 of the Trade Act are enacted by Congress prior to completion of the Commission's report, the USTR indicated in the request letter that he will request that the advice with respect to U.S. tariffs be converted to a report under section 131. If trade agreement negotiating and legislative procedures requiring advice under section 131 of the Trade Act are enacted by Congress after the report is completed, the request letter indicated that the Commission will be requested to provide such advice under section 131.

Public Hearing

A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on July 19, 1995, and continuing, as required, on July 20. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., July 7, 1995. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., July 10, 1995; the deadline for filing post-hearing-briefs or statements is 5:15 p.m., July 25, 1995.

In the event that, as of the close of business on July 7, 1995, no witnesses are scheduled to appear at the hearing, the hearing will be cancelled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–2000) after July 7, 1995, to determine whether the hearing will be held.

Because the Commission expects to provide detailed advice on narrowly defined industries and product lines, testimony and briefs should focus on specific industries and products rather than broad issues of trade policy. In the context of specific industries and products, the Commission is interested in receiving information on existing nontariff barriers to trade with Chile.

Requests to appear at the hearings must contain the following information:

a. A description of the article or articles on which testimony will be presented, including, if possible, the item number or numbers in the Harmonized Tariff Schedule of the United States (1995) covering the article or articles.

b. The name and organization of the witness or witnesses who will testify, and the name, address, telephone number, and organization of the person filing the request.

c. A statement indicating whether the testimony to be presented will be on behalf of importers, domestic producers, consumers, or other interests.

Written Submissions

In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

Because the Commission intends to use the information collected in the course of the section 332 investigation in the section 131(b) investigation, should one be requested, the Commission requests that all such requests for confidential treatment filed in connection with the section 332 investigation contain the following consent statement: "I consent to the use of this confidential business information by the Commission in preparing its advice to the President on this matter under section 131(b) of the Trade Act of 1974." Submissions requesting confidential treatment not containing this consent statement will be returned to the submitter. Any grant of confidential treatment to information received in the section 332 investigation would continue to apply to such information if it is used in the section 131(b) investigation.

All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on July 25, 1995. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: April 7, 1995.

By order of the Commission

Donna R. Koehnke,

Secretary

[FR Doc. 95–9088 Filed 4–12–95; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 9622(d)(2), notice is hereby given that a proposed Consent Decree in *United States of America* v. *Bayard Mining Corp., Mining Remedial Recovery Corp., and VIACOM International Inc.*, Civil Action No. 95–285–MVLFG, was lodged on March 21, 1995 with the United States District Court for the District of New Mexico. Contemporaneously with the lodging of the consent decree, the United States filed a civil action under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9606 and 9607, for injunctive relief to abate an imminent and substantial endangerment to the public health and welfare or the environment due to the release or threatened release of hazardous substances from a facility, and for recovery of response costs that have been and will be incurred by the United States in response to releases or threatened releases of hazardous substances from the same facility, known as the Cleveland Mill Superfund site, located in Grant County, New Mexico. Under the proposed Consent Decree, Settling Defendants will conduct or finance 100% of the remedial design and remedial action at the Site; pay 100% of past and future costs; and pay for damages to natural resources at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044. Comments should refer to *United States of America* v. *Bayard Mining Corp., Mining Remedial Recovery Corp., and VIACOM International Inc.*, DOJ Ref. #90–11–3–1171.

The proposed consent decree may be examined at the office of the United States Attorney, 625 Silver, SW, Suite 400 Albuquerque, New Mexico; the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library.

In requesting a copy, please enclose a check in the amount of $21.25 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9106 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed partial consent decree in *United States* v. *Pierce*, Civil Action No. 83–CV–1623, was lodged on March 29, 1995 with the United States District Court for the Northern District of New York.

The complaint in the *Pierce* action was filed pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, to recover costs incurred by the United States in taking response actions in connection with the first operable unit cleanup at the York Oil Superfund Site located in Moira, Franklin County, New York ("Site").

The proposed Consent Decree embodies an agreement by defendant Aluminum Company of America ("Alcoa") to design and implement a remedy selected for the first operable unit at the Site involving the cleanup of contaminated soils and groundwater. Alcoa has also agreed to perform the subsequent operation and maintenance for this remedial work, and to reimburse EPA for 40% of the first $400,000 of EPA's oversight and periodic review costs. Alcoa has also agreed to pay $1,907,259 towards EPA's past costs at the Site.

The proposed Consent Decree includes an agreement by certain federal agencies (the Department of the Army, the Department of the Air Force, the Department of Transportation, and the U.S. Postal Service) to pay for 35% of the cost of the remedy and of the cost of operation and maintenance, and to reimburse EPA for 35% of the first $400,000 of EPA's oversight and periodic review costs. The federal agencies have also agreed to pay $1,668,852 toward EPA's past costs at the Site.

The proposed Consent Decree includes an agreement by sixteen additional potentially responsible parties at the Site to pay for approximately 9% of the cost of the remedy and of the operation and maintenance, and to pay $428,881.31 toward EPA's past costs at the Site. The proposed Consent Decree also includes an agreement by the EPA Hazardous Substance Superfund to pay for 16.11% of the cost of the remedy.

The proposed Consent Decree includes a covenant not to sue by the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, and under Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Pierce*, DOJ Ref. #90–5–2–1–585. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed Consent Decree may be examined at the Region 2 Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278, at the U.S. Attorney's Office, 100 South Clinton Street, Syracuse, NY, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $61.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9107 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 98–95]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the United States Marshals Service, Department of Justice (DOJ), proposes to establish a new system of records entitled "Joint Automated Booking Stations, Justice/USM–014."

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be provided a 30-day period in which to comment on the new routine uses of a system of records. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires that it be given a 40-day period in which to review the new system.

Therefore, please submit any comments by May 15, 1995. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Systems Policy Staff, Justice Management Division, Department of Justice, Washington, DC 20503 (Room 850, WCTR Building).

A description of the system of records is provided below. In accordance with 5 U.S.C. 552a(r), DOJ has provided a report on the proposed new system to OMB and the Congress.

Dated: March 30, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

USM–014

SYSTEM NAME:

Joint Automated Booking Stations (JABS), USM–014

SYSTEM LOCATION:

U.S. Marshals Service (USMS) headquarters, 600 Army Navy Drive, Arlington, Va. 22202–4210; and regional office of the Drug Enforcement Administration (DEA) at 6320 NW 2nd Avenue, North Miami Beach, FL 33167.[1]

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Alleged criminal offenders who have been arrested and booked.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include certain generic or "common" data elements which have been collected by an arresting Federal, State, or local agency and booked by that agency at its automated booking station (ABS), or booked by an agency on behalf of another agency which performed the arrest.[2] Such common

[1] The Miami repository will be physically housed at DEA facilities; nevertheless, management and oversight—including the physical security of the system—will be the responsibility of USMS personnel. When appropriate, the "system location" will be revised to include additional repositories.

[2] Initially, these records will include only those of the Department of Justice (DOJ) law enforcement components. However, at such time as other

Continued

VOL 60 ISS 71 AP 13 1995 UMI

data (approximately 60 data elements) have been identified by law enforcement as those case and biographical data generally collected by the law enforcement community during booking arrests, e.g., name, date and place of birth, citizenship, hair and eye color, height and weight, occupation, social security number, place, date and time of arrest and jail location, charge, armed description, sentenced or unsentenced, and health status, etc. Such data may also include case agent name, notes and observations regarding subjects' physical or mental condition, degree of psychological stability or acumen, reported use of habit forming substances, substances for which the subject has a valid prescription, names of individuals from which the subject is to be segregated, extraordinary handling procedures to include precautionary warnings, names of acquaintances (criminal/non-criminal), Federal writ, and any other pertinent information related to known activities relevant or unique to the record subject. Finally, as the technology is developed, such data may include electronic fingerprints, mugshots, and voice samples.

Categories of records may include paper records where the USMS has a need to print copies, e.g., copies of mugshots.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 534, 564; 5 U.S.C. 301 and 44 U.S.C. 3101.

PURPOSE:

The primary purpose of the JABS system is to enable Federal, State, and local agencies which conduct arrests and/or booking activities to store such data in regional repositories to eliminate duplication efforts among multiple law enforcement agencies participating in a single booking/arrest, to follow the arrestee through the booking process, and thereby share "realtime" booking and arrest data within a region. It will also assist in ancillary law enforcement efforts by permitting law enforcement to learn of the arrest and apprehension of a fugitive by another agency in that region; verify the identity of an arrestee or, as the technology is developed, obtain identifying data that will assist with surveillance and wiretap activities in the event the arrestee becomes a fugitive subsequent to booking. Finally, it may assist other judicial/law enforcement agencies in obtaining such information as will permit them to perform their official duties.

JABS will also assist law enforcement at the national level through interface of its regional repositories with the Federal Bureau of Investigation's (FBI) Identification Division Records System, Justice/FBI–009 (IDENT). IDENT currently serves as a "national" repository for fingerprint data. As the technology is developed, electronic fingerprint, mugshot, and voice sample data, together with certain personally identifying data, date of arrest, etc. may be copied from JABS regional repositories to IDENT. (Consistent with published routine use disclosures for the IDENT system of records, IDENT may then respond to electronic inquiries from other JABS regional repositories to verify fingerprint or other identifying data, to learn of the arrest of a fugitive in another regional jurisdiction; and/or, where indicated by the IDENT record, to allow an inquiring regional repository to determine that a more complete arrest record resides with, and may be requested from, another JABS regional repository; and/or to otherwise assist in the conduct of other authorized law enforcement activities such as surveillance and wiretap.)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(a) The regional repositories may be electronically accessed by Federal, State, and local law enforcement agencies to input and retrieve booking and arrests data on criminal offenders and thereby eliminate the need for duplicate bookings in that region, i.e., the collection of much the same data by multiple agencies in prisoner processing activities involving such agencies from arrest through incarceration. (For example, an individual arrested by the Bureau of Alcohol, Tobacco, and Firearms (ATF) and transported by the USMS to a Federal correctional institution may be processed by ATF, USMS, and the Bureau of Prisons.) Such repositories may be electronically accessed by these and other local law enforcement agencies in the region also for other law enforcement purposes such as to learn about the arrest of a fugitive wanted in several local jurisdictions, to verify the identity of an arrestee, or to assist in the conduct of surveillance and/or wiretap activities. In addition, access by one regional repository to the complete record residing in another regional repository, e.g., to obtain access to the record of a fugitive wanted in one or more regional jurisdictions, may be accomplished by a telephone request until such time as technology may permit electronic requests between regional repositories. Further, at such time as the technology is available, other judicial/law enforcement agencies such as the courts, probation, and parole agencies may have direct electronic access to JABS in order to obtain data which may assist them in performing their official duties. For example, the courts may need direct electronic access to verify the identity of an individual who appears in court claiming not to be the individual identified by the arresting agency.

Finally, where necessary and/or appropriate, the USMS may disclose relevant information from the repositories as follows:

(b) To any Federal, State, and/or local authorities to the extent necessary to permit them to perform their law enforcement responsibilities; or to any Federal, State, and/or local authorities, or to any other entity or person, to the extent required to solicit information necessary for law enforcement purposes;

(c) To other judicial/law enforcement agencies such as the courts, probation, and parole agencies to assist them in performing their official duties;

(d) To a Federal agency in response to its request and in connection with hiring or retention of an employee, the issuance of the required security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information relates to the requesting agency's decision on the matter;

(e) To private contractors and/or maintenance personnel but only to the extent that access is needed to perform contractual duties such as maintenance or other administrative support operations;

(f) To a Member of Congressor staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record;

(g) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

(h) To a court or adjudicative body before which the USMS or other appropriate DOJ component is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the USMS or other appropriate DOJ component to be arguably relevant to the litigation:

(i) The USMS or DOJ component, or any subdivision thereof, or (ii) any employee of the USMS or DOJ in his or her official capacity, or (iii) any employee of the USMS or DOJ in his or her individual capacity where the DOJ has agreed to represent the employee, or (iv) the United States, where the DOJ determines that the litigation is likely to affect it or any of its subdivisions;

(i) To the National Archives and Records Administration (NARA) and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906;

(j) To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of an investigation or case (e.g. an arrest) arising from the matters of which they complained and/or of which they were a victim; and

(k) To any person or entity to the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in computerized media and on printed copy.

RETRIEVABILITY:

Data may be retrieved by name or identifying number.

SAFEGUARDS:

Access will be limited to those with a need to know. Facilities and offices which house computer systems will be protected at all times by appropriate locks, security guards, and/or alarm systems. Access to the systems equipment is limited to those with a need-to-know through encryption and password protection measures.

RETENTION AND DISPOSAL:

A disposition schedule will be developed for approval by the USMS Records Management Officer and NARA. Upon approval of such schedule, this notice will be revised to reflect the correct retention and disposal schedule for these records.

SYSTEM MANAGER(S) AND ADDRESS:

Director, U.S. Marshals Service, 600 Army-Navy Drive, Arlington, Virginia 22202–4210

NOTIFICATION PROCEDURE:

Same as "Record Access Procedures."

RECORD ACCESS PROCEDURE:

Address all requests for access to JABS records, in writing, to the system manager identified above, "Attention: FOIA/PA Officer." Clearly mark the letter and envelope "Privacy Act request." Clearly indicate the name of the requester, nature of the record sought, and approximate date of the record. In addition, provide the required verification of identity (28 CFR 16.41(d)) and a return address for transmitting the information.

CONTESTING RECORDS PROCEDURE:

Same as above.

RECORD SOURCE CATEGORIES:

The record subject; Federal, State, and local law enforcement personnel; the courts; and medical personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted records in this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e)(5), (e)(8), and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

[FR Doc. 95–9105 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Federal, State and local agencies either establish similar ABS's or use the ABS of another agency to upload "common" data to the repositories (i.e., "common" data as described by this system of records), this system of records will also include records provided by non-DOJ law enforcement agencies.

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—High Performance Composites Cooperative Arrangement

Notice is hereby given that, on November 17, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), BDM Federal, Inc., acting on behalf of the High Performance Composites Cooperative Arrangement ("HPC"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AVCO Corporation, acting through its Textron Specialty Materials Division, Lowell, MA, has become a member of the HPC.

No other changes have been made in either the membership or planned activity of the HPC. Membership remains open, and the HPC intends to file additional written notification disclosing all changes in membership.

On April 6, 1994, BDM Federal, Inc., acting on behalf of the HPC, filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on June 3, 1994 (59 FR 28899).

The last notification was filed with the Department on September 21, 1994. A notice was published in the Federal Register on February 8, 1995 (60 FR 7584).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9111 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bell Communications Research, Inc.

Notice is hereby given that, on August 18, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc., ("Bellcore") has filed written notifications on behalf of Bellcore; Hughes Network Systems ("Hughes"); and Motorola Inc. ("Motorola") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; Hughes, Germantown, MD; and Motorola, Schaumburg, IL.

Bellcore; Hughes; and Motorola entered into an agreement effective as of July 28, 1994, to engage in cooperative research into technologies related to wireless access communications systems (WACS) and derivatives thereof to better understand the feasibility and application of these technologies for exchange and access services, including experimental prototype fabrication for the demonstration of such technology and obtaining an understanding of the issues on which technical standards can be proposed to public standards bodies.

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 95–9109 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

VOL
60
ISS
71
AP
13
1995
UMI

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bell Communications Research, Inc.

Notice is hereby given that, on November 29, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications on behalf of Bellcore; AT&T Corporation (AT&T); Bell Atlantic Network Services, Inc. ("Bell Atlantic"); BellSouth Telecommunications, Inc. ("BellSouth"); and Pacific Telesis Group ("Pacific") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; AT&T, Murray Hill, NJ; Bell Atlantic, Silver Spring, MD; BellSouth, Atlanta, GA; and Pacific, San Ramon, CA. Bellcore; AT&T; Bell Atlantic; BellSouth; and Pacific entered into Articles of Collaboration, effective as of October 31, 1994, establishing a consortium to engage in a collaborative research effort of limited duration in order to gain further knowledge in the area of multiwavelength optical fiber communications technology, including weavelength division multiplexing and cross-connect networking architectures, and hybrid optical integration technology, and to better understand the applications of such technology for telecommunications networks, particularly exchanged and exchange access and interexchange service networks.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9110 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—BP Chemicals, Inc.

Notice is hereby given that, on February 3, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), BP Chemicals, Inc., for itself and on behalf of its members, has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: BP Chemicals, Inc., Cleveland, OH; Praxair, Inc., Tonawanda, NY; and SSC, Inc., Woodinvale, WA. BP's general area of planned activity is to engage in an interactive cooperative research and development effort, funded in part by a grant from the National Institute of Standards and Technology Advanced Technology Program, relating to material development and testing, element and module development, modeling and process/system development and ion/electron conducting ceramic membranes. These membranes are expected to find application in industrial gas production and chemicals production. The grant is expected to run for four years commencing on about March 1, 1995.

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 95–9112 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cable Television Laboratories, Inc.

Notice is hereby given that, on December 30, 1994, pursuant to the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Cable Television Laboratories, Inc. ("CableLabs") and General Instrument Corporation of Delaware ("GI") have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties and its general area(s) of planned activity are CableLabs, Boulder, CO; and GI, Hatboro, PA.

The area of planned activity is to conduct certain tests of a prototype modem for digital signal transmission on North American cable television systems.

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 95–9113 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Curagen Corp. and American Cyanamid Co.

Notice is hereby given that, on February 12, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), American Cyanamid Company and CuraGen Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notices were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are CuraGen Corporation, Branford, CN; and American Cyanamid Company, Wayne, NJ. The general area of planned activities is to develop an integrated multi-disciplinary approach to determining how proteins involved in molecular recognition events recognize one another and to apply this information to the rapid development of potential drugs.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9108 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Electronics Industries Foundation

Notice is hereby given that, on October 25, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Electronics Industries Foundation ("EIF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b)

of the Act, the identities of the parties are: The Boeing Company, Seattle, WA; Hughes Aircraft Company, Newport Beach, CA; nCHIP Inc., San Jose, CA; MicroModule Systems Inc., Cupertino, CA; and Texas Instruments Inc., Dallas, TX.

The purpose of this venture is to develop, characterize, and validate high-throughput, reliable and low-cost large format equipment for the manufacture, assembly and test of deposited multichip modules.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9114 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Research and Production Act of 1993—Collaboration for Development of a Manufacturing Competency for High Performance Composites

Notice is hereby given that, on February 23, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), E.I. du Pont de Nemours and Company ("E.I. du Pont") have filed written notifications simultaneously with the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature of objectives of a cooperative arrangement known as the "Collaboration for Development of a Manufacturing Competency for High Performance Composites for Civil Infrastructure Applications." The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: E.I. du Pont, Newark, DE; Hardcore Du Pont Composites L.L.C., New Castle, DE; The Dow Chemical Company, Freeport, TX; Brunswick Technologies, Inc., Brunswick, ME; and Johns Hopkins University, Baltimore, MD. The purpose of the cooperative arrangement is to develop a manufacturing competency for large composite structures based on resin infusion technology focusing on commercial applications for the civil infrastructure market. The program resulted from an award by the National Institute of Standards and Technology, United States Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9115 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Financial Services Technology Consortium, Inc.

Notice is hereby given that, on December 21, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Financial Services Technology Consortium, Inc. (the "Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the new Principal Members of the Consortium are: Corestates Financial Corp., Philadelphia, PA; and Cardinal Bancshares, Inc., Atlanta, GA. The following parties were admitted as Associate Members of the Consortium: Sun Microsystems Laboratories, Inc., Mountain View, CA; and Master Card International, New York, NY. The following party was admitted as an Advisory Member of the Consortium: The National Security Agency, Washington, DC.

No other changes have been made in either the membership or planned activity of the group research project. Membership remains open, and the Consortium intends to file additional written notifications disclosing all changes in membership.

On October 21, 1993, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 14, 1993 (58 FR 65399).

The last notification was filed with the Department on November 22, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 20, 1995 (60 FR 14779).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9116 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computer Technology Corp.

Notice is hereby given that, on July 15, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Microelectronics and Computer Technology Corporation ("MCC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: (1) Celestica, Inc. (a subsidiary of IBM Corporation), North York, Ontario, CANADA, has agreed to participate in MCC's Portable Electronic Systems Packaging Project; (2) Ceridian Corporation, Minneapolis, MN, has agreed to participate in MCC's Flip Chip 2 Technology Development Project; its Portable Electronics Systems Packaging Project; its Mixed Signal Open Systems Project; and its Opto-Electronics Technology Study; Computing Devices International (a division of Ceridian Corporation), Minneapolis, MN, has agreed to participate in MCC's Experimental System Laboratories ADA Fault Tolerance Project; (3) Savantage, LLC., Austin, TX, has agreed to participate in MCC's MultiChip Systems Design Advisor Project in the High Value Electronics Division; and (4) The Boeing Company is no longer an MCC Shareholder.

On December 21, 1984, MCC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 17, 1985 (50 FR 2633).

The last notification was filed with the Department on May 3, 1994. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 30, 1994 (59 FR 33782).

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 95–9117 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Modular Tanker Consortium Joint Venture

Notice is hereby given that on February 6, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Modular Tanker Consortium Joint Venture (the "Consortium") have filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing (1) the identities of the parties to the Consortium and (2) the nature and

VOL
60
ISS
71
AP
13
1995
UMI

objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties and the general area of planned activity are: ABB Industry Oy, Helsinki, FINLAND; Bethlehem Steel Corporation, BethShip Sparrows Point Yard, MD; Bird-Johnson Company, Walpole, MA; Kvaerner Maas Marine, Annapolis, MD; McDermott, Inc., St. Rose, LA; Seaworthy Systems, Essex, CT; and Wartsila Diesel, Annapolis, MD.

The nature of the research program performed in accordance with this Consortium is to engage in a collaborative research effort of limited duration to gain further knowledge and understanding of the technologies, market strategies, and financing options for the construction of an internationally competitive high-technology tanker vessel.

Information about participating in this Consortium may be obtained by contacting Daniel W. Kabel, Wartsila Diesel, Annapolis, MD.

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 95–9118 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Storage Industry Consortium

Notice is hereby given that, on July 26, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.*, ("the Act"), National Storage Industry Consortium ("NSIC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing change in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically the identities of the new members of NSIC are: Advanced Development Corporation, Burlington, MA; Advanced Materials Corporation, Pittsburgh, PA; Ampex Corporation, Redwood City, CA; Conner Peripherals, Longmont, CO; Datatape, Incorporated, Pasadena, CA; Deacon Research, Palo Alto, CA; GTE Government Systems Corporation, Rockville, ME; Hutchinson Technology, Hutchinson, MN; Intevac, Incorporated, Santa Clara, CA; Mountain Optech, Boulder, CO; Pacific Sierra Research, Arlington, VA; and Virtual Storage Systems, Campbell, CA.

The following colleges and universities have joined NSIC as university associate members: Boston University, Boston, MA; Cornell Information Technologies, Ithaca, NY; Cornell Theory Center, Ithaca, NY; Fermi Labs, Batuvia, IL; Los Alamos National Laboratory, Los Alamos, NM; Massachusetts Institute of Technology, Cambridge, MA; National Center for Atmospheric Research, Boulder, CO; National Media Lab, Arlington, VA; Oakridge National Lab, Oak Ridge, TN; Ohio Supercomputer Center, Columbus, OH; Penn State University, University Park, PA; Pittsburgh Supercomputing Center, Pittsburgh, PA; San Diego Supercomputer Center, La Jolla, CA; Sandia National Laboratory, Albuquerque, NM; Stanford Research University, Palo Alto, CA; University of Arkansas, Fayetteville, AR; University of Dayton, Dayton, OH; and University of Michigan, Ann Arbor, MI. NSIC's area of activity remains the sponsorship of research in the area of information storage technology.

No other changes have been made in either the membership or planned activity of the group research project. Membership remains open and NSIC intends to file additional written notification disclosing all changes in membership.

On June 12, 1991, NSIC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 13, 1991 (56 FR 38465).

The last notification was filed with the Department on November 2, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on May 5, 1994 (59 FR 23234).

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 95–9119 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research and Production Act of 1993—Enterprise Integration Tool Set

Notice is hereby given that, on January 23, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Unisys Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Unisys Corporation, Reston, VA: the Digital Systems Resources, Fairfax, VA. The general area of planned activity is to develop an Enterprise Integration Tool Set ("EITS") and product demonstration. The activities of this joint venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc. 95–9120 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Unixware Technology Group Inc.

Notice is hereby given that, on December 12, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), UnixWare Technology Group Inc. (UTG) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members are: Concurrent Computer, Westford, MA, Cray Research Eadan, MI; and Eicon Technologies, Montreal, Quebec, CANADA. In addition, Microport has discontinued its membership with UTG.

No other changes have been made in either the membership or planned activity of the group research project. Membership remains open, and UTG intends to file additional written notification disclosing all changes in membership.

On July 19, 1994, UnixWare Technology Group, Inc., filed its original notification pursuant to section 6(a) of the Act. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 23, 1995 (60 FR 15305).

Constance K. Robinson,

Director of Operations, Antitrust Division

[FR Doc 95–9121 Filed 4–12–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Work Group on Real Estate Investment; Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Real Estate Investment Work Group of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 9, 1995, in room S–3215 A&B, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. is to finalize issues to be examined and to determine witnesses and other testimonies to be solicited.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 1, 1995.

Signed at Washington, DC this 7th day of April, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–9135 Filed 4–12–95; 8:45 am]

BILLING CODE 4510–29–M

Work Group on Pension Education; Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Pension Education work group of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 9, 1995, in Room S–3215 A–B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 9:00 a.m. is to finalize the issues to be examined and to determine witnesses and other testimonies to be solicited.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extend statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 1, 1995.

Signed at Washington, DC this 7th day of April, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–9136 Filed 4–12–95; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 10, 1995, in Suite S–2508, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. is to receive status reports of the council's 1995 work groups and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Orginizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 1, 1995.

Signed at Washington, DC this 7th day of April, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–9137 Filed 4–12–95; 8:45 am]

BILLING CODE 4510–29–M

Work Group on Defined Contribution Adequacy; Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Society Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Defined Contribution Adequacy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on May 10, 1995, in Room S–3215, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 9:00 a.m. is to finalize issues to be examined and to determine witnesses and other testimonies to be solicited.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before May 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or

VOL 60 ISS 71 13 1995 APR UMI

telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before May 1, 1995.

Signed at Washington, DC this 7 day of April, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–9138 Filed 4–12–95; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–71 and DPR–62 issued to the Carolina Power & Light Company (the licensee) for operation of the Brunswick Steam Electric Plant, Units 1 and 2 (BSEP) located in Southport, North Carolina.

The proposed amendment would provide an exception to Technical Specification (TS) 3.0.4. TS 3.0.4 allows entry of a unit into another operational condition only if the conditions of the Limiting Conditions for Operation (LCOs) are met without reliance on TS action statements. The exception requested by the licensee would allow a change in a unit's operational condition in a specific situation in which the unit's LCO concerning the minimum number of operable offsite power circuits is not fully satisfied. Specifically, the exception would allow an operational mode change of a unit if the second unit is in Operational Condition 4 or 5 (i.e., cold shutdown or refueling) and one of the second unit's offsite power circuits is inoperable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change would allow one unit to transition through Operational Conditions 3, 2, and 1 to full power with the opposite unit in Operation Condition 4 or 5 and one off-site power circuit out of service. The current specification allows one unit to operate for up to 45 days with the other unit shutdown and one of the shutdown unit's off-site power circuits unavailable.

A significant level of redundancy of AC sources remains, even with one of the shutdown unit's off-site circuits unavailable. If the shutdown unit's remaining offsite circuit were to fail during the restart of the other unit, some of the operating unit's components that receive AC power from the shutdown unit's emergency buses and their functions would be unavailable until power is restored to the emergency buses by the emergency diesel generators. For example, with Unit 1 shutdown and Unit 2 transitioning through startup to full power operation, the Unit 2 components fed by Emergency Buses E1 and E2 that would be temporarily unavailable on a loss of both Unit 1 off-site circuits include 2 of the 4 drywell coolers (4 of 8 drywell cooling fans), one conventional service water pump, Residual Heat Removal System (RHR) and RHR service water pumps 2C and 2D, Low Pressure Coolant Injection (LPCI) system injection valves, torus spray valves, and two diesel building exhaust fans. Were Unit 2 shutdown and Unit 1 transitioning through startup to full power operation, a Group 6# valve isolation and reactor building/secondary containment isolations also occurs on the operating unit (Unit 1), as well as a Standby Gas Treatment System automatic start. Temporary loss of these functions and the associated isolations and actuations would not cause an automatic unit reactor trip; therefore, a loss of offsite power to emergency buses on the shutdown unit would not cause a transient initiating event on the operating unit. Therefore, the probability of an accident previously evaluated is not significantly increased by the proposed change.

A loss of auxiliary (off-site) power (LOOP) event is an analyzed transient for the Brunswick Plant. A loss of offsite power is assumed to occur following a loss of all external grid connections or faults in the offsite power system itself. The Brunswick Probabilistic Safety Assessment has modeled the loss of offsite power event. The most probably causes of a loss of offsite power event involve natural events or transmission network maintenance. Neither of these is affected by the proposed change. Therefore, the probability of a previously evaluated transient is not significantly increased.

This change does not affect the remaining off-site Technical Specification requirements nor does it affect the on-site electrical distribution Technical Specification requirements. The existing Technical Specifications require all four diesel generators and the remaining offsite power sources of both units be operable. Technical Specifications 3.8.1 1.c and 3.8.1.1.d will still be applicable to the unit transitioning through the startup evolution. These specifications dictate requirements for the operating unit upon loss of a diesel generator or an additional offsite power circuit. Thus, operability of the emergency diesel generators and the remaining offsite power sources is unaffected by this change. Since the emergency diesel generator capability is unaffected by this change, the proposed change would not affect the capability of accident mitigating equipment; therefore, the consequences of previously evaluated accidents is not affected by the proposed change.

2. The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated. A LOOP is one of the transients analyzed in the Brunswick Update Final Safety Analysis Report. The proposed action would not affect the conclusions of that analysis. In addition, the Brunswick design basis accident analyses accommodate a loss of off-site power coincident with the design basis accident and a single failure of one emergency diesel generator. The proposed change does not affect operability requirements of the emergency diesel generators. Therefore, no new malfunction or accident is introduced by the proposed action.

3. The proposed amendments do not involve a significant reduction in a margin of safety. The basis of Technical Specification 3.0.4 is to ensure that facility operation is not initiated with either required equipment or systems inoperable or other limits being exceeded. Exceptions to this provision are provided for specifications when startup with inoperable equipment would not affect plant safety. Sufficient redundancy of AC power will continue to exist and no fewer sources of AC power will be available than would be allowed for power operation for up to 45 days under Specification 3.8.1 1.a. Therefore, the proposed change would not impact safety and the margin of safety imposed by either Technical Specification 3.0.4 or Specification 3/4.8.1 would not be significantly reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 15, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S Nuclear Regulatory Commission Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Data gram Identification Number N1023 and the following message addressed to David B. Mathews, petitioner's name and telephone number, date petition was mailed plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington.

VOL 60 ISS 71 APR 13 1995 UMI

DC 20555, and to General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 31, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Dated at Rockville, Maryland, this 6th day of April.

For the Nuclear Regulatory Commission.

David C. Trimble,

Project Manager, Project Directorate II–1, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9141 Filed 4–12–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Request under review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer, (202) 942–8800

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, N.W., Washington, D.C. 20549

Reinstatement: The Focus Group Research Survey

File No. 270–386

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission ("Commission") has resubmitted for the Office of Management and Budget approval for a request to execute a focus group research survey. The survey will attempt to assess the public's understanding of mutual funds and other financial matters. The results will enable the Commission to better understand the level of investor comprehension of mutual fund prospectuses and financial issues.

The survey is estimated to require approximately 126.00 burden hours. Approximately 40 people will participate in the focus group sessions. Each session will contain 10 individuals and will last about 3.15 hours.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated burden hours for compliance with the Securities and Exchange Commission to David T. Copenhafer, Acting Director, Office of Information Technology, 450 Fifth Street, N.W. Washington D.C. 20549 and the Clearance Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: March 28, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–9075 Filed 4–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35573; International Series Release No. 800 File No. SR–CBOE–95–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Listing and Trading of Options on the CBOE Latin 15 Index

April 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 20, 1995, the Chicago Board Options Exchange ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to list for trading options on the CBOE Latin 15 Index ("Latin 15 Index" or "Index"). The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit the Exchange to list and trade cash-settled, European-style[3] stock index options on the Latin 15 Index, a narrow-based index created by the Exchange.

The Latin 15 Index consists of fifteen components, including American Depositary Receipts ("ADRs"), American Depositary Shares ("ADSs"), and closed-end country funds from four Latin American countries: Argentina, Brazil, Chile, and Mexico.[4] The exchange represents that no proxy for the performance of these emerging economies is currently available in the U.S. derivative markets, and options on the Index will provide investors with a low-cost means to participate in the performance of these markets or to hedge the risk of emerging markets investments.

Index Design

As noted above, the Latin 15 Index consists of fifteen components, consisting of ADRs, ADSs, and closed-end country funds. All of the components of the Index currently trade on the New York Stock Exchange ("NYSE").

The components comprising the Index ranged in capitalization from $77.2 million to $10.6 billion as of March 14, 1995. The total capitalization as of that date was $38.8 billion; the mean capitalization was $2.6 billion; and the median capitalization was $812.5 million. The largest component accounted for 11.67% of the total weight of the Index, and the five largest components accounted for 46.67% of the total weight of the Index. On that same date, the smallest component accounted for 5.00% of the total weight of the Index. The components of the Index were initially balanced to have a combined weight for each country as follows: Argentina—17.5%, Brazil—35%, Chile—17.5%, and Mexico—30%.

[3] European-style options can only be exercised during a specified period before the options expire.

[4] The components of the Index are: Argentina Fund Inc.; Telefonica de Argentina S.A.; YPF Sociedad Anonima S.A.; Aracruz Celulose S.A.; Brazil Fund, Inc.; Brazilian Equity Fund, Inc.; Banco Osorno Y La Union; Compania de Telefonos de Chile; Empresa Nacional Electricidad S.A.; Empresas La Moderna S.A. de C.V.; Grupo Tribasa S.A. de C.V.; Coca Cola Femsa S.A.; Telefonos de Mexico S.A.; Grupo Televisa S.A.; and Vitro Sociedad Anonima.

Calculation

The Index will be calculated by CBOE or its designee on a real-time basis using last-sale prices and will be disseminated every 15 seconds by CBOE. If a component share is not currently being traded on its primary market, the most recent price at which the share traded on such market will be used in the Index calculation.

The Index is calculated on a "modified equal-dollar-weighted" basis, meaning that each of the components (fund shares or individual stocks) from each of the four countries is represented in approximately equal dollar amounts in relation to the other shares from that country. The countries in the index are then weighted, at the beginning of each quarter, as follows: Argentina—17.5%, Brazil—35%, Chile—17.5%, and Mexico—30%. The Exchange believes this methodology will present a fairer representation of the respective economies. The "modified" description refers to the fact that the dollar-weighting is done on a country by country basis and not between shares of different countries.

The value of the Index equals the current market value (based on U.S. primary market prices) of the assigned number of shares of each of the components in the Index divided by the current Index divisor. The Index divisor was initially calculated to yield a benchmark value of 150.00 at the close of trading on January 3, 1994. The value of the Index at the close on March 14, 1995, was 111.68.

Maintenance

The Index will be maintained by CBOE. To maintain continuity in the Index following an adjustment to a component security, the divisor will be adjusted. Changes which may result in divisor changes include, but are not limited to, certain rights issuances, quarterly re-balancing, and component security changes.

The Index is re-balanced after the close of business on Expiration Fridays on the March quarterly cycle. In addition, the Index will be reviewed on approximately a monthly basis by the CBOE staff. The CBOE may change the composition of the Index at any time or from time to time to reflect changes affecting the components of the Index or the Latin American markets generally. If it becomes necessary to remove a component from the Index, every effort will be made to add a component that preserves the character of the Index. In such circumstances, CBOE will take into account the capitalization, liquidity, volatility, and name recognition of the proposed replacement component. CBOE will not decrease the number of components to less than 10.

Additionally, the Exchange will not make any composition change to the Index that would result in less than 80% of the number of components or 85% of the weight of the Index satisfying the initial equity option listing criteria set forth in CBOE Rule 5.3, Interpretation and Policy .01 (for components which are not the subject of standardized options trading) or the maintenance criteria in CBOE Rule 5.4, Interpretation and Policy .01 (for components which are currently the subject of standardized options trading).[5]

Index Option Trading

The Exchange proposes to base trading in options on the Latin 15 Index on the full value of that Index. The Exchange may list full-value long-term index option series ("LEAPS"), as provided in Rule 24.9. The Exchange also may provide for the listing of reduced-value LEAPS, for which the underlying value would be computed at one-tenth of the value of the Index. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth

Exercise and Settlement

Latin 15 Index options will have European-style exercise and will be "A.M.-settled index options" within the meaning of the Rules in Chapter XXIV, including Rule 24.9, which is being amended to refer specifically to Latin 15 Index options. The proposed options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in an expiring series will be second business day (ordinarily a Thursday) preceding the expiration date.

[5] Telephone conversation between Eileen Smith, Director, Product Development, Research, CBOE, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division, Commission, on April 5, 1995.

Exchange Rules Applicable

Except as modified herein, the rules in Chapter XXIV of the CBOE Rules will be applicable to Latin 15 Index options. In accordance with Chapter XXIV of CBOE's Rules, the Index will be treated as a narrow-based index for purposes of policies regarding trading halts and suspensions,[6] and margin treatment.[7]

Index option contracts based on the Latin 15 Index will be subject to the position limit requirements of Rule 24.4, pursuant to which position and exercise limits for options on the Index would currently be set at 10,500 contracts. Positions in Index LEAPS will be aggregated with positions in Index options on a one-for-one basis. Ten reduced-value options will equal one full-value Index option or Index LEAP for purposes of aggregating position.

CBOE has the necessary systems capacity to support new series that would result from the introduction of the Latin 15 Index options.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[8] in particular, in that it will provide investors with an opportunity to invest in options based upon the Latin 15 Index pursuant to rules designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i)

[6] See CBOE Rule 24.7.

[7] See CBOE Rule 24.11.

[8] 15 U.S.C. 78f(b)(5) (1988).

VOL 60 ISS 71 AP 13 1995 UMI

as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–20 and should be submitted by May 4, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–9077 Filed 4–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35569; File Nos. SR–MCC–95–01 and SR–MSTC–95–04]

Self-Regulatory Organizations; Midwest Clearing Corporation and Midwest Securities Trust Co.; Notice of Proposed Rule Changes Relating to Indemnification of Committees

April 5, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 8, 1995 and January 14, 1995, respectively, the Midwest Clearing Corporation ("MCC") and the Midwest Securities Trust Co. ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes as described in Items I, II, and III below, which items have been prepared mainly by MCC and MSTC, self-regulatory organizations ("SROs"). The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule changes will amend MCC's and MSTC's mandatory indemnifications requirements, which are set forth in Article 6, Section 1 of MCC's By-Laws and Article VI, Section 1 of MSTC's By-Laws by requiring MCC and MSTC to indemnify members of their committees.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, MCC and MSTC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. MCC and MSTC have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

MCC and MSTC currently have provision in their By-Laws (*i.e.*, Article 6, Section 1 of the MCC's By-Laws and Article VI, Section 1 of MSTC's By-Laws) that requires MCC and MSTC to indemnify, to the fullest extent permitted by the General Corporation Law of Delaware, any person who was or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he is or was a director or officer of MCC or of MSTC or was or is serving at MCC's or MSTC's request as a director or officer of another corporation, partnership, joint venture, trust, or other committee. The purpose of the proposed rule changes is to give members of MCC's and MSTC's committees, including members of their Risk Assessment Committees, the same indemnification protection that is currently given to MCC's and MSTC's directors and officers.[2]

MCC and MSTC believe that the proposed rule changes are consistent with Section 17A of the Act[3] in that they will remove impediments from MCC's and MSTC's efforts to attract competent persons to serve on their committees, such as their Risk Assessment Committees. Thus, MCC and MSTC believe that the proposed rule changes will help them in providing fair procedure with respect to (1) The disciplining of participants, (2) the denial of participation to any person seeking participation, and (3) the prohibition or limitation by MCC or MSTC of any person with respect to access to services.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

MCC and MSTC believe that no burden will be placed on competition as a result of the proposed rule changes.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

MCC and MSTC have neither solicited nor received any comments on this rule proposal.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organizations consent, the Commission will:

(A) By order approve the proposed rule changes or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

[9] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Under MCC's and MSTC's rules, their Risk Assessment Committees have substantial authority. This includes, among other things, the authority to determine: (1) Whether a participant that has failed to make timely payment to MCC should continue as a participant, (2) whether a participant has been responsible for fraudulent or dishonest conduct, and (3) whether a participant poses a financial risk to MCC. See MCC Rules, Article VIII, Rule 2, MSTC Rules, Article V, Rule 2.

[3] 15 U.S.C. 78q–1 (1988).

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section and at the principal offices of MCC and MSTC. All submissions should refer to File Nos. SR–MCC–95–01 and SR–MSTC 95–04 and should be submitted by May 4, 1995

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary

[FR Doc. 95–9079 Filed 4–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35568; File No. SR–NYSE–95–03]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees for the Initial Comparison of Equity Security Trade Sides Submitted for Comparison Through the On-Line Comparison System

April 5, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 21, 1995, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–NYSE–95–03) as described in Items I, II, and III below, which Items have been prepared primarily by NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The rule change modifies NYSE's fee structure for trade comparison. Commencing on or about March 1, 1995, NYSE will charge participants for the comparison of each side of a trade in an equity security[2] submitted to it on the day of the trade ("initial trade data") through its On-Line Comparison System ("OCS"). NYSE has not previously charged for this service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 15, 1994, NYSE began requiring its clearing members to submit listed equity comparison data to NYSE's OCS within two hours of the time of a trade's execution or at two-hour intervals (e.g., 12:00 noon, 2:00 p.m., 4:00 p.m., and 6:00 p.m.) on each business day.[3] Under this procedure, by the end of each trading day NYSE forwards the day's initial trade data, which consists of both compared and uncompared trades, to a qualified clearing agency for final processing.[4]

From August 1994 to date, NYSE has provided these OCS services to its clearing members without charge. NYSE states, however, that its costs for providing these services have been rising due to increased usage and that it now proposes to recoup some of these additional costs by charging a processing fee based on the number of shares per sides. While the NYSE will continue charging no fee for sides from one share to 999 shares, the fee for each side from 1,000 shares to 2,999 shares will be $0.06, and the fee for each side for 3,000 shares to any higher amount will be $0.18. As noted, the NYSE will commence charging this new fee on or about March 1, 1995.

NYSE believes the rule change provides for the equitable allocation of fees among its members. Therefore, NYSE believes the rule change is consistent with the requirements of the Act and particularly with Section 6(b)(4) of the Act.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

NYSE believes that the proposed rule changes will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

NYSE has neither solicited nor received any written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[6] and subparagraph (e)(2) of Rule 19b–4 thereunder because it establishes a due, fee, or other charge imposed by NYSE.[7] At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the

[4] 17 CFR 200.30–3(a)(12) (1994)

[1] 15 U.S.C. 78s(b)(1) (1988)

[2] For the purposes of this rule proposal, NYSE is using the term "side" to mean a purchase or a sale that consists of two or more separate transactions made with the same firm, in the same security, at the same price, on the same side of the market, and which have been added together and submitted for comparison as one item. NYSE refers to this process as summarization

[3] For background on NYSE's trade date comparison procedure, refer to Securities Exchange Act Release No. 34153 (June 3, 1994), 59 FR 30071 (File No. SR–NYSE–94–08) (order approving proposed rule change).

[4] For the purpose of this rule proposal, the term "qualified clearing agency" means a clearing agency that: (1) is registered under the Act, (2) maintains facilities through which NYSE's trades may be compared or settled, (3) has agreed to supply NYSE with data in connection with NYSE's compliance duties under the Act, and (4) has agreed to establish rules and procedures to facilitate the comparison of transactions as provided in NYSE Rule 130 (*i.e.* NYSE's principal rule governing trade comparison) NYSE Rule 130, Supplementary Material .10 and NYSE Rule 132, Supplementary Material .10

[5] 15 U.S.C. 78q–1(f)(b)(4) (1988)

[6] 15 U.S.C. 78s(b)(3)(A)(ii) (1988)

17 CFR 204.19b–4(e)(4) (1994)

VOL 60 ISS 71 APR 13 1995 UMI

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of NYSE. All submissions should refer to File No. SR–NYSE–95–03 and should be submitted by May 4, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 95–9078 Filed 4–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35574; File No. SR–PTC–95–02]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Modifying PTC's Program for the Early Distribution of Principal and Interest on Government National Mortgage Association I Securities

April 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 7, 1995, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–PTC–95–02) as described in Items I and II below, which Items have been prepared primarily by PTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies PTC's program for the early distribution of principal and interest ("P&I") on Government National Mortgage Association ("GNMA") I securities.

[8] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Background

Before November 1993, PTC's rules and procedures provided that PTC disburse P&I by means of a credit to participants' cash balances. This resulted in participants receiving at the end of the day as part of the settlement process the amount of the P&I net of any account debits and/or credits. In November 1993, PTC's rules were amended to eliminate the requirement that P&I be disbursed by means of a credit to participants' cash balances and to permit PTC to make intraday Fedwire distributions of collected and available GNMA I P&I.[2]

PTC's present program for the early distribution of GNMA I P&I permits the distribution of up to fifty percent of collected and available P&I on GNMA I securities by intraday Fedwire transfer of funds on the distribution date, generally the sixteenth day of the month, with the balance distributed by credit to participant's cash balances payable at the end of the day settlement.[3] Participants are permitted to elect to receive the intraday distribution or they may choose to receive the entire distribution at the end of the day settlement.[4]

[2] PTC Rules, Article III, Rule 2, Section 1, "Principal and Interest Payments." For a complete description of PTC's amendments, refer to Securities Exchange Act Release Nos. 33132 (November 9, 1993), 58 FR 59501 [File No. SR–PTC–93–02] (order approving proposed rule change) and 33856 (April 12, 1994), 59 FR 59501 [File No. SR–PTC–93–05] (order approving proposed rule change).

[3] In November 1994, the intraday distribution program was extended to permit early distribution of one hundred percent of collected and available GNMA II P&I. Securities Exchange Act Release No. 34988 (November 18, 1994), 59 FR 61016 [File No. SR–PTC–94–05] (order approving proposed rule change).

[4] PTC disbursed a total of $103.9 billion in GNMA I P&I payments to its participants in 1994, of which $51.1 billion was distributed intraday. As of February 1, 1995, fifty participants elected to receive the intraday distribution.

[5] During 1994, an average of 72.5% of funds to be distributed were available by 12 noon on the distribution date.

[6] 15 U.S.C. 78q–1(b)(3)(F) (1988).

Unlike the GNMA II program, there is no central paying agent for GNMA I securities and issuers make payment to PTC directly, sometimes by means of a check. Because of these inefficiencies in collecting and disbursing GNMA I P&I, PTC funds the total GNMA I P&I disbursement from several sources: (1) collected and available P&I payments that are timely received, (2) PTC's own funds; (3) the cash portion of the participants fund; and (4) borrowed funds secured by the P&I receivables or the securities portion of the participants fund.

GNMA I P&I Proposal

PTC proposes to increase the percentage of collected and available GNMA I P&I that may be distributed intraday, from the current maximum of fifty percent to a maximum of sixty-five percent of the total distribution, commencing with the April 1995 GNMA I distribution. PTC believes that based on PTC's experience with the GNMA I collection process, an amount in excess of sixty-five percent may reasonably be anticipated to be available by noon on the distribution date for disbursement intraday.[5] The balance would be distributed by means of a credit to the participants' credit balances payable at the end of the day settlement, as is currently the practice. In the event the amount of collected and available funds is insufficient to make the scheduled intraday distribution amount, whether it be the current fifty percent maximum or the proposed sixty-five percent maximum, the shortfall is allocated ratably among participants scheduled to receive intraday distribution according to the relative amounts of their scheduled distributions.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[6] and the rules and regulations thereunder in that it facilitates the prompt and accurate clearance and settlement of securities transactions and provides for the safeguarding of securities and funds in PTC's custody or control or for which PTC is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change will impose any burden on competition not necessary or

appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PTC has not solicited comments with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[7] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that PTC's proposal to increase the percentage of collected and available GNMA I P&I that may be distributed to participants by intraday fedwire transfer should help promote prompt and accurate clearing and settlement. The proposal enables participants to have access to such funds earlier in the day, allowing them the use of the funds elsewhere, as needed, which increases liquidity in other markets.

PTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. In order to assure that PTC can implement the proposal commencing with the April 1995 distribution, it is necessary that PTC receive the appropriate approval in advance of that date. The Commission, therefore, finds sufficient cause to accelerate approval of this proposal. In addition, the staff of the Board of Governors of the Federal Reserve System ("Board of Governors") agrees with the accelerated approval.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of PTC. All submissions should refer to file number SR–PTC–95–02 and should be submitted by May 4, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PTC–95–02) be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary

[FR Doc. 95–9076 Filed 4–12–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35579; File No. SR–CBOE–95–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to its Retail Automatic Execution System for Transactions in SPX Options

April 7, 1995

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange subsequently filed Amendment No. 1 to the proposed rule change on April 3, 1995.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules respecting use of the CBOE's Retail Automatic Execution System ("RAES") for transactions in Standard & Poor's 500 Index ("SPX") options by individual members, joint account participants and nominees of member organizations having multiple nominees. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend Rule 24.16 ("RAES Eligibility in SPX") in respect of use of RAES by individual members, joint account participants, and market-maker/nominees associated with member organizations. The amendments would incorporate into Rule 24.16, provisions respecting individual member use of RAES and provisions respecting joint account and member organization use of RAES (the "group account" provisions) presently contained in its rules respecting use of RAES for transactions in Standard & Poor's 100 Index ("OEX") options.[4] Currently, Rule 24.16 contains fewer provisions regulating individual members' eligibility to use RAES for SPX options than is the case under rule 24.17 for use of RAES for OEX options. Similarly, Rule 24.16 contains only one provision addressing RAES eligibility for member organizations having multiple market-maker/nominees, while Rule 24.17 contains numerous provisions respecting use of RAES by participants in both types of group

[7] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[8] Telephone conversation between William R. Stanley, Board of Governors, and Ari Burstein, Division of Market Regulation, Commission (April 5, 1995).

[9] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4 (1991).

[3] In Amendment No. 1, the CBOE states that the reference to Rule 24.17 in the original filing (see infra note 4 and accompanying text) was intended to be a reference to Rule 24.16, and amends the proposal accordingly. In addition, Amendment No. 1 defines the term "brief interval," as used to describe the allowable period during which RAES participants can leave the trading floor. See infra note 7 and accompanying text. See also Letter from Timothy Thompson, Attorney, CBOE, to John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated March 31, 1995 ("Amendment No. 1").

[4] See CBOE Rule 24.17 ("RAES Eligibility in OEX").

VOL 60 ISS 71 AP 13 1995 UMI

accounts. The OEX RAES provisions have worked well, and the Exchange accordingly believes that the substance of all the OEX provisions should now be incorporated into the SPX RAES rules.

The proposed rule change would incorporate, in the introductory clause to paragraph (a) of Rule 24.16, the provisions contained in subparagraph (a)(i) of Rule 24.17, which, among other things, requires individual market makers to sign the RAES Participation Agreement and complete the RAES instructional program before they may use RAES. The proposed rule change also would incorporate in paragraph (a) of Rule 24.16 the preconditions to use of RAES that are contained in subparagraph (a)(v) of Rule 24.17, including the requirement that individual members be engaged at CBOE principally as market makers and that they execute at least 75% of their options contracts in SPX and at least 75% of their trades in SPX options in person.

CBOE also proposes to add new paragraphs (c) and (d) to Rule 24.16.[5] Paragraph (c) would establish preconditions to initial use of RAES by joint account participants and would impose minimum SPX trading activity standards on joint account market markers on RAES. Paragraph (c) would also includes log-on and log-off requirements for each joint account market maker, as well as procedures for obtaining relief from those requirements, and would grant the SPX Floor Procedures Committee authority to restrict or condition a joint account member's participation in RAES.[6] In turn, paragraph (d) would contain provisions, similar to those in proposed paragraph (c), respecting access to RAES by market makers associated with member organizations having multiple nominees.

All the foregoing changes would, in general, conform SPX RAES requirements to the corresponding OEX RAES requirements.[7] Several differences, however, would remain.

Under the proposed SPX rules, a member who has logged onto RAES must log off RAES whenever he leaves the trading crowd unless the departure is for "a brief interval."[8] THe OEX RAES rules do not currently contain the "brief interval" exception, though the Exchange anticipates filing an amendment to Rule 24.17 that would establish such an exception for OEX RAES market makers.

In addition to the foregoing changes in RAES eligibility and use requirements, the proposed rule change would establish group account size limit standards. A new paragraph (e) would authorize the SPX Floor Procedures Committee to set such a limit at a number not to exceed 33⅓ percent of the prior quarter's average number of RAES participants. This approach contrasts somewhat with the OEX RAES provisions, which permit a group account to include as many as 50 participants, or 25 percent of the prior quarter's average, whichever is smaller.

The Exchange believes that the proposed differences in approach and applicable percentage limit are appropriate to SPX RAES for several reasons. First, the Exchange anticipates that this rule change will make SPX participation more attractive to members, which should lead to higher RAES participation levels. Increases in participation levels may be substantial and may well occur at unpredictable rates. In such a context, a specific numerical limit would be an impediment to efficient administration of the rule. The Exchange believes that any specific number it selects at this time would, at a later date, likely be either artificially high (triggering the application of the percentage limit) or inappropriately low (requiring periodic rule change filings as participation levels rise). Accordingly, the Exchange proposes to adopt only a percentage limit for RAES use in SPX options, at least until the projected SPX RAES growth rates appear to stabilize.

Second, the SPX trading crowd is considerably smaller at present than the OEX trading crowd. About 20 participants, on average, use SPX RAES on any given day, whereas about 150 participants use OEX RAES. Were the proposed rule to use the 25 percent limit that exists in the current OEX RAES rule, no more than twelve members could participate in one joint account. The Exchange believes, however, that a larger joint account base should be encouraged in order to increase SPX RAES participation levels.

The Exchange believes that the proposed 33⅓ percent limit would enable expansion in the use of RAES without permitting undue concentration of trading interest. Although in theory the 33⅓ percent limit would allow all SPX RAES participants to join one of the three accounts (rather than one of four as is permitted in OEX), that degree of consolidation on SPX RAES is unlikely. Moreover, were it to occur and generate adverse effects, the SPX Floor Procedures Committee would have authority under proposed paragraph (e) to reduce the applicable group size limit.

Finally, the proposed rule change includes a new paragraph (h) that would incorporate in the SPX RAES rules the fee schedule included in the OEX RAES Rule 24.17 for failure to adhere to the various RAES log-on and log-off requirements. The provisions of proposed paragraph (h) match those in the OEX RAES Rule 24.17

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation with persons engaged in facilitating and clearing transactions in securities, and to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden of competition; (3) was provided to the Commission for its review at least five days prior to the filing date; and (4) does not become operative for 30 days from April 3, 1995,[9] the rule change proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposal would qualify as a "noncontroversial filing" in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR–CBOE–95–17 and should be submitted by May 4, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary

[FR Doc. 95–9147 Filed 4–12–95; 8:45 am]

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[5] See Amendment No. 1, *supra* note 3.

[6] In this regard, references in current Rule 24.16 to the Market Performance Committee would be replaced by references to the SPX Floor Procedures Committee, which, as a more product-specific committee, would henceforth have authority under Rule 24.16.

[7] The changes also would clarify that all participants in a joint account may use the joint account for trading on RAES in all series of SPX options, and to that end would delete a contrary provision in paragraph (a) of the current Rule 24.16. In connection with approval of this rule change, the Exchange will issue a regulatory circular amending Regulatory Circular 92–47, to clarify that more than one joint account member may participate on behalf of the joint account on any joint account transaction in SPX options, whether or not executed on RAES. This clarification will unify the treatment of SPX joint account trades with the treatment accorded such trades in OEX options.

[8] The Exchange agrees to restrict the term "brief interval" to a period no longer than 10–15 minutes. The purpose for the brief interval is to give members time to attend to their personal needs. In addition, the Exchange expects the trading crowd and the Order Book Official ("OBO") for a particular trading post to police compliance with the brief interval exception. OBOs will be instructed to log off a member from RAES if he has been absent from a trading crowd for more than a brief interval. See Amendment No. 1, *supra note 3*

[9] Because the Exchange filed Amendment No. 1 subsequent to the original filing date, the 30-day period commences on the filing date of Amendment No. 1

[10] 17 CFR 200.30–3(a)(12) (1994).

[Release No. IC–20991; File No. 812–9490]

Kemper Securities, Inc., et al.; Notice of Application

April 6, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Kemper Securities, Inc. ("Sponsor"); Kemper Tax-Exempt Insured Income Trust, Kemper Tax-Exempt Income Trust, Ohio Tax-Exempt Bond Trust, Kemper Insured Corporate Trust, Kemper Government Securities Trust (U.S. Treasury Portfolio), Kemper Government Securities Trust (GNMA Portfolio), Kemper Bond Enhanced Securities Trust, Kemper Equity Portfolio Trusts, Kemper Defined Funds U.S. Treasury Portfolio, Kemper Defined Funds GNMA Portfolio, Kemper Defined Funds Insured Corporate, Kemper Defined Funds Corporate Income, Kemper Defined Funds Insured National, Kemper Defined Funds Insured State, Kemper Defined Funds (the "Trusts").

RELEVANT ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2)(C) of the Act and rule 22c–1 thereunder, and under section 11(a) for relief from section 11(c).

SUMMARY OF APPLICATION: Applicants request an order that would permit the Trusts to impose deferred sales charges, waive the deferred sales charge in certain cases, and exchange units with deferred sales charges.

FILING DATES: The application was filed on February 21, 1995, and was amended on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 1, 1995, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 77 West Wacker Dr., Chicago, IL 60601; cc: Mark J. Kneedy, Chapman and Cutler, 111 West Monroe St., Chicago, IL 60603.

FOR FURTHER INFORMATION CONTACT: Bradley W. Paulson, Staff Attorney, at (202) 942–0147, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each Trust is a unit investment trust sponsored by the Sponsor Each Trust has one or more separate series ("Series") created by a trust indenture among the Sponsor, an evaluator, and a banking institution or trust company serving as trustee. The Sponsor acquires a portfolio of securities and deposits them with the trustee in exchange for certificates representing fractional undivided interests in the portfolio of securities ("Units"). Units currently are offered to the public through the Sponsor and other underwriters and dealers at a price based upon the aggregate offering side evaluation of the underlying securities plus an up-front sales charge. The sales charge currently ranges from 5.5 percent to 1 percent of the public offering price, and is subject to reduction as permitted by rule 22d-1.

2. Applicants request an order permitting them, future series of the Trusts, and future trusts sponsored by the sponsor to impose sales charges on Units on a deferred basis and waive the deferred sales charge in certain cases Under applicants' proposal, the Sponsor will continue to determine the amount of sales charge per Unit at the time portfolio securities are deposited in a Series. The Sponsor will have the discretion to defer collection of all or part of this sales charge over a period following the purchase of Units. The Sponsor will in no event add to the deferred amount initially determined any additional amount for interest or any similar or related charge to reflect or adjust for such deferral.

3. The Sponsor anticipates collecting a portion of the total sales charge immediately upon purchase of Units. A portion of the outstanding balance will be deducted periodically by the trustee from distributions on the Units and paid to the Sponsor until the total amount of the sales charge is collected. If distribution income is insufficient to pay a deferred sales charge installment.

VOL 60 ISS 71 AP 13 1995 UMI

the trustee will have the ability under the trust indenture to sell portfolio securities in an amount necessary to provide the requisite payments. These securities will be sold on a pro rata basis, to the extent practicable, so that the remaining composition of the Trust will be similar to its composition prior to the sale. If a unitholder redeems or sells to the Sponsor his or her Units before the total sales charge has been collected from installment payments, the balance of the sales charge may be collected at the time of such redemption or sale.

4. For purposes of calculating the amount of the deferred sales charge due upon redemption or sale of Units, it will be assumed that Units on which the balance of the sales charge has been collected from installment payments are liquidated first. Any Units disposed of over such amounts will be redeemed in the order of their purchase so that Units held for the longest time are redeemed first.

5. The Sponsor intends to waive collection of the unpaid balance of the deferred sales charge upon any sale or redemption of Units. If applicants later decide to collect the unpaid balance of the deferred sales charge upon sale or redemption, they may nonetheless waive payment of the balance of the deferred sales charge on redemptions or sales of Units in certain specific cases. Any such waiver will be disclosed in the prospectus and will satisfy the other conditions of rule 22d–1.

6. The Sponsor believes that the operation and implementation of the deferred sales charge program will be disclosed adequately to potential investors as well as unitholders. The prospectus for each Series will describe the operation of the deferred sales charge, including the amount and date of each installment payment. The prospectus also will contain disclosure pertaining to the trustee's ability to sell portfolio securities if the income generated by a Series' portfolio is insufficient to pay an installment. The securities confirmation statement sent by the Sponsor to each purchaser will state the amount of the "up-front" sales charge, if any, and the amount of the deferred sales charge to be deducted in regular installments. The annual report of each Series will state the amount of annual installment payments deducted during the previous fiscal year on both a per Trust and per Unit basis.

7. The maximum sales charge on Units acquired in the secondary market normally ranges from 5.5 percent to 1.0 percent of the public offering price of the Units. Applicants request that the order also permit them to allow unitholders to exchange Units of one Series for Units of another subject to an additional sales charge not to exceed 2.5 percent of the public offering price of the acquired Units. This sales charge is calculated as the greater of (a) 2.5 percent per Unit, or (b) an amount that together with the sales charge already paid on the exchanged Units equals the normal sales charge on the acquired Units if either Units are exchanged within five months of their acquisition for Units of another Series with a higher sales charge, or Units with a deferred sales charge are exchanged for Units of another Series with an "up-front" charge before the deferred sales charge on the exchanged Units has been collected.

8. If Units subject to a deferred sales charge are exchanged for Units of a Series not having a deferred sales charge, the deferred sales charge will be collected at the time of the exchange. If Units subject to a deferred sales charge are exchanged for Units of a Series with a deferred sales charge, installment payments will continue to be deducted from the distributions on the acquired Units until the balance of the sales charge owed on the exchanged Units has been collected. In either case, the additional sales charge will be imposed at the time of the exchange.

Applicants' Legal Analysis

1. Under section 6(c), the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that implementation of the deferred sales charge program in the manner described above would be fair and in the best interests of the unitholders of the Trusts.

2. Section 2(a)(32) defines a "redeemable security" as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer's current net assets or the cash equivalent of those assets. Because the imposition of a deferred sales charge may cause a redeeming unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from section 2(a)(32) so that Units subject to a deferred sales charge are considered redeemable securities for purposes of the Act.[1]

3. Section 2(a)(35) defines the term "sales load" to be the difference between the sales price and the proceeds to the issuer, less any expenses not properly chargeable to sales or promotional expenses. Because a deferred sales charge is not charged at the time of purchase, an exemption from section 2(a)(35) is necessary.

4. Rule 22c–1 requires that the price of a redeemable security issued by an investment company for purposes of sale, redemption, and repurchase be based on the investment company's current net asset value. Because the imposition of a deferred sales charge may cause a redeeming unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from this rule.

5. Section 22(d) requires an investment company and its principal underwriter and dealer to sell securities only at a current public offering price described in the investment company's prospectus. Because sales charges traditionally have been a component of the public offering price, section 22(d) historically required that all investors be charged the same load. Rule 22d–1 was adopted to permit sale of redeemable securities "at prices that reflect scheduled variations in, or elimination of, the sales load." Because rule 22d–1 does not extend to scheduled variations in deferred sales charges, applicants seek relief from section 22(d) to permit them to waive or reduce their deferred sales charge in certain specified instances.

6. Section 26(a)(2) in relevant part prohibits a trustee or custodian of a unit investment trust from collecting from the trust as an expense any payment to a depositor or principal underwriter thereof. Because of this prohibition, applicants need an exemption to permit the trustee to collect the deferred sales charge installments from distribution deductions or Trust assets.

7. Paragraphs (a) and (c) of section 11 prohibit any offers of exchange of the securities of a registered unit investment trust for the securities of any other investment company, unless the terms of the offer have been approved by the SEC. Applicants assert that the reduced sales charge imposed at the time of exchange is a reasonable and justifiable expense to be allocated for the professional assistance and operational expenses incurred in connection with the exchange.

[1] Without an exemption, a trust selling Units subject to a deferred sales charge could not meet the definition of a unit investment trust under section 4(2) of the Act. Section 4(2) defines a unit investment trust as an investment company that issues only "redeemable securities."

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Whenever the exchange option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the exchange option, or to delete a Series that has terminated; and (b) No notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Trust under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) a Trust temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

2. An investor who purchases Units under the exchange option will pay a lower aggregate sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Trust offering exchanges and any sales literature or advertising that mentions the existence of the exchange option will disclose that the exchange option is subject to modification, termination or suspension, without notice except in certain limited cases.

4. Each Series offering Units subject to a deferred sales charge will include in its prospectus the table required by item 2 of Form N–1A (modified as appropriate to reflect the differences between unit investment trusts and open-end management investment companies) and a schedule setting forth the number and date of each installment payment.

For the Commission, by the Division of Investment Management, pursuant to delegated authority

Jonathan G. Katz,

Secretary.

[FR Doc. 95–9074 Filed 4–12–95; 8:45 am]

BILLING CODE 8010–01–M

U.S. SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2766]

California; Declaration of Disaster Loan Area (Amendment #1)

The above-numbered Declaration is hereby amended, effective March 24, 1995, to include Alameda, Alpine, Calaveras, Contra Costa, Merced, San Francisco, San Joaquin, and San Mateo Counties in the State of California as a disaster area due to damages resulting from severe winter storms causing flooding, landslides, and mud debris flows beginning on February 13, 1995 and continuing.

All counties contiguous to the above-named counties have previously been declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is May 11, 1995, and for loans for economic injury the deadline is December 12, 1995.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 7, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance

[FR Doc. 95–9145 Filed 4–12–95; 8:45 am]

BILLING CODE 8025–01–M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

National Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Change of meeting date.

SUMMARY: This is to announce a change in the date for the National Advisory Board meeting schedule for April 27 as published in the Federal Register, March 30, 1995, page 16529. The meeting is rescheduled for May 31 at the Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C.

DATES: Wednesday, May 31, 9 a.m. to noon.

ADDRESSES: Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 808 17th Street, NW, Washington, DC 20232, 202/416–2626.

Dated: April 7, 1995.

Jill Nevius,

Committee Management Officer

[FR Doc. 95–9055 Filed 4–12–95; 8:45 am]

BILLING CODE 2221–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

NAFTA Land Transportation Standards Subcommittee Work Program

AGENCY: Office of the Secretary, Office of International Transportation and Trade, DOT

ACTION: Notice.

SUMMARY: This notice gives the status of the Department of Transportation's (DOT) actions to implement the Land Transportation Standards Subcommittee (LTSS) work program set forth in the North American Free Trade Agreement (NAFTA). It also describes the LTSS' scope of work, notifies the public of upcoming meetings, and invites interested parties to write to DOT to be included in the Department's distribution list for LTSS reports and related information.

The United States, Canada, and Mexico intend to continue to work to develop more compatible land transportation standards through the LTSS in accordance with a timetable set in the NAFTA. Five working groups of federal and state government technical experts from the three countries were established last year to accomplish this work under the direction of the LTSS. The groups made considerable progress during the NAFTA's first year, including the completion of efforts related to cross-border rail operations. Representatives from industry, labor, and safety advocacy organizations, while not directly involved in the LTSS process, may take part in briefings and listening sessions conducted before or after the official meetings. In 1994, the LTSS held one plenary session, one executive session, and eight working group meetings. Copies of the LTSS 1994 Annual Report will be available in mid-May. The U.S. Department of Transportation conducted two public briefings in August and November 1994. The Department intends to publish periodic notices on the LTSS' activities, and to distribute regularly relevant information to individuals and organizations on its mailing list. Respondents are requested to send a fax or a post card with their full names and addresses to DOT, specifying the group(s) about which they would like to receive information.

VOL 60 ISS 71 AP 13 1995 UMI

Background

The NAFTA establishes a Committee on Standards-Related Measures, and requires that it create a subcommittee to seek—to the extent practicable—compatibility of land transportation standards among the United States, Canada, and Mexico. Annex 913.5.a-1 of the NAFTA sets forth the work program that the LTSS will follow for seeking compatibility of the countries' standards-related measures for bus and truck operations, rail personnel standards that are relevant to cross-border operations, and the transportation of hazardous materials.

Land Transportation Standards Subcommittee

The LTSS meets once a year chaired, on the U.S. side, by the Director of the Office of International Transportation and Trade, Office of the Secretary of Transportation. The chair gives general guidance and direction to U.S. working group heads, establishes the parameters for participation of U.S. delegates in delegation and trinational meetings, and prepares policy recommendations—with the help of working group chairs—for the Secretary of Transportation's consideration. U.S. participants to the LTSS include: (1) Federal officials from the Office of the Secretary of Transportation (OST), the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), the Research and Special Programs Administration (RSPA), the U.S. Department of State, the Office of the U.S. Trade Representative, and other federal agencies as appropriate; and (2) state policy-makers identified by the National Governors' Association. Direct participation in the LTSS by other-than-government entities was extensively debated by U.S., Canadian, and Mexican officials, with only the United States favoring the inclusion of such entities in the LTSS. As a result, the three countries agreed to hold trinational listening sessions before each plenary meeting and to conduct independent briefings as each country deemed appropriate. The LTSS held its first plenary session on July 12, 1994, in Cancun, Quintana Roo, Mexico. The heads of the three delegations also held an executive session on November 14, in Washington, D.C., to assess their progress. The working groups met on July 11 and at various other times in 1994. Dates of upcoming meetings are included below; meetings may be added or cancelled on short notice.

Working Groups

Five working groups comprising of federal, state, and provincial officials from the three countries were formed last year. In the United States, each working group operates under the leadership of a DOT official. The working groups analyze technical issues and provide the LTSS chair with information and advice on which to base policy options and recommendations. By invitation, representatives of state government organizations such as the American Association of State Highway and Transportation Officials, the American Association of Motor Vehicle Administrators, the Commercial Vehicle Safety Alliance, the International Association of Chiefs of Police, the National Association of State Regulatory Utility Commissioners, the Cooperative Hazardous Materials Enforcement Development Program, and others may also participate on the working groups. Individual working groups determine the frequency of meetings depending on the scope of work and the time-frame established in the NAFTA for seeking compatibility for the specific standards under each group's jurisdiction. Following is information on the working groups and their accomplishments to date.

1. Working Group 1—This group will consider medical and non-medical standards-related measures for drivers, including age and language requirements. It will also review measures with respect to vehicles such as tires, brakes, parts and accessories, cargo securement, maintenance and repair, inspections, and emissions and environmental pollution levels not covered by the Automotive Standards Council's work program established under Annex 913.5.a-3 of the NAFTA. In addition, it will examine standards related to the supervision and enforcement of motor carrier safety compliance. The group met in Winnipeg in October 1994 with representatives of state and provincial organizations to discuss standards related to the age and language of drivers. Soon after, on November 22, 1994, Mexico passed a law raising the age of commercial vehicle drivers from 18 to 21 and requiring that drivers have a secondary education that includes language courses in English. The new requirements are consistent with U.S. standards. Canadian action is pending. The group has developed a plan setting the priorities and time-frames for examining the standards for brakes, parts and accessories, and the securement of cargo. The plan involves reviewing each country's individual standards to assess their level of equivalency, determining whether discrepancies would impede cross-border trade, and reaching agreements on how to make them more compatible. At the Winnipeg meeting, the group passed a resolution agreeing to use the Commercial Vehicle Safety Alliance's (CVSA) criteria for performing vehicle inspections and placing vehicles out-of-service. The group will hold its next meeting on April 26, 1995, in Colorado. For more information call Tom Kozlowski, International Programs Coordinator, Office of Motor Carriers/FHWA, at (202) 366–5370.

2. Working Group 2—This group will analyze the development of more compatible vehicle weight and dimension standards. As a first step, an ad hoc group of technical experts did an extensive comparison of U.S., Canadian, and Mexican standards last year. The tables are now being revised to reflect changes in Mexican requirements which were published on November 24, 1994. Working Group 2 will hold its second meeting on April 11 and 12, 1995, to agree on a work plan for making the size and weights standards of the three countries more compatible. There are two proposals under consideration, one presented by Mexico in July 1994 and another one submitted by Canada in October 1994. For information call Susan Binder, Division Administrator/FHWA, at (410) 962–4440.

3. Working Group 3—This group is responsible for seeking compatibility of standards-related measures relating to traffic control devices. The working group has met twice (July and October 1994) and produced a comparison of traffic control devices in the three countries. A report prepared by the working group leaders identifies differences and recommends possible actions. The report notes that existing discrepancies in this area will not significantly hinder the movement of cargo and vehicles. For information call Ernest D. L. Huckaby, Traffic Control Device Team Leader, Office of Highway Safety/FHWA, at (202) 366–9064.

4. Working Group 4—This group was charged with working towards making more compatible standards related to rail operating personnel that are relevant to cross-border operations, as well as standards related to locomotives and other rail equipment. In accordance with the NAFTA timetable, the group completed its work in January 1995. A final report describing the group's efforts and listing technical standards that need to be made compatible in the future is now in preparation. As appropriate, U.S., Canadian, and Mexican delegates will continue to work on bilateral or trilateral issues outside the LTSS structure. For information and copies of the report call Jane Bachner, Deputy Associate Administrator for Policy/FRA, at (202) 366–0344.

5. Working Group 5—This group is seeking compatibility of standards related to the transportation of hazardous materials. Both the United States and Canada have essentially equivalent hazardous materials transportation requirements based on the United Nations Recommendations on the Transport of Dangerous Goods. Mexico has enacted legislation that provides for the development of standards consistent with the U.N. recommendations. The working group held meetings in October 1994 and in January 1995. Last fall the United States and Mexico issued jointly the U.S. Emergency Response Guidebook (ERG) in Spanish, of which 30,000 copies have been distributed in Mexico. This enabled harmonization of U.S. and Mexican emergency response information requirements. The three countries plan to issue a North American ERG by January 1996 by consolidating the information in the U.S. and Canadian guidebooks. In addition, Mexico has adopted a number of other standards that are compatible with U.S. and Canadian hazardous materials transportation regulations. For information call Frits Wybenga, International Standards Coordinator for Hazardous Materials/RSPA, at (202) 366–0656.

Meetings and Deadline

The LTSS will hold its second plenary session on June 28, 1995, at the Wall Center Garden Hotel, 1088 Burrard Street, Vancouver, British Columbia, Canada. In conjunction with the plenary meeting, the working groups may meet at the same location on June 27 and 28. Also at the same site, on June 27, special sessions will be held for representatives for the truck, bus, rail, and chemical manufacturing industries, transportation labor unions, brokers, and shippers, public safety advocates, and others who have notified us of their interest to attend and have submitted copies of their presentations to DOT at the address below by May 12, 1995. Subsequently, the Department of Transportation will hold a public briefing in Washington, D.C., to discuss the results of the listening session and the plenary and working group meetings. A notice announcing the meeting's date, time, and place will be published in the **Federal Register** two weeks in advance.

FOR FURTHER INFORMATION: Contact David DeCarme, Chief, Maritime, Surface, and Facilitation Division, Office of International Transportation and Trade, Office of the Secretary of Transportation, at (202) 366–2892.

ADDRESS AND FAX NUMBER: Individuals and organizations interested in being placed on the mailing list for receiving LTSS-related information are requested to send a post card indicating the complete name and address where the information should be sent, and specifying the group or groups about which information is desired. Mail post cards to David DeCarme, U.S. Department of Transportation, OST/X–20, Room 10300, 400 Seventh Street, S.W., Washington, DC 20590. Respondents may also send the above information by fax at (202) 366–7417

Arnold Levine,

Director, Office of International Transportation and Trade.

[FR Doc. 95–9162 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD 95–024]

Demonstration of Software to Electronically Prepare Shipping Articles, Certificates of Discharge, and Transmit Mariner Sea Service Time to the Coast Guard

AGENCY: Coast Guard, DOT

ACTION: Notice.

SUMMARY: The Coast Guard is sponsoring a demonstration of the User Interface System (UIS). The UIS is a project to automate the collection and reporting process of mariner sea service data required by statutes. The UIS will allow shipping companies to electronically create shipping articles and certificates of discharge and transmit sea service data to the Coast Guard. The Coast Guard is also soliciting for participants in the testing process.

DATES: The demonstration will be held on Wednesday April 26, 1995, between 9 a.m. and 3 p.m.

ADDRESSES: The demonstration will be held at Science Applications International Corporation (SAIC) Tower 1, 1710 Goodridge Drive, McLean, VA 22102.

FOR FURTHER INFORMATION CONTACT: Mrs. Justine Bunnell, Project Officer, G–MVP–1, (202) 267–0238, Merchant Vessel Personnel Division of the Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION: The User Interface System (UIS) is a component of the Mariner Identification card project (the new Merchant Mariner's Document). The UIS is being developed for the Coast Guard to improve the recordkeeping and transmittal of merchant mariner sea service data. The system will provide for electronic transfer of data from the shipping companies to the Coast Guard database located at Coast Guard Headquarters in Washington, DC. The software will provide an interface with the Mariner Identification card and the Merchant Mariner License and Document program, a national database of merchant mariner transactions, as well as maintain compatibility with common systems used in the marine industry.

The system was developed in a stand-alone PC environment to allow users to purchase off the shelf equipment or use existing equipment to operate the software. The UIS will allow the user to enter voyage specific information, enter and maintain mariner and ratings information, report data contained on shipping articles and certificates of discharge, electronically report sea service information to Coast Guard Headquarters, and at the company's option, read the Mariner's ID (MID) card magnetic stripe for expedient data entry and verification. Shipping companies with existing computer systems may also develop their own software to electronically transmit sea service information to the Coast Guard.

The demonstration will include an explanation of the software, the methods used to develop the software, how to use the program, and hands-on work by the participants. The development team will be available to assist with the hands-on work and answer questions. Participants may bring their own personal computer (PC) if they desire. The test participants will receive a copy of the UIS program to use for 30 days in their work environment. They will use the software to generate shipping articles, certificates of discharge, and reports. The test participants will electronically transmit sea service information to the Coast Guard during the test period. They will identify any problems, make suggestions for improvement, and evaluate the software. The problems, suggestions and evaluation information will be collected on forms provided with the software. The suggestion/evaluation forms will be submitted to the Coast Guard Project Officer.

VOL
60
ISS
71
AP
13
1995
UMI

Please notify Mrs. Justine Bunnell at (202) 267–0238 by April 19, 1995, if you plan to attend the demonstration, plan to bring your own PC to the demonstration, or are interested in participating in testing the software.

Dated: April 4, 1995

G.N. Naccara,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–9039 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Stewart R. Miller, Manager, Transport Standards Staff, ANM–110, FAA, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Ave. SW, Renton, WA 98055–4056, telephone (206) 227–2190, fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is transport airplane and engine issues. These issues involve the airworthiness standards for transport category airplanes in 14 CFR parts 25, 33, and 35 and parallel provisions in 14 CFR parts 121 and 135

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following harmonization task:

Recommend disposition of public comments made to Notice of Proposed Rulemaking No. 94–29, which proposed to revise the gust load design requirements for transport category airplanes, and provide for harmonization of the discrete gust requirements with the Joint Aviation Requirements (JAR) of Europe as recently amended.

Contrary to the usual practice, the FAA is not asking ARAC as part of this task to develop a final draft of the next action (i.e., supplemental notice, final rule, or withdrawal). However, ARAC must provide a document setting forth the rationale for the recommended disposition of each of the comments.

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to assign it to the existing Loads and Dynamics Harmonization Working Group. As a result of the new task assigned to the working group, membership is being reopened. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Reports to ARAC

The Loads and Dynamic Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider transport airplane and engine issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. A status report at each meeting of ARAC held to consider transport airplane and engine issues.

Participation in the Working Group

The Loads and Dynamic Harmonization Working Group is composed of experts from those organizations having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Loads and Dynamics Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on April 10, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–9154 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; General Aviation and Business Airplane Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Mr. John Colomy, Assistant Executive Director, Aviation Rulemaking Advisory Committee, FAA Small Airplane Directorate, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–6930.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation—related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is general aviation and business airplane issues. These issues involve the airworthiness standards for small and commuter category airplanes in 14 CFR part 23 and parallel provisions in 14 CFR parts 91 and 135.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advise and recommendation on the following harmonization task:

Recommend disposition of comments made to Notices of Proposed Rulemaking (NPRM) Nos. 94–19, 94–20, and 94–22, which propose to harmonize 14 CFR part 23 with the Joint Aviation Requirements (JAR) 23. If ARAC determines rulemaking documents or advisory circulars are appropriate to dispose of these comments, those documents should be developed by ARAC along with the proper justification and any legal and economic analysis. Harmonize any resulting Federal Aviation Regulations with the Joint Aviation Requirements

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to assign it to the existing JAR/FAR 23 Harmonization Working Group. As a result of the new task assigned to the working group, membership is being reopened. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The JAR/FAR 23 Harmonization Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider general aviation and business airplane issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. A status report at each meeting of ARAC held to consider general aviation and business airplane issues.

Participation in the Working Group

The JAR/FAR 23 Harmonization Working Group is composed of experts from those organizations having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the tasks, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the JAR/FAR 23 Harmonization Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on April 10, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–9153 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss transport airplane and engine issues.

DATES: The meeting will be held on April 26 and 27, 1995 beginning at 8:30 a.m. on April 26. Arrange for oral presentations by April 13, 1995.

ADDRESSES: The meeting will be held at the Hyatt Regency, 320 West Jefferson, Louisville, Kentucky.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Office of Rulemaking, FAA, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9682.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee to be held April 26 and 27, 1995 at the Hyatt Regency, 320 West Jefferson, Louisville, Kentucky The agenda for the meeting will include:

- Opening remarks.
- Review of action items.
- Reports of working groups.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by April 13, 1995, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine Issues or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on April 10, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–9155 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–13–M

VOL 60 ISS 71 AP 13 1995 UMI

Civil Tiltrotor Development Advisory Committee; Economics Subcommittee; Meetings

Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act Public Law (72–362); 5 U.S.C. (App. I), notice is hereby given of a meeting of the Federal Aviation Administration (FAA) sponsored Civil Tiltrotor Development Advisory Committee (CTRDAC) Economic Subcommittee that will be held on April 24, 1995 in Philadelphia, PA at the Philadelphia International Airport in the Tour Room located on the Concourse between Terminals C and D.

The meeting will begin at 10:00 a.m. and conclude by 4:00 p.m.

THIS IS A CHANGE IN BOTH DATE AND PLACE. Previously, the meeting had been scheduled on April 17 in Cambridge, MA.

The agenda for the third Economics Subcommittee meeting will include the following:

(1) Review and discussion on the draft executive summary of the economics report.

(2) Review of assumptions.

(3) Review of schedule and work plans.

Persons who plan to attend the meeting should notify Ms. Karen Braxton on 202–267–9451 by April 20. Attendance is open to the interested public, but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting.

Members of the public may provide a written statement to the Subcommittee at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Karen Braxton at least three working days prior to the meeting.

Issued in Washington, D.C., April 7, 1995

Richard A. Weiss,

Designated Federal Official, Civil Tiltrotor Development Advisory Committee

[FR Doc. 95–9156 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Adair County, Missouri

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent Cancellation.

SUMMARY: The FHWA is issuing this notice to advise the public that a Notice of Intent (NOI) to prepare an environmental impact statement for a proposed project in central Missouri is canceled. The NOI was published in the Federal Register on March 10, 1994. This cancellation is based on the issuance of a Finding of No Significant Impact (FONSI) on March 10, 1995, by the FHWA. The FONSI is based on the environmental reevaluation of a formerly approved environmental assessment (EA).

FOR FURTHER INFORMATION CONTACT: Mr. Donald Neumann, Programs Engineer, Federal Highway Administration, PO Box 1787, Jefferson City, MO 65102, Telephone Number 314–636–7104; or Mr. Bob Sfreddo, Design Engineer, Missouri Highway and Transportation Department, PO Box 270, Jefferson City, MO 65102, Telephone Number 314–751–2876.

SUPPLEMENTARY INFORMATION: This project involves the proposed upgrade of U.S. Route 63 to a dual-lane facility starting approximately 1.5 mile south of Missouri Route T and continuing to a point approximately 1 mile south of Missouri Route KK in Adair County, Missouri.

Issued on: April 5, 1995

Donald Neumann,

Program Review Engineer, Jefferson City

[FR Doc. 95–9122 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Broome County, NY

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed bridge crossing the Susquehanna River connecting Route 17C with Route 17 and Route 434 in eastern Tioga/western Broome Counties, New York.

FOR FURTHER INFORMATION CONTACT: Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127

or

Richard R. Church, Regional Director, New York State Department of Transportation, Binghamton State Office Building, 44 Hawley Street, Binghamton, New York 13901–3200, Telephone: (607) 721–8116.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the NYSDOT, will prepare an Environmental Impact Statement (EIS) on a proposal to construct a bridge and associated approach roadway and interchange ramps for a new crossing of the Susquehanna River connecting NYS Route 17C with NYS Route 17 and NYS Route 434 in one of the four corridors located between Hiawatha Boulevard in the town of Owego, Tioga County and NYS Route 26 in the town of Vestal and village of Endicott, Broome County.

Four alternatives and the no-build alternative are under consideration. The four build alternatives (referred to as A1, B2, C4 and D2) represent the bridge alignments deemed most feasible in each of the proposed corridors. All four of the alternatives would connect Route 434 with Route 17C. Alternatives A1, B2 and C4 would also provide access to Route 17 Alternative D2, being a local connector, would not.

All four bridge alternatives would span the Susquehanna River. Alternatives A1, B2 and C4 would also span Route 17 on the south side of the river and the Conrail tracks on the north side of the river. Betterments being considered along Route 434 and Route 17C would be limited to intersection improvements required at the termini of the proposed bridge alternatives.

The proposed project has possible benefits including reduced traffic congestion, improved mobility, and increased potential for community cohesion, growth and economic development.

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies, and others who have previously expressed interest in this proposal. Public information meetings were held in the town of Vestal on November 30, 1993 and in the town of Apalachin on December 1, 1993. Meetings were also held with local officials in the towns of Vestal, Union and Owego in September 1993. The issues raised by written correspondence and at the local public information meetings will be incorporated into the EIS. The Draft EIS will be available for public and agency review and comment

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the NYSDOT or FHWA at the addresses provided above by May 15, 1995.

Issued on: April 4, 1995

Stanley Gee,

Division Administrator, Assistant Federal Highway Administration, Albany, New York

[FR Doc. 93–9123 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Newport County, Rhode Island

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed construction of a marine terminal facility in Newport, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Gordon G. Hoxie, Division Administrator, Federal Highway Administration, 380 Westminster Mall, Room 547, Providence, Rhode Island, Telephone: (401) 528–4541, or Marjorie Keefe, Project Manager, Rhode Island Department of Transportation, Two Capitol Hill—Room 372, Providence, RI 02903, Telephone: (401) 277–2023.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Rhode Island Department of Transportation (RIDOT), will prepared an environmental impact statement (EIS) to evaluate alternatives to provide a proposed marine terminal facility or facilities serving cruise ships and/or commuter vessels and ferries on Aquidneck Island, Rhode Island.

Marine terminal facilities are needed to alleviate congestion in both the harbor and on local streets in Newport, Rhode Island, for both current as well as projected levels of activity Linking the Newport Gateway Center, a multi-modal ground transportation and visitor hub located in Newport's business tourist district, with a marine terminal would integrate ground transportation with waterborne commuter vessels, tour boats, and cruise ships. This link would create a true multi-modal complex capable of providing numerous transportation options and destinations while relieving congestion in both the harbor and on local streets. Alternatives under consideration include: (1) Taking no action; (2) a combination of sites within the Newport Inner Harbor including State Pier No. 9, American Shipyard, and/or Goat Island; (3) Fort Adams (eastern and western sides); (4) Newport Naval Pier No. 1 (Derektors Pier); and (5) Melville Marina. Other reasonable alternatives identified during the scoping process will also be considered.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in the proposed project. A public scoping meeting will be held in Newport, Rhode Island during May 1995. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and other activities apply to this program)

Issued on: April 5, 1995.

Gordon G. Hoxie,

Division Administrator, Providence, Rhode Island

[FR Doc. 95–9124 Filed 4–12–95; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Title 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) received from the Southern Pacific Transportation Company a request for a waiver of compliance with certain requirements of the Code of Federal Regulations. The petition is described below, including the regulatory provisions involved, and the nature of the relief being requested.

Southern Pacific Transportation Company (SP) (Waiver Petition, Docket Number RST–95–1)

The SP has requested to be relieved of compliance with § 213.57(b) of the Federal Track Safety Standards (Title 49 CFR part 213). That section refers to maximum allowable train operating speeds on nontangent track as a function of existing curvature and superelevation and, further, introduces the concept of unbalanced superelevation. The idea of trains negotiating curved track at speeds producing either positive or negative unbalance was discussed previously in the Federal Register (52 FR 38035 on October 13, 1987). Currently, Section 213.57(b) permits a maximum of 3 inches to be used as the 2 underbalance term in the formulation of curve/speed tables by track maintenance engineers defining intermediate train speeds and curved track superelevations for any route between two points.

SP petitioned for permission to substitute the value of 4 inches instead of 3 inches in determining maximum train speeds on several hundred route-miles of track owned by the railroad and used under contract by the National Railroad Passenger Corporation (Amtrak). SP has stated that it is doing this to assist Amtrak in improving its operating efficiency. SP believes that passenger trains can be operated safely at 4 inches of underbalance and cites Amtrak's experience in operating comparable equipment on the Union Pacific Railroad Company and the Burlington Northern Railroad Company at 4 inches of underbalance. SP's policy to operate freight trains at less than 3 inches of underbalance will be unaffected by the proposed waiver.

Interested parties may submit written views, data, or comments on this petition. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires and opportunity for comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST–95–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) in room 8201, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

VOL 60 ISS 71 APR 13 1995 UMI

Issued in Washington, D.C. on April 6, 1995.

Phil Olekszyk,

Acting Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95-9142 Filed 4-12-95; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 31, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512-0202.
Form Number: ATF F 5110.34.
Type of Review: Extension.
Title: Notice of Change in Status of Plant.
Description: ATF F 5110.34 is necessary to show the use of distilled spirits plant premises for other activities or by alternating proprietors. It describes proprietor's use of plant premises and other information to show that the change in plant status is in conformity with law and regulations. It also shows what bond covers the activities of the distilled spirits plant (DSP) at a given time.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 100.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1,000 hours.
OMB Number: 1512-0209.
Form Number: ATF F 5100.50.
Type of Review: Extension.
Title: Tax Deferral Bond—Distilled Spirits (Puerto Rico).
Description: ATF F 5100.50 is the bond necessary to secure payment of excise taxes on distilled spirits shipped from Puerto Rico to the United States on deferral of tax. The form identifies the principal, the surety, purpose of bond, and allocation of penal sum among the principal's locations.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 10.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 10 hours.
Clearance Officer: Robert N. Hogarth (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 95-9127 Filed 4-12-95; 8:45 am]

BILLING CODE 4810-31-P

Public Information Collection Requirements Submitted to OMB for Review

April 7, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512-0242.
Form Number: ATF F 5400.6.
Type of Review: Extension.
Title: User-Limited Permit (Explosives).
Description: The User-Limited permit is useful to the person making a one-time purchase from out-of-State. It is to be used one time only and is nonrenewable. The explosives distributor makes entries on the form and returns the form to the permittee to prevent reuse of the $2 permit.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 1,092.
Estimated Burden Hours Per Respondent: 12 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 22 hours.
Clearance Officer: Robert N. Hogarth (202) 927-8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95-9128 Filed 4-12-95; 8:45 am]

BILLING CODE 4810-31-P

Public Information Collection Requirements Submitted to OMB for Review

April 7, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (BPD)

OMB Number: 1535-0094.
Form Number: None.
Type of Review: Extension.
Title: Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities.
Description: The information is needed in order to make payments to investors in United States Securities by the Automated Clearing House (ACH) method.
Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, State, Local or Tribal Government.
Estimated Number of Respondents: 256,107.
Estimated Burden Hours Per Response: 5 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 61,537 hours.
Clearance Officer: Vicki S. Ott (304) 480-6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106-1328
OMB Reviewer: Milo Sunderhauf (202) 395-7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer

[FR Doc. 95-9129 Filed 4-12-95; 8:45 am]

BILLING CODE 4810-40-P

Public Information Collection Requirements Submitted to OMB for Review

April 7, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545-0056.
Form Number: IRS Forms 1023 and 872-C.
Type of Review: Revision.
Title: Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (Form 1023); and Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code (Form 872-C).
Description: Form 1023 is filed by applicants seeking Federal income tax exemption as organizations described in section 501(c)(3). IRS uses the information to determine if the applicant is exempt and whether the applicant is a private foundation. Form 872-C extends the statute of limitations for assessing tax under section 4940.
Respondents: Not-for-profit institutions.
Estimated Number of Respondents/Recordkeepers: 29,409.
Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law of the form	Preparing and sending the form to IRS
1023 Parts I to IV	55 hr., 29min.	4 hr., 37 min.	8 hr., 7 min.
1023 Sch. A	7 hr., 10 min.	0 min.	7 min.
1023 Sch. B	4 hr., 47min.	30 min.	36 min.
1023 Sch. C	5 hr., 1 min.	35 min.	43 min.
1023 Sch. D	4 hr., 4 min.	42 min.	47 min.
1023 Sch. E	9 hr., 20 min.	1 hr., 5 min.	1 hr., 17 min.
1023 Sch. F	2 hr., 39 min.	2 hr., 53 min.	3 hr., 3 min.
1023 Sch. G	2 hr., 38 min.	0 min.	2 min.
1023 Sch. H	1 hr., 55 min.	42 min.	46 min.
1023 Sch. I	3 hr., 35 min.	0 min.	4 min.
872-C	1 hr., 26 min.	24 min.	26 min.

Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 2,038,354 hours.
OMB Number: 1545-0976.
Form Number: IRS Form 990-W.
Type of Review: Revision.
Title: Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations.
Description: Form 990-W is used by tax-exempt trusts and tax-exempt corporations to figure estimated tax liability on unrelated business income and on investment income for private foundations and the amount of each installment payment. Form 990-W is a worksheet only. It is not required to be filed.
Respondents: Not-for-profit institutions, Businesses or other for-profit.
Estimated Number of Respondents/Recordkeepers: 27,265.
Estimated Burden Hours Per Respondent/Recordkeepers:

Form	Recordkeeping	Learning about the law of the form	Preparing the form
990-W	8 hr., 8 min.	1 hr., 29 min.	1 hr., 41 min.
990-W, Sch. A (Pt. I)	11 hr., 14 min.	18 min.	29 min.
990-W, Sch. A (Pt. II)	23 hr., 26 min.	18 min.	41 min.
990-W, Sch. A (Pt. III)	5 hr., 16 min.	0 min.	5 min.
Tax computation for trusts	2 hr., 52 min.	0 min.	3 min.

Frequency of Response: Annually.
Estimated Total Reporting/Reporting Burden: 323,309 hours.
Clearance Officer: Garrick Shear (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf (202) 395-7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer

[FR Doc. 95-9130 Filed 4-12-95; 8:45 am]

BILLING CODE 4830-01-P

Office of Thrift Supervision

[AC-20; OTS No. 6033]

Neosho Savings and Loan Association, F.A., Neosho, Missouri; Approval of Conversion Application

Notice is hereby given that on April 5, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority,

VOL
60
ISS
71
AP
13
1995
UMI

approved the application of Neosho Savings and Loan Association, F.A., Neosho, Missouri, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 West John Carpenter Freeway, Suite 600, Irving, Texas 75261–9027.

Dated: April 7, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary

[FR Doc. 95–9054 Filed 4–12–95; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Claims Adjudication Commission, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 92–463, gives notice that the Veterans' Claims Adjudication Commission will meet on Tuesday, April 18, 1995, and Wednesday, April 19, 1995, at the Washington, D.C. office of The American Legion, 1608 K Street (7th Floor), N.W., Washington, D.C. The Commission shall meet on April 18 from 9:00 a.m. to 4:30 p.m. and on April 19 from 9:00 a.m. to 12:00 Noon.

The central topic for discussion will concern the current state of the Department of Veterans Affairs claims adjudication and appellate processes. The Commission will receive presentations on these subjects from representatives of the Veterans Benefits Administration and the Board of Veterans' Appeals. The Commission will also hear discussion on matters relating to ADP initiatives at the Department of Veterans Affairs and remands of veterans' claims from the Board of Veterans' Appeals and the U.S. Court of Veterans Appeals, and will address its future agenda.

The meeting is open to the public; however, no specific amount of time is allocated for the purpose of receiving oral presentations from the public. The Commission will accept appropriate written comments from interested parties on the subject matter addressed during the meeting. Such comments may be referred to the Commission at the following address: Veterans' Claims Adjudication Commission (20C), U.S. Department of Veterans Affairs, 810 Vermont Ave., N.W., Washington, DC 20420.

Additional information concerning this meeting may be obtained by contacting the Commission at (202) 275–2142.

Dated: March 30, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–9173 Filed 4–12–95; 8:45 am]

BILLING CODE 8320–01–M

Wage Committee, Notice of Meetings

The Department of Veterans Affairs (VA), in accordance with Pub. L. 92–463, gives notice that meetings of the VA Wage Committee will be held on: Wednesday, April 19, 1995, at 2:00 p.m. Wednesday, May 17, 1995, at 2:00 p.m. Wednesday, June 14, 1995, at 2:00 p.m.

The meetings will be held in Room 1225, Department of Veterans Affairs, Tech World Plaza, 801 I Street, NW, Washington, DC 20001.

The Committee's purpose is to advise the Under Secretary for Health on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Department of Veterans Affairs and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, and as cited in 5 U.S.C. 552b(c)(2) and (4).

However, members of the public are invited to submit material in writing to the Chairperson for the Committee's attention.

Additonal information concerning these meetings may be obtained from the Chairperson, VA Wage Committee, Room 1225, 801 I Street, NW, Washington, DC 20001.

Dated: March 30, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–9174 Filed 4–12–95; 8:45 am]

BILLING CODE 8320–01–M

A Child Development Center at the VAMC Richmond, VA

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the Richmond, VA, Department of Veterans Affairs Medical Center (VAMC) for an Enhanced-Use development. The Department intends to enter into a long-term lease of real property with the developer whose proposal will provide the best quality child development and care at the greatest economic advantage for children of VAMC employees. The developer will be responsible for all aspects of construction, ownership, maintenance, and operation of the Child Development Center.

FOR FURTHER INFORMATION CONTACT: Jacob Gallun, Office of Asset and Enterprise Development (089), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420, (202) 233–3307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et seq.* specifically provides that the Secretary may enter into an Enhanced-Use lease, if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved:

Jesse Brown,

Secretary, Department of Veterans Affairs

[FR Doc. 95–9175 Filed 4–12–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 71

Thursday, April 13 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, April 18, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, April 20, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinions:

AOR 1995–02: Peter H. Rodgers on behalf of New York Mercantile Exchange (NYMEX) and NYMEX Political Action Committee.

AOR 1995–08: Congressman Bart T Stupak, Stupak, for Congress, Inc.

AOR 1995–09: Matt Dorsey, Treasurer, on behalf of NewtWatch PAC.

Audit:

Final Audit Report on Bennett for Senate.

Regulations:

Presidential Primary and General Election Regulations: Draft Final Rules and Explanation and Justification. Continued from meeting of April 6, 1995.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 95–9295 Filed 4–11–95; 3:39 pm]

BILLING CODE 6715–01–M

VOL 60 ISS 71 AP 13 1995 UMI

Corrections

Federal Register
Vol. 60, No. 71
Thursday, April 13, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150-AF07

Revision of Fee Schedules; 100% Fee Recovery FY 1995

Correction

In proposed rule document 95–6485 beginning on page 14670 in the issue of Monday, March 20, 1995, make the following corrections:

1. **On page 14675, in the third** column in Table I, the entry under Part 171 "Estimated amount" should read "24.9[1]".

2. **On page 14678,** Table IV should read as follows:

TABLE IV.—ALLOCATION OF NRC FY 1995 BUDGET TO POWER REACTORS' BASE FEES[1]

	Program total		Allocated to power reactors	
	Program support ($,K)	Direct FTE	Program support ($,K)	Direct FTE
Reactor Program				
Cost Center: Reactor Regulation:				
Inspections	$4,350	471.4	$4,350	471.4
Reactor Oversight	11,615	357.0	11,615	357.0
Reactor and Site Licensing	1,660	26.3	1,660	26.3
Reactor Aging and Renewal	19,973	54.7	19,973	54.7
Safety Assessment and Regulatory Development	33,687	69.5	33,687	69.5
Independent Analysis of Operational Experience	7,939	47.0	7,939	47.0
Technical Training and Qualification	4,728	19.0	4,728	19.0
Investigations, Enforcement and Legal Advice	11	59.0	11	59.0
Independent Review	536	42.0	536	42.0
Cost Center Total	.....	.....	$84,499	1,145.9
Cost Center: Standard Reactor Designs:				
Design Certification	6,873	91.6	6,873	91.6
Safety Assessment	14,885	19.7	14,885	19.7
Legal Advice	.....	3.0	.....	3.0
Independent Review	86	10.0	86	10.0
Cost Center Total	.....	.....	$21,844	124.3
Nuclear Materials and Nuclear Waste Program				
Cost Center: Fuel Facilities:				
Licensing and Inspection	1,304	28.5	.....	.1
Cost Center: LLW and Decommissioning:				
Licensing and Inspection	50	2.6	.....	.9
Reactor Decommissioning	100	6.7	100	6.7
Radiological Surveys	1,653	.....	331	.....
Cost Center Total	.....	.....	$431	7.6

TABLE IV.—ALLOCATION OF NRC FY 1995 BUDGET TO POWER REACTORS' BASE FEES[1]—Continued

	Program total		Allocated to power reactors	
	Program support ($,K)	Direct FTE	Program support ($,K)	Direct FTE
Management and Support Programs				
Cost Center: Special Technical Programs:				
Educational Grants	1,050	.....	1,050	.....
Small Business Innovation Research	1,844	.....	1,844	.....
Nuclear Materials Mgt. and Safeguards System	1,165	1.0	850	.7
Cost Center Total	.....	.....	$3,744	.7
Reactor Program Total	.....	.....	$110,518	1,278.6
Total Base Fee Amount Allocated to Power Reactors				[2]$385.0 million
Less Estimated Part 170 Power Reactor Fees				$119.8 million
Part 171 Amount for Operating Power Reactors				$265.2 million
Part 171 Base Fee For Each Operating Reactor				265.2 million
				108 reactors = $2,456,000 per reactor

[1] Base annual fees include all costs attributable to the operating power reactor class of licensees. The base fees do not include costs allocated to power reactors for policy reasons.
[2] Amount is obtained by multiplying the direct FTE times the rate per FTE ($214,765) and adding the program support funds.

3. On page 14681, Tables VI and VII should read as follows:

TABLE VI.—ALLOCATION OF NRC FY 1995 BUDGET TO FUEL FACILITY BASE FEES[1]

	Total program element		Allocated to fuel facility	
	Program support $,K	FTE	Program support $,K	FTE
Cost Center: Fuel Facilities:				
Fuel Fabricators Oversight and Inspections	$1,698	59.0	$1,486	56.1
Cost Center: LLW and Decommissioning:				
Decommissioning	4,447	50.0	325	1.7
Cost Center: Other Nuclear Materials and Waste:				
Independent Analysis of Operating Experience	346	8.0	69	1.6
Technical Training and Qualification	692	2.0	138	.4
Adjudicatory Reviews	.....	1.0	.....	.5
Investigations, Enforcement, Legal Advice	11	39.0	1	1.6
Cost Center: Special Technical Program:				
Nuclear Materials Mgt. and Safeguards System	1,165	1.0	47	.....
Total	.....	.....	$2,066	61.9
Total Base Fee Amount Allocated to Fuel Facilities				[2]$14.6 million
Less Part 170 Fuel Facility Fees				4.5 million
Part 171 Base Fees For Fuel Facilities				$10.1 million

[1] Base annual fee includes all costs attributable to the fuel facility class of licensees. The base fee does not include costs allocated to fuel facilities for policy reasons.
[2] Amount is obtained by multiplying the direct FTE times the rate per FTE ($203,096) and adding the program support funds.

TABLE VII.—ALLOCATION OF FY 1995 BUDGET TO MATERIAL USERS' BASE FEES[1]

	Total program element		Allocated to materials users	
	Program support $,K	FTE	Program support $,K	FTE
Nuclear Materials & Nuclear Waste Program				
Cost Center: Materials Users:				
Licensing/Inspection of Materials Users	2,436	113.0	721	82.3
Materials Licensee Performance	700	1.8	169	.5
Materials Regulatory Standards	1,494	12.8	403	3.5

VOL 60 ISS 71 AP 13 1995 UMI

TABLE VII.—ALLOCATION OF FY 1995 BUDGET TO MATERIAL USERS' BASE FEES[1]—Continued

	Total program element		Allocated to materials users	
	Program support $,K	FTE	Program support $,K	FTE
Radiation Protection/Health Effects	1,621	5.3	438	1.4
Cost Center Total			$1,751	87.7
Cost Center: LLW and Decommissioning:				
Licensing & Inspections	50	2.6		.2
Decommissioning	214	32.8	69	3.5
Radiological Surveys	1,653		372	
Cost Center Total			441	3.7
Cost Center: Other Nuclear Materials:				
Analysis of Operational Experience	$346	8.0	184	1.7
Technical Training	692	2.0	498	1.4
Adjudicatory Reviews		1.0		.5
Investigations/Enforcement	11	39.0	9	24.4
Event Evaluation		16.0		4.4
Cost Center Total			$691	32.4
Total Program			$2,883	123.8
Management and Support Program				
Cost Center: Special Technical Programs:				
Nuclear Material Management and Safeguard Systems	1,165	1.0	74	.1
Total All Programs			$2,957	123.9
Base Amount Allocated to Materials Users				[2]$28.1 million
Less Part 170 Material Users Fees				3.2 million
Part 171 Base Fees for Material Users				$24.9 million

[1] Base annual fee includes all costs attributable to the materials class of licensees. The base fee does not include costs allocated to materials licensees for policy reasons.
[2] Amount is obtained by multiplying the direct FTE times the rate per FTE ($203,096) and adding the program support funds.

4. On page 14687, in §170.31, in the table, in column one and two, after 2A.(3), insert "Inspection.....Full Cost".

BILLING CODE 1505-01-D

federal register

Thursday
April 13, 1995

Part II

Department of Agriculture

Forest Service

36 CFR Parts 215, 217 and 219
National Forest System Land and Resource Management Planning; Proposed Rule

VOL 60 ISS 71 AP 13 1995 UMI

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 215, 217, and 219

RIN 0596–AB20

National Forest System Land and Resource Management Planning

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Forest Service requests comment on a proposed rule to guide land and resource management planning for the 191-million acre National Forest System. This proposed rule, which would revise and streamline the existing planning rule, describes the agency's framework for National Forest System resource decisionmaking; incorporates principles of ecosystem management into resource planning; and establishes requirements for implementation, monitoring, evaluation, amendment, and revision of forest plans. The intended effect is to simplify, clarify, and otherwise improve the planning process; reduce burdensome and costly procedural requirements; and strengthen relationships with the public and other government entities.

DATES: Comments must be submitted in writing and received by July 12, 1995.

The agency will provide briefings to assist the public in understanding the proposed rule on April 24 at the locations and times listed under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Send written comments to Director, Ecosystem Management (1920; 3 CEN), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090.

The public may inspect comments received on this proposed rule in the Office of the Director, Third Floor, Central Wing, Auditor's Building, 14th and Independence Avenue, SW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m. Those wishing to inspect comments are encouraged to call ahead (202–205–1034) to facilitate entry into the building.

Briefings will be held at the addresses set out under **SUPPLEMENTARY INFORMATION** of this notice for proposed rulemaking.

FOR FURTHER INFORMATION CONTACT: Ann Christensen, Land Management Planning Specialist (202–205–1034).

SUPPLEMENTARY INFORMATION:

Public Briefings and Locations

The Forest Service will hold public briefings on April 24 in the following cities at the addresses and times shown:

1. Washington, DC—April 24, 1995, 9:30 a.m. to 11:30 a.m., Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia, 22202.

2. Missoula, Montana—April 24, 1995, 9 a.m. to 11 a.m., 4B's Inn and Conference Center, 3803 Brooks Street, Missoula, Montana, 59801.

3. Denver, Colorado—April 24, 1995, 6:30 p.m. to 8:30 p.m., USDA Forest Service, Rocky Mountain Regional Auditorium, 740 Simms Street, Golden, Colorado, 80401.

4. Grand Junction, Colorado—April 24, 1995, 6:30 p.m. to 8:30 p.m., Grand Junction Ranger District, 764 Horizon Drive, Grand Junction, Colorado, 81506.

5. Durango, Colorado—April 24, 1995, 6:30 p.m. to 8:30 p.m., San Juan Forest Supervisor's Office, 701 Camino del Camino, Durango, Colorado, 81301.

6. Chadron, Nebraska—April 24, 1995, 6:30 p.m. to 8:30 p.m., Nebraska National Forest Supervisor's Office, 125 N. Main Street, Chadron, Nebraska, 69337.

7. Rapid City, South Dakota—April 24, 1995, 6:30 p.m. to 8:30 p.m., Pactola Ranger District Office, 800 Soo San Drive, Rapid City, South Dakota, 81506.

8. Casper, Wyoming—April 24, 1995, 6:30 p.m. to 8:30 p.m., Holiday Inn, 300 "F" Street, Casper, Wyoming, 82601.

9. Albuquerque, New Mexico—April 24, 1995, 9 a.m. to 11 a.m., Southwestern Regional Office, 517 Gold Avenue, S.W., Albuquerque, New Mexico, 87102.

10. Phoenix, Arizona—April 24, 1995, 9 a.m. to 11 a.m., Tonto National Forest Supervisor's Office, 2234 East McDowell Road, Phoenix, Arizona, 85010.

11. Boise, Idaho—April 24, 1995, 2 p.m. to 4 p.m., National Interagency Fire Center, Training Building Auditorium, 3833 Development Avenue, Boise, Idaho, 83705.

12. Salt Lake City, Utah—April 24, 1995, 2 p.m. to 4 p.m., Federal Building, Room 2404, 125 South State Street, Salt Lake City, Utah, 84138.

13. Sacramento, California—April 24, 1995, 1 p.m. to 3 p.m., Radisson Hotel Sacramento, 500 Leisure Lane, Sacramento, California, 95815.

14. Portland, Oregon—April 24, 1995, 9 a.m. to 11 a.m., USDA Forest Service Pacific Northwest Regional Office, Robert Duncan Plaza, 333 S.W. First Avenue, Portland, Oregon, 97208.

15. Atlanta, Georgia—April 24, 1995, 12:30 p.m. to 2:30 p.m., USDA Forest Service Southern Region Office, 1720 Peachtree Road, N.W., room 199, Atlanta, Georgia, 30367.

16. Brookfield, Wisconsin—April 24, 1995, 7 p.m. to 9 p.m., Brookfield Marriott Hotel, 375 South Moorland Road, Brookfield, Wisconsin, 53005.

17. Juneau, Alaska—April 24, 1995, 1 p.m. to 3 p.m., Alaska Native Brotherhood Hall, 320 Willoughby Avenue, Juneau, Alaska, 99801.

Public comments will not be taken at these briefings, which will consist of video presentations prepared by the Chief's Office. As of May 1, one copy of this video material will also be available at the Chief's Office, each Regional Office, each Forest Supervisor's Office, each Research or Experiment Station, the Forest Products Laboratory, the Northeastern Area State and Private Forestry Office, and the International Institute of Tropical Forestry. The video may be borrowed by interested parties on a reservation basis by contacting their local Forest Service office or calling the telephone number listed under **FOR FURTHER INFORMATION CONTACT** earlier in this notice.

Background

The Forest Service is responsible for managing the land and resources of the National Forest System. It is headed by the Chief of the Forest Service and includes 191 million acres of lands in 42 States, the Virgin Islands, and Puerto Rico. The National Forest System consists of 155 National Forests, 20 National Grasslands, and various other lands under the jurisdiction of the Secretary of Agriculture. Under the Multiple-Use, Sustained-Yield Act of 1960 (16 U.S.C. 528) and the National Forest Management Act of 1976 (16 U.S.C. 1600), these lands are managed for a variety of uses on a sustained basis to ensure a continued supply of goods and services to the American people in perpetuity.

The Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) (88 Stat. 476 *et seq.*), as amended by the National Forest Management Act of 1976 (90 Stat. 2949 *et seq.*; 16 USC 1601–1614) (hereafter, NFMA), specifies that land and resource management plans shall be developed for units of the National Forest System. Regulations to implement NFMA are set forth at 36 CFR part 219.

A forest plan has been approved for every National Forest except the Klamath, Shasta-Trinity, Mendocino, and Six Rivers National Forests, all located in California. It remains the agency's intent that these National Forests complete their plans under the requirements for forest plan development described by the existing regulation, adopted September 30, 1982 (47 FR 43026), as amended June 24, 1983 (48 FR 29122), and September 7, 1983 (48 FR 40383), and as set out in the Code of Federal Regulations as of July 1, 1993.

During the 18 years since enactment of NFMA, much has been learned about planning for management of National Forest System lands. The original vision of NFMA raised many varied expectations, some of which remain unfulfilled. Although forest planning efforts to date have produced notable accomplishments in addressing forest management issues and fostering public participation in public land management, many controversies linger. For each National Forest, difficult resource management choices must be made among competing interests, often where there are no universally accepted answers. In such a setting, forest planning cannot be expected to revolve all differences; however, improvements in forest planning requirements and procedures can help better focus the issues and choices and lead to better, more informed decisions.

This proposed rule is the culmination of a systematic and comprehensive review of forest planning rules and processes. The nature of this review and its findings were described in detail in the Advance Notice of Proposed Rulemaking published on February 15, 1991 (56 FR 6508), along with a history of forest planning and an overview of the existing planning rule.

Critique of Land Management Planning

Of particular note in development of this proposed rule is the Critique of Land Management Planning. The Forest Service initiated this comprehensive review of its land management planning process in March 1989. Conducted with the help of The Conservation Foundation, the Department of Forestry and Natural Resources at Purdue University, and others, the purpose of the Critique was to document what had been learned since passage of the National Forest Management Act and to determine how best to respond to the planning challenges of the future.

The Critique involved over 3,500 people both within and outside the Forest Service. Workshops and interviews were conducted involving over 2,000 people who had participated in or had responsibilities for forest planning. These participants represented a broad cross-section of all those who were involved in planning, including members of the general public, interest groups, representatives of other agencies, elected officials, representatives of Indian tribal governments, Forest Supervisors, Regional Foresters, resource specialists, and members of interdisciplinary planning teams. Additionally, there were written comments received from 1,500 interested people. The Critique was completed in May 1990. The results of the Critique are documented in a summary report, "Synthesis of the Critique of Land Management Planning" (Vol. 1) and 10 other more detailed reports. In the interest of economy and brevity, the findings of the Critique and other material are not repeated here but should be considered as the foundation and background for this proposed rule.

Advance Notice of Proposed Rulemaking

An Advance Notice of Proposed Rulemaking was published on February 15, 1991 (56 FR 6508). The public comment period closed May 16, 1991. The Advance Notice of Proposed Rulemaking included preliminary regulatory text completely revising the existing regulation, based largely on the findings of the Critique. Four public informational meetings were held to stimulate public interest in and comment on the proposal in the Advance Notice and to assist the public in understanding the ideas presented in the Notice. Meetings were held as follows: Washington, DC, February 26, 1991; Portland, Oregon, April 8, 1991; Denver, Colorado, April 10, 1991; and Atlanta, Georgia, April 12, 1991. Altogether, approximately 50 people attended these meetings.

In addition to publishing the Advance Notice of Proposed Rulemaking in the **Federal Register**, the Forest Service mailed approximately 20,000 copies to known interested parties and invited comment on the rule. Over 600 groups and individuals provided nearly 4,700 comments. Approximately 10 percent were from business and industry groups; 11 percent from Federal, State, and local government agencies; 11 percent from environmental and conservation groups; 2 percent from recreation and user groups; 1 percent from academia; 1 percent from civic organizations; 9 percent from agency employees; and the remaining 55 percent from individual citizens.

As stated in the Advance Notice of Proposed Rulemaking, the agency received a petition on November 1, 1990, from the National Forest Products Association and 79 other organizations "to engage in a rulemaking to amend the regulations set out at 36 CFR Part 219 to improve the implementation of land and resource management plans ('forest plants'), provide for prompt amendment, establish specific environmental documentation requirements, and for related reasons." This petition for rulemaking included proposed regulatory text and the rationale for it. It represented an alternative approach to changing the NFMA planning regulation at 36 CFR Part 219. The specific recommendations in the petition, along with supplemental comments received from the National Forest Products Association during the public comment period, were considered as part of the public comment associated with the Advance Notice of Proposed Rulemaking.

Basic Conclusions Underlying This Proposal

The proposed rule now being published rests on many of the same basic conclusions as the Advance Notice of Proposed Rulemaking, which are highlighted here.

1. Many Recommendations of the Critique of Land Management Planning can and Should be Adopted by Revising the Planning Rule

Although a number of specific recommendations have been used in developing this proposed rule, the following major recommendations identified by the Critique are particularly important:

(a) Simplify, Clarify, and Shorten the Planning Process

The Critique found that the complexity of the forest planning process was so overwhelming that few people really fully understood it. Further, the Critique found that this complexity often inhibited meaningful communication with the public and other governments, reduced agency credibility, and increased the time and cost needed to complete plans.

The Critique also identified the problems associated with trying to resolve socio-political issues through a highly technical and systematic set of planning procedures. The importance of balancing technical information with the values and concerns of the public was highlighted in the Critique reports.

Finally, the planning process is so lengthy and complex that the process of completing forest plans is frustrating for the public and agency employees alike. In addition, the financial expenditure required for such a lengthy and complex process has had a major impact on the agency and diverted funds and personnel from project decisionmaking and other activities.

While endorsing the need to simplify, clarify, and shorten the planning process, the Forest Service also recognizes that forest planning is inherently complex due to the multitude of resources and statutory responsibilities involved. Sound, yet often complex, technical analyses serve

VOL 60 ISS 71 AP 13 1995 UMI

a critical role in evaluating resource trade-offs and ensuring that resource decisions are based on the best possible information. A balance must be found between the simplicity most people desire and the complex reality of forest planning.

(b) Clarify the Decision Framework

The existing regulation does not precisely address the nature of forest plan decisions and the appropriate scope of environmental analysis. During development of the existing forest plans, many people believed that forest plans would make irretrievable resource commitments for all projects necessary to fully implement the goals and objectives of the plan. Confusion over the nature of forest plan decisions has been a principal source of controversy for many plans. Most of the administrative appeals of forest plans challenge whether forest plans and accompanying environmental impact statements satisfy particular requirements of NFMA, NEPA, the Endangered Species Act, the Clean Water Act, and other environmental laws. Forest plan appellants frequently argue that forest plans irretrievably commit the agency to individual projects but fail to provide the analysis and documentation required by these statutes.

In fact, the environmental impact statements accompanying forest plans do not attempt to identify, evaluate, and decide every individual project that may be permissible during the normal 10-year period of a forest plan. It would be practically impossible to satisfy these obligations in one single set of decisions or in a single environmental impact statement. Court decisions as well as administrative appeal decisions by the Chief of the Forest Service and the Assistant Secretary of Agriculture have explained the content of forest plan decisions and the scope of environmental analysis. To avoid confusion, the existing rule should be revised accordingly.

(c) Provide for an Incremental Approach to Revising Forest Plans

The Critique firmly endorsed an incremental approach to forest plan revision. It was considered a key element to achieving the major recommendations of the Critique to "Simplify, clarify, and shorten the planning process." In Volume 2 of the Critique report, the merits of incremental planning are addressed:

Wiping the slate clean and beginning anew allows the entire universe of alternatives to be examined, unprejudiced by directions and choices that have gone before. In fact, however, change is incremental when the alternatives available are heavily influenced—and circumscribed—by the choices made in the past. Examining the entire universe of alternatives in great detail may be both interesting and informative, but it imposes a tremendous demand for analysis that may go largely unused in the real decision process * * *. Federal regulations should be revised to permit an explicitly incremental approach to the revision of forest plans." (p. 61)

2. While NFMA Has Some Limitations, It Remains Basically Sound

Such NFMA principles as integrated resource planning, public participation, and an interdisciplinary approach to planning continue to provide a solid foundation for agency planning efforts. The Act also provides flexibility to make needed improvements through rulemaking or agency directives.

Many of the problems with forest planning are not directly associated with the provisions of NFMA. Public land management is complicated by a long series of laws and regulations enacted over many years. This has resulted in a situation once described by Federal District Court Judge Lawrence K. Karlton as a "crazy quilt of apparently mutually incompatible statutory directives." (*United States* v. *Brunskill*, Civil S–82–686–LKK (E.D. Cal. Nov. 8, 1984) unpublished opinion, aff'd, 792 F.2d 9938 (9th Cir. 1986)). Thus, the controversy which often has surrounded forest planning must be viewed in light of the many requirements imposed by statutory and regulatory requirements other than the National Forest Management Act (e.g., the National Environmental Policy Act, Endangered Species Act, Clean Water Act, Clean Air Act). It is often the interaction of these other laws and regulations that has increased the controversy surrounding forest planning and land use.

Some of the dissatisfaction with NFMA can be traced to unrealistic expectations. One of the major findings of the Critique of Land Management Planning was the need for adjustments in the public's expectations of forest planning. Volume 2 of the report of the Critique explicitly addressed this as follows:

Expectations for forest planning are high in some cases, unrealistically so. Some workshop participants expected forest planning would lead to establishment of "reasonable and sustainable" production goals. Others thought it would free resource allocation from politics while building a powerful case for budgets and appropriations sufficient to accomplish plan goals. And many apparently thought that forest planning would be a way to influence the political process and sway management to their purposes. Probing more deeply, we found that it was not so much the process to which people objected, but the results of that process. In retrospect, it was inevitable that this would occur. When the law was enacted, representatives of both the Sierra Club and the National Forest Products Association returned to their constituents and proclaimed victory. Obviously, both had different expectations of outcomes under the law. (p.3)

3. Many Opportunities Exist to Streamline the Existing Regulatory Text

In addition to finding numerous opportunities to streamline the substantive procedural requirements for forest planning, one of the findings of the review of the existing regulation was that much could be done to simplify the regulatory text itself and to enhance its readability regardless of major substantive changes. For example, there were numerous opportunities to simplify language, shorten definitions, eliminate similar or duplicative provisions, improve structural organization, and reduce overlap with other laws, regulations, or Executive orders. In addition, language without real substance should be removed. The composite effect of such changes can be a significant reduction in the length of the regulation, an enhancement of its readability, and a positive step forward towards better understanding and simplification of forest planning.

In reviewing the existing regulation, the agency also has considered the relative roles of the planning regulation at 36 CFR part 219 and the Forest Service Directive System. The review indicated that the rule is better suited for defining the purpose and desired results of planning and the minimum standards for planning than for giving detailed procedural guidelines. As a result, some streamlining has been achieved in the proposed rule by shifting detailed procedural direction to agency directives. To implement the revised regulation, the agency plans to reorganize and revise its directives related to forest planning. Subject to procedures in 36 CFR part 216, substantive revisions to planning direction in Forest Service Manual Chapter 1920 will be made available for public review and comment prior to being adopted.

4. The Solution to Some Problems With the Planning Process Are Not Within the Scope of the Planning Regulation

Only about one-third of the 232 Critique recommendations concern changes that are appropriate to implement through revision of the planning regulation or issuance of related guidance through the Forest

Service Directive System. The remaining two-thirds of the recommendations must be addressed through other actions or channels, such as increasing accountability for performance or improving training.

In addition, even though some aspects of planning are within the scope of the regulation, the real success or failure of some endeavors will depend on the commitment and understanding of agency personnel and the public. A good example of this is public involvement. No amount of regulatory detail can guarantee effective and open communication. Certain expectations can be defined and minimum procedures established, but ultimately the success or failure of the communication between the agency and public depends upon the people involved. As a result, the agency recognizes that even though modifying the planning regulation is a major and essential step towards improving the effectiveness of forest planning, such improvements must occur in concert with other changes and commitments in order for the full potential of forest planning to be realized.

In addition to the preceding four conclusions which had been addressed in the Advance Notice of Proposed Rulemaking, one additional finding has guided development of this proposed rule which were not reflected in the Advance Notice.

5. Principles of Ecosystem Management Need to be Reflected in the Planning Regulation

In the decade following promulgation of the existing planning rule, the concept of ecosystem management has slowly and steadily evolved, and the agency has made clear its intention to move toward an ecosystem management approach to National Forest System management. In recent years, the agency has actively promoted implementation of ecosystem management principles within existing legal requirements. Other Federal agencies are proceeding similarly. Additionally, the spotted owl controversy in the Pacific Northwest has become a focal point for exploring ways to implement the principles of ecosystem management. The validity of an ecosystem approach was recently upheld when the Record of Decision (ROD) for the Range of the Northern Spotted Owl was sustained from programmatic challenge (*SAS* v. *Lyons*, No. C92–479WD (W.D. WA, Dec. 21, 1994)). In that decision, Judge Dwyer stated, "Given the current condition of the forests, there is no way the agencies could comply with environmental laws without planning on an ecosystem basis" (slip. Op. @ 32).

In light of the experience in the Pacific Northwest and elsewhere, there is much interest in finding ways for Federal land management agencies to better incorporate the principles of ecosystem management when conducting resource planning and decisionmaking activities. The existing NFMA planning regulation was promulgated in 1982, long before the concept of ecosystem management had begun to be widely recognized. By contrast, the proposed rule has been promulgated with recognition of the role of ecosystem management and represents a significant step toward incorporating ecosystem management into the planning process to the extent permitted by current law.

While basic principles of NFMA remain sound, there are questions as to whether statutory changes may be appropriate if ecosystem management is to become a fully operational concept for the management of National Forest System lands. A related consideration is the interaction of NFMA requirements with numerous other relevant statutes, such as the National Environmental Policy Act (42 U.S.C. 4321), the endangered Species Act of 1973 (16 U.S.C. 1501 *et seq.*), or the Federal Advisory Committee Act (86 Stat. 770). Experience to date has shown that the existing "crazy quilt" framework of statutes creates some limitations and uncertainties regarding implementation of ecosystem management concepts. Although progress can be made within the existing legal framework, the agency believes that a review of NFMA and other relevant statutes may be appropriate before the concept of ecosystem management can be transformed from an evolving vision into a fully operational reality.

Moreover, it must be recognized that ecosystem management is a continuously evolving concept. There is still much to be learned regarding how best to implement the principles of ecosystem management when fulfilling the agency's responsibilities for management of National Forest System lands. As a result, the proposed rule should not be viewed as the agency's ultimate vision for implementing ecosystem management, but rather as a transitional step for beginning to incorporate the concepts of ecosystem management into land and resource management planning procedures and to do so in a manner consistent with the requirements of NFMA.

In summary, as the first generation of forest plans prepared under NFMA is coming due for revision, the Forest Service proposes a substantially streamlined planning rule that builds on 15 years of planning experience and evolving concepts of resource management. The primary outcomes anticipated from the proposed rule include: forest plans and forest planning procedures that are simpler, more understandable, and less costly; stronger relationships with the public and other government entities; the incorporation of ecosystem management principles into forest planning; and clarification of the nature of forest plan decisions and their relationship to other planning and decisionmaking processes.

Comparison of Outlines of Proposed Rule to Existing Rule

The following table allows comparison of the existing table of contents for 36 CFR part 219, subpart A to that in the proposed rule:

Proposed rule		Existing rule	
219.1	Purpose and principles	219.1	Purpose and principles.
219.2	Definitions	219.2	Scope and applicability.
219.3	Relationships with the public and government entities	219.3	Definitions and terminology.
219.4	Sustainability of escosystems	219.4	Planning levels.
219.5	Framework for resource decisionmaking	219.5	Interdisciplinary approach.
219.6	Forest plan direction	219.6	Public participation.
219.7	Ecosystem analysis	219.7	Coordination with other public planning efforts.
219.8	Interdisciplinary teams and information needs	219.8	Regional planning—general procedure.
219.9	Forest plan amendments	219.9	Regional guide content.
219.10	Forest plan revision	219.10	Forest planning—general procedure.
219.11	Forest plan implementation	219.11	Forest plan content.
219.12	Monitoring and evaluation	219.12	Forest plan process.

VOL
60
ISS
71
AP
13
1995
UMI

Proposed rule	Existing rule
219.13 Statutory timber management requirements	219.13 Forest planning—resource integration requirements.
219.14 Special designations	219.14 Timber resource land suitability.
219.15 Applicability and transition	219.15 Vegetative management practices.
	219.16 Timber resource sale schedule.
	219.17 Wilderness designation.
	219.18 Wilderness management.
	219.19 Fish and wildlife resource.
	219.20 Grazing resource.
	219.21 Recreation resource.
	219.22 Mineral resource.
	219.23 Water and soil resource.
	219.24 Cultural and historic resource.
	219.25 Research natural areas.
	219.26 Diversity.
	219.27 Management requirements.
	219.28 Research.
	219.29 Transition period.

Section-by-Section Description

The principal features of the proposed rule are summarized here, keyed to the proposed CFR section numbers.

Section 219.1 Purpose and Principles

The proposed rule would: (1) Describe the agency's framework for National Forest System resource decisionmaking; (2) incorporate principles of ecosystem management; (3) establish requirements for the implementation, monitoring, evaluation, amendment, and revision of forest plans; and (4) articulate the relationship between resource decisionmaking and compliance with the National Environmental Policy Act (hereafter, NEPA). Unlike the existing rule, the proposed rule would not provide direction for development of initial forest plans, because all but four of those plans are in effect.

Paragraph (b) would identify 10 principles which provide the basis for National Forest System resource decisionmaking and management. The existing rule contains 14 principles. Although the 14 original principles are basically sound in and of themselves, the agency believes the new set of principles better reflects the concepts of ecosystem management and the agency's approach to resource decisionmaking.

The first principle states the agency's commitment to managing for sustainable ecosystems and the multiple benefits which they can yield. The second principle articulates a key aspect of the agency's approach to ecosystem management—that people are part of ecosystems and that meeting people's needs and desires within the capacities of natural systems is a primary role of resource decisionmaking.

The third principle reflects the dynamic nature of ecosystems and that they occur at a variety of spatial scales, with the resulting need for flexible planning processes that consider ecological changes over time. The fourth principle recognizes that ecosystems often cross many ownerships and jurisdictions, making it important to coordinate planning efforts for National Forest System lands with other landowners, governments, and agencies. This principle also addresses the need to respect private property rights and the jurisdictions of other government entities.

The fifth principle notes the importance of open, ongoing, and equitable public involvement. This embodies the agency's belief that such participation by all interested publics is an important and integral part of National Forest System management.

The sixth principle highlights the vital role of scientists in gathering and analyzing information for resource decisionmaking.

The seventh principle recognizes that a fundamental goal of managing National Forest System lands is the optimization of net public benefits, which includes consideration of both quantitative and qualitative criteria.

The eighth principle emphasizes the importance of being able to efficiently adjust forest plans in response to changing conditions and new information.

The ninth principle makes clear that NEPA procedures define the scope and level of analysis conducted for resource decisionmaking and the need for analysis to be commensurate with the scope and nature of decisions being made.

The last principle acknowledges the uncertainty inherent in resource decisionmaking, and the need for resource decisionmaking to proceed using an adaptive approach to resource management.

The 10 principles highlight the underlying concepts and assumptions upon which the remaining sections of the proposed rule are based and set out many of the principles of ecosystem management which are reflected in the proposed rule.

Section 219.2 Definitions

The following words are defined in the existing rule, but would not be included in the definitions provided in the proposed rule, because they are not used or do not vary in meaning from common or well-established use of the term:

Base sale schedule
Biological growth potential
Capability
Corridor
Cost efficiency
Diversity
Even-aged management
Goods and services
Integrated pest management
Management concern
Management direction
Management intensity
Management practice
Planning horizon
Present net value
Public issue
Real dollar value
Receipt shares
Responsible line officer
Sale schedule
Silvicultural system
Suitability
Sustained-yield of products and services
Timber production
Uneven-aged management

The following terms are not defined in the Definitions section of the existing rule, but would be defined in the proposed rule:

Catastrophic event
Category 1 candidate species
Category 2 candidate species
Chargeable timber volume
Conservation agreement
Culmination of mean annual increment
Decision document
Directive
Directive System
Ecosystem analysis
Ecosystem management
Environmental assessment
Environmental impact statement
Even-aged stand
Forest Supervisor
Guideline
Infrastructure
NEPA documents
NEPA procedures
Previous planning rule
Project
Proposed action
Regional Forester
RPA Program and Assessment
Resource conditions
Responsible official
Species and natural community rankings
Standard
Station Director
Sustainability of ecosystems
Tribal governments

The following definitions appear in the existing rule and would be modified or retained unchanged in the proposed rule:

Allowable sale quantity
Forested land (previously listed as "forest land")
Goal
Long-term sustained-yield timber capacity
Management prescription
Objective
Multiple-use
Plan area (previously listed as "planning area")
Plan period (previously listed as "planning period")

Readers of this Supplementary Information should refer to the definitions section of the proposed rule (§ 219.2) for definitions of terms used in this preamble.

Section 219.3 Relationships With the Public and Government Entities

This section focuses on building and maintaining relationships with the public and other government entities and, in conjunction with numerous provisions in other sections of the proposed rule, would substantially strengthen the role of public participation and government coordination compared to the existing rule. This emphasis responds to findings of the Land Management Planning Critique, which highlighted the critical role of ongoing and meaningful public involvement and the need to strengthen coordination with other Federal agencies and State, local and tribal governments. Although the Federal Advisory Committee Act imposes some limitations on how involvement activities can be conducted, a cornerstone of ecosystem management and this proposed rule is the recognition that the public and other agencies and governments must work closely together if resource management issues are to be addressed effectively

Although this section would specifically address public participation and government coordination, there are numerous other sections of the proposed rule that reflect the agency's recognition of the importance of people in resource management and that reflect the agency's intent to expand opportunities for public involvement in agency planning and for public comment. For example, six of the principles in proposed § 219.1 highlight the role of people in managing the National Forest System (§ 219.1(b)(1), (2), (4)–(7)). There would be two new opportunities for public notice and comment—a 30-day comment period for some minor amendments (§ 219.9(c)(2)(i)) and a 30-day comment period prior to updating a monitoring and evaluation strategy (§ 219.12(c)(2)). In addition, three new provisions designed to provide more information to the public are proposed: (1) the requirement for an annual monitoring and evaluation report (§ 219.12(e)); (2) the requirement to periodically update estimated levels of goods and services and management activities (§ 219.11(d)(2)); and (3) the requirement to conduct and make available the results of a prerevision review when initiating the revision process (§ 219.10(c) and (d)). Involvement in the revision process would also be strengthened by a requirement to provide opportunities for participation in the prerevision review (§ 219.10(c)(2)) and in formulation of a communications strategy for the prerevision review and revision effort (§ 219.10(c)(2)(ii)). Finally, the proposed rule provides opportunities for involvement and coordination in monitoring and evaluation efforts (§ 219.12(a)(1)(x)).

Separate sections in the existing rule for Public Participation (§ 219.6) and Coordination With Other Public Planning Efforts (§ 219.7), would be combined into one section in the proposed rule. Combining the two sections is not intended to diminish the distinctive roles and importance of the public and cooperating agencies and governments; rather, combining these sections allows the agency to avoid repeating the many provisions that are applicable to both the public and cooperating agencies and governments while still providing the ability to address their specific and unique needs

Proposed paragraph (a) asserts that building and maintaining relationships with the public and other Federal agencies and State, local, and tribal governments is an essential and ongoing part of National Forest System planning and management. Paragraphs (a) (1)–(5) would expand on this statement by further describing five purposes for establishing and maintaining communication with parties interested in forest planning.

The first purpose is to develop a shared understanding of the variety of needs, concerns, and values held by the public. In the past, public involvement efforts have too often promoted polarization of parties and interests. The agency believes communication and understanding of needs, concerns, and values is essential if polarization is to be replaced with cooperative problem solving and a genuine desire to move towards consensus.

A second purpose is to coordinate planning efforts with other Federal agencies and State, local, and tribal governments. This reflects the agency's desire to strengthen working relationships with other agencies and governments as well as an awareness of the distinct roles and jurisdictions that must be recognized during resource planning efforts. This purpose also is consistent with the emphasis in ecosystem management that all parties interested in an ecosystem work together rather than approaching resource planning efforts in isolation The provision would encourage coordination of planning efforts between the Forest Service and other government entities. However, the Forest Service recognizes that the Federal Advisory Committee Act is an important consideration that can influence the extent to which such coordinated efforts can occur

The third purpose is to improve the information base influencing decisions and to promote a shared understanding of the validity of this information. If the public is to have confidence in resource decisions made by the agency, there must be confidence in the information used in making those decisions. The public and other agencies and governments can play an integral part in improving the information base used and in helping to assess its validity For example, this could mean working together with the public, scientific community, and other agencies to conduct an ecoregion assessment, or development of joint data bases with

VOL
60
ISS
71
AP
13
1995
UMI

other agencies. This could also involve providing more opportunities for the public to review the information being used early in the decision process so that concerns about its validity can be identified and resolved in a cooperative and ongoing manner.

The fourth purpose is to strengthen the scientific basis for resource management decisions through involvement of members of the scientific community. Although the agency has always considered the scientific community as part of the public, the proposed rule would highlight the particular importance of the involvement of scientists in resource planning. This emphasis is appropriate because the concept of ecosystem management recognizes and validates the important role of science and the need to integrate scientific expertise more effectively into resource planning and management.

The fifth and final purpose is to resolve conflicts associated with resource decisionmaking. The first four goals, if achieved, lay the groundwork for conflict resolution. Although the Forest Service recognizes that resource management issues are often highly controversial and consensus may not be achievable, agency involvement and coordination efforts, nevertheless, should strive to promote the kind of communication and understanding that helps diminish differences and encourages parties with varying interests to work through issues together.

Paragraph (b) of proposed § 219.3 would require the Forest Supervisor to maintain and periodically update a mailing list of interested individuals, organizations, scientists, and government agencies and officials. This provision is intended to assure a means by which anyone who so desires can be informed of planning activities.

Proposed paragraph (c) would require the maintenance of planning records that document forest plan amendments, revisions, and monitoring and evaluation and would ensure public access to these records. This is generally comparable to § 219.10(h) of the existing rule.

Proposed paragraph (d) would require copies of forest plans and monitoring and evaluation strategies to be accessible to the public at designated locations and is generally comparable to § 219.6(i)(3) of the existing rule.

Paragraph (e) of this section would direct Regional Foresters to seek to establish a memorandum of understanding or other form of agreement to guide coordination of planning efforts when desired by State officials or affected tribal governments. Paragraph (1) (i)–(ii) set forth the content requirements for such agreements, and paragraphs (1) (iii)–(iv) indicate when Forest Supervisors may execute such agreements and when a memorandum of understanding can be jointly executed by two Regional Foresters. This new provision is intended to help strengthen communication and cooperation between the Forest Service and State and tribal governments. This provision would supplement Forest Service authority to enter into such agreements with other Federal agencies or local governments.

Proposed paragraph (f) highlights the need for public involvement and government coordination procedures to conform with NEPA requirements and other applicable laws, Executive orders, or regulations. This is included as a reminder that there are numerous requirements already in place with which the agency must comply. Perhaps the two most notable are public involvement requirements associated with NEPA procedures and the Federal Advisory Committee Act. The Federal Advisory Committee Act has been increasingly recognized as having a substantial impact on how public involvement activities are to be conducted.

Section 219.4 Sustainability of Ecosystems

This section is the central focus of the agency's shift toward an ecosystem approach to resource management. The fundamental premise is that the principal goal of managing the National Forest System is to maintain or restore the sustainability of ecosystems and that this is essential because sustained yield of benefits for present and future generations is more likely to occur when the ecosystems from which those benefits are produced are in a sustainable condition.

This section is also based on the premise that a diversity of plant and animal communities is an inherent feature of sustainable ecosystems. Therefore, this proposed regulation is premised on the assumption that maintaining or restoring the sustainability of ecosystems simultaneously meets the NFMA provision to, "provide for diversity of plant and animal communities" (16 U.S.C. 1604(g)(3)(B)).

Seven key themes are woven throughout this section.

1. *Adoption of Sustainable Ecosystems As a Goal.* This proposed section explicitly establishes the sustainability of ecosystems as a goal and recognizes that the agency has the discretion to determine what processes and information will be used to work toward this goal. Under the proposed rule, the agency would retain the discretion to determine for each plan area which conditions are indicative of sustainable ecosystems and how the plan area could be managed to promote achievement of those conditions. There is nothing in the proposed rule that establishes a concrete standard regarding ecosystem sustainability or diversity.

This discretionary, goal-oriented approach to diversity and maintenance of sustainable ecosystems is consistent with the statutory basis for forest planning and the NFMA diversity provision which has been interpreted by court rulings to be a goal within the context of multiple use. "Diversity is not the controlling principle in forest planning, although it is an important goal to be pursued in the context of overall multiple-use objectives." *Sierra Club* v. *Robertson*, 845 F Supp. 485, 502 (S.D. Ohio, 1994). The interpretation of the NFMA diversity provision as a goal rather than a concrete standard is supported by the legislative history of the Act and has been upheld to date in a number of court cases. In *Sierra Club* v. *Espy*, No. 93–5050 (5th Cir. Nov. 15, 1994) the court recognized that the Forest Service has discretion to determine how it provides for diversity. See also, *Sierra Club* v. *Robertson*, 784 F. Supp. 593, 609 (W.D. Ark. 1991); *ONRC* v. *Lowe*, 836 F Supp. 727 (D. Ore. 1993); *Glisson* v. *USFS* (S.D. Ill. August 26, 1993); *Sierra Club* v. *Marita*, 843 F. Supp. 1526 (E.D. Wisc. 1994); *Krichbaum* v. *Kelly*, 844 F Supp. 1107 (W.D. Va. 1994); *Sierra Club* v. *Marita (Robertson)*, 845 F Supp. 1317 (E.D. Wisc 1994); in which courts have upheld Forest Service decisions based on NFMA diversity grounds.

In addition, the goal statement in paragraph (a) of proposed § 219.4 is consistent with Section 4(a) of the Multiple-Use, Sustained-Yield Act of 1960 (16 U.S.C. 528) which calls for "* * * harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land * * *" Similarly, Section 2(B) of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1501 *et seq.*, hereafter, ESA), states that one of the purposes of the Act is to "provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved * * *"

The premise is that by maintaining or, where needed, restoring the sustainability of ecosystems, the productivity of the land will not be impaired and the ecosystems upon which plant and wildlife species depend will be functioning properly. Thus, the ecological foundation is in place from which multiple benefits can be derived over time. Without those natural systems functioning properly, the ability to provide multiple benefits would be at risk.

The goal in proposed paragraph (a) also is consistent with the multiple-use mission of the National Forest System as mandated by Section 2 of the Multiple-Use, Sustained-Yield Act, which directs the Secretary to "* * * develop and administer the renewable surface resources of the national forests for multiple-use and sustained-yield of the several products and services obtained therefrom." The Act specifically identifies recreation, range, timber, watershed, wildlife, and fish as values for which national forests are administered. Later, at § 219.6(a), the proposed rule would make clear that forest plans address the full range of multiple-uses in an integrated manner and on a sustained-yield basis.

2. *Recognition of the Relationship between Sustainable Ecosystems and Meeting the Needs of People.* The goal statement of § 219.4(a), which is the foundation for this proposed section, clearly links the sustainability of ecosystems to the ability to provide multiple benefits to present and future generations. As stated at § 219.1(b)(2) of the proposed rule, people are considered part of ecosystems, and meeting people's needs and desires within the capacities of natural systems is a primary role of resource decisionmaking. The proposed rule is based on the premise that National Forests are managed to provide multiple benefits to people in a manner that is sustainable over time, and that those benefits which people need and desire will only be sustained when the ecosystems from which they are derived are sustained.

Although proposed section § 219.4 is focused on the biological and physical aspects of sustainable ecosystems, the proposed rule would make clear that forests plans address the full range of multiple-uses (§ 219.6(a)). In addition, proposed § 219.8(c) would make clear that the social and economic effects of resource decisions must be considered when amending or revising the forest plan. Thus, the proposed rule provides a holistic approach to National Forest management by assuring that the needs of people and the capacities of natural systems in both the near and long-term are considered when making resource decisions.

3. *Adoption of "Coarse Filter/Fine Filter" Approach.* This section of the proposed rule incorporates the "coarse filter/fine filter" concept of conservation biology, which holds that a strategy focused on maintaining the function, composition, and structure of an ecosystem as a whole will be adequate to meet the needs of most species. In essence, most species' needs are "caught" by the mesh of the "coarse filter." In contrast, some species have additional needs or more narrow habitat requirements that are not adequately met by focusing solely on the ecosystem as a whole. Under these circumstances, additional "fine filter" measures are needed to "catch" and support the special needs of species whose needs otherwise would have gone unmet.

The proposed rule provides the "coarse filter" by requiring that forest plan goals and objectives address the desired composition, function, and structure of ecosystems. These three aspects are generally considered to be integral to understanding and describing sustainable natural systems. Ecosystem structure includes the distribution and pattern of ecosystem elements such as forest openings and riparian corridors at a landscape scale, and the amount and arrangement of special habitat features such as seeps, snags and down woody material at smaller scales. Ecosystem composition includes the plant and animal species which make up an ecosystem. Ecosystem function includes processes and the relationships among processes, such as nutrient cycling in a system. In many cases, these three aspects of ecosystems will be described in the forest plan for ecosystems at fairly large scales, such as for ecosystems encompassing sizable portions of the plan area.

The "coarse filter" can be provided at a variety of spatial scales, however. For example, proposed paragraph (b)(3) would direct that forest plans are to provide for the protection of rare natural communities. In many cases, these areas provide the "coarse filter" even though they may only be a fraction or an acre in size. By protecting rare natural communities, many individual species that are dependent on those habitats and communities are protected, thereby exemplifying the "coarse filter/fine filter" concept.

The "fine filter" safeguard is provided in the proposed rule through the requirements to protect threatened and endangered species. For example, proposed § 219.4(b)(4) would require that forest plans provide for the conservation of species listed as threatened and endangered, or proposed for listing, under the Endangered Species Act (ESA). It also would make explicit that once a species is listed or proposed for listing, management activities on National Forest System lands which affect the habitat of the species must comply with the requirements of ESA. Additional "fine filter" protection is provided by the requirements of Option I to protect sensitive species, and the requirements of Option II to address viability of species which are addressed later in this section.

4. *Clear Intent to Seek to Prevent Listing of Species Under the Endangered Species Act.* This proposed rule would send a clear signal that forest plan direction should seek to prevent the need for a species being listed under the Endangered Species Act (ESA). The ESA addresses the conservation of species that have been listed as threatened or endangered, but does not address protection of those species for which there is evidence of a trend toward listing but which are not yet listed. Option I of the proposed rule would target and treat as sensitive those species for which there is some evidence of risk but which are not yet imperiled to the point of being listed as threatened or endangered.

5. *Emphasis on Strengthening Cooperation and Sharing of Professional Expertise.* Another theme of the proposed rule is strengthened cooperation and coordination with other resource professionals. For example, Option I of the proposed rule utilizes the expertise of the U.S. Fish and Wildlife Service and the Network of Natural Heritage Programs and Conservation Data Centers in the identification of sensitive species and natural communities. In addition, this section of Option I of the proposed rule parallels both the spirit and application of a Memorandum of Understanding (MOU) recently signed by the Forest Service, U.S. Fish and Wildlife Service, National Marine Fisheries Service, and other government agencies (94–SMU–058; January 25, 1994) to guide cooperation and participation in the conservation of species toward listing. Like this Memorandum of Understanding, the proposed rule (Option I) focuses on those species tending toward listing in order to preclude their designation as threatened or endangered, stresses interagency cooperation to address this goal, and recognizes the value of addressing species conservation within an ecosystem approach.

VOL
60
ISS
71
AP
13
1995
UMI

6. *Focus on Habitat Rather Than Populations.* Option I of the proposed rule would emphasize the management of habitat for fish and wildlife species, and not the management of populations as some would interpret the existing rule. As used in this section, habitat capability includes the quantity, quality, and distribution of habitats needed by a species. A focus on habitat capability is more appropriate than a focus on populations because there are many factors affecting populations that are not under the agency's direct control. These may include disease, predation, hunting or fishing pressures, natural cyclical changes and conditions occurring or actions being taken outside the plan area.

The proposed rule would not alter the current cooperative relationship with State fish and wildlife agencies. The Forest Service role has traditionally been to provide habitat rather than manage numbers of species. States generally exercise jurisdiction over hunting and fishing on National Forest System lands.

7. *Use of Best Available Information.* The agency recognizes that there are many uncertainties regarding how to maintain or restore sustainable ecosystems and that scientific knowledge will always be incomplete and evolving. The terms "sustainable," "restoration," "maintenance," or "deteriorated ecosystem" are all subject to varying and evolving interpretations. Furthermore, there is an infinite number of ecosystems, and realistically, planning efforts must be allowed to focus on only those ecosystem considerations of most relevance to decisionmaking. Therefore, in concert with the principle that the agency must retain discretion in its approach to maintaining or restoring sustainable ecosystems, the proposed rule (§ 219.4(e)) also recognizes the inevitable need to use the best available information in making the various decisions associated with approval of a forest plan. The proposed rule makes clear that there is no expectation that there will ever be a precise and universally accepted understanding or measure of what sustainable ecosystems are and the actions appropriate to maintain or restore them; rather, the expectation established by this proposed rule is that the agency will use the best information available and an adaptive management approach in its efforts to maintain or restore sustainable ecosystems and to manage the National Forest System toward that outcome.

Adaptive management is considered one of the cornerstones of ecosystem management. This concept acknowledges that our understanding of ecosystems is always changing, that we learn by observing how natural systems respond to actual situations, and that we should adapt our actions accordingly. Adaptive resource management recognizes that decisions cannot always be halted until research is complete, especially since, at times, inaction can have far-reaching consequences.

Proposed paragraph § 219.4(e) not only would establish the use of an adaptive management approach for dealing with incomplete and changing information, but also would clearly signal that resource decisionmaking need not be halted if there is uncertainty or incomplete knowledge. In accordance with NEPA procedures (40 CFR 1502.22), decisionmaking is expected to proceed using the best information available commensurate with the decision being made, and monitoring and evaluation is to be used to assess the effects of those decisions and to identify new information which may come available. Since project decisions for the decade of the forest plan are approved incrementally during the plan period, the opportunity exits to adapt those decisions as needed to respond to new information.

Options for Providing Diversity

In addition to the provisions of § 219.4(b)(1)–(4), this proposed rule sets out two options for providing diversity. Proposed Option I would provide for diversity by addressing sensitive species. By contrast, Option II which is basically the requirements of the current regulation would provide for diversity by addressing viability of species.

Option I. Proposed § 219.4(b)(5) creates a system for protection of habitat capability for sensitive species in order to prevent the need for listing the species as threatened or endangered under ESA and to preclude extirpation of the sensitive species from the plan area.

Paragraph (b)(5)(i) describes how sensitive species would be identified. First, sensitive species can encompass species, subspecies, populations, or stocks of vertebrates, invertebrates, vascular plants, bryophytes, fungi, and lichens. Second, the species must be known to occur or to be likely to occur on National Forest System lands. Third, the species must meet one of the criteria described at (b)(5)(i)(A)–(C). These criteria utilize a combination of information derived from the U.S. Fish and Wildlife Service and the Network of Natural Heritage Programs and Conservation Data Centers.

The U.S. Fish and Wildlife Service is the Federal agency with primary responsibility for administering ESA. The Network of Natural Heritage Programs and Conservation Data Centers is generally considered to have one of the most comprehensive and accurate compilations of information on species that are imperiled in the United States. The Network consists of approximately 85 data centers, including at least one in each State. Each data center is established within a local institution, most frequently as part of a government agency responsible for natural resource management and protection, and each center functions in support of Natural Heritage Programs. The Nature Conservancy is involved in the establishment and operation of the data centers by providing technical, scientific, and administrative support and training. The Conservancy also makes available the computer technology, data inventory and management methodology, and procedural manuals used.

Natural Heritage Programs and the Conservation Data Centers provide continuously updated, computer-assisted inventories of the biological and ecological features and biodiversity preservation of the region in which they are located. Most data centers use the Biological and Conservation Data System as the basis for operation, a system developed and refined by The Nature Conservancy since 1974.

Proposed paragraphs (b)(5)(ii) (A) and (B) would establish the process for ensuring that forest plan direction is responsive to the needs of sensitive species. The first step is to identify the sensitive species for the plan area using the rankings and listings and to identify their habitat needs. Second, the habitat needs for the sensitive species, or assemblages of sensitive species, are compared against current forest plan direction with consideration of the likely contribution of lands outside the plan area. When the forest plan is being revised, habitat needs are compared to the tentatively proposed revisions to forest plan direction. This provides for consideration of sensitive species habitat needs throughout the forest plan revision process and inclusion of this direction in the draft environmental impact statement and proposed revised forest plan when they are released for public comment.

In accordance with (b)(5)(ii)(B)(1), forest plan direction must be modified if a continuing downward trend in habitat capability is predicted to occur within the plan area and that downward trend is predicted to result in the need for Federal listing of the species or if it is predicted that the sensitive species will be extirpated from the plan area.

Paragraph (b)(5)(ii)(B)(2) would establish that if a conservation agreement has been approved by the Forest Service and either the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, and if relevant direction from that agreement has been incorporated by amendment into the forest plan, the requirement to establish direction to protect the habitat capability of the species is met. The forest plan amendment requires full NEPA analysis and disclosure.

Paragraph (b)(5)(ii)(B)(3) would affirm that the needs of a threatened or endangered species take precedence over a sensitive species should a conflict occur relative to protective measures needed. Although it is not anticipated such a conflict would happen often, it is important that the rule provide for such circumstances because the proposed rule's requirements for protection of both sensitive species and threatened and endangered species could theoretically be in conflict. It is reasonable that the rule provide that listed species be given priority in the event of conflict with the needs of a sensitive species since listed species are at greater risk than sensitive species and there is a statutory obligation to provide for the conservation of listed species.

Paragraph (b)(5)(ii)(B)(4) would require management direction for sensitive species to be established using the best information available commensurate with the decision being made. This idea is also echoed in paragraph (e) of this section. In addition, paragraph (b)(5)(ii)(B)(4) would make clear that determinations of whether the habitat needs of sensitive species are adequately met and the degree of protection needed are inherently dependent on professional judgment.

Paragraph (b)(5)(iii) proposes procedures for handling newly identified sensitive species. The categories and rankings of sensitive species would be reviewed annually as part of monitoring and evaluation, and if additions to the listings have occurred, the adequacy of existing forest plan management direction to meet the needs of those species would be assessed. This paragraph also would make clear that even though the rankings and categories are required to be reviewed on an annual basis, this does not relieve the agency of its obligation to consider new information at any time a project is under consideration that affects the habitat capability of a sensitive species.

Option II. As an alternative to the regulatory text proposed in Option I of § 219.4(b)(5), the agency has set forth alternative regulatory text, which is almost identical to the existing rule at § 219.19; however, a few nonsubstantive edits have been made to assure consistency of terminology and coding with the remainder of the proposed rule.

There are five key differences between the Option I approach to sensitive species and the alternative text of Option II which is based on § 219.19 of the existing rule. These are (1) use of the term "viability"; (2) establishment of clear analytical expectations that are reasonable to implement; (3) scope of species protected; (4) goal of protective measures; and (5) role of management indicator species.

First, in Option I the proposed rule does not use the term "viability". NFMA does not use the term "viability," nor is there anything in the statute or legislative history that indicates the agency was expected to insure viable species or pursue the type of viability analyses described in current scientific literature (for example, M.E. Soule, Viable Populations for Conservation (Cambridge, 1989), 189pp.) Rather, the statute requires that the Secretary of Agriculture promulgate regulations to guide the Forest Service development and revision of Forest Plans. One of the statutory requirements is "specifying guidelines for land management plans developed to achieve the goals of the Program which * * * (B) provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple use objectives * * *." 16 USC 1604(g)(3)(B).

Translating the statutory language to provide for diversity of plant and animal communities through regulations, plans and actions has been and continues to be a formidable challenge, as the Committee of Scientists who provided scientific advice to the Forest Service on the crafting of the current regulation accurately predicted at the time of their promulgation. The Committee stated that, "it is impossible to write specific regulations to 'provide for' diversity: and that "there remains a great deal of room for honest debate on the translation of policy into management planning requirements and into management programs" (44 FR 26,6000–01 & 26,608).

The Forest Service has found that the term "viability" has been subject to continuously evolving scientific interpretation and no longer meets the agency's expectations at the time the rule was written. When the existing rule was finalized, "viability" was a general concept not associated with specific scientific interpretations. Since 1982, however, the concept of viability has become the object of intense discussion and varying interpretation within the scientific community. The extensive and expensive amount of scientific expertise, data, and technology needed for conducting species viability assessments as currently described in the scientific literature is far beyond what was originally envisioned by the Committee of Scientists when developing the planning rule.

Even when addressing the overall topic of diversity, the Committee of Scientists clearly had not envisioned the type of highly quantitative analysis which has come to be associated with viability assessments. The Committee stated, "We analyzed the issue in our report and stressed that, in our opinion, Congress used the term diversity to refer to biological variety rather than any of the quantitative expressions now found in the biological literature." (Rules and Regulations, Final Environmental Impact Statement, Appendix E—Supplementary Final Report of the Committee of Scientists (August 17, 1979), 44 FR 53967 (September 17, 1979)).

Furthermore, the current regulatory requirement is "to insure viable populations will be maintained." As a practical matter, there is a growing recognition that a requirement to "insure" viable populations, if interpreted literally, envisions an outcome impossible to be guaranteed by any agency, regardless of the analytical resources marshalled.

Rather than continuing use of a regulatory term which is subject to such varying interpretations and expectations, Option I would define more precisely what is required for species protection. This approach in Option I is consistent not only with the original intent of the regulation, but also with the underlying statute.

Second, the analysis needed to meet the requirements of Option I is better defined, more meaningful, and more capable of accomplishment than the analysis some associate with the existing rule. Species viability analysis has evolved to where it currently involves such information as species habitat needs, trends in habitat capability, trends in other factors affecting population (e.g.—disease, predation, overutilization), relationship of habitat capability to population numbers, population demographics (e.g.—reproductive success, sex ratios, mortality rates), effective population size, genetic measurements, and development of risk assessments. The

VOL 60 ISS 71 AP 13 1995 UMI

technology, data, and scientific expertise to conduct and maintain numerous scientifically sound viability analyses given current scientific interpretations is far beyond what is available to any agency or scientific institution. Although the agency's position has been upheld in court that the requirements of § 219.19 of the existing rule can be met without such complex analyses, the proposed rule offers a timely opportunity to clarify analytical expectations.

In addition, it is expected that for most sensitive species, the requirements of (b)(5)(ii)(B) of Option I of the proposed rule can be met using habitat capability information. Analyses involving population demographics and prediction of population trends, which requires far more extensive and costly data, would likely only be needed when a continuing downward trend in habitat capability is predicted to be leading toward the listing or extirpation of the species. In addition, it is intended that there be no circumstances where Option I of the proposed rule would trigger the need for studies of long-term genetic diversity, in contrast to the case if thorough viability assessments were to be required.

Furthermore, Option I of the proposed rule recognizes that individual sensitive species may often be able to be grouped into assemblages of sensitive species with similar habitat needs. By focusing on assemblages of sensitive species rather than individual species whenever possible, analytical burden and costs are reduced without impairment to species protection.

The third key difference between the proposed approach to sensitive species in Option I and that in Option II is the scope of the species addressed. In contrast to § 219.19 of the existing rule which addresses only native and desired non-native vertebrate species, Option I the proposed rule would include vertebrates, invertebrates, vascular plants, bryophytes, fungi, and lichens. This is appropriate since species other than vertebrates play an important role in ecosystems and merit protection when at risk.

The scope of proposed Option I also varies from the existing rule in that it would include as sensitive species only those species at risk range-wide; that is, those species imperiled throughout their range. For example, a plant species abundant in several States, but very limited in a particular plan area, would not be of range-wide concern and thus would not be identified as a sensitive species under Option I of the proposed rule.

The agency believes the focus on species on range-wide concern is appropriate in order to address the two underlying reasons for protecting sensitive species: (1) To address how the agency will meet the NFMA goal of providing a diversity of plant and animal communities, and (2) to attempt to preclude the listing of species under ESA. Both are achieved by proposed Option I without expanding the scope of sensitive species to include those of only local concern.

Option I of the proposed rule puts considerable emphasis on providing a diversity of plant and animal communities. For example, the provisions of proposed § 219.4 address establishing forest plan direction for sustainable ecosystem conditions, soil and water protection, protection of rare natural communities, protection of threatened and endangered species, and protection of sensitive species in order to attempt to prevent extirpation from the plan area or listing under ESA. These all work together to provide a diversity of plant and animal communities within the plan area.

Under the "coarse filter/fine filter" concept, the ecological conditions which will occur as a result of these various provisions for providing diversity should meet the needs of many species of local, but not range-wide, concern. For example, many species of local concern, but not at risk range-wide, are associated with rare natural communities addressed in the proposed rule at § 219.4(b)(3). The agency believes that adding yet another "fine filter" layer of protection, by including as sensitive species those not at risk range-wide, and the extensive additional analysis this would require, goes beyond what is necessary to meet the two underlying reasons for protecting sensitive species. It should be noted, however, that nothing in the proposed rule precludes the Forest Service from working with State agencies and organizations to determine whether to protect species of local concern even though such protection would be beyond the requirements of Option I of the proposed rule.

The fourth key difference between the approach to sensitive species in Option I and the alternative text in Option II is the goal of protective measures. Under the existing rule, the goal is to ensure that viable populations are maintained. But, as explained previously, the concept of a "viable population" has been subject to evolving interpretations. Option I of the proposed rule would make the goal much more explicit; that is, for sensitive species, to prevent their listing under the ESA and to prevent their extirpation from the plan area. This second goal is deemed appropriate because, for species of range-wide concern, the agency feels it is undesirable to lose their representation from the plan area due to their contribution to providing a diversity of plant and animal communities. Under some circumstances the first goal, to prevent listing of a sensitive species, may not be adequate to prevent extirpation of a sensitive species from the plan area because a species extirpated from one plan area may not necessarily be more prone to listing as threatened or endangered.

The final key difference is the Option I of the proposed rule would not require the identification of management indicator species. As noted in the 1991 Advance Notice of Proposed Rulemaking, there is diminishing scientific support for focusing solely on individual species as indicators of the welfare of a group of associated species. Instead of requiring management indicator species, the monitoring and evaluation provisions of the proposed rule would allow for establishing whatever measurable indicators are appropriate in order to determine progress towards achieving goals. In some cases, individual species may be an appropriate measure of whether ecosystem goals are being achieved and can be used as indicators.

Dynamic Nature of Ecosystems. Paragraph (c) of proposed § 219.4 recognizes the dynamic nature of ecosystems and the importance of evaluating ecosystem disturbances in the context of ecological processes and resilience. Ecosystem disturbances are those events that significantly change the existing pattern of an ecological system. Examples of such disturbances include both natural or human-induced phenomena such as wildfires, floods, or oil spills. Resilience is a term used to describe the ability of an ecological system to maintain its functions despite disturbance.

Paragraph (c) recognizes that disturbances are a natural and sometimes even essential part of many ecosystems. Similarly, other changes may be naturally occurring within an ecosystem, such as the progression of vegetation from one seral stage to another over time. Therefore, sustaining an ecosystem does not imply reaching or maintaining a static condition, but rather managing in such a way that naturally occurring disturbances and changes allow the ecosystem to retain the characteristics which provide resiliency.

Some examples of ecosystems in which disturbance is required for

sustainability are the fire-adapted pine forests. Lodgepole pine and sand pine communities require stand replacement fire (or some surrogate) to sustain those communities through time. Ponderosa pine and longleaf pine communities require recurring, low intensity fires to sustain the structure and functioning of the ecosystem.

Paragraph (c) would assure that forest plan direction intended to maintain or restore sustainable ecosystems was developed with recognition of the dynamic nature of ecosystems and natural role of disturbances. It should be noted that this provision does not specifically require analysis of the "range of natural variability" or require that future conditions stay within historic ranges of variability. The value of the "range of natural variability" in gaining a better understanding of sustainable ecosystem conditions is recognized, but the agency does not intend to mandate that all forest plans must provide for conditions within such a range.

Multiple Spatial Scales. Paragraph (d) recognizes that ecosystems exist at multiple scales and are infinite in number. For example, the span of ecosystems can range from the microscopic world of life occurring on the trunk of a fallen tree to the range of a migratory bird that travels annually from the tropics to the arctic. It is impossible and unnecessary to expect a forest plan to address all of the ecosystems which occur within a plan area. Therefore, paragraph (d) would establish that the forest plan should address those ecosystems of most relevance to forest plan decisionmaking, with the intent being to limit efforts to a practical number and scope.

Role of Lands Outside the Plan Area. Consideration of conditions outside the plan area is an integral part of the concept that Federal lands should be managed from an ecological perspective rather than one limited by jurisdictional boundaries. This consideration must occur, however, without detriment to the rights of private landowners or the authorities of other government jurisdictions. Paragraph (a) of this section of the proposed rule would, in part, direct consideration of the contribution of lands outside the plan area when establishing forest plan direction. For example, when evaluating the habitat capability of a sensitive species, the quality, quantity, and distribution of habitat within the species' range would be considered in the context of the plan area. However, this consideration does not mean that the forest plan would in any way address how to manage these other lands. Instead, the responsible official might choose to alter decisions in the forest plan regarding management of National Forest System lands due to conditions on these other lands, if that should be determined to be desirable to help maintain or restore sustainable ecosystems.

Protection of soil and water resources. Paragraph (b)(2) would address soil and water resources. This paragraph of the proposed rule would not only provide for forest plans to address the protection of soil and water resources, but also the restoration of existing conditions harmful to soil and water quality

Section 219.5 Framework for Resource Decisionmaking

Paragraph (a) explains that the agency uses a staged decisionmaking process, with forest plans being used to allocate the lands and resources of the plan area through management prescriptions, and project decisionmaking being the point at which site-specific activities are authorized. Paragraph (a) also explains that forest plan and project decisions must adhere to legal requirements and that an additional source of direction guiding management of the National Forest System is direction issued through the agency's Directive System.

The staged decisionmaking process described in the proposed rule is consistent with a series of administrative appeal decisions. These include the Chief's appeal decision on the Idaho Panhandle Land and Resource Management Plan (Appeal No. 2130, August 15, 1988); the Chief's appeal decisions on the Flathead National Forest Land and Resource Management Plan (Appeals No. 1467 and No. 1513, August 31, 1988). For court decisions upholding the staged decisionmaking approach of forest plan and project levels, see *Cronin* v. *USDA*, 919 F.2d 439, 447–49 (7th Cir. 1990); *Idaho Conservation League* v. *Mumma*, 956 F.2d 1508, 15511–12 (9th Cir. 1992); *Resources Ltd Inc.* v. *Robertson*, 789 F Supp. 1529 (D.Mt. 1991) aff'd in part (NEPA, NFMA) and reversed in part (ESA), 8 F.3d 713 (9th Cir. 1993) (amended July 5, 1994); *Swan View Coalition* v. *Turner*, 824 F.Supp. 923 (D. Mt. 1992); *Sierra Club* v. *Robertson*, 810 F.Supp. 1021 (W.D. Ark 1992); Eighth Circuit found no standing and alternatively affirmed lower court on the merits, 23 F.3d. 753 (8th Cir. 1994).

There is currently a conflict between the Eighth and Ninth Circuits as whether the forest plans without a project decision present a justiciable controversy. "We are aware that on several occasions the Ninth Circuit has entertained challenges to forest plans similar to the Plan here in issue. [citations deleted] * * * we decline to apply them [Ninth Circuit decisions] as a basis for finding that the appellants have standing to attack the Plan outside the context of a proposed site-specific action that causes or threatens to cause injury in fact." *Sierra Club* v. *Robertson*, 28 F.3d 753, 759–60 (8th Cir. 1994). See also, *Wilderness Society* v. *Alcock*, F. Supp. (N.D. Ga. September 30, 1994) finding the Eighth Circuit reasoning more persuasive and holding that plaintiffs' claims against approval of the Cherokee forest plan did not present a justiciable controversy.

Even the Ninth Circuit recognizes that forest plan EIS's are "an early stage, where the EIS is 'merely' programmatic." *Idaho Conservation League* v. *Mumma*, 956 F.2d at 1523. The Ninth Circuit has also held that when a programmatic EIS "is prepared, site-specific impacts need not be fully evaluated until a 'critical decision' has been made to act on site development." *Salmon River Concerned Citizens* v. *Robertson*, 32 F.3d 1346, 1357 (9th Cir. 1994).

Paragraph (a)(1) describes the first stage of the agency's staged decisionmaking process—forest plans. Forest plans allocate the land and resources of the plan area through management prescriptions which consist of goals, objectives, standards, and guidelines.

Paragraph (a)(1) would also establish a key point essential to understanding the nature of a forest plan; i.e., that forest plans do not compel the agency to plan for or undertake any specific projects, but do establish limitations on actions that may be authorized later during project decisionmaking. This concept is central to understanding the role of a forest plan and is addressed in more detail under the preamble discussion of § 219.6.

Paragraph (a)(1) also would clarify that forest plans must not conflict with laws or regulations and should not conflict with policy and procedure issued through the Forest Service Directive System. Although it has generally been understood that forest plans must not conflict with laws or regulations, there is not such common understanding of the relationship of directives issued through the Directive System to forest plan direction. The proposed rule seeks to end this misunderstanding. As noted in paragraph (b)(1), any conflict with an agency directive should be identified and the rationale for not complying with such a directive provided at the time of forest plan amendment or revision. The relationship between forest plans and

VOL
60
ISS
71
AP
13
1995
UMI

directives is addressed in further detail under the preamble discussion of § 219.5(b)(2).

Proposed paragraph (a)(1)(i) would limit the area covered by a forest plan to one or more National Forests and/or other units of the National Forest System within the jurisdiction of a single Forest Supervisor. One forest plan can be developed, however, when a single National Forest is administered by several Forest Supervisors. Currently, the Tongass National Forest in Alaska is the only National Forest administered by more than one Forest Supervisor. These provisions are not substantively different from the requirements of the existing rule at § 219.4(b)(3).

Establishing a plan area based on administrative boundaries may appear to conflict with the principles of ecosystem management. Some may argue that resource planning should occur based on areas with shared ecological conditions rather than on boundaries established for administrative purposes. The agency recognizes the benefits that can be gained from taking a more ecological approach to establishing the area to be encompassed by a forest plan. In the long run, a realignment of plan boundaries should be considered. In the short-run, however, there are practical considerations for continuing the current approach.

First, NFMA does not clearly articulate the area to be covered by a forest plan. Although Section 6(f)(1) of NFMA directs "one integrated plan for each unit of the National Forest System," a unit is not specifically defined. The determination of the unit for planning is complicated by provisions of Section 13 of NFMA, which require certain limitations on timber removal to be determined on a National Forest basis. Provided such timber-related requirements could be met, the agency believes it does have discretion under the statute to redefine, through a new rule, the geographic area to be covered by a forest plan.

However, realigning the entire National Forest System into a new set of plan areas for forest planning introduces significant new and immediate challenges. For example, where should new boundaries be drawn? Ecosystems exist at a variety of scales, and ecological units can be defined variously. Determining the best boundaries for planning purposes is not a simple process. How can the public be involved in delineating the new plan area? How might a change in boundaries of the plan area affect the public's interest and ability to participate in the planning process? Might the change be perceived to be more advantageous to some segments of the public than others? How would such a change effect National Forests where revision efforts are already underway or scheduled to begin in the near future? How should such a realignment be coordinated with the planning efforts of other agencies and governments? These are questions which the agency is currently not prepared to answer, but which merits careful examination before changes in plan area boundaries should occur.

This agency also recognizes that roughly two-thirds of all forest plans are or will be undergoing either significant amendment or revision in the next 1–2 years. Redefining plan areas would delay revision, which would be detrimental to the public interest and to resource management, as well as increase the risk of exceeding the 15-year period between revisions. Rather than introducing a complex and time-consuming new decision to be made before initiating the planning process, the agency expects to take various administrative actions to mitigate the disadvantages of planning based on administrative boundaries.

For example, planning efforts can be synchronized among those National Forests that share ecological characteristics through the use of joint planning teams and development of parallel schedules. Similarly, the mechanism for simultaneous plan amendment or revision, as addressed at proposed § 219.5(a)(1)(ii), is intended to facilitate achieving such coordination across plan area boundaries.

Proposed paragraph (a)(1)(ii) would permit forest plan direction to be established for more than one plan area by simultaneously amending or revising the appropriate forest plans. Since this occurs through the amendment or revision of forest plans, NEPA procedures would still apply. For example, if the Regional Forester wanted to establish a forest plan standard for all lands within the range of a particular wildlife species, and the range encompassed three plan areas, the Regional Forester could establish a new standard by simultaneously amending those three forest plans, with associated NEPA disclosure of effects.

The concept of simultaneous amendment or revision is an essential part of integrating ecosystem management into the agency's resource decisionmaking framework. Ecosystem management necessitates a flexible approach to the spatial scale for planning and decisionmaking; the proposed approach allows resource decisions to be made at whatever scale is appropriate. Even though a forest plan document itself is limited to administrative boundaries, the forest plan direction it contains can be derived from analysis and decisions at any appropriate scale or land area regardless of administrative boundaries.

The proposed rule would discontinue regional guides as required by the existing rule. As noted in the Advance Notice of Proposed Rulemaking, agency experience has shown that regional guides may no longer be the most effective and efficient means for providing regional direction. In reality, most regional guides did not fully achieve the role of being the meaningful or effective documents originally envisioned. Moreover, the rigorous requirements of §§ 219.8 and 219.9 in the existing rule siphoned a significant investment of staffing and funds from forest or project planning efforts. The provision for simultaneous amendment or revision would provide a means to establish resource direction at a regional scale, or any other appropriate scale, and, therefore, is believed to be a more effective approach to providing multi-forest direction than a regional guide.

Proposed paragraph (a)(2) would identify project decisions as the second stage of the agency's decisionmaking process. The proposed rule would make clear that it is at the project level that the authorization is made to conduct resource activities, not at the forest plan level. Paragraph (a)(2) would also make clear that NEPA procedures must be followed when approving a project, and projects must be consistent with the forest plan.

As discussed previously, various court decisions have upheld the staged decision approach of forest plans and project decisionmaking. One important basis for this staged approach and the relationship between forest plans and projects rests largely upon the requirements for compliance with NEPA. In a landmark court case (*State of California* v. *Block*, 690 F.2d 753 (9th Cir. 1982)), the Ninth Circuit stated that "the critical inquiry in considering the adequacy of an EIS prepared for a large scale, multi-step project is not whether the project's site-specific impact should be evaluated in detail, but when such detailed evaluation should occur." The court determined that "[t]his threshold is reached when, as a practical matter, the agency proposes to make an irreversible and irretrievable commitment of the availability of resources to a project at a particular site."

As a practical matter, it is impossible for a forest plan to identify all of the projects to be implemented for a 10-year period, adequately disclose their site-specific environmental effects in an accompanying environmental impact statement, and comply with the multitude of statutes and regulations applicable to project activities. Furthermore, new information regarding the relationship among proposed projects and effects of proposed actions within a forest is constantly being developed. No matter how sophisticated forest models become, it is doubtful that the order and relationship of possible activities can ever be forecast with enough precision at the forest plan approval stage to meet the requirements of environmental laws or correspond to the realities of a changing world. In addition, many activities occurring on a forest are initiated by forest users and not the Forest Service. The relationship of projects initiated by others and projects planned by the Forest Service is continuously changing. Thus, the forest plan is best viewed as a dynamic management system that provides the framework for further decisionmaking at the project level.

Under the existing rule, project decisions can be made in a forest plan provided they are identified in the Record of Decision and adequately disclosed in associated NEPA documents. The proposed rule would eliminate this Option in order to clarify the distinction between the two stages of decisionmaking and because this option has not been commonly used in the past.

The two-stage decisionmaking process described in the proposed rule does not preclude multiple steps at the project level. Examples include some multi-stage recreational development decisions such as for ski areas (*Robertson* v. *Methow Valley Citizens Council*, 490 U.S. 322, 336–37 (1989)), or the multiple decision points in oil and gas leasing, exploration, and development where a series of decisions is made over time (see 36 CFR 228, 228.102 (55 FR 10423, March 21, 1990)). In most cases, however, project decisions are not of this complexity, and the project decision occurs in a single step.

Paragraph (b) of proposed § 219.5 would explain how forest plans are to be reconciled with changing legal requirements, new agency directives, or new information from other planning efforts. In accordance with proposed paragraph (b)(1), if a change in law or regulation conflicts with forest plan direction, the Regional Forester must direct that the plan be brought into compliance following the procedures of § 219.9 or § 219.10 and specify the timing for doing so. The proposed provision to permit nondiscretionary changes at § 219.9(e) provides a mechanism for quickly changing forest plan direction to respond to changes in legal requirements for which there is no discretion in the manner of compliance.

Proposed § 219.5(b)(2) (i) and (ii) address responsibilities regarding reconciliation of forest plans with changes in agency direction issued through the Directive System. As described at paragraph (b)(2)(i), an official issuing a directive must determine if forest plans are to be made consistent with a newly issued directive when it appears that the directive would conflict with forest plan direction. If so, the official must specify that plans be changed following the procedures of § 219.9 or § 219.10 and the timing for doing so. In the event of conflict between an agency resource directive and direction in a forest plan, the forest plan takes precedence. Accordingly, the agency maintains discretion to determine when a forest plan should be amended to be consistent with agency directives. As stated at § 219.5(a) of the proposed rule, agency directives are subject to NEPA procedures, as is the process for forest plan amendment.

Reconciliation of forest plans and agency directives as described at paragraph (b)(2)(ii) addresses those situations where a directive has been issued, but it was not readily apparent at the time that it might conflict with forest plans. To address such situations, the Forest Supervisor is responsible for periodically reviewing resource management amendments or supplements to the Directive System as part of the monitoring and evaluation process. If a conflict occurs between forest plan direction and a newly issued directive, the Forest Supervisor must either amend the forest plan so that it no longer conflicts with the directive, or notify the Regional Forester why such an amendment is not deemed appropriate. Consistent with agency policy at FSM 1103, if the directive had been issued at the National level, the Regional Forester would be expected to notify the Chief of the concerns with the newly issued directive.

The provisions of (b)(2)(i)–(ii) are closely related to the provision of paragraph (a)(1) of this section which directs that where there is substantial conflict between a resource management directive and a forest plan amendment or revision, the responsible official is expected to identify the conflict and include the rationale for the departure in the decision document. In order to enhance understanding of these provisions, a brief explanation of the Directive System is provided as follows.

The Forest Service Directive System consists of the Forest Service Manual and Handbooks in which the agency's policy, practice, and procedure are codified. The system serves as the primary basis for the internal management and control of all programs and as the primary source of administrative direction to Forest Service employees. The Forest Service Manual contains legal authorities, management objectives, policies, responsibilities, delegations, general instructions, and guidance needed on a continuous basis by Forest Service line officers and staff at more than one unit to plan and execute programs. New or revised direction is issued by amendment or interim directive, whereas direction which expands on directives issued by a higher level is issued by supplement. For example, a Regional Forester may issue a regional supplement in order to expand on the national direction issued by the Chief.

Directives issued through the Directive System are subject to NEPA procedures. In addition, issuance of some Manual direction may be subject to public notice and comment procedures in accordance with 16 USC 1612 and 36 CFR 216.6(a), which requires public notice and comment for standards, criteria, and guidelines, when substantial public interest in or controversy over a proposed Manual directive can be expected. Reviewers are encouraged to study 16 USC 1612 and 36 CFR part 216 if further information is desired on public review and comment related to changes in Manual direction.

As previously noted, there are two main reasons why it is important to consider agency directives when amending or revising forest plans. First, it would be unreasonable and illogical for forest plans to substantially conflict with officially established agency objectives, policy, and procedure. Although direction in an approved forest plan would take precedence in case of a conflict, such conflicts should be avoided when establishing forest plan direction to prevent conflicts in performance expectations and potential loss of national or regional consistency.

A second reason for identifying any substantial conflicts between forest plans and agency directives at the time of amendment or revision relates to the nature of agency directives. Some directives have been established through extensive agency effort and adopted following public review and comment procedures under 36 CFR part 216; for example, the agency's policy and procedures for reauthorizing recreation residences (FSM 2300 and

VOL
60
ISS
71
AP
13
1995
UMI

2700). Other policies are required to be published for comment under other statutes; for example, the regulations implementing NEPA at 40 CFR parts 1500–1508 require the agency's NEPA policy and procedures, as issued in FSM Chapter 1950 and FSH 1909.15, to be published. On the other hand, not all agency directives are fully up-to-date, and some inconsistencies may and often do exist within the Directive System. Allowing the responsible official the flexibility to depart from agency directives, provided a rationale is given, will prevent forest plans from having to adhere to inappropriate or outdated agency directives and also will help the agency identify where directive changes are needed. The flexibility to be provided in the planning rule is consistent with current policy in FSM 1103 which requires employees to notify higher authorities when departure from direction is deemed necessary or when directives need to be revised.

It is not anticipated, however, that there will often be substantial conflict between forest plans and agency directives. First, the proposed rule provides for greatly reducing the amount of repetition between forest plans and directives (§ 219.6(b)(2)). Second, the provision for simultaneous plan amendment or revision, as addressed at § 219.5(a)(1)(ii), provides a mechanism for establishing direction known to affect more than one plan, thus eliminating the need to establish such direction through the Directive System. Third, directives are generally very broad and programmatic in nature, thus leaving considerable discretion for forest plans and project decisionmaking to establish more precise and site-specific direction. As a result, there are generally ample opportunity to establish more detailed direction at the forest plan or project stage without substantially conflicting with directives. Fourth, paragraph (a)(1) applies to resource management directives that would conflict with forest plan direction. Directives which provide procedural guidance on the process for amending or revising forest plans is not encompassed by the requirement.

Paragraph (b)(3) would address the link between the RPA Program and forest plans. Following adoption of a new RPA Program, the Chief would determine those elements of the RPA Program that should be considered in forest plan implementation, monitoring, and evaluation as well as establish any necessary agency-wide procedures to achieve this. In addition, § 219.12(a)(1)(vii)(A) of the proposed rule would require the monitoring and evaluation process to consider a newly issued RPA Program. As a result, there would be a link established whereby each new RPA Program would be reviewed to determine whether there is new information which makes it appropriate to initiate forest plan amendment procedures.

Paragraph (b)(4) would direct Forest Supervisors, as part of monitoring and evaluation, to periodically review results of any applicable ecosystem analyses that have been completed subsequent to plan approval to determine if there is new information which would indicate the need to consider changing the forest plan. Although ecosystem analysis is not a decision process, it may generate information that indicates a need to consider changing a resource decision.

Section 219.6 Forest Plan Direction

Paragraph (a) of this section of the proposed rule would direct that forest plans provide for integration and coordination of all resources on a multiple-use and sustained-yield basis. This paragraph lists the numerous resources to be addressed in a forest plan when such resources occur within the plan area. It also would assure that forest plans address infrastructure needs and land ownership and access patterns to the extent appropriate. None of this would represent a change from the scope of most current forest plans.

Although forest plans address the full range of resources found within the plan area, this regulation does not attempt to provide direction for management of individual resources except where necessary to respond to specific requirements of NFMA. In contrast to the existing rule which contained 13 sections on individual resources, the proposed rule does not include such detailed direction. For example, the proposed rule does not define goals and objectives for specific resources nor prescribe requirements for how each resource will be evaluated during amendment or revision of forest plans. It is the agency's intent to provide through directive issuances any additional direction necessary to specify how individual resources are addressed in forest plans.

The agency believes this planning regulation should stay focused on the specific requirements of NFMA, the authorizing statute. It would be beyond the reasonable scope of any one regulation to address all of the laws, regulations, and Executive orders under which National Forest System resources are managed. In addition, the shift to an ecosystem management orientation diminishes the relevance of focusing on individual resources, and supports the need for the more holistic approach taken in the proposed rule.

Proposed paragraph (b) provides that a forest plan allocates the land and resources of the plan area through management prescriptions which consist of goals, objectives, standards, and guidelines. These four types of direction, and the maps or similar information delineating where they are applicable, constitute forest plan direction. It is important that the proposed rule clearly define what constitutes forest plan direction, since plan direction can only be changed by amendment. Other information within the forest plan document is not forest plan direction and can be updated without going through amendment procedures.

The existing rule is not explicit regarding the nature of forest plan decisions, resulting in some confusion by both the public and employees over the years. As noted in the preceding discussion of proposed § 219.5, the nature of a forest plan under the existing rule has been articulated through a series of administrative appeal decisions and court decisions. The proposed rule reflects many of these decisions and explicitly defines forest plan direction and the contents of the forest plan document.

In *Citizens for Environmental Quality v. Lyng*, 731 F. Supp. 970, 977–78 (D. Colo. 1989), the court upheld the agency's position under the existing rule regarding the decisions made in forest plans. That court decision confirmed that approval of a forest plan results in: (1) Establishment of forest multiple-use goals and objectives; (2) Establishment of forest-wide management requirements (standards and guidelines) applying to future activities; (3) Establishment of management areas and management area direction (management area prescriptions) applying to future activities in that management area; (4) Designation of suitable timber land and establishment of allowable timber sale quantity; (5) Nonwilderness allocations or wilderness recommendations; and (6) Establishment of monitoring and evaluation requirements.

Forest plan direction, as defined at proposed paragraph (b), in concert with other provisions of the proposed rule, overlap most, but not all, of the six items identified as forest plan decisions in *Citizens for Environmental Quality v. Lyng*. For example, goals, objectives, standards, and guidelines—both on a forest-wide basis and for specific portions of the plan area—are terms common to both the existing rule and

the proposed rule. The definition of "objectives" has been modified in the proposed rule, however, as explained at the preamble discussion of § 219.6(b)(1) and (d). Also, under both the existing and proposed rule, management prescriptions are the means by which direction is allocated to specific portions of the plan area. Similarly, although designation of suitable timber land, nonwilderness allocations, and wilderness recommendations are not individually identified in proposed § 219.6, they are encompassed by the management prescriptions described at § 219.6(b) and are addressed specifically at § 219.13(b)(2) and § 219.14.

Although the term "management area" has not been used in the proposed rule, nothing in the rule prohibits continuation of the traditional use of the term, and some mechanism for delineating where direction applies is required regardless of the terminology used. It is anticipated that the term "management area" will continue to be used in many forest plans. The proposed rule has not required the use of this term in order to allow the flexibility to develop other terms, if beneficial, to describe the areas to which specific management prescriptions apply. This flexibility is desirable since ecosystem management has heightened the likelihood of direction being established at a variety of scales, and more effective ways may be possible to delineate where a management prescription applies than the traditional management area concept.

Although there is considerable overlap between the six decisions resulting from forest plan approval under the existing rule and forest plan decisions under the proposed rule, two points of notable difference relate to forest plan objectives and monitoring and evaluation requirements. These differences are addressed in this preamble discussion of §§ 219.6(b)(1), 219.6(d), and 219.12.

Under paragraph (b)(1) of proposed § 219.6, projected levels of goods and services or projected levels of management activities would not constitute forest plan direction. In addition, the proposed rule makes explicit that any projections of the rate of achieving desired resource conditions would not be forest plan direction.

Based on the definition of "objectives" provided in the existing rule, "objectives" as used in the existing rule would encompass the types of projections addressed in proposed paragraph (b)(1). The proposed rule would make clear that such predictions addressing the rate of implementation are not forest plan direction. For example, under the proposed rule the forest plan would define resource conditions desirable to achieve, but would not address the rate at which achievement should occur. Instead, any such projections of the rate of achievement would be provided in an appendix in accordance with § 219.11(d).

These changes are proposed for two reasons. First, experience has shown that the rate at which forest plans will be implemented cannot be established for a 10-year period. As explained earlier, the agency's decision framework provides for staged decisionmaking, with project decisions, rather than the forest plan, being the point at which site-specific activities are authorized. Decisions to approve and implement individual projects are subject to many variables, such as the results of project-level NEPA analysis, availability of funding, agency priorities, administrative appeals, and litigation. Since the rate at which forest plans can be implemented is based on decisions which occur during the plan period rather than decisions that can be made at the time of approving or revising a forest plan, it is important to make clear that the rate of implementation is not a decision that can be made in the forest plan.

Second, if rate-specific direction were to be included in a forest plan, it increases the likelihood of creating a false expectation that specific implementation rates, particularly levels of goods and services, can be assured during the 10-year plan period. As already noted, the agency cannot provide such guarantees. Elimination of rate-specific projections from forest plan direction, in concert with the provisions of § 219.11(d), should enhance understanding of the agency's staged decisionmaking process and produce more realistic expectations of what may occur during the plan period.

While excluding any rate-specific objectives from forest plan direction may appear to some to be a major change from the existing rule, this approach is consistent with a variety of court decisions which have affirmed the agency's staged decisionmaking process and verified that the agency has no obligation to produce the goods and services or to undertake the management activities identified in forest plans. The most notable actual difference resulting from the proposed rule would be that projections of implementation rates can be updated during the plan period without amendment procedures.

The approach that would be taken under proposed paragraph (b)(1) also represents an evolution in understanding of the relationship between forest plans and the agency's process for formulating budgets. In the past, there have been expectations that the objectives in forest plans would drive the budget process; that is, that funds would be requested at whatever level was necessary to achieve the objectives of the forest plan over the course of a decade, and any lower funding level was interpreted as less than full implementation of the forest plan by many people. In addition, most forest plans were developed without imposing budget constraints, so there was no attempt to establish objectives at levels that reflected probable budget levels. Over time, the agency has recognized the shortcomings of these earlier expectations and approaches, and has been re-evaluating and clarifying the link between forest plans and the budget process.

The proposed rule is consistent with the recommendations of a national team of Forest Service personnel chartered to study the linkage between budgets and forest plans. Rather than expecting the forest plan to define a desired rate of implementation to guide the budget process, the proposed rule would result in a process where budgets are formulated by considering forest plan direction, the results of monitoring and evaluation, and continuously updated information regarding national and agency priorities. This approach recognizes that annual program development and budgeting, rather than the forest plan, is the most timely and effective mechanism for responding to the continuously changing information which influences the rate at which plan goals can be achieved.

Proposed § 219.6(b)(2) would direct that forest plans focus on management of the resources specific to the plan area. It would further explain that forest plans should generally not provide direction on procedural aspects of how future project decisions will be made nor repeat other direction established through the Directive System, regulation, Executive order, or law. The existing rule does not have a comparable requirement, and this does represent a change from the way most current forest plans have been developed.

A sample of forest plans has been reviewed to determine the amount of overlap between direction in forest plans and direction already established through the Directive System, regulation, Executive order, or law. In one case, almost all of the forest-wide

VOL
60
ISS
71
AP
13
1995
UMI

goals and about half of the standards and guidelines overlapped direction that was already established and applicable to almost any National Forest in the country. Although the percentage of overlap varies with each plan, this sample does not appear to be exceptional. It seems there is a high degree of repetition in forest plans of direction that has already been established and applicable to most plan areas.

This repetition results, in part, from the desire to provide in one document all the direction applicable to the plan area. The reality, however, is that given the volume and breadth of laws, Executive orders, regulations, and agency directives that apply to National Forest lands, it is infeasible to consolidate all of that direction into one document. While some forest plans may currently appear to encompass all relevant direction, it is inevitable that one must still refer to other sources to fully grasp all of the direction applicable to the plan area.

There are four main sources of overlap which would be eliminated under the proposed rule. First, forest plans would not restate goals or policies that are already established by law, regulation, Executive order, or agency directive. Secondly, forest plans would not repeat procedural direction on how to conduct project analysis and decisionmaking. This type of administrative procedure is appropriate to issuance in the Directive System and not in forest plans. Under the proposed rule, forest plans will be clearly focused on desired resource conditions for the plan area, focusing on management of resources rather than on management of the administrative processes used to make decisions. For example, the Directive System is the definitive source of agency guidance and information on how to conduct NEPA analysis and should be the source of any guidance for conducting specific evaluations or analyses required to make a resource decision.

Third, forest plans would not repeat instructions related to public involvement and coordination with other government entities. Considerable direction on these topics is already established by law, regulation, Executive order, agency directive, and any additional direction needed is appropriately issued through the Directive System.

Finally, procedural guidance on how to conduct routine professional tasks would not be repeated in forest plans. For example, agency directives describe how to locate hiking trails and factors to consider when designing recreation sites. Such direction is applicable anywhere in the country and, as a result, should not be repeated in a forest plan. In contrast, if there are special circumstances in the plan area that require establishment of specific standards or guidelines to address local resource conditions, then such local direction would be appropriate for the forest plan.

The agency anticipates several benefits from reducing the overlap between forest plans and direction already established by law, regulation, Executive order, or agency directives. First, forest plan direction should be substantially shorter, making forest plans more readable and easier to understand. Second, forest plans should be much more focused on local conditions and management needs. Third, the public should have a clearer understanding of the decisions that are actually being made in the forest plan.

Paragraph (b)(3) of this proposed section would limit the main body of the forest plan document to forest plan directionk. Other information would appear in a brief preface or appendices. One benefit is to make it easier for the reader to distinguish between forest plan decisions and other information that may be found within the document. Currently, it is often difficult for readers to quickly locate the decisions made in the forest plan, and sometimes direction appears to be repeated or intermingled in multiple locations. Another benefit of this approach is that forest plans should be substantially shorter and easier to understand.

Proposed paragraph (c) would describe the role and function of forest plan goals. Goals would be concise statements that describe a desired end result; they would normally be expressed in broad general terms rather than quantitatively; and there would be no time period specified for achievement. Forest plan goals would serve as the link between broad agency goals already established through legal requirements, agency directives, or the RPA Program and specific, measurable desired resource conditions as defined by objectives in the forest plan. As a result, they will help to translate national goals into end results of more local relevance to the plan area. Pursuant to paragraph (b)(2) of this proposed section, forest plan goals would not repeat national goals, but would rather translate them into end results more specific to the local conditions of the plan area.

Because forest plan goals are not quantitative in nature, progress towards achieving goals is determined by monitoring achievement of the measurable desired conditions established by forest plan objectives and, if necessary, additional measurable indicators can be established through the monitoring and evaluation process (§ 219.12(e)(1)(iii)).

Paragraph (d) describes the role of forest plan objectives. Objectives would describe measurable desired resource conditions, or ranges of conditions, intended to achieve forest plan goals. In many cases, a range of conditions is likely to be a more desirable target than a specific condition, because natural systems usually have ranges within which some variation is typical and acceptable. In addition, defining a desired range of conditions is appropriate when there is not enough information to make a more precise statement, or when such precision is not necessary, given the decision being made.

Paragraph (d) would make clear that objectives must be defined in a manner that permits measurement of whether the objective is being achieved. The ability to directly measure the achievement of an objective, its greater degree of specificity, and its scope being limited to resource conditions are the three features which help to distinguish an objective from a goal. The proposed rule would explain that objectives can be defined to encompass natural resource conditions, conditions resulting from human influences, or the manner in which resources are perceived. As further explained at the preamble discussion of § 219.6(b)(1), this use of the term "objectives" in the proposed rule is not the same as use of the term in the existing rule.

Paragraphs (e)(1)–(2) describe the role of forest plan standards. These paragraphs would make explicit that standards are limitations on management activities and that adherence to standards is mandatory. They are the basis for determining if a project is consistent with the forest plan (§ 219.11(a)).

One particularly important feature of standards is that they must be defined in such a manner that they are clearly within the authority or ability of the agency to enforce; that is, compliance must be within the agency's control. This characteristic is essential, because under the proposed rule standards it would be used for assessing project consistency with the forest plan (§ 219.11). When undertaking a project, the two things that the agency has the authority to control are the specific activities authorized and how they are conducted. The agency cannot control the actual results, however, since there are usually various factors beyond the agency's influence that can affect results. For example, usual weather events or wildfires can affect actual on-the-ground results in unpredictable and uncontrollable ways.

Proposed paragraph (f) describes the role forest plan guidelines would play under the proposed rule. Guidelines would be used to describe a preferred or advisable course of action. Unlike standards, variation from a guideline does not trigger a forest plan amendment. Guidelines would play two key roles.

First, guidelines would be used to describe a preferred or advisable method of conducting resource activities. For example, a guideline might recommend that shelters on hiking trails be located at least one mile from trailheads. If terrain or other circumstances related to a specific project made compliance infeasible, the flexibility would exist to locate the shelter closer to a trailhead. However, the guideline would have served to advise the responsible official that construction of a shelter less than one mile to the trailhead should not occur unless special circumstances exist.

Second, guidelines would be used to describe a preferred or advisable sequence or priority for implementing various types of projects when such guidance is useful in facilitating achievement of a forest plan goal. For example, the forest plan might have a goal which addresses the restoration of hydrologic processes in a particular watershed. Various objectives could be defined describing resource conditions associated with restoration of the hydrologic processes, such as desired vegetative conditions within the watershed, the presence of down woody material in the stream channel, stream temperatures, or turbidity levels. Guidelines could be used if there is a preferred sequence for implementing the types of projects that would achieve these objectives and the ultimate goal. For example, if revegetating exposed soils within the riparian area are needed more urgently than soil restoration projects elsewhere in the watershed, a guideline can indicate that priority. Such guidelines would not be used to identify specific projects, but rather to specify if certain types of projects should be implemented before others in order to achieve a goal in the most timely manner.

Paragraph (g) would establish requirements for coordinating forest plan direction across plan areas. The intent is to improve consistency between forest plans. In many cases currently, it is difficult to compare forest plan decisions for adjacent forests covered by different forest plans, and direction often changes at an administrative boundary even though the management situation appears to be identical. Paragraph (g) recognizes that there may often be legitimate reason for differences, but that, unless such reasons exist, forest plan decisions within a Forest Service administrative Region and for plan areas adjacent to the Region should be consistent in at least four ways.

First, management prescriptions for adjacent lands should be the same. The direction for managing a specific area of land should not change at the boundary between forest plan plan areas unless a good reason exists for such change. In addiiton, maps used in the forest plans should be consistent to facilitate review and comparison. For example, this would mean using maps of the same scale and with the same legends and formats.

Second, management prescriptions for specially designated areas should be the same when they cross plan area boundaries, unless good reason exists for change. For example, direction for managing a wilderness area, scenic trail, or similar specially designated area (§ 219.14) should not change simply because of a change in administrative boundary.

Third, forest plan direction should be the same for adjacent areas when findings of an ecosystem analysis or research used as a basis for the direction are applicable to more than one plan area, unless local circumstances justify variation. For example, if the research used as a basis for establishing a habitat protection standard for a threatened or endangered species applies to a broad area covered by several forest plans, that standard should be the same in each of those plans, unless valid reason existed to alter it.

Finally, consistency would be required in the use of terminology and classification systems. The intent is to have the same terms and classification systems used wherever feasible.

In summary, the provisions proposed in § 219.6 would incorporate the results of landmark administrative appeal decisions and court cases which have clarified the nature and scope of decisions made in forest plans. In addition, this section would establish a uniform approach to what appears in the main body of the forest plan and what can be presented in the preface and appendices. These changes to the contents of a forest plan will result in shorter, simpler forest plans that are easier to use and understand, as well as forest plans that are more highly focused on direction specifically tailored for management of the resources of the plan area.

Section 219.7 Ecosystem Analysis

This section would introduce the concept of ecosystem analysis to the planning process, a topic not addressed in the existing rule. Paragraph (a) would define ecosystem analysis as a broad term used to denote various interdisciplinary studies conducted to provide information on and enhance understanding of the physical, biological, social, or economic aspects and interactions of an ecosystem. Because the agency considers humans to be an integral part of ecosystems, studies of social and economic aspects of ecosystems are within the scope of these analyses. Ecoregion assessments and landscape-level analyses are only two examples of the different types of studies that are conducted at various scales which fall under the general umbrella of ecosystem analysis.

Paragraph (a) would also address the geographic scope of ecosystem analysis. It acknowledges that such analyses can be conducted at any scale deemed appropriate, and emphasizes that areas subject to ecosystem analyses should generally be delineated based on ecological considerations rather than administrative or jurisdictional boundaries.

Reviewers are cautioned not to confuse the concept of ecosystem analysis with the analysis and evaluation of environmental effects which occurs as part of the NEPA process. The requirements associated with NEPA procedures would be unchanged by the provisions of this proposed section. The two documents used to disclose environmental assessment, are distinct in nature and purpose from an ecosystem analysis.

Proposed § 219.7 would not require an ecosystem analysis to be conducted as a precursor to resource decisionmaking. In fact, ecosystem anatyses are not mandatory, and it is left to agency discretion to conduct them as appropriate. While the area covered by an ecosystem analyses is defined by the ecosystem and not by jurisdictional or administrative boundaries, the proposed rule would in no way impose resource decisions of the Forest Service on private lands. However, in order to make decisions for National Forest System lands, the agency believes it is important to be knowledgeable of the conditions on non-Forest Service lands within an ecosystem being studied. This is considered an essential part of taking an ecological approach to management of National Forest System lands.

VOL
60
ISS
71
AP
13
1995
UMI

Proposed paragraph (b) would make an important distinction between an ecosystem analysis and resource decisionmaking. As noted earlier, ecosystem analysis is not a decisionmaking effort and does not result in a resource decision. Therefore, it does not trigger NEPA analysis nor does the result of ecosystem analysis substitute for a NEPA disclosure document. Rather, an ecosystem analysis is a process by which information is gathered and synthesized in order to enhance and understanding of ecosystems. This information is usually intended as one—but not the only—source of information to be used later when making resource decisions.

One key provision of paragraph (b) intended to help draw the distinction between ecosystem analysis and resource decisionmaking is the requirement that the findings of ecosystem analysis not be used as a substitute for forest plan goals, objectives, standards, or guidelines. The proposed rule would make clear that the findings of an ecosystem analysis may indicate the need to change forest plan direction, but that such changes must occur through amendment or revision procedures. The agency does not intend ecosystem analysis to be used to identify any preferred or desired alternatives or outcomes. Identification of such preferences would reflect value judgments on the part of those conducting the ecosystem analysis without the benefit of utilizing NEPA procedures. The agency also hopes such a requirement will reduce any confusion regarding the expected results of ecosystem analysis and diminish the risk that such analyses might be mistaken for decisionmaking processes.

The proposed rule would make clear that ecosystem analysis may be used to identify opportunities for achieving goals and objectives that have already been established by law, Executive order, regulation, agency directive, or the forest plan. For example, this could include identifying various management options or scenarios that might meet established goals and assessing the results if such options were chosen or scenarios were to occur. This kind of assessment can be helpful in determining the potential to resolve issues given existing forest plan direction, or in evaluating the probable effects if current direction were to remain unchanged. In addition, paragraph (b) would make clear that an ecosystem analysis may be used to provide information that indicates a need to initiate forest plan amendment procedures. It will be incumbent upon the agency official responsible for the ecosystem analysis to ensure that such findings are properly utilized and that any consideration of options or strategies is conducted in a manner complementary to using the information for subsequent compliance with NEPA procedures associated with resource decisionmaking.

Paragraph (c) would list various possible results of ecosystem analysis, depending upon the scope and specific purpose of each analysis. Eleven examples are provided of the type of information which might result from an ecosystem analysis. This is not intended to be an all-inclusive list, but rather to represent the type of results that might be expected. All eleven items are informational in nature and do not represent resource decisions or a narrowing of options to be considered in future decisionmaking efforts.

Section 219.8 Interdisciplinary Teams and Information Needs

Paragraph (a) would require the use of an interdisciplinary team when preparing amendments, revisions, and monitoring and evaluation strategies and reports and when conducting ecosystem analysis. Although the proposed rule would clearly identify when interdisciplinary teams must be used, it would be less specific than § 219.5 of the existing rule, which addresses in more detail the functioning and selection of interdisciplinary teams. Such detail is in excess of what is appropriate to this regulation, especially since NEPA procedures already provide guidance on the use of interdisciplinary teams. The proposed rule would limit interdisciplinary team membership to Forest Service and other Federal personnel. This limitation is primarily due to the Federal Advisory Committee Act, which imposes extensive requirements on the creation and use of committees that include non-Federal personnel for the purpose of advising Federal agencies.

Paragraph (b) would direct that the responsible official must strive to obtain and keep updated inventory data needed for decisionmaking. This is intended to emphasize the importance of maintaining data on a continuous basis rather than allowing inventories to become outdated. This is of particular importance in implementing an adaptive approach to resource management. The ability to know if and how management should be adjusted depends on ongoing analysis of information throughout the plan period.

Maintaining inventory data is also critical to avoiding delays in the revision process. Some forests took as much as two years or more to gather the inventory data needed to develop their initial forest plans. As envisioned under the proposed rule, such information would be maintained throughout the plan period, with little delay needed at the time of revision to obtain new data. Realistically, many forests do not have fully updated inventories at this time, so, regrettably, such delays must still be expected in some cases when forest plans are revised. The updating process would occur prior to or during the prerevision review, however.

In addition, paragraph (b) would clarify that the information compiled should be commensurate with the decisions being made. It is wasteful to try to obtain highly precise estimates if the decision being made does not require such precision. The proposed rule would make clear that the precision of the data should be commensurate with the precision needed to make the decision (see also § 219.4(e)). Paragraph (b) also emphasizes the need for carefully focused analysis efforts, a noteworthy change from the existing rule. The proposed rule intends that analytical efforts will be focused on the critical questions relevant to specific decisionmaking needs rather than dispersed across a wide range of standardized analytical requirements that may not be relevant to local conditions, issues, and concerns.

Although paragraph (b) would provide enhanced flexibility to tailor analysis to meet local needs, this should not be interpreted as deemphasizing the importance of sound analyses. While the proposed rule is certainly intended to better focus the analysis, there may or may not be a reduction in the overall quantity of analysis conducted on any given forest. For example, the extensive benchmark analyses required by the existing rule at § 219.12(e) would no longer be required in the proposed rule. In many cases, the effort invested in these benchmark analyses has often diverted too much time and energy from more critical analyses needed for decisionmaking. However, in other cases, the data derived from some of the benchmark analyses proved very helpful. The proposed rule would not require that standardized benchmark analyses be conducted for all resources on all forests, but it would also signal the expectation that such analyses should occur if and when needed for informed decisionmaking.

This focused approach to analysis is also intended to enhance understanding of and confidence in the agency's analytical procedures. Findings of the Critique of Land Management Planning clearly indicated that many people distrust analytical procedures and view computer models as mysterious "black boxes" that produce incomprehensible and unverifiable answers. The approach in paragraph (b) would keep analytical procedures highly focused and relevant to local decisionmaking needs and thus should help increase public and employee confidence in methodologies and results. Although computer models will still be used, analytical efforts should be better tailored to local needs. Under this provision, forest analysts could devote more time and effort to understanding the data relevant to the specific decisions to be made and to improving ways of communicating that information to the public and decisionmakers.

Paragraph (c) would assure that social and economic effects are considered when amending or revising the forest plan. As stated at § 219.1(b)(2), meeting people's needs and desires within the capacities of natural systems is a primary role of resource decisionmaking. The forest plan addresses management of land and resources, but decisions as to how those lands and resources should be managed is inherently dependent on considering the effects on people as well as on the resources themselves. Paragraph (c) would assure that commensurate with the decision being made, appropriate indicators of social and economic change, such as changes in community stability or employment, are evaluated during amendment and revision.

Paragraph (d) would require Forest Supervisors to identify the research needed for decisionmaking, including, but not limited to, the research needed to help resource managers ensure that management practices do not produce substantial impairment of the productivity of the land. This latter requirement responds to Section 6(g)(3)(C) of NFMA. Comparable provisions of § 219.28 of the existing rule are more detailed. By contrast, the proposed rule focuses more directly on making sure that research needs are identified, but would leave to normal agency administrative processes the task of directing formulation of budgets and reporting procedures.

Section 219.9 Forest Plan Amendment

Paragraph (a) would provide for three types of amendments to forest plans—major, minor, and interim. It also would make explicit that: (1) only those elements defined as forest plan direction are subject to amendment, and (2) that amendment is the only method by which forest plan direction can be changed between revisions, unless the changes are nondiscretionary as described at § 219.9(e).

The term "major amendment" in the proposed rule would replace the term "significant amendment" as used in the existing rule. This change in terminology should help avoid confusion with the term "significance" as it is used in the context of NEPA compliance. Criteria for determining significance for NEPA compliance differ from the criteria for distinguishing the significance of amendments under NFMA. These differences have caused considerable confusion both within and outside the agency with regard to "significant" plan amendments. Under the proposed rule, the term "minor amendment" would be used to refer to amendments which do not meet the criteria for a "major" or "interim" amendment.

Proposed paragraph (b) addresses major amendments. Paragraph (b)(1) would define the only three circumstances which trigger a major amendment. The existing rule does not define specific criteria for triggering a significant amendment, stating simply that "if the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a forest plan" (§ 219.10(f)).

In the absence of criteria in the existing rule, the agency has issued, at FSM 1922.52, two examples indicative of circumstances that may cause a significant change to the forest plan. In addition, FSH 1909.12 describes four factors to be used in helping to determine significance. The two circumstances described at FSM 1922.52 are: (1) Changes that would significantly alter the long-term relationship between levels of multiple-use goods and services originally projected, and (2) changes that may have an important effect on the entire forest plan or affect land and resources throughout a large portion of the planning area during the plan period. Both of these examples are subject to varying interpretation.

In reassessing the circumstances that should trigger a major amendment, the agency has focused on two key provisions of Section 6(f)(4) of NFMA. First, this section recognizes that some amendments may result in a significant change in the plan. Second, it establishes special requirements for those amendments that would result in a significant change to the forest plan—a three-month comment period and associated requirements for public involvement.

With these provisions of NFMA in mind, the agency proposes establishing in the proposed rule at § 219.9(b)(1), rather than in the Forest Service Manual, three criteria for triggering a major amendment. The first trigger would be a change to a forest plan standard. The second would be when the chargeable timber volume that can be sold for a decade is amended in such a manner that it exceeds the long-term sustained-yield timber capacity of a proclaimed National Forest within the plan area. The third circumstance would be if the forest plan is changed to permit harvest of even-aged stands that have not reached culmination of mean annual increment of growth.

The first criterion, changing a forest plan standard, reflects the heightened importance of forest plan standards under the proposed rule. As explained earlier in this preamble, adherence to forest plan standards would be mandatory, and standards would be used to assure compliance with legal requirements and to provide environmental safeguards. As a result, standards would have a distinctly stronger role in the forest plan than goals, objectives, or guidelines. Subsequently, the proposed rule would consider a change to a standard or where a standard is applied as a significant change to the forest plan, which thus would trigger a major amendment unless the exceptions identified at § 219.9(c) (4) and (5) apply The exceptions are when a standard is changed to accommodate a particular site-specific project, or the allocation of a management prescription, which typically includes some standards, to newly acquired lands and the prescription is consistent with the purposes for which the land was acquired.

The other two circumstances that would trigger a major amendment derive directly from NFMA. In the case of the decadal chargeable volume that can be sold from a proclaimed National Forest exceeding the long-term sustained yield timber capacity of that Forest, Section 13 of NFMA requires that such a variation be made following the same public involvement requirements as those for a major amendment or revision; i.e., a 90-day comment period. Similarly, Section 6(m)(2) of NFMA requires a 90-day comment period if stands are to be harvested before reaching culmination of mean annual increment of growth. As a result, the proposed rule would require that such changes be considered major amendments.

Proposed paragraph (b)(2) would provide that the Regional Forester is the responsible official for major amendments. This delegation of

VOL 60 ISS 71 AP 13 1995 UMI

authority is the same as that under the existing rule.

Proposed paragraph (b)(3) would describe the procedural requirements associated with major amendment. These differ from those of the existing rule in two main ways. First, there is no automatic requirement to develop an EIS for a major amendment. The intent is to allow NEPA procedures to guide the determination of whether an EIS or an environmental assessment is appropriate for the decision being made. Second, the proposed rule would drop the requirement to use the same process for a major amendment as for development of initial forest plans and revisions (§ 219.12(a) of the existing regulation). Instead, the proposed rule would rely on established NEPA procedures to guide the process for major amendment.

Both changes are expected to help focus and streamline analyses. As described at proposed § 219.8(b), one intent of the proposed rule is to focus analyses on the information needed for decisionmaking and thus to ensure that the nature, scope; and complexity of analyses are commensurate with the nature, scope and impact of the decisions to be made. Relying on NEPA procedures to determine the type of disclosure that is appropriate is a sound means of assuring that analysis and documentation match the nature of the decision.

Similarly, the requirement in the existing rule to repeat the same steps for a significant amendment as for a revision has proven excessively burdensome. This existing requirement has often resulted in a variety of analysis efforts, such as developing benchmarks or reevaluating the suitability of lands for timber production, which proved to be of little benefit or utility and which diverted energy and focus from more critical factors related to the decision.

Paragraph (b)(3) of the proposed rule also would state the requirement to provide a 90-day period for public review and comment on a major amendment. This paragraph also specifies the minimum actions the Regional Forester would be required to take to provide for public participation in the major amendment process

Paragraph (b)(4) would require publication of legal notice of adoption of a major amendment. Paragraph (b)(5) provides that the effective date of an approved major amendment is the eighth calendar day following publication of legal notice of the decision in accordance with administrative appeal rules at 36 CFR 217.10

Proposed paragraph (c) would establish requirements for a minor amendment, which is triggered whenever a change is being made to the forest plan which does not meet the circumstances for triggering a revision, major amendment, or interim amendment.

Paragraph (c)(1) would designate the Forest Supervisor as the responsible official for minor amendments, unless that authority is retained by the Regional Forester.

Paragraph (c)(2) addresses public comment periods for minor amendments. As is the case with major amendments, the proposed rule does not specify what type of NEPA documentation must accompany a minor amendment. Instead, NEPA procedures would provide this guidance. Although NEPA procedures require a 45-day comment period for review of a draft EIS, there is no requirement under NEPA procedures for public comment on a draft environmental assessment. Nevertheless, the agency believes that the public should have an opportunity to comment on a minor amendment to a forest plan when an environmental assessment is prepared. Therefore, the proposed rule requires at least a 30-day comment period when an environmental assessment is prepared and at least a 45-day comment period when an EIS is prepared.

Paragraph (c)(3) indicates that 36 CFR part 217 provides for administrative appeal of forest plan amendments and revisions and guides public notice of decisions to adopt a minor amendment, as well as their effective date. This is further clarified in a conforming amendment to 36 CFR 217.3(a).

Proposed paragraphs (c)(4) and (c)(5) describe two circumstances where a minor amendment, not a major amendment, is the appropriate mechanism for changing a forest plan even though such an amendment involves changing a standard or changing where a standard applies. Under paragraph (c)(4), a minor amendment would be appropriate when a management prescription is extended to apply to newly acquired land and the prescription is compatible with the purposes for which it was acquired. Without this provision, such a change would trigger a major amendment since management prescriptions include standards, and allocating lands to a management prescription changes where those standards are applied.

Paragraph (c)(5) provides instructions for handling a proposed site-specific project that would conflict with a forest plan standard. As required at § 219.11(a) of the proposed rule, a project cannot be approved if it conflicts with a forest plan standard. If the responsible official has determined that the project merits an exception to a forest plan standard, but wishes the exception to apply only to the site-specific project rather than changing the standard for all future projects, the proposed rule would specify that the change be made by minor amendment. This is appropriate because of the limited, site-specific scope of the change in the standard(s). However, a minor amendment cannot be used when the circumstances described at (b)(1)(ii)–(iii) apply, since NFMA requires a 90-day comment period on changes of that nature.

Under the proposed rule, the public could review and comment on a proposed site-specific amendment as part of the project decisionmaking process rather than as disjointed decisions. The disclosure of effects associated with changing the standard, would be addressed as part of the NEPA documentation associated with the site-specific project decision. One intent of this integrated approach is to avoid duplicating analysis and documentation. It would be burdensome and confusing for both the public and the agency if a project decision had to be made separately from the forest plan amendment needed to authorize the site-specific exception from the standard.

The length of the comment period under these circumstances would vary, depending on the nature of the decision being made. If the project decision or amendment required an EIS, then at least a 45-day comment period would be provided in accordance with NEPA procedures. If an environmental assessment would be adequate, then at least a 30-day comment period would be provided in accordance with 36 CFR 215.5.

A minor amendment associated with a site-specific project would not be subject to administrative appeal under the provisions of 36 CFR part 217, but instead would be appealable under 36 CFR part 215 which already governs appeal procedures when a project decision includes a plan amendment. Similarly, the time period between the decision and project implementation is also governed by 36 CFR part 215.

Paragraph (d)(1) of this proposed section introduces the concept of "interim amendment." The agency believes there is a clear need to provide streamlined procedures for updating forest plan direction when there is new information that indicates a compelling need to promptly change the forest plan in order to provide resource protection,

or when a catastrophic even has occurred, and the process for major amendment, minor amendment, or revision would result in an unacceptable delay.

Due to the length of time it often takes to fully analyze new information and to complete appropriate amendment procedures, there can be quite a gap between the time the agency is aware that it needs to address a problem and the time normal procedures can be completed. In the meantime, environmental damage may be occurring as a result of these procedural delays. The interim amendment would be a means of addressing those situations where such delay is unacceptable, but would still assure that a thorough analysis of the new information is conducted and possible alternative responses are considered while such interim measures are in place.

Proposed paragraph (d)(2) would designate the Regional Forester as the responsible official for interim amendments, unless such authority is reserved by the Chief. Placing approval authority at the Regional Forester level should help to ensure that interim amendments are used and developed in a consistent manner and that they are not used when the needed changes can be made within the normal amendment process.

Paragraph (d)(3) describes the requirements for public notice of an interim amendment and the information that must be disclosed at the time an interim amendment is issued.

Paragraph (d)(4) establishes an explicit finding that an environmental impact statement is not required for interim amendment. Any change to a forest plan made by interim amendment will be limited in scope and duration and made only to respond to catastrophic events or to ensure resource protection. Given the limited circumstances where it could be used, an interim amendment would never meet the criteria for preparing an EIS as required by NEPA procedures. Nothing in paragraph (d)(4) would limit the preparation of an environmental assessment for an interim amendment.

As specified in paragraph (d)(5), the effective date for interim amendments is the eighth calendar day after legal notice of the decision is published in a newspaper of general circulation or, if the Chief is the responsible official, in the **Federal Register**.

Paragraph (d)(6) provides for a 45-day comment period starting upon issuance of legal notice of the interim amendment. Unlike most comment periods which occur prior to making a decision, this 45-day comment period would occur after the interim amendment is in effect. Based on the comments received, the responsible official may decide to modify the interim amendment or have it remain in effect unchanged. Under either circumstance, the public must be notified and rationale provided. Since an interim amendment is designed to respond to those circumstances where a quick change is necessary, it is not reasonable to delay issuance of the interim amendment until a comment period can occur. However, the provision of paragraph (d)(6) assures the opportunity to public review and comment as soon as possible, provides the responsible official an opportunity to change the interim amendment in a timely manner based on those comments, and ensures that the public is notified of whether the interim amendment is retained without change or is modified and why.

The duration of an interim amendment would be limited by paragraph (d)(7) to two years. If an interim amendment has not been superseded by an approved amendment or revision within two years, the responsible official would have the option of reissuing the interim amendment or issuing a modified interim amendment. Under such circumstances, all of the limitations and notice and comment requirements for use of interim amendments would still apply. This limit on the duration of an interim amendment is intended to assure that direction established using these procedures is indeed interim in nature.

Paragraph (d)(8) would expressly prohibit including an interim amendment in a decision document for a specific project. As discussed, the provisions of § 219.9(c)(5) address those circumstances where a forest plan needs to be amended to permit one specific project.

Paragraph (d)(9) would make clear that under 36 CFR part 217 an interim amendment is not subject to administrative appeal. Since neither the existing planning rule nor the appeals rule address interim amendments, a conforming amendment to 36 CFR part 217 is proposed to exclude interim amendments from the administrative appeals process. Such an exclusion is appropriate due to the short duration of an interim amendment and the circumstances for its use. The 45-day public comment period should provide an effective way for the public and other government entities to communicate with the responsible official about any potential concerns.

Paragraph (e) would permit nondiscretionary changes to forest plan direction under specified circumstances. There is no similar provision in the existing rule. This provision would allow forest plan direction to be changed without completion of the more rigorous amendment and public comment procedures when the change is needed to comply with a law or regulation and the agency has no discretion in the manner in which it complies. Under such a circumstance, NEPA procedures would not need to be completed and there would be no public comment period. However, the public would be given notice through the annual monitoring and evaluation report that such changes had been made. Examples of such nondiscretionary changes include designating an area as wilderness after passage of wilderness legislation. Paragraph (f) would make clear that the Forest Supervisor may, at any time, make certain changes to a forest plan without amendment procedures. Such changes would be identified in the monitoring and evaluation report. Circumstances allowing such an approach include when changes do not alter forest plan management direction or when the changes are non-substantive in nature, such as correcting typographical errors.

In addition, corrections to maps which delineate where a management prescription is applied can be made without amendment, provided such changes are due to improved on-the-ground information about the condition to which the management prescription was described to apply. For example, if a management prescription were to apply to all areas visible from a scenic highway but the visible area had not been precisely mapped, the mapped boundaries of where the prescription would apply could be adjusted after a detailed field survey is completed. It is essential that the forest plan state that the prescription is intended to apply to the visible area, however, so that it is clear what attributes the land must have if the map is to be changed in this manner. If, for example, the prescription were to be extended to apply to lands other than those visible from the scenic highway, amendment procedures would have to be followed.

Section 219.10 Forest Plan Revision

This section would significantly revise the procedures for forest plan revision. The existing rule (§ 219.12) requires the agency to use the same process for forest plan revision as for developing initial forest plans. The

VOL 60 ISS 71 APR 13 1995 UMI

proposed rule offers a new process specifically tailored to revision.

Proposed paragraph (a) retains the provision of the existing rule that revision of a forest plan should occur about every 10 years, and no later than 15 years, after approval of the original plan or latest plan revision. Additionally, revisions must occur whenever conditions over most or all of the plan area have changed significantly, for example, to address catastrophic events that have substantially altered resource conditions over most or all of the plan area. These criteria for initiating revisions are based on requirements of Section 6(f)(5) of the National Forest Management Act.

Proposed paragraph (b) would designate the Regional Forester as the responsible official for revision, as is the case in the existing rule.

Proposed paragraph (c)(1)(i) would establish an important new element—the prerevison review of a forest plan, which would be conducted prior to initiating scoping. The purpose of the prerevision review is to identify changed conditions and/or other new information which appear to indicate a need to change direction in the current plan using the results of monitoring and evaluation.

This requirement for a prerevision review is somewhat comparable to the requirement in the existing rule for completing an Analysis of the Management Situation (hereafter, AMS) (§ 219.12(e)), but there are some important differences. The main similarity is that both the AMS and the proposed prerevison review culminate in a determination of the need to change direction in the forest plan. However, a key difference between the AMS and prerevision review is the source of the information and type of analysis required for making such determinations. The existing rule imposes extensive analytical requirements to be met when developing the AMS. As explained earlier in the preamble discussion for proposed § 219.8, these analyses have not always proven relevant to the local situation or helpful to decisionmakers. In fact, the existing requirements have often diverted time and energy from more critical analyses needed for decisionmaking.

In contrast, the proposed rule focuses on using the results of monitoring and evaluation of making such determinations. As part of the prerevision review, the Regional Forester would be responsible for reviewing the cumulative results of monitoring and evaluation, as well as conducting whatever associated analysis is needed in order to propose the scope of the revision process. In some cases, the type of analysis now required as part of the AMS may be appropriate. However, the proposed rule does not impose such specific analytical requirements; instead, the provisions of § 219.8 (Interdisciplinary teams and information needs) and § 219.12 (Monitoring and evaluation) provide sufficient guidance for obtaining appropriate information for the prerevision review.

Proposed paragraph (c)(2) would require the Forest Supervisor to formulate a communications strategy that describes how the public and other government entities may participate on an ongoing basis in both the prerevision review and revision process. As noted earlier in regard to proposed § 219.3, the agency is stressing the importance of building and maintaining strong relationships based on open and ongoing communication. One purpose of these communications efforts is to improve the information base on which decisions are based and to promote a shared understanding of the validity of this information (see § 219.3(a)(3)). Proposed § 219.10(c)(2) is specifically designed to help achieve these aims by encouraging the public to be involved while these initial prerevision analyses are occurring and data is being gathered in addition to involvement during the revision process itself.

By participating in the prerevision review, the public and other government entities will have an opportunity to see the data and analytical methods being developed for the revision and to provide improved information or suggest better approaches. This should enhance public confidence in the data and analysis upon which decisions about revising the forest plan will be made. The results of the prerevision review provide the basis for the Notice of Intent to revise the forest plan and to prepare an environmental impact statement for the revision. The prerevision review also provides the public with a thorough analysis of monitoring and evaluation results, and identifies the direction in the forest plan that the Regional Forester believes may need to be changed.

Paragraph (c)(2)(i) would require a meeting with interested representatives of other Federal agencies and State, local, and tribal governments in order to establish procedures for coordination and ongoing communication. These provisions reflect the importance which the Forest Service places on establishing a strong working relationship with other agencies and governments as well as on coordinating with them during the prerevision review and revision process.

Paragraph (c)(2)(ii) would provide the public and representatives of other government entities the opportunity to express their ideas and suggestions on the communications strategy as it is being formulated. There is no comparable requirement in the existing rule, and this approach is not commonly practiced within the agency now. This new requirement is intended to greatly improve the effectiveness of public involvement efforts during revision. By providing the public an opportunity to comment on how to develop the communications strategy, involvement efforts should be more responsive to public needs and desires, better timed to assure that the public is involved at those points in the process of most interest, and better suited to facilitating the type of interaction, mutual understanding, and commitment necessary for success.

Paragraph (c)(2)(iii) would assure that those who are on the mailing list described at § 219.3(b) are notified of the prerevision review and formulation of the communications strategy.

Paragraph (d) addresses scoping, which is required by NEPA procedures and is undertaken to identify important issues and determine the extent of analysis necessary for an informed decision on a proposed action. Scoping is used not only to identify significant environmental issues deserving of study, but also to deemphasize insignificant issues, thus narrowing the scope of the environmental impact statement accordingly (40 CFR 1500.4(g)). A Notice of Intent to revise a forest plan would be issued in the **Federal Register**, with a 60-day comment period. The Notice would serve to notify the public of the start of the revision process and would provide information on the anticipated scope of the effort. The Notice would also identify opportunities for public involvement in the revision process.

This process for initiating forest plan revision is a substantial improvement over the existing rule, providing more and better information to the public for use in commenting on the scope of the revision process. In the existing rule, the process for forest plan revision starts from ground zero, repeating the same steps used for developing initial forest plans. Under this current approach, the revision process assumes that the "slate has been wiped clean;" that is, that no forest plan currently exists and that there is little information available from which to launch the revision effort.

In contrast, the proposed rule recognizes that substantial information regarding the adequacy of the forest plan already exists as a result of monitoring and evaluation. Just as importantly, the proposed rule provides for making this information available to the public during the scoping process so that the public has the best possible information upon which to base its comments regarding the scope of the revision effort.

Proposed paragraphs (d)(2)(i)–(iii) identify three actions that the Forest Supervisor would be required to take at the time of issuing the Notice of Intent:

(1) giving notice to those on the mailing list required at § 219.3(b);

(2) giving more general notice through a press release; and

(3) promoting activities to foster ongoing participation in the revision process pursuant to the communications strategy.

Proposed paragraph (e) specifies four required elements of the revision process:

(1) Review of the identification of lands suited and not suited for timber production;

(2) Evaluation of roadless areas for wilderness designation;

(3) Evaluation of rivers for eligibility as wild, scenic, or recreation rivers under specified circumstances; and

(4) Update of the appendix information displaying projected levels of goods and services and management activities for the next decade, as required by § 219.11(d)(1). These four requirements, along with the requirements of § 219.10(c), are the main factors which distinguish forest plan revision from major amendment.

Paragraph (f) would require that a draft EIS be prepared for a proposed forest plan revision. Unlike the existing rule, the proposed rule would not provide additional guidance on how to develop or evaluate alternatives. Rather, the range of alternatives would be developed in accordance with NEPA procedures. Although it is possible that the agency may decide to supplement NEPA procedures to address the unique needs of draft EIS's associated with forest plan revisions, such detailed instructions would be appropriately issued through the Directive System, rather than in a regulation.

Paragraph (g) describes procedural requirements for public notice and comment on the proposed revised forest plan, draft EIS, and draft monitoring and evaluation strategy. These provisions are designed to comply with the requirements of Section 6(d) of NFMA.

Paragraph (h) defines the role of the Regional Forester in overseeing preparation of the final EIS and revised forest plan and also directs that preparation of the final EIS and record of decision be prepared and made public in accordance with NEPA procedures.

Approval of the final plan and determination of the effective date is addressed in proposed § 219.10(i). The final revised forest plan would become effective 30 days after public notice, as required by Section 6(j) of NFMA. Notice of a decision to revise a forest plan must be provided in accordance with 36 CFR part 217, the regulation that guides the process for administrative appeals of forest plans.

Section 219.11 Forest Plan Implementation

Section 6(i) of NFMA requires resource plans, permits, contracts, and other instruments for use and occupancy of National Forest System lands to be consistent with forest plans. This section describes how a determination of consistency is made at the time of project approval, prior to issuing permits or contracts to implement a project decision, as well as how consistency is maintained after forest plan amendments or revisions. This section also provides other direction relevant to forest plan implementation.

Proposed § 219.11(a) describes how the agency would determine project consistency. A determination of consistency with the forest plan would be based on whether a project adheres to forest plan standards, and this determination must be documented at the time of project approval.

Paragraphs (a)(1)–(3) list the options available to a responsible official when faced with a project proposal inconsistent with the forest plan. The options are to: modify the proposal to make it consistent with the plan; reject the proposal, or amend the forest plan to permit the proposal.

Paragraphs (a)(1)–(3) reflect the key role that forest plan standards would play under the proposed rule. As noted earlier in the discussion of proposed § 219.6, standards would be the one component of forest plan direction to which adherence would be mandatory. Unlike goals, objectives, or guidelines, standards define the limitations within which project activities must occur and are limited to those constraints within the agency's authority or ability to enforce. As a result, individual projects can be readily assessed for their compliance with standards.

By contrast, achievement of forest plan goals and objectives would typically be dependent on the cumulative results of individually authorized projects and, in some cases, naturally occurring changes over time. The impact of any specific project on achievement of a goal or objective could be difficult to measure. Monitoring and evaluation is a more meaningful way to account for progress towards goals and objectives than using forest plan goals or objectives in project consistency determinations.

Likewise, project consistency determinations would not be based on guidelines. Guidelines describe a preferred or advisable course of action. Therefore, it would be counter to their intended role if they were used in determining project consistency. In addition, it would be difficult to assess on a project-by-project basis whether a project was consistent with those guidelines that describe specific resource conditions desirable to achieve, just as was the case with forest plan goals.

Paragraph (b) would require that permits, contracts, and other instruments issued or approved for use and occupancy of National Forest System lands be consistent with standards in the forest plan in effect at the time of their issuance. Also, subject to valid existing rights, they must be revised as soon as practicable after a forest plan is amended or revised, if necessary, to be made consistent with the forest plan. Both of these provisions are based on requirements of NFMA (Section 6(i)) and are similar to provisions of the existing rule (§ 219.10(e)), with the exception that the proposed rule would expand this requirement to include amendment as well as revision.

Paragraph (c) would fill an omission existing in the current rule by making clear that an approved forest plan remains in effect until approval of an amendment or revision. The question of the status of forest plans undergoing amendment or revision has arisen often and would be answered definitively by this paragraph.

Paragraph (d) would address possible actions during the plan period. Paragraph (d)(1) would require that a display be included in a forest plan appendix predicting the major goods and services which may be produced, as well as the management activities which may occur during the plan period. Rather than displaying this information as precise figures, paragraph (d)(1)(i) would provide for this information to be expressed in terms of ranges reflecting, when practicable and meaningful, some of the variables most likely to affect actual accomplishment.

Paragraph (d)(1)(ii) would allow a display of the rate of achieving desired

VOL 60 ISS 71 AP 13 1995 UMI

resource conditions identified by forest plan objectives. Once again, this prediction would reflect, to the extent practicable and meaningful, some of the variables most likely to affect achievement. This would not be a required display, but it may be a useful tool for showing how long it would take to achieve the resource conditions envisioned in the forest plan.

Paragraph (d)(1)(iii) would clarify that the information in the displays described at paragraph (d)(1)(i)–(ii) is not forest plan direction and does not compel the agency to take any action.

Paragraph (d)(2) would require periodic updates of the estimated levels of goods and services and management activities, but provides for the intervals and timeframes to be determined as appropriate. It is the agency's intent to utilize information from other ongoing agency efforts rather than requiring the preparation of new or additional information exclusively for the purposes of these updates. Therefore, the agency believes it is important to retain the flexibility to adjust the intervals and timeframes for which these estimates are provided in order to keep synchronized with whatever agency procedures can be most efficiently utilized. Development of these estimates does not require NEPA analysis.

Section 219.12 Monitoring and Evaluation

This section is designed to greatly strengthen the role of monitoring and evaluation and contains several changes from the approach taken in the existing rule. The agency believes an expanded and strenghened role for monitoring and evaluation is a cornerstone for implementing the proposed rule and making adaptive resource management a reality for National Forest System lands.

Paragraph (a) would establish the Forest Supervisor's responsibility to conduct monitoring and evaluation and would require development of a monitoring and evaluation strategy. This strategy would be prepared by the Forest Supervisor simultaneously with revision of a forest plan. In contrast to the existing rule, which provides for monitoring and evaluation to be addressed in the forest plan, the proposed rule would address monitoring and evaluation in a companion strategy document, and it would not be part of the forest plan. Paragraph (a) would also clarify that the strategy does not require NEPA analysis. However, monitoring and evaluation activities are subject to NEPA procedures at the time of implementation.

There are several reasons the agency is proposing to address monitoring and evaluation in a companion document. First, the requirement to develop a companion document should give considerably more emphasis to monitoring and evaluation than at present and should promote greater recognition of monitoring and evaluation as a critical and integrated aspect of National Forest System management. As the first generation of forest plans is facing revision and with the agency shifting to an ecosystem management approach, monitoring and evaluation is receiving greatly increased emphasis within the agency, and considerably more effort is being invested in developing well-designed and coordinated monitoring and evaluation procedures.

The agency also anticipates much more emphasis on joint monitoring with other agencies, coordination of monitoring efforts across plan area boundaries, and a shift from a forest-by-forest approach to a corporate approach to monitoring and evaluation activities. All of this will likely require a document that more easily allows for an expanded length and different formats from what is typically found in most forest plans now. Establishing a separate document for addressing monitoring and evaluation activities allows more flexibility in how all of this information can be aggregated and organized. Given the rapidly expanding technologies and knowledge associated with monitoring and evaluation, it is especially desirable to retain as much flexibility as possible so that the most effective means can be found for structuring and displaying relevant information.

Finally, separating the monitoring and evaluation strategy from decisions in the forest plan should help to streamline the forest plan. The Critique of Land Management Planning revealed that the public wants shorter forest plans, and the agency agrees this is desirable. Yet, circumstances could occur where the length of the monitoring and evaluation strategy could approach the length of the forest plan itself, depending on the monitoring and evaluation format used and the amount of information incorporated from other sources. Therefore, rather than adding to the size of forest plans or creating a disincentive to include all relevant or useful information for monitoring and evaluation in order to keep the forest plan at a manageable size, the agency believes it is appropriate to treat monitoring and evaluation information in a companion document.

In addition to addressing monitoring and evaluation in a companion document, the proposed rule would make clear that the monitoring and evaluation strategy is not considered forest plan direction. There are distinct differences between forest plan direction and the information in a monitoring and evaluation strategy Unlike the forest plan direction described at § 219.6 (goals, objectives, standards, and guidelines), monitoring and evaluation strategies do not address how to manage resources. Rather than guiding how to manage resources, these strategies guide how to determine if resource management activities are resulting in the outcomes expected. In essence, they are part of the quality control process for implementing the forest plan.

The exclusion of monitoring and evaluation from forest plan direction creates two particularly notable changes. First, updates to the monitoring and evaluation strategy would not be subject to procedures for forest plan amendment. This exclusion is logical because, as provided at proposed § 219.12(a), the strategy does not require NEPA analysis, yet the amendment process is focused on evaluating alternatives following NEPA procedures. However, a second important aspect of amendment procedures is the requirement for a public comment period. In order to assure that the public has an opportunity to comment on updates to the monitoring and evaluation strategy, the proposed rule would require a 30-day comment period.

The second notable change is that the strategy would not be subject to administrative appeal. The monitoring and evaluation strategy does not make decisions about how resources will be managed, but rather establishes procedures for assessing the effects of the forest plan. Although the agency has received hundreds of appeals on forest plans, very few of them involve monitoring and evaluation. Considering the nature of a monitoring and evaluation strategy and the emphasis in the rule on assuring on-going communication and accountability for monitoring and evaluation, the appeals process does not appear to be the most appropriate or effective means for addressing monitoring and evaluation issues.

The proposed rule has established numerous safeguards to assure the agency's accountability for monitoring and evaluation. Some of these include: public review and comment on the strategy at the time of revision (§ 219.12(b)(1)); public comment on proposed updates to the strategy (§ 219.12(c)(2)); public notification of updates to the strategy in the annual monitoring and evaluation report (§ 219.12(e)(5)); involvement of the applicable Station Director in the development and implementation of monitoring and evaluation strategies (§ 219.12(d)(3)); and the availability of an annual monitoring and evaluation report for public review (§ 219.12(e)). In addition, § 219.12(d)(1) and § 219.3 promote ongoing involvement and communication with the public and other agencies and governments throughout all phases of resource planning and management, including monitoring and evaluation.

Beyond establishing the monitoring and evaluation strategy as a companion document not subject to administrative appeal, paragraph (a) of proposed § 219.12 also would address NEPA responsibilities related to monitoring and evaluation. The monitoring and evaluation strategy does not require NEPA analysis because it does not contain any resource decisions. It is an operational guide that identifies techniques and procedures for gathering relevant information; it does not compel any specific action or prohibit any action. Therefore, due to the nature of the information it contains, the criteria for undertaking NEPA analysis and disclosure are not met and no NEPA documentation is required.

In contrast to the monitoring and evaluation strategy, actual monitoring and evaluation activities are subject to NEPA procedures at the time of implementation. For example, if water quality monitoring activities involve placing instrumentation in a stream or require helicopter access into a remote mountain lake to collect water samples, the environmental effects of such activities would have to be considered. In most cases, monitoring and evaluation activities are categorical exclusions under 7 CFR 1.b(3), which clearly excludes "Inventories, research activities, and studies, such as resource inventories and routine data collection when such actions are clearly limited in scope and intensity." Such an exclusion does not apply, however, if extraordinary circumstances exist. Extraordinary circumstances might encompass monitoring and evaluation activities affecting such features as inventoried roadless areas, wetlands, Native American religious sites, and Congressionally designated areas (FSH 1909.15, Sec. 30.3, para. 2).

Proposed paragraph (a)(1) lists the types of instructions provided in a monitoring and evaluation strategy and expands the role of monitoring and evaluation from that in the existing rule. Under paragraphs (a)(1) (i) and (ii), the monitoring and evaluation strategy would provide guidance to make sure that projects are being implemented in accordance with the project decision document, and that progress is being made toward achieving plan goals. Since forest plan goals normally are not expressed in quantitative terms, the rule would require that measurable indicators be used to assess achievement. In many cases, those measurable indicators will be desired resource conditions defined by objectives.

Proposed paragraph (a)(1)(iii) links the monitoring and evaluation strategy for the plan area to monitoring and evaluation efforts needed at scales larger than the plan area. This is a key new concept and reflects how much of the coordination required of the Regional Forester at paragraph (d)(2) of this section will be integrated into forest activities. Proposed paragraph (a)(1)(iv) recognizes that an important role of the monitoring and evaluation strategy is to provide for validating the assumptions upon which plan decisions were based and verifying the accuracy of the predicted effects.

Proposed paragraphs (a)(1) (v)–(x) substantially expand the role of monitoring and evaluation beyond what is required by the existing rule. Under proposed paragraph (a)(1)(v), the monitoring and evaluation strategy would include setting priorities for monitoring and evaluation efforts, and it specifies that the highest priority for monitoring and evaluation is those activities believed to have the greatest potential risk to the environment.

Proposed provision (a)(1)(vi) would require the monitoring and evaluation strategy to address compilation of information to serve as reference points for future evaluations. Similarly, paragraph (a)(1)(vii) would direct that monitoring and evaluation be used to determine if new information exists which substantially affects the validity of the forest plan, such as changes in legal requirements, shifting social or economic trends, new scientific information, or findings resulting from ecosystem analyses. This deliberate outreach for new information is not generally recognized as part of monitoring and evaluation under the existing rule.

Paragraph (a)(1)(viii) would expand the role of monitoring to include the storage and dissemination of information for use in the budget formulation process. A major source of this type of information is expected to be various ecosystem analyses, as well as information being gathered from various other sources. Although storing and disseminating such information is a vital function, its importance is not always recognized.

Tracking goods and services provided and management activities conducted, as would be required at paragraph (a)(1)(ix), is traditionally associated with monitoring and evaluation. The final item, identifying problems and opportunities for resolution, is not traditionally considered part of monitoring and evaluation. Under the proposed rule, however, such efforts would be considered as part of monitoring and evaluation and are considered an integral and critical step whereby the monitoring and evaluation results are synthesized into a clear problem statement and evaluation of opportunities for solution.

The decision as to whether a forest plan needs to be amended or revised is a separate step and not included within the role of monitoring and evaluation. Monitoring and evaluation only goes as far as providing the information which defines the problem and which describes opportunities for solution. The subsequent determination as to whether an amendment or revision is triggered is based on the information provided through monitoring and evaluation. This determination is made available to the public in the annual monitoring and evaluation report that would be required by paragraph (e) of this proposed section.

Paragraph (a)(2) provides additional instructions for developing monitoring and evaluation strategies. The proposed rule would make clear that strategies should be realistic and practicable to implement and should recognize possible fluctuations in funding. This paragraph also would assure that monitoring and evaluation efforts are designed at appropriate spatial scales and for appropriate timeframes.

The agency recognizes that there will always be limitations on the funds and staff available to conduct monitoring and evaluation. One approach for enhancing efficiency is to assure that efforts are designed at the appropriate scales for appropriate timeframes. This will require close coordination of effort and careful planning, but such coordination is essential to prevent redundant efforts and to maximize the results obtained with limited funding.

The provision of paragraph (a)(2) to recognize funding limitations is one of three provisions in this section which work together to address the issue of funding. The first provision is (a)(1)(v), which would require that priorities be set for monitoring and evaluation efforts in the strategy in order to identify monitoring and evaluation efforts

VOL 60 ISS 71 AP 13 1995 UMI

associated with the management activities having the greatest potential risk to the environment. The second is paragraph (a)(2), which would direct monitoring and evaluation strategies to be designed recognizing that the type and intensity of efforts may need to vary depending on the availability of funds. The third related provision is paragraph (a)(3), which would require that, when funds are limited, the highest priority monitoring and evaluation activities be implemented first.

Proposed paragraph (b) would require that the monitoring and evaluation strategy be available for public review and comment along with the proposed revised forest plan. This assures the public an opportunity to review the strategy at the time of revision just as would have been the case if it were contained in the forest plan. An important safeguard for ensuring that a timely monitoring and evaluation strategy is developed is the prohibition against approving a revised forest plan prior to approval of the monitoring and evaluation strategy. This provision would assure that there is no delay between finalizing a revised forest plan and having an approved monitoring and evaluation strategy. Finally, Station Director concurrence would be required when approving the strategy. This provision would help ensure that the monitoring and evaluation strategy is scientifically sound and would promote the involvement of the scientific community in development of these strategies.

Proposed paragraph (c)(1) provides that updates may occur as needed and lists circumstances which might trigger an update. Proposed § 219.12(c)(2) would make the Forest Supervisor responsible for updating monitoring and evaluation strategies as needed and would make clear that such updates do not require NEPA analysis. As previously noted, paragraph (c)(2) would require a 30-day period for public review and comment on proposed updates to a monitoring and evaluation strategy.

Proposed paragraph (d)(1) would promote coordination of monitoring and evaluation efforts, to the extent feasible, with other Federal agencies, State, local, and tribal governments, interested private landowners, the scientific community, and other interested parties. Such coordination offers opportunities to enhance open and ongoing communication, improve the information base for decisionmaking, reduce costs through shared efforts, and promote an ecological approach to resource management across jurisdictional boundaries.

Paragraph (d)(2) would require the Regional Forester to be responsible for assuring that monitoring and evaluation needs which extend beyond a plan area are addressed and coordinated. This expands the role of the Regional Forester from that in the existing rule and clearly establishes the agency's intent to address monitoring and evaluation efforts at whatever scale is appropriate, rather than focusing on efforts within a plan area simply because monitoring and evaluation procedures have historically been forest plan decisions. The proposed rule intentionally would not provide detailed instructions on how this coordination is to be accomplished since the agency has not had extensive experience addressing monitoring and evaluation procedures at this scale and flexibility is needed in order to determine the best way to approach this task.

Paragraph (d)(3) would create an integral and ongoing role for Forest Service research personnel in all phases of monitoring and evaluation. The intent is to provide a sound scientific basis for all monitoring and evaluation activities and to help promote interaction between researchers and land managers. Because the paragraph directs that research personnel should be involved in monitoring and evaluation to the extent practicable, there is recognition that there will be limits to the extent research staff are available for such efforts.

Paragraph (e) of proposed § 219.12 requires the Forest Supervisor to prepare an annual monitoring and evaluation report to be made available to the public, as well as transmitted to the Regional Forester and Station Director. This provision is intended to increase the accountability of the agency for conducting monitoring and evaluation and to enhance communication and involvement of the public. The seven items which would be included in the report assure that the public, Regional Forester, and Station Director are aware of the results of monitoring and evaluation efforts, the implications such results have for needing to change the plan or how it is being implemented, and any changes which have occurred during the year to the plan or monitoring and evaluation strategy.

Paragraph (f) would limit implementation of projects if funds for associated monitoring and evaluation activities are not reasonably expected to be available. There is no comparable requirement in the existing rule. This represents another means by which the agency intends to increase its commitment to accomplishing monitoring and evaluation efforts. This limitation applies to those monitoring and evaluation activities specifically identified in a decision document associated with authorizing a site-specific project. In addition to assuring that monitoring and evaluation needs are considered at the time of project implementation, this provision should be an incentive to improve the manner in which monitoring and evaluation costs are integrated into project planning.

The final paragraph of this section would make clear that none of the requirements for conducting and reporting on monitoring and evaluation preclude initiating an amendment or revision at any time.

Section 219.13 Statutory Timber Management Requirements

This section describes those statutory planning requirements that affect the management and harvest of timber on National Forest System lands. Although most of the provisions of this section are directly responsive to specific requirements of NFMA, a few are discretionary. Those of a discretionary nature are identified in this preamble.

With the agency's emphasis on integrating consideration of resources as part of ecosystem management, devoting an entire section of the proposed rule to the timber resource may seem inconsistent to many reviewers. The attention given to timber in this section, while possibly appearing to be out-of-balance with other resources, is generally the minimum needed to respond to the highly prescriptive requirements for timber management in NFMA. Enacted largely in response to timber-related issues in the mid-1970's, NFMA contains extensive specific direction regarding management of timber resources, much more so than for any other resource.

Proposed § 219.13(a) addresses reviews of timber suitability determinations. Section 6(k) of NFMA requires that lands not suited for timber production be identified in forest plans. Paragraphs (a) through (c) of this section address compliance with Section 6(k) of NFMA.

Proposed paragraph (a)(1) would address the NFMA requirement for the 10-year suitability review, and states that the 10-year review should normally occur as part of the revision process. When done as part of the revision process, the entire land base would be considered. In some case, however, it is possible that revision will not have occurred by the time the 10-year period has elapsed. In these cases, proposed paragraph (a)(1) would require the 10-year review to consider only the unsuitable lands, with all lands reviewed later at the time of revision.

Although the statute does not require a review of the timber suitability determination for all lands at the time of revision, the agency believes it is appropriate to do so. This comprehensive review will assure that suitable lands are considered for possible reallocation to the unsuited land base rather than focusing only on whether unsuited lands should remain so designated. Proposed paragraph (a)(3) would clarify that the determination of timber suitability may be changed at any time through forest plan amendment.

Proposed § 219.13(b)(1) would direct that unsuited lands have a fixed location and that they should be identifiable on maps or by other readily recognizable means. This provision aims to assure that these lands can be located during project planning and is also intended to facilitate the 10-year review of unsuited lands. One of the problems with the current approach is that unsuited lands are sometimes designated on a forest-wide basis rather than identified with a specific location. For example, 20,000 acres out of a total of 55,000 acres of a particular forest type may have been determined to be unsuited lands, but there is no delineation of which lands within the total are to be treated as unsuited. The location of the unsuited land will be clear if this proposed provision is adopted.

Paragraph (b)(2) would require that management prescriptions be established to ensure that unsuited lands are managed in accordance with the three provisions of the proposed rule which are applicable to them. These include the requirement to limit timber harvesting except for salvage sales or other sales necessitated to protect other multiple-use values (§ 219.13(b)(4)), the provision to continue to reforest unsuited lands (§ 219.13(b)(5)), and the provision to allow exceptions to the five-year reforestation requirement when long-term openings are needed (§ 219.13(b)(3)(v)(R). All three of these provisions are in response to requirements of NFMA.

Paragraph (b)(3) describes the five types of lands that are not suited for timber production. The first type is lands which have been withdrawn from harvest by an Act of Congress, the Secretary of Agriculture, or the Chief of the Forest Service. This is comparable to the requirement at § 219.14(1)(a)(4) of the existing rule.

The second exclusion is lands on which timber harvesting would violate statute, Executive order, or regulation. The third requirement would continue the exclusion of non-forested land, as is currently provided in § 219.14(a)(1) of the existing rule.

The fourth exclusion would be those lands where technology is not available for conducting timber harvesting without irreversible damage to soil and watershed conditions. This parallels a requirement at Section 6(g)(2)(E)(i) of NFMA and § 219.14(a)(2) in the existing rule.

The final exclusion would be those lands where there is not a reasonable assurance of adequate reforestation within five years after timber harvest. This parallels the requirement at Section 6(g)(2)(e)(ii) of NFMA and § 219.14(a)(3) of the existing rule. The proposed rule defines the five year period after final timber harvest to mean five years after clearcutting, after the last overstory removal of a shelterwood or seed tree cutting, or after selection cutting. In shelterwood or seed tree cuts, the entire existing overstory may never be removed, as trees may be left to provide for other considerations. Therefore, the time period begins when the last planned overstory removal is conducted. In selection cutting, the stand is left stocked with trees of varying age and size classes.

There are two supplemental provisions associated with the five-year reforestation criterion. First, the rule specifies that research and experience are the basis for determining a reasonable assurance of restocking. Secondly, the five-year reforestation requirement would not prohibit creating openings for long-term purposes, such as wildlife habitat improvements, scenic vistas, recreation sites, or other similar uses.

Proposed paragraph (b)(4) would permit harvest from unsuitable lands only for salvage sales or sales necessitated to protect other multiple-use values. This requirement is based on the provisions of Section 6(k) of NFMA.

Proposed paragraph (b)(5) would affirm that lands not suited for timber production will continue to receive reforestation treatments to protect other multiple-use values as required by Section 6(k) of NFMA.

Proposed paragraph (b)(6) would explicitly provide that the unsuited land base should not vary among the alternatives at the time of forest plan revision. This requirement is a major change from the existing regulation, and provides a good focal point for comparing differences in the determination of suitability under the proposed rule and the existing rule.

The existing rule essentially has a three-step process. The first step in the existing rule is closely paralleled in the proposed rule, but the other two are not.

The first step, described at § 219.14(a) of the existing rule, defines four screening criteria fairly comparable to the six criteria described in the proposed rule. Thus, under the proposed rule, the unsuited land base would be quite similar to the land base identified as unsuited under the first screening step of the existing rule. This screening step does not differ substantially between alternatives, because the criteria are based on conditions or attributes which remain constant even if management objectives vary.

The second step of the existing rule (§ 219.14(b)) requires an analysis which stratifies those lands not identified as unsuited in the first step. The stratification identifies lands with similar management costs and returns. Consistent with the intent of § 219.8(b) to reduce standardized analysis requirements, there is no comparable requirement in the proposed rule.

The third step in the existing rule (§ 219.14 (c) and (d)) screens lands out of the suitable land base based on the objectives of each alternative. More specifically, lands would be considered not suited for timber production if the multiple-use objectives for the alternative precluded timber production, if other management objectives imposed such limitations on timber harvest that requirements of § 219.27 could not be met, or if the lands were not cost-efficient over the planning horizon in meeting forest objectives.

This third step in the existing rule is also not paralleled in the process for identifying unsuited lands under the proposed rule. The proposed rule would address considerations comparable to the third step in the existing rule at paragraph (c), which would make clear that forest plan standards may be imposed on suited lands to prohibit or limit timber harvesting. Economic considerations or an allocation of land to uses incompatible with timber harvesting would be examples of reasons for imposing such standards on suited lands. In essence, paragraph (c) is fairly comparable to the third step of the process under the existing rule, except that paragraph (c) would limit harvesting by imposing standards on the suited land base rather than declaring those lands to be unsuited for timber production.

VOL 60 ISS 71 APR 13 1995 UMI

In association with the change in determining unsuitable lands, the proposed rule would alter the land base for calculating the allowable sale quantity (ASQ) from that used in the existing rule. In the existing rule, the entire suitable land base is used in calculating the ASQ. Under the proposed rule, as described at § 219.13(d)(1)(i), only those suited lands on which planned periodic entry for timber is allowed over time would be included in ASQ calculations; i.e., if standards have been imposed which are incompatible with timber harvesting over the long-term, then those lands are excluded from the land base used to calculate the ASQ. For example, if a corridor along a scenic hiking trail is allocated to a prescription that does not allow timber harvesting in order to protect scenic values, then the lands would be in the suited land base but would not be included in ASQ calculations.

It is noteworthy that the proposed rule would limit the land base for ASQ calculations to those lands available for planned periodic entries. Lands would not be included in the ASQ calculations if only a one-time harvest were planned but not planned periodic entries. For example, if a salvage harvest was planned to occur during the plan period in an area where harvest would not otherwise occur nor be planned for future decades, then those lands would be excluded from ASQ calculations.

Another notable change between the existing rule and proposed rule as related to timber suitability is the rule of economics. In contrast to the existing rule which addresses the economics of harvesting as part of the timber suitability determination, the proposed rule would address the economics of harvesting in the forest plan through establishment of forest plan standards or guidelines.

Section 6(k) of NFMA states that unsuitable lands are to be identified "* * * considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary * * *" Although the agency agrees that economics is an important consideration in determining whether lands should be harvested, experience has proven that it is not feasible to effectively factor in economics as part of the 10-year timber suitability determination. Therefore, in light of the latitude provided by NFMA, the agency is proposing to address economic considerations by means other than the timber suitability process.

There are various reasons for this change. First, economic conditions fluctuate greatly during the course of a plan period. One year a certain area of land or species may be uneconomic to harvest, and another year market conditions may have changed to where the same area or species would be greatly in demand. This makes it difficult to meaningfully assess the economics of harvesting a particular site over a 10-year period.

Also, it is generally accepted that the net value of the timber sale program must be considered as a whole rather than by only evaluating individual timber sales in isolation, since some sales of low value are offset by other higher value sales. The timber program also must be viewed with consideration of non-market contributions, such as enhanced hunting use, and not strictly timber sale costs and receipts. These considerations further add to the difficulty of using the process for identifying unsuited lands in forest plans as an effective and timely means by which economic considerations are addressed.

In contrast to using timber suitability determinations to address economic considerations, the agency believes they can be adequately addressed through other means. For example, forest plan standards can be established to limit harvesting due to economic reasons. Therefore, if harvest limitations are deemed appropriate due to economics, the option exists to use them. In addition, economic considerations can be considered as part of the program development and budget process. This would allow timely adjustment of annual harvest programs, within the limitations imposed by forest plan standards, based on such factors as fluctuating economic conditions. Also, the economics of harvesting any particular site can be considered as part of the project decision to approve harvest of the area.

The agency believes there are four major advantages to the entire set of changes being proposed to the process for determining timber suitability. First, under the proposed rule, suitability determinations are much simpler and more efficient to conduct, and yet there is no compromise of the ability to exclude lands from timber harvest or from calculation of the ASQ. Secondly, the 10-year review will be completed more quickly, reducing the diversion of time and energy from revision efforts which are generally expected to be occurring at the same time. Third, it allows unsuited lands to be readily identifiable, making it easier for both the public and agency personnel to locate those lands when designing projects. Finally, it allows economic factors to be considered in a more effective and timely manner while reducing an analysis step that has not proven highly beneficial.

In order to assure that the availability of lands for timber harvest is readily evident despite the proposed change in process for determining suitability, proposed paragraph (c) would require an appendix to display the number of acres of suitable lands where standards have been imposed prohibiting or limiting timber harvest as well as the number of acres where such limitations do not apply. This is not part of the suitability determination, but does provide information comparable to what is currently available in forest plans as part of the timber suitability information.

Proposed paragraph (d) addresses the allowable sale quantity and makes clear that the ASQ is neither a projection of future sale levels nor a target to be achieved. Although this position is well supported in case law, there has been widespread misunderstanding that the ASQ is a target level for timber production from a National Forest. The proposed rule would make clear this is not the case.

Proposed § 219.13(d)(1) sets out procedures for calculating the allowable sale quantity (ASQ). As stated at (d)(1)(i) of the proposed rule, the land base for ASQ calculations would be limited to suitable lands on which planned periodic timber harvest is allowed over time.

Paragraph (d)(1)(ii) explains the role of the long-term sustained yield timber capacity (LTSYTC) when calculating the ASQ. The LTSYTC is defined at § 219.2 and represents the highest uniform wood yield that may be sustained in perpetuity consistent with the forest plan.

Consistent with Section 13 of NFMA, the chargeable timber volume which can be sold for a decade cannot exceed the LTSYTC except where necessary to meet overall multiple-use objectives. An example of such a departure may be in the case of a forest having severe forest health problems, where accelerated silvicultural manipulations and accelerated timber harvest are critical to its ecological restoration.

Under the proposed rule, the land base for calculating the LTSYTC would be calculated using the same lands and forest plan standards used to determine the ASQ. Where two or more proclaimed National Forests are included in the forest plan, the proportionate contribution of each National Forest to the total ASQ for the plan area cannot exceed the LTSYTC for each corresponding proclaimed National Forest. In order to assure this would not happen, a non-interchangeable component could be defined in accordance with (d)(3) of this section. This limitation on the chargeable volume that can be sold for a decade from a proclaimed National Forest does not apply where the proclaimed National Forest has fewer than 200,000 acres of land suited for timber production. These provisions are based on the requirements of Section 13 of NFMA, and do not vary from the existing situation, although the existing rule does not address this to the same degree of detail.

Paragraph (d)(1)(iii) would continue a non-declining flow requirement. When a new ASQ is determined, it may be higher, lower, or the same as the current ASQ. Such fluctuations might be caused by such factors as changes in the suitable land base, new standards, or revised timber growth and yield projections. However, whatever level is established for the decade of the plan must be capable of being sustained or increased during subsequent decades, with exceptions only to meet overall multiple-use goals. This limitation is intended to help assure that harvesting will not occur at so high a rate in the short-term that decline is inevitable in the future, unless such a decline is recognized as being necessary to meet multiple-use goals. An example of when such an exception might be appropriate would, once again, be in the case of a forest having severe health problems, where higher levels may be beneficial in the short-term in order to correct imbalances of the forest structure and promote ecological restoration, but with lower harvest levels planned once the restoration phase was complete.

Paragraph (d)(1)(iv) is a requirement of Section 6(g)(3)(D) of NFMA and would require that, when the ASQ is being recalculated, any predicted yields based on intensive management must be reduced if such practices have not been successfully implemented or adequate funds have not been received to continue substantially as planned. This statutory limitation is intended to help safeguard against over-estimating the ASQ due to faulty yield projections.

Paragraph (d)(2) would clarify that only the timber volume included in the growth and yield projections to determine the ASQ is chargeable to the ASQ. Excluded would be the volume from timber classes not included in the projections, such as merchantable dead timber.

Paragraph (d)(3) would allow for the establishment of non-interchangeable components (NIC's). NIC's allow for separating discrete quantities of the ASQ into individually accountable categories. The proposed rule would stipulate that chargeable timber volume from one NIC cannot be substituted for the achievement of the volume limit of another NIC. In addition, such components would be required where management prescriptions for roadless areas allow planned periodic entries over time for timber harvest. Establishment of NIC's is not limited to roadless areas, however. On forests where the product or species mix is deemed important, the use of NIC's provides a means to maintain the intended balance.

The provision for roadless area NIC's is intended to help reduce the pressure to over-harvest areas outside of roadless areas if anticipated timber production from roadless areas does not materialize. Although the proposed rule would make clear at paragraph (d) of this section that the ASQ is not a target or projection of future harvest levels, this requirement to establish NIC's for roadless areas is intended to further reinforce this idea and to help to reduce erroneous expectations regarding the role of the ASQ. In addition, other forest plan standards serve to prevent over-harvesting anywhere in the plan area.

Paragraph (d)(4) addresses a provision of Section 13(b) of NFMA and clarifies that the ASQ may not be used to limit the harvesting of timber for salvage or sanitation purposes or for harvesting timber stands substantially damaged by fire, wind or other catastrophe, or which are in imminent danger from insect or disease attack. If such timber volume were included in the calculation of the ASQ, it may be substituted for timber volume that would otherwise have been sold under the plan. If the sanitation/salvage timber volume had not been included in the calculation of ASQ, or if it had and it is infeasible to substitute it for other volume, it can be sold over and above the ASQ.

Paragraph (e) responds to the requirements of Section 6(m) of NFMA and would require that all even-aged stands scheduled for harvest during the planning period will generally have reached the culmination of mean annual increment (CMAI) of growth unless certain listed exceptions apply. This paragraph is similar to the existing rule, except that any change to a forest plan to permit exceptions must be made through a major amendment or done at the time of plan revision (see § 219.9(b)(1)(iii)).

Proposed paragraph (f) would address the selection of cutting methods. It would make clear that the determination of the appropriate harvest method is to be made at the project level. This has been a source of considerable confusion in the past, with many administrative appeals received by the agency questioning the adequacy of the analysis associated with a forest plan to support the selection of cutting methods. The proposed rule is consistent with numerous court decisions that confirm such decisions are made at the project level rather than in the forest plan. (For example, *Sierra Club v. Robertson*, 810 *F. Supp.* 1021, 1026 (W.D. Ark 1992) aff'd 28 F 3d 753, 760 (8th Cir. 1994)).

Paragraph (f) also responds to the requirement of NFMA at Section 6(g)(3)(F)(i) which limits the use of clearcutting to those cases where it is determined to be the optimum method. The existing rule does not address what was meant by optimum. Paragraph (f) would establish seven purposes for which clearcutting can be used, provided it is the optimum method and the only practical method for meeting one or more of the purposes. These provisions reflect the agency's intent to continue to reduce the amount of clearcutting from levels which have historically occurred, tailoring its use to those situations which meet the purposes listed. Over the past several years, the agency has already substantially reduced its use of clearcutting.

Paragraph (g) would require that the forest plan establish the maximum size of areas that can be clearcut in one harvest operation. This is in response to Section 6(g)(3)(F)(iv) of NFMA. Exceptions are allowed for natural catastrophes, or limits established by the Regional Forester on a project basis after public notice. Currently, harvest size limitations are found in the existing rule and regional guides, but regional guides would no longer be maintained under the proposed rule. In light of the fact that research findings on the effects of harvest size have changed and are likely to continue to change over time, it is not appropriate to include such prescriptive direction in this proposed rule. By addressing such limitations in the forest plan, even though they are not applied until the project level, the constraints are integrated with other resource decisions for the plan area and the public is assured the opportunity to review and comment when they are adopted or changed.

Paragraph (h) would direct the shaping and blending of even-aged harvest methods with the natural terrain to the extent possible in order to ameliorate the visual impacts of such practices. It addresses NFMA Section 6(g)(3)(F)(iii) and is less detailed than the requirements of 219.27(d)(1) of the existing rule.

VOL
60
ISS
71
AP
13
1995
UMI

Paragraph (i) would assure that timber is only harvested where soil and water can be adequately protected. This provision is based on Section 6(g)(E)(iii) of NFMA.

Paragraph (j) would require certain displays of timber-related information that must be included in forest plan appendices. This information is expected to be of interest to the public and provides a concise summary of various timber-related analyses or decisions. Items (i)(1) and (i)(2) are intended to help summarize the availability of lands for timber harvest, while (i)(3) and (i)(4) provide information to assure NFMA requirements have been met. The proportion of probable timber harvest methods forest-wide is required to be included by Section 6(f)(2) of NFMA.

Section 219.14 Special Designations

The purpose of this section is to ensure that forest plans include all of the relevant direction (goals, objectives, standards, and guidelines as described at proposed § 219.6) for lands within the plan area, including those with special designations which may have been evaluated through other planning processes as required by statute. The existing rule addresses only two special designations, research natural areas and wilderness. The proposed rule seeks to integrate direction for all specially designated areas into forest plans to the extent possible.

Paragraph (a) would explain that forest plan amendment or revision is the mechanism to allocate specific areas to prescriptions for special designations, or to recommend special designation by higher authorities. Various examples of special designations are also provided.

Paragraph (b) would require that roadless, undeveloped areas be evaluated for wilderness designation during forest plan revision unless Federal legislation directs otherwise. Roadless, undeveloped areas are defined to be at least 5,000 acres in size unless contiguous to existing or Administration-endorsed units of the National Wilderness Preservation System. Due to the differing conditions in the eastern part of the country, a provision is added so that the size limitation would not apply east of the 100th meridian.

These provisions of the proposed rule differ somewhat from the existing rule. Most notably, the proposed rule is more specific by defining roadless areas in terms of a 5,000-acre minimum for areas in the western part of the country. This size criterion has been agency policy as described in FSH 1909.12, Chapter 7.11, but is not in the existing rule. In contrast, the existing rule provides criteria for evaluating roadless areas, whereas the proposed rule does not, because the agency believes such detailed procedural instructions are better suited for the Directive System.

It should be noted that nothing in paragraph (b) precludes consideration of roadless areas for the full range of management options. Although wilderness designation must be one of the options considered, roadless areas are also subject to consideration for various other uses or degrees of protection, not unlike the case for most portions of the plan area.

Paragraph (c) of this section would provide for evaluation of a river's eligibility for wild, scenic, or recreation river designation during revision if legislation requires such an evaluation or if the river was not evaluated under criteria set forth in July of 1987 in Forest Service Handbook 1909.12. Although many forests have evaluated their rivers under these criteria, many have not. This provision is designed to assure that all potential wild, scenic, or recreation rivers are evaluated under the same set of criteria. Although wild, scenic, and recreation rivers were not addressed in the existing rule, the proposed rule includes them since recommendations for river designation, as is the case for wilderness, are made in forest plans with the final decision made by the Congress.

Paragraph (d) would reinforce the central role of forest plans by requiring that any requirements for additional planning for special areas must be met through forest plans, unless certain identified exceptions exist. This is comparable to § 219.2(a) of the existing rule and is intended to assure that special area planning is integrated with forest plans.

The proposed rule would specifically require that goals, objectives, standards, or guidelines from special area plans be incorporated into forest plans to maintain the role of the forest plan as the central source of local direction as well as to provide a basis for determining project consistency.

Section 219.15 Applicability and Transition

This section provides for an orderly transition from the existing rule adopted in 1982 to the proposed rule. Paragraph (a) would establish that the proposed rule would apply to the entire National Forest System. Although terms such as "National Forest," "forest" or "forest plan" have been used within the proposed rule and preamble, this does not limit applicability of the rule to only the National Forest components of the National Forest System. For example, the National Forest System includes National Forests, National Grasslands, Purchase Units, Land Utilization Projects, Experimental Forests, Experimental Range, Experimental Areas, and other areas. The applicability of the proposed rule to the National Forest System does not differ from the existing rule.

Paragraph (b) would address those situations where an initial forest plan has not been approved at the time the new rule becomes effective. At this time, there are four National Forests where a forest plan has not yet been approved; these are the Klamath, Mendocino, Shasta-Trinity, and Six Rivers National Forests, all in the Pacific Southwest Region (R–5) (California). The new rule would not apply to development of initial forest plans. Therefore, paragraph (b) provides for unfinished forest plans to be completed under the previous planning rule as adopted in 1982. As a result, there would be consistent regulatory guidance for development of all initial forest plans and no disruption of the planning process for any unfinished plans. Upon approval of those forest plans, the provisions of the proposed rule would then apply to future amendments and revisions.

Paragraph (c) would make clear that forest plans that are already approved remain in effect until amended or revised. This provision is intended to prevent any uncertainty as to the status of existing forest plans.

Paragraph (d) would make clear that forest plans need not be amended in order to comply with requirements of the new rule prior to the forest plan being revised in accordance with the new rule. This provision is included because the agency does not intend for the new rule to immediately trigger either the amendment or revision of forest plans. It would be disruptive, expensive, and impractical to immediately undertake changes to every forest plan in order to adjust to the newly effective rule.

Paragraph (e) allows development of the displays required at § 219.11(d)(1)–(2) and § 219.13(j) to be delayed until the forest plan is revised in accordance with the rules of this subpart.

Paragraph (f) makes clear that the first annual monitoring and evaluation report would be required one fiscal year following adoption of the final rule. This time period allows forests time to plan for and organize work needed to produce the first annual monitoring and evaluation report. Such reports would be developed using the results of monitoring and evaluation activities

described in existing forest plans, since most Forests will not have the newly required monitoring and evaluation strategies developed until the forest plan is revised.

Paragraph (g) addresses how the transition process would occur regarding usage of "standards" and "guidelines" as defined in the proposed rule. Many existing forest plans do not distinguish between "standards" and "guidelines" in the same manner as described in the proposed rule at § 219.6 (e) and (f). In addition, it would not be mandatory for each forest plan to be changed to distinguish between "standards" and "guidelines" until the time of revision. As a result, it would be appropriate to implement the provision of proposed § 219.11(a), which would require project consistency determinations to be based on adherence to "standards," or the provision of § 219.9(b)(1)(i), which would require major amendment when modifying forest plan standards, without recognizing and providing for the impact of this proposed change in terminology.

Under the provisions of paragraph (g), until such time as a forest plan were amended or revised to distinguish between "standards" and "guidelines" in accordance with the terminology defined in the proposed rule, the words used in each existing "standard" or "guideline" in the current plan would be used to determine whether it is mandatory. More specifically, many current forest plans contain a mix of "standards" and "guidelines," of which only some are mandatory. For example, statements using "must" or "shall" are mandatory in nature and would generally be comparable to a "standard" in the proposed rule. In contrast, statements using "may," "should," or "ought" provide the flexibility comparable to a "guideline" in the proposed rule.

Proposed paragraph (g)(1) continues existing agency policy that project consistency determinations are based on whether project decisions adhere to mandatory standards or guidelines. This should provide a smooth transition to the new rule.

Paragraph (g)(2) describes instructions for determining if a future amendment is considered "major" during the transitional period before a forest plan has been revised. The triggers for a major amendment that apply during the transition period differ somewhat from both the existing rule and the provisions at § 219.9(b)(1) of the proposed rule. The provisions of proposed (219.9(b)(1) would apply only after forest plans have been amended or revised to fully comply with the new terminology. During the transition period before the plan has been changed to be in full compliance with the new terminology, the provisions of § 219.15(g)(2) would apply.

In accordance with § 219.15(g), two circumstances must exist simultaneously for a major amendment to be triggered during the transition period; i.e., prior to a forest plan being amended or revised to be in full compliance with the new usage of standards. First, the amendment must change standards or guidelines in the current forest plan which are mandatory. Since many current forest plans do not distinguish between standards and guidelines, there may be mandatory requirements labelled as guidelines in current plans. Thus, the determination during the transition period focuses on whether the change is to a mandatory provision rather than whether it is labelled as a standard or guideline. In accordance with § 219.6(f), this won't be necessary once a forest plan has been revised because there would be no mandatory requirements labelled as guidelines. If, during the transition period a new mandatory requirement was established, such a change to the forest plan would trigger a major amendment.

The second circumstance which must also occur is that the proposed change to a mandatory standard or guideline would result in a significant change to the forest plan and those changes are predicted to affect resources over a large portion of the plan area during the remainder of the plan period. This is comparable to one of the circumstances currently defined in FMS 1922.52 for significant amendment.

If both of these circumstances occur, a major amendment would be triggered during the transition period. This amendment would be conducted in accordance with the procedures for major amendment in the new rule, however. It should be noted that many changes to current forest plan standards may not affect resources over a large portion of the plan area during the remainder of the plan period. For example, if the forest plan was scheduled to undergo revision soon, there might be few, if any, changes that could affect resources over a large portion of the plan area within a short period of time. Even though the new or modified standard might apply over the entire plan area, resources on-the-ground might not actually be affected if the standard was not going to be in place very long before revision would be initiated. Thus, some changes to standards might not meet the threshold of triggering a major amendment during this transition period.

The intent of this transition procedure is to begin shifting the emphasis away from changes in output levels and towards recognizing the important role of forest plan standards when determining if a change triggers a major amendment. At the same time, it is designed to recognize that the change in terminology between the existing rule and proposed rule makes it unrealistic to implement the new approach defined at § 219(b)(1)(i) immediately.

In addition to the requirements related to changing a standard, a major amendment would be triggered during the transition period if the chargeable timber volume which can be sold for a decade from a proclaimed National Forest were established that exceeded the long-term sustained yield capacity of the Forest, or if harvest of even-aged stands were permitted before culmination of mean annual increment. Both of these provisions are identical to the provisions of § 219.9(b)(1) (ii) and (iii). They are applicable during the transition period to ensure that the public involvement requirements of NFMA are met as required by the statute for changes of this nature.

Proposed paragraph (h) would address how the new rule would be applied when a significant amendment or revision is already in progress as indicated by issuance of a Notice of Intent. At the time of adoption of a final rule, one of two scenarios could occur. If a draft environmental impact statement (DEIS) has not yet been published, the new rule must be adopted. If a DEIS has been published, it is the Regional Forester's option to decide whether to continue under the previous planning rule or to apply the new rule. In those case where the new rule is adopted, paragraph (h) also provides direction so that the Regional Forester can avoid delaying ongoing processes.

Paragraph (h) is intended to promote prompt application of the new rule. However, it would be unnecessarily disruptive and expensive to impose a new regulation on ongoing significant amendment or revision efforts nearing completion. Similarly, paragraph (h) is intended to allow ongoing efforts which are subject to the new rule to proceed as smoothly as possible. It would be largely redundant, time-consuming, and confusing to the public to require various procedural steps in the processes for amendment or revision to be repeated or accomplished in accordance with the new rule when the effort has already proceeded past the

VOL
60
ISS
71
AP
13
1995
UMI

point where those steps are in a logical sequence.

Paragraph (i) of the proposed rule would provide for the withdrawal of regional guides within three years of adoption of the final rule. The reasons for eliminating regional guides were explained earlier in the discussion of proposed § 219.5. Paragraph (i) also would require that the Regional Guide for the Pacific Southwest Region (R–5) be maintained in accordance with the requirements of the existing rule until the remaining unfinished plans in that Region are approved. In all other Regions, regional guides would be withdrawn within 3 years from adoption of the final rule. The Pacific Southwest Region would need to maintain its regional guide in order to direct development of unfinished forest plans. The Pacific Southwest Regional Guide would be withdrawn within 3 years from approval of the last forest plan in Region 5. In addition, paragraph (i) would authorize the Chief of the Forest Service to extend any regional guide beyond the 3-year period in extenuating circumstances.

Paragraph (j) assures that forest plans address limitations on the size of openings (§ 219.13(g)) prior to withdrawal of the regional guide. The establishment of size limitations is a requirement of NFMA and is currently addressed in regional guides and the existing rule. This provision will assure that there is no gap in having such direction in place during the transition to the new rule.

The transition procedures of this proposed rule reflect current circumstances regarding the status of forest planning efforts nationwide and the nature of proposed changes to the existing rule. To the extent that these or other circumstances are different at the time the final rule is adopted, the agency may have to adopt different transitional procedures in order to assure the most practical, efficient, and timely transition possible.

Conforming Amendments

The administrative appeal process for forest plans is set out in a separate rule at 36 CFR part 217, and the administrative appeal process for project decisions is set out at 36 CFR part 215. Due to the nature of changes being proposed to 36 CFR part 219, amendments would need to be made to these appeal rules in order for them to conform to the changes proposed to part 219. First, the terms "nonsignificant amendment" and "significant amendment" would be replaced by the terms "minor amendment" and "major amendment" wherever they occur in parts 215 and 217. Second, § 217.3(b) would be removed to exclude regional guides from being subject to administrative appeal since these documents would not be retained under proposed revisions to part 219. Third, the heading of part 217 would be amended to remove reference to regional guides and read: Appeal of National Forest Land and Resource Management Plans. Finally, § 217.3(a)(1) and § 217.4 would be amended to exclude interim amendments from being subject to administrative appeal.

Conclusion

The Forest Service invites individuals, organizations, and public agencies and governments to comment on this proposed rule. To aid the analysis of comments, it would be helpful if reviewers would key their comments to specific proposed sections or topics. Respondents also should know that in analyzing and considering comments, the Forest Service will give more weight to substantive comments than to simple "yes," "no," or "check off" responses to form letter/questionnaire-type submissions.

Regulatory Impact

This proposed rule has been reviewed under Executive Order 12866 on Regulatory Planning and Review. The agency has determined that this proposed rule is a significant regulatory action subject to Office of Management and Budget review. However, this proposed rule does not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 605 *et seq*).

Controlling Paperwork Burdens on the Public

This rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and implementing regulations at 5 CFR part 1320 do not apply.

Environmental Impact

This proposed rule would establish procedures for land and resource management planning for National Forest System lands. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." The agency's preliminary assessment is that this rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. A final determination will be made upon adoption of the final rule.

Civil Justice Reform Act

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, (1) all state and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation would be preempted; (2) no retroactive effect would be given to this proposed rule; and (3) it would not require administrative proceedings before parties may file suite in court challenging its provisions.

List of Subjects

36 CFR Part 215

Administrative practice and procedure, and National forests.

36 CFR Part 217

Administrative practice and procedure, and National forests.

36 CFR Part 219

Environmental impact statements, Land and resource management planning, and National forests.

Therefore, for the reasons set forth in the preamble, it is proposed to amend parts 215, 217, and 219 of Title 36 of the Code of Federal Regulations as follows:

PART 215—NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES

1. The authority citation for part 215 continues to read as follows:

Authority: 16 U.S.C. 472, 551; sec. 322, Pub. L. 102–381, 106 Stat. 1419 (16 U.S.C. 1612 note).

2. Amend §§ 215.1(a) and 215.3(c) by removing the term "nonsignificant amendments" and substituting in lieu thereof the term "minor amendments"

2a. Amend §§ 215.4(e) and 215.7(a) by removing the term "nonsignificant amendment" and adding the term "minor amendment".

3. Amend § 215.8(a)(1) by removing the term "significant amendment" and substituting in lieu thereof the term "major amendment"

PART 217—APPEAL OF NATIONAL FOREST LAND AND RESOURCE MANAGEMENT PLANS

4. Revise the heading for part 217 to read as set out above.

5. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 551, 472.

6. Revise § 217.3(a) to read as follows:

§ 217.3 Decisions subject to appeal.

(a) The decisions subject to appeal under this part are decisions to approve, amend through major amendment or minor amendment, or revise a National Forest Land and Resource Management plan, except when a decision to authorize a specific project or activity includes a minor amendment to the forest plan as described in 36 CFR 219.9(c)(5).

* * * * *

7 Amend § 217.4(a) by removing the term "non-significant amendment" and substituting in lieu thereof the term "minor amendment".

§§ 217.8 and 217.15 [Amended]

7a. Amend §§ 217.8(a)(2) and 217 15(a) by removing the term "non-significant amendments" and adding the term "minor amendments"

§ 217.10 [Amended]

8. Amend § 217.10(i) by removing the term "significant amendment" and substituting in lieu thereof the term "major amendment".

§ 217.15 [Amended]

8a. Amend § 217.15(a) by removing "significant amendments" and adding "major amendments".

9. Add paragraph (d) to § 217.4 to read as follows:

§ 217.4 Decisions not subject to appeal.

* * * * *

(d) Decisions to amend a forest plan by interim amendment.

10. Revise part 219 to read as follows:

PART 219—PLANNING

Subpart A—National Forest System Land and Resource Management Planning

Sec.

219.1 Purpose and principles.
219.2 Definitions.
219.3 Relationships with the public and government entities.
219.4 Sustainability of ecosystems.
219.5 Framework for resource decisionmaking.
219.6 Forest plan direction.
219.7 Ecosystem analysis.
219.8 Interdisciplinary teams and information needs.
219.9 Forest plan amendments.
219.10 Forest plan revision.
219.11 Forest plan implementation.
219.12 Monitoring and evaluation.
219.13 Statutory timber management requirements.
219.14 Special designations.
219.15 Applicability and transition.

Subpart B—[Reserved]

Authority: 5 U.S.C. 301; and Secs. 6 and 15, 90 Stat. 2949, 2952, 2958 (16 U.S.C. 1604, 1613).

Subpart A—National Forest System Land and Resource Management Planning

§ 219.1 Purpose and principles.

(a) This subpart describes the procedures for fulfilling the requirements for land and resource management planning as set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 (hereafter, "RPA") as amended by the National Forest Management Act of 1976 (hereafter, "NFMA") (16 U.S.C. 1604 et seq.) Specifically, the rules in this subpart are intended to:

(1) Describe the agency's framework for National Forest System resource decisionmaking;

(2) Incorporate principles of ecosystem management;

(3) Establish requirements for implementation, monitoring, evaluation, amendment, and revision of forest plans; and

(4) Articulate the relationship between resource decisionmaking and compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) (hereafter "NEPA") and implementing NEPA procedures (see definition at § 219.2).

(b) The following principles guide National Forest System resource decisionmaking and management:

(1) The National Forest System is managed to provide sustainable ecosystems which yield multiple benefits to present and future generations.

(2) People are a part of ecosystems; meeting people's needs and desires within the capacities of natural systems is a primary role of resource decisionmaking.

(3) Ecosystems occur at many spatial scales and are dynamic in nature, creating a need for planning processes that are flexible in geographic scope and that consider the ecological changes that occur over time.

(4) Ecosystems cross land ownerships, jurisdictions, and administrative boundaries. Therefore, planning efforts for National Forest System lands should be coordinated with other landowners, other Federal agencies, and State, local, and tribal governments in a manner that respects private property rights and the jurisdictions of other government entities.

(5) Involving the public in National Forest System planning and decisionmaking on an ongoing, open, and equitable basis is essential.

(6) The scientific community, including Forest Service researchers, should play a vital role in gathering and analyzing information for resource decisionmaking.

(7) The National Forest System should be managed in a manner that optimizes net public benefits, considering both qualitative and quantitative criteria.

(8) The forest planning process should provide for efficient adjustment of forest plans in response to changing conditions and new information.

(9) NEPA procedures define the analysis process used for resource decisionmaking; such analysis should be commensurate with the scope and nature of the decisions being made.

(10) Knowledge of ecosystems will never be complete; therefore, uncertainty is inherent in resource decisionmaking. Nevertheless, decisionmaking must proceed using an adaptive management approach, which incorporates applicable science and the best available information.

§ 219.2 Definitions.

For purposes of this subpart, the following terms mean:

Allowable sale quantity. The maximum quantity of chargeable timber volume that may be sold within a decade from the plan area.

Catastrophic event. A sudden event causing widespread or intense destruction or devastation of resources, ecological conditions, or man-made features. Catastrophic events include natural phenomena such as wildfire, hurricanes, tornados, floods, or earthquakes as well as events caused by human actions such as large chemical or oil spills.

Category 1 candidate species. Taxa:

(1) For which the U.S. Fish and Wildlife Service (USFWS) has on file sufficient information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species;

(2) Which appear in a notice of review containing the names of the species considered to be candidates for listing under the Endangered Species Act, which is published in the **Federal Register** by the USFWS, in accordance with 50 CFR 424.15, and is available at the office of the Forest Supervisor or the Regional Forester (36 CFR 200.2); and

(3) For which the USFWS has not yet published proposed rules to list as

VOL
60
ISS
71
AP
13
1995
UMI

endangered or threatened species because such action is precluded at present by other listing activity.

Category 2 candidate species. Taxa:

(1) For which information in the possession of the U.S. Fish and Wildlife Service (USFWS) indicates that proposing to list them as endangered or threatened is possibly appropriate, but for which persuasive data on biological vulnerability and threat are not currently available to support publication of proposed rules; and

(2) Which appear in a notice of review containing the names of the species considered to be candidates for listing under the Endangered Species Act, which is published in the **Federal Register** by the USFWS, in accordance with 50 CFR 424.15, and is available at the office of the Forest Supervisor or the Regional Forester (36 CFR 200.2).

Chargeable timber volume. All volume included in the growth and yield projections used to calculate the allowable sale quantity.

Conservation agreement. A formal written document agreed to by the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service and another Federal agency, State, local, tribal government, or the private sector to achieve the conservation of a species through voluntary cooperation.

Culmination of mean annual increment. The age at which the average annual growth is greatest for a stand of trees, with growth usually expressed in terms of cubic foot measure and calculated to include regeneration harvest yields and removals from intermediate stand treatments.

Decision document. A Record of Decision, Decision Notice, or Decision Memo which is signed by the responsible official and which, in compliance with NEPA procedures, identifies the decision being made and the rationale for the decision.

Directive. Policy, practice, and procedure issued through the Forest Service Directive System to guide the work of agency employees.

Directive System. The administrative system composed of the Forest Service Manual and Handbooks by which internal agency policy, practice, and procedure are established, issued, and stored.

Ecosystem analysis. A broad term used to denote various interdisciplinary studies conducted to provide information on and enhance an understanding of the physical, biological, social, and/or economic aspects and interactions of an ecosystem.

Ecosystem management. A concept of natural resources management wherein National Forest activities are considered within the context of economic, ecological, and social interactions within a defined area or region over both short- and long-term.

Environmental assessment. A concise document prepared in compliance with NEPA procedures that serves to briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or for making a finding of no significant impact (40 CFR 1508.9).

Environmental impact statement. A detailed document prepared in compliance with NEPA procedures when a Federal action will have a significant impact on the human environment (40 CFR 1508.11).

Even-aged stand. A distinguishable group of trees of essentially the same age. The difference in age among trees forming the main canopy level of the stand usually does not exceed 20 percent of the age of the stand at harvest rotation age.

Forest Supervisor. An individual responsible to the Regional Forester for management of one or more National Forests, National Grasslands, or other components of the National Forest System.

Forested land. Land not currently identified for non-forest use and of which at least 10 percent is occupied by forest trees or which formerly had such tree cover. Forest trees are those woody plants having a well developed stem and which are usually more than 12 feet in height at maturity.

Goal. A concise statement describing a desired end result and normally expressed in broad general terms.

Guideline. A description of a preferred or advisable course of action.

Infrastructure. The facilities, utilities, and transportation systems needed to meet public and administrative needs.

Long-term sustained-yield timber capacity. A projection of the maximum potential long-term average sale quantity representing the highest uniform wood yield that may be sustained in perpetuity consistent with the forest plan.

Management prescription. The set of forest plan goals, objectives, standards, and guidelines that are applicable to a particular part of the plan area, including both forest-wide direction as well as direction applicable only to that specific part of the plan area.

Multiple-use. As defined by the Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528), multiple-use is the management of all the various renewable surface resources of the National Forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

NEPA documents. The terms used to refer to draft and final environmental impact statements, environmental assessments, findings of no significant impact, and notices of intent to publish an environmental impact statement (40 CFR 1508.10).

NEPA procedures. The term used to refer to the requirements of 40 CFR parts 1500 through 1508, as supplemented by Forest Service NEPA directives issued in Forest Service Manual Chapter 1950 and Forest Service Handbook 1909.15, which implement the National Environmental Policy Act of 1969.

Objective. A statement describing measurable desired resource conditions, or ranges of conditions, intended to achieve forest plan goals.

Plan area. The geographically defined area of the National Forest System covered by a forest plan, consisting of only those lands and resources under National Forest System jurisdiction.

Plan period. The period of time between regularly scheduled revisions of a forest plan, normally 10 years but no longer than 15 years.

Previous planning rule. The land and resource management planning regulation, 36 CFR Part 219, adopted September 30, 1982 and amended on June 24, 1983, and September 7, 1983 (see 36 CFR Part 200-End edition, Revised July 1, 1994).

Project. A site-specific resources management activity or combination of activities designed to accomplish a distinct on-the-ground purpose or result.

Proposed action. A proposal made by the Forest Service to authorize, recommend, or implement an action to meet a specific purpose and need.

Regional Forester. The individual responsible to the Chief of the Forest Service for management of an administrative region of the National Forest System (36 CFR 200.2).

Resource conditions. The state of the physical and biological components of the environment, including both natural features and human influences.

Responsible official. The Forest Service employee who has the delegated authority to make a specific decision.

RPA Assessment and Program. Documents required by Sections 3 and 4 of the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 (16 U.S.C. 1631 *et seq.*). The RPA Assessment is prepared every 10 years and describes the potential of the nation's forests and rangelands to provide a sustained flow of goods and services. The RPA Program is prepared every five years to chart the long-term course of Forest Service management of the National Forest System, assistance to State and private forest landowners, and forest and range research.

Species or natural community ranking. A rating established and maintained by the Network of Natural Heritage Programs and Conservation Data Centers which reflects the biological imperilment status of a species or natural community. Rankings as used in this subpart are defined as follows:

(1) G1—Species or community critically imperiled globally because of extreme rarity or because of some factor(s) making it especially vulnerable to extinction; five or fewer occurrences, or less than 1,000 individuals, or very few acres remaining.

(2) G2—Species or community imperiled globally because of rarity or because of some factor(s) making it very vulnerable to extinction; six to twenty occurrences, or less than 3,000 individuals, or few acres remaining.

(3) G3—Species or community vulnerable throughout range globally and typically having 21 to 100 occurrences, or fewer than 10,000 individuals. May be very rare and local throughout its range or found locally (even abundantly at some of its locations) in a restricted range (e.g., a single western State, a physiographic region of the East).

(4) N1, N2, and N3—Same as G1, G2, and G3 respectively, except these listings refer to a national situation rather than global one.

(5) S1 and S2— Same as G1 and G2 respectively, except these listings refer to a State situation rather than global one.

(6) T1, T2, and T3—Same as G1, G2, and G3 respectively, except these refer to subspecies or recognized varieties that are listable entities under the Endangered Species Act.

Standard. A limitation on management activities that is within the authority and ability to the agency to meet or enforce.

Station Director. An individual who is responsible to the Chief of the Forest Service for administering research activities at an assigned Research Station (36 CFR 200.2).

Sustainability of ecosystems. A concept which reflects the capacity of a dynamic ecosystem to maintain its composition, function, and structure over time, thus maintaining the productivity of the land and a diversity of plant and animal communities.

Tribal governments. Federally recognized American Indian/Alaska Native tribal governments.

§ 219.3 Relationships with the public and government entities.

(a) Building and maintaining relationships with the public and other Federal agencies and State, local, and tribal governments is an essential and ongoing part of National Forest System planning and management. The responsible official shall strive to establish and maintain communication with interested parties in order to:

(1) Develop a shared understanding of the variety of needs, concerns, and values held by the public;

(2) Coordinate planning efforts with other Federal agencies and State, local, and tribal governments, with recognition of the distinct roles and jurisdictions of each;

(3) Improve the information base influencing decisions and to promote a shared understanding of the validity of this information;

(4) Strengthen the scientific basis for resource management decisions by involving members of the scientific community; and

(5) Resolve conflicts associated with resource decisionmaking.

(b) The Forest Supervisor shall maintain a list of individuals, organizations, scientists, and government agencies and officials who have indicated a desire to be informed about forest planning or project activities on the Forest. The Forest Supervisor shall periodically verify the continuing interest of parties on the list and provide notice to the general public of the opportunity to be included on the listing. The list should include the following:

(1) Representatives of other affected Federal agencies;

(2) The official or agency designated as a point of contact for the affected State(s) agencies, including, if applicable, the Commonwealth of Puerto Rico;

(3) Representatives of tribal governments;

(4) Representatives of county or municipal governments;

(5) Holders of permits, contracts, or other instruments providing for the occupancy and use of the plan area; and

(6) Any citizen or organization expressing a desire to be included.

(c) The Forest Supervisor shall ensure that records documenting the planning process and information used to amend, revise, or monitor and evaluate implementation of the forest plan are maintained and are available for public inspection at the Forest Supervisor's office during normal working hours. Information in the planning records is subject to the provisions of the Freedom of Information Act.

(d) Copies of the current forest plan and monitoring and evaluation strategy must be available for public inspection at each Forest Service office on the Forest, in the respective Regional Office, and at least one additional location, as determined by the Forest Supervisor, that offers convenient access to the public.

(e) When desired by the State or affected tribal governments, Regional Foresters should seek to establish a Memorandum of Understanding or other form of agreement with the Governor of each State in which National Forest System lands are located or with affected tribal governments to guide coordination of planning efforts.

(1) The following apply to any such Memorandum of Understanding or agreement;

(i) The document should describe how the State's or tribe's positions on topics related to planning will be established, communicated, and considered;

(ii) The document should address cooperation in forest plan implementation, monitoring, evaluation, ecosystem analysis, amendment, and revision;

(iii) The document may be executed by the Forest Supervisor rather than the Regional Forester when all National Forest System lands within the State are managed by one Forest Supervisor; and

(iv) The document may be jointly executed by the appropriate Regional Foresters when one State encompasses two or more Forest Service Regions.

(2) Nothing in this section precludes development of a Memorandum of Understanding with other Federal agencies or local governments.

(f) Procedures for public participation and government coordination must conform with NEPA requirements, the Federal Advisory Committee Act (5 U.S.C. appendix), and any other applicable laws, Executive orders, or regulations.

VOL
60
ISS
71
AP
13
1995
UMI

§ 219.4 Sustainability of ecosystems.

(a) *Goal.* The principal goal of managing the National Forest System is to maintain or restore the sustainability of ecosystems, thereby providing multiple benefits to present and future generations. The level and flow of benefits from National Forest System lands should be compatible with the restoration of deteriorated ecosystems and the maintenance of ecosystem sustainability over the long-term. The forest plan addresses this goal by:

(1) Providing for diversity of plant and animal communities and other conditions indicative of sustainable ecosystems. This is accomplished by establishing forest plan direction as specified in paragraphs (b) through (e) of this section. In establishing such forest plan direction, the likely contribution or role of lands outside the plan area should be considered.

(2) Providing for resource conditions which result in a flow of benefits to present and future generations. This is accomplished as specified at § 219.6(a), and through the establishment of forest plan goals, objectives, standards, and guidelines.

(b) *Role of forest plan.* The forest plan establishes goals and objectives describing desired conditions, indicative of sustainable ecosystems within the plan area and establishes standards and guidelines that direct how to achieve those conditions.

(1) *Scope.* Forest plan goals and/or objectives should describe the desired composition, function, and structure of ecosystems within the plan area at appropriate spatial scales.

(2) *Soil and water resources.* The forest plan must provide for the restoration, protection, and conservation of soil and water resources including, but not limited to, streams, streambanks, shorelines, lakes, wetlands, riparian areas, and floodplains. Where there are existing conditions harmful to soil and water quality, the forest plan should include standards and/or guidelines that provide for the restoration of soil and water resources to achieve desired resource conditions. Forest plans should also address the protection of current and future consumptive and nonconsumptive water uses, including instream flow needs.

(3) *Rare natural communities.* The forest plan should provide for maintaining or restoring the sustainability of those natural communities known to occur within the plan area that are identified by the Network of Natural Heritage Programs and Conservation Data Centers with rankings of G1, G2, G3, N1, N2, N3, S1, or S2 (§ 219.2).

(4) *Threatened and endangered species.* The forest plan must provide for the conservation of species listed as threatened and endangered, or proposed for listing, under the Endangered Species Act of 1973, as amended, (16 U.S.C. 1501 *et seq.*). Once species are listed or proposed for listing as threatened or endangered under the Endangered Species Act, management activities on National Forest System lands affecting the habitat of the listed species must be in compliance with the requirements of the Endangered Species Act.

Option I for Paragraph (b)(5)

(b)(5) *Sensitive species.* The forest plan must provide for the protection of habitat capability for sensitive species in order to preclude the need for listing these species as threatened or endangered under the Endangered Species Act or their extirpation from the plan area. For the purposes of this section, habitat capability refers to the quantity, quality, and distribution of habitat.

(i) *Identification.* Sensitive species are those plant and animal species, subspecies, populations, or stocks, including vertebrates, invertebrates, vascular plants, bryophytes, fungi, and lichens, which are known to occur or likely to occur on National Forest System lands and which are included in one of the following:

(A) The species is identified by the U.S. Fish and Wildlife Service as a Category 1 Candidate Species;

(B) The species is identified by the Network of Natural Heritage Programs and Conservation Data Centers with global species rankings of G1 (T1) or G2 (T2);

(C) The species is identified both by the U.S. Fish and Wildlife Service as a Category 2 Candidate Species and by the Network of Natural Heritage Programs and Conservation Data Centers with species rankings of G3 (T3), N1, N2, or N3.

(ii) *Process.* In considering whether or not new or modified forest plan direction is needed for sensitive species, the following must be documented:

(A) Sensitive species for the plan area and their habitat needs must be identified.

(B) The habitat needs of sensitive species and/or assemblages of sensitive species shall be compared to existing forest plan direction or, in the case of revision of a forest plan, the habitat needs shall be compared against the tentatively proposed revisions to forest plan direction.

(*1*) If a continuing downward trend in habitat capability is predicted to occur and predicted to result in the need for Federal listing of the species or if it is predicted that the sensitive species will be extirpated from the plan area, forest plan direction shall be modified to protect the habitat capability of the sensitive species in an attempt to preclude the need for Federal listing or extirpation from the plan ares.

(*2*) Where the Forest Service and the U.S. Fish and Wildlife Service or National Marine Fisheries Service have approved a conservation agreement for a sensitive species and relevant direction from that agreement is incorporated into the forest plan, the requirement to establish direction to protect the habitat capability of the sensitive species is met.

(*3*) To the extent that protective measures for one sensitive species conflict with the recovery of a threatened or endangered species, the needs of the threatened or endangered species shall take precedence.

(*4*) Management direction for sensitive species shall be established using the best information available, commensurate with the decision being made. Determinations of whether habitat needs of sensitive species are adequately met as well as determinations of the degree of protection needed are decisions that are inherently dependent on professional judgment.

(iii) *Responding to newly identified sensitive species.* The categories and rankings described at paragraphs (b)(5)(i) (A) through (C) of this section shall be reviewed annually as part of monitoring and evaluation to determine if there have been new additions subsequent to the last review. If a new addition has occurred, the habitat needs of the species shall be compared against forest plan direction to determine if a change in that direction is needed. The annual review of sensitive species categories and rankings does not remove the obligation to consider new information relevant to a project decision or, where appropriate, to analyze the effects of a proposed action on habitat capability needs of a sensitive species within the project area.

Option II for Paragraph (b)(5)

(5) *Species viability.* Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to ensure its continued existence is well distributed in the planning area. In order to ensure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area. The forest plan shall establish guidelines for the maintenance and improvement of habitat for management indicator species to the degree consistent with overall multiple-use goals of the forest plan. In order to do this, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (b)(5) (i) through (vi) of this section.

(i) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the plan area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(ii) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the management indicator species.

(iii) Biologists from State fish and wildlife agencies and other Federal agencies shall be consulted in order to coordinate planning for fish and wildlife, including opportunities for the reintroduction of extirpated species.

(iv) Access and dispersal problems, of hunting, fishing, and other visitor uses shall be considered.

(v) The effects of pest and fire management on fish and wildlife populations shall be considered.

(vi) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(c) *Dynamic nature of ecosystems.* Ecosystems are dynamic. Therefore, sustaining an ecosystem does not imply maintaining static conditions. Disturbances to an ecosystem should be evaluated in the context of ecological processes and resilience.

(d) *Multiple spatial scales of ecosystems.* Numerous ecosystems exist at multiple spatial scales. In order to limit efforts to a practicable number and scope, the forest plan should address the ecosystems of most relevance to forest plan decisionmaking.

(e) *Uncertainty and adaptive management.* Understanding of the attributes of sustainable ecosystems and of the environmental effects of various management activities is subject to change as new information becomes available. Resource decisionmaking need not be halted because there is uncertainty or incomplete knowledge; rather, resource decisions should be made in a timely manner using the best information available commensurate with the decisions being made (40 CFR 1502.22). Monitoring and evaluation shall be used to assess the effects of resource decisions and to determine if there is a need to adapt resource management in light of new information. Project decisionmaking provides an incremental means for accomplishing the goals and objectives of the forest plan, thereby providing the opportunity to evaluate the effects of on-the-ground activities at the appropriate spatial scale as well as providing the opportunity to adapt project proposals as new information becomes available during the plan period.

§ 219.5 Framework for resource decisionmaking.

(a) *Staged resource decisonmaking.* National Forest System resource allocation and management decisions are made in two stages. The first stage is adoption of a forest plan, which allocates lands and resources to various uses or conditions by establishing management prescriptions for the land and resources within the plan area. The second stage is approval of project decisions. Both forest plan and project decisions are subject to the requirements of laws and regulations applicable to National Forest System lands and resources. In addition, direction to guide the management of lands and resources of the National Forest System is issued as needed through the Directive System (36 CFR 200.4). Pursuant to 40 CFR parts 1500–1508, agency directives are subject to NEPA procedures, and, depending on their nature and scope, directives also may be subject to the public notice and comment requirements of 36 CFR part 216.

(1) *Forest plans.* Forest plans do not compel the agency to plan for or undertake any projects; rather, they establish limitations on what actions may be authorized during project decisionmaking. Forest plan direction must not conflict with applicable laws or regulations. Additionally, forest plans should not conflict with applicable agency directives issued through the Directive System. Where there is a substantial conflict between a resource management directive and direction in a forest plan revision or amendment prepared pursuant to this subpart, the responsible official should identify the conflict and include in the decision document the rationale for the plan's departure from agency directives.

(i) *Plan area.* Each Regional Forester shall determine the area to be covered by each forest plan. Options include a separate plan for each National Forest or National Grassland, a plan that covers any combination of National Forests or other National Forest System lands within the responsibility of one Forest Supervisor, or a single plan encompassing one National Forest but which is administered by several Forest Supervisors.

(ii) *Simultaneous amendment or revision.* Forest plan goals, objectives, standards, and guidelines that are applicable to more than one plan area may be established through one decision document which simultaneously amends or revises multiple forest plans.

(2) *Project decisions.* Authorization of site-specific activities within a plan area occurs through project decisionmaking. Project decisionmaking must comply with NEPA procedures and must include a determination that the project is consistent with the forest plan (§ 219.11(a)). Project decisionmaking includes decisions on proposals received from outside the agency as well as those initiated by the agency.

(b) *Reconciling direction in forest plans with other resource direction or planning efforts—*(1) *Laws and regulations.* If, following issuance of new laws or regulations affecting National Forest System resource management, it is determined that the

VOL 60 ISS 71 APR 13 1995 UMI

direction in forest plans within the Region is in conflict with the new direction, the Regional Forester shall direct that affected plans be changed in accordance with the procedures of § 219.9 or § 219.10 of this subpart and shall specify the timing for doing so.

(2) *Agency directive.* (i) If resource management direction in a new agency directive appears to conflict with direction in forest plans, the directive issuing official shall indicate as part of the directive issuance whether affected forest plans are to be made consistent with the new directive and, if so, shall direct that affected plans be changed in accordance with the procedures of § 219.9 or § 219.10 of this subpart and shall specify the timing for doing so.

(ii) In addition to adjusting forest plans as required by paragraph (b)(2)(i) of this section, the Forest Supervisor, as part of monitoring and evaluation, should periodically review recent resource management directives to determine if the forest plan is in conflict with newly issued resource directives. If so, the Forest Supervisor shall either initiate a forest plan amendment to eliminate the conflict or give the Regional Forester written notice of why the forest plan should not be changed.

(3) *RPA Program.* Following adoption and issuance of each RPA Program, the Chief determines those elements of the Program that should be considered in forest plan implementation, monitoring, and evaluation and establishes such agency-wide processes or procedures as may be necessary to ensure consideration of these Program elements in forest plans.

(4) *Ecosystem analysis.* As part of monitoring and evaluation, the Forest Supervisor shall periodically review the results of any applicable ecosystem analyses that have been completed or updated after plan approval and determine if there is new information which would indicate a need to initiate forest plan amendment procedures.

§ 219.6 Forest plan direction.

(a) *Integrated resource management.* Forest plans provide for integration and coordination of all resources within the plan area on a multiple-use and sustained-yield basis. To this end, forest plan direction shall be established, as appropriate, to address management of soil, water, fish and wildlife habitat, grazing, timber, oil, gas, minerals, recreation, wilderness, cultural, historic, geologic, vegetative, air, visual, and other relevant resources. In addition, forest plans address management of infrastructure and land ownership and access patterns relative to the plan area to the extent appropriate.

(b) *Scope.* Forest plans allocate the land and resources of the plan area to various uses or conditions by establishing management prescriptions consisting of goals, objectives, standards, and guidelines. Goals, objectives, standards, and guidelines may be established to apply throughout a plan area (forest-wide direction) and/or they may be established for only a part of the plan area. The forest plan management prescription for any given site within the plan area is the aggregate of all forest-wide direction and any other direction that is applicable to only that specific part of the plan area. The forest plan must identify where goals, objectives, standards, and guidelines are applicable. Maps or similar information that delineate where goals, objectives, standards, and guidelines are applicable constitute forest plan direction.

(1) Projected levels of goods and services or projected levels of management activities do not constitute forest plan direction. Moreover, any projections of the rate at which objectives identified in the forest plan might be achieved are not forest plan direction (§ 219.11(d)).

(2) Forest plan direction should focus on resource management and resource conditions specific to the plan area, not on the procedural aspects of making future project decisions. Also, as a general rule, forest plans should not repeat other applicable direction established through the Directive System, regulation, Executive order, or law.

(3) The main body of the forest plan document is limited to forest plan direction. Background information or other accompanying material are not appropriate to the main body of the document but may be presented as part of a brief forest plan preface or in the appendices.

(c) *Goals.* Goals are concise statements describing a desired end result and are normally expressed in broad general terms. Forest plan goals serve as the link between broad agency goals set forth in law, Executive order, regulation, agency directives, and the RPA Program and specific desired resource conditions relevant to the plan area as defined by objectives. The forest plan does not specify a time period for achievement of goals. Additionally, forest plan goals are generally not expressed in quantitative terms; rather, evaluation of associated measurable objectives or monitoring indicators assesses whether goals are being achieved (§ 219.12(a)(1)(ii)).

(d) *Objectives.* Objectives are statements describing desired resource conditions, or ranges of conditions, intended to achieve forest plan goals. Objectives may describe the desired state of natural resource conditions, such as soils and vegetation; the desired state of resources resulting from human influences, such as infrastructure or historic sites; or how resources are to be perceived, such as visual quality or the nature of the wilderness visitor experience. An objective must be defined in a manner that permits measurement of whether the objective is being achieved. The forest plan does not specify a time period for achievement of objectives.

(e) *Standards.* Standards are limitations to be placed on management activities within the plan area to ensure compliance with applicable laws and regulations or to limit the discretion to be permitted during project decisionmaking. Standards are limited to those actions that are within the authority and ability of the agency to meet or enforce.

(1) Standards are the basis for determining whether a project is consistent with the forest plan as required by § 219.11(a).

(2) Project compliance with relevant standards is mandatory. A project that would vary from a relevant standard may not be authorized, unless the forest plan is amended to modify, remove, or waive application of the standard.

(f) *Guidelines.* Guidelines describe a preferred or advisable course of action. Variation of a project from a guideline does not trigger a forest plan amendment. Guidelines may be used for the following purposes:

(1) To describe a preferred or advisable method for conducting resource activities specific to the plan area; and

(2) To describe a preferred or advisable sequence or priority for implementing various types of projects when such guidance is deemed useful in facilitating achievement of a forest plan goal.

(g) *Coordination of forest plan direction across plan areas.* The Regional Forester is responsible for coordinating direction in forest plans within the Region as well as with adjacent Regions to promote consistent approaches to resource management. In many cases, variation in direction is appropriate due to varying local circumstances; for example, differing resource conditions, public preferences, or socio-economic considerations. However, unless there is reasonable basis for such variations, the Regional Forester shall provide for consistency among forest plans within the Region, as well as consistency with those forest plans in other Regions whose plan areas

are physically adjacent to plan areas within the Region. At a minimum, the Regional Forester shall ensure that forest plans within the Region include the following:

(1) Consistent management prescriptions for adjacent National Forest System lands, including the use of consistent mapping scales, symbols, and other elements to facilitate review and comparison of the management prescriptions;

(2) Consistent management prescriptions for a specially designated area (§ 219.14) that crosses plan area boundaries, such as a national scenic trail extending through several National Forests;

(3) Consistent direction when findings of an ecosystem analysis or research used as a basis for that direction are applicable to more than one plan area, such as the establishment of a forest plan standard to meet the habitat needs of a threatened or endangered species that occurs on more than one plan area; and

(4) Consistent terminology and classification systems among or between forest plans.

§ 219.7 Ecosystem analysis.

(a) *Purpose and scope.* Ecosystem analysis is a broad term used to denote various interdisciplinary studies conducted to provide information on and enhance an understanding of the physical, biological, social, or economic aspects and interactions of an ecosystem. For example, an ecosystem assessment and landscape-level analysis are both forms of ecosystem analysis. Ecosystem analysis may be conducted at whatever scale is appropriate in order to provide the information desired. To the extent practicable, the area covered by an ecosystem analysis should generally be delineated based on ecological considerations, including social and economic factors, rather than on administrative or jurisdictional boundaries. Ecosystem analyses are conducted whenever deemed appropriate by the agency.

(b) *Relationship to resource decisionmaking.* An ecosystem analysis is distinct from resource decisionmaking and does not trigger NEPA analysis and disclosure. Findings resulting from ecosystem analysis are not resource decisions and cannot be used as a substitute for forest plan goals, objectives, standards, or guidelines. Ecosystem analysis may provide information that indicates a need to change forest plan direction; however, such changes would be evaluated and established through forest plan amendment or revision procedures. Ecosystem analysis also may be used to display various opportunities for achieving the goals and objectives already established by law, Executive order, regulation, agency directive, or the forest plan.

(c) *Results.* Results of ecosystem analysis vary depending on their scope and specific purpose. Results of ecosystem analysis may include, but are not limited to, the following:

(1) Identification of trends and historic conditions;

(2) Identification of anticipated effects if current management continues;

(3) Identification of resource conditions that would satisfy legal requirements;

(4) Identification of opportunities to improve monitoring and evaluation strategies;

(5) Identification of research needs and recommended priorities;

(6) Identification of opportunities and recommended priorities for project implementation in order to meet forest plan goals;

(7) Determination of resource capabilities;

(8) Compilation of a socio-economic overview or assessment; for example, assessments of pertinent social, demographic, and economic data, socioeconomic and cultural trends, or important relationships among physical, biological, economic, and social aspects of resource management;

(9) Compilation of information for use in monitoring and evaluation;

(10) Compilation of information for use in NEPA documents; and

(11) Compilation of updated inventory data.

§ 219.8 Interdisciplinary teams and information needs.

(a) *Interdisciplinary team.* An interdisciplinary team must be used to prepare amendments, revisions, and monitoring and evaluation strategies and reports and to conduct ecosystem analysis. The team may consist of whatever combination of Forest Service and other Federal government personnel is necessary to achieve an interdisciplinary approach.

(b) *Analysis and inventory.* Analytical efforts should be focused on obtaining and using the information needed for decisionmaking commensurate with the decisions being made. Each responsible official shall strive to obtain and keep updated inventory data appropriate to meet analytical needs for resource decisionmaking. In assessing the environmental, social, and economic factors relevant to decisionmaking, the responsible official shall consider the conclusions resulting from applicable quantitative analytical methods as well as nonquantifiable considerations.

(c) *Social and economic effects.* When amending or revising the forest plan, the responsible official shall consider the effects of each alternative on community stability, employment, or other indicators of social and economic change commensurate with the decision being made.

(d) *Research needs.* Each Forest Supervisor shall identify and inform the Regional Forester of research needed for decisionmaking including, but not limited to, the research needed to help resource managers ensure that management practices do not produce substantial or permanent impairment of the productivity of the land.

§ 219.9 Forest plan amendments.

(a) *Purpose and type.* Except as provided at § 219.9(e), amendment is the only method by which forest plan direction is changed between revisions. Only forest plan direction as described at § 219.6 is subject to amendment. Amendments are categorized as major, minor, or interim.

(b) *Major amendment.* (1) A major amendment is appropriate only under one of the following circumstances:

(i) The proposed change would modify, remove, or add a standard, or modify the geographic area to which a standard applies, except as provided at paragraphs (c)(4) and (c)(5) of this section or except when such a change is made by interim amendment;

(ii) The proposed change would allow the amount of chargeable timber volume which can be sold for a decade from a proclaimed National Forest within the plan area to exceed the long-term sustained-yield timber capacity of that proclaimed National Forest (§ 219.13(d)(1)(ii)); or

(iii) The proposed change would permit harvest of even-aged stands that have not reached culmination of mean annual increment of growth (§ 219.13(e)).

(2) The Regional Forester is the responsible official for major amendments.

(3) The public review and comment period on a proposed major amendment and associated NEPA documents is 90 calendar days. During this period, the Regional Forester shall take the following actions:

(i) Make the proposed amendment and associated NEPA documents available for public inspection at convenient locations in the vicinity of the lands covered by the plan;

(ii) Notify those on the list described at § 219.3(b) of the opportunity for public review and comment; and

VOL
60
ISS
71
AP
13
1995
UMI

(iii) Provide opportunities for open communication with the public and other government entities during the review of the proposed major amendment.

(4) Legal notice of adoption of a major amendment shall be provided in accordance with 36 CFR 217.5.

(5) A major amendment is not effective until the eighth calendar day following date of publication of the legal notice of the decision (36 CFR 217.10).

(c) *Minor amendment.* (1) Unless the authority is reserved by the Regional Forester, the Forest Supervisor is the responsible official for minor amendments.

(2)(i) For a proposed minor amendment for which an environmental assessment has been prepared, the Forest Supervisor shall publish notice of the proposed amendment and provide at least 30 calendar days for public review of and comment on the proposed amendment and environmental assessment. Such notice shall be published in newspapers of general circulation within or near the Forest.

(ii) In the event that a draft environmental impact statement has been prepared for a proposed minor amendment, public notice shall be provided in accordance with NEPA procedures. At least 45 calendar days must be provided for public review of and comment on the proposed amendment and draft environmental impact statement.

(3) Legal notice of decisions to adopt a minor amendment must be provided in accordance with 36 CFR 217.5. The effective date of minor amendments is governed by 36 CFR 217.10.

(4) A minor amendment shall be used to allocate newly acquired land to a management prescription, provided the prescription is consistent with the purposes for which the land was acquired.

(5) If the responsible official concludes that a proposed project should be implemented, but that the project would conflict with a forest plan standard, the project may be approved only if the forest plan standard is amended. If such an amendment is limited to apply to only the specific project and the circumstances described at paragraphs (b)(1) (ii) and (iii) of this section do not apply, then the change is a minor amendment. By contrast, a change to a forest plan standard that would apply to the specific project and to future projects or that applies to one project but meets the circumstances described at paragraphs (b)(1) (ii) and (iii) of this section would be a major amendment.

(i) The environmental effects of modifying or waiving application of the forest plan standard for a specific project must be disclosed in the NEPA documentation associated with the project decision.

(ii) A proposed minor amendment that applies only to a specific project and that is accompanied by an environmental assessment is subject to the notice and comment procedures of 36 CFR 215.5.

(iii) A proposed minor amendment that applies only to a specific project and is accompanied by an environmental impact statement is subject to notice and comment in accordance with NEPA procedures.

(iv) A decision to amend a forest plan for a specific project is subject to the notice and appeal procedures of 36 CFR part 215, and the time period between the decision and implementation is also governed by 36 CFR part 215.

(d) *Interim amendment.* (1) An interim amendment may be used only when a catastrophic event has occurred or when new information indicates there is a need to promptly change the forest plan in order to provide resource protection and it is unacceptable to delay the changes needed until procedures for major or minor amendment can be completed.

(2) Unless the authority is subsequently reserved by the Chief, the Regional Forester is the responsible official for interim amendments.

(3) The Regional Forester shall give notice of an interim amendment to those on the list described at § 219.3(b) and shall provide legal notice of the decision in a newspaper of general circulation. In addition, if the Chief is the responsible official, notice shall be published in the **Federal Register**. The notice must concisely summarize the following:

(i) The circumstances which warrant use of the interim amendment procedure;

(ii) The changes being made in the forest plan;

(iii) The anticipated consequences associated with the interim amendment;

(iv) The anticipated duration of the interim amendment, not to exceed two years;

(v) The changes being made to the monitoring and evaluation strategy in association with the interim amendment; and

(vi) The opportunity for public comment.

(4) An environmental impact statement is not required for an interim amendment.

(5) The effective date of an interim amendment is the eighth calendar day after legal notice of the decision is published in a newspaper of general circulation pursuant to § 219.9(d)(3) or, in the case where the Chief is the responsible official, in the **Federal Register**.

(6) A period of 45 calendar days must be provided for public comment beginning on the date of publication of legal notice of an interim amendment decision. On the basis of public comment, the responsible official may decide to modify the interim amendment through issuance of a new interim amendment or may decide that the interim amendment remains in effect without change. In either circumstance, the responsible official shall publish a notice of the decision and a brief summary of the rationale, and also provide it to those on the list described at § 219.3(b).

(7) The duration of an interim amendment may not exceed two years. If an approved amendment or revision has not superseded the interim direction within two years of the effective date of the interim amendment, then the responsible official may reissue the interim amendment or issue a modified interim amendment, subject to the notice and comment requirements of this section.

(8) An interim amendment may not be made through a decision document for a specific project.

(9) Pursuant to 36 CFR part 217, an interim amendment is not subject to administrative appeal.

(e) *Nondiscretionary changes.* If a change in applicable law or regulation occurs which conflicts with forest plan direction and the agency has no choice but to comply and no discretion in the manner in which to comply, the forest plan may be modified to reflect such changes without conducting amendment procedures. The Forest Supervisor shall give public notice of such changes through the annual monitoring and evaluation report (§ 219.12). Such nondiscretionary changes are not subject to NEPA procedures.

(f) *Other changes.* The following changes to the content of a forest plan may be made at any time, do not require amendment, and are not subject to NEPA procedures. However, such changes are to be identified and briefly described in the next annual monitoring and evaluation report.

(1) Changes to information that is not forest plan direction (§ 219.6), such as the information in forest plan appendices;

(2) Corrections to forest plan maps which delineate where a management prescription is applicable, provided such changes are the result of improved information about the location of the on-the-ground conditions to which the prescription was described in the forest plan to apply;

(3) Corrections of typographical errors or other non-substantive changes.

§ 219.10 Forest plan revision.

(a) *Initiation.* Revision of a forest plan should occur about every 10 years, but no later than 15 years, from the date of approval of the original plan or the latest plan revision. Revision also must occur when the Regional Forester determines that conditions over most or all of the plan area have significantly changed from those in place when the forest plan was originally approved or last revised; for example, if a catastrophic event has substantially altered resource conditions over most or all of the planning area.

(b) *Responsible official.* The Regional Forester is the responsible official for forest plan revision.

(c) *Prerevision actions.*—(1) *Prerevision review of the forest plan.* Prior to initiating scoping pursuant to NEPA procedures, the entire forest plan must be reviewed, using the cumulative results of monitoring and evaluation. The purpose of the review is to identify changed conditions and/or other new information which appear to indicate a need to change direction in the current plan.

(2) *Communications strategy.* The Forest Supervisor shall formulate a communications strategy that describes how the public and government entities may participate in the prerevision review and revision of the forest plan on an ongoing basis.

(i) The Forest Supervisor shall meet, or designate a representative to meet, with interested representatives of other Federal agencies and State, local, and tribal governments to establish procedures for ongoing coordination and communication throughout the prerevision review and the revision processes. These procedures should be documented in the communications strategy.

(ii) The Forest Supervisor shall publish notice of the prerevision review process and the formulation of a communications strategy in both the **Federal Register** and newspapers of general circulation within or near the plan area. The notice must include an invitation to the public and representatives of government entities to express their ideas and suggestions on formulation of a communications strategy.

(iii) The Forest Supervisor shall also give notice of the prerevision review and formulation of the communications strategy to those on the list described at § 219.3(b).

(d) *Scoping.* Upon completion of the prerevision review, the Regional Forester shall initiate the forest plan revision process by publishing in the **Federal Register** a Notice of Intent to revise the forest plan and to prepare the associated draft environmental impact statement. The Regional Forester shall allow 60 calendar days for public comment. The purposes of the Notice of Intent are to notify the public of the forest plan revision process, the anticipated scope of the revision effort, and opportunities for the public to be involved in the revision process, and also to begin the scoping process required by NEPA procedures.

(1) In addition to the content requirements established by NEPA procedures, the following apply to a Notice of Intent to revise a forest plan:

(i) The statement of purpose and need for the proposed action identifies specific opportunities to better achieve agency goals, as set forth in law, Executive order, regulation, agency directives, and the RPA Program, through changes in forest plan direction;

(ii) The proposed action identifies the direction in the current forest plan which will be evaluated for change; and

(iii) Significant revision issues describe the topics of concern related to changing forest plan direction and are used to help focus revision analysis efforts on those concerns.

(2) At the time of publication of the Notice of Intent, the Forest Supervisor shall take the following additional actions to notify the public of the revision process:

(i) Notify those on the list described at § 219.3(b) of the revision effort and opportunities for involvement;

(ii) Distribute a press release on the revision effort to newspapers of general circulation within or near the Forest;

(iii) Publicize and conduct activities designed to foster ongoing participation by the public and government representatives in the revision process pursuant to the communications strategy formulated pursuant to paragraph (c)(2) of this section.

(3) The Regional Forester shall consider comments received in response to the Notice of Intent and determine if there is a need to adjust the scope of the revision effort.

(e) *Required elements.* The forest plan revision process requires the following evaluations or updates:

(1) A review of the identification of lands suited and not suited for timber production (§ 219.13(a));

(2) An evaluation of roadless areas for wilderness designation; (§ 219.14(b));

(3) In accordance with § 219.14(c), an evaluation of rivers for eligibility as wild, scenic, and recreation rivers; and

(4) An update of the information in the appendix to the forest plan which displays projected levels of goods and services and management activities for the next decade (§ 219.11(d)(1)).

(f) *Draft environmental impact statement.* A draft environmental impact statement must accompany a proposed revision of a forest plan.

(g) *Public notice and comment.* The Regional Forester shall give the public notice and opportunity to comment as follows:

(1) The draft environmental impact statement, proposed revised forest plan, and draft monitoring and evaluation strategy must be available for public comment for at least 90 calendar days. Copies will be made available for inspection at convenient locations in the vicinity of the lands covered by the plan, beginning on the date of publication of the notice of availability of the draft environmental impact statement in the **Federal Register**;

(2) The Forest Supervisor shall give notice to those on the list described at § 219.3(b) of the opportunity for public review and comment; and

(3) The Regional Forester shall either hold public meetings or, alternatively, conduct other activities to foster public participation in the review of the draft environmental impact statement, proposed revised forest plan, and draft monitoring and evaluation strategy.

(h) *Final environmental impact statement and revised forest plan.* Following public comment, the Regional Forester shall oversee preparation of a final environmental impact statement and revised forest plan. The final environmental impact statement and record of decision documenting the selected alternative and adoption of the revision shall be prepared and made public in accordance with NEPA procedures.

(i) *Approval.* In addition to the **Federal Register** publication of the notice of availability of the final environmental impact statement and record of decision pursuant to 40 CFR 1506.10, legal notice of the adoption of a revised forest plan shall be provided as required by 36 CFR 217.5. A revision becomes effective 30 calendar days after the date of the notice published in the **Federal Register**.

§ 219.11 Forest plan implementation.

(a) *Project consistency.* Project decisions must be consistent with the standards in a forest plan. Deviation of a project from compliance with a guideline is not inconsistent with the

VOL 60 ISS 71 APR 13 1995 UMI

forest plan. A determination of consistency of a project with the forest plan must be documented when the project is approved. If a proposed project is not consistent with a standard in the forest plan, the responsible official may, subject to valid existing rights, take only one of the following actions:

(1) Modify the proposal to make it consistent with the forest plan;

(2) Reject the proposal; or

(3) Amend the forest plan to permit the proposal.

(b) *Application of forest plan amendment or revision to existing authorizations or previously approved projects.* Permits, contracts, and other instruments issued or approved for the use and occupancy of National Forest System lands must be consistent with the forest plan in effect at the time of their issuance. Subject to valid existing rights, contracts, permits, and other instruments for occupancy and use that are inconsistent with a new forest plan amendment or revision must be revised as soon as practicable to be made consistent with the forest plan.

(c) *Implementation during amendment or revision process.* An approved forest plan, including all amendments as may be adopted, remains effective until a new amendment or a revision is approved.

(d) *Possible actions during the plan period.* (1) At the time of revision, an appendix to the forest plan shall be prepared displaying a prediction of the major goods and services which may be produced during the plan period, as well as a display of the management activities which may occur during the plan period.

(i) The display should predict a realistic range of goods and services and management activity levels reflecting, to the extent practicable and meaningful, some of the variables which are most likely to affect production or accomplishment of predicted levels.

(ii) The display may include a prediction of the rate of achieving forest plan objectives reflecting, to the extent practicable and meaningful, some of the variables most likely to affect achievement.

(iii) Such a display does not limit nor compel any action by the agency and does not constitute forest plan direction.

(2) At periodic intervals following adoption of a revised forest plan and for such time periods as is determined appropriate, the Forest Supervisor shall make available to the public an updated estimate of major goods and services and management activity levels that may be produced or occur. Development of these estimates does not require NEPA analysis.

§ 219.12 Monitoring and evaluation.

(a) *Monitoring and evaluation strategy.* The Forest Supervisor must conduct monitoring and evaluation efforts and, simultaneously with any revision of the forest plan, shall prepare a comprehensive monitoring and evaluation strategy to guide such efforts. This strategy is not forest plan direction, is not included in the forest plan, and does not require NEPA analysis. However, monitoring and evaluation activities are subject to NEPA procedures at the time of implementation.

(1) The monitoring and evaluation strategy provides instructions for the following:

(i) Assessing if projects are being implemented in accordance with the decision documents authorizing the projects;

(ii) Assessing, through the use of measurable indicators, if the activities being implemented are effective in achieving forest plan goals;

(iii) Conducting appropriate monitoring and evaluation efforts to occur within the plan area to help meet monitoring and evaluation needs at scales larger than the plan area;

(iv) Validating the assumptions upon which forest plan direction was established and verifying the accuracy of predicted effects;

(v) Prioritizing monitoring and evaluation efforts by identifying those monitoring and evaluation efforts that are of highest priority to conduct because they assess the effects of those management activities believed to have the greatest potential risk to the environment;

(vi) Collecting and compiling appropriate information to serve as reference points for future evaluations;

(vii) Determining if there is new information or a change in conditions which substantially affects the validity of the forest plan including, but not limited to:

(A) Laws, Executive orders, regulations, RPA Program updates, or agency directives issued subsequent to approval of the forest plan;

(B) Changes in biological, physical, social, or economic factors influencing the plan area;

(C) Findings resulting from applicable scientific research or experience;

(D) Findings resulting from ecosystem analysis;

(viii) Storing and disseminating information of use in the program development and budget formulation process, such as updated information on resource capabilities, project opportunities, activity costs, or economic trends;

(ix) Tracking the goods and services produced and management activities accomplished;

(x) Involving the public in monitoring and evaluation by identifying opportunities for the public to participate, when appropriate, in monitoring and evaluation efforts;

(xi) Identifying problems, and opportunities to resolve those problems, for use in determining whether there is a need to amend or revise the forest plan.

(2) The monitoring and evaluation strategy document should describe procedures and identify planned intervals for implementing and reporting monitoring and evaluation efforts. Because the type and intensity of monitoring and evaluation efforts can vary depending on the availability of funds, the monitoring and evaluation strategy should be realistic and practicable. Monitoring and evaluation efforts should be designed at the appropriate spatial scale and for appropriate timeframes.

(3) The Forest Supervisor shall give priority to implementing those monitoring and evaluation efforts that assess the effects of management activities having the greatest potential risk to the environment.

(b) *Notice and approval of monitoring and evaluation strategies.* (1) A monitoring and evaluation strategy must be made available for public review and comment at the same time as a proposed revised forest plan and in accordance with § 219.10(g).

(2) The Regional Forester is responsible for approving the monitoring and evaluation strategy in conjunction with approving the revised forest plan. The Regional Forester shall obtain concurrence of the applicable Station Director before approving a monitoring and evaluation strategy. A final revised forest plan cannot be approved before the associated monitoring and evaluation strategy is approved.

(c) *Updating monitoring and evaluation strategies.* (1) Updates may occur whenever deemed necessary. Circumstances which might trigger an update to the strategy include, but are not limited to, amendment of the forest plan; consideration of comment from the public or government entities in response to the annual monitoring and evaluation report; availability of new information; emergence of new opportunities to coordinate monitoring and evaluation with others; or interdisciplinary team recommendations.

(2) The Forest Supervisor is responsible for updating the monitoring and evaluation strategy as needed. The Forest Supervisor shall obtain concurrences of the applicable Station Director before approving an update to a monitoring and evaluation strategy. Updating the monitoring and evaluation strategy does not trigger a forest plan amendment or NEPA analysis. A proposed update to a monitoring and evaluation strategy must be made available for public review and comment for 30 calendar days. Those on the list described at § 219.3(b) shall be notified of the opportunity for public review and comment.

(d) *Coordination of monitoring and evaluation efforts.* (1) Monitoring and evaluation efforts should be coordinated, to the extent feasible, with other Federal agencies, State, local, and tribal governments, interested private landowners, the scientific community, and other interested parties. The monitoring and evaluation strategy should include identification of information to be gathered by other entities.

(2) Monitoring and evaluation efforts should be coordinated across Forest Service administrative boundaries. The Regional Forester shall assure that monitoring and evaluation needs which extend beyond a plan area are addressed and coordinated.

(3) To the extent practicable, the applicable Station Director should provide for the involvement of Forest Service research personnel in the development and updating of monitoring and evaluation strategies, the implementation and evaluation of monitoring and evaluation tasks, and preparation of the annual monitoring and evaluation report.

(e) *Monitoring and evaluation report.* The Forest Supervisor shall prepare a concise monitoring and evaluation report annually. This report shall be transmitted to the Regional Forester and Station Director and be made available to interested individuals, organizations, government agencies, and public officials. The report should include, but is not limited to, the following:

(1) A summary of the results of monitoring and evaluation efforts;

(2) Identification of any changes needed in how the forest plan is being implemented;

(3) Identification of whether amendment or revision of the forest plan is needed;

(4) A brief description of any amendments which have been initiated or become effective since the previous report;

(5) A brief description of any updates made to the monitoring and evaluation strategy;

(6) A brief description of any nondiscretionary changes made to the forest plan pursuant to § 219.9(e);

(7) A brief description of changes made to information in the forest plan that does not constitute direction, such as changes to appendices (§ 219.9(f)).

(f) *Project implementation.* When monitoring and evaluation activities are essential to ensuring mitigation of possible environmental effects of a project, such activities must be identified in the project decision document. Moreover, in such case, that project may not be initiated unless there is a reasonable expectation that adequate funding will be available to conduct the monitoring and evaluation activities.

(g) *Initiating amendment or revision.* Nothing in this section shall be construed to preclude initiating a forest plan amendment or revision at any time the Forest Supervisor or Regional Forester deems necessary.

§ 219.13 Statutory timber management requirements.

(a) *Review of suitability determination.* (1) Lands identified as not suited for timber production must be reviewed at least every 10 years. Normally, this should occur as part of forest plan revision; however, if a 10-year period elapses prior to forest plan revision, then the review of unsuitable lands shall occur at the 10-year interval as well as later during forest plan revision. The time period for the 10-year review begins upon the effective date of the original forest plan, the effective date of any forest plan revision, or the effective date of any amendment which included a review of all unsuitable lands.

(2) Notwithstanding the 10-year review, all lands must be reviewed for their suitability for timber production at the time of forest plan revision.

(3) The identification of lands as suited or not suited for timber production may be changed at any time for forest plan amendment.

(b) *Lands not suited for timber production.* (1) Lands not suited for timber production must have a fixed location and should be identified on maps, either in the forest plan or the planning records, or otherwise described in a manner in which they can be readily recognized.

(2) Forest plan management prescriptions must be established to ensure the management of unsuited lands is consistent with the provisions of paragraphs (b)(3)(v)(B) and (b)(4) and (5) of this section.

(3) Lands are identified as not suited for timber production if any of the following conditions apply:

(i) The land has been withdrawn from timber harvest by an Act of Congress, the Secretary of Agriculture or the Chief of the Forest Service;

(ii) Timber harvest on these lands would violate statute, Executive order, or regulation;

(iii) The land does not meet the definition of forested land as set forth in § 219.2 of this subpart;

(iv) Technology is not available for conducting timber harvesting without irreversible damage to soil productivity or watershed conditions;

(v) There is no reasonable assurance that such lands can be adequately reforested within five years of final timber harvest. Adequate reforestation means that the cut area contains the minimum number, size, distribution, and species composition of regeneration as identified in the forest plan. Five years after final harvest means five years after clearcutting, after last overstory removal entry in shelterwood or seed tree cutting, or after selection cutting.

(A) Research and experience are the basis for determining whether the harvest and regeneration practices planned can be expected to result in adequate reforestation.

(B) The reforestation requirement of paragraph (b)(3)(v) of this section does not prohibit the harvesting of timber when openings are created for wildlife habitat improvement, vistas, recreation uses, or similar long-term purposes.

(4) Timber harvesting may occur on unsuitable lands only for salvage sales or sales necessitated to protect other multiple-use values.

(5) Lands not suited for timber production are to continue to be treated for reforestation purposes, particularly with regard to the protection of other multiple-use values.

(6) Identification of unsuitable lands should not vary among alternatives at the time of forest plan revision.

(c) *Lands suited for timber production.* Lands that are not identified as unsuitable for timber production shall be considered suited for timber production. However, forest plan standards may be established which prohibit or limit timber harvesting on suited lands. For example, such standards could be imposed on lands otherwise suited for timber production due to economic considerations or due to allocation of the land to uses not compatible with timber harvesting. Each forest plan must

VOL
60
ISS
71
AP
13
1995
UMI

include in the appendix a tabular summary displaying a listing of the number of acres of suitable lands where standards have been imposed which prohibit or limit timber harvesting and the number of acres where such prohibitions or limitations do not apply. This summary is provided as a convenient reference only and is not part of the suitability determination.

(d) *Allowable sale quantity.* The amount of chargeable timber volume which can be sold from a plan area for a decade cannot exceed the allowable sale quantity standard established for the plan area. Each forest plan which provides for a timber sale program must establish a standard setting the allowable sale quantity. The allowable sale quantity is a ceiling; it is not a future sale level projection or target and does not reflect all of the factors that may influence future sale levels.

(1) *Calculation procedures.* The allowable sale quantity is calculated as follows:

(i) *Land base.* The only lands on which the allowable sale quantity is based are those lands in the plan area suited for timber production and on which planned periodic entries for timber harvest are allowed over time. Only one allowable sale quantity can be established per plan area.

(ii) *Long-term sustained-yield timber capacity.* The amount of chargeable timber volume which can be sold for a decade from any proclaimed National Forest within the plan area may not exceed the long-term sustained-yield timber capacity of that proclaimed National Forest except as provided by paragraph (d)(1)(ii)(B) of this section or as necessary to meet overall multiple-use goals as established in the forest plan. Any change to the forest plan to permit a departure to meet overall multiple-use goals must be made by a major amendment or revision.

(A) The long-term sustained-yield timber capacity of a proclaimed National Forest is calculated using the same suited land base and forest plan standards as used for calculating the allowable sale quantity.

(B) In those cases where a proclaimed National Forest has less than two hundred thousand acres of lands suited for timber production, two or more proclaimed National Forests may be used for purposes of determining the long-term sustained-yield timber capacity.

(iii) *Non-declining flow.* When calculating a new allowable sale quantity, the new allowable sale quantity may either decline, remain constant, or increase relative to the current allowable sale quantity. The new allowable sale quantity must be established at a level that is predicted to be sustainable or capable of increasing during subsequent decades, with exceptions permitted only to meet overall multiple-use goals.

(iv) *Intensified management practices.* Whenever the allowable sale quantity is changed through amendment or revision, predicted yields that were dependent on implementation of intensified management practices must be decreased if such intensified practices have not been successfully implemented or funds have not been received to permit such practices to continue substantially as previously planned.

(2) *Chargeable timber volume.* Only the timber volume that has been included in the growth and yield projections used for the calculation of the allowable sale quantity is attributable to the allowable sale quantity when sold.

(3) *Noninterchangeable components.* The allowable sale quantity may be divided into noninterchangeable components. Limits on the sale of chargeable timber volume associated with each noninterchangeable component cannot be exceeded, and chargeable timber volume from one noninterchangeable component cannot be attributed to the volume limit associated with another noninterchangeable component. Where management prescriptions allow planned periodic entries for timber harvest over time into roadless areas, the portion of the allowable sale quantity derived from those roadless areas must be identified as a noninterchangeable component.

(4) *Exception to harvest limit.* Nothing in this section prohibits the salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack. If the volume from such harvests was included in the calculation of the allowable sale quantity, it may either be substituted for timber that would otherwise be sold under the plan or, if not feasible, sold over and above the allowable sale quantity.

(e) *Culmination of mean annual increment.* All even-aged stands scheduled to be harvested during the plan period must generally have reached culmination of mean annual increment of growth. This requirement does not apply to silvicultural practices such as thinning or other stand improvement measures; to salvage or sanitation harvesting of stands which are substantially damaged by fire, windthrow, or other catastrophes, or which are in imminent danger from insect or disease attacks; when uneven-aged methods are used; or to cutting for experimental and research purposes. In addition, exceptions to this requirement are permitted in the forest plan for the harvest of particular species of trees if overall multiple-use goals would be better attained. Any change to a forest plan to permit such exceptions must be made through a major amendment or at the time of revision. Cubic foot measure is used as the basis for calculating culmination of mean annual increment of growth unless the Chief directs otherwise.

(f) *Selection of cutting methods.* The determination of the appropriate cutting method is made at the project level. Clearcutting may be permitted only when it is determined to be the optimum method of timber cutting and the only practical method to accomplish one or more of the following purposes:

(1) Establishment, maintenance, or enhancement of habitat for threatened or endangered species;

(2) Enhancement of wildlife habitat or water yield values or to provide for recreation, scenic vistas, utility lines, road corridors, facility sites, reservoirs, fuel breaks, or similar developments;

(3) Rehabilitation of lands adversely impacted by events such as fires, windstorms, or insect or disease infestations;

(4) Preclusion or minimization of the occurrence of potentially adverse impacts of insect or disease infestations, windthrow, logging damage, or other factors affecting forest health;

(5) Establishment and growth of desired tree or other vegetative species that are shade intolerant;

(6) Rehabilitation of poorly stocked stands due to past management practices or natural events; and

(7) Research needs.

(g) *Maximum size of clearcuts.* To provide for those cases where clearcutting may be approved for a specific project, the forest plan must establish the maximum size of areas that could be clearcut in one harvest operation. These sizes do not apply to areas harvested by clearcutting as a result of natural catastrophic conditions such as fire, insect and disease attack, or windstorm. Exceptions to the established limits also may be exceeded on a project basis after public notice and approval by the Regional Forester.

(h) *Blending of even-aged stands.* Blocks, patches, or strips for clearcutting, shelterwood cutting, seed tree cutting, and other methods designed to regenerate an even-aged stand of timber shall be shaped and blended to the extent practicable with the natural terrain.

(i) *Protection of soil and water.* Forest plans must not permit timber harvesting where harvests are likely to seriously and adversely affect water conditions or fish habitat unless protection is provided from detrimental changes in water temperature, blockages of water courses, and deposits of sediment.

(j) *Displays of Timber Information.* The following information shall be displayed in one or more appendices to the forest plan:

(1) Acreage designated as lands unsuitable and suitable for timber production.

(2) Acreage of suitable lands subject to standards which prohibit or limit timber harvesting and the acreage where such prohibitions or limitations do not apply.

(3) the long-term sustained-yield timber capacity of each proclaimed National Forest either fully or partially within the plan area.

(4) The proportion of possible timber harvest methods forest-wide.

§ 219.14 Special designations.

(a) *Special designations.* Forest plan amendment or revision is the mechanism for the agency to allocate specific areas to prescriptions for special designations, or to recommend special designation by higher authorities. Special designations may include, but are not limited to, wilderness, research natural areas, geological areas, botanical areas, scenic by-ways, national scenic areas, national recreation areas, national natural landmarks, and wild, scenic, and recreation rivers.

(b) *Wilderness areas.* Unless Federal statute directs otherwise, all roadless, undeveloped areas shall be evaluated for wilderness designation during forest plan revision subject to the following limitations:

(1) West of the 100th meridian, areas must be at least 5,000 acres in size unless contiguous to existing units of the National Wilderness Preservation System or contiguous to areas endorsed by the Administration for wilderness designation.

(2) East of the 100th meridian, areas must be of sufficient size as to make practicable their preservation and use in an unimpaired condition.

(c) *Wild, scenic, and recreation rivers.* The eligibility of rivers for designation as wild, scenic, and recreation rivers shall be evaluated during forest plan revision if any of the following apply:

(1) Federal legislation requires evaluation; or

(2) A river eligibility evaluation has not been conducted using the criteria published in FSH 1909.12 in July, 1987.

(d) *Role of forest plans.* Where Acts designating special areas within the National Forest System require planning beyond that required for forest plans, the goals, objectives, standards, or guidelines in special area plans shall be incorporated into the forest plan as forest plan direction.

§ 219.15 Applicability and transition.

(a) The provisions of this subpart are applicable to all units of the National Forest System as defined by 16 U.S.C. 1609 including, but not limited to, the National Grasslands.

(b) In those circumstances where a forest plan has not been approved as of [*effective date of the final rule*], development and approval of the forest plan continue to be subject to the previous planning rule. After plan approval, the rules of this subpart apply.

(c) Forest plans adopted prior to [*effective date of the final rule*] remain in effect until amended or revised pursuant to this subpart.

(d) Prior to adoption of a revised forest plan prepared in accordance with the rules of this subpart, forest plans need not be amended in order to comply with the rules of this subpart.

(e) The displays required by § 219.11(d)(1) and (2) and § 219.13(j) need not be prepared prior to development of a revised forest plan prepared in accordance with the rules of this subpart.

(f) The requirement of § 219.12(e) applies starting the first full fiscal year after [*effective date of the final rule*].

(g) Until such time as forest plans are amended or revised to fully conform to the definitions and usage of "standards" and "guidelines" as described at § 219.6(e) and (f), the following apply:

(1) Consistency determinations (§ 219.11) shall be based on whether project decisions adhere to mandatory standards or guidelines in current plans; and

(2) An amendment shall be considered major when one of the following circumstances exist:

(i) One or more mandatory standards or guidelines in the current forest plan would be amended in such a manner that the amendment would result in significant change to the forest plan and that change is predicted to affect resources over a large portion of the plan area during the remainder of the plan period;

(ii) The forest plan would be amended in such a manner that the amount of chargeable timber volume which can be sold for a decade from a proclaimed National Forest in the plan area exceeds the long-term sustained-yield timber capacity of that proclaimed National Forest, except as provided at (§ 219.13(d)(1)(ii)(B)); or

(iii) Forest plan direction would be changed to permit harvest of even-aged stands that have not reached culmination of mean annual increment of growth (§ 219.13(e)), including when such a change is made to accommodate a project.

(h) If a Notice of Intent to prepare an environmental impact statement has been published for a significant amendment or revision of a forest plan prior to [*effective date of the final rule*], the following apply:

(1) If a draft environmental impact statement accompanying a proposed significant amendment has not been issued, the Regional Forester shall implement the rules of this subpart. In such case, a new Notice of Intent need not be issued; rather, the Regional Forester shall notify those on the list described at § 219.3(b) of any changes in the amendment process resulting from compliance with the rules of this subpart.

(2) If a draft environmental impact statement accompanying the proposed significant amendment has been issued, the Regional Forester may continue under the previous planning rule.

(3) If a draft environmental impact statement accompanying a proposed revision has not been issued, the Regional Forester shall implement the rules of this subpart. If a draft environmental impact statement accompanying the proposed revision has been issued, the Regional Forester may continue under the previous planning rule. If the Regional Forester continues under the rules of this subpart, a new Notice of Intent need not be issued, the scoping process need not be repeated, and the prerevision actions required at § 219.10(c) need not specifically occur. However, the Regional Forester must document other analyses or evaluations conducted as part of the revision process which served to review the entire forest plan and to determine that need to change forest plan direction. The Regional Forester shall notify those on the list described at § 219.3(b) of any changes in the process for revision resulting from compliance with the rules of this subpart.

(i) Except for the Pacific Southwest Region (36 CFR 200.2), regional guides prepared in accordance with the previous planning rule shall be withdrawn no later than three years from [*effective date of the final rule*], unless the Chief of the Forest Service determines that delay is warranted. The Regional Guide for the Pacific Southwest Region shall be maintained

VOL
60
ISS
71
AP
13
1995
UMI

until such time as all forest plans in the Region are approved. It shall then be withdrawn no later than three years from the date of approval of the last forest plan, unless the Chief of the Forest Service determines that delay is warranted.

(j) A forest plan must meet the requirement of § 219.13(g) prior to withdrawal of the regional guide for that plan area.

Subpart B—[Reserved]

Dated: April 4, 1995.

Jack Ward Thomas,

Chief.

[FR Doc. 95–8594 Filed 4–10–95; 8:45 am]

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April 13, 1995

Part III

Department of Health and Human Services

Public Health Service

Bilingual/Bicultural Service Demonstration Projects in Minority Health; Availability of Funds and Request for Applications; Notice

VOL
60
ISS
71
AP
13
1995
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Office of the Assistant Secretary for Health; Notice on Availability of Funds and Request for Applications for Bilingual/Bicultural Service Demonstration Projects in Minority Health

AGENCY: Office of Minority Health, Office of the Assistant Secretary for Health.

ACTION: Notice of availability of funds and request for applications for bilingual/bicultural service demonstration projects in minority health.

AUTHORITY: This program is authorized under section 1707(d)(1) of the Public Health Service Act, as amended in Public Law 101–527.

PURPOSE: To provide support to improve the ability of health care providers and other health care professionals to deliver linguistically and culturally competent health services to limited-English-proficient populations.

APPLICANT ELIGIBILITY: Eligible applicants are public and private nonprofit minority community-based organizations or health care facilities serving a targeted minority community.

ADDRESSES/CONTACTS: Applications must be prepared on Form PHS 5161–1 (Revised July 1992 and approved by OMB under Control Number 0937–0189). Application kits and technical assistance on budget and business aspects of the application may be obtained from Ms. Carolyn A. Williams, Grants Management Officer, Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852, (telephone 301/594–0758) or by Internet E-mail cwilliams@oash.ssw.dhhs.gov. Completed applications are to be submitted to the same address.

Technical assistance on the programmatic content for the Bilingual/Bicultural Grants may be obtained from Ms. Nina Darling or Ms. Rizalina Galicinao. They can be reached at the Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852, (telephone 301/594–0769) or by Internet E-mail ndarling@oash.ssw.dhhs.gov or rgalicin@oash.ssw.dhhs.gov.

In addition, OMH Regional Minority Health Consultants (RMHCs) are available to provide technical assistance. A listing of the RMHCs and how they may be contacted is provided in the grant application kit. Applicants also can contact the OMH Resource Center (OMH/RC) at 1–800–444–6472 for health information and generic information on preparing grant applications.

DEADLINE: To receive consideration, grant applications must be received by the Grants Management Office by May 15, 1995. Applications will be considered as meeting the deadline if they are either:

(1) Received at the above address on or before the deadline date, or

(2) Sent to the above address on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications submitted by facsimile transmission (FAX) will *not* be accepted. Applications which do not meet the deadline will be considered late and will be returned to the applicant unread.

AVAILABILITY OF FUNDS: It is anticipated that in Fiscal Year 1995, the Office of Minority Health will have approximately $1.3 million available to support approximately 13 grants of up to $100,000 each under this program. At least three grants focusing on HIV/AIDS as a health problem will be funded under this announcement.

PERIOD OF SUPPORT: Support may be requested for a total project period not to exceed 3 years. Non competing continuation awards will be made subject to satisfactory performance and availability of funds.

BACKGROUND: The Office of Minority Health is the unit of the U.S. Department of Health and Human Services that coordinates Federal efforts to improve the health status of racial and ethnic minority populations, including American Indians, Alaska Natives, Asian Americans, Pacific Islanders, African Americans and Hispanics/Latinos. With the passage of the Disadvantaged Minority Health Improvement Act (Pub. L. 101–527), the OMH was established in legislation and given a broad mandate to advance efforts to improve minority health including supporting research, demonstrations and evaluations of new and innovative programs that increase understanding of disease risk factors and support improvement in information dissemination, education, prevention and service delivery to minority communities. The OMH was also directed to develop appropriate planning, logistical support, and technical assistance related to increasing the capabilities of health care providers and other health care professionals to address cultural and linguistic barriers to effective health care service delivery, and to increase access to effective health care for limited-English-proficient minority populations [Pub. L. 101–527, section 1707(b)(7)].

Social, cultural and linguistic barriers on the part of both providers and clients significantly affect the receipt of needed health care. Among the many factors contributing to the poor health status of limited-English-proficient minorities are:

- Inadequate number of health care providers and other health care professionals skilled in culturally competent and linguistically appropriate delivery of services;
- Scarcity of trained interpreters at the community level;
- Deficiency of knowledge about appropriate mechanisms to address language barriers in health care settings;
- A lack of culturally appropriate community health prevention programs;
- Absence of effective partnerships between major mainstream provider organizations and limited-English-proficient minority communities;
- Low economic status;
- Lack of health insurance; and
- Organizational barriers.

This RFA specifically addresses the barriers that limited-English-proficient minority populations face when trying to access health services.

In the 1990 U.S. Census, language questions asked were (1) Whether respondents speak another language at home, (2) how well they speak English (for those who answered yes to the first question), and (3) which language they speak at home. The census data indicates that 31.8 million persons ages 5 and above (13.8 percent of the total U.S. population counted by the 1990 census) spoke another language at home. Of those, 17.9 million people reported that they speak English very well. Almost 2 million people (1.8 million) do not speak English at all. An additional 4.8 million people do not speak English well.

Large numbers of minorities in the United States are linguistically isolated—living in households in which no one 14 years old or over speaks English and no one who speaks a language other than English speaks English "very well." The 1990 Census found 1,572,006 Asian and Pacific Islanders at least 5 years of age to be linguistically isolated. The percent of Asian and Pacific Islanders who are linguistically isolated varies by

subgroup—ranging from 9.7% among Filipinos to 59.8% among Hmong. Among Pacific Islanders, Tongans had the highest proportion of persons who were linguistically isolated (18.7%). More than four million Hispanics are linguistically isolated (4,548,677 or 23.8%). Central Americans (40.3%) and Dominicans (39.6%) are the most likely to be linguistically isolated. Among Blacks, 282,147 (0.9%) are linguistically isolated. Among American Indians, Alaska Natives, 77,802 (4%) are linguistically isolated.

Definitions

For purposes of this grant announcement, the following definitions are provided:

(1) Minority Populations—As defined by the Office of Management and Budget (OMB) Circular No. 15, include: Asisan/Pacific Islanders, Blacks, Hispanics, and American Indian/Alaska Native.

(2) Limited-English-Proficient Populations—individuals, as defined above (1), with a primary language other than English who must communicate in that language if the individual is to have an equal opportunity to participate effectively in and benefit from any aid, service or benefit provided by the health provider.

(3) Minority Community-Based Organization—a public or private non-profit community-based minority organization or a local affiliate of a national minority organization that has a governing board composed of 51% or more racial/ethnic minority members, has a significant number of minorities in key program positions, has an established record of service to a racial and ethnic minority community.

(4) Health Care Facilities—for purpose of this announcement, a health care facility is a public nonprofit facility that has an established record for providing a full range of health care services to a targeted racial and ethnic minority community. Facilities providing only screening and referral activities are not included in this definition. A health care facility may be a hospital, outpatient medical facility, community health center, migrant health care center, or a mental health center.

(5) Community—a defined geographical area in which persons live, work, and recreate, characterized by: (a) formal and informal communication channels; (b) formal and informal leadership structures for the purpose of maintaining order and improving conditions; and (c) its capacity to serve as a focal point for addressing societal needs, including health needs. A community should be an appropriate catchment area in which to address a population's social and health needs.

(6) Bilingual Direct Services—any activity that delivers person to person health care/health promotion services which is linguistically and culturally appropriate to limited-English-proficient clientele, including, for example, translation and interpreter services and health education course taught bilingually.

(7) Cultural Competency—a set of interpersonal skills that allow individuals to increase their understanding and appreciation of cultural differences and similarities within, among, and between groups. This requires a willingness and ability to draw on community-based values, traditions, and customs and to work with knowledgeable persons of and from the community in developing focused interventions, communications, and other supports. (Orlandi, Mario A., 1992)

Potential Projects/Activities

A broad range of approaches may be used to respond to this proposal. However, the projects should concentrate on activities to improve the ability of health care providers and other health care professionals to deliver linguistic and culturally competent health services to limited-English-proficient populations. A proposed program may include, but is not limited to:

- language and cultural competency training for health care professionals;
- bilingual health access or health promotion information in the native language of the target population(s);
- on-site interpretation services; and
- trainer development courses on cultural competency.

Organizational Linkages

Project goals should promote access to direct services for limited-English-proficient minority populations by providing continuity of support to clients for outreach, referral and treatment. Linkages must be established between minority community based organizations and appropriate health care facilities. The minority community-based organizations and the health care facilities must reach out and work with each other to ensure that limited-English-proficient persons are in receipt of appropriate health care services. Thus, the applicant, either the minority community-based organization or the health care facility must have an established linkage with the other organization prior to submitting an application.

Application Process

Applicants should pay particular attention to the general and supplemental instructions provided in the application kit to ensure that their applications are responsive to each of the concerns under the following headings:

Background

Provide a description of the problem to be addressed; clearly identify the scope of the problem including linguistic/cultural barriers; the limited-English-proficient minority target group(s) affected; health issues; and the pertinent geographic area/subarea. Provide documentation supporting the serving of at least 40 percent or more persons with limited-English proficiency.

Cite the capability and experience of the organization to provide linguistic and culturally competent health care services.

Goal(s) and Objective(s)

Clearly state the goal(s) of the project. Provide a list of specific, time-phased, measurable objective(s), including target dates.

Methodology

A project management plan must be included which delineates project activities specifying responsible parties, methods to be used, timelines, and anticipated outcomes. Project activities must be linked to goal(s) and objective(s). Indicate the organization's capability to collaborate with other health care providers and health care professionals to effectively reach the target population. Describe the linkage between the organization and the applicable minority community-based organization/health care facility.

Personnel/Management

Describe duties, reporting channels, requisite qualifications, and related experience of personnel who will be responsible for carrying out the project. Resumes and curriculum vitae of key personnel must be provided. Describe management capability and experience of proposed grantee organization.

Evaluation

Specify the approach and provide an example of data collection instruments that will be used to measure accomplishment of objectives; the evaluation should include both process and outcome measures. Provide a concise analysis of how the project will result in a sustained impact on reducing the problem of access to bilingual/bicultural health care services. Provide

VOL 60 ISS 71 AP 13 1995 UMI

information on how the project will be sustained beyond the funding period and the degree that the project can be replicated.

Budget

Budgets of up to $100,000 total direct and indirect costs per year may be requested to cover: The cost of personnel, consultants, support services, materials, and travel. The project budget must include travel for one project staff member to meet with the OMH Bilingual/Bicultural Program Director in Washington, D.C. Funds may not be used for construction, building alterations or renovations. Also, funds may not be used to purchase equipment except as may be acceptably justified in relation to conducting the project activities.

All budget requests must be fully justified in terms of the goals and objectives proposed and include a computational explanation of how costs were determined.

Review of Applications: Applications will be screened upon receipt. Those that are judged to be incomplete, nonresponsive to the announcement, or nonconforming will be returned without comment. Each organization may submit no more than one proposal under this announcement. If an organization submits more than one proposal, all will be deemed ineligible and returned without comment. Applications judged to be complete, conforming, and responsive will be reviewed for technical merit in accordance with PHS policies.

Applications will be evaluated by Federal and non-Federal reviewers chosen for their expertise in minority health and their understanding of the unique health problems and related issues confronted by limited-English-proficient racial and ethnic populations in the United States.

Applicants are advised to pay special attention to developing clearly defined goals and objectives for their projects, as well as providing well-developed study and evaluation designs for the measurement of project objectives. Both formative and summative evaluations will be required of the grantee, as well as analysis of how the project can be improved to reach the desired outcomes. Applicants should also pay specific attention to the program guidelines, and the general and supplemental instructions provided in the application kit.

Review Criteria: Applications will be reviewed and evaluated for evidence of consistency with the requirements of this announcement. Of specific importance will be the following criteria under the listed headings. (An indication of the quantitative weight appears in parentheses after each heading):

Background (25%)

- Clarity, specificity, depth and coherence of the described need(s) and problem(s) of the target-population(s) which includes linguistic/cultural barriers.
- Strength and specificity of the capability of the organization to provide linguistically and culturally competent health care services for the target population;
- Degree to which the organization is committed to linkage with the applicable minority community-base organization/health care facility;
- The validity of the documentation supporting the percentage of limited-English-proficient persons the project will serve;
- Extent and outcomes of past efforts/activities with the proposed target community; and
- Specificity of data on the intended target group.

Goals and Objectives (15%)

- Relevance of the proposed goals and objectives to this announcement and the OMH mission;
- Merit of the proposed objectives, including their measurability and relevance to the stated project goals, and soundness/attainability of the time frame specified; and
- Soundness/attainability of proposed impacts/results/products.

Methodology (25%)

- Strength of the work plan and specific activities proposed, including their scope and relevance to each of the stated objectives and projected outcomes;
- The degree to which the linguistic and cultural competence skills will provide the health care providers and health care professionals with the ability to increase outreach effectiveness to the target population(s);
- Evidence that the organization has the established linkages with appropriate health care facilities to provide continuity of support to clients for outreach, referral and treatment; and
- Clearly defined project timeline, Gantt Chart or Pert Chart is included as it relates to project planning, implementation, and program evaluation.

Personnel/Management (15%)

- Strength of proposed grantee organization's management capability;
- Adequacy of qualifications, experience, linguistic and cultural competence of proposed personnel;
- Evidence that the proposed staff can effectively outreach and work with the targeted community; and
- Evidence of clear lines of authority and accountability among proposed staff, volunteers, managers, and collaborators.

Evaluation (20%)

- The strength of the evaluation plan: includes formative and summative evaluation designs; the likelihood that the proposed objectives can be measured; and the linguistic and cultural competence of the project can be assessed;
- Clarity and specificity of proposed qualitative and quantitative measures of project accomplishments;
- Soundness of proposed data analysis and reporting methods;
- Evidence that a project can be replicated;
- Evidence that the proposed implementation plan and bring about the desired outcome(s); and
- If the proposed project provides direct services, likelihood that services will be sustained beyond the expiration of the 3 year funding period.

Budget/Financial Plan (0%)

The budget items will be commented on, but not rated by the review panel.

- Evidence that required budget items are consistent with stated goals and are appropriate to the level of effort required.

Award Criteria: Funding decisions will be determined by the Deputy Assistant Secretary of Minority Health, Office of Minority Health and will take under consideration: the recommendations/ratings of review panels as well as program balance which includes geographic and race/ethnicity distribution, and health problem areas having the greatest impact on minority health in terms of causes of death. Preference will be given to applicants who have received grants under the Bilingual/Bicultural Program.

Supplementary Information: This announcement for Fiscal Year 1995 Bilingual/Bicultural Service Demonstration Grants focuses on the six health problems identified by the Secretary's Task Force on Black and Minority Health as having the greatest impact on minority health in terms of causes of death: (1) Cancer; (2) cardiovascular disease and stroke; (3) chemical dependency; (4) diabetes; (5) homicides; and (6) infant mortality. Additional areas of concern under this announcement include HIV infection,

access to and financing of health care, health professions personnel development, data collection and analysis, and surveillance. Proposals should include strategies that will address these problems in a culturally competent and linguistically appropriate manner.

These health priorities also are addressed in the Health Objectives for the Nation, Healthy People 2000, which the Public Health Service (PHS) is committed to achieving. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone: 202/783–3238).

State Reviews: E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications.

Applicants [other than federally-recognized Indian tribal governments] should contact their State Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected State. All comments from a state office must be received within 60 days after the application deadline by the Office of Minority Health's Grants Management Officer. A list of addresses of the SPOCs is enclosed with the application kit material.

Provision of Smoke-Free Workplace and Non-Use of Tobacco Products by Recipients of PHS Grants: The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

Public Health System Reporting Requirements: This program is subject to Public Health Systems Reporting Requirements. Under these requirements, a community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to state and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate state and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date: (a) A copy of the face page of the applications (SF 424), (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) a description of the population to be served, (2) a summary of the services to be provided, (3) a description of the coordination planned with the appropriate state or local health agencies.

The Catalog of Federal Domestic Assistance number is 93.105.

Dated: March 23, 1995.

Clay E. Simpson, Jr.,

Acting Deputy Assistant Secretary for Minority Health.

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BILLING CODE 4160–17–M

VOL
60

ISS
71

AP

13

1995

UMI

federal register

Thursday
April 13, 1995

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Red Wolves in North Carolina and Tennessee; Revision of the Special Rule for Nonessential Experimental Populations; Final Rule

VOL
60
ISS
71
AP
13
1995
UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC03

Endangered and Threatened Wildlife and Plants; Revision of the Special Rule for Nonessential Experimental Populations of Red Wolves in North Carolina and Tennessee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends the special rule for the nonessential experimental populations of red wolves (*Canis rufus*) in North Carolina and Tennessee to; revise and clarify the incidental take provision; apply the incidental take provision to both reintroduced populations; revise the livestock owner take provision; apply the livestock owner take provisions to both reintroduced populations; add harassment and take provisions for red wolves on private property; revise and clarify the vaccination and recapture provision; and apply the same taking (including harassment) provisions to red wolves outside the experimental population area, except for reporting requirements.

EFFECTIVE DATE: April 13, 1995.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806.

Requests for the summary report on the 5-year experimental reintroduction at the Alligator River National Wildlife Refuge (Alligator River) should be sent to the Alligator River National Wildlife Refuge, P.O. Box 1969, Manteo, North Carolina 27954.

FOR FURTHER INFORMATION CONTACT: Mr. V. Gary Henry, Red Wolf Coordinator, at the above Asheville, North Carolina, address (Telephone 704/665–1195, Ext. 226).

SUPPLEMENTARY INFORMATION

Effective Date

The usual 30-day delay between date of publication of a final rule and its effective date may be waived for good cause, as provided by 50 CFR 424.18(b)(1) and the Administrative Procedure Act (5 U.S.C. 553(d)(3)). The Service finds that this period be waived for this rule as its immediate promulgation is necessary to avoid potential conflict between Federal provisions for the taking of red wolves on private property and corresponding State of North Carolina provisions that become effective on January 1, 1995.

Background

A proposed rule to introduce red wolves into Alligator River National Wildlife Refuge (Alligator River), Dare County, North Carolina, was published in the **Federal Register** July 24, 1986 (51 FR 26564). A final rule making a determination to implement the proposed action with some modifications was published November 19, 1986 (51 FR 41790). The red wolf population in Dare County and adjacent Tyrrell, Hyde, and Washington Counties was determined to be a nonessential experimental population according to section 10(j) of the Endangered Species Act of 1973, as amended (Act). A revision published November 4, 1991, added Beaufort County to the list of counties where the experimental population designation would apply (56 FR 56325). The status of the population was to be reevaluated within 5 years, and the process was to include public meetings.

A proposed rule to introduce red wolves into the Great Smoky Mountains National Park (Park), Haywood and Swain Counties, North Carolina; and Blount, Cocke, and Sevier Counties, Tennessee, was published in the **Federal Register** August 7, 1991 (56 FR 37513). A final rule making determination to implement the proposed action with some modifications was published November 4, 1991 (56 FR 56325). This population was also determined to be a nonessential experimental population according to section 10(j) of the Act. Graham, Jackson, and Madison Counties, North Carolina; and Monroe County, Tennessee, were also included in the experimental designation because of the close proximity of these counties to the Park boundary. The reintroduction potential of the Park was to be assessed after a 10- to 12-month experimental phase. A positive assessment would result in initiation of a permanent reintroduction attempt.

The red wolf is an endangered species that is currently found in the wild only as experimental populations on the Service's Alligator River and Pocosin Lakes National Wildlife Refuges and adjacent private lands in Dare, Hyde, Tyrrell, and Washington Counties, North Carolina; and in the Park in Swain County, North Carolina, and Blount and Sevier Counties, Tennessee; and as an endangered species in three small island propagation projects located on Bulls Island, South Carolina; Horn Island, Mississippi; and St. Vincent Island, Florida. These five carefully managed wild populations contain a total of approximately 60 animals. The remaining red wolves are located in 31 captive-breeding facilities in the United States. The captive population presently numbers approximately 180 animals.

Following are summaries of the results from the two experimental reintroductions. A more detailed summary for Alligator River is available (see **ADDRESSES** section) as Progress Report No. 6, entitled "Reestablishment of Red Wolves in the Alligator River National Wildlife Refuge, North Carolina, 14 September 1987 to 30 September 1992."

Alligator River 5-Year Summary

The 5-year experiment to reestablish a population of red wolves in Alligator River in northeastern North Carolina ended October 1, 1992.

From September 14, 1987, through September 30, 1992, 42 wolves (adults—10 males, 9 females; yearlings—1 female; pups—12 males, 10 females) were initially released on 15 occasions. Four releases were conducted in 1987, two in 1988, five in 1989, two in 1990, one in 1991, and one in 1992. As of September 30, 1992, there were at least 30 free-ranging wolves in northeastern North Carolina.

Animals were initially released as members of seven adult pairs, an adult and a yearling, an adult and a pup, five families, and one sibling pair. Adults are defined as animals 24 months or greater in age, yearlings are between 12 and 24 months of age, and pups are 12 months or less in age. Released adults ranged in age from 2.25 years to 7.33 years.

Wide-ranging movements that created management situations or led to the death of some animals soon after release were common. Of the 31 releases of adults and 22 releases of pups, 18 adults and 10 pups either had to be returned to captivity or died within 2 months. Length of acclimation, release area, location of resident wolves, and type of social group released all affected a wolf's probability of successfully establishing itself in the wild.

Of the 42 wolves released, 22 died; 7 were returned to captivity for management reasons; 11 were free-ranging through September 30, 1992; and the fates of 2 are unknown. Length of time in the wild varied from 16 days to 3.5 years.

Reintroduced wolves were killed by one of at least seven mortality factors. Vehicles (n = 8), intraspecific aggression (n = 5), and drownings (n = 4) were the most significant sources of mortality. It is a measure of the program's success that all but two of the deaths were natural or accidental, not as a result of any irresponsible action by a private citizen.

A minimum of 22 wolves were born in the wild. These animals were members of eight litters produced by 11 adults (6 males, 5 females). Two litters were produced in 1988, at least one in 1990, four in 1991, and at least one in 1992. No pups were born in the wild during 1989 because there were no adult pairs together during the breeding season.

Only two wild-born wolves died, and the fate of one is unknown. As of September 30, 1992, wild-born wolves accounted for 63 percent of the known population (19 of 30).

Of the 11 adults that bred in the wild, 1 was wild-born and 10 were captive-born. Wild-born offspring are evidence that captive-born-and-reared adults can make the transition from captivity to life in the wild.

As expected, wild-born pups exhibited wide-ranging movements as they dispersed from natal home ranges. These animals, with the exception of one female, traveled up to 192 km before establishing new home ranges on private land south or west of Alligator River. One female was killed by a vehicle before she established a new home range. Dispersal age ranged between 7 and 22 months. The youngest dispersers were siblings that left their natal home range after their parents were returned to captivity. Likewise, another female dispersed at a young age after her mother was returned to captivity. It is likely that some or all of these pups would not have dispersed had their families remained intact.

Twenty-four of the released wolves were recaptured 63 times, and 17 of the wild-born wolves were recaptured 39 times. Most recaptures were necessary in order to meet program objectives (replace radio collars, place a specific wolf with a mate, translocate an animal to a suitable site, etc.). Every management problem was resolved without inflicting significant long-term damage to animals and with little or no inconvenience to residents of the area.

Captive breeding was an integral component of the reintroduction. Since 1986, 79 wolves have been held in captivity at Alligator River for varying periods of time. As of September 30, 1992, 10 wolves were in captivity. During the 5-year experiment, 20 captive adult pairs produced 34 pups. With access to 12 pens, Alligator River will continue to be an important component of the red wolf captive-breeding program.

By almost every measure, the reintroduction experiment was successful and generated benefits that extended beyond the immediate preservation of red wolves to positively affect local citizens and communities, larger conservation efforts, and other imperiled species. During the last 5 years, four important points surfaced:

1. Since every management problem was resolved without inflicting long-term damage to animals and with little inconvenience to residents of the area, it is evident that red wolves can be restored in a controlled manner.

2. Significant land-use restrictions were not necessary in order for red wolves to survive. Indeed, hunting and trapping regulations for Alligator River remained unchanged or were further relaxed during the experiment. Additionally, no restrictions were needed in order for red wolves to survive on private land.

3. Red wolves and sportsmen can coexist. Many hunters and trappers expressed support, while others actively contributed to the success of the experiment by reporting sightings of red wolves.

4. The reintroduction area, which encompasses about 250,000 acres (111,750 hectares), probably cannot support 30 red wolves for an extended period of time. Dispersal outside the reintroduction area by wild-born red wolves has occurred and will continue. Efforts will be made to work with private landowners to allow wolves on private property. In addition to dispersal, the future of the red wolf population is threatened by its smallness; many events (e.g., disease outbreaks) can cause extinction of small populations.

Increasing the size of the wolf population minimizes threats to its survival. The primary factor limiting population size is the size of the reintroduction area. A larger reintroduction area would provide habitat for dispersing wolves and provide the Service with opportunities to release additional wolves. Fortunately, the reintroduction area can easily be enlarged by adding to the project the 112,000-acre (45,327-hectare) Pocosin Lakes National Wildlife Refuge (Pocosin Lakes). Purchased in 1990 and located in Washington, Tyrrell, and Hyde Counties, North Carolina, Pocosin Lakes is ideal for probably 15 to 25 wolves because of its large size, remoteness, abundant prey populations, and proximity to Alligator River.

Meetings with the public and local governments were held to present the results of the first 5 years and to solicit input on a proposal to maintain the current population and expand the reintroduction westward to encompass Pocosin Lakes beginning in 1993. The seven public meetings were held in the communities of Engelhard, Manteo, Stumpy Point, East Lake, Columbia, Swanquarter, Washington, and Plymouth. Attendance at these meetings ranged from 7 to 90 people at each and totaled 146 at all locations. Meetings were also held with the county commissioners in Washington, Dare, Beaufort, Tyrrell, and Hyde Counties.

Reintroductions are generally supported by local, State, and Federal agencies; elected officials; and the general public, except for some private landowners and the county boards of commissioners in Hyde and Washington Counties, North Carolina. Most people who commented supported the restoration project, although some expressed concern about the effect of red wolves on activities on private land. The Service assured them that, because free-ranging wolves are legally classified as members of an experimental nonessential population, the wolves would not negatively impact legal activities on private or Federal land.

Some citizens used the meetings to express frustration about other matters involving the Service. No significant complaints were voiced specifically about the red wolf reintroduction experiment. However, Hyde and Washington Counties did pass resolutions opposing red wolf project expansion. These resolutions seemed to be based on anti-government sentiment and a fear of prohibitions on private land use.

After consideration of the results from the 5-year experimental reintroduction and public input received in public meetings and meetings with State and local governments and agencies, the Service determined that it would maintain the present populations at Alligator River and has expanded this population with reintroductions at Pocosin Lakes beginning in 1993. The reintroductions at Pocosin Lakes are within counties previously designated for the experimental population and require no changes in the existing rule.

Park 1-Year Summary

On November 12, 1991, the Service, in cooperation with the National Park Service (Park Service), experimentally released a single family group of red wolves into the Cades Cove area of the Park. This release was designed to assess the feasibility of eventually establishing a self-sustaining red wolf population on Park Service and

VOL
60
ISS
71
AP
13
1995
UMI

surrounding U.S. Forest Service property. The experimental period ended in late September 1992 with the capture of the remaining three members of the release group.

Specific technical objectives of the experimental release were to document and respond to movements and activities of the wolves in mountainous terrain and in the presence of high human activity, livestock interests, and an increasing coyote population. However, another objective was to establish an informative and cooperative relationship with the involved agencies and local citizens. Through continuous telemetric contact, direct and relayed sightings, and the dedicated efforts of project personnel, valuable information was gathered with respect to all of these categories; some problems were encountered as well.

Cades Cove is unique within the Park; it possesses a great diversity and abundance of prey species, making it highly attractive to a large predator. As a result, the average home range for the four released wolves was 15 km² (3,700 acres), scarcely larger than Cades Cove itself. As yet, an accurate prediction of red wolf home ranges for habitat typical of the other 99.3 percent of the Park cannot be made. Wolves made exploratory movements up to 16 km (10 miles) from the release site. Individuals strayed off Park property (less than 5 miles or less than 8 km) four times. Twice they were recaptured within several hours, and twice they returned of their own accord within 24 hours. The primary prey species taken by the wolves were deer, rabbit, ground-hog, and raccoon. Samples are currently being analyzed for percentages and seasonal variation.

Wolves were sighted on numerous occasions by visitors and project personnel throughout the experiment. This was somewhat expected in an area where prey species are extremely visible and comfortable with the intense attention of as many as 15,000 visitors daily. However, the two adult wolves, especially the male, repeatedly tolerated people at close distances. This was attributed to the amount of time (e.g., 6 years for the male) that the adults had spent in captivity. The male was eventually recaptured and removed from the experiment in late January 1992. The female tolerated human presence to a lesser degree, but she presented no problems and was allowed to roam free for the duration of the experimental period. The two female pups were often sighted crossing roads or, at a distance, hunting in pastures. They developed an increasing wariness to human activity as they spent more time in the wild. The behaviors of these wolves support the theory that younger wolves, with minimal exposure to human contact, make better release candidates.

The private land surrounding the Park and throughout the Southern Appalachians supports a variety of livestock interests. The perceived potential economic threat of a large predator is perhaps the single greatest political barrier to establishing a self-sustaining red wolf population in the Southern Appalachians. The documentation and management of the wolves' interaction with domestic livestock is likely to be a major factor in deciding whether to expand the project. Thus, a $25,000 depredation account was established to compensate livestock owners for losses.

Throughout the experiment, the adult male was responsible for taking one chicken and three domestic turkeys in two separate incidents. The remaining three wolves took one of five injured or missing newborn calves. One additional depredation attempt occurred but did not result in injury to the calf. Reimbursements for the chicken and the calf totaled $253. Offers to reimburse for the turkeys were declined by the owner.

Cades Cove supports a 300-head black angus cattle-breeding operation, leased to a private stock owner. During the 6-month calving season, the wolves and calving operation were intensely monitored. The wolves were located disjunct from five of six attempted depredations. Day and night (using night-vision equipment) visual observations revealed cooperative hunting by small groups of coyotes. Nightly spotlight observations by the stock owner revealed continuous coyote activity in calving pastures. Accurate records of lost calves prior to the experimental release of wolves were not kept. Estimates by the stock owner indicated approximately five to ten calves per year were lost to bears, coyotes, and other predators/scavengers.

Of significance is that all of the six depredation attempts during the experimental release involved calves less than 1 week old, and all the events occurred along wood lines away from the main herd of cattle. Project personnel began assisting the stock owner in moving newborn calves into the main herd, and no further depredations by coyotes or wolves occurred.

Prior to the red wolf release, the Service contracted the University of Tennessee to conduct a census of coyotes in the Park and to study interactions between resident coyotes and released wolves. Seven coyotes were outfitted with telemetry collars and were monitored for 18 months, or until they permanently left the study area. Only one coyote remained "on the air" in Cades Cove by the time the wolves were released. This collar expired 3 months later. Interaction data was then gathered by direct observation.

Initial information indicated aggressive behavior between the adult wolves and resident coyotes, with the wolves apparently dominating. After the removal of the adult male wolf, greater numbers determined the dominating species.

In preparation for the experimental release, project and Park personnel met with area business, citizenry, and natural resource organizations for comment on the proposal. Modifications to the release plans included the addition of a "non-injurious harassment clause" to the experimental rule package, prevention of reproduction in the wild, immediate recapture of wolves straying off Park property, and recapture of all wolves at the end of the experiment.

To facilitate information exchange, an information committee (composed of representatives from Federal and State wildlife resource agencies, Farm Bureau Federations, and conservation organizations) was established. The Heartland Series, a local television environmental program, produced a documentary entitled "Front Runner," focusing on the reestablishment effort in the Southern Appalachians. The "Front Runner" video, a teacher's guide, and an activity poster were distributed free to all requesting educational institutions. The project gained national television exposure on "Zoo Life with Jack Hanna," a weekly public education broadcast. Presentations and workshops were given at wildlife exhibitions and to a variety of groups from elementary to college students and to senior citizens. Other media contact included interviews with local and regional newspapers, popular magazines, free-lance writers, and television news teams.

During the final weeks of the experimental period, the Service reviewed and presented their findings to the Park Service and members of the information committee. The decision was made to proceed with a full reintroduction effort at a very conservative pace, with two releases in the fall of 1992.

On October 9, 1992, a family of six red wolves (two adults, four pups) were released into Cades Cove. To date, these wolves have shown restricted movements and food habits very similar to the experimental group. Within several weeks after release, the adult pair had taken a large European wild hog—an exotic species in the Park.

On December 9, 1992, a second group of six wolves (two adults, four pups) was released from a remote backcountry site several miles east of Cades Cove. It is expected that these animals will be more difficult to track. However, they will provide needed information about the home range requirements of red wolves in habitat that is typical of the vast majority of the Park and surrounding Federal lands.

All released wolves will wear transmitters and will be monitored as closely as the experimental group. There are no scheduled plans to recapture these animals, except to replace aging transmitters in approximately 2 to 3 years.

The possibility of expanding the Park reintroduction to include adjacent national forest lands within the Nantahala and Pisgah National Forests in North Carolina, the Cherokee National Forest in Tennessee, and the Chattahoochee National Forest in Georgia will be evaluated over the next few years. This evaluation will include meetings with congressional representatives, State wildlife and agriculture agencies, Farm Bureau Federations, local agriculture and hunting interests, conservation organizations, county commissioners, and a variety of local organizations. A final decision will be made after public meetings in the local areas where reintroductions are proposed.

Special Rule Changes for Both Reintroductions

In the period since publication of the special rules for the experimental population introduced on Alligator River and the Park, published in the **Federal Register** on November 19, 1986 (51 FR 41796) and November 4, 1991 (56 FR 56333), it has become apparent that changes are needed in the rule for these populations. These changes will also provide consistency by treating both reintroductions the same.

The provision for taking red wolves incidental to lawful recreational activities (50 CFR 17.84(c)(4)(ii)) is revised and clarified by this final rule. Current policy at Alligator River applies this provision to all lawful activities, not just to recreational activities. For example, 11 wolves (includes 8 within the 5-year experimental release) have been killed by vehicles not involved in recreational pursuits, but certainly otherwise lawful. No problems have been encountered at Alligator River in the application of a more liberalized provision. Therefore, the Service deletes the word "recreational." In addition, incidental take was defined at Alligator River as "unavoidable, unintentional, and not resulting from negligent conduct lacking reasonable due care." This definition is changed for clarification and is included in the incidental take provision of the special rule.

The Service revised the rule for the Park reintroduction, based on input by the North Carolina Farm Bureau Federation which stated that livestock owners should be allowed to take red wolves engaged in livestock depredation. The Tennessee Citizens for Wilderness Planning supported the revision. The final rule permitted private livestock owners to harass red wolves actually engaged in the pursuit or killing of livestock on private lands. Such conflicts must be reported to the superintendent of the Park. Service or State officials will respond to these conflicts within 48 hours and attempt to live-capture the offending animals. If an early response by the Service or State officials results in a failure to capture offending animals, the livestock owner will be permitted to take the offending animal.

These provisions worked well in all five depredation incidents recorded the first year. Offending animals were recaptured, when necessary, and in at least two of the instances, private landowners did harass the animals away but did not take offending animals. Including the experimental release in 1991, there have been 17 incidents of animals moving out of the Park onto private lands. In three incidents, they returned on their own; in the other 14 incidents, they were recaptured. No indication of abuse of these provisions were encountered in these incidents. However, experience with offending animals has indicated potential problems.

It is highly objectionable to owners of livestock and pets to be unable to kill a predator that is engaged in killing their livestock or pets. This, in turn, leads to the erosion of public support for predator reintroductions, which is essential if this effort is to be successful. Also, there may be a time lapse before offending animals settle into a predictable pattern whereby they can be recaptured. During this time period, private landowners will not be allowed to take the animals themselves. The Service will respond to reported incidents within 48 hours. However, the existing special rule (§ 17.84(c)(4)(iv)) does not establish a definitive time when Service or State attempts to recapture the animal are deemed unsuccessful and the private landowner is then permitted to take the offending animals. This is a decision that must be made by the Service project leader or biologist in the field at the depredation location. Therefore, a rule revision provides that private landowners will be permitted to take offending animals upon written approval by the Service project leader or biologist on site of the depredation. This approval will be provided when the Service abandons attempts to capture the offending animal and will specify the authorized personnel (landowner and a limited number of his agents), the number of animals, and the time period (not to exceed 6 months). Also, private landowners will be allowed to take red wolves in the act of killing livestock or pets on private lands without the need for Service approval.

Experience at Alligator River and the Park indicates a need to extend the harassment and take provisions now in place for private livestock owners to include all private landowners. Wolves that come in close proximity to private residences may cause property damage by killing pets or removing and/or physically defacing small property items. In addition, private individuals may not want the animals on their property because they fear them or consider them a nuisance. Although currently not covered by such rule provisions, these stipulations have been implemented as reasonable law enforcement procedures. To date, there have been at least 15 incidents where animals on private property were harassed by private individuals. The special rule is revised to provide the legal basis for a provision now being implemented as a reasonable procedure.

Currently, there are at least 12 red wolves once present at Alligator River whose fate is unknown. Three of these wolves were observed but never captured. Transmitters malfunctioned on the other eight wolves. One animal, whose transmitter malfunctioned in December 1989, would now be 7 years old. The remaining 11 animals are 1 to 3 years of age, and contact with them was lost in 1991, 1992, or 1993. As wolves are great wanderers, it is possible that some of these five animals may have dispersed outside the experimental population boundaries (which could also happen with future animals). There is no possibility of such dispersing wolves mixing with populations of red wolves that have been classified as endangered, because the only existing red wolves in the wild are those introduced as experimental populations (and offspring) or those introduced (and offspring) onto isolated islands for propagation purposes. As a

VOL 60 ISS 71 AP 13 1995 UMI

result, animals dispersing outside the experimental population boundaries will not contribute to the conservation of the species.

As other resident wild canid populations are hunted and trapped, it is possible for a dispersing red wolf to be taken incidental to such lawful activities. Dispersing red wolves could also enter upon private property or attempt to kill livestock or pets. Providing greater protection for dispersing red wolves than that provided for red wolves within the experimental population boundaries would seriously erode the public support that is so essential for the success of reintroductions. Therefore, the special rule is revised to apply the same taking provisions to red wolves outside the experimental population boundaries as within, with one exception. This exception is that taking does not need to be reported to the refuge manager or Park superintendent. Such reporting will be encouraged to the degree possible, but it will not be required. It is impractical to inform the general population of such requirements outside the localized experimental population boundaries, and red wolves taken are not likely to be recognized as red wolves, even after such taking occurs and an animal is in hand.

The proposed rule for Alligator River provided for any person to take red wolves incidental to lawful recreational activities (51 FR 26564). Objections to this provision from the Defenders of Wildlife, the National Audubon Society, the Humane Society of the United States, and the National Wildlife Federation, based on lack of necessity and risk of misinterpretation, resulted in its deletion from the final rule. Instead, the enforcement policy of the Service was clarified in the preamble to the final rule to the effect that there would be no penalty for taking incidental to otherwise lawful activity providing the taking was unavoidable, unintentional, and did not result from negligent conduct lacking reasonable due care, and providing the taking was immediately reported to the refuge manager. Experience at Alligator River did detect a need for this provision and did not detect any misinterpretation of the policy by private citizens. Eleven red wolves were killed by vehicles; one wolf was killed in a trapping incident; and two were shot, one close to a private residence. The vehicle deaths were interpreted as incidental to lawful activity, which required little investigation. The trapping and shooting incidents were investigated and settlements were reached in two cases. In addition, the incidental take provision originally proposed and then deleted at Alligator River was included in the final rule for the Park. No taking of red wolves has occurred despite several instances of wolves visiting and having been seen on private lands. Therefore, this is additional evidence that the provision is not being misinterpreted by private individuals in order to indiscriminately take red wolves. As now promulgated for Alligator River, the incidental taking provision is ambiguous. The language used for defining incidental take under § 17.84(c)(4)(i) used the terms "unavoidable", "unintentional," and "lack of reasonable due care," which are subject to differing legal interpretations. Therefore, for this final rule the Service changes the provisions by stating that only intentional or willful take will be prosecuted on private lands. The final rule does not change the standard for lands owned or managed by Federal, State, or local government agencies.

The basic premise is that a red wolf that is incidentally taken in any type of legal activity on private lands will not be a violation of the special rule. However, a higher standard of conduct is expected on public lands, where the conservation of red wolves is an objective.

This incidental taking provision places trust in the public to be responsible citizens by obeying the special rule. The Service intends to revisit this issue to determine if excessive taking of red wolves is occurring because of the revised special rule.

Extensive review of the special rule during preparation of proposed and final revisions detected additional needs for clarification. The current special rule (§ 17.84(c)(10)) provides for the close monitoring of reintroduced populations, vaccination against diseases prior to release, and immediate recapture of wolves that need special care or that move off of Federal lands. Early in the project all animals were vaccinated because the entire population consisted of released animals. As the project progressed, released wolves and their progeny reproduced and expanded their range and population.

Obviously, vaccination cannot be implemented for wild wolves that have never been captured. Therefore, the special rule is clarified by revising the statement to the effect that all "released or captured" wolves will be vaccinated. At present, most wolves are vaccinated because the majority of wolves born in the wild are eventually captured. However, as populations continue to expand, the percentage of wolves that have not been captured will increase. Rule modifications also recognize that it may be impossible to capture some wolves. However, other provisions provide for the control of wolves that are causing conflicts but cannot be captured.

The intent of the special rule regarding the recapture of wolves leaving Federal lands was that it would be implemented only when such wolves caused conflicts and/or the landowner wanted the wolves removed. This intent is not clear. Red wolves had established themselves on private lands within 2 years (1989) of the first reintroduction releases, and several private landowners have agreed to allow the wolves to inhabit their property. Obviously, there is no need to remove wolves from private lands when the landowner has no problem with the wolves being there. Therefore, the special rule is modified to provide that all landowner requests to remove wolves from their property will be honored, but wolves that inhabit lands where the landowner agrees to allow them to reside will not be recaptured unless they cause a conflict.

Special Rule Changes for Alligator River

Experiences at Alligator River indicate that a need exists for application of the private landowner harassment and take provisions to this population as well. Twenty-seven incidents have been reported at Alligator River, some of which probably did not involve red wolves. The provisions could have been utilized in some of these incidents and may have altered the final outcome in a positive manner with regard to reducing adverse impacts and increasing public support. As these provisions have worked well in incidents in the Park population, with no difficulties encountered in their interpretation or application, this rule will extend these provisions to the Alligator River population.

The proposed rule called for the addition of Martin and Bertie Counties as a buffer zone. However, after further consideration, the Service has determined that this addition lacks sufficient justification and the counties are not being added to the designated reintroduction area (see Issue 7 in the following section).

Summary of Comments and Recommendations

In the November 24, 1993, proposed rule (58 FR 62086), all interested parties were requested to submit comments or recommendations that might contribute to the development of a final rule. Appropriate county, State, and Federal agencies; scientific, environmental, and

land use organizations; and other interested parties were notified and requested to submit questions or comments on the proposed rule. On December 6, 1993, the Service mailed copies of the proposed rule to 270 persons and organizations. A 30-day comment period was provided. Nine comments were received, including three from individuals, three from State agencies and organizations, and three from national agencies and organizations. Six of the nine respondents took the opportunity to comment on the reintroductions; there were three who supported the reintroductions and three who did not. The three responses supporting the reintroductions were from two individuals and one national organization. The three responses not supporting the reintroductions were from one State agency (North Carolina Department of Agriculture), one State organization (North Carolina Farm Bureau Federation), and one individual.

Comments received are presented below as a series of issues, with each being followed by the Service's response.

Issue 1: The North Carolina Department of Agriculture and the North Carolina Farm Bureau Federation specifically addressed their nonsupport with regard to the expansion of the Alligator River reintroduction to Pocosin Lakes. Also, the one individual voicing nonsupport was located in the expansion area.

Service Response: Pocosin Lakes did not exist in 1986 when regulations were finalized for the reintroduction of red wolves at Alligator River. The final rule stated that the project would be reevaluated after 5 years and such reevaluation would include public meetings. The result of the reevaluation, which included public meetings, was to expand the reintroduction project to Pocosin Lakes. This was a logical decision based on the success of the reintroduction to that point in time, the establishment of Pocosin Lakes as one of our national wildlife refuges which are mandated to conserve and recover endangered species, and the location of Pocosin Lakes within the existing experimental population boundaries established in the final rule of November 19, 1986 (51 FR 41790). The reintroductions per se have previously been through the rulemaking process and are outside the scope of this revision to the existing rule.

Issue 2: One individual was opposed, in general, to classifying endangered animals as nonessential experimental and, within this designation, relaxing protection for them. This individual favored more, not less, protection and wondered why the provisions would be extended to animals outside the experimental population areas and if the provisions would apply in the future to the island propagation sites.

Service Response: The provisions for classifying listed species as nonessential experimental were provided by 1982 amendments to the Act. These provisions were designed to resolve the dilemma of significant local opposition to translocation efforts due to concerns over the rigid protection and prohibitions surrounding listed species under the Act. The resolution was to provide new administrative flexibility for selectively applying the prohibitions of the Act to experimental populations. Final regulations establishing procedures for designation of experimental populations, determination of such populations as "essential" or "nonessential," and promulgation of appropriate protective regulatory measures were published in the **Federal Register** on August 27, 1984 (49 FR 33885). These provisions were necessary to obtain public support for attempts to reintroduce red wolves and were, therefore, an essential ingredient in success at reestablishment of the species. Prior to these provisions, attempts to reintroduce red wolves and other endangered species, particularly predators, were routinely unsuccessful because of local opposition.

The reasons for extending the provisions of this rule to animals outside the experimental population boundaries are believed to be adequately explained in the Background section of this rule. These provisions do not apply to the island propagation projects, and the Service has no intention of declaring these animals nonessential experimental in the future.

Issue 3: Responses from the North Carolina Wildlife Resources Commission (Commission), North Carolina Department of Agriculture (Department), and North Carolina Farm Bureau Federation (Federation) addressed the reporting requirements. The Department and Federation believe that livestock owners should be allowed to take red wolves engaged in depredation without notifying the Service and awaiting recapture attempts. At the other extreme, the Humane Society of the United States (Society) wants no provision for private citizens to take red wolves for any purpose. The Commission recommended that "immediately" be defined as 5 business days, and the Commission and Federation recommended that "immediately" be deleted from the provision for taking outside the designated experimental population area. The Commission also pointed out that local residents are more familiar with and are more likely to call the local State wildlife enforcement officer through an available toll free number.

Service Response: The Service agrees to delete the word "immediately" from the provision for taking outside of the designated experimental population area because the intent was to delete reporting requirements altogether. In addition, the term "immediately" has been replaced by "within 24 hours" for areas within the experimental population areas. It is important to report taking and harassment incidents quickly so that Service personnel can respond right away in order to minimize conflicts and retrieve any carcasses for necropsy before such carcasses deteriorate to the degree that necropsy results are compromised. Five days, as recommended by the Commission, would not allow such a quick response. Telephone access is such that reporting incidents within 24 hours should pose no burden on the public.

Changes are made to allow private landowners to take wolves that are in the act of killing livestock or pets prior to reporting such incidents to the Service.

The Service contacted the Tennessee Wildlife Resources Agency to obtain approval to also list the local State wildlife enforcement officer in that State as a contact for meeting the reporting requirements. Such approval was received, and this change, as recommended by the Commission, has been made. The State enforcement officer will, in turn, notify the Park superintendent or refuge manager so that Service personnel can respond to such incidents.

Issue 4: The Commission, Society, Federation, and American Sheep Industry Association (Association) commented on the incidental taking provision. The Federation supported the inclusion of lawful activities, other than recreational, in the provision. The Commission recommended that "incidental" be defined as "unavoidable, unintentional, *or* not resulting from negligent conduct, taking reasonable due care" in order to prevent the prosecution of well-intentioned citizens who may kill a red wolf, believing it to be a coyote. The Society, on the other hand, believes that the broad definition will invite abuse. The Association was concerned about whether the provision would be applied to livestock owners outside the Park, as well as inside, and who would make the decision on negligent conduct.

VOL
60
ISS
71
AP
13
1995
UMI

Service Response: The Service found it necessary to change the language in this provision to clarify the intent and to remove any ambiguity. Experience during the past several years indicates that direct human-induced red wolf mortality is rare. The Service has therefore determined that it is appropriate to modify the language of the special rule to implement section 9 provisions for the red wolf by limiting the section 9 prohibition on private lands to cover intentional and willful taking only. Unlike the protection afforded all endangered and most threatened species, this provision will make the taking of a red wolf on private lands a specific intent crime. This provision will apply to all private landowners. The concept of a general intent violation (i.e. avoidable take or take through mistaken identity) that was present in the earlier rule is now used only on lands owned or managed by Federal, State, or local government agencies.

Issue 5: In addition to comments addressed under reporting requirements, the Association's comments indicated overall support for the provision but recommended that a maximum of 48 hours Service response time be included and that the biologist "on site of the depredation" give approval in a reasonable time period. The Commission recommended that approval be given within 5 days and that takings be reported to the Service project leader or biologist. The Federation also supported expanding the harassment provisions to private individuals around residences. However, the Department and the Federation felt that the take provisions did not go far enough in protecting the interests of livestock owners and thought that a time period should be specified for approval of livestock owners to "take" offending animals. As indicated in the comments on reporting requirements, the Society recommends that private citizens not be allowed to take red wolves for any reason and that other provisions in the rule are sufficient to protect private residences without allowing the taking of animals by private citizens. The Society also believes private citizens should have the responsibility to protect pets and private property from wildlife.

Service Response: The Service has revised the provision to allow private landowners to harass wolves in an opportunistic manner at any time on their property and to take such animals with Service approval if the Service's attempts to take the animals are unsuccessful. Notification would allow the Service to remove the offending animals, which are still valuable to the recovery objectives as breeding animals. If unsuccessful in removing the animals, the Service will permit the landowner to take action to remove any returning animals. The provision has also been revised to make it clear that the Service project leader or biologist on site of the depredation will provide approval to the private landowner and has indicated in the previous sections explaining the rule changes that such approval will be provided when the Service abandons attempts to capture the offending animal. A definite time period for such approval cannot be provided because of the variation in individual wolf behavior; e.g., one wolf may stay in the vicinity or return daily, while others may not return for days. The Service also adopts the 48-hour Service response time to reported incidents, as recommended and indicated in the previous sections explaining the rule changes. The Service project leader or biologist has been added as a contact for reporting any taking, although it was intended that reports to this individual would meet the provision as previously stated, because the Service project leader or biologist serves as the representative of the Park superintendent or refuge manager.

While the position of the Society regarding responsibility of private citizens to protect pets and property is reasonable with regard to naturally occurring wildlife species, programs to purposely reintroduce predators, such as the red wolf, must be accompanied by provisions to protect private property from the presence of such reintroduced animals if the landowner does not want them on his property. Such protection is necessary in order to obtain local public support, which is essential to success. Without such support, reintroductions are doomed, because the animals can be efficiently eliminated, as evidenced by past history.

Issue 6: The Federation did not understand the need to list the North Carolina counties as part of the historic range of the species and stated that it should be presented in the information section unless it is absolutely necessary to establish the nonessential experimental use population designation.

Service Response: The Service believes that it is helpful to establish experimental population boundaries for reintroduction efforts.

Issue 7: The Commission objected to the addition of any counties to the experimental population area because (1) it would increase the public's perception of "government land-grabbing" and (2) it is unnecessary since the provisions for red wolves within the designated experimental population area will also be applied to red wolves outside the designated experimental population area, except for reporting requirements.

The Association expressed concerns that as red wolves continue to disperse from "core areas," the areas will increase in size and more private property will be brought under the experimental population designation. The Association also expressed concerns that the provision for allowing the "take" of red wolves under certain circumstances on property outside the buffer zone will eventually be removed.

Service Response: The proposed addition of Martin and Bertie Counties was to provide a buffer around the release area. Although red wolves would not be released in these counties, their proposed addition, for management purposes, was because of their close proximity. The Service would expend efforts within these counties to provide information on the project and would quickly respond and handle any problems caused by dispersing red wolves. Such rapid response would necessitate the reporting of such problems to the Service as soon as possible. Because the Service will be monitoring the animals and will be contacting individual landowners regarding the capture of dispersing animals, the more intensive broad-scale management within the counties may not be necessary. Therefore, the Service agrees to not designate additional counties for the experimental population area.

The Service has no intention of removing the "take" provisions on property outside the buffer zone. Reintroduced red wolves will continue to be managed as experimental populations until the recovery objective of 220 red wolves in the wild is met. At that time, the species would be delisted and managed as a resident species by the State.

National Environmental Policy Act

Environmental assessments were prepared under the authority of the National Environmental Policy Act of 1969 and are available for inspection by the public at the Service's Asheville Field Office (see **ADDRESSES** section). These assessments formed the basis for a decision that these actions are not major Federal actions which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (implemented at 40 CFR Parts 1500–1508). These minor rule changes do not require revision of the environmental assessments.

Executive Order 12866, Paperwork Reduction Act, and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The Fish and Wildlife Service has determined that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354). No private entities will be affected by this action. The rule does not contain any information collection or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Author

The principal author of this final rule is V. Gary Henry (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544, 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entries for red wolf to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS:							
.	.	.	.		.		.
Wolf, red	*Canis rufus*	U.S.A. (SE U.S.A., west to central TX).	Entire, except where listed as Experimental Populations below	E	1, 248, 449, 579	NA	NA
do	do	do	U.S.A. (portions of NC and TN—see § 17.84(c)(9))	XN	248, 449, 579	NA	17.84(C)
.	.	.	.		.		.

3. Section 17.84 is amended by revising paragraphs (c)(4), (c)(9)(i) and (c)(10) of the section to read as follows:

§ 17.84 Special rules—vertebrates.

* * * * *

(c) * * *

(4)(i) Any person may take red wolves found on private land in the areas defined in paragraphs (c)(9) (i) and (ii) of this section, *Provided* that such taking is not intentional or willful, or is in defense of that person's own life or the lives of others; and that such taking is reported within 24 hours to the refuge manager (for the red wolf population defined in paragraph (c)(9)(i) of this section), the Park superintendent (for the red wolf population defined in paragraph (c)(9)(ii) of this section), or the State wildlife enforcement officer for investigation.

(ii) Any person may take red wolves found on lands owned or managed by Federal, State, or local government agencies in the areas defined in paragraphs (c)(9) (i) and (ii) of this section, *Provided* that such taking is incidental to lawful activities, is unavoidable, unintentional, and not exhibiting a lack of reasonable due care, or is in defense of that person's own life or the lives of others, and that such taking is reported within 24 hours to the refuge manager (for the red wolf population defined in paragraph (c)(9)(i) of this section), the Park superintendent (for the red wolf population defined in paragraph (c)(9)(ii) of this section), or the State wildlife enforcement officer for investigation.

(iii) Any private landowner, or any other individual having his or her permission, may take red wolves found on his or her property in the areas defined in paragraphs (c)(9) (i) and (ii) of this section when the wolves are in the act of killing livestock or pets. *Provided* that freshly wounded or killed livestock or pets are evident and that all such taking shall be reported within 24 hours to the refuge manager (for the red wolf population defined in paragraph (c)(9)(i) of this section), the Park superintendent (for the red wolf population defined in paragraph (c)(9)(ii) of this section), or the State wildlife enforcement officer for investigation.

(iv) Any private landowner, or any other individual having his or her permission, may harass red wolves found on his or her property in the areas defined in paragraphs (c)(9) (i) and (ii) of this section, *Provided* that all such harassment is by methods that are not lethal or physically injurious to the red wolf and is reported within 24 hours to the refuge manager (for the red wolf population defined in paragraph (c)(9)(i) of this section), the Park superintendent (for the red wolf population defined in paragraph (c)(9)(ii) of this section), or the State wildlife enforcement officer, as noted in paragraph (c)(6) of this section for investigation.

(v) Any private landowner may take red wolves found on his or her property in the areas defined in paragraphs (c)(9) (i) and (ii) of this section after efforts by project personnel to capture such animals have been abandoned, *Provided* that the Service project leader or biologist has approved such actions in writing and all such taking shall be reported within 24 hours to the Service project leader or biologist, the refuge manager (for the red wolf population defined in paragraph (c)(9)(i) of this section), the Park superintendent (for the red wolf population defined in paragraph (c)(9)(ii) of this section), or the State wildlife enforcement officer for investigation.

(vi) The provisions of paragraphs (4) (i) through (v) of this section apply to red wolves found in areas outside the areas defined in paragraphs (c)(9) (i) and (ii) of this section, with the exception that reporting of taking or harassment to the refuge manager, Park superintendent, or State wildlife enforcement officer, while encouraged, is not required.

* * * * *

VOL 60 ISS 71 AP 13 1995 UMI

(9)(i) The Alligator River reintroduction site is within the historic range of the species in North Carolina, in Dare, Hyde, Tyrrell, and Washington Counties; because of its proximity and potential conservation value, Beaufort County is also included in the experimental population designation.

* * * * *

(10) The reintroduced populations will be monitored closely for the duration of the project, generally using radio telemetry as appropriate. All animals released or captured will be vaccinated against diseases prevalent in canids prior to release. Any animal that is determined to be in need of special care or that moves onto lands where the landowner requests their removal will be recaptured, if possible, by Service and/or Park Service and/or designated State wildlife agency personnel and will be given appropriate care. Such animals will be released back into the wild as soon as possible, unless physical or behavioral problems make it necessary to return the animals to a captive-breeding facility.

* * * * *

Dated: December 27, 1994

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–9291 Filed 4–12–95; 8:45 am]

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Federal Register

Vol. 60, No. 71

Thursday, April 13, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3
16979–17190	4
17191–17432	5
17433–17624	6
17625–17980	7
17981–18342	10
18343–18538	11
18539–18726	12
18727–18948	13

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

6781 17979
6782 17981
6783 18537
6784 18707
6785 18725

5 CFR

Ch. LII 17625

Proposed Rules:

316 17655

7 CFR

97 17188
201 16979
272 17628
273 17628
301 18727
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434
1050 18343
1126 17191
1131 17192
1413 17984
1427 17984

Proposed Rules:

250 18781
335 18374
956 17274
981 17466

9 CFR

77 18728
92 17634
327 18540

Proposed Rules:

391 18551

10 CFR

2 18344
436 18326
600 17985

Proposed Rules:

70 18035
52 ..... 17902, 17924, 17947
170 18882
171 18882
430 18782

11 CFR

100 17193
104 17193
113 17193

12 CFR

3 17986
208 17436
215 17635
226 16771
400 17625

Proposed Rules:

792 18036

13 CFR

107 17438

14 CFR

25 17194
39 ..... 16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729
71 ..... 17196, 17442, 18346
97 ..... 17198, 17199

Proposed Rules:

39 ..... 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376
71 ..... 17284, 18038, 18552
91 18700
135 18700

15 CFR

771 18731
779 18731

16 CFR

1700 17992

Proposed Rules:

248 17032
409 17491
436 17656
460 17492
1700 17660

17 CFR

200 17201
400 18733
403 18733
405 18733
449 ..... 18733, 18734

Proposed Rules:

239 17172
270 17172
274 17172

18 CFR

284 16979

Proposed Rules:

35 17662
141 17726
388 17726

19 CFR

7 18347

VOL 60 ISS 71 AP 13 1995 UMI

10.....18542
11.....18347
12.....18347
18.....18347
19.....18347
24.....18347
54.....18347
101.....18347
102.....18347
111.....18347
114.....18347
123.....18347
128.....18347
132.....18347
134.....18347
141.....18347
145.....18347
146.....18347
148.....18347
151.....18347
152.....18347
177.....18347
181.....18347
191.....18347

Proposed Rules:
Ch. I.....18783

20 CFR
404.....17443

Proposed Rules:
Ch. III.....17731

21 CFR
20.....16962
73.....18736
101.....17202
176.....18349
178.....18349, 18352, 18739
310.....17611
558.....18740
876.....17208
1310.....17636

Proposed Rules:
876.....17611

22 CFR
514.....16785

23 CFR
655.....18520

24 CFR
215.....17388
236.....17388
570.....17445
813.....17388
905.....17388, 18174
913.....17388
950.....18174
3500.....16985

Proposed Rules:
29.....17968

26 CFR
1.....17216, 18741, 18742
602.....18742

Proposed Rules:
1.....17286, 17731, 18377, 18378

27 CFR
55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:
1Ch. I.....18783
53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR
0.....17456
2.....18353

Proposed Rules:
2.....18378, 18379
16.....18784

29 CFR
580.....17221

30 CFR
903.....18710
914.....16985, 17637
915.....17458
934.....18744
938.....16788

Proposed Rules:
Ch. I.....18044
901.....18044
902.....17495
904.....17498
906.....17501
913.....17734
914.....17736
915.....17504
916.....17504
917.....17739
918.....17498
920.....18046
924.....18044
925.....17504
926.....17495
931.....17501
934.....17495
935.....17741, 18380
936.....17498
938.....18046
943.....17498
944.....17501
946.....17743
948.....18381
950.....17495

32 CFR
290.....18005
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:
63.....17507
247.....18049

33 CFR
3.....17222
117.....18006
154.....17134
155.....17134
162.....16793
165.....16793, 18008
334.....18543

Proposed Rules:
Ch. I.....17287
100.....18785
117.....18061
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR
350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR
7.....17639
13.....18532

Proposed Rules:
215.....18886
217.....18886
219.....18886

37 CFR
1.....16920

38 CFR
2.....18354
3.....18354

39 CFR
20.....18009
265.....17224

Proposed Rules:
232.....17287

40 CFR
9.....17100, 18009
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
76.....18751
77.....17100
78.....17100
81.....16996
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547
185.....18547
186.....18547
258.....17649
260.....17001
271.....18356, 18358, 18360, 18364
300.....16808, 17004
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:
Ch. I.....17288
51.....17509
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385
55.....17748, 18787
58.....17509
63.....16829, 16920, 18071, 18078
70.....17750, 18790
72.....18472
76.....18792
81.....17034, 17756
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562
185.....18562
186.....18560, 18562
300.....18565
372.....16830
761.....17510
799.....18079

41 CFR
101–20.....17653

43 CFR
12.....17237

Proposed Rules:
426.....16922
427.....16922
3100.....18081

Public Land Orders:
7131.....18030
7132.....18777
7133.....18777
7137.....18778

44 CFR
64.....17005
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:
65.....17758
67.....17035, 17042

45 CFR

Proposed Rules:
2544.....17761

46 CFR
12.....17134
13.....17134
15.....17134
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:
Ch. I.....17287
Ch. II.....17763
67.....17290
90.....18793
97.....18793
148.....18793

47 CFR
2.....18778
73.....17023, 17253

Proposed Rules:
1.....17294
63.....17763

73.....17048, 18793

48 CFR
915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023

Proposed Rules:
Ch. V.....17764
6.....17295
12.....17184
16.....17295
32.....18794
52.....17184, 17295, 18794

49 CFR
173.....17398
178.....17398
180.....17398
552.....17254
554.....17254
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:
Ch. I.....17049
Ch. II.....18390
190.....17295
191.....17295
192.....17295
193.....17295
194.....17295
195.....17295
196.....17295
197.....17295
198.....17295
199.....17295
234.....17770
571.....18566

50 CFR
17.....18940
650.....17272
655.....17464
663.....16811
672.....17465
675.....17028, 17653

Proposed Rules:
Ch.VI.....17770
17.....16836, 17296
625.....18795
641.....17511
642.....18391
655.....18391
675.....17512

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 831/P.L. 104–7

To amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes. (Apr. 11, 1995; 109 Stat. 93; 4 pages)

Last List April 12, 1995

NEW EDITION

VOL
60
ISS
71
AP
13
1995
UMI

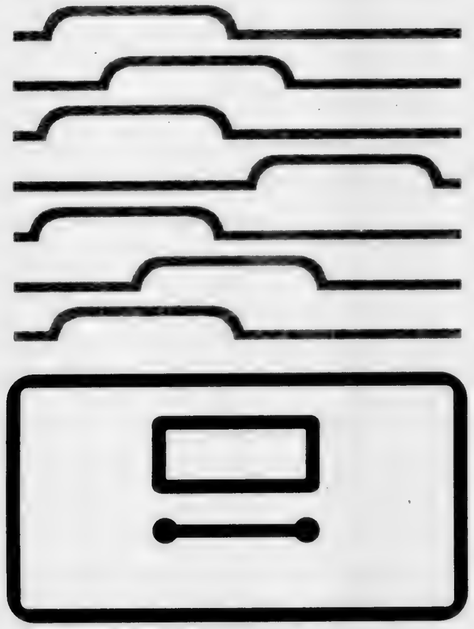

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in the Code of Federal Regulations (CFR)

Revised January 1, 1994

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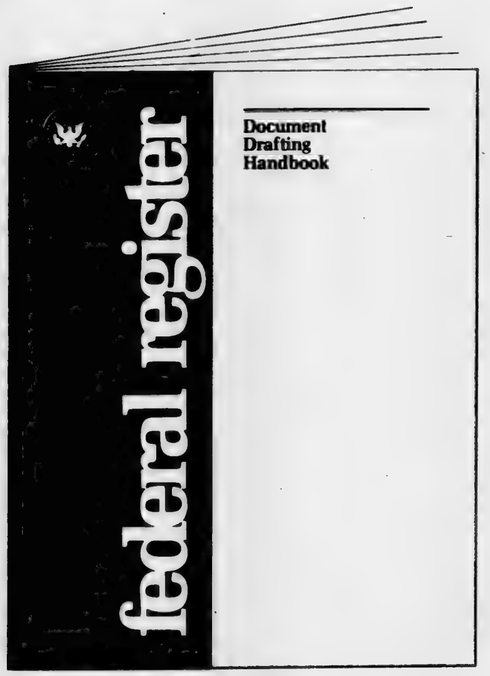

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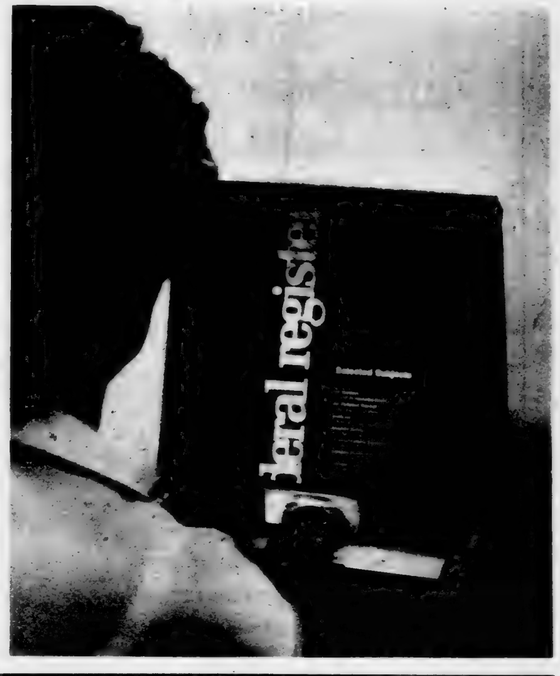

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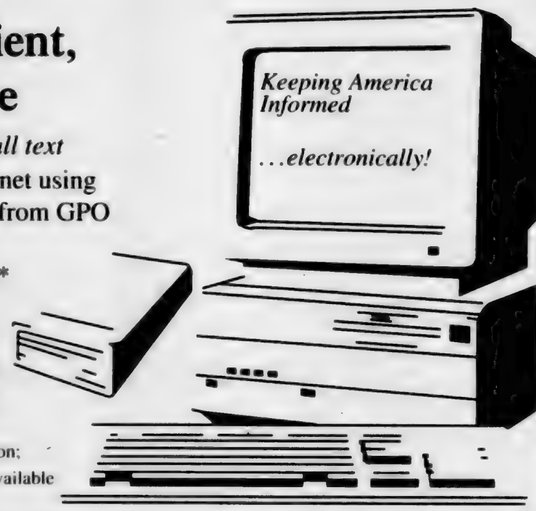

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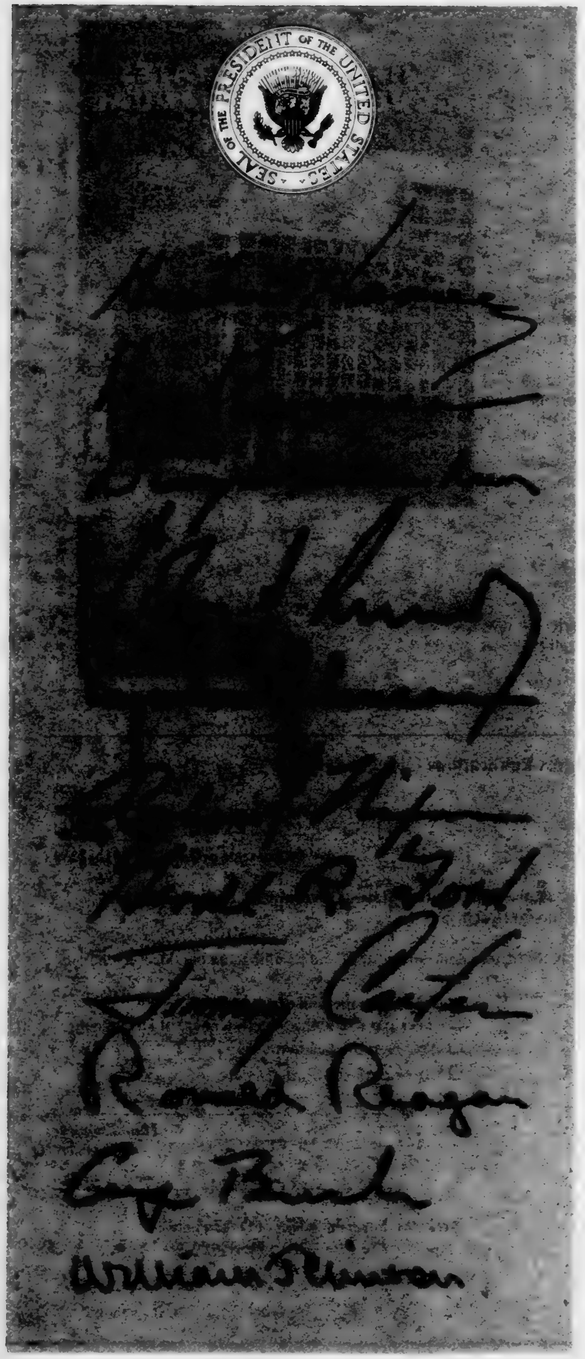

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72
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Contents

Federal Register
Vol. 60, No. 72
Friday, April 14, 1995

Agricultural Marketing Service
RULES
Milk marketing orders:
New England et al., 18952–18981
Spearmint oil produced in Far West, 18950–18952

Agricultural Research Service
NOTICES
Meetings:
National Genetic Resources Advisory Council, 19014

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service
See Cooperative State Research, Education, and Extension Service
See Federal Crop Insurance Corporation
See Forest Service
See Natural Resources Conservation Service
NOTICES
Agency information collection activities under OMB review, 19014

Alcohol, Tobacco and Firearms Bureau
RULES
Violent Crime Control and Law Enforcement Act; implementation
Correction, 19117

Army Department
NOTICES
Environmental statements; availability, etc.:
Military Ocean Terminal, NC; deep draft dredging, 19029

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Children and Families Administration
NOTICES
Agency information collection activities under OMB review, 19070
Grants and cooperative agreements; availability, etc.:
Toxic Substances Control Act and job opportunities for low-income individuals and urban and rural community economic development discretionary programs, 19120–19149

Civil Rights Commission
NOTICES
Meetings; Sunshine Act, 19115

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 19026–19027

Consumer Product Safety Commission
NOTICES
Settlement agreements:
Giant Bicycle, Inc., 19027–19029

Cooperative State Research, Education, and Extension Service
NOTICES
Meetings:
Forestry Research Advisory Council, 19014–19015

Customs Service
RULES
North American Free Trade Agreement (NAFTA):
Express consignments; formal and informal merchandise entries ; administrative exemptions, 18983–18991
NOTICES
Nonwoven disposable polypropylene protective coveralls (1.25 ounce); tariff classification, 19111–19112

Defense Department
See Army Department
See Uniformed Services University of the Health Sciences

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Barrett, Scott R., Jr., M.D., 19084–19085

Education Department
NOTICES
Agency information collection activities under OMB review, 19029
Grants and cooperative agreements; availability, etc.:
Individuals with disabilities—
Personnel training program; proposed waiver of certain EDGAR requirements, 19152

Employment and Training Administration
RULES
Job Training Partnership Act:
Job Corps; student allowances and allotments, 18993

Employment Standards Administration
See Wage and Hour Division
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 19085–19086

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Natural gas exportation and importation:
Renaissance Energy (U.S.) Inc., 19034
Spent nuclear fuel management cost evaluation report; availability, 19030–19034

Environmental Protection Agency
NOTICES
Agency information collection activities under OMB review, 19046–19047

VOL 60 ISS 72 AP 14 1995 UMI

Drinking water:
Public water supply supervision program—
Wisconsin, 19049–19050
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 19047–19048
Weekly receipts, 19048
Grants and cooperative agreements; availability, etc.:
Toxic Substances Control Act and job opportunities for low-income individuals and urban and rural community economic development discretionary programs, 19120–19149
Meetings:
Science Advisory Board, 19048–19049

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 18981–18983
PROPOSED RULES
Air carrier certification and operations:
Commuter operator requirements, 19007–19008
NOTICES
Exemption petitions; summary and disposition; correction, 19117

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
New York City metropolitan area public safety agencies; conditional waiver to use television Channel 16 (482-488 MHz), 18999–19000
Radio stations; table of assignments:
Tennessee et al., 19000
PROPOSED RULES
Radio stations; table of assignments:
California, 19012
Television stations; table of assignments:
Hawaii, 19012
NOTICES
Agency information collection activities under OMB review, 19050–19053

Federal Crop Insurance Corporation
NOTICES
Data collection guidelines to be used in formulating new crop insurance policies, 19015–19016

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 19115

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Florida Power Corp. et al., 19037–19040
Illinova Power Marketing, Inc., et al.; correction, 19117
Maine Public Service Co. et al., 19040–19041
Medina Power Co. et al., 19042–19046
Environmental statements; availability, etc.:
Columbia Gas Transmission Corp., 19041–19042
Watertown, NY, 19046
Applications, hearings, determinations, etc.:
Nooksack River Hydro, Inc., 19035
Shell Western E&P Inc., 19035–19036
Texas Eastern Transmission Corp., 19036
Texas Gas Transmission Corp.; correction, 19117
Texas Gas Transmission Corp. et al., 19036–

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Cook County et al., IL, 19107–19108
Wexford County et al., MI, 19108–19109

Federal Housing Finance Board
NOTICES
Federal home loan bank system:
Community support review—
Selection of members, 19053–19064

Federal Railroad Administration
PROPOSED RULES
Railroad operating rules:
Grade crossing warning systems selection and installation, 19012–19013

Federal Reserve System
NOTICES
Meetings; Sunshine Act; 19115–19116
Applications, hearings, determinations, etc.:
Commerzbank AG et al., 19064
Royal Bank of Canada, 19064–19065
State Financial Services Corp. et al., 19065

Federal Trade Commission
NOTICES
Prohibited trade practices:
Green, David, M.D., 19065–19067
Interco Inc. et al., 19067–19068
Mattel, Inc., 19068–19070

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Cactus ferruginous pygmy-owl, 19013

Food and Drug Administration
NOTICES
Human drugs:
Export applications—
AErrane (isoflurane) 100% in 250 milliliter (mL) amber glass bottles, 19070–19071

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
New York
Gleason Corp.; gear production equipment manufacturing plant, 19024

Forest Service
NOTICES
Environmental statements; availability, etc.:
Fremont National Forest, OR, 19016
Manti-La Sal National Forest, UT, 19016

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See Inspector General Office, Health and Human Services Department
See Social Security Administration

Health Care Financing Administration
See Inspector General Office, Health and Human Services Department

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Podiatric primary care residency training programs, 19071
Preventive medicine residency training programs, 19071–19072

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 19074–19077

Immigration and Naturalization Service
PROPOSED RULES
Immigration:
Nonimmigrant visa or passport requirements waiver due to unforeseen circumstances, 19001–19002

Inspector General Office, Health and Human Services Department
NOTICES
Program exclusions; list, 19072–19074

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

Internal Revenue Service
NOTICES
Meetings:
Information Reporting Program Advisory Committee, 19112
Taxable substances, imported:
Ethyl acetate, 19112–19113
Nylon 6/6, 19113

International Boundary and Water Commission, United States and Mexico
NOTICES
Environmental statements; availability, etc.:
Lower Rio Grande Flood Control Project—
Main Floodway; Quisto Energy Corp. gas well, 19081–19082

International Trade Administration
NOTICES
Antidumping:
Self-propelled bituminous paving equipment, replacement parts, from—
Canada, 19019–19021
Antidumping and countervailing duties:
Administrative review requests, 19017–19018
Countervailing duties:
Ceramic tile from—
Mexico, 19021–19023
Leather wearing apparel from—
Mexico, 19023–19024
Meetings:
Textile Exporters' Forum, 19024

Interstate Commerce Commission
NOTICES
Motor carriers:
Control exemptions—
Penske Dedicated Logistics Corp., 19082–19083
Rail carriers:
Waybill data; release for use, 19084
Railroad services abandonment:
Chicago & North Western Railway Co., 19082, 19083
Norfolk Southern Railway Co., 19083–19084

Justice Department
See Drug Enforcement Administration
See Immigration and Naturalization Service

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Occupational Safety and Health Administration
See Pension and Welfare Benefits Administration
See Wage and Hour Division

Land Management Bureau
NOTICES
Alaska Native claims selection:
Cook Inlet Region, Inc., 19078–19079
Closure of public lands:
Oregon and Washington, 19077–19078
Coal leases, exploration licenses, etc.:
Colorado; correction, 19079
Environmental statements; availability, etc.:
Fontenelle natural gas infill drilling projects, WY, 19079
Withdrawal and reservation of lands:
Nevada, 19079–19080

Mexico and United States, International Boundary and Water Commission
See International Boundary and Water Commission, United States and Mexico

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 19100–19101

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 19025
Permits:
Endangered and threatened species, 19025
Marine mammals, 19025–19026

National Park Service
PROPOSED RULES
National Park System:
Alaska national preserves; hunting and trapping prohibitions, 19011–19012
NOTICES
Meetings:
Keweenaw National Historical Park Advisory Commission, 19080
Missouri Recreational River Advisory Group, 19080–19081

National Science Foundation
NOTICES
Agency information collection activities under OMB review, 19101

VOL
60
ISS
72
AP
14
1995
UMI

Meetings:
Cognitive, Psychological and Language Sciences Advisory Panel, 19101
Cross Disciplinary Activities Special Emphasis Panel, 19102
Geosciences Advisory Committee, 19101–19102
Neuroscience Advisory Panel, 19102
Science Resources Studies Special Emphasis Panel, 19102

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Buffalo River Tributaries Watershed, AR, 19016–19017

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities; domestic licensing:
Emergency planning and preparedness exercise requirements, 19002–19007

Occupational Safety and Health Administration
RULES
Federal employee safety and health programs:
Fatalities and catastrophes; reporting requirements, 18993–18994

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Palomo Securities L.P. et al., 19086–19099

Pension Benefit Guaranty Corporation
RULES
Multiemployer and single-employer plans:
Late premium payments and employer liability underpayments and overpayments; interest rates, 18994–18995
Multiemployer plans:
Withdrawal liability; notice and collection; interest rates, 18998–18999
Single-employer and multiemployer plans:
Valuation of plan benefits, etc.—
Interest rates, etc., 18996–18998

Personnel Management Office
RULES
Child support and/or alimony; garnishment orders; processing; correction, 18949–18950
NOTICES
Agency information collection activities under OMB review, 19102–19103

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
National Securities Clearing Corp., 19104–19107
Applications, hearings, determinations, etc.:
Public utility holding company filings, 19103–19104

Small Business Administration
RULES
Small business size standards:
Small business set-aside contracts; participation of public and private organizations for handicapped Correction, 18981
NOTICES
Meetings; district and regional advisory councils:
Connecticut, 19107
Wyoming, 19107

Social Security Administration
RULES
Social Security Independence and Program Improvements Act of 1994; implementation, 18991–18993
PROPOSED RULES
Supplemental security income:
Aged, blind, and disabled—
Prehearing proceedings and decisions by attorney advisors, 19008–19011

State Department
NOTICES
Meetings:
Historical Diplomatic Documentation Advisory Committee, 19107

Thrift Supervision Office
NOTICES
Agency information collection activities under OMB review, 19113–19114

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Customs Service
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Bonds, Treasury:
Redemption calls; 8 3/8 percent bonds (1995-2000), 19109
Organization, functions, and authority delegations:
Fiscal Service, 19109–19111

Uniformed Services University of the Health Sciences
NOTICES
Meetings; Sunshine Act, 19116

Veterans Affairs Department
NOTICES
Agency information collection activities under OMB review, 19114

Wage and Hour Division
NOTICES
Committees; establishment, renewal, termination, etc.:
Special Industry Committee for All Industries in American Samoa; hearing, 19099–19100

Separate Parts in This Issue

Part II
Department of Health and Human Services, Administration for Children and Families and Environmental Protection Agency, 19120–19149

Part III
Department of Education, 19152

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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VOL 60 ISS 72 AP 14 1995 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
581 18949

7 CFR
985 18950
1001 18952
1002 18952
1004 18952
1005 18952
1006 18952
1007 18952
1011 18952
1012 18952
1013 18952
1030 18952
1032 18952
1033 18952
1036 18952
1040 18952
1044 18952
1046 18952
1049 18952
1050 18952
1064 18952
1065 18952
1068 18952
1075 18952
1076 18952
1079 18952
1093 18952
1094 18952
1096 18952
1106 18952
1108 18952
1124 18952
1126 18952
1131 18952
1134 18952
1135 18952
1137 18952
1138 18952
1139 18952

8 CFR
Proposed Rules:
212 19001

10 CFR
Proposed Rules:
50 19002

13 CFR
121 18981

14 CFR
39 18981
Proposed Rules:
119 19007
121 19007
125 19007
127 19007
135 19007

19 CFR
10 18983
101 18983
111 18983
123 18983
128 18983
141 18983
143 18983
145 18983
148 18983
159 18983
178 18983

20 CFR
Ch. III 18991
423 18991
638 18993
Proposed Rules:
404 19008
416 19008

29 CFR
1960 18993
2610 18994
2619 18996
2622 18994
2644 18998
2676 18996

36 CFR
Proposed Rules:
13 19011

47 CFR
2 18999
73 19000
90 18999
Proposed Rules:
73 (2 documents) 19012

49 CFR
Proposed Rules:
234 19012

50 CFR
Proposed Rules:
17 19013

Rules and Regulations

Federal Register
Vol. 60, No. 72
Friday, April 14, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

RIN 3206–AG49

Processing Garnishment Orders for Child Support and/or Alimony

AGENCY: Office of Personnel Management.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations which were published on Wednesday, January 25, 1995, (60 FR 5044). The regulations updated the list of agents designated to accept service of process in garnishment actions.

EFFECTIVE DATE: February 24, 1995.

FOR FURTHER INFORMATION CONTACT: Murray M. Meeker, Attorney, Office of the General Counsel, (202) 606–1980.

SUPPLEMENTARY INFORMATION:

On January 25, 1995, OPM published a list of agents designated to receive legal process in garnishment actions where the indebtedness was based on child support and/or alimony. Subsequent to publication, we were advised by the Defense Finance and Accounting Service that they had consolidated certain offices and requested that we correct our final rule. This correction is in compliance with this request. This document also corrects designated agent information received from several other agencies who found errors in the January 25, 1995 publication.

More specifically, this document amends the "General Notice for Certain Civilian Employees of the Army and the Navy" under the Department of Defense listing to include civilian employees of the Army and Navy who are paid by the Defense Finance and Accounting Service—Denver Center; corrects the address for the designated agent under that heading; and amends the designated agent under the Air Force for Air Force Active Duty, Reserve, Air National Guard (ANG), and civilian employees of appropriated fund activities. In addition, this document corrects the agent listings for the Defense Mapping Agency, the Energy Department's Oakland Operations Office; the Department of Veterans Affairs' Sioux Falls Medical and Regional Office Center in South Dakota; the Federal Maritime Commission; and the Small Business Administration. This document also deletes the listing for the International Trade Commission.

Correction

In rule document 95–1781 beginning on page 5044 in the issue of Wednesday, January 25, 1995, make the following corrections:

Appendix A to Part 581—List of Agents Designated To Accept Legal Process

1. On page 5045, in the third column, under the heading "Department of Defense," second paragraph, is corrected as follows:

Effective February 1, 1995, the Assistant General Counsel for Garnishment Operations, Defense Finance and Accounting Service, Cleveland Center (DFAS–CL/L), will be the designated agent for legal process for garnishment for child support and alimony from the pay of civilian employees who work at various Department of Defense installations and activities located throughout the United States, but who are paid by DFAS payroll centers in Charleston, Pensacola, and the Denver Center.

2. On page 5045, in the third column, under the heading "Department of Defense," fifth paragraph, is corrected as follows:

For those employees known to be paid by the DFAS Charleston, Pensacola or Denver payroll centers, the garnishment should be served by certified mail directly on DFAS–CL/L at the following address: Assistant General Counsel for Garnishment Operations, Defense Finance and Accounting Service, Cleveland Center—Code L (DFAS–CL/L), PO Box 998002, Cleveland, OH 44199–8002, (216) 522–5301.

3. On page 5046, in the second column, under the heading "Air Force," the designated agent listing is corrected as follows:

Air Force

1. Active Duty, Reserve, Air National Guard (ANG), and civilian employees of appropriated fund activities. Assistant General Counsel for Garnishment Operations, Defense Finance and Accounting Service, Cleveland Center—Code L (DFAS–CL/L,) PO Box 998002, Cleveland, OH 44199–8002, (216) 522–5301 * * *.

4. On page 5047, in the first column, under the heading "Defense Mapping Agency," the designated agent listing is corrected as follows: Defense Mapping Agency, Associate General Counsel, Defense Mapping Agency (DMA), 3200 So. Second Street, ATTN: GCW, St. Louis, MO 63101–3399, (314) 263–4501.

5. On page 5047, in the third column, under the heading the "Department of Energy," the designated agent listing for the San Francisco Field Office is changed to the Oakland Field Office as follows: 7. Oakland Operations Office, Director, Finance and Accounting Division, Department of Energy, 1301 Clay Street, Oakland, CA 94612–5208, (510) 637–1532.

6. On page 5052, in the first column, under the heading "Treasury Department," the designated agent listing for the Savings Bond Division is corrected as follows: (3) U.S. Savings Bonds Division, Chief Counsel, Bureau of the Public Debt, 999 E Street, NW., Room 503, Washington, DC 20239, (202) 219–3320.

7. On page 5052, in the first column, under the heading "Treasury Department," the designated agent listing for the Treasury Department's Bureau of Alcohol, Tobacco & Firearms Division is corrected as follows: (6) Bureau of Alcohol, Tobacco & Firearms, Chief Counsel, 650 Massachusetts Avenue, NW., Room 6100, Washington, DC 20226, (202) 927–7772.

8. On page 5059, in the first column, under the heading "Department of Veterans Affairs," the designated agent listing for the Sioux Falls Medical and Regional Office Center in South Dakota is added as follows: Fiscal Officer, Sioux Falls Medical and Regional Office Center, PO Box 5046, Sioux Falls, SD 57117, (605) 333–6823.

9. On page 5061, in the second column, under the heading "Federal Maritime Commission," the designated agent listing is corrected as follows:

VOL
60
ISS
72
AP
14
1995
UMI

Federal Maritime Commission

Director of Personnel or Deputy Director of Personnel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (202) 523–5773.

10. On page 5062, in the first column, remove the designated agent listing for the International Trade Commission.

11. On page 5062, in the third column, under the heading "Office of Personnel Management," the designated agent listing for payments of retirement benefits is corrected as follows: Associate Director for Retirement and Insurance, Office of Personnel Management, Court Order Benefit Branch, P.O. Box 17, Washington, DC 20044, (202) 606–0218.

12. On page 5062, in the third column, under the heading "Overseas Private Investment Corporation," the designated agent listing is corrected as follows:

Overseas Private Investment Corporation

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW., Room 11201, Washington, DC 20527, (202) 336–8524.

13. On page 5063, in the second column, under the heading "Small Business Administration," the designated agent listing for the Boston District Office is corrected as follows: District Director, Boston District Office, 150 Causeway Street, Boston, MA 02114, (617) 223–2100.

14. On page 5063, in the second column, under the heading "Small Business Administration," the designated agent listing for the Jackson District Office is corrected as follows: District Director, Jackson District Office, 101 West Capitol Street, Suite 400, Jackson, MS 39201, (601) 965–5371.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–9230 Filed 4–13–95; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[FV95–985–3IFR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1995–96 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule increases the quantity of Class 3 (Native) spearmint oil produced in the Far West that handlers may purchase from, or handle for, producers during the 1995–96 marketing year. This rule was recommended by the Spearmint Oil Administrative Committee (Committee), the agency responsible for local administration of the marketing order for spearmint oil produced in the Far West. The Committee recommended this rule to avoid extreme fluctuations in supplies and prices and thus help to maintain stability in the Far West spearmint oil market.

DATES: Effective on April 14, 1995; comments received by May 15, 1995 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW. Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724; or Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–8139.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 985 (7 CFR Part 985), regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of California, Nevada, Montana, and Utah), hereinafter referred to as the "order." This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the provisions of the marketing order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule increases the quantity of Class 3 spearmint oil produced in the Far West that may be purchased from or handled for producers by handlers during the 1995–96 marketing year, which ends on May 31, 1996. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially

small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are eight spearmint oil handlers subject to regulation under the order and approximately 260 producers of spearmint oil in the regulated production area. Of the 260 producers, approximately 160 producers hold Class 1 (Scotch) spearmint oil allotment base, and approximately 145 producers hold Class 3 (Native) spearmint oil allotment base. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A minority of handlers and producers of Far West spearmint oil may be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity and whose income from farming operations are not exclusively dependent on the production of spearmint oil. The U.S. production of spearmint oil is concentrated in the Far West, primarily Washington, Idaho, and Oregon (part of the area covered by the order). Spearmint oil is also produced in the Midwest. The production area covered by the order normally accounts for approximately 75 percent of the annual U.S. production of spearmint oil.

This rule increases the quantity of Native spearmint oil that handlers may purchase from, or handle for, producers during the 1995–96 marketing year, which ends on May 31, 1996. This rule increases the salable quantity from 906,449 pounds to 1,004,976 pounds and the allotment percentage from 46 percent to 51 percent for Native spearmint oil for the 1995–96 marketing year.

The salable quantity is the total quantity of each class of oil that handlers may purchase from, or handle for, producers during a marketing year. The salable quantity calculated by the Committee is based on the estimated trade demand. The total salable quantity is divided by the total industry allotment base to determine an allotment percentage. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class of spearmint oil.

The initial salable quantity and allotment percentages for Scotch and Native spearmint oils for the 1995–96 marketing year were recommended by the Committee at its October 5, 1994, meeting. The Committee recommended salable quantities of 908,531 pounds and 906,449 pounds, and allotment percentages of 51 percent and 46 percent, respectively, for Scotch and Native spearmint oils. A proposed rule was published in the December 15, 1994, issue of the **Federal Register** (59 FR 64625). Comments on the proposed rule were solicited from interested persons until January 17, 1995. No comments were received. Accordingly, based upon analysis of available information, a final rule establishing the Committee's recommendation as the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1995–96 marketing year was published in the February 15, 1995, issue of the **Federal Register** (60 FR 8524).

Pursuant to authority contained in §§ 985.50, 985.51, and 985.52 of the order, at its February 22, 1995, meeting, the Committee recommended, with one member voting in opposition, that the salable quantity for Native spearmint oil for the 1995–96 marketing year be increased from 906,449 pounds to 1,004,976 pounds. The member voting in opposition did not favor an increase in the salable quantity and allotment percentage because he believed it was too early to determine what the market conditions will be during the 1995–96 marketing year. Based on the total allotment base of 1,970,542 pounds, the allotment percentage for Native spearmint oil is increased from 46 percent to 51 percent, resulting in a 98,527 pound increase in the salable quantity.

Native Spearmint Oil Recommendations

(1) Salable Quantity	
October 5, 1994	906,449 pounds
February 22, 1995	1,004,976 pounds
(2) Allotment Base	
October 5, 1994	1,970,542 pounds
February 22, 1995	1,970,542 pounds
(3) Allotment Percentage	
October 5, 1994	46 percent
February 22, 1995	51 percent

In making this latest recommendation, the Committee considered all available information on supply and demand. The 1995–96 marketing year begins on June 1, 1995. Handlers have indicated that the available supply of Scotch spearmint oil appears adequate to meet anticipated demand through May 31, 1996. Handlers have indicated, however, that demand for Native spearmint oil is currently fairly strong and anticipate that this trend will likely continue into the next marketing year. Based upon this strengthening demand, as well as historical data that indicates the annual average of sales for the last eight years is 1,006,512 pounds, the Committee believes that an increase in the salable quantity to 1,004,976 pounds is necessary to meet anticipated demand. This level of demand was not anticipated by the Committee when it made its initial recommendation for the establishment of the Native spearmint oil salable quantity and allotment percentage for the 1995–96 marketing year.

The recommended salable quantity of 1,004,976 pounds of Native spearmint oil (an increase of 98,527 pounds), combined with a revised estimated carry-in of 100,000 pounds on June 1, 1995, results in a revised 1995–96 estimated available supply of 1,104,976 pounds. Thus, the revised estimate for the 1995–96 marketing year Native spearmint oil available supply is approximately 100,000 pounds higher than the annual average of sales for the past eight years. With this revision, the Committee anticipates that demand for Native spearmint oil during the 1995–96 marketing year will be adequately met.

The Department, based on its analysis of available information, has determined that an allotment percentage of 51 percent should be established for Native spearmint oil for the 1995–96 marketing year. This percentage will provide an increased salable quantity of 1,004,976 pounds of Native spearmint oil.

Based on available information, the Administrator of the AMS has determined that the issuance of this interim final rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including that contained in the prior proposed and final rules in connection with the establishment of the salable quantities and allotment percentages for Scotch and Native spearmint oils for the 1995–96 marketing year, the Committee's recommendation and other available information, it is found that to revise § 985.214 (60 FR 8524) to change the salable quantity and allotment percentage for Native spearmint oil, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This interim final rule increases the quantity of Native spearmint oil that may be marketed during the marketing year beginning on June 1, 1995; (2) The quantity of Native

VOL
60
ISS
72
AP
14
1995
UMI

spearmint planted for the 1995–96 marketing year may be affected, thus handlers and producers should be apprised as soon as possible of the salable quantity and allotment percentage of Native spearmint oil contained in this interim final rule; and (3) This rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. § 985.214 is amended by revising the introductory text and paragraph (b) to read as follows:

Note: This section will not appear in the annual Code of Federal Regulations.

§ 985.214 Salable quantities and allotment percentages—1995–96 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 1995, shall be as follows:

* * * * *

(b) Class 3 (Native) oil—a salable quantity of 1,004,976 pounds and an allotment percentage of 51 percent.

Dated: April 7, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–9294 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1106, 1108, 1124, 1126, 1131, 1134, 1135, 1137, 1138, 1139

[Docket No. AO–14–A66, etc.; DA–92–11]

Milk in the New England and Other Marketing Areas; Order Amending the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

7 CFR part	Marketing area	AO Nos.
1001	New England	AO–14–A66
1002	New York-New Jersey	AO–71–A81
1004	Middle Atlantic	AO–160–A89
1005	Carolina	AO–388–A6
1006	Upper Florida	AO–356–A30
1007	Georgia	AO–366–A35
1011	Tennessee Valley	AO–251–A37
1012	Tampa Bay	AO–347–A33
1013	Southeastern Florida	AO–286–A40
1030	Chicago Regional	AO–361–A30
1032	Southern Illinois-Eastern Missouri	AO–313–A40
1033	Ohio Valley	AO–166–A63
1036	Eastern Ohio-Western Pennsylvania	AO–179–A58
1040	Southern Michigan	AO–225–A44
1044	Michigan Upper Peninsula	AO–299–A28
1046	Louisville-Lexington-Evansville	AO–123–A64
1049	Indiana	AO–319–A41
1050	Central Illinois	AO–355–A28
1064	Greater Kansas City	AO–23–A61
1065	Nebraska-Western Iowa	AO–86–A49
1068	Upper Midwest	AO–178–A47
1075	Black Hills, South Dakota	AO–248–A22
1076	Eastern South Dakota	AO–260–A31
1079	Iowa	AO–295–A43
1093	Alabama-West Florida	AO–386–A13
1094	New Orleans-Mississippi	AO–103–A55
1096	Greater Louisiana	AO–257–A42
1097 [1]	Memphis, Tennessee	AO–219–A48
1098 [1]	Nashville, Tennessee	AO–184–A57
1099 [2]	Paducah, Kentucky	AO–183–A47
1106	Southwest Plains	AO–210–A54
1108	Central Arkansas	AO–243–A45
1124	Pacific Northwest	AO–368–A22
1126	Texas	AO–231–A62
1131	Central Arizona	AO–271–A31
1134	Western Colorado	AO–301–A23
1135	Southwestern Idaho-Eastern Oregon	AO–380–A12
1137	Eastern Colorado	AO–326–A27
1138	New Mexico-West Texas	AO–335–A38
1139	Great Basin	AO–309–A32

[1] The Memphis, Tennessee, and Nashville, Tennessee, orders were terminated, effective July 31, 1993.

[2] The Paducah, Kentucky, order is not included in this final rule because a proposed termination of the order is being considered.

SUMMARY: This final rule implements the base month Minnesota-Wisconsin (M–W) price updated with a butter/powder/cheese formula as the replacement for the Minnesota-Wisconsin price series, which establishes minimum prices for milk under all Federal milk orders. Each of the amended orders was approved by producers who were eligible to have their milk pooled during the representative month for voting purposes. Referenda were conducted in five markets and cooperative associations were polled in the other markets. One order that was included in this proceeding—Paducah, Kentucky—is not included in this rule because a proposed termination of the order is being considered.

EFFECTIVE DATE: June 1, 1995.

FOR FURTHER INFORMATION CONTACT:

John F. Borovies, Branch Chief, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, PO Box 96456, Washington, DC 20090–6456, (202) 720–6274.

SUPPLEMENTARY INFORMATION: This administrative rule is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amended orders will promote more orderly marketing of milk by producers and regulated handlers.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (the Act), provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Prior documents in this proceeding:

Notice of Hearing: Issued May 12, 1992; published May 15, 1992 (57 FR 20790).

Recommended Decision: Issued August 3, 1994; published August 6, 1994 (59 FR 40418).

Final Decision: Issued January 27, 1995; published February 7, 1995 (60 FR 7290).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the New England and other orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid orders:

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the respective marketing areas.

Upon the basis of the evidence introduced at such hearing and the record thereof, for each of the specified orders, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the orders, as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders, as hereby amended, regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

(b) Determinations. It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within each of the specified marketing areas, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending each of the specified orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the respective orders as hereby amended;

(3) The issuance of the order amending each of the specified orders, except the order regulating the handling of milk in the Michigan Upper Peninsula marketing area, is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the respective marketing areas; and

(4) The issuance of the order amending the order regulating the handling of milk in the Michigan Upper Peninsula marketing area is favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1106, 1108, 1124, 1126, 1131, 1134, 1135, 1137, 1138, 1139

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in each of the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby further amended, as follows:

1. The authority citation for 7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1134, 1135, 1137, 1138, and 1139 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

1a. Section 1001.51 is revised to read as follows:

§ 1001.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for

VOL 60 ISS 72 AP 14 1995 UMI

manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1001.76 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent reporting period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent reporting period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1001.76 is amended by revising paragraph (b) to read as follows:

§ 1001.76 Butterfat differential.

* * * * *

(b) Round to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1001.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

1. Section 1002.51 is revised to read as follows:

§ 1002.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1002.81 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent reporting period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1002.56 is amended by revising paragraphs (e), (f) and (g) and by adding a new paragraph (h), to read as follows:

§ 1002.56 Announcement of class prices and butterfat differential.

* * * * *

(e) The basic formula price for the preceding month, pursuant to § 1002.51, as reported by the United States Department of Agriculture.

(f) The average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, using the base month series, for the second preceding month, as reported by the United States Department of Agriculture.

(g) The average price per pound of Grade A (92-score) butter, at the Chicago Mercantile Exchange, for the preceding month, as reported by the United States Department of Agriculture.

(h) The average price per pound, of nonfat dry milk f.o.b. Western Area, for the preceding month, as reported by the United States Department of Agriculture.

* * * * *

3. Section 1002.81 is revised to read as follows:

§ 1002.81 Butterfat differential.

The butterfat differential for the adjustment of prices as specified in this part shall be plus or minus for each one-tenth of one percent of butterfat above or below 3.5 percent by an amount computed as follows: Round to the nearest one-tenth cent, 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1002.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. Section 1004.50 is amended by revising paragraph (d)(1) to read as follows:

§ 1004.50 Class and component prices.

* * * * *

(d) * * *

(1) Compute a butterfat differential per one percent butterfat, rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 1.38, and subtract from the result an amount determined by multiplying 0.028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1004.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

* * * * *

2. Section 1004.51 is revised to read as follows:

§ 1004.51 Basic formula prices.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1004.50(d)(1) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the non dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per

VOL 60 ISS 72 AP 14 1995 UMI

hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

PART 1005—MILK IN THE CAROLINA MARKETING AREA

1. Section 1005.51 is revised to read as follows:

§ 1005.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1005.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfatS dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1005.74 is revised to read as follows:

§ 1005.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1005.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. Section 1006.51 is revised to read as follows:

§ 1006.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1006.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simply average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simply average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1006.74 is revised to read as follows:

§ 1006.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1006.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. Section 1007.51 is revised to read as follows:

§ 1007.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1007.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simply average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simply average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per

VOL
60
ISS
72
AP
14
1995
UMI

hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1007.74 is revised to read as follows:

§ 1007.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices for base and excess milk shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1007.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. Section 1011.51 is revised to read as follows:

§ 1011.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1011.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1011.74 is revised to read as follows:

§ 1011.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1011.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. Section 1012.51 is revised to read as follows:

§ 1012.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1012.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1012.74 is revised to read as follows:

§ 1012.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1012.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. Section 1013.51 is revised to read as follows:

§ 1013.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1013.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

VOL 60 ISS 72 AP 14 1995 UMI

Grade AA butter price. Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1013.74 is revised to read as follows:

§ 1013.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1013.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. Section 1030.59 is revised to read as follows:

§ 1030.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1030.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the

annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1030.74 is revised to read as follows:

§ 1030.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1030.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

1. Section 1032.51 is revised to read as follows:

§ 1032.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1032.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1032.74 is revised to read as follows:

§ 1032.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1032.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. Section 1033.51 is revised to read as follows:

§ 1033.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1033.73 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

VOL 60 ISS 72 APR 14 1995 UMI

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1033.73 is revised to read as follows:

§ 1033.73 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1033.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. Section 1036.51 is revised to read as follows:

§ 1036.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1036.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross value for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1036.74 is revised to read as follows:

§ 1036.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1036.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. Section 1040.51 is revised to read as follows:

§ 1040.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1040.51 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for the nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1040.74 is revised to read as follows:

§ 1040.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1040.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A

VOL 60 ISS 72 AP 14 1995 UMI

butter price as reported by the Department.

PART 1044—MILK IN THE MICHIGAN UPPER PENINSULA MARKETING AREA

1. Section 1044.51 is revised to read as follows:

§ 1044.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1044.62 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Merchantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1044.62 is revised to read as follows:

§ 1044.62 Butterfat differential.

The applicable uniform prices to be paid pursuant to § 1044.70 shall be increased or decreased, for each one-tenth of one percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjust pursuant to § 1044.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1046—MILK IN THE LOUISVILLE–LEXINGTON–EVANSVILLE MARKETING AREA

1. Section 1046.51 is revised to read as follows:

§ 1046.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1046.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for

the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1046.74 is revised to read as follows:

§ 1046.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding months's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1046.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. Section 1049.51 is revised to read as follows:

§ 1049.52 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1049.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined

VOL
60
ISS
72
AP
14
1995
UMI

pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1049.74 is revised to read as follows:

§ 1049.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1049.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

1. Section 1050.51 is revised to read as follows:

§ 1050.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1050.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1050.74 is revised to read as follows:

§ 1050.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1050.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. Section 1064.51 is revised to read as follows:

§ 1064.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1064.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph(b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1064.74 is revised to read as follows:

§ 1064.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to §§ 1064.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. Section 1065.51 is revised to read as follows:

§ 1065.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1065.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in

VOL 60 ISS 72 AP 14 1995 UMI

each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1065.74 is revised to read as follows:

§ 1065.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to §§ 1065.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. Section 1068.51 is revised to read as follows:

§ 1068.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1068.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1068.74 is revised to read as follows:

§ 1068.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1068.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1075—MILK IN THE BLACK HILLS, SOUTH DAKOTA MARKETING AREA

1. Section 1075.50 is amended by revising paragraph (c) to read as follows:

§ 1075.50 Class prices.

* * * * *

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

2. Section 1075.51 is revised to read as follows:

§ 1075.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1075.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

3. Section 1075.74 is revised to read as follows:

§ 1075.74 Butterfat differential.

The uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1075.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

1. Section 1076.51 is revised to read as follows:

§ 1076.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1076.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile

VOL 60 ISS 72 AP 14 1995 UMI

Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.37, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the change in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1076.74 is revised to read as follows:

§ 1076.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1076.51 (a) through (e), as reported by the Department. The basic formula price for the month computed pursuant to § 1076.51, as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1079—MILK IN THE IOWA MARKETING AREA

1. Section 1079.51 is revised to read as follows:

§ 1079.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1079.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1079.74 is revised to read as follows:

§ 1079.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1079.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade a butter price as reported by the Department.

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

1. Section 1093.51 is revised to read as follows:

§ 1093.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1093.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundreweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross value for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quality (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1093.74 is revised to read as follows:

§ 1093.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to §§ 1093.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. Section 1094.51 is revised to read as follows:

§ 1094.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1094.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to

VOL
60
ISS
72
AP
14
1995
UMI

manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1094.74 is revised to read as follows:

§ 1094.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1094.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

1. Section 1096.51 is revised to read as follows:

§ 1096.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1096.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat Price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the State of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divided by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1096.74 is revised to read as follows:

§ 1096.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1096.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1099—MILK IN THE PADUCAH, KENTUCKY MARKETING AREA

1. Section 1099.51 is revised to read as follows:

§ 1099.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1099.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1099.74 is revised to read as follows:

§ 1099.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to §§ 1099.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A

VOL
60
ISS
72
AP
14
1995
UMI

butter price, as reported by the Department.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. Section 1106.51 is revised to read as follows:

§ 1106.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1106.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1106.74 is revised to read as follows:

§ 1106.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1106.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.51 is revised to read as follows:

§ 1108.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1108.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1108.74 is revised to read as follows:

§ 1108.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1108.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

§ 1124.19 [Removed and Reserved]

1. Section § 1124.19 is removed and reserved.

2. Section 1124.50 is amended by revising the reference in paragraph (e) and paragraph (f)(2) from "§ 1124.19(e)" to "paragraph (f)(3) of this section" and adding a new paragraph (f)(3) to read as follows:

§ 1124.50 Class and component prices.

* * * * *

(f) * * *

(3) Compute a butterfat differential rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 0.138, and subtract from the result an amount determined by multiplying 0.0028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1124.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

* * * * *

3. Section 1124.51 is revised to read as follows:

§ 1124.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1124.50(f)(3) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than

VOL 60 ISS 72 AP 14 1995 UMI

the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

4. Section 1124.75 is amended by revising the reference in paragraph (a)(2)(i) from "§ 1124.19" to "§ 1124.50(f)(3)".

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. Section 1126.51 is revised to read as follows:

§ 1126.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1126.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1126.74 is revised to read as follows:

§ 1126.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1126.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. Section 1131.51 is revised to read as follows:

§ 1131.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1131.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1131.74 is revised to read as follows:

§ 1131.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1131.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

1. Section 1134.51 is revised to read as follows:

§ 1134.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1134.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat

VOL 60 ISS 72 AP 14 1995 UMI

dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or ate less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1134.74 is revised to read as follows:

§ 1134.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1134.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

§ 1135.19 [Removed and Reserved]

1. Section 1135.19 is removed and reserved.

2. Section 1135.50 is amended by revising the reference in paragraph (e) and paragraph (f)(2) from "§ 1135.19" to "paragraph (f)(3) of this section" and adding a new paragraph (f)(3) to read as follows:

§ 1135.50 Class and component prices.

* * * * *

(f) * * *

(3) Compute a butterfat differential rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 0.138, and subtract from the result an amount determined by multiplying 0.0028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1135.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

* * * * *

3. Section 1135.51 is revised to read as follows:

§ 1135.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1135.50(f)(3) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

§ 1135.74 [Amended]

4. Section 1135.74 is amended by revising the reference in paragraphs (b)(2)(i) and (b)(2)(ii) from "§ 1135.19" to "§ 1135.50(f)(3)".

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. Section 1137.51 is revised to read as follows:

§ 1137.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1137.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following produce prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for the nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1137.74 is revised to read as follows:

§ 1137.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1137.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1138—MILK IN THE NEW MEXICO-WEST TEXAS MARKETING AREA

1. Section 1138.51 is revised to read as follows:

§ 1138.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1138.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price date determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

VOL 60 ISS 72 AP 14 1995 UMI

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1138.74 is revised to read as follows:

§ 1138.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1138.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

(2) The skim milk value per hundredweight for the month, computed pursuant to paragraph (d) of this section, divided by 100; and

(3) The butterfat differential for the month computed pursuant to paragraph (e)(1) of this section multiplied by 10.

* * * * *

2. Section 1139.51 is revised to read as follows:

§ 1139.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1139.50(e)(1) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

1. Section 1139.50 is amended by revising the reference in paragraph (d) from "§ 1139.51(a)" to "paragraph (e)(1) of this section" and by revising paragraph (e), to read as follows:

§ 1139.50 Class and component prices.

* * * * *

(e) *Butterfat price.* The butterfat price per pound shall be the total of paragraphs (e)(2) and (e)(3) of this section computed as follows:

(1) Compute a butterfat differential rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 0.138, and subtract from the result an amount determined by multiplying 0.0028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1139.51 (a)

Dated: April 6, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–9009 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–02–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations; Handicapped Workshop Participation in Small Business Set-Aside Contracts; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: The Small Business Administration (SBA) is correcting an error in the preamble concerning its Small Business Size Regulations; Handicapped Workshop Participation in Small Business Set-aside Contracts, which appeared in the **Federal Register** on March 24, 1995 (60 FR 15477).

EFFECTIVE DATE: This rule is effective on April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Gary M. Jackson, Assistant Administrator for Size Standards, (202) 205–6618.

SUPPLEMENTARY INFORMATION: In the second column of the Small Business Size Regulations; Handicapped Workshop Participation in Small Business Set-aside Contracts, published in the **Federal Register** on March 24, 1995 (60 FR 15477), the beginning of the **SUPPLEMENTARY INFORMATION** was inadvertently omitted and should be inserted after the **FOR FURTHER INFORMATION CONTACT** paragraph as follows:

SUPPLEMENTARY INFORMATION: Section 15(a) of the Small Business Act (the Act), 15 U.S.C. 644(a), provides Federal agencies the authority to reserve Federal contracts exclusively for small business competition. Pursuant to section 3(a) of the Act, 15 U.S.C. 632(a), and SBA's size regulations found at part 121 of title 13 of the Code of Federal Regulations (CFR), a concern eligible as a small business for these set-aside contracts must be a for-profit concern, independently-owned and operated, not dominant in its field of operation, and meet the applicable numerical size standard as prescribed under 13 CFR Section 121.601. The Small Business Administration Reauthorization and Amendments Act of 1994 amended Section 15(c) of the Act, 15 U.S.C. 644(c), by expanding the eligibility of entities which may participate in small business set-aside contracts to include public or private organizations for the handicapped during fiscal year 1995. *See* Pub. L. 103–403, section 305. However, this statutory revision limits the extent of participation by public or private handicapped organizations in small business set-aside awards to an aggregate amount not to exceed $40,000,000. The Act further provides that Federal agencies making awards to such organizations pursuant to provisions of this Act may use multi-year contracts, if appropriate.

Dated: April 10, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–9208 Filed 4–10–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–37–AD; Amendment 39–9199; AD 95–06–53]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) T95–06–53 that was sent previously to all known U.S. owners and operators of Boeing Model 737 series airplanes by individual telegrams. This AD requires identification of the part and serial numbers of the main rudder power control unit (PCU), and replacement of certain PCU's with serviceable parts, if necessary. This amendment is prompted by reports indicating that certain modified rudder PCU's malfunctioned and failed functional retesting. The actions specified by this AD are intended to prevent the rudder actuator piston and the rudder from operating with reduced force capability or moving in a direction opposite the intended direction due to malfunctioning of the rudder PCU; these conditions could result in reduced controllability of the airplane.

DATES: Effective May 1, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–06–53, issued March 14, 1995, which contained the requirements of this amendment.

The incorporation by reference of Boeing Service Bulletin 737–27–1185,

VOL
60
ISS
72
AP
14
1995
UMI

dated April 15, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 3, 1994 (59 FR 4570, February 1, 1994).

Comments for inclusion in the Rules Docket must be received on or before June 13, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–37–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2673; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On January 3, 1994, the FAA issued AD 94–01–07, amendment 39–8789 (59 FR 4570, February 1, 1994), which is applicable to certain Boeing Model 737 series airplanes. That AD requires repetitive tests of existing main rudder power control units (PCU's), and eventual replacement of the main rudder PCU with a modified PCU. The modified PCU also was required to be functionally tested following modification and prior to installation. Recently, the FAA received two reports of in-service malfunctioning of certain rudder PCU's that had been modified by Aero Controls, Inc. Subsequently, these PCU's were removed from the airplanes and failed functional retesting.

In both of the reported cases, the secondary slide in the servo valve of these PCU's went past the intended maximum travel position. An examination of the PCU's tested revealed that the spring retainer backed off from the spring guide. If the secondary slide goes past the intended maximum travel position, the rudder actuator piston and the rudder could operate with reduced force capability or move in a direction opposite the intended direction. These conditions, if not corrected, could result in reduced controllability of the airplane.

Results of a preliminary investigation indicate that Aero Controls, Inc., may not have been using the proper tool to torque the spring retaining nut. The FAA has identified 36 PCU's that may have been modified and/or tested incorrectly by that repair station. This AD affects only those PCU's modified and/or tested by Aero Controls, Inc. The FAA is currently in the process of verifying that other repair stations and operators have properly modified and tested PCU's.

The FAA has confirmed that the PCU installed on the USAir Model 737 series airplane that was involved in an accident near Pittsburgh in September 1994 had not been modified. The PCU from that airplane has been subjected to thorough functional testing, and no evidence of failures or deficiencies has been found. The investigation of that accident is continuing. No determination has been made that the PCU was the cause of that accident. This AD is being issued to correct the conditions described above and is not related to the results of the Pittsburgh accident investigation.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued Telegraphic AD T95–06–53. The AD requires identification of the part number and serial number of the main rudder PCU, and replacement of certain PCU's with serviceable parts, if necessary.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual telegrams issued on March 14, 1995, to all known U.S. owners and operators of Boeing Model 737 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–37–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–06–53 Boeing: Amendment 39–9199. Docket 95–NM–37–AD.

Applicability: All Model 737 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the rudder actuator piston and the rudder from operating with reduced force capability or moving in a direction opposite the intended direction, and resultant reduced controllability of the airplane, accomplish the following:

(a) Within 5 flights after the effective date of this AD, identify the part number and serial number of the main rudder power control unit (PCU).

(b) If the PCU is identified with a part number and serial number specified in the list below, prior to further flight, remove the PCU from the airplane, and replace it with a serviceable part.

Part No.	Serial No.(s)
65C37052–3 ...	17SS, 49, 90A, 101, 138, 149A, 191A, 308A, 374, EGG0282.
65C37052–5 ...	1211A.
65C37052–7 ...	399A, 710A, 926A, 935A, 1175A, 1237A, 1493A, 1504A, 1546, 1561A, 67700.
65C37052–8 ...	1090A, 1223, 1920, 2023A.
65C37052–9 ...	0184, 247, 394A, 641A, 1739A, 1746A, 1796A, 1849A, 1997A, 2181A.

(c) As of the effective date of this AD, no person shall install on any airplane a rudder PCU having a part number and serial number that is specified in the list contained in paragraph (b) of this AD unless paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD are accomplished.

(1) Perform a functional test of the PCU in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–27–1185, dated April 15, 1993. And

(2) Check the torque value on the spring retainer, Part Number 68021–5, to determine that it measures a minimum of 25 inch-pounds. If the torque value is less than 25 inch-pounds, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. And

(3) Repeat the functional test required by paragraph (c)(1) of this AD. The PCU must pass this functional test in order to be returned to service. And

(4) The measurement required by paragraph (c)(2) of this AD must be reported to the FAA, Transport Airplane Directorate, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (206) 227–1181. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The functional test shall be done in accordance with Boeing Service Bulletin 737–27–1185, dated April 15, 1993. The incorporation by reference of this document was approved previously by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 3, 1994 (59 FR 4570, February 1, 1994). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 1, 1995, to all persons except those persons to whom it was made immediately effective by telegraphic AD T95–06–53, issued on March 14, 1995, which contained the requirements of this amendment.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8828 Filed 4–13–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 101, 111, 123, 128, 141, 143, 145, 148, 159, and 178

[T.D. 95–31]

RIN 1515–AB53

Express Consignments; Formal and Informal Entries of Merchandise; Administrative Exemptions

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adopting final rules that implement two Customs Modernization provisions of the North American Free Trade Agreement Implementation Act that seek to streamline the commercial operations of the U.S. Customs Service. One provision concerns raising administrative exemptions from duty, taxes, and fees on articles such as gifts and personal and household goods; the other concerns exemptions from entry

VOL
60
ISS
72
AP
14
1995
UMI

requirements for specified merchandise (undeliverable shipments, rail equipment, and instruments of international traffic). Further, the final rules also clarify the entry procedures for shipments by express consignment operators or carriers to make it clear that all such shipments must be entered, unless they are specifically exempted from entry requirements.

This document addresses public comments solicited by the interim regulations that were published in the **Federal Register** on June 13, 1994, and makes certain suggested changes to those interim regulations to add clarity and improve the readability of the final regulations.

EFFECTIVE DATE: May 15, 1995.

FOR FURTHER INFORMATION CONTACT: *For Operational Aspects:* Mike Compeau, Office of Field Operations, (202) 927–0762; *For Legal Aspects:* William G. Rosoff, Office of Regulations and Rulings, (202–482–7040).

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the United States enacted the North American Free Trade Agreement Implementation Act (the Act), Pub. L. 103–182, 107 Stat. 2057. Title VI of the Act (107 Stat. 2170) contains some 60 provisions pertaining to Customs Modernization that seek to streamline and automate the commercial operations of the U.S. Customs Service. Two of these streamlining provisions are section 651 of Subtitle C and section 681 of Subtitle D. Section 651 amends section 321 of the Tariff Act of 1930, as amended (19 U.S.C. 1321), which pertains to the administrative exemption of certain articles from duty and taxes to avoid disproportionate expense and inconvenience to the Government; section 681 of Subtitle D amends the Harmonized Tariff Schedule of the United States (HTSUS), at General Note 4 (now General Note 13) and at various chapter Notes, to exempt certain other articles from unnecessary "re-entry" procedures as imports.

Administrative Exemptions and Section 651 of the Act

Prior to passage of the Act, section 321 authorized administrative exemptions from duty and taxes only up to specific minimal dollar limits on articles, such as gifts and personal and household goods, and in certain other situations. Although the statutorily-specified dollar amounts were adjusted periodically, as recently as 1983, they have not kept pace with inflation; the current amounts are not sufficiently high to permit the Secretary to meet the statutory goal of limiting expense to the Government disproportionate to the revenue that is collected.

Because of this continuing inflation problem and due to substantial increases in passenger arrivals and low-value entries, section 321 was amended by section 651 of the Act to increase the dollar amounts that trigger eligibility for administrative exemptions. But instead of setting maximum dollar amounts below which the Secretary was authorized to make the exemptions applicable, the amendments set minimum dollar amounts and authorize the Secretary to make the exemptions applicable up to an amount specified by regulation. Also, the exemptions were made applicable to the total of duties and taxes.

The provisions of section 651 also added a new provision to section 321 to allow Customs to waive collection of duties, fees, and taxes on entered merchandise where the duty amount is less than $20; however, no amendment to the regulations is promulgated at this time.

The regulations pertaining to administrative exemptions and entry procedures applicable to merchandise subject to section 321 are scattered throughout the Customs Regulations (19 CFR Chapter I): The provision containing the authorization to disregard a difference of less than $10 between the duty actually due on an entry and the estimated duties deposited is found at § 159.6 (19 CFR 159.6); provisions pertaining to *bona fide* gifts are found at §§ 10.152 and 145.32 (19 CFR 10.152 and 145.32); provisions pertaining to personal or household articles are found at §§ 148.51, 148.12 and 148.64 (19 CFR 148.51, 148.12 and 148.64); provisions pertaining to the $5 administrative exemption for all other articles are found at §§ 10.151 and 145.31 (19 CFR 10.151 and 145.31); and conditions for the exemptions provided for at §§ 10.151 and 10.152 are now found at § 10.153 (19 CFR 10.153). Also, § 128.24(d) (19 CFR 128.24(d)) refers to low-value shipments (*i.e.*, shipments valued at $5 or less) and provides that such shipments must be segregated from shipments valued at more than $5 when the special informal entry procedures provided for in part 128 are used. (This provision was intended to cover articles which could be administratively exempted from duties and taxes under section 321(a)(2)(C) (19 U.S.C. 1321(a)(2)(C)) (see T.D. 89–53, published in the **Federal Register** on May 8, 1989 (54 FR 19561)).) Other provisions relating to administrative exemptions and entry requirements are found in parts 111 (Customs brokers), 141 (Entry of merchandise), and 143 (Special entry procedures) of the Customs Regulations (19 CFR).

The Harmonized Tariff Schedule and Section 681 of the Act

Under present regulations, shipments which leave the U.S. and go undelivered to the country of destination (without having left the custody of the carrier or foreign customs service) are considered exports and must be "re-entered" into the U.S. as imports. Current regulations also provide that rail equipment brought into the U.S. from Canada, although not subject to duty, is subject to entry requirements, and instruments of international traffic (*e.g.*, containers, rail cars and locomotives, truck cabs, and trailers), although exempt from formal entry procedures, are subject to certain other procedures.

Section 681 of the Act amended the Harmonized Tariff Schedule of the United States (HTSUS) at General Note 4 (now General Note 13, *see*, Presidential Proclamation 6641, December 15, 1993, published in the **Federal Register** on December 20, 1993 (58 FR 67032, 66867)) to exempt from entry requirements certain shipments returned as undelivered, thereby facilitating their processing. Section 681 also amended various HTSUS chapter Notes to eliminate entry requirements for rail cars and locomotives on which no duty is owed, pursuant to terms of the U.S.-Canada Free-Trade Agreement (*see*, U.S.-Canada Free-Trade Implementation Act of 1988, Pub. L. 100–449, 102 Stat. 1851, 19 U.S.C. 2112 note), and to eliminate unnecessary entry procedures related to instruments of international traffic by providing for reporting requirements and the periodic payment of fees.

The interim regulations implementing aspects of these various provisions are found in parts 10, 123, and 141 of the Customs Regulations (19 CFR parts 10, 123, and 141).

Customs Regulations Amended by Interim Regulations

To implement the amendments to section 321 of the Tariff Act of 1930 and provisions of the HTSUS by sections 651 and 681, respectively, of the Act, and to clarify the procedures for shipments brought into the U.S. by express consignment operators and carriers, on June 13, 1994, Customs published interim regulations in the **Federal Register** as T.D. 94–51 (59 FR 30289). These interim regulations provided for a 30-day comment period and an effective date of 45 days after

publication, unless comments received demonstrated that there was good cause for not making the regulations effective on an interim basis. No comments received by Customs established such good cause. The published effective date of the interim regulations—July 28, 1994—subsequently became the subject of litigation, when, on July 25, 1994, the National Customs Brokers and Forwarders Association of America, Inc., filed a motion with the United States Court of International Trade (CIT) seeking to enjoin the implementation of the interim regulations, and were granted a temporary restraining order (TRO). Accordingly, on July 28, 1994, Customs published another document in the **Federal Register** as T.D. 94–61 (59 FR 38548) giving notice that the TRO had been issued and that the effective date of the regulations was delayed. A hearing was held on August 9, 1994, and on August 16, 1994, the Court issued a decision in *National Customs Brokers & Forwarders Ass'n of America, Inc.* v. *U.S.*, 18 CIT _____, 861 F.Supp. 121 (CIT 1994), which denied the plaintiff's motion for a preliminary injunction, revoked the temporary restraining order, and dismissed the case. The interim rules subsequently became effective on August 23, 1994, when T.D. 94–71 (59 FR 43283) was published in the **Federal Register**.

The interim regulations amended or revised twenty-one sections of the Customs Regulations that are scattered over ten parts of the Code of Federal Regulations (19 CFR) to conform them to the statutory changes made by the above-mentioned amendments, and solicited comments concerning these changes. The sections affected by the interim rule were §§ 10.151, 10.152, 10.153, 101.1, 111.3, 123.12, 128.21, 128.23, 128.24, 128.25, 128.26, 141.4, 143.21, 143.23, 143.26, 145.31, 145.32, 148.12, 148.51, 148.64, and 159.6 (19 CFR 10.151, 10.152, 10.153, 101.1, 111.3, 123.12, 128.21, 128.23, 128.24, 128.25, 128.26, 141.4, 143.21, 143.23, 143.26, 145.31, 145.32, 148.12, 148.51, 148.64, and 159.6).

Eighteen comments were received, which raised five areas of concern. The comments received and Customs responses to them are set forth below.

Discussion of Comments

Comments were received from Customs broker organizations (six), express consignment companies or organizations (five), groups representing other types of carriers (three), a Port Authority (one), a group representing the recording industry (one), the Joint Industry Group (one), and a Customs office (one). The comments raised five areas of concern involving: (1) Whether the interim regulations codified existing practices; (2) exempt merchandise under §§ 10.151 and 10.152; (3) unlicensed transactions under § 111.3; (4) procedures for express consignments under §§ 128.21, 128.23, and 128.24; and (5) entry requirements under §§ 141.4, 143.23, 143.26, and 145.31 and those pertaining to undeliverable shipments and international traffic. We address each of these concerns *seriatim*.

In General

Comment: Five commenters stated that the interim regulations should not be implemented or that there should be a longer comment period before implementation. Six commenters called for the immediate implementation of the interim regulations.

Customs Response: The issue of implementing interim regulations was addressed by the Court of International Trade (CIT) in *National Customs Brokers & Forwarders Ass'n of America, Inc.*, v. *U.S., 18 CIT* _____, 861 F.Supp. 121 (CIT 1994) (*National Customs Brokers*), wherein, the court found that Customs acted lawfully in promulgating interim regulations which affect certain administrative exemptions. Further, Customs feels that adequate time for commenting and analysis of those comments has been provided.

Comment: Two commenters stated that Customs had not considered the revenue effects of implementing the new administrative exemption levels.

Customs Response: Given that the Customs Modernization provisions of the Act declare the will and the objectives of Congress and the President to modernize Customs laws, Customs is not required to make such a consideration because, by its act of amending section 321, Congress indicated its policy determination with respect to cost-to-benefit analysis of expense and inconvenience versus revenue raised with regard to the entry of exempt low-value shipments. See, the legislative history of section 651, H.R. Rep. No. 361, 103rd Cong., 1st Sess., pt. 1, 145 (1993) and S. Rep. No. 189, 103rd Cong., 1st Sess. 93 (1993), and the discussion of this issue by the court in its decision in *National Customs Brokers*, cited above.

Comment: One commenter expressed concern that the interim regulations appear to associate the privileges in 19 U.S.C. 1321 only with express consignment processing. The commenter stated that since a carrier is not listed among the parties authorized to make entry of shipments valued at § 200 or less, a carrier may not be authorized to make entry, even though the carrier holds the air waybill document/data. The commenter "strongly recommends" that the interim regulations be amended to clarify that for these entries the carrier may present the air waybill or bill of lading on behalf of the owner or consignee.

Customs Response: The commenter's concern is ill-founded. A carrier *is* a nominal consignee and, therefore, is entitled to the privileges provided under the interim regulations for shipments valued § 200 or less. Regarding the initial concern that the interim regulations associate the privileges in section 1321 only with express consignment processing, this is exactly what the interim regulations do *not* do; they apply the same rules across the board, as much as is possible, so that now the privileges under the amended statute are extended generally and a "level playing field" results (i.e., see the amendments to §§ 143.21, 143.23, and 143.26, as well as those to parts 145 and 148). Accordingly, no change to the amendments is made based on this comment.

Comment: A commenter suggested the total elimination of part 128, because such regulations are superfluous and duplicative of existing provisions. The commenter stated that part 128 covers "express consignments" but does not define the term. Therefore, the commenter suggested that either part 128 be eliminated totally or it be amended to cover all consignments and all carriers. If it is decided to retain part 128, the commenter suggested that §§ 143.26 and 145.31, as well as other "interim" regulations "designed to accommodate the 'express' industry" be redesignated in part 128.

Customs Response: Initially, we note that it would be inconsistent with Pub. L. 103–182, which took special notice of the express consignment industry (see section 681 and H.R. Rep. No. 361, 103rd Cong., 1st Sess. pt. 1, 154–155 (1993)), for Custom to now eliminate that part of the Custom Regulations pertaining to that industry. As for the contention that Part 128 does not define "express consignments", the definition of "express consignment operator or carrier" in § 128.1(a) contains the following elements: That such businesses offer their special express service to the public under an advertised, reliable timely delivery on a door-to-door basis; and, that they operate in any mode or intermodally by moving cargo under closely integrated administrative control. Regarding the propriety of having a separate part 128 to regulate just the express industry, Customs has a long history of facilitating trade by addressing the

VOL
60
ISS
72
AP
14
1995
UMI

specific needs of groups or industries which have transactions with Customs. That is why other identifiable groups, such as vessel carriers (part 4), air carriers (part 122), land carriers (part 123), warehouses (parts 19 and 144), and foreign trade zones (part 146) have regulations applicable to their businesses located in easily identifiable parts of the Customs Regulations. Accordingly, no change to the amendments is made based on this comment.

Comment: A commenter cited Customs information-gathering and automation efforts and then argued that in the Interim Regulations Customs is informing the public that, for a "majority of importations, those entered on informal Customs entries," Customs does not need the information which it had said it needed when it implemented these automation efforts.

Customs Response: The only change from the manifest requirements for express consignment shipments under part 128 is that the HTSUS (Harmonized Tariff Schedule of the United States) number is not required for shipments valued at § 200 or less (i.e., *not* for all informal entries). Customs believes that this change does not affect a "majority of importations." Accordingly, no change to the amendments is made based on this comment.

Comment: A commenter stated that Customs should perform periodic inspections of all goods, including shipments valued at § 200 or less.

Customs Response: Customs fully agrees with this comment and, in fact, does perform examinations of shipments valued at less than § 200. These examinations are typically performed under structured programs such as statistically valid compliance measurements, random examinations, and targeted examinations.

Comment: One commenter stated that the regulations would allow unfettered entry according to unchallenged declarations of entry. Another commenter questioned how the FDA will enforce its statutes and regulations if Customs has no idea whether a package falls within FDA jurisdiction. This same commenter also questioned how Customs will enforce visa requirements for apparel and intellectual property rights, arguing that the Interim Regulations make no mention of how this will be done.

Customs Response: Customs disagrees with this statement. One of the concepts that permeates the Customs Modernization provisions is that an "importer of record" is held to a standard of "reasonable care" in discharging entry and related activities. This standard, coupled with the fact that Customs has every authority to challenge the contents of any documentation or data submitted, including value, presented for shipments entering the United States, enables Customs to rely on the specific description provided to determine whether a shipment is subject to another agency's requirements. However, because the "reasonable care" standard was not made express in the interim regulations, specifically at § 143.26, language providing for this standard is added, under the authority of 19 U.S.C. 1498(b).

In addition, it is Customs opinion that visa requirements will be enforced because merchandise for which there are visa requirements is encompassed by the provisions of § 10.153(g) (merchandise of a class or kind provided for in any absolute or tariff-rate quota), or, in the case of express shipments, by the provisions of § 128.24(a) (merchandise which is subject to quota or other quantitative restraints). Therefore, merchandise subject to visa does not qualify for duty-free treatment under the provisions of § 10.151. Accordingly, no change to the amendments is made based on this comment.

Comment: A commenter stated that Customs would virtually eliminate any possibility for detection of contraband shipments through subsequent review of importation documents.

Customs Response: Customs disagrees with this statement. Customs routinely performs port audits of manifest information, including low-value shipments. In addition, Customs can examine these shipments prior to release. (See also the response below to a similar comment under the heading "Express consignment procedures under §§ 128.21, 128.23, and 128.24".)

Exempt Merchandise Under §§ 10.151 and 10.152

Comment: One commenter contended that the preparation of an entry should not be required for any shipment valued at $200 or less. Two other commenters contended that shipments under 19 U.S.C. 1321 are exempt from entry as well as duty. These commenters also referred to what they believe to be favorable treatment for mail shipments.

Customs Response: Customs does not agree with these comments. These issues were clearly addressed in the **BACKGROUND** portion of T.D. 94–51 (the **Federal Register** document which amended the Customs Regulations on an interim basis (59 FR 30289)) (see also *National Customs Brokers*, which upholds Custom position in this regard). It is Customs position that the former § 10.151 did *not* exempt merchandise covered by it from entry; it exempted such merchandise from formal entry under 19 U.S.C. 1484. T.D. 94–51 clearly explains this. Regarding mail entries, § 145.31 provides that the *district director* does not need to prepare an entry as provided for in § 145.12. This is not a change from the previous provision, except that a reference to § 145.12 was added to make it clear that what is meant is that *Customs officers* need not prepare an entry for the covered shipment. Accordingly, no change to the amendments is warranted.

Comment: One commenter questioned Customs ability to determine if an importer has multiple shipments of low-value merchandise arriving on one day because an importer can use various couriers, carriers and the mail.

Customs Response: Customs disagrees that it would be unable to determine if an importer has multiple shipments. Customs performs post audits of manifests for both couriers and other carriers and it would be possible to identify violators through these procedures or simply through manifest reviews. Importers using the mail have no control over postal routing and a pattern of repeated shipments of low-value merchandise would be detected by Customs personnel responsible for processing the packages.

Comment: One commenter proposed that an invoice be attached to each manifest to verify the low value of shipments.

Customs Response: Customs disagrees with this proposal. Although Customs has the authority to require supporting documentation for any shipment, we feel that it would place an excessive burden on the trade community to require such documentation which, in the preponderance of cases, would simply duplicate information already provided. Accordingly, no change to the amendments is made based on this comment.

Comment: One commenter proposed that Customs maintain the *status quo* for shipments with a declared value of $100 or more.

Customs Response: Customs feels that this is not an option. Customs also notes that the amount set by 19 U.S.C. 1321(a)(2)(C) is a "floor" amount of $200.

Comment: One commenter suggested that the $100 ceiling for gifts in § 10.152 be changed to $200, consistent with the $200 ceiling for importations by one person on one day in § 10.151.

Customs Response: The dollar amounts currently provided in

§§ 10.151 and 10.152 are the "floor" amounts established by Congress when it amended 19 U.S.C. 1321. Although the Secretary of the Treasury is authorized to prescribe exceptions to any exemption provided for under section 321, changing a provision to provide for amounts greater than the floor amounts established requires an analysis of the expense and inconvenience to the Government compared to the revenue that would otherwise be collected. See, 19 U.S.C. 1321(b). When such an analysis is undertaken, this comment will be reconsidered. At this time, however, no change to § 10.152 can be made.

Unlicensed Transactions Under § 111.3

Comment: A commenter stated that although it does not challenge the decision as to the *type* of entry method which may be used for shipments under 19 U.S.C. 1321, it does challenge Customs taking of the authority to decide *who* will make such entries by the addition of § 111.3(e) to the Customs Regulations. The commenter also cited 19 U.S.C. 1641(b)(6) under which any person who intentionally transacts Customs business, other than on behalf of that person (*i.e.*, a person conducting Customs business for his or her own behalf), is liable to a $10,000 penalty. The commenter noted that, notwithstanding the above provisions, the Interim Regulations provide that shipments of $200 or less may be made by the owner, purchaser, *or consignee* of the shipment. The commenter argued that a consignee filing such an entry is clearly conducting Customs business other than on its own behalf and concluded that in this case the entry documents must be filed by the persons with the right to make entry under 19 U.S.C. 1484. Three other commenters challenged the provisions of § 143.26 which allow a consignee to make entry on shipments valued at $200 or less.

Regarding the amendment to § 111.3(e), another commenter noted that an importer is already allowed to make entry for his/her own account without being a Customs broker, and that Customs has issued instructions and messages showing concern about adequately enforcing cargo selectivity processing and protecting the revenue in regard to informal entries. The commenter further stated that extending the right to file informal entries to parties other than the actual importer or a licensed broker may compound existing problems. Also, the commenter asked what the power of attorney requirements would be for the party presenting an informal entry.

Another commenter noted the amendment to "Customs business" in 19 U.S.C. 1641(a)(2) made by Pub. L. 103–182 and noted that this indicates that the intent of Congress in promulgating the Customs Modernization provisions of the Act was to further restrict the amount and type of Customs business that could be performed by unlicensed parties.

Customs Response: In *National Customs Brokers*, the Court addressed these very contentions and concluded that "* * * sections 1498 and 1484 support the conclusion that Customs has acted lawfully in promulgating regulations for the declaration and entry of exempt merchandise * * *"

Concerning power of attorney requirements, a power of attorney continues to be required in each instance in which a Customs broker is designated by the owner, purchaser, or consignee. The change effected by the Interim Regulations in this regard is that now, for shipments entitled to the privileges in 19 U.S.C. 1321, the consignee may make entry (see § 143.26(b)). Since the consignee in this situation makes such an entry in its own right, no Customs power of attorney (see 19 CFR 141.34 *et seq.*) is required in this situation. Accordingly, no change to the amendments is made based on these comments.

Comment: Arguing that Customs has historically required the person making entry not only to be knowledgeable about and accountable for the facts relating to an importation but also to submit documentation to substantiate that knowledge, a commenter stated that its reading of § 143.26, combined with the changes to Part 128, indicates that "express" entities (and their licensed brokers) may enter all shipments each individually valued at not over $1250 by merely submitting an "entity" manifest setting forth the freight bill number and a value not over $1250.

Customs Response: Regarding the "right to make entry" issues, as stated above, these issues were clearly addressed by the CIT's decision in *National Customs Brokers*. Regarding the treatment of shipments carried by express consignment operators or carriers, the Interim Regulations are very clear in creating a 3-tiered approach (shipments valued at $200 or less and otherwise qualifying may be entered informally, as provided for in 19 U.S.C. 1498 and § 128.24, and are entitled to the privileges in 19 U.S.C. 1321; shipments valued from $200 to $1250 may be entered informally, as provided for in 19 U.S.C. 1498 and § 128.24; and all other shipments must be entered under the formal entry procedures). If the commenter is questioning the use of "in-house" brokers by couriers, we note that this issue has been extensively dealt with by the Courts (*National Customs Brokers* v. *U.S.*, 13 CIT 803, 723 F.Supp. 1511 (1989); *National Customs Brokers & Forwarders Ass'n of America* v. U.S., 14 CIT 108, 731 F.Supp. 1076 (1990); *J.F.K. Customs Brokers Ass'n Inc.* v. *U.S.*, 745 F.Supp. 113 (E.D.N.Y. 1990)).

Express Consignment Procedures Under §§ 128.21, 128.23, and 128.24

Comment: One commenter suggested that the manifest requirements in § 128.21 be modified to require a description (of the imported merchandise) detailed enough so that the HTSUS classification applicable to the shipment can be determined from the description.

Another commenter stated that § 128.24(e) permits release of shipments valued at less than $200 without the requirement for an HTSUS number and § 128.24(d) exempts such shipments from the filing of an entry summary.

While two commenters supported not having a HTSUS number requirement, two other commenters stated that HTSUS numbers should be required for section 321 releases.

Those opposed to not requiring HTSUS numbers questioned if Customs would be able to enforce other government agency requirements, visa requirements, or Intellectual Property Rights (IPR) issues.

Customs Response: The requirement for a specific description of entered merchandise, as provided in the Interim Regulations, was contained in the previous provision (19 CFR 128.21(a)(4)). The only change from the previous provision is that, consistent with the amendment to 19 U.S.C. 1321(a)(2)(C), no entry summary or estimated duties are required and tariff classification information is not required for shipments qualifying for 19 U.S.C. 1321 treatment. In addition, Customs, under 19 CFR 143.22, has the option of requiring a formal entry for any shipment for which there are questions regarding admissibility, enforcement or revenue.

Regarding a requirement for HTSUS numbers on low-value entries, Customs does not feel that there is sufficient reason to require such merchandise identification when other required manifest information is adequate to enforce these provisions. Customs believes that the requirements to provide shipper/consignee information and a specific description, along with the country of origin and value of the merchandise, provide adequate

VOL 60 ISS 72 AP 14 1995 UMI

information to meet Customs enforcement responsibilities on low-value shipments. Accordingly, no change to the amendments is made based on this comment.

Comment: A commenter suggested that the requirement in § 128.21(a)(4)(i) for the HTSUS number on the manifest if the merchandise is required to be formally entered is redundant since the HTSUS number is provided via the CF 3461 or CF 7501 and the transmission of that data via the Automated Broker Interface (ABI).

Customs Response: The requirement has been in effect since express regulations were originally published. As this item is not directly related to the amendments made by sections 651 and 681 and was not included in the interim regulations, Customs does not support including the proposal in the final rule because there has not been a comprehensive analysis performed at this time. Accordingly, no change to the amendments is made based on this comment.

Comment: One commenter stated that "express" entities may enter shipments valued at less than $1,250 by merely submitting a manifest setting forth the freight bill number and the value.

Customs Response: We are unaware of any regulations which state this. Requirements for entry of express shipments valued between $200 and $1,250 are set forth in § 128.24; however, the information required goes far beyond a bill number and value. The requirements for release of shipments valued under $200 are defined in § 143.23 and also require more than a bill number and value information.

Comment: One commenter stated that it appears that shipments of any value may be entered via a manifest report.

Customs Response: The commenter did not cite any regulation or other basis for this comment. We are unaware of any regulation which would permit this.

Comment: A commenter requested removal or authorization of a waiver of the requirement in § 128.23 that entry numbers be furnished in a Customs-approved bar code format. Another commenter argued that transmission in a bar-coded format is "operationally impossible."

Customs Response: The requirement has been in effect since express consignment regulations were originally published. As this item was not directly related to the amendments made by sections 651 and 681 and was not included in the interim regulations, Customs does not support including the proposal in the final rule because there has not been a comprehensive analysis performed at this time. Accordingly, no change to the amendments is made based on this comment.

Comment: Four commenters suggested that § 128.23(b)(1) should require express consignment entities utilizing the procedures in part 128 to comply with the *applicable* Automated Commercial System (ACS) requirements.

Customs Response: Customs disagrees with this proposal, and believes that such a change to the regulations would actually serve to confuse the applicability of ACS requirements. Insertion of the word "applicable" would create confusion by inferring that the use of automated procedures is discretionary. Accordingly, no change to the amendments is made based on this comment.

Comment: One commenter asked that § 128.24(e) be clarified so that it is clear that the requirement for segregation of shipments valued at $200 or less from those valued at more than $200 when an advance manifest is used refers to segregation on the manifest.

Customs Response: We agree with this proposal. There was never any intent that actual shipments of low-value merchandise be physically segregated from other shipments. We feel this can be resolved by rewording the pertinent sentence to read "such shipments must be segregated *on the manifest* from * * *."

Entry Requirements Under §§ 141.4, 143.23, 143.26, and 145.31 and Those Pertaining to Undeliverable Shipments and International Traffic

Comment: A commenter stated that § 141.4(c) provides for exemption from entry for undeliverable articles under HTSUS General Note 13(e), subject to certain conditions. One of these conditions requires that the person claiming the exemption must submit a certification that the merchandise was intended to be exported to a foreign country. However, T.D. 55091(4), 95 Treas. Dec. 145 (1960), allows for the return of merchandise that was erroneously shipped to a foreign country. Thus, the commenter suggested that merchandise erroneously shipped to a foreign country should be exempt from entry under HTSUS General Note 13(e)—since these types of shipments were not intended to be exported—and that § 141.4(c) should so provide.

Customs Response: Customs does not agree with this suggestion. Two separate concepts are apparently being confused here: Goods erroneously shipped that may be administratively treated as nonexports/nonimports, and goods undeliverable abroad that, pursuant to statute, are required to be exported to be exempt from entry. As stated by the commenter, § 141.4(c) provides for the entry exemption statutorily available under General Note 13(e), which was amended by section 681 of the Act to provide, in part, that goods undeliverable abroad must have been exported in the first instance. Exportation is defined at § 101.1(k) of the Customs Regulations (19 CFR 101.1(k)) in terms of intent to unite goods to the mass of things belonging to some foreign country. Thus, an intent to export domestic goods to some foreign country must be present before the entry exemption available can be considered applicable. Under the provisions of T.D. 55091(4), however, merchandise that was erroneously shipped is administratively treated as if it was never exported, because there was no intent to export the goods, *i.e.*, to unite the goods to the mass of things belonging to a foreign country, in the first instance. While this may seem like a case of semantics, the concepts embrace different scenarios: The latter situation addressed in the T.D. is much narrower than the circumstances required to be met by the entry exemption available under General Note 13(e). To the extent that the commenter believes that the T.D. may be inconsistent with the provisions of § 141.4(c), it is encouraged to write in, under the provisions of part 177 of the Customs Regulations, for a clarification of the T.D., but Customs does not see any apparent contradiction between these two exemption provisions. Accordingly, no change to the amendments is made based on this comment.

Comment: A commenter stated that Customs should clarify that the merchandise involved cannot leave the custody of *either* the carrier *or* the foreign Customs service.

Customs Response: It seems obvious that the statutory requirement does not require the merchandise to be in the custody of *both* the carrier *and* the foreign Customs service.

Comment: A commenter argued that the Interim Regulations are inconsistent with an agreement reached between Customs and a railroad association, which provides that the importer (required to make the certification regarding age of the car under HTSUS subheading 9905.86.05 or the certification regarding the exportation within 1 year from the date of importation under HTSUS subheading 9905.86.10) should not have to make the certification; the requirement should be met by a certified list from the Association, with information regarding the cars.

Customs Response: In general, Customs must have a mechanism in place to "ensure" that rail cars and locomotives entering the U.S. are not subject to duties or taxes. The current interim regulation gives U.S. Customs the authority to establish evidentiary requirements.

With regard to bonding requirements, Customs is unaware of any other method to insure the performance of the obligations set forth in the regulations (other than a bond). Since there is a statutory requirement, compliance with which is guaranteed by a bond, and since the legislative history specifically authorized the requiring of such a bond (see the **BACKGROUND** to the Interim Regulations, under Other Exemptions from Entry), we see no alternative to requiring such a bond.

However, the commenter requested Customs to accept the railroad association's certification of eligibility for importation under HTSUS subheading 9905.86.05 instead of having the certification of particular railroads actually importing the cars; that the association should guarantee the accuracy of that certification and the fact that any car so imported would be timely exported. If the railroad association would be willing to post a bond that made it, rather than the actual importing railroad, responsible for any default of those two commitments and the association would further agree not to raise as a defense to an action the fact that it was not the importing railroad, then Customs would draft the appropriate bond language and seek to obtain the formal commitment of the Department of the Treasury that the Customs Service may accept such a bond from the association for the activity specified. Accordingly, no change to the regulations is made at this time.

Comment: Three comments—all from express companies—suggested that Customs should clarify that requiring documents under § 141.4(c)(2) to support claims for exemption from entry for undeliverable articles should not be done on a routine basis.

Customs Response: We disagree with this proposal. The express companies deal primarily with small, low-value shipments. HTSUS General Note 13(e), however, applies to all shipments. There are no restrictions upon mode of transport, value, country of origin, quota merchandise, or other agency requirements. Customs could conceivably receive claims for importation without entry on shipments of unlimited quantities or value. We oppose inclusion of any language which could be interpreted as limiting Customs authority to require supporting documentation. Accordingly, no change to the amendments is made based on this comment.

Comment: Four commenters contended that the documentation needed to enter a shipment valued at $200 or less, provided for in § 143.23(j), which does not include "shipping weight," should be consistent with the documentation required to be on manifests submitted by express carriers under § 128.21(a)(6), which does include "shipping weight."

Customs Response: We agree with this proposal. Because the weight of a shipment can provide valuable enforcement or compliance information, we feel that "Weight" should be included in the list of required information under § 143.23.

Comment: Four commenters proposed either to eliminate language from § 143.23(j) which refers to informal entries for shipments valued at less than $200, or provide statements which essentially assert that an entry is not required for these shipments.

Customs Response: Customs disagrees with the underlying premise of these commenters, *i.e.*, that such low-value shipments are exempt from entry requirements. As stated in the **BACKGROUND** portion of T.D. 94–51, the interim regulations amended Part 143 *to clarify* the procedures for entries of shipments, including shipments which may be entered under the procedures provided for by regulation. Only merchandise specifically exempt from entry, *i.e.*, so-called intangibles, under General Note 13, is exempt from all forms of entry. By adding paragraph (j) to § 143.23, Customs was clarifying the entry requirements that have always been applicable to low-value shipments. Thus, this amendment to § 143.23 did not constitute a change from current practice.

Regarding the propriety of promulgating such regulations, the commenter is advised to see the Court's decision in *National Customs Brokers*, which, in responding to the issue of whether merchandise authorized to be exempt, under section 321 of the Tariff Act of 1930, must be entered, reiterated that the Secretary is empowered to promulgate regulations with respect to entry of low-value exempt merchandise pursuant to 19 U.S.C. 1498(b) (also citing 19 U.S.C. 1484). Accordingly, no change to the amendments is made based on this comment.

Comment: One commenter stated that, operationally, a hard copy air waybill must be submitted, even though the required information can be submitted through AMS.

Customs Response: Customs notes that the reference to "manifest" in § 143.23 includes electronic manifests.

Comment: One commenter indicated that couriers do not have to tell Customs what imported goods actually are.

Customs Response: This is an incorrect statement. Sections 143.23 and 128.21(a) very clearly state that a specific description of the merchandise is required.

Comment: One commenter proposed that Customs should require the importer's identification number and the manufacturer's identification number for low-value shipments.

Customs Response: Customs disagrees with the proposal to require ID numbers. Customs believes that it can adequately fulfill its enforcement needs for low-value shipments based on the shipper and consignee information required in §§ 143.23 and 128.21(a). Accordingly, no change to the amendments is made based on this comment.

Comment: Another commenter stated that Customs would be unable to enforce embargoes because the courier does not have to furnish Customs and their computer with the country of origin.

Customs Response: Sections 143.23 and 128.21(a) clearly state that the country of origin of the merchandise is required information for release of merchandise under section 321 provisions.

Comment: A commenter suggested that §§ 143.26 and 145.31 be incorporated into part 128 of the CFR.

Customs Response: Customs disagrees with this proposal. Section 143.26 applies to all shipments which qualify for administrative exemptions, regardless of whether the shipment is express. Section 145.31 deals with shipments in the mail and is not applicable to express shipments. Accordingly, no change to these sections is made based on this comment.

Comment: One commenter suggested that §§ 143.26 and 145.31 should be revised to state that the consignee, other than the owner or purchaser, must show direct interest in, and a relationship to, an importation sufficient to meet basic custom entry requirements.

Customs Response: Customs disagrees with this suggestion. The suggestion is confusing in that a consignee, by its very nature, must have an interest in and a relationship to the importation. Accordingly, no change to these sections is made based on this comment.

VOL 60 ISS 72 AP 14 1995 UMI

Comment: Two commenters stated that mail importations are exempt from entry under § 145.31.

Customs Response: Customs believes that it is made clear in the revised § 10.151 that the provisions included in § 145.31 constitute an entry under informal entry procedures. Information needed for release of mail shipments under administrative exemptions is supplied in documentation accompanying the mail package. This accompanying documentation is the "other document filed as the entry" required by § 10.151.

Conclusion

As no material issues were raised in the comments that are not adequately addressed by existing regulations or by relevant judicial decisions, Customs has decided to finalize the amendments as proposed, with the minor editorial changes to §§ 128.24(e), 143.23, and 143.26 discussed above. Also, conforming amendments to §§ 10.151, Part 178, and the general authority citations to Parts 10, 101, 123, and 159 are made as follows: § 10.151 is revised to add oral declarations to the forms of evidence showing the fair retail value of imported merchandise; Part 178 is amended to indicate the OMB-assigned control numbers for the information collections contained at §§ 128.21, 128.23, 128.24, 141.4, and 143.23; at part 10, the reference to 19 U.S.C. 1202 is revised to add a parenthetical reference to General Note 20 of the Harmonized Tariff Schedule of the United States (HTSUS); at Part 101, the parenthetical HTSUS reference is revised to include a reference to General Note 20; at Part 123, section 1433 is added to the citations for title 19—it was inadvertently left out of the Interim Regulation text; and, at part 159, section 1504 is added to the citations for title 19—it also was inadvertently left out of the Interim Regulation text.

The Regulatory Flexibility Act, and Executive Order 12866

Based on the supplementary information set forth above and because the amendments contained in this document reflect existing statutory requirements or merely implement interpretations and policies that are already in effect under interim regulations, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collections of information in these final regulations, contained in §§ 128.21, 128.23, 128.24, 141.4, and 143.23, were previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) under control numbers 1515–0069 (§§ 128.21, 128.23 and 128.24) and 1515–0065 (§§ 141.4 and 143.23). The estimated average annual burden associated with this collection is .24 hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229, or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Value content.

19 CFR Part 101

Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Shipments.

19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports, Licensing, Reporting and recordkeeping requirements.

19 CFR Part 123

Administrative practice and procedure, Canada, Customs duties and inspection, Imports, International traffic, Railroads, Reporting and recordkeeping requirements, Trade agreements (US-Canada Free Trade Agreement).

19 CFR Part 128

Customs duties and inspection, Entry, Express Consignments, Imports, Manifests.

19 CFR Part 141

Customs duties and inspection, Entry, Invoices, Powers of attorney, Reporting and recordkeeping requirements.

19 CFR Part 143

Automated broker interface, Customs duties and inspection, Electronic entry filing, Entry, Imports, Invoice requirements.

19 CFR Part 145

Customs duties and inspection, Imports, Mail, Postal service, Reporting and recordkeeping requirements.

19 CFR Part 148

Customs duties and inspection, Declarations, Reporting and recordkeeping requirements, Taxes, Trade agreements.

19 CFR Part 159

Computer technology, Customs duties and inspection, Entry, Imports, Value content.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated above, the interim rule amending Title 19, Chapter I, parts 10, 101, 111, 123, 128, 141, 143, 145, 148, 159, and 178 of the Customs Regulations (19 CFR parts 10, 101, 111, 123, 128, 141, 143, 145, 148, 159, and 178), which were published at 59 FR 30289–30296 on June 13, 1994 (T.D. 94–51), is adopted as a final rule with the following changes:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

§ 10.151 [Amended]

2. In § 10.151, the words ", an oral declaration," are added following the words "as evidenced by the" in the first sentence.

PART 101—GENERAL PROVISIONS

1. The authority citation for part 101 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1624;

* * * * *

PART 128—EXPRESS CONSIGNMENTS

1. The authority citation for part 128 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

§ 128.24 [Amended]

2. In § 128.24, the second sentence in paragraph (e) is amended by adding the words "on the manifest" following the words "Such shipments must be segregated".

PART 143—SPECIAL ENTRY PROCEDURES

1. The authority for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

2. In § 143.23, paragraph (j)(5) is amended by removing the word "and"; paragraph (j)(6) is redesignated paragraph (j)(7); and by adding a new paragraph (j)(6) to read as follows:

§ 143.23 Form of entry.

* * * * *

(j) * * *

(6) Shipping weight; and

* * * * *

§ 143.26 [Amended]

3. In § 143.26, paragraphs (a) and (b) are each amended by adding the words ", using reasonable care," after the words "may be entered".

PART 159—LIQUIDATION OF DUTIES

1. The authority citation for part 159 is revised to read as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624. Subpart C also issued under 31 U.S.C. 5151. Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding, in appropriate numerical order according to the section number under the column indicated, the following information to read as follows:

19 CFR section description		OMB control No.
*	*	*
§ 128.21	Specific description of merchandise.	1515–0069
§ 128.23	Requirement of submission of Customs-approved bar-coded entry numbers for ACS processing.	1515–0069
§ 128.24	Requirement for Invoice, Advance Manifest, or Immediate Delivery application form.	1515–0069
*	*	*
§ 141.4	Requirement to make entry unless specifically exempt.	1515–0065
§ 143.23	Requirement to file entry summary form.	1515–0065

Michael H. Lane,

Acting Commissioner of Customs.

Approved: March 20, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–9192 Filed 4–13–95; 8:45 am]

BILLING CODE 4820–02–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Chapter III and Part 423

RIN 0960–AE07

Service of Process

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: The Social Security Independence and Program Improvements Act of 1994 (SSIPIA), established the Social Security Administration (SSA) as an independent agency in the Executive Branch of the U.S. Government effective March 31, 1995. The Social Security Administration will continue to be responsible for the administration of the old-age, survivors, and disability insurance (OASDI) and the Supplemental Security Income (SSI) programs. The SSA is also required to continue to assist in the administration of the Medicare program, the Black Lung program, and the Coal Industry Retirees Health Benefits Act. Prior to March 31, 1995, SSA was an operating component of the Department of Health and Human Services (DHHS). These final rules generally adopt as SSA rules the same procedures and practices on service of legal process applicable to DHHS. These final rules also remove "Department of Health and Human Services" from the heading of Chapter III of title 20 of the Code of Federal Regulations.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–6243.

SUPPLEMENTARY INFORMATION:

Background

The rules at 45 CFR Part 4, entitled Service of Process, prescribe the procedures DHHS follows regarding service of legal process in lawsuits brought against the Department and its employees and in other process directed at the Department or its employees. These final rules adopt, with minor changes, the same procedures and practices set out in 45 CFR Part 4 that were applicable to SSA when it was a component of DHHS. All changes are technical, that is, changes in names, titles, addresses and legal citations. The changes in legal citations are due to changes to the Federal Rules of Civil Procedure (FRCP) effective December 1, 1993.

DHHS Policies Continued by SSA

These final rules contain SSA's method of service of legal process and reflect Rule 4 of the FRCP regarding service of process in civil litigation in Federal courts, including service on Federal agencies and officials. Rule (4)(i) specifies that service on a Federal agency or officer is to be made by sending a copy of the summons and complaint to the officer or agency by registered or certified mail.

These final rules also provide that service of a summons and complaint on SSA or on any SSA official sued in his or her official capacity may be made by mailing a copy to SSA's General Counsel. Such service will constitute service on SSA or the official, as required by Rule 4 of the FRCP. Process mailed directly to SSA's General Counsel will avoid the delays encountered when documents must be transferred from other offices.

The General Counsel will also accept service of subpoenas and other process served on the Commissioner or on SSA. These final rules specify certain employees in the Office of the General

VOL
60
ISS
72
AP
14
1995
UMI

Counsel who are authorized to accept such process when it is served by an individual personally rather than mailed. Subpoenas and other legal process directed to other than the specified officials of SSA will not be accepted unless special arrangements for acceptance of process are made in a particular case.

The Office of the General Counsel is authorized, but not required, to accept service of summonses and complaints initiating lawsuits against an SSA employee when the employee is sued in his or her individual capacity and the suit relates to the employee's official duties. Such service must nevertheless be accomplished in accordance with the provisions of Rule 4 applicable to service on individual defendants or, in the case of suits brought in State courts, in accordance with the applicable State requirements.

These final rules state that SSA will not ordinarily provide a receipt or other acknowledgment of process received, except for a return receipt associated with certified mail. Plaintiffs mailing a summons and complaint sometimes have enclosed a form by which they seek acknowledgment of receipt of the process. Completion of such forms is not required or contemplated by Rule 4. Since completion of the forms is time-consuming and creates unnecessary work for SSA employees, these rules reiterate the continuing practice of not returning such forms. Where an SSA official is sued in his or her individual capacity however, and service is accomplished pursuant to Rule 4(e) of the FRCP, SSA may return the acknowledgment form described in Rule 4(e).

Regulatory Procedures

SSA follows the Notice of Proposed Rulemaking and public comment procedures specified in the Administrative Procedure Act (the APA), 5 U.S.C. 553 (b) and (c), in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, since these final rules generally reflect a continuation of the procedures and practices in effect when SSA was a component of DHHS, notice of proposed rulemaking and public comment procedures are unnecessary. The only changes are revisions in names, addresses, titles, legal citations and a heading. In addition, these final rules provide only rules of practice and procedure which do not require public comment procedures.

Executive Order (E.O.) No. 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under E.O. 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because these rules affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These final rules impose no additional reporting and recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance; 93.806, Special Benefits for Disabled Coal Miners; 93.807, Supplemental Security Income)

List of Subjects in 20 CFR Part 423

Courts.

Approved: March 30, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble and under the authority of 42 U.S.C. 1302, Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The heading for Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

CHAPTER III—SOCIAL SECURITY ADMINISTRATION

2. A new part 423 is added to read as follows:

PART 423—SERVICE OF PROCESS

Sec.

423.1 Suits against the Social Security Administration and its employees in their official capacities.
423.3 Other process directed to the Social Security Administration or the Commissioner.
423.5 Process against Social Security Administration officials in their individual capacities.
423.7 Acknowledgment of mailed process.
423.9 Effect of regulations in this part.

Authority: 42 U.S.C. 901.

§ 423.1 Suits against the Social Security Administration and its employees in their official capacities.

Summonses and complaints to be served by mail on the Social Security Administration, the Commissioner of Social Security, or other employees of the Social Security Administration in their official capacities should be sent to the General Counsel, Social Security Administration, Room 611, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235.

§ 423.3 Other process directed to the Social Security Administration or the Commissioner.

Subpoenas and other process (other than summonses and complaints) that are required to be served on the Social Security Administration or the Commissioner of Social Security in his or her official capacity should be served as follows:

(a) If authorized by law to be served by mail, any mailed process should be sent to the General Counsel, Social Security Administration, Room 611, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235.

(b) If served by an individual, the process should be delivered to the mail room staff in the Office of the General Counsel, Room 611, 6401 Security Blvd., Baltimore, MD 21235 or, in the absence of that staff, to any Deputy General Counsel or secretary to any Deputy General Counsel of the Social Security Administration.

§ 423.5 Process against Social Security Administration officials in their individual capacities.

Process to be served on Social Security Administration officials in their individual capacities must be served in compliance with the requirements for service of process on individuals who are not governmental officials. The Office of the General Counsel is authorized but not required to accept process to be served on Social Security Administration officials in their individual capacities if the suit relates to an employee's official duties.

§ 423.7 Acknowledgment of mailed process.

The Social Security Administration will not provide a receipt or other acknowledgment of process received, except for a return receipt associated with certified mail and, where required, the acknowledgment described in rule 4(e) of the Federal Rules of Civil Procedure (28 U.S.C. App. 4(e)).

§ 423.9 Effect of regulations in this part.

The regulations in this part are intended solely to identify Social Security Administration officials who are authorized to accept service of process. Litigants must comply with all requirements pertaining to service of process that are established by statute and court rule even though they are not repeated in this part.

[FR Doc. 95–9030 Filed 4–13–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 638

Job Corps: Allowances and Allotments

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: Job Corps is amending its regulations on student allowances and allotments. The objectives are: to increase the length of enrollment requirements for readjustment allowance eligibility, in order to encourage students to lengthen their enrollment and maximize Job Corps offerings and benefits; and to amend the allotment section to coincide with revisions in readjustment allowance accrual.

EFFECTIVE DATE: May 15, 1995.

FOR FURTHER INFORMATION CONTACT: Dana Davidson Johnson, Office of Job Corps, Division of Program Management and Review. Telephone: (202) 219–6568 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Job Corps is implementing a new pay and allotment system which will provide students with enough money to meet their basic needs, while adding greater incentives than are available in the current system to encourage student retention, performance, program completion, and length of enrollment. The rule enables the Job Corps Director to increase the number of paid days for eligibility for readjustment allowances. This will encourage students to stay in the program longer. Students thus can be better prepared for employment, particularly because this added time will encourage students to acquire social skills along with vocational and academic training.

Payroll will be conducted on a biweekly schedule versus the current twice-monthly procedure. The rule ties into the implementation of the new Student Pay, Allowance and Management Information System (SPAMIS) utilized by Job Corps. The new pay system will be much more responsive than the current system, with individual student pay levels and leave status maintained on a current basis and status changes made by the Job Corps Centers as they occur. The rule allows the accrual of readjustment allowances to be set for each paid day and allotments to be processed on a biweekly basis.

This was published as a proposed rule, with a request for comments, on November 1, 1994, 59 FR 54539–54540. Only one comment was received in response to the proposed rule—the Georgia Department of Labor encourages Job Corps to promulgate the rule in final as proposed. The Department of Labor agrees and in this document is doing so.

This rule applies only to allowances and allotments for Job Corps students. The rule is not classified as a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review". It does not (1) materially alter the budgetary impact of entitlements or the rights and obligations of recipients thereof; or (2) raise novel legal or policy issues arising out of legal mandates in the President's priorities. It is not likely (3) to result in having an annual effect on the economy of $100 million or more; or (4) to create a serious inconsistency or interfere with action taken or planned by another agency. As required by the Regulatory Flexibility Act, the Department of Labor at the time the proposed rule was published, notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 20 CFR Part 638

Contract programs, Labor, Training and employment programs.

Final Rule

Accordingly, 20 CFR part 638 is amended as follows:

1. The authority for part 638 continues to read as follows:

Authority: 29 U.S.C. 1579(a).

2. In § 638.524, paragraphs (b) and (c) are revised to read as follows:

§ 638.524 Allowances and allotments.

* * * * *

(b) The Job Corps Director shall ensure that each student receives a readjustment allowance for each paid day of satisfactory participation in Job Corps after termination from the program if he/she terminates after 210 days in pay status or after 180 days if he/she is a maximum benefits or vocational completer. In the event that a student receives a medical termination, he/she shall be eligible for the accrued readjustment allowance, regardless of length of stay or other considerations. See also paragraph (d) of this section. (Section 429(c)).

(c) The Job Corps Director shall establish procedures to allow students to authorize deductions from their readjustment allowance, which shall be matched by an equal amount from Job Corps funds and sent biweekly as an allotment by the SPAMIS Data Center to the student's spouse, child(ren) or other dependent, if such spouse, child(ren) or other dependent resides in any State in the United States.

* * * * *

Signed at Washington, DC, this 3rd day of April 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–9277 Filed 4–13–95; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

29 CFR Part 1960

Basic Program Elements for Federal Employee Occupational Safety and Health Programs; Recordkeeping Requirements

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: OSHA is amending the recordkeeping requirements of its basic program element for Federal employee occupational safety and health programs. The changes hereby being made in 29 CFR part 1960 reflect the reporting requirements for private sector employers set forth at 29 CFR 1904.8.

EFFECTIVE DATE: This regulation is effective April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Plummer, Director, Office of Federal Agency Programs, Room N3112, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C., 20210 (202–219–9329).

SUPPLEMENTARY INFORMATION: This modification to the requirements for reporting of fatalities and catastrophes occurring in Federal agencies set forth at 29 CFR 1960.70 is undertaken to make the reporting of such occurrences involving employees of the Federal government the same as those in private industry. The Federal workers should enjoy the same level of protection afforded an employee in the private

VOL 60 ISS 72 AP 14 1995 UMI

sector. This change will ensure the reporting of these serious incidents in a timely manner and enable OSHA to respond more quickly and efficiently.

This revision is procedural in character, therefore, this rule is not classified as a "major rule" under Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

This regulation changes the reporting requirements for fatalities and catastrophes in the Federal sector to reflect the requirements in the private sector. It does not add additional burden for the agencies. Therefore, it is not necessary to publish it for notice and comment pursuant to 5. U.S.C. 553(b).

Under authority granted by the United States Code, Title 5, sections 553 and 7902; the Occupational Safety and Health Act, sections 19 and 24; and Executive Order 12196, the Secretary of Labor is authorized to make these procedural revisions to 29 CFR part 1960.

Authority: This document was prepared under the direction of Mr. Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Accordingly, pursuant to sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat, 1609, 1614; 29 U.S.C. 668, 673), 5 U.S.C. 553, Secretary of Labor's Order No. 1–90 (55 FR 9033), and Executive Order 12196, 29 CFR part 1960 is revised to make reporting requirements for fatalities and catastrophes in the Federal sector the same as those requirements in the private sector.

List of Subjects in 29 CFR Part 1960

Government employees, Occupational safety and health, Reporting and recordkeeping requirements.

Signed at Washington, DC, this 10th day of April 1995.

Joseph A. Dear,

Assistant Secretary.

For the reason set forth in the preamble, part 1960 of chapter XVII of title 29 of the Code of Federal Regulations is amended to read as follows:

PART 1960—BASIC PROGRAM ELEMENTS FOR FEDERAL EMPLOYEE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

1. The authority citation for part 1960 is revised to read as follows:

Authority: Sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673), 5 U.S.C. 553, Secretary of Labor's Order No. 1–90 (55 FR 9033), and Executive Order 12196.

2. Part 1960 of 29 CFR is amended by revising § 1960.70 to read as follows:

§ 1960.70 Reporting of serious accidents.

(a) Within 8 hours after the death of any employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident, the Federal Agency head or his/her designee shall orally report the fatality/multiple hospitalization by telephone or in person to the Area Office of the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, that is nearest to the site of the incident, or by using the OSHA toll-free central telephone number.

(b) This requirement applies to each such fatality or hospitalization of three or more employees which occurs within thirty (30) days of an incident.

(c) Exception: If the Federal Agency Head or designee does not learn of a reportable incident at the time it occurs and the incident would otherwise be reportable under paragraphs (a) and (b) of this section, the Federal Agency Head or designee shall make the report within 8 hours of the time the incident is reported to any agent or employee of the employer.

(d) Each report required by this section shall relate the following information: Establishment name; location of incident; time of the incident; number of fatalities or hospitalized employees; contact person; phone number; and a brief description of the incident.

(e) Agencies shall provide the Office of Federal Agency Programs with a summary report of each fatal and catastrophic accident investigation. The summaries shall address the date/time of accident, agency/establishment name and location, and consequences, description of operation and the accident, causal factors, applicable standards and their effectiveness, and agency corrective/preventive actions.

[FR Doc. 95–9278 Filed 4–13–95; 8:45 am]

BILLING CODE 4510–26–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Late Premium Payments and Employer Liability Underpayments and Overpayments; Interest Rate for Determining Variable Rate Premium; Amendments to Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This document notifies the public of the interest rate applicable to late premium payments and employer liability underpayments and overpayments for the calendar quarter beginning April 1, 1995. This interest rate is established quarterly by the Internal Revenue Service. This document also sets forth the interest rates for valuing unfunded vested benefits for premium purposes for plan years beginning in February 1995 through April 1995. These interest rates are established pursuant to section 4006 of the Employee Retirement Income Security Act of 1974, as amended. The effect of these amendments is to advise plan sponsors and pension practitioners of these new interest rates.

EFFECTIVE DATE: April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; telephone 202–326–4024 (202–326–4179 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: As part of title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("PBGC") collects premiums from ongoing plans to support the single-employer and multiemployer insurance programs. Under the single-employer program, the PBGC also collects employer liability from those persons described in ERISA section 4062(a). Under ERISA section 4007 and 29 CFR 2610.7, the interest rate to be charged on unpaid premiums is the rate established under section 6601 of the Internal Revenue Code ("Code"). Similarly, under 29 CFR 2622.7, the interest rate to be credited or charged with respect to overpayments or underpayments of employer liability is the section 6601 rate. These interest rates are published by the PBGC in appendix A to the premium regulation and appendix A to the employer liability regulation.

The Internal Revenue Service has announced that for the quarter beginning April 1, 1995, the interest charged on the underpayment of taxes will be at a rate of 10 percent. Accordingly, the PBGC is amending appendix A to 29 CFR part 2610 and appendix A to 29 CFR part 2622 to set forth this rate for the April 1, 1995, through June 30, 1995, quarter.

Under ERISA section 4006(a)(3)(E)(iii)(II), in determining a single-employer plan's unfunded vested benefits for premium computation purposes, plans must use an interest rate equal to 80% of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid. Under § 2610.23(b)(1) of the premium regulation, this value is determined by reference to 30-year Treasury constant maturities as reported in Federal Reserve Statistical Releases G.13 and H.15. The PBGC publishes these rates in appendix B to the regulation.

The PBGC publishes these monthly interest rates in appendix B on a quarterly basis to coincide with the publication of the late payment interest rate set forth in appendix A. (The PBGC publishes the appendix A rates every quarter, regardless of whether the rate has changed.) Unlike the appendix A rate, which is determined prospectively, the appendix B rate is not known until a short time after the first of the month for which it applies. Accordingly, the PBGC is hereby amending appendix B to part 2610 to add the vested benefits valuation rates for plan years beginning in February of 1995 through April of 1995.

The appendices to 29 CFR parts 2610 and 2622 do not prescribe the interest rates under these regulations. Under both regulations, the appendix A rates are the rates determined under section 6601(a) of the Code. The interest rates in appendix B to part 2610 are prescribed by ERISA section 4006(a)(3)(E)(iii)(II) and § 2610.23(b)(1) of the regulation. These appendices merely collect and republish the interest rates in a convenient place. Thus, the interest rates in the appendices are informational only. Accordingly, the PBGC finds that notice of and public comment on these amendments would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making these amendments effective immediately.

The PBGC has determined that none of these actions is a "significant regulatory action" under the criteria set forth in Executive Order 12866, because they will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for these amendments, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, and Small businesses.

In consideration of the foregoing, part 2610 and part 2622 of chapter XXVI of title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307.

2. Appendix A to part 2610 is amended by adding a new entry for the quarter beginning April 1, 1995, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A to Part 2610—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

From	Through	Interest rate (percent)
. . .	. . .	.
April 1, 1995 .	June 30, 1995	10

3. Appendix B to part 2610 is amended by adding to the table of interest rates new entries for premium payment years beginning in February of 1995 through April of 1995, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2610—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate[1]
. . . . .	
February 1995	6.28
March 1995	6.09
April 1995	5.96

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15 for the calendar month preceding the calendar month in which the premium payment year begins.

PART 2622—EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS

4. The authority citation for part 2622 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1362–1364, 1367–68.

5. Appendix A to part 2622 is amended by adding a new entry for the quarter beginning April 1, 1995, to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix A to Part 2622—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

From	Through	Interest rate (percent)
. . .	. . .	.
April 1, 1995 .	June 30, 1995	10

Issued in Washington, DC, this 11th day of April 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–9237 Filed 4–13–95; 8:45 am]

BILLING CODE 7708–01–M

VOL 60 ISS 72 AP 14 1995 UMI

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in May 1995, and to multiemployer plans with valuation dates in May 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the May 1995 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the "single-employer regulation") and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the "multiemployer regulation").

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities," *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during May 1995 and multiemployer plans that have undergone mass withdrawal and have valuation dates during May 1995.

For annuity benefits, the interest rates will be 6.90% for the first 20 years following the valuation date and 5.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.50% for the period during which benefits are in pay status, 4.75% during the seven-year period directly preceding the benefit's placement in pay status, and 4.0% during any other years preceding the benefit's placement in pay status. The above annuity interest assumptions represent a decrease (from those in effect for April 1995) of .20 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions represent a decrease (from those in effect for April 1995) of .25 percent for the period during which benefits are in pay status and the seven years directly preceding that period; they are otherwise unchanged.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the **Federal Register** by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during May 1995, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during May 1995, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, Rate Set 19 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used to Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49(b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
19	5–1–95	6–1–95	5.50	4.75	4.00	4.00	7	5

Annuity Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under the subpart, the plan administrator shall use the values of i_t prescribed in the Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2 * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_1	for t=	i_2	for t=	i_3	for t=
May 1995	.0690	1–20	.0575	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B, Rate Set 19 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interests factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this supbart to be paid as pump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sums benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

VOL 60 ISS 72 AP 14 1995 UMI

(4) For benefits for which the deferral period is y years (y is an integer and $y > n_1 + n_2$), interest rate i_1 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
19	5-1-95	6-1-95	5.50	4.75	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $v^{a:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by $i_1, i_2, \ldots$, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II

[Annuity Valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for $t =$	i_t	for $t =$	i_t	for $t =$
May 1995	.0690	1-20	.0575	>20	N/A	N/A

Issued in Washington, DC, on this 11th day of April 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95-9238 Filed 4-13-95; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2644

Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another Federal agency. This amendment adds to the appendix of that regulation a new interest rate to be effective from April 1, 1995, to June 30, 1995. The effect of the amendment is to advise the public of the new rate.

EFFECTIVE DATE: April 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026; telephone 202-326-4024 (202-326-4179 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under section 4219(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("the PBGC") promulgated a final regulation on Notice and Collection of Withdrawal Liability. That regulation, codified at 29 CFR part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default, or to be credited by plans on overpayments of withdrawal liability. The regulation allows plans to set rates, subject to certain restrictions. Where a plan does not set the interest rate, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Because the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to part 2644. This amendment adds to this appendix the interest rate of 9.00 percent, which will be effective from April 1, 1995, through June 30, 1995. This rate represents an increase of .50 percent from the rate in effect for the first quarter of 1995. This rate is based on the prime rate in effect on March 15, 1995.

The appendix to 29 CFR part 2644 does not prescribe interest rates under the regulation; the rates prescribed in the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2644

Employee benefit plans, Pensions.

In consideration of the foregoing, part 2644 of subchapter F of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for part 2644 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(6).

2. Appendix A to part 2644 is amended by adding to the end of the table a new entry to read as follows:

Appendix A to Part 2644—Table of Interest Rates

* * * * *

From	To	Date of quotation	Rate (percent)
4/01/95	6/30/95	3/15/95	9.00

Issued in Washington, DC, on this 11th day of April 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95-9239 Filed 4-13-95; 8:45 am]

BILLING CODE 7708-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[FCC No. 95-115]

Conditional Waiver To Use Television Channel 16 (482-488 MHz) in New York City Metropolitan Area for Public Safety Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; waiver.

SUMMARY: The Commission waives its rules regarding the allocation for spectrum for television broadcast service to permit the temporary assignment of frequencies in the 482-488 MHz band (television Channel 16) to public safety agencies in the New York City metropolitan area. Public safety use of these frequencies will be permitted for a period of at least five years or until the Commission assigns Channel 16 in New York City for advanced television service (ATV) and the television broadcast licensee is then ready to commence operation. This band is currently allocated to the broadcasting service but is not allotted for use in New York City. We find that circumstances exist that warrant a waiver of our rules to permit use of this spectrum by public safety radio services in the New York City metropolitan area. Granting this conditional waiver will provide public safety agencies with immediate spectrum relief that is urgently needed in the congested New York City metropolitan area.

EFFECTIVE DATE: May 15, 1995.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 739-0598.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* adopted on March 14, 1995 and released on March 17, 1995. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Public Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this *Order* also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20036, (202) 857-3800.

Summary of Order

The Commission concluded that the public safety agencies in the New York City metropolitan area have an urgent and immediate need for additional spectrum capacity for public safety communications. Further, we held that use of Channel 16 will provide immediate and necessary relief to these public safety agencies and will also allow for development of interoperability of communications between the public safety agencies. Finally, we decided that this spectrum relief for the New York City public safety agencies can be accomplished without adversely affecting existing TV operations or our plans for implementation of ATV. Therefore, we found that the conditional grant of a waiver to the Agencies to use television Channel 16 is in the public interest. We are conditioning the grant of the waiver to reflect the concerns of broadcasters, as indicated in the Appendix.

Ordering Clauses

It is hereby ordered that, the Joint Request for Waiver filed by the New York Public Safety Agencies is granted to the extent discussed herein, for a period of at least five years or until any television broadcast licensee in the New York City metropolitan area initiates use of Channel 16 for ATV broadcast operations, whichever is longer, Sections 2.106 and 90.311 of the Commission's Rules are waived so that New York City metropolitan area public safety agencies may use 482-488 MHz, for land mobile public safety services under the conditions specified in the Appendix. It is hereby further ordered that the Request for Waiver filed by the New York City Transit Police Department to use television Channel 19 Is Dismissed. These actions are taken pursuant to sections 4(i), 303 (c), (f), (g), and (r), and 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303 (c), (f), (g), and (r).

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 90

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Appendix

In order to prevent interference between the proposed land mobile operations on Channel 16 in New York City and the existing television operations of WNEP-TV in Scranton, Pennsylvania on Channel 16 (FCC File Number BLCT-2623) and WPHL-TV in Philadelphia, Pennsylvania on Channel 17 (FCC File Number BLCT-2611), the

VOL
60
ISS
72
AP
14
1995
UMI

proposed land mobile operation will be restricted as follows:

Base station operation is permitted in the five boroughs of New York City and Nassau, Westchester and Suffolk Counties in New York, and Bergen County, New Jersey. Mobile operation is permitted in these counties and boroughs as well as outside these areas provided the distance from the Empire State Building (Geographic Coordinates: 40°44'54" N, 73°59'10" W) does not exceed 48 kilometers (30 miles).

Co-Channel Television Protection

For base stations to be located in the five boroughs that comprise the City of New York and other jurisdictions east of the Hudson River and Kill Van Kull, the maximum effective radiated power (ERP) will be limited to 225 watts at an antenna height of 152.5 meters (500 feet) above average terrain. Adjustment of the permitted power will be allowed provided it is in accordance with the "169 kilometer Distance Separation" entries specified in Table B or prescribed by Figure B of Section 90.309(a)(5) of the Rules.

For base stations to be located west of the Hudson River, the maximum ERP will be limited to the entries specified in Table B or prescribed by Figure B of Section 90.309(a)(5) of the Rules for the actual separation distance between the land mobile base station and the transmitter site of WNEP–TV, Scranton (Geographic Coordinates: 41°10'58" N, 75°52'21" W).

Mobile stations associated with such base stations will be restricted to 100 watts ERP in the area of operation extending eastward from the Hudson River and 10 watts ERP in the area of operation extending westward from the Hudson River. These restrictions offer 40 dB of protection to the Grade B coverage contour of WNEP–TV, Scranton.

Adjacent Channel Television Protection

The above parameters and conditions are considered to be sufficient to protect first-adjacent channel television station WPHL–TV, Philadelphia (Geographic Coordinates: 40°02'30" N, 75°14'24" W). Operation of mobile units within a radius of 48 kilometers (30 miles) from the Empire State Building would be no closer than 8 kilometers (5 miles) from the WPHL Grade B coverage contour. This will offer a 0 dB protection ratio to WPHL–TV.

Low Power Television Protection

LPTV station W17BM has no responsibility to protect land mobile operations on adjacent TV Channel 16 other than from spurious emissions. Land mobile licensees must correct, at their expense, interference caused by their operations to the reception of W17BM within its protected signal contour as defined in Section 74.707 of the Rules.

Periodic Reports

The Joint Committee of broadcasters and public safety agencies—as contemplated in the agreement—will file annual reports with the Commission regarding the status of implementation and progress toward the development of new spectrum efficient systems.

[FR Doc. 95–9219 Filed 4–13–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88–613; RM–6483 and RM–6712]

Radio Broadcasting Services; Dickson, TN, and Benton and Calvert City, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission dismisses the petition filed by Jackson Purchase Communications for reconsideration of the *Report and Order* in MM Docket No. 88–613, 54 FR 53612, published December 29, 1989. Jackson Purchase Communications requested withdrawal of its petition, stating that it has received no consideration for such withdrawal. With this action, the proceeding is terminated.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Bruce A. Romano,

Deputy Chief, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 95–9282 Filed 4–13–95; 8:45 am]

BILLING CODE 6712–01–F

Proposed Rules

Federal Register
Vol. 60, No. 72
Friday, April 14, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS No. 1669–94]

RIN 1115–AD77

Waiver of Certain Types of Visas

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to amend the Immigration and Naturalization Service (the Service) regulations which permit district directors, in individual cases, to waive nonimmigrant visa or passport requirements under section 212(d)(4)(A) of the Immigration and Nationality Act (the Act), if satisfied that a nonimmigrant alien is unable to present these documents because of an unforeseen emergency. The rule will clarify that carriers are liable for fines imposed under section 273(a) of the Act for bringing nonimmigrants to the United States who do not have a valid passport or nonimmigrant visa, or border crossing identification card, even if a waiver of these documents is granted by the district director at the time of admission into the United States. This change is necessary to conform the language of the regulations with the statutory requirement that a fine be imposed when a nonimmigrant is transported to the United States without the proper documentation.

DATES: Written comments must be submitted on or before June 13, 1995.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. Please include INS number 1669–94 on your correspondence to ensure proper and timely handling.

FOR FURTHER INFORMATION CONTACT: Robert F. Hutnick, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone number (202) 616–7499.

SUPPLEMENTARY INFORMATION: Section 212(d)(4)(A) of the Act allows the Attorney General to waive the requirement that a nonimmigrant alien be in possession of a visa or passport if he or she is unable to present the necessary documents due to an unforeseen emergency. Section 273(b) of the Act imposes a fine upon a carrier for bringing aliens into the United States without proper documentation. The wording of the current regulation at § 212.1(g) has the unintended effect of relieving the carrier of fine liability if the district director granted a waiver of the nonimmigrant visa or passport requirement. In *Air BVI Ltd., Flight BL 410,* (BIA Unpublished Decision No. SAJ 10/50.670, August 26, 1992), the Board of Immigration Appeals (the Board) characterized the current regulation as creating a "blanket" waiver because of language in the regulation stating that "a visa * * * is not required." The Board bases its decision on whether an alien's admission with a waiver relieves the carrier of liability to find by interpreting the regulations in effect at the time involved. *Matter of Plane "CUT–604",* 7 I&N 701 (BIA 1958). If the regulation creates a blanket waiver, by stating that no visa is required, no fine liability is incurred by the carrier. By contrast, a regulation that provides an "individual" waiver, by requiring a visa and a passport to be presented by a nonimmigrant, but providing for a waiver of this requirement, will not relieve the carrier of fine liability.

The rule proposes to remove the language, "A visa and a passport are not required of a nonimmigrant * * *" and clarifies that even when the district director waives the documentary requirements in the exercise of his or her discretion, on a case-by-case basis, and admits such a nonimmigrant to the United States, such admission will not eliminate the carrier's fine liability for bringing that alien to the United States without proper documentation (*Matter of Plane "CUT–604"*). The fine procedures at 8 CFR part 280 remain applicable and require no change.

This rule further proposes to amend § 212.1(g) by removing the provision regarding waivers of the visa requirement granted pursuant to section 212(d)(4)(A) of the Act in the case of a national or resident of Cuba. This action is being taken because this provision is obsolete.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have significant economic impact on a substantial number of small entities. This rule merely removes any ambiguity between the current regulations and section 273 of the Act.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation proposed herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

the Commissioner of the Immigration and Naturalization Service certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that this regulation will not have an impact on family well-being.

Paperwork Reduction Act

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The OMB control number for this collection is contained in 8 CFR 299.5, Display of Control Numbers.

VOL 60 ISS 72 AP 14 1995 UMI

List of Subjects in 8 CFR Part 212

Aliens, Documentation, Nonimmigrant, Passport and visas, Waivers.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1225, 1226, 1228, 1252; 8 CFR part 2.

2. In § 212.1, paragraph (g) is revised to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(g) *Unforeseen emergency.* A nonimmigrant seeking admission to the United States must present an unexpired visa, and passport valid for the amount of time set forth in section 212(a)(7)(B) of the Act, or a valid border crossing identification card at the time of application for admission, unless the nonimmigrant satisfies the requirements described in paragraphs (a) through (f) and (i) of this section. Upon a nonimmigrant's application on Form I–193, a district director at a Port-of-Entry may, in an exercise of his or her discretion, on a case-by-case basis, waive the documentary requirements, if satisfied that the nonimmigrant cannot present the required documents because of an unforeseen emergency. The district director or the deputy Commissioner may at any time revoke a waiver previously authorized pursuant to this paragraph and notify the nonimmigrant in writing to that effect.

* * * * *

Dated March 15, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95–9272 Filed 4–13–95; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF20

Production and Utilization Facilities; Emergency Planning and Preparedness Exercise Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to revise its emergency planning regulations. The proposed rule would amend the current regulations governing domestic licensing of production and utilization facilities, as necessary, to facilitate greater flexibility in the licensee's emergency preparedness training activities during the "off-year" for implementing the current requirement for annual exercise of the onsite emergency plan which is conducted to evaluate major portions of licensees' emergency response capabilities. The proposed amendment would preserve the existing requirement that each licensee, at each site, exercise biennially with full participation by States and local governments within the plume exposure pathway emergency planning zone (EPZ); would reduce from annual to biennial the required frequency of exercise of the licensee's onsite emergency plan (which may be included in the biennial full participation exercise); would require licensees to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities; and would require licensees to continue enabling State and local governments in plume exposure pathway EPZs to participate in exercises and in drills in the interval between the biennial full participation exercises. By undertaking this rulemaking, the Commission would grant, in part, a petition for rulemaking submitted by Virginia Electric Power Company on December 9, 1992.

DATES: The comment period expires July 13, 1995. Comments received after this date will be considered if practical to do so, but only those comments received on or before this date can be assured of consideration.

ADDRESSES: Comments may be sent to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch. Hand deliver comments to 11545 Rockville Pike, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the Commission's Public Document Room at 2120 L Street NW (Lower Level), Washington, DC.

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the rulemaking are also available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Single copies of this proposed rulemaking may be obtained by written request or telefax ((301) 415–2260) from: Distribution Services, Printing and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555. Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this rulemaking as indicated above.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Regulation Development Branch, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Rockville, MD 20852 (301–415–6534).

SUPPLEMENTARY INFORMATION:

Background

The NRC has received a petition for rulemaking submitted by the Virginia Electric Power Company. The petition was assigned Docket No. PRM 50–58 on December 16, 1992. The petitioner has requested that the NRC amend Appendix E, Section IV, F.2., to 10 CFR Part 50, "Emergency Planning and Preparedness for Production and Utilization Facilities," to change the requirement that each site exercise its emergency plan biennially rather than annually. The petitioner's proposed amendment would require each licensee to conduct a biennial integrated exercise of the emergency plan at each site and to take actions necessary to ensure that its emergency response capability is maintained during the 2-year interval. The petitioner believes that the annual graded exercise is but one of many indicators designed to provide reasonable assurance that actions can and will be taken during an emergency situation that will provide for the health and safety of the public.

The petitioner quotes 10 CFR Part 50, Appendix E, Section IV, F.2., which states that "each licensee at each site shall annually exercise its emergency plan."[1] The petitioner contends that although not explicitly defined in the rule, this statement has been interpreted throughout the industry to require that each licensee at each site annually conduct an integrated exercise which will be evaluated by the NRC.

The petitioner states that regulations governing the frequency of State and local emergency planning exercises have been in place since 1984. These regulations require a biennial exercise of State and local emergency plans. Therefore, the petitioner contends that the requirement for an annual integrated exercise for the onsite organization is inconsistent and should be clarified.

The petitioner contends that emergency preparedness programs throughout the industry are designed to achieve and maintain an adequate level of emergency response capability. As defined by NUREG–0654/FEMA–REP–1, Rev. 1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," a joint Nuclear Regulatory Commission/Federal Emergency Management Agency (NRC/FEMA) report published in November 1980,[2] an exercise is an event that tests the integrated capability and major portions of the basic elements existing within emergency preparedness plans and organizations. The petitioner contends, therefore, that an exercise is designed to merely confirm the level of response. As confirmation, an annual exercise is not necessary to achieve the underlying intent of the rule which is to attain an acceptable level of emergency preparedness. The petitioner further contends that because the annual exercise is the primary mechanism presently used by the NRC to evaluate readiness, the resources dedicated to this event are naturally more focused on exercise performance than on emergency preparedness. The petitioner states that because of the effectiveness of the emergency preparedness program, the annual graded exercise merely represents a separate means for the NRC to evaluate the licensee's performance. The petitioner believes that the graded exercise has, in effect, become an end unto itself.

The petitioner contends that the response of offsite response organizations during exercises performed over the past 8 years has demonstrated that a biennial frequency is sufficient to provide reasonable assurance of the health and safety of the public. During this time, there has been no indication of a need to increase the frequency of the demonstration. The petitioner states further that although it is recognized that the Commission retained the annual frequency requirement for licensees when it amended its regulations in 1984 to allow State and local governments to participate in emergency preparedness exercises every 2 years, the request to amend 10 CFR part 50 is implicitly supported by another part of the Code of Federal Regulations. The petitioner contends that regulations issued by FEMA at 44 CFR 350.9, by virtue of their stated requirements for offsite response organizations, recognize that, within the context of those regulations, the biennial conduct of an exercise is sufficient to demonstrate that protective measures can be taken in the event of an accident, thereby providing reasonable assurance of the health and safety of the public. The petitioner further contends that provisions for giving the States and local response organizations the opportunity to participate in the licensee's drill and exercise program could be easily accommodated independent of the petitioner's proposed rule change.

The petitioner contends that technological advancements and applications have served to greatly enhance and automate accident assessment activities employed during an emergency response for both the licensee (through the use of Safety Parameter Display System and dose assessment computer models) and the Federal Government (through the use of the Emergency Response Data System and RASCAL, a computer dose assessment model). Improvements to equipment and facilities and programmatic enhancements within the nuclear emergency preparedness discipline over the past decade have elevated the level of response capability throughout the industry. As evidence, the petitioner refers to the results of the Systematic Assessment of Licensee Performance (SALP) program, a mechanism employed by the NRC to assess, among other things, emergency preparedness indicators. The petitioner indicates that during the period between 1980 and 1992, the industry-averaged SALP rating for emergency

[1] This quote does not reflect changes to the regulations that were made on March 25, 1994 (59 FR 14087), when the word "onsite" was added before the words "emergency plan."

[2] Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and/or copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

VOL 60 ISS 72 AP 14 1995 UMI

preparedness improved from 2.29 to 1.26. The overall average for emergency preparedness SALP ratings for this 12-year period is 1.61.

The Petitioner

The petitioner is a U.S. commercial nuclear power reactor licensee for North Anna Power Station, Units 1 and 2, and Surry Power Station, Units 1 and 2. The petitioner states that emergency planning regulations, promulgated as a result of the March 1979 accident at Three Mile Island, govern virtually all aspects of a licensee's emergency preparedness program and that they have done much to lay the basis for a structured formal response capability. The petitioner further states that maintenance and verification of emergency response capability are accomplished through the programs that ensure adequacy and effectiveness of plans, procedures, facilities, equipment, response personnel, and performance demonstrations. The petitioner focuses the petition on the need to conduct an annual exercise to ensure the adequacy of the emergency response capability. The petition is based on the petitioner's belief that the annual exercise is only one of many indicators designed to provide reasonable assurance that actions can and will be taken during an emergency situation that will protect the health and safety of the public.

The petitioner believes that the proposed amendment to 10 CFR part 50 would do nothing to undermine the provisions already in place for ensuring that identified deficiencies resulting from the conduct of exercise are corrected.

Need for the Suggested Amendments

The petitioner contends the current annual testing requirement of a licensee's emergency response capability exceeds the threshold needed for determining the adequacy of the level of response. Therefore, the adoption of a biennial demonstration frequency would allow an increase in cost efficiency for industry and the Federal Government. Emergency preparedness exercises conducted in 1990 and 1991 have averaged a total of approximately $20,000 per inspection in NRC fees for the Virginia Electric and Power Company. The petitioner estimates that each exercise costs approximately $200,000 in resource commitments for the company. The approximately 450 personnel required for each exercise could be more effectively utilized in their normal function rather than by participating in an unneeded test of response capability.

Furthermore, the petitioner states that, based on experience, approximately 750 staff hours are expended during the development of an exercise scenario. Emergency planning resources, therefore, could be more effectively applied to the development and maintenance of emergency preparedness activities rather than being absorbed by exercise demonstration activities, such as exercise scenario development, controller organization preparations, organization impacts and facility availability (e.g., control room simulator time).

The petitioner characterizes the present requirement as one that is resource intensive but of marginal importance to safety.

The Petitioner's Suggested Solution

The petitioner requests the NRC amend its regulations governing domestic licensing of production and utilization facilities, as necessary, to require that each licensee exercise its emergency plan for each site biennially rather than annually and to otherwise ensure that its emergency response capability is maintained during the 2-year interval. The petitioner requests that the NRC modify the existing regulation to provide greater clarification by explicitly defining the requirement.

The Petitioner's Suggested Amendments

Petitioner requests that the NRC:

1. Amend Section IV, Paragraph F.2., of Appendix E to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," to read as follows: "Each licensee at each site shall conduct an integrated exercise every 2 years. The licensee shall take actions necessary to ensure the emergency response capabilities are maintained during the 2-year interval."

2. Amend Section IV, Paragraph F.3.(f), of Appendix E to 10 CFR Part 50 to read as follows: "Licensees shall enable any State or local government located within the plume exposure pathway EPZ to participate in exercises when requested by such State or local government."

3. Revise Section IV, Paragraph F.2., of Appendix E to 10 CFR Part 50 to provide greater clarification regardless of any action taken to amend the existing rule. Although not explicitly defined in the regulation, it has been interpreted throughout the industry that the regulation requires each licensee to annually conduct an integrated exercise at each site that will be evaluated by the NRC.

Public Comments

A notice of filing of the petition, Docket No. PRM–50–58, was published in the **Federal Register** on March 4, 1993 (58 FR 12341). Public comments were requested by May 3, 1993. A total of 32 comment letters were received, of which 17 utilities, 5 State emergency management agencies and NUMARC supported the petition; while 7 State emergency management agencies, FEMA, and an environmental group opposed the petition.

Support of the petition for rulemaking could generally be characterized by the following public comments:

* * * an annual, graded NRC exercise is but one of many indicators designed to provide reasonable assurance that actions can be taken in the case of an emergency that are effective to protect the health and safety of the public.

* * * Power reactor licensee effectiveness in emergency planning has improved steadily to the point where annual observed exercises no longer provide a significant benefit let alone a benefit commensurate with their cost in dollars and diverted resources.

* * * Based on plant management's commitment to emergency preparedness * * * it is believed that biennial exercising is a sufficient frequency for determining the adequacy of a licensee's level of performance. It is well realized that a licensee cannot ignore emergency preparedness for 20 months and then train and fix facilities and procedures within 4 months in preparation for an exercise. Emergency preparedness' complex infrastructure demands a continual evaluation and maintenance program. Changing to biennial exercising should not lessen the high level of emergency preparedness * * *

As an alternate to NRC observation of an annual exercise to assess a licensee's response capability, the NRC can utilize the resident inspector during periodic drills to determine if the licensee's program is effective * * * Annual exercises are typically constructed to demonstrate everything * * * we are actually reinforcing the belief by State and local governments that every emergency at a nuclear power plant will go to general emergency (required for most annual exercises).

Opposition to the petition for rulemaking could also generally be characterized by the following public comments:

* * * the exercise is not simply an indicator for NRC evaluation of the level of emergency preparedness, but also serves as training and practice for maintaining skills * * * There may be sufficient turnover or reassignment of plant personnel that two years between exercises is too long.

Currently, many nuclear utilities are going through a period of 'streamlining' their organizations * * * there will be changes in utility personnel with assignments as accident responders. A two-year integrated emergency exercise will not allow personnel sufficient training in a new role.

Regardless of the individual and collective levels of proficiency or technical sophistication, we still find exercises useful in identifying planning, training, or resource needs. In the past, we have often used utility-only and partial-scale exercises to train new personnel, test new facilities, or strengthen our relationship with our nuclear utilities and other agencies. Given the importance of preparedness to overall nuclear safety, we do not believe that annual utility exercises pose an excessive burden. Relaxation of the current requirement is therefore not necessary and should be denied.

Additionally, FEMA's opposition to the petition in rulemaking focused on the following points:

The proposed relaxation of the annual exercise requirement to a biennial frequency should be carefully analyzed to address any diminution in preparedness that might occur either to onsite or offsite programs. Our experience in the Radiological Emergency Preparedness (REP) Program over the last ten years has shown the great importance of the biennial, FEMA-graded, REP exercises in achieving meaningful, measurable preparedness for offsite jurisdictions around nuclear power plants. However, although State and local emergency plans are meant to minimize health and safety risks to the public should a radiological accident affect offsite areas, the licensee's onsite emergency plans are designed not only to prevent a radiological accident from occurring, but to serve as the "first line of defense" to prevent the accident from posing offsite health and safety effects.

FEMA disagrees with VEPCO's characterization of the present annual onsite exercise requirement as being of marginal importance to safety. A licensee's onsite emergency preparedness is critical for protecting the public's health and safety, and we believe that the evaluation of a licensee's performance during annual onsite exercises is the most effective way to measure the level of a licensee's preparedness to respond to an emergency situation.

Issues Raised by Petitioner

The petitioner characterizes the present requirement as one that is resource intensive but of marginal importance to safety. The petitioner has identified a number of issues associated with the current requirement to conduct an emergency plan exercise annually as grounds for change. The issues presented by the petitioner are as follows:

(1) The requirement to conduct an integrated annual exercise is not clearly defined. Therefore the regulation should be clarified.

(2) The existing regulation, 10 CFR Part 50, Appendix E, is inconsistent with other regulations that govern the frequency of offsite response organization integrated exercises (i.e., 44 CFR Part 350).

(3) The performance of offsite response organizations during biennial exercises has confirmed that a biennial frequency is sufficient to provide the reasonable assurance finding.

(4) The existing regulation, 10 CFR 50.54(t), provides for an independent review of the adequacy of program implementation.

(5) The existing requirement to conduct an annual exercise is not necessary to achieve the underlying purpose of the rule. A biennial exercise is sufficient to provide an acceptable formal confirmation of capability.

(6) Reconsideration of the requirement is warranted in light of the completion and implementation of enhanced emergency preparedness facilities, the current level of industry proficiency and performance, and the increased industry sensitivity to emergency preparedness.

(7) Personnel could be more effectively utilized in their normal professional function rather than by participating in a resource-intensive integrated test that only serves to confirm the already existing level of the response capability.

(8) Emergency planning resources could be more effectively utilized to further the development and maintenance of emergency preparedness activities.

Commission Response

The Commission believes that it is important, in light of the discussion provided in the petition, to make clearer NRC's intent (under the existing rule) that licensees need not conduct annual exercises employing scenarios that progress to severe core damage and/or result in offsite releases. Historically, these scenarios were used in both the biennial full participation exercise of off-site emergency plans and the annual exercise of the licensee's onsite emergency plan. However, this is no longer necessary for the currently required annual exercises of the licensee's onsite emergency plan. Information Notice (IN) 87–54, "Emergency Response Exercises," was issued to clarify NRC intent in this regard and to provide detailed guidance, specifically on the types of "off-year" training activities that licensees could perform during the interval between the biennial full participation exercises to maintain adequate EP response capabilities and satisfy the rule.

Some licensees have availed themselves of the flexibility afforded by the IN guidance to conduct realistic, interactive "off-year" training activities that simulate less severe events, such as a minor fire, loss of electric power, and equipment failure, and focus on the capability of the onsite emergency response organization to diagnose problems and develop actions to successfully mitigate the scenario event. However, as noted in the petition, many licensees continue to employ severe scenarios in annual exercises of their onsite emergency plans.

Accordingly, the Commission is proposing to modify Section IV.F.2.b. of 10 CFR Part 50, Appendix E, to reduce from annual to biennial the required frequency of exercise of the onsite emergency plan (which may be included in the biennial full participation exercise specified in IV.F.2.c.), and to require that licensees conduct training drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities, during the interval between biennial full participation exercises to ensure that adequate emergency response capabilities are maintained. The principal functional areas of emergency response include activities such as management and coordination of emergency response, accident assessment, protective action decisionmaking, and plant system repair and corrective actions.

This approach is consistent with a comment from one State that was not opposed to the petition but would prefer that some guidelines be included in Appendix E requiring plant specific internal exercises during the "off year" to ensure plant personnel familiarity with their response plans rather than the vague expectancy that this activity will be done. Furthermore, licensees would continue to enable State and local governments in the plume exposure pathway EPZs to participate in drills in the interval between exercises, thus preserving their training opportunities.

In response to FEMA's opposition to this petition for rulemaking, the Commission notes that although the existing requirements relating to licensees' off-year EP activities are being modified (most noticeably by eliminating the need for a full formal exercise of the licensee's onsite emergency plan in the "off-years"), the Commission is confident that there is no diminution of preparedness or increase in risk to the public. Licensees are specifically required under the proposed rule to maintain adequate emergency response capabilities between the biennial full participation exercises, and will now be conducting realistic drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response

VOL 60 ISS 72 AP 14 1995 UMI

capabilities, during that interval. The principal functional areas of emergency response include activities such as management and coordination of emergency response, accident assessment, protective action decisionmaking, and plant system repair and corrective actions.

The Commission believes that the proposed changes may result in the reallocation and more effective utilization of resources within some licensees' EP programs in order to further the development and maintenance of emergency preparedness capabilities during the "off-year" periods. It is not clear, however, that these changes will result in significant overall cost savings. The Commission cautions specifically against expectations that the proposed changes will necessarily result in significant reductions in NRC inspection activity directed to observation and evaluation of licensees' off-year EP maintenance activities, because they may be modified under the new rule. Also, licensees will, upon request, submit scenarios for NRC review in support of future inspections as may be deemed necessary by NRC.

Summary

After considering the arguments presented by the petitioners and evaluating all public comments received, and based on the further understanding of the issues involved gained from 13 years of experience evaluating licensee emergency preparedness exercises, the Commission concludes that:

(1) The required frequency for full formal exercise of the licensee's onsite emergency plan should be reduced from annual to biennial;

(2) The means by which licensees are expected to train and maintain their emergency response capabilities and readiness in the 2-year interval between evaluated exercises should be changed by requiring licensees to conduct drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities; and

(3) Opportunities for training by State and local governments should be preserved.

The principal functional areas of emergency response include activities such as management and coordination of emergency response, accident assessment, protective action decisionmaking, and plant system repair and corrective actions.

During the specified drills, activation of all of the licensee's emergency response facilities (TSC, OSC, and EOF) would not be necessary, licensees would have the opportunity to consider accident management strategies, supervised instruction would be permitted, operating staff would have the opportunity to resolve problems (success paths) rather than have controllers intervene, and the drills could focus on onsite training objectives.

The proposed revisions would relieve licensees from the current requirement to conduct annually a full formal exercise of the licensee's onsite emergency plan, and make clear that licensees have flexibility in choosing the activities that are to be conducted in the 2-year period between biennial full-participation exercises in order to maintain their emergency response capabilities. Greater flexibility in the training of the onsite emergency response organization could provide significant benefits to some licensees. For example, licensees could eliminate the practice of developing scenarios that proceed to severe core damage, offsite releases, or to higher emergency classification levels. Licensees would have greater opportunity to conduct realistic emergency response training with supervised instruction that allowed the operating staff to consider accident management strategies, diagnose problems and be given credit for actions that would mitigate scenario events (e.g., "success paths").

This approach is also responsive to comments from FEMA, some States, and others who expressed concern about possible decreased licensee training and readiness in the period between biennial exercises. Under the proposed approach, licensees will still be required to conduct emergency response training and drills of the onsite emergency response organization, and to provide training opportunities to State and local government personnel during the interval between biennial exercises.

Additionally, 10 CFR Part 50.47 (a)(1) is being revised in order to correct a typographical error that appeared in the 1993 edition of Title 10, Parts 0 to 50 of the Code of Federal Regulations.

Submission of Comments in Electronic Form

Commenters are encouraged to submit, in addition to the original paper copy, a copy of the letter in electronic form on a 5.25 or 3.5 inch computer diskette: IBM PC/DOS or MS/DOS format. Data files should be provided in WordPerfect format or unformatted ASCII code. The format and version should be identified on the diskette's external label.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the qualify of the human environment; and therefore, an environmental impact statement is not required. The proposed rule would update and clarify the emergency planning regulations relating to exercises. It does not involve any modification to any plant or revise the need for or the standards for emergency plans. There is no adverse effect on the quality of the environment. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20037.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C 3501 et. seq.). Existing requirements were approved by the Office of Management and Budget approval Number 3150–0011.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 2120 L St., NW (Lower Level), Washington, DC 20037. Single copies of the analysis may be obtained from Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 415–6534.

Regulatory Flexibility Act Certification

The proposed rule would not have a significant impact on a substantial number of small entities. The proposed rule would update and clarify ambiguities in the emergency planning regulations relating to exercises. Nuclear power plant licensees do not fall within the definition of small business in Section 3 of the Small Business Act (15 U.S.C. 632), the Small Business Size Standards of the Small Business Administration in 13 CFR Part 121, or the Commission's Size Standards published at 56 FR 56671 (November 6, 1991). As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

Backfit Analysis

The proposed changes are intended to clarify the intent of the existing rule and facilitate greater flexibility in licensees' conduct of off-year emergency response training activities; but this action does not seek to impose any new or increased requirements in this area. The proposed changes would permit, but not require, licensees to change their existing emergency plans and procedures to employ scenarios in off-year training or drills that do not go to severe core damage or result in offsite exposures. No backfitting is intended or approved in connection with this proposed rule change.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Penalties, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. In § 50.47, paragraph (a)(1) is revised to read as follows:

§ 50.47 Emergency plans.

(a)(1) Except as provided in paragraph (d) of this section, no initial operating license for a nuclear power reactor will be issued unless a finding is made by the NRC that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. No finding under this section is necessary for issuance of a renewed nuclear power reactor operating license.

* * * * *

3. Appendix E to part 50 is amended by revising section IV.F., paragraphs 2.b., and e. to read as follows:

Appendix E to Part 50—Emergency Planning and Preparedness for Production and Utilization Facilities

* * * * *

IV Content of Emergency Plans

F Training

2 * * *

b. Each licensee at each site shall conduct an exercise of its onsite emergency plan every two years. The exercise may be included in the full participation biennial exercise required by paragraph 2.c. of the section. In addition, the licensee shall take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities. The principal functional areas of emergency response include such activities as management and coordination of emergency response, accident assessment, protective action decisionmaking, and plant system repair and corrective actions. During these drills, activation of all of the licensee's emergency response facilities (TSC, OSC, and EOF) would not be necessary, licensees would have the opportunity to consider accident management strategies, supervised instruction would be permitted, operating staff would have the opportunity to resolve problems (success paths) rather than have controllers intervene, and the drills could focus on onsite training objectives.

* * * * *

e. Licensees shall enable any State or local government located within the plume exposure pathway EPZ to participate in the licensee's drills when requested by such State or local government.

* * * * *

Dated at Rockville, Maryland, this 7th day of April, 1995.

For The Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–9222 Filed 4–13–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 119, 121, 125, 127 and 135

Forum With the Administrator and Deputy Administrator; Public Meeting on Commuter Operations and General Certification and Operations

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of public meeting and forum with the Administrator and Deputy Administrator.

SUMMARY: The FAA is issuing this notice to advise the public of an open forum with the Administrator and Deputy Administrator. Later on the same day the FAA will hold a public meeting on the notice of proposed rulemaking, Commuter Operations and General Certification and Operations, published in the **Federal Register** on March 29, 1995 [60 FR 16230]. The purpose of these meetings is to provide an opportunity for the public to comment on regulatory aviation issues in general and specifically on the commuter rulemaking.

DATES: The meetings will be held on May 18, 1995, beginning at 9:30 a.m. Meeting times are as follows:

9:30 a.m.–11:00 a.m.—Open forum with the Administrator and Deputy Administrator

1:00 p.m.—Public meeting on the commuter NPRM.

ADDRESSES: The meeting will be held in Anchorage, Alaska, at the Loussac Library, 3600 Denali Street, Assembly Chambers, Level 1.

Persons unable to attend any of the meetings may mail their comments in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Rules Docket (AGC–200), Docket No. 28154, 800 Independence Avenue NW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the public meeting on the commuter NPRM or questions regarding the logistics of the meeting should be directed to Linda Williams, Federal Aviation Administration, Office of Rulemaking (ARM–109), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–9685; fax (202) 267–5075, or Sandra Paxton, Federal Aviation Administration, Alaska Region Headquarters (AAL–1), 222 West 7th Avenue, #14, Anchorage, AK 99533, telephone: (907) 271–5645.

Questions concerning the subject matter of the public meeting on the commuter NPRM should be directed to Katherine Hakala, Flight Standards Service (AFS–250), Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591. Telephone: (202) 267–8137

SUPPLEMENTARY INFORMATION:

Background

President Clinton has set a goal of re-inventing the regulatory process and making major improvements in the way it serves the American people. The

VOL 60 ISS 72 AP 14 1995 UMI

Administrator has made a commitment to establish stronger partnerships with the individuals, businesses, and other entities that government regulations impact. To fulfill this commitment, the FAA has planned a series of forums throughout the United States in which the Administrator and Deputy Administrator will listen to the regulated community, the traveling public, and the people responsible for ensuring compliance so that they can work together to achieve compliance. As indicated in the planned agenda, the first portion of the May 18 meeting will be an open forum with the Administrator and Deputy Administrator. Interested persons may comment on a variety of issues important to them. The FAA would be particularly interested in hearing what actions in our mutual relationship work well and which ones do not.

Following the forum with the Administrator and Deputy Administrator, the FAA will conduct a public meeting, beginning at 1:00 p.m., on the recently published commuter proposed rule. Comments from the public on this meeting should be directed specifically to the proposed rule.

The notice of proposed rulemaking was published in the **Federal Register** on March 29, 1995. If adopted, the proposed rule would require certain commuter operators that now conduct operations under part 135 to conduct those operations under part 121. The commuter operators that would be affected are those part 135 operators conducting scheduled passenger-carrying operations in airplanes that have a passenger-seating configuration of 10 to 30 seats and those conducting scheduled passenger-carrying operations in turbojets regardless of seating configuration. The proposed rule would revise the requirements concerning operating certificates and operations specifications. The rule would also propose certain management officials for all operators under parts 121 and 135.

The closing date for comments on the proposal is June 27, 1995. To give the public an additional opportunity to comment on the proposed rule the FAA is planning this public meeting. Other meetings may be planned at various locations.

Persons interested in obtaining a copy of the proposed commuter rule should contact Linda Williams at the address or telephone number provided in **FOR FURTHER INFORMATION CONTACT.**

Participation at the Public Meeting on the Commuter NPRM

Requests from persons who wish to present oral statements at the public meeting on the commuter NPRM should be received by the FAA no later than May 5, 1995. Such requests should be submitted to Linda Williams as listed in the section titled **FOR FURTHER INFORMATION CONTACT** and should include a written summary of oral remarks to be presented and estimated time needed for the presentation. Requests received after the date specified above will be scheduled if time is available during the meeting; however, the name of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers that will be available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested.

Public Meeting Procedures

The following procedures are established to facilitate the public meeting on the commuter NPRM:

1. There will be no admission fee or other charge to attend or to participate in the public meeting. The meeting will be open to all persons who have requested in advance to present statements or who register on the day of the meeting (between 12:30 p.m. and 1:00 p.m.) subject to availability of space in the meeting room.
2. The public meeting may adjourn early if scheduled speakers complete their statements in less time than currently is scheduled for the meeting.
3. The FAA will try to accommodate all speakers; therefore, it may be necessary to limit the time available for an individual or group.
4. Participants should address their comments to the panel. No individual will be subject to cross-examination by any other participant.
5. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.
6. Representatives of the FAA will conduct the public meeting. A panel of FAA personnel involved in this issue will be present.
7. The meeting will be recorded by a court reporter. A transcript of the meeting and any material accepted by the panel during the meeting will be included in the public docket (Docket No. 28154). Any person who is interested in purchasing a copy of the transcript should contact the court reporter directly. This information will be available at the meeting.
8. The FAA will review and consider all material presented by participants at the public meeting. Position papers or material presenting views or information related to the proposed NPRM may be accepted at the discretion of the presiding officer and subsequently placed in the public docket. The FAA requests that persons participating in the meeting provide 10 copies of all materials to be presented for distribution to the panel members; other copies may be provided to the audience at the discretion of the participant.
9. Statements made by members of the public meeting panel are intended to facilitate discussion of the issues or to clarify issues. Because the meeting concerning the commuter NPRM is being held during the comment period, final decisions concerning issues that the public may raise cannot be made at the meeting. FAA officials will, however, ask questions to clarify statements made by the public and to ensure a complete and accurate record. Comments made at this public meeting will be considered by the FAA when deliberations begin concerning whether to adopt any or all of the proposed rules.
10. The meeting is designed to solicit public views and more complete information on the proposed rule. Therefore, the meeting will be conducted in an informal and nonadversarial manner.

Issued in Washington, DC, on April 11, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

[FR Doc. 95-9387 Filed 4-12-95; 1:17 pm]

BILLING CODE 4910-13-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960-AE10

Administrative Review Process, Prehearing Proceedings and Decisions by Attorney Advisors

AGENCY: Social Security Administration.

ACTION: Proposed rule.

SUMMARY: We propose to amend our regulations to provide, on a temporary basis, that in claims for Social Security or Supplemental Security Income (SSI) benefits based on disability, attorney advisors in our Office of Hearings and Appeals (OHA) will have authority to conduct certain prehearing proceedings, and where the record developed as a result of these proceedings warrants, to issue decisions that are wholly favorable to the parties to the hearing.

Because requests for an administrative law judge (ALJ) hearing have increased dramatically in recent years, and cases pending in our hearing offices have reached unprecedented levels, we have taken a number of actions designed to help us hear and decide these cases more efficiently. The rules we are proposing in this notice of proposed rulemaking are an important part of our efforts in this regard.

DATES: To be sure that your comments are considered, we must receive them no later than May 15, 1995.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, Maryland 21235, sent by telefax to (410) 966-2830, sent by E-mail to "regulations@ssa.gov", or delivered to the Division of Regulations and Rulings, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below. The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512-1387. The FBB instructions will explain how to download the file and the fee. This file is in Wordperfect and will remain on the FBB during the comment period.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, Social Security Boulevard, Baltimore, Maryland 21235, (410) 965-6243.

SUPPLEMENTARY INFORMATION:

Background

The Social Security Administration (SSA) decides claims for Social Security benefits under title II of the Social Security Act (the Act) and for SSI benefits under title XVI of the Act in an administrative review process that generally consists of four steps. Claimants who are not satisfied with the initial determination we make on a claim may request reconsideration. Claimants who are not satisfied with our reconsidered determination may request a hearing before an ALJ, and claimants who are dissatisfied with an ALJ's decision may request review by the Appeals Council. Claimants who have completed these steps, and who are not satisfied with our final decision, may request judicial review of the decision in the Federal courts.

Generally, when a claim is filed for Social Security or SSI benefits based on disability, a State agency makes the initial and reconsideration disability determination for us. A hearing requested after we have made a reconsideration determination is conducted by an ALJ in one of the 132 hearing offices we have nationwide.

Applications for Social Security and SSI benefits based on disability have risen dramatically in recent years. The number of new disability claims SSA received in Fiscal Year (FY) 1994—3.56 million—represented a 40 percent increase over the number received in FY 1990. Requests for an ALJ hearing also have increased dramatically. In FY 1994, our hearing offices had almost 540,000 hearing receipts and most of these were related to requests for a hearing filed by persons claiming disability benefits. In that year, the number of hearing receipts we received exceeded the number of receipts we received in FY 1990 by more than 70 percent.

Despite management initiatives that resulted in a record increase in ALJ productivity in FY 1994, and the hiring of more than 200 new ALJs and more than 800 new support staff in that year, the number of cases pending in our hearing offices has reached unprecedented levels—more than 480,000 at the end of FY 1994.

On September 19, 1994, the Commissioner of Social Security published a *Plan for a New Disability Claim Process* in the **Federal Register** (59 FR 47887). That document sets forth our long term plans for redesigning and fundamentally improving the overall disability claim process. On a separate track from that longer term plan, we have developed short term initiatives to reduce the number of cases pending in our hearing offices. As part of our short term disability process improvements, we are issuing this notice of proposed rulemaking (NPRM) regarding a temporary change in our administrative review procedures.

Under the proposed rule, attorney advisors would conduct certain prehearing proceedings and, where appropriate, issue decisions that are wholly favorable to the claimant and any other party to the hearing. We are proposing that this procedure remain in effect for a period of time not to exceed two years from the effective date of a final rule authorizing the procedure unless the rule is extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

Regulatory Provisions

We propose to add new §§ 404.942 and 416.1442 to our regulations to authorize attorney advisors in OHA to conduct certain prehearing proceedings and, where appropriate, make decisions based on the documentary record that are wholly favorable to the parties. Our purpose in proposing these regulations is to expedite the processing of cases pending at OHA without infringing on the right of a claimant to a hearing before an ALJ.

The authority of an attorney advisor to conduct prehearing proceedings and to make decisions would be temporary, and it would apply only in the limited circumstances described below. Also, the attorney advisor's conduct of certain prehearing proceedings would not delay the scheduling of a hearing before an ALJ. If the prehearing proceedings were not concluded before the hearing date, the case would be sent to the ALJ unless a decision wholly favorable to the claimant and all other parties was in process, or the claimant and all other parties to the hearing agreed in writing to delay the hearing until the prehearing proceedings are completed.

Prehearing proceedings could be conducted by the attorney advisor under the proposed rule if new and material evidence is submitted; there is an indication that additional evidence is available; there is a change in the law or regulations; or there is an error in the file or some other indication that a wholly favorable decision could be issued. A decision by an attorney advisor would be mailed to all parties. The notice of decision would state the basis for the decision and advise the parties that an ALJ will dismiss the hearing request unless a request to proceed with the hearing was made by a party within 30 days after the date the notice of the decision was mailed.

We believe that these temporary procedures will enable us to manage our pending hearing requests in a more timely manner. They also may provide information that can help us better identify cases that can be decided without a hearing before an ALJ and improve our ability to narrow the issues that must be resolved before a decision can be made.

In view of the salutary effect we expect the rules to have on our ability to improve our service to claimants, and the importance we place on ensuring that we adjudicate claims timely and accurately, we are providing a 30-day comment period for these rules rather than the 60-day comment period we usually provide. We believe that in this instance a 30-day period is sufficiently

VOL
60
ISS
72
AP
14
1995
UMI

long to allow the public a meaningful opportunity to comment on the proposed rules, in accordance with Executive Order 12866.

Regulatory Procedures

Executive Order No. 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, the rule is not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.807, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: April 5, 1995.

Shirley S. Chater,

Commissioner of Social Security

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205 (a), (b), and (d)–(h), 221(d), 225 and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405 (a), (b), and (d)–(h), 421(d), 425 and 1302; sec. 5 of Pub. L. 97–455, 96 Stat. 2500; sec. 6 of Pub. L. 98–460, 98 Stat. 1802

2. New § 404.942 is added under the undesignated center heading "Hearing Before an Administrative Law Judge" to read as follows:

§ 404.942 Prehearing proceedings and decisions by attorney advisors.

(a) *General.* After a hearing is requested but before it is held, an attorney advisor in our Office of Hearings and Appeals may conduct prehearing proceedings as set out in paragraph (c) of this section. If upon the completion of these proceedings, a decision that is wholly favorable to you and all other parties may be made, an attorney advisor, instead of an administrative law judge, may issue such a decision. The conduct of the prehearing proceedings by the attorney advisor will not delay the scheduling of a hearing. If the prehearing proceedings are not completed before the date of the hearing, the case will be sent to the administrative law judge unless a wholly favorable decision is in process or you and all other parties to the hearing agree in writing to delay the hearing until the proceedings are completed.

(b) *When prehearing proceedings may be conducted by an attorney advisor.* An attorney advisor may conduct prehearing proceedings if you have filed a claim for benefits based on disability and—

(1) New and material evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulations; or

(4) There is an error in the file or some other indication that a wholly favorable decision may be issued.

(c) *Nature of the prehearing proceedings that may be conducted by an attorney advisor.* As part of the prehearing proceedings, the attorney advisor, in addition to reviewing the existing record, may—

(1) Request additional evidence that may be relevant to the claim, including medical evidence; and

(2) If necessary to clarify the record for the purpose of determining if a wholly favorable decision is warranted, schedule a conference with the parties.

(d) *Notice of a decision by an attorney advisor.* If the attorney advisor issues a wholly favorable decision under this section, we shall mail a written notice of the decision to all parties at their last known address. We shall state the basis for the decision and advise all parties that an administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to proceed with the hearing must be made in writing within 30 days after the date the notice of the decision of the attorney advisor is mailed.

(e) *Effect of actions under this section.* If under this section, an administrative law judge dismisses a request for a hearing, the dismissal is binding in accordance with § 404.959 unless it is vacated by an administrative law judge or the Appeals Council pursuant to § 404.960. A decision made by an attorney advisor under this section is binding unless—

(1) A party files a request to proceed with the hearing pursuant to paragraph (d) of this section and an administrative law judge makes a decision;

(2) The Appeals Council reviews the decision on its own motion pursuant to § 404.969 as explained in paragraph (f)(3) of this section; or

(3) The decision of the attorney advisor is revised under the procedures explained in § 404.987.

(f) *Ancillary provisions.* For the purposes of the procedures authorized by this section, the regulations of part 404 shall apply to—

(1) Authorize an attorney advisor to exercise the functions performed by an administrative law judge under §§ 404.1520a and 404.1546;

(2) Define the term "decision" to include a decision made by an attorney advisor, as well as the decisions identified in § 404.901; and

(3) Make the decision of an attorney advisor subject to review by the Appeals Council under § 404.969 if an administrative law judge dismisses the request for a hearing following issuance of the decision, and the Appeals Council decides to review the decision of the attorney advisor anytime within 60 days after the date of the dismissal.

(g) *Sunset provision.* The provisions of this section will no longer be effective on (insert date two years after the date the final rule is published in the **Federal Register**) unless they are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

1. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Sec. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b.

2. New § 416.1442 is added under the undesignated center heading "Hearing Before an Administrative Law Judge" to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

(a) *General.* After a hearing is requested but before it is held, an attorney advisor in our Office of Hearings and Appeals may conduct prehearing proceedings as set out in paragraph (c) of this section. If upon the completion of these proceedings, a decision that is wholly favorable to you and all other parties may be made, an attorney advisor, instead of an administrative law judge, may issue such a decision. The conduct of the prehearing proceedings by the attorney advisor will not delay the scheduling of a hearing. If the prehearing proceedings are not completed before the date of the hearing, the case will be sent to the administrative law judge unless a wholly favorable decision is in process or you and all other parties to the hearing agree in writing to delay the hearing until the proceedings are completed.

(b) *When prehearing proceedings may be conducted by an attorney advisor.* An attorney advisor may conduct prehearing proceedings if you have filed a claim for SSI benefits based on disability and—

(1) New and material evidence is submitted;

(2) There is an indication that additional evidence is available;

(3) There is a change in the law or regulations; or

(4) There is an error in the file or some other indication that a wholly favorable decision may be issued.

(c) *Nature of the prehearing proceedings that may be conducted by an attorney advisor.* As part of the prehearing proceedings, the attorney advisor, in addition to reviewing the existing record, may—

(1) Request additional evidence that may be relevant to the claim, including medical evidence; and

(2) If necessary to clarify the record for the purpose of determining if a wholly favorable decision is warranted, schedule a conference with the parties.

(d) *Notice of a decision by an attorney advisor.* If the attorney advisor issues a wholly favorable decision under this section, we shall mail a written notice of the decision to all parties at their last known address. We shall state the basis for the decision and advise all parties that an administrative law judge will dismiss the hearing request unless a party requests that the hearing proceed. A request to proceed with the hearing must be made in writing within 30 days after the date the notice of the decision of the attorney advisor is mailed.

(e) *Effect of actions under this section.* If under this section, an administrative law judge dismisses a request for a hearing, the dismissal is binding in accordance with § 416.1459 unless it is vacated by an administrative law judge or the Appeals Council pursuant to § 416.1460. A decision made by an attorney advisor under this section is binding unless—

(1) A party files a request to proceed with the hearing pursuant to paragraph (d) of this section and an administrative law judge makes a decision;

(2) The Appeals Council reviews the decision on its own motion pursuant to § 416.1469 as explained in paragraph (f)(3) of this section; or

(3) The decision of the attorney advisor is revised under the procedures explained in § 416.1487.

(f) *Ancillary provisions.* For the purposes of the procedures authorized by this section, the regulations of part 416 shall apply to—

(1) Authorize an attorney advisor to exercise the functions performed by an administrative law judge under §§ 416.920a, 416.924d(b), and 416.946;

(2) Define the term "decision" to include a decision made by an attorney advisor, as well as the decisions identified in § 416.1401; and

(3) Make the decision of an attorney advisor subject to review by the Appeals Council under § 416.1469 if an administrative law judge dismisses the request for a hearing following issuance of the decision, and the Appeals Council decides to review the decision of the attorney advisor anytime within 60 days after the date of the dismissal.

(g) *Sunset provision.* The provisions of this section will no longer be effective on (insert date 2 years after the date the final rule is published in the **Federal Register**) unless they are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

[FR Doc. 95–9028 Filed 4–13–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AC25

Alaska; Trapping Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule; re-opening of public comment period.

SUMMARY: This proposed rule is a clarification of the National Park Service (NPS) restriction on the use of firearms and other weapons by trappers. The rulemaking addresses only the clarification of the language regarding trapping and the use of firearms in the taking of wildlife under a trapping license. This proposed rule, the substance of which was printed as a proposed rule along with a proposed rule to prohibit same-day-airborne hunting in national park areas on November 15, 1994 (59 FR 58804), extends the comment period for another 60–days to allow additional review and comment by interested groups and persons. The same-day-airborne hunting portion of the original proposed rule was published as a Final Rule on April 11, 1995 in a separate document.

DATES: Comments will be accepted until June 13, 1995.

ADDRESSES: Comments should be addressed to Robert D. Barbee, Regional Director, National Park Service, 2525 Gambell Street, Anchorage, AK 99503–2892 (Fax 907–257–2533).

FOR FURTHER INFORMATION CONTACT: Paul Hunter, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503–2892 (Telephone 907–257–2646; Fax 907–257–2410).

SUPPLEMENTARY INFORMATION:

Extended Comment Period: Firearm Restriction for Trapping

This document announces a 60-day re-opening of the comment period for the trapping clarification portion of the proposed rule published in the **Federal Register** on November 15, 1994 (59 FR 58804). The clarification portion, 36 CFR 13.21(d)(5), of the proposed rule, relates to existing regulations (36 CFR 13.1(u) and 36 CFR 1.4(a)) that generally prohibit the use of a firearm for trapping in NPS-managed areas in Alaska. The initial comment period expired on December 15, 1994. Many comments received during this comment period, including comments from local advisory groups, governmental units and Alaska residents, requested additional time to review the proposed clarification and the existing regulation. Although this provision of the regulation has been in effect since 1981, there is apparent confusion regarding its intent and effect, as well as its relationship to existing hunting and trapping practices. The extended comment period will allow full examination of these issues. Accordingly, the comment period for the clarification portion of the proposed rule concerning the use of firearms and weapons to take wildlife under a trapping license is hereby extended for

VOL 60 ISS 72 AP 14 1995 UMI

an additional 60 days. The existing prohibition remains in effect and further rulemaking on this portion of the original proposed rule is held in abeyance until after review of the public comments.

Dated: April 7, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95-9251 Filed 4-13-95; 8:45 am]

BILLING CODE 4310-70-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-74; RM-8153]

Radio Broadcasting Services; Yermo, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a petition filed on behalf of Antelope Broadcasting, Co., Inc., permittee of Station KYHT(FM), Yermo, California, requesting the substitution of Channel 287B1 for Channel 287A at Yermo, and modification of its facilities accordingly, based upon its withdrawal of interest in pursuing its modification request through the rule making process. *See* 58 FR 19395, April 14, 1993. With this action the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93-74, adopted April 3, 1995, and released April 11, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-9221 Filed 4-13-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 95-37, RM-8586]

Television Broadcasting Services; Waimanalo, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Joyce Cathcart, proposing the allotment of Television Channel 56 to Waimanalo, Hawaii, as that community's first local television service. The allotment can be made consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules. The coordinates for the proposed allotment of Channel 56 to Waimanalo are 21-21-00 and 157-43-12. This proposal is not affected by the freeze on television allotments or applications.

DATES: Comments must be filed on or before June 1, 1995, and reply comments on or before June 16, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Joyce Cathcart, 1508 Halekoa Drive, Ainakoa, Hawaii (Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-37, adopted March 28, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 1919 M Street, NW, Room 246, or 2100 M Street, NW, Suite 140, Washington, D.C. 20037

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-9220 Filed 4-13-95; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 234

[FRA Docket No. RSGC-6; Notice No. 3]

RIN 2130-AA92

Selection and Installation of Grade Crossing Warning Systems; Notice of Proposed Rulemaking

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Change of hearing date and extension of comment period.

SUMMARY: On April 7, 1995, FRA published in the **Federal Register** a notice changing the hearing date in this rulemaking from May 9, 1995 to April 24, 1995.

FRA has reconsidered the hearing schedule as a result of comments from members of the public regarding the hardship that would be imposed on those wishing to participate in the hearings by the shortened time from resulting from the date change.

FRA is accordingly canceling the hearing scheduled for April 24, 1995 and will instead hold two days of hearings in this matter on Tuesday June 6, and Wednesday, June 7, 1995. The hearing location remains the same and will be held in room 2230 of the Nassif Building, DOT Headquarters Building, 400 Seventh S.W., Washington, D.C.

The comment period in this rulemaking is also being extended. Comments will be accepted through June 14, 1995.

We apologize for any inconvenience this rescheduling may cause however, we believe that this change in hearing dates will provide greater opportunity for all interested parties to participate in this rulemaking.

DATES: (1) Written comments must be received no later than June 14, 1995. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

(2) A public hearing will be held at 9:30 a.m. on June 6, 1995 and at 9:30 a.m. on June 7, 1995. Any person who wishes to speak at the hearing should notify the FRA Docket Clerk at least five working days before to the hearing, by telephone or by mail.

ADDRESSES: (1) Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, FRA, 400 Seventh Street N.W., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

(2) A public hearing will be held in room 2230 of the Nassif Building, 400 Seventh Street S.W. Washington, D.C. Persons desiring to speak at the hearing should notify the Docket Clerk by telephone (202-366-0628) or by writing to the Docket Clerk at the address above.

FOR FURTHER INFORMATION CONTACT: Bruce F. George, Chief, Highway-Rail Crossing and Trespasser Programs Division, Office of Safety, FRA, 400 Seventh Street S.W., Washington, D.C. 20590 (telephone 202-366-0533), or Mark Tessler, Trail Attorney, Office of Chief Counsel, FRA, 400 Seventh Street S.W., Washington, D.C. 20590 (telephone 202-366-0628).

Issues in Washington, D.C. on April 11, 1995.

Donald M. Itzkoff,

Deputy Administrator

[FR Doc. 95-9359 Filed 4-13-95; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Public Hearings on Proposed Endangered Status With Critical Habitat in Arizona, and Threatened Status in Texas, for the Cactus Ferruginous Pygmy-owl

AGENCY: Fish and Wildlife Service, Interior

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that public hearings will be held and the comment period reopened on the proposed rule to list the cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) as an endangered species with critical habitat in Arizona, and as threatened in Texas. The hearings and the reopening of the comment period will allow all interested parties to submit oral or written comments on the proposal.

DATES: The public hearings will be held from 6 p.m. to 9 p.m. on May 8, 1995, in Tucson, Arizona, and from 7 p.m. to 10 p.m. on May 10, 1995, in Weslaco, Texas. The comment period for this proposal will be reopened on May 1, 1995, and will close on May 30, 1995. Comments must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on the proposal.

ADDRESSES: The public hearings will be held at the Senior Ballroom, Student Union Memorial Building, University of Arizona, Tucson, Arizona and at Hoblitzelle Auditorium, Texas A&M Experimental Station, 2145 E. Highway 83, Weslaco, Texas. Written comments should be sent to the State Supervisor, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Phoenix, Arizona 85021-4951. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Service address.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Humphrey, State Supervisor, Arizona Ecological Services State Office (See **ADDRESSES** section) (telephone 602/640-2720; facsimile 602/640-2730)

SUPPLEMENTARY INFORMATION:

Background

The breeding range of the cactus ferruginous pygmy-owl extends from south-central Arizona south through western Mexico, and from southern Texas south through northeastern Mexico. Within these regions, the species occurs in riverbottom woodlands, coastal plain oak associations, thornscrub, and Sonoran desert scrub. The cactus ferruginous pygmy-owl is threatened to varying degrees across its range by loss and modification of habitat, lack of adequate protective regulations, and other factors. A proposed rule to list this species as endangered with critical habitat in Arizona, and as threatened in Texas, was published in the **Federal Register** (59 FR 63975) on December 12, 1994.

Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. Full participation of the affected public in the species listing process, allowing the Service to consider the best scientific and commercial data available in making a final determination on the proposed action, is deemed as sufficient cause.

Section 4(b)(5)(E) of the Act, as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if it is requested within 45 days of the publication of a proposed rule. In response to numerous requests, the Service is holding two hearings. The two public hearings will be held on the dates and at the addresses described above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the Service at the start of the hearing. In the event there is a large attendance, the time allotted for oral statements may have to be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearings or mailed to the Service. Legal notices announcing the dates, times, and locations of the hearings will be published in local newspapers.

The comment period on the proposal originally closed on April 11, 1995. In order to accommodate the hearings, the Service also reopens the public comment period. Written comments may now be submitted until May 30, 1995, to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Jeffrey A. Humphrey (see **ADDRESSES**).

Authority

The authority for this action is 16 U.S.C. 1531-1544.

Dated: April 10, 1995.

Lynn B. Starnes,

Acting Regional Director, Region 2, Fish and Wildlife Service.

[FR Doc. 95-9233 Filed 4-13-95; 8:45 am]

BILLING CODE 4310-55-P

VOL 60 ISS 72 AP 14 1995 UMI

Notices

Federal Register
Vol. 60, No. 72
Friday, April 14, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 7, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

• Agriculture Marketing Service
Lawn and Turf Seed Mixtures, Germination Test Dates, and Certain Labeling Requirements under the Federal Seed Act
Business or other for-profit; Farms; State, Local or Tribal Government; 17,820 responses; 36,798 hours
James P. Triplitt (301) 504–9430

• Animal & Plant Health Inspection Service
Prohibited and Restricted Importation of Meats, Animal Byproducts, Poultry, Organisms and Vectors into the United States
Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government; 10,106 responses; 31,154 hours
Dr. Frank Kriewaldt (301) 734–4401

• Federal Crop and Insurance Corporation
Macadamia Orchard Inspection Report
FCI–554
Individuals or households; Farms; 400 responses; 400 hours
Bonnie Hart (202) 690–3595

• Federal Crop and Insurance Corporation
Texas Citrus Grove Inspection Report
FCI–19–C
Individuals or households; Farms; 50,000 responses; 75,000 hours
Bonnie Hart (202) 690–3595

• Agricultural Marketing Service
Regulations for Inspection and Certification of Quality of Agricultural and Vegetable Seeds Under the Agricultural Marketing Act of 1946
LS–375
Business or other for-profit; Farms; State, Local, or Tribal Government; 1,804 responses; 451 hours
James P. Triplitt (301) 504–9430

• Consolidated Farm Service Agency
7 CFR Part 704 and 7 CFR Part 1410—Conservation Reserve Program (CRP)
CRP–1, Appendix, 1A Continuation, 1C, 1D, 1E, CRP–2, CRP–15, ASCS–893, CCC–111, 113, 113A, 114, CRP–41, CRP–1F, CRP–15–1
Individuals or households; Farms; 277,750 responses; 50,955 hours
Cheryl Zavodny (202) 720–6825

Extension

• Office of Finance & Management
Debt Collection
Individuals or households; Business or other for-profit; Farms; 2,400 responses; 2,400 hours
Reynaldo Gonzalez (202) 720–1168

• Forest Service
State and Private Forestry Assistance; Stewardship Incentive Program; Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Farm Bill)
USDA Forms SIP–245, –36, –502, –211, –211–1
Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; Federal government; 30,000 responses; 62,100 hours
Mary Carol Koester (202) 205–1381

• Foreign Agricultural Service
No Form is Required
Individuals or households; Business or other for-profit; 30 responses; 60 hours
Pamela McKenzie (202) 690–1632

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 95–9158 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Research Service

National Genetic Resources Advisory Council

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), the Agricultural Research Service announces the following meeting:

Name: National Genetic Resources Advisory Council.
Date: May 16–17, 1995.
Time: 8:30 a.m.–5 p.m., May 16, 1995. 8:30 a.m.–5 p.m., May 17, 1995.
Place: USDA, South Building, Room 3109, 14th and Independence Avenue, SW., Washington, DC 20250.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person below.
Purpose: To advance the development of the National Genetic Resources Program.
Contact Person: Henry L. Shands, Director, National Genetic Resources Program, Building 005, Room 115, BARC–West, Beltsville, Maryland 20705. Telephone: 301–504–5059.

Done at Beltsville, MD., this 30th day of March 1995

Henry L. Shands,

Director, National Genetic Resources Program

[FR Doc. 95–9263 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–03–M

Cooperative State Research, Education, and Extension Service

Forestry Research Advisory Council; Meeting

According to the Federal Advisory Committee Act of October 6, 1987, (Public Law 92–463, 86 Stat. 770–776) the U.S. Department of Agriculture announces the following meeting:

Name: Forestry Research Advisory Council.

Date: May 10–11, 1995.
Time: 8:30 a.m.–5:00 p.m.
Place: Governor's House Hotel, 17th Street and Rhode Island Avenue, NW., Washington, DC, 20036.
Type of Meeting: Open to the public. Persons may participate in the meeting if time and space permit.
Comments: The public may file written comments before or after the meeting by contacting the person below.
Purpose: The council agenda will include: the Forestry Research and Education Initiative; 1995 Farm Bill; National Science and Technology Council strategy; performance measures for research; science planning as it relates to forestry and natural resources; review of the Cooperative Forestry Research Program (McIntire-Stennis); and other current research issues.
Contact Person for Agenda and More Information: Jerry A. Sesco, Forest Service, 14th & Independence SW, P.O. Box 96090, Washington, DC, 20090–6090; telephone (202) 205–1665.

Dated: April 7, 1995.

William D. Carlson,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 95–9292 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–22–M

Data Collection Guidelines To Be Used in Formulating New Crop Insurance Policies

AGENCY: Federal Crop Insurance Corporation, Office of Risk Management, Consolidated Farm Service Agency.

ACTION: Notice of issuance of guidelines for data collection to assist the Federal Crop Insurance Corporation in researching the feasibility of formulating crop insurance policies for new crops.

SUMMARY: The Federal Crop Insurance Corporation ("FCIC") publishes this notice to advise all interested parties of FCIC's guidelines for data collection to assist the Corporation in researching the feasibility of formulating crop insurance policies for new crops.

EFFECTIVE DATE: April 14, 1995.

ADDRESSES: Research and Evaluation Branch, FCIC, P.O. Box 419293, Kansas City, Missouri 64141.

FOR FURTHER INFORMATION CONTACT: Vondie W. O'Conner, Jr., Acting Chief, or Floyd Niernberger, Specialty Crop Coordinator, Research and Evaluation Branch, FCIC, P.O. Box 419293, Kansas City, Missouri 64141. Telephone (816) 926–6343.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to outline the data required by FCIC to develop new crop insurance programs. Proposals for new insured crops, along with any of the following supporting data, can be forwarded to FCIC at the address listed above. The person or organization initiating the new crop program request can facilitate the request by submitting as much of the supporting data as possible. For data not readily available, or for questions or assistance, please contact FCIC at the respective Consolidated Farm Service Agency (CFSA) office or the FCIC Research and Evaluation Branch at the address listed above. Submissions in electronic formats such as ASCII, WordPerfect, or Lotus are encouraged but not required.

This is a summary of the content of the New Crop Program Development Handbook (FCIC 23010). A copy of the Handbook is available by request from the address listed above. This summary of data requirements is organized into five areas and describes the typical information evaluated by FCIC.

I. New Crop Program Request Criteria

A. All new crop program requests should include:

(1) A petition or similar request, or recommendation by an FCIC Regional Service Office requesting coverage of a new crop and indicating how a minimum 10% level of participation by growers of the crop in the area of the request will be achieved.

(2) An estimate of the number of acres of the crop grown in the area, and the percentage that crop comprises of all crop acres in the area.

(3) An estimate of the value of the crop grown in the area, and the percentage that crop value comprises of the total crop value of all crops grown in the area.

(4) An estimate of the average percent contribution to individual farm income of the crop for those producers growing the crop in the area.

(5) An estimate of the economic significance of the crop to the area for the next five years, and the reasons for any significant expected changes.

B. In addition, priority will be given to requests that meet at least *one* of the following criteria:

(1) The annual value of the crop produced exceeds $3,000,000 in the National Agricultural Statistics Service defined crop reporting district for which coverage is requested.

(2) The annual value of the crop produced exceeds $9,000,000 within the state for which coverage is requested.

(3) The annual value of the crop produced exceeds $15,000,000 in all states covered by the affected FCIC Regional Service Office.

(4) At the national level, the annual value of the crop produced exceeds $30,000,000.

II. Risk Profile and Analysis

These data should provide historical information for the crop.

A. Perils affecting the crop:

(1) Natural perils (e.g. fire, drought, hail, etc.);

(2) Economic perils—such as market perils, changes in consumer taste, or marketing orders; and

(3) Human perils—such as risk associated with failure to follow good farming practices, theft, etc.

B. Loss valuation:

(1) How is damage to the crop evaluated?

C. Market requirements and characteristics:

(1) Where is the crop marketed?

(2) How is the crop marketed?

D. Available loss control techniques:

(1) Production risks—For example, can losses be prevented or mitigated by use of irrigation, avoiding varieties susceptible to loss, preventative pest and disease control measures; by use of frost protection methods, site selection cultivar selection, cultural practices, or pest, weed, and disease control measures; by reconditioning or salvage

(2) Market risk—Identify forward contracting tools available, or futures or options market tools available.

(3) Problems associated with storage of the crop—Are there geographic price differences?

III. Actuarial Sufficiency and Data Availability

Provide data indicating:

A. What producer production records are available to identify yields;

B. As much historical yield data as possible;

C. What production records are available to identify production costs;

D. Farm budgets or other production cost analysis;

E. Marketing data; and

F. Extension farm evaluation information.

IV. Agronomic and Horticultural Suitability

These data include written recommendations and supporting documentation from the Extension Service, independent field research facilities, or other experts on acceptable plant varieties for the area. This documentation should cover the following areas:

A. Acceptable plant varieties for the area;

B. Cultural conditions;

C. Grower and industry association records and recommendations;

D. Soil Conservation Service land use capabilities and recommendations; and

VOL
60
ISS
72
AP
14
1995
UMI

E. Other test results or studies.

V. Marketing Dynamics

Describe where and how the market operates for the proposed crop. Specifically, provide the following:
A. Market characteristics:
(1) Use—fresh or processed;
(2) If processed, how;
(3) Market size;
(4) Market location; and
(5) Market age;
B. Marketing services:
(1) Pricing—contract or open market;
(2) Grading;
(3) Marketing Orders;
(4) Storage facilities;
(5) Processing facilities; and
(6) Fresh market packing facilities.
B. Market competition:
(1) Domestic market; and
(2) International market.

Notice

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the FCIC herewith gives notice of the availability of the "New Crop Program Development Handbook" containing the data collection guidelines for use in developing new crop insurance programs.

Authority: 7 U.S.C. 1506(l).

Done in Washington, D.C. on April 4, 1995.

Suzy Dittrich,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 95–9196 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–08–P

Forest Service

Cleanup and Rehabilitation of the White King and Lucky Lass Uranium Mines, Fremont National Forest, Lake County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation of an environmental impact statement.

SUMMARY: On August 10, 1989, a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for the Cleanup and Rehabilitation of the White King and Lucky Lass Uranium Mines on the Lakeview Ranger District of the Fremont National Forest was published in the **Federal Register** (54 FR 32837). A revised NOI was published in the **Federal Register** on February 12, 1991 (56 FR 5676). The draft EIS was released in August 1991, with a Notice of Availability date of August 23, 1991 (56 FR 41842). The Forest Service has decided not to prepare the final EIS on this proposal because an RI/FS will be prepared; therefore, this Notice of Intent is rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this cancellation to Janine Cannon, Environmental Coordinator, Lakeview Ranger District, Lakeview, Oregon 97630; phone (503) 947–6333.

Dated: March 31, 1995.

Charles R. Graham,

Forest Supervisor.

[FR Doc. 95–9235 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–11–M

South Manti Timber Salvage; Manti-La Sal National Forest, Sanpete and Sevier Counties, UT

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, Manti-La Sal National Forest is preparing an environmental impact statement (EIS) to disclose the environmental effects of timber salvage on the Ferron and Sanpete Ranger Districts. The Notice of Intent to prepare an environmental impact statement published February 28, 1994 (Vol. 59, No. 39, page 9462) indicated the draft EIS would be available for public review June, 1994 and the final EIS released September 16, 1994.

Completion has been delayed and revised dates for filing the draft and final EIS have been developed. The Draft EIS is estimated to be filed with the Environmental Protection Agency and available for public review May, 1995. The final EIS is expected to be released September, 1995. All other information published in the February 28, 1994 Federal Notice remains relevant.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to David Hatfield, Interdisciplinary Team Leader, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah, 84501. Phone (801) 637–2817

Dated: April 7, 1995.

Aaron L. Howe,

Acting Forest Supervisor

[FR Doc. 95–9240 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–11–M

Natural Resources Conservation Service

Buffalo River Tributaries Watershed, Searcy, Marion, Newton, Pope and Van Buren Counties, AR

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Buffalo River Tributaries Watershed, Searcy, Marion, Newton, Pope, and Van Buren Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Thomas H. Wehri, State Conservationist, Natural Resources Conservation Service, Room 5404, Federal Office Building, 700 West Capitol Avenue, Little Rock, AR, 72201, (501) 324–5445.

SUPPLEMENTARY INFORMATION: The environmental assessment of action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Thomas H. Wehri, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is watershed protection, (water quality improvement). The planned words of improvement include conservation plans which will provide for land treatment and nonstructural (conservation easements) measures. Land treatment measures include 33,000 acres of pasture improvement, three miles of streambank stabilization, 500 acres of critical area treatment, installation of 25 animal waste management facilities. Nonstructural measures include 820 acres of conservation easements needed to establish filter strips, preserve and reestablish riparian zones.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Thomas H. Wehri. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and Local officials.)

Dated: April 7, 1995.

Thomas H. Wehri,

State Conservationist.

[FR Doc. 95–9243 Filed 4–13–95; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under § 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than March 31, 1996.

	Period to be Reviewed
Antidumping Duty Proceedings:	
Bangladesh:	
Shop Towels (A–538–802):	
Eagle Star Mills, Ltd.	03/01/94–02/28/95
Greyfab (Bangladesh) Ltd.	
Hashem Int.	
Khaled Textile Mills Ltd.	
Shabnam Textiles	
Sonar Cotton Mills (Bangladesh) Ltd.	
Brazil:	
Ferrosilicon (A–351–820):	
Companhia de Ferro Ligas da Bahia (FERBASA)	03/01/94–02/28/95
Companhia Brasileira Carbureto de Calcio (CBCC)	
Germany:	
Brass Sheet and Strip (A–428–602):	
Wieland-Werke AG	03/01/94–02/28/95
India:	
Sulfanilic Acid (A–533–806):	
Kokan Synthetics	03/01/94–02/28/95
M/S Kay International	
Japan:	
Certain Stainless Steel Butt-Weld Pipe and Tube Fittings (A–588–702):	
Daido Steel Co., Ltd.	03/01/94–02/28/95
Taikei Industries Co., Ltd.	
Korea:	
Steel Wire Rope (A–580–811):	
Manho Rope Mfg. Co., Ltd.	03/01/94–02/28/95

VOL 60 ISS 72 AP 14 1995 UMI

	Period to be Reviewed
Boo Kook Corporation	
Chun Kee Steel & Wire Rope Co.	
Chung Woo Rope Co., Ltd.	
Ssang Yong Steel Wire Rope Co	
Hanboo Wire Rope, Inc.	
Kumho Rope	
Sung Jin	
Yeonsin Metal	
Atlantic & Pacific	
Dae Heung Industrial Co.	
Dae Kyung Metal	
Dong-Il Metal	
Dong-il Steel Mfg. Co., Ltd.	
Dong Young	
Jinyang Wire Rope, Inc.	
Korea Sangsa Co.	
Korea Rope Company	
Koropo Co.	
Kwang Shin Undustries	
Kwangshin Rope	
Myung Jin Co.	
Seo Hae Ind.	
Seo Jin Rope	
Sungsan Special Steel Processing	
Thailand:	
Certain Circular Welded Pipes and Tubes (A–549–502):	
Pacific Pipe Co., Ltd.	03/01/94–02/28/95
S.A.F. Corporation	
Saha Thai Steel Pipe Company	
Orient Star Consolid.	
Orient Star Shpg. Age.	
The People's Republic of China:	
Sulfanilic Acid (A–570–815):	
Hainan Garden Trading Co.*	08/01/94–07/31/94
Sinochem Shandong*	
Ye De Chemical Industry Co.*	
All other exporters of sulfanilic acid from the People's Republic of China are conditionally covered by this review.	
United Kingdom:	
Certain Hot-Rolled Lead and Bismuth Carbon Steel Products (A–412–810):	
UES Holdings Limited/UES Steels Limited	03/01/94–02/28/95
Countervailing Duty Proceedings:	
Germany:	
Certain Hot-Rolled Lead and Bismuth Carbon Steel Products (C–428–812)	01/01/94–12/31/94
India:	
Sulfanilic Acid (C–533–807)	01/01/94–12/31/94
Netherlands:	
Standard Chrysanthemums (C–421–601)	01/01/94–12/31/94
South Africa:	
Ferrochrome (C–791–001)	01/01/94–12/31/94
Thailand:	
Certain Apparel (C–549–401)	01/01/94–12/31/94
United Kingdom:	
Certain Hot-Rolled Lead and Bismuth Carbon Steel Products (C–412–811)	01/01/94–12/31/94
Suspension Agreements:	
Brazil:	
Frozen Concentrated Orange Juice (C–351–005)	01/01/94–12/31/94
Colombia:	
Roses and Other Fresh Cut Flowers (C–301–003)	01/01/94–12/31/94
Venezuela:	
Gray Portland Cement and Clinker (C–307–804)	01/01/94–12/31/94

* Inadvertently omitted from previous initiation notice.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: April 12, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–9405 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–057]

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On November 21, 1994, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on replacement parts for self-propelled bituminous paving equipment from Canada (59 FR 59993). The review period is September 1, 1990 through August 31, 1991. This review involves one manufacturer/exporter of this merchandise, the Allatt Paving Division of Ingersoll-Rand Canada Inc. (Allatt). After considering the comments submitted by petitioner and respondent, we determine the dumping margin for this period to be 6.86 percent.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 21, 1994, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on replacement parts for self-propelled bituminous paving equipment from Canada (59 FR 59993) covering the period September 1, 1990 through August 31, 1991. This review involves one manufacturer/exporter of this merchandise, Allatt. The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of replacement parts for self-propelled bituminous paving equipment, excluding attachments and parts for attachments. This merchandise is currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 4016.93.10, 7315.11.00, 7315.89.50, 7315.90.00, 8336.50.00, 8479.99.00, 8481.20.00, 8482.10.10, 8483.90.90, 8539.29.20, 8544.20.00, 8544.41.00, 8544.51.80, 8544.60.20, and 9015.30.40. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, Blaw-Knox, and from the Road Machinery Division of Ingersoll-Rand, which is the successor to the respondent.

Comment 1: The petitioner claims that the Department improperly made adjustments to foreign market value (FMV) for pre-sale home market movement costs through a circumstance-of-sale adjustment and the exporter's sales price (ESP) offset. Petitioner maintains that these adjustments are prohibited by the decision of the Court of Appeals for the Federal Circuit (the Federal Circuit) in *Ad Hoc Committee of AD–NM–TX–FL Producers of Gray Portland Cement* v. *United States*, 13 F.3d 398 (Fed. Cir. 1994).

Respondent maintains that Ingersoll-Rand did not claim pre-sale home market movement charges, and therefore that the issue is moot. (*See* Supplemental Questionnaire Response dated December 2, 1993, Section B–1 Format Sheets, p. 2).

Department's Response: We agree with the respondent. No pre-sale home market movement charges were claimed and the Department did not make any adjustment to FMV for these expenses.

Comment 2: The respondent argues that the Department incorrectly adjusted the United States price (USP) to account for certain home market taxes. The respondent maintains that the Department's current methodology is the result of the decision of the Court of International Trade (CIT) in *Federal-Mogul Corp.* v. *United States*, Slip Op. 93–194 (CIT 1993) (*Federal-Mogul*), in which the court ordered the Department to adjust USP by the *ad valorem* tax rate at the same point in the chain of commerce at which the tax is imposed in the home market. Thus, the respondent claims that the first step of the Department's current tax methodology, as mandated in *Federal-Mogul*, is to increase USP by applying the home market tax rate to the price of U.S. sales at the point at which the product would be taxed in the home market. According to the respondent, the second step of the Department's tax methodology involves making an additional deduction to USP and FMV by multiplying each adjustment by the *ad valorem* tax rate. The respondent disagrees with the second step of the Department's methodology because it believes that the second round of adjustments does not conform with the requirement that the Department calculate accurate margins. Furthermore, even if these second step adjustments are warranted, the respondent maintains that the Department has not applied the stated methodology correctly.

According to the respondent, the Department states in its preliminary results that the second step of the tax methodology is made to avoid creating dumping margins where they would not exist if no taxes were imposed, in accordance with *Silicomanganese From Venezuela* (59 FR 31205) and *Zenith Electronics Corp.* v. *United States*, 988F.2d 1573 (Fed. Cir. 1993) (*Zenith*). The respondent argues that the Department has misinterpreted the holding of the *Zenith* opinion. The respondent claims that the *Zenith* decision does not require the Department to make specific adjustments to avoid margin creation resulting from the multiplier effect. Furthermore, the respondent argues that the Department's current tax methodology actually increases dumping margins, which is in conflict with the Department's duty to calculate accurate margins. Despite the CIT's decision upholding the Department's current tax methodology (*see Independent Radionic Workers of America* v. *United States*, 862 F. Supp. 422, 426 (CIT 1994); *see also Torrington Co.* v. *United States*, 866 F. Supp. 1434, 1436 (CIT 1994)), the respondent claims that the statute does not authorize the second step to the Department's tax methodology and that this methodology has not yet been reviewed by the Federal Circuit.

In addition, the respondent argues that even if the Department's tax methodology is valid under the law, the Department did not correctly apply it in the preliminary results of this case. The respondent maintains that the second step tax adjustment is made to eliminate any residual tax that would have been included in the ultimate USP or FMV as a result of movement costs that were included in the tax base but were later deducted in deriving the ultimate comparison price. *See Silicomanganese from Venezuela* (59 FR 31205). The respondent claims that in the preliminary results the Department incorrectly made tax adjustments for all price adjustments, including other price adjustments that were not deductions.

Specifically, the respondent argues that the Department made a tax

VOL 60 ISS 72 AP 14 1995 UMI

adjustment to both PP and ESP sales for the difference-in-merchandise adjustment (difmer), which is incorrect because the difmer is an independent statutory adjustment made to FMV to account for differences in physical characteristics when a product sold in the United States does not have an exact match with a product sold in the home market. *See* 19 U.S.C. § 1677b(a)(4)(C); 19 CFR 353.57. According to the respondent, because the difmer is not an adjustment for differences in circumstances of sale, pursuant to 19 U.S.C. § 1677(a)(4)(B), it should not affect the tax added to USP or FMV. The respondent claims that the Department's tax adjustment for the difmer is in conflict with the directive established in *Daewoo Electronics Co., Ltd.* v. *United States*, 760 F. Supp. 200 (CIT 1991) (*Daewoo*), in which it is stated that tax adjustments are appropriate only to account for differences in the circumstances of sale. Thus, the respondent claims, by making this inappropriate adjustment to the difmer, the Department has increased the FMV unnecessarily, and thereby increased any dumping margins in comparisons where the difmer was a positive number.

Furthermore, the respondent does not agree with tax adjustments that the Department made to FMV corresponding to adjustments that were added to derive FMV. The respondent claims that tax adjustments made for additions to FMV are in conflict with the Department's stated policy of making tax adjustments only for costs which are deducted from the USP on which the tax was calculated. Moreover, the respondent argues that after the Department makes its tax adjustments corresponding to deductions, USP and FMV no longer contain any residual tax resulting from costs that were a part of the original tax base. However, when the Department makes tax adjustments for costs that it adds to FMV, these costs result in creating margins that the initial adjustments were supposed to prevent. Thus, the respondent maintains, the Department should only make adjustments for costs that are deducted from the original tax base.

Department's Position: The tax methodology used in this administrative review is the Department's current administrative practice. *See Federal-Mogul.* In *Federal-Mogul*, the CIT rejected our revised implementation of the Act's instructions on taxes and prohibited us from applying a purely tax-neutral margin calculation methodology. Accordingly, the Department changed its practice, as instructed by the CIT, and adjusted USP for home market tax by multiplying the home market tax rate by the USP at the point in the chain of commerce of the U.S. merchandise that is analogous to the point in the home market chain of commerce at which the foreign government applies the home market consumption tax, and have added the result to USP. In accordance with our tax methodology, we have also deducted from the USP and FMV those portions of the respective home market tax and the USP tax adjustments attributable to expenses included in the foreign market and U.S. bases of the tax if those expenses are later deducted to calculate FMV and USP. Specifically, we are deducting the *difference* between home market selling expenses and U.S. selling expenses, whether they are added to or deducted from FMV. Furthermore, all adjustments to U.S. price are required to be multiplied by the tax rate, including the difmer. These adjustments to the foreign market tax and the U.S. price tax adjustment are necessary to prevent the methodology for calculating the U.S. price tax adjustment from creating antidumping duty margins where no margins would exist if no taxes were levied upon foreign market sales.

The adjustment to avoid the margin creation effect is in accordance with the Federal Circuit's holding that the application of the USP tax adjustment under section 772(d)(1)(C) of the Tariff Act should not create a dumping margin if pre-tax FMV does not exceed USP. *See Zenith.* In addition, the Federal Circuit specifically has held that an adjustment should be made to mitigate the impact of expenses that are deducted from FMV and USP upon the USP tax adjustment and the amount of tax included in FMV. *See Daewoo.* However, the mechanics of the Department's adjustments to the U.S. and foreign market tax amounts as described above are not identical to those suggested in *Daewoo.* With regard to the respondent's concern that this methodology expands the margins, the Federal Circuit in *Zenith* held that "[b]y engaging in dumping, the exporters themselves are responsible for the multiplier effect. The multiplier effect does not create a dumping margin where one does not already exist." *See Zenith* at 1581–82. For the foregoing reasons, we have not amended our treatment of U.S. and home market taxes for these final results.

Comment 3: The respondent argues that in calculating the FMV for ESP sales, the program was incorrect in that the U.S. packing costs were multiplied by the absolute amount of tax rather than multiplied by the tax rate. In addition, the respondent claims that when the Department recalculated the U.S. credit expense for ESP and PP sales, the Department applied the credit rate to the unit price, without first subtracting discounts. Thus, the respondent maintains that corrections should be made to the FMV calculation for ESP sales and to the U.S. credit expenses.

Department's Position: We agree with the respondent. We have corrected our calculations for these inadvertent errors.

Comment 4: The respondent maintains that there were two different tax rates in Canada during the review period: the FST, which was a value-added tax that was included in the price of the subject merchandise until December 31, 1990, and the GST, a goods and services tax levied after January 1, 1991, which is not included in the price charged to the customer. The respondent argues that in *Federal-Mogul Corp.* v. *United States*, Slip Op. 94–186, 8–9 (CIT, Dec. 7, 1994), the CIT determined that such home market taxes should only be applied to the part of the review period in which the tax was in effect. The respondent argues that to prevent the tax rate change from distorting the dumping margin, the Department should use the tax rate that would be applied to the U.S. sale in comparisons where the tax rates differ because the sale in one market occurred in 1990 and the sale in the other market occurred in 1991.

Department's Position: We agree that the home market tax rate should be adjusted to account for the differences in tax rates during 1990 and 1991; however, we disagree with respondent's proposal to use the tax rate that would be applied to the U.S. sale in comparisons where the tax rates differ. To account for the differences in the tax rates during the two periods, the Department instead derived a weighted-average tax rate for the period of review based on the volume of home market sales made during 1990 and 1991. In our calculations for these final results, we have used the home market weighted-average tax rate specific to the period of review for all comparisons of home market and U.S. sales.

Final Results of Review

We determine the following dumping margin to exist for the period September 1, 1990 through August 31, 1991:

Manufacturer/exporter	Margin (percent)
Allatt (Ingersoll-Rand)	6.86

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries.

Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate as listed; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) cash deposits for all other manufacturers or exporters will be 20.12 percent. This is the "new shipper" rate established during the first final results published by the Department in the **Federal Register** on February 16, 1982 (47 FR 6681). We have determined that this rate is the appropriate rate, because we are unable to ascertain the "all others" rate from the Treasury less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibilities concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 7, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9274 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–003]

Ceramic Tile From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On November 10, 1994, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on ceramic tile from Mexico (59 FR 56057) for the period January 1, 1992 through December 31, 1992. We have now completed this review and determine the total bounty or grant to be zero or *de minimis* for 32 companies, and 2.08 percent *ad valorem* for all other companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*. We will instruct the U.S. Customs Service to assess countervailing duties as indicated above.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 10, 1994, the Department published in the **Federal Register** (59 FR 56057) the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20012; May 10, 1982). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

We invited interested parties to comment on the preliminary results. On December 12, 1994, a case brief was submitted by Ceramica Regiomontana, S.A., a producer of the subject merchandise which exported ceramic tile to the United States during the review period (respondent).

The review period is January 1, 1992, through December 31, 1992. This review involves 33 companies and the following programs:

(1) BANCOMEXT Financing for Exporters;
(2) The Program for Temporary Importation of Products used in the Production of Exports (PITEX);
(3) Other BANCOMEXT preferential financing;
(4) Other Dollar-Denominated Financing Programs;
(5) Fiscal Promotion Certificates (CEPROFI);
(6) Import duty reductions and exemptions;
(7) State tax incentives;
(8) Article 15 Loans;
(9) NAFINSA FONEI-type financing; and
(10) NAFINSA FOGAIN-type financing.

In accordance with the recent Court of International Trade (CIT) decision in *Ceramica Regiomontana, S.A. et al.* v. *United States*, Slip Op. 94–74, the Department is changing the rate of 2.55 percent *ad valorem* preliminarily assigned to Ceramica Regiomontana to the country-wide rate of 2.08 percent *ad valorem*.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of Review

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 6907.10.0000, 6907.90.0000, 6908.10.0000, and 6908.90.0000. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the total bounty or grant on a country-wide basis by first calculating the bounty or grant for each company subject to the administrative review. We then weight-averaged the rate received by each company using as the weight its share of total Mexican exports to the United States of the

VOL
60
ISS
72
AP
14
1995
UMI

subject merchandise, including all companies, even those with *de minimis* and zero rates. We then summed the individual companies' weighted-average rate to determine the total bounty or grant from all programs benefitting exports of the subject merchandise to the United States.

Since the country-wide rate calculated using this methodology was above *de minimis*, as defined by 19 CFR 355.7(1994), we proceeded to the next step, and examined the total bounty or grant calculated for each company to determine whether individual company rates differed significantly from the weighted-average country-wide rate, pursuant to 19 CFR 355.22(d)(3). Thirty-two companies had a significantly different total bounty or grant during the review period pursuant to 19 CFR 355.22(d)(3). Accordingly, these companies are treated separately for assessment and cash deposit purposes. All other companies are assigned the country-wide rate.

Analysis of Comments

Comment 1. As in past reviews, Ceramica Regiomontana contends that the Department does not have the legal authority to assess countervailing duties on ceramic tile from Mexico and must terminate the review. Effective April 23, 1985, the date of the "Understanding Between the United States and Mexico regarding Subsidies and Countervailing Duties" (the Understanding), Mexico became a "country under the Agreement." Therefore, Ceramica Regiomontana argues that 19 U.S.C. 1671 requires an affirmative injury determination as a prerequisite to the imposition of countervailing duties on any Mexican merchandise imported on or after April 23, 1985. Furthermore, Ceramica Regiomontana argues that the only applicable statutory authority for this review would be 19 U.S.C. 1303; however, because Mexico became a country under the Agreement, the provisions of section 1303 could no longer apply. Therefore, Ceramica Regiomontana maintains the Department has no authority to conduct this review and the review should be terminated.

Department's Position. We fully addressed this issue in a previous administrative review of this countervailing duty order. *See Ceramic Tile from Mexico; Final Results of Countervailing Duty Administrative Review* (55 FR 50744; December 10, 1990). The CIT and the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) have sustained the Department's legal position that Mexican imports subject to an outstanding countervailing duty order already in effect when Mexico entered into the Understanding are not entitled to an injury test pursuant to section 701 of the Act and paragraph 5 of the Understanding (*Ceramica Regiomontana, S.A., et. al* v. *United States*, Slip Op. 96–78, Court No. 89–06–00323 (May 5, 1994) (*Ceramica Regiomontana*"); *Cementos Anajuac del Golfo, S.A.* v. *U.S.*, 879 F.2d 847 (Fed. Cir. 1989), cert. denied, 110 S.CT. 1318 (1989)). The countervailing duty order on ceramic tile from Mexico was published prior to Mexico's entering into the Understanding and, therefore, imports of ceramic tile are not entitled to an injury test pursuant to section 701 of the Act.

Comment 2. Ceramica Regiomontana argues that the Department failed to include zero or *de minimis* companies in calculating the country-wide subsidy rate. Ceramica Regiomontana maintains that the Federal Circuit has ruled on this issue in *Ipsco, Inc.* v. *United States* (Ipsco), 899 F.2d 1192, 1197 (Fed. Cir. 1990), and the Department is required to follow this ruling. According to Ceramica Regiomontana, the Federal Circuit's interpretation of *Ipsco* is that "the country-wide countervailing duty rate calculation should be made inclusive of those companies receiving no benefit or *de minimis* in instances where such methodology would result in a zero or *de minimis* rate as well as in instances where the country-wide countervailing duty rate is greater than *de minimis*." Ceramica Regiomontana also argues that the CIT has recently affirmed the *Ipsco* decision in *Ceramica Regiomontana*, and that the Department should follow the CIT's holdings by including *de minimis* and zero companies in the calculation of the country-wide rate.

Department's Position. We agree that, pursuant to the CIT's holding in *Ceramica Regiomontana, de minimis* and zero rate companies should be included in the calculation of the country-wide rate. Accordingly, all 33 companies covered by this administrative review have been included in the calculation of the country-wide rate as stated in the above section of this notice concerning calculation methodology for assessment and cash deposit purposes. In accordance with the recent CIT decision in *Ceramica Regiomontana*, we are thus assigning the country-wide rate of 2.08 percent *ad valorem* to Ceramica Regiomontana.

Comment 3. As in past administrative reviews, Ceramica Regiomontana contends that the Department incorrectly treated the benefit from the PITEX program as a grant. According to Ceramica Regiomontana, PITEX benefits should be calculated as interest-free loans similar to the Department's treatment of loan duty deferrals under a Peruvian program in *Cotton Sheeting and Sateen from Peru; Final Results of Administrative Review of Countervailing Duty Order* (49 FR 34542).

Ceramica Regiomontana contends that the Department provides no legal justification for refusing to treat PITEX as an interest-free loan rather than a grant in *Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review* (56 FR 50858). Furthermore, Ceramica Regiomontana argues that the Department "bases its refusal to calculate PITEX as an interest-free loan on the difficulty of doing the calculation." Ceramica Regiomontana maintains that although there is no certainty whether a company will ultimately be exempt from payment of all or a portion of the duty, the deferral should be treated as a loan rather than a grant in accordance with legal requirements.

Department's Position. We fully addressed this issue in the previous administrative review of this case. *See Ceramic Tile from Mexico; Final Results of Countervailing Duty Administrative Review* (57 FR 24247; June 8, 1992). Under PITEX, an exporter may temporarily import machinery for five years. At the end of five years, the exporter can renew the temporary stay on an annual basis indefinitely. Since payment of import duties upon conversion to permanent import status is based on the depreciated value of the equipment at the time it is converted to permanent import status, the exporter can continue the temporary import status until the depreciated value of the equipment is zero and no import duties are owed. Therefore, duty exemptions under PITEX are properly treated as grants, and we expensed them in full at the time of importation, when the exporters otherwise would have paid duties on the imported machinery. Id., *Final Negative Countervailing Duty Determination; Silicon Metal From Brazil* (56 FR 26988). Ceramica Regiomontana has presented us with no new evidence or arguments on this issue.

Comment 4. Ceramica Regiomontana argues that the calculation of the PITEX net subsidy is incorrect, because the Department improperly divided the PITEX benefit by each company's total exports. Ceramica Regiomontana contends that since the machinery imported under the PITEX program may be used to produce products for both the export and domestic markets, the benefits from the program should be divided by total sales rather than by total exports. Furthermore, Ceramica Regiomontana argues that the program does not limit the use of imported machinery to production for export products only. According to Ceramica Regiomontana, machinery imported by the company is used for production of merchandise for both export and domestic markets. Ceramica Regiomontana claims that the Department's allocation method in PITEX is incorrect because it does not measure the benefit of the subsidy to the recipient and the proper method of allocation would be based on total sales.

Department's Position. We disagree. In order to meet the eligibility criteria for the PITEX program, a company is required to have a proven export record, and to use the imported merchandise (both raw materials and equipment) in the production of goods for export. Since receipt of benefits under PITEX is tied to the company's exports, thereby making the program an export subsidy, the proper basis for allocation of these benefits is total exports, as opposed to total sales. *See Certain Textile Mill Products from Mexico; Final Results of Countervailing Duty Administrative Review* (56 FR 12175, 12178; March 22, 1991).

Final Results of Review

As a result of our review, we determine the total bounty or grant to be zero or *de minimis* for the following 32 companies during the 1992 review period and 2.08 percent *ad valorem* for all other companies. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*.

(1) Adrian Sifuentes Jimenez.
(2) Agustin Cedillo Ruiz.
(3) Alejandro Estrada Silva.
(4) Apolonio Arias Vasquez.
(5) Arturo Leija Lucio.
(6) Aurelio Cedillo Ruiz.
(7) Azuelejos Decorativos Carrillo, S.A.
(8) Efrain Medina Carrillo.
(9) Emilio Pacheco.
(10) Faustino Nuncio Silva.
(11) Ima Regiomontana, S.A. de C.V.
(12) Industrias Intercontinental, S.A. de C.V.
(13) Internacional de Ceramica, S.A. de C.V.
(14) Javier Leija Lucio.
(15) Jesus Gallegos Loivares.
(16) Jesus Jimenez Lucio.
(17) Jose Arellano Valdez.
(18) Jose Dolores Hernandez.
(19) Jose Silva Romero.
(20) Juan Cortez Coronel.
(21) Leopoldo Montiel Rincon.
(22) Luis Najera Flores.
(23) Luis Paulino Flores.
(24) Norberto Cuellar Zuniga.
(25) O.H. Internacional, S.A. de C.V
(26) Pedro Lopez Alonso.
(27) Raul Leija.
(28) Recubrimientos Mezquital, S.A. de C.V.
(29) Ricardo Berrones.
(30) Taller de Azuelejos Coloniales.
(31) Vicente Jalomo Reyna.
(32) Zenon Cortez Coronel.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, entries of the subject merchandise from Mexico exported by the 32 companies listed above for the period on or after January 1, 1992, and on or before December 31, 1992, and to assess countervailing duties of 2.08 percent of the f.o.b. invoice price of shipments from all other companies for the same period.

The Department will instruct the Customs Service to collect cash deposits of zero estimated countervailing duties for the 32 companies listed above and 2.08 percent *ad valorem* estimated countervailing duties, as provided by section 751(a)(1) of the Act, on shipments of this merchandise from all other companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), 19 CFR 355.22 and 19 CFR 355.25.

Dated: April 7, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9275 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–001]

Leather Wearing Apparel from Mexico; Final Results of Changed Circumstances Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances countervailing duty administrative review.

SUMMARY: On February 13, 1995, the Department of Commerce (the Department) published the preliminary results of its changed circumstances countervailing duty administrative review. We examined whether Maquiladora Pieles Pitic, S.A. de C.V. (MPP) and Finapiel de Mexico, S.A. de C.V. (Finapiel), two manufacturers/exporters of leather wearing apparel from Mexico to the United States, had received bounties or grants during the first three quarters of 1994. We have now completed this review and determine that neither company received bounties or grants during this time period under any programs previously found countervailable, and, consequently, their cash deposit rate should be zero.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1994, the Department published the final results of the last administrative review of the countervailing duty order on leather wearing apparel from Mexico, covering the January 1, 1992 through December 31, 1992 review period (46 FR 21357; April 10, 1981). In that review, 65 companies which the Government of Mexico (GOM) certified did not receive benefits from the programs under review received a cash deposit rate of zero. All other companies, which did not respond to our questionnaire, including MPP and Finapiel, received a cash deposit rate of 13.35 percent based on best information available.

On December 1, 1994, the GOM requested a changed circumstances review to examine the cash deposit rate applicable to MPP and Finapiel. In its request, the GOM stated that MPP and Finapiel were excluded from the list of GOM-certified zero-benefit recipients submitted to the Department in the recently completed administrative review due to an oversight by the GOM. With its request, the GOM provided company and government certifications that MPP and Finapiel did not apply for or receive any net subsidy during the first three quarters of 1994 from the programs that were previously found countervailable or not-used, and will not apply for or receive any such net subsidy in the future, in accordance with 19 CFR 355.22(a)(2)(1994). The GOM also stated that it has taken steps to ensure that the type of oversight which occurred in this case will not be

VOL 60 ISS 72 AP 14 1995 UMI

repeated in future administrative reviews.

On December 21, 1994 (59 FR 65755), the Department initiated a changed circumstances review to examine the cash deposit rate for MPP and Finapiel. On February 13, 1995, the Department published in the **Federal Register** the preliminary results of its changed circumstances countervailing duty administrative review on leather wearing apparel from Mexico (60 FR 8221). We have now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). The review covers the period January 1, 1994 through September 30, 1994, two manufacturers/exporters, and the following programs:

(A) BANCOMEXT Loans and Export Financing
(B) Certificates of Fiscal Promotion (CEPROFI)
(C) FOGAIN
(D) FONEI
(E) State Tax Incentives
(F) PITEX
(G) Import Duty Reductions and Exemptions
(H) Article 15 Loans

Scope of Review

Imports covered by this review are shipments of Mexican leather wearing apparel. These products include leather coats and jackets for men, boys, women, girls, and infants, and other leather apparel products including leather vests, pants, and shorts. Also included are outer leather shells and parts and pieces of leather wearing apparel. This merchandise is currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 4203.10.4030, 4203.10.4060, 4203.10.4085 and 4203.10.4095. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of this review, we have determined that, during the first three quarters of 1994, MPP and Finapiel did not use any of the programs examined in the last administrative review of this order (59 FR 43815; August 25, 1994), and therefore their cash deposit rate should be zero.

The Department will instruct the Customs Service to continue to suspend liquidation and to collect zero cash deposits of estimated countervailing duties, as provided by the Act, on shipments of Mexican leather wearing apparel from MPP and Finapiel exported on or after the date of publication of this notice of final results of review. These instructions shall remain in effect until publication of the final results of the next administrative review.

This changed circumstances review and notice are in accordance with section 751(b)(1) of the Act (19 U.S.C. 1675(b)(1)) and 19 CFR 355.22(h).

Dated: April 7, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9276 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Textile Exporters' Forum; Notice of Open Meeting

A Textile Exporters' Forum will be held on April 27, 1995. The meeting will be from 2 p.m. to 4 p.m. in the Main Conference Room on the sixth floor at the office of Milliken & Company, 1045 6th Avenue, New York, New York.

The Forum is sponsored by the Department of Commerce to discuss textile and apparel export issues.

Agenda: The Textile Export Management Company (TEXPORT) and working with Export Trading Companies; the status of Electronic Sourcing for the Textile and Apparel Industry; the Economic Outlook for the Textile and Apparel Industry; and the Office of Textiles and Apparel Export Expansion Program.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact William Dawson (202/482–5155).

Dated: April 10, 1995.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–9217 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–DR–F

Foreign-Trade Zones Board

[Order No. 738]

Pursuant to Its Authority Under the Foreign-Trade Zones Act of June 18, 1934, as Amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) Adopts the following Order: Grant of Authority for Subzone Status, Gleason Corporation (Gear Production Equipment), Rochester, New York

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the County of Monroe, New York, grantee of Foreign-Trade Zone 141, for authority to establish special-purpose subzone status at the gear production equipment manufacturing plant of the Gleason Corporation in Rochester, New York, was filed by the Board on March 28, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 14–94, 59 FR 17511, 4–13–94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 141D) at the Gleason Corporation plant in Rochester, New York, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 7th day of April 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest: John J. Da Ponte, Jr., *Executive Secretary.*

[FR Doc. 95–9273 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 032795B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for a scientific research permit (P509B), and issuance of modification 1 to permit 878 (P553).

SUMMARY: Notice is hereby given that Carlos Diez and Robert van Dam (P509B) have applied in due form for a permit to take 200 listed hawksbill and 20 listed green sea turtles (*Eretmochelys imbricata* and *Chelonia mydas*) for the purpose of scientific research, and on March 15, 1995, a modification request to Permit 878 was received from the Florida Department of Environmental Protection (P553) to tag listed sea turtles.

DATES: Written comments must be received on or before May 15, 1995.

ADDRESSES: Documents submitted in connection with the above application and permit modification are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

Written data or views, or requests for a public hearing on this application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: Application 509B requests a permit under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217-227). The applicant proposes to capture turtles by hand, to be examined, photographed, measured, tagged. Some of these turtles may be lavaged, have blood samples taken, or have satellite telemeters attached.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the Applicant and do not necessarily reflect the views of NMFS.

Notice is hereby also given that on March 31, 1995, as authorized by the provisions of the ESA, NMFS issued Modification 1 to Permit Number 878 to tag listed sea turtles subject to certain conditions set forth therein. Issuance of this modification, as required by the ESA, was based on a finding that such modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the listed species which are the subject of the permit; (3) is consistent with the purposes and policies set forth in section 2 of the ESA. This modification was also issued in accordance with and is subject to parts 217-222 of Title 50 CFR, the NMFS regulations governing listed species permits.

April 10, 1995.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–9270 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 041095C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of its Reef Fish and Red Snapper Advisory Panels (AP) on May 1, 1995, from 1:00 p.m. to 5:00 p.m. and May 2, 1995, from 8:00 a.m. to 3:00 p.m. The APs will meet jointly to review Draft Amendment 11 to the Reef Fish Fishery Management Plan (FMP).

ADDRESSES: The meeting will be held at the Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL 33607; telephone: (813) 281–8900.

FOR FURTHER INFORMATION CONTACT: Steven M. Atran, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, Florida 33609; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: Issues that will be addressed in the FMP include: Proposed modifications of the framework procedure for specifying total allowable catch including changes in procedures, the definition of optimum yield, and the criteria for specifying the length of a stock recovery program for overfished reef fish species; permitting issues including dealer and vessel permit conditions, transferability of vessel permits and fish trap endorsements, implementation of a new vessel permit moratorium for the fishery, and permits for charter and head boats; allowing hook-and-line harvest of reef fish by shrimp vessels; enforcement issues including definitions of bait and of fish for personal consumption that are exempt from the head and tails attached requirement, dealer transport requirements during transfer from vessel to fish house, and allowance of recreational bag limits of red snapper on commercial vessels during commercial closures; changes to amberjack size and bag limits and a commercial seasonal amberjack closure; changes to gag/black grouper and red snapper size limits; an aggregate recreational bag limit for reef fish. A copy of the agenda can be obtained by calling 813–228–2815.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by April 24, 1995.

Dated: April 10, 1995.

Alfred J. Bilik,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service

[FR Doc. 95–9269 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 040595B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request to export a nonreleasable beached and stranded marine mammal (P584).

SUMMARY: Notice is hereby given that the Fort MacArthur Marine Mammal Care Center has requested authorization to export for public display purposes one nonreleasable beached and stranded Northern elephant seal from its rehabilitation facility in San Pedro, CA, to Mundo Aquatico, at Zoomarine, in Albufeira, Portugal.

ADDRESSES: The request for authorization and related documents are available for review upon written request from the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910–3226 (301/713–2289).

VOL 60 ISS 72 AP 14 1995 UMI

Relevant written comments about this request should be submitted to the above address by May 15, 1995.

SUPPLEMENTARY INFORMATION: Fort MacArthur Marine Mammal Care Center and Mundo Aquatico are requesting authorization for the export of one nonreleasable rehabilitated female Northern elephant seal (*Mirounga angustirostris*) for the purpose of public display under the Marine Mammal Protection Act of 1972 (MMPA), as amended (16 U.S.C. 1361 *et seq.*).

The subject marine mammal, stranded in Santa Monica, CA, has been under rehabilitation for suspected head trauma since April 1, 1994. A determination of unreleasability was made by the attending veterinarian and submitted to the NMFS Southwest Region on January 25, 1995. NMFS concurs with this determination.

The permanent retention or export for public display purposes of a beached or stranded marine mammal taken for the purpose of rehabilitation under § 109(h) of the MMPA must be authorized by NMFS. Under the MMPA 1994 amendments, in order to obtain any marine mammal for public display purposes, the recipient must: (1) Offer a program for education or conservation purposes that is based on professionally recognized standards of the public display community; (2) be registered or hold a license issued under 7 U.S.C. 2131 *et seq.*, i.e., from the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (or, for foreign facilities, meet comparable standards); and (3) maintain facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and to which access is not limited or restricted other than by charging of an admission fee.

In this regard, the required certifications and statements provided by Mundo Aquatico and the Portuguese Government have been submitted to NMFS and APHIS, and have been found appropriate and sufficient to allow consideration of the request.

Dated: April 10, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–9234 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 032495D]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification no. 1 to scientific research permit no. 887 (P79H).

SUMMARY: Notice is hereby given that a request for modification of scientific research permit no. 887, submitted by the Institute of Marine Sciences, University of California, Santa Cruz, CA 95064 (principal investigator: Dr. Ronald J. Schusterman), has been granted.

ADDRESSES: The permit, as modified, and related documents are available for review upon written request or by appointment, in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4015).

SUPPLEMENTARY INFORMATION: On January 25, 1995, notice was published in the **Federal Register** (60 FR 4891) that a modification of permit no. 887, issued March 16, 1994 (59 FR 12266), had been requested by the above-named organization. The modification was granted under authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and, the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The permittee is authorized to retain one beached/stranded rehabilitated elephant seal obtained from Sea World (identified as SWC-MA–94–30B). Experiments to measure the seals' visual sensitivity to white light will be conducted.

Dated: April 10, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–9271 Filed 4–13–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 15, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Disk, Flexible
7045–01–365–2069

7045–01–365–2070
7045–01–365–2071
NPA. North Central Sight Services, Inc., Williamsport, Pennsylvania

Services

Grounds Maintenance, Basewide, Fort Huachuca, Arizona
NPA. Cochise County Association for the Handicapped, Bisbee, Arizona
Food Service Attendant, Offutt Air Force Base, Nebraska
NPA. Black Hills Workshop and Training Center, Rapid City, South Dakota
Grounds Maintenance, U.S. Army Reserve Center, 1816 East Main Street, Albemarle, North Carolina
NPA: Options of Albemarle, Inc., Albemarle, North Carolina
Grounds Maintenance, Naval and Marine Corps Reserve Center, 3190 Gilbert Avenue, Cincinnati, Ohio
NPA: Cincinnati Restorations, Inc., Cincinnati, Ohio
Grounds Maintenance, U.S. Army Reserve Center, 1984 Whiskey Road, Aiken, South Carolina
NPA: Tri-Development Center of Aiken County, Inc., Aiken, South Carolina
Grounds Maintenance, U.S. Army Reserve Center, 1420 John C. Calhoun Drive, S.E., Orangeburg, South Carolina
NPA: Orangeburg County Disabilities and Special Needs Board, Orangeburg, South Carolina
Janitorial/Custodial, Navy Family Housing Units, Naval Construction Battalion Center, Port Hueneme, California
NPA. Association for Retarded Citizens—Ventura County, Inc., Camarillo, California
Janitorial/Related Exterior Maintenance, VA Outpatient Clinic, 351 East Temple Street, Los Angeles, California
NPA. Asian Rehabilitation Services, Inc., Los Angeles, California
Order Processing Service, General Services Administration, Federal Supply Service Bureau, Philadelphia, Pennsylvania
NPA. Delco Blind/Sight Center Delaware County Branch, Pennsylvania Association for the Blind, Chester, Pennsylvania

Beverly L. Milkman,

Executive Director

[FR Doc. 95–9260 Filed 4–13–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 15, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 24, July 22, 1994, February 3, 10, 17 and 24, 1995 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 FR 32686, 37466, 60 FR 6702, 7945, 9326 and 10373) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Cassette, Mailing Container
8115–00–NIB–0003
(Requirements for the Library of Congress, Washington, DC)

Services

Administrative Services, U.S. Department of Energy, Idaho Operations Office, Idaho Falls, Idaho
Janitorial/Custodial, Naval Outlying Landing Field, Imperial Beach, California
Janitorial/Custodial, John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio
Janitorial/Custodial, Department of the Army Jimmy Doolittle Building, Columbia Metro Airport, West Columbia, South Carolina
Janitorial/Custodial, Federal Building and U.S. Courthouse, 500 S. Barstow Commons, Eau Claire, Wisconsin

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director

[FR Doc. 95–9261 Filed 4–13–95; 8:45 am]

BILLING CODE 6820–33–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 95–C0010]

Giant Bicycle Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e)–(h). Published below is a provisionally-accepted Settlement Agreement with Giant Bicycle Inc., a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 1, 1995.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 95–C0010, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207

FOR FURTHER INFORMATION CONTACT: Melvin I. Kramer, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504–0626.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

VOL
60
ISS
72
AP
14
1995
UMI

Dated: April 7, 1995.

Sadye E. Dunn,

Secretary

Settlement Agreement and Order

1. Giant Bicycle, Inc. (hereinafter, "Giant"), a corporation, enters into this Settlement Agreement (hereinafter, "Agreement") with the staff of the Consumer Product Safety Commission, and agrees to the entry of the Order described herein. The purpose of the Agreement and Order is to settle the staff's allegations that Giant knowingly caused the introduction into commerce of certain banned hazardous substances, namely bicycles, that did not comply with the Commission's Requirements for Bicycles, 16 CFR Part 1512, in violation of section 4(a) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. § 1263(a).

I. Jurisdiction

2. The Commission has jurisdiction over Giant and the subject matter of this Settlement Agreement pursuant to sections 3(a)(1) and 30(a) of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. §§ 2052(a)(1) and 2079(a), and sections 2(f)(1)(D), 4(a) and 5(c) of the FHSA, 15 U.S.C. §§ 1261(f)(1)(D), 1263(a) and 1264(c).

II. The Parties

3. The "staff" is the staff of the Consumer Product Safety Commission, an independent regulatory commission of the United States established pursuant to section 4 of the CPSA, 15 U.S.C. § 2053.

4. Giant is a corporation organized and existing under the laws of the State of Virginia with its principal corporate offices located at 475 Apra St., Rancho Dominguez, CA 90220. Giant is engaged, among other things, in the business of importing and selling in the United States children's bicycles.

III. Allegations of the Staff

5. From at least October 1993, to January 1995, Giant introduced into interstate commerce approximately 1,000 of several models of bicycles. These bicycles failed to comply with various sections of the Commission's Requirements for Bicycles, (16 CFR Part 1512) including, but not limited to, violations of § 1512.16 (requirements for reflectors) and § 1512.15 (requirements for seats).

6. Because these bicycles failed to meet the requirements of the Requirements for Bicycles, each of them is a banned hazardous substance under 16 CFR 1500.18(a)(12) of the FHSA regulations and section 2(q)(1)(A) of the FHSA, 15 U.S.C. 1261(q)(1)(A). The knowing introduction or delivery for introduction into interstate commerce, or the receipt in interstate commerce and the delivery or proffered delivery thereof for pay, of these banned hazardous substances by Giant are prohibited acts pursuant to section 4 (a) and (c) of the FHSA, 15 U.S.C. § 1263 (a) and (c) and subjects the firm to civil penalties under section 5(c) of the FHSA, 15 U.S.C. 1264(c)(1).

IV. Response of Giant

7. Giant denies the allegations of the staff that it has knowingly introduced or delivered for introduction into commerce, or that it received in interstate commerce and delivered or proffered for delivery thereof for pay the aforesaid bicycles, or that it has violated the FHSA in any way.

V. Agreement of the Parties

8. The Consumer Product Safety Commission has jurisdiction over Giant and the subject matter of this Settlement Agreement and Order under the following acts: Consumer Product Safety Act (15 U.S.C. § 2051 *et seq.*), and the Federal Hazardous Substances Act, 15 U.S.C. 1261 *et seq.*

9. Giant agrees to pay to the Commission the amount of Eighty-Five Thousand Dollars ($85,000), as set forth in the attached Order and incorporated herein by reference, and further agrees to take the agreed upon corrective actions regarding the allegedly violative products which are the subject of this Agreement.

10. The Commission does not make any determination that Giant knowingly violated the FHSA. The Commission and Giant agree that this Agreement is entered into for the purposes of settlement only.

11. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Giant knowingly, voluntarily and completely, waives any rights it may have in this matter (1) to an administrative or judicial hearing, (2) to judicial review or other challenge or contest of the validity of the Commission's actions, (3) to a determination by the Commission as to whether Giant failed to comply with the FHSA as aforesaid, and (4) to a statement of findings of fact and conclusions of law.

12. For purposes of section 6(b) of the CPSA, 15 U.S.C. § 2055(b), this matter shall be treated as if a complaint had been issued; and, the Commission may publicize the terms of the Settlement Agreement and Order.

13. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1118.20(e)–(h). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date it is published in the **Federal Register**.

14. The parties further agree that the Commission shall issue the attached Order, incorporated herein by reference; and that a violation of the Order shall subject Giant to appropriate legal action.

15. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or to contradict its terms.

16. The provisions of the Settlement Agreement and Order shall apply to Giant and each of its successors and assigns.

Dated: April 5, 1995.

Respondent Giant Bicycle, Inc.

By: Nicholas Andrade,

Senior Vice President, Giant Bicycle, Inc. 475 Apra St., Rancho Dominguez, CA 90220.

Commission Staff

David Schmeltzer,

Assistant Executive Director, Office of Compliance.

Eric L. Stone,

Acting Director, Office of Compliance, Division of Administrative Litigation.

Dated: April 6, 1995.

By: Melvin I. Kramer,

Trial Attorney, Office of Compliance, Division of Administrative Litigation.

Provisionally accepted and Provisional Order issued on the 7th day of April, 1995.

By Order Of The Commission:

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Order

Upon consideration of the Settlement Agreement entered into between respondent Giant Bicycle, Inc., a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Giant; and it appearing that the Settlement Agreement is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted; and it is

Further Ordered, that within 20 days of service of this final Order upon Giant, Giant shall pay to the Order of the Consumer Product Safety Commission the amount of Eighty-Five Thousand Dollars ($85,000).

[FR Doc. 95–9046 Filed 4–13–95; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Office of the Secretary of the Army; Availability for Final Environmental Impact Statement (FEIS) for Proposed Deep Draft Dredging at Military Ocean Terminal, Sunny Point, NC

AGENCY: Department of Defense, United States Army.

ACTION: Notice of availability.

SUMMARY: The Military Ocean Terminal, Sunny Point, located along the west bank of the Cape Fear River in southeastern North Carolina, is 25 miles south of Wilmington and 5 miles north of Southport. The proposed improvements consist of dredging to deepen the south and center basins and their entrance channels from 34 feet mean low water (m.l.w.) to 38 feet m.l.w., plus 2 feet of overdepth, and to widen these entrance channels from 300 feet to 400 feet. Also, a portion of the center basin will be widened from 800–1,000 feet wide to 1,500 feet wide. Existing permanent navigation facilities require improvements to provide sufficient depth and width to allow the safe passage and maneuvering of modern deep-draft vessels and to permit loading them to their designed capacity and draft. Dredged material disposal will be at the Wilmington Ocean Dredged Material Disposal Site, although other reasonable alternatives are addressed in the Final Environmental Impact Statement (FEIS)

Significant resources which may occur in the area and be impacted by the proposed plan include endangered species; estuarine, marine, and terrestrial habitat; estuarine, marine, and terrestrial life, historic properties; water quality; recreational and aesthetic resources; and wetlands.

Alternatives:

a. No action/maintaining status quo.

b. Improvement of existing navigation facilities. Federal, State, and local officials; conservation groups; and interested businesses, groups, and individuals are invited to comment on the FEIS. In order to be considered, comments should be received no later than 30 days from the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**

ADDRESSES: Written comments may be forwarded to: District Engineer, U.S. Army Corps of Engineers, Wilmington District, (Attention: Mr. Philip Payonk), PO Box 1890, Wilmington, NC 28402–1890.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposal may be directed to Mr. Payonk, (919) 251–4589.

Dated: April 10, 1995.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I, L&E).

[FR Doc. 95–9205 Filed 4–13–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 15, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 10, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Expedited.

Title: Perkins Loan Program (Formerly National Direct/Defense Student Loan Program) Assignment Form.

Frequency: Annually.

Affected Public: Individual or households.

Reporting Burden: Responses: 63,000. Burden Hours: 31,500.

Recordkeeping Burden: Recordkeepers: 0, Burden Hours: 0.

Abstract: Schools participating in the Perkins Loan Program may use this ED form 553 to submit defaulted loans to the Department. This form will serve as a transmittal document in the assignment of defaulted loans to the Federal government for collection. Copies of the ED form 553 and instructions can be obtained by calling (202) 708–4766.

Additional Information: Clearance for this information collection is requested by May 15, 1995. An expedited review is requested in order for schools to have an immediate mechanism to submit their uncollected outstanding loans to the Department. Without an expedited review, many schools will continue to be incapable of assigning their accounts to the Department resulting in further delays in the collection process of these student loans.

[FR Doc. 95–9194 Filed 4–13–95; 8:45 am]

BILLING CODE 4000–01–M

VOL
60
ISS
72
AP
14
1995
UMI

DEPARTMENT OF ENERGY

Spent Nuclear Fuel Management Cost Evaluation Report

AGENCY: Department of Energy

ACTION: Notice of availability.

SUMMARY: The Department of Energy has issued a Spent Nuclear Fuel Management Cost Evaluation Report. Cost information from this report will be used in several ways: (1) As a basis for further cost studies and budget formulation, (2) to provide relative cost data for consideration of decisions resulting from the analyses contained in the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Draft Environmental Impact Statement (SNF & INEL EIS) (DOE/EIS–0203) (Volume 1)., and 3) to support the DOE's Baseline Environmental Management Report (BEMR) to Congress.

ADDRESSES: The Spent Nuclear Fuel Management Cost Evaluation Report is available in Department of Energy Public Reading Rooms, Navy Information Locations, and other locations which are listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Edgerton, U.S. Department of Energy, Idaho Operations Office, 850 Energy Plaza, MS 1136, Idaho Falls, Idaho, 83401, at (208) 526–1081.

SUPPLEMENTARY INFORMATION: During the last fifty years, the Department of Energy has engaged in extensive nuclear energy operations that have made large contributions to our national defense and knowledge of nuclear technology. In the process, substantial quantities of spent nuclear fuel were generated. The Department must manage and dispose of that spent nuclear fuel and any other spent fuel that may become part of its spent fuel inventory.

In August 1994, the Department issued the Assumptions and Methodology Document for review and comment. A Notice of Availability was issued on August 17, 1994 (59 FR 42216). The Assumptions and Methodology Document described the proposed assumptions and methods that would be employed in conducting a cost evaluation of alternatives for managing the Department's spent nuclear fuel. The public comments received on the Assumptions and Methodology document were considered in preparing the Spent Nuclear Fuel Cost Evaluation Report.

DOE Public Reading Rooms

U.S. Department of Energy
Oakland Operations Office
Environmental Information Center
1301 Clay Street, Room 700 North
Oakland, CA 94612
(510) 637–1762
Monday–Friday: 8:30 a.m. to 5:00 p.m.

U.S. Department of Energy
Rocky Flats Office
Public Reading Room
Front Range Community, College Library
3645 West 112th Avenue
Level B, Center of the Building
Westminster, CO 80030
(303) 469–4435
Monday & Tuesday: 10:30 a.m. to 6:30 p.m.
Wednesday: 10:00 a.m. to 4:00 p.m.
Thursday: 8:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Headquarters
Freedom of Information Reading Room
1E–190 Forrestal Building
1000 Independence Avenue, SW
Washington, DC 10585
(202) 586–6020
Monday–Friday: 9:00 a.m. to 4:00 p.m.

U.S. Department of Energy
Idaho Operations Office
Public Reading Room
1776 Science Center Drive
Idaho Falls, ID 83402
(208) 526–9162
Monday–Friday: 8:00 a.m. to 5:00 p.m.

U.S. Department of Energy
Chicago Operations Office
Public Reading Room
University of Illinois at Chicago Library
Government Documents Section
801 South Morgan Street
Chicago, IL 60607
(312) 996–2738
Monday–Friday: 8:00 a.m. to 10:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m.

U.S. Department of Energy
Albuquerque Operations Office
Public Reading Room
National Atomic Museum
20358 Wyoming Boulevard, SE
Albuquerque, NM 87185
(505) 845–4378
Monday–Friday: 9:00 a.m. to 5:00 p.m.

U.S. Department of Energy
Los Alamos Area Office
Public Reading Room
1350 Central Ave., Suite 101
Los Alamos, NM 87544
(505) 665–2127
Monday–Friday: 9:00 a.m. to 5:00 p.m.

U.S. Department of Energy
Nevada Operations Office
Public Reading Room
Coordination and Information Center
3084 South Highland Drive
Las Vegas, NV 89106
(702) 295–0731
Monday–Friday: 7:00 a.m. to 4:00 p.m.

U.S. Department of Energy
Fernald Field Office
Public Environmental Center
JANTER Building
10845 Hamilton-Cleves Highway
Harrison, OH 45030
(513) 738–0164
Monday, Thursday: 9:00 a.m. to 8:00 p.m.
Tuesday, Wednesday, Friday: 9:00 a.m. to 4:30 p.m.
Saturday: 9:00 a.m. to 1:00 p.m.

U.S. Department of Energy
Savannah River Operations Office
Public Reading Room
Road 1A, Building 703A, D232
Aiken, SC 29802
(803) 725–1408
Monday–Thursday: 8:00 a.m. to 11:00 p.m.
Friday: 8:00 a.m. to 5:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m.
Sunday: 2:00 p.m. to 11:00 p.m.

U.S. Department of Energy
Oak Ridge Operations Office
Public Reading Room
55 Jefferson Avenue
Oak Ridge, TN 37831
(615) 576–1216
Monday–Friday: 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 5:00 p.m.

U.S. Department of Energy
Richland Operations Office
Public Reading Room
Washington State University Tri-Cities
100 Sprout Road, Room 130W
Richland, WA 99352
(509) 376–8583
Monday–Friday: 8:00 a.m. to 12:00 p.m and 1:00 p.m. to 4:00 p.m.

Navy Information Locations

Norfolk Naval Shipyard

Chesapeake Central Library
298 Cedar Rd.
Chesapeake, VA 23320–5512
(804) 436–8300
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Newport News Public Library
Grissom Branch
366 Deshazor Dr.
Newport News, VA 23602
(804) 886–7896
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:00 a.m. to 6:00 p.m.

Kirn Library
301 East City Hall Ave.
Norfolk, VA 23510
(804) 441–2429
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday: 9:00 a.m. to 5:30 p.m.
Saturday: 9:00 a.m. to 5:00 p.m

Hampton Public Library
4207 Victoria Boulevard
Hampton, VA 23669
(804) 727–1154
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:00 a.m. to 5:00 p.m.

Portsmouth Public Library, Main Branch
601 Court St.
Portsmouth, VA 23704
(804) 393–8501
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:00 a.m. to 5:00 p.m

Virginia Beach Central Library
4100 Virginia Beach Blvd.
Virginia Beach, VA 23452
(804) 431–3001
Monday–Thursday: 10:00 a.m. to 9:00 p.m.
Friday–Saturday 10:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Puget Sound

Kitsap Regional Library
1301 Sylvan Way
Bremerton, WA 98310
(206) 377–7601
Monday–Thursday: 9:30 a.m. to 9:00 p.m.
Friday–Saturday: 9:30 a.m. to 5:30 p.m.
Sunday: 12:30 p.m. to 5:30 p.m.

Kitsap Regional Library
Downtown Branch, 612 5th Ave.
Bremerton, WA 98310
(206) 377–3955
Monday–Friday: 10:00 a.m. to 6:00 p.m.

SM25, University of Washington Libraries
University of Washington, Seattle, WA 98185
(206) 543–9158
Monday–Thursday: 7:30 a.m. to 12:00 midnight
Friday: 7:30 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 12:00 p.m. to 12:00 midnight

Suzzallo Library
SM25, University of Washington Libraries
University of Washington, Seattle, WA 98185
(206) 543–9158
Monday–Thursday: 7:30 a.m. to 12:00 midnight
Friday: 7:30 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 12:00 p.m. to 12:00 midnight

Portsmouth Naval Shipyard

Rice Public Library
8 Wentworth St.
Kittery, ME 03904
(207) 439–1553
Monday–Wednesday, Friday: 10:00 a.m to 5:00 p.m.
Thursday: 10:00 a.m. to 8:00 p.m
Saturday: 10:00 a.m. to 4:00 p.m

Portsmouth Public Library
8 Islington St.
Portsmouth, NH 03801
(804) 393–8501
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:00 a.m. to 5:00 p.m.

Pearl Harbor

Aiea Public Library
99–143 Monalua Rd.
Aiea, HI 96701
(808) 488–2654
Monday, Thursday: 10:00 a.m. to 8:00 p.m.
Tuesday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m.

Hawaii State Library
478 S. King St.
Honolulu, HI 96813
(808) 586–3535
Monday, Wednesday, Friday Saturday: 9:00 a.m. to 5:00 p.m.
Tuesday, Thursday: 9:00 a.m. to 8:00 p.m.

Pearl City Public Library
1138 Waimano Home Rd., Pearl City, HI 96782
(808) 455–4134
Monday–Wednesday: 10:00 a.m. to 8:00 p.m.
Thursday–Saturday: 10:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Pearl Harbor Naval Base Library
Code 90L, 1614 Makalapa Dr.
Pearl Harbor, HI 96860–5350
(808) 471–8238
Tuesday–Thursday: 10:00 a.m. to 7:00 p.m.
Friday–Saturday: 9:00 a.m. to 5:00 p.m.

Kesselring Site

Albany Public Library
Reference and Adult Services
161 Washington Ave.
Albany, NY 12210
(518) 449–3380
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday: 9:00 a.m to 6:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.

Saratoga Springs Public Library
320 Broadway, Saratoga Springs NY 12866
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday: 9:00 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Schenectady County Library
99 Clinton St., Schenectady NY 12305
(518) 388–4511
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:00 a.m. to 5:00 p.m.

Other Information Locations

Main Library
University of Arizona, Tucson, AZ 85721
(602) 621–6433
School Hours: Sunday–Thursday: 8:00 a.m. to 1:00 a.m.
Friday–Saturday: 9:00 a.m. to 5:00 p.m.
Summer Hours: Monday–Thursday: 7:30 a.m. to 11:00 p.m.
Friday: 7:30 a.m. to 6:00 p.m.
Saturday: 10:00 a.m. to 8:00 p.m.
Sunday: 12:00 noon to 11:00 p.m.

Main Library
University of California at Irvine
Government Publications Receiving Dock
Irvine, CA 92717
(714) 856–7290
School Hours: Monday–Thursday: 8:00 a.m. to 7:00 p.m.
Friday: 8:00 a.m. to 5:00 p.m.
Saturday–Sunday: 1:00 p.m. to 5:00 p.m.
Summer Hours: Monday–Friday: 8:00 a.m. to 5:00 p.m.
Saturday–Sunday: 1:00 p.m. to 5:00 p.m.

Pleasanton Public Library-Reference Desk
400 Old Bernal Avenue
Pleasanton, CA 94566
(510) 462–3535
Monday, Tuesday: 1:00 p.m. to 8:00 p.m.
Wednesday, Thursday: 10:00 a.m. to 6:00 p.m.
Saturday: 2:00 p.m. to 6:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

San Diego Public Library
820 "E" Street
San Diego, CA 92101
(619) 236–5867
Monday–Thursday: 10:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:30 a.m. to 5:30 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Denver Public Library
1357 Broadway
Denver, CO 80203
(303) 640–8845
Monday–Wednesday: 10:00 a.m. to 9:00 p.m.
Thursday–Saturday: 10:00 a.m. to 5:30 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

George A. Smathers Libraries
Library West
University of Florida Library
Room 241
P.O. Box 117001
Gainesville, FL 32611–7001
(904) 392–0367
Monday–Thursday: 8:00 a.m. to 9:30 p.m.
Friday: 8:00 a.m. to 5:00 p.m.
Sunday: 2:30 p.m. to 9:30 p.m.

Atlanta Public Library
1 Margaret Mitchell Square

VOL
60
ISS
72
AP
14
1995
UMI

Atlanta, GA 30303
(404) 730–1700
Monday: 9:00 a.m. to 6:00 p.m.
Tuesday–Thursday: 9:00 a.m. to 8:00 p.m.
Friday: 9:00 a.m. to 5:00 p.m.
Saturday: 10:00 a.m to 5:00 p.m.

Reese Library
Augusta College
2500 Walton Way
Augusta, GA 30904–2200
(706) 737–1744
School Hours: Monday–Thursday: 7:45 a.m. to 10:30 p.m.
Friday: 7:45 a.m. to 5:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:30 p.m. to 9:30 p.m.
Summer Hours: Monday–Friday: 8:00 a.m. to 5:00 p.m.

Chatham-Effingham-Liberty Regional Library
2002 Bull Street
Savannah, GA 31401
(912) 234–5127
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday: 9:00 a.m. to 6:00 p.m.
Saturday: 10:00 a.m. to 6:00 p.m.

Parks Library
Iowa State University
Government Publications Department
Ames, IA 50011–2140
(515) 294–3642
School Hours: Monday–Thursday: 7:30 a.m. to 12:00 midnight
Friday: 7:30 a.m. to 10:00 p.m.
Saturday: 10:00 a.m. to 10:00 p.m.
Sunday: 12:30 p.m. to 12:00 midnight
Summer Hours: Monday–Thursday: 7:30 a.m. to 10:00 p.m.
Friday: 7:30 a.m. to 5:00 p.m.
Saturday: 12:30 p.m. to 5:00 p.m.
Sunday: 12:30 p.m. to 10:00 p.m.

Boise Public Library
715 South Capitol Boulevard, Boise, ID 83702
(208) 384–4023
Monday, Friday: 10:00 a.m. to 6:00 p.m.
Tuesday–Thursday: 10:00 a.m. to 9:00 p.m.
Saturday: 1:00 p.m. to 5:00 p.m.

Idaho Department of Health and Welfare
Idaho National Engineering Laboratory Oversight Program Library
1410 North Hilton
Boise, ID 83706
(208) 334–0498
Monday–Friday: 8:00 a.m. to 5:00 p.m.

Idaho State Library
325 West State Street
Boise, ID 83702
(208) 334–2152
Monday–Friday: 9:00 a.m. to 5:00 p.m.

Shoshone-Bannock Library
Bannock and Pima Streets
HRDC Building
Fort Hall, ID 83203
(208) 238–3882
Monday–Friday: 8:00 a.m. to 4:30 p.m.

Idaho Falls Public Library
457 Broadway
Idaho Falls, ID 83402
(208) 529–1462
Monday–Thursday: 8:00 a.m. to 7:00 p.m.
Friday: 8:00 a.m. to 5:00 p.m.
Saturday: 9:00 a.m. to 1:00 p.m.

University of Idaho Library
Rayburn Street
Moscow, ID 83844–2353
(208) 885–6344
Monday–Friday: 8:00 a.m. to 12:00 midnight
Saturday: 9:00 a.m. to 12:00 midnight
Sunday: 10:00 a.m. to 12:00 midnight

Pocatello Public Library
812 East Clark Street
Pocatello, ID 83201
(208) 232–1263
Monday–Thursday: 10:00 a.m. to 9:00 p.m.
Friday–Saturday: 10:00 a.m. to 6:00 p.m.

Twin Falls Public Library
434 Second Street East
Twin Falls, ID 83301
(208) 733–2964
Monday–Thursday: 10:00 a.m. to 6:00 p.m
Friday: 10:00 a.m. to 5:00 p.m.
Saturday: 12:00 noon to 5:00 p.m.

Main Library
Third Floor
University of Illinois
801 South Morgan
Mail Code 234
Chicago, IL 60607
(312) 413–2594
Monday–Thursday: 7:30 a.m. to 10:00 p.m.
Friday: 7:30 a.m. to 5:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 9:00 p.m.

Documents Library
200–D University of Illinois
1408 W. Gregory Drive
Urbana, IL 61801
(217) 244–2060
School Hours: Monday–Thursday: 8:00 a.m. to 12:00 midnight
Friday: 8:00 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 6:00 p.m.
Sunday: 1:00 p.m. to 12:00 midnight
Summer Hours: Monday–Thursday: 8:00 a.m. to 9:00 p.m.
Friday: 8:00 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Engineering Library
Purdue University
West Lafayette, IN 47907
(317) 494–2871
School Hours: Monday–Friday: 8:00 a.m. to 12:00 midnight
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 12:00 noon to 12:00 midnight
Summer Hours: Monday–Friday: 8:00 a.m. to 8:00 p.m.

Manhattan Public Library
Julliette and Poyntz
Manhattan, KS 66502
(913) 776–4741
Monday–Friday: 9:00 a.m. to 9:00 p.m.
Saturday: 9:00 a.m. to 6:00 p.m.
Sunday: 2:00 p.m. to 6:00 p.m.

Massachusetts Institute of Technology
Science Library
160 Memorial Drive Building 14
Cambridge, MA 02139
(617) 253–5685
Monday–Thursday: 8:00 a.m. to 12:00 midnight
Friday, Saturday: 8:00 a.m. to 8:00 p.m.
Sunday: 12:00 noon to 12:00 midnight

O'Leary Library
University of Massachusetts
1 University Ave
Lowell, MA 01854
(508) 934–3205
School Hours: Monday–Thursday: 7:30 a.m. to 11:00 p.m.
Friday: 7:30 a.m. to 5:00 p.m.
Saturday: 10:00 a.m. to 6:00 p.m.
Summer Hours: Monday–Friday: 8:30 a.m. to 9:00 p.m.
Sunday: 2:00 p.m. to 7:00 p.m.

Worchester Public Library
3 Salem Square
Worchester, MA 01608
(508) 799–1655
Monday, Wednesday: 12:00 noon to 9:00 p.m.
Tuesday: 10:00 a.m. to 9:00 p.m.
Thursday–Saturday: 10:00 a.m. to 5:30 p.m.

Bethesda Public Library
7400 Arlington Road
Bethesda, MD 20814
(301) 986–4300
Monday–Thursday: 10:00 a.m. to 8:30 p.m.
Friday: 10:00 a.m. to 5:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Gaithersburg Regional Library
18330 Montgomery Village Avenue
Gaithersburg, MD 20879
(301) 840–2515
Monday–Thursday: 10:00 a.m. to 8:30 p.m.
Friday: 10:00 a.m. to 5:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Hyattsville Public Library
6530 Adelphi Road
Hyattsville, MD 20782
(301) 779–9330
Monday–Thursday: 10:00 a.m. to 9:00 p.m.
Friday: 10:00 a.m. to 6:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m
Sunday: 1:00 p.m. to 5:00 p.m.

Ann Arbor Public Library
343 South 5th Avenue
Ann Arbor, MI 48104
(313) 994–2333, [*42219]
Monday: 10:00 a.m. to 9:00 p.m.
Tuesday–Friday: 9:00 a.m. to 9:00 p.m.
Saturday: 9:00 a.m. to 6:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Zanhow Library
Saginaw Valley State University
7400 Bay Road
University Center, MI 48710
(517) 790–4240
School Hours: Monday–Thursday: 8:00 a.m. to 11:00 p.m.
Friday: 8:00 a.m. to 4:30 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 9:00 p.m.
Summer Hours: Monday–Thursday: 8:00 a.m. to 10:30 p.m.
Friday: 8:00 a.m. to 4:30 p.m.
Saturday: 10:00 a.m. to 2:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Ellis Library
University of Missouri
Columbia, MO 65201
(314) 882–0748
School Hours: Monday–Thursday: 7:30 a.m. to 12:00 midnight
Friday: 7:30 a.m. to 11:00 p.m.
Saturday: 9:00 a.m. to 9:00 p.m.
Sunday: 12:00 noon to 1:00 a.m.
Summer Hours: Monday, Thursday: 8:00 a.m. to 8:00 p.m.
Tuesday–Friday: 8:00 a.m. to 5:00 p.m.
Saturday: 12:00 noon to 5:00 p.m.

Curtis Laws Wilson Library
University of Missouri Library
Rolla, MO 65401–0249
(314) 341–4227
School Hours: Monday–Thursday: 8:00 a.m. to 12:00 midnight
Friday: 8:00 a.m. to 10:30 p.m.
Saturday: 8:00 a.m. to 5:00 p.m.
Sunday: 2:00 p.m. to 12:00 midnight
Summer Hours: Monday–Friday: 8:00 a.m. to 10:00 p.m.
Saturday: 8:00 a.m. to 5:00 p.m.
Sunday: 2:00 p.m. to 10:00 p.m.

D.H. Hill Library
North Carolina State University
P.O. Box 7111
Raleigh, NC 27695–7111
(919) 515–3364
School Hours: Monday–Thursday: 7:00 a.m. to 1:00 a.m.
Friday: 7:00 a.m. to 6:00 p.m.
Saturday: 9:30 a.m. to 5:30 p.m.
Sunday: 1:00 p.m. to 1:00 a.m.
Summer Hours: Monday–Thursday: 7:00 a.m. to 11:00 p.m.
Friday: 7:00 a.m. to 6:00 p.m.
Saturday: 9:30 a.m. to 5:30 p.m.
Sunday: 1:00 p.m. to 11:00 p.m.

Omaha Public Library
215 S. 15th Street
Omaha, NE 68102
(402) 444–4800
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday, Saturday: 9:00 a.m. to 5:30 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

General Library
University of New Mexico
Albuquerque, NM 87131–1466
(505) 277–5441
School Hours: Monday–Thursday: 8:00 a.m. to 9:00 p.m.
Friday: 8:00 a.m. to 5:00 p.m.
Saturday: 1:00 p.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.
Summer Hours: Monday–Friday: 8:00 a.m. to 6:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m.

Central Buffalo Public Library
Science and Technology Department
Lafayette Square
Buffalo, NY 14203
(716) 858–7098
Monday–Wednesday, Friday–Saturday: 8:30 a.m. to 6:00 p.m.
Thursday: 8:30 a.m. to 8:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Lockwood Library
State University of New York-Buffalo
Buffalo, NY 14260–2200
(716) 645–2816
School Year: Monday–Thursday: 8:00 a.m. to 10:45 p.m.
Friday: 8:00 a.m. to 9:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 10:45 p.m.
Summer Hours: Monday, Wednesday, Thursday, Friday: 9:00 a.m. to 6:00 p.m.
Tuesday: 9:00 a.m. to 10:00 p.m.
Sunday: 1:00 p.m. to 9:00 p.m.

Engineering Library
Cornell University
Carpenter Hall, Main Floor
Ithaca, NY 14853
(607) 255–5762
School Hours: Monday–Thursday: 8:00 a.m. to 11:00 p.m.
Friday: 8:00 a.m. to 6:00 p.m.
Saturday: 10:00 a.m. to 6:00 p.m.
Sunday: 12:00 p.m. to 11:00 p.m.
Summer Hours: Monday–Friday: 8:00 a.m. to 6:00 p.m.
Saturday: 12:00 p.m. to 6:00 p.m.

Cardinal Hayes Library
Manhattan College
4531 Manhattan College Parkway
Riverdale, NY 10471
(718) 920–0100
School Hours: Monday–Thursday: 8:00 a.m. to 11:00 p.m.
Friday: 8:00 a.m. to 6:30 p.m.
Saturday: 10:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 11:00 p.m.
Summer Hours: Monday–Friday: 8:30 a.m. to 6:30 p.m.

Brookhaven National Laboratory
25 Brookhaven Avenue
Building 477 A
P.O. Box 5000
Upton, NY 11973–5000
(516) 282–3489
Monday–Friday 8:30 a.m. to 9:00 p.m.
Saturday–Sunday: 10:00 a.m. to 6:00 p.m.

Columbus Metropolitan Library
96 South Grant Avenue
Columbus, OH 43215
(614) 645–2710
Monday–Thursday: 9:00 a.m. to 9:00 p.m.
Friday–Saturday: 9:00 a.m. to 6:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Kerr Library
Oregon State University
Corvallis, OR 97331–4905
(503) 737–0123
Monday–Friday: 7:45 a.m. to 2:00 a.m
Saturday–Sunday: 10:00 a.m. to 2:00 a.m.
Summer Hours: Monday–Friday: 7:45 a.m. to 9:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m
Sunday: 10:00 a.m. to 9:00 p.m

Brantford Price Millar Library
Portland State University
934 S.W Harrison, Portland, OR 97201
(503) 725–4617
Monday–Friday: 8:00 a.m. to 10:00 p.m
Saturday: 10:00 a.m. to 10:00 p.m
Sunday: 11:00 a.m. to 10:00 p.m

Pattee Library
Pennsylvania State University
University Park, PA 16801
(814) 865–2112
School Hours: Monday–Thursday: 8:00 a.m. to 12:00 midnight
Friday: 8:00 a.m. to 10:00 p.m
Saturday: 8:00 a.m. to 9:00 p.m.
Sunday: 1:00 p.m. to 12:00 midnight
Summer Hours: Monday–Thursday: 7:45 a.m. to 10:00 p.m.
Friday: 7:45 a.m. to 9:00 p.m.
Saturday: 8:00 a.m. to 9:00 p.m
Sunday: 1:00 p.m. to 10:00 p.m.

Narragansett Public Library
35 Kingston Road
Narragansett, RI 02882
(401) 789–9507
Monday: 10:00 a.m. to 9:00 p.m.
Tuesday–Friday: 10:00 a.m. to 6:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m.
(Saturday hours September to May only)

Charleston County Main Library
404 King Street
Charleston, SC 29403
(803) 723–1645
Monday–Thursday: 9:30 a.m. to 9:00 p.m.
Friday–Saturday: 9:30 a.m. to 6:00 p.m.
Sunday: 2:00 p.m. to 6:00 p.m.

South Carolina State Library
1500 Senate Street
Columbia, SC 29201
(803) 734–8666
Monday–Friday: 8:15 a.m. to 5:30 p.m.

VOL 60 ISS 72 AP 14 1995 UMI

Saturday: 9:00 a.m. to 1:00 p.m.
Clinton Public Library
118 South Hicks Street
Clinton, TN 37716
(615) 457–0519
Monday, Thursday: 10:00 a.m. to 8:00 p.m.
Tuesday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m.
Harriman Public Library
601 Walden Street, Harriman, TN 37748
(615) 882–3195, Monday–Thursday: 9:00 a.m. to 5:00 p.m.
Friday–Saturday: 9:00 a.m. to 1:00 p.m.
Kingston Public Library
1000 Bradford Way Building #3
Kingston, TN 37763
(615) 376–9905
Monday, Thursday: 10:00 a.m. to 7:30 p.m.
Tuesday, Wednesday, Friday: 10:00 a.m. to 5:30 p.m.
Saturday: 10:00 a.m. to 2:00 p.m.
Lawson McGhee Public Library
500 West Church Avenue
Knoxville, TN 37902
(615) 544–5750
Monday–Thursday: 9:00 a.m. to 8:30 p.m.
Friday: 9:00 a.m. to 5:30 p.m.
Saturday–Sunday: 1:00 p.m. to 5:00 p.m.
Oak Ridge Public Library
Civic Center
Oak Ridge, TN 37830
(615) 482–8455
Monday–Thursday: 10:00 a.m. to 9:00 p.m.
Friday: 10:00 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 6:00 p.m.
Sunday: 2:00 p.m. to 6:00 p.m.
Oliver Springs Public Library
607 Easterbrook Avenue
Oliver Springs, TN 37840
(615) 435–2509
Tuesday–Thursday: 2:00 p.m. to 4:00 p.m.
Saturday: 9:00 a.m. to 12:00 midnight
Rockwood Public Library
117 North Front Avenue
Rockwood, TN 3 7854
(615) 354–1281
Monday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m.
Tuesday, Thursday: 10:00 a.m. to 8:00 p.m.
General Library, University of Texas
PCL 2.402X, Austin, TX 78713
(512) 495–4262
School Hours: Monday–Friday: 8:00 a.m. to 2:00 a.m.
Saturday: 9:00 a.m. to 2:00 a.m.
Sunday: 12:00 p.m. to 2:00 a.m.
Summer Hours: Monday–Friday: 8:00 a.m. to 10:00 p.m.
Saturday: 9:00 a.m. to 10:00 p.m.
Sunday: 12:00 noon to 10:00 p.m.
Evans Library
Texas A&M University, MS 5000
College Station, TX 77843–5000
(409) 845–8850
School Hours: Monday–Thursday: 7:00 a.m. to 12:00 midnight
Friday: 7:00 a.m. to 10:00 p.m.
Saturday: 9:00 a.m. to 10:00 p.m.
Sunday: 12:00 noon to 10:00 p.m.
Summer Hours: Monday–Thursday: 7:00 a.m. to 11:00 p.m.
Friday: 7:00 a.m. to 7:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 11:00 p.m.
Marriott Library
University of Utah
Salt Lake City, UT 84112
(801) 581–8394
School Hours: Monday–Thursday: 7:00 a.m. to 11:00 p.m.
Friday: 7:00 a.m. to 5:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 11:00 a.m. to 9:00 p.m.
Summer Hours: Monday–Thursday: 7:00 a. m. to 10:00 p.m.
Friday: 7:00 a.m. to 5:00 p.m.
Saturday: 9:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.
Alderman Library
University of Virginia, Charlottesville, VA 22903–2498
(804) 924–3133
School Hours: Monday–Thursday: 8:00 a.m. to 12:00 midnight
Friday: 8:00 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 6:00 p.m.
Sunday: 12:00 p.m. to 12:00 midnight
Summer Hours: Monday–Thursday: 8:00 a.m. to 10:00 p.m.
Friday: 8:00 a.m. to 6:00 p.m.
Saturday: 9:00 a.m. to 6:00 p.m.
Sunday: 2:00 p.m. to 10:00 p.m.
Owen Science & Engineering Library
Washington State University, Pullman, WA 99164–3200
(509) 335–4181
School Hours: Monday–Thursday: 8:00 a.m. to 11:00 p.m.
Friday: 8:00 a.m. to 9:00 p.m.
Saturday: 12:00 noon to 9:00 p.m.
Sunday: 12:00 noon to 11:00 p.m.
Summer Hours: Monday, Thursday: 7:30 a.m. to 11:00 p.m.
Tuesday, Wednesday, Friday: 7:30 a.m. to 6:00 p.m.
Saturday–Sunday: 12:00 noon to 6:00 p.m.
Foley Center
Gonzaga University
East 502 Boone Avenue
Spokane, WA 99258
(509) 328–4220, extension 3125
School Hours: Monday–Thursday: 8:00 a.m. to 12:00 midnight
Friday–Saturday: 8:00 a.m. to 9:00 p.m.
Sunday: 11:00 a.m. to 12:00 midnight
Summer Hours: Monday–Friday: 8:00 a.m. to 9:00 p.m.
Saturday: 10:00 a.m. to 6:00 p.m.
Sunday: 1:00 p.m. to 7:00 p.m.
Madison Public Library
201 W. Mifflin Street
Madison, WI 53703
(608) 266–6350
Monday–Wednesday: 8:30 a.m. to 9:00 p.m.
Thursday–Friday: 8:30 a.m. to 5:30 p.m.
Saturday: 9:00 a.m. to 5:30 p.m.
Teton County Public Library
320 South King Street
Jackson, WY 83001
(307) 733–2164
Monday, Wednesday, Friday: 10:00 a.m. to 5:30 p.m.
Tuesday, Thursday: 10:00 a.m. to 9:00 p.m.
Saturday: 10:00 a.m. to 5:00 p.m.
Sunday: 1:00 p.m. to 5:00 p.m.

Issued in Washington, DC on April 7, 1995

Jill E. Lytle,
Deputy Assistant Secretary, Waste Management.

[FR Doc. 95–9267 Filed 4–13–95; 8:45 am]
BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No. 95–15–NG]

Renaissance Energy (U.S.) Inc.; Order Granting Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Renaissance Energy (U.S.) Inc. authorization to import up to 2,800 Mcf per day of Canadian natural gas from the date of the authorization until November 1, 2004.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., March 30, 1995.

Clifford P. Tomaszewski,
Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–9268 Filed 4–13–95; 8:45 am]
BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. P–11495–000]

Public Notice of Intent To Conduct Public Scoping Meetings and a Site Visit

April 7, 1995.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Original for Major Project.

b. Project No.: 11495–000.

c. Date filed: August 26, 1994.

d. Applicant: Nooksack River Hydro, Inc., Bothell, WA.

e. Name of Project: Clearwater Creek.

f. Location: On Clearwater Creek, near Deming, Whatcom County, WA.

g. Filed Pursuant to: Federal Power Act, 16 USC 791(a)–825(r).

h. Applicant Contact: Mr. Lon Covin, Hydro West Group, Inc., 1422 130th Avenue NE., Bellevue, WA 98005, (206) 455–0234.

i. FERC Contact: Mr. Surender M. Yepuri, P.E., (202) 219–2847.

j. Deadline date for written comments on scoping (environmental issues): May 26, 1995.

k. Status of Environmental Analysis: On December 15, 1994, the Federal Energy Regulatory Commission (FERC) issued a Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the Clearwater Creek Project (FERC No. 11495) and Warm Creek Project (FERC No. 10865).

l. Intent to Conduct Public Scoping Meetings: Two scoping meetings will be conducted on Tuesday, May 9, 1995, at 7:00 p.m., and Wednesday, May 10, 1995, at 10:00 a.m.

Location: Hampton Inn, 3985 Bennett Drive, Bellingham, WA 98225.

Interested individuals, organizations, and agencies with environmental expertise are invited to attend either or both meetings and assist the staff in identifying the scope of environmental issues that should be analyzed in the EIS.

To help focus discussions at the meetings, a scoping document outlining subject areas to be addressed in the EIS will be mailed to agencies and interested individuals on the Commission mailing list. Copies of the scoping document will also be available at the scoping meetings.

Persons choosing not to speak at the meetings, but who have views on issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, by the deadline date shown in Item (j) above. All written correspondence should clearly show the following caption on the first page: Clearwater Creek Hydro Project, FERC No. 11495.

Intervenors—those on the Commission's service list for this proceeding (parties)—are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list.[1] Further, if a party or interceder files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Site Visit: A site visit to the Clearwater Creek Hydro project is planned for May 9, 1995. Those who wish to attend should plan to meet at 9:00 a.m. at the Acme Country Kitchen on Route 9 in Acme, Washington.

m. Description of Project: The proposed project would consist of: (1) A 10-foot-high, 75-foot-long reinforced concrete diversion weir with a crest elevation of 1,665 feet on the National Geodetic Vertical Datum; (2) a 40-foot-wide, 80-foot-long, and 18-foot-high concrete intake structure; (3) a 63-inch-diameter, 8,785-foot-long steel penstock; (4) a 48-foot-wide, 48-foot-long, and 35-foot-high concrete powerhouse equipped with a vertical Pelton turbine generator unit with a rated capacity of 6.0 MW; (5) an 80-foot-long tailrace; (6) a 35-kV, 11.4-mile-long transmission line; and (7) appurtenant equipment.

n. Purpose of Project: Project power would be sold to a local utility.

o. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street NE., Room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

Lois D. Cashell,
Secretary.

[FR Doc. 95–9204 Filed 4–13–95; 8:45 am]
BILLING CODE 6717–01–M

[1] The official service list can be obtained by calling the Office of the Secretary, Dockets Branch at (202) 208–2020.

[Docket No. CP95–304–000]

Shell Western E&P Inc.; Notice of Petition for Declaratory Order

April 10, 1995.

Take notice that on April 6, 1995, Shell Western E&P Inc. (SWEPI), 200 North Dairy, Houston, Texas 77001, filed a petition in Docket No. CP95–304–000, requesting that the Commission declare that a 33-mile, 6-inch pipeline extending from the outlet of a carbon dioxide (CO_2) recovery plant north of Denver City, Texas to an interconnection with a Hinshaw pipeline in Lea County, New Mexico, is a gathering facility exempt from Commission jurisdiction pursuant to Section 1(b) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

SWEPI states that it is the operator of the Denver Unit, an established oil and gas producing unit with approximately 1200 wells and an extensive network of gathering and re-injection lines connecting the wells within the unit to the Denver Unit CO_2 Recovery Plant (DUCRP), all located in Gaines and Yoakum Counties, Texas. It is indicated that since 1983, the Denver Unit has been under carbon dioxide (CO_2) flood, an enhanced oil recovery process where CO_2 is injected into a subterranean reservoir to recover additional oil. It is also indicated that the plant was built in 1984 to remove water, hydrocarbons and hydrogen sulfide from the produced CO_2 stream at the Denver Unit so that the CO_2 is pure enough to re-inject. SWEPI states that one of the by-products of the CO_2 separation process is low Btu, off-spec gas having a Btu content of 700 Btu, a CO_2 content of 12 percent by volume, and a nitrogen content of up to 25 percent by volume. It is stated that small quantities of the off-spec gas are sold to other plants in the area for fuel, but the majority of the off-spec gas is circulated and re-injected along with the CO_2 because previously there was no existing market for that product.

SWEPI states that the pipeline is an existing liquids line that would be converted to gas service and used to move the off-spec gas from the plant to a point where it can be transported to the only feasible market for the product, an electric generating plant operated by

VOL 60 ISS 72 AP 14 1995 UMI

Southwestern Public Service Company in Lea County, New Mexico located approximately 35 miles from the plant. SWEPI states that the gas to be delivered into the pipeline is not pipeline quality, and cannot be commingled or transported with any other natural gas.

In support of its claim that the primary function of the pipeline is gathering, SWEPI indicates that the facility meets the gathering criteria set forth in *Farmland Industries, Inc.*, 23 FERC ¶61,063 (1983), as modified by later Commission orders, indicating the following:

Length and Diameter of the Line

SWEPI states that onshore lines of comparable and greater length and diameter, including a 60-mile, 10-inch pipeline downstream of a processing plant (see 67 FERC ¶61,254 (1994), have been characterized as gathering. Also, the length of the pipeline is dictated by the length of the existing liquids line which would be converted to natural gas service.

Beyond the Plant

SWEPI also states that the plant is a separation facility that removes water, hydrocarbons and hydrogen sulfide from the CO_2 produced from the unit and is not a gas plant in the traditional sense that it processes or treats natural gas. However, it is indicated that the pipeline would be an incidental extension of the existing integrated production, gathering, and CO_2 separation and re-injection functions at the Denver plant. SWEPI states that gas would be produced from the various wells located in the Denver Unit, gathered to DUCRP for carbon dioxide separation, and then either routed through a return pipeline for re-injected in the field or routed through the pipeline to a point where it can be transported to the end user. It is indicated that the gas would not be pipeline quality when delivered into the pipeline and would require a segregated line dedicated to off-spec usage. SWEPI states that the traditional behind-the-plant test recognized that the line of demarcation between the production and gathering function and transmission function is the point where the gas is processed to make the gas of salable quality. SWEPI concludes that the pipeline does not provide that line of demarcation because the gas is never of pipeline quality.

Operating Pressure of the Line

SWEPI states that it would operate the pipeline at 600 psi, based on the pressure at the outlet of the plant.

Ownership and Use of the Line

Concerning the general activity of the owners of the facility, SWEPI states that the proposed pipeline would be utilized by the participating working interest owners to gather their off-spec gas to a point where it can be received for transportation to the only available market. SWEPI states that the fact that the lessees of the line are the producers of the off-spec gas to be handled by the pipeline is an additional factor weighing in favor of a non-jurisdictional determination.

Gathering Across State Lines

SWEPI states that the Commission has recognized in *Superior Oil Co.*, 13 FERC ¶61,218 (1980) that gathering may cross state lines and should not affect the jurisdictional status of the line.

Access to Line

SWEPI states that the pipeline would serve the unique and discrete function of gathering off-spec produced by the Denver Unit working interest owners to a point where it can be transported to the only available market. It is indicated that, because all of the working owners would have the opportunity to use the pipeline, there will be no access issues.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 1, 1995, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–9199 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–76–000]

Texas Eastern Transmission Corp.; Notice of Site Visit

April 10, 1995.

On May 3, 1995, the Office of Pipeline Regulation staff, accompanied by representatives of Texas Eastern Transmission Corporation (Texas Eastern), will inspect the proposed location of Texas Eastern's Line I–A Loop, and Line I–H Upgrade in the Philadelphia Lateral Expansion Project. The proposed facilities are in Chester, Delaware, and Philadelphia Counties, Pennsylvania.

Parties to the proceeding may attend. Those planning to attend must provide their own transportation. For further information, call Jeff Gerber, (202) 208–1121.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–9197 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–299–000]

Texas Gas Transmission Corp. and Texas Eastern Transmission Corp.; Notice of Joint Application for Abandonment

April 10, 1995.

Take notice that on April 5, 1995, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, 42301 and Texas Eastern Transmission Corporation (TETCO), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–299–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon an exchange service between Texas Gas and TETCO and facilities which were authorized in Docket No. G–13268 and G–1086, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas and TETCO propose to abandon an exchange service and to abandon the Orleans Purchase Meter Station in Orange County, Indiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 1, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the

Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Gas or TETCO to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–9198 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EC95–10–000, et al.]

Florida Power Corp., et al.; Electric Rate and Corporate Regulation Filings

April 6, 1995.

Take notice that the following filings have been made with the Commission:

1. Florida Power Corp.

[Docket No. EC95–10–000]

Take notice that on March 20, 1995, Florida Power Corporation (FPC), tendered for filing an application under Section 203 of the Federal Power Act requesting authorization to merge or consolidate its jurisdictional transmission facilities with certain transmission facilities now owned by Seminole Electric, Cooperative, Inc.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. James River Paper Company, Inc.

[Docket No. EL95–34–000]

Take notice that on March 20, 1995, James River Paper Company, Inc. tendered for filing a Petition for a Declaratory Order disclaiming jurisdiction under Section 201(e) of the Federal Power Act and a request for confidential treatment of the Steam Turbine Operation and Maintenance Agreement submitted along with its Petition.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Delmarva Power & Light Co.

[Docket No. ER93–96–007]

Take notice that on March 15, 1995, Delmarva Power & Light Company tendered for filing supplemental information to its compliance filing in the above-referenced docket.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Pennsylvania Electric Co.

[Docket No. ER94–459–000]

Take notice that on March 28, 1995, Pennsylvania Electric Company, Metropolitan Edison Company and Jersey Central Power & Light Company (collectively, the GPU Companies), tendered for filing pursuant to Rule 205 of the Commission's Rules of Practice and Procedure (18 CFR 385.205) a revised Schedule 5.013 to the GPU System Power Pooling Agreement as a change in rate schedule. Schedule 5.013 provides for transmission service charges for intrasystem transmission services under the GPU Power Pooling Agreement provided by Penelec for the delivery of capacity and energy purchased by Metropolitan Edison Company and Jersey Central Power & Light Company from New York State Electric and Gas Corporation's (NYSEG) share of the Homer City Generating Station under a certain Agreement dated as of December 20, 1993 with NYSEG. The GPU Companies have requested a waiver pursuant to § 35.11 of the Commission's Regulations (18 CFR 35.11) to permit the rate schedule to become effective January 1, 1994.

Copies of the filing have been served on the Pennsylvania Public Utility Commission and New Jersey Board of Regulatory Commissioners.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER94–1367–000]

Take notice that on March 17, 1995, the Public Service Company of New Mexico tendered for filing an amendment in above-referenced docket.

Comment date: April 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Service Co.

[Docket No. ER94–1375–000]

Take notice that on March 17, 1995, New England Power Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Excel Energy Services, Inc.

[Docket No. ER94–1488–002]

Take notice that on February 27, 1995, Excel Energy Services, Inc. tendered for filing its report of activity for the quarter ending December 31, 1994 in the above-referenced docket.

8. Union Electric Co.

[Docket No. ER94–1498–000]

Take notice that on March 29, 1995, Union Electric Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Co.

[Docket No. ER94–1541–000]

Take notice that on March 24, 1995, Illinois Power Company tendered for filing an amendment in above-referenced docket.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Central Maine Power Co.

[Docket No. ER94–1669–000]

Take notice that on March 29, 1995, Central Maine Power Company (CMP) tendered an amended filing providing supplemental information in support of a Power Purchase Agreement between CMP and Aroostook Valley Electric Company (AVEC), under which CMP will purchase and AVEC will sell all of the energy and capacity from a 32 MW biomass-fueled generating facility located in the Town of Fort Fairfield, Maine. CMP provides supplemental information with respect to the rate of return and derivation components of the proposed rate.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Connecticut Light & Power Co.

[Docket No. ER95–514–000]

Take notice that on March 29, 1995, Northeast Utilities Service Company tendered for filing on behalf of the Connecticut Light and Power Company (CL&P) a Fourth Amendment to Capacity, Transmission and Energy Service Agreement between CL&P and Green Mountain Power Corporation.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

VOL 60 ISS 72 AP 14 1995 UMI

12. New England Power Service Co.

[Docket No. ER95–539–000]

Take notice that on March 17, 1995, New England Power Service Company tendered for filing supplemental information to its February 2, 1995 filing in the above-referenced docket.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Montana Power Co.

[Docket No. ER95–569–000]

Take notice that on March 31, 1995, Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission an amendment to its original filing in this docket.

A copy of the filing was served upon Associated Power Services, Inc.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Missouri Public Service Co.

[Docket No. ER95–652–000]

Take notice that on March 28, 1995, Intercoast Power Marketing Company tendered for filing a Certificate of Concurrence in the above-referenced docket.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Detroit Edison Co.

[Docket No. ER95–721–000]

Take notice that on March 6, 1995, Detroit Edison Company tendered for filing worksheets which set forth the calculations for payments made to wholesale customers for the fourth quarter of 1994 in the above-referenced docket.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Western Gas Resources Power Marketing, Inc.

[Docket No. ER95–748–000]

Take notice that on March 15, 1995, Western Gas Resources Power Marketing, Inc. (WGRPM), petitioned the Commission for (1) blanket authorization to sell electricity at market-based rates; (2) a disclaimer of jurisdiction over WGRPM's power brokering activities; (3) acceptance of WGRPM's Rate Schedule FERC No. 1; (4) waiver of certain Commission Regulations and (5) such other waivers and authorizations as have been granted to other power marketers, all as more fully set forth in WGRPM's petition on file with the Commission.

WGRPM states that it intends to engage in electric power transactions as a broker and as a marketer. In transactions where WGRPM acts as a marketer, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with purchasing parties.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Tucson Electric Power Co.

[Docket No. ER95–749–000]

Take notice that on March 15, 1995, Tucson Electric Power Company (Tucson), tendered for filing a Service Agreement (the Agreement), effective as of February 27, 1995 with InterCoast Power Marketing Company (InterCoast). The Agreement provides for the sale by Tucson to InterCoast of economy energy from time to time at negotiated rates in accordance with Service Schedule A of Tucson's Coordination Tariff, Volume 1, Docket No. ER94–1437–000. Tucson requests an effective date of February 1, 1995, and therefore requests all applicable waivers.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Tucson Electric Power Co.

[Docket No. ER95–750–000]

Take notice that on March 15, 1995, Tucson Electric Power Company (Tucson), tendered for filing a Service Agreement (the Agreement), effective as of February 1, 1995 with Valley Electric Association (Valley). The Agreement provides for the sale by Tucson to Valley of economy energy from time to time at negotiated rates in accordance with Service Schedule A of Tucson's Coordination Tariff, Volume 1, Docket No. ER94–1437–000. Tucson requests an effective date of February 1, 1995, and therefore requests all applicable waivers.

Copies of this filing have been served upon all parties affected by this proceeding.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Pennsylvania Power & Light Co.

[Docket No. ER95–782–000]

Take notice that on March 21, 1995, Pennsylvania Power & Light Company (PP&L), tendered for filing with the Federal Energy Regulatory Commission a Short-Term Capacity and/or Energy Sales FERC Electric Rate Schedule, Volume No. 1 (Tariff). PP&L's Tariff sets forth terms and conditions of service under which PP&L will sell capacity and/or energy to purchasers for resale. PP&L submits that implementation of the Tariff will obviate the need for PP&L to file and for the Commission to approve separate agreements each time PP&L proposes to provide service to its customers under virtually identical terms and conditions, as has been the current practice.

PP&L has requested an effective date of April 20, 1995 for the Agreement.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Madison Gas and Electric Co.

[Docket No. ER95–783–000]

Take notice that on March 22, 1995, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Commonwealth Edison under MGE's Power Sales Tariff. MGE requests an effective date of March 10, 1995.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. J. Anthony & Associates Ltd.

[Docket No. ER95–784–000]

Take notice that on March 22, 1995, J. Anthony & Associates Ltd. tendered for filing an Application for Blanket Authorizations, Certain Waivers, and Order Approving Rate Schedule.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. San Diego Gas & Electric Co.

[Docket No. ER95–785–000]

Take notice that on March 22, 1995, San Diego Gas & Electric Company (SDG&E), tendered for filing a change in rates for service under the following Agreements with Southern California Edison Company (Edison):

(1) Short-Term Firm Transmission Service Agreement, Rate Schedule FERC No. 58;

(2) Interruptible Transmission Service Agreement, Rate Schedule FERC No. 59; and

(3) Firm Transmission Service Agreement, Rate Schedule FERC No. 60.

SDG&E respectfully requests, pursuant to § 35.11, waiver of prior notice requirements specified in § 35.3 of the Commission's regulations, and an effective date of January 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Edison.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

23. PacifiCorp

[Docket No. ER95–786–000]

Take notice that on March 22, 1995, PacifiCorp, tendered for filing in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, a Notice of Cancellation for PacifiCorp Rate Schedule FERC No. 329.

Copies of this filing were supplied to Washington Water Power Company, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

24. El Paso Electric Co.

[Docket No. ER95–788–000]

Take notice that on March 22, 1995, El Paso Electric Company (EPE), tendered for filing the Airport Substation Letter Agreement among EPE, Public Service Company of New Mexico (PNM) and Texas-New Mexico Power Company (TNP). The Letter Agreement provides the terms and conditions under which EPE will construct the Airport Substation and interconnect into an existing PNM/TNP 115 kV transmission line. In accordance with Commission regulations, EPE requests that the Agreement become effective sixty (60) days from the date of the filing.

Copies of this filing were served upon PNM, TNP, and the appropriate state public service commissions.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

25. El Paso Electric Co.

[Docket No. ER95–789–000]

Take notice that on March 22, 1995, El Paso Electric Company (EPE), tendered for filing the Contingent Contract Demand Letter and the Contingent Bank Settlement Letter, both of which relate to contingent capacity provided by EPE to Public Service Company of New Mexico (PNM) pursuant to Service Schedule A, as amended, to the EPE/PNM Interconnection Agreement dated July 19, 1966. EPE requests that the Commission waive the appropriate notice provisions and allow the Contingent Bank Letter to become effective on the first day of the month following its filing with the Commission and for service under such letter to commence on January 1, 1998 and to allow the Contract Demand Letter to become effective as of May 1, 1995.

Copies of this filing were served upon PNM and the appropriate state public service commissions.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

26. El Paso Electric Co.

[Docket No. ER95–790–000]

Take notice that on March 22, 1995, El Paso Electric Company (EPE), tendered for filing Amendment No. 1 to the Interchange Agreement between EPE and Texas-New Mexico Power Company (TNP). Amendment NO. 1 amends Service Schedule C, Wheeling Service, to the Interchange Agreement by removing TNP's obligation to provide, and EPE's obligation to purchase, certain transmission services associated with the Southwest New Mexico Transmission Project. Pursuant to the terms of the Amendment, EPE requests that the Commission waive the appropriate notice provisions to allow the Amendment to become effective the first day of the month following the submittal of the filing.

Copies of this filing were served upon TNP and the appropriate state public service commissions.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

27. Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.

[Docket No. ER95–791–000]

Take notice that on March 22, 1995, GPU Service Corporation (GPUSC), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the Companies), filed a Firm Power Transmission Service Tariff and an Energy Transmission Service Tariff. Under these tariffs, the Companies propose to provide both firm and non-firm transmission service for the transmission of capacity and/or energy from designated source(s) into, out of, or through, the Companies' service areas to designated load(s) using transmission facilities at or above 34.5 kV that any of the Companies own or have rights to use pursuant to agreements with others, including certain 500 kV transmission facilities, and which the Companies functionally operate as transmission facilities.

The basic charge for Firm Power Transmission Service will be based on the full embedded costs of the Companies' transmission facilities and will be calculated using a distance sensitive, MW-mile pricing methodology The basic charge for Firm Energy Transmission Service is similar, except that, in the event of curtailment or interruption, the Companies' will provide rebates to the extent Firm Energy Transmission Service schedules cannot be accommodated. The charge for Hourly Energy Transmission Service will be assessed on a zonal basis with each Companies' transmission facilities treated as a separate zone and shall equal $0.50/MWh per zone, plus a charge of $1.00/MWh for difficult to quantify costs and a charge for losses.

GPUSC requests an effective date of May 21, 1995 and has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

28. K Power Company, Inc.

[Docket No. ER95–792–000]

Take notice that on March 22, 1995, K Power Company, Inc., tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waiver and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective within 60 days of the filing or earlier if the Commission so orders.

KPC intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where KPC sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. KPC is not in the business of generating, transmitting or distributing electric power.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

29. Union Electric Co.

[Docket No. ER95–793–000]

Take notice that on March 22, 1995, Union Electric Company (UE), tendered for filing a Transmission Service Agreement dated March 24, 1995 between Enron Power Marketing, Incorporated (EPMI) and UE. UE asserts that the purpose of the Agreement is to set out specific rates, terms, and conditions for transmission service transactions from UE to EPMI.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

30. Madison Gas and Electric Co.

[Docket No. ER95–794–000]

Take notice that on March 22, 1995, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Enron Power Marketing, Inc., under MGE's Power Sales Tariff.

VOL 60 ISS 72 AP 14 1995 UMI

MGE requests an effective date 60 days from the filing date.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

31. Idaho Power Co.

[Docket No. ER95–795–000]

Take notice that on March 23, 1995, Idaho Power Company (IPC), tendered for filing an agreement dated February 6, 1995 providing for IPC to furnish transmission service to Washington Water Power Company and Sierra Pacific Power Company.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

32. Northeast Utilities Service Co.

[Docket No. ER95–798–000]

Take notice that on March 27, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement with Middleborough Gas and Electric Department (Middleborough) under the NU System Companies System Power Sales/ Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to Middleborough.

NUSCO requests that the Service Agreement become effective on April 1, 1995.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

33. Niagara Mohawk Power Corp.

[Docket No. ER95–799–000]

Take notice that on March 27, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and North American Energy Conservation, Inc. (NAEC) dated March 23, 1995 providing for certain transmission services to NAEC.

Copies of this filing were served upon NAEC and the New York State Public Service Commission.

Comment date: April 20, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 95–9202 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER95–777–000, et al.]

Maine Public Service Co., et al.; Electric Rate and Corporate Regulation Filings

April 5, 1995.

Take notice that the following filings have been made with the Commission:

1. Maine Public Service Co.

[Docket No. ER95–777–000]

Take notice that on March 21, 1995, Maine Public Service Company (Maine Public), filed an executed Service Agreement with North American Energy Conservation, Inc. Maine Public states that the service agreement is being submitted pursuant to its tariff provision pertaining to the short-term non-firm sale of capacity and energy which establishes a ceiling rate at Maine Public's cost of service for the units available for sale.

Maine Public requests that the service agreement become effective on April 1, 1995 and requests waiver of the Commission's regulations regarding filing.

Comment date: April 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.

[Docket No. ER95–779–000]

Take notice that on March 21, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and PECO Energy Company (PECO), dated March 6, 1995. This Service Agreement specifies that PECO has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and PECO to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 6, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: April 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.

[Docket No. ER95–780–000]

Take notice that on March 21, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and North American Energy Conservation, Inc. (NAEC), dated March 8, 1995. This Service Agreement specifies that NAEC has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1 The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and NAEC to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 8, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: April 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Co.

[Docket No. ER95–781–000]

Take notice that on March 21, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company (including Holyoke Power and Electric Company), and Public Service Company of New Hampshire (together, the NU System Companies), a Fourth Amendment to System Power Sales Agreement (Amendment) with Bozrah Light and Power Company (BL&P) and a Service Agreement between NUSCO and the NU System Companies for service under NUSCO's Short-Term Firm Transmission Service Tariff No. 5. The transaction extends the System Power Sale from April 1, 1965 through the earlier of June 30, 1995 or the last day of the month in which the acquisition of BL&P by The City of Groton Department of Utilities is complete.

NUSCO requests that the rate schedule become effective on April 1, 1995. NUSCO states that copies of the rate schedule have been mailed or delivered to the parties to the Amendment.

Comment date: April 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. The Detroit Edison Co.

[Docket No. ES95–27–000]

Take notice that on March 27, 1995, The Detroit Edison Company filed an application under § 204 of the Federal Power Act seeking authorization to issue from time to time, on or before May 31, 1997, in an aggregate principal amount not to exceed $1 billion at any one time outstanding, short-term debt securities and promissory notes bearing final maturities not to exceed two years.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Crockett Cogeneration, A California Limited Partnership

[Docket No. QF84–429–003]

On March 29, 1995, Crockett Cogeneration, A California Limited Partnership (Crockett Cogeneration), 500 N.E. Multnamah, Suite 900, Portland, Oregon 9732, submitted for filing an application for recertification of a facility as a cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the 240 MW natural gas-fired facility, now under construction, is located at Crockett, California, and consists of a combustion turbine generator, a separately fired heat recovery boiler, and an extraction/condensing steam turbine generator.

In Docket No. QF84–429–000, Pacific Thermonetics, Inc. was initially granted certification for a 195.8 MW natural gas-fired topping-cycle cogeneration facility to be located in Crockett, California, [29 FERC ¶ 62,044 (1984)]. In Docket No. QF84–429–001, the applicant was granted recertification for the cogeneration facility to reflect changes in the facility's configuration, date of operation, net electric power production capacity, and the transfer of ownership from Pacific Thermonetics to Crockett Cogeneration, [60 FERC ¶ 62,258 (1992)]. In Docket No. QF84–429–002, the applicant filed a notice of self-certification concurrently with the filing of this application. The instant application is submitted to reflect changes in the ownership of the facility and inclusion of a 1.6 mile 230-kV underground transmission line from the plant switchyard to a transition station located at Pacific Gas & Electric Company's overhead transmission line.

Comment date: May 15, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9203 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–001–P

[Docket No. CP95–240–000]

Columbia Gas Transmission Corp.; Notice of Intent to Prepare an Environmental Assessment for the Proposed Line KA Replacement Project and Request for Comments on Environmental Issues

April 10, 1995.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction, operation, and abandonment of the facilities proposed in the Line KA Replacement Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Columbia Gas Transmission Corporation (Columbia) proposes to construct and operate approximately 12.1 miles of 24-inch-diameter pipeline to replace approximately 11 miles of its existing 20-inch-diameter Main Line KA in Wyoming and Raleigh Counties, West Virginia. These actions would improve the safety, reliability, and efficiency of Columbia's pipeline system. The replacement would be done in two segments as follows:

Segment 1

- Construct about 7.0 miles of replacement pipeline.
- Abandon 1.9 miles of existing Line KA by removal.
- Abandon in place 3.8 miles of existing Line KA.
- Transfer 0.7 mile of existing Line KA to low-pressure transmission service.
- Construct about 0.1 mile of 8-inch-diameter pipeline to tie the existing Line KA–26 into the replacement pipeline.
- Relocate an existing receipt meter from Cabot Oil and Gas Corporation about 1500 feet to the south to tie it into the replacement pipeline.[2]

Segment 2

- Construct about 5.1 miles of replacement pipeline.
- Abandon 4.6 miles of existing 20-inch-diameter Line KA by removal

[1] Columbia Gas Transmission Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The receipt meter would be relocated pursuant to section 2.55(d) of the Commission's regulations

VOL 60 ISS 72 AP 14 1995 UMI

except at bored road crossings, where it would be abandoned in place.

• Construct about 0.1 mile of 3-inch-diameter pipeline to tie the existing Line KA–14 into the replacement pipeline.

the location of the project facilities is shown in appendix 1.[3]

Land Requirements for Construction

Approximately 71 percent of the replacement pipeline would be located in new rights-of-way. The remaining construction right-of-way would partially or fully overlap Columbia's existing right-of-way. Columbia intends to use a 75-foot-wide construction right-of-way. Additional working spaces adjacent to the construction right-of-way (such as for side hill cuts, stream crossings, and staging areas) would be identified during the environmental analysis and approved before use.

Overall, about 173 acres of land would be disturbed by construction and abandonment, including one new access road and 41 staging areas. Columbia would also widen many of the 47 existing access roads to be used for the project. Full control of all disturbed areas outside of the new permanent right-of-way (approximately 67 acres) would revert back to landowners after construction and restoration have been completed.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Public safety
- Land use
- Endangered and threatened species
- Cultural resources

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. Keep in mind that this is a preliminary list. The list of issues may be added to, subtracted from, or changed, based on your comments and our analysis. Issues are:

- Five residences are near the replacement pipeline right-of-way
- New and retirement construction would cross 28 waterbodies, one of which has been designated as a high quality stream. Some of these waterbodies would be crossed more than once.
- New and retirement construction would cross 21 wetlands.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426;
- Reference Docket No. CP95–240–000;
- Send a *copy* of your letter to: Ms. Elizabeth Secrest, EA Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Room 7312, Washington, D.C. 20426; and
- Mail your comments so that they will be received in Washington, D.C. on or before May 16, 1995.

If you wish to receive a copy of the EA, you should request one from Ms. Secrest at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an "intervenor" Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing of timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Ms. Elizabeth Secrest, EA Project Manager, at (202) 208–0918.

Linwood A. Watson, Jr.,

Acting Secretary

[FR Doc. 95–9216 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–478–000, et al.]

Medina Power Co., et al.; Electric Rate and Corporate Regulation Filings

April 7, 1995.

Take notice that the following filings have been made with the Commission.

1. Medina Power Co.

[Docket No. ER94–478–000]

Take notice that on April 4, 1995, Medina Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Public Service Corp.

[Docket No. ER94–1007–000]

Take notice that on March 28, 1995, Wisconsin Public Service Corporation (WPSC) tendered for filing additional information in support of its March 2, 1994 tender of rate schedule changes affecting the City of Wisconsin Rapids, Wisconsin (Wisconsin Rapids). Those rate schedule changes consisted of a partial requirements "W–2" Service Agreement, a service agreement under WPSC's "T–1" Transmission Tariff, and a notice of termination of all requirements service under WPSC's "W–1" Tariff. The additional information currently submitted consists of a cost of service analysis plus information (i) reconciling the cost of service data and Form 1 data, and (ii) pertinent to plant balances and decommissioning recoveries. In its present filing letter, WPSC states that it renews the request in its March 2, 1994 filing letter that the Commission make the Service Agreements and the notice of termination effective on May 1, 1994.

WPSC states that the filing has been (i) served on the Wisconsin Rapids and the Public Service Commission of Wisconsin, and (ii) posted as required by the Commission's regulations.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Co.

[Docket No. ER94–1591–000]

Take notice that on March 27, 1995, Northeast Utilities Service Company tendered for filing supplemental information in the above-referenced docket.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Montana Power Co.

[Docket No. ER95–481–000]

Take notice that on March 24, 1995, Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission an amendment to its original filing in this Docket.

A copy of the filing was served upon Associated Power Services, Inc.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Indiana Gas and Electric Co.

[Docket No. ER95–599–000]

Take notice that on March 27, 1995, Southern Indiana Gas and Electric Company (Southern Indiana) tendered for filing revisions to previously filed amendments to its FERC Rate Schedules: 1, 21, 24, 25, 27, 33, 44 and 45; involving interconnection agreements with Ohio Valley Electric Corporation, Public Service Company of Indiana, Inc. (now CINergy, Inc.), Louisville Gas & Electric Company, Indianapolis Power & Light Company, Inc., Hoosier Energy Rural Electric Cooperative, Big Rivers Electric Corporation and Wabash Valley Power Association.

The revisions to the amendments are intended to provide for the ratemaking treatment of the cost of emissions allowances under the aforementioned rate schedules. The revisions are intended to ensure that the amendments will conform to the Commission's final rule concerning the ratemaking treatment of emission allowances. See Policy Statement and Interim Rule Regarding Ratemaking Treatment of the Cost of Emissions Allowances in Coordination Rates, Final Rule, III FERC Stats. & Regs ¶ 31,009, 59 FR 65930 (Dec. 22, 1994).

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Niagara Mohawk Power Corp.

[Docket No. ER95–700–000]

Take notice that Niagara Mohawk Power Corporation (NMPC) on April 4, 1995, tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and Citizens Power & Light Corporation (Citizens). This Service Agreement specifies that Citizens has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994 and which has an effective date of March 13, 1993, will allow NMPC and Citizens to enter into separately scheduled transactions under which NMPC will sell to Citizens capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of February 6, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Citizens.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Oklahoma Gas and Electric Co.

[Docket No. ER95–800–000]

Take notice that on March 27, 1995, Oklahoma Gas and Electric Company (OG&E), tendered for filing Eighth Amended Appendix D dated November 7, 1994 to Transmission Service Agreement dated February 20, 1985 with the Oklahoma Municipal Power Authority (OMPA).

Copies of this filing have been sent to OMPA, the Oklahoma Corporation Commission, and the Arkansas Public Service Commission.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Central Illinois Public Service Co.

[Docket No. ER95–801–000]

Take notice that on March 27, 1995, Central Illinois Public Service Company (CIPS), submitted a Service Agreement, dated March 15, 1995, establishing Wisconsin Power and Light Company as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of March 15, 1995, and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Wisconsin Power and Light Company and the Illinois Commerce Commission.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. IEP Power Marketing, L.L.C.

[Docket No. ER95–802–000]

Take notice that on March 27, 1995, IEP Power Marketing, L.L.C. (IPM), tendered for filing pursuant to Rules 205 and 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205 and 385.207, a petition for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective the earlier of March 22, 1995 or the date of a Commission order granting approval of this Rate Schedule.

IPM intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where IPM purchases power, including capacity and related services from electric utilities, qualifying facilities and

VOL
60
ISS
72
AP
14
1995
UMI

independent power producers, and resells such power to other purchasers, IPM will be functioning as a marketer. In IPM's marketing transactions, IPM proposes to charge rates mutually agreed upon by the parties. In transactions where IPM does not take title to the electric power and/or energy, IPM will be limited to the role of a broker and will charge a fee for its services. IPM is not in the business of producing or transmitting electric power. IPM does not currently have or contemplate acquiring title to any electric power transmission facilities.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Co.

[Docket No. ER95–803–000]

Take notice that on March 27, 1995, Illinois Power Company (Illinois Power), tendered for filing a revision to Appendix C of its Power Coordination Agreement with Soyland Power Cooperative, Inc. (Soyland). Illinois Power states that the purpose of this revision is to implement an agreement between itself and Soyland relating to the treatment of emission allowances under the Clean Air Act Amendments.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Puget Sound Power & Light Co.

[Docket No. ER95–804–000]

Take notice that on March 27, 1995, Puget Sound Power & Light Company (Puget), tendered for filing, as a change in rate schedules, an Interconnection Agreement, by and among Puget, Tosco Corporation, and Public Utility District No. 1 of Whatcom County, Washington (the District), and Revision No. 1 to Exhibit C to Contract No. 14–03–37050 between Puget and the Bonneville Power Administration (BPA).

A copy of the filing was served upon each of the District and BPA.

Puget states that the Interconnection Agreement relates to the interconnection of certain facilities of Puget and the District and to the provision of certain back-up transmission service by Puget to the District. Revision No. 1 to Exhibit C concerns the addition and deletion of certain metering and delivery points under an exchange agreement between Puget and BPA.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Co.

[Docket No. ER95–805–000]

Take notice that on March 27, 1995, PECO Energy Company (PECO), tendered for filing as an initial Rate Schedule a Transmission Service Agreement between Rainbow Energy Marketing Corporation (Rainbow) and PECO. The Agreement sets forth the terms and conditions under which PECO will transmit electric energy over its transmission system on behalf of Rainbow.

PECO requests that the Commission allow this initial Rate Schedule to become effective 60 days after the date of its filing.

PECO states that a copy of this filing has been furnished to Rainbow and the Pennsylvania Public Utility Commission.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Commonwealth Edison Co.

[Docket No. ER95–807–000]

Take notice that on March 27, 1995, Commonwealth Edison Company (ComEd), submitted a Letter Agreement, dated February 20, 1995, between Commonwealth Edison Company (ComEd) and the Illinois Municipal Electric Agency (IMEA). IMEA, acting as Scheduling Agent for the Village of Winnetka (Village), pursuant to the Scheduling Agent Agreement between ComEd, IMEA, and the Village dated December 31, 1988, requested a one-year extension of the transmission service currently provided by ComEd to Village under the terms and conditions of Service Schedule G to the Electric Coordination Agreement (ECA) between ComEd and Village. In the Letter Agreement ComEd agrees to a one-year extension to the termination dated of service provided in Schedule G thereby extending the term of Schedule G to May 31, 1998.

ComEd requests an effective date of June 1, 1997 to coincide with the proposed extension of service and therefore requests waiver of the Commission's notice requirements which bar the tendering for filing of a rate schedule "more than one hundred-twenty days prior to the date on which the electric service is to commence and become effective * * *" 18 CFR 35.3. ComEd states that good cause exists for the requested waiver for the parties must know for planning purposes that the extension will be permitted to take effective as agreed.

Copies of this filing were served upon IMEA, the Village, and the Illinois Commerce Commission.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corp.

[Docket No. ER95–810–000]

Take notice that on March 28, 1995, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and PECO Energy Company (PECO). This Service Agreement specifies that PECO has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and PECO to enter into separately scheduled transactions under which NMPC will sell to PECO capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of March 13, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and PECO.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corp.

[Docket No. ER95–811–000]

Take notice that on March 28, 1995, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and InterCoast Power Marketing Company (InterCoast). This Service Agreement specifies that InterCoast has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC, on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and InterCoast to enter into separately scheduled transactions under which NMPC will sell to InterCoast capacity and/or energy as the parties may mutually agree.

In its filing letter, NMPC also included a Certificate of Concurrence executed by the Purchaser.

NMPC requests an effective date of March 14, 1995. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and InterCoast.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Southern California Edison Co.

[Docket No. ER95–812–000]

Take notice that on March 28, 1995, Southern California Edison Company (Edison), tendered for filing the following amendment to the Capacity Exchange Agreement, FERC Rate Schedule No. 148, between Edison and the State of California Department of Water Resources (CDWR):

Amendment No. 1

To The

Capacity Exchange Agreement

Between

Southern California Edison Company

And

State of California Department of Water Resources

(Amendment)

The Amendment provides CDWR with a new point of delivery at Rancho Seco. The Amendment also simplifies certain operating requirements for new CDWR resources at Mojave Siphon and Devil Canyon. Edison is requesting waiver of the Commission's prior notice requirements and an effective date of May 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California, CDWR, and the Sacramento Municipal Utility District.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Southern California Edison Co.

[Docket No. ER95–813–000]

Take notice that on March 28, 1995, Southern California Edison Company, tendered for filing a supplemental agreement to the 1990 Integrated Operations Agreement with the City of Riverside (Riverside); Commission Rate Schedule No. 250.

The supplemental agreement sets forth the terms and conditions for the integration of Riverside's purchases of non-firm energy from Utah Municipal Power Agency. Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign to the Agreement an effective date of March 29, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Jersey Central Power & Light Co., Metropolitan Edison Co. Pennsylvania Electric Co.

[Docket No. ER95–814–000]

Take notice that on March 28, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and Atlantic City Electric Company (ACE), dated March 22, 1995. This Service Agreement specifies that ACE has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95–276–000 and allows GPU and ACE to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of March 22, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Baltimore Gas and Electric Co.

[Docket No. ER95–817–000]

Take notice that Baltimore Gas and Electric Company (BGE), on March 29, 1995, tendered for filing as an initial rate schedule agreement (Agreement) between Atlantic City Electric Company (ACE) and BGE. The Agreement provides for the sale by BGE of energy from its system (system energy) to ACE on an hourly, daily, weekly, or monthly basis (Transaction). Each Transaction is fully interruptible. BGE states that the timing of the Transactions cannot be accurately estimated but that BGE will provide the system energy to ACE at a negotiated rate upon which the parties will agree prior to each Transaction when it is economical for each party to do so. ACE will pay a Reservation Charge to BGE for each Transaction in an amount equal to the megawatthours of system energy reserved for ACE by BGE during a Transaction multiplied by a Reservation Charge Rate negotiated prior to each Transaction. The Reservation Charge Rate will be subject to a cost justified ceiling. ACE will pay an Energy Charge for each Transaction in an amount equal to the megawatthours delivered by BGE during such Transaction multiplied by an Energy Charge Rate. The Energy Charge Rate will be BGE's estimated incremental cost to supply Transaction, to be charged for each hour of the Transaction in which BGE supplies energy.

Pursuant to the Commission's regulations, BGE requests that the Commission waive the prior notice requirement and allow the Agreement to become effective April 3, 1995. ACE has concurred with this rate schedule by its execution of the Agreement.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement

[Docket No. ER95–818–000]

Take notice that on March 29, 1995, the Pennsylvania-New Jersey-Maryland (PJM) Interconnection Association filed, on behalf of the Parties to the PJM Agreement, Revision No. 14 to Schedule 4.01 of the Agreement.

The purpose of this filing is to decrease the rate applicable to capacity deficiency transactions determined in accordance with the PJM Agreement. The new rate is to become effective with the beginning of the next 12-month Planning Period on June 1, 1995. No changes in facilities are proposed in this filing.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. Southern California Edison Co.

[Docket No. ER95–819–000]

Take notice that on March 30, 1995, Southern California Edison Company tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 250.3 and FERC Rate Schedule No. 250.4, and supplements thereto.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Yankee Atomic Electric Company

[Docket No. ER95–835–000]

Take notice that on March 31, 1995, Yankee Atomic Electric Company

VOL 60 ISS 72 AP 14 1995 UMI

(Yankee) tendered for filing, a revised decommissioning cost estimate and funding schedule for Yankee's nuclear generating plant.

Yankee states that the rate change proposed would, as a result, of an increase in decommissioning charges, increase Yankee's rates by $30.2 million annually.

Yankee states that copies of its filing have been provided to its wholesale customers and to state regulatory commissions in Connecticut, Vermont, New Hampshire, Massachusetts, Maine and Rhode Island.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

23. Maine Public Service Co.

[Docket No. ER95–836–000]

Take notice that on March 31, 1995, Maine Public Service Company tendered for filing an initial rate schedule a Transmission Service and Ancillary Services Tariff.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

24. Charles W. Wells

[Docket No. ID–2435–001]

Take notice that on March 24, 1995, Charles W. Wells (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director: Illinova Corporation
Director and Officer: Illinois Power Company
Director: First of America Bank-Illinois, N.A.

Comment date: April 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9201 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–01–P

[Project 2442–001 New York]

City of Watertown; Notice of Availability of Draft Environmental Assessment

April 10, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major new license for the proposed Watertown Project, located in Jefferson County and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the project, with appropriate mitigation or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street N.E., Washington, D.C. 20426.

Please submit any comments within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426. Please affix Project No. 2442–001 to all comments. For further information, please contact Peter Leitzke, Environmental Coordinator, at (202) 219–2803.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–9200 Filed 4–13–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL—5191–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before May 15, 1995.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, please refer to ICR #0794.07.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Notification of Substantial Risks Under Section 8 of the Toxic Substances Control Act (TSCA). (EPA ICR No. 0794.07; OMB No. 2070–0046).

Abstract: Under Section 8(e) of TSCA, chemical manufacturers, importers, processors, and distributors must immediately inform EPA when they obtain information which indicates that their product(s) may present a substantial risk of injury to health or the environment. Section 8(e) of TSCA is an important and useful tool for early warning and the identification of new substantial risks posed by exposure to chemical substances. The EPA and other Federal agencies use this information to determine and control chemical risks.

Burden Statement: Public reporting burden for this collection of information is estimated to average 21 hours per initial Section 8(e) submission and 4 hours per follow-up/supplemental Section 8(e) submission. EPA experience has shown that approximately 2.2 follow-up/supplemental Section 8(e) submissions are received on a yearly basis per initial submission. This estimate includes the time needed to review instructions, gather and submit the data needed, and complete and review the collection of information.

Respondents: Chemical manufacturers, importers, processors, and distributors.

Estimated Number of Respondents: 1440.

Frequency of Collection: On Occasion.

Estimated Number of Responses per Respondent: 3.

Estimated Total Annual Burden on Respondents: 13,400 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, (please refer to EPA ICR #794.07 and OMB #2070–0046) to:

Sandy Farmer, USEPA ICR #0794.07, U.S. Environmental Protection Agency, Information Policy Branch (2316), 401 M Street SW., Washington, DC 20460

and

Timothy Hunt, OMB #2070–0046, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503.

Dated: April 7, 1995.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 95–9249 Filed 4–13–95; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL–4722–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 13, 1995 through March 17, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

Summary of Rating Definitions

Environmental Impact of the Action

LO—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Draft EISs

ERP No. D-FHW-D40275–PA Rating EC2, Kittanning By-Pass/PA–6028, Section 015 Extension of the Allegheny Valley Expressway, existing Allegheny Valley Expressway to the Traffic Route 28/66 and Traffic Route 85 Intersection, Funding and COE Section 404 and EPA NPDES Permits Issuance, Armstrong County, PA.

Summary: EPA expressed environmental concerns for potential impacts to wetlands, terrestrial habitat, and residences. EPA found alternative C Prime to be the environmentally preferable alternative because of its minimization of impacts to wetland resources.

ERP No. D-FRC-D29000–VA Rating EC2, Gaston and Roanoke Rapids Project (FERC-No. 2009-003), Nonpoint Use of Project Lands and Water for the City of Virginia Beach Water Supply Project, License Issuance, Brunswick County, VA.

Summary: EPA expressed environmental concerns with the water demand, as well as potential supply alternatives and requested additional information. EPA also requested water quality modeling of the lower Roanoke River prior to issuance of the final EIS, and FERC convene a session of key parties to develop an appropriate 6–10 year interim withdrawal allocation.

ERP No. D-FRC-K02008–CA Rating EC2, Mojave Natural Gas Pipeline Northward Expansion Project, Construction and Operation, Approvals and Permits Issuance, San Joaquin Valley, San Francisco Bay Area and Sacramento, CA.

Summary: EPA expressed environmental concerns over potential impacts to wetlands, as well as potential significant emissions during construction that may not meet Clean Air Act conformity provisions.

Final EISs

ERP No. F-IBR-J31023–UT Narrows Multi-Purpose Water Development Project, Construction and Operation, Funding, Gooseberry Creek, Manti-La Sal National Forest, Sanpete County, UT.

Summary: EPA continued to have environmental concerns about wetlands impacts, endangered species and the limited alternatives analyzed in the EIS.

ERP No. FS-COE-E30032–FL Palm Beach County Beach Erosion Project, Updated Information, Shore Protection Project, Jupiter/Carlin Segment from

VOL 60 ISS 72 AP 14 1995 UMI

Martin Co., Line to Lake Worth Inlet and from South Lake Worth Inlet to Broward, General Design Plan, Implementation, Martin and Broward Counties, FL.

Summary: EPA expressed environmental concerns regarding the long-term consequences of how this action meshes with other, similar beach nourishment projects planned for the county's shoreline. EPA was particularly concerned over impacts to nearshore hardbottom habitat.

Dated: April 11, 1995.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–9289 Filed 4–13–95; 8:45 am]

BILLING CODE 6560–50–U

[ER-FRL–4722–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed April 03, 1995 Through April 07, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950123, FINAL EIS, AFS, AK, Helicopter Glacier Landing Tours, Implementation, Issuance of Special-Use-Permits, Tongass National Forest, Chatham Area, Juneau Ranger District, Alaska, Due: May 15, 1995, Contact: John H. Favro (907) 586–8800.

EIS No. 950124, FINAL EIS, FHW, MT, US 2 Reconstruction, Columbia Heights to Hungry Horse, Funding, Land Transfer and COE Section 404 Permit, Flathead County, MT, Due: June 01, 1995, Contact: Dale Paulson (406) 449–5310.

EIS No. 950125, DRAFT EIS, AFS, NV, CA, Heavenly Ski Resort Master Plan, Improvement, Expansion and Management, Lake Tahoe Basin Management Unit, Special-Use-Permit, Douglas County, NV and El Dorado and Alpine Counties, CA, Due: May 29, 1995, Contact: Virgil Anderson (916) 573–2600.

EIS No. 950126, DRAFT EIS, FHW, AZ, Pima Freeway—Loop 101, Construction, I–17 and Scottsdale Road, Funding, NPDES and COE Section 404 Permits, Maricopa County, AZ, Due: May 30, 1995, Contact: Ken Davis (602) 379–3646.

EIS No. 950127, DRAFT EIS, FHW, IA, I–235 Study Corridor, Improvements access to the Des Moines Central Business District (CBD) and Westown Parkway Area, Funding, Des Moines, Polk County, IA, Due: June 06, 1995, Contact: H.A. Willard (515) 233–7300.

EIS No. 950128, DRAFT EIS, USN, HI, Bellows Air Force Station Land Use and Development Plan, Implementation, Waimanalo, HI, Due: May 29, 1995, Contact: Gary Kasaoke (808) 471–9338.

EIS No. 950129, DRAFT EIS, AFS, ID, Secesh River Subdivision Access Roads, Implementation, Special-Use-Permit, Idaho County, ID, Due: May 30, 1995, Contact: Linda Fitch (208) 634–0408.

EIS No. 950130, FINAL EIS, FHW, WI, MN, Stillwater-Houlton Transportation System, MN-Trunk Highway-36 and WI-Trunk-Highway-64 Improvements, MN-Trunk-Highway-36 and Washington County-State-Aid Highway-15 to WI-Trunk Highway-64 near the Croix River Bridge, Funding, US Coast Guard Bridge Permit, COE Section 10 and 404 Permits, St. Croix, WI and Washington County, MN, Due: May 15, 1995, Contact: Cheryl Martin (612) 290–3240.

EIS No. 950131, FINAL EIS, FAA, TX, Adoption—Chase Field Naval Air Station Disposal and Reuse Implementation, as a Civilian Airport Facility, City of Beeville, Bee County, TX, Contact: Tami Buch (817) 222–5681. The US Department of Transportation's Federal Aviation Administration (FAA) has adopted the Department of Defense's, US Navy final EIS filed 3–19–93. FAA was a cooperating Agency for the above final EIS. Recirculation of the document is not necessary Under Section 1506.3(c) of the Council on Environmental Quality Regulations.

EIS No. 950132, DRAFT SUPPLEMENT, COE, MS, Mississippi River and Tributaries Flood Control Plan, Big Sunflower River Maintenance Project, Yazoo Basin, Sunflower, Washington, Humphreys, Sharkey and Yazoo Counties, MS, Due: May 29, 1995, Contact: Marvin Cannon (601) 631–5437.

Amended Notices

EIS No. 940512, DRAFT EIS, FHW, PA, US 220 Transportation Improvements Project, Bald Eagle Village to Interstate 80 (I–80), Funding and COE Section 404 Permit, Blair and Centre Counties, PA, Due: May 22, 1995, Contact: Manual A. Mark (717) 782–3461. Published FR—12–23–94—Review Period Reopened.

Dated: April 11, 1995.

B. Katherine Biggs,

Associate Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–9290 Filed 4–13–95; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5191–9]

Science Advisory Board; Clean Air Act Scientific Advisory Committee; Notification of Public Advisory Committee Meeting(s); Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Clean Air Scientific Advisory Committee (CASAC) of the Science Advisory Board (SAB) will meet on May 4–5, 1995 at the Courtyard Marriott, 2700 Eisenhower Avenue, Alexandria, Virginia 22314; telephone (703) 329–2323. The meeting will begin at 9 a.m. and end no later than 5 p.m. on both days. This meeting is open to the public. Due to limited space, seating will be on a first-come basis. For further information, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office.

This meeting of the Clean Air Scientific Advisory Committee (CASAC) will focus on reviewing the scientific and technical adequacy of the agency's "Health Assessment Document for Diesel Emissions" (a document from the Office of Research and Development, Office of Health and Environmental Assessment (OHEA), Environmental Criteria and Assessment Office in Research, Triangle Park, NC—ECAO). The specific issues to be addressed during the CASAC review are as follows:

1. Does the document accurately represent the key literature on diesel emissions?

2. Are the cancer and noncancer hazard identification and dose-response assessments scientifically appropriate? In particular:

(a) Is the application of dosimetry modeling scientifically sound?

(b) Are the modes of action appropriately identified and applied to the health assessment?

(c) Are the qualitative and quantitative cancer risk estimates scientifically appropriate?

(d) Is the diesel inhalation reference concentration (RfC) scientifically appropriate?

3. Is it possible to improve the diesel risk characterization in the document, given the inadequate exposure information to compare to the quantitative health assessment?

For example, will further/alternative interpretations of the health effects information advance the risk characterization?

Availability of Documents

Single copies of the U.S. EPA health assessment document may be obtained from the Office of Research and Development Publications Center, CERI–FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; Telephone: (513) 569–7562; FAX (513) 684–7566. Please provide your name, mailing address and the EPA document numbers EPA/600/8–90/057Ba and Bb.

Members of the public desiring additional information about the meeting, including an agenda, should contact Randall Bond, Designated Federal Official, Clean Air Scientific Advisory Committee, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–8414, FAX (202) 260–1889, or via The INTERNET at: Bond.Randall@EPAMAIL.EPA.GOV. Those individuals requiring a copy of the draft Agenda and the charge to the committee should contact Ms. Lori Anne Gross at (202) 260–8414 or by FAX at (202) 260–1889 or via the INTERNET at GROSS.LORI@EPAMAIL.EPA.GOV. Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found in The Annual Report of the Staff Director which is available by contacting Ms. Gross at the previously stated address.

Members of the public wishing to make an oral presentation at the meeting should contact Mr. Bond no later than noon, Wednesday, April 26, 1995. The request should identify the name of the individual who will make the presentation, requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalk board, etc), and an outline of the issues to be addressed. At least 35 copies of the presentation and 35 copies of the visual aids used at the meeting are to be given to Mr. Bond no later than the time of the presentation for distribution to the Committee and the interested public. See below for additional information on providing comments to the SAB.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: April 6, 1995.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 95–9246 Filed 4–13–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL 5191–6]

Public Water System Supervision Program Revision for the State of Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the provision of § 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq., and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR), that the State of Wisconsin is revising its approved Public Water System Supervision (PWSS) primacy program. The Wisconsin Department of Natural Resources (WDNR) adopted drinking water regulations for 18 synthetic organic chemicals (SOCs), and 5 inorganic chemicals (IOCs), that correspond to the NPDWR for SOCs and IOCs, promulgated by the U.S. Environmental Protection Agency (U.S. EPA) on July 17, 1992 (57 FR 31776–31849). The U.S. EPA has completed its review of Wisconsin's PWSS primacy program revision and has determined that the State program revision is no less stringent than the corresponding Federal regulations.

The U.S. EPA has determined that the Wisconsin rule revision meets the requirements of the Federal rule. Therefore, the U.S. EPA is proposing to approve the WDNR's rule revision. All interested parties are invited to submit written comments on this proposed determination, and may request a public hearing on or before May 15, 1995. If a public hearing is requested and granted, the determination shall not become effective until such time following the hearing, at which the Regional Administrator issues an order affirming or rescinding this action. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator.

Requests for public hearing should be addressed to: Miguel A. Del Toral, (WD–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing. (2) A brief statement of the requesting person's interest in the Regional Administrator's determinations and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Wisconsin. A notice will be sent to the person(s) requesting the hearing as well as to the State of Wisconsin. The hearing notice will include a statement of purpose, information regarding the time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and should the Regional Administrator not elect to hold a hearing on his own motion, these determinations shall become effective on May 15, 1995. Please bring this notice to the attention of any persons known by you to have an interest in these determinations.

All documents related to these determinations are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Wisconsin Department of Natural Resources, Bureau of Water Supply,

VOL 60 ISS 72 AP 14 1995 UMI

101 South Webster, Madison, Wisconsin 53707, State Docket Officer: Mr. Don Swalles, (608) 266–7093

Safe Drinking Water Branch, Drinking Water Section, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Miguel A. Del Toral, Region 5, Drinking Water Section at the Chicago address given above, telephone 312/886–5253.

(Sec. 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Signed this 3rd day of April 1995.

David A. Ullrich,

Acting Regional Administrator, U.S. EPA, Region 5.

[FR Doc. 95–9250 Filed 4–13–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

April 6, 1995.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0149.

Expiration Date: 03/31/98.

Title: Part 63—Section 214 Application and Supplemental Information Requirements (Sections 63.01–63.601).

Estimated Annual Burden: 6820 total annual hours; 13 hours per response.

Description: In Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54–63.58, CC Docket 87–266, Memorandum Opinion and Order on Reconsideration and Third Further Notice of Proposed Rulemaking, FCC 94–269 (released November 7, 1994), the Commission requires, among other things, local exchange carriers (LECs) providing video dialtone service to notify the Chief of the Common Carrier Bureau of any anticipated or existing capacity shortfall in their video dialtone platform and of plans for addressing such shortfall. Such notice must be provided within thirty days after the LEC becomes aware of an anticipated shortfall or within five days after denying capacity to a video programmer, whichever occurs first. The Commission also conforms its existing enhanced services safeguards against anticompetitive conduct by adding video dialtone delivery service to the service categories for which it requires that Regional Bell Operating Companies (RBOCs) and GTE Service Corporation (GTE) report installation and maintenance activities. In addition, the Commission requires the RBOCs and GTE to file a detailed description of the types of Customer Proprietary Network Information to which they anticipate having access as providers of video dialtone service, and to explain how they would plan to use such information in marketing video dialtone services to video programmers or consumers.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–9187 Filed 4–13–95; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 10, 1995.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 418–0214. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561.

Please note: On February 25, 1994 The Commission issued a Final Rule (contained in the First Report and Order to PP Docket 93–253) implementing Section 309(1) of the Communications Act—Competitive Bidding. This rule requires that an application for voluntary transfer of control or assignment under §§ 1.924, 21.38, 22.39, 90.153, 94.47, and 95.821 where the license was acquired by the transferor or assignor through a system of random selection shall together with its application for transfer of control or assignment, file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, inkind, or other consideration (e.g., management or consulting contracts either with or without an option to purchase; below-market financing). These limited reporting requirements will enable the Commission to evaluate whether further restrictions are needed.

At that time the Commission determined the new or modified information collection and/or record retention requirements imposed by this Rule were not subject to the Paperwork Reduction Act of 1980 44 U.S.C. 3501–3520. Upon further evaluation, the Commission is now requesting expedited OMB review of this item by April 18, 1995, under the provisions of 5 CFR 1320.18.

OMB Number: None.

Title: Implementation of Section 309(j) of the Communications Act, Competitive Bidding, PP Docket 93–253, First Report and Order.

Action: Existing collection in use without OMB control number.

Respondents: Business or other for-profit.

Frequency of Response: On occassion.

Estimated Annual Burden: 1,100 respondents; 1 hour per response; 1,100 hours total annual burden.

Needs and Uses: The Commission will use the information to determine whether the public interest would be served by granting a transfer of control or an assignment of a license awarded through lottery procedures.

The foregoing estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the burden estimates or any other aspect of the collection of information including suggestions for reducing the burden to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

First Report and Order

In the Matter of: Implementation of Section 309(j) of the Communications Act Competitive Bidding. PP Docket 93–253.

Adopted: February 3, 1994
Released: February 4, 1994.

By the Commission:

1. The Omnibus Budget Reconciliation Act of 1993 ("Budget Act")[1] requires the Commission to prescribe rules that are necessary to prevent the unjust enrichment of recipients of licenses or permits that the Commission issues pursuant to the lottery authority granted by Section 309(i)(4)(C) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(i)(4)(C) ("Communications Act"). This Report and Order responds to Congress' directive. We conclude that, in addition to the rigorous requirements that apply to lotteries in our existing rules, certain transfer disclosure rules are necessary to prevent unjust enrichment with respect to licenses issued by lottery. These requirements will enable us to monitor the operation and effect of lotteries closely over the next one to two years to enable us to determine if additional safeguards are necessary.

Background

2. Our authority to issue licenses by lottery stems from Section 309(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(i). In the Budget Act, Congress added a new statutory provision concerning unjust enrichment in the lottery context to this section of the Communications Act, which states that

[N]ot later than 180 days after [August 10, 1993], the Commission shall prescribe such transfer disclosures and antitrafficking restrictions and payment schedules as are necessary to prevent the unjust enrichment of recipients of licenses or permits as a result of the methods employed to issue licenses under this subsection.[2]

3. In the Notice of Proposed Rule Making ("Notice" or "Auction Notice") implementing this and other sections of the Budget Act, we noted that the legislative history of this section indicated that the Commission might "impose or assess payments in order to prevent unjust enrichment resulting from trafficking in licenses."[3] We tentatively concluded that we could assess payments in order to prevent unjust enrichment from lotteries. We also asked for comment on what other antitrafficking restrictions were appropriate in addition to any payments we might impose. We suggested, for example, that we might place a three year restriction on the transfer of licenses gained through lotteries.

4. With respect to the term "unjust enrichment," it appears that Congress was concerned about transactions such as that mentioned in the Notice, where we observed that lottery winners of the rural cellular license for Columbia County, Wisconsin, sold it for $62.3 million in 1990, 165 days after a construction permit had been issued.[4] The legislative history of the Budget Act is highly critical of those who filed applications with no intention or capability of providing service but instead "only sought to acquire a license at nominal cost and then sell it, making a large profit and at the same time delaying the delivery of services to the public." House Report at 259. The legislative history reemphasizes the need for the Commission to limit "the ability of lottery winners to sell their license, so as to prevent the churning and profiteering that has characterized lotteries." *Id.*[5]

5. The Budget Act reduces significantly the Commission's authority to conduct lotteries. If the service or class of service is potentially eligible for competitive bidding under the statutory test in Section 309(j)(2)(A), then the Commission is precluded from using lotteries to resolve mutual exclusivity among applications. *See* 47 U.S.C. § 309(i)(1)(B). Because under the Budget Act certain mutually exclusive applications may still be resolved by a lottery, we sought comment in the Auction Notice on how to implement the subject statutory provision.

Comments

6. Although we received approximately 300 timely filed comments and reply comments in this proceeding, we only received two comments and no reply comments that directly addressed the subject statutory provision. The Domestic Automation Company (DAC) stated that "*bona fide* entities who have lost in past lotteries often have had to buy [Multiple Address Service (MAS)] licenses from those who never intended to operate systems for their own use" and urged that we adopt strict rules and restrictions to stem speculation and trafficking in licenses won by lottery. Comments of Domestic Automation Company at 7. DAC also urged that the Commission adopt restrictions that would discourage potential traffickers from participating in Commission lotteries in the first place, such as a requirement for the posting of performance bonds, similar financial guarantees and annual spectrum user fees prior to the lottery. DAC also argues that we should adopt restrictions on licensees who either fail to construct or who construct and then quickly transfer their licenses, presumably for a profit. *Id.*

7. The American Petroleum Institute (API) shares these sentiments, noting that speculative interest in the radio spectrum has grown to the point where the Commission now is flooded with applications each time it announces an initial lottery for licenses. Comments of API at 7. Like Domestic Automation Company, API states that *bona fide* entities that lost in lotteries often have had to pay greenmail to speculators to obtain licenses they need, and urges the Commission to adopt strict rules and restrictions to stem speculation and trafficking in licenses won by lottery. *Id.* at 8.

Discussion

8. The most egregious cases of unjust enrichment and speculation associated with past lotteries have occurred in "commercial" services,[6] where there are significant opportunities for the sale of licensed communications properties to third parties for profit. *E.g.*, Cellular Radio Service. Therefore, possibly the strongest measure to deter future instances of unjust enrichment in the lottery context has already been taken by Congress when, in the Budget Act, it granted the Commission auction authority for all "commercial" spectrum-based services, and effectively took away the Commission's authority to conduct lotteries for such commercial services.[7] Thus, under the Budget Act, any new rules adopted to implement the subject provision would potentially apply to only three classes of license applications: 1) mutually exclusive applications in certain private, internal-use services that meet the legislative criteria in Section 309(j)(2)(A) for random selection, but do not meet the legislative criteria for competitive bidding, 2) a limited number of mutually exclusive applications in commercial services accepted for filing prior to July 26, 1993, that the Commission has the authority to either auction or lottery under the Budget Act, and 3) possibly where a private, internal-use license application is mutually exclusive with a "commercial" use application for a license in "shared spectrum," that is, spectrum for which both entities are eligible to use.[8]

9. Furthermore, we note that the Commission has recently adopted rules that should assist in preventing unjust enrichment from lotteries in a variety of commercial services, including the Interactive Video and Data Service (IVDS).

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[1] Pub. L. No. 103–66, title VI, § 6002(b)(1)(B), 107 Stat. 388, —— 1993).

[2] 47 U.S.C. § 309(i)(4)(C).

[3] Implementation of Section 309(j) of the Communications Act, Competitive Bidding, PP Docket No. 93–253, 8 FCC Rcd 7635, 7649–50, para. 89 (1993), quoting H.R. Rept. No. 111, 103d Cong., 1st sess. 256 (1993) ("House Report").

[4] 8 FCC Rcd at 7641 n. 22. For purposes of this rule making and consistent with the intent of the Budget Act, "unjust enrichment" and "speculation" in the lottery context refer to the same act: the transfer of a license acquired by lottery for substantial profit prior to providing service to the public. Although the term "speculation" has also been associated with the large number of lottery applications generated by so-called application mills, we believe that the mere act of filing an application for a lottery does not give rise to the "unjust enrichment" that the Budget Act has required us to address.

[5] We note that this provision was adopted in conference from the House bill without change. *See* H.R. Rept. No. 213, 103d Cong., 1st sess. 489-90 (1993).

[6] *See* Auction Notice, 8 FCC Rcd at 7638–39 para. 25–28 (noting that for purposes of Section 309(j) of the Communications Act, "commercial service" means a subscriber-based service, and this term is substantively distinct from the term "Commercial Mobile Service," which is a term associated with Section 332 of the Communications Act).

[7] *See* Auction Notice, 8 FCC Rcd at 7637, para. 17 (noting that the Budget Act provides that the Commission may not issue any license or permit by lottery after the date of enactment unless the spectrum's use is not a type for which auctions are permitted, or the application was accepted for filing before July 26, 1993). *Citing* Section 6002(e) of the Budget Act (Special Rule). Under the Budget Act, therefore, mutually exclusive applications accepted for filing after July 26, 1993 may not be granted by lottery until the Commission determines whether the applicable radio service is not subject to competitive bidding under Section 309(j)(2)(A) of the Communications Act.

[8] *See* Auction Notice, 8 FCC Rcd 7658 paras. 139–140.

VOL 60 ISS 72 AP 14 1995 UMI

Multipoint Distribution Service (MDS) and Cellular Radio Service. These rules include, *inter alia*, transfer restrictions tied to an ascending scale of build-out requirements over the license term, anti-greenmail rules, settlement restrictions, and restrictions on changes in control of ownership. The Commission has not yet had the opportunity to fully evaluate the effectiveness of these rules because (1) the rules were adopted within the last two years (*e.g.*, cellular radio [9] and MDS [10]), or the service is not yet operational (*e.g.*, IVDS [11]).

10. Because in the future, only certain private, internal-use services would be subject to lottery, and such services rarely involve speculation or mutually exclusive applications, there does not appear to be a significant need at this time for new lottery rule to deter unjust enrichment. With respect to the limited number of "commercial" service applications that may be lotteried, the Commission has recently adopted rules in such services to deter unjust enrichment based on extensive experience in conducting lotteries in these services.[12] Before adopting additional measures, we believe it would be appropriate to gain some experience in how well these existing rules operate in practice.

11. In addition, the record compiled in this proceeding does not support adopting major additional measures to combat unjust enrichment in the lottery context. The two commenters that did address this matter focused primarily on MAS. In MAS, however, a licensee is required to meet certain construction benchmarks before it can transfer a license.[13] Therefore, while an MAS lottery may attract a large number of applicants, the existing construction benchmarks deter unjust enrichment by preventing licensees from transferring an MAS license before it provides service to the public.[14]

12. Further, the imposition of additional, more stringent restrictions could have adverse consequences. Because the randomly selected winner of a license may not value it the most highly, additional transfer restrictions could operate to deprive the public of valuable new communications services, reduce economic growth and limit the expansion of jobs. Therefore, we do not believe that the public interest would be served by adopting additional transfer restrictions under present circumstances.

13. At the same time, we are anxious to ensure that our recently adopted measures will prevent unjust enrichment. Therefore, we will adopt a measure expressly recommended in the subject statutory provision: Transfer disclosure requirements. We note that there was no opposition to the adoption of this measure in the record. Specifically, we will require lottery applicants for voluntary transfer of control or assignment file with the Commission, along with their application, the consideration they will receive if the Commission grants their applications for voluntary transfer of control or assignment. These limited reporting requirements will enable the Commission to evaluate whether further restrictions are needed.[15] Such disclosures will also assist the Commission in drafting its mandatory report to Congress that will compare the results of the five-year auction experiment against the Commission's lottery experience. *See* 47 U.S.C. § 309(j)(12). In addition, transfer price disclosure rules will allow the secondary market to function efficiently under existing restrictions against unjust enrichment.

14. Accordingly, any applicant for voluntary transfer of control or assignment would be required to file, together with its application, the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration received in return for the transfer of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below-market financing). The Commission has existing procedures for maintaining the confidentiality of such filings.[16] The rules shall apply to any future applicant for voluntary transfer of control or assignment where the subject license was acquired by the transferor or assignor through a Commission lottery.

Conclusion

15. Because any rules adopted pursuant to Section 309(i)(4)(C) of the Communications Act will apply to only a limited number of noncommercial services where speculation rarely occurs, and because the Commission has recently taken action in a variety of commercial services to achieve the same goal of the subject statutory provision, we limit our action at this time to the adoption of transfer disclosure rules. If the data we collect as a result of this requirement indicates that our existing rules are inadequate, we may adopt additional measures to deter unjust enrichment in the lottery context.

Final Regulatory Flexibility Analysis

18. A Final Regulatory Flexibility Analysis is contained in Appendix B to this order.

Order Clause

19. Accordingly, It Is Ordered that Parts 1, 21, 22, 90, 94 and 95 of the Commission's Rules, 47 C.F.R. Parts 1, 21, 22, 90, 94 and 95 Are Amended as set forth in the Appendix A. It Is Further Ordered that these rules are effective 90 days after publication in the **Federal Register**.

20. Issuance of this *First Report and Order* is authorized under the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, section 6002, and Sections 154(i), 309(i), 303(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309(i), 303(j), and 303(r).

Contact Persons

21. For further information concerning this proceeding, contact Marc Martin or Kent Nakamura, Office of Plans and Policy, (202) 653-5940.

Federal Communications Commission

William F. Caton,

Acting Secretary.

Appendix A—Final Rule

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303: Implement 5 U.S.C. 552 and 21 U.S.C. 853(a), unless otherwise noted.

2. Section 1.924 is amended by adding a new paragraph (d) to read as follows:

§ 1.924 Assignment or transfer of control, voluntary or involuntary.

(a) * * *

(d) An applicant for voluntary transfer of control or assignment under this section where the subject license was acquired by the transferor or assignor through a system of random selection shall, together with its application for transfer of control or assignment, file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below—market financing).

Part 21 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

3. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 1, 2, 4, 201-205, 208, 215, 303, 307, 313, 314, 403, 404, 410, 610; 48 Stat. as amended, 1064, 1066, 1070-1073, 1076, 1077, 1080, 1082, 1083, 1087, 1094, 1098, 1102; 47 U.S.C. 151, 154, 201-205, 208, 215, 218, 303, 307, 313, 314, 403, 404, 602; 47 U.S.C. 552.

4. Section 21.38 is amended by adding a new paragraph (g) to read as follows:

§ 31.38 Assignment or transfer of station authorization.

(a) * * *

(g) An applicant for voluntary transfer of control or assignment under this section where the subject license was acquired by the transferor or assignor through a system of random selection shall, together with its application for transfer of control or assignment, file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below—market financing).

Part 22 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

5. The authority citation for Part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

6. Section 22.39 is amended adding a new paragraph (d) to read as follows:

§ 22.39 Transfer of control or assignment of station authorization.

(a) * * *

(d) An applicant for voluntary transfer of control or assignment under this section where the subject license was acquired by the transferor or assignor through a system of random selection shall, together with its application for transfer of control or assignment, file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below-market financing).

Part 94 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

9. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

10. Section 94.47 is amended by adding a new paragraph (c) to read as follows:

§ 94.47 Transfer and assignment of station authorization.

(a) * * *

(c) An applicant for voluntary transfer of control or assignment under this section where the subject license was acquired by the transferor or assignor through a system of random selection shall, together with its application for transfer of control or assignment, file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below-market financing).

Part 95 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

11. The authority citation for Part 95 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

12. Section 95.821 is amended by adding two new sentences after the existing sentence to read as follows:

§ 95.821 Application for transfer of control

An applicant for voluntary transfer of control or assignment under this section where the subject license was acquired by the transferor or assignor through a system of random selection shall, together with its application for transfer of control or assignment, file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below—market financing).

* * * * *

Appendix B—Final Regulatory Flexibility Analysis

As required by Section 603 of the Regulatory Flexibility Act, the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact of the proposals contained in the Notice of Proposed Rule Making, PP Docket No. 93-253 on small entities. By this Order, the Commission responds to a Congressional directive contained in the Budget Act to consider measures to deter unjust enrichment in the lottery context. The Commission received no comments in response to the IRFA concerning unjust enrichment in the lottery context. As noted in the text of the Order, we considered and rejected more burdensome requirements designed to deter unjust enrichment, such as additional transfer restrictions for licensees that acquire their license by lottery. Rather, we adopted the less onerous transfer disclosure requirement that is expressly recommended in the Budget Act. In the case of some spectrum-based services, such as Low Power Television, entities that file transfer of control applications with the Commission are currently required to submit information similar to what the Commission explicitly requires by this Order: copies of documents that reveal the transfer price for a license. Further, in other services, applicants for voluntary transfer of control or assignment are currently required to submit information in support of their request. Inasmuch as any contracts, purchase agreements, or similar legal documents detailing the consideration received by the transferor or assignor will presumably already have been prepared by the parties to the transaction for their own purposes, attaching a copy of such documents to the application(s) submitted to the Commission should not prove onerous. Accordingly, the Commission does not believe this limited disclosure requirement adds a significant economic burden on small entities.

[FR Doc. 95-9346 Filed 4-13-95; 8:45 am]

BILLING CODE 6712-01-M

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[9] *See, e.g., Third Report and Order, Memorandum Opinion and Order, and Recon.*, CC Docket 90-6, 7 FCC Rcd 7813 (1992) (adopting, inter alia, anti-greenmail rules), and *Report and Order*, CC Docket 90-358, 7 FCC Rcd 719 (1992) (adopting anti-speculation rules in the context for comparative renewal proceedings).

[10] *See, e.g., Amendment of Parts 1, 2 and 21 of the Commission's Rules in the 2.1 and 2.5 GHz bands*, PR Docket 92-80, 8 FCC Rcd 1444 (1993) (adopting a variety of rules to deter unjust enrichment in the MDS context).

[11] *See* 47 C.F.R. Part 95, Subpart F.

[12] *See, e.g.*, CFR 22.920(c)(1)-(3), 22.927, 22.928, and 22.929 (cellular radio), and 95.819 and 95.821 (IVDS).

[13] *See* 47 CFR 94.47.

[14] *Id.* For this reason, we believe existing construction benchmarks and associated transfer restrictions adequately deter unjust enrichment in other services, such as the Specialized Mobile Radio Service (SMRs) and 220-222 MHz Private Land Mobile Radio Service.

[15] We note that in the case of Low Power Television, the only broadcasting service subject to lotteries, the Commission currently has transfer disclosure rules. *See* 47 CFR 73.3540, 73.3597 and FCC Form 345.

[16] 47 CFR 0.459.

FEDERAL HOUSING FINANCE BOARD

[No. 95-N-03]

Notice of Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 added a new Section 10(g) to the Federal Home Loan Bank Act of 1932 requiring that members of the Federal Home Loan Bank (FHLBank) System meet standards for community investment or service in order to maintain continued access to long-term FHLBank System advances. In compliance with this statutory change, the Federal Housing Finance Board (Housing Finance Board) promulgated Community Support regulations (12

VOL 60 ISS 72 AP 14 1995 UMI

CFR part 936). Under the review process established in the regulations, the Housing Finance Board will select a certain number of members for review each quarter, so that all members that are subject to the Community Reinvestment Act of 1977, 12 U.S.C. 2901 *et seq.*, (CRA), will be reviewed once every two years. The purpose of this Notice is to announce the names of the members selected for the fifth quarter review (1994–95 cycle) under the regulations. The Notice also conveys the dates by which members need to comply with the Community Support regulation review requirements and by which comments from the public must be received.

DATES: *Due Date for Member Community Support Statements for Members Selected in Fifth Quarter Review:* May 31, 1995.

Due Date for Public Comments on Members Selected in Fifth Quarter Review: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph A. McKenzie, Associate Director, Office of Housing Finance, (202) 408–2845, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

A telecommunications device for deaf persons (TDD) is available at (202) 408–2579.

SUPPLEMENTARY INFORMATION:

A. Selection for Community Support Review

The Housing Finance Board currently reviews all FHLBank System members that are subject to CRA once every two years. Approximately one-eighth of the FHLBank members in each district will be selected for review by the Housing Finance Board each calendar quarter. To date, only members that are subject to CRA have been reviewed. In selecting members, the Housing Finance Board follows the chronological sequence of the members' CRA Evaluations post-July 1, 1990, to the greatest extent practicable, selecting one-eighth of each District's membership for review each calendar quarter. However, the Housing Finance Board will postpone review of new members until they have been System members for one year.

Selection for review is not, nor should it be construed as, any indication of either the financial condition or Community Support performance of the institutions listed.

B. List of FHLBank Members To Be Reviewed in the Fifth Quarter, Grouped by FHLBank District

Member	City	State
Federal Home Loan Bank of Boston—District 1 Post Office Box 9106, Boston, Massachusetts 02205–9106		
People's Bank	Bridgeport	CT
Bristol Savings Bank	Bristol	CT
Derby Savings Bank	Derby	CT
Maritime Bank and Trust Company	Essex	CT
Farmington Savings Bank	Farmington	CT
Glastonbury Bank & Trust Company	Glastonbury	CT
Savings Bank of Manchester	Manchester	CT
Liberty Bank	Middletown	CT
Naugtuck Savings Bank	Naugtuck	CT
Citizens National Bank	Putnam	CT
Shelton Savings Bank	Shelton	CT
Equity Bank	Wethersfield	CT
Windsor Federal Savings & Loan Association	Windsor	CT
Windsor Locks Savings & Loan Association	Windsor Locks	CT
Dedham Co-operative Bank	Dedham	MA
Framingham Co-operative Bank	Framingham	MA
Benjamin Franklin Savings Bank	Franklin	MA
Dean Cooperative Bank	Franklin	MA
Economy Co-operative Bank	Merrimac	MA
Mayflower Co-operative Bank	Middleboro	MA
Pacific National Bank of Nantucket	Nantucket	MA
Compass Bank for Savings	New Bedford	MA
Berkshire County Savings Bank	Pittsfield	MA
Pittsfield Co-operative Bank	Pittsfield	MA
Central Co-operative Bank	Somerville	MA
Savers Co-operative Bank	Southbridge	MA
Springfield Institution for Savings	Springfield	MA
Stoneham Co-operative Bank	Stoneham	MA
Ware Co-operative Bank	Ware	MA
United Co-operative Bank	West Springfield	MA
Flagship Bank and Trust Company	Worcester	MA
Cushnoc Bank and Trust Company	Augusta	ME
United Bank	Bangor	ME
First National Bank of Damariscotta	Damariscotta	ME
Gardiner Savings Institution, FSB	Gardiner	ME
Machias Savings Bank	Machias	ME
Centerpoint Bank	Bedford	NH
Connecticut River Bank	Charlestown	NH
Claremont Savings Bank	Claremont	NH
Peoples National Bank of Littleton	Littleton	NH
Lake Sunapee Savings Bank, FSB	Newport	NH
Sugar River Savings Bank	Newport	NH
Piscataqua Savings Bank	Portsmouth	NH
Domestic Loan and Investment Bank	Cranston	RI

Member	City	State
Rhode Island Hospital Trust National Bank	Providence	RI
Washington Trust Company	Westerly	RI
Bennington Co-operative S&LA, Inc	Bennington	VT
Factory Point National Bank	Manchester Center	VT
Passumpsic Savings Bank	St. Johnsbury	VT
Federal Home Loan Bank of New York—District 2 Seven World Trade Center, 22nd Floor, New York, New York 10048–1185		
First Savings Bank of New Jersey, SLA	Bayonne	NJ
American Savings and Loan Association	Bloomfield	NJ
Clifton Savings Bank, SLA	Clifton	NJ
Collective Federal Savings Bank	Egg Harbor	NJ
Sussex County State Bank	Franklin	NJ
The First National Bank of Hope	Hope	NJ
Metropolitan State Bank	Montville	NJ
Magyar Savings Bank, SLA	New Brunswick	NJ
Berkeley Federal Bank and Trust Company, FSB	Palisades Park	NJ
Charter Federal Savings Bank	Randolph	NJ
Roebling Savings and Loan Association	Roebling	NJ
Franklin Savings Bank	Salem	NJ
Monroe Savings Bank, SLA	Williamstown	NJ
Cayuga Savings Bank	Auburn	NY
Atlantic Liberty Savings, FA	Brooklyn	NY
Hamilton Federal Savings, F.A	Brooklyn	NY
Bank of Castile	Castile	NY
Cohoes Savings Bank	Cohoes	NY
Roosevelt Savings Bank	Garden City	NY
Astoria Federal Savings and Loan Association	Lake Success	NY
Financial Federal Savings & Loan Association	Long Island City	NY
Amalgamated Bank of New York	New York	NY
New York Federal Savings Bank	New York	NY
Olympian Bank	New York	NY
United Orient Bank	New York	NY
First Federal S&LA of Rochester	Rochester	NY
Rochester Community Savings Bank	Rochester	NY
Northfield Savings Bank	Staten Island	NY
OnBank	Syracuse	NY
Tarrytown & North Tarrytown S&LA	Tarrytown	NY
Valatie Savings & Loan Association	Valatie	NY
Columbia Federal Savings Bank	Woodhaven	NY
Bank & Trust of Puerto Rico	Hato Rey	PR
Federal Home Loan Bank of Pittsburgh—District 3 601 Grant Street, Pittsburgh, Pennsylvania 15219–4455		
First Home Savings Bank	Wilmington	DE
Ninth Ward Savings Bank, FSB	Wilmington	DE
Wilmington Savings Fund Society	Wilmington	DE
C&G Savings Bank	Altoona	PA
Mid-State Bank and Trust Company	Altoona	PA
Ambler Savings & Loan Association	Ambler	PA
First Star Savings Bank	Bethlehem	PA
First Federal S&LA of Bucks County	Bristol	PA
Greater Delaware Valley Savings Bank	Broomall	PA
Suburban Federal Savings Bank	Collingdale	PA
Sharon Savings Bank	Darby	PA
Ellwood Federal Savings Bank	Ellwood City	PA
County Savings Association	Essington	PA
Bank of Hanover and Trust Company	Hanover	PA
Hatboro Federal Savings	Hatboro	PA
First Federal S&LA of Hazleton	Hazleton	PA
Security Savings Association of Hazleton	Hazleton	PA
William Penn Savings & Loan Association	Levittown	PA
Willow Grove Federal Savings	Maple Glen	PA
First Keystone Federal Savings Bank	Media	PA
Morton Savings and Loan Association	Morton	PA
Nesquehoning Savings Bank	Nesquehoning	PA
Commonwealth State Bank	Newtown	PA
Third Federal Savings Bank	Newtown	PA
Malvern Federal Savings Bank	Paoli	PA
First Savings Bank of Perkasie	Perkasie	PA
Fox Chase Federal Savings Bank	Philadelphia	PA

VOL 60 ISS 72 AP 14 1995 UMI

Member	City	State
Keystone Savings & Loan Association	Philadelphia	PA
Prime Bank	Philadelphia	PA
Second FS&LA of Philadelphia	Philadelphia	PA
Washington Savings Association	Philadelphia	PA
Bell Federal Savings and Loan Association	Pittsburgh	PA
Great American FS&LA	Pittsburgh	PA
Integra Bank/Pittsburgh	Pittsburgh	PA
Progressive Home FS&LA	Pittsburgh	PA
Patriot Savings Bank	Pottstown	PA
Crusader Savings Bank	Rosemont	PA
Mercer County State Bank	Sandy Lake	PA
North Penn Savings & Loan Association	Scranton	PA
Pennview Savings Bank	Souderton	PA
Slovenian S&LA of Canonsburg	Strabane	PA
Integra Bank/North	Titusville	PA
Integra Bank/South	Uniontown	PA
First National Bank of West Chester	West Chester	PA
Flat Top National Bank of Bluefield	Bluefield	WV
Bank of Mount Hope Inc	Mount Hope	WV
Community Bank of Parkersburg	Parkersburg	WV

Federal Home Loan Bank of Atlanta—District 4
(Post Office Box 105565, Atlanta, Georgia 30348)

Covington County Bank	Andalusia	AL
City Bank of Childersburg	Childersburg	AL
First American Bank	Decatur	AL
Citizens Bank	Enterprise	AL
Merchants Bank	Jackson	AL
Farmers and Merchants Bank	Lafayette	AL
Peachtree Bank	Maplesville	AL
Bank of Mobile	Mobile	AL
Colonial Bank	Montgomery	AL
Eagle Bank of Alabama	Opelika	AL
Peoples Bank & Trust Company	Selma	AL
First Federal of the South	Sylacauga	AL
United Security Bank	Thomasville	AL
Century National Bank	Washington	DC
Regent Bank	Davie	FL
Dunnellon State Bank	Dunnellon	FL
The Bank of Inverness	Inverness	FL
First Trust Savings Bank, FSB	Jacksonville	FL
First Federal Savings Bank of Florida	Live Oak	FL
Bankers Savings Bank	Miami	FL
Peoples National Bank of Commerce	Miami	FL
Firstate Financial, FA	Orlando	FL
Bank at Ormond-by-the-Sea	Ormond Beach	FL
Bank of Pahokee	Pahokee	FL
Southbank, a FSB	Palm Beach Gardens	FL
Peoples First Community Bank	Panama City	FL
Century Bank, a FSB	Sarasota	FL
Highlands Independent Bank	Sebring	FL
Fort Brooke Bank	Tampa	FL
Prime Bank of Central Florida	Titusville	FL
NBD Bank, FSB	Venice	FL
Palm Beach Savings and Loan, FSA	West Palm Beach	FL
Sterling Bank, FSB	West Palm Beach	FL
Bank of Adairsville	Adairsville	GA
Farmers and Merchants Bank	Adel	GA
First American Bank and Trust Company	Athens	GA
Bank South	Atlanta	GA
First Union National Bank of Georgia	Atlanta	GA
Union County Bank	Blairsville	GA
Peoples Bank of Fannin County	Blue Ridge	GA
Citizens First Bank	Butler	GA
Trust Company Bank of Columbus, NA	Columbus	GA
Bank of Dahlonega	Dahlonega	GA
Bank of Ellaville	Ellaville	GA
South Georgia Bank, FSB	Glennville	GA
Pulaski Banking Company	Hawkinsville	GA
Peoples Bank	Lithonia	GA
Metter Banking Company	Metter	GA
Citizens First Bank	Rome	GA

Member	City	State
Farmers and Merchants Bank	Summerville	GA
Farmers and Merchants Bank	Washington	GA
Bay Federal Savings and Loan Association	Baltimore	MD
Hull Federal Savings Bank	Baltimore	MD
Ideal Federal Savings Bank	Baltimore	MD
Provident Bank of Maryland	Baltimore	MD
Sterling Bank and Trust Company	Baltimore	MD
Vanguard Federal Savings & Loan Assocation	Baltimore	MD
Vigilant Federal Savings & Loan Association	Baltimore	MD
Allegiance Bank NA	Bethesda	MD
Cecil Federal Savings Bank	Elkton	MD
Back and Middle River FS&LA	Essex	MD
Royal Oak Savings Bank FSB	Randallstown	MD
Randolph Bank and Trust Company	Asheboro	NC
Black Mountain Savings Bank SSB	Black Mountain	NC
Rowan Savings Bank SSB	China Grove	NC
Cabarrus Bank of North Carolina	Concord	NC
Central Carolina Bank and Trust Company	Durham	NC
Macon Savings Bank, SSB	Franklin	NC
Graham Savings Bank, SSB	Graham	NC
Hertford Savings Bank, SSB	Hertford	NC
Landis Savings Bank, SSB	Landis	NC
Industrial Federal Savings Bank	Lexington	NC
Perpetual Federal Savings Bank	Lexington	NC
Liberty Savings and Loan Association	Liberty	NC
First Savings & Loan Association	Mebane	NC
Mount Gilead Savings and Loan Association	Mount Gilead	NC
Seaboard Savings Bank	Plymouth	NC
Unity Bank and Trust Company	Rocky Mount	NC
OMNIBANK, Inc., a SSB	Salisbury	NC
Taylorsville Savings Bank, SSB	Taylorsville	NC
SNB Savings Bank, Inc., SSB	Valdese	NC
Anson Savings Bank	Wadesboro	NC
Cooperative Bank for Savings, Inc	Wilmington	NC
Home Federal Savings & Loan Association	Bamberg	SC
Greer State Bank	Greer	SC
Kingstree Federal Savings & Loan Association	Kingstree	SC
Pickens Savings & Loan Association, FA	Pickens	SC
Bank of Travelers Rest	Travelers Rest	SC
Bank of Alexandria	Alexandria	VA
Bank of Southside Virginia	Carson	VA
First Federal SB of Shenandoah Valley	Front Royal	VA
First Colonial Bank, FSB	Hopewell	VA
Imperial Savings and Loan Association	Martinsville	VA
Central Fidelity	Richmond	VA
Farmers and Merchants Bank	Timberville	VA
Marathon Bank	Winchester	VA

Federal Home Loan Bank of Cincinnati—District 5
Post Office Box 598, Cincinnati, Ohio 45201

Farmers Bank and Trust Company	Bardstown	KY
Wilson and Muir Bank and Trust Company	Bardstown	KY
Bank of Marshall County	Benton	KY
Bank of Cadiz and Trust Company	Cadiz	KY
Bank of Columbia	Columbia	KY
Burnett Federal Savings Bank	Covington	KY
First Federal Savings Bank	Cynthiana	KY
Harrison Deposit Bank and Trust	Cynthiana	KY
Pendleton Federal Savings & Loan Association	Falmouth	KY
Fort Thomas Building and Loan Association	Fort Thomas	KY
Simpson County Bank	Franklin	KY
Fulton Bank	Fulton	KY
Kentucky Bank, FSB	Georgetown	KY
New Farmers National Bank of Glasgow	Glasgow	KY
First State Bank of Greenville	Greenville	KY
The Farmers Bank	Hardinsburg	KY
Peoples Bank and Trust Company of Hazard	Hazard	KY
Farmers Bank and Trust Company	Henderson	KY
Hopkinsville Federal Savings Bank	Hopkinsville	KY
Leitchfield Deposit Bank & Trust Company	Leitchfield	KY
Central Bank and Trust Company	Lexington	KY
Community Bank of Lexington, Inc	Lexington	KY

VOL 60 ISS 72 AP 14 1995 UMI

Member	City	State
Great Financial Federal Bank, FSB	Louisville	KY
Farmers Bank and Trust Company	Madisonville	KY
Bank of Marrowbone	Marrowbone	KY
Exchange Bank	Mayfield	KY
Pioneer Bank	Munfordsville	KY
Citizens Bank	New Liberty	KY
Blue Grass Federal Savings & Loan Association	Paris	KY
First Commonwealth Bank of Prestonburg	Prestonburg	KY
First Federal Savings Bank of Richmond	Richmond	KY
Russell Federal Savings Bank	Russell	KY
Trans Financial Bank, FSB	Russellville	KY
Salt Lick Deposit Bank	Salt Lick	KY
Belpre First Savings Bank	Belpre	OH
Peoples Building and Loan Company	Blanchester	OH
Cambridge Savings Bank	Cambridge	OH
Blue Chip Savings Association	Cincinnati	OH
Centennial Savings Bank, fsb	Cincinnati	OH
Findlay Savings Bank	Cincinnati	OH
Guardian Savings Bank a FSB	Cincinnati	OH
Mercantile Savings Bank	Cincinnati	OH
New Foundation Loan and Building Company	Cincinnati	OH
Oakley Improved Building & Loan Company	Cincinnati	OH
Price Hill Eagle Loan and Building Company	Cincinnati	OH
Union Savings Bank	Cincinnati	OH
Westwood Homestead Savings & Loan Association	Cincinnati	OH
Winton Savings and Loan Company	Cincinnati	OH
County Savings Bank	Columbus	OH
Conneaut Savings & Loan Company	Conneaut	OH
Falls Savings Bank, FSB	Cuyahoga Falls	OH
Germantown Federal Savings Bank	Germantown	OH
Lincoln Savings and Loan Association	Ironton	OH
People's Building Loan and Savings Company	Lebanon	OH
Farmers and Savings Bank, Loudon	Loudonville	OH
Lower Salem Commercial Bank	Lower Salem	OH
First Bank of Marietta	Marietta	OH
Marietta Savings Bank	Marietta	OH
Security Federal S&LA of Cleveland	Mayfield Heights	OH
Unity Savings & Loan Company	McArthur	OH
The American Savings and Loan Association	Middletown	OH
Mutual Federal Savings Bank, a FSB	Sidney	OH
Strongsville Savings Bank	Strongsville	OH
Central Federal Savings and Loan Association	Wellsville	OH
The Peoples Savings and Loan Company	West Liberty	OH
Farmers State Bank	West Salem	OH
First Community Bank	Whitehall	OH
Wilmington Savings Bank	Wilmington	OH
Twin City Federal Savings Bank	Bristol	TN
Cumberland Bank	Carthage	TN
Guaranty Federal Savings Bank	Clarksville	TN
Highland Federal Savings & Loan Association	Crossville	TN
Security Federal Savings Bank	Elizabethton	TN
Lauderdale County Bank	Halls	TN
Citizens Bank	Hartsville	TN
Carroll Bank and Trust	Huntingdon	TN
Heritage Federal Bank for Savings	Kingsport	TN
First National Bank of Manchester	Manchester	TN
Bank of Middleton	Middleton	TN

Federal Home Loan Bank of Indianapolis—District 6
(P.O. Box 60, Indianapolis, IN 46205–0060)

Bedford Federal Savings Bank	Bedford	IN
Franklin County National Bank	Brookville	IN
Clinton State Bank	Clinton	IN
Montgomery Savings Association, FA	Crawfordsville	IN
Decatur Bank and Trust Company	Decatur	IN
Security Federal Bank, a FSB	East Chicago	IN
Griffith Federal Savings & Loan Association	Griffith	IN
First Source Bank of Starke County	Hamlet	IN
Calumet Federal Savings and Loan Association	Hammond	IN
Citizens Financial Services	Hammond	IN
First Federal Savings Bank	Huntington	IN
First FS&LA of Clark County	Jeffersonville	IN

Member	City	State
Campbell & Fetter Bank	Kendallville	IN
Progressive Federal Savings Bank	Lawrenceburg	IN
Madison First FS&LA	Madison	IN
Fidelity Federal Savings Bank	Marion	IN
First State Bank of Middlebury	Middlebury	IN
Pacesetter Bank of Montpelier	Montpelier	IN
Community Savings Bank, FSB	New Albany	IN
Regional Federal Savings Bank	New Albany	IN
Ameriana Savings Bank, FSB	New Castle	IN
Huntington National Bank of Indiana	Noblesville	IN
AmericanTrust Federal Savings Bank	Peru	IN
Shelby County Savings Bank, FSB	Shelbyville	IN
Sobieski Federal Savings & Loan Association	South Bend	IN
Terre Haute Savings Bank	Terre Haute	IN
United Federal Savings Bank of Vincennes	Vincennes	IN
Society Bank, Michigan	Ann Arbor	MI
Dearborn Federal Savings Bank	Dearborn	MI
MFC First National Bank and Trust of Escanaba	Escanaba	MI
Michigan National Bank	Farmington Hills	MI
Ottawa Savings Bank, FSB	Holland	MI
Fidelity Savings Bank, FSB	Kalamazoo	MI
Independent Bank—South Michigan	Leslie	MI
Mason State Bank	Mason	MI
AmeriBank Federal Savings Bank	Muskegon	MI
Alliance Banking Company	New Buffalo	MI
Shelby State Bank	Shelby	MI
Bank of West Branch	West Branch	MI

Federal Home Loan Bank of Chicago—District 7
(111 East Wacker Drive, Suite 700, Chicago, Illinois 60601)

Oxford Bank and Trust	Addison	IL
Bank of Bellwood	Bellwood	IL
Peoples Bank of Kankakee County	Bourbonnais	IL
First Colonial Bank Southwest	Burbank	IL
First American Bank	Carpentersville	IL
United Community Bank	Chatham	IL
All American Bank of Chicago	Chicago	IL
Amalgamated Bank of Chicago	Chicago	IL
Austin Bank of Chicago	Chicago	IL
Community Bank of Lawndale	Chicago	IL
Community Savings Bank	Chicago	IL
First Federal Savings of Hegewisch	Chicago	IL
LaSalle Bank Lake View	Chicago	IL
Private Bank and Trust Company	Chicago	IL
St. Paul Federal Bank for Savings	Chicago	IL
First Savings & Loan Association of Danville	Danville	IL
First Mutual Bank, S.B	Decatur	IL
Clover Leaf Bank, S.B	Edwardsville	IL
Illinois Guarantee Savings Bank, FSB	Effingham	IL
Washington Savings Bank	Effingham	IL
Elgin Federal Financial Center, a FA	Elgin	IL
Harris Bank Frankfort	Frankfort	IL
Union Savings Bank	Freeport	IL
Central Trust and Savings Bank	Geneseo	IL
Bank of Northern Illinois	Glenview	IL
Hanover State Bank	Hanover	IL
First FSB of Proviso Township	Hillside	IL
Bank of Homewood	Homewood	IL
Farmers State Bank and Trust Company	Jacksonville	IL
AmeriFed Federal Savings Bank	Joliet	IL
First Federal Savings & Loan of Kewanee	Kewanee	IL
Biltmore Investors Bank	Lake Forest	IL
Logan County Bank	Lincoln	IL
Twin Oaks Savings Bank	Marseilles	IL
Okaw Building and Loan, S.B	Mattoon	IL
Blackhawk State Bank	Milan	IL
Morton Federal Savings Bank	Morton	IL
Bank of Illinois in Mount Vernon	Mount Vernon	IL
Heartland Bank and Trust Company	Normal	IL
LaSalle Bank Northbrook	Northbrook	IL
George Washington Savings & Loan Association	Oak Lawn	IL
Bank of Palmyra	Palmyra	IL

VOL 60 ISS 72 AP 14 1995 UMI

Member	City	State
Pana Federal Savings and Loan Association	Pana	IL
Edgar County Bank & Trust Company	Paris	IL
Mercantile Trust and Savings Bank	Quincy	IL
State Street Bank and Trust Company	Quincy	IL
North County Savings Bank	Red Bud	IL
American Bank of Rock Island	Rock Island	IL
Savanna Savings Building and Loan Association	Savanna	IL
First State Bank of Shannon	Shannon	IL
Charter Bank, a FSB	Sparta	IL
Security Federal Savings and Loan Association	Springfield	IL
Argo Federal Savings Bank, FSB	Summit	IL
Citizens First State Bank	Walnut	IL
Hill-Dodge Banking Company	Warsaw	IL
Washburn Bank	Washburn	IL
State Bank of Waterloo	Waterloo	IL
Cardunal Savings Bank, FSB	West Dundee	IL
Jackson County Bank	Black River Falls	WI
First Ozaukee Savings Bank, S.A	Cedarburg	WI
State Bank of Cross Plains	Cross Plains	WI
First Federal Bank of Eau Claire, FSB	Eau Claire	WI
Time Federal Savings Bank	Medford	WI
Security Bank, S.S.B	Milwaukee	WI
Tomahawk Community Bank, S.S.B	Tomahawk	WI
West Allis Savings Bank	West Allis	WI

Federal Home Loan Bank of Des Moines—District 8
(907 Walnut Street, Des Moines, Iowa 50309)

Security State Bank	Anamosa	IA
State Savings Bank	Baxter	IA
Valley Savings Bank, FSB	Burlington	IA
United Security Savings Bank, F.S.B	Cedar Rapids	IA
Cresco Union Savings Bank	Cresco	IA
De Witt Bank and Trust Company	De Witt	IA
Peoples State Bank	Elkader	IA
Peoples Trust and Savings Bank	Grand Junction	IA
Hills Bank and Trust Company	Hills	IA
First State Bank	Huxley	IA
Libertyville Savings Bank	Libertyville	IA
Hawkeye Bank of Maquoketa	Maquoketa	IA
Maquoketa State Bank	Maquoketa	IA
Union State Bank	Monona	IA
Hawkeye Bank of Mount Pleasant	Mount Pleasant	IA
Community Bank of Muscatine	Muscatine	IA
Hawkeye Bank of Jasper County	Newton	IA
Sioux County State Bank	Orange City	IA
Horizon Federal Savings Bank	Oskaloosa	IA
Iowa Trust and Savings Bank	Oskaloosa	IA
Hawkeye Bank of Lyon County	Rock Rapids	IA
Peoples Bank and Trust	Rock Valley	IA
Valley State Bank	Rock Valley	IA
Union State Bank	Rockwell City	IA
Hawkeye Bank of Clay County	Spencer	IA
Washington State Bank	Washington	IA
Homeland Savings Bank, FSB	Waterloo	IA
Farmers State Bank of Evansville	Evansville	MN
Faribault Federal Savings Bank	Faribault	MN
Houston Security Bank	Houston	MN
First National Bank of International Falls	International Falls	MN
Lake City FS&LA	Lake City	MN
First National Bank of Mabel	Mabel	MN
Family Bank, FSB	Mankato	MN
Norwest Bank, Minnesota, N.A	Minneapolis	MN
American National Bank of Nashwauk	Nashwauk	MN
State Bank of New Prague	New Prague	MN
Nicollet State Bank	Nicollet	MN
Citizens Savings Bank, FSB	St. Cloud	MN
St. James Federal Savings & Loan Association	St. James	MN
Roundbank	Waseca	MN
Citizens State Bank of Winsted	Winsted	MN
Citizens Bank	Amsterdam	MO
Bank of Jacomo	Blue Springs	MO
Southwest Bank	Bolivar	MO

Member	City	State
Boonslick Bank	Boonville	MO
Community State Bank of Bowling Green	Bowling Green	MO
Pony Express Bank	Braymer	MO
Mississippi County Savings & Loan Association	Charleston	MO
Clayco State Bank	Claycomo	MO
Union State Bank and Trust Company	Clinton	MO
First National Bank and Trust Company	Columbia	MO
First Financial Bank of Mississippi County	East Prairie	MO
Bank Star One	Fulton	MO
American Loan and Savings Association	Hannibal	MO
Central Trust Bank	Jefferson City	MO
Lafayette County Bank of Lexington	Lexington	MO
Meramec Valley Bank	Manchester	MO
Regional Missouri Bank	Marceline	MO
Nodaway Valley Bank	Maryville	MO
Heritage State Bank	Nevada	MO
Palmyra Saving & Building Association	Palmyra	MO
Perry County Savings Bank, FSB	Perryville	MO
Farmers Bank of Portageville	Portageville	MO
Pulaski Bank, a Savings Bank	Saint Louis	MO
Merchants and Farmers Bank of Salem	Salisbury	MO
Community Bank of Pettis County	Sedalia	MO
AmeriFirst Bank	Sikeston	MO
Empire Bank	Springfield	MO
Public Service Bank, A FSB	St. Louis	MO
Bank of the BootHeel	Steele	MO
American FS&LA of Sullivan	Sullivan	MO
Bank of Washington	Washington	MO
Washington Savings Bank	Washington	MO
West Plains Savings & Loan Association	West Plains	MO
First and Farmers Bank	Portland	ND
Community First State Bank of Redfield	Redfield	SD
Norwest Bank South Dakota, N.A	Sioux Falls	SD

Federal Home Loan Bank of Dallas—District 9
(5605 North MacArthur Boulevard, 9th Floor, Dallas/Forth Worth, Texas 75261–9026)

Merchants and Planters Bank and Trust Company	Arkadelphia	AR
Farmers Bank and Trust Company	Clarksville	AR
Arkansas Valley Bank	Dardanelle	AR
First Southern Bank	Earle	AR
Bank of Eureka Springs	Eureka Springs	AR
McIlroy Bank and Trust	Fayetteville	AR
First National Bank of Fort Smith	Fort Smith	AR
Bank of the Ozarks, NWA	Jasper	AR
Bank of Lake Village	Lake Village	AR
First State Bank	Lonoke	AR
Union Bank of Mena	Mena	AR
Bank of Montgomery County	Mount Ida	AR
Bank of the Ozarks, WLA	Ozark	AR
Security Bank	Paragould	AR
First Security Bank	Searcy	AR
FirstBank of Arkansas	Searcy	AR
Springdale Bank and Trust	Springdale	AR
UNICO Bank, FSB	Trumann	AR
Bank of Yellville	Yellville	AR
Equitable Trust Savings & Loan Association	Baton Rouge	LA
Globe Homestead Federal Savings Association	Metairie	LA
Guaranty Bank and Trust Company	Morgan City	LA
State-Investors Savings & Loan Association	New Orleans	LA
City Bank and Trust of Shreveport	Shreveport	LA
First Federal Savings Bank	Shreveport	LA
Home Federal Savings and Loan Association	Shreveport	LA
Cleveland Community Bank, S.S.B	Cleveland	MS
First National Bank of Bolivar County	Cleveland	MS
First Federal Bank for Savings	Columbia	MS
SouthBank, FSB	Corinth	MS
Bank of Mississippi	Tupelo	MS
Sun World Federal Savings Bank	Alamogordo	NM
Western Bank of Las Cruces	Las Cruces	NM
Pioneer Savings & Trust, F.A	Roswell	NM
First National Bank of Santa Fe	Santa Fe	NM
Life Savings Association	Austin	TX

VOL 60 ISS 72 AP 14 1995 UMI

Member	City	State
International Bank of Commerce	Brownsville	TX
First American Bank, SSB	Bryan	TX
First State Bank	Caldwell	TX
American National Bank	Corpus Christi	TX
Pacific Southwest Bank, F.S.B	Corpus Christi	TX
Bank of the Southwest of Dallas	Dallas	TX
Bluebonnet Savings Bank, FSB	Dallas	TX
Guaranty Federal Bank, F.S.B	Dallas	TX
State Bank and Trust Company	Dallas	TX
North Texas Savings and Loan	Denton	TX
North Plains Savings & Loan Association	Dumas	TX
Western Bank and Trust	Duncanville	TX
Mid-Coast Savings and Loan Association	Edna	TX
Bank of the West	El Paso	TX
Great Southwest Savings, F.A	Houston	TX
Houston Savings Association	Houston	TX
OmniBank, N.A	Houston	TX
Southwest Bank of Texas, N.A	Houston	TX
First National Bank of Hughes Springs	Hughes Springs	TX
Brazos Bank, N.A	Joshua	TX
International Bank of Commerce	Laredo	TX
FirstBank	Los Fresnos	TX
East Texas National Bank of Marshall	Marshall	TX
River Valley Bank, F.S.B	McAllen	TX
Interstate Savings and Loan Association	Perryton	TX
Cypress Bank, FSB	Pittsburg	TX
Benchmark Bank	Quinlan	TX
Peoples State Bank	Rocksprings	TX
Texas Heritage Savings Association/Banc	Rowlett	TX
Texas State Bank	San Angelo	TX
Sequin State Bank & Trust Company	Sequin	TX
Cedar Creek Bank	Seven Points	TX
Citizens Bank of Lubbock County	Slaton	TX
Southside State Bank	Tyler	TX
First Victoria National Bank	Victoria	TX
Victoria Bank and Trust Company	Victoria	TX
Texas Bank	Weatherford	TX
Heritage Bank	Wharton	TX
International Bank of Commerce	Zapata	TX

Federal Home Loan Bank of Topeka—District 10
(Post Office Box 176, Topeka, Kansas 66601)

FirstBank of Avon	Avon	CO
Vectra Bank of Boulder	Boulder	CO
Valley National Bank of Cortez	Cortez	CO
Guaranty Bank and Trust Company	Denver	CO
First Choice Bank	Greeley	CO
First Northern Savings Bank	Greeley	CO
Commercial Bank of Leadville	Leadville	CO
Bank of the Southwest, N.A	Pagosa Springs	CO
FirstBank of Vail	Vail	CO
The Liberty Savings and Loan Association	Fort Scott	KS
First Federal Savings & Loan Association	Independence	KS
First National Bank of Independence	Independence	KS
Iola Bank and Trust Company	Iola	KS
Leavenworth National Bank & Trust Company	Leavenworth	KS
Kansas State Bank of Manhattan	Manhattan	KS
Rose Hill State Bank	Rose Hill	KS
Peoples State Bank	Topeka	KS
First Federal Savings & Loan of WaKeeney	WaKeeney	KS
Kaw Valley State Bank and Trust Company	Wamego	KS
Fidelity Savings Association of Kansas, fsb	Wichita	KS
Wichita Federal Savings & Loan Association	Wichita	KS
Columbus Federal Savings Bank	Columbus	NE
Home Federal Savings and Loan Association	Grand Island	NE
The Equitable B&LA of Grand Island, a FSB	Grand Island	NE
Hershey State Bank	Hershey	NE
Home FS&LA of Nebraska	Lexington	NE
Lexington State Bank and Trust Company	Lexington	NE
Lincoln Federal Savings Bank of Nebraska	Lincoln	NE
Provident Federal Savings Bank	Lincoln	NE
Security Federal Savings	Lincoln	NE

Member	City	State
Sherman County Bank	Loup City	NE
Madison County Building & Loan Association	Madison	NE
Bank of Norfolk	Norfolk	NE
FirsTier Bank, N.A	Omaha	NE
First American Savings Bank, FSB	Omaha	NE
First Bank	Omaha	NE
Sidney Federal Savings and Loan Association	Sidney	NE
Dakota County State Bank	South Sioux City	NE
Tecumseh Building and Loan Association	Tecumseh	NE
Farmers State Bank	Wallace	NE
Bank of Hydro	Hydro	OK
First Enterprise Bank	Oklahoma City	OK
MidFirst Bank, SSB	Oklahoma City	OK
Union Bank and Trust Company	Oklahoma City	OK
Will Rogers Bank and Trust Company	Oklahoma City	OK
State Bank of Rocky	Rocky	OK
Community Bank and Trust Company	Tulsa	OK

Federal Home Loan Bank of San Francisco—District 11
(307 East Chapman Avenue, Orange, California 92666)

Southern California FS&LA	Beverly Hills	CA
US Community Savings Bank, a FSB	Encinitas	CA
Palomar Savings & Loan Association	Escondido	CA
Irvine City Bank, FSB	Irvine	CA
La Jolla Bank, F.S.B	La Jolla	CA
Eastern International Bank	Los Angeles	CA
South Valley National Bank	Morgan Hill	CA
Standard Pacific Savings, F.A	Newport Beach	CA
Palm Springs Savings Bank, F.S.B	Palm Springs	CA
Amador Valley Savings & Loan Association	Pleasanton	CA
Mission Savings and Loan Association, F.A	Riverside	CA
Flagship Federal Savings Bank	San Diego	CA
International Savings Bank, F.S.B	San Diego	CA
United Savings Bank, F.S.B	San Francisco	CA
Plaza Home Mortgage Bank, a FSB	Santa Ana	CA
La Cumbre Savings Bank	Santa Barbara	CA
Commercial Pacific Savings & Loan Association	Santa Cruz	CA
Allied Savings Bank, FSB	Santa Rosa	CA
Luther Burbank Savings & Loan Association	Santa Rosa	CA
Sentinel Savings & Loan Association, a FA	Sonora	CA
Tracy Federal Bank, FSB	Tracy	CA
Sutter Buttes Savings & Loan Association	Yuba City	CA

Federal Home Loan Bank of Seattle—District 12
(1501 4th Avenue, Seattle, Washington 98101–1693)

National Bank of Alaska	Anchorage	AK
First Bank	Ketchikan	AK
First Savings & Loan Association of America	Dededo	GU
Central Pacific Bank	Honolulu	HI
International Savings and Loan Association	Honolulu	HI
Pioneer Federal Savings Bank	Honolulu	HI
Territorial Savings and Loan Association	Honolulu	HI
Farmers and Merchants State Bank	Boise	ID
Home FS&LA of Nampa	Nampa	ID
Valley Bank of Helena	Helena	MT
American Bank	Livingston	MT
Centennial Bank	Eugene	OR
Liberty Federal Bank, a S.B	Eugene	OR
Colonial Banking Company	Grants Pass	OR
Bank of Newport	Newport	OR
Pioneer Trust Bank, N.A	Salem	OR
United Savings Bank	Ogden	UT
American Investment Bank, N.A	Salt Lake City	UT
Zions First National Bank	Salt Lake City	UT
U.S. Savings Bank of Washington	Bellingham	WA
First Community Bank of Washington	Lacey	WA
Cowlitz Bank	Longview	WA
United Savings & Loan Bank	Seattle	WA
Viking Community Bank	Seattle	WA
Bank of Sumner	Sumner	WA
North Pacific Bank	Tacoma	WA

VOL 60 ISS 72 AP 14 1995 UMI

Member	City	State
Sound Banking Company	Tacoma	WA
First Savings Bank of Washington	Walla Walla	WA
Security First Savings & Loan Association	Cheyenne	WY
Ranchester State Bank	Ranchester	WY

C. Due Dates

Members selected for review must submit completed Community Support Statements to their FHLBanks no later than May 31, 1995.

All public comments concerning the Community Support performance of selected members must be submitted to the members' FHLBanks no later than May 31, 1995.

D. Notice to Members Selected

Within 15 days of this Notice's publication in the **Federal Register**, the individual FHLBanks will notify each member selected to be reviewed that the member has been selected and when the member must return the completed Community Support Statement. At that time, the FHLBank will provide the member with a Community Support Statement form and written instructions and will offer assistance to the member in completing the Statement. The FHLBank will only review Statements for completeness, as the Housing Finance Board will conduct the actual review.

E. Notice to the Public

At the same time that the FHLBank members selected for review are notified of their selection, each FHLBank will also notify community groups and other interested members of the public.

The purpose of this notification will be to solicit public comment on the Community Support records of the FHLBank members pending review.

Any person wishing to submit written comments on the Community Support performance of a FHLBank member under review in this quarter should send those comments to the member's FHLBank by the due date indicated in order to be considered in the review process.

By the Federal Housing Finance Board.

Dated: April 5, 1995.

Rita I. Fair,

Managing Director.

[FR Doc. 95-8894 Filed 4-13-95; 8:45 am]

BILLING CODE 6725-01-P

FEDERAL RESERVE SYSTEM

Commerzbank AG, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 28, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. *Commerzbank AG*, Frankfurt, Germany; to engage *de novo* through its subsidiary Commerz Immobilien GMBH, Frankfurt, Germany, in leasing real and personal property or acting as agent, broker or adviser in leasing such property, pursuant to § 225.25(b)(5) of the Board's Regulation Y, and making, acquiring or servicing loans or other extension of credit (including issuing letters of credit and accepting drafts) for the company's account or the account of others, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. *National Westminster Bank PLC.*, London, England; to engage *de novo* through its subsidiary Natwest Futures, Inc., Chicago, Illinois, in the provision of execution, clearance and advisory services with respect to futures and options on futures on nonfinancial commodities both for affiliated and nonaffiliated persons. *Bank of Montreal*, 79 Federal Reserve Bulletin 1049 (1993); *J.P. Morgan & Co. Incorporated*, 80 Federal Reserve Bulletin 151 (1994), *Credit Agricole*, 80 Federal Reserve Bulletin 552 (1994); *Societe Generale*, 80 Federal Reserve Bulletin 649 (1994); *Citicorp*, Federal Reserve Board Press Release, December 13, 1994.

Board of Governors of the Federal Reserve System, April 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9210 Filed 4-13-95; 8:45 am]

BILLING CODE 6210-01-F

The Royal Bank of Canada; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 28, 1995

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1 *The Royal Bank of Canada*, Montreal, Quebec, Canada; to expand the geographic scope of its subsidiary, RBC Dominion Securities Corporation, New York, New York (Securities Corp.), to operate on a worldwide basis. Securities Corp., engages in securities-related activities, including securities brokerage actvities, as well as limited securities underwriting and dealing. All the activities have been previously approved for this entity by order. *See*, e.g. *The Royal Bank of Canada*, 77 Federal Reserve Bulletin 272 (1991).

Board of Governors of the Federal Reserve System, April 10, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9211 Filed 4-13-95; 8:45 am]

BILLING CODE 6210-01-F

State Financial Services Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225 14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 8, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1 *State Financial Services Corporation*, Hales Corners, Wisconsin, to acquire 100 percent of the voting shares of Waterford Bancshares, Waterford, Wisconsin, and thereby indirectly acquire Waterford Bank, Waterford, Wisconsin.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1 *Mercantile Bancorporation, Inc.*, St Louis, Missouri; to acquire 100 percent of the voting shares of Southwest Bancshares, Inc., Bolivar, Missouri, and thereby indirectly acquire Southwest Bank, Bolivar, Missouri.

Board of Governors of the Federal Reserve System, April 10, 1995

Jennifer J. Johnson,

Deputy Secretary of the Board

[FR Doc. 95-9212 Filed 4-13-95; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 942 3052]

David Green, M.D.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, an individual doing business as The Varicose Vein Center from making various representations about any vein treatment or cosmetic surgery procedure he markets in the future unless he possesses competent and reliable scientific evidence to substantiate the claims.

DATES: Comments must be received on or before June 13, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Richard Kelly or Sondra Mills, FTC/H-200, Washington, D.C. 20580. (202) 326-3304 or 326-2673.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

In the matter of David Green, M.D., an individual doing business as The Varicose Vein Center, a sole proprietorship.

The Federal Trade Commission having initiated an investigation of certain acts and practices of David Green, M.D., an individual doing business as The Varicose Vein Center, a sole proprietorship, and it now appearing that David Green, M.D., sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It Is Hereby Agreed by and between David Green, M.D., an individual doing business as The Varicose Vein Center, a sole proprietorship, and his attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent David Green, M.D. ("Dr. Green") is an individual doing business as The Varicose Vein Center, a sole proprietorship ("VVC"). Respondent's principal place of business is located at 4800 Montgomery Lane, Suite M50, in the City of Bethesda, State of Maryland. Dr. Green formulates, directs and controls the policies, acts and practices of VVC.

VOL 60 ISS 72 AP 14 1995 UMI

2. This agreement is for settlement purposes only and does not constitute an admission by the proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft Complaint.

3. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

4. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. He understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Proposed respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

Definitions

For purposes of this Order, the following definitions shall apply:

1. "Sclerotherapy" means the treatment of venous disease by injecting a solution into a vein with a needle.

2. "venous disease treatment procedure" includes, but is not limited to, sclerotherapy, laser treatments, electrocautery, and surgery.

3. "Competent and reliable scientific evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I

It Is Ordered that respondent David Green, M.D., an individual doing business as The Varicose Vein Center, a sole proprietorship, his successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, promotion, offering for sale or sale of any venous disease treatment procedure including, but not limited to, sclerotherapy, or of any other cosmetic or plastic surgery procedure, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, in any manner, directly or by implication:

A. that spider veins and varicose veins are permanently eliminated following treatment by respondent, or otherwise making any representation regarding the duration of results following treatment by any cosmetic or plastic surgery procedure, including any venous disease treatment procedure; or

B. that respondent's treatments succeed in eliminating varicose and spider veins at a rate greater than 95%, or otherwise making any representation regarding the success rate for, or the rate at which a condition is likely to recur or return following treatment by, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure; or

C. that patients do not experience any pain in connection with respondent's regimen for treating their varicose and spider veins, or otherwise making any representation regarding the nature, duration or intensity of pain associated with any cosmetic or plastic surgery procedure, including any venous disease treatment procedure; or

D. otherwise making any representation regarding the efficacy of, or the risks, side-effects, or recovery period associated with, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure;

unless, at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

II

It is further ordered that for three (3) years after the last date of dissemination of any representation covered by this Order, respondent, or his successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in his possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

III

It is further ordered that respondent shall distribute a copy of this Order to each of his agents, representatives, and employees, and shall secure from such person a signed statement acknowledging receipt of this Order

IV

It is further ordered that, for a period of five (5) years from the date of entry of this Order, the individual respondent named herein shall promptly notify the Commission of the discontinuance of his present business or employment, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

V

It is further ordered that respondent shall, within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with the requirements of this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from David Green, M.D. (herein "Dr. Green"), an individual doing business as The Varicose Vein Center, a sole proprietorship (herein "VVC"). Through VVC, Dr. Green markets a procedure commonly known as "sclerotherapy" for treating venous disease, including varicose veins and spider veins. Proposed respondent currently offers his sclerotherapy services to the public at VVC's clinic in Bethesda, Maryland.

Dr. Green's treatment method consists of injecting a sclerosing solution into the veins, followed by compression of the area with a bandage and post-procedure ambulation by the patient. As part of his treatment regimen, Dr. Green refers certain patients with varicose veins to surgeons for surgical division and ligation of their veins procedure prior to performing his sclerotherapy injections. These include patients Dr Green has diagnosed as having truncal varicosities with incompetence at the saphenofemoral or saphenopopliteal junction.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint charges that proposed respondent deceptively advertised: (1) The permanence of the results of his sclerotherapy treatments; (2) the success rate for his treatments; and (3) the painlessness of his regimen for treating venous disease.

Permanence

The complaint alleges that proposed respondent failed to possess a reasonable basis for claims he has made regarding the permanence of the results of his treatments. In newspaper and magazine advertisements, Dr. Green has represented that the treatments provided at VVC would "permanently remove" or "permanently eliminate" varicose and spider veins. A brochure Dr. Green provided to prospective patients described sclerotherapy as the "*non-surgical* procedure used to *permanently* remove spider and varicose veins from the legs and thighs." The Commission believes that these permanence claims are deceptive because at the time proposed respondent made these claims, he did not possess adequate substantiation for those claims.

The proposed consent order seeks to address the alleged deceptive permanence claims cited in the complaint by requiring Dr. Green to possess a reasonable basis, consisting of competent and reliable scientific evidence, substantiating any claim that spider veins and varicose veins are permanently eliminated following treatment by proposed respondent (Part I.A.). Part I.A. of the proposed order also requires that Dr. Green possess a reasonable basis for any representation he makes regarding the duration of results following treatment by any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

Success Rate

The Commission's complaint further alleges that proposed respondent failed to possess a reasonable basis for his claim, made in newspaper advertisements, that his non-surgical procedure has a "success rate greater than 95%." The Commission believes this success rate claim is deceptive because at the time proposed respondent made it, he did not possess adequate substantiation for this claim.

The proposed consent order seeks to address this alleged deceptive success rate claim by requiring that Dr. Green possess a reasonable basis, consisting of competent and reliable scientific evidence, substantiating any claim that his treatments succeed in eliminating varicose and spider veins at a rate greater than 95 percent (Part I.B). Part I.B further requires that Dr. Green possess a reasonable basis for any representation he makes regarding the success rate for, or the rate at which a condition is likely to recur or return following treatment by, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

Pain

The complaint also alleges that proposed respondent failed to possess a reasonable basis for his claims that the treatments he provides through VVC are painless. In newspaper advertisements, Dr. Green has claimed that his treatments are "Painless, Safe, Non-Surgical" and that his "non-surgical, in-office procedures" are "painless." The Commission believes these claims about the pain associated with the treatments provided at VVC are deceptive because at the time proposed respondent made them, he did not possess adequate substantiation for these claims.

The proposed consent order addresses these deceptive claims about pain by requiring that Dr. Green possess a reasonable basis, consisting of competent and reliable scientific evidence, substantiating any claim that patients do not experience any pain in connection with proposed respondent's regimen for treating their varicose and spider veins (Part I.C). In addition, Part I.C of the proposed consent requires that proposed respondent possess a reasonable basis for any representation he makes regarding the nature, duration or intensity of pain associated with any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

Part I.D. of the proposed order further requires proposed respondent to possess substantiation, consisting of competent and reliable scientific evidence, for any representation regarding the efficacy of, or the risks, side-effects, or recovery period associated with, any cosmetic or plastic surgery procedure, including any venous disease treatment procedure.

Finally, Paragraphs II, III and IV of the proposed order contain the standard recordkeeping and notification provisions required by the Commission in consent orders.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary

[FR Doc. 95–9266 Filed 4–13–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–2929]

Interco Incorporated, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

VOL 60 ISS 72 AP 14 1995 UMI

SUMMARY: The order reopens a 1978 consent order that settled allegations that the respondents had engaged in anticompetitive practices, including illegally fixing resale prices for their products. This order modifies the consent order so that the respondents are permitted to implement lawful price-restrictive cooperative advertising programs and to unilaterally terminate resellers for failure to adhere to previously announced resale prices or sales periods.

DATES: Consent order issued September 26, 1878. Modifying order issued March 27, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Daniel Ducore, FTC/S–2115, Washington, DC 20580. (202) 326–2526.

SUPPLEMENTARY INFORMATION: In the Matter of Interco Incorporated, et al. The prohibited trade practices and/or corrective actions as set forth at 43 FR 48991, are changed, in part, as indicated in the summary.

(Sec. 6, 38 Stat. 721, 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; Sec. 2, 49 Stat. 1526; 15 U.S.C. 45, 13; Sec. 3, 38 Stat. 731, 15 U.S.C. 14)

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–9264 Filed 4–13–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 932 3332]

Mattel, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a California-based corporation from representing that any aerosol product it sells offers any environmental benefit, unless it can substantiate the claim.

DATES: Comments must be received on or before June 13, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Michael Dershowitz, FTC/S–4002, Washington, D.C. 20580. (202) 326–3158.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of Mattel, Inc., a corporation. File No. 932–3332.

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Mattel, Inc., a corporation ("proposed respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Mattel, Inc., by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Mattel, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office or place of business at 333 Continental Blvd., El Segundo, California, 90245–5012.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All claims under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated hereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the complaint and the order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

[1] Copies of the Modifying Order and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

Order

Definitions

For purposes of this Order, the following definitions shall apply:

"Class I ozone-depleting substance" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1960, Pub. L. No. 101–549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class I substances currently include chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide and hydrobromofluorocarbons.

"Class II ozone-depleting substance" means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1960, Pub. L. No. 101–549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class II substances currently include hydrochlorofluorocarbons.

"Product" means any product that is offered for sale, sold or distributed to the public by respondent, its successors and assigns, under the Barbie brand name or any other brand name of respondent, its successors and assigns; and also means any product sold or distributed to the public by third parties under private labeling agreements with respondent, its successors and assigns.

"Competent and reliable scientific evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

I

It is ordered that respondent, Mattel, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any product containing any Class I or Class II ozone-depleting substance, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that any such product "contains no chlorofluorocarbons" or "contains no CFC's" or representing, in any manner, directly or by implication, that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere or otherwise harm the atmosphere.

II

It is further ordered that respondent, Mattel, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of any aerosol product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any such product offers any environmental benefit, unless at the time of making such representation, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation.

III

It is further ordered that for five (5) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV

It is further ordered that respondent shall distribute a copy of this Order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this Order.

V

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this Order.

VI

It is further ordered that respondent shall, within sixty (60) days after service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Mattel, Inc., a Delaware corporation.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the agreement's proposed order.

This matter concerns the labeling of the respondent's Barbie Bath Blast Fashion Foam Soap. The Commission's complaint in this matter alleges that Barbie Bath Blast Fashion Foam Soap contains hydrochlorofluorocarbons ("HCFCs")—chlorodifluoroethane (HCFC–142b) and chlorodifluoromethane (HCFC–22).

The Commission's complaint charges that the respondent labeled the product "Contains no Chlorofluorocarbons (CFC's Non-Irritant—Non-Toxic." The complaint alleges that through this claim, the respondent falsely represented that because Barbie Bath Blast Fashion Foam Soap contains no chlorofluorocarbons, it will not deplete the earth's ozone layer or otherwise harm or damage the atmosphere. In fact Barbie Bath Blast Fashion Foam Soap contains the harmful ozone-depleting ingredients chlorodifluoroethane (HCFC–142b) and chlorodifluoromethane (HCFC–22), which harm or causes damage to the atmosphere by contributing to the depletion of the earth's ozone layer

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future.

The proposed order defines Class I and Class II ozone-depleting substances,

VOL 60 ISS 72 AP 14 1995 UMI

incorporating the definitions established in the Clean Air Act Amendments of 1990. Class I substances currently listed under the Act include CFCs, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide, and hydrobromofluorocarbons. Class II substances currently consist of HCFCs.

Part I of the proposed order requires the respondent to cease and desist from representing that any product containing any Class I or Class II ozone-depleting substance "contains no chlorofluorocarbons" or "contains no CFC's" or representing, in any manner, that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere or otherwise harm the atmosphere.

Under the Clean Air Act Amendments, the EPA has authority to add new chemicals to the Class I and Class II lists. Thus, the order's definitions of Class I and Class II ozone-depleting substances include these and any other substances that may be added to the lists. If additional substances are added to the Class I or II lists, Part I of the order becomes applicable to claims made for products containing those substances after the substances are added to the lists.

Part II of the proposed order provides that if the respondent represents in advertising or labeling that any aerosol product offers any environmental benefit, it must have a reasonable basis consisting of competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the claims.

The proposed order also requires the respondent to maintain materials relied upon to substantiate the claims covered by the order, to distribute copies of the order to certain company officials, to notify the Commission of any changes in corporate structure that might affect compliance with the order, and to file one or more reports detailing compliance with the order.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95-9265 Filed 4-13-95; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

Title: Evaluation of the National Head Start/Public School Early Childhood Transition Demonstration Project.

OMB No.: 0980-0240.

Description: This is a series of standardized instruments and interview forms for use with children, parents, teachers, and principals participating in the national evaluation of the Head Start/Public School Early Transition demonstration program. The evaluation is designed to determine the impact of the demonstration project on the participating children, families and schools.

Respondents: Individuals or households, and State Government.

Estimate of total annual reporting and recordkeeping burden:

Respondents: 26,364.

Number of Responses per Respondent: 1.

Total Annual Responses: 26,364.

Average Burden per Response: 1.26.

Estimated Annual Burden: 33,288.

Additional Information: Copies of the request for approval may be obtained from Bob Sargis of the Office of Information Resource Management, ACF, by calling (202) 690-7275.

OMB Comment: Consideration will be given to comments and suggestions received within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: April 3, 1995

Roberta Katson,

Acting Director, Office of Information Resource Management.

[FR Doc. 95-8783 Filed 4-13-95; 8:45 am]

BILLING CODE 4184-01-M

Food and Drug Administration

[Docket No. 95N-0095]

Drug Export; Aerrane® (Isoflurane) 100% in 250 Milliliter (mL) Amber Glass Bottles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ohmeda, Inc., has filed an application requesting approval for the export of the human drug AErrane® (isoflurane) 100% in 250 mL amber glass bottles to the Netherlands.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD-310), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301-594-0063.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ohmeda, Inc., 110 Allen Rd., P.O. Box 804, Liberty Corner, NJ 07938-0804, has filed an application requesting approval for the export of the human drug AErrane® (isoflurane) 100% in 250 mL amber glass bottles to the Netherlands. The product is used for the induction and maintenance of general anesthesia. The firm holds an approved new drug application (Forane) for this product packaged in 100 mL amber glass bottles. The application was received and filed in the Center for Drug Evaluation and Research on February 7, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 24, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: April 4, 1995.

Betty L. Jones,

Acting Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95-9283 Filed 4-13-95; 8:45 am]

BILLING CODE 4160-01-F

Health Resources and Services Administration

Final Minimum Percentages for "High Rate" and "Significant Increase in the Rate" for Implementation of the General Statutory Funding Preference for Grants for Podiatric Primary Care Residency Training Programs

The Health Resources and Services Administration (HRSA) announces the final minimum percentages for "high rate" and "significant increase in the rate" for fiscal year (FY) 1995 Grants for Podiatric Primary Care Residency Training Programs under the authority of section 751, title VII of the Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102-408, dated October 13, 1992.

Purpose

Section 751 authorizes the award of grants for the purpose of planning and implementing projects in primary care training for podiatric physicians in approved or provisionally approved residency programs which shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

Eligibility

Eligible entities for this program are schools of podiatric medicine and public and nonprofit private hospitals. As noted above, the authorizing legislation limits eligibility to residency programs that are approved or provisionally approved. The Council on Podiatric Medical Education (CPME), the recognized accrediting body for podiatric medicine, uses the term "candidate status" in lieu of "provisional approval." For the purposes of this program "candidate status" will be accepted as meeting the statutory requirement for "provisional approval."

General Statutory Funding Preference

As provided in section 791(a) of the PHS Act, preference will be given to qualified applicants that:

(1) have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(2) have achieved, during the 2-year period preceding the fiscal year for which an award is sought, a significant increase in the rate of placing graduates in such settings.

This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

The minimum percentages for "high rate" and "significant increase in the rate" for the implementation of the general statutory funding preference were proposed for public comment in the **Federal Register** on December 13, 1994 at 59 FR 64208. No comments were received during the 30-day comment period. Therefore, the minimum percentages for "high rate" and "significant increase in the rate" for the implementation of the general statutory funding preference will be retained as proposed.

Final Minimum Percentages for "High Rate" and "Significant Increase in the Rate" for the Implementation of the General Statutory Funding Preference

"High rate" is defined as a minimum of 25 percent of the combined Podiatric Primary Care Residency graduates in academic years 1991-92, 1992-93 and 1993-94, who spend at least 50 percent of their worktime in clinical practice in medically underserved communities.

"Significant increase in the rate" means that, between academic years 1992-93 and 1993-94, the rate of placing graduates in medically underserved communities has increased by at least 50 percent and that not less than 15 percent of graduates from the most recent year are working in medically underserved communities.

Additional Information

Requests for technical or programmatic information should be directed to: Ms. Martha Evans, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9A-20, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-3614, FAX (301) 443-8890.

This program, Grants for Podiatric Primary Care Residency Training Programs, is listed at 93.181 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: April 7, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95-9284 Filed 4-13-95; 8:45 am]

BILLING CODE 4160-15-P

Final Minimum Percentages for "High Rate" and "Significant Increase in the Rate" for Implementation of the General Statutory Funding Preference for Grants for Residency Training in Preventive Medicine for Fiscal Year 1995

The Health Resources and Services Administration (HRSA) announces the final minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference for fiscal year (FY) 1995 Grants for Residency Training in Preventive Medicine under the authority of section 763, title VII of the Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992, Pub. L. 102-408, dated October 13, 1992.

Purpose

Section 763 of the Public Health Service Act authorizes the Secretary to make grants to meet the costs of projects—

(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health; and

(2) to provide financial assistance to residency trainees enrolled in such programs.

This program is limited to residency training programs in preventive medicine.

Eligibility

To be eligible for a Grant for Residency Training in Preventive Medicine, the applicant must be an accredited public or private nonprofit school of allopathic or osteopathic medicine or a school of public health located in a State. Also, an applicant must demonstrate that it has, or will have by the end of 1 year of grant support, full-time faculty with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and

VOL 60 ISS 72 AP 14 1995 UMI

disciplines. To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart EE.

Statutory Funding Preference

As provided in section 791(a) of the PHS Act, preference will be given to qualified applicants that

(1) have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(2) have achieved, during the 2-year period preceding the fiscal year for which an award is sought, a significant increase in the rate of placing graduates in such settings.

This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

Final Minimum Percentages for "High Rate" and "Significant Increase in the Rate"

The program announcement, published in the Federal Register at 60 FR 4423 on January 23, 1995, proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference for this program. No comments were received during the 30 day comment period. Therefore, the minimum percentages remain as proposed.

"High rate" is defined as a minimum of 25 percent of graduates in academic year 1992–93 or academic year 1993–94, whichever is greater, who spend at least 50 percent of their worktime in clinical practice in the specified settings. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

"Significant increase in the rate" means that, between academic years 1992–93 and 1993–94, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent years are working in these settings.

Additional Information

If additional programmatic information is needed, please contact: D.W. Chen, M.D., M.P.H., Division of Associated, Dental, and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–09, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone : (301) 443–6896, Fax: (301) 443–1164.

This program, Grants for Residency Training in Preventive Medicine, is listed at 93.117 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: April 7, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–9285 Filed 4–13–95, 8.45 am]

BILLING CODE 4160–15–P

Office of Inspector General

Program Exclusions: March 1995

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of March 1995, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all other Federal non-procurement programs.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ALDERETTE, MARY F, WICHITA FALLS, TX	04/05/95
AMMON, MICHAEL, PONTIAC, MI	04/11/95
ANG, ROSA, WESTBURY, NY	04/10/95
BAIRD, DAVID B JR, LANSDALE, PA	04/10/95
BAKER, DENISE, EATON, OH	04/11/95
BARINGER, JOEL A, PORTSMOUTH, OH	04/11/95
BELL, DOROTHY S, SENATOBIA, MS	04/11/95
BIELINSKI, JOHN, WEST SENECA, NY	04/10/95
BLAKLEY, GARY DONALD, PLANO, TX	04/05/95
CARR, IVORY A, RICHMOND HILL, NY	04/10/95
CHILDERS, LINDA, ATHENS, GA	04/11/95
CONSALVO, ANTHONY, NEW MILFORD, NJ	04/10/95
COOPER, ROBIN, HIRAM, GA	04/05/95
CRENSHAW FAMILY PRAC MED GROUP, LOS ANGELES, CA	04/09/95
DENTAL HEALTH CARE CLINICS INC, DETROIT, MI	04/11/95
DENTAL HEALTH CARE CLINICS INC, DETROIT, MI	04/11/95
DENTAL HEALTH CARE CLINICS INC, DEARBORN HEIGHTS, MI	04/11/95
EHRLICH, JOEL H, FORT COLLINS, CO	04/05/95
EWING, JEAN, CHURCHVILLE, NY	04/10/95
FANG, IRVING, CHERRY HILL, NJ	04/10/95
GIBBS, PAULA, ASHLAND CITY, TN	04/05/95
HIGHLAND, DAVID, ROCHELLE, IL	04/11/95
KIMANI, IQBAL B, METARIE, LA	04/10/95
LANE, LARRY JACKSON, GRAPEVINE, TX	04/05/95
LOVEJOY, CRYSTAL, RAPID CITY, SD	04/05/95

Subject, city, state	Effective date
MIDWEST MOBILE DENTAL CARE INC, HAMILTON, OH	04/11/95
O'HARA, BERNARD WILLIAM, MOOERS, NY	04/10/95
PROJANSKY, ARNOLD, NEW PLATZ, NY	04/10/95
RUBIN, ALVIN, FARMINGTON HILLS, MI	04/11/95
SPARKS, GREGORY C, LOVELAND, CO	04/05/95
STEVENS AMBULETTE SERVICE, RICHMOND HILL, NY	04/10/95
STIPEK, JOHN, NORTH OLMSTEAD, OH	04/11/95
SWARTZ, JOSEPH MATTHEW, BOULDER, CO	04/11/95
UPPAL, TEJINDER, TROY, MI	04/11/95
VALENTI, ANTHONY P, HAMBURG, NY	04/10/95
ZAMKOFF, MILTON, MALBORO, NJ	04/10/95
PATIENT ABUSE/NEGLECT CONVICTIONS	
BURDETT, TAMMY E, WORCESTER, MA	04/10/95
GROSS, RHONDA P, BALTIMORE, MD	04/10/95
JOHNSON, MARY E, WEST WARWICK, RI	04/10/95
PENSO, ROLANDO D, MIAMI, FL	04/11/95
PRITCHARD, FLORENCE J, MELBOURNE, FL	04/05/95
RAMSEY, TERRY L, RANDOLPH, VT	04/10/95
RAVIPATI, MURTHY S, HOMOSASSA SPRINGS, FL	04/11/95
ROCKEY, MARY E, TRURO, IA	04/11/95
CONVICTION FOR HEALTH CARE FRAUD	
ALAM, MAHMOOD, GLENHEAD, NY	04/10/95
BLASTOW, SANDRA A, ROCKLAND, ME	04/10/95
BRYSON, KEITH, BOWLING GREEN, KY	04/05/95
FOSTER, CARL, CLACKMAS, OR	04/09/95
MCGENNIS, LORRAINE, NEW ORLEANS, LA	04/11/95
VERSAVIANO, BRENDA, BRONX, NY	04/10/95
CONVICTION-OBSTRUCTION OF INVESTIGATION	
QUAYUM, NAZIRUL, RICHMOND HILL, NY	04/10/95
CONTROLLED SUBSTANCE CONVICTIONS	
PARK, DO SUN, ROCKVILLE, MD	04/10/95
PATEL, RAMESH M, MORTON GROVE, IL	04/11/95
LICENSE REVOCATION/SUSPENSION/SURRENDER	
BAUMGARTNER, PHILIP O, NEWPORT, RI	04/10/95
BUCHOLZ, LORI A, GRAND ISLAND, NE	04/11/95
BURT, BENJAMIN M, PEARLAND, TX	04/05/95
CHESTER, ALVIN A, GLENDALE, AZ	04/05/95
EPPERSON, BETTY J, SALLISAW, OK	04/05/95
FAIRBAIRN, JOHN H, INDIANAPOLIS, IN	04/11/95
FOSKETT, MICHAEL F, WEST ROXBURY, MA	04/10/95
JACKSON, KATHERINE L, HOT SPRINGS, AR	04/05/95
MERRIMAN, EDWARD, CAMBRIDGE, MA	04/10/95
MILES, MARTHA K, CLUTE, TX	04/11/95
MORGAN, HELEN C, GALVESTON, TX	04/11/95
NORRIS, DONNA D, MEDFORD, OR	04/09/95
PATEL, VINOD N, TOPEKA, KS	04/11/95
PERAKIS, CHARLES R, SCARBOROUGH, ME	04/10/95
SHOTWELL, ARLINTON, CLEVELAND, OH	04/11/95
SWANN, SHARON G, OKLAHOMA CITY, OK	04/05/95
VOSS, RICHARD G, FORT COLLINS, CO	04/11/95
WAGENER, NICHOLAS, STURGEON BAY, WI	04/11/95
FEDERAL/STATE EXCLUSION/SUSPENSION	
BELLEVILLE PHARMACY, SOUTH BEND, IN	04/11/95
GRAVES, MARGARET L, GATESVILLE, TX	04/05/95
GROSSI, LORETTA, LOMPOC, CA	04/09/95
KELLY, KATHY LYNN, STEPHENVILLE, TX	04/05/95
VERNA RICHARDSON TRANSPORT, CHICAGO, IL	04/11/95
WILLIS, DAWONE DENISE, GONZALES, LA	04/05/95
WOOD, JENNY RUTH, WACO, TX, WESTWEGO, LA	04/05/95
FRAUD/KICKBACKS	
ELLIS LEVI, DDS, PA, RANDALLSTOWN, MD	03/22/95
LEVI, ELLIS, RANDALLSTOWN, MD	03/22/95
ENTITIES OWNED/CONTROLLED BY CONVICTED	
AMERITEX MEDICAL, INC, PLANO, TX	04/05/95
PLANO MARKETING, INC, GRAPEVINE, TX	04/05/95
T-P DRUGS, INC, CINCINNATI, OH	04/11/95
UNITED AMERICA MEDICAL SVCS, AUSTELL, GA	04/05/95

VOL 60 ISS 72 AP 14 1995 UMI

Subject, city, state	Effective date
FAILURE TO GRANT IMMEDIATE ACCESS	
BELOVE, PHILIP, BELLOW FALLS, VT	02/22/95
DEFAULT ON HEAL LOAN	
ACELLO, ROBERT L, PHILADELPHIA, PA	04/10/95
ARCH, JOSEPH A SR, INDIANAPOLIS, IN	04/11/95
ATLAS, WILLIAM A, LEAVENWORTH, KS	04/11/95
BOCAGE, JEAN PHILLIPE, SOMERSET, NJ	04/10/95
BOND, WILLIAM H, TUSCALOOSA, AL	04/05/95
BOWMAN, JEFFREY SCOTT, SALT LAKE CITY, UT	04/11/95
BURT, JOSEPH M, MYRTLE BEACH, SC	04/05/95
CIROU, BARBARA L, ATHENS, GA	04/05/95
COLLINS, RODNEY DANIEL, CULVER CITY, CA	04/09/95
CORREA, LOUISA F, PARAMUS, NJ	04/10/95
DARRISAW, BRIAN R, INDIANAPOLIS, IN	04/11/95
ELLISON, DENNARD W, LOS ANGELES, CA	04/09/95
ELSEA, STEVEN W, STOCKTON, CA	04/09/95
ESTRADA, ROLANDO, PROVIDENCE, RI	04/11/95
FRIDAY, STEVE M, YOUNGSTOWN, OH	04/11/95
HALEY, JANE E, FAYETTEVILLE, TN	04/05/95
HANNUM, ROBERT JOHN III, TAMPA, FL	04/05/95
HAYDEN, ROYCE D, SAN DIEGO, CA	04/09/95
HERMAN, PATRICIA KAREN, ATLANTA, GA	04/11/95
JOHNSON, JOHN M, WATERFORD, CT	04/10/95
LABARRE, SCOTT D, PHILADELPHIA, PA	04/10/95
MCROBERTS, LYNNE S, TORONTO, CANADA,	04/11/95
PETERSON, MICHAEL S, KANSAS CITY, MO	04/11/95
PHILLIPS, JEFFREY D, YUBA CITY, CA	04/09/95
RIDER, WARD E, KAILUA, HI	04/09/95
ROSOLOWICZ, CATHERINE A, POTTSTOWN, PA	04/10/95
RUSSELL, ROBERT J, BLACKWOOD, NJ	04/10/95
SMITH, HORATIO LISTON, WASHINGTON, DC	04/10/95
SMITH, SUSAN M, SCOTTSDALE, AZ	03/22/95
TROUTMAN, WILLIAM D SR, ATLANTA, GA	04/05/95
TURNER, PORTIA D, INGLEWOOD, CA	04/09/95
VAN PARYS, LESLIE R, PORTLAND, OR	04/09/95
WALKER, DUANE T, JACKSONVILLE, FL	04/05/95
WILLIAMS, JAMES B III, SAVANNAH, GA	04/05/95
WILLIAMS, LORRAINE E, JAMAICA, NY	04/10/95
WOODY, EDITH K, ATLANTA, GA	04/05/95
SECTION 1128Aa	
KIRTLEY, GEORGE W SR, LITTLE ROCK, AR	01/01/95
KIRTLEY, RUTH, LITTLE ROCK, AR	01/01/95
RASHID, RICHARD C, S CHARLESTON, WV	03/23/95

Dated: April 7, 1995.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Civil Fraud and Administrative Adjudication.

[FR Doc. 95-9242 Filed 4-13-95; 8:45 am]

BILLING CODE 4150-04-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-95-1917; FR-3778-N-32]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact David Pollack, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-1234; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies,

and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to David Pollack at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Department of the Interior: Lola D. Knight, Property Management Specialist, Department of the Interior, 1849 C Street, NW, Mail Stop 552-MIB, Washington, DC 20240; U.S. Air Force: Carol Xander, Air Force Real Estate Agency (Area-MI), Bolling Air Force Base, 172 Luke Avenue—Suite 104, Building 5683, Washington, DC 20332-5113; Dept. of Energy: Tom Knox, Acting Team Leader, Department of Energy, Facilities Planning and Acquisition Branch, FM-20, Room 6H-058, Washington, DC 20585; General Services Administration: Norman C. Miller, Acting Assistant Commissioner, General Services Administration, Federal Property Resources Services, 18th and F Streets, NW, Washington, DC 20405; (These are not toll-free numbers).

Dated: April 7, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 04/14/95

Suitable/Available Properties

Buildings (by State)

Arizona

Facility #18
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510024
Status: Excess
Comment: 5925 sq. ft., 1 story, good condition, off-site removal only, most recent use—storage

Facility #21
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510025
Status: Excess
Comment: 2500 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—child care

Facility #22
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510026
Status: Excess
Comment: 13752 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—gymnasium

Facility #23
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510027
Status: Excess
Comment: 485 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—storage

Facility #27
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510028
Status: Excess
Comment: 3252 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—base chapel

Facility #29
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510029
Status: Excess
Comment: 85 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—storage

Facility #31
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510030
Status: Excess
Comment: 2720 sq. ft., steel frame, 1 story, good condition, off-site removal only, most recent use—sales store

Facility #32
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510031
Status: Excess
Comment: 1200 sq. ft., wood frame, 1 story, good condition, off-site removal only, most recent use—hobby shop

Facility #34
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510032
Status: Excess
Comment: 1937 sq. ft., slump blocks frame, 1 story, good condition, off-site removal only, most recent use—bath house

Facility #35
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510033
Status: Excess
Comment: 7685 sq. ft., concrete block frame, 1 story, good condition, off-site removal only, most recent use—open mess

Facility #37
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510034
Status: Excess
Comment: 21295 sq. ft., wood frame, 2 story, good condition, off-site removal only, most recent use—dormitory/multi-purpose

Facility #38
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-
Landholding Agency: Air Force
Property Number: 189510035
Status: Excess
Comment: 4115 sq. ft., metal frame, good condition, 1 story, off-site removal only, most recent use—commissary

38 Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025-

VOL 60 ISS 72 AP 14 1995 UMI

Landholding Agency: Air Force
Property Number: 189510036
Status: Excess
Comment: 1170 sq. ft. ea., 1 story relocatable framed residences, good condition, secured area w/alternate access

26 Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510037
Status: Excess
Comment: 1456 sq. ft. ea., 1 story slump block frame residences, off-site removal only, good condition

Facility #510
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510038
Status: Excess
Comment: 373 sq. ft. slump blocks frame, 1 story, good condition, off-site removal only, most recent use—storage.

18 Detached Garages
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Location: Inc. bldgs. 630, 640, 670, 680, 710, 720, 740, 760, 790, 800, 820, 840, 870, 880, 910, 920, 950, 960 on Milan Loop
Landholding Agency: Air Force
Property Number: 189510039
Status: Excess
Comment: 186 sq. ft. ea., wood frame, 1 story, good condition, off-site removal only, most recent use—storage.

Facility #1004
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510040
Status: Excess
Comment: 1734 sq. ft. slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residence.

Facility #1010
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510041
Status: Excess
Comment: 4155 sq. ft. quonset hut frame, good condition, off-site removal only, most recent use—theater.

Facility #4140
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510042
Status: Excess
Comment: 3584 sq. ft. metal frame, 1 story, good condition, off-site removal only, most recent use—bowling center.

Facility #4520
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510043
Status: Excess
Comment: 7800 sq. ft. prefab steel frame, 2 story, good condition, off-site removal only, most recent use—dormitory.

Facility #4252
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Landholding Agency: Air Force
Property Number: 189510044
Status: Excess
Comment: 144 sq. ft. metal frame, 1 story, good condition, off-site removal only, most recent use—storage.

10 Duplex Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Location: Inc. bldgs. 2334, 2335, 2340, 2343, 2344, 2348, 2351, 2352, 2356, 2360 on Conrad Circle
Landholding Agency: Air Force
Property Number: 189510045
Status: Excess
Comment: 3176 sq. ft. slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residences.

4—Fourplex Family Housing
Gila Bend AF Auxiliary Field
Gila Bend Co: Maricopa AZ 86025–
Location: Inc. bldgs. 2337, 2339, 2347, 2355 on Conrad Circle
Landholding Agency: Air Force
Property Number: 189510046
Status: Excess
Comment: 4728 sq. ft. slump blocks frame, 1 story, good condition, off-site removal only, most recent use—residences.

California

Bldg. 901
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520001
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing.

Bldg. 902
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520002
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing.

Bldg. 903
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520003
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing.

Bldg. 904
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520004
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 905
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520005
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 906
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520006
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 907
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520007
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 908
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520008
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 909
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520009
Status: Surplus
Comment: 2-story wood frame bldg.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 910
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency; Interior
Property Number: 619520010
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 911
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520011
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 912
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520012
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 913
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520013
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 914
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520014
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 915
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520015
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 916
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520016
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 917
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520017
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 918
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520018
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Bldg. 919
Former Presidio of San Francisco
San Francisco Co: San Francisco CA 94129–
Landholding Agency: Interior
Property Number: 619520019
Status: Surplus
Comment: 2-story wood frame bldgs.; lead paint & asbestos; off-site removal only; incs. office space, warehouse & housing

Missouri

Federal Office Building
911 Walnut Street
Kansas City Co: Jackson MO 64106–
Landholding Agency: GSA
Property Number: 549510005
Status: Excess
Comment: 210,098 sq. ft., concrete/brick structure, 50% occupied until 6/95, does not meet handicap reqs., most recent use—offices
GSA Number: 7–G–MO–0626

Montana

Bldg. 1807, Malstrom AFB
Malstrom Communication Annex
Malstrom AFB Co: Cascade MT 59405–
Landholding Agency: Air Force
Property Number: 189510023
Status: Excess
Comments: 1966 sq. ft., 1 story masonry block bldg. on 22 acres, limited utilities, roof needs replacement

Pennsylvania

NPS Track #380–51
Appalachian National Scenic Trail
Waynesboro Co: Franklin PA 17268–
Landholding Agency: Interior
Property Number: 619520020
Status: Unutilized
Comment: 982 sq. ft. frame house, off-site use only

Suitable/To Be Excessed

Land (by State)

California

Tehama Colusa Canal
Portion of Unit No. T–2
Red Bluff Co: Tehama CA 96080–
Landholding Agency: Interior
Property Number: 619510007
Status: Excess
Comment: 4.02 acres, sloped banks, legal access would have to be conveyed to new owner, most recent use—spoil material

Unsuitable Properties

Buildings (by State)

Colorado

Beaver Creek Service Bldg.
17532 Highway 71
Brush Co: Morgan CO 80723–
Landholding Agency: Energy
Property Number: 419520001
Status: Unutilized
Reason: Extensive deterioration

Massachusetts

17 Single Family Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

99 Duplex Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520003
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

20 Fourplex Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520004
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Washington

Perrigo House, Lean To & Shed
LK Quinalt Rgr. Station, Olympic Nat'l Park
Amanda Park Co: Grays Harbor WA 98526–
Landholding Agency: Interior
Property Number: 619520021
Status: Unutilized
Reason: Extensive deterioration

Land (by State)

Texas

Eagle Pass Auxiliary Airfield
10 mi. NW of Eagle Pass Co: Maverick TX 78853–
Landholding Agency: GSA
Property Number: 549520001
Status: Excess
Reason: Within airport runway clear zone

[FR Doc. 95–9087 Filed 4–13–95; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–933–6332–00; GP5–101]

Closures and Restrictions: Oregon and Washington

AGENCY: Bureau of Land Management, Interior.
ACTION: Notice.

SUMMARY: Pursuant to 43 CFR part 8364, the Bureau of Land Management (BLM) will place certain restrictions on the use of caves located on BLM-administered lands in Oregon and Washington. The purpose of the restrictions is to insure the protection of significant and potentially significant caves on BLM-administered lands in the two states.

The Federal Cave Resources Protection Act of 1988 (16 USC 4306) states that significant caves on federal lands are an invaluable and irreplaceable part of the Nation's natural heritage and, in some instances, these significant caves are threatened due to improper use, increased recreational demands, urban spread, and lack of specific statutory protection. As provided by the Act, it is also the policy of the United States that federal lands be managed in a manner which protect and maintain, to the extent practical, significant caves. Cave Management regulations define the process and criteria for determining cave significance (43 CFR Part 37, published in the **Federal Register**, Volume 58, No. 189 on October 1, 1993, pages 51550–51555). In accordance with the Act, federal agencies are required to prescribe policy or regulation which includes management measures to insure that caves under consideration for listing of significance be protected during the period of consideration. The Act further provides for agencies to regulate or restrict use, as appropriate for caves determined to be significant.

The term "cave" means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any

VOL 60 ISS 72 AP 14 1995 UMI

cave resource therein, but not including any vug, mine, tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of the entrance.

Recreational or other human activities are allowed in caves when consistent with protecting other cave resource values. Foot access and exploration in caves is permissible, unless otherwise limited.

Until caves are determined significant and management plans are prepared which provide specific management prescriptions, the following interim restrictions will insure the protection of significant and potentially significant caves on federal lands administered by the BLM in Oregon and Washington.

Interim Cave Management Restrictions

1. Where known or potential adverse impacts from human use to threatened, endangered, and/or sensitive plants or animals, cultural resources, biological deposits (i.e. middens, skeletal remains, etc.), or geologic/paleontologic/mineral features are present, the responsible authorized officer shall act to protect these resources. Such actions could include information/education, closures (seasonally or year-long), written authorization for activities, or other appropriate measures.

2. Written authorization will be required from the responsible authorized officer for any activity or installation that could destroy, disturb, deface, mar, alter, harm, remove cave resources or alter the free movement of life into or out of any significant or potentially significant cave. This could include recreational, scientific, educational, commercial or competitive uses. Written authorization can be in the form of an approved management plan, use permit or authorizing letter.

3. The BLM retains the authority to limit or terminate uses and/or require the restoration of cave resources if it is determined that unacceptable resource damage is occurring.

4. The BLM will consider proposals for special activities, including placing fixed anchors in a cave, establishing a trail to a cave, research, etc. For existing uses or activity proposals where it is determined that a management plan is required, priority will be given to caves where extensive recreational uses are occurring or significant resource conflicts may be at issue.

5. Authorized activities or installations are subject to the agency's National Environmental Policy Act (NEPA) process and shall be consistent with the intent of the Federal Cave Resources Protection Act of 1988 and any conditions of existing policy and/or management decisions for the affected cave(s). Written authorization would require the applicant to provide the time, scope, location and specific purpose of the proposed activity and the manner in which the activity is to be performed.

6. Unless otherwise authorized, the following acts are prohibited in all caves on BLM-administered lands. The responsible authorized officer will take appropriate action needed to reduce or eliminate the occurrence of the acts.

- Willfully defacing, removing or destroying plants or their parts, soil, rocks or minerals, or cave resources
- Building, maintaining, attending or using any fire, campfire or stove
- Smoking
- Camping
- Possessing, discharging or using any kind of fireworks or other pyrotechnic device
- Discharging a firearm, air rifle, gas gun or paint gun
- Possessing a domestic animal
- Depositing or disposing of human waste
- Digging, excavation, or displacement of natural and/or cultural features
- Entering into a cave which requires written authorization; or engaging in any activities for which a written authorization requirement has been established, without having obtained in advance and having in possession such written authorization
- The use of hand drying agents for climbing which are not natural appearing
- New surface disturbing activities within a 350 foot radius of a cave opening or any known cave passages which may adversely impact any significant or potentially significant cave resource value.

7. Existing installations (e.g. stairs, ladders, fixed anchors, etc.) will be evaluated for retention or removal. Retained and future installations designed and authorized to be left in place should normally be camouflaged to minimize visual impacts. Method of removal or future placement will be pre-approved by the authorized officer and a condition of written authorization. Any non-permanent apparatus or equipment used must be removed immediately after its use.

8. The use of hand drying agents for climbing requires mitigation measures (chalk balls, pigmented chalk, etc.) to avoid creating a visual impact from residue. If needed, periodic cleaning of drying agents by cave users to the satisfaction of the authorized officer can be required.

Penalties

Any person who violates this closure and restriction notice may be subject to a maximum fine not to exceed $1,000 and/or imprisonment not to exceed twelve months under authority of 43 CFR 8360.0–7.

FOR FURTHER INFORMATION CONTACT: Dave Harmon, BLM, Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6062.

Dated: April 7, 1995.

Gretchen Lloyd,

Chief, Branch of Social Sciences and Resource Data Management.

[FR Doc. 95–9193 Filed 4–13–95; 8:45 am]

BILLING CODE 4310–33–P

Bureau of Land Management; Alaska

[AK–962–1410–00–P and AA–16670]

Alaska Native Claims Selection; Notice

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision will be issued to Cook Inlet Region, Inc., approving the subsurface estate of coal, oil, and gas for conveyance under the provisions of Sec. 14(f) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(f), Sec. 12(b)(2) of the Act of January 2, 1976, 43 U.S.C. 1611n, and Par. I.B.(2)(a) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976. The subsurface estate approved for conveyance contains 6,012.30 acres, located in T. 9 N., R. 8 W., Seward Meridian, Alaska, within the boundaries of the Kenai National Wildlife Refuge.

Notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. A copy of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or a regional corporation, shall have until May 15, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Margaret J. McDaniel,

Acting Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95–9134 Filed 4–13–95; 8:45 am]

BILLING CODE 4310–JA–M

[CO–933–95–1320–01; COC 56447]

Notice of Coal Lease Offering By Sealed Bid; COC 56447 Correction

AGENCY: Bureau of Land Management.

ACTION: Correction.

SUMMARY: In the document, Notice of Competitive Coal Lease Sale at 60 FR 18142 dated April 10, 1995, please make the following correction: T. 13 S., R. 90 W., 6th P.M., sec. 11, lots 9 to 12, inclusive, and SW¼SE¼; should read sec. 11, lots 9 to 12, inclusive, and SW¼SW¼.

Dated: April 10, 1995.

Karen A. Purvis,

Solid Minerals Team Resource Services.

[FR Doc. 95–9232 Filed 4–13–95; 8:45 am]

BILLING CODE 4310–JA–M

[WY–040–05–1310–01]

Fontenelle Natural Gas Infill Drilling Projects, Sweetwater and Lincoln Counties, WY; Availability of Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior—Lead Agency; Bureau of Reclamation, Interior—Cooperating Agency

ACTION: Notice of Availability of Draft Environmental Impact Statement (EIS).

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Fontenelle Natural Gas Infill Drilling Projects Draft EIS which analyzes the environmental consequences of a proposed natural gas development and production operation in the Fontenelle II Unit and Lincoln Road Development Area. The project areas are approximately 30 miles northeast of Kemmerer, Wyoming, and 70 miles northwest of Rock Springs, Wyoming. The project areas encompass a 179,760-acre natural gas field, where 1,070 wells are presently active, within portions of Townships 23, 24, 25, and 26 North, Ranges 109, 110, 111, and 112 West.

DATES: Comments on the draft EIS will be accepted for 45 days following the date that the Environmental Protection Agency (EPA) publishes their Notice of Availability in the **Federal Register**. The EPA notice is expected to be published on April 21, 1995. There are presently no plans to hold a public hearing on the Fontenelle Natural Gas Infill Drilling Projects Draft EIS because of apparent lack of unresolved substantial environmental controversy concerning the proposed project. Reviewers are encouraged to visit the local BLM offices in Cheyenne and Rock Springs, Wyoming, and talk with the managers about any concerns. If enough people indicate a desire to testify by returning the tear-out sheet provided in the draft EIS, a public hearing(s) will be scheduled. Information on the hearing(s) will be published in State and local newspapers and other media sources, and direct mailing to the recipients of the draft EIS to give the public enough notice.

ADDRESSES: Comments on the draft EIS should be sent to Bureau of Land Management, Bill McMahan (Project Coordinator), P.O. Box 1869, Rock Springs, WY 82902–1869.

SUPPLEMENTARY INFORMATION: The draft EIS analyzes a proposed action for each of two project areas, one development alternative for each of two project areas, and the no action alternative. DALEN Resources Oil & Gas Co., (DALEN) proposes to continue to infill drill their company's existing Fontenelle II Unit and adjacent leased acreage (approximately 25,323 acres); and Cabot Oil & Gas Corporation Presidio Oil Co., and several other companies (collectively the Lincoln Road Operators) propose to infill drill their leased acreage within the Lincoln Road Development Area (approximately 154,437 acres). The Fontenelle II Unit and the Lincoln Road Development Area are immediately adjacent to each other. Both proposed actions would be implemented in northeastern Lincoln and northwestern Sweetwater Counties, Wyoming, in the vicinity of Fontenelle Reservoir and the Green River. Access to the project areas is from U.S. Highways 189 and 191, State Highways 372 and 28, and numerous County, BLM, and operator-maintained roads.

Collectively, the companies' proposal would continue to infill drill a 179,760-acre natural gas field, where 1,070 wells are presently active, by drilling up to 1,317 additional wells over the next 10 years. Because of the tight-gas formation, the wells would be drilled on 160- and 80-acre spacing. A portion of the project area is presently developed on a 160-acre spacing (four wells per 640 acres). In selected areas, drilling on 80-acre spacing would increase the well density up to eight wells per 640 acres. The companies' plans and drilling schedules would be contingent upon both an increased demand for natural gas supplies in response to the Clean Air Act amendments of 1990 and an adequate price for the gas at the wellhead. The draft EIS describes the physical, biological, cultural, historic, and socioeconomic resources in and surrounding the project area. The focus for impact analysis was based upon resource issues and concerns identified during public scoping. Potential impacts of concern from development were to recreation associated with the Green River and Fontenelle Reservoir; antelope migrations and crucial big game winter range; sage grouse and raptor breeding and nesting; special status plaint and wildlife species; soil erosion and sediment increases to the Green River; groundwater contamination; Oregon, Mormon Pioneer, Pony Express, and California Historic Trails condition and viewshed; changes in livestock and wild horse management; and cumulative effects.

The draft EIS, in compliance with Section 7(c) of the Endangered Species Act (as amended), includes the Biological Assessment for the purpose of identifying any endangered or threatened species which are likely to be affected by the proposed action.

Dated: April 6, 1995.

Alan R. Pierson,

State Director.

[FR Doc. 95–9132 Filed 4–13–95; 8:45 am]

BILLING CODE 4310–JA–M

[NV–930–1430–01; N–59476]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Washoe County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice temporarily segregates 26,313.25 acres of public land in Washoe County from settlement, sale, location, or entry under the general land laws, including the mining laws, for up to 2 years, while various studies and analyses are made to support a final decision to withdraw the land for protection of resources for a 5-year period. This segregation does not affect valid existing rights.

DATES: Comments should be received on or before July 13, 1995.

VOL 60 ISS 72 AP 14 1995 UMI

ADDRESSES: Comments should be sent to the Nevada State Director, Bureau of Land Management, P O Box 12000, Reno, Nevada 89520

FOR FURTHER INFORMATION CONTACT: Mike Phillips, Lahontan Resource Area Manager, BLM Carson City District Office, (702) 885–6000.

SUPPLEMENTARY INFORMATION: On March 21, 1995, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from surface and mineral entry

Mount Diablo Meridian

T 21 N R 22 E
Sec. 12
Sec. 24
T 22 N R 22 E.
Sec. 12,
Sec. 13
Sec. 24,
Sec. 25 E½E½, and portion of W½E½ lying east of the center of the summit of the ridge
Sec. 36
T 21 N R 23 E
Sec. 2 Lots 8–21 inclusive,
Sec. 3 Lots 1–5 inclusive, S½N½ N½SW¼ SE¼SW¼, and SE¼,
Sec. 4, Lots 5–20, inclusive,
Sec. 5 Lots 1–4, inclusive, S½N½ and S½,
Sec. 6 Lots 8–23, inclusive,
Sec. 7 Lots 1–4, inclusive, E½, and E½W½,
Sec. 8 Lots 1–10, inclusive, SW¼NE¼, S½NW¼, E½SW¼, and NW¼SE¼,
Sec. 9, Lot 1 NW¼NE¼, S½NE¼, NW¼ and S½,
Sec. 10 Lots 1–16, inclusive;
Sec. 11 Lots 1–8, inclusive, N½N½, SE¼NE¼, SW¼NW¼, and E½SE¼
Sec. 12 Lots 1–3, inclusive;
Sec. 14 Lots 1–16, inclusive, (excluding MS 4193),
Sec. 15 Lots 1–16, inclusive, (excluding MS 4209),
Sec. 16 Lots 1–16, inclusive, (excluding MS 4209),
Sec. 17 Lots 1–4 inclusive, N½, and N½S½,
Sec. 18, Lots 5–20, inclusive,
Sec. 19, Lots 1–9, inclusive, N½NE¼, SW¼NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼,
Sec. 20, Lots 3–18, inclusive, (excluding MS 2575, MS 2591 and MS 4325);
Sec. 21 Lots 1–16, inclusive;
Sec. 22, Lots 1–8, inclusive,
Sec. 24, E½SW¼NW¼
Sec. 36, N½NE¼
T 22 N R 23 E
Sec. 6, Lots 1–4, inclusive, SE¼SW¼, and S½SE¼
Sec. 7 Lots 1 and 7–13, inclusive, NE¼NE¼ S½NE¼ NE¼NW¼, and SE¼
Sec. 8, Lots 5–20, inclusive,
Sec. 16, Lots 2–5, inclusive, W½E½, and W½,
Sec. 17 (excluding MS 4230);
Sec. 18, Lots 5–20, inclusive;
Sec. 19, Lots 1–4, inclusive, E½, and E½W½;
Sec. 20, (excluding MS 4230);
Sec. 21,
Sec. 22, Lots 1–3, inclusive, W½NW¼, and SW¼,
Sec. 28, Lots 1–4, inclusive, W½E½, and W½,
Sec. 29;
Sec. 30, Lots 5–20, inclusive;
Sec. 31, Lots 1–4, inclusive, E½, and E½W½;
Sec. 32,
Sec. 33;
Sec. 34, Lots 1–7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, and SE¼

The area described contains 26,313.25 acres in Washoe County, Nevada.

The purpose of the proposed withdrawal is to protect public land from potential impacts associated with nondiscretionary land and mineral activities while studies and a land use plan amendment addressing future management of the land is prepared. The recent acquisition of 8,136 acres of land created the solid block of public land being proposed for withdrawal, in an area that was previously a checkerboard pattern of public and private ownership. Consolidation of this area into Federal ownership offers numerous opportunities for wildlife habitat protection, riparian area protection, watershed protection, cultural resources protection, and recreational uses in addition to new opportunities for mineral extraction.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of the time and place will be published in the **Federal Register** and the Reno Gazette-Journal newspaper in Reno, Nevada, at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Proposals for temporary land uses that do not significantly disturb the surface of the land or impair values of resources will be considered by the authorized officer during this segregative period.

Dated: April 6, 1995

Lee F. Englesby,

Acting Deputy State Director, Operations

[FR Doc. 95–9188 Filed 4–13–95; 8:45 am]

BILLING CODE 4310–HC–P

National Park Service

Keweenaw National Historical Park Advisory Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Keweenaw National Historical Park Advisory Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: Tuesday, May 16, 1995; 8:30 a.m. until 4:30 p.m.

ADDRESSES: Keweenaw National Historic Park Headquarters, 100 Red Jacket Road (2nd floor), Calumet, Michigan 49913–0471.

The agenda for the meeting consists of reviewing the first draft of possible alternatives to be developed for the general management plan.

SUPPLEMENTARY INFORMATION: The Keweenaw National Historical Park was established by Public Law 102–543 on October 27, 1992.

FOR FURTHER INFORMATION CONTACT: Superintendent Bill Fink, Keweenaw National Historical Park, P.O. Box 471, Calumet, Michigan 49913–0471, 906–337–3168.

Dated: April 5, 1995

William W. Schenk,

Regional Director, Midwest Region

[FR Doc. 95–9252 Filed 4–13–95; 8:45 am]

BILLING CODE 4310–70–M

Missouri Recreational River Advisory Group

AGENCY: National Park Service, Interior

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Missouri Recreational River Advisory Group. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Thursday, May 3, 1995; 1:30 p.m.

ADDRESSES: Niobrara State Park, Group Lodge, Niobrara, Nebraska.

Agenda topics include:

1. Discussion of the 39-mile planning team meeting held in O'Neill, Nebraska on March 29–31, 1995.

2. Corps of Engineers discussion of the sedimentation study of the Niobrara River

3 The opportunity for public comment and proposed agenda, date, and time, of the next Advisory Group meeting.

The meeting is open to the public. Interested persons may make oral/written presentation to the Commission or file written statements. Requests for time for making presentations may be made to the Superintendent prior to the meeting or to the Chair at the beginning of the meeting. In order to accomplish the agenda for the meeting, the Chair may want to limit or schedule public presentations.

The meeting will be recorded for documentation and a summary in the form of minutes will be transcribed for dissemination. Minutes of the meeting will be made available to the public after approval by the Commission members. Copies of the minutes may be requested by contacting the Superintendent. An audio tape of the meeting will be available at the headquarters office of the Niobrara/Missouri National Scenic Riverways in O'Neill, Nebraska.

SUPPLEMENTARY INFORMATION: The Advisory Group was established by the law that established the Missouri National Recreational River, Public Law 102–50. The purpose of the group, according to its charter, is to advise the Secretary of the Interior on matters pertaining to the development of a management plan, and management and operation of the Recreational River The Missouri National Recreational River is the 39-mile free flowing segment of the Missouri from Fort Randall Dam to the vicinity of Springfield in South Dakota.

FOR FURTHER INFORMATION CONTACT: Warren Hill, Superintendent, Niobrara/Missouri National Scenic Riverways, P.O. Box 591, O'Neill, Nebraska 68763–0591, 402–336–3970.

Dated: April 5, 1995.

William W. Schenk,

Regional Director

[FR Doc. 95–9293 Filed 4–13–95; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Finding of no Significant Impact for Quisto Energy Corp.

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of finding of no significant impact.

SUMMARY: Based on an environmental assessment prepared by Quisto Energy Corporation (Quisto) to construct, operate, and maintain a gas well located on the Main Floodway of the Lower Rio Grande Flood Control Project (LRGFCP), the United States Section, International Boundary and Water Commission, United States and Mexico (USIBWC) finds that the proposed action to issue a license to Quisto for such works is not a major federal action that would have a significant adverse effect on the quality of the human environment. Therefore, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR parts 1500 through 1508); and the U.S. Section's Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981 (46 FR 44083–44094); the USIBWC hereby gives notice that an environmental impact statement will not be prepared for the proposed action.

ADDRESSES: Mr. Yusuf E. Farran, Division Engineer, Environmental Management Division, International Boundary and Water Commission, United States and Mexico, United States Section, 4171 North Mesa Street, C–310, El Paso, Texas 79902–1441 Telephone: 915/534–6704.

SUPPLEMENTARY INFORMATION:

Proposed Action

The action proposed is for the USIBWC to issue a license to Quisto to construct, operate, and maintain a gas well and install related features within Smith-Coates Well #1 Drilling Unit on Lot 2, Block 15 of John Closer Subdivision, Hidalgo County, Texas. The gas well is proposed to be located on privately owned land within the Main Floodway of the USIBWC LRGFCP approximately 8 kilometers (5 miles) south of Pharr. Access to the drilling site is by way of existing county and private roads and a proposed 274-meter (900-foot) long road.

Alternatives Considered

Three alternatives were considered in the Environmental Assessment (EA):

The Proposed Action Alternative is for Quisto to construct, operate, and maintain a gas well in a cultivated field within the Main Floodway of the USIBWC LRGFCP This proposed action will require the USIBWC to issue a license to ensure that such works do not cause an obstruction to flood flows within the floodway or interfere with the operation and maintenance of the LRGFCP

The No Action Alternative is for Quisto to not construct, operate, and maintain a gas well within the Main Floodway of the LRGFCP The no action alternative will not require the USIBWC to issue a license since no work will be done within the LRGFCP The no action alternative will result in the denial of access to the mineral owner to rightfully owned minerals, loss of tax revenues to the State of Texas, and result in an unrecoverable clean energy source.

The Directional Well Alternative is for Quisto to drill a well from outside the Main Floodway to a depth below the proposed surface location. The directional well alternative will not require the USIBWC to issue a license since no work will be done within the LRGFCP The directional well alternative is considered not workable because of technical problems associated with a bottomhole location some 305 meters (1,000 feet) or more from the surface location and subsurface geological hazards endemic to the area.

Environmental Assessment

The USIBWC received from Quisto a completed Environmental Assessment (EA) for the proposed gas well and related features. The EA is currently available for review and comment.

Finding of the Environmental Assessment

The EA finds that the proposed action for Quisto to construct, operate, and maintain a gas well within the Main Floodway of the USIBWC LRGFCP (and the USIBWC to issue a license for such work) does not constitute a major federal action which would cause a significant local, regional, or national adverse impact on the environment based on the following facts:

1. The United States Army Corps of Engineers has determined that no waters of the United States including wetlands will be impacted by the proposed gas well and related features.

2. The United States Fish and Wildlife Service has determined that federally listed endangered or threatened species

VOL 60 ISS 72 AP 14 1995 UMI

are unlikely to be adversely affected by the proposed gas well and related features.

3. The Texas Historical Commission has determined that no survey is required and the project may proceed.

4. The USIBWC has determined that the proposed gas well and related features will have no significant effect upon the flood carrying capacity of the Main Floodway.

On the basis of the Quisto EA, the USIBWC has determined that an environmental impact statement is not required for the issuance of a license to Quisto to construct, operate, and maintain a gas well and install related features within the Main Floodway of the USIBWC LRGFCP and hereby provides notice of a finding of no significant impact (FONSI). An environmental impact statement will not be prepared unless additional information which may affect this decision is brought to our attention within the thirty (30) days of the date of this Notice. A limited number of copies of the EA and FONSI are available to fill single copy requests at the above address.

Dated: April 3, 1995.

Suzette Zaboroski,

Staff Counsel.

[FR Doc. 95–9209 Filed 4–13–95; 8:45 am]

BILLING CODE 4710–03–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–1 (Sub-No. 259X)]

Chicago and North Western Railway Company—Abandonment Exemption—In Goodhue County, MN

Chicago and North Western Railway Company (CNW) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.3-mile line of railroad, known as the Cannon Falls, MN Spur, between milepost 73.4 and milepost 73.7, near Cannon Falls, in Goodhue County, MN.

CNW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 17, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by April 27, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 8, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Robert T. Opal, Chicago and North Western Railway Company, 165 North Canal Street, Chicago, IL 60606–1551.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

CNW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 21, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 4, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9228 Filed 4–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32677]

Penske Dedicated Logistics Corporation—Control Exemption—Leaseway Transportation Corporation and Its Carrier Subsidiaries

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the regulatory requirements of 49 U.S.C. 11343 *et seq.*, the acquisition and control of Leaseway Transportation Corporation (LTC) and its 26 motor carrier subsidiaries by Penske Dedicated Logistics Corporation (PDLC). PDLC is under common control with a rail carrier.

DATES: This exemption is effective on April 14, 1995. Petitions to reopen must be filed by May 4, 1995.

ADDRESSES: Send pleadings referring to Finance Docket No. 32677 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423; and (2) Andrew K. Light, Scopelitis, Garvin, Light & Hanson, 1777 Market Tower, 10 West Market Street, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, NW., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: April 7, 1995.

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9224 Filed 4–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–1 (Sub-No. 261X)]

Chicago and North Western Railway Company—Abandonment Exemption—Mankato, Minnesota, Spur

Chicago and North Western Railway Company (C&NW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.7-mile line of railroad between milepost 1.2 and milepost 2.9 in Mankato, Blue Earth County, MN.[1] C&NW proposes to consummate the abandonment on May 17, 1995.

C&NW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) all overhead traffic has been rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 17, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by April 27, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 8, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Robert T. Opal, 165 North Canal Street, Chicago, IL 60606–1551.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

C&NW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 21, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 7, 1995

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary

[FR Doc. 95–9225 Filed 4–13–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–290 (Sub-No. 167X)]

Norfolk Southern Railway Company—Abandonment Exemption—Between Hester, Vidalia and Kirby, GA

Norfolk Southern Railway Company (NS) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 43.6 miles of rail line between milepost GF–125 at Hester and milepost GF–149.6 at Vidalia and between milepost GF–152 at Vidalia and milepost GF–171 at Kirby, in Jeff Davis, Montgomery, Toombs, and Emanuel Counties, GA.

NS has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 13, 1995 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file offers of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by April 24, 1995.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 3, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: James R. Paschall, Norfolk Southern Corporation,

[1] A stay will be issued routinely where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use statements so long as it retains jurisdiction.

Although C&NW refers to the line as an industrial spur which is not ordinarily subject to the Commission's abandonment jurisdiction, 49 U.S.C. 10907(b)(1), it notes that the line was formerly part of a longer C&NW mainline.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made before the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

VOL 60 ISS 72 AP 14 1995 UMI

Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

NS has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 18, 1995. Interested persons may obtain a copy of the EA from SEA by writing to it at (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEA at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 6, 1995

By the Commission, David M. Konschnik, Director, Office of Proceedings

Vernon A. Williams,

Secretary

FR Doc. 95–9226 Filed 4–13–95; 8:45 am]

BILLING CODE 7035–01–P

Release of Waybill Data

The Commission has received a request from Sidley & Austin counsel for Canadian Pacific Rail System (CPRS) for permission to use certain data from the 1993 and 1994 I.C.C. Waybill Samples. A copy of the request (WB471—4/05/95) may be obtained from the I.C.C. Office of Economic and Environmental Analysis.

The waybill sample contains confidential railroad and shipper data, therefore, if any parties object to this request, they should file their objections with the Director of the Commission's Office of Economic and Environmental Analysis within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 927–6196.

Vernon A. Williams,

Secretary

FR Doc. 95–9227 Filed 4–13–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Scott R. Barrett, Jr., M.D.; Revocation of Registration

On February 7, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Scott R. Barrett, Jr., M.D., of Ballwin, Missouri. The Order to Show Cause sought to revoke Dr. Barrett's DEA Certificate of Registration, AB7432571, and to deny any pending applications for renewal of such registration.

The Order to Show Cause was first sent by registered mail to Dr. Barrett at his registered location, 13975 Manchester Road, Suite 4, Ballwin, Missouri. The Order to Show Cause was returned to DEA unclaimed with a notation on the envelope indicating that the forwarding order had expired. When DEA investigators visited Dr. Barrett's registered location, they found that the office was closed and had been boarded up. The Order to Show Cause was then sent registered mail to Dr. Barrett's home address of 591 Sunbridge Drive in Chesterfield, Missouri. Postal authorities were unsuccessful delivering the Order to Show Cause to the Sunbridge Drive address and therefore attempted to deliver the Order to Dr. Barrett at a third address of 1030 Meadowbrook in St. Charles, Missouri. The Order to Show Cause was returned unclaimed to DEA on June 9, 1994.

DEA has attempted to deliver the Order to Show Cause to Dr. Barrett at three different addresses. Despite the efforts of Postal authorities, each attempt has been unsuccessful. Dr. Barrett is therefore deemed to have waived his opportunity for a hearing. The Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file. See 21 CFR 1301.54(d) and 1301.57.

The Deputy Administrator finds that in May 1989, the Missouri Bureau of Narcotics and Dangerous Drugs (BNDD) inspected Dr. Barrett's clinic, located in Springfield, Missouri, for compliance with state controlled substance laws and regulations. Investigators found presigned prescription pads belonging to Dr. Barrett which were apparently to be used for providing patients with controlled substances when Dr. Barrett was out of the office. Investigators also found that Dr. Barrett maintained controlled substances on the clinic premises. The Deputy Administrator notes that Dr. Barrett's Springfield clinic was not a registered location under the Controlled Substances Act and that Dr. Barrett was therefore not permitted to maintain controlled substances at that location.

Based on the May 1989 inspection, BNDD issued an Order to Show Cause to Dr. Barrett alleging that he was in violation of state regulations requiring all registrants to provide effective controls against theft of controlled substances. Dr. Barrett and BNDD subsequently entered into a Memorandum of Understanding which stipulated that he would surrender his state controlled substance registration for thirty days, at which time he could reapply. The agreement also imposed other restrictions on Dr. Barrett's state controlled substance registration.

Despite persistent requests from BNDD, Dr. Barrett never executed the necessary surrender forms. However, by letter dated January 2, 1992, BNDD advised Dr. Barrett's counsel that since Dr. Barrett had ceased practicing at both his offices, his state controlled substance registrations had automatically terminated. BNDD informed Dr. Barrett's attorney that Dr Barrett was no longer authorized by the State of Missouri to possess, prescribe, administer or dispense controlled substances but that he could reapply for registration.

The Deputy Administrator further finds that Dr. Barrett's state medical license was revoked on August 6, 1992, by the Missouri State Board for the Healing Arts (Board). The Board concluded that Dr. Barrett was repeatedly negligent in his treatment of patients. The Board further found that Dr. Barrett had violated state controlled substance laws by signing blank prescriptions.

It is well established that the DEA cannot register a practitioner who is not duly authorized to handle controlled substances in the state in which he does business. See 21 U.S.C. 823(f). DEA has consistently held that practitioners who lack state authorization to handle controlled substances cannot be registered with the Drug Enforcement Administration. *See Ramon Pla, M.D.*, 51 FR 41168 (1986); *George S. Heath, M.D.*, 51 FR 26610 (1986); *Dale D. Shahan, D.D.S.*, 51 FR 23481 (1986).

Consequently, the Deputy Administrator concludes that since Dr Barrett is no longer authorized to handle controlled substances by the State of Missouri, Dr. Barrett's DEA Certificate of Registration should be revoked. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AB7432571, issued to Scott R. Barrett, Jr., M.D., be, and it hereby is, revoked, and that any pending applications for registration be, and they hereby are, denied. This order is effective May 15, 1995.

Dated: April 10, 1995.

Stephen H. Greene,

Deputy Administrator

[FR Doc. 95–9185 Filed 4–13–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA950001(Feb. 10, 1995)
MA950002(Feb. 10, 1995)
New York
NY950060(Feb. 10, 1995)
NY950077(Feb. 17, 1995)

Volume II

Virginia
VA950049(Feb. 10, 1995)

Volume III

Georgia
GA950039(Feb. 10, 1995)
Kentucky
KY950025(Feb. 10, 1995)
KY950026(Feb. 10, 1995)
KY950027(Feb. 10, 1995)
KY950028(Feb. 10, 1995)
KY950029(Feb. 10, 1995)
KY950035(Feb. 10, 1995)
KY950044(Feb. 10, 1995)
Tennessee
TN950001(Feb. 10, 1995)
TN950002(Feb. 10, 1995)
TN950005(Feb. 10, 1995)
TN950020(Feb. 10, 1995)
TN950034(Feb. 10, 1995)
TN950040(Feb. 10, 1995)
TN950041(Feb. 10, 1995)
TN950042(Feb. 10, 1995)
TN950043(Feb. 10, 1995)
TN950062(Feb. 10, 1995)

Volume IV

Indiana
IN950001(Feb. 10, 1995)
IN950006(Feb. 10, 1995)
Ohio
OH950001(Feb. 10, 1995)
OH950002(Feb. 10, 1995)
OH950003(Feb. 10, 1995)
OH950027(Feb. 10, 1995)
OH950028(Feb. 10, 1995)
OH950029(Feb. 10, 1995)
OH950034(Feb. 10, 1995)

Volume V

Kansas
KS950006(Feb. 10, 1995)
Missouri
MO950064(Feb. 10, 1995)
MO950069(Feb. 10, 1995)
MO950074(Feb. 10, 1995)
Nebraska
NE950007(Feb. 10, 1995)
NE950013(Feb. 10, 1995)
NE950021(Feb. 10, 1995)
NE950045(Feb. 10, 1995)
New Mexico
NM 950001(Feb. 10, 1995).

Volume VI

California
CA950002(Feb. 10, 1995)
CA950028(Feb. 10, 1995)
Idaho
ID950001(Feb. 10, 1995)
South Dakota
SD950002(Feb. 10, 1995)
SD950024(Feb. 10, 1995)
Wyoming
WY950001(Feb. 10, 1995)
WY950002(Feb. 10, 1995)
WY950003(Feb. 10, 1995)
WY950005(Feb. 10, 1995)
WY950006(Feb. 10, 1995)
WY950007(Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage

VOL
60
ISS
72
AP
14
1995
UMI

Determinations Issued Under The Davis-Bacon and Related Acts" This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular updates will be distributed to subscribers.

Signed at Washington, D.C. this 7th Day of April 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–9003 Filed 4–13–95; 8:45 am]

BILLING CODE 4510–27–M

Pension and Welfare Benefits Administration

[Application No. D–09660, et al.

Proposed Exemptions; Paloma Securities L.P. & Boston Global Advisors, Inc. et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue NW., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Paloma Securities L.P. (Paloma) & Boston Global Advisors, Inc. (BGA), Located in Boston, Massachusetts

[Application No. D–09660]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1) (A) through (D) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the lending of securities to Paloma by employee benefit plans (including commingled investment funds holding plan assets) for which BGA, an affiliate of Paloma, acts as securities lending agent (or sub-agent) and to the receipt of compensation by BGA in connection with these transactions, provided that the following conditions are met:

1. Neither BGA, Paloma nor an affiliate of either has discretionary authority or control with respect to the investment of the plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c) with respect to those assets;

2. Any arrangement for BGA to lend plan securities to Paloma in either an agency or sub-agency capacity will be approved in advance by a plan fiduciary who is independent of Paloma and BGA;

3. A plan may terminate the agency or sub-agency arrangement at any time without penalty on five business days notice;

4. The plan will receive from Paloma (either by physical delivery or by book entry in a securities depository, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to Paloma, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable bank letters of credit issued by a person other than Paloma or an affiliate thereof, or any combination thereof, or other collateral permitted under PTE 81–6, having, as of the close of business on the preceding business day, a market value initially equal to at least 102 percent of the market value of the loaned securities and, if the market value of the collateral falls below 100 percent, Paloma will deliver addition collateral on the following day such that the market value of the collateral will again equal 102 percent;

5. All procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of Prohibited Transaction Exemptions (PTEs) 81–6 and 82–63;

6. Paloma will indemnify the plan against any losses due to its use of the borrowed securities;

7. The plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

8. Prior to any plan's approval of the lending of its securities to Paloma, a copy of this exemption, if granted, (and the notice of pendency) will be provided to the plan; and

9. Only plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to Paloma.

Summary of Facts and Representations

1. Paloma is a Delaware limited partnership which is a broker-dealer registered with the Securities and Exchange Commission (SEC) and a member of the National Association of Securities Dealers.[1] As of December 31, 1993, Paloma had in excess of $400 million in combined equity. Paloma is approximately 99 percent owned by Paloma Partners Holdings L.P. (PPH), which in turn is more than 90 percent owned by Paloma Partners, L.P. (PPLP), a Delaware limited partnership.

2. Acting as principal, Paloma actively engages in the borrowing and lending of securities, with daily outstanding loan volume averaging several billion dollars. Paloma utilizes borrowed securities to satisfy the trading requirements of the Paloma group, or to re-lend to other broker-dealers and others who need a particular security for various periods of time. All borrowings by Paloma conform to the Federal Reserve Board's Regulation T. Pursuant to Regulation T, permitted borrowing purposes include making delivery of securities in the case of short sales, failures of a broker to receive securities it is required to deliver or other similar situations.

3. BGA, a wholly owned subsidiary of PPH, was organized as a Delaware corporation in August 1993 with its principal office in Boston. BGA is a broker-dealer and investment advisor, in each case registered as such with the SEC.

4. BGA was formed to provide securities lending services, as agent, to institutional clients. BGA, pursuant to authorization from its client, negotiates the terms of loans with borrowers pursuant to a client-approved form of loan agreement and otherwise acts as a liaison between the lender (and its custodian) and the borrower to facilitate the lending transaction. BGA has responsibility for monitoring receipt of all required collateral and marking such collateral to market daily so that adequate levels of collateral are maintained. BGA also monitors and evaluates on a continuing basis the performance and creditworthiness of the borrowers. BGA does not act as a custodian with respect to the client's portfolio of securities being loaned. Custody of such securities is lodged with the client's bank or other custodian. However, BGA may be authorized from time to time by a client to receive and hold pledged collateral and invest cash collateral pursuant to guidelines established by the client. All of BGA's procedures for lending securities are designed to comply with the applicable conditions of Prohibited Transaction Exemption (PTE) 81–6 and PTE 82–63.[2]

5. BGA may be retained occasionally by primary securities lending agents to provide securities lending services in a sub-agent capacity with respect to portfolio securities of clients of such primary lending agents. As securities lending sub-agent, BGA's role under the lending transactions (i.e., negotiating the terms of loans with borrowers pursuant to a client-approved form of loan agreement and monitoring receipt of, and marking to market, required collateral) parallels those under lending transactions for which BGA acts as primary lending agent on behalf of its clients.

6. When a loan is collateralized with cash, the cash will be invested for the benefit and at the risk of the client, and resulting earnings (net of a rebate to the borrower) comprise the compensation to the plan in respect of such loan. Where collateral consists of obligations other than cash, the borrower pays a fee (loan premium) directly to the lending plan.

7. Paloma and BGA request an exemption for the lending of securities owned by certain pension plans for which BGA serves as securities lending agent or sub-agent (referred to hereinafter as client-plans)[3] to Paloma, following disclosure of its affiliation with Paloma, and for the receipt of compensation by BGA in connection with such transactions. BGA will have no discretionary authority or control over these client-plans' decisions concerning the acquisition or disposition of securities available for loan. Its discretion will be limited to activities such as negotiating the terms of the securities loans with Paloma and (to the extent granted by the plan fiduciary) investing any cash collateral received in respect of the loans. Because BGA, under the proposed arrangement, would have discretion to lend plan securities to Paloma, and because Paloma is an affiliate of BGA, the lending of securities to Paloma by plans for which BGA serves as securities lending agent (or sub-agent) may be outside the scope of relief provided by PTE 81–6 and PTE 82–63.[4]

Several safeguards, described more fully below, are incorporated in the application in order to ensure the protection of the plan assets involved in the transactions. In addition, the applicants represent that the proposed lending program incorporates the relevant conditions contained in PTE 81–6 and PTE 82–63.

8. Where BGA is the direct securities-lending agent, a fiduciary of a client-plan who is independent of BGA and Paloma will sign a securities lending

[1] The company's name was legally changed to Paloma Securities L.P. from AKT Associates L.P. effective June 1, 1993.

[2] PTE 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) provides an exemption under certain conditions from section 406(a)(1) (A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to certain broker-dealers or banks which are parties in interest.

PTE 82–63 (47 FR 14804, April 6, 1982) provides an exemption under specified conditions from section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code for the payment of compensation to a plan fiduciary for services rendered in connection with loans of plan assets that are securities.

[3] For the sake of simplicity, future references to BGA's performance of services as securities lending agent should be deemed to include its parallel performance as securities lending sub-agent and references to client-plans should be deemed to refer to plans for which BGA is acting as sub-agent with respect to securities lending activities, unless otherwise indicated specifically or by the context of the reference.

[4] Condition 1 of PTE 81–6 requires, in part, that neither the borrower nor an affiliate of the borrower has discretionary authority or control with respect to the investment of the plan assets involved in the transaction.

PTE 82–63 permits the payment of compensation to a plan fiduciary for the provision of securities lending services only if the loan of securities itself is not prohibited under section 406(a) of the Act.

VOL 60 ISS 72 AP 14 1995 UMI

agency agreement with BGA (the Agency Agreement) before the plan participates in a securities lending program. The Agency Agreement will, among other things, describe the operation of the lending program, prescribe the form of securities loan agreement (Loan Agreement) to be entered into on behalf of the plan with borrowers, specify the securities which are available to be lent, required margin and daily marking-to-market, and provide a list of permissible borrowers, including Paloma. The Agency Agreement will also set forth the basis and rate for BGA's compensation from the plan for the performance of securities lending services.

9. The Agency Agreement will contain provisions to the effect that if Paloma is designated by the client-plan as an approved borrower (i) the client-plan will acknowledge that Paloma is an affiliate of BGA and (ii) BGA will represent to the client-plan that each and every loan made to Paloma on behalf of the client-plan will be at market rates and in no event less favorable to the client-plan than a loan of such securities, made at the same time and under the same circumstances, to an unaffiliated borrower.

10. When BGA is lending securities under a sub-agency arrangement, the primary lending agent will enter into a securities lending agency agreement (the primary lending agreement) with a fiduciary of a client-plan who is independent of such primary lending agent, BGA or Paloma, before the plan participates in the securities lending program. The primary lending agent will be unaffiliated with BGA or Paloma. The primary lending agreement will contain substantive provisions akin to those in the Agency Agreement relating to the description of the operation of the lending program, use of an approved form of Loan Agreement, specification of securities which are available to be lent, required margin and daily marking-to-market, and provision of a list of approved borrowers (which will include Paloma). The primary lending agreement will specifically authorize the primary lending agent to appoint sub-agents, to facilitate its performance of securities lending agency functions. Where BGA is to act as such a sub-agent the primary lending agreement will expressly disclose that BGA is to so act. The primary lending agreement will also set forth the basis and rate for the primary lending agent's compensation from the client-plan for the performance of securities lending services and will authorize the primary lending agent to pay a portion of its fee, as the primary lending agent determines in its sole discretion, to any sub-agent(s) it retains pursuant to the authority granted under such agreement.

Pursuant to its authority to appoint sub-agents, the primary lending agent will enter into a securities lending sub-agency agreement (the Sub-Agency Agreement) with BGA under which the primary lending agent will retain and authorize BGA, as sub-agent, to lend securities of the primary lending agent's client-plans, subject to the same terms and conditions as are specified in the primary lending agreement. Thus, for example, the form of Loan Agreement will be the same as that approved by the plan fiduciary in the primary lending agreement and the list of permissible borrowers under the Sub-Agency Agreement (which will include Paloma) will be limited to those approved borrowers listed as such under the primary lending agreement.

BGA represents that the Sub-Agency Agreement will contain provisions which are in substance comparable to those described in paragraphs 8 and 9 above, which would appear in an Agency Agreement in situations where BGA is the primary lending agent. In this regard, BGA will make the same representation in the Sub-Agency Agreement as described in paragraph 9 above with respect to arm's-length dealing with Paloma. The Sub-Agency Agreement will also set forth the basis and rate for BGA's compensation to be paid by the primary lending agent.

11. In all cases, BGA will maintain transactional and market records sufficient to assure compliance with its representation that all loans to Paloma are effectively at arm's-length terms. Such records will be provided to the appropriate plan fiduciary in the manner and format agreed to with the lending fiduciary, without charge to the plan. A client-plan may terminate the Agency Agreement (or the primary lending agreement) at any time, without penalty to the plan, on five business days notice.

12. BGA will enter into the same form of Loan Agreement with Paloma on behalf of client-plans as it does with all other borrowers. An independent fiduciary of the client-plan will approve the terms of the Loan Agreement. The Loan Agreement will specify, among other things, the right of the client-plan to terminate a loan at any time and the plan's rights in the event of any default by Paloma. The Loan Agreement will explain the basis for compensation to the client-plan for lending securities to Paloma under each category of collateral. The Loan Agreement also will contain a requirement that Paloma must pay all transfer fees and transfer taxes related to the security loans.

13. Before entering into the Loan Agreement, Paloma will furnish its most recent available audited and unaudited financial statements to BGA, and in turn, such statements will be provided to a client-plan before the plan is asked to approve the terms of the Loan Agreement. The Loan Agreement will contain a requirement that Paloma must give prompt notice at the time of a loan of any material adverse changes in its financial condition since the date of the most recently furnished financial statements. If any such changes have taken place, BGA will not make any further loans to Paloma unless an independent fiduciary of the plan has approved the loan in view of the changed financial condition.

14. As noted above, the agreement by BGA to provide securities lending services, as agent, to a client-plan will be embodied in the Agency Agreement. The client-plan and BGA will agree to the arrangement under which BGA will be compensated for its services as lending agent prior to the commencement of any lending activity Such agreed upon fee arrangement will be set forth in the Agency Agreement and thereby will be subject to the prior written approval of a fiduciary of the client-plan who is independent of Paloma and BGA. Similarly, with respect to arrangements under which BGA is acting as securities lending sub-agent, the agreed upon fee arrangement of the primary lending agent will be set forth in the primary lending agreement, and such agreement will specifically authorize the primary lending agent to pay a portion of such fee, as the primary lending agent determines in its sole discretion, to any sub-agent, including BGA, which is to provide securities lending services to the plan.[5] The client plan will be provided with any reasonably available information which is necessary for the plan fiduciary to make a determination whether to enter into or continue to participate under the Agency Agreement (or the primary lending agreement) and any other reasonably available information which

[5] The foregoing provisions describe arrangements comparable to conditions c and d of PTE 82-63 which require that the payment of compensation to a "lending fiduciary" is made under a written instrument and is subject to prior written authorization of an independent "authorizing fiduciary." In the event that a commingled investment fund will participate in the securities lending program, the special rule applicable to such funds concerning the authorization of the compensation arrangement set forth in paragraph of PTE 82-63 will be satisfied.

the plan fiduciary may reasonably request.

15. Each time a plan loans securities to Paloma pursuant to the Loan Agreement, BGA will reflect in its records the material terms of the loan, including the securities to be loaned, the required level of collateral, and the fee or rebate payable. The terms of each loan will be at least as favorable to the client-plan as those of a comparable arm's-length transaction between unrelated parties.

16. The client-plan will be entitled to the equivalent of all interest, dividends and distributions on the loaned securities during the loan period. The Loan Agreement will provide that the client-plan may terminate any loan at any time. Upon a termination, Paloma will be contractually obligated to return the loaned securities to the client-plan within five business days of notification (or such longer period of time permitted pursuant to a class exemption). If Paloma fails to return the securities within the designated time, the client-plan will have the right under the Loan Agreement to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price and any other expenses of the plan associated with the sale and/or purchase.

17. BGA will establish each day a written schedule of lending fees and rebate rates in order to assure uniformity of treatment among borrowing brokers and to limit the discretion BGA would have in negotiating securities loans to Paloma. Loans to Paloma on any day will be made at rates on the daily schedule or at rates which may be more advantageous to the client-plans. In no case will loans be made to Paloma at rates below those on the schedule. The rebate rates (in respect of cash-collateralized loans made by client-plans) which are established will take into account the potential demand for loaned securities, the applicable benchmark cost of funds indices (typically, Federal Funds, overnight repo rate or the like) and anticipated investment return on overnight investments which are permitted by the relevant plan fiduciary. The lending fees (in respect of loans made by client-plans collateralized by other than cash) which are established will be set daily to reflect conditions as influenced by potential market demand.

BGA will negotiate rebate rates for cash collateral payable to each borrower, including Paloma, on behalf of a plan. Where, for example, cash collateral derived from an overnight loan is intended to be invested in a generic repurchase agreement, any rebate fee determined with respect to an overnight repurchase agreement benchmark will be set below the applicable "ask" quotation therefor Where cash collateral is derived from a loan with an expected maturity date (term loan) and is intended to be invested in instruments with similar maturities, the maximum rebate fee will be less than the investment return (assuming no investment default). With respect to any loan to Paloma, BGA will never negotiate a rebate rate with respect to such loan which would produce a zero or negative return to the client-plan (assuming no default on the investments related to the cash collateral from such loan where BGA has investment discretion over the cash collateral). BGA represents that the written rebate rate established daily for cash collateral under loans negotiated with Paloma will not exceed the rebate rate which would be paid to a similarly situated unrelated borrower with respect to a comparable securities lending transaction. BGA will disclose the method for determining the maximum daily rebate rate as described above to an independent fiduciary of a client-plan for approval before lending any securities to Paloma on behalf of the plan.

18. For collateral other than cash, the applicable loan fee in respect of any outstanding loan is reviewed daily for competitiveness and adjusted, where necessary, to reflect market terms and conditions. With respect to any calendar quarter, on average 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of client-plans will be to unrelated borrowers, and so the competitiveness of the loan fee will be tested in the marketplace. Accordingly, loans to Paloma should result in competitive rate income to the lending client-plan. At all times, BGA will effect loans in a prudent and diversified manner. BGA will lend securities to requesting borrowers on a "first come, first served" basis, as a means of assuring uniformity of treatment among borrowers.

19. Under the Loan Agreement, Paloma will agree to indemnify and hold harmless the applicable client-plan (including the sponsor and fiduciaries of such client-plan) from any and all damages, losses, liabilities, costs and expenses (including attorney's fees) which the client-plan may incur or suffer arising in any way from the use by Paloma of the loaned securities or any failure of Paloma to deliver loaned securities in accordance with the provisions of the Loan Agreement or to otherwise comply with the terms of the Loan Agreement.

20. The client-plan will receive collateral from Paloma by physical delivery, book entry in a securities depository, wire transfer or similar means by the close of business on or before the day the loaned securities are delivered to Paloma. The collateral will consist of cash, securities issued or guaranteed by the U.S. Government or its agencies or irrevocable bank letters of credit (issued by a person other than Paloma or its affiliates) or such other types of collateral which might be permitted by the Department under a class exemption. The market value of the collateral on the close of business on the day preceding the day of the loan will be at least 102 percent of the market value of the loaned securities. The Loan Agreement will give the client-plan a continuing security interest in and a lien on the collateral. BGA will monitor the level of the collateral daily. If the market value of the collateral falls below 100 percent (or such greater percentage as agreed to by the parties) of that of the loaned securities, BGA will require Paloma to deliver by the close of business the next day sufficient additional collateral to bring the level back to at least 102 percent.

21. Each client-plan participating in the lending program will be sent a monthly transaction report. The monthly report will provide a list of all security loans outstanding and closed for a specified period. The report will identify for each open loan position, the securities involved, the value of the security for collateralization purposes, the current value of the collateral, the rebate or loan premium (as the case my be) at which the security is loaned, and the number of days the security has been on loan.

22. Only client-plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to Paloma. This restriction is intended to assure that any lending to Paloma will be monitored by an independent fiduciary of above average experience and sophistication in matters of this kind.

23. In summary, the applicants represent that the described transactions will satisfy the statutory criteria of section 408(a) of the Act because: (1) The form of the Loan Agreement pursuant to which any loan is effected will be approved by a fiduciary of the client-plan who is independent of Paloma and BGA before a client-plan lends any securities to Paloma; (2) the lending arrangements will permit the client-plans to lend to Paloma, a major borrower of securities, and will enable

VOL 60 ISS 72 AP 14 1995 UMI

the plans to diversify the list of eligible borrowers and earn additional income from the loaned securities on a secured basis, while continuing to receive any dividends, interest payments and other distributions due on those securities; (3) the client-plan will receive sufficient information concerning Paloma's financial condition before the plan lends any securities to Paloma; (4) the collateral on each loan to Paloma initially will be at least 102 percent of the market value of the loaned securities, which is in excess of the 100 percent collateral required under PTE 81–6, and will be monitored daily by BGA; (5) the client-plans will receive a monthly report, so that an independent fiduciary of the client-plans also may monitor loan activity, fees, the level of the collateral and loan return/yield; (6) BGA will have no discretionary authority or control over the plan's acquisition or disposition of securities available for loan; (7) the terms of each loan will be at least as favorable to the plans as those of a comparable arm's-length transaction between unrelated parties; and (8) all the procedures under the proposed transactions will, at a minimum, conform to the applicable provisions of PTE 81–6 and PTE 82–63.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Bank of Ashland, Inc. (the Bank), Located in Ashland, Kentucky

[Application Nos. D–09841 thru D–09843]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply as of December 23, 1994, to the cash sale of certain collateralized mortgage obligations (CMOs) by six employee benefit plans for which the Bank acts as trustee (the Plans) to Ashland Bankshares, Inc. (the Holding Company), a party in interest with respect to the Plans, provided that the following conditions were met:

(a) Each sale was a one-time transaction for cash;

(b) Each Plan received an amount which was equal to the greater of (i) the outstanding principal balance for the CMOs owned by the Plan, plus accrued but unpaid interest, at the time of sale, (ii) the amortized cost for the CMOs owned by the Plan, plus accrued but unpaid interest, as determined by the Bank based on the outstanding principal balance for each CMO on the date of sale, or (iii) the fair market value of the CMOs owned by the Plan as determined by an independent, qualified appraiser at the time of the sale;

(c) The Plans did not pay any commissions or other expenses with respect to the sale;

(d) The Bank, as trustee of the Plans, determined that the sale of the CMOs is in the best interests of each Plan and their participants and beneficiaries at the time of the transaction;

(e) The Bank took all appropriate actions necessary to safeguard the interests of the Plans and their participants and beneficiaries in connection with the transactions; and

(f) Each Plan received a reasonable rate of interest on the CMOs during the period of time it held the CMOs.

EFFECTIVE DATE: The proposed exemption, if granted, will be effective as of December 23, 1994.

Summary of Facts and Representations

1. The Bank is a wholly-owned subsidiary of the Holding Company. The Bank serves as trustee of the Plans and has investment discretion for the assets of the Plans.

The Plans are the John O. Jones, M.D., PSC Money Purchase Pension Plan (the Jones Plan); the Michael G. Ehrie, Jr., M.D., PSC Money Purchase Pension Plan (the Ehrie Pension Plan); the Michael G. Ehrie, Jr., M.D., PSC Profit Sharing Plan (the Ehrie P/S Plan); the Simons Real Estate Money Purchase Pension Plan (the Simons Plan); the Buchanan Sound & Communications, Inc. Profit Sharing Plan (the Buchanan Plan); and the Bank of Ashland, Inc. Profit Sharing Plan (the Bank Plan). All of the Plans are defined contribution plans.

As of December 23, 1994, the Jones Plan had five participants and total assets of $713,790; the Ehrie Pension Plan had seven participants and total assets of $322,168; the Ehrie P/S Plan had seven participants and total assets of $363,513; the Simons Plan had two participants and total assets of $134,791; the Buchanan Plan had 32 participants and total assets of $97,841; and the Bank Plan had 58 participants and total assets of $2,427,300. Thus, as of December 23, 1994, the Plans had 111 participants and total assets of approximately $4,059,403.

2. The Bank represents that at various times during the third and fourth quarters of 1993 and the first quarter of 1994, assets of the Plans were invested in the CMOs. The CMOs were purchased by the Bank from broker-dealers that were independent of the Plans as well as the Bank and its affiliates (including the Holding Company). The CMOs are investment products through which investors purchase an interest in a pool of residential mortgage loans. Investors receive payments of principal and interest. The interest payments change monthly in relation to a specific index, such as the London Interbank Offered Rate (LIBOR) or the U.S. Federal Reserve's Cost of Funds Index (COFI), contained in a formula used to calculate the interest rate for such securities. The repayment of principal is usually guaranteed by various U.S. government agencies, such as the Federal Home Loan Mortgage Corporation (FHLMC or "Freddie Mac") or the Federal National Mortgage Association (FNMA or "Fannie Mae").

3. The CMOs are described as follows: (i) FHLMC Multiclass Mortgage Participation Certificates, Series 1625, Class SB, SE, and SJ; (ii) FHLMC Multiclass Mortgage Participation Certificates, Series 1655, Class S; (iii) FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–102, Class S; (iv) FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–110, Class SH; (v) FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–139, Class SL and SC; (vi) FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–202, Class VJ; and (vii) GE Capital Mortgage Services, Inc., REMIC Multi-Class Pass-Through Certificates, Series 1993–17, Class 17–A20.[6]

[6] The applicant states that the GE Capital Mortgage Services, Inc. REMIC Multi-Class Pass-Through Certificates, Series 1993–17, Class 17–A20 (the GE CMO) was a publicly-offered security. In this regard, the applicant notes that if a plan acquires a publicly-offered security that grants the plan an equity interest in an entity, the plan's assets include the security but not any of the underlying assets of the entity (see 29 CFR 2510.3–101(a)(2) and (b)). Therefore, the applicant represents that the assets of the Plans that own the GE CMO do not include any of the mortgages underlying the GE CMO.

The applicant states further that if a plan acquires a "guaranteed governmental mortgage pool certificate", the plan's assets include the certificate but not any of the mortgages underlying such certificate (see 29 CFR 2510.3–101(i). A "guaranteed governmental mortgage pool certificate" is a certificate (i) that is backed by, or evidences an interest in, specified mortgages or participation interests, and (ii) whose interest and principal payments are guaranteed by the Government National Mortgage Association (GNMA), FHLMC, or FNMA. Thus, the applicant represents that since all of the CMOs, except for the GE CMO, have interest and principal payments payable under the CMO guaranteed by either FHLMC or FNMA, the assets of the Plans do not include any of the mortgages underlying such CMOs.

All of the certificates mentioned above are structured as a real estate mortgage investment conduit ("REMIC") under section 860D of the Code. The various classes of certificates receive principal and interest payments in differing portions and at differing times from the cash flows provided from the monthly payments received on the underlying mortgages.

The repayment of principal from the underlying mortgages fluctuates significantly. To facilitate the structuring of such REMICs, the prepayments on the pools of mortgages are commonly measured relative to a variety of prepayment models. The model used for these REMICs is the Public Securities Association's standard prepayment model or "PSA". This model assumes that mortgages will prepay at an annual rate of .2% in the first month after origination, then the prepayment rate increases at an annual rate of .2% per month up to the 30th month after origination and then the prepayment rate is constant at 6% per annum in the 30th and later months. This assumption is called 100 PSA.

The REMIC structure allocates principal payments to the various classes in varying amounts as principal payments are made. The exact date of repayment of all principal to any class of certificates is not known until the final maturity date. The maturity for the various classes is referred to as the 'weighted average life" (WAL). The WAL of a security refers to the average amount of time expressed in years that will elapse from the date of its issuance until each dollar of principal has been repaid to the investor based on the PSA assumption. The holders of all classes of the certificates will receive all of their principal back. However, the timing of when that principal is returned is dependent on how quickly the underlying mortgages are repaid or refinanced. In no event will the time for the recovery of principal exceed the final maturity date of the underlying mortgages.

Each month the monthly payments on the underlying mortgages are collected and distributed to the holders of the various REMIC classes. Interest on the certificates is paid monthly and is determined according to a specific formula. The certificates owned by the Plans, described in further detail below, are "inverse floaters" with an interest rate indexed to one month LIBOR or COFI. These certificates are "inverse floaters" because the formula used to calculate the interest rate, which adjusts monthly for each certificate, usually raises the rate when the index falls and lowers the rate when the index rises.

All of the CMOs were purchased by the Bank, as trustee of the Plans, from either Mark Ross (Mr. Ross) of Kemper Securities, Inc. (Kemper Securities), located in Houston, Texas, or Robert Conroy (Mr. Conroy) of First Institutional Securities, Inc. (FIS), located in Clifton, New Jersey. The Bank states that neither the brokers (i.e. Mr. Ross and Mr. Conroy) nor their brokerage firms have any relationship to the Plans, the employers which maintain the Plans, the Bank, or any affiliates of the Bank.

A description of each of the CMOs, including the respective interest rate formulas, WAL and PSA assumptions are set forth below in the APPENDIX.

4. At the time of purchase, the Bank anticipated that interest rates generally would decline and that each CMO would be retired within three years of the date of purchase due to prepayments of the underlying mortgages in each pool as obligors refinanced their mortgages at lower interest rates. The Bank thought that the CMOs would yield the Plans a high rate of return as well as offset the adverse effects declining interest rates would have on the Plans' floating rate assets during this period. The Bank states that the ideal time to buy CMOs that are "inverse floaters" is when interest rates, as measured by indices such as LIBOR or COFI, are high and are expected to go down during the time the investor is holding the CMOs. However, when interest rates rise, the rate of return on the CMOs goes down and the securities become less valuable. The Bank notes that initially the Plans were receiving monthly interest payments on the CMOs at rates that were significantly above the market rate, as measured by interest rate indexes at the time. As a result of increases in interest rates during 1994, and the expectation of additional interest rate increases, the Bank anticipated that the CMOs would not be retired for at least 15 years because of the projected decrease in the prepayments of mortgages held in each pool. Furthermore, as a result of the increase in interest rates, both the rate of return on the CMOs (as measured by the monthly interest payments) and the market value of the CMOs decreased significantly. Thus, the Bank states that it became increasing difficult to find third party investors who were willing to purchase the CMOs from the Plans without the Plans incurring significant losses on their investments.[7]

5. Robert W. Nichols (Mr. Nichols), First Vice President of Morgan Keegan & Company, Inc., an independent, qualified appraiser located in Louisville, Kentucky, calculated the fair market value of the CMOs held by the Plans as of December 15, 1994. Mr. Nichols solicited bids for all of the CMOs from at least three different independent broker-dealers, including First National Bank of Knoxville in Knoxville, Tennessee; First Commerce Securities in Memphis, Tennessee; and Merrill Lynch Institutional Sales in Charleston, West Virginia. Based on pricing information obtained from these broker-dealers, Mr. Nichols advised the Bank that the fair market value of the CMOs was significantly below the original purchase price of the CMOs (as noted in the table below in Paragraph 6). The Bank states that Mr. Nichols is not related to or associated with the Bank, the Holding Company, the Plans or any of the brokers involved in the purchases of the CMOs.

6. In addition, the Bank calculated the value of the CMOs held by the Plans as of December 23, 1994, using an

[7] The Department is expressing no opinion in this proposed exemption regarding whether the acquisition and holding of the CMOs by the Plans violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act.

The Department notes that section 404(a) of the Act requires, among other things, that a fiduciary of a plan act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making investment decisions on behalf of a plan. Section 404(a) of the Act also states that a plan fiduciary should diversify the investments of a plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

In this regard, the Department is not providing any opinion as to whether a particular category of investments or investment strategy would be considered prudent or in the best interests of a plan as required by section 404 of the Act. The determination of the prudence of a particular investment or investment course of action must be made by a plan fiduciary after appropriate consideration to those facts and circumstances that, given the scope of such fiduciary's investment duties, the fiduciary knows or should know are relevant to the particular investment or investment course of action involved, including the plan's potential exposure to losses and the role the investment or investment course of action plays in that portion of the plan's investment portfolio with respect to which the fiduciary has investment duties (see 29 CFR 2550.404a–1). The Department also notes that in order to act prudently in making investment decisions, a plan fiduciary must consider, among other factors, the availability, risks and potential return of alternative investments for the plan. Thus, a particular investment by a plan, which is selected in preference to other alternative investments, would generally not be prudent if such investment involves a greater risk to the security of a plan's assets than comparable investments offering a similar return or result.

VOL 60 ISS 72 AP 14 1995 UMI

amortized cost computation. The Bank states that the computation of the amortized cost was arrived at by a series of computations. First, the Bank determined the amount of the premium paid upon purchase (Purchase price − 100 = Premium). The par value or face value of a bond is referred to as 100. The Bank states that since all of CMOs paid interest monthly, the premium was allocated monthly in order to be properly matched to the income. The number of months that the premium was allocated over was determined by the WAL at the time of purchase (expressed in years) multiplied by twelve (WAL × 12 = amortizing months).[8] Then, the Bank determined the amount of premium that was allocated to each month by dividing the premium by the amortizing months. To determine how much premium still remained to be amortized, the Bank subtracted from the amortizing months those months that the Plan actually held the CMO. The Bank states that the remaining months were multiplied by the monthly premium amount to arrive at the premium balance. The premium was added to the par price (i.e. 100) to arrive at the amortized cost remaining for the CMO. Thus, the Bank states that the formula for calculating amortized cost was as follows:[9]

$$\left[\frac{[\text{Price} - 100 = \text{Premium}}{\text{WAL} \times 12]} \times [\text{WAL} \times 12 - \text{months held}]\right] + 100$$

The Bank also calculated the remaining principal balance on the CMO investments held by each Plan as of December 23, 1994, based on the face amount of the securities and the principal and interest payments received by the Plans through that date. As shown in the table below, the amortized cost of the CMOs held by the Plans exceeded the remaining principal balances on the CMOs at the time of the transaction. In addition, the table below shows the fair market value of the CMOs held by each Plan, based on Mr. Nichols' appraisal of the CMOs on December 15, 1994.

Plan	Amort. cost	Prin. bal.	Mkt. value
Jones Plan	$226,612	$224,473	$105,711
Ehrie Pension Plan	79,449	78,410	41,581
Ehrie P/S Plan	105,046	104,028	52,924
Simons Plan	23,085	22,745	12,002
Buchanan Plan	18,240	18,192	10,445
Bank Plan	646,699	644,433	302,519

The Bank determined that a sales price for the CMOs owned by each of the Plans based on amortized cost, plus the total principal and interest payments received by the Plans as of the date of sale, would produce a total return to the Plans which would exceed the Plans' total original cost for the CMOs (as illustrated below).

Plan	Interest collected	Principal rec.'d + amort. cost	Total receipts	Total cost
Jones Plan	$25,372	$242,078	$267,450	$246,254
Ehrie Pension Plan	5,060	86,039	94,099	86,812
Ehrie P/S Plan	11,367	115,849	127,216	117,982
Simons Plan	2,716	25,313	28,029	25,717
Buchanan Plan	1,414	20,049	21,463	20,100
Bank Plan	72,953	693,782	766,735	705,680

The Bank represents that each Plan received a reasonable rate of interest on the CMOs during the period of time it held the CMOs. In this regard, the Bank states that the weighted annualized rate of interest received by each Plan on its CMOs, net of amortization cost, was as follows: (i) 8.19% for the Jones Plan; (ii) 8.06% for the Ehrie Pension Plan; (iii) 7.58% for the Ehrie P/S Plan; (iv) 8.68% for the Simons Plan; (v) 7.09% for the Buchanan Plan; and (vi) 8.23% for the Bank Plan.[10]

7. The Bank represents that when the market value and the availability of buyers for the CMOs declined, the CMOs became illiquid investments. Therefore, the Bank believed that the CMOs were no longer suitable investments for the Plans. The Bank states that any sale of the CMOs on the open market would have produced significant losses for the Plans and the individual accounts of each Plan participant involved. In order to prevent such losses, the Bank sold the CMOs to the Holding Company at an amount which for each Plan was the greater of either: (i) The outstanding principal balance for the CMOs owned by the Plan, plus accrued but unpaid interest, at the time of sale; (ii) the amortized cost for the CMOs owned by the Plan, plus accrued but unpaid interest, as determined by the Bank based on the outstanding principal balance for each CMO on the date of sale; or (iii) the fair market value of the CMOs owned by the Plan as determined by an independent, qualified appraiser at the time of the sale.

The Bank, as trustee of the Plans, believed that the transactions were in the best interests of the Plans and their participants and beneficiaries. The Bank states that the transactions allowed the Plan participants to divest themselves of an illiquid investment and shifted to the Holding Company the risks associated with selling the CMOs during the current interest rate environment. As a result, the individual participants in the Plans were no longer subject to the losses that would have resulted from the participants receiving a distribution of their account balances based on the fair market value of the CMOs. The Bank wanted to sell the CMOs to the Holding Company by December 31, 1994, in order to benefit participants of the Plans receiving distributions from their individual accounts during 1995. In this regard, the Bank notes that distributions made to Plan participants are based on the fair market value of the plan assets at the year-end valuation. At the time of the transaction, the fair market value of the CMOs was substantially less than the amount the Plans received as a result of the transactions.

8. The Bank represents that it took all appropriate actions necessary to safeguard the interests of the Plans and their participants and beneficiaries in connection with the sale of the CMOs to the Holding Company. The Bank ensured that each Plan received the appropriate amount of cash from the Holding Company in exchange for such Plan's CMOs. The Bank reviewed an updated appraisal of the CMOs to ensure that there was an accurate calculation by the independent appraiser of the fair market value of each of the CMOs held by the Plans, based on pricing information obtained from independent broker-dealers. The Bank also ensured that the Plans did not pay any commissions or other expenses in connection with the transactions.

9. In summary, the applicant represents that the transactions satisfied the statutory criteria of section 408(a) of the Act and section 4975 of the Code because: (a) Each sale was a one-time transaction for cash; (b) each Plan received an amount which was equal to the greater of either (i) the outstanding principal balance for the CMOs owned by the Plan, plus accrued but unpaid interest, at the time of sale, (ii) the amortized cost for the CMOs owned by the Plan, plus accrued but unpaid interest, as determined by the Bank based on the outstanding principal balance for each CMO on the date of sale, or (iii) the fair market value of the CMOs owned by the Plan as determined by an independent, qualified appraiser at the time of the sale; (c) the Plans did not pay any commissions or other expenses with respect to the sale; (d) the Bank, as trustee of the Plans, determined that the sale of the CMOs was in the best interests of each Plan and its participants and beneficiaries; (e) the Bank took all appropriate actions necessary to safeguard the interests of the Plans and their participants and beneficiaries in connection with the transactions; and (f) each Plan received a reasonable rate of interest on the CMOs during the period of time it held the CMOs.

Notice to Interested Persons

The applicant states that notice of the proposed exemption shall be made by first class mail to the appropriate Plan fiduciaries within fifteen (15) days following the publication of the proposed exemption in the **Federal Register**. This notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement (see 29 CFR 2570.43(b)(2)) which informs interested persons of their right to comment on and/or request a hearing with respect to the proposed exemption. Comments and requests for a public hearing are due within forty-five (45) days following the publication of the proposed exemption in the **Federal Register**.

Appendix

A. The FHLMC Multiclass Mortgage Participation Certificates, Series 1625, Class SB, SE and SJ, were issued by Freddie Mac as part of an issue of multiclass participation certificates with 45 various classes in the total amount of $1.5 trillion. The Bank, as trustee of the Plans, purchased portions of three of those classes on December 2, 1993. The Certificates are secured by first lien residential mortgages with an original term to maturity of 180 months or less.

This REMIC uses a 200 PSA assumption regarding principal repayment (2 times 100 PSA). The WAL for classes SB, SE and SJ based on a 200 PSA was 3.4, 2.0 and 2.0 years, respectively, at the time of purchase.

The formula for the interest on class SB is 57.000005—(LIBOR×6.785715) with a minimum rate of 0.0% and a maximum rate of 9.5%. For class SE, the interest is 17.999996—(LIBOR×2.571428) with a minimum rate of 0.0% and a maximum rate of 17.999996%. For class SJ, the interest is 18.529405—(LIBOR×2.647058) with a minimum rate of 0.0% and a maximum rate of 18.529405%. "LIBOR" refers to one-month LIBOR, a rate established daily by independent market data sources in London, England, based on the arithmetic mean of quotations offered by creditworthy international banks dealing in Eurodollars. LIBOR moves up or down daily as the interest rates charged by such banks move up or down. The movement of LIBOR has an inverse relationship on the interest paid on all inverse floating rate classes. As interest rates increased from February through December 1, 1994, the interest paid on most of these classes declined. The initial interest rates for classes SB, SE and SJ were 9.5%, 9.803569% and 10.091908%, respectively. The interest rates as of December 1, 1994 for classes SB, SE and SJ were 9.5%, 2.57% and 2.65%. The interest rates can drop to 0.0% for classes SB, SE and SJ if LIBOR reaches or exceeds 8.4, 8.0 and 7.0 percent, respectively. LIBOR on December 23, 1994 was 5.94%.

B. The FHLMC Multiclass Mortgage Participation Certificates, Series 1655, Class S, were issued by Freddie Mac as part of an issue of multiclass certificates with 20 various classes in the total amount of $500 million. The Bank, as trustee of the Plans, purchased a portion of a class on December 7, 1993. The Certificates are secured by first lien residential mortgages with an original term to maturity of 180 months or less.

This REMIC uses a 250 PSA assumption regarding principal repayment (2.5 times 100 PSA). The WAL for class S based on a 250 PSA was 3.5 years at the time of purchase.

The formula for the interest on class S is 18.983333333—(LIBOR x 2.333333) with a minimum rate of 3.0% and a maximum rate of 18.98333333%. As discussed above, the movement of LIBOR has an inverse relationship on the interest paid on all inverse floating rate classes. As interest rates increased from February through December 1994, the interest paid on the class S securities declined. The initial interest rate was 11.5458%. As of December 15, 1994, the interest rate was 4.54%. The interest rate can drop to 3.0% if LIBOR reaches 6.85% or higher. As noted

[8] As noted previously in Paragraph 3, the WAL for a CMO is determined at the time of purchase based on various assumptions about the speed of principal repayments and interest rate changes, using financial data provided by independent sources (such as Bloomberg Financial Markets). The Bank states that changes to the formula for calculating the amortized cost based on WAL assumptions other than at the time of purchase would not provide an administratively acceptable because such a method would require constant adjustments which are not material to the concept of income recognition as it relates to CMOs.

[9] For example, assume that a particular CMO investment has been held by a Plan for 6 months. If the WAL at the time of purchase of the CMO was 2.02 years and the cost was 102.25 based on the par value being referred to as 100, the formula would be (((102.25 − 100 = 2.25) / 2.02 × 12 = 24.24) = 09282178) × ((2.02 × 12 = 24.24) − 6) = 1.69307 + 100 = 101.69307). As the formula indicates, the be 101.69307 as compared to the actual cost of 102.25. Therefore, the Bank states that the amortized cost formula caused the Plan to be paid an amount for this CMO investment which was slightly less than the Plan's original cost (i.e. basis) but more than the total remaining principal balance plus accrued but unpaid interest.

[10] The formula for the annualized rate of return for the months held was as follows: (Interest income collected less amortization of premiums realized) divided by (average outstanding balance) divided

VOL 60 ISS 72 AP 14 1995 UMI

above. LIBOR was 5.94% on December 23, 1994.

C. The FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–102, Class S, were issued by Fannie Mae as part of an issue of pass-through certificates with 18 various classes in the total amount of $500 million. The Bank, as trustee of the Plans, purchased a portion of one class on September 2, 1993. The Certificates are secured by first lien residential mortgages with an original term to maturity of 180 months or less.

This REMIC uses a 175 PSA assumption regarding principal repayment (1.75 times 100 PSA). The WAL for class S based on a 175 PSA was 3.5 years at the time of purchase.

The formula for the interest on class S is 26.95598—(LIBOR x 3.85086) with a minimum rate of 0.0% and a maximum rate of 26.95598%. The movement of LIBOR has an inverse relationship on the interest paid on all inverse floating rate classes. As interest rates increased from February through December 1994, the interest paid on class S securities declined. The initial interest rate was 14.92206%. As of December 23, 1994, the interest rate was 3.97%. The interest rate can drop to 0.0% if LIBOR reaches 7% or higher.

D. The FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–110, Class SH, were issued by Fannie Mae as part of an issue of pass-through certificates with 28 various classes in the total amount of $925 million. The Bank, as trustee of the Plans, purchased a portion of one class on October 5, 1993. The Certificates are secured by first lien residential mortgages with an original term to maturity of 360 months or less.

This REMIC uses a 200 PSA assumption regarding principal repayment (2 times 100 PSA). The WAL for class SH based on a 200 PSA was 2.8 years at the time of purchase.

The formula for the interest on class SH is 16.9929—(COFI x 1.857144) with a minimum rate of 0.0% and a maximum rate of 16.9929%. In this case, "COFI" refers to the U.S. Federal Reserve's 11th District Cost of Funds Index for the second month next preceding the month in which such interest accrual period commences. COFI moves up or down as interest rates move up or down. The movement of COFI will have an inverse relationship on the interest paid on all inverse floating rate classes. COFI does not react immediately to changes in interest rates. Unlike most of the other certificates discussed herein, the interest paid on class SH securities declined only slightly during the period from February to December, 1994. The initial interest rate was 9.24677%. As of December 1, 1994, the interest rate was 9.217%. However, additional interest rate increases will significantly decrease the interest rate on these certificates. The interest rate can drop to 0.0% if COFI reaches 9.15% or higher. COFI was 4.367% for December 1994.[11]

E. The FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–139, Class SL and SC, were issued by Fannie Mae as part of an issue of pass-through certificates with 59 various classes in the total amount of $1,650,350,872. The Bank, as trustee of the Plans, purchased a portion of two classes on September 7 and 21, 1993. The Certificates are secured by first lien residential mortgages with an original term to maturity of 360 months or less.

This REMIC uses a 200 PSA assumption regarding principal repayment (2 times 100 PSA). The WAL for class SL and SC based on a 200 PSA was 4.0 and 3.5 years, respectively, at the time of purchase.

The formula for the interest on class SL is 70.05484—(LIBOR × 8.193548) with a minimum rate of 0.0% and a maximum rate of 12.7%. For class SC, the interest is 23.94—(LIBOR × 2.8) with a minimum rate of 0.0% and a maximum rate of 23.94%. The movement of LIBOR has an inverse relationship on the interest paid on all inverse floating rate classes. As interest rates increased from February through December 1994, the interest paid on the class SC securities declined. The initial interest rates for SL and SC classes were 12.7% and 15.015%, respectively. As of December 23, 1994, the interest rates were 12.7% and 8.2%, respectively. The interest rate for both the SL and SC class can drop to 0.0% if LIBOR reaches or exceeds 8.55%. As noted above, LIBOR was 5.94% on December 23, 1994.

F. The FNMA Guaranteed REMIC Pass-Through Certificates, Fannie Mae REMIC Trust 1993–202, Class VJ, were issued by Fannie Mae as part of an issue of pass-through certificates with 76 various classes in the total amount of $2 trillion. The Bank, as trustee of the Plans, purchased a portion of one class on October 28, 1993. The Certificates are secured by first lien residential mortgages with an original term to maturity of 360 months or less.

This REMIC uses a 200 PSA assumption regarding principal repayment (2 times 100 PSA). The WAL for class VJ based on a 200 PSA was 3.5 years at the time of purchase.

[11] The applicant states that COFI is adjusted monthly, instead of daily.

The formula for the interest on class VJ is 21.58 − (LIBOR × 2.6) with a minimum rate of 0.0% and a maximum rate of 21.58%. The movement of LIBOR has an inverse relationship on the interest paid on all inverse floating rate classes. As interest rates increased from February through December 1994, the interest paid on class VJ securities declined. The initial interest rate was 13.455%. As of December 23, 1994, the interest rate was 6.06%. The interest rate can drop to 0.0% if LIBOR reaches 8.3% or higher.

G. The GE Capital Mortgage Services, Inc., REMIC Mult-Class Pass-Through Certificates, Series 1993–17, Class 17–A20, were issued by GE Capital Mortgage Services, Inc., as part of an issue of pass-through certificates with 28 senior classes and 6 junior classes in the total amount of $493,750,000. The Bank, as trustee of the Plans, purchased a portion of one of the senior classes on November 30, 1993. The Certificates are secured by first lien residential mortgages with an original term to maturity of 360 months or less.

This REMIC uses a 340 PSA assumption regarding principal repayment (3.4 times 100 PSA). The WAL for class A20 based on a 340 PSA was 2.5 years at the time of purchase. The repayment of principal is not guaranteed by any U.S. Government Agency. As with the other REMICs, the timing of when the principal is returned is dependent on how quickly the underlying mortgages are actually repaid or refinanced.

The formula for the interest on class A20 is 17.875 − (LIBOR × 2.166666) with a minimum rate of 0.0% and a maximum rate of 17.875%. The movement of LIBOR has an inverse relationship on the interest paid on all inverse floating rate classes. As interest rates increased from February through December 1994, the interest paid on class A20 securities declined. The initial interest rate was 10.96875%. As of December 23, 1994, the interest rate was 4.87%. The interest rate can drop to 0.0% if LIBOR reaches 8.25% or higher.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

The Neiman Marcus Group, Inc. Employee Savings Plan (the Plan), Located in Chestnut Hill, Massachusetts

[Application No. D–09917]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act

and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) proposed interest-free loans to the Plan (the Loans) by The Neiman Marcus Group, Inc. (the Employer), the sponsor of the Plan, with respect to guaranteed investment contract number 62638 (the GIC) issued by Confederation Life Insurance Company (Confederation Life); and (2) the Plan's potential repayment of the Loans (the Repayments); provided that the following conditions are satisfied:

(A) No interest and/or expenses are paid by the Plan;

(B) The Loans are made in lieu of amounts due the Plan under the terms of the GIC;

(C) The Repayments are restricted to cash proceeds paid to the Plan by Confederation Life and/or any state guaranty association or other responsible third party making payment with respect to the GIC (the GIC Proceeds), and no other Plan assets are used to make the Repayments; and

(D) The Repayments will be waived to the extent the Loans exceed the GIC Proceeds.

Summary of Facts and Representations

1. The Plan is a defined contribution plan which includes a cash or deferred arrangement under section 401(k) of the Code, and which provides for employer matching contributions and additional employer discretionary contributions. As of September 30, 1994 the Plan had approximately 7,805 participants and total assets of approximately $68,729,722. The trustee of the Plan is Wachovia Bank of North Carolina, N.A. (the Trustee). The Employer, a Delaware public corporation with its principal place of business in Chestnut Hill, Massachusetts, is a retailer of clothing, fashion apparel, and home furnishings.

2. The Plan provides for individual participant accounts (the Accounts) and for participant-directed investment of each Account. Plan participants direct investment of their Accounts among options (the Funds) offered by the Plan. Participants' directions and changes of directions, with respect to investment of the Accounts among the Funds, are permitted on a quarterly basis. The Funds include a fixed income fund (the F.I. Fund), which invests in, among other things, guaranteed investment contracts issued by insurance companies.

2. Among the assets of the F.I. Fund is the GIC, a guaranteed investment contract issued to the Plan in 1992 by Confederation Life Insurance Company (Confederation Life), a Canadian insurance company doing business in the United States. The GIC is a single-deposit, benefit-responsive contract, principal amount $3,500,000, earning interest at a guaranteed annual rate of 7.91 percent (the Contract Rate). The GIC's terms enable the F.I. Fund to make withdrawals (the Withdrawals) to effect, in accordance with the terms of the Plan, benefit distributions, in-service withdrawals, participant loans, and participant-directed transfers of Account balances to other Funds offered by the Plan (the Withdrawal Events). Interest at the Contract Rate is credited daily, calculated on the balance remaining deposited under the GIC. If interest earned under the GIC exceeds the amount withdrawn, the difference is paid annually (the Interest Payments) on the anniversary date of the GIC's effective date. All Interest Payments have been made when due through April 3, 1994. The terms of the GIC also require Confederation Life to make a final payment to the Plan on March 31, 1997 (the Maturity Payment) in the amount of the GIC's accumulated book value, representing total principal deposits plus interest earnings at the Contract Rate less previous withdrawals. As of December 31, 1994, the GIC had a total accumulated book value of $3,684,555.

3. Commencing August 11, 1994 (the Receivership Date), insurance regulatory authorities in Canada and the state of Michigan instituted proceedings to place Confederation Life in receivership (the Receivership) [12], and normal account activity with respect to Confederation Life contracts was stayed pending resolution of the Receivership. Since the commencement of the Receivership, the Plan has received no payments under the GIC to enable the F.I. Fund to fund Withdrawal Events, and the Employer represents that it is uncertain whether, or to what extent, the Plan will receive any payments to enable funding of future Withdrawal Events. Additionally, the Employer represents that it is uncertain whether and to what extent the Maturity Payment under the GIC will be paid. The Employer desires to alleviate the F.I. Fund of risks associated with investments in the GIC, and to enable the F.I. Fund to resume and continue funding the Withdrawal Events. Accordingly, the Employer proposes to make loans to the Plan (the Loans) in lieu of the amounts due from Confederation Life under the terms of the GICs, and is requesting an exemption for the Loans, and for their potential repayment (the Repayments) by the Plan, under the terms and conditions described herein.

5. The Employer and the Trustee will execute a written agreement embodying all the terms and conditions of the Loans and the Repayments (the Agreement). Under the Agreement, the Employer agrees to make a Loan to the F.I. Fund each time Confederation Life fails to pay the Plan the full amount of any Withdrawal in accordance with the terms of the Plan. The amount of each Loan will be the difference between the amount due the Plan as a Withdrawal and the amounts actually paid with respect to that Withdrawal by Confederation Life, any conservator, liquidator, trustee or other person performing similar functions with respect to Confederation Life, or any state guaranty fund or other person or entity (other than the Employer) acting as surety, insurer or guarantor with respect to Confederation Life with respect to the GIC (collectively, the GIC Payors). The Loans will be made only in lieu of amounts due with respect to Withdrawals to fund Withdrawal Events, but not in lieu of amounts due the Plan in the form of the annual Interest Payments. In the event the Receivership and any rehabilitation of Confederation Life are not resolved by January 1, 2001, the Employer will make a final Loan in the amount of the Maturity Payment which would have been due March 31, 1997, less all previous Advances pursuant to the Agreement. The Employer will not credit interest under the Agreement past March 31, 1997, and that portion of any Account which is attributable to amounts remaining invested in the GIC after March 31, 1997 will cease to earn interest under the Agreement.[13] Any Loans made by the Employer after the maturity date of March 31, 1997 will be based on the Maturity Value of the GIC.

6. The Agreement provides that the Loans are to be repaid, but only from payments made to the Plan pursuant to the GIC by the GIC Payors. No other

[12] The Department notes that the decisions to acquire and hold the GIC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GIC.

[13] The Department notes that this exemption, if granted, will not affect the rights of any participant or beneficiary with respect to claims under section 404 of the Act in connection with any aspect of the GIC transactions.

VOL 60 ISS 72 AP 14 1995 UMI

Plan assets will be available for repayment of the Loans. If amounts received by the Plan from the GIC Payors (the GIC Proceeds) are not sufficient to repay fully the Loans, the Agreement provides that the Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount. To the extent the Plan receives GIC Proceeds in excess of the total amount of the Loans, such additional amounts will be retained by the Plan and allocated among the Accounts invested in the F.I. Fund.

7. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act for the following reasons: (1) The Loans enable the Plan to resume the full funding of the Withdrawal Events; (2) The Loans will protect the Plan's investment in the GIC; (3) The Plan will pay no interest or incur any expenses with respect to the Loans; (4) Repayment of the Loans will be restricted to payments by the GIC Payors and no other Plan assets will be involved in the transactions; (5) Repayment of the Loan will be waived to the extent the Plan recoups less from the GIC Payors than the total amount of the Loans; and (6) In the event the Plan receives GIC Proceeds in excess of the Guaranteed Amount, such amounts will be retained by the Plan and allocated among the Accounts.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department (202) 219–8881. (This is not a toll-free number.)

Guarantee Mutual Life Company (Guarantee Mutual), Located in Omaha, NE

[Application No. D–09941]

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[14]

Section I. Covered Transaction

If the exemption is granted, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the proposed receipt of common stock of The Guarantee Life Companies, Inc. (GLCI), or the receipt of cash or policy credits by an eligible policyholder (the Eligible Policyholder) of Guarantee Mutual which is an employee benefit plan (the Plan), other than an Eligible Policyholder which is a plan sponsored by Guarantee Mutual for its own employees,[15] in exchange for the termination of such Eligible Plan Policyholder's membership interest in Guarantee Mutual, in accordance with the terms of a plan of demutualization (the Plan of Conversion or the Conversion Plan) adopted by Guarantee Mutual and implemented pursuant to the Nebraska Insurers Demutualization Act (the Demutualization Act), Nebraska Revised Statutes, Sections 44–6101 through 44–6120.

The proposed exemption is subject to the general conditions set forth below in Section II.

Section II. General Conditions

(a) The Conversion Plan is implemented in accordance with procedural and substantive safeguards that are imposed under Nebraska law and is subject to the review and supervision by the Director of the Department of Insurance of the State of Nebraska (the Director).

(b) The Director reviews the terms of the options that are provided to Eligible Policyholders of Guarantee Mutual, as part of such Director's review of the Conversion Plan, and the Director only approves the Conversion Plan following a determination that such Conversion Plan is fair and equitable to all Eligible Policyholders.

(c) Each Eligible Policyholder has an opportunity to comment on the Conversion Plan and decide whether to vote to approve such Conversion Plan after full written disclosure is given such Eligible Policyholder by Guarantee Mutual, of the terms of the Conversion Plan.

(d) Any election by an Eligible Plan Policyholder to receive stock, cash or policy credits, pursuant to the terms of the Conversion Plan is made by one or more independent fiduciaries (the Independent Fiduciaries) of such Plan and neither Guarantee Mutual nor any of its affiliates exercises any discretion or provides investment advice with respect to such election.

(e) After each Eligible Policyholder entitled to receive stock is allocated at least 10 shares of common stock, additional consideration is allocated to Eligible Policyholders who own participating policies based on actuarial formulas that take into account each participating policy's contribution to the surplus of Guarantee Mutual which formulas have been approved by the Director.

(f) All Eligible Plan Policyholders participate in the transactions on the same basis within their class groupings as other Eligible Policyholders that are not Plans.

(g) No Eligible Policyholder pays any brokerage commissions or fees in connection with their receipt of stock or in connection with the implementation of the commission-free sales program.

(h) All of Guarantee Mutual's policyholder obligations remain in force and are not affected by the Conversion Plan.

Section III. Definitions

For purposes of this proposed exemption:

(a) The term "Guarantee Mutual" means Guarantee Mutual Insurance Company and any affiliate of Guarantee Mutual as defined in paragraph (b) of this Section III.

(b) An "affiliate" of Guarantee Mutual includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Guarantee Mutual. (For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(c) The term "Eligible Policyholder" means a policyholder who is eligible to vote and to receive consideration in a demutualization. Such policyholder is a policyholder of the mutual insurer on the day the plan of conversion is adopted by the board of directors of the insurer.

(d) The term "policy credit" means an increase in accumulation account value (to which no surrender or similar charges are applied) in the general account or an increase in a dividend accumulation on a policy.

[14] For purposes of this exemption, reference to provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[15] Guarantee Mutual is not requesting, nor is the Department providing exemptive relief herein with respect to the distributions of stock to plans that Guarantee Mutual or its affiliates maintain for their own employees. Guarantee Mutual represents that such stock would constitute qualifying employer securities within the meaning of section 407(d)(5) of the Act and that section 408(e) of the Act would apply to such distributions. In this regard, the Department expresses no opinion on whether such distributions would satisfy the terms and conditions of section 408(e) of the Act.

Summary of Facts and Representations

1. Guarantee Mutual is a mutual life insurance company organized in 1901 under the laws of the State of Nebraska. It provides group life and health insurance to employers and life insurance and annuities to individuals. Guarantee Mutual transacts business in forty-six states and District of Columbia. As of December 31, 1993, Guarantee Mutual had total assets of approximately $975 million and more than $20 billion of life insurance policies in force.

As a mutual life insurance company, Guarantee Mutual has no stockholders. Policyholders are members of Guarantee Mutual and are entitled to vote to elect directors of the company and would be entitled to share in the assets of the company if it were liquidated.

2. Guarantee Mutual is the sole stockholder of two stock life insurance companies—(a) Guarantee American Life Company (GALC), a Nebraska-domiciled life insurer incorporated in 1982; and (b) Guarantee Protective Life Company (GPLC), a life insurer incorporated in Minnesota in 1936 and acquired by Guarantee Mutual in 1992 and redomesticated to Nebraska in 1993. GALC is principally engaged in reinsuring a portion of certain Guarantee Mutual insurance obligations. GPLC ceded its group life, health and credit insurance lines to nonaffiliated insurance pursuant to reinsurance agreements that were completed in late 1992 and early 1993. Currently, GPLC is not underwriting any new business. In addition to these insurance companies, Guarantee Mutual owns 100 percent of the stock of Guarantee Financial Services, Inc., a non-insurance company incorporated in 1990 in Nebraska that has not yet conducted any operations.

3. Guarantee Mutual provides a wide variety of insurance products to employee benefit plans covered by provisions of the Act and the Code. Guarantee Mutual has actively marketed its products to employee benefit plans and had as of September 30, 1994, approximately 32,100 in force policies and contracts held on behalf of employee pension and welfare plans. These include approximately 1,700 policies and contracts funding pension and profit sharing plans and over 30,400 contracts providing welfare benefit plan coverage such as group life, short- and long-term disability, accidental death and dismemberment and group health coverage.

4. On February 1, 1994, Guarantee Mutual's Board of Directors authorized management to develop a plan of demutualization pursuant to which Guarantee Mutual would be converted from a mutual life insurance company to a stock life insurance company by operation of Nebraska law. The Board of Directors formally adopted the Conversion Plan on December 15, 1994.

The ultimate result of the Conversion Plan will be a structure in which all of Guarantee Mutual's stock will be held by a holding company, GLCI, which has been organized under Delaware law for this purpose. Eligible Policyholders of Guarantee Mutual will receive stock of GLCI or, in certain cases, cash or policy credits and their membership interests and rights in the surplus of Guarantee Mutual will be extinguished. Any election by the Plan to receive stock, cash or policy credits pursuant to the Conversion Plan will be made by one or more Independent Fiduciaries of such Plan and neither Guarantee Mutual nor any of its affiliates will exercise any discretion or render investment advice with respect to such election.

Under the Conversion Plan, two steps will deem to occur simultaneously on the effective date of the transaction. First, Guarantee Mutual will be deemed to issue common stock to a transfer agent for the respective accounts of Eligible Policyholders entitled to receive stock under the Conversion Plan. Second, the transfer agent will be deemed to transfer such shares, on behalf of the Eligible Policyholders, to GLCI in exchange for an equal number of shares of GLCI stock. GLCI will then issue such shares of GLCI stock registered in the respective names of the Eligible Policyholders entitled to receive stock.

5. The initial public offering (the IPO), in which shares of GLCI stock will be sold for cash, is to occur on the effective date of the demutualization which is anticipated to take place during the second half of 1995. GLCI will contribute a portion of the proceeds from the IPO to Guarantee Mutual in an amount at least equal to the amount required to pay cash and fund the crediting of policy credits to Eligible Policyholders who are to receive such consideration. As promptly as possible after the effective date, GLCI will pay, or cause Guarantee Mutual to pay, cash or policy credits to Eligible Policyholders entitled under the Conversion Plan to receive such consideration.

GLCI stock will be publicly-traded. In this regard, an application will be made to list its stock on the National Association of Securities Dealers Automated Quotations National Market System.

6. According to the applicant, the principal purpose of the demutualization is to enhance Guarantee Mutual's strategic and financial flexibility by creating a corporate structure that will make it potentially possible to obtain additional capital from sources that are unavailable to the company as a mutual insurer. In addition, the applicant represents that the conversion of Guarantee Mutual from a mutual life insurance company to a stock life insurance company will enable Guarantee Mutual to use stock options or other equity-based compensation arrangements in order to attract and retain talented employees. Moreover, the applicant notes that Eligible Policyholders will benefit by receiving marketable securities, cash or policy credits in the demutualization. The applicant further represents that the Conversion Plan will not, in any way, change premiums or reduce policy benefits, values, guarantees or other policy obligations of Guarantee Mutual to its policyholders and contractholders.

7. The applicant has outlined the procedural requirements under Nebraska law for life insurance company demutualization. In this regard, the Demutualization Act provides an approval process for demutualization of a life insurance company under Nebraska law. A conversion plan must be approved by the Director as well as by Eligible Policyholders.

The Demutualization Act requires that a mutual insurer wishing to convert to a stock insurer file an application with the Director. The application must include: (a) A plan of conversion that contains a description of the structure and form of the proposed consideration to the policyholders and the projected range of the number of shares of capital stock to be issued by the new stock insurer; (b) a certification that the plan of conversion has been adopted by a vote of not less than two-thirds of the members of the mutual insurer's board of directors; (c) certification adopted by not less than two-thirds of the members of the mutual insurer's board of directors that the plan is fair and equitable to the policyholders; (d) certified copies of the proposed amendments to the insurer's articles of incorporation and bylaws to effectuate the conversion; and (e) a form of the proposed notice to policyholders, describing the plan of conversion and informing policyholders of procedures for the meeting of policyholders and the policyholder vote on the plan.

The Director must make an initial determination to approve or disapprove an application after conducting a public hearing, at which any interested person may appear or otherwise be heard. The

VOL 60 ISS 72 AP 14 1995 UMI

insurer must give such interested person reasonable notice of the public hearing as the Director in his or her discretion requires. After the public hearing, the Director will approve the application only if he or she finds that (a) the plan of conversion is fair and equitable to the policyholders; (b) the plan does not deprive the policyholders of their property rights or due process of law; (c) the new stock insurer would meet the minimum requirements to be issued a certificate of authority by the Director to transact business in Nebraska; and (d) that the continued operations of the new stock insurer would not be hazardous to future policyholders and the public.

After the Director makes an initial determination to approve an application, the insurer is required to hold a meeting of its policyholders to vote on the plan. The Demutualization Act requires that the insurer give at least 30 days notice prior to the time fixed for the meeting, by first-class mail to the last-known address of each policyholder, that the plan of conversion will be voted upon at a meeting of the policyholders. The notice must also include a brief description of the plan and a statement that the Director has initially approved it. Policyholders may vote in person or by written proxy. Each policyholder is entitled to only one vote regardless of the number of policies owned by the policyholder. The plan of demutualization must be approved by the affirmative vote of at least two-thirds of the policyholders who vote on the plan.[16]

After receiving certification from the insurer that the plan of demutualization has been approved by the policyholders, the Director will enter a final order approving the insurer's application. The demutualization will take effect under Nebraska law after the insurer certifies that the conditions set forth in the plan of demutualization have been satisfied and the Director issues a certificate of authority to the insurer.

Under Nebraska law, the consideration given to policyholders may be stock, cash, a combination of stock and cash, or such other valuable consideration as the Director may approve. Policyholders are not required to be given preemptive rights unless the Director so orders.

[16] Although Guarantee Mutual is uncertain about the number of policyholders that will vote on the Conversion Plan, it points out that it has approximately 155,000 policyholders who are eligible to vote. Guarantee Mutual also represents that prior to the public hearing, it will provide each Eligible Policyholder with a summary of the Conversion Plan, a notice of the public hearing and a more detailed policyholder information statement.

The Demutualization Act permits the Director to engage the services of experts to assist in determining whether a plan of conversion meets the requirements of the Demutualization Act. In the case of Guarantee Mutual, the Director has retained actuaries, Ernst & Young; legal advisers, LeBoeuf, Lamb, Green & MacRae and Kennedy, Holland, Delacy & Svoboda; and investment banking firm, Donaldson, Lufkin & Jenrette, Inc., as consultants.

A final order by the Director to approve an application pursuant to the Demutualization Act is subject to judicial review in the Nebraska courts in accordance with the Nebraska Administrative Procedure Act.

7. Guarantee Mutual's Conversion Plan provides for Eligible Policyholders, whose membership interests in the mutual company will be extinguished in the demutualization, to receive common stock of GLCI, or cash or policy credits. For this purpose, an Eligible Policyholder generally is the owner of one or more policies in force on the date that Guarantee Mutual's Board of Directors adopted the Conversion Plan.[17] In order to determine the amount of consideration to which each Eligible Policyholder is entitled, each Eligible Policyholder will be allocated (but not issued) a number of shares of common stock equal to the sum of (a) a fixed component of consideration equal to 10 shares of GLCI stock which will be subject to proportional adjustment; and (b) where the Eligible Policyholder owns one or more participating policies, an additional number of shares based on actuarial formulas that take into account each participating policy's past and expected future contributions to the surplus of Guarantee Mutual.

8. Certain Eligible Policyholders will receive cash or policy credits instead of stock. The amount of cash or policy credits will be determined by reference to the price per share at which GLCI stock is offered to the public in the IPO.[18] Eligible Policyholders whose mailing address is outside the United States, or to whom mail is undeliverable at the address in Guarantee Mutual's records, will receive cash in lieu of stock, in an amount equal to the value of the stock such policyholders would otherwise have received based on the price of GLCI stock in the IPO contemplated by the Plan of Conversion.

In addition, the Plan of Conversion provides that Eligible Policyholders who are allocated a number of shares of GLCI stock which is less than or equal to the maximum number of shares specified by the Board of Directors of Guarantee Mutual, may receive cash instead of stock. The maximum number of shares designated by the Board of Directors may not be less than 10 shares nor may it exceed 40 shares. Such maximum amount is, however, subject to proportional adjustment.

Certain other Eligible Policyholders, namely owners of individual retirement annuities, tax sheltered annuities or certain other policies issued directly to plan participants in qualified pension or profit sharing plans will receive policy credits equal in value to the stock allocated to such Eligible Policyholders.

Under Nebraska law, a plan of conversion must specify the consideration to be given to policyholders and the Director must find that the plan is fair and equitable to the policyholders and does not deprive them of their property rights or due process of law. Moreover, the Director must approve any consideration (such as policy credits) other than cash or stock.

9. The Conversion Plan also provides for a commission-free program that is to begin after the ninetieth day following the effective date of the demutualization and before the 12 month anniversary of such effective date at a time determined by the Board of Directors of GLCI to be appropriate and in the best interests of GLCI and its stockholders. The program, which will continue for 3 months, will be available to any Eligible Policyholder who receives, under the Plan of Conversion, fewer shares than the maximum number of shares entitled to receive cash as consideration.

In the program, such Eligible Policyholders will be entitled to sell, at prevailing market prices, all the shares of GLCI stock received by the Eligible Policyholder in the demutualization. Specifically, Chemical Bank, which is unrelated to Guarantee Mutual, or one of Chemical Bank's affiliates, will effect sales of stock under the commission-free sales program.[19] No brokerage commissions, mailing charges, registration fees or other administrative or similar expenses will be charged in connection with the receipt of stock or the implementation of the commission-free sales program. The commission-free program will also offer Eligible Policyholders the opportunity to purchase enough shares to round-up their holdings to 100 shares, again without paying any fees, charges or commissions (the Round Up Feature). Participation in the Round Up Feature will be made available to all Eligible Policyholders who on the commission-free program's record date hold fewer than a number of shares (not more than 99) specified by the Board of Directors of Guarantee Mutual.

10. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Conversion Plan will be implemented in accordance with procedural and substantive safeguards that are imposed under Nebraska law and will be subject to the review and supervision by the Director.

(b) The Director will review the terms of the options that are provided to Eligible Policyholders of Guarantee Mutual as part of such Director's review of the Conversion Plan, and will approve the Conversion Plan following a determination that such Conversion Plan is fair and equitable to all Eligible Policyholders.

(c) Each Eligible Policyholder will have an opportunity to comment orally or in writing on the Conversion Plan and decide whether to vote to approve in writing such Demutualization Plan after full written disclosure is given such policyholder by State Mutual, of the terms of the Conversion Plan.

(d) Any election by an Eligible Policyholder which is a Plan to receive stock, cash or policy credits, pursuant to the terms of the Conversion Plan will be made by one or more Independent Fiduciaries of such plan and neither State Mutual nor any of its affiliates will exercise any discretion or provides investment advice with respect to such election.

(e) After each Eligible Policyholder is allocated at least 10 shares of stock, additional consideration allocated to Eligible Policyholders who own participating policies will be based on actuarial formulas that take into account each participating policy's contribution to the surplus of Guarantee Mutual which formulas have been approved by the Director.

(f) All Plans that are Eligible Policyholders will participate in the transactions on the same basis within their class groupings as other Eligible Policyholders that are not Plans.

(g) No Eligible Policyholder will pay any brokerage commissions or fees in connection with such Eligible Policyholder's receipt of stock or in connection with the implementation of the commission-free sales program.

(h) All of State Mutual's policyholder obligations will remain in force and will not be affected by the Conversion Plan.

Notice to Interested Persons

Guarantee Mutual will provide notice of the proposed exemption to all Eligible Plan Policyholders within 14 days of the publication of the notice of pendency in the **Federal Register**. Such notice will be provided to interested persons by first class mail and will include a copy of the notice of proposed exemption as published in the **Federal Register**. The notice will also inform interested persons of their right to comment on the proposed exemption. Comments with respect to the notice of proposed exemption are due within 44 days after the date of publication of this exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 11th day of April, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–9254 Filed 4–13–95; 8:45 am]

BILLING CODE 4510–29–P

[17] Guarantee Mutual represents that under sections 44–6103, 44–6106 and 44–6109 of Nebraska Insurance Law, the stock, cash, policy credits or other compensation resulting from the demutualization plan must be distributed to "policyholders," as determined by the records of the mutual life insurance company. Guarantee Mutual further represents that an insurance or annuity policy that provides benefits under an employee benefit plan, typically designates the employer that sponsors the plan, or a trustee acting on behalf of the plan, as the policyholder. In this regard, Guarantee Mutual asserts that it is required under Nebraska Insurance Law to make distributions resulting from the demutualization plan to the employer or the plan sponsor when they are the designated policyholder on the plan policy.

In general, it is the Department's view that, if an insurance policy (including an annuity contract) was purchased with assets of an employee benefit plan, and if there exist any participants covered under the plan (as defined at 29 CFR 2510.3–3) at the time when Guarantee Mutual incurs the obligation to distribute stock, cash, policy credits or other compensation, then such consideration would constitute an asset of such plan. Under these circumstances, the appropriate plan fiduciaries must take all necessary steps to safeguard the assets of the plan in order to avoid engaging in a violation of the fiduciary responsibility provisions of the Act.

[18] For purposes of allocating the consideration, Guarantee Mutual represents that all policyholders will be treated the same within their class groupings.

[19] Guarantee Mutual notes that the performance of services by Chemical Bank or its affiliates under the commission-free sales program will not involve any fiduciary activity on behalf of Eligible Plan Policyholders. Guarantee Mutual further represents that it will not retain an affiliate to effect securities transactions to take place under the commission-free sales program.

Wage and Hour Division

[Administrative Order No. 662]

Special Industry Committee for All Industries in American Samoa; Appointment; Convention; Hearing

1. Pursuant to section 5 and 6(a)(3) of the Fair Labor Standards Act (FLSA) of 1938, as amended (29 U.S.C. 205, 206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949–53 Comp., p. 1004) and 29 CFR part 511, I hereby appoint special Industry Committee No. 21 for American Samoa.

2. Pursuant to section 5, 6(a)(3) and 8 of FLSA, as amended (29 U.S.C. 205, 206(a)(3), and 208), reorganization Plan

VOL 60 ISS 72 AP 14 1995 UMI

No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR part 511, I hereby:

(a) Convene the above-appointed industry committee;

(b) Refer to the industry committee the question of the minimum rate or rates for all industries in American Samoa to be paid under section 6(a)(3) of FLSA, as amended; and,

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industries, and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under FLSA.

The committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on June 12, 1995, in Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rate prescribed by section 6(a) and 6(b) of FLSA, as amended by the Fair Labor Standards Amendments of 1989, of $4.25 an hour effective April 1, 1991.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industries that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industries, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR Part 511.10, that will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications the committee shall consider, among other relevant factors, the following:

(a) Competitive conditions as affected by transportation, living, and production costs;

(b) Wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and,

(c) Wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information that has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Upon request, the Wage and Hour Division will mail copies to interested persons. To facilitate mailing, such persons should make advance written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Each prehearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than June 2, 1995. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC this 10th day of April 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–9279 Filed 4–13–95; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before May 30, 1995. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1–AFU–95–2). Documentation used to prepare for and perform automated systems reviews. (Policy documentation is proposed as permanent.)

2. Department of the Air Force (N1–AFU–95–5). Administrative orders of Air Force Reservists.

3. Department of Justice (N1–60–94–3). Documents related to bankruptcy matters in which the Civil Division is not involved and that do not affect service on the Attorney General under the Rules of Civil procedures.

4. Department of State, Bureau of Consular Affairs (N1–59–95–6). Duplicative records and tracking system relating to passport services and issues.

5. Department of Transportation, Federal Aviation Administration (N1–237–92–4). Selected textual input to the automated Enforcement Information System relating to legal enforcement.

6. Department of the Treasury, Office of the Thrift Supervision (N1–483–94–1). Cost of Funds data systems and accompanying documentation.

7. Federal Mediation and Conciliation Service (N1–280–95–1). Punched card Index.

8. Health Resources and Services Administration (N1–512–95–1). Records of the Scholarships for the Undergraduate Education of Professional Nurses grant program.

9. National Commission on America's Urban Families (N1–220–95–5). Unidentified still photographs.

10. National Institutes of Health (N1–443–94–1). Patent and licensing records.

11. Peace Corps (N1–490–95–8 and –9). Files of the Office of General Counsel and the Office of Special Services.

12. Tennessee Valley Authority (N1–142–93–12). Calendars of General Managers identified during archival processing to lack sufficient archival value to warrant permanent retention by the National Archives.

Dated: April 5, 1995

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 95–9241 Filed 4–13–95; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting a notice of information collection that will affect the public. Interested persons are invited to submit comments by May 5, 1995. Copies of materials may be obtained at the NSF address or telephone number shown below.

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Contracts, Policy, and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, or by telephone (703) 306–1243.

Comments may also be submitted to:

(B) *OMB Desk Officer.* Office of Information and Regulatory Affairs, ATTN: Jonathan Winer, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Higher Education Survey (HES)—Survey on Satisfaction with Student Financial Assistance Programs

Affected Public: Non-profit institutions

Respondents/Reporting Burden: 567 respondents: average one hour per response.

Abstract: This and other HES panel surveys are responsible to a variety of policy issues in higher education This survey will measure institutions' satisfaction with the Department of Education in administering student assistance programs.

Dated: April 10, 1995.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 95–9190 Filed 4–13–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Cognitive, Psychological and Language Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cognitive, Psychological and Language Sciences (#1758).

Date and Time: May 1–3, 1995; 9 a.m.–6 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 390, Arlington, VA 22230.

Type of Meeting: Part-open.

Contact Person: Dr. Joseph L. Young, Program Director for Human Cognition and Perception, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1732.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open session: Tuesday, May 2, 1995; 10 a.m. 12 p.m.

Closed Session: May 1, 1995, 9 a.m.–6 p.m.; May 2, 1995, 9 a.m.–10 p.m. and 12 p.m.–6 p.m.; and May 3, 1995, 9 a.m.–6 p.m To review and evaluate human cognition and perception proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 11, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–9256 Filed 4–13–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Geosciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (1755).

Dates. May 2–3, 1995

Time: 8:30–5 p.m.

VOL
60
ISS
72
AP
14
1995
UMI

Place: Room 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Open.

Contact Person: Ms. Altie Metcalf, Staff Associate for Budget and Planning, Directorate for Geosciences, Suite 705, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230, 703–306–1502.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for research, education, and human resources development in the geosciences.

Agenda: Long range planning for the Directorate for Geosciences

Dated: April 11, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9255 Filed 4–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Cross Disciplinary Activities.

Date and Time: May 5, 1995; 8:30 a.m. to 5 p.m.

Place: Room(s) 1105 and 1150.

Type of Meeting: Closed.

Contact Person(s): Tse-yun Feng, Program Director, CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE Educational Infrastructure proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 11, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9258 Filed 4–13–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: May 2–3, 1995, 9 a.m. to 5 p.m.

Place: Room 310, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-open.

Contact Persons: Dr. Christopher Comer, Program Director, Behavioral Neuroscience; Dr. Karen Sigvardt, Program Director, Computational Neuroscience, Division of Integrative Biology and Neuroscience, Room 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1416.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact persons listed above.

Agenda: Open Session: May 3, 1995; 11:30 a.m. to 12:30 p.m.; To discuss goals and assessment procedures. Closed Session: May 2, 1995; 9 a.m. to 5 p.m.; May 3, 1995, 9 a.m. to 11:30 a.m., 12:30 p.m. to 5 p.m., To review and evaluate Behavioral and Computational Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 11, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9257 Filed 4–13–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Science Resources Studies.

Date and Time: May 5, 1995, 9 a.m.–3 p.m.

Place: Room 970, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: Ann Lanier, Project Director for the Survey of Academic Research Facilities, National Science Foundation, Suite 965, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1774.

Purpose of Meeting: To review and comment on the revision to the questionnaire that will be used for 1996 Survey of Scientific and Engineering Research Facilities at Colleges and Universities.

Agenda: The morning will be used by the advisory panel to review and comment on the survey instrument. The afternoon will be used to review modification to the data collection.

Dated: April 11, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9259 Filed 4–13–95; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for a New Clearance of Survey Form "How Do You Rate Your Health Plan?"

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of a new information collection. The survey form, How Do You Rate Your Health Plan (Fee-For-Service or HMO version) is used to determine how enrollees rate the services they receive from their FEHB health plan. The survey results will benefit the Office of Personnel Management, participating FEHB health plans and FEHB enrollees and will be published in Form RI 70–13, 1995 Federal Employees Health Benefits (FEHB) Plans Consumer Satisfaction Survey. Approximately 40,000 survey forms will be completed annually by annuitants. We estimate it takes 25 minutes to complete. The total burden is 16,667 hours.

For copies of this proposal, contact Doris R. Benz on (703) 980–8564.

DATES: Comments on this proposal should be received on or before May 15, 1995.

ADDRESSES: Send or deliver comments to—

Kenneth H. Glass, Chief, Insurance Operations Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3415, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–4025.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–9229 Filed 4–13–95; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26269]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

April 7, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder All interested persons are referred to the applicant(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 1, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in a case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

System Energy Resources, Inc., et al. (70–8511)

System Energy Resources, Inc. ("SERI"), Echelon One, 1340 Echelon Parkway, Jackson, Mississippi 39213, Arkansas Power & Light Company ("AP&L"), 425 West Capitol, 40th Floor, Little Rock, Arkansas 72201, Louisiana Power & Light Company ("LP&L"), 639 Loyola Avenue, New Orleans, Louisiana 70113, Mississippi Power & Light Company ("MP&L"), 308 East Pearl Street, Jackson, Mississippi 39201, New Orleans Public Service Inc. ("NOPSI" and together with AP&L, LP&L and MP&L, "Operating Subsidiaries"), 639 Loyola Avenue, New Orleans, Louisiana 70113, and Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), 10 and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 44 and 54 thereunder. A notice of this transaction was originally issued by the Commission on November 28, 1994 (HCAR No. 26173).

SERI proposes from time to time through December 31, 1996 (a) to issue and sell one or more series of its first mortgage bonds ("Bonds") and/or its debentures ("Debentures") in a combined aggregate principal amount not to exceed $265 million, and (b) to enter into arrangements for the issuance and sale of tax-exempt revenue bonds ("Tax-Exempt Bonds") in an aggregate principal amount not to exceed $235 million. Additionally, SERI requests authority through December 31, 1996 to issue and pledge one or more new series of its first mortgage bonds in an aggregate principal amount not to exceed $251 million ("Collateral Bonds") as security for the Tax-Exempt Bonds.

Each series of Bonds will have such interest rate, maturity date, redemption and sinking fund provisions, be secured by such means and sold in such manner and at such price and have such other terms and conditions as shall be determined at the time of sale. However, the maturity of the Bonds and the Debentures will in no case exceed forty years. Further, the rate on the Bonds and the Debentures, which may be fixed or variable, will not exceed 15%. Additionally, holders of Bonds or Debentures would have the right to tender, or be required to tender, their Bonds or Debentures and have them purchased at a price equal to the principal amount thereof, plus any accrued and unpaid interest thereon, on dates specified in, or established in accordance with the indenture pursuant to which they will be issued.

In order to provide additional security for its obligations with respect to the Bonds, SERI may assign for the benefit of the holders of the Bonds certain of its rights under the Availability Agreement, dated as of June 21, 1974, as amended ("Availability Agreement"). Pursuant to this agreement, the Operating Subsidiaries have agreed to pay SERI certain amounts for expenses incurred by SERI in connection with the operation of a nuclear-powered electric generating station in Mississippi.

As further security for its obligations with respect to the Bonds, SERI may assign certain of its rights under the Capital Funds Agreement dates as of June 21, 1974 ("Capital Funds Agreement"). Pursuant to the terms of this agreement, Entergy has agreed to provide SERI, among other things, capital sufficient to enable SERI to maintain a 35% equity ratio, as defined in that agreement.

SERI proposes to use the net proceeds derived from the issuance and sale of the Bonds for general corporate purposes, including, but not limited to, (i) the acquisition and retirement, by means of tender offer, or open market, negotiated or other forms of purchases, or redemption in whole or in part, prior to their respective maturities, of one or more series of SERI's outstanding first mortgage bonds, (ii) the payment of construction costs and nuclear fuel costs, (iii) the repayment of long- and short-term borrowings and/or (iv) other working capital needs.

SERI also requests authority to enter into arrangements for the issuance of Tax-Exempt Bonds by governmental authorities ("Issuer") in an aggregate principal amount not to exceed $235 million. Each series of Tax-Exempt Bonds will have such interest rate, maturity date, redemption and sinking fund provisions, be secured by such means, be sold in such manner and at such price, and have such other terms and conditions as shall be determined at the time of sale. However, it is proposed that each series of the Tax-Exempt Bonds mature not earlier than five years from the first day of the month of issuance nor later than forty years from the date of issuance.

Under the proposed arrangements, SERI would enter into one or more installment purchase, refunding or other facilities agreements ("Facilities Agreement") or one or more supplements and/or amendments thereto with one or more Issuers. Pursuant to the terms of each Facilities Agreement, the Issuer will pay to or provide for the benefit of SERI the total amount of the proceeds of the Tax-Exempt Bonds and SERI will agree to pay amounts sufficient to pay the principal or redemption price of, premium, if any, and interest on the Tax-Exempt Bonds.

In order to obtain a more favorable rating on any series of Tax-Exempt Bonds, SERI may arrange for one or more irrevocable letter(s) of credit ("Letter of Credit") for an aggregate amount up to $285 million from one or more banks ("Bank"). In connection with any such Letter of Credit, SERI would enter into a Reimbursement

VOL 60 ISS 72 AP 14 1995 UMI

Agreement ("Reimbursement Agreement") with the Bank. Pursuant to a Reimbursement Agreement, SERI would agree to reimburse the Bank party thereto immediately or within a specified period (not to exceed 60 months) after the date of the draw for all amounts drawn under Letter of Credit, together with accrued interest. The rate of such interest would not exceed the New York prime rate as published in The Wall Street Journal plus 200 basis points. Additionally, it is anticipated that each Reimbursement Agreement would require the payment by SERI to the Bank of up-front fees not to exceed $100,000 and annual fees not to exceed 1¼% of the face amount of the related Letter of Credit.

In addition or as an alternative to the security provided by a Letter of Credit, SERI may pledge one or more new series of its first mortgage bonds ("Collateral Bonds") under the Mortgage, as it may be supplemented. These Collateral Bonds may be interest-bearing or non-interest bearing. Such Collateral Bonds would be non-interest bearing if the principal amount issued were the same as the principal of the underlying Tax-Exempt Bonds plus accumulated interest for a specified period. The rate on interest-bearing Collateral Bonds may be less than or equal to the interest rate on the underlying Tax-Exempt Bonds.

As additional security for its obligations under any Facilities Agreement or to make payment on the Collateral Bonds, SERI may assign its interest in the Availability Agreement or the Capital Funds Agreement. In any such event, the Operating Subsidiaries would be required to consent to and join in such assignment.

SERI proposes to use the proceeds of the sale of Tax-Exempt Bonds to refinance certain pollution control revenue bonds that were previously issued to finance pollution control facilities at the Grand Gulf nuclear station.

The Cincinnati Gas & Electric Company, et al. (70–8607)

The Cincinnati Gas & Electronic Company ("CG&E"), an electric utility subsidiary company of CINergy Corp. ("CINergy"), a registered holding company, and CG&E's electric utility subsidiary company, The Union Light, Heat and Power Company ("Union Light") (together, "Operating Companies"), both located at 139 East Fourth Street, Cincinnati, Ohio 45202, have filed an application-declaration under Sections 6(a) and 7 of the Act and Rule 54 thereunder.

CG&E proposes to issue and sell within certain parameters, from time-to-time through March 31, 1996, an aggregate principal amount not to exceed $500 million of a combination of senior unsecured indebtedness ("Senior Debentures") and junior unsecured subordinated indebtedness ("Junior Securities"). In addition, Union Light proposes to issue and sell within certain parameters, from time-to-time through March 31, 1997, an aggregate principal amount not to exceed $55 million of unsecured indebtedness ("Union Debentures") (Union Debentures together with Senior Debentures, "Senior Securities") (Senior Securities together with Junior Securities, "Securities").

The Operating Companies have several high coupon series of first mortgage bonds and CG&E has preferred stock that are, or will shortly become, optionally redeemable and can be refinanced through the issuance of lower cost debt. Proceeds from the sale of the Senior Securities and the Junior Securities will be used respectively to refund some or all of redeemable high-coupon debt issues and the preferred stock. Any balance of net proceeds from the sale of the Securities will be used for general corporate purposes. Without further Commission authorization, none of the proceeds from the sale of the Securities will be used by the Operating Companies to acquire, directly or indirectly, an interest in an exempt wholesale generator (EWG) or foreign utility company (FUCO) as respectively defined in Sections 32 and 33 of the Act.

The Senior Securities: (1) Will be issued at a price no higher than 101.5% nor less than 98% of the principal amount, plus accrued interest, if any, with underwriting commissions and agents' fees not to exceed 1.25% of the principal amount; (2) may be issued in one or more new series for terms not to exceed 40 years; and (3) will be issued at an interest rate which results in a yield to maturity to the purchaser at the initial offering price, depending on the maturity of the security issued, of up to a maximum of (a) 225 basis points for the Senior Debentures, or (b) 200 basis points for the Union Debentures, over the yield to maturity on United States Treasury Notes and United States Treasury Bonds of comparable maturities, payable semi-annually.

The Junior Securities: (1) Will be issued at a price no higher than 101.5% nor less than 98% of the principal amount, plus accrued interest, if any, with underwriting commissions and agents' fees not to exceed 3.50% of the principal amount; (2) may be issued in one or more new series for terms not to exceed 40 years; and (3) will be issued at an interest rate which results in a yield to maturity to the purchaser at the initial offering price, depending on the maturity of the security issued, of up to a maximum of 225 basis points over the yield to maturity on United States Treasury Notes and United States Treasury Bonds of comparable maturities. Interest on the Junior Securities will be paid on either a monthly, quarterly, semi-annual or annual basis, and CG&E may have the right to defer payment of interest on its Junior Securities for up to five years under certain circumstances.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9191 Filed 4–13–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35577; File No. SR–NSCC–95–3]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

April 6, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 1, 1995, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. On March 27, 1995, NSCC filed an amendment to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NSCC proposes to modify its rules to implement a three business day settlement standard for securities transactions.

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from John P. Barry, Associate Counsel, NSCC, to Christine Sibille, Senior Counsel, Division of Market Regulation, Commission (March 27, 1995).

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In October 1993 the Commission adopted Rule 15c6–1 under the Act which will become effective June 7, 1995.[3] The rule establishes three business days after the trade date ("T+3"), instead of five business days ("T+5"), as the standard settlement cycle for most securities transactions. The primary purpose of the proposed rule change is to modify NSCC's Rules and Procedures consistent with Rule 15c6–1 under the Act. Accordingly, many of NSCC's Rules and Procedures that include time references are being revised to accommodate processing in a T+3 time frame.

For example, the proposed rule will change references from a five day settlement to a three day settlement time frame[4] or will delete reference to five day settlement.[5] Trades compared after such time as established on T+4, will not be included in the normal settlement cycle.[6] Under Procedures V.B and VI.B, all transactions entered into the balance order accounting operation or the foreign security accounting operation on T+2, rather than T+4, or thereafter will be processed on a trade-for-trade basis. The proposed rule change also will amend Rule 11, Section 8(d) to require an "as of" trade to be entered at least two business days, instead of four business days, prior to the payable date to be provided dividend protection. Under Procedure V.C, only trade in balance orders executed on the New York Stock Exchange ("NYSE"), American Stock Exchange ("Amex"), and Over-the-Counter ("OTC") compared on T and T+1 will be netted rather than trades from T through T+4, and the net balance orders will be issued on T+2 instead of T+4. Continuous Net Settlement ("CNS") eligible items will be entered into the CNS accounting operation for transfers through NSCC's Automated Customer Account Transfer Service ("ACATS") on T+1 instead of T+3.[7] All time frames contained in Procedure VII.H.4(b) relating to voluntary corporate reorganizations will be shortened by two days.

Under Section II.B.1(c) of NSCC's Procedures, NSCC is proposing that the adjustment contract totals represent the combined input for T through T+2, instead of T+3, that is compared. Trades reported on the Consolidated Trade Summary will include trades compared through T+1, instead of T+3.[8] As-of-trades submitted two, instead of four, days prior to payable date will be included in the dividend activity report.[9] The date a member is informed of its potential liability from a short position will be changed from T+2.[10]

The proposed rule change also makes certain ancillary modifications to NSCC's Rules and Procedures in order to delete references to obsolete services, procedures, forms, and methods of communication. All references to the SCC Division of the NSCC are being eliminated. The SCC was one of the predecessors of the NSCC and its rules were incorporated into the NSCC's rules. At the time of the NSCC's formation, to ease the transition, NSCC retained the reference to the SCC by indicating that the rules were for the SCC Division. It is no longer necessary to include these references.

Cross references to specific rules which contain timing provisions are being eliminated in order to avoid inconsistencies in the event such rules are subsequently amended. Instead, references are being changed to refer to the rules generally.[11] Furthermore, the clauses beginning with "up to and including" in the definitions of "Comparison Operation", "Foreign Security Accounting Operation", and "Balance Order Accounting Operation" also are being eliminated in order to avoid possible inconsistencies caused by future amendments of the rules.

The definitions of "Basket Trade" and "Mini Basket" contained in Rule 1 are being deleted because the NYSE no longer offers these types of products and therefore NSCC does not clear it. Accordingly, references to Basket Trades and Mini Baskets contained in Sections II.A and H of the Procedures and Addendum A, Section 1.E, fees for processing these trades, are being deleted.

Non-members have not requested to use NSCC's facility to pay New York State Transfer Taxes in over 10 years. Furthermore, automation of the tax payment process makes it impractical for non-members to pay the taxes through NSCC. Accordingly, references to non-members' ability to use this service are being eliminated from the rules. Rule 3, Section 2, and Rules 14 and 26 are being amended to reflect this change. Addendum A, Section III.E is being changed to reflect the fact that for many years NSCC has accepted forms from members, not envelopes, for filing New York State Transfer Taxes. This change does not affect members in any way.

Rule 4, Section 1 is being amended because NSCC has limited the number of banks which can hold securities pledged by members for the Clearing Fund. These banks are chosen by NSCC and not by the members. This change was implemented in order to manage the Clearing Fund more effectively.

There are several places throughout the rules where changes are being made to reflect the continuing automation of systems and the elimination of paper intensive processes. These include the elimination of the use of certain forms, changing references to data received rather than tickets delivered, and elimination of the requirement of acknowledging transactions through paper submission. Such changes can be found in the following sections:

Rule 5 Section 1
Rule 7 Section 3 (Eliminates need of member to confirm to NSCC contract list)
Rule 12 Section 1
Rule 18 Section 2 and 3 (Eliminates return of tickets when NSCC ceases to act for a member)
Procedures Section VII.D.2(c)
Procedures Section VII.I
Procedures Sections VIII.A and B (Eliminates clearance/settlement statement)
Procedures Section X.B
Procedures Section XIV
Addendum A Section IV.S and V.B
Addendum C Section 1

Certain rules are being amended to clarify that NSCC has the right to deny

[3] Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adopting Rule 15c6–1) and 34952 (November 9, 1994, 59 FR 59137 (changing effective date from June 1, 1995, to June 7, 1995).

[4] Procedures III.D (exercise of options), VII.B, VII.C, XIII, and Addendum K. In addition the time frame for NSCC's guarantee of trades contained in addendums K and M will begin on T+2 and instead of T+4.

[5] Procedures II.I.2 and 3, and III.C.

[6] Procedures II.B.1(c) (Regular Way NYSE/Amex Equity Securities), II.C.2(f) (Regular Way over the Counter and Other Exchange Equity Securities), II.D.2(i) (Debt Securities), and III.E (Correction of NYSE (Odd-Lot Trades).

[7] Rule 50, Section 10.

[8] Procedure VI.A.

[9] Procedure VII.G.2.

[10] Procedure VII.K.

[11] For example, the language "Rules 8, 9, and 10" contained in Rule 1's definition of Balance Order System will be amended to read "these Rules."

VOL 60 ISS 72 AP 14 1995 UMI

access to additional services to members who are not currently using the service if NSCC does not have adequate capability to perform that service. Rule 2, Section 3 and Section IV.D of the Procedures are being revised accordingly. Rule 5, Section 2 is being amended to reflect the current practice that NSCC prepares all checks being sent to members.

The exchanges and the NASD have rules concerning good delivery of physical securities.[12] NSCC needs to be consistent with such rules. Therefore, Rule 9, Section 1.9 and Rule 44, Section 7 are being amended to require that deliveries must meet such good delivery requirements. Rule 44, Sections 8–39, which contain NSCC's rules on good delivery, are being deleted.

Since the dissemination of Addendum F, members who have failed timely to pay amounts due have been required to settle amounts, if greater than $100,000, in Federal Funds. Rule 12, Section 1 is now being amended to reflect this longstanding practice. Addendum F also is being amended to reflect this change.

Rule 13 permits a member to charge an amount to its account at NSCC. Rule 13 is being deleted because the Marking to Market Service was discontinued several years ago. Since that time, members may use NSCC's Funds Only Settlement Service to achieve the same objective.

Rule 17 is being deleted because the Signature Distribution Service was never implemented and has been made obsolete with the introduction of current Medallion Program.

Rule 18, Section 2, requires that all closeouts be completed within two business days when NSCC ceases to act for a member. This is not always possible without disrupting the marketplace. This rule accordingly is being amended to indicate that closeouts will be completed promptly.

Because of the increase in the number of vice presidents at NSCC, Rule 22 is being amended to provide that only the board of directors, the chairman of the board, the president, any executive vice president, and certain designated officers of NSCC may suspend the Rules when necessary or expedient. NSCC will inform the Commission of any change in the officers designated to suspend the Rules.[13] Similarly, Rule 23 is being amended to provide that except where action of the board of directors is specifically required, only the chairman, the president, any executive vice president, the secretary, and certain designated officers may take action on behalf of NSCC.

The Procedures are being amended to include references to when-distributed transactions, which result from stock splits and are treated in the same manner as when-issued transactions. These references are in Section II.A and E of NSCC's Procedures. Section II.E.2 also is being amended to clarify that the settlement date for corporate debt new issues will be established by the appropriate regulatory authority.

Currently, Section II.G of the Procedures requires that NSCC's Reconfirmation and Pricing Service ("RECAPS") be run quarterly. It is the intention of NSCC to continue this practice. However, the rule is being amended to provide for runs from time-to-time to provide flexibility in the event of operational necessities.

The CNS Accounting Operation no longer uses sub-accounts for the settlement of option exercises. Section III.D of the Procedures is being amended to reflect this practice.

As has been the practice for many years, members typically deliver securities to The Depository Trust Company ("DTC") to cover short positions, instead of NSCC. Therefore Procedures VII.C.5, G.3, and H.7 are being amended to eliminate NSCC's Delivery to Clearing Service.

A change is being made to Section VII.F.2 of the Procedures to conform the rules to the practice that Net CNS Money Settlement Amounts calculated by members may be verified against the Settlement Activity Statement but are not required to be verified.

Section IX.A of the Procedures is being amended to eliminate the ability of members to select an alternate clearing corporation on an item-by-item basis. Members designate a single location for delivery of output records, and item-by-item designation would be too inefficient.

Generally, sponsored members deposit their securities directly with DTC. However, NSCC may require that certain securities be submitted to NSCC before being deposited with DTC on behalf of such member. Section IX.B of the Procedures is being changed to reflect this practice.

NSCC has not offered a P&S service for direct clearing for several years. Section IX.D is therefore being deleted from the Procedures. Furthermore, conforming amendments are being made to Section IX.E of the Procedures, Section IV of Addendum A (to eliminate fees for Remote Trade Comparison Handling and Preparation of T+1 input), and Section V.B of Addendum A (to eliminate fees for options cage processing and stock loan rebate payment service).

Section III of Addendum A is being amended to delete references to the Jersey City office which no longer exists. Section V.B of Addendum A is being amended to delete fees for hard copy output which are no longer charged.

Addendum C is being amended in two places to reflect changes in procedures. First, NSCC no longer borrows physical securities for the settlement of non-DTC eligible items. Therefore Section 1 is being modified to eliminate these references. Second, the CNS sub-account designations have been changed from 9000 and 6000 to "D" and "C", respectively. Therefore Section 3 is being updated.

An additional purpose of the filing, although not included as part of Exhibit A, is to indicate NSCC's intention to alphabetize the section of definitions contained in NSCC's Rules and Procedures.

The proposed changes will take effect with the implementation of T+3 on June 7, 1995, consistent with the conversion time frame established by the Commission.[14] The schedule is as follows:

Trade date	Settlement cycle	Settlement date
June 2 Friday ..	5 day	June 9 Friday.
June 5 Monday	4 day	June 9 Friday.
June 6 Tuesday.	4 day	June 12 Monday.
June 7 Wednesday.	3 day	June 12 Monday.

The proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder, since it will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition.

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Chance Received From Members, Participants or Others.

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify

[12] *See, e.g.*, NYSE Rules 175–226.

[13] Currently, no officers have been designated. Letter from John P. Barry, Associate Counsel, NSCC, to Jonathan Kallman, Associate Director, Division of Market Regulation, Commission (March 27, 1995).

[14] Securities Exchange Act Release No. 34952 (November 9, 1994), 59 FR 59137.

the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Chance and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commissin, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–95–03 and should be submitted by May 5, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9231 Filed 4–13–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Hartford District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Hartford District Advisory Council will hold a public meeting on Monday, May 15, 1995 at 8:30 a.m. at 2 Science Park, New Haven, Connecticut 06511, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ms. Jo-Ann Van Vechten, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut, (203) 240–4670.

Dated: April 10, 1995.

Dorothy A. Overal,

Director, Office of Advisory Council.

[FR Doc. 95–9280 Filed 4–13–95; 8:45 am]

BILLING CODE 8025–01–M

Casper District Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Casper District Advisory Council will hold a public meeting on Thursday, May 4, 1995 from 2:00 p.m. to 5:00 p.m. which will be a training session, and Friday, May 5, 1995, 8:00 a.m. to 3:00 p.m., regularly scheduled meeting at the Parkway Plaza, 123 West "E" Street, Casper, Wyoming, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. James P. Gallogly, District Director, U.S. Small Business Administration, 100 East "B" Street, P.O. Box 2839, Casper, Wyoming 82602–2839, (307) 261–5761.

Dated: April 10, 1995.

Dorothy A. Overal,

Director, Office of Advisory Council.

[FR Doc. 95–9281 Filed 4–13–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2190]

Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet May 11 and 12, 1995, in the Department of State, in Conference Room 1105.

The Committee will meet in open session from 9:00 a.m. on the morning of Thursday, May 11, 1995, until 12:00 noon. The remainder of the Committee's session until 1:00 p.m. Friday, May 12, will be closed in accordance with Section 10(d) of the Federal Advisory Committee Act (P.L. 92–463). It has been determined that discussions during these portions of the meeting will involve consideration of matters not subject to public disclosure under 5 U.S.C. 552b(c)(1), and that the public interest requires that such activities will be withheld from disclosure.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663–1123.

Dated: April 7, 1995.

William Z. Slany,

Executive Secretary.

[FR Doc. 95–9207 Filed 4–13–95; 8:45 am]

BILLING CODE 4710–11–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Cook Will, Kankakee, Grundy, Livingston, McLean, Logan, Sangamon, Macoupin, Jersey, Madison, and St. Clair Counties, IL

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for the development of high speed rail (HSR) passenger operations between Chicago, Illinois, and St. Louis, Missouri. The proposed project study area will extend from downtown Chicago on the north to downtown St. Louis on the south.

FOR FURTHER INFORATION CONTACT:

Mr. Dennis W. Johnson, Environmental Engineer, Federal Highway Administration, Illinois Division, 3250 Executive Park Drive, Springfield, Illinois 62703, Telephone (217) 492–4625

or:

Mr. Merrill L. Travis, Chief, Bureau of Railroads, Illinos Department of Transportation (DOT), 2300 South Dirksen Parkway, Room 302, Springfield, Illinos 62764, Telephone (217) 782–2835

or:

Mr. Michael E. Stead, High Speed Rail Manager, Illinois Department of Transportation (DOT), 2300 South Dirksen Parkway, Room 302, Springfield, Illinois 62764, Telephone (217) 785–8498

SUPPLEMENTARY INFORMATION: The proposed action is to develop a high speed rail passenger operation between Chicago and St. Louis. The proposed

VOL 60 ISS 72 AP 14 1995 UMI

project study area will extend from downtown Chicago on the north to downtown St. Louis on the south.

Joint lead agencies, FHWA and IDOT, will prepare an EIS on a proposal to develop high speed rail passenger service between Chicago, Illinos and St. Louis, Missouri. The proposed project involves upgrading an existing 282-mile rail corridor to allow the operation of high speed passenger trains at speeds up to 125 mph. The proposed project also would plan to have high speed passenger trains share the existing railroad right-of-way with existing rail freight service in the Chicago-St. Louis corridor.

Alternatives under consideration include no action and three alternate routes. The alternate routes include Chicago-St. Louis, via Joliet; Chicago-Peotone-St. Louis, via Kankakee; and, Chicago-Peotone-St. Louis, via Wilmington. The Joliet alternate is the current route used by Amtrak for existing intercity passenger rail service. The two Peotone route alternates would allow the State of Illinois to provide high speed intercity rail passenger service to the proposed South Suburban (Third) Airport in south suburban Chicago.

The Joliet and Peotone-Kankakee route alternatives would utilize existing railroad right of way for the entire corridor. The Peotone-Wilmington alternate would utilize existing railroad right of way, but would also include construction of a new railroad alignment between Peotone and Wilmington, approximately 20 miles in length.

The proposed project is intended to increase safety by providing a rail facility with improved equipment, an improved track structure, and other improved design elements; to provide additional capacity for increasing ridership volume; to improve rail passenger operations and better serve the transportation needs of communities in the Chicago-St. Louis corridor; and to help to support the economic development of the region.

Existing ridership is over 300,000 passengers per year in the Chicago-St. Louis corridor. The proposed project is expected to attract over 1 million passengers to this corridor. High speed rail would afford an alternative to other modes of travel that would be less affected by adverse weather, reduce congestion at airports and on highways, and meet transportation needs in a time-saving, fuel-efficient manner. Current Amtrak passenger trains provide 5 hour 30 minute service between Chicago and St. Louis. The proposed project would reduce the overall trip time to 3 hours 30 minutes. In addition, the proposed project would increase the trip frequencies between Chicago and St. Louis from three daily round trips to eight round trips per day.

The scoping process undertaken as part of this proposed project will include distribution of a scoping information packet, coordination with appropriate Federal, State, and local agencies, and review sessions as needed. A formal scoping meeting is scheduled to be held at the IDOT Central Office Auditorium, 2300 South Dirksen Parkway, Springfield, Illinois, on Monday, April 24, 1995, beginning at 1 p.m. Further details of the proposed project and a scoping information packet may be obtained from the IDOT contact persons listed above.

To ensure that the full range of issues related to the proposed project are addressed and all significant issues identified, a comprehensive public involvement program will be undertaken. Public meetings will be held in the study area prior to the public hearing. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public agency review and comment prior to the public hearing. In addition, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the IDOT contact persons.

Issued on: April 3, 1995.

Dennis W. Johnson,

Environmental Engineer.

[FR Doc. 95-9244 Filed 4-13-95; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Wexford, Grand Traverse, and Kalkaska Counties, Michigan

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for the proposed improvements of US–131 from north of Manton to north of Kalkaska in Wexford, Grand Traverse and Kalkaska Counties, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Stoner, Program Operations Engineer, FHWA, 315 W. Allegan Street, Room 207, Lansing, Michigan, 48933, Telephone: (517) 377–1880; or Mr. Ronald S. Kinney, Manager, Environmental Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan, 48909, Telephone: (517) 335–2621.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation (MDOT), is preparing an Environmental Impact Statement (EIS) for the proposed improvements of US–131 from north of Manton to north of Kalkaska in Wexford, Grand Traverse, and Kalkaska Counties, Michigan. The purpose of the improvements is to complete the freeway system serving the western half of the northern lower peninsula. The freeway will provide a high speed non-stop facility which will make the region's markets, resources, and employment base accessible to more clients and customers. The completion of this 45 kilometer (28 mile) project is important to other economic development efforts in this region. Alternatives under consideration include: (1) No Action, (2) Low Capital Improvements, and (3) Freeway Alternatives.

The Low Capital Alternative proposes the possibility of passing relief lanes, intersection and interchange improvements, and other minor traffic safety modifications.

The Freeway Alternative is a four-lane divided, controlled access freeway with a median. A number of freeway alignments are being studied and are described as follows;

Line 1 crosses the Manistee River east of the existing structure, and continues northeasterly around the communities of Fife Lake, South Boardman, and Kalkaska. Potential interchange locations for access to these communities are located at Coster Road, Boardman Road, and M–72.

Line 2 follows the same path as Line 1 from the Manistee River to the community of South Boardman, where it curves westerly to interchange with existing US–131 halfway between South Boardman and Kalkaska. Another potential interchange location is at M–72 northwest of Kalkaska. This alignment also proposes to extend M–72 across US–131 on the south side of town where an interchange would be located to serve traffic going into and east of Kalkaska.

Line 3 crosses the Manistee River west of the existing structure. Interchanges are proposed at M–186, Boardman Road, extended M–72 south of Kalkaska, and existing M–72 north of Kalkaska. Approximately 14.5 kilometers (nine miles) from the northern limits of Kalkaska, this alternative merges east to existing US–131.

Line 4 crosses the Mainstee River at the same location as Line 1. However, from the river it travels northwesterly to cross existing US–131 halfway between the Manistee River and Fife Lake. It then continues north across existing M–72, where it traverses a wetland and merges with existing US–131 about 8 kilometers (five miles) north of Kalkaska.

Line 5 crosses the Manistee River adjacent to the existing structure and continues northerly before merging with line 3 west of Kalkaska. Interchanges would be located at M–186, Boardman Road, extended M–72, and existing M–72.

Line 6 crosses the Manistee River adjacent to the existing structure. It maximizes the use of the existing right-of-way by staying as close as possible to existing US–131, which will serve as a local north-south route. Potential interchanges are located at M–186, Boardman Road, the proposed extension of M–72, and at M–72, northwest of Kalkaska. North of the community of South Boardman, this alignment extends west of existing US–131 and merges with Line 3.

The proposed extension of M–72 from south of the US–131/M–72 intersection westerly to an interchange with the proposed western freeway alignments could be a two-lane or four-lane cross section, and will be discussed in the DEIS.

Early coordination with a number of federal, state, and local agencies has identified the more significant issues to be addressed in the EIS. A summary of the scoping process to date, identifying the alternatives being considered and the social, economic, and environmental issues involved, is being prepared.

The scoping summary will be available to all interested agencies, organizations, and individuals on request. A public information meeting was held on November 3, 1994, to provide the public an opportunity to discuss the proposed action. Additional public information meetings are anticipated. Comments on the scoping summary and issues identified are invited from all interested parties. Requests for a copy of the scoping summary or any comments submitted should be addressed to the above contact persons.

The Draft EIS is scheduled for completion in 1996, and will be available for public and agency review.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 6, 1995.

A. George Ostensen,

Division Administrator, Federal Highway Administration.

[FR Doc. 95-9189 Filed 4-13-95; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Notice of Call for Redemption

Washington, April 11, 1995.

To Holders of 8¾ Percent Treasury Bonds of 1995–00, and Others Concerned:

1. Public notice is hereby given that all outstanding 8¾ percent Treasury Bonds of 1995–00 (CUSIP No. 912810 BV 9) dated August 15, 1975, due August 15, 2000, are hereby called for redemption at par on August 15, 1995, on which date interest on such bonds will cease.

2. Full information regarding the presentation and surrender of such bonds held in coupon and registered form for redemption under this call will be found in Department of the Treasury Circular No. 300, Revised, dated March 4, 1973, and by contacting a Federal Reserve Bank or Branch.

3. Such bonds held in book-entry form will be paid automatically on August 15, 1995, whether held on the books of the Federal Reserve Banks or in TREASURY DIRECT accounts.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 95-9300 Filed 4-11-95; 4:07 pm]

BILLING CODE 4810-40-M

[Treasury Directive Number 27–02]

Organization and Functions of the Fiscal Service

Dated: April 6, 1995.

1. *Purpose.* This Directive describes the organization and functions of the Fiscal Service, which administers the Government's financing operations and fiscal affairs.

2. *Organization Structure.* In accordance with 31 U.S.C. 306, the Fiscal Service consists of the Office of the Fiscal Assistant Secretary; the Financial Management Service, which has as its head a Commissioner; and the Bureau of the Public Debt, which has as its head a Commissioner. The Fiscal Assistant Secretary is the head of the Fiscal Service and is appointed by the Secretary of the Treasury, in accordance with 31 U.S.C. 301(d).

3. *Office of the Fiscal Assistant Secretary.* The officials, organization and functions of the Office of the Fiscal Assistant Secretary are as follows.

a. *The Fiscal Assistant Secretary* is responsible for the following functions.

(1) Provides general supervision, policy oversight, management, and coordination of the Financial Management Service and the Bureau of the Public Debt.

(2) Oversees the development of policies, programs, and systems for the collection, disbursement, management and security of public monies in the United States and in foreign countries and the related governmentwide accounting and reporting for such funds.

(3) Oversees the development of policies, programs, and systems for financing and accounting for the public debt.

(4) Provides general supervision and policy oversight of the Department of the Treasury's role as lead agency in improving cash management, credit administration, and financial management systems on a governmentwide basis.

(5) Provides policy advice and general oversight regarding international cash management activities and improvements, including the agreements to purchase foreign currencies and the holding and disbursement of these funds.

(6) Ensures the timely consolidation and publication of information on the Federal Government's financial operations and financial position for use by policy makers and decision makers in the Government and in the private sector financial markets.

(7) Directs the implementation of security enhancements to ensure the authentication and integrity of data affecting electronic funds transfers.

(8) Oversees the administration and investment of the major Federal Government accounts and trust funds, such as the Social Security Trust Funds, Civil Service Retirement and Disability Fund, and the Highway Trust Fund.

(9) Oversees the management of the Treasury's daily cash position and the investment of Treasury's excess operating cash balances.

(10) Provides estimates of the Treasury's future cash and debt position for use by the Department in connection with its financing activities and other financial operations.

(11) Oversees the performance of fiscal agency functions by the Federal Reserve banks as fiscal agents of the Treasury.

(12) Approves new and revised governmentwide principles and standards and system designs for Treasury's fiscal accounting systems

VOL 60 ISS 72 APR 14 1995 UMI

operated and maintained by the Financial Management Service and Bureau of the Public Debt, and coordinates efforts to review, improve and report such systems in accordance with Section 4 of the Federal Managers' Financial Integrity Act (FMFIA), Public Law 97–255 (31 U.S.C. 3512(d)(2)(B)).

(13) Approves, in accordance with applicable Treasury directives, regulations pertaining to the Government securities market and participates in the development of policy issues affecting the liquidity, integrity and efficiency of the market.

(14) Provides policy advice to the Department's Office of the Assistant Secretary (International Affairs) regarding terms and conditions of agreements for borrowing from foreign international monetary authorities.

(15) Represents the Secretary of the Treasury in directing the Treasury's participation in the Joint Financial Management Improvement Program for improvement of all aspects of financial management in the Federal Government.

(16) Represents the Secretary on various interdepartmental commissions, boards, and committees.

b. *The Deputy Fiscal Assistant Secretary* shares fully in carrying out the functions and responsibilities of the Fiscal Assistant Secretary and works closely with the Fiscal Assistant Secretary in managing program areas for which the latter is responsible.

c. *The Assistant Fiscal Assistant Secretary* serves as the principal advisor to the Fiscal Assistant Secretary and the Deputy Fiscal Assistant Secretary on matters relating to fiscal policy and banking relationships.

d. *The Director, Office of Cash and Debt Management*, is the principal advisor to the Fiscal Assistant Secretary and the Deputy Fiscal Assistant Secretary on matters relating to Treasury cash and debt position management, cash flow forecasting, borrowing and investment activities.

4. *The Financial Management Service.*

a. *Organization.* The Financial Management Service is comprised of the Washington headquarters and six Regional Financial Centers. In the Washington headquarters, the Office of the Commissioner consists of the Commissioner, the Deputy Commissioner, the Office of Planning and Policy Analysis, and the Office of Legislative and Public Affairs. The headquarters office also includes the Chief Counsel, who resides in the Office of the Commissioner. The Chief Counsel is an official of the Department's Legal Division and under the supervision of the General Counsel of the Treasury The Commissioner and Deputy Commissioner direct the activities of the bureau through six Assistant Commissioners: Management/Chief Financial Officer, Regional Operations, Financial Information, Federal Finance, Agency Services, and Information Resources. Regional Financial Centers are located in Austin, Birmingham, Chicago, Kansas City, Philadelphia, and San Francisco.

b. *Functions.* The Financial Management Service acts as the Government's financial manager and central accountant and is responsible for improving the quality of government financial management through the following functions:

(1) Develops and implements programs to improve Government financial management, including cash management, credit management, and debt collection.

(2) Issues electronic funds transfer payments and Treasury checks, reconciles all payments, and settles claims for Treasury checks cashed under forged endorsements or lost, stolen or destroyed.

(3) Operates and maintains the systems for the deposit of Government receipts, and designates and oversees the performance of Government depositaries.

(4) Maintains the central system that accounts for the monetary assets and liabilities of the Treasury and tracks Government collection and payment operations.

(5) Develops and publishes financial reports on the Government's financial operations and condition.

(6) Invests Government accounts and trust funds as directed by statute.

(7) Provides financial management information to Government decision makers through financial reports that show budget results and the Government's overall financial status, such as the *Daily Treasury Statement*, the *Monthly Treasury Statement*, the *Quarterly Treasury Bulletin*, the *Annual Report of the U.S. Government*, and the *Consolidated Financial Statement*.

(8) Performs a wide range of financial services for Government agencies including accounting cross-servicing, providing financial advice and guidance, consulting on financial management services, assisting with financial systems, and training of accounting and finance staffs.

(9) Develops a Financial Accountability Report for the citizenry.

5. *The Bureau of the Public Debt.*

a. *Organization.* The Bureau of the Public Debt is comprised of the Washington headquarters and operations facilities in Washington and in Parkersburg, West Virginia. In the Washington headquarters, the Office of the Commissioner consists of the Commissioner, the Deputy Commissioner, the Government Securities Regulations Staff, and the Program Advisory Staff. The headquarters office also includes the Office of the Chief Counsel. The Chief Counsel is an official of the Department's Legal Division and under the supervision of the General Counsel of the Treasury. The Commissioner and Deputy Commissioner direct the bureau's activities through six Assistant Commissioners: Securities and Accounting Services; Public Debt Accounting; Administration; Automated Information Systems; Savings Bond Operations; and Financing; and the Executive Director of the Savings Bond Marketing Office.

b. *Functions.* The Bureau of the Public Debt borrows the money needed to operate the Federal Government and accounts for the resulting public debt, and is responsible for the following functions:

(1) Maintains accounting controls over public debt receipts and expenditures, securities and interest costs, and publishes the *Monthly Statement of the Public Debt of the United States.*

(2) Participates with the Deputy Assistant Secretary (Federal Finance) in the development of policies and plans pursuant to the Government Securities Act of 1986 and, on a day-to-day basis, carries out duties pursuant to the Act.

(3) Issues regulations and instructions pertaining to public debt securities, such as commercial and direct access book-entry securities, definitive securities, savings-type securities, and other special purpose securities.

(4) Prepares Department of the Treasury announcements and participates in preparation of offering circulars for public debt securities, including savings bonds.

(5) Directs the auction and final allotment of subscriptions for public debt securities and issues such securities.

(6) Provides policy direction and exercises general oversight responsibility for the commercial book-entry system for Treasury marketable securities, and ensures the availability of an efficient mechanism for the conduct of secondary market transactions and the Treasury Direct System.

(7) Plans and implements a national marketing program for U.S. Savings Bonds.

(8) Maintains accounts, processes transactions, and authorizes payments for investors whose book-entry, registered and/or savings bond accounts are held directly with the Treasury.

(9) Provides policy direction and exercises general oversight responsibility for the nationwide network of institutions authorized to issue and redeem savings bonds.

6. *Authority.* Treasury Order 101–05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

7. *Cancellation.* Treasury Directive 27–02, "Organization and Functions of the Fiscal Service," dated August 3, 1992, is superseded.

8. *Expiration Date.* This Directive expires three years after the date of issuance unless canceled or superseded prior to that date.

9. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 95–9245 Filed 4–13–95; 8:45 am]

BILLING CODE 4810–25–P

Customs Service

Receipt of Domestic Interested Party Petition Concerning the Classification of 1.25 Ounce Nonwoven Disposable Polypropylene Protective Coveralls

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party concerning the tariff classification of 1.25 ounce nonwoven disposable polypropylene protective coveralls.

The petitioner challenges Customs classification of the subject garments under subheading 6210.10.5000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "[G]arments made up of fabrics of heading 5602 or 5603: other: nonwoven disposable apparel designed for use in hospitals, clinics, laboratories or contaminated areas." The petitioner states that these types of garments do not provide adequate protection to be considered true protective apparel, and advocates classification under subheading 6210.10.9010, HTSUS, which provides for "[G]arments made up of fabrics of heading 5602 or 5603: other: other: other * * * overalls and coveralls" which do not qualify as apparel designed for use in hospitals, clinics, laboratories or contaminated areas.

The petitioner challenges Customs interpretation of the term "designed for use in hospitals, clinics, laboratories or contaminated areas" for purposes of classifying garments within subheading 6210.10.5000, HTSUS. This document invites comments regarding the correctness of Customs classification of 1.25 ounce nonwoven disposable polypropylene protective coveralls as garments designed for such uses.

DATES: Comments must be received on or before June 13, 1995.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the U.S. Customs Service, Office of Regulations and Rulings, Regulations Branch, Franklin Court, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments may be viewed at the Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Suzanne Karateew, Commercial Rulings Division, U.S. Customs Service, (202) 482–4047.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C 1516), a petition has been filed by a domestic interested party concerning the classification of 1.25 ounce nonwoven disposable polypropylene protective coveralls.

Heading 6210, Harmonized Tariff Schedule of the United States (HTSUS), provides for "[G]arments, made up of fabrics of heading 5602, 5603, 5903, 5906 or 5907." Heading 5603, HTSUS, provides for nonwoven fabrics. As the subject garments are made from nonwoven fabric, they are classifiable within heading 6210, HTSUS. The determinative issue is whether the subject garments are classifiable under subheading 6210.10.5000, HTSUS, which provides for "[G]arments made up of fabrics of heading 5602 or 5603: other: nonwoven disposable apparel designed for use in hospitals, clinics, laboratories or contaminated areas," or under subheading 6210.10.9010, HTSUS, which provides for "[G]arments made up of fabrics of heading 5602 or 5603: other: other: other * * * overalls and coveralls" which do not qualify as apparel designed for use in hospitals, clinics, laboratories or contaminated areas. Subheading 6210.10.5000, HTSUS, carries a duty of 5.6 percent ad valorem and does not have an attendant textile category number. Subheading 6210.10.9010, HTSUS, carries a duty of 16.9 percent *ad valorem* and has a textile category number of 659.

The petitioner challenges Customs classification of these types of garments under subheading 6210.10.5000, HTSUS, and asserts that they do not provide adequate protection to be considered true protective apparel. Specifically, the petitioner notes that 1.25 ounce nonwoven disposable polypropylene coveralls are not designed for use in hospitals, clinics, laboratories or contaminated areas because they are not impermeable to air or liquid borne contaminants, they are not chemical resistant, they do not retard bacterial growth, they do not have a slick surface nor high tensile/tear strength, and they are not puncture and abrasive resistant.

Customs will classify a garment as "designed for use in hospitals, clinics, laboratories or contaminated areas" if it has an established commercial acceptability for such uses. A determination of whether a garment provides sufficient protection from exposure to contaminants is not within the purview of the Customs Service, and it is the marketplace or regulatory agencies which will determine whether a garment offers adequate protection for its intended purpose. Customs has previously determined whether a garment will qualify for classification as a protective garment of subheading 6210.10.5000, HTSUS, on the basis of the garment's physical design and properties, as well as how it is marketed, advertised or sold. The garments submitted to this office as representative samples of 1.25 ounce nonwoven disposable polypropylene coveralls possess design features indicative of protective wear: 5 attached boots, elastic wrist closures, and attached hood with elasticized edges. It is Customs opinion that garments such as these will adequately serve as protective apparel in some situations (i.e., asbestos removal), but not in all. We note that the term "designed for use in hospitals, clinics, laboratories or contaminated areas" covers a multitude of environmental situations and no specific set of requirements or standards can be adopted as the only criteria to be used in determining whether a garment offers adequate protection for purposes of classification within subheading 6210.10.5000, HTSUS.

Comments

Pursuant to section 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on this issue. The petition of the domestic

VOL 60 ISS 72 AP 14 1995 UMI

interested party, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4), and section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., suite 4000, Washington, D.C. 20005

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Approved: March 24, 1995.

Michael H. Lane,

Acting Commissioner of Customs.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury

[FR Doc. 95-9215 Filed 4-13-95; 8:45 am]

BILLING CODE 4820-02-P

Internal Revenue Service

Information Reporting Program Advisory Committee Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Open Meeting of the Information Reporting Program Advisory Committee.

SUMMARY: In 1991 the IRS established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program.

There will be a meeting of IRPAC on Tuesday and Wednesday, May 9 & 10, 1995. The meeting will be held in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, Northwest, Washington, DC. The meeting will begin at 9:30 a.m., on both days, concluding about mid-day on the 10th. Topics to be discussed are listed along with a summarized version of the agenda.

Summary Agenda for Meeting on May 9 & 10, 1995

Tuesday, May 9, 1995

9:30 Public Meeting Opens
11:30 Break for Lunch
1:00 IRPAC Presentations Continue
4:00 Adjourn for the Day

Wednesday, May 10, 1995

9:30 Public Meeting Reconvenes
12:00 Adjourn

The topics that will be covered are as follows:

1. Nonresident Alien Task Force Update
2. Retirement Payments to Nonresident Aliens
3. Form 4224 Issues—Notional Principal Contacts
4. Harmonization of Rules for Forms W-8 and W-9
5. Single Tax and Wage Reporting System Update
6. Document Receipt and Record Retention
7. Penalty Notice Update
8. Announcement of IRP Quality Supplier Awards
9. Circular E and Supplement for Large Employers
10. Update on MCC Seminars
11. Coordination with Payers on Changes to IRP Forms
12. Form 1099R and 5498 Instructions
13. Fire at Martinsburg Computing Center Satellite Facility
14. IRS Legislative Update
15. Discharge of Indebtedness Reporting Update
16. Special Rule for Taxation of Certain Employee Benefits
17. Identifying the Payee
18. Reporting on Construction Loan Disbursements

Note: Last minute changes to the topics under discussion are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: IRPAC reports to the National Director, Service Center Compliance, who is the executive responsible for information reporting and is charged with its systemwide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden. IRPAC is currently comprised of 21 representatives from various segments of the private sector payer community. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend two meetings each year.

DATE: The meeting, which will be open to the public, will be in a room that accommodates approximately 75 people, including members of IRPAC and IRS officials. Seats are available to the public on a first-come, first-served basis. In order to get your name on the building access list, *notification of intent to attend this meeting must be made with Ms. Tommie Matthews no later than May 5, 1995. Ms. Matthews can be reached at 202-622-5620 (not a toll-free number).* Notification of intent to attend should include your name, organization and phone number.

ADDRESSES: If you would like to have IRPAC consider a written statement, please write to Kate LaBuda at IRS, Office of Service Center Compliance, CP:CO:SC:P, room 2013, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: To give notification of intent to attend this meeting, call Ms. Tommie Matthews at 202-622-5620 (not a toll-free number). For information about IRPAC, in general, or about the agenda for this meeting, call Kate LaBuda at 202-622-3404 (not a toll-free number).

Dated: April 7, 1995.

Larry Faulkner,

Director, Office of Payer Compliance, Service Center Compliance.

[FR Doc. 95-9286 Filed 4-13-95; 8:45 am]

BILLING CODE 4830-01-U

Tax on Certain Imported Substances (Ethyl Acetate); Notice of Determination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89-61, that the list of taxable substances in section 4672(a)(3) will be modified to include ethyl acetate.

EFFECTIVE DATE: This modification is effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a), an importer or exporter of any substance may request that the Secretary determine whether that substance should be listed as a taxable substance. The Secretary shall add the substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce the substance. This determination is to be made on the basis of the predominant method of production. Notice 89-61, 1989-1 CB 717, sets forth the rules relating to the determination process.

Determination

On March 31, 1995, the Secretary determined that ethyl acetate should be added to the list of taxable substances in section 4672(a)(3), effective July 1, 1990.

The rate of tax prescribed for ethyl acetate, under section 4671(b)(3), is $4.39 per ton. This is based upon a conversion factor for butane of 0.9032.

The petitioner is Hoechst Celanese, a manufacturer and exporter of this substance. No material comments were received on this petition. The following information is the basis for the determination.

HTS number: 2915.31.00.00
CAS number: 141-78-6

Ethyl acetate is derived from the taxable chemical butane. Ethyl acetate is a liquid produced predominantly by esterifying acetic acid with ethyl alcohol. The acetic acid and the ethyl alcohol are prepared as a co-product by the oxidation of butane.

The stoichiometric material consumption formula for ethyl acetate is:

C_4H_{10} (butane) + 1.5 O_2 (oxygen) ——> $C_4H_8O_2$ (ethyl acetate) + H_2O (water)

Ethyl acetate has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 54.7 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 95-9287 Filed 4-13-95; 8:45 am]

BILLING CODE 4830-01-U

Tax on Certain Imported Substances (Nylon 6/6); Notice of Determination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces a determination, under Notice 89-61, that the list of taxable substances in section 4672(a)(3) will be modified to include nylon 6/6.

EFFECTIVE DATE: This modification is effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622-3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 4672(a), an importer or exporter of any substance may request that the Secretary determine whether that substance should be listed as a taxable substance. The Secretary shall add the substance to the list of taxable substances in section 4672(a)(3) if the Secretary determines that taxable chemicals constitute more than 50 percent of the weight, or more than 50 percent of the value, of the materials used to produce the substance. This determination is to be made on the basis of the predominant method of production. Notice 89-61, 1989-1 CB 717, sets forth the rules relating to the determination process.

Determination

On March 31, 1995, the Secretary determined that nylon 6/6 should be added to the list of taxable substances in section 4672(a)(3), effective July 1, 1990.

The rate of tax prescribed for nylon 6/6, under section 4671(b)(3), is $5.65 per ton. This is based upon a conversion factor for methane of 0.40, a conversion factor for benzene of 0.47, a conversion factor for nitric acid of 0.41, a conversion factor for butadiene of 0.28, and a conversion factor for ammonia of 0.20.

The following information is the basis for the determination.

HTS number: 3908.10.00.00
CAS number: 52349-42-5

Nylon 6/6 is derived from the taxable chemicals methane, benzene, nitric acid, ammonia, and butadiene. Nylon 6/6 is a powdered solid produced predominantly by the reaction of adipic acid with hexamethylene diamine. The adipic acid is derived from benzene via hydrogenation to cyclohexane, which is oxidized using air and nitric acid in a two-step process. The hexamethylene diamine is made by the reaction of butadiene with hydrogen cyanide (derived from ammonia and from methane in natural gas).

The stoichiometric material consumption formula for nylon 6/6 is:

9 CH_4 (methane) + 10 H_2O (water) + 2 C_6H_6 (benzene) + 4.66 HNO_3 (nitric acid) + 4 NH_3 (ammonia) + 6 O_2 (oxygen) + 2 C_4H_6 (butadiene) ——> 2 $(C_{12}H_{22}N_2O_2)_n$ (nylon 6/6)

Nylon 6/6 has been determined to be a taxable substance because a review of its stoichiometric material consumption formula shows that, based on the predominant method of production, taxable chemicals constitute 67.4 percent by weight of the materials used in its production.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 95-9288 Filed 4-13-95; 8:45 am]

BILLING CODE 4830-01-U

Office of Thrift Supervision

Public Information Collection Requirements Submitted to OMB for Review

April 10, 1995. .

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-11. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Number: 1550-0033.
Form Number: OTS Form 1559.
Type of Review: Extension.
Title: Notice for Establishment of a Finance Subsidiary.
Description: 12 CFR 545.82 requires Federal Savings associations to notify OTS and the Federal Deposit Insurance Corporation not less than 30 days before the commencement of the activities of the finance subsidiary and to notify the OTS prior to the transfer of any additional assets to an existing finance subsidiary.
Respondents: Savings and Loan Associations and Savings Banks.
Estimated Number of Respondents: 1
Estimated Burden Hours Per Respondent: 32 Hrs. Avg.
Frequency of Response: On occasion.
Estimated Total Recordkeeping Burden: 32 Hrs.
Clearance Officer: Colleen M. Devine, (202) 906-6025, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.
OMB Reviewer: Milo Sunderhauf, (202) 395-7340, Office of Management

VOL 60 ISS 72 AP 14 1995 UMI

and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Cora Prifold Beebe,

Director of Administration.

[FR Doc. 95-9253 Filed 4-13-95; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF VETERANS AFFAIRS

Information Collections Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the type of information collection and the following: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collections and supporting documents may be obtained from Trish Fineran, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-6886.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 10102, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collections should be directed to the OMB Desk Officer on or before May 15, 1995.

Dated: April 6, 1995.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

Extension

1. Offer to Rent on Month-to-Month Basis and Credit Statement of Prospective Tenant, VA Form 26-6725.
2. The form is completed by prospective tenants of properties owned by VA and serves as the rental offer and credit statement. The information collected provides the basis for acceptance or rejection of offers to rent.
3. Individuals or households—Business or other for-profit.
4. 33 hours.
5. 20 minutes.
6. On occasion.
7. 100 respondents.

Reinstatement

1. Application for Cash Surrender or Policy Loan, VA Form 29-1546.
2. The form is used by the insured to apply for cash surrender value or policy loan on his/her insurance. The information is used by VA to initiate the processing of the insured's request for a policy loan or cash surrender.
3. Individuals or households.
4. 4,939 hours.
5. 10 minutes.
6. On occasion.
7. 29,636 respondents.

Reinstatement

1. Disability Benefits Questionnaire, VA Forms 29-8313 and 29-8313-1.
2. The forms are used by the policyholder to report conditions needed to continue disability insurance benefits. The information is used by VA to determine the insured's continuous entitlement to disability insurance benefits.
3. Individuals and households.
4. 15,000 hours.
5. 15 minutes.
6. On occasion.
7. 60,000 respondents.

[FR Doc. 95-9223 Filed 4-13-95; 8:45 am]

BILLING CODE 8320-01-P

Sunshine Act Meetings

Federal Register

Vol. 60, No. 72

Friday, April 14, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

DATE AND TIME: Friday, April 21, 1995, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW, Room 540, Washington, DC 20425.

STATUS: Open to the Public.

Agenda

I. Approval of Agenda
II. Approval of Minutes of March 24, 1995 Meeting
III. Announcements
IV. Staff Director's Report
V. State Advisory Committee Appointments for South Dakota and Tennessee
VI. State Advisory Committee Reports
- "Perceptions of Racial Tensions in South Carolina"
- "Enforcing Civil Rights in Alaska: Who is Handling the Complaints?"

VII. "Racial and Ethnic Tensions in American Communities—Poverty, Inequality and Discrimination: The Chicago Report"
VIII. Future Agenda Items

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376-8105 (TDD 202-376-8116) at least five (5) days before the scheduled date of the hearing.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376-8312.

Dated: April 12, 1995.

Emma Monroig,

Solicitor

[FR Doc. 95-9436 Filed 4-12-95; 3:32 pm]

BILLING CODE 6335-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:02 a.m. on Tuesday, April 11, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) recommendations regarding administrative enforcement proceedings, and (2) matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Eugene A. Ludwig (Comptroller of the Currency), concurred in by Mr. John F. Downey, acting in the place and stead of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), and Chairman Ricki Tigert Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9) (A) (ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: April 11, 1995.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary

[FR Doc. 95-9435 Filed 4-12-95; 3:32 pm]

BILLING CODE 6714-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, April 19, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that the items be moved to the discussion agenda.

1. Request by Western Corporate Federal Credit Union, San Dimas, California, for review of its participation in the California Savings Plus retirement program and its bankers' bank exemption from reserve requirements.
2. Proposed exception to the anti-tying provisions of Regulation Y (Bank Holding Companies and Change in Bank Control). (Proposed earlier for public comment: Docket No. R-0851)

Discussion Agenda

3. (a) Proposed amendments to Regulation BB (Community Reinvestment) (proposed earlier for public comment: Docket No. R-0822); (b) related conforming amendments to Regulation C (Home Mortgage Disclosure) (proposed earlier for public comment: Docket No. R-0848); and (c) publication for comment of proposed amendments to Regulation B (Equal Credit Opportunity) regarding data collection on all types of credit products.
4. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office,
Board of Governors of the Federal Reserve System,
Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: April 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9354 Filed 4-12-95; 11:03 am]

BILLING CODE 6210-01-P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 12 noon, Wednesday, April 19, 1995, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call

VOL 60 ISS 72 AP 14 1995 UMI

(202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–9355 Filed 4–12–95; 11:03 am]

BILLING CODE 6210–01–P

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Meeting Notice

TIME AND DATE: 1:00 p.m., May 19, 1995.

PLACE: Uniformed Services University of the Health Sciences, Room D3001, 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under "Government in the Sunshine Act" (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

1:00 p.m. Meeting—Board of Regents

(1) Approval of Minutes—January 23, 1995; (2) Faculty Matters; (3) Departmental Reports; (4) Financial Report; (5) Report—President, USUHS; (6) Report—Dean, School of Medicine; (7) Comments—Chairman, Board of Regents.

New Business

CONTACT PERSON FOR MORE INFORMATION: Bobby D. Anderson, Executive Secretary of the Board of Regents, 301/295–3116

Dated: April 12, 1995.

Patricia L. Toppings

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9437 Filed 4–12–95; 3:32 pm]

BILLING CODE 5000–04–M

Corrections

Federal Register

Vol. 60, No. 72

Friday, April 14, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94-1475-000, et al.]

Illinova Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

Correction

In notice document 95–8541 beginning on page 17781, in the issue of Friday, April 7, 1995, make the following correction:

On page 17782, in the second column, under the heading "Prairie Wind Energy Partners", in the first line, the Docket Number should read "QF95-198-000"

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94-423-000]

Texas Gas Transmission Corp.; Notice of Informal Settlement Conference

Correction

In notice document 95–8680 appearing on page 18096, in the issue of Monday, April 10, 1995, in the second column, above the subject heading at the bottom of the page, the docket number should have appeared as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-94-14]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

Correction

In notice document 95–8411 appearing on page 17603, in the issue of Thursday, April 6, 1995, make the following correction:

On page 17603, in the second column, under **Petitions for Exemption**, in the first line, "8179." should read "28179."

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[T.D. ATF-363; 94F-022P]

RIN 1512-AB35

Implementation of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994

Correction

In rule document 95–8233 beginning on page 17446 in the issue of Thursday, April 6, 1995, make the following correction:

On page 17446, in the second column, under **EFFECTIVE DATES**, the fourth line should read "§ 178.92(a)(2), (c)(1)(ii)(B) and (c)(1)(iii),".

BILLING CODE 1505–01–D

VOL
60

ISS
72

AP
14

1995

UMI

Federal Register

Friday
April 14, 1995

Part II

Department of Health and Human Services
Administration for Children and Families

Environmental Protection Agency

Request for Applications Under the Environmental Protection Agency's Toxic Substances Control Act; Notice

VOL 60 ISS 72 AP 14 1995 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

(Program announcement no. 95-06)

ENVIRONMENTAL PROTECTION AGENCY

Request for Applications Under the Environmental Protection Agency's Toxic Substances Control Act and the Office of Community Services' Fiscal Year 1995 Job Opportunities for Low-Income Individuals Program (Demonstration Projects) and the Discretionary Grants Program

AGENCY: Office of Community Services, Administration for Children and Families, (ACF), DHHS; Office of Prevention Pesticides, and Toxic Substances Environmental Protection Agency (EPA).

ACTION: Announcement of availability of funds and request for applications under the Environmental Protection Agency's Toxic Substances Control Act and the Office of Community Services' FY 1995 Job Opportunities for Low-Income Individuals Program and the Urban and Rural Community Economic Development Discretionary Grants Program.

SUMMARY: The Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), Office of Community Services (OCS) and the Environmental Protection Agency (EPA) are announcing, with this Notice, the availability of FY 1995 grant funds for a pilot program to develop joint projects between public agencies and non-profit organizations to form partnerships in the demonstration of innovative community-based ventures and to reduce the disproportionate exposure of disadvantaged communities to lead poisoning in their environment and to provide job and career opportunities to low-income residents of these communities. These funds are being provided as a result of the planning work of a Federal Project Task Force, consisting of officials of the Department of Health and Human Services, Environmental Protection Agency, Department of Housing and Urban Development, and Department of Labor, convened to explore opportunities for joint lead poisoning prevention and environmental justice programming. EPA and ACF/OCS expect the grantees to use these funds and other available resources to plan and coordinate a range of training, business enterprise development, education, and hazard abatement activities so as to reduce significantly the deleterious health effects of lead poisoning in their low-income urban and rural communities and to create new career and economic development opportunities for low-income residents of those communities.

In order to underwrite these initiatives, the funding agencies intend to fund up to three (3) projects totaling approximately $3.0 million. Each project will receive two grants totaling up to $1 million. Up to $500,000 will be provided to the project by each of the two Federal agencies. EPA will award a grant of up to $500,000 to each of three (3) urban and/or rural public agency partners for training and education; OCS will award a grant of up to $500,000 to each of three (3) private non-profit agency partners for job creation and career development for low-income residents. The grants will be awarded by ACF/OCS under the authorities of the Family Support and Community Services Block Grant Acts and by EPA under the authority of the Toxic Substances Control Act.

CLOSING DATES: The closing date for submission of applications is May 30, 1995.

FOR FURTHER INFORMATION CONTACT: Re: Lead Training and Education elements of the application:

James Boles, Chemical Management Division, Program Development Branch (7404), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20447 (202) 260-3969

Contacts at Regional EPA Offices are listed under Part VIII, A, of this notice.

Re: Enterprise Development, Job Creation, and Lead Abatement elements of the application:

Richard M. Saul, Director, Community Demonstration Programs Division, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447 (202) 401-9233

This Announcement is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1-800-627-8886. For assistance in accessing the Bulletin Board, A Guide to Accessing and Downloading is available from Ms. Minnie Landry at (202) 401-5309.

Table of Contents

Part I—Background
Part II—Purpose
Part III—Legislative Authorities and Funding
Part IV—Eligible Applicants
A. Public Agencies—EPA
B. Non-Profit Organizations-ACF/OCS
Part V—Eligible Activities
A. Public Agencies—EPA
B. Non-Profit Organizations—ACF/OCS
Part VI—Project Planning/Application Requirements
A. Project Planning
1. Project Organization
2. Project Design
B. Application Requirements
1. Project Periods and Budget Periods
2. Cooperative Partnership Agreements
3. Program Participants/Beneficiaries
4. Prohibition and Restrictions on the Use of Funds
5. Third-Party Project Evaluation
6. Economic Development Strategy
7 Maintenance of Effort
Part VII—Criteria for Review and Evaluation of Applications
A. Environmental Protection Agency Criteria
B. Administration for Children and Families/Office of Community Services Criteria
Part VIII—Application Procedures and Instructions
A. Application Kit for EPA Federal Assistance to States /EPA Regional Lead Contacts
B. Application Procedures for ACF/OCS Funding to Private Non-Profit Partners
1. Availability of Forms
2. Application Submission
3. Intergovernmental Review—ACF/OCS
4. Criteria for Screening Applicants
5. Contents of Application
6. Acknowledgement of Receipt
C. Instructions for Completing ACF/OCS Application Package
Part IX—Post Award Information and Reporting Requirements

SUPPLEMENTARY INFORMATION:

Part I—Background

Lead poisoning is one of the worst environmental threats to children in the United States. Lead absorbed into the blood from such sources as gasoline additives, house paint, drinking water, and consumer products can and does have extremely damaging health consequences on children. As more and more has been learned about the adverse effects of lead poisoning, the Centers for Disease Control and Poisoning Prevention (CDC) have lowered the acceptable blood lead level three times in the past 20 years.

Fortunately, lead poisoning is entirely preventable. As public officials have come to realize this, they have begun to address the problem of exposure to lead at its several sources. Leaded gasoline was, for many years, one of the major sources of lead absorbed into the blood, but government-mandated changes in gasoline composition have greatly reduced the amount of airborne lead. Initiatives such as this have already resulted in reduced blood lead levels. The major remaining source of lead in the environment is house paint,

especially types that were commonly used prior to 1978. Huge amounts of this peeling lead-based paint and paint dust exist in older homes throughout the country, especially among those inhabited by people without the financial means or ownership incentive to maintain and repair them adequately. Several studies show strong correlations between lead levels in the blood of inner city residents and the large numbers of dilapidated older houses and apartments in which lower income people frequently are concentrated. As an unhappy consequence, the very people who probably can least afford the impacts of lead poisoning—lower income children and families concentrated in poorer urban neighborhoods and rural communities—are the ones most at risk from this threat.

Several Federal agencies have undertaken important initiatives to attack the problem of household exposure to lead and lead poisoning in poor, urban communities. The Department of Housing and Urban Development (HUD) has authorized and funded several programs under Title X of the Residential Lead-Based Paint Hazard Reduction Act of 1992 designed to stimulate lead abatement activities in both public housing and privately-owned housing for lower income individuals and families. EPA has worked to ensure that its public educational efforts are effective in reaching these audiences and is searching for low cost methods of reducing risk. CDC has funded screening programs to measure lead levels in blood in both urban and rural communities which are judged to be at particularly high risk of lead exposure. ACF/OCS has supported, and participated in, a California public-private partnership to develop and implement a model for combining lead abatement with community-based weatherization programs.

While these early lead abatement activities generally have attacked the problem of environmental lead from a public health perspective, a number of public officials with responsibilities for community and economic development have noted that such initiatives have the potential to create work and business opportunities for adults living in the very communities most severely afflicted with the problem. These officials have reasoned that individuals with practical knowledge of neighborhood conditions, a willingness to undergo necessary training, and a desire for gainful employment in community-based ventures have much to offer to those planning lead and other hazard abatement initiatives. They have also come to believe that community-based ventures involving such individuals may possess important advantages in assessing environmental hazards, building support for abatement services, and developing community capabilities over larger businesses based outside the impacted neighborhoods.

As a consequence, providing a significant amount of funding to the economies of these neighborhoods has come to be seen as both a catalyst for the creation of, and a resource for the initial support of, a group of viable new community-based non-profit agencies and,contracting businesses able to capitalize on hazard assessment, lead abatement, and post-abatement renovation work to create new labor-intensive jobs and build employment skills in their work force. These officials of Federal, state, tribal, and local governments have found strong interest, furthermore, on the part of community leadership in lead abatement-type initiatives and have engaged during recent months in considerable discussion and planning of collaborative enterprises such as the one envisioned with this announcement. As a result, the agencies funding this initiative have come to share a vision of numerous community-based partnerships throughout the country working together to educate, involve, and empower lower income communities to make their own neighborhoods free from lead poisoning and safe and healthy for their children.

Part II—Purpose

The purpose of the grants to be funded under this announcement is to demonstrate the potential advantages that partnerships between community-based enterprises and state, local, or tribal governments have for making beneficial impacts, through lead abatement activities, on both the physical health and economic vitality of the low-income neighborhoods and citizens that they serve.

Officials of both ACF/OCS and EPA expect the partners in the project to work together to organize resources and develop coordinated programs that are effective in removing lead-based paint from their neighborhoods, thereby improving residents' health, while developing new and/or expanded locally based housing contractor enterprises with the capacity for job creation, career development and growth. Successful applicants will utilize the funds and visibility of this initiative to create new public/private partnerships, strengthen skills and knowledge of community residents, create job opportunities and new business ventures, and impart fresh momentum to local efforts towards community revitalization.

Part III—Legislative Authorities and Funding Sources

In order to accomplish these distinct but complementary goals, the funded public agency/non-profit partners must effectively integrate disparate elements into a single cohesive project. The applicants' projects must blend training support funding and program guidelines from the EPA with capacity-building funding and program guidelines from ACF/OCS in order to launch and implement their projects.

Legislative Authorities

EPA is authorized by the Toxic Substances Control Act to make grants to States, Federally recognized Native American tribal governments, and local governmental bodies to support research, development and training activities capable of developing local capacity to successfully prevent lead poisoning.

ACF/OCS authority for this joint initiative is contained in two legislative enactments—the Job Opportunities for Low-Income Individuals Program authorized under Section 505 of the Family Support Act of 1988, as amended, and the Office of Community Services' Discretionary Grants Program under section 681(a)(1) of the Community Services Block Grant Act of 1981, as amended.

Funding

EPA's funding support is for community education and technical hazard abatement training provided through local public health agencies. ACF/OCS funding support is for the organization and/or expansion of community-based abatement enterprises and the resulting creation of new jobs with career potential for low-income employees in these enterprises or the development of their own businesses provided through local private non-profit organizations.

Each funded project will receive two grants totalling up to $1 Million, up to $500,000 from each agency. EPA will award a grant of up to $500,000 to a public agency partner for training and education; OCS will award a grant of up to $500,000 to a private non-profit agency partner for job creation and career development.

EPA requires, furthermore, that applicants provide either evidence of a local contribution of 5% of the value of the EPA grant from State, Foundation or other Federal sources such as

VOL
60
ISS
72
AP
14
1995
UMI

Community Development Block Grant monies, in-kind services, or local cash *or* a written justification of its inability to raise such a match. ACF/OCS does not require a match for its grants but does encourage the applicant to review and describe ways by which it would plan to mobilize additional public and private resources to further the purposes of this announcement if it were to receive a grant. The funded community-based environmental lead abatement ventures are expected to add partners and obtain resources from other sources with complementary interests, when practical.

Part IV—Eligible Applicants

Because of the dual authorities involved with this program announcement, eligible applicants for the grants will consist of local partnerships, of which each member must meet the eligibility criteria of the relevant funding agency.

A Public Agencies—EPA

Eligible applicants for purposes of the EPA funding under this notice include any State (including the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and any territory or possession of the United States), Federally recognized Native American Tribal government, or local government that has an active, health-based lead program. For the purposes of this notice, an active, health-based lead program is defined as health or environmental officials collecting and analyzing environmental lead data with the assistance of local health care providers.

Private universities, private non-profit entities, private businesses, and individuals are not eligible for EPA funds. For convenience, the term "State" in this notice refers to all EPA eligible applicants.

B Non-Profit Organizations—ACF/OCS

Organizations eligible to apply for funding under this program are any non-profit organizations including community development corporations that are exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of Section 501(c) of such code and private non-profit community development corporations governed by a board consisting of residents of the community and business and civic leaders which has as a principal purpose planning, developing, or managing low-income housing or community development projects. At least one OCS grant under this Announcement will be made to a non-profit partner which is a private, non-profit community development corporation as defined above. Applicants must provide documentation of their tax exempt status. The applicant can accomplish this by providing a copy of the applicant's currently valid IRS tax exemption certificate. Failure to provide evidence of non-profit status will result in rejection of the application.

Public entities and private non-profit organizations in urban and rural communities are eligible for funding under this environmental justice initiative. For purposes of this announcement, applicants will be considered urban if the target area is within a Metropolitan Statistical Area. All other applicants will be considered as rural. Applicants must provide data adequate for the reviewers to determine whether the project would be urban or rural.

Part V—Eligible Activities

In order to accomplish both the health and economic development goals of this initiative, grantees will be authorized and encouraged to undertake a wide range of complementary programmatic activities. Both ACF/OCS and EPA officials envision a range of organizational partnership models that could be suitable for the programs initiated with this announcement. Each will have in common the eligibility of individual partners for the EPA and ACF/OCS enabling grants and a demonstrated commitment to successfully achieving the purpose of the program. Initial activity is likely to be concentrated on the organization of the project partnership and the development, in consultation with the targeted community, of a project implementation plan.

As noted below, grants from EPA to the public partners for community education and worker training will be of two years duration, permitting the training and certification of several cycles of abatement workers. The ACF/OCS grants to the non-profit partners for job creation and support activities will be for an initial operational period of three years, to permit the continued provision of support services beyond the training period of the EPA grant, to assist low-income workers to strengthen their underlying job skills and advance their career development.

Public Agencies—EPA activities include:

—Assessing and prioritizing the nature and extent of the target community's environmental lead problems;
—Planning and conducting a hands-on lead-based paint abatement training program for community residents who wish to be employed in abatement project activity;
—Conducting (using community residents) a tailored lead poisoning education campaign for the targeted community;
—Outreach to other public and private parties with interests in hazard removal, housing rehabilitation, and community revitalization and leveraging resources that may complement those provided by EPA and ACF/OCS;
—Monitoring abatement contractor performance in reducing the amount of lead-based paint in the target area, protecting the safety of abatement workers and area residents, and tracking project impacts in terms of job creation and health improvement

B. Non-Profit Organizations—ACF/OCS activities include:

—Jobs and/or business/self employment opportunities created under this program that will contribute to the goal of self-sufficiency. The employment opportunities should provide hourly wages that *exceed* the minimum wage and also provide benefits such as health insurance, transportation, child care, and career development opportunities;
—Projects that create new jobs and/or business opportunities for eligible program participants. Projects funded under this program must demonstrate how the proposed project will enhance the participants' ability and skills in their progress toward self-sufficiency;
—The creation of a significant number of new full-time permanent jobs through the expansion of a pre-identified business or new business development or by providing opportunities for self-employment to eligible participants. While projected employment in future years may be included in the application, it is essential that the focus of employment opportunities concentrate on new full-time, permanent jobs to be created during the duration of the grant project period and/or on the creation of new business development opportunities for low-income individuals;
—Providing assistance to prospective community-based abatement contractors in preparing project plans and—if necessary—working capital/financing proposals to support project activity; and
—Launching and overseeing a coordinated program to abate the community's lead hazards, utilizing the community-based resources identified and developed during the initial phases of the project.

In keeping with the Federal Government's environmental justice strategies, grantees are encouraged to undertake a variety of activities that have proven helpful to the development and strengthening of community-based hazard abatement and contracting firms. In particular, grantees should be prepared to initiate the technical training, help with the certification, business training, and assist with obtaining the bonding and insurance coverage that participating contractors are likely to need to participate fully in the economic activity stimulated by these grants.

Part VI—Project Planning/Application Requirements

A. Project Planning

Successful applications for grants under this announcement shall describe the nature of the public agency and community-based non-profit partnerships. The individual private, non-profit partners should have had successful experience in job creation for low-income individuals and enterprise development, and project planning and management. While each of the partners will address its portion of the single joint application to the agency funding the project activities that it will undertake, the single combined application should clearly demonstrate how the members of the partnership will work together in the beginning stages of the project, and with selected abatement contractors or with individuals who wish to create new abatement businesses to accomplish key project milestones and impacts in a targeted community over the life of the project. The partners will show how the funds to be received—including funding resources other than those provided by ACF/OCS and EPA—will be coordinated and used (1) to establish a joint project management capacity, (2) to contract with training and abatement specialists, (3) to conduct planned project activities, and (4) to direct and oversee project activity to a successful conclusion. While each partner will concentrate on explaining the elements of the project design and plan for which it is primarily responsible, it will also show how its investments in health education, abatement training, community-based business development/self-employment, and/or project-related jobs will be integrated into continuing efforts to improve the health and economic vitality of the targeted community.

1. Project Organization

ACF/OCS and EPA officials prescribe no particular model for the organization of a project partnership or for the design of its program. While the grant recipients must be qualifying public agencies or locally based non-profit entities, the abatement ventures themselves can take a variety of organizational forms, including but not limited to community-based non-profit ventures, for-profit contractors, subsidiaries of community development corporations, and worker-owned cooperatives. Irrespective of organizational form, applications will be assessed primarily in terms of the amount of lead abatement and enterprise development/job creation impact that the partners project and the likelihood that these desirable outcomes will be realized.

2. Project Design

Because of the sponsoring agencies' emphasis on innovative proposals with significant potential value to both target communities and the community health and revitalization fields, applicants are advised to explain their project design and accompanying plans so that the logic of their project is clear.

The purpose of this initiative is to demonstrate the capacity of community-based public/private partnerships for reducing the hazard of environmental lead while providing new jobs and income opportunities for community residents. Several of the most important outcomes associated with this purpose include—in addition to a significant verifiable reduction in the number of dwellings/buildings with lead-based paint in the target community—established/strengthened community contractor businesses with the potential for viability, financial and management resources redirected into this lead hazard abatement field, and community residents knowledgeable about the techniques of lead abatement.

It is important to note, *that the outcomes and impacts of the environmental justice project depend upon effective joint planning and coordination among the members of the project partnership.* As a consequence, project task planning by individual project partners must take place within the framework of the overall project design.

While applicants may choose to use other project design models to represent the way that their project will work, they should ensure that the proposal makes it clear the way in which project management and contractors will use resources to produce results internal to the project which will, in turn, lead to beneficial impacts in the targeted community.

B. Application Requirements

1. Project Periods and Budget Periods

This Environmental Justice Initiative is for a period of up to six years. The EPA grant will support community education and worker training for the first two years of the project; the ACF/OCS grant will support job creation and worker support services which will last one year beyond the training, with the possibility of continued tracking and support for a final three years as noted below.

EPA: The Environmental Protection Agency will approve FY 1995 grants for a project period of two (2) years and a budget period of two (2) years.

ACF/OCS will approve FY 1995 grants for a project period of six (6) years and an initial budget period of 36-months, or three (3) years. The initial 36-month budget period will be considered the Operational Phase of the project, during which the Work Plan described in this announcement is to be carried out. The second 36 months, or three years, of the Project Period is to be considered a period of tracking workers in the newly created jobs, of providing them, as needed, with modest support and assistance, and of continuing Project evaluation. Applications for continuation grants funded under these awards beyond the 36 month budget period will be entertained in subsequent years on a non-competitive basis, in a modest amount commensurate with the reduced level of effort, and subject to the availability of funds, satisfactory progress of the grantee, and determination that this would be in the best interest of the government.

2. Cooperative Partnership Agreements

Applicants should document their commitment through a Cooperative Partnership Agreement to work together to successfully achieve the purposes of this announcement. The agreement should be signed by the responsible executive officer of each partner and should include, as a minimum, a written description including organization charts and other graphical displays as appropriate of the roles and responsibilities of the officials in the partnering agencies who are responsible for the administration/management of the project.

ACF/OCS—Cooperative Partnership Agreement with State IV–A Agency (JOBS Program).

A signed written agreement, or letter of commitment to sign such an

VOL 60 ISS 72 AP 14 1995 UMI

agreement within six months of a grant award, between the *ACF/OCS* applicant and the local State IV–A agency (JOBS Program) must be submitted with the application in order to be reviewed and evaluated competitively. The agreement/letter must describe the cooperative relationship and include specific activities and/or responsibilities that each of the entities proposes to carry out over the course of the project period in support of the project. (See Attachment J for for a list of the State JOBS agencies)

3. Program Participants/Beneficiaries

Projects proposed for funding under *ACF/OCS* must result in direct benefits to low-income people. Low-income people are those individuals eligible to receive AFDC under Part A of Title IV of the Social Security Act, or individuals whose income does not exceed 100% of the poverty line as defined in the most recent Annual Revisions of Poverty Income Guidelines published by DHHS.

Attachment A to this announcement is an excerpt from the 1995 Poverty Guidelines now in effect. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The revised guidelines are also accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886.

4. Prohibition and Restrictions on the Use of Funds

The use of funds for new construction or the purchase of real property is prohibited. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program are allowable when specifically approved by ACF/OCS in writing.

If the applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment B: SF–424B, Item 13 for additional guidelines.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act will result in the application being ineligible for funding consideration.

5. Third-Party Project Evaluation

The sponsoring agencies (EPA and ACF/OCS) require that a plan for a methodologically sound independent evaluation of the project be included in the application. The evaluative activity to be undertaken should deal, at a minimum, with the performance of the grantees' management in implementing the project and other resources to produce planned outputs, an assessment of the activities carried out in creating new jobs and business opportunities, and with the effectiveness of the project design in realizing the outcomes and impacts sought. The evaluation plan should clearly reflect the project period, incorporating relatively early assessments of project activity and production, intermediate assessments of the efficiency and effectiveness of abatement activity, and later assessments of changes in blood lead levels and community-based enterprise vitality/viability.

Applicants should consult with an independent third-party entity with credible program evaluation experience to help develop the evaluation design and to help prepare the evaluation section of their applications. Applicants should ensure, however, that the evaluation methodology presented is consistent with the logic of the project design. The evaluation methodology should include, but not be limited to, the key measures of performance and accomplishment set out elsewhere in the application. Project managers and evaluators should address the issues relating to project data collection and management, since most process and outcome measures will be used for both project management and the evaluation plan. Finally, applicants should express a firm commitment to support their third-party evaluators with project data, with management's interpretation of that data as needed, and with management and contractor time to participate in evaluative activities. The evaluators should include, in their final report, a characterization of the organizational and strategy model represented by the grantee team and of the replicability of these models in similar settings elsewhere.

6. Economic Development Strategy

In accordance with the legislative reference cited in Part II, Section A, applicants must include in their proposal an explanation of how the proposed project is integrated with and supports a larger economic development strategy within the target community. Where appropriate, applicants should document how they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner.

7. Maintenance of Effort

The application must include an assurance that activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried on without Federal assistance.

Part VII—Criteria for Review and Evaluation of Applications

EPA and ACF/OCS will jointly review applications submitted for each of the combined projects proposed, with each agency's staff reviewing the portions of the joint application bearing on the suitability of the project partner to which it would provide grant funds. Grants will only be made, however, to project partnerships, each member of which fully meets the selection criteria employed by the agency providing its grant funding.

The criteria to be used by the funding agencies to review and score applications are set forth below. The competitive review of proposals will be based on the degree to which: (1) each part of the application incorporates each of the review criterion and sub-criterion; (2) the applicants describe convincingly a project to reach the stated purpose of the grants; and (3) the applicants will test and evaluate such approaches so as to make possible replication of a successful project.

A. Environmental Protection Agency Criteria

Criterion I: Analysis of Need (Maximum: 10 Points)

Applicants should demonstrate, in this section, their understanding of the extent and nature of both the environmental hazard problem and the underemployment and underdevelopment problems in the neighborhoods to be served.

The State partner should primarily address the need for lead abatement activity from a demographic perspective—data about the size, age structure, ethnicity, and income characteristics of the population in the target area should be assembled, using maps, along with such information about the community's health as is available.

Criterion II: Partnering Organizations' Capability for Project (Maximum: 10 Points)

EPA is interested in assessing the capabilities that the members of the grantee project team bring to this initiative. EPA will ascertain whether the State has demonstrated, through prior experience with large, complex environmental and/or public health projects in disadvantaged communities, that it has the institutional capacity and staff knowledge to achieve project goals within the specified time frame. EPA will also review the qualifications and experience of the proposed project director or manager, looking for evidence of successful experience managing interdisciplinary projects involving public health, housing rehabilitation, and/or environmental management in actual neighborhood settings.

Criterion III: Project Design and Implementation plans (Maximum: 40 Points)

(a) Project Design and Strategy (Maximum: 10 Points)

The applicant should state clearly how its project will work to create the proposed community outcomes and impacts sought from this initiative. The applicant should identify the capacity—and condition-type outcomes that they have established as their goals for the project and should explain their joint approach, or strategy, for realizing these outcomes. The State partner should identify the task elements of the project for which it will be responsible, associating them with specific outputs (deliverables, events, materials, and other produced results) important to achieving project goals. Jointly conducted activity and associated outputs should be identified and the approach selected for task accomplishment explained. In addition to introducing the intended results of the project and their relationship to one another, applicants should stipulate the key assumptions (factors outside management's control/influence) upon which the project strategy is based. Applicants should also identify and define the primary measures of performance and accomplishment that they will use for project monitoring and management.

Workplan should also describe the nature of the training and abatement activity that will take place during project implementation. That description must use the following job titles and responsibilities:

Inspector Technicians: Responsible for conducting inspection of target housing for lead-based paint; completing an inspection report; taking post-abatement soil and dust clearance samples.

Inspector/Risk Assessor: Responsible for same as Inspector Technicians and conducting a risk assessment in target housing; completing a risk assessment report; interpreting the results of inspections and assessments; identifying hazard control strategies; conducting post-abatement clearance sampling and evaluating results.

Workers: Responsible for conducting abatement activities in accordance with procedures and requirements of the pre-abatement plan.

Supervisors: Responsible for ensuring that abatement activities are conducted in accordance with regulatory requirements; maintaining accessibility at all time during the performance of abatement activities; ensuring completion of abatement activities in accordance to regulations.

Planners/Project Designers: Responsible for designing abatement projects; preparing a written pre-abatement plan for abatement projects.

Please refer to your State certification standards (or contact EPA) for further information.

This section need not be long in order to be effective. Several paragraphs of the sort suggested above, combined with suitable graphic display(s) where appropriate, should be sufficient to convey the logic of the proposed project.

(b) Project Partnerships and Cooperative Arrangements (Maximum: 5 Points)

A broad range of community networks and commitments, in addition to the applicants, will be required to accomplish the purposes of this initiative. Applicants should show proof they have established these working relationships, as evidenced by letters of understanding or other written commitments signed by responsible officials, with such additional partners as:

—Public and private agencies engaged in environmental health screening, testing, and education;
—Community development corporations, community action agencies, or other community-based non-profits with both a credible presence in, and leadership from, the targeted community;
—Technical resources for such tasks as abatement training, blood screening, environmental risk assessment, blood and lead data quality assurance, and large-scale survey design;
—Officials of such public agencies as the Department of Housing and Urban Development, Department of Labor, and the Small Business Administration and/or private corporations involved in property development and management who are willing to collaborate with and support the project in ways appropriate to their skills and resources.

Applicants should show, in their proposal, that they have thought out the roles and responsibilities of the partners selected and have effectively integrated them into the project organization and management team.

(c) Project Organization and Management (Maximum: 10 Points)

While the prior experience of the organizational partners is important to project success, the soundness of project organization and the capabilities of project management are frequently crucial. Applicants should identify the key leaders of the team and introduce and describe the director/manager or co-managers who will be responsible for day-to-day supervision of project resources. Applications should include resumes/CVs where appropriate, though applicants should note that relevant and successful experience may be more important than education and position titles in describing the capabilities of at least some of the project managers. They should further specify the relationship of the project manager(s) to the public officials and private executives who lead the partnering agencies. The applications should specify the levels of effort (percentage of time) that the project manager and other key officials will devote to the project. These level-of-effort factors should be correlated to the project expense budget, documenting this important resources-result relationship. Finally, the application should describe the roles and responsibilities of other key project personnel and show their places in the project organization.

(d) Project Implementation Plans (Maximum: 15 Points)

With their relevant experience explained and the design, organization, and management of the project described, the applicant team should outline its plans for completing the key tasks and reaching important project milestones successfully. These workplans should primarily show how, and according to what schedule, the project managers from each of the

VOL 60 ISS 72 14 1995 AP UMI

project partners expect to use funding and engage key resources to conduct the activity that leads to important project outputs for each of the major project elements.

Some of the more important project elements or tasks for which implementation plans should be presented, either separately or in combination, include:

—Conducting an assessment of environmental lead hazards in the target community and a subsequent prioritization of lead hazards;
—Educating residents of the target community about lead hazards and protection from lead poisoning and involving them in the abatement project.

Criterion IV: Significant and Beneficial Impact (Maximum: 30 Points)

(a) Potential for Desirable (Significant and Beneficial) Impact (Maximum: 15 Points)

EPA will review the application with an eye for the value that is likely to result from the grant. This value, or return on the Federal grant investment, primarily will be a function of:

—The amount of public health impact that is expected to result from the abatement activity in the target community and the likelihood, given the capability of the grantee project team and the soundness of their design and plans, that this impact will be realized;
—The amount of additional environment enhancing activity that is expected to be stimulated by project-related investment (Federal grants and other leveraged resources) and the likelihood, given the capability of the grantee project team and the soundness of their design and plans, that this impact will be realized;
—The informational and educational value to the public health that is likely to result from the project's implementation, given the innovativeness and soundness of the project design and the capability of the grantees.

Applicants need not (but may) prepare a separate section in their application to demonstrate the potential for desirable impact of their project, as long as these elements of value are persuasively built in to their project design and plans.

(b) Commitment to Lead (Hazard) Abatement Mission (Maximum: 5 Points)

With these grants, EPA seeks to stimulate a growing commitment to lead hazard abatement activity and the environmental justice mission throughout the public health and development communities. The public agency partner should seek to show the strength and level of their commitment to continuing work in this field, providing evidence of their relevant past work and describing their strategies for using this initiative as a vehicle for engaging in additional hazard abatement work to improve public health and stimulate economic activity and empowerment in low-income communities.

(c) Project Evaluation Plan (Maximum: 10 Points)

Applicants should present, with their application, a project evaluation plan. The third-party evaluator selected for participation in the project should actively assist in the development of this plan but should not produce it independently of project management.

Applicants should ensure that the plan submitted with their application covers both process and impact assessments of the project and is fully compatible with the project described elsewhere in the application. The types of results—produced (outputs), outcome, and impact—most important to the project team should be identified and defined with measures appropriate to the results. The plan should further identify the cause-effect relationships of most interest to the project team and how they will be studied during the evaluative process. Finally, the evaluation process and schedule should be described, with key phases, milestones, and reports identified.

Criterion V: Budget Presentation and Justification (Maximum: 10 Points)

The applicant should summarize all of the financial resources—both Federal and other on-budget resources—that they expect to be able to use to carry out their project. This information should be presented in the budget forms required by EPA and should also be summarized and related to the project staff, contract, and material assets that will be used to conduct project activity.

Applicants are encouraged to leverage other Federal and non-Federal resources for the project in addition to the 5% match EPA requires. The applicant should explain their project budget in the narrative of their application, seeking to parallel the description of their implementation plans with their analysis of the resources that they will use to fund them.

B. Administration for Children and Families/Office of Community Services Criteria

Criterion I: Analysis of Need (Maximum: 10 Points)

Applicants should include a brief description of the geographic area and population to be served, indicating what the unemployment rates are and (to the extent practicable) the jobs available and skills necessary to fill those vacancies in such areas, and how the proposed businesses and subsequent jobs will impact on the nature and extent of the problem. Applicants should also include (with an identification of the source of the information) the number and percentage of individuals receiving AFDC, the number of low-income individuals and the total number of individuals which make up the population in the area where the project will operate.

Applicants must include an analysis of the identified personal barriers to employment and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for childcare, or poor self-image.) Application also includes an analysis of the identified community systemic barriers which the project will seek to overcome. These might include lack of jobs; lack of transportation; lack of suitable clothing or equipment; lack of markets; unavailability of financing, insurance or bonding; inadequate municipal services (water, sewage treatment, street lighting, trash collection, electricity, traffic control); high incidence of crime; inadequate health care; or environmental hazards like toxic dumpsites or leaking underground tanks.) If the jobs to be created by the proposed project are themselves designed to fill one or more of the needs so identified, this fact should be included in the discussion.

Criterion II: Partnering Organizations' Capability for Project (Maximum: 10 Points)

ACF/OCS will assess the capabilities that the non-profit member of the partnership has in managing abatement-type and/or housing rehabilitation or weatherization projects in low-income disadvantaged communities and in building the capacity of small community-based enterprises to participate in such projects. Applicants should document such experience, citing references as appropriate, and relate it to the purposes of this initiative. They should relate their

experience, in particular, to the eligible activities identified above and to other key tasks identified in their project strategy.

Criterion III: Project Design and Implementation Plans (Maximum: 40 Points)

(a) Project Design and Strategy (Maximum: 10 Points)

The work plan and business plan(s), where appropriate, must be both sound and feasible. If the applicant is proposing to use project funds to provide technical and/or financial assistance for the establishment of an identified business, or to a third-party private employer to develop or expand a pre-identified business, the application must include a complete business plan. An application that does not include a business plan where one is appropriate may be disqualified and returned to the applicant.

The project must be responsive to the needs and problems identified in the Analysis of Need and Problems to be Addressed.

The work plan must describe the proposed project activities, or interventions, and explain how they are expected to result in outcomes which will meet the needs of the program participants and assist them to overcome the identified personal and systemic barriers to employment and self-sufficiency. In other words, what will the project staff do with the resources provided to the project and how will what they do (interventions) assist in the creation of employment and business opportunities for program participants in the face of the needs and problems that have been identified. The application should include a hypothesis or hypotheses that is(are) significant and include(s) the key interventions, and which permit(s) measurement of the extent to which the target population can achieve greater self-sufficiency as a result of its involvement in the project. The key interventions should include the types and sources of technical and financial assistance to be provided the participants, as well as any education, training, and support services and the problems or barriers they are designed to overcome. If the technical and/or financial assistance is to be provided to pre-identified businesses that will be expanded or franchised, written commitments from the businesses specifying their undertakings and levels of participation must be included with the application. The work program must set forth realistic quarterly time targets by which the various work tasks will be completed.

Workplan should also describe the nature of the training and abatement activity that will take place during project implementation. That description must use the following job titles and responsibilities:

Inspector Technicians: Responsible for conducting inspection of target housing for lead-based paint; completing an inspection report; taking post-abatement soil and dust clearance samples.

Inspector/Risk Assessor: Responsible for same as Inspector Technicians and conducting a risk assessment in target housing; completing a risk assessment report; interpreting the results of inspections and assessments; identifying hazard control strategies; conducting post-abatement clearance sampling and evaluating results.

Workers: Responsible for conducting abatement activities in accordance with procedures and requirements of the pre-abatement plan.

Supervisors: Responsible for ensuring that abatement activities are conducted in accordance with regulatory requirements; maintaining accessibility at all time during the performance of abatement activities; ensuring completion of abatement activities in accordance to regulations.

Planners/Project Designers: Responsible for designing abatement projects; preparing a written pre-abatement plan for abatement projects.

Please refer to your State certification standards (or contact ACF/OCS) for further information.

The application identifies and defines critical issues or potential problems that might impact negatively on the project and explains how they can be overcome and the project objectives reasonably attained despite such potential problems.

As noted above, a business plan is required whenever the applicant is proposing to establish a new, specific and identified business, or will be providing assistance to a private third-party private employer for the development or expansion of a pre-identified business. In these cases, the business plan is one of the major components that will be evaluated by OCS to determine the feasibility of a jobs creation project.

Because the following guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all projects. For example, a plan for a service business would not require a discussion of manufacturing nor product design.

With this understanding, the business plan should be prepared in accordance with the following guidelines:

1. *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

a. *The Business:* as a legal entity; the general business category;

b. *Description and Discussion of Industry:* Current status and prospects for the industry;

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold;

b. *Proprietary Position:* Describe proprietary features, if any, of the product, e.g. patents, trade secrets;

c. *Potential:* Features of the product or service that may give it an advantage over the competition;

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

b. *Market Size and Trends:* State the size of the current total market for the product or service offered;

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services;

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market;

4. *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are

VOL 60 ISS 72 AP 14 1995 UMI

required to provide the company's product or service.

7. *Management Team:* The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

8. *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

9. *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. *Community Benefits:* The proposed project must contribute to economic, community and human development within the project's target area.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

a. Profit and Loss Forecasts—quarterly for each year;

b. Cash Flow Projections—quarterly for each year;

c. Pro forma balance sheets—quarterly for each year;

d. Initial sources of project funds;

e. Initial uses of project funds; and

f. Any future capital requirements and sources.

Facilities

If the rearrangement or alteration of facilities will be required in implementing the project, the applicant has described and justified such changes.

(b) Project Partnerships and Cooperative Arrangements (Maximum: 5 Points)

The cooperative partnership arrangements are fully described and clearly relate to the objectives of the proposed project. The cooperative partnership with the State IV–A agency must include one or more of the mandatory or optional components of the State's JOBS program.

The application documents that the applicant will mobilize from public and/or private sources cash and/or third-party in-kind contributions. Applications that document that the value of such contributions will be at least equal to the OCS funds requested, and demonstrate that the cooperative partnership arrangements clearly relate to the objectives of the proposed project, will receive the maximum number of points for this criterion. Lesser contributions will be given consideration based upon the value documented.

Applicants should note that partnership relationships are not created via service delivery contracts; partners should be responsible for substantive project components or activities to be carried out under the project design.

(c) Project Organization and Management (Maximum: 10 Points)

The application should include documentation which briefly summarizes two similar projects undertaken by the applicant agency and the extent to which the stated and achieved performance targets, including permanent benefits to low-income populations, have been achieved. Application notes and justifies the priority that this project will have within the agency including the facilities and resources that it has available to carry out the project.

(d) Project Implementation Plans (Maximum: 15 Points)

With their relevant experience explained and the design, organization, and management of the project described, the applicant team should outline its plans for completing the key tasks and reaching important project milestones successfully. These workplans should primarily show how, and according to what schedule, the project managers from each of the project partners expect to use funding and engage key resources to conduct the activity that leads to important project outputs for each of the major project elements.

Some of the more important elements or tasks for which implementation plans should be presented, either separately or in combination, include:

—Identifying, screening, and selecting community-based contractors and other for-profit or nonprofit entities for abatement work and for training their management and employees in abatement techniques and safety;

—Recruiting, screening and training low-income and AFDC residents of the community in project activities in such a way as to build credible job skills in abatement-type work, housing rehabilitation, property improvement and management, and business management training; and

—Conducting lead abatement activities on community dwellings in such a way—effective targeting, cost-effective abatement techniques—as to maximize desired health and employment outcomes for the Federal resources being utilized.

Applicants should focus, in their discussion of implementation plans on what major challenges are expected and how they will be overcome by the project team, key milestones and contingency plans if they are not met, and the like. Simple graphic displays (e.g., Gantt charts) may be useful for showing task schedules.

Criterion IV: Significant and Beneficial Impact (Maximum: 30 Points

(a) Potential for Significant and Beneficial Impact (Maximum: 10 Points)

ACF/OCS will review the applications with an eye for the value that is likely to result from their grants. This value, or return on the Federal grant investments, primarily will be a function of:

—The amount of public health impact that is expected to result from the abatement activity in the target community and the likelihood, given the capability of the grantee project team and the soundness of their design and plans, that this impact will be realized;

—The amount of additional community-based economic activity that is expected to be stimulated by project-related investment (Federal grants and other leveraged resources)—both for individuals and enterprises—and the likelihood, given the capability of the grantee project team and the soundness of their design and plans, that this impact will be realized;

—The informational and educational value to both the public health and the community and economic development fields that is likely to result from the project's implementation, given the innovativeness and soundness of the project design and the capability of the grantees;

Applicants need not (but may) prepare a separate section in their application to demonstrate the potential for desirable impact of their project, as long as these elements of value are persuasively built in to their project design and plans.

ACF/OCS Quality of Jobs/Business Opportunities

The proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community. Expected results are quantifiable in terms of the creation of permanent, full-time jobs or business opportunities developed. In developing business opportunities and self-employment for AFDC recipients and low-income individuals the applicant proposes, at a minimum, to provide basic business planning and management concepts, and assistance in preparing a business plan and loan package.

(b) Commitment to Lead (Hazard) Abatement Mission (Maximum: 5 Points)

The application documents that:

—The business opportunities to be developed for eligible participants will contribute significantly to their progress toward self-sufficiency; and/or

—Jobs to be created for eligible participants will contribute significantly to their progress toward self-sufficiency; they provide, for example, wages that exceed the minimum wage, plus benefits such as health insurance, transportation, child care and career development opportunities.

Cost-per-Job

—During the project period the proposed project will create new, permanent jobs through business opportunities or non-traditional employment opportunities for low-income residents at a cost-per-job below $15,000 in OCS funds, (e.g. cost per job is calculated by dividing the total amount of grant funds requested ($420,000) divided by the number of jobs to be created (60) equals the cost-per-job ($7,000)). If any other calculations are used, please include your methodology in this section.

Note: Except in those instances where independent reviewers identify extenuating circumstances related to business development activities, the maximum number of points will be given only to those applicants proposing cost-per-job created estimates of $5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.

(c) Project Evaluation Plan (Maximum: 10 Points)

The Evaluation Plan

—Includes a specific working definition of "self-sufficiency" (consistent with the broad definition contained in Part I) that permits the measurement of incremental progress of eligible individuals and their families from dependency toward self-sufficiency;

—Clearly defines the changes or benefits (outcomes) to be produced, the activities (interventions) that will produce the changes, and the measures of client progress toward self-sufficiency for which information will be collected (for example: increases in income, decreases in public assistance payments);

—Provides for the annual compilation of community-level data on the characteristics of the population in the project area, including percentage on public assistance, percentage below the poverty line, unemployment rate, business starts and failures, and major employers;

—Provides for the conduct of a continuing process evaluation. This should include the periodic assessment of the following: client characteristics, pertinent policies and procedures; staffing; cooperative partnerships with state and local agencies; use of other community resources; client outreach and recruitment; client service delivery; cost of services; and, level of technical and financial assistance to employers. The types of data and information, measures and indicators to be used for the process evaluation, as well as the methods and timeframe for collecting and analyzing the required data should be indicated;

—Provides for the completion of two interim evaluation reports and a final report. The final evaluation report will describe the program design and any changes from the original workplan, outreach and recruitment results, interventions, and accomplishments. The measurement instruments, data collection procedures, and analysis techniques should be discussed, and the report should yield conclusions as to how well the program works and why. It should also discuss the program's potential for replication in other communities; and

—Includes a realistic plan for disseminating the project findings to other interested organizations and public agencies.

(d) Community Empowerment Consideration (Maximum: 5 Points)

Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an Empowerment Zone or Enterprise Community, high levels of unemployment, and high levels of incidences of violence, gang activity, crime, or drug use. Applicants should document that they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner.

Criterion V: Budget Presentation and Justification (Maximum: 10 Points)

ACF/OCS funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project.

The application includes a detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost if an indirect cost rate has not been negotiated with the cognizant Federal agency (See Part VI, Section B, Line 6j).

The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

Part VIII: Application Procedures and Instructions

A. Application Kit for EPA Federal Assistance To States (Public Partners)

To obtain EPA's Application for Federal Assistance Kit, please write to: U.S. Environmental Protection Agency, Grants Operations Branch (3903F), Grants Administration Division, 401 M Street, S.W., Washington, D.C. 20460.

EPA Regional Lead Contacts

Region 1—Ann Carroll, US EPA, JFK Federal Building, Boston, MA 02203 (617) 565–3411

Region 2—Louis Bevilacqua, US EPA, 2890 Woodbridge Ave., Edison, NJ 08837–3670, (908) 321–6671

Region 3—Gerallyn Valls, US EPA, 841 Chestnut Bldg., Philadelphia, PA 19107, (215) 597–2450

Region 4—Connie Landers-Roberts, US EPA, 345 Courtland St., N.E., Atlanta, GA 30365, (404) 347–1033

Region 5—David Turpin, US EPA, 77 W. Jackson St., Chicago, IL 60604, (312) 886–6003

VOL 60 ISS 72 APR 14 1995 UMI

Region 6—Jeff Robinson, US EPA, 12th Floor, Ste. 2000, 1445 Ross Ave., Dallas TX 75202, (214) 655–7577
Region 7—Mazzie Talley, US EPA, 726 Minnesota Ave., Kansas City, KS 66101, (913) 551–7518
Region 8—David Combs, US EPA, 999—18th St., Ste. 500, Denver, CO 80202, (303) 293–1442
Region 9—Larry Biland, US EPA, 75 Hawthorne St., San Francisco, CA 94105, (415) 744–1121
Region 10—Barbara Ross, US EPA, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1985

B. Application Procedures for ACF/OCS Funding to Private Non-Profit Partners

1. Availability of Forms

Attachments B contains all of the standard forms necessary for the application for awards under this OCS program. This attachment and Parts VI, VII and VIII of this announcement contain all of the instructions required for submittal of applications. These forms may be photocopied for submission of the application. *Two signed original applications and three copies should be submitted.* (Approved by the Office of Management and Budget under Control Number 0970–0062.)

Copies of the **Federal Register** containing this announcement are available at most local libraries and Congressional District Offices for reproduction. The announcement also is accessible on the OCS Electronic Bulletin Board for downloading through your computer modem by calling 1–800–627–8886. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this announcement.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments C and D and environmental tobacco smoke in Attachment K.

2. Application Submission

The closing date for submission of the combined EPA/ACF-OCS applications is the date found under "Closing Date" at the beginning of this Announcement.

(a) Deadlines

Application shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date at the ACF Office of Financial Management, Division of Discretionary Grants, 6th Floor OFM/DDG, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, or

b. Sent on or before the deadline date and received by the granting agency in time for the independent review. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark of to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

(b) Applications Submitted by Other Means

Applications which are not submitted in accordance with the above criteria shall be considered as meeting the deadline only if they are physically received before the close of business on or before the deadline date. Hand delivered applications will be accepted at the ACF Office of Financial Management, Division of Discretionary Grants, 6th Floor ACF Guard Station, 901 D Street, S.W. Washington, D. C. during the normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

(c) Late Applications

Applications which do not meet one of these criteria are considered late applications. The ACF Division of Discretionary Grants will notify each late applicant that its application will not be considered in this competition.

(d) Extension of Deadline

ACF in consultation with the Environmental Protection Agency may extend the deadline for all applicants due to disasters such as floods, hurricanes, etc. or when there is a disruption of the mails. However, if the Federal agencies do not extend the deadline for all applicants, they may not waive or extend the deadline for any applicant.

3. Intergovernmental Review—ACF/OCS

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Program and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nineteen jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has sixty (60) days from the application deadline to comment on proposed new or competing continuation awards.

SPOCS are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 6th Floor, 370 L'Enfant Promenade, S.W., Washington, DC. 20447. A list of the Single Points of Contact for each State and Territory is included as Attachment E of this announcement.

4. Criteria for Screening Applicants

(a) Initial Screening

All timely applicants will receive an acknowledgement card with an assigned identification number. This number, along with any identification code, must be referenced in all subsequent communications concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–9234. All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 *Application for Federal Assistance* (SF–424), a budget (SF–424A), and signed *Assurances* (SF 424B) completed according to instructions published in Part VI and Attachments B, C, and D of this Program Announcement.

(2) A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be limited to 50 pages, double-spaced, typewritten (type size no smaller than 12 pitch) on one side of the paper only. Charts, exhibits, letters of support and cooperative agreements are not counted against this page limit. It is strongly recommended that you follow the format for the narrative in Part VIII, B, 5.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

(4) Application must contain documentation of the applicant's tax exempt status.

(b) Pre-Rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the eligibility requirements described in Part IV. Proof of non-profit status must be included in the Appendices to the Project Narrative. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate. Failure to provide evidence of non-profit status will result in rejection of the application. Applicants must also be aware that the applicant's legal name as required on the SF–424 (Item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

(2) *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to low-income participants and beneficiaries as defined in Part VI, Section B.3., Program Participants/Beneficiaries.

(3) *Grant Amount:* The amount of funds requested does not exceed the limits indicated in Part III.

(4) *Cooperative Partnership Agreement.* The application contains a written agreement or letter of commitment that includes, at a minimum, the activities cited in Part VI,B,2. The agreement must be signed by an official of the State IV–A agency responsible for administering the JOBS program in the area to be served.

(5) *Third-Party Project Evaluation.* A third-party project evaluation plan is included.

(6) *Business Plan.* If a CDC or other non-profit partner proposes establishing a business or if the third-party private employer is part of the proposed project, a complete business plan is included in the application.

An application will be disqualified from the competition and returned if it does not conform to all of the above requirements.

5. Contents of Application

Each application submission should include *two signed originals and three additional copies of the application.* (Approved by the Office of Management and Budget under Control Number 0970–0062. Each application *must include all of the following, in the order listed below:*

(a) *An Abstract of the proposal*—very brief, on one page, not to exceed 250 words, which identifies the type of project, the target population, the partner(s), and the major elements of the work plan, and that would be suitable for use in an announcement that the application has been selected for a grant award;

(b) Table of Contents;

(c) A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization];

(d) *Budget Information-Non-Construction Programs* (SF–424A);

(e) A narrative budget justification for each object class category required under Section B, SF–424A;

(f) Filled out, signed and dated *Assurances—Non-Construction Programs* (SF–424B), Attachment B;

(g) Attachment C and D, setting forth the Federal requirements concerning the drug-free workplace and debarment regulations with which the applicant is certifying that it will comply, by signing and submitting the SF–424.

(h) Certification Regarding Environmental Tobacco Smoke—Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsibile entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

(h) *Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements:* fill out, sign and date form found at Attachment F;

(i) *Disclosure of Lobbying Activities, SF–LLL:* Fill out, sign and date form found at Attachment F, if appropriate;

(j) *A project narrative* that will include *all* of the following components: [Specific information/data required under each component is described in Part VII, Criteria for Review and Evaluation of Applications.]

(1) Analysis of Need
(2) Organizational History and Management Capability
(3) Project Design
(4) Project Partnerships and Cooperative Arrangements
(5) Project Organization and Management
(6) Project Implementation Plans
(7) Significant and Beneficial Impact
(8) Third Party Project Evaluation Plan
(9) Budget Appropriateness and Match and,
(10) Appendices, including Maintenance of Effort Certification;

VOL 60 ISS 72 AP 14 1995 UMI

partnership agreements signed by the partners; statement regarding the date of incorporation; IRS letter on non-profit status, where applicable; Business Plan, if applicable; Single Point of Contact comments, if applicable and available; resumes; Certification Regarding Lobbying; letters of match commitment or letters of intent; a current listing of all sources of funds and projects operated in the applicant's current operating year

The total number of pages for the narrative portion of the application package must not exceed 50 pages, excluding Appendices. *Pages should be numbered sequentially throughout the application package, excluding Appendices, beginning with the Proposal Abstract as Page #1.* The application may also contain letters that show collaboration or substantive commitments to the project by organizations other than partners with committed match. Such letters are not part of the narrative and should be included in the Appendices. These letters are, therefore, not counted against the fifty page limit.

Applications must be uniform in composition since it may be necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ x 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener, or a binder clip. The submission of bound applications, or applications enclosed in binders is specifically discouraged.

6. Acknowledgement of Receipt

Applicants who meet the initial screening criteria outlined in Part VIII, Section E, will receive an acknowledgement postcard with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement post-card. This number and the program priority area letter code (JE) must be referred to in all subsequent communication concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–9234.

C. Instructions for Completing ACF/OCS Application Package

[Approved by the Office of Management and Budget under Control Number 0970–0062.]

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms as well as with the OCS specific instructions set forth below:

A. SF–424—Application for Federal Assistance

Top of Page. Please enter the single priority area number (JE) under which the application is being submitted.

Item 1. For the purposes of this announcement, all projects are considered *Applications;* there are no *Pre-Applications.*

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

Item 2. *Date Submitted* and *Applicant Identifier*—Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. *Date Received by State*—N/A.

Item 4. *Date Received by Federal Agency*—Leave blank.

Items 5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled *Federal Identifier* located at the top right hand corner of the form.

Item 7. If the applicant is a non-profit corporation, enter *N* in the box and specify *non-profit* corporation in the space marked *Other.* Proof of non-profit status, such as IRS determination, Articles of Incorporation, or By-laws, must be included as an appendix to the project narrative.

Item 8. *Type of Application*—Please indicate the type of application.

Item 9. *Name of Federal Agency*—Enter DHHS–ACF/OCS.

Item 10. *The Catalog of Federal Domestic Assistance* numbers for OCS programs covered under this announcement are *93.647,* the title is *SOCIAL SERVICES RESEARCH AND DEMONSTRATION,* and *93.570,* the title is *CSBG Discretionary Awards.*

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designation:

JE—OCS/EPA Environmental Justice Initiative

Item 12. *Areas Affected by Project*—List only the largest unit or units affected, such as State, county or city.

Item 13. *Proposed Project*—The ending date should be calculated based on a 72-month project period.

Item 14. *Congressional District of Applicant/Project*—Enter the number of the Congressional District where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located.

Item 15a. This amount should be no greater than the amount specified under Part III, Legislative Authorities and Funding.

Item 15b–e. These items should reflect both cash and third-party, in-kind contributions for the budget period requested.

Item 15f. N/A.

Item 15g. Enter the sum of Items 15a–15e.

B. SF–424A—Budget Information—Non-Construction Programs

See instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the *Federal Funds* budget entries will relate to the requested OCS funds only, and *Non-Federal* will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in *Non-Federal* entries.

Sections A B, C and D of SF–424A should reflect budget estimates for the first budget period (thirty-six months) of the project.

Section A—Budget Summary

Lines 1–4.

Col. (a):

Line 1—Enter *Social Services Research and Demonstration.*

Col. (b):

Line 1—Catalog of Federal Domestic Assistance number is 93.647.

Col. (c) and (d):

Columns (c) and (d) are not relevant to this program and should not be completed.

Column (e)—(g):

For line 1, enter in columns (e), (f) and (g) the appropriate amounts needed

to support the first 36 months of the project (the operational phase of the program. (Maximum $500,000)

Line 5—Enter the figures from Line 1 for all columns completed (e), (f), and (g).

Section B—Budget Categories

Please Note: This information supersedes the instructions provided following SF–424A.

Columns (1)—(5):

Column 1: Enter the *first* budget period of 12 months.

Column 2: Enter the *second* budget period of 12 months.

Column 3: Enter the third budget period of 12 months.

Column 4: Leave blank.

Column 5: Enter the total requirements for Federal funds by the Object Class Categories of this section.

Allocability of costs are governed by the cost principles set forth in OMB Circular A–122 and 45 CFR Part 74.

Budget estimates for national administrative costs must be supported by adequate detail for the grants officer to perform a cost analysis and review. Adequately detailed calculations for each budget object class are those which reflect estimation methods, quantities, unit costs, salaries, and other similar quantitative detail sufficient for the calculation to be duplicated. For any additional object class categories included under the object class *other* identify the additional object class(es) and provide supporting calculations.

Supporting narratives and justifications are required for each budget category, with emphasis on unique/special initiatives, large dollar amounts; local, regional, or other travels, new positions, major equipment purchases and training programs.

A detailed itemized budget with a separate budget justification for each major item should be included as indicated below:

Personnel-Line 6a. Enter the total costs of salaries and wages.

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated the project, the individual annual salaries, and the cost to the project of the organization's staff who will be working on the project. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits-Line 6b. Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j.

Justification: Provide a breakdown of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, taxes, etc.

Travel-Line 6c. Enter total costs of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification: Include the total number of traveler(s), total number of trips, destinations, number of days, transportation costs and subsistence allowances. Travel costs to attend two national workshops in Washington, D.C. by the project director should be included.

Equipment-Line 6d. Enter the total costs of all non-expendable personal property to be acquired by the project. Equipment means tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5000 or more per unit.

Justification: Only equipment required to conduct the project may be purchased with Federal funds. The applicant organization or its subgrantees must not have such equipment, or a reasonable facsimile, available for use in the project. The justification also must contain plans for future use or disposal of the equipment after the project ends. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined above. (See Line 21 for additional requirements).

Supplies-Line 6e. Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual-Line 6f. Enter the total costs of all contracts, including (1) the estimated cost of the third-party evaluation contract; travel costs for the chief evaluator to attend two national workshops in Washington, D. C. should be included; (2) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (3) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and selection process of the awards as part of the budget justification. Also provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit Sections A and B of this Form SF–424A, completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6f. Provide draft Request for Proposal in accordance with 45 CFR Part 74. Free and open competition is encouraged for any procurement activities planned using ACF grant funds. Prior approval is required when applicants anticipate evaluation procurements that will exceed $25,000 and are requesting an award without competition.

(Note: Previous or past experience with contractor is not sufficient justification for sole source.)

The applicant's procurement procedures should outline the type of advertisement appropriate to the nature and anticipated value of the contract to be awarded. Advertisements are typically made in city, regional, and local newspapers; trade journals; and/or through announcements by professional associations.

Construction-Line 6g. Not applicable.

Other-Line 6h. Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges-Lines 6i. Show the total of Lines 6a through 6h.

Indirect Charges-Line 6j. Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another cognizant Federal agency. With the exception of local governments, applicants should enclose a copy of the current rate agreement if it was negotiated with a cognizant Federal agency other than the Department of Health and Human Services. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates,* and submit it to the appropriate DHHS Regional Office. Applicants awaiting approval of their indirect cost proposals may also request indirect costs.

VOL 60 ISS 72 AP 14 1995 UMI

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Totals-Line 6k. Enter the total amounts of Lines 6i and 6j.

Program Income-Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification: Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of *non-Federal* resources that will be used to support the project. *Non-Federal* resources mean those other than OCS funds. Therefore, mobilized funds from other Federal programs should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the Public-Private Partnerships criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.

Justification: Describe third-party, in-kind contributions, if included.

Grant Program-Line 8.

Column (a): Enter the project title.

Column (b): Enter the amount of contributions to be made by the applicant to the project.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant.

Column (d): Enter the amount of cash and third-party in-kind contributions to be made from all other sources.

Column (e): Enter the total of columns (b), (c), and (d).

Grant Program-Lines 9, 10, and 11 should be left blank.

Grant Program-Line 12.

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasted Cash Needs

Federal-Line 13. Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the first 12 month budget period.

Non Federal-Line 14. Enter the amount of cash from all other sources needed by quarter during the first 12-month budget period.

Totals-Line 15. Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

For new applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years).

Section F—Other Budget Information

Direct Charges-Line 21. Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. Any foreign travel;

C. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, Section B. Need for equipment must be supported in program narrative;

D. *Contractual:* major items or groups of smaller items; and

E. *Other:* group into major categories all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Indirect Charges-Line 22. Enter the type of HHS or other cognizant Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved and attach a copy of the rate agreement.

Remarks-Line 23. Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

C. SF–424B Assurances-Non-Construction

All applicants must fill out, sign, date and return the *Assurances* with the application.

Part IX—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

Project directors and chief evaluators will be required to attend two national evaluation workshops in Washington, D.C. A program development and evaluation workshop will be scheduled shortly after the effective date of the grant. They also will be required to attend, as presenters, the final evaluation workshop on utilization and dissemination to be held at the end of the project period.

Grantees will be required to submit semi-annual progress and financial reports (SF–269) as well as a final progress and financial report within 90 days of the expiration of the grant. Interim evaluation reports, along with a written policies and procedures manual based on the findings of the process evaluation, will be due 30 days after the first twelve months, and the second interim evaluation 30 days after the second twelve months, and a final evaluation report will be due 90 days after the expiration of the grant. This final report will cover 36 months of activities related to project participants. Reporting requirements for the remaining 36 months of the project period will be provided during the solicitation of applications.

Grantees are subject to the audit requirements in 45 CFR Part 74 (non-profit organization) and OMB Circular A–133.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the *non-appropriated* funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment F for certification and disclosure forms to be submitted with the applications for this program and the Discretionary Grants Program.

Attachment G indicates the regulations which apply to all applicants/grantees under the Job Opportunities for Low-Income Individuals Program.

Dated: March 29, 1995.

Donald Sykes,

Director, Office of Community Services.

Dated: March 31, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides, and Toxic Substances.

ATTACHMENT A

Size of family unit	Poverty guideline
1995 Poverty Income Guidelines for All States (Except Alaska and Hawaii) and the District of Columbia	
1	$7,470
2	10,030
3	12,590
4	15,150
5	17,710
6	20,270
7	22,830
8	25,390

For family units with more than 8 members, add $2,560 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

ATTACHMENT A—Continued

Size of family unit	Poverty guideline
Poverty Income Guidelines for Alaska	
1	9,340
2	12,540
3	15,740
4	18,940
5	22,140
6	25,340
7	28,540
8	31,740

For family units with more than 8 members, add $3,200 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in figures above.)

Poverty Guidelines for Hawaii	
1	8,610
2	11,550
3	14,490
4	17,430
5	20,370
6	23,310
7	26,250
8	29,190

For family units with more than 8 members, add $2,940 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

BILLING CODE 4184–01–P

VOL 60 ISS 72 AP 14 1995 UMI

Attachment B

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Pre-application ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Profit Organization; N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184-01-C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This questions applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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UMI
1995
APR 14
ISS 72
VOL 60

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BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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VOL
60
ISS
72
AP
14
1995
UMI

Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used where one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column(a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column, (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles show in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3, as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of authorized certifying official

Title

Applicant organization

Date submitted

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VOL 60 ISS 72 AP 14 1995 UMI

Attachment C

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

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VOL 60 ISS 72 AP 14 1995 UMI

Attachment D—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction" provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment E—Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, Attn: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 500, Washington, D.C. 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to:

Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

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Please direct correspondence and questions to:

Review Coordinator, Office of Strategic Planning

South Carolina

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Tennessee

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Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

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Wisconsin

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Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct correspondence to:

Linda Clarke, Telephone (809) 774–0750

Attachment F—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184–01–M

VOL 60 ISS 72 AP 14 1995 UMI

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*:	
Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):
(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)	
11. Amount of Payment (*check all that apply*): $ _____ ☐ actual ☐ planned	13. Type of Payment (*check all that apply*): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:	
(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)	
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No	
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

BILLING CODE 4188-01-C

Attachment G—DHHS Regulations Applying to All Applicants/Grantees Under the Job Opportunities for Low-Income Individuals and the Discretionary Grants Programs

Title 45 of the *Code of Federal Regulations:*

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (non-governmental)
Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):
Sections 74.62(a) Non-Federal Audits
74.173 Hospitals
74.174(b) Other Nonprofit Organizations
74.304 Final Decisions in Disputes
74.710 Real Property, Equipment and Supplies
74.715 General Program Income
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance
Subpart F—Drug Free Workplace Requirements
Part 80—Non Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Non-discrimination on the basis of sex in the admission of individuals to training programs
Part 84—Non-discrimination on the Basis of Handicap in Programs
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register,** March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment H—Certification Regarding Maintenance of Effort

The undersigned certifies that:

(1) activities funded under this program announcement are in addition to, and not in substitution for, activities previously carried on without Federal assistance.

(2) funds or other resources currently devoted to activities designed to meet the needs of the poor within a community, area, or State have not been reduced in order to provide the required matching contributions.

When legislation for a particular block grant permits the use of its funds as match, the applicant must show that it has received a real increase in its block grant allotment and must certify that other anti-poverty programs will not be scaled back to provide the match required for this project.

_____
Organization

_____
Authorized Signature

_____
Title

_____
Date

Attachment I—Checklist for Use in Submitting OCS Grant Applications Job Opportunities for Low-Income Individuals (Optional)

The application should contain:

1. Table of Contents.
2. A completed, *signed* SF–424, *Application for Federal Assistance.* The letter code for the priority area (JO) should be in the lower right-hand corner of the page.
3. A completed SF–424A, *Budget Information—Non-Construction.*
4. A narrative budget justification for each object class category required under Section B, SF–424A;
5. Filled out signed, and dated *Assurances—Non-Construction Programs* (SF–424B);
6. The applicant should sign Attachments E and F. In so doing, the applicant is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E.
7. A *signed* copy of *Certification Regarding Anti-Lobbying Activities.*
8. A completed Disclosure of Lobbying Activities, if applicable.
9. A Executive Summary—not to exceed 300 words;
10. A Project Narrative beginning with a Table of Contents that describes the project in the following order:

(i) Eligibility Confirmation
(ii) Organization Experience and Staff Responsibilities
(iii) Analysis of Need
(iv) Project Design/Work Program
(v) Business Plan (If appropriate)
(vi) Third-Party Evaluation
(vii) Cooperative Partnership Agreement
(viii) Budget Appropriateness and Reasonableness

11. Appendices, including proof of non-profit status; proof that the organization is a community development corporation, if applying under the CDC Set-aside; a *signed* copy of the Cooperative Partnership Agreement or letter of commitment with State IV–A agency (JOBS Program); commitments from officials of businesses that will be expanded or from franchises, where applicable; Single Point of Contact comments, if applicable; Maintenance of Effort Certification and resumes.
12. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application.

Attachment J—Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance, Washington, DC 20447

Jobs Program Director

February 1994.

Alabama

Claire Ealy, Director, Office of Work and Training Services, Public Assistance Division, S. Gordon Persons Building, 50 Ripley Street, Montgomery, Alabama 36130, (205) 242–1950

Alaska

Charles Knittel, Work Programs Coordinator, Division of Public Assistance, Department of Health and Social Service, P.O. Box 110640, Juneau, Alaska 99811–0640, (907) 465–3347

Arizona

Gretchen Evans, JOBS Program Director, Dept. of Economic Security, P.O. Box 6123, Site Code 8011, Phoenix, Arizona 85005, (602) 542–6310

Arkansas

Ken Whitlock, Deputy Director, Project SUCCESS, Department of Human Services, P.O. Box 1437, Little Rock, Arkansas 72203, (501) 682–8375

California

Bruce Wagstaff, Chief, Employment and Immigrations Programs Branch, Department of Social Services, 744 P Street M/S 6–700, Sacramento, California 95814, (916) 657–2367

Colorado

Bob Henson, Director, Work Programs, Department of Social Services, 1575 Sherman Street, Denver, Colorado 80203, (303) 866–2643

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VOL
60
ISS
72
AP
14
1995
UMI

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Indiana

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Iowa

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Kansas

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Kentucky

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Louisiana

Howard Prejean, Assistant Secretary, Department of Social Services, Office of Eligibility Determination, P.O. Box 3776, Baton Rouge, Louisiana 70821, (504) 342–4953

Maine

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Maryland

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Wisconsin

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Attachment K—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

[FR Doc. 95–8374 Filed 4–13–95; 8:45 am]
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VOL
60

ISS
72

AP
14

1995

UMI

federal register

Friday
April 14, 1995

Part III

Department of Education

Training Personnel for the Education of Individuals With Disabilities; Notice

VOL 60 ISS 72 APR 14 1995 UMI

DEPARTMENT OF EDUCATION

Training Personnel for the Education of Individuals With Disabilities

AGENCY: Department of Education.

ACTION: Notice of proposed waiver.

SUMMARY: The Secretary proposes to waive the requirements in EDGAR at 34 CFR 75.261(a) that generally prohibit project extensions that involve the additional obligation of Federal funds. The Secretary proposes to waive this EDGAR requirement for the National Center for Minority Special Education Research and Outreach, and the Outreach Alliance 2000 Project. The Secretary proposes to issue continuation awards to both Centers in order to ensure the most efficient use of Federal funds.

DATES: Comments must be received on or before May 15, 1995.

ADDRESSES: All comments concerning this proposed waiver should be addressed to Linda Glidewell or Victoria Ware, U.S. Department of Education, 600 Independence Avenue SW., Washington, DC 20202–2641.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell, telephone: (202) 205–9099, or Victoria Ware, telephone: (202) 205–8687. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On July 19, 1991, the Department issued a Notice Inviting Applications for New Awards under the Training Personnel for the Education of Individuals with Disabilities for Fiscal Year 1991. In this notice, the Department announced that it would make two awards for up to 48 months pursuant to section 610(j)(2)(C) of the Individuals with Disabilities Education Act (IDEA), which directed the Secretary to develop and implement a plan for providing outreach services to minority entities and underrepresented populations to assist them in participating more fully in the discretionary grant programs authorized in Parts C through G of IDEA.

Specifically, the Secretary advised that the Department would fund two Centers, one to provide technical assistance to the agencies, institutions, organizations, and populations identified by Congress seeking grant support for personnel preparation (Part D of the Act). The other Center was designed to provide technical assistance to the targeted entities and populations seeking support for research and the other activities authorized in Parts C, E, F, and G of the Act. The EDGAR selection criteria were used in making the selection.

The grant periods have ended for the two Centers, which are currently expending the balance of their fiscal year 1994 funds to carry out approved project activities. In order to conduct the section 610(j)(2)(C) plan activities with fiscal year 1995 support, it is necessary to either recompete the projects for one year or to issue continuation awards to the existing grantees.

Based upon following the factors, the Department believes it makes the most programmatic sense and is the most efficient use of Federal funds to issue continuation awards. However, to do so, the Department must waive the requirements in EDGAR at 34 CFR 75.261(a) that generally prohibit project extensions that involve the additional obligation of Federal funds. The Department is therefore soliciting public comment on the proposed waiver.

Reasons

If the Department had to recompete these multi-year outreach Centers this year, the Department would wastefully expend resources for a program that might not be reauthorized. If the program is reauthorized, it may contain substantially different programmatic requirements. Such changes would require the Department to recompete the projects one year later based on the new statute.

Therefore, the Department proposes to issue continuation awards to the current grantees for one year, with a maximum of two years, to take into account the possibility of a delayed reauthorization cycle.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed waiver would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by this proposed waiver are the two Centers currently receiving Federal funds. However, the waiver would not have a significant economic impact on the Centers because the waiver would not impose excessive regulatory burdens or require unnecessary Federal supervision. The waiver would impose minimal requirements to ensure the proper expenditure of program funds—requirements that are those standard to continuation awards.

Paperwork Reduction Act of 1980

This proposed waiver has been examined under the Paperwork Reduction Act of 1980 and has been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed waiver.

All comments submitted in response to this proposed waiver will be available for public inspection, during and after the comment period, in room 3521, 300 "C" Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in this proposed waiver.

(Catalog of Federal Domestic Assistance Number 84.029, Training Personnel for the Education of Individuals with Disabilities)

Dated: April 10, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–9195 Filed 4–13–95; 8:45 am]

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Reader Aids

Federal Register

Vol. 60, No. 72

Friday, April 14, 1995

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534
Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978.....3
16979–17190.....4
17191–17432.....5
17433–17624.....6
17625–17980.....7
17981–18342.....10
18343–18538.....11
18539–18726.....12
18727–18948.....13
18949–19152.....14

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6781.....17979
6782.....17981
6783.....18537
6784.....18707
6785.....18725

5 CFR

Ch. LII.....17625
581.....18949

Proposed Rules:
316.....17655

7 CFR

97.....17188
201.....16979
272.....17628
273.....17628
301.....18727
354.....17631
457.....16765
918.....17633
925.....16765
927.....17983
932.....18539
946.....17433
979.....16767
982.....16768
985.....16770, 17434, 18950
1001.....18952
1002.....18952
1004.....18952
1005.....18952
1006.....18952
1007.....18952
1011.....18952
1012.....18952
1013.....18952
1030.....18952
1032.....18952
1033.....18952
1036.....18952
1040.....18952
1044.....18952
1046.....18952
1049.....18952
1050.....18343, 18952
1064.....18952
1065.....18952
1068.....18952
1075.....18952
1076.....18952
1079.....18952
1093.....18952
1094.....18952
1096.....18952
1106.....18952
1108.....18952
1124.....18952
1126.....17191, 18952
1131.....17192, 18952
1134.....18952
1135.....18952
1137.....18952
1138.....18952
1139.....18952
1413.....17984
1427.....17984

Proposed Rules:
250.....18781
335.....18374
956.....17274
981.....17466

8 CFR

Proposed Rules:
212.....19001

9 CFR

77.....18728
92.....17634
327.....18540

Proposed Rules:
391.....18551

10 CFR

2.....18344
436.....18326
600.....17985

Proposed Rules:
50.....19002
70.....18035
52.....17902, 17924, 17947
170.....18882
171.....18882
430.....18782

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

3.....17986
208.....17436
215.....17635
226.....16771
400.....17625

Proposed Rules:
792.....18036

13 CFR

107.....17438
121.....18981

14 CFR

25.....17194
39.....16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981
71.....17196, 17442, 18346
97.....17198, 17199

VOL 60 ISS 72 AP 14 1995 UMI

Proposed Rules:
39 ..... 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376
71 ..... 17284, 18038, 18552
91 18700
119 19007
121 19007
125 19007
127 19007
135 ..... 18700, 19007

15 CFR
771 18731
779 18731

16 CFR
1700 17992

Proposed Rules:
248 17032
409 17491
436 17656
460 17492
1700 17660

17 CFR
200 17201
400 18733
403 18733
405 18733
449 ..... 18733, 18734

Proposed Rules:
239 17172
270 17172
274 17172

18 CFR
284 16979

Proposed Rules:
35 17662
141 17726
388 17726

19 CFR
7 18347
10 ..... 18542, 18983
11 18347
12 18347
18 18347
19 18347
24 18347
54 18347
101 ..... 18347, 18983
102 18347
111 ..... 18347, 18983
114 18347
123 ..... 18347, 18983
128 ..... 18347, 18983
132 18347
134 18347
141 ..... 18347, 18983
143 18983
145 ..... 18347, 18983
146 18347
148 ..... 18347, 18983
151 18347
152 18347
159 18983
177 18347
178 18983
181 18347
191 18347

Proposed Rules:
Ch. I 18783

20 CFR
Ch. III 18991
423 18991
638 18993
404 17443

Proposed Rules:
Ch. III 17731
404 19006
416 19006

21 CFR
20 16962
73 18736
101 17202
176 18349
178 ..... 18349, 18352, 18739
310 17611
558 18740
876 17208
1310 17636

Proposed Rules:
876 17611

22 CFR
514 16785

23 CFR
655 18520

24 CFR
215 17388
236 17388
570 17445
813 17388
905 ..... 17388, 18174
913 17388
950 18174
3500 16985

Proposed Rules:
29 17968

26 CFR
1 ..... 17216, 18741, 18742
602 18742

Proposed Rules:
1 ..... 17286, 17731, 18377, 18378

27 CFR
55 17446
72 17446
178 17446
179 17446

Proposed Rules:
1Ch. I 18783
53 18039
55 17494
72 17494
178 17494
179 17494

28 CFR
0 17456
2 18353

Proposed Rules:
2 ..... 18378, 18379
16 18784

29 CFR
580 17221
1960 18993
2610 18994
2619 18996
2622 18994
2644 18998
2676 18996

30 CFR
903 18710
914 ..... 16985, 17637
915 17458
934 18744
938 16788

Proposed Rules:
Ch. 1 18044
901 18044
902 17495
904 17498
906 17501
913 17734
914 17736
915 17504
916 17504
917 17739
918 17498
920 18046
924 18044
925 17504
926 17495
931 17501
934 17495
935 ..... 17741, 18380
936 17498
938 18046
943 17498
944 17501
946 17743
948 18381
950 17495

32 CFR
290 18005
354 18006
355 18006
357 18006
359 18006
360 18006
361 18006
374 18006

Proposed Rules:
63 17507
247 18049

33 CFR
3 17222
117 18006
154 17134
155 17134
162 16793
165 ..... 16793, 18006
334 18543

Proposed Rules:
Ch. I 17287
100 18785
117 18061
165 ..... 16818, 16820, 16821, 18063, 18065, 18066, 18068
211 18069
402 18384

34 CFR
350 17424
351 17424
352 17424
353 17424
356 17424

36 CFR
7 17639
13 18532

Proposed Rules:
13 19011
215 18886
217 18886
219 18888

37 CFR
1 16920

38 CFR
2 18354
3 18354

39 CFR
20 18009
265 17224

Proposed Rules:
232 17287

40 CFR
9 ..... 17100, 18009
52 ..... 16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750
63 ..... 18020, 18026
72 ..... 17100, 18462
73 17100
74 17100
75 17100
76 18751
77 17100
78 17100
81 16996
122 17950
124 17950
136 17160
180 ..... 18543, 18546, 18547
185 18547
186 18547
258 17649
260 17001
271 ..... 18356, 18358, 18360,
300 ..... 16808, 17004
372 18361
720 17005
721 17005
723 17005
763 18364

Proposed Rules:
Ch. I 17288
51 17509
52 ..... 16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385
55 ..... 17748, 18787
58 17509
63 ..... 16829, 16920, 18071, 18078
70 ..... 17750, 18790
72 18472
76 18792
81 ..... 17034, 17756
86 17509
122 17958
124 17958
170 18555
180 ..... 18555, 18557, 18558, 18560, 18562
185 18562
186 ..... 18560, 18562
300 18565
372 16830
761 17510
799 18079

41 CFR
101–20 17653

43 CFR
12 17237

Proposed Rules:
426 16922
427 16922
3100 18081

Public Land Orders:
7131 18030
7132 18777
7133 18777
7137 18778

44 CFR
64 17005
65 ..... 17007, 17009, 17011, 17012
67 ..... 17013, 17020

Proposed Rules:
65 17758
67 ..... 17035, 17042

45 CFR

Proposed Rules:
2544 17761

46 CFR
12 17134
13 17134
15 17134
30 17134
31 17134
35 17134
78 17134
90 17134
97 17134
98 17134
105 17134
151 17134
153 17134
154 17134
401 18366
403 18366
404 18366

Proposed Rules:
Ch. I 17287
Ch. II 17763
67 17290
90 18793
97 18793
*148 18793

47 CFR
2 ..... 18778, 18999
73 ..... 17023, 17253, 19000
90 18999

Proposed Rules:
1 17294
63 17763
73 ..... 17048, 18793, 19012

48 CFR
915 18030
916 18030
970 18030
1802 18032
1850 18032
1852 18032
6101 17023

Proposed Rules:
Ch. V 17764
6 17295
12 17184
16 17295
32 18794
52 ..... 17184, 17295, 18794

49 CFR
173 17398
178 17398
180 17398
552 17254
554 17254
573 17254
576 17254
577 17254
1043 16808
1084 16808

Proposed Rules:
Ch. I 17049
Ch. II 18390
190 17295
191 17295
192 17295
193 17295
194 17295
195 17295
196 17295
197 17295
198 17295
199 17295
234 ..... 17770, 19012
571 18566

50 CFR
17 18940
650 17272
655 17464
663 16811
672 17465
675 ..... 17028, 17653

Proposed Rules:
Ch.VI 17770
17 ..... 16836, 17296, 19013
625 18795
641 17511
642 18391
655 18391
675 17512

VOL
60
ISS
72
AP
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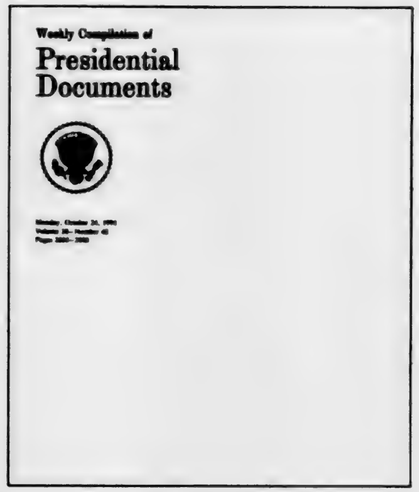

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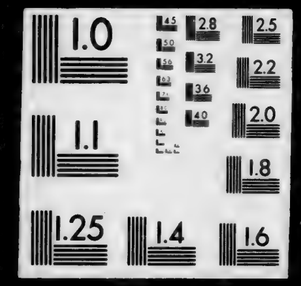

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AP
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73

AP
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VOL
60
ISS
73
AP
17
1995
UMI

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Contents

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

Agency for Toxic Substances and Disease Registry
NOTICES
Meetings:
Native American working group, 19263
Public Health Service Activities and Research at DOE Sites Citizens Advisory Committee, 19263

Agriculture Department
See Consolidated Farm Service Agency
See Forest Service
See Rural Business and Cooperative Development Service
See Rural Housing and Community Development Service
See Rural Utilities Service

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Motorola, Inc., et al., 19284–19306

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Meetings:
Diabetes Translation and Community Control Programs Technical Advisory Committee, 19264
Energy-Related Epidemiologic Research Advisory Committee, 19264
National Center for Infectious Diseases Scientific Counselors Board, 19264

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Consolidated Farm Service Agency
PROPOSED RULES
Program regulations:
Housing preservation grant program, 19168–19170

Defense Department
NOTICES
Agency information collection activities under OMB review, 19213–19235
Environmental statements; availability, etc.:
Bellows Air Force Station, HI; land use and development plan, 19238
Meetings:
Armed Forces Roles and Missions Commission, 19236
Defense Environmental Response task force, 19236
Electron Devices Advisory Group, 19236–19237

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Organix Inc., 19306
Sigma Chemical Co., 19306–19307
Stepan Co., 19307

Education Department
NOTICES
Meetings:
Indian Education National Advisory Council, 19237

Employment Standards Administration
See Wage and Hour Division

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Fernald, OH—
Operable Unit 5 pilot plant drainage ditch project, 19237–19238
Operable Unit 5 remedial action, 19238
Grant and cooperative agreement awards:
Curchod, Don, 19238–19239
Dinwoodie, Thomas L., PowerLight Co., 19239
Drobilsch, Sandor, Sandor Engineering, 19239
Kaylor, Marvin A., 19239–19240
Martin, Tiby M., 19240
Materials Research, Inc., 19240
Thorpe, Douglas G., 19240–19241
Meetings:
Environmental Management Site Specific Advisory Board—
Idaho National Engineering Laboratory, 19241–19242
Nevada Test Site, 19242
Pantex Plant, TX, 19242–19243
Organization, functions, and authority delegations:
Contractor operations; accelerated directives reduction, 19243

Environmental Protection Agency
RULES
Hazardous waste:
Identification and listing—
Carbamate chemicals production; correction, 19165–19167
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
North Carolina, 19197–19202
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 19203–19205
NOTICES
Confidential business information and data transfer, 19250
Grants, State and local assistance:
Grantee performance evaluation reports—
Missouri et al., 19250–19251
Meetings:
Environmental Financial Advisory Board, 19251
Science Advisory Board, 19251
Municipal solid waste landfill permit programs; adequacy determinations:
Wyoming, 19251–19254

VOL 60 ISS 73 AP 17 1995 UMI

Superfund; response and remedial actions, proposed settlements, etc.:
Union Scrap Iron & Metal Site, MN, 19254
Toxic and hazardous substances control:
Premanufacture exemption approvals, 19254–19255

Executive Office of the President
See Presidential Documents

Family Support Administration
See Refugee Resettlement Office

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus, 19155–19157
Boeing, 19157–19158
McDonnell Douglas, 19158–19160
Standard instrument approach procedures, 19160–19163
PROPOSED RULES
Airworthiness directives:
Beech, 19172–19174
Boeing, 19181–19183
British Aerospace, 19175–19181
McDonnell Douglas, 19185–19190
Piper, 19174–19175
Raytheon Corporate Jets, 19183–19185
VOR Federal airways, 19190–19191
NOTICES
Civil penalty actions; Administrator's decisions and orders; index availability, 19318–19328

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
Montana, 19206
Television stations; table of assignments:
Hawaii, 19205–19206
NOTICES
Common carrier services:
Ameritech-Illinois; 708 relief plan and 630 numbering plan area code, 19255–19257

Federal Emergency Management Agency
NOTICES
Meetings:
National Fire Academy Board of Visitors, 19257

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Illinova Power Marketing, Inc., et al., 19243–19245
TSP Guatemala One, Inc., et al., 19246–19248
Environmental statements; availability, etc.:
South Carolina Electric & Gas Co. et al., 19248–19249
Applications, hearings, determinations, etc.:
CNG Transmission Corp., 19249
Florida Gas Transmission Co., 19249
Northwest Pipeline Corp., 19249–19250
Viking Gas Transmission Co., 19250

Federal Maritime Commission
NOTICES
Agreements filed, etc., 19257–19258
Complaints filed:
Marine Dynamics et al., 19258
Freight forwarder licenses:
Cohen, Alfred L., et al., 19258

Federal Mediation and Conciliation Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Labor-management cooperation grants program; advisory committee, 19258–19259

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Fleet Financial Group, Inc., 19259
KeyCorp, 19259–19260
National City Corp., 19260
Pikeville National Corp. et al., 19260–19261

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 19282–19283
Environmental statements; availability, etc.:
Sport fish and wildlife restoration programs; Federal aid, 19283–19284

Food and Drug Administration
NOTICES
Biological product licenses:
Hema Systems, Ltd., 19265–19266
Houston Apheresis, Inc., 19266
Biological products:
Export applications—
Vironostika HTLV-I/II Microelisa System, 19264–19265
Meetings:
Biopharmaceutical and biologic therapeutic products; workshop, 19266–19267

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Alabama—
Peavey Electronics Corp.; electronic audio and acoustical products manufacturing plants, 19209

Forest Service
NOTICES
Appealable decisions; legal notice:
Rocky Mountain region, 19207–19208

General Services Administration
NOTICES
Federal travel:
Special actual subsistence expense reimbursement ceiling—
Augusta (Richmond County), GA and Oshkosh (Winnebago County), WI, 19261–19262

Government Printing Office
NOTICES
Meetings:
Online access to Federal Register and other Federal databases; demonstration, 19262

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Refugee Resettlement Office
See Social Security Administration
See Substance Abuse and Mental Health Services Administration

NOTICES
Meetings:
President's Council on Physical Fitness and Sports, 19262–19263

Housing and Urban Development Department
PROPOSED RULES
Fair housing:
Community Housing Resource Board program; termination, 19191–19192
NOTICES
Agency information collection activities under OMB review, 19277–19278
Grants and cooperative agreements; availability, etc.:
HOPE homeownership program—
Single family homes program (HOPE 3); allocation amounts correction, 19278
Housing assistance payments (Section 8)—
Rental certificate and rental voucher programs; correction, 19278–19280

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Fresh cut flowers from—
Mexico, 19209–19210
North American Free Trade Agreement (NAFTA):
Article 1904 binational panel reviews, 19210–19211

Justice Department
See Antitrust Division
See Drug Enforcement Administration

Labor Department
See Occupational Safety and Health Administration
See Wage and Hour Division
NOTICES
Meetings:
Family and Medical Leave Commission, 19307–19308

Land Management Bureau
NOTICES
Opening of public lands:
Nevada, 19280–19281
Realty actions; sales, leases, etc.:
Nevada, 19281
Survey plat filings:
Nevada, 19281–19282

Minerals Management Service
NOTICES
Outer Continental Shelf operations:
Central Gulf of Mexico—
Lease sales; correction, 19331–19333

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Music Advisory Panel, 19308

National Institute of Standards and Technology
NOTICES
Information processing standards, Federal:
Secure hash standard, 19211–19213

National Institutes of Health
NOTICES
Meetings:
National Heart, Lung, and Blood Institute, 19267–19268
National Institute of Environmental Health Sciences, 19267
National Institute of Mental Health, 19268–19269
Recombinant DNA Advisory Committee, 19269
Research Grants Division special emphasis panels, 19269–19270

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Snake River spring/summer and fall chinook salmon, 19342

National Park Service
NOTICES
Meetings:
Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 19284

Nuclear Regulatory Commission
PROPOSED RULES
Power reactor and Category I fuel cycle licenses; physical security plan format changes, 19170–19172
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 19308–19309
Applications, hearings, determinations, etc.:
GPU Nuclear Corp., 19309
Long Island Nuclear Power, 19309–19311

Occupational Safety and Health Administration
PROPOSED RULES
Safety and health standards, etc.:
Respiratory protection, 19192–19193

Presidential Documents
ADMINISTRATIVE ORDERS
International criminal activities prevention assistance, authority delegation to Secretary of State (Memorandum of April 4, 1995), 19153

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
South Bay Water Recycling Program, San Jose, CA, 19282

Refugee Resettlement Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Refugee resettlement program—
Refugees in local areas of high need, 19270–19276

VOL 60 ISS 73 AP 17 1995 UMI

Research and Special Programs Administration
NOTICES
Meetings:
International standards on transport of radioactive materials, 19328

Rural Business and Cooperative Development Service
PROPOSED RULES
Program regulations:
Housing preservation grant program, 19168–19170

Rural Housing and Community Development Service
PROPOSED RULES
Program regulations:
Housing preservation grant program, 19168–19170

Rural Utilities Service
PROPOSED RULES
Program regulations:
Housing preservation grant program, 19168–19170

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 19311
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 19311–19312
Cincinnati Stock Exchange, Inc., 19312–19313
New York Stock Exchange, Inc., 19313–19315
Applications, hearings, determinations, etc.:
Banco de Comercio Exterior de Colombia S.A., 19315–19317

Social Security Administration
RULES
Social security benefits:
Presumption of death; evidence requirement, 19163–19165

Substance Abuse and Mental Health Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
High risk youth demonstration program, 19276–19277

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 19193–1919
Ohio, 19194–19197

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 19330

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
First Federal Savings & Loan Association of San Gabriel Valley, 19328
Logansport Savings Bank, F.S.B., 19329

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Aviation Administration
See Research and Special Programs Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 19317
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 19317

Treasury Department
See Thrift Supervision Office

Wage and Hour Division
RULES
Child labor regulations, orders, and statements of interpretation, 19336–19339

Separate Parts in This Issue

Part II
Department of Labor, Wage and Hour Division, 19336–19339

Part III
Department of Commerce, National Oceanic and Atmospheric Administration, 19342

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
April 4, 1995 19153

7 CFR
Proposed Rules:
1944 19168

10 CFR
Proposed Rules:
50 19170
70 19170

14 CFR
39 (3 documents) 19155, 19157, 19158
97 (2 documents) 19158, 19162
Proposed Rules:
39 (8 documents) 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188
71 19190

20 CFR
404 19163

24 CFR
Proposed Rules:
120 19191

29 CFR
570 19334
Proposed Rules:
1910 19192
1915 19192
1926 19192

30 CFR
Proposed Rules:
917 19193
935 19194

40 CFR
261 19165
302 19165
Proposed Rules:
52 19197
81 19197
300 19203

47 CFR
Proposed Rules:
73 (2 documents) 19205, 19206

50 CFR
227 19342

VOL
60
ISS
73
AP
17
1995
UMI

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

Presidential Documents

Title 3—

The President

Memorandum of April 4, 1995

Delegation of Authority Under Section 106 of the International Narcotics Control Corrections Act of 1994 (Public Law 103–447)

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of State the functions conferred upon the President by section 106 of the International Narcotics Control Corrections Act of 1994 (the "Act") (Public Law 103–447) with respect to funds made available from any source.

The functions delegated by this memorandum may be redelegated to the extent permitted by law.

This delegation of authority shall also apply to any amendments or successor legislation concerning the subject matter of this section.

You are authorized and directed to publish this memorandum in the **Federal Register.**

William J. Clinton

THE WHITE HOUSE,
Washington, April 4, 1995.

[FR Doc. 95–9553
Filed 4–13–95; 3:23 pm]
Billing code 4710–10–M

VOL
60
ISS
73
AP
17
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–41–AD; Amendment 39–9195; AD 95–08–07]

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Airbus Model A310 series airplanes. This action requires measurement of the force required to move the interior control handle of the emergency exit doors, and various follow-on corrective actions, if necessary. This amendment is prompted by a report that, during routine maintenance, excessive force was required to lift the interior control handle of the emergency exit door. The actions specified in this AD are intended to prevent impeding passenger evacuation during an emergency due to difficulty in lifting the interior control handle that is used to open the emergency exit door.

DATES: Effective May 2, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 16, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–41–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A310 series airplanes. The DGAC advises that one operator found, during routine maintenance, that an excessive amount of force was required to lift the interior control handle, which opens the left-hand emergency exit door. Investigation revealed that the seizure of two Teflon-coated bearings on the lower shaft of the mechanism inside that door caused the control handle of that emergency exit door to be difficult to lift. This condition, if not corrected, could impede passenger evacuation during an emergency due to difficulty in lifting the interior control handle that is used to open the emergency exit door.

Airbus has issued All Operators Telex (AOT) 52 08, Revision 1, dated December 1, 1994, which describes procedures for measurement of the force required to move the interior control handle of the emergency exit doors, a one-time functional test of the emergency exit doors to measure the amount of force required to open the doors. Additionally, for doors on which the force required to open the door exceeds a certain limit, this AOT describes procedures for a visual inspection to detect discrepancies of the mechanism inside the door, and replacement of bearings, if necessary. The French DGAC classified this AOT as mandatory and issued French airworthiness directive 94–270–172(B), dated December 7, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the French DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the French DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent impeding passenger evacuation during an emergency due to difficulty in lifting the interior control handle that is used to open the emergency exit door. This AD requires measurement of the force required to move the interior control handle of the emergency exit door. Additionally this AD contains several "on condition" requirements, including a one-time functional test of the emergency exit doors to measure the amount of force required to open the door, a visual inspection to detect discrepancies of the mechanism inside each emergency exit door, and replacement of the bearings on the lower shaft of the mechanism inside the door. The actions are required to be accomplished in accordance with the AOT described previously.

This AD also requires that certain discrepancies found be repaired in accordance with a method approved by the FAA. Additionally, this AD requires that operators submit a report of the findings of discrepancies to Airbus Industrie.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA

VOL
60
ISS
73
AP
17
1995
UMI

points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–41–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–08–07 Airbus Industrie: Amendment 39–9196. Docket 95–NM–41–AD.

Applicability: All Model A310 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent impeding evacuation during an emergency due to seized bearings on the lower shaft of the mechanism inside the emergency exit door, which would make the door control handle difficult to lift, accomplish the following:

(a) Within 60 days after the effective date of this AD, measure the amount of force required to move the interior control handle of the emergency exit doors to, in accordance with Airbus All Operators Telex (AOT) 52 08, Revision 1, dated December 1, 1994.

(b) If the force required to move the interior control handle of the door is equal to or does not exceed 20 daN (45 foot-pounds), no further action is required by this paragraph for that door.

(c) If the force required to move the interior control handle of the door exceeds 20 daN (45 foot-pounds), prior to further flight, perform a full functional test of the emergency exit doors to measure the amount of force required to open the doors, in accordance with the AOT.

(1) If the force required to open the door is equal to or does not exceed 20 daN (45 foot-pounds), no further action is required by this paragraph for that door.

(2) If the force required to open the door exceeds 20 daN (45 foot-pounds), prior to further flight, perform a visual inspection to detect discrepancies of the mechanism inside the door, in accordance with the AOT.

(i) If no discrepancy is found, prior to further flight, replace seized bearings with new or serviceable bearings, in accordance with the AOT.

(ii) If any discrepancy is found, prior to further flight, repair the discrepancy in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) Within 10 days after accomplishing the inspection required by paragraph (a) of this AD, submit a report of the findings of discrepancies to the Airbus Industrie, Engineering Services, Attention: Mr. R. Filaquier, AI/SE E121, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*) and have been assigned OMB Control Number 2120–0056.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued for non-revenue bearing flights in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The measurements, functional test, inspections, and replacement shall be done in accordance with Airbus All Operators Telex 52 08, Revision 1, dated December 1, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 2, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8822 Filed 4–14–95; 8:45 am]

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14 CFR Part 39

[Docket No. 95–NM–46–AD; Amendment 39–9197; AD 95–08–08]

Airworthiness Directives; Boeing Model 737–200 and –200C Airplanes Equipped With dB Partners Hush Kits Installed in Accordance With Supplemental Type Certificate (STC) SA5730NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–200 and –200C airplanes. This action requires installation of fail-safe straps onto the existing engine inlet attach ring of the nose cowl. This amendment is prompted by reports of failure of reworked turbine blades, and subsequent failure of the engine inlet attach ring. The actions specified in this AD are intended to prevent separation of the nose cowl from the engine following turbine failure. This AD requires installation of fail-safe straps onto the existing attach ring. The actions are required to be accomplished in accordance with the service bulletin described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

DATES: Effective May 2, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 16, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–46–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Rodriguez, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2779; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Recently, the FAA has received reports of failure of reworked turbine blades on certain Boeing Model 737–200 and –200C airplanes. Investigation revealed that dB Partners had installed hush kits on these airplanes in accordance with Supplemental Type Certificate (STC) SA5730NM. As part of that installation, a re-spaced inlet guide vane (RIGV), which is five inches longer than the original Boeing inlet, was installed in accordance with the STC. As a result of a turbine blade failure, this longer RIGV, which is attached to the engine by an attach ring, could separate from the airplane during flight. This condition, if not corrected, could result in damage to other airplane structure or injury to persons or property on the ground.

The FAA has reviewed and approved Nordam Service Bulletin SB 71–03, dated March 17, 1995, which describes procedures for installation of eight fail-safe straps onto the existing attach rings of the nose cowl.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent separation of the nose cowl from the engine following turbine

VOL
60
ISS
73
AP
17
1995
UMI

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–46–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–08–09 Boeing: Amendment 39–9197. Docket 95–NM–46–AD.

Applicability: Model 737–200 and –200C airplanes equipped with dB Partners Hush Kit installed in accordance with Supplemental Type Certificate (STC) SA5730NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the nose cowl from the engine following turbine blade failure, accomplish the following:

(a) Within 30 days after the effective date of this AD, install fail-safe straps onto the existing attach ring, in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995.

(b) As of the effective date of this AD, fail-safe straps must be installed onto the existing attach ring of the nose cowl, in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995, prior to installation of STC SA5730NM on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The installation shall be done in accordance with Nordam Service Bulletin SB 71–03, dated March 17, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The Nordam Group, 624 East 4th Street, Tulsa, Oklahoma 74120. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 2, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8823 Filed 4–14–95; 8:45 am]

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14 CFR Part 39

[Docket No. 95–NM–44–AD; Amendment 39–9198; AD 95–08–09]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires modification of the support structure of the cargo liner. This amendment is prompted by a report of chafing and arcing in the vacuum waste exhaust heater that caused a spark to ignite the surrounding insulation blankets. The actions specified in this AD are intended to prevent fire and/or smoke due to chafing and arcing of the vacuum waste exhaust port heater.

DATES: Effective May 2, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 16, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–44–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This

information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5347; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Recently, an operator of McDonnell Douglas Model MD–11 series airplanes reported that chafing and arcing in the vacuum waste exhaust heater caused a spark to ignite the surrounding insulation blankets. Investigation revealed that the cutout in the baffle for the vacuum waste exhaust duct rubbed against the heater tape, which caused the heater tape to chafe. (Split heater cuffs were installed on the vacuum waste exhaust ducts of these airplanes in accordance with McDonnell Douglas Service Bulletin 38–15, dated October 23, 1992.) This condition, if not corrected, could result in undetected fire and/or smoke due to chafing and arcing of the vacuum waste exhaust port heater.

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–38A044, dated March 22, 1995, which describes procedures for modification of the support structure of the cargo liner. This modification entails removing the baffle assemblies and trimming the insulation blankets surrounding the vacuum waste exhaust duct, which will reduce chafing and minimize the possibility of igniting the insulation blanket.

The alert service bulletin includes two groups of airplanes in its effectivity listing: Airplanes identified as "Group 1" are equipped with split heater cuffs that were installed, after delivery, on the vacuum waste exhaust ducts of the heaters of these airplanes in accordance with McDonnell Douglas Service Bulletin 38–15, dated October 23, 1992. Airplanes identified as "Group 2" are those on which the manufacturer accomplished a similar modification prior to delivery.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent fire and/or smoke due to chafing and arcing of the heater. This AD requires modification of the support structure of the cargo liner of airplanes identified in the alert service bulletin as Group 1 airplanes. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Although all of the airplanes identified in the effectivity listing of the referenced alert service bulletin have had split heater cuffs installed on the vacuum waste exhaust ducts, those identified as Group 1 airplanes differ significantly from those identified as Group 2 airplanes: Group 1 airplanes have had split heater cuffs installed on the vacuum waste exhaust ducts, in accordance with McDonnell Douglas Service Bulletin 38–15, dated October 23, 1992; that service bulletin did not adequately specify the minimum distance between the baffle assemblies and the vacuum waste exhaust duct. Group 2 airplanes have had split heater cuffs installed during production using production drawings that adequately specified the minimum distance between the baffle assemblies and the vacuum waste exhaust duct. Consequently, because of the configuration of this installation, the FAA finds that the potential for chafing and arcing to occur on Group 1 airplanes is much greater. Further, a review of service history indicates that no incidents of chafing and arcing have occurred on Group 2 airplanes.

In light of this, the FAA has determined that airplanes identified in the alert service bulletin as Group 2 airplanes are not subject to the unsafe condition. Accordingly, Group 2 airplanes have been excluded from the requirements of this AD.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–44–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined

VOL 60 ISS 73 AP 17 1995 UMI

further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95-08-09 McDonnell Douglas: Amendment 39-9198. Docket 95-NM-44-AD.

Applicability: Model MD-11 series airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11-38A044, dated March 22, 1995, and identified as "Group 1 airplanes," on which split heater cuffs have been installed on the waste exhaust ducts of heaters in accordance with McDonnell Douglas MD-11 Service Bulletin 38-15, dated October 23, 1992; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent a fire and/or smoke due to chafing and arcing of the heater, accomplish the following:

(a) Within 30 days after the effective date of this AD, modify the support structure of the cargo liner, in accordance with McDonnell Douglas MD-11 Alert Service Bulletin MD11-38A044, dated March 22, 1995.

(b) As of the effective date of this AD, the support structure of the cargo liner on any airplane must be modified in accordance with McDonnell Douglas Alert Service Bulletin MD11-38A044, dated March 22 1995, prior to installing a vacuum waste exhaust port heater, P/N 62-5745, in accordance with McDonnell Douglas MD-11 Service Bulletin 38-15, dated October 23, 1992.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The modification shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11-38A044, dated March 22, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801-1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2-98. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 2, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-8826 Filed 4-14-95; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 97

[Docket No. 28161; Amdt. No. 1658]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT:

Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standard Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552a(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may required making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, the good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 7, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective July 20, 1995*

Madisonville, KY, Madisonville Muni, VOR or GPS RWY 23, Amdt 13

Madisonville, KY, Madisonville Muni, VOR/DME RNAV RWY 23, Amdt 4

** * * Effective May 25, 1995*

Marysville, CA, Yuba County, VOR RWY 14, Amdt 9

Marysville, CA, Yuba County, VOR or GPS RWY 32, Amdt. 10

Marysville, CA, Yuba County, NDB or GPS RWY 14, Amdt 3

Marysville, CA, Yuba County, ILS RWY 14, Amdt 4

Denver, CO, Denver International, ILS RWY 7, Amdt 1

Denver, CO, Denver International, ILS RWY 8, Amdt 1

Denver, CO, Denver International, ILS RWY 16, Amdt 1

Denver, CO, Denver International, ILS RWY 17L, Amdt 1

Denver, CO, Denver International, ILS RWY 17R, Amdt 1

Denver, CO, Denver International, ILS RWY 25, Amdt 1

Denver, CO, Denver International, ILS RWY 26, Amdt 1

Denver, CO, Denver International, ILS/DME RWY 34, Amdt 1

Denver, CO, Denver International, ILS RWY 35L, Amdt 1

Denver, CO, Denver International, ILS/DME RWY 35R, Amdt 1

Denver, CO, Front Range, NDB or GPS RWY 26, Amdt 3

Denver, CO, Front Range, ILS RWY 26, Amdt 3

Denver, CO, Jeffco, VOR/DME RWY 29R, Orig, CANCELLED

Denver, CO, Jeffco, RNAV RWY 29R, Amdt 9, CANCELLED

Denver, CO, Stapleton Intl, LOC RWY 18, Amdt 5, CANCELLED

Denver, CO, Stapleton Intl, NDB RWY 26L, Amdt 39, CANCELLED

Denver, CO, Stapleton Intl, NDB RWY 26R, Amdt 9, CANCELLED

Denver, CO, Stapleton Intl, ILS/DME-1 RWY 8R, Amdt 6, CANCELLED

Denver, CO, Stapleton Intl, CONVERGING ILS/DME-2 RWY 8R, Amdt 3, CANCELLED

Denver, CO, Stapleton Intl, ILS/DME-1 RWY 17L, Amdt 7, CANCELLED

Denver, CO, Stapleton Intl, CONVERGING ILS/DME-2 RWY 17L, Amdt 3, CANCELLED

Denver, CO, Stapleton Intl, ILS RWY 26L, Amdt 47A, CANCELLED

Denver, CO, Stapleton Intl, ILS RWY 35L, Amdt 29, CANCELLED

Denver, CO, Stapleton Intl, ILS RWY 35R, Amdt 13, CANCELLED

Denver, CO, Stapleton Intl, ILS RWY 36, Amdt 4, CANCELLED

Erie, CO, Tri-County, VOR/DME-A, Amdt 2, CANCELLED

Ankeny, IA, Ankeny Regional, NDB-A, Orig

Eagle Grove, IA, Eagle Grove Muni, VOR/DME or GPS-A, Amdt 1

Eagle Grove, IA, Eagle Grove Muni, NDB or GPS RWY 13, Amdt 1

Hampton, IA, Hampton Muni, VOR/DME or GPS RWY 35, Amdt 1

Hampton, IA, Hampton Muni, NDB RWY 17, Amdt 4

Iowa Falls, IA, Iowa Falls Muni, NDB or GPS RWY 31, Amdt 4

VOL 60 ISS 73 AP 17 1995 UMI

Sac City, IA, Sac City Muni, NDB or GPS RWY 36, Amdt 3
Coeur D'Alene ID, Coeur D'Alene Air Terminal, ILS RWY 5, Amdt 4
Eureka, KS, Eureka Muni, VOR/DME or GPS RWY 18, Amdt 2
Frankfort, KY, Capital City, VOR RWY 6, Amdt 1, CANCELLED
Frankfort, KY, Capital City, VOR or GPS RWY 24, Amdt 2
Frankfort, KY, Capital City, LOC/DME RWY 24, Orig
Frankfort, KY, Capital City, RADAR-1, Orig, CANCELLED
Murray, KY, Kyle-Oakley Field, NDB RWY 23, Orig
Murray, KY, Kyle-Oakley Field, NDB or GPS RWY 23, Amdt 6, CANCELLED
Murray, KY, Kyle-Oakley Field, LOC Rwy 23, Orig
Ocean City, NJ, Ocean City Muni, VOR-A, Orig
Hatteras, NC, Billy Mitchell, NDB or GPS RWY 6, Amdt 6, CANCELLED
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, NDB RWY 9, Amdt 13
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, ILS RWY 9, Amdt 15

* * * *Effective April 27, 1995*

Little Rock, AR, Adams Field, ILS RWY 4R, Orig
Latrobe, PA, Westmoreland County, ILS RWY 23, Amdt 14

* * * *Effective Upon Publication*

New York, NY, La Guardia, Copter ILS RWY 24, Amdt 1
New York, NY, La Guardia, Copter ILS/DME RWY 22, Amdt 1
Waco, TX, Waco Regional, Radar-1, Amdt 3.

[FR Doc. 95-9400 Filed 4-14-95; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 28182; Amdt. No. 1659]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 7, 1995.

Thomas C. Accardi,
Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
03/09/95	MO	Perryville	Perryville Muni	FDC 5/1332	VOR/DME RNAV or GPS RWY 19, AMDT 2...
03/23/95	TX	Lago Vista	Rusty Allen	FDC 5/1281	VOR/DME or GPS-A AMDT 2...
03/24/95	WY	Gillette	Gillette-Campbell County	FDC 5/1282	ILS RWY 34, AMDT 2...
03/24/95	WY	Gillette	Gillette-Campbell County	FDC 5/1283	NDB RWY 34, ORIG...
03/24/95	WY	Gillette	Gillette-Campbell County	FDC 5/1285	VOR or GPS RWY 16, AMDT 6...
03/30/95	CA	San Francisco	San Francisco Intl	FDC 5/1390	BAY ILS/DME RWY 28L AMDT 1...
03/30/95	FL	Fort Lauderdale	Fort Lauderdale Executive	FDC 5/1349	VOR/DME RNAV or GPS RWY 8, AMDT 3...
03/30/95	KS	Meade	Meade Municipal	FDC 5/1389	NDB RWY 17, AMDT 1...
03/30/95	MN	Hawley	Hawley Muni	FDC 5/1382	VOR/DME or GPS-A ORIG...
03/30/95	NM	Deming	Deming Muni	FDC 5/1386	VOR or GPS RWY 26 AMDT 8A...
03/30/95	NM	Truth or Consequences Muni.	Truth or Consequences	FDC 5/1385	VOR or GPS-A AMDT 9...
03/30/95	WY	Gillette	Gillette-Campbell County	FDC 5/1388	VOR/DME or GPS RWY 34, ORIG...

[FR Doc. 95-9401 Filed 4-14-95; 8:45 am]
BILLING CODE 4910-13-M

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

RIN 0960-AD79

Federal Old-Age, Survivors and Disability Insurance; Changes in Evidence Required To Presume a Person Is Dead

AGENCY: Social Security Administration.
ACTION: Final rules.

SUMMARY: These regulations provide that, under title II of the Social Security Act (the Act), a presumption of death arises when the claimant establishes that an individual has been absent from his or her residence and not heard from for 7 years. Once the presumption is made, the burden then shifts to us to rebut the presumption either by presenting evidence that the missing individual is still alive or by providing an explanation to account for the individual's absence in a manner consistent with continued life rather than death.

EFFECTIVE DATE: These rules are effective April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1762.

SUPPLEMENTARY INFORMATION: Under title II of the Act, a lump sum death payment and monthly survivors' benefits may be payable based on the earnings of a deceased insured person. In order to ensure that these benefits are not paid based on mere desertion, any inquiry into entitlement begins with an assumption that a person last known to be alive is still living, and that a person's failure to communicate with a few people and to return to a particular place do not, in themselves, give rise to a presumption of death. To establish eligibility for such benefits, the claimant must establish that the insured person is dead. If proof of death (as described in §§ 404.720(b) and (c)) is unavailable, we will presume an insured person is dead if certain evidence is presented. Under the present § 404.721(b), such evidence includes signed statements by those in a position to know and other records which show that the person has been absent from his or her residence *for no apparent reason*, and has not been heard from for at least 7 years.

This evidentiary requirement has yielded two very different interpretations. It has long been our policy that the claimant must present the evidence necessary to establish that he or she is entitled to benefits. Accordingly, for us to presume that an insured person is dead, the claimant must establish that the insured person not only has not been heard from for at least 7 years, but also that he or she has been absent from his or her residence for no apparent reason. If the insured person's absence can be attributed to known domestic or financial difficulties or to some other rational reason for leaving home, death is not presumed. We are not required to establish that the

VOL
60
ISS
73
AP
17
1995
UMI

insured person is still alive to explain the person's absence.

In contrast to our interpretation, a number of United States Courts of Appeals have issued decisions which have presumed the death of a missing person despite the existence of other reasonable explanations for the person's absence. These court decisions have held that a presumption of death arises under our regulations when the claimant shows that a person has been absent from his or her residence and not heard from for 7 years. Once the claimant has made this showing, these decisions state that the Secretary bears the burden of rebutting the presumption of death either by presenting evidence showing that the missing person is alive or by providing an explanation to account for the individual's absence in a manner that is consistent with continued life. As a result of these court decisions, we published Social Security Acquiescence Rulings applicable in the Third, Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Circuits which adopt this interpretation of § 404.721.

We published a Notice of Proposed Rulemaking (NPRM) on February 29, 1984, (49 FR 7405–7406), containing proposed revisions of § 404.721 which we hoped would clarify the regulation to avoid the varying interpretations of the regulation made by the courts. Under the previously proposed regulation, we would presume the death of the insured person if signed statements by persons, who were in a position to know, and other evidence showed that all three of the following requirements were met:

(1) The insured person has not had contact of any kind with any relatives, dependents, employers, or friends for at least 7 years.

(2) A diligent search was conducted with the aid of the appropriate authorities reasonably soon after the insured person's disappearance, but the search failed to locate or explain the absence of the insured person.

(3) Circumstances surrounding the insured person's disappearance allow no reasonable explanation of that person's absence other than death.

After much deliberation, we have decided that we will not adopt the rule published in the 1984 NPRM. These final regulations withdraw the NPRM published at 49 FR 7405–7406 on February 29, 1984.

In light of the Social Security Acquiescence Rulings, we are now administering two different standards with respect to presumption of death for entitlement purposes. One standard is based on our historical interpretation of the regulation; the other on the Social Security Acquiescence Rulings issued for the seven different circuits as the result of appellate court decisions. We have reevaluated our policies and are revising the existing regulation to establish a national policy based on the interpretation set forth by the courts.

Also, we are revising the regulations to include a new section which contains information on evidence which will rebut a presumption of death. Previously, our regulations did not provide guidance on what constitutes evidence to rebut a presumption of death.

These regulations provide that the presumption of death arises when the claimant establishes an individual has been absent from his or her residence and not heard from for 7 years. Once the presumption is made, the burden then shifts to us to rebut the presumption either by presenting evidence that the missing individual is still alive or by providing an explanation to account for the individual's absence in a manner consistent with continued life rather than death.

We are removing reference to establishing no apparent reason for the absence from § 404.721(b). We are providing rules concerning the rebuttal of a presumption of death in § 404.722, a new section to the regulations. This section provides that a presumption of death made based on § 404.721(b) will be rebutted if there is evidence available that the person is still alive or the absence can be explained in a manner consistent with continued life rather than death. We are also making a conforming change to § 404.988 (conditions for reopening) to reflect the change in § 404.721(b).

We will rescind the following Social Security Acquiescence Rulings by publishing a notice in the **Federal Register**: AR 86–6(3); AR 86–7(5); AR 86–8(6); AR 86–9(9); AR 86–10(10); AR–86–11(11); and AR 93–6(8).

These regulations were published in the **Federal Register** (59 FR 37002) as an NPRM on July 20, 1994. Interested parties were given 60 days to submit comments. We received no comments and are adopting the regulations as proposed.

Regulatory Procedures

Executive Order No. 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because these rules will only affect individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These regulations impose no new reporting or recordkeeping requirements requiring Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security—Disability Insurance; 93.803, Social Security—Retirement Insurance; and 93.805, Social Security—Survivors Insurance.)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Aged, Blind, Death benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: February 27, 1995.

Shirley S. Chater,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subparts H and J of part 404 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart H of part 404 continues to read as follows:

Authority: Secs. 205(a) and 1102 of the Social Security Act; 42 U.S.C. 405(a) and 1302.

2. Section 404.721 is amended by revising paragraph (b) to read as follows:

§ 404.721 Evidence to presume a person is dead.

* * * * *

(b) Signed statements by those in a position to know and other records which show that the person has been absent from his or her residence and has not been heard from for at least 7 years. If the presumption of death is not rebutted pursuant to § 404.722, we will use as the person's date of death either the date he or she left home, the date ending the 7 year period, or some other date depending upon what the evidence shows is the most likely date of death.

* * * * *

3. New § 404.722 is added to read as follows:

§ 404.722 Rebuttal of a presumption of death.

A presumption of death made based on § 404.721(b) can be rebutted by evidence that establishes that the person is still alive or explains the individual's absence in a manner consistent with continued life rather than death.

Example 1: Evidence in a claim for surviving child's benefits showed that the worker had wages posted to his earnings record in the year following the disappearance. It was established that the wages belonged to the worker and were for work done after his "disappearance." In this situation, the presumption of death is rebutted by evidence (wages belonging to the worker) that the person is still alive after the disappearance.

Example 2: Evidence shows that the worker left the family home shortly after a woman, whom he had been seeing, also disappeared, and that the worker phoned his wife several days after the disappearance to state he intended to begin a new life in California. In this situation the presumption of death is rebutted because the evidence explains the worker's absence in a manner consistent with continued life.

4. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221(d), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421(d), and 1302.

5. Paragraph (c)(4) introductory text and (c)(4)(i) of § 404.988 are revised to read as follows:

§ 404.988 Conditions for reopening.

* * * * *

(c) * * *

(4) Your claim was denied because you did not prove that a person died, and the death is later established—

(i) By a presumption of death under § 404.721(b); or

* * * * *

[FR Doc. 95–9029 Filed 4–14–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 302

[SWH–FRL–5191–6]

RIN 2050–AD59

Hazardous Waste Management System; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is correcting minor errors in the amendments to the regulations which appeared in the **Federal Register** on February 9, 1995 (60 FR 7824).

EFFECTIVE DATES: April 17, 1995.

FOR FURTHER INFORMATION CONTACT: John Austin, (202) 260–4789.

SUPPLEMENTARY INFORMATION: In the February 9, 1995 final rule, EPA designated a number of discarded commercial chemical products, off-specification species, container residues, and spill residues as hazardous wastes. EPA is correcting typographical and omission errors in the listing of these chemicals. EPA also designated a number of substances as hazardous constituents based upon scientific studies which demonstrate that the substance has toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms. In the course of EPA's determinations, final action on twelve substances was deferred. The text of the amendments to part 261, appendix VIII inadvertently lists one of the substances for which final action was deferred and also lists in error a hazardous waste designation of U389 for this substance. The substance, bis(dibutylcarbamothioto)dioxo-dimolydenum sulfurized (Chemical Abstracts Number 68412–26–0), was proposed as U398 not U389. EPA is deleting this inadvertent entry.

The final rule also inadvertently does not include the Appendix A list of the additions to CERCLA Section 302.4 in numerical sequence of their CAS Registry numbers. The Agency is amending Appendix A to § 302.4 to reflect the additions to Section 304.4 that were finalized by the February 9, 1994 notice.

On page 7483, the February 9, 1995 final rule states in error the compliance dates for new facilities to submit a Part B application and for permitted facilities to certify that the facility is in compliance with groundwater and financial responsibility requirements. Under section 3005(e)(3), not later than August 9, 1996, land disposal facilities newly qualifying for interim status under section 3005(e)(1)(A)(ii) also must submit a Part B permit application and certify that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements. For newly regulated land disposal units, permitted facilities must certify that the facility is in compliance with all applicable 40 CFR 265 groundwater monitoring and financial responsibility requirements no later than August 9, 1996.

Dated: April 5, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

Accordingly, the publication on February 9, 1995 of the final regulations, which were the subject of FR Doc. 95–2983, is corrected as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE [CORRECTED]

1. On page 7850, the table for § 261.33(e) is corrected by deleting "*1P198" following the substance entry for "Methanimidamide, N,N-dimethyl-N'-[3-[[(methylamino) carbonyl]oxy] phenyl]-, monohydrochloride" in column 3 and designating the entry as Hazardous Waste No. "P198" in column one. The entries in columns one and two for the substance "Mexacarbate" are deleted and replaced by "P128" and "315–8–4" respectively.

2. On page 7851, the Chemical Abstract Number in column one of the table for § 261.33(f) is corrected to read "121–44–8" for the substance N,N-diethylethanamine, and on page 7852, "122–42–9" for Propham, and "121–44–8" for Triethylamine.

Appendix VIII to Part 261—[Corrected]

3. Appendix VIII to Part 261—Hazardous Constituents is corrected by deleting from each column the entries for "Bis(dibutylcarbamothioato)dioxodi-molybdenum sulfurized" on page 7853, and the Common name "Physostigmine" corresponding to "P188" is revised to read "Physostigmine salicylate" on page 7855.

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION [CORRECTED]

4. On page 7859, the last entry to § 302.4 is corrected by revising the Hazardous Waste Code from "K160" to "K161".

5. Section 302.4 is amended by adding the following entries in numerical order of the CAS Registry number to Appendix A to § 302.4 to read as follows.

VOL 60 ISS 73 AP 17 1995 UMI

APPENDIX A TO § 302.4.—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES

CASRN	Hazardous substance
57476	Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)- (Physostigmine).
57647	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1) (Physostigmine salicylate).
64006	Phenol, 3-(1-methylethyl)-, methyl carbamate (m-Cumenyl methylcarbamate).
95067	Carbamodithioic acid, diethyl-, 2-chloro-2-propenyl ester (Sulfallate).
97745	Bis(dimethylthiocarbamoyl) sulfide (Tetramethylthiuram monosulfide).
97778	Thioperoxydicarbonic diamide, tetraethyl (Disulfiram).
101279	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester (Barban).
119380	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester (Isolan).
120547	Piperidine, 1,1'-(tetrathiodicarbonothioyl)-bis- (Bis(pentamethylene)thiuram tetrasulfide).
122429	Carbamic acid, phenyl-, 1-methylethyl ester (Propham).
128030	Carbamodithioic acid, dimethyl, potassium salt (Potassium dimethyldithiocarbamate).
128041	Carbamodithioic acid, dimethyl-, sodium salt (Sodium dimethyldithiocarbamate).
136301	Carbamodithioic acid, dibutyl, sodium salt (Sodium dibutyldithiocarbamate).
137291	Copper, bis(dimethylcarbamodithioato-S,S')- (Copper dimethyldithiocarbamate).
137304	Zinc, bis(dimethylcarbamodithioato-S,S')-, (Ziram).
137417	Carbamodithioic acid, methyl,- monopotassium salt (Potassium n-methyldithiocarbamate).
137428	Carbamodithioic acid, methyl-, monosodium salt (Metam Sodium).
144343	Carbamodithioic acid, dimethyl-, tetraanhydrosulfide with orthothioselenious acid (Selenium, tetrakis(dimethyldithiocarbamate)).
533744	2H–7,13,5–Thiadiazine-2-thione, tetrahydro-3,5-dimethyl- (Dazomet).
644644	Carbamic acid, dimethyl-,1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester (Dimetilan).
759944	Carbamothioic acid, dipropyl-, S-ethyl ester (EPTC).
1114712	Carbamothioic acid, butylethyl-, S-propyl ester (Pebulate).
1129415	Carbamic acid, methyl-, 3-methylphenyl ester (Metolcarb).
1134232	Carbamothioic acid, cyclohexylethyl-, S-ethyl ester (Cycloate).
1563388	7–Benzofuranol, 2,3-dihydro-2,2-dimethyl- (Carbofuran phenol).
1634022	Thioperoxydicarbonic diamide, tetrabutyl (Tetrabutylthiuram disulfide).
1646884	Propanal, 2-methyl-2-(methylsulfonyl)-, O-[(methylamino)carbonyl] oxime (Aldicarb sulfone).

APPENDIX A TO § 302.4.—SEQUENTIAL CAS REGISTRY NUMBER LIST OF CERCLA HAZARDOUS SUBSTANCES—Continued

CASRN	Hazardous substance
1929777	Carbamothioic acid, dipropyl-, S-propyl ester (Vernolate).
2008415	Carbamothioic acid, bis(2-methylpropyl)-, S-ethyl ester (Butylate).
2212671	1H-Azepine-1-carbothioic acid, hexahydro-, S-ethyl ester (Molinate).
2303175	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester (Triallate).
2631370	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate (Promecarb).
5952261	Ethanol, 2,2'-oxybis-, dicarbamate (Diethylene glycol, dicarbamate).
10605217	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester (Carbendazim).
14324551	Zinc, bis(diethylcarbamodithioato-S,S')- (Ethyl Ziram).
14484641	Iron, tris(dimethylcarbamodithioato-S,S')- (Ferbam).
15339363	Manganese, bis(dimethylcarbamodithioato-S,S')- (Manganese dimethyldithiocarbamate).
17702577	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[(methylamino)carbonyl]oxy]phenyl]-(Formparanate).
17804352	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl, methyl ester (Benomyl).
22781233	1,3–Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate (Bendiocarb).
22961826	1,3–Benzodioxol-4-ol, 2,2-dimethyl-, (Bendiocarb phenol).
23135220	Ethanimidothioc acid, 2-(dimethylamino)-N-[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester (Oxamyl).
23422539	Methanimidamide, N,N-dimethyl-N'-[3-[[(methylamino)carbonyl]oxy]phenyl]-, monohydrochloride (Formetanate hydrochloride).
23564058	Carbamic acid, [1,2-phenylenebis(iminocarbonothioyl)]bis-, dimethyl ester (Thiophanate-methyl).
26419738	1,3–Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)carbonyl]oxime (Tirpate).
30558431	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester (A2213).
51026289	Carbamodithioic acid, (hydroxymethyl)methyl-, monopotassium salt (Potassium n-hydroxymethyl-n-methyldithiocarbamate).
52888809	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester (Prosulfocarb).
55285148	Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester (Carbosulfan).
55406538	Carbamic acid, butyl-, 3-iodo-2-propynyl ester (3–Iodo-2-propynyl n-butylcarbamate).
59669260	Ethanimidothioic acid, N,N'-[thiobis[(methylimino)carbonyloxy]]bis-, dimethyl ester (Thiodicarb).

[FR Doc. 95–9247 Filed 4–14–95; 8:45 am]
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VOL 60 ISS 73 AP 17 1995 UMI

Proposed Rules

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Housing and Community Development Service

Rural Business and Cooperative Development Service

Rural Utilities Service

Consolidated Farm Service Agency

7 CFR Part 1944

RIN 0575—AB43

Housing Preservation Grant Program

AGENCIES: Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Housing and Community Development Service (RHCDS), a successor Agency to the Farmers Home Administration (FmHA), proposes to amend its Housing Preservation Grant regulations. The intended effect is to allow replacement housing where the grantee has determined that the costs for repair and rehabilitation on the recipient's (individual homeowners only) existing housing are not economically feasible or practical. These revisions will bring the regulations into conformance with the Housing and Community Development Act of 1992 amending the Housing Preservation Grant program, Section 533 of the Housing Act of 1949.

DATES: Comments must be received on or before June 16, 1995.

ADDRESSES: Submit written comments to the office of the Chief, Regulations Analysis and Control Branch, Rural Economic and Community Development, Room 6348, South Agriculture Building, Washington, D.C. 20250. All comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Sue M. Harris, Senior Loan Specialist, Special Authorities Branch, Multiple Housing Processing Division, RHCDS, USDA, Washington, D.C. 20250, Telephone (202) 720–1606 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant for purpose of Executive Order 12866 and therefore has not been reviewed by OMB.

The proposed regulation has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and 2(b)(2) of that Order. Provisions within this part which are inconsistent with state law are controlling. All administrative remedies pursuant to 7 CFR Part 1900 Subpart B must be exhausted prior to filing suit.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0575–0115 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This proposed rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of RHCDS that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P.L. 91–190, an environmental impact statement is not required.

Programs Affected

This program/activity is listed in the Catalog of Federal Domestic Assistance under number 10.433, Housing Preservation Grants.

Intergovernmental Consultation

This program is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, Subpart V, 48 FR 29115, June 24, 1983.)

Regulatory Flexibility Act

The Administrator has determined that the proposed action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements. The proposed action will only affect a small number of rural communities.

Background and Drafting Information

The proposed rule incorporates Title VII, Section 711 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, dated October 28, 1992) amending Section 533 of the Housing Act of 1949, 42 U.S.C. 1490m, allowing for replacement housing where the grantee has determined that the costs for repair and rehabilitation on the recipient's (individual homeowners only) existing housing is not economically feasible or practical. RHCDS is making no other significant changes other than allowing for replacement housing where the grantee has determined that the costs for repair and rehabilitation on the recipient's (individual homeowner) existing housing are not economically feasible or practical.

Lists of Subjects for 7 CFR Part 1944

Grant programs—Housing and community development, Home improvement, Loan programs—Housing and community development, Nonprofit organizations, Rural housing.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart N—Housing Preservation Grants

2. Section 1944.651 is amended by removing the words "if such person has capacity to contract" in paragraph (b) and by revising the last two sentences of paragraph (a) to read as follows:

§ 1944.651 General.

(a) * * * Such assistance will be used to reduce the cost of repair and rehabilitation, to remove or correct health or safety hazards, to comply with applicable development standards or codes, or to make needed repairs to improve the general living conditions of the resident(s), including improved accessibility by persons with handicaps. Individual housing that is owner/occupied and is determined by the grantee to be beyond repair or rehabilitation may qualify for replacement housing.

* * * * *

3. Section 1944.652 is revised to read as follows:

§ 1944.652 Policy.

(a) The policy of RHCDS is to provide HPG's to grantees to operate a program which finances repair and rehabilitation activities to individual housing, rental properties, or co-ops for very low- and low-income persons. Individual housing that is owner/occupied and is determined by the grantee to be beyond repair or rehabilitation may qualify for replacement housing. Grantees are expected to:

(1) Coordinate and leverage funding for repair and rehabilitation activities, as well as replacement housing, with housing and community development organizations and/or activities operating in the same geographic area; and

(2) Focus the program to rural areas and smaller communities so that it serves very low- and low-income persons.

(b) RHCDS intends to permit grantees considerable latitude in program design and administration. The forms or types of assistance must provide the greatest long term benefit to the greatest number of persons residing in individual housing, rental properties, or co-ops needing repair and rehabilitation, or replacement of individual housing.

(c) Repairs and rehabilitation or replacement activities affecting properties on or eligible for listing on the National Register of Historic Places will be accomplished in a manner that supports national historic preservation objectives as specified in § 1944.673 of this subpart.

4. Section 1944.653 is amended by adding a sentence to the end of the paragraph to read as follows:

§ 1944.653 Objective.

* * * Further, individual housing that is owner/occupied and is determined by the grantee to be beyond repair or rehabilitation may qualify for replacement, except as specified in § 1944.659 of this subpart.

5. Section 1944.656 is amended by adding a sentence to the end of the definition of "Housing preservation" and by adding the definition of "Replacement housing" in alphabetical order, to read as follows:

§ 1944.656 Definitions.

* * * * *

Housing preservation. * * * The term housing preservation does not apply to replacement housing.

* * * * *

Replacement housing. The replacement of existing, individual owner/occupied housing where repair and/or rehabilitation assistance is not economically feasible or practical. The term replacement housing does not apply to housing preservation.

* * * * *

§ 1944.658 [Amended]

6. Section 1944.658 is amended by adding the words ", as well as for replacement housing" after the word "assistance" in paragraph (a)(2).

7. Section 1944.659 is added to read as follows:

§ 1944.659 Replacement housing.

Replacement housing applies only to existing, individual owner/occupied housing. Replacement housing does not apply to rental properties (single-unit or multiple-unit) or to cooperative housing projects. The grantee is responsible for determining the extent of the repairs and rehabilitation prior to any assistance given to an individual homeowner. If the cost of such repairs and rehabilitation is not economically feasible or practical, then the grantee may consider replacing the existing housing with replacement housing, subject to the following:

(a) The HPG grantee:

(1) Shall document the total costs for all repairs and rehabilitation on the existing housing; and

(2) Shall document the basis for the determination that the costs for all repairs and rehabilitation for the existing housing are not economically feasible or practical;

(b) The individual homeowner:

(1) Must meet all requirements of § 1944.661 of this subpart;

(2) Must have been denied a RHCDS section 502 loan;

(3) Must lack the income and repayment ability to replace their existing home without the assistance of the HPG grantee; and

(4) Must be able to afford the replacement housing on terms set forth by the HPG grantee;

(c) The existing home:

(1) Must be demolished to make way for the replacement housing; and

(2) May not be sold to make way for the replacement housing;

(d) The replacement housing:

(1) May be either new housing or a dwelling brought onto the site of the existing housing;

(2) May use no more than $15,000 in HPG funds;

(3) Must meet all applicable requirements of § 1944.16 of Subpart A of this part; and

(4) May not be sold for a minimum of 5 years.

(e) Any monies received by the homeowner from selling salvaged material after demolishing the existing home must be used towards the replacement housing.

8. Section 1944.661 is amended by revising the introductory text of paragraph (b)(2) and paragraph (b)(3) to read as follows:

§ 1944.661 Individual homeowners—eligibility for HPG assistance.

* * * * *

(b) * * *

(2) An undivided or divided interest in the property to be repaired, rehabilitated, or replaced when not all of the owners are occupying the property. HPG assistance may be made in such cases when:

* * * * *

(3) A leasehold interest in the property to be repaired, rehabilitated, or replaced. When the potential HPG recipient's "ownership" interest in the property is based on a leasehold interest, the lease must be in writing and a copy must be included in the grantee's file. The unexpired portion of the lease must not be less than 5 years and must permit the recipient to make modifications to the structure or replace it without increasing the recipient's lease cost.

* * * * *

9. Section 1944.664 is amended by redesignating paragraphs (d) through (g) as (e) through (h) respectively, by revising the words "to make improvements that" to read "where they" in the first sentence of the introductory text of newly redesignated paragraph (f); by adding the words "or replacement housing" after the word "preservation" in the introductory text of newly redesignated paragraph (g); by revising the section heading, paragraph (a), and newly redesignated paragraphs (h)(1) and (h)(3); and by adding paragraph (d) to read as follows:

§ 1944.664 Housing preservation and replacement housing assistance.

(a) Grantees are responsible for providing loans, grants, or other comparable assistance to homeowners,

VOL 60 ISS 73 AP 17 1995 UMI

owners of rental properties, co-ops for housing preservation or for replacement housing as described in § 1944.656 of this subpart.

* * * * *

(d) Authorized replacement housing assistance includes, but is not limited to:

(1) Building a dwelling and providing related facilities for use by the individual homeowner as a permanent resident;

(2) Providing a safe and sanitary water and waste disposal system, together with related plumbing and fixtures, which will meet local health department requirements;

(3) Providing minimum site preparation, including grading, foundation plantings, and minimal landscaping;

(4) Providing special design features or equipment when necessary because of physical handicap or disability of the HPG recipient or member of the household;

(5) Purchasing and installing approved energy saving measures and approved furnaces and space heaters which use a type of fuel that is commonly used, and is economical and dependably available;

(6) Providing storm cellars and similar protective structures, if typical for the area;

(7) Paying real estate taxes which are due and payable on the existing dwelling/site at the time of closing, if this amount is not a substantial part of the HPG assistance;

(8) Providing living area for the HPG recipient and all members of the household as specified in § 1944.16 (c) of subpart A of this part; and

(9) Moving a dwelling onto the site of the demolished, previously existing housing and meeting all HPG housing preservation requirements for repair and rehabilitation;

(10) Providing funds for demolishing the existing housing; and

(11) Any other cost that is reasonable and justifiable directly related to replacement activities.

* * * * *

(h) * * *

(1) Assist in the construction or completion of an addition (excluding paragraph (c)(11) of this section) or a new dwelling. This paragraph does not apply to replacement housing.

* * * * *

(3) Repair or rehabilitate, as well as replace any property located in the Coastal Barrier Resources System.

10. Section 1944.665 is amended by revising the heading and the first sentence to read as follows:

§ 1944.665 Supervision and inspection of work.

Grantees are responsible for supervising all rehabilitation and repair work, as well as replacement housing financed with HPG assistance. * * *

§ 1944.666 [Amended]

11. Section 1944.666 is amended by revising the reference "§ 1944.64 (f)" to read "§ 1944.664 (g)" in the last sentence of paragraph (b)(3), and by adding the words ", as well as for replacement housing (individual homeowners only)" after the word "rehabilitation" in paragraph (b)(6).

§ 1944.667 [Amended]

12. Section 1944.667 is amended by adding the words ", or for individual homes replaced," after the word "rehabilitated" in the second sentence of the introductory text of paragraph (a).

13. Section 1944.670 is amended by revising paragraph (b) to read as follows:

§ 1944.670 Project income.

* * * * *

(b) Grantees are encouraged to establish a program which reuses income from loans after the grant period for continuing repair and rehabilitation activities, as well as for individual housing replaced.

14. Section 1944.671 is amended by revising paragraph (a)(2) to read as follows:

§ 1944.671 Equal opportunity requirements and outreach efforts.

* * * * *

(a) * * *

(2) The term "residential real estate-related transaction" includes the making or purchasing of loans, grants, or other financial assistance for purchasing, constructing, improving, repairing, or rehabilitating a unit or dwelling, as well as for replacement housing for individual homeowners.

* * * * *

15. Section 1944.672 is amended by adding the words "or housing replacement" after the word "preservation" in the fourth sentence of paragraph (b); in paragraph (d), by revising the reference "Paragraph VII of exhibit C of this subpart" to read "Paragraph VIII of exhibit C of this subpart"; and by revising the first sentence of paragraphs (a) and (b) to read as follows:

§ 1944.672 Environmental requirements.

* * * * *

(a) The approval of an HPG grant for the repair, rehabilitation, or replacement of dwellings shall be a Class I action.

* * *

(b) The use of HPG funds by the grantee to repair, rehabilitate, or replace specific dwellings is generally exempt from an RHCDS environmental review. * * *

* * * * *

§ 1944.673 [Amended]

16. Section 1944.673 is amended by adding the words "and replacement housing" after the word "preservation" in the section heading, and by revising the words "rehabilitation or repair" to read "rehabilitation, repair, or replacement" in the first sentence of paragraph (b).

17. Section 1944.683 is amended by redesignating paragraphs (b)(3) through (b)(7) as paragraphs (b)(4), through (b)(8) respectively, by adding the words ", as well as for replacement housing," after the word "rehabilitation" in newly redesignated paragraph (b)(4)(i) and after the word "financed" in newly redesignated paragraph (b)(8), and by adding a new paragraph (b)(3) to read as follows:

§ 1944.683 Reporting requirements.

* * * * *

(b) * * *

(3) The use of HPG and any other funds for replacement housing.

* * * * *

Dated: March 22, 1995.

Michael V. Dunn,

Acting Under Secretary, Rural Economic and Community Development.

[FR Doc. 95-9262 Filed 4-14-95; 8:45 am]

BILLING CODE 3410-07-U

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 70

RIN 3150-AF27

Physical Security Plan Format Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to eliminate the requirement for applicants for power reactor and Category I fuel cycle licenses to submit physical security plans in two parts. This action is necessary to allow for a quicker and more efficient review of the physical security plans.

DATES: The comment period expires May 17, 1995. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm, Federal workdays.

Copies of the comments received may be examined at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Room LL6, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Brown, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-8092.

SUPPLEMENTARY INFORMATION: Under current NRC regulations, applicants for power reactor and Category I fuel cycle licenses must submit physical security plans in two parts. Applicants for power reactor and Category I fuel cycle licenses are required to address in Part 1 of their plans how they will comply with the applicable regulations of 10 CFR parts 11 and 73. They are required to list in Part 2 of their plans any test, inspections, audits and any other means to be used to demonstrate compliance with the regulations.

The two part format is restrictive and has no regulatory advantage. If this rule is adopted as a final rule, existing licensees with physical security plans approved before the effective date would not be required to revise their plans. These licensees may however, revise their plans on a voluntary basis, pursuant to the rules that permit licensees to make changes in security plans that do not decrease the effectiveness of the plans. This rule, if adopted, will not change any of the substantive content currently required in the physical security plans.

The benefit of this rulemaking would be the elimination of an unnecessary requirement and there are no expected adverse impacts. For those licensees who desire to revise their physical security plans, the staff has revised Regulatory Guide 5.52, "Standard Format and Content of a Licensee Physical Protection Plan for Strategic Special Nuclear Material at Fixed Sites (Other than Nuclear Power Plants)," for use as guidance. The NRC encourages, but does not require, applicants or licensees to follow this guidance which would allow for a quicker and more efficient review of the plans.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150-0009 and 0011.

Regulatory Analysis

The Commission has not prepared a regulatory analysis on this regulation because the amendment does not involve a question of policy, will have no impact on public health and safety, and would impose no additional burden on licensees.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities. This proposed rule would affect applicants for power reactor and Category I fuel cycle licenses. Because these licensees are not classified as small entities as defined by the NRC's size standards (December 9, 1985; 50 FR 50241), the Commission finds that this proposed rule does not have a significant economic impact upon a substantial number of small entities.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required because this amendment does not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 70

Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 50 and 70.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102-486, sec. 2902, 106 Stat 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853(42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80, 50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C 2237).

2. In § 50.34, paragraph (c) is revised to read as follows:

§ 50.34 Contents of applications, technical information.

* * * * *

(c) Each application for a license to operate a production or utilization facility must include a physical security plan. The plan must describe how the applicant will meet the requirements of 10 CFR part 73 (and 10 CFR part 11, if applicable, including the identification and description of jobs as required by § 11.11(a), at the proposed facility). The plan must list tests, inspections, audits,

VOL 60 ISS 73 AP 17 1995 UMI

and other means to be used to demonstrate compliance with the requirements of 10 CFR parts 11 and 73, if applicable.

* * * * *

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. The authority citation for part 70 continues to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

4. In § 70.22, paragraph (h)(1) is revised to read as follows:

§ 70.22 Contents of applications.

* * * * *

(h)(1) Each application for a license to possess or use at any site or contiguous sites subject to licensee control, a formula quantity of strategic special nuclear material as defined in § 70.4 other than a license for possession or use of this material in the operation of a nuclear reactor licensed pursuant to part 50 of this chapter, must include a physical security plan. The plan must describe how the applicant will meet the applicable requirements of part 73 of this chapter in the conduct of the activity to be licensed, including the identification and description of jobs as required by 10 CFR 11.11(a). The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with the requirements of 10 CFR parts 11 and 73, if applicable.

* * * * *

Dated at Rockville, Maryland, this 5th day of April, 1995.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 95–9369 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–CE–33–AD]

Airworthiness Directives; Beech Aircraft Corporation Model 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Beech Aircraft Corporation (Beech) Model 1900D airplanes. The proposed action would require inspecting the cabin partition to ensure that a right-hand forward partition bracket exists on certain airplanes, installing this bracket if it does not exist, and improving the right-hand forward partition installation on all affected airplanes. Deficiencies found during a structural analysis of the cabin partition prompted the proposed action. The actions specified by the proposed AD are intended to prevent cabin partition failure because of a structural deficiency, which, if not detected and corrected, could cause passenger injury if the partition could not withstand the load incurred with the baggage compartment loaded to its 250-pound limit.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–33–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4124; facsimile (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–CE–33–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–CE–33–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received a report from the Beech Aircraft Corporation (Beech) of a structural deficiency on Model 1900D airplanes. Beech reports that certain Model 1900D airplanes may be missing a bracket on the right-hand forward cabin partition, and that, even with this bracket installed, the airplane model design may not be capable of withstanding the load incurred with the baggage compartment loaded to its 250-pound limit. This condition, if not detected and corrected, could result in passenger injury if this load is incurred with the airplane occupied.

Beech has issued Service Bulletin (SB) No. 2556, Revision 1, dated February 1995, which references Kit Drawing No. 129–5007 and Kit No. 129–5007–1 S. Kit Drawing No. 129–5007 specifies the design location of the bracket that may be missing, and Kit No. 129–5007–1 S includes parts and instructions necessary to improve the right-hand forward partition installation.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that (1) a structural improvement should be added to the right-hand forward partition on Beech Model 1900D airplanes; and (2) AD action should be taken to prevent cabin partition failure because of a structural deficiency, which, if not detected and corrected, could cause passenger injury if the partition could not withstand the load incurred with the baggage compartment loaded to its 250-pound limit.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech Model 1900D airplanes of the same type design, the proposed AD would require inspecting the right-hand forward partition on certain serial number airplanes to ensure that the partition bracket exists, installing this bracket if it does not exist, and incorporating a structural improvement to the right-hand forward partition on all affected airplanes. The proposed action would be accomplished in accordance with Kit Drawing No. 129–5007 and the instructions to Kit No. 29–5007–1 S, as referenced in Beech SB No. 2556, Revision 1, dated February 1995.

The FAA estimates that 73 airplanes in the U.S. registry would be affected by the proposed inspection and possible installation and 91 airplanes in the U.S. registry would be affected by the proposed modification. The proposed inspection and possible installation would take approximately 5 workhours per airplane to accomplish and the proposed modification would take approximately 5 workhours per airplane to accomplish, with a labor rate of approximately $60 an hour. Parts for the proposed modification cost approximately $650 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $108,350. This figure is based on the assumption that no owner/operator of the affected airplanes has accomplished the proposed modification and no airplane has a right-hand forward partition bracket installed and would need one installed.

Beech has informed the FAA that it has distributed parts (Kit No. 129–5007–1 S) to accommodate approximately 58 of the affected airplanes. Assuming that each of these distributed kits is incorporated on one of the affected airplanes, the cost of the proposed AD would be further reduced by $55,100 from $108,350 to $53,250.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Beech Aircraft Corporation: Docket No. 94–CE–33–AD.

Applicability: Model 1900D airplanes, serial numbers UE–2 through UE–92, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any aircraft from the applicability of this AD.

Compliance: Required within the next 400 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent cabin partition failure because of a structural deficiency, which, if not detected and corrected, could cause passenger injury if the partition could not withstand the load incurred with the baggage compartment loaded to its 250-pound limit, accomplish the following:

(a) For airplanes incorporating one of the following serial numbers: UE–2 through UE–68, UE–70 through UE–72, or UE–74 through UE–77, inspect the cabin partition to ensure that a right-hand partition bracket, part number (P/N) 129–530043–79, exists. If this bracket does not exist, prior to further flight, install this bracket with P/N MS27039–1–09 screws and P/N AN960PD10 washers in accordance with Kit Drawing No. 129–5007 as referenced in Beech SB No. 2556, Revision 1, dated February 1995.

(b) For all affected serial numbers (UE–2 through UE–92), improve the right-hand forward partition installation in accordance with the instructions to Kit No. 129–5007–1 S as referenced in Beech SB No. 2556, Revision 1, dated February 1995.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

VOL 60 ISS 73 AP 17 1995 UMI

Issued in Kansas City, Missouri, on April 11, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-9343 Filed 4-14-95; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 95-CE-21-AD]

Airworthiness Directives; Piper Aircraft Corporation Model PA-31T2 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Piper Aircraft Corporation (Piper) Model PA-31T2 airplanes that have a Parker Hannifin Wheel and Brake Conversion Kit 199-111 installed in accordance with Supplemental Type Certificate (STC) SA599GL. The proposed action would require rerouting the landing gear emergency extension air line. Three incidents of the brake cylinder contacting the landing gear emergency extension air line on both wheels prompted the proposed action. The actions specified by the proposed AD are intended to prevent the brake cylinder from chafing against the landing gear emergency extension air line when the gear is in the up and locked position, which, if not detected and corrected, could result in damage to the air line and subsequent loss of emergency gear extension capability.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-CE-21-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Parker Hannifan Corporation, Aircraft Wheel & Brake, 1160 Center Road, P.O. Box 158, Avon, Ohio 44011; telephone (216) 937-6211; facsimile (216) 937-5409. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Nick Miller, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018; telephone (708) 294-7379; facsimile (708) 294-7834; or Mr. Charles Perry, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7362; facsimile (404) 305-7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA- public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95-CE-21-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95-CE-21-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received three reports of the brake cylinder chafing against the landing gear emergency extension air line of both wheels on Piper Model PA-31T2 airplanes that have a Parker Hannifin Wheel and Brake Conversion Kit 199-111 installed in accordance with STC SA599GL. As the brake linings become worn through regular usage, the brake cylinder repositions. Then, when the landing gear is in the up and locked position, the brake cylinder chafes against the air line. This condition, if not detected and corrected, could result in damage to the landing gear emergency extension air line and subsequent loss of emergency gear extension capability.

Parker Hannifan has issued Service Bulletin SB7034, dated April 23, 1994, which specifies procedures for rerouting the landing gear emergency extension air line on these Piper Model PA-31T2 airplanes that have a Parker Hannifin Wheel and Brake Conversion Kit 199-111 installed in accordance with STC SA599GL.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken to prevent the brake cylinder from chafing against the landing gear emergency extension air line when the gear is in the up and locked position, which, if not detected and corrected, could result in damage to the air line and subsequent loss of emergency gear extension capability.

Since an unsafe condition has been identified that is likely to exist or develop in other Piper Model PA-31T2 airplanes of the same type design that have a Parker Hannifin Wheel and Brake Conversion Kit 199-111 installed in accordance with STC SA599GL, the proposed AD would require rerouting the landing gear emergency extension air line. The proposed action would be accomplished in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Parker Hannifan Service Bulletin SB7034, dated April 23, 1994.

The FAA estimates that there are 62 Piper Model PA-31T2 airplanes in the U.S. registry that could incorporate a Parker Hannifin Wheel and Brake Conversion Kit 199-111 (in accordance with STC SA599GL), that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $20 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators could be as much as $16,120 if all affected airplanes had the referenced conversion kit installed.

Parker Hannifan has informed the FAA that it has distributed 31 kits to Piper Model PA-31T2 airplane owners/operators. Based on each of the 31 kits being incorporated on an affected airplane, the cost impact of the proposed AD on U.S. owners and operators would be reduced 50 percent from $16,120 to $8,060. The reduction

results from the difference between the 62 airplanes that are type certificated to have a Parker Hannifan Wheel and Brake Conversion Kit 199-111 installed (in accordance with STC SA599GL) and the owners/operators of the 31 of the 62 airplanes that have received these kits.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

Piper Aircraft Corporation: Docket No. 95-CE-21-AD.

Applicability: Model PA31-T2 airplanes (serial numbers 31T-8166001 through 31T-1166062), certificated in any category, that have a Parker Hannifin Wheel and Brake Conversion Kit 199-111 installed in accordance with Supplemental Type Certificate (STC) SA599GL.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any aircraft from the applicability of this AD.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the brake cylinder from chafing against the landing gear emergency extension air line when the gear is in the up and locked position, which, if not detected and corrected, could result in damage to the air line and subsequent loss of emergency gear extension capability, accomplish the following:

(a) Reroute the landing gear emergency extension air line in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Parker Hannifan Service Bulletin SB7034, dated April 23, 1994.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Chicago Aircraft Certification Office (ACO), FAA, 300 East Devon Avenue, Room 232, Des Plaines, Illinois 60018. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Chicago ACO.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Parker Hannifan Corporation, Aircraft Wheel & Brake, 1160 Center Road, P.O. Box 158, Avon, Ohio 44011; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 11, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-9344 Filed 4-14-95; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 94-NM-185-AD]

Airworthiness Directives; British Aerospace Model BAC 1-11-200 and -400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAC 1-11-200 and -400 series airplanes. This proposal would require various inspections to detect discrepancies of fuselage frames at certain stations, and correction of discrepancies; and rework to limit the maximum differential operating pressure of the fuselage. This proposal would also require eventual modification of fuselage frames at certain stations, which would terminate the repetitive inspection requirements. This proposal is prompted by reports of fatigue cracking in certain fuselage frames in the vicinity of the passenger door at floor level due to fatigue-related stress. The actions specified by the proposed AD are intended to prevent such fatigue-related cracking, which could result in reduced structural integrity of the fuselage pressure vessel and possible decompression of the pressurized cabin.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 94-NM-185-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

VOL
60
ISS
73
AP
17
1995
UMI

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–185–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–185–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAC 1–11–200 and –400 series airplanes. The CAA advises that reports have been received of fatigue cracking in frames 178 and 213.5 in the vicinity of the passenger door at floor level. Investigation revealed that such cracking was caused by fatigue-related stress. Such fatigue-related cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the fuselage pressure vessel and possible decompression of the pressurized cabin.

British Aerospace has issued Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993. This alert service bulletin describes procedures for various repetitive inspections to detect structural discrepancies of the various structural configurations of the fuselage frames at stations 178 and 213.5, and correction of any discrepancy. This alert service bulletin also describes procedures for rework to limit the maximum differential operating pressure of the fuselage. Additionally, this alert service bulletin describes procedures for modification of fuselage frames at stations 178 and 213.5, which would eliminate the need for the repetitive inspections. For airplanes unrepaired or not reinforced by repair and operated at cabin pressurization differentials not exceeding 7.5 pounds per square inch (psi), the alert service bulletin describes procedures for the installation of terminating Modification PM5993 at 55,000 total landings. This modification introduces reinforcing structure to the subject area. The CAA classified this alert service bulletin as mandatory.

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require various repetitive inspections to detect structural discrepancies of the various structural configurations of the fuselage frames at stations 178 and 213.5, and correction of any discrepancy. The proposed AD would also require rework to limit the maximum differential operating pressure of the fuselage. Additionally, this proposed AD would require eventual modification of fuselage frames at stations 178 and 213.5, which would constitute terminating action for the repetitive inspection requirements. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

The requirements of this proposed AD would differ from certain actions recommended in the referenced alert service bulletin. Specifically, for airplanes unrepaired or not reinforced by repair and operated at cabin pressurization differentials not exceeding 7.5 psi, the proposed AD would require installation of terminating Modification PM5993 prior to the accumulation of 85,000 total landings, rather than 55,000 total landings as indicated in the alert service bulletin. The higher threshold of 85,000 landings for modification has been recommended by the Airworthiness Assurance Working Group (AAWG), sponsored by the Air Transport Association (ATA) of America, the Aerospace Industries Association (AIA), and the FAA. In selecting that threshold, the AAWG considered the type of cracking involved, the impact such cracking would have on the adjacent structure, and service history of cracking in the subject area. The AAWG has recommended, and the FAA concurs, that safety will not be compromised if Modification PM5993 is installed prior to the accumulation of 85,000 total landings.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this requirement.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 8 work hours per airplane to accomplish the proposed inspection at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $14,880, or $480 per airplane.

It would take approximately 80 work hours per airplane to accomplish the proposed modification at an average labor rate of $60 per work hour. Required parts would cost approximately $2,000 per airplane. Based on these figures, the total cost impact of the modification proposed by this AD on U.S. operators is estimated to be $210,800, or $6,800 per airplane.

Based on above figures, the total cost impact of the proposed inspection and modification on U.S. operators is estimated to be $225,680, or $7,280, per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Docket 94–NM–185–AD.

Applicability: Model BAC 1–11–200 and –400 series airplanes on which British Aerospace Modifications PM5445 and PM5713 have not been installed, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (h) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking in fuselage frames at stations 178 and 213.5 in the vicinity of the passenger door at floor level, which could result in reduced structural integrity of the fuselage pressure vessel and possible decompression of the pressurized cabin, accomplish the following:

(a) For airplanes unrepaired or not reinforced by repair on frames 178 and 213.5, in the area between stringers 25L and 27L: Accomplish paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.1 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.1 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (a)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.1 of the Accomplishment Instructions of the alert service bulletin.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.1.5 or 2.1.10, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frame at stations 178 and 213.5 in accordance with paragraph 2.1.5 or 2.1.10, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 pounds per square inch (psi), in accordance with the alert service bulletin.

(b) For airplanes on which Structural Repair Manual, figure 76, repair in-situ has been acccomplished: Accomplish paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.2 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.2 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (b)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.2 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.2.6 or 2.2.9, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frame at stations 178 and 213.5 in accordance with paragraph 2.2.6 or 2.2.9, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (b)(1) and (b)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(c) For airplanes on which Structural Repair Manual, figure 87, repair has been accomplished: Accomplish paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.3 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter

VOL
60
ISS
73
AP
17
1995
UMI

at intervals specified in paragraph 2.3 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (c)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.3 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.3.5 or 2.3.8, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.3.5 or 2.3.8, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (c)(1) and (c)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(d) For airplanes on which Structural Repair Manual, figure 110 or 111, repair has been accomplished: Accomplish paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.4 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.4 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (d)(1) of this AD, prior to further flight, correct the discrepancy in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.4.5 or 2.4.8, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.4.5 or 2.4.8, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (d)(1) and (d)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(e) For airplanes on which Structural Repair Manual, figure 76, reinforcement has been accomplished: Accomplish paragraphs (e)(1), (e)(2), (e)(3), (e)(4), and (e)(5) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.5 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.5 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (e)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.5 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.5.5 or 2.5.10, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.5.5 or 2.5.10, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (e)(1) and (e)(2) of this AD.

(4) For airplanes operated at a cabin maximum pressure differential in excess of 7.5 psi, prior to the threshold times specified in Table C of the service bulletin, replace the reinforcements accomplished in accordance with the Structural Repair Manual, figure 76, with reinforcements accomplished in accordance with Structural Repair Manual 53–02–00, figure 110 or 111, as specified in the alert service bulletin.

(5) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(f) For airplanes on which Structural Repair Manual, figure 87, reinforcement has been accomplished: Accomplish paragraphs (f)(1), (f)(2), (f)(3), and (f)(4) of this AD, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(1) Perform the initial inspection prior to the compliance time specified in paragraph 2.6 of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later. Repeat the inspection thereafter at intervals specified in paragraph 2.6 of the Accomplishment Instructions of the alert service bulletin.

(2) If any discrepancy is found during any inspection required by paragraph (f)(1) of this AD, prior to further flight, correct the discrepancy in accordance with paragraph 2.6 of the Accomplishment Instructions of the alert service bulletin; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to the accumulation of the total number of landings specified in paragraph 2.6.6 or 2.6.9, as applicable, of the Accomplishment Instructions of the alert service bulletin or within 12 months after the effective date of this AD, whichever occurs later, modify the structure of the fuselage frames at stations 178 and 213.5 in accordance with paragraph 2.6.6 or 2.6.9, as applicable, of the Accomplishment Instructions of the alert service bulletin. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (f)(1) and (f)(2) of this AD.

(4) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with the alert service bulletin.

(g) For airplanes on which repairs other than those described in the Structural Repair Manual have been accomplished on frames 178 and 213.5, in the area between stringers 25L and 27L: Accomplish paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) Within 6 months after the effective date of this AD, submit the following for approval to the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate:

(i) Procedures and schedule for accomplishing the initial and repetitive inspections of the fuselage frames at stations 178 and 213.5; and

(ii) Schedule for installation of Modification PM5993 or Structural Repair Manual, figure 110 and 111, as applicable, at the fuselage frames at stations 178 and 213.5.

(2) Within 6 months after the procedures and schedules are approved, revise the FAA-approved maintenance program to include these procedures.

(3) Prior to the accumulation of 55,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, rework the cabin pressurization system to limit the maximum differential operating pressure of the fuselage to 7.5 psi, in accordance with British Aerospace Airbus Limited Alert Service Bulletin 53–A–PM5993, Issue 1, dated January 11, 1993.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9345 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–183–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes, that currently requires structural inspections and repairs or replacements, as necessary. This action would require additional inspections of certain Structural Significant Items (SSI) and expansion of the inspection area for certain other SSI's. This proposal is prompted by the results of a structural integrity audit, which indicated that in order to maintain the structural integrity of these airplanes as they approach or exceed the manufacturer's original fatigue design life goal, certain SSI's need to be inspected. The actions specified by the proposed AD are intended to ensure continuing structural integrity of these airplanes.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–183–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–03, Attention: Rules Docket No. 94–NM–183–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 16, 1988, the FAA issued AD 87–24–06 R1, amendment 39–6037 (53 FR 37993, September 29, 1988), applicable to British Aerospace Model BAC 1–11 200 and 400 series airplanes. That AD requires structural inspections and repairs or replacements, as necessary, in order to ensure the continuing airworthiness of these airplanes as they approach or exceed the manufacturer's original fatigue design life goal. That action was prompted by a structural re-evaluation, which identified certain structurally significant items (SSI) in which undetected fatigue cracks could propagate and compromise the structural integrity of these airplanes. The requirements of that AD are intended to ensure continuing structural integrity of these airplanes.

Since the issuance of that AD, British Aerospace has conducted a structural integrity audit to assess the structural inspection program of Model BAC 1–11 200 and 400 series airplanes. The results of this audit indicated that, in order to maintain the structural integrity of these airplanes as they approach or exceed 85,000 landings (the manufacturer's original fatigue design life goal), certain additional SSI's need to be inspected and the inspection area for certain other SSI's needs to be expanded.

British Aerospace has issued BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993. This revision of the alert service bulletin adds ten inspections of the doors to the structural inspection program. Some of these inspections merely expand the area of inspection for certain SSI's. Additionally, this revision of the alert service bulletin describes procedures for repair or replacement of cracked parts. Table 3 of the alert service bulletin specifies life limits for certain components in the engine mount/attachment structure of certain airplanes. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, has classified this revision of the alert service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 87–24–06 R1 to require a revision of the FAA-approved maintenance inspection program to

VOL 60 ISS 73 AP 17 1995 UMI

include additional structural inspections of certain SSI's, expansion of the inspection area for certain other SSI's, and repair or replacement of cracked parts; and establishes a life limit for the engine mount/attachment structure on certain airplanes. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

However, certain inspections and repairs specified in the alert service bulletin have been excluded from the requirements of this proposal. Those inspections and repairs have been identified in the alert service bulletin as Maintenance Planning Guide (MPG), Reference Numbers 52–10–6R and 53–10–2R. The actions specified in MPG 52–10–6R are currently required by AD 87–21–06, amendment 39–5744 (52 FR 38396, October 16, 1987), and those in MPG 53–10–29R will be addressed in a separate rulemaking action.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 158 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $293,880, or $9,480 per airplane, per inspection cycle.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6037 (53 FR 37993, September 29, 1988), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Docket 94–NM–183–AD. Supersedes AD 87–24–06 R1, Amendment 39–6037.

Applicability: Model BAC 1–11 200 and 400 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To ensure continuing structural integrity of the airplane, accomplish the following:

(a) Within 6 months after November 3, 1988 (the effective date of AD 87–4–06 R1, amendment 39–6037), incorporate a revision into the FAA-approved maintenance inspection program which requires inspections, repairs, and replacements, as necessary, in accordance with Tables 1, 2, and 3 of British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 3, dated March 19, 1987. The revision to the maintenance inspection program must include procedures to notify the manufacturer when Structural Significant Items are found cracked or otherwise significantly deteriorated. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056. The inspection thresholds, repetitive intervals and inspection techniques are listed in the alert service bulletin.

(b) Within 6 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD, with a revision which requires inspections, repairs, and replacements, as necessary, in accordance with Tables, 1 (except Maintenance Planning Guide Reference Numbers 52–10–6R and 53–10–29R), 2, and 3 of British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993. The revision to the maintenance inspection program must include procedures to notify the manufacturer when Structural Significant Items are found cracked or otherwise significantly deteriorated. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056. The inspection thresholds, repetitive intervals and inspection techniques are listed in the alert service bulletin.

Note 2: Maintenance Planning Guide (MPG) Reference Numbers 52–10–6R and 53–10–29R, listed in Table 1 of British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993, are excluded from the requirements of this AD for the following reasons:

MPG reference No.	Reason
52–10–6R	Required by AD 87–21–06, amendment 39–5744.
53–10–29R ..	Will be addressed in a separate rulemaking action.

(c) Within one year after November 3, 1988 (the effective date of AD 87–24–06 R1, amendment 39–6037), or prior to the accumulation of the number of landings listed in the landing threshold indicated in British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 3, dated March 19, 1987, whichever occurs later, and thereafter, at intervals not to exceed the number of landings specified in the alert service bulletin, accomplish the inspections, repairs, and replacements, as necessary, of the Structural Significant Items identified in Tables 1, 2, and 3 of that service bulletin.

(d) Within one year after the effective date of this AD, or prior to the accumulation of the number of landings listed in the landing threshold indicated in British Aerospace BAC 1–11 Alert Service Bulletin 51–A–PM5830, Issue 4, dated January 28, 1993, whichever occurs later, and thereafter, at intervals not to exceed the number of landings specified in the alert service bulletin, accomplish the inspections, repairs, and replacements, as necessary, of the Structural Significant Items identified in Tables 1 (except Maintenance Planning Guide Reference Numbers 52–10–6R and 53–10–29R), 2, and 3 of the alert service bulletin.

Note 3: For operators that have accomplished this inspection previously in accordance with the requirements of AD 87–24–06 R1, amendment 39–6037: This paragraph requires that the next scheduled inspection for that SSI be performed within the repetitive interval specified for that SSI in the alert service bulletin after the last inspection performed in accordance with the requirements of AD 87–24–06 R1 for that SSI.

(e) For any cracked structure detected during any inspection required by this AD, prior to further flight, accomplish paragraph (e)(1), (e)(2), or (e)(3) of this AD.

(1) Replace the cracked part with a serviceable part of the same part number, in accordance with the Airplane Maintenance Manual. Or

(2) Repair the cracked structure in accordance with the Structural Repair Manual, listed in the service bulletin. Or

(3) Repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9347 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–40–AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes Equipped With BFGoodrich Main Landing Gear Brake Assemblies

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737 series airplanes. This proposal would require inspection of certain brake assemblies to determine the part number of the torque plates, measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies on which misidentified torque plates were installed and replacement with serviceable brakes. This proposal is prompted by a report that certain torque plates were misidentified and installed on certain brake assemblies. The actions specified by the proposed AD are intended to prevent decreased brake performance during a rejected takeoff or landing when these brakes are at or near their indicated wear limit. (The brake wear pin indicator would falsely indicate longer remaining wear because of the misidentified longer torque plates that were installed on these brake assemblies.)

DATES: Comments must be received by May 11, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–40–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from BFGoodrich Aerospace, Aircraft Wheels and Brakes, P.O. Box 340, Troy, Ohio 45373. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: David M. Herron, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2672; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–40–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–40–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Recently, BFGoodrich shipped some torque plates that were misidentified as

VOL 60 ISS 73 AP 17 1995 UMI

part number (P/N) 184–875, when, in reality, they were P/N 184–884. These misidentified torque plates were installed on Boeing Model 737 series airplanes with main landing gear brake assemblies having BFGoodrich P/N's 2–1474–1, –2, –3, and –5 (Boeing P/N's 10–61819–22, –26, –27, and –31). Torque plates having P/N 184–884 should be installed on brake assemblies having P/N 2–1474–7. Although these two torque plates are similar in appearance, the essential difference is that torque plates having P/N 184–884 are 0.240 inch longer than torque plates having P/N 184–875. Therefore, the FAA has determined that brake assemblies having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which the misidentified torque plates were installed, would falsely indicate a longer remaining wear on the brake wear pin indicator. This condition, if not corrected, could result in decreased brake performance during a rejected takeoff or landing when these brakes are at or near their indicated wear limit.

BFGoodrich has issued Service Bulletin 2–1474–32–17, dated January 26, 1995, which describes procedures for a one-time inspection of the brake assemblies on Model 737 series airplanes to determine the P/N of the torque plates. This service bulletin also describes procedures for measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which the misidentified torque plates were installed and replacement with serviceable brakes.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection of certain brake assemblies on Model 737 series airplanes to determine the P/N of the torque plates. This proposed AD would also require measurement of the amount of wear remaining on the brake wear pin indicator, and removal of brake assemblies on which misidentified torque plates were installed and replacement with serviceable brakes. The actions would be required to be accomplished in accordance with the service bulletin described previously.

This proposal permits, for a period of up to 30 days after the effective date of the rule, installation of brake assemblies having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which misidentified torque plates, P/N 184–884, have been installed. The FAA has determined such replacement will not compromise safety of the fleet since the life expectancy of these brakes is typically 90 to 120 days.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 717 Model 737 series airplanes equipped with BFGoodrich main landing gear brake assemblies of the affected design in the worldwide fleet. The FAA estimates that 325 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 0.25 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,875, or $15 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 95–NM–40–AD.

Applicability: Model 737 series airplanes equipped with BFGoodrich main landing gear brake assemblies having part numbers (P/N) 2–1474–1, –2, –3, or –5 (Boeing P/N's 10–61819–22, –26, –27, or –31); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent decreased brake performance during a rejected takeoff or landing when these brakes are at or near their indicated wear limit, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform an inspection of the brake assembly to determine the part number (P/N) of the torque plate, in accordance with BFGoodrich Service Bulletin 2–1474–32–17, dated January 26, 1995.

(b) If the P/N is 184–790, –790–1, –790–2, –790–3, or –875, no further action is required by this paragraph.

(c) If the P/N does not coincide with one identified in paragraph (b) of this AD, prior to further flight, measure the amount of wear remaining on the brake wear pin indicator, in accordance with service bulletin. Remove and replace the brake prior to the time specified in paragraph (c)(1), (c)(2), or (c)(3) of this AD, as applicable.

(1) If the remaining wear on the brake wear pin indicator is equivalent to 0.260 inch or more: Prior to the accumulation of 40 flight cycles, remove that brake assembly and replace it with a serviceable brake assembly, in accordance with the service bulletin. If the brake assembly is replaced with a brake assembly having BFGoodrich P/N 2–1474–1, –2, –3, or –5 on which a torque plate having P/N 184–884 has been installed, replace that brake assembly prior to the accumulation of 40 flight cycles since installation. As of 30 days after the effective date of this AD, no person shall install on any airplane, a brake assembly, BFGoodrich P/N 2–1474–1, –2, –3, or –5 (Boeing P/N 10–61819–22, –26, –27, or –31), on which a torque plate having P/N 184–884 has been installed.

(2) If the remaining wear on the brake wear pin indicator is less than 0.260 inch but more than 0.240 inch: Remove that brake assembly and replace it with a serviceable brake assembly, in accordance with the service bulletin. Use the following formula to determine when the brake assembly must be removed and replaced: (measurement of wear remaining on brake wear pin indicator) − (0.240 inch) × (1,000 flight cycles) = (time, expressed in number of flight cycles, prior to which brake assembly must be removed and replaced). As of 30 days after the effective date of this AD, no person shall install on any airplane, a brake assembly, BFGoodrich P/N 2–1474–1, –2, –3, or –5 (Boeing P/N 10–61819–22, –26, –27, or –31), on which a torque plate having P/N 184–884 has been installed.

(3) If the remaining wear on the brake wear pin indicator is equivalent to 0.240 inch or less: Prior to further flight, remove that brake assembly and replace it with a serviceable brake assembly, in accordance with the service bulletin. As of 30 days after the effective date of this AD, no person shall install on any airplane, a brake assembly, BFGoodrich P/N 2–1474–1, –2, –3, or –5 (Boeing P/N 10–61819–22, –26, –27, or –31), on which a torque plate having P/N 184–884 has been installed.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9348 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 93–NM–105–AD]

Airworthiness Directives; Raytheon Corporate Jets Model BAe 125–800A and –1000A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Raytheon Corporate Jets Model BAe 125–800A and –1000A airplanes, that would have required inspections of the wing leading edge skins, including the wing anti-ice fluid distribution panel (TKS panel) rebate and radius; repair, if necessary; and subsequent corrosion protection treatment. That proposal was prompted by reports of corrosion of the wing leading edge skin at the interface with the TKS panels. This action revises the proposed rule by adding inspections and treatments of the landing/taxiing lamp window recess and the stall vane spoiler rebate/radius. The actions specified by this proposed AD are intended to prevent reduced structural integrity of the wing leading edge section at the interface with the TKS panels and stall vane spoilers, which could adversely affect the flight characteristics of the airplane.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–105–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Raytheon Corporate Jets, Inc., 3 Bishops Square Street, Albans Road West, Hatfield, Hertfordshire, AL109NE, United Kingdom. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–105–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–105–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Raytheon Corporate Jets Model BAe 125–800A and –1000A airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 25, 1993 (58 FR

VOL 60 ISS 73 AP 17 1995 UMI

44795). That NPRM would have required inspections of the wing leading edge skins, including the wing anti-ice fluid distribution panel (TKS panel) rebate and radius; repair, if necessary; and subsequent corrosion protection treatment. That NPRM was prompted by reports of exfoliation corrosion found on the wing leading edge skin at the interface with the TKS panel. This condition, if not corrected, could result in reduced structural integrity of the wing leading edge skin and TKS panel interface joint, which could adversely affect the flight characteristics of the airplane. Exfoliation corrosion also could cause in-flight separation of airplane components.

Since issuance of that NPRM, the manufacturer has reported that feedback received from operators who had already accomplished the proposed inspections indicates that corrosion has been found in the area of the landing/taxiing lamp window assembly recess and stall vane spoiler rebate. Such corrosion is due to the ingression of moisture through gaps in the sealant that have developed during service. Corrosion in this area, if not detected and corrected in a timely manner, could result in reduced structural integrity of the wing leading edge skin in the vicinity of the landing/taxiing lamp window assembly recess and stall vane spoiler rebate, which could adversely affect the flight characteristics of the airplane.

Raytheon Corporate Jets has issued Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993, which describes procedures for conducting a one-time detailed visual inspection to detect corrosion of the wing leading edge skins, and removal of corrosion, if found. This service bulletin also describes procedures for a detailed visual inspection, a one-time dye penetrant inspection, removal of exfoliation corrosion, and application of an enhanced protective treatment of the TKS panel rebate and radius, the landing/taxiing lamp window assembly recess, and the stall vane spoiler rebate and radius. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this revised service bulletin as mandatory.

The FAA has determined that, in order to adequately address the unsafe condition presented by the problems associated with exfoliation corrosion in the subject areas, the proposed rule must be revised to include inspections of not only the wing leading edge skins and TKS panel rebate and radius, but the landing/taxiing lamp window assembly recess, and the stall vane spoiler rebate and radius, as well. These additional actions would be required to be accomplished in accordance with the revised service bulletin described previously.

The FAA has revised the supplemental NPRM to reflect the corporate name change of Corporate Jets to Raytheon Corporate Jets, Inc., and the address change of Corporate Jets, Inc., 22070 Broderick Drive, Sterling, Virginia 20166 to Raytheon Corporate Jets, Inc., 3 Bishops Square Street, Albans Road West, Hatfield, Hertfordshire, AL109NE, United Kingdom.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long standing requirement.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA estimates that 154 Model BAe 125–800A and –1000A airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 130 work hours per airplane to accomplish the proposed inspections, and treatment of the wing leading edge skins (including the TKS rebate and radius), and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,201,200, or $7,800 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Raytheon Corporate Jets, Inc. (Formerly DeHavilland, Inc.; Hawker Siddeley; British Aerospace, PLC): Docket 93–NM–105–AD.

Applicability: Model BAe 125–800A and –1000A airplanes, as listed in Raytheon Corporate Jets Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing leading edge skin and wing anti-ice fluid distribution panel (TKS panel) interface joint, which could adversely affect the flight characteristics of the airplane, accomplish the following:

(a) Accomplish the actions specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD within the time schedule indicated in each paragraph, and in accordance with Corporate Jets Limited Service Bulletin S.B. 57–77, dated May 20, 1993, or Raytheon Corporate Jets Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993:

(1) Within 24 months since airplane manufacture, or within 12 months after the effective date of this AD, whichever occurs later, perform a detailed visual inspection to detect corrosion of the polished surface of the top and bottom leading edge skins on each wing, in accordance with either service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with either service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair the wing leading edge skins in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) Prior to further flight after accomplishing the actions required by paragraph (a)(1) of this AD, conduct a detailed visual inspection to detect corrosion of the wing anti-ice fluid distribution panel (TKS panel) rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with either service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with either service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to further flight after accomplishing the actions required by paragraph (a)(2) of this AD, conduct a dye penetrant inspection to detect corrosion of the TKS panel rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with either service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with either service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(4) Prior to further flight after accomplishing the actions required by paragraph (a)(3) of this AD, accomplish both of the following actions in accordance with either service bulletin:

(i) Apply enhanced protective treatment to the TKS panel rebate and radius, on the top and bottom leading edge skin section on each wing; and

(ii) Conduct a flight check of the airplane stall warning system and stall characteristics.

(b) Accomplish the actions specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD within the time schedule indicated in each paragraph, and in accordance with Raytheon Corporate Jets Service Bulletin S.B. 57–77, Revision 1, dated October 28, 1993:

Note 2: Any inspection specified in paragraph (b)(1), (b)(2), and (b)(3) of this AD that was conducted prior to the effective date of this AD in accordance with Corporate Jets Limited Service Bulletin S.B. 57–77, dated May 20, 1993, is considered to be in compliance with this paragraph.

Note 3: The actions required by paragraph (b) of this AD may be accomplished in conjunction with the actions required by paragraph (a) within the compliance time required by paragraph (a).

(1) Within 2 years after the effective date of this AD, conduct a detailed visual inspection to detect corrosion of the landing/taxiing lamp window assembly recess and the stall vane spoiler rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with the service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with the service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) Prior to further flight after accomplishing the actions required by paragraph (b)(1) of this AD, conduct a dye penetrant inspection to detect corrosion of the landing/taxiing lamp window assembly recess and the stall vane spoiler rebate and radius, on the top and bottom leading edge skin section on each wing, in accordance with the service bulletin.

(i) If any corrosion is detected and the corrosion is within the limits specified in either service bulletin, prior to further flight, remove the corrosion in accordance with the service bulletin.

(ii) If any corrosion is detected and that corrosion exceeds the limits specified in either service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(3) Prior to further flight after accomplishing the actions required by paragraph (b)(2) of this AD, accomplish both of the following actions in accordance with the service bulletin:

(i) Apply enhanced protective treatment to the landing/taxiing lamp window assembly recess and the stall vane spoiler rebate and radius, on the top and bottom leading edge skin section on each wing; and

(ii) Conduct a flight check of the airplane stall warning system and stall characteristics.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 11, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9349 Filed 4–14–95; 8:45 am]

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14 CFR Part 39

[Docket No. 94–NM–244–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, that currently requires the implementation of a program of structural inspections to detect and correct fatigue cracking in order to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. This action

VOL 60 ISS 73 AP 17 1995 UMI

would require, among other things, clarification of some Principle Structural Elements (PSE) and some non-destructive inspection (NDI) procedures. This proposal is prompted by new data submitted by the manufacturer indicating that certain revisions to the program are necessary in order to clarify some PSE's and some NDI procedures. The actions specified by the proposed AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

DATES: Comments must be received by June 6, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Department L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Maureen Moreland, Aerospace Engineer, Airframe Branch, ANM–121L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5238; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–244–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 25, 1993, the FAA issued AD 93–17–09, amendment 39–8680 (58 FR 54949, October 25, 1993), applicable to McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, to require implementation of a program of structural inspections to detect and correct fatigue cracking in order to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. That action was prompted by new data submitted by the manufacturer indicating that certain revisions to the program are necessary in order to clarify some Principal Structural Elements (PSE) and some non-destructive inspection (NDI) procedures. The requirements of that AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

Since the issuance of that AD, the manufacturer has issued McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Volume I, Revision 5, dated October 1994; Volume II, Revision 5, dated October 1994; and Volume III–94, dated November 1994. This revision of the SID revises the sampling program by:

1. Clarifying some PSE titles;
2. Moving portions of some PSE's under a different PSE designator;
3. Clarifying some non-destructive inspection (NDI) procedures;
4. Including some revised alternative NDI procedures for previously existing PSE's; and
5. Updating the planning data continued in Volume III–94.

The FAA has reviewed and approved the revised SID and has determined that these revised procedures must be incorporated into the affected operators' SID programs in order to provide an acceptable level of confidence that cracks in PSE's do not exist in the fleet.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 93–17–09 to require clarifying some PSE titles and some NDI procedures, and updating the planning data. The actions would be required to be accomplished in accordance with the service document described previously.

There are approximately 419 Model DC–10 series airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 249 airplanes of U.S. registry and 13 U.S. operators would be affected by this proposed AD. Incorporation of the SID program into an operator's maintenance program, as required by AD 93–17–09 is estimated to necessitate 1,270 work hours (per operator), at an average labor rate of $60 per work hour. Based on these figures, the cost to the 13 affected U.S. operators to incorporate the SID program is estimated to be $990,600.

The incorporation of the revised procedures proposed in this AD action would require approximately 20 additional work hours per operator to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost to the 13 affected U.S. operators to incorporate these revised procedures into the SID program into an operator's maintenance program is estimated to be $15,600.

The recurring inspection costs, as required by AD 93–17–09, are estimated to be 365 work hours per airplane per year, at an average labor rate of $60 per work hour. Based on these figures, the recurring inspection costs required by AD 93–17–09 are estimated to be $21,900 per airplane, or $5,453,100 for the affected U.S. fleet.

Since no new recurring inspection procedures have been added to the program by this proposed AD action, there would be no additional economic burden on affected operators to perform additional recurrent inspections.

Based on the above figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,468,700 for the first year, and $5,453,100 for each year thereafter. These "total cost impact" figures assume that no operator has yet accomplished any of the requirements of this AD. However, it can be reasonably assumed that a majority of the affected operators have already initiated the SID program (as required by AD 93–17–09).

Additionally, the number of required work hours for each proposed inspection (and the SID program), as indicated above, is presented as if the accomplishment of those actions were to be conducted as "stand alone" actions. However, in actual practice, these actions for the most part will be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary additional work hours will be minimal in many instances. Further, any cost associated with special airplane scheduling can be expected to be minimal.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8680 (58 FR 54949, October 25, 1993), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 94–NM–244–AD. Supersedes AD 93–17–09, Amendment 39–8680.

Applicability: Model DC–10 series airplanes and KC–10A (military) airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after November 24, 1993 (the effective date of AD 93–17–09, amendment 39–8680), incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection(s) of the Principal Structural Elements (PSE's) defined in Section 2 of Volume I of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Revision 3, dated December 1992, in accordance with Section 2 of Volume III–92, dated October 1992, of the SID. The non-destructive inspection (NDI) techniques set forth in Section 2 and Section 4 of Volume II, Revision 3, dated December 1992, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph. All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions contained in Section 2 of Volume III–92, dated October 1992, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For those Fleet Leader Operator Sampling (FLOS) PSE's which do not have a Normal Maintenance Visual Inspection specified in Section 4 of Volume II, Revision 3, dated December 1992, of the SID, the procedure for general visual inspection is as follows: Perform an inspection of the general PSE area for cleanliness, presence of foreign objects, security of parts, cracks, corrosion, and damage.

(2) For PSE's 53.10.031E/.032E, 53.10.047E/.048E, and 57.10.029E/.030E: The ENDDATE for these PSE's is October 1993. (For these PSE's disregard the June 1993 ENDDATE specified in Section 2 of Volume III–92, dated October 1992, of the SID.)

(b) Within 6 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD with a revision that provides for inspection(s) of the PSE's defined in Section 2 of Volume I of McDonnell Douglas Report No. L26–012, "DC–10 Supplemental Inspection Document (SID)," Revision 5, dated October 1994, in accordance with Section 2 of Volume III–94, dated November 1994, of the SID.

(1) Prior to reaching the threshold (N_a) specified for any PSE listed in Volume III–94, dated November 1994, of the SID inspect each PSE sample in accordance with the NDI procedures set forth in Section 2 and Section 4 of Volume II, Revision 5, dated October 1994. Thereafter repeat the inspection for that PSE at intervals not to exceed DNDI/2 of the NDI procedure that is specified in Volume III–94, dated November 1994, of the SID.

(2) The NDI techniques set forth in Section 2 and Section 4 of Volume II, Revision 5, dated October 1994, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph.

(3) Visual inspections of all PSE's on airplanes listed in Volume III–94, dated November 1994, of the SID planning data, are required by the fleet leader-operator sampling (FLOS) program at least once during the interval between the start date (SDATE) and the end date (EDATE) established for each PSE. These visual inspections are defined in Section 4 of Volume II, Revision 5, dated October 1994, of the SID, and are required only for those airplanes that have not been inspections previously in accordance with Section 2 of Volume II, Revision 5, dated October 1994, of the SID.

(4) For those Fleet Leader Operator Sampling (FLOS) PSE's which do not have a Normal Maintenance Visual Inspection specified in Section 4 of Volume II, Revision 3, dated December 1992, of the SID, the procedure for general visual inspection is as follows: Perform an inspection of the general PSE area for cleanliness, presence of foreign objects, security of parts, cracks, corrosion, and damage.

(5) For PSE's 53.10.055/.056E, 55.10.013/.014B, 53.10.005/.006E, 53.10.031/.032E, 53.10.047/.048E, 57.10.029/.030E: The EDATE for these PSE's is June 1998. (For these PSE's, disregard the June 1996 EDATE specified in Section 2, of Volume III–94, dated November 1994, of the SID.)

(6) All inspection results (negative or positive) must be reported to McDonnell Douglas in accordance with the instructions contained in Section 2 of Volume III–94, dated November 1994, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) Any cracked structure detected during the inspections required by paragraph (a) or (b) of this AD must be repaired before further flight, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 1: Requests for approval of any PSE repair that would affect the FAA-approved

VOL 60 ISS 73 AP 17 1995 UMI

maintenance inspection program that is required by this AD should include a damage tolerance assessment for that PSE repair.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angles ACO.

Note 3: Alternative methods of compliance previously granted for amendment 39–8680, AD 93–17–09, continue to be considered as acceptable alternative methods of compliance with this amendment.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 10, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9350 Filed 4–14–95; 8:45 am]

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14 CFR Part 39

[Docket No. 95–NM–36–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model DC–9 series airplanes and C–9 (military) airplanes. This proposal would require an inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered, an inspection to detect damage of the overcenter links, and follow-on corrective actions, if necessary; and replacement or rework of the driver links. This proposal is prompted by reports of a thrust reverser door that failed to operate properly due to improperly manufactured (missing chamfers on the) driver links. The actions specified by the proposed AD are intended to prevent damage to the overcenter links due to missing chamfers on the driver links, which may result in uncommanded opening of the thrust reverser door, and subsequently, adversely affecting controllability of the airplane.

DATES: Comments must be received by June 9, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5245; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–36–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–36–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Recently, an operator of McDonnell Douglas Model DC–9 series airplanes reported that the thrust reverser door would not close after an airplane landed. Subsequently, this same operator reported that the thrust reverser door, on the same airplane, opened partially after takeoff. Investigation revealed that driver links of the thrust reverser on this airplane were bent or broken, apparently due to a manufacturing defect. These driver links were missing chamfers, which caused damage to the adjoining overcenter links, and eventually led to the failure of the overcenter link assembly. This condition, if not corrected, could result in uncommanded opening of the thrust reverser door, which may adversely affect controllability of the airplane.

The FAA has reviewed and approved McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995, which describes procedures for a one-time visual inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered. For driver links that are not chamfered, this alert service bulletin describes procedures for removal of the driver link and an inspection to determine serviceability of the driver link. This alert service bulletin also describes procedures for a one-time visual inspection to detect damage of the overcenter links, and an inspection to detect damage of the drive mechanism, if necessary. Additionally, this alert service bulletin describes procedures for replacement or rework of the driver links.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time visual inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered, and a one-time visual inspection to detect damage of the overcenter links, and follow-on corrective actions, if necessary; and replacement or rework of the driver links. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

The proposed AD would also require that operators submit a report of the findings of the inspection required by this proposal. The information obtained from these reports will enable the FAA to determine how widespread the problem is in the fleet and if additional action is warranted.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 892 airplanes of the affected design in the worldwide fleet. The FAA estimates that 557 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspections and approximately 10 work hours per airplane to accomplish the proposed replacement/rework, and that the average labor rate is $60 per work hour. Required replacement/rework parts would cost approximately $4,100 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,651,320, or $4,760 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 95–NM–36–AD.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes, and C–9 (military) airplanes, as listed in McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded opening of the thrust reverser door, which may adversely affect controllability of the airplane, accomplish the following:

(a) Within 3 months after the effective date of this AD, perform a visual inspection of the actuating mechanisms of the upper and lower doors of the thrust reverser on the left and right engines to determine whether the driver links are chamfered, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995.

(1) If all the driver links are chamfered, prior to further flight, perform a visual inspection to detect damage of the overcenter links (including the bearings, races, and attaching hardware), in accordance with the alert service bulletin.

(i) If no damage to the overcenter links is detected, no further action is required by this paragraph.

(ii) If any damage to the overcenter links is detected, prior to further flight, replace the damaged overcenter links with new or serviceable overcenter links.

(iii) If any damage to the bearings, races, or attaching hardware of the overcenter links is detected, prior to further flight, perform a visual inspection to detect damage of the drive mechanism of the thrust reverser, in accordance with the alert service bulletin. If any damage to the drive mechanism is detected, prior to further flight, repair or replace the damaged parts with new or serviceable parts, in accordance with the Chapter 78 of the DC–9 Overhaul Manual.

(2) If any driver link is not chamfered, prior to further flight, remove the driver link and perform dimensional and flourescent penetrant inspections to determine serviceability of the driver link, in accordance with the alert service bulletin.

(i) If the driver link is serviceable, prior to further flight, machine chamfer the driver link, or replace the driver link with a new or serviceable part, in accordance with the alert service bulletin.

(ii) If the driver link is not serviceable, prior to further flight, replace it with a new or serviceable driver link, in accordance with the alert service bulletin.

(b) Within 3 months after the effective date of this AD, perform a visual inspection to detect damage of the overcenter links (including the bearings, races, and attaching hardware, in accordance with the McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dted February 27, 1995.

(1) If no damage to the overcenter links is detected, no further action is required by this paragraph.

(2) If any damage to the overcenter links is detected, prior to further flight, replace the damaged overcenter links with new or serviceable overcenter links.

(3) If any damage to the bearings, races, or attaching hardware of the overcenter links is detected, prior to further flight, perform a

VOL
60
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73
AP
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1995
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visual inspection to detect damage of the drive mechanism of the thrust reverser, in accordance with the alert service bulletin. If any damage to the drive mechanism is detected, prior to further flight, repair or replace the damaged parts with new or serviceable parts, in accordance with the Chapter 78 of the DC–9 Overhaul Manual.

(c) Within 10 days after accomplishing the visual inspection of the driver links of the thrust reverser door to determine whether the driver links are chamfered, as required by paragraph (a) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5245; fax (310) 627–5210; Attention: Robert Baitoo. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) As of the effective date of this AD, no person shall install, on any airplane, a driver link or overcenter link assembly of a thrust reverser that has not been previously inspected, and replaced or reworked, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A78–67, dated February 27, 1995.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 10, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9351 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 94–AWP–28]

Proposed Establishment of VOR Federal Airway V–514; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would establish Federal Airway V–514 from the Mission Bay, CA, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) to the Boulder City, NV, VORTAC. Pilots are presently issued several airway segments between the Mission Bay, CA, VORTAC and the Boulder City, NV, VORTAC. The establishment of this airway would provide pilots with one airway segment between these two points. This action would improve traffic flow and reduce pilot/controller workload.

DATES: Comments must be received on or before June 2, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AWP–500, Docket No. 94–AWP–28, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9230.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AWP–28." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Federal Airway V–514 from the Mission Bay, CA, VORTAC to the Boulder City, NV, VORTAC. The establishment of this airway would improve the efficiency of the system because pilots are routinely issued several airway segments along this route. To reduce communications and eliminate potential confusion between pilots and controllers, only one airway segment would be issued between the Mission Bay, CA, VORTAC and the Boulder City, NV, VORTAC. This action would improve traffic flow and reduce pilot/controller workload. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The airway listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continue to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp. p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–514 [New]

From Mission Bay, CA; INT Mission Bay 091°T(076°M) and Julian, CA, 185°T(170°M) radials; Julian; Thermal, CA; Twentynine Palms, CA; INT Twentynine Palms 043°T(028°M) and Goffs, CA, 200°T(185°M) radials; Goffs; INT Goffs 033°T(018°M) and Boulder City, NV, 165°T(150°M) radials; Boulder City.

* * * * *

Issued in Washington, DC, on April 7, 1995.

Nancy B. Kalinowski,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–9402 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 120

[Docket No. R–95–1726; FR–3583–P–01]

RIN 2529–AA71

Community Housing Resource Board Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would end the Community Housing Resource Board (CHRB) Program at 24 CFR part 120. The purpose of the proposed rule is to eliminate a program determined to be duplicative and unnecessary.

DATES: Comments due date: June 16, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rulemaking to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facimile (FAX) comments are not acceptable.

FOR FURTHER INFORMATION CONTACT: Maxine Cunningham, Acting Director, Office of Fair Housing Assistance and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410–2000. Telephone number (202) 708–0800. A telecommunications device (TDD) for hearing and speech impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The CHRB Program was established in 1982 at 24 CFR part 120, under authority of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601). The purpose of the program is stated, at 24 CFR 120.5, as:

> The purpose of the Community Housing Resource Board Program is to provide funding to Community Housing Resource Boards (Resource Boards) that have the responsibility of providing program implementation assistance to housing industry groups that have signed Voluntary Affirmative Marketing Agreements (VAMA) with HUD. The intent of the program is to fulfill HUD's contractual agreement to provide technical assistance to local real estate boards in achieving VAMA goals by supporting projects that improve Resource Board performance and increase their ability to effectively plan, finance, and carry out activities to assist signatory real estate boards in fully implementing the provisions of the VAMA.

Through Fiscal Year 1990, $15.274 million was appropriated and disbursed to CHRBs under a competitive grant process. Approximately 25–50 CHRBs were funded each year. In order to be eligible, projects must have been directed at one or more of the following areas:

(1) Making information public regarding the goals of fair housing and the VAMA;

(2) Assessing community fair housing needs;

(3) Assessing the effectiveness of the VAMA;

(4) Expanding minority involvement in the industry;

(5) Expanding public awareness of housing opportunities in the community; and

(6) Developing cooperative solutions to problems associated with the implementation of the VAMA.

CHRB projects include developing brochures, videos, and other outreach materials; conducting fair housing seminars and conferences to inform realtors and other housing industry professionals as well as the general public of their rights and responsibilities under the Fair Housing Law; school poster contests where children's art work depicts "Fair Housing for All"; and scholarship programs to attract minorities into the real estate profession.

However, no funds have been appropriated for the Community Housing Resource Board (CHRB) Program since Fiscal Year (FY) 1990. There are several reasons for this. One reason is that another source of funding for the same activities was made available. The Fair Housing Initiatives Program (FHIP), established in 1987, includes an Education and Outreach Initiative. This Initiative funds education and outreach projects designed to inform members of the public concerning their rights and obligations under the provisions of fair housing laws. As private, non-profit organizations, CHRBs are eligible for funding under the FHIP.

Another reason concerns modifications to VAMAs since the initiation of the CHRB Program. In 1991 HUD began negotiations with the National Association of Realtors (NAR) for a revised VAMA. One of the major changes proposed by NAR was the elimination of the requirement to utilize

VOL 60 ISS 73 AP 17 1995 UMI

CHRBs for monitoring and implementation of VAMA activity. The new VAMA, signed by the Secretary of HUD and the NAR President in June 1992, deletes this requirement. The VAMA provides instead that local Realtor Boards "formulate relationships with civil rights, fair housing, and other community based organizations with a substantial interest in fair housing as a conduit to meet fair housing and VAMA objectives." While some local Boards continue to work closely with established CHRBs in various fair housing activities, the Department no longer has a contractual agreement to support VAMA implementation activities through CHRBs.

Based on the foregoing, and as part of the renewed effort to eliminate duplicative and/or unnecessary programs, the Department has determined that the elimination of the CHRB Program is appropriate. To accomplish this end, this proposed rule would remove and reserve 24 CFR part 120.

Findings and Certifications

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. The purpose of the proposed rule is to eliminate a program determined to be duplicative and unnecessary.

Regulatory Agenda

This proposed rule was listed as Item No. 1865 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57667) pursuant to Executive Order 12866 and the Regulatory Flexibility Act.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that because this proposed rule would eliminate a program determined to be duplicative and unnecessary, the policies contained in this proposed rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the proposed rule is not subject to review under the order.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this proposed rule does not have the potential for direct impact on family formation, maintenance, and general well-being. The proposed rule would only eliminate a program determined to be duplicative and unnecessary, and as such, no further review is considered necessary.

List of Subjects in 24 CFR Part 120

Fair housing, Grant programs—housing and community development.

Accordingly, and under the authority of 42 U.S.C. 3535(d), chapter I of title 24 of the Code of Federal Regulations would be amended by removing and reserving part 120.

Dated: May 3, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 95–9329 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–28–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. H–049]

RIN 1218–AB99

Respiratory Protection; Proposed Rule

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of date for filing of comments by testifiers.

SUMMARY: By this document the Occupational Safety and Health Administration (OSHA) is extending the date for testifiers at the OSHA hearings to submit comments on the proposed rule from April 14, 1995 to May 15, 1995, in order to provide additional time for those testifiers submitting comments.

DATES: Testimony, comments and evidence to be submitted at the hearings must be postmarked on or before May 15, 1995. Notices of intention to appear at the hearing were due March 31, 1995. Comments for testifiers must be postmarked on or before May 15, 1995. The hearing will begin at 9:30 a.m., Tuesday, June 6, 1995 in Washington, DC.

ADDRESSES: Testimony and documentary evidence are to be submitted in quadruplicate to: Mr. Thomas Hall, OSHA Division of Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3649, Washington, D.C. 20210; (202) 219–8615. Testimony and documentary evidence will be available for inspection and copying in the Docket Office, Room N2625 at the above address.

Written comments should be submitted in quadruplicate or 1 original (hardcopy) and 1 disk (5¼ or 3½) in WordPerfect 5.0, 5.1, 6.0 or ASCII to: Docket Office, Docket H–049, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, N.W. Washington, D.C. 20210; (202) 219–7894. Any information not contained on disk, e.g., studies, articles, etc., must be submitted in quadruplicate.

The hearing will be held in the auditorium of the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Proposal: Mr. Richard Liblong, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3647, Washington, D.C. 20210; (202) 219–8151.

Hearings: Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3649, Washington, D.C. 20210; (202) 219–8615.

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1994, OSHA published a notice of proposed rulemaking on its respiratory protection standard (59 FR 58884 *et seq.*). The proposal is intended to update the current respirator standard to reflect changes in methodology, technology, and approach related to respiratory protection that have occurred since the existing respiratory protection standard was adopted in 1971.

A notice of the extension of the comment period and the rescheduling of the public hearing was published on January 20, 1995 (60 FR 4132 *et seq.*). This notice extended the public comment period for the proposal to April 14, 1995. The date for submitting a notice of intention to appear at the hearing to testify was extended to March 31, 1995. The public hearings were rescheduled to start on June 6, 1995. On March 23, 1995 (60 FR 15263) OSHA extended the period to submit testimony until May 15, 1995.

Extension of Date for Submitting Comments

Several parties who will be testifying at the OSHA hearings have requested an extension of time to file comments to May 15, 1995 because they need additional time to prepare comments. Since the period for submitting testimony has been extended this will not result in further delays. Accordingly OSHA is extending the time for testifiers to submit comments until May 15, 1995. The times to submit testimony and the start of the hearing remain unchanged. See the earlier **Federal Register** notices for the hearing procedures.

Authority and Signature

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655).

Signed at Washington, DC., this 12th day of April, 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 95–9434 Filed 4–14–95; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–206]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Kentucky regulatory program (hereinafter, the "Kentucky program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions for Kentucky's proposed rules pertain to documents, assessment of civil penalties, and revegetation for surface and underground mining. This amendment is intended to revise the Kentucky program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.D.T., May 2, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. William J. Kovacic at the address listed below.

Copies of the Kentucky program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Lexington Field Office.

Mr. William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (606) 233–2896'

Department for Surface Mining Reclamation and Enforcement, #2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Director, Lexington Field Office, Telephone: (606) 233–2896.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program

On May 18, 1982, the Secretary of the Interior conditionally approved the Kentucky program. General background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kentucky program can be found in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning Kentucky's program and program amendments can be found at 30 CFR 917.11, 917.15, 917.16, and 917.17.

II. Description of the Proposed Amendment

By letter dated July 19, 1994, Kentucky submitted a proposed amendment to its program pursuant to SMCRA (Administrative Record No. 1304). Kentucky submitted the proposed amendment at its own initiative. The provisions of the Kentucky Administration Regulations (KAR) Kentucky proposed to amend were: 405 KAR 7:015—Documents Incorporated by Reference, 405 KAR 7:095—Assessment of Civil Penalties, 405 KAR 10:010—General Requirements for Performance Bond and Liability Insurance, 405 KAR 16:020—Contemporaneous Reclamation, 405 KAR 16:200—Revegetation for Surface Coal Mining, and 405 KAR 18:200—Revegetation for Underground Mining Operations.

OSM announced receipt of the proposed amendment in the August 9, 1994, **Federal Register** (59 FR 40503), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. 1322). Because no one requested a public hearing or meeting, none was held. The public comment period ended on September 8, 1994.

On March 2, 1995, Kentucky submitted additional revisions to 405 KAR 7:095—Assessment of Civil Penalties, and 405 KAR 16:200 and 18:200—Revegetation (Administrative Record No. 1347). 405 KAR 7:095 section 5(2) is proposed to be revised to clarify that the penalty which can be assessed under this section is in addition to the civil penalty which can be assessed under section 5(1), and to add section 7 which incorporates by reference Kentucky's January 6, 1995, "Procedures for Assessment of Civil Penalties". Several revisions were made to proposed 405 KAR 16:200 and 18:200—Revegetation. Proposed section 1(4) is being revised to clarify that this section does not negate the requirement at 405 KAR 16:180 and 18:180 section 3(2) that "where cropland is intended to be the postmining land use, and where appropriate for wildlife and crop-management practices, the permittee shall intersperse the fields with tree, hedges, or fence rows throughout the harvested area to break up large blocks of monoculture and to diversify habitat types for birds and other animals." Proposed section 5(2)(b)2 is being revised to specifically identify the "Kentucky Agricultural Statistics" documents being relied upon (except for prime farmland) for average county yields of row crops. Proposed section 6 is being revised to reduce the stocking rates for trees from 450 to 300 plants per acre, and to require all permit applications submitted after February 22, 1995, which propose to plant trees and shrubs for wildlife habitat, to use species listed in Appendix A of New

VOL
60
ISS
73
AP
17
1995
UMI

Technical Reclamation Memorandum #21 and stocking densities set in section 6(2)(b)1, or optionally to use species and stocking densities recommended specifically for the permit area by the Kentucky Department of Fish and Wildlife Resources. Sections 9(3)(c) and 9(6), regarding use of productivity test areas rather than statistical evaluation of productivity, are being deleted.

III. Public Comment Procedures

Written Comments

OSM is reopening the comment period on the proposed Kentucky program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kentucky program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Lexington Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by Section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under Sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CRR parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of Section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 10, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95–9388 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 935

[OH–204; Amendment No. 54R]

Ohio Regulatory and AML Programs

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period.

SUMMARY: OSM is reopening the public comment period for a revised amendment to the Ohio permanent regulatory and Abandoned Mined Land (AML) programs (hereinafter referred to as the Ohio programs) under the Surface Mining Control and Reclamation Act of 1977. The revised amendment proposes additional changes to ten sections of the Ohio Revised Code (ORC) to clarify those sections of State law, to conform those sections to current State practices, and to make those sections equivalent to corresponding Federal laws. The proposed revisions concern lands eligible for remining, public roadways, average wage rates, deletion of obsolete language on interim continuance of underground coal mining operations, activities eligible for Small Operator Assistance, refund of excess permit fees to operators, use of the Reclamation Supplemental Forfeiture Fund for non-coal reclamation, interfund transfers, and required staff training.

This document sets forth the times and locations that the Ohio programs and the proposed amendments to those programs will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4:00 p.m., e.d.t. on May 17, 1995. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m., e.d.t. on May 12, 1995. Requests to speak at the hearing must be received on or before 4:00 p.m., e.d.t. on May 2, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand-delivered to Mr. Robert H. Mooney, Acting Director, Columbus Field Office, at the address listed below.

Copies of the Ohio programs, the proposed amendments, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232, Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone: (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Mooney, Acting Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio programs. Information on the general background of the Ohio program submissions, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio programs, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Description of the Proposed Amendments

By letter dated February 7, 1992 (Administrative Record No. OH–1645), the Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 54 (PA 54). In PA 54, Ohio proposed to revise 13 sections of the ORC concerning a number of regulatory and AML issues. OSM announced receipt of PA 54 in the April 13, 1992, **Federal Register** (57 FR 12779), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on May 13, 1992.

By letter dated June 15, 1992 (Administrative Record No. OH–1714), OSM provided Ohio with its questions and comments about the February 7, 1992, submission of PA 54. On July 20, 1992, OSM and Ohio staff met to discuss and resolve OSM's questions and comments (Administrative Record No. OH–1746). On July 28, 1992, OSM and Ohio staff further resolved some of those issues in a telephone conversation (Administrative Record No. OH–1754).

In response to OSM's June 15, 1992, letter, Ohio submitted Revised Program Amendment Number 54 (PA 54R) by letter dated September 2, 1992 (Administrative Record No. OH–1769). PA 54R contained further revisions to seven sections of the ORC. OSM announced receipt of PA 54R in the October 28, 1992, **Federal Register** (57 FR 48765), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on November 27, 1992.

On December 16, 1992 (Administrative Record No. OH–1800), OSM and Ohio staff conducted a telephone discussion of the September 2, 1992, resubmission of PA 54R. On April 30, 1993, OSM and Ohio staff met informally to discuss the status of the amendment with respect to the State's legislative process.

In the June 11, 1993, **Federal Register** (58 FR 32611), the Director of OSM announced his decision to defer Ohio PA 54R with the exception of the Director's approval of one proposed change at ORC section 1513.02(F)(3) which the Ohio General Assembly was likely to pass in its current form. The Director made this decision because the Ohio Legislative Service Commission had not yet drafted the final statutory language on which PA 54R would ultimately be based and because that language would not be available for review by OSM within the foreseeable future.

By letter dated March 31, 1995 (Administrative Record No. OH–2107), Ohio submitted the final version of PA 54R. This final version contains the statutory changes approved by the Ohio General Assembly in Senate Bill 180 and in House Bill 414. The two bills were signed by the Ohio Governor on December 23, 1992, and December 27, 1994, respectively. The revised statutes went into effect on March 24, 1993, and March 27, 1995, respectively.

Ohio's March 31, 1995, final submission of PA 54R reiterates many of the statute changes previously proposed in PA 54 and PA 54R. The new submission also proposes new changes to ten sections of the ORC. OSM discussed the previously proposed changes in the April 13 and October 28, 1992, **Federal Register** documents concerning the previous submissions of PA 54 and PA 54R. Therefore, only newly proposed substantive changes to Ohio's coal regulatory and AML program statutes are discussed below. Statute changes which solely concern Ohio's non-coal regulatory program are outside the jurisdiction of OSM and are not discussed below. Newly proposed changes to paragraph notations and other nonsubstantive wording changes which are intended solely to clarify the statutes are also not discussed below.

(1) Lands Eligible for Remining

ORC section 1513.01 paragraph (F): Ohio is adding this paragraph to define the term "lands eligible for remining" to mean those lands that otherwise would be eligible for expenditure of AML reclamation funds under paragraph (C)(1) of ORC section 1513.37.

ORC section 1513.07 paragraph (E)(3)(b): Ohio is adding this new paragraph to provide that, until October 1, 2004, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining shall not prevent issuance of a coal mining permit to the person holding the remining permit. An unanticipated event or condition is one that was not contemplated by the applicable permit.

ORC section 1513.16 paragraph (A)(19)(b): Ohio is adding this new paragraph to provide that coal mining permits on lands eligible for remining shall require the operator to assume the responsibility for successful revegetation of the remined area for two full years after the last augmented seeding, fertilizing, or irrigation.

ORC section 1513.37 paragraph (C)(3): Ohio is adding this new paragraph to provide that surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for AML reclamation funding under this section of the ORC after the release of the mining operation's performance bond. If the performance bond for the remining operation is forfeited and is not sufficient for adequate reclamation of the site, Ohio may use AML reclamation funding under this section to augment the bond.

(2) Public Roadways

ORC section 1513.01 paragraph (H)(2): Ohio is revising this paragraph to delete the existing exclusion of public roadways from the areas covered by the definitions of "operation" or "coal mining operation."

(3) Average Wage Rates

ORC section 1513.02 paragraph (J): Ohio is revising this paragraph to provide that the State will use information from non-coal as well as coal mining and reclamation operations in calculating average wage rates. The newly calculated average wage rates shall apply to reclamation performed for Ohio on both coal and non-coal mining sites.

(4) Deletion of Obsolete Language

ORC section 1513.07 paragraph (A)(1): Ohio is deleting additional obsolete language from this paragraph concerning interim continuance of underground coal mine operations which were in effect prior to September 1, 1981.

VOL 60 ISS 73 AP 17 1995 UMI

(5) Activities Eligible for the Small Operator's Assistance Program (SOAP)

ORC section 1513.07 paragraph (B)(4)(a) and (b): Ohio is revising these paragraphs to expand the types of activities related to permit applications which qualified laboratories can perform for permit applicants under contracts funded by Ohio's SOAP. Qualifying activities include determination of probable hydrologic consequences, development of cross-section maps and plans, geologic drilling and reporting, collection and reporting of archaeological information, performing pre-blast surveys, and collection of information on protection of fish and wildlife habitats. The coal mine operator shall reimburse the State for the costs of SOAP-assisted services if the operator's actual and attributed coal production for all locations exceeds 300,000 tons during the 12 months immediately following the date of issuance of the mining permit.

(6) Refund of Excess Permit Fees to Operators

ORC 1513.10: In February 7, 1992, submission of PA 54, Ohio proposed to repeal this existing section which currently authorizes Ohio to refund excess permit fees to the operator for acreage permitted but not subsequently affected. In its March 31, 1995, cover letter of the final version of PA 54R, Ohio noted that it is withdrawing its proposal to repeal this section.

ORC 1513.07 paragraph (B)(1): Ohio is deleting previously proposed language in this paragraph which would have provided that all excess permit fees collected by the State shall be deposited in the State Treasury to the credit of the Coal Mining Administration and Reclamation Reserve Fund created in ORC section 1513.181.

(7) Use of Reclamation Supplemental Forfeiture Fund for Non-Coal Reclamation

ORC section 1513.18 paragraph (D): In the February 7, 1992, submission of PA 54, Ohio proposed to add this new paragraph (D) which, in part, would have allowed the Division to use funds from the Reclamation Supplemental Forfeiture Fund to reclaim areas which were affected by mining under non-coal surface mining permits issued under ORC Chapter 1514 but which the operator did not adequately reclaim. In its March 31, 1995, final version of PA 54R, Ohio is withdrawing this proposed language concerning non-coal reclamation from new paragraph (D).

ORC 1514.06 paragraph (G): Ohio is proposing to revise this paragraph in lieu of the previously proposed revision discussed above which Ohio is withdrawing from ORC section 1513.18 paragraph (D). The revision to ORC section 1514.06 paragraph (G) would provide that Ohio may expend money from the Reclamation Supplemental Forfeiture Fund or from the Surface Mining Administration Fund to complete reclamation on land affected by non-coal surface mining operations on which an operator has defaulted.

ORC section 1513.18 paragraph (D): Ohio is adding a statement in this paragraph concerning the State's priority for management of the Reclamation Supplemental Forfeiture Fund, including the selection of projects and the transfer of moneys. That priority shall be to ensure that sufficient moneys are available for reclamation of areas that an operator has affected under a coal mining and reclamation permit issued after September 1, 1981, and which the operator has failed to reclaim.

(8) Interfund Transfers

ORC 1513.181 paragraph (B): In its September 2, 1992, submission of PA 54R, Ohio proposed to add this new paragraph to provide the State with additional flexibility to manage the funding of the Coal Mining Administration and Reclamation Reserve Fund and the Reclamation Supplemental Forfeiture Fund. If, at the close of the fiscal year, the former fund's balance is below one million dollars, the State could have transferred funds of up to $500,000 per fiscal year from the Coal Mining Administration and Reclamation Reserve Fund to the Reclamation Supplemental Forfeiture Fund. In its March 31, 1995, final version of PA 54R, Ohio is withdrawing this proposal language.

(9) Required Staff Training

ORC section 1513.34: Ohio is revising this section to delete the requirements for minimum hourly amounts of initial and annual follow-up training for certain staff positions. In lieu of a minimum of 80 hours of training, Ohio shall provide adequate training and education, during their probationary periods, for all persons appointed as inspection officers. In lieu of a minimum of 40 hours of annual training, Ohio shall provide, on a regular basis as funding allows, continuing education and training as necessary for all inspection officers, district supervisors, and enforcement personnel.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio programs.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.d.t. on May 2, 1995. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 10, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95–9389 Filed 4–14–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[NC–061–1–6815; FRL–5191–3]

Proposed Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 12, 1993, the State of North Carolina through the North Carolina Department of Environment, Health, and Natural Resources submitted a maintenance plan and a request to redesignate the Charlotte-Gastonia area from nonattainment to attainment for ozone (O_3). Subsequently on December 16, 1994, and January 6, 1995, the State submitted supplementary information which included refined modeling and identification of the future reductions needed to maintain the national ambient air quality standard (NAAQS) for O_3. The Charlotte-Gastonia O_3 nonattainment area includes Mecklenburg and Gaston Counties. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such changes. In this action, EPA is proposing to approve the State of North Carolina's submittal because it will meet the maintenance plan and redesignation requirements. The approved maintenance plan will become a federally enforceable part of North Carolina's State Implementation Plan (SIP) for the moderate nonattainment area. In this action, EPA is also proposing to approve the State of North Carolina's 1990 baseline emissions inventory because it meets EPA's requirements regarding the approval on baseline emission inventories.

DATES: To be considered, comments must be received by May 17, 1995.

ADDRESSES: Written comments on this action should be addressed to Kay Prince, at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

State of North Carolina, Air Quality Section, Division of Environmental Management, North Carolina Department of Environment, Health, and Natural Resources, Raleigh, North Carolina 27626.

Environmental Management Division, Mecklenburg County Department of Environmental Protection, 700 N. Tryon Street, Charlotte, North Carolina 28202–2236.

FOR FURTHER INFORMATION CONTACT: Kay Prince, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4221. Reference file NC–061–1–6815.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C), EPA designated Mecklenburg County of the Charlotte-Gastonia area as nonattainment by operation of law with respect to O_3 because the area was designated nonattainment immediately before November 15, 1990. The nonattainment area was expanded to include Gaston County per section 107(d)(1)(A)(i) (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR 81.318.) The area was classified as moderate.

The moderate nonattainment area more recently has ambient monitoring data that show no violations of the O_3 NAAQS, during the period from 1990 through 1993. Therefore, in an effort to comply with the Clean Air Act as amended in 1990 (CAA) and to ensure continued attainment of the NAAQS, on November 12, 1993, the State of North Carolina submitted an O_3 maintenance plan and requested redesignation of the area to attainment with respect to the O_3 NAAQS. On January 24, 1994, Region 4 determined that the information received from the State constituted a complete redesignation request under the general completeness criteria of 40 CFR 51, appendix V, sections 2.1 and 2.2. Subsequently, on December 16, 1994, and January 6, 1995, the State submitted additional information that refined the modeling and clarified the future measures needed to ensure maintenance of the O_3 NAAQS.

The North Carolina redesignation request for the Charlotte-Gastonia moderate O_3 nonattainment area meets the five requirements of section 107(d)(3)(E) for redesignation to attainment. The following is a brief description of how the State of North Carolina has fulfilled each of these requirements. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

1. The Area Must Have Attained the O_3 NAAQS

The State of North Carolina's request is based on an analysis of quality assured ambient air quality monitoring data, which is relevant to the maintenance plan and to the redesignation request. Most recent ambient air quality monitoring data for calendar year 1990 through calendar year 1993 show an expected exceedance rate of less than 1.0 per year of the O_3 NAAQS in the nonattainment area (*See* 40 CFR 50.9 and appendix H). The area has continued to demonstrate attainment to date. Because the nonattainment area has complete quality-assured data showing no violations of the O_3 NAAQS over the most recent consecutive three calendar year period, the area has met the first component of attainment of the O_3 NAAQS. The State of North Carolina has also met the second component of attainment of the O_3 NAAQS by committing to continue monitoring the moderate nonattainment area in accordance with 40 CFR part 58.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

On April 17, 1980, August 27, 1981, October 11, 1985, November 19, 1986, and December 19, 1986, EPA fully approved North Carolina's SIP as meeting the requirements of section 110(a)(2) and part D of the 1977 CAA (45 FR 26038, 46 FR 43137, 50 FR 41501, 51 FR 41786, and 51 FR 45468). The approved control strategy did not result in attainment of NAAQS for O_3 prior to the 1990 CAA. Additionally, the amended CAA revised section 182(a)(2)(A), 110(a)(2) and, under part

VOL 60 ISS 73 AP 17 1995 UMI

D, revised section 172 and added new requirements for all nonattainment areas. Therefore, for purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA reviewed the North Carolina SIP and ensures that it contains all measures due under the amended CAA prior to or at the time the State of North Carolina submitted its redesignation request.

Section 107(d)(3)(E) requires that, for an area to be redesignated, an area must have met all applicable requirements under section 110 and Part D. The USEPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must have met all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the Act that come due subsequently continue to be applicable to the area at those later dates (see section 175A(c)) and, if the redesignation of the area is disapproved, the State remains obligated to fulfill those requirements.

A. Section 110 Requirements

Although section 110 was amended by the CAA, the North Carolina SIP for the moderate nonattainment area meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2).

B. Part D Requirements

Before the moderate nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for O_3 nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of title I, specific requirements of subpart 2 may override subpart's general provisions (57 FR 13501 (April 16, 1992)). The Charlotte-Gastonia nonattainment area is classified as moderate (See 56 FR 56694, codified at 40 CFR 81.318). The State of North Carolina submitted the request for redesignation of the moderate nonattainment area on November 12, 1993. Therefore, in order to be redesignated to attainment, the State of North Carolina must meet the applicable requirements of subpart 1 of part D, specifically sections 172(c) and 176, and is also required to meet the applicable requirements of subpart 2 of part D, specifically sections 182(a) and (b).

a. *Subpart 1 of Part D.* Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment under the amended CAA. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the case of the Charlotte-Gastonia nonattainment area, the State has satisfied all of the section 172(c) requirements necessary for the area to be redesignated upon the basis of the November 12, 1993, redesignation request.

EPA has determined that the section 172(c)(2) reasonable further progress (RFP) requirement (with parallel requirements for a moderate ozone nonattainment area under subpart 2 of part D, due November 15, 1993) was not applicable as the State of North Carolina submitted this redesignation request on November 12, 1993. Also the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures (RACM) beyond what may already be required in the SIP are no longer necessary, since no earlier date was set for these measures and as RFP was not due until November 15, 1993.

The section 172(c)(3) emissions inventory requirement has been met by the submission of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1), which EPA is proposing to approve in this action.

The State of North Carolina has a fully-approved NSR program meeting the requirements of section 182(b)(5). Therefore, the section 172(c)(5) requirement has been met.

Section 176(c) of the CAA requires states to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable state SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by states must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. Congress provided for the state revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, EPA's General Preamble for the implementation of Title I informed states that its conformity regulations would establish a submittal date [*see* 57 FR 13498t 13557 (April 16, 1992)].

The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188), and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that states adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to § 51.396 of the transportation conformity rule and § 51.851 of the general conformity rule, the State of North Carolina is required to submit SIP revisions containing transportation and general conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994 and December 1, 1994, respectively. Because the deadlines for these submittals had not come due at the time of the submission of the redesignation request, they are not applicable requirements under section 107(d)(3)(E)(V) and, thus, do not affect approval of this redesignation request. The State of North Carolina submitted a SIP revision which contains the required conformity provisions on March 3, 1995.

b. *Subpart 2 of Part D—Section 182.* The CAA was amended on November 15, 1990, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. EPA was required to classify O_3 nonattainment areas according to the severity of their problem. On November 6, 1991 (56 FR 56694), the Charlotte-Gastonia area was designated as moderate O_3 nonattainment. Because the Charlotte-Gastonia area is a moderate O_3 nonattainment area, it is required to have met the requirements of sections 182(a), (b) and (f) of the CAA. EPA has analyzed the SIP and determined which requirements have been met and for which requirements further action is required. In the instances where further action is required, SIP revisions meeting those requirements must be fully approved in order for EPA to find that all the applicable requirements of the CAA have been met. Thus, final approval of this redesignation is contingent upon the final approval of the additional SIP submittals described below.

(1) Section 182(a)(1)—Emissions Inventory

Section 182(a)(1) of the CAA required an inventory of all actual emissions from all sources, as described in section 172(c)(3) to be submitted by November 15, 1992. On November 13, 1992, the State submitted an emission inventory for the Charlotte-Gastonia area. EPA is proposing to approve the inventory in this notice. Final approval of this redesignation is contingent on final approval of the emissions inventory.

(2) Section 182(a)(2), 182(b)(2)—Reasonably Available Control Technology (RACT)

Subsequent to the 1977 Clean Air Act Amendments, Mecklenburg County was designated as not meeting the O_3 NAAQS on March 3, 1978 (43 FR 8962). The State was subsequently required to revise its O_3 SIP for this area to meet the requirements of section 110(a)(2) and part D of the 1977 Clean Air Act. On April 17, 1980, August 27, 1981, October 11, 1985, November 19, 1986, and December 19, 1986, EPA fully approved North Carolina's SIP as meeting the requirements of section 110(a)(2) and part D of the 1977 CAA (45 FR 26038, 46 FR 43137, 50 FR 41501, 51 FR 41786, and 51 FR 45468). On December 31, 1987, EPA deemed that this control strategy had not resulted in the attainment of the NAAQS for O_3 in the Charlotte-Gastonia area. Consequently, Greer C. Tidwell, Region 4 Regional Administrator, sent a letter to James G. Martin, Governor of North Carolina, on May 26, 1988. This letter, pursuant to section 110(a)(2)(H) of the 1977 CAA, notified North Carolina that the SIP was substantially inadequate to achieve the NAAQS for O_3 in Charlotte and called upon the State to revise the SIP.

The 1990 CAA amended section 182(a)(2)(A), and Congress statutorily adopted the requirement that O_3 nonattainment areas correct their deficient RACT rules for O_3 (RACT Fix-ups). Areas designated nonattainment before amendment of the CAA and which retained that designation and were classified as marginal or above as of enactment are required to meet the RACT Fix-ups requirement. Under section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT regulations as required under pre-amendment guidance.[1] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. Charlotte was previously subject to RACT requirements for ozone. Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991, deadline.

The 1990 CAA also amended section 182(b)(2) which required RACT on all major sources of VOCs for O_3 nonattainment areas designated moderate and above (RACT Catch-ups) by November 15, 1992. The RACT Catch-ups provision required the State to submit a revision to the SIP to implement RACT on: (1) Each category of VOC sources in the area covered by a control technique guideline (CTG) document issued between the enactment of the 1990 CAA and the date of attainment (which is not an applicable requirement for purposes of this redesignation since the due date for these rules is November 15, 1994, a date after the submission of the redesignation request); (2) all VOC sources in the area covered by any CTG issued before the date of the 1990 CAA; and (3) all other major stationary sources of VOCs that are located in the area.

North Carolina submitted SIP revisions to correct deficiencies in the VOC regulations to EPA on September 21, 1989, January 14, 1991, and April 29, 1991, all prior to the May 15, 1991, deadline. Additionally, revisions to the Mecklenburg County local program regulations were submitted on August 13, 1991, and July 19, 1993. A **Federal Register** notice approving these SIP revisions was published on June 23, 1994 (59 FR 32365). The approval became effective on August 22, 1994.

North Carolina failed to meet the November 15, 1992, deadline date for RACT catch-ups and EPA notified the State on January 15, 1993, that a finding of failure to submit had been made. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the Federal Implementation Plan (FIP) VOC regulations for this area as required by section 110(c)(1).

The 18-month period prior to application of mandatory sanctions ended on July 15, 1994. North Carolina submitted SIP revisions to EPA on January 7, 1994, prior to the July 15, 1994, deadline. Because the revisions addressed all RACT Catch-up requirements and were found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Action to give final approval of the North Carolina RACT Catch-up provisions will be taken at the time or prior to final approval of this redesignation.

(3) Section 182(a)(3)—Emissions Statements

Section 182(a)(3) of the CAA required that the SIP be revised by November 15, 1992, to require stationary sources of oxides of nitrogen (NO_X) and VOCs to provide the State with a statement showing actual emission each year. North Carolina failed to meet the November 15, 1992, deadline date for Emissions Statements and EPA notified the State on January 15, 1993, that a finding of failure to submit had been made. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the Federal Implementation Plan (FIP) VOC regulations for this area as required by section 110(c)(1).

The 18-month period prior to application of mandatory sanctions ended on July 15, 1994. North Carolina submitted SIP revisions to EPA on December 17, 1993, prior to the July 15, 1994, deadline. Because the revision addressed all the Emission Statement requirements and was found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Final action regarding the North Carolina Emission Statement regulation will be taken at the time or prior to final approval of this redesignation. Approval of this redesignation is contingent upon approval of the emission statement regulation.

(4) Section 182(b)(1)—15% Progress Plans

Section 182(b)(1) of the CAA required states to submit a revision to the SIP by

[1] Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy, 52 FR 45044 (Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing Control Technology Guidelines (CTGs).

VOL 60 ISS 73 AP 17 1995 UMI

November 15, 1993, to provide for VOC emission reductions by November 15, 1996, of at least 15% from baseline emissions accounting for any growth in emissions after the date of enactment of the CAA. The State failed to submit the required revisions and as a result, on January 28, 1994, EPA issued a finding letter notifying North Carolina of a finding of failure to submit. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the FIP 15% regulations for this area as required by section 110(c)(1). However, the letter acknowledges the submittal of this redesignation request to attainment and stated that if the redesignation request to attainment is approved then requirements for a 15% plan SIP will be unnecessary for the Charlotte-Gastonia area. Therefore, upon approval of this redesignation request, the sanctions clock will stop. As the requirement to submit a 15% plan did not come due until November 15, 1993, the 15% plan requirement is not an applicable requirement for purposes of the evaluation of this redesignation request.

(5) Section 182(b)(3)—Stage II

Section 182(b)(3) of the CAA required moderate areas to implement Stage II gasoline vapor recovery systems unless and until EPA promulgated onboard vapor recovery (OBVR) regulations. On January 24, 1994, EPA promulgated the OBVR rule, and, as section 202(a)(b) of the CAA provides that once the rule is promulgated, moderate areas are no longer required to implement Stage II. Thus, the Stage II vapor recovery requirement of section 182(b)(3) is no longer an applicable requirement.

(6) Section 182(b)(4)—Motor Vehicle Inspection and Maintenance (I/M)

The CAA required all moderate and above areas to revise the SIP to include provisions necessary to provide for a vehicle inspection and maintenance program. The State failed to submit the required revisions and as a result, on January 15, 1993, EPA issued a finding letter notifying North Carolina of a finding of failure to submit. This finding of failure to submit triggered the: (1) 18-month time clock for mandatory application of sanctions under section 179(a); (2) the Administrator's discretionary authority to impose sanctions under section 110(m); and (3) the 2-year time clock for promulgation of the FIP I/M regulations for this area as required by section 110(c)(1). However, on July 19, 1993, the State submitted revisions to their I/M regulations, prior to the July 15, 1994, deadline. Because the revision addressed all the I/M requirements and was found to contain all required administrative and technical components, the 18-month time clock for mandatory application of sanctions under section 179(a) was stopped. Final action regarding the North Carolina I/M regulation will be taken at the time or prior to final approval of this redesignation. The approval of this redesignation is contingent upon final approval of the I/M regulation.

(7) Section 182(b)(5)—New Source Review (NSR)

The CAA required all classified nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions of VOCs compounds will not result from any new or major source modifications and a general offset rule. The State submitted a NSR rule on January 7, 1994, to incorporate VOC and oxides of nitrogen (NO_X) permit review requirements for new and modified sources in North Carolina's O_3 nonattainment areas. The revised permit requirements meet new offset ratios and additional provisions for moderate O_3 nonattainment areas. EPA approved this rule on October 31, 1994 (59 FR 54388), giving North Carolina a fully approved NSR program. (EPA notes that under the policy announced in the memorandum, "Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment," dated October 14, 1994, from Mary D. Nichols to Air Division Directors I–X, approval of the NSR submittal is not necessarily required for approval of a redesignation.)

(8) Section 182(f)—Oxides of Nitrogen (NO_X) Requirements

Section 182(f) of the CAA requires states with areas designated nonattainment for O_3 and classified as moderate and above to impose the same control requirements for major stationary sources of NO_X as apply to major stationary sources of volatile organic compounds (VOCs). These control requirements, NO_X RACT and NO_X NSR, were to be submitted to EPA in a SIP revision by November 15, 1992. EPA adopted a policy pursuant to section 110(k)(4) of the CAA to conditionally approve NO_X RACT SIPs which committed to provide EPA with specific enforceable measures within one year of the date of approval of the commitment. EPA's committal SIP policy was challenged in *Natural Resources Defense Council* v. *Browner*—in the United States Court of Appeals for the District of Columbia Circuit. In a full Opinion, dated May 6, 1994, the Court found that EPA's conditional approval interpretation exceeded the EPA's statutory authority, but concluded that "EPA properly extended" to November 15, 1993, the deadline for submittal of fully enforceable NO_X RACT SIPs. As a result of this court case, the deadline to submit NO_X RACT rules was November 15, 1993. Therefore, because that date is after the State submitted the redesignation request, NO_X RACT is not an applicable requirement for this redesignation request.

3. The Area Has a Fully Approved SIP Under Section 110(k) of the CAA

Based on the approval of provisions under the pre-amended CAA and EPA's prior approval of SIP revisions under the amended CAA, EPA has determined that North Carolina will have a fully approved O_3 SIP under section 110(k) for the moderate nonattainment area if EPA approves SIP submissions regarding the emissions inventory, emission statements, VOC RACT catch-ups, and I/M. Final action will be taken prior to or at the same time as final approval of this redesignation.

4. The Air Quality Improvement Must Be Permanent and Enforceable

Several control measures have come into place since the Charlotte-Gastonia nonattainment area violated the O_3 NAAQS. Of these control measures, the reduction of fuel volatility from 10.6 psi in 1987 to less than 9.0 psi in 1990, and finally to less than 7.8 psi beginning with the summer of 1992, as measured by the Reid Vapor Pressure (RVP), and fleet turnover due to the Federal Motor Vehicle Control Program (FMVCP) produced the most significant decreases in VOC emissions. The reduction in VOC emissions due to the mobile source regulations from 1987 to 1990 is 26.01 tons per day (29.63%). The VOC emissions in the base year are not artificially low due to a depressed economy.

5. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems.

In this notice, EPA is proposing approval of the State of North Carolina's maintenance plan for the Charlotte-Gastonia nonattainment area because EPA finds that North Carolina's submittal meets the requirements of section 175A.

A. Emissions Inventory—Base Year Inventory

On November 13, 1992, the State of North Carolina submitted comprehensive inventories of VOC, NO_X, and CO emissions from the Charlotte-Gastonia nonattainment area. The inventory included biogenic, area, stationary, and mobile sources for 1990.

The State of North Carolina submittal contains the detailed inventory data and summaries by county and source category. Finally, this inventory was prepared in accordance with EPA guidance. A summary of the base year inventory is included in this notice. This notice proposes approval of the base year inventory for the Charlotte-Gastonia area.

1990 CHARLOTTE/GASTONIA TYPICAL SUMMER DAY EMISSIONS TONS PER DAY (TPD)

Category	NO_X	VOC	CO
Point	31.25	33.99	35.27
Area	4.92	67.59	25.00
Nonroad	15.52	19.38	138.45
Biogenic	2.78	54.41	0.0
Mobile	61.64	50.81	371.26
Total	116.11	226.18	569.96

B. Demonstration of Maintenance—Urban Airshed Modeling

a. Proposed Control Strategy

The plan must demonstrate maintenance for at least 10 years. The North Carolina plan demonstrates maintenance out to the year 2005 through the use of the Urban Airshed Model (UAM). The revised modeling runs, submitted in the December 16, 1994 supplement, were completed for three meteorological episodes during which the area experienced exceedances of the ozone standard. These runs corrected and completed the modeling submitted in the original November 1993 submittal pursuant to EPA comments. Base and future case modeling was done according to guidelines presented in the EPA document "Guideline for Regulatory Application of the Urban Airshed Model" in performing the modeling analysis. The future case modeling includes the interim year 1999 and the 10 year maintenance year of 2005. This modeling analysis did not assume any benefit from the NSR program.

Modeling for all three episodes indicated that to predict all grid cells below .124 parts per million (ppm) for both 1999 and 2005, additional controls would be needed. The analysis of control options showed that a further reduction of VOC emissions of 25 percent demonstrated a 1 part per billion (ppb) reduction of ozone and a further reduction of VOC emissions of 50 percent demonstrated a 2 ppb or less reduction in ozone. By contrast, a 35 percent further reduction of NO_X resulted in a 10–12 ppb reduction in ozone. Therefore, North Carolina concluded that the NO_X controls will be more effective in the maintenance of the standard in the Charlotte/Gastonia area, and, hence, the selected strategy primarily consists of controls of NO_X emissions. The revised modeling and the identified control measures will be the subject of a public hearing on April 19, 1995. The selected control strategy includes the following measures:

- Reformulated Gasoline to meet the Federal Phase I and Phase II standards to begin in 1999 in Mecklenburg, Gaston, Union, Cabarrus, Lincoln, Rowan, and Iredell Counties;
- Clean Fuel Fleet Program, including the schedule for implementation as specified in the CAA for areas classified serious and above, in the same seven counties previously listed;
- Burning bans in the seven counties for the months of June, July, and August;
- Control of NO_X for the Transcontinental Natural Gas Pumping Station in Iredell County for the months of June, July, and August; and
- Additional 10 percent control beyond the control being applied to meet title IV NO_X requirements on Duke Power's Allen and Riverbend facilities in Gaston County for the months of June, July, and August.

The State will also take comment at the public hearing on the feasibility of substituting an enhanced I/M program for the reformulated gasoline measure. The modeling results indicate that such substitution would show maintenance of the standard. The strategy represents a combination of mobile and stationary source controls that provide a 25 ton per day reduction in NO_X emissions resulting in a 2–6 ppb reduction in ozone, depending upon the meteorological episode. The modeling for all three meteorological episodes for both 1999 and 2005 with the above described control strategy showed attainment of the O_3 standard. The State has committed to develop regulations necessary to implement a control strategy that will demonstrate maintenance of the ozone standard through 2005, and submit those regulations to EPA for approval into the maintenance plan.

b. Request for Comments

Consistent with the notice of public hearing for the redesignation of the Charlotte-Gastonia ozone nonattainment area, the State will take comment on the aforementioned control strategy, that strategy with enhanced I/M as a substitute for the reformulate gasoline measure, and any combination of those control measures. EPA invites comment on the following scenarios:

(a) Adoption and implementation in 1999 of the five measures as detailed above;

(b) Adoption and implementation in 1999 of the five measures as detailed above with enhanced I/M substituted for the reformulated gasoline program;

(c) Adoption and implementation in 1999 of the aforementioned controls on the Transcontinental Natural Gas Pumping Station in Iredell County and the additional 10 percent control beyond the title IV requirements on Duke Power's Allen and Riverbend facilities in Gaston County; or

(d) Approval of the request as demonstrating maintenance with no additional VOC or NO_X controls.

Scenarios a and b both involve a combination of measures that results in the modeling showing attainment of the standard in all grid cells. Scenario a, however, involves the inclusion by the State in the maintenance plan of regulations to require the sale of reformulated gasoline beginning in 1999. EPA specifically requests comment regarding the issue of whether such regulations may be adopted or enforced in maintenance or attainment areas by a state in light of the preemption provisions of section 211(c)(4) of the CAA.

Scenarios c and d, on the other hand, do not provide for the adoption of control measures that result in the modeling showing attainment of the standard in all grid cells. EPA requests comment as to whether, in light of the reasons described below, a maintenance plan based on either scenario c or d should be approved for the Charlotte area. Under scenario d, no additional controls approved for maintenance, the modeling shows 3 to 4 grid cells out of 625 over the standard. The range of predicted values above .124 ppm for this scenario is .125 ppm to .129 ppm.

VOL
60
ISS
73
AP
17
1995
UMI

Although the ozone modeling guidance generally requires that modeling results show attainment of the standard in all grid cells, it does allow alternative methods for demonstrating attainment on a case by case basis. EPA believes that the modeling demonstration submitted by the State of North Carolina is sufficiently conservative so that it is likely that the O_3 NAAQS will continue to be maintained in the Charlotte area without the State having to invoke costly additional measures adopted in the maintenance standard. That belief is based on the combination of the following factors:

(1) North Carolina has five years of air quality data showing attainment of the standard.

(2) The maintenance plan contains pre-adopted measures and a violation would trigger reduction in emissions by the following ozone season.

(3) The ozone standard is a statistically based NAAQS that allows one exceedance per year.

(4) North Carolina has done extensive modeling to gain an understanding of the creation of ozone in the Charlotte area and has generally made conservative assumptions in selecting modeling inputs.

(5) The uncertainties in the biogenic emission inventory and other modeling inputs are well within the range of the 2–3 ppb needed to reach the .124 ppm in all grid cells.

(6) The modeling did not account for lower VOC, NO_X and O_3 boundary conditions expected when SIP attainment control programs have been implemented in many areas throughout the United States.

Therefore, EPA believes the area is eligible for redesignation with the existing control strategy and the contingency plan discussed below.

The emissions budget for conformity is contingent upon the control strategy selected pursuant to the April 19, 1995, public hearing. That budget will be published in any notice that takes final action approving this redesignation request.

C. Verification of Continued Attainment

Continued attainment of the O_3 NAAQS in the nonattainment area depends, in part, on the State of North Carolina's efforts toward tracking indicators of continued attainment during the maintenance period. The primary trigger of the contingency plan will be a violation of the ambient air quality standard for ozone. The trigger date will be the date that the State certifies to EPA that the data is quality assured, which will occur no later than 30 days after the recorded violation. The secondary trigger of the contingency plan will be an exceedance of the ozone standard that would indicate a violation could be imminent. This trigger will be activated within 30 days of the State finding the exceedance.

Once either the primary or the secondary trigger is activated, the State Air Quality Section will commence analysis, including updated modeling as necessary, to determine what control measures will be required to bring the area back into attainment. By May 1 of the year following the ozone season in which the primary trigger has been activated, the State will complete the analysis and adopt stationary control measures indicated by the analysis, using the emergency rule process as necessary. The time frame for adopting measures other than for stationary sources will be based on the time frames in section 181(b) of the CAA. Where only the secondary trigger has been activated, the State will complete the analysis and begin the regulatory adoption process for any measures that are needed by May 1 of the following year.

D. Contingency Plan

The level of VOC and NO_X emissions in the nonattainment areas will largely determine its ability to stay in compliance with the O_3 NAAQS in the future. Despite the State's best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, the State of North Carolina has provided contingency measures with a schedule for implementation in the event of a future O_3 air quality problem. The actual measures will be determined from the analysis process described in the Verification of Continued Attainment portion of this notice. The measures analyzed will include RACT or greater level control for NO_X and VOC sources, Stage II vapor control for gasoline dispensing facilities, enhancements to the I/M program, transportation control measures, and any other appropriate measures. EPA finds that the contingency plan provided in the State of North Carolina's submittal meets the requirements of section 175A(d) of the CAA.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State of North Carolina has agreed to submit a revised maintenance SIP eight years after the nonattainment area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional ten years.

6. Proposed Action

EPA proposes approval of the State of North Carolina's request to redesignate to attainment the Charlotte-Gastonia O_3 nonattainment area and maintenance plan contingent upon a full and final approval of the outstanding requirements discussed above (emission statement, RACT catch-ups, emission inventory and I/M). EPA also proposes to approve the 1990 baseyear inventory for the Charlotte-Gastonia nonattainment area.

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

List of Subjects

40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: April 5, 1995.

Joe R. Franzmathes,

Acting Regional Administrator.

[FR Doc. 95–9248 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5192–5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List; Intent To Delete Pesses Chemical Co., TX

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Pesses Chemical Company Site from the National Priorities List: Request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Pesses Chemical Company Site (Site) from the National Priorities List (NPL), 40 CFR part 300, Appendix B, and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of Texas, through the Texas Natural Resource Conservation Commission (TNRCC), have determined that all appropriate actions under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that response activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: The EPA will accept comments concerning its proposal to delete until May 17, 1995.

ADDRESSES: Comments may be mailed to: Ms. Olivia Rodriguez-Balandran, Community Relations Coordinator, U.S. EPA, Region 6 (6H–MC), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6584 or, 1–800–533–3508.

Comprehensive information on the Site is available for review at EPA's Region 6 office in Dallas, Texas. The Administrative Record for this Site is maintained in EPA's Region 6 Library and is available for viewing from 7:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The address for the Region 6 Library office is: U.S. EPA, Region 6, Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424 or 665–6427.

The Administrative Record also is available for viewing at the Pesses Chemical Company Site information repositories located at:

Fort Worth Public Library, Seminary South Branch, 501 East Bolt Street, Fort Worth, Texas 76110, (817) 926–0215.

Texas Natural Resource Conservation Commission, 12118 North IH35, Building D, Room 190, Austin, Texas 78753, (512) 239–2920.

Certain background information, including EPA's proposal to delete the Site from the NPL and the basis for EPA's proposal, is available for viewing at the following additional Pesses Chemical Company Site information repositories. A complete copy of the Administrative Record is not maintained at these locations:

City Secretary's Office, Fort Worth City Hall, 1000 Throckmorton, Fort Worth, Texas 76102.

Fort Worth Central Library, 300 Taylor Street, Fort Worth, Texas 76102.

Texas Christian University, Mary Couts Burnett Library, 2800 University Drive, Fort Worth, Texas 76109.

FOR FURTHER INFORMATION CONTACT: Mr. Earl G. Hendrick, U.S. EPA, Region 6 (6H–SC), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8519.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The United States Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Pesses Chemical Company Site, Fort Worth, Tarrant County, Texas, (Site) from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. The NPL is a list maintained by EPA of sites that EPA has determined present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). Pursuant to 40 CFR 300.425(e) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

The EPA will accept comments concerning its intent to delete for thirty (30) days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of the Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to § 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

Section 300.425(e)(1)(i) Responsible parties or other persons have implemented all appropriate response actions required; or,

Section 300.425(e)(1)(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

Section 300.425(e)(1)(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future site conditions warrant such actions. Section 300.425(e)(3) of the NCP provides that Fund-financed actions may be taken at sites that have been deleted from the NPL.

In addition, deletion of a site from the NPL does not affect the liability of responsible parties or impede agency efforts to recover costs associated with response efforts.

III. Deletion Procedures

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management.

Upon determination that at least one of the criteria described in § 300.425(e) has been met, EPA may formally begin deletion procedures. The following procedures were used for the intended deletion of the Site:

(1) EPA Region 6 has recommended deletion and has prepared the relevant documents.

(2) The State of Texas concurred by letter dated June 2, 1994, with the deletion decision.

(3) Concurrent with this National Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate federal, state, and local officials, and other interested parties. This local notice announces a thirty (30) day public comment period on the deletion package, which starts with the publication of this notice in the **Federal Register**.

(4) The Region has made all relevant documents available in the Regional Office and local Site and State of Texas information repositories.

VOL 60 ISS 73 AP 17 1995 UMI

These procedures have been completed for the Site. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day public comment period and the availability of the Notice of Intent to Delete. The public is asked to comment on EPA's proposal to delete the Site from the NPL; all critical documents needed to evaluate EPA's decision are included in the information repositories and are included in the deletion docket.

Upon completion of the 30-day public comment period, the EPA Regional Office will evaluate these comments before the final decision to delete. The Region will prepare a Responsiveness Summary, if necessary, which will address concerns presented in the comments received during the public comment period. Any Responsiveness Summary will be made available to the public at the information repositories listed previously. Members of the public are welcome to contact the EPA Regional Office to obtain a copy of the Responsiveness Summary, if any. If EPA still determines that deletion from the NPL is appropriate after receiving public comments, a final notice of deletion will be published in the **Federal Register**. The deletion of the Site does not actually occur until the Notice of Deletion is published in the **Federal Register**.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for deleting the Pesses Chemical Company Site from the NPL.

The Site is located at 2301 South Main Street, Fort Worth, Tarrant County, Texas. The Site is in a light industrial and commercial area. The 4.2 acre Site was used to reclaim cadmium and nickel from dry-cell batteries and metal sludge. The Pesses Company, under the name Pesses S'West, conducted reclaiming activities from approximately June 1979 until January 1981.

In April 1983, EPA removed 3,400 cubic yards of contaminated soil, metal sludge, drummed material, and debris from the Site and shipped the waste to Chemical Waste Management, in Port Arthur, Texas. The Site was proposed for inclusion on the NPL on October 15, 1984, (49 FR 40320) with a score of 28.86, due mainly to the potential migration of heavy metals via airborne dust and surface water runoff from the Site. The Site was finalized on the NPL on June 10, 1986, (51 FR 21054). EPA assigned the Texas Water Commission, predecessor to the Texas Natural Resource Conservation Commission (TNRCC), as the lead agency for remedial activities for the Site. The Remedial Investigation/Feasibility Study (RI/FS) was performed between December 1987 and October 1988. Although the imminent health threat had been alleviated by the EPA Emergency Response Team removal action conducted in April 1983, the RI determined that residual contamination of cadmium and nickel in the soils (to a depth of two to three feet over most of the Site) and in the metal warehouse and process equipment posed health and environmental threats requiring remediation. Concentrations of cadmium averaged above 300 milligrams per kilogram (mg/kg) of soil. Dust in some process equipment contained as much as 59 percent cadmium and 26 percent nickel. No organic contaminants were found at concentrations which posed health or environmental impacts. No asbestos was detected. Because the ground water is 380 feet below low permeability clay, shale and shaley limestone, and the maximum depth of Site contaminants was less than 13 feet, EPA has determined that the ground water was not and will not, in the future, be affected by the Site.

The EPA Regional Administrator signed the Record of Decision (ROD) for the Site on December 22, 1988, selecting in-situ stabilization of the contaminated soils and Site contaminants, plus capping as the remedy. EPA selected this remedy because it eliminates the principal threat posed by the Site conditions by eliminating the possibility of human exposure with the metals of concern and preventing the spread of contaminants.

During the preparation of the bid specifications for the remedial action, EPA recognized that the south field was not wide enough in some areas to support a four foot thick protective clay cap over the stabilized waste material. Therefore, on June 8, 1990, EPA issued an Explanation of Non-Significant Change (ENSC) explaining EPA's decision to substitute the four foot thick clay cap with an 80 mil thick high density polyethylene (HDPE) liner and an eight inch thick, double reinforced concrete cap. This type of concrete cap, to be placed on the southern portion of the Site, is similar to the cap specified in the ROD for the northern portion of the Site and would not increase the cost of the remedial action.

After a competitive bid process, TNRCC awarded the remediation contract to the lowest responsive, responsible bidder. The former Site operations area consisted of a metal warehouse with various pieces of equipment, a baghouse, two underground sumps, and a south storage yard with a concrete pad. The remedial action contractor (Contractor) removed the refractory from the furnaces and the two sumps from the ground. The Contractor eventually consolidated this material with the dust and bags from the baghouse and the contaminated soil. The Contractor decontaminated the metal warehouse building, drums and metal process equipment by high pressure water washing. TNRCC's oversight Engineer (Engineer) collected and analyzed wipe samples for cadmium and nickel.

The Contractor excavated 1,806 cubic yards of offsite contaminated soil and 10,553 cubic yards of onsite contaminated soil. The excavated material was placed in the south field and stabilized in-situ with a mixture of 1 part cement kiln dust to 9 parts Site-contaminated soil by weight. Equilibrium Partitioning Toxicity Tests verified that the Site contaminants did not leach out of the stabilized soil.

An 80 mil thick textured HDPE liner was then installed over the stabilized soil by the HDPE manufacturer's licensed installer and all line seams were tested in accordance with the manufacturer's specifications. An eight inch thick, double reinforced steel concrete cap was placed over the HDPE top liner and sealed according to the sealer manufacturer's specifications. A fence was installed around the Site. Contaminated soil excavated from the northern portion of the Site was replaced with clean soil and covered with an eight inch thick, double reinforced steel concrete cap. Contaminated soil excavated from offsite was replaced with clean soil and sodded.

Other than the material required for laboratory analysis, all contaminated material remained on the Site and is contained within the fenced and capped area. To reduce the quantity of buried material and to recycle steel, decontaminated steel was removed from the Site. Contaminated wash water was used in the contaminated soil compaction and stabilization activities. Air monitoring analyses during construction found no contaminant levels of concern.

EPA, TNRCC, and TNRCC's Engineer conducted the Construction Final Inspection on September 15, 1992. The team determined that the remedial action had been completed successfully. The Engineer's Final Remedial Action Report, detailing the remedial activities and documenting the successful completion of all construction activities, was submitted in November 1992. On September 30, 1993, the Acting Regional Administrator signed the EPA Final Close Out Report. EPA released a Fact Sheet describing this report and the status of the Site in January 1994.

The Cooperative Agreement between EPA and TNRCC budgeted $2,552,898 for all of TNRCC's remedial design and remedial action activities, including the Construction Contract, oversight and the State ten percent cost share and the first year of Operation and Maintenance. The final actual cost expenditure for these activities totaled $1,383,320.

The EPA/TNRCC community relations activities included: a public meeting in 1985 to explain the Superfund process and to learn of citizen concerns; a questionnaire to area officials and residents requesting information on their concerns or issues related to the Site; an EPA briefing to Fort Worth health officials regarding the proposed remedy; and a meeting in November 1988 to present the alternatives developed in the FS and EPA's preferred alternative for remedial action. In June 1990, TNRCC presented the plans for the Remedial Action (RA). In April 1992, EPA and TNRCC met with railroad personnel working adjacent to the Site to discuss their concerns regarding possible exposures to Site contaminants during the Pesses metal reclamation operations and during the remedial action. EPA and TNRCC explained that they could not determine the worker exposure during the time that Pesses S'West conducted metal reclamation operations, gave the workers information regarding cadmium, nickel and lead poisoning, and suggested that the workers contact their employer-provided physician or their own personal physician. EPA and TNRCC also explained that air monitoring at the perimeter of the Site would ensure that no detectable quantities of contaminants left the Site during remediation activities.

All EPA completion requirements for the Site have been met. Specifically, confirmatory sampling verified that soil and dust contaminated with greater than 15 parts per million (ppm) cadmium or 100 ppm nickel was excavated, stabilized with cement kiln dust, capped and fenced in accordance with the ROD and the ENSC. Confirmatory soil sampling and the backfilling of the excavated areas with clean soil provides further assurance that the area no longer poses any threats to human health or to the environment and no further Superfund response is appropriate.

The Site Review and Update, prepared by the Texas Department of Health under a Cooperative Agreement with the Agency for Toxic Substances and Disease Registry (ATSDR), issued on September 1, 1993, states that all of ATSDR's previous recommendations have been addressed or can be dismissed. The potential threat to human exposure has been eliminated.

TNRCC's Engineer conducted quarterly Site inspections for TNRCC during the one year Operational and Functional (O&F) period from September 1992 to September 1993 and reported the results to TNRCC. The Site concrete cap and fencing were inspected for integrity. EPA, TNRCC and TNRCC's Engineer conducted the final O&F inspection on September 10, 1993. There were no cracks in the concrete but there were minor surface cracks in the asphalt sealant covering the joint fillers and one hole cut in the fence. Repairs were made. EPA determined that the remedial action was successful in protecting the public health and welfare.

The State assumed all responsibility for Operation & Maintenance (O&M) at the Site as of October 1, 1993. Therefore, long-term O&M of the Site will be under the direction of the State of Texas, as guaranteed in the Cooperative Agreement awarding remedial action funds. O&M consists of inspecting the concrete cap and security fence for integrity and making all needed repairs.

Hazardous substances, above health-based levels, remain in the stabilized and capped soil located on the southern portion of the Site. These materials prevent unlimited use and unrestricted access to this portion of the Site. For this reason, EPA will conduct statutory five-year reviews, pursuant to Office of Solid Waste and Emergency Response Directive 9355.7–02, "Structure and Components of Five-Year Reviews". EPA will conduct the first review before September 1996. These reviews will allow EPA and the State to determine whether the protectiveness of the remedy for the Site will be maintained over time.

Based on the successful stabilization of the hazardous materials onsite, the results of O&M activities to date, and ATSDR's favorable review, the remedy is protective and no additional response action is necessary. State funded O&M and EPA funded five-year reviews will continue in the future, but EPA may proceed with the Site deletion since applicable deletion criteria have been satisfied.

EPA, with concurrence of the State of Texas, has determined that all appropriate responses under CERCLA at the Pesses Chemical Company Site have been completed, and that no further response action, other than O&M and Five-Year reviews, is necessary. Therefore, EPA proposes to delete the Site from the NPL.

Dated: April 7, 1995.

A. Stanley Meiburg,

Acting Regional Administrator, US EPA Region 6.

[FR Doc. 95–9384 Filed 4–14–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–38, RM–8587]

Television Broadcasting Services; Kailua, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Paul Alfred Tennyson, proposing the allotment of Television Channel 50 to Kailua, Hawaii, as that community's first local television service. The allotment can be made consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules. The coordinates for the proposed allotment of Channel 50 to Kailua are North Latitude 21–24–00 and West Longitude 157–44–30. This proposal is not affected by the freeze on television allotments or applications.

DATES: Comments must be filed on or before June 1, 1995, and reply comments on or before June 16, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Paul Alfred Tennyson, 305 Hahani Street, #118, Kailua, Hawaii 96734 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–38, adopted March 28, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW, Room 246, or

VOL 60 ISS 73 AP 17 1995 UMI

2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9415 Filed 4–14–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–36, RM–8547]

Radio Broadcasting Services; Billings, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Conway Broadcasting requesting the allotment of Channel 298C at Billings, Montana. Channel 298C can be allotted to Billings without a site restriction at coordinates 45–46–48 and 108–30–18.

DATES: Comments must be filed on or before June 1, 1995, and reply comments on or before June 16, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Conway Broadcasting, 4415 Fremont Avenue, South, Minneapolis, Minnesota 55409.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-36, adopted March 28, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9416 Filed 4–14–95; 8:45 am]

BILLING CODE 6712–01–F

Notices

Federal Register

Vol. 60, No. 73

Monday, April 17, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Rocky Mountain Region: Colorado et al.; Legal Notice of the Opportunity To Comment on Certain Proposed Actions and of Decisions Subject to Notice and Comment

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This is a list of those newspapers that will be used to publish notice of all decisions which are subject to appeal under 36 CFR part 217, notice of the opportunity to comment on certain proposed actions pursuant to 36 CFR 215.5, and notice of decisions subject to appeal under the general provisions of 36 CFR Part 215. As required at 36 CFR 215.5 and 215.9, such notice shall constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to public notice and comment and administrative appeal. Newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: Use of these newspapers for purposes of publishing the notices required under the provisions of 36 CFR Part 215 shall begin January 3, 1994.

FOR FURTHER INFORMATION CONTACT: John P. Halligan, Regional Appeals and Litigation Coordinator, Rocky Mountain Region, Box 25127, Lakewood, Colorado 80225, Area Code 303–275–5148.

SUPPLEMENTARY INFORMATION:

Responsible Officials in the Rocky Mountain Region shall give notice of the opportunity to comment on certain proposed actions and of decisions subject to appeal pursuant to 36 CFR Part 215 in the following newspapers which are listed by Forest Service unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. The day after the publication of the public notice in the primary newspaper shall be the first day of the appeal filing period.

Decisions by the Regional Forester

The Denver Post, published daily in Denver, Denver County, Colorado, for decisions affecting National Forest System lands in the States of Colorado, Nebraska, Kansas, and eastern Wyoming and for any decision of Region-wide impact. In addition, notice of decisions made by the Regional Forester will also be published in the *Rocky Mountain News*, published daily in Denver, Denver County, Colorado. Notice of decisions affecting National Forest System lands in the State of South Dakota will also be published in *The Rapid City Journal*, published daily in Rapid City, Pennington County, South Dakota. For those decisions affecting a particular unit, the newspaper specific to that unit will be used.

Arapaho and Roosevelt National Forests, Colorado

Forest Supervisof Decisions

The Denver Post, published daily in Denver, Denver County, Colorado.

District Ranger Decisions

Redfeather and Estes-Poudre Districts: *Coloradoan*, published daily in Fort Collins, Larimer County, Colorado.

Pawnee District: Greeley Tribune, published daily in Greeley, Weld County, Colorado.

Boulder District: Boulder Daily Camera, published daily in Boulder, Boulder County, Colorado.

Clear Creek District: Clear Creek Courant, published weekly in Idaho Springs, Clear Creek County, Colorado.

Sulphur District: Granby Sky High News, published weekly in Granby, Grand County, Colorado.

Grand Mesa, Uncompahgre and Gunnison National Forests, Colorado

Forest Supervisor Decisions

Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

District Ranger Decisions

Collbran and Grand Junction Districts: Grand Junction Daily Sentinel, published daily in Grand Junction, Mesa County, Colorado.

Paonia District: Delta County Independent, published weekly in Delta, Delta County, Colorado.

Cebolla and Taylor River Districts: Gunnison Country Times, published weekly in Gunnison, Gunnison County, Colorado.

Norwood District: Telluride Times-Journal, published weekly in Telluride, San Miguel County, Colorado.

Ouray District: Montrose Daily Press, published daily in Montrose, Montrose County, Colorado.

Pike and San Isabel National Forests

Forest Supervisor Decisions

Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

District Ranger Decisions

San Carlos District: Pueblo Chieftain, published daily in Pueblo, Pueblo County, Colorado.

Comanche District: Plainsman Herald, published weekly in Springfield, Baca County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *La Junta Tribune Democrat*, published daily in La Junta, Otero County, Colorado, and in the *Ark Valley Journal*, published weekly in La Junta, Otero County, Colorado.

Cimarron District: Tri-State News, published weekly in Elkhart, Morton County, Kansas.

South Platte District: Daily News Press, published daily in Castle Rock, Douglas County, Colorado. In addition, notice of decisions made by the District Ranger will also be published in the *High Timber Times*, published weekly in Conifer, Jefferson County, Colorado, and in the *Fairply Flume*, published weekly in Fairplay, Park County, Colorado.

Leadville District: Herald Democrat, published weekly in Leadville, Lake County, Colorado.

Salida District: The Mountain Mail, published daily in Salida, Chaffee County, Colorado.

South Park District: Fairplay Flume, published weekly in Fairplay, Park County, Colorado.

VOL
60
ISS
73
AP
17
1995
UMI

Pikes Peak District: Gazette Telegraph, published daily in Colorado Springs, El Paso County, Colorado.

Rio Grande National Forest, Colorado

Forest Supervisor Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

District Ranger Decisions

Valley Courier, published daily in Alamosa, Alamosa County, Colorado.

Routt National Forest, Colorado

Forest Supervisor Decisions

Steamboat Pilot, published weekly in Steamboat Springs, Routt County, Colorado. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will also be used.

District Ranger Decision

Bears Ears District: Northwest Colorado Daily Press, published daily in Craig, Moffat County, Colorado. In addition, notice of decisions by the District Ranger will also be published in the *Hayden Valley Press*, published weekly in Hayden, Routt County, Colorado, and in the *Steamboat Pilot*, published weekly in Steamboat Springs, Routt County, Colorado.

Yampa and Hahns Peak Districts: *Steamboat Pilot*, published weekly in Steamboat Springs, Routt County, Colorado.

Middle Park District: Middle Part Times, published weekly in Kremmling, Grand County, Colorado.

North Park District: Jackson County Star, published weekly in Walden, Jackson County, Colorado.

San Juan National Forest, Colorado

Forest Supervisor Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

District Ranger Decisions

Durango Herald, published daily in Durango, La Plata County, Colorado.

White River National Forest, Colorado

Forest Supervisor Decisions

The Glenwood Post, published Monday through Friday in Glenwood Springs, Garfield County, Colorado.

District Ranger Decisions

Aspen District: Aspen Times, published weekly in Aspen, Pitkin County, Colorado.

Blanco District: Meeker Herald, published weekly in Meeker, Rio Blanco County, Colorado.

Dillon District: Summit Sentinel, published twice weekly in Frisco, Summit County, Colorado.

Eagle District: Eagle Valley Enterprise, published weekly in Eagle, Eagle County, Colorado.

Holy Cross District: Vail Trail, published weekly in Minturn, Eagle County, Colorado.

Rifle District: Rifle Telegram, published weekly in Rifle, Garfield County, Colorado.

Sopris District: Valley Journal, published weekly in Carbondale, Garfield County, Colorado.

Nebraska National Forest, Nebraska

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota for decisions affecting National Forest System lands in the State of South Dakota.

The Omaha World Herald, published daily in Omaha, Douglas County, Nebraska for decisions affecting National Forest System lands in the State of Nebraska.

District Ranger Decisions

Bessey District: The North Platte Telegraph, published daily in North Platte, Lincoln County, Nebraska.

Samuel R. McKelvie National Forest: The Valentine Newspaper, published weekly in Valentine, Cherry County, Nebraska.

Fall River and Wall Districts: The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Pine Ridge District: The Chadron Record, published weekly in Chadron, Dawes County, Nebraska.

Black Hills National Forest, South Dakota and Eastern Wyoming

Forest Supervisor Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

District Ranger Decisions

The Rapid City Journal, published daily in Rapid City, Pennington County, South Dakota.

Bighorn National Forest, Wyoming

Forest Supervisor Decisions

Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming. In addition, for decisions affecting an individual district(s), the local district(s) newspaper will be used (see listing below).

District Ranger Decisions

Tongue District: Sheridan Press, published daily in Sheridan, Sheridan County, Wyoming.

Buffalo District: Buffalo Bulletin, published weekly in Buffalo, Johnson County, Wyoming.

Medicine Wheel District: Lovell Chronicle, published weekly in Lovell, Big Horn County, Wyoming.

Tensleep District: Northern Wyoming Daily News, published daily in Worland, Washakie County, Wyoming.

Paintrock District: Greybull Standard, published weekly in Greybull, Big Horn County, Wyoming.

Medicine Bow National Forest, Wyoming

Forest Supervisor Decisions

Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

District Ranger Decisions

Laramie District: Laramie Daily Boomerang, published daily in Laramie, Albany County, Wyoming.

Douglas District: Casper Star-Tribune, published daily in Casper, Natrona County, Wyoming.

Brush Creek and Hayden Districts: Rawlins Daily Times, published daily in Rawlins, Carbon County, Wyoming.

Shoshone National Forest, Wyoming

Forest Supervisor Decisions

Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

District Ranger Decisions

Clarks Fork District: Powell Tribune, published twice weekly in Powell, Park County, Wyoming.

Wapiti and Greybull Districts: Cody Enterprise, published twice weekly in Cody, Park County, Wyoming.

Wind River District: The Dubois Frontier, published weekly in Dubois, Teton County, Wyoming.

Lander District: Wyoming State Journal, published twice weekly in Lander, Fremont County, Wyoming.

Dated: April 6, 1995.

Elizabeth Estill,

Regional Forester.

[FR Doc. 95–9125 Filed 4–14–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 737]

Peavey Electronics Corp.; AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Grant of Authority for Subzone Status, Peavey Electronics Corporation (Electronic Audio and Acoustical Products), Foley, Alabama

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Mobile, Alabama, grantee of Foreign-Trade Zone 82, for authority to establish special-purpose subzone status at the electronic audio and acoustical products manufacturing plant of the Peavey Electronics Corporation in Foley, Alabama, was filed by the Board on March 3, 1994, and notice inviting public comment was given in the Federal Register (FTZ Docket 8–94, 59 FR 12892, 3–18–94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 82C) at the Peavey Electronics Corporation plant in Foley, Alabama, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 10th day of April 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–9406 Filed 4–14–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–201–601]

Fresh Cut Flowers From Mexico; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request by the Floral Trade Council (petitioner), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain fresh cut flowers from Mexico. The review covers four producers/exporters, Rancho El Aguaje (Aguaje), Rancho Guacatay (Guacatay), Rancho El Toro (Toro), and Visaflor S. de P.R. (Visaflor), and entries of the subject merchandise into the United States during the period April 1, 1991, through March 31, 1992. We have preliminarily determined that dumping margins exist for three of these producers. The Department based these margins on the best information available (BIA). The fourth company, Visaflor, made no shipments during the period of review (POR).

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1992, the Department published in the Federal Register (57 FR 11935) a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on fresh cut flowers from Mexico (52 FR 13491, April 23, 1987). In accordance with 19 CFR 353.22(a)(1), the petitioner requested an administrative review for Aguaje, Guacatay, Toro, and Visaflor. On May 22, 1993, the Department published a notice of initiation of this review (51 FR 21769) covering the period April 1, 1991, through March 31, 1992. Visaflor stated that it did not ship subject merchandise from Mexico to the United States during the POR. The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Because the Department determined during the prior administrative review that Guacatay had made sales in the home market below the cost of production (COP), we initiated a COP investigation with respect to Guacatay on October 10, 1992.

Scope of the Review

The products covered by this review are certain fresh cut flowers, defined as standard carnations, standard chrysanthemums, and pompon chrysanthemums. During the POR, such merchandise was classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) item numbers 0603.10.7010 (pompon chrysanthemums), 0603.10.7020 (standard chrysanthemums), and 0603.10.7030 (standard carnations). The HTSUS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive as to the scope of the order.

This review covers sales of the subject merchandise manufactured by Aguaje, Guacatay, Toro, and Visaflor, and entered into the United States during the period April 1, 1991, through March 31, 1992.

Best Information Available

The Department has determined that the data submitted by Aguaje, Toro, and Guacatay are unusable for the following reasons. The original questionnaire responses they submitted included unaudited, "in-house" financial statements. The respondents reported that they were not legally obligated to file income tax returns on sales made during the POR. In response to a supplemental questionnaire sent to all three companies, the respondents indicated that they were, in fact, obligated to file income tax returns covering the POR because of a change in Mexican law.

In an additional supplemental questionnaire, the Department asked the respondents to submit copies of these tax returns, and to reconcile them to the unaudited "in-house" financial

VOL 60 ISS 73 AP 17 1995 UMI

statements previously submitted to the Department. Toro and Guacatay submitted copies of their income tax returns; however, they failed to reconcile them with their unaudited financial statements. The remaining respondent, Aguaje, claimed it could not substantiate or reconcile the cost data contained in its unaudited financial statement because it had not filed its income tax returns for the POR, as required by the Mexican government. Although Aguaje claimed that it had not filed its returns, it provided no evidence to demonstrate that it was exempt from filing.

The Department relies on the accounting system used in the preparation of the audited financial statements to ensure that a company's submitted sales and cost data are credible. An "in-house" system which has not been audited, and is not used for tax purposes or for any purpose other than internal deliberations of the company, does not assure the Department that costs have been stated in accordance with generally accepted accounting principles, or that all sales and costs have been appropriately captured by the "in-house" system. (See Final Determination at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products and Certain Cut-To-Length Carbon Steel Plate from Korea, 58 FR 37186 (July 9, 1993).)

For prior review periods, respondents were not required under Mexican law to maintain audited financial statements or file tax returns. We accepted respondents' unaudited "in-house" statements in prior reviews because they did not have, and therefore could not submit, official corroboration of their internal records. (See Notice of Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico, 56 FR 29621, 59622–23 (June 28, 1991).) However, Mexican law governing income tax reporting changed in 1991, and the respondents were required to have filed tax returns covering the POR. Because respondents made inconsistent statements regarding their obligation to file taxes, and further, failed to reconcile their financial statements to their tax records as requested by the Department, we rejected respondents' data in their entirety.

For the reasons stated above, the Department determines that Aguaje, Guacatay, and Toro are uncooperative respondents. As a result, in accordance with section 776(c) of the Act, we have determined that the use of BIA is appropriate. Whenever, as here, a company refuses to cooperate with the Department, or otherwise significantly impedes an antidumping proceeding, we use as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value (LTFV) investigation or in prior administrative reviews; or (2) the highest rate found in this review for any firm for the same class or kind of merchandise. (See Antifriction Bearings from France, et al.; Final Results of Review, 58 FR 39729 (July 26, 1993).) As BIA, we assigned the rate of 39.95 percent, which is the second highest rate found for any Mexican flower producer from both the prior reviews and the LTFV investigation. We have selected this rate because the highest rate found for any Mexican flower producer in prior reviews and the LTFV investigation, 264.43 percent, is an aberrational rate not representative of the market. This rate was due to a company's extraordinarily high business expenses during the review period resulting from investment activities which were uncharacteristic of the other reviewed companies. Therefore, we found it inappropriate to use this rate as BIA, both in the prior review and in this review. (See Notice of Final Results of Antidumping Duty Administrative Review; Certain Fresh Cut Flowers from Mexico, 56 FR 29621, 29623 (June 28, 1991).) We preliminarily determine that the following dumping margins exist for the period April 1, 1991, through March 31, 1992:

Manufacturer/Exporter	Margin (percent)
Rancho el Aguaje	39.95
Rancho Guacatay	39.95
Rancho el Toro	39.95
Visaflor	[1] 0

[1] No shipments during the POR. Rate is from the last review in which Visaflor had shipments.

Any interested party may request a hearing within 10 days of publication of this notice. Any hearing will be held 44 days after the date of publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the publication date of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication of this notice. The Department will publish a notice of the final results of this administrative review, which will include the result of its analysis of issues raised in any such case briefs.

The following deposit requirements shall be effective for all shipments of the subject merchandise that are entered, or withdrawn from warehouse for consumption, on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies shall be those rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 18.28 percent, the all others rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: April 7, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9407 Filed 4–14–95; 8:45 am]

BILLING CODE 3510–DS–P

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: North American Free Trade Agreement, NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review of the final dumping determination made by the Deputy Minister of National Revenue, Customs, Excise and Taxation respecting Fresh, Whole, Delicious; Red Delicious and Golden Delicious apples, originating in or exported from the United States of America. The Binational Panel Review is terminated. (Secretariat File No. CDA–95–1904–02).

SUMMARY: On February 14, 1995, the Northwest Horticultural Council (NHC) filed a Request for panel review in the above referenced matter with the Canadian Section of the NAFTA Secretariat. On March 17, 1995, the NHC filed a Notice of Motion requesting termination of this panel review. No other interested person filed a request for Panel Review of this final determination. As of March 17, 1995, no Complaint nor Notice of Appearance had been filed by any interested person. Therefore, pursuant to subrules 71(2) and 78(a) of the NAFTA Article 1904 Panel Rules, this Notice of Completion of Panel Review was effective on March 17, 1995.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

Dated: April 7, 1995.

Caratina L. Alston,

Deputy U.S. Secretary, NAFTA Binational Secretariat.

[FR Doc. 95–9408 Filed 4–14–95; 8:45 am]

BILLING CODE 3510–GT–M

National Institute of Standards and Technology

[Docket No. 950215050–5050–01]

RIN 0693–AB33

Approval of Federal Information Processing Standards Publication 180–1, Secure Hash Standard (SHS)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 180–1, Secure Hash Standard (SHS).

SUMMARY: On July 11, 1994 (59 FR 35317–35319), and August 5, 1994 (59 FR 40084) notices were published in the Federal Register that a revision of Federal Information Processing Standards Publication FIPS PUB 180, Secure Hash Standard (SHS), was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this revised standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the revised standard as Federal Information Processing Standards Publication (FIPS PUB) 180–1, and prepare a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATES: This revised standard is effective October 2, 1995.

ADDRESSES: Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Miles Smid, telephone (301) 975–2938, National Institute of Standards and Technology, Gaithersburg, MD 20899.

SUPPLEMENTARY INFORMATION: NIST has been notified that Department of Defense authorities have approved the use of the SHS with the DSS to sign unclassified data processed by "Warner Amendment" systems (10 U.S.C. 2315 and 44 U.S.C. 3502(2)) as well as classified data in selected applications.

Dated: April 11, 1995.

Samuel Kramer,

Associate Director

Federal Information Processing Standards Publication 180–1

(Date)

Announcing the Secure Hash Standard

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

Name of Standard: Secure Hash Standard.

Category of Standard: Computer Security.

Explanation: This Standard specifies a secure hash algorithm, SHA–1, for computing a condensed representation of a message or a data file. When a message of any length $< 2^{64}$ bits is input, the SHA–1 produces a 160–bit output called a message digest. The message digest can then be input to the Digital Signature Algorithm (DSA) which generates or verifies the signature for the message (see Figure 1). Signing the message digest rather than the message often improves the efficiency of the process because the message digest is usually much smaller in size than the message. The same hash algorithm must be used by the verifier of a digital signature as was used by the creator of the digital signature.

The SHA–1 is called secure because it is computationally infeasible to find a message which corresponds to a given message digest, or to find two different messages which produce the same message digest. Any change to a message in transit will, with very high probability, result in a different message digest, and the signature will fail to verify. SHA–1 is a technical revision of SHA (FIPS 180). A circular left shift operation has been added to the specifications in section 7, line b, page 9 of FIPS 180 and its equivalent in section 8, line c, page 10 of FIPS 180. This revision improves the security provided by this standard. The SHA–1 is based on principles similar to those used by Professor Ronald L. Rivest of MIT when designing the MD4 message digest algorithm,[1] and is closely modelled after that algorithm.

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[1] "The MD4 Message Digest Algorithm," Advances in Cryptology-CRYPTO '90 Proceedings Springer-Verlag, 1991, pp. 303–311.

VOL
60
ISS
73
AP
17
1995
UMI

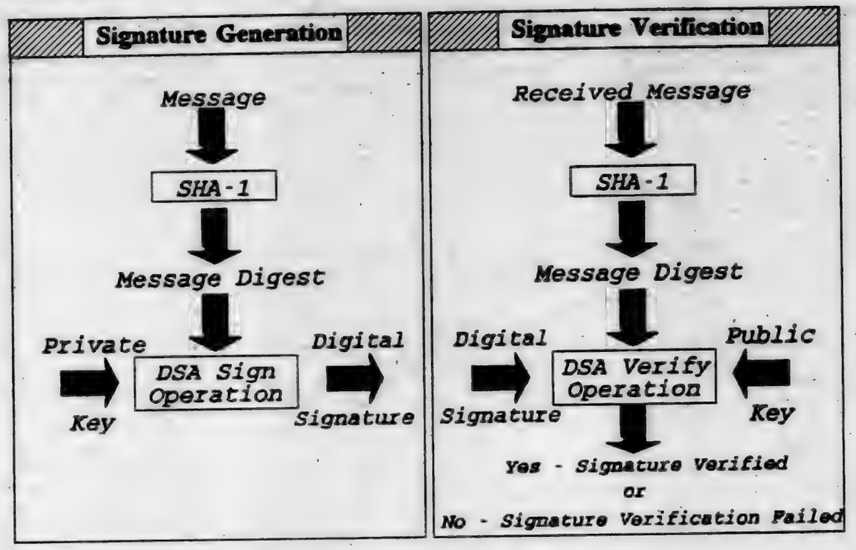

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Figure 1: Using the SHA–1 With the DSA

Approving Authority: Secretary of Commerce.

Maintenance Agency: U.S. Department of Commerce, National Institute of Standards and Technology, Computer Systems Laboratory.

Applicability: This standard is applicable to all Federal departments and agencies for the protection of unclassified information that is not subject to section 2315 of Title 10, United States Code, or section 3502(2) of Title 44, United States Code. This standard is required for use with the Digital Signature Algorithm (DSA) as specified in the Digital Signature Standard (DSS) and whenever a secure hash algorithm is required for Federal applications. Private and commercial organizations are encouraged to adopt and use this standard.

Applications: The SHA–1 may be used with the DSA in electronic mail, electronic funds transfer, software distribution, data storage, and other applications which require data integrity assurance and data origin authentication. The SHA–1 may also be used whenever it is necessary to generate a condensed version of a message.

Implementations: The SHA–1 may be implemented in software, firmware, hardware, or any combination thereof. Only implementations of the SHA–1 that are validated by NIST will be considered as complying with this standard. Information about the requirements for validating implementations of this standard can be obtained from the National Institute of Standards and Technology, Computer Systems Laboratory, Attn: SHS Validation, Gaithersburg, MD 20899.

Export Control: Implementations of this standard are subject to Federal Government export controls as specified in Title 15, Code of Federal Regulations, Parts 768 through 799. Exporters are advised to contact the Department of Commerce, Bureau of Export Administration for more information.

Patents: Implementations of the SHA–1 in this standard may be covered by U.S. and foreign patents.

Implementation Schedule: This standard becomes effective October 2, 1995.

Specifications: Federal Information Processing Standard (FIPS) 180–1, Secure Hash Standard (affixed).

Cross Index

a. FIPS PUB 46–2, Data Encryption Standard.

b. FIPS PUB 73, Guidelines for Security of Computer Applications.

c. FIPS PUB 140–1, Security Requirements for Cryptographic Modules.

d. FIPS PUB 186, Digital Signature Standard.

e. Federal Information Resources Management Regulations (FIRMR) subpart 201.20.303, Standards, and subpart 201.39.1002, Federal Standards.

Objectives: The objectives of this standard are to:

a. Specify the secure hash algorithm required for use with the Digital Signature Standard (FIPS 186) in the generation and verification of digital signatures;

b. Specify the secure hash algorithm to be used whenever a secure hash algorithm is required for Federal applications; and

c. Encourage the adoption and use of the specified secure hash algorithm to private and commercial organizations.

Qualifications: While it is the intent of this standard to specify a secure hash algorithm, conformance to this standard does not assure that a particular implementation is secure. The responsible authority in each agency or department shall assure that an overall implementation provides an acceptable level of security. This standard will be reviewed every five years in order to assess its adequacy.

Waiver Procedure: Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, United States Code. Waiver will be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or

b. Compliance with a standard would cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; ATTN: FIPS Waiver Decisions, Technology Building, Room B–154, Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the Commerce Business Daily as a part of the notice of solicitation for offers of an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any accompanying documents, with such deletion as the agency is authorized and decides to make under 5 United States Code Section 552(b), shall be part of the procurement documentation and retained by the agency.

Where to Obtain Copies of the Standard: Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 180–1 (FIPSPUB180–1), and identify the title. When microfiche is desired, this should be specified. Prices are published by NTIS in current catalogs and other issuances. Payment may be made by check, money order, deposit account or charged to a credit card accepted by NTIS.

[FR Doc. 95–9386 Filed 4–14–95; 8:45 am]

BILLING CODE 3510-CN-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and Applicable Form: Industrial Capabilities Questionnaire; DD Form X277.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the **Federal Register**.

Number of Respondents: 7,500.

Responses per Respondent: 1.

Annual Responses: 7,500

Average Burden per Response: 27 hours and 27 minutes.

Annual Burden Hours: 205,900.

Needs and Uses: The information collected hereby, will be used by the Department of Defense to perform industrial assessments required as part of its responsibility to encourage the maintenance of a diverse, healthy, and competitive industrial base capable of meeting Departmental needs. The proposed collection consolidates several information collections, including the attendant instruments of collection; i.e., OMB Control Numbers 0702–0037, "Industrial Base Program Production Capacity, Crisis Production, and Industrial Facility Survey," which includes DD Forms 2575, 2575–1, and 2575–2; 0704–0352, "Industrial Base Assessment Baseline and Update Questionnaires," which includes DD Forms 2649 and 2650; 0701–0115, "Armament Sector Analysis of Precision Guided Munitions Questionnaire;" and 0703–0033, "Manufacturing Lead Time Production Solicitation and Occupational Survey."

Affected Public: Businesses or other for-profit; Federal agencies or employees; and Small Businesses or Organizations.

Frequency: One time and On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000-04-M

VOL 60 ISS 73 APR 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

INDUSTRIAL CAPABILITIES QUESTIONNAIRE

(Stocked and used by

Form Approved OMB No. Expires

Public reporting burden for this collection of information is estimated to average 1 per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0000-0000), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO EITHER OF THESE ADDRESSES. RETURN COMPLETED FORM TO

I. FACILITY IDENTIFICATION | DATA DATE

1. COMPANY OR U.S. GOVERNMENT DEPARTMENT/FACILITY *(Manufacturing Site)*

a. NAME

b. ADDRESS
(1) STREET | (2) CITY | (3) STATE | (4) ZIP CODE | (5) COUNTRY

c. DUNS NUMBER | d. CAGE CODE | e. DODAAC NUMBER

f. STATUS OF OWNERSHIP *(X one)*
(1) COMMERCIAL FACILITIES: ☐ PUBLICLY TRADED ☐ PRIVATELY HELD ☐ FOREIGN % OWNERSHIP (2) GOVERNMENT FACILITIES: ☐ GOGO ☐ GOCO

g. MANUFACTURING SITE POINT OF CONTACT
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE
(3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)* | (5) SIGNATURE | (6) DATE SIGNED

h. GOVERNMENT REPRESENTATIVE *(Individual completing form)*
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE
(3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)* | (5) SIGNATURE | (6) DATE SIGNED

DRAFT

(7) ADDRESS STREET | CITY | STATE | ZIP CODE

2. PARENT COMPANY OR GOVERNMENT HEADQUARTERS *(If any)*

a. NAME

b. ADDRESS
(1) STREET | (2) CITY | (3) STATE | (4) ZIP CODE | (5) COUNTRY

c. DUNS NUMBER | d. CAGE CODE | e. DODAAC NUMBER

f. POINT OF CONTACT
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE
(3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)*

g. NAME OF PREVIOUS PARENT COMPANY IF CHANGED DURING THE PAST TWO YEARS

3. SUBSIDIARY OR DIVISION NAME *(If different from Item 1)*

a. NAME

b. ADDRESS
(1) STREET | (2) CITY | (3) STATE | (4) ZIP CODE | (5) COUNTRY

c. DUNS NUMBER | d. CAGE CODE | e. DODAAC NUMBER

f. POINT OF CONTACT
(1) NAME *(Last, First, Middle Initial)* | (2) TITLE | (3) TELEPHONE NUMBER *(Include area code)* | (4) FAX NUMBER *(Include area code)*

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

II. OVERALL OPINIONS | CAGE CODE | DATA DATE

a. ISSUES/RECOMMENDATIONS

a. LIST ISSUES WHICH REQUIRE YOUR GREATEST ATTENTION CONCERNING THE ITEMS YOU SUPPLY FOR ULTIMATE USE BY THE GOVERNMENT, AND ENTER RECOMMENDED SOLUTIONS.

	PRODUCT (1)	NSN/PART NUMBER (2)	ISSUE (3)	SOLUTION (4)
(a)				
(b)				
(c)				
(d)				

b. WHAT SEEMINGLY UNSOLVABLE MATERIALS OR PROCESS PROBLEMS SHOULD BE RESEARCHED? *(Include any suggestions for directing that research.)*

c. EXPLAIN THE IMPACT DEFENSE BUDGET REDUCTIONS HAVE HAD ON THIS FACILITY *(Sales, personnel, plant, and equipment).*

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5. INDUSTRIAL BASE ISSUES

(Indicate industrial base issues/problems that may be applicable to the facility. Attach additional information, if so desired. If an issue would limit the facility in a rapid production expansion, indicate by marking "X" in column b. Use additional copies of this page if more space is needed.)

ISSUE a.	LIMIT (X) b.	CAUSE c.	SUGGESTIONS FOR IMPROVEMENT d.
(1)			
(2)			
(3)			
(4)			

6. ADDITIONAL REMARKS *(Use additional copies of this page if more space is needed.)*

VOL 60 ISS 73 AP 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION A - FACILITY DESCRIPTION	CAGE CODE	DATA DATE

7. SITE DESCRIPTION

a. TYPE OF FACILITY (X all that apply)

- [ ] ASSEMBLY
- [ ] DISTRIBUTION
- [ ] CHEMICAL PROCESSING
- [ ] PARTS MANUFACTURING
- [ ] ENGINEERING
- [ ] OTHER (Specify)
- [ ] RESEARCH & DEVELOPMENT
- [ ] DEPOT LEVEL REPAIRS

b. PRODUCTION TYPE (X)

- [ ] MASS PRODUCTION
- [ ] JOB LOT
- [ ] CUSTOM

c. FLOOR SPACE (Square feet)		d. STORAGE (Square feet)			e. ACREAGE		
(1) USED	(2) UNUSED	(1) COVERED (Outdoor)	(2) UNCOVERED (Outdoor)	(3) TOTAL STORAGE (Indoor)	(1) TOTAL	(2) DEVELOPED	(3) AVAILABLE FOR EXPANSION

f. ARE MANUFACTURING FACILITIES LEASED? (X one. If Yes, complete (1) - (3).)

- [ ] YES
- [ ] NO

(1) PERCENTAGE	(2) LEASEHOLDER	(3) EXPIRATION DATE (YYMMDD)

g. TRANSPORTATION

(1) (X all that apply)

- [ ] DEEP SEA
- [ ] INLAND WATERWAY
- [ ] AIRPORT
- [ ] RAIL
- [ ] MAJOR HIGHWAY
- [ ] OTHER (Specify)

(2) RESTRICTIONS (If any)

h. ENERGY REQUIRED FOR MANUFACTURING OPERATIONS (X all that apply)

- [ ] GAS
- [ ] OIL
- [ ] ELECTRIC
- [ ] SOLAR
- [ ] OTHER (Specify)

8. ENVIRONMENTAL/SAFETY REQUIREMENTS

a. RANK ORDER OF EACH OF THE FOLLOWING ENVIRONMENTAL/SAFETY REQUIREMENTS THAT WILL IMPACT YOUR PLANS OR PRODUCTION CAPABILITY

NOW (a)	FIVE YEARS FROM NOW (b)	REQUIREMENT (a)	NOW (a)	FIVE YEARS FROM NOW (b)	REQUIREMENT (a)
		(1) CHLOROFLUOROCARBONS/OZONE DEPLETING SUBSTANCES			(9) ASBESTOS
		(2) NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)			(9) NUCLEAR WASTE
		(3) VOLATILE ORGANIC COMPOUNDS			(10) CLEAN AIR ACT (CAA)
		(4) RESOURCE CONSERVATION RECOVERY ACT (RCRA)			(11) CLEAN WATER ACT (CWA)
		(5) TOXIC SUBSTANCES CONTROL ACT (TSCA)			(12) HAZARDOUS MATERIAL ACT
		(6) OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)			(13) OTHER (Specify)
		(7) HAZARDOUS AND SOLID WASTE AMENDMENTS (HSWA)			

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b. INCLUDE YOUR PLANS OR YOUR ACTIONS TO ELIMINATE ASSOCIATED PRODUCTION RISKS AT YOUR FACILITY.

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION B - BUSINESS PROFILE	CAGE CODE	DATA DATE

9. ANNUAL VALUE OF SALES (Both Historic and Projected)

	-4 (a)	-3 (b)	-2 (c)	-1 (d)	BASE YEAR ____ (e)	+1 (f)	+2 (g)
a. TOTAL ($ in Millions)							
b. COMMERCIAL (% of Total)							
c. DIRECT FOREIGN SALES (% of Total)							
d. FOREIGN MILITARY SALES (% of Total)							
e. TOTAL U.S. GOVERNMENT (% of Total)							
(1) U.S. ARMY (% of Government Total)							
(2) U.S. NAVY (% of Government Total)							
(3) U.S. AIR FORCE (% of Government Total)							
(4) DEFENSE LOGISTICS AGENCY (% of Government Total)							
(5) BALLISTIC MISSILE DEFENSE ORGANIZATION (% of Govt Total)							
(6) NON-DOD U.S. GOVERNMENT (% of Government Total)							

DRAFT

10. INVESTMENT AND BACKLOG (Both Historic and Projected)

	-4 (1)	-3 (2)	-2 (3)	-1 (4)	BASE YEAR ____ (5)	+1 (6)	+2 (7)
a. CAPITAL INVESTMENT							
b. TOTAL R&D INVESTMENT							
c. GOVERNMENT BACKLOG ($)							
d. GOVERNMENT BACKLOG (Months)							
e. COMMERCIAL BACKLOG ($)							
f. COMMERCIAL BACKLOG (Months)							

VOL 60 ISS 73 AP 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION C - LABOR	CAGE CODE	DATA DATE

11. CURRENT SITE EMPLOYMENT LEVELS

CATEGORY a	NUMBER OF PERSONNEL b	NUMBER OF PERSONNEL PER SHIFT SHIFT 1 c	 SHIFT 2 d	 SHIFT 3 e	HOURS PER DAY f	DAYS PER WEEK g
(1) OFFICE/SUPPORT						
(2) ENGINEERING						
(3) RESEARCH AND DEVELOPMENT						
(4) MANAGEMENT						
(5) DEPOT LEVEL REPAIR						
(6) TOTAL PRODUCTION						
(a) SKILLED						
(b) UNSKILLED						

12. EMPLOYMENT LEVELS OVER THE PAST FIVE YEARS AND PROJECTIONS

-4 a	-3 b	-2 c	-1 d	BASE YEAR ____ e	+1 f	+2 g

13. TRADES, SKILLS OR PROFESSIONS MOST AFFECTED BY LOWER PRODUCTION RATES *(List trades, skills, or professions most affected by lower production rates associated with DoD or other Government products. X appropriate column to indicate how long it would take to retune and/or retrain workers in these areas.)*

SKILL AREA a	30 DAYS b	1-3 MONTHS c	3-6 MONTHS d	6-12 MONTHS e	1-2 YEARS f	3-5 YEARS g	5+ YEARS h
(1)							
(2)							
(3)							
(4)							
(5)							
(6)							
(7)							
(8)							

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14. WILL ANY DECISIONS TO "MAKE OR BUY" BE CHANGED IN ORDER TO RETAIN LAID OFF WORKERS/PROFESSIONALS? *(Explain)*

☐ YES
☐ NO

15. UNIONS REPRESENTED IN YOUR FACILITY

UNION *(Spell out all acronyms)* a	PERCENTAGE UNION b	CONTRACT EXPIRATION DATE *(YYMMDD)* c
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION D - MATERIAL ISSUES	CAGE CODE	DATA DATE

16. STRATEGIC AND CRITICAL MATERIALS ESSENTIAL TO PRODUCTION *(Identify materials, special alloys, and composite materials which are essential to production by placing an X in column b. For marked items, list supplier and indicate whether foreign sourced (FS) or foreign dependent (FD). Indicate whether problems are currently being had or are anticipated, and indicate whether future demand will significantly affect U.S. demand for these materials (i.e., will there be a significant change in demand).)*

MATERIAL a	ESSENTIAL TO PRODUCTION *(X)* b	SUPPLIER c	FS/FD d	PROBLEMS CURRENT YEAR ____ e	ANTICIPATE PROBLEMS IN 5 YEARS f	AFFECT DEMAND *(Yes/No)* g
(1) ALUMINUM						
(2) ANTIMONY						
(3) BERYLLIUM						
(4) CHROMIUM						
(5) COBALT						
(6) COLUMBIUM						
(7) DEPLETED URANIUM						
(8) GALLIUM						
(9) MANGANESE						
(10) NICKEL ALLOY						
(11) PLATINUM						
(12) RHENIUM						
(13) SILICON, HIGH PURITY						
(14) TANTALUM						
(15) TIN						
(16) TITANIUM						
(17) TUNGSTEN						
(18) VANADIUM						
(19) ZIRCONIUM						
(20) COMPOSITES:						
(21) OTHER:						

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17. DESCRIPTION *(For any situation identified in columns d, e, and f, list the programs, materials, and items and part numbers, if known. Describe any problems and relate how your facility will position itself to eliminate associated production risks.)*

VOL 60 ISS 73 APR 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION E - PRODUCTION CAPABILITIES OF FACILITY	CAGE CODE	DATA DATE

18. PRODUCTION ITEMS

ITEM OR CLASS OF ITEM (List those items or classes of items which account for a significant part of your production capacity and/or sales volume.) a.	PERCENT OF CAPACITY b.	SHIFT BASIS (1-8-5) c	PERCENT OF PRODUCTION ASSEMBLED FROM COMPONENTS OF OUTSIDE SOURCES d.
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			
(7)			
(8)			
(9)			
(10)			
(11)			
(12)			

19. FUTURE EXPANSION PLANS OR CAPITAL EQUIPMENT PURCHASES *(Relate any future expansion plans or capital equipment purchases that would benefit the items listed in Item 18. Indicate costs, expected return on investment percentage, and implementation time frame, in months. Attach additional pages if more space is needed.)*

a. DESCRIPTION

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b. ESTIMATED COST	c. EXPECTED RETURN ON INVESTMENT (%)	d. IMPLEMENTATION TIME FRAME (Months)

20. CAPACITY/CAPABILITIES

	FABRICATION a.	ASSEMBLY b	INSPECTION c	TEST d	DESIGN AND PROTOTYPING e	TOTAL f
(1) SQUARE FEET ALLOCATED (SQF)						
(2) WORK DAYS (WKD)						
(3) UTILIZATION (UTL)						
(4) SHIFT CONFIGURATION (SFT)						
(5) SPECIALIZED EQUIPMENT (SPE)						

REFERENCE CODES - CAPACITY/CAPABILITIES

SQF = Square feet allocated. For each area listed select the closest choice code and write that number in the appropriate space.
1 = Up to 2,500 sq. ft. 2 = Over 2,500 sq. ft. 3 = Over 10,000 sq. ft. 4 = Over 50,000 sq. ft. 5 = Over 100,000 sq. ft.

WKD = Work days (typical) for each area listed.
1 = Less than four. 2 = four. 3 = Five. 4 = Six. 5 = Seven.

UTL = Utilization of space based on present shift configuration.
1 = Up to 20%. 2 = Over 20%. 3 = Over 40%. 4 = Over 60%. 5 = Over 80%.

SFT = Shift configuration for each area listed.
1 = Up to one shift. 2 = One to two shifts. 3 = Up to three shifts.

SPE = Specialized equipment. Equipment required to do normal functions within that area. Choose closest fit.
1 = Poor condition over 7 years old. 2 = In good repair over 7 years old. 3 = Traditional 3-7 years old.
4 = Modern up to 3 years old. 5 = State-of-the-Art up to 1 year old.

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION E - PRODUCTION CAPABILITIES OF FACILITY (Continued)	CAGE CODE	DATA DATE

21. MAJOR FACILITY CONSTRAINTS *(Using risk rank and constraint codes below, determine the risk ranking of this facility and select up to five constraint codes.)*

a. RISK RANK	b. TOP FIVE CONSTRAINTS (High to low)				

RISK RANK CODES

L = Low risk. Should be able to produce acceptable items beyond 5 years.
M = Medium risk. May face problems producing acceptable items in 2 to 5 years.
H = High risk. May face problems producing acceptable items in 0 to 2 years.

CONSTRAINT CODES *(Some of these constraints may be company/division versus product oriented; some apply to both company and product.)*

AM	Acquisition/merger - present or future concerns.	LI	Liability/litigations that affect production
AP	Approval process too lengthy - causes slippage.	LL	Long lead/pacing item(s) that affect schedule
AT	Aging tools, equipment, and/or processes	LP	Low or no profits that may affect contracts
BI	Business/economic issues affect production	MO	Moves and major relocations - affecting output
BV	Business volume is too low - future uncertain.	MV	Too many vendors - many sources cause problems
CC	Critical component, part, assembly, etc	OS	Occupational safety issues affect production
CI	Capacity issues - limits may affect production	PO	Policy issues not conducive to meeting goals
CM	Critical material(s) may affect production.	PP	Proprietary process/material - only source
CO	Cost issues impact production	PQ	Production quality issues affect output
CP	Capability issues - limits may affect output	SC	Surge/crises/resupply - hinders output
DO	Documentation/specifications may cause problems	SK	Skilled labor required to sustain production
DS	Diminishing manufacturing sources - economy, politics, etc	SO	Sole source - only one capable of making product
EN	Environmental issues affect production	SS	Single qualified source - others could qualify
FD	Foreign dependent - only source is outside U.S.A.	ST	Special tests and/or equipment a pacing item
FS	Foreign source - by choice is outside U.S.A.	TH	Transportation/handling affects schedule
GA	Government availability causes slippage	TO	Tooling shortage - limited availability
IO	Investment opportunity for improved output	TT	Technology transfer - poor TT hinders production
LA	Labor issues - unions, health, welfare, etc	ZZ	Other (Specify)

22. MANUFACTURING CAPACITY NOW USED FOR COMMERCIAL WORK

a. *(X all that apply)*

- ___ NOT APPLICABLE
- ___ SAME USED FOR DEFENSE WORK
- ___ SAME USED FOR DEFENSE WORK EXCEPT FOR CERTAIN PROCESSES
- ___ ENTIRELY SEPARATE FROM DEFENSE WORK
- ___ CAN BE CONVERTED TO DEFENSE WORK
- ___ CANNOT BE CONVERTED TO DEFENSE WORK

b. EXPLAIN

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23. ALTERNATE SUPPLIERS *(List alternate suppliers for any items you produce for which you do NOT intend to maintain production capability.)*

24. DO YOU FORECAST AN INCREASE OR REDUCTION OF MANUFACTURING CAPACITY? *(Explain)*

25. PURSUIT OF COMMERCIAL BUSINESS

a. IF YOUR DEFENSE SALES DECLINE, DO YOU INTEND TO PURSUE COMMERCIAL BUSINESS? *(X one)* YES ___ NO ___

b. WHAT ARE THE MAJOR IMPEDIMENTS TO PURSUING COMMERCIAL BUSINESS?

VOL 60 ISS 73 AP 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION E - PRODUCTION CAPABILITIES OF FACILITY (Continued)	CAGE CODE	DATA DATE

26. WHAT ARE THE PROSPECTS FOR INCREASING FOREIGN MILITARY SALES OR OTHER FOREIGN SALES?

27. REDUCTION IN CONTRACTS/PLANT CLOSURE

a. DOES PRESENT CONCERN EXIST AS TO POSSIBLE LOSS OR REDUCTION IN CONTRACTS/PROGRAMS THAT MAY NECESSITATE CLOSURE OF THIS PLANT? (X one and explain.)

- [ ] YES
- [ ] NO

b. IF YES, WHICH CONTRACTS OR PROGRAMS ARE ABSOLUTELY VITAL TO YOUR SURVIVABILITY? (X all that apply and explain.)

- [ ] ARMY
- [ ] NAVY
- [ ] AIR FORCE
- [ ] DEFENSE LOGISTICS AGENCY
- [ ] BALLISTIC MISSILE DEFENSE ORGANIZATION
- [ ] COMMERCIAL DOMESTIC
- [ ] FOREIGN COMMERCIAL
- [ ] FOREIGN MILITARY
- [ ] OTHER

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28. ACTUAL CAPACITY UTILIZATION AND PROJECTIONS

CAPACITY UTILIZATION % = CURRENT PLANT OUTPUT / MAXIMUM PRODUCTION RATE (1-6-5)	-4 a.	-3 b.	-2 c.	-1 d.	BASE YEAR ____ e.	+1 f.	+2 g.
			%	%	%	%	%

29. FACILITY MODERNIZATION IMPROVEMENT PROGRAMS

a. FOR EACH CATEGORY BELOW, IDENTIFY CURRENT AND PROJECTED PERCENT OF GROSS SALES.

CATEGORY (a)	-4 (b)	-3 (c)	-2 (d)	-1 (e)	BASE YEAR ____ (f)	+1 (g)	+2 (h)
(1) FACILITY MODERNIZATION			%	%	%	%	%
(2) CAPITAL EQUIPMENT UPGRADES							
(3) MANUFACTURING/PROCESS TECHNOLOGY MODERNIZATION/R&D PROJECTS							
(4) COMPUTER SOFTWARE							

b. AT THIS PLANT, RANK THE TOP FIVE FACTORS WHICH INFLUENCE YOUR DECISION TO MAKE CAPITAL INVESTMENTS IN EITHER MACHINERY, FACILITIES OR TECHNOLOGIES.

	COST		INCREASE IN SALES (Commercial and Government)
	PROSPECTIVE BUSINESS		UPGRADING PRESENT MACHINERY TO COPE WITH TODAY'S TECHNOLOGY AND COMPETITION
	CONTRACT AWARDS		NEW REGULATORY REQUIREMENTS
	RETURN ON INVESTMENT		HEALTH/SAFETY/ENVIRONMENTAL REQUIREMENTS
	LONG TERM STRATEGIC PLAN		REPLACEMENT OF OBSOLETE EQUIPMENT
	MARKET DEMANDS		CHANGE IN MANUFACTURING OUTPUT
	EFFICIENCY		PERFORMANCE REQUIREMENTS

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION E - PRODUCTION CAPABILITIES OF FACILITY (Continued)	CAGE CODE	DATA DATE

30. MAJOR PLANT EQUIPMENT (Indicate general classes and quantities)

CLASS OF EQUIPMENT (e.g., lathes, NC machining center, industrial sewing machines, specialized assembly equipment.) a.	QUANTITY - COMPANY OWNED TOTAL b.	QUANTITY - COMPANY OWNED FOREIGN MADE c.	QUANTITY - GOVERNMENT OWNED TOTAL d.	QUANTITY - GOVERNMENT OWNED FOREIGN MADE e.
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				
(11)				
(12)				
(13)				
(14)				
(15)				
(16)				

31. IS DEFENSE ESSENTIAL PLANT EQUIPMENT, MANUFACTURING TECHNOLOGIES, PATENTS OR SOFTWARE OWNED WHOLLY OR IN PART BY FOREIGN CONCERNS OR GOVERNMENTS? (X one)
(NOTE: "Defense Essential" = A capability necessary to meet defense requirements that would require major investment and/or significant time to recreate if lost.)

- [ ] YES (Explain)
- [ ] NO

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32. DEFENSE ESSENTIAL INSPECTION/TEST EQUIPMENT AND SPECIAL TOOLING (List and indicate quantities)

EQUIPMENT a.	QUANTITY - COMPANY OWNED TOTAL b.	QUANTITY - COMPANY OWNED FOREIGN MADE c.	QUANTITY - GOVERNMENT OWNED TOTAL d.	QUANTITY - GOVERNMENT OWNED FOREIGN MADE e.
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				
(11)				
(12)				
(13)				
(14)				
(15)				
(16)				

VOL 60 ISS 73 AP 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION F - TECHNOLOGY	CAGE CODE	DATA DATE

33. DOES YOUR FACILITY POSSESS OR IS IT DEVELOPING CAPABILITIES TO SUPPORT THE ADVANCED TECHNOLOGIES LISTED BELOW?

TECHNOLOGY a.	HAVE NOW (X) b.	HAVE IN 5 YEARS (X) c.	OWNERSHIP RIGHTS d.	DUAL USE (Yes/No) e.	PROGRAM USED ON f.
(1) INTEGRATED CAD/CAM/CIM					
(2) INTEGRATED CIRCUIT MANUFACTURING					
(3) OPTICAL APPLICATIONS					
(4) SMC/INTEGRATED MANUFACTURING					
(5) THERMAL SPRAYING					
(6) AUTOMATED HANDLING					
(7) FLEXIBLE MANUFACTURING SYSTEMS					
(8) LASER CUTTING/WELDING					
(9) CELLS/GROUP TECHNOLOGY					
(10) COMPOSITES, CERAMICS, AND POWDERED METALS					
(11) ROBOTICS					
(12) CNC MACHINERY					
(13) VISION/INSPECTION SYSTEMS					
(14) AUTOMATED TEST EQUIPMENT					
(15) BAR CODING					
(16) SEMICONDUCTOR MATERIALS & MICROELECTRONIC CIRCUITS					
(17) SOFTWARE ENGINEERING					
(18) HIGH PERFORMANCE COMPUTING					
(19) MACHINE INTELLIGENCE & ROBOTICS					
(20) SIMULATION & MODELING					
(21) PHOTONICS					
(22) SENSITIVE RADARS					
(23) PASSIVE RADARS					
(24) SIGNAL & IMAGE PROCESSING					
(25) SIGNATURE CONTROL					
(26) WEAPON SYSTEM ENVIRONMENT					
(27) DATA FUSION					
(28) COMPUTATIONAL FLUID DYNAMICS					
(29) AIR BREATHING PROPULSION					
(30) PULSED POWER					
(31) HYPERVELOCITY PROJECTILES & PROPULSION					
(32) HIGH ENERGY DENSITY MATERIALS					
(33) COMPOSITE MATERIALS					
(34) SUPERCONDUCTIVITY					
(35) BIOTECHNOLOGY					
(36) OTHER:					

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FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION F - TECHNOLOGY (Continued)	CAGE CODE	DATA DATE

34. IMPLEMENTATION (Describe your implementation of any technologies identified in Item 33.b. or c.)

35. DUAL USE TECHNOLOGIES (Explain dual use technologies identified in Item 33.e.)

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36. OVERALL STATE OF YOUR MANUFACTURING TECHNOLOGY AS COMPARED WITH YOUR INDUSTRY (X one and explain)

- [ ] LEADING
- [ ] AVERAGE
- [ ] TRAILING

37. WILL TODAY'S PLANT EQUIPMENT BE ABLE TO SUSTAIN PRODUCTION OF FUTURE PROCUREMENTS DRIVEN BY ADVANCED TECHNOLOGIES? (X one and explain)

- [ ] YES
- [ ] NO

VOL 60 ISS 73 AP 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION F - TECHNOLOGY (Continued)	CAGE CODE	DATA DATE

38. ARE YOU WILLING TO SHARE TECHNOLOGY DEVELOPMENTS WITH OTHER GOVERNMENT CONTRACTORS? (X one. If No, explain circumstances under which you would be willing to share technology developments.)

___ YES
___ NO

39. HAS YOUR FACILITY RECENTLY HAD ANY SPECIAL RECOGNITION FOR INVENTIONS, INNOVATIONS, OR ACHIEVEMENTS?

	INVENTIONS, INNOVATIONS, ACHIEVEMENTS OR PATENTS a	POINT OF CONTACT NAME (Last, First, Middle Initial) b	TELEPHONE NUMBER (Include area code) c
(1)			
(2)			
(3)			
(4)			
(5)			

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40. IS TECHNOLOGY DEVELOPMENT DRIVEN BY COMMERCIAL MARKET, DEPARTMENT OF DEFENSE (DOD), OR OTHER MARKET DEMANDS? (Explain)

41 HAS YOUR FACILITY EVER PARTICIPATED IN OR RECEIVED FUNDS FOR THE FOLLOWING:

	PROGRAM a	YEAR b	TECHNOLOGY c	INITIAL INVESTMENT d	RETURN ON INVESTMENT PROJECTED e	RETURN ON INVESTMENT ACTUAL f
(1) MS&T						
(2) IR&D						
(3) TITLE III						
(4) MODERNIZATION						
(5) TRP						
(6) SBIR						
(7) OTHER						

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION G - CUSTOMER BASE (Use as many copies of this page as necessary to list customers which account for a significant amount of your sales volume.)	CAGE CODE	DATA DATE

42 LIST YOUR CUSTOMERS, ITEMS YOU MANUFACTURE OR SERVICES YOU PROVIDE FOR THEM, AND CUSTOMER PRODUCT LINES SUPPORTED (List companies and items other than those identified in Section H.)

a (1) NAME | (2) TELEPHONE NUMBER (Incl. area code) | (3) FAX NUMBER (Include area code)

(4) STREET ADDRESS | (5) CITY | (6) STATE | (7) ZIP CODE

(8) POINT OF CONTACT NAME (Last, First, Middle Initial) | (9) TITLE

(10) YOUR MANUFACTURED ITEM(S) (Name and Part Number) OR SERVICE(S) (Include Depot level repair)	(11) YOUR CUSTOMER'S PRODUCT LINE(S) (Next higher assemblies)
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	

b (1) NAME | (2) TELEPHONE NUMBER (Incl. area code) | (3) FAX NUMBER (Include area code)

(4) STREET ADDRESS | (5) CITY | (6) STATE | (7) ZIP CODE

(8) POINT OF CONTACT NAME (Last, First, Middle Initial) | (9) TITLE

(10) YOUR MANUFACTURED ITEM(S) (Name and Part Number) OR SERVICE(S) (Include Depot level repair)	(11) YOUR CUSTOMER'S PRODUCT LINE(S) (Next higher assemblies)
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	

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c (1) NAME | (2) TELEPHONE NUMBER (Incl. area code) | (3) FAX NUMBER (Include area code)

(4) STREET ADDRESS | (5) CITY | (6) STATE | (7) ZIP CODE

(8) POINT OF CONTACT NAME (Last, First, Middle Initial) | (9) TITLE

(10) YOUR MANUFACTURED ITEM(S) (Name and Part Number) OR SERVICE(S) (Include Depot level repair)	(11) YOUR CUSTOMER'S PRODUCT LINE(S) (Next higher assemblies)
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	

d (1) NAME | (2) TELEPHONE NUMBER (Incl. area code) | (3) FAX NUMBER (Include area code)

(4) STREET ADDRESS | (5) CITY | (6) STATE | (7) ZIP CODE

(8) POINT OF CONTACT NAME (Last, First, Middle Initial) | (9) TITLE

(10) YOUR MANUFACTURED ITEM(S) (Name and Part Number) OR SERVICE(S) (Include Depot level repair)	(11) YOUR CUSTOMER'S PRODUCT LINE(S) (Next higher assemblies)
(a)	
(b)	
(c)	
(d)	
(e)	
(f)	

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION H - MANUFACTURED ITEM (Use a separate copy of Section H (all pages) for each item requested.)	CAGE CODE	DATA DATE

43.a ITEM NAME

b. NATIONAL STOCK NUMBER (NSN)	c. PART NUMBER (P/N)	d. OTHER IDENTIFIER	e. UNIT OF MEASURE	f. SHELF LIFE (Years)

g. PRODUCTION LINE (Area designation)	44.a. PRODUCTION MAN-HOURS TO PRODUCE ITEM	b. ENGINEERING MAN-HOURS TO SUPPORT ITEM

45. CONTRACT(S) (List information for each contract number in the appropriate column.)

	(a)	(b)	(c)
a. CONTRACT OR PURCHASE ORDER NUMBER(S)			
b. AWARD DATE			
c. COMPLETION DATE			
d. TOTAL CONTRACT QUANTITY			
e. (1) PROCUREMENT ACTIVITY			
(2) DODAAC			
(3) POINT OF CONTACT NAME			
(4) TELEPHONE (Incl. area code)			
f. UNIT PRICE			
g. PROGRAM(S) SUPPORTED			
h. CUSTOMER (1) NAME			
(2) ADDRESS (Street, City, State, ZIP Code)			

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46. OWNER OF TECHNICAL DATA PACKAGE (TDP) (For manufactured item specified in Item 43)

47. DO YOU HAVE DEPOT LEVEL REPAIR/REBUILD CAPABILITY FOR THIS ITEM? (X if applicable)
- [ ] REPAIR
- [ ] REBUILD

48. IS YOUR PLANT A SOLE/SINGLE SOURCE FOR THIS ITEM? (X if applicable)
- [ ] SOLE SOURCE (The only known producer for the item, no other production capability exists.)
- [ ] SINGLE SOURCE (A qualified source identified by the contracting activity as the only source However, other sources are known to have the capability to manufacture the item.)

49. POSSIBLE ALTERNATE SOURCES

MANUFACTURER NAME a.	CAGE CODE b.	CITY c	STATE d	ZIP CODE e	COUNTRY f
(1)					
(2)					
(3)					
(4)					

50. MANUFACTURING LEAD TIME (In weeks)

a. GOVERNMENT INITIAL ORDER b. GOVERNMENT REPEAT ORDER c. COMMERCIAL INITIAL ORDER d. COMMERCIAL REPEAT ORDER

DEFINITIONS:

MANUFACTURING LEAD TIME	The interval between date a manufacturer accepts a firm order and shipment date of first complete production unit
GOVERNMENT	Produced to government/military specifications
COMMERCIAL	Produced to commercial specifications
INITIAL ORDER	Lead time required to design and produce a component within the state-of the art (without extensive Research & Development) by a manufacturer that has not previously produced the component
REPEAT ORDER	Lead time required after a complete break in product to produce an item identical except for minor changes to one made on a previous order

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION H - MANUFACTURED ITEM (Continued)

NSN OR PART NUMBER	PRODUCTION LINE (Area designation)	CAGE CODE	DATA DATE

51. PRODUCTION CAPACITY RATES

DEFINITIONS

CURRENT PRODUCTION RATE:	Number of units being produced per month to meet current contractual requirements
STAND ALONE:	Identify capability as if producing only the item and no others
MAXIMUM PRODUCTION RATE:	Accelerated production with existing facilities and equipment in a peacetime environment No declared national emergency
CONCURRENT:	Consider all other ongoing or planned commercial and Government production
INITIAL PRODUCTION:	Entries should be made as follows: If production will be 200 in the 7th month, your entry would be 200/7
MINIMUM SUSTAINING RATE:	The lowest monthly production rate at which your plant can produce this item without increasing the unit cost on a 1 8-5 shift basis
ECONOMIC ORDER QUANTITY	The optimum (least cost) quantity of items which should be produced monthly
COLD BASE	A manufacturing facility/line that is not scheduled to be producing an item unless mobilization occurs
WARM BASE	Those producers with active production contracts for the item(s) under construction.

a. CURRENT PRODUCTION RATE	b. CURRENT SHIFT BASIS	c. ESTIMATED MONTH AND YEAR PRODUCTION LINE GOES COLD (MM/YY)

	SHIFT BASIS (1-8-5, 2-8-5, 3-8-5, etc.) d.	INITIAL PRODUCTION FROM COLD BASE (Quantity/month achieved) e.	MAXIMUM PRODUCTION RATE FROM WARM BASE (Quantity/month achieved) f.	MAXIMUM PRODUCTION RATE FROM COLD BASE (Quantity/month achieved) g.
(1) CONCURRENT				
(2) STAND ALONE				

h. MINIMUM SUSTAINING RATE i. ECONOMIC ORDER QUANTITY

52. CRISIS REQUIREMENTS (X one) (To be completed by Government personnel only when needed for crisis preparedness planning.)
- [ ] PLANNING PERSONNEL HAVE DETERMINED A POTENTIAL DEMAND OF _____ PER MONTH.
- [ ] PLANNING PERSONNEL HAVE DETERMINED A POTENTIAL CUMULATIVE DEMAND OF _____ WITHIN _____ MONTHS
- [ ] THERE ARE NO CRISIS REQUIREMENTS FOR THIS ITEM. DO NOT COMPLETE ITEM 53.

53. PRODUCTION BOTTLENECKS (If your maximum concurrent production rate is less than 100% of the requirement in Item 52, identify any bottlenecks to fulfilling the indicated demand Place in rank order if more than one bottleneck exists.)

	BOTTLENECK OR PROBLEM a.	MONTHS TO FIX b.	COST TO FIX c.
(1)			
(2)			
(3)			
(4)			

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54. SHARED LINE CAPACITY

a. DOES THIS ITEM SHARE LINE CAPACITY WITH OTHER ITEMS? (X one) [ ] YES [ ] NO

b. IF "YES", WERE THESE ITEMS USED IN DEVELOPING THE CONCURRENT RATES FOR THIS ITEM? (X one) [ ] YES [ ] NO

c. IF 54.b IS "YES", IDENTIFY ALL ITEMS (Government and commercial) THAT WERE USED TO DEVELOP CONCURRENT RATES

	ITEM (1)	NSN OR PART NUMBER (2)
(a)		
(b)		
(c)		
(d)		

55. COST AND TIME TO REGENERATE PRODUCTION CAPABILITY (Indicate cost and time to regenerate production capability after the production break periods below Assume no preservation action taken by the Government)

	PRODUCTION BREAK 3 MONTHS a	6 MONTHS b.	12 MONTHS c	24 MONTHS d.	36 MONTHS e	48 MONTHS f
(1) % OF LABOR LOST DURING BREAK						
COST TO REGENERATE AFTER BREAK.						
(2) FACILITY						
(3) LABOR						
(4) OTHER						
TIME TO REGENERATE AFTER BREAK						
(5) FACILITY						
(6) LABOR						
(7) TIME FOR FIRST UNIT DELIVERY AFTER BREAK						
(8) COST OF FIRST UNIT AFTER BREAK						

VOL 60 ISS 73 AP 17 1995 UMI

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION H - MANUFACTURED ITEM *(Continued)*

NSN OR PART NUMBER	PRODUCTION LINE *(Area designation)*	CAGE CODE	DATA DATE

56. DEFENSE ESSENTIAL *("Defense Essential" is defined as a capability necessary to meet defense requirements that would require major investment and/or significant time to recreate if lost.)*

a. DEFENSE ESSENTIAL TRADES, SKILLS, OR PROFESSIONS

TRADE, SKILL, OR PROFESSION (1)	NUMBER CURRENTLY EMPLOYED (2)	NUMBER SHORTAGE CURRENT YEAR (3)	NUMBER SHORTAGE +2 YEARS (4)	MONTHS TO HIRE (5)	MONTHS TO TRAIN (6)	COST TO TRAIN (7)
(a)						
(b)						
(c)						
(d)						
(e)						

b. DEFENSE ESSENTIAL FACILITIES *(Identify and briefly describe defense essential facilities. Include estimated cost and time to replace these facilities. Indicate if owned wholly or in part by foreign concerns or governments.)*

c. DEFENSE ESSENTIAL PLANT EQUIPMENT *(Identify and briefly describe defense essential plant equipment. Include estimated cost and time to replace this equipment. Indicate if owned wholly or in part by foreign concerns or governments.)*

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d. DEFENSE ESSENTIALTECHNOLOGIES *(Identify and briefly describe defense essential technologies. Include estimated cost and time to replace these technologies.)*

e. SPECIAL ACTIONS REQUIRED TO MAINTAIN DEFENSE ESSENTIAL TRADES/SKILLS/PROFESSIONS, TECHNOLOGIES, FACILITIES, OR PLANT EQUIPMENT *(If any. Include estimated cost and time to accomplish the special action.)*

FOR OFFICIAL USE ONLY - BUSINESS SENSITIVE AND PROPRIETARY INFORMATION

SECTION H MANUFACTURED ITEM *(Continued)*

NSN OR PART NUMBER	PRODUCTION LINE *(Area designation)*	CAGE CODE	DATA DATE

57 KEY SUBCONTRACTORS *(For each subcontractor that may inhibit you from meeting cost, schedule, or performance requirements, use an additional copy of this page.)*

a. SUBCONTRACTOR

(1) NAME | (2) POINT OF CONTACT NAME *(Last, First, Middle Initial)*

(3) TELEPHONE NUMBER *(Include area code)* | (4) OTHER IDENTIFIER

(4) STREET ADDRESS | CITY | STATE | ZIP CODE | COUNTRY

b. MANUFACTURED ITEM

(1) ITEM NAME | (2) NSN | (3) PART NUMBER

(4) MANUFACTURING LEAD TIME *(In weeks)* | (5) QUANTITY PER NEXT HIGHER ASSEMBLY | (6) UNIT COST

c. RISK RANK AND CONSTRAINTS *(Using codes below, determine the risk ranking of this facility and select up to five constraint codes.)*

(1) RISK RANK | (2) TOP FIVE CONSTRAINTS *(High to low)*

RISK RANK CODES

- **L** = Low risk. Should be able to produce acceptable items beyond 5 years
- **M** = Medium risk. May face problems producing acceptable items in 2 to 5 years
- **H** = High risk. May face problems producing acceptable items in 0 to 2 years

CONSTRAINT CODES *(Some of these constraints may be company/division versus product oriented, some apply to both company and product)*

AM	Acquisition/merger: present or future concerns	**LI**	Liability/litigations that affect production
AP	Approval process too lengthy: causes slippage	**LL**	Long lead/pacing item(s) that affect schedule
AT	Aging tools, equipment, and/or processes	**LP**	Low or no profits that may affect contracts
BI	Business/economic issues affect production	**MO**	Moves and major relocations: affecting output
BV	Business volume is too low: future uncertain	**MV**	Too many vendors: many sources cause problems
CC	Critical component, part, assembly, etc	**OS**	Occupational safety issues affect production
CI	Capacity issues: limits may affect production	**PO**	Policy issues not conducive to meeting goals
CM	Critical material(s) may affect production	**PP**	Proprietary process/material: only source
CO	Cost issues impact production	**PQ**	Production quality issues affect output
CP	Capability issues: limits may affect output	**SC**	Surge/crises/resupply: hinders output
DO	Documentation/specifications may cause problems	**SK**	Skilled labor required to sustain production
DS	Diminishing manufacturing sources: economy, politics, etc	**SO**	Sole source: only one capable of making product
EN	Environmental issues affect production	**SS**	Single qualified source: others could qualify
FD	Foreign dependent: only source is outside U.S.A.	**ST**	Special tests and/or equipment a pacing item
FS	Foreign source: by choice is outside U.S.A.	**TH**	Transportation/handling affects schedule
GA	Government availability causes slippage	**TO**	Tooling shortage: limited availability
IO	Investment opportunity for improved output	**TT**	Technology transfer: poor TT hinders production
LA	Labor issues: unions, health, welfare, etc	**ZZ**	Other *(Specify)*

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d. IF YOU IDENTIFIED CONSTRAINT CODE "EN", DESCRIBE THE ENVIRONMENTAL ISSUE

e. IF YOU IDENTIFIED CONSTRAINT CODE "SS" LIST ALTERNATE SOURCE(S) *(Include city, state, ZIP code, and country)*

f. IF YOU IDENTIFIED CONSTRAINT CODE "FS" IS THIS ITEM AVAILABLE DOMESTICALLY? *(X one)*

___ YES *(Complete (1) and (2))* | (1) TIME TO QUALIFY A DOMESTIC SOURCE *(Months)* | (2) COST

___ NO

g. EXPLAIN IMPACT OF LOSS OF THIS SOURCE

VOL 60 ISS 73 AP 17 1995 UMI

INSTRUCTIONS FOR DD FORM X277, "INDUSTRIAL CAPABILITIES QUESTIONNAIRE"

NOTE TO ALL USERS: This form is used to collect industrial capability information. All in house Government sources of information are to be searched for applicable data which is then entered on the form by Government personnel prior to presenting the form to contractors. Contractors may then be requested to verify the Government data and to supply any missing data for the form.

Participation by contractors is voluntary. The signatures attest that the information contained herein is provided for the sole purpose of gauging the adequacy of the U.S. industrial base in accordance with applicable laws and regulations. Further, the signatures indicate an awareness of the Government's dependence upon accurate data as a basis for appropriate and often costly measures to insure sufficient and timely support to our U.S. warfighters. The signatures hereon in no way bind the named firm(s) nor the Government in any contractual relationship, nor is acceptance to be construed as an agreement by industry to maintain production capability as indicated herein, nor is the Government obligated to contract with the named firm if procurement of the items specified herein is required. It is understood that access to this data will be limited to duly accredited officials of the Department of Defense who are subject to penalties for unlawful disclosure. The protection given to data relating to your facility under the espionage act and other statutes will confine accessibility within the Government to those responsible for the defense of the United States.

COVER FACILITY IDENTIFICATION AND OVERALL OPINIONS

The cover identifies industrial base entity location, size, parent, foreign ownership, and lets the Contractor identify any other important issues to the Government and recommend possible solutions.

1.a. Name of Company or U.S. Government Department/Facility. This is respondent's legal name and includes qualifiers such as division, subsidiary, and/or the next higher organizational entity. This block is the location about which information is being collected. Do not include information about off-site locations that have no capability to support requirements. Use the following abbreviations (no punctuation is required):

CO (Company)	CORP (Corporation)	DIV (Division)
INC (Incorporated)	IND (Industries)	INTL (International)
LTD (Limited)	MFG (Manufacturing)	SUB (Subsidiary)

1.b. Address. Street address includes post office box number, if used, as well as a physical street address, city, state, and zip code. Use standard two character abbreviations for states, use province instead of state if entity is Canadian. Nine digit zip codes are preferred for U.S. entities, 10 character zip codes for Canadian entities. Use the following abbreviations (no punctuation is required):

AVE (Avenue)	BLVD (Boulevard)	DR (Drive)
HWY (Highway)	LN (Lane)	ST (Street)
PO (Post Office)	RD (Road)	TNPK (Turnpike)
XWAY (Expressway)		

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1.c. DUNS Number. This is a nine character code assigned by Dun & Bradstreet Financial Services that identifies corporate entities.

1.d. CAGE Code. This is the acronym for Commercial and Government Entity. It is a five character alphanumeric designator number and identifies contractors doing business with the Government located in the U.S., Canada, NATO member nations, and other foreign governments. (The CAGE Code was formerly known as FSCM.) The CAGE Code whould also be entered in the appropriate block at the top right corner of all following pages. If a contractor facility has multiple CAGE Codes, contact the Industrial Analysis Support Office for assistance.

1.e. DODAAC. This is the Department of Defense Activity Address Code for the DCMC representative (DCMAO or DPRO). DODAAC listing is contained in DoD 4000.25-6-M, DoD Activity Address Directory.

1.f. Status of Ownership. Mark (X) the appropriate block. "Publicly Traded" should be marked if the company's stock is traded on the public stock exchange. Mark "Privately Held" if not a stock held company. "Foreign" is defined as a facility located in countries other than the United States or Canada. If "Foreign" has been marked, please indicate the percentage of foreign ownership.

1.f. (Continued) For Government owned facilities, mark either GOGO for Government Owned Government Operated or GOCO for Government Owned Contractor Operated.

1.g. Manufacturing Site Point of Contact: Name, Title, Telephone Number, Fax Number, Signature and Date. Enter the manufacturing site primary point of contact, job title, telephone and facsimile number, including area code. Indicate Defense Switched Network by using acronym "DSN". The primary point of contact should provide a signature and date.

1.h. Government Representative. Name, Title, Telephone Number, Fax Number, Address, Signature and Date. Government representative's name shall be the designated DCMC industrial base representative assigned to this entity. Include job title, telephone and facsimile number including area code. Indicate Defense Switched Network by using acronym "DSN". Address shall include street address, city, state, and zip code. The Government representative should provide a signature and date.

2.a. Name of Parent Company. This is the name of manufacturing site's parent company and/or the next higher organizational entity. Use abbreviations provided in the instructions for Item 1.a. If Government owned, this block should cite component's identity and command; i.e., U.S. Army Tank and Automotive Command; U.S. Navy, Naval Sea Systems Command; U.S. Air Force, Air Force Materiel Command.

2.b. Address. Enter the address for the parent company. Use abbreviations provided in the instructions for 1.b.

2.c. DUNS Number. Enter the DUNS Number for the parent company. See definitions in the instructions for 1.c.

2.d. CAGE Code. Enter the CAGE Code for the parent company. See definition in the instructions for 1.d.

2.e. DODAAC. Enter the DODAAC for the DCMC representative (DCMAO or DPRO) for the parent company location. See definition in the instructions for 1.e.

2.f. Primary Point of Contact. Enter the parent company point of contact, job title, telephone and facsimile number including area code. Indicate Defense Switched Network by using acronym "DSN".

2.g. Name of Previous Parent Company (If Changed in the Past Two Years). Self explanatory.

3.a. Subsidiary or Division Name (if different from Item 1). Enter the manufacturing site's subsidiary or division name if different from Item 1 above. Use the abbreviations in the instructions for Item 1.a.

3.b. Address. Enter the address of the subsidiary or division. Use the abbreviations in the instructions for 1.b.

3.c. DUNS Number. Enter the DUNS Number for the subsidiary or division. See definition in the instructions for 1.c.

3.d. CAGE Code. Enter the CAGE Code for the subsidiary or division. See definition in the instructions for 1.d.

3.e. DODAAC. Enter the DODAAC for the DCMC representative (DCMAO or DPRO) for the subsidiary or division location. See definition in the instructions for 1.e.

3.f. Primary Point of Contact. Enter the subsidiary or division primary point of contact, job title, telephone and facsimile number including area code. Indicate Defense Switched Network by using acronym "DSN."

4.a.-c. Issues/Recommendations. Self explanatory.

5. Industrial Base Issues. Self explanatory.

6. Additional Remarks. Self explanatory. This block may be used by the Government representative to annotate any areas of disagreement between the contractor and the Government regarding the information provided on the form.

SECTION A FACILITY DESCRIPTION

This section provides physical information on the facility, such as type floor space, acreage, transportation, energy, and the impact of environmental/safety requirements.

7.a. Type of Facility. Mark (X) all that apply.

Assembly - assembly of parts manufactured here or at other facilities.

Parts Manufacturing - fabrication of the majority of a part or item.

Research and Development - activities related to new items or prototypes.

Distribution - movement of items between geographic locations.

Engineering - activities related to already developed and manufactured items.

Depot Level Repair - activities related to major repair, rebuild, overhaul, upgrades and maintenance.

Chemical Processing - activity such as mixing, compounding, plating, distillation, extrusion, heat treatments, etc.

Other - If this block is marked, please explain.

7.b. Production. Mark (X) all that apply.

Mass Production - facility manufactures item or group of items on a continuous basis in large lots.

Job Lot - Facility manufactures items in low volume.

Custom - unique or specialized production on a low production rate.

7.c. Floor Space. Identify floor space in square feet. "Used" floor space is total floor space less unused floor space. "Unused" floor space is area that is vacant and could be used to expand production.

7.d. Storage. Identify "Covered (Outdoor)," "Uncovered (Outdoor)" and "Total Storage (Indoor)" in square feet. "Covered (Outdoor)" storage includes structures that provide protection from the elements as well as physical security.

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7.e. Acreage. Identify facility's total acreage developed area, and area available for expansion. Developed area includes space occupied by buildings, assembly, production, test, and storage areas (aircraft hangars, drydocks, launch pads, firing ranges, etc.), traffic accesses, vehicle parking lots, drainage pods, and physical security barriers. Area available for expansion includes land readily available for construction without extensive site modification.

7.f. Leased Facilities. If "Yes" identify percent of leased facilities, leaseholder and lease expiration date.

7.g. Transportation. Identify all types of transportation used at this facility, including any restrictions that may apply such as weight, height, and width limitations, noise/environmental regulations, tide levels, etc.

7.h. Energy Required. Identify types of energy that are required for plant operations.

8. Environmental/Safety Requirements. Rank order of any environmental/safety requirements that impact production now and/or potentially will impact production five years from now. Include a description of any actions you plan to take or recommend to overcome these issues.

SECTION B BUSINESS PROFILE.

This section provides sales volume and business information. This information is only applicable to the facility where data is being collected, not the entire corporate entity.

9. Annual Value of Sales (Both Historic and Projected). Base year is the most recent calendar year for which complete data is available. Base year data is never projected, only actual.

a. Total Sales (in Millions) is the total of all commercial and Government sales for a calendar year.

SECTION B (Continued)

9.b.-e. Provide Percent breakdown of Commercial, Direct Foreign Sales, Foreign Military Sales, and Total U.S. Government sals (1) Army, (2) Navy, (3) Air Force, (4) DLA, (5) Ballistic Missile Defense Organization, and (6) Non-DoD U.S. Government.

10. Investment and Backlog (Both Historic and Projected).

a. Capital Investment. Outlay of money to acquire or improve capital assets such as buildings and machinery.

b. Total R&D Investment. Outlay of money (independent and contract) to improve processes and formulas and the development of new and improved products.

c. Government Backlog (in dollars). The total Government work input (funded and unfunded) which is in excess of the current workload capability of the manufacturer at any given point in time.

d. Government Backlog (in months). Number of months to clear total Government backlog.

e. Commercial Backlog (in dollars). The known commercial work input which is in excess of the current workload capability of the manufacturer at any given point in time.

f. Commercial Backlog (in months). Number of months to clear commercial backlog.

SECTION C - LABOR

This section is collected to ascertain the facility's labor base and the effect of the DoD budget by using site employment, historical, current and projected employment and production rates.

11. Current Site Employment Levels. Break down current site employment levels including number of personnel, personnel by shift, hours per day and days per week.

12. Employment Levels over the Past Five Years and Projections. Total employment at the end of each calender year. Base year is the most recent calender year for which complete data is available.

13. Trades, Skills, or Professions Affected by Lower Production Rates. Enter specific trades, skills, or professions. Use descriptive terms e.g. software or radiological engineers, ballistic scientists, optical lens grinding technicians, etc. Indicate how long it would take to rehire and retrain these workers by marking the appropriate column.

14. Make or Buy Decisions. Mark "Yes" or "No" and explain.

15. Unions. Self-explanatory.

SECTION D MATERIAL ISSUES

This section identifies strategic and critical material that are essential to production and determines material availability trends and how they may affect end item production.

16.b. Essential to Production. Place an X in this column to indicate materials that are essential to DoD production at your facility. For those items marked in column b, provide information in columns c through g.

16.c. Supplier. Provide the supplier name for any item marked in column a.

16.d. FS/FD. Indicate FS for materials with a source outside the U.S. or Canada by choice. FD for materials whose only qualified source is outside the United States or Canada.

16.e. and f. Problems. Indicate with an X if you have problems in the current year or anticipate problems five years from now.

16.g. Affect Demand. Indicate if your use of any material will significantly affect U.S. demand.

17. Description. Self explanatory.

VOL 60 ISS 73 APR 17 1995 UMI

SECTION E - PRODUCTION CAPABILITIES OF FACILITY

This section provides total production capacity and capability information for the facility. This section provides an understanding of investment patterns within the Industrial Base and what plant, inspection and test equipment is available.

18.a. Items or Classes of Items. Items are defined as systems, subsystems, components, equipment, supplies, or services; items can be manufactured at any tier associated with any sector of the Industrial Base that supports Defense or other Government requirements. Classes of items are general categories which are similar in design and manufacture but which may have different part numbers or specific values (e.g., resistors, capacitors, valves, tires, etc.). The items and classes of items listed in column a. should be those which account for a significant part of the facility's production capacity and/or sales volume and which have not been requested separately in Section H.

18.b. Percent of Capacity. List the percent of manufacturing facilities dedicated to the production of the items or classes of items listed in 18.a.

18.c. Shift Basis. Describe the shift currently in use to produce the items or classes of items listed in 18.a. using shift(s), hours per day, days per week (e.g., 1-8-5 means 1 shift per day, 8 hours per day, 5 days per week).

18.d. Percent of Production Assembled from Components of Outside Sources. Provide the percentage (based on cost) of manufactured components that are supplied by outside vendor(s) and used in the items or classes of items listed in 18.a.

19. Future Expansion Plans or Capital Equipment Purchases. Indicate which of the items listed in 18.a. will be affected by each future expansion/capital equipment purchase identified.

20. Capacity/Capabilities. Self-explanatory. Use the instructions and codes provided on form to fill out this item.

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21. Major Facility Constraints. Select all of the constraints to production that restrict or hamper the ability to produce at this facility.

22. Manufacturing Capacity Now Used for Commercial Work. Indicate whether the skills, processes, facilities and/or technologies used for commercial production can be used or converted for defense production.

23. Alternate Suppliers. Identify any item and list alternate suppliers if you do not intend to maintain production capability.

24. Forecast Increase or Reduction of Manufacturing Capacity. Self-explanatory.

25. Pursuit of Commercial Business. Self-explanatory.

26. Prospects for Increasing Foreign Sales. Self-explanatory.

27.a. Reduction in Contracts/Plant Closure. Self-explanatory.

27.b. Contracts Absolutely Vital to Survivability. Select all vital customers and connect contracts or programs with each one.

28. Actual Capacity Utilization and Projections. Indicate actual capacity utilization for the four previous years, the current year, and project capacity utilization for the two years into the future. Indicate the base year at the top of column e. Base year is the most recent calendar year for which complete data is available.

SECTION E *(Continued)*

28. *(Continued)* **Maximum production rate (1-8-5) is defined as** accelerated production with a 1-8-5 shift basis and existing facilities and equipment in a peacetime environment with no declared national emergency. Current plant output is defined as the average annual production.

29.a. Facility Modernization Improvement Programs. Provide percentage of gross sales applied to each category over the four previous years, the base year, and two projected years. Indicate the base year at the top of column (f). Base year is the most recent calendar year for which complete data is available.

29.b. Factors Influencing Capital Investments. Self-explanatory.

30. Major Plant Equipment. List and indicate number of company owned, Government owned major plant equipment.

31. Ownership of Defense Essential Equipment, Technologies, Patents, or Software. Self-explanatory.

32. Defense Essential Inspection/Test Equipment and Special Tooling. List and indicate number of company owned, Government owned, and foreign made inspection/test equipment and special tooling that is defense essential.

SECTION F - TECHNOLOGY

This section is designed to capture information relevant to the facility's existing/future capability to support advanced technologies.

33.b. Have Now. Mark (X) this column if your facility uses the technology now.

33.c. In 5 Years. Mark (X) this column if your facility will be using the technology in 5 years.

33.d. Ownership Rights. Indicate who has ownership rights to the selected technologies.

33.e. Dual Use. Indicate "Yes" if the selected technology is usable for both commercial and defense applications, "No" if not.

33.f. Program Used On. List the defense program that the selected technology is used on.

34. Implementation. If you marked any technologies in 33.b. or c., describe your implementation of those technologies.

35. Dual Use Technologies. If you identified any technologies in 33.e., explain any modifications to the technology that are required for dual uee application, and list commercial applications.

36. Overall State of Manufacturing Technology. Characterize your overall state of manufacturing technology as compared with the rest of your industry as either "Leading," "Average," or "Trailing," and explain your reasons for this ranking.

37. Will Today's Plant Equipment Sustain Production of Future Procurements. Self-explanatory.

38. Share Technology. Self-explanatory.

39. Inventions, Innovations, or Achievements. Self-explanatory.

40. Technology Drivers. Explain which market demands drive your technology development and how it is driven.

SECTION F *(Continued)*

41. Participation In/Receipt of Government Funds. Provide information on the following programs:

MS&T - Manufacturing Science and Technology Program, formerly known as ManTech or Manufacturing Technology.

IR&D - Independent Research and Development.

Title III - Title III of the Defense Production Act. This program provides incentives to create or expand domestic production capability for new material essential to national defense.41.

Modernization - Any of several modernization programs, including Industrial Modernization Incentives Program (IMIP), Factory Modernization (FacMod), and Technology Modernization (TechMod).

TRP - Technology Reinvestment Program.

SBIR - Small Business Innovation Research Program.

SECTION G - CUSTOMER BASE

This section is collected to determine the manufacturer's commercial and Government customers which account for a significant amount of the facility's sales volume.

42. Customers, Items, Services and Product Lines. Self-explanatory.

SECTION H - MANUFACTURED ITEM

This section is used to gather item specific production capability data for items identified by DoD as critical to the U.S. and Canadian defense effort.

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43.a. Manufactured Item. Manufactured item may be a system, subsystem, component, equipment, supply or service. This item is always filled in by the Government requestor.

43.b. National Stock Number (NSN). List the National Stock Number for the item in 43.a., if applicable.

43.c. and d. Part Number or Other Identifier. List if no NSN has been assigned.

43.e. Unit of Measure. List for the item in 43.a. Examples are: Each, barrels, pounds, liters, inches, feet, etc.

43.f. Shelf Life. Enter in years for the end item.

44. Man-Hours. Self-explanatory.

45.a. Contract or Purchase Order Number(s). List for the end item identified in 43.a.

45.b. Award Date. List year, month, and day (YYMMDD) for each contract and/or purchase order for the end item.

45.c. Completion Date. List year, month, and day (YYMMDD) for each contract and/or purchase order for the end item; enter date for last item if multi-year delivery is in effect.

45.d. Total Contract Quantity. List for each contract and/or purchase order for the end item.

45.e.(1)-(4). Procurement Activity. Enter activity name, DODAAC, point of contact, and telephone number for each contract/purchase order identified in 45.a.-c.

45.f. Unit Price. List the contract prices for the end item associated with contracts/purchase orders listed in 45.a.

SECTION H *(Continued)*

45.g. Programs Supported. List the program that the end item supports (e.g., M1A1 tank, Mk50 torpedo, etc.). If unknown, identify Military Service or other Government Agency.

45.h. Customer. List the name and address for any customer that requires the item in 43.a.

46. Technical Data Package Owner. Identify the activity (Government or contractor) who owns the item's Technical Data Package (TDP). If Government, identify the specific activity. TDP's usually consist of operator's manuals, research and engineering data, technical drawings, and performance or design type documents.

47. Depot Level Repair/Rebuild Capacity. Self-explanatory.

48. Sole/Single Source. Mark the appropriate box. "Sole Source" is the only known producer for the item, no other production capability exists. "Single Source" is a qualified source identified by the contracting activity as the only authorized source.

49. Possible Alternate Sources. List possible alternate sources for the same type of item, including CAGE Code and City/State/ZIP Code/Country.

50. Manufacturing Lead Time. Indicate intervals in weeks.

51. Production Capacity Rates. Self-explanatory. Definitions are included on form.

52. Crisis Requirements. To be filled out by Government data requestor.

53. Production Bottlenecks. Complete only if item 52 was completed.

54. Shared Line Capacity. Self-explanatory.

55. Cost and Time to Regenerate Production Capacity. Self-explanatory.

56.a. Defense Essential Trade, Skill, or Profession. For each manufactured item, identify the specific trade, skill, or profession that is defense essential, the number currently employed (required to meet contract commitments), any current or projected shortages (number needed to fill vacant positions). If shortages are identified, indicate the months to hire, months to train, and cost to train.

56.b. Defense Essential Facilities. For each manufactured item, identify any defense essential facilities, including extent of foreign ownership, and estimated cost and time to replace.

56.c. Defense Essential Plant Equipment. For each manufactured item, identify any defense essential plant equipment, including extent of foreign ownership, and estimated cost and time to replace.

56.d. Defense Essential Technologies. For each manufactured item, identify any defense essential technologies, including estimated cost and time to replace.

56.e. Special Actions. Self-explanatory.

57. Key Subcontractors. Use a separate page for each subcontractor that may inhibit the contractor from meeting cost, schedule, or performance requirements.

[FR Doc. 95-9302 Filed 4-14-95; 8:45 am]
BILLING CODE 3005-04-C

VOL 60 ISS 73 AP 17 1995 UMI

Office of the Secretary

Announcement of Public Hearing and Notice of Availability of the Draft Environmental Impact Statement (DEIS) for Land Use and Development Plan, Bellows Air Force Station, Waimanalo, HI

AGENCY: U.S. Pacific Command, DOD.

ACTION: Notice.

SUMMARY: The U.S. Pacific Command (USCINCPAC) is announcing the availability of the DEIS for a Land Use and Development Plan at Bellows Air Force Station (AFS), Waimanalo, Hawaii. A public hearing on the DEIS will be held on May 9, 1995 at 7:00 p.m. at the Waimanalo Elementary and Intermediate School Cafeteria, 41–1330 Kalanianaole Highway, Waimanalo, Hawaii.

The Public hearing will be conducted by the Navy on behalf of USCINCPAC. Government agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer. To assure accuracy of the record, statements can also be submitted in writing. Both oral and written statements will become part of the public record on this study, with equal weight given to each.

In the interest of available time, speakers will be asked to limit their comments to five minutes. If longer statements are to be presented, they should be summarized at the public hearing and submitted in writing either at the hearing or by mailing to the point of contact identified below.

DATES: The public hearing will be held on May 9, 1995 at 7:00 p.m. Written comments on the DEIS must be postmarked by May 30, 1995.

ADDRESSES: Request for single copies of the DEIS and submittal of written comments for inclusion into the official record should be forwarded to Gary Kasaoka (Code 235), Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860–7300.

FOR FURTHER INFORMATION CONTACT: Gary S. Kasaoka (Code 235) by voice/telephone at (808) 471–9338 or facsimile transmission at (808) 474–4890.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the U.S. Pacific Command has prepared and filed with the U.S. Environmental Protection Agency the above referenced Draft Environmental Impact Statement.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9303 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense, Commission on Roles and Missions of the Armed Forces.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the Commission on Roles and Missions of the Armed Forces.

The Commission is charged with providing an independent review of the roles and missions of the armed services to Congress, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. The year-long review will identify changes that can be made to improve military effectiveness and eliminate unnecessary duplication among the services. The purpose of this meeting is to discuss some of the specific roles and missions issues that are being developed for consideration by the Commission. Material to be discussed will consist of both classified and unclassified information in a format that makes it impractical to separate the two.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–453, as amended (5 U.S.C. App II), it has been determined that this Commission on Roles and Missions meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that, accordingly, this meeting will be closed to the public.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9306 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Defense Environmental Response Task Force

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security).

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force (DERTF). The DERTF is charged with studying and providing findings and recommendations on environmental response actions at military installations being closed or realigned. The purpose of the meeting is to follow up on the January 17–19, 1995, meeting. The DERTF will also discuss issues related to Superfund reform, unexploded ordnance, and the fast track cleanup program. The business meeting and hearing will be open to the public. Public witnesses desiring to speak before the DERTF should contract Shah Choudhury, Executive Secretary, and prepare a written statement that can be summarized orally before the DERTF at the time to be fixed for public witnesses. Written statements must be received by the close of business, May 5, 1995, at the Office of the Under Secretary of Defense (Environmental Security).

DATES: May 23, 1995, 8:00 a.m.–4:30 p.m.; May 24, 1995, 9:45 a.m.–9:00 p.m.

PUBLIC COMMENT PERIOD IS: May 24, 1995, 7:00 p.m.–8:00 p.m.

ADDRESSES: 295 North E Street, San Bernardino, CA.

FOR FURTHER INFORMATION CONTACT: Mr. Shah Choudhury, Executive Secretary, Office of the Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301–3400; telephone (703) 697–7475.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9304 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, April 20, 1995.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II section 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Dated: April 10, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9305 Filed 4–14–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of hearing.

SUMMARY: The National Advisory Council on Indian Education invites the public to attend a one-day hearing conducted by the Council. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIME: Monday, April 24, 1995 from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The hearing will be held at the Quality Inn, 2300 E. Shawnee, Muskogee, Oklahoma 74403, (918) 683–6551, Fax (918) 682–2877.

FOR FURTHER INFORMATION CONTACT: John W. Cheek, Acting Director, National Advisory Council on Indian Education, 330 C Street, S.W., Room 4072, Switzer Building, Washington, DC 20202–7556. Telephone: 202/205–8353.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Part C, Title V, Pub. L. 100–297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

The National Advisory Council on Indian Education is scheduling a one-day hearing for Monday, April 24 in order to solicit comments from the Indian community on proposed changes within the Office of Indian Education. The hearing will also provide an opportunity for the public to provide feedback on a proposed initiative within the Department of Education on how best to obtain consultation with Indian Nations regarding programs for Indian students. The hearing allows participants the opportunity to present written and/oral testimony on any issues affecting Indian education. Five general areas that may be addressed include: Tribal sovereignty/Trust Responsibility; Education Policy Development; the Impact of Goals 2000, A Tribal Perspective; Native Language and Culture; and the Federal Budget. Any submitted testimony may address one of the previously mentioned topic areas and follow this format: Statement of the problem; statement of desired remedy or solution; argument on behalf of desired remedy; and identification of who needs to do what and who oversees its follow through. Other testimony from topic areas not specifically addressed by the summit are also welcome. Findings, from the hearing will be utilized in the overall agenda of the National Advisory Council on Indian Education and will provide the basis for future consideration in annual report to Congress. Participants wishing to present written and/or oral testimony are requested to submit any documentation to the staff of the National Advisory Council on Indian Education prior to the hearing if possible and no later than 5:00 p.m. on the day of the hearing. Testimony may also be faxed to the NACI office at (202) 205–9446 any time prior to the hearing date.

Records are kept of all Council proceedings, and are available for public inspection at the office of the National Advisory Council on Indian Education located at 330 C Street S.W., Room 4072, Washington, DC 20202–7556 from the hours of 9:00 a.m. to 4:30 p.m. Monday through Friday.

Dated: April 10, 1995.

John W. Cheek,

Acting Director, National Advisory Council on Indian Education.

[FR Doc. 95–9463 Filed 4–14–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Wetland Involvement for Operable Unit 5 Pilot Plant Drainage Ditch Project at the Fernald Environmental Management Project

AGENCY: Department of Energy (DOE), Fernald Area Office.

ACTION: Notice of wetland involvement.

SUMMARY: This is to give notice of DOE's proposal to install a concrete sump and sump pump at the outfall of the Pilot Plant drainage line along with piping directed to the Advanced Wastewater Treatment (AWWT) facility, at the Fernald Environmental Management Project (FEMP), located approximately 18 miles (29 kilometers) northwest of downtown Cincinnati, Ohio. This activity will involve a wetland area in Hamilton County, Ohio. In accordance with 10 CFR 1022, DOE will prepare a Wetland Assessment and conduct the proposed action in such a manner to avoid or minimize potential harm to or within the affected wetland area.

DATES: Written comments must be received by the DOE at the following address on or before May 2, 1995.

ADDRESSES: For further information on this proposed action, contact: Mr. Wally Quaider, Acting Associate Director, Office of Safety and Assessment, U.S. Department of Energy, Fernald Area Office, P.O. Box 538705, Cincinnati, Ohio 45253–8705. Phone: (513) 648–3137, Facsimile: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE wetland and floodplain environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: The proposed activity would reduce or eliminate risks to human health and the environment through the collection and treatment of radiologically and

VOL 60 ISS 73 AP 17 1995 UMI

chemically contaminated seepage. Included is the installation of a sump within the drainage ditch to contain seepage from a plugged abandoned outfall line, and a pump and associated piping to direct the effluent to the AWWT. Slightly under 0.5 acres of wetlands would be affected. Wetland impacts would occur from installation of the sump and equipment movement, resulting in physical disturbance and filling of wetland areas. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a wetlands assessment for this proposed DOE action.

Issued in Miamisburg, Ohio on April 3, 1995.

J. Phil Hamric,

Manager, Ohio Field Office.

[FR Doc. 95–9429 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Floodplain and Wetland Involvement for Operable Unit 5 Remedial Action at the Fernald Environmental Management Project (FEMP)

AGENCY: Department of Energy (DOE), Fernald Area Office.

ACTION: Notice of floodplain and wetland involvement.

SUMMARY: This is to give notice of DOE's planned actions at the Fernald Environmental Management Project (FEMP), located approximately 18 miles (29 kilometers) northwest of downtown Cincinnati, Ohio. The subject of this Notice of Involvement is Operable Unit 5 which consists of soil and sediment, surface water, groundwater, flora and fauna. The proposed Remedial Action for Operable Unit 5 will reduce risks to human health and the environment through the excavation of soil and sediment, pumping and treating contaminated groundwater, consolidating excavated material in an on-property engineered disposal cell, and backfilling excavated areas. These activities will likely impact floodplain and wetland areas in Hamilton County, Ohio. In accordance with 10 CFR 1022, "Compliance with Floodplain/Wetland Environmental Review Requirements," DOE will prepare a Floodplain/Wetland Assessment for the proposed Remedial Action and the appropriate Statement of Findings. The proposed activities will be performed in such a manner to avoid or minimize potential harm to or within floodplain and wetland areas.

DATES: Written comments must be received by the DOE at the following address on or before May 2, 1995.

ADDRESSES: For further information on this proposed action, including a site map, contact: Mr. Wally Quaider, Acting Associate Director, Office of Safety & Assessment, U.S. Department of Energy, Fernald Area Office, P.O. Box 538705, Cincinnati, Ohio 45253–8705. Phone: (513) 648–3137, Facsimile: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE wetland and floodplain environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: Remedial activities associated with Operable Unit 5 would include excavation activities directly impacting the 100- and 500-year floodplain of Paddys Run. However, these areas would be backfilled and regraded to approximately original contours, thereby eliminating permanent impacts. Construction of a disposal cell stormwater control channel would result in some increase in flows to Paddys Run during rain events, however, these increased flow events would not result in significant direct or indirect impacts to the floodplain.

Impacts to wetlands as a result of the proposed Remedial Action would be limited to less than 6 hectares (15 acres) of emergent and drainage ditch wetlands. Direct impacts would result from excavation and equipment operation, and indirect impacts would result from such things as soil runoff. Forested wetlands in the northern portion of the site are not expected to be impacted.

Proposed actions affecting these areas are subject to substantive requirements of laws, regulations, and orders pertaining to wetlands and floodplains protection. Additionally, Executive Order (E.O.) 11988—Floodplain Management—and E.O. 11990—Protection of Wetlands—implemented by 10 CFR 1022, require federal agencies to consider the effects of proposed actions on floodplains and wetlands. These regulations require federal agencies to avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains and the destruction and modification of wetlands, and to avoid direct or indirect support of floodplain and wetlands development where there is a practicable alternative. Where no practicable alternative exists, proposed actions must include all practicable measures to minimize harm. Best management practices will be utilized during the proposed Remedial Action in Operable Unit 5 to minimize impacts to wetland and floodplain areas.

Issued in Miamisburg, Ohio on April 3, 1995.

J. Phil Hamric,

Manager, Ohio Field Office.

[FR Doc. 95–9430 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Don Curchod

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15615 to Don Curchod. The proposed grant will provide funding in the estimated amount of $94,000 by the Department of Energy to further develop the "Energy Efficient Skylight (SEAlight)" technology, a patented device for controlling the light and heat entering a building through a window or skylight. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Don Curchod is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The SEAlight provides an inexpensive and effective method for controlling solar heat gain and daylighting in both new and existing windows and roof-top skylights. Through a novel application of reflective materials, the technology permits the entry of sunlight through windows and skylights during winter and reflects insolation in summer, reducing radiative heat gains during the cooling season. It has applications in both commercial and residential buildings.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, Attn: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9427 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Thomas L. Dinwoodie, PowerLight Company

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15638 to Thomas L. Dinwoodie, PowerLight Company. The proposed grant will provide funding in the estimated amount of $99,400 by the Department of Energy for the purpose of saving energy through additional engineering refinements, prototype demonstration, plus product testing and certification by independent laboratories of the inventor's "Powerguard." This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Thomas L. Dinwoodie, PowerLight is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The basis of the Powerguard, is to integrate the PV modules into the building's structure, particularly the roof. Integrated PV/roof systems are attractive because the PV system's cost is reduced by the dual usage of the PV module as both a roofing material and as PV power modules as an internal component of a roof. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9426 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Sandor Drobilisch, Sandor Engineering

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE-FG01–95EE15496 to Sandor Drobilisch, Sandor Engineering. The proposed grant will provide funding in the estimated amount of $69,200 by the Department of Energy for the purpose to further develop and market a spiral track oven, which will reduce the energy and time required during the curing stages of microchip manufacturing. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Sandor Drobilisch, Sandor Engineering is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology would eliminate the last of the remaining hand-operation steps in manufacturing microchips and, thereby, fully automate microchip production.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9424 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Marvin A. Kaylor

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE-FG01–95EE15628 to Marvin A. Kaylor. The proposed grant will provide funding in the estimated amount of $99,926 by the Department of Energy for the purpose of saving energy through development of the inventor's "High Speed, Precision, Diamond Particulate Edged Bandsaw." This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Marvin A. Kaylor is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology cuts semiconductor wafers thinner and flatter with a high-speed, long-lasting bandsaw blade. The exceptional thinness of the blade and rigid air bearing guidance system produce wafers of exceptional flatness with reduced kerf loss. The copper plating of the diamond-edged bandsaw

VOL 60 ISS 73 AP 17 1995 UMI

blade strenghens the blade, allowing it to run at much faster speeds than current technology allows.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9423 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Tiby M. Martin

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15620 to Tiby M. Martin. The proposed grant will provide funding in the estimated amount of $99,000 by the Department of Energy for the purpose of saving energy through development of the inventor's "High Pressure Common Rail System" that will enable development of future higher efficiency, low emissions diesel engines. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Tiby M. Martin is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. This new high pressure technology will provide better fuel atomization and shorter duration therefore achieving a more complete fuel burn resulting in improved fuel economy and cleaner emissions. The effort will be toward the development of a prototype system consisting of the common rail with injectors and electronic control module which will then be tested across pump speeds, injection pressures and fuel outputs. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 36 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9422 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Materials Research, Inc.

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15388 to Materials Research, Inc. The proposed grant will provide funding in the estimated amount of $89,500 by the Department of Energy for the purpose of saving energy through development of the inventor's patented energy efficient process for producing powders of metal elements and alloys from aqueous solution. This process has the potential to be a more energy efficient method for producing metal parts and creating new alloys of metals previously regarded as incompatible. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Materials Research, Inc. is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology enables the production of metal powders for the fabrication of metal parts without requiring sintering of materials in the powder production process, and has shown success in the production of homogenous powders of metals previously regarded as incompatible in alloying. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9425 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Douglas G. Thorpe

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15636 to Douglas G. Thorpe. The proposed grant will provide funding in the estimated amount of $99,093 by the Department of Energy for the purpose of saving energy through development of the inventor's "Flywheel Electric Battery" energy storage technology for hybrid vehicles and utility load leveling. This award will be made 14 calendar days after publication to allow for public comment.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Douglas G. Thorpe is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is expected to provide energy savings by storing mechanical energy. The mechanical energy can later be recovered as either mechanical or electrical energy. The energy storage system is targeted for hybrid electric vehicles and uninteruptable power supplies. The flywheel system design, which focuses on cost-effectiveness and component integration, is regarded as employing a superior design when compared to competing systems. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, Attn: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, D.C. on April 6, 1995.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9421 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Idaho National Engineering Laboratory (INEL).

DATES AND TIMES: Tuesday, May 2, 1995 from 8:00 a.m. Pacific Standard Time (PST) until 6:00 pm PST and Wednesday, May 3, 1995 from 8:00 a.m. PST until 5:00 p.m. PST. There will be a public comment availability session Tuesday, May 2, 1995 from 5 to 6 p.m. PST.

ADDRESSES: University Inn, 1516 Pullman Road, Moscow, ID 83843, (208) 882–0550.

FOR FURTHER INFORMATION CONTACT: Idaho National Engineering Laboratory Information 1–800–708–2680 or Marsha Hardy, Jason Associates Corporation Staff Support 1–208–522–1662.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Board will be finalizing its recommendations on the INEL Future Land Use Plan, studying and identifying areas of common ground on DOE spent nuclear fuel issues, and discussing the Board's FY 1996 budget and action plan.

Tentative Agenda

May 2, 1995

7:30 a.m.—*Sign-in and Registration*
8:00 a.m.—*Miscellaneous Business:*
- Agenda Review/Revision/ Acceptance

Old Business
- DDFO Report
- Chair Report

Member Reports
Standing Committee Reports
- Public Communications
- Budget Committee

10:15 a.m.—**Break**
10:30 a.m.—***Buried Waste Integration Demonstration (BWID) Risk Management Film***
12:00 p.m.—Lunch
1:00 p.m.—***INEL Future Land Use:*** finalize assumptions/conclusions, consensus building
2:30 p.m.—Break
3:30 p.m.—***INEL Future Land Use***—finalize recommendation
4:00 p.m.—*Spent Nuclear Fuel:* issues follow-up from March meeting discussion
5:00 p.m.—*Public Comment Availability*
6:00 p.m.—Adjourn

Wednesday, May 3, 1995

7:30 a.m.—*Sign-In and Registration*
8:00 a.m.—*Miscellaneous Business*
- Day Two Agenda review, revision, acceptance
- Old Business from Day 1

8:30 a.m.—*Spent Nuclear Fuel:* discussion, areas of agreement, disagreement
10:30 a.m.—Break
10:45 a.m.—*Spent Nuclear Fuel:* possible conclusions/broad-based recommendations
12:00 noon—Lunch
1:00 p.m.—*Board Work:* future planning/priorities, '96 budget, June meeting
3:00 p.m.—Break
3:30 p.m.—Public Forum
5:00 p.m.—Adjourn

A final agenda will be available at the meeting.

Public Comment Availability

The two-day meeting is open to the public, with a Public Comment Availability session scheduled for Tuesday, May 2, 1995 from 5 p.m. to 6 p.m. PST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Idaho National Engineering Laboratory Information line or Marsha Hardy, Jason Associates, at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays.

VOL 60 ISS 73 AP 17 1995 UMI

Issued at Washington, DC on April 12, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9431 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES AND TIMES: Wednesday, May 3, 1995: 5:30 p.m.–9:30 p.m.

ADDRESSES: Community College of Southern Nevada, Cheyenne Campus, Highdesert Conference and Training Center, Room 1422, Las Vegas, NV

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. DOE, Nevada Operations Office, AMEM, P.O. Box 98518, Las Vegas, NV 89193–8518, ph. 702–295–0197; fax 702–295–1810.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The EM SSAB provides input and recommendations to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

Wednesday, May 3, 1995

7:00 p.m.
- Call to Order
- Review Agenda
- Minutes Acceptance
- Financial Report
- Correspondence
- Reports from Committees, Delegates and Representatives
- Unfinished Business
- New Business
- Evaluation of Board and Environmental Restoration and Waste Management Programs
- Announcements

10:00 p.m.—Adjournment

If needed, time will be allotted after public comments for old business, new business, items added to the agenda, and administrative details.

A final agenda will be available at the meeting Wednesday, May 3, 1995.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Don Beck's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. Due to programmatic issues that had to be resolved, the **Federal Register** notice is being published less than fifteen days before the date of the meeting.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays.

Issued at Washington, DC on April 12, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9433 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Pantex Plant.

DATES AND TIMES: Tuesday, April 25, 1995: 1:30 pm–5:30 pm.

ADDRESSES: Amarillo Association of Realtors, 5601 Enterprise Circle, Amarillo, TX.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120, (806) 477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Pantex Plant Citizens' Advisory Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda

1:30 pm—Welcome—Agenda Review—Introductions
1:35 pm—DOE Site Development Plan (description; components; uses; timing; and relationship to DOE budget)
2:45 pm—Break
3:00 pm—Working Group Reports
- Policy and Personnel
- Budget and Finance
- Community Outreach
- Nominations and Membership

4:05 pm—Updates
- Report on use of EM SSAB, Pantex advice on Agreement in Principle
- Occurrence Report from DOE
- Follow-up on 3/1 detection of high explosives in off-site well

5:00 pm—Co-Chairs' Reports
- Formation of additional task forces

5:15 pm—Next Meetings:
- Tuesday, May 23, 1:30–5:30
- Tuesday, June 27, 1:30–5:30

5:30 pm—Adjourn

Public comment will be taken periodically throughout the meeting.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806)371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806)537–3742. Hours of operation are from 9 am to 7 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on April 12, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9432 Filed 4–14–95; 8:45 am]

BILLING CODE 6450–01–P

Accelerated Directives Reduction

AGENCY: Department of Energy.

ACTION: Notice of availability of draft DOE directives.

SUMMARY: The United States Department of Energy (DOE), which is revising, clarifying, and reducing existing internal orders, including a number which are considered burdensome, is making available to the public copies of its revised draft orders as they are released for comment to points-of-contact, including DOE's Field Offices and contractors.

ADDRESSES: The draft orders will be available in the Public Reading Room at DOE headquarters, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. In addition, copies of the draft orders will be made available through the World Wide Web, the Uniform Resource Locator (URL), which is accessed as follows:

HTTP://WWW.HR.DOE.GOV
(* Directives are located under "The Reference Shelf")

Drafts may also be accessed via Gopher at the following address:

GOPHER.HR.DOE.GOV
(* Directives are listed under the "Department of Energy Information" folder).

FOR FURTHER INFORMATION CONTACT: JoAnne Whitman, HR–62, by telephone at (202) 586–3282 or by mail at the following address: JoAnne Whitman, HR–62, United States Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: In response to the Report of the Task Force on Alternative Futures for DOE's National Laboratories (Galvin Report), and DOE's ongoing Strategic Realignment Initiative, DOE has accelerated efforts already underway to revise internal Departmental directives in order to reduce their burden and improve the efficiency of DOE contractor operations. DOE plans to reduce approximately 90 internal directives, including the 26 considered most burdensome by DOE national laboratories and contractors, to approximately 24 greatly simplified orders covering DOE programs in Environment, Safety and Health; Field Management; Nonproliferation and National Security; and Environmental Management.

The revised draft directives are being circulated for comment to both Federal and contractor representatives at DOE Headquarters and in the Field. DOE expects that measurable improvements to its directives system will be in place by August 1995. This accelerated process will dramatically improve the cost-effectiveness of affected programs, while meeting environmental safety, health, and fiscal accountability requirements.

DOE will provide public access to the draft orders as provided in this notice. Questions or comments may be addressed to the DOE employee identified in this notice.

Issued in Washington, DC on April 11, 1995.

Marcia L. Morris,

Director, Office of Organization and Management.

[FR Doc. 95–9428 Filed 4–14–95; 8:45 am]

BILLING CODE 6456–01–P

Federal Energy Regulatory Commission

[Docket No. ER94–1475–000, et al.]

Illinova Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 11, 1995.

Take notice that the following filings have been made with the Commission:

1. Illinova Power Marketing, Inc.

[Docket No. ER94–1475–000]

Take notice that on April 5, 1995, Illinova Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Kentucky Utilities Company

[Docket No. ER95–580–000]

Take notice that on April 10, 1995, Kentucky Utilities Company (KU) filed a modified Transmission Agreement between KU and East Kentucky Power Cooperative, Inc. (EKPC).

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. New York State Electric & Gas Corporation

[Docket Nos. ER95–738–000 and ER95–739–000]

Take notice that on April 4, 1995, New York State Electric & Gas Corporation tendered for filing an amendment in the above-referenced dockets.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER95–796–000]

Take notice that on March 24, 1995, PECO Energy Company (PECO) tendered for filing an Agreement between PECO and Stand Energy Corporation (SEC) dated March 1, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to SEC. In order to optimize the economic advantage to both PECO and SEC, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on March 27, 1995.

PECO states that a copy of this filing has been sent to SEC and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER95–831–000]

Take notice that on March 31, 1995, Southern California Edison Company, tendered for filing the following power sale agreement between the City of Azusa (Azusa) and Edison, and the associated supplemental agreement to integrate the power sale agreement in accordance with the terms of the 1990 Integrated Operations Agreement (1990 IOA), Rate Schedule FERC No. 247·

VOL 60 ISS 73 AP 17 1995 UMI

1995 Power Sale Agreement between the City of Azusa and The Southern California Edison Company (1995 PSA)
Supplemental Agreement for the Integration of the 1995 Power Sale Agreement between Southern California Edison and the City of Azusa (Supplemental Agreement)

The 1995 PSA provides the terms and conditions whereby Edison shall make available and Azusa shall purchase Contract Capacity and Associated Energy During the Delivery Season of June 1 through October 31 (5 months/year) during the years 1995, 1996, and 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the 1995 PSA pursuant to the 1990 IOA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER95–832–000]

Take notice that on March 31, 1995, Southern California Edison Company, tendered for filing the following power sale agreement between the City of Banning (Banning) and Edison, and the associated supplemental agreement to integrate the power sale agreement in accordance with the terms of the 1990 Integrated Operations Agreement (1990 IOA), Rate Schedule FERC No. 248:

1995 Power Sale Agreement between the City of Banning and The Southern California Edison Company (1995 PSA)
Supplemental Agreement for the Integration of the 1995 Power Sale Agreement between Southern California Edison and the City of Banning (Supplemental Agreement)

The 1995 PSA provides the terms and conditions whereby Edison shall make available and Banning shall purchase Contract Capacity and Associated Energy during the Delivery Season of June 1 through September 30 (4 months/year) during the years 1995, 1996, and 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the 1995 PSA pursuant to the 1990 IOA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER95–833–000]

Take notice that on March 31, 1995, Southern California Edison Company (Edison), tendered for filing a Supplement to the Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (1990 IOA) for the integration of San Onofre Nuclear Generating Station (SONGS) and the associated Firm Transmission Service (FTS) Agreement with the City of Anaheim (Anaheim), Commission Rate Schedule FERC No. 246.12 and No. 246.13.

The Supplement amends the Effective Operating Capacity for SONGS Unit 2 during Fuel Cycle 8 for the purposes of determining Anaheim's Rated Capability and Contract Capacity under the Supplemental Agreement and the FTS Agreement respectively and corresponding Capacity Credit under the 1990 IOA. Edison is seeking waiver of the Commission's requirement for 60-day prior notice and requesting an effective date concurrent with the beginning of Fuel Cycle 8.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Boston Edison Company

[Docket No. ER95–834–000]

Take notice that on March 31, 1995, Boston Edison Company (BECo), tendered for filing a Service Agreement and Appendix A for LG&E Power Marketing, Inc. for the sale and/or exchange of power from time to time pursuant to BECo's Electric Tariff, Original Volume NO. 6. BECo requests that this Service Agreement and Appendix A become effective on April 1, 1995.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. UtiliCorp United Inc.

[Docket No. ER95–844–000]

Take notice that on March 31, 1995, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a service agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with City of Columbia, Missouri. The service agreement provides for the sale of capacity and energy by Missouri Public Service to City of Columbia, Missouri, pursuant to the tariff and for the sale of capacity and energy by City of Columbia, Missouri, to Missouri Public Service.

UtiliCorp requests waiver of the Commission's regulations to permit the service agreement to become effective in accordance with its terms.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. UtiliCorp United Inc.

[Docket No. ER95–845–000]

Take notice that on March 31, 1995, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a service agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with Electric Clearinghouse, Inc. The service agreement provides for the sale of capacity and energy by Missouri Public Service to Electric Clearinghouse, Inc. pursuant to the tariff and for the sale of capacity and energy by Electric Clearinghouse, Inc. to Missouri Public Service pursuant to Electric Clearinghouse, Inc. Rate Schedule No. 1.

UtiliCorp also has tendered for filing a certificate of concurrence by Electric Clearinghouse, Inc.

UtiliCorp requests waiver of the Commission's regulations to permit the service agreement to become effective in accordance with its terms.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Western Resources, Inc.

[Docket No. ER95–847–000]

Take notice that on March 31, 1995, Western Resources, Inc. (WRI), tendered for filing a proposed change to its Federal Energy Regulatory Commission Electric Rate Schedule No. 242. WRI states the purpose of the change is to provide generation deferral service to the City of Ellinwood. The change is proposed to become effective June 1, 1995.

Copies of the filing were served upon the City of Ellinwood and the Kansas Corporation Commission.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Maine Public Service Company

[Docket No. ER95–851–000]

Take notice that on March 31, 1995, Maine Public Service Company (MPS), tendered for filing a modification to its FERC Electric Tariff, Original Volume No. 1, Power Sales Tariff. Specifically, MPS proposes to modify its rate schedule to allow for market pricing of sales from specific generating units as well as from system supply and to make various other minor changes. MPS proposes an effective date of June 1, 1995.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Tampa Electric Company

[Docket No. ER95–852–000]

Take notice that on March 31, 1995, Tampa Electric Company (Tampa Electric), tendered for filing three agreements with the Reedy Creek Improvement District (RCID): (1) a new Contract for Interchange Service; (2) a Letter Agreement that amends an existing Letter of Commitment under interchange Service Schedule D; and (3) a Contract for the Sale and Purchase of Capacity and Energy. Tampa Electric requests that its existing interchange service schedules and letters of commitment be redesignated as supplements to the new Contract for Interchange Service.

Tampa Electric proposes an effective date of June 1, 1995, for the tendered agreements and requested redesignations.

Copies of the filing have been served on RCID and the Florida Public Service Commission.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Central Power and Light Company

[Docket No. ER95–853–000]

Take notice that on March 31, 1995, Central Power and Light Company (CPL), tendered for filing a Coordination Sales Tariff. Under the Coordination Sales Tariff, CPL will make Economy Energy, Short-Term Power and Energy, General Purpose Energy and Emergency Energy Service available to customers upon mutual agreement. CPL simultaneously submitted for filing seven unexecuted Service Agreements establishing Houston Lighting & Power Company (HL&P), Lower Colorado River Authority (LCRA), Medina Electric Cooperative, Inc. (Medina), South Texas Electric Cooperative, Inc. (STEC), Southwestern Electric Service Company (SESCO), Texas Municipal Power Pool (TMPP), and Texas Utilities Electric Company (TU Electric) as customers under the terms of the CST–1 Tariff.

CPL has asked for expedited consideration and waiver of the Commission's notice requirements to the extent necessary to permit an effective date of April 1, 1995. Copies of this filing were served on HL&P, LCRA, Medina, STEC, SESCO, TMPP and TU Electric and the Public Utilities Commission of Texas and are available for public inspection at CPL's offices in Corpus Christi, Texas.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Kentucky Utilities Company

[Docket No. ER95–854–000]

Take notice that on March 31, 1995, Kentucky Utilities Company (KU), filed a transmission services tariff and a power sales services tariff and several revisions to its interconnection agreements. KU states that the purpose of the filings is to authorize transmission services over the KU transmission system and to effect market-based rates for its off-system power and energy sales.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Northeast Utilities Service Company

[Docket No. ER95–855–000]

Take notice that on April 3, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to Citizens Lehman Power Sales (Citizens) under the NU System Companies' Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to Citizens.

NUSCO requests that the Service Agreement become effective sixty (60) days after receipt of this filing by the Commission.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Black Hills Corporation

[Docket No. ER95–856–000]

Take notice that on March 31, 1995, Black Hills Corporation, which operates its electric utility business under the assumed name of Black Hills Power and Light Company (Black Hills), tendered for filing an executed form service agreement with Enron Power Marketing, Inc.

Copies of the filing were provided to the regulatory commission of each of the states of Montana, South Dakota, and Wyoming.

Black Hills has requested that further notice requirement be waived and the tariff and executed service agreements be allowed to become effective April 1, 1995.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Southern California Edison Company

[Docket No. ER95–857–000]

Take notice that on April 3, 1995, Southern California Edison Company tendered for filing a supplemental agreement, associated procedure and letter agreement to the 1990 Integrated Operations Agreement with the City of Banning (Banning). Commission Rate Schedule No. 248

The supplemental agreement procedure and letter agreement establish the terms and conditions for the integration of Replacement Capacity Resources purchased by Banning under the Conformed Western Systems Power Pool Agreement. Edison is requesting waiver of the Commission's 60-day notice requirements and is requesting an effective date of March 27, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 26, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Interstate Power Company

[Docket No. ES95–28–000]

Take notice that on April 6, 1995, Interstate Power Company filed an application under § 204 of the Federal Power Act seeking authorization to issue up to $70 million of short-term debt on or before December 31, 1996, with a final maturity date not later than December 31, 1997

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9366 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–P

VOL 60 ISS 73 AP 17 1995 UMI

[Docket No. EG95-38-000, et al.]

TSP Guatemala One, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 10, 1995.

Take notice that the following filings have been made with the Commission:

1. TPS Guatemala One, Inc.

[Docket No. EG95-38-000]

Take notice that on March 30, 1995, TPS Guatemala One, Inc. (TPS Guatemala) filed an application with the Commission for a determination that it is an exempt wholesale generator (EWG). In support of its application, TPS Guatemala asserts that it will own indirectly a majority interest in a 78 megawatt generating facility to be constructed at a site near Escuintla, Guatemala, located approximately 35 miles southwest of Guatemala City, Guatemala. In its application, TPS Guatemala states that its communications and correspondence regarding this Application should be served on its representative: Sheila M. McDevitt, Esq., Vice President, Assistant General Counsel, TECO Energy, Inc., 702 North Franklin Street, Tampa, Florida 33602, (813) 228-1604.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Tampa Centro Americana de Electricidad, Limitada

[Docket No. EG95-39-000]

Take notice that on March 30, 1995, Tampa Centro Americana de Electricidad, Limitada (TCAE) submitted an application to the Commission for a determination that it is an exempt wholesale generator (EWG). In support of its application, TCAE asserts that it will own and operate a 78 megawatt generating facility at a site near Escuintla, Guatemala, located approximately 35 miles southwest of Guatemala City, Guatemala. TCAE further states that all communications and correspondence regarding this Application should be served on its representative, Sheila M. McDevitt, Esq. Vice President, Assistant General Counsel, TECO Energy, Inc., 702 North Franklin Street, Tampa, Florida 33602, (813) 228-1804.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. New Hampshire Electric Cooperative v. Public Service Company of New Hampshire

[Docket No. EL95-37-000]

Take notice that on March 27, 1995, New Hampshire Electric Cooperative (NHEC) tendered for filing a complaint against Public Service Company of New Hampshire's (PSNH's) Fuel and Purchased Power Adjustment Clause submitted by PSNH to the Commission on December 27, 1994. PSNH filed this FPPAC, as it is annually required to do under the Amended Partial Requirements Agreement between NHEC and PSNH in Docket No. ER85-353-000.

Comment date: May 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Sithe/Independence Power Partners, L.P. v. Niagara Mohawk Power Corp.

[Docket No. EL95-38-000]

Take notice that on March 29, 1995, Sithe/Independence Power Partners L.P (Sithe) tendered for filing a complaint against Niagara Mohawk Power Corporation (Niagara) regarding Niagara's calculation of transmission loss factors for Sithe. In its complaint Sithe requests that the Commission: (a) Order Niagara to recalculate the transmission losses associated with the November 5, 1991, Transmission Services Agreement between Sithe and Niagara; (b) order Niagara to share with Sithe and file with the Commission details about Niagara's methodology for determining transmission losses on its system; and (c) investigate the methodology Niagara uses to determine transmission losses on its system and modify such methodology as necessary to ensure that it is just, reasonable, not unduly discriminatory and in the public interest.

Comment date: May 10, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Co.

[Docket No. ER95-778-000]

Take notice that on March 21, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing revisions to the following agreements between PG&E and the City of Santa Clara, California (City or Santa Clara): (1) The Interconnection Agreement between Pacific Gas and Electric Company and the City of Santa Clara (LA), initially filed in FERC docket No. ER84-6-000 and designated as PG&E Rate Schedule FERC No. 85; (2) the Grizzly Development and Mokelumne Settlement Agreement (Grizzly Agreement), initially filed in FERC Project No. 137-002 and designated as PG&E Rate Schedule FERC No. 117; (3) the System Bulk Power Sale and Purchase Agreement (Bulk Power Agreement), initially filed in FERC Docket No. ER87-498-000 and designated as PG&E Rate Schedule FERC No. 108.

PG&E's filing as to the IA proposes revisions to: (1) Section II.6 of Appendix A, relating to transmission rates and transmission functions; (2) Section II.8 of Appendix A, regarding Capacity Reserve; and (3) Exhibit A-4 to Appendix A, regarding Firm Transmission Service between Points of Receipt and Points of Delivery.

PG&E's filing as to Grizzly Amendment No. Two proposes revisions to the power purchases for resources.

PG&E's filing as to the Bulk Power Agreement proposes revisions to the term of the agreement and terms, conditions and rates for power sales.

Copies of this filing were served upon Santa Clara and the California Public Utilities Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Resources West Energy Corp.

[Docket No. ER95-808-000]

Take notice that on March 28, 1995, Resources West Energy Corporation (Resources West), tendered for filing three transmission tariffs: a network integration service tariff; a firm point-to-point transmission service tariff; and a nonfirm point-to-point transmission service tariff. Resources West proposes that these three tariffs become effective upon the merger of Sierra Pacific Resources (parent company of Sierra Pacific Power Company) and The Washington Water Power Company.

Copies of this filing have been served on the Public Service Commission of Nevada, the Washington Utilities and Transportation Commission, the California Public Utilities Commission, Montana Public Service Commission, Public Utility Commission of Oregon and the Idaho Public Utilities Commission, as well as current wholesale requirements customers of Sierra Pacific Power Company and The Washington Water Power Company and Parties of Record in Docket No. EC94-23-000.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Co.

[Docket No. ER95-815-000]

Take notice that on March 28, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement and a Certificate of Concurrence with Vermont Electric Generation and Transmission Cooperative (VEG&T) under the NU System Companies System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to VEG&T.

NUSCO requests that the Service Agreement become effective on March 17, 1995.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Union Electric Co.

[Docket No. ER95-816-000]

Take notice that on March 28, 1995, Union Electric Company (UE), tendered for filing a Transmission Service Agreement dated March 29, 1995 between Rainbow Energy Marketing Corporation (REMC) and UE. UE asserts that the purpose of the Agreement is to set out specific rates, terms, and conditions for transmission service transactions from UE to REMC.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. PECO Energy Co.

[Docket No. ER95-820-000]

Take notice that on March 30, 1995, PECO Energy Company (PECO), tendered for filing an Agreement between PECO and Atlantic City Electric Company (ACE) dated March 17, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to ACE. In order to optimize the economic advantage to both PECO and ACE, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on March 31, 1995.

PECO states that a copy of this filing has been sent to ACE and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Idaho Power Co.

[Docket No. ER95-821-000]

Take notice that on March 30, 1995, Idaho Power Company (IPC), tendered for filing a rate schedule amendment for the Power Sale Agreement between IPC and the cities of Azusa, Banning and Colton, California.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Co.

[Docket No. ER95-822-000]

Take notice that on March 30, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Public Service Company of New Hampshire (together, the NU System Companies), a filing for a System Power Sales Agreement with Commonwealth Electric Company (CES). NUSCO requests that the rate schedule become effective on June 1, 1995.

NUSCO states that copies of the filing have been mailed or delivered to the NU System Companies, CES and the Massachusetts Department of Public Utilities.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Co.

[Docket No. ER95-823-000]

Take notice that on March 30, 1995, Central Maine Power Company (CMP), tendered for filing executed service agreements entered into with the following entities: Catex Vitol Electric Inc., Citizens Lehman Power Sales, Commonwealth Electric Company, Consolidated Edison Co. of New York, Inc., Louis Dreyfus Electric Power Inc., ENRON Power Marketing, Inc., Long Island Lighting Co., New England Power Company, New York Power Authority, Town of Hudson, Massachusetts and Vermont Marble Power Division of Omya, Inc. Service will be provided pursuant to CMP's previously accepted Power Sales Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 2, as supplemented. An effective date for commencement of service of April 1, 1995 is requested for each of the service agreements.

CMP has served a copy of the filing on the affected customers and on the Maine Public Utilities Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Puget Sound Power & Light Co.

[Docket No. ER95-824-000]

Take notice that on March 30, 1995, Puget Sound Power & Light Company tendered for filing an Agreement Providing for Termination of Agreement for Assignment and for Exchange of Power between Puget and Public Utilities District No. 1 of Grays Harbor County, Washington (the District) executed as of March 2, 1995 (the Exchange Agreement). A copy of the filing was served upon the District.

Puget states that the Exchange Agreement relates to the exchange and scheduling by Puget and the District of the District's Centralia Project output share, the sale by Puget to the District of reserve capacity, and the provision by Puget of certain associated services, all pursuant to the terms of the Exchange Agreement.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Western Resources, Inc.

[Docket No. ER95-825-000]

Take notice that on March 30, 1995, Western Resources, Inc. (WRI), tendered for filing a change in its Service Agreement No. 4 under FERC Electric Tariff, Original Volume No. 1. WRI states that the change is to amend Exhibit A to the Transmission Service Agreement between WRI and the City of Neodesha. This change is requested to become effective June 1, 1995.

Copies of this filing were served upon the City of Neodesha and the Kansas Corporation Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Kansas Gas and Electric Co.

[Docket No. ER95-826-000]

Take notice that on March 30, 1995, Western Resources, Inc. (WRI), on behalf of Kansas Gas and Electric Company (KG&E), tendered for filing a proposed change to KG&E's Rate Schedule FPC No. 93. WRI states that the proposed change is to add one year to the term of Service Schedule SP-1 between KG&E and WRI, and to increase the capacity nomination thereunder.

A copy of the filing has been served upon the Kansas Corporation Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Kansas Gas and Electric Co.

[Docket No. ER95-827-000]

Take notice that on March 30, 1995, Kansas Gas and Electric Company (KG&E), tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KG&E states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. under Service Schedule W to FPC Rate

VOL 60 ISS 73 AP 17 1995 UMI

Schedule No. 83 for the period June 1, 1995 through May 31, 1996.

Copies of this filing were served upon the Kansas Corporation Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Boston Edison Co.

[Docket No. ER95–828–000]

Take notice that on March 30, 1995, Boston Edison Company (Edison) and New England Power Company (NEP), tendered for filing a Fourth Extension Agreement to Rate Schedule No. 46. The purpose of the agreement is to extend the notice of termination of service under Rate Schedule No. 46 to September 30, 1995 from May 31, 1995 the return on equity provision of the Facilities Support Agreement.

The filing companies state that they have served the filing on the Massachusetts Department of Public Utilities.

The parties request that the amendment become effective on June 1, 1995.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Southern California Edison Co.

[Docket No. ER95–830–000]

Take notice that on March 31, 1995, Southern California Edison Company, tendered for filing the following power sale agreement between the City of Colton (Colton) and Edison, and the associated supplement agreement to integrate the power sale agreement in accordance with the terms of the 1990 Integrated Operations Agreement (1990 IOA), Rate Schedule FERC No. 249:

1995 Power Sale Agreement Between The City of Colton and The Southern California Edison Company (1995 PSA)

Supplemental Agreement for the Integration of the 1995 Power Sale Agreement Between Southern California Edison and The City of Colton (Supplemental Agreement)

The 1995 PSA provides the terms and conditions whereby Edison shall make available and Colton shall purchase Contract Capacity and Associated Energy during the Delivery Season of June 1 through September 30 (4 months/year) during the years 1995, 1996, and 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the 1995 PSA pursuant to the 1990 IOA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. New England Power Co.

[Docket No. ER95–827–000]

Take notice that on March 31, 1995, New England Power Company tendered for filing a transmission contract for service to Citizens Lehman Power Sales.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Carolina Power & Light Co.

[Docket No. ER95–839–000]

Take notice that on March 31, 1995, Carolina Power & Light Company (Carolina) tendered for filing a Notice of Termination of Rate Schedule FERC No. 49 between Carolina and the Town of Bennettsville. Carolina has requested a termination date of June 1, 1995.

Notice of the termination has been served upon the Town of Bennettsville.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

21. CNG Power Services Co.

[Docket No. ER95–840–000]

Take notice that on March 31, 1995, CNG Power Services Corporation (CNGPS) tendered for filing a Service Agreement between CNGPS and R.J. Dahnke & Associates (Dahnke), dated March 1, 1995, and a request for waiver of the Commission's notice requirements. This Service Agreement indicates that CNGPS has been authorized by the Commission to market wholesale electric power. CNGPS obtained authority for such transactions pursuant to its FERC Electric Rate Schedule No. 1 (Rate Schedule), which was accepted by the Commission by letter order dated October 25, 1994 at Docket No. ER94–1554–000. The Service Agreement allows CNGPS and Dahnke to enter into individual transactions for the sale by CNGPS to Dahnke of energy and/or capacity at mutually agreed rates.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

22. Northern Indiana Public Service Co.

[Docket No. ER95–843–000]

Take notice that on March 31, 1995, Northern Indiana Public Service Company tendered for filing on behalf of Wabash Valley Power Association, Inc. and itself the Eleventh Supplemental Agreement to the Interconnection Agreement, Dated April 16, 1984, by and Between Northern Indiana Public Service Company and Wabash Valley Power Association, Inc. Dated March 14, 1995 (Supplemental).

The Supplemental adds the phrase "Up to" the demand compensation section of Service Schedule M—Unit Peaking Capacity and Energy NIPSCO to Wabash Valley of the Interconnection Agreement between the Parties.

Copies of this filing have been sent to Wasbash Valley Power Association, Inc. and the Indiana Utility Regulatory Commission.

Comment date: April 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9367 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2315–002; Project No. 2331–002; Project No. 2332–003; North Carolina and South Carolina]

South Carolina Electric & Gas Company, et al.; Availability of Draft Environmental Assessment

April 11, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applications for new licenses for the following three existing hydroelectric Projects, all of which are located on the Broad River: (1) The Neal Shoals Project (No. 2315–002), located in Chester and Union County, South Carolina, near Carlisle, SC; (2) the Ninety-Nine Islands Project (No. 2331–002), located in Cherokee County, South Carolina near Gaffney, SC; and (3) the Gaston Shoals Project (No. 2332–003), located in Cherokee County, South Carolina and Cleveland County, North Carolina, near Gaffney, SC. The Commission has prepared a Draft Multiple Project Environmental Assessment (Draft EA) covering all three projects. In the Draft EA, the Commission's staff has analyzed the existing and potential future environmental impacts of the projects and has concluded that licensing the projects, with appropriate environmental protective or enhancement measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the Draft EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 45 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. For further information, contact Tim Looney, Environmental Coordinator, at (202) 219–2852.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9321 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–303–000]

CNG Transmission Corp.; Application

April 11, 1995.

Take notice that on April 5, 1995, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP95–303–000 an application pursuant to Section 7(b) of the Natural Gas Act, for permission and approval to abandon, in place, approximately 20.40 miles of 12-inch pipeline, known as H–197, located in Wetzel and Marshall Counties, West Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

CNG states that line H–197 was constructed in 1946 to serve various industrial plants along the Ohio River basin. It is stated that many of those plants have closed over the years eliminating the market need for that section of H–197. CNG further states that during the ensuing decades, corrosion has created a substantial number of leaks in that pipeline segment.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 2, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CNG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9322 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–220–000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 11, 1995.

Take notice that on April 6, 1995, Florida Gas Transmission Company (FGT), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet:

First Revised Sheet No. 125A

On February 10, 1995, in Docket No. RP95–159–000 FGT filed tariff provisions for the disposition of Unauthorized Gas delivered to FGT's system. Subsequently, on March 14, 1995, the Commission issued an order (Order) on the proposed tariff provisions, which, among other things, required FGT to delete language applying the proposed Unauthorized Gas provisions retroactively. However, in the Order the Commission stated that, "FGT may propose in a separate filing a mechanism for addressing the unauthorized volumes currently existing on its system".

In the instant filing, FGT is proposing tariff provisions for the disposition of Unauthorized Gas delivered to FGT's system prior to March 15, 1995. Specifically, FGT is proposing that, on the first day of the month following the effectiveness of the tariff provisions proposed herein, FGT will post on its Electronic Bulletin Board all Unauthorized Gas received prior to March 15, 1995. Shippers will then be given sixty days from the date of posting to submit a valid claim and thirty days after FGT has validated the claim to schedule such volumes. Any volumes not claimed shall be retained by FGT.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 18, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9323 Filed 4–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–5–001 and RP95–6–002]

Northwest Pipeline Corporation; Technical Conference

April 11, 1995.

Take notice that at 9:30 a.m. on Wednesday, April 26, 1995, the Commission staff will convene a technical conference in the above-captioned proceedings pursuant to an order issued on February 27, 1995.[1] The technical conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C.

[1] 70 FERC ¶ 61,224 (1995).

VOL 60 ISS 73 AP 17 1995 UMI

Lois D. Cashell,
Secretary.
[FR Doc. 95-9324 Filed 4-14-95; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP95-308-000]

Viking Gas Transmission Company; Request Under Blanket Authorization

April 11, 1995.

Take notice that on April 7, 1995, Viking Gas Transmission Company (Viking), 825 Rice Street, St. Paul, Minnesota 55117, filed in Docket No. CP95-308-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to add a new delivery point for firm transportation services that Viking currently provides for Northern States Power Company-Minnesota (NSPM), under the blanket certificate issued in Docket No. CP88-679-000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Viking proposes to construct and operate a 2-inch hot tap, measurement, and data acquisition equipment in Chisago County, Minnesota to establish the new Taylors Falls delivery point for NSPM. It is indicated that Viking and NSPM are parties to gas transportation agreements dated June 1, 1994, under which Viking currently provides a maximum daily summertime quantity of 35,215 million Btu and wintertime quantity of 56,000 million Btu of firm transportation service under Viking's Rate Schedule FT-A. It is also indicated that NSPM has requested deliveries of up to 1,012 mcf per day at the proposed delivery point. Viking estimates a facility cost of $138,900 and indicates that NSPM has agreed to reimburse Viking for the cost of facilities.

Viking advises that the total volumes to be delivered to NSPM after the request do not exceed the total volumes authorized prior to the request. Also, Viking indicates that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,
Secretary.
[FR Doc. 95-9325 Filed 4-14-95; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5192-9]

Contractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: The EPA has authorized the following subcontractors for access to information that has been, or will be, submitted to EPA under section 114 of the Clean Air Act (CAA) as amended. (1) EC/R, Inc., 3721-D University Drive, Durham, NC 27707, contract number 68D10119; (2) Alpha Gamma Technologies, Inc, 900 Ridgefield Drive, Suite 350, Raleigh, NC 27609 contract 68D10117; (3) Energy and Environmental Research Corporation, (EER), 3710 University Drive, Suite 160 Contract 68D10117.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Doris Maxwell, Document Control Officer, Office of Air Quality Planning and Standards (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5312.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under section 114 of the CAA that EPA may provide the above mentioned subcontractors access to these materials on a need-to-know basis. These subcontractors will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in source assessment or with a source category survey and proceed through development of standards for a Federal Air Pollution Control Regulation or Control Techniques Guidelines (CTG).

In accordance with 40 CFR 2.301(h), EPA has determined that each subcontractor requires access to CBI submitted to EPA under sections 112 and 114 of the CAA in order to perform work satisfactorily under the above noted contracts. The subcontractors' personnel will be given access to information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The subcontractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All subcontractor access to CAA CBI will take place at the subcontractors' facility Each subcontractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor has access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 1998 under contract 68D40099 and on September 30, 1997 under contract 68D40107.

Dated: April 7, 1995.

Mary Nichols,
Assistant Administrator for Air and Radiation.
[FR Doc. 95-9379 Filed 4-14-95; 8:45 am]
BILLING CODE 6560-50-P

[FRL-5193-2]

Performance Evaluation Reports for Fiscal Year 1994 Section 105 Grants; Missouri, Kansas, Iowa, Nebraska

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to conduct yearly performance evaluations on the progress of the approved State/EPA Agreements. EPA's regulations (40 CFR 56.7) require that the Agency make available to the public the evaluation reports. EPA has conducted evaluations on the Missouri Department of Natural Resources, Nebraska Department of Environmental Quality, Iowa Department of Natural Resources, and Kansas Department of Health and Environment. These evaluations were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to section 105 of the Clean Air Act.

EFFECTIVE DATE: April 17, 1995.

ADDRESSES: Copies of the evaluation reports are available for public inspection at the EPA's Region VII Air, RCRA, and Toxics Division; 726 Minnesota Avenue; Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Carol LeValley at (913) 551-7610.

Dated: March 22, 1995.
Michael J. Richardson,
Acting Regional Administrator
[FR Doc. 95-9377 Filed 4-14-95; 8:45 am]
BILLING CODE 6560-50-P

[FRL-5192-8]

Notice of Open Meetings of the Environmental Financial Advisory Board on June 12-14, 1995

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board in Washington, D.C. on June 13-14, 1995. The meeting will be held at The Madison Hotel located at 1177 15th Street, N.W., Washington, D.C. The Board will meet on June 13 from 1 p.m. to 5 p.m. and on June 14 from 8:30 a.m. to 4 p.m.

EFAB is chartered with providing authoritative analysis and advice to the EPA Administrator on environmental finance. This will be a working meeting to review and comment on ongoing EFAB advisories and reports. These advisories and reports address important environmental financing issues including the redevelopment of urban brownfields, state revolving loan funds for water and wastewater, fee systems and ecosystem management.

Prior to the meeting of the entire Board, EFAB's Environmental State Revolving Fund Workgroup will meet at The Madison Hotel on June 12, 1995, from 9:00 a.m. to 4:00 p.m. This Workgroup will discuss the development of an advisory on the benefits of establishing Environmental State Revolving Funds.

Both meetings are open to the public, but seating is limited. For further information, please contact Jeanne Lynch, U.S. EPA on (202) 260-1458.

Dated: April 7, 1995.

George Ames,
Acting Director, Resource Management Division.
[FR Doc. 95-9382 Filed 4-14-95; 8:45 am]
BILLING CODE 6560-50-M

[FRL-5192-8]

Science Advisory Board Dioxin Reassessment Review Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that the Dioxin Reassessment Review Committee of the Science Advisory Board (SAB) will meet on May 15 and 16, 1995 at the Herndon Renaissance Hotel, 13869 Park Center Road, (adjacent to the Dulles International Airport), Herndon VA 22071. The hotel telephone is 703-478-2900.

The meeting, which is open to the public, will start at 9 am on May 15, and 8:30 am on May 16. The meeting will adjourn no later than 7 pm on both days. A preliminary announcement of this meeting and solicitation for those individuals or organizations wishing to register to address the Committee when it met appeared in the Federal Register (60 FR 8233) for February 13, 1995. This preliminary notice set a closing date of March 10, 1995 for registration. No additional requests to make oral presentation to the Committee can be accepted, but written materials (provide 50 copies) for distribution to the Committee will be accepted until May 15, 1995 (see below for contacts).

The Committee, which is composed of a Health Panel and an Exposure Panel, will review EPA's reassessment of 2,3,7,8-TCDD, dioxin. Information on the relevant review documents may be found in the Federal Register (59 FR 46980) for September 13, 1994, which announced the availability of the documents and provided ordering information. The documents are not available from the Science Advisory Board.

There is a detailed Charge for the review, identifying some 43 discrete issues concerning exposure and human health effects associated with dioxin. In broad terms, the health-related issues address the overall health assessment document, deposition and pharmacokinetics, mechanisms, toxic effects, chloracne, cancer, developmental toxicity, immunotoxicity, dose-response, toxicity equivalent factors, and animal/human responses. The exposure issues address the overall exposure assessment, sources, food/media levels, body burdens, background exposures, and site-specific assessment procedures.

Copies of the complete Charge or the Agenda for the meeting may be requested from Ms. Mary Winston by facsimile to (202) 260-7118 or by phone at (202) 260-6552. If you are requesting a copy of the Charge, please include a complete mailing address; the Charge is too lengthy to transmit by facsimile.

Members of the public desiring additional technical information about the health section of the reassessment document should contact Dr. William Farland, Office of Research and Development (8601), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460. Dr. Farland may be called at (202) 260-7315. For technical information about the exposure sections, contact Dr. John Schaum (8663), Office of Research and Development (8663), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460. Dr. Schaum may be called at (202) 260-5988.

Members of the public desiring additional information about the conduct of the SAB meeting should contact Mr. Samuel Rondberg, Designated Federal Official, Dioxin Reassessment Review Committee, by telephone at (202) 260-2559, via Internet to RONDBERG.SAMUEL@EPAMAIL.EPA.GOV, by facsimile to (202) 260-7118, or by mail to the Science Advisory Board (1400F), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington D.C. 20460.

Dated: April 5, 1995.

A. Robert Flaak,
Acting Staff Director, Science Advisory Board.
[FR Doc. 95-9383 Filed 4-14-95; 8:45 am]
BILLING CODE 6560-50-P

[FRL-5192-7]

Wyoming; Final Determination of Partial Program Adequacy of the State's Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (Region VIII).
ACTION: Notice of final determination of partial program adequacy of Wyoming's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). Section 4005(c)(1)(C) of RCRA requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit"

VOL
60
ISS
73
AP
17
1995
UMI

programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR) that will allow both States and Tribes to apply for and receive approval of a partial permit program. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal Criteria will apply to all permitted and unpermitted MSWLFs.

The State of Wyoming applied for a partial determination of adequacy under section 4005 of RCRA. EPA reviewed Wyoming's MSWLF application and made a tentative determination for those portions of the State's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. After reviewing all comments received, EPA today is granting final approval to Wyoming's partial program. All but one element of the Federal Criteria are included in this approval.

EFFECTIVE DATE: The determination of adequacy for Wyoming shall be effective on April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Gerald Allen (8HWM–WM), Waste Management Branch, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, Phone 303/293–1496.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria. Subtitle D also requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in the STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of part 258.

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of the STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

B. State of Wyoming

On November 6, 1992, Wyoming submitted an application for partial program adequacy determination for the State's MSWLF permit program. On October 8, 1993, EPA published a final determination of partial adequacy for Wyoming's program. Further background on the final partial program determination of adequacy appears at 58 FR 52491 (October 8, 1993).

EPA approved the following portions of the State's MSWLF permit program:

1. Location restrictions for airports, flood plains, wetlands, fault areas, seismic impact zones, and unstable areas (40 CFR 258.10 through 258.15).
2. Operating criteria for the exclusion of hazardous waste, cover materials, disease vector control, explosive gases, air criteria, access requirements, run-on/run-off control systems, surface water requirements, liquids restrictions, and record keeping requirements (40 CFR 258.20 through 258.29).
3. Design criteria requirements (40 CFR 258.40).
4. Closure and post-closure requirements (40 CFR 258.60 through 258.61).

EPA did not approve the following portions of the State's MSWLF permit program:

1. Wyoming will revise its regulations to incorporate the Federal ground-water monitoring and corrective action requirements in 40 CFR 258.50, 258.51, and 258.53 through 258.58.
2. Wyoming will develop new regulations to incorporate the financial assurance requirements in 40 CFR 258.70 through 258.72 and 258.74. Wyoming will revise its regulations to incorporate the financial assurance requirements in 40 CFR 258.73.

On September 30, 1994, the State of Wyoming submitted a revised application for partial program adequacy determination. EPA reviewed Wyoming's application and tentatively determined that the following portions of the State's Subtitle D program will ensure compliance with the Federal Revised Criteria.

1. Ground-water monitoring and corrective action requirements (40 CFR 258.50, 258.51, and 258.53 through 258.58).
2. Financial assurance requirements (40 CFR 258.70 through 258.74).

The October 9, 1991, Final Rules for the MSWLF Criteria included an exemption for owners and operators of certain small MSWLF units from the design (Subpart D) and ground-water monitoring and corrective action (Subpart E) requirements of the Criteria. See 40 CFR 258.1(f). To qualify for the exemption, the small landfill had to accept less than 20 tons per day, on an average annual basis, exhibit no evidence of ground-water contamination, and serve either:

(i) A community that experiences an annual interruption of at least three consecutive months of surface transportation that prevents access to a regional waste management facility, or

(ii) A community that has no practicable waste management alternative and the landfill unit is located in an area that annually received less than or equal to 25 inches of precipitation.

In January 1992, the Sierra Club and the Natural Resources Defense Council (NRDC) filed a petition with the U.S. Court of Appeals, District of Columbia Circuit, for review of the Subtitle D criteria. The Sierra Club and NRDC suit alleged, among other things, that EPA acted illegally when it exempted these small landfills from the ground-water monitoring requirement. On May 7, 1993, the United States Court of Appeals for the District of Columbia Circuit issued an opinion pertaining to the Sierra Club and NRDC challenge to the small landfill exemption. *Sierra Club* v. *United States Environmental Protection Agency,* 992 F.2d 337 (DC Cir. 1993).

In effect, the Court noted that while EPA could consider the practicable capabilities of facilities in determining the extent or kind of ground-water monitoring that a landfill owner/operator must conduct, EPA could not justify the complete exemption from ground-water monitoring requirements. Thus, the Court vacated the small landfill exemption as it pertains to ground-water monitoring, directing the Agency to "* * * revise its rule to require ground-water monitoring at all landfills."

EPA's final rule of October 1, 1993, as required by the Court, removed the October 9, 1991, small landfill exemption whereby owners and operators of MSWLF units that meet the qualifications outlined in 40 CFR 258.1(f) are no longer exempt from ground-water monitoring requirements in 40 CFR 258.50 through 258.55. The final rule does, however, provide for an extension for all of the MSWLF criteria requirements for a period up to two years for all MSWLF units that meet the small landfill exemption in 2581.(f) for ground-water monitoring and corrective action as follows: October 9, 1995, for new units; and October 9, 1995 through October 9, 1996, for existing units and lateral expansions.

The U.S. Court of Appeals in its decision did not preclude the possibility that the Agency could establish separate ground-water monitoring standards for the small dry/remote landfills that take such factors as size, location, and climate into account.

The Agency will continue to maintain an open dialogue with all interested parties to discuss whether alternative ground-water monitoring requirements should be established and will continue to accept information on alternatives. At this time, the Agency is investigating this issue and cannot be certain that practicable alternatives for detecting ground-water contamination will exist for MSWLF units that would qualify for the exemption under 258.1(f). The October 9, 1993 final rule does not link the effective date of ground-water monitoring for landfills that qualify for the small/arid and remote exemption to promulgation of alternative ground-water monitoring requirements.

Under Wyoming rules, the State's 71 active MSWLFs, by definition, consist of Type I and Type II landfills. Type II landfills, which make up the vast majority of landfills in Wyoming, fit the same definition as those defined as small/arid and remote landfills under 258.1(f). The State's Type I landfills are those that are *not* Type II landfills. Type II landfills currently comply with State ground-water monitoring and corrective action rules.

Since the State's Type II landfills are not required to comply with ground-water monitoring and corrective action criteria as defined in 258.1(f) until October 9, 1996, the State is not seeking approval for this portion of their program at this time. When EPA promulgates final revisions to the MSWLF 258.1(f) criteria and provides enough latitude for states to tailor these requirements for small, arid landfills, then the State of Wyoming will need to update their rules. It is the State of Wyoming's position that when EPA promulgates final rule revisions to the MSWLF criteria in 258.1(f), Wyoming will revise its application for full program approval to bring Type II landfills into compliance with Part 258 criteria for ground-water monitoring and corrective action.

Along with the tentative determination, EPA announced the availability of the application for public comment. EPA also tentatively scheduled a public hearing for March 13, 1995, to be held if a sufficient number of people expressed interest in participating. After no one expressed interest, the Agency cancelled the public hearing.

EPA has reviewed Wyoming's application and has determined that all portions of the State's MSWLF permit program (with the exception of Wyoming's Type II landfills not being required to comply with ground-water monitoring and corrective action as defined in 258.1(f) until October 9, 1996) will ensure compliance with the revised Federal Criteria. In its application, Wyoming demonstrated that the State's permit program adequately meets the location restrictions, operating criteria, design criteria, ground-water monitoring and corrective action requirements, closure and post-closure care requirements, and financial assurance criteria in the revised Federal Criteria. In addition, the State of Wyoming also demonstrated that its MSWLF permit program contains specific provisions for public participation, compliance monitoring, and enforcement.

In its application for adequacy determination, Wyoming has not asserted jurisdiction over Indian Country, as defined in 18 U.S.C. 1511 Accordingly, this approval does not extend to lands within Indian Country in Wyoming, including lands within the exterior boundaries of the Wind River Reservation. Until EPA approves a State or Tribal MSWLF permitting program in Wyoming for any part of Indian Country, the requirements of 40 CFR part 258 will, after October 9, 1993, automatically apply to that area. Thereafter, the requirements of 40 CFR part 258 will apply to all owners/operators of MSWLFs located in any part of Indian Country that is not covered by an approved State or Tribal MSWLF permitting program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF Criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF Criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

C. Public Comment

The EPA received no public comments on the tentative determination of adequacy for Wyoming's MSWLF permit program.

D. Decision

Since we received no public comments, I conclude that Wyoming's application for partial program adequacy determination meets all the statutory and regulatory requirements established by RCRA. Accordingly, Wyoming is granted a determination of adequacy for all portions of its MSWLF permit program with the exception of Wyoming's Type II landfills not being required to comply with ground-water monitoring and correction action as

VOL 60 ISS 73 AP 17 1995 UMI

defined in 258.1(f) until October 9, 1996.

Today's action takes effect on April 19, 1995. EPA believes it has good cause under section 553(d) of the Administrative Procedures Act, 5 U.S.C. 553(d), to put this action into effect less than thirty days after publication in the Federal Register. All of the requirements and obligations in the State's/Tribe's program are already in effect as a matter of State/Tribal law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of sections 2002, 4005, and 4010 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6912, 6945, and 6949(a).

Dated: April 4, 1995.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 95-9380 Filed 4-14-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5191-6]

42 U.S.C. Section 122(h)

Proposed Administrative Agreement

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed settlement.

SUMMARY: USEPA is proposing to settle a claim under Section 107 of CERCLA for response costs incurred during removal activities at the Union Scrap Iron and Metal (Union Scrap III) site in Minneapolis, MN. Respondents have agreed to reimburse USEPA in the amount of $936,000. USEPA today is proposing to approve this settlement offer because it reimburses USEPA, in part, for costs incurred during USEPA's removal action.

DATES: Comments on this proposed settlement must be received on or before May 17, 1995.

ADDRESSES: Copies of the proposed settlement are available at the following address for review: (It is recommended that you telephone Ms. Cheryl Allen at (312) 353-6196 before visiting the Region V Office).

U.S. Environmental Protection Agency, Region V, Office of Superfund, Removal and Enforcement Response Branch, 77 W. Jackson Blvd., Chicago, Illinois 60604

Comments on this proposed settlement should be addressed to: (Please submit an original and three copies, if possible)

Cheryl Allen, Community Relations Coordinator, Office of Public Affairs, U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard (P-19J), Chicago, Illinois 60604, (312) 353-6196.

FOR FURTHER INFORMATION CONTACT:

Cheryl Allen, Office of Public Affairs, at (312) 353-6196.

SUPPLEMENTARY INFORMATION: The Union Scrap III site, a scrap yard contaminated with lead and polychloronated biphenyls (PCBs), is not on the National Priorities List. In response to a request from the State of Minnesota, USEPA investigated the Union Scrap III site and undertook response actions designed to minimize the immediate threat, test the materials involved and properly dispose of the hazardous waste.

Respondents are a variety of individuals and corporate entities that generated hazardous substances at the Site in the form of lead batteries, lead contaminated scrap and polychloronated biphenyls (PCBs) from metal and oil-based sources. A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed settlement.

Comments should be sent to Ms. Cheryl Allen of the Office of Public Affairs (P-19J), U.S. Environmental Protection Agency, Region V, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Thomas P. Turner,

Assistant Regional Counsel, Environmental Protection Agency.

[FR Doc. 95-9540 Filed 4-14-95; 8:45 am]

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[OPPT-59343; FRL-4945-7]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of applications for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TME-95-1 and 95-2. The test marketing conditions are described below.

EFFECTIVE DATES: April 5, 1995. Written comments will be received until May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Shirley D. Howard, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-447H, 401 M St. SW., Washington, DC 20460, (202) 260-3780.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TMEs-95-1 and 95-2. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the applications. All other conditions and restrictions described in these applications and in this notice must be met.

Inadvertently the notice of receipt of these applications was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential

document is available in the TSCA nonconfidential information center (NCIC), Rm. ETG-102 at the above address between 12:00 noon and 4:00 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TMEs-95-1 and 95-2. A bill of lading accompanying each shipment must state that the use of the substances is restricted to that approved in the TMEs. In addition, the applicants shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME-95-1

Date of Receipt: March 22, 1995. The extended comment period will close May 2, 1995.

Applicant: Confidential.

Chemical: (G) *N,N',N''*-Triphenylmelamine derivative.

Use: (G) UV Absorber.

Production Volume: Confidential.

Number of Customers: Fifteen.

Test Marketing Period: Three years, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant human health concerns for the test market substance. The TME substance is not expected to be toxic to aquatic organisms at maximum saturation in water. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

TME-95-2

Date of Receipt: March 23, 1995. The extended comment period will close (insert date 15 days after date of publication in the Federal Register).

Applicant: Lubricant Additive Research Co.

Chemical: (G) Synthetic Silver Complex.

Use: (G) Lubricant Additive.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: One year, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant human health concerns for the test market substance. Based on Structure Activity Relationship (SAR) analysis from data on similar substances, EPA estimates that the TME substance could be toxic to aquatic organisms at a concentration of 1.0 parts per billion. However, the TME substance is not expected to be released to surface waters during the manufacturing, processing and use scenarios described in the TME application. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: April 5, 1995.

Paul J. Campanella,

Chief, New Chemicals Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 95-9385 Filed 4-14-95; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

[IAD File No. 94-102, FCC 95-19]

Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech—Illinois

AGENCY: Federal Communications Commission.

ACTION: Declaratory ruling and order.

SUMMARY: This Declaratory Ruling and Order (Order) responds to a Request for Declaratory Ruling and Order (Petition) filed with the Federal Communications Commission (Commission) on August 4, 1994, jointly by Mobilemedia Communications, Inc., Paging Network, Inc., and Page Mart, Inc. (Petitioners). Petitioners objected to a plan developed by Ameritech-Illinois (Ameritech) to relieve an anticipated telephone number shortage in the part of Illinois covered by numbering plan area 708. Petitioners contended portions of the Ameritech plan violate the Communications Act and industry guidelines. In the Order, the Commission found the Ameritech plan was unreasonably discriminatory and otherwise unjust and unreasonable in violation of the Communications Act.

In the Order, the Commission declared the importance of modernization of telecommunications infrastructure, the introduction of new technologies, the promotion of competition, and the encouragement of new interstate and international services to meeting its goals under the Communications Act.

EFFECTIVE DATE: January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Laurence Povich, Common Carrier Bureau, Industry Analysis Division, (202) 418-0953.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Declaratory Ruling and Order in Common Carrier Bureau, IAD File No. 94-102, adopted January 12, 1995, and released January 23, 1995, with Commissioner Barrett issuing a statement.

The complete text of the Order and the statement is available for inspection and copying between 9:00 AM and 4:00 PM during normal business days in the Public Reference Room, Industry Analysis Division, Common Carrier Bureau, located on the Plaza Level at 1250 23rd Street, N.W., Washington, D.C. and may also be purchased from the Commission's copy contractor, International Transcription Service, at 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Telephone: 202-857-3800.

Synopsis of Declaratory Order

1. Background

As the largest local exchange carrier in northern Illinois, Ameritech serves as the administrator of numbering plan area (NPA) 312 (serving Chicago) and NPA 708 (which covers an adjacent suburban area). NPAs are more popularly known as "area codes." In early 1994, Ameritech announced that the supply of central office codes within NPA 708 was nearing exhaustion and later presented its plan for relief of the anticipated shortage. Central office (CO) codes are the three-digit numbers that follow the NPA and precede the four-digit line number. Accordingly, each CO code represents about 10,000 telephone line numbers.

The Ameritech plan included the following elements: Ameritech would cease providing CO codes in NPA 708 to cellular and paging carriers and such wireless carriers would be required to "give back" to Ameritech NPA 708 CO

VOL 60 ISS 73 AP 17 1995 UMI

codes currently assigned to them. NPA 708 CO office codes returned by wireless carriers would then be used by Ameritech to assign NPA 708 CO codes to its own customers, to customers of competitive access providers, and to other wireline customers.

Ameritech would utilize a new NPA (630) to create an overlay NPA. This new overlay would cover the same geographic area as the existing NPAs 708 and 312. With such an "overlay" arrangement, a customer in NPA 708 or 312 could be served by both the new overlay NPA (630) and by its existing NPA.

Until the new NPA (630) became available, wireless customers requesting CO codes for NPA 708 would have to accept CO codes from NPA 312. When the new NPA (630) became available, wireless carriers would then be able to obtain CO codes from either NPA 312 or 630 but not from NPA 708.

Ameritech petitioned the Illinois Commerce Commission (ICC) on July 29, 1994, for approval of its plan. Petitioners filed their Petition on August 4, 1994. The Commission issued a Public Notice seeking comment. At the release of the Order, the ICC had not yet acted upon Ameritech's petition.

2. Federal/State Jurisdiction

The Commission explained that the Communications Act establishes a dual regulatory system of telephone service by granting to the Commission authority to regulate interstate and foreign commerce in wire and radio communication while reserving to the states jurisdiction with respect to intrastate communications service. While there was no need for the Commission to take such action in this case, the Commission did note there might be future situations in which a state's regulation of a local exchange carrier's numbering activities could raise the issue of preemption. However, in this case, the Commission declined to await the outcome of the ICC proceedings because of the impact on interstate and foreign telecommunications; because of violations of the Communications Act in parts of Ameritech's plan; and because of the strong possibility that defects in the Ameritech plan might be repeated in the relief plans being drawn elsewhere.

3. Federal Policy Objectives

As indicated above, the Commission declared the importance of modernization of telecommunications infrastructure, the introduction of new technologies, and the encouragement of new interstate and international services to meeting its goals under the Communications Act to make available to all the people of the United States a rapid, efficient, Nation-wide, and world wide wire and radio communications service.

The Commission identified competition as the best means for achieving these objectives and noted that a uniform national system of numbering is essential to the efficient delivery of telecommunications services. Because of the importance of such a numbering system, the Commission declared that NPA codes and related central office codes should be viewed as essential resources to be shared as fairly and equitably as possible by all carriers who require such codes to offer telecommunications services.

In addition, the Commission noted that administration of the NANP significantly affects the ease with which new telecommunications services are introduced by existing carriers and that it should also facilitate marketplace entry of new carriers by making numbering resources available on an efficient, timely basis.

The Commission, also stated that successful number administration should not unduly favor or disadvantage any particular industry segment or group of consumers, that number administration should be largely technology neutral, and that, as a result, it should not unduly favor one technology over another.

The Commission further determined that number administrators must treat all applicants for codes in an impartial manner by providing telephone resources to them in accordance with the Act. Accordingly, each carrier's number administration practices and services must be just, reasonable, and not unreasonably discriminatory.

Measured against these principles, the Commission found the Ameritech plan to be deficient because it would unreasonably discriminate against wireless carriers and would, therefore, violate these principles.

4. Unreasonable Discrimination

Petitioners alleged several parts of Ameritech's plan to be unreasonably discriminatory in violation of Section 202(a) of the Communications Act, 47 U.S.C. 202(a): Ameritech's proposal to continue assigning NPA 708 codes to wireline carriers while excluding paging and cellular carriers from such assignments ("exclusion proposal"); Ameritech's proposal to require only paging and cellular carriers to take back from their subscribers and return to Ameritech all 708 telephone numbers previously assigned to them while wireline carriers would not be required to do so ("take back" proposal); and Ameritech's proposal to assign all new numbers to paging and cellular exclusively from the existing NPA 312 and the new NPA 630 while wireline carriers (and perhaps others) may continue to receive such assignments from NPA 708 ("segregation proposal").

While acknowledging such impacts on paging and cellular carriers, Ameritech denied its plan would result in any unjust or unreasonable discrimination. On the contrary, Ameritech claimed its proposals were necessary and reasonable because the largest proportion of recent demand for NPA 708 numbers had come from wireless carriers; transfer of such carriers to NPA 312 and later NPA 630 from NPA 708 would most significantly decrease demand for increasingly scarce NPA 708 numbers, and that such transfer of carriers would not have a significant impact on either their customers, the network or the dialing plan. Ameritech also contended its plan did not unreasonably discriminate because the plan treats alike all providers of wireless services, including Ameritech's cellular affiliate, and because having such wireless carriers utilize NPA 312 CO codes instead of NPA 708 CO codes was, in Ameritech's view, the only feasible conservation measure. Because their customers' wireless terminals do not have a fixed (hard-wired) location on the public switched telephone network, Ameritech argued that paging and cellular carriers, unlike wireline carriers, are able to utilize NPA 312 CO codes within the NPA 708 geographical area.

The Commission found that Ameritech's "exclusion," "segregation," and "take-back" proposals violate the prohibition in the Act against unjust or unreasonable discrimination.

5. Unjust, Unreasonable Conduct

Petitioners also contended that Ameritech's "exclusion," "take back," and "segregation" proposals would constitute unjust and unreasonable practices in violation of Section 201(b) of the Communications Act, 47 U.S.C. 201(b). They further contended that Ameritech's plan violated applicable industry guidelines because it did not provide affected parties with a meaningful opportunity to participate in formulating the plan and because Ameritech failed to give adequate consideration to the impact of the plan on paging carriers and their customers. Ameritech asserted that it followed applicable guidelines in formulating its plan but that if the Commission finds that the plan conflicts with such guidelines, Ameritech argues that those guidelines give it authority to refine conservation procedures as necessary to achieve code relief. Ameritech also contended that in an emergency situation such as the one faced in NPA 708, "first-come, first-serve" policies must be suspended. The United States Telephone Association contended any conflict with such guidelines would not be relevant because such guidelines have not yet been formally adopted and that, even if formal guidelines had been adopted, compliance would be voluntary.

The Commission found that Ameritech's "exclusion," "take-back," and "segregation" proposals represent unjust and unreasonable practices under Section 201(b) of the Communications Act and therefore would be unlawful if implemented. Specifically, the Commission found that these three facets of Ameritech's plan prevent that plan from achieving three important objectives: (a) optimal dialing plan; (b) minimal burden and (c) an uninterrupted supply of codes and related numbers. The Commission also found that Ameritech's justifications were not persuasive because those justifications could not override the fact that these facets of the plan would inhibit competition in the interstate access market.

6. Delegated Authority

To facilitate future supervision of numbering issues, the Commission delegated authority to the Common Carrier Bureau to resolve future number resources allocation disputes. That Bureau was directed to resolve such issues in coordination with the Wireless Telecommunications Bureau and other Bureaus of the Commission.

7. Accordingly, pursuant to Section 1, 4(i), 201–205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–205, ad 403, and pursuant to Section 1.2 of the Commission's Rules, 47 CFR 1.2, it is ordered that the Request for Declaratory Ruling filed by Mobilemedia Communications, Inc., Paging Network, Inc., and Page Mart, Inc., is granted in part and is otherwise denied as set forth herein.

8. It is further ordered that Ameritech's Motion to accept late-filed comments is hereby accepted.

9. It is further ordered that the Request for Interlocutory Order filed by Mobilemedia Communications, Inc., Paging Network, Inc., and Page Mart, Inc., is denied as set forth herein.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–9188 Filed 4–14–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting:

NAME: Board of Visitors for the National Fire Academy.

DATES OF MEETING: June 1–3, 1995.

PLACE: Building G Conference Room, National Emergency Training Center, Emmitsburg, Maryland.

TIME: June 1, 1995, 8:30 a.m.–5:00 p.m.; June 2, 1995, 8:30 a.m.–9:00 p.m.; June 3, 1995, 8:30 a.m.–5:00 p.m.

PROPOSED AGENDA: June 1–3: Conduct the On Campus Program Survey and Review the Fiscal year 1995 and Fiscal Year 1996 Budgets.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating available on a first-come first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1117, on or before May 15, 1995.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: April 5, 1995.

Carrye B. Brown,

U.S. Fire Administrator.

[FR Doc. 95–9390 Filed 4–11–95; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–011375–016.

Title: Trans-Atlantic Conference

Parties:

Atlantic Container Line AB
P&O Containers Limited
Sea-Land Service, Inc.
Hapag-Lloyd AG
Nedlloyd Lijnen BV
A.P. Moller-Maersk Line
Cho Yang Shipping Co. Ltd.
Mediterranean Shipping Company, S.A.
DSR-Senator Lines
Polish Ocean Lines
Orient Overseas Container Line (UK) Ltd.
Transportacion Maritima Mexicana, S.A. de C.V.
Neptune Orient Lines Ltd
Nippon Yusen Kaisha
Tecomar S.A. de C.V.
Hanjin Shipping Co., Ltd

Synopsis: The proposed amendment modifies ANNEX B—Space/Slot Chartering and Equipment Exchange to confine space/slot chartering operations under the Agreement to ad hoc, sporadic or emergency movements. This provision complies with the Commission's *Order Conditionally Approving Settlement* (dated March 2, 1995) in Fact Finding Investigation No. 21 and Dockets 94–29 and 94–30.

Agreement No.: 224–003800–014.

Title: City of Long Beach/California United Terminals Terminal Agreement

Parties:

City of Long Beach California United Terminals

Synopsis: The proposed amendment provides for an adjustment of the compensation payable for the five year segment of the term commencing July 1, 1994 and ending June 30, 1999.

By Order of the Federal Maritime Commission.

VOL 60 ISS 73 AP 17 1995 UMI

Dated: April 12, 1995.
Joseph C. Polking,
Secretary.
[FR Doc. 95–9417 Filed 4–14–95; 8:45 am]
BILLING CODE 6730–01–M

[Docket No. 95–06]

Marine Dynamics v. RTM Line, Ltd.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Marine Dynamics ("Complainant") against RTM Line, Ltd. ("Respondent") was served April 12, 1995. Complainant alleges that Respondent has violated sections 10(b)(1), 10(b)(3), 10(b)(5), 10(b)(6), 10(b)(10), 10(b)(12) and 10(d)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709 (b)(1), (b)(3), (b)(5), (b)(6), (b)(10), (b)(12) and (d)(1), by overcharging or unlawfully charging for ocean freight and other services in connection with the shipment of a cradled work boat from Jacksonville, Florida to Doha, Qatar.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 12, 1996, and the final decision of the Commission shall be issued by August 12, 1996.

Joseph C. Polking,
Secretary
[FR Doc. 95–9418 Filed 4–14–95; 8:45 am]
BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Alfred L. Cohen, 9571 S.W. First Court, Coral Hills, FL 33071, Sole Proprietor
Cargo Forwarders International Corp., 101–111 NE 23rd Street, Miami, FL 33137, Officers: Wilfredo Agusti, President; Rosa Benitez, Secretary
T L International, 824 W. Commonwealth Ave., Alhambra, CA 91801, Chien C. Tang, Sole Proprietor
Freight Solutions, Inc., 355 Swift Ave., So. San Francisco, CA 94080, Officers; Patrick H. Crenshaw, President; Thomas A. Sciolla, Vice President.

By the Federal Maritime Commission.
Dated: April 12, 1995.
Joseph C. Polking,
Secretary.
[FR Doc. 95–9419 Filed 4–14–95; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Notice of Establishment; Notice of Meeting

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of establishment.

ACTION: Notice of meetings.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) announces the establishment of a federal advisory committee to evaluate and make recommendations to the FMCS regarding FMCS's Labor-Management Cooperation Grants Program. The committee will meet in Washington, D.C. from June 19, 1995 until June 23, 1995. It will stay in operation until the end of the fiscal year, September 30, 1995.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act, 5 U.S.C. Appx. 9, notice is given that the FMCS has established a federal advisory committee to evaluate and make recommendations to the agency about the FMCS Labor-Management Cooperation Grants Program. Congress specifically requested that FMCS conduct a review of this program for fiscal year 1995. This review will involve evaluating the overall program and issuing recommendations to improve it. The committee will also evaluate the grants process, specific applicants, and make recommendations on who should receive labor-management committee grants. The committee will be called the Grants Program Review and Advisory Committee.

Five grant review boards will sit to evaluate the applications. Each board will focus on a review of applications of the following areas: industry labor-management committees, area labor-management committees, in-plant committees, public (state and local) committees, and public education committees. Each board will consist of three individuals selected from the following pool of committee members: three representatives from state government labor-management programs, three former grantees, one member from a national trade union association, one from a national business or industry organization, one from the National Labor-Management Association, one from a professional association such as the Industrial Relations Research Association, and five mediators. One federal mediator will sit on each board. The boards will then convene as the full committee to discuss their findings and make recommendations to the agency.

The scope of the committee is limited to reviewing the current process, evaluating the direction of the grants program, and issuing recommendations for actual grants. FMCS will provide the necessary support for the committee. The full committee or the individual review boards will meet as often as necessary. The advisory committee will issue a final report on its findings and recommendations. The official to whom the committee will report is the Director of the Federal Mediation and Conciliation Service. The Grants Program Manager, Peter Regner, will serve as Chairman to the Committee. The advisory committee should not be needed after September 30, 1995.

TIME AND DATES OF MEETINGS: The first meeting of the Grants Program Review and Advisory Committee will begin at 12 p.m. on June 19, 1995. The last session is scheduled to begin at 9 a.m. on June 23, 1995.

PLACE OF MEETINGS: The meetings will be held in the Ching Room, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC.

STATUS OF MEETINGS: The portions of the meetings in which determinative decisions are being made as to grant applications will be closed to the public. The portions of the meetings in which evaluations of and recommendations for the grants program are issued will be open to the public.

MATTERS TO BE CONSIDERED AT MEETINGS: Review and evaluation of Labor-Management Cooperation Grants Program, and review and recommendations of labor-management grant applicants.

FOR FURTHER INFORMATION CONTACT: Peter Regner, Grants Program Manager, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC, 20427, 202–606–8181.

Dated: April 10, 1995.
John Calhoun Wells,
Director

Grants Program Review and Advisory Committee Charter

1 The official designation of this advisory committee is the "Grants Program Review and Advisory Committee."
2. The Committee shall advise the Director of the Federal Mediation and Conciliation Service on methods of improving the efficiency of the Labor-Management Cooperation Grants Program; participate in reviewing grants applicants and advise the Grants Program Manager on appropriate grant recipients; and otherwise review, evaluate and make recommendations on the grants program.
3. The Committee will be composed of five grant review boards. Each board will focus on a review of the following areas: Industry labor-management committee review, area committee review, in-plant committee review, public (state and local) committee review, or public education committee review. The boards will then convene as the full committee to discuss their findings and make recommendations to the agency.
4. Each review board will consist of three individuals selected from the following pool of individuals: three representatives from state government labor-management programs, three former grantees, one member from a national trade union association, one from a national business or industry organization, one from the National Labor-Management Association, one from a professional association such as the Industrial Relations Research Association, and five federal mediators. One federal mediator will sit on each board. No committee member shall have submitted a grant pending review with the Grants Program.
5. In view of the foregoing objectives and scope of activity, the Panel is expected to continue for not longer than a period of four months, beginning on June 1, 1995, and terminating on September 30, 1995.
6. The Committee will report to the Director and the Grants Program Manager as requested.
7. Necessary support will be provided by the Federal Mediation and Conciliation Service.
8. The duties of the Committee are solely advisory and are described in number "2" above.
9. The estimated annual operating costs for the Committee are travel and per diem expenses for committee members for meetings held in Washington, DC. This is expected to cost approximately $10,000.
10. The full Committee or its Review Boards will meet as often as necessary at the call of Peter Regner, who is the Chair of the Committee.
11. This charter was filed with the following on March 17, 1995:
Mr. Michael Neff, Committee Management Secretariat, General Services Administration, 18th and F Streets NW., CAM, Room 7007, Washington, DC 20405
Library of Congress, Exchange and Gifts Division, Federal Documents Section, Federal Advisory Committee Desk, LM 632, 101 Independence Avenue, SE., Washington, DC 20540–4200.

Additional information regarding the Grants Program Review and Advisory Committee may be obtained from the Grants Program Manager, Mr. Peter Regner, Federal Mediation and Conciliation Service, Washington, DC 20427, telephone: (202) 606–8181

Dated: March 17, 1995
John Calhoun Wells,
Director, Federal Mediation and Conciliation Service.
[FR Doc. 95–9360 Filed 4–14–95; 8:45 am]
BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Fleet Financial Group, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 1995.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1 Fleet Financial Group, Inc., Providence, Rhode Island; to acquire, through Fleet Real Estate Funding Corp., Columbia, South Carolina, Plaza Home Mortgage Servicing Corporation, Albuquerque, New Mexico, from its wholly-owned subsidiary, Fleet National Bank, Providence, Rhode Island, and thereby engage in mortgage banking activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y

Board of Governors of the Federal Reserve System, April 11, 1995
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 95-9361 Filed 4-14-95; 8:45 am]
BILLING CODE 6210-01-F

KeyCorp; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage de novo, either directly or through a subsidiary, in a nonbanking

VOL 60 ISS 73 AP 17 1995 UMI

activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. KeyCorp, Cleveland, Ohio, and Key Bancshares of Wyoming, Cheyenne, Wyoming; to engage *de novo* through Key Bancshares of Wyoming, in making consumer and home mortgage loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 11, 1995

Jennifer J. Johnson,

Deputy Secretary of the Board

[FR Doc. 95-9362 Filed 4-14-95; 8:45 am]

BILLING CODE 6210-01-F

National City Corporation; Application to engage in certain Nonbanking Activities

National City Corporation, Cleveland, Ohio (Applicant), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to acquire Raffensperger, Hughes & Co., Incorporated, Indianapolis, Indiana, and thereby engage through NatCity Investments, Inc., Cleveland, Ohio (Company), in underwriting and dealing in debt and equity securities of all types, other than shares of open-end investment companies. These activities will be conducted throughout the United States.

Applicant maintains that the Board previously has determined that the proposed activities are closely related to banking. Applicant states that Company would conduct the proposed activities within the limitations and prudential guidelines established by the Board in previous orders. *See Canadian Imperial Bank of Commerce*, 76 Federal Reserve Bulletin 158 (1990); *J.P. Morgan & Co. Incorporated, et al.*, 75 Federal Reserve Bulletin 192 (1989), *aff'd sub nom. Securities Industries Ass'n v. Board of Governors of the Federal Reserve System*, 900 F.2d 360 (D.C. Cir. 1990); and *Citicorp, et al.*, 73 Federal Reserve Bulletin 473 (1987), *aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988). In connection with its application, Applicant has requested permission to retain the director and officer interlocks between Company and its affiliated banks previously permitted by the Board. *See National City Corporation*, 80 Federal Reserve Bulletin 346 (1994). Applicant also has requested that the securities brokerage subsidiary of National City Bank, Cleveland, Ohio, be permitted to act as introducing broker for customers in securities transactions that would be forwarded to Company for execution and clearance, and that Company be permitted to calculate compliance with the revenue limitation on an annualized basis during the first year following consummation of the acquisition since Applicant is acquiring a going concern. *See First of America Corporation*, 80 Federal Reserve Bulletin 1120 (1994); *Dauphin Deposit Corporation*, 77 Federal Reserve Bulletin 672 (1991).

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. § 1843(c)(8). Applicant believes that the proposal would produce public benefits that outweigh any potential adverse effects. In particular, Applicant maintains that the proposal would enhance competition and enable Applicant to offer its customers a broader range of products. Applicant also maintain that its proposal would not result in any adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 5, 1995 Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, April 11, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board

[FR Doc. 95-9363 Filed 4-14-95; 8:45 am]

BILLING CODE 6210-01-F

Pikeville National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 11, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Pikeville National Corporation, Pikeville, Kentucky; to acquire 100 percent of the voting shares of Commercial Bank, Middlesboro, Kentucky.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Pilot Bancshares, Inc., Tampa, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Terrace Interim Bank, Tampa, Florida (in organization).

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Community Financial Corp., Olney, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank & Trust, fsb, Olney, Illinois, which will convert from a federally-chartered stock savings bank to a national bank and operate under the name of Community Bank & Trust, N.A., Olney, Illinois.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Southern Bancshares, Inc., Houston, Texas; to acquire 100 percent of the voting shares of First State Bank Brazoria, Brazoria, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, April 11, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board

[FR Doc. 95-9364 Filed 4-14-95; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

[GSA Bulletins FTR 14 and 15]

Federal Travel Regulation; Reimbursement of Higher Actual Subsistence Expenses for Official Travel to Augusta, Georgia and Oshkosh, Wisconsin

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of bulletins.

SUMMARY: The attached bulletins inform agencies of the establishment of a special actual subsistence expense ceiling for official travel to Augusta (Richmond County), Georgia and Oshkosh (Winnebago County), Wisconsin. The Secretary of Transportation (DOT) requested establishment of the increased rates to accommodate employees who perform temporary duty in either of the two localities and who experience a temporary but significant increase in lodging costs due to the escalation of lodging rates during the annual Masters Golf Tournament in Augusta, or the annual Experimental Aircraft Association Convention and Show in Oshkosh.

EFFECTIVE DATES: This special rate is applicable to claims for reimbursement covering travel to Augusta, Georgia during the period April 3 through April 9, 1995; and to Oshkosh, Wisconsin during the period July 22 through August 5, 1995.

FOR FURTHER INFORMATION CONTACT: Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

SUPPLEMENTARY INFORMATION: The Administrator of General Services, pursuant to 41 CFR 301–8.3(c) and at the official request of the Secretary of Transportation, has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Augusta (Richmond County), Georgia for travel during the period April 3 through April 9, 1995, and to Oshkosh (Winnebago County), Wisconsin for travel during the period July 22 through August 5, 1995. The attached GSA Bulletins FTR 14 and 15 are issued to inform agencies of the establishment of these special actual subsistence expense ceilings.

Dated: April 10, 1995.

Allan W. Beres,

Assistant Commissioner, Office of Transportation and Property Management.

ATTACHMENT 1

[GSA Bulletin FTR 14]

April 7, 1995

To: Heads of Federal agencies

Subject: Reimbursement of higher actual subsistence expenses for official travel to Augusta (Richmond County), Georgia

1. *Purpose.* This bulletin informs agencies of the establishment of a special actual subsistence expense ceiling for official travel to Augusta (Richmond County), Georgia, due to the escalation of lodging rates during the annual Masters Golf Tournament held there. This special rate applies to claims for reimbursement covering travel during the period April 3, 1995, through April 9, 1995.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFR chapters 301–304) part 301–8 permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period. The Secretary of Transportation (DOT) requested establishment of such a rate for Augusta to accommodate employees who perform temporary duty there and experience a temporary but significant increase in lodging costs due to the escalation of lodging rates during the annual Masters Golf Tournament. These circumstances justify the need for higher subsistence expense reimbursement in Augusta during the designated period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301–8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Augusta (Richmond County), Georgia for travel during the period April 3, 1995, through April 9, 1995. Agencies may approve actual subsistence expense reimbursement not to exceed $210 ($184 maximum for lodging and a $26 allowance for meals and incidental expenses) for official travel to Augusta (Richmond County), Georgia, during this time period.

VOL 60 ISS 73 AP 17 1995 UMI

4. *Expiration date.* This bulletin expires on September 30, 1995.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Office of Transportation and Property Management.

ATTACHMENT 2

[GSA Bulletin FTR 15]

April 7, 1995

To: Heads of Federal agencies

Subject: Reimbursement of higher actual subsistence expenses for official travel to Oshkosh (Winnebago County), Wisconsin

1. *Purpose.* This bulletin informs agencies of the establishment of a special actual subsistence expense ceiling for official travel to Oshkosh (Winnebago County), Wisconsin, due to the escalation of lodging rates during the annual Experimental Aircraft Association Convention and Show held there. This special rate applies to claims for reimbursement covering travel during the period July 22, 1995, through August 5, 1995.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFR chapters 301–304) part 301–8 permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period. The Secretary of Transportation (DOT) requested establishment of such a rate for Oshkosh to accommodate employees who perform temporary duty there and experience a temporary but significant increase in lodging costs due to the escalation of lodging rates during the annual Experimental Aircraft Association Convention and Show. These circumstances justify the need for higher subsistence expense reimbursement in Oshkosh during the designated period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301–8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Oshkosh (Winnebago County), Wisconsin for travel during the period July 22, 1995, through August 5, 1995. Agencies may approve actual subsistence expense reimbursement not to exceed $167 ($137 maximum for lodging and a $30 allowance for meals and incidental expenses) for official travel to Oshkosh (Winnebago County), Wisconsin, during this time period.

4. *Expiration date.* This bulletin expires on September 30, 1995.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Office of Transportation and Property Management.

[FR Doc. 95–9358 Filed 4–14–95; 8:45 am]

BILLING CODE 6820–24–F

GOVERNMENT PRINTING OFFICE

The Federal Register Online via GPO Access; Public Meeting for Federal, State and Local Agencies, and Others Interested in a Demonstration of GPO Access, the Online Service Providing the Federal Register and Other Federal Databases

The Superintendent of Documents will hold a public meeting for Federal, state and local government agencies, and others interested in an overview and demonstration of the Government Printing Office's online service GPO Access, provided under the Government Printing Office Electronic Information Access Enhancement Act of 1993 (Pub. L. 103–40).

The session will be held at the Denver Public Library, Conference Center B, Level B–2, 1357 Broadway St., Denver, CO 80203–2165 on Monday, May 1 from 9 a.m. to 11 a.m.

The online Federal Register Service offers access to the daily issues of the Federal Register by 6 a.m. on the day of publication. All notices, rules and proposed rules, Presidential documents, executive orders, separate parts, and reader aids are included in the database as ASCII text files, with graphics provided in TIFF format. The online Federal Register is available via the Internet or as a dial-in service. Historical data is available from January 1994 forward.

Other databases currently available online through GPO Access include the Congressional Record; Congressional Record Index, including the History of Bills; Congressional Bills; Public Laws; and U.S. Code.

Individuals interested in attending may reserve a space by contacting the Government Publication Library at the University of Colorado, Boulder by telephone: (303) 492–3983 or by contacting John Berger, Product Manager at the GPO's Office of Electronic Information Dissemination Services, by telephone: (202) 512–1525; by fax: (202) 512–1262; or by Internet e-mail at john@eids06.eids.gpo.gov Seating reservations will be accepted through Wednesday, April 26, 1995.

Michael F. DiMario,

Public Printer.

[FR Doc. 95–9394 Filed 4–14–95; 8:45 am]

BILLING CODE 1520–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

President's Council on Physical Fitness and Sports

AGENCY: Office of the Assistant Secretary for Health.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: May 22, 1995, 7:00 p.m.

ADDRESSES: Hyatt Regency Atlanta (Stuart Room—Scheduled) 265 Peachtree Street NE., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Sandra Perlmutter, Executive Director, President's Council on Physical Fitness and Sports, 701 Pennsylvania Avenue NW., suite 250, Washington, DC 20004–2608 202/272–2145.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order #12345, as amended, and subsequent orders. The functions of the Council are: (1) To advise the President and the Secretary concerning progress made in carrying out the provisions of the Executive Order and recommending to the President and Secretary, as necessary, actions to accelerate progress, (2) advise the President and the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports actions to extend and improve physical activity programs and services; and (3) advise the President and the Secretary on state, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the members of the national program on physical fitness and sports, to report on ongoing Council initiatives, and to plan for future directions.

Dated: April 11, 1995.

Sandra Perlmutter,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 95–9368 Filed 4–14–95; 8:45 am]

BILLING CODE 4160–17–M

Agency for Toxic Substances and Disease Registry

Public Meeting of the Native American Working Group, in Association With the Meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

The Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting:

Name: Public Meeting of the Native American Working Group (NAWG), in association with the meeting of the Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee.

Time and date: 8:30 a.m.–12 noon, May 15, 1995.

Location: The Portland Hilton Hotel, 921 S.W. Sixth Avenue, Portland, Oregon 97204, telephone (503) 226–1611, FAX (503) 220–2293.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Community involvement is a critical part of ATSDR's and CDC's energy-related research and activities and input from members of NAWG is part of these efforts. NAWG will work with the Hanford Health Effects Subcommittee to provide input on Native American health effects at the Hanford, Washington, site.

Purpose: The purpose of this meeting of NAWG is to discuss Native American membership and participation on the Hanford Health Effects Subcommittee, government-to-government working relations with ATSDR and CDC, and issues related to site restoration and waste management options at the Hanford DOE site.

Matters To Be Discussed: Agenda items will include options for other types of relationships between the tribes and ATSDR and CDC regarding the study of health effects from past, current, or future release of radioactive and hazardous materials into the environment at Hanford and proposed actions based on the findings of ATSDR and CDC health research and public health activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–0730, FAX (404) 639–0759.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9334 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–70–M

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Hanford Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites: Hanford Health Effects Subcommittee (HHES).

Times and Dates: 1 p.m.–5 p.m., May 15, 1995; 8 a.m.–5 p.m., May 16, 1995; 7 p.m.–8 p.m., May 16, 1995. This session is for public comments and concerns.

Place: The Portland Hilton Hotel, 921 S.W. Sixth Avenue, Portland, Oregon 97204, telephone (503) 226–1611, FAX (503) 220–2293.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 150 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in November 1992 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS delegated program responsibility to CDC.

Purpose: The purpose of this meeting is to continue the subcommittee's work to update the public on the status of ATSDR's and CDC's community involvement plans, health research, public health activities, and to provide advice to ATSDR and CDC concerning these plans.

Matters To Be Discussed: Agenda items include ATSDR's medical monitoring options, ATSDR's planning for a medical assistance program, and current ATSDR health assessment activities. The subcommittee will solicit concerns which they will ask ATSDR and CDC to address, and discuss issues relating to HHES Operational Guidelines and future subcommittee activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda A. Carnes, Health Council Advisor, ATSDR, E–28, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone (404) 639–0730, FAX (404) 639–0759.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9333 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–70–M

VOL 60 ISS 73 AP 17 1995 UMI

Centers for Disease Control and Prevention

Technical Advisory Committee for Diabetes Translation and Community Control Programs: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Technical Advisory Committee for Diabetes Translation and Community Control Programs.

Times and Dates: 1 p.m.–5 p.m., Thursday, May 4, 1995. 8 a.m.–11:30 a.m., Friday, May 5, 1995.

Place: Adam's Mark Hotel, Vail Room, 1550 Court Place, Denver, Colorado 80202–5199, telephone 303/893–3333.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with advising the Director, CDC, regarding priorities and feasible goals for translation activities and community control programs designed to reduce risk factors, morbidity, and mortality from diabetes and its complications. The committee advises regarding policies, strategies, goals and objectives, and priorities; identifies research advances and technologies ready for translation into widespread community practice; recommends public health strategies to be implemented through community interventions; advises on operational research and outcome evaluation methodologies; identifies research issues for further clinical investigation; and advises regarding the coordination of programs with Federal, voluntary, and private resources involved in the provision of services to people with diabetes.

Matters To Be Discussed: Committee members will discuss progress towards a National Diabetes Education Program, evolving strategies and scientific activities related to screening for Type II diabetes, possible participation by CDC in the National Institutes of Health-sponsored Diabetes Prevention Trial-Type II, policy and economic activities, and the status of mechanisms of CDC's Division of Diabetes Translation support to States.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Cheryl Shaw, Program Specialist, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, CDC, 4770 Buford Highway, NE, Mailstop K–10, Atlanta, Georgia 30341–3724, telephone 404/488–5004.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9336 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–18–M

Advisory Committee for Energy-Related Epidemiologic Research: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Energy-Related Epidemiologic Research.

Times and Dates: 9 a.m.–5 p.m., May 4, 1995; 9 a.m.–12 noon, May 5, 1995.

Place: Sheraton Suites Hotel, 801 North St. Asaph Street, Alexandria, Virginia 22314.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: This committee is charged with providing advice and recommendations to the Secretary of Health and Human Services (HHS); the Assistant Secretary for Health; the Director, CDC; and the Administrator, Agency for Toxic Substances and Disease Registry, on the establishment of a research agenda and the conduct of a research program pertaining to energy-related analytic epidemiologic studies. The committee will take into consideration information and proposals provided by the Department of Energy (DOE), the Advisory Committee for Environment Safety and Health which was established by DOE under the guidelines of a Memorandum of Understanding between HHS and DOE, and other agencies and organizations, regarding the direction HHS should take in establishing the research plan and in the development of a research plan.

Matters To Be Discussed: The committee will discuss working group recommendations, environmental data and research methods, the research agenda, and public involvement activities. Presentations will be made by DOE on the Conference on Epidemiologic Data Resources and occupational surveillance plans and progress.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Nadine Dickerson, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 4770 Buford Highway NE., Mailstop F–35, Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9337 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–18–M

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 8:30 a.m.–5 p.m., May 4, 1995; 8:15 a.m.–1:15 p.m., May 5, 1995.

Place: CDC, Auditorium B, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters To Be Discussed: The agenda will focus on:

1. Update: Implementation of CDC Emerging Infections Plan.
2. CDC Laboratories Master Plan.
3. Linkages between HIV/Sexually Transmitted Disease/Tuberculosis Laboratories and Programs in other Centers.
4. Fiscal Year (FY) 1995 Budget Rescissions and FY 1996 Budget Outlook.
5. The CDC Foundation.
6. Update—Antibiotic Resistance.

Other agenda items include announcements/introductions; NCID update; late breakers; and follow-up on actions recommended by the board (December 1994).

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C–20, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

Dated: April 11, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9335 Filed 4–14–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95N–0099]

Drug Export; Vironostika® HTLV–I/II Microelisa System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Organon Teknika Corp. has filed an application requesting approval for the export of the human biological product Vironostika® HTLV–I/II Microelisa System to The Netherlands.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Cathy Conn, Center for Biologics Evaluation and Research (HFM–610), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–1070.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of human biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Organon Teknika Corp., 100 Akzo Ave., Durham, NC 27712, has filed an application requesting approval for the export of the human biological product Vironostika® HTLV–I/II Microelisa System to The Netherlands. The Vironostika® HTLV–I/II Microelisa System is an in vitro diagnostic test kit for the detection of antibodies to Human T–Lymphotropic Virus Type I (HTLV–I) and/or Human T–Lymphotropic Virus Type II (HTLV–II) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on March 2, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 27, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: March 22, 1995.

James C. Simmons,

Acting Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 95–9413 Filed 4–14–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0122]

Hema Systems, Ltd.; Revocation of U.S. License No. 1052

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 1052) and product licenses (the licenses) issued to Hema Systems, Ltd., for the manufacture of Whole Blood, Plasma, Fresh Frozen Plasma, Red Blood Cells, Red Blood Cells Frozen, Red Blood Cells Deglycerolized, Red Blood Cells Leukocytes Removed, Red Blood Cells Frozen Rejuvenated, and Red Blood Cells Rejuvenated Deglycerolized. Hema Systems, Ltd., did not respond to a notice of opportunity for a hearing on a proposal to revoke its licenses.

DATES: The revocation of the establishment license (U.S. License No. 1052) and product licenses is effective April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is revoking the establishment license (U.S. License No. 1052) and product licenses issued to Hema Systems, Ltd., formerly located at 310 East 44th St., New York, NY 10017, for the manufacture of Whole Blood, Plasma, Fresh Frozen Plasma, Red Blood Cells, Red Blood Cells Frozen, Red Blood Cells Deglycerolized, Red Blood Cells Leukocytes Removed, Red Blood Cells Frozen Rejuvenated, and Red Blood Cells Rejuvenated Deglycerolized.

An attempted onsite inspection by FDA on August 26, 1992, revealed that the facility was no longer in operation at the location listed on the license. The U.S. Post Office reported no forwarding address for the firm. Based on the inability of authorized FDA employees to conduct a meaningful inspection of the facility, FDA initiated proceedings for the revocation of the licenses under 21 CFR 601.5(b)(1) and (b)(2). FDA issued a certified letter dated November 3, 1992, to the firm stating FDA's intent to revoke the licenses and its intent to offer an opportunity for a hearing on the proposed revocation. The letter was returned to FDA as undeliverable.

Pursuant to 21 CFR 12.21(b), FDA published in the Federal Register of May 14, 1993 (58 FR 28589), a notice of opportunity for a hearing on a proposal to revoke the licenses of Hema Systems Ltd. In the notice, FDA explained that the proposed license revocation was based on the inability of authorized FDA employees to conduct a meaningful inspection of the facility because it was no longer in operation and noted that documentation in support of the license revocation had been placed on file for public examination with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. The notice provided the firm 30 days to submit a written request for a hearing and 60 days to submit any data and information justifying a hearing. The notice provided other interested persons with 60 days to submit written comments on the proposed revocation. The firm did not respond within the 30-day time period with a written request for a hearing. The 30-day time period, prescribed in the notice of opportunity for a hearing and in the regulations, may not be extended. One comment was submitted from the State of New York Department of Health which indicated that the facility was closed according to their records.

Accordingly, under 21 CFR 12.38, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the establishment license (U.S. License No. 1052) and the product licenses issued to Hema Systems, Ltd., are revoked, effective April 17, 1995.

This notice is issued and published under 21 CFR 601.8.

VOL 60 ISS 73 AP 17 1995 UMI

Dated: April 10, 1995.
William B. Schultz,
Deputy Commissioner for Policy.
[FR Doc. 95-9412 Filed 4-14-95; 8:45 am]
BILLING CODE 4160-01-F

[Docket No. 83N-0109]

Houston Apheresis, Inc.; Revocation of U.S. License No. 990

AGENCY: Food and Drug Administration, HHS.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 990) and product licenses (the licenses) issued to Houston Apheresis, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Fresh Frozen Plasma. Houston Apheresis, Inc., did not respond to a notice of opportunity for a hearing on a proposal to revoke its licenses.

DATES: The revocation of the establishment license (U.S. License No. 990) and product licenses is effective April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM-635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-594-3074.

SUPPLEMENTARY INFORMATION: FDA is revoking the establishment license (U.S. License No. 990) and product licenses issued to Houston Apheresis, Inc., formerly located at 9265 Kirby Dr., Houston, TX 77054, for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Fresh Frozen Plasma.

An attempted onsite inspection by FDA on March 26, 1991, revealed that the facility was no longer in operation at the location listed on the license. A forwarding address, obtained from the post office for the facility, was the home address of the Responsible Head. An FDA investigator left messages for the Responsible Head requesting that the agency be contacted; however, the messages were not returned. Based on the inability of authorized FDA employees to conduct an inspection of the facility after reasonable efforts, FDA initiated proceedings for the revocation of the licenses under 21 CFR 601.5(b). FDA issued a certified letter, dated October 26, 1992, to the Responsible Head of the firm, providing notice of FDA's intent to revoke the licenses and its intent to offer an opportunity for a hearing on the proposed revocations.

Pursuant to 21 CFR 12.21(b), FDA published in the **Federal Register** of May 18, 1993 (58 FR 28982), a notice of opportunity for a hearing on a proposal to revoke the licenses of Houston Apheresis, Inc. In the notice, FDA explained that the proposed license revocation was based on the inability of authorized FDA employees to conduct an inspection of the facility, which was no longer in operation, and noted that documentation in support of the license revocation had been placed on file for public examination with the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. The notice provided the firm with 30 days to submit a written request for a hearing and 60 days to submit any data and information justifying a hearing. The notice provided other interested persons with 60 days to submit written comments on the proposed revocation. The firm did not respond within the 30-day time period with a written request for a hearing. The 30-day time period, prescribed in the notice of opportunity for a hearing and in the regulations, may not be extended. No other interested persons submitted written comments on the proposed revocation within the 60-day time period.

Accordingly, under 21 CFR 12.38, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), the establishment license (U.S. License No. 990) and the product licenses issued to Houston Apheresis, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, and Fresh Frozen Plasma, are revoked, effective April 17, 1995.

This notice is issued and published under 21 CFR 601.8 and 12.38.

Dated: April 10, 1995.
William B. Schultz,
Deputy Commissioner for Policy.
[FR Doc. 95-9410 Filed 4-14-95; 8:45 am]
BILLING CODE 4160-01-F

Regulatory Concerns in Biopharmaceutical Manufacturing; Notice of Public Workshops

AGENCY: Food and Drug Administration, HHS.
ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) (Office of Regulatory Affairs, Office of the Pacific Region, Office of the Southwest Region, Center for Biologics Evaluation and Research, Center for Drug Evaluation and Research, and Office of External Affairs) is announcing a series of three free public workshops to assist small companies that are developing and producing biopharmaceutical and biologic therapeutic products for clinical trials and product marketing approval. The workshops will address regulatory policy, licensing requirements, cooperative manufacturing arrangements, multi-product facilities, clinical trial design, and manufacturing requirements for clinical material.

DATES: The public workshops are scheduled as follows:
1. Monday, May 22, 1995, 8:30 a.m. to 5 p.m., Houston, TX.
2. Wednesday, May 24, 1995, 8:30 a.m. to 5 p.m., San Diego, CA.
3. Friday, May 26, 1995, 8:30 a.m. to 5 p.m., San Francisco, CA.

ADDRESSES: The public workshops will be held at the following locations:
1. Houston—Rice University, Sewall Hall, rm. 301, Houston, TX.
2. San Diego—Pan Pacific Hotel, 400 West Broadway, San Diego, CA.
3. San Francisco—Holiday Inn Golden Gateway, 1500 West Van Ness Ave., San Francisco, CA.

FOR FURTHER INFORMATION CONTACT: Regarding registration for the Houston TX, public workshop: Marie T. Falcone, Small Business Representative Southwest Region, Food and Drug Administration, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247, 214-655-8100, ext. 128 or FAX 214-655-8130. Regarding registration for the San Diego and San Francisco workshops: Mark S. Roh, Small Business Representative Pacific Region, Food and Drug Administration, Federal Office Bldg., 50 United Nations Plaza, San Francisco, CA 94102, 415-556-2263 or FAX 415-556-2822.

SUPPLEMENTARY INFORMATION: The public workshops are free of charge, however registration is required. Due to space limitations, early registration is recommended. To register please submit your name(s), affiliation, address, phone and fax numbers and any specific questions you want addressed at the workshop, to the contact person listed above.

The workshops are to further assist small companies that are developing and producing biopharmaceutical and biologic therapeutic products in better understanding current regulatory policy; licensing requirements for products and establishments and cooperative manufacturing arrangements; multiproduct facilities design and operation; clinical trial design and monitoring; points to consider during processing, cell culture, fermentation, harvest, recovery, purification and

excipient production; and current good manufacturing practice requirements in the production of clinical material, including recordkeeping, processing changes, and environmental monitoring.

Dated: April 12, 1995.
William B. Schultz,
Deputy Commissioner for Policy
[FR Doc. 95-9411 Filed 4-14-95; 8:45 am]
BILLING CODE 4160-01-F

National Institutes of Health

National Institute of Environmental Health Sciences; Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, May 22-23, 1995, in Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on May 22 from 9 a.m. to approximately 3:30 p.m. for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 22 from approximately 3:30 p.m. to recess and from 9 a.m. to adjournment on May 23, for the review, discussion and evaluation of individual grant applications.

These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Kim Whitcher, Council Secretary, NIEHS, P.O. Box 12233, Research Triangle Park, N.C. 27709 (919-541-7723), will provide summaries of the meeting and rosters of council members. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Whitcher in advance of the meeting.

Dr. Anne Sassaman, Director & Executive Secretary, Division of Extramural Research and Training, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541-7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: April 11, 1995
Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 95-9210 Filed 4-14-95; 8:45 am]
BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

Name of SEP: Multidisciplinary Course on the Genetics of Heart, Lung, and Blood Disease (Conference Call)
Date: April 24, 1995.
Time: 12:00 p.m.
Place: Rockledge Building (RKL2), Rm 7220, Rockville, Maryland.
Contact Person: C. James Scheirer, Ph.D., 6701 Rockledge Drive, Room 7220, Bethesda, Maryland 20892-7924, (301) 435-0266.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Molecular Genetics of Hypertension—SCOR.
Date: April 30-May 1, 1995
Time: 7:00 p.m.
Place: Holiday Inn Crowne Plaza, Rockville, Maryland.
Contact Person: Anthony M. Coelho, Jr., Ph.D., 6701 Rockledge Drive, Room 7182, Bethesda, Maryland 20892-7924, (301) 435-0277
Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Programs of Excellence in Molecular Biology
Date: May 17, 1995.
Time: 8:30 a.m.
Place: Holiday Inn, Bethesda, Maryland.
Contact Person: Lynn M. Amende, Ph.D., 6701 Rockledge Building, Room 7192, Bethesda, Maryland 20892-7924, (301) 435-0287
Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 11, 1995
Susan K. Feldman,
Committee Management Officer, NIH
[FR Doc. 95-9308 Filed 4-14-95; 8:45 am]
BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Board of Scientific Counselors

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Heart, Lung, and Blood Institute on June 1-2, 1995, National Institutes of Health, 9000 Rockville Pike, Building 10, Room 7C101, Bethesda, Maryland 20892.

This meeting will be open to the public from 8:30 to 9:00 a.m. on June 1 and from 8:30 to 9:00 a.m. on June 2 for discussion of the general trends in research relating to cardiovascular, pulmonary and certain hematologic diseases. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:00 a.m. to adjournment on June 1 and from 9:00 a.m. to adjournment on June 2, 1995 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Board members.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Substantive program information may be obtained from Dr. Edward D. Korn,

VOL 60 ISS 73 AP 17 1995 UMI

Executive Secretary and Director, Division of Intramural Research, NHLBI, NIH, Building 10, Room 7N214, phone (301) 496–2116.

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9309 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Child Psychopathology and Treatment Review Committee

Date: May 31–June 2, 1995

Time: 9 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue NW., Washington, D.C. 20037

Contact Person: Bernice R. Cherry, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1367

Committee Name: Child/Adolescent Development, Risk, and Prevention Review Committee

Date: June 1–2, 1995

Time: 9 a.m.

Place: One Washington Circle Hotel, One Washington Circle NW., Washington, D.C. 20037

Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1177

Committee Name: Services Research Review Committee

Date: June 7–9, 1995

Time: 9 a.m.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Avenue NW., Washington, D.C. 20037

Contact Person: Angela L. Redlingshafer, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1367

Committee Name: Mental Disorders of Aging Review Committee

Date: June 8–9, 1995

Time: 9 a.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, D.C. 20009

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–1340

Committee Name: Clinical Psychopathology Review Committee

Date: June 8–9, 1995

Time: 8:30 a.m.

Place: Radisson Barcelo Washington Hotel, 2121 P Street NW., Washington, D.C. 20037

Contact Person: Phyllis Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–4868

Committee Name: Social and Group Processes Review Committee

Date: June 8–9, 1995

Time: 9 a.m.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–6470

Committee Name: Violence and Traumatic Stress Review Committee

Date: June 12–14, 1995

Time: 9 a.m.

Place: One Washington Circle Hotel, One Washington Circle NW., Washington, D.C. 20037

Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–6470

Committee Name: Health Behavior and Prevention Review Committee

Date: June 14–15, 1995

Time: 9 a.m.

Place: Embassy Suites at Chevy Chase Pavilion, 4300 Military Road NW., Washington, D.C. 20015

Contact Person: Monica F. Woodfork, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–4843

Committee Name: Clinical Neuroscience and Biological Psychopathology Review Committee

Date: June 14–16, 1995

Time: 9 a.m.

Place: The Hampshire Hotel, 1310 New Hampshire Avenue NW., Washington, D.C. 20036

Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936

Committee Name: Treatment Assessment Review Committee

Date: June 15–16, 1995

Time: 8:30 a.m.

Place: Radisson Barcelo Washington Hotel, 2121 P Street NW., Washington, D.C. 20037

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–4868

Committee Name: Molecular, Cellular, and Developmental Neurobiology Review Committee

Date: June 18–20, 1995

Time: 6 p.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815

Contact Person: Katie O'Donnell, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3857

Committee Name: Psychobiology, Behavior, and Neuroscience Review Committee

Date: June 19–20, 1995

Time: 9 a.m.

Place Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852

Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3857

Committee Name: Epidemiology and Genetics Review Committee

Date June 19–21, 1995

Time 9 a.m.

Place Embassy Suites at Chevy Chase Pavilion, 4300 Military Road NW., Washington, D.C. 20015

Contact Person. Bernice R. Cherry, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1367

Committee Name: Neuropharmacology and Neurochemistry Review Committee

Date. June 21–23, 1995

Time 8:30 a.m.

Place Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814

Contact Person: Shirley H. Maltz, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3857

Committee Name. Cognitive Functional Neuroscience Review Committee

Date. June 22–23, 1995

Time. 8:30 a.m.

Place. Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814

Contact Person. Shirley H. Maltz, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936

Committee Name: Perception and Cognition Review Committee

Date: June 22–23, 1995

Time: 9 a.m.

Place: One Washington Circle Hotel, One Washington Circle, N.W , Washington, D.C. 20037

Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470

Committee Name: Mental Health Small Business Research Review Committee

Date: June 26–27, 1995

Time: 9 a.m.

Place: The River Inn, 924 25th Street NW., Washington, D.C. 20037

Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367

Committee Name: Mental Health AIDS and Immunology Review Committee–1

Date: June 27–28, 1995

Time: 8:30 a.m.

Place: St. James Hotel, 950 24th Street, Washington, D.C. 20037

Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470

Committee Name: Mental Health AIDS and Immunology Review Committee–2

Date: July 13–14, 1995

Time: 8:30 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814

Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.291, ADAMHA Science Education Partnership Award)

Dated: April 11, 1995

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9311 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Mental Health Council of the National Institute of Mental Health for May 1995.

The meeting will be open to the public, as indicated, for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named below in advance of the meeting.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, a portion of the Council will be closed to the public as indicated below for the review, discussion and evaluation of individual grant applications. These applications, evaluations, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy

Ms. Joanna L. Kieffer, Committee Management Officer, National Institute of Mental Health, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rookville, MD 20857, Area Code 301, 443–4333, will provide a summary of the meeting and a roster of committee members.

Other information pertaining to the meetings may be obtained from the contact person indicated.

Name of Committee: National Advisory Mental Health Council

Date: May 15–16, 1995

Place:

May 15—Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892

May 16—Conference Rooms D and E, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Open: May 15, 9 a.m. to 5 p.m.

Closed: May 16, 9:30 a.m. to adjournment

Contact Person: Carolyn Strete, Ph.D., Executive Secretary, Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3367

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9312 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

Appendix B Subcommittee for the Recombinant DNA Advisory Committee; Meeting

Notice is hereby given of a meeting of the Appendix B Subcommittee for the Recombinant DNA Advisory Committee on May 5, 1995, at the National Institutes of Health (NIH), Building 31C, 6th Floor, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20892, starting at approximately 9 a.m. to adjournment at approximately 5 p.m. The meeting will be open to the public to discuss updating Appendix B, *Classification of Microorganisms on the Basis of Hazard*, and additional revisions to the remaining appendices of the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496 and amended 59 FR 40170) that are required to adequately accommodate the revised Appendix B. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair. Attendance by the public will be limited to space available.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, Suite 323, National Institutes of Health, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, Phone (301) 496–9838, FAX (301) 496–9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Wivel in advance of the meeting. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines*. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9313 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications

Name of SEP: Clinical Sciences

VOL
60
ISS
73
AP
17
1995
UMI

Date: April 24, 1995
Time: 8:30 a.m.
Place: Holiday Inn, National Airport, VA
Contact Person: Dr. Daniel McDonald, Scientific Review Admin., 5333 Westbard Ave., Room 350, Bethesda, MD 20892, (301) 594–7282

Name of SEP: Biological and Physiological Sciences
Date: June 5, 1995
Time: 8:00 a.m.
Place: Hyatt Regency, Bethesda, MD
Contact Person: Dr. Sandy Warren, Scientific Review Administrator, 6701 Rockledge Drive, Room 5134, Bethesda, MD 20892, (301) 594–7289

Name of SEP: Clinical Sciences
Date: June 5, 1995
Time: 8:30 a.m.
Place: ANA Hotel, Washington, DC
Contact Person: Dr. Mushtaq Khan, Scientific Review Admin., 6701 Rockledge Drive, Room 4045, Bethesda, MD 20892, (301) 594–7168.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9314 Filed 4–14–95; 8:45 am]

BILLING CODE 4140–01–M

Office of Refugee Resettlement

Refugee Resettlement Program; Proposed Availability of Formula Allocation Funding for FY 1995 Targeted Assistance Grants for Services to Refugees in Local Areas of High Need

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Notice of proposed availability of formula allocation funding for FY 1995 targeted assistance grants to States for services to refugees[1] in local areas of high need.

SUMMARY: This notice announces the proposed availability of funds and award procedures for FY 1995 targeted assistance grants for services to refugees under the Refugee Resettlement Program (RRP). These grants are for service provision in localities with large refugee populations, high refugee concentrations, and high use of public assistance, and where specific needs exist for supplementation of currently available resources. The formula has been updated to take into account FY 1994 arrivals.

DATES: Comments on this notice must be received by May 17, 1995.

ADDRESSES: Address written comments, in duplicate, to: Toyo A. Biddle, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

APPLICATION DEADLINE: The deadline for applications will be established by the final notice; applications should not be sent in response to this notice of proposed allocations.

CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CDFA) NUMBER: 93.584.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle (202) 401–9250.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope

This notice announces the proposed availability of funds for grants for targeted assistance for services to refugees in counties where, because of factors such as unusually large refugee populations, high refugee concentrations, and high use of public assistance, there exists and can be demonstrated a specific need for supplementation of resources for services to this population.

The Office of Refugee Resettlement (ORR) has available $49,397,000 in FY 1995 funds for the targeted assistance program (TAP) as part of the FY 1995 appropriation for the Department of Health and Human Services (Pub. L. 103–333).

The House Appropriations Committee Report reads as follows with respect to targeted assistance funds (H.R. Rept. No. 103–553, p. 93):

> This program provides grants to States for counties which are impacted by high concentrations of refugees and high dependency rates. The Committee intends that $19,000,000 of the total recommended for targeted assistance be provided to continue the current program of support to communities affected as a result of the massive influx of Cuban and Haitian entrants. The Committee also intends that 10 percent of the total appropriated for targeted assistance be used for grants to localities most heavily impacted by the influx of refugees such as Laotian Hmong, Cambodians, and Soviet Pentecostals, including secondary migrants who entered the United States after October 1, 1979. The Committee expects these grants to be awarded to communities not presently receiving targeted assistance because of previous concentration requirements and other factors in the grant formulas, as well as those who do currently receive targeted assistance grants.

The Senate Appropriations Committee Report (S. Rept. No. 103–318, p. 154) is consistent with the above-quoted House Report.

The Conference Report on Appropriations (H. Rept. No. 103–733, p. 24) clarifies Congress' intent on the use of the $19 million for communities affected by Cuban and Haitian entrants as follows:

> The conferees are agreed that $19,000,000 of the $49,397,000 appropriated for targeted assistance is to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased.

The Director of the Office of Refugee Resettlement (ORR) proposes to use the $49,397,000 appropriated for FY 1995 targeted assistance as follows:

- $25,457,300 will be allocated under the updated formula, as set forth in this notice.
- $19,000,000 will be awarded to serve communities most heavily affected by recent Cuban and Haitian entrant and refugee arrivals.
- $4,939,700 (10% of the total) will be awarded as second-year continuation grants in a two-year project period under a discretionary grant announcement that was issued in FY 1994.

In addition, the Office of Refugee Resettlement has available an additional $6,000,000 in FY 1995 funds to augment the targeted assistance 10% program through the Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. 103–306). These funds will be awarded under a separate discretionary grant announcement which will be issued setting forth application requirements and evaluation criteria.

The purpose of targeted assistance grants is to provide, through a process of local planning and implementation, direct services intended to result in the economic self-sufficiency and reduced welfare dependency of refugees through job placements.

The targeted assistance program reflects the requirements of section 412(c)(2)(B) of the Immigration and Nationality Act (INA), which provides that targeted assistance grants shall be made available (i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency, (ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.

II. Authorization

Targeted assistance projects are funded under the authority of section 412(c)(2) of the Immigration and Nationality Act (INA), as amended by the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605), 8 U.S.C. 1522(c); section 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422), 8 U.S.C. 1522 note, insofar as it incorporates by reference with respect to Cuban and Haitian entrants the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above; section 584(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202), insofar as it incorporates by reference with respect to certain Amerasians from Vietnam the authorities pertaining to assistance for refugees established by section 412(c)(2) of the INA, as cited above, including certain Amerasians from Vietnam who are U.S. citizens, as provided under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513).

III. Client and Service Priorities

Targeted assistance funding should be used to assist refugee families to achieve economic independence. To this end, ORR expects States and counties to ensure that a coherent plan of services is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. Each service plan should address a family's needs for both employment-related services and other needed social services. In local jurisdictions that have both targeted assistance and refugee social services programs, one plan of services may be developed for a family that incorporates both targeted assistance and refugee social services.

Services funded under the targeted assistance allocations are required to focus primarily on those refugees who, either because of their protracted use of public assistance or difficulty in securing employment, continue to need services beyond the initial years of resettlement. The targeted assistance program, however, is not intended to be limited to cash assistance recipients. TAP-funded services may also be provided to other refugees in need of services, regardless of whether the refugees are receiving cash assistance.

In addition to the statutory requirement that TAP funds be used primarily for the purpose of facilitating refugee employment (section 412(c)(2)(B)(i)), funds awarded under this program are intended to help fulfill the Congressional intent that employable refugees should be placed on jobs as soon as possible after their arrival in the United States (section 412(a)(1)(B)(i) of the INA). Therefore targeted assistance funds must be used primarily for services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. Examples of these activities are: job development; job placement; job-related and vocational English; short-term job training specifically related to opportunities in the local economy; on-the-job training; business and employer incentives (such as on-site employee orientation, vocational English training, or bilingual supervisor assistance); and business technical assistance. General or remedial educational activities—such as adult basic education (ABE) or preparation for a high school equivalency or general education diploma (GED)—may be provided within the context of an individual employability plan for a refugee which is intended to result in job placement in less than one year. ORR encourages the continued provision of services after a refugee has entered a job to help the refugee retain employment or move to a better job. Targeted assistance funds cannot be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year. If TAP funds are used for the provision of English language training, such training should be provided concurrently, rather than sequentially, with employment or with other employment-related services, to the maximum extent possible.

A portion of a local area's allocation may be used for services which are not directed toward the achievement of a specific employment objective in less than one year but which are essential to the adjustment of refugees in the community, provided such needs are clearly demonstrated and such use is approved by the State.

Reflecting section 412(a)(1)(A)(iv) of the INA, the Director of ORR expects States to insure that women have the same opportunities as men to participate in training and instruction. In addition, States are expected to make sure that services are provided in a manner that encourages the use of bilingual women on service agency staffs to ensure adequate service access by refugee women. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit. States and counties are expected to make every effort to assure availability of day care services in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the targeted assistance program. Refugees who are participating in TAP-funded or social services-funded employment services or have accepted employment are eligible for day care services. For an employed refugee, TAP-funded day care must be limited to one year after the refugee becomes employed. States and counties, however, are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are encouraged to work with service providers to assure maximum access to other publicly funded resources for day care.

Targeted assistance services should be provided in a manner that is culturally and linguistically compatible with a refugee's language and cultural background. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services

[1] In addition to persons who meet all requirements of 45 CFR 400.43, requirements for documentation of refugee status, eligibility for targeted assistance includes Cuban and Haitian entrants, certain Amerasians from Vietnam who are admitted to the U.S. as immigrants, and certain Amerasians from Vietnam who are U.S. citizens. (See section II of this notice on Authorization.) The term refugee, used in this notice for convenience, is intended to encompass such additional persons who are eligible to participate in refugee program services, including the targeted assistance program.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the targeted assistance program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival, or until they obtain permanent resident alien status, whichever comes first.

VOL 60 ISS 73 AP 17 1995 UMI

to a changing ethnic population. To the maximum extent possible, particularly during a refugee's initial years of resettlement, targeted assistance services should be provided through a refugee-specific service system rather than through a system in which refugees are only one of many client groups being served.

ORR strongly encourages States and counties when contracting for targeted assistance services, including employment services, to give consideration to the special strengths of MAAs, whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. States may use a portion of their targeted assistance funds, either through contracts or through the use of State/county staff, to provide technical assistance and organizational training to strengthen the capability of MAAs to provide employment services, particularly in States where MAA capability is weak or undeveloped. If a State chooses to use State employees to provide technical assistance to MAAs, this would be an administrative cost which must be included within the State administrative cost limit of 5% for the targeted assistance program.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

Finally, in order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR strongly encourages States and counties to promote and give special consideration to the provision of services through coalitions of refugee service organizations, such as coalitions of MAAs, voluntary resettlement agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

The award of funds to States under this notice would be contingent upon the completeness of a State's application as described in section IX, below.

IV. [Reserved for Discussion of Comments in Final Notice]

V. Eligible Grantees

The following requirements, which have previously applied to TAP, will continue to apply with respect to FY 1995 awards:

Eligible grantees are those agencies of State governments which are responsible for the refugee program under 45 CFR 400.5 in States containing counties which qualify for FY 1995 targeted assistance awards. The use of targeted assistance funds for services to Cuban and Haitian entrants is limited to States which have an approved State plan under the Cuban/Haitian Entrant Program (CHEP).

The State agency will submit a single application on behalf of all county governments of the qualified counties in that State. Subsequent to the approval of the State's application by ORR, local targeted assistance plans will be developed by the county government or other designated entity and submitted to the State.

A State with more than one qualified county is permitted, but not required, to determine the allocation amount for each qualified county within the State. However, if a State chooses to determine county allocations differently from those set forth in this notice, the FY 1995 allocations proposed by the State must be included in the State's application.

Applications submitted in response to this notice are not subject to review by State and areawide clearinghouses under Executive Order 12372, Intergovernmental Review of Federal Programs.

VI. Qualification and Allocation Formulas

A. Qualifying New Counties

ORR does not intend to consider data for the purpose of determining the eligibility of new counties to participate in TAP in FY 1995. The reason is that in FY 1996 we intend to modify the qualifying criteria and allocations formula for targeted assistance. At that time, the eligibility of all counties for participation in TAP will be reviewed against the new qualifying criteria. We do not believe it makes sense to invite new counties to submit evidence of eligibility in FY 1995 when these counties may become ineligible in FY 1996 under the new qualifying criteria.

B. Allocation Formula

The FY 1995 TAP formula allocations are based on the same formula as in FY 1994, updated to reflect arrivals through September 30, 1994.

Under this formula, one portion of the allocation is based on refugee and Cuban/Haitian entrant arrivals during FY 1980–1982; funds for this portion of the formula are allocated on the same proportionate basis among participating counties as in FY 1994. The second portion of the allocation is based on refugee and entrant placements in these counties during calendar year (CY) 1983–September 30, 1994.

For the participating counties, the $25,457,300 which is allocated by formula is apportioned as follows:

a. $7,891,763 or 31%, is allocated on the basis of the formula which has been used for all previous targeted assistance allocations (old formula) and which is based on initial placements during FY 1980–1982 and other factors as described under Formula Used to Date in the FY 1989 TAP notice published in the **Federal Register** on July 3, 1989 (54 FR 27944).

b. $17,565,537 or 69%, is allocated on the basis of arrivals during CY 1983–September 30, 1994 (new formula).

The above percentages are based on the proportion of initial placements in these counties during the two periods: 338,247 refugee arrivals, or 31% of the total number of placements, during the old-formula period; and 768,750 or 69%, during the new-formula period.

The old-formula allocation of $7,891,763 follows the same distribution among counties as in the past.

The new-formula allocation of $17,565,537 is based on the number of initial placements in each county during CY 1983–September 30, 1994. Welfare dependency rates were not used as a factor in this portion of the formula.

C. Allocation Formula for Communities Affected by Recent Cuban/Haitian Arrivals

Proposed allocations for recent Cuban and Haitian refugee and entrant arrivals are based on arrival numbers during the 3-year period beginning October 1, 1991 through September 30, 1994. Allocations are limited to targeted assistance counties with 3 percent or more of the total 3-year Cuban and Haitian arrival population (35,863 arrivals) in the 42 targeted assistance counties. We have established a 3 percent threshold for allocations in order to target the most impacted communities.

VII. Proposed Allocations

Table 1 lists the participating counties, the number of placements in each county during CY 1983—September 30, 1994, the amount of each county's proposed allocation which is based on the old formula, the amount of each county's allocation which is based on the new formula, and the county's total proposed allocation.

Although Table 1 shows an amount for each county, the Director proposes, in the case of a State which contains more than one qualified county, to continue to permit the State to determine (in accordance with the requirements set forth in this notice) the appropriate allocation of the State's targeted assistance award among the qualified counties in the State. If a State chooses to make allocations which are different from the notice, the State, as in the FY 1994 TAP, would be responsible for determining an appropriate and equitable basis for allocating the funds among the qualified counties in the State and for including in its application a description of this allocation basis, the data to be used, and the allocation proposed for each county.

Table 2 lists the participating counties, the number of Cuban and Haitian refugee and entrant arrivals in each county during FY 1992–FY 1994, each county's percentage of the aggregate total Cuban/Haitian arrivals in the 42 targeted assistance counties, and the proposed allocation amount for each county that has an arrival threshold of 3 percent or above.

Table 3 provides State totals for targeted assistance allocations.

Table 4 indicates the areas that each participating county represents.

TABLE 1.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY COUNTY: FY 1995

County	State	Arrivals Jan. 1983–Sep. 1994 (A)	Portion of proposed FY 1995 allocation under old formula (B)	Portion of proposed FY 1995 allocation under new formula (C)	Total proposed FY 1995 allocation [1] (D)
Alameda	CA	15,342	$196,075	$350,557	$546,632
Contra Costa	CA	4,291	56,063	98,047	154,110
Fresno	CA	14,168	108,273	323,731	432,004
Los Angeles	CA	96,389	990,155	2,201,981	3,192,136
Merced	CA	4,419	132,156	100,972	233,128
Orange	CA	45,042	440,587	1,029,186	1,469,773
Sacramento	CA	17,687	167,821	404,139	571,960
San Diego	CA	25,354	328,383	579,326	907,709
San Francisco	CA	25,207	254,838	575,967	830,805
San Joaquin	CA	9,352	169,342	213,688	383,030
Santa Clara	CA	34,492	327,990	788,124	1,116,114
Stanislaus	CA	3,433	30,639	78,442	109,081
Tulare	CA	5,345	0	122,130	122,130
Denver	CO	9,863	66,147	225,364	291,511
Broward	FL	3,549	109,568	81,093	190,661
Dade	FL	55,469	1,911,490	1,267,438	3,178,928
Hillsboro	FL	3,484	34,433	79,608	114,041
Palm Beach	FL	3,574	45,517	81,664	127,181
Honolulu	HI	3,417	72,838	78,077	150,915
Cook/Kane	IL	36,432	342,151	832,452	1,174,603
Sedgwick	KS	4,038	81,534	92,266	173,800
Orleans	LA	3,902	56,699	89,159	144,858
Montgomery/Prince Georges	MD	8,850	67,761	202,218	269,979
Middlesex	MA	6,357	53,529	145,254	198,783
Suffolk	MA	16,107	122,853	368,037	490,890
Hennepin	MN	10,446	86,311	238,686	324,997
Ramsey	MN	10,263	121,357	234,504	355,861
Jackson	MO	4,320	31,685	98,710	130,395
Essex	NJ	5,925	18,336	135,383	153,719
Hudson	NJ	2,946	122,698	67,315	190,013
Union	NJ	1,810	24,631	41,358	65,989
New York	NY	135,633	273,761	3,099,143	3,372,904
Multnomah	OR	17,069	185,998	390,018	576,016
Philadelphia	PA	18,645	127,317	426,028	553,345
Providence	RI	4,850	90,936	110,820	201,756
Dallas/Tarrant	TX	26,000	0	594,086	594,086
Harris	TX	21,914	149,237	500,723	649,960
Salt Lake	UT	7,209	45,368	164,722	210,090
Arlington	VA	3,183	78,619	72,730	151,349
Fairfax	VA	9,011	94,800	205,897	300,697
King/Snohomish	WA	29,264	226,469	668,667	895,136
Pierce	WA	4,719	48,398	107,827	156,225
Total		768,750	7,891,763	17,565,537	25,457,300

[1] Based on arrivals through September 30, 1994.

VOL 60 ISS 73 AP 17 1995 UMI

TABLE 2.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS FOR COMMUNITIES AFFECTED BY RECENT CUBAN AND HAITIAN ARRIVALS: FY 1995

County	State	FY 92–94 total Cuban and Haitian refugee and entrant arrivals	Percent of total arrivals	Amount to be allocated: $19,000,000 / Proposed allocation: 3% arrival threshold
Alameda	CA	6	0.02	
Contra Costa	CA	1	0.00	
Fresno	CA	3	0.01	
Los Angeles	CA	660	1.84	
Merced	CA	0	0.00	
Orange	CA	24	0.07	
Sacramento	CA	13	0.04	
San Diego	CA	191	0.53	
San Francisco	CA	274	0.76	
San Joaquin	CA	2	0.01	
Santa Clara	CA	4	0.01	
Stanislaus	CA	0	0.00	
Tulare	CA	0	0.00	
Denver	CO	56	0.16	
Broward	FL	1973	5.50	$1,247,695
Dade	FL	24,336	67.66	15,389,715
Hillsboro	FL	800	2.23	
Palm Beach	FL	2601	7.25	1,644,833
Honolulu	HI	0	0.00	
Cook/Kane	IL	242	0.67	
Sedgwick	KS	6	0.02	
Orleans	LA	94	0.26	
Montgom./Pr. G.	MD	58	0.16	
Middlesex	MA	84	0.23	
Suffolk	MA	385	1.07	
Hennepin	MN	51	0.14	
Ramsey	MN	0	0.00	
Jackson	MO	310	0.86	
Essex	NJ	368	1.03	
Hudson	NJ	1058	2.95	
Union	NJ	118	0.33	
New York	NY	1135	3.16	717,757
Multnomah	OR	132	0.37	
Philadelphia	PA	156	0.43	
Providence	RI	11	0.03	
Dallas/Tarrant	TX	346	0 96	
Harris	TX	132	0.37	
Salt Lake	UT	0	0.00	
Arlington	VA	12	0.03	
Fairfax	VA	2	0.01	
King/Snohomish	WA	219	0.61	
Pierce	WA	0	0.00	
Total		35,863	100 00	19,000,000

TABLE 3.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY STATE: FY 1995

State	FY 1995 allocation [1]
California	$10,068,612
Colorado	291,511
Florida	[2] 21,893,054
Hawaii	150,915
Illinois	1,174,603
Kansas	173,800
Louisiana	144,858
Maryland	269,979
Massachusetts	689,673
Minnesota	680,858
Missouri	130,395
New Jersey	409,721
New York	[2] 4,090,661
Oregon	576,016
Pennsylvania	553,345

TABLE 3.—PROPOSED TARGETED ASSISTANCE ALLOCATIONS BY STATE: FY 1995—Continued

State	FY 1995 allocation [1]
Rhode Island	201,756
Texas	1,244,046
Utah	210,090
Virginia	452,046
Washington	1,051,361
Total	44,457,300

[1] Based on arrivals through September 30, 1994.
[2] The allocations for Florida and New York include $18,282,243 and $717,757 respectively for communities affected by Cuban and Haitian entrants and refugees. This is referred to in the Conference Report on the appropriation: "to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased."

TABLE 4.—TARGETED ASSISTANCE AREAS

State	Targeted assistance area [1]	Definition
CA	Alameda	
CA	Contra Costa	
CA	Fresno	
CA	Los Angeles	
CA	Merced	
CA	Orange	
CA	Sacramento	
CA	San Diego	
CA	San Francisco	Marin, San Francisco and San Mateo Counties.
CA	San Joaquin	
CA	Santa Clara	
CA	Stanislaus	
CA	Tulare	
CO	Denver	Adams, Arapahoe, Boulder, Denver and Jefferson Counties.
FL	Broward	
FL	Dade	
FL	Hillsborough	
FL	Palm Beach	
HI	Honolulu	
IL	Cook/Kane	
KS	Sedgwick	
LA	Orleans	Jefferson and Orleans Parishes.
MD	Montgomery/Prince Georges	
MA	Middlesex	
MA	Suffolk	
MN	Hennepin	
MN	Ramsey	
MO	Jackson	Jackson County, Mo and Wyandotte County KS.
NJ	Essex	
NJ	Hudson	
NJ	Union	
NY	New York	Bronx, Kings, New York, Queens, and, Richmond Counties.
OR	Multnomah	Clackamas, Multnomah and Washington Counties, OR and Clark County, WA
PA	Philadelphia	
RI	Providence	
TX	Dallas/Tarrant	
TX	Harris	
UT	Salt Lake	Davis, Salt Lake and Utah Counties.
VA	Arlington	
VA	Fairfax	Fairfax County and the indep. cities of Alexandria, Fairfax and Falls Church.
WA	King/Snohomish	
WA	Pierce	

[1] Consists of named county/counties unless otherwise defined.

VIII. Application and Implementation Process

Under the FY 1995 targeted assistance program, States would apply for and receive grant awards on behalf of qualified counties in the State. A single allocation would be made to each State by ORR on the basis of an approved State application. The State agency would, in turn, receive, review, and determine the acceptability of individual county targeted assistance plans.

TAP funds will be awarded through a more streamlined grant process similar to that used for the ORR social services formula grant program. An application

VOL
60
ISS
73
AP
17
1995
UMI

and assurances are still required of the States eligible to receive TAP funding. FY 1995 funds must be obligated by the State agency no later than one year after the end of the Federal fiscal year in which the Department awarded the grant. There will be no carryover of unobligated funds into the FY 1996 grant award. Funds must be liquidated within two years after the end of the Federal fiscal year in which the Department awarded the grant. A State's final financial report on targeted assistance expenditures must be received no later than two years after the end of the Federal fiscal year in which the Department awarded the grant. If final reports are not received on time, the Department will deobligate any unexpended funds, including any unliquidated obligations, on the basis of a State's last filed report.

Although additional funding to Florida and New York for communities affected by Cuban and Haitian entrants and refugees whose arrivals in recent years have increased is part of the appropriation amount for targeted assistance, the scope of activities for these additional funds will be administratively determined. Applications for these funds are therefore not subject to provisions contained in this notice but to other requirements which will be conveyed separately. Similarly, the requirements regarding the 10% portion of the targeted assistance appropriation as well as the supplemental funds to the 10% portion of the targeted assistance appropriation that will be awarded separately have been addressed in the grant announcements for those funds.

IX. Application Requirements

The proposed State application requirements for grants for the FY 1995 targeted assistance formula allocation are as follows:

States that are currently operating under approved management plans for their FY 1994 targeted assistance program and wish to continue to do so for their FY 1995 grants may provide the following in lieu of resubmitting the full currently approved plan:

The State's application for FY 1995 funding shall provide:

A. Assurance that the State's current management plan for the administration of the targeted assistance program, as approved by ORR, will continue to be in full force and effect for the FY 1995 targeted assistance program, subject to any additional assurances or revisions required by this notice which are not reflected in the current plan. Any proposed modifications to the approved plan will be identified in the application and are subject to ORR review and approval. Any proposed changes must address and reference all appropriate portions of the FY 1994 application content requirements to ensure complete incorporation in the State's management plan.

B. Assurance that, for each qualified local area, targeted assistance funds will be used primarily for, but not limited to, services to cash assistance recipients.

C. Assurance that targeted assistance funds will be used primarily for the provision of services which directly enhance refugee employment potential, have specific employment objectives, and are designed to enable refugees to obtain jobs with less than one year's participation in the targeted assistance program. States must indicate what percentage of FY 1995 targeted assistance formula allocation funds that are used for services will be allocated for employment services.

D. A line item budget and justification for State administrative costs limited to a maximum of 5% of the total award to the State. Each total budget period funding amount requested must be necessary, reasonable, and allocable to the project.

States administering the program locally: States that have administered the program locally or provide direct service to the refugee population (with the concurrence of the county) must submit a program summary to ORR for prior review and approval. The summary must include a description of the proposed services; a justification for the projected allocation for each component including relationship of funds allocated to numbers of clients served, characteristics of clients, duration of training and services, projected outcomes, and cost per placement. In addition, the program component summary must describe any ancillary services or subcomponents such as day care, transportation, or language training.

States with two or more counties receiving targeted assistance funds: As in FY 1994, a State with two or more local areas which qualify for the program may choose to determine respective county allocations. If the State chooses to determine county allocations differently from those set forth in Table 1 of this notice, the State must provide a description of the State's proposed allocation plan and the basis for the proposed allocations. The application must contain a description of the allocation approach, data used in its determination, the calculated allocation amount for each county, and the rationale for the proposed allocations. States are encouraged to revise allocation formulas to assure appropriate funding among eligible counties for the duration of the grant such that targeted assistance activities within the State conclude simultaneously. Where the State chooses not to determine county allocation amounts, the State must provide the allocations which are specified in this notice.

X. Reporting Requirements

States will be required to submit quarterly reports on the outcomes of the targeted assistance program, using the same form which States use for reporting on refugee social services formula grants. This is Schedule A and Schedule C of the ORR–6 Quarterly Performance Report form. ORR is no longer using the ORR–12 form which was originally used to report on the outcomes of the targeted assistance program. ORR is consolidating its reporting requirements. The new reporting form will consolidate social services and targeted assistance performance reporting in one format in order to simplify and coordinate reporting. The new form will be available when reporting on FY 1995 grants begins, which would be at the end of the first quarter of FY 1996.

Dated: April 10, 1995

Regina Lee,

Deputy Director, Office of Refugee Resettlement.

[FR Doc. 95–9365 Filed 4–14–95; 8:45 am]

BILLING CODE 4184–01–P

Substance Abuse and Mental Health Services Administration

Supplemental Awards to Current High Risk Youth Demonstration Program Grantees

AGENCY: Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Availability of supplemental funds for currently funded grantees in the CSAP's Substance Abuse Prevention Demonstration Grant Program for High Risk Populations (specifically, Module A: High Risk Youth; Module B: Female Adolescents; and Module C: Alcohol and Other Drug (AOD)-Related Violence Among High Risk Youth grantees). Excluded are grantees under Module D: Replication of Model Programs for the Prevention of Alcohol, Tobacco, and Other Drug (ATOD) Uses Among High Risk Youth.

SUMMARY: This notice informs the public that CSAP is making available approximately $1 million in Fiscal Year 1995 for up to 20 supplemental awards to existing grantees in Modules A, B, and C of its Substance Abuse Prevention Demonstration Grant Program for High Risk Populations. The supplemental funding is intended to demonstrate the differential effectiveness of incorporating an HIV/AIDS Prevention curriculum into an ongoing substance abuse prevention program as compared to providing such a curriculum as a stand-alone activity. Youth at risk for ATOD use are also at risk for precocious and unprotected sexual behavior. Because there is so much overlap between the youth at risk for ATOD use and those at risk for HIV/AIDS, as a result of unprotected sexual behavior, it is logical to consider enhancing an ATOD prevention program with an HIV/AIDS prevention curriculum.

Only currently funded grantees in Modules A, B, and C are eligible to apply for supplemental funding. Eligibility is limited to existing grantees because, within the one year time frame of this supplement, available funds can be used more efficiently by existing grantees with established infrastructures, a clientele under care and an evaluation staff and program in place. Module D grantees are excluded because this added project would interfere with their design to replicate a CSAP high risk youth model program.

To apply for a supplemental award, a currently funded CSAP grantee in Module A, B, or C must have more than eighteen months remaining in their current grant as of October 1, 1995. Awards will be limited to one year and cannot exceed a total of $50,000 in direct and indirect costs. The receipt date for applications is May 29, 1995. The application receipt and review and the award process will be handled in an expedited manner. Applications will be reviewed for merit by a panel of expert Federal and non-Federal reviewers, and supplements will be awarded on the basis of merit and availability of funds no later than September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Rose Kittrell, Acting Chief, High Risk Youth Branch, Division of Demonstrations for High Risk Populations, CSAP, Rockwall II, 5600 Fishers Lane, Rockville, MD 20857; telephone (301) 443–0353.

Authority: Awards will be made under the authority of Section 517 of the Public Health Service Act, as amended.

The Catalog of Federal Domestic Assistance (CFDA) number for the High Risk Youth program is 93.144.

Dated: April 12, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–9409 Filed 4–14–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–95–3812]

Notice of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 6, 1995.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Report on Tenants Accounts Receivable.

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: Under Section 6(c)(4) of the United States Housing Act of 1937, this information is used to assure sound management practices by the Public Housing Agencies (PHAs). The PHAs prepare and submit the form to the HUD Field Offices and HUD uses it to monitor the effectiveness of rent collections procedures employed by PHAs.

Form Number: HUD–52295.

Respondents: State, Local, or Tribal Governments and Not-For Profit Institutions.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–52295	3,200		2		.25		1,600

Total Estimated Burden Hours: 1,600.

Status: Reinstatement, no changes.

Contact: John T. Comerford, HUD, (202) 708–1672; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 6, 1995.

VOL 60 ISS 73 AP 17 1995 UMI

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request for Termination of Multifamily Mortgage Insurance.

Office: Housing.

Description of the Need for the Information and its Proposed Use: HUD–9807 will be used to inform HUD that a mortgage has been paid in full or that a mortgage and mortgagee mutually agree to terminate the contract of mortgage insurance with HUD.

Form Number: HUD–9807.

Respondents: Businesses or Other For-Profit

Reporting Burden

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–9807	500		1		125		63

Total Estimated Burden Hours: 63.

Status: Extension with changes.

Contact: George Russell, HUD, (202) 708–2022; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 6, 1995.

[FR Doc. 95–9330 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–3888; FR–3886–N–02]

FY 1995 Funding Availability HOPE for Homeownership of Single Family Homes Program (HOPE 3); Notice of Correction of Allocation Amounts

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: FY 1995 funding availability; notice of correction.

SUMMARY: On February 24, 1995, HUD published a notice that announced the availability of approximately $22 million in funding for implementation grants for the HOPE for Homeownership of Single Family Homes Program (HOPE 3). The purpose of this notice is to revise the geographical area allocations set forth in the February 24, 1995 NOFA.

DATES: This notice does not revise the application deadline set forth in the February 24, 1995 NOFA.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Office of Affordable Housing Programs, Department of Housing and Urban Development, room 7168, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3226; (TDD (202) 708–2565). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On February 24, 1995 (60 FR 10446), HUD published a notice that announced the availability of approximately $22 million in funding for implementation grants for the HOPE for Homeownership of Single Family Homes Program (HOPE 3).

Section I.B of the NOFA entitled "Allocation Amounts," sets forth the amount of the $22 million that has been allocated to each of the 10 HUD geographical areas. In that section, HUD advised the amounts allocated to each of the 10 HUD geographical areas is based on a formula described in the final rule (24 CFR 572.210(b)) and based upon 1993 data. HUD further advised that should more recent data become available during the application solicitation period, revised allocations will be published in the Federal Register. The purpose of this notice is to revise the geographical area allocations set forth in the February 24, 1995 NOFA and increase the amount available for this competition from $22 million to $23 million based on recent recaptures.

Accordingly, in the NOFA published on February 24, 1995 (60 FR 10446), the following correction is made:

1. On page 10446, in column three, Section I.B. entitled "Allocation Amounts" is corrected to read as follows:

B. Allocation Amounts

The purpose of this NOFA is to announce the availability of approximately $23 million in funds for implementation grants, appropriated by the HUD Appropriations Act for Fiscal Year 1995 (Pub. L. 103–327, approved September 28, 1994). The amount made available for implementation grants has been allocated to each of the 10 HUD geographical areas (formerly Regions) by a formula described in the final rule (24 CFR 572.210(b)). However, no former Region has been allocated less than $1.0 million in order to ensure that national geographic diversity is maintained. The formula results in the following allocations based upon 1995 data. (The numbered geographical areas correspond to the number of the former HUD Region; e.g. 1 = former Region I).

1. $1,030,000
2. $2,120,000
3. $2,217,000
4. $4,287,000
5. $3,206,000
6. $2,829,000
7. $1,000,000
8. $1,000,000
9. $4,311,000
10. $1,000,000

Dated: April 6, 1995.

Kenneth C. Williams,

Deputy Assistant Secretary for Grant Programs.

[FR Doc. 95–9332 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–29–P

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3874; FR–3849–N–02]

NOFA for Fiscal Year 1995 for Rental Voucher Program and Rental Certificate Program; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of fund availability (NOFA) for FY 95 and procedures for allocating funds and approving housing agency (HA) applications; correction.

SUMMARY: The Department is publishing corrections to the Notice of Fund Availability (NOFA) published in the Federal Register on March 3, 1995, for the Rental Voucher Program and Rental Certificate Program. The amount of funding available for the housing counseling program contained inconsistencies, the specification of a technical correction period for the Mainstream Housing Opportunities component contained inconsistencies, and the names of the counseling agencies to administer the counseling portion of the program contained inaccuracies, resulting from inadvertence. The deadline dates for applications may have been unclear, so this correction also is intended to clarify those dates.

ADDRESSES: Please refer to the March 3, 1995, NOFA publication (60 FR 12036) for the application information and addresses for submitting applications for Section 8 rental assistance funding.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Branch, Rental Assistance Division, Office of Public and Indian Housing, Room 4220, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410–8000, telephone (202) 708–0477. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On page 12047 of the March 3, 1995, NOFA, the amount stated as available for the Section 8 Counseling program was $150 million (60 FR 12047). On page 12048 of that NOFA, the amount stated to be available was $115 million plus $10 million, for a total of $125 million. The correct amount is $125 million for Section 8 Counseling, which is clarified by removal of the inconsistency in this correction document.

The Department has discovered that five of the housing agencies designated to receive Section 8 Counseling funds for their metropolitan statistical area (MSA) are inappropriate agencies to administer these funds. These changes are being made for such reasons as the agency listed does not administer the Section 8 program for its MSA, or a different entity in the MSA intends to administer the program. In each of the cases, the agencies have been in contact with HUD about the change.

Housing agencies and HUD Offices have indicated that the application deadline dates for the various subprograms are unclear, because the NOFA used the abbreviation "Do." for "Ditto". In order to clarify the deadline dates, the Department is republishing the application deadline dates in full. Please note that there have been no revisions to the original application deadline dates.

Accordingly, FR Doc. 95–5184, the NOFA for the Rental Voucher Program and Rental Certificate Program, published in the Federal Register on March 3, 1995 (60 FR 12036), is corrected as follows:

1. On page 12037, in columns one and two, the table following the first full paragraph, is corrected to read as follows:

I. NOFA General

* * * * *

(B) Subprogram Funding and Summary of Application Deadline Dates

* * * * *

Subprogram area	Number of units (approximate)	Deadline dates
Fair Share Allocations	35,000	May 2, 1995.
Mainstream Housing	2,500	June 1, 1995.
Homeless Families (Non-competitive Process)	12,000	June 1, 1995.
Persons with AIDS (Non-competitive Process)	3,000	June 1, 1995.
Section 8 Counseling	N/A	May 2, 1995.
FSS Service Coordinators	N/A	May 17, 1995.
Family Unification	2,000	May 17, 1995.

2. On page 12038, in column two, in the third full paragraph, the last sentence is corrected by removing the phrase, "Mainstream Housing Opportunities,".

3. On page 12047, in column two, paragraph two, the first sentence is corrected to read as follows:

V. Section 8 Counseling

* * * * *

(B) Purpose and Substantive Description of Section 8 Counseling

(1) General

This NOFA announces the availability of approximately $125 million for HA administrative fees for Section 8 Counseling to facilitate a wide range of housing options for rental voucher and certificate holders and program participants. * * *

4. On pages 12090 and 12091, in Attachment 5, items 15, 20, 23, 51, and 75 are corrected to read as follows:

Metropolitan statistical area	Lead housing agency	Section 8 budget authority
. . .	. . .	.
15. Cleveland-Lorain-Elyria, OH	Lorain Metropolitan Housing Authority	$1,835,000
. . .	. . .	.
20. Milwaukee-Waukesha, WI	Milwaukee County Housing Authority	1,697,000
. . .	. . .	.
23. Buffalo-Niagara Falls, NY	City of Buffalo/Rental Assistance Corp	1,377,000
. . .	. . .	.
51. Louisville, KY-IN	Jefferson County Housing Authority	534,000
. . .	. . .	.
75. Jackson, MS	Mississippi Region No. 6 Housing Auth	242,000
. . .	. . .	.

VOL 60 ISS 73 AP 17 1995 UMI

Dated: April 11, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–9331 Filed 4–14–95; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–57773]

Opening of Public Lands: Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Issuance of Land Exchange Conveyance Document and Order Providing for Opening of Land, Nevada.

SUMMARY: This notice identifies Federal and non-Federal lands involved in a recently completed exchange transaction, Phase 2 of N–57773. The mineral estates in the Federal lands were conveyed simultaneously with the surface estate, except for the oil, gas, sodium and potassium which were reserved to the United States. The mineral estates owned by the proponent in the non-Federal lands were conveyed to the United States simultaneously with the surface estate.

EFFECTIVE DATE: May 17, 1995.

FOR FURTHER INFORMATION CONTACT: Anna Wharton, Realty Specialist, Stateline Resource area, BLM Las Vegas District Office, 4765 Vegas Drive, Las Vegas, NV 89108, Telephone (702) 647–5087.

SUPPLEMENTARY INFORMATION: On February 8, 1995, the United States issued Patent No. 27–95–0009 to Olympic AWH Joint Venture, a Nevada General Partnership, for limited purposes, for the following described lands, containing 225 acres, pursuant to sections 206 and 209 of the Act of October 21, 1976 (43 U.S.C. 1716, 1719):

Mount Diablo Meridian, Nevada

T 22 S., R. 61 E.,
Sec. 34, S½NE¼NE¼NW¼, S½NE¼NW¼NW¼, W½NW¼NW¼, SE¼NW¼NW¼, N½SW¼NW¼, N½S½SW¼NW¼, NE¼SE¼NW¼, N½NW¼SE¼NW¼, S½SE¼SE¼SW¼, S½N½NE¼SE¼, S½S½NE¼SE¼, W½NW¼SE¼, SE¼NW¼SE¼, N½N½SW¼SE¼, S½SW¼SW¼SE¼, SE¼SW¼SE¼, N½SE¼SE¼, S½SW¼SE¼SE¼, SE¼SE¼SE¼.

In exchange for the above described lands, the United States acquired the following lands, containing 1731.01 acres, from Olympic AWH Joint Venture, a Nevada General Partnership, for limited purposes:

Mount Diablo Meridian, Nevada

T. 21 S., R. 59 E.,
Sec. 6, All that part of Government lot 5, Clark County, Nevada, more particularly described as follows:

Commencing at the West One-Quarter (W¼) corner of said section 6; Thence North 0°06′25″ East, a distance of 310.01 feet to the true point of beginning; Thence continuing North 00°06′25″ East, a distance of 1012.35 feet; Thence North 89°36′31″ East, a distance of 842.44 feet; Thence South 00°18′05″ East, a distance of 370.00 feet; Thence South 09°03′37″ East, a distance of 50.58 feet; Thence North 89°36′31″ East, a distance of 412.30 feet; Thence South 00°18′05″ East, a distance of 947.45 feet to a point on a 20.00 foot radius curve to the right, concave Northwesterly; Thence Southwesterly along said curve from a tangent line bearing South 00°18′05″ East, an arc distance of 33.06 feet, through a central angle of 94°43′11″; Thence North 85°34′55″ West, a distance of 486.92 feet; Thence North 00°06′25″ East, a distance of 61.17 feet; Thence North 85°34′55″ West, a distance of 46.50 feet; Thence North 00°06′25″ East, a distance of 208.72 feet; Thence North 85°34′55″ West, a distance of 720.76 feet to the true point of beginning.

T 15 S., R. 68 E.,
Sec. 24, E½NE¼, N½NE¼SE¼,
Sec. 24, SE¼SW¼NE¼SE¼ excepting therefrom the southerly thirty (30) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,
Sec. 24, S½SE¼NE¼SE¼ excepting therefrom the southerly thirty (30) feet and the easterly fifty (50) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,
Sec. 24, N½NE¼SE¼SE¼ excepting therefrom all mineral rights as conveyed to Kathy J. Gelber, an unmarried woman by deed recorded June 28, 1983 in Book 1762 as Document No. 1721051, Official Records,
Sec. 24, S½N½SE¼SE¼ excepting therefrom the westerly thirty (30) feet, southerly thirty (30) feet and easterly fifty (50) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,
Sec. 24, N½S½NE¼SE¼, N½NW¼SE¼SE¼, N½SW¼SE¼SE¼, S½SE¼SE¼SE¼;
Sec. 25, S½N½NE¼NE¼, N½NW¼SE¼NE¼, SE¼NW¼SE¼NE¼, N½NE¼NE¼SE¼, S½SE¼NE¼SE¼, S½NE¼SE¼SE¼, SE¼SE¼SE¼;
Sec. 35, NE¼SE¼, W½SW¼SE¼, E½SW¼SE¼;
Sec. 36, NE¼NE¼NE¼, S½NE¼NE¼, SE¼NE¼, NW¼SW¼, SE¼SW¼.

T 16 S., R. 68 E.,
Sec. 1, lots 3, 4, SW¼NW¼, N½SE¼NW¼, W½SW¼,
Sec. 12, NW¼NW¼, N½SW¼NW¼.

T. 14 S., R. 69 E.,
Sec. 32, SW¼SE¼.

T 15 S., R. 69 E.,
Sec. 30, S½N½ of lot 1 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,
Sec. 30, W½N½S½ of lot 1 (more properly described as the N½SW¼ of lot 1) as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,
Sec. 30, S½S½ of lot 1 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County; excepting therefrom the westerly fifty (50) feet and the southerly thirty (30) feet, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,
Sec. 30, lot 2 excepting therefrom the southerly forty (40) feet, the westerly fifty (50) feet of the S½S½SW¼NW¼ of said section and the westerly fifty (50) feet and the southerly thirty (30) feet of the S½N½SW¼NW¼ of said section, as conveyed to Clark County by deed recorded December 18, 1975 in Book 580 as Document No. 539043, Official Records,
Sec. 30, lot 3 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,
Sec. 30, N½N½ of lot 4 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County,
Sec. 30, S½NW¼ of lot 4 as described and set forth in the deed recorded January 3, 1989 in Book 890103 as Instrument No. 00411 and recorded February 21, 1989 in Book 890221 as Instrument No. 00609 and re-recorded January 23, 1995 in Book 950123 as Instrument No. 589 and Book 950123 as Instrument No. 590 all of Official Records of Clark County
Sec. 30, NE¼NE¼, NW¼NE¼, SW¼NE¼,
Sec. 30, S½N½NE¼NW¼ excepting therefrom that portion of said land lying below the mean high water mark of the Virgin River,
Sec. 30, NE¼SE¼, NW¼SE¼.

T. 15 S., R. 69 E.,
Sec. 31, N½NE¼ of lot 1,
Sec. 31, S½S½ of lot 2 excepting therefrom all mineral rights in and to the S½SW¼SW¼NW¼ of said section 31, as conveyed to Kathy J. Gelber, an unmarried woman, by deed recorded June 28, 1983 in Book 1762 as Instrument No. 1721051, Official Records,
Sec. 31, NE¼NW¼, NE¼SE¼, W½SE¼, SE¼SE¼.

T. 16 S., R. 69 E.,
Sec. 6, lots 1, 2, S½NE¼, E½SW¼, SE¼.

Title to the non-Federal lands was accepted on February 8, 1995. The value of the Federal lands exceeded the value of the non-Federal lands by $13,476.00 (.41% of the value of the selected lands). An equalization payment in that amount was made to the United States by the exchange proponent.

The purpose of the exchange was to acquire non-Federal lands with high value for recreation, and wildlife and riparian habitat. The 30.29 acres of non-Federal lands previously described in T. 21 S., R. 59 E., MDM, lie within the Red Rock National Conservation Area (RRNCA). In accordance with Public Law 101–621, dated November 16, 1990, RRNCA lands are withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry and patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, and all amendments thereto.

At 10 a.m. on May 17, 1995, the remaining lands acquired by the United States will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record and the requirements of applicable law. All valid applications received prior to 10 a.m. on May 17, 1995, will be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on May 17, 1995, the remaining lands acquired by the United States will be open to location under the mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

At 10 a.m. on May 17, 1995, the remaining lands acquired by the United States will also be open to applications/offers under the mineral leasing laws, the material sale laws, and the Geothermal Steam Act.

Dated: April 7, 1995.

Michael F. Dwyer,

District Manager.

[FR Doc. 95–9319 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–HC–M

[NV–030–5700–77; N–49077]

Notice of Realty Action: Amendment to Airport Lease; Lyon County, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On October 19, 1989 certain public lands within Lyon County, Nevada were leased to Leland B. Hill for public airport purposes, pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214). Portions of the airport facilities subsequently constructed were inadvertently located on public lands outside the lease boundaries. The lessee has requested that the lease be amended to include all public lands currently occupied by airport facilities. These lands are described as follows:

Beginning at the South quarter corner of section 36, Township 20 North, Range 24 East, MDB&M, Lyon County, Nevada, thence N86°25′26″W a distance of 366.60′ along the southern boundary of said section 36. Thence N0°34′34″W for 1140.55′ to the true point of beginning, Corner No. 1.
From Corner No. 1, by metes and bounds, N17°06′18″W for 4038.75′, to Corner No. 2; S65°51′05″W for 1350′, to Corner No. 3A; N 1°49′18″W for 75′, to Corner No. 6A; N65°51′05″E for 1355′, to Corner No. 7; N17°06′18″W for 227.68′, to Corner No. 8; S89°44′15″E for 209.55′, to Corner No. 9; S17°06′18″E for 909.03′, to Corner No. 10; N72°53′42″E for 288.48′, to Corner No. 11; S16°33′14″E for 600.03′, to Corner No. 12; S72°53′42″W for 282.71′, to Corner No. 13; S17°06′18″E for 2770.41′, to Corner No. 14; S72°53′42″W for 200.00′, to the point of beginning.

The area described contains approximately 27.03 acres.

FOR FURTHER INFORMATION CONTACT: Jo Ann Hufnagle, Bureau of Land Management, Carson City District Office, 1535 Hot Springs Road, Ste. 300, Carson City, Nevada 89706, (702) 885–6000.

DATES: Upon publication of this notice in the **Federal Register**, those public lands described above, not previously segregated, will become segregated from appropriation under the public land and mining laws, but not the mineral leasing laws. On or before June 1, 1995, interested parties may submit comments to James M. Phillips, Lahontan Resource Area Manager, Bureau of Land Management, Carson City District Office.

Dated this 5th day of April, 1995.

James M. Phillips,

Area Manager, Lahontan Resource Area.

[FR Doc. 95–9318 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–HC–P

[NV–942–05–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION:

1. The supplemental plat of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on February 17, 1995:

The supplemental plat showing amended lottings in section 7, T. 18 S., R. 64 E., Mount Diablo Meridian, Nevada, was accepted on February 14, 1995.

This plat was prepared at the request of Silver State Disposal and Clark County.

2. The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on May 17, 1995:

The plat, in 2 sheets, representing the dependent resurvey of the east boundary of T. 7 S., R. 41 E., and a portion of the east boundary of T. 6 S., R. 41 E., and the survey of the south, east and north boundaries and a portion of the subdivisional lines, and the subdivision of sections 3 and 10, and the retracement and remonumentation of certain corners of Mineral Survey Nos. 3967 and 4079, T. 7 S., R. 41½ E., Mount Diablo Meridian, Nevada, Group No. 709, was accepted on March 8, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

The plat, in two sheets, representing the dependent resurvey of portions of the south

VOL 60 ISS 73 AP 17 1995 UMI

boundary, east boundary, subdivisional lines, and 1873 meander lines of Summit Lake, and the subdivision of section 35, and the survey of the 1988–1991 meander lines and an informative traverse of the 1988–1991 bank of a portion of Summit Lake, T. 42 N., R. 25 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

The plat, in three sheets, representing the dependent resurvey of portions of the south boundary, subdivisional lines, 1873 meander lines of Summit Lake, and the Camp McGarry Military Reservation Line, and the subdivision of certain sections, and the survey of the 1988–1991 meander lines of a portion of Summit Lake, T. 42 N., R. 26 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

The plat representing the dependent resurvey of a portion of the west boundary of T. 41 N., R. 26 E.; and the survey of a portion of the south boundary of T. 41½ N., R. 25 E.; and the survey of a portion of the subdivisional lines of T. 41 N., R. 25 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

The plat representing the survey of a portion of the subdivisional lines of T. 41½ N., R. 25 E., Mount Diablo Meridian, Group No. 655, Nevada, was accepted March 16, 1995.

These surveys were executed to meet certain administrative needs of the Bureau of Indian Affairs and the Bureau of Land Management.

3. Subject to valid existing rights the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those portions of the lands listed under item 2 that are original survey are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to May 17, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

4. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: March 31, 1995.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 95–9320 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–HC–P

Bureau of Reclamation

Environmental Impact Statement on the City of San Jose's South Bay Water Recycling Program, San Jose, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 as amended, the Bureau of Reclamation (Reclamation) proposes to prepare an environmental impact statement (EIS) on the City of San Jose's (City) proposed construction of facilities to support the South Bay Water Recycling Program (SBWRP). The EIS will be based on a 1992 environmental impact report (EIR) prepared by the City. The SBWRP would divert treated freshwater effluent from South San Francisco Bay through a water reclamation program. This project would include construction of pump stations and recycled distribution pipelines.

DATES: Written comments on the scope of alternatives and impacts to be considered should be sent to Reclamation by May 17, 1995. Reclamation estimates that the EIS will be available for public review in late spring of 1995.

ADDRESSES: Written comments on the project scope should be sent to Mona Jefferies-Soniea, Bureau of Reclamation, Mid-Pacific Region, Division of Resources Management Planning, 2800 Cottage Way, MP–720, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Ms. Jefferies-Soniea at the above address; telephone (916) 979–2297.

SUPPLEMENTARY INFORMATION: The SBWRP, formerly known as the San Jose Nonpotable Reclamation Project, was developed in response to an order from the Environmental Protection Agency (EPA) and San Francisco Regional Water Quality Control Board in order to re-establish salinity levels of the salt water marsh in the southern tip of San Francisco Bay. In addition to protecting the South Bay habitat, the program also develops nonpotable water supply for the Santa Clara Valley, which can be used in place of potable water for appropriate purposes. Funding will come from loans from the State Water Resources Control Board and EPA, a grant from Reclamation, and local funding.

The SBWRP would be implemented in two phases: Phase I would consist of installing facilities to supply up to 9,000 acre-feet/year of nonpotable water for landscape irrigation, agriculture and industrial uses. Phase II would consist of installing facilities to supply an additional up to 27,000 acre-feet/year for either nonpotable or potable use.

The City completed a final EIR for the SBWRP in November 1992. At that time, Reclamation had not been involved and therefore no compliance with NEPA was needed. Because federal funding is now being used to support the SBWRP, compliance with NEPA is required at this time. The EIS will be based on this final EIR. The EIR analyzed Phase I in detail and analyzed Phase II programmatically. Supplemental local and Federal environmental compliance will be done later this year to analyze Phase II in detail.

An EIS scoping meeting is not planned because of scoping already done by the City. The City sent out a notice of preparation of their EIR to the public in 1992 and held a public scoping meeting on February 19, 1992.

The proposed action (Phase I) is to construct pump stations, storage tanks, 48.5 miles of 6- to 54-inch diameter pipeline and appurtenant facilities in the cities of San Jose, Santa Clara, and Milpitas. There would also be minor modifications of the existing San Jose/Santa Clara Water Pollution Control Plant to provide additional chlorination.

Alternatives to the proposed action include:

- Pipeline Alignment Alternative, to avoid construction of pipelines near residences.
- Flow Allocation Alternative, which would allocate most of the reclaimed water for potable uses. The water would be used for groundwater recharge, mainly using percolation basins.
- Habitat Enhancement Alternative, to also supply water to riparian restoration areas along creeks and rivers in the study area, as well as for potable and other nonpotable purposes.
- No Action.

Dated: April 7, 1995.

Roger K. Patterson,

Regional Director.

[FR Doc. 95–9340 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–94–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application, document availability, and public comment period.

The following applicant has applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Assistant Regional Director, Ecological Services, Region 3, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

Permit No. PRT–697830

The applicant requests an amendment to their current permit to take the following species for scientific purposes and the enhancement of propagation or survival in accordance with recovery outlines, recovery plans, listing, or other Service work for those species.

1. Clubshell (*Pleurobema clava*)
2. Cracking pearly mussel (*Hemistena (=Lastena) lata*)
3. Ring pink (=*golf stick pearly*) mussel (*Obovaria retusa*)
4. Purple cat's paw pearly mussel (*Epioblasma (=Dysnomia) obliquata obliquata (=E. sulcata sulcata)*)
5. Northern riffleshell (*Epioblasma torulosa rangiana*)
6. Hungerford's crawling water beetle (*Brychius hungerfordi*)
7. Hine's emerald dragonfly (*Somatochlora hineana*)

Documents and other information submitted with these applications are available to the public during normal business hours (7:30 a.m.—4 p.m.) in Room 650, Bishop Henry Whipple Federal Building, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Regional Director, U.S. Fish and Wildlife Service, Region 3, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Please refer to PRT–697830 when submitting comments.

Dated: April 10, 1995.

William F. Hartwig,

Regional Director, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 95–9339 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–55–M

Record of Decision for a Final Supplemental Programmatic Environmental Impact Statement (SPEIS) on the Federal Aid in Sport Fish Restoration and Federal Aid in Wildlife Restoration Programs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Fish and Wildlife Service (Service) has selected the No Change Alternative for its operation of the Sport Fish Restoration and Wildlife Restoration Programs into the next century. This decision was based on the Service analysis of the program contained in a SPEIS to augment the Program Environmental Impact Statement (EIS) published in 1978 and comments received from the public regarding that SPEIS.

ADDRESSES: Columbus H. Brown, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Arlington Square Building, Room 140, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Columbus H. Brown, Chief, Division of Federal Aid, Telephone (703) 358–2156.

SUPPLEMENTARY INFORMATION:

Background

The Federal Aid in Sport Fish and Wildlife Restoration Program was initiated with the passage of the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) in 1937. This Act has been commonly referred to as the Pittman-Robertson Act in honor of the sponsors of the Act. The purpose of the Act was to provide a stable and secure source of funding to the States for the management, conservation, and enhancement of wildlife species. The Act was passed in response to dramatic declines in the populations of a number of game species and was originally intended as a mechanism to restore those populations to healthy levels. Funding for the Wildlife Restoration Program is derived from Federal excise taxes on sporting arms, ammunition, and certain archery equipment.

The Wildlife Restoration Act authorizes the Service to deduct a maximum of 8 percent of the funds for administration of the Act and for carrying out the Migratory Bird Conservation Act. After making administrative deductions, the remaining funds are apportioned to the States based on the geographic area, number of hunting license holders, and State population. Guam, Puerto Rico, the Virgin Islands, American Samoa, and the Northern Mariana Islands, receive a fixed percentage of the funds apportioned. Funds apportioned under the Wildlife Restoration Program for fiscal year 1994 came to a total of $182,081,117.

While the Wildlife Restoration Act was specifically directed toward developing funds for wildlife management, it served as the pattern for a similar funding mechanism directed at fisheries management. In 1950, the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*), commonly called the Dingell-Johnson Act was passed. The legislation was further augmented by the Wallop-Breaux amendment of 1984, providing additional funds. The Sport Fish Restoration Program provides stable funding for restoration, conservation, management and enhancement of sport fish, and the provision of benefits from these resources to the public; improved boating access; and aquatic resource education. Funds provided by this Act are derived from Federal excise taxes on fishing tackle and related equipment, federal taxes on gasoline used in motorboats, duties on imported boats, and fishing tackle, and interest earned on investment of these funds.

Sport Fish Restoration Program funds are apportioned based on the number of fishing license holders and the geographic area of each State. Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the District of Columbia receive a fixed percentage of the funds apportioned. The Service may deduct up to 6 percent for administration of the Act. State funds apportioned under the Sport Fish Restoration program for fiscal year 1994 came to a total of $174,628,718.

The mentioned Act form the basis of the Federal Aid in Sport Fish and Wildlife Restoration Program, or the Federal Aid Program (Program). The Program is administered by the Service's Division of Federal Aid (Division). The Division's mission is to strengthen the ability of State and Territorial fish and wildlife agencies to restore and manage fish and wildlife resources to meet effectively the consumptive and nonconsumptive needs of the public for fish and wildlife resources.

Alternatives Considered

Five alternatives, listed below, were considered in the SPEIS. Each alternative was developed by Service, State, and public inputs and focuses on the needs and direction of the Federal Aid Program into the next century. Under each of these alternatives, the basic core of Program activities would continue as it is at present with gradual changes in emphasis in response to public interest and need.

Alternative 1—No Change to the Existing Program Direction. Continue current administration and activities.

Alternative 2—Emphasis on National and Regional Priorities. Encourage States to consider funding projects contributing to national or regional

VOL 60 ISS 73 AP 17 1995 UMI

priorities that are cooperatively identified by the States and the Service in consultation with the public.

Alternative 3—Emphasis on Additional Funding for Biodiversity and Watchable Wildlife Projects. States will be provided an expanded funding base for use on biodiversity and watchable wildlife enhancement projects.

Alternative 4—Increase Administrative Flexibility of States. Increased responsiveness to State needs, such as administrative flexibility, aquatic education expansion, and adult education for wildlife programs.

Alternative 5—Eliminate Most Service Overview of States. Propose legislation and policy changes to eliminate most Service overview of State projects including project approval. States would be provided program rules, general guidance, and apportionment of funds. States would provide reports of accomplishments and would be periodically monitored by the Service.

Decision

Alternative 1, "No Change to the Existing Program Direction" was selected by the Service for future administration of the Program. This selection was made in response to overwhelming support of the existing program by respondents to the draft document issued in November 1993. The majority of comments received during the comment period expressed the opinions that the Program was working well and urged the Service not to make changes. Most persons commented that States are in the best position to assess the needs of citizens for fish and wildlife resources and that the Federal Government should not get more involved in establishing priorities for State projects. The Service is convinced that the existing Program is effectively meeting the needs of hunters, anglers, boaters, and other users of the nation's fish and wildlife resources and does not plan to change the way the Program is administered.

Significant Issues Raised

After the final SPEIS was distributed to the public in December 1994, several parties asked that the Service adopt a more flexible policy relating to projects to educate State employees. Currently, employees that are actively working on Federally funded projects may be trained using Program funds, but training of employees not working on active projects may not be funded. The Service intends to explore the need for this change with the States independently of this Record of Decision.

No other significant issues were raised during review of the Final SPEIS. Because the Final SPEIS adopted the preferred alternative suggested by most public comments, the few public comments on the final draft were supportive.

Copies Are Available

Copies of the Final SPEIS are available from the U.S. Fish and Wildlife Service, Division of Federal Aid, Arlington Square Building, MS–140, 4401 North Fairfax Drive, Arlington, Virginia, 22203, during normal working hours. Telephone (703) 358–2156.

Dated: March 22, 1995.

Mollie H. Beattie,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 95–9414 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: Wednesday, April 19, 1995; 1:30 p.m. until 4:30 p.m.

ADDRESSES: Aldie Mansion, 65 Old Dublin Pike, Doylestown, PA 18901.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Acting Executive Director, Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: April 6, 1995.

Donald M. Beshard,

Chairman, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 95–9338 Filed 4–14–95; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Motorola, Inc. and Nextel Communications, Inc.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States of America* v. *Motorola, Inc. and Nextel Communications, Inc.*, Civil Action No. 1:94CV02331, filed in the United States District Court for the District of Columbia, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in room 3233 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, NW., Washington, DC 20530, and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, NW., Washington, DC 20001.

Constance K. Robinson,

Director of Operations, Antitrust Division.

Response to Public Comments to the Proposed Final Judgment

[Case No. 1:94CV02331]

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h) ("APPA"), the United States of America hereby files its Response to Public Comments to the proposed Final Judgment in this civil antitrust proceeding. The United States has reviewed the comments on the proposed Final Judgment and remains convinced that entry of the proposed Final Judgment is in the public interest.

I. Summary of Proceedings

This proceeding relates to the proposed consolidation of the trunked specialized mobile radio ("SMR") businesses of Nextel Communications, Inc. ("Nextel") and Motorola, Inc. ("Motorola"), the two largest providers of those services in the United States. This transaction is part of Nextel's

seven-year effort to accumulate sufficient radio spectrum to establish a digital wireless network in competition with the cellular telephone companies.

Trunked SMR service is a type of radio service used by contractors, service companies, delivery services and other businesses that need to communicate with fleets of vehicles on a one-to-one or one-to-many basis. It is provided pursuant to licenses granted by the Federal Communications Commission ("FCC") in the 800 MHz and 900 MHz spectrum bands. A limited number of licenses are available for these services.

In the last seven years, Nextel has entered into agreements to purchase or manage the assets of dozens of companies holding licenses to provide SMR service in the 800 MHz band, making it the largest holder of 800 MHz SMR spectrum, as well as the primary supplier of SMR service, in the United States.[1] Nextel's numerous acquisitions are part of a plan to replace the currently deployed analog technologies used in those systems with a new digital technology developed by Motorola. Deployment of digital technology and the reconfiguration of radio transmitters in a cellular-like pattern will greatly increase the number of customers that may be served and allow Nextel to offer a greater variety of services including, in addition to dispatch service, data and wireless telephone service. Nextel also owns and manages a substantial number of 900 MHz SMR channels in major cities around the country. However, the new Motorola technology cannot be deployed on them.

Motorola is the second largest holder of 800 MHz SMR spectrum and Nextel's primary competitor in the provision of dispatch services in many cities around the country. Motorola also owns and manages a substantial number of 900 MHz SMR channels in major cities, including many reached by Nextel's 800 MHz and 900 MHz SMR services. By an agreement dated August 4, 1994, Motorola agreed to sell Nextel its SMR business in the 800 MHz band. The agreement also provided that Nextel would manage Motorola's 900 MHz SMR business for three years, subject to renewal for subsequent periods of two years.[2]

The United States commenced this action on October 27, 1994 alleging that Nextel's control of virtually all available options for customers seeking SMR services, i.e., simultaneous control, of virtually all channels on which such services are provided in both the 800 MHz and 900 MHz bands in fifteen (15) major cities in the United States would substantially lessen competition in these markets.[3] On the same date, the United States submitted, with the consent of the defendants, a proposed Final Judgment that requires defendants to divest certain SMR assets and licenses and prevents defendants from reacquiring the specified assets and licenses, or acquiring comparable assets and licenses, in the fifteen (15) cities. With the exception of Atlanta, Georgia, the contemplated relief is limited to 900 MHz channels.

The relief provided in the proposed Final Judgment is intended to prevent any lessening of competition in the provision of trunked SMR service in a manner consistent with the efforts of the FCC to facilitate the creation of a new digital wireless telephone service competitor that would significantly benefit the public.[4] Recognizing that Nextel may require additional 800 MHz spectrum to compete, the FCC has permitted Nextel to be assigned a substantial number of 800 MHz SMR licenses and has initiated proceedings aimed at promoting the aggregation of spectrum to facilitate the development of digital SMR networks.[5] In order to avoid any interference with these efforts by the FCC, the relief required by the Final Judgment is, with the exception of Atlanta, limited to 900 MHz spectrum. Since the Motorola technology cannot be deployed on SMR channels in 900 MHz band, the possible benefits from Nextel's creation of a digital wireless network are not put at risk by requiring Nextel to relinquish control of 900 MHz SMR channels. Conversely, if Nextel is permitted to own and manage the 900 MHz SMR channels, Nextel would gain control of the most widely available alternative to dispatch services provided on the 800 MHz band and significantly increase its ability to increase the prices of dispatch services.

Comments on the proposed Final Judgment were received from a group composed of Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accucomm, Inc., Earl's Distributing Inc., Earl's Wireless Communications, Total Communications, Communications Center, Inc., and Leflore Communications, Inc. (collectively "the Clark Group");[6] from Communications Center, Inc. ("CCI"); from General Electric Mobile Communications Dealer Board of Directors ("GE"); and from Gerard and Harold Pick ("Pick").[7] These commenters are all operators of SMR systems and are competitors of Nextel or Motorola in various regions of the United States. The primary concern in the comments is that Nextel's acquisition of such a large percentage of 800 MHz SMR spectrum will prevent competitors from being able to expand their systems and give Nextel the power to raise prices and reduce the quality of service to its customers. Generally they request that the Department withdraw its consent.

As explained below, the United States concluded that the divestiture and release of 900 MHz spectrum by the defendants would address the principal anticompetitive effects of the transactions, and that a requirement that Nextel divest or release 800 MHz channels would unnecessarily impede the efforts of Nextel to deploy its digital technology and compete in the provision of wireless telephone services. If such additional action was required, Nextel's planned wireless services would serve fewer people and the anticipated downward pressure on cellular service rates would diminish or not materialize.

II. Compliance with the APPA

The APPA requires a sixty-day period for the submission of public comments on the proposed Final Judgment, 15 U.S.C. 16(b). In this case, the sixty-day comment period commenced on November 8, 1994, and was due to terminate on January 9, 1996. On that date, the United States filed a motion

[1] Through its agreements to acquire OneComm Corporation and Dial Page, Inc., which had been accumulating 800 MHz spectrum in other regions, Nextel established a nationwide presence and now owns SMR spectrum in most areas of the continental United States.

[2] Motorola is to receive twenty-four percent of Nexiel's voting securities. Agreements entered the same day commit Nextel to purchase Motorola equipment for its 800 MHz SMR business.

[3] The cities identified in the complaint and CIS were Atlanta, Georgia; Boston, Massachusetts; Chicago, Illinois; Dallas and Houston, Texas; Denver, Colorado; Detroit, Michigan; Los Angeles and San Francisco, California; Miami and Orlando, Florida; New York, New York; Philadelphia, Pennsylvania; Seattle, Washington; and Washington, DC.

[4] In the Matter of Applications of Nextel Communications, Inc., FCC 95–263 at 13–14 (February 17, 1995).

[5] See Amendment of Part 90 to Facilitate Development of SMR Systems in the 800 MHz Frequency Band, FCC 94–271 (November 4, 1994) (Further Notice of Proposed Rulemaking).

[6] The Clark Group filed an initial comment on December 14, 1994, consisting of a copy of it filing with the FCC on the Nextel—OneComm transaction. On January 9, 1995, it filed additional comments. Its numerous pages of exhibits, consisting of, among other things channel ownership tables, have been submitted to the Court, but have not been published. Its December 14, 1994, and January 9, 1995, filings are Attachments A and B, respectively.

[7] The CCI, GE and Pick comments are Attachments C, D and E, respectively.

VOL 60 ISS 73 AP 17 1995 UMI

with the Court on behalf of OneComm Corporation requesting that the comment period be extended until January 17, 1995. On January 17, 1995, OneComm notified the United States that it would not, in fact, file a comment.[9] The United States has received comments from four persons. Upon publication of the comments and this response in the **Federal Register**, pursuant to 15 U.S.C. 16(d) of the APPA, the procedures required by the APPA prior to entry of the proposed Final Judgment will be completed. The United States will move the Court for entry of the proposed Final Judgment after publication of the comments and this response, and the Court may then enter the proposed Final Judgment.

III. Standard of Review

Under the APPA, the primary responsibility for enforcing the antitrust laws and protecting the public interest in competitive markets rests with the Department of Justice.[9] In carrying out its responsibilities, the Department has very broad discretion in prosecuting alleged antitrust violations and determining appropriate relief for the settlement of cases.[10] Before entering a proposed consent decree, the Court must determine that the decree is in the public interest, 15 U.S.C. 16(e),[11] but that test is limited to ensuring that the government has met its public interest responsibilities, that is, determining that the proposed Final Judgment falls within the range of the government's antitrust enforcement discretion. The Ninth Circuit Court of Appeals has explained these respective obligations as follows:

> The balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General * * *. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." * * * More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decrees.[12]

Indeed, the courts repeatedly have held that the purpose of their review of proposed consent decrees is not to determine "whether this is the best possible settlement that could have been obtained if, say, the government had bargained a little harder."[13] or whether this is the remedy "the court might have imposed had the matter been litigated."[14] Rather:

> Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its response to comments in order to determine whether those explanations are reasonable under the circumstances. The Court must also give appropriate recognition * * * to the fact that every consent judgment normally embodies a compromise, and that the parties each give up something which they might have won had they proceeded to trial.[15]

The Court may reject the agreement of the parties as to how the public interest is best served only if it has "exceptional confidence that adverse antitrust consequences will result." *United States v. Western Electric Co.*, 993 F.2d 1572, 1577 (D.C. Cir.), *cert. denied*, 114 S.Ct. 487 (1993).

In this case, the United States carefully considered the matters that are now being raised in the comments when it formulated its position with respect to the transaction. We concluded, for reasons discussed below and in the Competitive Impact Statement, that the public would be best served by the remedial action set forth in the proposed Final Judgment. If the Court finds that the United States' action represented a reasonable exercise of its antitrust enforcement responsibility and prosecutorial discretion, it may enter the proposed Final Judgment as soon as compliance with the APPA is completed by publication of the comments and Response in the **Federal Register**.

IV. Response to Public Comments

In its comments, the Clark Group challenges the Competitive Impact Statement insofar as it explains the proposed Final Judgment is in the public interest. In support of its view, the Clark Group cites *United States v. Western Electric Co.*, 552 F.Supp. 131 (D.C.D.C. 1982) for the proposition that a proposed Final Judgment is inadequate if it does not render impotent the monopoly power found to violate the antitrust laws. As explained below, the Clark Group's market definition is too narrowly drawn and improperly fails to recognize the potential of these transactions to increase competition in wireless services.

A. Benefits from New Wireless Services

The various comments on the proposed Final Judgment explicitly and implicitly question whether Nextel's consolidation of 800 MHz SMR spectrum, now being used to provide analog dispatch services to small businesses, and its deployment of a new technology on that spectrum to provide dispatch, wireless telephone and data services, is really in the public interest. By granting numerous requests that SMR licenses be transferred to companies consolidating spectrum, granting wide area waivers, relaxing construction schedules, and other actions, the FCC has indicated that it believes that the public would benefit from the deployment of digital technology on 800 MHz SMR spectrum.[16] Those decisions were an exercise of policy judgment by an expert agency within its area of expertise and jurisdiction. We do not believe that it would be appropriate to revisit those decisions in the context of this antitrust proceeding.[17]

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[9] The OneComm filing is Attachment F.

[10] *United States v. Waste Management, Inc.*, 1985–2 Trade Cas. (CCH) ¶ 66,651 at page 63,045 (D.D.C. 1985).

[11] *United States v. Mid-American Dairymen, Inc.*, 1977–1 Trade Cas. (CCH) ¶ 61,508 at page 71,980 (W.D. Mo. 1977), citing *Sam Fox Publishing Co. v. United States*, 366 U.S. 683, 689, (1961) and *Swift & Co. v. United States*, 276 U.S. 311, 331–32 (1928).

[11] This determination can be properly made on the basis of the Competitive Impact Statement and this Response. The procedures of 15 U.S.C. § 16(f) are discretionary, and a court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the Court in resolving those issues. *See* H.R. Rep. 93–1463, 93d Cong. 2d Sess. 8–9 *reprinted in* [1974] U.S. CODE CONG. & AD. NEWS 6535 6538.

[12] *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981) (citations omitted). See also *United States v. Western Electric Co.*, 900 F.2d 283, 309 (D.D. Cir.) cert denied, 498 U.S. 911 (1990).

[13] *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978), quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975).

[14] *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

[15] *United States v. Mid-American Dairymen, Inc.*, *supra*, ¶ 61,508 at 71,980.

[16] In February 1991, the FCC authorized Nextel, then called Fleet Call, to construct digital mobile networks in six cities, finding that doing so would "generally encourage the larger and more efficient use of radio in the public interest." In Re Request of Fleet Call, Inc. for Waiver and Other Relief, 6 FCC Rcd 1533 (1991). Subsequently, the FCC granted additional waivers to Nextel and other companies authorizing the construction of such systems and facilitating their efforts to construct their systems. See, e.g., PR Docket No. 92–210, FCC 93–256, (May 13, 1993) (giving companies proposing digital wide-area systems five years to place their systems in operation).

[17] We also note that insofar as the commenters question the wisdom of the FCC's decision, they do so in an effort to protect their interests as providers of analog SMR services and competitors of Nextel. The antitrust laws were meant to protect competition, not competitors. *Brunswick Corp. v. Pueblo Bowl-O-Mat, Inc.*, 429 U.S. 477, 488 (1977). The commenters seek to limit the 800 MHz SMR spectrum that Nextel may own or control and use in the provision of its proposed digital wireless services. The FCC has determined, however, that it

Section 16(e)(2) of the APPA permits the Court to consider, determining whether the judgment is in the public interest, "the impact of entry of such judgment upon the public generally." Thus, public policy considerations other than the competitive impact of the judgment on the markets alleged, such as deference to the FCC's judgment on possible benefits to the wireless market, may be considered.[18]

The FCC's decisions, however, provide no basis for allowing Nextel to acquire control of 900 MHz spectrum in the relevant geographic markets, in addition to the substantial portion of 800 MHz spectrum that it intends to use for its digital network. The complaint and CIS reflect the conclusion of the United States that, given Nextel's control of a large portion of available 800 MHz SMR spectrum, its simultaneous control of the principal substitute for 800 MHz SMR service, *i.e.*, 900 MHz SMR service, would unnecessarily and unreasonably restrain competition.

B. Product Market

GE and CCI state that the appropriate product market is not trunked SMR service on 800 MHz, 900 MHz and 220 MHz, but, instead, comprises only 800 MHz SMR service. GE and CCI exclude 900 MHz SMR from the product market on the basis of different technical and regulatory constraints which apply to the 900 MHz services, which they maintain make 900 MHz service significantly more costly to provide than 800 MHz service.[19] GE and CCI also appear to believe that 220 MHz service is and will be subject to sufficiently different technical and regulatory constraints that it should not be included in the relevant product market.

The evidence developed by the government, however, showed that these services, particularly 800 MHz and 900 MHz trunked SMR service, are substitutes from the perspective of the potential dispatch customer. Customers that have significant field operations and need to provide their personnel with the ability to communicate directly with each other perceive that the quality of 800 MHz and 900 MHz service is comparable and, more important, often purchase 900 MHz service, rather than 800 MHz service, when both services are available and 800 MHz service increases a small but significant amount. As a result, 900 MHz service acts to constrain the prices of 800 MHz service and the relevant product market cannot be limited to 800 MHz trunked SMR service.

Existing dispatch customers face a different purchase decision than customers who have not previously purchased trunked SMR service. A customer's initial investment in 800 MHz equipment may act as a disincentive to move to 900 MHz service (or 220 MHz service) in the event of a price increase by its 800 MHz service provider.[20] However, these customers, too, consider 900 MHz trunked SMR service when evaluating whether to continue obtaining service from their current 800 MHz provider. Notwithstanding their sunk costs in equipment, existing 800 MHz customers are willing to move to 900 MHz service when the price of their 800 MHz trunked SMR service increases significantly. SMR service providers track customer changes—what is known as "churn" data. The churn data provided to the United States reveals that when dispatch customers using 800 MHz change wireless service providers (rather than dropping service altogether), they frequently move to 900 MHz services.[21] Customers are willing to change formats and bands because 900 MHz service providers have offered a variety of incentives to customers to reduce their costs. In addition, customers can sometimes reduce switching costs by selling their used equipment. As a result, 800 MHz trunked SMR service providers have not been able to impose significant, non-transitory price increases for their service because of the availability of 900 MHz service alternatives.[22]

C. The Markets Selected by the United States

CCI, the Clark Group and GE comment that the Final Judgment is inadequate in failing to address Nextel's dominance of 800 MHz spectrum in other areas of the country, including markets below the top 50, where 900 MHz SMR service was never licensed by the FCC. These areas include New Orleans, where CCI operates, and the cities in which members of the Clark Group operate. The Clark Group offers HHI calculations that show very high concentration in seven selected small cities around the country, which, it argues, constitutes *prima facie* evidence of the illegality of Nextel's acquisitions in these areas.[23] It states that many of the channels Nextel controls are not being used, but "warehoused" to prevent their use by competitors.

The government believes, however, that market conditions are significantly different in rural areas and smaller cities than in major metropolitan areas and, moreover, that market conditions in rural areas and smaller cities are likely to change soon. First, unlike the major metropolitan areas, rural and smaller urban areas have generally not experienced spectrum crowding. In the absence of spectrum constraints, existing competitors could expand services in response to any effort by Nextel to raise prices. Second, there is less differentiation between conventional and trunked SMR services, and between trunked SMR services and cellular services in rural areas and smaller cities.[24] In those areas, the lack of congestion reduces the difference in the reliability of subscriber access to conventional versus trunked dispatch systems. In addition, cellular and trunked SMR service are more readily

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Nextel is successful in deploying its digital network, it will provide new competition to the cellular telephone companies which would benefit the public far more than the continued use of that spectrum for the provision of dispatch services to businesses. The FCC decisions will displace many current SMR service providers and their customers and make 800 MHz spectrum more scarce for companies seek to increase their analog SMR capacity. In reaching those decisions, however, the FCC concluded that Nextel's deployment of its network, using the Motorola technology, will dramatically increase the number of customers served on an 800 MHz channel, over the number served currently with analog SMR services.

[18] *See United States v. BNS, Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988).

[19] GE asserts, among other things, that 900 MHz service providers must construct more sites from which to send signals because of its poorer signal propagation, thus increasing their cost of infrastructure equipment vis-a-vis 800 MHz service providers.

[20] This disincentive is also present when a customer considers whether to change service providers within the 800 MHz band. A service provider will generally deploy a particular format—Motorola or GE/Ericsson or E F Johnson—that is not interchangeable with another. Consequently, someone receiving service from an 800 MHz Motorola trunked SMR system would have to buy new equipment to receive service form an 800 MHz E F Johnson trunked SMR system.

[21] For example, in response to a late-1993 price increase by Transit Communications, a predecessor to Nextel's dominant 800 MHz SMR service position in Atlanta, more than four times as many dispatch units moved to Motorola's competing 900 MHz service, as to its competing 800 MHz services.

[22] As was stated in the Complaint and CIS, the exact effect of the deployment of 220 MHz SMR service in the trunked SMR market cannot be determined with any precision at present. However, based on the planned characteristics of 220 MHz SMR service, it cannot be excluded from the relevant product market.

[23] The Clark Group's channel count appears to count channels that are re-used as multiple channels, rather than discrete frequencies, thereby significantly overstating Nextel's channel position.

[24] As explained in the Complaint and CIS, conventional dispatch service should generally be excluded from the trunked SMR product market because it offers lesser privacy and lower reliability. Cellular telephone service is not in the market because it is significantly more expensive than trunked SMR service, is significantly more difficult for customers to restrict communications to the defined fleet or group, and because it cannot be provided on a one-to-many dispatch basis.

VOL 60 ISS 73 AP 17 1995 UMI

substitutable in those areas.[25] Thus, customers in rural areas and smaller cities appear to be better able to turn to alternative types of service in response to a significant increase in price by trunked SMR service providers.

Third, the FCC will soon grant new 900 MHz and 220 MHz SMR licenses in rural and small metropolitan areas. The Clark Group argues that the additional spectrum to be introduced in these markets will not be effective to constrain Nextel because Nextel's dominance in the 800 MHz band is a predictor of its likely dominance of those other bands. There is no reason to believe, however, that Nextel will be able to gain a dominant position in the 900 MHz or 220 MHz bands. Given its position in the 800 MHz band, and the commitment it has already made to implement its planned digital network in that band, it is unlikely that Nextel has the incentive to acquire significant blocks of 900 MHz or 220 MHz spectrum.

The Clark Group suggests that Nextel should be required to divest itself of 800 MHz channels in excess of those necessary to construct its planned digital network.[26] As explained above, the United States believes that such divestitures would be inconsistent with FCC efforts to facilitate the creation of new digital systems that would significantly benefit the public. Moreover, this suggestion would entail severe practical difficulties in most of the markets at issue because it would be extraordinarily difficult to establish how many channels might be needed in each of the relevant markets.

There is no single number of channels at which the technology will operate most efficiently or with the same costs as the cellular companies. Evidence provided to the Department establishes that Nextel's cost of doing business will decrease as the number of channels it holds increases over a large number of channels. Moreover, any calculation of operational efficiency will vary substantially from city to city, based on the potential number of customers served, the topography, the number of sites operated and other factors. Further, the costs may well change as technology changes in the wireless industry.[27]

In making its public interest determination this Court should focus on whether the relief provided by the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint.[28] It should not look to "markets other than those alleged in the government's complaint."[29] In this case, the proposed Final Judgment removes the threat to competition from defendants' simultaneous control of virtually all available 800 MHz and 900 MHz SMR spectrum in fifteen (15) of the largest cities in the country. At the same time, the proposed Consent Decree allows Nextel to go forward with its plans for a digital mobile network. Hamstringing its efforts by limiting the number of 800 MHz SMR channels it may own or control to preserve traditional competition between Nextel and analog dispatch service providers should be rejected.

The Clark Group also asserts that the United States was only evaluating the proposed Nextel/Motorola transaction, and did not give adequate consideration to the effects of the Dial Page and OneComm acquisitions.[30] This assertion is wrong. The Complaint and proposed Final Judgment both clearly indicate that they are intended to address the competitive ramifications of the entire series of transactions by which Nextel is to acquire the spectrum holdings of Motorola, Dial Page and OneComm.[31] Their objection really goes to the decision to limit the relief sought to the fifteen (15) cities identified in the complaint.

D. Geographic Market

The Clark Group believes that the geographic markets in which the transaction should be judged are Rand McNally Basic Trading Areas or Metropolitan Statistical Areas, rather than the geographic core markets defined in the Complaint and CIS. The Clark Group's proposal would increase significantly the area in which concentration is assessed over that in the proposed Final Judgment: frequencies owned or managed within twenty five miles of each city's center.

However, neither the Clark Group nor any other commenter has seriously challenged the geographic market definition posited by the United States. The geographic market definition proposed by the United States is based upon the method of license allocation historically utilized by the FCC for the dispatch industry. The FCC has issued licenses based upon a service radius from a center point in which the licensee has exclusive use of a frequency. As described in the CIS, because of the SMR operator's need to provide service in critical, high-traffic areas, the geographic market in any particular city may be approximated by a 25 mile radius from the center point of that city.

E. Regulatory Complaints

Many of the commenters' complaints relate more to the alleged inadequacy or impropriety of the FCC's regulation of SMR than to the proposed Final Judgment. Pick alleges that many of Motorola's licenses have been fraudulently obtained. CCI asserts that the FCC's granting of wide-area waivers led to the development of license mills and spectrum warehousing, thus permitting the accumulation of channel concentrations which would have been prohibited by the underlying rules. GE, CCI and the Clark Group argue that the warehousing or holding of spectrum injures other small operators (such as themselves) who cannot expand their 800 MHz systems because there is no spectrum available to them to do so. Their inability to expand their systems eventually leads to degraded service quality as customers are added and congestion grows worse.

In this antitrust proceeding, the United States has not attempted to assess whether any person has improperly obtained or used the licenses they hold. Improper conduct in obtaining licenses and the failure to use the licenses in accordance with legal requirements are matters within the jurisdiction of the FCC. Where any person has information that a license has been obtained through fraud or misrepresentation, the matter is properly addressed to the FCC for it to investigate as a possible violation of its licensing regulations.

F. Effects in the Equipment Market

GE and the Clark Group (in a footnote) assert that the proposed Final Judgment will permit Motorola to control the SMR equipment market in the 800 MHz band because the proposed Final Judgment does not address the possible effect of the ancillary agreements pursuant to which Nextel will purchase Motorola's digital infrastructure and subscriber equipment for its planned 800 MHz wide-area SMR system.

The ancillary equipment agreements require Nextel to implement Motorola's digital system on its 800 MHz channels but do not control Nextel's decision whether to utilize Motorola's analog equipment on its 800 MHz or the 900 MHz SMR channels.[32] As discussed in the CIS, the United States considered the desirability of requiring the modification of the ancillary equipment agreements. The United States rejected that alternative because Motorola's digital SMR equipment pricing practices are likely to be constrained by those of other wireless equipment suppliers to the cellular service providers and to the personal communications service providers.

Moreover, a proceeding under the Tunney Act is to consider whether entry of the proposed Final Judgment, agreed to by the parties, is in the public interest. A Tunney Act proceeding should not consider whether the government might have brought some other case or a hypothetical settlement to which the parties have not agreed. Simply stated, the Tunney Act does not give the Court the power to impose different terms on the parties. *See, e.g., United States* v. *American Tel. & Tel. Co.*, 552 F.Supp. 131, 153 n.95 (D.D.C. 1982) *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983)(Mem).

G. Effects in a Second Market

GE, the Clark Group and CCI contend that the United States inappropriately considered competitive benefits in a second market when analyzing the likely effects of this transaction in the trunked SMR market. All three argue that consideration of effects in the cellular market was inappropriate, impermissible and irrelevant to a determination of harm in the trunked SMR market. The commenters also refer to a recent article in the *Wall Street Journal* of January 3, 1995. In that article, Nextel is said to have abandoned its ambitions to become a cellular competitor, and chief executive Morgan O'Brien is allegedly quoted as saying that Nextel never portrayed itself as a provider of cellular-like services to consumers, but as a provider of such services to persons now using analog dispatch services.[33]

The United States believes that it is entirely appropriate, in exercising its discretion to devise an appropriate remedy in this case, to consider the policies and decisions of the FCC, and the effects that proposed remedies might have on the efforts of the FCC to achieve its policy objectives.[34]

With respect to the newspaper articles Nextel has provided the United States with letters from its executives and others in which they challenge the accuracy of the statements in the articles, and an affidavit from the Chairman of its Board in which he indicates that Nextel's business plans have not changed. Given these statements, and Nextel's other statements in filings to the Securities and Exchange Commission, the FCC and the Department of Justice, the United States is satisfied that Nextel is committed to the construction of a digital SMR network that will soon compete with cellular service providers.[35]

V. Conclusion

After careful consideration of the comments, the United States continues to believe that, for the reasons stated herein and in the Competitive Impact Statement, the proposed Final Judgment is adequate to remedy the antitrust violations alleged in the Complaint. There has been no showing that the proposed settlement constitutes an abuse of discretion by the United States or that it is not within the zone of settlements consistent with the public interest. Therefore, entry of the proposed Final Judgment should be found to be in the public interest and should be entered.

Respectfully submitted

Dated: March 24, 1995.

Anne K. Bingaman,
Assistant Attorney General
Steven C. Sunshine,
Deputy Assistant Attorney General
Constance K. Robinson,
Director of Operations.
Donald J. Russell,
Chief, Telecommunications Task Force
George S. Baranko,
Katherine E. Brown,
J. Philip Sauntry, Jr.,
Susanna M. Zwerling,
Attorneys.
Department of Justice,
Antitrust Division.

Certificate of Service

I, Kathy L. Cuff, hereby certify under penalty of perjury that I am not a party to this action, that I am not less than 18 years of age, and that I have on this 24th day of March 1995, caused a copy of the accompanying United States Response to Public Comments to the Proposed Final Judgment to be served by mailing a copy, postage prepaid, upon:

James D. Sonda,
Kirkland & Ellis
Counsel for Motorola, Inc.
and
Charles A. James,
Jones, Day, Reavis & Pogue
Counsel for Nextel Communications, Inc.

Kathy L. Cuff,

Dated: March 24, 1995

Attachment A

Via Hand Delivery

George S. Baranko:
U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Washington, D.C. 20002

RE: U.S. Motorola, Nextel, *Civil Action No 94–2331*

December 14, 1994.

Dear Mr. Baranko:

Please consider the enclosed pleading a comment by the Clarks' Group to the proposed Final Judgment in the above referenced case.

Sincerely,

Raymond J. Kimball,

RJK/rid
Enclosure
cc: Michael R. Carper, Esquire, Counsel for OneComm Corporation; Joel M. Margolis, Esquire, Counsel for Nextel Communications, Inc.; R. Michael Senkowski, Esquire, Counsel for Motorola.

In the Matter of: Applications of Nextel Communications, Inc. for Transfer of Control of ONECOMM Corporation, N.A. and C–Call Corp

To: Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau

[25] Trunked SMR providers in more rural areas use more of their capacity to provide interconnection to the public switched telephone network, deriving as much as 60% of their revenues from this mobile telephone service. In major metropolitan areas trunked SMR service providers generally limit the amount of interconnect sold on their systems to 15 to 25% of their business in order to accommodate the demand for dispatch services.

[26] This is the relief the Clark Group seeks in its comments. Clark Group Comments at 25, January 9, 1995.

[27] With respect to Atlanta, the United States found that Nextel would own more channels than it needed to provide digital service and another company was poised to enter the market. These factors distinguished it from the other cities in the complaint.

[28] *United States* v. *Bechtel Corp.*, 1979–1 Trade Cas. (CCH) ¶ 62,430 at 76,565 (N.D. Cal. 1979), *aff'd*, 648 F.2d 660, 665–66 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981).

[29] *United States* v. *BNS, Inc., supra*, 858 F.2d at 462–63.

[30] As noted in the CIS, over the past few years a few companies, including Nextel, Dial Page and OneComm, have purchased hundreds of small companies holding licenses to provide trunked SMR service in the 800 MHz band. As a result of those acquisitions, OneComm is by far the largest holder of trunked SMR spectrum in 16 Western States. Dial Page is the largest holder of such spectrum in 12 Southeastern states, and Nextel is the largest holder of such spectrum in the other states.

[31] The definition of "Nextel" includes both Dial Page and OneComm. In addition, Atlanta, Miami and Orlando were identified as problem cities in the Dial Page service area, while Seattle and Denver were identified as problem cities in the OneComm service area. Dial Page and Nextel announced a definitive merger agreement on February 20, 1995.

[32] Implementation of the digital SMR system will not be immediate across the nation; some of Nextel's 800 MHz channels are likely to remain analog for some interim period.

[33] In addition, a *Land Mobile Radio News* article of December 2, 1994, a Motorola spokesperson discussed refocusing MIRS marketing efforts to stress MIRS as a bundle of integrated wireless services for dispatch rather than a third cellular competitor. The *Wall Street Journal* and *Land Mobile Radio News* articles are Attachments G and H, respectively.

[34] The modified final judgment entered by the *Court in United States* v. *Western Electric, Co.*, 552 F.Supp. 131 (D.D.C. 1982), reflected an extensive analysis of the FCC's regulatory policies and its abilities to address specific competitive problems.

[35] Nextel's letters and its affidavit to the Department of Justice are Attachments I and J, respectively.

VOL 60 ISS 73 AP 17 1995 UMI

[DA 94-1697]
[File No. 903335]
[File No. 903334]

Comments on Proposed Antitrust Final Judgment

Raymond J. Kimball,
Ross & Hardies,
Attorneys for Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu Comm, Inc., Earl's Distributing Inc. and Earl's Wireless Communications.

Dated: December 14, 1994.

Table of Contents to Attachment A

Summary of Argument
I. Justice Department's Filings
II. Nextel Would Monopolize Trunked SMR Service in Sixteen (16) Western States following the ONECOMM merger
A. Relevant Product Market
B. Geographic Market
III. Anti-Competitive Impact of Undue Concentration in the 800 MHz SMR Markets
A. The Merger Would Inhibit the Deployment of Alternative Technologies
B. Nextel and OneComm's Dominance of Available Frequencies is Already Affecting the Quality of Service
C. The Proposed Merger Will Reduce Competition Between Nextel and OneComm
D. Impact on the Cellular Market

Summary of Argument

Following the Nextel/OneComm merger, Nextel will control 91% of all licensed frequencies in Washington State, Oregon, and Idaho. Nextel would control ninety-six percent (96%) of all licensed 800 MHz SMR trunked frequencies in Washington State, eighty-seven percent (87%) of licensed frequencies in Oregon, and seventy-three percent (73%) of all 800 MHz SMR channels in Idaho. This concentration meets the classic definition of monopoly power. 800 MHz SMR is the only relevant SMR market in these and most of the other 13 Western states where this monopoly will occur.

Nextel's monopoly will enable it to reduce actual and potential competition, affect price and quality of service, and inhibit the development of alternative technologies. Independent systems no longer can expand; customer quality is falling, and employee layoffs and cessation of radio sales will occur in 1995. 1994 capital expansion plans already have been curtailed as a result of predatory practices by monopoly companies

There is enough room and spectrum for every kind of mobile radio service provider, including independent operators, dispatch, low-powered digital, mobile telephone, "traditional" SMR, high-powered analogue and digital, and high-cost cellular-like and low-cost wide area operations. It would be inconsistent with the public interest for the FCC to approve monopoly mergers which will eliminate markets created, matured and encouraged by the Commission for over a quarter-century.

Comments on Proposed Antitrust Final Judgment

Clarks' Electronics, Lewiston, ID ("Clarks"); Teton Communications, Idaho Falls, ID ("Teton"); Radio Service Company, Burley and Twin Falls, ID ("RSI"); Zundel's Radio, Inc., Pocatello, ID ("Zundel's"); Business Radio, Inc., Kennewick, WA, ("BRI"); and Accu Comm, Inc., Mukilteo, WA ("AccuComm"); Earl's Distributing Inc. and Earl's Wireless Communications ("Earl's") (collectively "Clarks"), by their attorneys and pursuant of Section 1.41 and 1.46 of the Commission rules, hereby files its comments in support of and in supplement to its Preliminary Comments filed on November 30, 1994.[1]

These comments primarily provide factual information which demonstrate monopolization of the 800 MHz Specialized Mobile Radio ("SMR") market, resulting from the proposed transfer of control of Nextel and OneComm. As a result of the proposed merger, Nextel will monopolize[2] SMR frequencies in sixteen (16) western states.

I. Justice Department's Filings

On October 27, 1994, the U.S. Department of Justice ("DOJ") filed an antitrust complaint and proposed Final Order, among other papers, with the District of Columbia District Court, complaining that Nextel's proposed merger with Motorola would monopolize SMR service in the thirteen (13) largest urban markets.[3]

On November 3, Motorola filed in this proceeding the proposed Final Judgment, citing its relevance to the issues herein. Motorola failed to file all the papers DOJ filed with the District Court, including the complaint and the DOJ's Competitive Impact Statement ("CIS"). Those additional papers clearly are relevant to this proceeding. The CIS gives the context and reasoning of DOJ, and the complaint explains what was examined in detail and what was not. The "missing" papers are attached hereto as Exhibit A. Motorola's selective proffer of the Final Judgment as the only document "relevant" to this proceeding is, to say the least, a most narrow definition of relevancy.

In its complaint, the DOJ identified the relevant product market as "trunked SMR service in 800 MHz, 900 MHz and 220 MHz." Complaint at 6. The relevant geographic markets were defined as "the service areas in which the FCC has issued licenses for the provision of SMR service." *Id.* The DOJ noted that Nextel had agreed to acquire OneComm's "accumulated 800 MHz spectrum in sixteen Western states," and DialPage, Inc.'s 800 MHz holdings in "twelve Southeastern states." *Id.* at 8. The DOJ did not further analyze the monopoly effect of such acquisitions on the relevant geographic markets in these twenty-eight (28) states, concentrating only on the competitive impact of Nextel's acquisition of Motorola licenses in the top thirteen urban markets. The DOJ justified its lack of analysis of the OneComm acquisition with only minimal discussion:

> As an alternative to the proposed Final Judgment, the United States considered litigation seeking to limit the number of 800 MHz channels Nextel held in each affected city. The United States rejected that alternative for two reasons: First, it is satisfied that the relief it has obtained relating to 900 MHz frequencies will adequately address the harm to competition alleged in the complaint; Second, the Department did not want to inhibit Nextel's ability to offer cellular telephone service.[4]

The DOJ did not adequately analyze the anti-competitive impact on the SMR markets in the sixteen (16) western states which would result from the proposed OneComm merger. Indeed, the DOJ did not analyze the impact at all, because that merger was not the focus of its complaint—only the Motorola merger was. However, Nextel's ability to dominate the SMR markets through market concentration following the OneComm merger will violate Section 7

[1] On November 30, 1994, Clarks filed a Motion to Accept Pleading and filed preliminary comments, indicating that additional factual showings were under preparation but could not have been completed by November 21. See Declaration of William Holesworth attached hereto. Acceptance of this additional information is in the public interest. An additional Motion for Acceptance is filed simultaneously.

[2] Monopoly control is used herein in its strict antitrust definition, i.e., control of greater than 70% of the relevant market. *See Caldwell* v. *American Basketball Association*, 825 F. Supp. 558, 575 (S.D.N.Y. 1993) (noting that courts usually find monopoly power where defendants possess more than 70% of the market); *United States* v. *Paramount Pictures, Inc.*, 334 U.S. 131, 167–69, 68 S. Ct. 915, 934–935 (1948) (finding monopoly power where five major film-production companies effectively controlled which theaters could exhibit first-run films through the companies' affiliation with at least 70% of the first-run theaters in major U.S. cities).

[3] *United States of America* v. *Motorola, Inc.* and *Nextel Communications, Inc.*, Case No. 1:94 CV02331 (Hogan, J.) (D.C., District of Columbia, filed October 27, 1994) (hereinafter "US v. Motorola, Nextel").

[4] CIS at 17–18.

of the Clayton Act in the following ways:

(a) Actual and potential competition between Nextel and OneComm (and the licenses they manage) in the sale of SMR services in the sixteen (16) western states and their submarkets will be eliminated;

(b) Competition generally in the sale of trunked SMR services in the sixteen (16) Western states where OneComm has licenses will be substantially lessened; and

(c) The deployment of alternative technologies will be inhibited.

The following sections discuss these conclusions.

II. Nextel Would Monopolize Trunked SMR Service in Sixteen (16) Western States Following the OneComm Merger

Nextel will monopolize trunked SMR service in sixteen (16) Western states following the OneComm merger, if approved. Clarks has selected three of those states for detailed study—Washington, Oregon and Idaho. Clarks, *et. al.*, believe, through their knowledge of SMR license concentration in Western states that the concentration levels are higher than or equal to the concentration levels in the three surveyed states.

Following the merger, Nextel will control 91% of all licensed frequencies in Washington, Oregon, and Idaho. Nextel would control ninety-one percent (i.e., 90.65%) of all licensed frequencies in Washington, Oregon, and Idaho:

State	Nextel/ Onecomm freq.	Total freq.
Washington	10,018	10,424
Oregon	6,543	7,461
Idaho	1,404	1,932
Total	17,965	19,817 [5]=90.65%

[5] Source—FCC Database as of November 10, 1994, frequencies in the 800 MHz band licensed for trunked SMR (YX) service. See attached Declaration of William Holesworth Exhibit D.

Nextel would control 96% of all 800 MHz SMR channels in Washington State, 88% of all 800 MHz SMR channels in Oregon, and 73% of all licensed channels in Idaho.[6] This level of concentration meets the classic case law definitions of monopoly under the relevant case law.[7]

[6] See attached Declaration of William Holesworth.

[7] *United States* v. *Grinnell Corp.*, 385 U.S. 563, 571, 86 S. Ct. 1698, 1704 (1966) (stating monopoly power "ordinarily is inferred from the seller's possession of a predominant share of the market" and finding monopoly where company controlled approximately 87% of the market); *Hiland Dairy, Inc.* v. *Kroger Co.*, 402 F. 2d 968, 974 and n.6 (noting that "a substantial part of the market must be controlled by the monopolist to enable the raising and lowering of prices and the undue restriction on competition" and surveying monopoly findings in cases where companies controlled at least 70% of the markets).

A. Relevant Product Market

Clarks agrees with the Department of Justice that a relevant product market is the trunked SMR market. The trunked SMR market in Washington, Oregon, and Idaho is slightly different from the thirteen (13) largest urban markets, in that it does not primarily include 900 MHz channels, and only includes 220 MHz channels to a limited extent.[8]

The 800 MHz SMR business dominates the SMR product and geographic markets and is the only market for analyzing SMR concentration outside the top 50 markets. Substantial 800 MHz market domination by Nextel in the Western states also is a predictor of future 900 MHz and 220 MHz frequency concentration. Many of the presently viable competitors to Nextel would be eliminated prior to introduction of 900 MHz and 220 MHz channels, based on the proposed Nextel/OneComm merger.

B. Geographic Market

The relevant geographic market was defined by the Department of Justice for the top 13 markets as a 25-mile radius from center city.[9] Most current independent SMR operators serve BTA [10] or MSA [11] markets. The Commission has proposed that 800 MHz SMRs be licensed through auctions on an MTA market basis.[12] The MTAs are indeed large markets not reflective of the current market, but of what the FCC would like the market to become through auction.[13]

For example, the Salt Lake City MTA includes most of Utah, all of Southern Idaho, including Boise and Twin Falls, and Eastern Oregon. No one SMR operator presently provides service to this entire region; however, through acquisition of OneComm, Nextel proposes to serve state-sized regions in the Western states.

[8] The 900 MHz band presently is not licensed outside the top 50 urban markets. The 220 MHz band, while licensed, has not been substantially constructed, based on lack of equipment. Neither of these bands is a significant factor in the Western states smaller cities or rural areas.

[9] See Final Judgment 2. It is unclear whether this definition is the only DOJ definition since it is not employed in the complaint. See Complaint at 6–7.

[10] Rand McNalley Basic Trading Areas.

[11] Census Bureau Metropolitan Statistical Areas.

[12] Rand McNalley Major Trading Areas. There are 51 MTAs used by the FCC for PCS purposes.

[13] See Further Notice of Proposed Rule Making, PR Docket 93–144 (November 4, 1994).

Clarks analyzed 800 MHz frequency concentration in the three Western states in which its members provide service. Given the various geographic market definitions currently operating in the SMR industry, state-wide and 3-state combined analysis approximates actual business patterns and the future prospective market sizes, including MTAs. The results are set forth in the Declaration of William Holesworth, attached hereto, showing frequency concentration levels in 800 MHz SMR about 85% in many Western markets, and above 70% in virtually all markets.

DOJ found that:

> * * * Nextel holds a dominant share of the 800 MHz SMR spectrum available for trunked SMR services in most of the largest markets in the country

It can be concluded, based on the material submitted herein, that:

> Following the Nextel/OneComm merger, Nextel will hold a dominant share of the 800 MHz SMR spectrum available for trunked SMR service in most markets, large and small, in the states of Washington, Oregon, and Idaho.

Further, based on this survey and based on the FCC's database records of licensed frequency use by Nextel and OneComm, Nextel cannot be heard to deny that it will hold a dominant share of the 800 MHz SMR spectrum available for trunked SMR service in most markets in the 16 Western states in which OneComm operates if the merger with OneComm is approved.

III. Anti-Competitive Impact of Undue Concentration in the 800 MHz SMR Markets

Will Nextel's market domination in Washington, Oregon and Idaho, and in the 13 other states in which OneComm is licensed, reduce actual and potential competition, affect price and quality of service, and inhibit the development of alternative technologies? [14]

Attached are declarations of various independent SMR operators in Washington, Oregon, and Idaho describing in detail the present and future effect of Nextel's proposed market domination through acquisition of OneComm. Those effects include:

1 *Product Market Expansion* Elimination of competitors' ability to expand product service and maintain service quality

[14] See DOJ Complaint at 15. *See also American Tobacco Co* v. *United States*, 328 U.S. 781, 811, 66 S.Ct. 1125, 1139–40 (1946) (finding monopoly where "power exists to raise prices or to exclude competition when it desired to do so"); *United States* v. *Pabst Brewing Co.*, 384 U.S. 546, 86 S.Ct. 1665 (1966) (explaining purpose of Clayton Act is to prevent companies from lessening competition through acquisition).

VOL
60
ISS
73
AP
17
1995
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2. *Geographic Expansion.* Elimination of competitors' ability to expand geographic service areas, through dominant control and warehousing of available frequencies, many of which frequencies will not and cannot be built.

3. *Consumer Prices.* Increased pricing. Nextel is charging and proposes to charge higher prices in its markets than independent analogue SMR operators.[15]

4. *Inhibiting Restraints on Competing Technologies.* Nextel's dominance threatens the development of new wide-area alliances by independent operators, *e.g.*, Northwest Wireless, by inhibiting expansion and the continued viability of competing equipment manufacturers to Motorola.

A. The Merger Would Inhibit the Deployment of Alternative Technologies

The Nextel/OneComm merger would inhibit the deployment of the Northwest Wireless Network in these Western states, and would effectively inhibit competition from other manufacturers. In Washington State, where Nextel would dominate 96% of the available frequencies using Motorola equipment, only 4% of the market is left to competing SMR equipment manufacturers.[16] This is hardly sufficient to sustain a market presence. The percentage of the market available to competitors in Oregon and Idaho is not much better—*i.e.*, 13% and 27%, respectively. If that largest market in Idaho is equally divided three ways, each of the three competing equipment manufacturers could only expect to serve less than 10% of the market.

The impact on the development of independent roaming alliances such as Northwest Wireless Network would also be severe. NWN was formed to give the operators of EF Johnson equipment an opportunity to offer their customers an alternative to Motorola's planned MIRS system. However, with continued short-spacing of SMR operators using EF Johnson SMR equipment on the local level, and forcing small market shares on competing manufacturers in the various states, Nextel/Motorola/OneComm can use their dominant market position to keep NWN from successfully offering alternative digital SMR service to new and existing customers.

B. Nextel and OneComm's Dominance of Available Frequencies Is Already Affecting the Quality of Service

The monopoly impact on quality of service is already being experienced in 1994, even in advance of the merger. The merger will exacerbate the situation, by permitting Nextel to combine its Questar and Motorola license holdings with those of OneComm.[17]

A number of the attached declarations demonstrate that service quality among independent operators is declining as a result of the inability to get access to frequencies OneComm/Nextel have warehoused.[18] SMR frequency domination is leading to lessened service quality to existing customers, both on a "dropped call" basis, and through customer inability to expand on non-Motorola systems. These are *exactly* the kind of anti-competitive effects the Clayton Act is designed to prevent. This Commission also should take very seriously the public interest considerations inherent in permitting market concentration to squeeze out competing manufacturers and operators, and to reduce quality service to the public.

C. The Proposed Merger Will Reduce Competition Between Nextel and OneComm

Nextel has purchased Questar's and Motorola's licenses in the Western states, and has monopolized trunked SMR service in the major urban markets, including Seattle, Washington among others.[19] OneComm is a major potential competitor to Nextel, both now and in the FCC's proposed auctions of SMR markets.[20] That actual and potential competition would be completely eliminated by the proposed merger. OneComm and CenCall are by far the largest SMR license holders in the Western markets; in contrast, Motorola was the second largest "provider of service" in the nation.[21]

By eliminating this competition in the sixteen (16) Western states, Nextel eliminates the potential for the following competitive environment:

1. Sale of some of OneComm's frequencies to existing operators to permit expansion, including possible forced divestiture by the FCC to avoid anti-competitive effects.

2. Merger prevents another equipment manufacturer from obtaining a significant share of the SMR market in the Western states.

D. Impact on the Cellular Market

The DOJ admits that it could litigate against Nextel on its 800 MHz concentration—*i.e.*, that the Clayton Act is violated by those concentrations:

> As an alternative to the proposed Final Judgment, the United States considered litigation seeking to limit the *number of 800 MHz channels Nextel held in each affected city.*[22]

The DOJ refuses to disturb an admitted monopoly, in order, it says, to permit Nextel to enter the "cellular market."[23]

Contrary to DOJ's assumptions, Nextel is not entering the cellular market Motorola's MIRS technology is *not* competitive with cellular:

> * * * Motorola, Inc.'s officials last week stressed the need to adjust their marketing strategy for ESMR technology *The greatest marketing change would attempt to alter the perception that ESMRs would soon be a third cellular competitor, focusing instead on integrated wireless services for dispatch,* said Lise Farmer, spokeswoman for the Motorola division supplying * * * MIRS technology to Nextel * * * and its potential partners OneComm Corp. and DialPage, Inc.
>
> Robert Pass: "They just started talking about being a third cellular carrier * * * but they didn't have technology that was superior to cellular." [Without superior technology] and if they can't price it well below cellular, then how are they going to [complete with cellular]."[24]

Thus, DOJ's concern that the Nextel should be allowed to enter the cellular market through concentrating 800 MHz frequencies in one operator ignores two important facts. Nextel/MIRS will not compete effectively with cellular, and as a system, is not *designed* to compete effectively

Take away the "hype" about entering the cellular market, which Nextel and Motorola have successfully sold to the FCC (and now DOJ) over the past few years, and it now becomes clear what independent operators have been saying all along. The SMR market, as a stand-alone, competitive, independent low-cost alternative market, has been and is being systematically eliminated by Nextel's predatory acquisitions and anti-competitive practices, simply so Nextel can dominate the frequency spectrum's value.

The FCC has encouraged such predatory practices through permissive rule changes which encouraged frequency warehousing and short-spacing rules which have been used to squeeze independent operators out of the market. The FCC and DOJ acted in the mistaken belief they were creating a third cellular operation. That premise is no longer tenable.

Nextel is offering a "next generation" of digital SMR service, which independent operators intend to provide also, through co-operatives and alliances such as Northwest Wireless Network. The public interest considerations which guide this Commission should not lead it to approve a merger which will establish single-provider dominance, once and for all, and eliminate independent competition in the emerging and *still growing* mobile radio markets.

There is enough room for everyone—dispatch, mobile telephone services, low-powered digital, high-powered analogue and digital, high-cost and low cost operations. However, if the FCC signals telecommunications providers that they can ignore the antitrust laws, acquire 91% of a relevant market, drive equipment suppliers and low-cost service providers, small businesses, and rural service out of the market, and force service quality reductions on the surviving market segments, then the Communications public interest standard does not stand for much. While the Commission may not have jurisdiction to enforce the Clayton Act, it is not empowered to ignore its existence or impact on the public interest, especially where the impact on a relevant market is so pronounced.

In fact, Congress intended for the Commission to avoid license concentrations which would tend to lessen competition when the Congress enacted 47 U.S.C. 309(j). Within the statute, Congress expressed its interest in promoting the public interest through its promotion of economic opportunity and competition. *See* 47 U.S.C. 309(j)(3)B). In the House Report, the House Committee on Energy and Commerce declared that although the Committee noted the Commission did not need to apply any particular antitrust tests, the Commission should take into account single licensee's domination of a service. H. Rep. No. 103–111, at p. 254. The Committee expressed its concern "that, unless the Commission is sensitive to the need to maintain opportunities for small businesses, competitive bidding could result in a significant increase in concentration in the telecommunications industries." *Id.* At no point did Congress declare the anti-trust laws inapplicable to the Commission's considerations.

The FCC should not approve mergers which will eliminate markets it has created, nurtured and promoted over a quarter century. The FCC also should adjust its short-spacing and warehousing policies to prevent the present anti-competitive effects of those policies on existing, viable businesses.

Wherefore, the premises considered, the above referenced applications for transfer of control should be denied.

Respectively submitted,

Dated: December 14, 1994

Raymond J. Kimball, Ross & Hardies.

Attorneys for Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu Comm, Inc., Earl's Distributing, Inc. and Earl's Wireless Communications.

Additional Comments of Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accucomm, Inc., Earl's Distributing Inc., Earl's Wireless Communications, Total Communications, Communications Center, Inc., and Leflore Communications, Inc. to the Proposed Antitrust Final Judgment

[Case Number 1:94CV02331]

[Judge: Thomas F. Hogan]

[Deck Type: Antitrust]

[Date Stamp: 10/27/94]

Pursuant to 15 U.S.C.A. 16, Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu-Comm, Inc., Earl's Distributing Inc., Earl's Wireless Communications, Total Communications, Inc., Communications Center, Inc., and Leflore Communications, Inc. (collectively referred to as "Clarks"),[1] by their counsel, hereby submit their additional comments[2] and attached exhibits in opposition to the proposed Final Judgment between Motorola, Inc. ("Motorola"), Nextel Communications, Inc. ("Nextel"), and the United States Department of Justice ("Justice Department") in the above-captioned action (the "Action").

Introduction

The Justice Department has proposed this Final Judgment to address the potential anticompetitive effect of the pending acquisitions by Nextel of OneComm, Inc. ("OneComm"), Dial Page, Inc. ("Dial Page") and of all specialized mobile radio ("SMR") licenses owned and managed by Motorola (collectively, the "Nextel Acquisitions") on the market for trunked SMR service. SMR is a unique blend of radio dispatch and interconnect communication service. The Nextel Acquisitions will have had a pronounced anticompetitive effect on many SMR service markets, large and small, urban and rural, throughout the country. The proposed Final Judgment purports to remedy this anticompetitive effect in only "fifteen of the largest cities in the United States" (the "15 Select Cities"), but does not address the anticompetitive effect of the Nextel Acquisitions in other markets. Thus, the proposed Final Judgment will permit Nextel to own or control a dominant (and in some instances a monopoly) share of the SMR service markets in the smaller urban and rural areas in which SMR operators such as Clarks operate and compete. Because it neither addresses nor remedies the anticompetitive effect of the Nextel Acquisition in these markets, nor in any markets outside of the 15 Select Cities, as a matter of law, the proposed Final Judgment cannot be in the public interest and must be rejected.

Background

A. SMR Technology

SMR is a form of land mobile communication service utilized by business customers such as contractors, service companies, delivery services and other businesses that have significant field operations. (Competitive Impact Statement, October 27, 1994 (hereinafter "CIS") at p. 3.) SMR permits a customer to communicate with its *entire* field force on a one-to-many, or "dispatch" basis, yet also permits that customer to communicate to a single person *within* its field force on a one-to-one, or "interconnected" basis. (*Id.*).

SMR operators are licensed by the Federal Communications Commission ("FCC"). Licensed SMR operators are assigned specific channels of radio frequency by the FCC. The operator has exclusive use of that channel within its service area ("Service Area"). There is a limited amount of frequency spectrum

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[15] See Declaration of Rick E. Hafla, and attachments thereto.

[16] E.g., EF Johnson; Ericsson/GE; and Uniden, the major competitors at this time in the SMR market

[17] The concentration is continuing with OneComm acquiring seventeen (17) "speculator" channels recently constructed in the Southwestern Idaho market.

[18] See Declarations of Rick Hafla, Steven T. Earl.

[19] Seattle is one of the subject markets in the DOJ Complaint. See Complaint at 6.

[20] See Further Notice of Proposed Rule Making; D. 93–144 (November 4, 1994).

[21] DOJ Complaint at 8. OneComm's systems are not substantially constructed, and therefore it is not presently the most significant provider of service in all 16 states. However, its unconstructed license holdings are prodigious in the Western states, including Washington, Oregon, and Idaho, and every bit as dominant as Motorola's existing operations on the present and near future status of SMR services.

[22] DOJ CIS at 17

[23] *Id.*, at 17–18.

[24] Land Mobile Radio News, Vol. 48, No. 47, p. 1, (December 2, 1994). (Emphasis and brackets in original.)

[1] The aforementioned entities are licensees and managers of Specialized Mobile Radio licenses in Idaho, Washington State, Oregon, Oklahoma, Louisiana and Mississippi. They serve public safety and individual customers throughout their local and regional service areas. They are, or would be in direct competition with SMR licenses, existing and unconstructed, owned, controlled or managed by Nextel Communications, Inc.

[2] Clark submitted its initial comments, a Petition For Rulemaking filed by Fleet Call, Inc. (now Nextel) to the Federal Communications Commission on April 22, 1992, under cover of a letter from their counsel to George S. Baranko dated December 14, 1994

VOL 60 ISS 73 AP 17 1995 UMI

available for SMR service. (Complaint at ¶ 15.) Channels are assigned in pairs to facilitate two-way communication. *Id.*

SMR systems typically use a single high-elevation base station centrally located within each Service Area to receive, allocate and transmit signals to and mobile units throughout the Service Area. (*Id* at ¶ 14.) The FCC generally mandates that SMR base stations be constructed at least 70 miles apart, and that the signal from one base station may not interfere with the same frequency channel assigned in an adjoining Service Area. (47 CFR 90.621(b).) As a result, the minimum Service Area of any SMR operator is generally defined by a 35 mile radius from its base station, and the operator enjoys exclusive use of its channels within that 35 mile radius. (CIS at p. 4.) An SMR signal, however, can travel distances of up to 100 miles. Accordingly, where a channel in use on one SMR system has not been allocated to a licensee on an SMR system in an adjoining Service Area, the SMR coverage area may extend beyond the minimum protected 35 mile radius.

B. Development of SMR Industry

The FCC first licensed SMR service in the late 1970's. The FCC allocated 280 channel pairs in the 800 MHz radio band within each Service Area to operators throughout the country.[3] (Complaint at ¶ 15.) Licensees could apply for up to 5 trunked channels at a time, with a maximum of 20 channel pairs per operator in any Service Area. (47 CFR 90.621, 90.627; *see also* Complaint at ¶ 19.) To retain its channels, an SMR operator had to build its facility within one year and "load" each of its allocated channels with, at least, 70 radio units within five years. (CIS at p. 7.) Any "unbuilt" or "unloaded" channels were reassigned to applicants on a waiting list. (*Id.*) Unconstructed facilities could not be transferred or assigned. (*See* 47 CFR 90.609.)

By the mid-1980's, the allocated 800 MHz channels had reached their capacity of 100 to 150 customers per channel in most large cities. (*Id.* at ¶ 15.) As a result, in 1986, the FCC allocated an additional 200 channel pairs in the 900 MHz radio band. (*Id.*) This 900 MHz capacity, however, was allocated exclusively to Service Areas in the 50 largest metropolitan service areas. (*Id.*) *In the smaller urban and in the rural markets, SMR operates exclusively on the originally allotted channels in the 800 MHz frequency.* (*Id.*) (emphasis supplied.)[4]

C. Recent Concentration in the SMR Industry

The competitive landscape of the markets for trunked SMR service and equipment changed dramatically in 1993. Touting the benefits of a wider-area national SMR network that might compete with existing mobile cellular service, Nextel successfully lobbied the FCC to relax its limitations on channel applications, holdings and temporal build-out/loading requirements. (See *In the Matter of Amendment of Part 90 of the Commission's Rules Governing Extended Implementation Periods*, 8 FCC Rcd. 3975 (1993); Nextel's Petition For Rulemaking, RM 7985 (filed at FCC April 22, 1992)). This signaled the beginning of the end for robust competition between SMR providers, large and small. Instead, from that point forward, the markets for trunked SMR service have been a study in systematic concentration. In the second half of 1994 alone, Nextel announced 21 mergers and acquisitions that promise to more than double its SMR subscriber base. (*See* Report of Economic and Management Consultants International, Inc. ("EMCI"), January 5, 1995, Table 3 at p. 7, a true and correct copy of the report is attached as Exhibit A). More importantly, however, these consolidations will give Nextel a strangle-hold on the 800 MHz spectrum, the life-blood of the SMR industry, in the smaller markets in which Clarks operates and competes.

D. The Nextel Acquisitions

The most significant of Nextel's mergers and acquisitions are those involving OneComm, Dial Page and Motorola. Upon consummation of its proposed agreement with Motorola, Nextel will acquire all of Motorola's 800 MHz SMR systems and the right to manage Motorola's 900 MHz SMR systems. In doing so, Nextel will have effectively disarmed the nation's second largest SMR operator and Nextel's single largest competitor.[5]

Nextel's mergers with OneComm and Dial Page will have a similar, and perhaps greater, anticompetitive effect. OneComm and Dial Page each are operators of sizeable trunked SMR systems that presently compete with Nextel in numerous markets in 16 western and 12 southeastern states, respectively. The Nextel Acquisitions, therefore, will lessen existing competition in the markets for trunked SMR service within these states. In addition, however, Nextel's mergers with OneComm and Dial Page will give Nextel a strangle-hold over future competition in these markets. Indeed, by virtue of the FCC waiver, OneComm and Dial Page have accumulated system licenses pursuant to which they control virtually *every* available channel in the 800 MHz spectrum. (See Clarks' Opposition Comments to the FCC, October 18, 1994, File Nos. 90335, 90334). Neither OneComm nor Dial Page have any present need for these large blocks of channels in these states, and have "warehoused" these channels. Neither OneComm nor Dial Page is required to build out its facilities for five years. See *Extended Implementation Periods*, 8 FCC Rcd. 3975 (1993); Letter to *David E. Weisman*, 8 FCC Rcd. 143–144–45 (1993).[6]

In short, the Nextel Acquisitions will give Nextel a dominant share of both constructed and unconstructed facilities in the 800 MHz spectrum throughout the country, including some of the largest metropolitan markets. As a result, Nextel will control present and future competition in this market through use and nonuse of the built-out and warehoused capacity.

E. The Action and Proposed Final Judgment

The Justice Department commenced this Action on October 27, 1994 to address the cumulative anticompetitive effects of the Nextel Acquisitions. Although Nextel and Motorola are the only named Defendants, the proposed Final Judgment expressly purports to "*resolve issues with respect to proposed mergers and acquisitions between Nextel, OneComm Corporation and Dial Page, Inc.*"[7] (Final Judgment, VIII.B.) (emphasis supplied).

The gravamen of the Action is that the Nextel Acquisitions would have the cumulative effect of "eliminating all but a few suppliers of trunked SMR services in a number of cities in the United States." (CIS at p. 11). By way of illustration, the Justice Department described the effect of the Nextel Acquisitions in the 15 Select Cities in which Nextel would control virtually all of the SMR spectrum. On October 27, 1994, the parties to the Action executed the proposed Final Judgment, whereby Nextel/Motorola would divest itself only of ownership, control or management of their 900 MHz channels in each of the 15 Selected cities.

Analysis

The Justice Department commenced this Action because it determined that the Nextel Acquisitions violated Section 7 of the Clayton Act in three ways: (1) By substantially lessening competition between the Nextel and Motorola, the industry's two largest providers of trunked SMR service; (2) by substantially lessening competition generally in the sale of trunked SMR service; and (3) by inhibiting the deployment of alternative technologies. (Complaint at ¶ 43). Absent intervention, the Justice Department determined that Nextel's dominance would give it the ability "to raise prices and reduce the quality or quantity of [trunked SMR] service." (*Id.* at ¶ 25; CIS at p. 12–13).

In proposing this Final Judgment, the Justice Department contends that:

> The risk to competition posed by the transaction would be substantially eliminated by the relief provided in the proposed Final Judgment which will ensure that alternative trunked SMR service providers will be available in *all the relevant geographic markets*

(CIS at p. 10) (emphasis added).

In fact, however, the proposed Final Judgment does not eliminate the risk to competition in "all," or even most, relevant markets. Any arguable remedial effect that the proposed Final Judgment might have on the trunked SMR service market is limited to the 15 Select Cities in which 900 MHz frequency divestiture was ordered. The proposed Final Judgment does not remedy the anticompetitive effect of the Nextel Acquisition on smaller markets in which SMR trunked service is licensed exclusively on channels in the 800 MHz spectrum. Quite the contrary, the proposed Final Judgment blesses monopolistic concentration in these small markets.

The unambiguous mandate of the Clayton Act requires that the proposed Final Judgment protect competition in all SMR markets, not simply those within the 15 Select Cities. Because it fails to comply with this mandate, entry of the proposed Final Judgment cannot be in the public interest.

I. The Public Interest and Applicable Standard of Review

It is well settled that the "public interest," within the meaning of the Tunney Act, lies in the enforcement of the antitrust laws designed to preserve "free and unfettered competition as the rule of trade." *United States* v. *American Tel. and Tel. Co.*, 552 F Supp. 131, 149 (D.D.C. 1982) *aff'd, sub nom Maryland* v. *United States*, 460 U.S. 1001 (1983)[8] (quoting *Northern Pacific Railway Co.* v. *United States*, 356 U.S. 1, 4 (1958). This Court need not unquestioningly accept the proposed decree proffered by the Justice Department as in the "public interest" simply because it "somehow, and however inadequately, deals with the antitrust * * * problems implicated in the lawsuit." *AT&T*, 552 F Supp. at 151. Rather, any consent decree must "render impotent the monopoly power found to be in violation of the [antitrust laws and] * * * must leave the defendant without the ability to resume the actions which constituted the antitrust violation in the first place." *Id.* at 150 (quoting 2 P. Areeda & D. Turner, *Antitrust Laws* section 327 (1978)).

Section 7 of the Clayton Act, on which this Action is premised, prohibits acquisitions where the effect would be to substantially "lessen competition or tend to create a monopoly." 15 U.S.C.A. § 18. More importantly, the Clayton Act extends the protection of this Section to "any line of commerce or * * * any activity effecting commerce *in any section of the country.*" *Id.* (emphasis added). Indeed, the United States Supreme Court has held that "if anticompetitive effects of a merger are probable in "any" significant market, the merger—at least to that extent—is proscribed" by Section 7. *Brown Shoe Co.* v. *United States*, 370 U.S. 294, 336–37 (1962). *See also RSR Corp.* v. *Federal Trade Com.*, 602 F.2d 1317, 1323 (9th Cir. 1979) *cert. denied*, 445 U.S. 927 (1980). The anticompetitive effects of a merger in one market cannot be ignored simply because they are offset by procompetitive effects in another market. *Id.* at 1325 (citing *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 370–71 (1973). Under this standard, the proposed Final Judgment is not in the public interest.

II. The Nextel Acquisitions Will Give Nextel a Dominant Market Share in the Smaller Markets in which Operators Like Clarks Operate and Compete

Although ignored or forsaken by the Justice Department, competition in the smaller markets in which Clarks operates and competes will be severely and adversely impacted by the Nextel Acquisitions. In *United States* v. *Philadelphia Nat'l Bank*, 374 U.S. 321, 370–71 (1963), The Supreme Court defined the appropriate analysis of a merger under Section 7 of the Clayton Act:

> [A] merger which produces a firm controlling an undue percentage share of the relevant market, and results in a significant increase in the concentration of firms in that market is so inherently likely to lessen competition substantially that it must be enjoined in the absence of evidence clearly showing that the merger is not likely to have such anticompetitive effects.

Id. at 363. The Court expanded the rule of presumptive illegality in *United States* v. *Aluminum Co. of America*, 377 U.S. 271, 279 (1964) when it held that "even slight increases in concentration" which resulted from horizontal acquisition would be presumed illegal if the acquisition involved markets where the "concentration was already great." Applying this analysis to the smaller markets, the Nextel Acquisition, without further proscription, would have the precise anticompetitive effects that mandate an injunction.

A. The Relevant Market

The Justice Department expressly defined the relevant product and geographic markets in analyzing the effect of the Nextel Acquisitions in the 15 Select Cities. This same analysis, with a slight modification, is adequate for use in defining the relevant markets in the areas ignored by the Justice Department.

The Justice Department defined the relevant product market accordingly:

> The product market consists of trunked SMR service in the 800 MHz, 900 MHz and 220 MHz bands. Conventional dispatch service is not a substitute for trunked SMR service because it affords lesser privacy and lower reliability. Cellular telephone service is not a substitute because it is significantly

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[3] Additional 800 MHz channels are, in theory available in some cities for SMR trunked service use through "intercategory sharing" of capacity with various private systems. Most private systems, however, utilize virtually all of the capacity on their allocated channels. Accordingly, these systems are unwilling or unable to participate in "intercategory sharing" of their 800 MHz capacity. (See CIS at p. 5, n.1.)

[4] To limited extent, a similar service is provided in the 220 MHz band in selected areas.

[5] Moreover, by virtue of a contemporaneously executed equipment supply agreement between Nextel and Motorola, Motorola will supply Nextel, on an exclusive basis, with digital equipment to build out all of the 800 MHz channels it will obtain. By doing so, Motorola has essentially foreclosed a significant amount of competition in the SMR equipment market in which it currently holds a dominant (58%) share. (See EMCI Report, Ex. A at Figure 5) This is particularly so where the future SMR equipment market lies primarily in the build out of the 800 MHz channels. *See generally United States* v *General Dynamics Corp.*, 415 U.S. 486 (1974) (in markets characterized by long term performance, ability to meet future demand rather than past performance is the best measure of a company's ability to-compete in the relevant market. This concentration of market power in the hands of Motorola threatens to abruptly reverse the trend of decreasing equipment prices. (*See* EMCI Report, Ex. A at Figure 6).

[6] This transfer of licenses to Nextel to operate such facilities prior to their completion and construction, in apparent violation of 47 CFR 90.609(b) is the subject of a separate petition filed by Clarks before the FCC.

[7] Indeed, for purposes of the proposed Final Judgment, Nextel, by definition, includes OneComm and Dial Page. (See proposed Final Judgment, II (Definitions) E and J).

[8] Citations to later proceedings omitted.

VOL 60 ISS 73 AP 17 1995 UMI

more expensive than SMR service, is significantly more difficult for customers to restrict communications to a defined fleet or group, and because it cannot be provided on a one-to-many dispatch basis.

(CIS at p. 6). For purposes of analyzing these effects in markets *outside* these 15 Select Cities, however, the relevant product market must be defined more narrowly. There are no SMR 900 MHz licenses in the smaller markets in which SMR operators like Clarks operate. Moreover, as the Justice Department concedes, 220 MHz frequency, to the extent it becomes available and is constructed in these smaller markets, "will require some time to gain commercial acceptance and to effect competition for the 800 MHz . . . service." (Complaint at ¶ 16).[9] Accordingly, the relevant product market in which Clarks competes is presently (and for the foreseeable future) limited to the 800 MHz frequency.[10]

The Justice Department's geographic market definition as each license area in which, the FCC has authorized the provision of SMR service (generally, a service area with a radius of 35 miles) is, generally, adequate. Given, however, that the product market is defined by availability of channel frequency within a Service Area *and* in adjoining Service Areas, under the FCC's station separation and short spacing rules, and their present effect on the Clarks markets, it is more appropriate to expand the geographic radius from 35 to 70 miles. *See* 47 CFR 90.621(b). This 70 mile radius provides the most accurate measure of the geographic limits (and expandability) of frequency availability, predatory licensing practices, propagation and customer range, and is especially applicable in the 16 Western States markets where Nextel proposes to merge with OneComm a given SMR Service Area.[11]

[9] There are substantial differences in propagation, technology, bandwidth, and customer use which distinguish the 800 MHz SMR market from the 900 MHz and 220 MHz markets. Most importantly, 900 MHz and 220 MHz equipment is not compatible with traditional 800 MHz SMR equipment and cannot be trunked into 800 MHz systems. Accordingly, the equipment in the different bands limits an operator and the customer to the spectrum for which the equipment is manufactured.

[10] In a market defined by scarce or finite resources, capacity to meet future, rather than present demand is the appropriate measure of market share. *See generally United States v. General Dynamics Corp.*, 415 U.S. 486 (1974).

[11] In any case, the expanded radius did not result in any spill-over into any of the 50 largest markets in which the availability of 800 MHz frequency capacity must be considered.

B. As a Result of the Nextel Acquisition, Nextel Will Dominate the 800 MHz Trunked SMR Service Market

Based on these definitions, Nextel would own, manage or control a staggering percentage of the SMR market within the following smaller markets in which Clarks operates and competes:

Market	800 MHz capacity	Nextel owned	Percent Nextel
Columbia, SC	1733	1375	79
Sunnyside, WA	3136	2897	92
Covington, LA	2128	1626	76
Washington, IL	1495	1035	69
Kosciusko, MS	1003	588	59
Idaho Falls, ID	1376	882	64
Enid, OK	3109	2904	93

See SMR Won-7 Market Frequency Study, a true and correct copy of which is attached as Ex. B. These post-acquisition market shares are presumptively illegal under Section 7 of the Clayton Act.[12] *See, e.g., United States* v. *Philadelphia National Bank*, 374 U.S. 321, 370–71 (1962) (post merger market share 33%, concentration ratio of five largest competitors 78%); *United States* v. *Aluminum Co. of America*, 377 U.S. 271, 279 (1964) (post merger market share 29%, concentration ratio of four largest competitors 76%); *RSR Corp.* v. *Federal Trade Com.*, 602 F.2d at 1323 (post merger market share 15%, concentration ratio of three largest competitors 65%); *Liggett & Myers* v. *FTC*, 567 F.2d 1273 (4th Cir. 1977) (post merger market share 19%, concentration ratio of four largest competitors 54%); *FTC* v. *Warner Communications, Inc.*, 742 F.2d 1156 (9th Cir. 1984) (post merger market share 26%, concentration ratio of four largest competitors 67%); *United States* v. *Rockford Memorial Corp.*, 898 F.2d 1278 (7th Cir. 1990) (post merger market share 64%, concentration ratio of three largest competitors 90%) *cert. denied* 498 US 920 (1990). Nextel's post-merger market share in each of these markets also approaches or exceeds the concentrated market share of the largest three, four and five competitors in the referenced cases. Accordingly, the presumptive illegality of the Nextel Acquisitions is a foregone conclusion.[13]

Similarly, the Herfindahl-Hirschman Index ("HHI") as a measure of "pre" and "post" Nextel Acquisitions concentration in these referenced markets also supports a finding that the Nextel Acquisitions, without further proscription, are presumptively illegal.[14] With respect to the 15 Select Cities, the Justice Department determined that the HHI of market concentration was already greater than 2200 and that the Nextel-Motorola transaction alone would increase the HHI in these markets by more than 1400 points. (Complaint at ¶ 25). These figures pale in comparison to the "pre" and "post" Nextel Acquisitions indices in some of smaller markets in which SMR operators like Clarks operate and compete. In Sunnyside, Washington, the post-Acquisition HHI will increase by more than 2,141, from 6,464 to 8,606; in Idaho Falls, Idaho, the post-Acquisition HHI will increase by more than 1,317, from 2,733 to 4,051; in Kosciusko, Mississippi, the post-Acquisition HHI will increase by more than 534, from 1,033 to 1,568; and in Enid, Oklahoma, the post-Acquisition HHI would increase by more than 752, from 8,476 to 9,222. These staggering figures vastly exceed those cited by the Justice Department in the 15 Select Cities, and plainly mandate further proscription of the Nextel Acquisitions.

III. The Proposed Final Judgment Does Nothing To Remedy the Substantial Anticompetitive Effects of the Nextel Acquisitions in the Smaller Markets in Which Clarks Operates and Competes

Having demonstrated the presumptive illegality of the Nextel Acquisitions, the burden shifts to the parties thereto to

[12] Most of these market shares exceed the 70% threshold figure traditionally used to find monopoly power under the Sherman Act. *See Caldwell v. American Basketball Association*, 825 F. Supp. 556, 575 (S.D.N.Y. 1993) (noting courts typically find monopoly power where more than 70% of the market is possessed by the defendant); *see also Hiland Dairy, Inc. v. Kroger Co.*, 402 F.2d 968, 974 & n. 6 (8th Cir. 1968) (reviewing several anti-trust cases and noting that percentages greater than 70% generally are found to constitute monopoly power), *cert. denied*, 395 U.S. 901 (1969).

[13] This dominant market share is not a phenomenon existing only in these rural markets. On the contrary, these shares reflect the results of Nextel's systematic and concerted attempt to control 800 MHz capacity across the country. By virtue of these acquisitions, Nextel will own or control between 67 and 85% of the total available 800 MHz spectrum allocated for trunked SMR service throughout the following states: Washington, Idaho, Oregon, Utah, Colorado, Georgia, Louisiana, New Jersey, Oklahoma, and South Carolina—all states in which Clarks presently operates. *See* Declarations of William Holesworth, attached hereto as Ex. C.

[14] The HHI takes into account the relative size and distribution of competitors within a relevant market (Complaint Appendix A). The HHI approaches zero when a market consists of a large number of firms of relatively equal size, or can reach 10,000 in the case of pure monopoly power (*Id.*) Markets in which the HHI exceeds 1800 are moderately concentrated. (*Id.*) Markets in which HHI exceeds 1800 are considered concentrated. (*Id.*) Transactions that increase the HHI by more than 100 points in moderately concentrated and concentrated markets "*presumptively raised antitrust concerns*" (*Id.*) (Emphasis supplied).

rebut this presumption with non-statistical evidence to demonstrate that the Nextel Acquisitions will not reduce competition. In this case, however, the relative size of the merging parties, the trend toward market concentration and absolute barriers to market entry plainly *aggravate* rather than ameliorate the monopolistic market share that will result upon the consummation of the Nextel Acquisition.

The most direct anticompetitive effect of any merger is the elimination of competition between the merging entities. Accordingly, special attention must be paid to the relative size and number of parties to the transaction. *United States* v. *M.P.M. Inc.*, 397 F. Supp. 78 (D. Colo. 1975). In this case, each of the parties to the Nextel Acquisitions have substantial channel holdings. *Indeed, Nextel and Motorola are the two largest competitors in the industry.* An acquisition involving *two* dominant firms, the effect of which accelerates a trend to *oligopoly* in the market, provides a basis to find a violation of Section 7 of the Clayton Act. *United States* v. *First National State Bancorporation*, 479 F. Supp. 1339 (D.N.J. 1979). The merger of *three or four* dominant firms which results in *monopoly* power within the market mandates such a finding. This is particularly so where the recent trend within the SMR industry has been toward consolidation and concentration. *See generally* Department of Justice and Federal Trade Commission "Horizontal Merger Guidelines" (hereinafter "Guidelines") § 1.521 (April 7, 1992)

More importantly, this Court must consider the extreme barriers to entry into the SMR markets. *United States* v. *Black and Decker Mfg. Co.*, 430 F. Supp. 729 (D. Md. 1976) (substantial entry barriers to market to be considered in action brought under Clayton Section 7 to enjoin merger); *See also* Guidelines, §§ 1.522, 2.2 and 3.0. High entry barriers into the market signal the potential that a particular merger may potentially impair competition. *See Fruehauf Corp.* v. *Federal Trade Com.*, 603 F.2d 345 (2nd Cir. 1979). SMR operators need spectrum to enter or expand within a market. No such frequency is available in the smaller urban and rural areas in which SMR operators like Clarks operate and compete. The Justice Department has acknowledged this. (Complaint at ¶ 14.) Upon consummation of the Nextel Acquisition, nearly all available frequency in these markets will be controlled (and warehoused) by Nextel. The result is an *absolute* entry barrier that prevents new competition in the trunked 800 MHz market.

Moreover, by mere *non-use* of the warehoused frequency it will control, Nextel will prevent existing SMR operators like Clarks from strengthening their competitive position in the respective markets. Unable to obtain additional frequencies, these operators cannot expand their systems to accommodate additional subscribers or expand their geographic coverage area of their systems.[15] Overcrowding on these systems will result in "dropped calls" and inhibit operators like Clarks from adequately serving their *existing* clients.[16] Without access to this warehoused capacity, therefore, independent operators, to the extent they can survive, will be essentially frozen in place. At the same time, Nextel will have the luxury of adding channels to its systems in these small markets only as needed, while its competition, starved for capacity, weakens or disappears. Thereafter, Nextel can build out the remaining channels to meet the remaining new and spill-over demand. Indeed, Nextel's prices already exceed those charged by independent operators. *See* letter from Fred Goodwin to Raymond J. Kimball dated January 4, 1995, attached hereto as Ex. F. A monopoly share of the market will only exacerbate that disparity.

Finally, Nextel's dominance over the available capacity will retard the growth and development of technological innovations in the SMR market; namely co-operatives and alliances such as Northwest Wireless Network through which independent operators can provide maximum coverage area.

In short, the proposed Final Judgment does not safeguard competition in these smaller markets in which Clarks operates and competes. Quite the contrary, for these markets the proposed Final Judgment offers lessened competition between the merging entities, lessened competition in the market in general, increased prices, decreased service and disincentive to innovate. Ironically, these are the same anticompetitive effects that the Justice Department so zealously sought to prevent, albeit only in the 15 Select Cities.

IV. Any Procompetive Impact on Competition In the Cellular Market Can Have No Bearing on this Action

The only "pro-competitive" shading that Justice Department can offer in support of the Final Judgment is that the proposed Final Judgment could possibly benefit competition in the cellular market. For that reason, the proposed Final Judgment was necessarily limited so as not to inhibit Nextel's intention or ability to offer wide-area digital SMR service using the newly unveiled Motorola Integrated Radio System ("MIRS"). (CIS at pp. 17–18).[17] This proposed rationale is misplace, suspect and wholly inappropriate.

First, as set forth above, the anticompetitive effects of these Nextel Acquisitions in one market cannot be ignored simply because they are offset by procompetive effects in another market. *RSR Corp.* v. *Federal Trade Com.*, 602 F.2d at 1325 (citing *United States* v. *Philadelphia National Bank*, 374 U.S. 321, 370–71 (1973). This is particularly so where, as in this case, the Justice Department has expressly stated that the two markets, SMR and cellular, do not complete and fill different market niches. In any case, whatever Nextel's stated objective is for embarking on its course of mergers, whether true or not, has no bearing in this action. Indeed, it is axiomatic that the "circumstances leading to an acquisition are irrelevant in determining whether § 7 has been violated." *United States* v. *Phillips Petroleum Co.*, 367 F. Supp. 1226, 1258 (C.D. Cal. 1973). The sole focus under § 7 is the effect on competition of an acquisition. *Id.*

Moreover, although Nextel has apparently convinced the Justice Department that Motorola's MIRS equipment will enable it to compete with cellular telephone service, Motorola, itself recently has doubt over whether this even possible. Motorola admitted that its MIRS technology will not compete with cellular:

> * * * Motorola, Inc.'s officials last week stressed the need to adjust their marketing strategy for ESMR technology. *The greatest marketing change would attempt to alter the perception that ESMRs would soon be a third cellular competitor, focusing instead on integrated wireless services for dispatch*, said Lise Farmer, spokeswoman for the Motorola division supplying * * * MIRS technology

[15] See the Declarations of William Holesworth, Richard Haffa and Steven G. Earl, independent SMR operators in Washington and Idaho, attached hereto as Exs. C, D and E, respectively.

[16] See Declarations of Rick Haffa, Steven T. Earl attached hereto as Exs. D and E, respectively.

[17] The Justice Department acknowledged that it considered an alternative to the proposed Final Judgment which would have limited the number 800 MHz channels that Nextel could hold in each "affected city." (CIS at p. 17) This alternative was purportedly rejected because the Justice Department was satisfied that the relief it had obtained relating to 900 MHz divestiture adequately address harm to competition. (*Id.*) Again, however 900 MHz divestiture was not ordered beyond outside of the 15 Select Cities, nor possible in any market outside of the top 50 urban markets. Accordingly, this "relief" was neither imagined nor considered to address the anticompetitive effect on the small market in which Clarks operates.

VOL 60 ISS 73 AP 17 1995 UMI

to Nextel * * * and its potential partners, OneComm Corp. and Dial Page, Inc.

Robert Pass: "They just started talking about being a third cellular carrier * * * but they didn't have technology that was superior to cellular." [Without superior technology] and if they can't price it well below cellular, then how are they going to [compete with cellular]." [18]

Finally, any bona fide interest that Nextel may have in experimenting with a digital SMR seamless nationwide network can be accomplished without monopolizing the 800 MHz frequency in any relevant market. By its own admission, Nextel's envisioned digital network requires *no more than* 42 800 MHz channel blocks to assure sufficient capacity for subscriber growth and roaming capacity. (See pleading already submitted to Justice at p. 7). The Nextel Acquisitions, however, would give Nextel control over more channels in the 800 MHz spectrum than it could possibly sue. For example, Nextel stands to obtain blocks of 141 and 233 channels (representing all available capacity) in the areas servicing the towns of Moscow, Idaho, and Lewiston, Idaho, respectively. The aggregate population of these towns is approximately 50,000. This population could not possibly support any system, digital and/or conventional, that could utilize anywhere near this number of channels. (See Petition for Reconsideration and Special Relief, filed October 18, 1994, Exhibit G.) Nextel can simply warehouse the substantial remaining capacity, effectively freezing its competitors in place.

Accordingly, not even Nextel's hyped "next generation" of digital SMR service (which independent operators intend to also provide) necessitates approval of a merger which will establish single-provider dominance, once and for all, and eliminate independent competition in the emerging and *still growing* mobile radio markets. Indeed, it seems unnecessary and counterproductive to destroy the market for SMR—a low cost *alternative* to cellular—in small markets simply to enable SMR to compete in the *same* product market *with cellular* on a large scale. This is particularly so where the impact on the public interest of robust competition in all markets is so adversely impacted.

[18] Land Mobile Radio News, Vol. 48, No. 47, p. 1, (December 2, 1994). (Emphasis and brackets in original.) *See also* "For Nextel, '94 Was Best of Times and Worst of Times," Wall Street Journal, Jan. 3, 1995, p. 14. See Exhibit H.

V. The Public Interest Requires That the Proposed Final Judgment Be Revised To Remedy the Anticompetitive Effects of the Nextel Acquisitions in Every Market

There is substantial room to fashion a solution which meet the needs of all parties while preserving the precepts of fair and even-handed competition. The proposed Final Judgment should be revised to provide for partial divestiture of 800 MHz channels in every market in which the Nextel Acquisitions would result in Nextel's ownership or control of more channels than is necessary to construct its planned digital network. By making these remaining frequencies available to existing operators for expansion, the Final Judgment will restore and foster a competitive balance in the SMR service industry over the short and long terms.

Dated: January 9, 1995.

Respectfully submitted,

Raymond J. Kimball,

Ross & Hardies, Attorneys for Clarks Electronics, Teton Communications, Radio Service Company, Zundel's Radio, Inc., Business Radio, Inc., Accu Comm, Inc., Earl's Distributing, Inc. and Earl's Wireless Communications, Total Communications, Communications Center, Inc., Leflore Communications, Inc.

Attachment C

United States Department of Justice,
Antitrust Division,
555 4th Street N.W.,
Washington, D.C. 20002.

January 6, 1995.

Ref: Civil Action No. 1:94CV02331, United States vs. Motorola and Nextel

Gentlemen: Please find enclosed the comments of the Communications Center related to the above captioned matter. Please contact me if you have any questions or if I can be of assistance.

Yours truly,

Walter Gallinghouse,

Owner/President.

Comments

United States vs. Motorola & Nextel Communications, Civil Action No. 1:94CV02331

Submitted To: United States Department of Justice, Antitrust Division, January 6, 1995

Submitted by: Communications Center, Inc., Covington, Louisiana

I. Introduction

On November 8, 1994, the Final Judgment in the case of the United States of America, Plaintiff versus Motorola, Inc. and Nextel Communications, Inc. Defendants, was published in the Federal Register under Civil Action Number 94–2331. Included within this proceeding was a Competitive Impact Statement, herein referred to as CIS, under case Number 1:94CV02331, Judge Thomas F. Hogan, Antitrust, 10/27/94.

Section V of the CIS provides, "any person who wishes to comment should do so within (60 days) of the date of publication of the CIS in the Federal Register. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to the comments."

The Competitive Impact Statement and Final Judgment have been reviewed by a large number of specialized mobile radio (SMR) operators who will be directly effected by the Nextel/Motorola consortium that has gained control of the majority of the 800 Mhz radio spectrum nationwide. Pursuant to the provisions of section V of the CIS, the following comments are hereby submitted.

Upon reviewing the information provided herein, it should be obvious that because of the highly technical and complex nature of the radio industry and FCC regulatory policies, the United States has overlooked anticompetitive consequences of the ongoing Nextel/Motorola activities as related to the 800 trunked SMR service. If the Judgment is approved and the current trend continues, Nextel/Motorola will have monopolistic control over the 800 Mhz SMR market nationwide, leading to the closure of many small businesses, loss of services to the public, higher rates for the consumers, and restraint of trade.

The United States properly identified an antitrust problem with the Motorola/Nextel control of the spectrum and it sought a prompt solution by using the consent decree. The Judgment was based on information contained within the Competitive Impact Statement. In the opinion of operators who have extensive experience in the two-way radio and 800 MHz SMR industry, the CIS is seriously flawed.

Based upon the reasons in these comments, it is respectfully requested that the United States withdraw its consent to the Judgment and conduct a more thorough investigation to properly assess the anticompetitive impact on the trunked 800 MHz SMR industry by the actions of Nextel/Motorola.

II. Background

The Communications Center, Inc. is filing comments in this matter, submitted by the company's president Walter Gallinghouse.

The Communications Center, Inc. is a Louisiana corporation providing mobile radio communications equipment sales and service, UHF community repeater rental, and 800 Mhz SMR (Specialized Mobile Radio) service. The company was incorporated in 1982. It has been under current ownership since 1986.

Offices are located in Covington, on the northshore of Lake Ponchartrain, approximately 30 miles from New Orleans. The northshore area can be considered a suburb of New Orleans. According to the Greater New Orleans Expressway Commission, over 8,000 commuters cross the Causeway from the northshore to New Orleans on a daily basis.

The Communications Center's principal business territory includes St. Tammany, Tangipahoa and Washington parishes. Repeater coverage areas extend customer usage into adjoining parishes of Louisiana and Mississippi. The SMR service area includes most of metropolitan New Orleans, a market within the top 50 cities nationwide. The business serves approximately 500 customers, which includes business, industry, government and public safety accounts.

The Communications Center operates five sites within the three parish area with 18 channels of 800 MHz SMR and 12 UHF (450–470 MHz) relay stations. The Company is an authorized dealer for a number of manufacturers, incinding Ericsson-General Electric, Maxon, Yaesu, Uniden and Shinwa.

Walter Gallinghouse has fifteen years of experience in the land mobile radio industry, with a background of 30 years in radio communications. He is the former sales director of Electrocom, Inc. one of the largest two-way dealers and SMR operators in the New Orleans market. Under his leadership Electrocom was among the top ten dealers in the nation for Standard Communications for five consecutive years. He also pioneered development of the SMR operations in St. Tammany Parish (Abita Springs and Lacombe). In 1986 he left Electrocom to open his own business in west St. Tammany.

Walter Gallinghouse is also a director and secretary of SMR WON, a trade association, incorporated in Weshington, DC. SMR WON has approximately 100 members, including SMR operators and two-way radio equipment manufacturers.

The Communications Center manages and maintains SMR systems using both General Electric Marc V/VE and Johnson LTR protocols. The company not only sells SMR services to the public, it also sells SMR airtime to other two-way radio dealers who are free to resell at their own rates.

Resellers of GE Marc V airtime include Saber Communications, an Alabama corporation based in Mobile that is a wholly owned subsidiary of Nextel. The GE Marc V airtime resale arrangement was assumed by Saber in its acquisition of the SMR assets of Electrocom. Saber has however refused to resell service on the LTR systems it acquired from other dealers in the market. Saber's Vice President of operations said *"It is Nextel's policy that they do not resell airtime on any type system."* This is evidence of Nextel's intent to control the 800 MHz SMR marketplace. This issue is addressed in more detail at another point in these comments.

III. 800 MHz SMR History and the New Orleans Market

Prior to the acquisition of SMR assets by Nextel and affiliates (including Coastel, Saber Communications, Motorola and Dial Page), the New Orleans market had vigorous competition with a number of SMR service providers using four manufacturers protocols (General Electric, Motorola, Johnson, LTR and RCA Tactel). Equipment for use on these systems was sold by a number of competing companies.

At the end of 1993 the Communications Center and other SMR operators were contacted by several prospective buyers interested in acquiring their SMR assets. The buyers used high pressure tactics, advising dealers to "avoid missing the window of opportunity." Many of the companies entered into agreements to sell their 800 SMR systems to Saber Communications, Coastel Communications or Dial Page.

The FCC had rules in place that would have prohibited these acquisitions. Presumably the rules were originally designed to prevent one company from obtaining a concentration of channels in any market. With the intent of promoting the development of new technology, the FCC waived its regulations upon request of Fleet Call and Nextel.

The seed of wide area communications was firmly planted by Fleet Call and Nextel. The concept was nurtured by the FCC in broad acceptance that Nextel's proposals promised a wide area digital communications system. Unfortunately, anticipating the buyouts by Nextel and affiliates, speculators seized the opportunity to buy and "flip" channels for quick profits. This quickly led to licensing mills that duped the public out of millions of dollars. It also led to the warehousing of the radio spectrum for the purposes of speculation. The end result was the licensing of all 800 Mhz frequencies throughout the nation, leaving none for expansion of systems owned by legitimate operators who had no affiliation with Nextel.

The FCC was inundated by license applications in the wake of the acquisitions. With some 40,000 applications pending, the FCC refused to accept any additional applications and it froze all pending applications.

With the FCC's freeze, the business plans of legitimate operators have been damaged, public use of the spectrum has been denied and the 800 MHz SMR industry is in turmoil. To compound matters, the FCC has proposed the auctioning of 800 MHz spectrum (which is already licensed) on a Market Trading Area (MTA) basis in direct response to the Nextel's request for a more flexible wide area licensing plan. Under such plan, small operators will be virtually excluded from the bid process and denied further expansion.

The acquisitions of SMR systems in the New Orleans market have led to an excessive number of channels being controlled by Nextel and affiliates.

IV. Comments—Flaws in the Justice Department Complaint and CIS

A. Arbitrary Selection of Markets Affected by Nextel Motorola Activities

The CIS does not address the competitive impact in all the geographic markets that are actually affected by the Motorola/Nextel activities. It is restricted to 15 selected cities, ignoring the balance of the nation where excessive concentrations actually exist. The Nextel/Motorola transactions, including the mergers, acquisitions and attempts to acquire the entire 800 Mhz SMR, *are likely to reduce competition in most cities and counties throughout the entire nation.*

The ability of Nextel to warehouse the majority of frequencies nationwide for as long as five years under extended construction deadlines (allowed by the FCC upon request of Nextel and affiliates), will prevent the licensing of competing operators who will sell products manufactured by companies other than Motorola. With Nextel's control over this spectrum, competing companies have no systems to sell on, and manufacturers competing with Motorola will have no outlet for their 800 Mhz products.

The consequences are a restraint of trade, the loss of jobs and probable closure of many businesses. Although Nextel & Motorola have claimed they will build out the top 50 cities within a few years, during this period the public will be deprived of the valuable resources of the 800 spectrum. The vast population outside the top 50 markets may not see the build outs for many years, and it is questionable if some areas will ever receive the digital service described by Nextel. Existing radio dealers will be frozen in place with no ability to expand their SMR services to the public. Rural areas will be seriously impacted.

B. Contradictions

The CIS was based upon the concept that Nextel would be a major competitor in the cellular market. According to a recent article in the Wall Street Journal "Nextel has all but abandoned ambitions to become a cellular titan any time soon. It will get back to the basics, jazzing up the dispatch services". This is confirmed in public statements by Motorola: "the greatest marketing change would attempt to alter the perceptions that ESMRs would soon be a third cellular competitor, focusing instead on the integrated wireless services for dispatch, said Lisa Farmer, spokeswoman for the Motorola division supplying * * * MIRs technology to Nextel * * * and its potential partners, OneComm Corp. and Dial Page, Inc. Just three months earlier, August 31, 1994, headlines read "Nextel Pins Hopes for Cellular Riches Nationwide on Lowly Two-Way Dispatch Systems".

The Justice Department rejected litigation seeking to limit the number of 800 MHz channels because "the Department did not want to inhibit Nextel's ability to offer cellular telephone service". When describing the Product Market, the Department says "Cellular telephone is not a substitute because it is significantly more expensive than SMR service * * * and because it cannot be provided on a one-to-many dispatch basis." Further, "cellular telephone companies "reuse" spectrum by dividing a licensed service area into "cells" and reusing a frequency within the same system. Several cells would have to be used to transmit a communication to reach a group of vehicles; consequently, this method of operation is not well suited for SMR customers who need the capability of sending frequent, short messages over a broad area to one or many recipients."

The Motorola "MIRS" technology, according to the FCC multi site licensing scheme with close spacing, is based on a "cell" concept with low antenna heights. Accordingly this "is not well suited for SMR customers" because of the need to transmit over multiple cells.

These contradictions and changes in marketing strategies necessarily questions the planning, forethought and intent of the 800 MHz channel acquisition frenzy by Nextel and affiliates. The FCC waived the very regulations that would have prevented any one company from obtaining an

VOL 60 ISS 73 AP 17 1995 UMI

anticompetitive concentration of channels in any market. Now we have a situation where Nextel is not focusing on being a major competitor with cellular, its "MIRS" cellular style technology is "not well suited" for SMR, and it holds an excessive concentration of channels that have been providing the public low cost mobile radio communications services. Considering the enormous amounts of money that were paid for the channel acquisitions, the capital requirements for the future buildout for the system, one can generally assume that if Nextel survives and builds the system, the consumer will bear the burden in higher cost and less effective service. In the meantime, using FCC waivers that granted extended construction periods of up to five years, the public will have been deprived of the use of the radio spectrum.

C. 800 MHz SMR is a Distinct Product Market

220 MHz, 800 MHz and 900 MHz SMR should not be considered the same for the definition of product market. 220 MHz SMR and 900 MHz SMR are not a substitute for 800 MHz SMR service. There are no operational 200 MHz or 900 MHz SMR systems that can compete with the existing mature 800 MHz service which has coverage throughout most of the nation. There are significant technical differences in the three bands. Each band has distinctive operational characteristics that make one more suitable than the other in certain applications.

800 MHz SMR is the premium spectrum. It has a short wave length, and on a lesser degree than 900 MHz, it is also absorbed by dense foliage. The line of site range and limited periods of interference from extended signal propagation have made it the mainstay of the two-way radio industry. The propagation characteristics and FCC channel spacing scheme make it an ideal spectrum for the majority of two-way radio dispatch and interconnect services.

900 MHz has a very short wavelength (nearly microwave) with poor performance in areas with dense foliage. The range slightly less than 800 MHz. It is more particularly suited to large cities. Because of the FCC's method of channel assignments with close spaced frequencies, it has not been widely accepted by the industry. The cost of system construction is much higher because of the compensation for losses in close spaced antenna combiners (higher losses of combiner, requires higher input power, hence higher cost power amplifiers; as a substitute for combiners, separate antennas and feedlines for repeater transmitters can be used, but at a very high cost).

The modulation bandwidth on 900 MHz is narrower than 800 MHz, and therefore the audio quality and range is not as good as 800 MHz and 220 MHz.

220 MHz has greater range than 800 and 900 MHz and is more suited to rural markets. It is more susceptible than 800 and 900 MHz to interference caused by extended propagation during changes in atmospheric conditions. Because of the FCC's past and present 220 MHz licensing process, the development of this band will be slow. It will take some time to determine the band's effectiveness, particularly in major markets. Because of the FCC regulatory framework and the high cost of buildout of 220 and 900, it is unlikely that systems will be established on 220 MHz and 900 MHz spectrum within a reasonable period of time. Considering the lack of available systems in adjoining markets for networking between dealers, 900 MHz and 220 cannot be substituted for 800 MHz. The United States supports this in its statements. "At present, however, the only constructed 220 MHz SMR systems are in California. * * * 220 MHz service will require time to gain commercial acceptance." "SMR service in the 220 band will be a substitute for SMR service in 800 MHz and 900 MHz at some point in the future. * * * Further 220 MHz service will require some time to gain commercial acceptance, just as 800 MHz and 900 MHz services required when they were first implemented."

The United States refers to 220 MHz as a future service, and the comments about 900 MHz indicate 900 MHz SMR has not been widely accepted. Thus, as a practical matter, it is not appropriate to speculate on the acceptance of 220 or 900 and assume they can be substituted for each other. The existing 800 MHz product market is mature and at the present time, it is being substantially affected by the Motorola/Nextel activities.

From the standpoint of products and service, there are a large number of manufacturers providing equipment for operation within the 800 spectrum. This includes fixed stations, switching equipment, system controllers, end user mobiles and portables. Robust competition has existed in equipment sales of all 800 MHz products. 900 MHz SMR has not been widely accepted and product availability is somewhat limited. 220 MHz SMR is relatively new and it is difficult to enter this business because of FCC regulations.

From a product availability standpoint, 800 MHz should be considered a distinct market.

D. CIS Ignores the Importance of 800 MHz SMR

The 800 MHz SMR service is mature industry providing an effective low cost two-way radio service to business, industry and public safety. Competing systems are now in operation covering a large percentage of the United States. Recent technological developments have spurred the development of wide area networking between systems owned by radio dealers in adjoining markets.

The United States has also overlooked the importance of the existing 800 MHz analog dispatch SMR services to business, industry and public safety. It has taken the viewpoint that Nextel will develop more competition for the cellular industry.

When the Justice Department stated it "did not want to inhibit Nextel's ability to offer cellular telephone service, it effectively condoned the dismantling of the entire 800 MHz SMR analog dispatch service in favor of the desires of the Nextel/Motorola, which includes acquisition of the contiguous 861–865 SMR spectrum. It just so happens that this part of the SMR spectrum is the most heavily loaded with customers because it was the first SMR spectrum to be released by the FCC. If the Department allows the dismantling of this service, it will cause the displacement of hundreds of thousands of radio systems, disruption of the communications of hundreds of thousands of users, and an enormous cost in labor and resources.

E. Damages to the Public Interest Not Fully Examined By CIS

Because there is no other service available with all the existing low cost benefits of 800 MHz SMR, Nextel's acquisitions of existing SMR dispatch systems and customer bases will force the public to replace their equipment. The consumer will have to enter into a new service which will be more expensive and less effective.

While the Nextel/Motorola team decides on its buildout method and schedule, and it is uncertain about its position as being "the third cellular" or a wide area dispatch provider, they will have used the FCC's wide area waivers to side-step the original regulations that were designed to prevent the development of monopolies. Instead, they can use the extra freedoms granted by the waivers, increase the cost of service to the public, and drive their competitors out of business.

F. Anti-Competitive Problem Not Solved With Divestiture in Certain Markets

The United States has totally ignored the anti-competitive aspects of the Nextel/Motorola actions in the 800 MHz SMR product market nationwide. On page 17, the United States says, "It is satisfied that the relief it has obtained relating to 900 MHz frequencies will adequately address the harm to competition alleged in the complaint."

Although the CIS is relevant because within certain cities Nextel/Motorola holds the majority of channels in 800 MHz and a number of 900 MHz, the divestiture of the 900 channels and 40 800 MHz channels in one market does not solve the problem of the monopolistic control of the 800 MHz product market. Nextel would still control the majority of channels in 800 SMR, inhibiting the ability of independent operators from providing services on non-cellular type systems which use high-elevation base station antennas. These systems are needed to continue to serve the needs of business and industry for trunked 800 MHz that can provide dispatch service over broad coverage areas.

IV. Analysis of New Orleans Market

Using various sources, including a FCC license data base from Interactive Systems (ISI), Washington Radio Reports, frequency monitoring, verifications with system operators, and first hand knowledge, the Communications Center conducted an analysis of the New Orleans market area. The geographic area used was generally in line with the BEA Economic Areas as represented by the US Department of Commerce in the Federal Register (Volume 59, No. 214). The study was completed on January 3, 1995 and it is believed to be a fairly accurate representation of the New Orleans market situation.

The analysis was conducted for 260 800 MHz SMR channels in the FCC channels of 201 through 600. 900 MHz SMR was not considered. It is believed that 800 MHz SMR should stand alone as a relevant product market because 220 MHz and 900 MHz are not substitutes for 800 MHz SMR. The reasoning is further fully described earlier in this document. In fact, there are no viable 900 MHz or 220 MHz systems in the New Orleans marketplace at this time.

The conclusion can be drawn that after the acquisitions are completed by Nextel of the channels of Dial Page, Saber and Motorola, Nextel and Motorola will have effective control of the New Orleans 800 MHz SMR marketplace.

The study shows the following channel concentration:

	Percent
Nextel & affiliates, 241 channels ..	86.0
Independents, 27 channels	9.5
Unknown, 2 channels	1.0
Other business (Motorola format), 10 channels	3.5

To further determine the effect on competition, an analysis of the principal sales and service providers in the New Orleans market was conducted. These SMR sales and service operators of New Orleans are listed below, followed with their office locations and manufacturers SMR protocol. A copy of the telephone directory yellow pages is attached (Exhibit A,B) which list some of the two-way radio dealers in New Orleans. There are SMRS operators who are not listed in the directory.

Tomba—Motorola
  New Orleans
  Slidell
  Marrero
  Metairie
  Destrehan
  Bogalusa
Electrocom—GE & LTR
  New Orleans
  Mandeville
Landline Communications—LTR
  Chalmette
Two-Way Communications—LTR
  Metairie
Morgan Communications—GE
  New Orleans
Crescent Radio—GE
  Metairie
New Orleans Carfone—LTR
  Metairie
JMT Communications—LTR
  Lacombe
SOLA Communications—Motorola
  New Orleans
Communications Towers—Motorola
  Covington
Communications Center—GE & LTR
  Covington

The principal SMR operators who are non-Nextel affiliates are:

Communications Center—GE & LTR
  Covington
Crescent Radio—GE
  Metairie
Landline Communications—LTR
  Chalmatte

Thus, after the final acquisitions are completed, the number of providers of non-Nextel/Motorola service will be reduced from 11 to only 3. This is a vivid illustration of the lack of service alternatives once the Nextel/Motorola transactions are complete.

V. Evidence of Market Control

There is evidence that Nextel wishes to maintain complete control of the marketplace denying competing two-way radio dealers of the ability to obtain recurring revenue through resale of SMR services on Nextel's systems. Because of the acquisitions, Nextel may be the only service SMR service provider in certain areas.

In a letter dated November 30, 1994 to Saber Communications (Exhibit C) the Communications Center formally requested a suitable agreement that would allow the resale of LTR SMR services on Saber's Louisiana network. The letter outlines the Communications various request for this service which dated back to October 26th, 1994. Finally on December 9th, the Communications Center received a reply (Exhibit D), but Saber denied the resellers agreement and said "It is Nextel's policy that they do not resell airtime on any type system." Instead Saber offered a Independent Sales Representative commission plan which required all new customers to be billed direct by Saber. Thus, once the sale was made by the Communications Center, that customer would be turned over to Saber for recurring billing. Although there would be a commission paid for the turn on, there was no allowance for recurring revenue.

Recurring revenue from SMR and repeater services is the primary income for most successful two-way radio businesses. With the highly reliable low cost end user products available today, the potential for sales profits is somewhat reduced. Therefore recurring income from resale of SMR services can be critically important to cover the overhead of basic operations, including employment of office staff and technicians. By drying up another source of revenue, Nextel can effectively drive Motorola's competitors out of the two-way radio sales and service business.

Independent Sales Representative plans may be suitable when used for those in the consumer retail market, but when the primary business is two-way radio sales and service, the plan is generally unacceptable.

The fact that the customer is effectively relinquished after the initial sale, allows Nextel and Saber to easily bypass the sales representative when the user needs additional equipment. In the case of Saber, the monthly bills emblazoned with the logos Motorola. There are not advertisements for Johnson LTR products or General Electric, even though Nextel owns systems with both protocols.

With multiple SMR operators in a marketplace there has been fair competition. Open agreements for resale of SMR service are commonplace. Networking over wide geographic areas has been accomplished with cooperation between dealers in adjoining markets. Refusals by Nextel to provide resellers agreements will lessen competition and degrade services to the public.

VI. Conclusion

Trunked analog 800 MHz SMR is the most cost effective and feature packed mobile radio communication service available to business, industry and public safety. It is the mainstay of the dispatch mobile radio communications industry, and the United States should consider its importance before casting it aside upon the request of a single service provider.

Because Nextel is using the Motorola "MIRS" switching equipment, and because Motorola can control delivery, service and software for the controllers on the Nextel "MIRS" systems, it can effectively manipulate Nextel's policies. By using Nextel's concentration of spectrum, Motorola can control the 800 Mhz SMR marketplace As stated in the US comments on Page 15 of the Complaint, "the deployment of alternative technologies will be inhibited"

With Nextel's control of such a significant portion of the radio spectrum as a Commercial Mobile Radio Service (CMRS) provider, it has an added responsibility of offering resale agreements to all qualified CMRS providers.

The question then arises, is it appropriate, upon the request of one manufacturer and one supplier of service, to dismantle operational dispatch systems, disrupt the public's use of the existing systems, and allow installation of a system that, according to the Department's CIS, is not particularly suited to dispatch service?

After evaluating the comments in this document, the Justice Department should understand that a more thorough investigation is needed to determine the true competitive impact of the Nextel/Motorola activities.

Exhibits A and B

Exhibits A and B, copies of a Yellow Pages document, are omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001

Saber Communications, Attn: Mr. Greg Wood,
Vice-President of Operations, 107 St. Francis, Suite 1900, Mobile, AL 36602
VIA FAX: (205) 415–8528 Re: Request for resellers agreement, LTR SMR Service
November 30, 1994.

Dear Greg: On October 26, 1994, I called you and requested a suitable agreement that would permit the Communications Center to resell service on the Louisiana LTR SMR system which Saber acquired from Two Way Communications Further we talked about the Communications Center's GE Marc V SMR system, and our practice of buying and reselling services from each other since the Saber acquisition of Electrocom's GE Marc V SMR network. You advised me of your interest in a LTR roaming arrangement, but you couldn't give me a definite answer at the time

October 27th, Slade Lindsey called me regarding the Antenna Sites tower leases in Abita, Hammond and Kentwood I asked

VOL
60
ISS
73
AP
17
1995
UMI

about the LTR roaming agreement, but he said he would talk with you and have you contact me.

October 31st, once again I spoke to Slade about the tower leases. I asked about LTR roaming, but he said you had jury duty and wouldn't be available for a couple of weeks.

November 8th, Slade came to my office to work on the tower site leases, but he was unable to offer any information on my LTR roaming request.

In 1993, after Fitzsimons received his SMR grant for five channels at Abita Springs, I was involved in the system planning when it was decided to use the LTR protocol. Lester Bonham agreed to integrate the system into the Two Way Communications network with a reseller's agreement for dispatch, interconnect and networking. Before the Fitzsimons system was constructed, Two Way's network was acquired by Saber Communications. The Fitzsimons system has been fully constructed using Trident TNT controllers, with the capability of dispatch, interconnect and networking. We are selling LTR systems and have immediate need for the roaming and networking services that were agreed upon in the system planning sessions last year.

This letter will serve as my formal request to provide resale service on Saber's LTR SMR network in accordance with my agreement with Two Way Communications in 1993. The principal interest at this time is in the areas adjoining west St. Tammany, which includes the systems at Lacombe, Slidell, New Orleans, Hammond, Kentwood, Sheridan and Picayune. Limited service may be needed in Baton Rouge and Biloxi/Gulfport. The services requested are: dispatch; interconnect; and system networking. Please furnish the rates for resale of these services and the method of process for turn-ons.

In the interest of providing improved mobile communications services to the public, I trust you will respond favorably to my request in writing, by mail or facsimile, before December 8th. I remain,

Yours truly,

Walter Gallinghouse,

Owner-President.

Mr. Walter Gallinghouse,
Communications Center, Inc.,
16218 Highway 190,
Covington, LA 70434.

December 9, 1994.

Dear Walter: I have received your letter dated November 30, 1994 concerning a resellers agreement for LTR and GE SMR services. As you know, Saber has been acquired by Nextel Communications and we are now a wholly owned subsidiary. Since this transaction has taken place, we are now bound by their policies and procedures. It is Nextel's policy that they do not resell airtime on any type system. They do welcome all loading and are willing to compensate the person or company responsible under a Independent Sales Representative commission plan. If you are interested in this plan I will have one of our indirect representatives call on you.

Those customers already being invoiced on a Saber/Nextel managed or Communications Center system will be allowed to remain under the current plan along with any new unit they may add. All new customers requesting service on our systems will be invoiced direct by Saber and we will refer any customer requesting service in an area you provide directly to you.

We are also unable to grant your request to access the network currently managed by Saber for the system you manage in Abita Springs, Louisiana. We were not made aware of any agreement between Two-Way and the Communications Center concerning these channels during our due diligence on this acquisition. In fact, Two-Way suggested that Saber should talk to Fitzsimons about acquiring his channels. As you know, we are operating three channels of LTR in Abita Springs with excess capacity. Therefore there is no value to us or our customers to include your system on the network.

Nextel and Saber are both dedicated to providing the best mobile communications services available. We hope you will be interested in our Independent Sales Rep Program and we look forward to working with you on tower sites you own.

Sincerely,

Gregory T. Wood,

Operations Manager

Attachment D

George S. Baranko, Esquire,
Attorney, Communications and Finance Section, Antitrust Division, U.S. Department of Justice, 555 Fourth Street NW., Room 8104, Washington, DC 20001.

January 9, 1995

Re: Proposed Final Judgment in United States v. Motorola, Inc. and Nextel Communications, Inc., Civ. No. 1:94 CV02331, U.S. District Court for the District of Columbia

Dear Mr. Baranko: The General Electric Mobile Communications Dealer Board of Directors (the "Board"), a group of specialized mobile radio ("SMR") operators who own and operate SMR systems in the 800 MHz and 900 MHz bands throughout the United States, hereby submits its comments regarding the above referenced Proposed Final Judgment and respectfully urges that the United States withdraw its consent to the Proposed Final Judgment in its present form. The Board represents the interests of a cross-section of the General Electric SMR dealers throughout the United States.

In the Competitive Impact Statement, the Department of Justice ("DOJ") recognizes that Nextel "has become the primary supplier of trunked SMR services in the United States," and that Nextel "controls far more 800 MHz SMR channel in the United States than any other company." DOJ also recognizes that Motorola "is the second largest provider of trunked SMR services in the United States", and that it "owns or manages a substantial number of 800 MHz and 900 MHz channels it has used to provide trunked SMR services."

DOJ correctly asserts that the combination of Nextel's and Motorola's owned and managed 800 MHz and 900 MHz SMR channels "would result in Nextel holding virtually all of the SMR spectrum in 15 major cities." However, with the exception of requiring Nextel and Motorola to divest a certain number of 800 MHz SMR channels in Atlanta, Georgia, the relief in the Proposed Final Judgment is directly exclusively to 900 MHz SMR channels. The Board respectfully submits that the proposed relief ignores the realities of competition in the SMR market in the United States, and is inadequate to preserve and protect competition in that market.

I. 800 And 900 MHz Trunked SMR Service Is Not Interchangeable; 900 MHz SMRs Are At A Significant Competitive Disadvantage

In the Competitive Impact Statement, DOJ states that while "mobile radios used on 800 MHz and 900 MHz systems are not compatible with each other, 800 MHz and 900 MHz systems provide interchangeable service." While the Board agrees that 800 MHz and 900 MHz equipment is not interoperable, the Board strongly disagrees that 800 MHz and 900 MHz SMR systems provide "interchangeable service."

900 MHz SMR spectrum is channelized, allocated and technically different than 800 MHz spectrum and, as a result, 900 MHz is considerably less desirable to both the provider and the user than 800 MHz spectrum. For example, 900 MHz does not propagate as well as 800 MHz and, therefore, 900 MHz service providers are forced to install more sites to get the same coverage as 800 MHz service providers.[1] Installing more sites means additional infrastructure costs for purchasing and installing base stations. The net result of more infrastructure equipment is that the cost of operating a 900 MHz system is higher than for a 800 MHz system; thereby putting 900 MHz SMRs at a competitive disadvantage.

The Federal Communications Commission ("FCC") is well aware of the differences in 900 MHz and 800 MHz SMR channels and addressed a number of them in its Report and Order in PR Docket 92–17, August 4, 1992. The FCC stated that many 900 MHz SMR "licensees have failed to construct and place their systems in operation * * *." The FCC also recognized that the 900 MHz licensing scheme *"may have placed 900 MHz SMR licensees at a competitive disadvantage to 800 MHz licensees, by making it difficult to develop the types of wide-area and regional systems characteristic of current, competitive (800 MHz) SMR offerings."* (Emphasis added.) The FCC further noted that "[o]ur multiphase licensing scheme has limited 900 MHz SMR systems to artificially defined markets and has precluded a free selection of sites in each market. As a result, licensees have been unable to develop the kind of wide-area services expected by today's private radio customers."[2] This conclusion was echoed by Nextel (formerly Fleet Call) in its comments in the FCC docket.[3] Thus, the

[1] Both free-space transmission loss and "knife edge" diffraction increase as frequency increases. Higher frequencies incur greater losses and, therefore, cover less area given equivalent power output and antenna height.

[2] Report and Order, Docket 92–17, released August 4, 1992

[3] *See* Comments filed by Fleet Call in Docket 92–17 on March 11, 1992.

900 MHz spectrum does not offer the technological capabilities for wide area service that are required by many SMR customers, and the requirements to divest 900 MHz channels does not adequately provide service alternatives for users with a need for wide-area trunked SMR services or for other SMR operators who need to provide such services in order to compete with Nextel.

Nextel is using Motorola Integrated Radio Service (MIRS) products for its network backbone and Motorola handsets, which can handle voice, paging and data capabilities on a single piece of equipment. A Wall Street Journal article dated January 3, 1995 reported that Nextel believes that SMR customers will require these enhanced features: "Nextel must persuade customers who spend only about $20 a month to spend as much as three times that sum to get a new array of fancier features, such as wireless messaging and cellular phone service."[4] 800 MHz spectrum is well-suited for data applications due to the 25 KHz wide channels allocated in this band. 900 MHz spectrum is allocated in 12.5 KHz channels which limits the maximum data rate achievable on a 900 MHz channel to approximately one-half that of an 800 MHz channel utilizing the same radio technology.[5] This negatively impacts the 900 MHz SMR's competitiveness in offering data service.

The narrower bandwidth also impacts the number of SMR users that can be placed on a channel. For example, MIRS is marketed as a 6:1 capacity gain per 800 MHz channel, *i.e.*, 6 users per time slot utilizing a 25 KHz channel. In contrast, if equivalent technology is applied to narrowband 900 MHz channels, only a 3:1 capacity gain can be achieved. Each user that is loaded onto an SMR system represents revenue. Thus, one 800 MHz channel is essentially equivalent to two 900 MHz channels in terms of revenue generation potential.[6]

II. Due to the Number of Channels and the Limited Areas in Which 900 MHz SMRs Licenses Are Allocated, 900 MHz SMRs Have Significant Limitations On Equipment Availability and Price, and Ability to Lead Their Systems

At 800 MHz, there are 280 channels allocated to SMRs and, at 900 MHz, there are 200 channels allocated to SMRs. However, at 900 MHz, only the top 50 cities (designated filing areas) have been licensed, while at 800 MHz, licenses have been granted to all areas within the United States. 900 MHz SMR systems are more expensive to build and operate and, therefore, when 800 MHz service is available, 900 MHz SMR operators are at a significant competitive disadvantage and it is harder to attract 900 MHz customers. In addition, because of the limited market, at 900 MHz there is less choice of equipment and features, and the equipment is more expensive than similar 800 MHz equipment. Nextel, in its SEC Form 10Q filing (June 30, 1993) noted that "900 MHz systems generate lower revenues and profitability than the 800 MHz systems because: i) the revenue per subscriber unit is lower on the 900 MHz systems than the 800 MHz systems due to excess capacity, and ii) the operating costs on 900 MHz systems often include management fees paid to licensees."[7]

The Proposed Final Judgment does nothing to protect competition in the trunked SMR market outside of the 15 cities covered by the Judgment. DOJ asserts that "the proposed Final Judgment preserves competition for trunked SMR customers by limiting the 900 MHz spectrum Nextel and Motorola will own and control for the next ten years." However, the proposed Final Judgment will do nothing to protect the vast majority of SMR customers who are located outside of the 15 covered cities, where Nextel will be permitted to maintain and exploit its dominant position in 800 MHz SMR spectrum. Furthermore, in cities outside of the top 50 cities, there will not even be potential 900 MHz competition with Nextel until after the FCC issues 900 MHz SMR licenses through its auction procedures.

Furthermore, current technology does not allow for equipment to be interchangeable between the 800 MHz and 900 MHz bands. SMRs which have significant investment in existing 800 MHz infrastructure and subscriber units will not be able to expand their networks and effectively compete against Nextel unless additional 800 MHz channels are available. 900 MHz channels will be of no use to such SMRs because customers cannot roam between 800 MHz and 900 MHz systems. The unsatisfactory alternative would be for the SMR to build and operate a separate 900 MHz system in addition to its present 800 MHz system.

III. DOJ's Rationale For Providing No Relief With Regard To Nextel's Control of 800 MHz SMR Spectrum Is Contrary To The Facts

DOJ states that "[c]ellular telephone service is not a substitute because it is significantly more expensive than SMR service, is significantly more difficult for customers to restrict communications to a defined fleet or group, and because it cannot be provided on a one-to-many dispatch basis." Despite this, DOJ contends, as its rationale for limiting relief to the 900 MHz SMR spectrum, that: "Nextel's consolidation of SMR spectrum, *may enable it* to create a third mobile telephone service to compete with established cellular services. The result *could be* a wider variety of wireless services at a lower cost in the near future. The Department saw substantial benefits to new competition in another market [the cellular telephone market] *if* Nextel could obtain sufficient capacity at 800 MHz to enable it to enter that market." (Emphasis added.)

It is simply impermissible under the antitrust laws to sanction the acquisition of dominant market power in one market on the theory that such dominance may have procompetitive benefits in a second market. This is particularly so when, as in this case, the perceived benefits in the second market are *admittedly purely speculative*!

Furthermore, the contention that Nextel/Motorola's consolidation of SMR spectrum may have procompetitive benefits in the cellular telephone market is *expressly contradicted by recent pronouncements by both Nextel and Motorola.* As reported in the December 2, 1994 edition of Land Mobile Radio News, a spokeswoman for the Motorola division that supplies Motorola Integrated Radio System (MIRS) technology to Nextel and its potential partners, OneComm Corp. and Dial Page Inc., stated that *"the greatest marketing change would attempt to alter the perception that ESMRs soon would be a third cellular competitor, focusing instead on integrated wireless services for dispatch."*[8] (Emphasis added.) Similarly, Nextel's CEO, Morgan E. O'Brien, recently stated that "Nextel never portrayed itself as the next cellular giant pursuing 'glove-compartment' consumers. Instead, it has always aimed its new cellular features at 'the mobile work force' now using dispatch."[9] As Nextel and Motorola are now publicly denying that they will attempt to compete with cellular telephone, DOJ cannot attempt to justify the Proposed Final Judgment on the basis of the possible benefits of such competition. As its recent pronouncements reflect, Nextel's objective is to dominate the SMR market by obtaining all of the SMR spectrum it can obtain. Such anticompetitive conduct should not be countenanced.

IV. Motorola Will Become the Sole Supplier for Virtually Every 800 MHz SMR Enabling it to Control the Price, Quality and Availability of Equipment

DOJ recognizes that, as a result of its agreement with Motorola, Nextel would control "virtually all of the frequencies currently used for SMR service in fifteen (15) of the largest cities in the United States." DOJ also states that "Nextel's numerous acquisitions of 800 MHz SMR service providers are part of a plan to replace the currently deployed analog technologies in these systems with the new Motorola Integrated Radio System ("MIRS") developed by Motorola." Since virtually all of the spectrum will be owned by Nextel, all the equipment purchased will be provided by Motorola. As a result, Motorola, which has an exclusive supply arrangement with and a 24% ownership interest in Nextel, will become the dominant supplier of 800 MHz SMR equipment, enabling it to control the prices, quality and availability of such equipment.

V. DOJ Is Correct in Excluding 220 MHz as a Substitute For 800 MHz

The Board agrees with DOJ's position that "220 MHz service will require some time to

[4] "For Nextel, '94 Was Best of Times and Worst of Times", *The Wall Street Journal*, January 3, 1995, p. A–14.

[5] See Nyquist's Theorem of Bandwidth Limitations.

[6] *See* Motorola Paper presented to the European Telecommunications Standards Institute, "Advantages of Linear Modulation For a Pan-European Digital Trunked System," dated January 1991.

[7] Form 10-Q, filed with the Securities and Exchange Commission for the quarter ended June 30, 1993 by Nextel Communications, Inc., p. 11

[8] "Motorola Rethinks Marketing Plans In Wake of ESMR Stock Decline," *Land Mobile Radio News*, December 2, 1994, pp. 1 & 4.

[9] "For Nextel, '94 Was Best of Times and Worst of Times", *The Wall Street Journal*, January 3, 1995, p. A–14

VOL
60
ISS
73
AP
17
1995
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gain commercial acceptance, just as 800 MHz and 900 MHz service required when they were first implemented. As a result, when 220 MHz systems are constructed, they will not adequately discipline the parties' control of 800 MHz and 900 MHz systems in the 15 cities." In fact, even after 220 MHz systems are constructed, they will not be a viable substitute for 800 MHz systems. Systems operating at 220 MHz require 5 KHz equipment and very few manufacturers make that type of equipment. In addition, the 220 MHz band contains only 2 MHz of spectrum, which means the SMR channel allocation is not comparable to that allocated for SMRs at 800 MHz.

VI. Conclusion

As explained above, the Competitive Impact Statement is premised upon a misunderstanding of the competitive realities in the SMR marketplace and perceived procompetitive benefits that have been disclaimed by both Nextel and Motorola. The Nextel/Motorola agreement will have serious adverse effects upon competition in the SMR marketplace and the Proposed Final Judgment does not adequately protect against such injury to competition. The Proposed Final Judgment is not in the public interest and the United States should withdraw its consent to the Proposed Final Judgment.

Respectfully submitted,

General Electric Mobile Communications Dealer Board of Directors.

Michael D. Salmon,

Recording Secretary

Mr. George Barako,
Room No. 8104, Att.. Telecommunications Section, US Department of Justice, Judiciary Building, 555 4th Street NW, Washington DC 20001
December 16, 1994.

Dear Mr. Barako: The purpose of this letter is to submit to the Department of Justice that actions taken against Motorola, Inc. for violations of the Anti-Trust Act touch only upon the surface, so to say, of possibly criminal infringements. Motorola's business strategy seems to be to gain control of the Communications Industry by dominance over the issuance of FCC licenses, the manufacture and distribution of equipment, such as Repeaters (Transceivers), Mobile Stations for installation in dispatch offices, hand-held radios for use in vehicles and above all semiconductors, much needed by the Two-Way Radio Industry.

By making both equipment and holding licenses Motorola would have full control over users of a radio system who had bought it from that company. Motorola has chosen to be THE company in the USA that makes equipment, repairs and provides repeater service, all needed to make a system work. After selling the equipment it is set up on Motorola-owned station repeaters. Trunked 800 MHz and 900 MHz systems made by Motorola operate on a proprietary Digital Format, thus only Motorola radios will work. If a user decides upon a Motorola systems he MUST buy Motorola equipment from Motorola or buy used Motorola radios and have Motorola program them.

Sometimes there are companies, other than Motorola, that do provide repeater service, e.g. NEXTEL (formerly Fleetcall), who however must buy the equipment from the only supplier who happens to be Motorola.

There are a few smaller companies who provide repeater service but before they can get equipment they must sell to the user the Motorola Digital Controler/Repeater system; there have also been cases where Motorola has refused to sell equipment. The buyer may become a competitor, a possibility Motorola would not like.

Motorola also keeps control of radio programming on any systems. Motorola has set up computer systems so that only Motorola, some authorized dealers and Motorola Service Centers can program the trunked radios.

Motorola and NEXTEL over the past several years have bought most competing systems all over the U.S. and mainly in the major cities. Buying most and sometimes all their competitors permits Motorola/NEXTEL to control the price of airtime on the repeater systems.

In Los Angeles Motorola has the ONLY 900Mhz trunking service with the Motorola Digital Format. This was made possible by buying out the other companies that could supply this trunking service format. Once Motorola had control of All the 900Mhz systems in the Los Angeles area Air Time fees were increased. The users who had bought Motorola equipment did not know then that Motorola would be the only provider of Air Time; now the only way to obtain a fair market price on Air Time meant buying a new radio system which many users simply cannot afford to do.

The other major trunking format in the U.S. is the E. F. Johnson LTR trunking format. While Johnson makes the equipment other manufacturers also make equipment compatible with the Johnson system. In all markets in the U.S. there are choices to obtain service for the Johnson system. People almost anywhere in the U.S. can choose where to procure repeater services at a fair price. This does not hold true for the Motorola/NEXTEL systems. Therefore he/she who buys a Motorola system is stuck with a high starting price, high operating and possible replacement costs.

NEXTEL wants to obtain the Johnson systems nation-wide in order to force existing users to buy Motorola/NEXTEL system radios.

The DOJ might make Motorola and NEXTEL give up frequencies on the 800Mhz and 900Mhz bands to other systems. Motorola and NEXTEL ought to keep up some of the older systems instead of trying to force existing users to buy Motorola/NEXTEL radios and give users a wider choice.

Motorola also holds licenses for 800Mhz systems in relatively small markets like Ventura in California where Motorola claims to have more frequencies than the company is entitled to. This practice is known as paper loading and is a fraudulent activity to gain control of more frequencies than what would be fair for one organization.

The DOJ should, nay: must stop Motorola/NEXTEL from gaining total control of the mobile radio industry. If Motorola and NEXTEL are not stopped the future of the business will become Motorola's to make the equipment and NEXTEL's to supply Air Time at any price they choose because the users will have no other place to go.

Motorola has also obtained FCC licenses (frequencies) fraudulently by putting licenses in the name of people who have no intention of using these systems and then have such uh-suspecting non-user sign the application with Motorola "taking over" once the license is recorded. I (Harold) had learned about this scheme because one James Kay, now being investigated by the FCC, and possibly by the DOJ, has "worked" this angle to obtain some (possibly many) of the 164 licenses he holds.

I (Harold) ran into this scheme myself when I got a frequency in which Motorola was also interested. Motorola acquired a customer [Tow-R-Us] and had him apply for a frequency to tie up one I was using. I asked the customer why he wanted of all possible frequencies just the one I was using; he told me that Motorola had asked him to apply for that license but he had no intention of ever using the frequency.

The foregoing shows how Motorola together with NEXTEL tries anything and everything to gather frequencies in the 800 and 900Mhz bands by any and all means and methods.

If the Motorola/NEXTEL methods and enterprises are not stopped in their tracks, and NOW!, the two will develop and build and thereby become an unimpeded MONOPOLY nation-wide of the Mobile Radio Systems and will make not only competition by but the existence of small business impossible.

The Motorola/NEXTEL system will also provide a Local Dial Tone to users making it "The Third Cellular System". The system is unfair to the other cellular carriers as well as to the user, the general public, for once a user is on the NEXTEL system he cannot change service to another cellular systems. The NEXTEL system is also inherently unfair to manufacturers of cellular equipment because Motorola has a contract with NEXTEL stating that Motorola is the only company that may make radios for the NEXTEL (Motorola) system.

Motorola made a deal with NEXTEL whereby Motorola will trade its 800Mhz frequencies for NEXTEL stock and that NEXTEL must buy equipment only from Motorola. Trading FCC frequencies for stock is a rather questionable practice; first of all, an FCC license is simply a permit granted by the US Government to an individual or company to use the electro-magnetic spectrum in a prescribed manner. The holder of a license does not own it; it is a use permit and consequently it has no monetary value. It may also be rather impossible to ascertain the true value of Motorola's and NEXTEL's stock because an unreal value could be placed upon the stock that might include a fictitious evaluation of the "monetary value" of the licenses.

It seems Motorola is trying to settle the DOJ anti-trust lawsuit by giving up 900Mhz frequencies to keep the 800Mhz ones. This would be costly to users; different radios must be used on the 800Mhz and 900Mhz bands, rendering one set of radios or the other obsolete.

Research also shows that Motorola is the only US company that makes various types of transistors that are used in the radio field; Motorola has bought TRW's transistor division so only Motorola can supply these devices; US radio manufacturers must buy them from Motorola.

We have fought Motorola and Los Angeles based companies owned by one James A. Kay Jr.* who has been closely associated with Motorola* for many years. According to the FCC Kay holds 164 licenses** in which Motorola is much interested and had wanted to obtain a large number of 800Mhz frequencies from Kay.

PS*: Kay: "Me and Motorola are in cahoots!" (quote-unquote)

PS**: Many of Kay's 164 licenses are registered under different names.

When we told the FCC and the Congress about the wrong done by Motorola and Kay both filed bogus law suits against us at the same time.

We are requesting help from the DOJ by protecting us from Kay and Motorola because they want to destroy us. Three times we went to depositions, each time with a different car, and each time the rear R tires were slashed in a rather unique fashion. The first time, I (Harold) was alone; the car over-turned on the Freeway and came to rest in a ditch. Fortunately I was not hurt. The second time we were riding together; we noted the slash in the R rear tire in time. The third time Mrs. Pick was watching the car while she in turn was watched by two men who seemed to be very interested indeed in what she was doing; they carried hand-held radios that looked like Motorolas and carried on a conversation with Kay—in the same upstairs room as I (Harold) was at the time.

We are willing to testify against both Motorola and Kay.

Sincerely,

Harold Pick.

By Hand

George S. Baranko, Esq.,
U.S. Department of Justice—Antitrust Division, 555 4th Street, N.W., Room 9901, Washington, DC 20001.
January 17, 1995.

Confidential

Dear George:

Attached are the comments of OneComm Corporation on the proposed consent decree in *U.S. v. Motorola, Inc. and Nextel Communications, Inc.*, Civ. No. 1:94CV02331.

If you have any questions, please call me.

Sincerely,

Bernard A. Nigro, Jr.

Comments of OneComm Corporation on Proposed Final Judgment and Stipulation by Motorola, Inc. and Nextel Communications, Inc.

On January 9, 1995, the United States Department of Justice filed a motion in the above-referenced proceeding to extend until January 17, 1995, the period of time for interested persons to file comments pursuant to the Antitrust Penalties and Procedures Act, 15 U.S.C. 16(b)–(h). The motion was filed at the request of OneComm Corporation ("OneComm"), an interested person in this case, because its merger with Nextel had not yet closed. Since the motion for an extension of time was filed, OneComm has received assurances that Nextel is moving forward in good faith to close its transaction with OneComm and, therefore, OneComm has no comments.

Dated: January 17, 1995.

Respectfully submitted,

James F. Rill,

Bernard A. Nigro, Jr.,

Collier, Shannon, Rill & Scott.

Counsel for OneComm Corporation.

Attachment G

Attachment G, a Wall Street Journal article "For Nextel, '94 Was Best of Times and Worst of Times," is omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Attachment H

Attachment H, a Land Mobile Radio News article "Motorola Rethinks Marketing Plans in Wake or ESMR Stock Decline" is omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Attachment I

Attachment I, copies of letters to Wall Street Journal, are omitted from publication herein; a copy can be obtained on request for inspection and copying in room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001.

Attachment J

Morgan E. O'Brien, being duly sworn, deposes and says:

1. I am the Chairman of Nextel Communications, Inc. ("Nextel"), defendant in the above-captioned action. Nextel is headquartered in Rutherford, New Jersey. My office is located at 800 Connecticut Avenue, N.W., Washington, D.C. 20006. I have been asked to reconfirm Nextel's long-term business plans in response to concerns raised by the public and the media about Nextel's intention to move forward with its proposed nationwide wireless telecommunications system. I have personal knowledge of the facts set forth in this affidavit.

2. Since Nextel's (formerly "Fleet Call") founding in 1987, Nextel's business objective has remained constant—to become a major provider of wireless communications services. For the last several years, Nextel's business plans and efforts have been, to a large extent, directed toward replacing the conventional analog SMR systems that it currently operates with advanced digital mobile (or ESMR) networks, which offer mobile calling services, alphanumeric messaging, dispatching and data transmission in a single digital phone. The implementation process has been gradual and ongoing. Nextel has activated its Digital Mobile network systems, and has commenced offering commercial service throughout most of the state of California (e.g., Los Angeles, Sacramento, San Francisco and the Central Valley), as well as in the greater metropolitan areas in and around Chicago and New York. Today, the Nextel Digital Mobile systems that are operational in these markets provide wireless communications services to areas that, in the aggregate, represent approximately 25% of the total population of the United States. The construction of the Digital Mobile systems involves significant amounts of preparatory activities, such as frequency planning, site procurement and preparation, obtaining zoning approvals and similar tasks in advance of system infrastructure installation and system activation, testing and optimization. Such activities have been substantially completed or are currently ongoing in most of Nextel's remaining major market areas, including San Diego, Las Vegas, Reno, Cleveland, Detroit, New England and the Mid-Atlantic regions. As disclosed in Nextel's numerous filings with the Securities and Exchange Commission ("SEC"), Nextel's nationwide Digital Mobile network

VOL 60 ISS 73 AP 17 1995 UMI

build-out plan is premised on a number of factors, such as availability of sufficient financing on acceptable terms and achievement of satisfactory system performance in the relevant markets. To the extent such build-out plan would encompass market areas beyond those in which Nextel currently possesses sufficient holdings of spectrum, it would be dependent on the factors noted above and also on consummation of Nextel's currently pending or proposed transactions with other parties, including Motorola, Inc., OneComm Corporation, American Mobile Systems Incorporated and Dial Page, Inc.

3. As described in numerous Nextel documents and presentations, including the company's Annual Reports on Form 10–K for the fiscal years ended March 31, 1992, 1993, and 1994, as well as Nextel's interrogatory responses to the DOJ's Second Requests, Nextel's marketing strategy for its Digital Mobile network services is intended to be implemented in three stages. In the first stage, which Nextel currently is in now, Nextel is focusing its efforts on migrating its current dispatch-users to the digital mobile network. The second stage will concentrate on attracting new business users (e.g., current subscribers of traditional SMR or other two-way services), who may be especially attracted by the integrated package of services achievable through the new digital technology. The third stage will be geared towards a broader category of users, i.e., attracting potential customers who are interested in general mobile telephone service. Nextel expects to rely on its ability to provide an integrated package of digital wireless services in marketing itself to this segment as a viable and unique competitor providing services that are not only similar to those available from cellular operators and any other providers of mobile telephone services, but also paging and enhanced dispatch service providers.

4. Nextel expects that its mobile telephone services will be competitive with those offered by cellular providers and other providers of mobile telephone services in terms of quality of service, features offered, pricing structure and airtime utilization. In addition, Nextel believes that its ability to provide an integrated package of mobile communications services will appeal to a wide array of users of wireless communications services, including private network dispatch, paging and mobile telephone and mobile data transmission. Cellular providers currently do not directly provide such integrated services. Essentially, Nextel's business goal is to capture a significant share of the potential wireless customer base, not just the dispatch customers.

5. Nextel expects to charge rates that are competitive with those charged by other providers of wireless communications services. For example, Nextel's customers will pay only for the services used, with package pricing available for customers who subscribe to more than one service. If a customer uses digital dispatch, Nextel's charge is comparable to or reflects a slight premium over conventional analog dispatch rates, reflecting larger calling areas, higher quality transmission, and enhanced privacy. Similarly, a customer who uses Nextel's mobile telephone service will be charged rates comparable to those charged by cellular telephone providers and any other providers of mobile telephone services. Only where customers subscribe to services in addition to dispatch service will they be charged for such additional services capabilities, and accordingly, to the extent such customers utilize such an integrated digital wireless service package would they be likely to pay significantly more than they do today for dispatch.

6. Nextel's business and marketing plans are subject to periodic review and would, of course, be subject to adjustment as may from time to time be deemed advisable to respond to particular conditions affecting the economy generally, the evolving wireless services industry or the company specifically.

7. Motorola remains strongly committed to the success of its advanced digital technology, referred to as MIRS, and to its investment in Nextel.

Sworn to before me this 15 day of February, 1995.

Morgan E. O'Brien.

Clare Pugsley.

Notary Public District of Columbia

[FR Doc. 95–8814 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 17, 1995, and published in the Federal Register on March 1, 1995, 1994, (60 FR 11115), Organix Inc., 65 Cummings Park, Woburn, Massachusetts 01801, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Fenethylline (1503)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
Tetrahydrocannabinols (7370)	I
Morphine (9300)	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration

[FR Doc. 95–9391 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 9, 1995, Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Fenethylline (1503)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391)	I
4-Bromo-2,5-dimethoxyphenethylamine (7392)	I
4-Methyl-2,5-dimethoxyamphetamine (7395)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
1-(1-Phenylcyclohexy)pyrrolidine (7458)	I
1-[1-(2-Thienyl)cyclohexyl]piperidine (7470)	I
Etorphine (except HCl) (9056)	I
Difenoxin (9168)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
1-Methyl-4-phenyl-4-propionoxypiperidine (9661)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Beta-hydroxyfentanyl (9830)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to repackage the controlled substances in order to supply pure drugs for drug testing and analysis.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 17, 1995.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–9392 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 23, 1995, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of Coca Leaves (9040), a basic class of controlled substance in Schedule II.

The firm plans to import the Coca Leaves to manufacture Cocaine under its DEA manufacturers registration.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–9393 Filed 4–14–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Women's Bureau; Commission on Family and Medical Leave; Public Hearing

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public hearing.

SUMMARY: Pursuant to Title III of the Family Medical Leave Act (FMLA) of 1993 (P.L. 103–3) this is to announce a hearing on the experience of FMLA for the Commission which is to take place on Monday, May 8, 1995. The purpose of the Commission is to, among other things, study the effects of existing and

VOL
60
ISS
73
AP
17
1995
UMI

proposed policies relating to family and medical leave. The Commission has the practical task of conducting a comprehensive study of: (a) Existing and proposed mandatory and voluntary policies relating to family and temporary medical leave, including policies provided by employers not covered under the Act; (b) the potential costs, benefits, and impact on productivity, job creation and business growth of such policies on employers and employees; (c) possible differences in costs, benefits, and impact on productivity, job creation and business growth of such policies on employers based on business type and size; (d) the impact of family and medical leave policies on the availability of employee benefits provided by employers, including employers not covered under this Act; (e) alternative and equivalent State enforcement of Title I with respect to employees described in section 108(a); (f) methods used by employers to reduce administrative costs of implementing family and medical leave policies; (g) the ability of the employers to recover, under section 104(c)(2), the premiums described in such section; and (h) the impact on employers and employees of policies that provided temporary wage replacement during periods of family and medical leave.

TIME AND PLACE: The hearing will be held on Monday, May 8, 1995, from 9:30 am until 12:30 pm, at the Dirksen Federal Office Building, 219 South Dearborn Street, Chicago, Illinois 60604.

AGENDA: The agenda for the hearing is as follows: Panel of FMLA supporters. Panel of FMLA Critics. Panel of Not Covered Employers and Employees.

STATEMENTS: Interested persons may submit, in writing, data, information or views on employer or employee experiences with FMLA prior to or at the hearing.

PUBLIC PARTICIPATION: The hearing will be open to the public. Seating will be available on a first-come, first-served basis. Seats will be reserved for the media. Persons with disabilities should contact the Commission no later than April 24, 1995, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Susan King, Executive Director, Commission on Leave, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–3002, Washington, D.C. 20210, Telephone: (202) 219–4526; Ext. 102.

Signed at Washington, D.C. this 10th day of April, 1995.

Susan King,

Executive Director, Commission on Leave.

[FR Doc. 95–9327 Filed 4–14–95; 8:45 am]

BILLING CODE 4510–23–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Music Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Prescreening Sections 2 and 3) to the National Council on the Arts will meet on April 27–28, 1995 from 9:00 a.m. to 5:30 p.m. and from May 8–9, 1995 from 9:00 a.m. to 5:30 p.m. Both sections will meet in room 730, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

These meetings are for the purpose of application evaluation, under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Advisory Committee Management Office, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5788.

Dated: April 12, 1995.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts

[FR Doc. 95–9428 Filed 4–14–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Thermal Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on May 2, 1995, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss Westinghouse Electric Corporation proprietary information pursuant to [5 U.S.C. 552b(c)(4)].

The agenda for the subject meeting shall be as follows:

Tuesday, May 2, 1995—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its review of the Westinghouse best-estimate thermal hydraulic code, W COBRA/TRAC. The focus of the meeting discussion will be on NRR's review methodology for best-estimate LOCA codes vis-a-vis the strictures of the revised ECCS Rule (10 CFR 50.46). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the scheduling of sessions which are open to the public, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: April 11, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–9370 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Reactor Fuels; Notice of Meeting

The ACRS Subcommittee on Reactor Fuels will hold a meeting on May 3, 1995, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, May 3, 1995—8:30 a.m. until the conclusion of business.

The Subcommittee will begin review of the NRC and industry programs being conducted to address issues associated with the use of high-burnup fuel. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: April 11, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–9371 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–219]

Issuance of Amendment to Facility Operating License; GPU Nuclear Corporation

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 179 to Facility Operating License No. DPR–16 issued to GPU Nuclear Corporation (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey. The amendment is effective as of the date of issuance, to be implemented within 30 days of issuance.

The amendment revises Technical Specification 5.3.1.E to allow 2645 fuel assemblies to be stored in the fuel pool. This is an increase of 45 fuel assemblies from the current limit of 2600 fuel assemblies. The 45 additional storage locations currently exist in the racks in the fuel pool.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on December 20, 1994 (59 FR 65542). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (60 FR 17373).

For further details with respect to the action see (1) the application for amendment dated November 25, 1994, as supplemented February 15, 1995, and (2) Amendment No. 179 to License No. DPR–16, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Dated at Rockville, Maryland, this 10th day of April 1995.

For the Nuclear Regulatory Commission.

Alexander W. Dromerick, Sr.,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9372 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–322; License No. NPF–82]

In the Matter of: Long Island Power Authority (Shoreham Nuclear Power Station, Unit 1); Order Terminating the Facility Operating License

I

Long Island Power Authority (LIPA or the licensee) is the holder of Facility Operating License No. NPF–82, issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to part 50 of Title 10 of the Code of Federal Regulations (10 CFR) on April 21, 1989. The license was amended on June 14, 1991, to remove the authority to operate the Shoreham Nuclear Power Station (SNPS), in accordance with conditions specified therein, and authorized the possession only for SNPS. The facility is located on LIPA's site in the town of Brookhaven, Suffolk County, New York.

II

On February 28, 1989, Long Island Lighting Company (LILCO), the former licensee, entered into an agreement with the State of New York to transfer its Shoreham assets to an entity of the State (LIPA) for decommissioning. LILCO, however, continued to pursue with NRC its request for a full-power license to operate its Shoreham plant. On April 21, 1989, NRC issued to LILCO a Facility Operating License No. NPF–82, which allowed full-power operation of the Shoreham plant. On June 28, 1989, LILCO's shareholders ratified LILCO's agreement with the State. Consistent with the terms of the settlement agreement, which prohibits further operation of the Shoreham facility,

VOL
60
ISS
73
AP
17
1995
UMI

LILCO defueled the reactor and reduced its staff. On February 29, 1992, NRC approved the transfer of the Shoreham license to LIPA.

In a letter dated June 27, 1991 (SNRC–1818), the former licensee, LILCO requested, in accordance with the requirement of 10 CFR 50.82(a), approval for termination of SNPS License No. NPF–82. The application for license termination was preceded by a proposed decommissioning plan (DP) that was submitted to NRC on December 29, 1990.

In June 1992, the NRC approved the licensee's DP, which described the planned dismantlement and decontamination methods that would be used to reduce contamination at the facility to meet the unrestricted release criteria. By an agreement between the Philadelphia Electric Company (PECo) and LIPA, the slightly irradiated fuel stored in the SNPS spent fuel pool was transferred to the Limerick Generating Station for reuse. The fuel transfers began in September 1993, and were completed in June 1994.

The dismantlement and decontamination tasks necessary for decommissioning SNPS, began in June 1992, and were completed in August 1994. All contaminated waste generated during the decommissioning of SNPS has been removed from the site.

III

The SNPS proposed DP was approved by an Order dated June 11, 1992. Approximately 602 curies of radioactive material were present in the RPV and internal components; 1370 curies in the control rod blades, local-power-range monitors, and antimony/beryllium pins; 457 millicuries in the reactor bioshield wall; and 3 millicuries in contaminated systems and areas. Approximately 593 millicuries were present in the spent fuel storage pool water (SFSP) and on the surfaces of the SFSP and fuel storage racks.

The SNPS was decommissioned in accordance with the approved DP, as supplemented. The licensee decommissioned SNPS by dismantlement and decontamination. The activated and contaminated reactor vessel internals were removed and disposed of as radioactive waste. Activated portions of the reactor pressure vessel (RPV) that exceeded unrestricted release criteria, were segmented, packaged, and disposed as radioactive waste. Large contaminated components and portions of plant systems and structures that could not be decontaminated effectively were segmented, as necessary, and packaged and shipped offsite for volume reduction and/or direct disposal at licensed low-level waste disposal facilities. Contaminated water was processed and released in accordance with approved release requirements, and activated portions of the reactor bioshield wall exceeding unrestricted release criteria were removed and disposed as low-level radioactive waste.

The DP, as supplemented, contained the licensee's Termination Survey Plan (Plan). The Plan described the methods used to demonstrate compliance with the existing NRC unrestricted release criteria. The guidelines used by the licensee for residual radioactivity at the SNPS are consistent with the values provided in Table 1, of Regulatory Guide 1.86, which establishes acceptable residual surface contamination levels. NRC approved alternative contamination limits for iron–55 and tritium above those specified in Regulatory Guide 1.86. These alternative criteria were presented to the Commission in SECY 94–145 and increased the allowable residual average and maximum total residual beta activity levels for iron–55 and tritium from 5,000 average total and 15,000 maximum total (fixed plus removable) disintegrations per minute (dpm)/100 square centimeters to 200,000 average total and 600,000 maximum total dpm/100 square centimeters, respectively. This permitted the licensee to safely retain on site major portions of the reactor bioshield wall that did not exceed the gamma dose rate criterion or the surface contamination limits for other isotopes, but which would have required offsite disposal under the original iron–55 and tritium surface contamination limits of Regulatory Guide 1.86. A concentration limit for cobalt–60 in soil and other bulk materials of 8 picocuries per gram was also established. An average gamma dose rate criterion of 5 uR per hour above background, at a distance of 1 meter from accessible surfaces, and an individual gamma exposure rates are not to exceed 10 uR per hour above background at 1 meter were used. In addition, the licensee's Plan also described the technical methods that would be used for the planning and design of the Termination Survey. The methods used by the licensee for the planning and design of the Termination Survey were derived from regulatory guidance contained in the NRC Regulatory Guide 1.86 and draft NUREG/CR–5849.

The licensee's Termination Plan was implemented at the individual survey unit level. The licensee established the following three survey units: (1) Structures, which included building interiors; (2) plant systems; and (3) outdoor areas. The licensee used a phased approach to conduct the actual termination surveys. Phase 1 of the termination surveys included surveys of the main turbine internals, turbine building, site and grounds, and the exterior of buildings. Phases 2 and 3 of the termination surveys included portions of the reactor and radwaste buildings and the suppression pool. Phase 4 (final phase) of the termination survey included those portions of the reactor and spent fuel pool used to support irradiated fuel storage, before the fuel's removal from the site. The licensee completed the Termination Surveys in August 1994.

The licensee submitted phases 1, 2, and 3 of the Final Termination Survey Reports to NRC in September 1993, February 1994, and June 1994, respectively. Phase 4 of the Final Termination Report was submitted to NRC for review in October 1994. The Oak Ridge Institute for Science and Education (ORISE) performed independent confirmatory surveys at SNPS for NRC.

Based on the licensee's completion of the decommissioning tasks at the SNPS, as described in the approved DP, and supplements, the staff's review of the licensee's Final Termination Survey Reports, and the results of the ORISE confirmatory surveys, the staff has determined that the decommissioning of the SNPS is complete, that the residual radioactivity levels have been reduced in accordance with NRC release criteria, and that the facility and the site are suitable to be released for unrestricted use.

IV

Accordingly, pursuant to sections 103, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR 50.82(f), NRC terminates License No. NPF–82.

Any person adversely affected by this Order may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406, and to the licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d). The Commission will issue an Order designating the time and place of the hearing.

If a hearing is granted, the issue to be heard is whether the licensee complied with the Commission-approved decommissioning plan.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings.

For further details with respect to this action, see: (1) The licensee's request to terminate the SNPS license presented in letters dated June 27, 1991 (SNRC–1818), and August 4, 1994 (LSNRC–2178); (2) the Commission's Order approving decommissioning dated June 11, 1992; (3) the licensee's Termination Survey Final Report, Phase 1 (LSNRC–2101), dated September 30, 1993; the licensee's Termination Survey Final Report, Phase 2 (LSNRC–2144), dated February 4, 1994; the licensee's Termination Survey Final Report, Phase 3 (LSNRC–2173), dated June 14, 1994; the licensee's Termination Survey Final Report, Phase 4 (LSNRC–2184), dated October 12, 1994; and (4) the ORISE Final Confirmatory Reports dated July 1993, September 1994, and February 1995. These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2102 L Street, NW., Washington, DC 20555, and at the Shoreham Wading River Public Library, Route 25A, Shoreham, NY 11786. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Waste Management.

Dated at Rockville, Maryland, this 11th day of April, 1995.

For the Nuclear Regulatory Commission.

John T. Greeves,

Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–9373 Filed 4–14–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer, (202) 942–8800.

Upon written request copies available from: Securities and Exchange Commission, Office of Filings and, Information Services, 450 Fifth Street NW., Washington, DC 20549.

Extension: Rule 15a–6, File No. 270–329.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted a request for extension of OMB approval to Rule 15a–6 [17 CFR 240.15a–6] under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15a–6 provides, among other things, an exemption from broker-dealer registration for foreign broker-dealers that effect trades with or for U.S. institutional investors through a U.S. registered broker-dealer, provided that the U.S. broker-dealer obtains certain information about, and consents to service of process from, the personnel of the foreign broker-dealer involved in such transactions, and maintains certain records in connection therewith. It is estimated that approximately 2,000 respondents will incur an average burden of three hours per year to comply with this rule.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549 and the Clearance Officer for the Securities and Exchange Commission, Office of Management and Budget, Paperwork Reduction Project number 3235–0371, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: April 6, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9395 Filed 4–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35581; File No. SR–BSE–94–05]

Self-Regulatory Organizations; the Boston Stock Exchange Inc.; Order Approving Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

April 7, 1995.

On February 21, 1995, the Boston Stock Exchange Incorporated ("BSE") filed a proposed rule change [File No. SR–BSE–95–05] with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on March 8, 1995 to solicit comments from interested persons.[2] As discussed below, this order approves the proposed rule change.

I. Description

In October 1993, the Commission adopted Rule 15c6–1 under the Act[3] which establishes three business days after the trade date ("T+3"), instead of five business days ("T+5"), as the standard settlement cycle for most securities transactions. The rule will become effective on June 7, 1995.[4] Several of the BSE's rules are interrelated with the standard settlement time frame. The purpose of the proposed rule change is to amend BSE's rules to be consistent with a T+3 settlement standard for securities transactions.

Chapter II, Section 6 of BSE's definition of "Regular Way," will be amended to require settlement of regular way transactions on the third business day after the trade.[5] Buyer's or seller's option trades will settle between four business days and 180 days following the contract date except that BSE may provide otherwise in specific issues or classes of securities. Next day trades will settle on the first or second business day following the date of the contract. Under Chapter X, Section 1, securities will trade without (*i.e.*, "ex") any dividend, right, or privilege on the second full business day preceding the record date except that when the record date is on a holiday the securities will trade "ex" on the third preceding full business day.

The proposed rule change also will amend Chapter XV, Section 14, "Claims and Reports against Specialists," to shorten the time periods in which members can file claims of erroneous or omitted transactions against specialists. Claims regarding lack of a comparison of a reported transaction must be made within three days of the original trade date. Claims regarding the omission of reports and erroneous trade comparisons will have to be within five business days. The proposed rule

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 35422 (February 28, 1995), 60 FR 12793.

[3] 17 CFR 240.15c6–1 (1994).

[4] Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adopting Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (changing effective date from June 1, 1995 to June 7, 1995).

[5] References to five-day delivery contained in Section 5 will be deleted.

VOL 60 ISS 73 AP 17 1995 UMI

change will amend Chapter XXVIII, subparagraph (4) to shorten by two days the time frames in which customers must provide their agent instructions for delivery versus payment and receipt versus payment instructions.

BSE has requested that the proposed rule change become effective on the same date as Rule 15c6–1. Rule 15c6–1 will become effective on June 7, 1995.[8]

II. Discussion

The Commission believes the proposal is consistent with the requirements of Section 6 of the Act.[7] Specifically, Section 6(b)(5) states that the rules of the exchange must be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information. The BSE rules and other self-regulatory organizations' rules currently establish the standard time frame for settlement of securities transactions. The proposal will conform those rules to the new settlement time frames mandated by Rule 15c6–1.

The Commission also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it protects investors and the public interest by reducing risks to clearing corporations, their members, and public investors which are inherent in settling securities transactions. The reduction of the time period for settlement of most securities transactions will correspondingly decrease the number of unsettled trades in the clearance and settlement system at any given time. Thus, fewer unsettled trades will be subject to credit and market risk, and there will be less time between trade execution and settlement for the value of those trades of deteriorate.[8]

III. Conclusion

For the reasons stated above, the Commission finds that BSE's proposal is consistent with Section 6 of the Act.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–BSE–95–05) be and hereby is approved and will become effective on June 7, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9396 Filed 4–14–95; 8:45 am]

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[8] The transition from five day settlement to three day settlement will occur over a four day period. Friday, June 2, will be the last trading day with five business day settlement. Monday, June 5, and Tuesday, June 6, will be trading days with four business day settlement. Wednesday, June 7, will be the first trading day with three business day settlement. As a result, trades from June 2 and June 5 will settle on Friday, June 9. Trades from June 6 and June 7 will settle on Monday, June 12.

[7] 15 U.S.C. 78f (1988).

[8] *See* Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[9] 15 U.S.C. 78f (1988).

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30(a)(12) (1994).

[Release No. 34–35580; File No. SR–CSE–95–04]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Implementation of a Three-Day Settlement Standard

April 7, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 4, 1995, the Cincinnati Stock Exchange Incorporated ("CSE") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by CSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CSE proposes to modify its rules to implement a three business day settlement standard for securities transactions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

In its filing wit the Commission, CSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On October 6, 1993, the Commission adopted Rule 15c6–1 under the Act which establishes three business days after the trade date ("T+3") instead of five business days ("T+5") as the standard settlement cycle for most securities transactions.[2] The rule will become effective June 7, 1995.[3]

Accordingly, in order to implement the new settlement standard established by Rule 15c6–1, the CSE proposes to amend the following rules. Currently, Rule 3.8(b)(1)(iii) provides that members receive reasonable assurance from the customer that a security will be delivered within five business days of the execution of the order. The CSE is proposing to replace the term "five" with the term "three". CSE also proposes to amend Rule 3.8(b)(2) which provides that members note on order tickets that the customer has the ability to deliver stock within five business days. The CSE is proposing to replace the term "five" with the term "three".

Rule 11.4 provides that transactions in stocks (other than those made for "cash") shall be "ex-dividend" or "ex-rights" on the fourth business day preceding the record date fixed by the company or the date of the closing of transfer books, except when the Board of Trustees of CSE otherwise. The CSE is proposing to replace the term "fourth" in this provision with the term "second". The rule also provides that should such record date or such closing of transfer books occur upon a day other than a business day this rule shall apply for the fifth preceding business day. The CSE is proposing to replace the term "fifth" with the term "third".

The CSE's implementation of this proposed rule change will be consistent with the "T+3" conversion schedule which the National Securities Clearing Corporation has proposed for industry use. The schedule is as follows:

Trade date	Settlement cycle	Settlement date
June 2 Friday	5 day	June 9 Friday.
June 5 Monday.	4 day	June 9 Friday.
June 6 Tuesday.	4 day	June 12 Monday.
June 7 Wednesday.	3 day	June 12 Monday.

If the Commission determines to alter the exemptions currently provided in Rule 15c6–1, CSE may need to undertake additional rule amendments. It is intended that the proposed rule change will become effective on the same date as Commission Rule 15c6–1.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891.

[3] Securities Exchange Act Release No. 34952 (November 9, 1994), 59 FR 59137.

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

CSE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which CSE consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of CSE. All submissions should refer to File No. SR–CSE–95–04 and should be submitted by May 8, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9397 Filed 4–14–95; 8:45 am]

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[Release No. 34–35589; File No. SR–NYSE–94–44]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change Relating to Amendments to Market-at-the-Close Order Handling Requirements for Expiration and Non-Expiration Days

April 10, 1995.

I. Introduction

On December 5, 1994, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its market-at-the close ("MOC") order[3] handling requirements for expiration days and non-expiration days.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35210 (January 10, 1995), 60 FR 3690 (January 18, 1995). On April 3, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[4] No comments were received on the proposal. This order approves the proposed rule change, including Amendment No. 1 on an accelerated basis.

II. Overview of Proposal

A. Background

The NYSE currently utilizes two sets of procedures for handling MOC orders, one for expirations days[5] and one for all other trading days. The Exchange's auxiliary closing procedures for expiration days have been approved on a pilot basis until October 31, 1995.[6] The pilot procedures establish a 3:40 p.m. deadline for (1) the entry of MOC orders related to a trading strategy involving an expiring index derivative product (*i.e.*, stock index options, stock index futures and options on stock index futures) and (2) the cancellation or reduction of any MOC order. Moreover, in the pilot stocks,[7] the specialist must, as soon as practicable after 3:40 p.m., disseminate any MOC order imbalance of 50,000 shares or more. Thereafter, MOC orders in the pilot stocks may be entered only to offset published imbalances; if there is no imbalance publication in a given pilot stock, no MOC orders may be entered in that stock.

The Exchange's closing procedures for non-expiration days have been approved on a permanent basis.[8] On those trading days, the specialist must, as soon as practicable after 3:45 p.m., disseminate any MOC order imbalance of 50,000 shares or more in (1) the pilot stocks and (2) any stock being added to or dropped from certain stock indexes (or, with Floor Official approval, from other stock indexes). A published imbalance (or the lack thereof) does not preclude the entry or cancellation of any MOC order on either side of the market.

B. Proposed Amendments

The Exchange proposes to amend its MOC order handling requirements for both expiration days and non-expiration days.[9] Under the NYSE proposal, on

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] A MOC order is a market order to be executed in its entirety at the closing price on the Exchange. *See* NYSE Rule 13.

[4] Letter from Daniel Parker Odell, Assistant Secretary, NYSE, to Glen Barrentine, Senior Counsel, Division of Market Regulation, SEC, dated March 31, 1995. Amendment No. 1 is further described at note 10, *infra*.

[5] The term "expiration days" refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently ("Expiration Fridays") and (2) the trading day on which end of calendar quarter index options expire ("QIX Expiration Days").

[6] *See* Securities and Exchange Act Release No. 34916 (October 31, 1994), 59 FR 55507 (November 7, 1994) (File No. SR–NYSE–94–32) ("1994 Pilot Approval Order").

[7] The Expiration Friday pilot stocks consist of the 50 most highly capitalized Standard & Poors ("S&P") 500 stocks and any component stocks of the Major Market Index ("MMI") not included therein. The QIX Expiration Day pilot stocks consist of the 50 most highly capitalized S&P 500 stocks, any component stocks of the MMI not included therein and the 10 highest weighted S&P Midcap 400 stocks.

[8] *See* Securities Exchange Act Release No. 31291 (October 6, 1992), 57 FR 47149 (October 14, 1992) (File No. SR–NYSE–92–12).

[9] An Information Memo describing the amendments to the NYSE's auxiliary closing procedures will be issued before each expiration day. An Information Memo describing the amendments to the closing procedures for non-expiration days also will be issued upon approval of this proposal.

VOL 60 ISS 73 AP 17 1995 UMI

expiration days, all MOC orders, including orders not related to a trading strategy involving an expiring index derivative product, must be entered by 3:40 p.m. The proposed rule change will not affect either (1) the deadline for cancellation or reduction of MOC orders or (2) the imbalance dissemination procedures. After 3:40 p.m., however, MOC order entry will be permitted only to offset published imbalances in the pilot stocks.

The Exchange also proposes to adopt requirements for handling MOC orders on non-expiration days that are substantially similar to those in place for expiration days. As proposed, imbalance disseminations on non-expiration days will no longer be solely for information purposes. Specifically, the proposed rule change will establish a 3:50 p.m. deadline for the entry of all MOC orders and for the cancellation or reduction of such orders. In the pilot stocks, stocks being added to or dropped from an index and, upon the request of a specialists, any other stock with the approval of a Floor Official, the specialist will, as soon as practicable after 3:50 p.m., disseminate MOC order imbalances of 50,000 shares or more.[10] Thereafter, MOC orders may be entered only to offset published imbalances in the above stocks.[11]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[12] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

In recent years, the self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the liquidation of stock positions related to trading strategies involving index derivative products. For instance, since 1986, the NYSE has utilized auxiliary closing procedures on expiration days. These procedures allow NYSE specialists to obtain an indication of the buying and selling interest in MOC orders at expiration and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice thereof and with an opportunity to make appropriate investment decisions in response. Based on the NYSE's experience,[13] the Commission believes that the MOC order handling requirements work relatively well and may result in more orderly markets at the close on expiration days.

The Commission acknowledges the NYSE's concern that a last-minute influx or disappearance of MOC orders, whether related to a trading strategy involving index derivative products or otherwise, potentially could add to volatility at the close. Due to the influx of orders at the close on expiration days, even MOC orders that are not derivatives-related could cause temporary liquidity strains. Thus, for the reasons set forth below, the Commission has concluded that the proposed rule change should help NYSE specialists to effectuate an orderly closing in stocks that are not covered by the existing pilot program.

In this regard, the Commission notes that the proposed rule change will standardize the Exchange's closing procedures on expiration days and apply them to all NYSE-listed stocks. Specifically, on expiration days, the NYSE proposal will impose a 3:40 p.m. deadline for entry of *all* MOC orders. In conjunction with the prohibition on cancellation or reduction of any MOC order after 3:40 p.m., this requirement should allow the specialist to make a timely and reliable assessment, for every NYSE-listed stock, or MOC order flow and its potential impact on the closing price. While the Commission recognizes that 3:40 p.m. is relatively near the close, the Commission previously has determined that such a deadline strikes a reasonable balance between the need to effectuate an orderly closing and the need to avoid unduly infringing upon legitimate trading strategies.[14]

The amended procedures for expiration days will continue to require that, as soon as practicable after 3:40 p.m., NYSE specialists disseminate substantial imbalances in the pilot stocks. Thereafter, no MOC orders may be entered except to offset a published imbalance in a pilot stock. In this regard, the NYSE pilot program combines early submission of MOC orders with prompt dissemination of imbalances that reflect actual investor interest. As noted in prior Commission orders approving these procedures,[15] the NYSE should have sufficient opportunity to attract any contra-side interest necessary to alleviate substantial MOC order imbalances in the pilot stocks and to dampen their effect on the closing price.

Finally, under the proposed rule change, the NYSE will adopt MOC order handling requirements for non-expiration days that are substantially similar to those in place for expiration days. This will allow members and member organizations to follow comparable procedures at the close on all trading days.

Although there is less likelihood of an influx of MOC orders at the close on non-expiration days, certain trading and asset allocation strategies use NYSE closing prices and, accordingly, could employ MOC orders. The 3:50 p.m. deadline for MOC order entry and cancellation on non-expiration days should help the specialist make a timely and reliable assessment of MOC order flow and its potential impact on the closing price and also should ensure that any imbalance publications reflect actual investor interest. In the Commission's opinion, a 3:50 p.m. deadline strikes a more appropriate balance for non-expiration days (as opposed to the 3:40 p.m. deadline for expiration days) given the reduced likelihood of substantial MOC order imbalances due to derivatives-related trading strategies.

In the event of unusual market conditions, the Commission believes that the amended procedures for non-expiration days will offer benefits in terms of assessing volatility at the close of trading in the same manner as the NYSE's procedures for expiration days. Additionally, the Commission notes that, by permitting a Floor Official to authorize the publication of substantial MOC order imbalances on non-expiration days in any stock, the proposal should increase the information available to market participants and provide NYSE specialists with a mechanism, if necessary, to attract contra-side interest in any NYSE-listed stock.[16]

The Commission is approving the amendments to the NYSE's auxiliary closing procedures for expiration days as part of the existing pilot program that lasts until October 31, 1995. The Commission is approving the amendments to the NYSE's closing procedures for non-expiration days on a permanent basis.

The Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 1 merely clarifies the scope of the original filing. Finally, the commission did not receive any comments on the original proposal, which was published in the Federal Register for the full comment period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules change that are filed with the Commission, and all written communications relating to Amendment No. 1 between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–94–44 and should be submitted by May 8, 1995.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–NYSE–94–44) is approved, including Amendment No. 1 on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9398 Filed 4–14–95; 8:45 am]

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[10] Amendment No. 1 amended the NYSE's proposal to provide for the publications of imbalances of 50,000 shares or more to be made in any stock upon the request of a specialist and the approval of a Floor Official.

[11] This proposal will not have a material effect on the NYSE's limit-at-the-close ("LOC") order pilot. A LOC order is a limited price order entered for execution at the closing price if the closing price is within the limit specified. The Commission has approved LOC order entry on a pilot basis until July 15, 1995. *See* Securities Exchange Act Release No. 33706 (March 3, 1994), 59 FR 11093 (March 9, 1994) (File No. SR–NYSE–92–37). Under that pilot program, LOC orders may be entered only to offset a published imbalance of MOC orders (which, as proposed herein, will take place at 3:40 p.m. on expiration days and 3:50 p.m. on other trading days). The deadline for LOC order entry is 3:55 p.m. LOC orders are irrevocable on expiration days; on non-expiration days, cancellation of LOC orders is prohibited after 3:55 p.m. Currently, the NYSE permits LOC order entry in five of the pilot stocks. The NYSE has recently filed a proposed rule change with the SEC to amend its LOC pilot program and to extend the program for an additional year. *See* File No. SR–NYSE–95–09.

[12] 15 U.S.C. 78f(b) (1988 and Supp. V 1993).

[13] The NYSE has submitted to the Commission several monitoring reports describing its experience with the auxiliary closing procedures. For further discussion of the NYSE's results, *see* 1994 Pilot Approval Order, *supra*, note 6.

[14] *See, e.g.*, Securities Exchange Act Release No. 33639 (February 17, 1994), 59 FR 9295 (February 25, 1994) (File No. SR–BSE–93–04) (approving BSE proposal to adopt MOC procedures substantially similar to the NYSE's current pilot program).

[15] *See* 1994 Pilot Approval Order, *supra*, note 6.

[16] The Commission encourages the NYSE to propose a corresponding provision for expiration days that would provide for the dissemination of substantial MOC order imbalances on expiration days in stock other than pilot stocks.

[17] 15 U.S.C. 78s(b)(2) (1988).

[18] 17 CFR 200.30–3(a)(12) (1994).

[Release No. IC–20992; International Series Release No. 801; 812–9414]

Banco de Comercio Exterior de Colombia S.A.; Notice of Application

April 11, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Banco de Comercio Exterior de Colombia S.A.

RELEVANT ACT SECTION: Order requested under section 6(c) for an exemption from all provisions of the Act.

SUMMARY OF THE APPLICATION: Applicant seeks an exemption under section 6(c) from all provisions of the Act. Applicant is a commercial bank owned and controlled by the Republic of Colombia. Applicant provides long- and short-term financing and specialized financial products to financial intermediaries. Applicant discounts loans that such financial intermediaries have made to finance Colombian exports and foreign trade-related activities. Applicant is in the process of establishing a global program for the issuance of debt securities.

FILING DATES: The application was filed on January 5, 1995 and amended on March 15, 1995 and April 11, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 4, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, D.C. 20549; Applicant, c/o Thomas A. Curtis, Cleary, Gottlieb, Steen & Hamilton, One Liberty Plaza, New York, NY 10006.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, (202) 942–0565, or Barry D. Miller, Senior Special Counsel, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a commercial bank owned and controlled by the Republic of Colombia ("Colombia," or the "Republic"). Applicant provides long- and short-term financing and specialized financial products to support Colombian exports and foreign trade-related activities. Applicant was incorporated as the successor to the Export Promotion Fund, a fund formed in 1967 by the government of Colombia (the "Government") to promote Colombian exports.

2. The Republic owns 99.7% of applicant's share capital and controls the applicant within the meaning of section 2(a)(9) of the Act.[1] Applicant's Board of Directors consists of Government representatives, a representative of the private sector appointed by the President of the Republic, and a representative of the private sector appointed by the exporters' associations registered with the Ministry of Foreign Trade.

3. Applicant is authorized to operate under the same legal regime as a private commercial bank, without any limitation on the type of commercial banking activities in which it may engage. Applicant's activities, like those of other Colombian banks, are subject to extensive regulation by the principal

[1] The Government recently offered shares in applicant representing 11% of applicant's outstanding share capital to applicant's employees, pension funds, cooperatives, unemployment funds and other institutions. As a result of such offering, 0.28% of the Bank's outstanding share capital were purchased by such employees and institutions. The shares that were not subscribed for in such offering will eventually be offered by the Government to the public in Colombia. The Government does not intend to offer such shares in the United States. Even after such sale, the Government would continue to control applicant's operations within the meaning of section 2(a)(9) of the Act.

VOL 60 ISS 73 AP 17 1995 UMI

entities governing the Colombian banking and financial system. These entities include the Congress of Colombia, the National Council for Economic and Social Policy, the Central Bank, and the Banking Superintendency. The regulations applicable to applicant include licensing, capital adequacy, foreign currency position requirements, and restrictions on lending activities and related-party transactions.

4. At September 30, 1994, applicant had assets of Ps1,085,338 million (U.S. $1,290.7 million) and shareholders' equity of Ps403,768 million (U.S. $480.2 million).

5. Applicant operates primarily as a second-tier bank, extending loans to other commercial banks and finance companies in Colombia and abroad (collectively, "Financial Intermediaries") by discounting loans that such Financial Intermediaries have made to finance Colombian exporters and foreign trade-related activities as well as foreign buyers of Colombian goods and services. Applicant works together with the relevant Financial Intermediary in originating each discounted loan, both to ensure that the loan meets applicant's lending criteria and that the necessary funding will be available to the Financial Intermediary to make the loan. Applicant also takes physical possession of the promissory note for each loan, which is endorsed to applicant, to ensure recourse against the ultimate borrower in the event of a default by the Financial Intermediary.

6. Applicant does not purchase discounted loans from entities other than the loan originator, nor does it sell or otherwise trade in discounted loans. At September 30, 1994, approximately 99% of applicant's outstanding loans were discounted loans, with 62 Financial Intermediaries as obligors. Over 90% of these Financial Intermediaries are Colombian commercial banks and finance companies regulated in a manner substantially similar to applicant.

7. Applicant traditionally has relied on its shareholders' equity as the primary source of peso-denominated funds. Although applicant has the power under its charter to take deposits, it has not done so to date because most of applicant's loans are made in United States dollars, and funding such loans with peso deposits would be prohibitively expensive. To the extent applicant lends in pesos, its shareholders' equity provides a sufficient source of funds at a considerably lower cost than would be the case with deposits.

8. Applicant proposes a global program (the "Program") to issue and sell debt securities (the "Notes"), the net proceeds of which will be used to expand applicant's foreign trade-related financing activities and for other general corporate purposes. The principal amount of Notes outstanding at any time will not exceed in the aggregate United States $300,000,000 (or its equivalent in other currencies at the date of issue), subject to future increases in the size of the Program. The Notes will not be obligations of, or guaranteed by, or otherwise backed by the credit of, the Republic of Colombia.

9. The Notes have not been and will not be registered under the Securities Act of 1933, as amended (the "Securities Act").[2]

All or a portion of a series of Notes may be offered for sale in the United States to "qualified institutional buyers," as defined in Rule 144A under the Securities Act, in reliance on Rule 144A, or to institutional "accredited investors," as defined in Rule 501(a) (1), (2), (3), and (7) under the Securities Act, that are not also qualified institutional buyers. All or a portion of a series of Notes also may be offered for sale in offshore transactions outside the United States in reliance on Regulation S under the Securities Act.

10. Applicant's intention is not to offer any Notes under the Program until the exemptive order sought hereby has been granted. Nevertheless, market conditions and applicant's funding needs may make it necessary to proceed with the first issuance under the Program prior to the granting of such order. In that case, applicant would offer an initial series of Notes (the "Initial Notes") to investors in the United States and abroad. In order to permit such offering to proceed while the present application for exemptive relief was being considered, applicant would impose special offering and resale restrictions on the Initial Notes (in addition to those required to comply with the Securities Act), including a limit on the number of U.S. resident holders that could hold the Initial Notes at any given time. Upon the granting of the exemptive order, such restrictions would be removed and resales of the Initial Notes, and any other Notes subject to such restrictions, would thereafter be subject only to the Securities Act restrictions applicable to the Program generally.

[2] Applicant does not hereby seek, and has not obtained, any assurance from the SEC regarding applicant's status prior to the issuance of any exemptive order on this application, nor has applicant received any assurance regarding the Notes' status under the Securities Act.

Applicant's Legal Analysis

1. Section 3(a)(3) of the Act defines an investment company to include any issuer engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and that owns or proposes to acquire investment securities having a value exceeding 40% of the issuer's total assets, exclusive of Government securities and cash items on an unconsolidated basis. Substantially all of applicant's assets consist of discounted loans. Such loans could be deemed to be investment securities within the meaning of section 3(a)(3). As a result, applicant recognizes, for purposes of this application only, that it could be deemed to be an investment company.

2. Rule 3a–6 exempts foreign banks from the definition of investment company for all purposes under the Act. A foreign bank is defined to include a banking institution engaged substantially in "commercial banking activity," which, in turn, is defined to include "accepting demand and other types of deposits." Although applicant is authorized to accept demand and other types of deposits, as a matter of policy it has chosen not to do so, and for this reason does not fall squarely within the terms of the exemption provided by rule 3a–6. Therefore, applicant may not be able to rely on rule 3a–6.

3. In adopting rule 3a–6, the SEC recognized that other financial entities might merit treatment similar to that afforded by the rule. The SEC indicated that such entities could file an application for individual exemptive relief under section 6(c) of the Act.[3] Applicant believes that the exemptive relief contemplated by the Adopting Release is appropriate in the present case. Applicant is an "export-import bank" and is similar in function to U.S. banks and other exempted entities. Applicant is licensed as a commercial bank in Colombia and is subject to extensive regulation by the Colombian authorities. Such regulation affords substantial protection to investors. In addition, applicant is controlled by the Government of Colombia.

4. Section 3(c)(5)(B) of the Act exempts from the definition of "investment company" any person that is not engaged in the business of issuing certain specified securities and that is primarily engaged in the business of "making loans to manufacturers, wholesalers, and retailers of, and to prospective purchasers of, specified

[3] *See* Investment Company Act Release No. 18381 (Oct. 29, 1991), note 15 and accompanying text (the "Adopting Release").

merchandise, insurance, and services." Although other government-controlled export financing entities have obtained no-action relief under section 3(c)(5)(B), their lending activities were described as primarily sales financing; that is, the making of loans to either exporters or foreign buyers to finance particular sales transactions. Applicant was created to serve the same purpose as these other entities.

Applicant's loans can be described as indirect sales financing (goods cannot be exported unless they are first produced). The bulk of the loans extended by applicant, however, are "preshipment" loans, which finance the working capital needs of Colombian exporters, and are unlike the sales financing described in the no-action letters.

5. Applicant seeks an exemption under section 6(c) from all provisions of the Act. Applicant believes that it meets the standards for relief.

Applicant's Condition

Applicant agrees that the order granting the requested relief shall be subject to the following condition:

In connection with any offering of its securities in the United States, applicant will appoint an agent to accept any process which may be served on it in any action based on such securities and instituted in the Supreme Court of the State of New York or the United States District Court for the Sourthern District of New York by any holder of any such securities. Applicant further undertakes that it will expressly consent to the jurisdiction of the Supreme Court of the State of New York and the United States District Court for the Southern District of New York in respect of any such action. Applicant also will waive the defense of an inconvenient forum to the maintenance of any such action or proceeding. Such appointment of an agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of such securities have been paid. Applicant explicitly waives any immunity it may have from jurisdiction and from execution or attachment or any process in the nature thereof in respect of any suit, action or proceeding arising out of or relating to such securities.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9399 Filed 4–14–95; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended April 7, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50262.
Date filed: April 4, 1995.
Parties: Members of the International Air Transport Association.
Subject: TC3 Telex Mail Vote 735 Russian Federation-Japan fares r-1—043i r-3—063i r-5—084c r-2—053i r-4—063ii.
Proposed Effective Date: April 10, 1995.

Docket Number: 50263.
Date filed: April 4, 1995.
Parties: Members of the International Air Transport Association.
Subject: PAC/Reso/388 dated March 28, 1995. Finally Adopted Resos r-1 to r-7.
Proposed Effective Date: June 1, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–9315 Filed 4–14–95; 8:45 am]

BILLING CODE 4910-62-P

Notice of Applications for Certificates of Public Conveyance and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 7, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50257.
Date filed: April 3, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 1, 1995.
Description: Application of Kuwait Airways Corporation, pursuant to Section 402(c) of the Act 1958, as amended, 49 U.S.C. Section 211, 5 U.S.C. Section 558(c) and Parts 211 and 377 of the Departments Regulations and Subpart Q of the Regulations, applies for amendment of its foreign air carrier permit authorizing Kuwait Airways to engage in scheduled air transportation of persons, property and mail between the State of Kuwait and the United States and charter operations.

Docket Number: 50260.
Date filed: April 4, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 2, 1995.
Description: Application of Ross Aviation, Inc., pursuant to Section 401 of the Act and Subpart Q of the Regulations, requests scheduled and on-demand passenger transportation for exclusive service to the Department of Energy covering the contiguous 49 states of the United States.

Docket Number: 50261.
Date filed: April 4, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 2, 1995.
Description: Application of LorAir, Ltd., pursuant to 401(d)(3), of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity authorizing interstate and overseas charter air transportation.

Docket Number: 50269.
Date filed: April 6, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 4, 1995.
Description: Application of Islena De Inversiones S.A. De C.V. D/B/A Islena Airlines, pursuant to 49 U.S.C. Section 40109 and Subpart Q of the Regulations, requests a foreign air carrier permit to engage in scheduled foreign air transportation of persons, property and mail between a point or points in Honduras and Miami, Florida, New Orleans, Louisiana and Houston, Texas, and to engage in charter foreign air transportation of persons, property and mail.

Docket Number: 50274.
Date filed: April 7, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 5, 1995.
Description: Application of USAir, Inc., pursuant to 49 U.S.C. Section 41101, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing USAir to provide scheduled foreign air transportation of persons, property and mail between points in the United States and points in Canada.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–9316 Filed 4–14–95; 8:45 am]

BILLING CODE 4910-62-P

VOL 60 ISS 73 AP 17 1995 UMI

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. The FAA is publishing an index by order number, an index by subject matter, and case digests that contain identifying information about the final decisions and orders issued by the Administrator. Publication of these indexes and digests is intended to increase the public's awareness of the Administrator's decisions and orders. Also, the publication of these indexes and digests should assist litigants and practitioners in their research and review of decisions and orders that may have precedential value in a particular civil penalty action. Publication of the index by order number, as supplemented by the index by subject matter, ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 701 Pennsylvania Avenue NW, Suite 925, Washington, DC 20004; telephone (202) 376–6441.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a subject-matter index, and digests organized by order number.

In a notice issued on October 26, 1990, the FAA published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that it would publish supplements to these indexes and digests on a quarterly basis (*i.e.*, in January, April, July, and October of each year). The FAA announced further in that notice that only the subject-matter index would be published cumulatively, and that both the order number index and the digests would be non-cumulative.

Since that first index was issued on October 26, 1990 (55 FR 45984; October 31, 1990), the FAA has issued supplementary notices containing the quarterly indexes of the Administrator's civil penalty decisions as follows:

Dates of Quarter	*Federal Register Publication*
10/1/90–12/31/90	56 FR 44886; 2/6/91
1/1/91–3/31/91	56 FR 20250; 5/2/91
4/1/91–6/30/91	56 FR 31984; 7/12/91
7/1/91–9/30/91	56 FR 51735; 10/15/91
10/1/91–12/31/91	57 FR 2299; 1/21/92
1/1/92–3/31/92	57 FR 12359; 4/9/92
4/1/92–6/30/92	57 FR 32825; 7/23/92
7/1/92–9/30/92	57 FR 48255; 10/22/92
10/1/92–12/31/92	58 FR 5044; 1/19/93
1/1/93–3/31/93	58 FR 21199; 4/19/93
4/1/93–6/30/93	58 FR 42120; 8/6/93
7/1/93–9/30/93	58 FR 58218; 10/29/93
10/1/93–12/31/93	59 FR 5466; 2/4/94
1/1/94–3/31/94	59 FR 22196; 4/29/94
4/1/94–6/30/94	59 FR 39618; 8/3/94
7/1/94–12/31/94*	60 FR 4454; 1/23/95

*Due to administrative oversight, the index for the third quarter index of 1994, including information pertaining to the decisions and orders issued by the Administrator between July 1 and September 30, 1994, was not published on time. As a consequence, the information regarding the third quarter's decisions and orders, as well as the fourth quarter's decisions and orders in 1994, were included in the index published on January 23, 1995.

In the notice published on January 19, 1993, the Administrator announced that for the convenience of the users of these indexes, the order numbered index published at the end of the year would reflect all of the civil penalty decisions for that year. 58 FR 5044; 1/19/93. The order number indexes for the first, second, and third quarters would be non-cumulative.

The Administrator's final decisions and orders, indexes, and digests are available for public inspection and copying at all FAA legal offices. (The addresses of the FAA legal offices are listed at the end of this notice.)

Also, the Administrator's decisions and orders have been published by commercial publishers and are available on computer databases. (Information about these commercial publications and computer databases is provided at the end of this notice.)

Civil Penalty Actions—Orders Issued by the Administrator—Order Number Index

(This index includes all decisions and orders issued by the Administrator from January 1, 1995, to March 31, 1995.)

95–1	1/27/95	Diamond Aviation CP94SO0120
95–2	2/14/95	Harry Allan Meronek CP93SO0240
95–3	3/28/95	Delta Air Lines CP92SO0523
95–4	3/30/95	Dean Hanson CP93WP0396

Civil Penalty Actions—Orders Issued by the Administrator—Subject Matter Index

(Current as of March 31, 1995)

Administrative Law Judges—Power and Authority:
- Continuance of hearing ..... 91–11 Continental Airlines; 92–29 Haggland.
- Credibility findings ..... 90–21 Carroll; 92–3 Park; 93–17 Metcalf; 94–3 Valley Air; 94–4 Northwest Aircraft Rental.
- Default Judgment ..... 91–11 Continental Airlines; 92–47 Cornwall; 94–8 Nunez; 94–22 Harkins; 94–28 Toyota.
- Discovery ..... 89–6 American Airlines; 91–17 KDS Aviation; 91–54 Alaska Airlines; 92–46 Sutton-Sautter; 93–10 Costello.
- Expert Testimony ..... 94–21 Sweeney.
- Granting extensions of time ..... 90–27 Gabbert.
- Hearing location ..... 92–50 Cullop.
- Hearing request ..... 93–12 Langton; 94–6 Strohl; 94–27 Larsen; 94–37 Houston.
- Initial Decision ..... 92–1 Costello; 92–32 Barnhill.
- Jurisdiction ..... 90–20 Degenhardt; 90–33 Cato; 92–1 Costello; 92–32 Barnhill.
  - After order assessing civil penalty ..... 94–37 Houston.
  - After complaint withdrawn ..... 94–39 Kirola.
- Motion for Decision ..... 92–73 Wyatt; 92–75 Beck; 92–76 Safety Equipment; 93–11 Merkley.
- Notice of Hearing ..... 92–31 Eaddy.
- Sanction ..... 90–37 Northwest Airlines; 91–54 Alaska Airlines; 94–22 Harkins; 94–28 Toyota.
- Vacating initial decision ..... 90–20 Degenhardt; 92–32 Barnhill.

Agency Attorney ..... 93–13 Medel.

Air Carrier:
- Agent/independent contractor of ..... 92–70 USAir.
- Careless or Reckless ..... 92–48 & 92–70 USAir; 93–18 Westair Commuter.
  - Employee ..... 93–18 Westair Commuter.

Aircraft Maintenance ..... 90–11 Thunderbird Accessories; 91–8 Watts Agricultural Aviation; 93–36 & 94–3 Valley Air; 94–38 Bohan.
- After certificate revocation ..... 92–73 Wyatt.
- Minimum Equipment List (MEL) ..... 94–38 Bohan.

Aircraft Records:
- Aircraft Operation ..... 91–8 Watts Agricultural Aviation.
- Maintenance Records ..... 91–8 Watts Agricultural Aviation; 94–2 Woodhouse.
- "Yellow tags" ..... 91–8 Watts Agricultural Aviation.

Aircraft—Weight and Balance (See Weight and Balance)

Airmen:
- Pilots ..... 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–49 Richardson & Shimp; 93–17 Metcalf.
- Altitude deviation ..... 92–49 Richardson & Shimp.
- Careless or Reckless ..... 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–49 Richardson & Shimp; 92–47 Cornwall; 93–17 Metcalf; 93–29 Sweeney.
- Flight time limitations ..... 93–11 Merkley.
- Follow ATC Instruction ..... 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–49 Richardson & Shimp.
- Low Flight ..... 92–47 Cornwall; 93–17 Metcalf.
- See and Avoid ..... 93–29 Sweeney.

Air Operation Area (AOA):
- Air Carrier Responsibilities ..... 90–19 Continental Airlines; 91–33 Delta Air Lines; 94–1 Delta Air Lines.
- Airport Operator Responsibilities ..... 90–19 Continental Airlines; 91–4 [Airport Operator]; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 91–58 [Airport Operator].
- Badge Display ..... 91–4 [Airport Operator]; 91–33 Delta Air Lines.
- Definition of ..... 90–19 Continental Airlines; 91–4 [Airport Operator]; 91–58 [Airport Operator].
- Exclusive Areas ..... 90–19 Continental Airlines; 91–4 [Airport Operator]; 91–58 [Airport Operator].

Airport Security Program (ASP):
- Compliance with ..... 91–4 [Airport Operator]; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 91–58 [Airport Operator]; 94–1 Delta Air Lines.

Airports:
- Airport Operator Responsibilities ..... 90–12 Continental Airlines; 91–4 [Airport Operator]; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 91–58 [Airport Operator].

Air Traffic Control (ATC):
- Error as mitigating factor ..... 91–12 & 91–31 Terry & Menne.
- Error as exonerating factor ..... 91–12 & 91–31 Terry & Menne; 92–40 Wendt.
- Ground Control ..... 91–12 Terry & Menne; 93–18 Westair Commuter.
- Local Control ..... 91–12 Terry & Menne.
- Tapes & Transcripts ..... 91–12 Terry & Menne; 92–49 Richardson & Shimp.

Airworthiness ..... 91–8 Watts Agricultural Aviation; 92–10 Flight Unlimited; 92–48 & 92–70 USAir; 94–2 Woodhouse.

Amicus Curiae Briefs ..... 90–25 Gabbert.

Answer:
- Timeliness of answer ..... 90–3 Metz; 90–15 Playter; 92–32 Barnhill; 92–47 Cornwall; 92–75 Beck; 92–76 Safety Equipment; 94–5 Grant; 94–29 Sutton; 94–30 Columna; 94–43 Perez.
- What constitutes ..... 92–32 Barnhill; 92–75 Beck.

VOL 60 ISS 73 AP 17 1995 UMI

Appeals (See also Timeliness; Mailing Rule):
- Briefs, Generally ..... 89–4 Metz; 91–45 Park; 92–17 Giuffrida; 92–19 Cornwall; 92–39 Beck; 93–24 Steel City Aviation; 93–28 Strohl; 94–23 Perez.
- Additional Appeal Brief ..... 92–3 Park; 93–5 Wendt; 93–6 Westair Commuter; 93–28 Strohl; 94–4 Northwest Aircraft; 94–18 Luxemburg; 94–29 Sutton.
- Appellate arguments ..... 92–70 USAir.
- Court of Appeals, appeal to (See Federal Courts)
- "Good Cause" for Late-Filed Brief or Notice of Appeal ..... 90–3 Metz; 90–27 Gabbert; 90–39 Hart; 91–10 Graham; 91–24 Esau; 91–48 Wendt; 91–50 & 92–1 Costello; 92–3 Park; 92–17 Giuffrida; 92–39 Beck; 92–41 Moore & Sabre Associates; 92–52 Beck; 92–57 Detroit Metro Wayne Co. Airport; 92–69 McCabe; 93–23 Allen; 93–27 Simmons; 93–31 Allen; 95–2 Meronek.
- Appeal dismissed as moot after complaint withdrawn ..... 92–9 Griffin.
- Motion to Vacate construed as a brief ..... 91–11 Continental Airlines.
- Perfecting an Appeal ..... 92–17 Giuffrida; 92–19 Cornwall; 92–39 Beck; 94–23 Perez.
  - Extension of Time for (good cause for) ..... 89–8 Thunderbird Accessories; 91–26 Britt Airways; 91–32 Bargen; 91–50 Costello; 93–2 & 93–3 Wendt; 93–24 Steel City Aviation; 93–32 Nunez.
  - Failure to ..... 89–1 Grassani; 89–7 Zenkner; 90–11 Thunderbird Accessories; 90–35 P Adams; 90–39 Hart; 91–7 Pardue; 91–10 Graham; 91–20 Bargen; 91–43, 91–44, 91–46 & 91–47 Delta Air Lines; 92–11 Allin; 92–15 Dillman; 92–18 Bargen; 92–34 Carrell; 92–35 Bay Land Aviation; 92–36 Southwest Airlines; 92–45 O'Brien; 92–56 Montauk Caribbean Airways, 92–67 USAir; 92–68 Weintraub; 92–78 TWA; 93–7 Dunn; 93–8 Nunez; 93–20 Smith; 93–23 & 93–31 Allen; 93–34 Castle Aviation; 93–35 Steel City Aviation, 94–12 Bartusiak; 94–24 Page; 94–26 French Aircraft; 94–34 American International Airways; 94–35 American International Airways; 94–36 American International Airways; 95–4 Henson.
  - What Constitutes ..... 90–4 Metz; 90–27 Gabbert; 91–45 Park; 92–7 West; 92–17 Giuffrida; 92–39 Beck; 93–7 Dunn; 94–15 Columna; 94–23 Perez; 94–30 Columna.
- Service of brief:
  - Failure to serve other party ..... 92–17 Giuffrida; 92–19 Cornwall.
- Timeliness of Notice of Appeal ..... 90–3 Metz; 90–39 Hart; 91–50 Costello; 92–7 West; 92–69 McCabe; 93–27 Simmons; 95–2 Meronek.
- Withdrawal of ..... 89–2 Lincoln-Walker; 89–3 Sittko; 90–4 Nordrum; 90–5 Sussman; 90–6 Dabaghian; 90–7 Steele; 90–8 Jenkins; 90–9 Van Zandt; 90–13 O'Dell; 90–14 Miller; 90–28 Puleo; 90–29 Seelander; 90–30 Steidinger; 90–34 D. Adams; 90–40 & 90–41 Westair Commuter Airlines; 91–1 Nestor; 91–5 Jones; 91–6 Lowery; 91–13 Kreamer; 91–14 Swanton; 91–15 Knipe; 91–16 Lopez; 91–19 Bayer; 91–21 Britt Airways; 91–22 Omega Silicone Co.; 91–23 Continental Airlines; 91–25 Sanders; 91–27 Delta Air Lines; 91–28 Continental Airlines; 91–29 Smith; 91–34 GASPRO; 91–35 M. Graham; 91–36 Howard; 91–37 Vereen; 91–39 America West; 91–42 Pony Express; 91–49 Shields; 91–56 Mayham; 91–57 Britt Airways; 91–59 Griffin; 91–60 Brinton; 92–2 Koller; 92–4 Delta Air Lines; 92–6 Rothgeb; 92–12 Bertetto; 92–20 Delta Air Lines; 92–21 Cronberg; 92–22, 92–23, 92–24, 92–25, 92–26 & 92–28 Delta Air Lines; 92–33 Port Authority of NY & N]; 92–42 Jayson; 92–43 Delta; 92–44 Owens; 92–53 Humble; 92–54 & 92–55 Northwest Airlines; 92–60 Costello; 92–61 Romerdahl; 92–62 USAir; 92–63 Schaefer; 92–64 & 92–65 Delta Air Lines; 92–66 Sabre Associates & Moore; 92–79 Delta Air Lines; 93–1 Powell & Co.; 93–4 Harrah; 93–14 Fenske; 93–15 Brown; 93–21 Delta Air Lines; 93–22 Yannotone; 93–26 Delta Air Lines; 93–33 HPH Aviation; 94–9 B & G Instruments; 94–10 Boyle; 94–11 Pan American Airways; 94–13 Boyle; 94–14 B & G Instruments; 94–16 Ford; 94–33 Trans World Airlines; 94–41 Dewey Towner; 94–42 Taylor; 95–1 Diamond Aviation; 95–3 Delta Air Lines.
- "Attempt" ..... 89–5 Schultz.
- Attorney Conduct:
  - Obstreperous or Disruptive ..... 94–39 Kirola.
- Attorney Fees (See EAJA)
- Aviation Safety Reporting System ..... 90–39 Hart; 91–12 Terry & Menne; 92–49 Richardson & Shimp.
- Balloon (Hot Air) ..... 94–2 Woodhouse.
- Bankruptcy ..... 91–2 Continental Airlines.
- Certificates and Authorizations:
  - Surrender when revoked ..... 92–73 Wyatt.
- Civil Air Security National Airport Inspection Program (CASNAIP) .. 91–4 [Airport Operator]; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 91–58 [Airport Operator].

- Civil Penalty Amount (See Sanction)
- Closing Argument (See Final Oral Argument)
- Collateral Estoppel ..... 91–8 Watts Agricultural Aviation.
- Complaint:
  - Complainant Bound By ..... 90–10 Webb; 91–53 Koller.
  - No Timely Answer to (See Answer)
  - Partial Dismissal/Full Sanction ..... 94–19 Pony Express; 94–40 Polynesian Airways.
  - Timeliness of compliant ..... 91–51 Hagwood; 93–13 Medel; 94–7 Hereth; 94–5 Grant.
  - Withdrawal of ..... 94–39 Kirola.
- Compliance & Enforcement Program (FAA Order No. 2150.3A) ..... 89–5 Schultz; 89–6 American Airlines; 91–38 Esau; 92–5 Delta Air Lines.
  - Sanction Guidance Table ..... 89–5 Schultz; 90–23 Broyles; 90–33 Cato; 90–37 Northwest Airlines; 91–3 Lewis; 92–5 Delta Air Lines.
- Concealment of Weapons ..... 89–5 Schultz; 92–46 Sutton-Sautter; 92–51 Koblick.
- Consolidation of Cases ..... 90–12, 90–18 & 90–19 Continental Airlines.
- Continuance of Hearing ..... 90–25 Gabbert; 92–29 Haggland.
- Corrective Action (See Sanction)
- Credibility of Witnesses:
  - Deference to ALJ ..... 90–21 Carroll; 92–3 Park; 93–17 Metcalf.
  - Expert witnesses (see also Witnesses) ..... 90–27 Gabbert; 93–17 Metcalf.
  - Impeachment ..... 94–4 Northwest Aircraft Rental.
- De facto answer ..... 92–32 Barnhill.
- Deliberative Process Privilege ..... 89–6 American Airlines; 90–12, 90–18 & 90–19 Continental Airlines.
- Deterrence ..... 89–5 Schultz; 92–10 Flight Unlimited.
- Discovery:
  - Deliberative Process Privilege ..... 89–6 American Airlines; 90–12, 90–18 & 90–19 Continental Airlines.
  - Depositions ..... 91–54 Alaska Airlines.
    - Notice of ..... 91–54 Alaska Airlines.
  - Failure to Produce ..... 90–18 & 90–19 Continental Airlines; 91–17 KDS Aviation; 93–10 Costello.
  - Of Investigative File in Unrelated Case ..... 92–46 Sutton-Sautter.
  - Sanctions for ..... 91–17 KDS Aviation; 91–54 Alaska Airlines.
- Due Process:
  - Before finding a violation ..... 90–27 Gabbert.
  - Violation of ..... 89–6 American Airlines; 90–12 Continental Airlines; 90–37 Northwest Airlines.
- EAJA:
  - Adversary Adjudication ..... 90–17 Wilson; 91–17 & 91–52 KDS Aviation; 94–17 TCI.
  - Further proceedings ..... 91–52 KDS Aviation.
  - Jurisdiction over appeal ..... 92–74 Wendt.
  - Other expenses ..... 93–29 Sweeney.
  - Prevailing party ..... 91–52 KDS Aviation.
  - Substantial justification ..... 91–52 & 92–71 KDS Aviation; 93–9 Wendt.
- Ex Parte Communications ..... 93–10 Costello.
- Expert Witnesses (see Witness)
- Extension of Time:
  - By Agreement of Parties ..... 89–6 American Airlines; 92–41 Moore & Sabre Associates.
  - Dismissal by Decisionmaker ..... 89–7 Zenkner; 90–39 Hart.
  - Good Cause for ..... 89–8 Thunderbird Accessories.
  - Objection to ..... 89–8 Thunderbird Accessories; 93–3 Wendt.
  - Who may grant ..... 90–27 Gabbert.
- Federal Courts ..... 92–7 West.
- Federal Rules of Civil Procedure ..... 91–17 KDS Aviation.
- Final Oral Argument ..... 92–3 Park.
- Firearms (See Weapons)
- Flights ..... 94–20 Conquest Helicopters.
- Freedom of Information Act ..... 93–10 Costello.
- Guns (See Weapons)
- Hazardous Materials Transp. Act ..... 90–37 Northwest Airlines; 92–76 Safety Equipment; 92–77 TCI; 94–19 Pony Express; 94–28 Toyota; 94–31 Smalling.
  - Civil Penalty ..... 92–77 TCI; 94–28 Toyota; 94–31 Smalling.
  - Corrective Action ..... 92–77 TCI; 94–28 Toyota.
  - Culpability ..... 92–77 TCI; 94–28 Toyota; 94–31 Smalling.
  - First-time violation ..... 92–77 TCI; 94–28 Toyota; 94–31 Smalling.
  - Gravity of the violation ..... 92–77 TCI; 94–28 Toyota; 94–31 Smalling.
  - Criminal Penalty ..... 92–77 TCI; 94–31 Smalling.
  - Knowingly ..... 92–77 TCI; 94–19 Pony Express; 94–31 Smalling.
- Informal Conference ..... 94–4 Northwest Aircraft Rental.
- Initial Decision:
  - What constitutes ..... 92–32 Barnhill.
- Interference with crewmembers ..... 92–3 Park.
- Interlocutory Appeal ..... 89–6 American Airlines; 91–54 Alaska Airlines; 93–37 Airspect; 94–32 Detroit Metropolitan.

VOL 60 ISS 73 AP 17 1995 UMI

Internal FAA Policy &/or Procedures ..... 89–6 American Airlines; 90–12 Continental Airlines; 92–73 Wyatt.
Jurisdiction:
  After initial decision ..... 90–20 Degenhardt; 90–33 Cato; 92–32 Barnhill; 93–28 Strohl.
  After Order Assessing Civil Penalty ..... 94–37 Houston.
  After withdrawal of complaint ..... 94–39.
  $50,000 Limit ..... 90–12 Continental Airlines.
  EAJA cases ..... 92–74 Wendt.
  HazMat cases ..... 92–76 Safety Equipment.
  NTSB ..... 90–11 Thunderbird Accessories.
Knowledge (See also Weapons Violations):
  Of concealed weapon ..... 89–5 Schultz; 90–20 Degenhardt.
Laches (See Unreasonable Delay)
Mailing Rule ..... 89–7 Zenkner; 90–3 Metz; 90–11 Thunderbird Accessories; 90–39 Hart.
  Overnight express delivery ..... 89–6 American Airlines.
Maintenance (See Aircraft Maintenance)
Maintenance Instruction ..... 93–36 Valley Air.
Maintenance Manual ..... 90–11 Thunderbird Accessories.
Minimum Equipment List (MEL) (See Aircraft Maintenance)
Mootness:
  Appeal dismissed as moot ..... 92–9 Griffin; 94–17 TCI.
National Aviation Safety Inspection Program (NASIP) ..... 90–16 Rocky Mountain.
National Transportation Safety Board:
  Administrator not bound by NTSB case law ..... 91–12 Terry & Menne; 92–49 Richardson & Shimp; 93–18 Westair Commuter.
  Lack of Jurisdiction ..... 90–11 Thunderbird Accessories; 90–17 Wilson; 92–74 Wendt.
Notice of Hearing:
  Receipt ..... 92–31 Eaddy.
Notice of Proposed Civil Penalty:
  Initiates Action ..... 91–9 Continental Airlines.
  Signature of agency attorney ..... 93–12 Langton.
  Withdrawal of ..... 90–17 Wilson.
Operate ..... 91–12 & 91–31 Terry & Menne; 93–18 Westair Commuter.
Oral Argument:
  Decision to hold ..... 92–16 Wendt.
  Instructions for ..... 92–27 Wendt.
Order Assessing Civil Penalty:
  Appeal from ..... 92–1 Costello.
  Withdrawal of ..... 89–4 Metz; 90–16 Rocky Mountain; 90–22 USAir.
Parts Manufacturer Approval:
  Failure to obtain ..... 93–19 Pacific Sky Supply.
Passenger Misconduct ..... 92–3 Park.
  Smoking ..... 92–37 Giuffrida.
Penalty (See Sanction)
Person ..... 93–18 Westair Commuter.
Proof & Evidence:
  Affirmative Defense ..... 92–13 Delta Air Lines; 92–72 Giuffrida.
  Burden of Proof ..... 90–26 & 90–43 Waddell; 91–3 Lewis; 91–30 Trujillo; 92–13 Delta Air Lines; 92–72 Giuffrida; 93–29 Sweeney.
  Circumstantial Evidence ..... 90–12, 90–19 & 91–9 Continental Airlines; 93–29 Sweeney.
  Credibility (See Administrative Law Judges; Credibility of Witnesses)
  Criminal standard rejected ..... 91–12 Terry & Menne.
  Closing Arguments ..... 94–20 Conquest Helicopters.
  Hearsay ..... 92–72 Giuffrida.
  Preponderance of evidence ..... 90–11 Thunderbird Accessories; 90–12 Continental Airlines; 91–12 & 91–31 Terry & Menne; 92–72 Giuffrida.
  Presumption that message on ATC tape is received, as transmitted. 91–12 Terry & Menne; 92–49 Richardson & Shimp.
  Presumption that a gun is deadly or dangerous ..... 90–26 Waddell; 91–30 Trujillo.
  Substantial evidence ..... 92–72 Giuffrida.
Pro Se Parties:.
  Special Considerations ..... 90–11 Thunderbird Accessories; 90–3 Metz.
Prosecutorial Discretion ..... 89–6 American Airlines; 90–23 Broyles; 90–38 Continental Airlines; 91–41 [Airport Operator]; 92–46 Sutton-Sautter; 92–73 Wyatt.
Reconsideration:
  Denied by ALJ ..... 89–4 & 90–3 Metz.
  Granted by AL ..... 92–32 Barnhill.
  Stay of Order Pending ..... 90–31 Carroll; 90–32 Continental Airlines.
Remand ..... 89–6 American Airlines; 90–16 Rocky Mountain; 90–24 Bayer; 91–51 Hagwood; 91–54 Alaska Airlines; 92–1 Costello; 92–76 Safety Equipment; 94–37 Houston.

Repair Station ..... 90–11 Thunderbird Accessories; 92–10 Flight Unlimited; 94–2 Woodhouse.
Request for Hearing ..... 94–37 Houston.
Rules of Practice (14 CFR Part 13, Subpart G):
  Applicability of ..... 90–12, 90–18 & 90–19 Continental Airlines; 91–17 KDS Aviation.
  Challenges to ..... 90–12, 90–18 & 90–19 Continental Airlines; 90–21 Carroll; 90–37 Northwest Airlines.
  Effect of Changes in ..... 90–21 Carroll; 90–22 USAir; 90–38 Continental Airlines.
  Initiation of Action ..... 91–9 Continental Airlines.
Runway incursions ..... 92–40 Wendt; 93–18 Westair Commuter.
Sanction:
  Ability to Pay ..... 89–5 Schultz; 90–10 Webb; 91–3 Lewis; 91–38 Esau; 92–10 Flight Unlimited; 92–32 Barnhill; 92–37 & 92–72 Giuffrida; 92–38 Cronberg; 92–46 Sutton-Sautter; 92–51 Koblick; 93–10 Costello; 94–4 Northwest Aircraft Rental; 94–20 Conquest Helicopters.
  Agency policy:.
    ALJ Bound by ..... 90–37 Northwest Airlines; 92–46 Sutton-Sautter.
    Statements of (e.g., FAA Order 2150.3A, Sanction Guidance Table, memoranda pertaining to). 90–19 Continental Airlines; 90–23 Broyles; 90–33 Cato; 90–37 Northwest Airlines; 92–46 Sutton-Sautter.
  Corrective Action ..... 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 92–5 Delta Air Lines; 93–18 Westair Commuter; 94–28 Toyota.
  Discovery (See Discovery)
  Factors to consider ..... 89–5 Schultz; 90–23 Broyles; 90–37 Northwest Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 92–10 Flight Unlimited; 92–46 Sutton-Sautter; 92–51 Koblick; 94–28 Toyota.
  First-Time Offenders ..... 89–5 Schultz; 92–5 Delta Air Lines; 92–51 Koblick.
  HazMat (See Hazardous Materials Transp. Act)
  Inexperience ..... 92–10 Flight Unlimited.
  Maximum ..... 90–10 Webb; 91–53 Koller.
  Modified ..... 89–5 Schultz; 90–11 Thunderbird Accessories; 91–38 Esau; 92–10 Flight Unlimited; 92–13 Delta Air Lines; 92–32 Barnhill.
  Partial Dismissal of Complaint/Full Sanction (also see Complaint). 94–19 Pony Express; 94–40 Polynesian Airways.
  Pilot Deviation ..... 92–8 Watkins.
  Test object detection ..... 90–18 & 90–19 Continental Airlines.
  Unauthorized access ..... 90–19 Continental Airlines; 90–37 Northwest Airlines; 94–1 Delta Air Lines.
  Weapons violations ..... 90–23 Broyles; 90–33 Cato; 91–3 Lewis; 91–38 Esau; 92–32 Barnhill; 92–46 Sutton-Sautter; 92–51 Koblick; 94–5 Grant.
Screening of Persons:
  Air Carrier—failure to detect weapon:
    Sanction ..... 94–44 American Airlines.
  Entering Sterile Areas ..... 90–24 Bayer; 92–58 Hoedl.
Separation of Functions ..... 90–12 Continental Airlines; 90–18 Continental Airlines; 90–19 Continental Airlines; 90–21 Carroll; 90–38 Continental Airlines; 93–13 Medel.
Service (See also Mailing Rule):
  Of NPCP ..... 90–22 USAir.
  Of FNPCP ..... 93–13 Medel.
  Valid Service ..... 92–18 Bargen.
Settlement ..... 91–50 & 92–1 Costello.
Smoking ..... 92–37 Giuffrida; 94–18 Luxemburg.
Standard Security Program (SSP):
  Compliance with ..... 90–12, 90–18 & 90–19 Continental Airlines; 91–33 Delta Air Lines; 91–55 Continental Airlines; 92–13 & 94–1 Delta Air Lines.
Stay of Orders ..... 90–31 Carroll; 90–32 Continental Airlines.
Strict Liability ..... 89–5 Schultz; 90–27 Gabbert; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–58 [Airport Operator].
Test Object Detection ..... 90–12, 90–18, 90–19, 91–9 & 91–55 Continental Airlines; 92–13 Delta Air Lines.
  Proof of violation ..... 90–18, 90–19 & 91–9 Continental Airlines; 92–13 Delta Air Lines.
  Sanction ..... 90–18 & 90–19 Continental Airlines.
Timeliness (See also Complaint; Mailing Rule; and Appeals):
  Of response to NPCP ..... 90–22 USAir.
  Of complaint ..... 91–51 Hagwood; 93–13 Medel; 94–7 Hereth.
  Of NPCP ..... 92–73 Wyatt.
  Of request for hearing ..... 93–12 Langton.
Unapproved Parts (See also Parts Manufacturer Approval) ..... 93–19 Pacific Sky Supply.
Unauthorized Access:
  To Aircraft ..... 90–12 & 90–19 Continental Airlines; 94–1 Delta Air Lines.

VOL
60
ISS
73
AP
17
1995
UMI

To Air Operations Area (AOA) ..... 90–37 Northwest Airlines; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–58 [Airport Operator]; 94–1 Delta Air Lines.
Unreasonable Delay In Initiating Action ..... 90–21 Carroll.
Visual Cues Indicating Runway, Adequacy of ..... 92–40 Wendt.
Weapons Violations ..... 89–5 Schultz; 90–10 Webb; 90–20 Degenhardt; 90–23 Broyles; 90–33 Cato; 90–26 & 90–43 Waddell; 91–3 Lewis; 91–30 Trujillo; 91–38 Esau; 91–53 Koller; 92–32 Barnhill; 92–46 Sutton-Sautter; 92–51 Koblick; 92–59 Petek-Jackson; 94–5 Grant; 94–44 American Airlines.
Concealment (See Concealment)
Deadly or Dangerous ..... 90–26 & 90–43 Waddell; 91–30 Trujillo; 91–38 Esau.
First-time Offenders ..... 89–5 Schultz.
Intent to commit violation ..... 89–5 Schultz; 90–20 Degenhardt; 90–23 Broyles; 90–26 Waddell; 91–3 Lewis; 91–53 Koller.
Knowledge:
Of Weapon Concealment (See also Knowledge) ..... 89–5 Schultz; 90–20 Degenhardt.
Sanction (See "Sanction").
Weight and Balance ..... 94–40 Polynesian Airways.
Witnesses:
Absence of, Failure to subpoena ..... 92–3 Park.
Expert testimony (see also Credibility) Evaluation of ..... 93–17 Metcalf; 94–3 Valley Air; 94–21 Sweeney.
Regulations (Title 14 CFR, unless otherwise noted):
1.1 (maintenance) ..... 94–38 Bohan.
1.1 (operate) ..... 91–12 & 91–31 Terry & Menne; 93–18 Westair Commuter.
1.1 (person) ..... 93–18 Westair Commuter.
13.16 ..... 90–16 Rocky Mountain; 90–22 USAir; 90–37 Northwest Airlines; 90–38 & 91–9 Continental Airlines; 91–18 [Airport Operator]; 91–51 Hagwood; 92–1 Costello; 92–46 Sutton-Sautter; 93–13 Medel; 93–28 Strohl; 94–27 Larsen; 94–37 Houston; 94–31 Smalling.
13.201 ..... 90–12 Continental Airlines.
13.202 ..... 90–6 American Airlines; 92–76 Safety Equipment.
13.203 ..... 90–12 Continental Airlines; 90–21 Carroll; 90–38 Continental Airlines.
13.204 .....
13.205 ..... 90–20 Degenhardt; 91–17 KDS Aviation; 91–54 Alaska Airlines; 92–32 Barnhill; 94–32 Detroit Metropolitan; 94–39 Kirola.
13.206 .....
13.207 ..... 94–39 Kirola.
13.208 ..... 90–21 Carroll; 91–51 Hagwood; 92–73 Wyatt; 92–76 Safety Equipment; 93–13 Medel; 93–28 Strohl; 94–7 Hereth.
13.209 ..... 90–3 Metz; 90–15 Playter; 91–18 [Airport Operator]; 92–32 Barnhill; 92–47 Cornwall; 92–75 Beck; 92–76 Safety Equipment; 94–8 Nunez; 94–5 Grant; 94–22 Harkins; 94–29 Sutton; 94–30 Columna.
13.210 ..... 92–19 Cornwall; 92–75 Beck; 92–76 Safety Equipment; 93–7 Dunn; 93–28 Strohl; 94–5 Grant; 94–30 Columna.
13.211 ..... 89–6 American Airlines; 89–7 Zenkner; 90–3 Metz; 90–11 Thunderbird Accessories; 90–39 Hart; 91–24 Esau; 92–1 Costello; 92–9 Griffin; 92–18 Bargen; 92–19 Cornwall; 92–57 Detroit Metro. Wayne County Airport; 92–74 Wendt; 92–76 Safety Equipment; 93–2 Wendt; 94–5 Grant; 94–18 Luxemburg; 94–29 Sutton.
13.212 ..... 90–11 Thunderbird Accessories; 91–2 Continental Airlines.
13.213 .....
13.214 ..... 91–3 Lewis.
13.215 ..... 93–28 Strohl; 94–39 Kirola.
13.216 .....
13.217 ..... 91–17 KDS Aviation.
13.218 ..... 89–6 American Airlines; 90–11 Thunderbird Accessories; 90–39 Hart; 92–9 Griffin; 92–73 Wyatt; 93–19 Pacific Sky Supply; 94–6 Strohl; 94–27 Larsen.
13.219 ..... 89–6 American Airlines; 91–2 Continental Airlines; 91–54 Alaska Airlines; 93–37 Airspect; 94–32 Detroit Metro. Wayne Airport.
13.220 ..... 89–6 American Airlines; 90–20 Carroll; 91–8 Watts Agricultural Aviation; 91–17 KDS Aviation; 91–54 Alaska Airlines; 92–46 Sutton-Sautter.
13.221 ..... 92–29 Haggland; 92–31 Eaddy; 92–52 Cullop.
13.222 ..... 92–72 Giuffrida.
13.223 ..... 91–12 & 91–31 Terry & Menne; 92–72 Giuffrida.
13.224 ..... 90–26 Waddell; 91–4 [Airport Operator]; 92–72 Giuffrida; 94–18 Luxemburg; 94–28 Toyota.
13.225 .....
13.226 .....
13.227 ..... 90–21 Carroll.

13.228 ..... 92–3 Park.
13.229 .....
13.230 ..... 92–19 Cornwall.
13.231 ..... 92–3 Park.
13.232 ..... 89–5 Schultz; 90–20 Degenhardt; 92–1 Costello; 92–18 Bargen; 92–32 Barnhill; 93–28 Strohl; 94–28 Toyota.
13.233 ..... 89–1 Gressani; 89–4 Metz; 89–5 Schultz; 89–7 Zenkner; 89–8 Thunderbird Accessories; 90–3 Metz; 90–11 Thunderbird Accessories; 90–19 Continental Airlines; 90–20 Degenhardt; 90–25 & 90–27 Gabbert; 90–35 P. Adams; 90–19 Continental Airlines; 90–39 Hart; 91–2 Continental Airlines; 91–3 Lewis; 91–7 Pardue; 91–8 Watts Agricultural Aviation; 91–10 Graham; 91–11 Continental Airlines; 91–12 Bargen; 91–24 Esau; 91–26 Britt Airways; 91–31 Terry & Menne; 91–32 Bargen; 91–43 & 91–44 Delta; 91–45 Park; 91–46 Delta; 91–47 Delta; 91–48 Wendt; 91–52 KDS Aviation; 91–53 Koller; 92–1 Costello; 92–3 Park; 92–7 West; 92–11 Alilin; 92–15 Dillman; 92–16 Wendt; 92–18 Bargen; 92–19 Cornwall; 92–27 Wendt; 92–32 Barnhill; 92–34 Carrell; 92–35 Bay Land Aviation; 92–36 Southwest Airlines; 92–39 Beck; 92–45 O'Brien; 92–52 Beck; 92–56 Montauk Caribbean Airways; 92–57 Detroit Metro. Wayne Co. Airport; 92–67 USAir; 92–69 McCabe; 92–72 Giuffrida; 92–74 Wendt; 92–78 TWA; 93–5 Wendt; 93–6 Westair Commuter; 93–7 Dunn; 93–8 Nunez; 93–19 Pacific Sky Supply; 93–23 Allen; 93–27 Simmons; 93–28 Strohl; 93–31 Allen; 93–32 Nunez; 94–9 B & G Instruments; 94–10 Boyle; 94–12 Bartusiak; 94–15 Columna; 94–18 Luxemburg; 94–23 Perez; 94–24 Page; 94–26 French Aircraft; 94–28 Toyota; 95–2 Meronek.
13.234 ..... 90–19 Continental Airlines; 90–31 Carroll; 90–32 & 90–38 Continental Airlines; 91–4 [Airport Operator].
13.235 ..... 90–11 Thunderbird Accessories; 90–12 Continental Airlines; 90–15 Playter; 90–17 Wilson; 92–7 West.
Part 14 ..... 92–74 & 93–2 Wendt.
14.01 ..... 91–17 & 92–71 KDS Aviation.
14.04 ..... 91–17, 91–52 & 92–71 KDS Aviation; 93–10 Costello.
14.05 ..... 90–17 Wilson.
14.20 ..... 91–52 KDS Aviation.
14.22 ..... 93–29 Sweeney.
14.26 ..... 91–52 KDS Aviation.
21.303 ..... 93–19 Pacific Sky Supply.
25.855 ..... 92–37 Giuffrida.
39.3 ..... 92–10 Flight Unlimited; 94–4 Northwest Aircraft Rental.
43.3 ..... 92–73 Wyatt.
43.9 ..... 91–8 Watts Agricultural Aviation.
43.13 ..... 90–11 Thunderbird Accessories; 94–3 Valley Air; 94–38 Bohan.
43.15 ..... 90–25 & 90–27 Gabbert; 91–8 Watts Agricultural Aviation; 94–2 Woodhouse.
65.15 ..... 92–73 Wyatt.
65.92 ..... 92–73 Wyatt.
91.8 (91.11 as of 8/18/90) ..... 92–3 Park.
91.9 (91.13 as of 8/18/90) ..... 90–15 Playter; 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–40 Wendt; 92–48 USAir; 92–49 Richardson & Shimp; 92–47 Cornwall; 92–70 USAir; 93–9 Wendt; 93–17 Metcalf; 93–18 Westair Commuter; 93–29 Sweeney; 94–29 Sutton.
91–29 (91.7 as of 8/18/90) ..... 91–8 Watts Agricultural Aviation; 92–10 Flight Unlimited; 94–4 Northwest Aircraft Rental.
91.65 (91.111 as of 8/18/90) ..... 91–29 Sweeney; 94–21 Sweeney.
91.67 (91.113 as of 8/18/90) ..... 91–29 Sweeney.
91.75 (91.123 as of 8/18/90) ..... 91–12 & 91–31 Terry & Menne; 92–8 Watkins; 92–40 Wendt; 92–49 Richardson & Shimp; 93–9 Wendt.
91.79 (91.119 as of 8/18/90) ..... 90–15 Playter; 92–47 Cornwall; 93–17 Metcalf.
91.87 (91.129 as of 8/18/90) ..... 91–12 & 91–31 Terry & Menne; 92–8 Watkins.
91.173 (91.417 as of 8/18/90) ..... 91–8 Watts Agricultural Aviation.
91.703 ..... 94–29 Sutton.
107.1 ..... 90–19 Continental Airlines; 90–20 Degenhardt; 91–4 [Airport Operator]; 91–58 [Airport Operator].
107.13 ..... 90–12 & 90–19 Continental Airlines; 91–4 [Airport Operator]; 91–18 [Airport Operator]; 91–40 [Airport Operator]; 91–41 [Airport Operator]; 91–58 [Airport Operator].
107.20 ..... 90–24 Bayer; 92–58 Hoedl.

VOL 60 ISS 73 AP 17 1995 UMI

107.21	89–5 Schultz; 90–10 Webb; 90–22 Degenhardt; 90–23 Broyles; 90–26 & 90–43 Waddell; 90–33 Cato; 90–39 Hart; 91–3 Lewis; 91–10 Graham; 91–30 Trujillo; 91–38 Esau; 91–53 Koller; 92–32 Barnhill; 92–38 Cronberg; 92–46 Sutton-Sautter; 92–51 Koblick; 92–59 Petek-Jackson; 94–5 Grant; 94–31 Smalling.
107.25	94–30 Columna.
108.5	90–12, 90–18, 90–19, 91–2 & 91–9 Continental Airlines; 91–33 Delta Air Lines; 91–54 Alaska Airlines; 91–55 Continental Airlines; 92–13 & 94–1 Delta Air Lines; 94–44 American Airlines.
108.7	90–18 & 90–19 Continental Airlines.
108.11	90–23 Broyles; 90–26 Waddell; 91–3 Lewis; 92–46 Sutton-Sautter; 94–44 American Airlines.
108.13	90–12 & 90–19 Continental Airlines; 90–37 Northwest Airlines.
121.133	90–18 Continental Airlines.
121.153	92–48 & 92–70 USAir.
121.317	92–37 Giuffrida; 94–18 Luxemburg.
121.318	92–37 Giuffrida.
121.367	90–12 Continental Airlines.
121.571	92–37 Giuffrida.
135.5	94–3 Valley Air; 94–20 Conquest Helicopters.
135.25	92–10 Flight Unlimited; 94–3 Valley Air.
135.63	94–40 Polynesian Airways.
135.87	90–21 Carroll.
135.185	94–40 Polynesian Airways.
135.413	94–3 Valley Air.
135.421	93–36 Valley Air; 94–3 Valley Air.
135.437(b)	94–3 Valley Air.
145.53	90–11 Thunderbird Accessories.
145.57	94–2 Woodhouse.
145.61	90–11 Thunderbird Accessories.
191	90–12 & 90–19 Continental Airlines; 90–37 Northwest Airlines.
298.1	92–10 Flight Unlimited.
302.6	90–22 USAir.
49 CFR:	
1.47	92–76 Safety Equipment.
171.2	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
171.8	92–77 TCI.
172.101	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.200	92–77 TCI; 94–28 Toyota.
172.202	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.203	94–28 Toyota.
172.204	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.300	94–31 Smalling.
172.301	94–31 Smalling.
172.304	92–77 TCI; 94–31 Smalling.
172.400	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
172.402	94–28 Toyota.
172.406	92–77 TCI.
173.1	92–77 TCI; 94–28 Toyota; 94–31 Smalling.
173.3	94–28 Toyota; 94–31 Smalling.
173.6	94–28 Toyota.
173.22(a)	94–28 Toyota; 94–31 Smalling.
173.24	94–28 Toyota.
173.25	94–28 Toyota.
173.27	92–77 TCI.
173.115	92–77 TCI.
173.240	92–77 TCI.
173.243	94–28 Toyota.
173.260	94–28 Toyota.
173.266	94–28 Toyota; 94–31 Smalling.
175.25	94–31 Smalling.
821.30	92–73 Wyatt.
821.33	90–21 Carroll.

Statutes

5 U.S.C.:	
504	90–17 Wilson; 91–17 & 92–71 KDS Aviation; 92–74, 93–2 & 93–9 Wendt; 93–29 Sweeney; 94–17 TCI.
552	90–12, 90–18 & 90–19 Continental Airlines; 93–10 Costello.
554	90–18 Continental Airlines; 90–21 Carroll.
556	90–21 Carroll; 91–54 Alaska Airlines.
557	90–20 Degenhardt; 90–21 Carroll; 90–37 Northwest Airlines; 94–28 Toyota.

11 U.S.C.:	
362	91–2 Continental Airlines.
28 U.S.C.:	
2412	93–10 Costello.
2462	90–21 Carroll.
49 U.S.C. App.:	
1301(31) (operate)	93–18 Westair Commuter.
(32) (person)	93–18 Westair Commuter.
1356	90–18 & 90–19, 91–2 Continental Airlines.
1357	90–18 & 90–19, 91–2 Continental Airlines; 91–41 [Airport Operator]; 91–58 [Airport Operator].
1421	92–10 Flight Unlimited; 92–48 USAir; 92–70 USAir; 93–9 Wendt.
1429	92–73 Wyatt.
1471	89–5 Schultz; 90–10 Webb; 90–20 Degenhardt; 90–12, 90–18 & 90–19 Continental Airlines; 90–23 Broyles; 90–26 & 90–43 Waddell; 90–33 Cato; 90–37 Northwest Airlines; 90–39 Hart; 91–2 Continental Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 91–53 Koller; 92–5 Delta Air Lines; 92–10 Flight Unlimited; 92–46 Sutton-Sautter; 92–51 Koblick; 92–74 Wendt; 92–76 Safety Equipment; 94–20 Conquest Helicopters; 94–40 Polynesian Airways.
1475	90–20 Dengenhardt; 90–12 Continental Airlines; 90–18, 90–19 & 91–1 Continental Airlines; 91–3 Lewis; 91–18 [Airport Operator]; 94–40 Polynesian Airways.
1486	90–21 Carroll.
1809	92–77 TCI; 94–19 Pony Express; 94–28 Toyota; 94–31 Smalling.

Civil Penalty Actions—Orders Issued by the Administrator

Digests

(Current as of March 31, 1995)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of each decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from January 1, 1995, to March 31, 1995. The FAA will publish noncumulative supplements to the compilation on a quarterly basis (e.g. April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Diamond Aviation, Inc.

Order No. 95–1 (1/27/95)

Appeal Dismissed. Complainant withdrew its notice of appeal. The appeal is dismissed.

In the Matter of Harry Allan Meronek

Order No. 95–2 (2/14/95)

Appeal Dismissed. Respondent failed to show good cause for his failure to file a timely notice of appeal. His appeal is dismissed.

In the Matter of Delta Air Lines, Inc.

Order No. 95–3 (3/28/95)

Appeal Dismissed. Complainant withdrew its notice of appeal. The appeal is dismissed.

In the Matter of Dean Hanson

Order No. 95–4 (3/30/95)

Appeal Dismissed. Respondent failed to perfect his appeal by filing an appeal brief as required by 14 CFR 13.233(c). Respondent's appeal is dismissed.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

In June 1991, as a public service, the FAA began releasing to commercial publishers the Administrator's decisions and orders in civil penalty cases. The goal was to make these decisions and orders more accessible to the public. The Administrator's decisions and orders in civil penalty cases are now available in the following commercial publications:

AvLex, published by Aviation Daily, 1156 15th Street, NW, Washington, DC 20005, (202) 822–4669;

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

Federal Aviation Decisions, Clark Boardman Callaghan, 50 Broad Street East, Rochester, NY 14694, (716) 546–1490.

The decisions and orders may be obtained on disk from Aviation Records, Inc., P.O. Box 172, Battle Ground, WA 98604, (206) 896–0376. Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483, is placing the decisions on CD–ROM. Finally, the Administrator's decisions and orders in civil penalty cases are available on the following computer databases: Compuserve; Fedix; and GENIE.

The FAA has stated previously that publication of the subject-matter index and the digests may be discontinued once a commercial reporting service publishes similar information in a timely and accurate manner. No decision has been made yet on this matter, and for the time being, the FAA will continue to prepare and publish the subject-matter index and digests.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters:

FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296.

VOL
60
ISS
73
AP
17
1995
UMI

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430; (718) 553–1035.

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), Great Lakes Region Headquarters, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018; (708) 294–7108.

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Burlington, MA 01803–5299; (617) 238–7050.

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (206) 227–2007.

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200.

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 4400 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087.

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 297–1270.

Issued in Washington, DC on April 6th, 1995.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 95–9403 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

International Standards on the Transport of Radioactive Materials; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to discuss issues to be considered at the International Atomic Energy Agency (IAEA) Technical Committee Meeting (TCM) to be held May 15–19, 1995 in Vienna, Austria. A TCM is a meeting of experts from member nations assembled to address particular aspects of a particular proposal.

DATES: May 9, 1995 at 10:00 a.m.

ADDRESSES: Room 8334, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Richard Boyle, Chief, Radioactive Materials Branch, Office of Hazardous Materials Technology, Department of Transportation, Washington, DC 20590; (202) 366–4545.

SUPPLEMENTARY INFORMATION: This meeting will be held to discuss several issues being considered at the TCM to be held in Vienna, Austria, on May 15–19, 1995. In general terms, this TCM is responsible for recommending solutions to the fourth and final Safety Series No. 6 revision panel to be held in September 1995 on the following technical issues:

1. The proposals and recommendations made by the eleventh meeting of the IAEA Standing Advisory Group for the Safe Transport of Radioactive Material (SAGSTRAM XI, March 1995), the third meeting of the panel working to revise Safety Series No. 6 (October 1994), and TCM–675.3 on the Air Transport of Radioactive Material (August 1994) concerning the air transport of radioactive material in large quantities or with high activity. Specifically, this TCM will discuss the possible exemption of low dispersible material from these air transport requirements.

2. The proposals and recommendations made by the eleventh meeting of the IAEA Standing Advisory Group for the Safe Transport of Radioactive Material (SAGSTRAM XI, March 1995), the third meeting of the panel working to revise Safety Series No. 6 (October 1994), and the interim results of consolidated research project on exemption quantities concerning the establishment of new, radionuclide specific exemption values for the transport of radioactive materials.

The public is invited to attend without prior notification.

Documents

Copies of documents relating to the issues to be covered at the TCM are on file in RSPA's Dockets unit (Nassif Building, Room 8421) and may be viewed Monday–Friday from 8 am to 4:30 pm. Documents may also be ordered by contacting RSPA's Dockets Unit at (202) 366–4453.

Issued in Washington, DC, on April 6, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–9317 Filed 4–14–95; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–22; OTS No. 3970]

First Federal Savings and Loan Association of San Gabriel Valley, West Covina, California; Approval of Conversion Application

Notice is hereby given that on April 5, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Savings and Loan Association of San Gabriel Valley, West Covina, California, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the West Regional Office, Office of Thrift Supervision, 1 Montgomery Street, Suite 400, San Francisco, California 94104.

Dated: April 11, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–9298 Filed 4–14–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–21; OTS No. 4312]

Logansport Savings Bank, FSB, Logansport, Indiana; Approval of Conversion Application

Notice is hereby given that on April 5, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Logansport Savings Bank, FSB, Logansport, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: April 11, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–9299 Filed 4–14–95; 8:45 am]

BILLING CODE 6720–01–M

VOL
60
ISS
73
AP
17
1995
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Sunshine Act Meetings

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1475]

TIME AND DATE: 9 a.m. (EDT), April 19, 1995.

PLACE: TVA Chattanooga Office Complex, 1101 Market Street, Chattanooga, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on March 15, 1995.

ACTION ITEMS:

New Business

C—Energy

C1. Adoption of a TVA-side Internal Energy Management Policy committing TVA to leadership in efficient and environmentally sound use of energy, and delegation of authority to the Chief Operating Officer, or his designee, to appoint a TVA representative to the Federal Interagency Energy Policy Committee to develop and modify an energy management plan to achieve the objectives of the policy.

C2. Personal services contract with NUMANCO to provide radiological control technicians at TVA nuclear sites.

E—Real Property

E1. Deed modification affecting approximately 0.074 acre of private land on Kentucky Lake in Benton County, Tennessee, Tract NO. XGIR–606, to clear an existing title problem and resolve a deed violation.

E2. Amendment of the Kentucky Reservoir Land Management Plan to change the allocated uses from public recreation and visual management to commercial recreation for a 4-acre portion of Tract No. XGIR–6PT in Livingston County, Kentucky, and sale of a permanent recreation easement for the same area to Tullar Enterprises, which is being designated as Tract No. XGIR–923RE.

E3. Grants of permanent easements to Hamilton County, Tennessee, for a sewage pump station and sewerlines affecting approximately 1.61 acres on Chickamauga Lake, Tract Nos. XTCR–186PS and 187S.

Information Items

1. Implementation of the decision of the Secretary of Labor in the wage dispute involving the International Brotherhood of Electric Workers resulting from the 56th Annual Wage Conference in 1991.

2. New investment managers and proposed new Investment Management Agreements between the Tennessee Valley Authority Retirement System, Equitable Asset Management, Inc., and Bradford & Marzec, Inc.

3. Revisions to interruptible power programs offering limited firm power and modifications to limited interruptible power and economy surplus power programs.

4. Commodity-based rate for SKW Metals and Alloys, Inc.

5. Supplement to Contract No. TV–92582V with Fitzgerald & Company for advertising support.

6. Settlement of claims and transfer of contract with Southern Illinois Mining Company, Inc.

FOR MORE INFORMATION:

Please call TVA Public Relations at (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: April 12, 1995.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 95–9468 Filed 4–13–95; 3:15 pm]

BILLING CODE 8120–08–M

Corrections

Federal Register
Vol. 60, No. 73
Monday, April 17, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Central Gulf of Mexico, Oil and Gas Lease Sale 152—Final

Correction

In notice document 95–8625 beginning on page 17797 in the issue of Friday, April 7, 1995, make the following corrections:

On pages 17802 through 17804, the land descriptions are republished as follows:

Central Gulf of Mexico Leased Lands

March 20, 1995

Description of blocks listed represent all Federal acreage leased unless otherwise noted.

Sabine Pass

3, 6, 7, 8, 9, 10, 11, 12, 13, 14

West Cameron

17, 18, 19, 20, 21, 22, 23, 24, 27, 28, 34, 35, 36, 38, 39, 41, 42, 43, 44, 45, 47, 48, 49, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 65, 66, 67, 68, 69, 71, 72, 73, 74, 75, 76, 77, 78, 79, 81, 82, 83, 91, 92, 93, 95, 97, 98, 99, 101, 102, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, 128, 130, 131, 132, 133, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 153, 165, 166, 167, 168, 170, 171, 172, 173, 174, 176, 177, 178, 179, 180, 181, 183, 184, 191, 192, 193, 194, 196, 197, 198, 199, 200, 201, 202, 205, 206, 207, 211, 212, 213, 215, 216, 222, 224, 225, 226, 229, 230, 231, 236, 237, 238, 239, 240, 242, 244, 245, 246, 248, 249, 250, 252, 253, 254, 255, 256, 258, 259, 261, 264, 265, 266, 269, 275, 276, 277, 279, 280, 282, 284, 285

West Cameron, West Addition

154, 161, 162, 163, 287, 288, 290, 291, 292, 293, 294, 295, 296, 298, 299, 305, 306, 310, 312, 313, 315, 321, 323, 324, 331, 332, 333, 334, 337, 338, 340, 342, 343, 344, 347, 351, 352, 359, 363, 367, 368, 369, 370, 379, 380, 383, 385, 386, 391, 392, 398, 400, 401, 404, 405, 406, 408, 409, 410, 411, 416, 417, 418, 421, 422, 423, 424, 425, 426, 427, 430, 431, 432, 433, 435, 436, 437, 438, 442, 444

West Cameron, South Addition

445, 447, 450, 455, 456, 457, 458, 459, 461, 462, 463, 464, 466, 467, 469, 470, 471, 474, 475, 476, 478, 480, 482, 483, 485, 486, 487, 488, 491, 492, 495, 496, 498, 503, 504, 505, 507, 510, 513, 514, 517, 522, 524, 527, 528, 529, 531, 532, 533, 534, 536, 537, 538, 541, 542, 543, 544, 548, 551, 552, 553, 554, 556, 557, 560, 561, 563, 564, 565, 566, 569, 570, 571, 572, 573, 575, 576, 580, 586, 587, 588, 589, 590, 591, 592, 593, 594, 596, 599, 600, 601, 604, 605, 606, 607, 609, 612, 613, 616, 617, 618, 620, 621, 624, 625, 630, 633, 635, 639, 642, 643, 645, 648, 653, 654, 657, 660, 663

East Cameron

2, 9, 11, 12, 14 (E½NW¼; NE¼)(Landward of 8(g) Line), 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 31, 32, 33, 34, 36, 37, 38, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50, 51, 55, 56, 57, 58, 60, 62, 63, 64, 65, 66, 67, 70, 71, 72, 75, 76, 77, 78, 81, 82, 83, 84, 87, 88, 89, 92, 94, 95, 96, 103, 104, 106, 109, 110, 111, 112, 114, 115, 116, 117, 118, 119, 122, 123, 125, 129, 131, 132, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 145, 148, 149, 151, 152, 153, 154, 155, 157, 158, 160 (E½), 169, 170, 171, 172, 176, 178, 179, 182, 184, 185, 188, 189, 190, 192, 193, 194 (E½E½SE¼), 195 (S½), 196, 199, 200, 201, 203, 204 (N½N½), 205, 211, 213, 214, 215, 218, 219, 220, 221, 222, 223, 226, 227, 229, 230, 231, 232, 234, 235

East Cameron, South Addition

236, 242, 243, 245, 251, 254, 255, 256, 257, 259, 260, 261, 264, 265, 268, 270, 271, 272, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 292, 293, 297, 298, 299, 300, 302, 303, 306, 307, 309, 310, 311, 312, 313, 314, 316, 317, 318, 319, 320, 321, 322, 323, 324, 328, 330, 331, 332, 334, 335, 336, 337, 338, 346, 347, 348, 349, 351, 352, 353, 354, 355, 356, 357, 358, 359, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 373, 374, 377, 378, 380

Vermilion

16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 34, 35, 36, 38, 39; 40, 41, 42, 43, 46 (N½), 48, 49, 51, 52, 53, 54, 57, 58, 60, 65, 66, 67, 68, 69, 70, 71, 72, 75, 76, 78, 82, 83, 84, 85, 86, 92, 93, 95, 96, 97, 98, 99, 101, 102, 104 (SE¼; N½; E½SW¼; E½W½SW¼), 107, 108, 109, 111, 112, 114, 115, 116, 117, 119, 120, 123, 124, 129, 130, 131, 132, 133, 143, 144, 145, 146, 147, 148, 155, 156, 157, 158, 159, 160, 161, 162, 164, 165, 166, 167, 168, 169, 171, 172, 175, 176, 178, 179 (E½E½NE¼; W½NE¼NE¼; NE¼NE¼SE¼), 182, 185, 186, 187, 191, 195, 196, 198, 199, 200, 201, 202, 203, 205, 207, 208, 213, 214, 215, 216, 217, 218 (E½NW¼SE¼; NE¼SW¼SE¼; E½SE¼), 220, 221, 222, 223, 225 (E½NE¼; NE¼SE¼), 226, 229, 230, 232, 233, 237, 242, 245, 246, 247, 249, 250, 251

Vermilion, South Addition

252, 253, 255, 256, 257, 258, 261, 262, 265, 266, 267, 268, 270, 271, 272, 273, 275, 276, 277, 279, 280, 282, 284, 286, 287, 288, 289, 290, 291, 292, 294, 295, 296, 297, 298, 299, 300, 301, 302, 304, 305, 306, 307, 308, 309, 310, 311, 313, 314, 315, 317, 318, 319, 320, 321, 325, 326, 327, 328, 329, 330, 331, 332, 333, 335, 336, 337, 338, 339, 340, 341, 342, 343, 347, 348, 349, 350, 352, 355, 357, 358, 359, 362, 363, 365, 367, 368, 369, 370, 371, 372, 374, 375, 376, 377, 378, 379, 380, 384, 385, 386, 389, 393, 394, 395, 397, 398, 399, 400, 404, 405, 406, 407, 409, 410, 412

South Marsh Island, North Addition

207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220 (Landward of lease 0310 stip. Line), 221 (Landward of lease 0310 stip. Line), 222, 223, 224, 225, 226, 227, 228, 229, 230 (Landward of lease 0310 stip. Line), 231 (Landward of lease 0310 stip. Line), 232, 233, 234, 235 (Landward of lease 0310 stip. line; portion more than 3 marine leagues swd. of a line connecting Tiger Pt. & Shell Keys), 236, 237, 238, 239, 240, 241 (Landward of lease 0310 stip. Line), 242 (Landward of lease 0310 stip. Line), 243, 244, 245, 249, 250, 251, 252, 253, 255, 256, 257, 260, 261, 262, 265, 266, 268, 269, 272, 274, 275, 276, 277, 278, 280, 281, 282, 283, 285, 286, 287, 288

South Marsh Island

2, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 22, 23, 24, 25, 27, 28, 29, 33, 34, 35, 36, 37, 38, 39, 40, 41, 45, 47, 48, 49, 50, 51, 55, 57, 58, 59, 60, 61, 64, 66, 68, 69, 70

South Marsh Island, South Addition

71, 72, 73, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 90, 91, 92, 93, 95, 96, 97, 99, 102, 103, 106, 107, 108, 109, 114, 115, 116, 117, 118, 119, 120, 121, 122, 124, 125, 127, 128, 129, 130, 131, 132, 133, 134, 136, 137, 139, 140, 141, 142, 143, 144, 145, 146, 147, 149, 150, 151, 154, 155, 156, 158, 160, 161, 164, 166, 171, 172, 173, 174, 175, 176, 178, 182, 187, 188, 189, 190, 192, 193, 194, 195, 196, 197, 198, 199, 204, 205

Eugene Island

10, 18, 19, 20, 21, 22, 23, 24, 26, 28, 29, 30, 31, 32, 33, 34, 35, 38, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 56, 57, 58, 59, 60, 62, 63, 64, 65, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 93 (E½), 94, 95, 97, 98, 99, 100, 101, 102, 105, 106, 108, 109, 110, 111, 113A, 113B, 116 (E½), 119, 120, 125, 126, 127, 128, 128A, 129, 129A, 133, 134, 135, 136, 138, 142, 143, 144, 146, 148, 153, 154, 155, 156, 157, 158, 159, 162, 164, 167, 172, 173, 174, 175, 176, 177, 179, 181, 182, 184, 186, 187, 188, 189, 190, 191, 193, 196, 197, 198, 199, 200, 201, 202, 204, 205, 206, 208, 211, 212, 213, 214 (W½W½E½; W½), 215, 216, 217, 218, 219, 222, 223, 224, 227, 228, 229, 230, 231, 235, 236, 237, 238, 239, 240, 242, 243, 245, 246, 247, 248, 249, 251, 252, 253, 254 (S½), 255, 256, 257, 258, 259, 261, 262, 265, 266

VOL 60 ISS 73 AP 17 1995 UMI

Eugene Island, South Addition

267, 268, 269, 272, 273, 274, 275, 276, 277, 278, 281, 282, 283, 284, 285, 286, 287, 289, 292, 293, 294, 295, 296, 297, 299, 300, 301, 302, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 320, 322, 324, 325, 327, 328, 329, 330, 331, 332, 333, 335, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 352, 353, 354, 355, 356, 359, 360, 361, 364, 365, 366, 367, 368, 370, 371, 372, 374, 378, 380, 384, 385, 386, 388, 389, 390, 391, 392, 395, 396

Ship Shoal

13 (S½SE¼), 14 (S½S½), 15, 25 (Seaward of Zone 2 line), 26 (SE¼), 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 52, 55, 58, 59, 62, 63, 64 (W½), 65, 66, 67, 68, 69, 71 (W½), 72, 73, 75, 77, 78, 80, 81, 84, 86, 87, 90, 91, 92, 93, 94 (S½SE¼), 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 111, 112, 113, 114, 115, 117 (N½), 118 (N½), 119, 120, 122, 123, 126, 127, 128, 129, 130, 133, 134, 135, 136, 137, 138, 139, 140, 141, 145, 146, 148, 149, 150, 153, 154, 156, 157, 158, 159, 160, 163, 165, 166, 167, 168, 169, 170, 171, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 189, 190, 191, 193, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 214, 215, 216, 218, 219, 220, 222, 223, 224, 225, 227, 229, 230, 233, 235

Ship Shoal, South Addition

237, 238, 239, 240, 241, 242, 243, 246, 247, 248, 249, 251, 252, 253, 256, 257, 258, 259, 261, 262, 263, 264, 265, 266, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 282, 290, 291, 292, 293, 294, 295, 299, 300, 301, 304, 307, 309, 312, 315, 316, 317, 319, 321, 322, 323, 326, 327, 328, 331, 335, 336, 337, 338, 339, 341, 343, 344, 347, 348, 349, 350, 351, 353, 356, 357, 358, 359, 360, 361, 364, 367, 368

South Timbalier

10, 11, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27 (N½; N½SW¼), 28 (NE¼), 29, 30, 32, 33, 34, 35, 36, 37, 38, 47, 48, 50, 51, 52, 53, 54, 55, 63, 66, 67, 68, 69, 71, 72, 73, 74, 76, 77, 78, 83, 86, 91, 92, 95, 99, 100, 101, 106, 108, 110, 111, 112, 123, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 140, 142, 143, 144, 145, 147, 148, 149, 151, 152, 155, 159, 160, 161, 162, 163, 164, 165, 166, 167, 169, 170, 171, 172, 173, 175, 176, 177, 178, 179, 180, 181, 182, 184, 185, 188 (NW¼), 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 203, 205, 206, 207, 208, 210

South Timbalier, South Addition

212, 214, 215, 217, 219, 220, 221, 223, 224, 225, 226, 228, 229, 231, 233, 234, 235, 238, 241, 245, 246, 249, 251, 252, 253, 254, 258, 259, 260, 264, 265, 267, 273, 275, 276, 277, 278, 280, 283, 285, 288, 289, 292, 293, 295, 296, 297, 298, 299, 300, 301, 302, 305, 306, 308, 309, 310, 320

South Pelto

1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25

Bay Marchand

2, 3, 4, 5

Grand Isle

16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29 (N½), 30 (Por. landward of 3 marine league line), 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 52, 53, 54, 55, 63, 65, 66, 67, 69, 72, 73, 75, 76, 77, 78, 79, 82 (NW¼; S½), 83, 84, 85

Grand Isle, South Addition

86, 88, 89, 90, 91, 93, 94, 95, 99, 100, 101, 102, 103, 104, 108, 110, 111, 113, 115, 116, 117, 118, 119, 121

West Delta

17, 18, 19, 20, 21 (S½N½S½; S½S½), 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 56, 57, 58, 59, 61, 62, 63, 64, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80 (NW¼NW¼; W½SW¼; SW¼NW¼; NE¼SW¼; SE¼NW¼; S½NE¼; N½SE¼; NE¼NW¼; N½NE¼), 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109

West Delta, South Addition

110, 111, 112, 113, 114, 115, 117, 118, 121, 122, 123, 126, 128, 129, 132, 133, 134, 135, 137, 138, 140, 144, 145, 148, 149, 152

South Pass

6, 17, 18, 19, 27, 28, 31, 32, 33, 34, 35, 36, 37, 38, 42, 43, 45, 47, 48, 49, 50, 51, 52 (Seaward of 8(g) Line), 54, 56, 57 (Swd. of 75 Decree Line to 1 ft. swd. of 3rd Supp. Decree; 1 ft swd. of 3rd Supp. Decree to 3 geog. miles swd. of 1st Supp. Decree), 58, 59, 60, 61

South Pass, South & East Addition

62, 63, 64, 65, 66 (Seaward of 65 Decree Line), 67, 69, 70, 71, 72, 74, 75, 76, 77, 78, 82, 83, 86, 87, 88, 89, 92, 93, 94, 96

Main Pass

6, 7, 18, 19, 20, 30, 37, 38, 39, 40, 41, 42, 43 (NE¼; E½NW¼; E½W½NW¼; W½W½NW¼; NW¼SW¼; W½NE¼SW¼), 44, 55, 57, 58, 59, 61, 62, 63, 64, 65, 68, 69, 70, 71, 72, 73, 74, 77, 78, 86, 87, 90, 91, 92, 93 (Seaward of 8(g) Line), 94, 95, 96, 97, 98, 99, 100 (N½; N½N½S½; SE¼NE¼SE¼; E½SE¼SE¼), 102, 103, 104, 105, 106 (SW¼SE¼NE¼; S½ SW¼NE¼; S½S½NW¼; SW¼; W½SE¼; W½E½SE¼), 107, 108, 111, 112, 114, 115, 116, 117, 118, 119, 120, 122, 123, 124, 125, 126, 127 (N½), 129, 131, 132, 133, 138, 139, 140, 141, 142, 144, 145, 148, 149, 151, 152 (Seaward of 65 Decree Line), 153

Main Pass, South & East Addition

154, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 175, 177, 178, 179, 180, 181, 182, 183, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 199, 201, 202, 206, 209, 210, 214, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 231, 232, 233, 234, 236, 237, 242, 243, 244, 245, 248, 249, 251, 252, 255, 258, 259, 260, 261, 264, 265, 273, 277, 278, 280, 281, 283, 286, 288, 289, 290, 291, 292, 293, 294, 295, 296, 298, 299, 300, 301, 303, 304, 305, 306, 308, 309, 310, 311, 312, 313, 315

Breton Sound

41, 42, 43, 53 (W½ Portion Seaward of 75 Decree Line), 54, 55, 56

Chandeleur

9, 13, 14, 15, 17, 18, 19, 21, 22, 25, 28, 29, 30 (Seaward of 8(g) Line), 31, 34

Chandeleur, East Addition

36, 37, 38, 40, 41

Mobile

778, 779, 819, 820, 821, 822, 823, 824, 826, 827, 828, 830, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 902, 904, 905, 907, 908, 909, 911, 912, 913, 914, 915, 916, 917, 918, 945, 947, 948, 949, 952, 953, 955, 956, 957, 958, 959, 960, 961, 962, 990, 1002, 1003

Viosca Knoll

22, 24, 27, 29, 31, 32, 33, 35, 38, 68, 69, 73, 74, 76, 77, 80, 117, 118, 121, 122, 123, 124, 155, 156, 157, 158, 161, 162, 163, 164, 168, 169, 201, 202, 203, 204, 206, 207, 208, 209, 211, 213, 250, 251, 252, 253, 254, 256, 294, 295, 296, 297, 298, 300, 340, 341, 345, 388, 389, 427, 428, 429, 430, 434, 474, 518, 519, 520, 564, 565, 609, 692, 693, 694, 695, 697, 698, 734, 736, 740, 741, 742, 772, 773, 774, 779, 780, 783, 784, 785, 786, 814, 815, 817, 818, 823, 825, 826, 827, 829, 830, 861, 862, 867, 868, 869, 870, 871, 872, 899, 900, 908, 909, 911, 912, 913, 914, 915, 916, 944, 948, 949, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 986, 987, 988, 989, 990, 992, 993, 994, 996, 997, 999, 1000, 1001, 1002, 1003, 1004

Ewing Bank

305, 306, 347, 438, 481, 526, 570, 658, 701, 702, 743, 744, 745, 746, 784, 788, 789, 790, 826, 828, 829, 830, 833, 867, 869, 871, 872, 873, 874, 878, 879, 903, 908, 910, 911, 912, 913, 914, 915, 916, 917, 918, 920, 921, 938, 944, 947, 948, 952, 954, 955, 958, 959, 962, 963, 964, 965, 966, 967, 975, 983, 985, 986, 988, 989, 991, 994, 995, 996, 1000, 1001, 1002, 1003, 1005, 1006, 1007, 1010, 1011

Mississippi Canyon

20, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 63, 65, 66, 67, 72, 73, 74, 76, 78, 79, 80, 81, 82, 84, 85, 108, 109, 114, 118, 119, 120, 121, 122, 123, 124, 125, 127, 128, 129, 148, 149, 150, 151, 161, 162, 163, 164, 166, 167, 168, 169, 173, 192, 193, 194, 195, 196, 199, 204, 205, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 235, 236, 240, 243, 244, 245, 247, 248, 251, 252, 253, 254, 255, 256, 257, 258, 259, 267, 268, 278, 280, 281, 287, 288, 289, 290, 291, 292, 296, 299, 300, 301, 302, 305, 311, 312, 320, 321, 322, 323, 324, 325, 333, 335, 338, 339, 340, 341, 342, 343, 344, 345, 346, 348, 353, 354, 355, 356, 357, 363, 365, 378, 382, 383, 384, 385, 386, 392, 397, 398, 399, 400, 401, 426, 427, 428, 429, 430, 431, 436, 437, 441, 443, 444, 445, 447, 470, 471, 474, 475, 476, 480, 481, 485, 486, 487, 489, 490, 495, 496, 502, 503, 505, 506, 507, 508, 509, 514, 515, 516, 517, 518, 519, 520, 521, 522, 524, 529, 530, 531, 533, 537, 538, 539, 546, 551, 553, 554, 555, 560, 561, 562, 563, 564, 565, 566, 568, 573, 574, 575, 577, 584, 585, 593, 594, 595, 596, 597, 603, 605, 606, 607, 608, 612, 613, 617, 619, 620, 621, 624, 627, 628, 630, 635, 638, 639, 643, 647, 648, 652, 653, 654, 656, 657, 661, 663, 664, 667, 673, 674, 676, 677, 678, 679, 682, 686, 687, 688, 692, 694, 695, 697, 698, 705, 707, 711, 713, 717, 718, 720, 721, 724, 725, 726, 727, 728, 730, 731, 732, 734, 736, 738, 739, 749, 750, 755, 757, 758, 760, 762, 763, 764, 765, 766, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 798, 799, 802, 803, 804, 806, 807, 808, 809, 810, 811, 818, 819, 820, 821, 822, 828, 829, 831, 832, 841, 842, 843, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 868, 875, 876, 885, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 911, 912, 925, 928, 929, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 955, 956, 969, 972, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 992, 993, 999, 1000

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22, 45, 46, 66, 120, 121, 164, 197, 198, 678, 723, 766

BILLING CODE 1505-01-D

VOL
60

ISS
73

AP
17

1995

UMI

federal register

Monday
April 17, 1995

Part II

Department of Labor

Employment Standards Administration
Wage and Hour Division

29 CFR Part 570
Child Labor Regulations, Orders and Statements of Interpretation; Final Rule

VOL
60
ISS
73
AP
17
1995
UMI

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

29 CFR Part 570

RIN 1215–AA89

Child Labor Regulations, Orders and Statements of Interpretation

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document revises Subpart C (Child Labor Reg. No. 3) to provide an exception from the permissible hours and time standards for minors 14 and 15 years of age when employed as attendants in professional sports, and to change the procedure for obtaining occupational variances for 14- and 15-year-olds enrolled in Work Experience and Career Exploration Programs. Other revisions to update these regulations delete the exception contained in § 570.35(b) for enrollees in work training programs conducted under the Economic Opportunity Act of 1964, which has been repealed, and the procedures relating to hazardous occupation determinations in Subpart D (Child Labor Reg. 5), which have been made obsolete by the Administrative Procedure Act (APA), 60 Stat. 237.

EFFECTIVE DATE: This rule is effective May 17, 1995.

FOR FURTHER INFORMATION CONTACT: J. Dean Speer, Director, Division of Policy and Analysis, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3506, 200 Constitution Avenue, N.W. Washington, D.C. 20210. Telephone (202) 219–8412. This is not a toll free number.

SUPPLEMENTARY INFORMATION

I. Paperwork Reduction Act

These rules contain no reporting or recordkeeping requirements subject to the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The information collection requirements contained § 570.35a were previously approved by the Office of Management and Budget under OMB control number 1215–0121. While minor revisions are made in the procedure in § 570.35a(c)(3) for obtaining a variance from work-activities otherwise prohibited for 14- and 15-year-olds, the information needed by State Education Agencies to support variance requests is not materially different under the final rule. The general FLSA information collection requirements (including requirements contained in Part 570) were approved by the Office of Management and Budget under the control number 1215–0017.

II. Background

The Secretary of Labor is authorized by the Fair Labor Standards Act (FLSA) to provide by regulation for the employment of young workers under age 18. These regulations are contained in 29 CFR part 570. The regulations for 14- and 15-year-olds are known as Child Labor Regulation No. 3 (Reg. 3) and are contained in subpart C of 29 CFR part 570.

The Department published a notice of proposed rulemaking in the **Federal Register** on May 13, 1994 (59 FR 25164) inviting comments until July 12, 1994, on an exception from the permissible hours and time standards in Child Labor Regulation No. 3 (Reg. 3), subpart C of 29 CFR part 570, for 14- and 15-year-olds employed as attendants in professional sports. The notice also proposed technical modifications in § 570.35a of Reg. 3 to facilitate applications for certification under the Work Experience and Career Exploration Program (WECEP); the deletion of the exception contained in § 570.35(b) of Reg. 3 for enrollees in work training programs conducted under the now repealed Economic Opportunity Act of 1964; and the deletion of 29 CFR part 570, subpart D (Child Labor Reg. 5) because of the procedures provided by the Administrative Procedure Act (APA), 60 Stat. 237.

A total of 26 comments were received in response to the notice—from employers, trade and professional associations, advocacy organizations, State governments, and others, including the National Institute of Occupational Safety and Health (NIOSH).

Summary of Major Comments

I. 14- and 15-Year-Olds Employed as Sports Attendants

The Secretary proposed a narrow exemption to the Reg. 3 hours and time of day regulations so that 14- and 15-year-old minors may work as attendants in professional sports. The proposed rule would exempt 14- and 15-year-olds performing "sports-attending services at professional sporting events" from the regulations restricting the hours and time of day they may be employed, "provided that the duties of the sports-attendant occupation consist of [certain specific sports-related duties]." Based on careful consideration of the comments and other available information, the Secretary has determined that such an exemption would not be inconsistent with the FLSA's prohibitions against oppressive child labor, provided the minors work outside of school hours and they perform work that is limited to the traditional duties of typical sports attendants, i.e., specifically sports-connected duties.

As indicated in the preamble to the Proposed Rule, the Department conducted a study of the employment of sports attendants in professional baseball during 1986 and 1987. Congress mandated the study to determine whether a change in the permissible hours of employment for sports attendants would be detrimental to their schooling and health and well-being and whether any changes to the existing standards should be proposed. The study concluded that changes in the permissible hours and time standards for the employment of sports attendants in baseball would not interfere with their schooling and their health and well-being. The Secretary believes that the results of the study are equally applicable to other professional sports.

The Department received comments from eight minor league professional baseball teams supporting the Proposed Rule. These organizations stressed the unique and rewarding opportunity that the sports-attendant experience offers to young people. In addition, these commenters emphasized the benefits to young people of engaging in a healthy activity which can be a formative, character building experience. As the Fort Myers Miracle Baseball Club stated: "There is no other environment equal to professional sports where a young man or woman has a chance to interact with local and national role models in a wholesome, family-oriented atmosphere while also being exposed to practicalities of the business world."

The New York State Education Department concurred with the proposed exemption, while emphasizing the importance of having the rule specify activities that are acceptable for a sports-attendant to perform, as well as those that are impermissible.

Three advocacy groups (National Consumer League, Child Labor Coalition, and National PTA) and a labor organization (Food & Allied Service Trades) opposed the proposed rule, based on their concern that the increased hours and late time of day would be deleterious to the young people's health, safety, and education. The National PTA opposed lifting the current 18-hour per week restriction,

and suggested a case by case evaluation of a student's school attendance and academic record in determining whether a young person should work long hours. Two of the advocacy groups suggested that the proposed rule should be limited to professional baseball.

Commenters representing the restaurant industry objected to the narrow exemption for sports-attendants, asserting it was unfair to exempt the sports industry from the hours and time restrictions while leaving the restrictions in place for all other employment.

The Secretary finds that this exemption from the existing hours and time of day restrictions to permit 14- and 15-year-olds to work as attendants in professional sports will not constitute oppressive child labor under the FLSA, provided that the employment is limited to traditional duties of typical sports-attendants and that 14- and 15-year-old minors are not employed during school hours. The employment of 14- and 15-year-olds as sports-attendants under the terms of the regulation will provide positive, formative experiences to the young people without interfering with their schooling or their health and well-being. Such experiences are commonly regarded as opportunities to associate with individuals possessing attributes of success and achievement, *i.e.*, mentors or role models, and in some cases, "heroes," and are genuinely enjoyed by participating youths.

While the Secretary is sensitive to the concerns of commenters who expressed views that the minors' school work will be adversely affected, there is an absence of evidence that sports-attending work interferes with their schooling. Further, it is the Secretary's view that end-of-day and weekly time restrictions add burdens on employers that would likely discourage the sports organizations from providing these employment experiences altogether. The Secretary has concluded, on balance, and in light of the lack of specific information to the contrary, that working as sports-attendants will not interfere with the schooling and health and well-being of the 14- and 15-year-old minors. Based on the comments, the Secretary believes that narrowly tailoring the exemption to 14- and 15-year-old minors working as attendants in professional sports will enable young people to participate in a memorable and unique work experience.

The Secretary emphasizes that the work to be performed by sports-attendants is strictly limited to those duties that would bring them into personal contact with the players and coaches, and in so doing, would provide the young people with role models. Permissible duties of the sports-attendant include: Pre- and post-game or practice setup of balls, items, and equipment; supplying and retrieving balls, items, and equipment during a sporting event; clearing the field or court of debris, moisture, etc. during play; providing ice, drinks, towels, etc. to players during play; running errands for trainers, managers, coaches, and players before (pre-game set-up and player warm-up), during, and after (post-game activities) a sporting event; and returning and/or storing balls, items and equipment in club house or locker room after a sporting event. For purposes of this exception, impermissible duties include grounds or field maintenance such as grass mowing, spreading or rolling tarpaulins used to cover playing areas, etc.; cleaning and repairing equipment; cleaning locker rooms, showers, lavatories, rest rooms, team vehicles, club houses, dugouts, or similar facilities; loading and unloading balls, items, and equipment from team vehicles before and after a sporting event; doing laundry and working in concession stands or other selling and promotional activities.

With respect to comments seeking special treatment for work experiences beyond sports-attending, the Department published in the **Federal Register** (59 FR 25167) an advance notice of proposed rulemaking requesting the views of the public on any changes they felt were necessary in the child labor regulations (29 CFR part 570). The comment period ended October 11, 1994, and the Department expects to publish a notice of proposed rulemaking during 1995. Interested parties will have an opportunity to offer comments on matters of permissible employment of minors under 18 years of age at that time. In light of this separate rulemaking process, it would be inappropriate for the Department to address such issues in this limited final rule.

II. WECEP Occupational Variations for 14- and 15-Year-Olds

The Department proposed a revision in § 570.35a which provides for the employment of 14- and 15-year-olds in a State-approved, school-supervised Work Experience and Career Exploration Program (WECEP).[1]

[1] Twelve States have Departmental approval to operate WECEP programs in the 1994–95 school-year. A condition for approval of such programs is that they provide sufficient safeguards to ensure that the employment will not interfere with the schooling of the minors or with their health and well-being.

Enrollees in approved WECEPs may be employed for up to 23 hours in school weeks, 3 hours on school days, and during school hours, in occupations other than: (1) Those in manufacturing and mining; (2) those declared to be hazardous for the employment of minors under 18 years of age (set forth in subpart E of the regulations); (3) those declared to be hazardous for employment of minors below the age of 16 in agriculture (set forth in subpart E–1 of the regulations); or (4) those not permitted for minors aged 14 and 15 years (set forth in §§ 570.33 and 570.34 of the regulations (Reg. 3)).

The regulations at § 570.35a(c)(3) allow the Administrator of the Wage and Hour Division to approve a variation from the Reg. 3 prohibited occupations in individual cases or classes of cases after notice to interested parties and an opportunity to furnish views. The Department had consistently approved variations for particular activities requested in State Educational Agency applications for WECEP program approval. The Department proposed to amend the WECEP regulations to provide, in effect, a limited exception to the Reg. 3 occupations restrictions for WECEP participants engaged in the following activities:

(1) Using a deep fryer or cooking at a grill with a maximum temperature of 375 degrees;

(2) Operating power-driven mowers, weed-eaters, trimmers and whips with nylon string only;

(3) Retrieving and/or placing food in coolers/freezers;

(4) Loading and unloading goods weighing up to 30 lbs. provided that such work does not exceed 30 percent of the minor's weekly hours worked; and

(5) Operating noncommercial dishwashers.

The WECEP proposal also retained a provision for obtaining other variations from Reg. 3 occupational restrictions in special circumstances where a WECEP program applicant was able to demonstrate that the program would provide safe and suitable employment.

Of the sixteen commenters addressing this proposal, two (State of Ohio's Department of Education; National Council of Chain Restaurants) endorsed the proposed changes, including the specific work activity exceptions. The State of Ohio indicated that their WECEP program provides both general and job specific safety training, and that there were no reports of student employee injuries related to work in the activities which are the subject of this rulemaking. Four employer commenters

VOL
60
ISS
73
AP
17
1995
UMI

(two fast food restaurant franchises, a supermarket company, and a restaurant), endorsed the proposal and suggested that the regulations should be broadened beyond WECEP to generally permit 14- and 15-year-olds to cook, bake, make french fries and onion rings, unload stock trucks, or enter walk-in coolers.

Twelve commenters opposed either some or all of the proposed exceptions from work activities otherwise prohibited for 14- and 15-year-olds not participating in a WECEP. These commenters include two public health organizations (National Institute of Occupational Safety and Health (NIOSH); American Public Health Association (APHA)); one union (Food and Allied Services Trades (FAST)); one employer (Sugar Plum, Inc.); four public interest and child advocacy groups (Child Labor Coalition; National Consumers League; Parent Teachers Association; and the American Academy of Pediatrics); and four State government entities (State of Kansas Department of Human Resources; State of Kansas Department of Health and Environment; State of Washington Department of Labor and Industries; and University of Massachusetts Occupational Health Program). Several of these commenters referred to particular studies or data on work-related injuries to support their contentions that all or certain of the work activities for which a variation was proposed (*e.g.*, cooking at grills or deep fryers) were particularly dangerous for 14- and 15-year-olds, that coolers/freezers require further evaluation to determine whether appropriate safeguards would make it possible for WECEP participants to work in and around them safely, and that any variation from existing work restrictions should be linked to supervision and safety and health training appropriate for WECEP employees in activities approved by variation.

The comments opposing the proposed work-activity exceptions for WECEP participants are persuasive, and, on review, the Department has concluded that automatic exceptions for certain work-activities are inappropriate. Accordingly, the final rule modifies the procedure governing WECEP variations to create a clearer process which is less of a departure from the Reg. 3 restrictions than was the proposed rule's procedure. The Wage and Hour Administrator's long-established WECEP variation discretion is maintained, and requests for variations from the work-activities prohibited by Reg. 3 will continue to be considered where specified standards are met. Under the revised procedure, such requests will be reviewed on a case-by-case basis based on information furnished by the applicant State Educational Agency. The applicant will be expected to demonstrate that the activity under the State program for which the variation is requested will not interfere with the WECEP participant's schooling, health, or well-being. For example, the applicant will be expected to show that the work to be performed by the student(s) is safe; that adequate job training will be provided, including safety related training; that teacher-coordinators and work site supervisors will provide adequate supervision; and that employers in the program have not experienced job-related injuries of similarly employed 14- and 15-year-old students. The variation provision in the Final Rule also allows any interested party to review any application, to oppose the approval of a variation, and to request reconsideration of a previously approved variation.

III. Deletion of Subpart D (Child Labor Reg. 5)

The Department proposed to delete the regulations known as Child Labor Reg. 5 (Reg. 5), which provide a procedure for the Secretary to promulgate or amend hazardous occupation orders (HOs). The proposal to repeal Reg. 5 was based on the conclusion that its procedural requirements have been largely superseded by the Administrative Procedure Act (APA), 60 Stat. 237, which control DOL rulemaking, and that the APA provides greater administrative flexibility.

Only three commenters addressed the proposed deletion of Reg. 5. The National Consumers League and the Child Labor Coalition agreed with the Department's conclusion that the notice and comment procedures of the APA effectively obviated the need for Reg. 5, which was first promulgated in 1938, prior to enactment of the APA. The National Automobile Dealers Association, on the other hand, argued that Reg. 5 establishes a clear procedural framework for the promulgation and amendment of HOs which should be retained. Instead of repeal, they urged the Department to make whatever technical changes were needed to maintain consistency with the APA. After reviewing these comments, the Department believes that it is necessary to streamline regulatory procedures and eliminate redundant provisions wherever possible, and, therefore, has decided to adopt the proposal as a final rule.

IV. Deletion of § 570.35(b)

No comments were received on the proposal to delete the exception contained in § 570.35(b) for enrollees in work training programs conducted under the Economic Opportunity Act of 1964. The exception is unnecessary due to the repeal of the 1964 Act, and the proposal is adopted as a final rule.

Executive Order 12866

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866. It revises the permissible hours and time standards to permit greater flexibility in the employment of 14- and 15-year-olds as professional sports attendants. While these changes are expected to enhance opportunities for employment, the impact on overall employment levels of 14- and 15-year-olds is modest. Other changes are technical in nature and are expected to have only a minor impact on the employment of 14- and 15-year-olds. Accordingly, these changes are not expected to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Regulatory Flexibility Analysis

This rule will not have a significant economic impact on a substantial number of small entities. As indicated in the preamble to the proposed rule (59 FR 25164, May 13, 1994), the change to provide an exception from the permissible hours and time standards for minors 14 and 15 years of age when employed as attendants in professional sports has narrow application and will affect only a limited number of employers of which some may be considered small entities. Although the other technical changes may affect small entities, the impact is believed to be insignificant. Thus, this rule will not have a significant economic impact on a substantial number of small entities, and the Secretary of labor has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. A regulatory flexibility analysis is not required.

Document Preparation

This document was prepared under the direction and control of Maria Echaveste, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 570

Child labor, Child labor occupations, Employment, Government, Intergovernmental relations, Investigations, Labor, Law enforcement, Minimum age.

Accordingly, 29 CFR part 570 of the Code of Federal Regulations is amended as set forth below.

Signed at Washington, DC, on this 7th day of April 1995.

Robert B. Reich,

Secretary of Labor.

Bernard E. Anderson,

Assistant Secretary for Employment Standards.

Maria Echaveste,

Administrator, Wage and Hour Division.

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

1. The authority citation for part 570 continues to read as follows:

Authority: Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

Subpart C—Employment of Minors Between 14 and 16 Years of Age (Child Labor Reg. 3)

2. In § 570.35 of subpart C, paragraph (b) is revised to read as follows:

§ 570.35 Periods and conditions of employment.

* * * * *

(b) In the case of minors 14 and 15 years of age who are employed to perform sports-attending services at professional sporting events, *i.e.*, baseball, basketball, football, soccer, tennis, etc., the requirements of paragraphs (a)(2) through (a)(6) of this section shall not apply, provided that the duties of the sports-attendant occupation consist of pre- and post-game or practice setup of balls, items and equipment; supplying and retrieving balls, items and equipment during a sporting event; clearing the field or court of debris, moisture, *etc.* during play; providing ice, drinks, towels, *etc.*, to players during play; running errands for trainers, managers, coaches, and players before, during, and after a sporting event; and returning and/or storing balls, items and equipment in club house or locker room after a sporting event. For purposes of this exception, impermissible duties include grounds or field maintenance such as grass mowing, spreading or rolling tarpaulins used to cover playing areas, *etc.*; cleaning and repairing equipment; cleaning locker rooms, showers, lavatories, rest rooms, team vehicles, club houses, dugouts or similar facilities; loading and unloading balls, items, and equipment from team vehicles before and after a sporting event; doing laundry; and working in concession stands or other selling and promotional activities.

3. Section570.35a(c)(3) of subpart C is revised to read as follows:

§ 570.35a Work experience and career exploration programs.

* * * * *

(c) * * *

(3) Occupations other than those permitted under §§ 570.33 and 570.34, except upon approval of a variation by the Administrator of the Wage and Hour Division in acting on the program application of the State Educational Agency. The Administrator shall have discretion to grant requests for special variations if the applicant demonstrates that the activity will be performed under adequate supervision and training (including safety precautions) and that the terms and conditions of the proposed employment will not interfere with the health or well-being or schooling of the minor enrolled in an approved program. The granting of a special variation is determined on a case-by-case basis.

(i) The Administrator's decision on whether to grant a special variation will be based on information provided in the application filed by the State Educational Agency, and/or any supplemental information that may be requested by the Administrator.

(ii) The Administrator's decision shall be in writing, and may designate specific equipment safeguards or other terms and conditions governing the work-activity approved by variation. If the request is denied, in whole or part, the reason(s) for the decision will be provided to the applicant, who may request reconsideration.

(iii) A special variation will be valid only during the period covered by an approved program, and must be renewed with the filing of a new program application.

(iv) The Administrator shall revoke or deny a special variation, in whole or in part, where there is reason to believe that program participants have been or will be employed contrary to terms and conditions specified for the variation, or these regulations, other provisions of the Fair Labor Standards Act, or otherwise in conditions detrimental to their health or well-being or schooling.

(v) Requests for special variations and related documentation will be available for examination in the Branch of Child Labor and Polygraph Standards, Wage and Hour Division, Room S3510, 200 Constitution Avenue, NW., Washington, DC 20210. Any interested person may oppose the granting of a special variation or may request reconsideration or revocation of a special variation. Such requests shall set forth reasons why the special variation should be denied or revoked.

* * * * *

Subpart D—[Removed and Reserved]

4. Subpart D, consisting of §§ 570.41 through 570.49, is removed and reserved.

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VOL
60

ISS
73

AP
17

1995

UMI

federal register

Monday
April 17, 1995

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 227

Endangered and Threatened Species; Status of Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon; Final Rule

VOL 60 ISS 73 AP 17 1995 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 950412102–5102–01; I.D. 072594B]

Endangered and Threatened Species; Status of Snake River Spring/Summer Chinook Salmon and Snake River Fall Chinook Salmon

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This Final Rule corrects an error in an emergency rule expiring on April 17, 1995. The emergency rule was published with an error in the amendatory language resulting in the accidental removal of all protective regulations for the species upon expiration of the emergency rule. This final rule will reinstate protection for Snake River spring/summer chinook and Snake River fall chinook salmon (*Oncorhynchus tshawtyscha*) by returning the inadvertently omitted rule language providing for their conservation as threatened species.

EFFECTIVE DATE: 12:01 a.m. (local time) on April 17, 1995.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Environmental and Technical Services Division, NMFS (503)–230–5430 or Gregory Miller, NMFS, (301)–713–1401.

SUPPLEMENTARY INFORMATION: NMFS published an emergency rule (59 FR 42529, August 18, 1994) pursuant to section 4(b)(7) of the ESA, 16 U.S.C. 1531 *et seq.*, that reclassified Snake River spring/summer chinook Snake River fall chinook as endangered. The emergency rule is effective for 240 days from the date of publication in the **Federal Register**. However, the emergency rule was published with an improper instruction. In reclassifying the species as "endangered" for 240 days, NMFS intended to temporarily "suspend" the regulation identifying the species as threatened during the period. However, NMFS inadvertently included amendatory language instructing that this regulation be "removed," which provided permanent removal of the regulation from the CFR, rather than temporary suspension during the effective period of the emergency rule as intended. NMFS is implementing this final rule to remain consistent with its original intent and to ensure that, upon expiration of the 240-day effectiveness period of the emergency rule, the regulation identifying these salmon stocks as threatened will remain in place.

Classification

Pursuant to sections 553(b) and 553(d) of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, the Assistant Administrator finds that there is good cause to waive the requirements for both prior notice of an opportunity for public comment, and the delayed effective date, respectively, because this rule is a technical amendment correcting a clerical error made in a prior rule. This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine Mammals, Transportation.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.4, paragraphs (f) and (g) are added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(f) Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of spring/summer chinook salmon in the mainstream Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, and Salmon River.

(g) Snake River fall chinook salmon (*Oncorhynchus tshawytscha*). Includes all natural population(s) of fall chinook in the mainstem Snake River and any of the following subbasins: Tucannon River, Grande Ronde River, Imnaha River, Salmon River, and Clearwater River.

3. Subpart C, Threatened Marine and Anadromous Fish, consisting of § 227.21 is added to read as follows:

Subpart C—Threatened Marine and Anadromous Fish

§ 227.21 Threatened salmon.

(a) *Prohibitions.* The prohibitions of section 9 of the Act (16 U.S.C. 1539) relating to endangered species apply to threatened species of salmon listed in § 227.4(f) and (g), except as provided in paragraph (b) of this section.

(b) *Exceptions.* The exceptions of section 10 of the Act (16 U.S.C. 1538) and other exceptions under the Act relating to endangered species, including regulations implementing such exceptions, also apply to the threatened species of salmon listed in § 227.4(f) and (g). This section supersedes other restrictions on the applicability of parts 217 through 222 of this chapter, including, but not limited to, the restrictions specified in §§ 217.2, 222.2(a) and 222.22(a) of this chapter with respect to the species identified in paragraph (a) of this section.

[FR Doc. 95–9440 Filed 4–13–95; 12:41 pm]

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Vol. 60, No. 73

Monday, April 17, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

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Privacy Act Compilation	523–3187
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FEDERAL REGISTER PAGES AND DATES, APRIL

16785–16978	3
16979–17190	4
17191–17432	5
17433–17824	6
17625–17980	7
17981–18342	10
18343–18538	11
18539–18726	12
18727–18948	13
18949–19152	14
19153–19342	17

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

6781	17979
6782	17981
6783	18537
6784	18707
6785	18725

Administrative Orders:

Memorandums:

April 4, 1995	19153

5 CFR

Ch. LII	17625
581	18949

Proposed Rules:

316	17655

7 CFR

97	17188
201	16979
272	17628
273	17628
301	18727
354	17631
457	16765
918	17633
925	16765
927	17983
932	18539
946	17433
979	16767
982	16768
985	16770, 17434, 18950
1001	18952
1002	18952
1004	18952
1005	18952
1006	18952
1007	18952
1011	18952
1012	18952
1013	18952
1030	18952
1032	18952
1033	18952
1036	18952
1040	18952
1044	18952
1046	18952
1049	18952
1050	18343, 18952
1064	18952
1065	18952
1068	18952
1075	18952
1076	18952
1079	18952
1093	18952
1094	18952
1096	18952
1106	18952
1108	18952
1124	18952
1126	17191, 18952
1131	17192, 18952
1134	18952
1135	18952
1137	18952
1138	18952
1139	18952
1413	17984
1427	17984

Proposed Rules:

250	18781
335	18374
956	17274
981	17466
1944	19168

8 CFR

Proposed Rules:

212	19001

9 CFR

77	18726
92	17634
327	18540

Proposed Rules:

391	18551

10 CFR

2	18344
436	18326
600	17985

Proposed Rules:

50	19002, 19170
70	18035, 19170
52	17902, 17924, 17947
170	18882
171	18882
430	18782

11 CFR

100	17193
104	17193
113	17193

12 CFR

3	17986
208	17436
215	17635
226	16771
400	17625

Proposed Rules:

792	18036

13 CFR

107	17438
121	18981

14 CFR

25	17194
39	16780, 16782, 17438,

VOL
60
ISS
73
AP
17
1995
UMI

17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158
71 ..... 17196, 17442, 18346
97 ..... 17198, 17199, 19160, 19162

Proposed Rules:
39 ..... 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188
71 ..... 17284, 18038, 18552, 19190
91 18700
119 19007
121 19007
125 19007
127 19007
135 ..... 18700, 19007

15 CFR
771 18731
779 18731

16 CFR
1700 17992

Proposed Rules:
248 17032
409 17491
436 17656
460 17492
1700 17660

17 CFR
200 17201
400 18733
403 18733
405 18733
449 ..... 18733, 18734

Proposed Rules:
239 17172
270 17172
274 17172

18 CFR
284 16979

Proposed Rules:
35 17662
141 17726
388 17726

19 CFR
7 18347
10 ..... 18542, 18983
11 18347
12 18347
18 18347
19 18347
24 18347
54 18347
101 ..... 18347, 18983
102 18347
111 ..... 18347, 18983
114 18347
123 ..... 18347, 18983
128 ..... 18347, 18983
132 18347
134 18347
141 ..... 18347, 18983
143 18983
145 ..... 18347, 18983
146 18347
148 ..... 18347, 18983
151 18347
152 18347
159 18983
177 18347
178 18983
181 18347
191 18347

Proposed Rules:
Ch. I 18783

20 CFR
Ch. III 18991
423 18991
638 18993
404 ..... 17443, 19163

Proposed Rules:
Ch. III 17731
404 19008
416 19008

21 CFR
20 16962
73 18736
101 17202
176 18349
178 ..... 18349, 18352, 18739
310 17611
558 18740
876 17208
1310 17636

Proposed Rules:
876 17611

22 CFR
514 16785

23 CFR
655 18520

24 CFR
215 17388
236 17389
570 17445
813 17388
905 ..... 17388, 18174
913 17388
950 18174
3500 16985

Proposed Rules:
29 17968
120 19191

26 CFR
1 ..... 17216, 18741, 18742
602 18742

Proposed Rules:
1 ..... 17286, 17731, 18377, 18378

27 CFR
55 17446
72 17446
178 17446
179 17446

Proposed Rules:
1Ch. I 18783
53 18039
55 17494
72 17494
178 17494
179 17494

28 CFR
0 17456
2 18353

Proposed Rules:
2 ..... 18378, 18379
16 18784

29 CFR
570 19336
580 17221
1980 18993
2610 18994
2619 18996
2622 18994
2644 18998
2676 18996

Proposed Rules:
1910 19192
1915 19192
1926 19192

30 CFR
903 18710
914 ..... 16985, 17637
915 17458
934 18744
938 16788

Proposed Rules:
Ch. I 18044
901 18044
902 17495
904 17498
906 17501
913 17734
914 17736
915 17504
916 17504
917 ..... 17739, 19193
918 17498
920 18046
924 18044
925 17504
926 17495
931 17501
934 17495
935 ..... 17741, 18380, 19194
936 17498
938 18046
943 17498
944 17501
946 17743
948 18381
950 17495

32 CFR
290 18005
354 18006
355 18006
357 18006
359 18006
360 18006
361 18006
374 18006

Proposed Rules:
63 17507
247 18049

33 CFR
3 17222
117 18006
154 17134
155 17134
162 16793
165 ..... 16793, 18008
334 18543

Proposed Rules:
Ch. I 17287
100 18785
117 18061
165 ..... 16818, 16820, 16821, 18063, 18065, 18066, 18068
211 18069
402 18384

34 CFR
350 17424
351 17424
352 17424
353 17424
356 17424

36 CFR
7 17839
13 18532

Proposed Rules:
13 19011
215 18886
217 18886
219 18886

37 CFR
1 16920

38 CFR
2 18354
3 18354

39 CFR
20 18009
265 17224

Proposed Rules:
232 17287

40 CFR
9 ..... 17100, 18009
52 ..... 16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750
63 ..... 18020, 18026
72 ..... 17100, 18462
73 17100
74 17100
75 17100
76 18751
77 17100
78 17100
81 16996
122 17950
124 17950
136 17160
180 ..... 18543, 18546, 18547
185 18547
186 18547
258 17849
260 17001
261 19165
271 ..... 18356, 18358, 18360, 18808, 17004
300 19165
302 18361
372 17005
720 17005
721 17005
723 17005
763 18364

Proposed Rules:
Ch. I 17288
51 17509
52 ..... 16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197
55 ..... 17748, 18787
58 17509
63 ..... 16829, 16920, 18071, 18078
70 ..... 17750, 18790

72 18472
76 18792
81 ..... 17034, 17756, 19197
86 17509
122 17958
124 17958
170 18555
180 ..... 18555, 18557, 18558, 18560, 18562
185 18562
186 ..... 18560, 18562
300 ..... 18565, 19203
372 16830
761 17510
799 18079

41 CFR
101–20 17653

43 CFR
12 17237

Proposed Rules:
426 16922
427 16922
3100 18081

Public Land Orders:
7131 18030
7132 18777
7133 18777
7137 18778

44 CFR
64 17005
65 ..... 17007, 17009, 17011, 17012
67 ..... 17013, 17020

Proposed Rules:
65 17758
67 ..... 17035, 17042

45 CFR

Proposed Rules:
2544 17761

46 CFR
12 17134
13 17134
15 17134
30 17134
31 17134
35 17134
78 17134
90 17134
97 17134
98 17134
105 17134
151 17134
153 17134
154 17134
401 18366
403 18366
404 18366

Proposed Rules:
Ch. I 17287
Ch. II 17763
67 17290
90 18793
97 18793
148 18793

47 CFR
2 ..... 18778, 18999
73 ..... 17023, 17253, 19000
90 18999

Proposed Rules:
1 17294
63 17763
73 ..... 17048, 18793, 19012, 19205, 19206

48 CFR
915 18030
916 18030
970 18030
1802 18032
1850 18032
1852 18032
6101 17023

Proposed Rules:
Ch. V 17764
6 17295
12 17184
16 17295
32 18794
52 ..... 17184, 17295, 18794

49 CFR
173 17398
178 17398
180 17398
552 17254
554 17254
573 17254
576 17254
577 17254
1043 16808
1084 16808

Proposed Rules:
Ch. I 17049
Ch. II 18390
190 17295
191 17295
192 17295
193 17295
194 17295
195 17295
196 17295
197 17295
198 17295
199 17295
234 ..... 17770, 19012
571 18566

50 CFR
17 18940
227 19342
650 17272
655 17464
663 16811
672 17465
675 ..... 17028, 17653

Proposed Rules:
Ch.VI 17770
17 ..... 16836, 17296, 19013
625 18795
641 17511
642 18391
655 18391
675 17512

VOL 60 ISS 73 APR 17 1995 UMI

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–026–00001–8)	$5.00	Jan. 1, 1995
3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
4	(869–026–00003–4)	5.50	Jan. 1, 1995
5 Parts:			
1–699	(869–026–00004–2)	23.00	Jan. 1, 1995
700–1199	(869–026–00005–1)	20.00	Jan. 1, 1995
1200-End, 6 (6 Reserved)	(869–022–00006–3)	23.00	Jan. 1, 1994
7 Parts:			
0–26	(869–026–00007–7)	21.00	Jan. 1, 1995
27–45	(869–026–00008–5)	14.00	Jan. 1, 1995
46–51	(869–026–00009–3)	21.00	Jan. 1, 1995
52	(869–026–00010–7)	30.00	Jan. 1, 1995
53–209	(869–022–00011–0)	23.00	Jan. 1, 1994
210–299	(869–026–00012–3)	34.00	Jan. 1, 1995
300–399	(869–026–00013–1)	16.00	Jan. 1, 1995
400–699	(869–026–00014–0)	21.00	Jan. 1, 1995
700–899	(869–022–00015–2)	22.00	Jan. 1, 1994
900–999	(869–022–00016–1)	34.00	Jan. 1, 1994
1000–1059	(869–026–00017–4)	23.00	Jan. 1, 1995
1060–1119	(869–026–00018–2)	15.00	Jan. 1, 1995
1120–1199	(869–026–00019–1	12.00	Jan. 1, 1995
1200–1499	(869–026–00020–4)	32.00	Jan. 1, 1995
1500–1899	(869–026–00021–2)	35.00	Jan. 1, 1995
1900–1939	(869–026–00022–1)	16.00	Jan. 1, 1995
1940–1949	(869–026–00023–9)	30.00	Jan. 1, 1995
1950–1999	(869–026–00024–7)	40.00	Jan. 1, 1995
2000–End	(869–026–00025–5)	14.00	Jan. 1, 1995
*8	(869–026–00026–3)	23.00	Jan. 1, 1995
9 Parts:			
1–199	(869–022–00027–6)	29.00	Jan. 1, 1994
200–End	(869–026–00028–0)	23.00	Jan. 1, 1995
10 Parts:			
0–50	(869–026–00029–8)	30.00	Jan. 1, 1995
*51–199	(869–026–00030–1)	23.00	Jan. 1, 1995
200–399	(869–026–00031–0)	15.00	[6] Jan. 1, 1993
400–499	(869–026–00032–8)	21.00	Jan. 1, 1995
500–End	(869–026–00033–6)	39.00	Jan. 1, 1995
11	(869–026–00034–4)	14.00	Jan. 1, 1995
12 Parts:			
1–199	(869–026–00035–2)	12.00	Jan. 1, 1995
200–219	(869–026–00036–1)	16.00	Jan. 1, 1995
220–299	(869–026–00037–9)	28.00	Jan. 1, 1995
300–499	(869–022–00038–1)	22.00	Jan. 1, 1994
500–599	(869–022–00039–0)	20.00	Jan. 1, 1994
600–End	(869–026–00040–9)	35.00	Jan. 1, 1995
13	(869–026–00041–7)	32.00	Jan. 1, 1995
14 Parts:			
*1–59	(869–026–00042–5)	33.00	Jan. 1, 1995
60–139	(869–022–00043–8)	26.00	Jan. 1, 1994
140–199	(869–026–00044–1)	13.00	Jan. 1, 1995
200–1199	(869–026–00045–0)	23.00	Jan. 1, 1995
1200–End	(869–026–00046–8)	16.00	Jan. 1, 1995
15 Parts:			
0–299	(869–022–00047–1)	15.00	Jan. 1, 1994
300–799	(869–022–00048–9)	26.00	Jan. 1, 1994
800–End	(869–026–00049–2)	21.00	Jan. 1, 1995
16 Parts:			
0–149	(869–026–00050–6)	7.00	Jan. 1, 1995
150–999	(869–022–00051–9)	18.00	Jan. 1, 1994
1000–End	(869–026–00052–2)	25.00	Jan. 1, 1995
17 Parts:			
1–199	(869–022–00054–3)	20.00	Apr. 1, 1994
200–239	(869–022–00055–1)	23.00	Apr. 1, 1994
240–End	(869–022–00056–0)	30.00	Apr. 1, 1994
18 Parts:			
1–149	(869–022–00057–8)	16.00	Apr. 1, 1994
150–279	(869–022–00058–6)	19.00	Apr. 1, 1994
280–399	(869–022–00059–4)	13.00	Apr. 1, 1994
400–End	(869–022–00060–8)	11.00	Apr. 1, 1994
19 Parts:			
1–199	(869–022–00061–6)	39.00	Apr. 1, 1994
200–End	(869–022–00062–4)	12.00	Apr. 1, 1994
20 Parts:			
1–399	(869–022–00063–2)	20.00	Apr. 1, 1994
400–499	(869–022–00064–1)	34.00	Apr. 1, 1994
500–End	(869–022–00065–9)	31.00	Apr. 1, 1994
21 Parts:			
1–99	(869–022–00066–7)	16.00	Apr. 1, 1994
100–169	(869–022–00067–5)	21.00	Apr. 1, 1994
170–199	(869–022–00068–3)	21.00	Apr. 1, 1994
200–299	(869–022–00069–1)	7.00	Apr. 1, 1994
300–499	(869–022–00070–5)	36.00	Apr. 1, 1994
500–599	(869–022–00071–3)	16.00	Apr. 1, 1994
600–799	(869–022–00072–1)	8.50	Apr. 1, 1994
800–1299	(869–022–00073–0)	22.00	Apr. 1, 1994
1300–End	(869–022–00074–8)	13.00	Apr. 1, 1994
22 Parts:			
1–299	(869–022–00075–6)	32.00	Apr. 1, 1994
300–End	(869–022–00076–4)	23.00	Apr. 1, 1994
23	(869–022–00077–2)	21.00	Apr. 1, 1994
24 Parts:			
0–199	(869–022–00078–1)	36.00	Apr. 1, 1994
200–499	(869–022–00079–9)	38.00	Apr. 1, 1994
500–699	(869–022–00080–2)	20.00	Apr. 1, 1994
700–1699	(869–022–00081–1)	39.00	Apr. 1, 1994
1700–End	(869–022–00082–9)	17.00	Apr. 1, 1994
25	(869–022–00083–7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1–1.60	(869–022–00084–5)	20.00	Apr. 1, 1994
§§ 1.61–1.169	(869–022–00085–3)	33.00	Apr. 1, 1994
§§ 1.170–1.300	(869–022–00086–1)	24.00	Apr. 1, 1994
§§ 1.301–1.400	(869–022–00087–0)	17.00	Apr. 1, 1994
§§ 1.401–1.440	(869–022–00088–8)	30.00	Apr. 1, 1994
§§ 1.441–1.500	(869–022–00089–6)	22.00	Apr. 1, 1994
§§ 1.501–1.640	(869–022–00090–0)	21.00	Apr. 1, 1994
§§ 1.641–1.850	(869–022–00091–8)	24.00	Apr. 1, 1994
§§ 1.851–1.907	(869–022–00092–6)	26.00	Apr. 1, 1994
§§ 1.908–1.1000	(869–022–00093–4)	27.00	Apr. 1, 1994
§§ 1.1001–1.1400	(869–022–00094–2)	24.00	Apr. 1, 1994
§§ 1.1401–End	(869–022–00095–1)	32.00	Apr. 1, 1994
2–29	(869–022–00096–9)	24.00	Apr. 1, 1994
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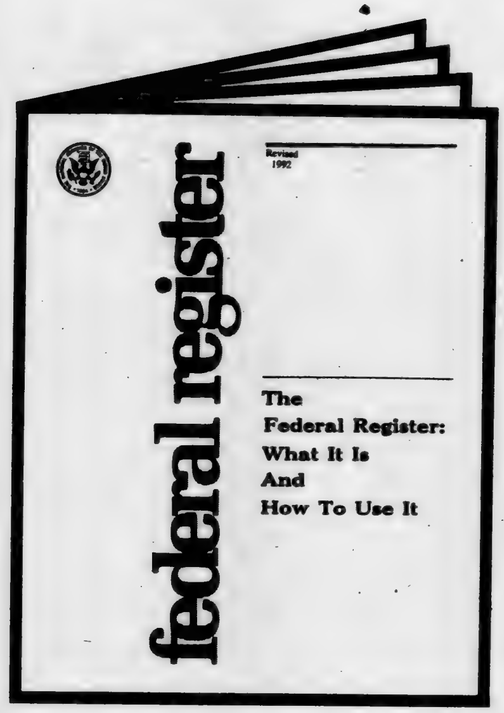

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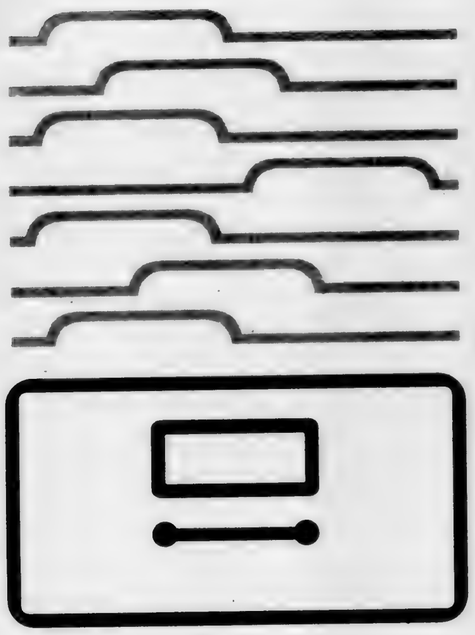

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Contents

Federal Register
Vol. 60, No. 74
Tuesday, April 18, 1995

Agricultural Marketing Service
PROPOSED RULES
Potatoes (Irish) grown in—
Washington, 19362–19363

Agriculture Department
See Agricultural Marketing Service
See Forest Service
See Grain Inspection, Packers and Stockyards Administration

Army Department
NOTICES
Meetings:
Science Board, 19395

Centers for Disease Control and Prevention
NOTICES
Meetings:
Vessel sanitation program; shipbuilding construction guidelines for vessels destine to call on U.S. ports, 19403

Coast Guard
RULES
Drawbridge operations:
Louisiana, 19351–19352
Ports and waterways safety:
Inland waterways navigation regulations—
Lake Huron to Lake Erie; speed limits increased, 19352–19354
Lower Mississippi River, Victoria Bend; safety zone, 19354–19355

Commerce Department
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Export visa requirements; certification, waivers, etc.:
Hungary, 19392

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Kansas City Board of Trade—
Hard red winter wheat futures contract, 19392–19393

Corporation for National and Community Service
NOTICES
Foster grandparent and senior companion programs; income eligibility levels, 19393–19395

Customs Service
NOTICES
IRS interest rate used in calculating interest on overdue accounts and refunds, 19447
Tariff rate quotas:
Tuna fish, 19447

Defense Department
See Army Department
See Navy Department
RULES
Defense Contract Audit Agency (DCAA) Freedom of Information Act program
Correction, 19464

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
French, Alvin E., M.D., 19412

Education Department
NOTICES
Agency information collection activities under OMB review, 19395–19397
Grants and cooperative agreements; availability, etc.:
Emergency immigrant education program, 19397
Youth with disabilities—
Transition from school-to-work and other postsecondary settings; technical assistance, 19466–19471

Employment and Training Administration
NOTICES
Adjustment assistance:
Allied-Signal Aerospace Co., 19413
Amphenol Aerospace, 19413
Artex Manufacturing Co., Inc., 19413–19414
BASF Corp., 19414
Exxon Production Research Co. et al., 19414–19415
Footwear Management Co., 19415
Leland Electrosystems, Inc., 19415
MPI Warehouse Specialty Co., 19416
Pyke Manufacturing Co., 19416
Robertshaw Controls Co., 19416
Western Geophysical Co., 19416–19417

Employment Standards Administration
See Wage and Hour Division

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission

Energy Efficiency and Renewable Energy Office
RULES
Federal energy management and planning programs:
Energy savings performance contracts for existing Federally owned buildings; methods and procedures
Correction, 19343

Environmental Protection Agency
RULES
Water pollution control:
National pollutant discharge elimination system—
Storm water discharges permits; correction, 19464
NOTICES
Confidential business information and data transfer, 19398–19399
Meetings:
Common sense initiative—
Automobile manufacturing sector, 19399

VOL 60 ISS 74 AP 18 1995 UMI

Respirable fibrous particles, chronic inhalation toxicity and carcinogenicity testing; workshop, 19399–19400
Superfund; response and remedial actions, proposed settlements, etc.:
Petrochem Recycling Corp./Ekotek, Inc. Site, UT, 19400

Executive Office of the President
See Management and Budget Office
See Trade Representative, Office of United States

Export-Import Bank
NOTICES
Meetings:
Advisory Committee, 19401

Federal Aviation Administration
RULES
Airworthiness directives:
AlliedSignal, Inc., 19343–19344
British Aerospace, 19344–19346
Eurocopter Deutschland GmbH, 19346–19347
McDonnell Douglas, 19348–19350
Raytheon Corporate Jets, 19350–19351
PROPOSED RULES
Airworthiness directives:
Fokker, 19383–19385
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Turbine engine vibration survey, 19442–19443
Turbine engine windmilling and rotor locking, 19442
Technical standard orders:
Airborne weather radar with forward-looking windshear capability (TS)-C134), 19443
Aircraft flight recorder (TSO-C51a) and cockpit voice recorder (TSO-C84); cancellation, 19443–19444

Federal Communications Commission
RULES
Radio stations; table of assignments:
Arizona, 19359
South Dakota, 19359
Wisconsin, 19359–19360

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Columbia Gas Transmission Corp., 19397–19398
Pacific Gas Transmission Co., 19398
Southern California Edison Co., 19398

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
Buffalo Forwarding Co. et al., 19401

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 19463

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Brannen Banks of Florida, Inc., et al., 19401
Central & Southern Holding Co., 19401–19402
Downey, Robert L., et al., 19402
Farmers State Holding Corp. et al., 19402
Mountain Bancshares, Inc., 19402–19403
National Commerce Corp., 19403

Food and Drug Administration
NOTICES
Meetings:
Advisory committees, panels, etc., 19403–19405

Foreign Assets Control Office
NOTICES
Sanctions; blocked persons and specially designated nationals, list, 19447–19462

Forest Service
NOTICES
Meetings:
Willamette Provincial Interagency Executive Committee, Advisory Committee; correction, 19464

General Services Administration
RULES
Acquisition regulations:
Federal Supply Service schedules industrial funding implementation, 19360–19362
Leasing real property, 19362–19363

Grain Inspection, Packers and Stockyards Administration
NOTICES
Meetings:
Advisory Committee, 19388

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See Indian Health Service
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
NOTICES
Agency information collection activities under OMB review, 19405

Housing and Urban Development Department
NOTICES
Grants and cooperative agreement awards:
Public and Indian housing—
Tenant opportunities program, 19406–19407

Indian Affairs Bureau
PROPOSED RULES
Contracts and grants:
Indian Self-Determination and Education Act amendments; implementation; withdrawal, 19387

Indian Health Service
PROPOSED RULES
Contracts and grants:
Indian Self-Determination and Education Assistance Act amendments; implementation; withdrawal, 19387

Interior Department
See Indian Affairs Bureau
See National Park Service

Internal Revenue Service
PROPOSED RULES
Income taxes:
Conversion transactions; netting rule, 19387

Interstate Commerce Commission
NOTICES
Rail carriers:
Waybill data; release for use, 19411
Railroad services abandonment:
Chicago & North Western Railway Co., 19409–19410
Wisconsin & Southern Railroad Co., 19410–19411

Justice Department
See Drug Enforcement Administration
RULES
Grants:
Combat violence against women program, 19474–19483
NOTICES
Agency information collection activities under OMB review, 19411–19412

Labor Department
See Employment and Training Administration
See Wage and Hour Division
NOTICES
Agency information collection activities under OMB review, 19412
Correction, 19464

Management and Budget Office
NOTICES
Meetings:
National Industrial Security Program Policy Advisory Committee, 19421–19422

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Aeronautics and Space Administration
NOTICES
Meetings:
Earth Systems Science and Applications Advisory Committee, 19417

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Kewet Industri, 19444–19445

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico reef fish, 19363
Northeast multispecies, 19364–19381
South Atlantic snapper-grouper, 19364
NOTICES
Endangered and threatened species:
Snake River sockeye salmon, fall chinook salmon, and spring/summer chinook salmon; proposed recovery plan availability, 19388–19391
Meetings:
International Whaling Commission, 19391
Monterey Bay National Marine Sanctuary Advisory Council, 19391–19392

National Park Service
NOTICES
Committees; establishment, renewal, termination, etc.:
National Park System Advisory Board, 19407
Environmental statements; availability, etc.:
Lake Mead National Recreation Area, AZ and NE, 19407
National Register of Historic Places:
Pending nominations, 19408–19409
Native American human remains and associated funerary objects:
Ojai Valley Historical Society and Museum, Ojai, CA; inventory, 19408
Native American remains and associated funerary objects:
Mo'omoni on Molokai Site, HI; inventory, 19407–19408

Navy Department
NOTICES
Meetings:
Naval Postgraduate School, Board of Advisors to Superintendent, 19395

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Duquesne Light Co. et al., 19417–19419
Jones Inspection Services, 19419–19421

Nuclear Waste Technical Review Board
NOTICES
Meetings, 19421

Office of Management and Budget
See Management and Budget Office

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Service
RULES
Domestic Mail Manual:
Standards for annual fees and use of permit imprints, 19355–19359

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Indian Health Service
See Substance Abuse and Mental Health Services Administration

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 19422–19423
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange, Inc., 19427–19428
Philadelphia Stock Exchange, Inc., 19423–19427
Applications, hearings, determinations, etc.:
Centurion Growth Fund, Inc., 19428
Neuberger & Berman Advisers Management Trust et al., 19428–19436
SAFECO California Tax-Free Income Fund, Inc., 19436–19437
SAFECO Growth Fund, Inc., 19437
SAFECO High-Yield Bond Fund, Inc., 19437–19438
SAFECO Income Fund, Inc., 19438–19439
SAFECO Municipal Bond Fund, Inc., 19439–19440
SAFECO Tax-Free Money Market Fund, Inc., 19440
SAFECO Washington State Municipal Bond Fund, Inc., 19440–19441

Small Business Administration
NOTICES
Applications, hearings, determinations, etc.:
Capital for Entrepreneurs, Inc., 19441–19442

VOL 60 ISS 74 AP 18 1995 UMI

State Department
NOTICES
Meetings:
United States International Telecommunications Advisory Committee, 19442

State Justice Institute
NOTICES
Meetings; Sunshine Act, 19463

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Substance Abuse and Mental Health Services Administration National Advisory Council, 19405–19406

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States
NOTICES
Uruguay Round Agreement Act (URAA):
Reformulated and conventional gasoline standards; dispute settlement proceedings, 19422

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration

Treasury Department
See Customs Service
See Foreign Assets Control Office
See Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 19445–19447

United States Information Agency
PROPOSED RULES
Audio-visual materials; world-wide free flow (export-import); educational, scientific, and cultural materials, 19385–19386
NOTICES
Art objects; importation for exhibition:
James McNeill Whistler, 19462
Piet Mondrian: 1872-1944, 19462

Wage and Hour Division
RULES
Civil money penalties; penalty accessing and contesting procedures
Correction, 19464

Separate Parts In This Issue

Part II
Department of Education, 19466–19471

Part III
Department of Justice, 19474–19483

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
946 19382

10 CFR
436 19343

14 CFR
39 (5 documents) 19343, 19344, 19346, 19348, 19350
Proposed Rules:
39 19383

22 CFR
Proposed Rules:
502 19385

25 CFR
Proposed Rules:
900 19387

26 CFR
Proposed Rules:
1 19387

28 CFR
90 19474

33 CFR
117 19351
162 19352
165 19354

39 CFR
111 19355

47 CFR
73 (3 documents) 19359

48 CFR
538 19360
552 (2 documents) 19360, 19362
570 19362

50 CFR
641 19363
646 19364
651 19364

VOL
60
ISS
74
AP
18
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 74
Tuesday, April 18, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 436

[Docket No. EE–RM–94–201]

RIN 1904–AA62

Federal Energy Management and Planning Programs; Energy Savings Performance Contract Procedures and Methods

AGENCY: Department of Energy.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the Final Regulations which were published on Monday, April 10, 1995 (60 FR 18326). The regulations establish a five-year pilot program of energy savings performance contracts designed to accelerate investment in cost effective energy conservation measures in existing Federal buildings and thereby save taxpayer dollars.

EFFECTIVE DATE: April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Joan G. Stone (202) 586–5772.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, the rules become effective 30 days after date of publication. The Department intended for the rule to become effective upon publication in order to relieve substantive restrictions that apply to procurements under other regulations.

Correction of Publication

Accordingly, the final rule published on April 10, 1995, which was the subject of FR Doc No. 95–8750, is corrected as follows:

On page 18326, 1st column, the **EFFECTIVE DATE** caption is corrected to read:

EFFECTIVE DATES: These rules become effective April 10, 1995.

On page 18334, 2nd column, the following paragraph is added as paragraph G in section III. Procedural Requirements:

G. Effective Date

DOE is making today's final rule effective upon publication because it will relieve substantive restrictions that apply to procurements under other regulations. No member of the public will be prejudiced by this action because of a lack of timely notice.

§ 436.30 [Corrected]

On page 18334, 3rd column, in § 436.30, paragraph (a), first sentence, the date "May 10, 1995" is corrected to read "April 10, 1995".

Issued in Washington, DC on April 11, 1995.

Brian T. Castelli,

Chief of Staff for Energy Efficiency and Renewable Energy.

[FR Doc. 95–9420 Filed 4–17–95; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–42; Amendment 39–9181; AD 95–07–02]

Airworthiness Directives; AlliedSignal Inc. TFE731–3 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal Inc. (formerly Garrett Turbine Engine Company) TFE731–3 series turbofan engines, that requires the removal of suspect low pressure turbine (LPT) disks due to their susceptibility to creep fatigue. This amendment is prompted by reports of LPT disks that have separated through the disk web due to creep fatigue. The actions specified by this AD are intended to prevent an LPT disk web separation, which may result in an uncontained engine failure and damage to the aircraft.

DATES: Effective on June 19, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 19, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Inc., Aviation Services Division, Data Distribution, Dept. 6403/2102–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2548, fax (602) 365–2210. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (310) 627–5246; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to AlliedSignal Inc. (formerly Garrett Turbine Engine Company) TFE731–3 series turbofan engines was published in the **Federal Register** on November 29, 1994 (59 FR 60922). That action proposed to require removal of suspect specific serial numbered first and second stage low pressure turbine (LPT) disks in accordance with AlliedSignal Aerospace Alert Service Bulletin (ASB) No. TFE731–A72–3544, dated October 8, 1993, and ASB No. TFE731–A72–3557, dated May 12, 1994.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal. The Federal Aviation Administration's (FAA) has determined that the average labor rate has increased since publication of the NPRM to $60 per work hour. The economic analysis of this final rule has been changed accordingly. The FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will not increase the scope of the AD.

VOL 60 ISS 74 AP 18 1995 UMI

There are approximately 350 engines with the affected serial numbered disks in the worldwide fleet. The FAA estimates that 175 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 10 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $18,000 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,255,000.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–07–02 AlliedSignal Inc.: Amendment 39–9181. Docket 94–ANE–42.

Applicability: AlliedSignal Inc. (formerly Garrett Turbine Engine Company) TFE731–3, –3A, –3AR, –3B, –3BR, and –3R turbofan engine models installed on but not limited to Avions Marcel Dassault Falcon 50, Lockheed 1329–23, –25 series (731 Jetstar, Jetstar II), Israel Aircraft Industries (IAI) Ltd. 1124 (Westwind), Raytheon Corporate Jets Inc. (formerly British Aerospace) (BAe) DH/HS/BH 125 series, Learjet 55 series, Cessna 650 Citation III, VI, Sabreliner NA–265 series (Sabreliner 65). This airworthiness directive (AD) is not applicable to TFE731–3A–300G and TFE731–3AR–200G engines installed on IAI 1125 Westwind Astra aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent a low pressure turbine (LPT) disk web separation, which may result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Remove from service first and second stage LPT disks, with Part Numbers (P/N) 3072351–(), 3072542–(), 3073113–(), and 3073114–(), where () denotes any dash number, identified by serial number in the Compliance Sections of AlliedSignal Aerospace Alert Service Bulletin (ASB) No. TFE731–A72–3544, dated October 8, 1993, and AlliedSignal Aerospace ASB No. TFE731–A72–3557, dated May 12, 1994, within 1,500 hours time in service (TIS) after the effective date of this AD, or at the next removal of the LPT assembly, whichever occurs first, in accordance with the Accomplishment Instructions of AlliedSignal Aerospace ASB No. TFE731–A72–3544, dated October 8, 1993, and AlliedSignal Aerospace ASB No. TFE731–A72–3557, dated May 12, 1994, and replace with serviceable disks.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(d) The removal and replacement of the affected disks shall be done in accordance with the following AlliedSignal Aerospace ASB's:

Document No.	Pages	Date
ASB No. TFE731–A72–3544. Total Pages: 10.	1–10	Oct. 8, 1993.
ASB No. TFE731–A72–3557. Total Pages: 12.	1–12	May 12, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Inc., Aviation Services Division, Data Distribution, Dept. 6403/2102–201, P.O. Box 29003, Phoenix, AZ 85038–9003; telephone (602) 365–2548, fax (602) 365–2210. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 19, 1995.

Issued in Burlington, Massachusetts, on March 22, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–8827 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 94–NM–152–AD; Amendment 39–9194; AD 95–08–05]

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A, and Model Avro 146–RJ70A, –RJ85A, and –RJ100A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, that currently requires repetitive inspections of the attachment bolts and nuts in the rear spar root joint attachment fittings at wing rib 2 for integrity of nuts, tightness of bolts, and/or fuel leaks; and repair, if necessary. That AD was prompted by fuel leaks from bolt positions on the rear spar attachment fitting at wing rib 2. This amendment provides for an optional terminating modification for the repetitive inspections, and expands the applicability of the existing AD to include additional airplanes. The actions specified by this AD are intended to prevent fuel leaks and a subsequent fire.

DATES: Effective on May 18, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 18, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Holdings, Inc., Avro International Aerospace Division, P.O. Box 16039, Dulles International Airport, Washington, DC 20041–6039. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 90–08–15, amendment 39–6577 (55 FR 13757, April 12, 1990), which is applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A series airplanes, was published in the **Federal Register** on November 29, 1994 (59 FR 60924). The action proposed to supersede AD 90–08–15 to continue to require repetitive visual inspections for integrity of nuts, tightness of bolts, and/or fuel leaks of the outboard vertical row of fasteners at the left- and right- hand of the rear spar root joint attachment fittings. The action proposed to provide for an optional terminating modification for the repetitive inspections. Additionally, the action proposed to expand the applicability of the existing AD to include additional airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter requests that NOTE 1 of the proposal be revised to allow carriers with Special Federal Aviation Regulation (SFAR) 36 authority to make a determination whether a repair modification or alteration provides an equivalent level of safety. The FAA does not concur. As discussed in the proposal, the referenced note is merely an explanation of the legal effect of the applicability statement (i.e., all airplanes identified in that statement are subject to the requirements of the AD). Since the note is simply informational, it cannot be revised to "allow" operators to make determinations that they are not otherwise allowed to make. The note directs operators (that have airplanes with altered or repaired configurations) to the provisions of paragraph (d) of the AD, which allows them to obtain approval of an alternative method of compliance (AMOC) with the AD. The FAA infers that the commenter is actually requesting that operators holding SFAR 36 authorizations be allowed, in essence, to approve their own AMOC's. The FAA has assigned a task to the Aviation Rulemaking Advisory Committee (ARAC) to review the AMOC process and to recommend improvements to it. The issue of whether the FAA should delegate its authority to approve AMOC's is being addressed in that context. The FAA will consider ARAC's recommendations once they are received. Therefore, the FAA considers any action on this subject to be premature until ARAC has submitted its recommendations.

The FAA has reviewed the applicability of the proposal and has determined that referencing both British Aerospace Service Bulletin SB 57–33, dated August 31, 1989, and Avro International Aerospace Service Bulletin S.B. 57–33, Revision 3, dated September 16, 1994, is unnecessary. Revision 3 of the Avro service bulletin includes the same airplanes listed in the effectivity listing of the original version of that service bulletin, as well as those listed in the British Aerospace service bulletin. Therefore, the FAA has revised the applicability statement of the final rule to reference only Revision 3 of the Avro service bulletin.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 11 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,320, or $120 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6577 (55 FR 13757, April 12, 1990), and by adding a new airworthiness directive (AD), amendment 39–9194, to read as follows:

95–08–05 British Aerospace Regional Aircraft Limited, Avro International Aerospace Division (Formerly British Aerospace, plc; British Aerospace Commercial Aircraft Limited): Amendment 39–9194. Docket 94–NM–152–AD. Supersedes AD 90–08–15, Amendment 39–6577.

Applicability: Model British Aerospace Model BAe 146–100A, –200A, and –300A

VOL 60 ISS 74 AP 18 1995 UMI

series airplanes, and Model Avro 146–RJ70A, –RJ85A, and –RJ100A series airplanes; as listed in Avro International Aerospace Service Bulletin S.B. 57–33, Revision 3, dated September 16, 1994; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leaks and a subsequent fire, accomplish the following:

(a) For airplanes listed in British Aerospace Service Bulletin SB 57–33, dated August 31, 1989: Within 12 months after May 21, 1990 (the effective date of AD 90–08–15, amendment 39–6577), visually inspect for integrity of nuts and tightness of bolts, and/or fuel leaks of the outboard vertical row of fasteners at the left- and right-hand of the rear spar root joint attachment fittings, in accordance with British Aerospace Service Bulletin 57–33, dated August 31, 1989; Revision 1, dated October 29, 1993; Revision 2, dated February 16, 1994; or Revision 3, dated September 16, 1994. Repeat the inspection thereafter at intervals not to exceed 4,000 landings.

(1) If no defects are found, prior to further flight, reinstall the left- and right-hand wing-to-fuselage fairing panels in accordance with the service bulletin.

(2) If any defect is found, prior to further flight, repair suspect and leaking fasteners, in accordance with the service bulletin.

(b) For airplanes listed in Avro International Aerospace Service Bulletin S.B. 57–33, Revision 3, dated September 16, 1994, and not subject to paragraph (a) of this AD: Within 12 months after the effective date of this AD, visually inspect for integrity of nuts and tightness of bolts, and/or fuel leaks of the outboard vertical row of fasteners at the left- and right-hand of the rear spar root joint attachment fittings, in accordance with Avro International Aerospace Service Bulletin S.B. 57–33, Revision 1, dated October 29, 1993; Revision 2, dated February 16, 1994; or Revision 3, dated September 16, 1994. Repeat the inspection thereafter at intervals not to exceed 4,000 landings.

(1) If no defects are found, prior to further flight, reinstall the left- and right-hand wing-to-fuselage fairing panels in accordance with the service bulletin.

(2) If any defect is found, prior to further flight, repair suspect and leaking fasteners in accordance with the service bulletin.

(c) Modification of the rear spar root joint attachment fittings at wing rib 2 in accordance with Avro International Aerospace Service Bulletin S.B. 57–33, Revision 1, dated October 29, 1993; Revision 2, dated February 16, 1994; or Revision 3, dated September 16, 1994; constitutes terminating action for the repetitive visual inspections required by this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions done in accordance with British Aerospace Service Bulletin SB 57–33, dated August 31, 1989, including Appendix A; Avro International Aerospace Service Bulletin S.B. 57–33, Revision 1, dated October 29, 1993; Avro International Aerospace Service Bulletin S.B. 57–33, Revision 2, dated February 16, 1994; or Avro International Aerospace Service Bulletin S.B. 57–33, Revision 3, dated September 16, 1994; as applicable. Revision 3 of Avro International Aerospace Service Bulletin S.B. 57–33 contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–3	3	Sept. 16, 1994.
4–6	2	February 16, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Holdings, Inc., Avro International Aerospace Division, P.O. Box 16039, Dulles International Airport, Washington, DC 20041–6039. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 18, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8825 Filed 4–17–95; 8:45 am]

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14 CFR Part 39

[Docket No. 94–SW–06–AD; Amendment 39–9201; AD 95–08–12]

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) Model MBB-BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Eurocopter Deutschland GmbH (ECD) Model MBB-BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, that requires a modification of the latches on the transmission and engine cowling access doors. This amendment is prompted by five occurrences of an engine or transmission cowling access door becoming loose in flight. The actions specified by this AD are intended to prevent the transmission and engine cowling access doors from opening in flight, being struck by the main rotor blade, and subsequently, separating from the helicopter and being ingested by the main rotor or tail rotor system resulting in a loss of control of the helicopter.

DATES: Effective May 23, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 23, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Eurocopter Deutschland GmbH (ECD) Model MBB-BK 117 helicopters was published in the **Federal Register** on September 13, 1994 (59 FR 46946). That action proposed to require replacing the current latches with those having positive locks, relocating certain latches, and installing additional locks on the transmission and engine cowling access doors within the next 150 hours time-in-service.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter states that some of the language in the AD should be changed. Specifically, the commenter believes that the words "access door becoming loose in flight" and "resulting in loss of control of the helicopter", which were used to describe the unsafe condition, are misleading. According to the commenter, use of proper locking procedures will prevent the doors from becoming loose in flight. Also, there have not been any incidents in which there has been a loss of control of the helicopter. The FAA does not concur. The FAA has determined that the current latches can become worn and loose and subsequently fail, even if properly latched. Thus far, loose cowling doors have only caused damage to main rotor blades. However, the FAA has determined that main rotor blade damage as well as other resultant damage from loose cowling doors could result in loss of control of the helicopter.

After a careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, except that the words "cowlings, fire walls, and fuselage" were added to paragraph (a) of the AD to clarify that, in addition to modifying the transmission and engine cowlings, the appropriate mating components also needed to be installed on the cowlings, firewalls, and fuselage. Additionally, the helicopter models were listed to avoid confusion regarding the applicability of the rule. Finally, the FAA has revised the proposed estimated average labor rate from $55 per work hour to an estimated average labor rate of $60 per work hour in the preamble portion of this final rule. This revision will increase the estimated total cost of the AD from $390,474 to $418,824. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 126 helicopters of U.S. registry will be affected by this AD, that it will take approximately 45 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $624 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $418,824.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

95–08–12 Eurocopter Deutschland GmbH (ECD): Amendment 39–9201. Docket No. 94–SW–06–AD.

Applicability: Model MBB–BK 117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, serial numbers 7001 through 7201, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the transmission and engine cowling access doors from opening in flight, being struck by the main rotor blade, and subsequently, separating from the helicopter and being ingested by the main rotor or tail rotor system resulting in a loss of control of the helicopter, accomplish the following:

(a) Within the next 150 hours time-in-service, remove the left-hand and right-hand transmission and engine cowlings without removing the transmission and engine cowling access doors that are installed on the transmission and engine cowlings, and modify the access door latches, cowlings, fire walls, and fuselage in accordance with the Work Procedure contained in the Accomplishment Instructions of MBB-Helicopters Alert Service Bulletin ASB–MBB–BK 117–20–104, Revision 1, dated December 8, 1989.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with MBB-Helicopters Alert Service Bulletin ASB–MBB–BK 117–20–104, Revision 1, dated December 8, 1989. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 23, 1995.

Issued in Fort Worth, Texas, on April 10, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–9236 Filed 4–17–95; 8:45 am]

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VOL 60 ISS 74 AP 18 1995 UMI

14 CFR Part 39

[Docket No. 94-NM-93-AD; Amendment 39-9193; AD 95-08-04]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Model DC-9-80 series airplanes and Model MD-88 airplanes, that requires an inspection to detect damage, burn marks, or discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. This amendment would also require modification of the electrical connectors, which, when accomplished, would terminate the inspection requirement. This amendment is prompted by reports of failures of the electrical connectors in the sidewall fluorescent lighting, which resulted in smoke or lighting interruption in the passenger cabin. The actions specified by this AD are intended to prevent failures of the electrical connectors, which could result in poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn through and smoke in the passenger cabin.

DATES: Effective on May 18, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 18, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801-1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2-98. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin K. Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5344; fax (310) 627-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Model DC-9-80 series airplanes and Model MD-88 airplanes was published in the Federal Register on September 14, 1994 (59 FR 47103). That action proposed to require a visual inspection to detect damage, burn marks, or black or brown discoloration at certain electrical plugs and receptacles of the sidewall lighting in the passenger cabin, and correction of discrepancies. It also proposed to require the eventual modification of the electrical connectors of the sidewall lighting, which, when accomplished, would terminate the inspection requirement.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

One commenter requests that, prior to issuing a final rule, the FAA investigate the possibility of problems (i.e., overheated connectors, smoke in the cabin, etc.) resurfacing at another connector location. The commenter bases this request upon service history following accomplishment of the requirements of AD 91-10-08, amendment 39-6990 (55 FR 51427, December 14, 1990). AD 91-10-08 requires modification of the sidewall lighting system on these same airplanes to preclude overheated connectors, smoke in the cabin, etc., which is similar to the modification described in the proposal (reference McDonnell Douglas MD-80 Service Bulletin 33-99, dated May 24, 1994). This commenter points out that, since accomplishing the modification required by AD 91-10-08, the same problems (i.e., overheated connectors, smoke in the cabin, etc.) have resurfaced at the sidewall lighting connectors located "downstream" at the bag bins. Therefore, the commenter assumes these problems will resurface either at the new disconnects being installed in accordance with the proposal, or at the cabin lighting ballast connectors.

The FAA has re-evaluated the modification required by this AD, and reviewed other relevant data currently available. The FAA finds no basis to support the commenter's suggestion that this problem could resurface at another connection location in the airplane. However, the FAA may consider further rulemaking action if service history indicates that the modification required by this AD produces questionable results.

Another commenter requests that the proposed modification be revised to retrofit a 115 volt electronic ballast system, instead of removing the existing 230 volt system and installing separate wire splice-connectors or hard splice at the 230 VAC (400 Hz) power wires. The commenter considers this suggested method to be superior to the proposed modification for addressing failures of the electrical connectors in the sidewall fluorescent lighting. The commenter states that failures in this system were fixed previously in a similar manner (reference AD 91-10-08), but at a different location. The commenter suggests that failures in this system could occur again, but in another location. The commenter states that the root cause of this problem is the high energy level required by the current magnetic ballasts for the sidewall lights.

The FAA does not concur that the rule should be revised to include this suggested action since sufficient data were not provided. As indicated previously, the FAA finds no basis at this time to support any suggestion that this problem could resurface at another connection location in the airplane, or that the proposed modification is inappropriate. However, the FAA also recognizes that alternative methods of compliance with the intent of this rule may also exist; a provision for the approval of such methods is contained in paragraph (c) of the final rule.

One commenter requests that the proposal be revised to require improvement of the existing connector, rather than the proposed action that would break out the 230 volt wire from the bundle and make a second connection to alleviate the problem in the existing connector. Again, the FAA does not concur with this suggestion since sufficient justification and service data was not presented. The FAA has determined that the existing current technology adequately addresses the identified unsafe condition by minimizing the possibility of failure of the electrical connectors. However, under provisions of paragraph (c) of the final rule, operators may apply for the approval of an alternative method of compliance, such as use of a different connector, if sufficient data are presented to the FAA that would justify such approval.

Two commenters request that the applicability of the proposal be limited. One of these commenters requests that the applicability be limited to "* * * Model MD-88 airplanes equipped with magnetic ballasts." This commenter suggests that McDonnell Douglas MD-80 Service Bulletin 33-99, dated May 24, 1994, referenced in the proposal as the appropriate source of service information, is not the optimal solution to the sidewall connector problem. This commenter, in conjunction with McDonnell Douglas and Page Aerospace, has successfully completed testing of the Page electronic ballast, which has been approved as an equivalent level of safety to the modification described in Service Bulletin 33-99. The other commenter requests that the applicability of the proposal be limited to "* * * Model MD-88 airplanes equipped with inter-bin electrical connectors described (or similar to those described) in McDonnell Douglas MD-80 Service Bulletin 33-99, dated May 24, 1994." This commenter suggests that the effectivity listing of Service Bulletin 33-99 does not accurately reflect the fleet configuration.

The FAA does not concur with these commenters' request to limit the applicability of the proposal. The FAA does not consider it appropriate to include various provisions in an AD applicable to a single operator's unique configuration of an affected airplane. Paragraph (c) of this AD provides for the approval of an alternative method of compliance to address these types of unique configurations.

Two commenters question the FAA's cost and work hour estimate in the preamble of the proposal. One commenter has determined that it would take approximately 100 work hours per airplane to accomplish the proposed requirements. This commenter also states that McDonnell Douglas is not supplying required parts at no cost to the operators, as stated in the proposal, but is charging $1,870 per kit. Another commenter suggests that 75 work hours per airplane would be more appropriate than the 50 work hours stated in the proposal. After considering the data presented by these commenters, the FAA finds it necessary to revise its previous estimates. The FAA concurs that 75 work hours is closer to the actual number of labor hours necessary for accomplishing the required actions. The FAA also has verified with the manufacturer that the required parts will cost operators $1,870 per kit. In light of this, the economic impact information, below, has been revised to indicate the higher number of work hours and the price of required parts.

Additionally, the FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been added to this final rule to clarify this long-standing requirement.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 907 McDonnell Douglas Model DC-9-80 series airplanes and Model MD-88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 490 airplanes of U.S. registry will be affected by this AD, that it will take approximately 75 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,870 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,121,300, or $6,370 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95-08-04 McDonnell Douglas: Amendment 39-9193. Docket 94-NM-93-AD.

Applicability: Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) series airplanes; and Model MD-88 airplanes; as listed in McDonnell Douglas MD-80 Service Bulletin 33-99, dated May 24, 1994; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval

VOL 60 ISS 74 AP 18 1995 UMI

from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent poor socket/pin contact, excessive heat, electrical arcing, and subsequently, connector burn through and smoke in the passenger cabin, accomplish the following:

(a) Within 18 months after the effective date of this AD, perform a visual inspection to detect damage, burn marks, or black or brown discoloration caused by electrical arcing at electrical plugs, having part number (P/N) MS3126F–15P, and receptacles, having P/N MS3124E–15S, of the sidewall lighting in the passenger cabin, in accordance with McDonnell Douglas MD–80 Service Bulletin 33–99, dated May 24, 1994.

(1) If no discrepancies are found, no further action is required by this paragraph.

(2) If any discrepancy is found, prior to further flight, replace the damaged connectors, pins, sockets, or wire with new parts, in accordance with the service bulletin.

(b) Within 18 months after the effective date of this AD, modify the electrical connectors of the sidewall lighting in the passenger cabin in accordance with McDonnell Douglas Service Bulletin 33–99, dated May 24, 1994. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspection, replacement, and modification shall be done in accordance with McDonnell Douglas MD–80 Service Bulletin 33–99, dated May 24, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 18, 1995.

Issued in Renton, Washington, on April 5, 1995.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8829 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–220–AD; Amendment 39–9195; AD 95–08–06]

Airworthiness Directives; Raytheon Corporate Jets Models DH/BH/HS/BAe 125–1A to –700A Series Airplanes; BAe 125–800A Airplanes; and Hawker 800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Corporate Jets Models DH/BH/HS/BAe 125–1A to –700A series, BAe 125–800A, and Hawker 800 series airplanes, that requires replacement of the existing standby static inverter with an inverter that incorporates a circuit board assembly sealed with a conformal coating. This amendment is prompted by reports of failure of the standby static inverter caused by electrical shorting from moisture condensing on the printed circuit boards (PCB), due to aberrations in the PCB conformal coating. The actions specified by this AD are intended to prevent malfunction of the standby static inverter due to exposure to moisture caused by inadequate insulation coating of the circuit board assembly. Malfunction or failure of the standby static inverter, when its use is necessary, could result in the loss of electric power for certain equipment critical to safety of flight.

DATES: Effective May 18, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 18, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Corporate Jets, Inc., 3 Bishops Square, St. Albans Road West, Hatfield, Hertfordshire AL109NE, United Kingdom. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Raytheon Corporate Jets Models DH/BH/HS/BAe 125–1A to –700A series airplanes, BAe 125–800A airplanes, and Hawker 800 airplanes was published in the **Federal Register** on January 18, 1995 (60 FR 3592). That action proposed to require replacement of the existing standby static inverters with a printed circuit board assembly that is properly sealed with a conformal coating.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

For clarification purposes, the FAA has revised the references to the DH/BH/HS/BAe 125 models throughout this rule to add the model designator "A" to the series numbers. Models DH/BH/HS/BAe 125–1A through –700A are the models that are type certificated for operation in the United States and, accordingly, affected by this AD action.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the clarifying change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 450 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $410 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $292,500, or $650 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–08–06 Raytheon Corporate Jets, Inc. (Formerly de Havilland; Hawker Siddeley; British Aerospace, plc): Amendment 39–9195. Docket 94–NM–220–AD.

Applicability: Model DH/BH/HS/BAe 125–1A to –700A series airplanes, inclusive, on which Modification 252740 has been installed; Model BAe 125–800A airplanes having constructor's numbers prior to number 258248; and Hawker 800 series airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent an electrical short in the standby static inverter due to the printed circuit boards being exposed to condensed moisture, accomplish the following:

(a) Within 5 months of the effective date of this AD, remove the existing standby static inverter (type PC 250) and replace it with a Mod C Marathon/Flitetronics Inverter (type PC 250), in accordance with Raytheon Corporate Jets Hawker Service Bulletin SB.24–308–7673A, Revision 1, dated July 11, 1994.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, FAA, Transport Airplane Directorate, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The replacement shall be done in accordance with Raytheon Corporate Jets Hawker Service Bulletin SB.24–308–7673A, Revision 1, dated July 11, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Corporate Jets, Inc., 3 Bishops Square, St. Albans Road West, Hatfield, Hertfordshire, AL109NE, United Kingdom. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 18, 1995.

Issued in Renton, Washington, on April 5, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–8830 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–U

Coast Guard

33 CFR Part 117

[CGD8–94–025]

RIN 2115–AE47

Drawbridge Operation Regulation; Sabine River, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development, the Coast Guard is changing the regulation governing the operation of a swing span bridge across the Sabine River, mile 40.8, near Starks, between Calcasieu Parish, Louisiana, and Newton County, Texas, by permitting the draw to remain closed to navigation at all times.

EFFECTIVE DATE: This regulation becomes effective May 18, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the Eighth Coast Guard District Office, 501 Magazine Street, Room 1313, New Orleans, Louisiana 70130–3396, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, Eighth Coast Guard District, Telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. David Frank, Project Manager, Bridge Administration Branch, and LT Elisa Holland, Project Attorney.

Regulatory History

On September 30, 1994, the Coast Guard published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Sabine River, LA in the **Federal Register** (59 FR 49875). The Coast Guard received three letters commenting on the proposal. No public hearing was requested, and none was held.

VOL 60 ISS 74 AP 18 1995 UMI

Background and Purpose

LDOTD requested that the draw remain permanently closed. Navigation requiring openings is non-existent and the bridge has not been opened for twenty years. There is no commercial navigation on the waterway in the vicinity of the bridge crossing. Vertical clearance of the bridge in the closed position is 6 feet above mean high water and 20 feet above mean low water. The occasional small recreational boat which uses the waterway can transit the bridge without requiring an opening. Permitting the permanent closure of the draw will result in a significant savings in maintenance costs with no adverse effect on navigational traffic.

Discussion of Comments

The National Marine Fisheries Service and Louisiana Department of Wildlife and Fisheries offered no objection to the proposed rule change. One letter of objection was received from an individual completing construction of a boat above the bridge site. The bridge owner went to considerable expense to open the bridge to allow the boat to pass. As a result, the lone objector has withdrawn his objection to the proposed rule change.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.493 is revised to read as follows:

§ 117.493 Sabine River.

(a) The draws of the Southern Pacific railroad bridge, mile 19.3 near Echo and the Kansas City Southern railroad bridge, mile 36.2 near Ruliff, shall open on signal if at least 24 hours notice is given.

(b) The draw of the S12 bridge, mile 40.8 at Starks, need not be opened for passage of vessels.

Dated: March 16, 1995.

R.C. North,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 95–9530 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 162

[CGD09–95–007]

Inland Waterways Navigation Regulations: Speed Limits on Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander of the Ninth Coast Guard District, in cooperation with Canadian authorities, is temporarily amending the speed limits on connecting waters from Lake Huron to Lake Erie. A similar temporary rule was in effect during the 1993 and 1994 navigation seasons. The speed limits in this area are determined in large part by concerns about wake damage. However, lesser wakes are created by nondisplacement power vessels and those speed limits may unnecessarily impede their passage. This temporary rule will allow nondisplacement power vessels, less than 100 gross tons, to exceed the normal speed limits subject to certain restrictions.

DATES: This regulation is effective at 12:01 a.m. on April 1, 1995 and terminates at 12 midnight on November 30, 1995. Comments must be received on or before May 31, 1995.

ADDRESSES: Comments and supporting materials should be mailed or delivered to Lieutenant Katherine Weathers, Assistant Chief of the Marine Port and Environmental Safety Branch, Ninth Coast Guard District, Room 2069, 1240 East Ninth Street, Cleveland, Ohio 44199–2060, (216) 522–3994. Please reference the name of the proposal and the docket number in the heading above. If you desire acknowledgment of your mailed comment, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9 a.m. to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lieutenant Katherine E. Weathers, Assistant Chief of the Marine Port and Environmental Safety Branch, Ninth Coast Guard District, (216) 522–3994.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments on this regulation, including comments on the prior version in effect during the 1993 and 1994 navigation seasons, are invited. A public hearing is not anticipated, however will be considered if specific requests are received. Requests should indicate how such a hearing would contribute information or views which cannot be received in written form. Additionally, if it appears that a public hearing would contribute to revisions or further refinements of the rulemaking, the Coast Guard may decide that a hearing is appropriate, and will notice the public via the **Federal Register.**

Discussion of Comment Period

A notice of proposed rulemaking was not published for this temporary regulation, and good cause exists, pursuant to 5 U.S.C. 553(b)(3)(B), for making it effective less than 30 days after **Federal Register** publication. A notice of proposed rulemaking is unnecessary because this regulation is, with minor amendments, the same as the 1994 regulation promulgated on April 7, 1994 (59 FR 16563). No adverse comments were received during the 1994 trial period.

Additionally, further delay this season would hamper commerce by delaying temporary regulatory relief for small businesses. Therefore, 30 days notice is not required under 5 U.S.C. 553(d)(1) because this rule is a substantive action which "relieves a restriction" on commerce.

Background and Purpose

Current regulations in 33 CFR 162.138 which apply to connecting waters from Lake Huron to Lake Erie set the maximum speed for vessels 20 meters or more in length at limits ranging from 4 to 12 statute miles per hour in various areas. One of the primary purposes of these speed regulations is to limit wake damage, but they were not written to account for the substantially lesser wake-generating characteristics of nondisplacement vessels. In fact, certain vessels designed for nondisplacement operation which have conducted test operations in the waterway would generate larger wakes at the lower speed now required because they would be forced to operate in a displacement mode. During the 1993 and 1994 navigation season, the Commander of the Ninth Coast Guard District temporarily amended 33 CFR 162.138 in order to allow trial runs of these nondisplacement vessels (58 FR 17526, April 5, 1993 and 59 FR 16563, April 7, 1994). A corresponding exemption was granted by the Central Region of the Canadian Coast Guard, which has authority over the Canadian waters in the same area. During the 1993 trial period, one complaint was received alleging excessive wake. Upon investigation, it appeared that the vessel gave the impression of creating an excessive wake because of its relatively high rate of speed during a sharp turn. The Coast Guard was unable to determine if in fact an excessive wake was generated in that one case. There was no damage, and the operator agreed to modify similar maneuvers in the future in order to avoid any problem. No subsequent complaints of any kind were received by the Canadian Coast Guard or the U.S. Coast Guard. During the 1994 trial period, there were no complaints received by either the Canadian Coast Guard or the U.S. Coast Guard. It should be noted that this proposed temporary amendment to the speed regulations for nondisplacement vessels does not in any way excuse the general obligation to exercise good seamanship when maneuvering in close quarters or the responsibility for damage which might be caused by a wake which is excessive in a location close to other vessels or shore structures.

With concurrence from the Director General of the Canadian Coast Guard Central Region, the Commander of the Ninth Coast Guard District considers it appropriate to institute this temporary regulation. This temporary regulation will assist commerce by allowing nondisplacement vessel operators to commence operation for the 1995 navigation season while awaiting the adoption of a permanent amendment to these regulations. A Notice of Proposed Rulemaking for a permanent change was published in the **Federal Register** on March 27, 1995. The Coast Guard is setting an upper limit of 40 statute miles per hour for nondisplacement vessels 20 meters or more in length but less than 100 gross tons, and is allowing such nondisplacement vessels to overtake other vessels when otherwise safe. All other navigational regulations will remain in force, and the use of this temporary rule for nondisplacement vessels is subject to the prior approval of the Captain of the Port in order to insure that the special rule is only used by vessels which are of suitable design and which are in fact operated safely in this waterway.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Katherine E. Weathers, and Commander M. Eric Reeves, Project Managers, Ninth Coast Guard District Marine Safety Division, and Lieutenant Karen E. Lloyd, Project Counsel, Ninth Coast Guard District Legal Office.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This regulation does not impose any new regulatory requirements in an area not herstofore regulated by the Federal Government, and does not impose any requirements or restfictions on State or local authorities. This regulation specifically provides that it does not preempt any state or local law or regulation setting a lower speed limit applicable to nondisplacement vessel in areas under the jurisdiction of such state or local authority.

Regulatory Evaluation

This regulation is considered to be non-major under Executive Order 12866 on Regulatory Planning and regulatory policies and procedures (44 FR 11034 February 26, 1979).

Small Entities

The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. In fact, the Coast Guard is making this amendment in part in order to avoid causing the existing regulations to have an unintended economic impact on a new mode of commercial operation. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 33 CFR Part 162

Inland waterways, Navigation.

Regulations

In consideration of the foregoing, the Coast Guard is amending part 162 of title 33, Code of Federal Regulations as follows:

PART 162—[AMENDED]

1. The authority citation for part 162 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

2. A temporary § 162.T139 is added as follows:

VOL 60 ISS 74 AP 18 1995 UMI

§ 162.T139 Nondisplacement vessels under 100 gross tons.

(a) Notwithstanding §§ 162.134 and 162.138(a), nondisplacement vessels 20 meters or more in length but under 100 gross tons may operate in the nondisplacement mode at speeds not more than 40 miles per hour (34.8 knots) and may overtake other vessels—

(1) during daylight hours (sunrise to sunset),

(2) when conditions otherwise safely allow, and

(3) when approval has been granted by the Coast Guard Captain of the Port, Detroit or Commander of the Ninth Coast Guard District prior to each transit of the area.

(b) In this section, *nondisplacement mode* means a mode of operation in which the vessel is supported by hydrodynamic forces, rather than displacement of its weight in the water, to an extent such that the wake which would otherwise be generated by the vessel is significantly reduced.

(c) The Captain of the Port or the District Commander may deny approval for operations under paragraph (a) of this section if it appears that the design and operating characteristics of the vessels in question are not safe for the designated waterways, or if it appears that operations under this section have become unsafe for any reason.

(d) This section becomes effective at 12:01 a.m. on April 1, 1995 and terminates at 12 midnight on November 30, 1995.

Dated: March 30, 1995.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 95–9528 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD02–95–012]

RIN 2115–AA97

Safety Zone; Lower Mississippi River, Victoria Bend

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Mississippi River between mile markers 593.0 and 597.0. The zone is needed to protect vessel traffic from a collision hazard created by weir dike construction operations. Entry of vessels or persons into this zone is prohibited except as authorized by the Captain of the Port, Memphis, TN.

DATES: This regulation becomes effective at 7 a.m. on April 17, 1995 and terminates at 1 a.m. on July 30, 1995.

FOR FURTHER INFORMATION CONTACT:

LT Byron Black, Chief of Port Operations, Coast Guard Captain of the Port Memphis, 200 Jefferson Avenue, Suite 1301, Memphis, TN 38103, Phone: (901) 544–3941.

SUPPLEMENTARY INFORMATION:

Background and Purpose

At approximately 7 a.m. on April 17, 1995, the U.S. Army Corps of Engineers will commence weir dike construction operations at Lower Mississippi River mile 595.2 on the left descending bank. The construction is expected to be completed in approximately 90 days from the commencement date. The navigable channel will be blocked during the operations. A safety zone will be established on the Lower Mississippi River from mile marker 593.0 to 597.0 in order to facilitate safe vessel passage. All vessels shall establish passing arrangements with the contact pilot onboard the M/V BILL RODGERS, via VHF Marine Band Radio, Channel 13, prior to entering the safety zone and shall abide by the conditions of the arrangement. Entry of vessels or persons into this zone without a passing arrangement with the contact pilot is prohibited except as authorized by the Captain of the Port, Memphis, TN.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest. Immediate action is necessary to facilitate construction operations during the present low water level of the river. Harm to the public and/or environment may result if vessel traffic is not controlled during construction operations.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read as follows:

PART 165—[AMENDED]

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new temporary section § 165.T02–012 is added to read as follows:

§ 165.T02–012 Safety Zone; Lower Mississippi River, Victoria Bend.

(a) *Location.* The following area is a Safety Zone: All waters within the shoreline and boundaries of Lower Mississippi River miles 593.0 to 597.0.

(b) *Effective dates.* This section becomes effective at 7 a.m. on April 17, 1995 and terminates at 1 a.m. on July 30, 1995.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port.

The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: April 12, 1995.

A.L. Thompson, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Memphis.

[FR Doc. 95–9529 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Revisions to Standards for Use of Permit Imprints

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends Domestic Mail Manual (DMM) standards concerning methods of paying postage. These amendments will:

Change the publishing requirements for Form 3526, Statement of Ownership, Management, and Circulation, to allow greater flexibility in selecting the issue in which the required information will appear.

Relax the conditions under which a company permit imprint may be used while strengthening the ability of the Postal Service to identify the place of mailing of company permit imprint mail and to obtain information about such mailings. Generally, mailers will be allowed to use a company-style imprint without having to obtain permits at two or more post offices, but these mailers will be required to show a point of contact to obtain records of the mailing. Penalties for failure to provide records are also established.

Relax the design restrictions on permit imprint indicia. Generally, the new standards allow for more creativity while retaining restrictions that ensure that the indicia content is readable and clearly identifiable as postage payment.

Set a November 1, 1995, sunset date for the use of second-class key rates.

EFFECTIVE DATES: June 2, 1995, except for amendments to P200 which will become effective April 18, 1995.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: On May 4, 1994, the Postal Service published for public comment several proposed changes to DMM standards related to bulk and presort mailing fees and the methods of paying postage (59 FR 23038–23041). Comments on the proposed rule were initially due to the Postal Service by June 20, 1994, but the comment period was subsequently extended to July 20, 1994, as published on June 22, 1994 (59 FR 32165).

The Postal Service received responses from 20 commenters, including three mailer associations, collectively offering 25 comments on specific elements of the proposed rule. Of those comments, 16 concerned the proposed rule's provisions regarding the return address on mail paid by company permit imprint; five comments spoke to the provisions regarding publication of Form 3526, Statement of Ownership, Management, and Circulation; and one comment each was offered on the provisions regarding the preparation of permit imprint mailings, the payment of annual fees, the design of company permit imprint indicia, and the termination of key rates. Discussion of these comments and the corresponding aspects of the final rule are presented below.

Form 3526

The proposed rule would amend DMM E213.4.3 to change the publishing requirements for Form 3526, Statement of Ownership, Management, and Circulation. Although under current standards all publishers are required to file Form 3526 by October 1 of each year, those publishing general or requester publications are further required to publish the information on that form in the second issue of that publication after October 1. Responding to publishers' requests for a more flexible standard on the issue in which the information may appear, the Postal Service proposed to revise the standard to allow publication of Form 3526 in any issue published during the month of October. (The proposed rule incorrectly cited DMM E213.4.3 as the section being revised; the correct citation is DMM E216.4.3. This correction is reflected in the final rule.)

The five commenters on this provision generally supported its objective of a more flexible rule but correctly noted that the proposed wording precluded achievement of some of what the standard would require. For instance, it would be a physical impossibility for a publication to include in the data shown on the published form information about returned or unsold copies of the issue of the publication in which the annual report appeared. Further, publications not issued in October would implicitly be required to amend their frequency or violate the proposed standard. One commenter also noted that not specifying by regulation the issue in which the form had to appear weakened its effectiveness in publicizing the data that the form contained by making it harder for an interested reader to find. Another commenter requested clarification of "issue date," whether this term referred to the cover date of the issue or to the date when the issue was produced or distributed.

The Postal Service agrees that its proposal was worded at cross-purposes to the ends that it sought to accomplish. Accordingly, the final rule is amended to allow more time for complete issue data to be developed; to recognize the practical limitations of a publication's frequency of issue (by relating the publication of the form to that frequency and allowing approximately equal time for publishing the form to all publications in proportion to their frequency of issuance); and to state clearly that the date of publishing the form is related to when issues of the publication are mailed. This final rule does not take steps specifically to facilitate a reader's ability to find the published form because the proposed rule neither contemplated a problem in that regard nor sought comment on imposing such a new requirement. The Postal Service may consider this comment for a future proposal.

Company Permit Imprints

The proposed rule would also amend DMM P040 to relax the conditions under which a company permit imprint may be used and to strengthen concurrently the ability of the Postal Service to identify the place of mailing of company permit imprint mail and to obtain information about such mailings.

Current standards require a permit imprint indicium to contain the mailer's permit number and the name of the post office where the permit is held unless, for a mailer having permit imprint authorizations at two or more post offices, a company-style indicium is used (in which the name of the permit holder is substituted for the permit number and post office name). At the request of customers, the Postal Service proposed a relaxation of the applicable standards to let any permit holder use the company-style format.

Current standards also require that company permit imprint mailpieces bear a complete domestic return address, but these standards do not specify what that address is to represent. This has permitted instances in which the permit holder has deliberately frustrated the efforts of the Postal Service to identify the point of mailing, what was mailed, and whether the correct postage was paid. Consequently, the Postal Service proposed to amend DMM P040 to require more information to document company permit imprint mailings (and mailings including company permit imprint pieces) by specifying that mailers use as the return address the location (the permit holder's or its

VOL 60 ISS 74 AP 18 1995 UMI

agent's) at which records for the mailing will be available to the Postal Service upon request; and to provide for suspension or revocation of permits if such records are not provided in a timely manner.

No commenters opposed the relaxation of the current standards allowing access to use of company permit imprints, so that aspect of the proposed rule is adopted as the final rule. However, all the 16 commenters on the element of the proposed rule regarding return addresses on company permit imprint mail were unsupportive of one or more of the associated tightened standards.

Two commenters objected to the period for which mailing information would have to be retained at the location shown in the return address and argued that this period discouraged use of company permit imprints. These commenters asserted that the proposed 2-year retention period should be left at 1 year or dropped. The Postal Service agrees that the current 1-year retention period for company permit imprint mailings may be adequate, and it is restored in the final rule.

Twelve commenters noted that different clients' or in-house departments' mailings may need different return addresses on mail bearing the same company imprint or that a single mailer or client may have business reasons to show different return addresses on different mailpieces (such as different processing centers). Such needs make showing a single return address impossible, the commenters argued. Three commenters suggested that the return address should simply represent "the contact point at which more information about the physical location of the desired records can be obtained for USPS review." Three other commenters were sympathetic with the needs of the Postal Service to find mailing information, but these commenters noted the aforementioned concern about record management; two commenters noted the industry's sensitivity to the "local" appearance of mailpieces and how this is impeded by the presence of a "nonlocal" return address. Two of those commenters suggested the insertion of an origination code in the permit imprint indicia as an alternative to a specific return address.

The Postal Service acknowledges the valid business concerns of its customers as represented in these comments. In part, however, some mailer anxiety may have arisen from an arguably reasonable misreading (or misinterpretation) of the proposed rule. Specifically, the Postal Service intended to require the mailer to show where mailing records could be made available if requested, not where they actually were generated or retained. (This is similar to the existing requirement for record availability at a "known office of publication" for second-class mail.) These commenters apparently read the proposed rule as requiring a new and elaborate recordkeeping system; this was not the case, and the final rule is amended to make this clear.

Moreover, the proposed rule is amended to include an option suggested by commenters as a method of identifying where records of the mailing can be made available for Postal Service review. The final rule retains the current standard for a complete domestic return address, but on the matter of what that address represents, the final rule gives the mailer two choices: (1) To show in the return address either the place where mailing records are maintained, at which they can be made available upon request by the USPS, or at which place where records are maintained can be determined; or (2) to show in the permit indicia the five-digit ZIP Code of the post office where records are available and separately notify that postmaster where the records are kept. The Postal Service believes that these options should afford both reasonable flexibility to customers and adequate information to locate the necessary mailing records.

None of the commenters differed with the proposed rule's provisions concerning adverse actions the Postal Service would take against mailers who fail or refuse to provide mailing information; those provisions are adopted in the final rule.

Another commenter noted that some of the current standards for government official mail would be directly opposed by the proposed standards for placement of the mailer's return address. The final rule is amended to except official mail from the proposed standards insofar as they are reflected in the final rule. This exception would be available only to mail constituting "Official Business" of the federal government and the mail preparation rules peculiar to it.

Permit Imprint Indicia Design

The proposed rule would also amend DMM P040 to relax the design restrictions on permit imprint indicia. While allowing greater flexibility in the preparation of permit imprint indicia, the proposed standard would reinforce the distinctiveness of an indicium by allowing its incorporation into a design of the mailer's choice. The combined design would be subject to broad location and appearance standards that balance design flexibility and the Postal Service's legitimate interest in maintaining recognizable permit indicia.

Two commenters spoke to this matter. One noted an anomalous interpretation of the existing preparation requirement that permit imprint mail be "faced," stating that some post offices are taking the literal definition of "facing" (mail oriented with the addresses facing in the same direction) as prohibiting the counterstacking of flats (as permitted by current standards in DMM module M). The final rule is amended to clarify this point. The other commenter raised several issues: (1) The compatibility of the minimum dimensions in proposed DMM P040.4.2d with the placement of an indicia on a paper address label; (2) the definition of "address area"; (3) the impact of proposed DMM P040.4.2d (i.e., that no printing appears above or to the right of the permit information); and (4) the inability to use 4-point type for permits placed on paper address labels.

The Postal Service does not have a fixed definition of "address area," deferring to the self-definition inherent in the relatively specific space on a mailpiece left open by some mailers for the printing of an address or the placement of an address label. Although the absence of a specific definition of "address area" may leave room for occasional differences in interpretation, the Postal Service does not believe that sufficient benefit would be derived from the added standards needed to present a definition, given the varied ways customers design mail. Therefore, no change is made in the final rule in this regard.

As the commenter detected, the proposed rule failed to contemplate fully permit imprints appearing on paper address labels. Accordingly, DMM P040.4.2b, P040.4.2d, and P040.4.2e of the final rule are amended. Rather than seeking to impose specific detailed standards for various types of address labels, the final rule simply requires that an area be allowed in the upper right corner of the address label that is sufficient to separate the indicium content from other information on the label, and to allow that content to be printed in a type size legible at normal reading distance. The Postal Service realizes that "normal reading distance" is a subjective term but believes that a more specific measurement would be excessive and unnecessary.

The commenter also appeared to be confused by the proposed rule regarding the presence of printing above and to the right of the permit indicia. The final rule is amended to clarify that this prohibition is applied relatively depending on whether the indicia appears on the mailpiece, on a label, or in an address area. In the latter two cases, printing is allowed on the mailpiece itself beyond the address label or address area. Otherwise, if located directly on the mailpiece in the location specified in the proposed rule, little space remains for further printing without diminishing the visibility of the indicia; no change in the proposed rule is made in this regard.

The final rule also adds a minor revision to DMM P040.1.9 to clarify that permit imprints may be printed on permanently affixed adhesive labels.

Key Rates

The proposed rule would amend DMM P200 to set a sunset date for the use of key rates. Key rates basically represent a simplified method of computing zone-rate postage on issues of second-class publications having a stable distribution pattern. The proposed rule stated that no new users of key rate would be authorized after September 30, 1994, or upon adoption of a final rule, whichever is later, and, to allow for an orderly transition for remaining key rate users, termination of key rates would be deferred until March 31, 1995, or 6 months after adoption of a final rule, whichever is later.

The one comment on this element of the proposed rule supported it, but questioned whether 6 months was sufficient time to allow for systems adjustments by current key rate mailers. The Postal Service recognizes the need for an orderly transition and believes that the proposed period is sufficient. This belief is buoyed by the absence of opposing comments and by the presumption that 6 months is a relatively generous timeframe in the context of the daily or weekly mailing frequency of typical key rate mailers. Accordingly, the final rule terminating key rates is adopted without change, except that fixed dates will be adopted to ensure adequate notice and compliance. Key rates will no longer be authorized for new customers after April 30, 1995; use of key rates will no longer be permitted for current key rate mailers after October 31, 1995.

Mailing Fees

Finally, the proposed rule also sought comments on changes to DMM E110.6.1, DMM E312.2.6, and DMM E411.4.0 that would have standardized the assessment of bulk or presort mailing fees on First-, third- and special fourth-class mail. On further consideration, the Postal Service has determined to retain the current provisions for the present time. The distinctions among these fees are based on historical differences and on assumptions about the amount of revenue that will be produced by those fees. Absent strong mailer desire for change (no supporting or objecting comments were received), the Postal Service will retain the current standards. (The sole commenter on this proposal did not address the change but asked for clarification regarding applications for bulk mailing permits (and the application fees), particularly whether those would be affected by the proposed rule; they would not.)

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. The following sections of the Domestic Mail Manual are revised as noted below:

E216 Publisher Records

* * * * *

4.0 Statement of Ownership, Management, and Circulation

* * * * *

4.3 Publication

The publisher of each publication authorized second-class mail privileges as a general or requester publication must publish a complete statement of ownership, containing all information required by Form 3526, in an issue of the publication to which that statement relates; other publications are not required to publish this statement. A reproduction of the Form 3526 submitted to the USPS may be used. The required information must appear in an issue whose primary mailed distribution begins not later than October 10 for publications issued more frequently than weekly, or not later than October 31 for publications issued weekly or less frequently but more frequently than monthly; or in the first issue whose primary mailed distribution begins after October 1 for all other publications.

* * * * *

P040 Permit Imprints

1.0 Basic Information

* * * * *

[Renumber existing 1.6 and 1.7 as 1.8 and 1.9; add new 1.6 and 1.7 and revise renumbered 1.8 and 1.9 as follows:]

1.6 Information

Upon request by the USPS, a permit holder (and its agent, if applicable) must provide in a timely manner complete information (as specified in 3.5) about mailings or mailpieces for which postage was paid using its company permit imprint.

1.7 Suspension

The USPS may immediately suspend the authorization to use a permit imprint if the permit holder or its agent refuses or fails to provide information as specified in 1.6.

1.8 Revocation

A permit may be revoked for use in operating any unlawful scheme or enterprise, for nonuse for any 12-month period, for refusal to provide information about permit imprint use or mailings, or for any noncompliance with the standards applicable to using permit imprints. The permit holder may appeal a revocation in writing to the postmaster within 10 days of receipt of the notice. If revocation is initiated for nonuse and the permit holder states in writing that it plans to resume mailings within a 90-day period, the permit will be continued for 90 days. Further appeal may be made through the postmaster to the district manager, customer service and sales, if the initial decision was made by the postmaster; or to the RCSC if the initial decision was made at the district level.

1.9 Use

[Revise the first sentence as follows:]

Permit imprints may be printed directly on mailpieces, on labels (including address labels) permanently affixed to mailpieces, or on mailpiece wrappers, envelopes, and other containers. * * *

2.0 Preparing Permit Imprints

* * * * *

2.4 Placement

The entire permit imprint indicium must be aligned parallel with the address of the mailpiece and placed in the upper right corner of the address side, of the address area, or of the address label, subject to these conditions:

a. The indicium must not encroach on reserved space on the mailpiece (e.g.,

VOL 60 ISS 74 AP 18 1995 UMI

the OCR read area) if such a standard applies.

b. The position (but not the format) of the indicium may be varied so that data processing equipment can simultaneously print the address, imprint, and other postal information.

* * * * *

3.0 Permit Imprint Content

* * * * *

3.5 Company Permit Imprint

A company permit imprint is one in which the exact name of the company or individual holding the permit is shown in the permit imprint indicium in place of the city, state, and permit number. A customer may use a company permit imprint indicium if:

a. For 1 year from the date of mailing, the permit holder or its agent keeps records for each mailing paid by company permit imprint and makes these available for USPS review on request. These records include (for each version of what was mailed, if applicable) the weight of a single piece; the total number of pieces mailed; the total postage; the date(s) and post office(s) of mailing, and other records required by the rate of postage claimed or the method of payment used. A complete sample mailpiece must be included for each identical-weight mailing, or each commingled or combined version in a nonidentical-weight mailing. Sample mailpieces are not required for nonidentical-piece third- or fourth-class machinable or irregular parcel mailings (e.g., merchandise and other fulfillment mailings).

b. Each mailpiece bears a complete domestic return address. The return address on official mail is subject to the corresponding standards. On other unendorsed bulk third-class mail, the return address may be below the permit imprint. Except for official mail, if the return address is not the physical location at which the USPS may review the records listed in 3.5a (i.e., where they are either retained or can be made available) or is not a point of contact from which such a physical location can be readily determined, the mailer must:

(1) Include in the indicia the 5-digit ZIP Code of the physical location at which the records listed in 3.5a are either retained or can be made available for USPS review; and

(2) Provide the postmaster of that post office with a complete sample mailpiece (except as noted above); the date(s) and post office(s) of mailing; and the name and local address of the party from whom the records listed in 3.5a may be obtained.

4.0 Formats

[Renumber existing 4.0 as 4.1, and Exhibits 4.0a–c as 4.1a–c; amend and add new 4.2 as follows:]

4.1 Basic Standard

Unless prepared under the option in 4.2, permit imprint indicia for ordinary mail, official mail, and Mailgrams must be prepared in one of the formats shown in Exhibit 4.1a, Exhibit 4.1b, and Exhibit 4.1c, as applicable to the rate claimed or type of mail.

4.2 Optional Format

Permit imprint indicia may be prepared in a format other than the basic format described in 4.1 subject to these conditions:

a. The rule that forms a box around the content of the indicium may be omitted if the content remains as specified in 3.0 and Exhibits 4.1a–c.

b. Unless printed directly on an address label, the indicium content specified in 3.0 is placed within a clear area no smaller than ½ inch high and ½ inch wide, no more than 1½ inches below or left from the upper right corner of the mailpiece or of the address area when oriented to read the address, regardless of the processing category or the postage rate claimed. If printed on an address label (including paper, adhesive, and multilayer sandwich labels), the space allowed for the indicium content in 3.0 must be rectangular, large enough to ensure legibility of that content from a normal reading distance and to clearly separate it from other information on the label, and located in the upper right corner of the label when oriented to read the address.

c. No printing appears in the indicium area other than that required or allowed under 3.0.

d. Except as required to enclose the permit information, no printing appears either on the mailpiece above or to the right of the permit information when the indicium is printed directly on the mailpiece, or within the address area or on the address label above or to the right of the permit information when the indicium appears there.

e. Except for indicia printed on address labels, the permit information is printed in no smaller than 4-point type. In indicia printed on address labels under 4.2b, the permit information must be legible from a normal reading distance.

f. Except as required to enclose the permit information, any decorative designs intended to be part of the permit imprint indicium design appear below or to the left of the permit information in an area extending no farther than 4½ inches to the left of the right edge, and 1½ inches below the top edge of the mailpiece, address area, or address label, as applicable. Such designs must not resemble or imitate a postage meter imprint, postage stamp, postcard postage, or other method of postage payment; and must not include words, symbols, or designs used by the USPS to identify a class of mail, rate of postage, or level of service, unless such elements are correctly used under the applicable standards for the mailpiece on which they appear and the corresponding postage and fees have been paid.

g. All other applicable standards in 1.0 through 5.0 are met.

* * * * *

5.0 Mailings

* * * * *

5.3 Preparation of Mailing

All pieces in a permit imprint mailing must be faced (i.e., have the address facing in the same direction, unless counterstacked under the applicable standards) and meet the preparation standards applicable to the rate claimed. Mail claimed at a rate where postage varies by zone must be separated by zone when mailed unless authorized by the USPS.

5.4 Place of Mailing

Mail must be deposited and accepted at the post office that issued the permit, at a time and place designated by the postmaster, except as otherwise provided for plant-verified drop shipments.

* * * * *

5.6 Prepayment

Payment must be made for each mailing, either in cash or through an advance deposit account, before the mailing can be released for processing. Funds to pay postage must be deposited as prescribed by the USPS. If the funds paid or on deposit are less than that necessary to pay for a mailing, the difference must be paid or deposited before it or other permit imprint mailings can be accepted. Credit for postage is not allowed. Postage may not be paid partly in money and partly by postage stamps unless permitted by standard.

* * * * *

P200 Second-Class Mail

* * * * *

3.0 Key Rate

* * * * *

3.5 Termination of Key Rate Option

New authorizations to use key rates will not be granted after April 30, 1995. Publications already authorized key rates may continue to use them until October 31, 1995. Effective November 1, 1995, use of key rates is eliminated.

[Delete 3.0 as of 11/1/95.]

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95–9146 Filed 4–17–95; 8:45 am]

BILLING CODE 7710-12-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–211; RM–8285]

Radio Broadcasting Services; Arizona City, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 293A for Channel 292A at Arizona City, Arizona, and modifies the license for Station KONZ(FM) accordingly to enable it to expand its signal coverage area, in response to a petition filed on behalf of Arizona City Broadcasting Corporation. *See* 58 FR 40399, July 28, 1993. Coordinates for Channel 293A at Arizona City, Arizona, are 32–45–21 and 111–40–13. With this action, the proceeding is terminated.

EFFECTIVE DATE: May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93–211, adopted March 23, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 292A and adding Channel 293A at Arizona City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9483 Filed 4–17–95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 94–140; RM–8543]

Radio Broadcasting Services; Rapid City, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Conway Broadcasting, allots Channel 292C at Rapid City, South Dakota, as the community's sixth local FM transmission service. *See* 59 FR 64382, December 14, 1994. Channel 292C can be allotted to Rapid City in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 292C at Rapid City are North Latitude 44–04–50 and West Longitude 103–13–50. With this action, this proceeding is terminated.

DATES: Effective May 25, 1995. The window period for filing applications for Channel 292C at Rapid City, South Dakota, will open on May 25, 1995 and close on June 26, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94–140, adopted March 24, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Dakota, is amended by adding Channel 292C at Rapid City.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9482 Filed 4–17–95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 91–240; RM–7770 and RM–7845]

Radio Broadcasting Services; Peshtigo and Valders, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 242C2 for Channel 241A at Peshtigo, Wisconsin, and modifies the construction permit for Station WJMR, in response to a petition filed by Good Neighbor Broadcasting, Inc. *See* 56 FR 41813, August 23, 1991. The coordinates for Channel 242C2 at Peshtigo are 45–07–19 and 87–51–07. Canadian concurrence has been received for this allotment. The counterproposal filed by Rural Radio Company requesting the allotment of Channel 242A to Valders, Wisconsin, has been dismissed. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 25, 1995.

VOL 60 ISS 74 AP 18 1995 UMI

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 91–240, adopted March 30, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 241A and adding Channel 242C2 at Peshtigo.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9481 Filed 4–17–95; 8:45 am]

BILLING CODE 6712–01–F

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 538 and 552

[APD 2800.12A CHGE 61]

General Services Administration Acquisition Regulation; Implementation of Industrial Funding for Federal Supply Schedules

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to modify the prescription for the Contractor's Report of Orders Received clause to reflect the new title of the clause and to add a prescription for the new Industrial Funding Fee clause; to reflect the new title of the clause in section 552.238–72 and to modify the clause to delete references to "orders" and substitute "sales," and to extend the time for submitting reports from 15 days following the reporting period to 30 days; and to provide the text of the new Industrial Funding Fee clause. GSA's Federal Supply Service will include the new Industrial Funding Fee clause in Federal Supply Schedule solicitations and contracts. The clause provides instructions for remittance of an industrial funding fee based on quarterly sales reported by contractors under Federal Supply Schedule contracts. The amount of the fee is determined by the Commissioner, Federal Supply Service. It has been determined that the initial fee will be 1 percent.

Fees will be included in the prices charged to ordering activities and contract award prices will reflect the total amounts charged. Federal Supply Schedule contractors will remit fees to the General Services Administration based on quarterly contract sales. GSA will recoup its costs from the ordering activities through the contractor's quarterly remittance.

The General Services Administration will use the industrial funding fee to fund the cost of providing supplies and services through the Federal Supply Schedule Program. As solicitations are issued with the new clause, the program will convert from an operation funded through congressional appropriations to a reimbursable activity. GSA's fiscal year 1995 budget reflects a $7.8 million reduction in operating expenses for the schedules program. The remaining appropriated monies for the program will be eliminated over the next two fiscal years.

DATES: Effective Date: April 18, 1995.

Compliance Date: Solicitations issued and contracts awarded after April 18, 1995, shall comply with this change. Existing Federal Supply Schedule contracts shall be modified over the next 2 years in accordance with the time schedule established by the Commissioner of the Federal Supply Service or a designee.

FOR FURTHER INFORMATION CONTACT: Les Davison, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was published in the **Federal Register** on December 27, 1994. Comments received from other Federal agencies and from vendors were considered in formulating this final rule. The notice and significant issues and concerns raised during the comment period are summarized below.

The notice of December 27, 1994, proposed implementation of industrial funding of the Federal Supply Schedule Program by adjusting schedule prices upward by 1 percent. Under this concept, published schedule prices would include the 1 percent adjustment. Agencies would order from the contractor at the adjusted price; the contractor would invoice GSA to the award price; GSA would bill agencies the adjusted price and retain the difference to fund the program.

Twenty-two responses were received from Federal agencies. These agencies, for the most part, objected to the proposed procedure as administratively burdensome. Most agencies did not want GSA to become the centralized billing and payment point for schedules transactions. Objections were based primarily on potential disruptions of their own agency accounting systems for agency procedures. Some agencies stated that they would have to create separate systems just for schedule purchases if the proposal was adopted. Nearly all agencies perceived the proposed centralized billing and payment system to be cumbersome, intrusive and unnecessarily bureaucratic.

Other concerns frequently raised by agencies included payments to vendors without proper verification of acceptance; payment of the 1 percent fee for nonschedule items included on purchase orders for schedule items; and problems associated with use of the Governmentwide credit card under such a system.

Fourteen vendors and associations responded. Their responses for the most part indicated that they did not wish GSA to assume the role of centralized billing and payment point; that they did not want to adjust their agency pricelists to reflect a price other than the contract award price; and that they found it burdensome that the agency purchase order would not reflect their invoiced amounts.

Based on these comments received from Federal agencies and industry, the GSA has determined that implementation of industrial funding of the Federal Supply Schedule Program must be accomplished in the least disruptive manner possible to both agencies and contractors and that the concerns raised must be alleviated.

To accomplish this, GSA has considered a number of alternatives suggested by both Federal agencies and industry. Many respondents suggested

that the General Services Administration collect its 1 percent fee on a periodic basis, monthly or quarterly, based on the value of orders placed. While several agencies suggested we accomplish this by billing the agencies, GSA, in light of issues raised regarding centralized payment and billing, does not wish to impose any additional burden on its customer agencies.

Therefore, in order to implement industrial funding while addressing the concerns expressed by respondents to the previous proposal, GSA has determined that the most efficient and least disruptive method of obtaining the funding is by recouping its costs from ordering activities through a quarterly remittance from contractors based on reported sales. This method will require no changes in agency ordering or paying procedures and will have minimal impact on schedule contractors.

GSA plans to include an initial 1 percent Industrial Funding Fee (IFF) in its contract award prices which will be reflected in the total amount charged to ordering activities. The award price or discount appearing in schedule pricelists will already include the 1 percent IFF. The ordering activity will order from the pricelists and pay contractors in accordance with current procedures. Schedule contractors will then remit to GSA on a quarterly basis 1 percent of the sales under schedule contracts.

To facilitate this change in funding the Federal Supply Schedule Program, the GSA Form 72A, Contractor's Report of Orders Received, will be clarified regarding procedures for reporting.

B. Executive Order 12866

This rule was submitted to the Office of Management and Budget under Executive Order 12866.

C. Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Contractors awarded Federal Supply Schedule contracts by GSA's Federal Supply Service will be impacted by this rule. Currently, the FSS has 4,922 schedule contracts which involve sales of approximately $2.7 billion per annum. Seventy six (76) percent of the schedule contracts are held by small business concerns. The changes to the Report of Orders Received clause are either minor clarifications or will be beneficial to contractors, including small business, because they increase the time available to contractors for submitting the report; allow for quarterly summaries instead of monthly data; and provide sales rather than orders received which is consistent with commercial recordkeeping practices. The new clause, which provides for payment of an industrial funding fee, will not have a significant economic impact on contractors because the fee will be included in the contract price(s) and will be taken into account during the negotiation of the schedule contract. The procedures established in the new clause for collection of the industrial funding fee represent the least burdensome alternative to both Federal agencies and contractors. Therefore, a final regulatory flexibility analysis was not prepared.

D. Paperwork Reduction Act

The revised clause at 552.238–72, Contractor's Report of Sales, contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 et sequentia) that has previously been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and assigned control number 3090–0121. The changes made to the clause by this rule do not have an impact on the information collection requirement which was previously approved. Therefore, it has not been submitted to OMB for approval under the Act.

The new clause at 552.238–77, Industrial Funding Fee, contains an information collection requirement that is subject to the Paperwork Reduction Act (44 U.S.C. 3501 et sequentia). The clause provides for certain information to be submitted on the check or with the payment of the industrial funding fee in order to permit GSA to identify the payment as an industrial funding fee and match it with the appropriate contract and reporting period. This information is the same as is normally required when transmitting payments in the commercial world and does not represent a Government-unique information collection. Therefore, the estimated burden for this clause under the Paperwork Reduction Act is zero. GSA has a blanket approval under control number 3090–0250 from OMB for information collections with a zero burden estimate.

Comments on the information collections cited above may be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503 and to the Office of Acquisition Policy (V), GSA, 18th & F Streets, NW, Washington, DC 20405.

List of Subjects in 48 CFR Parts 538 and 552

Government procurement.

Accordingly, 48 CFR Parts 538 and 552 are amended as follows:

1. The authority citation for 48 CFR Parts 538 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 538—GSA SCHEDULE CONTRACTING

2. Section 538.203–71 is amended by revising paragraph (a) and adding a new paragraph (f) to read as follows:

538.203–71 Solicitation provisions and contract clauses.

(a) The contracting officer shall insert the clause at 552.238–72, Contractor's Report of Sales, in solicitations issued and contracts awarded under GSA's schedule program. Paragraph (b) may be modified as necessary to meet program requirements. If it is necessary to identify the official responsible for preparing the report, the contracting officer may use the clause with its Alternate I. When the clause is used by IRMS the contracting officer shall use the clause with its Alternate II.

* * * * *

(f) Contracting officers in the Federal Supply Service (FSS) shall insert the clause at 552.238–77, Industrial Funding Fee, in solicitations and contracts awarded under the single award schedule and multiple award schedule programs.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 552.238–72 is amended by revising the heading and revising paragraphs (a) and (b) of the basic clause to read as follows:

552.238–72 Contractor's report of sales.

* * * * *

Contractor's Report of Sales (APR 1995)

(a) Contractors shall furnish quarterly the dollar value (rounded to the nearest whole dollar) of all sales under the contract during the preceding 3-month period to include any partial month. A separate report for each National Stock Number (NSN), Special Item Number (SIN), or subitem shall be prepared and submitted, unless otherwise specified, on GSA Form 72A.

(b) The report is due in the office specified below or specified at the time of award 30 days following the completion of the reporting period. A report is required even when no sales occur during the reporting period. Sales for orders that extend beyond the contract period will be reported within 60 days of final delivery.

* * * * *

VOL 60 ISS 74 AP 18 1995 UMI

4. Section 552.238–77 is added to read as follows:

552.238–77 Industrial funding fee.

As prescribed in 538.203–71(f), insert the following clause:

Industrial Funding Fee (APR 1995)

(a) Contractors shall pay the Federal Supply Service, GSA, an industrial funding fee (IFF) at the end of each contract quarter. The IFF shall be remitted at the same time the GSA Form 72A, Contractor's Report of Sales, is submitted under clause 552.238–72, Contractor's Report of Sales. The IFF equals _____ * of total sales reported on GSA Form 72A. The IFF reimburses the GSA Federal Supply Service for the costs of operating the Federal Supply Schedules Program and recoups its operating costs from ordering activities. Offerors should include the IFF in the prices submitted with their offer. The fee will be included in the award price(s) and reflected in the total amount charged to ordering activities.

(b) The IFF amount due shall be paid by check or electronic funds transfer to the "General Services Administration." Where multiple special item numbers and/or contracts are involved, the IFF's may be consolidation into one payment. To ensure that the payment is credited properly, the Contractor should identify the check or electronic transmission as an "Industrial Funding Fee" and include the following information: contract number(s); report amount(s); and report period(s).

(1) If the IFF payment is made by check, it should be forwarded to the following address:

General Services Administration

_____

_____

_____

(2) If the IFF payment is made by electronic funds transfer through the Automated Clearing House (ACH), the Contractor should provide their financial institution with the following information for use in making payments: (i) the ACH Transmission Routing Number of the [*Contracting officer to insert the name of the bank*]: [*Contracting officer to insert the Routing Number*] and (ii) the GSA Account Number: [*Contracting officer to insert the GSA Account Number*]. Contractors may call [*Contracting officer to insert the phone number*] (GSA Accounts Receivable) with questions regarding payments through the ACH.

(c) If the full amount of the IFF is not paid within 30 calendar days after the end of the applicable reporting period, it shall constitute a contract debt to the United States Government under the terms of FAR 32.6. The Government may exercise all rights under the Debt Collection Act of 1982, including withholding or setting off payments and interest on the debt (see FAR 52.232–17, Interest).

(d) Failure to submit sales reports, falsification of sales reports, and/or failure to pay the IFF in a timely manner may result in termination or cancellation of this contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to make timely payment of the IFF constitutes a cause for terminating the contractor for default under FAR 52.249–9, Default (Fixed-Priced Supply and Service).

(End of Clause)

*The percentage amount of the fee to be inserted in the above clause shall be determined and provided to contracting officers by the Commissioner, Federal Supply Service, or a designee.

Dated: March 27, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy.

[FR Doc. 95–9353 Filed 4–17–95; 8:45 am]

BILLING CODE 6820–61–M

48 CFR Parts 552 and 570

[APD 2800.12A CHGE 60]

RIN–AF66

General Services Administration Acquisition Regulation; Leasing Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to modify the Proposals for Adjustment clause to reflect the statutory increase in the threshold for submission of cost or pricing data from $100,000 to $500,000; to reflect the current small business size standard in the definition of small business; to eliminate requirements for obtaining appraisals in connection with the acquisition of leasehold interests in real property; to reflect the new statutory threshold of $500,000 for submission of cost or pricing data and to make other editorial changes for clarity; to reflect the elimination of requirements for appraisals and to eliminate reference to automatic renewal clauses which are no longer used; to reflect the new statutory threshold of $500,000 for submission of cost or pricing data; and to remove the requirement for Forms 387, Analysis of Value Statement, 3516, Solicitation Provisions, 3517, General Clauses, and 3518, Representations and Certifications. GSA is deleting all forms which contain solicitation provisions and/or contract clauses from the regulation. The regulation will continue to prescribe solicitation provisions and/or contract clauses which are to be included in solicitations or contracts.

EFFECTIVE DATE: April 18, 1995.

FOR FURTHER INFORMATION CONTACT: Tom Wiznowski, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements section 1251 of the Federal Acquisition Streamlining Act (FASA), Pub. L. 103–355, October 13, 1994 as it applies to the acquisition of leasehold interests in real property. Section 1251, among other things, increased the threshold for submission of cost or pricing data from $100,000 to $500,000 for civilian agencies. The increase in the threshold was effective upon enactment. FASA also provides that prime contracts entered into on or before the effective date of enactment of FASA shall be amended, without requiring consideration, to reflect the increased threshold upon the request of a contractor.

This rule also implements one of the recommendations made by a GSA process re-engineering team for improving the process for acquiring leasehold interests in real property. The reengineering team recommended that the requirement for obtaining appraisals in connection with certain leases of real property be eliminated. This rule eliminates the requirement for appraisals but provides for the use of a market survey or an appraisal to establish a basis for use of the market price exemption from the requirement for obtaining certified cost or pricing data.

B. Executive Order 12866

This rule was submitted to the Office of Management and Budget under Executive Order 12866.

C. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because most leases of real property awarded to small entities are awarded on a competitive basis or on the basis of an established market price and the requirement for certified cost or pricing data do not apply. The elimination of the requirement for obtaining an appraisal in certain circumstances when acquiring a leasehold interest will have no impact on small entities offering to lease space to the Government. Therefore, a final regulatory flexibility analysis was not prepared.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 552 and 570

Government Procurement.

Accordingly, 48 CFR Parts 552 and 570 are amended as follows:

1. The authority citation for 48 CFR Parts 552 and 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.270–20 [Amended]

2. Section 552.270–20 is amended by revising the date of the clause to read "APR 1995", by revising in paragraph (b) the figure "$25,000" to read "$100,000", and by revising in paragraphs (c) introductory text and (c)(2) the figure "$100,000" to read "$500,000".

PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY

570.102 [Amended]

3. Section 570.102 is amended by revising in the definition of "Small business" the figure "$10 million" to read "$15 million".

4. Section 570.208–3 is removed.

5. Section 570.304–5 is revised to read as follows:

570.304–5 Negotiations and award.

Offers should be evaluated in accordance with the solicitation. The contracting officer should evaluate the price using cost or price analysis and document the lease file to demonstrate that the proposed rental represents a fair market price. In cases where the total cost exceeds $500,000 cost or pricing data must be obtained unless the requirement is waived or one of the exemptions at (FAR) 48 CFR 15.804–2 applies. The market price exemption from submission of cost or pricing data may be applied to proposed leases where there is evidence that the price is based on an established market price for similar space leased to the general public. A market survey and/or appraisal conducted in accordance with accepted real property appraisal procedures may be used as evidence to establish the market price. An acceptable small business subcontracting plan must be provided if the lease will exceed $500,000, unless the lease will be awarded to a small business concern. Negotiations, if applicable, should be conducted in accordance with 570.205. For leases expected to exceed $100,000, a Certificate of Procurement Integrity must be provided to the proposed successful offeror for completion and submission before award. The contracting officer should review the List of Parties Excluded from Procurement or Nonprocurement Programs, to ensure the proposed awardee is eligible to receive the award and is otherwise responsible before awarding the lease.

570.501 [Amended]

6. Section 570.501 is amended by removing paragraphs (d) and (e).

570.602–2 [Amended]

7. Section 570.602–2 is amended by revising in paragraph (c)(3) the figure "$100,000" to read "$500,000".

570.802 [Amended]

8. Section 570.802 is amended by removing paragraphs (c), (e), (f), and (g) and by redesignating paragraph (d) as (c).

Dated: March 27, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy.

[FR Doc. 95–9356 Filed 4–17–95; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 94113–4354; I.D. 041195D]

Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for red snapper in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has projected that the annual commercial quota for red snapper will be reached on April 14, 1995. This closure is necessary to protect the red snapper resource.

EFFECTIVE DATE: Closure is effective 12:01 a.m., local time, April 15, 1995, through December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). Those regulations set the commercial quota for red snapper in the Gulf of Mexico at 3.06 million lb (1.39 million kg) for the current fishing year, January 1 through December 31, 1995.

Under 50 CFR 641.26, NMFS is required to close the commercial fishery for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by publishing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has projected that the commercial quota of 3.06 million lb (1.39 million kg) for red snapper will be reached on April 14, 1995. Accordingly, the commercial fishery in the EEZ in the Gulf of Mexico for red snapper is closed effective 12:01 a.m., local time, April 15, 1995, through December 31, 1995, the end of the fishing year. A vessel with a valid reef fish permit having red snapper on board must land and barter, trade, or sell such red snapper prior to 12:01 a.m., local time, April 15, 1995.

During the closure, the bag limit applies to all harvests of red snapper from the EEZ in the Gulf of Mexico. The daily bag limit for red snapper is five per person. From 12:01 a.m., local time, April 15, 1995, through December 31, 1995, the purchase, barter, trade, or sale of red snapper taken from the EEZ is prohibited. This prohibition does not apply to trade in red snapper that were harvested, landed, and bartered, traded, or sold prior to 12:01 a.m., local time, April 15, 1995, and were held in cold storage by a dealer or processor.

Classification

This action is taken under 50 CFR 641.26 and is exempt from review under E.O. 12866.

Dated: April 12, 1995.

Alfred J. Bilik,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9439 Filed 4–12–95; 4:17 pm]

BILLING CODE 3510–22–F

VOL 60 ISS 74 AP 18 1995 UMI

50 CFR Part 646

[Docket No. 950110009–5009–01; I.D. 041095B]

RIN 0648–AH45

Snapper-Grouper Fishery Off the Southern Atlantic States; Landing Gag

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; extension of effectiveness.

SUMMARY: An emergency interim rule is in effect through April 18, 1995, that requires selected vessels in the commercial snapper-grouper fishery to land gag in a whole condition. NMFS extends the emergency interim rule because conditions justifying the emergency action remain unchanged. The intended effect of this rule is to facilitate the collection of biological data necessary for the management of gag.

EFFECTIVE DATE: The amendments to part 646 published on January 18, 1995, at 60 FR 3562 are extended from April 19, 1995, through July 17, 1995, unless terminated earlier by notification in the **Federal Register**.

ADDRESSES: Copies of documents supporting this action, including an environmental assessment, may be obtained from Peter J. Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: Snapper-grouper species off the southern Atlantic states are managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 646 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Under section 305(c) of the Magnuson Act, NMFS published an emergency interim rule (60 FR 3562, January 18, 1995) that requires selected vessels in the commercial snapper-grouper fishery to land gag in a whole condition so that their reproductive organs may be collected by NMFS port agents for analysis. Such analysis is vital to determinations of the reproductive capacity of the resource. Because an insufficient number of reproductive organs have been collected, the Council requested extension of the emergency interim rule through as late as July 17, 1995, with earlier termination if sufficient samples for analysis are collected. NMFS concurs with the Council's request. In accordance with sections 305(c)(3)(B) and (C) of the Magnuson Act, NMFS extends the emergency interim rule through July 17, 1995, unless terminated earlier by notification in the **Federal Register**.

Details concerning the basis for this action and the classification of the rulemaking are contained in the initial emergency interim rule and are not repeated here.

Dated: April 13, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–9543 Filed 4–13–95; 4:52 pm]

BILLING CODE 3510–22–F

50 CFR Part 651

[Docket No. 950410096–5096–01; I.D. 032295C]

RIN 0648–AH66

Northeast Multispecies Fishery; Framework 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Framework Adjustment 9 to the Northeast Multispecies Fishery Management Plan (FMP). This rule implements on a permanent basis several measures originally imposed by a temporary emergency rule, with some modifications and additions: A year-round closure of redefined Closed Area I, the Nantucket Lightship Closed Area, and Closed Area II; a small mesh prohibition (with exception criteria) and a prohibition on possession of regulated species while fishing with small mesh; mesh restrictions in the Gulf of Maine juvenile protection areas; an increase in the minimum mesh size in southern New England; a prohibition on scallop dredge vessels from retaining regulated species when they are not fishing under the scallop days-at-sea (DAS) program, and a requirement that the small mesh bycatch provisions apply; and a winter flounder fishing exemption for vessels fishing with small mesh when in state waters, under certain conditions. The intended effect of this rule is to provide some continuing protective measures on groundfish stocks, especially haddock, cod, and yellowtail flounder, while a more comprehensive plan amendment is developed. Exemptions contained in this action are designed to minimize economic impacts on fishermen without compromising the effects of protective measures on groundfish.

EFFECTIVE DATES: April 13, 1995, except § 651.20(i), which is effective May 18, 1995, §§ 651.20(a)(6)(iii)(B), 651.20(j)(1), and 651.21(c)(2)(iv)(A) which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. When OMB approval is received, the effective dates of those paragraphs will be announced in the **Federal Register**.

ADDRESSES: Copies of Amendment 5 to the FMP, its regulatory impact review (RIR) and the initial regulatory flexibility analysis contained within the RIR, its final supplemental environmental impact statement, and Framework Adjustment 9 (including the Environmental Assessment (EA) supporting the December 12, 1994 emergency action) are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097. Comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Richard Roberts, NOAA Information Resources Management Staff, OA1X1, Room 724, 6010 Executive Boulevard, Rockville, MD 20852, and to the Office of Information and Regulatory Affairs (Attention: NOAA Desk Officer), Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 508–281–9252.

SUPPLEMENTARY INFORMATION: Based on new scientific information, the Northeast Regional Stock Assessment Workshop issued a "Special Advisory: Groundfish Status on Georges Bank," and delivered this advisory, along with its 18th Stock Assessment report, to the New England Fishery Management Council (Council) at its August 9–10, 1994, meeting. Because of the collapsed condition of yellowtail flounder and haddock stocks and the strong possibility of collapse of the cod stock, the advisory expressed a need to immediately begin addressing this crisis, stating that management measures contained in Amendment 5 are not nearly sufficient to rebuild these stocks.

Council's response to this unprecedented advisory was to begin immediately to develop Amendment 7, with the objective of reducing fishing

mortality to as close to zero as practicable, to rebuild the key stocks of concern. Options for this FMP amendment are currently being developed to take to public hearing, and its completion and implementation are expected, at the soonest, early next year.

Due to the length of time needed to complete the amendment process, the Council recommended and NMFS approved, an emergency interim rule (59 FR 63926) on December 12, 1994, to implement immediate protective measures to reduce fishing effort on haddock, cod, and yellowtail flounder, and other groundfish.

An emergency action amendment, published on January 13, 1995 (60 FR 3102), made several changes to the emergency rule, including: The addition of several allowable bycatch species to the exempted species list and a revision of the transiting provision for Closed Area I and the Nantucket Lightship Closed Area for safety reasons, so that vessels may transit during storm conditions, provided that the gear is properly stowed.

In order to avoid a hiatus between the emergency action and Amendment 7, the Council, at the strong urging of NMFS, initiated the present framework adjustment, so that the rules promulgated under the emergency action would remain in place until such time that Amendment 7 could be implemented. Failure to implement these measures permanently through a framework adjustment before expiration of the emergency rule action would increase the likelihood of further reductions in stock abundance of various groundfish species.

Since Framework Adjustment 9 could not be implemented before the expiration of the 90-day emergency action, the Council voted at its February 15–16, 1995, meeting to recommend an extension of the emergency action. This extension (60 FR 13078), effective March 13, 1995, through June 10, 1995, incorporated the emergency action and its amendment, and further amended the emergency rule by allowing fishing vessels to transit the closed areas, provided the operator has a demonstrable safety reason and provided the vessel's fishing gear is properly stowed.

Framework 9 implements with some modifications, the measures imposed by the existing emergency interim rule as follows: A year-round closure of a redefined (expanded) Closed Area I, the Nantucket Lightship Closed Area, and Closed Area II; a disallowance of any fishery utilizing mesh smaller than the minimum mesh size allowed for regulated species, with the exception of fisheries that have been determined to have a catch of less than 5 percent by weight of regulated species; a prohibition on the possession of regulated species while fishing with small mesh; a requirement that all mobile gear vessels fishing in the Stellwagen Bank and Jeffreys Ledge areas, with the exception of mid-water trawl vessels, use a minimum 6-inch (15.24 cm) square mesh codend; and an increase in the minimum mesh size in the Southern New England and Nantucket Lightship Regulated Mesh Areas to 6-inch (15.24 cm) diamond or square mesh.

During the comment period required over two Council meetings in the development of Framework Adjustment 9, several modifications and additions to the emergency action were made with the intent to mitigate some of the economic impacts imposed by the emergency, without compromising its ability to protect the principal groundfish stocks.

Framework 9 implements an exemption to the Nantucket Lightship Closed Area for recreational and party/charter vessels. Under this exemption, party/charter vessels are required to obtain and have on board an authorization letter from the Director, Northeast Region, NMFS (Regional Director). Recreational and party/charter vessels are prohibited from selling any fish that are caught (regardless of where they are caught), and are prohibited from possessing any gear except rod and reel or hand gear on board the vessel. NMFS' database does not include catch information, by area, for the recreational sector, but industry comments indicate that the recreational target species in this area is primarily white hake, with pollock and cod being caught to a lesser extent. Fishing is likely to be limited to only the larger charter vessels, because of this area's distance from shore. The exemption with its restriction on sale and gear should have a minimal impact on the depleted stocks, but is expected to mitigate the economic burden on this sector of the industry, according to public and Council member testimony. The other closed areas remain closed all to recreational fishing.

This framework allows vessels using pelagic hook gear (both recreational and commercial) and pelagic harpoon gear to fish in the closed areas, provided there is no retention of regulated species. Since pelagic hook gear lands virtually no multispecies, and harpoon gear is incapable of catching groundfish, these fisheries will have no impact on the stocks of concern. An explanation of both pelagic longline gear and harpoon gear is included under the definitions section.

Under this framework action, the hagfish pot fishery is also allowed to occur in the closed areas. Based on anecdotal information and because of the design of the gear, this relatively small fishery takes almost no regulated species and consequently has no impact on the resource the framework measures seek to protect.

The Northeast Fisheries Science Center (NEFSC) has commented that the year-round area closures will have a beneficial conservation effect, although they are insufficient to ensure stock recovery.

Although both U.S. Coast Guard (USCG) and NMFS Enforcement (Enforcement) have expressed concern that allowing any additional vessels fishing access to the closed areas would compromise the ability to enforce such closures, the Council recommended and NMFS has approved these exceptions because they relieve an economic burden on the fishing industry, have relatively little or no impact on the groundfish stocks, and in some cases will help mitigate gear conflicts outside of the closed areas. In addition, the exempted gears are readily distinguishable from other gear types.

This framework adjustment also allows vessels to transit freely Closed Area I and the Nantucket Lightship Closed Area, provided that the gear is not available for immediate use and is properly stowed. Again, USCG and Enforcement have indicated that this measure would affect enforcement operations. However, the Council recommended and NMFS concurred that the benefit of allowing free and open transit outweighs this concern, because the economic burden of requiring vessels to steam around these large areas is significant for many such vessels, both in terms of lost time and fuel costs. The USCG and NMFS have both issued toll-free telephone numbers to be used by the fishing industry in reporting violations to the rules and regulations. Fishers have indicated that they want be more involved in reporting violators, since they are becoming increasingly aware that any infringement on the regulations will only hurt them in the long run through the need for additional restrictions on the entire fleet.

Vessels are also allowed to transit the Gulf of Maine/Georges Bank regulated mesh area with small-mesh nets and small-mesh species on board, provided that the vessel has on board an authorization letter from the Regional Director, does not fish or possess regulated species, and does not fish for

VOL
60
ISS
74
AP
18
1995
UMI

other prohibited species in the non-exempt areas. This provision is added to this final rule because under the emergency action vessels were allowed to transit the Small-Mesh Exemption Area and fish outside of that area, provided that when they were transiting this area their small mesh nets were stowed and they did not have fish on board. However, due to this restriction, the vessels with home ports in this area, which runs from Maine to Massachusetts, were not allowed to transit back to their home port to offload. The transiting provision will remove this restriction while not affecting the conservation objective of the small-mesh prohibition.

Framework Adjustment 9 also expands the allowable bycatch species that may be retained when fishing under the small-mesh exempted species program. This framework adjustment allows retention of two standard totes of silver hake in the northern shrimp fishery, as well as the retention of limited amounts of monkfish and lobster in all of the exempted small-mesh fisheries. For monkfish, a vessel is restricted to 10 percent of the total weight of other fish possessed on board. For lobster, a vessel is allowed 10 percent of the total weight of other fish on board or 200 lobsters, whichever is less. While these species are not exempted directed fisheries under the small-mesh program in their particular areas, the caps placed on each of them represent a legitimate bycatch in the exempted fisheries and because the caps are low enough they do not provide an incentive to direct on these species. This adjustment will reduce discards and provide additional revenue to the industry.

This framework adjustment also imposes restrictions on vessels fishing with scallop dredge gear when they are not fishing under the scallop DAS program and on vessels fishing with scallop dredge gear with general scallop permits. Under this rule, these vessels are prohibited from retaining regulated species and are subject to the same bycatch restrictions applicable to the small-mesh fisheries, except that a vessel may possess up to 400 lb (181.44 kg) of shucked scallops as specified under 50 CFR Part 650, Atlantic Sea Scallop Fishery. Because scallop dredge vessels have increased their efforts on other species, including monkfish, lobster and yellowtail flounder, when not fishing for scallops, the harvesting and discarding of groundfish is uncontrolled and potentially significant. The Council believes, and NMFS concurs, that without any limitations on this practice, it will escalate as scallop DAS are further reduced. Vessels operating under the state waters scallop fishery, as described under the Atlantic Sea Scallop FMP, are exempt from this requirement.

The Regional Director has determined that the Cultivator Shoal whiting fishery also meets the small-mesh exemption requirement and, therefore, is allowed under this framework adjustment, subject to the same restrictions as other small-mesh fisheries. In addition to whiting, vessels fishing under this exemption may retain, as allowable bycatch species, longhorn sculpin, and the bycatch provisions specified for monkfish and lobsters.

Finally, Framework Adjustment 9 exempts vessels that hold a Federal multispecies permit from the Federal mesh requirements when fishing on winter flounder in state waters, provided the following conditions are met: The vessel has on board a certificate issued by a state agency authorizing the vessel's participation in that state's winter flounder fishing program and is in compliance with the applicable state laws pertaining to minimum mesh size for winter flounder; the vessel is fishing exclusively in the waters of the state from which the exemption certificate was obtained; the applicable state's winter flounder plan has been approved by the Atlantic States Marine Fisheries Commission (ASMFC) as being in compliance with the ASMFC Winter Flounder Fishery Management Plan; the state elects, by a letter to the Regional Director, to participate in the exemption program described in this section; fishing vessels issued a limited access permit that are fishing under the DAS program or under the small boat or sink gillnet DAS exemption program specified under § 651.22(d), do not fish for, possess or land regulated species, exclusive of winter flounder; the vessel does not enter or transit the EEZ; and the vessel does not enter or transit the waters of another state unless such other state is participating in the exemption program and the vessel is enrolled in that state's program.

Vessels fishing under the state waters winter flounder exemption program with a possession-limit-only permit, or vessels subject to the effort control programs and declared out of the multispecies fishery, or who are not fishing under the DAS program, may possess up to the possession limit of winter flounder, provided the vessel does not fish for regulated species, exclusive of winter flounder. Vessels using hook gear and fishing under the hook-gear-only categories would continue to be exempt from any possession limit on regulated species.

The ASMFC approved a fishery management plan for inshore stocks of winter flounder in May, 1992. The plan's fishing mortality objectives, a maximum spawning potential (MSP) target of 30 percent by January 1, 1995, and a MSP target of 40 percent by January, 1999, are more restrictive than the FMP for federally managed stocks (20 percent MSP). The ASMFC also allows individual states to utilize different measures to achieve the same objective. Under the multispecies regulations, when a federally permitted vessel is fishing for winter flounder in state waters, the most restrictive of either the state or Federal regulations apply. This framework alleviates the cumulative impact of winter flounder regulations on the fishing industry, while still achieving the most conservative management objective for other regulated species as defined in the FMP. The requirement that vessels must retain an exemption certificate issued by the state on board the vessel should mitigate any enforcement problem that this rule would impose.

Since redefined Closed Area I, as outlined in this framework action, overlaps the Cultivator Shoal Whiting Area, § 651.20, paragraph (a)(4), has been changed to reflect the reduced size. Also, because this framework requires vessels to have 6-inch (15.24-cm) mesh, diamond or square, when fishing on regulated species in the southern New England and Nantucket Lightship regulated mesh areas, and because vessels are now allowed to transit the Nantucket Lightship regulated mesh area with small mesh, the Nantucket Lightship regulated mesh area distinction is no longer valid. However, to maintain the numbering sequence of the prohibitions, for enforcement purposes, this section is reserved as specified in § 651.20(b).

This action also adds scientific names for the added allowable bycatch species to help in species identification. Further, paragraph (e)(4) is added to § 651.21 as a stowage provision for sink gillnet gear when transiting the closed areas.

NMFS is amending the multispecies regulations following the procedure for framework adjustments established by Amendment 5 and codified in 50 CFR 651, subpart C. The Council followed this procedure when making adjustments to the FMP, by developing and analyzing the actions over the span of a minimum of two Council meetings. Framework Adjustment 9 was initiated at the Council's December 7–8, 1994, meeting and was followed by meetings

on January 11–12, 1995, and February 15–16, 1995. The Council provided the public with advance notice of both the proposal and the analysis, and opportunity to comment on them prior to and at the February 15–16 Council meeting. Upon review of the analysis and public comment, the Council recommended to the Regional Director that the measures contained in Framework Adjustment 9 be published as a final rule. The Regional Director has determined that the measures in Framework Adjustment 9 are appropriate to publish as a final rule.

Because many of the measures contained within this rule relieve a burden on the fishing industry, it is the intent of the Council and NMFS that Framework Adjustment 9 supersede the extension to the emergency action.

The Council has clearly stated that this framework adjustment, with its modifications, does not necessarily reflect its policies in regard to the development of Amendment 7.

Comments and Responses

Written comments were submitted by Capt. John Boats, Inc., East Coast Fisheries Federation, Inc., Greenpeace, NMFS Office of Enforcement (NE Region), Plum Island Surfcasters, Ram Point Marina, Inc., Seafarers International Union of No. America (AFL–CIO), Shinnecock Marlin & Tuna Club, Inc., *The Fisherman Magazine*, U.S. Coast Guard, Zonta Club of Northampton, and 1,168 individuals including Congressman Patrick J. Kennedy (RI). One association and three individuals supported everything in the framework amendment. Several letters addressed solutions that are not within the scope of this framework amendment. The majority of letters addressed the exemption for recreational vessels fishing in the Nantucket Lightship Closed Area.

Comment 1: Of the 1,168 individual letters, 664 were signed form letters submitted by a representative of the Francis Fleet supporting an exemption for recreational fishing in the yellowtail area south of Nantucket. Most of the remainder were signed form letters submitted independently, but identical to the Francis Fleet submission, supporting a recreational exemption. Further, Congressman Kennedy supported the recreational exemption. Four associations supported the exemption.

Response: The letters of support have been noted and an exemption for recreational and charter vessels in the Nantucket Lightship Closed Area, under the conditions specified in this framework, has been approved.

Comment 2: Two of the associations (one of which attached a petition signed by 28 individuals) and eight individuals supported exempting recreational fisheries from the possible closing of Georges Bank.

Response: The only recreational fishing exemption under consideration by the New England Fishery Management Council during the framework process was a proposal to exempt recreational fishing in the Nantucket Lightship Closed Area. The issue of closing additional areas will be dealt with by Amendment 7 to the Northeast Multispecies FMP. Therefore, comments supporting a recreational fishing exemption on Georges Bank should be made during hearings to be scheduled regarding Amendment 7.

Comment 3: One association (speaking for recreational fishing vessels) opposed the transiting prohibition through the Nantucket Lightship Closed Area. It stated that the prohibition is dangerous for vessels fishing the east side of Nantucket shoals.

Response: An exception allowing transiting through the Nantucket Lightship Closed Area and Closed Area I for all fishing vessels, including recreational and charter vessels, under the conditions specified in this framework, has been approved.

Comment 4: One association, with 16 signatures on its letter, supported the fishing limitations on Georges Bank and urged an extension of the 6-month emergency action to allow for stock rebuilding.

Response: The Magnuson Act authorizes for emergency rules to be effective for up to 90 days, with a provision that they may be extended by Council recommendation for an additional 90 days. As no authority exists for another extension by emergency rule, the Council initiated this framework action under the abbreviated rulemaking procedures established by Amendment 5. Its effect will be to continue the measures promulgated under the emergency action until at least such time as a more comprehensive amendment (Amendment 7) is implemented.

Comment 5: One environmental organization urged that the Council not exempt recreational, party, and charter boats from the closure of certain areas of Georges Bank. It disagreed with the recreational sector's argument that the financial hardship posed by their inclusion in the Council's plans should take precedence over the conservation measures deemed necessary by the Council since their impact on regulated species is minimal. It added that the level of removal of groundfish by the recreational sector works at cross-purposes to the Council's intentions of accomplishing a near-zero fishing mortality rate.

Response: This framework allows an exemption only to the Nantucket Lightship Closed Area for recreational, party, and charter vessels. It does not exempt this segment of the fishery from other closed areas of Georges Bank. Furthermore, the sale of fish caught on vessels fishing under this exemption is explicitly prohibited (regardless of where the fish are caught), thereby reducing the incentive to target on critical stocks of groundfish. Each vessel in the party/charter fleet will further need a letter of authorization to enter this closed area, and both recreational and party/charter vessels may carry only hand-line and/or rod-and-reel fishing gear aboard. Anecdotal information indicates that the primary target species in this area is white hake, with pollock and cod being caught to a lesser extent. Although some cod is caught in this area, the Council and NMFS believe it should have a minimal impact on the depleted stocks. Concerning the Council's intentions of accomplishing a near-zero fishing mortality rate, that rate is the basis for stock rebuilding under Amendment 7 of the multispecies FMP, now under development. The driving force for this framework is continuation of temporary measures to slow the decline of multispecies stocks until stock rebuilding regulations are in place.

Comment 6: One commentor criticized the make-up of the Council, suggesting that recreational fishing interests are not adequately represented.

Response: Of the six appointed at-large members of the Council, four have backgrounds involving recreational fishing interests. Of those four, one is editor of *Salt Water Sportsman Magazine*. There are also five state representatives to the Council, one from each New England state, representing the concerns of all sectors of the fisheries. Furthermore, the Regional Director of NMFS is also a member of the Council, and represents commercial and recreational interests, equitably.

Comment 7: One association stated that the emergency rule (whose provisions will continue, as modified, by this framework amendment) unfairly affects the winter flounder fishery in the Mid-Atlantic Regulated Mesh Area. The association seeks an exemption west of 72°30′ west longitude.

Response: This issue was not adequately analyzed in time for Framework Adjustment 9 but is currently under consideration by the

VOL 60 ISS 74 AP 18 1995 UMI

Council as a separate framework amendment. Framework Adjustment 9 implements a winter flounder exemption for vessels fishing with small mesh when in state waters, under certain conditions.

Comment 8: The USCG stated that it will not be able to provide the same assurance of violator detection and resource preservation currently existing, if provisions of this framework amendment allowing vessels into the closed areas are approved. The USCG does not support routine transits through the closed areas and states that closed area enforcement is most effective when only small numbers of vessels are allowed to operate in designated areas.

Response: The Council and NMFS considered the USCG comments and weighed them against the industry's comments on the costs of requiring vessels to steam around a closed area, unless a safety reason exists. The Council and NMFS do not expect that allowing free and open transit, with gear stowage requirements and severe penalties (including permit vessel and operator sanctions) for fishing in closed areas, will compromise the conservation impact of the closure. The Council determined that the costs to the industry (fuel, days-at-sea allocations while steaming) of the existing safety-only closure provision outweigh the risk of some decrease in compliance with this alternative.

The Council and NMFS further determined that the cost of closing the three areas to pelagic fishing also outweighs the reduction in enforceability resulting from such a closure exception. The Council and NMFS concluded that prohibiting these vessels from possessing any regulated multispecies while in the closed areas will help in the enforcement of the groundfish closure. As pelagic long-line gear is not fixed or anchored to the bottom and has no cable main line, it is readily distinguishable from groundfish hook gear. The other significant pelagic hook fishery that would take place in any of the closed areas is the General Category bluefin tuna fishery. Vessels fishing under a General Category permit are prohibited from having more than two hooks attached to any line on board and, with a prohibition on the possession of groundfish, can easily be distinguished from a groundfish hook vessel. Furthermore, the pelagic fisheries are regulated by a season-and-quota system that significantly limits the time when pelagic hook vessels may fish.

Classification

This action has been determined to be not significant for the purposes of E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds there is good cause to waive prior notice and opportunity for comments under 5 U.S.C. 553(b)(B). The provision of advance notice as described in this rule and public meetings held by the Council to discuss the management measures implemented by this rule provided adequate prior notice and opportunity for public comment to be made and considered. Thus, additional opportunity for public comment is unnecessary.

The AA also finds that under 5 U.S.C. 553(d)(1), because immediate implementation of this rule relieves an economic hardship on the industry with virtually no impact on the conservation objective, there is no need to delay for 30 days the effectiveness of this regulation, except § 651.20(i) which will be effective May 18, 1995.

This rule contains three new collection-of-information requirements subject to the Paperwork Reduction Act that have been submitted to the Office of Management and Budget (OMB) for approval. The public reporting burden for this collection of information is estimated to be 2 minutes per response for each of the requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this reporting burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

The new requirements are:

1. The winter flounder state waters exemption program (§ 651.20(j)(1)) (2 minutes/response);

2. Gulf of Maine/Georges Bank regulated mesh area transit exemption (§ 651.20(a)(6)(iii)(B)) (2 minutes/response);

3. Nantucket Lightship Closed Area party/charter vessel exemption (§ 651.21(c)(2)(iv)(A)) (2 minutes/response).

Because §§ 651.20(a)(6)(iii)(B), § 651.20(j)(1), and § 651.21(c)(2)(iv)(A) require approval by OMB under the Paper Work Reduction Act which has not yet been received, their effectiveness is delayed pending receipt of such approval. The effective date of those sections will be announced in the **Federal Register**.

The regulations extending the emergency action (60 FR 13078, March 10, 1995) eliminated a notification requirement for vessels transiting closed areas during storm conditions.

Because no proposed rule was required, this action is exempt from the requirements to prepare a Regulatory Flexibility Analysis.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 12, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 651 is amended as follows. These amendments supersede the amendments published at 59 FR 63928, December 12, 1994; 60 FR 3102, January 13, 1995; 60 FR 6446, February 2, 1995; and 60 FR 13078, March 10, 1995.

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 651.2, definitions for "American lobster or lobster", "Harpoon gear or harpoon", "Monkfish", and "Pelagic hook or longline gear" are added, in alphabetical order; and "Atlantic sea scallop or scallop" and "Sink gillnet" are revised as follows:

§ 651.2 Definitions.

* * * * *

American lobster or *lobster* means the species, *Homarus americanus.*

Atlantic sea scallop or *scallop* means the species, *Placopecten magellanicus.*

* * * * *

Harpoon gear or *harpoon* means fishing gear consisting of a pointed dart or iron attached to the end of a line several hundred feet in length, the other end of which is attached to a floating device.

* * * * *

Monkfish means the species, *Lophius americanus.*

* * * * *

Pelagic hook or longline gear means fishing gear that is not fixed, nor designed to be fixed, or anchored to the bottom and that consists of monofilament main line (as opposed to a cable main line) to which gangions are attached.

* * * * *

Sink gillnet means a bottom-tending gillnet, which is any gillnet, anchored or otherwise, that is designed to be, or is capable of being, or is fished on or near the bottom in the lower third of the water column.

* * * * *

3. In § 651.4, paragraph (f) and the last sentence of paragraph (d) is revised and a new paragraph (t) is added to read as follows:

§ 651.4 Vessel permits.

* * * * *

(d) * * * Except as provided for in § 651.20(j), if a requirement of this part and a management measure required by a state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

* * * * *

(f) *Information requirements.* (1) In addition to applicable information required to be provided by paragraph (e) of this section, an application for either a limited access multispecies, hook-gear-only, or possession-limit-only permit must contain at least the following information, and any other information required by the Regional Director: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a copy of vessel's U.S. Coast Guard documentation or, if undocumented, state registration number and a copy of the state registration; home port and principal port of landing; length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction; type of propulsion; approximate fish-hold capacity; type of fishing gear used by the vessel; number of crew; permit category; if the owner is a corporation, a copy of the Certificate of Incorporation, and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners having owned more than a 25-percent interest; and name and signature of the owner or the owner's authorized representative.

(2) Applications for a limited access multispecies permit must also contain the following information:

(i) The engine horsepower of the vessel as specified in the vessel's most recent permit application for a Federal Fisheries Permit before May 1, 1994. If the engine horsepower was changed or a contract to change the engine horsepower had been entered into prior to May 1, 1994 such that it is different from that stated in the vessel's most recent application for a Federal Fisheries Permit before May 1, 1994, sufficient documentation to ascertain the different engine horsepower. However, the engine replacement must be completed within 1-year of the date of when the contract for the replacement engine was signed.

(ii) The length, gross tonnage, and net tonnage of the vessel as specified in the vessel's most recent permit application for a Federal Fisheries Permit before May 1, 1994. If the length, gross tonnage, or net tonnage was changed or a contract to change the length, gross tonnage or net tonnage had been entered into prior to May 1, 1994 such that it is different from that stated in the vessel's most recent application for a Federal Fisheries Permit, sufficient documentation to ascertain the different length, gross tonnage or net tonnage. However, the upgrade must be completed within 1 year of the date of when the contract for the upgrade was signed.

(iii) If the vessel owner is applying to fish under the individual DAS program specified in this section, the application must include such election.

(iv) In 1994, vessel owners may change their vessel's DAS category within 30 days of receipt of their 1994 multispecies permit. After 30 days, the vessel must fish only in the DAS program assigned for the remainder of the fishing year. In 1995, if the vessel owner is applying to fish under a different DAS program than was assigned for 1994, the application must include such election and the vessel must fish only in that category for the entire fishing year.

(v) For 1996 and thereafter, a vessel, when fishing under the DAS program, may fish only under the DAS program assigned to it in 1995, or if not assigned in 1995, the DAS program assigned to it on its initial permit to fish under the DAS program. However, any vessel may elect for any year to fish under a hook-gear-only permit if it meets the requirements specified in paragraph (b) of this section.

(vi) Beginning on September 1, 1994, if the vessel is a combination vessel, or if the applicant elects to take an individual DAS allocation or to use a VTS unit, although not required, a copy of the vendor installation receipt from a NMFS-certified VTS vendor as described in § 651.28(a).

* * * * *

(t) *Certificate for winter flounder fishing in state waters.* A vessel permitted under this part and fishing for winter flounder in state waters under the minimum mesh size described in § 651.20(j), must have on board a certificate issued by the state agency authorizing the vessel's participation in the state waters winter flounder fishing program.

4. In § 651.5, paragraph (a) is revised to read as follows:

§ 651.5 Operator permits.

(a) *General.* Any operator of a vessel that has been issued a valid Federal multispecies permit under this part, or any operator of a vessel fishing for multispecies finfish in the EEZ or in possession of multispecies finfish in or harvested from the EEZ, must carry on board a valid operator's permit issued under this part. This requirement does not apply to recreational vessels and vessels that fish exclusively in state waters for multispecies.

* * * * *

5. In § 651.9, paragraphs (a), (b), and (e) are revised to read as follows:

§ 651.9 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person owning or operating a vessel holding a valid Federal multispecies vessel permit issued under this part, issued a permit under § 651.5 or a letter under § 651.4(a)(8)(v), to do any of the following:

(1) Possess or land multispecies finfish smaller than the minimum size as specified in § 651.23.

(2) Fail to comply in an accurate and timely fashion with the log report, reporting, record retention, inspection, and other requirements of § 651.7(b).

(3) Fish for, possess, or land multispecies finfish unless the operator of the vessel has been issued an operator's permit under § 651.5, and a valid permit is on board the vessel.

(4) Fail to report to the Regional Director within 15 days any change in the information contained in the permit application as required under § 651.4(m) or § 651.5(k).

(5) Fail to affix and maintain permanent markings as required by § 651.8.

(6) Sell, transfer, or attempt to sell or transfer to a dealer any multispecies finfish unless the dealer has a valid Federal Dealer's Permit issued under § 651.6.

(7) Land, offload, remove, or otherwise transfer, or attempt to land, offload, remove, or otherwise transfer fish from one vessel to another vessel or other floating conveyance unless authorized in writing by the Regional Director pursuant to § 651.30(a).

(8) Refuse or fail to carry an observer if requested to do so by the Regional Director.

VOL 60 ISS 74 AP 18 1995 UMI

(9) Interfere with or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer conducting his or her duties aboard a vessel.

(10) Fail to provide an observer with the required food, accommodations, access, and assistance, as specified in § 651.31.

(11) Land haddock from, or possess haddock on board, a sea scallop dredge vessel during the time specified in § 651.27(b)(1).

(12) Land, or possess on board a vessel, more than 500 lb (226.8 kg) of haddock, or the equivalent in totes or boxes, as specified in § 651.27(b)(2), or violate any of the other provisions specified in § 651.27(b)(2).

(13) Fish with, set, haul back, possess on board a vessel, unless stowed in accordance with § 651.20(c)(4), or fail to remove a sink gillnet from the area and for the times specified in § 651.32(a), unless authorized in writing by the Regional Director.

(14) Sell, barter, trade, or transfer, or attempt to sell, barter, trade, or otherwise transfer, for a commercial purpose, other than transport, any multispecies, unless the transferee has a dealer permit issued under § 651.6.

(b) In addition to the prohibitions specified in paragraph (a) of this section, it is unlawful for any person owning or operating a vessel issued a limited access permit under § 651.4(a) or a letter under § 651.4(a)(8)(v), to do any of the following:

(1) Possess at any time during a trip, or land per trip, more than the possession limit of regulated species as specified in § 651.27(a), after using the vessel's annual DAS allocation or when not participating under the DAS program pursuant to § 651.22.

(2) If required to have a VTS unit as specified in § 651.28(a) or § 651.29(a):

(i) Fail to have a certified, operational, and functioning VTS unit that meets the specifications of § 651.28(a) on board the vessel at all times.

(ii) Fail to comply with the notification, replacement, or any other requirements regarding VTS usage as specified in § 651.29(a).

(3) Combine, transfer, or consolidate DAS allocations.

(4) Fish for, possess, or land multispecies finfish with or from a vessel that has had the horsepower of such vessel or its replacement upgraded or increased in excess of the limitations specified in § 651.4(a)(5)(i).

(5) Fish for, possess, or land multispecies finfish with or from a vessel that has had the length, gross registered tonnage, or net tonnage of such vessel or its replacement increased or upgraded in excess of limitations specified in § 651.4(a)(5)(ii).

(6) Fail to comply with any requirement regarding the DAS notification as specified in § 651.29.

(7) If not fishing under the VTS system, fail to have on board the vessel a card issued by the Regional Director, as specified in § 651.29(b).

(8) Fail to notify that a vessel is participating in the DAS program as specified in § 651.29(b).

(9) Fail to comply with the other methods of notification requirements, including a call-in system as specified in § 651.29(c), if required by the Regional Director.

(10) Fail to provide notification of the beginning or ending of a DAS before leaving port or before returning to port, as required under § 651.29 (b) or (c).

(11) Fail to comply with the layover day requirement as described in § 651.22(c)(1)(ii)(A).

* * * * *

(e) In addition to the general prohibitions specified in § 620.7 of this chapter and the prohibitions specified in paragraphs (a) through (d) of this section, it is unlawful for any person to do any of the following:

(1) Fish for, possess, or land multispecies finfish unless:

(i) The multispecies finfish were being fished for or harvested by a vessel holding a valid Federal multispecies permit under this part, or a letter under § 651.4(a)(8)(v), and the operator on board such vessel has been issued an operator's permit under § 651.5 and has a valid permit on board the vessel;

(ii) The multispecies finfish were harvested by a vessel not issued a Federal multispecies permit that fishes for multispecies finfish exclusively in state waters; or

(iii) The multispecies finfish were harvested by a recreational fishing vessel.

(2) Possess at any time during a trip, or land per trip, more than the possession limit of regulated species as specified in § 651.27(a) unless:

(i) The multispecies finfish were harvested by a vessel that has been issued a limited access permit under § 651.4(a), a hook-gear-only permit under § 651.4(b), or a letter under § 651.4(a)(8)(v); or

(ii) The regulated species were harvested by a vessel that qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(3) Land, offload, cause to be offloaded, sell, or transfer; or attempt to land, offload, cause to be offloaded, sell, or transfer multispecies finfish from a fishing vessel, whether on land or at sea, as an owner or operator without accurately preparing and submitting, in a timely fashion, the documents required by § 651.7, unless the multispecies finfish were harvested by a vessel that qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(4) Purchase or receive multispecies finfish, or attempt to purchase or receive multispecies finfish, whether on land or at sea, as a dealer without accurately preparing, submitting in a timely fashion, and retaining the documents required by § 651.7.

(5) Land, offload, remove, or otherwise transfer, or attempt to land, offload, remove or otherwise transfer multispecies finfish from one vessel to another vessel, unless both vessels qualify under the exception specified in paragraph (e)(1)(ii) of this section, or unless authorized in writing by the Regional Director pursuant to § 651.30(a).

(6) Sell, barter, trade, or otherwise transfer; or attempt to sell, barter, trade, or otherwise transfer for a commercial purpose any multispecies finfish from a trip unless the vessel is holding a valid Federal multispecies permit under this part, or a letter under § 651.4(a)(8)(v), or the multispecies finfish were harvested by a vessel without a Federal multispecies permit that fishes for multispecies finfish exclusively in state waters.

(7) Purchase, possess, or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose in the capacity of a dealer, multispecies finfish taken from a fishing vessel, unless in possession of a valid dealer permit issued under § 651.6; except that this prohibition does not apply to multispecies finfish taken from a vessel that qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(8) Purchase, possess, or receive for commercial purposes multispecies finfish caught by a vessel other than one holding a valid Federal multispecies permit under this part, or a letter under § 651.4(a)(8)(v), unless the multispecies finfish were harvested by a vessel that qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(9) To be or act as an operator of a vessel fishing for or possessing multispecies finfish in or from the EEZ, or holding a Federal multispecies permit under this part without having been issued and possessing a valid operator's permit issued under § 651.5.

(10) Assault, resist, oppose, impede, harass, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(11) Make any false statement, oral or written, to an authorized officer or employee of NMFS, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any multispecies finfish.

(12) Make any false statement in connection with an application under § 651.4 or § 651.5 or on any report required to be submitted or maintained under § 651.7.

(13) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VTS, VTS unit, or VTS signal required to be installed on or transmitted by vessel owners or operators required to use a VTS by this part.

(14) Fish with, use, or have available for immediate use within the area described in § 651.20(a)(1) nets of mesh size smaller than the minimum mesh size specified in § 651.20(a)(2), except as provided in § 651.20 (a)(3) through (a)(6), (e), (f), and (j), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(15) [Reserved]

(16) Fish with, use, or have available for immediate use within the area described in § 651.20(c)(1) nets of mesh size smaller than the minimum size specified in § 651.20(c)(2), except as provided in § 651.20(c)(3), (e), (f), and (j), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(17) Fish with, use, or have available for immediate use within the area described in § 651.20(d)(1) nets of mesh size smaller than the minimum size specified in § 651.20(d)(2), except as provided in § 651.20(d)(3), (e), (f), and (j), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(18) Enter or be in the area described in § 651.21(a)(1) on a fishing vessel, except as provided in § 651.21(a)(2), (d), and (e).

(19) [Reserved]

(20) Enter the area described in § 651.21(b)(1) on a fishing vessel, except as provided by § 651.21(b)(2) and (e).

(21) Enter or be in the area described in § 651.21(c)(1), on a fishing vessel, except as provided in § 651.21(c)(2) and (e).

(22) Fail to comply with the gear-marking requirements of § 651.25.

(23) Import, export, transfer, land, or possess regulated species that are smaller than the minimum sizes as specified in § 651.23, unless the regulated species were harvested from a vessel that qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(24) Interfere with, obstruct, delay, or prevent by any means lawful investigation or search relating to the enforcement of this part.

(25) Fish within the areas described in § 651.20(a)(4) with nets of mesh smaller than the minimum size specified in § 651.20(a)(2), unless the vessel is issued and possesses on board the vessel an authorizing letter issued under § 651.20(a)(4)(i).

(26) Violate any provisions of the Cultivator Shoals Whiting Fishery specified in § 651.20(a)(4).

(27) Fish for, land, or possess multispecies finfish harvested by means of pair trawling or with pair trawl gear, except under the provisions of § 651.20(e), or unless the vessels that engaged in pair trawling qualify for the exception specified in paragraph (e)(1)(ii) of this section.

(28) Fish for, harvest, possess, or land in or from the EEZ northern shrimp, unless such shrimp were fished for or harvested by a vessel meeting the requirements specified in § 651.20(a)(3).

(29) Fail to comply with the requirements as specified in § 651.20(a)(5).

(30) Fish for the species specified in § 651.20 (e) or (f) with a net of mesh size smaller than the applicable mesh size by area fished specified in § 651.20, or possess or land such species, unless the vessel is in compliance with the requirements specified in § 651.20 (e) or (f), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(31) Fish with, set, haul back, possess on board a vessel, unless stowed in accordance with § 651.20(c)(4), or fail to remove a sink gillnet from the EEZ portion of the areas, and for the times specified in § 651.32(a), unless authorized in writing by the Regional Director.

(32) Violate any provision specified under § 651.29.

(33) Land haddock from, or possess haddock on board, a sea scallop dredge vessel as specified in § 651.27(b)(1).

(34) Land, or possess on board a vessel, more than 500 lb (226.8 kg) of haddock, or the equivalent in totes or boxes, as specified in § 651.27(b)(2), or violate any of the other provisions specified in § 651.27(b)(2).

(35) Fish with, use or have available for immediate use scallop dredge gear on a vessel not fishing under the scallop DAS program as described in § 650.24 of this chapter, or fishing under a general category permit issued under § 650.4(b) of this chapter, in the areas described in § 651.20(i), except as provided in § 651.20(i), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(36) Obstruct or constrict a net as described in § 651.20(h) (1) and (2).

(37) Possess, land, or fish for regulated species, except winter flounder as provided for in accordance with § 651.20(j), from or within the areas described in § 651.20, while in possession of nets of mesh smaller than the minimum size specified in § 651.20, unless the vessel and nets conform with the stowage requirements of § 651.20(c)(4), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(i) of this section.

(38) Possess, land, or fish for regulated species, except winter flounder as provided for in accordance with § 651.20(j), from or within the areas described in § 651.20(i), while in possession of scallop dredge gear on a vessel not fishing under the scallop DAS program as described in § 650.24 of this chapter, or fishing under a general category permit issued under § 650.4(b) of this chapter, unless the vessel and the dredge gear conform with the stowage requirements of § 651.27(a)(3) and § 651.21(e)(2), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(39) Possess or land fish caught with nets of mesh smaller than the minimum size specified in § 650.20 of this chapter, or with scallop dredge gear on a vessel not fishing under the scallop DAS program described in § 650.24 of this chapter, or fishing under a general category permit issued under § 650.4(b) of this chapter, unless said fish are caught, possessed or landed in accordance with §§ 651.20 and 651.27, or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

* * * * *

6. In § 651.20, paragraphs (a) through (f) are revised and paragraphs (i) and (j) added to read as follows:

§ 651.20 Regulated mesh areas and restrictions on gear and methods of fishing.

All vessels fishing for, harvesting, possessing, or landing multispecies finfish in or from the EEZ and all vessels holding a Federal multispecies permit under this part must comply with the following restrictions on minimum mesh size, gear, and methods of fishing, unless otherwise exempted or prohibited.

(a) *Gulf of Maine/Georges Bank (GOM/GB) regulated mesh area*—(1) *Area definition.* The Gulf of Maine/Georges Bank regulated mesh area is that area:

(i) Bounded on the east by the U.S.-Canada maritime boundary, defined by

VOL 60 ISS 74 AP 18 1995 UMI

straight lines connecting the following points in the order stated (see Figure 1 to part 651):

GULF OF MAINE/GEORGES BANK REGULATED MESH AREA

Point	Latitude	Longitude
G1	(1)	(1)
G2	43°58′ N.	67°22′ W.
G3	42°53.1′ N.	67°44.4′ W.
G4	42°31′ N.	67°28.1′ W.
G5	41°18.6′ N.	66°24.8′ W.

[1] The intersection of the shoreline and the U.S.-Canada Maritime Boundary (southward along the irregular U.S.-Canada Maritime Boundary).

(ii) Bounded on the south by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude	Approximate loran C bearings
G6	40°55.5′ N.	66°38′ W.	5930–Y–30750 and 9960–Y–43500.
G7	40°45.5′ N.	68°00′ W.	9960–Y–43500 and 68°00 W.
G8	40°37′ N.	68°00′ W.	
G9	40°30′ N.	69°00′ W.	
NL3	40°22.7′ N.	69°00′ W.	
NL2	40°18.7′ N.	69°40′ W.	
NL1	40°50′ N.	69°40′ W.	
G11	40°50′ N.	70°00′ W.	9960–Y–43450 and 68°00 W.
G12		70°00′ W.[1]	

[1] Northward to its intersection with the shoreline of mainland Massachusetts.

(2) *Mesh-size restrictions.* Except as provided in paragraphs (a)(3) through (6), (e), (f), and (j) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, or midwater trawl, on a vessel, or used by a vessel fishing in the GOM/GB regulated mesh area, shall be 6 inches (15.24 cm) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq. ft (0.81 m^2)), or to vessels that have not been issued a Federal multispecies permit and that are fishing exclusively in state waters.

(3) *Small-mesh exemption area.* Northern shrimp has been found to meet the exemption qualification requirements specified in paragraph (a)(7) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (a)(2) of this section may fish for, harvest, possess, or land northern shrimp with nets of mesh smaller than the minimum size specified in paragraph (a)(2) of this section in the Small mesh exemption area, if the vessel complies with the requirements specified in paragraphs (a)(3) (i) through (iii) of this section. The Small-Mesh Exemption Area is defined by straight lines connecting the following points in the order stated:

SMALL-MESH EXEMPTION AREA

Point	Latitude	Longitude
SM1	41°36′ N.	70°00′ W.
SM2	41°36′ N.	69°40′ W.
SM3	42°49.5′ N.	69°40′ W.
SM4	43°12′ N.	69°00′ W.
SM5	43°41′ N.	68°00′ W.
G2	43°58′ N.	67°22′ W.; (the U.S.-Canada Maritime Boundary).
G1	(1)	(1)

[1] Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(i) *Possession limit exemption.* (A) A vessel fishing under this exemption may not fish for, possess on board or land any species of fish other than shrimp except as provided under paragraph (a)(3)(i)(B) of this section.

(B) The following may be retained, with the restrictions noted, as allowable bycatch species in the northern shrimp fishery as described in this section: Longhorn sculpin (*Myoxocephalus octodecimspinosus*); up to two standard boxes or totes of silver hake (whiting); monkfish and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or two hundred lobsters, whichever is less.

(ii) *Finfish excluder device.* A vessel must have a properly configured and installed finfish excluder device in any net with mesh smaller than the minimum size specified in paragraph (a)(2) of this section. The finfish excluder device must be configured and installed consistent with the following specifications (see Figure 2 to part 651 for an example of a properly configured and installed finfish excluder device):

(A) A finfish excluder device is a rigid or semi-rigid grate consisting of parallel bars of not more than 1-inch (2.54-cm) spacing that excludes all fish and other objects, except those that are small enough to pass between its bars into the codend of the trawl.

(B) The finfish excluder device must be secured in the trawl, forward of the codend, in such a manner that it precludes the passage of fish or other objects into the codend without the fish or objects having first passed between the bars of the grate.

(C) A fish outlet or hole must be provided to allow fish or other objects that are too large to pass between the bars of the grate to pass out of the net. The aftermost edge of this outlet must be at least as wide as the grate at the point of attachment. The fish outlet must extend forward from the grate toward the mouth of the net.

(D) A funnel of net material is allowed in the lengthening piece of the net

forward of the grate to direct catch towards the grate.

(iii) A vessel may only fish under this exemption during the northern shrimp season, as established by the Atlantic States Marine Fisheries Commission (ASMFC). The northern shrimp season is December 1 through May 30, or as modified by the ASMFC.

(4) *Cultivator Shoal whiting (silver hake) fishery exemption area.* The Cultivator Shoal whiting fishery has been found to meet the exemption qualification requirements specified in paragraph (a)(7) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (a)(2) of this section may fish with, use, or possess nets of mesh smaller than the minimum size specified in paragraph (a)(2) of this section in the Cultivator Shoal whiting fishery exemption area, if the vessel complies with the requirements specified in paragraph (a)(4)(i) of this section. The Cultivator Shoal whiting fishery exemption area is defined by straight lines connecting the following points in the order stated (see Figure 1 to part 651):

CULTIVATOR SHOAL WHITING FISHERY EXEMPTION AREA

Point	Latitude	Longitude
C1	42°10′ N.	68°10′ W.
C2	41°30′ N.	68°41′ W.
C14	41°30′ N.	68°30′ W.
C3	41°12.8′ N.	68°30′ W.
C4	41°05′ N.	68°20′ W.
C5	41°55′ N.	67°40′ W.
C1	42°10′ N.	68°10′ W.

(i) *Requirements.* Vessels fishing in this fishery must have on board an authorizing letter issued by the Regional Director. Vessel owners are subject to the following conditions:

(A) A vessel fishing under this exemption may not fish for, possess on board or land any species of fish other than whiting except as provided under paragraph (a)(4)(i)(E) of this section.

(B) A minimum mesh size of 3 inches (7.62 cm) applied to the first 160 meshes counted from the terminus of the net;

(C) A season of June 15 through October 31, unless otherwise specified by publication of a notification in the Federal Register.

(D) When transitting through the GOM/GB regulated mesh area as specified under paragraph (a)(1) of this section, any nets of mesh smaller than the regulated mesh size as specified under paragraph (a)(2) of this section, must be stowed according to the provisions of paragraph (c)(4) of this section.

(E) The following may be retained, with the restrictions noted, as allowable bycatch species in the Cultivator Shoal whiting fishery exemption area as described in this section: longhorn sculpin (*Myoxocephalus octodecimspinosus*); monkfish and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or two hundred lobsters, whichever is less.

(ii) *Sea sampling.* The Regional Director shall conduct periodic sea sampling to determine if there is a need to change the area or season designation, and to evaluate the bycatch of regulated species, especially haddock.

(iii) *Annual review.* The Council shall conduct an annual review of data to determine if there are any changes in area or season designation necessary, and to make the appropriate recommendations to the Regional Director following the procedures specified in subpart C of this part.

(5) *Stellwagen Bank/Jeffreys Ledge (SB/JL) juvenile protection area.* Except as provided in paragraphs (a)(3), (a)(6), (e), (f) and (j) of this section, the minimum mesh size for any trawl net, Scottish seine, purse seine, or midwater trawl in use, or available for immediate use as described under paragraph (c)(4) of this section, by a vessel fishing in the following area shall be 6 inches (15.24 cm) square mesh in the last 50 bars of the codend and extension piece for vessels 45 ft (13.7 m) in length and less, and in the last 100 bars of the codend and extension piece for vessels greater than 45 ft (13.7 m) in length.

(i) The Stellwagen Bank/Jeffreys Ledge juvenile protection area is defined by straight lines connecting the following points in the order stated (see Figure 1 to Part 651):

STELLWAGEN BANK JUVENILE PROTECTION AREA

Point	Latitude	Longitude	Approximate Loran coordinates
SB1	42°34.0′ N.	70°23.5′ W.	13737 44295
SB2	42°28.8′ N.	70°39.0′ W.	13661 44295
SB3	42°18.6′ N.	70°22.5′ W.	13810 44209
SB4	42°05.5′ N.	70°23.3′ W.	13880 44135
SB5	42°11.0′ N.	70°04.0′ W.	13737 44135
SB1	42°34.0′ N.	70°23.5′ W.	13737 44295

JEFFREYS LEDGE JUVENILE PROTECTION AREA

Point	Latitude	Longitude	Approximate Loran coordinates
JL1	43°12.7′ N.	70°00.0′ W.	13389 44445
JL2	43°09.5′ N.	70°08.0′ W.	13437 44445
JL3	42°57.0′ N.	70°08.0′ W.	13512 44384
JL4	42°52.0′ N.	70°21.0′ W.	13631 44384
JL5	42°41.5′ N.	70°32.5′ W.	13752 44352
JL6	42°34.0′ N.	70°26.2′ W.	13752 44300
JL7	42°55.2′ N.	70°00.0′ W.	13474 44382
JL1	43°12.7′ N.	70°00.0′ W.	13389 44445

VOL 60 ISS 74 AP 18 1995 UMI

(ii) Fishing for northern shrimp in the SB/JL juvenile protection area is allowed subject to the requirements of paragraph (a)(3) of this section.

(6) *Transitting.* (i) Vessels fishing under the Small Mesh Exemption program specified in paragraph (a)(3) of this section may transit through the SB/JL juvenile protection area defined in paragraph (a)(5) of this section with nets on board that do not conform to the requirements specified in paragraph (a)(2) or (a)(5) of this section, provided that the nets are stowed in accordance with the provisions of paragraph (c)(4) of this section;

(ii) Vessels subject to the mesh requirements specified in paragraph (a)(2) of this section may transit through the Small Mesh Exemption Area defined in paragraph (a)(3) of this section with nets on board with mesh smaller than the minimum size specified in paragraph (a)(2) of this section, provided that the nets are stowed in accordance with the provisions of paragraph (c)(4) of this section, and provided the vessel has no fish on board; and

(iii) Vessels subject to the mesh requirements specified in paragraph (a)(2) of this section may transit through the GOM/GB regulated mesh area defined in paragraph (a)(1) of this section with nets on board with mesh smaller than the minimum mesh size specified in paragraph (a)(2) of this section with small mesh exempted species on board, provided that the following conditions are met:

(A) Vessels properly stow any nets of mesh smaller than the regulated mesh size as specified in paragraph (a)(2) of this section in accordance with the provisions of paragraph (c)(4) of this section;

(B) Vessels have on board an authorizing letter issued by the Regional Director; and

(C) Vessels may not fish for, possess on board, or land any species of fish except, when fishing in the areas specified in paragraphs (a)(4), (c), and (d) of this section, vessels may retain exempted small mesh species as provided in paragraphs (a)(4)(i), (c)(3), and (d)(3), respectively, of this section.

(7) *Addition or deletion of exemptions.* The Regional Director may add exemptions of species if he/she makes a determination that the fishery in which the species are fished for or caught, after considering the gear used, area where the fishery occurs and other relevant factors, has a catch of less than 5 percent by weight of regulated species. The Regional Director may delete an existing exemption if he/she makes a determination that the catch of regulated species is greater than or equal to 5 percent by weight. Notification of additions or deletions will be made through publication of a rule in the **Federal Register**.

(b) *Nantucket Lightship regulated mesh area.* [Reserved]

(c) *Southern New England regulated mesh area*—(1) *Area definition.* The Southern New England regulated mesh area is that area bounded on the east by straight lines connecting the following points in the order stated (see Figure 1 part 651):

SOUTHERN NEW ENGLAND REGULATED MESH AREA

Point	Latitude	Longitude
G5	41°18.6′ N.	66°24.8′ W.
G6	40°55.5′ N.	66°38′ W.
G7	40°45.5′ N.	68°00′ W.
G8	40°37′ N.	68°00′ W.
G9	40°30.5′ N.	69°00′ W.
NL3	40°22.7′ N.	69°00′ W.
NL2	40°18.7′ N.	69°40′ W.
NL1	40°50′ N.	69°40′ W.
G11	40°50′ N.	70°00′ W.
G12		70°00′ W.[1]

[1] Northward to its intersection with the shoreline of mainland Massachusetts; and on the west by a line running from the shoreline along 72°30′ W. longitude to the outer boundary of the EEZ.

(2) *Mesh-size restriction.* Except as provided in paragraphs (c)(3), (e), (f), and (j) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, purse seine or midwater trawl in use, or available for immediate use as described under paragraph (c)(4) of this section, by a vessel fishing in the Southern New England regulated mesh area, shall be 6 inches (15.24 cm) square or diamond mesh throughout the net. This restriction does not apply to vessels that have not been issued a Federal multispecies permit under § 651.4 and are fishing exclusively in state waters.

(3) *Exemptions*—(i) *Species exempt.* Butterfish, dogfish, herring, mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake (whiting), and weakfish fished for in, or harvested from, the Southern New England regulated mesh area have been found to meet the exemption qualification requirements specified in paragraph (c)(5) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (c)(2) of this section may fish for, harvest, possess, or land any of the above mentioned species with nets of mesh smaller than the minimum size specified in paragraph (c)(2) of this section in the Southern New England regulated mesh area, provided such vessels comply with the requirements specified in paragraph (c)(3)(ii) of this section.

(ii) *Possession and net stowage requirements.* Vessels may possess regulated species while in possession of nets with mesh less than the minimum size specified in paragraph (c)(2) of this section, provided that the nets are stowed and are not available for immediate use in accordance with paragraph (c)(4) of this section, and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraph (c)(2) of this section. Vessels fishing for the exempted species identified in paragraph (c)(3)(i) of this section may also possess and retain the following species, with the restrictions noted, as incidental take to these exempted fisheries: Conger eels (*Conger oceanicus*); searobins (species in the family Triglidae); black sea bass (*Centropristis striata*); red hake; tautog (blackfish) (*Tautoga onitis*); blowfish (puffer) (species in the family Tetraodontidae); cunner (*Tautogolabrus adspersus*); John Dory (*Zenopsis conchifera*); mullet (species in the family Mugilidae); bluefish (*Pomatomus saltatrix*); tilefish (*Lopholatilus chamaeleonticeps*); longhorn sculpin (Myoxocephalus octodecimspinosus); fourspot flounder (*Paralichthys oblongus*); alewife (*Alosa pseudoharengus*); hickory shad (*Alosa mediocris*); American shad (*Alosa sapidissima*); blueback herring (*Alosa aestivalis*); sea ravens (*Hemitripterus americanus*); Atlantic croaker (*Micropogonias undulatus*); spot (*Leiostomus xanthurus*); swordfish (*Xiphias gladius*); monkfish and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or two hundred lobsters, whichever is less.

(4) *Net stowage requirements.* A net that is stowed and is not available for immediate use conforms to one of the following specifications:

(i) A net stowed below deck, provided:

(A) It is located below the main working deck from which the net is deployed and retrieved;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) It is fan-folded (flaked) and bound around its circumference; or

(ii) A net stowed and lashed down on deck, provided:

(A) It is fan-folded (flaked) and bound around its circumference;

(B) It is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net; or

(iii) A net that is on a reel and is covered and secured, provided:

(A) The entire surface of the net is covered with canvas or other similar material that is securely bound;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) The codend is removed from the net and stored below deck; or

(iv) Nets that are secured in a manner authorized in writing by the Regional Director.

(5) *Addition or deletion of exemptions.* The Regional Director may add exemptions of species if he/she makes a determination that the fishery in which the species are fished for or caught, after considering the gear used, area where the fishery occurs and other relevant factors, has a catch of less than 5 percent by weight of regulated species. The Regional Director may delete an existing exemption if he/she makes a determination that the catch of regulated species is greater than or equal to 5 percent by weight. Notification of additions or deletions will be made through publication of a rule in the **Federal Register**.

(d) *Mid-Atlantic regulated mesh area*—(1) *Area definition.* The Mid-Atlantic regulated mesh area is that area bounded on the east by a line running from the shoreline along 72°30′ west longitude to the intersection of the outer boundary of the EEZ (see Figure 1 to part 651).

(2) *Mesh-size restrictions.* Except as provided in paragraphs (d)(3), (e), (f), and (j) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, purse seine, or midwater trawl in use, or available for immediate use as described under paragraph (c)(4) of this section, by a vessel fishing in the Mid-Atlantic regulated mesh area shall be that specified in the summer flounder regulations at § 625.24(a) of this chapter. This restriction does not apply to vessels that have not been issued a multispecies finfish permit under § 651.4 and are fishing exclusively in state waters.

(3) *Exemptions*—(i) *Species exempt.* Butterfish, dogfish, herring, mackerel, ocean pout, scup, shrimp, summer flounder, silver hake (whiting), weakfish, and scallops fished for in, or harvested from, the Mid-Atlantic regulated mesh area have been found to meet the exemption qualification requirements specified in paragraph (d)(4) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (d)(2) of this section may fish for, harvest, possess or land any of the above-mentioned species with nets of mesh smaller than the minimum size specified in paragraph (d)(2) of this section in the Mid-Atlantic regulated mesh area, provided such vessels comply with the requirements specified in paragraph (d)(3)(ii) of this section.

(ii) *Possession and net stowage requirements.* Vessels may possess regulated species while in possession of nets with mesh less than the minimum size specified in paragraph (d)(2) of this section, provided that the nets are stowed and are not available for immediate use in accordance with paragraph (c)(4) of this section, and provided that regulated species were not harvested by nets of mesh size smaller than the minimum mesh size specified in paragraph (d)(2) of this section. Vessels fishing for the exempted species identified in paragraph (d)(3)(i) of this section may also possess and retain the following species, with the restrictions noted, as incidental take to these exempted fisheries: Conger eels (*Conger oceanicus*); searobins (species in the family Triglidae); black sea bass (*Centropristis striata*); red hake; tautog (blackfish) (*Tautoga onitis*); blowfish (puffer) (species in the family Tetraodontidae); cunner (*Tautogolabrus adspersus*); John Dory (*Zenopsis conchifera*); mullet (species in the family Mugilidae); bluefish (*Pomatomus saltatrix*); tilefish (*Lopholatilus chamaeleonticeps*); longhorn sculpin (*Myoxocephalus octodecimspinosus*); fourspot flounder (*Paralichthys oblongus*); alewife (*Alosa pseudoharengus*); hickory shad (*Alosa mediocris*); American shad (*Alosa sapidissima*); blueback herring (*Alosa aestivalis*); sea ravens (*Hemitripterus americanus*); Atlantic croaker (*Micropogonias undulatus*); spot (*Leiostomus xanthurus*); swordfish (*Xiphias gladius*); skate (species in the family Rajidae); monkfish and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or two hundred lobsters, whichever is less.

(4) *Addition or deletion of exemptions.* The Regional Director may add exemptions of species if he/she makes a determination that the fishery in which the species are fished for or caught, after considering the gear used, area where the fishery occurs and other relevant factors, has a catch of less than 5 percent by weight of regulated species. The Regional Director may delete an existing exemption if he/she makes a determination that the catch of regulated species is greater than or equal to 5 percent by weight. Notification of additions or deletions will be made through publication of a rule in the **Federal Register**.

(e) *Midwater trawl gear exemption.* (1) For the GOM/GB, JL/SB, and Nantucket Lightship regulated mesh areas south of 42°20′ N. latitude, fishing for Atlantic herring or blueback herring, mackerel, and squid may take place throughout the fishing year with midwater trawl gear of mesh size less than the regulated size, provided that:

(i) Midwater trawl gear is used exclusively;

(ii) The vessel deploying midwater gear is issued an authorizing letter by the Regional Director;

(iii) The authorizing letter is on board the vessel; and

(iv) The vessel does not fish for, possess, or land multispecies finfish.

(v) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or squid in areas south of 42°20′ N. lat., and Atlantic herring, blueback herring, or mackerel in areas north of 42°20′ N. lat.

(2) For the GOM/GB and JL/SB regulated mesh areas north of 42°20′ N. lat., fishing for Atlantic herring or blueback herring and for mackerel may take place throughout the fishing year with midwater trawl gear of mesh size less than the regulated size, provided that the requirement of paragraphs (e)(1)(i) through (v) of this section are met.

(f) *Purse seine gear exception.* For the GOM/GB, JL/SB, and Nantucket Lightship regulated mesh areas, fishing for Atlantic herring or blueback herring, mackerel, and menhaden may take place throughout the fishing year with purse seine gear of mesh size less than the regulated size, provided that:

(1) Purse seine gear is used exclusively;

(2) The vessel deploying the purse seine gear is issued an authorizing letter by the Regional Director;

(3) The authorizing letter is on board the vessel; and

(4) The vessel does not fish for, possess, or land multispecies finfish.

(5) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or menhaden.

* * * * *

(i) *Scallop dredge vessel restrictions.* Scallop vessels using scallop dredge gear that possess a limited access scallop permit under § 650.4(a) of this chapter and are not fishing under the scallop days-at-sea program described in § 650.24 of this chapter, or scallop dredge vessels that possess a General scallop permit under § 650.4(b) of this chapter, are prohibited from fishing for, possessing on board, or landing any species of fish other than 400 pounds (181.44 kg) of shucked scallops, or 50

VOL 60 ISS 74 AP 18 1995 UMI

U.S. bushels (17.62 hl) of in-shell scallops as specified under §§ 650.24 and 650.4(b) of this chapter. Vessels fishing under the state waters exemption program in § 650.27 of this chapter are exempt from this restriction. Vessels subject to this restriction, when fishing in the areas specified in paragraphs (a)(3), (a)(4), (c)(1) and (d)(1) of this section, may retain the exempted small-mesh species as provided under the small-mesh exemptions specified under paragraphs (a)(3)(i), (a)(4)(i), (c)(3), and (d)(3), respectively, of this section.

(j) *State waters winter flounder exemption.* Any vessel issued a Federal multispecies permit under this part may fish for, possess, or land winter flounder subject to possession limits specified at § 651.27(a)(2), while fishing with nets of mesh smaller than the minimum size specified in paragraphs (a)(2), (c)(2) and (d)(2) provided that:

(1) The vessel has on board a certificate approved by the Regional Director and issued by the state agency authorizing the vessel's participation in the state's winter flounder fishing program and is in compliance with the applicable state laws pertaining to minimum mesh size for winter flounder;

(2) Fishing is conducted exclusively in the waters of the state from which the certificate was obtained;

(3) The state's winter flounder plan has been approved by the Atlantic States Marine Fisheries Commission (ASMFC) as being in compliance with the ASMFC Winter Flounder Fishery Management Plan;

(4) The state elects, by a letter to the Regional Director, to participate in the exemption program described by this section;

(5) The vessel does not enter or transit the EEZ;

(6) The vessel does not enter or transit the waters of another state unless such other state is participating in the exemption program described by this section and the vessel is enrolled in that state's program;

(7) The vessel does not fish for, possess, or land any regulated species, exclusive of winter flounder;

(8) The vessel does not fish for, possess, or land any species of fish other than winter flounder and the exempted small mesh species specified under (a)(3)(i), (c)(3), and (d)(3) of this section when fishing in the areas specified under (a)(3), (c)(1), and (d)(1) of this section, respectively; and

(9) The vessel complies with all other applicable requirements.

7. Section 651.21 is revised to read as follows:

§ 651.21 Closed areas.

(a) *Closed Area I.* (1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area I (Figure 3 to part 651), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (a)(2) and (d) of this section:

Point	Latitude	Longitude
CI1	41°30′ N.	69°23′ W.
CI2	40°45′ N.	68°45′ W.
CI3	40°45′ N.	68°30′ W.
CI4	41°30′ N.	68°30′ W.; and
CI1	41°30′ N.	69°23′ W.

(2) Paragraph (a)(1) of this section does not apply to persons on fishing vessels or fishing vessels:

(i) Fishing with or using pot gear designed and used to take lobsters, or pot gear designed and used to take hagfish (*Myxine glutinosa*), and that have no other gear on board capable of catching multispecies finfish; and

(ii) Fishing with or using pelagic hook or longline gear or harpoon gear, provided that there is no retention of regulated species, and provided that there is no other gear on board capable of catching multispecies finfish.

(b) *Closed Area II.* (1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area II (Figure 3 to part 651), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (b)(2) of this section:

Point	Latitude	Longitude
CII1	41°00′ N.	67°20′ W.
CII2	41°00′ N.	66°35.8′ W.
G5	41°18.6′ N.	66°24.8′ W. (the U.S.-Canada Maritime Boundary)
CII3	42°22′ N.	67°20′ W. (the U.S.-Canada Maritime Boundary); and
CII1	41°00′ N.	67°20′ W.

(2) Paragraph (b)(1) of this section does not apply to persons on fishing vessels or fishing vessels:

(i) Fishing with or using pot gear designed and used to take lobsters, or pot gear designed and used to take hagfish (*Myxine glutinosa*), and which have no other gear on board capable of catching multispecies finfish;

(ii) Fishing with or using pelagic hook or longline gear or harpoon gear, provided that there is no retention of regulated species, and provided that there is no other gear on board capable of catching multispecies finfish; and

(iii) Transitting for safety reasons provided that:

(A) The operator has determined that there is a compelling safety reason; and

(B) Fishing gear is stowed in accordance with paragraph (e) of this section.

(c) *Nantucket Lightship Closed Area.* (1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as the Nantucket Lightship Closed Area (Figure 3 to part 651), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (c)(2) and (d) of this section:

Point	Latitude	Longitude
G10	40°50′ N.	69°00′ W.
CN1	40°20′ N.	69°00′ W.
CN2	40°20′ N.	70°20′ W.
CN3	40°50′ N.	70°20′ W.; and
G10	40°50′ N.	69°00′ W.

(2) Paragraph (c)(1) of this section does not apply to persons on fishing vessels or fishing vessels:

(i) Fishing with or using pot gear designed and used to take lobsters, or pot gear designed and used to take hagfish (*Myxine glutinosa*), and which have no other gear on board capable of catching multispecies finfish;

(ii) Fishing with or using pelagic hook or longline gear or harpoon gear, provided that there is no retention of regulated species, and provided that there is no other gear on board capable of catching multispecies finfish;

(iii) Fishing with or using dredge gear designed and used to take ocean quahogs or surf clams, and which have no other gear on board capable of catching multispecies finfish; and

(iv) Classified as charter, party or recreational vessel provided that,

(A) If the vessel is a party or charter vessel: It has an authorizing letter issued by the Regional Director on board;

(B) Fish harvested or possessed by the vessel are not sold or intended for trade, barter or sale, regardless of where the fish are caught; and

(C) It has no gear other than rod and reel or handline gear on board.

(d) *Transitting.* Vessels may transit Closed Area I and the Nantucket Lightship Closed Area as defined in paragraphs (a)(1) and (c)(1) of this section, provided that their gear is stowed in accordance with the provisions of paragraph (e) of this section.

(e) *Gear stowage requirements.* Vessels transitting the closed areas specified under paragraph (a)(1), (b)(1), or paragraph (c)(1) of this section must stow their gear as follows:

(1) Net vessels may not have fishing gear available for immediate use as specified in § 651.20(c)(4).

(2) Scallop dredge vessels must detach the towing wire from the scallop dredge, reel the wire up onto the winch, and secure and cover the dredge so that it is rendered unusable for fishing.

(3) Hook gear vessels using gear other than pelagic hook gear must secure all anchors and buoys, and have all hook gear, including jigging machines, covered.

(4) Sink gillnet vessels must cover all nets with canvas or other similar material and lash or otherwise securely fasten the nets to the deck or rail, and must have all buoys larger than six inches (15.24 cm) in diameter, high flyers and anchors disconnected.

8. In § 651.22, paragraphs (c), (d), and (e) are revised to read as follows:

§ 651.22 Effort-control program for limited access vessels.

* * * * *

(c) Fleet Days-at-Sea program. (1) Beginning on May 1, 1994, all vessels issued a limited access permit that are longer than 45 ft (13.7 m) in length that have not elected to fish under the Individual DAS program as specified in paragraph (a) of this section shall be subject to the following effort-control requirements:

(i) Days in which vessels may not possess more than the possession limit of regulated species as specified in § 651.27(a).

(A) During each fishing year, beginning with 1994, vessel owners of all such vessels must declare periods of time out of the multispecies fishery totaling at least the minimum number of days listed for each such fishing year in the following schedule. Each period of time declared must be at least 20 consecutive days. At least one 20-consecutive-day period must be declared or taken between May 1 and May 31, or between March 1 and April 10, of each fishing year. Each fishing year shall begin on May 1 and extend 12 months through April 30 of the following year.

Fishing year	Days out of multispecies fishing
1994	80
1995	80
1996	128
1997	165
1998	200
1999	233

(B) During each period of time declared, the applicable vessel may not possess more than the possession limit of regulated species as specified in § 651.27(a).

(C) Adjustments to the schedule of days out of the multispecies fishery, if required to meet fishing mortality reduction goals, may be made following a reappraisal and analysis under the framework provisions specified in subpart C of this part.

(D) Procedure for declaring days. Fleet DAS participants shall declare their periods of required time under paragraph (c)(1)(i) of this section, following the notification procedures specified in § 651.29(b).

(E) If a vessel owner has not declared, or taken, the period of time required between May 1 and May 31, or between March 1 and April 10, of each fishing year on or before April 11 of each such year, the vessel is subject to the possession limit specified under § 651.27(a) during the period April 11 through April 30, inclusive.

(F) If a vessel owner has not declared, or taken, any or all of the remaining periods of time required under paragraph (c)(1)(i) of this section, by the last possible date to meet the requirement, the vessel is subject to the possession limit specified under § 651.27(a) from that date through the end of the fishing year.

(ii) Layover day requirement. (A) Fleet DAS participants engaged in a fishing trip that is not during the period of time declared pursuant to paragraph (c)(1)(i) of this section and that is longer than 24 hours must tie-up at the dock at the end of such trip for a period equal to half the time of the DAS accrued on the trip, based on hourly increments, as recorded through the notification procedures specified in § 651.29(b).

(B) Accrual of DAS. DAS under the card or call-in notification systems, described in § 651.29 (b) and (d), respectively, shall accrue in hourly increments with all partial hours counted as full hours. A DAS, under either the card or call-in notification system, begins once the card has been read by the reader, or the phone call has been received, and confirmation has been given by the Regional Director. A DAS ends under either the card or phone notification system, when after returning to port, the card has been read by the reader, or the phone call has been received, and confirmation has been given by the Regional Director.

(C) Tie-up time begins to accrue when the Regional Director is notified through the monitoring system that the trip is ended.

(D) A vessel that remains tied to the dock beyond the time required will not be credited with the additional time.

(E) A vessel required to be tied-up at the dock under this part may not fish or leave the dock under any capacity during the tie-up period unless authorized by the Regional Director.

(2) [Reserved]

(d) *Exemptions from effort reduction program*—(1) *Small boat.* (i) Beginning on May 1, 1994, vessels issued a limited access permit under § 651.4(a) that are 45 ft (13.7 m) or less in length overall, except vessels using sink gillnet gear, will be exempt from the effort reduction program if the vessel and vessel owner comply with the following:

(A) Determination of the length will be through the measurement along a horizontal line drawn from a perpendicular raised from the outside of the most forward portion of the stem of the vessel to a perpendicular raised from the after most portion of the stern;

(B) To be eligible for the small-boat exemption, vessels for which construction is begun after May 1, 1994, must be 45 feet (13.7 m) or less in length and must be constructed such that the product of the overall length divided by the beam will not be less than 2.5; and

(C) The measurement of length overall must be verified using documentation that accurately states length overall as described in paragraph (c)(1)(i)(A) of this section. Acceptable documentation includes U.S. Coast Guard documentation on vessels built after 1984, written verification from a qualified marine surveyor or the builder, or the vessel's construction plans. A copy of the length overall verification must accompany an application for a Federal multispecies permit issued under § 651.4.

(ii) Vessels fishing under the small boat exemption must bring all gear back to port at the conclusion of a fishing trip, except gillnets and gear not intended to fish for multispecies finfish, such as lobster.

(iii) Adjustments to the small-boat exemption, including changes to the length requirement, if required to meet fishing mortality reduction goals, may be made following a reappraisal and analysis under the framework provisions specified in subpart C of this part.

(2) *Sink gillnet vessels.* (i) A sink gillnet vessel greater than 45 ft (13.7 m) in length is exempt from the DAS effort

VOL 60 ISS 74 AP 18 1995 UMI

reduction program of this part on all fishing trips during which the vessel fishes for multispecies exclusively with sink gillnet gear, and does not have other gear available for immediate use as described in § 651.20(c)(4), if the vessel owner or owner's authorized representative complies with monitoring requirements set forth in § 651.28(c), unless effort reduction measures are implemented pursuant to subpart C of this part.

(ii) A sink gillnet vessel greater than 45 ft (13.7 m) in length that intends to fish for, possess or land, or does possess or land, more than the possession limit of regulated species as specified in § 651.27(a) with gear other than sink gillnet gear, or has other gear on board that is not stowed as described in § 651.20(c)(4), at any time during a calendar year, may fish under, and shall be subject to, the DAS effort reduction program of this part, except on trips that qualify for the exemption set forth in paragraph (d)(2)(i) of this section;

(iii) A sink gillnet vessel 45 ft (13.7 m) or less in length is exempt from the DAS effort reduction program of this part unless effort reduction measures are implemented pursuant to subpart C of this part.

(3) *Hook-gear-only vessels.* Vessels issued a limited access permit under § 651.4(a) and fishing with per trip, or possessing on board the vessel, no more than 4,500 rigged hooks are exempt from the effort reduction program of this part, subject to the requirements specified in § 651.33.

(e) *Scallop dredge vessels.* Scallop dredge vessels issued a limited access permit under § 650.4(a) of this chapter, except for combination vessels, may not participate in and are not subject to the DAS program and may not possess regulated species.

9. In § 651.23, paragraph (c) is revised to read as follows:

§ 651.23 Minimum fish size.

* * * * *

(c) The minimum fish size applies to the whole fish or to any part of a fish while possessed on board a vessel, except as provided in paragraph (d) of this section, and to whole fish only, after landing. Fish or parts of fish must have skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. "Skin on" means the entire portion of the skin normally attached to the portion of the fish or fish parts possessed.

* * * * *

10. Section 651.27 is revised to read as follows:

§ 651.27 Possession limits.

(a) *Regulated species possession limit*—(1) *Small-mesh possession restriction.* Unless otherwise restricted pursuant to § 651.20 (a), (e), or (f), vessels with Federal multispecies permits issued under this part and vessels in the EEZ that possess nets smaller than the minimum size specified in § 651.20, are prohibited from fishing for, possessing on board, or landing regulated species, unless said net is stowed and not available for immediate use in accordance with the provisions of § 651.20(c)(4) or unless the vessel is fishing for winter flounder under the state waters winter flounder exemption specified under § 651.20(j).

(2) *Large-mesh possession restriction.* Vessels that are subject to minimum possession restrictions that are fishing with nets that conform to the minimum mesh size requirements specified in § 651.20 may possess and land up to 500 lb (226.8 kg) of regulated species subject to the requirements of paragraphs (a)(2)(i) through (iii) of this section, provided that the regulated species were not harvested by nets of mesh size smaller than the minimum size specified in § 651.20. A limited access vessel subject to the DAS program, when not fishing under the DAS program and fishing with a net of mesh size smaller than the minimum size under the winter flounder exemption specified at § 651.21(j), may possess or land up to 500 lb (226.8 kg) of winter flounder, and may not fish for, possess, or land other fish, except as provided in § 651.20(j)(8).

(i) Vessels subject to the large mesh possession restriction shall have on board the vessel at least one standard box or one standard tote.

(ii) The regulated species stored on board the vessel shall be retained separately from the rest of the catch and shall be readily available for inspection and for measurement by placement of the regulated species in a standard box or standard tote if requested by an authorized officer.

(iii) The maximum possession limit of regulated species, as specified in paragraph (a)(2) of this section, is equal to 500 lb (226.8 kg) or its equivalent as measured by the volume of four standard boxes or five standard totes.

(b) *Haddock possession limits*—(1) *Scallop dredge vessels.*

(i) No person owning or operating a scallop dredge vessel issued a permit under this part may land haddock from, or possess haddock on board, a scallop dredge vessel, from January 1 through June 30.

(ii) No person owning or operating a scallop dredge vessel may possess haddock in, or harvested from, the EEZ, from January 1 through June 30.

(iii) From July 1 through December 31, scallop dredge vessels and persons owning or operating scallop dredge vessels, are subject to the haddock possession limitations and provisions specified in § 651.27(b)(2), unless otherwise restricted pursuant to § 651.20(i).

(2) *Other vessels.* (i) No person owning or operating a vessel issued a permit under this part may land, or possess on board a vessel, more than 500 lb (226.8 kg) of haddock.

(ii) No person may land or possess on board a vessel more than 500 lb (226.8 kg) of haddock in, or harvested from, the EEZ.

(iii) Vessels subject to the haddock possession limit shall have on board the vessel at least one standard box or one standard tote.

(iv) The haddock stored on board the vessel shall be retained separately from the rest of the catch and shall be readily available for inspection and for measurement by placement of the haddock in a standard box or standard tote if requested by an authorized officer.

(v) The haddock possession limit is equal to 500 lb (226.8 kg) or its equivalent as measured by the volume of four standard boxes or five standard totes.

11. Section 651.32 is revised to read as follows:

§ 651.32 Sink gillnet requirements to reduce harbor porpoise takes.

(a) *General.* In addition to the measures specified in §§ 651.20 and 651.21, persons owning or operating vessels using, possessing on board a vessel, unless stowed in accordance with § 651.20(c)(4), or fishing with, sink gillnet gear are subject to the following restrictions unless otherwise authorized in writing by the Regional Director:

(1) *Area closed to sink gillnets.* All persons owning or operating vessels must remove all of their sink gillnet gear from, and may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with § 651.21(e)(4), a sink gillnet in the EEZ portion of the areas and for the times specified in paragraphs (a)(1) (i) through (iii) of this section; and, all persons owning or operating vessels issued a Federal multispecies limited access permit must remove all of their sink gillnet gear from, and may not use, set, haul back, fish with, or possess on board a vessel, unless stowed in accordance with § 651.21(e)(4), a sink gillnet in the areas, and for the times specified, in paragraphs (a)(1) (i) through (iii) of this section.

(i) *Northeast Closure Area.* During the period August 15 through September 13 of each fishing year, the restrictions and requirements specified in the introductory text of paragraph (a)(1) of this section shall apply to an area known as the Northeast Closure Area, which is an area bounded by straight lines connecting the following points in the order stated (see Figure 4 to part 651).

NORTHEAST CLOSURE AREA

Point	Latitude	Longitude
NE1	Maine shoreline	68°55.0' W.
NE2	43°29.8' N.	68°55.0' W.
NE3	44°04.4' N.	67°48.7' W.
NE4	44°06.9' N.	67°52.8' W.
NE5	44°31.2' N.	67°02.7' W.
NE6	Maine shoreline	67°02.7' W.

(ii) *Mid-coast Closure Area.* During the period November 1 through November 30 of each fishing year, the restrictions and requirements specified in the introductory text of paragraph (a)(1) of this section shall apply to an area known as the Mid-coast Closure Area, which is an area bounded by straight lines connecting the following points in the order stated (see Figure 4 to part 651).

MID-COAST CLOSURE AREA

Point	Latitude	Longitude
MC1	42°45' N.	Massachusetts shoreline.
MC2	42°45' N.	70°15' W.
MC3	43°15' N.	70°15' W.
MC4	43°15' N.	69°00' W.
MC5	Maine shoreline	69°00' W.

(iii) *Massachusetts Bay Closure Area.* During the period March 1 through March 30 of each fishing year, the restrictions and requirements specified in the introductory text of paragraph (a)(1) of this section shall apply to an area known as the Massachusetts Bay Closure Area, which is an area bounded by straight lines connecting the following points in the order stated (see Figure 4 to part 651).

MASSACHUSETTS BAY CLOSURE AREA

Point	Latitude	Longitude
MB1	42°30' N.	Massachusetts shoreline.
MB2	42°30' N.	70°30' W.
MB3	42°12' N.	70°30' W.
MB4	42°12' N.	70°00' W.
MB5	Cape Cod shoreline	70°00' W.
MB6	42°00' N	Cape Cod shoreline.
MB7	42°00' N	Massachusetts shoreline.

(2) [Reserved]

(b) *Framework adjustment.* (1) By September 15 of each year, the Council's Harbor Porpoise Review team (HPRT) shall complete an annual review of harbor porpoise bycatch and abundance data in the Gulf of Maine sink gillnet fishery, evaluate the impacts on other measures that reduce harbor porpoise take, and may make recommendations on other "reduction-of-take" measures in light of the harbor porpoise mortality reduction goals.

(2) At the first Council meeting following the HPRT annual meeting, the team shall make recommendations to the Council as to what adjustments or changes, if any, to the "reduction-of-take" measures should be implemented in order to meet harbor porpoise mortality reduction goals.

(3) The Council may request at any time that the HPRT review and make recommendations on any alternative "reduction-of-take" measures or develop additional "reduction-of-take" proposals.

(4) Upon receiving the recommendations of the HPRT, the Regional Director will publish notification in the **Federal Register** of any recommended changes or additions to the "reduction-of-take" measures and provide the public with any necessary analysis and opportunity to comment on any recommended changes or additions.

(5) After receiving public comment, the Council shall determine whether to recommend changes or additions to the "reduction-of-take" measures at the second Council meeting following the meeting at which it received the HPRT's recommendations.

(6) If the Council decides to recommend changes or additions to the "reduction-of-take" measures, it shall make such a recommendation to the Regional Director, which must include supporting rationale, and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Director on whether to publish the management measures as a final rule. If the Council recommends that the management measures should be published as a final rule, the Council must consider at least the factors specified in § 651.40(d).

(7) The Regional Director may accept, reject, or, with Council approval, modify the Council's recommendation, including the Council's recommendation to publish a final rule. If the Regional Director does not approve the Council's specific recommendation, he/she must provide in writing to the Council the reasons for his/her action prior to the first Council meeting following publication of his/her decision.

11. The figure added to part 651 at 59 FR 26978 (May 25, 1994) is designated as Figure 4 to part 651.

12. Figure 5 to part 651 is removed and Figures 1 and 3 to part 651 are revised to read as follows:

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VOL
60
ISS
74
AP
18
1995
UMI

Figure 1 to Part 651—Regulated Mesh Areas

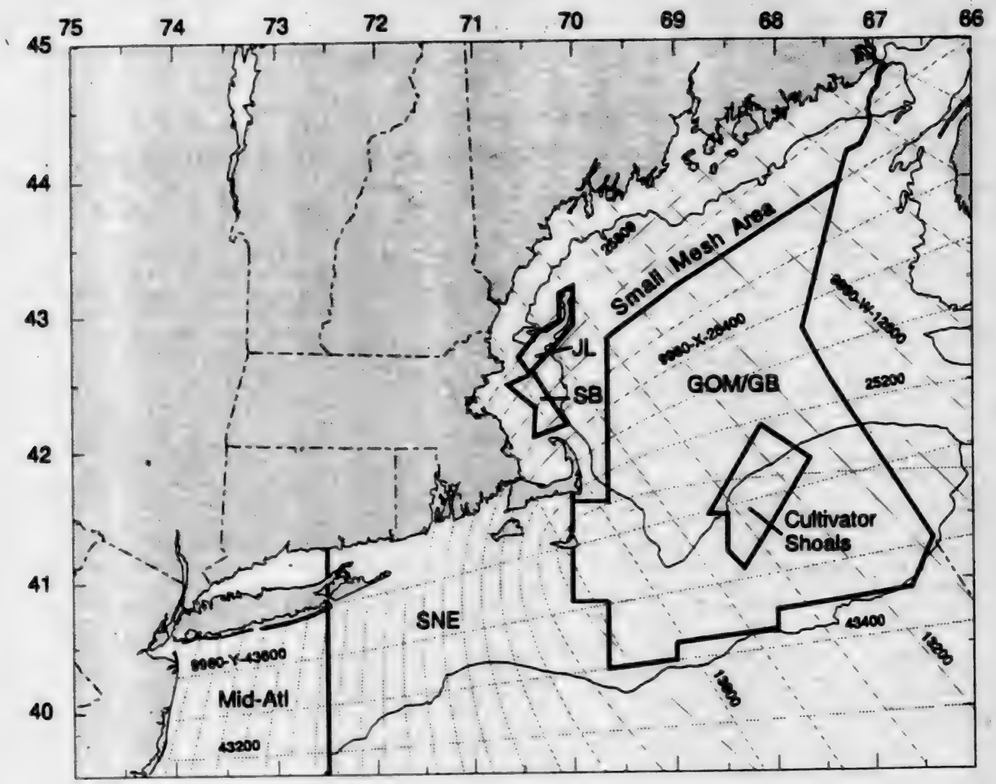

Figure 3 to Part 651—Closed Areas

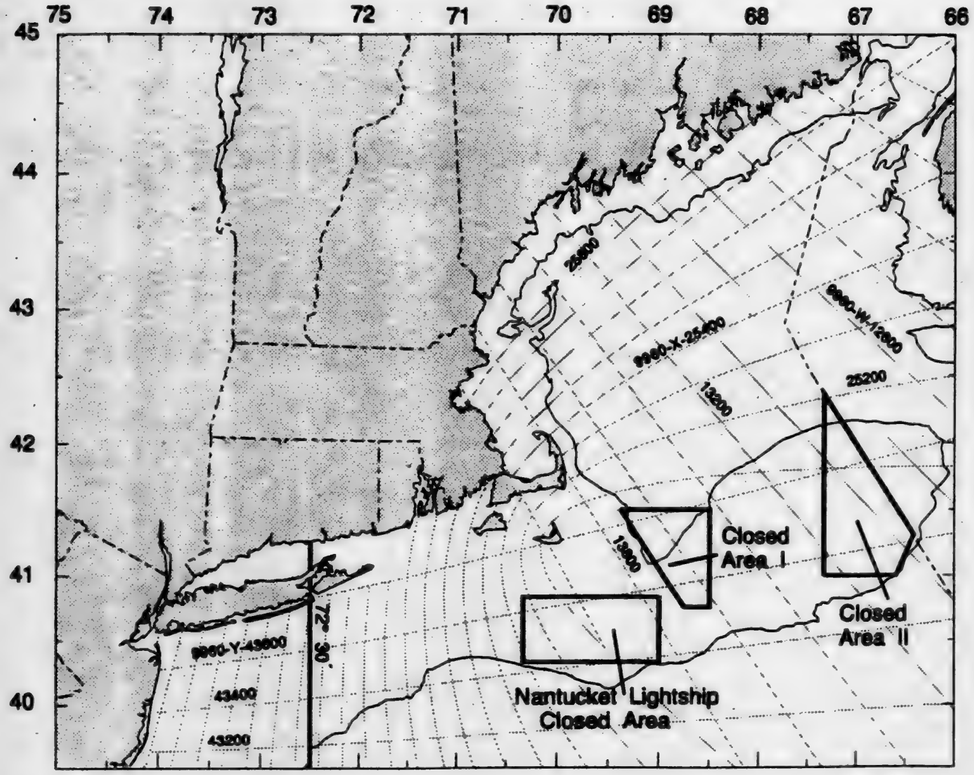

[FR Doc. 95-9404 Filed 9-13-95; 8:50 am]
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VOL 60 ISS 74 AP 18 1995 UMI

Proposed Rules

Federal Register
Vol. 60, No. 74
Tuesday, April 18, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[FV95-946-2PR]

Irish Potatoes Grown in Washington; Establishment of Interest Charge on Overdue Assessment Payments and Clarification of Operating Reserve Authority

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish an interest charge on overdue assessments under the marketing order and clarify authority for an operating reserve not to exceed approximately two fiscal periods' expenses. This proposed rule would contribute to the efficient operation of the order by ensuring that adequate funds are available to cover authorized expenses incurred under the order. This proposed rule was recommended by the State of Washington Potato Committee (Committee), the agency responsible for the local administration of the order.

DATES: Comments must be received by May 3, 1995.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, D.C. 20090–6456, Fax: (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724; or James B. Wendland, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 720–2170.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 113 and Marketing Order No. 946 (7 CFR part 946), both as amended, regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the "order." The order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. If adopted, the proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposal.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary of Agriculture (Secretary) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 50 handlers of Washington potatoes subject to regulation under the order and approximately 450 producers of Washington potatoes in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of potato handlers and producers regulated under the order may be classified as small entities.

This proposed rule would (1) establish an interest charge of one (1) percent per month to be applied to any assessment balance remaining unpaid after 30 days, and (2) clarify that funds in the operating reserve may not exceed approximately two fiscal periods' expenses.

These proposed changes were recommended by the Committee at its February 22, 1995, meeting. Thirteen of the 15-member Committee attended the meeting. All in attendance favored the proposed changes. The proposed changes would contribute to the efficient operation of the program by ensuring that adequate funds are available to cover the Committee's authorized expenses.

Section 946.41 of the order specifies that if handlers do not pay their assessments within the time prescribed by the Committee, the assessments may be increased by a late payment charge or an interest charge, or both, at rates prescribed by the Committee with the approval of the Secretary.

The Committee depends upon handler assessment payments for operating funds. Handlers are invoiced by the Committee on a monthly basis. However, some handlers are continually late with their assessment payments, and a few wait until the end of the season to remit to the Committee what is owed. When assessments are not paid in a timely manner, the handlers paying assessments on time are placed in an unfair situation compared with the delinquent handlers, who have use of that unpaid assessment money for other purposes, including earning interest in a financial institution.

As part of its collection efforts, the Committee has requested handlers to promptly submit delinquent assessment payments. However, such requests have not substantially decreased the frequency of delinquent payments. To facilitate the collection of assessments needed for the maintenance and functioning of the Committee, it recommended the establishment of an interest charge of one (1) percent per month to be applied to any assessment balance remaining unpaid after 30 days, and that this one (1) percent interest charge shall be applied monthly thereafter to the unpaid balance, including any accumulated unpaid interest. The Committee believes that these charges are high enough to encourage timely assessment payments. The charges are within the interest range customarily charged by banks on commercial accounts.

This proposed change is intended to encourage handlers to pay their assessments when due, thereby eliminating inequities. The Committee believes that this would be an effective means to ensure timely payments. This proposed change is expected to reduce the need for Department involvement with compliance efforts and thereby reduce the costs for the government to administer the order.

Effective June 5, 1972, § 946.42 of the order was revised to authorize the Committee to maintain an operating reserve not to exceed approximately two fiscal periods' operational expenses, or such lower limits as the Committee, with the approval of the Secretary, may establish (37 FR 10915; June 1, 1972). Funds in the reserve are available for use by the Committee for expenses authorized pursuant to § 946.40. Since June of 1972, the Committee has conducted its financial operations with a reserve approximating two fiscal periods' expenses and has not recommended a lower limit.

However, the proviso in paragraph (a) of § 946.142 of Subpart—Rules and Regulation's (7 CFR 946.100–946.142; 32 FR 16199; November 28, 1967) limiting the operating reserve to approximately one fiscal year's expenses has never been updated to bring it into conformity with amended paragraph (a) of § 946.42 of the order. This proposed rule proposes to make that conforming change by changing the words "one fiscal year's expenses" at the end of the proviso to "two fiscal periods' expenses".

Based on available information, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 15-day comment period is deemed appropriate to allow interested persons to respond to this proposal. The Committee would like to impose interest charges on delinquent handlers as soon as possible to encourage such handlers to pay assessments in a timely manner. All written comments received within the comment period will be considered before a final rule is issued on this matter.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 946 be amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new § 946.141 is added to read as follows:

§ 946.141 Late payment and interest charge.

The Committee shall impose an interest charge on any handler who fails to pay his or her assessment within thirty (30) days of the billing date shown on the handler's assessment statement received from the Committee. The interest charge shall, after 30 days, be one percent of the unpaid assessment balance. In the event the handler fails to pay the delinquent assessment, the one percent interest charge shall be applied monthly thereafter to the unpaid balance, including any accumulated unpaid interest. Any amount paid by a handler as an assessment, including any charges imposed pursuant to this paragraph, shall be credited when the payment is received in the Committee office.

3. In § 946.142, paragraph (a) is revised to read as follows:

§ 946.142 Operating reserve.

(a) The Committee, with the approval of the Secretary, may carry over excess funds into subsequent fiscal periods as an operating reserve: *Provided*, That funds in the operating reserve may not exceed approximately two fiscal periods' expenses.

* * * * *

Sharon Bomer Lauritsen,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–9453 Filed 4–17–95; 8:45 am]
BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–29–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require a one-time operational test of the No. 1 pitot heating system, and repair or replacement of failed elements. This AD also would require modification of certain electrical wiring, and replacement of the pitot head and a certain relay. This proposal is prompted by reports indicating that the No. 1 Air Data Computer (ADC #1) failed due to icing of the No. 1 pitot tube. The actions specified by the proposed AD are intended to prevent icing of the No. 1 pitot tube, which could result in failure of the No. 1 ADC or output of erroneous airspeed data to all on-side subsidiary systems including the Automatic Flight Control and Augmentation System (AFCAS).

DATES: Comments must be received by May 30, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–29–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

VOL 60 ISS 74 AP 18 1995 UMI

FOR FURTHER INFORMATION CONTACT: Timothy Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (06) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–29–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–29–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that it received reports indicating that the No. 1 Air Data Computer (ADC #1) failed on Model F28 Mark 0100 series airplanes. This failure resulted in the loss of the captain's airspeed indicator and malfunction alerts from all on-side subsidiary systems [i.e., Flight Control Computer (FCC #1), Auto Throttle (AT #1), Yaw Damper (YD #1) and Horizontal Stabilizer Trim (Stab Trim #1)]. Subsequent investigation revealed that one of two heating elements (the tube part) of the No. 1 pitot tube had failed, which resulted in icing of the tube. Because the electrical current level of a single functioning element (100W) was higher than the trigger level of the pitot heat fault alert (42W), the failure was not annunciated. In severe icing conditions, operation of a single element produces too little heat to prevent freezing of the pitot probe. If an undetected heating element failure does not lead to a failure of ADC #1, erroneous data could be supplied to those on-side subsidiary systems mentioned above. This may cause the Automatic Flight Control and Augmentation System (AFCAS) to generate control commands based on incorrect airspeed data. Icing of the No. 1 pitot heat system, if not corrected, could result in failure of the ADC #1 or lead to erroneous data being supplied to all on-side subsidiary systems.

Fokker has issued Service Bulletin SBF100–30–015, Revision 2, dated January 25, 1995, which describes procedures for accomplishing an operational test of the No. 1 pitot heating system. The service bulletin also describes procedures for removal of the DC current-sensing relay and replacement with two new DC current-sensing relays; the replacement of the pitot head with a new pitot head; and modification of certain electrical wiring of the pitot heating system. Accomplishment of this service bulletin will prevent the pitot head from accumulating ice due to failure of a heating element in the No. 1 pitot tube. The RLD classified this service bulletin as mandatory and issued Netherlands airworthiness directive BLA 94–114(A), dated August 5, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time operational test of the No. 1 pitot heating system, and repair or replacement of failed elements. This AD also would require modification of certain electrical wiring, replacement of the pitot head with a new pitot head, and replacement of the single DC current-sensing relay with two new DC current sensing relays. Certain actions would be required to be accomplished in accordance with the service bulletin described previously. Repair or replacement of any failed elements would be required to be accomplished in accordance with the Aircraft Maintenance Manual.

(For airplanes equipped with a Flight Warning System (FWS) speed comparator, data from ADC #1 is compared to data from ADC #2 throughout the flight envelope. For airplanes not equipped with a FWS speed comparator, data from ADC #1 is only compared to data from ADC #2 during autoland and redundant operation of AFCAS. Since airplanes not equipped with a speed comparator have a greater exposure to a hazardous condition, a shorter compliance time is necessary.)

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA estimates that 119 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 29 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $4,800 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $778,260, or $6,540 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 95–NM–29–AD.

Applicability: Model F28 Mark 0100 series airplanes, as listed in Fokker Service Bulletin SBF100–30–015, Revision 2, dated January 25, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent icing of the No. 1 pitot tube, which could cause failure of the No. 1 Air Data Computer (ADC) or output of erroneous airspeed data to all on-side subsidiary systems including the Automatic Flight Control and Augmentation System (AFCAS), accomplish the following:

(a) Within 30 days after the effective date of this AD, perform an operational test of the No. 1 pitot heating system, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–30–015, Revision 2, dated January 25, 1995.

(1) If the pitot heating system passes the operational test, accomplish the requirements of either paragraph (b)(1) or (b)(2) of this AD, as applicable, at the times specified.

(2) If any pitot tube heating element is found to be inoperative, prior to further flight, repair or replace the failed element with a serviceable element, in accordance with Fokker 100 Aircraft Maintenance Manual (AMM).

(b) Replace the pitot head with a new pitot head, replace the single DC current-sensing relay with two new DC current sensing relays, and modify the electrical wiring, in accordance with Part 2 or 3, as applicable, of the Accomplishment Instructions of Fokker Service Bulletin SBF100–30–015, Revision 2, dated January 25, 1995. Perform these actions at the time specified in either paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes that are not equipped with an Flight Warning System (FWS) speed comparator: Within 12 months or the next 3,000 hours time-in-service after the effective date of this AD, whichever occurs first. Or

(2) For airplanes that are equipped with an FWS speed comparator: Within 24 months or the next 6,000 hours time-in-service after the effective date of this AD, whichever occurs first.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 12, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9470 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–U

UNITED STATES INFORMATION AGENCY

22 CFR Part 502

[Rulemaking No. 201]

Educational, Scientific, and Cultural Material; World-Wide Free Flow (Export-Import) of Audio-Visual Materials

AGENCY: United States Information Agency.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule would amend existing regulations governing the United States Information Agency's administration of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character, of 1948, by permitting the issuance of serial certifications in certain circumstances. The amendment is needed to reinstate to the regulations a provision omitted in a previous revision of the regulations. The amendment will formalize the practice, long followed informally, of allowing for certification of time sensitive materials in serial format, thus facilitating the free flow of eligible materials.

DATES: Written comments on this proposed rule will be accepted through or until May 18, 1995 and must be submitted in duplicate. Late-filled comments will be considered to the extent practicable.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Neila Sheahan, Assistant General Counsel, Office of the General Counsel, Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Neila Sheahan, Assistant General Counsel, Office of the General Counsel,

VOL
60
ISS
74
AP
18
1995
UMI

Room 700, United States Information Agency, 301 4th Street SW., Washington, DC 20547, (202) 619–5030.

SUPPLEMENTARY INFORMATION: The United States Information Agency implements and administers the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character ("Beirut Agreement"), enacted by the Third General Session of the United Nations Educational, Cultural and Scientific Organization (UNESCO), in Beirut, Lebanon in 1948, 17 U.S.T. 1578. In order to reconcile the terms of the Beirut Agreement with recent judicial decisions and statutory requirements, the Agency published a notice of proposed rulemaking on August 12, 1993 (58 FR 42898). After receiving and considering public comment in response to this notice of proposed rulemaking, the Agency published final regulations at 59 FR 18963 on April 21, 1994. Those regulations made changes in the substantive criteria by which the Agency evaluates the character of audio visual material for certification, and renumbered the regulations. The regulations, however, omitted the provision for serial certifications, a practice followed informally from 1963 and formally incorporated into Agency regulations in 1984, at 22 CFR 502.6(b)(6). The provision for serial certifications was not challenged by judicial decision; nor was its alteration or elimination required by statute. This proposed rule reinstates such provision, slightly reworded, by adding sections 502.3 (d) and (e).

The provision for serial certification allows the certification of otherwise eligible materials that (1) Are produced in series form (e.g., weekly, bi-weekly, monthly), (2) are extremely time sensitive; and therefore the normal processing of certification decisions thereon would result in unreasonable delays and monetary loss to the producer, and (3) samples are provided and the educational character of the future programs can be generally described before certification and can be verified by a post-certification review of the items or through descriptive material such as a script of the narration. This provision will therefore be of benefit to interested parties and will facilitate the administration of the program.

To the extent such serial certification may be deemed a delegation of administrative authority, the provision is a valid delegation, as the Agency retains post-certification review authority. Such provision is consistent with relevant judicial precedent. See *United Black Fund, Inc.* v. *Hampton*, 352 F. Supp. 898 (D.D.C. 1972); *R.H. Johnson & Co.* v. *Securities & Exchange Comm'n*, 198 F.2d. 690 (2nd Cir. 1952); and *United States* v. *S.A. Empresa de Viacao Aerea Rio Grandense*, 467 U.S. 797 (1984). These decisions recognize the legality of sub-delegations deemed necessary in agency discretion as practical methods of accomplishing agency regulatory functions, as long as agencies retain ultimate authority to police compliance.

Regulatory Analysis and Notices

In accordance with 5 U.S.C. 605(5), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of Executive Order 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612. No additional burden under the Paperwork Reduction Act, 44 U.S.C. Chapter 35, will result from the promulgation of this rule. The Agency will keep the rulemaking docket open for 30 days. Comments are invited on the rule through May 18, 1995. Following the close of the comment period, the Agency will respond to the comments and, if appropriate, amend the rule.

The Agency is inviting public comment on this proposed rule notwithstanding that it is under no legal requirement to do so. Agency administration of the Beirut Agreement, an international treaty, is a foreign affairs function of the United States. The Administrative Procedure Act, 5 U.S.C. 553 (a)(1), specifically exempts from application of the Act foreign affairs functions of the United States. The thirty-day period for comment provided for in this notice may not be deemed a waiver of the foreign affairs exemption extended to the Agency under the Administrative Procedure Act.

List of Subjects in 22 CFR Part 502

Audiovisual material, Education, Exports, Imports, Trade agreements.

For the reasons set out in the preamble, 22 CFR part 502 is proposed to be amended as follows:

PART 502—WORLD-WIDE FREE FLOW OF AUDIO-VISUAL MATERIALS

1. The authority citation for part 502 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2051, 22 U.S.C. 1431 *et seq;* Public Law 102–138, E.O. 11311, 31 FR 13413, 3 CFR 1966–1970 comp., page 503.

2. Section 502.2 is proposed to be amended by adding, in alphabetical order, a definition for "*serial certification*" to read as follows:

§ 502.2 Definitions.

* * * * *

Serial certification—means certification by the Agency of materials produced in series form and which, for time-sensitive reasons, cannot be reviewed prior to production; but samples are provided on application, and the materials are subject to post-certification review.

* * * * *

3. Section 502.3 is proposed to be amended by adding new paragraphs (d) and (e) to read as follows:

§ 502.3 Certification and authentication criteria.

* * * * *

(d) The Agency may certify or authenticate materials which have not been produced at the time of application upon an affirmative determination that:

(1) The materials will be issued serially,

(2) Representative samples of the serial material have been provided at the time of application,

(3) Future titles and release dates have been provided to the Agency at the time of application,

(4) The applicant has affirmed that:

(i) Future released materials in the series will conform to the substantive criteria for certification delineated at paragraphs (a)–(c) of this section;

(ii) Such materials will be similar to the representative samples provided to the Agency on application; and

(iii) The applicant will provide the Agency with copies of the items themselves or descriptive materials for post-certification review.

(e) If the Agency determines through a post-certification review that the materials do not comply with the substantive criteria for certification delineated at paragraphs (a)–(c) of this section, the applicant will no longer be eligible for serial certifications. Ineligibility for serial certifications will not affect an applicant's eligibility for certification of materials reviewed prior to production.

Dated April 12, 1995.

Les Jin,

General Counsel.

[FR Doc. 95–9497 Filed 4–17–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

25 CFR Part 900

RINS 0905–AC98: 1076–AC20

Indian Self-Determination and Education Act Amendments

AGENCIES: Departments of the Interior and Health and Human Services.

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: The Secretaries of the Department of the Interior and the Department of Health and Human Services proposed, in the Federal Register of January 20, 1994, (59 FR 3166), a joint rule to implement Sections 1 through 9 and Title I, Indian Self-Determination Act and Pub. L. 100–472, the Indian Self-Determination and Education Assistance Act Amendments of 1988. This proposed rule is hereby withdrawn. New regulations may be issued in accordance with Pub. L. 103–413, 108 Stat. 4250, Indian Self-Determination Act Amendments of 1994, enacted October 25, 1994.

Approved: March 15, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs, DOI.

Dated: March 27, 1995.

Philip R. Lee, M.D.,

Assistant Secretary for Health—DHHS.

Approved: April 11, 1995.

Donna E. Shalala,

Secretary—DHHS.

[FR Doc. 95–9442 Filed 4–17–95; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI–43–94]

RIN 1545–AS57

Netting Rule for Certain Conversion Transactions; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the amount of gain from a conversion transaction position that is subject to recharacterization as ordinary income.

DATES: The public hearing originally scheduled for Tuesday, April 25, 1995, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1258(a) of the Internal Revenue Code of 1986. A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register for Tuesday, December 27, 1994 (59 FR 66498), announced that the public hearing on proposed regulations under section 1258(a) of the Internal Revenue Code of 1986 would be held on Tuesday, April 25, 1995, beginning at 10 a.m., in the IRS Auditorium Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C.

The public hearing scheduled for Tuesday, April 25, 1995, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–9542 Filed 4–17–95; 8:45 am]

BILLING CODE 4830–01–P

VOL 60 ISS 74 AP 18 1995 UMI

Notices

Federal Register
Vol. 60, No. 74
Tuesday, April 18, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: May 10–11, 1995.

Place: Double Tree Hotel, Kansas City Airport, 8801 112th Street, N.W., Kansas City, MO.

Time: 8:30 a.m. May 10 and May 11.

Purpose: To provide advice to the Administrator of the Grain Inspection, Packers and Stockyards Administration (GIPSA) with respect to the implementation of the U.S. Grain Standards Act.

The agenda includes: (1) Financial status of Agency, (2) Wheat Classification, (3) Test weight per bushel as a quality measurement for Soft Red Winter Wheat, (4) Standardization of Commercial Inspection Equipment, (5) Promoting competition between Official Agencies, (6) On-Line/At-Line Inspections, (7) Implementation of New Moisture Meter, (8) ERS Soybean Cleaning Study, and (9) other matters.

The meeting will be open to the public. Public participation will be limited to written statements, unless permission is received from the Committee Chairman to orally address the Committee. Persons, other than members, who wish to address the Committee or submit written statements before or after the meeting, should contact the Administrator, GIPSA, U.S. Department of Agriculture, P.O. Box 96454, Washington, D.C. 20090–6454, telephone (202) 720–0219 or FAX (202) 205–9237.

Dated: April 12, 1995.

Calvin W. Watkins,

Acting Administrator.

[FR Doc. 95–9507 Filed 4–17–95; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040795A]

Endangered and Threatened Wildlife and Plants; Notice of Availability of a Proposed Recovery Plan for Review and Comment; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; public hearings.

SUMMARY: NMFS has developed its Proposed Recovery Plan for the Snake River sockeye salmon (*Oncorhynchus nerka*), Snake River fall chinook salmon, and Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*). It is available upon request. NMFS seeks public comment and has scheduled 11 public hearings on this Proposed Recovery Plan.

DATES: Comments on the Proposed Recovery Plan must be received by July 17, 1995, if they are to be considered during preparation of a final recovery plan. See **SUPPLEMENTARY INFORMATION** for dates and times of public hearings.

ADDRESSES: Requests for a copy of the Proposed Recovery Plan should be addressed to Recovery Plan Coordinator, National Marine Fisheries Service, 525 NE Oregon Street, Portland, OR 97232 telephone: 503–230–5400. Written comments and materials regarding the Proposed Recovery Plan should be directed to the same address. See **SUPPLEMENTARY INFORMATION** for locations of public hearings.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Recovery Plan Coordinator, (503–230–5420).

SUPPLEMENTARY INFORMATION:

Background

Salmon are culturally, economically, and symbolically important to the Pacific Northwest. Columbia River chinook populations were at one time acknowledged to be the largest in the world. Prior to the 1960's, the Snake River was the most important drainage in the Columbia River system for producing salmon. But in the 1990's, Snake River salmon struggle to exist. Snake River salmon have declined to such low levels that protection under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) is needed to prevent their extinction (56 FR 58619, November 20, 1991; 57 FR 14653, April 22, 1992; 59 FR 42529, August 18, 1994; and 59 FR 66784, December 28, 1994). In the 1800's, there were approximately 1.5 million Snake River chinook salmon; by 1994, only 1,800 adults returned to the Snake River. Snake River fall chinook salmon numbered over 72,000 50 years ago, but only 400 adults were counted at Lower Granite Dam in 1994. As many as 4,400 Snake River sockeye salmon could be found 40 years ago, but last year only one returned to Redfish Lake.

The ESA requires that the agency responsible for a listed species develop and implement a recovery plan for its conservation (defined by the ESA as recovery to delisting) and survival, unless it is determined that such a plan will not promote the conservation of the species. Accordingly, NMFS appointed the Snake River Salmon Recovery Team (Team) to assist in the development of the recovery plan for the Snake River salmon. In May 1994, the Team submitted its final recommendations to NMFS. NMFS used these recommendations to formulate the Proposed Snake River Salmon Recovery Plan.

The conservation of natural salmon and their habitat has not been afforded balanced consideration in past resource allocation decisions. Natural salmon are those that are the progeny of naturally spawning parents. Development in the Pacific Northwest has often proceeded with the assumption that improved technology or management would mitigate impacts on natural salmon stocks. The Region's reliance on uncertain mitigation schemes (as opposed to fundamental conservation strategies) has been a very costly approach, both for natural salmon and the public.

However, recent efforts have concentrated on conserving natural salmon and their habitats. There is new emphasis being placed on natural fish escapement, improved migration conditions for juveniles and adults, increased riparian area protection, and equitable consideration of natural fish in resource allocation processes. This focus differs from previous management and represents important progress toward recovering listed Snake River salmon, restoring Columbia Basin ecosystem health, and benefiting other species presently in serious decline.

Summary of the Proposed Recovery Plan

The goal of the Proposed Recovery Plan is to restore the health of the Columbia and Snake River ecosystem and to recover listed Snake River salmon stocks. Many of the recommended actions will directly benefit other species such as other salmon stocks, sturgeon, and bull trout. Implementation of the Proposed Recovery Plan should also conserve biodiversity, a factor that is essential to ecosystem integrity and stability. Many of the actions in the Proposed Recovery Plan have been used to formulate reasonable and prudent measures in current section 7 consultations.

The Proposed Recovery Plan discusses the natural history and current status of Snake River salmon. It also addresses known and potential human impacts, and displays the costs directly attributable to recovery. In addition, the Proposed Recovery Plan identifies delisting criteria and biological objectives, and proposes the tasks required to meet them. Tasks are identified in the areas of institutional structure, tributary ecosystem, mainstem and estuarine ecosystem, harvest management, and artificial propagation.

NMFS' approach to Snake River salmon recovery places highest priority on ameliorating the primary factors for the species' decline and eliminating existing impediments to recovery. The Plan does this by proposing actions that offer immediate benefits, and refining those actions over time to ensure the most efficient use of limited resources. This strategy incorporates an adaptive management process; it allows actions to be added, deleted, or refined as important scientific information and analyses becomes available.

Institutional Structure

NMFS believes (as did the Team) that an improved decision-making process is necessary to restore Columbia Basin ecosystem health and ensure Snake River salmon recovery. Such a process will also protect and improve habitat through the adaptive management process, prevent further listings, and conserve other fish and wildlife. To achieve these goals, NMFS will appoint, convene, and chair a Recovery Implementation Team that will represent state, tribal, and Federal policy leaders and thereby ensure effective coordination, teamwork, and communication among all entities having responsibility for Snake River salmon recovery. To ensure that salmon recovery actions remain scientifically based, NMFS will also consider appointing and convening Scientific Advisory Panel and technical committees to provide scientific and technical support to the Recovery Implementation Team.

Delisting Criteria

The Team's and NMFS' recovery requirements and delisting criteria for ESA-listed Snake River Basin salmon are very similar and fall into two major categories: (1) Remedying the environmental (and other) factors that have reduced the stocks to levels that are in danger of extinction; and (2) rebuilding populations to levels where there is evidence of improved productivity, even when considering the potential impacts of severe stochastic environmental events (e.g., protracted drought, oceanic El Niño effects, etc.). Both of these categories must be achieved in order to consider delisting. To determine rebuilding levels above, NMFS proposes to use cohort replacement rates and numeric delisting criteria.

The cohort replacement rate describes the rate at which each subsequent cohort, or generation, replaces the previous one. When this rate is exactly 1.0, a population is neither increasing nor decreasing. If the ratio remains less than 1.0 for extended periods, a population is in decline, and could continue into extinction—a risk that led originally to listing Snake River salmon. For population rebuilding, the cohort replacement rate must be greater than 1. For delisting to be considered, the 8-year geometric mean cohort replacement rate of a listed species must exceed 1.0. For Snake River spring/summer chinook salmon, this goal must also be met for 80 percent of the index areas available for estimating cohort replacement rates.

For sockeye salmon, the numerical escapement goal is an 8-year (approximately two-generation) geometric mean of at least 1,000 natural spawners returning annually to Redfish Lake and 500 natural spawners in each of two other Snake River Basin lakes. The numerical escapement goal for Snake River fall chinook salmon is an 8-year geometric mean of at least 2,500 natural spawners in the mainstem Snake River annually. Snake River spring/summer chinook salmon have two numeric delisting criteria; both must be met for delisting to be considered. The first numerical escapement goal for Snake River spring/summer chinook salmon is an 8-year geometric mean corresponding to at least 60 percent of the pre–1971 brood year average redd counts for 80 percent of the available index areas. The second numerical escapement goal for spring/summer chinook salmon is an 8-year geometric mean equal to 60 percent of the 1962–67 brood year average count of natural spawners past Ice Harbor Dam (goal is equal to 31,440).

Tributary Ecosystem

Land and water management actions, including water withdrawals, unscreened water diversions, stream channelization, road construction, timber harvest, livestock grazing, mining, and outdoor recreation have degraded important salmon spawning and rearing habitats. To protect tributary ecosystem health, NMFS proposes a three-part approach: (1) Protect remaining high quality habitat by ceasing activities that would degrade ecosystem functions and values that listed fish need, (2) restore degraded habitats, and (3) provide connectivity between high quality habitats. Federal lands and Federal actions should bear, as much as possible, the burdens of recovering listed salmon species and their habitat. However, non-Federal lands constitute approximately 35 percent of the Snake River salmon critical habitat. Therefore, an ecosystem approach that emphasizes integrated Federal and non-Federal land management is needed. To achieve this, all stakeholders in a subbasin or watershed are encouraged to participate in management partnerships. The Proposed Recovery Plan also proposes actions that will reduce the loss of listed species at water withdrawal sites, rebuild salmon populations by providing adequate instream flows and improving fish passage at barriers, reduce losses of listed salmon associated with poor water quality, and reduce impacts on salmon resulting from recreational activities.

Mainstem and Estuarine Ecosystem

In the mainstem and estuarine ecosystem, salmon face problems associated with their downstream and upstream migrations. The journey through the lower Snake and Columbia Rivers has become more hazardous, since eight hydroelectric dams were built and their reservoirs created. Each dam delays juvenile fish in their transition to the ocean environment and exacts additional losses. Seventy percent of the 482 miles between the mouth of the Columbia River and Lewiston/Clarkston on the Snake River has been converted from free-flowing river into reservoirs. This change has

VOL 60 ISS 74 AP 18 1995 UMI

slowed the rate of downstream travel for smolts and increased the amount of habitat favorable to predator species. Hatchery fish and exotic species compete with and prey on the listed salmon in the mainstem ecosystem.

NMFS examined various approaches to improving the downstream survival of juvenile Snake River salmon (as well as that of other fish that migrate through the corridor). The actions considered include improving inriver and dam passage conditions, improving collection and transportation systems for juvenile migrants (especially under adverse river conditions), and drawing down reservoirs.

NMFS proposes to proceed on a long-term adaptive management approach that will depend upon a combination of improved inriver migration conditions, improved transportation, and major structural changes at dams. The Proposed Recovery Plan recommends a major decision point when sufficient adult survival information is available in 1999. In the interim, all necessary studies, planning, design, and environmental documentation for drawdowns should be completed. At the same time, inriver migration conditions should be improved to the maximum extent possible using techniques such as increased flows, increased spill, physical improvement of the dams, and aggressive surface bypass development and testing. Significant improvements should also be made in transportation operations. The overall approach is to proceed on a path that implements measures in the short term that are most likely to increase survival while at the same time enhancing our ability to isolate and address major causes of mortality in the future. The listed and unlisted fish also need improvements in their upstream passage conditions. To accomplish this, the Proposed Recovery Plan prescribes actions such as installing extended length screens, operating turbines at peak efficiency, extending the period during which the juvenile bypass system is in operation, implementing a gas abatement program, remedying water pollution problems, developing emergency auxiliary water supplies for adult fishways, and decreasing water temperatures.

To minimize predation and competition problems in the migration corridor, the Proposed Recovery Plan contains actions to control predation by squawfish, birds, marine mammals, and non-native fishes such as smallmouth bass, walleye, and channel catfish. Measures are also proposed to reduce American shad populations in the Columbia River because they both prey on and compete with juvenile salmon.

Harvest Management

Snake River salmon are not directly targeted for harvest, but they are incidentally caught by commercial, recreational, and tribal fisheries in the ocean and in the Columbia and Snake Rivers. Incidental harvest of Snake River sockeye salmon and Snake River spring/summer chinook salmon is minimal. However, fall chinook salmon are caught incidentally in commercial and sport fisheries from Southeast Alaska to California, in nontreaty inriver sport and commercial fisheries, and in treaty fisheries above Bonneville Dam. In each of these fisheries, listed Snake River fall chinook are mixed with a number of other natural and hatchery-origin stocks. At present, these fisheries are managed through a complex system of interrelated forums.

The Recovery Plan proposes to amend the existing inriver harvest management rules so that they incorporate explicit management criteria to protect Snake River salmon. To minimize the number of fall chinook caught in ocean fisheries, NMFS proposes to implement a management strategy that is consistent with the Pacific Salmon Commission's objective of meeting adult chinook goals by 1998. These goals are established for a number of stocks and are based on a chinook rebuilding program that was fully implemented in 1984. This approach takes a broad view of stock protection and focuses on the coastwide status of chinook stocks, including those from Puget Sound, the Washington and Oregon coast, and the Columbia River, all of which are under review for listing under the ESA.

Artificial Propagation

Artificial propagation in the Columbia River Basin has contributed successfully to ocean and inriver commercial, sport, and tribal fisheries. In some cases, hatchery production has slowed the decline of natural salmon populations or helped preserve them. However, effects from intensive hatchery production (such as supporting harvest rates in excess of what the natural populations can withstand, using natural fish for hatchery broodstock, and causing introgression into natural gene pools) have also contributed to the continued decline of some natural salmon populations. Ecological interactions between hatchery fish and natural fish such as competition, predation, displacement, and disease transfer need to be minimized.

The Proposed Recovery Plan proposes to conserve remaining Snake River salmon gene pools through captive broodstock, supplementation, and gene bank programs. It also proposes to protect listed species from excessive genetic introgression, minimize impacts on listed salmon resulting from interactions between Columbia River Basin hatchery salmon and natural salmon, improve the quality of fish released from hatcheries, reduce predation and competition interactions between listed salmon and steelhead and hatchery trout, restore listed chinook by reintroducing them to historic habitat, and conduct research for the purpose of optimizing production and conserving natural populations.

Incremental Costs of Recovery Actions

The Proposed Recovery Plan discusses only those incremental costs specifically resulting from actions designed to achieve recovery under the ESA. It does not include the economic and social effects attributable to other authorities and responsibilities. NMFS intends to develop a more complete estimate of the direct costs of the proposed recovery tasks and a better description of the time required to carry out these tasks. There will be opportunity to comment on this supplemental cost and schedule information before NMFS issues a final recovery plan.

In addition to the direct cost information, NMFS and the Team are keenly aware of public interest regarding the potential indirect and socioeconomic costs and benefits of recovery efforts for Snake River sockeye and chinook. The decline of the currently listed stocks and other fisheries in the Columbia River Basin has imposed substantial losses upon the fishery dependent communities and economies of the Pacific Northwest. Implementation of a broad-based recovery effort for Snake River salmon will also inevitably result in some social and economic costs to the Pacific Northwest. Some recovery actions are relatively limited in geographic scope and economic impact, while other actions could trigger changes in the regional economy.

In light of this interest, NMFS asked economists from the University of Washington to reconvene the Snake River Salmon Economic Technical Committee, review the Team's recommendations, and develop an economic analysis of the Team's recommended actions. This analysis is described in the February 1995 report, "Economics of Snake River Salmon Recovery; a Report to the National Marine Fisheries Service," which will be distributed with the Proposed Recovery Plan. NMFS and the Team believe that this report is a thorough economic evaluation of the Team's recommendations.

No such similarly detailed economic evaluation has yet been conducted for the tasks and objectives contained in this Proposed Recovery Plan. However, many of the Team's recommendations are similar to those NMFS proposes, and the relationship of the Team's recommendations to the NMFS Proposed Recovery Plan tasks is discussed at the end of each chapter or section of this plan. Readers of the Proposed Recovery Plan are encouraged to review Economics of Snake River Salmon Recovery; a Report to the National Marine Fisheries Service." A more complete economic analysis of the NMFS Proposed Recovery Plan is under development and will be made available upon completion.

Public Comments Solicited

NMFS intends that the final recovery plan will take advantage of information and recommendations from all interested parties. Therefore, comments and suggestions are hereby solicited from the public, other concerned governmental agencies, the scientific community, industry, and any other person concerned with this Proposed Recovery Plan. Areas on which NMFS would particularly like to receive input include the sections on institutional structure and economics.

Public Hearings

The public hearings are scheduled as follows:

1. May 15, 1995, 6:30 p.m. to 9:30 p.m., Lewiston, ID.
2. May 17, 1995, 6:30 p.m. to 9:30 p.m., Boise, ID.
3. May 18, 1995, 6:30 p.m. to 9:30 p.m., Stanley, ID.
4. May 23, 1995, 6:30 p.m. to 9:30 p.m., LaGrande, OR.
5. May 24, 1995, 6:30 p.m. to 9:30 p.m., Richland, WA.
6. May 25, 1995, 6:30 p.m. to 9:30 p.m., Astoria, OR.
7. May 31, 1995, 6:30 p.m. to 9:30 p.m., Portland, OR.
8. June 6, 1995, 6:30 p.m. to 9:30 p.m., Seattle, WA.
9. June 8, 1995, 6:30 p.m. to 9:30 p.m., Ketchikan, AK.
10. June 9, 1995, 6:30 p.m. to 9:30 p.m., Sitka, AK.
11. June 17, 1995, 6:30 p.m. to 9:30 p.m., Columbia Falls, MT.

The hearings will be held at the following locations:

1. Lewiston—City Community Bldg., 1424 Main, Lewiston, ID .
2. Boise—Interagency Fire Center Auditorium, 3905 Vista Ave., Boise, ID 83705.
3. Stanley—Stanley Community Center, Stanley, ID 83278.
4. LaGrande—Eastern Oregon State College, LaGrande, OR 97850.
5. Richland—Richland Federal Bldg., 825 Jadwin Ave., Richland, WA 99352.
6. Astoria—Columbia River Maritime Museum, Astoria, OR 97103.
7. Portland—Federal Complex Auditorium, 911 NE 11th Ave., Portland, OR 97232.
8. Seattle—NMFS, Northwest Fisheries Science Center, 2725 Montlake Blvd., East, Seattle, WA 98112.
9. Ketchikan—Civic Center, 888 Venetia Avenue, Ketchikan, AK 99901.
10. Sitka—Centennial Building, 330 Harbor Drive, Sitka, AK 99835.
11. Columbia Falls—Columbia Falls High School, 610 13th Street, Columbia Falls, MT 59912.

Dated: April 12, 1995.

Patricia Montanio,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95-9545 Filed 4-17-95; 8:45 am]

BILLING CODE 3510-22-F

[I.D. 032895A]

International Whaling Commission; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: NOAA makes use of a public Interagency Committee (Committee) to assist in preparing for meetings of the International Whaling Commission (IWC). This document sets forth guidelines for participating on the Committee and the date and place of the next meeting.

DATES: The meeting is scheduled for May 8, 1995, from 12 p.m. to 4 p.m. in Washington, D.C.

ADDRESSES: Comments concerning this upcoming meeting should be directed to Kevin Chu, Office of International Affairs, Room 14247, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The meeting will be held at the Department of Commerce, Herbert C. Hoover Building (Room 6009), 14th and Constitution, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Kevin Chu at (301) 713-2276.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Under Secretary of NOAA. The U.S. Commissioner to the IWC has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce, and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and other interested agencies.

Each year, NOAA conducts a series of meetings and other actions to prepare for the annual meeting of the IWC, which is usually held in the spring or summer. The major purpose of these preparatory meetings is to provide for input in the development of policy by members of the public and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling.

Any person with an identifiable interest in U.S. whale conservation policy may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These measures are necessary to promote the candid exchange of information. Such measures are a necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practice.

The 47th Annual Meeting of the IWC will take place from May 22 to June 2, 1995, in Dublin, Ireland. In order to finalize preparations for the 1995 annual meeting, a meeting of the public Interagency Committee has been scheduled for May 8, 1995, from 12 p.m. to 4 p.m. (see **ADDRESSES**). The first 2 hours of the meeting have been reserved for public review of proposed U.S. position papers. The remaining time will be spent discussing these proposed positions.

Dated: April 11, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95-9544 Filed 4-17-95; 8:45 am]

BILLING CODE 3510-22-F

Notice of Open Meeting

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and

VOL 60 ISS 74 AP 18 1995 UMI

Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Monterey Bay National Marine Sanctuary Advisory Council; open meeting.

SUMMARY: The Advisory Council was established in December 1993 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Monterey Bay National Marine Sanctuary. The Advisory Council was convened under the National Marine Sanctuaries Act.

TIME AND PLACE: Monday, April 24, 1995, from 9:00 until 4:00. The meeting will be held at the Point Lobos State Reserve, Hudson House, Highway One, Carmel California.

AGENDA: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed, including an update from the Sanctuary Manager, reports from the working groups, a report on flood impacts, a discussion of alternative funding for the Sanctuary, and an annual report on the year's activities.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Jane Delay at (408) 647–4246 or Elizabeth Moore at (301) 713–3141.

Federal Domestic Assistance, Catalog Number 11.429, Marine Sanctuary Program.

Dated: April 12, 1995.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 95–9495 Filed 4–17–95; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Export Visa Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Hungary

April 12, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements.

EFFECTIVE DATE: April 15, 1995.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and the Republic of Hungary is being amended to include the coverage of Categories 351, 651 and merged Categories 351/651 for goods produced or manufactured in Hungary and exported from Hungary on and after April 15, 1995. Goods in Categories 351, 651 and 351/651 which are exported from Hungary during the period April 15, 1995 through April 30, 1995 shall not be denied entry for lack of a visa. Goods exported on and after May 1, 1995 must be accompanied by a 351/651 visa or a visa corresponding to the actual shipment.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 49 FR 8659, published March 8, 1984.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 12, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 5, 1984, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain wool and man-made fiber textile products, produced or manufactured in Hungary for which the Government of the Republic of Hungary has not issued an appropriate visa.

Effective on April 15, 1995, you are directed to amend further the March 5, 1984 directive to require a visa for goods in Categories 351 and 651, produced or manufactured in Hungary and exported from Hungary on and after April 15, 1995. Merchandise in Categories 351 and 651 may be visaed as merged Categories 351/651 or the correct category visa corresponding to the actual shipment.

Merchandise in Categories 351 and 651 which is exported during the period April 15, 1995 through April 30, 1995 shall not be denied entry for lack of a visa. Merchandise in Categories 351 and 651 which is exported prior to April 15, 1995 shall not be denied entry if accompanied by a 351/651 visa.

Goods in Categories 351 and 651 which are exported on and after May 1, 1995 may be accompanied by either the appropriate merged category visa or the correct category visa corresponding to the actual shipment.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–9467 Filed 4–17–95; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Kansas City Board of Trade: Proposed Amendments Relating to Delivery Locations, Quality Price Differentials, and Loading Requirements and Fees for the Hard Red Winter Wheat Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract rule change.

SUMMARY: The Kansas City Board of Trade ("KCBT") has submitted proposed amendments to its hard red winter wheat futures contract. The proposal will: (1) Establish a new delivery point at Hutchinson, Kansas, with futures deliveries at this location being subject to a discount of 12 cents per bushel; (2) increase to 3 from 1.5 cents per bushel the discount for delivery of U.S. No. 3 grade wheat; (3) increase the minimum daily rate at which regular warehouses must load out wheat against warehouse receipts issued for futures delivery; and (4) increase to seven from five cents per bushel the maximum load-out fees chargeable by the warehouse operator. In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before May 18, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. Reference should be made to the proposed changes in the delivery specifications for the hard red winter wheat futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The hard red winter wheat futures contract currently provides for delivery at par of U.S. No. 2 grade wheat in storage or on track in Kansas City, Missouri. The futures contract also provides for delivery of U.S. No. 3 grade wheat at a discount of 1.5 cents per bushel and U.S. No. 1 grade wheat at a premium of 1.5 cents per bushel. Currently, the KCBT's rules specify that regular warehouse operators must load-out a minimum of 15 rail cars per day. The Exchange's rules also specify that regular warehouse operators may charge warehouse receipt holders a maximum of 5 cents per bushel for loading wheat into the holders' transportation equipment from regular delivery facilities.

The proposed amendments will permit futures delivery at Hutchinson, Kansas at a discount of 12 cents per bushel. Futures delivery at the contract's existing Kansas City delivery point will be at par. In addition, the proposed amendments will increase to 3 cents per bushel from 1.5 cents per bushel the contract's discount for delivery of U.S. No. 3 grade wheat.

The proposed amendments also will modify the contract's minimum load-out requirements for regular warehouse operators by increasing the minimum load-out rate for all regular warehouses and by requiring that regular warehouses with higher levels of outstanding warehouse receipts load out wheat at specified higher minimum load-out rates. Specifically, for regular warehouses with total outstanding warehouse receipts representing 4 million or fewer bushels of wheat, the minimum load-out rate will be 20 hopper rail cars per day and 100 cars per week. In addition, for each additional 1 million bushels of outstanding warehouse receipts, the minimum load-out rate will increase by 5 hopper rail cars per day and 25 cars per week. Finally, the KCBT will increase the maximum load-out fee to 7 cents per bushel from 5 cents per bushel.

The KCBT proposes to apply the proposed amendments to all newly listed contract months beginning with the July 1996 wheat futures contract.

In support of the proposed amendments, the KCBT states that:

[T]he Kansas City terminal market on which our futures are based has experienced a decline in recent years as have all terminal markets. This is largely attributable to the deregulation of railroads and their pricing policies and the ongoing changes in U.S. farm policy. Both the reduction of government's role in grain storage and railroad deregulation have served to discourage the accumulation of wheat in Kansas City. The reduced supply of deliverable stocks has been aggravated by the relative difficulty of shipping grain into Kansas City versus the ease of shipping grain out of the market. The intent of the Board's proposed amendments is to create a delivery mechanism to reflect cash market conditions better than the current system does.

The KCBT also indicates that Hutchinson, Kansas, represents the best of the location choices considered by it for use as a delivery point. In addition, the KCBT indicates that the proposed 12 cents per bushel discount for futures delivery at Hutchinson reflects observable cash market price differentials between Hutchinson and Kansas City.

The Commission is requesting comments specifically in regard to the extent to which the proposals reflect cash market practices and would affect the levels of economically deliverable supplies available for the futures contract.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by telephone at (202) 254–6314.

The materials submitted by the KCBT in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581 by the specified date.

Issued in Washington, D.C. on April 12, 1995.

Blake Imel,

Acting Director, Division of Economic Analysis.

[FR Doc. 95–9487 Filed 4–17–95; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Foster Grandparent and Senior Companion Programs

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of revision of income eligibility levels for the Foster Grandparent Program and Senior Companion Program.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and Senior Companion Program (SCP), published in 59 FR 23701, May 6, 1994.

The revised schedules are based on changes in the Poverty Guidelines issued by the Department of Health and Human Services (DHHS), published in 60 FR 7772, February 9, 1995.

In accordance with program regulations, the income eligibility level for each State and the District of Columbia is 125 percent of the DHHS Poverty Guidelines, except in those areas determined by the Corporation to be of higher cost of living. In such instances, the guideline shall be 135 percent of the DHHS Poverty levels. The level of eligibility is rounded to the next highest multiple of $5.00.

In determining income eligibility, consideration should be given to the following, as set forth in 59 FR 15120, March 31, 1994:

Allowable medical expenses are annual out-of-pocket expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse and were not and will not be paid for by Medicare, Medicaid, other insurance, or by any other third party and, shall not exceed 15 percent of the applicable Corporation income guideline.

Annual income is counted for the past 12 months and includes: The applicant or enrollee's income and, the applicant or enrollee's spouse's income, if the spouse lives in the same residence. Project directors may count the value of shelter, food, and clothing, if provided

VOL 60 ISS 74 AP 18 1995 UMI

at no cost by persons related to the applicant, enrollee or spouse.

Any person whose income is not more than 100 percent of the DHHS Poverty Guideline for her/his specific family until shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs.

SCHEDULE OF INCOME ELIGIBILITY LEVELS: FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAMS 1995 FGP/SCP INCOME ELIGIBILITY LEVELS

[Based on 125 percent of DHHS poverty guidelines]

States	Family units of			
	One	Two	Three	Four
All, except high cost areas, Alaska and Hawaii	$9,340	$12,540	$15,740	$18,940

(For family units with more than four members, add $3,200 for each additional member in all States except designated High Cost Areas, Alaska and Hawaii)

FGP/SCP INCOME ELIGIBILITY LEVELS FOR HIGH COST AREAS

[Based on 135 percent of DHHS poverty guidelines]

Area	Family units of			
	One	Two	Three	Four
All, except Alaska and Hawaii	$10,085	$13,540	$17,000	$20,455
Alaska	12,610	16,930	21,250	25,570
Hawaii	11,625	15,595	19,565	23,535

(For family units with more than four members, add: $3,455 for all areas, $4,320 for Alaska, and $3,970 for Hawaii, for each additional member)

The income eligibility levels specified above are based on 135 percent of the DHHS poverty guidelines and are applicable to the following high cost metropolitan statistical areas and primary metropolitan statistical areas:

High Cost Areas

(Including all Counties/Locations Included in that Area as Defined by the Office of Management and Budget)

Alaska

(All Locations)

California

Los Angeles—Long Beach (Los Angeles County)
Santa Barbara/Santa Maria/Lompoc (Santa Barbara County)
Santa Cruz-Watsonville (Santa Cruz County)
Santa Rosa-Petaluma (Sonoma County)
San Diego (San Diego County)
San Jose (Santa Clara County)
San Francisco (San Fracisco, Marin and San Mateo Counties)
Oakland (Alameda and Contra Costa Counties
Anaheim-Santa Ana (Orange County)
Oxnard-Ventura (Ventura County)

Connecticut

Stamford (Fairfield County)

District of Columbia/Maryland/Virginia

District of Columbia and Surrounding Counties in Maryland and Virginia. MD counties: Calvert, Charles, Frederick, Montgomery and Prince Georges Counties. VA Counties: Arlington, Fairfax, Loudoun, Prince William, Stafford, Alexandria City, Fairfax City, Falls Church City, Manassas City and Manassas Park City.

Hawaii

(All Locations)

Illinois

Chicago (Cook, DuPage and McHenry Counties)

Massachusetts

Boston (Essex, Norfolk, Plymouth and Suffolk Counties)
Salem-Gloucester (Essex County)
Worcester (Worcester County)

New Jersey

Bergen-Passaic (Bergen and Passaic Counties)
Middlesex-Somerset-Hunterdon (Hunterdon, Middlesex and Somerset Counties)
Monmouth-Ocean (Monmouth and Ocean Counties)
Newark (Essex, Morris, Sussex and Union Counties)
Trenton (Mercer County)

New York

Nassau-Suffolk (Suffolk and Nassau Counties)
New York (Bronx, Kings, New York, Putnam, Queens, Richmond and Rockland Counties)
Westchester (Westchester County)

Pennsylvania

Philadelphia (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties)

The revised income eligibility levels presented here are calculated from the base DHHS Poverty Guidelines now in effect as follows:

1995 DHHS POVERTY GUIDELINES FOR ALL STATES

States	Family units of			
	One	Two	Three	Four
All, except Alaska/Hawaii	$7,470	$10,030	$12,590	$15,150
Alaska	9,340	12,540	15,740	18,940
Hawaii	8,610	11,550	14,490	17,430

EFFECTIVE DATE: These guidelines go into effect on the day they are published.

FOR FURTHER INFORMATION CONTACT: Thomas Endres, Deputy Director, National Senior Service Corps (NSSC) Corporation for National and Community Service 1201 New York Avenue NW, Washington, DC 20525 or Telephone (202) 606–5000.

SUPPLEMENTARY INFORMATION: These programs are authorized pursuant to Section 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Public Law 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guidelines published by DHHS pursuant to Sections 652 and 673 (2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Dated: April 10, 1995.

James A. Schelbel,

Vice President, Corporation for National and Community Service, Director, National Senior Service Corps.

[FR Doc. 95–9508 Filed 4–17–95; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 16&17 May 1995.

Time of Meeting: 0900–1530, 16&17 May 1995.

Place: (TACOM RDEC), Warren, MI.

Agenda: The Army Science Board's Ad Hoc Study on "Tank Modernization" will meet to discuss Advanced Tank Technologies for the Future Main Battle Tank. These briefings will be provided by TACOM RDEC and the Army Research Laboratory. These meetings will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–9459 Filed 4–17–95; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Board of Advisors to the Superintendent, Naval Postgraduate School; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California, will meet on May 2–3, 1995, from 8:00 a.m. to 5:00 p.m., in Herrmann Hall (Bldg 220) at the School. All sessions will be open to the public.

The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent. For further information concerning this meeting, contact: CDR Wayne A. Wagner, USN (Code 007), Naval Postgraduate School, Monterey, California 93943–5000, Telephone: (408) 656–2512.

Dated: April 6, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–9460 Filed 4–17–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 11, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere

VOL 60 ISS 74 AP 18 1995 UMI

with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 13, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Expedited.
Title: Native Hawaiian Higher Education Program (Guide for the Preparation of Applications).
Frequency: Annually.
Affected Public: Not for profit institutions; and State, Local or Tribal Government.
Reporting Burden; Responses: 75; *Burden Hours:* 3300.
Recordkeeping Burden; Recordkeepers: 0; *Burden Hours:* 0.
Abstract: Eligible institutions and entities will use this application to apply for funding under the Native Hawaiian Higher Education Program. The Department will use this information to make grant awards. Copies of the application and instructions can be obtained by calling (202) 260–3209.

Additional Information: Clearance for this information collection is requested by May 11, 1995. An expedited review is requested in order to meet the grant schedule for this fiscal year. Without an expedited review, the funding of grant awards would not be met for this fiscal year.

[FR Doc. 95–9513 Filed 4–17–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Request

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection request as required by the Paperwork Reduction Act of 1980.

DATES: An emergency review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by April 24, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer: Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State of Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Group, publishes this notice with attached proposed information collection requests prior to submission to OMB. For each proposed information collection request, grouped by office, this notice contains the following information: (1) Type of review requested, e.g., new, revision, extension, existing, or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting and/or Recordkeeping burden; and (6) Abstract. Because an emergency review is requested, the additional information to be requested in this collection is included in the section an "Additional Information" in this notice.

Dated: April 13, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: Emergency.
Title: Application for New Awards Under Elementary School Foreign Language Program.
Abstract: The Department needs and will use this information to make FT 1995 awards. The respondents are local educational agencies. The respondents need to provide this information in order to receive funds.

Additional Information: OMB approval is requested for April 24, 1995. An Emergency review will allow the Department of Education to make grant awards before the end of the fiscal year.
Frequency: Annually.
Affected Public: State, Local or Tribal Government.
Reporting Burden; Responses: 350; *Burden Hours:* 14,000.
Recordkeeping Burden; Recordkeepers: 0; *Burden Hours:* 0.

[FR Doc. 95–9515 Filed 4–17–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before May 18, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or

Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 13, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Bilingual Education and Minority Languages and Affairs

Type of Review: Extension.
Title: Compliance with Statutory Requirements.
Frequency: One Time.
Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Governments.
Reporting Burden, Responses: 74; *Burden Hours:* 1,319.
Recordkeeping Burden, Recordkeepers: 0; *Burden Hours:* 0.
Abstract: Grantees under previous law (P.L. 100–297) must comply with the new requirements under Public Law 103–382—October 20, 1994. Grantees required to comply include State educational agencies, local educational agencies, institutions of higher education and non-profit organizations.

[FR Doc. 95–9514 Filed 4–17–95; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.162A]

Emergency Immigrant Education Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: This program provides grants to State educational agencies (SEAs) to assist local educational agencies that experience large increases in their student population due to immigration. These grants are to be used to provide high-quality instruction to immigrant children and youth and to help such children and youth transition into American society and meet the same challenging State performance standards expected of all children and youth.

Eligible Applicants: State educational agencies.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 29, 1995.

Applications Available: April 21, 1995.

Available Funds: $50 million.

Project Period: Up to 16 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 76, 77, 79, 80, 81, 82, 85, and 86.

Programmatic Information: An SEA may apply for a grant if it meets the eligibility requirements specified in section 7304 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's School's Act of 1994 (Pub. L. 103–82, enacted October 20, 1994). An eligible SEA must provide a count, taken during April 1995, of the number of immigrant children and youth enrolled in public and nonpublic schools in accordance with the requirements specified in section 7304 of the Act. Under section 7501 (7) of the Act, the term "immigrant children and youth" means individuals who are aged 3 through 21, were not born in any State, and have not been attending one or more schools in any one or more States for more than three full academic years.

For Applications or Information Contact: Ms. Harpreet K. Sandhu or Ms. Soccoro Lara, U.S. Department of Education, 600 Independence Avenue, SW., Room 5086, Switzer Building, Washington, DC 20202–6510. Telephone: Harpreet Sandhu (202) 205–9808 or Socorro Lara (202) 205–5711. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Program Authority: 20 U.S.C. 7541–7549.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9444 Filed 4–17–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–231–000]

Columbia Gas Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

April 12, 1995.

Take notice that on April 7, 1995, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective May 8, 1995.

First Revised Sheet No. 46
First Revised Sheet No. 47
First Revised Sheet No. 48
First Revised Sheet No. 49
First Revised Sheet No. 55
First Revised Sheet No. 56
First Revised Sheet No. 57
Second Revised Sheet No. 66
First Revised Sheet No. 67
First Revised Sheet No. 68
Second Revised Sheet No. 72
First Revised Sheet No. 75
First Revised Sheet No. 76
First Revised Sheet No. 77

Columbia states that the instant filing is being tendered to implement Order Nos. 500/528 upstream pipeline billings that have been allocated to Columbia.

The allocated monthly billings for current charges and "over and under" amounts, as applicable to Transcontinental Gas Pipe Line Company were suspended with the July 1992 billing by Columbia due to its bankruptcy proceedings. The allocated amounts herein reflect the remaining amounts applicable to the then effective amortization period adjusted for interest as applicable.

On February 17, 1995 Texas Gas Transmission Corporation (Texas Gas) filed revised tariff sheets to implement Article IV of the Stipulation and Agreement in Docket Nos. RP93–189 and RP94–38, *et al.* The tariff sheets filed herein, as applicable to Texas Gas, reflect the amount previously paid to Texas Gas by Columbia but not previously billed to its customers, plus interest as applicable.

On February 27, 1995 Texas Eastern Transmission Corporation (Texas Eastern) filed in Docket No. RP95–174 to, among other things, recover costs incurred by Texas Gas and flowed through to Texas Eastern pursuant to Order No. 528, and to flow through a refund of Order No. 528 upstream costs received by Texas Eastern from Texas Gas pursuant to Texas Gas' settlement in Docket No. RP91–100, *et al.* The tariff sheets filed herein reflect a netting of these amounts to Columbia's customers.

VOL 60 ISS 74 AP 18 1995 UMI

Columbia states that copies of its filing have been mailed to all former sales customers and affected state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 19, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9455 Filed 4–17–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–208–002]

Pacific Gas Transmission Co.; Notice of Compliance Filing

April 12, 1995.

Take notice that on April 6, 1995, Pacific Gas Transmission Company (PGT) tendered for filing to be a part of its FERC Gas Tariff, First Revised Volume No. 1–A, Second Revised Sheet No. 143.

PGT states that the tariff sheet which it is submitting incorporates the approved Offer of Settlement to implement a new tariff provision to govern sales of gas that may be made from time to time to dispose of linepack that is in excess of PGT's operational requirements, in compliance with a March 31, 1995 Letter Order by OPR. PGT requests an effective date of May 7, 1995.

PGT further states it has served a copy of this filing upon all parties on the official service list compiled by the Secretary in this proceeding, all interested state regulatory agencies and PGT's jurisdictional customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before April 19, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9456 Filed 4–17–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–830–000]

Southern California Edison Co.; Notice of Filing

April 12, 1995.

Take notice that on March 31, 1995, Southern California Edison Company tendered for filing the following power sale agreement between the City of Colton (Colton) and Edison, and the associated supplemental agreement to integrate the power sale agreement in accordance with the terms of the 1990 Integrated Operation Agreement (1990 IOA), Rate Schedule FERC No. 249:

1995 Power Sale Agreement Between The City of Colton and The Southern California Edison Company (1995 PSA).

Supplemental Agreement for the Integration of the 1995 Power Sale Agreement Between Southern California Edison and The City of Colton (Supplemental Agreement).

The 1995 PSA provides the terms and conditions whereby Edison shall make available and Colton shall purchase Contract Capacity and Associated Energy during the Delivery Season of June 1 through September 30 (4 months/year) during the years 1995, 1996, and 1997. The Supplemental Agreement sets forth the terms and conditions under which Edison will integrate the 1995 PSA pursuant to the 1990 IOA.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9457 Filed 4–17–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5193–5]

Notice of Transfer and Disclosure of Confidential Business Information Obtained Under the Comprehensive Environmental Response, Compensation, and Liability Act to EPA Contractors and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice: Request for comment.

SUMMARY: EPA Region I hereby complies with the requirements of 40 CFR 2.301(h) and 40 CFR 2.310(h) and intends to authorize access to Confidential Business Information (CBI) which has been submitted to EPA Region I, under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), to the following contractors and subcontractors: CACI, Acumenics Research and Technology, Inc. and Aspen Systems Corporation.

FOR FURTHER INFORMATION CONTACT: Janine Keck Massey, U.S. Environmental Protection Agency, Office of Regional Counsel, RCU, J.F.K. Federal Building, Boston, MA 02203, (617) 565–3429.

NOTICE OF REQUIRED DETERMINATIONS, CONTRACT PROVISIONS AND OPPORTUNITY TO COMMENT: CERCLA, commonly known as "Superfund," requires the establishment of an administrative record upon which the President shall base the selection of a response action. CERCLA also requires the maintenance of many other records, including those relevant to cost recovery and litigation support. EPA Region I has determined that disclosure of CBI to its contractors and subcontractors is necessary in order that they may carry out the work requested under those contracts or subcontracts with EPA, including: (1) Compilation, organization and tracking of litigation support documents and information; (2) review and analysis of documents and information; and (3) provision of computerized database systems and customized reports. Documents include, but are not limited to, responses to CERCA Section 104(e) information requests, contractor invoices, and progress reports. In performing these tasks, employees of the contractors and subcontractors listed below will be required to sign a written agreement that they: (1) will use the information only for the purpose of carrying out the work required by the contract; (2) shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office; and (3) shall return to EPA all copies of the information and any abstracts or extracts therefrom: (a) upon completion of the contracts; (b) upon request of EPA; or (c) whenever the information is no longer required by the contractor or subcontractor for performance of work requested under those contracts. These nondisclosure statements shall be maintained on file with the EPA Region I Project Contact for CACI, Acumenics Research and Technology, Inc. and Aspen Systems Corporation. CACI, Acumenics and Aspen Systems employees will be provided technical direction from their respective EPA contract management staff.

EPA hereby advises affected parties that they have ten working days to comment pursuant to 40 CFR 2.301(h)(2)(iii) and 40 CFR 2.310(h). Comments should be sent to Janine Keck Massey, U.S. Environmental Protection Agency, Office of Regional Counsel, RCU, J.F.K. Federal Building, Boston, MA 02203.

Dated: March 28, 1995.

John P. DeVillars,

Regional Administrator.

Contractor/Subcontractor	Contract No.
CACI	3C–G–ENR–0051
Acumenics Research and Technology, Inc.	3C–G–ENR–0052
Aspen Systems Corporation	3C–G–ENR–0053

[FR Doc. 95–9538 Filed 4–17–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5183–6]

Common Sense Initiative Council Automobile Manufacturing Sector; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of rescheduling public advisory Common Sense Initiative Council (CSIC) Auto Manufacturing Sector Subcommittee Meeting; Open Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the CSIC Automobile Manufacturing Sector Subcommittee meeting scheduled for Thursday, April 19, 1995, has been rescheduled for Thursday, May 4, 1995, from 8:30 a.m. to 4:00 p.m. Eastern Standard Time, at the Embassy Suites at Chevy Chase Pavillion, 4300 Military Road, N.W. (at Wisconsin Ave.), Washington, D.C. 20015, phone (202) 362–9300. Seating will be available on a first come, first served basis. For further meeting information contact Carol Kemker, Designated Federal Official at (404) 347–3555 extension 4222, Keith Mason at (202) 260–1360 or Leila Yim Surrat at (202) 260–0628.

Three work groups were formed at the first meeting in January, (1) Permits; (2) Regulatory Programs; and (3) Lifecycle Management and Innovative Technology. At the May 4th meeting reports will be presented on draft work plan activities. Information presented will aid in the CSIC Automobile Manufacturing Sector Subcommittee discussions about and development of a consensus work plan.

INSPECTION OF COMMITTEE DOCUMENTS: Documents relating to the above CSIC Automotive Manufacturing Sector Subcommittee announcement will be publicly available at the meeting. Thereafter, these documents, together with the meeting minutes will be available for public inspection in room 2417M of EPA Headquarters, Common Sense Initiative Program Staff, 401 M Street SW., Washington, DC 20460, phone (202) 260–7417.

Dated: April 11, 1995.

Carol L. Kemker,

Designated Federal Official.

[FR Doc. 95–9541 Filed 4–17–95; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–46023; FRL–4948–6]

Respirable Fibrous Particles; Workshop on Chronic Inhalation Toxicity and Carcinogenicity Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces a workshop on chronic inhalation toxicity and carcinogenicity testing of respirable fibrous particles. The workshop is sponsored by the U.S. Environmental Protection Agency in collaboration with the National Institute of Environmental Health Sciences, the National Institute for Occupational Safety and Health, and the Occupational Safety and Health Administration.

DATES: The workshop will be held May 8–10, 1995. The 3-day workshop will begin at 8:30 a.m.

ADDRESSES: The workshop will be held at the Omni Europa Hotel in Chapel Hill, North Carolina. Members of the public wishing to attend the workshop as observers should register by phoning Research and Evaluation Associates (REA), at the telephone number listed below. Please note that space is limited and registrations will be accepted on a first-come first-serve basis. Copies of the workshop agenda will be available at the workshop.

FOR FURTHER INFORMATION CONTACT: James Willis, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551. For Technical Information Contact: Dr. David Lai, Health and Environmental Review Division, (7403), Office of Pollution Prevention and Toxics, 401 M St., SW., Washington, DC 20460, (202) 260–6222. For logistical information, and to register, please call Research and Evaluation Associates, at (919) 968–4961.

SUPPLEMENTARY INFORMATION: An important task for environmental protection is to identify, and subsequently to prevent, eliminate, or mitigate the risks to human health and the environment posed by toxic substances. Natural and synthetic fibers are one group of substances that have been identified to be of potential concern. The health endpoints of potential concern for respirable fibers are the potential development of respiratory diseases, including cancer, from chronic inhalation exposure. Many of these fibers have wide industrial and commercial applications, but there is limited, inconclusive, or virtually no information about their health effects and/or exposure to workers, consumers, and the general public. As a result, EPA has added to its Master Testing List (MTL) a "respirable fibers" category as priority substances for health effects and exposure testing to obtain the necessary data to evaluate the extent and magnitude of health risks to the exposed individuals and populations. This would then allow the Agency to determine whether or not there is a basis for any risk reduction measures. EPA recognizes that the current health effects test guidelines for chronic inhalation toxicity and/or carcinogenicity are not specific enough for the testing of fibrous substances. Thus, there is a need for EPA to develop standardized health effects test

VOL
60
ISS
74
AP
18
1995
UMI

guidelines for fibrous substances that can be used by EPA in future rulemaking, negotiated enforceable consent agreement, or voluntary action to obtain the necessary toxicologic information for risk assessment. At present, there is no general agreement upon test protocols for chronic inhalation toxicity and carcinogenicity testing of fibers for regulatory purposes. It is, therefore, important for the Agency to obtain input from the scientific community on a number of issues related to fiber testing prior to the development of proposed standardized study protocol(s) for respirable fibers.

EPA, in collaboration with the National Institute of Environmental Health Sciences, the National Institute for Occupational Safety and Health, and the Occupational Safety and Health Administration, through an interagency working group has scheduled a workshop on chronic inhalation toxicity and carcinogenicity testing of respirable fibrous particles to be held May 8–10, 1995. The goal of the workshop is to obtain scientific evaluations and recommendations from outside expert scientists on:

(1) Issues dealing with the design and conduct of chronic inhalation studies of fibers.

(2) What preliminary studies would be useful guides in designing the chronic study.

(3) What mechanistic studies would be important adjuncts to the chronic study to enable better interpretation of study results and extrapolation of potential effects in exposed humans.

(4) Which, or which combination of the available screening studies constitute a minimum data set which can be used to make judgements about the potential health hazard of the fiber in question, and prioritize the need for further testing in a chronic inhalation study.

Authority: 15 U.S.C. 2603

Dated: April 7, 1995.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–9536 Filed 4–17–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5193–9]

Proposed Administrative order on Consent; Petrochem Recycling Corp./Ekotek, Inc. Site, Salt Lake City, Utah

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Proposed de minimis settlement.

SUMMARY: In accordance with the requirements of section 122(i)(l) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), notice is hereby given of a proposed *de minimis* settlement under section 122(g) of CERCLA concerning the Petrochem Recycling Corp./Ekotek, Inc., Site in Salt Lake City, Utah (Site). The proposed Administrative Order on Consent (AOC) requires 7 potentially responsible parties (PRP) to pay an aggregate total of $152,825.15 to resolve their liability to the EPA related to response actions taken or to be taken at the Site. The terms of the proposed AOC for these settlements are identical to that approved and made effective by EPA November 16, 1994 (See Federal Register notice, dated September 2, 1994). One of the 7 settlements, EIMAC Corp. (Varian Associates, Inc.), was revised from its previous listing in the September 2, 1994, Federal Register notice based on an amended settlement volume (with no other changes to the AOC), and is thus re-noticed here.

DATES: Comments must be submitted by May 18, 1995.

ADDRESSES: Comments should be addressed to Greg Phoebe (8HWM–SR), Enforcement Specialist, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, and should refer to: In the matter of Petrochem/Ekotek *De Minimis* Settlement.

FOR FURTHER INFORMATION CONTACT: James M. Stearns, Office of Regional Counsel, EPA Region VIII, at (303) 294–7197.

SUPPLEMENTARY INFORMATION: Notice of section 122(g) *De Minimis* Settlement: In accordance with section 122(i)(1) of CERCLA, notice is hereby given that the terms of an Administrative Order on Consent (AOC) have been agreed to by the following 7 parties, for the following amounts: Option A Settlements: Bloomfield Refining Co. ($19,300.00); EIMAC Corporation (Varian Associates, Inc.) ($77,744.26); Auto Body Supply, Inc. ($2,759.90); Auto Painting & Collision Specialists, Inc. ($2,547.60); and G & K Services, Inc. ($6,872.58). Option B Settlements: BP Exploration & Oil, Inc. (fka SOHIO and SOHIO Oil Company; aka BP Exploration, Inc.) ($16,501.31); and US Polymeris (aka US Polymeric Industries, Inc.; nka BP Chemicals "HITCO," Inc.) ($27,099.50).

By the terms of the proposed AOC, these PRPs will together pay $152,825.15 to the Hazardous Substance Superfund (Superfund). This amount represents approximately 0.2% of the total anticipated costs for the Site upon which this settlement was based.

In exchange for payment, U.S. EPA will provide the settling parties with a covenant not to sue for liability under sections 106 and 107(a) of CERCLA, including liability for EPA past costs, the one-time cost of remedy, future EPA oversight costs, future operation and maintenance of the as-yet unselected remedy, and under section 7003 of the Solid Waste Disposal Act, as amended (also known as the Resource Conservation and Recovery Act (RCRA)).

The amount that each individual PRP will pay, as shown above, equals $2.97 multiplied by the number of gallons of waste the party sent to the Site (Base Amount), plus a premium payment of either 30% or 120% of the Base Amount, as specified by each Respondent PRP in the AOC. The per gallon charge of $2.97 was calculated by dividing the total estimated response costs for the Site ($69,594,403) by the total estimated volume of waste disposed of at the Site (23,454,592 gallons). For parties paying a 30% premium, the "Option A" settlement, there is an exception to the covenant not to sue if total response costs at the Site exceed $69,594,403. If this amount were exceeded, EPA could sue these parties for all or a portion of the overage. For parties paying the 120% premium, the "Option B" settlement, the exception to the covenant not to sue does not apply.

For a period of thirty (30) days from the date of this publication, the public may submit comments to U.S. EPA relating to the proposed *de minimis* settlement.

A copy of the proposed settlement AOC may be obtained from Greg Phoebe (8HWM–SR), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, (303) 294–7036. Additional background information relating to the *de minimis* settlement is available for review at the Superfund Records Center at the above address, and at the Marriott Library, Special Collections Department, University of Utah, Salt Lake City, Utah (801) 581–8863.

Jack McGraw,

Acting, Regional Administrator, U.S. EPA, Region VIII.

[FR Doc. 95–9539 Filed 4–17–95; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory committee of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by P.L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

TIME AND PLACE: Thursday, April 27, 1995, at 9:30 a.m. to 12:00 noon. The meeting will be held at EX–IM Bank in Room 1143, 811 Vermont Avenue NW., Washington, D.C. 20571.

AGENDA: The meeting agenda will include a discussion of the following topics: Advisory Committee Role and Responsibilities; Small Business Overview, Accomplishments and Challenges; and Other Topics/Next Steps.

PUBLIC PARTICIPATION: The meeting will be open to public participation; and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Barbara Lane, Room 1112, 811 Vermont Avenue NW., Washington, DC 20571, (202) 565–3957, not later than April 26, 1995. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to April 20, 1995, Barbara Lane, Room 1112, 811 Vermont Avenue NW., Washington, DC 20571, Voice: (202) 565–3957 or TDD: (202) 565–3377

FOR FURTHER INFORMATION CONTACT: For further information contact Barbara Lane, Room 1112, 811 Vermont Avenue NW., Washington, D.C. 20571, (202) 565–3957.

Carol F. Lee,

General Counsel.

[FR Doc. 95–9485 Filed 4–17–95; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License number: 1224.
Name: Rosendo H. Guerra, Jr. dba Buffalo Forwarding Co.
Address: 1314 Texas Ave., Ste. 904, Houston, TX 77022
Date revoked: March 30, 1995
Reason: Failed to furnish a valid surety bond.

License number: 3487
Name: H.P. Blanchard & Co.
Address: 100 West Broadway, 2nd Fl, Long Beach, CA 90802.
Date revoked: March 31, 1995
Reason: Failed to furnish a valid surety bond.

License number: 511
Name: Laufer Shipping Co., Inc.
Address: 33 Rector Street, New York, NY 10005.
Date revoked: April 3, 1995
Reason: Surrendered license voluntarily

License number: 3145.
Name: Alternative Freight Services, Inc
Address: Peace Bridge Plaza Warehouse, Ste. 211, Buffalo, NY 14213–2497
Date revoked: April 3, 1995
Reason: Surrendered license voluntarily

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95–9509 Filed 4–17–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Brannen Banks of Florida, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1 Brannen Banks of Florida, Inc., Inverness, Florida; to engage *de novo* through its subsidiary Brannen Banks Services, Inc., Hernando, Florida, in data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1 South Valley Bancorporation, Morgan Hill, California; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y

Board of Governors of the Federal Reserve System, April 12, 1995

Jennifer J. Johnson,

Deputy Secretary of the Board

[FR Doc. 95–9474 Filed 4–17–95; 8:45 am]

BILLING CODE 6210–01–F

Central and Southern Holding Company; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank

VOL 60 ISS 74 AP 18 1995 UMI

holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Central and Southern Holding Company, Milledgeville, Georgia; to acquire 5.7 percent of Nova Financial Corporation, Atlanta, Georgia, and thereby engage in management consulting activities, pursuant to § 225.25(b)(11) of the Board's Regulation Y The proposed activity will be conducted throughout the state of Georgia.

Board of Governors of the Federal Reserve System, April 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–9475 Filed 4–17–95; 8:45 am]

BILLING CODE 6210–01–F

Robert L. Downey, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 2, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Robert L. and Maryjo M. Downey, both of Stratton, Colorado; to acquire an additional 16 percent, for a total of 24 percent, of the voting shares of Stratton Bancshares, Inc., Stratton, Colorado, and thereby indirectly acquire The First National Bank of Stratton, Stratton, Colorado.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1 William Donald Skov, Clint, Texas, and Robert E. Skov, El Paso, Texas; each to retain 12.51 percent, for a total combined ownership of 25.02 percent, of the voting shares of First Fabens Bancorporation, Inc., Fabens, Texas, and thereby indirectly retain shares of First National Bank, Fabens, Texas.

Board of Governors of the Federal Reserve System, April 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–9476 Filed 4–17–95; 8:45 am]

BILLING CODE 6210–01–F

Farmers State Holding Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 12, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Farmers State Holding Corp., Alto Pass, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Alto Pass, Illinois, Alto Pass, Illinois.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Craco, Inc., Vinita, Oklahoma; to acquire 100 percent of the voting shares of The First National Bank of Grove, Grove, Oklahoma (in organization).

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1 Barnes Bancorporation, Kaysville, Utah; to become a bank holding company by acquiring 100 percent of the voting shares of Barnes Banking Company, Kaysville, Utah.

2. Sun Capital Bancorp, St. George, Utah; to become a bank holding company by acquiring 100 percent of the voting shares of Sun Capital Bank, St. George, Utah.

Board of Governors of the Federal Reserve System, April 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board

[FR Doc. 95-9477 Filed 4-17-95; 8:45 am]

BILLING CODE 6210-01-F

Mountain Bancshares, Inc.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-8851) published on page 18405 of the issue for Monday, April 10, 1995.

Under the Federal Reserve Bank of Kansas City heading, the entry for Mountain Bancshares, Inc., is revised to read as follows:

1. Mountain Bancshares, Inc., Los Alamos, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of Mountain Community Bank of Los Alamos, Los Alamos, New Mexico.

Comments on this application must be received by May 1, 1995.

Board of Governors of the Federal Reserve System, April 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–9478 Filed 4–17–95; 8:45 am]

BILLING CODE 6210–01–F

National Commerce Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 2, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. National Commerce Corporation and Commerce Bancshares, Inc., both of Birmingham, Alabama; to acquire National Bank of Commerce, Birmingham, Alabama, and Talladega Federal Savings and Loan Association, Talladega, Alabama, and thereby engage in operating a savings association, pursuant to § 226.25(b)(9). The geographic scope for this activity is the state of Alabama.

In connection with this proposal, Commerce Bankshares also has applied to become a bank holding company by acquiring National Bank of Commerce of Birmingham, Birmingham, Alabama.

Board of Governors of the Federal Reserve System, April 12, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–9479 Filed 4–17–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Round Table Discussion of the Vessel Sanitation Program's "Shipbuilding Construction Guidelines for Vessels Destine To Call on U.S. Ports"—Public Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Round Table Discussion of the Vessel Sanitation Program's (VSP) "Shipbuilding Construction Guidelines for Vessels Destine to Call on U.S. Ports"—Public meeting between CDC, the cruise ship industry, and other interested parties.

Times and Dates: 9 a.m.–5 p.m., May 18, 1995. 9 a.m.–1 p.m., May 19, 1995, if necessary

Place: NCEH, CDC, Chamblee Facility, Building 101, Third Floor Conference Room, 4770 Buford Highway, N.E., Atlanta, Georgia 30341–3724, telephone 404/488–7070.

Status: The meeting will be open to the public for participation, comment, and observation, limited only by space available. The meeting room will accommodate approximately 35 people.

Purpose: To obtain individual comments and information for further developing the VSP's shipbuilding construction guidelines, and to discuss the VSP's experience to date with construction inspections at shipyards.

Matters to be Discussed: The VSP offers consultative services that include reviewing plans for renovations and new construction of cruise ships. The VSP staff conduct construction inspections when a ship is near completion or when it first enters a U.S. port for compliance with VSP sanitation criteria. The VSP has drafted shipbuilding construction guidelines for use when conducting construction inspections. This public meeting is to obtain technical and general comments and information from the cruise ship industry and other interested parties regarding the VSP's draft "Shipbuilding Construction Guidelines for Vessels Destine to Call on U.S. Ports."

Contact Person for More Information Thomas E. O'Toole, Deputy Chief, Special Programs Group (F29), NCEH, CDC, 4770 Buford Highway, NE, Atlanta, Georgia 30341–3724, telephone 404/488–7073

Dated: April 12, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9469 Filed 4–17–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline

VOL 60 ISS 74 AP 18 1995 UMI

will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Microbiology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. May 1, 1995, 9:45 a.m., and May 2, 1995, 8:45 a.m., Holiday Inn—Gaithersburg, Walker and Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the Holiday Inn—Gaithersburg. Attendees requiring overnight accommodations may contact the hotel at 301–948–8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability.

Type of meeting and contact person. Open public hearing, May 1, 1995, 9:45 a.m. to 10:45 a.m., unless public participation does not last that long; open committee discussion, 10:45 a.m. to 6:30 p.m.; open public hearing, May 2, 1995, 8:45 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 11:30 a.m.; closed presentation of data, 11:30 a.m. to 12:30 p.m.; open committee discussion, 12:30 p.m. to 6:30 p.m.; Freddie M. Poole, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–2096, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Microbiology Devices Panel, code 12517.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 25, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On May 1, 1995, the committee will discuss a premarket approval application (PMA) for an in vitro diagnostic device intended for use in the determination of anti-neoplastic resistance to tumor cells with specific chemotherapeutic agents. On May 2, 1995, the committee will discuss a PMA for an in vitro diagnostic, target-amplified nucleic acid device for the detection of *Mycobacterium tuberculosis* complex in sediments prepared from sputum (induced or expectorated), bronchial specimens, or tracheal specimens.

Closed presentation of data. On May 2, 1995, the committee will discuss trade secret and/or confidential commercial information regarding the target-amplified nucleic acid device for the detection of *Mycobacterium tuberculosis* complex. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

FDA is giving less than 15 days public notice of the Microbiology Devices Panel of the Medical Devices Advisory Committee meeting. The agency decided that it is in the public interest to hold this meeting May 1 and 2, 1995, even if there was not sufficient time for the customary 15-day public notice.

Science Advisory Board to the National Center for Toxicological Research

Date, time, and place. May 9, 1995, 8:30 a.m., Bldg. 12, conference room, National Center for Toxicological Research, Jefferson, AR.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 1 p.m.; open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Ronald F. Coene, National Center for Toxicological Research (HFT–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3155, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Science Advisory Board to the National Center for Toxicological Research, code 12559.

General function of the board. The board advises on establishment and implementation of a research program that will assist the Commissioner of Food and Drugs to fulfill regulatory responsibilities.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make a formal presentation should notify the contact person before April 21, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their comments.

Open board discussion. The board will conduct a review of the Science Advisory Board's (SAB's) Site Visit Team draft report on the Analytical Methods Development Program, engage in discussions on this report, and come to a final conclusion on the recommendations to be made to the Director concerning this center program. The center will provide progress reports on the recommendations of previously reviewed research programs: (1) The Transgenics Program, and (2) Biochemical and Molecular Markers of Cancer Program. The center will also provide a review and examination of the process and the product of the Site Visit Teams over the past 3 years, and develop a future agenda for the SAB. A final agenda will be available on May 4 1995, from the contact person.

Closed board deliberations. The board will discuss personal information concerning individuals associated with these review programs, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(6)).

The Commissioner approves the scheduling of meetings at locations outside of the Washington, DC, area on the basis of the criteria of 21 CFR 14.22 of FDA's regulations relating to public advisory committees.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 13, 1995

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–9576 Filed 4–13–95; 4:14 pm]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511).

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicaid, Limitations on Provider Related Donations and Health Care Related Taxes; Limitations on Payments to Disproportionate Share Hospitals (MB–62–IFC); *Form No.:* HCFA–R–148; *Use:* Sections 2, 3, and 4 of Public Law 102–234 require States to report information related to provider related tax and donation programs and aggregate disproportionate share hospital payments. The requirements included in this regulation implement these statutory requirements; *Respondents:* State or local government; *Number of Respondents:* 51; *Total Annual Responses:* 1,928; *Total Annual Hours Requested:* 116,896.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Date: April 16, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 95–9461 Filed 4–17–95; 8:45 am]

BILLING CODE 4120–03–P

Substance Abuse and Mental Health Services Administration (SAMHSA); Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council on May 15 1995.

VOL
60
ISS
74
AP
18
1995
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A portion of the meeting of the SAMHSA National Advisory Council will be open and will include a discussion of SAMHSA's reauthorization and budget issues, the SAMHSA strategic plan and managed care activities within the Agency. In addition, there will be status reports by the Council's workgroups on Health Care Reform, AIDS, Program Evaluation, and Co-Occurring Mental Illness and Substance Use Disorders. Attendance by the public will be limited to space available.

The meeting will also include the review, discussion and evaluation of contract proposals. Therefore, a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c) (3), (4) and (6) and 5 U.S.C. app. 2 10(d).

A summary of the meeting and a roster of council members may be obtained from: Ms. Susan E. Day, Program Assistant, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 12C–15, Rockville, Maryland 20857. Telephone: (301) 443–4640.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee name: Substance Abuse and Mental Health Services Administration, National Advisory Council.

Meeting date: May 15, 1995.

Place: Chevy Chase Holiday Inn, Palladian-East Room, 5520 Wisconsin Avenue, Chevy Chase, Maryland.

Open: May 15, 1995, 9 a.m. to 3 p.m.

Closed: May 15, 1995, 3:15 p.m. to 6:30 p.m.

Contact: Toian Vaughn, Room 12C–15, Parklawn Building, Telephone (301) 443–4640.

Dated: April 12, 1995.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 95–9473 Filed 4–17–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3847; FR–3928–N–03]

NOFA for the Public and Indian Housing Tenant Opportunities Program Technical Assistance: Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: FY 1995 funding availability; notice of amendment.

SUMMARY: On March 1, 1995, HUD announced the availability of $25 million for FY 1995 under the Public and Indian Housing Tenant Opportunities Program (TOP). This notice removes the requirement for National Resident Organizations (NROs), Regional Resident Organizations (RROs), and Statewide Resident Organizations (SROs) to provide evidence of support by the local housing authority as a rating factor, and narrative descriptions. This change also applies to the Application Kit and hence, evidence of support from the Housing Authority is not required.

DATES: This notice does NOT revise or extend the application deadline set forth in the March 1, 1995 NOFA.

FOR FURTHER INFORMATION CONTACT: Christine Jenkins or Barbara J. Armstrong, Office of Community Relations and Involvement, Department of Housing and Urban Development, 451 Seventh Street SW., Room 4112, Washington, D.C. 20410; telephone: (202) 708–3611. All Indian Housing applicants may contact Charles Bell, Office of Native American Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room B–133, Washington, DC 20410; telephone: (202) 755–0032. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on 1–800–877–TDDY (1–800–877–8339) or (202) 708–9300 for information on the program. (Other than the "800" TDD number, telephone number are not toll-free.)

SUPPLEMENTARY INFORMATION: In a Notice of Funding Availability (NOFA) published in the Federal Register on March 1, 1995 (60 FR 11222), the Department announced the availability of $25 million for the Public and Indian Housing Tenant Opportunities Program, of which $1 million is set aside for National Resident Organizations (NROs), Regional Resident Organizations (RRO), and Statewide Resident Organizations (SRO). The Department is removing the requirement for NROs/RROs/SROs to provide evidence of support from the local housing authority. For further information about specific aspects of the NOFA and application requirements, please refer to the March 1, 1995 NOFA.

Accordingly, FR Doc. 95–4866, NOFA for the Public and Indian Housing Tenant Opportunities Program Technical Assistance, published on March 1, 1995 (60 FR 11222), is amended as follows:

1. On page 11229, column 2, under Section I.M of the NOFA (Rating Factors—NROs/RROs/SROs) rating factor 2 is amended by revising the heading of this factor and by revising the paragraph concerning the "high score" to read as follows:

(2) *Evidence of Support by NRO/RRO/SRO Board of Directors.* (Maximum Points: 10):

• A high score (Maximum Points: 10) is received where the NRO/RRO/SRO provides documentation that shows support from its board of directors, as evidenced by a board resolution, minutes of meetings, and letters of support.

2. On page 11229, column 1, under Section I.M of the NOFA (Rating Factors—NROs/RROs/SROs) rating factor 3 is amended by revising the introductory paragraph and by revising the paragraphs concerning "high score" and "low score" to read as follows:

(3) *Evidence of Prior Resident Training Experience.* This factor can be demonstrated by the support of RCs/RMCs/ROs. The letters of support should indicate the success and quality of prior training.

• A high score (Maximum Points: 30) is received where the applicant provides documentation that shows support by the residents (i.e., letters of support, board resolutions, and minutes of meetings).

* * * * *

• Low score (Maximum Points: 5) is received where the applicant fails to provide documentation of support by the development's residents, but support is mentioned.

3. On page 11230, column 3, under Section II.B of the NOFA (Application Submission and Development), factors 2 and 3 under paragraph (2)(b)(iv) are revised to read as follows:

• Factor 2: A narrative describing the extent to which the board of the NRO/RRO/SRO supports the proposed activities.

• Factor 3: A narrative describing the applicant's prior experience in training residents, which can be demonstrated by the support of the RCs/RMCs/ROs. The letters of support should indicate the success and quality of training.

4. On page 11230, column 3, under Section II.B of the NOFA (Application Submission and Development), paragraph (3)(a) is revised to read as follows:

(3) *HA Support.* (a) HUD is in full support of a cooperative relationship between each RC/RMC/RO and its HA. A resident organization is urged to involve its HA in the application planning and submission process. This can be achieved through meetings to discuss resident concerns and objectives and how best to translate these objectives into activities in the application. The RC/RMC/RO is also encouraged to obtain a letter of support from the HA, indicating to what extent the HA supports the proposed activities listed by the RC/RMC/RO and how the HA will assist the RC/RMC/RO.

* * * * *

Dated: April 12, 1995.

Kevin E. Marchman,

Deputy Assistant Secretary for Office of Distressed and Troubled Housing Recovery.

[FR Doc. 95–9450 Filed 4–17–95; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Burro Management; Final Environmental Impact Statement, Lake Mead National Recreation Area; Record of Decision

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91–190 as amended), and specifically to regulations promulgated by the Council on Environmental Quality at 40 CFR 1505.2, the National Park Service, Department of the Interior, has approved a Record of Decision for the Final Environmental Impact Statement on Burro Management for Lake Mead National Recreation Area, Arizona and Nevada.

The National Park Service will implement the proposed action as identified in the Final Environmental Impact Statement for Burro Management, issued March 3, 1995.

Copies of the Record of Decision may be obtained from the Superintendent, Lake Mead National Recreation Area, 601 Nevada Highway, Boulder City, Nevada 89005; or by calling the park at (702) 293–8949.

Dated: April 5, 1995.

Patricia L. Neubacher,

Regional Director, Western Region.

[FR Doc. 95–9489 Filed 4–17–95; 8:45 am]

BILLING CODE 4310–70–M

National Park System Advisory Board; Notice of Reestablishment

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (1988). Following consultation with the General Services Administration and the Office of Management and Budget, notice is hereby given that the Secretary of the Interior is administratively reestablishing an advisory committee known as the National Park System Advisory Board.

The purpose of this committee is to advise the Director of the National Park Service on matters relating to the National Park Service, the National Park System, and programs administered by the National Park Service.

The Secretary of the Interior will appoint to this committee 12 members who have outstanding expertise in the fields of history, archeology, architecture, historical architecture, landscape architecture, anthropology, biology, ecology, or social science, or in other professional disciplines important to the mission of the National Park Service. Consideration will be given to a cross-section of qualified individuals who are interested in and directly affected by National Park Service activities, and who represent divergent points of view. Appointments will be made from among individuals who have been identified through contacts with and among National Park Service and Department of the Interior staff; other Federal agencies; professional organizations; institutions of higher learning; and non-governmental organizations having a special interest in the mission of the National Park Service; and the general public.

Certification

I hereby certify that the administrative reestablishment of the National Park System Advisory Board is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Act of August 25, 1916 (16 U.S.C. 1, *et seq.*), as amended and supplemented, and other statutes relating to the administration of the National Park System.

Dated: March 3, 1995.

Bruce Babbitt,

Secretary of the Interior

[FR Doc. 95–9493 Filed 4–17–95; 8:45 am]

BILLING CODE 4310–70–P

Notice of Inventory Completion of Native American Human Remains From the Site of Mo'omomi on Molokai, HI in the Possession of the Los Angeles County Museum of Natural History, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of the inventory of human remains from the site of Mo'omomi on Molokai, HI that are presently in the possession of the Los Angeles County Museum of Natural History.

A detailed inventory and assessment of these human remains has been made by the Los Angeles County Museum of Natural History's curatorial staff in consultation with representatives of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei*, a Native Hawaiian organization as defined in 25 U.S.C. 3001(11).

The human remains consist of 36 whole and three fragmentary human teeth. The human remains were donated to the Los Angeles County Museum of Natural History in 1927 by Dr. William A. Bryan, then Director of the Los Angeles County Museum. The remains were catalogued as A.1463.27–36.

The catalog description states the remains are a "box of human teeth from the battle field of Momumi." A representative of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei* has identified "Momumi" as the site of Mo'omomi on Molokai and has stated that the sand dunes of Mo'omomi have long been used as burial grounds of ancestral Native Hawaiians. Reference to the "battlefield of Momumi" is thought to refer to this burial area. The representative of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei* has also provided documentation that shows that Bryan and others collected human remains from Mo'omomi.

Inventory of the human remains and review of the accompanying documentation indicate that no known individuals were identifiable. Based on the above information, officials of the Los Angeles County Museum of Natural History have determined that pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity which can be reasonably traced between these human remains and present-day Native Hawaiian organizations.

This notice has been sent to officials of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei*, the Office of Hawaiian Affairs, and the Molokai Island Burial Council. Representatives of any other Native Hawaiian organization which believes itself to be culturally affiliated with these human remains should contact Dr. Margaret Ann Hardin, Curator and Section Head, Anthropology, Los Angeles County Museum of Natural History, 900 Exposition Blvd., Los Angeles, CA 90007, telephone: (213) 744–3382, before May 18, 1995. Repatriation of these human remains to

VOL 60 ISS 74 AP 18 1995 UMI

Hui Mālama I Nā Kūpuna 'O Hawai'i Nei may begin after that date if no additional claimants come forward.

Dated: April 6, 1995.

Francis P. McManamon,

Departmental Consulting Archeologist, Chief, Archeological Assistance Division.

[FR Doc. 95–9490 Filed 4–17–95; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the Ojai Valley Historical Society and Museum, Ojai, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given under provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from the site designated CA-Ven 132 and currently in the control of the Ojai Valley Historical Society and Museum.

A detailed inventory and assessment of the human remains and associated funerary objects has been made by the staff of the Ojai Valley Historical Society and Museum in consultation with representatives of the Santa Ynez Band of Mission Indians.

The human remains consist of a minimum of 180 individuals. There are also 12,118 funerary objects, including shell, stone, and trade beads and pendants; projectile points; crystals; stone bowls; scrapers; fish hooks; copper pitcher; bone, wooden, and metal awls; square iron nails; shark's teeth; metal bowl fragments; stone balls; clay tiles; and pestle and mortars. The human remains and associated funerary objects were excavated in 1969 by Robert O. Browne at CA-Ven 132 (Awhay village site), located on private property near Ojai, CA. The human remains and associated funerary objects were accessioned into the collections of the Ojai Valley Museum that same year CA-Ven 132 has been identified as Awhay, a Chumash village occupied during the historic period. All archeological evidence indicates that these human remains and associated funerary objects were interred during this historic period occupation of the site. 11,599 of the objects were shell, stone and trade beads believed to be parts of necklaces and bracelets or other objects of personal adornment placed with the remains. Mortuary practices documented by Mr. Browne are consistent with those used by the Chumash tribe during the historic period. Genealogical evidence shows that families from the Awhay village site relocated to the Santa Inez Mission during the Spanish period and are presently members of the Santa Inez Band of Mission Indians.

Inventory of the human remains and review of the accompanying documentation indicate that no known individuals were identifiable. Based on the above information, officials of the Ojai Valley Historical Society and Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these human remains and associated funerary objects and the Santa Ynez Band of Mission Indians. Further, officials of the Ojai Valley Historical Society and Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these human remains and associated funerary objects and the present-day Santa Ynez Band of Mission Indians.

At the request of the Santa Ynez Band of Mission Indians, the Ojai Valley Historical Society and Museum has transferred these human remains and associated funerary objects to the Repository for Archaeological and Ethnographic Collections (RAEC), Department of Anthropology, University of California, Santa Barbara, CA. The RAEC has accepted this collection for curation under the condition that the Santa Ynez Band of Mission Indians retains control of this collection.

This notice has been sent to officials of the Santa Ynez Band of Mission Indians. Representatives of any other Indian tribe which believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Mary K. Porter, Curator, Ojai Valley Historical Society and Museum, P.O. Box 204, Ojai, CA 93024, telephone (805) 646–0445 before May 18, 1995. Repatriation of these human remains and associated funerary objects to the Santa Ynez Band of Mission Indians may begin after that date if no additional claimants come forward.

Dated: April 7, 1995.

Francis P. McManamon,

Departmental Consulting Archeologist, Chief, Archeological Assistance Division.

[FR Doc. 95–9491 Filed 4–17–95; 8:45 am]

BILLING CODE 4310–70–F

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 8, 1995. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by May 3, 1995.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Baldwin County

Killcreas House, 46833 AL 225, Bay Minette vicinity 95000556

ALASKA

Yukon-Koyukuk Borough-Census Area

Coal Creek Historic Mining District, Along the Yukon R., SE of Circle, in Yukon–Charley Rivers NP, Circle vicinity 95000573

ARKANSAS

Benton County

Peel, Col. Samuel W., House, 400 S. Walton Blvd., Bentonville, 95000571

Sebastian County

Coop Creek Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 236 over Coop Cr., Mansfield vicinity, 95000566

Hackett Creek Bridge (Historic Bridges of Arkansas MPS), AR 45 over Hackett Cr., Hackett vicinity, 95000568

Sebastian County Road 5G Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 5G over tributary of West Cr., Hartford vicinity, 95000567

Sebastian County Road 4G Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 4G over tributary of Sugar Loaf Cr., West Hartford vicinity, 95000569

State Highway 96 Bridge (Historic Bridges of Arkansas MPS), AR 96 over tributary of Vache Grasse Cr., Greenwood vicinity, 95000564

Vache Grasse Creek Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 77A over Vache Grasse Cr., Milltown vicinity, 95000563

Van Buren County

Van Bureau County Road 2E Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 2E over tributary of Driver's Cr., Scotland vicinity, 95000570

Washington County

Washington County Road 80F Bridge (Historic Bridges of Arkansas MPWS), Co. Rd. 80F over Muddy Fork of the Illinois R., Viney Grove vicinity, 95000565

COLORADO

La Plata County

Ochsner Hospital, 805 Fifth Ave., Durango, 95000534

CONNECTICUT

Fairfield County

Aqudoth Sholem Synagogue (Historic Synagogues of Connecticut MPS), 29 Grove St., Stamford, 95000561

New Haven County

Ahavas Sholem Synagogue (Historic Synagogues of Connecticut MPS), 30 White St., New Haven, 95000559

Beth El Synagogue (Historic Synagogues of Connecticut MPS), 359–375 Cooke St., Waterbury, 95000560

New London County

Ohev Sholem Synagogue (Historic Synagogues of Connecticut MPS), 109 Blinman St., New London, 95000562

FLORIDA

Manatee County

Reasoner, Egbert, House, 3004 53rd Ave. E., Oneco, 95000555

Orange County

Women's Club of Winter Park, 419 Interlachen Ave., Winter Park, 95000537

GEORGIA

Hall County

Rucker, Beulah, House—School, 2110 Athens Hwy., Gainesville vicinity, 95000533

IOWA

Benton County

Sankot Motor Company, 807 13th St., Belle Plaine, 95000558

Pottawattamie County

Wickham—De Vol House, 332 Willow Ave., Council Bluffs, 95000557

MICHIGAN

Wayne County

Architects Building, 415 Brainard St., Detroit, 95000531

MONTANA

Daniels County

Daniels County Courthouse, 213 Main St., Scobey, 95000535

Lewis and Clark County

Cuthbert, D.H., House, 602 N. Ewing, Helena, 95000536

Missoula County

Northside Missoula Railroad Historic District, Roughly bounded by Worden Ave., 6th St., I–90, C St. and the Northern Pacific RR tracks, Missoula, 95000532

NEW YORK

New York County

Times Square Hotel, 255 W. 43rd St., New York, 95000530

PENNSYLVANIA

York County

Bridge 182+42, Northern Central Railway (Railroad Resources of York County MPS), Northern Central RR tracks over PA 616 and Codorus Cr., Shrewsbury Township, Glen Rock vicinity, 95000542

Bridge 5+82 Northern Central Railway (Railroad Resources of York County MPS), Northern Central RR tracks over S. Main St., N of Rt. 214, Seven Valleys, 95000548

Bridge 634, Northern Central Railway (Railroad Resources of York County MPS), Northern Central RR tracks over unnamed rd. and Codorus Cr., Shrewsbury Township, Railroad vicinity 95000543

Deer Creek Bridge, Stewartstown Railroad (Railroad Resources of York County MPS), Stewartstown RR tracks over Deer Cr. at Deer Creek Rd., Shrewsbury and Hopewell Townships, Shrewsbury vicinity, 95000544

Delta Trestle Bridge, Maryland and Pennsylvania Railroad (Railroad Resources of York County MPS), Maryland and Pennsylvania RR tracks over unnamed stream, E of Bunker Hill Rd., Peach Bottom Township, Delta, 95000550

Howard Tunnel, Northern Central Railway (Railroad Resources of York County MPS), Northern Central RR tracks near S. Br., Codorus Cr., North Codorus Township, New Salem vicinity, 95000541

Muddy Creek Bridge, Maryland and Pennsylvania Railroad (Railroad Resources of York County MPS), Maryland and Pennsylvania RR tracks over Muddy Cr., E of Creek Rd., Peach Bottom and Lower Chanceford Townships, Sunnyburn vicinity, 95000540

New Freedom Railroad Station, Northern Central Railway (Railroad Resources of York County MPS), Front St., New Freedom, 95000539

Ridge Road Bridge, Stewartstown Railroad (Railroad Resources of York County MPS), Stewartstown RR tracks over Ridge Rd., Hopewell Township, Stewartstown vicinity, 95000545

Scott Creek Bridge—North, Maryland and Pennsylvania Railroad (Railroad Resources of York County MPS), Maryland and Pennsylvania RR tracks over Scott Cr., W of Watson's Corner and S of PA 851, Peach Bottom Township, Bryansville vicinity, 95000551

Shrewsbury Railroad Station, Stewartstown Railroad (Railroad Resources of York County MPS), S. Main St. at Stewartstown RR tracks, Shrewsbury, 95000546

South Road Bridge, Northern Central Railway (Railroad Resources of York County MPS), Northern Central RR tracks over unnamed cr. at S. Br., Codorus Cr., Springfield Township, Larue, 95000549

Stewartstown Engine House, Stewartstown Railroad (Railroad Resources of York County MPS), N. Hill St., Stewartstown, 95000554

Stewartstown Railroad Station (Railroad Resources of York County MPS), jct. of W. Pennsylvania Ave. and Hill St., Stewartstown, 95000553

Stone Arch Road Bridge, Stewartstown Railroad (Railroad Resources of York County MPS), Stewartstown RR tracks over Stone Arch Rd., Shrewsbury Township, Railroad vicinity, 95000547

Valley Road Bridge, Stewartstown Railroad (Railroad Resources of York County MPS), Stewartstown RR tracks over Valley Rd., Hopewell Township, Stewartstown vicinity, 95000552

TENNESSEE

Cocke County

Cocke County Courthouse (Historic County Courthouse of Tennessee MPS), 111 Court Ave., Newport, 95000538

VERMONT

Rutland County

Hosford—Sherman Farm (Agricultural Resources of Vermont MPS), VT. 30, Poultney, 95000572

[FR Doc. 95–9492 Filed 4–17–95; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–1 (Sub-No. 260X)]

Chicago and North Western Railway Company—Abandonment Exemption—Hayward Spur in Sawyer County, WI

Chicago and North Western Railway Company (C&NW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its line of railroad, known as the Hayward Spur, in Hayward, Sawyer County, WI. The line extends from milepost 102.0 to milepost 103.26, near Hayward, a distance of 1.26 miles.[1]

C&NW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) all overhead traffic previously routed over this line has recently been rerouted to alternate lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

[1] C&NW states that the involved line segment is an unused industrial spur and that the track was formerly part of a longer C&NW line. It cites *The Atchison, Topeka and Santa Fe Railway Company—Abandonment Exemption—In Lyon County, KS*, Docket No. AB–52 (Sub-No. 71X) (ICC served June 17, 1991) for the proposition that Commission approval is required for abandonment of the track because of its prior main line status.

VOL 60 ISS 74 AP 18 1995 UMI

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 18, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by April 28, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 8, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Robert T. Opal, 165 North Canal St., Chicago, IL 60606–1551.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

C&NW has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 21, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 11, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9550 Filed 4–17–95; 8:45 am]

BILLING CODE 7035–01–P

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB–1 (Sub-No. 258X)]

Chicago and North Western Railway Company—Abandonment Exemption—in Dane County, WI

Chicago and North Western Railway Company (C&NW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 2,100 feet of its line of railroad known as the Central Soya Spur extending from milepost 89.9 to a point 1,320 feet west of McKee Road near Madison, in Dane County, WI.[1]

C&NW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 18, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by April 28, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 8, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Robert T Opal, Senior Commerce Counsel, Chicago and North Western Railway Company, 165 North Canal Street, Chicago, IL 60606–1551.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 21, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 11, 1995.

By the Commission, David M Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary

[FR Doc. 95–9551 Filed 4–17–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–383 (Sub-No. 2X)]

Wisconsin & Southern Railroad Co.—Discontinuance of Operations Exemption—Dodge County, WI [Docket No. AB–343 (Sub-No. 3X)] Wisconsin Department of Transportation—Abandonment Exemption—Dodge County, WI

On the Commission's own motion, Docket No. AB–383 (Sub-No. 2X) is reopened for the purpose of exempting Wisconsin Department of Transportation's (WisDOT) abandonment of, and Wisconsin & Southern Railroad Co.'s (WSOR) discontinuance of service over, the 1.3-mile Beaver Dam Loop between mileposts 149.0 and 150.3 in Beaver Dam, Dodge County, WI.[1]

WisDOT and WSOR certify that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in complainant's favor within the last 2 years; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 and 1152.50(d)(1) (notice to government agencies), and 49 CFR 1105.12 (newspaper publication) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether employees are adequately protected, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective May 18, 1995, unless stayed or a statement of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[2] statements of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by April 28, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 8, 1995. An original and 10 copies of any such filing must be sent to the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, one copy must be served on Allyn Lepeska, Wisconsin Department of Transportation, Office of General Counsel, Room 115 B, P.O. Box 7910, Madison, WI 53707, and Robert A. Wimbish, REA, CROSS & AUCHINCLOSS, Suite 420, 1920 N Street, N.W., Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

The Commission's Section of Environmental Analysis (SEA) issued an environmental assessment of abandonment of the involved line on May 9, 1994. A copy of the EA may be obtained by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 11, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9546 Filed 4–17–95; 8:45 am]

BILLING CODE 7035–01–P

[1] C&NW states that the involved line segment is an unused industrial spur and that the track was formerly part of a longer C&NW line. It cites *The Atchison, Topeka and Santa Fe Railway Company—Abandonment Exemption—in Lyon County, KS*, Docket No. AB–52 (Sub-No. 71X) (ICC served June 17, 1991) for the proposition that Commission approval is required for abandonment of the track because of its prior main line status.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt of Rail Abandonment—Offers of Finan Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[1] WisDOT acquired the involved line, among others, under § 5(b)(2) of the Milwaukee Railroad Restructuring Act in *State of Wisconsin—Acquisition of Certain Lines of Chicago, Milwaukee, St Paul and Pacific Railroad Company*, Finance Docket No. 29237 (ICC served Feb. 1, 1980). WSOR was authorized to operate the involved line, among others, in *Wisconsin and Southern Railroad Co.—Operation—Of a Line of Railroad in Dodge, Fond du Lac, Green Lake, Columbia, Milwaukee, Washington, Waukesha, and Winnebago Counties, WI*, Finance Docket No. 28375, *et al* (ICC served Nov 5, 1980).

WSOR initiated this proceeding on April 18, 1994, by filing a verified notice under the Commission's class exemption procedure at 49 CFR Part 1152, Subpart F—*Exempt Abandonments and Discontinuances* to abandon the involved line. WSOR's notice was rejected because the only entity that lawfully could abandon the line was WisDOT, which owned the line and had a residual common carrier obligation with respect thereto. *Wisconsin & Southern Railroad Co.—Abandonment Exemption—In Dodge County, WI*, Docket No. AB–383 (Sub-No. 2X) (ICC served June 22, 1994).

On February 7, 1995, WisDOT tendered a petition under 49 U.S.C. 10505 for an exemption from Subtitle IV of Title 49 of the United States Code to abandon the involved line. By letter filed April 6, 1995, WSOR requests permission to participate for the purpose of exempting its discontinuance of operations over the involved line. The WisDOT pleading is accepted for filing as a verified notice under the class exemption. The involved line qualifies for treatment under those rules.

Because WisDOT proposes to abandon the involved line, the only exemption it requires is from 49 U.S.C. 10903. Lines such as the Beaver Dam Loop that have been out of service for 2 years or more have been exempted from 49 U.S.C. 10903 by rule in Subpart F. The exemption is invoked by filing a notice. WisDOT's filing meets all of the requirements of such a notice. Adequate notice to government agencies and to the public has already been provided by WSOR. An exemption from Subtitle IV would be appropriate if WisDOT would be subject to any other provision of the Interstate Commerce Act in the future, but that is not the case. WisDOT reiterates its belief that it is not subject to the Commission's jurisdiction, but notes that it is not seeking a rehearing of that issue but rather an exemption for abandonment of the line.

[2] The Commission will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Commission in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Commission may take appropriate action before the exemption's effective date.

[3] *See Exempt of Rail Abandonment—Offers of Finan Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Commission will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

Release of Waybill Data

The Commission has received a request from Illinois Central Railroad (IC) for permission to use certain data from the 1993 I.C.C. Waybill Sample. A copy of the request (WB472–4/06/95) may be obtained from the I.C.C. Office of Economic and Environmental Analysis.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to this request, they should file their objections with the Director of the Commission's Office of Economic and Environmental Analysis within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.8.

Contact: James A. Nash, (202) 927–6196.

Vernon A. Williams,

Secretary

[FR Doc. 95–9549 Filed 4–17–95; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this

VOL 60 ISS 74 AP 18 1995 UMI

notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 *AND* to the Department of Justice's Clearance Officer, Mr Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *AND* the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *AND* to Mr Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Revision of a Currently Approved Collection

(1) National Prisoner Statistics—Drug Use Forecasting Program.

(2) None. Bureau of Justice Statistics, United States Department of Justice.

(3) Primary—State, Local, or Tribal Government. Others—None. The Drug Use Forecasting Program monitors the extent and type of drug use among arrestees in 24 cities. Data is collected in each city every three months from a new sample of arrestees. Participation is voluntary and anonymous, data collected include an interview and urine specimen.

(4) 35,000 annual respondents at .25 hours per response.

(5) 8,750 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 13, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9465 Filed 4–17–95; 8:45 am]

BILLING CODE 4410–18–M

Drug Enforcement Administration

Alvin E. French, M.D.; Revocation of Registration

On February 7, 1994, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Alvin E. French, M.D., of Lima, New York. The Order to Show Cause sought to revoke Dr. French's DEA Certificate of Registration, AF6392106, and to deny any pending applications for renewal of such registration.

The Order to Show Cause was sent to Dr. French at his registered location, 7304 East Main Street, Box 304, Lima, New York 14485, by registered mail. The Order to Show Cause was returned to DEA unclaimed with a notation on the envelope indicating that the forwarding order had expired. DEA investigators contacted the United States Post Office in Lima as well as the New York State Department of Health in an unsuccessful attempt to obtain a current address for Dr. French. Due to the fact that Dr. French has left no forwarding address, he is deemed to have waived his opportunity for a hearing. The Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file. *See* 21 CFR 1301.54(d) and 1301.57.

The Order to Show Cause alleged that Dr. French's DEA registration should be revoked in light of the fact that he is no longer authorized by the State of New York to handle controlled substances. *See* 21 U.S.C. 824(a)(3). The investigative file reveals that Dr. French voluntarily surrendered his New York State medical license effective November 5, 1992.

It is well established that the DEA cannot register a practitioner who is not duly authorized to handle controlled substances in the state in which he does business. *See* 21 U.S.C. 823(f). The DEA has consistently held that practitioners who lack state authorization to handle controlled substances cannot be registered by DEA. *See Raman Pla, M.D.*, 51 FR 41168 (1986); *George S. Heath, M.D.*, 51 FR 28610 (1986); *Dale D. Shahan, D.D.S.*, 51 FR 23461 (1986).

Consequently, the Deputy Administrator concludes that since Dr French is no longer authorized to handle controlled substances by the State of New York, Dr. French's DEA Certificate of Registration should be revoked. Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AF6392106, issued to Alvin E. French, M.D., be, and it hereby is, revoked, and that any pending applications for registration be, and they hereby are, denied. This order is effective May 18, 1995.

Dated: April 12, 1995.

Stephen H. Greene,

Deputy Administrator

[FR Doc. 95–9466 Filed 4–17–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

April 13, 1995.

The Department of Labor has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act (44 U.S.C. Chapter 35) of 1980, as amended (Pub L. 96–511). A copy may be obtained by calling the Department of Labor Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about this ICR should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget Room 10235, Washington, DC 20503 ((202) 395–7316).

Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Type of Review: Extension

Agency: Employment and Training Administration.

Title: Procedures for Classifying Labor Surplus Areas.

OMB Number: 1205–0207

Frequency: On occasion

Affected Public: Federal Government; State, Local or Tribal Government

Number of Respondents: 52.

Estimated Time Per Respondent: 1 hour

Total Burden Hours: 208

Description: The Department of Labor issues an annual list of labor surplus areas (LASs) so that Federal agencies can direct procurement contracts to employers in high unemployment areas. The annual LAS list is updated during the year based on petitions submitted to the Department of Labor by State employment security agencies requesting additional areas for classification.

Theresa M. O'Malley,

Acting Departmental Clearance Officer

[FR Doc. 95–9561 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

Employment and Training Administration

[TA–W–27,496]

Allied-Signal Aerospace Company, Garrett Fluid Systems Division, Tempe, AZ; Negative Determination On Reconsideration

On November 18, 1994 the United States Court of International Trade (USCIT) remanded for further investigation the Department's negative determination for workers at the subject firm in *Bennett* v. *Secretary of Labor* (93–02–00080).

The workers filing under petition TA–W–29,426 were initially denied eligibility to apply for trade adjustment assistance (TAA) on September 18, 1992. The notice was published in the **Federal Register** on October 13, 1992 (57 FR 46880). The workers were denied on application for reconsideration on December 4, 1992. This notice was published in the **Federal Register** on December 11, 1992 (57 FR 58826).

The Department's denial was based on the fact that the increased import criterion and the "contributed importantly" test of the Worker Group Eligibility Requirements of the Trade Act were not met. U.S. imports of parts for military aircraft decreased in the latest 12-month period May through April 1991–1992 compared with the same period in 1990–1991.

The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers. The Department conducted a bid survey on 11 major customers of Allied Signal for engine starters, valve, actuation systems and aerospace hardware. The survey showed no foreign impact since the successful awardees were all domestic firms.

The petition shows that the workers in question were from the Tool Room which did not produce an article which actually went on the market. The Tool Room is a support group to production operations.

Other findings show that the production workers were not separately identifiable by product and that only a negligible amount of production was shifted to Singapore. The findings also show that sales are equal to production. None of the systems produced at Tempe were produced for inventory or shelf-life.

The Department, on reconsideration, was able to contact most of persons indicated on petitioner Jeffrey Whitehead petition attachment. None of the company officials or former company officials had any evidence which would contradict the Department's negative decision.

Also, a reconsideration, the Department obtained a breakout of Tempe's sales for 1990, 1991 and 1992 together with Tempe's purchases from Singapore. All of Singapore's sales went to Allied Signal at Tempe. Tempe's purchases from Singapore declined in 1991 and 1992 compared to the year immediately prior. Although production was resourced to Singapore, the major share came from Allied Signal's outside domestic subcontractors and as such did not have any adverse effect on Allied Signal's Tempe facility.

Further, Tempe's purchases from Singapore were insignificant when compared to total Tempe's sales and would not form a basis for a worker group certification. Tempe's Singapore purchases accounted for only 1.4 percent of Tempe's sales in both 1990 and 1991 and declined to 1.2 percent of Tempe's sales in 1992.

Tempe's sales in 1992 were relatively constant declining only about 1.2 percent compared to 1991. Some major categories of sales (pneumatic systems and jet engine starters) actually increased in 1992 compared to 1991.

Certification under the Trade Act of 1974 is based on increased imports of articles that are like or directly competitive with those articles produced at the workers' firm. The subject firm produces mainly pneumatic systems, engine starters, air valve systems and actuation systems for the aerospace industry. The shipment of tooling (holding fixtures and gauges) and the construction of new tooling for the Singapore plant would not form a basis for a worker group certification. Tooling and the shipment of capital goods to Singapore are not like or directly competitive with the articles produced at Tempe which go into the market as final articles or systems. Much of the weight behind the petitioners allegations comes from a former tool room supervisor who was contacted but could not provide any documentation or evidence to support the petitioners' claim.

The findings show that worker separations occurred because of corporate reorganizing and redesigning.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 3rd day of April, 1995.

Victor J. Trunzo,

Program Director, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9557 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,683]

Amphenol Aerospace, Sidney, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 23, 1995 applicable to the workers engaged in employment related to the production of electrical connectors at the subject firm.

The certification notice will soon be published in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The findings show that a coverage overlap exists between this certification and TA–W–27,901 issued on January 26, 1993 for workers of the same worker group in Sidney, New York.

Accordingly, the Department is amending the subject certification to reflect the proper coverage.

The amended notice applicable to TA–W–30,683 is hereby issued as follows:

"All workers of Amphenol Aerospace, Sidney, New York engaged in employment related to the production of electrical connectors who became totally or partially separated from employment on or after January 26, 1995 are eligibile to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 7th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9562 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,734]

Artex Manufacturing Company, Inc., Yates Center, Kansas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 13, 1995 in response to a worker petition which was filed on January 30, 1995 on behalf of

VOL 60 ISS 74 AP 18 1995 UMI

workers at Artex Manufacturing Company, Inc., Yates Center, Kansas.

The Department has recently conducted an investigation regarding certification of eligibility to apply for worker adjustment assistance for workers at Artex Manufacturing Company, Inc. in Abilene, Texas (TA–W–30,628); Overland Park, Kansas; Boonville, Missouri (TA–W–30,630); Manhattan, Kansas (TA–W–30,630A) and at Yates Center, Kansas (TA–W–30,628B) which resulted in a denial issued on March 3, 1995. The denial was based on the results of a survey of Artex's customers; and no new information is available that would reverse that determination. Therefore, further investigation would serve no purpose and this investigation has been terminated.

Signed in Washington, D.C. this 3rd day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9560 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,886]

Nylon Staple Fibers Department, Lowland, TN; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 27, 1995 in response to a worker petition which was filed on behalf of workers at BASF Corporation, Lowland, Tennessee.

All workers of the subject firm are covered under amended certification (TA–W–30,360B). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 10th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9565 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below not later than April 28, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below not later than April 28, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 3rd day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioners (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Exxon Production Research Co (Co)	Houston, TX	04/03/95	03/20/95	30,871	Support Services—Oil and Gas.
United Merchants & Manufacturers (Co)	Buffalo, SC	04/03/95	03/19/95	30,872	Unfinished Apparel Fabric.
Joshua Meier Corporation (Wrks)	North Bergen, NJ	04/03/95	03/16/95	30,873	Office Products.
Texwipe Company (Wrks)	Upper Saddle Riv., NJ	04/03/95	03/14/95	30,874	Swabs & Foam Cleaning Products.
Val Mode Lingerie, Inc. (Co)	Bridgeton, NJ	04/03/95	03/17/95	30,875	Ladies Sleepwear.
Anchor Hocking Packagng Co. (GMP)	Glessboro, NJ	04/03/95	01/26/95	30,876	Lids Or Caps For Food and Pharmaceutical.
Bogart Graphics (Wkrs)	Erie, PA	04/03/95	03/19/95	30,877	Business Forms.
Russell-Newman, Inc. (Co)	Stamford, TX	04/03/95	03/17/95	30,878	Robes and Loungewear.
Cabot Oil & Gas Corporation (Co)	Houston, TX	04/03/95	03/23/95	30,879	Crude Oil and Natural Gas.
G.E. Power Systems (IUE)	Schenectady, NY	04/03/95	11/19/94	30,880	Turbines and Generators.
Electro-Scan, Inc. (IBT)	Garfield, NJ	04/03/95	03/20/95	30,881	Picture Tubes.
Fischer & Porter Electronics (Wrks)	Vineland, NJ	04/03/95	03/22/95	30,882	Printing Circuits and Components.
Jaclyn, Inc. (Co)	West New York, NJ	04/03/95	03/21/95	30,883	Leather and Plastic Handbags.
Pine Grove Woolens, Inc. (Wrks.)	Pine Grove, PA	04/03/95	03/24/95	30,884	Ladies' Coats and Jackets.
Saratoga Resources, Inc. (Wkrs)	Houston, TX	04/03/95	02/27/95	30,885	Oil and Gas.
Ametek Aerospace Products, Inc. (Wkrs)	Allentown, PA	04/03/95	03/21/95	30,886	Printed Circuit Boards.
Texaco Inc.-TRMI (Wkrs)	Bellaire, TX	04/03/95	03/18/95	30,887	Oil and Gas Marketing Services.
Rogge Affiliates, Inc. (Wkrs)	Bandon, OR	04/03/95	03/16/95	30,888	Veneer and Wood.
DeCorp, Inc. (Wkrs)	Carrollton, TX	04/03/95	03/24/95	30,889	Women's Dresses and Sportswear.
Robertshaw Control CO (Wkrs)	El Paso, TX	04/03/95	03/20/95	30,890	Control Valves and Parts.
Citation Oil and Gas Corp. (Wkrs)	Hays, KS	04/03/95	03/03/95	30,891	Oil Drilling.
Central Products Co. (UPIU)	Linden, NJ	04/03/95	03/22/95	30,892	Reinforced Sealing Tapes.

APPENDIX—Continued

Petitioners (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
General Motors Corp—Service Parts (Wkrs)	Sparks, NV	04/03/95	03/22/95	30,893	Service—Security Guards.
Jen-Bel, Inc. (Wkrs)	Youngstown, OH	04/03/95	03/23/95	30,894	Sewing Contractor of Ladies' Coats.
Lar Sportswear Co. (Wkrs)	Palmerton, PA	04/03/95	03/25/95	30,895	Ladies' Blouses.
Phillips Petroleum Co (Wkrs)	Bartlesville, OK	04/03/95	03/23/95	30,896	Crude Oil Exploration.
Stewart Warner Instrument Corp. (Wkrs)	El Paso, TX	04/03/95	03/23/95	30,897	Automotive Gauges.

[FR Doc. 95–9556 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

Footwear Management Co.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: TA–W–30,545 Nocona Boot Company, Nocona, Texas; TA–W–30,545A Tony Lama Division, El Paso, Texas; A/K/A Justin Management Company, El Paso, Texas; TA–W–30,545B Justin Boot Company, Fort Worth, Texas; TA–W–30,545C Justin Boot Company, Cassville, Missouri; TA–W–30,545D Justin Boot Company, Sarcoxie, Missouri; and TA–W–30,545E Justin Boot Company, Carthage, Missouri.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued an Amended Certification of Eligibility to Apply for Worker Adjustment Assistance on February 9, 1995, applicable to all workers at the subject firm. The amended notice was published in the **Federal Register** on February 17, 1995 (60 FR 9409).

New information received from the company show that some of the workers at the Tony Lama Division, El Paso, Texas, had their unemployment insurance (UI) taxes paid to Justin Management Company.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–30,545 is hereby issued as follows:

"All workers of Footwear Management Company in the following divisions: Tony Lama Division, El Paso, Texas, a/k/a Justin Management Company, El Paso, Texas; Justin Boot Company, Fort Worth, Texas; Cassville, Missouri; Sarcoxie, Missouri; and Carthage Missouri and the Nocona Boot Company in Nocona, Texas who became totally or partially separated from employment on or after November 28, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 6th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services Office of Trade Adjustment Assistance.

[FR Doc. 95–9566 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA—00340]

Leland Electrosystems, Inc., Erie, PA; Negative Determination Regarding Application for Reconsideration

By an application postmarked March 24, 1995, the petitioners requested administrative reconsideration of the subject petition for transitional adjustment assistance (NAFTA–TAA). The denial notice was issued on February 27, 1995 and will soon be published in the **Federal Register**

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The findings show that the workers produced aerospace spare parts for various electrical starters, motors and generators for the aerospace industry. The subject plant closed on January 11, 1995 as a result of an eviction notice from the landlord. All production was transferred to another domestic corporate facility in Ohio. A domestic transfer of production would not form a basis for a worker group certification.

The Department's denial was based on the fact that there was no shift in production from the workers' firm to Mexico or Canada, nor did the subject firm import aerospace parts from Mexico or Canada. The Department's survey also revealed that the customer imports from Mexico or Canada did not contribute importantly to worker separations at the firm.

On further review the findings show that the "dominant cause" for the worker separations was the closing down of the subject facility resulting from the eviction notice.

Petitioners allege a decline in sales and orders in overseas markets, v.g. Canada, England, Scotland, Singapore and China. A decline in export sales and orders would not form a basis for a worker group certification.

Petitioners also name a customer with facilities in Mexico and Puerto Rico that had declining purchases from the subject firm. The findings show that the named customer was a very small customer of the subject firm in the relevant time periods. The named customer accounted for less than one-half of one percent of Leland's sales in each of the relevant periods. Further, shipments from Puerto Rico are not considered imports as Puerto Rico is within the U.S. Custom Trade Zone.

The workers were also denied trade adjustment assistance under petition TA–W–30,677

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 3rd day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–9558 Filed 4–17–95; 8:45 am]

BILLING CODE 4510–30–M

VOL 60 ISS 74 AP 18 1995 UMI

[TA-W-30,638]

MPI Warehouse Specialty Company Williston, North Dakota; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at MPI Warehouse Specialty Co., Williston, North Dakota. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-30,638; MPI Warehouse Specialty Company Williston, North Dakota (April 3, 1995)

Signed at Washington, D.C. this 4th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-9559 Filed 4-17-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-30,593]

Pyke Manufacturing Company Salt Lake City, UT TA-W-30,593A Pyke Manufacturing Company Manti, UT and Pyke Retail Outlet Stores in the Following States: TA-W-30,593B Utah; TA-W-30,593C Nevada; TA-W-30,593D Idaho; TA-W-30,593E Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) as amended by the Omnibus Trade and Competitiveness Act of 1988 (P.L. 100-418), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that retail outlet stores throughout Utah, Nevada, Idaho and Oregon were part of Pyke Manufacturing Company, and worker separations occurred at those locations during the relevant periods.

Accordingly, the Department is amending the certification to include the subject firm's retail outlet workers throughout Utah, Nevada, Idaho and Oregon.

The amended notice applicable to TA-W-30,593 is hereby issued as follows:

"All workers of Pyke Manufacturing Company, Salt Lake City and Manti, Utah and all workers in Pyke retail outlet stores throughout Utah, Nevada, Idaho and Oregon who became totally or partially separated from employment on or after December 13, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, D.C. this 5th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-9564 Filed 4-17-95; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-30,890]

Robertshaw Controls Company, El Paso, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 3, 1995 in response to a worker petition which was filed on behalf of workers at Robertshaw Controls Company, El Paso, Texas.

A negative determination applicable to the petitioning group of workers was issued on December 22, 1994 (TA-W-30451). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C., this 6th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-9555 Filed 4-17-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-29,802]

Western Geophysical Company, A/K/A Halliburton Company, A/K/A Western Atlas International, Inc., Houston, Texas and TA-W-29,802A Alvin, Texas, and TA-W-29,802B Offshore Marine Operations in the Gulf of Mexico and Operating at Various Locations in the Following States: TA-W-29,802C Oklahoma, TA-W-29,802D California, TA-W-29,802E Colorado, TA-W-29,802F Louisiana, TA-W-29,802G Alaska, TA-W-29,802H Alabama, TA-W-29,802I Kansas, TA-W-29,802J Wyoming, TA-W-29,802K Montana, and TA-W-29,802L Texas (exc. Houston and Alvin) Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification notice was issued on May 31, 1994 and published in the **Federal Register** on June 14, 1994 (59 FR 30618). The certification was amended on June 15, 1994 and July 18, 1994. The notices were published in the **Federal Register** on June 28, 1994 (59 FR 33306) and July 26, 1994 (59 FR 37997), respectively.

At the request of the company, the Department reviewed the certification for workers of the subject firm. The investigation findings show that workers were separated from the subject firm at various locations in Oklahoma, California, Colorado, Louisiana, Alaska, Alabama, Kansas, Wyoming, Montana and Texas, except Houston and Alvin and they should be included under this certification.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA-W-29,802 is hereby issued as follows:

"All workers of Western Geophysical Company (the successor-in-interest firm to Halliburton Geophysical Services), Houston, Texas and Alvin, Texas and offshore in the Gulf of Mexico and operating at various locations in the following states: Oklahoma, California, Colorado, Louisiana, Alaska, Alabama, Kansas, Wyoming, Montana and Texas (except Houston and Alvin) who had wages reported under Western Atlas International, Inc., Houston, Texas for UI tax account purposes and who had become totally or partially separated from employment on or after April 25, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 7th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-9563 Filed 4-17-95; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95-026]

NASA Advisory Council, Earth Systems Science and Applications Advisory Committee (ESSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Earth Systems Science and Applications Advisory Committee.

DATES: May 17, 1995, 8:30 a.m. to 5:30 p.m.; and May 18, 1995, 8:30 a.m. to 5:30 p.m..

ADDRESSES: National Aeronautics and Space Administration, MIC-7 Conference Room, 300 E Street, S.W., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert A. Schiffer, Code YS, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358-1876.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The provisional agenda for the meeting is as follows: NASA Response to ESSAAC Recommendations; Impact of NASA Streamlining on MTPE Science Program; the MTPE Strategic Plan; committee discussion; and findings, conclusions, and recommendations.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 12, 1995.

Dansker Green,

Chief, Management Controls Office.

[FR Doc. 95-9484 Filed 4-17-95; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-412]

Duquesne Light Company; Ohio Edison Company; The Cleveland Electric Illuminating Company; The Toledo Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-73, issued to Duquesne Light Company, et al., (the licensee), for operation of the Beaver Valley Power Station, Unit 2 (BVPS-2), located in Beaver County, Pennsylvania.

The proposed amendment would revise Technical Specification (TS) 4.6.2.2.d to delete the reference to the specific test acceptance criteria for the Containment Recirculation Spray Pumps and replace the specific test acceptance criteria with reference to the requirements of the Inservice Testing (IST) Program. In addition, the 18-month test frequency would be replaced with the test frequency requirements specified in the IST Program. The current footnote (1) pertaining to the performance of recirculation spray pump 2RSS*P21A would be deleted.

This proposed amendment is requested to be processed as an exigent TS change in accordance with 10 CFR 50.91(a)(6). Exigent processing is being requested because BVPS-2 entered Mode 5 for the purpose of performing its fifth refueling outage on March 25, 1995, and upon completion of testing of Recirculation Spray Pump 2RSS*P21A, the licensee concluded that this pump failed to satisfy the specific test acceptance criteria in TS 4.6.2.2.d. Pump disassembly for inspection and repairs commenced on April 5, 1995. The pump is scheduled to be reassembled and flow tested by April 12, 1995. BVPS-2 is currently scheduled to enter Mode 4 on May 4, 1995, at which time pump 2RSS*P21A is required to be operable. If the pump does not meet the specific test acceptance criteria currently in TS 4.6.2.2d at that time, BVPS-2 will be prohibited from entry into Mode 4. With the proposed revision to TS 4.6.2.2.d, the actual performance of pump 2RSS*P21A could then be evaluated against accident analysis assumptions and the pump's acceptance criteria could then be revised under the provisions of 10 CFR 50.59 to establish IST Program requirements that would continue to maintain the plant within the accident analysis assumptions. The licensee could not have foreseen this event since the pump's performance could not be tested until the plant entered Mode 5 on March 25, 1995.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The change does not result in a modification to plant equipment nor does it affect the manner in which the plant is operated. The Recirculation Spray System (RSS) pumps are normally in a standby condition and only operate during accident mitigation. Since the physical plant equipment and operating practices are not changed, as noted above, there is no change in the probability of an accident previously evaluated.

The proposed change will not lower the pump performance operability criteria for the RSS pumps. The required values for developed pump head and flow will continue to satisfy accident mitigation requirements and will be maintained and controlled in the Beaver Valley Power Station (BVPS) Unit No. 2 Inservice Testing (IST) Program.

Since the proposed change does not lower the RSS pump performance acceptance criteria, the containment depressurization system will continue to meet its design basis requirements. The proposed change will not impose additional challenges to the containment structure in terms of peak pressure. The calculated offsite dose consequences of a design basis accident (DBA) will remain unchanged since the one hour release duration remains unchanged. The ability of the RSS pumps to provide sufficient long term core cooling also remains unchanged. The proposed change in the RSS pump surveillance interval from 18 months

VOL 60 ISS 74 AP 18 1995 UMI

to every refueling, will not affect the ability of the pumps to perform as assumed in the Safety Analysis. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

Based on the above discussion, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not alter the method of operating the plant. The recirculation spray system is an accident mitigation system and is normally in standby. System operation would be initiated following a containment pressure increase resulting from a DBA. The RSS pumps will continue to provide sufficient flow to mitigate the consequences of a DBA. RSS operation continues to fulfill the safety function for which it was designed and no changes to plant equipment will occur. As a result, an accident which is new or different then any already evaluated in the Updated Final Safety Analysis Report will not be created due to this change.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The surveillance requirements for demonstrating that the RSS pumps are operable will continue to assure the ability of the system to satisfy its design function. Therefore, the proposed change will not affect the ability of the RSS to perform its safety function.

The containment spray system design requirement to restore the containment to subatmospheric condition within one hour will still be satisfied. This proposed change does not have any affect on the containment peak pressure since the containment peak pressure occurs prior to the initiation of any of the two containment spray systems.

There is no resultant change in dose consequences since the containment will continue to reach a subatmospheric pressure within the first hour following a DBA.

The ability of the RSS pumps to provide sufficient long term core cooling remains unchanged since the pump performance requirements will continue to be controlled in a manner to ensure safety analysis assumptions are met.

The proposed deletion of footnote (1) is administrative in nature and therefore does not involve a reduction in a margin of safety.

Therefore, based on the above discussion, it can be concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has requested and in a letter dated April 12, 1995, the licensee agreed to modify proposed TS 4.6.2.2.d to delete references to IST program acceptance criteria. This change will ensure that pump performance acceptance criteria be related to the containment safety analysis. On this basis, the NRC staff proposes to determine that the amendment request, as modified, involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 18, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and made it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 10, 1995, as supplemented April 12, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania, 20037.

Dated at Rockville, Maryland, this 12th day of April 1995.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9505 Filed 4–17–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 150–00003 and License No. ARK–740–BP–1–94 EA 94–241]

Otho G. Jones (d.b.a. Jones Inspection Services) Alderson, Oklahoma; Order Suspending Authority Under General License (Effective Immediately)

I

Jones Inspection Services is the holder of Radioactive Material License ARK–740–BP–1–94 (License) issued by the State of Arkansas, an NRC Agreement State. The License, as amended on December 22, 1994, authorizes Jones Inspection Services to possess, store and use sealed radioactive sources in various radiographic exposure devices in the State of Arkansas. Jones Inspection Services does not hold a specific NRC license. In accordance with 10 CFR 150.20, a general license is granted to Agreement State licensees to conduct the same activities in areas under NRC jurisdiction (referred to as "reciprocity") provided that the NRC is notified and the other provisions of 10 CFR 150 20 are followed.

II

On July 14, 1994, an NRC investigation was conducted to determine whether Mr. Otho G. Jones, dba Jones Inspection Services, was using regulated byproduct material in NRC jurisdiction without NRC authorization. Based on interviews with Mr. Jones, the sole proprietor of Jones Inspection Services, and on documents obtained from the Central Oklahoma Oil and Gas Company, the investigation confirmed that Jones Inspection Services had illegally used and possessed regulated byproduct material in Oklahoma, a non-Agreement State in which the NRC maintains regulatory authority over such material. The NRC's investigation determined that Jones Inspection Services stored three radiographic exposure devices containing sealed sources of radioactive material in Oklahoma from at least January 1, 1994, to July 1994, and that these devices had been used to perform industrial radiography in Oklahoma from April 1, 1994, to June 27, 1994 for Central Oklahoma Oil and Gas Company. The investigation also determined that these activities were conducted without NRC authorization. Specifically, the investigation found that Jones Inspection Services did not hold an NRC license as required by 10 CFR 30.3 and that Jones Inspection Services did not notify the NRC, in accordance with the provisions of 10 CFR 150.20, that it planned to conduct radiography at temporary job sites in NRC jurisdiction. Thus, these activities were not subject to inspection by the NRC to assure the protection of the public health and safety.

In a signed statement Mr. Jones provided to the NRC investigator, Mr. Jones said that he did not know he had to notify the NRC and did not know to whom the information should be provided. Further, Mr. Jones indicated that he "did think to call the NRC about reciprocity, but I am afraid of the NRC and did not want more hassle [sic] so I chose not to call them about working in Oklahoma." Furthermore, Mr. Jones was the sole proprietor of Tumbleweed X-Ray Company in September 1991 when that company was issued an NRC order specifically suspending its authority to conduct radiography activities in Oklahoma and other states in which NRC maintained regulatory authority.[1]

[1] Otho G. Jones' previous company, Tumbleweed X-Ray Company, was prohibited by Order for conducting licensed activities in non-Agreement

Continued

VOL 60 ISS 74 AP 18 1995 UMI

On July 21, 1994, the NRC issued a Confirmatory Action Letter (CAL 4–94–07) which described voluntary commitments made by Mr. Jones to discontinue the use of three radiographic exposure devices in his possession and to transfer the devices to authorized recipients. Mr. Jones informed NRC Region IV personnel on the same date that he had transferred two devices to an NRC licensee in the State of Oklahoma and was preparing to ship a third device on or around August 8, 1994. These commitments were replaced and superseded by the Order to Cease and Desist Use and Possession of Regulated Byproduct Material in NRC Jurisdiction dated July 26, 1994. Since that time, Mr. Jones has received Amendment 07, dated December 22, 1994, to his Arkansas License ARK–740–BP–1–94 to store radioactive byproduct material in the State of Arkansas and at temporary job sites. This does not include areas under NRC jurisdiction.

On January 31, 1995, the NRC conducted an enforcement conference with Mr. Jones to ascertain the circumstances under which Mr. Jones conducted licensed activities in NRC jurisdiction without obtaining a specific or general use license. During that conference, Mr. Jones stated, in part, that he was unaware of NRC requirements related to an Agreement State licensee's conduct of radiography in the State of Oklahoma (a non-Agreement State) and that he had made no effort to determine what the requirements were. Based on the information provided during the conference, it was determined that Mr. Jones was not knowledgeable of current NRC requirements. While Mr. Jones stated that he knew "radiation safety [requirements] to the letter," he admitted that he had "no idea" if NRC requirements for radiography had changed in the last three years. Furthermore, despite the fact that Mr. Jones filed for reciprocity in Kansas and Kentucky, both of which are Agreement States, he did not take reasonable steps to determine the reciprocity requirements for working in Oklahoma.

III

Based on the above, the NRC concludes that Mr. Otho G. Jones has demonstrated careless disregard for NRC requirements. This resulted in Mr Jones' use of regulated byproduct material in NRC jurisdiction without first acquiring an NRC specific use license or following the reciprocity requirements of 10 CFR 30.3 and 10 CFR 150.20, respectively. This is prohibited by Section 81 of the Atomic Energy Act (AEA) of 1954, as amended, and by 10 CFR 30.3, which state that (except for persons exempt as provided in 10 CFR Parts 30 and 150) no person shall possess or use byproduct material, except as authorized in a specific or general use NRC license.

Improper handling of byproduct material can result in unnecessary exposure to radiation and, in some cases, serious injury. The Atomic Energy Act and the Commission's regulations require that the possession of licensed material be under a regulated system of licensing and inspection. Mr. Jones' actions in this case prevented the NRC from assuring, through licensing and inspection, that byproduct material is being used safely and in accordance with all NRC requirements.

Based on Mr. Jones' lack of knowledge and competence in following, and careless disregard for, NRC requirements, I lack the requisite reasonable assurance that Jones Inspection Services can conduct licensed activities in compliance with NRC requirements and that the health and safety of the public will be protected in areas under NRC jurisdiction should Mr. Jones, Jones Inspection Services, or any successor entity engage in activities under the reciprocity provisions of 10 CFR 150.20. Therefore, the public health, safety, and interest require that the July 26, 1994 Order to Mr. Otho G. Jones, d.b.a. Jones Inspection Services, be superseded by this Order to suspend Mr. Jones', Jones Inspection Services', or any successor entity's authority granted by 10 CFR 150.20 to conduct activities in NRC jurisdiction. This Order is applicable to successor entities engaged in NRC or Agreement State licensed activities within NRC jurisdiction wherein Mr Jones is a corporate officer or owner. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 30 and 10 CFR Part 150, it is hereby ordered, effective immediately, that the authority of Mr. Otho G. Jones, d.b.a. Jones Inspection Services, and any successor entity in which Mr. Jones is a corporate officer or owner, to conduct activities in areas under NRC jurisdiction under the general license granted by 10 CFR 150.20(a) is suspended.

The Regional Administrator, Region IV, may, in writing, relax or rescind this Order upon demonstration by Mr. Jones for good cause. Any request by Mr. Jones for relaxation or rescission of this Order must address the following:

A. Demonstration of Mr. Jones' understanding of applicable NRC requirements for the possession, storage and use of regulated byproduct material in NRC jurisdiction prior to filing an NRC From 241 for performance of licensed activities in areas of NRC jurisdiction under the provisions of 10 CFR 150.20. This will require that Mr. Jones complete a formal training process and satisfactorily pass a written exam administered during the formal training process on NRC regulations applicable to the use of regulated byproduct material. Formal training shall be conducted by a consultant as described in paragraph B below or another entity approved by NRC.

B. Retention of the services of an independent individual or organization (consultant) to perform a program and process implementation audit, to demonstrate Mr. Jones' knowledge of, and compliance with, applicable NRC requirements, prior to Mr. Jones conducting activities within NRC jurisdiction. The name and qualifications of the consultant proposed to conduct the audit shall be submitted to the Regional Administrator, NRC Region IV, for review and approval. The consultant shall be independent of Mr. Otho Jones and Jones Inspection Services and have experience in the implementation of a radiation safety program and NRC requirements.

C. The audit required by Paragraph B shall be completed and Mr. Jones shall have the consultant submit its audit report and any recommendations for improvement to Mr. Jones and directly to the Regional Administrator, NRC Region IV prior to Mr. Jones submitting an NRC Form 241. This shall include the demonstrated resolution of any weaknesses or negative findings identified by the audit or a statement as to why the weaknesses or findings are not valid or do not need correction. The audit of Mr. Jones' performance shall include, but not be limited to:

1. A review of the administrative, operating and emergency procedures to ensure that such procedures are appropriate and meet the requirements established for working under NRC reciprocity requirements.

2. On-site review of Mr Jones' field activities, and interviews and observations of any selected authorized users (other than Mr. Jones) working at various locations.

D. Mr. Jones shall provide notice to the NRC seven days prior to working in areas of NRC jurisdiction under the provisions of 10 CFR 150.20.

V

In accordance with 10 CFR 2.202, Mr. Jones must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order.

The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which Mr. Jones or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, D.C. 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011–8064, and to Mr. Jones, if the answer or hearing request is by a person other than Mr. Jones. If a person other than Mr. Jones requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Jones or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Otho Jones, Jones Inspection Services, or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 11th day of April 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 95–9506 Filed 4–17–95; 8:45 am]

BILLING CODE 7590–01–M

States until September 6, 1994. Thus, had Mr. Jones notified the NRC of his intent to conduct radiography activities in Oklahoma in early 1994, it is likely that the NRC would have acted to prohibit those activities.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Joint Panel Meeting on Perceived Risks and Socioeconomic Impacts

Pursuant to its authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act of 1987, the Nuclear Waste Technical Review Board's (the Board) Panel on the Environment & Public Health and Panel on Risk & Performance Analysis will hold a joint meeting May 23–24, 1995, in Las Vegas, Nevada. The meeting, which is open to the public, will be held at the St. Tropez Hotel, 455 East Harmon, Las Vegas, Nevada 89109; Tel (702) 369–5400; Fax (702) 369–1150. The meeting will begin at 1:00 P.M. on Tuesday, May 23, recess at approximately 5:00 P.M., and continue on Wednesday, May 24, from 8:30 A.M. to noon.

The meeting will consist of a panel discussion by a diverse group of social scientists. The topic for discussion is peoples' beliefs about the risks associated with a potential high-level radioactive waste repository at Yucca Mountain, Nevada, and how those beliefs might result in significant socioeconomic impacts. The Board is looking at this issue because socioeconomic impacts are addressed as part of the Department of Energy's site-suitability guidelines, 10 CFR 960.

As with all the Board's meetings, time is set aside on the agenda for comments and questions from the public. In order to ensure that everyone wishing to speak is offered time to do so, the Board encourages those who have comments to sign the *Public Comment Register* located at the sign-in table. Written comments for the record also may be submitted to the Board staff at the sign-in table.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's high-level radioactive waste and spent nuclear fuel. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for the disposal of that waste.

Transcripts of the meeting will be available on computer disk or on a library-loan basis in paper format from Davonya Barnes, Board staff, beginning July 10, 1995. For further information, contact Frank Randall, External Affairs, Nuclear Waste Technical Review Board, 1100 Wilson Boulevard, Suite 910, Arlington, Virginia 22209; (703) 235–4473.

Dated: April 13, 1995.

William Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 95–9510 Filed 4–17–95; 8:45 am]

BILLING CODE 6820–AM–M

OFFICE OF MANAGEMENT AND BUDGET

Notice of Meeting

AGENCY: Office of Management and Budget.

ACTION: National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting; notice of meeting and invitation for public comments.

SUMMARY: The National Industrial Security Program Policy Advisory Committee will hold a meeting that shall serve as a forum to discuss National Industrial Security Program (NISP) policy issues in dispute, and to advise the Chairman on these issues. The agenda will include a discussion of the status of the NISP, the NISP Operating Manual, and accounting for security costs within industry. Written statements from the public will be accepted in lieu of an opportunity for comment at the meeting.

The Information Security Oversight Office (ISOO) will host the meeting. ISOO is part of OMB's Office of Information and Regulatory Affairs.

DATES: The meeting will be held on Thursday, April 20, 1995, at 10 a.m., at the Information Security Oversight Office in Washington, DC. The meeting is open to the public; however, due to access procedures, the names and

VOL 60 ISS 74 AP 18 1995 UMI

telephone numbers of those planning to attend must be submitted to the Information Security Oversight Office no later than April 18, 1995.

ADDRESSES: The meeting will be held at the Information Security Oversight Office, Suite 530, 750 17th Street, NW, Washington, DC 20006.

Written statements may be forwarded by mail to the above address, or faxed to (202) 395–7460.

FOR FURTHER INFORMATION CONTACT: For additional information about the meeting or to submit the names of those planning to attend, contact Mrs. Neala Enfinger of the Information Security Oversight Office at (202) 395–7442.

Sally Katzen,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 95–9488 Filed 4–17–95; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

WTO Dispute Settlement Proceedings Concerning Reformulated and Conventional Gasoline

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that a dispute settlement panel convened under the Agreement Establishing the World Trade Organization (WTO) at the request of Venezuela will examine an Environmental Protection Agency regulation concerning reformulated and conventional gasoline. USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before May 16, 1995 in order to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESS: Comments may be submitted to the Office of the General Counsel, Attn: Venezuela Gasoline Dispute, Room 223, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Rachel Shub, Assistant General Counsel, Office of the General Counsel, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, DC 20506, (202) 395–7305.

SUPPLEMENTARY INFORMATION: At Venezuela's request, a WTO dispute settlement panel will examine whether EPA's "Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline," dated December 15, 1993 (59 FR 7716; February 16, 1994) is consistent with U.S. obligations under the General Agreement on Tariffs and Trade (GATT) 1994 and the Agreement on Technical Barriers to Trade (TBT Agreement). Australia, Canada, the European Communities and Norway have reserved their rights to intervene in the panel proceedings as third parties. (On April 10, 1995, Brazil requested separate consultations with the United States under the GATT 1994 and the TBT Agreement regarding EPA's regulation.)

Members of the panel are currently being selected, and the panel is expected to meet as necessary at the WTO headquarters in Geneva, Switzerland to examine the dispute. Under normal circumstances, the panel would be expected to issue a report detailing its findings and recommendations in six to nine months.

An earlier dispute settlement proceeding regarding the EPA regulation, which was initiated by Venezuela under the GATT 1947 (see 59 FR 52034; October 13, 1994), has been terminated.

Major Issues Raised by Venezuela and Legal Basis of Complaint

Venezuela has asserted that EPA's regulation accords less favorable treatment to Venezuela gasoline than to U.S.-produced gasoline and to gasoline produced in third countries, and thus is inconsistent with Articles I and III of the GATT 1994 and Article 2.1 of the TBT Agreement. Venezuela has also asserted that the regulation creates unnecessary obstacles to international trade and therefore is inconsistent with Article 2.2 of the TBT Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issue raised in the dispute. The provisions of 15 CFR §§ 2006.13(a) and (c) (providing that comments received will be open to public inspection) and 2006.15 will apply to comments received. Comments must be in English and provided in fifteen copies. Pursuant to 15 CFR § 2006.15, confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in contrasting color ink at the top of each page.

Pursuant to section 127(e) of the URAA, USTR will maintain a public file on this dispute settlement proceeding, which will include a list of comments received, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington DC 20506. An appointment to review the docket (Docket WTO/D–1, "Venezuela-United States: U.S. EPA Gasoline Standards"), may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Ira S. Shapiro,

General Counsel.

[FR Doc. 95–9516 Filed 4–17–95; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer (202) 942–8800.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extension: Form 1–E, File No. 270–221; Rule 206(3)–2, File No. 270–216; Rules 8b–1 through 8b–32, File No. 270–135.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission has submitted for OMB approval requests for extensions on the following rules and form:

Form 1–E under the Securities Act of 1933, is a report made pursuant to rules 604 and 605 of Regulation E. Form 1–E is the form that a small business investment company or business development company making an offering under Regulation E uses to notify the Commission of the offering. In most cases, an offering circular is filed with the Form 1–E. Rule 604 under Regulation E specifies the filing and content of a filing of notification on Form 1–E. Rule 605 specifies the filing and use of the offering circular. For each of the 4 registrants that prepare Form 1–E and an offering circular a year, the burden hours are approximately 100 hours.

Rule 206(3)–2 permits registered investment advisers to comply with Section 206(3) of the Investment Advisers Act of 1940 by obtaining a blanket consent from a client to enter into agency cross transactions, provided certain disclosure is made to the client. Approximately 214 respondents utilize the rule annually, necessitating about 122 responses each year, for a total of 26,108 responses. Each response requires about .5 hours, for a total of 13,054 hours.

Rules 8b–1 through 8b–32 provide standard instructions to guide persons when filing registration statements under the Investment Company Act of 1940. Rules 8b–1 through 8b–32 impose burdens only in the context of the preparation of the various registration forms. Accordingly, no separate burden estimate is being submitted for Rules 8b–1 through 8b–32 and burden estimates are, or will be, made for each of the registration statement forms.

Direct general comments to the OMB Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549, and SEC Clearance Officer, Office of Management and Budget, Paperwork Reduction Project 3235–0232 (Form 1–E); 3235–0243 (Rule 206(3)–2); 3235–0176 (Rules 8b–1 through 8b–32), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 3, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9527 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35591; File No. SR–Phlx–95–07]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to the Proposed Rule Change Relating to the Listing and Trading of Options and Long-Term Options on the Phlx USTOP 100 Index

April 11, 1995.

I. Introduction

On January 30, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Phlx USTOP 100 Index ("USTOP 100 Index" or "Index"). Notice of the proposal appeared in the Federal Register on February 20, 1995.[3] The Exchange filed Amendment No. 1 to the proposed rule change on March 7, 1995,[4] and Amendment No. 2 on March 17, 1995.[5] This order approves the Exchange's proposal, as amended.

II. Description of Proposal

A. Composition of the Index

The Phlx proposes to list for trading options on the Phlx USTOP 100 Index, a new broad-based stock index to be calculated and maintained by the Phlx. The Index will be composed of 100 of the most highly capitalized, widely-held U.S. common stocks representing a variety of industries, including, but not limited to, technology, manufacturing, and the service industries. Ninety-four of the components in the Index are listed on the New York Stock Exchange ("NYSE") and six are Nasdaq National Market securities. All component stocks are "reported securities," as that term is defined in Rule 11Aa3–1 of the Act.[6] The Phlx also proposes to list long-term Index options on the full-value Index ("Index LEAPS").[7] Index LEAPS will trade independent of and in addition to regular USTOP 100 Index options traded on the Exchange; however, as discussed below, position and exercise limits of Index LEAPS and regular Index options will be aggregated. The Phlx will use a capitalization-weighted methodology to calculate the value of the Index.[8]

As of the close of trading on March 6, 1995, the Index was valued at 427.98.[9] As of January 23, 1995, the market capitalizations of the individual securities in the Index ranged from a high of $88.12 billion to a low of $7.61 billion, with the mean being $20.66 billion. The market capitalization of all the securities in the Index was approximately $2.07 trillion. The total number of shares outstanding on that date for the stocks in the Index ranged from a high of 557.2 million shares to a low of 15.7 million shares. In addition, the average daily trading volume in the U.S. of the stocks in the Index for the six-month period from July 1, 1994, through December 31, 1994, ranged from a high of 3.06 million shares per day to a low of 207,795 shares per day. Finally, as of January 23, 1995, no one component accounted for more than 4.17% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 17.28% of the Index's value. The percentage weighting of the lowest weighted component on that date was 0.37% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 1.99% of the Index's value.

B. Maintenance

The Index will be maintained by the Phlx. The Phlx will make special adjustments to the securities comprising the Index to reflect such events as stock splits or reverse splits, spinoffs, stock dividends, reorganizations, recapitalizations, and similar events, upon their occurrence. In accordance with Phlx Rule 1009A, if any change in the nature of any stock in the Index occurs as a result of delisting, merger, acquisition or otherwise, the Exchange will take appropriate steps to delete that stock from the Index and replace it with another stock which the Exchange believes would be compatible with the intended market character of the Index. In making replacement determinations, the Exchange will also take into account the capitalization, liquidity, and volatility of a particular stock.

The Exchange represents that all of the stocks comprising the Index currently are options eligible[10] and

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] See Securities Exchange Act Release No. 35326 (February 3, 1995), 60 FR 8104 (February 20, 1995).

[4] In Amendment No. 1, the Phlx proposes to reset the starting value for the Index at 495.36 as of the opening on January 3, 1995, as opposed to 370 on December 14, 1994, as originally proposed. See Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Brad Ritter, Senior Counsel, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated March 7, 1995 ("Amendment No. 1").

[5] In Amendment No. 2, as discussed herein, the Phlx proposes to list long-term options on the Index. See Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Brad Ritter, Senior Counsel, OMS, Division, Commission, dated March 17, 1995 ("Amendment No. 2").

[6] See 17 CFR 240.11Aa3–1. A "reported security" is defined in paragraph (a)(4) of this rule as "any listed equity security or NASDAQ security for which transaction reports are required to be made on a real-time basis pursuant to an effective transaction reporting plan." A "transaction reporting plan" is defined in paragraph (a)(2) of this rule as "any plan for collecting, processing, making available or disseminating transaction reports with respect to transactions in reported securities filed with the Commission pursuant to, and meeting the requirements of, this section."

[7] See Amendment No. 2, *supra* note 5.

[8] See infra Section II.D, entitled "Calculation of the Index," for a description of this calculation method.

[9] See Amendment No. 1, *supra* note 4.

[10] The Phlx's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other

Continued

VOL 60 ISS 74 APR 18 1995 UMI

have standardized options listed on them. If at any time, less than 90% of the components in the Index, by weight, are options eligible, the Exchange will submit a Rule 19b–4 filing for Commission approval before opening any new series of options on the Index for trading. Further, the Exchange will submit a Rule 19b–4 filing for Commission approval prior to opening any new series of options on the Index if the number of stocks in the Index ever increases to more than 120 or decreases to less than 80.

C. Applicability of Phlx Rules Regarding Index Options

Except as modified by this order, Phlx Rules 1000A through 1103A, in particular, and Phlx Rules 1000 through 1070, in general, will be applicable to USTOP 100 Index options and Index LEAPS.

D. Calculation of the Index

The value of the USTOP 100 Index will be calculated using a capitalization-weighted methodology. The representation of each security in the Index will be proportional to the security's last sale price multiplied by the total number of shares outstanding, in relation to the total market value of all of the securities in the Index. The initial value of the Index was set to equal 405.36 index and reflects changes in the prices of the Index component securities relative to the Index's base date of January 3, 1995.[11] The formula for calculating the value of the Index is as follows:[12]

Current Index Value equals $(MV_1)+(MV_2)+\cdots(MV_{100})$ divided by Divisor and multiplied by 100

Where:

MV=Price x Shares outstanding for each component of the Index

Divisor=Number calculated to achieve a base value of 405.36 for the Index as of the opening of trading on January 3, 1995.

The Index divisor will be adjusted for changes in the capitalization of any of the component securities resulting from mergers, acquisitions, delistings, substitutions, and other like corporate events. The formula for adjusting the divisor is as follows:

Divisor equals to Total Capitalization (as a result of adjustments) divided by Old Index Value

The Index value will be updated dynamically at least once every 15 seconds during the trading day. The Phlx has retained Bridge Data, Inc. to compute the value of the Index. Pursuant to Phlx Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority ("OPRA"). The Index value will also be available on broker/dealer interrogation devices to subscribers of the option information.

The Index value for purposes of settling outstanding regular Index options and Index LEAPS contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component securities in their primary market on the last trading day prior to expiration. In the case of securities traded on and through Nasdaq, the first reported sale price will be used. Once all the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options and Index LEAPS contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, normally Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component security for purposes of determining the settlement value of the Index, the Phlx will wait until the end of the day on the last trading day before expiration.[13]

E. Contract Specifications

The proposed options on the Index will be cash-settled, European-style options.[14] Standard options trading hours (9:30 a.m. to 4:10 p.m. Eastern Standard time) will apply to the contracts. The Index multiplier will be 100. Strike prices will be set at 5.0 point intervals except exercise prices in the far-term series (*i.e.*, nine months to expiration) shall be set in 25.0 point intervals unless demonstrated customer interest exists at 5.0 point intervals.[15] Additional exercise prices will be added in accordance with Phlx Rule 1101A(a). Demonstrated customer interest will include institutional (firm), corporate or customer interest expressed directly to the Exchange or through the customer's floor brokerage unit but not interest expressed by a registered option trader ("ROT") with respect to trading for the ROT's own account.[16]

In addition, pursuant to Phlx rule 1012(a), there may-be-up to six expiration months outstanding at any given time. Specifically, there may be up to three expiration months from the March, June, September, and December cycle plus up to three additional near-term months so that the two nearest term months will always be available.

The Exchange also intends to list several Index LEAPS series that expire from 12 to 36 months from the date of issuance pursuant to Phlx Rule 1101A(b)(iii).[17]

F. Position and Exercise Limits, Margin Requirements, and Trading Halts

Position limits for the Index will be set at 25,000 contracts on the same side of the market, provided that no more than 15,000 of such contracts are in series in the nearest term expiration month.[18] Exercise limits will be set at the same level as position limits.[19] Positions in Index LEAPS will be aggregated with positions in regular Index options on a one-for-one basis for purposes of position and exercise limits.[20] Exchange rules applicable to options on the Index will be identical to the rules applicable to other broad-based index options for purposes of trading rotations, halts, and suspensions,[21] and margin treatment.[22]

G. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in Index options and Index LEAPS. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[23]

III. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[24] In particular, the Commission finds that the Index is broad-based, the proposed Index options and Index LEAPS are designed to reduce the potential for manipulation, and the proposal to list and trade options on the USTOP 100 Index is consistent with the Exchange's obligation to promote investor protection.

The Commission finds that the trading of options on the Index will permit investors to participate in the price movements of the 100 securities on which the Index is based. Further, trading of options on the Index will allow investors holding positions in some or all of the securities underlying the Index to hedge the risks associated with their portfolios. Accordingly, the Commission believes the USTOP 100 Index options and Index LEAPS will provide investors with an important trading and hedging mechanism that should reflect accurately the overall movement of 100 of the largest and most widely-held U.S. common stocks. By broadening the hedging and investment opportunities of investors, the Commission believes that the trading of Index options will serve to protect investors, promote the public interest, and contribute to the maintenance of fair and orderly markets.[25]

The trading of Index options and Index LEAPS on the USTOP 100 Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, however, for the reasons discussed below, that the Phlx adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the USTOP 100 Index is a broad-based index, and thus it is appropriate to permit Exchange rules applicable to the trading of broad-based index options to apply to the Index options and Index LEAPS. Specifically, the Commission believes the Index is broad-based because it contains 100 actively-traded stocks representing over 35 industry groups, and thus reflects a substantial segment of the U.S. equities market.

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component securities significantly minimize the potential for manipulation of the Index. First, the Index repesents and consists of the common stock values of 100 actively traded U.S. companies. Second, the overwhelming majority of the components that comprise the Index are actively traded, with an average daily trading volume for the period from July 1, 1994 through December 31, 1994, ranging from a high of 3.06 million shares per day to a low of 207,795 shares per day. Third, the market capitalizations of the securities in the Index are extremely large, raning from a high of $86.12 billion to a low of $7.61 billion as of January 23, 1995, with the mean being $20.67 billion. Fourth, no one particular security or

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things, meet the following requirements: (1) the public float must be at least 7,000,000 shares; (2) there must be a minimum of 2,000 stockholders; (3) trading volume in the U.S. must have been at least 2.4 million over the preceding twelve months; and (4) the U.S. market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* Phlx Rule 1009, Commentary .01.

[11] See Amendment No. 1, *supra* note 4.

[12] The formula for calculating the value of the Index is the same as that previously approved by the Commission for calculating the value of the Phlx Big Cap Index. *See* Securities Exchange Act Release No. 33973 (April 28, 1994), 59 FR 23245 (May 5, 1994). Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on February 2, 1995.

[13] Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on March 16, 1995.

[14] A European-style option can be exercised only during a specified period before the option expires.

[15] The limitations applicable to the listing of 25.0 point strike price intervals will be the same as those applicable to the listing of 25.0 point strike price intervals on far-term index option series listed on the Exchange's Big Cap Index. See Securities Exchange Act Release No. 34233 (June 17, 1994), 59 FR 32731 (June 24, 1994) ("Exchange Act Release No. 34233").

[16] Exchange Rule 1101A, Commentary .02, which already permits 25.0 point intervals in far-term series for the Exchange's other broad-based indexes will be amended to include this treatment for the USTOP 100 Index.

[17] See Amendment No. 2 *supra* note 5. The Exchange has also submitted a proposal to increase the maximum term to maturity for Index LEAPS from 36 months to 60 months for all of its options approved indexes. See Securities Exchange Act Release No. 35376 (February 14, 1995), 60 FR 9980 (February 22, 1995).

[18] See Phlx Rule 1001A(a)(i).

[19] See Phlx Rule 1002A.

[20] See Amendment No. 2, *supra* note 5.

[21] See Phlx Rule 1047A.

[22] See Phlx Rules 722 and 1000A.

[23] The Intermarket Surveillance Group ("ISG") was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the American Stock Exchange, Inc. ("Amex"); the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc.; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc. ("NASD"); the NYSE; the Pacific Stock Exchange, Inc.; and the Phlx. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[24] 15 U.S.C. 78f(b)(5) (1988 & Supp. V 1993).

[25] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed Index options and Index LEAPS will provide investors with a hedging vehicle that should reflect the overall movement of the 100 component stocks.

VOL 60 ISS 74 AP 18 1995 UMI

group of securities dominates the Index. Specifically, as of January 23, 1995, no one stock accounted for more than 4.17% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for only 17.28% of the Index's value. Fifth, all of the components in the Index have standardized options trading on them and the Phlx will maintain the Index so that at least 90% of the securities in the Index, by weight, are eligible for standardized options trading. This proposed maintenance requirement will ensure that the Index is substantially comprised of options eligible securities.[26] Sixth, the Index is comprised of stocks representing a diverse group of industries. Finally, the Commission believes that, as discussed below, existing mechanisms to monitor trading activity in the component securities will help deter as well as detect illegal trading activity involving the Index options and Index LEAPS.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as USTOP 100 Index options and Index LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the Phlx, the Commission believes that adequate safeguards are in place to ensure the protection of investors in USTOP 100 Index options and LEAPS.[27]

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a security index derivative product and the exchange(s) trading the securities underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the security index product less readily susceptible to manipulation.[28] In this regard, the Phlx, NYSE, Amex, and NASD are all members of the ISG, which provides for the exchange of all necessary surveillance information.[29]

D. Market Impact

The Commission believes that the listing and trading of USTOP 100 Index options and Index LEAPS on the Phlx will not adversely impact the underlying securities markets.[30] First, as described above, the Index is broad-based and composed of 100 stocks with no one stock dominating the Index. Second, because (i) at least 90% of the numerical value of the Index must be accounted for by securities that meet the Exchange's options listing standards, (ii) each of the component securities must be traded on either the NYSE or the Amex, or traded through Nasdaq as National Market securities, and (iii) the component securities must be subject to last sale reporting pursuant to Rule 11Aa3–1 of the Act,[31] the component securities generally will be actively-traded, highly-capitalized securities. Third, the 25,000 contract position and exercise limits, along with the 15,000 contract telescoping requirement, will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party performance will be minimized because the Index options will be issued and guaranteed by The Options Clearing Corporation just like any other standardized option traded in the United States. Fifth, existing Phlx stock index options rules and surveillance procedures will apply to options on the USTOP 100 Index.

Lastly, the Commission believes that settling expiring USTOP 100 Index options and Index LEAPS based on the opening prices of component securities is consistent with the Act. As noted in other contexts, valuing options for exercise settlement on expiration based on opening prices rather than closing prices may help reduce adverse effects on markets for securities underlying options on the Index.[32]

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Specifically, Amendment No. 1 merely changes the initial value of the Index. Because this amendment is being made prior to commencement of trading of Index options and Index LEAPS, the Commission believes that this change will not create any potential for investor confusion and therefore does not raise any new regulatory concerns.

Amendment No. 2 allows the Phlx to list Index LEAPS in addition to regular Index options. Because the proposed Index LEAPS will be subject to the same rules governing Index options and because positions in Index LEAPS will be aggregated with those in Index options for purposes of position and exercise limits, the Commission believes that Amendment No. 2 does not raise any regulatory concerns not already addressed by the Exchange, as discussed above.

Accordingly, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment Nos. 1 and 2 to the Phlx's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent

[26] Moreover, the Commission notes that if the Phlx increases the number of component securities to more than 120 or decreases that number to less than 80, the Phlx will be required to seek Commission approval pursuant to Section 19(b)(2) of the Act before listing new strike price or expiration month series of USTOP 100 Index options or Index LEAPS.

[27] The Commission also believes that the portion of the Exchange's proposal allowing 25.0 point strike price intervals for far-term option series strikes a reasonable balance between the Exchange's interest in limiting the number of outstanding strike prices in inactive far-term series and its interest in accommodating the needs of investors. In addition, the Commission believes that the provision allowing the Exchange to list additional far-term series at 5.0 point intervals in response to genuine customer requests should provide the Exchange with the flexibility to meet the needs of investors and, in turn, should allow investors to establish options positions that are tailored to meet their investment objectives. The Commission expects the Exchange to monitor the listing of additional strikes in order to ensure that new strikes are added only in response to genuine customer requests. See Exchange Act Release No. 34233, *supra* note 15 and Exchange Rule 1101A, Commentary .02.

[28] Securities Exchange Act Release No. 31243 (September 28, 1992), 57 FR 45849 (October 5, 1992).

[29] See *supra* note 23.

[30] In addition, the Phlx has represented that the Phlx and the OPRA have the necessary systems capacity to support those new series of options that would result from the introduction of index options and Index LEAPS. See Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Brad Ritter, Senior Counsel, OMS, Division, Commission, dated February 2, 1995; and Memorandum from Joe Corrigan, Executive Director, OPRA, to Jamie Farmer, New Product Development, Phlx, dated January 31, 1995.

[31] See *supra* note 8.

[32] See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principle office of the Phlx. All submissions should refer to the File No. SR–Phlx–95–07 and should be submitted by May 9, 1995.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[33] that the proposed rule change (SR–Phlx–95–07), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[34]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9458 Filed 4–17–95; 8:45 am]

BILLING CODE 8010-01-M

[34] 17 CFR 200.30–3 (a) (12) (1994).

[Release No. 34–35597; File No. SR–NYSE–95–11].

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Adoption of Rule 440A ("Telephone Solicitation—Recordkeeping") and an Interpretation with Respect to Proposed Rule 440A

April 12, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on March 22, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is herewith filing a proposed rule change to adopt new Rule 440A ("Telephone Solicitation—Recordkeeping") and to add an interpretation with respect to the meaning and administration of proposed Rule 440A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to:

(1) Adopt a rule requiring members and member organizations that engage in telephone solicitations to maintain a centralized list of persons who do not wish to receive telephone solicitations; and

(2) Set forth an interpretation concerning the meaning and administration of proposed Rule 440A with respect to compliance with Federal Communications Commission ("FCC") and SEC rules relating to telemarketing practices. It is intended that the interpretation will be published as an Interpretation Memorandum for inclusion in the Exchange Interpretation Handbook.

In 1994, an industry Task Force, comprised of representatives from the Exchange, and other industry regulatory and self-regulatory organizations, was formed to review broker-dealer telemarketing practices and compliance with the Telephone Consumer Protection Act of 1991 ("TCPA") and the FCC rules and regulations implementing that law. The TCPA and FCC rules address telemarketing practices and the rights of telephone customers. One of those requirements is that businesses (which includes broker-dealers) that make telephone solicitations to residential telephone subscribers must institute written policies and have procedures in place for maintaining "do-not-call" lists.

The industry Task Force is considering several initiatives relating to broker-dealers that engage in telephone solicitation or "cold-calling" activities. One such initiative is proposed Rule 440A which requires members and member organizations to make and maintain a centralized list of persons who have informed the member or member organization that they do not want to receive telephone solicitations. It is anticipated that such a rule will also be adopted by other self-regulatory organization participants of the Task Force.

The proposed interpretation to Rule 440A reminds members and member organizations that they are subject to compliance with the requirements of the relevant rules of the FCC and SEC relating to telemarketing practices and the rights of telephone consumers.

2. Statutory Basis

The proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, in that it addresses the practices of Exchange members and member organizations who make telemarketing calls and the protection of customers who have indicated a desire not to receive such calls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[33] 15 U.S.C. 78s(b) (2) (1988).

VOL 60 ISS 74 AP 18 1995 UMI

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–95–11 and should be submitted by May 9, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9526 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21000; 811–1522]

Centurion Growth Fund, Inc.; Notice of Application

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Centurion Growth Fund, Inc.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on March 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, c/o Mutual Funds Service Co., 600 Memorial Drive, Dublin, Ohio 43017.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is registered as an open-end management investment company that was organized as a corporation under the laws of Delaware on August 1, 1967 under the name America Future Fund, Inc. On August 14, 1967, applicant filed a notice of registration pursuant to section 8(a) of the Act and a registration statement under section 8(b) of the Act. On August 24, 1967, applicant also filed a registration statement under the Securities Act of 1933 on Form S–5. Applicant's registration statements both were declared effective on February 8, 1968.

2. On April 22, 1994, the United States District Court, Southern District of Florida (the "Court"), appointed Daniel H. Aronson (the "Receiver") as the receiver for applicant at the request of the SEC after applicant's investment adviser and underwriter resigned and all but one director and officer of applicant had resigned.

3. On June 10, 1994, the Court directed the Receiver to pursue a merger of applicant with another investment company on terms as advantageous as possible to applicant's shareholders. After reviewing several proposals, the Receiver selected the merger proposal submitted by Vontobel USA, Inc., an investment adviser, and The World Funds, Inc., a diversified, open-end, management investment company.

4. On November 23, 1994, the Receiver and World Funds executed an Agreement and Plan or Reorganization (the "Plan"), and the Receiver appointed Vontobel as interim investment adviser. The Court, by order dated December 16, 1994, granted the Receiver's motion to approve the Plan. No vote, consent, or other action by applicant's shareholders was required or solicited in connection with the Plan due to the Court's jurisdiction and broad powers of equity.

5. On December 27, 1994, pursuant to the Plan, the U.S. Value Fund Series of World Funds acquired all applicant's assets and goodwill, except for $65,000 in cash applicant retained to pay its expenses related to the Plan and other liabilities, in exchange for a number of shares of common stock of the series based on the relative net asset values of such series and applicant. World Funds then distributed to applicant's shareholders 730,811.301 shares of the series *pro rata* based on the series's net asset value per share of $10.25.

6. The Receiver retained $65,000 to pay applicant's final costs, expenses, debts, and liabilities. The Receiver has been paying these expenses as they come due and anticipates that such expenses will exhaust the funds withheld.

7. Applicant has no security holders, assets, or other liabilities. Applicant is not a party to any litigation or administrative proceeding other than those described above. Applicant is not engaged and does not propose to engage in any business activity other than those necessary for the winding up of its affairs.

8. On December 16, 1994, the Court authorized the dissolution of applicant. Applicant filed a Certificate of Dissolution with the Secretary of State of Delaware on December 29, 1994.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret M. McFarland,

Deputy Secretary.

[FR Doc. 95–9520 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21003; No. 812–9164]

Neuberger & Berman Advisers Management Trust, et al.

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Neuberger & Berman Advisers Management Trust ("Trust"), Advisers Managers Trust ("Managers Trust"), Neuberger & Berman Management Incorporated ("Investment Adviser"), and Certain Life Insurance Companies ("Participating Insurance Companies") and their Separate Accounts ("Separate Accounts") Investing in the Trust.

RELEVANT 1940 ACT SECTION: Order requested under Section 6(c) granting exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit shares of the Trust (and/or any successor entity), beneficial interests of Managers Trust, and beneficial interests or shares of any other investment company that is designed to fund insurance products and for which the Investment Adviser or its affiliates may serve now or in the future as investment adviser, administrator, manager, principal underwriter or sponsor, to be sold to and held by: (a) separate accounts of both affiliated and unaffiliated Participating Life Insurance Companies offering variable annuity contracts and variable life insurance contracts; and (b) qualified pension and retirement plans ("Qualified Plans").

FILING DATE: The application was filed on August 16, 1994, and amended on April 5, 1995 and April 10, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 2, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Stanley Egener, President, Neuberger & Berman Management Incorporated, 605 Third Avenue, 2nd Floor, New York, New York 10158–0006.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Wendy Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. The Trust is a series Massachusetts business trust that is registered under the 1940 Act as a diversified, open-end management investment company. The Trust currently consists of six portfolios ("Trust Portfolios"). A seventh Trust Portfolio, the International Portfolio, is scheduled to commence operations on May 1, 1995. As more fully discussed below, reorganization of the Trust ("Successor Trust") is anticipated to take effect on May 1, 1995, with a conversion date currently anticipated for April 28, 1995. After the reorganization, the Successor Trust will become a "feeder" fund in a "master-feeder" fund structure [1] by investing in Managers Trust

2. Managers Trust is a New York common law trust that offers shares of its series of portfolios ("Series") to insurance company separate accounts and to Qualified Plans. Upon reorganization of the Trust, Managers Trust will serve as a "master fund" in a master-feeder structure in which the Successor Trust will be a "feeder" fund.

3. Investment Adviser currently manages and distributes shares of each Trust Portfolio. Upon reorganization of the Trust, Investment Adviser will serve as administrator of the Successor Trust's portfolios and as administrator or manager of Managers Trust's Series. Investment Adviser's voting stock is owned by general partners of Neuberger & Berman, L.P. ("Neuberger & Berman"), the sub-adviser to the Trust Portfolios. Investment Adviser is not affiliated with any of the Participating Insurance Companies.

4. Participating Insurance Companies are both affiliated and unaffiliated insurance companies that currently invest in the Trust through either their general or Separate Accounts in connection with the offering of both variable annuities and variable life insurance contracts ("Contracts"). Separate Accounts of Participating Insurance Companies are unit investment trusts ("UIT–Separate Accounts") that are either registered under the 1940 Act or exempt from registration pursuant to Section 3(c)(11) of the 1940 Act. U T–Separate Accounts invest directly in the Trust, resulting in a two-tier structure. Participating Insurance Companies' Separate Accounts registered under the 1940 Act as management investment companies ("Managed-Separate Accounts") currently do not invest in the Trust. Upon reorganization of the Trust, UIT–Separate Accounts will invest in the Successor Trust, which, in turn, will invest in Managers Trust, resulting in a three-tier structure. Managed-Separate Accounts will invest directly in Managers Trust, resulting in a two-tier structure.

5. Trust shares currently are offered pursuant to orders of the Commission under Section 6(c) of the 1940 Act exempting the Trust and Investment Adviser from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.[2] The purpose of this application is to extend the exemptive relief granted to the Trust and Investment Adviser to the successor entities of the Trust and to certain other investment companies ("Other Investment Companies") that may be used as underlying funds for both UIT-Separate Accounts and Qualified Plans.

(The Trust (and/or any successor entity) and Other Investment Companies hereinafter are referred to, collectively, as "Insurance Products Funds." Investment companies offering shares to Insurance Products Funds, to Managed-Separate Accounts, and to Qualified Plans are referred to, collectively, as "Master Funds." The term "Master Funds" does not include "Insurance Products Funds." "Participating Insurance Companies" refers to: (a) insurance companies, the assets of which currently are invested in the Trust through either their general or Separate Accounts, and which will be invested in the successor to the Trust, and/or one or more other Insurance Products Funds, and/or more Master Funds; and (b) insurance companies, the assets of which, in the future, may be invested through either their general or Separate Accounts in the Trust (and/or any successor entity) and/or one or more other Insurance Products Funds, and/or one or more Master Funds.) [3]

6. As noted previously, the Trust will be reorganized into the Successor Trust,

[1] A "master feeder" fund structure is a two-tiered arrangement in which one or more investment companies (or other collective investment vehicles) ("feeder funds") pool their assets by investing in a single investment company having the same investment objective ("master fund"). This structure typically has been used to customize distribution channels, fee structures and marketing techniques while continuing to offer interests in the same underlying investment portfolios.

[2] Investment Company Act Release Nos. 18573 (Feb. 26, 1992) (Amended Order), 18506 (Jan. 29, 1992) (Notice), 16207 (Jan. 7, 1988) (Amended Order), 16165 (Dec. 9, 1987) (Notice), 15324 (Sept. 23, 1986) (Order), and 15274 (Aug. 25, 1986 (Notice).

[3] Any assets invested by the general accounts of Participating Insurance Companies will be in the form of initial operating capital commonly known as "seed money."

VOL
60
ISS
74
AP
18
1995
UMI

which will serve as a "feeder" fund in a "master-feeder" fund structure. The proposal by the Investment Adviser to reorganize the Trust was approved by the Board of Trustees of the Trust and, on August 25, 1994, by shareholders of the Trust. The Successor Trust will be a series Delaware business trust registered under the 1940 Act as an open-end diversified management investment company. The Successor Trust, which will retain the Trust's present name, initially will consist of seven portfolios ("Successor Portfolios"). Each Successor Portfolio will retain the same name and have substantially the same investment objective and policies as its current corresponding Trust Portfolio. Additional Successor Portfolios may be added in the future.

7. Upon reorganization, each Trust Portfolio will transfer all of its assets to the corresponding Successor Portfolio. In exchange, share of each Successor Portfolio will be distributed to the shareholders of the corresponding Trust Portfolio on the basis of one Successor Portfolio share for one outstanding Trust Portfolio share, with the Successor Portfolio assuming all of the liabilities of that corresponding Trust Portfolio. Each Successor Portfolio, in turn, will invest all of its assets in a corresponding Series of Managers Trust and offer its shares to UIT-Separate Accounts of Participating Insurance Companies and to Qualified Plans, resulting in a three-tier structure. Each Series of Managers Trust will have the same investment objectives and policies as the corresponding Successor Portfolio. Thereafter, the only investment securities held by each Successor Portfolio will be its interest in the corresponding Series of Managers Trust. In the future, Managed-Separate Accounts of Participating Insurance Companies will and certain Qualified Plans may invest directly in the Master Funds, thus resulting in a two-tier structure with respect to these arrangements.

8. Applicants assert that the primary objective of the Trust's restructuring into a master-feeder fund structure is to retain and increase assets in the Trust and, ultimately, lower Contract owner's expenses. Applicants believe that economies of scale may be achieved that would benefit all shareholders. Applicants state that, to the extent that certain operating costs are relatively fixed and currently are borne by a Trust Portfolio alone, these expenses instead would be borne by the Series and shared by the corresponding Successor Portfolio and any other investors pooling their assets through investment in the Series.

9. Investment Adviser will serve as administrator of the Successor Portfolios and as manager of the corresponding Series of Managers Trust, except with respect to the International Series of Managers Trust. BNP–N&B Global Asset Management L.P., an affiliate of Investment Adviser, will act as investment adviser for the International Series, for which Investment Adviser will serve as administrator. In addition, Investment Adviser, or its affiliates, may serve now or in the future as investment adviser, administrator, manager, principal underwriter or sponsor with respect to the Insurance Products Funds and the Master Funds. Investment Adviser may provide services to Managed-Separate Accounts or to Qualified Plans that may, in the future, function as "feeder" funds by investing in the Master Funds. Investment Adviser does not and will not act as investment adviser to Qualified Plans which have purchased or will purchase shares of the Insurance Products Funds, or beneficial interests in the Master Funds. Investment Adviser is not affiliated with any of the Participating Insurance Companies.

10. Neuberger & Berman will be the sub-adviser for the Series of Managers Trust and may act as investment adviser to Qualified Plans investing in the Successor Trust, but is not permitted to advise such Qualified Plans to invest in the Successor Trust. Independent fiduciaries of such Qualified Plans for which Neuberger & Berman acts as investment adviser may choose to invest in the Successor Trust.

11. Qualified Plans, in the future, may invest directly in the Master Funds and may choose any Insurance Products Funds or Master Funds as their sole investment or as one of several investments. Qualified Plan participants may or may not be given an investment choice depending on the terms of the Plan. Shares of any of the Insurance Products Funds, or beneficial interests in the Master Funds, sold to such Qualified Plans will be held by the trustees of said Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"). There is no pass-through voting to the participants of such Qualified Plans.

12. Section 817(h) of the Internal Revenue Code of 1986, as amended, ("Code") imposes certain diversification standards on the underlying assets of variable annuity and variable life insurance contracts.[4] The Successor Trust and Managers Trust, on behalf of each Successor Portfolio and Series, have applied to the Internal Revenue Service ("IRS") for a private letter ruling with respect to certain tax issues arising out of the proposed restructuring of the Trust. The Successor Trust and Managers Trust have requested that the IRS rule, among other things, that the "look-through" rule of Section 817 of the Code will be available for the variable insurance contract diversification test. In the event that the requested IRS ruling is not received by the conversion date, the Investment Adviser expects to receive a favorable opinion of counsel with respect to the Section 817 and other relevant tax issues, prepared solely for its use in connection with the creation of the master-feeder fund.

Applicants' Legal Analysis

1. Section 6(c) authorizes the Commission to grant exemptions from the provisions of the 1940 Act, and rules thereunder, if and to the extent that an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

A. Rule 6e–2—Scheduled Premium Variable Life Insurance Contracts

2. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a UIT Rule 6e–2(b)(15) provides partial relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The exemptions granted to a separate account by Rule 6e–2(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies ("Underlying Funds") offering their shares "exclusively" to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company, funding such variable contracts. The relief provided by Rule 6e–2 also is available to a separate account's investment adviser, principal underwriter and sponsor or depositor. The relief granted by Rule 6e–2(b)(15), however, is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company. The use of a common underlying fund as the investment vehicle for both variable annuity contracts and scheduled or flexible premium variable life insurance contracts is referred to as "mixed funding." The use of a common underlying fund as the underlying investment vehicle for separate accounts of unaffiliated insurance companies is referred to as "shared funding." Rule 6e–2(b)(15), thus, precludes both mixed funding and shared funding.

3. Moreover, because the relief under Rule 6e–2(b)(15) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if shares of an underlying fund also are offered to Qualified Plans.[5] Applicants assert that the appropriateness of granting relief under this provision is not effected by the purchase of Insurance Products Funds' shares by Qualified Plans.

4. Rule 6e–2(b)(15) also does not exempt Managed-Separate Accounts of Participating Insurance Companies functioning as "feeders" by virtue of the acquisition of beneficial interests in a Master Fund because such a Managed-Separate Account would not be registered as a UIT. Because under certain circumstances the Master Funds will solicit votes of their interest holders with respect to items relating solely to their operations, Applicants assert that the exemptive relief granted by Rule 6e–2(b)(15) should be extended to such Managed-Separate Accounts to the extent that they are required to vote on issues affecting the Master Funds. Applicants further assert that the extension of this relief to Managed-Separate Accounts of Participating Insurance Companies is consistent with the purpose and intent of Rule 6e–2. Applicants submit that the relief granted by Rule 6e–2 also is in no way affected by the purchase of shares of the Master Fund by Qualified Plans.

B. Rule 6e–3(T)—Flexible Premium Variable Life Insurance Contracts

5. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions provided by Rule 6e–3(T)(b)(15) also are available to a separate account's investment adviser, principal underwriter and sponsor or depositor. Rule 6e–3(T)(b)(15) exemptions are available, however, only if all of the assets of the separate account consist of shares of one or more underlying funds which offer their shares exclusively to such separate accounts of the life insurer, or its affiliated life insurance companies, offering either scheduled premium or flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company. Rule 6e–3(T) therefore permits "mixed funding" for flexible premium variable life insurance separate accounts, subject to certain conditions, but does not permit "shared funding." Moreover, because Rule 6e–3(T) relief is available only where underlying fund shares are offered exclusively to separate accounts, additional exemptive relief is necessary because shares of the Insurance Products Funds also are sold to Qualified Plans.

6. Rule 6e–3(T)(b)(15) also does not exempt Managed-Separate Accounts of Participating Insurance Companies functioning as "feeders" by virtue of the acquisition of beneficial interests in a Master Fund, because such Managed-Separate Account would not be registered as a UIT. Applicants assert that the exemptive relief granted by Rule 6e–3(T)(b)(15) should be extended to Managed-Separate Accounts of Participating Insurance Companies to the extent they are required to vote on issues affecting the Master Funds, which will solicit votes of their interest holders under certain circumstances. Applicants further assert that the extension of this relief to the Managed-Separate Accounts is consistent with the purpose and intent of Rule 6e–3(T). Applicants submit that the relief granted by Rule 6e–3(T) also is in no way affected by the purchase of shares of the Insurance Products Funds by Qualified Plans, or by the possible future purchase of Master Funds shares by Qualified Plans.

C. Request for Class Relief

7. Applicants request that the Commission grant exemptive relief to a class or classes of persons and transactions, consisting of: (i) Insurers and separate accounts (organized as UITs) of Participating Insurance Companies investing in Insurance Products Funds; (ii) insurers and separate accounts (organized as managed separate accounts) of Participating Insurance Companies investing in Master Funds; and (iii) with respect to (i) and (ii) above, each of their investment advisers, principal underwriters and depositors.

8. Applicants state that the requested class relief is appropriate in the public interest. Such relief will promote competitiveness in the market by eliminating the need to file redundant exemptive applications, therefore, reducing administrative expenses and maximizing the efficient use of resources. Applicants assert that the delay and expense involved in having to seek exemptive relief repeatedly would impair their ability to take advantage effectively of business opportunities as they arise. Applicants submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Finally, Applicants state that were they required to seek repeated exemptive relief with respect to the issues addressed in the application, no additional benefit or protection would be provided to investors through the redundant filings. Applicants submit that they are not aware of any facts or circumstances which would prevent the extension of the relief requested to the class of Managed-Separate Accounts of Participating Insurance Companies investing directly in the Master Funds.

D. Disqualification

9. Section 9(a) prohibits any company from serving as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification specified in subparagraph (1) or (2) of that section.[6] Paragraphs (b)(15)(i) and (ii) of Rules 6e–2 and 6e–3(T) provide partial exemptions from Section 9(a) under certain circumstances, subject to limitations on mixed and shared funding. These partial exemptions only are available to UIT-Separate Accounts and limit the disqualification to affiliated individuals or companies directly participating in the

[4] Insurance Products Funds selling their shares to Qualified Plans must meet certain diversification requirements with respect to the portfolios underlying their variable contracts. According to Applicants, diversification requirements are satisfied where all beneficial interests in an investment company (*master fund*) are held by Separate Accounts (*feeders*) of one or more insurers. Under regulations prescribed by the Treasury Department establishing diversification requirements for investment portfolios underlying variable contracts, the ability of these Separate Accounts to hold shares in the same investment company is not adversely affected if such shares are held by the trustee of a Qualified Plan.

[5] Applicants state that the sale of shares of the same investment company to separate accounts and to Qualified Plans was not contemplated at the time of the adoption of Rules 6e–2 and 6e–3(T), given the then-current tax laws. Further, the promulgation of paragraph (b)(15) of Rules 6e–2 and 6e–3(T) preceded the issuance of the Treasury Regulations permitting the trustee of a Qualified Plan to hold shares of an investment company without adversely affecting the ability of insurance company separate accounts to hold shares of the same investment company.

[6] Applicants state that no relief from Section 9(a) is necessary with respect to the Qualified Plans which are not investment companies.

VOL
60
ISS
74
AP
18
1995
UMI

management or administration of the underlying fund.

10. Applicants state that the partial relief granted in paragraph (b)(15) of Rules 6e–2 and 6e–3(T) from the requirements of Section 9(a), in effect, limits the monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of that Section. Applicants further state that Rules 6e–2 and 6e–3(T) recognize that it is not necessary for the protection of investors or for the purposes of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom typically will have no involvement in matters pertaining to an investment company in that organization. Applicants represent that Participating Insurance Companies are not expected to play any role in the management or administration of the Trust (and/or any successor to the trust) or of Managers Trust. Applicants therefore submit that applying the restrictions of Section 9(a) serves no regulatory purpose.

E. Pass-Through Voting

11. Subparagraph (b)(15)(iii) of Rules 6e–2 and 6e–3(T) assume the existence of a pass-through voting requirement with respect to underlying fund shares held by a separate account funding variable insurance contracts. These provisions are applicable to UIT-Separate Accounts. The application states that Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the Commission interprets the 1940 Act to require such privileges.

12. Subparagraph (b)(15)(iii)(A) of Rules 6e–2 and 6e–3(T) provides exemptions from the pass-through voting requirement with respect to several significant matters, assuming observance of the limitations on mixed and shared funding imposed by the 1940 Act and the rules thereunder. Subparagraph (b)(15)(iii)(A) of Rules 6e–2 and 6e–3(T) provide that an insurance company may disregard the voting instructions of its contract owners with respect to the investments of an underlying investment company or any contract between an investment company and its adviser when required to do so by an insurance regulatory authority under certain specified circumstances.

13. Subparagraph (b)(15)(iii)(B) of Rules 6e–2 and 6e–3(T) provides that the insurance company may disregard contract owners' voting instructions with regard to changes initiated by the contract holders in the investment company's investment policies, principal underwriter or investment adviser, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(15)(iii) and (b)(7)(ii)(B) and (C) of each rule.

14. Applicants state that Rules 6e–2 and 6e–3(T) were adopted by the Commission before the "master-feeder" structure was developed. Applicants assert that a Separate Account's acquisition of Successor Trust shares or of beneficial interests of the Master Funds should not change the purpose and intent of Rules 6e–2 and 6e–3(T). Accordingly, Applicants further assert that, because Master Funds from time-to-time solicit votes from their interest holders with respect to certain issues relating to their operations, the exemption from pass-through voting requirements of Rules 6e–2 and 6e–3(T) should be extended to the Managed-Separate Accounts of Participating Insurance Companies investing directly in the Master Funds.

15. Applicants represent that the sale of Insurance Products Funds' shares to Qualified Plans will not have any impact on the relief requested. As noted previously by Applicants, shares of the Insurance Products Funds sold to Qualified Plans will be held by their trustees as mandated by Section 403(a) of ERISA. Section 403(a) also provides that the trustees must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (1) when the Plan expressly provides that the trustees are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA, and (2) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Qualified Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants of such Qualified Plans and, thus, the issue of the resolution of irreconcilable conflicts with respect to voting is not present with Qualified Plans.

F. No Increased Conflicts of Interests

16. Applicants assert that no increased conflicts of interest would be present if the Commission grants the relief requested. Applicants further assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. Applicants note that when different Participating Insurance Companies are domiciled in different states, state insurance regulators in one state could require action that is inconsistent with the requirements of insurance regulators in one or more other states. That possibility, however, is no different and no greater than that which exists when a single insurer and its affiliates offer their insurance products in several states, as currently is permitted.

17. Applicants argue that affiliations do not reduce the potential, if any exists, for differences in state regulatory requirements. The conditions stated below are adapted from the conditions included in Rule 6e–3(T)(b)(15) and are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's policy conflicts with the policies of a majority of other state regulators, the affected insurer may be required to withdraw its Separate Account's investments in the relevant Insurance Products Fund or Master Fund.

18. Applicants also argue that affiliation does not eliminate the potential, if any, for divergent judgments as to when a Participating Insurance Company could disregard variable contract owner voting instructions. Applicants assert that the potential for disagreement is limited by the requirement that a decision to disregard voting instructions be reasonable and based on specified good faith determinations. If, however, a Participating Insurance Company's decision to disregard Contract owner voting instructions represents a minority position, or would preclude a majority vote approving a particular change, Applicants represent that such Participating Insurance Company may be required, at the election of the relevant Insurance Products Fund or Master Fund, to withdraw its Separate Account's investment in that Fund and no charge or penalty will be imposed as a result of such withdrawal.

19. Applicants assert that there is no reason why the investment policies of an Insurance Products Fund or Master Fund with mixed funding would or should be materially different from what they would or should be if such investment company or series thereof funded only variable annuity or variable life insurance contracts. Applicants represent that Insurance Products Funds or Master Funds will not be managed to favor or disfavor any particular insurer or type of Contract.

20. Applicants state that no one investment strategy can be identified as appropriate to a particular insurance product because each pool of variable contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. These diversities are of greater significance than any differences in insurance products. An underlying fund supporting even one type of insurance product must accommodate those diverse factors.

21. Applicants note that Section 817(h) of the Code imposes certain diversification standards on the underlying assets of variable annuity and variable life contracts held in the portfolios of underlying funds. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, "qualified pension or retirement plans" and separate accounts to share the same underlying fund. Therefore, Applicants have concluded that neither the Code, the Treasury Regulations nor Revenue Rulings thereunder recognize any inherent conflicts of interest if Qualified Plans and variable annuity and variable life separate accounts all invest in the same Underlying Fund.

22. Applicants also note that there are differences in the manner in which distributions are taxed for variable annuities, variable life insurance contracts and Qualified Plans. Applicants assert, however, that the differences in tax consequences do not raise any conflicts of interest. When distributions are to be made, and the Separate Account or the Qualified Plan cannot net purchase payments to make the distributions, each will redeem shares of the Trust (and/or any successor entity to the Trust) at their net asset value. The Qualified Plan will then make distributions in accordance with its terms and the life insurance company will make distributions in accordance with the terms of the variable contract.

23. With respect to voting rights, Applicants contend that it is possible to provide an equitable means of giving such voting rights to Contract owners and to Qualified Plans. Applicants represent that the transfer agent for the Insurance Products Fund will inform each Participating Insurance Company of its Separate Accounts' share ownership and the trustees of each Qualified Plan of their respective holdings in the Fund. Each Participating Insurance Company then will solicit voting instructions in accordance with Rules 6e–2 and 6e–3(T). The transfer agent for the Master Funds will inform each Insurance Products Fund and each Participating Insurance Company with a Managed-Separate Account invested in a Master Fund, as well as the trustees of any Qualified Plan so invested, of its beneficial interest.

24. As with the Insurance Products Funds, there will be certain issues on which a shareholder vote is required that relate solely to the operations of the Managed-Separate Accounts for which such Separate Account will solicit votes of its contract owners. As to those issues on which a vote is required that relates to the operations of the Master Funds, Applicants state that the Master Funds will solicit votes of their interest holders, which would include both the Insurance Products Funds, the Managed-Separate Accounts of Participating Insurance Companies and the trustees of any Qualified Plan. Insurance Products Funds, in turn, will solicit their shareholders, the UIT-Separate Accounts of Participating Insurance Companies, which will solicit voting instructions from their contract owners, as noted above. The Managed-Separate Accounts will solicit proxies from their Contract owners.

25. Applicants assert that the ability of Insurance Products Funds or Master Funds to sell their respective shares or beneficial interests directly to Qualified Plans does not create a "senior security," as defined under Section 18(g) of the 1940 Act, with respect to any contract owner as compared to a participant under a Qualified Plan. Regardless of the rights and benefits of participants under Qualified Plans, or contract owners under variable contracts, Qualified Plans and Separate Accounts have rights only with respect to their respective Insurance Products Fund shares, which they can redeem only at net asset value. No shareholder of any of the Insurance Products Funds, and no interest holder of any Master Fund, has any preference over any other shareholder or interest holder with respect to distribution of assets or payment of dividends.

26. Applicants further assert that there are no conflicts between the Contract owners and Qualified Plan participants with respect to state insurance commissioners' veto powers over the Insurance Products Funds' or Master Funds' investment objectives. The basic premise of shareholder voting is that not all shareholders may agree that there are any inherent conflicts of interest between shareholders. The state insurance commissioners have been given veto power in recognition of the fact that insurance companies cannot redeem their Separate Accounts out of one underlying fund and invest in another fund but must undertake time-consuming, complex transactions to accomplish such redemptions and transfers. Trustees of Qualified Plans can redeem their shares in an Insurance Products Fund, or beneficial interests in a Master Fund, and reinvest in another fund quickly and implement their decisions without the same regulatory impediments or, as is the case with most Qualified Plans, even hold cash pending reinvestment. Applicants assert that, based on the foregoing, even if there should arise issues where the interests of contract owners and the interests of Qualified Plans conflict, these issues can be almost immediately resolved because trustees of Qualified Plans can, on their own, redeem the shares out of the Insurance Products Funds or the beneficial interests out of the Master Fund.

27. Applicants further assert that the potential for conflict is not increased by allowing Managed-Separate Accounts to invest directly in the Master Funds at the same time as UIT-Separate Accounts are invested in the Insurance Products Funds. Because both types of Separate Accounts are subject to the same state insurance regulatory authority and the same concerns with respect to funding their contracts, one type of separate account investing directly and the other investing indirectly in the same portfolio of securities does not increase the potential for conflict with respect to state insurance regulation and divergent judgments as to when a Participating Insurance Company can disregard variable contract voting instructions. The potential for conflict also is not increased by the possible investment in the Master Funds by Qualified Plans. As noted above, in the event of a conflict, Trustees of Qualified Plans can, on their own, redeem their beneficial interests out of the Master Funds.

G. General Grounds for Relief

28. Applicants assert that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. According to Applicants, these factors include: the costs of organizing and operating a funding medium; a lack of expertise with respect to investment management, principally with respect to stock and money market

VOL 60 ISS 74 AP 18 1995 UMI

investments; and the lack of public name recognition as investment experts. Applicants argue that use of Insurance Products Funds and Master Funds as common investment media for variable contracts would ease those concerns. Participating Insurance Companies would benefit from the investment advisory and administrative expertise of the Investment Adviser and also from the cost efficiencies and investment flexibility afforded by a larger pool of funds. Applicants state that making Insurance Products Funds and Master Funds available for mixed and shared funding will encourage more insurance companies to offer variable contracts, such as the Contracts, which may then increase competition with respect to both the design and pricing of variable insurance contracts. Applicants submit that this can be expected to result in greater product variation and lower charges. Thus, Applicants argue that Contract owners would benefit because mixed and shared funding will eliminate a significant portion of the costs of establishing and administering separate funds and that these savings may be passed on to customers.

29. Moreover, Applicants assert that the sale of Insurance Products Funds' shares to Qualified Plans should increase the amount of assets available for investment by such Funds. This, in turn, should promote economies of scale, permit increased safety through greater diversification, and make the addition of new Series to Insurance Products Funds more feasible.

30. Applicants state that they are not aware of any facts or circumstances which would prevent the extension of the requested relief to master-feeder arrangements that include the class of Managed-Separate Accounts investing directly in the Master Funds.

31. Applicants also state that they are not aware of any rationale for excluding Participating Insurance Companies from the exemptive relief requested because Insurance Products Funds also may sell their respective shares, and Master Funds may sell their beneficial shares, to Qualified Plans. Applicants submit that the relief provided under paragraph (b)(15) of Rules 6e–2 and 6e–3(T) does not relate to Qualified Plans or to a registered investment company's ability to sell its shares to such Plans. Applicants state that they request exemptive relief because the Separate Accounts investing in Insurance Products Funds are themselves investment companies seeking relief under Rules 6e–2 and 6e–3(T), and Applicants do not wish to be denied such relief if Insurance Products Funds sell shares, or Master Funds sell beneficial interests, to Qualified Plans.

32. Applicants assert that, for the reasons stated below, the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

33. Applicants represent that, under the Trust's current structure, each Trust Portfolio pays a fee to the Investment Adviser for both investment advisory and administrative services. Under the master-feeder fund structure, the Investment Adviser would be paid an administration fee by each Successor Portfolio and a management fee by each Series (with the exception of the International Portfolio and the corresponding International Series which have not commenced investment operations, have different advisory arrangements, and have a different fee structure). The combined management and administration fees paid under the master-feeder fund structure would be higher than the current investment advisory fee by 0.15% of average daily net assets annually paid by the Trust. Applicants represent that the Trust's Board of Trustees, after review of the fees, expenses and profitability of the Adviser, determined to approve the increase in fees and concluded that higher management and administration fees were justified, even absent the conversion to the master-feeder fund structure. At the Special Meeting of shareholders of the Trust, shareholders approved the fee increase as part of their approval of the conversion of the Trust to the master-feeder fund structure. Under the new master-feeder fund structure, all of the Series would have management fees that decline with increasing assets. At present, only three Trust Portfolios have such fee structures. Applicants assert that the introduction of such "breakpoints" for all Series could ultimately benefit shareholders by reducing the rate of management fees over time as assets grow.

34. Applicants further assert that upon conversion to the master-feeder fund structure, the Trust's Distribution Plan, adopted pursuant to Rule 12b–1 under the 1940 Act, will be eliminated. The Distribution Plan currently permits each Trust Portfolio to pay up to 0.25% of its average daily net assets for certain items relating to the sale of each Trust Portfolio's share.[7] Applicants maintain that the termination of the current Distribution Plan and the adoption of a new non-fee Distribution Plan, approved by the shareholders of the Trust at the Special Meeting, will eliminate any separate payment for distribution expenses.

[7] Actual expenses under the Distribution Plan for the Trust Portfolio for the year ended December 31, 1994, ranged from 0.01% to 0.07% of average daily net assets per Trust Portfolio.

Applicants' Conditions

The Applicants have consented to the following conditions:

1. A majority of the Trustees or Board of Directors (each a "Board" and collectively, "Boards") of each Insurance Products Funds and Master Fund will consist of persons who are not "interested persons" thereof, as defined by Section 2(a)(19) of the 1940 Act and Rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of death, disqualification, or bona fide resignation of any trustee or director, then the operation of this condition shall be suspended: (a) for a period of 45 days, if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Boards will monitor their respective Insurance Products Funds and Master Funds for the existence of any material irreconcilable conflict between the interests of the Contract owners of all Separate Accounts investing in the Insurance Products Funds and Master Funds. A material irreconcilable conflict may arise for a variety of reasons, including: (a) State insurance regulatory authority action; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Insurance Products Funds and Master Funds are being managed; (e) a difference in voting instructions given by variable annuity and variable life insurance Contract owners or by Contract owners of different Participating Insurance Companies; or (f) a decision by a Participating Insurance Company to disregard voting instructions of contract owners.

3. Participating Insurance Companies, Investment Adviser (or any other investment advisor of the Insurance Products Funds and/or Master Funds), and any Qualified Plan that executes a fund participation agreement upon

becoming an owner of 10% or more of the assets of an Insurance Products Fund or Master Funds (collectively, "Participants") will report any potential or existing conflicts to the Boards. Participants will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for it to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participant to inform the Board whenever variable contract owner voting instructions are disregarded. The responsibility to report such information and conflicts and to assist the Board will be a contractual obligation of all Participants investing in Insurance Products Funds and Master Funds under their agreements governing participation in such Funds, and such agreements shall provide that these responsibilities will be carried out with a view only to the interests of the Contract owners.

4. If a majority of the Board of an Insurance Products Fund or Master Fund, or majority of its disinterested trustees or directors, determine that a material irreconcilable conflict exists, the relevant Participant, at its expense and to the extent reasonably practicable (as determined by a majority of disinterested trustees or directors), will take any steps necessary to remedy or eliminate the irreconcilable material conflict, including: (a) Withdrawing the assets allocable to some or all of the Separate Accounts from an Insurance Products Fund or Master Fund or any Series thereof and reinvesting those assets in a different investment medium, which may include another series of an Insurance Products Fund or Master Fund, or another Insurance Products Fund or Master Fund, or submitting the question as to whether such segregation should be implemented to a vote of all affected variable Contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity or variable annuity Contract owners of one or more Participants) that votes in favor of such segregation, or offering to the affected variable Contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participant's decision to disregard Contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, the Participant may be required, at the election of the relevant Insurance Products Fund or Master Fund, to withdraw its separate account's investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal.

The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participants under their agreements governing their participation in the Insurance Products Funds and Master Funds. The responsibility to take such remedial action shall be carried out with a view only to the interests of the Contract owners.

For the purposes of condition (4), a majority of the disinterested members of the applicable Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the relevant Insurance Products Fund or Master Fund or the Investment Adviser (or any other investment adviser of the Insurance Products Funds and/or Master Funds) be required to establish a new funding medium for any variable contract. Further, no Participant shall be required by this condition (4) to establish a new funding medium for any variable contract if any offer to do so has been declined by a vote of a majority of Contract owners materially affected by the irreconcilable material conflict

5. Any Board's determination of the existence of an irreconcilable material conflict and its implications shall be made known promptly and in writing to all Participants.

6. Participants will provide pass-through voting privileges to all Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable Contract owners This condition will apply to UIT-Separate Accounts investing in Insurance Products Funds and to Managed-Separate Accounts investing in Master Funds to the extent a vote is required with respect to matters relating to the Master Funds. Accordingly, the Participants, where applicable, will vote shares of an Insurance Products Fund or Master Fund held in their separate accounts in a manner consistent with voting instructions timely received from variable contract owners. Participants will be responsible for assuring that each of their Separate Accounts that participates in the Insurance Products Funds and Master Funds calculates voting privileges in a manner consistent with other Participants. The obligation to calculate voting privileges in a manner consistent with all other Separate Accounts investing in the Insurance Products Fund and Master Fund will be a contractual obligation of all Participants under the agreements governing participation in the Insurance Products Funds or Master Fund. Each Participant will vote shares for which it has not received timely voting instructions, as well as shares it owns, in the same proportion as it votes those shares for which it has received voting instructions.

7 All reports received by the Board of potential or existing conflicts, and all Board action with regard to (a) Determining the existence of a conflict, (b) notifying Participants of a conflict, and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, such minutes or other records shall be made available to the Commission upon request.

8. Each Insurance Products Fund and Master Fund will notify all Participants that Separate Accounts prospectus disclosure (contained in Form N–4 with respect to UIT-Separate Accounts investing in Insurance Products Funds, and in Form N–3 with respect to Managed-Separate Accounts investing in Master Funds) regarding potential risks of mixed and shared funding may be appropriate Each Insurance Products Fund shall disclose in its prospectus that (a) shares of the Fund may be offered to insurance company separate accounts of both annuity and life insurance variable contracts, and to qualified plans, (b) due to differences of tax treatment and other considerations, the interests of various contract owners participating in the Funds and the interests of Qualified Plans investing in the Funds may conflict; and (c) the Board will monitor the Funds for any material conflicts and determine what action, if any, should be taken.

9. Each Insurance Products Fund and Master Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Insurance Products Fund or Master Fund), and in particular each such fund either will either provide for annual meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) (although the funds are not one of the trusts described in this section), as well as with Section 16(a) and, if applicable, Section 16(b). Further, each Insurance Products Fund and Master Fund will act in accordance with the Commission's interpretation of the requirements of

VOL 60 ISS 74 AP 18 1995 UMI

Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may adopt with respect thereto.

10. If and to the extent Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested, then the Insurance Products Fund, Master Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such Rules are applicable.

11. No less than annually, the Participants shall submit to the Boards such reports, materials or data as such Boards may reasonably request so that the Boards may fully carry out the obligations imposed upon them by these conditions. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by the applicable Boards. The obligations of the Participants to provide these reports, materials, and data to the Boards, when the appropriate Board so reasonably requests, shall be a contractual obligation of all Participants under the agreements governing their participation in the Insurance Products Funds and Master Funds.

12. If a Qualified Plan becomes an owner of 10% or more of the assets of an Insurance Products Fund (or Master Fund), such Qualified Plan shareholder will execute a participation agreement with the applicable Fund. A Qualified Plan shareholder will execute an application containing an acknowledgment of this condition upon such Qualified Plan's initial purchase of shares of the Insurance Products Fund, or beneficial interests of a Master Fund.

Conclusion

For the reasons stated above, Applicants assert that the requested exemptions pursuant to Section 6(c) and Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder, are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9517 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20997; 811–3791]

SAFECO California Tax-Free Income Fund, Inc.; Notice of Application

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO California Tax-Free Income Fund, Inc.

RELEVENT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company under the Act.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, (202) 942–0571, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a corporation under the laws of the State of Washington. On July 1, 1983, applicant registered under the Act as an investment company and filed a registration statement under the Securities Act of 1933 to register its shares. The registration statement was declared effective on October 20, 1983 and applicant's initial public offering commenced on that same date.

2. On May 5, 1993, applicant's board of directors approved a plan of reorganization (the "Plan") between applicant and SAFECO Tax-Exempt Bond Trust (the "Trust") on behalf of its series SAFECO California Tax-Free Income Fund (the "Acquiring Fund").[1] The Trust is an investment company organized under the laws of Delaware.

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas a series of the Trust has no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of the several series of the Trust, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC relating to the proposed reorganization and afterwards distributed such proxy materials to its shareholders. Applicant's shareholders approved the reorganization at a meeting held on August 5, 1993.

5. Pursuant to the Plan, applicant transferred all of its assets and liabilities to the Acquiring Fund on September 30, 1993, in exchange for shares of the Acquiring Fund. The exchange was based on the relative net asset value of applicant and the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the Acquiring Fund shares it received in the reorganization. No brokerage commissions were incurred in this reorganization.

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transaction.

6. The total expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs of proxy materials, were $4,867 and were paid by applicant.

7. As of the date of the application, applicant had no assets, debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant has filed a certificate of dissolution with the State of Washington on October 1, 1993.

9. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9521 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20999; 811–1534]

SAFECO Growth Fund, Inc.; Notice of Application

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO Growth Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company under the Act.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, SAFECO Plaza, Seattle, WA 98185,

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, (202) 942–0571, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a corporation under the laws of the State of Washington. In 1967, applicant filed a registration statement pursuant to section 8(b) of the Act and a registration statement pursuant to the Securities Act of 1933 to register its shares of common stock. After the registration statements became effective, applicant commenced the initial public offering of its shares.

2. On May 6, 1993, applicant's board of directors approved a plan of reorganization (the "Plan") between applicant and SAFECO Common Stock Trust (the "Trust") on behalf of its series SAFECO Growth Fund (the "Acquiring Fund").[1] The Trust is an investment company organized under the laws of Delaware.

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas a series of the Trust has no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Trust, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC relating to the proposed reorganization and afterwards distributed such proxy materials to its shareholders. Applicant's shareholders approved the reorganization at a meeting held on August 5, 1993.

5. Pursuant to the Plan, applicant transferred all of its assets and liabilities to the Fund on September 30, 1993, in exchange for shares of the Acquiring Fund. The exchange was based on the relative net asset value of applicant and the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the Acquiring Fund shares it received in the reorganization. No brokerage commissions were incurred in this reorganization.

6. The total expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs of proxy materials, were $39,242 and were paid by applicant.

7. As of the date of the application, applicant had no assets, debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant has filed a certificate of dissolution with the State of Washington on October 1, 1993.

9. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 95–9519 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21001; 811–5541]

SAFECO High-Yield Bond Fund, Inc.; Notice of Application

April 12, 1995

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO High-Yield Bond Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by

VOL 60 ISS 74 AP 18 1995 UMI

mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized as a corporation under the laws of the State of Washington. On May 25, 1988, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on September 7, 1988, and the initial public offering commenced on that date.

2. On May 6, 1993, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") between applicant and SAFECO Taxable Bond Trust, a registered open-end management investment company organized under the laws of Delaware (the "Acquiring Fund").[1]

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas Delaware trusts have no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Acquiring Fund, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC and afterwards distributed such proxy materials to its shareholders. On August 5, 1993, applicant's shareholders approved the reorganization.

5. Pursuant to the Plan, on September 30, 1993, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On September 30, 1993, applicant had 3,068,197.248 shares outstanding, having an aggregate net asset value of $28,290,701.59 and a per share net asset value of $9.22.

6. Expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs for the proxy solicitation, were approximately $6,776 and were paid by applicant.

7. There are no security holders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant filed articles of dissolution on October 1, 1993 with the State of Washington.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9518 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

[Rel. No. IC–20998; 811–1760]

SAFECO Income Fund, Inc.; Notice of Application

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO Income Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company under the Act.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, DC 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, (202) 942–0571, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a corporation under the laws of the State of Washington. In 1969, applicant filed a registration statement pursuant to section 8(b) of the Act and a registration statement pursuant to the Securities Act of 1933 to register its shares of common stock. The registration statements became effective on July 17, 1969 and the initial public offering of its shares commenced that same date.

2. On May 6, 1993, applicant's board of directors approved a plan of reorganization (the "Plan") between applicant and SAFECO Common Stock Trust (the "Trust") on behalf of its series SAFECO Income Fund (the "Acquiring Fund").[1] The Trust is an investment company organized under the laws of Delaware.

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas a series of the Trust has no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Trust, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC relating to the proposed reorganization and afterwards distributed such proxy materials to its shareholders. Applicant's shareholders approved the reorganization at a meeting held on August 5, 1993.

5. Pursuant to the Plan, applicant transferred all of its assets and liabilities to the Fund on September 30, 1993, in exchange for shares of the Fund. The exchange was based on the relative net asset value of applicant and the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the Acquiring Fund shares it received in the reorganization. No brokerage commissions were incurred in this reorganization.

6. The total expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs of proxy materials, were $40,209 and were paid by applicant.

7. As of the date of the application, applicant had no assets, debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant has filed a certificate of dissolution with the State of Washington on October 1, 1993.

9. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9523 Filed 4–17–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20995; 811–5238]

SAFECO Municipal Bond Fund, Inc.; Notice of Application

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO Municipal Bond Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, SAFECO Plaza, Seattle, WA 98185

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized as a corporation under the laws of the State of Washington. On August 10, 1981, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on November 25, 1981, and the initial public offering commenced on that date.

2. On May 6, 1993, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") between applicant and SAFECO Tax-Exempt Bond Trust, a registered open-end management investment company organized under the laws of Delaware (the "Acquiring Fund").[1]

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas Delaware trusts have no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Acquiring Fund, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. May 7, 1993, applicant filed proxy materials with the SEC and afterwards distributed such proxy materials to its shareholders. On August 5, 1993, applicant's shareholders approved the reorganization.

5. Pursuant to the Plan, on September 30, 1993, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On September 30, 1993, applicant had 39,409,779.448 shares outstanding, having an aggregate net asset value of $578,335,823.90 and a per share net asset value of $14.67.

6. Expenses incurred in connection with the reorganization, consisting of

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

VOL 60 ISS 74 AP 18 1995 UMI

legal fees, accounting fees, and printing and mailing costs for the proxy solicitation, were approximately $41,699 and were paid by applicant.

7. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant filed articles of dissolution on October 1, 1993 with the State of Washington.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-9524 Filed 4-17-95; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-20994; 811-4055]

SAFECO Tax-Free Money Market Fund, Inc.; Notice of Application

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO Tax-Free Money Market Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942-0572, or C. David Messman, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized as a corporation under the laws of the State of Washington. On June 22, 1984, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on September 25, 1984, and the initial public offering commenced on that date.

2. On May 6, 1993, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") between applicant and SAFECO Money Market Trust, a registered open-end management investment company organized under the laws of Delaware (the "Acquiring Fund").[1]

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas Delaware trusts have no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Acquiring Fund, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC and afterwards distributed such proxy materials to its shareholders. On August 5, 1993, applicant's shareholders approved the reorganization.

5. Pursuant to the Plan, on September 30, 1993, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On September 30, 1993, applicant had 79,275,051.010 shares outstanding, having an aggregate net asset value of $79,275,051.01 and a per share net asset value of $1.00.

6. Expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs for the proxy solicitation, were approximately $9,174 and were paid by applicant.

7. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant filed articles of dissolution on October 1, 1993 with the State of Washington.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-9525 Filed 4-17-95; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

[Rel. No. IC-20996; 811-7298]

SAFECO Washington State Municipal Bond Fund, Inc.; Notice of Application

April 12, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO Washington State Municipal Bond Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company under the Act.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W. Washington, D.C. 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, (202) 942-0571, or Robert A. Robertson, Branch Chief, (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a corporation under the laws of the State of Washington. On September 4, 1990, applicant registered under the Act as an investment company and filed a registration statement under the Securities Act of 1933 to register its shares. The registration statement became effective on March 18, 1993 and the initial public offering of its shares commenced on that date.

2. On May 6, 1993, applicant's board of directors approved a plan of reorganization (the "Plan") between applicant and SAFECO Tax-Exempt Bond Trust (the "Trust") on behalf of its series, SAFECO Washington State Municipal Bond Fund (the "Acquiring Fund").[1] The Trust is an investment company organized under the laws of Delaware.

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas a series of the Trust has no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Trust, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC relating to the proposed reorganization and afterwards distributed such proxy materials to its shareholders. Applicant's shareholders approved the reorganization at a meeting held on August 5, 1993.

5. Pursuant to the Plan, applicant transferred all of its assets and liabilities to the Acquiring Fund on September 30, 1993, in exchange for shares of the Acquiring Fund. The exchange was based on the relative net asset value of applicant and the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the Acquiring Fund shares it received in the reorganization. No brokerage commissions were incurred in this reorganization.

6. The total expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs of proxy materials, were $120. Applicant's former investment adviser, SAFECO Asset Management Company, paid these expenses.

7. As of the date of the application, applicant had no assets, debts or liabilities, and was not a party to any litigation or administrative proceeding.

8. Applicant has filed a certificate of dissolution with the State of Washington on October 1, 1993.

9. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-9522 Filed 4-17-95; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

SMALL BUSINESS ADMINISTRATION

[Application No. 06060-5]

Capital for Entrepreneurs, Inc.; Notice of Filing of an Application for a License To Operate as a Specialized Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1995)) by Capital for Entrepreneurs, Inc., 4747 Troost Avenue, Kansas City, Missouri 64110, for a license to operate as a specialized small business investment company (SSBIC) under the Small Business Investment Act of 1958, as amended (15 U.S.C. et. seq.), and the Rules and Regulations promulgated thereunder. Capital for Entrepreneurs, Inc. is a Missouri corporation.

The Applicant will be wholly owned by the Center for Business Innovation, located at the same address as the applicant. The officers and directors of Capital for Entrepreneurs, Inc. are:

Name and Title
Robert J. Sherwood, President, Manager
Patti J. Klinko, Vice President, Secretary
Bertram E. Berkley, Director Tension Envelope, 819 E. 19 Street, Kansas City, MO 64108
David M. Brain, Director KPMG Peat Marwick, 1600 Commerce Bank Building, Kansas City, MO 64105
Terrence P. Dunn, Director J.E. Dunn Construction Company, 929 Holmes, Kansas City, MO 64106
Tom D. Harmon, Director Central Mortgage Bancshares, Inc., 4435 Main Street, Kansas City, MO 64111
Walter J. Rychlewski III, Director Resume Expert Systems, 1201 E. West College, Liberty, MO 64068

Mr. Sherwood and Ms. Klinko have offices at 4747 Troost Avenue, Kansas City, Missouri.

The applicant will have total committed capital of $2.9 million. It will be a source of debt and equity financings for qualified small business concerns, and will invest primarily in the Kansas City area.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

VOL 60 ISS 74 AP 18 1995 UMI

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SSBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Kansas City, Missouri.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: April 9, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–9443 Filed 4–17–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2180]

International Telecommunications Advisory Committee

Standardization Sector (ITAC–T) Study Group D; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee Standardization Sector (ITAC–T), Study Group D will meet on Thursday, June 1, 1995, Room 1205, at 9:30 a.m. at the Department of State, 2201 C Street NW., Washington, DC 20521.

The agenda for Study Group D will include a report of the April meeting of ITU–T Study Group 14, and consideration of U.S.A. and company contributions to the June meeting of ITU–T Study Group 7. Other matters within the competence of Study Group D, including Rapporteur meeting reports may be considered during that meeting.

Persons presenting contributions to Study Group D should bring 20 copies of such contributions to the meeting.

Members of the General Public may attend and join in the discussions, subject to the control of the Chair. Persons intending to attend the above U.S. Study Group Meeting must announce this not later than 5 days before the meeting to the Department of State, 202–647–0201 (fax: 202–647–7407). The announcement must include name, social security number, and date of birth. The above includes government and non-government attendees. All attendees must use the "C" Street entrance. One of the following valid ID's will be required for admittance: any U.S. drivers' license with photo, a passport, or a U.S. Government agency ID.

Dated: April 4, 1995.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunications Standardization Sector.

[FR Doc. 95–9462 Filed 4–17–95; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular; Turbine Engine Windmilling and Rotor Locking

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circulars and request for comments.

SUMMARY: This notice announces the availability of an Advisory Circular (AC), which combines, No's. 33.74 and 33.92, Turbine Engine Windmilling and Rotor Locking.

DATES: Comments must be received on or before May 18, 1995.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA, 01803–5299.

FOR FURTHER INFORMATION CONTACT: John Golinski, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA, 01803–5299, telephone (617) 238–7119, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC, and submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC, and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service before issuance of the final AC.

Background

This AC is on the subjects of turbine engine windmilling and rotor locking tests that were identified as areas where differences existed between the Joint Aviation Requirements-Engines, and part 33 of the Federal Aviation Regulations. A study group composed of representatives of the Federal Aviation Administration, the Joint Aviation Authorities, Transport Canada and the Aviation Industry worked to produce a set of improved and harmonized requirements. These requirements have been published as a notice of proposed rulemaking in the **Federal Register** on March 6, 1995.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 49 U.S.C. App. 1354(a), 1421 and 1423, provides guidance for these proposed requirements.

Issued in Burlington, Massachusetts, on April 7, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–9500 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–M

Proposed Advisory Circular; Turbine Engine Vibration Survey

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed advisory circulars and request for comments.

SUMMARY: This notice announces the availability of Advisory Circular (AC), N0. 33.83, Turbine Engine Vibration Survey.

DATES: Comments must be received on or before May 18, 1995.

ADDRESSES: Send all comments on the proposed AC to the Federal Aviation Administration, Attn: Engine and Propeller Standards Staff, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, MA, 10803–5299.

FOR FURTHER INFORMATION CONTACT: Thomas Boudreau, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA, 01803, telephone (617) 238–7117, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the subject AC may be obtained by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**. Interested persons are invited to comment on the proposed AC, and to submit such written data, views, or arguments as they desire. Commenters must identify the subject of the AC, and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Engine and Propeller Directorate, Aircraft Certification Service before issuance of the final AC.

Background

The AC is on the subject of engine vibration tests and surveys, and was identified as one where differences existed between the Joint Aviation Requirements—Engines, and part 33 of the Federal Aviation Regulations. A study group composed of representatives of the Federal Aviation Administration, the Joint Aviation Authorities. Transport Canada and industry worked to produce a set of improved and harmonized requirements that was subsequently incorporated into part 33 of the FAR. This AC is intended to provide guidance in implementing these new harmonzied requirements during certification.

These requirements have been published as a notice of proposed rulemaking in the **Federal Register** on March 16, 1995.

This advisory circular, published under the authority granted to the Administrator by 49 U.S.C. 106(g), 49 U.S.C. App. 1354(a), 1421 and 1423, provides guidance for these proposed requirements,

Issued in Burlington, Massachusetts, on April 7, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–9503 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–M

Airborne Weather Radar With Forward-Looking Windshear Capability

AGENCY: Federal Aviation Administration.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and request comments on a proposed technical standard order (TSO) pertaining to airborne weather radar with forward-looking windshear capability. The proposed TSO prescribes the minimum performance standards that airborne weather radar with forward-looking windshear capability must meet to be identified with the marking "TSO–C134."

DATES: Comments must identify the TSO file number and be received on or before July 20, 1995.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Program and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C134, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 804, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Program and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 804, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

This is a new TSO that sets forth minimum operational performance standards for airborne weather radar with forward-looking windshear detection capability.

For windshear detection, the airborne radar equipment must detect areas containing windshear activity. It must be capable of correlating and generating appropriate alerts based on F factor. This output must be clear, automatic, concise and distinct to allow for rapid pilot interpretation. The selection of the windshear detection mode must be done automatically during takeoff and landing phases of flight.

This TSO contains standards for weather detection and ground mapping. In the case of weather detection, the airborne radar equipment must detect and display echoes from precipitation in a way that will allow flight crew analysis of probable turbulent areas ahead. In the case of ground mapping, the airborne radar equipment must be able to detect and display echoes from the surface of the earth to allow in-flight analysis.

How to Obtain Copies

A copy of the proposed TSO–C134 may be obtained by contacting **FOR FURTHER INFORMATION CONTACT.** Copies of RTCA Document No. DO–220, "Minimum Operational Performance Standards for Airborne Weather Radar with Forward-Looking Windshear Capability," may be purchased from the RTCA Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Issued in Washington, DC, on April 12, 1995.

John K. McGrath,

Manager, Aircraft Engineering Division Aircraft Certification Service.

[FR Doc. 95–9502 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–M

Aircraft Flight Recorder and Cockpit Voice Recorder

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice of Cancellation of Technical Standard Orders (TSO's) C51a and C84.

SUMMARY: This notice cancels TSO–C51a, Aircraft Flight Recorder and TSO–C84, Cockpit Voice Recorder. TSO–C51a prescribes the minimum performance standards that aircraft flight recorders were required to be identified with marking "TSO–C51a," dated January 6, 1966. TSO–C84 prescribes the minimum performance standards that cockpit voice recorders (CVR) were required to be identified with marking "TSO–C84." This cancellation will ensure that future flight recorders and cockpit voice recorders are produced under TSO–C123a, Cockpit Voice Recorder System, and TSO–C124a, Flight Data Recorder Systems.

EFFECTIVE DATE: May 18, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546.

SUPPLEMENTARY INFORMATION:

Background

The National Transportation Safety Board reported that seven flight recorder media destroyed by postimpact fire in

VOL 60 ISS 74 AP 18 1995 UMI

six accidents prompted concern about the adequacy of the performance standards for flight recorders. Minimum performance standards for impact and fire protection are outlined in four Technical Standard Orders (TSO's): TSO–C84 and TSO–C123 address CVR's and TSO–C51a and TSO–C124 address FDR's. TSO–C51a and TSO–C84 have essentially the same fire protection requirements; the fire test protocol requirements outlined in these TSO's are less stringent than the requirements outlined in the recently issued TSO–C123 and C124. Further, the fire test protocol in TSO–C51a and C84 is so vague that a recorder could be subjected to temperatures much lower than 1,100 °C due to inadequate burner heat release and still pass the test. The FAA recognized this deficiency in its 1970 report, "Fire Test Criteria for Recorders." The report states:

"This requirement [TSO–C51a/C84] specifies the temperature, but not the source or the BTU rate of the flame. The temperature at the recorder flame impingement area must be 1,100 °C (2,012 °F). Thus, a recorder could meet the TSO requirements by passing a test in which the recorder is exposed to low heat output flames producing a temperature of 1,100 °C at a point of a few inches in front of the recorder while the temperature at the recorder case could be much less than 1,100 °C."

The temperature and duration for the fire test required by TSO's C51a, C84, C123, and C124 are the same. However, only the more exacting test protocol prescribed by TSO–C124 is likely to determine if a recorder will actually survive a high intensity, short duration fire.

Based on the findings of the NTSB, TSO–C54a and TSO–C81 are canceled May 18, 1995. Because of the need to ensure that the data, cockpit voice described above, is preserved, good cause exists to cancel TSO's C51a and C84 without prior notice and opportunity to comment.

Issued in Washington, DC, on April 12, 1995.

John K. McGrath,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 95–9501 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 92–68; Notice 4]

Kewet Industri; Grant of Application for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

Kewet Industri of Hadsund, Denmark, applied for a two-year renewal of its temporary exemption from the automatic restraint requirements of Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*. The exemption, NHTSA Temporary Exemption No. 93–1, was published on February 10, 1993 (58 FR 7905). The basis of the application was that a continued exemption would facilitate the development and field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of the vehicle.

Notice of receipt of the application was published on January 12, 1995, and an opportunity afforded for comment (60 FR 3026).

Kewet manufactures a passenger car called the El-Jet. The vehicle is powered by on-board rechargeable batteries which drive an electric traction motor. The El-Jet, which produces no emissions, is therefore a "low-emission motor vehicle" within the meaning of NHTSA's authority to provide temporary exemptions.

In 1992, Kewet argued that the granting of a temporary exemption would facilitate the development of an electric vehicle industry in the United States. The vehicle is so small that it could serve as a replacement for the 3-wheel Cushman type meter reader vehicle in municipal fleets. It provides greater safety for the operator at a substantially lower price. Further, an exemption would promote learning and exchange of information between the Danish electric vehicle industry and the U.S. one. Finally, the El Jet would demonstrate the commercial viability of a "neighborhood electric vehicle."

Petitioner also argued that an exemption would not unreasonably degrade the safety of the vehicle. The El-Jet is equipped with a 3-point restraint system, and will otherwise comply with all applicable Federal motor vehicle safety standards. It complies with all current European motor safety standards and has passed a crash test at 50 kph (30 mph). Its top speed is only 40 mph, reducing the risk of injury. Although Kewet expected to be able to provide a driver's side air bag in all cars manufactured after September 1993, the target date is now the 1996 model year. Originally, Kewet projected sales of 30 to 50 vehicles through 1993; in actuality, sales in 1994 as of August 30 were "less than 35."

In Kewet's opinion, a temporary exemption would be in the public interest and consistent with traffic safety objectives because it is a participant in the Advanced Research Projects Agency (ARPA) Electrical Vehicle Testing Program. It comments that "[p]roviding test data to the national testing program * * * is an important development to the electric vehicle industry." Kewet does not feel that lack of an air bag "has been a safety hazard" because of the El-Jet's low top speed, and intended non-freeway use. The vehicle is equipped with lap and torso belts, and employs "steel roll cage construction."

No comments were received in response to the notice.

While the application was pending, NHTSA asked Kewet to provide further information on the 50 kph crash test to which it had referred. Kewet supplied a copy of a test report by TNO laboratory of Delft, the Netherlands, and a video of the test. The test was conducted to the requirements of ECE R–12 in 1990, and indicates conformance. The El Jet also passed the body block tests at 24.1 kph on the steering wheel, according to the requirements of ECE–12. Kewet confirmed to NHTSA that it will install both a driver and passenger airbag "before the end of 1995."

With respect to the three-point belt system that has been and will be provided in the interim, Kewet submitted a report on its seat belt anchorages by the Danish Technology Institute verifying compliance with E.E.C. Regulation 76/115/E.E.C. These reports have provided NHTSA with the assurance necessary to find that an exemption would not unreasonably lower the safety level of the car. NHTSA notes, too, that the vehicle is certified as complying with all other Federal motor vehicle safety standards.

Although Kewet's market in the U.S. has been extremely limited under its exemption, the El Jet is one of the few exempted vehicles of foreign manufacture, and one which is a purpose-built electric vehicle and not a conversion. Thus, to extend the exemption would enhance the evaluation of electric vehicles under U.S. road conditions. The public interest will be served by the continued participation of the El Jet in ARPA's electric vehicle test program.

Although a one-year extension would appear to be sufficient for Kewet, the agency is providing one of 18 months in the event that unforeseen delays are encountered in introducing airbag technology into production.

In consideration of the foregoing, it is hereby found that an extension of Kewet's exemption will facilitate the development and field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of the vehicle, and, further, that such extension is in the public interest and consistent with the objectives of traffic safety. Accordingly, NHTSA Temporary Exemption No. 93–1 from S4.1.4 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*, is hereby extended to July 1, 1996.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

Issued on April 12, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–9504 Filed 4–17–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 11, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Financial Management Service (FMS)

OMB Number: 1510–0029.
Form Number: TFS 5118.
Type of Review: Extension.
Title: Depositor's Application for Payment of Postal Savings Certificates.
Description: This form is prepared when a depositor has lost, destroyed or misplaced his Postal Savings Certificates. Form properly completed and signed replaces unavailable certificates to support application for payment. If the original certificates show up, this document prevents duplicate payments from being made.
Respondents: Individuals or households
Estimated Number of Respondents: 250.
Estimated Burden Hours Per Response: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 63 hours.
OMB Number: 1510–0038.
Form Number: TFS 6114.
Type of Review: Extension.
Title: More Information Letter.
Description: This form is prepared when information in an inquiry about Postal Savings is insufficient to make a search of files and records.
Respondents: Individuals or households.
Estimated Number of Respondents: 375.
Estimated Burden Hours Per Response: 15 minutes.
Frequency of Response: Other.
Estimated Total Reporting Burden: 94 hours.
OMB Number: 1510–0058.
Form Number: None.
Type of Review: Extension.
Title: Claims on Account of Treasury Checks.
Description: A person making a claim on a Treasury check provides information concerning the check to the agency which authorized the issuance of the check. The information is used to determine if the claimant is entitled to the proceeds of the check. Likely claimants are individual recipients of checks.
Respondents: Individuals or households.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–9446 Filed 4–17–95; 8:45 am]

BILLING CODE 4810–35–P

Public Information Collection Requirements Submitted to OMB for Review

April 10, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0057.
Form Number: IRS Form 1024
Type of Review: Revision
Title: Application for Recognition of Exemption Under Section 501(a)
Description: Organizations seeking exemption from Federal income tax under section 501(a) as an organization described in most paragraphs of section 501(c) must apply to IRS for a ruling letter. The information collected is used to determine whether the organization qualifies for exemption status.
Respondents: Not-for-profit institutions.
Estimated Number of Respondents/Recordkeepers: 4,718.
Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law of the form	Preparing, and sending the form to IRS
1024	53 hr., 5 min	2 hr., 11 min	3 hr., 8 min.
1024, Part IV	1 hr., 12 min	35 min	39 min.
1024, Sch. A	58 min	18 min.	19 min.
1024, Sch. B	1 hr., 40 min	18 min	20 min.
1024, Sch. C	58 min.	12 min	13 min
1024, Sch. D	4 hr., 4 min	18 min	22 min.
1024, Sch. E	1 hr., 40 min	18 min	20 min.
1024, Sch. F	2 hr., 23 min	12 min	14 min.
1024, Sch. G	1 hr., 55 min	6 min	8 min.

VOL 60 ISS 74 AP 18 1995 UMI

Form	Recordkeeping	Learning about the law or the form	Preparing, and sending the form to IRS
1024, Sch. H	1 hr., 40 min	6 min	8 min.
1024, Sch. I	5 hr., 30 min	30 min	37 min.
1024, Sch. J	2 hr., 23 min	6 min	8 min.
1024, Sch. K	3 hr., 21 min	6 min	10 min.

Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 290,108 hours.
OMB Number: 1545–0170.
Form Number: IRS Form 4466.
Type of Review: Extension.
Title: Corporation Application for Quick Refund of Overpayment of Estimated Tax.
Description: Form 4466 is used by a corporation to file for an adjustment (quick refund) of overpayment of estimated income tax for the tax year. This information is used to process the claim, so the refund can be issued.
Respondents: Businesses or other for-profit, Farms.
Estimated Number of Respondents/Recordkeepers: 16,125.
Estimated Burden Hours Per Respondent/Recordkeepers:
Recordkeeping—3 hr., 35 min.
Learning about the law or the form—12 min.
Preparing and sending the form to the IRS—16 min.
Frequency of Response: On occasion.
Estimated Total Reporting/Reporting Burden: 65,306 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer
[FR Doc. 95–9448 Filed 4–17–95; 8:45 am]
BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

April 11, 1995.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0720.
Form Number: IRS Form 8038–G.
Type of Review: Resubmission.
Title: Information Return for Tax-Exempt Governmental Obligations.
Description: This form collects the information that IRS is required to collect by Code section 149(e). IRS uses the information to assure that tax-exempt bonds are issued consistent with the rules of Internal Revenue Code (IRC) sections 141–149.
Respondents: State, Local or Tribal Government, Not-for-profit institutions.
Estimated Number of Respondents/Recordkeepers: 14,500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Learning about the law or the form—2 hr., 29 min.
Preparing, copying, assembling and sending the form to the IRS—2 hr., 51 min.
Frequency of Response: Annually
Estimated Total Reporting/Recordkeeping Burden: 857,140 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer
[FR Doc. 95–9449 Filed 4–17–95; 8:45 am]
BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

April 10, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.
Form Number: None.
Type of Review: Revision.
Title: 1995 TeleFile Customer Satisfaction Surveys for the Spanish Script.
Description: TeleFile is an innovative method for filing tax returns. It permits taxpayers to use touch-tone telephones to file 1040EZ with the Internal Revenue Service.
The voice processing system that supports TeleFile at the Cincinnati Service Center now has more incoming telephone lines and has been redesigned for 1995 to improve efficiency, provide for more effective processing, and better Management Information Systems reports. In 1995, TeleFile will be offered to eligible taxpayers in three additional areas: The Austin, Denver, and Sacramento Districts. For the first time, Spanish speaking filers will be able to access a Spanish language TeleFile dialogue. The voice signature is not a feature of TeleFile in 1995.
These two customer satisfaction surveys focus specifically on taxpayers who used the Spanish language TeleFile dialogue to successfully file their 1994 tax return and on taxpayers who, had they used TeleFile, more than likely would have used the Spanish language dialogue. These surveys have been designed to gain information from potential Spanish users of their impression and satisfaction with the Spanish TeleFile dialogue and TeleFile in general.
Respondents: Individuals or households.
Estimated Number of Respondents: 2,000.
Estimated Burden Hours Per Respondent:

Respondents	Time
Spanish-speaking taxpayers	12 minutes.
Non-Spanish-speaking taxpayers.	5 minutes.

Frequency of Response: Other.
Estimated Total Reporting Burden: 425 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer
[FR Doc. 95–9447 Filed 4–17–95; 8:45 am]
BILLING CODE 4830–01–P

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: U.S. Customs Service, Department of the Treasury
ACTION: Notice of calculation and interest.

SUMMARY: This notice advises the public of an increase in the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts and refunds of Customs duties. For the quarter beginning April 1, 1995, the rates will be 9 percent for overpayments and 10 percent for underpayments. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 1995.
FOR FURTHER INFORMATION CONTACT: Harry Bunn, U.S. Customs Service, National Finance Center, Revenue Accounting Branch, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1252.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Interest rates are determined based on the short-term Federal rate. The interest rate that Treasury pays on overpayments will be the short-term Federal rate plus two percentage points. The interest rate paid to the Treasury for underpayments will be the short-term Federal rate plus three percentage points. The rates will be rounded to the nearest full percentage.

The interest rates are determined by the Internal Revenue Service on behalf of the Secretary of the Treasury based on the average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity of 3 years or less, and fluctuate quarterly. The rates effective for a quarter are determined during the first-month period of the previous quarter. The rates of interest for the third quarter of fiscal year (FY) 1995 (the period of April 1–June 30, 1995) are increased to 9 percent for overpayments and 10 percent for underpayments. These rates will remain in effect through June 30, 1995, and are subject to change for the fourth quarter of FY–995 (the period of July 1–September 30, 1995).

Dated: April 11, 1995.

George J. Weise,
Commissioner of Customs.
[FR Doc. 95–9451 Filed 4–17–95; 8:45 am]
BILLING CODE 4820–02–P

[T.D. 95–32]

Tuna Fish—Tariff-Rate Quota

AGENCY: U.S. Customs Service, Department of the Treasury.
ACTION: Announcement of the quota quantity for tuna for calendar year 1995.

SUMMARY: Each year the tariff-rate quota for tuna fish described in item 1604.14.20, HTSUS, is based on the United States canned tuna production for the preceding calendar year.

EFFECTIVE DATE: The 1995 tariff-rate quota is applicable to tuna fish entered, or withdrawn from warehouse, for consumption during the period January 1 through December 31, 1995.
FOR FURTHER INFORMATION CONTACT: Karen L. Cooper, Chief, Quota, Technical Programs, Trade Compliance Division, Office of Field Operations, U.S. Customs Service, Washington, DC 20229, (202) 927–5401. It has now been determined that 33,278,830 kilograms of tuna may be entered for consumption or withdrawn from warehouse for consumption during the Calendar Year 1995, at the rate of 6 percent ad valorem under item 1604.14.20, HTSUS. Any such tuna which is entered, or withdrawn from warehouse, for consumption during the current calendar year in excess of this quota will be dutiable at the rate of 12.5 percent ad valorem under item 1604.14.30 HTSUS. (OFO–TC:T:Q)

Dated: April 12, 1995.

Michael H. Lane,
Acting Commissioner
[FR Doc. 95–9452 Filed 4–17–95; 8:45 am]
BILLING CODE 4820–02–P

Office of Foreign Assets Control

Deletions From the List of Specially Designated Nationals of Cuba in Panama

AGENCY: Office of Foreign Assets Control, Treasury.
ACTION: Notice of deletions from the list of specially designated nationals of Cuba.

SUMMARY: The Treasury Department is issuing a list of persons, located in Panama, previously designated as specially designated nationals of Cuba who are now no longer considered to be so designated. The original designations were made pursuant to the Cuban Assets Control Regulations.

EFFECTIVE DATE: April 13, 1995.
FOR FURTHER INFORMATION: J. Robert McBrien, Chief, International Programs, Tel.: (202) 622–2420; Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave., NW Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem dial 202/512–1387 or call 202/512–1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII.

Background

On October 31, 1989, the Office of Foreign Assets Control of the U.S. Department of the Treasury published a list identifying certain persons operating in Panama as specially designated nationals of Cuba under the Cuban Assets Control Regulations, 31 CFR part

VOL 60 ISS 74 AP 18 1995 UMI

515 (the "Regulations"). 54 FR 45730 (Oct. 31, 1989). Following a review of additional information, it has been determined that the following entities no longer come within the scope of the term "specially designated national" as defined in § 515.306 of the Regulations. Accordingly, the following names are removed from the list of Specially Designated Nationals of Cuba:

CASAS DE CAMBIO, Panama.
CLUB VILLA FENIX, Panama.
COMPANIA ISTMENA DE AVIACION, Panama.
DUTY FREE SHOP, Balboa Pier, Panama.
DUTY FREE SHOP, Cristobal Pier, Panama.
DUTY FREE SHOP, Patilla Airport, Panama.
DUTY FREE SHOP, Port of Vacamonte, Panama.
DUTY FREE SHOP, Torrijos Airport, Panama.
ECONOLLANTAS, Panama.
EL DEPOSITO, Panama.
EL MILLON, Panama.
HOTEL GRANADA, Panama.
HOTEL NACIONAL, Panama.
HOTEL RIANDE AEROPUERTO, Panama.
HOTEL RIANDE CONTINENTAL, Panama.
JOYERIA Y BOUTIQUE PRETELT, Panama.
MARINEXAM, Panama.
PIEX, Panama.
PROCESOS METALICOS, S.A., Panama.
RADIO VERBO, Panama.
SETRACA, S.A., Panama.
SHAHANI AUTO SUPPLIER, Panama.
SUPERSEGUROS, Panama.
TENERIA TAURO, S.A., Panama.
ZEBETEX INTERNATIONAL, S.A., Panama.

Dated: March 29, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 7, 1995.

John Berry,

Deputy Assistant Secretary (Enforcement).

[FR Doc. 95-9547 Filed 4-13-95; 3:09 pm]

BILLING CODE 4810-25-P

Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice of blocking.

SUMMARY: The Treasury Department is issuing a list of blocked persons and specially designated nationals pursuant to Executive Order 12934 and the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations who have been designated by the Director, Office of Foreign Assets Control, as being members of the Bosnian Serb military or paramilitary forces or civilian authorities, or who have been determined to be located in or controlled from the Federal Republic of Yugoslavia (Serbia and Montenegro), or acting for or on behalf of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro). Property of these persons that is located in the United States or within the possession or control of U.S. persons is blocked, and most transactions with these persons are prohibited. These lists include designations pursuant to 31 CFR part 585 and E.O. 12934 (59 FR 54117).

EFFECTIVE DATE: April 13, 1995, or upon prior **Federal Register** or actual notice.

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Chief, International Programs, Tel.: (202) 622-2420, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem dial 202/512-5387 or call 202/512-5130 for disks or paper copies. This file is available in Postscript, Wordperfect 5.1 and ASCII.

Background

The Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations, 31 CFR part 585 (the "Regulations"), were issued by the Treasury Department to implement Executive Orders 12808 of May 30, 1992, 12810 of June 5, 1992, and 12831 of January 15, 1993, in which the President declared a national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S&M)"), invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) and the United Nations Participation Act (22 U.S.C. 287c), and ordered specific measures against the Government of the FRY (S&M). On April 25, 1993 the President issued Executive Order 12846, blocking all property and interests in property of all commercial, industrial, or public utility undertakings or entities organized or located in the FRY (S&M), including property and interests in property of entities, wherever organized or located, owned or controlled by such undertakings or entities.

On October 25, 1994, the President issued Executive Order 12934, expanding the scope of the national emergency to, *inter alia*, block property and interests in property of the Bosnian Serb military and paramilitary forces and the authorities in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; entities organized or located in those areas; entities owned or controlled by any person in, or resident in, those areas; and any person acting for or on behalf of any of the foregoing.

The Bosnian Serb individuals contained in the list of "Bosnian Serb Civilian and Military Authorities" have been determined by the Treasury Department's Office of Foreign Assets Control ("FAC") to be members of the Bosnian Serb civilian and military authorities. The persons contained in the list of Blocked Persons and Specially Designated Nationals of the FRY (S&M) have been determined by FAC to be (1) organized or located in the FRY (S&M); (2) owned or controlled by entities that are organized or located in the FRY (S&M); or (3) owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the Government of the FRY (S&M) pursuant to § 585.311 of the Regulations. Many of the latter persons have been included in prior notices concerning blocked persons of the FRY (S&M), 57 FR 32051 (July 20, 1992); 59 FR 59460 (Nov. 17, 1994).

U.S. persons are prohibited from engaging in transactions with any of the listed entities or individuals unless the transactions are licensed by FAC. Additionally, all assets within U.S. jurisdiction owned or controlled by these persons are blocked. U.S. persons are not prohibited, however, from paying funds owed to these persons into blocked accounts in domestic U.S. financial institutions held in the names of the blocked persons. Notice of blocking is effective upon the date of filing with the **Federal Register**, or upon prior **Federal Register** or actual notice.

BOSNIAN SERB CIVILIAN AND MILITARY AUTHORITIES

The individuals identified below are members of, or have acted or purported to act, directly or indirectly, on behalf of, (1) the Bosnian Serb military or paramilitary forces within the territory of the Republic of Bosnia and Herzegovina, or (2) the authorities in the territory within the Republic of Bosnia and Herzegovina under the control of those forces (collectively, the "Bosnian Serb authorities"). The titles in this list are self-claimed, and do not imply U.S. recognition of the Bosnian Serb authorities. The list provides the name, title, location and, if known, the date of birth ("DOB") and place of birth ("POB") of each listed individual. The abbreviation "a.k.a." means "also known as." The abbreviation "SRBH" refers to the self-styled "Serbian Republic" within the Republic of Bosnia and Herzegovina. All property and interests in property of the following individuals are blocked if such property is in or hereafter comes within the United States or the possession or control of a U.S. person, including overseas branches:

Civilian Authorities

ANTIC, Bozidar (President of SRBH Chamber of Commerce), Bosnia-Herzegovina
BJELOJEVIC, Dragomir (Deputy in SRBH Assembly), Pale, Bosnia-Herzegovina
BLAGOJEVIC, Predrag (Diplomat for SRBH), Bosnia-Herzegovina
BLAGOJEVIC, Stanko (Deputy in SRBH Assembly), Bosnia-Herzegovina
BORKOVIC, Ratko (Deputy in SRBH Assembly), Bosnia-Herzegovina
BOSIC, Boro (Minister of Industry and Energy of SRBH), Bosnia-Herzegovina
BRDZANIN, Radoslav (a.k.a. BRDJANIN, Radoslav) (Minister of Housing and Building of SRBH), Bosnia-Herzegovina; POB: Celinac Donji, Bosnia-Herzegovina
BUHA, Aleksa Dr. (Foreign Minister of SRBH), Bosnia-Herzegovina; DOB: November 21, 1939, POB: Gacko, Bosnia-Herzegovina
CVIJANOVIC, Zeljko (Head of *Srpska Novinska Agencija* (SRNA) News Agency in Belgrade), Belgrade, Serbia.
DJOKANOVIC, Dragan (Minister of Veterans' Issues of SRBH), Bosnia-Herzegovina
DODIK, Milorad (Deputy in SRBH Assembly), Banja Luka, Bosnia-Herzegovina
ERCEG, Nikola (Deputy in SRBH Assembly), Banja Luka, Bosnia-Herzegovina
GARIC, Nedeljko (Deputy in SRBH Assembly), Bosnia-Herzegovina
GOSTIC, Uros (Deputy in SRBH Assembly), Bosnia-Herzegovina
ILIC, Vladimir (Diplomat of SRBH), Bosnia-Herzegovina
JOLDIC, Miodrag (Deputy in SRBH Assembly), Doboj, Bosnia-Herzegovina
KALINIC, Dragan Dr. (Minister of Health of SRBH), Bosnia-Herzegovina
KARADZIC, Radovan Dr. (President of SRBH), Bosnia-Herzegovina; DOB: June 19, 1945, POB: Petnica, Montenegro
KOLJEVIC, Nikola Dr. (a Vice-President of SRBH), Bosnia-Herzegovina; DOB: June 9, 1936, POB: Banja Luka, Bosnia-Herzegovina
KOVACEVIC, Sveto (Minister of Trade and Supply of SRBH), Bosnia-Herzegovina
KOZIC, Dusan (Prime Minister of SRBH), Bosnia-Herzegovina
KRAJISNIK, Momcilo (President of SRBH Assembly), Banja Luka, Bosnia-Herzegovina; DOB: January 20, 1945, POB: Radovac, Sarajevo, Bosnia-Herzegovina
KRECA, Milenko (Diplomat of SRBH), Bosnia-Herzegovina
KRUNIC, Goran (Diplomat of SRBH), Bosnia-Herzegovina
LAJIC, Nedeljko (Minister of Transportation and Communication of SRBH), Bosnia-Herzegovina
LAKIC, Nedeljko (Secretary of SRBH), Bosnia-Herzegovina
LUKIC, Vladimir (Deputy in SRBH Assembly), Pale, Bosnia-Herzegovina; DOB: circa 1930.
MAKSIMOVIC, Vojislav (Head of *Srpska Demokratska Stranka Srpskih Zemalja* Deputy Group, Mayor of "Serb Sarajevo"), Sarajevo, Bosnia-Herzegovina; DOB: 1939, POB: Ustikolina, Bosnia-Herzegovina
MICIC, Momcilo (Deputy in SRBH Assembly), Bosnia-Herzegovina
MILANOVIC, Pantelija (Deputy in SRBH Assembly), Pale, Bosnia-Herzegovina
MILJKOVIC, Milan (Deputy in SRBH Assembly), Doboj, Bosnia-Herzegovina
MIOVCIC, Zdravko (Chef du Cabinet of Premier of SRBH), Bosnia-Herzegovina
NEDIC, Miladin (Deputy in SRBH Assembly), Ozren, Bosnia-Herzegovina
NINKOVIC, Milan (Minister of Defense of SRBH), Bosnia-Herzegovina; POB: Doboj Region, Bosnia-Herzegovina
OSTOJIC, Branko (Deputy Prime Minister and Economics Minister of SRBH), Bosnia-Herzegovina
OSTOJIC, Velibor (Deputy in SRBH Assembly), Banja Luka, Bosnia-Herzegovina; DOB: 1945, POB: Foca-Celebici, Bosnia-Herzegovina
PEJIC, Momcilo (SRBH National Bank official), Bosnia-Herzegovina
PEJIC, Ranko (Minister of Finance of SRBH), Bosnia-Herzegovina; DOB: June 12, 1935, POB: Ilijas, Sarajevo, Bosnia-Herzegovina
PERIC, Niksa (Deputy in SRBH Assembly), Bosnia-Herzegovina
PERIC, Vitomir (Secretary of Judicial Issues of SRBH), Bosnia-Herzegovina
PLAVSIC, Biljana (a Vice-President of SRBH), Bosnia-Herzegovina; DOB: July 7, 1930, POB: Banja Luka, Bosnia-Herzegovina
POPOVIC, Vitomir (Deputy in SRBH Assembly), Banja Luka, Bosnia-Herzegovina
PUTIC, Milenko (Deputy in SRBH Assembly), Bosnia-Herzegovina
RAKIC, Zivko (Minister of the Interior of SRBH), Bosnia-Herzegovina
RASUO, Nedeljko (Deputy in SRBH Assembly), Sanski Most, Bosnia-Herzegovina
RENOVICA, Milanko (Special Advisor to President of SRBH), Bosnia-Herzegovina
ROSIC, Jovo (Minister of Justice SRBH), Bosnia-Herzegovina
SAVIC, Milos (Secretary of SRBH Assembly), Bosnia-Herzegovina
SENDIC, Borivoj (Minister of Agriculture and Forestry of SRBH), Bosnia-Herzegovina
SPASIC, Andrea (General Secretary of SRBH), Bosnia-Herzegovina
SRDIC, Srdo (Deputy in SRBH Assembly), Prijedor, Bosnia-Herzegovina
TOHOLJ, Miroslav (Minister of Information of SRBH), Bosnia-Herzegovina; DOB: April 11, 1957, POB: Ljubinje, Bosnia-Herzegovina
TRBOJEVIC, Milan (Counselor to Premier of SRBH), Bosnia-Herzegovina
VOLAS, Cedo (President of Alliance of SRBH Trade Unions), Bosnia-Herzegovina
VRACAR, Milenko (a Governor of SRBH National Bank), Bosnia-Herzegovina
VUCUREVIC, Bozidar (Deputy in SRBH Assembly, Mayor of Trebinje), Trebinje, Bosnia-Herzegovina; DOB: September 22, 1936, POB: Trebinje, Bosnia-Herzegovina
VUKOVIC, Vlado (Assistant Minister of Defense of SRBH) Bosnia-Herzegovina; POB: Doboj Region, Bosnia-Herzegovina
ZAMETICA, Jovan (Advisor and Spokesman for President of SRBH) Bosnia-Herzegovina
ZIGIC, Branislava (Secretary of Ministry of Trade and Supply of SRBH), Bosnia-Herzegovina
ZUKOVIC, Ljubomir (Minister of Education, Science, and Culture of SRBH), Bosnia-Herzegovina

Military Authorities

ANDZIC, Rodoljub (Colonel and Commander, Mixed Herzegovina Air Force and Air Defense Brigade, SRBH Forces), Bosnia-Herzegovina
BORIC, Grujo (Major General and Commander, Second Krajina Corps, SRBH Forces, based at Drvar), Bosnia-Herzegovina
BOROJEVIC, Slobodan (Colonel and Commander Eleventh Infantry Brigade, First Krajina Corps, SRBH Forces), Bosnia-Herzegovina
BUNDALO, Ratko (Colonel and Commander, First Combined Antitank Artillery Brigade, First Krajina Corps, SRBH Forces) Bosnia-Herzegovina
DJUKIC, Djordje (Major General and Chief of Logistics SRBH Forces) Bosnia-Herzegovina
GAGOVIC Milislav (Major General SRBH Forces), Bosnia-Herzegovina
GALIC, Stanislav (Major General and a Corps Commander, Sarajevo-Romani Corps, SRBH Forces), Bosnia-Herzegovina
GRUBAC Radovan (Colonel General and Commander, Herzegovina Corps, SRBH Forces) Bosnia-Herzegovina; DOB: 1949.
GVERO, Milan (Colonel Lieutenant General and Deputy Army Commander SRBH Forces), Bosnia-Herzegovina
KELECEVIC, Bosko (Major General and Chief of Staff First Krajina Corps SRBH Forces), Bosnia-Herzegovina
MILOVANOVIC, Manojlo (Major General and Military Chief of Staff, SRBH Forces), Bosnia-Herzegovina, DOB circa 1943-1944, POB: Lijevce Polje Bosnia Herzegovina
MILOSEVIC, Dragomir (a.k.a. MILOSEVIC, Dragan) (Major General and Commander, Sarajevo-Romanijski Corps, SRBH Forces), Bosnia-Herzegovina
MLADIC, Ratko (Colonel General and Army Commander, SRBH Forces), Bosnia-Herzegovina; DOB: March 12, 94- POB Bozinovici, Bosnia-Herzegovina
NINKOVIC, Zivomir (Major General and Commander Air Force and Air Defense, SRBH Forces), Bosnia-Herzegovina

VOL 60 ISS 74 AP 18 1995 UMI

SAVIC, Milorad (Lt. Colonel and Commander, Second Krajina Brigade, First Krajina Corps, SRBH Forces), Bosnia–Herzegovina
SIMIC, Jovica (Major General and Commander, Eastern Bosnian Corps, SRBH Forces, based at Bijeljina), Bosnia–Herzegovina
SIMIC, Ratomir (Colonel and Commander, First Armored Brigade, First Krajina Corps, SRBH Forces), Bosnia–Herzegovina
SKORIC, Milan (Lt. Colonel and Commander, Second Armored Brigade, First Krajina Corps, SRBH Forces), Bosnia–Herzegovina
SREMO, Vlado (Major General and Chief of Staff, East Herzegovina Corps, SRBH Forces), Bosnia–Herzegovina; DOB: 1935, POB: Mostar, Bosnia–Herzegovina
TALIC, Momir (Lt. Colonel General and Commander, First Krajina Corps, SRBH Forces, based at Banja Luka), Bosnia–Herzegovina; DOB: July 15, 1942, POB: Valjevo, Serbia
TOPIC, Vlado (Lt. Colonel and Commander, Sixteenth Artillery Brigade, First Krajina Corps, SRBH Forces), Bosnia–Herzegovina; DOB: 1955, POB: Prijedor, Bosnia–Herzegovina
TUBIN, Dusan (Lt. Colonel and Commander, Fifth Kozarska Brigade, First Krajina Corps, SRBH Forces), Bosnia–Herzegovina
ZELJAJA, Radmilo (Colonel and Commander, Forty–third Motorized Brigade, First Krajina Corps, SRBH Forces) Bosnia–Herzegovina
ZIVANOVIC, Milenko (Major General and Commander, Drina Corps, SRBH Forces), Bosnia–Herzegovina
ZUPLJANIN, Slobodan (Lt. Colonel and Commander, Twenty–second Infantry Brigade, First Krajina Corps, SRBH Forces) Bosnia–Hefzegovina

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21 MAJ, Belgrade, Serbia, FRY (S&M)
ABRAMOVIC, Miroslava; DOB: February 20, 1958; (moves from country to country) (individual)
ADMIRAL ZMAJEVIC (9HTX3) General Dry Cargo 8,569GT Malta flag (South Adriatic Bulk Shipping Ltd.) (vessel)
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AEROINZINJERING, Belgrade, Serbia, FRY (S&M)
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AGROBANKA BELGRADE, all offices worldwide
AGROEXPORT, Belgrade, Serbia, FRY (S&M)
AGROOPREMA, Belgrade, Serbia, FRY (S&M)
AGROPANONIJA, Vrsac, Vojvodina, FRY (S&M)
AGROPROM BANKA d.d., Banja Luka, Bosnia–Herzegovina
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Warynskiego 28 m 40, Warsaw, Poland
AIK SUMADIJA, Kragujevac, Serbia, FRY (S&M)
AIK VRANJE, Vranje, Serbia, FRY (S&M)
AIR JUGOSLAVIA, Belgrade, Serbia, FRY (S&M)
AIRE F (f.k.a. OBOD) (9HTG3) General Dry Cargo 13,651GT Malta flag (Oktoih Overseas Shipping Ltd.) (vessel)
AIRPORT BELGRADE (a.k.a. AERODROM BEOGRAD), Belgrade, Serbia, FRY (S&M)
AKA BANK (a.k.a. AKA BANKA, f.k.a. AGRO–KARIC BANK), 109004 Ulyanovskaya 40/22/stronie 1, Moscow, Russia;
Krasnodar, Russia
ALBA (J8FM9) RO/RO Cargo 915GT Saint Vincent flag (Montenegro Overseas Navigation Ltd.) (vessel)
ALUMINUM COOPERATIVE PODGORICA (a.k.a. KOMBINAT ALUMINIJUMA PODGORICA), P.O.B. 22, 81000 Podgorica, Montenegro, FRY (S&M)
AMEROPA MERCHANDISING CORP., East Rockaway, NY, U.S.A.
ANDJIC, Slobodan, Kolarceja 1, 11000 Belgrade, Serbia (individual)
ANGLO–YUGOSLAV BANK (n.k.a. AY BANK LIMITED), London, England
APATEX–APATIN, Industrijska Zona, 25260 Apatin, Serbia, FRY (S&M)
ARENAL SHIPPING S.A., Office 603, Nicolaou Pentadromos Centre, Pentadromos Junction, Limassol, Cyprus
AS IMPEX/AEROSERVIS, Serbia, FRY (S&M)
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Piazza Velasca 5, Milan, Italy;
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AVNOJA 57, Serbia, FRY (S&M)

AVRAMOVIC, Dragoslav; Governor of National Bank of Yugoslavia; Bulevar Revolucije 15, 11000 Belgrade, Serbia, FRY (S&M); 13200 Cleveland Drive, Rockville, Maryland, U.S.A.; DOB: October 14, 1919 (individual)
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BEOMEDICINA, Vojislava Ilica 145, 11000 Belgrade, Serbia, FRY (S&M)
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VOL 60 ISS 74 AP 18 1995 UMI

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VOL 60 ISS 74 AP 18 1995 UMI

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JUGOSLAVENSKA OCEANSKA PLOVIDBA BB (a.k.a. JOP; a.k.a. JUGOOCEANIJA; a.k.a. YUGOSLAV OCEAN LINES), Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro, FRY (S&M)
JUGOSLOVENSKA BANKA ZA MEDJUNARODNU EKONOMSKU SARADNJU (a.k.a. YUBMES; a.k.a. YUGOSLAV BANK FOR INTERNATIONAL ECONOMIC COOPERATION), all offices worldwide
JUGOSLOVENSKA IZVOZNA I KREDITNA BANKA d.d. (a.k.a. JIK BANKA d.d.; a.k.a. YUGOSLAV EXPORT AND CREDIT BANK INC.), P.O. Box 234, Knez Mihailova 42, 11000 Belgrade, Serbia, FRY (S&M) (headquartered in Belgrade, Serbia, FRY (S&M)), all offices worldwide, including the following:
Mohren Strasse 17/III, Berlin, Germany;
Via Carducci 20–II, Piano Scala A, 34122 Trieste, Italy
JUGOSLOVENSKA NARODNA ARMIJA (a.k.a. JNA; a.k.a. YUGOSLAV NATIONAL ARMY), Belgrade, Serbia, FRY (S&M)
JUGOSLOVENSKA POMORSKA AGENCIJA (a.k.a. YUGOSLAV SHIPPING AGENCY), Belgrade, Serbia, FRY (S&M)
JUGOSLOVENSKI AEROTRANSPORT (a.k.a. JAT; a.k.a. JAVNO PREDUZECE ZA VAZDUSNI SAOBRACAJ; a.k.a. YUGOSLAV AIRLINES), Belgrade, Serbia, FRY (S&M)
JUGOTEHNA, Belgrade, Serbia, FRY (S&M)
JUGOVO (n.k.a. BLUE STAR) (J8FN4) Ore/Oil Carrier 53,029GT Saint Vincent Flag (Road Town Shipping S.A.) (vessel)

VOL 60 ISS 74 AP 18 1995 UMI

JUHOMONYSNS (CYPRUS) LTD., 2 Sofoules Street, Chanteclair Bldg., 2nd Floor, No. 205, Nicosia, Cyprus
KAMENARI (Unknown) RO/RO Cargo/Ferry 161GT Yugoslavia Flag (Komunalno Poduzece) (vessel)
KAPETAN MARTINOVIC (9HTY3) General Dry Cargo 8,569GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel)
KARIC BANKA CYPRUS OFFSHORE BANKING UNIT, Nicosia, Cyprus
KARIC BANKA dd BELGRADE, all offices worldwide
KARIC, Bogoljub, Palmira Toljatija 3, 11070 Novi Beograd, Serbia, FRY (S&M); DOB: January 17, 1954, POB: Pec, Kosovo; Nationality: Serbian (individual)
KARIC BROTHERS (a.k.a. BRACA KARIC), Belgrade, Serbia, FRY (S&M) (see also B K COMPANY)
KARIC, Dragomir, Palmira Toljatija 3, 11070 Novi Beograd, Serbia, FRY (S&M); DOB: October 21, 1949; Nationality: Serbian (individual)
KARIC, Milanka, Wildwoods, Theobalds Park Rd., Crews Hill, Enfield, Middlesex, England; DOB: September 16, 1957 (individual)
KARIC, Slavica, 7 Gevgelis Street, Nicosia, Cyprus; DOB: October 26, 1956, POB: Pec, Kosovo; Nationality: Serbian (individual)
KARIC, Sreten, 7 Gevgelis Street, Nicosia, Cyprus; DOB: July 20, 1948, POB: Pec, Kosovo; Nationality: Serbian (individual)
KARIC, Zoran, Palmira Toljatija 3, 11070 Novi Beograd, Serbia, FRY (S&M); DOB: December 27, 1950 (individual)
KARIC BANKA, Palmira Toljatija 3, 11070 Novi Beograd, Serbia, FRY (S&M)
KARIC BANKA CYPRUS OFFSHORE BANKING UNIT, 66 Archbishop Makarios III Avenue, Cronos Court, 2nd Floor, Nicosia, Cyprus
KAT, Podgorica, Montenegro, FRY (S&M)
KING LION (f.k.a. HANUMAN, f.k.a. BOKA) (9HUQ3) General Dry Cargo 13,688GT Malta Flag (Worldwide Ocean Chartering Group) (vessel)
KLUZ, Belgrade, Serbia, FRY (S&M)
KOIMPEX, Novi Sad, Vojvodina, FRY (S&M)
KOLASIN (n.k.a. GUANA) (Unknown) Bulk Carrier 9,916GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel)
KOLUBARA 1 (Unknown) Dredger 958GT Yugoslavia Flag (Bagersko Brodarsko Preduzece) (vessel)
KOMBINAT ALUMINIJUMA PODGORICA (a.k.a. ALUMINUM COOPERATIVE PODGORICA), P.O.B. 22, 81000 Podgorica, Montenegro, FRY (S&M)
KOMGRAP (a.k.a. KOMGRAP–GRO), Terazije 4, P.O. Box 468, 11001 Belgrade, Serbia, FRY (S&M)
KOMGRAP–GRO (a.k.a. KOMGRAP), Terazije 4, P.O. Box 468, 11001 Belgrade, Serbia, FRY (S&M)
KOMOVI (n.k.a. MONTE) (9HTD3) General Dry Cargo 9,183GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel)
KOMUNALNO PODUZECE, 5, Hercegovacke Brigada, 81340 Herceg–Novi, Montenegro, FRY (S&M)
KONSTRUKTOR, Pancevo, Vojvodina, FRY (S&M)
KOOPERATIVA, Novi Sad, Vojvodina, FRY (S&M)
KOPAONIK, Belgrade, Serbia, FRY (S&M)
KOPRODUCT LTD., 2 Albion Place, King's Terrace, Calena Road, London W6 0QT, England
KOPRODUKT (a.k.a. KOPRODUKT ZA UNUTRASNJU I SPOLJNU TRGOVINU I ZASTUPANJE STRANIH PREDUZECA), Bulevar Marsala Tita 6, 21000 Novi Sad, Vojvodina, FRY (S&M)
KORDUN (9HSQ3) General Dry Cargo 38,551GT Malta Flag (Kotor Overseas Shipping Ltd.) (vessel)
KOSMAJ (9HSP3) Bulk Carrier 38,550GT Malta Flag (Kotor Overseas Shipping Ltd.) (vessel)
KOSOVO ELECTRIC POWER COMPANY (a.k.a. ELEKTROPRIVREDA KOSOVA), Pristina, Kosovo, FRY (S&M)
KOSOVO GMBH (a.k.a. EXIMKOS; a.k.a. KOSOVO EXPORT IMPORT GMBH; a.k.a. OMEGA GMBH), Maillingerstrasse 34, 8000 Munich 2, Germany
KOSOVSKA BANKA, all offices (headquartered in Pristina, Kosovo, FRY (S&M))
KOSTIC, Bosko, AY Bank Ltd., 11/15 St. Mary–at–Hill, EC3R8EE London, England (individual)
KOTOR OVERSEAS SHIPPING LTD., Valletta, Malta, c/o Jugoslavenska Oceanska Plovidba BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro, FRY (S&M)
KREDITNA BANKA BEOGRAD, all offices worldwide
KREDITNA BANKA BEOGRAD CYPRUS OFFSHORE BANKING UNIT, Nicosia, Cyprus
KREDITNA BANKA PRISTINA, all offices worldwide
KREDITNA BANKA SUBOTICA, all offices worldwide
KRUSEVAC PROMET, Krusevac, Serbia, FRY (S&M)
KRUSIK, Valjevo, Serbia, FRY (S&M)
KUGLEX, Belgrade, Serbia, FRY (S&M)
KUPRES (n.k.a. RAMA) (9HUP3) General Dry Cargo 13,688 GT Cyprus (Malta) Flag (New Owner Unknown) ((South Adriatic Bulk Shipping Ltd.)) (vessel)
LAKE STAR (n.k.a. SERIFOS; f.k.a SKADARLIJA) (JIFN3) Bulk Carrier 15,847GT Panama (Saint Vincent) Flag (Brilliant Night Shipping S.A.) ((Novi Shipping Company S.A.)) (vessel)
LAMEDON TRADING LTD., Evagoras Papachristouforou Street, Themis Court Bldg., 1st Floor, P.O. Box 561, Limassol, Cyprus
LEPETANE (Unknown) RO/RO Cargo/Ferry 132GT Yugoslavia Flag (Komunalno Poduzece) (vessel)
LETEKS–LESKOVAC (a.k.a. WOOL AND TEXTILE INDUSTRY OF LESKOVAC), Leskovac, Serbia, FRY (S&M)
LIRIJA, Prizren, Kosovo, FRY (S&M)
LITALIA SHIPPING S.A., Panama City, Panama, c/o Beogradska Plovidba, Lenjinov Bulevar 165A, 11070 Novi Beograd, Serbia, FRY (S&M)
LIVNICA, Kikinda, Vojvodina, FRY (S&M)
LOVCEN (9HTU3) General Dry Cargo 12,375GT Malta Flag (South Cross Shipping Ltd.) (vessel)
LOVCEN OVERSEAS SHIPPING LTD., Valletta, Malta, c/o Rigel Shipmanagement Ltd., Second Floor, Regency House, Republic Street, Valletta, Malta
LUCIANO HOPE (f.k.a. POMORAC) (3EIE4) Bulk Carrier 20,904GT Liberia Flag (Citimark Shipping Limited) (vessel)
LUKA BAR–PREDUZECE, 81350 Bar, Montenegro, FRY (S&M)
LZTK, Kikinda, Vojvodina, FRY (S&M)
M POINT KFT (a.k.a. EAST POINT HOLDINGS), International Trade Center, Balcsy–Zalhazky 12/304, Budapest, 1051 Hungary
MAADI, N., Day Building, Bucharest Avenue, OIH Alley No. 1/17, Apt 8, Teheran, Iran (address of EAST POINT HOLDINGS) (individual)
MACHINE INDUSTRY OF NIS (a.k.a. MIN–MASINSKA INDUSTRIJA), Nis, Serbia, FRY (S&M)
MACHINES AND TRACTORS INDUSTRY (a.k.a. IMT–INDUSTRIJA MOTORA I TRAKTORA), Belgrade, Serbia, FRY (S&M)
MAG INTERTRADE, Serbia, FRY (S&M)
MAGNOHROM, Kraljevo, Serbia, FRY (S&M)
MARIEL (f.k.a. BEOGRAD) (9HSV3) Bulk Carrier 15,396GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel)
MARKONIZONI, Serbia, FRY (S&M)
MASINOKOMERC, Knez Mihajlova 1–3, P. Fah 232, 11000 Belgrade, Serbia, FRY (S&M)
MASLAKOVIC, Dusan, Ior. Dragovica. l., Nicosia, Cyprus; Xenios Commercial Centre, Archbishop Makarios III Avenue, Suite 504, Nicosia, Cyprus (address of J.U.B. Holdings) (individual)
MATROZ–CELLULOSE AND PAPER INDUSTRY (a.k.a. MATROZ SREMSKA MITROVICA), Sremska Mitrovica, Vojvodina, FRY (S&M)
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MEDISA SARAJEVO, Sarajevo, Bosnia–Herzegovina
MEDITRADE LTD., all offices (headquartered in Belgrade, Serbia, FRY (S&M))
MERIMA, Krusevac, Serbia, FRY (S&M)
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METAL UND STAHL HANDELS GMBH, Strase Lutherana Corp. D–2, Bucharest, Romania
METALAC, Suboticka 23, 11050 Belgrade, Serbia, FRY (S&M)
METALCHEM BOMBAY, Yugoslav Trade Commission Office, Veswani Mansion 1st Floor, 120/4 Dinsha Cecha Road, Bombay, India 400020

METALCHEM DIS TICARET LTD, Iskele Cadd., Iskele Arkasi, Sobak No 13 (Cami Yanil, Uskadar–Selacak, Istanbul, Turkey
METALCHEM FRANCE S.A.R.L., 16 Avenue Franklin Roosevelt, 75008 Paris, France
METALCHEM INTERNATIONAL LTD., 79/83 Great Portland Street, London W1N 5FA, England
METALCHEMICAL COMMERCIAL CORPORATION, New York, NY, U.S.A.
METALIA S.R.L., Via Vittor Pisani 14, 20124 Milan, Italy
METALLIA HANDELS GMBH, Berliner Allee 61, Postf. 20 05 20, 4000 Dusseldorf 1, Germany
METALLIA MADRID, Plaza Castillia 3/1702, 28046 Madrid, Spain
METALOPLASTIKA, Jevrenova br 111, 15000 Sabac, Serbia, FRY (S&M)
METALSERVIS, Belgrade, Serbia, FRY (S&M)
METALURGICAL COOPERATIVE OF SMEDEREVO (a.k.a. MKS–METALURSKI KOMBINAT SMEDEREVO), Smederevo, Serbia, FRY (S&M)
METALURSKO METALSKI KOMBINAT NIKSIC, Niksic, Montenegro, FRY (S&M)
METALWORKING MACHINES AND COMPONENTS INDUSTRY 14 OCTOBER (a.k.a. IMK 14 OKTOBAR), Krusevac, Serbia, FRY (S&M)
METTA TRADING LTD., 79–83 Great Portland Street, London WIN 5FA, England
MG NORD TRADING COMPANY, Belgrade, Serbia, FRY (S&M)
MIHIC, Vukasin; Ul. Majke Jovrosime 39, Belgrade, Serbia, FRY (S&M); DOB: July 17, 1928 (individual)
MILENA SHIP MANAGEMENT CO. LTD. (a.k.a. MILENA LINES), Masons Building, 66, The Strand, Sliema, Malta
MIN–MASINSKA INDUSTRIJA (a.k.a. MACHINE INDUSTRY OF NIS), Nis, Serbia, FRY (S&M)
MINEL, Belgrade, Serbia, FRY (S&M)
MINEX AD. CO., 33 Vasgradska Street, Nis, Serbia, FRY (S&M)
MINING METALLURGY–CHEMICAL COMBINATION OF LEAD AND ZINC (a.k.a. TREPCA–KOSOVSKA MITROVICA), Kosovska Mitrovica, Kosovo, FRY (S&M)
MJESOVITO, Herceg Novi, Montenegro, FRY (S&M)
MKS–METALURSKI KOMBINAT SMEDEREVO (a.k.a. METALLURGICAL COOPERATIVE OF SMEDEREVO), Smederevo, Serbia, FRY (S&M)
MOA (f.k.a. VIRPAZAR) (9HTM3) General Dry Cargo 9,201GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel)
MONTE (f.k.a. KOMOVI) (9HTD3) General Dry Cargo 9,183GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel)
MONTENEGRIN RAILROAD TRANSPORTATION ORGANIZATION (a.k.a. ZELEZNICKO TRANSPORTNO PREDUZECE CRNE GORE), Montenegro, FRY (S&M)
MONTENEGRO ELECTRIC POWER COMPANY (a.k.a. ELEKTROPRIVREDA CRNE GORE), Podgorica, Montenegro, FRY (S&M)
MONTENEGRO EXPORT NIKSIC, 1052 Vaci u 19/21, Budapest, Hungary
MONTENEGRO EXPORT YUGOSLAVIA, Koruclasi ut 19/b, Budapest II, Hungary
MONTENEGRO OCEAN SHIPPING (n.k.a. SOUTH CROSS SHIPPING LTD.), Valletta, Malta, c/o Milena Ship Management Co. Ltd., Masons Building, 66, The Strand, Sliema, Malta
MONTENEGRO OVERSEAS NAVIGATION LTD., Panama City, Panama, c/o Prekookeanska Plovidba, P.O. Box 87, Marsala Tita 46, 85000 Bar, Montenegro, FRY (S&M)
MONTENEGRO POST, TELEGRAPH AND TELEPHONE (a.k.a. PTT CRNE GORE), Montenegro, FRY (S&M)
MONTENEGROBANKA COMPANY, Kaiserstrasse 2, Frankfurt am Main, Germany
MONTENEGROBANKA d.d. (a.k.a. INVESTICIONA BANKA TITOGRAD), Bulevar Revolucije 1, P. O. Box 183, 81001 Podgorica, Montenegro, FRY (S&M), all offices worldwide (headquartered in Podgorica, Montenegro, FRY (S&M))
MONTENEGROEXPORT PREDSTAVITELSTVO FIRMY (MONTENEGROEXPORT REPRESENTATIVE OFFICE), B Pereiaslevskaia d 7 kv 116, Moscow, Russia
MONTENEGROEXPORT STROIPLOSCADKA YUGOSLAVSKOI FIRMY, 1–i Krasnogvardeyskii Proyezd, Moscow, Russia
MONTENEGROEXPRES–BUDVA (a.k.a. TOURIST ENTERPRISE MONTENEGROEXPRES), Budva, Montenegro, FRY (S&M)
MONTEX BANKA d.d., all offices (headquartered in Belgrade, Serbia, FRY (S&M))
MONTEX, Niksic, Montenegro, FRY (S&M)
MONTINVEST, Bulevar revolucije 84, P.O.Box 821, 11001 Belgrade, Serbia, FRY (S&M)
MONTINVEST, Wilhelm–Leuschner Strasse 68, 6000 Frankfurt am Main 1, Germany
MORACA (9HTE3) General Dry Cargo 13,651GT Malta Flag (Oktoih Overseas Shipping Ltd.) (vessel)
MORAVA, Serbia, FRY (S&M)
MOSLAVINA (9HTW3) General Dry Cargo 11,771GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel)
MOSTOGRADNJA–GRADJEVNO PREDUZECE, Vlajkoviceva 19A, 11000 Belgrade, Serbia, FRY (S&M)
MOTOR INDUSTRY OF RAKOVICA (a.k.a. IMR–INDUSTRIJA MOTORA RAKOVICA), Belgrade, Serbia, FRY (S&M)
NACIONAL, Serbia, FRY (S&M)
NACIONAL SHOP, Belgrade, Serbia, FRY (S&M)
NAFTAGAS, Novi Sad, Vojvodina, FRY (S&M)
NAFTAGAS–PROMET, Novi Sad, Vojvodina, FRY (S&M)
NAFTAGAS–REFINERIJA, Pancevo, Vojvodina, FRY (S&M)
NAP–COMBICK OEL GMBH, Windmuehlstrasse 1, 6000 Frankfurt am Main 1, Germany
NARODNA BANKA CRNE GORE (a.k.a. NATIONAL BANK OF MONTENEGRO), Podgorica, Montenegro, FRY (S&M)
NARODNA BANKA JUGOSLAVIJE (a.k.a. BANQUE NATIONALE DE YOUGOSLAVIE; a.k.a. NATIONAL BANK OF YUGOSLAVIA), Belgrade, Serbia, FRY (S&M)
NARODNA BANKA SRBIJE (a.k.a. NATIONAL BANK OF SERBIA), Belgrade, Serbia, FRY (S&M)
NATIONAL BANK OF MONTENEGRO (a.k.a. NARODNA BANKA CRNE GORE), Podgorica, Montenegro, FRY (S&M)
NATIONAL BANK OF SERBIA (a.k.a. NARODNA BANKA SRBIJE), Belgrade, Serbia, FRY (S&M)
NATIONAL BANK OF YUGOSLAVIA (a.k.a. BANQUE NATIONALE DE YOUGOSLAVIE; a.k.a. NARODNA BANKA JUGOSLAVIJE), Belgrade, Serbia, FRY (S&M)
NEDELJKOVIC, Olivera (f.k.a. KARIC, Olivera); DOB: 1960 (individual)
NIGERIAN ENGINEERING AND CONSTRUCTION CO. LTD., Ebute–Metta, Lagos, Nigeria
NIKSA BANKA, all offices (headquartered in Belgrade, Serbia, FRY (S&M))
NIKSIC (n.k.a. BAYAMO) (9HTF3) Bulk Carrier 9,916GT Malta flag (Lovcen Oversees Shipping Ltd.) (vessel)
NIPE (f.k.a. ULCINJ) (9HTL3) Bulk Carrier 9,028GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel)
NIS–NAFTA INDUSTRIJA SRBIJE (a.k.a. SERBIAN PETROLEUM INDUSTRY), Novi Sad, Vojvodina, FRY (S&M)
NISSAL, Bulevar Veljka Vlahovica bb, 18000 Nis, Serbia, FRY (S&M)
NOLIVEL, Belgrade, Serbia, FRY (S&M)
NOVI SAD RAILROAD TRANSPORTATION ORGANIZATION (a.k.a. ZELEZNICKO TRANSPORTNO PREDUZECE NOVI SAD), Novi Sad, Vojvodina, FRY (S&M)
NOVI SHIPPING COMPANY S.A., Panama City, Panama, c/o Beogradska Plovidba, Lenjinov Bulevar 165A, Novi Beograd, 11070 Novi Beograd, Serbia, FRY (S&M)
NOVINSKA AGENCIJA TANJUG (a.k.a. TANJUG), Belgrade, Serbia, FRY (S&M)
NOVKABEL, Novi Sad, Vojvodina, FRY (S&M)
NOVOSADSKA BANKA d.d., all offices (headquartered in Novi Sad, Vojvodina FRY (S&M))
NOVOSADSKA FABRIKA KABELA, Novi Sad, Vojvodina, FRY (S&M)
OBOD (n.k.a. AIRE F) (9HTG3) General Dry Cargo 13,651GT Malta flag (Oktoih Overseas Shipping Ltd.) (vessel)
OBOD CETINJE–ELEKTROINDUSTRIJA, Cetinje, Montenegro, FRY (S&M)
OCEANIC BULK SHIPPING S.A., Panama City, Panama, c/o Jugoslavenska Oceanska Plovidba BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro, FRY (S&M)
OKTOIH OVERSEAS SHIPPING LTD., Valletta, Malta, c/o Rigel Shipmanagement Ltd., Second Floor, Regency House, Republic Street, Valletta, Malta

VOL
60
ISS
74
AP
18
1995
UMI

OMEGA GMBH (a.k.a. EXIMKOS; a.k.a. KOSOVO EXPORT IMPORT GMBH; a.k.a. KOSOVO GMBH), Maillingerstrasse 34, 8000 Munich 2, Germany
OMNIAUTO, Belgrade, Serbia, FRY (S&M)
OMNIKOMERC, Belgrade, Serbia, FRY (S&M)
OPTIKA–BEOGRAD, Belgrade, Serbia, FRY (S&M)
ORE STAR (f.k.a. SMEDEREVO) (J8FN9) Ore/Oil Carrier 86,401GT Saint Vincent Flag (Glimmer Maritime S.A.) (vessel)
ORJEN (9HSO3) Bulk Carrier 38,551GT Malta Flag (Kotor Overseas Shipping Ltd.) (vessel)
OSA CHARTERING, Belgrade, Serbia, FRY (S&M)
OSA CHARTERING, Cyprus
OSBORNE TRADING COMPANY LTD., Berengaria Bldg., 25 Spyrou Araouzou Street, Limassol, Cyprus
OSNOVNA BANKA POLJOPRIVEDNA BANKA, Novi Sad, Vojvodina, FRY (S&M)
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PAMUCNI KOMBINAT YUMKO, Vranje, Serbia, FRY (S&M)
PANCEVO HEMIJSKA INDUSTRIJA, Spoljnostarcevacka 80, 26000 Pancevo, Serbia, FRY (S&M)
PANONSKA BANKA d.d., all offices (headquartered in Novi Sad, Vojvodina, FRY (S&M))
PAPADOPOULOS, Tassos; 2 Sofoules Street, Chanteclair Bldg., 2nd Floor, No. 205, Nicosia, Cyprus; DOB: 1933 (individual)
PBS BOSANSKA GRADISKA DD, Bosanska Gradiska, Bosnia–Herzegovina
PCL PELCAM TRADE LTD. (a.k.a. UBB INVESTMENTS & FINANCE), 2 Sofoules Street, Chanteclair Bldg., 2nd Floor, No. 205, Nicosia, Cyprus
PERAST (Unknown) RO/RO Cargo/Ferry 131GT Yugoslavia Flag (Komunalno Poduzece) (vessel)
PEROVIC, D., Kursovoi Per 1 KV 3, Moscow, Russia (address of INPEA) (individual)
PETROMED LTD., 18b Charles Street, London W1X 7HD, Great Britain
PIECAS, Stanko, Day Building, Bucharest Avenue, OIH Alley No. 1/17, Apt 8, Teheran, Iran (address of EAST POINT HOLDINGS) (individual)
PIK BECEJ, Becej, Vojvodina, FRY (S&M)
PIK POZAREVAC, Pozarevac, Serbia, FRY (S&M)
PIK SIRMIUM, Sremska Mitrovica, Vojvodina, FRY (S&M)
PIK SOMBOR, Sombor, Vojvodina, FRY (S&M)
PIK TAKOVO, Gornji Milanovac, Serbia, FRY (S&M)
PIK TAMIS, Pancevo, Vojvodina, FRY (S&M)
PIVA (n.k.a. RIO B) (9HTH3) General Dry Cargo 9,324GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel)
PKB (a.k.a. POLJOPRIVREDNI KOMBINAT BEOGRAD), Padinska Skela, Serbia, FRY (S&M)
PKB BANKA (a.k.a. MESOVITA BANKA d.d.; a.k.a. POLJOPRIVREDNI KREDITNA BEOGRAD BANKA), all offices (headquartered in Belgrade, Serbia, FRY (S&M))
PKB COMMERCE, Belgrade, Serbia, FRY (S&M)
PKB HERCEG NOVI, Herceg Novi, Montenegro, FRY (S&M)
PLAYA (f.k.a. CETINJE) (9HSY3) Bulk Carrier 9,028GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel)
PLJEVANSKA BANKA, all offices (headquartered in Podgorica, Montenegro, FRY (S&M))
POLIMKA, Ivangrad, Montenegro, FRY (S&M)
POLJOPRIVREDNA BANKA OSNOVNA BANKA, all offices worldwide
POLJOPRIVREDNI KOMBINAT BEOGRAD (a.k.a. PKB), Padinska Skela, Serbia, FRY (S&M)
POLJOPRIVREDNI KREDITNA BEOGRAD BANKA (a.k.a. MESOVITA BANKA d.d.; a.k.a. PKB BANKA), all offices (headquartered in Belgrade, Serbia, FRY (S&M))
POMORAC (n.k.a. LUCIANO HOPE) (3EIE4) Bulk Carrier 20,904GT Liberia (Panama) Flag (Citimark Shipping Limited) ((Oceanic Bulk Shipping S.A.)) (vessel)
PREDUZECE ZA GAZDOVANJE SUMAMA–SRBIJASUME (a.k.a. PUBLIC FORESTRY ENTERPRISE–SRBIJASUME), Serbia, FRY (S&M)
PREDUZETNICKA BANKA d.d., all offices (headquartered in Belgrade, Serbia, FRY (S&M))
PREKOOKEANSKA PLOVIDBA, P.O. Box 87, Marsala Tita 46, 85000 Bar, Montenegro, FRY (S&M)
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VOL
60
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18
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ZECEVIC, Miodrag, Banque Franco Yugoslav, 18 Rue de Tilsitt, 75017 Paris, France (individual)
ZELATRANS, Podgorica, Montenegro, FRY (S&M)
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VOL 60 ISS 74 AP 18 1995 UMI

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Dated: March 29, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 7, 1995.

John Berry

Deputy Assistant Secretary (Enforcement).

[FR Doc. 95–9464 Filed 4–13–95; 11:22 am]

BILLING CODE 4810–25–F

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "James McNeill Whistler" (See List [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C. from on or about May 28, 1995 through August 20, 1995, is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: April 12, 1995.

Les Jin,

General Counsel.

[FR Doc. 95–9498 Filed 4–17–95; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Carol B. Epstein, Assistant General Counsel, at (202) 619–6981, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547.

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Piet Mondrian: 1872–1944" (See List [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art, Washington, D.C. from on or about June 11,1995 through September 4, 1995, and the Museum of Modern Art, New York, N.Y. from on or about January 23, 1996 is in the national interest. Public Notice of this determination is ordered to be published in the **Federal Register**.

Dated: April 12, 1995.

Les Jin,

General Counsel.

[FR Doc. 95–9499 Filed 4–17–95; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Mr. Paul W. Manning, Assistant General Counsel, at (202) 619–5997, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547.

Sunshine Act Meetings

Federal Register
Vol. 60, No. 74
Tuesday, April 18, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, April 18, 1995.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Joy Technologies*, Docket No. WEST 93–129. (Issues include whether a vendor of mining equipment may be cited as an independent contractor-operator based on the actions of its service representative.)
2. *Lakeview Rock Products, Inc.*, Docket Nos. WEVA 94–308–M et seq. (Issues include consideration of the operator's request for a 30 day extension of time to file a petition for discretionary review.)

No earlier announcement of the meeting was possible. Any person attending the open portion of this meeting who requires special accessibility features and/or auxiliary aides, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

[FR Doc. 95–9653 Filed 4–14–95; 1:57 pm]

BILLING CODE 6735–01–M

STATE JUSTICE INSTITUTE

TIME AND DATE: Friday, April 28, 1995, 9 a.m.–5 p.m.; Saturday, April 29, 1995, 9 a.m.–noon.

PLACE: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

MATTERS TO BE CONSIDERED: FY 1995 grant requests and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: Board discussion of grant requests and internal business, except those matters noted below.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters; Board committee meetings.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 95–9667 Filed 4–14–95; 1:57 pm]

BILLING CODE 6820–SC–M

VOL 60 ISS 74 AP 18 1995 UMI

Corrections

Federal Register
Vol. 60, No. 74
Tuesday, April 18, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Interagency Executive Committee (PIEC), Advisory Committee

Correction

In notice document 95–7445 appearing on page 15746 in the issue of Monday, March 27, 1995, in the second column, under **SUMMARY**, in the fifth line, "255 Capitol Street" should read "355 Capitol Street".

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 290

Defense Contract Audit Agency (DCAA) Freedom of Information Act Program

Correction

In rule document 95–8652 beginning on page 18005 in the issue of Monday, April 10, 1995, the **EFFECTIVE DATE** should read "(April 10, 1995).".

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[FRL–5182–8]

RIN 2040–AC80

Amendment to Requirements for National Pollution Discharge Elimination System (NPDES) Permits for Storm Water Discharges Under Section 402(p)(6) of the Clean Water Act

Correction

In rule document 95–8209 beginning on page 17950 in the issue of Friday April 7, 1995, make the following corrections:

On page 17950, in the second column, under the heading "**DATES**", in the second and last lines, "August 2, 1995" should read "August 7, 1995".

On page 17953, in the third column, in the last line of the first complete paragraph, "August 2, 2001" should read "August 6, 2001".

§ 122.26 [Corrected]

On page 17957, in the first column, in § 122.26(g)(1)(ii), in the second line, "August 2, 2001" should read "August 6, 2001".

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Office of the Secretary

Delinquent Filer Voluntary Compliance Program

Correction

In notice document 95–7742 beginning on page 16505 in the issue of Thursday, March 30, 1995, make the following correction:

On page 16505, in the second column, under A. Justification, in the 3rd full paragraph, in the 19th line, "$40" should read "$50".

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 580

Civil Money Penalties—Procedures for Assessing and Contesting Penalties

Correction

In rule document 95–8335 beginning on page 17221 in the issue of Wednesday, April 5, 1995, make the following correction:

On page 17222, in column one, under the heading "**II. Background**", second paragraph, in the 10th line, "not" should read "now".

BILLING CODE 1505–01–D

federal register

Tuesday
April 18, 1995

Part II

Department of Education

Secondary Education and Transitional Services for Youth With Disabilities Program; Final Priority and Invitation to Apply for New Awards; Notices

VOL
60
ISS
74
AP
18
1995
UMI

DEPARTMENT OF EDUCATION

Secondary Education and Transitional Services for Youth With Disabilities Program

AGENCY: Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Secretary of Education announces a final priority for an award to provide technical assistance to improve the transition for youth with disabilities from school to work and other postsecondary settings. This priority is intended to provide technical assistance to support students with disabilities in a wide range of school to work experiences and promote their successful transition to a variety of postsecondary settings. The Secretary also announces selection criteria that will be applied in evaluating applications submitted for this competition.

EFFECTIVE DATE: This priority takes effect May 18, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph Clair, U.S. Department of Education, 600 Independence Avenue, S.W., Room 4622, Switzer Building, Washington, D.C. 20202–2644. Telephone: (202) 205–9503. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

SUPPLEMENTARY INFORMATION: Over the last decade, four pieces of Federal legislation have been enacted that affect the transition of students with disabilities from school to postsecondary settings, including gainful employment. These include amendments to the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973, and passage of the School-to-Work Opportunities Act of 1994 and the Goals 2000: Educate America Act. Each piece of legislation is described below.

The Individuals with Disabilities Education Act, as amended, now requires that a statement of needed transition services be included in the individualized education program (IEP) of all eligible students beginning no later than age 16, and at a younger age if appropriate, and that the statement of required services be updated on an annual basis. 20 U.S.C. 1401(a)(20)(D). Transition services are defined as "a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities * * * and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation." 20 U.S.C. 1401(a)(19).

The Rehabilitation Act now requires the State Vocational Rehabilitation programs to enter into formal interagency cooperative agreements with education officials responsible for the provision of a free appropriate public education to students with disabilities in order to facilitate the development and accomplishment of long term rehabilitation goals, intermediate rehabilitation objectives, and goals and objectives to enable students with disabilities to live independently before leaving the school setting. State vocational rehabilitation plans must address: (i) provisions for determining State lead agencies and qualified personnel responsible for transition services; (ii) procedures for outreach to and identification of youth in need of such services; and (iii) a timeframe for evaluation and follow-up of youth who have received such services. 29 U.S.C. 721(a)(24).

In May of 1994, President Clinton signed into law the School-to-Work Opportunities Act of 1994. This law, administered jointly by the Departments of Education and Labor, establishes a national framework within which all States can create statewide School-to-Work Opportunities systems. These systems will be designed to help youth acquire the knowledge, skills, abilities, and labor market information they need to make a smooth and effective transition from school to career-oriented work and to further education and training.

Under the School-to-Work Opportunities Act of 1994, 20 U.S.C. 6101 et seq., States and local partnerships are developing and implementing plans for school-to-work opportunities systems that will provide opportunities for all students, including those with disabilities, to prepare successfully for high-skill, high-wage jobs or further education and training. Any student who completes a School-to-Work Opportunities program of study will receive: (1) a high school diploma; (2) a certificate or diploma recognizing one or two years of postsecondary education, if appropriate; and (3) a portable, industry-recognized skill certificate. While each State and locality will have broad latitude to design its own system, every system will have common core components:

- *Work-based learning.* Providing students with a planned program of job training and work experiences in a broad range of tasks in an occupational area, as well as workplace mentoring.
- *School-based learning.* Including a coherent multi-year sequence of instruction—typically including at least 2 years of secondary education and at least 1 or 2 years of postsecondary education—tied to occupational skills standards and challenging academic standards such as those established by States under Goals 2000.
- *Connecting activities.* To ensure coordination of the work- and school-based learning components, such as providing technical assistance in designing work-based learning, matching students with employers' work-based learning opportunities, and collecting information on what happens to students after they complete the program.

The intent of the Goals 2000: Educate America Act, 20 U.S.C. 5801 et seq., is to provide resources to States and communities to help all students achieve the high standards they will need to meet the challenges of the 21st century. The law supports State and local efforts to set challenging standards that will strengthen education in their States and communities—teaching, curriculum, and assessments aligned with higher standards.

Goals 2000 also establishes a National Skill Standards Board to assist in the development of rigorous occupational standards that are relevant to industry. This Board will have broad-based representation from business, labor and education and will identify the specific knowledge, skill, and ability levels needed to perform a given job in a given industry. Standards endorsed by the board would be linked to the highest international standards and would promote the transition to high-performance jobs.

This award will be jointly funded in fiscal year 1995 under three statutory authorities: (1) the Secondary Education and Transitional Services for Youth with Disabilities Program authorized by section 626 of the Individuals with Disabilities Education Act; (2) sections 202(b) (4) and (6) of the Rehabilitation Act of 1973; and (3) the Cooperative Demonstration Program authorized by section 420A of the Carl D. Perkins Vocational and Applied Technology Education Act (the Perkins Act). In fiscal year 1996, the award will include funding from section 311(d) of the Rehabilitation Act of 1973. The Secretary has determined that this joint award is necessary because of the need to provide technical assistance to support students with disabilities in a wide range of school to work experiences and promote their successful transition to a variety of postsecondary settings including gainful employment.

The funds provided under the Cooperative Demonstration Program must meet the cost-sharing requirement of section 420A(b)(2) of the Perkins Act implemented by 34 CFR 426.30. In the first year of the project, we anticipate providing $25,000 from the Cooperative Demonstration program. The funds provided under section 311(d) of the Rehabilitation Act of 1973 must be used only for youth with severe disabilities.

In the application notice, we will inform potential applicants how much funding we estimate will come from each program for fiscal year 1995. As noted above, we anticipate that the source and amount of funding will change in future years and will notify the grantee. If other sources of funding are added that would result in additional requirements in a future year, the Secretary will notify the grantee concerning those requirements.

The Department believes that people involved in providing educational, related, and transitional services to individuals with disabilities need better information, particularly in areas such as: (1) meeting the transition requirements in Part B of the Individuals with Disabilities Education Act, the Rehabilitation Act, and the School-to-Work Opportunities Act; (2) helping students with disabilities access transition programs including those supported by developing School-to-Work Opportunities systems; (3) overcoming administrative, attitudinal, and programmatic barriers that limit the planning and implementation of effective practices for students with disabilities in transitional programs, such as those that school personnel can use to encourage and facilitate extensive student/parent involvement; (4) working with statewide School-to-Work Opportunities systems to help students with disabilities acquire the academic and occupational skills, abilities, and labor market information they need to make a smooth and effective transition from school to career-oriented work or to further education or training; (5) building on and enriching current promising programs such as tech-prep education, career academies, school-to-apprenticeship, youth apprenticeship, cooperative education, adult education, adult services, and business-education compacts; (6) facilitating the representation of disability interests in the formation of partnerships among secondary and postsecondary educational institutions, private and public employers, labor organizations, government, community groups, parents, and other key groups; and (7) ensuring that students with disabilities, including those with severe disabilities, are provided an integrated array of learning experiences in the classroom and at the worksite, including appropriate modification of curriculum, instructional techniques, equipment, and the work environment.

On December 2, 1994 the Secretary published a notice of proposed priority for this program in the **Federal Register** (59 FR 62248).

Note: This notice of final priority does *not* solicit applications. A notice inviting applications under this program is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

The Department is in the process of reviewing its priorities to focus them more closely on improving results for children, including children with disabilities, and on eliminating prescriptive requirements that are unnecessary to achieve program purposes and that may limit the creative approaches in carrying out activities. This priority has been reviewed by the Department with these considerations in mind.

The statement of purpose for the priority has been revised to more clearly reflect the goal of ensuring that young individuals with disabilities acquire the skills and knowledge, have the experiences, and receive the services and supports they need to achieve successful postschool outcomes. Technical assistance activities described in the "Purpose" section have been broadened consistent with achieving this goal, while specific targets for technical assistance are still included in the "Priority" section. Numerous prescriptive requirements detailing how activities are to be conducted have been eliminated. These include requirements to field-test, revise, and publicize user-friendly documentation of model practices; to document proven and exemplary practices by collecting, analyzing, and reporting a variety of descriptive and outcome data; and to provide information in a number of narrowly defined specific areas.

In response to the Secretary's invitation in the notice of proposed priority, twelve parties submitted comments. An analysis of the comments follows.

Comment: One commenter recommended that the current State Systems for Transition Services projects receive additional funding to provide the types of activities proposed in this priority.

Discussion: The Secretary acknowledges that the activities and relationships developed by the State Systems for Transition Services projects are important to promote successful transition outcomes for youth with disabilities, including their participation in programs supported by school-to-work opportunities systems, at the State and local levels. However, the Secretary believes that it is necessary that one technical assistance project be supported to identify, disseminate, and provide information on proven practices and approaches from a national perspective that can successfully support and accommodate students with disabilities, including those with severe disabilities, in transition from school to employment and other postsecondary environments.

Change: None.

Comment: One commenter proposed that a requirement be added that the technical assistance project enter into an agreement with a parent training and information center which has expertise in technical assistance on transition.

Discussion: While the priority emphasizes the importance of involving parents in many of the activities of the technical assistance project, the Secretary believes that requiring the project to enter into an agreement with a specific parent training and information center or centers would be overly prescriptive. However, applicants may propose such an activity in their application to address the involvement of parents.

Change: None.

Comment: One commenter requested that the following points be considered: (1) the establishment of guidelines for joint monitoring; (2) the removal of any lead agency provisions; (3) the past success and failure of applicants in providing nationwide technical assistance to States; and (4) the establishment of linkages with one-stop career centers.

Discussion: In relation to both joint monitoring and lead agency provision, the Secretary stresses the importance of having a project lead agency be responsible to a Federal lead agency although other agencies will be involved in activities such as monitoring and accountability.

The Secretary notes that the establishment of linkages or working relationships with relevant agencies, such as one-stop career centers, is an activity that both School-to-Work and OSERS transition grantees are currently encouraged to address in the implementation of their projects. This priority would allow technical assistance in developing such linkages be available to these grantees.

Change: None.

VOL 60 ISS 74 AP 18 1995 UMI

Comment: One commenter suggests that consistent with other school-to-work grants, partnerships be eligible to apply for the technical assistance project.

Discussion: Eligible applicants for the technical assistance project include institutions of higher education (IHEs), state educational agencies (SEAs), local educational agencies (LEAs), and other public or private non-profit institutions or agencies. The School-to-Work Opportunities Act defines "local partnership" as meaning a local entity that is responsible for a local School-to-Work Opportunities program. If a partnership fits within the definition of eligible applicant for this priority, it may apply. However, the recipient of the grant is expected to demonstrate the expertise necessary for a national technical assistance project.

Change: None.

Comment: One commenter asked that the priority focus on the following issues: (1) training students to have a meaningful role in their own transition plans; (2) meeting the spirit of the law, including how the various laws can work together rather than separately; and (3) exploring the effectiveness of transition programs which begin before the age of 16.

Discussion: All of these issues are currently being addressed in a range of transition efforts supported by the Office of Special Education and Rehabilitative Services (OSERS). The Secretary has identified as one of the activities of the technical assistance project to prepare information, including information on current projects, in user friendly formats for dissemination to relevant audiences. In addition, the technical assistance project must provide technical assistance to these projects. These activities will produce material on proven practices that address these issues.

Change: None.

Comment: One commenter suggested that vocational rehabilitation agencies be included as eligible applicants.

Discussion: Vocational rehabilitation agencies are eligible to submit applications under this priority.

Change: None.

Comment: One commenter recommended that the priority emphasize to a greater extent (1) the development of relationships with the State School-to-Work Implementation Projects and the State Systems for Transition Services projects and (2) the need for creating a national network of innovators and implementors.

Discussion: Language in the current priority does emphasize the development of relationships with the State School-to-Work Implementation projects and the State Systems for Transition Services projects as well as creating a national network of innovators and implementors through the dissemination of information on proven practices and current projects, including funded research and model demonstration projects. OSERS currently supports a separate Institute to Evaluate and Provide Technical Assistance to States Implementing Cooperative Projects to Improve Transition Services.

Change: Language has been added to the priority requiring the technical assistance project to coordinate activities with other technical assistance providers such as the Institute to Evaluate and Provide Technical Assistance to States Implementing Cooperative Projects to Improve Transition Services.

Comment: One commenter states that it should be clear that this Technical Assistance Project is not responsible for monitoring or evaluating either the State School-to-Work Implementation projects or the State Systems for Transition Services projects.

Discussion: OSERS currently supports a project to provide technical assistance to the State Systems for Transition Services projects to improve their evaluation design. A purpose of this technical assistance project is to assist the Departments of Education and Labor in evaluating School-to-Work Opportunities Systems. Therefore, technical assistance will be available to State School-to-Work Implementation projects on incorporating students with disabilities into the evaluation design of their school-to-work effort. However, this project is not specifically responsible for monitoring or evaluating State School-to-Work Implementation projects or State Systems for Transition Services projects.

Change: None.

Comment: One commenter suggests that technical assistance which develops or enhances state-level "systemic reform" would have more benefits and long-term outcomes than providing technical assistance to current staff. Consideration should also be given to the development of incentives to encourage States to coordinate among multiple Federal workforce education and training programs, specifically in regard to serving youth with disabilities.

Discussion: The technical assistance project must provide technical assistance, upon request, to States receiving School-to-Work Opportunities Development Grants and provide technical assistance in accordance with agreements developed with States receiving School-to-Work Opportunities Implementation Grants as well as providing technical assistance to relevant staff as their School-to-Work systems are emerging.

The Secretary agrees that in order to ensure that transition programs are successful, relevant employment training agencies must be involved in the proposed activities. This would include coordinating with State agencies which administer other Federal workforce education and training programs, including programs supported under the Job Training Partnership Act and the Perkins Act.

Change: Language has been added to the priority to indicate that, in order to be effectively implemented, relevant employment training agencies must be involved in the proposed project activities.

Comment: One commenter seeks clarification as to the extent to which the documentation of project outcomes will align with those outcomes specified in the eight National Education Goals contained in Goals 2000: Educate America Act, in addition to those outlined in IDEA and the School-to-Work Opportunities Act.

Discussion: The Goals 2000: Educate America Act contains several initiatives which impact on the successful school-to-work transition of all students. These initiatives include the establishment of high academic and skill standards, and the creation of a National Skill Standards Board.

Change: The Secretary agrees with the commenter, and the relevant initiatives contained in this Act have been described under the Supplementary Information section of the priority.

Comment: One commenter requested that the priority incorporate the development of a core data base on the extent to which youth with disabilities have access to, participate in, and benefit from the full range of School-to-Work Opportunities systems. This data base could also be used for program planning, program improvement, and policy development at the local, State, and national level. Specific activities should emphasize (1) the development of computer-based tools and resources for data base planning and policy development and (2) the provision of evaluation technical assistance in relation to performance management systems.

Discussion: The priority currently requires that the technical assistance project identify proven practices and information that is useful in addressing the secondary education, transitional service, and postsecondary education needs of individuals with disabilities, including individuals with severe disabilities. The development of a core data base would be one means of meeting this requirement and applicants can propose such an activity in their application. However, the Secretary believes that requiring the development of such a data base would be overly prescriptive.

The priority also requires that this information be disseminated to all relevant audiences, including policy makers, administrators, teachers, other service providers, parents and individuals with disabilities, and that the technical assistance project will assist the Departments of Education and Labor in evaluating School-to-Work Opportunities systems. Therefore, the Secretary believes that sufficient data will be available at the national, State, and local levels which could be used for program planning, program improvement, and policy development.

Change: None.

Absolute Priority: Accessing School-to-Work, Secondary, and Postsecondary Environments—A Technical Assistance and Dissemination Effort

Purpose: The goal of this project is to help ensure that young individuals with disabilities acquire the skills and knowledge, have the experiences, and receive the services and supports they need to achieve successful postschool outcomes, including gainful employment and independent living. The project would do this by: (1) preparing and disseminating information on how best to meet the secondary education, transitional service, and postsecondary education needs of individuals with disabilities, including individuals with severe disabilities, in user-friendly formats to relevant audiences such as policy makers, administrators, teachers, other service providers, parents, and individuals with disabilities; and (2) making available technical assistance to personnel responsible for providing transitional services for individuals with disabilities, particularly personnel working on planning and implementing School-to-Work Opportunities systems. A critical focus of this project is assisting personnel responsible for providing transitional services and School-to-Work Opportunities grantees to develop the necessary skills and knowledge base to assist individuals with disabilities, including those with severe disabilities, to become integrated into appropriate transition programs and School-to-Work Opportunities systems established by States. In order to be effectively implemented, students, parents, relevant employment training agencies and other providers of adult services, and members of underrepresented populations, such as minorities, women, and disadvantaged persons, must be involved in the proposed activities.

Technical assistance may be provided in a variety of ways including training sessions, on-going consultation, participation in national meetings, one-on-one State visits, and visits to successful School-to-Work Opportunities systems.

The Secretary anticipates funding one cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. In making the initial award, the Secretary will consider the extent to which applicants provide evidence that States receiving School-to-Work Opportunities grants are likely to participate in technical assistance activities provided by the Technical Assistance Project.

In determining whether to continue this technical assistance project for the third, fourth, and fifth years, the Secretary, in addition to applying the requirements of 34 CFR 75.253(a), will consider the recommendation of a review team consisting of three experts selected by the Secretary. The review, including a two-day visit to the project, is to be performed during the third quarter of the second year and must be included in the year's evaluation required under 34 CFR 75.590. Funds to cover costs associated with the services to be performed by the review team are estimated to be approximately $4,000.

Priority

The Technical Assistance Project must:

(1) Identify proven practices and information that is useful in addressing the secondary education, transitional service, and postsecondary education needs of individuals with disabilities, including individuals with severe disabilities.

(2) Prepare information, including information on proven practices and current projects, in user-friendly formats for dissemination to relevant audiences, including policy makers, administrators, teachers, other service providers, parents, individuals with disabilities, and others.

(3) Disseminate information to all relevant audiences directly and, where possible, through using existing networks, systems, and mechanisms such as INet, the National Library of Education, Office of Special Education Programs' clearinghouses, the Office of Educational Research and Improvement's 10 regional educational laboratories, parent training and information centers, and State information networks.

(4) Provide technical assistance upon request to States receiving School-to-Work Opportunities Development Grants.

(5) Provide technical assistance in accordance with agreements developed with States receiving School-to-Work Opportunities Implementation Grants.

(6) Provide technical assistance to Office of Special Education and Rehabilitative Services projects in the areas of secondary education, transitional services, and postsecondary education, including support for meetings.

(7) Assist the Departments of Education and Labor in evaluating School-to-Work Opportunities systems.

(8) In years two and four, conduct a national forum that identifies persistent problems, proposes solutions, and responds to emerging issues and trends in providing students with disabilities with access to School-to-Work Opportunities systems.

(9) Coordinate activities with other technical assistance providers such as Federal technical assistance efforts related to the implementation of the School-to-Work Opportunities Act and the Institute to Evaluate and Provide Technical Assistance to States Implementing Cooperative Projects to Improve Transition Services.

Selection Criteria for Evaluating Applications

Under the secondary education, transitional, and postsecondary education technical assistance and information dissemination competition, the Secretary uses the following selection criteria. These criteria were taken from 34 CFR 380.11(a)–(e) and 380.13 (f) and (g).

(a) *Plan of Operation.* (10 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The extent to which the plan of management is effective and ensures proper and efficient administration of the project; and

(2) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(b) *Quality of key personnel.* (15 points) (1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

VOL
60
ISS
74
AP
18
1995
UMI

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraph (b)(1)(i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(2) To determine personnel qualifications under paragraph (b)(1)(i) and (ii) of this section, the Secretary considers—

(i) Experience and training in fields related to the objectives of the project; and

(ii) Any other qualifications that pertain to the quality of the project.

(c) *Budget and cost-effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project; and

(2) To the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (10 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(f) *Evidence of need.* (10 points) (1) The Secretary reviews each application to assess whether the need for the proposed technical assistance has been adequately justified.

(2) The Secretary determines the extent to which the application—

(i) Describes the technical assistance needs to be addressed by the project;

(ii) Describes how the applicant identified those needs;

(iii) Describes how those needs will be met by the project; and

(iv) Describes the benefits to be gained by meeting those needs.

(g) *Project design.* (40 points) (1) The Secretary reviews each application to evaluate the quality of the proposed technical assistance project design.

(2) The Secretary determines the extent to which—

(i) The technical assistance objectives are designed to meet the identified needs and are clearly defined, measurable, and achievable;

(ii) The content of the proposed technical assistance and instructional approach are appropriate for the project participants.

(3) The Secretary determines the extent to which each application provides for—

(i) A method for gaining the participation of prospective target populations in need of technical assistance;

(ii) Innovative procedures for disseminating information and imparting skills to project participants; and

(iii) Use of current research findings and information on model practices in providing the technical assistance.

Eligible Applicants: Institutions of Higher Education (IHEs), State educational agencies (SEAs), Local educational agencies (LEAs), and other public or private non-profit institutions or agencies.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Program Regulations: 34 CFR Part 326 and 34 CFR Part 426.

Program Authority: 20 U.S.C. 1425, 20 U.S.C. 2420a, 29 U.S.C. 761a(b) (4) and (6), 29 U.S.C. 777a(d), and 20 U.S.C. 1231(b).

(Catalog of Federal Domestic Assistance Number 84.158, Secondary Education and Transitional Services for Youth with Disabilities Program)

Dated: April 13, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–9511 Filed 4–17–95; 8:45 am]

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DEPARTMENT OF EDUCATION

[CFDA No.: 84.158]

Secondary Education and Transitional Services for Youth With Disabilities Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: To assist youth with disabilities in the transition from secondary school to postsecondary environments, such as competitive or supported employment, and to ensure that secondary special education and transitional services result in competitive or supported employment for youth with disabilities.

This priority support the National Educational Goals by assisting those with disabilities in meeting school readiness and adult literacy goals.

Elibible Applicants: Institutions of higher education (IHEs), State educational agencies (SEAs), Local educational agencies (LEAs), and other public or private nonprofit institutions or agencies.

Deadline for Transmittal of Applications: June 2, 1995.

Deadline for Intergovernmental Review: August 1, 1995.

Applications Available: April 18, 1995.

Available Funds: $1,400,000.

Estimated Range of Awards: $1,400,000

Estimated Average Size of Awards: $1,400,000

Estimated Number of Awards: 1

Project Period: Up to 60 months

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR Parts 326 and 426.

Priority: The priority in the notice of final priority for this program, as published elsewhere in this issue of the **Federal Register** applies to this competition.

For Applications: To request an application telephone (202) 205–8162. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

FOR FURTHER INFORMATION CONTACT: Michael Ward, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 4624, Switzer Building, Washington, D.C. 20202–2644. Telephone : (202) 205–8163. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8169.

Information about the Department's funding opportunities including copies

of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 1425, 20 U.S.C. 2420a, 20 U.S.C. 761a(b) (4) and (6), 29 U.S.C. 777a(d), and 20 U.S.C. 1231(b).

Dated: April 13, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–9512 Filed 4–17–95; 8:45 am]

BILLING CODE 4000–01–P

VOL
60

ISS
74

AP
18

1995

UMI

federal register

Tuesday
April 18, 1995

Part III

Department of Justice

Office of Justice Programs

28 CFR Part 90
STOP Violence Against Women Formula and Discretionary Grants Program (Grants to Combat Violent Crimes Against Women); Final Rule

VOL
60
ISS
74
AP
18
1995
UMI

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 90

[OJP No. 1015F]

RIN 1121–AA27

STOP Violence Against Women Formula and Discretionary Grants Program (Grants to Combat Violent Crimes Against Women)

AGENCY: U.S. Department of Justice, Office of Justice Programs.

ACTION: Final rule.

SUMMARY: The Violence Against Women Program Office, Office of Justice Programs (OJP), U.S. Department of Justice is publishing final regulations governing the implementation of the STOP (Services • Training • Officers • Prosecutors) Violence Against Women Formula and Discretionary Grants Program, hereafter referred to as the Program, authorized by Title IV of the Violent Crime Control and Law Enforcement Act of 1994.

DATES: The final rule is effective April 18, 1995.

ADDRESSES: The Office of Justice Programs, Violence Against Women Program Office, 633 Indiana Avenue NW., 4th Floor, Washington, DC 20531 is responsible for implementing this final rule.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1–800–421–6770 or (202) 307–1480, or Kathy Schwartz, Administrator, Violence Against Women Program Office, Office of Justice Programs (202) 307–6026.

SUPPLEMENTARY INFORMATION: The Violence Against Women Act (VAWA), as enacted by the 103rd Congress, is set out in Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–322, 108 Stat. 1796 (Sept. 13, 1994). The VAWA, in part, amends the Omnibus Crime Control and Safe Streets Act of 1968, as amended (the Omnibus Act), 42 U.S.C. 3711 *et seq.*, by adding a new 'Part T'. Part T comprises Sections 2001 through 2006, to be codified at 42 U.S.C. 3796gg through 3796gg–5. Unless otherwise specified, statutory references to those provisions will be to the Sections in Part T of the Omnibus Act, as amended by the VAWA.

This new Program authorizes FY 1995 Federal financial assistance to States for developing and strengthening effective law enforcement and prosecution strategies and victim services in cases involving violent crimes against women. Offices and agencies of State government, units of local government, Indian tribal governments, and nonprofit, nongovernmental victim services programs are eligible to apply to States for subgrants under Subpart B of these regulations. Indian tribal governments are also eligible to apply directly to the Office of Justice Programs for discretionary grants under Subpart C of these regulations.

On December 28, 1994, the Office of Justice Programs published a proposed rule on the implementation of the Violence Against Women Formula and Discretionary Grants Program ("Grants to Combat Violent Crime Against Women Program") in the **Federal Register** (Volume 59, No. 258, page 66830). Comments were specifically solicited regarding, but not limited to, the following issues:

(1) The scope of the impact on States, units of local government, and Indian tribal governments of the mandate that exempts sexual assault victims from paying out-of-pocket costs with regard to forensic medical exams (Section 90.14 of Subpart B of this regulation).

(2) Whether the scope of the services identified in Section 90.2(b) of Subpart A (the definition of forensic examination) of this proposed regulation adequately covers the needs of victims and prosecutors.

(3) The special needs of Indian tribal governments in implementing the discretionary grants program authorized by the Violence Against Women Act.

(4) The scope of the impact on States, units of local government, and Indian tribal governments of the mandate prohibiting the imposition of criminal court-related costs on domestic violence victims, and proposed timetables for States, local governments, and Indian tribal governments in meeting this mandate (Section 90.15 of Subpart B of this regulation).

(5) Approaches to addressing allocation and distribution requirements applicable to States, as set out in Section 90.16 of Subpart B, in making subgrants to units of local government.

The Office of Justice Programs received 69 letters commenting on the proposed regulations: 24 from State and local government agencies (including district attorneys, criminal justice planning agencies, and health and human service departments); 16 from Statewide domestic violence coalitions; 14 from local victim services programs; 10 from national organizations and public interest groups; 2 from Members of the United States Congress; 2 from concerned citizens; and 1 from an Indian tribal government. The Office of Justice Programs gratefully acknowledges the agencies, organizations, and individuals who took the time to express their views. Comments are on file at OJP's Violence Against Women Program Office.

In preparing the Final rule, OJP is interpreting the scope of the Program as broadly as possible while adhering closely to the letter and spirit of the legislation. Language contained in the final regulations has been modified to reflect the following changes:

- The introductory paragraph, The Violence Against Women Act of 1994, has been modified to emphasize the reduction of violence as the intent of the Act.
- Subparts B and C have been modified to incorporate the name of the VAWA grant program, STOP Violence Against Women.
- § 90.1(b) has been modified to clarify that offices and agencies of State government are eligible to apply for subgrants from this Program, as well as units of local government, Indian tribal governments, and nonprofit, nongovernmental victim services programs.
- § 90.2(a) has been modified to clarify that the definition of domestic violence includes any crime of violence considered to be an act of domestic violence according to State law.
- § 90.2(b) has been modified to clarify the minimum procedures included in a forensic medical examination and to delete the words "lack of consent."
- § 90.2(e) has been expanded to clarify that State offices or agencies that provide prosecution support services may receive grant funds and to set out some examples of functions and services that can be supported.
- § 90.2(i) has been expanded to clarify the range of programs eligible to receive grant funds designated as "victim services."
- § 90.11(b) has been modified to clarify that grantees and subgrantees shall develop the State implementation plan. In addition, the phrase "courts, probation and parole agencies" has been added to clarify that the goal of the planning process is the enhanced coordination and integration of these, and other, components of the criminal justice system.
- § 90.14 and § 90.53 have been modified to incorporate "* * * full out-of-pocket costs * * *" wherever references are made to the forensic medical examination costs that States must incur.
- § 90.14(a) and (c) have been expanded to define out-of-pocket costs and to clarify a State's discretion in covering additional costs.

- § 90.16(a)(2) has been modified to clarify how funds remaining after award of the base amount will be allocated, and to specify that Indian tribal populations will not be included in a State's population.
- § 90.16(a)(3) has been modified to add the word "offices" in reference to eligible subgrantees.
- § 90.16(b)(1) has been modified to clarify that States should consider Indian reservations in assessing need.
- § 90.16(b)(4) has been modified to encourage States to consider Indian populations in disbursing monies to previously underserved populations.
- § 90.17 has been modified to clarify the matching requirements and the permissibility of in-kind match.
- § 90.18 has been modified to clarify the non-supplantation requirement.
- § 90.20(b) now addresses Application Requirements.
- § 90.20(b)(3) and (4) have been modified to replace the words "include proof of" with the word "certify."
- § 90.23, previously entitled "Grantee Reporting," now describes the type of information that should be included in the State Implementation Plan.
- § 90.24 now addresses grantee reporting requirements.
- § 90.51(b) and § 90.57 have been modified to encourage Indian tribal applicants to develop their implementation plans through consultation with women in the communities to be served as well as tribal law enforcement, prosecutors, courts, and victim services agencies, to the extent they exist.
- § 90.54 has been modified to delete reference to a specific number of discretionary grants that will be awarded.
- § 90.57(b)(2) has been modified to encourage tribal applicants to integrate into their plans tribal methods of addressing violent crimes against women.

Several suggested modifications were not incorporated into the regulations.

- No conditions have been imposed that would limit the State's payment of the full out-of-pocket costs of forensic medical examinations for victims of sexual assault, and the time frame for compliance with this requirement has not been extended. This is a legislatively-established requirement that States must meet to be eligible to apply for these funds.
- A uniform definition of "advocacy" has not been incorporated into the Final Rule. "Advocacy" has different meanings in different contexts, all of which may be appropriate for the various groups involved in and benefiting from this grant program.
- The States are not required to include the number of violent crimes against women reported to law enforcement and the number of those offenses prosecuted each year as a factor in determining the allocation of funds. They may establish their own criteria for allocating these funds, within the intent and parameters of the Violence Against Women Act.
- In developing their plans to implement this Program, the States are not required to clearly articulate the cessation of violence against women as the State's overriding purpose. States may establish their own goals and objectives for this Program, within the parameters of the Act.
- A provision allowing Statewide victim services organizations to seek a review by the Office of Justice Programs of any State applications that does not adequately involve victim services programs in the development of the State plan has not been incorporated into the Final Rule. The Act does not specify the level of involvement victim services programs must play in the development of the State plan beyond requiring the States to consult and coordinate with them.
- Development of sexual assault and domestic violence prevention curricula for schools has not been included as a purpose for which these grant funds may be used. Sections 40151 and 40251 of the Violence Against Women Act authorize funds for the Department of Health and Human Services to develop such educational programs, beginning in Fiscal Year 1996.

Statement of the Problem

There are three aspects to violence against women in the United States which reflect the compelling nature of the problem. First, there are a tremendous number of incidents of violent crimes against women, many of which are often hidden and under-reported. The following statistics taken from the Bureau of Justice Statistics' 1994 data from the National Crime Victimization Survey, and a recent Bureau of Justice Statistics report, Violence Against Women (January 1994), paint a grim picture of violence against women in America:

- Over two-thirds of violent crimes committed against women were committed by someone known to them.
- Over 1 million women a year are victims of violence perpetrated by husbands or boyfriends.
- Every year, nearly 500,000 women and girls age 12 or older are victims of rape or attempted rape.
- Date from 1992 show that one-third of all female murder victims over age 14 were killed by an intimate, such as a boyfriend, spouse, or ex-spouse.
- Over half of the family violence crime victimizations result in injuries to the victim; female victims are more likely to sustain injuries at the hands of intimates than strangers.
- Less than half of all violent crime against women is ever reported to law enforcement officials.
- Over one-fifth of those convicted of intimate violent offenses reported having been physically or sexually abused during childhood.
- Over one-third of those incarcerated for harming an intimate had a previous conviction for a violent offense.

The second aspect of the problem is that only recently has society has begun to view violence against women as a serious criminal problem. In domestic violence cases, where the victim knows the perpetrator, there has been a tendency to consider the matter a private dispute and not a crime for public scrutiny or judgment. Even when the violence comes at the hands of a stranger, as in many cases of sexual assault, the incident has too often been blamed more on the victim than on the perpetrator.

The third aspect of the problem lies in the traditional response by the justice system to incidents of violence against women. Existing criminal justice and victim services efforts to alleviate the problem have been fragmented due to lack of resources and/or coordination. Consequently, the criminal justice system has too often not been responsive to women in domestic violence and sexual assault cases.

The Violence Against Women Act of 1994

The Violence Against Women Act reflects a firm commitment towards working to change the criminal justice system's response to violence that occurs when any woman is threatened or assaulted by someone with whom she has or has had an intimate relationship, with whom she was previously acquainted, or who is a stranger. By committing significant Federal resources and attention to restructuring and strengthening the criminal justice response to women who have been, or potentially could be, victimized by violence, we can more effectively ensure the safety of all women.

Law Enforcement and Prosecution Grants To Reduce Violent Crimes Against Women

For FY 1995, Congress appropriated $26 million to the Department of Justice

VOL 60 ISS 74 AP 18 1995 UMI

as a down payment towards assistance to combat violent crimes against women. Part T authorizes an appropriation of $130 million for FY 1996 and increasing amounts in succeeding years.

Thus, the $26 million appropriation for FY 1995 is the initial step of a multi-year Program designed to encourage States to implement innovative and effective criminal justice approaches to this problem. The Violence Against Women Act enumerates the following seven broad purposes for which funds may be used:

(1) Training for law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including crimes of sexual assault and domestic violence;

(2) Developing, training, or expanding units of law enforcement officers and prosecutors that specifically target violent crimes against women;

(3) Developing and implementing more effective police and prosecution policies and services for preventing and responding to violent crimes against women;

(4) Developing and improving data collection and communications systems linking police, prosecutors, and courts or for purposes of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions;

(5) Developing, expanding, or improving victim services programs, including improved delivery of such services for racial, cultural, linguistic, and ethnic minorities, and the disabled, and providing specialized domestic violence court advocates;

(6) Developing and enhancing programs addressing stalking; and

(7) Developing and enhancing programs addressing the special needs and circumstances of Indian tribes in dealing with violent crimes against women.

Additionally, by statute, 4% of the amount appropriated each year is available for Indian tribal governments through a discretionary program. For FY 1995, the discretionary program will fund a limited number of programs. Tribes, which may apply individually or as a consortium in order to maximize resources, are encouraged to develop programs which address their unique needs.

A Coordinated and Integrated Approach to the Problem

By definition, a coordinated and integrated approach suggests a partnership among law enforcement, prosecution, the courts, victim advocates and service providers. The goal of this Program is to encourage States and localities to restructure and strengthen the criminal justice response to be proactive in dealing with this problem; to draw on the experience of all the players in the system, including the advocate community; and to develop a comprehensive set of strategies to deal with this complex problem. The development of such strategies necessitates collaboration among police, prosecutors, the courts, and victim services providers. Thus, the Program requires that jurisdictions draw into the planning process the experience of nongovernmental victim services and State domestic violence and sexual assault coalitions, as well as existing domestic violence and sexual assault task forces and coordinating councils, in addition to police, prosecutors and the courts. Examples of innovative approaches include those:

- Instituting comprehensive training programs to change attitudes that have traditionally prevented the criminal justice system from adequately responding to the problem.
- Forming specialized units within police departments and prosecutors' offices, or specialized multi-disciplinary units, devoted exclusively to the handling of domestic violence and sexual assault cases.
- Establishing sexual trauma units in emergency rooms where forensic examinations, victim counseling, and victim advocacy are equally available.
- Developing strategies that maximize resources by establishing regional approaches, such as the registration and enforcement of protective orders across jurisdictional lines.
- Establishing protocols to achieve better coordination in the handling of cases involving violence against women between civil and criminal courts.
- Establishing and expanding victim services that address the special needs of women from minority and ethnic communities, women who are disabled, or women who do not speak English.

Eligibility Requirements Applicable to the States

To be eligible to receive grants under this Program, States must develop plans which comply with the requirements set out in the Act. Although grant amounts are limited for FY 1995, States should plan their VAWA activities with a view to implementing a continuing Program over the next several years.

First, States will have to demonstrate how they plan to distribute their grant funds each year. At least 25% must be allocated to law enforcement, 25% to prosecution, and 25% to victim services programs. Section 2002(c)(3).

Second, priority must be given to areas of varying geographic size and areas with the greatest showing of need within the State. Need is based on population and the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served. Section 2002(e)(2)(C). States must insure equitable geographic distribution among urban, non-urban, and rural areas. They must also address the needs of populations previously underserved due to geographic location, racial or ethnic barriers, or special needs such as language barriers or physical disabilities. Section 2002(e)(2)(D). States are encouraged to develop preliminary multi-year plans for the disbursement of funds based on geography, need, and underserved populations to achieve a balanced distribution, consistent with the statute, over the life of the Program extending through FY 2000.

Third, in their applications, States and Indian tribal governments must certify that they (or another level of government) will incur the full out-of-pocket costs for forensic medical examinations involving sexual assault victims. Section 2005(a)(1). "Full out-of-pocket costs" means any expense that may be charged to a victim in connection with a forensic medical examination. Additionally, each State and Indian tribal government must also provide certification that their laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and witness subpoena. Section 2006(a)(1). If the latter condition is not satisfied, States and Indian tribal governments must provide assurances that they will be in compliance by September 13, 1996, or at the end of the next legislative session, whichever is later.

Finally, an important goal of the legislation is to create vehicles for the various participants in the system to begin a dialogue. To help foster this communication, States are required to consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs.

Indian Tribal Governments Discretionary Program

The VAWA requires that 4% of the total funds be set aside for Indian tribal governments. These funds may be used for the same general purposes set out for the State recipients in the block grant program.

Tribes will be invited to make individual applications, or apply as a consortium or as an inter-tribal group. The VAWA defines Indian tribes to include both those with and without law enforcement authority. Section 2003(3). Consequently, the requirement applicable to State block grants, that at least 25% of the total grant award be allocated respectively to law enforcement, prosecution, and victim assistance, would not be applicable to Indian tribal governments that do not have law enforcement or prosecution. Nonetheless, program plans should be developed through consultation with women in the community to be served, and with tribal law enforcement, prosecutors, courts, and victim services to the extent they exist. Applicants are also encouraged to integrate into their plans tribal methods of dealing with violent crimes against women. Additionally, tribes may want to develop a domestic violence code, if one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

Funding limits the number of discretionary grants in FY 1995. To be eligible for funding under the discretionary program, Indian tribal governments must comply with the forensic medical examination costs and the filing and service fee requirements applicable to the State formula grant program.

Technical Assistance and Training/ Evaluation

The Office of Justice Programs intends to assist States and Indian tribal governments in meeting the Program goal of developing effective coordinated and integrated strategies. A small portion of the funds provided under this Program has been set aside to provide specialized training and technical assistance to States and units of local government and Indian tribal governments to help restructure the system's response to violence against women.

Further, consistent with the statute, the Office of Justice Programs, in conjunction with the National Institute of Justice, will evaluate the effectiveness of the programs established with these funds. Recipients of grants must agree to cooperate with Federally-sponsored evaluations of their projects. In addition, the Attorney General is required by the VAWA to report to Congress on a profile of the persons served, the programs funded, and their effectiveness. Program recipients must therefore specifically provide a statistical summary of persons served, detailing the nature of victimization, and providing data on age, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability. Additionally, program recipients are expected to cooperate with any investigations or audits performed by components of the Department of Justice, including the Civil Rights Division or the Office of the Inspector General.

Administrative Requirements

The Final Rule implements a formula grant program that does not impose any restrictive regulations on the States. The States will benefit from immediate access to the funds available through this program, and it would be contrary to the public interest to delay implementation of the program. Therefore, the Final Rule is effective immediately.

The Office of Justice Programs has determined that this rule is a "significant regulatory action" for purposes of Executive Order 12866 and, accordingly, this rule has been reviewed by the Office of Management and Budget.

In addition, this rule will not have a significant impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is not required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

No information requirements are contained in this rule. Any information collection requirements contained in future application notices for this Program will be reviewed by the Office of Management and Budget, as is required by provisions of the Paperwork Reduction Act, 44 U.S.C. 3504(h).

List of Subjects in 28 CFR Part 90

Grant programs, Judicial administration.

For the reasons set out in the preamble, Title 28, Chapter I of the Code of Federal Regulations is amended by adding the new Part 90 as set forth below.

PART 90—VIOLENCE AGAINST WOMEN

Subpart A—General Provisions

Sec.

90.1 General.
90.2 Definitions.

Subpart B—The STOP (Services • Training • Officers • Prosecutors) Violence Against Women Formula Grant Program

90.10 Description of STOP (Services • Training • Officers • Prosecutors) Violence Against Women Formula Grant Program.
90.11 Program criteria.
90.12 Eligible purposes.
90.13 Eligibility.
90.14 Forensic medical examination payment requirement.
90.15 Filing costs for criminal charges.
90.16 Availability and allocation of funds.
90.17 Matching requirements.
90.18 Non-supplantation.
90.19 State office.
90.20 Application content.
90.21 Evaluation.
90.22 Review of state applications.
90.23 State implementation plan.
90.24 Grantee reporting.

Subpart C—Indian Tribal Governments Discretionary Grants Program

90.50 Indian tribal governments discretionary program.
90.51 Program criteria for indian tribal government discretionary grants.
90.52 Eligible purposes.
90.53 Eligibility of Indian tribal governments.
90.54 Allocation of funds.
90.55 Matching requirements.
90.56 Non-supplantation.
90.57 Application content.
90.58 Evaluation.
90.59 Grantee reporting.

Authority: 42 U.S.C. 3711 *et seq.*

Subpart A—General Provisions

§ 90.1 General.

(a) This Part implements certain provisions of the Violence Against Women Act (VAWA), which was enacted by Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–322 (Sept. 13, 1994).

(b) Subpart B of this part defines program eligibility criteria and sets forth requirements for application for and administration of formula grants to States to combat violent crimes against women. This Program under the VAWA was enacted as a new 'Part T' of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (the Omnibus Act), codified at 42 U.S.C. 3796gg through 3796gg–5. Offices and agencies of State government, units of local government, Indian tribal governments, and nonprofit, nongovernmental victim services programs are eligible to apply for subgrants from this Program.

(c) Indian tribal governments are eligible to receive assistance as part of the State program pursuant to Subpart B of this part. In addition, Indian tribal governments may apply directly for discretionary grants under Subpart C of this part.

VOL 60 ISS 74 AP 18 1995 UMI

§ 90.2 Definitions.

(a) *Domestic violence.* (1) As used in this Part, "domestic violence" includes felony or misdemeanor crimes of violence (including threats or attempts) committed:

(i) By a current or former spouse of the victim;

(ii) By a person with whom the victim shares a child in common;

(iii) By a person who is co-habitating with or has co-habitated with the victim as a spouse;

(iv) By a person similarly situated to a spouse of the victim under domestic or family violence laws of the jurisdiction receiving grant monies; or

(v) By any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies. Section 2003(1).

(2) For the purposes of this Program, "domestic violence" also includes any crime of violence considered to be an act of domestic violence according to State law.

(b) *Forensic medical examination.* The term "forensic medical examination" means an examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law.

(1) The examination should include at a minimum:

(i) examination of physical trauma;

(ii) determination of penetration or force;

(iii) patient interview; and

(iv) collection and evaluation of evidence.

(2) The inclusion of additional procedures (e.g., testing for sexually transmitted diseases) to obtain evidence may be determined by the State, Indian tribal government, or unit of local government in accordance with its current laws, policies, and practices.

(c) *Indian tribe.* The term "Indian Tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation [as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*)], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Section 2003(3).

(d) *Law enforcement.* The term "law enforcement" means a public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs). Section 2003(4).

(e) *Prosecution.* For the purposes of this Program, the term "prosecution" means any public office or agency charged with direct responsibility for prosecuting criminal offenders, including such office's or agency's component departments or bureaus (such as governmental victims services programs). Prosecution support services, such as overseeing or participating in Statewide or multi-jurisdictional domestic violence task forces, conducting training for State and local prosecutors or enforcing victim compensation and domestic violence-related restraining orders shall be considered "direct responsibility" for purposes of this program. Section 2003(5).

(f) *Sexual assault.* The term "sexual assault" means any conduct proscribed by Chapter 109A of Title 18, United States Code, and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim. Section 2003(6).

(g) *State.* The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(h) *Unit of local government.* For the purposes of Subpart B of this part, the term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, or Indian tribe which performs law enforcement functions as determined by the Secretary of Interior, or for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and the Trust Territory of the Pacific Islands.

(i) *Victim services.* The term "victim services" means a nonprofit, nongovernmental organization, that assist victims of domestic violence and/or sexual assault victims. Included in this definition are rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, such as nonprofit, nongovernmental organizations assisting domestic violence or sexual assault victims through the legal process. (Section 2003(8).)

(j) For the purposes of this Program, funding may include support for lawyer and nonlawyer advocates, including specialized domestic violence court advocates. Legal or defense services for perpetrators of violence against women may not be supported with grant funds.

(2) The definition also encompasses Indian victim assistance programs and Statewide domestic violence and sexual assault coalitions to the extent they provide direct services to domestic violence and sexual assault victims.

(3) Governmental victim services programs attached to a law enforcement agency or a prosecutor's office may apply for the portions of the State grant designated for law enforcement and prosecution. Governmental victim services programs contracting with nonprofit organizations (e.g., a county nonprofit shelter) are eligible to apply for the portion of the State grant designated for nonprofit, nongovernmental victim services. Governmental victim services programs that are not connected to a law enforcement agency or a prosecutor's office and are not considered nonprofit organizations may apply for funding through the remaining portion of the State grant that is not designated for a specific program area.

Subpart B—The STOP (Services • Training • Officers • Prosecutors) Violence Against Women Formula Grant Program

§ 90.10 Description of STOP (Services • Training • Officers • Prosecutors) Violence Against Women Formula Grant Program.

It is the purpose of this Program to assist States, Indian tribal governments, and units of local government to develop and strengthen effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women. Section 2001(a).

§ 90.11 Program criteria.

(a) The Assistant Attorney General for the Office of Justice Programs is authorized to make grants to the States, for use by States, Indian tribal governments, units of local government and nonprofit, nongovernmental victim services programs for the purpose of developing and strengthening effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

(b) Grantees and subgrantees shall develop a plan for implementation and shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs. Section 2002(c)(2).

The goal of the planning process is the enhanced coordination and integration of law enforcement, prosecution, courts, probation and parole agencies, and victim services in the prevention, identification, and response to cases involving violence against women. States and localities are encouraged to include Indian tribal governments in developing their plans. States and localities should, therefore, consider the needs of Indian tribal governments in developing their law enforcement, prosecution and victims services in cases involving violence against women. Indian tribal governments may also be considered subgrantees of the State. Section 2002(a).

§ 90.12 Eligible purposes.

(a) In General. Grants under this Program shall provide personnel, training, technical assistance, evaluation, data collection and equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women.

(b) Eligible Purposes. Section 2001(b). Grants under this Program may be used for the following purposes:

(1) Training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

(2) Developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) Developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

(4) Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

(5) Developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs; developing or improving delivery of victim services to racial, cultural, ethnic, and language minorities; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence;

(6) Developing, enlarging, or strengthening programs addressing stalking; and

(7) Developing, enlarging, or strengthening programs addressing the needs and circumstances of Indian tribes in dealing with violent crimes against women, including the crimes of sexual assault and domestic violence.

§ 90.13 Eligibility.

(a) All States are eligible to apply for, and to receive, grants to combat violent crimes against women under this Program. Indian tribal governments, units of local government, and nonprofit, nongovernmental victim service programs may receive subgrants from the States under this Program.

(b) For the purpose of this Subpart B, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and, for these purposes, 67% of the amounts allocated shall be allocated to American Samoa, and 33% to the Commonwealth of the Northern Mariana Islands.

§ 90.14 Forensic medical examination payment requirement.

(a) For the purpose of this Subpart B, a State, Indian tribal government or unit of local government shall not be entitled to funds under this Program unless the State, Indian tribal government, unit of local government, or another governmental entity incurs the full out-of-pocket costs of forensic medical examinations for victims of sexual assault. "Full out-of-pocket costs" means any expense that may be charged to a victim in connection with a forensic medical examination for the purpose of gathering evidence of a sexual assault (e.g., the full cost of the examination, an insurance deductible, or a fee established by the facility conducting the examination). Section 2005(a)(1). For individuals covered by insurance, "full out-of-pocket costs" means any costs that the insurer does not pay.

(b) A State, Indian tribal government, or unit of local government shall be deemed to incur the full out-of-pocket costs of forensic medical examinations for victims of sexual assault if that governmental entity or some other:

(1) Provides such examinations to victims free of charge;

(2) Arranges for victims to obtain such examinations free of charge; or

(3) Reimburses victims for the cost of such examinations if:

(i) The reimbursement covers the full out-of-pocket costs of such examinations, without any deductible requirement and/or maximum limit on the amount of reimbursement;

(ii) The governmental entity permits victims to apply for reimbursement for not less than one year from the date of the examination;

(iii) The governmental entity provides reimbursement to the victim not later than ninety days after written notification of the victim's expense; and

(iv) The governmental entity provides information at the time of the examination to all victims, including victims with limited or no English proficiency, regarding how to obtain reimbursement. Section 2005(b).

(c) Coverage of the cost of additional procedures (e.g., testing for sexually transmitted diseases) may be determined by the State or governmental entity responsible for paying the costs; however, formula grant funds cannot be used to pay for the cost of the forensic medical examination or any additional procedures.

§ 90.15 Filing costs for criminal charges.

(a) A State shall not be entitled to funds under this Subpart B unless it:

(1) Certifies that its laws, policies, and practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges against the domestic violence offender, or the costs associated with the issuance or service of a warrant, protection order, and witness subpoena (arising from the incident that is the subject of the arrest or criminal prosecution); or

(2) Assures that its laws, policies and practices will be in compliance with the requirements of paragraph (a)(1) of this section by the date on which the next session of the State legislature ends, or by September 13, 1996, whichever is later.

(b) An Indian tribal government or unit of local government shall not be eligible for subgrants from the State unless it complies with the requirements of paragraph (a) of this section with respect to its laws, policies and practices.

(c) If a State does not come into compliance within the time allowed in paragraph (a)(2) of this section, the State will not receive its share of the grant money whether or not individual units of local government are in compliance.

VOL 60 ISS 74 AP 18 1995 UMI

§ 90.16 Availability and allocation of funds.

(a) Section 2002(b) provides for the allocation of the amounts appropriated for this Program as follows:

(1) Allocation to Indian tribal governments. Of the total amounts appropriated for this Program, 4% shall be available for grants directly to Indian tribal governments. This Program is addressed in Subpart C of this part.

(2) Allocation to States. Of the total amounts appropriated for this Program in any fiscal year, after setting aside the portion allocated for discretionary grants to Indian tribal governments covered in paragraph (a) (1) of this section, and setting aside a portion for evaluation, training and technical assistance, a base amount shall be allocated for grants to eligible applicants in each State. After these allocations are made, the remaining funds will be allocated to each State on the basis of the State's relative share of total U.S. population (not including Indian tribal populations). For purposes of determining the distribution of the remaining funds, the most accurate and complete data compiled by the U.S. Bureau of the Census shall be used.

(3) Allocation of Funds within the State. Funds granted to qualified States are to be further subgranted by the State to agencies, offices, and programs including, but not limited to State agencies and offices; public or private nonprofit organizations; units of local government; Indian tribal governments; nonprofit, nongovernmental victim services programs; and legal services programs for victims to carry out programs and projects specified in § 90.12.

(b) In distributing funds received under this part, States must:

(1) Give priority to areas of varying geographic size with the greatest showing of need. In assessing need, States must consider the range and availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas, including Indian reservations. Applications submitted by a State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis. Section 2002(e)(2)(A).

(2) Take into consideration the population of the geographic area to be served when determining subgrants. Section 2002(e)(2)(B). Applications submitted by a State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(3) Equitably distribute monies on a geographic basis, including non-urban and rural areas of various geographic sizes. Section 2002(e)(2)(C). Applications submitted by the State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(4) In disbursing monies, States must ensure that the needs of previously underserved populations are identified and addressed in its funding plan. Section 2002(e)(2)(D). For the purposes of this Program, underserved populations include, but are not limited to, populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, including Indian populations, and populations underserved because of special needs such as language barriers or physical disabilities. Section 2003(7). Each State has flexibility to determine its basis for identifying underserved populations, which may include public hearings, needs assessments, task forces, and U.S. Bureau of Census data. Applications submitted by the State for program funding must include a proposal which delineates the method by which States will distribute funds within the State to assure compliance with this requirement on an annual or multi-year basis.

(c) States must certify that a minimum of 25% of each year's grant award (75% total) will be allocated, without duplication, to each of the following areas: prosecution, law enforcement, and victim services. Section 2002(c)(3). This requirement applies to States and does not apply to individual subrecipients. This requirement applies to Indian tribal governments to the extent they have law enforcement or prosecution.

§ 90.17 Matching requirements.

(a) The Federal share of a subgrant made under the State formula program may not be expended for more than 75% of the total costs of the individual projects described in a State's implementation plan. Section 2002(f). A 25% non-Federal match is required. This 25% match may be cash or in-kind services. States are expected to submit a narrative that identifies the source of the match.

(b) In-kind match may include donations of expendable equipment, office supplies, workshop or classroom materials, work space, or the monetary value of time contributed by professional and technical personnel and other skilled and unskilled labor if the services they provide are an integral and necessary part of a funded project. The value placed on loaned or donated equipment may not exceed its fair rental value. The value placed on donated services must be consistent with the rate of compensation paid for similar work in the organization or the labor market. Fringe benefits may be included in the valuation. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient organization for its own employees. The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality. The basis for determining the value of personal services, materials, equipment, and space must be documented.

(c) The match expenditures must be committed for each funded project and cannot be derived from other Federal funds. Nonprofit, nongovernmental victim services programs funded through subgrants are exempt from the matching requirement; all other subgrantees must provide a 25% match.

(d) Indian tribes, who are subgrantees of a State under this Program, may meet the 25% matching requirement for programs under this Subpart B by using funds appropriated by Congress for the activities of any agency of an Indian tribal government or for the activities of the Bureau of Indian Affairs performing law enforcement functions on any Indian lands.

(e) All funds designated as match are restricted to the same uses as the Violence Against Women Program funds and must be expended within the grant period. The State must ensure that match is identified in a manner that guarantees its accountability during an audit.

§ 90.18 Non-supplantation.

Federal funds received under this part shall be used to supplement, not supplant non-Federal funds that would otherwise be available for expenditure on activities described in this part. Monies disbursed under this Program must be used to fund new projects, or expand or enhance existing projects. The VAWA funds cannot be used to supplant or replace existing funds already allocated to funding programs. Grant funds may not be used to replace

State or local funds (or, where applicable, funds provided by the Bureau of Indian Affairs) that would, in the absence of Federal aid, be available or forthcoming for programs to combat violence against women. This requirement applies only to State and local public agencies. Section 2002(c)(4).

§ 90.19 State office.

(a) Statewide plan and application. The chief executive of each participating State shall designate a State office for the purposes of:

(1) Certifying qualifications for funding under this Subpart B;

(2) Developing a Statewide plan for implementation of the grants to combat violence against women in consultation and coordination with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence service programs; and

(3) Preparing an application to obtain funds under this Subpart B.

(b) Administration and fund disbursement. In addition to the duties specified by paragraph (a) of this section, the office shall:

(1) Administer funds received under this Subpart B, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements; and

(2) Coordinate the disbursement of funds provided under this part with other State agencies receiving Federal, State, or local funds for domestic or family violence and sexual assault prosecution, prevention, treatment, education, and research activities and programs.

§ 90.20 Application content.

(a) *Format.* Applications from the States for the STOP Violence Against Women Formula Grant Program must be submitted on Standard Form 424, Application for Federal Assistance. The Office of Justice Programs will request the Governor of each State to identify which State agency should receive the Application Kit. The Application Kit will include a Standard Form 424, an Application for Federal Assistance, a list of assurances to which the applicant must agree, and additional guidance on how to prepare and submit an application for grants under this Subpart.

(b) *Requirements.* Applicants in their applications shall at the minimum:

(1) Include documentation from nonprofit, nongovernmental victim services programs describing their participation in developing the plan as provided in Section 90.19(a);

(2) Include documentation from prosecution, law enforcement, and victim services programs to be assisted, demonstrating the need for grant funds, the intended use of the grant funds, the expected results from the use of grant funds, and demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and linguistic background. Section 2002(d)(1);

(3) Certify compliance with the requirements for forensic medical examination payments as provided in Section 90.14(a); and

(4) Certify compliance with the requirements for filing and service costs for domestic violence cases as provided in Section 90.15

(c) *Certifications.* (1) As required by Section 2002(c) each State must certify in its application that it has met the requirements of this Subpart regarding the use of funds for eligible purposes (Section 90.12); allocation of funds for prosecution, law enforcement, and victims services (Section 90.16(c)); non-supplantation (Section 90.18); and the development of a Statewide plan and consultation with victim services programs (Section 90.19(a)(2)).

(2) Each State must certify that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.21 Evaluation.

(a) The National Institute of Justice will conduct an evaluation of these programs. A portion of the overall funds authorized under this grant Program will be set aside for this purpose. Recipients of funds under this subpart must agree to cooperate with Federally-sponsored evaluations of their projects.

(b) Recipients of program funds are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of the program funded under this Subpart. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

§ 90.22 Review of State applications.

(a) *Review criteria.* The provisions of Part T of the Omnibus Act and of these regulations provide the basis for review and approval or disapproval of State applications and amendments in whole or in part.

(b) *Intergovernmental review.* This Program is covered by Executive Order 12372 (Intergovernmental Review of Federal Programs) and implementing regulations at 28 CFR Part 30. A copy of the application submitted to the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

(c) *Written notification and reasons for disapproval.* The Office of Justice Programs shall approve or disapprove applications within sixty days of official receipt and shall notify the applicant in writing of the specific reasons for the disapproval of the application in whole or in part. Section 2002(e)(1).

§ 90.23 State implementation plan.

(a) Each State must submit a plan describing its identified goals and how the funds will be used to accomplish those goals. States may use grant funds to accomplish any of the seven identified purposes of the Violence Against Women Act.

(b) The implementation plan should describe how the State, in disbursing monies, will:

(1) Give priority to areas of varying geographic size with the greatest showing of need based on the availability of existing domestic violence and sexual assault programs in the population and geographic area to be served in relation to the availability of such programs in other such populations and geographic areas;

(2) Determine the amount of subgrants based on the population and geographic area to be served;

(3) Equitably distribute monies on a geographic basis including nonurban and rural areas of various geographic sizes; and

(4) Recognize and address the needs of underserved populations. State plans may include but are not required to submit information on specific projects.

(c) State plans will be due 120 days after the date of the award.

§ 90.24 Grantee reporting.

(a) Upon completion of the grant period under this Subpart, a State shall file a performance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this part.

(b) A section of the performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the

VOL 60 ISS 74 AP 18 1995 UMI

application, certifying performance of direct services under the grant. The grantee is responsible for collecting demographics about the victims served and including this information in the Annual Performance Report. In addition, the State should assess whether or not annual goals and objectives were achieved and provide a progress report on Statewide coordination efforts. Section 2002(h)(2).

(c) The Assistant Attorney General shall suspend funding for an approved application if:

(1) An applicant fails to submit an annual performance report;

(2) Funds are expended for purposes other than those described in this subchapter; or

(3) A report under this Section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

Subpart C—Indian Tribal Governments Discretionary Program

§ 90.50 Indian tribal governments discretionary program.

(a) Indian tribal governments are eligible to receive assistance as part of the State program pursuant to Subpart B of this part. In addition, Indian tribal governments may apply directly to the Office of Justice Programs for discretionary grants under this Subpart, based on Section 2002(b)(1).

(b) Indian tribal governments under the Violence Against Women Act do not need to have law enforcement authority. Thus, the requirements applicable to State formula grants under Subpart B that at least 25% of the total grant award be allocated to law enforcement and 25% to prosecution, are not applicable to Indian tribal governments which do not have law enforcement authority.

§ 90.51 Program criteria for Indian tribal government discretionary grants.

(a) The Assistant Attorney General for the Office of Justice Programs is authorized to make grants to Indian tribal governments for the purpose of developing and strengthening effective law enforcement and prosecution strategies to combat violent crimes against women, and to develop and strengthen victim services in cases involving violent crimes against women.

(b) Grantees shall develop plans for implementation and shall consult and coordinate with, to the extent that they exist, tribal law enforcement; prosecutors; courts; and nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs. Indian tribal government applications must include documentation from nonprofit, nongovernmental victim services programs, if they exist, or from women in the community to be served describing their participation in developing the plan. The goal of the planning process should be to achieve better coordination and integration of law enforcement, prosecution, courts, probation, and victim services—the entire tribal justice system—in the prevention, identification, and response to cases involving violence against women.

§ 90.52 Eligible purposes.

(a) Grants under this Program may provide personnel, training, technical assistance, evaluation, data collection and equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women.

(b) Grants may be used, by Indian tribal governments, for the following purposes (Section 2001(b)):

(1) Training law enforcement officers and prosecutors to identify and respond more effectively to violent crimes against women, including the crimes of sexual assault and domestic violence;

(2) Developing, training, or expanding units of law enforcement officers and prosecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

(3) Developing and implementing more effective police and prosecution policies, protocols, orders, and services specifically devoted to preventing, identifying, and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

(4) Developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions for violent crimes against women, including the crimes of sexual assault and domestic violence;

(5) Developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs; providing specialized domestic violence court advocates in courts where a significant number of protection orders are granted; and increasing reporting and reducing attrition rates for cases involving violent crimes against women, including crimes of sexual assault and domestic violence; and

(6) Developing, enlarging, or strengthening programs addressing stalking.

§ 90.53 Eligibility of Indian tribal governments.

(a) *General.* Indian tribes as defined by Section 90.2 of this Part shall be eligible for grants under this Subpart.

(b) *Forensic Medical Examination Payment Requirement.*

(1) An Indian tribal government shall not be entitled to funds under this Program unless the Indian tribal government (or other governmental entity) incurs the full out-of-pocket costs of forensic medical examinations for victims of sexual assault.

(2) An Indian tribal government shall be deemed to incur the full out-of-pocket costs of forensic medical examinations for victims of sexual assault if, where applicable, it meets the requirements of Section 90.14(b) or establishes that another governmental entity is responsible for providing the services or reimbursements meeting the requirements of Section 90.14(b).

(c) *Filing Costs for Criminal Charges Requirement.* An Indian tribal government shall not be entitled to funds under this Part unless the Indian tribal government either

(1) Certifies that its laws, policies, and practices do not require the victim to bear the following costs in connection with the prosecution of any misdemeanor or felony domestic violence offense:

(i) The cost associated with filing criminal charges against a domestic violence offender, or

(ii) The costs associated with issuing or serving a warrant, protection order and/or witness subpoena arising from the incident that is the subject of the arrest or criminal prosecution, or

(2) Assures that its laws, policies and practices will be in compliance with these requirements by September 13, 1996. (Section 2006)

§ 90.54 Allocation of funds.

(a) 4% of the total amounts appropriated for this Program under Section 2002(b) shall be available for grants directly to Indian tribal governments.

(b) Indian tribal governments may make individual applications, or apply as a consortium.

(c) Funding limits the number of awards. The selection process will be sensitive to the differences among tribal governments and will take into account the applicants' varying needs in addressing violence against women.

§ 90.55 Matching requirements.

(a) A grant made to an Indian tribal government under this Subpart C may not be expended for more than 75% of the total costs of the individual projects described in the application. Section 2002(g). A 25% non-Federal match is required. This 25% match may be cash or in-kind services. Applicants are expected to submit a narrative that identifies the source of the match.

(b) In-kind match may include donations of expendable equipment, office supplies, workshop or classroom materials, work space, or the monetary value of time contributed by professional and technical personnel and other skilled and unskilled labor if the services they provide are an integral and necessary part of a funded project. The value placed on loaned or donated equipment may not exceed its fair rental value. The value placed on donated services must be consistent with the rate of compensation paid for similar work in the organization or the labor market. Fringe benefits may be included in the valuation. Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient organization for its own employees. The value of donated space may not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately owned building in the same locality. The basis for determining the value of personal services, materials, equipment, and space must be documented.

(c) The match expenditures must be committed for each funded project and may be derived from funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands. Nonprofit, nongovernmental victim services programs funded through subgrants are exempt from the matching requirement; all other subgrantees must provide a 25% match and reflect how the match will be used.

(d) All funds designated as match are restricted to the same uses as the Violence Against Women Program funds and must be expended within the grant period. The applicant must ensure that match is identified in a manner that guarantees its accountability during an audit.

§ 90.56 Non-supplantation.

Federal funds received under this part shall be used to supplement, not supplant funds that would otherwise be available to State and local public agencies for expenditure on activities described in this part.

§ 90.57 Application content.

(a) *Format.* Applications from the Indian tribal groups for the Indian Tribal Governments Discretionary Grants Program must, under this Subpart, be submitted on Standard Form 424, *Application for Federal Assistance*, at a time specified by the Office of Justice Programs.

(b) *Programs.* (1) Applications must set forth programs and projects for a one year period which meet the purposes and criteria of the grant program set out in Section 2001(b) and Section 90.12.

(2) Plans should be developed by consulting with tribal law enforcement, prosecutors, courts, and victim services, to the extent that they exist, and women in the community to be served. Applicants are also encouraged to integrate into their plans tribal methods of addressing violent crimes against women. Additionally, tribes may want to develop a domestic violence code, if one is not already in place, to facilitate the implementation of strategies which have reduced violence against women in other court systems.

(c) *Requirements.* Applicants in their applications shall at the minimum:

(1) Describe the project or projects to be funded.

(2) Agree to cooperate with the National Institute of Justice in a Federally-sponsored evaluation of their projects.

(d) *Certifications.*

(1) As required by Section 2002(c) each Indian tribal government must certify in its application that it has met the requirements of this Subpart regarding the use of funds for eligible purposes (Section 90.52); and non-supplantation (Section 90.56).

(2) A certification that all the information contained in the application is correct, that all submissions will be treated as a material representation of fact upon which reliance will be placed, that any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.58 Evaluation.

The National Institute of Justice will conduct an evaluation of these programs.

§ 90.59 Grantee reporting.

(a) Upon completion of the grant period under this Part, an Indian tribal grantee shall file a performance report with the Assistant Attorney General for the Office of Justice Programs explaining the activities carried out, including an assessment of the effectiveness of those activities in achieving the purposes of this Subpart. Section 2002(h)(1).

(b) The Assistant Attorney General shall suspend funding for an approved application if:

(1) An applicant fails to submit an annual performance report;

(2) Funds are expended for purposes other than those described in this subchapter; or

(3) A report under this section or accompanying assessments demonstrate to the Assistant Attorney General that the program is ineffective or financially unsound.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

Paul F. Kendall,

Acting General Counsel.

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VOL
60
ISS
74
AP
18
1995
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Federal Register
Vol. 60, No. 74
Tuesday, April 18, 1995

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Federal Register	
Index, finding aids & general information	202–523–5227
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Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
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Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3
16979–17190	4
17191–17432	5
17433–17624	6
17625–17960	7
17961–18342	10
18343–18538	11
18539–18726	12
18727–18948	13
18949–19152	14
19153–19342	17
19343–19484	18

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6781 17979
6782 17981
6783 18537
6784 18707
6785 18725
Administrative Orders:
Memorandums:
April 4, 1995 19153

5 CFR

Ch. LII 17625
581 18949
Proposed Rules:
316 17655

7 CFR

97 17188
201 16979
272 17628
273 17628
301 18727
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434, 18950
1001 18952
1002 18952
1004 18952
1005 18952
1006 18952
1007 18952
1011 18952
1012 18952
1013 18952
1030 18952
1032 18952
1033 18952
1036 18952
1040 18952
1044 18952
1046 18952
1049 18952
1050 ..... 18343, 18952
1064 18952
1065 18952
1068 18952
1075 18952
1076 18952
1079 18952
1093 18952
1094 18952
1096 18952
1106 18952
1108 18952
1124 18952
1126 ..... 17191, 18952
1131 ..... 17192, 18952
1134 18952
1135 18952
1137 18952
1138 18952
1139 18952
1413 17984
1427 17984
Proposed Rules:
250 18781
335 18374
946 19382
956 17274
981 17466
1944 19168

8 CFR

Proposed Rules:
212 19001

9 CFR

77 18728
92 17634
327 18540
Proposed Rules:
391 18551

10 CFR

2 18344
436 ..... 18326, 19343
600 17985
Proposed Rules:
50 ..... 19002, 19170
70 ..... 18035, 19170
52 ..... 17902, 17924, 17947
170 18882
171 18882
430 18782

11 CFR

100 17193
104 17193
113 17193

12 CFR

3 17986
208 17436
215 17635
226 16771
400 17625
Proposed Rules:
792 18036

13 CFR

107 17438
121 18981

14 CFR

25 17194

VOL 60 ISS 74 AP 18 1995 UMI

39 ..... 16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350
71 ..... 17196, 17442, 18346
97 ..... 17198, 17199, 19160, 19162

Proposed Rules:
39 ..... 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383
71 ..... 17264, 18038, 18552, 19190
91 18700
119 19007
121 19007
125 19007
127 19007
135 ..... 18700, 19007

15 CFR
771 18731
779 18731

16 CFR
1700 17992

Proposed Rules:
248 17032
409 17491
436 17656
460 17492
1700 17660

17 CFR
200 17201
400 18733
403 18733
405 18733
449 ..... 18733, 18734

Proposed Rules:
239 17172
270 17172
274 17172

18 CFR
284 16979

Proposed Rules:
35 17662
141 17726
388 17726

19 CFR
7 18347
10 ..... 18542, 18983
11 18347
12 18347
18 18347
19 18347
24 18347
54 18347
101 ..... 18347, 18983
102 18347
111 ..... 18347, 18983
114 18347
123 ..... 18347, 18983
128 ..... 18347, 18983
132 18347
134 18347
141 ..... 18347, 18983
143 18983
145 ..... 18347, 18983
146 18347
148 ..... 18347, 18983
151 18347
152 18347
159 18983
177 18347
178 18983
181 18347
191 18347

Proposed Rules:
Ch. I 18783

20 CFR
Ch. III 18991
423 18991
638 18993
404 ..... 17443, 19163

Proposed Rules:
Ch. III 17731
404 19008
416 19008

21 CFR
20 18982
73 18736
101 17202
176 18349
178 ..... 18349, 18352, 18739
310 17611
558 18740
876 17208
1310 17636

Proposed Rules:
876 17611

22 CFR
514 16785

Proposed Rules:
502 19385

23 CFR
655 18520

24 CFR
215 17388
236 17388
570 17445
813 17388
905 ..... 17388, 18174
913 17388
950 18174
3500 16985

Proposed Rules:
29 17988
120 19191

25 CFR

Proposed Rules:
900 19387

26 CFR
1 ..... 17216, 18741, 18742
602 18742

Proposed Rules:
1 ..... 17286, 17731, 18377, 18378, 19387

27 CFR
55 17446
72 17446
178 17446
179 17446

Proposed Rules:
1Ch. I 18783
53 18039
55 17494
72 17494
178 17494
179 17494

28 CFR
0 17456
2 18353
90 19474

Proposed Rules:
2 ..... 16378, 18379
16 18784

29 CFR
570 19336
580 17221
1960 18993
2610 18994
2619 18995
2622 18994
2644 18995
2676 18995

Proposed Rules:
1910 19192
1915 19192
1926 19192

30 CFR
903 18710
914 ..... 16985, 17637
915 17458
934 18744
938 16788

Proposed Rules:
Ch. I 18044
901 18044
902 17495
904 17498
906 17501
913 17734
914 17736
915 17504
916 17504
917 ..... 17739, 19193
918 17498
920 18046
924 18044
925 17504
926 17495
931 17501
934 17495
935 ..... 17741, 18380, 19194
936 17498
938 18046
943 17498
944 17501
946 17743
948 18381
950 17495

32 CFR
290 18005
354 18006
355 18006
357 18006
359 18006
360 18006
361 18006
374 18006

Proposed Rules:
63 17507
247 18049

33 CFR
3 17222
117 ..... 18006, 19351
154 17134
155 17134
162 ..... 16793, 19352
165 ..... 16793, 18006, 19354
334 16543

Proposed Rules:
Ch. I 17287
100 18786
117 18061
165 ..... 16818, 16820, 16821, 18063, 18065, 18066, 18068
211 18089
402 18384

34 CFR
350 17424
351 17424
352 17424
353 17424
356 17424

36 CFR
7 17639
13 18532

Proposed Rules:
13 19011
215 18886
217 18886
219 18886

37 CFR
1 16920

38 CFR
2 18354
3 18354

39 CFR
20 18009
111 19355
265 17224

Proposed Rules:
232 17287

40 CFR
9 ..... 17100, 18009
52 ..... 16799, 16801, 16803, 16808, 16989, 16990, 17226, 17229, 17232, 18010, 18750
63 ..... 18020, 18026
72 ..... 17100, 18462
73 17100
74 17100
75 17100
76 18751
77 17100
78 17100
81 16998
122 17950
124 17950
136 17160
180 ..... 18543, 18546, 18547
185 18547
186 18547
258 17649
280 17001
281 19165
271 ..... 18356, 18358, 18360, 18808
300 17004
302 19165
372 18361
720 17005
721 17005
723 17005
763 18364

Proposed Rules:
Ch. I 17288
51 17509
52 ..... 16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197
55 ..... 17748, 18787
58 17509
63 ..... 16829, 16920, 18071, 18076
70 ..... 17750, 18790
72 18472
76 18792
81 ..... 17034, 17756, 19197
86 17509
122 17958
124 17958
170 18556
180 ..... 18555, 18557, 18558, 18560, 18562
185 18562
186 ..... 18560, 18562
300 ..... 18565, 19203
372 16830
761 17510
799 18079

41 CFR
101–20 17653

43 CFR
12 17237

Proposed Rules:
426 18922
427 18922
3100 18061

Public Land Orders:
7131 18030
7132 18777
7133 18777
7137 18778

44 CFR
64 17005
65 ..... 17007, 17009, 17011, 17012
67 ..... 17013, 17020

Proposed Rules:
65 17758
67 ..... 17035, 17042

45 CFR

Proposed Rules:
2544 17761

46 CFR
12 17134
13 17134
15 17134
30 17134
31 17134
35 17134
78 17134
90 17134
97 17134
98 17134
105 17134
151 17134
153 17134
154 17134
401 18366
403 18366
404 18366

Proposed Rules:
Ch. I 17287
Ch. II 17763
67 17290
90 18793
97 18793
148 18793

47 CFR
2 ..... 18778, 18999
73 ..... 17023, 17253, 19000, 19359
90 18999

Proposed Rules:
1 17294
63 17763
73 ..... 17048, 18793, 19012, 19205, 19206

48 CFR
538 19360
552 ..... 19360, 19362
570 19362
915 18030
916 18030
970 18030
1802 18032
1850 18032
1852 18032
6101 17023

Proposed Rules:
Ch. V 17764
6 17295
12 17184
16 17295
32 18794
52 ..... 17184, 17295, 18794

49 CFR
173 17398
178 17398
180 17398
552 17254
554 17254
573 17254
576 17254
577 17254
1043 16808
1084 16808

Proposed Rules:
Ch. I 17049
Ch. II 18390
190 17296
191 17295
192 17295
193 17295
194 17295
195 17295
196 17295
197 17295
198 17295
199 17295
234 ..... 17770, 19012
571 18566

50 CFR
17 18940
227 19342
641 19363
646 19364
650 17272
651 19364
655 17464
663 16811
672 17465
675 ..... 17028, 17653

Proposed Rules:
Ch. VI 17770
17 ..... 16836, 17296, 19013
625 18795
641 17511
642 18391
655 18391
675 17512

VOL
60

ISS
74

AP
18

1995

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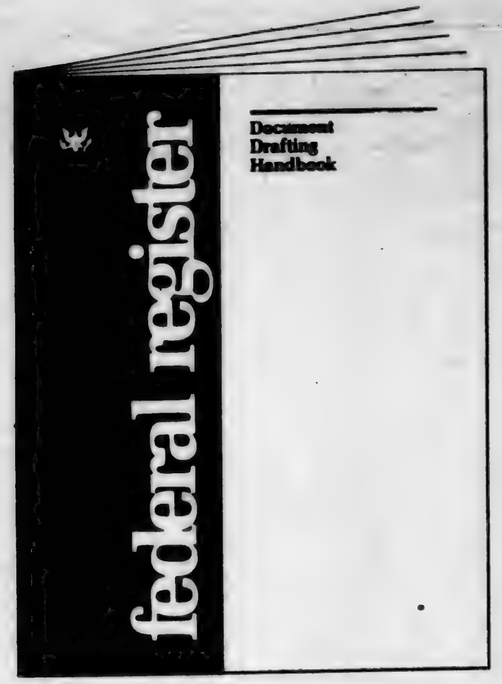

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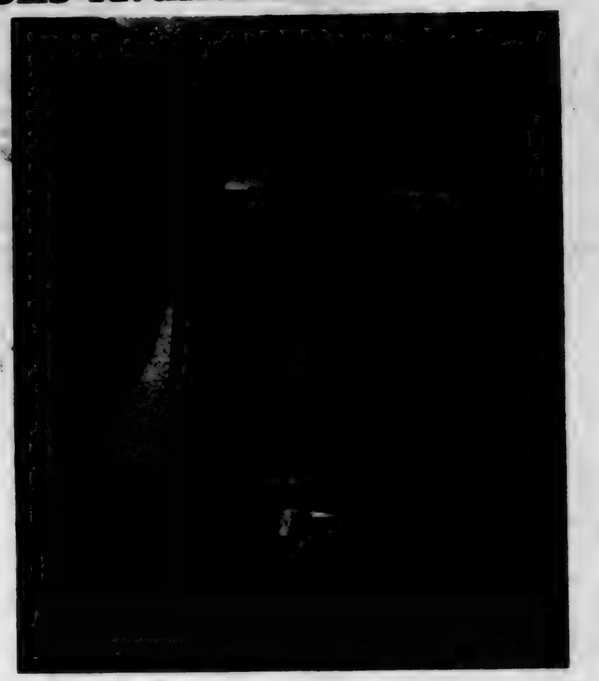

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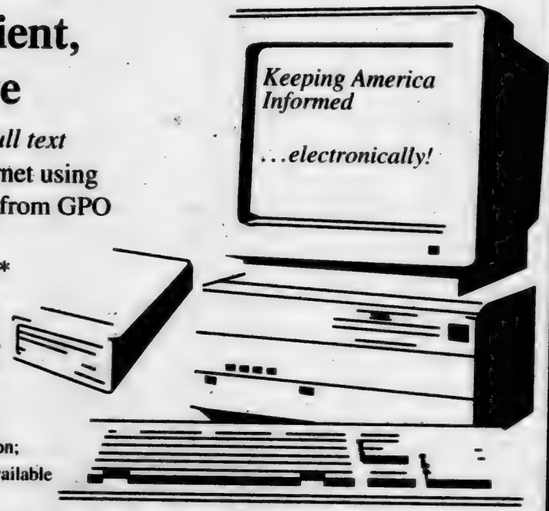

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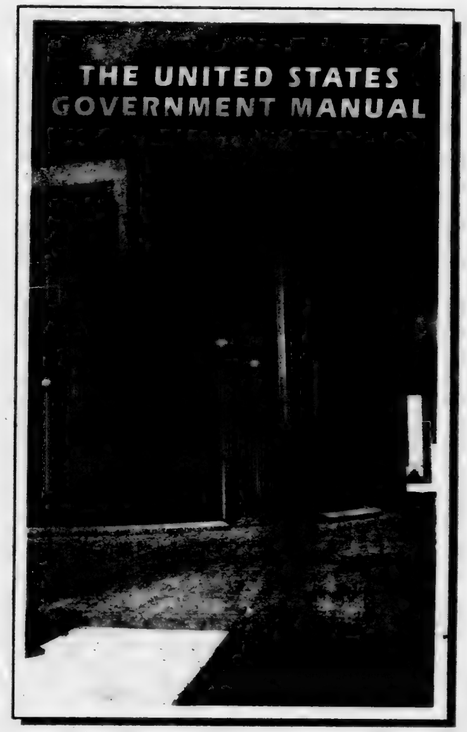

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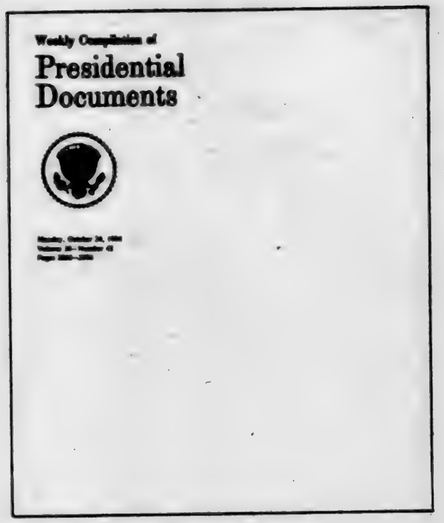

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Contents

Federal Register
Vol. 60, No. 75
Wednesday, April 19, 1995

Agricultural Marketing Service
PROPOSED RULES
Oranges, grapefruit, tangerines, and tangelos grown in Florida, 19543

Agricultural Research Service
NOTICES
Inventions, Government-owned; availability for licensing, 19569

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service
See Food and Consumer Service
See Food Safety and Inspection Service
See Forest Service
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Meetings:
Clinical Laboratory Improvement Advisory Committee, 19595
Vital and Health Statistics National Committee, 19595

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647
NOTICES
Agency information collection activities under OMB review, 19569–19570

Commodity Futures Trading Commission
RULES
Foreign futures and options transactions:
London International Financial Futures and Options Exchange—
Three-month Eurolira interest rate futures contract, 19493–19494

Corporation for National and Community Service
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Defense Department
See Engineers Corps
RULES
Acquisition regulations:
Foreign acquisition; machine tools and valves, buses, chemical weapons antidote, etc.; restrictions, 19531–19534
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647
NOTICES
Meetings:
Education of Handicapped Dependents National Advisory Panel, 19572–19573

Drug Enforcement Administration
RULES
Records, reports, and exports of listed chemicals:
Methyl isobutyl ketone (MIBK), 19509–19510
NOTICES
Schedules of controlled substances; production quotas:
Schedule II—
1995 aggregate, 19608–19609

Education Department
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647
NOTICES
Electricity export and import authorizations, permits, etc.:
North American Energy Conservation, Inc., 19574–19575
Grant and cooperative agreement awards:
Carsonite International Corp., 19575
Incisive Engineering, Inc., 19575–19576
Natural gas exportation and importation:
Cabot Oil & Gas Trading Corp., 19576
Northern States Power Co. (Wisconsin), 19576

Energy Efficiency and Renewable Energy Office
PROPOSED RULES
Energy conservation:
Alternative fueled vehicle acquisition requirements; implementation
Correction, 19544–19545

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Kennecott Utah Copper Corp. North Expansion Tailings Modernization Project, UT, 19573–19574

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 19510–19515

VOL 60 ISS 75 AP 19 1995 UMI

California, 19522–19523
Texas, 19515–19522
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Poly-D-glucosamine (chitosan), 19523–19524
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 19525
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
Secondary lead smelters; PVC in feedstock, 19556
Air quality implementation plans; approval and promulgation; various States:
California, 19554–19555
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Potassium oleate, etc., 19556–19559
NOTICES
Agency information collection activities under OMB review, 19579–19580
Pesticide, food, and feed additive petitions:
Propargite, 19587–19588
Pesticide programs:
Federal Insecticide, Fungicide, and Rodenticide Act requirements substances exemptions—
Dichlorvos (DDVP), 19580–19581
Pesticide registration, cancellation, etc.:
Mocap 10G, etc., 19582–19583
Mocap 5G Nematicide-Insecticide, etc., 19585–19587
Prentox Dursban IG Granular Insecticide et al., 19583–19585
Pesticides; emergency exemptions, etc.:
Propazine, 19588–19589
Reports, availability, etc.:
Pesticide assessment data reporting guidelines; E, K, and N requirements; addenda publication, 19589–19590
Toxic and hazardous substances control:
Chemical testing—
Data receipt, 19590

Executive Office of the President
See National Drug Control Policy Office
See Presidential Documents

Federal Aviation Administration
RULES
Administrative regulations:
Certification services and approvals; fees, 19628–19632
Airworthiness directives:
Boeing, 19492–19493
PROPOSED RULES
Airworthiness directives:
British Aerospace, 19549–19553
Mitsubishi, 19545–19549
Class E airspace, 19553–19554
NOTICES
Advisory circulars; availability, etc.:
Flight standards aviation safety inspectors outside U.S.; schedule of charges, 19633
Certification services and approvals performed outside the United States; schedule of user fees, 19633–19635
Exemption petitions; summary and disposition, 19619–19620
Passenger facility charges; applications, etc.:
Bert Mooney Airport, MT, 19620
Technical standard orders:
Cockpit voice recorder systems; minimum performance standards, 19621–19622
Flight data recorder systems; minimum performance standards, 19621

Federal Communications Commission
RULES
Common carrier services:
Access charges—
Interstate access tariff and revenue distribution processes, 19528–19531
Local exchange carriers; price cap performance review, 19526–19528
Radio stations; table of assignments:
Texas, 19531
PROPOSED RULES
Radio stations; table of assignments:
Colorado, 19560–19561
Maine et al., 19562
Nevada, 19561
North Carolina, 19561
Television and radio broadcasting:
Multiple ownership; review, 19563–19564
Television broadcasting:
Financial interest and syndication rules, 19562–19563
Minority and female ownership of mass media television facilities; policies and rules; multiple ownership review; and ownership rules, 19566–19567
Network affiliation agreements filing requirements, 19564–19566
NOTICES
Common carrier services:
Video dialtone service accounting and reporting requirements, 19591–19593
Applications, hearings, determinations, etc.:
Rodgers, George E., 19590–19591

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 19624

Federal Emergency Management Agency
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647
NOTICES
Agency information collection activities under OMB review, 19593–19594

Federal Energy Regulatory Commission
RULES
Practice and procedure:
Alternative Dispute Resolution Act of 1990; implementation, 19494–19509
NOTICES
Applications, hearings, determinations, etc.:
CNG Transmission Corp., 19578
Colorado Interstate Gas Co., 19576–19577
KN Interstate Gas Transmission Co., 19577
Koch Gateway Pipeline Co., 19579
Northwest Pipeline Corp., 19576, 19579
Panhandle Eastern Pipe Line Co., 19578
Texas Gas Transmission Corp., 19578–19579
Trunkline Gas Co., 19578
Williams Natural Gas Co., 19577–19578

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Savannah, GA, 19622

Federal Maritime Commission
NOTICES
Ocean freight forwarders, marine terminal operations, and passenger vessels:
Automated Tariff Filing and Information System (ATFI)—
Firms certified for batch filing capability; list, 19594–19595

Federal Mediation and Conciliation Service
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Federal Railroad Administration
RULES
Alcohol and drug use control:
Random drug testing; post-accident toxicological testing, and testing kit replacement, 19538–19542
NOTICES
Meetings:
National high speed ground transportation policy; public outreach, 19622

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 19624
Applications, hearings, determinations, etc.:
Community Capital Corp. et al., 19595

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc.—
North American wolverine, 19567–19568
NOTICES
Endangered and threatened species permit applications, 19603–19604

Food and Consumer Service
RULES
Child nutrition programs:
Women, infants, and children; special supplemental food program—
Homelessness/migrancy as nutritional risk conditions, 19487–19491

Food and Drug Administration
PROPOSED RULES
Human drugs:
Drug products containing quinine for treatment and/or prevention of malaria (OTC), 19650–19655
NOTICES
Biological product licenses:
Plasmalab Donor Centers, Inc., 19595–19596
Putnam County Blood Bank, Inc., 19596–19597
Dietary supplements; import alerts, import bulletins, and compliance policy guides withdrawn, 19597
Human drugs:
Orphan-drug and biological products designations; cumulative list, 19597–19598

Food Safety and Inspection Service
RULES
Meat and poultry inspection:
Accredited Laboratory Program; fees reduction, 19491–19492
PROPOSED RULES
Meetings:
Meat and poultry products safety performance standards establishment; microbiological criteria scientific issues, 19543–19544

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Georgia, 19570
Minnesota
Tetra Rex Packaging Systems, Inc.; liquid packaging equipment manufacturing facility, 19570–19571

Forest Service
NOTICES
Meetings:
Intergovernmental Advisory Committee, 19569

General Services Administration
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Social Security Administration
See Substance Abuse and Mental Health Services Administration
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Health Resources and Services Administration
NOTICES
Advisory committees; annual reports; availability, 19598

Housing and Urban Development Department
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

International Development Cooperation Agency
See Overseas Private Investment Corporation

International Trade Administration
NOTICES
Countervailing duties:
Oil country tubular goods from—
Italy, 19571

VOL 60 ISS 75 AP 19 1995 UMI

Small diameter circular seamless carbon and alloy steel standard, line and pressure pipe (seamless pipe) from—
Italy, 19571
Applications, hearings, determinations, etc.:
San Diego University, 19572
USEPA, Central Regional Laboratory, et al., 19571–19572

International Trade Commission
NOTICES
Agency information collection activities under OMB review, 19604–19605
Import investigations:
GATT Uruguay Round Agreements; Customs rules of origin international harmonization, 19605–19606
Honey from—
China, 19606–19607
U.S. environmental technology industries air pollution prevention and control; global competitiveness, 19607

Interstate Commerce Commission
NOTICES
Environmental statements; availability, etc.:
Bessemer & Lake Erie Railroad Co. et al., 19607–19608
Railroad operation, acquisition, construction, etc.:
Smoky Hill Railway & Historical Society, Inc., 19608

Justice Department
See Drug Enforcement Administration
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Labor Department
RULES
Administrative claims against Government regulations; revision, 19658–19664
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Land Management Bureau
RULES
Public land orders:
Alaska, 19526
California, 19525–19526
NOTICES
Closure of public lands:
Colorado, 19602–19603
Environmental statements; availability, etc.:
Placer Dome U.S. Bald Mountain mine expansion project, NV, 19603
Recreation management restrictions, etc.:
Ruby Canyon, CO; visitor use restrictions, 19602

Maritime Administration
PROPOSED RULES
U.S.-flag commercial vessels; determination of fair and reasonable rates for carriage of bulk and packaged preference cargoes, 19559–19560

National Archives and Records Administration
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

National Drug Control Policy Office
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

National Foundation on the Arts and the Humanities
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements:
Museum Services Institute, 19638–19641
National Endowment for the Arts, 19638–19641
National Endowment for the Humanities, 19638–19641
NOTICES
Meetings:
Humanities Panel, 19609–19610

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 19599–19600
National Institute of Neurological Disorders and Stroke, 19598–19599
National Institute on Aging, 19600–19601
National Institute on Deafness and Other Communication Disorders, 19599, 19601
Research Grants Division special emphasis panels, 19600

National Oceanic and Atmospheric Administration
NOTICES
Fishery conservation and management:
Atlantic sturgeon, bluefish, and weakfish, 19572

National Science Foundation
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Nuclear Regulatory Commission
NOTICES
Meetings:
Medical Uses of Isotopes Advisory Committee, 19611
Reactor Safeguards Advisory Committee, 19612–19613
Meetings; Sunshine Act, 19625
Applications, hearings, determinations, etc.:
Northern States Power Co., 19610–19611

Overseas Private Investment Corporation
NOTICES
Agency information collection activities under OMB review, 19604

Personnel Management Office
NOTICES
Meetings:
Federal Salary Council, 19613

Postal Service
NOTICES
Meetings; Sunshine Act, 19624

Presidential Documents
ADMINISTRATIVE ORDERS
Mexico; certification regarding use of Exchange Stabilization Fund and Federal Reserve in relation to economic crisis (Memorandum of April 14, 1995), 19485–19486

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 19613

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 19613–19614
Self-regulatory organizations; proposed rule changes:
Pacific Stock Exchange, Inc., 19618–19619
Philadelphia Stock Exchange, Inc., 19616–19618
Applications, hearings, determinations, etc.:
SAFECO Equity Fund, Inc., 19615–19616
SAFECO Intermediate-Term Municipal Bond Fund, Inc., 19614–19615
SAFECO U.S. Government Securities Fund, Inc., 19614

Small Business Administration
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Social Security Administration
NOTICES
Privacy Act:
Systems of records, 19619

State Department
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647

Substance Abuse and Mental Health Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
High risk populations substance abuse prevention demonstration program, module B, female adolescents, 19601–19602
Meetings:
Substance Abuse Prevention Center National Advisory Council, 19602

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Maritime Administration
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647
Omnibus Transportation Employee Testing Act of 1991: Workplace drug and alcohol testing programs, procedures, 19535–19537
NOTICES
Aviation proceedings:
Hearings, etc.—
Camai Air, 19619

United States Information Agency
NOTICES
Meetings:
Public Diplomacy, U.S. Advisory Commission, 19622–19623

Veterans Affairs Department
RULES
Grants and cooperative agreements to State and local governments; uniform administrative requirements, 19638–19647
NOTICES
Meetings:
Education Advisory Committee, 19623
Special Medical Advisory Group, 19623

Separate Parts In This Issue

Part II
Department of Transportation, Federal Aviation Administration, 19628–19635

Part III
Uniform administrative requirements for grants and cooperative agreements to State and local governments (25 agencies), 19638–19647

Part IV
Department of Health and Human Services, Food and Drug Administration, 19650–19655

Part V
Department of Labor, 19658–19664

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

VOL 60 ISS 75 AP 19 1995 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
April 17, 1926 (Revoked in part by PLO 7134)....19525
Administrative Orders:
Memorandum:
April 14, 1995....19485

7 CFR
Ch. II....19487
3016....19638, 19641
Proposed Rules:
905....19543

9 CFR
318....19491
381....19491
391....19491
Proposed Rules:
308....19543
310....19543
318....19543
320....19543
325....19543
326....19543
327....19543
381....19543

10 CFR
600....19638, 19641
Proposed Rules:
490....19544

13 CFR
143....19638, 19641

14 CFR
39....19492
187....19628
Proposed Rules:
39 (3 documents)....19545, 19549, 19551
71....19553

15 CFR
24....19638, 19642

17 CFR
30....19493

18 CFR
343....19494
385....19494

21 CFR
1310....19509
1403....19638, 19642
Proposed Rules:
310....19650

22 CFR
135....19638, 19642

24 CFR
85....19638, 19642

28 CFR
66....19638, 19642

29 CFR
15....19658
97....19638, 19643
1470....19638, 19643

32 CFR
33....19638, 19643

34 CFR
80....19638, 19643

38 CFR
1207....19638, 19643
43....19638, 19644

40 CFR
31....19638, 19644
52 (3 documents)....19510, 19515, 19522
180....19523
300....19525
Proposed Rules:
52....19554
63....19556
180....19556

41 CFR
105–71....19638, 19644

43 CFR
12....19638, 19644
Public Land Orders:
2546 (Revoked by PLO 7135)....19526
7134....19525
7135....19526

44 CFR
13....19638, 19644

45 CFR
92....19638, 19645
602....19638, 19645
1157....19638, 19645
1174....19638, 19645
1183....19638, 19645
2541....19638, 19646

46 CFR
Proposed Rules:
382....19559

47 CFR
61....19526
69....19528
73....19531
Proposed Rules:
73 (8 documents)....19560, 19561, 19562, 19563, 19564, 19566

48 CFR
225....19531
252....19531

49 CFR
18....19638, 19646
40....19535
219....19538

50 CFR
Proposed Rules:
17....19567

Federal Register
Vol. 60, No. 75
Wednesday, April 19, 1995

Presidential Documents

Title 3—

The President

Memorandum of April 14, 1995

Certification Regarding Use of the Exchange Stabilization Fund and Federal Reserve in Relation to the Economic Crisis in Mexico

Memorandum for the Secretary of the Treasury

On January 31, 1995, I approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in an amount not to exceed $20 million, using the Exchange Stabilization Fund (the "ESF program").

By virtue of the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, and section 406 of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6), I hereby certify that:

(1) There is no projected cost (as defined in the Federal Credit Reform Act of 1990) to the United States from the proposed swap transaction.

(2) All loans, credits, guarantees, and currency swaps to Mexico from the Exchange Stabilization Fund or the Federal Reserve System are adequately backed to ensure that all United States funds are repaid.

(3) The Government of Mexico is making progress in ensuring an independent central bank.

(4) Mexico has in effect a significant economic reform effort.

(5) The Executive Branch has provided the documents requested by House Resolution 80 adopted March 1, 1995, and described in paragraphs (1) through (28) of that Resolution. All documents identified as responsive to the Resolution have been provided to the entire House of Representatives. Pursuant to the terms of the Resolution, the Executive Branch has not provided those documents as to which the Executive Branch has informed the House that it would be inconsistent with the public interest to provide the documents to the House. Pending arrangements for safekeeping of classified material in a House facility, classified documents have been provided to the House by making them available at Executive Branch facilities. Each agency, including the Federal Reserve Board, has advised the House of the procedures employed by that agency to provide the documents requested by House Resolution 80.

I have been informed that the Board of Governors of the Federal Reserve System has provided the documents requested by House Resolution 80 and described in paragraphs (1) through (28) of that Resolution.

I hereby delegate to you the reporting requirement contained in section 406 of Public Law 104–6. You are authorized and requested to report this certification immediately to the Speaker of the House and appropriate congressional committees, as defined in section 407 of Public Law 104–6.

VOL
60
ISS
75
AP
19
1995
UMI

I also hereby delegate to you the reporting requirement contained in section 403 of Public Law 104–6.

You are authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, April 14, 1995.

[FR Doc. 95–9852
Filed 4–17–95; 3:54 pm]
Billing code 4810–31–M

Rules and Regulations

Federal Register
Vol. 60, No. 75
Wednesday, April 19, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Chapter II

RIN 0584–AB53

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Homelessness/ Migrancy as Nutritional Risk Conditions

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations governing the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) to comply with the mandate of section 204 of the Child Nutrition Amendments of 1992, enacted on August 14, 1992. Consistent with that legislation, and as proposed on April 6, 1994, this rulemaking adds homelessness and migrancy to the predisposing nutritional risk conditions for the WIC Program.

For purposes of the WIC Program's nutritional risk priority system, this rule allows State agencies to place individuals certified for WIC solely due to homelessness or migrancy in Priorities IV, V, VI, or, at their option, Priority VII. The use of Priority VII for service to certified participants who might regress in nutritional status without continued provision of supplemental foods would remain a State agency option.

The intended effect of this rule is to allow categorical and income-eligible homeless or migrant individuals, who lack any other documented nutritional or medical condition, to receive WIC Program assistance.

This final rule also responds to two provisions of section 204 of the Healthy Meals for Healthy Americans Act of 1994 by making technical changes in the WIC Program rules without prior notice and comment. The name of the Program is changed from the Special Supplemental Food Program for Women, Infants, and Children to the Special Supplemental Nutrition Program for Women, Infants, and Children. Also, in light of modifications in the statutory definition of "nutritional risk", the Department has reclassified as "direct" nutritional risk factors certain medical and health conditions previously identified as "predisposing" nutritional risk factors.

DATES: This rule is effective on April 19, 1995. This rule must be implemented not later than April 19, 1996.

FOR FURTHER INFORMATION CONTACT: Contact Barbara Hallman, Supplemental Food Programs Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 542, Alexandria, Virginia 22302, (703) 305–2730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). Pursuant to that review, William E. Ludwig, Administrator of the Food and Consumer Service has certified that this rule will not have a significant impact on a substantial number of small entities. WIC local agency participant caseloads may potentially increase and thereby increase local food vendor business. The net effect on State and local agencies is expected to be minimal.

Paperwork Reduction Act

This final rule imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12372

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is listed in the Catalog of Federal Domestic Assistance Programs under 10.557 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and 48 FR 29114 June 24, 1983).

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **DATES** paragraph of this preamble. Prior to any judicial challenge to the application of the provisions of this rule, all applicable administrative procedures must be exhausted.

In the WIC Program, the administrative procedures are as follows: (1) Local agencies and vendors—State agency hearing procedures issued pursuant to 7 CFR 246.18; (2) applicants and participants—State agency hearing procedures issued pursuant to 7 CFR 246.9; and (3) sanctions against State agencies (but not claims for repayment assessed against a State agency) pursuant to 7 CFR 246.19—administrative appeal in accordance with 7 CFR 246.22; and (4) procurement by State and local agencies—administrative appeal to the extent required by 7 CFR 3016.36.

References and Notice Provisions

1. Chavin, Kristal, Seabron, and Guigli; *The Reproductive Experience of Women Living in Hotels for the Homeless in New York City;* New York State Journal of Medicine, 1987.

2. The Homeless Families Program newsletter, Home Again, February edition, 1994.

3. National Advisory Council on Maternal, Infant, and Fetal Nutrition, *1992 Biennial Report on the Special Supplemental Food Program for Women, Infants, and Children (WIC) and on the Commodity Supplemental Food Program (CSFP).*

4. 1992 Recommendations of the National Advisory Council on Migrant Health; *Farmworkers Health for the Year 2000.*

5. Technical Paper No. 12 prepared for USDA/FNS by Awal Dad Khan; *Homeless Mothers and Children: What is the Evidence for Nutritional Risk?,* 1991.

VOL 60 ISS 75 AP 19 1995 UMI

6. United States Conference of Mayors survey, *A Status Report on Hunger and Homelessness in America's Cities*, 1993.

The Department adopts as final, two technical Program changes in response to provisions of Pub. L. 103–448, the Healthy Meals for Healthy Americans Act of 1994. Section 204(w)(1)(A) of Pub. L. 103–448 changed the name of the Special Supplemental Food Program for Women, Infants, and Children to the Special Supplemental Nutrition Program for Women, Infants, and Children.

Secondly, in section 204(a) of Pub. L. 103–448, Congress redefined the Program term "nutritional risk". Before the amendment, alcoholism, drug addiction, homelessness and migrancy were identified as conditions that predisposed persons to "inadequate nutritional patterns or nutritionally related medical conditions, * * *" 42 U.S.C. § 1758(b)(8). Section 204(a) of Pub. L. 103–448 amended this definition to indicate that alcoholism and drug abuse will henceforth be considered conditions that directly affect nutritional health. Homelessness and migrancy are still considered predisposing conditions. In light of this change, the Department, at 7 CFR 246.7(e)(2)(iv), is reclassifying those medical and health conditions identified in the regulation as similar to alcoholism and drug abuse as "direct" risk factors.

Pursuant to 5 U.S.C. 553(b)(3)(A), "notice and public procedure thereon" are not required prior to the implementation of a final rule if those procedures are "unnecessary". We view the term unnecessary in this context as meaning that if a statutory provision requires a particular regulatory result or if a regulatory change only clarifies an already existing regulation and the change will have no real effect on the public, notice and comment are unnecessary. Both of the regulatory changes made herein as final rules in response to section 204 of Pub. L. 103–448 qualify for exemption from notice and comment procedures because those procedures are "unnecessary", as that term is used in 5 U.S.C. 553(b)(3)(A).

Background

Homelessness is not a new issue, but the plight of the homeless has captured much public attention in the last several years as the nature and number of homeless have changed. Homelessness is variably defined as a housing problem, an employment problem, a problem brought on by the deinstitutionalization of mentally ill persons, a symptom of the breakdown of family traditions and/or of an inadequate social welfare system, or any combination of these factors (Rossi and Wright, 1987). According to a 1993 *Status Report on Hunger and Homelessness in America's Cities*, released by the United States Conference of Mayors, it is suggested that as many as seven million people were homeless during some part of the 1980s, and the problem is more than ten times as widespread as previously acknowledged. City officials participating in the Mayors' Conference identified unemployment and/or underemployment, poverty, and the high cost of housing as the major causes of hunger and homelessness.

The homeless of today defy the traditional definitions and notions of shiftless, skid row vagrants for whom alcoholism was their nemesis. Today's homeless population contains a sizeable number of women and children—over one-third of the total homeless population in America (Wright, 1988; Breakey, 1989; Bassuk and Rosenberg, 1990). Studies show forty-three percent of today's homeless are families, and an increasing number of the "new homeless" include economically displaced individuals who have lost their jobs, exhausted their resources, and recently entered into the ranks of the homeless and consider their condition to be temporary. It is clear that the homeless population is heterogeneous and includes many subgroups. The Homeless Families Program (HFP), a joint initiative of the Robert Wood Johnson Foundation and the Department of Housing and Urban Development, urges that informed public policy resist the temptation to simplify the complex issue of homelessness and distinguish homeless families from single unattached adults. HFP asserts that the demographics, causes of homelessness, length of time homeless, and health issues differ significantly between these subgroups.

There is very little data on the health and/or nutritional status of migrants. However, that which does exist reveals an extremely bleak and disturbing picture, e.g., infant mortality rates are considerably higher than the general U.S. population; incidence of malnutrition is higher than among any subpopulation in the nation; and rates of parasitic disease among migrant children are many times higher than among the general population. Public hearings before the National Advisory Council on Migrant Health, of the Department of Health and Human Services (DHHS), have indicated that housing is the number one need of this subpopulation. As stated in the preamble of this rule's proposed version dated April 6, 1994, studies suggest that migrants suffer many of the circumstances and conditions afflicting the homeless.

The changing nature of the homeless and the chronic conditions of migrants have necessitated a re-examination of the causes, circumstances, and approaches to addressing the needs of both these vulnerable groups. Because of the increased nutritional risks associated with homelessness and migrancy, the National Advisory Council on Maternal, Infant, and Fetal Nutrition recommended in its 1992 Report to the President and Congress that Section 17(b)(8) of the Child Nutrition Act of 1966 (CNA), 42 U.S.C. 1786(b)(8), be amended to include homelessness and migrancy as predisposing nutritional risk conditions for the WIC Program. Congress and the President accepted this recommendation and, in section 204 of the Child Nutrition Amendments of 1992, Public Law 102–342, specifically identified homelessness and migrancy as predisposing nutritional risk conditions for purposes of WIC Program eligibility.

The Homelessness/Migrancy as Nutritional Risk Conditions Proposed Rule

A proposed rule on homelessness/migrancy as predisposing nutritional risk conditions was published for comment on April 6, 1994 at 59 FR 16146. The rule proposed to place individuals certified for WIC due solely to homelessness or migrancy in Priority VII, along with previously certified participants who might regress in nutritional status without continued provision of supplemental foods. While the use of Priority VII for this latter group of individuals would have remained a State agency option, State agencies would have been required to use Priority VII for homeless or migrant individuals who are certified solely due to their homelessness or migrancy. Because income-eligible homeless and migrant individuals with documentable nutritional deficiencies or medical conditions would already be certified for WIC Program assistance, the intended effect of the proposed rule was to appropriately place income-eligible homeless or migrant individuals, without a documented nutritional or medical condition, in a lower priority than individuals, including the homeless and migrants, with documented risk conditions.

Comments on the Proposed Rule

In the April 1994 proposed version of this rule, the Department cited various studies which support including homelessness and migrancy as predisposing nutritional risk conditions. Such studies suggest there is a high likelihood of various health-related problems associated with homelessness and migrancy. However, despite a decade of active advocacy of homeless issues, there is very little systematic and reliable information available on the health and nutritional status of the homeless or any of its subgroups. Nevertheless, WIC State agencies have gained an impressive amount of practical knowledge and experience from which the Department benefits in planning its outreach efforts. This practical knowledge, as demonstrated in the comments received from both public and private homeless advocacy groups on the proposed rule, was instrumental in formulating the final rule.

A total of 43 comment letters were received from both public and private individuals, groups, and State and local agencies. All except one commenter agreed that homelessness and migrancy should be considered predisposing nutritional risk conditions for the WIC Program. However, most commenters opposed the proposed placement in Priority VII of individuals certified for WIC based solely on their migrancy or homelessness. Those who objected to this provision suggested that the many risk conditions associated with homelessness and migrancy, as cited in the proposed rule, warrant a higher placement of homeless and migrant persons in WIC's nutritional risk priority system, even though they may not show signs of such risks at the time of certification. The common suggestion of commenters was that State agencies should be allowed to determine which priority best suits the needs of its homeless and migrant community. Second, many commenters claimed that, in times of limited funding, States could not serve participants certified for Priority VII and therefore, the intended beneficiaries of this rule—homeless and migrant individuals who are at nutritional risk solely due to their homelessness or migrancy—would not receive WIC services. Third, several commenters mentioned the difficulty of contacting homeless or migrant individuals placed on waiting lists during times of funding shortages, who frequently do not have mailing addresses or telephones, to inform them of caseload availability. In fear of losing the opportunity to serve this vulnerable and mobile population, commenters suggested that homeless and migrant individuals be provided benefits at the earliest opportunity. The aforementioned three reasons comprised the major objections or opposition to the proposed rule. In addition to these comments, one commenter suggested that WIC's nutritional risk definition be amended to include homelessness and migrancy among the listed conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.

The Department appreciates the comments of all those who responded to the proposed rule, and values their commitment to providing the best possible WIC service to the homeless and migrant community. The Department has carefully and thoughtfully considered all of the comments submitted in response to the proposed rule. We believe the revisions that have been made in the final rule, in response to the comments received, improve both the acceptability and quality of the rule.

Priority Placement of Individuals Certified Solely Due to Homelessness/Migrancy

In response to the many commenters who objected to the required placement in Priority VII of homeless and migrant individuals certified at nutritional risk solely due to their homelessness/migrancy, and who preferred that State agencies be granted the discretion to place such individuals in a higher priority, the Department has made a partial concession to this preference. Pregnant, breastfeeding, or postpartum women, infants, and children who are certified for WIC solely due to their homelessness/migrancy may be placed in Priority IV, V, and VI, based on their respective category. Alternatively, Priority VII may be used to serve any of the above mentioned categorically eligible homeless or migrant individuals, at the discretion of the State agency. For instance, a homeless or migrant pregnant or breastfeeding woman may be placed either in Priority IV, or she could be placed in Priority VII if the State agency chose to use Priority VII to serve all homeless or migrant individuals whose only nutritional risk condition was homelessness or migrancy.

WIC's nutritional risk priority system was developed to prioritize service according to the seriousness of demonstrated nutritional risk conditions. As stated in the proposed rule, given the facts revealed through studies on the homeless and migrants, there is a high likelihood that these groups are already being served by the WIC Program by virtue of other documented nutritional risk(s). The Department strongly stands by the logic and fairness of the WIC priority system, which advocates serving individuals with documented nutritionally related medical risk conditions before persons with dietary risk only or persons likely to regress to a former risk. To serve applicants with no documentable medical or nutritional risk condition, even when their lifestyle may predispose them to risk conditions, before someone with verifiable nutritionally-related risk conditions, would be contrary to the purpose and intent of WIC's service priority system. Finally, the Department recognizes the limitations of the services it can provide to address the many needs of homeless and migrant individuals. Although it is clear that WIC services can contribute to improving the nutrition and health of these vulnerable groups, such services cannot change their homeless or migrant circumstances. Homelessness and migrancy are socio-economic conditions which require more than the provision of supplemental foods and nutrition services to change the individual's circumstances. In addition, as stated earlier, the homeless are a heterogeneous group with a wide range of characteristics, circumstances, and needs. The definition of a homeless individual, as specified in section 17(b)(15) of the CNA, 42 U.S.C. 1786(b)(15), covers a wide range of circumstances and includes persons who are temporarily living with relatives or friends, individuals housed in a shelter which serves meals and can offer nutrition education, or individuals whose nighttime residence is not designed or ordinarily used as a regular sleeping accommodation. These examples or conditions reflect the diversity in the homeless population as defined by WIC legislation.

The Department reminds those commenters who stressed the importance of seizing the opportunity to provide services to homeless and migrant applicants, that section 246.7(e)(2)(iii)(A) of the WIC regulations already requires State agencies to establish criteria for identifying categories of persons at special nutritional risk who require expedited services. In addition, this provision of the Program regulations requires that migrant farmworkers and their family members who soon plan to leave the jurisdiction of the local agency be considered as special nutritional risk applicants. Added to these provisions by this final rule is the allowance for States, at 246.7(d)(4), to include homeless individuals in their criteria for expedited services, along with migrant farmworkers and their family members.

VOL 60 ISS 75 AP 19 1995 UMI

In response to those commenters who suggested that WIC add homelessness and migrancy to the list of predisposing nutritional risk conditions at section 246.7(e)(2)(iv), the following changes are made. This final rule designates homelessness and migrancy as predisposing nutritional risk conditions, and redesignates conditions currently listed at section 246.7(e)(2)(iv) as direct nutritional risks (chronic infections, alcohol or drug abuse, mental retardation in women, lead poisoning, history of high-risk pregnancies or factors associated with high-risk pregnancies such as smoking; conception before 16 months postpartum; history of low birth weight, premature births, or neonatal loss; adolescent pregnancy; or current multiple pregnancies in pregnant women, or congenital malformations in infants or children, or infants born of women with alcohol or drug abuse histories or mental retardation). The redesignation of these currently listed predisposing conditions to a new status as direct risks is a technical change the impact of which will only affect recordkeeping. It was done to reflect two realities. First, section 204(a) of Pub. L. 103–448 revised the legislative definition of "nutritional risk" by adding a new subparagraph that includes conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse. Therefore, consistent with the legislation, this final rule removes the aforementioned conditions, along with alcoholism and drug abuse, from the predisposing category and more appropriately groups them as conditions that directly affect a person's nutritional health. The revision of the definition of nutritional risk in Pub. L. 103–448 further delineates nutritional risk conditions by retaining homelessness and migrancy as examples of conditions that predispose persons to inadequate dietary patterns or nutritionally related medical conditions. Homelessness and migrancy are now the only examples of conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions that remain in the CNA. Second, in addition to the legislative directive, the change was made to reflect current practices, which in the Department's estimation, is appropriate. Most if not all State agencies classify the aforementioned conditions as direct nutritionally related medical risk conditions.

Definition of Homelessness/Migrancy

In the April 1994 proposed version of this rule the Department proposed that it keep the current definitions of both a "homeless individual" and "migrant farmworker" outlined in section 246.2, and asserted that both should accommodate all individuals Congress intended to include in their references to homelessness and migrancy in section 204 of the Child Nutrition Amendments of 1992, Public Law 102–342. No commenters opposed this. Therefore, these definitions will remain as currently stated in section 246.2 for purposes of this final rule.

WIC Priority System

The current WIC nutritional risk priority system was designed to ensure that persons at greatest health and nutritional risk are served first with available program funds. The priority system therefore follows a logical order of progression to determine priority for service. Applicants with documented nutritionally related medical conditions are served first, followed by those at nutritional risk due to inadequate dietary patterns. Finally, and as a State agency option, previously certified participants whose nutritional status might regress without continued provision of supplemental foods are certified in Priority VII.

This final rule requires State agencies to include pregnant, breastfeeding or postpartum women, infants, and children who are certified at nutritional risk solely because of their homelessness or migrancy in one of the respective priorities (Priority IV through VI, or VII) of the WIC nutritional risk priority system. State agencies must indicate in their State Plans which Priority(ies) they will use to certify pregnant, breastfeeding or postpartum women, infants, and children at nutritional risk solely because of their homelessness or migrancy. State agencies may also continue to use Priority VII to identify certified participants who might regress in nutritional status without continued provision of supplemental foods. State agencies must implement the provisions of this rule by no later than October 1, 1995.

The Department does not intend for State agencies to use administrative shortcuts in certifying homeless and migrant individuals. The Department fully expects that homeless and migrant applicants will receive all the normal and necessary health assessments that are routinely performed to determine the presence of a medical or nutritional risk which would determine their proper priority placement, and assist in identifying other health and social services to which such individuals may be referred.

Change in Name of Program

Section 204(w)(1) of Pub. L. 103–448, changed the name of the WIC Program from the "Special Supplemental Food Program for Women, Infants, and Children" to the "Special Supplemental Nutrition Program for Women, Infants, and Children". This final rule implements that statutory change.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

Accordingly, 7 CFR Chapter II and Part 246 are amended as follows:

1. In 7 CFR Chapter II (consisting of Parts 210–299) all references to "the Special Supplemental Food Program for Women, Infants, and Children " are revised to read "the Special Supplemental Nutrition Program for Women, Infants, and Children".

PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN

2. The authority citation for Part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

4. In § 246.7, paragraphs (e)(2)(ii), (e)(2)(iv), the introductory text of paragraph (e)(4) and paragraph (e)(4)(vii) are revised to read as follows:

§ 246.7 Certification of participants.

* * * * *

(e) * * *

(2) * * *

(ii) Other documented nutritionally related medical conditions, such as clinical signs of nutritional deficiencies, metabolic disorders, pre-eclampsia in pregnant women, failure to thrive in an infant, chronic infections in any person, alcohol or drug abuse or mental retardation in women, lead poisoning, history of high risk pregnancies or factors associated with high risk pregnancies (such as smoking; conception before 16 months postpartum; history of low birth weight, premature births, or neonatal loss; adolescent pregnancy; or current multiple pregnancy) in pregnant women, or congenital malformations in infants or children, or infants born of women with alcohol or drug abuse histories or mental retardation.

* * * * *

(iv) Conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, such as homelessness or migrancy.

* * * * *

(4) *Nutritional risk priority system.* The competent professional authority shall fill vacancies which occur after a local agency has reached its maximum participation level by applying the following participant priority system to persons on the local agency's waiting list. Priorities I through VI shall be utilized in all States. The State agency may, at its discretion, expand the priority system to include Priority VII. The State agency may set income or other sub-priority levels within any of these seven priority levels. The State agency may expand Priority III, IV, or V to include high-risk postpartum women. The State agency may place pregnant or breastfeeding women and infants who are at nutritional risk solely because of homelessness or migrancy in Priority IV; children who are at nutritional risk solely because of homelessness or migrancy in Priority V; and postpartum women who are at nutritional risk solely because of homelessness or migrancy in Priority VI, *OR*, the State agency may place pregnant, breastfeeding or postpartum women, infants, and children who are at nutritional risk solely because of homelessness or migrancy in Priority VII.

* * * * *

(vii) *Priority VII.* Individuals certified for WIC solely due to homelessness or migrancy and, at State agency option, and in accordance with the provisions of paragraph (e)(1)(iii) of this section, previously certified participants who might regress in nutritional status without continued provision of supplemental foods.

* * * * *

Dated: April 11, 1995.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 95–9657 Filed 4–18–95; 8:45 am]

BILLING CODE 3410–30–U

Food Safety and Inspection Service

9 CFR PARTS 318, 381 and 391

[Docket No. 94–033F]

RIN 0583–AB57

Reduction of Accreditation Fees for FSIS Accredited Laboratories

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Confirmation of interim rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is confirming the interim regulations amending provisions of the Federal meat and poultry products inspection regulations to reduce the fees charged participants in the Agency's voluntary Accredited Laboratory Program (ALP). Non-Federal analytical laboratories are qualified under the ALP to conduct analyses of official meat and poultry samples. The payment by laboratories of annual accreditation fees that cover the costs of the ALP is mandated by the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Farm Bill), as amended. FSIS determined late last year that reduced ALP administrative expenditures for fiscal year 1995 would enable the Agency to charge a smaller accreditation fee than it did last year. Since the amount of the laboratory accreditation fee is set forth in the regulations, the regulations had to be changed before the Agency could charge a different fee. To meet fee billing deadlines, FSIS found it necessary to publish the fee reduction rule on an interim basis.

The Agency also took the opportunity to make some editorial corrections to the regulations.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Jess Rajan, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 516A, Annex Building, 300 12th Street SW., Washington DC 20250–3700, (202) 205–0679.

SUPPLEMENTARY INFORMATION:

Background

Section 1327 (7 USC 138f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (PL 101–624), as amended, known as the 1990 Farm Bill, requires USDA to charge a nonrefundable accreditation fee for laboratories seeking accreditation by the Secretary under the authority of the FMIA or PPIA. The fee is required to be in an amount that offsets the cost of the ALP administered by FSIS under the authority of the FMIA and PPIA.

Fees are billed annually on a per-accreditation basis at a rate that is established by regulation (9 CFR 391.5). The ALP regulations define an accreditation to be a determination by FSIS that a laboratory is qualified to analyze official samples of meat and poultry products for the presence and amount of four food chemistry analytes or a determination that a laboratory is qualified to analyze official samples of product for the presence and amount of one of several classes of chemical residue. The per-accreditation fee for fiscal year 1994 was $3,500.

FSIS projected late last year that the expenses of administering the ALP during fiscal year 1995 would be less than the expenses for fiscal year 1994. The reduction came about because of management savings and, to a lesser extent, a smaller enrollment in the ALP than anticipated. The Agency determined that the smaller overall cost of running the program meant that it could reduce the fee per accreditation. The Agency determined that, for fiscal year 1995, the fee for original accreditations and renewals would be $2,500.

In order to meet billing deadlines for accreditation renewals, avoid rebates for renewals paid for at the old rate, and avoid unnecessary administrative burdens on the Government and industry, the Agency found it necessary to promulgate an interim rule with request for comments on December 27, 1994 (59 FR 66446), effective the same date. The interim rule amended the administrative provisions of the Federal meat and poultry inspection regulations to change the fee. Also, some editorial corrections were made to the ALP regulations.

The interim rule provided a 30-day comment period ending January 26, 1995. During this period one comment was received from a trade association favoring the fee reduction.

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule reduces the accreditation fees for non-Federal analytical chemistry laboratories accredited under the Federal Meat and Poultry Products Inspection Acts and regulations promulgated thereunder.

States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any requirements with respect to federally inspected premises and facilities, and operations of such establishments, that are in addition to, or different than, those imposed under the FMIA or PPIA. States and local jurisdictions are also preempted under the FMIA and PPIA from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat or poultry products that are in addition to, or different than,

VOL 60 ISS 75 AP 19 1995 UMI

those imposed under the FMIA or the PPIA, as well as preempted from imposing, under the PPIA for poultry products, certain storage and handling requirements. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. States and local jurisdictions may also make requirements or take other actions, that are consistent with the FMIA and PPIA, with respect to any other matters regulated under the FMIA and PPIA.

Under the FMIA and the PPIA, States that maintain meat and poultry inspection programs must impose requirements that are at least equal to those required under the FMIA or PPIA. These States may, however, impose more stringent requirements on such State-inspected products and establishments.

This final rule will have no retroactive effect and applicable administrative procedures must be exhausted before any judicial challenge to the application of these provisions. Those administrative procedures are set forth in 9 CFR §§ 306.5, 318.21(h), 381.35, and 381.153(h).

Effect on Small Entities

Most of the entities accredited by FSIS that will be affected by this final rule are large, independent laboratories or official meat packing establishments or States that own or operate accredited laboratories.

There are currently approximately 150 laboratories in the FSIS accredited laboratory program. About three quarters of these are large entities, with respect to the volume of business, or part of such entities as large business corporations, State universities, or State governments. These laboratories provide analytical services to large and small establishments for analysis of official samples.

Participation in the Agency's Accredited Laboratory Program is voluntary. The principal burden of the final rule on laboratories will be the fee charged for FSIS accreditation ($2,500 per accreditation, of which a laboratory may have more than one) and the minimal billing and accounting costs. This fee is substantially lower than the fee previously charged.

Some large laboratories have multiple accreditations for food chemistry and chemical residues, while many small laboratories are accredited only for food chemistry. Thus, smaller laboratories (small entities) tend to pay smaller amounts of accreditation fees than large laboratories. Balanced against these costs are the revenues from analyzing official samples, which are likely to be greater because firms can be expected to pass much of the costs of obtaining accreditation to clients, and the enhancement of income from other services provided by the laboratories because of their status as "accredited by FSIS." As a result, the net effect of this rulemaking on both small and large laboratories will not be significant. The user-fee costs for having official samples analyzed by accredited laboratories are passed on to the establishments doing business with accredited laboratories, or absorbed by the official establishment if the establishment has an in-house accredited laboratory. Establishments using the laboratories benefit from the earlier marketing of product released from official retention. Because of the accreditation fee reduction authorized by this final rule, the overall benefits to the meat and poultry industry, including both small and large establishments, from using accredited laboratories can be expected to increase very modestly.

It is possible that some small laboratories that are not now participating in the ALP may choose to apply for the program because of the lower fee. If they did so, a larger number of accredited laboratories would be available for use by official establishments, including small establishments, than there are at present.

For these reasons, the net effects of the final rule, though beneficial, are not likely to be significant on a substantial number of small entities.

List of Subjects

9 CFR Part 318

Meat inspection, Laboratory accreditation.

9 CFR Part 381

Poultry and poultry products inspection, Laboratory accreditation.

9 CFR 391

Fees and charges for inspection services, Laboratory accreditation fees.

Final Rule

For the reasons discussed in the preamble:

§ 318.21 [Amended]

1. In part 318, the revisions of § 318.21(c)(3)(ix)(A)(*1*), (A)(*2*), (B), and (C) published December 27, 1994 (59 FR 66446), are confirmed as final.

§ 381.153 [Amended]

2. In part 381, the revisions of § 381.153(c)(3)(ix)(A)(*1*), (A)(*2*), (B), and (C) published December 27, 1994 (59 FR 66446), are confirmed as final.

§ 391.5 [Amended]

3. In part 391, the revision of § 391.5 published December 27, 1994 (59 FR 66446), is confirmed as final.

Done at Washington, DC, on: April 12, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–9592 Filed 4–18–95; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–123–AD; Amendment 39–9172; AD 95–06–02]

Airworthiness Directives; Boeing Model 747 Series Airplanes, Excluding Airplanes Equipped With Pratt & Whitney PW4000 and General Electric CF6–80C2 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in the applicability statement of the above-captioned airworthiness directive (AD) that was published in the **Federal Register** on March 14, 1995 (60 FR 13618). A typographical error in the applicability statement of the AD resulted in a reference to airplane line numbers that are inaccurate.

DATES: Effective April 13, 1995.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of April 13, 1995 (60 FR 13618, March 14, 1995).

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2776; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 95–06–02, amendment 39–9172, applicable to certain Boeing Model 747 series airplanes, was published as a final rule in the **Federal Register** on March 14, 1995 (60 FR 13618). As published, that final rule contained a typographical error in the applicability statement.

The applicability statement indicated that the airplanes affected by the AD were, in part, those having line numbers 969 through 922, inclusive. However, the correct line numbers are 969 through 992, inclusive. These correct line numbers appeared in the notice of proposed rulemaking (NPRM), which preceded the final rule.

This document corrects the reference to the line numbers cited in the applicability statement on page 13619, middle column, of the March 14, 1995 **Federal Register** of AD 95–06–02, to read as follows:

"Applicability: Model 747 series airplanes, line numbers 1 through 967 inclusive, and 969 through 992 inclusive; excluding airplanes equipped with Pratt & Whitney PW4000 or General Electric CF6–80C2 series engines; certificated in any category."

Since no other part of the regulatory information has been changed, the final rule is not being republished.

Issued in Renton, Washington on April 13, 1995.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9623 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (Commission) is authorizing option contracts on the Three-month Eurolira Interest Rate futures contract traded on the London International Financial Futures and Options Exchange (LIFFE) to be offered or sold to persons located in the United States. This Order is issued pursuant to: (1) Commission rule 30.3(a), 17 CFR 30.3(a), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States; and (2) the Commission's Order issued on September 5, 1989, 54 FR 37636 (September 12, 1989) authorizing certain option products traded on LIFFE to be offered or sold in the United States.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Warren Gorlick, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Under Commission Rule 30.3(a) Permitting Option Contracts on the Three-Month Eurolira Interest Rate Futures Contract Traded on the London International Financial Futures and Options Exchange to be Offered or Sold in the United States Thirty Days after Publication of this Notice in the **Federal Register** Absent Further Notice.

By Order issued on September 5, 1989 (Initial Order), the Commission authorized, pursuant to Commission rule 30.3(a),[1] certain option products traded on the London International Financial Futures and Option Exchange (LIFFE) to be offered or sold in the United States. 54 FR 37636 (September 12, 1989). Among other conditions, the Initial Order specified that:

Except as otherwise permitted under the Commodity Exchange Act and regulations thereunder, * * * no offer or sale of any LIFFE option product in the United States shall be made until thirty days after publication in the **Federal Register** of notice specifying the particular option(s) to be offered or sold pursuant to this Order.

By letter dated March 14, 1995, LIFFE represented that it would be introducing an option contract based on the Three-Month Eurolira Interest Rate futures contract on May 16, 1995.[2] LIFFE has requested that the Commission supplement its Initial Order authorizing the offer and sale in the United States of options on the Long Gilt, U.S. Treasury Bond, German Government Bond, Three-Month Sterling Interest Rate, Three-Month Eurodollar Interest Rate futures contracts, options on Sterling and Dollar-Mark currencies; a Supplemental Order, 55 FR 7705 (March 5, 1990), authorizing the offer and sale in the United States of options on the Three-Month Euro-Deutschemark Interest Rate futures contract; a Supplemental Order, 57 FR 1374 (January 14, 1992), authorizing the offer and sale in the United States of options on the Italian Government Bond futures contract; and a Supplemental Order, 57 FR 40603 (September 4, 1992) authorizing the offer and sale in the United States of options on the Three-Month Euro Swiss Franc Interest Rate futures contract; by also authorizing LIFFE's option contract on the Three-Month Eurolira Interest Rate futures contract to be offered or sold to persons in the United States. Upon due consideration, and for the reasons previously discussed in the Initial Order, the Commission believes that such an authorization should be granted.

Accordingly, pursuant to Commission rule 30.3(a) and the Commission's Initial Order issued on September 5, 1989, and subject to the terms and conditions specified therein, the Commission hereby authorizes LIFFE's option contract on the Three-Month Eurolira Interest Rate futures contract to be offered or sold to persons located in the United States thirty days after publication of this Order in the **Federal Register**, unless prior to that date the Commission receives any comments which may result in a determination to delay the effective date of the Order pending review of such comments. Under such circumstances the Commission will provide notice.

Contract Specifications—Options on Three-Month Eurolira ("EUROLIRA") Interest Rate Futures Contract

Underlying Interest
One (1) Eurolira futures contract.
Delivery/Expiry Months
March, June, September, December.
Deliver Day/Exercise Day/Expiry Day
Exercise by 17.00 on any business day. Delivery on the first business day after the exercise day. Expiry at 12.30 on the Last Trading Day.
Last Trading Day
11.00 Last Trading Day of the Eurolira futures contract.
Quotation
Multiples of 0.01 (i.e. 0.01%).
Minimum Price Fluctuation (Tick Size and Value)
0.01 (ITL 25,000)
Trading Hours
07.57–16.10
Contract Standard
Assignment of 1 Eurolira futures contract for the delivery month at the exercise price.
Exercise Price Intervals
0.25 (i.e., 0.25%) e.g., 91.00, 91.25, 91.50 etc.
Introduction of New Exercise Prices
Thirteen exercise prices will be listed for new series. Additional exercise prices will be introduced on the business day after the Eurolira

[1] Commission rule 30.3(a), 17 CFR 30.3(a), makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States.

[2] Letter from N.E. Carow, LIFFE, to Jane C. Kang, Commission.

VOL 60 ISS 75 AP 19 1995 UMI

futures contract settlement price comes within 0.12 of the fourth highest or lowest existing exercise price.

Option Price

The contract price is payable by the buyer to the seller on exercise or expiry of the option, not at the time of the purchase. Positions are marked to market daily, as with futures positions.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign transactions.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix B to Part 30 is amended by adding the following entry after the existing entries for the "London International Financial Futures and Options Exchange" to read as follows:

Appendix B—Option Contracts Permitted To Be Offered or Sold in the U.S. Pursuant to § 30.3(a)

Exchange	Type of contract	FR date and citation
. . . . .		
London International Financial Futures and Options Exchange.	Option Contract on Three-Month Eurolira ("Eurolira") Interest Rate Futures Contract.	199___; ___ FR ___
. . . . .		

Issued in Washington, D.C. on April 14, 1995.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 95–9636 Filed 4–18–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 343 and 385

[Docket No. RM91–12–000]

[Order No. 578]

Alternative Dispute Resolution

Issued April 12, 1995.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing a Final Rule to implement the Alternative Dispute Resolution Act of 1990 (ADRA). To implement its policy in support of alternative dispute resolution, the Commission is amending its Rules of Practice and Procedure to add regulations adopting provisions authorized in the ADRA and to establish procedures for approving ADR in particular proceedings.

In particular, the new rules: Adopt guidelines for applying ADR techniques and definitions from the ADRA; establish procedures for submitting, reviewing, and monitoring proposals to use ADR in specific proceedings; incorporate the provisions of the ADRA regarding binding arbitration proceedings, arbitral awards, and review of arbitration results; and adopt the provisions of the ADRA regarding confidentiality in ADR proceedings established under the new rules. The Commission is also amending its Rules of Practice and Procedure to modify existing regulations and to add new regulations with respect to the submission and review of offers of settlement. Finally, the Commission is consolidating almost all of its regulations dealing with the use of ADR in oil pipeline rate proceedings into its Rules of Practice and Procedure.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Barry Smoler, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 208–1269.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, 1200 or 300bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 60 days from the date of issuance in ASCII and WordPerfect 5.1 format. After 60 days the document will be archived, but still accessible. The complete text on diskette in Wordperfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, located in Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Table Of Contents

I. Introduction
II. Background
III. ADR Rules
A. Initiating the Use of ADR
B. Mechanism for Using ADR
C. Arbitration
D. Confidentiality
IV. Settlement Rules
A. Omnibus Settlements
B. Uncontested Settlements
C. Contested Settlements
V. Miscellaneous
A. ADR in Oil Pipeline Rate Proceedings
B. ADR and Other Agencies
VI. Administrative Findings
A. Regulatory Flexibility Act
B. Environmental Review
C. Information Collection Requirements
VII. Effective Date

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is issuing a Final Rule to implement the Alternative Dispute Resolution Act of 1990 (ADRA).[1] To implement its policy in support of alternative dispute resolution, the Commission is amending Subparts E and F of Part 385 of its Rules of Practice and Procedure[2] to add regulations adopting provisions authorized in the ADRA and to establish procedures for approving ADR in particular proceedings.

In particular, new Rule 604 adopts guidelines for applying ADR techniques and definitions from the ADRA and establishes procedures for submitting, reviewing, and monitoring proposals to

[1] 5 U.S.C. 571–83 (1988), *as amended by* Pub. L. 102–354, 106 Stat. 944 (Aug. 26, 1992).

[2] 18 CFR Part 385.

use ADR in specific proceedings. New Rule 605 incorporates the provisions of the ADRA regarding binding arbitration proceedings, arbitral awards, and review of arbitration results. New Rule 606 adopts the provisions of the ADRA regarding confidentiality in ADR proceedings established under proposed new Rules 604 and 605. The Commission is amending Subparts E, F, and G of Part 385 of its Rules of Practice and Procedure to modify existing regulations and to add new regulations with respect to the submission and review of offers of settlement. Finally, the Commission is consolidating almost all of § 343.5 of its regulations, dealing with the use of ADR in oil pipeline rate proceedings, into Part 385.[3]

The Commission's purpose in adopting these new rules and amendments is to provide optional opportunities for regulated entities and other parties who come before the Commission to simplify and expedite their proceedings. We stress that all of these newly authorized procedures are purely voluntary on the part of the parties affected by them, and are *in addition to* all previously authorized procedures and informal practices that parties have used or had available for use. We encourage regulated entities and other parties to try these new procedures and experiment with them. They are intended to alleviate the costs and other burdens of regulatory litigation.

The Commission will continue to seek means of further streamlining and expediting its litigatory processes, including any revisions or supplements to today's new rules that may in the future appear appropriate. We welcome suggestions on how to refine these rules after they have gone into practice.

II. Background

The ADRA amended Chapter 5 of Title 5, United States Code, by adding a new subchapter to provide explicit statutory authorization allowing federal agencies to use ADR techniques in lieu of litigation to resolve a dispute in the agency's administrative programs when all the participants to the dispute voluntarily agree to its use. ADR methods include the use of a neutral, an individual who functions to aid the participants in resolving the controversy. The ADRA provides that ADR methods may include, but are not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination of these.[4]

The ADRA requires each agency to adopt a policy that addresses the use of alternative means of dispute resolution and case management in connection with the agency's administrative actions. The Commission will fulfill this requirement with this rulemaking proceeding and through revisions to its regulations with respect to the matters under the Commission's substantive jurisdiction.[5] As required by the ADRA, the Commission has consulted with the Administrative Conference of the United States (ACUS) and reviewed the ACUS guidance to agencies in developing their ADR policies and in implementing those policies.[6]

The Congress further encouraged the use of ADR procedures in the Energy Policy Act of 1992. Section 1802(e) of that Act directed the Commission to establish appropriate ADR procedures, including required negotiations and voluntary arbitration, early in oil pipeline proceedings as a method preferable to adjudication in resolving disputes related to rates. The Commission did so by issuing Order No. 561, Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992 on October 22, 1993.[7] Additionally, Vice President Gore's National Performance Review recommended that federal agencies expand their use of ADR techniques.

On April 17, 1991, the Commission issued a Notice of Inquiry (NOI) seeking comments on: (1) How best to implement the ADRA, (2) whether changes in the Commission's regulations are necessary or appropriate to facilitate the use of alternative means of dispute resolution, and (3) whether changes in the Commission's regulations governing settlements are necessary or appropriate.[8]

On November 10, 1994, in response to the comments on the NOI, the Commission issued a Notice of Proposed Rulemaking (NOPR).[9] The NOPR discussed at length the application of ADR to Commission proceedings. The specific proposals in the NOPR are discussed below, in the context of the comments received thereon.

In response to the NOPR, the Commission received 27 comments. The commenters are identified in an Appendix to this Final Rule, and their comments are summarized and discussed below.

III. ADR Rules

Because the use of ADR complements current settlement practices, the NOPR proposed to include the new rules in Subpart F of Part 385 of the Commission's Rules of Practice and Procedure concerning settlements. Specifically, the NOPR proposed to amend Rule 601(a) to provide for the convening of conferences to evaluate whether ADR is practicable in a particular proceeding. New Rule 604 was proposed to establish a mechanism for filing proposals to use ADR; new Rule 605 was proposed to adopt the provisions in the ADRA for binding arbitration procedures; and new Rule 606 was proposed to adopt the provisions in the ADRA for confidentiality in ADR proceedings. As the NOPR explained, the settlement rules were retained separately so that as many options as possible would be available for expediting resolution of disputes before the Commission.

EEI asks us to confirm that the new rules do not in any way preclude parties from engaging in informal settlement discussions with each other outside the scope of organized ADR activities.[10] We so confirm. We reject all suggestions by PG&E[11] that the Final Rule in any way limits or precludes settlement discussions. The Final Rule does not preclude any other form of informal discourse, negotiation or agreement among any combination of participants on any combination of issues. ADR is an additional alternative.

The NOPR explained that, apart from the provisions in proposed Rule 605 for binding arbitration proceedings, the proposed rules did not include separate provisions for the Commission's review of the ultimate outcome of an ADR proceeding. The Commission's intent is that the ultimate outcome of an ADR proceeding, like any other settlement, be subject to Commission review in a

[3] The provision implementing the statutory requirement for negotiation in oil pipeline rate proceedings remains in § 343.5.

[4] See Administrative Conference of the U.S., Sourcebook: Federal Agency Use of Alternative Means of Dispute Resolution (Office of the Chairman, 1987) (Sourcebook) at 44–45.

[5] Under the Department of Energy Organization Act, Pub. L. No. 95–91, 91 Stat. 565 (Aug. 4, 1988) and E.O. No. 12009, 42 FR 46267 (Sept. 15, 1977), the Chair is responsible for the administrative functions of the agency. With respect to those matters, the Commission's ADR policy has developed separately.

[6] Administrative Conference of the U.S., The Administrative Dispute Resolution Act: Guidance for Agency Dispute Resolution Specialists (Office of the Chairman, 1992).

[7] 58 FR 58753 (Nov. 4, 1993), III FERC Stats. & Regs. Preambles ¶ 30,985; *order on reh'g*, Order No. 561–A, 59 FR 40243 (Aug. 8, 1994), III FERC Stats. & Regs. Preambles ¶ 31,000 (July 28, 1994).

[8] 56 FR 18789 (Apr. 24, 1991), IV FERC Stats. & Regs. Notices ¶ 35,523 (1991).

[9] 59 FR 59,715 (November 16, 1994), IV FERC Stats. & Regs. Preambles ¶ 32,510.

[10] EEI at 3.

[11] *See* PG&E at 3–5.

VOL
60
ISS
75
AP
19
1995
UMI

manner that conforms with the Commission's statutory duties using existing procedures for evaluating settlements. As with the outcome of any settlement, the Commission's approval of the outcome of the ADR method used in a particular proceeding will not constitute approval of, or precedent regarding, any principle or issue in that proceeding. To the extent ADR techniques are used to resolve issues in licensing or certificate cases, that resolution will become part of the Commission's evaluation of any license or certificate that might be issued.

The commenters generally support the use of ADR.[12] The Industrials, noting that section 11 of the ADRA provides for an October 1, 1995 sunset provision, ask us to clarify whether the Commission intends for new Rules 604, 605 and 606 to expire on that date.[13] The Missouri PSC suggests a "sunset review" within "the next two to four years."[14]

If and when the ADRA expires, the Commission will review the continued legal viability of the binding arbitration provisions. The other provisions are all independently sustainable, absent ADRA, under the Commission's own organic statutes. All of the Commission's regulations are in any event reviewable at any time to determine whether they can be improved, just as the Final Rule herein adds improvements to previously adopted regulations, and all such regulations can and will be deleted if and when they are determined to be no longer useful or appropriate.

A. Initiating the Use of ADR

New Rule 604(a)(1) provides that participants may, subject to the limitations of subparagraph (a)(2) of that section, use ADR to resolve any issue in a pending matter as long as all of the participants agree to using ADR. The NOPR explained that, under the ADRA, any use of ADR proceedings must be voluntary on the part of the participants, and that the Commission is not willing to create different levels of participants for purposes of determining whether the participants support using an ADR proceeding. Thus, the NOPR proposed to require the unanimous consent contemplated by the ADRA.[15]

A number of commenters want to be able to use ADR procedures even if the participants are less than unanimous in requesting such use.[16] Two commenters support the requirement for unanimous request before ADR procedures can be implemented.[17]

Commenters who oppose the requirement for unanimous consent contend that one reluctant participant ought not to be able to frustrate the ability of everyone else in the case to use ADR procedures to resolve their disagreements. They suggest that there is a public interest in using ADR procedures under those circumstances. Some contend that only participants who have a "substantial interest" in the outcome of the case should be able to, in effect, "veto" use of ADR; participants with an "indirect or attenuated interest" should not be able to preclude ADR, but should be free to "opt out" and pursue their own remedies. They characterize this approach as "non-binding ADR." Another variation would be to sever one or more issues so as to use ADR procedures, unanimously requested, to resolve the rest of the issues. Commenters who support the unanimity requirement as proposed in the NOPR stress the importance of protecting the procedural rights of *all* of the parties to a proceeding, not just the big parties or the majority of the parties.

There is considerable merit to the positions expressed on both sides of this issue. ADR cannot work unless the users of it want it to work and want to use it. A single peripheral party ought not to be able to prevent everyone else from using ADR, but significant interests cannot be excluded. It is very difficult to codify a bright line test in the regulations. We will adopt the rule as proposed. We strongly urge all participants and decisional authorities to be flexible and creative in adapting ADR to their needs and to the facts and circumstances of particular cases, and in devising alternative procedures that facilitate informal resolution of most issues by all participants, or of all issues by most participants, while preserving the rights of non-participants to disagree.

The NOPR explained that the Commission seeks to encourage parties to consider the use of ADR as a routine part of the Commission's decision-making processes. Accordingly, the NOPR proposed to amend Rule 601(a) by adding the words "or the use of alternative dispute resolution procedures" to specifically provide for a conference to address the possibility of using ADR techniques. The NOPR also proposed to amend Rule 504(b)(7) to conform to the amendment proposed in Rule 601(a). As under the existing rule, a conference could be convened at any time during any proceeding.

The NOPR noted that Rule 601(b)(3) provides that the failure of any party to attend a conference convened under Rule 601(a) constitutes waiver of all objections that party may have to any order or ruling arising out of, or agreement reached at, the conference. That condition would apply as well in the context of a conference at which an agreement to use ADR was reached. Thus, Rule 601(b)(3) would operate to waive an absent party's objections to an ADR proposal reached in the conference if the conference was noticed in advance as a conference addressing the possibility of using ADR.

The Commission proposed an exception for proposals to use binding arbitration under proposed new Rule 605. In those cases, Rule 605(a)(5) would require the express consent of all interested parties to such an agreement. Thus, a party's absence from a conference under Rule 601 would not waive the party's rights to object to the use of binding arbitration under Rule 605.

The PEC Pipeline Group raises the possibility that a participant in a proceeding might seek to disrupt potentially promising settlement discussions by moving to convene a conference to discuss the use of ADR procedures or moving to consolidate proceedings for disposition of a settlement.[18] The regulatory devices in the Final Rule are intended to facilitate resolution of conflicts, not to postpone them. The Commission expects that the appropriate decisional authorities will be able to distinguish between the two and rule accordingly.

Several commenters object to the provisions that failure to attend the conference will in effect constitute waiver of any objection to the use of ADR. Interior asks us to clarify the procedures for objecting to the use of ADR. Commerce and Natural Gas Supply state that some participants may be unable to attend due to financial or

[12] *See, e.g.*, American Public Power Association; Consumers Power Company; New England Power Service; and Wisconsin Municipal Group.

[13] Industrials at 8.

[14] Missouri PSC at 6–7.

[15] As discussed below, the NOPR emphasized that under Rule 601(b)(3), any party who fails to attend a conference convened for the purpose of determining whether to use ADR waives any objection to decisions made about an ADR proposal at that conference. Thus, the unanimous consent is by those participants who choose to attend a conference convened for the purpose of determining whether to use ADR. As the NOPR indicated, there is an exception for binding arbitration proposals under new Rule 605(a)(5), which requires express consent of all parties in such a proposal.

[16] AGD at 3–4; EEI at 3–4; Electric Generation at 4–5; Northern Distributors at 1–6; ANR and CIG at 3–4; PG&E at 5–6; Transco; and Williams and Northwest at 6.

[17] Natural Gas Supply at 2; Natural Gas Clearinghouse at 8–9.

[18] PEC Pipeline Group at 7–8.

logistical constraints, or schedule conflicts. Commerce requests that telephone conferences be permitted, and that written objection be accepted upon a showing of good cause for inability to object in person. Supply and EEI would make written objection as effective as personal objection without a showing of good cause for failure to attend in person.[19] All of these commenters stress the importance of receiving timely and accurate notice of the conference.

Rule 601(b)(1) already requires that the participants be given notice of the time and place "of the conference" and "of the matters to be addressed at the conference." We encourage the decisional authorities to make every effort to accommodate the financial, logistical and schedule conflict needs and constraints of the participants, and to be flexible and creative in setting the time, place and format of the conference, including use of telephone or video communication (as that technology becomes more widely available). We do, however, want the participants to make a meaningful effort to communicate with each other, even if only for the purpose of engaging in a dialogue over why they are or are not willing to consider use of ADR procedures to resolve their differences. Therefore, we will not allow participants to block the use of ADR procedures by mailing in a written objection without any discussion with other participants about whether ADR might or might not be useful.

B. Mechanism for Using ADR

Existing Rule 603 provides procedures for the parties or the Commission to incorporate the use of settlement negotiations in Commission proceedings, while existing Rule 602 provides procedures for the submission and review of written offers of settlement at any time during a proceeding. New Rule 604 provides similar procedures by which participants can use any other ADR method. The mechanism consists of the filing and review of a proposal to use a particular ADR method.

The ADRA lists six factors for an agency to consider when identifying cases in which the use of ADR would not be appropriate. The NOPR proposed to adopt these factors in subparagraph (a)(2) of Rule 604 and to require that they be considered whenever a proposal to use ADR is made. Thus, the new rule provides that the appropriate decisional authority will consider not using ADR if: (1) A definitive resolution is required for precedential value; (2) the matter involves significant questions of policy requiring additional procedures before final resolution; (3) maintaining established policy is of special importance; (4) the matter significantly affects persons or organizations who are not parties to the proceeding; (5) a full public record of the proceeding is important and the record cannot be provided by dispute resolution; or (6) the Commission must maintain continuing jurisdiction over the matter and dispute resolution would interfere with the Commission's authority to alter the disposition of the matter if circumstances change.

The use of ADR when any of these factors is present is not absolutely prohibited under the rule. New Rule 604(a)(3) provides that ADR may be used if the dispute resolution proceeding can be structured to avoid the identified problem or if other concerns significantly outweigh one or more of the factors.

New Rule 604(a)(4) incorporates the ADRA's provision that the agency's decision to use or not to use an ADR proceeding is not subject to judicial review. New Rule 604(a)(5) provides that settlement agreements reached through the use of ADR will be subject to Rule 602, notice and comment procedures, unless the decisional authority, upon motion or otherwise, orders a different procedure.

Rule 604(b) incorporates various ADRA definitions. "Party" and "participant" are defined in Rule 102.[20] While staff is not included in the definition of "party," it is a "participant." The proposed rules provide for the full participation of parties and staff in the ADR process to the same extent as in the settlement process.

The NOPR explained that the definition of participant in Rule 102 does not expressly identify the additional entities that are permitted to participate in the application procedures in the Commission's rules for a license or exemption to construct, operate, and maintain a hydroelectric project. To ensure that all participants in such hydroelectric proceedings also may participate in any matters concerning ADR under Subpart F of the Commission's regulations, the Commission proposed to adopt a definition of "participant" in Rule 604(b)(8) that includes these entities, which may be state and federal agencies and Indian tribes having statutory roles or a direct interest in the hydroelectric proceedings, as participants in ADR proceedings.

New Rule 604(e)(1) permits the participants to submit a written proposal at any time during a proceeding to use ADR to resolve all or part of any matter in controversy or anticipated to be in controversy in the proceeding. The proposal should be written to avoid procedural disagreements during the ADR proceeding. A written proposal also is needed by the decisional authority to determine the appropriateness of using ADR in the proceeding and whether to suspend action on a matter to give participants the opportunity to resolve their disputes by means of an ADR process. The NOPR explained that, except for the binding arbitration process identified in the ADRA and incorporated in new Rule 605, the Commission does not intend to identify the specific ADR methods available to the parties nor to mandate specific procedures for each type of ADR, but leaves the selection and procedures to the discretion of the participants.

New Rule 604(e)(2) provides that, if a proceeding is pending before an administrative law judge (ALJ), the proposal must be filed with the ALJ. New Rule 604(e)(3) provides that, if a proposal involves binding arbitration, it must be filed with the Secretary for consideration by the Commission. For all other matters, new Rule 604(e)(4) provides that a proposal to use ADR may be filed with the Secretary, who will transmit the proposal to the appropriate decisional authority. New Rule 604(e)(6) allows the participants to modify the ADR proposal once it has been approved and provides that requests to modify must follow the same procedure as proposals for ADR.

Cinergy urges us to convene the ADR conference as quickly as possible, preferably within 20 days of the filing of the motion. We will encourage decisional authorities to expedite this process, but all potentially affected participants must be afforded ample time to consider their positions and make appropriate arrangements.

Cinergy also proposes that the proposal be deemed approved unless an order denying approval is issued within 10 days, rather than the proposed 30 days. While we encourage decisional authorities to act as quickly as possible under the circumstances presented (*e.g.*, if there is clear unanimity among participants), because of the sometimes large number of parties and need for notice, it is not practical to shorten the

[19] EEI at 4; Natural Gas Supply at 2–3.

[20] 18 CFR 385.102 (b) and (c).

VOL 60 ISS 75 AP 19 1995 UMI

period after which ADR will be deemed approved.[21]

Rule 604(c) provides that a neutral may be a permanent or temporary officer or employee of the Federal Government, (including an ALJ), or any other individual who is acceptable to the participants in an ADR proceeding. A neutral may not have any official, financial, or personal conflict of interest with respect to the issues in controversy.[22] The NOPR explained that, if a staff member serves as a neutral, in no event could that person thereafter serve in any other capacity in the proceeding.[23]

Rule 604(c)(3) provides that neutrals may be selected from rosters kept by the Federal Mediation and Conciliation Service, ACUS, and the American Arbitration Association, as well as any other source. Pursuant to proposed Rule 604(c)(2), neutrals will be selected by the participants and will serve at the will of the participants unless the ADR agreement provides otherwise.

Missouri PSC suggests that an ALJ who participates as a neutral should not participate thereafter in a decisional capacity without the written consent of all parties. The short answer is that once an ALJ or any other Commission employee has participated as a neutral in an ADR procedure, they are permanently barred from any role in the decisional process involving that case, with or without consent.

Missouri PSC also suggests that the Commission compile a roster of neutrals familiar with utility regulation. Knowledge of utility law and commercial practice would have obvious relevance to a neutral's ability to function effectively in that role, but the Commission does not wish to put itself in the position of screening and endorsing the qualifications of persons who wish to serve in that capacity. The participants should be free to choose whomever they wish, unencumbered by semi-official rosters.

The Industrials request clarification of the responsibility of the participants for compensating a Commission employee, including an ALJ, who serves as a neutral.[24] Any Commission employee, including an ALJ, who serves as a neutral does so in his or her official capacity as a federal employee and cannot properly accept any additional compensation of any kind from any participant in the proceeding. With respect to other neutrals, we agree with the Industrials that it would be useful for the participants to clarify matters of compensation in the ADR agreement.

The Industrials ask us to clarify in Rule 604 what authority the neutral has, particularly with respect to such matters as issuing subpoenas, compelling production of documents and issuing protective orders.[25] The Industrials misunderstand the role and posture of the neutral. The neutral's authority to issue orders is derived from the participants, not from the Commission. The participants, in their ADR agreement, are free to authorize or not authorize the neutral to direct production of their documents, issue protective orders, or issue any other order to which they may or may not wish to be bound. The one exception, as the Industrials themselves recognize, is that ALJ's retain all of their delegated authority as presiding officers of the Commission; selection as a neutral does not serve to in any way suspend or diminish their authority. Thus, if the participants want their neutral to exercise judicial-type authority, they can either select an ALJ to serve as their neutral or select an outsider and authorize that person to exercise whatever powers they wish to confer and by which they wish to be bound.[26]

New Rule 604(e)(5) provides for the issuance of an order by the decisional authority approving or denying a proposal filed under Rule 604 or Rule 605. The decisional authority will determine whether ADR would be appropriate for a particular proceeding on a case by case basis, using the guidelines set forth in new Rules 604(a)(2)and (3). A proposal to use ADR will be deemed approved unless the decisional authority issues an order denying approval within 30 days after the proposal is filed.

New Rule 604(f) allows the decisional authority to require status reports on the proceeding at any time. The NOPR explained that this provision is designed to prevent parties from using ADR as a stalling tactic.

New Rule 604(g) gives the decisional authority, upon motion or otherwise, the authority to terminate an ADR proceeding under Rule 604 or 605 if it appears that ADR is no longer appropriate. New Rule 604(g)(2) provides that a decision to terminate an ADR proceeding is not subject to judicial review because the decision is interlocutory in nature. This is consistent with the existing settlement negotiation procedures in Rules 603 (h) and (i). The NOPR explained that parties may seek Commission review of such a decision under Rule 715 in cases pending before an ALJ or, in all other cases, under Rule 212 as a motion for reconsideration.

Several commenters[27] ask us to define standards for terminating ADR proceedings. We prefer not to provide standards because it is not practical to attempt to anticipate in a generic rule all of the circumstances that might justify termination of such a proceeding. It is best left to case by case determination, based on the peculiar facts and circumstances presented.

EEI urges us to encourage greater use of ADR by announcing a policy of adopting whatever result the parties reach without modification unless it would contravene a statutory obligation.[28] Natural Gas Pipeline urges us to overturn the results of an ADR procedure "only under exceptional circumstances." PG&E urges us to accord "substantial deference" to the results of ADR procedures.[29]

The Commission obviously must reserve authority to ensure that decisions reached through ADR procedures are not contrary to the public interest or inconsistent with statutory requirements. Within those broad parameters, the Commission can and will give substantial deference to whatever consensus participants reach through the ADR process.

C. Arbitration

New Rule 605 incorporates the arbitration provisions as they appear in the ADRA, with a few modifications as discussed below. The NOPR explained that, to the extent participants wish to use a different arbitration procedure, they are free to propose one rather than using the procedure set forth in Rule 605.

New Rule 605(a) provides that the participants may at any time submit a proposal to use the binding arbitration provisions of Rule 605 to resolve all or part of any matter in controversy before the Commission. New Rule 605(a)(2) requires that a proposal to use binding arbitration follow the procedures outlined in Rule 604(d). New Rule 605(a)(3) requires that the proposal be submitted in writing and contain the information listed in Rule 604(e). Under new Rule 605(a)(4), the arbitration process can be monitored and terminated just as other ADR methods under Rules 604 (f) and (g). To ensure that arbitration is truly voluntary on all sides, new Rule 605(a)(5) provides that the Commission will not require any person to consent to an arbitration proposal as a condition of receiving a contract or benefit. Similarly, no company regulated by the Commission may impose such a condition. New Rule 605(a)(5) further requires that an arbitration proposal under Rule 605 have the express written consent of all parties to the dispute.

Under new Rule 605(b), the participants in an arbitration proceeding are entitled to select the arbitrator. The particular procedure to be used in selecting an arbitrator is not provided; however, the arbitrator is required to meet the requirements of the neutral as described in new Rule 604(d). Rule 605(c) sets forth the arbitrator's duties, including conducting hearings, administering oaths, and issuing subpoenas to compel attendance of witnesses and production of evidence at hearing. As explained in the NOPR, the arbitrator has the power to issue awards but not the authority to issue licenses and certificates.

New Rule 605(d) incorporates the provisions in section 579 of the ADRA that establish basic rules for the conduct of binding arbitration proceedings, including hearings. Rule 605(d)(1) provides that the arbitrator will set the time and place for the hearing and notify the participants. New Rules 605(d) (2) and (3) provide for preparation of a record, if desired, and for presenting evidence. Under new Rule 605(d)(3)(iv), the arbitrator may exclude evidence that is irrelevant, immaterial, unduly repetitious or privileged. New Rule 605(d)(4) prohibits *ex parte* communications with the arbitrator, allowing the arbitrator to impose sanctions for a violation of this prohibition. New Rule 605(d)(5) requires the arbitrator to issue an award within 30 days of the close of the hearing unless the participants and arbitrator agree to a different schedule.

New Rule 605(e) incorporates the ADRA standards for issuing and appealing arbitral awards. The award will be in writing and include a brief, informal discussion of the factual and legal basis for the award. The prevailing participants will file the award with the Commission and any other relevant agencies and serve all participants. The award becomes final 30 days after it is served on all participants. However, the Commission, upon motion or otherwise, can extend this period for one additional 30-day period upon notice of the extension to all participants. New Rule 605(e)(3) provides that a final award is binding on the participants.

Several commenters[30] ask us to clarify that the terms "arbitrator" and "arbitration" are broad enough to authorize use of a panel of arbitrators and not just a single person. We so confirm; the singular includes the plural.

CIG and ANR ask us to indicate in advance the outer range of potentially acceptable results of the arbitration.[31] It is simply impractical for the Commission to do this, because it would in effect require the Commission to partially prejudge the case before there is an adequate record on which to make such decisions. It would also defeat the purpose of inviting the parties to work out their own solution before the Commission becomes heavily involved in the decisional process.

Columbia Gas asks us to incorporate various interpretations of ADRA in the regulations.[32] ADRA speaks for itself on these matters, and we perceive no need to construe these particular statutory provisions in the regulations, or to address them in this preamble to the regulations. Contrary to Columbia Gas' suggestion, nothing in Rule 605 precludes the filing of an arbitration award with any other agency, regardless of whether such an award is also filed with the Commission. In other words, the award should be filed with whichever agency or agencies it is relevant. Also contrary to Columbia Gas' suggestion, while section 580(a)(1) of ADRA allows the Commission to omit formal findings and conclusions, it does not preclude the Commission from requiring findings and conclusions on its own authority.

In response to PEC Pipeline Group,[33] we clarify that Rule 605(a)(5) does not prevent parties to a settlement from agreeing to the use of future binding arbitration to resolve disputes under a settlement, and does not prevent parties from entering into transportation and storage arrangements that include an arbitration clause.

New Rule 605(f) provides procedures for the Commission to vacate an award. New Rule 605(f)(1) permits any person to request, within ten days of the filing of an award under Rule 605(e), that the Commission vacate the award and requires that person to provide notice of the request to all participants. Responses to such a request must be filed within ten days after the request is filed. Under new Rule 605(f)(2), the Commission, upon request or otherwise, may vacate an arbitration award before the award becomes final. New Rule 605(e) adopts the ADRA's provision that the award need only discuss informally the factual and legal bases for the award. The NOPR explained that if the participants wish to require that an award include formal findings of fact and conclusions of law, they may do so by adopting a different standard.

New Rule 605(f)(4) adopts the ADRA's provision for monetary relief. Thus, if the Commission vacates an arbitration award, a party to the arbitration proceeding may petition the Commission for an award of the attorney fees and expenses incurred in connection with the arbitration proceeding. The Commission must award the petitioning party those fees and expenses that would not have been incurred in the absence of the arbitration proceeding, unless the Commission finds that special circumstances make the award unjust. As provided by the ADRA, new Rule 605(f)(6) establishes that a decision by the Commission to vacate an arbitration award is not subject to judicial review.

Northwest Users question how extensively arbitration awards will be vacated. They contend that persons who are not parties to the proceeding should not be able to move to vacate an arbitration award, nor should such nonparties be allowed to intervene out of time for that purpose.[34] Electric Generation urges us to articulate a stringent standard for review of arbitration awards, suggesting "manifest injustice."[35] Natural Gas Pipeline suggests that we confine vacature to "exceptional circumstances."[36]

As AGD notes,[37] the Commission has a statutory responsibility to vacate an arbitration award if it contravenes the public interest or is in any other way inconsistent with statutory requirements. The Commission does, however, want to encourage parties to

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[21] The Industrials (at 4) question what happens if the 30th day falls on a weekend or holiday. Consistent with long-established Commission practice, the time period is extended until the day after the weekend or holiday. *See* Rule 2007(a)(2).

[22] A non-governmental neutral may, however, have a personal conflict of interest provided that the conflict is disclosed to all of the participants and given that disclosure they nonetheless consent to that neutral's service.

[23] The NOPR explained that this is consistent with the Commission's current settlement procedures. Under Rule 603, the settlement judge serves a single function as a mediator or facilitator and cannot be a decisionmaker or advisor in that proceeding.

[24] Industrials at 3.

[25] Industrials at 6–8.

[26] Columbia Gas at 4 suggests adding several more words to subsection 604(c)(1), believing that they may have been inadvertently omitted. There was no omission, and the extra words are unnecessary. Columbia Gas also alleges that there is an inconsistency between subsections (c) and (e) of section 604. Although phrased differently, we believe that both subsections are clear and we do not perceive any substantive inconsistency.

[27] Northwest Users at 4–5; Electric Generation at 7. Electric Generation also urges us to aggressively monitor the status of ADR proceedings. We will monitor them as appropriate.

[28] EEI at 3.

[29] PG&E at 6–9.

[30] Cinergy at 3; PGC Pipelins Group at 11.

[31] CIG and ANR at 2–3.

[32] Columbia Gas at 4–6.

[33] PEC Pipeline Group at 12–13.

[34] Northwest Users at 5–7.

[35] Electric Generation at 8.

[36] Natural Gas Pipeline at 7.

[37] AGD at 4.

VOL 60 ISS 75 AP 19 1995 UMI

explore and use ADR procedures, and recognizes that extensive vacature of arbitration awards would discourage parties from using them. The Commission would be very loath to allow last minute interventions to disrupt a settlement or arbitration award after the parties have laboriously reached such a resolution. On balance, given the Commission's statutory responsibilities, decisions on vacature will necessarily have to be made on a case by case basis. We confirm for PEC Pipeline Group [38] that if an arbitration award is vacated the parties return to the *status quo ante* as if the arbitration proceeding had never occurred.

Several commenters asked us to clarify who has to reimburse whom for fees and expenses in the event that an arbitration award is vacated, and who can petition for it.[39] Electric Generation urges us to make the losers reimburse the winners.[40] The PEC Pipeline Group expresses strong opposition to the proposed rule and urges us not to adopt it.[41] The rule is required by the last sentence of section 580(g) of the ADRA, which is unmistakably clear on its face and should assuage the commenters' concerns: "Such fees and expenses shall be paid from the funds of the agency that vacated the award." We have added a sentence to subsection 605(f)(4) to clarify it. All participants to the arbitration proceeding can petition the Commission for reimbursement by the Commission of the fees and expenses they incurred in the arbitration process if the Commission vacates the arbitration award at the end of that process. We confirm to the PEC Pipeline Group that parties may agree to forego the right to petition for fees and expenses, and may also agree in advance on conditions pursuant to which an arbitration award can be reviewed by the Commission.

D. Confidentiality

New Rule 606 governs confidentiality in ADR proceedings established under new Rules 604 and 605, and incorporates most of the confidentiality provisions for neutrals and participants that are found in the ADRA. Under new Rule 606(a), confidentiality must be maintained by a neutral unless: (1) All participants in the ADR proceeding and the neutral consent in writing to the disclosure; (2) the communication has already been made public; (3) the communication is required by statute to be made public; or (4) a court determines, after a balancing of considerations, that disclosure is necessary to prevent a manifest injustice, to help establish a violation of law, or to prevent harm to the public health or safety.

Under new Rule 606(b), a participant in the ADR proceeding must not disclose information concerning any dispute resolution communication unless, pursuant to five of the seven exceptions set out in the ADRA: (1) All participants consent in writing; (2) the communication has already been made public; (3) the communication is required by statute to be made public; (4) a court determines, after balancing considerations, that disclosure is necessary to prevent manifest injustice, establish a violation of law, or prevent harm to the public health or safety; or (5) the communication is relevant to determining the existence or meaning or the enforcement of an agreement or award resulting from the proceeding.

Under new Rule 606(c), any communication disclosed in violation of this section will not be admissible in any proceeding relating to the issues in controversy. New Rule 606(d) provides that the participants may agree to alternative confidentiality procedures for disclosure by a neutral, but should inform the neutral of any modifications prior to the commencement of the ADR procedure. If the neutral is not so informed, the provisions of new Rule 606(a) would apply. Under new Rule 606(e), the participants must be notified of a demand for disclosure, whether by discovery or other legal process. Proposed Rules 606(f) through (i) adopt the remaining provisions of the ADRA, including the provision that nothing in the section would prevent discovery or admissibility of evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.[42]

AGD supports the rule as proposed.[43] Cinergy suggests revisions to subsections 606(a)(4) and (b)(4); we will not make those revisions because, as proposed and adopted, those subsections directly track the language of section 574 of the ADRA.

We have made several revisions in response to the comments of the PEC Pipeline Group.[44] First, we have revised Rules 606(a)(2) and (b)(2) by inserting the word "otherwise," so that they now read "The dispute resolution communication has otherwise already been made public." Next, we have tightened Rule 606(c) by deleting the latter part of it, so that it now reads "Any dispute resolution communication that is disclosed in violation of paragraphs (a) or (b) of this section shall not be admissable in any proceeding." Third, we have substituted the word "participant" for the word "neutral" in Rule 606(e), so that it now reads "If a demand for disclosure, by way of discovery request or other legal process, is made upon a *participant* before the commencement of the dispute resolution communication, the *participant* will make reasonable efforts to notify *the neutral and the other participants* of the demand." (Emphasis added) Finally, we have added a new Rule 606(k), which reads as follows: "Where disclosure is authorized by this section, nothing in this section precludes use of a protective agreement or protective orders." [45]

We have not adopted the other changes suggested by PEC Pipeline Group or by Electric Generation [46] because we do not believe they are warranted. The matters raised by Electric Generation with respect to the Freedom of Information Act are not addressed here because they are beyond the scope of this rulemaking.

IV. Settlement Rules

A. Omnibus Settlements

The NOPR explained that the authority of the ALJ and the Commission to consolidate multiple proceedings exclusively under their respective jurisdictions for review in an omnibus settlement is established, respectively, in Rules 503(a), 101(e), and 212. The NOPR proposed to codify current practice and amend Rule 503(a) by adding that the Chief ALJ may order multiple proceedings that are pending before ALJs to be consolidated for settlement, as well as hearing, on any or all matters in issue. The Commission is amending the procedures in Rule 602(b) for the submission of offers of settlement to provide specifically for requests to be filed with the Commission for consolidation or other appropriate procedural relief to enable proceedings pending before ALJs to be

[38] PEC Pipeline Group at 12.

[39] Cinergy at 3; Cig and ANR at 4; *see also* Natural Gas Pipeline at 7.

[40] Electric Generation at 8–9.

[41] PEC Pipeline Group at 10–11.

[42] The NOPR explained that existing Rule 2101 permits a participant to appear in a proceeding in person or by an attorney or other qualified representative, and that existing Rule 2102 provides for suspension or disqualification (temporary or permanent) of representatives when necessary.

[43] AGD at 6–8.

[44] PEC Pipeline Group at 14–16.

[45] New Rule 606(k) should also help alleviate the problem raised by Natural Gas Supply (at 5) with respect to protection of proprietary information related to research and development projects. We have also added to Rule 606(f) the cross-refrences that Natural Gas Supply requested to sections 385.410 and 388.112.

[46] Electric Generation at 9–10.

transmitted to the Commission for consideration in an omnibus settlement together with proceedings pending before the Commission. The amendment adds new paragraph (b)(3) to permit any participant in a proceeding covered by an offer of settlement submitted under (b)(1) to file a consolidation request when the settlement covers multiple proceedings pending in part before the Commission and in part before one or more ALJs.

The Industrials request that the Commission codify standards for determining when party severance would be appropriate in an omnibus settlement. In particular, they state that "[i]n effect, we believe, the Commission should clarify its new rules providing for the severance of parties to state that severance should be by party, *by contested issue of material fact*." In the alternative, they "recommend that the final rule be clarified to provide that severance of parties should proceed by docket, rather than by omnibus settlement." [47]

The issue of severance, generally, is discussed below. We see no reason to treat severance differently in the context of omnibus settlements than in any other context.

B. Uncontested Settlements

Rule 602(g) provides for the certification to the Commission of uncontested settlements filed with an ALJ. If an offer is uncontested, the ALJ is required under Rule 602(g)(1) to certify to the Commission the offer of settlement with the hearing record and any related pleadings. Under the standard set out in Rule 602(g)(3), the Commission may approve an uncontested offer "upon a finding that the settlement appears to be fair and reasonable and in the public interest."

The NOPR explained that the court in *Tejas Power Co.* v. *FERC* held that the Commission is required to make an independent determination that the settlement is in the public interest.[48] On some issues, an exercise of the Commission's independent review may be required even though the parties may not want to develop a record. In these circumstances, the Commission is entitled to require the development of an adequate record before it can determine whether an uncontested settlement is in the public interest.

AGD maintains that the Commission should amend its rules to provide that it will act on an uncontested settlement within 45 days after it is certified to the Commission. In the alternative, it asks that an uncontested settlement be treated the same way as an uncontested initial decision under Rules 708 and 712 by its becoming effective within 45 days after transmission to the Commission unless it is stayed by the Commission pending further review.[49]

Natural Gas Pipeline maintains that uncontested settlements should be deemed approved and become effective without a Commission order, absent contrary Commission action, within 30 days after the close of the comment period.[50]

While the Commission attempts as a matter of course to act on uncontested settlements as expeditiously as possible, a time constraint would not be in the public interest because some settlements, even though not contested, are complicated nevertheless. It cannot be assumed that every aspect of every uncontested settlement is consistent with the public interest and in conformity with key Commission policies. We note in this regard, however, that the Commission's goal is to act on uncontested electric and gas rate settlements within 45 days of the close of the comment period or date of certification to the Commission, and to act on contested electric and gas rate settlements within 90 days of those trigger dates. In most cases the Commission has been able to adhere to these goals, particularly with respect to the uncontested cases.

The Industrials maintain that the Commission should review, and not refashion, uncontested settlements. In addition, they claim the Commission cannot order the parties to provide more support for the settlement; they contend the Commission can only reject it or return it to the parties to decide how to fix deficiencies.[51]

The Commission is not limited to rejecting an uncontested settlement or returning it to the parties to decide how to fix it. Of course, the Commission may take both approaches. In addition, the Commission may refashion an uncontested settlement to comport with the public interest and the Commission may conclude that it is in the public interest that there be more support for all or part of an uncontested settlement.

C. Contested Settlements

Rule 602(h) provides for processing settlements that are contested in whole or in part by any participant. Rule 602(h)(1) governs the Commission's evaluation and decision of contested settlements. Rule 602(h)(2) sets out the standards that govern the ALJ's evaluation of contested settlements in proceedings before the ALJ and provides for the certification of the settlement to the Commission for a decision on the merits of the contested issues.

As discussed in the NOPR, under Rule 602(h)(1) the Commission may decide the merits of the issues in a contested settlement if the record contains substantial evidence upon which to base a reasoned decision or the Commission determines there is no genuine issue of material fact. Under Rule 602(h)(2), a settlement that is contested by a party and that is before an ALJ may be certified to the Commission for a merits decision if, under Rule 602(h)(2)(ii), no genuine issue of material fact exists. If genuine issues of material fact exist, the ALJ may still certify the contested settlement but only if the following three conditions specified in Rule 602(h)(2)(iii) are met: (1) The parties concur on a motion for omission of the initial decision, (2) the presiding officer determines that the record contains substantial evidence from which the Commission may reach a reasoned decision on the merits of the contested issues, and (3) the parties have an opportunity to avail themselves of their rights with respect to the presentation of evidence and cross-examination of opposing witnesses.

As we explained in the NOPR, the rules permit either the Commission or the ALJ, as appropriate, to sever contested issues from a settlement and resolve them separately.[52] The uncontested issues may be considered under the expedited procedures for Commission review of uncontested settlements, while the contested issues proceed with further review on the merits. In establishing the settlement rules in 1979, the Commission encouraged the parties to a settlement to indicate whether parts of the settlement are severable and to advise the ALJ or the Commission to permit a prompt decision on the uncontested parts of the settlement.[53] This Final Rule amends

[47] Industrials at 10.

[48] Tejas Power Co. v. FERC, 908 F.2d 998 (D.C. Cir. 1990). Specifically, the court found that the issues in that rate proceeding required the Commission to examine the impact of the settlement and collect evidence that the consumers' interest would be served by the agreement, that the parties had adequate bargaining power to produce an equitable agreement, and that the agreement's terms are acceptable under the Commission's requirements.

[49] AGD at 7–8.

[50] Natural Gas Pipeline at 4.

[51] Industrials at 18–21.

[52] Rule 602(h)(1)(iii) and Rule 602(h)(2)(iv). *See, e.g.*, Tennessee Gas Pipeline Co., 31 FERC ¶ 61,300 (1985), in which the Commission approved a settlement in the public interest on issues where the record was sufficient, but severed an issue for later decision where the record was insufficient.

[53] FERC Stats. & Regs. Preambles, 1977–1981 ¶ 30,981, at 30,433.

VOL 60 ISS 75 AP 19 1995 UMI

Rule 602(h)(1) (ii) and (iii) and Rule 602(h)(2)(iv) to permit the ALJ or the Commission to sever contesting parties as well, by adding the phrase "contesting parties or" before the discussion beginning with "contested issues".

Natural Gas Clearinghouse [54] maintains that contesting parties should not be involuntarily severed from contested settlements. It contends there are many reasons to reaffirm the no-severing policy of *Arkla*.[55] It argues that an exercise of raw power due to unequal bargaining power is against public policy and violates the *Tejas* decision's emphasis on adequate bargaining power.[56]

The rule merely recognizes that the Commission permits the severing of parties in certain circumstances.[57] Such a policy has been approved by the United States Court of Appeals for the District of Columbia Circuit.[58] Nothing in *Tejas* is to the contrary. *Tejas* merely dealt with the weight to be given to the settling parties' position in a contested settlement where the Commission approved the settlement for all parties. Severing a party, of course, no longer makes that party bound by the settlement.

Of course, there are no hard and fast criteria for determining whether party severing is appropriate. That decision depends on the circumstances of the particular settlement. The Commission must consider the nature of the issue or issues contested, the state of the record, and the impact of the Commission's decision on the settlement. Those factors are illustrated by the Commission's decisions in *Arkla* and *Columbia*. In *Arkla*, the Commission refused to sever contesting parties because, as there described, that would create a "no lose" situation for those parties, who were interruptible customers.[59] Instead, the Commission stated that it would resolve the contested issues on the merits. However, in *Columbia*, the Commission concluded that it was appropriate to sever the contesting party with respect to its firm rates, where the contesting party would not be in a "no lose" situation and the record was inadequate for reaching a decision on the merits. This refinement of *Arkla* enabled Columbia and the settling parties to reap the benefits of their bargain while enabling the contesting party to litigate its case.

The PEC Pipeline Group maintains that "the Commission should abandon its sweeping prohibition against severing parties from Part 284 transportation and storage rate settlements * * * (and) clarify that severance of contesting parties is allowed in Part 284 transportation and storage rate settlements when the contesting parties have no direct economic interest in the settlement."[60] The Commission does permit parties to be severed in Part 284 settlements as indicated by the recent *Columbia* and *Southern* proceedings.[61] A party's lack of direct economic interest in the settlement should be considered when such a circumstance arises.

The Industrials ask the Commission to clarify "what are the effects, if a party is severed, tries an issue such as rate design, and the outcome dictates that party is entitled to rates lower than the rates applicable to the consenting parties."[62] For example, they assert that the refund floor in the next rate case should be the lower of the settled or litigated result. In addition, they ask for clarification about terms and conditions, such as it is unduly discriminatory to have differing quality or pressure standards owing to a settlement and a merits decision. The Commission concludes that the Industrials' clarification requests should be considered in case-specific situations.

Under paragraph (ii) of Rule 602(h)(2), the ALJ determines whether a settlement that is contested by any participant contains a genuine issue of material fact. If the settlement does not, the ALJ may certify the settlement directly to the Commission. If the settlement contains a genuine issue of material fact, the ALJ may certify the settlement only if the three conditions under paragraph (iii) are met. The NOPR proposed to amend Rule 602(f) to require a strong showing by contesting parties detailing any genuine issues of material fact that they contend exist.

Natural Gas Clearinghouse maintains that the Commission should not require contesting parties to submit affidavits detailing genuine issues of material fact because this will encourage extensive discovery rather than produce more certifiable settlements. It submits that disciplining parties for superficial claims is a more "surgical" solution.[63] Other commenters support the requirement for affidavits.[64]

The Commission continues to believe that the affidavit approach is the appropriate way to ensure that genuine issues of material fact exist. This is a more efficient approach than disciplining parties at some later date. As with a motion for summary disposition, the ALJ can determine if discovery is needed for a party to determine whether genuine issues of material fact exist.

Under the previous Rule 602(h)(2)(iii), the ALJ could certify an offer of settlement or part of any offer of settlement even if the settlement contained genuine issues of material fact. In these circumstances, the ALJ was entitled to certify an offer that is contested by a party if all of the following conditions, contained in subparts (A), (B), and (C), were met:

(A) The parties concur on a motion for omission of the initial decision as provided in Rule 710;

(B) The presiding officer determines that the record contains substantial evidence from which the Commission may reach a reasoned decision on the merits of the contested issues; and

(C) The parties have an opportunity to avail themselves of their rights with respect to the presentation of evidence and cross-examination of opposing witnesses.

If any one of these conditions was not present, the judge could direct further procedures as deemed appropriate, including certification of the settlement at a later time if the conditions were then met.

The NOPR proposed to modify the regulations to permit the ALJ to certify a settlement if there is less than unanimous concurrence of the parties under condition (A) to a motion filed under Rule 710 for omission of the initial decision. To accomplish this, the NOPR proposed to amend both condition (A) and Rule 710 to delegate to the ALJ the authority to determine that, if a motion filed under Rule 710 has less than unanimous concurrence, omission of the initial decision is appropriate to the same extent the Commission is able to make that determination under Rule 710. The NOPR concluded that condition (C) is subsumed by condition (B) and proposed to eliminate condition (C) entirely.

Natural Gas Pipeline submits that the ALJ should certify to the Commission a settlement that is sponsored or supported by the applicant and also has substantial support among other participants. It maintains that the Commission, not the ALJ, is better able to decide policy issues, decide whether the record is adequate, establish special procedures, and effect severance procedures.[65]

The ALJ is best suited to rule in the first instance about whether a settlement should be certified and, if not, what procedures should be pursued. Natural's approach in essence would limit the ALJs to record fashioners only.

The Industrials maintain that the ALJs are better equipped than the Commission to sift through a record to find facts and that the initial decision process is not a roadblock. At a minimum, they assert the Commission should clarify that omission of the initial decision is discretionary.[66] Omission of an initial decision is only mandatory if all parties join or concur in the motion.

Natural Gas Supply is concerned about the lack of standards on omission of an initial decision in Rules 602(h)(2)(iii)(A) and 710.[67] The Commission concludes that those sections should be applied on a case-specific basis.

Natural Gas Supply maintains that the existence of record evidence is unrelated to the credibility of the evidence and that a mini-hearing should not be a material imposition on the parties or the fact finder. Northern Distributors also opposes the deletion of the right to cross-examination, which it says will not be inconsistent with the use of affidavits because it will allow the testing of and developing of assertions in the affidavits.[68] Northeast and New Jersey also oppose the limits on cross-examination because, they contend, that is the only true test of contested facts. They also oppose the proposed limit on an opportunity to present evidence.[69]

The commenters are incorrect in their view that the Commission has limited the opportunity to present evidence and to cross-examine witnesses. The Commission has merely eliminated previous Rule 602(h)(2)(iii)(C) because it is subsumed within subsection (B)'s requirement of substantial evidence. The ALJ will have to determine whether a party is entitled to present evidence and to cross-examine witnesses when the determination is made concerning whether the "record contains substantial evidence from which the Commission may reach a reasoned decision on the merits of the contested issues."[70] In this vein, the Commission emphasizes that substantial evidence pertains to the quality and not the quantity of the evidence; evidence elicited through cross-examination of witnesses may be necessary and appropriate in some instances but not in others.

The Industrials ask the Commission to clarify the role of the trial staff in prehearing and settlement discussions and during and after any hearings are held for severed parties or on severed issues. They state that the trial staff is an advocate of the public interest with an independent position of its own and should continue to participate in hearings on the merits even if it supports a settlement. They argue that the staff should not be permitted to withhold its witnesses or withdraw its testimony during contested party litigation.[71]

The rule adopts nothing that affects the trial staff's role in proceedings. It is well settled that trial staff members can not be required to testify on behalf of a private litigant.[72] The trial staff often acts as an informal mediator, although it is not a pure neutral in that it can also advance a position on the merits. Continued litigation of unsettled issues may or may not be in the public interest, depending on the circumstances presented. There is often a public interest benefit in avoiding the societal cost of continued litigation. In those circumstances, the trial staff may decide that it can best serve the public interest by supporting a settlement rather than proceeding with litigation of unresolved issues.

The PEC Pipeline Group maintains that the Commission should modify the settlement regulations so that only parties with a direct economic interest in the outcome of a proceeding have standing to contest a settlement.[73] We will not curtail the rights of parties to oppose a settlement based on their degree of economic interest in the outcome. Such parties have a right to their day in court regardless of their economic stake in the outcome.

The Industrials maintain that to avoid "settlement by ambush," the Commission should require settlement sponsors to hold at least one formal settlement conference for outlining or summarizing the settlement and to answer questions before a settlement is filed. They add that a failure to do so should be deemed "bad faith."[74]

The Commission sees no reason to require a formal settlement conference in each case. Whether a conference should be convened is a case-specific matter to be determined by the decisional authority on a case by case basis.[75] It might be appropriate only in those instances when not all of the parties have been involved in the settlement negotiation process. In those circumstances, there may be a reason to believe, based on the record developed to that point, that the settlement might be opposed. If, however, all of the parties have been invited to participate in the settlement process then there would be no purpose to requiring yet another meeting.[76]

The Industrials maintain that, in light of the affidavit process, the Commission should either (1) modify the time periods for initial comments and reply comments to 45 and 30 days, respectively, or (2) give the ALJs the authority to modify the time requirements. They contend in the alternative that "if one or more parties claims to have been unfairly excluded from the settlement process, those parties should be entitled to move at any time for a settlement judge to preside over further proceedings. In such a situation, the dates for comments on the settlement, as provided under Rule 602(f), should automatically be suspended."[77] The Commission believes that the current rules about settlements provide the ALJs with adequate authority to act on any requests for extensions of time (Rule

[54] Natural Gas Clearinghouse at 3–7.

[55] Arkla Energy Resources, 48 FERC ¶ 61,602, *reh'g denied*, 49 FERC ¶ 61,051 (1989).

[56] Tejas Power Co. v. FERC, 908 F.2d 998 (D.C. Cir. 1990).

[57] Columbia Gas Transmission Corp., 64 FERC ¶ 61,366, *reh'g denied and order clarified*, 66 FERC ¶ 61,214 (1994); Southern Natural Gas Co., 67 FERC ¶ 61,156 (1994), *appeal docketed*, Mississippi Valley Gas Co. v. FERC, No. 94–1486 (D.C. Cir. filed July 1, 1994).

[58] United Municipal Distribution Group v. FERC, 732 F.2d 102 (D.C. Cir. 1984).

[59] Arkla Energy Resources, 48 FERC ¶ 61,602 at p. 61,303, *reh'g denied*, 49 FERC ¶ 61,051 (1989).

[60] PEC Pipeline Group at 7.

[61] Columbia Gas Transmission Corp., 64 FERC ¶ 61,366, *reh'g denied and order clarified*, 66 FERC ¶ 61,214 (1994); Southern Natural Gas Co., 67 FERC ¶ 61,156 (1994).

[62] Industrials at 12.

[63] Natural Gas Clearinghouse at 7–8.

[64] AGD at 6; Electric Generation at 12; Natural Gas Supply at 4.

[65] Natural Gas Pipeline at 4–7.

[66] Industrials at 21–23.

[67] Natural Gas Supply at 4.

[68] Northern Distributors at 6–8.

[69] Northeast and New Jersey at 3–4.

[70] Rule 602(h)(2)(iii)(B).

[71] Industrials at 14.

[72] *See* United Gas Pipe Line Company, 47 FERC ¶ 61,035 (1989); *cf.* Southern Natural Gas Company, 10 FERC ¶ 61,287 at p. 61,577 (1988).

[73] PEC Pipeline Group at 4–6. The PEC Pipeline Group also maintains that the Commission should not permit an ALJ to certify a settlement "unless, at a minimum, the contested settlement is sponsored and supported by the primary party." We prefer to leave this to the discretion of the ALJs.

[74] Industrials at 15.

[75] *See* Rule 601(a).

[76] In rate cases, for instance, the trial staff initiates settlement discussions by the filing of top sheets which are followed by settlement conferences where all parties are invited to attend. If the discussions held at these conferences suggest that a settlement is obtainable, further settlement conferences are held. In all other cases, the trial staff explores with the parties whether settlement discussions should be pursued. If settlement discussions are held, no party is kept out of the process. There may be occasions, however, when smaller meetings with selected parties are held to advance settlement.

[77] Industrials at 23–24.

VOL
60
ISS
75
AP
19
1995
UMI

602(f)(2)) or for a settlement judge (Rule 603).

Natural Gas Supply suggests other steps to more efficiently resolve rate matters. It recommends (1) requiring the filing of Statement P with the case itself, (2) requiring staff to timely prepare and submit top sheets, and (3) appointing a settlement judge for each new rate filing.[78] These matters fall beyond the scope of this proceeding. For example, the Commission is proposing in another rulemaking to require the submission of Statement P with a rate filing.[79]

Finally, the Industrials ask us to codify the procedures for technical conferences. That is also a matter that is beyond the scope of this rulemaking.[80]

V. Miscellaneous

A. ADR in Oil Pipeline Rate Proceedings

Section 1802(e) of the Energy Policy Act of 1992[81] required the Commission, to the maximum extent practicable, to establish ADR procedures in oil pipeline rate proceedings including required negotiations and voluntary arbitration for use early in contested rate proceedings. In Order No. 561,[82] the Commission established ADR and arbitration procedures for oil pipelines at § 343.5 of its regulations. Those provisions are much the same as the ADR rules proposed in the ADR NOPR in the instant proceeding except for a provision that requires the Commission to refer all protested oil pipeline rate filings to a settlement judge for recommended resolution.

The NOPR asked for comments on whether to integrate the oil pipeline provisions into the proposed ADR rules so that the Commission would then have a single set of ADR rules. The Association of Oil Pipelines (AOPL) supports integration but claims that the prohibitions against judicial review in the proposed rules are not included in the oil pipeline ADR rules and thus should not be made applicable to oil pipelines in the final rules here. The PEC Pipeline Group observes that the Congressional mandate for required negotiation does not apply to gas pipelines and therefore that the required negotiation approach is inappropriate in the gas pipeline context.[83]

The Commission concludes that it would be more efficient and less confusing for all participants in Commission proceedings to have a single set of ADR rules. The Commission thus will make the ADR rules adopted here applicable to oil pipelines. The Commission disagrees with AOPL's position on judicial review because we did not intend special judicial review provisions for oil pipelines,[84] and thus will not exclude oil pipelines from the provisions adopted here regarding judicial review. The Commission agrees, however, that negotiation should not be required other than for oil pipelines and thus will make the required negotiation provision currently in the oil pipeline ADR rules applicable only to oil pipelines. Therefore, we are deleting most of § 343.5 of the Commission's regulations, except for the required negotiation provision previously at § 343.5(b), which is now renumbered simply as § 343.5. We are also deleting some of the related definitions in § 343.1.

B. ADR and Other Agencies

The U.S. Departments of Commerce[85] and the Interior generally support the use of ADR, but Interior expresses concern over how those Departments' statutory functions in the hydropower licensing process will be protected and integrated in the ADR process.

Section 4(e) of the Federal Power Act (FPA) requires that Commission licenses for projects located within United States reservations must include all conditions that the Secretary of the department under whose supervision the reservation falls shall deem necessary for the adequate protection and utilization of such reservation.[86] Section 18 of the FPA requires the Commission to require the licensee to provide "such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce."[87] Interior also refers to section 30(c) of the FPA,[88] which requires the Commission to include fish and wildlife protective conditions in exemptions from licenses when those Departments so mandate, and to section 7(a)(2) of the Endangered Species Act,[89] which requires certain consultation with Interior's U.S. Fish and Wildlife Service. We also note that section 10(j) of the FPA,[90] in conjunction with the Fish and Wildlife Coordination Act,[91] mandates consultation with both Commerce and Interior on fish and wildlife mitigation conditions in Licenses.

We assure both Departments that their statutory authority and responsibilities will not be impaired. The ADR rules are not intended, nor could they be lawfully construed, to in any way waive, evade, or undermine any agency's statutory rights or responsibilities. Having rendered that categorical assurance, we urge both Commerce and Interior to join us in devising ways to integrate the conduct of their statutory functions under the FPA with the Commission's. In particular, we encourage Commerce and Interior to participate early and actively in consultative, ADR, or any other informal fora for discussing environmental problems and potential mitigatory and enhancement measures with license applicants, other interested persons, and (where appropriate) our staff, in an effort to resolve these matters as early, cooperatively and efficiently as possible.[92]

The Colorado River Energy Distributors Association (CREDA) comment on the use of ADR techniques in the context of requests by Federal Power Marketing Agencies (PMA's) for confirmation and approval of rates proposed for the sale of power from federally-owned projects.

CREDA asserts that PMA rate proceedings at the Commission lend themselves especially well to ADR proceedings. CREDA cites the Commission's traditional advisory role in deciding whether to confirm and approve PMA rates, and maintains that this role would be greatly enhanced by the availability of ADR. CREDA further cites the sometimes conflicting goals of the PMA's, the customers of PMA's, and the federal power generating agencies that are charged with recovery of the costs of operating the projects. CREDA concludes that in light of these conflicting interests and the numerous complex issues involved in PMA rate proceedings, informal resolution of these issues through ADR proceedings could greatly reduce the Commission's workload in PMA rate proceedings.

CREDA generally supports the Commission's proposals to incorporate use of ADR. CREDA recognizes that § 300.1(a) of Part 300 of the Commission's regulations already specifically states that, except as otherwise provided by rule or order, the Commission's Rules of Practice and Procedure apply to filings by PMA's in which confirmation and approval is sought for proposed rates. CREDA nevertheless recommends, out of an abundance of caution, that the Commission specifically state in its regulations concerning Commission consideration of PMA rate filings that ADR is available upon Commission order. It is not necessary, however, to make specific provision for ADR in the regulations concerning PMA rate filings because § 300.1(a) makes the Rules of Practice and Procedure generally applicable to all PMA rate proceedings under Part 300.

VI. Administrative Findings

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[93] generally requires the Commission to describe the impact that a rule will have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. The Commission is not required to make an analysis if a rule will not have such an impact.[94]

Pursuant to section 605(b) of the RFA, the Commission certifies that the Final Rule adopted herein will not have a significant economic impact on a substantial number of small entities.

B. Environmental Review

The Commission is not preparing an environmental assessment or environmental impact statement in this proceeding because the new rules and amendments are procedural only, changing only the Commission's Rules of Practice and Procedure, and therefore have no significant effect on the human environment.[95]

C. Information Collection Requirements

Office of Management and Budget (OMB) regulations require OMB to approve certain information collection requirements imposed by agency rules.[96] However, this Final Rule contains no new information collection requirements in part 385 and therefore is not subject to OMB approval.

VII. Effective Date

This rule is effective May 19, 1995.

List of Subjects

18 CFR Part 343

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends parts 343 and 385, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 343—PROCEDURAL RULES APPLICABLE TO OIL PIPELINE PROCEEDINGS

1. The authority citation for part 343 is revised to read as follows:

Authority: 5 U.S.C. 571–583; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1-85.

§ 343.1 [Amended]

2. In § 343.1, paragraphs (a), (b), (d), (e), (f), (g) and (h) are removed, and paragraphs (c) and (i) are redesignated as paragraphs (a) and (b), respectively.

3. § 343.5 is revised to read as follows:

§ 343.5 Required negotiations.

The Commission or other decisional authority may require parties to enter into good faith negotiations to settle oil pipeline rate matters. The Commission will refer all protested rate filings to a settlement judge pursuant to § 385.603 of this chapter for recommended resolution. Failure to participate in such negotiations in good faith is a ground for decision against the party so failing to participate on any issue that is the subject of negotiation by other parties.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In § 385.503, paragraph (a) is revised to read as follows:

§ 385.503 Consolidation, severance and extension of close-of-record date by Chief Administrative Law Judge (Rule 503).

(a) The Chief Administrative Law Judge may, on motion or otherwise, order proceedings pending under this subpart consolidated for hearing on, or settlement of, any or all matters in issue in the proceedings, or order the severance of proceedings or issues in a proceeding. The order may be appealed to the Commission pursuant to Rule 715.

* * * * *

3. In § 385.504, paragraph (b)(7) is revised to read as follows:

§ 385.504 Duties and powers of presiding officers (Rule 504).

* * * * *

(b) *Powers.* * * *

(7) Hold conferences of the participants, as provided in Subpart F of this part, including for the purpose of considering the use of alternative dispute resolution procedures;

* * * * *

4. In § 385.601, paragraph (a) is revised to read as follows:

§ 385.601 Conferences (Rule 601).

(a) *Convening.* The Commission or other decisional authority, upon motion or otherwise, may convene a conference of the participants in a proceeding at any time for any purpose related to the conduct or disposition of the proceeding, including submission and consideration of offers of settlement or the use of alternative dispute resolution procedures.

* * * * *

5. In § 385.602, paragraphs (b)(3) and (f)(4) are added and paragraphs (h)(1)(ii) introductory text, (h)(1)(iii), (h)(2)(iii), and (h)(2)(iv) are revised to read as follows:

§ 385.602 Submission of settlement offers (Rule 602).

* * * * *

(b) *Submission of offer.* * * *

(3) If an offer of settlement pertains to multiple proceedings that are in part pending before the Commission and in part set for hearing, any participant may by motion request the Commission to consolidate the multiple proceedings and to provide any other appropriate procedural relief for purposes of disposition of the settlement.

* * * * *

(f) *Comments.* * * *

(4) Any comment that contests an offer of settlement by alleging a dispute as to a genuine issue of material fact

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[78] Natural Gas Supply at 5–7.

[79] Filings and Reporting Requirements for Interstate Natural Company Rate Schedules and Tariff, 60 FR 311 (Jan. 13, 1995), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,511 (Dec. 16, 1994).

[80] Industrials at 23–24.

[81] *See* 42 U.S.C.A. 7172 note (West Supp. 1993).

[82] Revisions to Oil Pipeline Regulations pursuant to the Energy Policy Act of 1992, Order No. 561, 58 FR 58785 (November 4, 1993), III FERC Stats. & Regs. ¶ 30, 985 (1993), *order on reh'g and clarification* Order No. 561–A, 59 FR 40243 (August 8, 1994), III FERC Stats. & Regs. ¶ 31,000 (1994).

[83] PEC Pipeline Group at 16–17.

[84] *See*, for example, Order No. 561 at 30,974, where the Commission specifically provided: "A decision by the Commission to vacate an arbitration award would not be subject to judicial review."

[85] The comments of the Department of Commerce were submitted by its National Marine Fisheries Service.

[86] 16 U.S.C. 797(e).

[87] 16 U.S.C. 811.

[88] 16 U.S.C. 823a(c).

[89] 16 U.S.C. 1536(a)(2).

[90] 16 U.S.C. 803(j).

[91] 16 U.S.C. 661 *et seq.*

[92] We are not willing to adopt Interior's suggestion that State and Federal resource agencies be accorded the power to, in effect, veto the use of ADR procedures in hydropower license cases. The statutory rights of the resource agencies can be adequately protected without precluding all of the other interested participants in the process from meeting and trying to resolve their differences through use of ADR procedures.

[93] 5 U.S.C. 601–612.

[94] 5 U.S.C. 605(b).

[95] Section 380.4(a)(2)(ii) of the Commission's regulations categorically exempts from environmental review Commission proposals for promulgation of rules that are clarifying, corrective, or procedural, or that do not substantially change the effect of the regulations being amended. *See* 18 CFR 380.4(a)(2)(ii).

[96] 5 CFR 1320.13.

VOL 60 ISS 75 AP 19 1995 UMI

must include an affidavit detailing any genuine issue of material fact by specific reference to documents, testimony, or other items included in the offer of settlement, or items not included in the settlement, that are relevant to support the claim. Reply comments may include responding affidavits.

* * * * *

(h) *Contested offers of settlement.*

(1) * * *

(ii) If the Commission finds that the record lacks substantial evidence or that the contesting parties or contested issues can not be severed from the offer of settlement, the Commission will:

* * * * *

(iii) If contesting parties or contested issues are severable, the contesting parties or uncontested portions may be severed. The uncontested portions will be decided in accordance with paragraph (g) of this section.

(2) * * *

(iii) Any offer of settlement or part of any offer may be certified to the Commission, if:

(A) The parties concur on a motion for omission of the initial decision as provided in Rule 710, or, if all parties do not concur in the motion, the presiding officer determines that omission of the initial decision is appropriate under Rule 710(d), and

(B) The presiding officer determines that the record contains substantial evidence from which the Commission may reach a reasoned decision on the merits of the contested issues.

(iv) If any contesting parties or contested issues are severable, the uncontested portions of the settlement may be certified immediately by the presiding officer to the Commission for decision, as provided in paragraph (g) of this section.

* * * * *

6. In Subpart F, §§ 385.604 through 385.606 are added to read as follows:

§ 385.604 Alternative means of dispute resolution (Rule 604).

(a) *Applicability.* (1) Participants may, subject to the limitations of paragraph (a)(2) of this section, use alternative means of dispute resolution to resolve all or part of any pending matter if the participants agree. The alternative means of dispute resolution authorized under Subpart F of this part will be voluntary procedures that supplement rather than limit other available dispute resolution techniques.

(2) Except as provided in paragraph (a)(3) of this section, the decisional authority will not consent to use of an alternative dispute resolution proceeding if:

(i) A definitive or authoritative resolution of the matter is required for precedential value;

(ii) The matter involves or may bear upon significant questions of policy that require additional procedures before a final resolution may be made, and the proceeding would not likely serve to develop a recommended policy;

(iii) Maintaining established policies is of special importance;

(iv) The matter significantly affects persons or organizations who are not parties to the proceeding;

(v) A full public record of the proceeding is important, and a dispute resolution proceeding cannot provide a record; or

(vi) The Commission must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the Commission's fulfilling that requirement.

(3) If one or more of the factors outlined in paragraph (a)(2) of this section is present, alternative dispute resolution may nevertheless be used if the alternative dispute resolution proceeding can be structured to avoid the identified factor or if other concerns significantly outweigh the identified factor.

(4) A determination to use or not to use a dispute resolution proceeding under Subpart F of this part is not subject to judicial review.

(5) Settlement agreements reached through the use of alternative dispute resolution pursuant to Subpart F of this part will be subject to the provisions of Rule 602, unless the decisional authority, upon motion or otherwise, orders a different procedure.

(b) *Definitions.* For the purposes of Subpart F of this part:

(1) *Alternative means of dispute resolution* means any procedure that is used, in lieu of an adjudication, to resolve issues in controversy, including but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

(2) *Award* means any decision by an arbitrator resolving the issues in controversy;

(3) *Dispute resolution communication* means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or non-party participant. A written agreement to enter into a dispute resolution proceeding, or a final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

(4) *Dispute resolution proceeding* means any alternative means of dispute resolution that is used to resolve an issue in controversy in which a neutral may be appointed and specified parties participate;

(5) *In confidence* means information is provided:

(i) With the expressed intent of the source that it not be disclosed, or

(ii) Under circumstances that create a reasonable expectation on behalf of the source that the information will not be disclosed;

(6) *Issue in controversy* means an issue which is or is anticipated to be material to a decision in a proceeding before the Commission and which is the subject of disagreement between participants who would be substantially affected by the decision or between the Commission and any such participants;

(7) *Neutral* means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

(8) *Participants* in a dispute resolution proceeding that is used to resolve an issue in controversy in a proceeding involving an application for a license or exemption to construct, operate, and maintain a hydroelectric project pursuant to the Federal Power Act or the Public Utility Regulatory Policies Act shall include such state and federal agencies and Indian tribes as have statutory roles or a direct interest in such hydroelectric proceedings.

(c) *Neutrals.* (1) A neutral may be a permanent or temporary officer or employee of the Federal Government (including an administrative law judge), or any other individual who is acceptable to the participants to a dispute resolution proceeding. A neutral must have no official, financial, or personal conflict of interest with respect to the issues in controversy, except that a neutral who is not a government employee may serve if the interest is fully disclosed in writing to all participants and all participants agree.

(2) A neutral serves at the will of the participants, unless otherwise provided.

(3) Neutrals may be selected from among the Commission's administrative law judges or other employees, from rosters kept by the Federal Mediation and Conciliation Service, the Administrative Conference of the United States, the American Arbitration Association, or from any other source.

(d) *Submission of proposal to use alternative means of dispute resolution.* (1) The participants may at any time submit a written proposal to use alternative means of dispute resolution to resolve all or part of any matter in controversy or anticipated to be in controversy before the Commission.

(2) For matters set for hearing under Subpart E of this part, a proposal to use alternative means of dispute resolution other than binding arbitration must be filed with the presiding administrative law judge.

(3) A proposal to use binding arbitration must be filed with the Secretary for consideration by the Commission.

(4) For all other matters, a proposal to use alternative means of dispute resolution may be filed with the Secretary for consideration by the appropriate decisional authority.

(5) The appropriate decisional authority will issue an order, approving or denying, under the guidelines in Rule 604(a) (2) and (3), a proposal to use alternative means of dispute resolution. Denial of a proposal to use alternative dispute resolution will be in the form of an order and will identify the specific reasons for the denial. A proposal to use alternative dispute resolution is deemed approved unless an order denying approval is issued within 30 days after the proposal is filed.

(6) Any request to modify a previously-approved ADR proposal must follow the same procedure used for the initial approval.

(e) *Contents of proposal.* A proposal to use alternative means of dispute resolution must be in writing and include:

(1) A general identification of the issues in controversy intended to be resolved by the proposed alternative dispute resolution method,

(2) A description of the alternative dispute resolution method(s) to be used,

(3) The signatures of all participants or evidence otherwise indicating the consent of all participants; and

(4) A certificate of service pursuant to Rule 2010(h).

(f) *Monitoring the alternative dispute resolution proceeding.* The decisional authority may order reports on the status of the alternative dispute resolution proceeding at any time.

(g) *Termination of alternative dispute resolution proceeding.* (1) The decisional authority, upon motion or otherwise, may terminate any alternative dispute resolution proceeding under Rule 604 or 605 by issuing an order to that effect.

(2) A decision to terminate an alternative dispute resolution proceeding is not subject to judicial review.

§ 385.605 Arbitration (Rule 605).

(a) *Authorization of arbitration.* (1) The participants may at any time submit a written proposal to use binding arbitration under the provisions of Rule 605 to resolve all or part of any matter in controversy, or anticipated to be in controversy, before the Commission.

(2) The proposal must be submitted as provided in Rule 604(d).

(3) The proposal must be in writing and contain the information required in Rule 604(e).

(4) An arbitration proceeding under this rule may be monitored and terminated as provided in Rule 604 (d) and (g).

(5) No person may be required to consent to arbitration as a condition of entering into a contract or obtaining a benefit. All interested parties must expressly consent before arbitration may be used.

(b) *Arbitrators.* (1) The participants to an arbitration proceeding are entitled to select the arbitrator.

(2) The arbitrator must be a neutral who meets the criteria of a neutral under Rule 604(c).

(c) *Authority of arbitrator.* An arbitrator to whom a dispute is referred under this section may:

(1) Regulate the course of and conduct arbitral hearings;

(2) Administer oaths and affirmations;

(3) Compel the attendance of witnesses and the production of evidence to the extent the Commission is authorized by law to do so; and

(4) Make awards.

(d) *Arbitration proceedings.* (1) The arbitrator will set a time and place for the hearing on the dispute and must notify the participants not less than 5 days before the hearing.

(2) Any participant wishing that there be a record of the hearing must:

(i) Prepare the record;

(ii) Notify the other participants and the arbitrator of the preparation of the record;

(iii) Furnish copies to all identified participants and the arbitrator; and

(iv) Pay all costs for the record, unless the participants agree otherwise or the arbitrator determines that the costs should be apportioned.

(3) (i) Participants to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing to the same extent as in a proceeding under Subpart E of this part;

(ii) The arbitrator may, with the consent of the participants, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each participant has an opportunity to participate.

(iii) The hearing must be conducted expeditiously and in an informal manner.

(iv) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

(v) The arbitrator will interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

(4) No interested person will make or knowingly cause to be made to the arbitrator an unauthorized *ex parte* communication relevant to the merits of the proceeding, unless the participants agree otherwise. If a communication is made in violation of this prohibition, the arbitrator will ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of such communication, the arbitrator may require the offending participant to show cause why the claim of the participant should not be resolved against the participant as a result of the improper conduct.

(5) The arbitrator will make the award within 30 days after the close of the hearing or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless the participants and the arbitrator agree to some other time limit.

(e) *Arbitration awards.* (1)(i) The award in an arbitration proceeding under Subpart F of this chapter will include a brief, informal discussion of the factual and legal basis for the award.

(ii) The prevailing participants must file the award with the Commission, along with proof of service on all participants.

(2) The award in an arbitration proceeding will become final 30 days after it is filed, unless the award is vacated. The Commission, upon motion or otherwise, may extend the 30-day period for one additional 30-day period by issuing a notice of the extension before the end of the first 30-day period.

(3) A final award is binding on the participants to the arbitration proceeding.

(4) An award may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. The award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding or in any other arbitration proceeding.

(f) *Vacating an award.* (1) Within 10 days after the award is filed, any person may file a request with the Commission to vacate an arbitration award and must

VOL 60 ISS 75 AP 19 1995 UMI

serve the request to vacate on all participants. Responses to such a request are due 10 days after the request is filed.

(2) Upon request or otherwise, the Commission may vacate any award issued under this rule before the award becomes final by issuing an order to that effect, in which case the award will be null and void.

(3) Rule 2202 regarding separation of functions applies with respect to a decision to vacate an arbitration award.

(4) If the Commission vacates an award under paragraph (f)(3) of this section, a party to the arbitration may, within 30 days of the action, petition the Commission for an award of attorney fees and expenses incurred in connection with the arbitration proceeding. The Commission will award the petitioning party those fees and expenses that would not have been incurred in the absence of the arbitration proceeding, unless the Commission finds that special circumstances make the award unjust. The fees and expenses awarded will be paid by the Commission.

(5) An arbitration award vacated under this paragraph will not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

(6) A decision by the Commission to vacate an arbitration award is not subject to rehearing or judicial review.

§ 385.606 Confidentiality in dispute resolution proceedings (Rule 606).

(a) Except as provided in paragraphs (d) and (e) of this section, a neutral in a dispute resolution proceeding shall not voluntarily disclose, or through discovery or compulsory process be required to disclose, any information concerning any dispute resolution communication or any communication provided in confidence to the neutral, unless:

(1) All participants in the dispute resolution proceeding and the neutral consent in writing;

(2) The dispute resolution communication has otherwise already been made public;

(3) The dispute resolution communication is required by statute to be made public, but a neutral should make the communication public only if no other person is reasonably available to disclose the communication; or

(4) A court determines that the testimony or disclosure is necessary to:

(i) Prevent a manifest injustice;

(ii) Help establish a violation of law; or

(iii) Prevent harm to the public health or safety of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of participants in future cases that their communications will remain confidential; or

(5) The dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of the agreement or award.

(c) Any dispute resolution communication that is disclosed in violation of paragraphs (a) or (b) of this section shall not be admissible in any proceeding.

(d) The participants may agree to alternative confidential procedures for disclosures by a neutral. The participants must inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of paragraph (a) of this section that will govern the confidentiality of the dispute resolution proceeding. If the participants do not so inform the neutral, paragraph (a) of this section shall apply.

(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a participant regarding a dispute resolution communication, the participant will make reasonable efforts to notify the neutral and the other participants of the demand. Any participant who receives the notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information waives any objection to the disclosure.

(f) Nothing in Rule 606 prevents the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding. See sections 385.410 and 388.112 of this chapter.

(g) Paragraphs (a) and (b) of this section do not preclude disclosure of information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

(h) Paragraphs (a) and (b) of this section do not prevent the gathering of information for research and educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the participants and the specific issues in controversy are not identifiable.

(i) Paragraphs (a) and (b) of this section do not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a participant in the proceeding, so long as the communication is disclosed only to the extent necessary to resolve the dispute.

(j) Nothing in this section precludes parties from seeking privileged treatment for documents under section 388.112 of this chapter.

(k) Where disclosure is authorized by this section, nothing in this section precludes use of a protective agreement or protective orders.

7. In § 385.710, paragraph (d) is added to read as follows:

§ 385.710 Waiver of the initial decision (Rule 710).

* * * * *

(d) *Waiver by presiding officer.* A motion for waiver of the initial decision, requested for the purpose of certification of a contested settlement pursuant to Rule 602(h)(2)(iii)(A), may be filed with, and decided by, the presiding officer. If all parties join in the motion, the presiding officer will grant the motion. If not all parties join in the motion, the motion is denied unless the presiding officer grants the motion within 30 days of filing the written motion or presenting an oral motion. The contents of any motion filed under paragraph (d) of this section must comply with the requirements in paragraph (b) of this section. A motion may be oral or written, and may be made whenever appropriate for the consideration of the presiding officer.

Note.—This appendix will not be published in the Code of Federal Regulations.

Appendix

Alternative Dispute Resolution

Docket No. RM91–12–000

Commenters

American Gas Distributors (AGD)
American Public Power Association
Association of Oil Pipelines (AOPL)
Colorado Interstate Gas Company and ANR Pipeline Company (CIG and ANR)
Colorado River Energy Distributors Association (CREDA)
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company (Columbia Gas)
Consumers Power Company (Consumers)
Edison Electric Institute (EEI)
Electric Generation Association (Electric Generation)
McCormack Institute of Public Affairs
Missouri Public Service Commission (Missouri PSC)
Natural Gas Clearinghouse
Natural Gas Pipeline Company of America (Natural Gas Pipeline)
Natural Gas Supply Association (Natural Gas Supply)
New England Power Service
Northeast Energy Associates and North Jersey Energy Associates (Northeast and North Jersey)
Northern Distributors Group (Northern Distributors)
Northwest Industrial Gas Users (Northwest Users)
Pacific Gas and Electric Company (PG&E)
Process Gas Consumers Group, American Iron and Steel Institute, and Georgia Industrial Group (Industrials)
Texas Eastern Transmission Corporation, Panhandle Eastern Pipe Line Company, Trunkline Gas Company and Algonquin Gas Transmission Company (PEC Pipeline Group)
Transcontinental Gas Pipe Line Corporation (Transco)
U.S. Department of Commerce (Commerce)
U.S. Department of the Interior (Interior)
Williams Natural Gas Company and Northwest Pipeline Company (Williams)
Wisconsin Municipal Group

[FR Doc. 95–9594 Filed 4–18–95; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[DEA No. 128F]

RIN 1117–AA26

Records, Reports, and Exports of Listed Chemicals

AGENCY: Drug Enforcement Administration (DES), Justice.

ACTION: Final rule.

SUMMARY: This final rule adds methyl isobutyl ketone (MIBK) as a List II Chemical under the Controlled Substances Act (CSA). This action is based on substantial evidence that MIBK is increasingly being used as a solvent in the production of cocaine hydrochloride during the conversion of cocaine base to cocaine hydrochloride. The recent steps by the Government of Columbia (GOC) to control MIBK further support this action.

This action will only affect specific types of transactions which are greater than 500 gallons or 1523 kilograms of MIBK destined for countries in the Western Hemisphere (with the exception of transactions destined for Canada). These transactions include (1) export transactions; (2) international transactions in which a U.S. broker or trader participates; and (3) transshipments through the U.S.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Howard McClain Jr., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537 at (202) 307–7183.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act (CSA), specifically 21 U.S.C. section 802, provides the Attorney General with the authority to specify by regulation, additional precursor and essential chemicals as "listed chemicals" if they are used in the illicit manufacture of controlled substances. Section 802(39) also provides the Attorney General with authority to establish a threshold amount for "listed chemicals" if the Attorney General so elects. This authority has been delegated to the Administrator of DEA by 28 CFR 0.100 and redelegated to the Deputy Administrator under 28 CFR 0.104 (Subpart R) Appendix Sec. 12.

On February 28, 1995 the Deputy Administrator of the Drug Enforcement Administration (DEA) published a Notice of Proposed Rulemaking (60 FR 10814). This notice proposed the addition of methyl isobutyl ketone (MIBK) as a List II Chemical under the Controlled Substances Act (CSA). Interested parties were given 30 days in which to submit comments and objections.

Only one comment was received in response to the Notice of Proposed Rulemaking. This comment requested further clarification of the meaning of the term "Western Hemisphere". Webster's II New Riverside University Dictionary defines the term "Western Hemisphere" to mean, "The half of the earth that includes North and South America, the surrounding waters, and all neighboring islands". For purposes of this rulemaking, this is the definition that the DEA is adopting.

While methyl ethyl ketone (MEK) has become the solvent of choice in the processing of cocaine base to cocaine hydrochloride, recent regulatory and enforcement efforts in Latin America have resulted in a reduced availability of MEK. Information available to DEA indicates that in response to this shortfall of MEK, cocaine laboratory operators have moved to the utilization of MIBK for the processing of cocaine base to cocaine hydrochloride. Due to information regarding the use of MIBK for cocaine processing, the dramatic increase in MIBK importation, and the importation of MIBK by some firms that the Government of Colombia (GOC) considers suspect, the GOC has recently taken steps to control the sale and distribution of MIBK.

The United States is a major producer of MIBK and exports MIBK to Colombia and other countries within Latin America. In light of the above, the DEA has determined that the control of MIBK as a List II Chemical under the CSA is warranted. Since the illicit use of MIBK for cocaine processing occurs in Latin America, MIBK shipments exported from the U.S., shipments transshipped or transferred through the U.S., and international transactions in which a U.S. broker or trader participates, shall be considered regulated transactions if destined for any country in the Western Hemisphere (with the exception of transactions destined for Canada) 21 U.S.C. section 802(39)(A)(iii). In addition, a threshold similar to that of MEK shall be established for MIBK. A threshold of 500 gallons (by volume) or 1523 kilograms (by weight) shall be established for MIBK. Therefore, this action will only effect specific types of transactions which are greater than 500 gallons or 1523 kilograms of MIBK destined for designated countries. These transactions include (1) export transactions; (2) international transactions in which a U.S. broker or trader participates; and (3) transshipments through the U.S. Import transactions of MIBK into the U.S. (not destined for transshipment or transfer to designated countries), and domestic transactions of MIBK are excluded from the definitions of regulated transactions contained in 21 CFR 1310.01(f) and 1313.02(d).

The Deputy Administrator hereby certifies that this rulemaking will have no significant impact upon entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. A review of maritime shipments of MIBK reveals that during a two year period, there were less than

VOL
60
ISS
75
AP
19
1995
UMI

100 above-threshold export transactions destined for designated countries. This rule is not a significant regulatory action and therefore has not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

This action has been analyzed in accordance with the principles and criteria in E.O. 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1310

Drug traffic control, Reporting and recordkeeping requirements.

For reasons set out above, 21 CFR part 1310 is amended as follows:

PART 1310—[AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 830, 871(b).

2. Section 1310.02 is amended by adding a new paragraph (b)(10) to read as follows:

§ 1310.02 Substances Covered.

* * * * *

(b) * * *

(10) Methyl Isobutyl Ketone (MIBK)

* * * * *

3. Section 1310.04 is amended by adding new paragraph (f)(2)(v) to read as follows:

§ 1310.04 Maintenance of Records.

* * * * *

(f) * * *

(2) * * *

(v) Export and International Transactions to Designated Countries, and Importations for Transshipment or Transfer to Designated Countries

Chemical	Threshold by volume	Threshold by weight
(A) Methyl Isobutyl Ketone (MIBK). (B) Reserved.	500 gallons	1523 kilograms.

4. Section 1310.08 is amended by adding new paragraphs (c), (d) and (e) to read as follows:

§ 1310.08 Excluded transactions.

* * * * *

(c) Domestic transactions of Methyl Isobutyl Ketone (MIBK).

(d) Import transactions of Methyl Isobutyl Ketone (MIBK) destined for the United States.

(e) Export transactions, international transactions, and import transactions for transshipment or transfer of Methyl Isobutyl Ketone (MIBK) destined for Canada or any country outside of the Western Hemisphere.

Dated: April 12, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–9589 Filed 4–18–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–34–1–6823; FRL–5183–4]

Clean Air Act Section 182(f) NO_x Exemption Petition; Phoenix Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing the approval of a petition submitted by the Arizona Department of Environmental Quality (ADEQ) requesting that EPA grant an exemption for the Phoenix ozone nonattainment area (Phoenix area) from the requirement to implement oxides of nitrogen (NO_x) reasonably available control technology (RACT). EPA published a proposed action to approve the Phoenix area NO_x exemption in the **Federal Register** on November 1, 1994. In accordance with the requirements of the Clean Air Act, as amended in 1990 (the Act or CAA), the EPA has determined that additional NO_x reductions from major stationary sources in the Phoenix area would not contribute to attainment of the national ambient air quality standard (NAAQS) for ozone. The approval of this action exempts the Phoenix area from implementing the NO_x requirements for RACT, new source review (NSR), and the applicable general and transportation conformity and inspection and maintenance (I/M) requirements of the CAA. The EPA is finalizing approval of this action under provisions of the CAA regarding plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on April 11, 1995.

ADDRESSES: Copies of the petition and EPA's evaluation report is available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted petition is available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012

Maricopa County Air Pollution Control District, 2406 South 24th Street, Suite E214, Phoenix, Arizona 85034

FOR FURTHER INFORMATION CONTACT: Wendy Colombo, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1202.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1994, EPA proposed to approve the Phoenix area NO_x exemption petition, submitted by the ADEQ on April 13, 1994. 59 FR 54540. The exemption petition is based on urban airshed modeling (UAM) and makes a demonstration that additional NO_x reductions in the Phoenix area would not contribute to attainment of the NAAQS for ozone. A detailed discussion of the background concerning the NO_x requirements and the submitted petition is provided in the notice of proposed rulemaking (NPRM) cited above.

EPA has evaluated the exemption petition for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the petition satisfies the applicable EPA requirements and is exempting the Phoenix area from implementing the NO_x requirements for RACT, NSR [1], and the applicable general and transportation conformity and I/M requirements [2] of the CAA. A detailed discussion of the petition and EPA's evaluation have been provided in the NPRM and in the technical support document (TSD), dated October 1994. A detailed discussion of the scope of the

[1] The section 182(f) exemption provisions center on the effect on ozone concentrations due to NO_x emission reductions. In the case of new or modified sources, even after the application of on-site controls from NSR programs, the source will result in increases of NO_x emissions. Therefore, the "substantial NO_x reductions" analysis used to demonstrate that NO_x reductions do not contribute to attainment should reflect a zero emissions increase from new or modified stationary sources.

[2] "Scope of Nitrogen Oxides (NO_x) Exemptions," from G.T. Helms, Group Leader, Ozone/Carbon Monoxide Programs Branch (MD–15), to the Air Branch Chiefs, January 12, 1995. "I/M Requirements in NO_x RACT Exempt Areas", from Mary T. Smith, Acting Director, Office of Mobile Sources, to the Air Division Directors, October 14, 1994.

NO_x exemption as applicable to the Phoenix area is discussed in the TSD dated January 1995 which accompanies this final action. These documents are available at EPA's Region IX office.

Response to Public Comments

A 30-day public comment period was provided in 59 FR 54540. EPA received comment letters of support from two utility companies, the Arizona transportation authority, and two local governments in the Phoenix area. Two adverse comment letters were received from environmental groups and a local public interest law office

In August 1994, three environmental groups submitted joint comments on the proposed approvals of NO_x exemptions for the Ohio and Michigan ozone nonattainment areas. The comments address EPA's policy regarding NO_x exemptions in general and apply to all actions EPA takes regarding section 182(f) NO_x exemptions. These comments as well as those received from the local public interest law office are addressed below.

Comment: Certain commenters argued that NO_x exemptions are provided for in two separate parts of the CAA, section 182(b)(1) and section 182(f). Because the NO_x exemption tests in subsections 182(b)(1) and 182(f)(1) include language indicating that action on such requests should take place "when [EPA] approves a plan or plan revision," these commenters conclude that all NO_x exemption determinations by the EPA, including exemption actions taken under the petition process established by subsection 182(f)(3), must occur during consideration of an approvable attainment or maintenance plan, unless the area has been redesignated as attainment. These commenters also argue that even if the petition procedures of subsection 182(f)(3) may be used to relieve areas of certain NO_x requirements, exemptions from the NO_x conformity requirements must follow the process provided in subsection 182(b)(1), since this is the only provision explicitly referenced by section 176(c), the CAA's conformity provisions.

Response: Section 182(f) contains very few details regarding the administrative procedure for acting on NO_x exemption requests. The absence of specific guidelines by Congress leaves EPA with discretion to establish reasonable procedures, consistent with the requirements of the Administrative Procedures Act (APA).

The EPA disagrees with the commenters regarding the process for considering exemption requests under section 182(f), and instead believes that subsections 182(f)(1) and 182(f)(3) provide independent procedures by which the EPA may act on NO_x exemption requests. The language in subsection 182(f)(1), which indicates that the EPA should act on NO_x exemptions in conjunction with action on a plan or plan revision, does not appear in subsection 182(f)(3). And, while subsection 182(f)(3) references subsection 182(f)(1), the EPA believes that this reference encompasses only the substantive tests in paragraph (1) [and, by extension, paragraph (2)], not the procedural requirement that the EPA act on exemptions only when acting on SIPs. Additionally, paragraph (3) provides that "person[s]" (which section 302(e) of the CAA defines to include States) may petition for NO_x exemptions "at any time," and requires the EPA to make its determination within six months of the petition's submission. These key differences lead EPA to believe that Congress intended the exemption petition process of paragraph (3) to be distinct and more expeditious than the longer plan revision process intended under paragraph (1).

With respect to major stationary sources, section 182(f) requires States to adopt NO_x NSR and RACT rules, unless exempted. These rules were generally due to be submitted to EPA by November 15, 1992. Thus, in order to avoid the CAA sanctions, areas seeking a NO_x exemption would have needed to submit their exemption request for EPA review and rulemaking action several months before November 15, 1992. In contrast, the CAA specifies that the attainment demonstrations are not due until November 1993 or 1994 (and EPA may take 12–18 months to approve or disapprove the demonstration). For marginal ozone nonattainment areas (subject to NO_x NSR), no attainment demonstration is called for in the CAA. For maintenance plans, the CAA does not specify a deadline for submittal of maintenance demonstrations. Clearly, the CAA envisions the submittal of and EPA action on exemption requests, in some cases, prior to submittal of attainment or maintenance demonstrations.

The CAA requires conformity to the applicable SIP with regard to federally-supported NO_x generating activities in relevant nonattainment and maintenance areas. However, EPA's conformity rules explicitly provide that these NO_x requirements would not apply if EPA grants an exemption under section 182(f). In response to the comment that section 182(b)(1) should be the appropriate vehicle for dealing with exemptions from the NO_x requirements of the conformity rule, EPA notes that this issue has previously been raised in a formal petition for reconsideration of EPA's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. The issue, thus, is under consideration within EPA, but at this time remains unresolved. Additionally, subsection 182(f)(3) requires that NO_x exemption petition determinations be made by the EPA within six months. The EPA has stated in previous guidance that it intends to meet this statutory deadline as long as doing so is consistent with the Administrative Procedures Act. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in EPA's final conformity regulations, and EPA remains bound by their existing terms.

Comment: One commenter contends that because the Arizona SIP is inadequate to produce attainment, EPA cannot approve the waiver under section 182(f).

Response: The basis for granting the NO_x exemption is that additional NO_x reductions would not contribute to attainment. How an area demonstrates that NO_x reductions do not contribute to attainment is outlined in EPA's December 1993 exemption guidance.[3] The contribute to attainment test is met by demonstrating through UAM that substantial reductions of VOC emissions result in lower ozone levels than would result from both substantial reductions of NO_x emissions and combined reductions of VOC and NO_x emissions. The Phoenix petition adequately demonstrates this through UAM modeling consistent with EPA's guidance. For reasons stated above, EPA does not agree that the decision to grant or deny the Phoenix petition under section 182(f) should depend on the approvability of the attainment demonstration under section 182 (b) or (c).

Comment: Some commenters stated that the modeling required by EPA guidance is insufficient to establish that NO_x reductions would not contribute to attainment since only one level of NO_x control, i.e., "substantial" reductions, is required to be analyzed. The comments also contend that the NO_x reductions modeled specifically for the Phoenix

[3] "Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f)," from John S. Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Division Directors, December 16, 1993.

VOL 60 ISS 75 AP 19 1995 UMI

petition are not sufficient to meet the requirements of section 182(f), and that if any level of additional NO_X reductions would contribute to attainment (as opposed to one test showing substantial reductions do not contribute to attainment), then the waiver must be denied. In addition, the commenters claim that Arizona did not model scenarios actually presented in the SIP.

Response: As described in EPA's December 1993 NO_X exemption guidance, photochemical grid modeling is generally needed to document cases where NO_X reductions are counterproductive to net air quality, do not contribute to attainment, do not show a net ozone benefit, or include excess reductions. The UAM or, in an ozone transport region, the Regional Oxidant Model (ROM) are acceptable models for these purposes.

EPA's guidance also states that application of UAM should be consistent with techniques specified in the EPA document, entitled, *Guideline on Air Quality Models, Revised*. Further, application of UAM should also be consistent with procedures contained in the EPA document, *Guideline for Regulatory Application of the Urban Airshed Model*, issued July 1991. Thus, episode selection for the section 182(f) demonstration should be consistent with the UAM guidance for SIP attainment demonstrations.

The section 182(f) contribute to attainment and net ozone benefit demonstrations concern unspecified "additional reductions" of NO_X. EPA's December 1993 exemption guidance specifies that the analysis should reflect 3 scenarios of "substantial" NO_X and VOC emission reductions. The guidance states that, in the first scenario, the demonstration should use the VOC reductions needed to attain (demonstrated by EKMA or UAM analyses). Alternatively, if the attainment demonstration has not been completed, the demonstration may use some other substantial VOC reduction. In any case, the VOC reductions should be substantial and documented as reasonable to expect for the area due to the CAA requirements. In the second scenario, NO_X reductions should be modeled without any VOC reductions above the attainment year baseline. The level of NO_X reductions should reflect the same percent reduction of anthropogenic VOC emissions in scenario (1) above. In the third scenario, a similar level of NO_X reductions would be modeled along with the level of VOC reductions chosen. That is, if a 40% VOC reduction is chosen in scenario (1), then the model for scenario (3) would simulate a 40% VOC reduction and approximately a 40% NO_X reduction. It would be inappropriate to select a high level of VOC reductions and a low level of NO_X reductions since this could artificially favor a finding that NO_X reductions are not beneficial; thus, the scenarios are constrained to avoid an inappropriate analysis.

The EPA believes that these analyses are appropriate to determine in a *directional manner* whether or not NO_X reductions are expected to be beneficial with respect to the air quality in the area/region. These analyses described in EPA's December 1993 guidance may be less precise than an attainment demonstration required under section 182(c). By contrast, with respect to the excess reductions provision in section 182(f)(2), EPA believes that more than a directional analysis is needed (for reasons described in the December 1993 guidance) and, therefore, requires an analysis based on the attainment demonstration.

The EPA does not agree that the waiver analysis must consider "any level" of NO_X reductions. The EPA guidance requires analysis of "substantial" reductions because reductions which are extremely small or extremely large would bias the model so that the results could be predetermined. Analyzing very small changes in NO_X and/or VOC emissions would yield a result of no change in the ozone concentrations since the model cannot assess very small changes. Analysis of very large NO_X emission reductions might be unrealistic (especially compared to the adopted attainment demonstration) and would result in concluding that NO_X reductions reduce ozone concentrations in all cases. Also, in developing an attainment demonstration, an area typically tries to attain the ozone standard in the least costly way by starting from current conditions and reducing emissions from there. While 100% VOC reduction alternatives exist, they are not the least expensive ways to meet the NAAQS, and may not be feasible. Instead, alternative combinations of VOC and NO_X reductions are examined. If two different strategies show the same ambient ozone concentration, but one requires greater reductions and cost, the latter is not considered a preferable strategy.

EPA believes that the main reason for the NO_X RACT waiver provisions in the CAA is the recognition by Congress that under certain conditions NO_X emission reductions can be counterproductive to ozone attainment, because they could increase ozone levels and necessitate additional VOC reductions to compensate. Although required as beneficial to ozone attainment unless demonstrated otherwise, NO_X reductions which achieve the same ozone levels at a greater cost based on a strategy using extra counterbalancing VOC reductions does not make sense from an ozone regulatory standpoint. Therefore, EPA's exemption guidance reflects this rationale in allowing petitioners the opportunity to demonstrate scenarios where substantial reductions of NO_X are counterproductive to ozone attainment. In the Arizona petition, both across-the-board NO_X reductions and NO_X RACT specific reductions were simulated which consistently demonstrate that NO_X reductions do not contribute to attainment of the ozone standard.

The EPA believes that the scenarios utilized in the Phoenix analysis are adequate to determine that NO_X reductions that might reasonably be considered in an attainment strategy would not contribute to attainment in the Phoenix area.

Comment: Some commenters provided a comment that three years of "clean"data fail to demonstrate that NO_X reductions would not contribute to attainment.

Response: The EPA does not believe that this comment is applicable to the Phoenix area action because the area's section 182(f) petition is based on modeling rather than "clean" monitoring data.

Comment: Some commenters provided a comment on all section 182(f) actions that a waiver of NO_X controls is unlawful if such a waiver will impede attainment and maintenance of the ozone standard in separate downwind areas.

Response: The EPA believes that while this comment may be applicable to proposed NO_X exemption actions in other areas, it is not applicable to the Phoenix exemption action because the EPA is unaware of, and the comment itself does not specify, any downwind area for which NO_X transport is of concern.

Comment: Comments were received regarding exemption of areas from the NO_X requirements of the conformity rules. They argue that such exemptions waive only the requirements of section 182(b)(1) to contribute to specific annual reductions, and do not waive the requirement that conformity SIPs contain information showing the maximum amount of motor vehicle NO_X emissions allowed under the transportation conformity rules and, similarly, the maximum allowable amounts of any such NO_X emissions under the general conformity rules. The commenters admit that, in prior guidance, EPA has acknowledged the need to amend a drafting error in the existing transportation conformity rules to ensure consistency with motor vehicle emissions budgets for NO_X, but want EPA in actions on NO_X exemptions to explicitly affirm this obligation and to also avoid granting waivers until a budget controlling future NO_X increases is in place.

Response: With respect to conformity, EPA's conformity rules[4,5] provide a NO_X waiver if an area receives a section 182(f) exemption. In its "Conformity; General Preamble for Exemption From Nitrogen Oxides Provisions," 59 FR 31238, 31241 (June 17, 1994), EPA reiterated its view that in order to conform nonattainment and maintenance areas must demonstrate that the transportation plan and TIP are consistent with the motor vehicle emissions budget for NO_X even where a conformity NO_X waiver has been granted. Due to a drafting error, that view is not reflected in the current transportation conformity rules. As the commenters correctly note, EPA states in the June 17th notice that it intends to remedy the problem by amending the conformity rule. Although that notice specifically mentions only requiring consistency with the approved maintenance plan's NO_X motor vehicle emissions budget, EPA also intends to require consistency with the attainment demonstration's NO_X motor vehicle emissions budget. However, the exemption for the Phoenix area was submitted pursuant to section 182(f)(3), and EPA does not believe it is appropriate to delay the statutory deadline for acting on this petition until the conformity rule is amended. As noted earlier in response to a previous issue raised by these commenters, this issue has also been raised in a formal petition for reconsideration of the Agency's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. This issue, thus, is under consideration within the Agency, but at this time remains unresolved. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in the Agency's final conformity regulations, and the Agency remains bound by their existing terms.

Comment: Some commenters argue that the CAA does not authorize any waiver of the NO_X reduction requirements until conclusive evidence exists that such reductions are counter-productive.

Response: EPA does not agree with this comment since it ignores Congressional intent as evidenced by the plain language of section 182(f), the structure of the Title I ozone subpart as a whole, and relevant legislative history. By contrast, in developing and implementing its NO_X exemption policies, EPA has sought an approach that reasonably accords with Congress' intent. Section 182(f), in addition to imposing control requirements on major stationary sources of NO_X similar to those that apply for such sources of VOC, also provides for an exemption (or limitation) from application of these requirements if, under one of several tests, EPA determines that in certain areas NO_X reductions would generally not be beneficial. In subsection 182(f)(1), Congress explicitly conditioned action on NO_X exemptions on the results of an ozone precursor study required under section 185B. Because of the possibility that reducing NO_X in a particular area may either not contribute to ozone attainment or may cause the ozone problem to worsen, Congress included attenuating language, not just in section 182(f) but throughout the Title I ozone subpart, to avoid requiring NO_X reductions where it would be nonbeneficial or counterproductive. In describing these various ozone provisions (including section 182(f)), the House Conference Committee Report states in pertinent part: "[T]he Committee included a separate NO_X/VOC study provision in section [185B] to serve as the basis for the various findings contemplated in the NO_X provisions. The Committee does not intend NO_X reduction for reduction's sake, but rather as a measure scaled to the value of NO_X reductions for achieving attainment in the particular ozone nonattainment area." H.R. Rep. No. 490, 101st Cong., 2d Sess. 257–258 (1990). As noted in response to an earlier comment by these same commenters, the command in subsection 182(f)(1) that EPA "shall consider" the 185B report taken together with the timeframe the Act provides both for completion of the report and for acting on NO_X exemption petitions clearly demonstrate that Congress believed the information in the completed section 185B report would provide a sufficient basis for EPA to act on NO_X exemption requests, even absent the additional information that would be included in affected areas' attainment or maintenance demonstrations. However, while there is no specific requirement in the Act that EPA actions granting NO_X exemption requests must await "conclusive evidence", as the commenters argue, there is also nothing in the Act to prevent EPA from revisiting an approved NO_X exemption if warranted due to better ambient information.

In addition, the EPA believes (as described in EPA's December 1993 guidance) that section 182(f)(1) of the CAA provides that the new NO_X requirements shall not apply (or may be limited to the extent necessary to avoid excess reductions) if the Administrator determines that *any one* of the following tests is met:

(1) In any area, the net air quality benefits are greater in the absence of NO_X reductions from the sources concerned;

(2) In nonattainment areas not within an ozone transport region, additional NO_X reductions would not contribute to ozone attainment in the area; or

(3) In nonattainment areas within an ozone transport region, additional NO_X reductions would not produce net ozone air quality benefits in the transport region.

Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption.

Only the first test listed above is based on a showing that NO_X reductions are "counter-productive." If one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.

Comment: One commenter objected to the adequacy of the modeling demonstration in meeting the fundamental requirements of EPA's guidance for applying the UAM, because the record reflects that the Phoenix area is not an area with a single meteorological regime and no intensive data from a field study was obtained for modeling purposes. In addition to these reasons, the commenter claims that because there was not a field study conducted with respect to the emissions inventory and that modeling performance was not very good at several sites, the petition should be denied.

Response: EPA's Guideline on Regulatory Application of the Urban

[4] "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act," November 24, 1993 (58 FR 62188).

[5] "Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule," November 30, 1993 (58 FR 63214).

VOL
60
ISS
75
AP
19
1995
UMI

Airshed Model (UAM guidance), EPA–450/91–013, July 1991, describes procedures for the appropriate use of UAM, such as for attainment demonstrations required of all ozone nonattainment areas. This guidance generally requires that for attainment demonstrations, an area with a single meteorological regime, must model three episodes of that type of regime. However, EPA believes that the results of simulating two episodes with intensive data from a field study would be more reliable than simulating three episodes with merely routine data.

In terms of the meteorological regime issue, every day has different meteorology and will yield different ozone predictions. This does not necessarily mean that each varying meteorological day belongs to a different meteorological regime. Regime refers to a general pattern responsible for ozone formation. In the case of Phoenix, as documented in the Systems Applications International (SA) memorandum dated September 17, 1992,[6] a single meteorological regime exists in the Phoenix area which consists of a low pressure system over southwestern Arizona, with light southwesterly flow during the afternoon, and high temperatures. There is nothing in the record that is inconsistent with this description or conclusion.

EPA guidance for UAM states that three episodes should be modeled for each observed meteorological regime. However, in this case two episodes were considered sufficient because it was determined that data beyond that routinely available would be gathered and used to simulate ozone episodes. A field study, documented in "Summer 1992 Phoenix Ozone Field Study" (ADEQ, 1/93), involved the collection of data beyond that recorded on a routine basis, such as meteorological and air quality data aloft, VOC data, and extra background air quality data. In addition, because of the desire to use a fuller database, episodes were selected from among those that occurred during the study.

There was not a "field study" conducted in regards to the emissions inventory as field studies usually do not refer to emissions inventories. The emissions inventory in the Phoenix area was developed using standard EPA-approved methods.

Because modeling performance is never exact, EPA must evaluate whether its performance is adequate for regulatory decision-making. Although modeling performance was not good at several sites, and some under-prediction occurred, the modeling exercise meets EPA's performance goals, and appears overall to perform reasonably. Spatial plots of the whole modeling domain and time-series plots of individual stations show reasonable performance. This is illustrated by the model's correct responses to diagnostic and sensitivity tests, in which various inputs are changed in determining if the model responds consistently with our scientific understanding of ozone formation. Therefore, EPA believes that the overall modeling performance is reasonable and acceptable.

Comment: One commenter contends that the Phoenix modeling tests failed the alternative "net air quality benefits" test because there were no ozone decreases in some model grid cells on the initial modeling day.

Response: While there was some discussion, the "net air quality benefits" test was not relied on by Arizona in support of the petition. Instead, two sets of modeling runs were performed for each modeling episode to meet the "contribute to attainment" test. The two sets were substantial levels of pollutant reductions and source-specific NO_x reductions. Together, these runs showed that the specific reductions that would occur under NO_x RACT, and also levels of NO_x reductions likely to be examined in an attainment demonstration, would overall be counterproductive to ozone attainment.

The effect of decreases in NO_x will always depend on location because a decrease can increase ozone nearby in time or space, and decrease it later and farther away. The fact that various modeling cells go up and down is far less significant for regulatory purposes than the effect on the overall peak.

The initial day of a modeling simulation is typically not used, per EPA guidance, because it is deemed too dependent on uncertain initial conditions for air quality, which must be extrapolated in time and space from relatively few measurements. Thus, the decreases in ozone for the initial days of the episodes modeled are not considered meaningful. Results for the second and later days of a simulation are used, since these more closely reflect the area's actual emissions.

[6] "Review of Ozone Episodes (1987–1991) in the Phoenix Area", from the Arizona Department of Environmental Quality to Systems Applications International, September 17, 1992. This memorandum is a summary of the characteristics of the ozone episodes in the Phoenix area, including annual, seasonal, and spatial distributions of the exceedances.

EPA Action

EPA is finalizing this action to exempt the Phoenix ozone nonattainment area from implementing the NO_x requirements for RACT, NSR, and the applicable general and transportation conformity and I/M requirements.

The EPA believes that all section 182(f) exemptions that are approved should be approved only on a contingent basis. As described in the EPA's NO_x Supplement to the General Preamble (57 FR 55628, November 25, 1992), the EPA would rescind a NO_x exemption in cases where NO_x reductions were later found to be beneficial in the area's attainment plan. That is, a modeling based exemption would last for only as long as the area's modeling continued to demonstrate attainment without the additional NO_x reductions required by section 182(f). Arizona submitted its ozone attainment demonstration on November 15, 1994, and EPA is currently in the process of evaluating it in regards to meeting the CAA requirements.

If the EPA later determines that NO_x reductions are beneficial based on new photochemical grid modeling in an area initially exempted, the area would be removed from exempt status and would be required to adopt and implement the NO_x requirements, except to the extent that modeling shows NO_x reductions to be "excess reductions". A determination that the NO_x exemption no longer applies would mean that the NO_x general and transportation conformity provisions would again be applicable (see 58 FR 63214, 58 FR 62188; 59 FR 31238) to the affected area. In the rulemaking action which removes the exempt status, the EPA would specify a schedule for Arizona to adopt the NO_x requirements and for sources to comply with the applicable requirements.

The subsequent modeling analyses mentioned above need not be limited to those whose main purpose is to demonstrate attainment in the 1994 SIP revisions without the need for NO_x controls required under section 182(f). State or local officials might want to consider a strategy that phases in NO_x reductions only after certain VOC reductions are implemented. As improved emission inventories and ambient data become available, planning officials may choose to remodel. In addition, alternative control strategy scenarios might be considered in subsequent modeling analyses in order to improve the cost-effectiveness of the attainment plan.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant", and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 19, 1995. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such a rule. This action may not be challenged later in proceedings to enforce its requirements. Section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

NOTE: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 11, 1995.

Carol M. Browner,

Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Subpart D is amended by adding § 52.136 to read as follows:

§ 52.136 Control strategy for ozone: Oxides of nitrogen.

EPA is approving an exemption request submitted by the State of Arizona on April 13, 1994 for the Maricopa County ozone nonattainment area from the NO_x RACT requirements contained in section 182(f) of the Clean Air Act. This approval exempts the Phoenix area from implementing the NO_x requirements for RACT, new source review (NSR), and the applicable general and transportation conformity and inspection and maintenance (I/M) requirements of the CAA. The exemption is based on Urban Airshed Modeling as lasts for only as long as the area's modeling continues to demonstrate attainment without NO_x reductions from major stationary sources.

[FR Doc. 95–9568 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[TX–40–1–6831; FRL–5193–8]

Approval and Promulgation of Temporary Section 182(f) Exemption to the Nitrogen Oxides (NO_x) Control Requirements for the Houston and Beaumont Ozone Nonattainment Areas; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the EPA is approving a petition from the State of Texas requesting that the Houston and Beaumont ozone nonattainment areas be temporarily exempted from NO_x control requirements of section 182(f) of the Clean Air Act (CAA) as amended in 1990. The State of Texas bases its request upon preliminary photochemical grid modeling which shows that reductions in NO_x would be detrimental to attaining the National Ambient Air Quality Standards (NAAQS) for ozone in these areas. This temporary exemption is being requested under section 182(f) of the CAA.

EFFECTIVE DATE: This action is effective as of April 12, 1995.

ADDRESSES: Copies of the documents relevant to these actions are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, Dallas, Texas 75202–2733

The Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711–3087

FOR FURTHER INFORMATION CONTACT: Ms. Leila Yim Surratt or Mr. Quang Nguyen, Planning Section (6T–AP), Air Programs Branch, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

I. Background

On August 17, 1994, the Texas Natural Resource Conservation Commission (TNRCC) submitted to the EPA a petition pursuant to section 182(f) of the CAA which requests that the Houston and Beaumont ozone nonattainment areas be temporarily exempted by the EPA from the NO_x control requirements of section 182(f). The Houston nonattainment area includes the cities of Houston and Galveston, and consists of the following eight counties: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller. The Beaumont nonattainment area includes the cities of Beaumont and Port Arthur, and consists of the following three counties: Hardin, Jefferson, and Orange. The State bases its petition on an Urban Airshed Modeling (UAM) demonstration showing that NO_x reductions would not contribute to attainment in either area because the decrease in ozone concentrations resulting from volatile organic compound (VOC) reductions alone is equal to or greater than the decrease obtained from NO_x reductions or a combination of VOC and NO_x reductions.

As described in the State's petition, the TNRCC plans to complete additional UAM modeling between November 1995 and May 1996 using the results of an intensive 1993 field study, the Coastal Oxidant Assessment for Southeast Texas (COAST). The data collected through the COAST study consist of hourly point source emissions, gridded typical summer day on-road mobile source emissions, hourly air quality data, and detailed meteorological data for specific ozone exceedance episodes in the Houston-Beaumont domain. Because it is the most comprehensive data set available, it should result in greater accuracy in the modeling and therefore in the

VOL
60
ISS
75
AP
19
1995
UMI

attainment control strategy. Since the modeling is expected to be completed by May 1996, the TNRCC is requesting only a temporary NO_X exemption until May 31, 1997.

The TNRCC had previously adopted and submitted to the EPA complete NO_X Reasonably Available Control Technology (RACT) rules for the Houston and Beaumont areas. The TNRCC has also adopted and submitted to the EPA New Source Review (NSR), conformity, and vehicle inspection and maintenance (I/M) rules, each of which contain NO_X provisions. The EPA's approval of the temporary NO_X exemption petition affects the federal applicability and enforcement of the State's NO_X RACT rule and the NO_X provisions contained in the State's NSR, conformity, and I/M rules.

On December 15, 1994, the EPA proposed to approve the section 182(f) petition for a temporary NO_X exemption for the Houston and Beaumont areas (see 59 FR 64640). The proposed rulemaking notice, the EPA's Technical Support Document (November 1994) on the proposed action, and supplemental information are contained in the docket and provide a detailed discussion of the TNRCC's submittal, applicable guidance and the EPA's rationale for proposing approval of the State's petition. Rather than repeating that entire discussion in this document, that discussion is incorporated by reference herein. Thus, the public should review the notice of proposed rulemaking for relevant background on this final rulemaking action.

II. Response to Comments

The EPA requested public comments on all aspects of the proposed action to approve the section 182(f) petition for a temporary NO_X exemption for the Houston and Beaumont ozone nonattainment areas. The EPA received 51 letters of support from individuals, industry, local judges, the State transportation authority, State and Federal legislators, and local governments.

Six adverse comment letters were received from individuals, environmental groups, and an association of companies which supply stationary source air pollution control systems, equipment, and services. One of the letters was submitted by three environmental groups and contained generic comments objecting to the EPA's general policy on section 182(f) exemptions. The three environmental groups who submitted the generic letter requested that it be included in each EPA rulemaking action for each section 182(f) petition.

Comment: Two letters of support asked for clarification concerning when the NO_X requirements would take effect if the COAST modeling results indicate that some or all of the applicable NO_X control requirements would contribute to attainment of the ozone NAAQS.

Response: In the FR notice proposing to approve the temporary NO_X exemption for Houston and Beaumont (see 59 FR 64640, December 15, 1994), the EPA also proposed that upon the expiration of the temporary exemption on December 31, 1996, if the State had not received a permanent NO_X exemption from the EPA prior to that time, the NO_X RACT, NSR, conformity and I/M requirements would again become applicable except that the NO_X RACT compliance date shall be as expeditious as practicable but no later than May 31, 1997. The EPA continues to believe that the above stated requirement is appropriate. Therefore, through this rulemaking on the temporary NO_X exemption for the Houston and Beaumont areas, the following requirements would become applicable on January 1, 1997, if the Houston and Beaumont areas had not received a permanent NO_X exemption prior to that time: (1) The State must have adopted and submitted to the EPA RACT, NSR, conformity, and I/M regulations to control NO_X emissions (note that these provisions have already been met by the TNRCC), (2) the State's NO_X RACT regulation must require subject sources to comply with the NO_X control requirements as expeditiously as practicable but no later than May 31, 1997, (3) any NSR permits that had not been deemed complete prior to January 1, 1997, must comply with the NO_X NSR requirements, consistent with the policy set forth in the EPA's NSR Supplemental Guidance memo dated September 3, 1992, from John S. Seitz, Director, EPA's Office of Air Quality Planning and Standards, (4) any conformity determination (for either a new or revised transportation plan and transportation improvement program (TIP)) made on or after January 1, 1997, must comply with the NO_X conformity requirements, and (5) any I/M vehicle inspection made on or after January 1, 1997, must comply with the I/M NO_X requirements.

Comment: One commenter stated that the temporary NO_X waiver would expire on May 15, 1997, and asked for clarification on whether TIPs being developed this year would be exempted from the NO_X conformity requirements.

Response: The EPA would like to clarify that the NO_X waiver does not expire on May 15, 1997, as stated by the commenter, but rather will expire on December 31, 1996, as discussed in the EPA's proposed approval of the State's petition (see 59 FR 64643). Because the State's petition clearly indicates that the attainment modeling should be completed between November 1995 and May 1996 (which will determine whether a VOC, NO_X, or combination thereof, strategy is most beneficial for attainment), the EPA believes that the petition supports granting the State's request for a temporary exemption only until the end of 1996. Any conformity determination (for either a new or revised transportation plan and TIP) made after the effective date of the EPA's approval of this 182(f) petition for Houston and Beaumont, and before the expiration of the waiver on December 31, 1996, would be exempted from the NO_X conformity requirements. Any conformity determination (for either a new or revised transportation plan and TIP) made on or after January 1, 1997, must comply with the NO_X conformity requirements, unless the State had received a permanent section 182(f) NO_X exemption prior to that time.

Comment: Several adverse comments stated that an area must submit a complete, approvable attainment State Implementation Plan (SIP) before a NO_X waiver could be granted. Certain comments continued by stating that NO_X exemptions are provided for in two separate parts of the CAA, section 182(b)(1) and section 182(f). Because the NO_X exemption tests in subsections 182(b)(1) and 182(f)(1) include language indicating that action on such requests should take place "when [EPA] approves a plan or plan revision," these commenters conclude that all NO_X exemption determinations by the EPA, including exemption actions taken under the petition process established by subsection 182(f)(3), must occur during consideration of an approvable attainment or maintenance plan, unless the area has been redesignated as attainment. These commenters also argue that even if the petition procedures of subsection 182(f)(3) may be used to relieve areas of certain NO_X requirements, exemptions from the NO_X conformity requirements must follow the process provided in subsection 182(b)(1), since this is the only provision explicitly referenced by section 176(c), the CAA's conformity provisions.

Response: The TNRCC petitioned the EPA for an exemption under section 182(f), as evidenced by the letter from John Hall, Chairman of the TNRCC, transmitting the petition to the EPA (dated August 17, 1994) which states, "The TNRCC is submitting for your review, pursuant to Section 182(f) of the CAA, a petition requesting a temporary exemption from NO_X RACT * * *" In addition, on page 3 of the petition, the State also referenced subsection 182(f)(3) concerning the procedure for petitioning the Administrator.

Section 182(f) contains very few details regarding the administrative procedure for acting on NO_X exemption requests. The absence of specific guidelines by Congress leaves the EPA with discretion to establish reasonable procedures, consistent with the requirements of the Administrative Procedure Act (APA).

The EPA disagrees with the commenters regarding the process for considering exemption requests under section 182(f), and instead believes that subsections 182(f)(1) and 182(f)(3) provide independent procedures by which the EPA may act on NO_X exemption requests. The language in subsection 182(f)(1), which indicates that the EPA should act on NO_X exemptions in conjunction with action on a plan or plan revision, does not appear in subsection 182(f)(3). And, while subsection 182(f)(3) references subsection 182(f)(1), the EPA believes that this reference encompasses only the substantive tests in paragraph (1) (and, by extension, paragraph (2)), not the procedural requirement that the EPA act on exemptions only when acting on SIPs. Additionally, paragraph (3) provides that "person[s]" (which section 302(e) of the CAA defines to include States) may petition for NO_X exemptions "at any time," and requires the EPA to make its determination within six months of the petition's submission. These key differences lead the EPA to believe that Congress intended the exemption petition process of paragraph (3) to be distinct and more expeditious than the longer plan revision process intended under paragraph (1).

With respect to major stationary sources, section 182(f) requires States to adopt NO_X NSR and RACT rules, unless exempted. These rules were generally due to be submitted to the EPA by November 15, 1992. Thus, in order to avoid the CAA sanctions, areas seeking a NO_X exemption would need to submit their exemption request for EPA review and rulemaking action several months before November 15, 1992. In contrast, the CAA specifies that the attainment demonstrations are not due until November 1993 or 1994 (and the EPA may take 12–18 months to approve or disapprove the demonstration). For marginal ozone nonattainment areas (subject to NO_X NSR), no attainment demonstration is called for in the CAA. For maintenance plans, the CAA does not specify a deadline for submittal of maintenance demonstrations. Clearly, the CAA envisions the submittal of an EPA action on exemption requests, in some cases, prior to submittal of attainment or maintenance demonstrations.

The CAA requires conformity with regard to federally-supported NO_X generating activities in relevant nonattainment and maintenance areas. However, the EPA's conformity rules explicitly provide that these NO_X requirements would not apply if the EPA grants an exemption under section 182(f). In response to the comment that section 182(b)(1) should be the appropriate vehicle for dealing with exemptions from the NO_X requirements of the conformity rule, the EPA notes that this issue has previously been raised in a formal petition for reconsideration of the EPA's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. The issue, thus, is under consideration within the EPA, but at this time remains unresolved. Additionally, subsection 182(f)(3) requires that NO_X exemption petition determinations be made by the EPA within six months. The EPA has stated in previous guidance that it intends to meet this statutory deadline as long as doing so is consistent with the Administrative Procedure Act. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in the EPA's final conformity regulations, and the EPA remains bound by their existing terms.

Comment: Several commenters felt that the UAM computer model is not sufficiently accurate to allow good predictions of air quality. Some stated that the modeling performed by the TNRCC was inconclusive. One commenter argued that focusing on severe rather than more typical ozone episodes may significantly distort the findings. Another commenter stated that TNRCC only modeled three episodes, each with varying performance. Finally, several commenters felt that the emissions inventories were significantly inaccurate so as to discredit the modeling results.

Response: The EPA disagrees with the comment that the UAM demonstration conducted by the TNRCC was insufficient to allow good predictions of air quality. Due to the large number of factors that influence ozone formation, the EPA agrees that the UAM model cannot precisely predict the exact relationship between VOC, NO_X, and ozone. However, Congress clearly intended that photochemical grid modeling be used for air quality planning purposes. As noted in the EPA's December 1993 guidance, UAM results are acceptable for the purpose of the section 182(f) demonstrations and application of UAM should be consistent with techniques specified in the EPA's "Guideline on Air Quality Models (Revised)."

The EPA disagrees with the comment that the episodes analyzed by the TNRCC may have distorted the findings. The TNRCC followed the EPA's "Guideline for Regulatory Application of the Urban Airshed Model" in selecting the episodes that were used in the 182(f) demonstration. In accordance with the EPA guidance, the State selected episodes that were likely to cover different sets of meteorological conditions corresponding with high ozone concentrations, not necessarily the most severe ozone exceedance. The EPA recommends that high ozone days be analyzed to ensure that the control strategy plan developed from the UAM analysis will result in ozone attainment under most meteorological conditions, not just the average meteorological condition. The selected multi-day episodes used in the Houston and Beaumont UAM analyses are representative of the primary meteorological conditions typically found on high ozone days.

The EPA's UAM guidance recommends that a minimum of three days from among all meteorological regimes should be modeled (e.g., three meteorological regimes each containing one primary episode day, or two meteorological regimes with at least two primary days from one of those regimes). The TNRCC's analyses are consistent with the EPA's guidance in that the two episodes that exhibited satisfactory performance cover more than three days of ozone exceedances and represent several of the predominant meteorological regimes for ozone exceedances in the Gulf Coast. (For further information, see the EPA's proposed approval notice for the temporary NO_X exemption for Houston and Beaumont (59 FR 64640), and the EPA's Technical Support Document for the proposed action.)

The EPA disagrees with the comment that the emissions inventories were too inaccurate to produce acceptable modeling results. In accordance with the EPA's UAM guidance the State used the 1990 emissions inventory for Houston and Beaumont to developing its modeling demonstration. The EPA evaluated the State's 1990 base year

VOL 60 ISS 75 AP 19 1995 UMI

emissions inventories and a final approval was published in the FR on November 8, 1994 (see 59 FR 55588).

Comment: Several commenters stated that the modeling required by the EPA is insufficient to establish that NO_X reductions would not contribute to attainment since only one level of NO_X control, i.e., "substantial" reductions, is required to be analyzed. They argued that larger NO_X reductions are realistically available, and that if Texas had considered large enough reductions in NO_X emissions, the modeling would have shown decreases in ozone. They further explained that an area must submit an approvable attainment plan before the EPA can know whether NO_X reductions will aid or undermine attainment.

Response: As described in the EPA's December 1993 NO_X exemption guidance,[1] photochemical grid modeling is generally needed to document cases where NO_X reductions are counterproductive to net air quality, do not contribute to attainment, do not show a net ozone benefit, or include excess reductions. The UAM or, in an ozone transport region, the Regional Oxidant Model (ROM) are acceptable models for these purposes.

The EPA guidance also states that application of UAM should be consistent with techniques specified in the EPA "Guideline on Air Quality Models (Revised)." Further, application of UAM should also be consistent with procedures contained in the EPA "Guideline for Regulatory Application of the Urban Airshed Model" (July 1991). Thus, episode selection for the section 182(f) demonstration should be consistent with the UAM guidance for SIP attainment demonstrations.

The section 182(f) contribute to attainment and net ozone benefit demonstrations concern an unspecified "additional reductions" of NO_X. The EPA's December 1993 guidance specifies that the analysis should reflect three scenarios of "substantial" NO_X and VOC emission reductions. The guidance states that, in the first scenario, the demonstration should use the VOC reductions needed to attain (demonstrated by EKMA or UAM analyses). Alternatively, if the attainment demonstration has not been completed, the demonstration may use some other substantial VOC reduction. In any case, the VOC reductions should be substantial and documented as reasonable to expect for the area due to the CAA requirements. In the second scenario, NO_X reductions should be modeled without any VOC reductions above the attainment year baseline. The level of NO_X reductions should reflect the same percent reduction of anthropogenic VOC emissions in scenario (1) above. In the third scenario, a similar level of NO_X reductions would be modeled along with the level of VOC reductions chosen. That is, if a 40 percent VOC reduction is chosen in scenario (1), then the model for scenario (3) would simulate a 40 percent VOC reduction and approximately a 40 percent NO_X reduction. It would be inappropriate to select a high level of VOC reductions and a low level of NO_X reductions since this could artificially favor a finding that NO_X reductions are not beneficial; thus, the scenarios are constrained to avoid an inappropriate analysis.

The EPA believes that these analyses are appropriate to determine in a directional manner whether or not NO_X reductions are expected to be beneficial with respect to the air quality in the area/region. These analyses described in the EPA's December 1993 guidance may be less precise than an attainment demonstration required under section 182(c). With respect to the excess reductions provision in section 182(f)(2), however, the EPA believes that more than a directional analysis is needed (for reasons described in the December 1993 guidance) and, therefore, requires an analysis based on the attainment demonstration.

Contrary to the statements of some of the commenters, the State modeled substantial NO_X emission reductions that are significantly greater than the 10–15 percent reductions cited by the commenters as projected to result from NO_X RACT. In the 1999 projected domain-wide (i.e., Houston and Beaumont) NO_X emissions inventory used in the State's section 182(f) demonstration, point source emissions comprise 66 percent of the total NO_X inventory. The State modeled a 50 percent total reduction of NO_X (which would represent a 76 percent reduction in the point source NO_X inventory) along with a 50 percent reduction of VOC and 50 percent reduction of both VOC and NO_X. Clearly, the TNRCC's section 182(f) modeling demonstration reflects substantial NO_X reductions in addition to substantial VOC reductions.

Comment: Three groups provided a generic comment on all section 182(f) actions that three years of "clean" data fail to demonstrate that NO_X reductions would not contribute to attainment.

Response: The EPA does not believe that this comment is applicable to the Houston and Beaumont actions because neither area has based its section 182(f) petition on "clean" air monitoring data.

Comment: Several commenters stated that the EPA's December 1993 guidance prohibits granting a section 182(f) waiver based on three years of clean data if evidence exists showing that the waiver would interfere with attainment or maintenance in downwind areas. They argued that the condition should also apply to waiver requests based on modeling. The commenters felt that a NO_X exemption in Houston and Beaumont would likely exacerbate ozone formation downwind in other nonattainment areas (e.g., Dallas) or near nonattainment areas (e.g., Austin, San Antonio, Corpus Christi, and Longview-Tyler-Marshall).

Response: As a result of the comments, the EPA reevaluated its position on this issue and has revised the previously issued guidance. As described below, the EPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that NO_X emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State. This action would be independent of any action taken by the EPA on a NO_X exemption request for stationary sources under section 182(f). That is, EPA action to grant or deny a NO_X exemption request under section 182(f) would not shield that area from EPA action to require NO_X emission reductions, if necessary, under section 110(a)(2)(D).

Modeling analyses are underway in many areas for the purpose of demonstrating attainment in the 1994 SIP revisions. Recent modeling data suggest that certain ozone nonattainment areas may benefit from reductions in NO_X emissions far upwind of the nonattainment area. For example, the northeast corridor and the Lake Michigan areas are considering attainment strategies which rely in part on NO_X emission reductions hundreds of kilometers upwind. The EPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. As the studies progress, the EPA will continue to work with the States and other organizations to develop mutually acceptable attainment strategies.

At the same time as these large scale modeling analyses are being conducted, certain nonattainment areas in the modeling domain have requested exemptions from NO_X requirements

[1] "Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f)," from John S. Seitz, Director, Office of Air Quality Planning and Standards, to the Regional Division Directors, December 16, 1993.

under section 182(f). Some areas requesting an exemption may be upwind of and impact upon downwind nonattainment areas. The EPA intends to address the transport issue through section 110(a)(2)(D) based on a domain-wide modeling analysis.

Under section 182(f) of the CAA, an exemption from the NO_X requirements may be granted for nonattainment areas outside an ozone transport region if the EPA determines that "additional reductions of [NO_X] would not contribute to attainment of the national ambient air quality standard for ozone in the area."[2] As described in section 4.3 of the December 1993 guidance document, the EPA believes that the term "area" means the "nonattainment area" and that the EPA's determination is limited to consideration of the effects in a single nonattainment area due to NO_X emissions reductions from sources in the same nonattainment area.

Section 4.3 of the guidance goes on to encourage, but not require, States/petitioners to include consideration of the entire modeling domain, since the effects of an attainment strategy may extend beyond the designated nonattainment area. Specifically, the guidance encourages States to "consider imposition of the NO_X requirements if needed to avoid adverse impacts in downwind areas, either intra- or inter-State. States need to consider such impacts since they are ultimately responsible for achieving attainment in all portions of their State (see generally section 110) and for ensuring that emissions originating in their State do not contribute significantly to nonattainment in, or interfere with maintenance by, any other State [see section 110(a)(2)(D)(i)(I)]."

In contrast, section 4.4 of the guidance states that the section 182(f) demonstration would not be approved if there is evidence, such as photochemical grid modeling, showing that the NO_X exemption would interfere with attainment or maintenance in downwind areas. The guidance goes on to explain that section 110(a)(2)(D) (not section 182(f)) prohibits such impacts.

Consistent with the guidance in section 4.3, the EPA believes that the section 110(a)(2)(D) and 182(f) provisions must be considered independently and hence is withdrawing the guidance presently contained in section 4.4. Thus, if there is evidence that NO_X emissions in an upwind area would interfere with attainment or maintenance in a downwind area, that action should be separately addressed by the State(s) or, if necessary, by the EPA in a section 110(a)(2)(D) action. In addition, a section 182(f) exemption request should be independently considered by the EPA. In some cases, then, the EPA may grant an exemption from across-the-board NO_X RACT controls under section 182(f) and, in a separate action, require NO_X controls from stationary and/or mobile sources under section 110(a)(2)(D). It should be noted that the controls required under section 110(a)(2)(D) may be more or less stringent than RACT, depending upon the circumstances.

Comment: Several comments were received regarding exemption of areas from the NO_X requirements of the conformity rules. They argue that such exemptions waive only the requirements of section 182(b)(1) to contribute to specific annual reductions, not the requirement that conformity SIPs contain information showing the maximum amount of motor vehicle NO_X emissions allowed under the transportation conformity rules and, similarly, the maximum allowable amounts of any such NO_X emissions under the general conformity rules. The commenters admit that, in prior guidance, the EPA has acknowledged the need to amend a drafting error in the existing transportation conformity rules to ensure consistency with motor vehicle emissions budgets for NO_X, but want the EPA in actions on NO_X exemptions to explicitly affirm this obligation and to also avoid granting waivers until a budget controlling future NO_X increases is in place.

Response: The EPA's conformity rules[3,4] provide a NO_X waiver if an area receives a section 182(f) exemption. In its "Conformity; General Preamble for Exemption From Nitrogen Oxides Provisions," 59 FR 31238, 31241 (June 17, 1994), the EPA reiterated its view that in order to conform nonattainment and maintenance areas must demonstrate that the transportation plan and TIP are consistent with the motor vehicle emissions budget for NO_X even where a conformity NO_X waiver has been granted. Due to a drafting error, that view is not reflected in the current transportation conformity rules. As the commenters correctly note, the EPA states in the June 17 notice that it intends to remedy the problem by amending the conformity rule. Although that notice specifically mentions only requiring consistency with the approved maintenance plan's NO_X motor vehicle emissions budget, the EPA also intends to require consistency with the attainment demonstration's NO_X motor vehicle emissions budget. However, the exemptions were submitted pursuant to section 182(f)(3), and the EPA does not believe it is appropriate to delay the statutory deadline for acting on these petitions until the conformity rule is amended. As noted earlier in response to a previous issue raised by these commenters, this issue has also been raised in a formal petition for reconsideration of the Agency's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. This issue, thus, is under consideration within the Agency, but at this time remains unresolved. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in the Agency's final conformity regulations, and the Agency remains bound by their existing terms.

Comment: One group commented that the CAA does not authorize any waiver of the NO_X reduction requirements until conclusive evidence exists that such reductions are counter-productive.

Response: The EPA does not agree with this comment since it ignores Congressional intent as evidenced by the plain language of section 182(f), the structure of the Title I ozone subpart as a whole, and relevant legislative history. By contrast, in developing and implementing its NO_X exemption policies, the EPA has sought an approach that reasonably accords with that intent. Section 182(f), in addition to imposing control requirements on major stationary sources of NO_X similar to those that apply for such sources of VOC, also provides for an exemption (or limitation) from application of these requirements if, under one of several tests, the EPA determines that in certain

[2] There are 3 NO_X exemption tests specified in section 182(f). Of these, 2 are applicable for areas outside an ozone transport region; the "contribute to attainment" test described above, and the "net air quality benefits" test. EPA must determine, under the latter test, that the net benefits to air quality in an area "are greater in the absence of NO_X reductions" from relevant sources. Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption. Consequently, as stated in section 1.4 of the December 16, 1993 EPA guidance, "[w]here any one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply."

[3] "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act," November 24, 1993 (58 FR 62188).

[4] "Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule," November 30, 1993 (58 FR 63214).

VOL
6.0
ISS
75
AP
19
1995
UMI

areas NO_X reductions would generally not be beneficial. In subsection 182(f)(1), Congress explicitly conditioned action on NO_X exemptions on the results of an ozone precursor study required under section 185B. Because of the possibility that reducing NO_X in a particular area may either not contribute to ozone attainment or may cause the ozone problem to worsen, Congress included attenuating language, not just in section 182(f) but throughout the Title I ozone subpart, to avoid requiring NO_X reductions where it would be nonbeneficial or counterproductive. In describing these various ozone provisions (including section 182(f)), the House Conference Committee Report states in pertinent part: "[T]he Committee included a separate NO_X/VOC study provision in section [185B] to serve as the basis for the various findings contemplated in the NO_X provisions. The Committee does not intend NO_X reduction for reduction's sake, but rather as a measure scaled to the value of NO_X reductions for achieving attainment in the particular ozone nonattainment area." H.R. Rep. No. 490, 101st Cong., 2d Sess. 257–258 (1990). As noted in response to an earlier comment by these same commenters, the command in subsection 182(f)(1) that the EPA "shall consider" the 185B report taken together with the time frame the Act provides both for completion of the report and for acting on NO_X exemption petitions clearly demonstrate that Congress believed the information in the completed section 185B report would provide a sufficient basis for the EPA to act on NO_X exemption requests, even absent the additional information that would be included in affected areas' attainment or maintenance demonstrations. However, while there is no specific requirement in the Act that EPA actions granting NO_X exemption requests must await "conclusive evidence", as the commenters argue, there is also nothing in the Act to prevent the EPA from revisiting an approved NO_X exemption if warranted due to better ambient information.

In addition, the EPA believes (as described in the EPA's December 1993 guidance) that section 182(f)(1) of the CAA provides that the new NO_X requirements shall not apply (or may be limited to the extent necessary to avoid excess reductions) if the Administrator determines that *any one* of the following tests is met:

(1) In any area, the net air quality benefits are greater in the absence of NO_X reductions from the sources concerned,

(2) In nonattainment areas not within an ozone transport region, additional NO_X reductions would not contribute to ozone attainment in the area; or

(3) In nonattainment areas within an ozone transport region, additional NO_X reductions would not produce net ozone air quality benefits in the transport region.

Based on the plain language of section 182(f), the EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption.

Only the first test listed above is based on a showing that NO_X reductions are "counter-productive." If one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.

Comment: Two commenters stated that the health and environmental benefits of decreasing NO_X as well as the likelihood of concomitant reduction in other criteria pollutants (e.g., CO, SO_2 and particulates), provide other reasons to control NO_X, independent of their impact on ozone formation. One commenter listed various negative health and environmental impacts of NO_X and stated that although Houston does not exceed the NAAQS for nitrogen dioxide (NO_2), current ambient levels are believed to be unsafe. In addition, the federal standard, 53 parts per billion (ppb) annual average, is meaningless without a short-term standard.

Response: The EPA agrees that high NO_X emissions can contribute to air pollution problems independent of their role in ozone formation; however, the EPA disagrees that the NO_X controls required under section 182(f) of the CAA should be implemented in the Houston or Beaumont area regardless of their impact on ozone. Ambient concentrations of NO_2 in Houston and Beaumont are significantly below the federal NAAQS for NO_2 (in 1993, the annual average NO_2 concentration was 24 ppb in Houston and 10 ppb in Beaumont, as compared with the federal standard of 53 ppb). Therefore, based on current federal standards, the EPA does not believe the NO_2 levels in Houston or Beaumont are unsafe.

The EPA is mandated to periodically re-evaluate the NAAQS for each criteria pollutant based on the best information available. The EPA is currently reviewing the NO_2 standard and will evaluate concerns over the standard through a separate rulemaking process. As part of that effort, in October 1994, the EPA issued a draft paper for public review and comment entitled, "Review of National Ambient Air Quality Standards for Nitrogen Dioxide, Assessment of Scientific and Technical Information, OAQPS Staff Paper," concerning the NO_2 standard, and expects to propose rulemaking action in late 1995. If the EPA finds, based on its review, that the NO_2 standard should be revised, then at that time the Agency will implement NO_X control requirements in areas that become nonattainment for NO_2 under the revised standard.

In addition, as discussed in an earlier response, section 182(f)(1)(A) specifically provides for an exemption in cases where NO_X emission reductions would not contribute to attainment of the NAAQS for ozone in the area. The TNRCC has demonstrated for the relevant time period in its petition and in the EPA's proposed action that the NO_X reductions required by section 182(f) would not contribute to attaining the ozone NAAQS in either area.

Finally, for the purposes of reducing acid rain deposition, certain NO_X sources will still be required to reduce NO_X emissions under Title IV of the CAA. For these reasons, the EPA does not believe that the NO_X controls required under section 182(f) of the CAA should be implemented in the Houston or Beaumont areas regardless of their impact on ozone.

Comment: One commenter stated that Houston is not at risk of over controlling emissions, and that it is important to front end load emission reductions now so that control strategies would have time to work.

Response: The TNRCC petition for a temporary NO_X exemption relies not on an excess emission reduction test, but on modeling which indicates that NO_X reductions would be detrimental to attaining the ozone standard. The EPA agrees that where NO_X reductions would be beneficial to attaining the ozone standard, they should be pursued expeditiously; however, for Houston and Beaumont, the State's modeling demonstration shows that NO_X reductions will not contribute to attainment of the ozone NAAQS. As discussed in a previous response, Congress clearly understood that in certain areas, NO_X reductions may not be beneficial, and for this reason, included a provision to exempt such areas from NO_X control requirements.

Comment: One commenter argued that regardless of the impact NO_X controls might have in the Houston area, NO_X controls should be required in the Beaumont nonattainment area, since point source emissions are a significant

source of NO_X in that area and large NO_X reductions would guarantee ozone reductions.

Response: The EPA disagrees with this comment. As discussed in the EPA's proposed approval notice for the temporary NO_X exemption for Houston and Beaumont (see 59 FR 64640), and the EPA's Technical Support Document for the proposed action, the TNRCC modeled substantial reductions of VOC, NO_X and both VOC and NO_X in Beaumont and showed that ozone levels were lowest under the VOC-only reduction scenario. The State's petition therefore demonstrates that NO_X reductions would not be beneficial to attainment of the ozone standard in the Beaumont area.

Comment: One commenter stated that there is no congestion management plan as required by federal transportation law and that the EPA has allowed the State to illegally wait two additional years before submitting a plan.

Response: The EPA disagrees with this comment for two reasons. First, it does not accurately reflect the current status of the transportation congestion management plan (which is a program implemented under the Intermodal Surface Transporation Efficiency Act (ISTEA) by the U.S. Department of Transportation (DOT)) in the Houston and Beaumont areas. Contrary to the commenter's statement, it is the EPA's understanding that a congestion management plan for Houston and Beaumont was submitted in accordance with the DOT regulatory requirements specified in title 23 of the Code of Federal Regulations in § 500.509 (see 58 FR 63442, December 1, 1993).

Second, the EPA's approval of the NO_X exemption petition does not adversely impact the requirements and implementation of the transportation congestion management plan required by the DOT. The EPA supports this program and believes that it will, at a minimum, identify the congestion problems in the area and will lead to development of a traffic management plan which would have positive air quality benefits for the area. This program is being implemented by the DOT (which is a separate Federal agency from the EPA) under authority of the ISTEA. Contrary to the commenter's statement, the EPA's action on the NO_X exemption petition will not result in a two year delay in the submission of the transportation congestion management plan.

Comment: Two commenters requested that the EPA consider extending the section 182(f) NO_X exemption and the NO_X RACT compliance deadlines past the EPA's proposed deadlines of December 31, 1996 and May 31, 1997, respectively. One commenter stated that the EPA's revised ozone attainment planning policy points to the possible extension of modeling completion deadlines into 1997.

Response: The EPA believes that it is appropriate to maintain the NO_X exemption period and the RACT compliance deadline as originally proposed by the EPA. The State of Texas has not requested that the exemption period or compliance dates be extended, nor did it make such a request during the public comment period for the EPA's proposed approval of the State's section 182(f) petition. In addition, the EPA has not received from the State any request that the COAST modeling schedule described in the State's petition has been delayed or would need to be modified. The EPA therefore believes that the rationale (as explained in the notice of proposed rulemaking (see 59 FR 64643)), for the December 31, 1996, and May 31, 1997, dates concerning the exemption period and the RACT compliance deadline, respectively, is still valid, and is independent of the EPA's revised ozone attainment planning policy. Should the EPA subsequently receive a revised section 182(f) petition for the Houston and Beaumont areas, we will evaluate it at that time for consistency with the CAA and the EPA's guidance on section 182(f) exemptions.

III. Effective Date

This rulemaking is effective as of April 12, 1995. The Administrative Procedure Act (APA) 5 U.S.C. 553(d)(1), permits the effective date of a substantive rule to be less than thirty days after publication of the rule if the rule "relieves a restriction." Since the approval of the section 182(f) exemptions for the Houston and Beaumont areas is a substantive rule that relieves the restrictions associated with the CAA title I requirements to control NO_X emissions, the NO_X exemption approval may be made effective upon signature by the EPA Administrator.

IV. Final Action

The EPA is taking final action to approve the section 182(f) petition submitted by the State of Texas requesting a temporary NO_X exemption for the Houston and Beaumont ozone nonattainment areas. The temporary exemption automatically expires on December 31, 1996, without further notice from the EPA. Approval of the temporary exemption waives the federal requirements for NO_X RACT, NSR, conformity, and I/M for the period of the temporary exemption.

The State had previously adopted and submitted to the EPA complete NO_X RACT, NSR, conformity, and I/M rules. During the temporary exemption, the EPA will not act upon the State's NO_X RACT rules. The EPA plans to act upon the State's NO_X NSR and conformity provisions in separate rulemaking actions because those provisions are contained in broader rules that also control VOC emissions; however, during the period of the temporary exemption, the State's NO_X NSR and conformity requirements are not federally applicable. The EPA previously approved the State's I/M rules (see 59 FR 43046, August 22, 1994).

Upon the expiration of the temporary exemption, (1) the requirements pertaining to NO_X RACT, NSR, conformity, and I/M will again become applicable, except that the NO_X RACT implementation date applicable to the Houston and Beaumont nonattainment areas under section 182(f) shall be as expeditious as practicable but no later than May 31, 1997, unless (2) the State has received a permanent NO_X exemption from the EPA prior to that time. The EPA will begin rulemaking action on the State's NO_X RACT SIP upon the expiration of the temporary exemption if the State has not received a permanent NO_X exemption by that time.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, the EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Approvals of NO_X exemption petitions under section 182(f) of the CAA do not create any new requirements. Therefore, because the Federal approval of the petition does not impose any new requirements, the EPA certifies that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427

VOL 60 ISS 75 AP 19 1995 UMI

U.S. 246, 258–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2)).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by June 19, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Executive Order 12866

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: April 12, 1995.

Carol M. Browner,

Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2308 is amended by adding paragraph (d) to read as follows:

§ 52.2308 Area-wide nitrogen oxides (NO_x) exemptions.

* * * * *

(d) The TNRCC submitted to the EPA on August 17, 1994, with supplemental information submitted on August 31, 1994, and September 9, 1994, a petition requesting that the Houston and Beaumont ozone nonattainment areas be temporarily exempted from the NO_x control requirements of section 182(f) of the CAA. The Houston nonattainment area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. The Beaumont nonattainment area consists of Hardin, Jefferson, and Orange counties. The exemption request was based on photochemical grid modeling which shows that reductions in NO_x would not contribute to attaining the ozone NAAQS. On April 12, 1995, the EPA approved the State's request for a temporary exemption. Approval of the temporary exemption waives the federal requirements for NO_x Reasonably Available Control Technology (RACT), New Source Review (NSR), conformity, and vehicle inspection and maintenance (I/M) for the period of the temporary exemption. The temporary exemption automatically expires on December 31, 1996, without further notice from the EPA. Based on the rationale provided in the notice of proposed rulemaking on this action, upon the expiration of the temporary exemption, the requirements pertaining to NO_x RACT, NSR, conformity, and I/M will again become applicable, except that the NO_x RACT implementation date applicable to the Houston and Beaumont nonattainment areas under section 182(f) shall be as expeditious as practicable but no later than May 31, 1997, unless the State has received a permanent NO_x exemption from the EPA prior to that time.

[FR Doc. 95–9567 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CA 144–4–6973b; FRL–5194–6]

California State Implementation Plan Revision Interim Final Determination that State has Corrected Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a notice of proposed rulemaking fully approving revisions to the California State Implementation Plan. The revisions include a rule from the South Coast Air Quality Management District (SCAQMD): SCAQMD Rule 1153, Commercial Bakery Ovens. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which sanctions clocks were activated on September 29, 1993. This action will defer the application of the offset sanctions and defer the application of the highway sanctions. Although the interim final action is effective upon publication, EPA will take comment. If no comments are received on EPA's proposed approval of the State's submittal, EPA will finalize its determination that the State has corrected the deficiency that started the sanctions clocks by publishing a final action in the **Federal Register**. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final action taking into consideration any comments received.

DATES: Effective Date: April 19, 1995.

Comments: Comments must be received by May 19, 1995.

ADDRESSES: Comments should be sent to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

The State submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

I. Background

On May 13, 1991, the State submitted SCAQMD Rule 1153, Commercial Bakery Ovens, which EPA disapproved in part on September 29, 1993. 58 FR 50850. EPA's disapproval action started an 18-month clock for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP). The State subsequently submitted a revised rule on February 24, 1995. The revised rule was adopted by the SCAQMD on January 13, 1995. In the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State of California's submittal of SCAQMD Rule 1153, Commercial Bakery Ovens.

Based on the proposed approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiency. Therefore, EPA is taking this interim final rulemaking action, effective on publication, finding that the State has corrected the deficiency. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred and/or stayed.

This action does not stop the sanctions clock that started for this area on September 29, 1993. However, this action will defer the application of the offsets sanctions and will defer the imposition of the highway sanctions. See 59 FR 39832 (Aug. 4, 1994). If EPA publishes a notice of final rulemaking fully approving the State's submittal, such action will permanently stop the sanctions clock and will permanently lift any applied, stayed or deferred sanctions. If EPA must withdraw the proposed full approval based on adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiency, the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiency that started the sanctions clocks. Based on this action, imposition of the offset sanctions will be deferred and imposition of the highway sanctions will be deferred until EPA's final action fully approving the State's submittal becomes effective or until EPA takes action proposing or disapproving in whole or part the State submittal. If EPA's proposed rulemaking action fully approving the State submittal becomes final, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has corrected the deficiency identified in EPA's limited disapproval actions, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act in not providing an opportunity for comment before this action takes effect.[1] 5 U.S.C. 553(b)(3). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiencies that triggered the sanctions clocks.

Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

III. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 12, 1995.

John C. Wise,

Acting Regional Administrator.

[FR Doc. 95–9706 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–P

[1] As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

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40 CFR Part 180

[PP 4F4334/R2114; FRL–4941–2]

RIN 2070–AB78

Poly-D-Glucosamine (Chitosan); Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the biochemical growth regulator poly-D-glucosamine (hereafter referred to as chitosan) when used as a seed treatment in or on rice. Based on the nontoxic nature of this chemical, the Agency is also establishing an exemption from the requirement of a tolerance for residues of poly-D-glucosamine when used as a pesticide in the production of any raw agricultural commodities. Vanson L.P requested this exemption.

EFFECTIVE DATE: This regulation becomes effective April 19, 1995.

ADDRESSES: Written objections, identified by the document control number, [PP 4F4334/R2114], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, Product Manager (PM) 23, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7830; E-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 2, 1994 (59 FR 54907), EPA issued a notice that Vanson L.P., 8840, 152nd Ave.,

VOL
60
ISS
75
AP
19
1995
UMI

Northeast, Redmond, WA 98052, had submitted pesticide petition (PP 4F4334) to EPA proposing that an exemption from the requirement of a tolerance be established for residues of the biochemical growth regulator chitosan when used as a seed treatment on rice.

Chitosan is a naturally occurring substance produced from chitin extracts of crustacean shells (e.g., crab, shrimp, and lobster). The product is intended for use in treatment of seed prior to planting. Plant root growth is stimulated and stem strength enhanced, helping to prevent lodging (when the plants fall over because weak stems are unable to support it) in rice. Plants which lodge are difficult to harvest; therefore, yields may be decreased.

The chemical is taken up by plant cells where it enters the nucleus and stimulates messenger RNA and enzyme production. In the case of rice, such enzymes are thought to be responsible for stimulating the plant to produce more lignin in the stems, resulting in stronger stems and decreased lodging.

The Agency considered the following factors in support of this request for exemption from the requirement of a tolerance: Chitosan (1) is not toxic, as demonstrated in acute toxicity studies in mice, rats, and rabbits; (2) is naturally occurring in the environment in large concentrations; (3) has been exempted from the requirement of a tolerance in or on barley, beans, oats, peas, and wheat (40 CFR 180.1072) when used as a seed treatment at an application rate of 4 oz./100 lbs. seed; (4) has been approved by the State of Oregon for use in unrestricted amounts as a soil amendment (fertilizer), a use not regulated by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act. Certain chitin-based products are permitted to be used in foods as hypocholesterolemic agents, as dietary fiber in low-calorie diets, and as agents to increase the specific loaf volume of bread.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this exemption request. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request.

Chitosan is considered useful for the purpose for which the exemption from the requirement of a tolerance is sought. Based on the information considered, the Agency concludes that establishment of the exemption will protect the public health. Therefore, the regulation is established as set forth below.

Based on the nontoxic nature of this chemical, the Agency is also establishing an exemption from the requirement of a tolerance for residues of poly-D-glucosamine when used as a pesticide in the production of any raw agricultural commodities.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 3, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1072 is revised to read as follows:

§ 180.1072 Poly-D-glucosamine (chitosan); exemption from the requirement of a tolerance.

(a) An exemption from the requirement of a tolerance is established for residues of the biological plant growth regulator poly-*D*-glucosamine when used as a seed treatment in or on barley, beans, oats, peas, rice, and wheat.

(b) An exemption from the requirement of a tolerance is established for residues of the biological plant growth regulator poly-D-glucosamine when used as a pesticide in the production any raw agricultural commodity.

[FR Doc. 95-9165 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 300

[FRL-5189-7]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update; Cemetery Dump Site, Rose Township, MI

AGENCY: Environmental Protection Agency

ACTION: Notice of Deletion of the Cemetery Dump Site, Rose Township, Michigan from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Cemetery Dump Site, in Rose Township, Michigan from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Michigan have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of Michigan have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Matthew Mankowski (HSRW-6J), Remedial Project Manager, Office of Superfund, U.S. EPA-Region V, 77 West Jackson Blvd., Chicago, IL 60604, (312) 886-1842. The comprehensive information on the site is available at the local information repository located at: Holly Township Library, 1116 N. Saginaw, Holly, MI. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. Address for the Regional Docket Office is Jan Pfundheller (H-7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353-5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Cemetery Dump Site, Rose Township, Michigan.

A Notice of Intent to Delete for this site was published FR Doc. 95-3604. The closing date for comments on the Notice of Intent to Delete was March 17, 1995. EPA received no comments and therefore has not prepared a Responsiveness Summary.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 is revised to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p. 193.

Appendix B [Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Site "Cemetery Dump, Rose Township, Michigan".

Dated: April 3, 1995.

David A. Ullrich,

Acting Regional Administrator, U.S. EPA, Region V.

[FR Doc. 95-9537 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-50-F-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7134

[CA-930-1430-04; CACA 4881]

Partial Revocation of Executive Order Dated April 17, 1926, Public Water Reserve No. 107; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive Order insofar as it affects 69.78 acres of public land withdrawn for a public water reserve. The land is no longer needed for that purpose, and the partial revocation is needed to facilitate a land exchange under Section 206 of the Federal Land Policy and Management Act of 1976. This action will open 69.78 acres to surface entry and nonmetalliferous mining unless closed by overlapping withdrawals or temporary segregation of record. The land has been and remains open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office, 2800 Cottage Way, Sacramento, California 95825-1889; 916-979-2858.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order of April 17, 1926, creating Public Water Reserve No. 107, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 17 N., R. 10 E.,
Sec. 28, lots 5 and 7.

The area described contains 69.78 acres in Nevada County.

2. At 10 a.m. on May 19, 1995, the land will be opened to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 19, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on May 19, 1995, the land will be opened to location and entry for nonmetalliferous mining under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between

VOL
60
ISS
75
AP
19
1995
UMI

rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–9581 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–40–P

43 CFR Public Land Order 7135

[AK–932–1430–01; J–011940]

Revocation of Public Land Order No. 2546; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order in its entirety as it affects approximately 6.86 acres of National Forest System land withdrawn for use by the Forest Service, Department of Agriculture, for the North Douglas Administrative Site. The land is no longer needed for the purpose for which it was withdrawn. This action also allows the conveyance of the land to the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State is opened and will be subject to the terms and conditions of the national forest reservation and any other withdrawal of record.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 2546, which withdrew lands for use by the Forest Service as administrative sites, is hereby revoked as it affects the following described land:

Copper River Meridian

Tongass National Forest

A parcel of land located within lot 4 of sec. 17, in partially surveyed T. 41 S., R. 66 E., more particularly described as:

Beginning at a point N. 10°29′ E., 102.81 chains from Corner No. 2 of U.S.S. No. 1555 and also N. 63° W., 0.14 chain from Station P–569+00 on the P-Line of B.P.R. North Douglas Forest Highway Extension No. 30;

Thence West, 8.0 chains;

North, 8.04 chains to the line of mean high water;

Easterly, 10.19 chains with the line of mean high water;

S. 9° W., 9.96 chains to the point of beginning.

The area described contains approximately 6.86 acres.

2. The State of Alaska application for selection made under Section 6(a) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988), and under Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State is opened and will be subject to the terms and conditions of the Tongass National Forest reservation and any other withdrawal of record.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–9580 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–JA–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 94–1; FCC 95–132]

Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On March 30, 1995, the Federal Communications Commission adopted a First Report and Order revising its price cap regulations applicable to local exchange carriers (LECs). The Commission adopted these Rule revisions as a result of a performance review of LEC price cap regulation, which the Commission scheduled when it originally adopted LEC price cap regulation in 1990, to evaluate the price cap system as implemented and LEC performance under that system. The Commission's rule revisions increase value of the productivity offset factor in the price cap formula, provide three options for the productivity offset factor, revise the rules governing sharing obligations, and require a one-time reduction in the LECs' price cap indexes. The Commission also limits the number of cost changes resulting from changes in accounting rules that are eligible for exogenous cost treatment, and extends exogenous cost treatment to cost changes resulting from the sales or swaps of exchanges. In addition, the Commission states its intention to issue a further notice of proposed rulemaking in the near future, to consider adopting other rule changes on a long-term basis. Finally, the Commission delegates authority to the Common Carrier Bureau to determine appropriate adjustments for LECs to make appropriate adjustments to their price cap indexes, to account for these effects caused by rescheduling their 1995 annual access filings.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Joanne F. Wall or Steven Spaeth, Tariff Division, Common Carrier Bureau, (202) 418–1530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order adopted March 30, 1995, and released April 7, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M. St., N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Suite 140, 2100 M Street, N.W., Washington, D.C. 20037.

Regulatory Flexibility Analysis

We have determined that Section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. § 605(b), does not apply to these rules because they do not have a significant economic impact on a substantial number of small entities. The definition of a "small entity" in Section 3 of the Small Business Act excludes any business that is dominant in its field operation. Local exchange carriers do not qualify as small entities because they have a nationwide monopolicy on ubiquitous access to the subscribers in their service area. The Commission also has found all exchange carriers to be dominant in its competitive carrier proceeding. See 85 FCC 2d 1, 23–24 (1980).

To the extent that small telephone companies will be affected by these rules, we hereby certify that these rules will have a significant effect on a substantial number of "small entities."

Summary of Report and Order

In this Order, we adopted revisions to the productivity offset factor, or "X-Factor," of the price cap index formula. In the formula, the X-Factor, which represents the amount by which local exchange carriers have been more productive than the economy as a whole, is subtracted from the Gross National Product Price Index (GNP–PI), a measure of inflation. In general, LEC prices are not permitted to increase more than the rate established by the

cap. Three X-Factor options are provided: 4.0, 4.7 and 5.3 percent.

We also adopt revisions to the LECs' sharing obligations, which are treated as downward adjustments of the price cap. Specifically, the 50–50 sharing zone for the 4.0 percent X-Factor option ranges from 12.25 to 13.25 percent rate return; the 100 percent sharing zone for this option begins at 13.25 percent. The sharing obligations for the 4.7 percent X-Factor requires 50–50 sharing for LECs with rates of return between 12.25 and 16.25 percent, and 100 percent sharing for LECs with rates of return above 16.25 percent. We have eliminated sharing obligations for LECs electing the high-options X-Factor, 5.3 percent.

We also conclude that the current 3.3 percent X-Factor was 0.7 percent too low during the first four years of price cap regulations. Accordingly, we require LECs to adjust their price cap indexes downward by 0.7 percent for each year from 1990 to 1994 that they elected the 3.3 percent productivity offset factor.

We also revise our rules governing exogenous costs in two ways. Exogenous costs are treated as either downward or upward adjustments to the price cap. First, we will allow exogenous cost adjustments for accounting changes only to the extent those accounting revisions result in economic cost changes, *e.g.*, they affect the discounted cash flow of the carrier. We consider accounting rule changes as economic cost changes only to the extent those changes affect the discounted cash flow of the carrier. Second, we establish procedures for LECs to follow when seeking exogenous treatment for cost changes. Parties will be required to raise the issue of whether to treat any cost change exogenously in a petition for rulemaking, petition for declaratory ruling, or petition for waiver.

Finally, we adopt a number of minor revisions to the LEC price cap plan. We find that there is sufficient evidence to allow carriers greater flexibility to lower prices within service bands without risking predation or cross-subsidization. Therefore, we expand the lower pricing bands that apply to the service categories within the traffic sensitive and trunking baskets and to density pricing zones by 5 percent. We also will require LECs to treat cost reductions resulting from sales or swaps of exchanges to be treated exogenously as a condition placed on the grant of any waiver of the study area boundary rules. Finally, we change the inflation measure in the price cap index formula from Gross National Product Price Index (GNP–PI) to Gross Domestic Product Price Index (GDP–PI).

Ordering Clauses

Accordingly, it is ordered, pursuant to authority contained in Sections 4(i), 4(j), 201–205, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201–205, 303(r), 403, and Section 553 of Title 5, United States Code, that Part 61 of the Commission's Rules, 47 C.F.R. Part 61 is amended as set forth below.

It is further ordered that authority is delegated to the Chief, Common Carrier Bureau, to determine that adjustments are necessary to the price cap indexes, actual price indexes, and service band indexes of local exchange carriers, to account for the effects of the revised effective date of the 1995 annual access filings of local exchange carriers under price cap regulation, and to establish a pleading cycle for review of those tariffs.

It is further ordered that the provisions in this Report and Order will be effective 30 days after **Federal Register** publication.

List of Subjects in 47 CFR Part 61

Communications common carriers, Tariffs.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Part 61 of Title 47 of the CFR is amended as follows:

PART 61—TARIFFS

1. The authority citation continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403, unless otherwise noted.

2. Section 61.3 is amended by redesignating paragraphs (p) through (ll) as (q) through (mm), and by adding a new paragraph (p) to read as follows:

§ 61.3 Definitions.

* * * * *

(p) *GDP Price Index (GDP–PI).* The estimate of the "Fixed Weight Price Index for Gross Domestic Product, 1987 Weights" published by the United States Department of Commerce, which the Commission designates by Order.

* * * * *

3. Section 61.45 is amended by revising paragraphs (b) and (c), the introductory text of paragraphs (d) and (d)(1) and paragraphs (d)(1)(ii), (d)(1)(vi) and (e) to read as follows:

§ 61.45 Adjustments to the PCI for Local Exchange Carriers.

* * * * *

(b) Adjustments to local exchange carrier PCIs for the baskets designated in § 61.42(d) (2), (3) and (4) shall be made pursuant to the formula set forth in § 61.44(b), and as further explained in §§ 61.44 (e), (f), (g), and (h).

(1) Notwithstanding the value of X defined in § 61.44(b), the X value applicable to the baskets specified in § 61.42(d) (2) and (3) shall be 4.0%, or 4.7%, or 5.3%, as the carrier elects.

(2) For the basket specified in § 61.42(d)(4), the value of X shall be 3.0%, or 3.7%, or 4.3%, as the carrier elects.

(c) Subject to paragraph (e) of this section, adjustments to local exchange carrier PCIs for the basket designated in § 61.42(d)(1) shall be made pursuant to the following formula:

$PCI_t = PCI_{t-1}[1+w[(GDP\text{–}PI - X - (g/2))/(1+(g/2))] + \Delta Z/R]$

where

GDP–PI=the percentage change in the GDP–PI between the quarter ending six months prior to the effective date of the new annual tariff and the corresponding quarter of the previous year,

X=productivity factor of 4.0%, or 4.7%, or 5.3% if the carrier so elects,

g=the ratio of minutes of use per access line during the base period, to minutes of use per access line during the previous base period, minus 1,

ΔZ=the dollar effect of current regulatory changes when compared to the regulations in effect at the time the PCI was updated to PCI_{t-1}, measured at base period level of operations,

R=base period quantities for each rate element "i", multiplied by the price for each rate element "i" at the time the PCI was updated to PCI_{t-1},

w=R+ΔZ, all divided by R,

PCI_t=the new PCI value, and

PCI_{t-1}=the immediately preceding PCI value.

(d) The exogenous cost changes represented by the term "ΔZ" in the formula detailed in paragraphs (b) and (c) of this section shall be limited to those cost changes that the Commission shall permit or require by rule, rule waiver, or declaratory ruling.

(1) Subject to further order of the Commission, those exogenous changes shall include cost changes caused by:

* * * * *

(ii) Such changes in the Uniform System of Accounts, including changes in the Uniform System of Accounts requirements made pursuant to § 32.16

VOL 60 ISS 75 AP 19 1995 UMI

of this chapter, as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling.

* * * * *

(vi) Such tax law changes and other extraordinary cost changes as the Commission shall permit or require be treated as exogenous by rule, rule waiver, or declaratory ruling.

* * * * *

(e) The "w[(GDP–PI–X–[g/2])/(1+(g/2))]" component of the PCI formula contained in paragraph (c) of this section shall be employed only in the adjustment made in connection with the annual price cap filing.

* * * * *

7 Section 61.47 is amended by revising paragraphs (e), (g)(1), (g)(2), (g)(4), and (h)(2) to read as follows:

§ 61.47 Adjustments to the SBI; pricing bands.

* * * * *

(e) Pricing bands shall be established each tariff year for each service category and subcategory within a basket. Except as provided in paragraphs (f), (g), and (h) of this section, each band shall limit the pricing flexibility of the service category or subcategory, as reflected in the SBI, to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for that basket, measured from the levels in effect on the last day of the preceding tariff year.

* * * * *

(g) (1) *Local Exchange Carriers—Service categories and subcategories.* Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(w) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate two separate subindexes: One for the DS1 services offered by such carriers and the other for the DS3 services offered by such carriers. The annual pricing flexibility for each of these two subindexes shall be limited to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for the special access services basket, measured from the last day of the preceding tariff year.

(2) The upper pricing band for the tandem-switched transport service category shall limit the annual upward pricing flexibility for this service category, as reflected in its SBI, to two percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year. The lower pricing band for the tandem-switched transport service category shall limit the annual downward pricing flexibility for this service category, as reflected in its SBI, to ten percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the preceding tariff year.

* * * * *

(4) Local exchange carriers subject to price cap regulation as that term is defined in § 61.3(v) shall use the methodology set forth in paragraphs (a) through (d) of this section to calculate a separate subindex for the 800 data base vertical features offered by such carriers. The annual pricing flexibility for this subindex shall be limited to an annual increase of five percent or an annual decrease of ten percent, relative to the percentage change in the PCI for the traffic sensitive basket, measured from the last day of the preceding tariff year.

* * * * *

(h) * * *

(2) The annual pricing flexibility for each of the subindexes specified in paragraph (h)(1) of this section shall be limited to an annual increase of five percent or an annual decrease of fifteen percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the proceeding tariff year.

12. Section 61.48 is amended by revising paragraphs (h)(3)(ii)(B), (h)(5)(i), (i)(3)(ii)(B), and (i)(4)(ii) to read as follows:

§ 61.48 Transition rules for price cap formula calculations.

* * * * *

(h) * * *

(3) * * *

(ii) * * *

(B) 0.90 times the SBI value for the special access services included in the category or subcategory on the day preceding the transport restructure date, weighted by the revenue weight of the transport services included in the category or subcategory.

* * * * *

(5) * * *

(i) The upper pricing band for the tandem-switched transport service category shall limit the upward pricing flexibility for this service category, as reflected in its SBI, to two percent, measured from the initial restructured rates for tandem-switched transport. The lower pricing band for the tandem-switched transport service category shall limit the downward pricing flexibility for this service category, as reflected in its SBI, to ten percent, measured from the initial restructured rates for tandem-switched transport.

* * * * *

(i) * * *

(3) * * *

(ii) * * *

(B) 0.85 times the SBI value for the services included in the zone category on the day preceding the later date, weighted by the revenue weight of the later services included in the zone category

* * * * *

(4) * * *

(ii) From the later date through the end of the following tariff year, the annual pricing flexibility for each of the subindexes specified in paragraph (i)(4)(i) of this section shall be limited to an annual increase of five percent or an annual decrease of fifteen percent, relative to the percentage change in the PCI for the trunking basket, measured from the levels in effect on the last day of the tariff year preceding the tariff year in which the later date occurs.

* * * * *

[FR Doc. 95–9571 Filed 4–18–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 69

[CC Docket No. 93–6; FCC 95–94]

Safeguards To Improve Administration of the Interstate Access Tariff and Revenue Distribution Processes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission ("FCC" or "Commission") has adopted a Report and Order and Order to Show Cause ("Order") adopting new rules to reform the interstate access tariff and revenue distribution processes administered by the National Exchange Carrier Association, Inc. ("NECA"). The Order amends the rules to include five directors from outside the local exchange carrier ("LEC") industry on NECA's Board of Directors. The Order adopts additional measures to increase NECA and LEC accountability to the FCC, and strengthen NECA's internal operations. In addition, the Order directs NECA to show cause why it should not be required to amend its incentive compensation plan to eliminate any incentive based upon common line or traffic sensitive pool earnings, or that might otherwise induce NECA officers or employees to violate Commission requirements. The FCC adopted this Order to assure that NECA administers the interstate access tariff and revenue distribution processes in accordance with FCC rules.

EFFECTIVE DATE: May 19, 1995. NECA shall submit its response to the Commission's order to show cause on or before June 19, 1995.

FOR FURTHER INFORMATION CONTACT: William A. Kehoe III, telephone number 202–418–0850, or John Hays, telephone number 202–418–0875.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Report and Order and Order to Show Cause ("Order") in Safeguards to Improve the Administration of the Interstate Access Tariff and Revenue Distribution Processes, FCC 95–94, CC Docket No. 93–6, adopted March 3, 1995 and released March 8, 1995. The full text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 239, 1919 M St., NW., Washington, DC. The full text will be published in the FCC Record and may also be purchased from the Commission's copy contractor, the International Transcription Service, at 2100 M Street, NW., suite 140, Washington, DC 20037, telephone number 202–857–3800.

Regulatory Flexibility Analysis

In the Notice of Proposed Rulemaking[1] in this proceeding, the Commission certified that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposals in this proceeding were adopted, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act.[2] Those proposals addressed by the administration of the interstate access tariff and revenue distribution processes by NECA, which is an association of LECs. Because of the nature of local exchange and access service, the Commission has concluded that LECs, including small LECs, are dominant in their fields of operation and therefore are not "small entities" as defined by that act.[3] The Secretary has sent a copy of this Notice of Proposed Rulemaking, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of that act.[4]

[1] Safeguards to Improve the Administration of the Interstate Access Tariff and Revenue Distribution Processes, *Notice of Proposed Rulemaking*, 8 FCC Rcd 1503, 1510, 58 FR 11203, 11204 (1993) (Notice).

[2] 5 U.S.C. 601(3).

[3] See MTS and WATS Market Structure, 93 FCC 2d 241, 338–39 (1983).

[4] 5 U.S.C. 603(a).

Synopsis of the Report and Order and Order to Show Cause

The NECA is an association of LECs established in 1984, at the direction of the Federal Communications Commission, to administer important Commission programs. These programs now include the common line ("CL") and traffic sensitive pools, the universal service fund, the lifeline assistance program, and the long term support program. The Commission's rules require LECs to report revenue, cost, and demand data to NECA so that NECA can administer these programs in accordance with Commission requirements.[5]

In 1989 and 1990, the Common Carrier Bureau ("Bureau") audited certain data that the Bell Operating Companies ("BOCs") had reported to NECA's CL pool during late 1988 and early 1989. That audit disclosed that several NECA directors appeared to have participated in an attempt to influence improperly the CL pool earnings for 1988 by inducing certain large LECs to report data to NECA that were inconsistent with our accounting, separations, and access charge rules. In a November 9, 1990 letter to NECA,[6] the Commission expressed concern regarding the directors' apparent misconduct. The Commission required NECA to hire an independent auditor to recommend safeguards to prevent manipulation of NECA's processes. NECA hired Ernst & Young, which filed its report on this audit with the Commission on December 9, 1991.[7] This report acknowledged NECA's improvement since the Bureau audit and recommended additional measures to improve the interstate access tariff and revenue distribution processes further.[8] NECA has implemented many of the recommendations that required no Commission action and has asked the Commission to act when such action was required.[9]

[5] 47 CFR 69.116(c), 69.117(c), 69.605(a).

[6] Letter from Donna R. Searcy, Secretary, FCC, to Lawrence C. Ware, Chairman of the Board of Directors, NECA, 5 FCC Rcd 7183 (1990) (*November 9 Letter*).

[7] Ernst & Young, Review and Recommended Pool Safeguards, AAD 91–24 (filed Dec. 9, 1991) (Safeguards Report).

[8] The improvements included a new emphasis on rule compliance, changes to NECA's bylaws that make NECA's Board deliberations more systematic, and better methods for ensuring that the data LECs submit to NECA comply with Commission requirements. We discuss these improvements in subsequent portions of this Order

[9] For instance, after the independent auditor recommended that the NECA Board include directors from outside the LEC industry, NECA petitioned the Commission for a rule change to add two outside director positions to its Board.

In the Notice in this Docket, the Commission proposed to adopt those recommendations of the independent auditor that it found warranted Commission action. The Commission's proposals focused on the composition and operation of NECA's Board, on the relationship between NECA and the Commission, and on methods for strengthening NECA's internal operations. Sixteen parties filed comments on the Notice, and five parties replied.

In this Order, the Commission adopts many of its proposals. To bring independent views to NECA's deliberations and to help ensure that NECA complies with Commission requirements, the Commission changes the composition of NECA's Board. Effective January 1, 1996, NECA's Board will consist of five directors from outside the LEC industry, two directors representing the BOCs, two directors representing other LECs having annual operating revenues in excess of $40 million, and six directors representing LECs having annual operating revenues of less than $40 million. These directors will serve one-year terms, but, if they seek reelection, must face contested elections at least every three years. The Commission requires that each NECA Board committee include at least one outside director, and eliminates restrictions on the membership of NECA's CL and traffic sensitive committees.

In the Order, the Commission reiterates that, in preparing interstate access tariff filings and distributing interstate revenue, NECA must correct any data that it reasonably believes do not comply with our rules. To help ensure that NECA receives complete and accurate data from LECs, the Commission requires that responsible LEC officers or employees certify data submissions to NECA. The Commission also requires NECA to report annually to the Commission on the results of its cost study review process. In addition, the Commission orders NECA to show cause why it should not be required to amend its incentive compensation plan for its officers and employees to eliminate any incentives that may reward rule violations. The Commission, however, declines to require LECs that do not participate in NECA's pools to obtain independent audits of their costs studies. It also declines to require NECA to provide it with on-line access to NECA data bases at this time.

In taking these actions, the Commission emphasized that it has no wish to superintend NECA's day-to-day operations, and that it does not believe

VOL 60 ISS 75 AP 19 1995 UMI

that its actions intrude upon NECA's managerial discretion. NECA, however, is an organization established at the Commission's direction, whose structure and principal functions are specified by Commission rules.[10] The Commission believes that, to discharge its own responsibility to ensure the reasonableness of interstate telephone rates, it must ensure that NECA is discharging its responsibilities under the Commission's rules.

Ordering Clauses

Accordingly, It Is Ordered, pursuant to Sections 1, 4(i), 201–205, 218–220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–05, 218–20, and 403, that Part 69 of the Commission's rules, 47 CFR Part 69, IS AMENDED, as specified below.

It Is Further Ordered, pursuant to Sections 1, 4(i), 201–205, 218–220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–05, 218–20, and 403, that NECA shall file an annual report as specified in paragraphs 64 and 65 of the Report and Order.

It Is Further Ordered, pursuant to Sections 1, 4(i), 201–205, 218–220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–05, 218–20, and 403, that NECA shall show cause why it should not be required to amend its incentive compensation plan to eliminate any incentive based upon common line or traffic sensitive pool earnings or that might otherwise induce NECA officers or employees to violate Commission requirements.

It Is Further Ordered, pursuant to Sections 1, 4(i), 201–205, 218–220, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201–05, 218–20, and 403, that, pending further Commission order, NECA shall not make any incentive payments based on the rates of return earned by the common line or traffic sensitive pools.

List of Subjects in 47 CFR Part 69

Access charges, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary

Rule Amendments

Part 69 of Title 47 of the CFR is amended as follows:

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

[10] *See* 47 CFR 69.601–69.612.

Authority: Secs. 4, 201, 202, 203, 205, 216, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.601 is amended by adding a new paragraph (c) to read as follows:

§ 69.601 Exchange carrier association.

* * * * *

(c) All data submissions to the association required by this Title shall be accompanied by the following certification statement signed by the officer or employee responsible for the overall preparation for the data submission:

Certification

I am (title of certifying officer or employee). I hereby certify that I have overall responsibility for the preparation of all data in the attached data submission for (name of carrier) and that I am authorized to execute this certification. Based on information known to me or provided to me by employees responsible for the preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with the rules of the Federal Communications Commission.

Date: _____

Name: _____

Title: _____

(Persons making willful false statements in this data submission can be punished by fine or imprisonment under the provisions of the U.S. Code, Title 18, Section 1001).

3. Section 69.602 is revised to read as follows:

§ 69.602 Board of directors.

(a) For purposes of this section, the association membership shall be divided into three subsets:

(1) The first subset shall consist of the telephone companies owned and operated by the seven Regional Bell Holding Companies;

(2) The second subset shall consist of all other telephone companies with annual operating revenues in excess of forty million dollars;

(3) The third subset shall consist of all other telephone companies. All commonly controlled companies shall be deemed to be one company for purposes of this section.

(b) There shall be fifteen directors of the association.

(c) Until 1996, three directors shall represent the first subset, three directors shall represent the second subset, and nine directors shall represent the third subset. In 1996 and thereafter, two directors shall represent the first subset, two directors shall represent the second subset, six directors shall represent the third subset, and five directors shall represent all three subsets.

(d) No director who represents all three subsets shall be a current or former officer or employee of the association or of any association member, or have a business relationship or other interest that could interfere with his or her exercise of independent judgment.

(e) Each subset shall select the directors who will represent it individually through an annual election in which each member of the subset shall be entitled to vote for the number of directors that will represent such members' subset.

(f) The association membership shall select the directors for the following calendar year who will represent all three subsets through an annual election in which each member of the association shall be entitled to one vote for each director position. There shall be at least two candidates meeting the qualifications in paragraph (d) of this section for each such director position.

(1) In any election in which the most recently elected director for such position is not a qualified candidate;

(2) If there has been no election for such position having more than one qualified candidate during the present and the two preceding calendar years; and

(3) In any election for which the ballot lists two or more qualified candidates.

(g) At least one director representing all three subsets shall be a member of each committee of association directors.

(h) For each access element or group of access elements for which voluntary pooling is permitted, there shall be a committee that is responsible for the preparation of charges for the associated access elements that comply with all applicable sections in this part.

(i) Directors shall serve for a term of one year commencing January 1 and concluding on December 31 of each year.

4. Section 69.605 is amended by adding a new paragraph (e) to read as follows:

§ 69.605 Reporting and distribution of pool access revenues.

* * * * *

(e) The association shall submit a report on or before February 1 of each calendar year describing the association's cost study review process for the preceding calendar year as well as the results of that process. For any revisions to cost study results made or recommended by the association that would change the respective carrier's calculated annual common line or traffic sensitive revenue requirement by ten percent or more, the report shall include the following information.

(1) The name of the carrier;

(2) A detailed description of the revisions;

(3) The amount of the revisions;

(4) The impact of the revisions on the carrier's calculated common line and traffic sensitive revenue requirements; and

(5) The carrier's total annual common line and traffic sensitive revenue requirement.

[FR Doc. 95–9575 Filed 4–18–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–65; RM–8469]

Radio Broadcasting Services; Tyler, Fairfield and Commerce, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Gleiser Communications, Inc., substitutes Channel 221C3 for Channel 221A at Tyler, Texas, and modifies the license of Station KDOK(FM) to specify operation on the higher powered channel. To accommodate the upgrade at Tyler, the Commission also substitutes Channel 256A for Channel 221A at Fairfield, Texas, and Channel 277A for Channel 221A at Commerce, Texas; and modifies the licenses of Station KNES(FM) and KEMM(FM), respectively, to reflect the change in channels. *See* 59 FR 3589, July 14, 1994, and Supplemental Information, *infra*. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 29, 1995.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94–65, adopted April 6, 1995, and released April 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

The following channels can be allotted to the noted communities in compliance with the Commission's minimum distance separation requirements. Channel 221C3 can be allotted to Tyler with a site restriction of 1.6 kilometers (1.0 miles) west to accommodate Gleiser's desired site. The coordinates for Channel 221C3 at Tyler are 32–20–42 and 95–19–08. Channels 256A and Channel 277A can be allotted to Fairfield and Commerce, respectively, at the transmitter sites specified in Stations KNES(FM) and KEMM(FM)'s licenses. The coordinates for Channel 256A at Fairfield, Texas, are 31–41–52 and 96–09–44. The coordinates for Channel 277A at Commerce, Texas, are 33–11–40 and 96–01–20.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1 The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303. 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 221A and adding Channel 221C3 at Tyler; by removing 221A and adding Channel 256A at Fairfield; and by removing Channel 221A and adding Channel 277A at Commerce.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9628 Filed 4–18–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

Defense Federal Acquisition Regulation Supplement; Restriction on Procurement of Goods

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the existing foreign source restrictions for machine tools and valves, buses, chemical weapons antidote, air circuit breakers, and antifriction bearings, by uniformly permitting acquisition of Canadian items, expanding and standardizing the waiver criteria, and exempting acquisitions below the simplified acquisition threshold from these restrictions.

DATES: *Effective date:* April 10, 1995. *Comment date:* Comments on the interim rule should be submitted in writing to the address below on or before June 19, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn. Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 94–D314 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131

SUPPLEMENTARY INFORMATION:

A. Background

This interim DFARS rule implements 10 U.S.C. 2534 as amended by Section 814 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337) and Section 4102(i) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355). Section 814 revises the existing foreign source restrictions for machine tools and valves, buses, chemical weapons, antidote, air circuit breakers, and antifriction bearings, by uniformly permitting acquisition of Canadian items, and by expanding and standardizing the waiver criteria. Section 4102(i) exempts acquisitions below the simplified acquisition threshold from these restrictions.

B. Regulatory Flexibility Act

The interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule expands the conditions under which non-U.S. products may be acquired. An Initial Regulatory Flexibility Analysis (IFRA) has been prepared and may be obtained from the address specified herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 94–D314 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any additional information collection requirements which require the approval of the Office of

VOL 60 ISS 75 AP 19 1995 UMI

Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Compelling reasons exist to promulgate this rule without prior opportunity for public comment because it is necessary to implement statutory changes to 10 U.S.C. 2534. However, comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Sections 225.7004, 225.7004–1, 225.7004–2, 225.7004–3, 225.7004–4, and 225.7004–5 are revised, and 225.7004–6 is added to read as follows:

225.7004 Restriction on machine tools and powered and non-powered valves.

225.7004–1 Restriction.

In accordance with 10 U.S.C. 2534, through fiscal year 1996, do not acquire, either directly as end items or indirectly on behalf of the Government, the machine tools or powered and non-powered valves in 225.7004–2 unless they are of U.S. or Canadian origin.

225.7004–2 Applicability.

(a) Machine tools restricted under this section are those tools listed in Federal supply classes of metalworking machinery in the following categories—

Federal Supply Classification (FSC)	Name
3405	Saw and filing machines.
3408	Machine centers and way type machines.
3410	Electrical and ultrasonic erosion machines.
3411	Boring machines.
3412	Broaching machines.
3413	Drilling and tapping machines.
3414	Gear cutting and finishing machines.
3415	Grinding machines.
3416	Lathes.
3417	Milling machines.
3418	Planers and shapers.
3419	Miscellaneous machine tools.
3426	Metal finishing equipment.
3433	Gas welding, heat cutting, and metallizing equipment.
3438	Miscellaneous welding equipment.
3441	Bending and forming machines.
3442	Hydraulic and pneumatic presses, power driven.
3443	Mechanical presses, power driven.
3445	Punching and shearing machines.
3446	Forging machinery, and hammers.
3448	Riveting machines.
3449	Miscellaneous secondary metal forming and cutting machines.
3460	Machine tool accessories.
3461	Accessories for secondary metalworking machinery.

(b) Machine tool accessories classified under FSC 3460 or 3461 are not components under 225.7004–5. Where a solicitation for machine tools includes machine tool accessories, list machine tool accessories separately. Each machine tool and each accessory must meet the requirements of this section individually.

(c) Valves restricted under this section are those powered and non-powered valves listed in Federal supply classes 4810 (valves, powered) and 4820 (valves, non-powered) used in piping for naval surface ships and submarines.

225.7004–3 Exception.

This restriction does not apply if the acquisition is below the simplified acquisition threshold.

225.7004–4 Waiver.

(a) The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:

(1) The restriction would cause unreasonable delays.

(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(4) Satisfactory quality items manufactured in the United States or Canada are not available.

(5) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

(6) Application of the restriction is not in the national security interests of the United States.

(7) Application of the restriction would adversely affect a U.S. company.

(b) The restriction is waived when it would cause unreasonable costs. The cost of a machine tool or valve of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not of U.S. or Canadian origin.

225.7004–5 U.S. or Canadian origin.

(a) A valve or machine tool shall be considered to be of U.S. or Canadian origin if—

(1) It is manufactured in the United States or Canada; and

(2) The cost of its components manufactured in the U.S. or Canada exceeds 50 percent of the cost of all its components.

(b) The cost of components shall include transportation costs to the place of incorporation into the end product and duty (whether or not a duty-free certificate may be issued).

225.7004–6 Contract clauses.

(a) Unless an exception applies or a waiver has been granted, use the clause at 252.225–7017, Preference for United States and Canadian Valves and Machine Tools, in all solicitations and contracts for valves and machine tools.

(b) Consider using the clause at 252.225–7001, Buy American Act and Balance of Payments Program, and, if applicable, the clause at 252.225–7007, Trade Agreements Act, whenever an exception or waiver is anticipated. Where these clauses are used, state in the solicitation that offers which do not conform to the restrictions of the more restrictive clause will only be considered if an exception applies or a waiver is granted.

3. Section 225.7007 is revised to read as follows:

225.7007 Restriction on acquisition of foreign buses.

4. Sections 225.7007–1, 225.7007–2, 225.7007–3, and 225.7007–4 are added to read as follows:

225.7007–1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire a multipassenger motor vehicle (bus) unless it is manufactured in the United States or Canada.

225.7007–2 Applicability.

Apply this restriction if the buses are purchased, leased, rented, or made available under contracts for transportation services.

225.7007–3 Exceptions.

This restriction does not apply in any of the following circumstances:

(a) Buses manufactured outside the United States and Canada are needed for temporary use because buses manufactured in the United States or Canada are not available to satisfy requirements that cannot be postponed. Such use may not, however, exceed the lead time required for acquisition and delivery of buses manufactured in the United States or Canada.

(b) The requirement for buses is temporary in nature. For example, to meet a special, nonrecurring requirement or a sporadic and infrequent recurring requirement, buses manufactured outside the United States and Canada may be used for temporary periods of time. Such use may not, however, exceed the period of time needed to meet the special requirement.

(c) Buses manufactured outside the United States and Canada are available at no cost to the U.S. Government.

(d) The acquisition is below the simplified acquisition threshold.

225.7007–4 Waiver.

(a) The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:

(1) The restriction would cause unreasonable delays.

(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(4) Satisfactory quality items manufactured in the United States or Canada are not available.

(5) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

(6) Application of the restriction is not in the national security interests of the United States.

(7) Application of the restriction would adversely affect a U.S. company.

(b) The restriction is waived when it would cause unreasonable costs. The cost of a bus manufactured in the United States or Canada is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not manufactured in the United States or Canada.

5. Section 225.7010 is revised to read as follows:

225.7010 Restriction on certain chemical weapons antidots.

6. Sections 225.7010–1, 225.7010–2, and 225.7010–3 are added to read as follows:

225.7010–1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire chemical weapons antidote contained in automatic injectors, or the components for such injectors, unless the injector or component is manufactured in the United States or Canada by a company that—

(a) Is a producer under the Industrial Preparedness Program at the time of contract award;

(b) Has received all required regulatory approvals; and

(c) Has the plant, equipment, and personnel to perform the contract in the United States or Canada at the time of contract award.

225.7010–2 Exception.

This restriction does not apply if the acquisition is below the simplified acquisition threshold.

225.7010–3 Waiver.

(a) The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:

(1) The restriction would cause unreasonable delays.

(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(4) Satisfactory quality items manufactured in the United States or Canada are not available.

(5) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

(6) Application of the restriction is not in the national security interests of the United States.

(7) Application of the restriction would adversely affect a U.S. company.

(b) The restriction is waived when it would cause unreasonable costs. The cost of the injector or component manufactured in the United States or Canada is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not manufactured in the United States or Canada.

7. Sections 225.7016–1, 225.7016–2, and 225.7016–3 are revised to read as follows:

225.7016–1 Restriction.

In accordance with 10 U.S.C. 2534, do not acquire air circuit breakers for naval vessels unless they are manufactured in the United States or Canada.

225.7016–2 Exceptions.

This restriction does not apply if—

(a) The acquisition is below the simplified acquisition threshold; or

(b) Spares and repair parts are needed to support air circuit breakers manufactured outside the United States or Canada. Support includes the purchase of spare air circuit breakers where those from alternate sources are not interchangeable.

225.7016–3 Waiver.

(a) The head of the contracting activity may waive the restriction on a case-by-case basis upon execution of a determination and findings that any of the following applies:

(1) The restriction would cause unreasonable delays.

(2) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a

VOL 60 ISS 75 AP 19 1995 UMI

greater degree than the United States discriminates against defense items produced in that country.

(4) Satisfactory quality items manufactured in the United States or Canada are not available.

(5) Application of the restriction would result in the existence of only one source for the item in the United States or Canada.

(6) Application of the restriction is not in the national security interest of the United States.

(7) Application of the restriction would adversely affect a U.S. company.

(b) The restriction is waived when it would cause unreasonable costs. The cost of the air circuit breaker manufactured in the United States or Canada is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not manufactured in the United States or Canada.

8. Section 225.7016–4 is removed and section 225.7016–5 is redesignated as section 225.7016–4 and revised to read as follows:

225.7016–4 Contract clause.

Use the clause at 252.225–7029, Preference for United States or Canadian Air Circuit Breakers, in all solicitations and contracts requiring air circuit breakers for naval vessels, unless—

(a) An exception under 225.7016–2 is known to apply; or

(b) A waiver has been granted in accordance with 225.7016–3.

9. Sections 225.7019–1, 225.7019–2, 225.7019–3, and 225.7019–4 are revised to read as follows:

225.7019–1 Restriction.

In accordance with 10 U.S.C. 2534, through fiscal year 1995, do not acquire antifriction bearings or bearing components which are not manufactured in the United States or Canada.

225.7019–2 Exceptions.

The restriction in 225.7019–1 does not apply to—

(a) Acquisitions below the simplified acquisition threshold;

(b) Purchases of commercial products incorporating antifriction bearings;

(c) Miniature and instrument ball bearings restricted under 225.71;

(d) Items acquired overseas for use overseas; or

(e) Antifriction bearings or bearing components or items containing bearings for use in a cooperative or co-production project under an international agreement.

225.7019–3 Waiver.

The head of the contracting activity may waive the restriction in 225.7019–1—

(a) Upon execution of a determination and findings that—

(1) No domestic (U.S. or Canadian) bearing manufacturer meets the requirement;

(2) It is not in the best interests of the United States to qualify a domestic bearing to replace a qualified nondomestic bearing. This determination must be based on a finding that the qualification of a domestically manufactured bearing would cause unreasonable costs or delay. A finding that a cost is unreasonable should take into consideration DoD policy to assist the domestic industrial mobilization base. Contracts should be awarded to domestic bearing manufacturers to increase their capability to reinvest and become more competitive;

(3) United States producers of the item would not be jeopardized by competition from a foreign country, and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country;

(4) Application of the restriction would impede cooperative programs entered into between DoD and a foreign country, and that country does not discriminate against defense items produced in the United States to a greater a degree than the United States discriminates against defense items produced in that country;

(5) Application of the restriction would result in the existence of only one source for the item in the United States or Canada;

(6) Application of the restriction is not in the national security interests of the United States; or

(7) Application of the restriction would adversely affect a U.S. company.

(b) For multiyear contracts or contracts exceeding 12 months, only if—

(1) The head of the contracting activity executes a determination and findings in accordance with paragraph (a) of this subsection;

(2) The contractor submits a written plan for transitioning from the use of nondomestic to domestically manufactured bearings;

(3) The plan—

(i) States whether a domestically manufactured bearing can be qualified, at a reasonable cost, for use during the course of the contract period;

(ii) Identifies any bearings that are not domestically manufactured, their application, and source of supply; and

(iii) Describes, including cost and timetable, the transition to a domestically manufactured bearing. (The timetable for the transition should normally take no longer than 24 months from the date the waiver is granted); and

(4) The contracting officer accepts the plan and incorporates it in the contract.

225.7019–4 Contract clause.

Use the clause at 252.225–7016, Restriction on Acquisition of Antifriction Bearings, in all solicitations and contracts, unless—

(a) An exception applies or a waiver has been granted; or

(b) The contracting officer knows that the items being acquired do not contain antifriction bearings.

Subpart 252.2—Texts of Provisions and Clauses

10. Section 252.225–7017 is amended by revising in the introductory text the reference "225.7004–5(a)" to read "225.7004–6(a);" by revising the clause date to read "(APR 1995)" in lieu of "(APR 1992);" and by revising paragraph (c) to read as follows:

252.225–7017 Preference for United States and Canadian valves and machine tools.

* * * * * *

(c) Unless an exception applies or a waiver is granted under 225.7004–4(a) of the Defense Federal Acquisition Regulation Supplement, preference will be given to valves and machine tools of United States or Canadian origin by adding 50 percent to the offered price of all other valves and machine tools for evaluation purposes.

(End of clause)

11. Section 252.225–7029 is revised to read as follows:

252.225–7029 Preference for United States or Canadian air circuit breakers.

As prescribed in 225.7016–4, use the following clause:

Preference for United States or Canadian Air Circuit Breakers (Apr 1995)

(a) Unless otherwise specified in its offer, the Contractor agrees that air circuit breakers for naval vessels provided under this contract shall be manufactured in the United States or Canada.

(b) Unless an exception applies or a waiver is granted under 225.7016–3(a) of the Defense Federal Acquisition Regulation Supplement, preference will be given to air circuit breakers manufactured in the United States or Canada by adding 50 percent to the offered price of all other air circuit breakers for evaluation purposes.

(End of clause)

[FR Doc. 95–9496 Filed 4–18–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket 48713]

RIN 2105–AB85

Procedures for Transportation Workplace Drug and Alcohol Testing Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: On August 19, 1994, the Office of the Secretary of Transportation issued a final rule requiring transportation employers to begin using a new Federal Drug Testing Custody and Control Form for all DOT-required drug tests on February 16, 1995. This final rule extends the date by which transportation employers must comply with the use of the new form to June 1, 1995.

EFFECTIVE DATE: This rule is effective April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth Edgell, Office of Drug Enforcement and Program Compliance, Department of Transportation, 400 7th Street SW., room 9404, Washington, DC 20590 (202) 366–3784.

SUPPLEMENTARY INFORMATION: In February 1994, the Department of Transportation published a final rule which, in part, revised drug testing procedures for employers in the aviation, maritime, railroad, mass transit, pipeline, and motor carrier industries. In August 1994, the DOT issued minor or technical amendments to the rule. One such amendment was the mandatory use "without exception and without modification" of the Federal Drug Testing Custody and Control Form for all DOT urine specimen collections. The form was designed through a lengthy and corroborative effort among DOT, the Department of Health and Human Services, and other interested parties. This form is authorized for use only in Federal employee testing programs and for testing conducted under DOT operating administration rules, and is not authorized for use in any other type of drug testing program. This form will accommodate both split and single specimen collections; instructions for proper use are printed on the back of the last page of the form. All seven pages of the form were printed on August 19, 1994, (59 FR 43005–43012); only the front page is reproduced in Appendix A to this rule. This form may be produced by transportation employers, DHHS laboratories, collection sites, etc., but must be an exact duplication without modification. OMB has approved the form under the Paperwork Reduction Act, having assigned the OMB No. 9999–0023, with the expiration date of June 30, 1997.

Employers are required to record information specific to the collection of a urine specimen to be used for a DOT drug test. The information that is required is identified on the new Federal Drug Testing Custody and Control Form, and information may not be gathered that is inconsistent with that required by the new form. Mandatory use of the new form had been set to begin on February 16, 1995. Recent information from laboratories, the primary suppliers of the form, and collectors and employers, the main users of the form, indicated that the form is not universally available. A variety of reasons contributing to the unavailability includes DHHS laboratories failure to print the new forms in a timely manner, as well as their mistaken belief that inventories of existing forms could be used up prior to the phase-in of the new form. Assertions were also made that the colored paper for the seven-part form is available only on a limited basis, and that the form is not yet available for sale at the Government Printing Office. After careful consideration of the validity of this situation, the Department has extended the compliance date for mandatory use of the form to June 1, 1995. Collections made with out-of-date forms after that date should not be rejected (by DHHS laboratories) solely because of the usage of the form. Procedures for corrective action were provided the DHHS laboratories via a memorandum on January 23, 1995 from DOT (Office of Drug Enforcement and Program Compliance). These procedures will continue to be in effect after June 1, 1995. DOT compliance agencies will be reviewing the use of the new form and may assess penalties against transportation employers who are not in compliance after June 1, 1995.

Federal Drug Testing Custody and Control Form

The following provides printing and use instructions for the new form.

All entities conducting urine specimen collections and drug testing under 49 CFR part 40 shall exclusively use the standard Federal Drug Testing Custody and Control Form. The form, a seven-part carbonless manifold, shall be 8½ by 11 inches in detached size. Part 1 (white) is the original and must accompany the specimen to the laboratory. Part 2 (white) is the second original and must accompany the specimen to the laboratory. Part 3 (white) is the split specimen original and must accompany the split specimen to the laboratory. Part 4 (pink) must be sent directly to the Medical Review Officer. Part 5 (green) must be given to the donor. Part 6 (yellow) is retained by the collector. Part 7 (blue) is forwarded to the employer.

Print part numbers and designations in red ink at the bottom left on all parts. Print all other information in black ink. Chemical transfer image must be black.

Parts 1 through 7 must have a preprinted specimen identification number. This number, ⅛" to 3/16" high (*size recommended*), reading parallel to the 8½" dimension, in a space 1¼" × 3/16" (*size recommended*) in the top center of all parts (to correspond with "SPECIMEN ID NO." and appear to the left of the "A" delimiter (or "B (SPLIT)" on Part 3) on all parts). The identical specimen identification number ⅛" to 3/16" high (*size recommended*), in a space 1¼" x 3/16" (*size recommended*), shall appear on Part 1 on each unitary label/seal (to correspond with "SPECIMEN ID NO." and appear to the left of the "A" and "B (SPLIT)" delimiters). Note: The specimen identification number on the form (all seven parts) must be identical to the specimen identification number on the labels. Specimen identification numbers may be printed individually to each part prior to assembly, or "crash numbered" on all parts simultaneously after assembly. All numbers must be clear and legible on all parts. These numbers need to be unique *only* for the particular collection. However, the DOT favors numbering systems (e.g., 6 or more digits) that are unique to, and controlled by, the printer of the form.

The unitary labels/seals are to be of tamper-evident quality, and shall be on a perforated stub on the right-hand side of Part 1. The actual size of the labels may be modified to properly fit the specimen bottles to which they will be affixed. A shipping container seal is required for DOT specimens, however, making the shipping container seal part of the form is optional; this seal may be supplied as a separate item in a laboratory's specimen collection kit. If the shipping container seal is part of the form, it must be placed in the label area on Part 1. Part 7 may have a corresponding perforated stub (as backing) to match Part 1 (i.e., to aid in form production and stability).

The top portion, reading parallel to the 8½" dimension, (above SPECIMEN ID NO.) on Parts 1 through 7 may be customized to contain the laboratory's logo and/or bar coding necessary for

VOL 60 ISS 75 AP 19 1995 UMI

accounting and identifying information. No other areas on the form are subject to modification, other than under the provisions of section 40.23(a) which must be approved by the DOT. If bar coding is used in the top portion of Part 1, a corresponding bar code may appear on each of the unitary labels/seals (and shipping container seal, if applicable).

OMB No. 9999–0023 and Expiration Date: 6/30/97 must appear on the Federal Drug Testing Custody and Control Form. (Note the number and date in the lower left-hand corner of the form in Appendix A.) The form will be placed in stock in the Superintendent of Documents, Government Printing Office for sale to the general public by the compliance date.

Regulatory Analysis and Notices

This is not a significant rule under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. It does not impose costs on regulated parties and may, to a limited extent, reduce regulatory burdens. Consequently, a regulatory evaluation has not been prepared. The Department finds, for purposes of the Administrative Procedure Act, that issuance of a notice of proposed rulemaking on these subjects is unnecessary, impracticable, or contrary to the public interest. This amendment simply extends the compliance date for use of the form. The use of the form conforms to previous, joint DOT/DHHS actions, and the rapid issuance of this notification is in the interest of the public. The immediate effective date for this amendment is established because of the necessity of immediately correcting a situation that may be beyond the practical control of many transportation employers, yet still cause them to incur penalties.

List of Subjects in 49 CFR Part 40

Drug testing, Alcohol testing, Laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

Issued this 4th day of April 1995, at Washington, DC.

Federico Peña,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department of Transportation amends title 49, Code of Federal Regulations, part 40 as follows:

PART 40—PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

1. The authority citation for 49 CFR part 40 continues to read as follows:

Authority: 49 U.S.C. 102,301,322; 49 U.S.C. app. 1301nt., app. 1434nt., app. 2717, app. 1618a.

2. Section 40.23(a) is amended to read as follows:

§ 40.23 Preparation for testing.

* * * * *

(a)(1) Except as provided in paragraph (a)(2) of this section, use of the drug testing form prescribed under this part.

(i) This form is found in Appendix A to this part.

(ii) Employers and other participants in the DOT drug testing program may not modify or revise this form, except that the drug testing custody and control form may include such additional information as may be required for billing or other legitimate purposes necessary to the collection, provided that personal identifying information on the donor (other than the social security number or other employee ID number) may not be provided to the laboratory.

(iii) Donor medical information may appear only on the copy provided the donor.

(2) Notwithstanding the requirement of paragraph (a)(1)(ii) of this section, employers and other participants may use existing forms that were in use in the DOT drug testing program prior to February 16, 1995, until June 1, 1995.

(3) Appendix A to part 40 is amended by revising the Federal Drug Testing Custody and Control Form, Copy 1, to read as follows:

Appendix A to Part 40—Federal Drug Testing Custody and Control Form

BILLING CODE 4810-62-P

FEDERAL DRUG TESTING CUSTODY AND CONTROL FORM

SPECIMEN ID NO. 0000000 A LABORATORY ACCESSION NO.

SPECIMEN BOTTLE SEALS

0000000 A (PLACE OVER CAP)

0000000 B (SPLIT) (PLACE OVER CAP)

▶ STEP 1: TO BE COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

A Employer Name, Address and I.D. No. | B MRO Name and Address

C Donor SSN or Employee I.D. No.

D Reason for Test ☐ Pre-employment ☐ Random ☐ Reasonable Suspicion/Cause ☐ Post Accident ☐ Return to Duty ☐ Follow-up ☐ Other (specify)

E Tests to be Performed ☐ THC Cocaine PCP Opiates and Amphetamines ☐ Only THC and Cocaine ☐ OTHER (specify)

▶ STEP 2: TO BE COMPLETED BY COLLECTOR Specimen temperature must be read within 4 minutes of collection

Specimen temperature within range ☐ Yes 90° - 100°F/32° - 38°C ☐ No Record specimen temperature here

▶ STEP 3: TO BE COMPLETED BY COLLECTOR AND DONOR Collector affixes bottle seal(s) to bottle(s) Collector dates seal(s) Donor initials seal(s)

▶ STEP 4 TO BE COMPLETED BY DONOR - Go to copy 4 (pink page) STEP 4

▶ STEP 5 TO BE COMPLETED BY COLLECTOR

COLLECTION SITE LOCATION

Collection Facility | Collector's Business Phone No. | SPLIT SPECIMEN COLLECTION ☐ YES ☐ NO

Address | City | State | Zip

REMARKS

I certify that the specimen identified on this form is the specimen presented to me by the donor providing the certification on Copy 4 of this form, that it bears the same specimen identification number as that set forth above and that it has been collected, labeled and sealed as in accordance with applicable Federal requirements.

Printed Collector's Name First & Last | Signature of Collector | Date (Mo./Day/Yr.)

▶ STEP 6 TO BE INITIATED BY THE COLLECTOR AND COMPLETED AS NECESSARY THEREAFTER

SPECIMEN RELEASED BY	SPECIMEN RECEIVED BY	PURPOSE OF CHANGE
DONOR NO SIGNATURE	Signature / Name	PROVIDE SPECIMEN FOR TESTING
Signature / Name	Signature / Name	
Signature / Name	Signature / Name	
Signature / Name	Signature / Name	

▶ STEP 7 TO BE COMPLETED BY THE LABORATORY - Specimen Bottle Seal(s) Intact: ☐ YES ☐ NO Explain in Remarks Below

THE RESULTS FOR THE ABOVE IDENTIFIED SPECIMEN ARE IN ACCORDANCE WITH THE APPLICABLE INITIAL TEST AND CONFIRMATORY TEST CUTOFF LEVELS ESTABLISHED BY THE HHS MANDATORY GUIDELINES FOR FEDERAL WORKPLACE DRUG TESTING PROGRAMS

☐ NEGATIVE ☐ POSITIVE for the following ☐ CANNABINOIDS as Carboxy-THC ☐ COCAINE METABOLITES as Benzoylecgonine ☐ PHENCYCLIDINE ☐ TEST NOT PERFORMED ☐ OPIATES ☐ codeine ☐ morphine ☐ AMPHETAMINES ☐ amphetamine ☐ methamphetamine ☐ OTHER

REMARKS

TEST LAB (Affiliation from above) | NAME | ADDRESS | PHONE NO.

I certify that the specimen identified by the specimen accession number on this form is the same specimen that bears the specimen identification number set forth above that the specimen has been examined upon receipt, labeled and processed in accordance with applicable Federal requirements, and that the results set forth are for that specimen.

Printed Certifying Scientist's Name First & Last | Signature of Certifying Scientist | Date (Mo./Day/Yr.)

▶ STEP 8: TO BE COMPLETED BY THE MEDICAL REVIEW OFFICER

I have reviewed the laboratory results for the specimen identified by this form in accordance with applicable Federal requirements fully documented/investigated as:

☐ Negative ☐ Positive ☐ Test Not Performed ☐ Test Canceled

REMARKS

Printed Medical Review Officer's Name First & Last | Signature of Medical Review Officer | Date (Mo./Day/Yr.)

SHIPPING CONTAINER SEAL

Date (Mo./Day/Yr.)

Collector's Initials

COPY 1 ORIGINAL MUST ACCOMPANY SPECIMEN TO LABORATORY

[FR Doc. 95–9466 Filed 4–18–95; 8:45 am]

BILLING CODE 4810-62-C

VOL 60 ISS 75 AP 19 1995 UMI

Federal Railroad Administration

49 CFR Part 219

[Docket No. RSOR–6; Notice No. 42]

RIN 2130–AA83

Post-Accident Toxicological Testing; Amended Procedures

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Final rule.

SUMMARY: FRA's new "post-accident shipping boxes" (formerly designated "post-accident testing toxicology kits") are now available for distribution to railroads. Each shipping box contains supplies, instructions, and custody and control forms that have been modified to incorporate mandatory urine split sample testing, optional breath alcohol testing, and other technical amendments. In this rule, FRA conforms the post-accident testing procedures contained in Appendix C to its alcohol and drug regulations (49 CFR part 219) to these changes. For ease of understanding, FRA here reprints the entire appendix C to part 219, as amended.

DATES: *Effective date.* This final rule is effective April 19, 1995. This rule is being made effective in less than the 30 days from publication otherwise required by law so that FRA can immediately implement post-accident testing amendments that had been delayed pending availablity of the new shipping boxes. FRA has therefore determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) to warrant an expedited effective date.

Compliance date: Compliance is authorized upon receipt of new FRA post-accident shipping boxes, but in no case later than April 17, 1995.

ADDRESSES: Any petition for reconsideration should be submitted in triplicate to the Docket Clerk, Docket No. RSOR–6, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Room 8201, Washington, D.C., 20590. Questions or comments regarding replacement of post-accident shipping boxes should be submitted to Lamar Allen, FRA Alcohol and Drug Program Manager, Office of Safety Enforcement, Operating Practices Division, Federal Railroad Administration, 400 7th Street, S.W., Room 8314, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Operating Practices Division, Federal Railroad Administration, 400 7th Street SW., room 8314, Washington, DC 20590, (Telephone: (202) 366–0127) or James T Schultz, Chief, Operating Practices Division, Office of Safety Enforcement, Federal Railroad Administration, 400 7th Street SW., room 8314, Washington, DC 20590, (Telephone: (202) 366–9178)

SUPPLEMENTARY INFORMATION: In a December 30, 1994 Notice (59 FR 67641), FRA announced that interim post-accident testing procedures would remain in effect until new post-accident shipping boxes became available. To anticipate this changeover, however, FRA asked railroads to submit the number of boxes needed for each location, so that FRA could replace outdated boxes on a one-for-one basis without charge.

Box replacement will begin shortly since FRA now has sufficient new post-accident shipping boxes to supply railroads. In this rule, FRA amends its post-accident testing procedures in appendix C to part 219 to incorporate mandatory urine split sample testing, optional breath alcohol testing, and other technical amendments.

As referred to above, FRA now calls the large box that contains forms, instructions and supplies, the "post-accident shipping box" (instead of "post-accident testing kit"). FRA has marked "FRA Post-Accident Shipping Box" on each new box. Within the post-accident shipping box, the individual employee sample boxes are redesignated and marked "FRA Post-Accident Kits." Each shipping box now contains three post-accident kits, instead of the previous five. The only post-accident kit modification is the addition of a second urine sample bottle to accommodate split sample urine testing.

Form F6180.73 includes the revised railroad property damage thresholds for major train accidents and impact accidents. (The criteria for fatal train incidents and passenger train accidents listed on form F6180.73 remain the same.) Forms F6180.73 and F6180.74 are revised to allow for railroad reporting of evidential breath test results by adding a check off box for the railroad representative to indicate whether one or more employees have been breath tested. If a railroad conducts breath alcohol tests, the railroad representative may either attach a copy of the standard DOT (49 CFR part 40) breath alcohol testing form to the FRA forms to be shipped with the post-accident kit, or send a copy of each part 40 form directly to FRA within 10 days of the tests.

Each new post-accident shipping box contains the following:

One plastic zip-lock bag that includes:

- *One set of collection instructions* apiece for the railroad representative, three (3) railroad employees, the collection facility, blood/urine collector(s), and medical examiner (if required);
- One Form FRA F 6180.73, Accident Information Required for Post-Accident Toxicological Testing;
- Three Forms FRA F 6180.74, Post-Accident Testing Blood/Urine Custody and Control Form. Each form also has sealing labels for the urine bottles, the blood tubes, and the individual post-accident kits.
- One shipping box seal,
- Three packets of blue dye tablets (for the toilet or other standing water);
- One shipping box mailing label addressed to the FRA designated laboratory.

Three individual employee sample kits (marked "FRA Post-Accident Kit.") Each kit contains:

- Two 90 ml urine sample bottles with caps and one biohazard bag (with absorbent) enclosed in a heat-seal bag;
- One urine collection cup with temperature device affixed also enclosed in a heat-seal bag;
- Two 10 ml gray-top evacuated blood tubes (containing potassium oxylate and sodium fluoride as a preservative) in a sponge holder.

As stated above, FRA expects to have completed distribution of new post-accident shipping boxes by the time this rule is published, and authorizes compliance with this rule immediately upon receipt. However, to allow railroads time to train supervisors on these new procedures, compliance does not become mandatory until April 17 1995.

Executive Order 12866 and DOT Regulatory Policy and Procedures

FRA has determined that this rule is nonsignificant under Executive Order 12866 and under the Department of Transportation's Regulatory Policy and Procedures.

The Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. FRA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Implications

This rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, FRA has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism assessment.

Paperwork Reduction Act

FRA has determined that this rule does not significantly change any previously approved information collection requirements.

List of Subjects in 49 CFR Part 219

Alcohol and drug abuse, Railroad safety, Reporting and record keeping requirements.

Accordingly, for the reasons stated above, FRA amends 49 CFR part 219 as follows:

PART 219—CONTROL OF ALCOHOL AND DRUG USE

1. The authority citation for part 219 continues to read as follows:

Authority: 45 U.S.C. 431, 437, and 438, as amended; Pub. L. 100–342; Pub. L. 102–143; and 49 CFR 1.49(m).

2. Appendix C to part 219 is revised to read as follows:

Appendix C to Part 219—Post-Accident Testing Sample Collection

1.0 *General.*

This appendix prescribes procedures for collection of samples for mandatory post-accident testing pursuant to subpart C of this part. Collection of blood and urine samples is required to be conducted at an independent medical facility.

(Surviving Employees)

2.0 *Surviving Employees.*

This unit provides detailed procedures for collecting post-accident toxicological samples from surviving employees involved in train accidents and train incidents, as required by 49 CFR part 219, subpart C. Subpart C specifies qualifying events and employees required to be tested.

2.1 *Collection Procedures; General*

All forms and supplies necessary for collection and transfer of blood and urine samples for three surviving employees can be found in the FRA post-accident shipping box, which is made available to the collection site by the railroad representative.

Each shipping box contains supplies for blood/urine collections from three individuals, including instructions and necessary forms. The railroad is responsible for ensuring that materials are fresh, complete and meet FRA requirements.

2 11 *Responsibility of the Railroad Representative*

In the event of an accident/incident for which testing is required under subpart C of this part, the railroad representative shall follow the designated set of instructions, and, upon arrival at the independent medical facility, promptly present to the collection facility representative a post-accident shipping box or boxes with all remaining sets of instructions. (Each box contains supplies to collect samples from three employees.) The railroad representative shall request the collection facility representative to review the instructions provided and, through qualified personnel, provide for collection of the samples according to the procedures set out.

The railroad representative shall undertake the following additional responsibilities—

- Complete FRA Form 6180.73 (revised), Accident Information Required for Post-Accident Toxicological Testing, describing the testing event and identifying the employees whose samples are to be deposited in the shipping box.
- As necessary to verify the identity of individual employees, affirm the identity of each employee to the medical facility personnel
- Consistent with the policy of the collection facility, monitor the progress of the collection procedure

Warning: Monitor but do not directly observe urination or otherwise disturb the privacy of urine or blood collection. Do not handle sample containers, bottles or tubes (empty or full). Do not become part of the collection process.

2 12 *Employee Responsibility.*

An employee who is identified for post-accident toxicological testing shall cooperate in testing as required by the railroad and personnel of the independent medical facility. Such cooperation will normally consist of the following, to be performed as requested:

- Provide a blood sample, which a qualified medical professional or technician will draw using a single-use sterile syringe. The employee should be seated for this procedure.
- Provide, in the privacy of an enclosure, a urine sample into a plastic collection cup. Deliver the cup to the collector.
- Do not let the blood and urine samples that you provided leave your sight until they have been properly sealed and initialed by you.
- Certify the statement in Step 4 of the Blood/Urine Custody and Control Form (FRA Form 6180.74 (revised)).
- If required by the medical facility, complete a separate consent form for taking of the samples and their release to FRA for analysis under the FRA rule.

Note: The employee may not be required to complete any form that contains any waiver of rights the employee may have in the employment relationship or that releases or holds harmless the medical facility with respect to negligence in the collection.

2.2 *The Collection*

Exhibit C–1 contains instructions for collection of samples for post-accident toxicology from surviving employees. These instructions shall be observed for each collection. Instructions are also contained in each post-accident shipping box and shall be provided to collection facility personnel involved in the collection and/or packaging of samples for shipment.

(Post Mortem Collection)

3.0 *Fatality*

This unit provides procedures for collecting post-accident body fluid/tissue samples from the remains of employees killed in train accidents and train incidents, as required by 49 CFR part 219, subpart C. Subpart C specifies qualifying events and employees required to be tested.

3.1 *Collection.*

In the event of a fatality for which testing is required under subpart C, the railroad shall promptly make available to the custodian of the remains a post-accident shipping box. The railroad representative shall request the custodian to review the instructions contained in the shipping box and, through qualified medical personnel, to provide the samples as indicated

(Surviving Employees and Fatalities)

4.0 *Shipment.*

The railroad is responsible for arranging overnight transportation of the sealed shipping box containing the samples. When possible without incurring delay, the box should be delivered directly from the collection personnel providing the samples to an overnight express service courier. If it becomes necessary for the railroad to transport the box from point of collection to point of shipment, then—

1. Individual kits and the shipping box shall be sealed by collection personnel before the box is turned over to the railroad representative;
2. The railroad shall limit the number of persons handling the shipping box to the minimum necessary to provide for transportation;
3. If the shipping box cannot immediately be delivered to the express carrier for transportation, it shall be maintained in secure temporary storage; and
4. The railroad representatives handling the box shall document chain of custody of the shipping box and shall make available such documentation to FRA on request.

Exhibit C–1—Instructions for Collection of Blood and Urine Samples: Mandatory Post-Accident Toxicological Testing

A. Purpose

These instructions are for the use of personnel of collection facilities conducting collection of blood and urine samples from surviving railroad employees following railroad accidents and casualties that qualify for mandatory alcohol/drug testing. The Federal Railroad Administration appreciates the participation of medical facilities in this important public safety program.

B. Prepare for Collection

Railroad employees have consented to provision of samples for analysis by the Federal Railroad Administration as a condition of employment (49 CFR 219.11). A private, controlled area should be designated for collection of samples and completion of paperwork.

VOL 60 ISS 75 AP 19 1995 UMI

Only one sample should be collected at a time, with each employee's blood draw or urine collection having the complete attention of the collector until the specific sample has been labeled, sealed and documented.

Please remember two critical rules for the collections:

All labeling and sealing must be done in the sight of the donor, with the sample never having left the donor's presence until the sample has been labeled, sealed and initialled by the donor.

Continuous custody and control of blood and urine samples must be maintained and documented on the forms provided. In order to do this it is important for the paperwork and the samples to stay together.

To the extent practical, blood collection should take priority over urine collection. To limit steps in the chain of custody, it is best if a single collector handles both collections from a given employee.

You will use a single Post-Accident Testing Blood/Urine Custody and Control Form (FRA Form 6108.74 (revised)), consisting of six Steps to complete the collection for each employee. We will refer to it as the Control Form.

C. Identify the Donor

The employee donor must provide photo identification to each collector, or lacking this, be identified by the railroad representative.

The donor should remove all unnecessary outer garments such as coats or jackets, but may retain valuables, including wallet. Donors should not be asked to disrobe, unless necessary for a separate physical examination required by the attending physician.

D. Draw Blood

Assemble the materials for collecting blood from each employee: two 10 ml grey-stoppered blood tubes and the Control Form.

Ask the donor to complete STEP 1 on the Control Form.

With the donor seated, draw two (2) 10 ml tubes of blood using standard medical procedures (sterile, single-use syringe into evacuated gray-top tubes provided). CAUTION: Do not use alcohol or an alcohol-based swab to cleanse the venipuncture site.

Once both tubes are filled and the site of venipuncture is protected, immediately—

- Seal and label each tube by placing a numbered blood sample label from the label set on the Control Form over the top of the tube and securing it down the sides.
- Ask the donor to initial each label. Please check to see that the initials match the employee's name and note any discrepancies in the "Remarks" block of the Control Form.
- As collector, sign and date each blood tube label at the place provided.
- Skip to STEP 5 and initiate chain of custody for the blood tubes by filling out the first line of the block to show receipt of the blood samples from the donor.
- Complete STEP 2 on the form.
- Return the blood tubes into the individual kit. Keep the paperwork and samples together. If another collector will be collecting the urine sample from this employee, transfer both the form and the individual kit with blood tubes to that person, showing the transfer of the blood tubes on the second line of STEP 5 (the chain of custody block).

E. Collect Urine

The urine collector should assemble at his/her station the materials for collecting urine from each employee: one plastic collection cup with temperature device affixed enclosed in a heat-seal bag (with protective seal intact), two 90 ml urine sample bottles with caps and one biohazard bag (with absorbent) also enclosed in a heat-seal bag (with protective seal intact), and the Control Form. Blood samples already collected must remain in the collector's custody and control during this procedure.

After requiring the employee to wash his/her hands, the collector should escort the employee directly to the urine collection area. To the extent practical, all sources of water in the collection area should be secured and a bluing agent (provided in the box) placed in any toilet bowl, tank, or other standing water.

The employee will be provided a private place in which to void. Urination will not be directly observed. If the enclosure contains a source of running water that cannot be secured or any material (soap, etc.) that could be used to adulterate the sample, the collector should monitor the provision of the sample from outside the enclosure. Any unusual behavior or appearance should be noted in the remarks section of the Control Form or on the back of that form.

The collector should then proceed as follows:

Unwrap the collection cup in the employee's presence and hand it to the employee (or allow the employee to unwrap it).

Ask the employee to void at least 60 ml into the collection cup (at least to the line marked). Leave the private enclosure.

IF THERE IS A PROBLEM WITH URINATION OR SAMPLE QUANTITY, SEE THE "TROUBLE BOX" AT THE BACK OF THESE INSTRUCTIONS

Once the void is complete, the employee should exit the private enclosure and deliver the sample to the collector. Both the collector and the employee must proceed immediately to the labeling/sealing area, with the sample never leaving the sight of the employee before being sealed and labeled.

Upon receipt of the sample, proceed as follows:

- In the full view of the employee, remove the wrapper from the two urine sample bottles. Transfer the urine from the collection cup into the sample bottles (at least 30 ml in bottle A and at least 15 ml in bottle B).
- As you pour the sample into the sample bottles, please inspect for any unusual signs indicating possible adulteration or dilution. Carefully secure the tops. Note any unusual signs under "remarks" at STEP 3 of the Control Form.
- Within 4 minutes after the void, measure the temperature of the urine by reading the strip on the bottle. Mark the result at STEP 3 of the Control Form.

IF THERE IS A PROBLEM WITH THE URINE SAMPLE, SEE THE TROUBLE BOX AT THE BACK OF THESE INSTRUCTIONS

- Remove the urine bottle labels from the Control Form. The labels are marked A and B. Place each label as marked over the top of its corresponding bottle, and secure the label to the sides of the bottle.
- Ask the donor to initial each label. Please check to see that the initials match the employee name and note any discrepancy in the "Remarks" block of STEP 3.
- As collector, sign and date each urine label.
- Skip to STEP 5 and initiate chain-of-custody by showing receipt of the urine samples from the donor. (If you collected the blood, a check under "urine" will suffice. If someone else collected the blood, first make sure transfer of the blood to you is documented. Then, using the next available line, show "Provide samples" under purpose, "Donor" under "released by," check under "urine" and place your name, signature and date in the space provided.)
- Complete the remainder of STEP 3 on the Control Form.
- Have the employee complete STEP 4 on the Control Form.
- Place the filled urine bottles in the individual employee kit. Keep the paperwork and samples together. If another collector will be collecting the blood sample from this employee, transfer both the form and the kit to that person, showing the transfer of the urine samples on the next available line of STEP 5 (the chain of custody block).

F. Seal the Individual Employee Kit

The blood and urine samples have now been collected for this employee. The blood/urine samples will now be sealed into the individual employee kit, while all paperwork will be retained for further completion. After rechecking to see that each sample is properly labeled and initialled, close the plastic bag to contain any leakage in transportation, and apply the kit security seal to the small individual kit. As collector, sign and date the kit seal.

Before collecting samples from the next employee, complete the next line on the chain-of-custody block showing release of the blood and urine by yourself for the purpose of "Shipment" and receipt by the courier service or railroad representative that will provide transportation of the box, together with the date.

G. Complete Treatment Information

Complete STEP 6 of the Control Form. Mark the box if a breath alcohol test was conducted under FRA authority.

H. Prepare the Box for Shipment

Sealed individual employee kits should be retained in secure storage if there will be a delay in preparation of the shipping box. The shipping box shall be prepared and sealed by a collection facility representative as follows:

- Inspect STEP 5 of each Control Form to ensure chain-of-custody is continuous and complete for each fluid (showing samples released for shipment). Retain the medical facility copy of each Control Form and the Accident Information form for your records.
- Place sealed individual employee kits in the shipping box. Place all forms in zip-lock bag and seal securely. Place bag with forms and unused supplies in shipping box.
- Affix the mailing label provided to the outside of the shipping box.

I. Ship the Box

The railroad must arrange to have the box shipped overnight air express or (if express service is unavailable) by air freight, prepaid, to FRA's designated laboratory. Whenever possible without incurring delay, the collector should deliver the box directly into the hands of the express courier or air freight representative.

Where courier pickup is not immediately available at the collection facility where the samples are taken, the railroad is required to transport the shipping box for expeditious shipment by air express, air freight or equivalent means.

If the railroad is given custody of the box to arrange shipment, please record the name of the railroad official taking custody on the copy of Form 6180.73 retained by the collection site.

"TROUBLE BOX"

1. Problem: *The employee claims an inability to urinate, either because he/she has recently voided or because of anxiety concerning the collection.*

Action: The employee may be offered moderate quantities of liquid to assist urination. If the employee continues to claim inability after 4 hours, the urine collection should be discontinued, but the blood samples should be forwarded and all other procedures followed. Please note in area provided for remarks what explanation was provided by the employee.

2. Problem: *The employee cannot provide approximately 60 ml. of sample.*

Action: The employee should remain at the collection facility until as much as possible of the required amount can be given (up to 4 hours). The employee should be offered moderate quantities of liquids to aid urination. The first bottle, if it contains any quantity of urine, should be sealed and securely stored with the blood tubes and Control Form pending shipment. A second bottle should then be used for the subsequent void (using a second Control Form with the words "SECOND VOID—FIRST SAMPLE INSUFFICIENT" in the remarks block and labels from that form). However, if after 4 hours the donor's second void is also insufficient or contains no more than the first insufficient void, discard the second void and send the first void to the laboratory.

3. Problem: *The urine temperature is outside the normal range* of 32°–38°C/90°–100°F, and a suitable medical explanation cannot be provided by an oral temperature or other means; or

4. Problem: *The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample* (e.g., substitute urine in plain view, blue dye in sample presented, etc.) and a collection site supervisor or the railroad representative agrees that the circumstances indicate an attempt to tamper with the sample.

Action (for either Problem No. 3 or Problem No. 4): Document the problem on the Control Form. If the collection site supervisor or railroad representative concur that the temperature of the sample, or other clear and unequivocal evidence, indicates a possible attempt to substitute or alter the sample, another void must be taken under direct observation by a collector of the same gender.

If a collector of the same sex is not available, do NOT proceed with this step.

If a collector of the same gender is available, proceed as follows: A new Control Form must be initiated for the second void. The original suspect sample should be marked "Void 1" and the follow-up void should be marked "Void 2," with both voids being sent to the laboratory and the incident clearly detailed on the Control Form.

Exhibit C-2—Instructions for Collection of Post Mortem Samples: Employee Killed in a Railroad Accident/Incident

To the Medical Examiner, Coroner, or Pathologist:

In compliance with Federal safety regulations (49 CFR part 219), a railroad representative has requested that you obtain samples for toxicology from the remains of a railroad employee who was killed in a railroad accident or incident. The deceased consented to the taking of such samples, as a matter of Federal law, by performing service on the railroad (49 CFR 219.11(f)).

Your assistance is requested in carrying out this program of testing, which is important to the protection of the public safety and the safety of those who work on the railroads.

Materials:

The railroad will provide you a post-accident shipping box that contains necessary supplies. If the box is not immediately available, please proceed using supplies available to you that are suitable for forensic toxicology.

Samples requested, in order of preference:

(1) Blood—20 milliliters or more. Preferred sites: intact femoral vein or artery or peripheral vessels (up to 10 ml, as available) and intact heart (20 ml). Deposit blood in gray-stopper tubes individually by site and shake to mix sample and preservative.

Note: If uncontaminated blood is not available, bloody fluid or clots from body cavity may be useful for qualitative purposes; but do not label as blood. Please indicate source and identity of sample on label of tube.

(2) Urine—as much as 100 milliliters, if available. Deposit into plastic bottles provided.

(3) Vitreous fluid—all available, deposited into smallest available tube (e.g., 3 ml) with 1% sodium fluoride, or gray-stopper tube (provided). Shake to mix sample and preservative.

(4) If available at autopsy, organs—50 to 100 grams each of two or more of the following in order preference, as available: liver, bile, brain, kidney, spleen, and/or lung. Samples should be individually deposited into zip-lock bags or other clean, single use containers suitable for forensic samples.

(5) If vitreous or urine is not available, please provide—

a. Spinal fluid—all available, in 8 ml container (if available) with sodium fluoride or in gray-stopper tube; or, if spinal fluid cannot be obtained,

b. Gastric content—up to 100 milliliters, as available, into plastic bottle.

Sample collection:

Sampling at time of autopsy is preferred so that percutaneous needle puncturing is not necessary. However, if autopsy will not be conducted or is delayed, please proceed with sampling.

Blood samples should be taken by sterile syringe and deposited directly into evacuated tube, if possible, to avoid contamination of sample or dissipation of volatiles (ethyl alcohol).

Note: If only cavity fluid is available, please open cavity to collect sample. Note condition of cavity.

Please use smallest tubes available to accommodate available quantity of fluid sample (with 1% sodium fluoride).

Sample identification, sealing:

As each sample is collected, seal each blood tube and each urine bottle using the respective blood tube or urine bottle using the identifier labels from the set provided with the Post Accident Testing Blood/Urine Custody and Control Form (FRA Form 6180.74 (revised)). Make sure the unique identification number on the labels match the pre-printed number on the Control Form. Please label other samples with name and sample set identification numbers. You can use labels and seals from any of the extra forms, but annotate them accordingly.

Annotate each label with sample description and source (as appropriate) (e.g., blood, femoral vein).

Please provide copy of any written documentation regarding condition of body and/or sampling procedure that is available at the time samples are shipped.

Handling:

If samples cannot be shipped immediately as provided below, samples other than blood may be immediately frozen. Blood samples should be refrigerated, but not frozen.

All samples and documentation should be secured from unauthorized access pending delivery for transportation.

Information:

If the railroad has not already done so, please place the name of the subject at the top of the Control Form (STEP 1). You are requested to complete STEP 2 of the form, annotating it by writing the word "FATALITY," listing the samples provided, providing any further information under "Remarks" or at the bottom of the form. If it is necessary to transfer custody of the samples from the person taking the samples prior to preparing the box for shipment, please use the blocks provided in STEP 5 to document transfer of custody.

The railroad representative will also provide Accident Information Required for Post-Accident Toxicological Testing, FRA Form 6180.73 (revised). Both forms should be placed in the shipping box when completed; but you may retain the designated medical facility copy of each form for your records.

VOL 60 ISS 75 AP 19 1995 UMI

Packing the shipping box:

Place urine bottles and blood tubes in the sponge liner in the individual kit, close the biohazard bag zipper, close the kit and apply the kit custody seal to the kit. You may use additional kits for each tissue sample, being careful to identify sample by tissue, name of deceased, and specimen set identification number Apply kit security seals to individual kits and initial across all seals.

Place all forms in the zip-lock bag and seal securely. Place the bag in the shipping box. Do not put forms in with the specimens.

Seal the shipping box with the seal provided and initial and date across the seal.

Affix the mailing label to the outside of the box.

Shipping the box:

The railroad must arrange to have the box shipped overnight air express or (if express service is unavailable) by air freight, prepaid, to FRA's designated laboratory When possible, but without incurring delay, deliver the sealed shipping box directly to the express courier or the air freight representative.

If courier pickup is not immediately available at your facility, the railroad is required to transport the sealed shipping box to the nearest point of shipment via air express, air freight or equivalent means.

If the railroad receives the sealed shipping box to arrange shipment, please record under "Supplemental Information" on the Control Form, the name of the railroad official taking custody

Other:

FRA requests that the person taking the samples annotate the Control Form under "Supplemental Information" if additional toxicological analysis will be undertaken with respect to the fatality. FRA reports are available to the coroner or medical examiner on request.

Issued in Washington, D.C. on April 11, 1995.

Donald M. Itzkoff,

Deputy Administrator, Federal Railroad Administration.

[FR Doc. 95–9554 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol 60, No. 75
Wednesday, April 19, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Docket No. FV95–905–1]

Referendum Order for Marketing Order No. 905 Covering Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible producers of Florida citrus fruit to determine whether they favor continuance of the marketing order regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in the production area.

DATES: The referendum will be conducted from October 1 through October 31, 1995. To vote in this referendum, growers must have been producing Florida citrus during the period August 31, 1994, through September 1, 1995.

ADDRESSES: Copies of the marketing order may be obtained from the office of the referendum agent at P.O. Box 276, Winter Haven, Florida, 33883–2276, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC, 20090–6456; telephone (202) 720–5053.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Haven, Florida, 33881–2276; telephone: (813) 299–4770; or Brittbany Beadle, Marketing Order Administration Branch, Fruit & Vegetable Division, Agricultural Marketing Service, Department of Agriculture, room 2536–S, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 720–5127

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 905 [7 CFR part 905], hereinafter referred to as the "order" and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the "Act", it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by the producers. The referendum shall be conducted during the period October 1, through October 31, 1995, among Florida citrus producers in the production area. Only producers that were engaged in the production of Florida citrus during the period of August 31, 1994, through September 1, 1995, may participate in the continuance referendum.

The Secretary of Agriculture has determined that continuance referenda are an effective means for ascertaining whether producers favor continuation of marketing order programs. The Secretary would consider termination of the order if less than two-thirds of the producers voting in the referendum and producers of less than two-thirds of the volume of Florida citrus represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary will not only consider the results of the continuance referendum. The Secretary will also consider other relevant information concerning the operation of the order; the order's relative benefits and disadvantages to producers, handlers, and consumers; and whether continued operation of the order would tend to effectuate the declared policy of the Act.

In any event, section 8c(16)(B) of the Act requires the Secretary to terminate an order whenever the Secretary finds that a majority of all producers affected by the order favor termination, and such majority produced for market more than 50 percent of the commodity covered under such order.

In accordance with the Paperwork Reduction Act of 1980 [44 U.S.C. chapter 35], the ballot materials used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0094 for Florida citrus. It has been estimated that it will take an average of 10 minutes for each of the approximately 11,970 producers of Florida citrus to cast a ballot. Participation is voluntary. Ballots postmarked after October 31, 1995 will not be included in the vote tabulation.

Doris Jamieson and Christian D. Nissen of the Southeast Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct such referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruit, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" [7 CFR Part 900.400 *et. seq.*]

Ballots will be mailed to all producers of record and may also be obtained from the referendum agents.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangerines, and Tangelos.

Authority: 7 U.S.C. 601–674.

Dated: April 13, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95–9614 Filed 4–18–95; 8:45 am]

BILLING CODE 3410–02–P

Food Safety and Inspection Service

9 CFR Parts 308, 310, 318, 320, 325, 326, 327, and 381

[Docket No. 95–008N]

Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems—Notice of Scientific/Technical Conference

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) will hold a scientific/technical conference, "An Evaluation of the Role of Microbiological Criteria in Establishing Food Safety Performance Standards in Meat and Poultry Products," on May 18–19, 1995, at the Georgetown University Conference Center, 3800 Reservoir Road, Washington, DC. The purpose of the conference is to explore scientific issues related to

VOL
60
ISS
75
AP
19
1995
UMI

microbiological criteria in establishing meat and poultry products safety performance standards.

DATES: May 18–19, 1995.

ADDRESSES: Georgetown University Conference Center, 3800 Reservoir Road, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Brewer, Staff Officer, Epidemiology and Emergency Response Program, FSIS, USDA, (202) 205–0293.

To register to attend, call Ms. Becky LaQuay or Ms. Pat Baker at (202) 205–0293.

SUPPLEMENTARY INFORMATION: On February 3, 1995, FSIS published a proposed rule "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems" (60 FR 6774). In that document, the Agency proposed a number of regulatory changes applicable to Federal- and State-inspected meat and poultry establishments. The proposed changes are designed to reduce the occurrence and numbers of pathogenic microorganisms in meat and poultry products, thereby reducing the incidence of foodborne illness associated with the consumption of these products.

In the proposed rule, FSIS stated that public meetings would be held with the regulated industry and interested parties to foster the development of beneficial new food safety technologies. Therefore, FSIS is holding a scientific/technical conference to explore the use of microbiological criteria for developing food safety performance standards for meat and poultry products.

The conference, "An Evaluation of the Role of Microbiological Criteria in Establishing Food Safety Performance Standards in Meat and Poultry Products," will be held on May 18–19, 1995, at the Georgetown University Conference Center, 3800 Reservoir Road, Washington, DC 20057 (202) 687–3200. The conference will begin each day at 8:00 a.m. and end at 5:30 p.m.

Conference Agenda

The conference will consist of four sessions, as follows:

Session I: "Review of the Green Book, 'An Evaluation of the Role of Microbiological Criteria for Foods and Food Ingredients'"

Several members who served on the Subcommittee on Microbiological Criteria for Foods and Food Ingredients will present papers reviewing the Green Book's concepts and recommendations applicable to meat and poultry products.

Session II: "Current Food Safety Issues and Logic for Using Microbial-based Performance Standards"

Invited speakers will review current food safety issues, including emerging pathogens, and the logic for microbial-based standards (criteria or targets) as a verification of HACCP systems.

Session III: "Basis for Establishing Criteria for Food Safety Performance Standards"

Invited speakers will discuss the basis for setting criteria (i.e. public health-based standards versus technology-based standards) and data needs for developing meaningful performance standards, such as sentinel-site surveillance.

Session IV: "Synopsis of Conference Proceedings"

Panel members will summarize major issues and points of the proceedings. The public will be provided an opportunity to make comments and ask questions.

Dr. J. Glenn Morris, Jr., Director, Epidemiology and Emergency Response Program, FSIS will moderate and be joined by a panel consisting of: Dr. Douglas Archer, Department of Food Science and Human Nutrition, University of Florida; Dr. Robert Black, Department of International Health, Johns Hopkins School of Hygiene and Public Health; Dr. Sherwood Gorbach, Community Health and Medicine, Tufts University School of Medicine; and Dr. Morris Potter, Center for Disease Control and Prevention, Division Bacterial and Mycotic Diseases.

A report will be prepared that summarizes the conference's processing. This report will include general conclusions on the use of microbiological criteria for developing food safety performance standards for meat and poultry products. The report and transcripts of the conference will be available in the FSIS Docket Clerk's Office, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Attendance and Hotel Reservations

Seating space at the conference is limited. Please call Ms. Becky LaQuay or Ms. Pat Baker if you wish to attend the conference (see **FOR FURTHER INFORMATION CONTACT**). People attending the conference will be responsible for making their own hotel arrangements. A limited number of rooms are available at the Georgetown University Conference Center. To make reservations call 1–800–446–0476.

Done at Washington, DC, on: April 12, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety

[FR Doc. 95–9613 Filed 4–18–95; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 490

[Docket No. EE–RM–95–110]

RIN 1904–AA84

Alternative Fuel Transportation Program

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Correction to Notice of Proposed Rulemaking.

SUMMARY: This document contains corrections to the Notice of Proposed Rulemaking that was published Tuesday, February 28, 1995, 60 FR 10970, FR Doc. 95–4764. The notice of proposed rulemaking relates to the alternative fueled vehicle acquisition requirements for States and fuel providers that becomes effective by operation of law on September 1, 1995, when model year 1996 begins.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Katz, Program Manager, Office of Energy Efficiency and Renewable Energy (EE–33), U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–6116.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published the notice of proposed rulemaking contains errors which may be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on February 28, 1995 of the Notice of Proposed Rulemaking, which was the subject of FR Doc. 95–4764 is corrected as follows:

1. On page 10972, in the third column, first paragraph, delete the word "underscored" in the last sentence.

2. On page 10973, beginning in the second column, paragraph 4. is corrected to read as follows:

4. Reformulated gasoline. Although percentages can vary to a small degree, it is the Department's understanding that reformulated gasoline is comprised of over 90 percent petroleum on an energy equivalent basis. Reformulated gasoline is an enumerated "clean alternative fuel" in section 241 of the Clean Air Act. 42 U.S.C. 7581. It is not mentioned at all in the definition of "alternative fuel" in section 301 of the Energy Policy Act of 1992. Section 301(2) provides as follows: the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; [mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline, or other fuels]; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); [and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits].

3. On page 10973, third column, first full paragraph following paragraph 4., the first sentence is corrected to read as follows:

Each of the above bracketed phrases sets forth limited authority for the Department to add fuels to the definition of "alternative fuel."

4. On page 10990, second column, in Appendix A To Subpart A of Part 490, "Metropolitan Statistical Areas/ Consolidated Metropolitan Statistical Areas with 1980 Populations of 250,000 or more," add the following Metropolitan Statistical Areas in alphabetical order:

Duluth MSA MN–WI
Johnstown MSA PA
Kalamazoo-Battle Creek MSA MI

Thomas J. Gross,

Deputy Assistant Secretary for Transportation Technologies, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 95–9603 Filed 4–18–95; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–167–AD]

Airworthiness Directives; Mitsubishi Model YS–11 and –11A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Mitsubishi Model YS–11 and –11A series airplanes. This proposal would require the implementation of a corrosion prevention and control program. This proposal is prompted by incidents involving corrosion and fatigue cracking in transport category airplanes that are approaching or have exceeded their economic design goal; these incidents have jeopardized the airworthiness of the affected airplanes. The actions specified by the proposed AD are intended to prevent degradation of the structural capabilities of the affected airplanes due to problems associated with corrosion.

DATES: Comments must be received by May 25, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–167–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Nihon Aeroplane Manufacturing, Toranomon Daiichi, Kotohire-Cho, Shiba, Minato-Ku, Tokyo, Japan. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: William Roberts, Aerospace Engineer, Airframe Branch, ANM–120L, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5228; fax (310) 627–5210

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–167–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–167–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

In April 1988, a transport category airplane managed to land after tiny cracks in rivet holes in the upper fuselage linked together, causing structural failure and explosive decompression. An 18-foot section ripped from the fuselage. This accident focused greater attention on the problem of aging aircraft.

In June 1988, the FAA sponsored an international conference on aging airplane issues, which was attended by representatives of the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on the aging fleets and maintaining their continued operational safety.

In concert with the objectives that arose from this conference, the "YS–11 Structures Working Group (SWG)," was formed in 1990. This group was comprised of representatives of several Japanese airlines and overhaul facilities; Mitsubishi Heavy Industries (MHI), the airframe manufacturer; and the Japan Civil Aviation Bureau (JCAB), which is the airworthiness authority for Japan. It undertook the task of identifying and

VOL 60 ISS 75 AP 19 1995 UMI

implementing procedures to ensure the continuing structural airworthiness of Model YS–11 fleet.

As a result of this group's effort, a baseline program was developed for controlling corrosion problems that may jeopardize the continued airworthiness of the Model YS–11 fleet. The program is contained in MHI Publication No. YS–MR–301, "YS–11 Corrosion Control Program," dated November 1, 1993 (hereafter referred to as "the Document").

The JCAB has classified the Document as mandatory, and has issued Japanese Airworthiness Directive TCF–50–001–1E–1, KU–KI–1532, TCD–3954–93, dated December 27, 1993, addressing this subject.

Section 1.2 of the Document describes the basic requirements of the corrosion control program (CCP).

Section 1.3 of the Document defines three levels of corrosion: Level 1 corrosion is that which does not exceed certain limits; Level 2 corrosion is that which exceeds those limits; and Level 3 corrosion is significant corrosion which is potentially an urgent airworthiness concern.

Section 2 of the Document describes the general guidelines for developing and implementing a corrosion prevention and control program. These guidelines address such things as the scope and priority of the baseline program; the relationship between an operator's maintenance program and the CCP; intervals for accomplishment of the basic tasks for corrosion prevention; selection of corrosion preventive compound; and how the program relates to newly-acquired, leased, and transferred airplanes. This section also provides for periodic review and update of the data contained in the Document.

It should be noted that this section indicates that, since more than 20 years have passed since most Model YS–11 airplanes were last manufactured, implementation of the Baseline Program is necessary for all airplanes. In light of this, the program described in the Document does not specify any particular "implementation age" for initiating the program on a particular airplane. Instead, it emphasizes developing and adopting a program, then accomplishing the specific actions on each airplane in an operator's fleet, on a phased-in basis.

Section 3 of the Document establishes the procedures for reporting the results of the inspections conducted under the program. It describes the specific system for reporting of findings when various levels of corrosion are determined to exist.

Section 4 of the Document lays out the recommended baseline program. This section describes the "basic task" to be accomplished in each defined airplane area ("zone") as part of the baseline program, the specific airplane areas that are subject to the program, and the intervals for inspecting areas and applying corrosion preventive compound. A "basic task" includes visual inspections of all primary and secondary structures, and may also include detailed visual and non-destructive inspections (NDI). Any corrosion or other damage found as a result of these inspections must be repaired.

This airplane model is manufactured in Japan and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the JCAB has kept the FAA informed of the situation described above. The FAA has examined the findings of the JCAB, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since corrosion is likely to exist or develop on airplanes of this type design, an AD is proposed which would require adoption of a corrosion prevention and control program that is equivalent to or better than the program specified in the Document previously described. Operators would be permitted to accomplish this either by performing the specific basic tasks described in the Document (the "task-by-task method), or by revising their FAA-approved maintenance program to include such a program.

Paragraph (a) of the proposal sets forth the proposed compliance time for the implementation of the schedule for accomplishing the basic task for each affected aircraft area. The basic task would be required to be repeated at a time interval not to exceed the repeat interval for that area, as detailed in the Document.

Operators should note that the proposal does not contain a paragraph specifically to address repair actions. The FAA considers that any repairs would be carried out necessarily as a part of each basic task, as it is defined in the Document. As discussed previously, a "basic task" is defined in the Document as including not only the pertinent inspection, but any necessary repairs, application of corrosion inhibitors, and other follow-on procedures, as well. Paragraph (a) contains a note to reference the portion of the Document that defines a basic task, and to emphasize the importance of these corrective actions.

Paragraph (b) of the proposal provides for an optional method of complying with the rule. In lieu of performing the task-by-task requirements proposed in paragraph (a), operators may revise their FAA-approved maintenance/inspection programs to include the corrosion prevention and control program defined in the Document or an equivalent program approved by the FAA.

Paragraph (b) also would require that, subsequent to the accomplishment of the initial basic task, any extensions of repeat intervals specified in the Document must be approved by the FAA.

Any operator electing to comply with proposed paragraph (b) would be permitted to use an alternative recordkeeping method to that otherwise required by Federal Aviation Regulations (FAR) § 91.417 or § 121.380, provided it is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program. In response to questions raised previously concerning recordkeeping and record retention requirements as they relate to the programmatic approach proposed in this AD action and other similar proposals that have been issued applicable to other airplane models, the FAA offers the following:

Sections 91.417(a)(2)(v) and 121.380(a)(2)(v) of the FAR require that a record be made of the current status of applicable AD's. With regard to proposed paragraph (b), such a record would be required to be made when the maintenance/inspection program is revised to incorporate the program specified in the Document; at that time, paragraph (b) of the AD would be fully complied with. Regarding paragraphs (d) through (g) of this proposal, those paragraphs would impose separate requirements; therefore, except as discussed below, separate entries would have to be made to reflect compliance with each of those paragraphs.

Section 121.380(a)(2)(iv) of the FAR concerns recording "the identification of the current inspection status of the aircraft." Section 91.417(a)(2)(iv) contains a similar requirement. Because proposed paragraph (b) would require operators to revise their maintenance/inspection program to include the program specified in the Document, each operator's program would require a record of each inspection to be performed. By recording the current inspection status of each airplane, and by maintaining a cross-reference system between these records and the maintenance/inspection program revision, it will be possible to determine the current status of each basic task on each airplane. Once this cross-reference system has been established (normally within a year after the effective date of the AD), this recording provision of Sections 91 and 121 requires no additional recording beyond what would otherwise be required normally.

Section 121.380(a)(1) concerns "records necessary to show that all requirements for the issuance of an airworthiness release under Section 121.709 have been met." Section 91.417(a)(1) contains a similar requirement. These are also referred to as "dirty fingerprint records." This provision of Sections 91 and 121 requires most of the recording that would result from this proposed AD. Each time a basic task is performed, the operator would be required to make a "dirty fingerprint" record of the task, identifying what actions were accomplished. It should be noted, however, that these records are not different from the records made for any other actions taken under the operator's maintenance/inspection program.

In addition to the record making requirements, discussed above, Sections 91 and 121 of the FAR impose requirements for record retention:

Section 121.380(b)(1) and Section 91.417(b)(1) require that the "dirty fingerprint" records be retained until the work is repeated or superseded by other work, or for one year after the work is performed. Therefore, most of the records resulting from this proposed AD would not have to be retained indefinitely. However, such retention might facilitate subsequent transfers, or substantiate requests for repetitive interval escalations, and therefore, may be in the operator's interest.

Section 121.380(b)(2) requires that the records specified in paragraph 121.380(a)(2) [current status of AD's and current inspection status] be retained and transferred with the airplane at the time it is sold. Section 91.417(b)(2) contains a similar requirement.

These recording requirements are not considered to be unduly burdensome and are considered the minimum necessary to enable the cognizant FAA Maintenance Inspector to perform proper surveillance and to ensure that the objectives of the proposed rule are being fulfilled.

Due to numerous concerns expressed previously by operators regarding the recordkeeping obligations imposed by Section 121.380 with regard to similar rulemaking on corrosion prevention and control programs, the FAA has included in this proposal certain provisions for alternative recordkeeping methods. Proposed paragraph (b)(1) would provide for the development and implementation of such alternative methods, which must be approved by the FAA. For example, operators may choose to submit proposals to record compliance with paragraphs (d) through (g) of the AD by a means other than they normally use to record AD status. [The FAA has developed guidance material that will contain information to be considered by FAA Principal Maintenance Inspectors (PMI) when reviewing proposals for alternative recordkeeping methods.]

Paragraph (c) of the proposal provides for increasing a repeat interval by up to 10% in order to accommodate unanticipated scheduling requirements. Operators would be required to inform the FAA within 30 days of such increases.

Paragraph (d)(1) of the proposal sets forth the reporting actions that are necessary to be accomplished when Level 3 corrosion is determined to exist. Within 7 days after such a determination is made, an operator would be required to accomplish one of the following actions:

1. Submit a report of the determination to the FAA and complete the basic task in the affected area on the remainder of the Model YS–11/–11A series airplanes in the operator's fleet; or

2. Submit a proposed schedule, for approval by the FAA, for performing the basic tasks in the affected area on the remainder of the operator's Model YS–11/–11A series fleet; or

3. Submit data substantiating that the Level 3 corrosion was an isolated occurrence.

Once the FAA has received such a report, it may, in conjunction with normal surveillance activities, request additional information regarding the results of the basic tasks performed on the remainder of the operator's Model YS–11/–11A series fleet.

Paragraph (d)(2) of the proposal specifies that the FAA may impose schedules different from what an operator has proposed under paragraph (d)(1), if it is found that changes are necessary to ensure that any other Level 3 corrosion in the operator's Model YS–11 series fleet is detected in a timely manner.

Paragraph (d)(3) of the proposal would require that, within the time schedule approved by the FAA, the operator must accomplish the basic tasks in the affected areas on the remaining airplanes in its Model YS–11/–11A series fleet to ensure that any other Level 3 corrosion is detected and repaired.

Paragraph (e) would require that, upon finding corrosion exceeding Level 1 during a repetitive inspection, an operator must adjust its program to ensure that future corrosion findings are limited to Level 1 or better. Where corrective action is necessary to reduce corrosion to Level 1 or better, an operator must submit a proposal for corrective action for the FAA's approval within 60 days after the determination of corrosion is made. That action, approved by the FAA, must then be implemented to reduce future findings of corrosion in that area to Level 1 or better.

With regard to paragraph (e), it should be noted that if corrosion is found and it is not considered representative of the operator's fleet, no further corrective action may be necessary, since a means to reduce any corrosion to Level 1 or better will have already been implemented in the operator's program in accordance with proposed paragraph (a) or (b). For example, if a finding of corrosion is attributable to a particular spill of mercury or other unique event, or if corrosion is found on an airplane recently acquired from another operator, the means specified in the existing program may be adequate for controlling corrosion in the remainder of the operator's fleet. Similarly, if an operator has already implemented means to reduce corrosion in an airplane area based on previous findings, no additional corrective action may be necessary. In reviewing the reports submitted in accordance with the AD, the FAA will monitor the effectiveness of the corrective action to reduce corrosion. If the FAA determines that an operator has failed to implement adequate means to reduce corrosion to Level 1 or better, appropriate action will be taken to ensure compliance with this paragraph.

Paragraph (f) of the proposal concerns adding airplanes to an operator's fleet, and the procedures that must be followed with regard to corrosion prevention and control. This paragraph differentiates between procedures applicable to added airplanes that previously were maintained in accordance with this AD and those that were not so maintained. For airplanes that previously have been maintained in accordance with the proposed requirements of this AD action, the first basic task in each aircraft area to be performed by the new operator would be required to be performed in accordance with either the previous operator's or the new operator's inspection schedule, whichever would result in the earlier accomplishment date for that task. For airplanes that

VOL 60 ISS 75 AP 19 1995 UMI

have not been maintained in accordance with the proposed requirements of this AD action, the first basic task in each aircraft area to be performed by the new operator would be required to be performed before the airplane is placed in service, or in accordance with a schedule approved by the FAA.

With regard to the requirements of paragraph (f), the FAA considers it essential that operators ensure that transferred airplanes are inspected in accordance with the baseline corrosion prevention and control program on the same basis as if there were continuity in ownership. Scheduling of the inspections for each airplane must not be delayed or postponed due to a transfer of ownership. The proposed rule would require that the specified procedures be accomplished before any operator places into service any airplane subject to the requirements of the proposed AD.

Paragraph (g) of the proposal would require that reports of Level 2 and Level 3 corrosion be submitted to Mitsubishi within certain time periods after such corrosion is detected. A note has been included in this paragraph indicating that reporting to the FAA of any Level 2 or Level 3 corrosion found as a result of any opportunity inspections is highly desirable. Operators are not relieved, however, from reporting corrosion findings as required by FAR § 121.703.

Cost Impact

The FAA estimates that 39 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per basic task to accomplish the 30 basic tasks called out in the Document; this represents a total average of 240 work hours (this figure includes not only inspection time, but access and closure time as well).

The average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators for the 4-year average inspection cycle is estimated to be $561,600, or $14,400 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Mitsubishi Heavy Industries, Ltd.: Docket 94–NM–167–AD.

Applicability: All Model YS–11 and –11A series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (h) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

Note 2: This AD references MHI Publication No. YS–MR–301, "YS–11 Corrosion Control Program," dated November 1, 1993 (hereafter referred to as "the Document"), for basic tasks, definitions of corrosion levels, compliance times, and reporting requirements. In addition, this AD specifies inspection and reporting requirements beyond those included in the Document. Where there are differences between the AD and the Document, the AD prevails.

Note 3: As used throughout this AD, the term "the FAA" is defined differently for different operators, as follows: For those operators complying with paragraph (a) of this AD, "the FAA" is defined as "the Manager of the Los Angeles Aircraft Certification Office (ACO)." For those operators operating under Federal Aviation Regulation (FAR) Part 121 or 129, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Principal Maintenance Inspector (PMI)." For those operators operating under FAR Part 91 or 125, and complying with paragraph (b) of this AD, "the FAA" is defined as "the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office."

To preclude degradation of the structural capabilities of the airplane due to the problems associated with corrosion, accomplish the following:

(a) Except as provided in paragraph (b) of this AD, within a date two years after the effective date of this AD, complete each of the basic tasks specified in Section 4.3 of the Document in accordance with the procedures specified in the Document and the schedule specified in Figure 5 of the Document. Thereafter, repeat each basic task at a time interval not to exceed the repeat interval specified in Section 4 of the Document for that task.

Note 4: A "basic task," as defined in Section 4 of the Document, includes inspections; procedures for a corrective action, including repairs, under identified circumstances; application of sealants or corrosion inhibitors; and other follow-on actions.

Note 5: Basic tasks completed in accordance with the Document before the effective date of this AD may be credited for compliance with the initial basic task requirements of this paragraph.

Note 6: Where non-destructive inspection (NDI) methods are employed, in accordance with Section 4 of the Document, the standards and procedures used must be acceptable to the Administrator in accordance with FAR Section 43.13.

(b) As an alternative to the requirements of paragraph (a) of this AD: Within one year after the effective date of this AD, revise the FAA-approved maintenance/inspection program to include the corrosion control program specified in the Document; or to include an equivalent program that is approved by the FAA.

(1) Any operator complying with paragraph (b) of this AD may use an alternative recordkeeping method to that otherwise required by FAR § 91.417 or § 121.380 for the actions required by this AD, provided it is approved by the FAA and is included in a revision to the FAA-approved maintenance/inspection program.

(2) Subsequent to the accomplishment of the initial basic task, any extensions of repeat intervals specified in the Document must be approved by the FAA.

(c) To accommodate unanticipated scheduling requirements, it is acceptable for a repeat interval to be increased by up to 10%, but not to exceed 6 months. The FAA must be informed, in writing, of any such extension within 30 days after such adjustment of the schedule.

(d)(1) If, as a result of any inspection conducted in accordance with paragraphs (a) or (b) of this AD, Level 3 corrosion is determined to exist in any airplane area, accomplish either paragraph (d)(1)(i) or (d)(1)(ii) within 7 days after such determination:

(i) Submit a report of that determination to the FAA and complete the basic task in the affected aircraft zones on all Model YS–11/–11A series airplanes in the operator's fleet; or

(ii) Submit to the FAA for approval one of the following:

(A) A proposed schedule for performing the basic tasks in the affected aircraft zones on the remaining Model YS–11/–11A series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

(B) Data substantiating that the Level 3 corrosion found is an isolated occurrence.

Note 7: Notwithstanding the provisions of section 1.3 of the Document, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

(2) The FAA may impose schedules other than those proposed, upon finding that such changes are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the basic tasks in the affected aircraft zones of the remaining Model YS–11/–11A series airplanes in the operator's fleet.

(e) If, as a result of any inspection after the initial inspection conducted in accordance with paragraphs (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such determination, implement a means, approved by the FAA, to reduce future findings of corrosion in that area to Level 1 or better.

(f) Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of basic tasks required by this AD must be established in accordance with paragraph (f)(1) or (f)(2) of this AD, as applicable:

(1) For airplanes previously maintained in accordance with this AD, the first basic task in each aircraft zone to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each basic task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first basic task for each aircraft zone to be performed by the new operator must be accomplished prior to further flight or in accordance with a schedule approved by the FAA.

(g) Reports of Level 2 and Level 3 corrosion must be submitted at least every three months to Mitsubishi Heavy Industries, Ltd., in accordance with Section 3 of the Document.

Note 8: Reporting of Level 2 and Level 3 corrosion found as a result of any opportunity inspections is highly desirable.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through the cognizant Maintenance Inspector at the appropriate FAA Flight Standards office, who may concur or comment and then send it to the Manager, Los Angeles ACO.

Note 9: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(i) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(j) Reports of inspection results required by this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Issued in Renton, Washington, on April 10, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9352 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–168–AD]

Airworthiness Directives; British Aerospace Model Viscount 744, 745D, and 810 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model Viscount 744, 754D, and 810 airplanes. This proposal would require an inspection to detect corrosion of the tailplane assemblies, and correction of discrepancies. This proposal is prompted by a report of corrosion on the main spar top and bottom forward boom of the tailplane assemblies and reports of cracking in the upper root joint attachment fitting. The actions specified by the proposed AD are intended to prevent such cracking or corrosion of the main spar forward booms or the upper root joint attachment fitting, which consequently

VOL 60 ISS 75 AP 19 1995 UMI

could lead to the failure of the tailplane assemblies; this condition could result in reduced controllability of the airplane.

DATES: Comments must be received by May 30, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–166–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from 94–NM–166–AD. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–166–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–166–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model Viscount 744, 754D, and 810 airplanes. The CAA advises that it has received a report of corrosion on the main spar top and bottom forward boom of the tailplane assemblies. Several incidents of cracking have also been discovered in the upper root joint attachment fitting. The effects of such cracking or corrosion could lead to the failure of the main spar forward booms or the upper root joint attachment fitting, which consequently could lead to the failure of the tailplane assemblies. This condition, if not corrected, could result in reduced controllability of the airplane.

British Aerospace has issued Viscount Alert Preliminary Technical Leaflet (PTL) 182, Issue 2, dated August 7, 1992 (for Model Viscount 810 airplanes); and Viscount PTL 313, Issue 2, dated February 1, 1993 (for Model Viscount 744, 754D, airplanes), which describe procedures for performing an inspection to detect corrosion of the tailplane assemblies, and correction of discrepancies. The CAA classified these PTL's as mandatory.

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require an inspection to detect corrosion of the tailplane assemblies, and correction of discrepancies. The actions would be required to be accomplished in accordance with the PTL's described previously.

The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 160 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $278,400, or $9,600 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vickers-Armstrongs Aircraft Limited): Docket 94–NM–166–AD.

Applicability: All Model Viscount 744, 754D, and 810 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking or corrosion of the main spar forward booms or the upper root joint attachment fitting, which consequently could lead to the failure of the tailplane assemblies and reduce the controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 8 years of service since date of manufacture of this airplane, or within 18 months after the effective date of this AD, whichever occurs later, perform an inspection to detect corrosion of the tailplane assemblies, in accordance with British Aerospace Regional Aircraft Limited Viscount Alert Preliminary Technical Leaflet (PTL) 182, Issue 2, dated August 7, 1992 (for Model Viscount 810 airplanes), or Viscount PTL 313, Issue 2, dated February 1, 1993 (for Model Viscount 744, 754D, airplanes), as applicable. If corrosion is detected during the inspection, prior to further flight, correct the discrepancies in accordance with the service bulletin. Thereafter, repeat the inspection at intervals not to exceed 8 years.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 13, 1995.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9624 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–112–AD]

Airworthiness Directives; British Aerospace Model Viscount 744, 745D, and 810 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model Viscount 744, 745D, and 810 airplanes. This proposal would require an inspection of certain fittings of the engine mount structure to determine whether fasteners have been installed in inspection holes and to determine whether those holes are oversized. It would also require various follow-on actions, depending upon the results of the inspection. This proposal is prompted by reports indicating that fasteners were installed in the inspection hole of the engine "W" frame socket fittings and the inspection hole was oversized due to fatigue cracking. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could lead to failure of the fasteners and consequent separation of the engine from the airframe.

DATES: Comments must be received by May 30, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–112–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft Ltd., Engineering Support Manager, Military Business Unit, Chadderton Works, Greengate, Middleton, Manchester M24 1SA, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–112–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–112–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace

VOL 60 ISS 75 AP 19 1995 UMI

Model Viscount 744, 745D, and 810 airplanes. The CAA advises that it has received a report indicating that drive screws were installed in the inspection hole of engine "W" frame socket fittings. Investigation revealed that these drive screws were installed in accordance with Gulfstream Customer Bulletin No. 241C. However, the fitting of the drive screws into the inspection holes has caused fatigue cracking. In another report, the inspection hole was oversized in excess of the original 0.125-inch diameter; with such oversizing of the inspection hole, the fitting is susceptible to the problems associated with premature fatigue cracking. These conditions, if not detected and corrected in a timely manner, could lead to failure of the fitting and consequent separation of the engine from the airframe.

British Aerospace has issued Preliminary Technical Leaflet (PTL) 501, dated May 1, 1994, which describes procedures for performing a detailed visual inspection of "W" frame socket fittings of the engine mount structure to determine whether drive screws or blind rivets have been installed in inspection holes, and to determine whether those holes are oversized. The PTL also describes various follow-on actions, including a nondestructive test (NDT) to detect discontinuity (i.e., cracks, corrosion, and mechanical damage) of holes, rework of the hole, and replacement of the "W" frame fitting with a new or serviceable part. The CAA classified this PTL as mandatory.

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require performing a detailed visual inspection of "W" frame socket fittings of the engine mount structure to determine whether drive screws or blind rivets have been installed in inspection holes and to determine whether those holes are oversized. It would also require various follow-on actions, depending upon the results of the inspection. The actions would be required to be accomplished in accordance with the PTL described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 25 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $43,500, or $1,500 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vickers-Armstrongs Aircraft Limited): Docket 94–NM–112–AD.

Applicability: All Model Viscount 744, 745D, and 810 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking, which could lead to the possible separation of the engine from the airframe, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform a detailed visual inspection of "W" frame socket fittings of the engine mount structure to determine whether drive screws or blind rivets have been installed in inspection holes and to determine whether those holes are oversized, in accordance with the Accomplishment Instructions, section 2.1 PART ONE, paragraphs A., B., C., D., E. and F., of British Aerospace Preliminary Technical Leaflet (PTL) 501, dated May 1, 1994.

(b) If drive screws or blind rivets are found installed, or if the inspection holes are found to be oversized, during the inspection required by paragraph (a) of this AD, at the next scheduled engine removal, but no later than 12 months after the effective date of this AD, perform a nondestructive test (NDT) to detect discontinuities (i.e., cracks, corrosion, and mechanical damage) at inspection holes; rework the hole or replace the "W"s frame fitting with a new or serviceable part; and perform the specified follow-on actions; in accordance with the Accomplishment Instructions, section 2.2 PART TWO, paragraphs A., B., C., D., E., and F., of British Aerospace Preliminary Technical Leaflet (PTL) 501, dated May 1, 1994.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 13, 1995.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9625 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 94–ACE–17]

Proposed Amendment to Class E Airspace; Washington, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Washington, IA. The development of a new standard instrument approach procedure (SIAP) at Washington Municipal Airport, Washington, IA, has made the proposal necessary. The intended effect of this proposal is to provide controlled airspace for aircraft executing the SIAP at Washington, IA.

DATES: Comments must be received on or before May 30, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Operations Branch, ACE–530, Federal Aviation Administration, Docket No. 94–ACE–17, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Operations Branch, Air Traffic Division, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, ACE–530c, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–ACE–17." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to provide additional controlled airspace for a new Instrument Flight Rules (IFR) procedure at the Washington Municipal Airport. The additional airspace would segregate aircraft operating under VFR conditions from aircraft operating under IFR procedures. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9B, dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal

VOL 60 ISS 75 AP 19 1995 UMI

Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Washington, IA [Revised]
Washington Municipal Airport, IA.
(Lat. 41°16'34"N, long. 91°40'25"W)

That airspace extending upward from 700 feet above the surface within 7-mile radius of the Washington Municipal airport and within 3.5 miles each side of the 191° bearing from the airport extending from the 7-mile radius to 13 miles south of the airport.

* * * * *

Herman J. Lyons, Jr.,
Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 95–9643 Filed 4–18–95; 8:45 am]
BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–4–9973a; FL–5194–5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from bakery ovens and the coating of metal parts and products.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed (NPRM) will incorporate these rules into the federally approved SIP. In addition, final action on one of these rules (South Coast Air Quality Management District's Rule 1153) will serve as a final determination that a deficiency in the rule has been corrected and that any sanctions or Federal Implementation Plan (FIP) obligations are permanently stopped. An Interim Final Determination published in today's **Federal Register** will defer the imposition of sanctions until EPA takes final rulemaking action on this rule. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before May 19, 1995.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section [A–5–3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

Ventura County Air Pollution Control District, 669 County Square Drive, Second Floor, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Section [A–5–3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1197.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being proposed for approval into the California SIP include: South Coast Air Quality Management District (SCAQMD) Rule 1153, Commercial Bakery Ovens; and Ventura County Air Pollution Control District (VCAPCD) Rule 74.12, Surface Coatings of Metal Parts and Products. These rules were submitted by the California Air Resources Board to EPA on February 24, 1995.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the Los Angeles-South Coast Air Basin (LA Basin) and the Ventura County Area. 43 FR 8964; 40 CFR 81.305. Because these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The LA Basin is classified as extreme and the Ventura County Area is classified as severe;[2] therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on February 24, 1995, including the rules being acted on in this document. This document addresses EPA's proposed action for SCAQMD Rule 1153, Commercial Bakery Ovens; and VCAPCD Rule 74.12, Surface Coating of Metal Parts and Products. The SCAQMD adopted Rule 1153 on January 13, 1995 and the VCAPCD adopted Rule 74.12 on January 10, 1995. These submitted rules were found to be complete on March 10, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[3] and are being proposed for approval into the SIP.

SCAQMD Rule 1153 controls VOC emissions from commercial bakery ovens; and VCAPCD Rule 74.12 controls VOC emissions from facilities that apply coatings to metal parts or products. VOCs contribute to the production of ground-level ozone and smog. SCAQMD Rule 1153 and VCAPCD Rule 74.12 were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to VCAPCD Rule 74.12 is entitled, "Control of Volatile Organic Emissions from Existing Stationary Sources—Surface Coating of Miscellaneous Metal Parts and Products", EPA–450/2–78–0–015, June 1978. For some source categories, such as commercial bakery ovens (SCAQMD Rule 1153), EPA did not publish a CTG. In these cases, the district may determine what controls are required by reviewing the operation of facilities subject to the regulation and evaluating regulations for similar sources in other areas. EPA did publish an Alternative Control Technology Document (ACT) entitled, "Alternative Control Technology Document for Bakery Oven Emissions", EPA 453/R–92–017, December 1972 as guidance for states when developing rules controlling VOC emissions from bakeries. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD's submitted Rule 1153, Commercial Bakery Ovens, includes the following significant changes from the current SIP:

- Executive Officer discretion in specifying test methods was eliminated.
- The "exempt compounds" definition was updated.

VCAPCD submitted Rule 74.12, Surface Coating of Metal Parts and Products is a new rule and includes:

- Limits for the ROC content of metal surface coatings and solvents used to clean coating application equipment and metal surfaces prior to coating.
- The use of add-on equipment to control emissions of ROCs if noncompliant coatings are used.
- Requirements for monthly records of complying coatings and daily records of noncompliant coating applied.
- Test methods are included to determine compliance.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD Rule 1153, Commercial Bakery Ovens; and VCAPCD Rule 74.12, Surface Coating of Metal Parts and Products are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U S C. 7410(a)(2).

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 12, 1995.

John C. Wise,
Acting Regional Administrator

[FR Doc. 95–9707 Filed 4–18–95; 8:45 am]
BILLING CODE 6560-50-W

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 *Federal Register* Notice" (Blue Book) (notice of availability was published in the *Federal Register* on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The LA Basin and the Ventura County Area retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

VOL
60
ISS
75
AP
19
1995
UMI

40 CFR Part 63

[FRL–5193–1]

National Emission Standards for Hazardous Air Pollutants (NESHAP); Secondary Lead Smelters; PVC in Feedstock

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed rule; amendments.

SUMMARY: Notice is given that the EPA is considering amending the proposed rule for secondary lead smelters (59 FR 29750, June 9, 1994). Information gathered since proposal indicates that the amount of polyvinyl chloride (PVC) plastic contained in lead-acid battery scrap is declining and should be relegated to trace quantities within the next few years. Polyvinyl chloride in scrap is a precursor to hydrochloric acid emissions. The EPA is considering whether limits for hydrochloric acid contained in the proposal should be withdrawn.

DATES: *Comments.* Comments must be received on or before May 4, 1995.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–92–43, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The Agency requests that a separate copy also be sent to the contact person listed below.

Docket. Docket No. A–92–43 contains supporting information used in developing the proposed standards for secondary lead smelters (59 FR 29750, June 9, 1994). The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 12 p.m. and 1 to 3 p.m., Monday through Friday. The proposed regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For further information concerning the proposed standards and the materials discussed in this notice contact Mr. Phil Mulrine at (919) 541–5289, Metals Group, Emissions Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Since the proposal of standards for secondary lead smelters (59 FR 29750, June 9, 1994), the EPA has continued to gather information relevant to the rulemaking.

In the notice of proposed standards for secondary lead smelters, the EPA stated, "All smelting furnaces that process broken batteries are potential sources of HCl and Cl_2 [chloride] emissions. Many used lead-acid batteries contain polyvinyl chloride (PVC) plastic separators between the battery grids, although the use of PVC plastic as a separator material has been discontinued by most battery manufacturers. These separators are typically not removed from the lead-bearing parts of the battery during the battery breaking and separation process. When the PVC plastic is burned in the smelting furnace, the chlorides are released as HCl, Cl_2, and chlorinated hydrocarbons" (59 FR 29754).

Information gathered recently relevant to this specific topic indicate that the number of used lead-acid batteries in the scrap inventory that contain PVC plastic separators has declined sharply in recent years from approximately 1 percent of the total available scrap in 1990 to less than 0.1 percent in 1994 (Docket No. A–92–43, Item No. IV–D–32 and IV–D–34). This trend is expected to continue due to the fact that these separators are no longer manufactured in the United States (Docket No. A–92–43, Item No. IV–D–38). No other source of chlorides has been identified in the feedstocks to these furnaces. Consequently, the EPA also expects emissions of HCl and Cl_2 to follow a similar decline.

In light of this new information, the EPA is reconsidering the conclusion that secondary lead smelters will continue to be a source of HCl and Cl_2 emissions and the need to regulate these pollutants from this source category. At this time, the EPA is considering withdrawing the HCl/Cl_2 emission standards and associated monitoring requirements from the proposed NESHAP. The EPA welcomes comment on this new information and the ramifications it may have on the final rule.

Dated: April 7, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–9378 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300385; FRL–4947–9]

Potassium Oleate, Oxytetracycline, and S-ethyl diisobutylthiocarbamate; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA or "the Agency")

ACTION: Proposed rule.

SUMMARY: For each of the pesticides subject to the actions listed in this proposed rule, EPA has completed the reregistration process and issued a Reregistration Eligibility Document (RED). In the reregistration process, all information to support a pesticide's continued registration is reviewed for adequacy and, when needed, supplemented with new scientific studies. Based on the RED tolerance assessments for the pesticide chemicals subject to this proposed rule, EPA is proposing the following actions: to delete the term potassium oleate from the tolerance exemption for "potassium oleate and related C_{12}-C_{18} fatty acid potassium salts," to increase the tolerance for oxytetracycline on peaches, and for the tolerance "S-ethyl diisobutylthiocarbamate," to change the chemical name to the common name "butylate", to delete certain terms, and to change commodity definitions to accord with Table II of Subdivision O.

DATES: Written comments, identified by the OPP document control number [300385], must be received on or before May 19, 1995.

ADDRESSES: By mail, submit comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. In person, deliver comments to Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Special Review and Reregistration Division (7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, Crystal Station #1, 3rd floor, 2800 Crystal Drive, Arlington, VA 22202. The contacts for the specific chemicals are: Ben Chambliss (oxytetracycline), (703) 308–8174, David Chen (potassium oleate), (703) 308–8017, Paul Parsons (butylate), (703) 308–8037

I. Legal Authorization

The Federal Food, Drug, and Cosmetic Act (FFDCA) [21 U.S.C. 301 et seq.] authorizes the establishment of tolerances (maximum legal residue levels) and exemptions from the requirement of a tolerance for residues of pesticide chemicals in or on raw agricultural commodities pursuant to section 408 [21 U.S.C. 346(a)]. Without such tolerances or exemptions, a food containing pesticide residues is considered to be "adulterated" under section 402 of the FFDCA, and hence may not legally be moved in interstate commerce [21 U.S.C. 342]. To establish a tolerance or an exemption under section 408 of the FFDCA, EPA must make a finding that the promulgation of the rule would "protect the public health" [21 U.S.C. 346a(b)]. For a pesticide to be sold and distributed the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA, 7 U.S.C. 136 et seq.].

In 1988, Congress amended FIFRA and required EPA to review and reassess the potential hazards arising from currently registered uses of pesticides registered prior to November 1, 1984. As part of this process, the Agency must determine whether a pesticide is eligible for reregistration and if any subsequent actions are required to fully attain reregistration status. EPA has chosen to include in the reregistration process a reassessment of existing tolerances or exemptions from the need for a tolerance. Through this reassessment process, EPA can determine whether a tolerance must be amended, revoked, or established, or whether an exemption from the requirement of one or more tolerances must be amended or is necessary.

The procedure for establishing, amending, or repealing tolerances or exemptions from the requirement of tolerances is set forth in the Code of Federal Regulations 40 CFR parts 177 through 180. Pursuant to 40 CFR 180.32, EPA is proposing the amendment of the following tolerances. The Administrator of EPA or any person may initiate an action proposing to establish, amend, revoke, or exempt a tolerance for a pesticide registered for food uses. The proposal must explain the grounds for such a proposed action and will be published as a public notice. Each petition or request for a new tolerance, an amendment to an existing tolerance, or a new exemption from the requirement of a tolerance must be accompanied by a fee. Current Agency policy on tolerance actions identified during the reregistration process is to waive the payment of fees if the tolerance action concerns revision or revocation of an established tolerance, or if the proposed exemption from the requirement of a tolerance requires the concurrent revocation of an approved tolerance. Comments submitted in response to the Agency's published proposals are reviewed; the Agency then publishes its final determination regarding the specific tolerance actions.

II. Chemical-Specific Information and Proposed Actions

A. Potassium Oleate: Deletion of Term

1. *Regulatory background.* Prior to March 1989, the Agency classified potassium salts of fatty acids [C_{12}-C_{18} saturated and unsaturated fatty acids], potassium laureate, potassium myristate, potassium oleate, and potassium ricinoleate as separate active ingredients. In March 1989, the Agency decided to treat all potassium salts of fatty acids, and all combinations of these chemicals, as a single active ingredient because these active ingredients tend to exist as mixtures in pesticide products. In May 1992, EPA revisited its March 1989 decision. EPA concluded that for registration purposes only potassium salts of C_{12}-C_{18}, saturated and unsaturated fatty acids, would be treated as a single active ingredient and that any other chain length (either shorter or longer) should be considered to be a different active ingredient.

Because of the generally low toxicity of potassium salts and the acceptability of naturally occurring fatty acids in food, in 1982 EPA determined that a tolerance is not needed to protect the public health and established an exemption from the requirement of a tolerance for potassium oleate and related salts of fatty acids (47 FR 1379).

2. *Proposed action.* Currently, under 40 CFR 180.1068, EPA has established exemptions from the requirement of tolerances for potassium oleate and related C_{12}-C_{18} fatty acids of potassium salts for residues in or on all raw agricultural commodities. Because EPA now treats all C_{12}-C_{18} fatty acids of potassium salts as a single active ingredient, and potassium oleate is a C_{18}-fatty acid, a separate term for potassium oleate is no longer needed. Therefore, EPA proposes that the term potassium oleate be deleted from 40 CFR 180.1068.

B. Oxytetracycline: Amendment of the Tolerance on Peaches

1. *Regulatory background.* Tolerances of 0.35 and 0.1 ppm currently exist for the bactericide/fungicide oxytetracycline in or on pears and peaches, respectively, from foliar treatment or injection (40 CFR 180.337). The Agency's 1988 Registration Standard for oxytetracycline concluded that EPA had adequate data to support registered uses on pears and peaches, including nectarines. However, an evaluation of available data indicate that residue uptake in peaches could exceed the existing 0.1 ppm tolerance level but would be less than 0.35 ppm. Therefore, EPA is proposing that the oxytetracycline tolerance for peaches be increased from 0.1 ppm to 0.35 ppm.

To determine whether a 0.35 ppm tolerance level is protective of the public health, EPA considered the following information:

a. A 2–year chronic feeding study in Osborne-Mendel rats with a No Observed Effect Level (NOEL) of 3,000 ppm, approximately 150 milligrams (mg)/kilogram (kg)/day (highest dose tested).

b. A 2–year chronic feeding study in Sprague-Dawley rats with a NOEL of 1,000 ppm, approximately 50 mg/kg/day (highest dose tested).

c. A 2–year chronic feeding study in dogs with a NOEL of 10,000 ppm, approximately 250 mg/kg/day (highest dose tested).

d. A mouse developmental toxicity study with a NOEL for maternal and developmental toxicity at 2,100 mg/kg (highest dose tested).

e. A dog study, undertaken to evaluate antimicrobial resistance to oxytetracycline, with a NOEL of 2 ppm (approximately 0.05 mg/kg/day).

In December of 1988, EPA completed a review of the available data for oxytetracycline and concluded that there is no evidence of carcinogenic effects in either the mouse or the rat study.

The reference dose (RfD) is established at 0.005 mg/kg/body weight per day based on a NOEL of 0.05 mg/kg body weight per day from the dog feeding study. An uncertainty factor of 10 to account for intraspecies variability was used.

The theoretical maximum residue contribution (TMRC) from existing tolerances is 0.000268 mg/kg/day; the proposed increase in the tolerance would contribute 0.000054 mg/kg/day Existing tolerances and the proposed increase to the tolerance on peaches would utilize 5.35 percent of the RfD. The most highly exposed subgroup, non-nursing infants (less than 1 year old), had a TMRC of 0.001391 mg/kg/day, utilizing 27.81 percent of the RfD. The Agency believes that exposure at these levels carries no appreciable risk.

The nature of the residue is adequately understood and an adequate analytical method, a microbiological assay, is available for enforcement purposes.

VOL 60 ISS 75 AP 19 1995 UMI

2. *Proposed action.* Based on the data and information presented above, the Agency is proposing that the tolerance for peaches be increased from 0.1 to 0.35 ppm. In proposing this action, EPA believes that the tolerance level of 0.35 ppm for oxytetracycline residues in or on peaches is protective of the public health.

C. Amendment to 40 CFR 180.232

1. *Background.* EPA has determined, as explained in the Reregistration Eligibility Document issued September 1993, that there are sufficient data to support the adequacy of the established S-ethyl diisobutylthiocarbamate tolerances listed in 40 CFR 180.232.

2. *Proposed action.* By this document, EPA proposes the following actions:

a. Amend the name S-ethyl diisobutylthiocarbamate in 40 CFR 180.232 to the common name "Butylate" so that the tolerance regulation may be more easily located.

b. Delete the term "negligible residues" in the tolerance entry because the regulation specifies a tolerance level.

c. Amend the commodity definitions listed in 40 CFR 180.232 to read as follows to conform to commodity definitions currently used by EPA:

i. "Corn grain (including popcorn)" is proposed to be revised to "Corn, field, grain" and "Corn, pop, grain."

ii. "Fresh corn including sweet corn (kernels plus cob with husk removed)" is proposed to be revised to "Corn, sweet (kernels plus cob with husk removed)."

iii. "Corn forage and fodder including sweet corn, field corn, and popcorn" is proposed to be revised to "Corn, field, fodder"; "Corn, field, forage"; "Corn, pop, fodder"; "Corn, pop, forage"; and "Corn, sweet, forage."

III. Public Comment Procedures

Interested persons are invited to submit written comments, information, or data in response to this proposed rule. Comments must be submitted by May 19, 1995. Comments must bear a notation indicating the document control number. Three copies of the comments should be submitted to either location listed under the ADDRESSES unit of this preamble.

Information submitted as a comment concerning this document may be claimed confidential by marking any or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of a comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Any person who has registered or submitted an application for registration of a pesticide, under FIFRA as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Documents considered and relied upon by EPA pertaining to this action, and all written comments filed pursuant to this proposed rule, will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA between 8 a.m. and 4 p.m., Monday through Friday, except public holidays. Any person who has registered, or who has submitted an application for registration under FIFRA of any of the pesticide chemicals listed in this proposed rule, may request that this proposal be referred to an advisory committee. Such a request must be made within 30 days of the publication of this proposal. To satisfy requirements for analysis specified by Executive Order 12866 and the Regulatory Flexibility Act, EPA has analyzed the impacts of this proposal. This analysis is available for public inspection in Rm. 1132 at the Virginia address given above.

IV. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule: (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, it has been determined that this proposed rule is not a "significant regulatory action," because it does not meet any of the regulatory significance criteria listed above.

B. Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act of 1980 [Pub. L. 96–354; 94 Stat. 1164, 5 U.S.C. 601 et seq.] and EPA has determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

Accordingly, I certify that this proposed rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 7, 1995.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 would continue to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.232 is revised to read as follows:

§ 180.232 Butylate; tolerances for residues.

Tolerances are established for the herbicide butylate in or on the raw agricultural commodities corn, field, grain; corn, pop, grain; corn, sweet (kernels plus cob with husk removed); corn, field, fodder; corn, field, forage; corn, pop, forage; and corn, sweet, forage at 0.1 part per million.

3. Section 180.337 is revised to read as follows:

§ 180.337 Oxytetracycline; tolerances for residues.

Tolerances are established for residues of the pesticide oxytetracycline in or on the following raw agricultural commodities:

Commodity	Parts per million
Peaches	0.35
Pears	0.35

4. Section 180.1068 is revised to read as follows:

§ 180.1068 C_{12}-C_{18} fatty acid potassium salts; exemption from the requirement of a tolerance.

C_{12}-C_{18} fatty acids [saturated and unsaturated] potassium salts are exempted from the requirement of a tolerance for residues in or on all raw agricultural commodities when used in accordance with good agricultural practice.

[FR Doc. 95–9534 Filed 4–18–95; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 382

[Docket No. R–158]

RIN AB19

Determination of Fair and Reasonable Rates for the Carriage of Bulk and Packaged Preference Cargoes on U.S.-flag Commercial Vessels

AGENCY: Maritime Administration, DOT.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: The Maritime Administration is soliciting comments from interested persons concerning the need for and content of a revised methodology for the determination of fair and reasonable rates. Fair and reasonable rate determinations are provided to U.S. government shippers of preference cargo, thereby creating ceiling rates which limit government costs and the revenue U.S.-flag operators receive for ocean cargo transportation.

DATES: Comments must be received before June 19, 1995.

ADDRESSES: Comments should be sent to the Secretary, Maritime Administration, room 7210, 400 7th St. SW., Washington DC 20590.

FOR FURTHER INFORMATION CONTACT: Michael P. Ferris, Director Office of Costs and Rates, Maritime Administration, Washington, DC 20590, Telephone (202) 366–2324.

SUPPLEMENTARY INFORMATION: Section 901(b) of the Merchant Marine Act, 1936, as amended, 46 App. U.S.C. § 1241(b), cited as the Cargo Preference Act of 1954, requires that, with respect to certain cargoes which are described as "government-impelled," such as food donation programs administered by the State Department or the Department of Agriculture, the cognizant government agency or agencies must take appropriate steps to assure that at least 50 percent of the gross tonnage of such cargoes transported on ocean vessels will be "transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at *fair and reasonable rates* for United States-flag vessels" (emphasis added). Section 901b of the Food Security Act of 1985 increased the 50 percent carriage requirement to 75 percent for agricultural commodities or products shipped under certain food donation programs. In 1989, MARAD issued regulations (46 CFR Part 382, hereafter the Rule) that initially became effective on January 1, 1990. The Rule contains regulations that govern the calculation of *fair and reasonable rates* (also referred to as guideline rates) for the carriage of bulk and packaged preference cargoes on U.S.-flag commercial vessels.

In an effort to encourage the development of a modern and efficient U.S.-flag bulk fleet and to help lower government-wide cargo preference program costs, the Maritime Administration is considering changes in its methodology for the determination of fair and reasonable rates. The Rule prescribes a methodology for determining fair and reasonable rates based on individual vessel costs. As a result, during periods of strong demand for bulk shipping, certain high cost vessels have been able to fix cargoes at rates that significantly exceed those of more efficient vessels. This poses a question of equity between the operators of these two groups of vessels and raises the possibility that under an alternative methodology government program costs could be reduced. Additionally, a possible result of the existing Rule is that modern, efficient low cost vessels are discouraged from entering the trade. The lower ceiling rates imposed on the most cost efficient vessels by the current methodology may not allow sufficient profit opportunities to justify the risk of a high capital cost investment.

MARAD is considering whether to conduct a rulemaking with respect to the present methodology for determining fair and reasonable rates and is seeking information from the public as to an appropriate methodology to encourage efficient vessels to enter the trade resulting in lower program costs. MARAD has identified three alternative methodologies which it might consider as part of a rulemaking. In addition, the option exists of keeping the present methodology. The methodologies are:

Individual Cost (Existing)

The existing Rule is based on a methodology which utilizes an owner's actual costs for owning and operating the specific vessel used in the transportation of the preference cargo. Those costs are prorated over the cargo preference voyage and added to the voyage and cargo related costs. An allowance for overhead and profit is also included in the guideline rate.

Foreign Market Differential

Under this methodology, MARAD would calculate the added costs associated with owning and operating a vessel under the U.S.-flag resulting from U.S. laws and regulations and the U.S. standard of living. This procedure would identify a modern and efficient target vessel or vessels available worldwide and estimate its cost under foreign ownership and under U.S. ownership, if operated in the most efficient manner practical. The resulting cost differential would be prorated over specific voyages, as cargoes are tendered, and added to the foreign bids for such voyages to determine the fair and reasonable rate for U.S.-flag operators.

Cost Averaging

A methodology utilizing vessel cost averaging would be constructed in much the same manner as the current Rule, except that some level of average vessel costs would replace individual vessel costs in the calculation of the fair and reasonable rate. There are three basic cost areas which would be the most likely candidates for averaging: vessel operating costs, vessel capital costs, and fuel. Any one or a combination of any of the three cost areas could be included in a cost averaging methodology.

Market Based

Under a market based methodology, an operator's bid would be considered fair and reasonable if it were submitted in a competitive environment. A competitive environment would be established by a required number of qualified bids made by independent and

VOL 60 ISS 75 AP 19 1995 UMI

nonaffiliated U.S.-flag vessel operators. A market based methodology would actually be a combination of methodologies because a cost based determination would be made in instances where an insufficient number of independent bids were received. The cost based rate could be determined as prescribed in the existing Rule or by use of some other methodology like those described above. A review of the legislative history of the Cargo Preference Act of 1954, § 901(b) of the Act, would indicate that a market based methodology may require legislation to be implemented. Commenters may wish to address the legislative aspect of the market based methodology.

In order to administer cargo preference programs in a cost efficient manner, while developing a modern and efficient fleet, it may be necessary to change the existing methodology for determining fair and reasonable rates for U.S.-flag commercial vessels. Therefore, any comments on proposals to change the methodology in the regulations at 46 CFR Part 382 should specifically address any existing problems with the present methodology, specific suggestions for alternative methodologies, and a rationale for acceptance of any proposed methodologies. Comments will aid MARAD's evaluation of the Rule and the development of appropriate alternatives. MARAD is requesting that any person, corporation, or other entity having any interest in, or desiring to offer views and comments on, MARAD's fair and reasonable rate methodology, submit them in writing. After reviewing the comments, MARAD will decide whether to propose a change in the methodology employed for the determination of fair and reasonable rates, as well as what revisions to propose.

The public is advised that the purpose of this ANPRM is to solicit information and views from commenters that MARAD can use in evaluating its methodology of determining fair and reasonable rates for the carriage of bulk and packaged preference cargoes on U.S.-flag bulk vessels and in deciding whether to proceed with a rulemaking to amend 46 CFR Part 382. MARAD has separate regulations at 46 CFR Part 383 (the liner Rule) dealing with the carriage of less-than-shipload lots of bulk preference cargoes on vessels in a liner service. Common carrier liner services are substantially different from bulk services in their cost structure and service requirements. However, the information, ideas or views provided by commenters may have some impact on any liner rulemaking and the public is invited to comment on such impact.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review)

This advance notice of proposed rulemaking has been reviewed under Executive Order 12866 and Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If a rule is actually promulgated, it would not be considered an economically significant regulatory action under Section 3(f) of E.O. 12866, since it has been determined that it would not result in an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

While any rule that might be promulgated would not involve any change in important Departmental policies, it would be considered significant because it addresses a matter of considerable importance to the maritime industry and would be expected to generate significant public interest. A preliminary regulatory evaluation will be prepared based on the comments to this advance notice of proposed rulemaking.

Federalism

The Maritime Administration has analyzed this advance notice of proposed rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that any rule that might be subsequently promulgated would not have sufficient federalism implications to warrant the preparation of Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that any rule that might be promulgated subsequent to this advance notice of proposed rulemaking would not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

Any rule that might be subsequently promulgated would not significantly affect the environment. Accordingly, an Environmental Impact Statement would not be required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

Any rule that might be promulgated would not significantly change the current requirement for the collection of information. The Office of Management and Budget (OMB) has reviewed the current Rule under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has approved it under OMB Approval Number 2133–0514.

By order of the Maritime Administrator.
Dated: April 13, 1995.

Joel C. Richard,
Secretary.

[FR Doc. 95–9661 Filed 4–18–95; 8:45 am]
BILLING CODE 4910-81-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–43, RM–8580]

Radio Broadcasting Services; Grand Junction, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Grand Valley Public Radio Company, Inc. (petitioner), permittee of Station KAFM(FM), Channel 201A, Grand Junction, Colorado, seeking the allotment of Channel 264C1 to Grand Junction, Colorado, as that community's fifth local FM transmission service. Coordinates used for this proposal are 39–04–06 and 108–33–00.

DATES: Comments must be filed on or before June 5, 1995, and reply comments on or before June 20, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Harry F. Cole, Esq., Bechtel & Cole, Chartered, 1901 L St., NW, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–43, adopted April 3, 1995, and released April 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9627 Filed 4–18–95; 8:45 am]
BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 95–44, RM–8602]

Radio Broadcasting Services; Fair Bluff, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Atlantic Broadcasting Co., Inc., licensee of Station WDAR-FM, Channel 288C3, Darlington, South Carolina, requesting the deletion of vacant and unapplied-for Channel 287A at Fair Bluff, NC. In the alternative, petitioner requests that Channel 287A at Fair Bluff be site restricted 12.7 kilometers (7.9 miles) northeast, at coordinates 34–21–22 North Latitude and 78–54–36 West Longitude. The deletion or site restriction of the Fair Bluff channel could enable Station WDAR-FM to improve its coverage area by operating omnidirectionally.

DATES: Comments must be filed on or before June 5, 1995, and reply comments on or before June 20, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Esq., Smithwick & Belendiuk, P.C., 1990 M Street, NW, Suite 510, Washington, D.C. 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–44, adopted April 6, 1995, and released April 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9628 Filed 4–18–95; 8:45 am]
BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 95–45, RM–8605]

Radio Broadcasting Services; Pahrump, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Gregory P. Wells seeking the allotment of Channel 236A to Pahrump, NV, as the community's second local FM service. Channel 236A can be allotted to Pahrump in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.1 kilometers (2.5 miles) west, at coordinates 36–13–12 North Latitude and 116–01–43 West Longitude, to avoid a short-spacing to Station KWNR, Channel 238C, Henderson, NV.

DATES: Comments must be filed on or before June 5, 1995, and reply comments on or before June 20, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gregory P. Wells, P.O. Box 590, Suite 145, Pahrump, NV 89041 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–45, adopted April 6, 1995, and released April 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,
Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9630 Filed 4–18–95; 8:45 am]
BILLING CODE 6712-01-F

VOL 60 ISS 75 AP 19 1995 UMI

47 CFR Part 73

[MM Docket No. 93-203, RM-8245, RM-8340; MM Docket No. 93-206, RM-8804; MM Docket No. 93-213, RM-8351; MM Docket 93-256, RM-8325]

Radio Broadcasting Services; Islesboro and Winter Harbor, ME, Hermantown, MN, Balsam Lake, WI, Taylorville, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal of.

SUMMARY: The Commission grants the requests of Lakeside Broadcasting, Inc. and Christopher DiPaola to withdraw their petitions for reconsideration and motions for stay of the *Order* in the above-listed proceedings which announced a thirty-day application filing window opening on January 6, 1995, and closing on February 6, 1995. *See* 59 FR 61327, November 30, 1994.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 93-203, et al., adopted March 24, 1995, and released April 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-9631 Filed 4-18-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 95-39; FCC 95-144]

Broadcast Services; Financial Interest and Syndication Rules

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rule Making is needed to initiate the planned review of the FCC's financial interest and syndication rules prior to their scheduled expiration date on November 10, 1995. The burden of proof in this proceeding is on those parties arguing for continuation of the rules; if these parties fail to carry this burden, the rules will be allowed to expire. The Commission also seeks comment on whether, in the event these parties do not meet their burden of proof, it should accelerate the expiration date of the rules.

DATES: Comments are due by May 30, 1995, and reply comments are due by June 14, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Charles Logan, (202) 776-1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making in MM Docket No. 95-39, FCC 95-144, adopted and released on April 5, 1995. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., suite 140, Washington, DC 20037, (202) 857-3800.

Synopsis of Notice of Proposed Rule Making

1. The Commission's financial interest and syndication ("fin/syn") rules, originally adopted in 1970, placed significant restrictions on the ability of the established networks (ABC, CBS, and NBC) to own television programming and engage in the practice of syndication. In the Second Report and Order in MM Docket No. 90-162, 58 FR 28927 (May 18, 1993) ("Second R&O"), recon. granted in part, Memorandum Opinion and Order, 58 FR 65132 (Dec. 13, 1993), the Commission eliminated certain aspects of the fin/syn rules immediately, including restrictions on network acquisition of financial interests and passive syndication rights in network programming. The Commission also established a timetable for the expiration of the remaining rules, which include restrictions on network involvement in the active syndication and first-run markets, as well as anti-warehousing safeguards. Under this timetable, these remaining rules are now set to expire on November 10, 1995. The Commission's decision in the Second R&O was upheld on appeal by the United States Court of Appeals for the Seventh Circuit ("Seventh Circuit"). *Capital Cities/ABC, Inc.* v. *FCC*, 29 F.3d 309 (7th Cir. 1994).

2. The Commission also determined in the Second R&O that, prior to the scheduled expiration of the remaining fin/syn rules, it would conduct a review of network activities in the financial interest and syndication areas, and that this review would be initiated no later than six months prior to the rules' scheduled expiration date, *i.e.*, no later than May 10, 1995. This Notice of Proposed Rule Making ("NPRM") initiates this planned review. It provides an opportunity for comment on the accuracy of the Commission's conclusion in the Second R&O that the remaining fin/syn restrictions should be eliminated. The NPRM states that comments submitted by parties who oppose the scheduled expiration of these restrictions will need to prove that, based on the current status of the program production and distribution markets and the activities of the networks since 1993, the Commission should continue regulation in this area. Parties arguing for retention of fin/syn restrictions should support their positions with empirical data and economic analysis.

3. The Commission lists the following factors as being relevant to its review of the rules: (1) The extent to which a network-owned program is syndicated primarily to that network's affiliates; (2) patterns that reveal daily in the introduction of network programs (in which the networks had financial interests or syndication rights) into the syndication market; (3) the percentage of network programming in which a network has obtained a financial interest or syndication right; (4) the relative change in the number of independent producers creating and selling television shows to the networks; (5) each network's share of the first-run syndicated programming domestic market; (6) concentration of ownership in the program production industry; (7) audience shares of first-run syndicated programming carried by non-network affiliated stations during prime time; (8) the overall business practices of emerging networks, such as Fox, in the network television and syndication business; (9) network negotiating patterns, particularly the manner in which networks obtain financial interests and syndication rights and the extent to which successful negotiations over back-end rights influence network buying decisions; (10) network syndication practices, to the extent they are permitted; (11) the relationship and business arrangements between networks and third-party syndicators of off-network programming; (12) mergers or acquisitions involving networks, studios, cable systems and other program providers since the Commission's 1993 fin/syn decision took effect; (13) the growth of additional networks, including the development of Fox and its position *vis-a-vis* the major three networks; and (14) the growth in the number and types of alternative outlets for sale of programming (*e.g.*, the development of the Direct Broadcast Satellite service; cable penetration; wireless cable development). In addition to examining information submitted regarding the above factors, the Commission states that it will also take notice of the record developed in its pending proceeding regarding the Prime Time Access Rule to the extent it is relevant to its review of the fin/syn rules.

4. The NPRM provides that the burden in this proceeding will be on fin/syn proponents to demonstrate, as stated by the Seventh Circuit, "an excellent, a compelling reason" why the restrictions should be continued. Capital Cities/ABC, Inc., 29 F.3d at 316. As the Commission stated in the Second R&O, it is prepared to presume that complete removal of all remaining restrictions will be appropriate, and is therefore placing the burden of proof on those that urge retaining fin/syn restrictions. If proponents of retaining the rules fail to demonstrate to the Commission that the rules should be left in place, or if the Commission does not take affirmative action to the contrary, the rules will automatically expire.

5. The Commission also seeks comment on whether, in the event parties arguing for the continuation of the fin/syn rules fail to carry their burden of proof, it should amend its rules to allow the remaining rules to expire before the presently scheduled expiration date of November 10, 1995. The Commission further seeks comment on whether doing so would unduly disrupt any business arrangements or practices that have been established in reliance on the presently scheduled expiration date.

Administrative Matters

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before May 30, 1995, and reply comments on or before June 14, 1995. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, parties must file an original and four copies of all comments, reply comments and supporting comments. If parties want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

7. This is a non-restricted notice and comment rulemaking proceeding. Accordingly, *ex parte* presentations will be permitted, except during the Sunshine Agenda period, provided they are disclosed as set forth in the Commission's Rules. See 47 CFR 1.1202, 1.1203, 1.1206(a).

Initial Regulatory Flexibility Act Statement

8. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA")—set forth in Appendix A attached to the full text of the NPRM and set forth in paragraphs 10-15 below—of the expected impact on small entities of the proposal suggested in the NPRM. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the NPRM, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

9. Reason for Action and Objectives: This NPRM is initiated to conduct a review of the Commission's financial interest and syndication ("fin/syn") rules as part of the timetable the Commission has previously established in scheduling the elimination of the rules. It also seeks comment on whether to accelerate the scheduled expiration date of the fin/syn rules in the event parties opposed to their elimination fail to persuade the Commission that the rules should be continued.

10. Legal Basis: Authority for the action proposed in this proceeding is contained in Section 4(i), 4(j), 301, 303(i), 303(r), 313, and 314 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(i), 303(r), 313, and 314.

11. Reporting, Record Keeping, and Other Compliance Requirements: None.

12. Federal Rules which Overlap, Duplicate, or Conflict with the Proposed Rule: None.

13. Description, Potential Impact and Number of Small Entities Affected: The entities that could potentially be affected by this proceeding include television program producers and syndicators, television networks and their affiliate stations, and non-network television stations. It is anticipated that any rule changes arising out of this proceeding would have a minimal impact on the small entities that could be affected.

14. Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent with the Stated Objectives: None.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-9632 Filed 4-18-95; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket Nos. 94-150, 92-51, 87-154; FCC 95-139]

Broadcast Services; Television and Radio Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of motion to accelerate comment period.

SUMMARY: The Commission denies a Motion to Establish an Accelerated Procedural Schedule for the Limited Liability Companies Issue, filed by the Association of Black Owned Television Stations in this proceeding. The action is taken to respond to this motion that the deadlines for comments and reply comments with respect to the issue of Limited Liability Companies be accelerated. The intended effect of the action is to permit commenters the full period specified in the Notice of Proposed Rule Making in which to file comments in the proceeding.

DATES: Comments (as extended in a separate decision printed elsewhere in this **Federal Register**) are due May 17, 1995, and reply comments are due June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Mania Baghdadi, Mass Media Bureau (202) 776-1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order* in

VOL 60 ISS 75 AP 19 1995 UMI

MM Docket Nos. 94–150, 92–51, and 87–154; FCC 95–139, adopted April 3, 1995, and released April 7, 1995. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of the Order

1. The Commission denies the Motion to Establish an Accelerated Procedural Schedule for the LLC Issue ("Motion"), which the Association of Black Owned Television Stations ("ABOTS") filed in this proceeding on January 25, 1995. The Commission, in a Notice of Proposed Rule Making (60 FR 6483, February 2, 1995) established a comment deadline of April 17, 1995, and of May 17, 1995 for reply comments. ABOTS asked that the Commission accelerate the comment schedule with respect to Section VII (Limited Liability Companies and Other New Business Forms) of the Notice of Proposed Rule Making with comments due by February 10, 1995, and reply comments due by February 17, 1995. ABOTS also asked the Commission to expedite our disposition in the rule making regarding the issue of LLCs and to reach a decision by March 3, 1995, if possible. The Commission finds the concerns expressed by ABOTS in its Motion to be unfounded, and believes that an acceleration of the comment period and decisionmaking process would not be in the public interest. Thus, the Commission denies ABOTS' requests. In a separate decision adopted April 7, 1995, and printed elsewhere in this **Federal Register**, the Commission extends the time for filing comments in this proceeding to May 17, 1995, and the time for filing replay comments to June 19, 1995.

2. Accordingly, pursuant to Section 4(j) of the Communications Act, 47 U.S.C. 154(j) It Is Hereby Ordered that the Motion to Establish an Accelerated Procedural Schedule for the LLC Issue filed by the Association of Black Owned Television Stations is denied.

Federal Communications Commission.

William F. Caton,

Acting Secretary

[FR Doc. 95–9570 Filed 4–18–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 95–40; FCC 95–145]

Broadcast Services; Network/Affiliate rule

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rule Making proposes to eliminate or modify the Commission's requirement that broadcast television stations file their network affiliation agreements with the Commission and that these filings be publicly available. This action is needed to determine if the costs of this rule exceed its benefits.

DATES: Comments are due by June 12, 1995, and reply comments are due by July 12, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert Kieschnick (202–739–0770) or Paul Gordon (202–776–1653), Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making in MM Docket No. 95–40, FCC 95–145, adopted April 5, 1995 and released April 5, 1995. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037

Synopsis of Notice of Proposed Rule Making

1. With this Notice of Proposed Rule Making (NPRM), the Commission continues its examination of rules regulating broadcast television network/affiliate relations in light of changes in the video marketplace. This NPRM proposes repeal or modification of 47 C.F.R. § 73.3613(a) (the "filing of affiliation contracts" rule). This rule requires television broadcast licensees to file copies of network affiliation contracts, agreements, and understandings with the Commission. The contract must be reduced to one written document, including the substance of any oral agreements, without reference to any other document. However, the rule does allow subsequent renewals, changes, or amendments to the contract to be set forth in separate filings that refer to the original contract. Notification of cancellation or termination of the filed contracts is also required. This rule applies only to agreements with broadcast television networks that offer 15 or more hours of programming per week to 25 or more affiliates in 10 or more states. Thus, while ABC, CBS, NBC, and Fox are subject to the rule, the United Paramount Network and the Warner Brothers Network are not.

2. The primary purpose of requiring broadcast television stations to file their affiliation agreements with the Commission has been to give the Commission the ability to monitor these contractual relationships and ensure that the Commission's restrictions on these relationships are not violated in affiliation agreements. Also, by requiring affiliates to file their affiliation agreements with the Commission, the rule may chill any desire to engage in misbehavior, thereby reducing the likelihood that these agreements will contain provisions that violate the Commission's underlying network/affiliate rules.

3. Since 1985, when we last examined this rule, the video marketplace has changed dramatically. As pointed out in our recent Further Notice of Proposed Rule Making in MM Docket No. 91–221 (60 FR 6490, February 2, 1995) addressing broadcast television ownership, there has been an increase in the number of broadcast stations available for affiliation with a broadcast network in nearly every market. Moreover, new, aspiring networks have emerged.[1] As a result of these changes, the bargaining positions of broadcast television networks and commercial broadcast television stations have changed and differ market by market The recent affiliate switches demonstrate the increased competition between broadcast networks for affiliation with broadcast television stations in different markets, and thus suggest that broadcast networks' market power over their affiliates has diminished to some extent.

4. Given the recent increased competition between broadcast networks for affiliates in different markets, we solicit comment on whether or not there is a continuing need for the Commission to monitor network/affiliate relationships through mandatory filings of their affiliation agreements. We also seek comment on the extent to which filing these contracts with the Commission is necessary to deter violations of the

[1] Fox now competes with ABC, CBS, and NBC Further, United Paramount Network and Warner Brothers Network are beginning to develop as competitors to these networks.

network/affiliate rules. If we conclude that routine filing of agreements is not necessary to deter violations of the rules, we could relieve licensees of the duty to file affiliation agreements routinely, and instead simply require the production of such agreements upon Commission request.

5. Separate and apart from the issue of whether contracts should be filed with the Commission is the issue of whether licensees should be required to make these contracts available to the public. Making these agreements publicly available allows the general public to inspect them and to file complaints where abuses of the public interest are discovered. It also allows third parties (*e.g.*, advertisers), whose commercial interests are affected by these agreements, to determine if their interests are harmed by these agreements. We solicit comment on the importance of these purposes and examples of the general public's use of these filings that illustrate the extent of the benefits from making these filings publicly available.

6. Turning to the possible costs of the rule, we note that there are direct and indirect costs to be considered. The direct costs of filing these agreements are the additional expenses incurred to prepare and submit the filings to the Commission over the expenses incurred to prepare affiliation agreements for their original purpose. We solicit evidence on the size of these costs incurred by filing affiliates.

7 The indirect costs of filing these agreements are more difficult to quantify, potentially more serious, and a result of our requirement that the filings be publicly available. First, networks must bargain with broadcast stations serving different markets to gain access to their potential audiences through affiliation agreements. As mentioned earlier, the number of potential parties to such contracts differs market by market, but generally represents a few potential parties on either side. By making compensation or other data in these filings publicly available, the Commission may facilitate the ability of parties either seeking or offering affiliation to avoid competition. For example, in markets where there are more commercial stations than broadcast networks interested in seeking affiliation agreements, networks might seek, through parallel action, to lower the compensation they pay potential affiliates and could use the public filings to ensure each party is performing as agreed.[2] Alternatively, in markets where there are more broadcast networks seeking affiliation agreements than commercial broadcast stations available, commercial stations could seek to ensure that the compensation that each of them receives is higher than the compensation any one of them alone was willing to accept. In either example, the public availability of the affiliation compensation data facilitates joint monitoring to ensure similar behavior.[3] The Commission solicits comment on the potential for such behavior in light of current market conditions, estimates of the size of these indirect costs, and their consequences, if any, for viewers.

8. Second, making these filings publicly available alters the dynamic of the contracting process. For example, the requirement reduces a network's ability and willingness to craft contractual arrangements with one affiliate to recognize special market conditions of that affiliate. By way of illustration, a network may discern that a new affiliate requires improved local news coverage in order to compete against other television stations in its market and may wish to help fund such improvement because of the financial constraints that the new affiliate faces. However, the network may be reluctant to do so if its other affiliates can discover such improved or different terms and are likely to demand similar terms. Thus, by requiring contracts to be publicly available, our rules make it less likely that the terms are tailored to best suit the needs of the parties to the contract. Confidentiality of the financial terms of affiliates' contracts would break the linkage between concessions offered to one affiliate and negotiations with other affiliates. Networks would be able to tailor affiliation contracts solely to local conditions with less concern for repercussions in other markets. On the other hand, as the Commission previously concluded, public filing of these contracts enables weaker affiliates to attempt to ensure that they receive comparable or competitive compensation to other affiliates of a network, thereby strengthening their overall financial condition and ability to serve the public. Consequently, we solicit comments on the advantages and disadvantages of a network's being able to tailor its contracts versus affiliates' desire to ensure comparable contracts, particularly in terms of the Commission's competition and diversity concerns.

9. We propose to eliminate the filing requirement and require broadcast television stations to make their affiliation agreements available to the Commission upon request. We will adopt this proposal if we conclude that the benefits of continuous monitoring of broadcast television station's affiliation agreements with broadcast television networks no longer exceed their costs. We tentatively conclude that we can continue to enforce our network/affiliate rules through a system of complaint initiated requests for affiliation contract information. Such a system would relieve licensees of the paperwork burden of filing contracts with the Commission, and would reduce the potential anticompetitive effects of general publicly disclosure. We solicit comment on this tentative conclusion and on whether we can rely on affiliates, or members of the public, to file such complaints.

10. Alternatively, we could continue to require contracts to be filed with the Commission, but maintain the confidentiality of the contracts by limiting access to authorized FCC employees. This modification of our rule would allow us to continue to monitor network/affiliate relations to protect the public interest, while at the same time reducing the indirect costs of the current filing requirement which arise from the public availability of these agreements. However, the Freedom of Information Act requires agencies to disclose documents in certain circumstances. Given that we did not exempt these filings from the Freedom of Information Act in our 1969 *Report and Order* in Docket No. 14710 (34 FR 5947, May 1, 1969), we also solicit comment on whether or not this proposal is a viable option.

11. Another alternative would be to continue the filing requirement but modify it to require that only redacted copies of contracts be made available to the public. These copies would omit any references to the values which determine the affiliate compensation and, possibly, other business sensitive terms. In this way, the public could continue to monitor the issues affecting program diversity in their community and we could continue to monitor the network-affiliate relationship. This option would preserve the benefit of general public scrutiny of these

[2] See B. M. Owen and S. S. Wildman, *Video Economics*, Harvard University Press, (1992) at 166–172 for a discussion of influences on the bargaining position of broadcast television networks and commercial broadcast television stations in negotiating affiliation agreements.

[3] For a general overview of the manner in which data dissemination among competitors may facilitate cartel-like behavior, see N.R. Prance, *Price Data Dissemination as a Per Se Violation of the Sherman Act*, 45 U. Pitt. L. Rev. (1983) at 68–78; see also Donald S. Clark, *Price-Fixing without Collusion. An Antitrust Analysis of Facilitating Practices after Ethyl Corp.*, 1983 Wis. L. Rev. 887, 900–901; see also *MCI Telecom Corp v AT&T*, 114 S. Ct. 2223, 2233 (1994) for an example of the Commission's concern over this issue.

VOL
60
ISS
75
AP
19
1995
UMI

agreements, but reduce their potential negative effects on the competition for affiliations.

12. We could, of course, also maintain the rule as it currently stands. We would adopt this option only if we determine that the direct and indirect costs associated with these filings continue to be less than their benefits. We request that comments on the above proposals weigh the benefits and costs in a manner which justifies the particular recommendation a commenter makes.

Administrative Matters

13. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. Sections 1.415 and 1.419, interested parties may file comments on or before June 12, 1995, and reply comments on or before July 12, 1995. To file formally in this proceeding, you must file an original plus five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554.

14. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission Rules. *See generally* 47 C.F.R. Sections 1.1202, 1.1203, and 1.1206(a).

Initial Regulatory Flexibility Act Statement

15. *Reason for the Action*: This proceeding was initiated to review and update the Commission's rule concerning the filing of broadcast television network affiliation contracts.

16. *Objective of this Action*: The actions proposed in this *Notice* are intended to reduce concerns over the potential deleterious effects of making some or all the substance of broadcast television affiliation agreements publicly available.

17. *Legal Basis*: Authority for the actions proposed in this Notice may be found in Sections 4 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154 and 303.

18. *Recording, Recordkeeping, and Other Compliance Requirements Inherent in the Proposed Rule*: The proposals may reduce existing requirements.

19. *Federal Rules that Overlap, Duplicate, or Conflict with the Proposed Rules*: None.

20. *Description, Potential Impact, and Number of Small Entities Involved*: Approximately 1,500 existing television broadcasters of all sizes may be affected by the proposals contained in this decision.

21. *Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent with the State Objectives*: The proposals contained in this NPRM are intended to simplify and ease the regulatory burden currently placed on commercial television broadcasters.

22. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared the above Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

23. This Notice of Proposed Rule Making is issued pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–0569 Filed 4–18–95; 8:45 am]

BILLING CODE 6712–01M

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47 CFR Part 73

[MM Docket Nos. 91–221 and 87–8; 94–149 and 91–140; and 94–150, 92–51 and 87–154; DA 95–781]

Mass Media Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Commission extends by 30 days the comment periods for three interrelated proceedings in order to afford commenters more time to collect data and perform necessary statistical analyses. The three proceedings involve (1) the television multiple ownership rules, (2) incentives to increase minority and female ownership of mass media facilities and (3) the Commission's rules regarding attribution of ownership interests. In all three proceedings, the Commission requested detailed analyses demonstrating the relative benefits and detriments of current and proposed rules.

DATES: Comments due May 17, 1995; reply comments due June 19, 1995.

ADDRESSES: Federal Communication Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jane Hinckley Halprin, Mass Media Bureau, Policy and Rules Division, (202) 776 1653.

SUPPLEMENTARY INFORMATION:

Order Granting Extension of Time for Filing Comments and Reply Comments

Adopted: April 7, 1995;
Released: April 7, 1995.

By the Acting Chief, Mass Media Bureau:

1. On December 15, 1994, the Commission adopted three related rulemaking items. First, the Commission adopted a Further Notice of Proposed Rule Making regarding ownership of television stations. Further Notice of Proposed Rule Making in MM Docket Nos. 91–221 and 87–8, FCC 94–322, 60 Fed. Reg. 6490 (Feb. 2, 1995) (TV Ownership Further Notice). Second, the Commission adopted a Notice of Proposed Rule Making seeking comment on initiatives designed to increase minority and female ownership of the mass media. Notice of Proposed Rule Making in MM Docket Nos. 94–149 and 91–140, FCC 94–323, 60 Fed. Reg. 6066 (Feb. 1, 1995) (Minority/Female Ownership Notice). Third, the Commission adopted a Notice of Proposed Rule Making exploring modification of the Commission's rules regarding attribution of ownership interests. Notice of Proposed Rule Making in MM Docket Nos. 94–150, 92–51 and 87–154, FCC 94–324, 60 Fed. Reg. 6483 (Feb. 2, 1995) (Attribution Notice). Comments in all three proceedings are currently due on April 17, 1995, and reply comments are due on May 17, 1995.

2. The Commission has received a separate request for extension of the comment periods in each of the three proceedings, as well as a fourth filing encompassing all the proceedings. On March 16, 1995, LIN Television Corporation, on behalf of several licensees, filed a request for a 60-day extension of time to respond to the TV Ownership Further Notice. On March 23, 1995, Communications Corporation of America, Pappas Stations Partnership and Fant Broadcasting Company of Nebraska, Inc., filed a joint motion for a 60-day extension of time to file comments in response to the Attribution Notice. A March 31, 1995, filing by American Women in Radio and Television (AWRT) seeks a 90-day extension of the comment dates for the Minority/Female Ownership Notice. The Minority Media and Telecommunications Council (MMTC) on April 3, 1995, filed a motion for a 90-day extension in all three proceedings. Petitioners primarily contend that additional time is necessary to satisfactorily complete the economic and statistical analyses sought by the Commission.

3. As set forth in Section 1.46 of the Commission's Rules, 47 C.F.R. § 1.46, it is our policy that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. We note that in all three proceedings, the Commission established a longer-than-usual initial comment period to provide interested parties sufficient opportunity to collect and analyze the type of data sought. Taking into consideration the circumstances outlined by petitioners, however, we believe that a 30-day extension of time to file comments and reply comments is warranted and should facilitate the development of a full and complete record on the issues raised in the three proceedings.

4. Accordingly, *it is ordered* that the Request for Extension of Time in MM Docket Nos. 91–221 and 87–8 filed by LIN Television Corporation; the Motion for Extension of Time in MM Docket Nos. 94–150, 92–51 and 87–154 filed by Communications Corporation of America, Pappas Stations Partnership and Fant Broadcasting Company of Nebraska, Inc.; the Request for Extension of Time filed by American Women in Radio and Television in MM Docket Nos. 94–149 and 91–140; and the Motion for Extension of Time filed by the Minority Media and Telecommunications Council in all three of the above-referenced proceedings ARE GRANTED to the extent detailed above and are otherwise DENIED.

6. *It is further ordered* that the time for filing comments in the three above-captioned proceedings is Extended to May 17, 1995, and the time for filing reply comments is Extended to June 19, 1995.

7. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Sections 0.204(b), 0.283 and 1.45 of the Commission's Rules, 47 C.F.R. §§ 0.204(b), 0.283 and 1.45.

Federal Communications Commission

Renee Licht,

Acting Chief, Mass Media Bureau.

[FR Doc. 95–9573 Filed 4–18–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition to List as Endangered or Threatened the Contiguous United States Population of the North American Wolverine

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding for a petition to add the contiguous United States population of the North American wolverine (*Gulo gulo luscus*) to the List of Threatened and Endangered Species. The Service finds the petition did not present substantial information indicating that listing the wolverine in the contiguous United States may be warranted.

DATES: The finding announced in this document was made on March 31, 1995.

ADDRESSES: Data, information, comments, or questions concerning this petition should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, 100 North Park Avenue, Suite 320, Helena, Montana 59601. The petition, finding, and additional information are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, Field Supervisor (see **ADDRESSES** section) (telephone 406/449–5225).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned act may be warranted. This finding is to be based on all information available to the Service at the time the finding is made. To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and a notice regarding the finding is to be published promptly in the **Federal Register**. This notice meets the latter requirement for the petition discussed below.

The Service has made a 90-day finding on a petition to list the North American wolverine (*Gulo gulo luscus*) in the contiguous United States. The petition, dated August 3, 1994, was submitted by the Biodiversity Legal Foundation, Boulder, Colorado, and the Predator Project, Bozeman, Montana, and was received by the Service on August 8, 1994. The petitioners requested that wolverine populations across their entire known historic range in the 48 contiguous United States be listed as threatened or endangered.

The wolverine has a holarctic distribution. Historically, in North America, wolverines occurred in the boreal forests throughout Alaska and Canada with the southern protion of the range extending into the contiguous United States (Has 1987). The petitioners provided information (e.g., Wilson 1982; Hash 1987) suggesting that wolverines historically occupied an extensive range in the contiguous United States, including Arizona, California, Colorado, Idaho, Indiana, Iowa, Maine, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Dakota, Oregon, Ohio, Pennsylvania, South Dakota, Utah, Vermont, Washington, Wisconsin, and Wyoming; and that it has been extirpated from all but 10 of these States.

In making a finding as to whether a petition presents substantial commercial or scientific information indicating that the petitioned action may be warranted, the Service must consider whether the petition contains detailed narrative justification for the petitioned measure, describing past and present numbers and distribution of the species. Information regarding the status of the species over all or a significant portion

VOL
60
ISS
75
AP
19
1995
UMI

of its range also is examined. Moreover, the Service must determine if the information presented in the petition and available in its files definitely documents threats under the following five listing factors: (1) Destruction, modification, or curtailment of habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; and (5) other man-made or natural factors affecting its continued existence.

For most States, particularly those east of the Rocky Mountains, the petitioners only cited historic reports of wolverines to support their delineation of wolverine distribution in the contiguous United States. The petition provided no information to confirm the accuracy of these historic reports. The petition presented no empirical data to assist the Service in assessing the historic or present population status of wolverines in those States where it possibly occurs or throughout the historic range suggested by the petitioners. Additionally, the petition contained little documentation of threats to the wolverine over all or a significant portion of its contiguous United States range. No substantiating data was provided to demonstrate that the asserted threats had resulted in a significant decline in wolverine numbers.

The Service reviewed the petition and the included information, as well as other information available in the Service's files. The Service has concluded that neither the petition nor the information available in the Service's files contained substantial information to indicate that listing of the wolverine as threatened or endangered in the contiguous United States may be warranted.

The Service will continue to accept information on *Gulo gulo luscus* and *Gulo gulo lutenus* through the status review initiated in the September 18, 1985, Animal Notice of Review (50 FR 37958). Both subspecies will remain as category 2 candidates in the States shown in the November 15, 1994, Animal Notice of Review (59 FR 58982).

The Service's 90-day finding contains more detailed information regarding the above decision. A copy may be obtained from the Field Supervisor (see **ADDRESSES** section).

References Cited

Hash, H.S. 1987. Wolverine. *In* M. Novak, J.A. Baker, M.E. Obbard, and B. Malloch (eds.) Wild furbearer management and conservation in North America. Ontario Trappers Assoc., North Bay. pp. 575–584.

Wilson, D.E. 1982. Wolverine. *in* J.A. Chapman and G.A. Feldhamer (eds.) Wild mammals of North America. Johns Hopkins Univ. Press, Baltimore, MD. pp. 644–652.

Author

This document was prepared by Lori H. Nordstrom (see **ADDRESSES** section)

Authority

The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531–1544).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: March 31, 1995

Mollie H. Beattie,

Director, Fish and Wildlife Service

[FR Doc. 95–9642 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 60, No. 75

Wednesday, April 19, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Government Owned Inventions Available for Licensing

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of Agriculture, and are available for Licensing in accordance with 35 U.S.C. 207 and 37 CFR 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: June Blalock, Technology Licensing Coordinator, USDA, ARS, Room 401, Bldg. 005, BARC-West, Beltsville, Maryland 20705; Phone 301–504–5989 or Fax 301–504–5060. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

8–199,436, Method and Apparatus for Despining Cactus
8–273,244, System for Analyzing Moisture Content of Materials Such as Cotton
8–284,312, Microorganism Strains that Produce a High Proportion of Alternan to Dextran and Rapid Screening Method to Select Same
8–289,818, Low Enhancement Serotype 2 Vaccine for Marek's Diseases
8–334,085, A Direct Polymerase Chain Reaction Assay, or BIO–PCR
8–334,089, Enzymatic Process for the Isolation of Erucic Acid from Vegetable Oils
8–336,079, Bioactive Coating for Harvested Commodities
8–336,080, Controlled Release Fumigation of Harvested Agricultural Commodities
8–348,175, A Gonad-Specific Virus Which Causes Sterility in the Corn Earworm, Helicoverpa zea
8–352,650, System for Controlling Vertical Displacement of Agricultural Implements into the Soil
8–357,791, Assay for Enterohemorrhagic Escherichia coli 0157:H7 by the Polymerase Chain Reaction
8–373,177, Herbicidal Control of Sicklepod and Coffee Senna with Colletotrichum gloeosporioides
8–380,182, A Bifunctional Protein from Carrots (Daucus carota) with Aspartokinase and Homoserine dehydrogenase activities
8–390,833, Beneficial Insect Counting and Packaging Device
8–390,834, Electronic Grain Probe Insect Counter (EGPIC)
5,367,983, Device and Method for its Use as an Aid in Control of Ticks and Other Ectoparasites on Wildlife

June Blalock,

Technology Licensing Coordinator

[FR Doc. 95–9660 Filed 4–18–95; 8:45 am]

BILLING CODE 3410–03–M

Forest Service

Intergovernmental Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC) will meet on May 4, 1995, at the Sheraton Portland Airport Hotel, 8235 N.E. Airport Way, Portland Oregon, 97230. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:00 a.m. on May 4 and continue until 5:00 p.m. Agenda items to be covered include: (1) A review and discussion of comments on the revised federal watershed analysis guide; (2) a discussion of watershed restoration projects and the federal "jobs-in-the-woods" program; (3) a report on role, function and staffing requirements of the IAC Research and Monitoring subcommittee, and the Interorganization Resource Information Coordinating Council; (4) a discussion of recent federal legislative action relative to the Federal Advisory Committee Act (FACA) and its relation to the IAC; and (5) a discussion of topics to be addressed at future meetings. The IAC meeting will be open to the public. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–326–6265).

Dated: April 5, 1995.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 95–9655 Filed 4–18–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: 1995 National Census Test.
Form Number(s): DH–1A thru DH–1E.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 2,550 hours.
Number of Respondents: 17,000.
Avg Hours Per Response: 9 minutes.
Needs and Uses: The 1995 National Census Test is designed to determine what impact features, which represent the integration of respondent–friendly design and image capture requirements, have on mail response and data quality as measured by item nonresponse. Specifically, features to be tested are: Color—Blue vs. Green, Stapled vs. Unstapled Booklet Form, Booklet Form vs. Single Sheet Form, and Minor Instructional Changes. Census short forms having these varying features will be mailed to a national sample of approximately 17,000 households. The

VOL 60 ISS 75 AP 19 1995 UMI

census day for this test is July 1, 1995. A second mailing will be sent to nonrespondents. There will be no other follow-up. Check-in rates and item nonresponse information will be tabulated and analyzed. A final report will be issued in December 1995. This survey is part of a program of research aimed at reducing costs and increase coverage in the decennial census. This test will help determine what form design features enhance the ability of questionnaires to be successfully electronically scanned and data captured and yet not degrade the mail response.

Affected Public: Individuals or households.

Frequency: One-time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95-9697 Filed 4-18-95; 8:45 am]

BILLING CODE 3510-07-F

Foreign-Trade Zones Board

[Docket 14-95]

Foreign-Trade Zone 104—Savannah, Georgia, Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Savannah Airport Commission, grantee of FTZ 104, requesting authority to expand its zone in the Savannah, Georgia, area, within the Savannah Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 12, 1995.

FTZ 104 was approved on April 16, 1984 (Board Order 256; 49 FR 17789; 4/25/84). The zone currently consists of two sites in the Savannah, Georgia, area:

Site 1: (32 acres) within the 3400-acre Savannah International Airport

Site 2: (13 acres) within the 800-acre Garden City Terminal of the Georgia Ports Authority on the Savannah River, Chatham County

The applicant is now requesting authority to expand the zone to include two new sites (proposed Sites 3 and 4):

Proposed Site 3: (1,820 acres)—Crossroads Business Center, located at I-95 and Godley Road, Chatham County, immediately northwest of the airport; and,

Proposed Site 4: (300 acres)—SPA Industrial Park, located 1 mile east of the I-95/U.S. 80 interchange in Chatham County, immediately southwest of the airport.

Both sites are being developed by the Savannah Economic Development Authority.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 19, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 3, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 1120 Barnard Street, Room A-107, Savannah, Georgia 31401

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: April 12, 1995.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95-9684 Filed 4-18-95; 8:45 am]

BILLING CODE 3510-DS-P

[Docket A(32b1)-5-95]

Foreign-Trade Zone 119—Minneapolis-St. Paul, MN; Request for Manufacturing Authority Tetra Rex Packaging Systems, Inc. (Liquid Packaging Equipment)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Metropolitan Area Foreign Trade Zone Commission, grantee of FTZ 119 (Minneapolis-St. Paul Area), pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR part 400), requesting authority on behalf of Tetra Rex Packaging Systems Inc. (Tetra Rex) (a subsidiary of Tetra Laval, Sweden), to manufacture liquid packaging equipment under zone procedures within FTZ 119. It was formally filed on April 12, 1995.

Tetra Rex operates a liquid packaging equipment manufacturing facility in the Mid-City Industrial Park, an approved site of FTZ 119. The Tetra Rex equipment is sold to food processors for the packaging of liquid food products in plastic and paper-based cartons. Certain components (about 40% of total) would be sourced from abroad, including: painter fillings, cultured crystals, plastic tubing, plastic bottles, parts of rubber paper cartons, alloy steel fittings, stainless steel fittings/tubes, steel wire/chains, fasteners, copper tubing/fittings pumps, fans, heat exchange units, filtering machines, parts of packing/sorting machines, drink preparation machines, valves, bearings, electrical components, semiconductors, calculating machines, thermometers, and measuring and regulating equipment (and parts). All foreign merchandise would be admitted in privileged foreign status (19 CFR 146.41). About 60 percent of the finished equipment is exported.

Zone procedures would exempt Tetra Rex from Customs duty payments on the foreign materials used in the export activity. On its domestic sales, the company would be able to defer Customs duty payments on the foreign merchandise until it is transferred from the zone for Customs entry. The application indicates that the savings from zone procedures would help improve the company's international competitiveness, primarily with respect to export activity.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 5, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to June 19, 1995).

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: April 12, 1995.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 95-9685 Filed 4-18-95; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[C-475-815]

Postponement of Final Countervailing Duty Determination: Small Diameter Circular Seamless Carbon and Alloy Steel Standard, Line and Pressure Pipe ("Seamless Pipe") From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Wilkniss, Office of Countervailing Investigations, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-0588.

POSTPONEMENT: On December 23, 1994, we aligned the final countervailing duty determination in this investigation with the final antidumping duty determination in the companion antidumping investigation of seamless pipe from Italy (59 FR 66296).

On February 16, 1995, we postponed the final antidumping determination in the companion antidumping investigation of seamless pipe from Italy until no later than June 12, 1995 (60 FR 9012).

Therefore, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended, the final countervailing duty determination in this investigation will also be postponed until no later than June 12, 1995.

The case briefs in this countervailing duty investigation are now due no later than May 2, 1995, and rebuttal briefs no later than May 7, 1995. We will not hold a public hearing in this investigation, because none of the interested parties requested a hearing.

This notice is published in accordance with 19 CFR 355.20(c)(3) (1994).

Dated: April 13, 1995.

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations.

[FR Doc. 95-9682 Filed 4-18-95; 8:45 am]

BILLING CODE 3510-DS-P

[C-475-817]

Postponement of Final Countervailing Duty Determination: Oil Country Tubular Goods ("OCTG") From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Wilkniss, Office of Countervailing Investigations, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-0588.

POSTPONEMENT: On December 23, 1994, we aligned the final countervailing duty determination in this investigation with the final antidumping duty determination in the companion antidumping investigation of OCTG from Italy (59 FR 66295).

On February 15, 1995, we postponed the final antidumping determination in the companion antidumping investigation of OCTG from Italy until no later than June 19, 1995 (60 FR 8632).

Therefore, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended, the final countervailing duty determination in this investigation will also be postponed until no later than June 19, 1995.

The case briefs in this countervailing duty investigation are now due no later than May 2, 1995, and rebuttal briefs no later than May 7, 1995. We will not hold a public hearing in this investigation, because none of the interested parties requested a hearing.

This notice is published in accordance with 19 CFR 355.20(c)(3) (1994).

Dated: April 13, 1995.

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations

[FR Doc. 95-9683 Filed 4-18-95; 8:45 am]

BILLING CODE 3510-DS-P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5 (a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95-017. *Applicant:* USEPA, Central Regional Laboratory, 536 S. Clark St., Chicago, IL 60605 *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* The instrument will be used to determine the low concentrations of metals and other elemental constituents of waters, extracts of soils, sludges or sediments and extracts of fish or other tissue samples. *Application Accepted by Commissioner of Customs:* March 15, 1995.

Docket Number: 95-018. *Applicant:* Florida State University, National High Magnetic Field Laboratory, 1800 East Paul Dirac Drive, Tallahassee, FL 32306 *Instrument:* Mass Spectrometer, Model 262. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used to determine isotope ratios by thermal ionization mass spectrometry. The isotopes of interest (Rb-Sr, Sm-Nd, Lu-Hf, U-Th-Pb) form the naturally occurring radioactive background. The studies will concentrate on the determination of the isotopic and inferred chemical diversity and heterogeneity of different chemical reservoirs of the earth. In addition, the instrument will be used for educational purposes in the course "Advanced Topics in Geochemistry." *Application Accepted by Commissioner of Customs:* March 16, 1995.

Docket Number: 95-019. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* Mass Spectrometer, Model IMS 1270 *Manufacturer:* Cameca Geologie, France *Intended Use:* The instrument will be used for the following research activities:

A. The early evolution of the earth—determine ages of rocks based on the U-Pb decay systems in minerals such as zircon, monzaite, sphene and baddelyite.

B. Upper mantle dynamics—determine trace element abundances in minerals and use as a natural tracer for deciphering geologic processes.

C. Crustal processes and evolution—investigations on how metamorphic fluids evolved, and how post-orogenic tectonic movements operate from the point of view of cooling of metamorphic and granitic terranes.

VOL 60 ISS 75 AP 19 1995 UMI

D Environmental changes—investigating changes in biospheric environment by determining oxygen and carbon isotopic compositions in planktonic foraminifera shells.

E. Fundamental properties in geochemistry—numerous laboratory experiments conducted to determine distributions of trace elements between minerals and melts, rates of diffusion of elements in melts and minerals, and rates of mantle/melt reactions.

Application Accepted by Commissioner of Customs: March 16, 1995.

Docket Number: 95–020. *Applicant:* Masonic Medical Research Lab., 2150 Bleecker Street, Utica, NY 13501–1787. *Instrument:* Xenon Flashlamp System, Model XF–10. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used for the study of the ionic basis of currents that contribute to arrhythmias in the heart. *Application Accepted by Commissioner of Customs:* March 17, 1995.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–9694 Filed 4–18–95; 8:45 am]

BILLING CODE 3510–DS–F

San Diego University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–123. *Applicant:* San Diego University, San Diego, CA 92182. *Instrument:* MicroVolume Stopped-Flow Analyser, Model SX–17MV *Manufacturer:* Applied Photophysics, United Kingdom.

Intended Use: See notice at 59 FR 54437, October 31, 1994.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides: (1) A vertical drive system providing increased optical sensitivity and high signal/noise, (2) stop syringe operation and (3) non-simultaneous mixing of tri-component systems prior to spectral detection. The National Institutes of Health advises in its memorandum dated February 16, 1995 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–9695 Filed 4–18–95; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

[Docket No. 950410097–5087–01; I.D. 112294C]

Atlantic Sturgeon, Bluefish, and Weakfish; Interstate Fishery Management Plans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determination of compliance; cancellation of moratoria.

SUMMARY: In accordance with the Atlantic Coastal Fisheries Cooperative Management Act of 1993 (Act), the Secretary of Commerce (Secretary) announces the cancellation of the planned Federal moratoria on Atlantic sturgeon, bluefish, and weakfish in the coastal waters of New Jersey that would have become effective on April 15, 1995. The intent to impose the moratoria was cancelled upon a notification to the Secretary from the Atlantic States Marine Fisheries Commission (Commission) that New Jersey was in compliance with the provisions of the Commission's Interstate Fishery Management Plans (FMPs) for Atlantic sturgeon, bluefish, and weakfish, and after the Secretary determined that the State of New Jersey is now in compliance.

EFFECTIVE DATE: The determination to impose the moratoria is cancelled on April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, 301–713–2334.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1994, the Secretary published a notice document in the **Federal Register** (59 FR 63326) that the State of New Jersey was not in compliance with the Commission's FMPs for Atlantic sturgeon, bluefish, and weakfish. The notice document declared moratoria on fishing for these three species in the State waters of New Jersey, effective April 15, 1995, if the State of New Jersey was not in compliance by April 1, 1995. Details were provided in the December 8, 1994 notice, and are not repeated here

The Act specifies that, if, after a moratorium is declared, the Secretary is notified by the Commission that it is withdrawing the determination of noncompliance, the Secretary shall immediately determine whether the State is in compliance with the applicable plan(s). If the State is in compliance, the moratorium shall be cancelled.

Activities Pursuant to the Act

On March 21, 1995, the Secretary received a letter (dated March 15, 1995 from the Commission prepared pursuant to the Act. The Commission's letter stated that the State of New Jersey had now implemented regulations on Atlantic sturgeon, bluefish, and weakfish to meet the provisions of the Commission's FMPs, and, therefore the Commission was withdrawing its determination of noncompliance

Cancellation of Moratoria

Based on the Commission's March 15 1995, letter, and information received from the State of New Jersey and the U.S. Fish and Wildlife Service, Department of the Interior, the Secretary has determined that New Jersey is now in compliance with the Commission's FMPs for Atlantic sturgeon, bluefish, and weakfish. Consequently, the Secretary no longer intends to impose the moratoria on fishing for these species in the State waters of New Jersey, and, therefore, the determination to impose the moratoria on New Jersey is cancelled.

Dated April 14, 1995

Gary Matlock,

Acting Assistant Administrator for Fisheries National Marine Fisheries Service

[FR Doc 95–9635 Filed 4–14–95, 11:04 am

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Conference Meeting of the National Advisory Panel on the Education of Handicapped Dependents

AGENCY: Department of Defense, Dependents Schools.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the National Advisory Panel on the Education of Handicapped Dependents. This notice describes the functions of the Panel. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: June 5–7, 1995.

ADDRESSES: Bavarian Arms Hotel, Nuernberg, Germany.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca Posante, Special Education Coordinator, ODE, (703) 696–4493, extension 147.

SUPPLEMENTARY INFORMATION: The National Advisory Panel on the Education of Handicapped Dependents is established under the Individuals with Disabilities Education Act, as amended, (20 U.S.C., 1400 *et seq.*); the Defense Dependents' Education Act of 1978, as amended (20 U.S.C. 927(c)); and DoD Instruction 1342.12, 32 CFR Part 57. The Panel: (1) Reviews information regarding improvements in services provided to students with disabilities in DoDDS; (2) receives and considers the views of various parents, students, individuals with disabilities, and professional groups; (3) review the finding of fact and decision of each impartial due process hearing; (4) assists in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties; (5) makes recommendations based on program and operational information for changes in the budget, organization, and general management of the special education program, and in policy and procedure; (6) comments publicly on rules or standards regarding the education of children with disabilities; (7) submits an annual report of its activities and suggestions to the Director, DoDDS, by July 31 of each year. The Panel will review the following areas: the DoDDS strategic plan, the comprehensive system of personnel development, and the organizational structure of the special education program. This meeting is open to the public; however, due to space constraints, anyone wishing to attend should contact the ODE special education coordinator, Dr. Rebecca Posante, no later than May 31.

Dated: April 14, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9647 Filed 4–18–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Corps of Engineers

Availability of a Draft Environmental Impact Statement for Kennecott Utah Copper Corporation's Proposed North Expansion Tailings Modernization Project in Salt Lake County, UT

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: The Sacramento District, Utah Field Office of the U.S. Army Corps of Engineers (Corps) has prepared a Draft Environmental Impact Statement (DEIS) for the Kennecott Utah Copper Corporation (Kennecott) proposed North Expansion Tailings Modernization Project (Project) in Salt Lake County, Utah. The proposed Project provides tailings storage capacity required for the next 25 to 30 years of Kennecott's operation. The DEIS is available for public review and comment at the Salt Lake City Library, Main Branch, 209 East 500 South and the Salt Lake County Library System, Magna Branch, 8339 West 3500 South. Copies for distribution are available from Mr. Michael A. Schwinn, Project Manager, U.S. Army Corps of Engineers, Sacramento District, Utah Field Office, 1403 South 600 West, Suite A, Bountiful, Utah 84010.

DATES: A public hearing will be held at 6:00 p.m. on May 31, 1995 at the Main Auditorium, Utah Department of Natural Resources, 1636 West North Temple Street, Salt Lake City, Utah for all interested parties to comment on the DEIS. The 60-day comment period ends June 27, 1995.

ADDRESSES: To obtain a copy of the DEIS or to submit written comments on the DEIS, contact Mr. Michael A. Schwinn, Project Manager, U.S. Army Corps of Engineers, Sacramento District, Utah Field Office, 1403 South 600 West, Suite A, Bountiful, Utah 84010.

FOR FURTHER INFORMATION CONTACT: Direct requests for a copy of the DEIS or questions to Mr. Michael A. Schwinn, Project Manager, (801) 295–8380.

SUPPLEMENTARY INFORMATION: Kennecott is proposing to expand its existing tailings impoundment by approximately 3500 acres. The proposed Project site of 4325 acres is directly to the north and northwest of the existing tailings impoundment. Kennecott has identified two primary needs for the proposed Project. First, as the existing tailings impoundment is nearing its operational capacity, Kennecott requires approximately 1.9 billion tons of storage capacity to support mining and concentrating operations for the next 25 to 30 years. Since only approximately 0.3 to 0.4 billion tons of this material will be stored in the existing impoundment, additional capacity is required. The second need is for a seismic upgrade to the existing tailings impoundment. As more information has recently become available regarding the seismic nature of the Salt Lake Valley Kennecott has identified a need to upgrade the existing facility. Accordingly, the proposed action includes various engineering measures to upgrade the existing facility in the event of a large earthquake.

The proposed Project would provide approximately 3500 acres of additional tailings storage area. Approximately 1.6 billion tons of tailings would be stored in the proposed impoundment with an ultimate height of approximately 250 feet. Site preparation activities would include relocation of the Union Pacific Railroad mainline tracks, relocation of the C–7 Ditch, relocation of utility lines, the construction of a new bridge on Highway 202 over the relocated railroad lines, and modification of the Interstate 80 on and off ramps at the intersection with Highway 202.

Since the proposed action affects jurisdictional waters of the United States, Kennecott submitted a Clean Water Act Section 404 Permit Application to the Corps on June 10, 1994. The Corps determined that an EIS was required prior to making a permit decision.

The Corps published a notice of intent to prepare a DEIS for the proposed action on August 19, 1994 in the **Federal Register**. A public scoping meeting was held on September 19, 1994 and the written comment period remained open until November 7, 1994. Issues raised by interested agencies and parties are addressed in the DEIS. The Corps is coordinating the DEIS with the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, and other Federal, state, and local agencies, as well as other interested parties.

Twelve alternatives are identified and analyzed in accordance with the U.S. Environmental Protection Agency section 404(b)(1) guidelines for their technical, logistic, and economic practicability in the DEIS. The North Expansion West, the North Expansion East, and the No Action alternatives are carried forward for complete analysis in the DEIS.

The DEIS has been prepared in compliance with the National Environmental Policy Act (NEPA), the Corps implementing procedures in 33 CFR 230, the Council for Environmental Quality regulations for implementing

VOL 60 ISS 75 AP 19 1995 UMI

NEPA in 40 CFR 1500, and U.S. Environmental Protection Agency (EPA) 404(b)(1) guidelines in 40 CFR 230.

The DEIS was filed with the U.S. Environmental Protection Agency for publication of its availability for public review and comment. Comments received on the DEIS will be considered in developing the Final Environmental Impact Statement (FEIS). The FEIS is anticipated to be available in August, 1995.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95-9582 Filed 4-18-95; 8:45 am]

BILLING CODE 3710-GH-M

DEPARTMENT OF ENERGY

[FE Docket No. EA-103]

Application to Export Electricity; North American Energy Conservation, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: North American Energy Conservation, Inc. (NAEC)has requested authorization to export electric energy to Canada. NAEC is a marketer of electric energy. It does not own or control any electric generation or transmission facilities.

DATES: Comments, protests, or requests to intervene must be submitted on or before June 5, 1995.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE–52), Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office), 202–586–9624 or Michael T. Skinker (Program Attorney), 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act.

On March 20, 1995, NAEC filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act. NAEC neither owns nor controls any facilities for the transmission or distribution of electricity, nor does it have a franchised retail service area. Rather, NAEC is a power marketer authorized by the Federal Energy Regulatory Commission (FERC) to engage in the wholesale sale of electricity in interstate commence at negotiated rates pursuant to its filed rate schedule.

The application asserts that NAEC's suppliers and/or customers have been utilities in the New England Power Pool, the New York Power Pool, the Pennsylvania New Jersey Interconnection, and utilities in the eastern provinces of Canada. NAEC claims that, although it holds title to the electricity it sells, actual power flows are coordinated by the operators of the utilities supplying, transmitting, and purchasing NAEC's power.

NAEC proposes to use the following cross border transmission facilities for which Presidential permits have been issued:

Presidential permit holder	Permit No.	Voltage	Location
Niagara Mohawk Power Corp	PP–31	230 kV	Devil's Hole, NY
New York Power Authority	PP–30	230 kV	Devil's Hole, NY.
	PP–74	345 kV	Niagara Falls, NY.
	PP–56	765 kV	Fort Covington, NY
	PP–25	230 kV	Massena, NY.
Long Sault	PP–24	115 kV	Massena, NY.
Joint Owners of Highgate	PP–82	345 kV	Highgate, VT.
Vermont Electric Trans. Co	PP–76	450 kV DC	Norton, VT.
		345 kV	Sandy Pond to Millbury #3.
		345 kV	Millbury #3 to West Medway
Maine Electric Power Co	PP–43	345 kV	Houlton, ME

NAEC requests that FE: (1) Authorize it to export electric energy to Canada utilizing the transmission facilities identified above, without limitation as to amount or timing of the electricity exported, for a period of time no less than the term of the transmission contracts under which NAEC purchases transmission services for such exports; (2) authorize it to commence exports of electric energy utilizing non-firm transmission services immediately upon providing copies of the FERC transmission tariffs under which NAEC purchases such transmission services; (3) authorize it to commence exports of electric energy utilizing firm transmission service within 30 days of providing copies of the FERC transmission tariffs under which NAEC purchases such transmission services; and (4) waive the following regulatory requirements:

(a) Section 205.301 that requires export applications be filed six months in advance of initiation of a proposed export;

(b) Section 205.302(f) that requires a description of the transmission facilities through which the electric energy will be delivered;

(c) Section 205.302(g) that requires a technical discussion of the proposed electricity export's reliability, fuel use, and system stability impact on the applicant's present and prospective electric power supply system;

(d) Section 205.303(a) that requires a copy of the transmission agreement;

(e) Section 205.303(c) that requires maps showing the applicant's overall electric system, as well as detailed maps;

(f) Section 205.303(f) that requires an explanation of the operating procedures to be used to inform neighboring electric utilities in the U.S. of the available capacity and energy which may be in excess of the applicant's requirements before delivery of such capacity to the foreign purchaser, and

(g) Section 205.308 that requires an export authorization recipient to file, among other documentation, annual reports of international transactions in addition to the information it is required to file with the FERC.

Procedural Matters

Any person desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385 211, 385.214)

Any such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies of such petitions to intervene or protests also should be filed directly with: Robert M. Bennigson, North American Energy Conservation, Inc., 280 Park Avenue, Suite 2700 West, New York, NY 10017 (212) 557–6200 (Facsimile 212–557–6678); with a copy to Robert M. Bennigson, 76 Haviland Road, Stamford, CT 06903; *AND* Jeffrey Meyers and Harriet Meese, Esq., LeBoeuf, Lamb, Greene & MacRae, 125 W. 55th Street, New York, NY 10019–5389 (212) 424–8224 (Facsimile 212–424–8500).

Pursuant to 18 CFR 385.211, protests and comments will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene under 18 CFR 385.214. Section 385.214 requires that a petition to intervene must state, to the extent known, the position taken by the petitioner and the petitioner's interest in sufficient factual detail to demonstrate either that the petitioner has a right to participate because it is a State Commission; that it has or represents an interest which may be directly affected by the outcome of the proceeding, including any interest as a consumer, customer, competitor, or a security holder of a party to the proceeding; or that the petitioner's participation is in the public interest.

A final decision will be made on this application after a determination is made by the DOE that the proposed action will not impair the sufficiency of electric supply within the United States or will not impede or tend to impede the coordination in the public interest of facilities in accordance with section 202(e) of the Federal Power Act.

Before an export authorization may be issued, the environmental impacts of the proposed DOE action (i.e., granting the export authorization, with any conditions and limitations, or denying it) must be evaluated pursuant to the National Environmental Policy Act of 1969.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on April 13, 1995.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–9582 Filed 4–18–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Carsonite International Corporation

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15625 to Carsonite International Corporation. The proposed grant will provide funding in the estimated amount of $99,030 by the Department of Energy for the purpose of saving energy through development of the inventor's "Carsonite Noise Barrier Wall".

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Carsonite International Corporation is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The subject invention is an innovative thoroughfare noise barrier. The total design consists of a mobile production unit that travels to the roadside and fills fiberglass modules with locally shredded automobile and truck tires. For each one-mile stretch of wall, the invention proposes to reduce by 6 billion Btu the energy normally required to produce cement walls. Mr. Donald Shemanski, Sr., president of Carsonite, has assembled a staff consisting of an engineer, technicians and shop and plant personnel. Mr. Schmanski, who will serve as the principal investigator on this project, has spent 25 years working with heat-resistant plastic materials for the aerospace industry and is experienced in working with fiber-reinforced composites.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9580 Filed 4–18–95; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Incisive Engineering, Inc.

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15633 to Incisive Engineering, Inc. The proposed grant will provide funding in the estimated amount of $98,000 by the Department of Energy for the purpose of saving energy through development of the inventor's "Complex-Mode Vibration-Fluidized Bed for Coal Pyrolysis."

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Incisive Engineering, Inc., is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The technology, if proven economical, will substantially augment the nation's fuel supply and provide a critically-needed alternative fuel for future generations. This vibrating bed design for a coal flash pyrolysis unit prevents agglomeration of coal particles by using a complex combination of linear, whirl, and oscillatory motion. The energy required for this vibratory motion requires only 10 percent of the power to run a gas fluidized bed. The design also avoids significant heat loss inherent in fluidized-bed and other designs. By recirculating lime-ash from the furnace back to the pyrolysis unit to serve as the heat source, IEI's technology consumes only enough energy required to drive the pyrolysis reaction. Specifically, IEI estimates that less than two percent of heat generated in the process is lost, a tremendous savings over the present technology, which may lose up to half the energy generated during pyrolysis. The grantee will design, build, and test a complex-mode vibration-fluidized bed for coal pyrolysis that will produce liquid and gaseous fuel from crushed coal. The inventer and principal

VOL 60 ISS 75 AP 19 1995 UMI

investigator, Arthur P. Fraas has 22 years experience in converting coal to gaseous and liquid fuels. For the past three years he has focused intensely on complex-mode vibration-fluidized beds. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Ave., S.W., Washington, D.C. 20585.

The anticipated term of the proposed grant is 24 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95–9691 Filed 4–18–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No. 95–21–NG]

Cabot Oil & Gas Trading Corporation; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Cabot Oil & Gas Trading Corporation authorization to import up to 5 Bcf of natural gas from Canada over a two-year term beginning on the date of the first delivery after March 31, 1995.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., April 6, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–9687 Filed 4–18–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–19–NG]

Northern States Power Company (Wisconsin); Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Northern States Power Company (Wisconsin) blanket authorization to import up to 20 Bcf of natural gas from Canada over a period of two years beginning on the date of first delivery. This order is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. on April 4, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–9688 Filed 4–18–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP95–232–000]

Northwest Pipeline Corp.; Notice of Proposed Change in FERC Gas Tariff

April 13, 1995.

Take notice that on April 11, 1995, Northwest Pipeline Corporation (Northwest), tendered for filing and acceptance as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet with a proposed effective date of May 4, 1995:

Second Revised Sheet No. 265

Northwest states that the purpose of this filing is to propose changes to Section 22.3(a) of the Capacity Release provisions contained in Northwest's General Terms and Conditions of its FERC Gas Tariff. These changes are necessary to conform Northwest's Tariff with the capacity release changes made in the Commission's Order No. 577.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 20, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9603 Filed 4–18–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–233–000]

Colorado Interstate Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 13, 1995.

Take notice that on April 11, 1995, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets, as listed below, to be effective May 15, 1995.

Third Revised Sheet No. 35
Third Revised Sheet No. 36
Third Revised Sheet No. 57
Third Revised Sheet No. 58
Second Revised Sheet No. 69
First Revised Sheet No. 70
Third Revised Sheet No. 101
Third Revised Sheet No. 102
First Revised Sheet No. 123
Third Revised Sheet No. 127
Second Revised Sheet No. 128

CIG states the purpose of this filing is to add a provision to CIG's tariff addressing situations where the nominating procedures required by an interconnecting pipeline are not compatible with CIG's nomination procedures. CIG further states anytime a minor change is necessary to CIG's nomination procedures at an interconnect with another natural gas pipeline, CIG will post the change on its electronic bulletin board and notify each affected Shipper.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All such petitions or protests should be filed on or before April 20, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9604 Filed 4–18–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–315–000]

K N Interstate Gas Transmission Co.; Notice of Request Under Blanket Authorization

April 13, 1995.

Take notice that on April 11, 1995, K N Interstate Gas Transmission Co. (K N Interstate), P.O. Box 281304, Lakewood, Colorado 80228–8304, filed in Docket No. CP95–315–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install and operate a new delivery tap under K N Interstate's blanket certificate issued in Docket No. CP83–140–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

K N Interstate proposes to install and operate a new delivery tap in Hamilton County, Nebraska. The tap will be added as a delivery point under an existing transportation agreement between K N Interstate and K N Energy, Inc. (K N) and will be used by K N to facilitate the delivery of natural gas to a direct retail commercial customer.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9595 Filed 4–18–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–317–000]

Williams Natural Gas Co.; Notice of Application

April 13, 1995.

Take notice that on April 11, 1995, Williams Natural Gas Company (WNG), Post Office Box 3288, Tulsa, Oklahoma 74101, filed an application pursuant to Section 7(b) of the Natural Gas Act for an order permitting the abandonment of approximately 25.8 miles of 26-inch pipeline and appurtenant facilities located in Texas County, Oklahoma, by conveyance to Williams Gas Processing—Mid-Continent Region Company (WGP–MCR), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WNG will convey approximately 25.8 miles of its 26-inch Straight to Blackwell pipeline and appurtenant facilities. WNG states that Williams Field Services Company (WFS), an affiliate of WGP–MCR, has begun construction of a processing plant, the Baker Plant, adjacent to WNG's 26-inch Straight to Blackwell pipeline at a location approximately one mile east of the Interconnection between the Liberal-Baker sub-system and WNG's 26-inch Straight to Blackwell line and approximately 25.8 miles east of the Straight compressor station. WNG states that the plant will process gas from both the Straight sub-system and the Liberal-Baker sub-system. WNG asserts that after the construction of the WFS processing plant, WNG's 26-inch Straight to Blackwell pipeline will function as the final segment of gathering facilities, delivering gas from both the Straight sub-system and the Liberal-Baker sub-system as well as gas from third-party gathering systems to the new processing plant.

WNG notes that the Commission issued a Preliminary Determination on Abandonment Application and on Jurisdictional Status of Facilities in Docket No. CP94–196–000 and held that it would not make a determination that a similar pipeline located upstream of the Hobart Ranch Plant was gathering until the plant was operational. WNG states that it waited to file this application until construction began on the Baker Plant, to avoid those concerns. WNG claims that the Baker Plant is scheduled to be operating by November 1, 1995 pursuant to requirements in the construction contract. WNG requests that the Commission process this abandonment application but it does not request an order until the Baker Plant is operating.

WNG states that the total original cost of the pipeline was approximately $713,771, with a depreciated net book value of approximately $21,077 as of January 31, 1995. WNG proposes to convey the subject pipeline to WGP–MCR effective on the last day of the calendar month following the calendar month in which the Commission issues a final order, acceptable to WNG and WGP–MCR, approving the abandonment.

WNG does not believe that a separate Section 4 filing seeking authority to terminate services on this line segment is required. WNG states that this line segment which will be transferred to WGP–MCR is currently part of the Production Area portion of WNG's transmission system and, upon abandonment, will become part of WGP–MCR's gathering facilities. Therefore, WNG states that the line segment will be subject to the Section 4 filing WNG is required to make in Docket No. CP94–196–000.

Any person desiring to be heard or to make a protest with reference to said application should, on or before May 3, 1995, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the

VOL 60 ISS 75 AP 19 1995 UMI

Commission is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9596 Filed 4-18-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT95-33-000]

Trunkline Gas Co; Proposed Changes in FERC Gas Tariff

April 13, 1995.

Take notice that on April 11, 1995, Trunkline Gas Company (Trunkline), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets, as listed on Appendix A attached to the filing, proposed to be effective October 1, 1994, December 1, 1994, January 15, 1995, February 1, 1995 and March 1, 1995.

Trunkline states that this filing is being made in compliance with Section 154.41(b) of the Commission's Regulations. Trunkline states that the revised tariff sheets reflect updates to the Index of Firm Customers.

Trunkline states that copies of this filing are being mailed to all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 20, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9597 Filed 4-18-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-394-002]

Panhandle Eastern Pipe Line Co.; Notice of Proposed Changes in FERC Gas Tariff

April 13, 1995.

Take notice that on April 11, 1995, Panhandle Eastern Pipe Line Company (Panhandle), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing. The proposed effective dates of the revised tariff sheets are October 1, 1994, November 1, 1994, April 1, 1995, and May 1, 1995, as applicable.

Panhandle states that this filing is in compliance with Federal Energy Regulatory Commission's order dated March 27, 1995, on Report of Technical Conference which required Panhandle to update the calculations of the firm and interruptible surcharges based on firm and interruptible billing determinants prior to the application of the required discount adjustments.

Panhandle states that these revised billing determinants, which are unadjusted for Panhandle's actual discounting experience, result in no change to the existing surcharge of $0.01 applicable to Rate Schedules FT, EFT, no change to the existing surcharge of 0.06¢ applicable to Rate Schedule SCT, and a decrease in the Volumetric Surcharge applicable to Rate Schedules IT and EIT from 0.03¢ to 0.02¢, as compared to Panhandle's September 6, 1994 filing in this docket.

Panhandle states that copies of its filing have been served on all affected customers, all parties to this proceeding and applicable state regulatory commissions.

Any person desiring to protest the said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 20, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9599 Filed 4-18-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-422-002]

Texas Gas Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

April 13, 1995.

Take notice that on April 10, 1995, Texas Gas Transmission Corporation (Texas Gas), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet:

First Revised Sheet No. 177

Texas Gas states that the instant filing is being made to comply with the Commission Order issued March 27, 1995, which directed Texas Gas to revise Section 16 of the General Terms and Conditions to its FERC Gas Tariff, First Revised Volume No. 1, to clarify that future fuel percentage rate filings will reflect seasonal rather than levelized annual rates and provide for filings to be made 60 days prior to the November 1 effective date for annual EFRP filings. Texas Gas has requested an effective date for the revised tariff sheet of March 27, 1995.

Texas Gas states that copies of the revised tariff sheet are being mailed to all of Texas Gas's jurisdictional customers, interested state commissions, and those appearing on the official service list in Docket No. RP94-422-000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 20, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9600 Filed 4-18-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-145-000]

Northwest Pipeline Corp.; Technical Conference

April 13, 1995.

In the order issued on March 1, 1995, in this docket, the Commission directed staff to convene a technical conference to address the concerns raised by the protests to the filing.

Take notice that the conference has been scheduled for Tuesday, April 25, 1995, at 9 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9601 Filed 4-18-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-173-001]

Koch Gateway Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

April 13, 1995.

Take notice that on April 10, 1995, Koch Gateway Pipeline Company (Koch Gateway), tendered for filing to become part of its FERC Gas Tariff Fifth Revised Volume No. 1, the following tariff sheets:

Substitute Third Revised Sheet No. 502
Substitute First Revised Sheet No. 1403
Substitute Second Revised Sheet No. 1409

Koch Gateway states that pursuant to the Federal Energy Regulatory Commission's (Commission) Order dated March 31, 1995, Koch Gateway submits certain clarifications and changes to the above referenced tariff sheets. Koch Gateway is also seeking clarification of the changes that were required on Second Revised Sheet Nos. 1 and 1501. Koch Gateway was ordered to make changes to these sheets; however, no specific changes were discussed in the Commission's Order, all as more fully set forth on the application which is on file with the Commission.

Koch Gateway also states that the revised tariff sheets are being served upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's regulations. All such protests should be filed on or before April 20, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make Protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9602 Filed 4-18-95; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5194-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 19, 1995.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260-2740, and refer to EPA ICR No. 0827.04.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Construction Grants Program under the Clean Water Act (EPA ICR No. 0827.04; OMB Control No. 2040-0027). This is a request for extension of a currently approved information collection.

Abstract: Under the Construction Grants Program, municipalities and Indian Tribes may obtain grants for wastewater treatment construction projects. The requirements for this program are at 40 CFR part 35, subpart I, and Title II of the Clean Water Act. The grantees must submit information to EPA or delegated States, and the States that award construction grants must submit information to EPA. The information required is necessary to ensure national accountability, adequate public participation, fiscal and project integrity, and consistent management directed to achieve environmental objectives.

EPA is currently phasing out this program and replacing it with the State Revolving Fund (SRF) Program under Title VI of the Clean Water Act. This ICR is being reviewed to cover the information requirements for the Construction Grants Program over the next 3 years during the transitional stage to the SRF Program. EPA projects that approximately 37 grants will be issued under the Construction Grants Program over the next 3 years.

Burden Statement: The public reporting burden for this collection of information is estimated to average 13.5 hours per respondent. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Respondents: States, Territories, Municipalities, Indian Tribes.

Estimated No. of Respondents: 217.

Estimated Total Annual Burden on Respondents: 2,929 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspects of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 0827.04 and OMB Control No. 2040-0027 in any correspondence.

Ms. Sandy Farmer, EPA ICR No. 0827.04, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW, Washington, DC 20460.

and

VOL 60 ISS 75 AP 19 1995 UMI

Mr. Tim Hunt, OMB Control No. 2040–0027, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW, Washington, DC 20503.

Dated: April 13, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–9864 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–M

[OPP–38511; FRL–4911–6]

Dichlorvos (DDVP); Deletion of Certain Uses and Directions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Intent to delete certain dichlorvos (DDVP) uses.

SUMMARY: This notice, issued pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136d(f)(1), announces EPA's receipt of a request from Amvac Chemical Corp. of Los Angeles, CA, the sole technical registrant of dichlorvos, for the amendment of its dichlorvos registrations through voluntary deletion of the following uses from its technical (EPA Reg. No. 5481–96) and end-use labels, and a request to waive the 90-day comment period on this notice: in or on domestic dwellings (except for impregnated resin strips, total-release foggers, crack and crevice applications, and spot applications); rangeland grasses; greenhouses; tomatoes; tobacco; tobacco warehouses; food service establishments (except nonfood-handling areas); food-manufacturing establishments: bottling plants (including wineries, breweries, and soft drink plants), frozen food plants (including pizza plants and ice cream plants) (except nonfood-manufacturing areas); food-processing establishments: meat, poultry, and seafood slaughtering and/or packing plants (including those for edible fats and oils), frozen food plants (including those for fruits and vegetables), dairy product plants (including milk-processing plants) (except nonfood-processing areas); all aerial applications; and aircraft and buses. EPA intends to approve the proposed amendments at the close of the comment period unless Amvac withdraws or amends its request.

DATES: Written comments must be submitted on or before May 19, 1995.

ADDRESSES: Submit written comments in triplicate, identified by the docket control number, [OPP–38511], to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis Utterback, Special Review and Reregistration Division (7508C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, third floor, Crystal Station #1, 2805 Jefferson Davis Hwy., Arlington, VA, (703)–308–8026; e-mail: utterback.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice provides background on Agency actions regarding dichlorvos, lists the uses Amvac Chemical Corp. is proposing to delete and the uses it intends to support, and states the provisions for existing stocks.

I. Introduction

Dichlorvos is the commonly accepted name for 2,2-dichlorovinyl dimethyl phosphate, an organophosphate insecticide. Technical dichlorvos is produced by Amvac Chemical Corp. (Amvac) and is available as a 99.99% active ingredient technical product for formulating dichlorvos end-use products. Dichlorvos is a contact and stomach poison with fumigant action resulting in cholinesterase inhibition. Dichlorvos is used in the formulation of insecticide products for a wide range of uses in home and commercial establishments, as aerosols, liquid sprays, wettable powders, emulsifiable concentrates, soluble concentrates, pour-ons, granulars, and impregnated materials (resin strips and flea collars).

There are two ongoing activities which may affect the proposed use deletions specified in this notice: the dichlorvos Special Review and the pending revocation of the pesticide food additive regulation for packaged and bagged processed nonperishable food. Anyone interested in retaining these uses proposed for deletion in this notice should be aware that future action by EPA resulting from the Special Review or food additive regulation revocation may alter the status of one or more dichlorvos uses.

On February 24, 1988, EPA initiated a Special Review (previously referred to as an RPAR) for pesticide products containing dichlorvos. EPA determined that exposure to dichlorvos from the registered uses may pose an unreasonable carcinogenic risk and inadequate margins of exposure for cholinesterase inhibition to exposed individuals. The risks of concern detailed in the 1988 notice were for the general population from consumption of foods containing residues of dichlorvos, for those involved in the application of dichlorvos, for workers reentering treated areas, for residents/occupants of treated areas, for people exposed to pets treated with dichlorvos, and for pets treated with dichlorvos. EPA expects to issue a proposed determination, as a result of the Special Review, in 1995.

In the **Federal Register** of October 3, 1991 (56 FR 50190), EPA proposed under section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA) to revoke the food additive regulation for residues of the pesticide dichlorvos in or on packaged or bagged nonperishable processed food. The final rule revoking the food additive regulation was published on November 10, 1993, with an effective date of 120 days later. EPA later stayed the effective date indefinitely, pending Agency consideration of a petition from Amvac. This revocation remains stayed. If this action becomes effective it will mean the packaged and bagged processed nonperishable food treated with dichlorvos will likely be adulterated under FFDCA and the food may not be legally sold. However, a food additive regulation revocation by itself would not prohibit the legal sale or use of dichlorvos, under FIFRA, on packaged and bagged processed nonperishable food. To rectify this situation, EPA intends to cancel the related uses as soon as possible after any food additive regulation revocation becomes final.

II. Deleted Uses

Amvac Chemical Corp., the sole registrant of the technical grade of the active ingredient dichlorvos, has requested to amend its dichlorvos registrations by deleting all uses and directions for use in or on domestic dwellings (except for impregnated resin strips, total-release foggers, crack and crevice applications, and spot applications); rangeland grasses; greenhouses; tomatoes; tobacco; tobacco warehouses; food service establishments (except nonfood-handling areas); food-manufacturing establishments: bottling plants (including wineries, breweries, and soft drink plants), frozen food plants (including pizza plants and ice cream plants) (except nonfood-manufacturing areas); food-processing establishments: meat, poultry, and seafood slaughtering and/or packing plants (including those for edible fats and oils), frozen food plants (including those for fruits and vegetables), dairy product plants (including milk-processing plants) (except nonfood-processing areas); all aerial applications; and aircraft and buses.

III. Uses Supported

Amvac, manufacturer of technical-grade dichlorvos, is supporting the following uses under reregistration. A detailed technical label will be sent to every dichlorvos registrant to provide guidance as to the specific uses that can be formulated from this technical product. The only uses for which this product could be used to formulate end-use products would be as follows:

Domestic Uses

Use of impregnated resin pest strip in campers, trailers, homes, cabins, garages, basements, and garbage cans. Use of total-release fogger (less than 1% active ingredient) in homes, cabins, garages, and basements. Use of total-release fogger (greater than 1% active ingredient) and nontotal-release aerosol in homes, cabins, garages, and basements only by a licensed pest control operator (PCO). Use of nontotal-release fogger and liquid formulations only by PCO in domestic dwellings. Dog and cat flea collars.

Agricultural Uses

Use of impregnated resin pest strip over nonperishable packaged and bagged or bulk stored raw and processed commodities. Use of impregnated resin strip and total-release fogger (less than 1% active ingredient) in animal buildings and dairy milk rooms. Use of commercial aerosol/foggers only by PCO in warehouses, silos, bulk bins, and in food-processing, food-manufacturing, and food-handling and storage plants containing nonperishable packaged or bagged or bulk raw or processed food commodities and the nonfood areas of these sites. Liquid formulations for a variety of agricultural uses including animal premises and direct livestock animal treatment. Liquid formulations for use in mushroom houses and only for use by PCO. Liquid formulations for use only in commercial application equipment for space treatment and for use by PCO in warehouses, silos, bulk bins and food-processing, food-manufacturing, and food service establishments containing nonperishable, packaged, or bagged raw or processed food commodities or bulk raw or processed food commodities, and non-food handling areas. Use of nontotal-release aerosol only by PCO in animal buildings and dairy barns (milk rooms).

Other Uses

Use of impregnated dispenser in enclosed outdoor utility equipment. Use of impregnated resin pest strip in museum collections, insect traps, garbage cans, catch basins, and trash dumpsters. Use of total-release fogger (greater than 1% active ingredient) and only by PCO in warehouses, railroad cars, theaters, and industrial plants. Liquid formulations for crack and crevice use only (not space spray) and only by PCO in nonfood areas of commercial, industrial, and institutional sites, kennels, outside surfaces of buildings, refuse dumps, refuse and solid waste containers, and wine cellars. Liquid formulations only for veterinary use for direct application to domestic animals.

IV. Scope of this Notice

This notice pertains to all Amvac end-use registrations and technical registrations. On the effective date of this document, Amvac must delete the appropriate uses from its labels. Since Amvac is the sole registrant of the technical-grade dichlorvos, there will no longer be a manufacturing use product available from which to formulate any dichlorvos-registered products for the uses Amvac is requesting to delete, unless Amvac withdraws its request. End-use registrants are being notified by certified mail of Amvac's decision to delete these uses. End-use registrants who purchase technical dichlorvos with a revised label may only formulate their products for the uses allowed on the technical label. For purposes of public information, Amvac will allow dichlorvos to be formulated for those uses listed in Section III of this notice. Any registrant that does not change its label to conform to the new technical label will be in violation of FIFRA. If any of the end-use registrants (or any other persons) desire to retain any of the uses for which deletion is requested, they are encouraged to contact Amvac to seek retention of that use. EPA intends to approve the proposed amendments at the close of the comment period unless Amvac withdraws or amends its request. The following list specifies the registrations affected by this notice: 5481–9, 5481–13, 5481–41, 5481–73, 5481–96, 5481–200, 5481–201, 5481–202, 5481–203, 5481–204, 5481–205, 5481–206, 5481–207, 5481–208, 5481–216, 5481–217, 5481–220, 5481–240, 5481–241, 5481–334, 5481–338, 5481–340, 5481–341, 5481–342, 5481–343, 5481–344, 5481–345, 5481–346, 5481–347, 5481–348.

V. Existing Stocks Provisions

Under the authority of FIFRA section 6(a)(1), EPA will establish certain limitations on the distribution and use of existing stocks of dichlorvos products subject to any final cancellation notice. EPA defines the term "existing stock" to mean any quantity of dichlorvos products in the United States on the effective date an application for amendment of registration is granted by the Agency. Such existing stocks include dichlorvos products that have been formulated, packaged, and labeled and are being held for shipment or release or have been shipped or released into commerce.

The Agency will permit Amvac to sell and distribute existing stocks of products with current labels for up to 1 year after the effective date of an amendment. Any sale or distribution of such products by Amvac after that 1-year period which do not bear labeling consistent with any amendment granted pursuant to this notice will be a violation of federal law. Any existing stocks remaining in the possession of all other persons after 1 year may continue to be sold, distributed, and used until such existing stocks are exhausted.

EPA reserves the right to amend this existing stocks provision should conditions warrant such amendment. Users need to be aware that it is their responsibility to determine whether residues of dichlorvos-treated food will result in illegal residues under FFDCA.

VI. Comments

Persons interested in commenting on the proposed use deletions are invited to submit their written comments on or before May 19, 1995 to the address given above. Registrants should be aware that EPA will consider these comments in the context of other ongoing Agency activities relating to dichlorvos.

List of Subjects

Environmental protection, Agricultural commodities, Pesticides and pests.

Dated: April 7, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–9166 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–F

VOL 60 ISS 75 AP 19 1995 UMI

[OPP-34074; FRL 4944-6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on July 18, 1995.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the nine pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before July 18, 1995 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000264-00465	MOCAP 10G	Ethoprop	All turf uses except golf courses
000352-00341	Manzate 200 Fungicide	Mancozeb	Flowers, foliage plants, ornamental uses
000352-00449	Manzate 200 DF Fungicide	Mancozeb	Flowers, foliage plants, ornamental uses
034704-00308	Trinox 80% Soluble Powder	Trichlorfon	All field crops, seed field crops, vegetables
000655-00079	Prentox 25% Malathion Dust Concentrate	Malathion	Avocado, barley, birdsfoot trefoil, blue berries, cherries, field and sweet corn, cotton seed, cucumbers, currant, endive, garlic, gooseberries, grapes, grapefruit, kumquats, leeks, lemons, limes, lespediza, head and leaf lettuce, oats, onions, oranges, pepper, white potatoes, raisins, rice, wild rice, rye, sorghum, squash, strawberries, tangerines, tomatoes, vetch, wheat, alfalfa, clover, lupine, lupine seed
000655-00549	Prentox Malathion W-25	Malathion	Broccoli, cabbage, kale, mustard, tomatoes, turnips, blueberries, grapes, beef cattle
000655-00551	Prentox 5% Malathion Dust	Malathion	Beans, broccoli, cabbage, kale, mustard greens, peas, potatoes, turnips, beef cattle
045385-00043	Chem-Tox MAL 50% EC	Malathion	Household insects, cattle, horses, poultry, dogs, cats, goats, sheep, hogs, apples, peaches, pears, berries, asparagus, cole crops, celery, eggplant, endive, peas, beans, spinach, beets
051036-00104	Malathion 5EC	Malathion	Asparagus, carrots, anise, radish, watercress, almonds, apples, filberts, pears, pineapples, plums, prunes, quince, peanuts, safflower, soybeans, tobacco, cattlefeed blocks, citrus pulp, livestock (hogs, sheep, goats, horses, beef cattle, poultry, cats, dogs), forest trees (deciduous, pines (eastern & red), mattresses, wineries, dry milk processing plants, food establishments, melons, pumpkins, all stored grains

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000264	Rhone-Poulenc Ag Co., P.O. 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709.
000352	Dupont Ag Products, Registration & Regulatory Affairs, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Company No.	Company Name and Address
000655	Prentiss Incorporated, CB 2000, Floral Park, NY 11002.
034704	Platte Chemical Co., P.O. Box 667, Greeley, CO 80632.
045385	CTX, Inc., 401 Scotland Rd., McHenry, IL 60050.
051036	Micro Flo Co., P.O. Box 5948, Lakeland, FL 33807.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: March 28, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95-9531 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-50-F

[OPP-66211; FRL 4945-9]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by July 18, 1995, orders will be issued canceling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-5761; e-mail: hollins.james@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be canceled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This notice announces receipt by the Agency of requests to cancel some 19 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000655-00765	Prentox Dursban IG Granular Insecticide	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
000656-00204	Green Light Termite and Home Pest Killer	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
000656-00208	Green Light Roach and Flea Concentrate	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
001016 AZ-94-0009	Ucarcide 250 Preservative	Glutaraldehyde
002517-00017	Dog Flea and Tick Powder	1-Naphthyl *N*-methylcarbamate
004166-20002	Sodium Hypochlorite Solution	Sodium hypochlorite
005175-00004	Paradust	1-Naphthyl *N*-methylcarbamate
005175-00009	Yard & Kennel Dust	1-Naphthyl *N*-methylcarbamate
005175-00036	Four-Fold Insecticide Powder	1-Naphthyl *N*-methylcarbamate
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
		Rotenone
		Cube Resins other than rotenone
007364-00040	Algimycin Glb-X-II	2-Chloro-4,6-bis(ethylamino)-*s*-triazine
008818-00004	Mebenda-zole	2-Methyl-5-ribonimidazole-1-ethanol
010370-00046	Ford's Dursban 1 G	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
010370-00056	Ford's Dursban 1G-S.F.	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
040840-00002	Sentry Sentricide 230	Potassium *N*-methyldithiocarbamate

VOL 60 ISS 75 AP 19 1995 UMI

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		Disodium cyanodithioimidocarbonate
040849–00050	Enforcer Dot Flea Killer for Carpets	Boron sodium oxide ($B_5N_2O_13$), tetrahydrate (12280–03–4)
042291–00003	Brom-A-Spa Bromide Salts Solution	Sodium bromide
051036–00121	Chlorpyrifos U.L.V. Mosquito Concentrate	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
059639 AZ–94–0006	Danitol 2.4 EC Spray (Insecticide-Miticide)	alpha-Cyano-3-phenoxybenzyl2,2,3,3-tetramethylcyclopropanecarboxylate
059639 AZ–94–0007	Orthene 75 S Soluble Powder	*O,S*-Dimethyl acetylphosphoramidothioate

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued canceling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000655	Prentiss Inc., 21 Vernon Street, C.B. 2000, Floral Park, NY 11001.
000869	Green Light Co., Box 17985, San Antonio, TX 78217.
001016	Union Carbide Corp., UCC Linde Division, 200 Cottontale Lane, Somerset, NJ 08875.
002517	Conagra Pet Products, 2258 Darbytown Rd., Richmond, VA 23231.
004166	Dominion Chemical Co., Box 1069, Petersburg, VA 23804.
006175	Agribusiness Marketers Inc., Director of Regulatory Affairs, 421 E. Hawley St, Mundelein, IL 60060.
007364	Great Lakes Biochemical Co., Inc., 6120 W. Douglas Ave., Milwaukee, WI 53218.
008818	Searle, (OO-II-4), P.O. Box 5110, Chicago, IL 60680.
010370	Agrevo Environmental Health, 95 Chestnut Ridge Rd, Montvale, NJ 07645.
040840	Sentry Water Management Corp., 1534 Route 23, Box 1717, Wayne, NJ 07470.
040849	Enforcer Products Inc., c/o RegWest Co., Box 2220, Greeley, CO 80632.
042291	Great Lakes Biochemical Co., c/o Robarb Inc., 6120 W. Douglas Ave, Milwaukee, WI 53218.
051036	Micro-Flo Co, Box 5948, Lakeland, FL 33807.
059639	Valent U.S.A. Corp., 1333 N. California Blvd, Ste 600, Walnut Creek, CA 94596.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before July 18, 1995. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1–year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: March 30, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–9533 Filed 4–18–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–66210; FRL 4944–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by July 18, 1995, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This notice announces receipt by the Agency of requests to cancel some 22 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1:

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000264–00471	Mocap 5G Nematicide - Insecticide	*O*-Ethyl *S,S*-dipropyl phosphorodithioate
000264–00497	Mocap 10% Granular Restricted Use Nematicide - Insecticide	*O*-Ethyl *S,S*-dipropyl phosphorodithioate
000275–00057	Pro-Shear	*N*-(Phenylmethyl)-1*H*-purin-6-amine
000279 SD–91–0001	Furadan 4F	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
000279 SD–92–0008	Furadan 4F	2,3-Dihydro-2,2-dimethyl-7-benzofuranyl methylcarbamate
000748–00249	Rez Stain & Wood Preservative Solid Color Oil	*N*-((Trichloromethyl)thio)phthalimide
		Bis(tributyltin) oxide
000748–00250	Rez Stain & Wood Preservative Semi-Transparent-Oil	*N*-((Trichloromethyl)thio)phthalimide
		Bis(tributyltin) oxide
000769–00849	Pratt Fruit Tree Spray	Methoxychlor (2,2-bis(*p*-methoxyphenyl)-1,1,1-trichloroethane)
		O,O-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
		Sulfur
		cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
000802–00241	Lilly/Miller Envy 2, 4-D	2,4-Dichlorophenoxyacetic acid
		Triethylamine 2,4-dichlorophenoxyacetate
00. 802 CA–93–0012	Lilly/Miller Envy 2, 4-D	2,4-Dichlorophenoxyacetic acid
		Triethylamine 2,4-dichlorophenoxyacetate
003125 WA–80–0069	Meta-Systox-R Spray Concentrate	*S*-(2-(Ethylsulfinyl)ethyl) *O,O*-dimethyl phosphorothioate
005870–20003	C-13	Sodium hypochlorite
005870–20004	Chemcide	Sodium hypochlorite
007313–00005	Olympic Semi-Transparent Weather Screen	*N*-((Trichloromethyl)thio)phthalimide
		Bis(tributyltin) oxide
007313–00007	Olympic Wood Preservative (green)	Copper naphthenate
007313–00008	Olympic Solid Color Weather Screen	*N*-((Trichloromethyl)thio)phthalimide
		Bis(tributyltin) oxide
008590–00362	Garden Insecticide Dust with Diazinon	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate
010693–00002	Flo Kem Emulsion Bowl Cleaner Deodzs, Disinfects Bleach	Hydrogen chloride
		Alkyl* dimethyl benzyl ammonium chloride *(50%C_{14}, 40%C_{12}, 10%C_{16})
010693–00009	Flo Kem Royal Flush Bowl Cleaner	Hydrogen chloride
		Nonylphenoxypolyethoxyethanol - iodine complex

VOL 60 ISS 75 AP 19 1995 UMI

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
025293-09001	Ex-O-Dine	Phosphoric acid Nonylphenoxypolyethoxyethanol - iodine complex Phosphoric acid
045211-00075	Kitten & Bear Retard	1,2-Dihydro-3,6-pyridazinedione, potassium salt
060256 CA-90-0026	Floral Plant Growth Regulator	(2-Chloroethyl)phosphonic acid

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90-day period. The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000275	Abbott Laboratories, Chemical & Agricultural Products Div., 1401 Sheridan Rd., D-28R, Bldg A1, North Chicago, IL 60064.
000279	FMC Corp., Agricultural Chemical Group, 1735 Market St., Philadelphia, PA 19103.
000748	PPG Industries, Inc., Product Safety, One PPG Place, Pittsburgh, PA 15272.
000769	Sureco Inc., 10008 N Dale Mabry, Ste., 121, Tampa, FL 33618.
000802	Chas. H. Lilly Co., Box 83179, Portland, OR 97283.
003125	Miles Inc., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
005870	Texo Corp., 2801 Highland Ave, Cincinnati, OH 45212.
007313	PPG Architectural Finishes, Inc., Coatings & Resins Group, 151 Colfax Street, Box 127, Springdale, PA 15144.
008590	Universal Cooperatives Inc., Agent For: Agway Inc., Box 460, Minneapolis, MN 55440.
010693	Flo-Kem Inc., 19402 Susana Rd., Rancho Dominguez, CA 90221
025293	Eckert R P Co., 1140 Ferris Rd., Amelia, OH 45102.
048211	Intercon Chemical, 1100 Central Industrial Dr., St. Louis, MO 63110.
060256	California Seed Association, 1521 "I" St., Sacramento, CA 95814.

III. Loss of Active Ingredients

Unless the request for cancellation is withdrawn, one pesticide active ingredients will no longer appear in any registered products. Those who are concerned about the potential loss of this active ingredient for pesticidal use are encouraged to work directly with the registrant to explore the possibility of their withdrawing the request for cancellation. This active ingredient is listed in the following Table 3, with the EPA Company Number.

TABLE 3. — ACTIVE INGREDIENTS WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANTS' REQUESTS TO CANCEL

Cas No.	Chemical Name	EPA Company No.
2645-78-6	Trithylamine 2,4-dichlorophenoxyacetate	000802

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before July 18, 1995. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in Federal Register No. 123, Vol. 56, dated June 26, 1991. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call in In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: March 28, 1995.

Daniel M. Barolo,
Director, Office of Pesticide Programs

[FR Doc. 95-9663 Filed 4-18-95; 8:45 am]
BILLING CODE 6560-50-F

[OPP-300381; FRL-4944-1]

Propargite; Request for Comment on Petition to Revoke Certain Feed Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; receipt and availability of petition.

SUMMARY: This document announces the receipt of and solicits comments on a petition proposing the revocation of the section 409 feed additive regulation established under the Federal Food, Drug and Cosmetic Act (FFDCA, 21 U.S.C. 348a), for propargite on dried apple pomace. This notice sets forth the basis for the petitioner's proposal and provides opportunity for comment by the public.

DATES: Written comments, identified by the document control number [OPP-300381], must be received on or before May 19, 1995.

ADDRESSES: By mail, requests for copies of the petition and comments should be forwarded to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Copies of the petition will be available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays in: Information Services Branch, Program Management and Support Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703-305-5805.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection at the address and hours given above.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF32C5, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, Telephone: 703-308-8028; e-mail: Nazmi.Niloufar@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Introduction

A. Statutory Framework

The Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 136 et seq.) authorizes the establishment of tolerances and exemptions from tolerances for the residues of pesticides in or on raw agricultural commodities (RAC's), and section 409 of the act authorizes promulgation of food additive regulations for pesticide residues in processed foods.

Under section 408, EPA establishes tolerances, or exemptions from tolerances when appropriate, for pesticide residues in raw agricultural commodities. Food additive regulations setting maximum permissible levels of pesticide residues in processed foods are established under section 409. Section 409 food additive regulations are required, however, only for certain pesticide residues in processed food. Under section 402(a)(2) of the FFDCA, no section 409 food additive regulation is required if any pesticide residue in a processed food resulting from use on a RAC has been removed to the extent possible by good manufacturing practices and is below the tolerance for that pesticide in or on that RAC. This exemption in section 402(a)(2) is commonly referred to as the "flow-through" provision because it allows the section 408 raw food tolerance to flow through to processed foods. Thus, a section 409 food additive regulation is only necessary to prevent foods from being deemed adulterated when despite the use of good manufacturing practices the concentration of the pesticide residue in a processed food is greater than the tolerance prescribed for the raw agricultural commodity, or if the processed food itself is treated or comes in contact with a pesticide. Monitoring and enforcement are carried out by the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA).

The establishment of a food additive regulation under section 409 requires a finding that use of the pesticide will be "safe" (21 U.S.C. 348(C)(3)). Section 409 also contains the Delaney clause, which specifically provides that, with limited exceptions, no additive may be approved if it has been found to induce cancer in man or animals (21 U.S.C. 348(C)(5)).

In setting both section 408 tolerances and section 409 food additive regulations, EPA reviews residue chemistry and toxicology data. To be acceptable, tolerances must be both high enough to cover residues likely to be left when the pesticide is used in accordance with its labeling and low enough to protect the public health. With respect to section 408 tolerances, EPA determines the highest levels of residues that might be present in a raw agricultural commodity based on controlled field trials conducted under the conditions allowed by the product's labeling that are expected to yield maximum residues. Generally, EPA's policy concerning whether a section 409 food additive regulation is needed depends on whether there is a possibility that the processing of a raw agricultural commodity containing pesticide residues would result in residues in the processed food at a level greater than the raw food tolerance.

II. Petitions

Uniroyal Chemical Co. has submitted a petition requesting the revocation of the feed additive regulation (FAR) established under section 409 of the FFDCA for propargite on dried apple pomace. This regulation is codified in 40 CFR 186.5000 and is established at 80 parts per million (ppm).

VOL 60 ISS 75 AP 19 1995 UMI

In June 1994, EPA updated Table II of the Pesticide Assessment Guidelines, Subdivision O, Residue Chemistry. Table II provides a listing of all significant food and feed commodities, both raw and processed, for which residue data are collected and tolerances or FARs are established. The Agency requires data for only those feed items considered to be "significant." Feed items are considered to be "significant" if (1) the U.S. annual production of the crop is greater than 500 million pounds and the maximum amount in the livestock diet is greater than 10 percent; or (2) the commodity is grown mainly as a livestock feed. Based on the above criteria, the Agency has determined that dried apple pomace is not a significant feed item and has removed it from Table II.

The Petitioner requests that the Agency revoke the section 409 FAR for this feed item because it is no longer necessary.

It should be noted that in the Federal Register of July 1, 1994 (59 FR 33941), EPA issued a proposed rule to revoke the section 409 food additive regulations for propargite because the Agency has determined that propargite induces cancer in animals. Thus, the regulation violates the Delaney clause in section 409 of the FFDCA. The Agency has not yet proposed similar action for the feed additive regulation for propargite on dried apple pomace. If this petition is granted, dried apple pomace will be removed from the list of pesticides that violate the Delaney clause and no further action will be required under section 408 of the FFDCA for the raw agricultural commodity apples.

Pursuant to 40 CFR 177.125 and 177.30, EPA may issue an order ruling on the petition or may issue a proposal in response to the petition and seek further comment. If EPA issues an order in response to the petition, any person adversely affected by the order may file written objections and a request for a hearing on those objections with EPA on or before the 30th day after date of the publication of the order (40 CFR 178.20).

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping.

Dated: April 3, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95-9061 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-50-F

[OPP-180968; FRL 4945-6]

Propazine; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Colorado Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide propazine (CAS 139-40-2) to treat up to 272,000 acres of sorghum to control various weeds. The Applicant proposes the use of a new (unregistered) chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before May 4, 1995.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP-180968," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8417; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of propazine on sorghum to control pigweed. Information in accordance with 40 CFR part 166 was submitted as part of this request.

Sorghum is grown as a rotational crop with cotton and wheat, in order to comply with the soil conservation requirements. Propazine, which was formerly registered for use on sorghum, was voluntarily canceled by the former Registrant, who did not wish to support its re-registration. The Applicant claims that this has left many sorghum growers with no pre-emergent herbicides that will adequately control certain broadleaf weeds, especially pigweed. The Applicant states that other available herbicides have serious limitations on their use, making them unsuitable for control of pigweed in sorghum. The Applicant claims that significant economic losses will occur without the availability of propazine.

Although the original Registrant of propazine has decided not to support this chemical through re-registration, another company has committed to support the data requirements for this use. Propazine was once registered for this use, but has now been voluntarily canceled and is therefore considered to be a new chemical.

The Applicant proposes to apply propazine at a maximum rate of 2.3 lbs active ingredient (4.6 pt. of product) per acre, by ground or air, to a maximum of 272,000 acres of sorghum, with one application allowed per crop growing season. Therefore, use under this exemption could potentially amount to a maximum total of 625,600 lbs. of active ingredient (156,400 gal. of product). This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Colorado Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: April 5, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95-9532 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-50-F

[OPP-00405; FRL-4943-5]

Publication of Addenda for Data Reporting E, K, and N Requirements for Pesticide Assessment Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a new addenda which includes a Data Reporting Guideline (DRG) for those environmental chemistry methods associated with Subdivision E, K, and N. This DRG is not intended to introduce any new data requirements or revisions into the existing guidelines. Its purpose is to further clarify technical aspects of the existing Pesticide Assessment Guidelines and to provide a format for organizing and submitting soil and water methods and their supporting data in order to facilitate their review. EPA recognizes there are sections of the DRG that do not apply to specific soil and water methods; therefore, registrants should exercise scientific judgement in deciding which sections apply to their methods.

ADDRESSES: Copies of this addenda to the Guidelines can be obtained from the National Technical Information Services (NTIS) at the following address: NTIS, ATTN: Order Desk, 5285 Port Royal Road, Springfield, VA 22161, Telephone: 703-487-4650.

EPA's written response to Public Comments can be obtained from the pesticide public docket at the following address: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by telephone: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Donald A. Marlow, Chief, Analytical Chemistry Branch (7503W), Biological and Economic Analysis Division, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Station 1, Rm. CS 44J1, 2800 Crystal Drive, Arlington, VA, 703-308-8198.

SUPPLEMENTARY INFORMATION: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requires the registration of all pesticides that are manufactured for use in the United States. In order to obtain a registration from EPA, manufacturers must demonstrate that their pesticides do not cause any unreasonable adverse effects to human health and the environment. It is now considered appropriate to provide available soil and water residue methods to EPA because of the increased public concern regarding the contamination of the environment with pesticides. They will validate some of those methods and may assemble them into a new manual in order to make them available to address potential environmental problems. This DRG provides more detailed technical guidance regarding those analytical methods and amends Pesticide Assessment Guidelines E, K, and N referred to earlier.

These methods may be validated in an EPA laboratory to determine if they identify and quantify the pesticide parent compound, toxicologically significant metabolites(s) and degradate(s) at the level indicated. The results from the soil and water method validation program may be used to support regulatory decisions regarding the reliability and validity of the chemistry data sent to the Agency with exposure, environmental fate, and ecological effects studies.

The Data Reporting Guideline (DRG) provides the registrant with a detailed format for submitting soil and water methods to the Agency. Each method should be complete and meet the technical requirements identified in the DRG. Those methods should be sent to the Agency to support specific exposure, environmental fate, and ecological effects studies during the normal registration and reregistration cycle. Each study for which environmental chemistry methods are needed has been clearly identified below. Soil and water methods should be clearly written and capable of being repeated by chemists in Federal and state laboratories.

The Agency has developed a new Data Reporting Guideline for the Pesticide Assessment Guidelines (E, K, and N) and these requirements impact the studies identified below:

Subdivision E—Hazard Evaluation

Series 71-5—Simulated and Actual Field Testing for Mammals and Birds

Series 72-7—Simulated and Actual Field Testing for Aquatic Organisms

Subdivision K—Reentry Protection

Series 132-1—Soil Dislodgeable Residue Dissipation Studies

Subdivision N—Environmental Fate

Series 164-1—Terrestrial Field Dissipation Studies*

Series 164-2—Aquatic Field Dissipation Studies

Series 164-3—Forest Field Dissipation Studies

Series 164-5—Long Term Soil Dissipation Studies*

Series 165-3—Accumulation Studies in Irrigation Crops

Series 166-1—Groundwater Study

*In practice these studies are considered to be equivalent because they evaluate the persistent nature of pesticide residues in soil

These addenda supercede the paragraphs in the respective guidelines and the other addenda issued by the Pesticide Program regarding soil and water methods sent to the Agency for the studies identified above.

While these addenda to the Guidelines are not mandatory, data submitters are strongly encouraged to follow the format to assure that reports will be consistent, thereby increasing the efficiency of pesticide registration, reregistration, and other regulatory activities.

The specific citation for this addenda with the NTIS ordering number and price are as follows:

Document Title	NTIS Accession No.	EPA Document No.	Hardcopy Price
Pesticide Assessment Guideline Subdivision E:			

VOL 60 ISS 75 AP 19 1995 UMI

Document Title	NTIS Accession No.	EPA Document No.	Hardcopy Price
Hazard Evaluation			
Series 71-5	PB83-153908	540/09-82-024	$19.50
Series 72-7	PB83-153908	540/09-82-024	$19.50
Addendum No. 2 Data Reporting Guideline for Soil and Water Methods to Support Hazard Evaluation Studies			
Subdivision K:			
Reentry Protection			
Series 132-1b	PB85-120962	540/09-84-001	$19.50
The Data Reporting Guideline for Soil and Water Methods will be attached to the new Reentry Protection Guideline.			
Subdivision N:			
Environmental Fate			
Series 164-1	B83-153973	540/09-82-021	$27.00
Series 164-2	B83-153973	540/09-82-021	$27.00
Series 164-3	B83-153973	540/09-82-021	$27.00
Series 164-5	B83-153973	540/09-82-021	$27.00
Series 165-3	B83-153973	540/09-82-021	$27.00
Series 166-1—Guidance to be issued by EPA in the near future.			
Addendum No 9. Data Reporting Guideline for Soil and Water Methods to Support Environmental Fate Studies			

Orders may be placed by mail or telephone. All orders should specify whether the document is requested in hardcopy or microfiche form since prices vary for hardcopy but they will cost $9.00 for microfiche. There is an additional $4.00 to $8.00 handling charge for each order, depending on the total cost of the order. Payment may be made by using an existing NTIS deposit account; charging to VISA, Mastercard, American Express or check or money order. The order should cite the document title, NTIS ordering number for the document, kind of document (microfiche or hardcopy), and the price.

List of Subjects

Environmental protection.

Dated: April 7, 1995.

Allen L. Jennings,

Director, Biological and Economic Analysis Division, Office of Pesticide Programs.

[FR Doc. 95-9535 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-40-F

Office of Pollution Prevention and Toxics

[OPPTS-44616; FRL-4949-7]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on 1,3,5-trimethylbenzene (CAS No. 108-67-8), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: James Willis, Acting Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for 1,3,5-trimethylbenzene were submitted by Koch Industries, Inc., pursuant to a test rule at 40 CFR 799.5075. They were received by EPA on February 9, 1995. The submission describes a 14-day oral gavage toxicity study in rats with a recovery group. This chemical is used as an intermediate in the production of an antioxidant for plastics.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS-44616). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. B-607 Northeast Mall, 401 M Street SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: April 10, 1995.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95-9662 Filed 4-18-95; 8:45 am]

BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

[WT Docket No. 95-35; DA 95-705]

Designation of Amateur License Renewal Application for Hearing

AGENCY: Federal Communications Commission.

ACTION: Hearing designation order

SUMMARY: This Order designates the application of George E. Rodgers to renew his amateur radio station license (N3LR) and his Amateur Extra Class operator license for hearing on the basis of a criminal conviction.

FOR FURTHER INFORMATION: Thomas D Fitz-Gibbon, Enforcement Division, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, D.C. 20554; or telephone (202) 418-0693.

SUPPLEMENTARY INFORMATION: 1. This is a summary of the Order adopted March 31, 1995, and released April 12, 1995. The complete text of this Order may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

2. The Order asserted that Mr. George E. Rodgers has applied for renewal of his amateur service station and operator licenses.

3. The Order asserted further that, in *Commonwealth of Pennsylvania v. Rodgers*, Docket No. 2300-93 (Court of Common Pleas, Chester County, Pa.), Mr. Rodgers was convicted upon four counts of violating Section 6301(a) [corruption of minors] of the Pennsylvania Criminal Code and upon four counts of violating Section 3126(a)(1) [indecent assault] of the Pennsylvania Criminal Code.

4. The Order alleged that, in view of the criminal convictions described above, Mr. Rodgers apparently lacks the requisite qualifications for a renewal of his amateur service licenses.

5. The Order designated Mr. Rodger's application for hearing before an Administrative Law Judge and at a time and location to be determined by the order of the Chief Administrative Law Judge upon the following issues:

(a) To determine whether, in light of the facts determined in *Commonwealth of Pennsylvania* v. *Rodgers, supra*, George E. Rodgers is qualified to renew his amateur service licenses.

(b) To determine, in light of the foregoing issue, whether granting George E. Rodger's application would serve the public interest, convenience and necessity.

6. The Order placed the burden on proceeding with the introduction of evidence and the burden of proof upon the respondent as to all issues.

Federal Communications Commission.

Howard Davenport,

Chief, Enforcement Division.

[FR Doc. 95-9633 Filed 4-18-95; 8:45 am]

BILLING CODE 6712-01-M

Accounting and Reporting Requirements for Video Dialtone Service

In Reply Refer To: RAO Letter 25, DA 95-705.

Adopted: March 31, 1995.
Released: April 3, 1995.

Responsible Accounting Officer:

Re: Accounting and Reporting Requirements for Video Dialtone Service

I. Introduction

This letter provides guidance on video dialtone accounting to local exchange carriers ("LECs") that receive Section 214 authorizations to provide video dialtone service.[1] It sets forth specific guidance on the requirements for accounting classifications, subsidiary records, and amendments to cost allocation manuals ("CAMs") for LECs that provide video dialtone service.[2]

II. Background

In 1991 and 1992, the Commission adopted policies and rules to permit LECs to assume an expanded role in the provision of video services in their telephone service areas.[3] In its 1991 and 1992 Orders, the Commission established a regulatory framework for telephone companies to provide video service on a common carrier basis and provide various related nonregulated services consistent with the cross-ownership restrictions imposed by the Cable Communications Policy Act of 1984 ("1984 Cable Act").[4] This regulatory framework is called "video dialtone."

On November 7, 1994, the Commission issued the *Video Dialtone Reconsideration Order* ("*VDT Recon Order*"). In that Order, the Commission reaffirmed its basic video dialtone framework adopted in the *Second Report and Order*, and, among other things, set forth accounting and reporting requirements for LECs that offer video dialtone service. The Commission required carriers offering video dialtone to establish two sets of subsidiary accounting records: one to capture the investment, expense and revenue wholly dedicated to video dialtone; the other to capture the investment, expense and revenue shared between video dialtone and other services.[5] Wholly dedicated refers to investment, expense and revenue related exclusively to providing video dialtone service. Shared refers to investment, expense and revenue related to providing video dialtone and other services on a joint or common basis.[6]

The *VDT Recon Order* requires LECs to file a summary of these subsidiary accounting records with the Commission on a quarterly basis. The Commission delegated authority to the Common Carrier Bureau to define the content and format of both the subsidiary accounting records and the quarterly reports, and to provide accounting guidance where necessary for uniform classification of video dialtone investment, expense and revenue.[7] Finally, the *VDT Recon Order* required LECs to file revisions to their CAMs to reflect the provision of video dialtone service.

III. Accounting Classification

The Commission did not change its Part 32, Uniform System of Accounts for Telecommunications Companies ("USOA") in the *VDT Recon Order*, but it did require carriers to establish subsidiary accounting records, consistent with that system, in order to isolate video dialtone costs and revenues from other LEC costs and revenues.[8] We therefore require LECs to maintain in subsidiary records, by USOA accounts, all wholly dedicated and shared investment, expense, and revenue related to providing video dialtone service. Finally, consistent with Part 32 of the Commission's rules, Class A companies shall use Class A detail level accounts and Class B companies shall use Class B detail level accounts in recording video dialtone investment, expense and revenue in subsidiary records.[9]

A. Investment Classifications

For accounting classification purposes, video dialtone investment shall include all plant wholly dedicated to video dialtone or shared between video dialtone and other services. Wholly dedicated investment is defined

[1] This includes video dialtone trials and commercial applications.

[2] LECs with annual operating revenues of $100 million or more are required to file a CAM with the Commission. CAMs contain information regarding the carriers' allocation of costs between regulated and nonregulated activities. *See* 47 C.F.R. § 64.903.

[3] *See* Telephone Company-Cable Television Cross-Ownership Rules, Section 63.54-63.58, Further Notice of Proposed Rulemaking, *First Report and Order and Second Further Notice of Inquiry*, 56 FR 35454 (Dec. 17, 1991) (*First Report and Order*), recon., 7 FCC Rcd 5069 (1992), *aff'd*, National Cable Television Association v. FCC, No. 91-1549 (D.C. Cir. Aug. 26, 1994) (*NCTA v. FCC*); Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, *Second Report and Order, Recommendation to Congress, and Second Further Notice of Proposed Rulemaking*, 57 FR 44186 (Sept. 9, 1992) (*Second Report and Order*), *aff'd, Memorandum Opinion and Order on Reconsideration and Third Further Notice of Proposed Rulemaking*, 58 FR 63000 (Dec. 12, 1993) ("*VDT Recon Order*"), *appeal pending sub nom.* Maclaine-Chimera Telephone Company v. FCC, No. 93-1488 (D.C. Cir. filed September 9, 1993).

[4] Cable Communications Policy Act of 1984, Pub. L. No. 98-549, 98 Stat. 2779 (codified at 47 U.S.C. §§ 521-559).

[5] *VDT Recon Order* at para. 173.

[6] By "other services" we mean telephone and other services provided by LECs.

[7] In this Responsible Accounting Officer ("RAO") Letter, we only address the accounting classifications, format and content requirements for LEC subsidiary records and CAM filing requirements. We plan to address the format and content for LEC video dialtone quarterly reports in a separate notice and comment proceeding.

[8] *VDT Recon Order* at para. 173.

[9] 47 C.F.R. § 32.11

VOL 60 ISS 75 AP 19 1995 UMI

as investment that is used exclusively for the provision of video dialtone service. Shared investment is defined as investment that is common to, or used jointly to provide video dialtone and other services. Under the *VDT Recon Order*, LECs must separately track both wholly dedicated and shared video dialtone investment. This requirement covers both new investment purchased for the provision of video dialtone and existing plant converted to video dialtone use. To track net investment, subsidiary records must identify, for each plant account, all accumulated depreciation, amortization and deferred income taxes associated with wholly dedicated and shared video dialtone investment.

In addition, the Commission conditioned LEC authorizations to provide video dialtone service on a requirement that LECs keep subsidiary records to identify, by Part 32 plant account, the cost of plant that is replaced or retired due to either the deployment of video dialtone plant or the deployment of fiber optic network upgrades as mandated under state authority in study areas where VDT deployment occurs.[10]

B. Expense Classification

Video dialtone expense shall include all expenses identified with the exclusive or shared provision of video dialtone service. In addition to ongoing expenses incurred in the provision of video dialtone service, these expenses shall include all expenses incurred during the initial development and deployment stages of video dialtone, such as research and development expense and legal services expense.

In order to implement the Commission's requirement that the Common Carrier Bureau ensure that LEC proposed expense allocations and overhead loadings associated with video dialtone tariff filing are reasonable, we will require separate subsidiary records for dedicated and shared video dialtone expenses.[11] Carriers must also separately identify depreciation and amortization expense associated with wholly dedicated and shared video dialtone investment by each Part 32 plant account.

We recognize that some of the expenses that fall into the shared category may be the type of expenses that are tracked by function codes and some may be the type that are not tracked by function codes. Expenses not tracked by function codes are support functions, such as network support, general support, corporate operations and general administrative. Expenses tracked by function codes shall be identified as video dialtone expense using the tracking mechanism.[12] Expenses not tracked by function codes shall be so identified and shall be classified as shared video dialtone expenses. These expenses will be subject to overhead allocation for the video dialtone tariff filing.

IV. Subsidiary Accounting Records

As required by the *VDT Recon Order*, LECs shall create subsidiary accounting records that identify investment and expense wholly dedicated to video dialtone, or shared between video dialtone and other services.[13] Carriers shall ensure that subsidiary accounting record entries are readily identifiable by account title, account number, subaccount identification, and study area. These records shall also include all initial and ongoing transactions that directly impact investment, expense and revenue accounts. In order to enhance our ability to verify LEC compliance with the Commission's established video dialtone accounting and reporting requirements, carriers shall be required to have internal accounting controls and a complete audit trail for each subsidiary account record. Subsidiary accounting records must be reconcilable with total amounts reported in the Part 32 accounts. In addition, LECs shall maintain these records until such time as the Commission decides otherwise. These requirements do not preclude carriers from creating subaccounts, if necessary, to capture data necessary to provide subsidiary record information.

Consistent with the Commission's requirements on accounting classifications and reporting, carriers shall capture all costs incurred for the provision of video dialtone, including the preliminary planning, and research and development expenses incurred prior to the Commission's approval of Section 214 application. Upon receiving Section 214 authorization from the Commission, carriers must establish subsidiary accounting records and report the results of these records to the Commission on a quarterly basis.

Subsidiary accounting records for investment accounts must include, but shall not be limited to, all telephone plant in service accounts, associated accumulated depreciation, deferred taxes and any associated land and support assets which contain costs related to the provision of video dialtone service. Subsidiary accounting records for video dialtone investment accounts must also identify the investment's location and whether that investment is wholly dedicated to video dialtone or shared between video dialtone and other services. LECs shall maintain subsidiary accounting records so that the content of these records can be traced from the continuing property records ("CPRs") through the accounting system to the general ledger and to the equipment's physical location.

Carriers shall use tracking codes that allow video dialtone expense to be extracted and summarized from the Part 32 USOA expense accounts. Carriers may create tracking codes that are compatible with their existing internal accounting systems. Carriers may use either field reporting codes, job function codes, location codes, or any other identification codes that permits such expenses to be audited.

Subsidiary accounting records for expense shall include all plant-specific operations expense, plant-nonspecific operations expense, customer operations expense, and corporate operations expense accounts that contain any costs related to the provision of video dialtone service. Subsidiary accounting records for video dialtone should separately identify revenues from intrastate and interstate tariffs.[14] Carriers shall identify by subsidiary record category any nonregulated video dialtone revenues.

V. Cost Allocation Manual Filing Requirements

LECs offering video dialtone service must amend their CAMs to reflect both their regulated and nonregulated video dialtone service as follows:

LECs are required, pursuant to the *VDT Recon Order*, to amend their CAMs prior to providing nonregulated products or services related to video dialtone.[15] We require carriers that receive Section 214 authorizations to provide video dialtone service to implement these requirements by revising Section II (Nonregulated Activities) of their CAMs to include a detailed description of proposed nonregulated video dialtone services that they seek to provide.

CAM revisions must include a statement indicating whether nonregulated video dialtone service is provided through a stand-alone video dialtone system, or a system shared with telephony. Carriers must also establish a new subsection in Section II of their CAMs that identifies all costs incurred in the planning and development of nonregulated activities provided in conjunction with video dialtone service. LECs that currently include enhanced services planning in their CAMs as a nonregulated activity associated with their provision of telephone service, shall be required to amend their CAMs to specifically identify any planning associated with the provision of nonregulated video dialtone service. In addition, LECs shall amend their existing "Nonregulated Services Matrix"—which shows nonregulated products/services and the USOA accounts associated with these nonregulated products/services—to list each individual USOA account affected by the provision of any nonregulated video dialtone activity.

LECs must also amend Section VI (Cost Apportionment Tables) of their CAMs, so that existing cost allocation tables include apportionment procedures for investment and expense used in the provision of regulated and nonregulated video dialtone service. We require LECs to justify and/or amend, if necessary, their existing cost apportionment methodology and allocators for their provision of video dialtone service. LECs that choose not to modify their cost apportionment methodology or allocators for video dialtone, must also explain why their existing methodology or allocation factors are still valid for their regulated, nonregulated and common cost pools. In addition, because the allocation for nonregulated usage of common network plant is determined by a three-year forecast of investment usage, LECs shall revise their forecast usage allocator to reflect accurately the provision of any nonregulated video dialtone service offered on common network plant. Moreover, carriers that currently do not provide nonregulated services that use common network plant, but "reasonably anticipate" offering such services during the plant's three-year forecast usage period, shall include revised apportionment procedures for the nonregulated usage of network plant in the Section VI, Cost Apportionment Tables.[16]

Finally, we require LECs to amend their CAMs to identify any affiliate transactions related to their provision of video dialtone service. LECs must amend Section V (Affiliate Transactions) of their CAMs by listing all transactions with affiliates that involve video dialtone service. This listing must contain a brief description of the nature, terms and frequency of each transaction. LECs that currently list transactions involving affiliates providing video related services in existing CAMs, must amend such CAMs to indicate which, if any, specific transactions relate to the provision of video dialtone service.

As required by the *VDT Recon Order*, LECs shall file CAM revisions within thirty days after the effective date of their Section 214 authorization and at least sixty days prior to providing nonregulated products or services related to video dialtone.

VI. Accounting Consistency/Uniformity Issues

In reviewing various LEC Section 214 applications for video dialtone service, we have found certain inconsistencies in the accounting classification of asynchronous transfer mode ("ATM") equipment. LECs have described ATM equipment as providing the basic connection between the various video servers and various destinations. Some LECs have provisionally classified ATM equipment in Account 2212, Digital electronic switching; other LECs have classified the same type of equipment in Account 2232, Circuit equipment. Based on our analysis of video dialtone ATM equipment and LEC descriptions of the functional purpose of such equipment, we find that, although certain carriers have classified ATM equipment as switches, the equipment does not perform the functions performed by traditional network switches.[17] We find based on the data before us, that ATM video dialtone equipment does not, at this stage of LEC video dialtone deployment, meet established criteria for classification as a switch. Therefore, carriers shall classify ATM equipment as circuit equipment and record it in Account 2232, Circuit equipment. Our decision regarding the accounting classification for video dialtone ATM equipment does not in any way preclude LECs from demonstrating at a future date any functional change that should alter this classification.

Finally, we intend to amend RAO Letter No. 6 shortly to incorporate video dialtone plant investment within our existing itemized list of telecommunications plant in service.[18]

This letter is issued pursuant to authority delegated under § 0.291 of the Commission's Rules, 47 C.F.R. § 0.291. Applications for review under Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115, must be filed within 30 days of the date of this letter. *See* 47 C.F.R. § 1.4(b)(2).

If you have any questions, please contact Kenneth Ackerman or Daniel Gonzalez at (202) 418–0810.

Kenneth P. Moran,

Chief, Accounting and Audits Division, Common Carrier Bureau.

[FR Doc. 95–9574 Filed 4–17–95; 8:45 am]

BILLING CODE 6712–01–M

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[10] *See, e.g.*, Application of New Jersey Bell Telephone Company for Authority pursuant to Section 214 of the Communications Act of 1934, 9 FCC Rcd 3677, 3690 at para. 72 (1994).

[11] *VDT Recon Order* at para. 221.

[12] All employees that incur video dialtone costs must employ existing time reporting procedures using some type of function codes. For example, carriers that currently utilize time reporting tracking mechanisms in order to identify regulated and nonregulated activities of support functions, such as legal services, must continue to use similar accounting tracking mechanisms for identifying video dialtone expenses. In addition, expenses incurred or services provided by LEC affiliates for LEC provision of video dialtone service must be identified with unique function codes that indicate video dialtone expense.

[13] In the *VDT Recon Order*, the Commission determined that it was not necessary to make permanent changes to the Commission's USOA for LEC provision of video dialtone. The Commission, however, required that LECs offering video dialtone service create subsidiary records to capture wholly dedicated and shared video dialtone costs. *See VDT Recon Order* at para 173. Under the Commission's rules, subsidiary records categories are defined as "* * * segregations of certain regulated costs, expenses and revenues which must be maintained and are subject to specific reporting requirements of this Commission." *See* 47 C.F.R. § 32.9000.

[14] Carriers shall record revenues in Part 32 accounts consistent with the category of video dialtone service set forth in a carrier's tariff provisions. *See* 47 C.F.R. § 32.4999.

[15] *VDT Recon Order* at 330, para. 181.

[16] *See* American Telephone & Telegraph Company's Permanent Cost Allocation Manual for the Separation of Regulated and Nonregulated Costs, 4 FCC Rcd 8030 at para. 6–7 (1989).

[17] The criteria for switch classification are met if equipment performs some, but not necessarily all, of the following basic switching functions: (1) *Attending*—monitors for off-hook signals; (2) *Control*—determines call destination and assigns call to available line or trunk; (3) *Busy testing*—determines whether the called line/trunk is busy; (4) *Information receiving*—receives control and busy test results; (5) *Information transmitting*—transmits control and busy test results to tell the alerting and interconnection functions whether to complete the call; (6) *Interconnection*—connects subscriber line to subscriber line or subscriber line to trunk; (7) *Alerting*—rings the called subscriber's line or other signalling means if the call is destined for another exchange; (8) *Supervising*—monitors for call termination so the line can be released. *See* Responsible Accounting Officer Letter 21, 7 FCC Rcd 6075 (1992).

[18] *See* Revised Responsible Accounting Officer Letter 6, 4 FCC Rcd 1965 (1989).

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

VOL 60 ISS 75 AP 19 1995 UMI

DATES: Comments on this information collection must be submitted on or before June 19, 1995.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Donald Arbuckle, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Muriel B. Anderson, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2624.

Type: Extension of OMB Control Number 3067–0234.

Title: National Fire Academy Resident Evaluation Form.

Abstract: The National Fire Academy Resident Course Evaluation Form (FEMA Form 95–20) is used in all on-site resident deliveries of NFA courses. The form is used primarily to assess the effectiveness of the course materials and instructor delivery. The introduction/demographic information is used in developing needs assessments and identifying the student population's representation.

Type of Respondents: Individuals.

Estimate of Total Annual Reporting and Recordkeeping Burden: 1,000 hours.

Number of Respondents: 4,000.

Estimated Average Burden Time per Response: 15 minutes.

Frequency of Response: One-time. One evaluation form per course completed.

Dated: April 10, 1995.

Wesley C. Moore,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 95–9661 Filed 4–18–95; 8:45 am]

BILLING CODE 6718–01–M

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before June 19, 1995.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Information Collections Clearance Officer at the address below; and to Donald Arbuckle, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Muriel B. Anderson, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2624.

Type: Extension of OMB Control Number 3067–0233.

Title: National Fire Academy Field Course Evaluation Form.

Abstract: The National Fire Academy Field Course Evaluation Form (FEMA Form 95–45) is used in all field deliveries of NFA courses. The form is primarily used to assess the effectiveness of the course materials and instructor delivery. The demographic information is used in developing needs assessments and identifying the student population's representation.

Type of Respondents: Individuals.

Estimate of Total Annual Reporting and Recordkeeping.

Burden: 5,000.

Number of Respondents: 20,000.

Estimated Average Burden Time per Response: 15 minutes.

Frequency of Response: One-time. One evaluation form per course completed.

Dated: April 10, 1995.

Wesley C. Moore,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 95–9660 Filed 4–18–95; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Automated Tariff Filing and Information System Firms Certified for Batch Filing Capability of at Least One Type of Tariff as of April 12, 1995; Notice

Calcutta, East Coast of India and Bangladesh/U.S.A. Conference, Metuchen, New Jersey
Dart Maritime Service, Bethlehem, Pennsylvania
Distribution Publications, Inc. ("DPI"), Oakland, California
D.X.I., Inc., Pittsburgh, Pennsylvania
Effective Tariff Management Corporation ("ETM"), Bowie, Maryland
Expeditors International ("EI"), Seattle, Washington
Flexible Business Systems, Inc., Miami, Florida
Glenserve Company, Glendora, New Jersey
Insight Consulting Group, Saddle Brook, NJ
Japan-Atlantic and Gulf Freight Conference, Tokyo, Japan
Japan-Puerto Rico & Virgin Island Freight Conference, Tokyo, Japan
King Ocean Central America, S.A. ("KOCA"), Gundo Alt, Panama
King Ocean Service de Venezuela, S.A. ("KOSDV"), Chuao, Caracas
Logistical Concepts Ltd. ("LCL"), Drexel Hill, Pennsylvania
Maersk Inc., San Francisco, California
Maritime Management International, Inc., Miami, Florida
Matson Navigation Company, Inc., San Francisco, California
Matson Terminals, Inc., San Francisco, California
Miller Traffic Service, Inc., Maywood, California
Nippon Yusen Kaisha ("NYK"), San Francisco, California
NVO Tariff Services, Fremont, California
NX Corp., Columbia, Maryland
Ocean Tariff Bureau, Long Beach, California
Pacific Coast Tariff Bureau ("PCTB"), San Francisco, California
Paramount Tariff Services, Ltd. ("PTS"), Torrance, California
Rijnhaave Information Services, Inc., and World Tariff Services, Inc. ("WTS"), Union, New Jersey
Simple Transportation Solutions International, Titusville, Florida
Star Shipping A/S, San Francisco, California
Sumner Tariff Services, Inc., Washington, D.C.
Tariff Data Services, Houston, Texas
Transamericas T.I.S., Inc., Falls Church, Virginia
Transax Systems, Bridgewater, New Jersey
Trans-Pacific Freight Conference of Japan, Tokyo, Japan
Transportation Services, Inc. ("TSI"), Fort Lauderdale, Florida
U.S. Traffic Service, Torrance, California
Wallenius Lines AB, Woodcliff Lake, New Jersey
Wallenius Lines North America, Inc., Woodcliff Lake, New Jersey
Zim Container Service, Inc., New York, New York

Note: In the certification process, some certificants used software developed by other firms and may not be holding themselves out to file tariffs for the public, generally

Joseph T. Farrell,

Acting Secretary

[FR Doc. 95–9548 Filed 4–18–95; 8:45 am]

BILLING CODE 6730l–01–M

FEDERAL RESERVE SYSTEM

Community Capital Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 12, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1 Community Capital Corporation, Greenwood, South Carolina; to acquire 100 percent of the voting shares of Clemson Bank & Trust, Clemson, South Carolina (in organization).

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1 First Grayson Bancshares, Inc., Employee Stock Ownership Plan, Whitesboro, Texas; to become bank holding company by acquiring 15.82 percent of the voting shares of First Grayson Bancshares, Inc., Whitesboro, Texas, and thereby indirectly acquire Security Bank of Whitesboro, Whitesboro, Texas.

2. Metroplex North Bancshares, Inc., Employee Stock Ownership Plan, Whitesboro, Texas; to become a bank holding company by acquiring 17.87 percent of the voting shares of Metroplex North Bancshares, Inc., Whitesboro, Texas, and thereby indirectly acquire The First Bank of Celeste, Celeste, Texas.

Board of Governors of the Federal Reserve System, April 13, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9634 Filed 4–18–95; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Clinical Laboratory Improvement Advisory Committee.

Times and Dates: 8:30 a.m.–4:30 p.m., May 10, 1995; 8 a.m.–3:30 p.m., May 11, 1995.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE., Atlanta, Georgia 30333

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters To Be Discussed: The agenda will include an update from CDC on the implementation of the Clinical Laboratory Improvement Amendments, including the current process for reviewing tests for waived status, a discussion of the ongoing review of the regulatory burden and benefits of laboratory personnel requirements, and quality control standards.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information. John C. Ridderhof, Dr.P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE., Mailstop G–25, Atlanta, Georgia 30341–3724, telephone 404/488–7660.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9618 Filed 4–18–95; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Medical Classification Systems: Meeting

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: NCVHS Subcommittee on Medical Classification Systems.

Time and Date. 9 a.m.–5 p.m., May 16, 1995.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201

Status: Open.

Purpose: The subcommittee will discuss: the procedure classification systems for managed care; replacement for the International Classification of Diseases-9-Clinical Modification, Volume III, revision of Physicians' Current Procedural Terminology 4; and discuss the subcommittee's work plan

Contact Person for More Information. Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: April 13, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9619 Filed 4–18–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 94N–0299]

Plasmalab Donor Centers, Inc.; Revocation of U.S. License No. 1072–001

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 1072–001) and the product license issued to Plasmalab Donor Centers, Inc., doing business as Douglas Plasmalab, for the manufacture

VOL 60 ISS 75 AP 19 1995 UMI

of Source Plasma. This revocation notice affects only the Douglas Plasmalab, Douglas, AZ, facility and has no bearing on other establishment and product licenses issued to Plasmalab Donor Centers, Inc. In a letter to FDA dated March 28, 1994, the firm requested that the establishment and product licenses issued to its Douglas Plasmalab, Douglas, AZ, facility be revoked and thereby waived its opportunity for a hearing on the matter.

DATES: The revocation of the establishment license (U.S. License No. 1072–001) and product license became effective June 8, 1994.

FOR FURTHER INFORMATION CONTACT: Timothy W Beth, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 1072–001) and the product license for the manufacture of Source Plasma issued to Plasmalab Donor Centers, Inc., doing business as Douglas Plasmalab at 11 J Ave., Douglas, AZ 85607

FDA inspected Douglas Plasmalab at 11 J Ave., Douglas, AZ, from February 10, 1994, through March 9, 1994, following the report by the establishment of an error from the reinfusion of the wrong red blood cells to a donor undergoing plasmapheresis. The inspection revealed serious deviations from Federal regulations. FDA has determined that these deviations constitute a danger to health. These deficiencies included, but were not limited to, the following: (1) Failure to follow procedures designed to prevent the infusion of one donor's red blood cells into another donor (21 CFR 640.65(b)(3)); (2) failure to follow procedures designed to prevent contamination of red blood cells for reinfusion (21 CFR 640.64(e)); (3) failure to limit the frequency of Source Plasma donation to two times within a 7-day period (21 CFR 640.65(b)(5)); (4) failure to maintain accurate and concurrent records to document the performance of each significant step in the collection, processing, and storage of each unit of blood and blood components (21 CFR 606.160); and (5) failure to maintain adequate and complete standard operating procedures that are available to personnel in the areas where the procedures are performed for all steps in the collection, processing, storage, and distribution of Source Plasma (21 CFR 606.100(b)). The inspection indicated serious noncompliance with the donor protection standards which are intended to assure a continuous and healthy donor population, as well as with standards designed to assure the continued safety, purity, potency, and quality of products manufactured.

In addition to the inspection, the agency conducted a concurrent investigation that involved interviews with individuals knowledgeable of the daily operations of Douglas Plasmalab. This investigation revealed that deviations routinely occurred in important areas of the plasmapheresis operation. These deviations included, but were not limited to, the following: Maintenance of inaccurate red blood cell reinfusion records, forced and unfiltered reinfusion of whole blood into donors whose donation of blood exceeded the legally allowable limit, and reinfusion of red blood cells which may have been contaminated through a break in the closed sterile system of collection.

FDA concluded that the serious nature of the deficiencies noted during the inspection and concurrent investigation at Douglas Plasmalab was a direct consequence of the establishment's disregard for the applicable regulations and standards in the license applications and constitutes a danger to public health warranting suspension pursuant to 21 CFR 601.6(a). In a letter to the firm dated March 17, 1994, FDA suspended and confirmed telephone notice of the suspension of the establishment license (U.S. License No. 1072–001) and the product license for Source Plasma. In a letter to FDA dated March 28, 1994, Plasmalab Donor Centers, Inc., voluntarily requested that its Douglas Plasmalab licenses be revoked and thereby waived its opportunity for a hearing. The agency granted the request by letter to the firm dated, June 8, 1994, which revoked the establishment license (U.S. License No. 1072–001) and the product license for the manufacture of Source Plasma.

FDA has placed copies of the letters relevant to the license revocation on file under the docket number found in brackets in the heading of this document with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday

Accordingly, under 21 CFR 601.5, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68) the establishment license (U.S. License No. 1072–001) and the product license for the manufacture of Source Plasma issued to Plasmalab Donor Centers, Inc., Douglas, AZ, were revoked, effective June 8, 1994.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: April 8, 1995

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 95–9578 Filed 4–18–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94N–0298]

Putnam County Blood Bank, Inc.; Revocation of U.S. License No. 1121

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 1121) and the product licenses issued to Putnam County Blood Bank, Inc., (PCBB) for the manufacture of Whole Blood, Red Blood Cells, Platelets, and Plasma. In a letter to FDA dated April 29, 1994, the firm requested that its establishment and product licenses be revoked and thereby waived its opportunity for a hearing on the matter.

DATES: The revocation of the establishment license (U.S. License No 1121) and product licenses became effective June 3, 1994.

FOR FURTHER INFORMATION CONTACT: Timothy W Beth, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA conducted an inspection of PCBB, 2919 Kennedy St., Palatka, FL 32077 from September 1, 1992, through October 6, 1992. The inspection revealed serious deviations from Federal regulations FDA determined these deviations to constitute a danger to public health These deficiencies included, but were not limited to, the following: (1) Failure to establish scientifically sound and appropriate specifications, standards, and test procedures to assure that blood and blood components are safe, pure, potent, and effective (21 CFR 606 140(a) and 610.45(c)), and (2) failure to institute systems capable of precluding release of unsuitable blood and blood components (21 CFR 640 3(b) and (c) and 606.160(b)(1)(ii) and (e))

Because of these serious deviations, FDA concluded that the management at PCBB did not adequately demonstrate the ability to operate the establishment in a manner that assured compliance with Federal regulations or accepted standard operating procedures, or to ensure that personnel were adequately trained and supervised and had a thorough understanding of the procedures that they performed as required by 21 CFR 600.10(a) and (b) and 606.20(a) and (b). These conditions at PCBB were considered to constitute a danger to public health warranting license suspension pursuant to 21 CFR 601.5(b) and 601.6(a). FDA accordingly suspended the firm's licenses by letter dated November 6, 1992.

In addition to the suspension of establishment and product licenses, and in order to preclude the distribution of violative units, and to address those questionable units already in distribution channels, FDA requested that PCBB immediately and concurrently perform the following: (1) Review test records for antibody to the human immunodeficiency virus (Type I), and then identify and defer all donors who may have been misinterpreted as suitable due to improper donor reentry procedures; (2) develop and implement a plan to identify and defer all donors who, during the medical history interview, have provided information which may deem such donors as ineligible, and (3) identify and recall all units collected from such donors, and notify all consignees of transfusible and nontransfusible blood and blood components of the test/medical history of the units. In a letter to the firm dated March 9, 1994, FDA concluded that the recall was complete.

In a letter to FDA dated April 29, 1994, PCBB voluntarily requested that its licenses be revoked and thereby waived its opportunity for a hearing. The agency granted the request in a letter dated June 3, 1994, which revoked the establishment and product licenses.

FDA has placed copies of the letters relevant to the license revocation on file under the docket number found in brackets in the heading of this document with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under 21 CFR 601.5, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), the establishment license (U.S. License No. 1121) and the product licenses for the manufacture of Whole Blood, Red Blood Cells, Platelets, and Plasma issued to Putnam County Blood Bank, Inc., Palatka, FL, were revoked, effective June 3, 1994.

This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67.

Dated: April 11, 1995.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 95–9577 Filed 4–18–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0090]

Dietary Supplements: Notice of Withdrawal of Regulatory Guidance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has withdrawn a number of import alerts, import bulletins, and compliance policy guides involving dietary supplements. FDA has taken these actions to conform its regulatory guidance to the changes made to the Federal Food, Drug, and Cosmetic Act (the act) by the Dietary Supplement Health and Education Act (DSHEA).

FOR FURTHER INFORMATION CONTACT: Loretta A. Branch Carey, Center for Food Safety and Applied Nutrition (HFS–456), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–205–5372.

SUPPLEMENTARY INFORMATION: On October 25, 1994, the President signed into law the DSHEA (Pub. L. 103–417). Among the most significant changes in the act made by the DSHEA is the addition of section 201(s)(6) (21 U.S.C. 321(s)(6)), which excepts dietary ingredients of dietary supplements from coverage under the food additive provisions of the act (section 3(b) of the DSHEA). As a result of this change, such ingredients are no longer subject to a premarket safety review.

In response to this change, FDA has reviewed the regulatory guidance that it issues to its field offices to conform that guidance to the change. As a result of this review, FDA has found that it is appropriate to withdraw the following import alerts, import bulletins, and compliance policy guides because they are no longer consistent with the act.

A. Compliance Policy Guides

1. CPG 7117.04, entitled "Botanical Products for use as Food"
2. CPG 7118.01, entitled "Dietary Supplements-Misbranding Nutritionally Insignificant Ingredients"

B. Import Alerts

1. 24–14 Products containing Bracken
2. 26–02 Flaxseed/Linseed Oil
3. 54–03 Carnitine
4. 54–05 Ultra Bios 2000 Food Supplement
5. 66–02 Ginseng
6. 66–04 Oil of Evening Primrose

C. Import Bulletins

1. 31–B01 Selfheal Flower, Prunella Vulgaris
2. 54–B06 Tricosanthis
3. 66–B02 Ephedra

The Agency continues to review and revise the remaining related import alerts, bulletins, and compliance policy guides, in order to comply with DSHEA.

FDA notes that it does not usually give notice in the Federal Register of its issuance or withdrawal of import alerts or bulletins. It is doing so in this instance, however, because of the ongoing congressional interest in FDA's implementation of the DSHEA. FDA advises that issuing this notice does not mark any type of change in the agency's usual procedures for issuing or withdrawing these alerts or bulletins.

In response to the DSHEA, FDA has also reassessed its general enforcement priorities with respect to dietary supplements. FDA advises that in enforcing the act with respect to these products, its primary focus is likely to be, as it always has been, on safety concerns. The agency advises, however, that its regulatory priorities are subject to adjustment in response to changing circumstances. For example, the labeling of dietary supplements will likely be given a higher priority by the agency after December 31, 1996, when compliance with FDA's nutrition labeling and nutrient content claim regulations for dietary supplements is to begin.

Dated: April 13, 1995

William B. Schultz,

Deputy Commissioner for Policy

[FR Doc. 95–9702 Filed 4–18–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 84N–0102]

Cumulative List of Orphan-Drug and Biological Designations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

VOL
60
ISS
75
AP
19
1995
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SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a cumulative list of designated orphan drugs and biologics as of December 31, 1994. FDA has announced the availability of previous lists, which are brought up to date monthly, identifying the drugs and biologics granted orphan-drug designation pursuant to the Federal Food, Drug, and Cosmetic Act (the act).

ADDRESSES: Copies of the list of current orphan-drug designations and of any future lists are or will be available from the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and the Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4718.

FOR FURTHER INFORMATION CONTACT: Peter L. Vaccari, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4718.

SUPPLEMENTARY INFORMATION: FDA's Office of Orphan Products Development (OPD) reviews and acts on applications submitted by sponsors seeking orphan-drug designation under section 526 of the act (21 U.S.C. 360bb). In accordance with this section of the act, which requires public notification of designations, FDA maintains a list of designated orphan drugs and biologics. This list is made current on a monthly basis and is available upon request from OPD (contact identified above). At the end of each calendar year, the agency publishes an up-to-date cumulative list of designated orphan drugs and biologics, including the names of designated compounds, the specific disease or condition for which the compounds are designated, and the sponsors' names and addresses. The cumulative list of compounds receiving orphan-drug designation through 1988 was published in the **Federal Register** of April 21, 1989 (54 FR 16294). This list is available on request from FDA's Dockets Management Branch (address above). Those requesting a copy should specify Docket No. 84N–0102, which is the docket number for this notice.

The list that is the subject of this notice consists of designated orphan drugs and biologics through December 31, 1994, and, therefore, brings the May 9, 1994 (59 FR 23888) publication up to date.

The orphan-drug designation of a drug or biologic applies only to the sponsor who requested the designation. Each sponsor interested in developing an orphan drug or biologic must apply for orphan-drug designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested. (See 53 FR 47577, November 23, 1988.) Copies of the regulations (see 57 FR 62076, December 29, 1992) for use in preparing an application for orphan-drug designation may be obtained from OPD (address above).

The names used in the cumulative list for the drug and biological products that have not been approved or licensed for marketing may not be the established or proper names approved by FDA for those products if they are eventually approved or licensed for marketing. Because these products are investigational, some may not have been reviewed for purposes of assigning the most appropriate established proper name.

Dated: April 13, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9700 Filed 4–18–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Notice of Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committees have been filed with the Library of Congress:

Departments of Family Medicine Review Committee
Faculty Development Review Committee
Graduate Training in Family Medicine Review Committee
Predoctoral Training Review Committee
Residency Training Review Committee

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, D.C. Copies may be obtained from: Ms. Sherry Whipple, Executive Secretary, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6874

Dated: April 14, 1995

Jackie E. Baum,

Advisory Committee Management Officer HRSA.

[FR Doc. 95–9699 Filed 4–18–95; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the National Institute of Neurological Disorders and Stroke (NINDS).

The National Advisory Neurological Disorders and Stroke Council and its subcommittee meetings will be open to the public as indicated below. Attendance by the public will be limited to space available.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed for the meeting.

Name of Committee: The Planning Subcommittee of the National Advisory Neurological Disorders and Stroke Council

Date: May 31, 1995.

Place: National Institutes of Health, Building 31, Conference Room 8A28, 9000 Rockville Pike, Bethesda, MD 20892

Open: 1:30 p.m.–3 p.m.

Agenda: To discuss program planning and fiscal matters

Closed 3 p.m.–recess.

Name of Committee National Advisory Neurological Disorders and Stroke Council

Dates June 1–2, 1995

Place: National Institutes of Health Building 1, Wilson Hall, 9000 Rockville Pike Bethesda, MD 20892.

Open: June 1, 9 a.m.–2 p m.

Agenda. A report by the Director, NINDS; a report by the Director, Division of Extramural Activities, NINDS; and a presentation by an NINDS grantee.

Closed: June 1, 2 p.m.–recess, June 2, 8:30 a.m.–adjournment.

Executive Secretary: Constance W Atwell, Ph.D., Director, Division of Extramural Activities, NINDS, National Institutes of Health, Bethesda, MD 20892, Telephone: (301) 496–9248.

The following meetings will be totally closed to review and evaluate grant applications.

Name of Committee: Neurological Disorders Program Project Review A Committee.

Date: June 5–7, 1995.

Time: June 5, 7:30 p.m.–recess; June 6, 8:30 a.m.–recess; June 7, 8:30 a.m.–adjournment.

Place: Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Dr. Katherine Woodbury, Scientific Review Administrator, National Institutes of Health, Federal Building, Room 9C14, Bethesda, MD 20892, (301) 496–9223

Name of Committee: Training Grant and Career Development Review Committee.

Date: June 15–16, 1995.

Time: June 15, 7:30 p.m.–recess; June 16, 8 a.m.–adjournment.

Place: Hyatt Regency, One Bethesda Metro Center, Bethesda, MD 20892.

Contact Person: Dr. Alfred Gordon, Scientific Review Administrator, National Institutes of Health, Federal Building, Room 9C14, Bethesda, MD 20892, (301) 496–9223.

Name of Committee: Neurological Disorders Program Project Review B Committee.

Date: June 26–28, 1995.

Time: June 26, 8 a.m.–recess; June 27, 8 a.m.–recess; June 28, 8 a.m.–adjournment.

Place: Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Dr. Paul Sheehy, Scientific Review Administrator, National Institutes of Health, Federal Building, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences).

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9607 Filed 4–18–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of a Meeting of the Epidemiology and Biometry Research Program Working Group of the National Deafness and Other Communication Disorders (NDCD) Advisory Council

Notice is hereby given of the meeting of the Epidemiology and Biometry Research Program Working Group of the NDCD Advisory Council on April 27, 1995. The meeting will take place from 11 a.m. to 4 p.m. in Conference Room 3C05, Building 31C, National Institutes of Health , 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting, which is open to the public, will be held to discuss concept clearance of several scientific projects in the hearing and other communication disorders areas. Attendance by the public is limited to the space available.

Summaries of the meeting and a roster of members may be obtained from Ms. Debbie D'Angelo, Program Analyst, National Institute on Deafness and Other Communication Disorders, Executive Plaza South, Room 430, 6120 Executive Blvd., Bethesda, Maryland 20892, 301–402–1843, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. D'Angelo in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: April 12, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9606 Filed 4–18–95; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Cancer Institute for May and June 1995.

These meetings will be open to the public to discuss administrative details or other issues relating to committee activities as indicated in the notice and for the review of concepts being considered for funding. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review and discussion of previous site visit reports and evaluation of current contracts and for the critique and evaluation of extramural/intramural programmatic and personnel policies, including consideration of personnel qualifications and performance and the competence of individual investigators. These contracts and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the programs, projects, and contracts, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, the Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630E, 6130 Executive Blvd MSC 7405, Bethesda, Maryland 20892–7405, (301–496–5708) will provide a summary of the meetings and the roster of committee members, upon request. Other information pertaining to the meetings may be obtained from the contact person indicated below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed for that particular meeting.

Committee Name: Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Rm 232, 6130 Executive Blvd., Rockville, MD 20892–7094, Telephone: (301) 496–8526

Date of Meeting: May 4–5, 1995.

Place of Meeting: Building 31, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: May 4, 1995 10:45 am to 5 pm May 5, 1995 8:30 am to 11:30 am.

Agenda: Review progress of programs within the Division and review of concepts being considered for funding.

Closed: May 5, 1995 11:30 am to adjournment.

Agenda: Extramural/Intramural programmatic and personnel policies of a sensitive nature and consideration of personnel qualifications and performance and the competence of individual investigators.

Committee Name: Cancer Control Science and Surveillance Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Rm 232, 6130 Executive Blvd., Rockville, MD 20892–7994, Telephone: (301) 496–8526.

Date of Meeting: May 4, 1995.

Place of Meeting: Building 31, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892

Open: 8:30 a.m. to 10:30 a.m.

Agenda: Discuss current and future programs of the subcommittee and review of concepts being considered for funding.

Committee Name: Cancer Prevention Research Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control.

Contact Person: Ms. Linda M. Bremerman, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Rm 232, 5130 Executive Blvd., Rockville, MD 20892–7094, Telephone: (301) 496–8526.

Date of Meeting: May 4, 1995.

Place of Meeting: Building 31, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: 8:30 a.m. to 10:30 a.m.

Agenda: Discuss current and future programs of the subcommittee and review of concepts being considered for funding.

VOL
60
ISS
75
AP
19
1995
UMI

Committee Name: Board of Scientific Counselors, Division of Cancer Biology, Diagnosis, and Centers.

Contact Person: Dr. Ihor J. Masnyk, Executive Secretary, National Cancer Institute, NIH, Bldg 31A, Room 3A11, 9000 Rockville Pike, Bethesda, MD 20892, Telephone: (301) 496–3251.

Date of Meeting: June 13, 1995.

Place of Meeting: Building 31, Conference Room 6, National Institutes of Health, 9000 Rocville Pike, Bethesda, MD 20892.

Open: 1 p.m. to adjournment.

Agenda: Program review and concept review of proposed research projects.

Committee Name: Board of Scientific Counselors, Division of Cancer Etiology.

Contact Person: Dr. Jerry M. Rice, Acting Executive Secretary, National Center Institute, NIH, Bldg 31A, Room 11A03, 9000 Rockville Pike, Bethesda, MD 20892, Telephone: (301) 496–6616.

Date of Meeting: June 15–16, 1995.

Place of Meeting: Building 31, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: June 15, 1995 9 a.m. to recess.

Agenda: Discussion and review of the Division budget and review of concepts for grants and contracts.

Closed: June 16, 1995 9 a.m. to adjournment.

Agenda: Review, discussion and evaluation of individual programs and projects.

Committee Name: Frederick Cancer Research and Development Center Advisory Committee.

Contact Person: Dr. Cedric W. Long, Executive Secretary, National Cancer Institute, NIH, FCRDC, P.O. Box B, Frederick, MD 21702–1201, Telephone: (301) 846–1108.

Date of Meeting: June 26–27, 1995.

Place of Meeting: Executive Board Room, Building 549, NCI Frederick Cancer Research and Development Center, Frederick, MD 21702.

Open: June 16, 1995 8:30 a.m. to approximately 11 a.m.

Agenda: To discuss administrative matters such as future meetings, budget, and information items related to the operation of the NCI Frederick Cancer Research and Development Center.

Closed: June 26, 1995 11 a.m. to recess—June 27, 1995 8 a.m. to adjournment.

Agenda: Discussion of the previous site visit report and response for the Laboratory of Molecular Virology and Carcinogenesis and site visit review of the AIDS Vaccine Program and AIDS projects being conducted by the laboratory of Cell and Molecular Structure.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: April 13, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9609 Filed 4–18–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda:

To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: May 5, 1995.

Time: 2 p.m.

Place: NIH, Westwood Building, Room 325C Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Admin., 5333 Westbard Ave., Room 325C, Bethesda, MD 20892, (301) 594–7198.

Name of SEP: Behavioral and Neurosciences.

Date: May 8, 1995.

Time: 2 p.m.

Place: NIH, Westwood Building, Room 325C Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Admin., 5333 Westbard Ave., Room 325C, Bethesda, MD 20892, (301) 594–7198.

Name of SEP: Multidisciplinary Sciences.

Date: May 31, 1995.

Time: 1 p.m.

Place: NIH, Rockledge II, Room 5114, Telephone Conference.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5114, Bethesda, MD 20892, (301) 594–7276.

Name of SEP: Clinical Sciences.

Date: June 5, 1995.

Time: 8:30 a.m.

Place: ANA Hotel, Washington, DC.

Contact Person: Dr. Mushteq Khan, Scientific Review Admin., 6701 Rockledge Drive, Room 4045, Bethesda, MD 20892, (301) 594–7168.

Name of SEP: Multidisciplinary Sciences.

Date: June 7–9, 1995.

Time: 8:30 p.m.

Place: Parc 55 Hotel, San Francisco, CA.

Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 594–7376.

Name of SEP: Chemistry and Related Sciences.

Date: June 29–30, 1995.

Time: 8:30 a.m.

Place: ANA Westin Hotel, Washington, DC.

Contact Person: Dr. Paul Strudler, Scientific Review Administrator, 6701 Rockledge Drive, Room 4144, Bethesda, MD 20892, (301) 594–7152.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 13, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9610 Filed 4–18–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Meeting of the National Advisory Council on Aging

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, May 25–26, 1995, to be held at the National Institutes of Health, Building 31, Conference Room 6, Bethesda, Maryland. This meeting will be open to the public on Thursday, May 25, from 8:30 a.m. to 3:30 p.m. for the NIA 20th Anniversary Symposium; and on Friday, May 26, from 8:00 to 10:00 a.m. for a status report by the Director, NIA; a report on the Working Group on Program; and a discussion of the Minority Dissertation Award Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on Friday, May 26 from 10:00 a.m. to adjournment for the review, discussion and evaluation of grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Aging, National Institute on Aging, May 25–26, 1995, to be held at the National Institutes of Health, Building 31, Conference Room 6, Bethesda, Maryland 20892 (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. McCann at (301) 496–9322, in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9611 Filed 4–18–95; 8:45 am]

BILLING CODE 4140–01–M

Meetings of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the National Deafness and Other Communication Disorders Advisory Council and its Planning Subcommittee on May 17–19, 1995, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting of the full Council will be held in Conference Room 6, Building 31C, and the meeting of the subcommittee will be in Conference Room 7, Building 31C.

The meeting of the Planning Subcommittee will be open to the public on May 17 from 2:30 pm until 3:30 pm for the discussion of policy issues. The meeting of the full Council will be open to the public on May 18 from 8:30 am until recess for a report from the Institute Director and discussion of extramural policies and procedures at the National Institutes of Health and the National Institute on Deafness and Other Communication Disorders and on May 19 from 8:30 am to approximately 9:30 am for a report on extramural programs of the Division of Human Communication. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the Planning Subcommittee on May 17 will be closed to the public from 3:30 pm to adjournment. The meeting of the full Council will be closed to the public on May 19 from approximately 9:30 am until adjournment. The closed portions of the meetings will be for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council and Subcommittee meetings may be obtained from Dr. Earleen F. Elkins, Executive Secretary, National Deafness and Other Communication Disorders Advisory Council, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Executive Plaza South, Room 400C, 6120 Executive Blvd., MS7180, Bethesda, Maryland 20892, 301–496–8693. A summary of the meetings and rosters of the members may also be obtained from her office. For individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Elkins at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: April 11, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–9612 Filed 4–18–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Supplemental Awards to Current Grantees in the CSAP Substance Abuse Prevention Demonstration Grant Program for High Risk Populations: Module B: Female Adolescents

AGENCY: Center for Substance Abuse Prevention (CSAP), Substance Abuse and Mental Health Services Administration (SAMHSA), DHHS.

ACTION: Availability of supplemental funds for currently funded grantees in CSAP's Substance Abuse Prevention Demonstration Grant Program for high risk populations: Module B: Female Adolescents.

SUMMARY: This notice informs the public that CSAP is making available approximately $600,000 in FY 1995 for up to 13 supplemental awards to existing grantees funded under its Substance Abuse Prevention Demonstration Grant Program for High Risk Populations Program: Module B: Female Adolescents (hereafter referred to as Female Adolescent demonstration grantees). Limiting the use of these supplemental funds to currently funded Female Adolescent demonstration grantees permits more efficient use of available funds by making use of existing grant infrastructures and intervening with active clients in ongoing Female Adolescent projects.

This supplemental funding is designed to support the development of gender-specific training and media literacy activities and their integration into ongoing grant efforts to prevent alcohol, tobacco and other drug (ATOD) use among high risk female adolescent clients.

Female Adolescent grantees are encouraged to apply for these funds. Funds will support initiatives that expand upon existing efforts or add new or different program activities selected from these two areas. Specifically, the supplemental funds are available to supplement up to 13 Female Adolescent grants to design, implement, and evaluate effective, gender-specific training and media literacy activities that will strengthen and enhance currently funded Female Adolescent ATOD prevention projects.

All Female Adolescent demonstration grantees, funded as of September 30, 1994 and in year one of a five-year grant award, are invited to apply for supplemental funds. Awards will be limited to one year and can not exceed a total (direct plus indirect costs) of $50,000. The receipt date for applications is June 20, 1995.

The application receipt, review, and award process will be handled in an expedited manner. Applications will be reviewed for merit by a panel of expert Federal reviewers and supplements will be awarded on the basis of merit and availability of funds no later than September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Mrs Ulonda B. Shamwell, M.S.W., Chief, Perinatal Addiction Prevention Branch, Division of Demonstrations for High Risk Populations, CSAP, Rockwall II-Room 9B–03, 5600 Fishers Lane, Rockville, MD 20857. Telephone (301) 443–4564.

Authority: Awards will be made under the authority of section 517 of the Public Health Service Act, as amended.

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.144.

VOL 60 ISS 75 AP 19 1995 UMI

Dated: April 12, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–9626 Filed 4–18–95; 8:45 am]

BILLING CODE 4162–20–P

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Prevention (CSAP) National Advisory Council in May 1995.

The Council meeting will include a discussion of administrative matters, announcements, SAMHSA and CSAP National Advisory Council subcommittee reports, and reports on the SAMHSA Strategic Plan Field Meetings.

A summary of this meeting and a roster of committee members may be obtained from: Ms. Vera Hunter, Acting Committee Management Officer, CSAP, Rockwall II Building, Suite 7A–140, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (301) 443–9540.

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Center for Substance Abuse Prevention National Advisory Council.

Meeting Date(s): May 25–26, 1995.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Open: May 25, 1995—8:30 a.m.–Adjournment; May 26, 1995—8:00 a.m– Adjournment.

Contact: Yuth Nimit, Ph.D., Rockwall II Building, Suite 7A–140; Telephone (301) 443–9540.

Dated: April 14, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–9698 Filed 4–18–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–076–1220–00]

Recreation Management; Visitor Use Restrictions for Ruby Canyon; Colorado

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of supplementary visitor use restrictions.

SUMMARY: This order, issued under the authority of 43 CFR 8364.1(d), prohibits any campfire except when contained in stoves, grills, or firepans, and it requires visitors to pack out their trash and human waste along a Colorado River corridor.

The identified public lands are in Colorado, Mesa County, under the management jurisdiction of the Bureau of Land Management, Grand Junction Resource Area, Grand Junction District. The river corridor includes all public lands within one-fourth of a mile on either side of the Colorado River from the Loma Launch Site to the Colorado-Utah state line. The area is located in T. 1 N., R. 3 W., Sections 6, 7, 8, 9, 10, 16, 17 and 18, Ute P.M.; T. 10 S., R. 103 W. Sections 5, 6, 7, 8, 15, 16, 17, 18, 19 and 22, 6th P.M.; T. 10 S., R. 104 W., Sections 13, 23, 24, 25, 26, 27, 28, 32, 33 and 34, 6th P.M.; and T. 11 S., R. 104 W., Sections 4, 5, 6, 7, 8 and 9; 6th P.M.

EFFECTIVE DATES: The restrictions shall be in effect year round beginning May 25, 1995 and shall remain in effect until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: This order implements downriver visitor use restrictions mandated in the Ruby Canyon Recreation Area Management Plan, with the Decision Record signed on September 30, 1985 by the Grand Junction Resource Area Manager. The restrictions consist of:

1. Contain wood and charcoal fires within grills or firepans or use stoves. Dead and down wood or driftwood only may be gathered for campfires.

2. All overnight camping groups must possess and use a washable, reusable toilet system that allows for the carry-out and disposal of solid human body waste via an authorized sewer system that is adequate for the size of group and length of trip. All solid human body waste must be carried out of the river area. Dumping or depositing solid human body waste on Public Lands is prohibited. Vault toilets or trash receptacles at BLM administered facilities are not considered appropriate flushing sites for portable toilets. Notice of these regulations will be posted on-the-ground at the Loma Launch Site, at the Grand junction District office and in future river publications. Persons who may be exempted from the restrictions include federal, state, or local officers engaged in fire, emergency law enforcement activities.

PENALTIES: Violations of this restriction order are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Catherine Robertson, Area Manager, Grand Junction Resource Area, 2815 H Road Grand Junction, Colorado 81506; (303) 244–3000.

Mark Morse,

Grand Junction District Manager.

[FR Doc. 95–9656 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–JB–P

[CO–056–1220–00]

Notice of Seasonal Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of seasonal closure of McIntire Springs property in Conejos County, Colorado to all public use from October 1 through February 15 each year.

SUMMARY: Notice is hereby given that effective October 1, 1995, public lands described below are closed to all public use. Under the authority and requirement of 43 CFR 8364.1, and the Federal Land Policy and Management Act of 1976. This closure affects 535 acres of public lands in Conejos County located in T. 35 N., R. 10 E., Sec 12: SE ¼ NE ¼, and the E ½ SE ¼, and Sec 13: N ½ NE ¼ and SE ¼ NE ¼, T.35 N., R.11 E., Sec 7: Lots 2, 3, 4, SE ¼ NW ¼ less Pikes Stockade, NE ¼ SW ¼ and SE ¼ SW¼, and Sec 18: Lots 1 and 2. The purpose of this closure is to minimize disturbance and protect critical wintering waterfowl habitat, reduce overcrowding and minimize outbreaks of avian cholera in wintering waterfowl populations. These restrictions do not apply to emergency, law enforcement and Federal, State or other government personnel who are in the area for official or emergency purposes and who are expressly authorized or otherwise officially approved by BLM. Violation of this closure is punishable by a fine or imprisonment as defined in 18 U.S.C. 3571. Notice of this closure will be posted at the site, San Luis Resource Area Office and at the Canon City District Office.

DATES: This seasonal closure is in effect from October 1, to February 15, each year and shall remain in effect unless revised, revoked or amended.

ADDRESSES: Comments can be directed to the Area Manager, San Luis Resource Area, 1921 State St., Alamosa, CO 81101 or District Manager, Canon City District Office, 3170 East Main, Canon City, CO 81212.

FOR FURTHER INFORMATION CONTACT: Julie Howard, Area Manager at (719) 589–4975.

Stuart L. Freer,

District Manager.

[FR Doc. 95–9584 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–JB–M

[NV–040–1990–01; M46–83–004P]

Bald Mountain Mine Expansion Project Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act, notice is given that the Ely District of the Bureau of Land Management has prepared, by a third party contractor, a Draft Environmental Impact Statement on Placer Dome U.S. Bald Mountain Mine Expansion Project in eastern Nevada. This document is available for public review for a 45 day period.

DATES AND ADDRESSES: Written comments on the Draft Environmental Impact Statement must be postmarked by June 16, 1995.

Public meetings to receive oral and written comments have been scheduled for the dates and places listed below. All meetings will begin at 7:00 p.m. each evening.

- May 8, 1995—at the Ely Bureau of Land Management District Office, 702 Industrial Way, Ely, NV 89301.
- May 9, 1995—Stockman's Motor Hotel, 340 Commercial St., Elko, Nevada 89803.
- May 10, 1995—Sands Regency Hotel Casino, 345 N. Arlington Ave., Reno, Nevada 89501.
- A copy of the Draft Environmental Impact Statement can be obtained from: Bureau of Land Management, Ely District Office, ATTN: Dan Netcher, Project Leader, HC 33 Box 33500, Ely, NV 89301.
- The Draft Environmental Impact Statement is available for inspection at the following additional locations: Bureau of Land Management, Nevada State Office, 850 Harvard Way, Reno, NV 89520; Eureka, White Pine and Elko County Libraries; and the University of Nevada libraries in Reno and Las Vegas.

FOR FURTHER INFORMATION CONTACT: Dan Netcher, Project Leader at the above Ely District Office address or telephone (702) 289–1800.

SUPPLEMENTARY INFORMATION: The Draft Environmental Impact Statement analyzes the potential environmental impacts that could result from the expansion of the current gold mining operations at Bald Mountain Mine and development of the Horseshoe/Galaxy Mine (Proposed Action) and reasonable alternatives. Alternatives analyzed consist of: (1) no action; (2) haul road design; (3) waste rock dump configurations; and (4) reclamation options. The project would involve construction and operation of a new mine at Horseshoe/Galaxy with open pits, crushing facilities, waste dumps, conventional heap leaching facilities and several ancillary facilities. The Bald Mountain Mine expansion would consist of modification of the processing circuit with a wet crushing circuit that would produce a split flow of ore, and the processing facility would consist of both heap leaching and carbon-in-leach facilities with associated tailings. The Bald Mountain Mine expansion would also consist of expansion of the current Top Pit and development of the Sage Pit with corresponding waste rock dumps.

Dated: April 4, 1995.

Ann J. Morgan,

State Director, Nevada.

[FR Doc. 95–9621 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice.

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the City of Waterford, Stanislaus County, California.

SUMMARY: This notice advises the public that the City of Waterford (City) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number 801047. The proposed permit would authorize the incidental take of the threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphis*)(VELB) and/or loss of its habitat during the expansion of the city's wastewater treatment facility (WWTF).

The Service also announces the availability of an environmental assessment (EA) for the incidental take permit application, the proposed habitat conservation plan fully describing the proposed project and mitigation, and the accompanying implementing agreement. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application and EA should be received on or before May 19, 1995.

ADDRESSES: Comments regarding the application or adequacy of the EA should be addressed to Mr. Joel Medlin, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825. Please refer to permit number 801047 when submitting comments. Individuals wishing copies of the application or EA for review should immediately contact the above office at (916) 979–2725.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Horton, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825 (916–979–2725).

SUPPLEMENTARY INFORMATION:

Background

Under Section 9 of the Act, and its implementing regulations, taking of the VELB, a threatened species, is prohibited. However, the Service, under limited circumstances, may issue permits to take threatened species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species are promulgated at 50 CFR 17.32.

The City of Waterford proposes to expand their WWTF along the Tuolumne River in Eastern Stanislaus County, California. As a result of construction activities related to the proposed project, 18 valley elderberry bushes (*Sambucus mexicana*) with 149 individual stems 1 inch or greater in diameter will be destroyed resulting in the incidental taking of VELB. This destruction will be mitigated through the replacement planting and permanent protection of 894 elderberry bush seedlings on approximately 3.9 acres in the immediate area. The City has committed to achieving a 90 percent elderberry plant survival rate at the end of the ten-year monitoring period. The associated native species also will be planted. The City has made sufficient funds available to implement all steps of the mitigation and monitoring plan.

The EA considers a no action alternative. This alternative would not involve the removal of elderberry bushes and consequently would not affect the VELB. Under the no action alternative the City's WWTF would continue to experience "surges" in the flow volume due to municipal storm

VOL 60 ISS 75 AP 19 1995 UMI

water inundation. This alternative was rejected by the City for a number of reasons. First, the current system is antiquated, in need of major renovations and near capacity. Second, continued use of the existing WWTF will likely cause discharge of effluent into the Tuolumne River, one of the nation's waterways. Third, the City anticipates changes in rules and regulations governed by the California Water Quality Control Board concerning small City WWTF's that will require the type of expansion contemplated by the City's proposed plan.

Dated: April 13, 1995.

Thomas Dwyer,

Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 95–9620 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–55–P

Receipt of Application(s) for Permit

The following applicant(s) have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.)

PRT–800923

Applicant: Mr. Philip C. Rosen, University of Arizona, Tucson, Arizona.

The applicant requests a permit to take several endangered and threatened fish species that occur within waters in Arizona for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days from the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESSES** above).

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–9622 Filed 4–18–95; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Agency Report Form Under OMB Review

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The proposed form under review is summarized below

DATES: Comments must be received on or before May 3, 1995. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulson, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, D.C. 20527; (202) 336–8565.

OMB Reviewer: Jeff Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 3201, Washington, D.C. 20503; (202) 395–7340.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Extension.

Title: Preliminary Application for Financing.

Form Number: OPIC 115.

Frequency of Use: Once per project sponsor per project.

Type of Respondents: Business or other institutions.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies investing overseas.

Reporting Hours: 2 hours per application.

Number of Responses: 300 per year.

Federal Cost: $9,216.00 per year.

Authority for Information Collection. Sections 231 and 234 (b) and (c) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): This application is sent to U.S. companies requesting information concerning OPIC's finance program. The information provided by these companies is reviewed by OPIC finance officers to determine the soundness of the proposed project and the applicant's qualification for receiving OPIC financial assistance

Dated: April 11, 1995.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 95–9583 Filed 4–18–95; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

PURPOSE OF INFORMATION COLLECTION: The proposed information collection is for use by the Commission in connection with investigation No. 332–135 for the quarterly preliminary report on U.S. production of selected synthetic organic chemicals, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Summary of Proposal

(1) *Number of forms submitted:* One.

(2) *Title of form:* Preliminary Report on U.S. Production of Selected Synthetic Organic Chemicals (Including Synthetic Plastics and Resins materials).

(3) *Type of request:* Reinstatement.

(4) *Frequency of use:* Quarterly.

(5) *Description of respondents:* Firms manufacturing selected synthetic organic chemicals in the United States.

(6) *Estimated number of respondents:* 233.

(7) *Estimated total number of hours to annually complete the forms:* 932.

(8) *Confidentiality:* Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

ADDITIONAL INFORMATION OR COMMENT: Copies of the proposed form and supporting documents may be obtained from **Elizabeth R. Nesbitt**, telephone (202) 205–3355; email: Elizabeth.Nesbitt@ITC.Sprint.com. Comments about the proposals should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503, Attention: Desk Officer for the U.S. International Trade Commission (telephone no. 202–395–7340). If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly, you should advise OMB of your intent within 2 weeks of the date this notice appears in the **Federal Register**. Copies of any comments should be provided to Robert A. Rogowsky (U.S. International Trade Commission, 500 E Street SW., Washington, D.C. 20436).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Issued: April 13, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–9675 Filed 4–18–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–360]

International Harmonization of Customs Rules of Origin

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for public comment.

EFFECTIVE DATE: April 7, 1995.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2592), or Holm J. Kappler, Deputy Director, O/TA&TA (202–205–2598). Questions with regard to specific products may also be referred to the following coordinators:

Chapters 1–24, 44–49: Ronald H. Heller (202–205–2986)

Chapters 25, 26, 64–83, 86–89: Lawrence A. DiRicco (202–205–2606)

Chapters 27–40: Edward J. Matusik (202–205–3356)

Chapters 41–43, 81–63, 93–97: Thomas W. Divers (202–205–2609)

Chapters 50–66: Larry B. Clayton (202–205–2603)

Chapters 84, 85, 90–92: Craig M. Houser (202–205–2587)

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The media should contact Margaret O'Laughlin, Director, Office of Public Affairs (202–205–1819).

BACKGROUND AND SCOPE OF INVESTIGATION: Following receipt of a letter from the United States Trade Representative (USTR) on January 25, 1995, the Commission has instituted investigation No. 332–360, *International Harmonization of Customs Rules of Origin*, under section 332(g) of the Tariff Act of 1930. The investigation is intended to provide the basis for Commission participation in work pertaining to the Uruguay Round Agreement on Rules of Origin (ARO), negotiated in the Uruguay Round of Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade (GATT) 1994 and adopted along with the Agreement Establishing the World Trade Organization (WTO).

The ARO is aimed at obtaining the harmonization and clarification of nonpreferential rules of origin for goods in trade on the basis of the substantial transformation test; at achieving discipline in the rules' administration; and at providing a framework for notification, review, consultation, and dispute settlement. These harmonized rules are intended to make country-of-origin determinations impartial, predictable, transparent, consistent, and neutral, and to avoid restrictive or distortive effects on international trade. The ARO provides that technical work to those ends will be undertaken by the Customs Cooperation Council (CCC) (now informally known as the World Customs Organization or WCO), which must report on specified matters relating to such rules for further action by parties to the ARO. Eventually, the WTO Ministerial Conference is to "establish the results of the harmonization work program in an annex as an integral part" of the ARO.

In order to carry out the work, the ARO calls for the establishment of a Committee on Rules of Origin of the WTO and a Technical Committee on Rules of Origin (TCRO) of the CCC. These Committees bear the primary responsibility for developing rules that achieve the objectives of the ARO.

A major component of the work program is aimed at harmonizing origin rules for the purpose of providing more certainty in the conduct of world trade. To this end, the agreement contemplates a 3-year CCC program, to be initiated as soon as possible after the entry into force of the Agreement Establishing the WTO. Under the ARO, the TCRO is to undertake (1) to develop harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin, (2) to consider the use of change in Harmonized System classification as a means of reflecting substantial transformation, and (3) for those products or sectors where a change of tariff classification does not allow for the reflection of substantial transformation, to develop supplementary or exclusive origin criteria based on value, manufacturing or processing operations or on other standards.

Coordination and representation of U.S. positions will be managed by the TPSC subcommittee on Origin (chaired by USTR) which is principally concerned with matters before the WTO Origin Committee and by the Interagency Committee on CCC Matters (chaired by Customs) which is principally concerned with technical issues before the TCRO.

CONDUCT OF THE INVESTIGATION: This investigation will provide the basis for the Commission's participation in the harmonization work program and will include (1) soliciting public input to ensure that U.S. business interests are recognized in the development of U.S. proposals, (2) participating in the development and representation of U.S. proposals before the CCC and the WTO, and (3) conducting such other research as the exigencies of the technical work may require.

The Commission will from time to time issue notices and solicit comments and proposals with respect to the development of the work. This initial notice seeks comments with respect to the Rules of Origin published by the U.S. Customs Service as Part 102 of Title 19 of the Code of Federal Regulations which will serve as a starting point in preparing the initial U.S. positions with respect to the CCC and WTO work programs. Subsequent notices will invite comments and proposals on draft U.S. proposals on the rules, which generally will be issued on a product sector basis and will provide information on the status of the work. Finally, during the course of the work program, the Commission will make the results of the TCRO's work available for public comment and hearing.

As called for in the request from the Trade Representative, the Commission is conducting a technical review of the Customs Service's "change of tariff classification" provisions in 19 C.F.R.

VOL
60
ISS
75
AP
19
1995
UMI

Part 102. The Commission will address the sufficiency of these change of tariff classification provisions as a means of determining when substantial transformation has occurred, so as to result in origin being ascribed to the situs country. Specifically, the Commission will attempt to identify instances in which these change of classification rules may lead to different results than the substantial transformation standard, as the latter test has been traditionally applied in determining origin for nonpreferential purposes by U.S. courts and the U.S. Customs Service. In addition, the Commission's analysis will help identify those products or sectors where the change-of-classification approach does not reflect substantial transformation, requiring the use of supplementary or exclusive criteria based upon value, manufacturing or processing operations, or other standards. The Commission will assist in the development of harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin. Moreover, the Commission will help analyze foreign proposals and develop U.S. counterproposals as the CCC and WTO work programs progress, and will review provisionally adopted harmonized rules proposed by the CCC Technical Committee.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning this investigation, and, in particular, the change of tariff classification provisions set out in section 102.20 of the U.S. Customs Service Rules of Origin referenced above. Written statements are encouraged early in the investigative process, and follow-up statements are permitted; but all such statements must be received at the Commission by the close of business on June 15, 1995, in order to be considered. Information supplied to the Customs Service in statements filed pursuant to notices of that agency have been supplied to us and need not be separately provided to the Commission. The Commission is particularly interested in receiving views from the private sector on the suitability of the draft rules as a basis for determining origin for U.S. exports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

PUBLIC HEARING: A public hearing in connection with this investigation may be held upon the request of interested parties. Any such hearing will be announced in a future public notice.

Issued: April 10, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–9674 Filed 4–18–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–722 (Final)]

Honey From the People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–722 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of honey,[1] provided for in heading 0409 and subheadings 1702.90 and 2106.90 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: March 20, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of honey from the People's Republic of China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on October 3, 1994, by counsel on behalf of the American Beekeeping Federation, Inc. and the American Honey Producers Association.

Participation in the investigation and public service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on July 25, 1995, and a public version will be issued thereafter, pursuant to section 207.21 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on August 8, 1995, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before August 1, 1995. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on August 3, 1995, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules. Parties are strongly encouraged to submit as early in the investigation as possible any requests to present a portion of their hearing testimony *in camera*.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.22 of the Commission's rules; the deadline for filing is August 2, 1995. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.24 of the Commission's rules. The deadline for filing posthearing briefs is August 16, 1995; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 16, 1995. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: April 14, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–9676 Filed 4–18–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 332–361]

Global Competitiveness of U.S. Environmental Technology Industries: Air Pollution Prevention and Control

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation.

EFFECTIVE DATE: April 13, 1995.

SUMMARY: In response to a request from the Senate Committee on Finance, the Commission has instituted investigation No. 332–361, Global Competitiveness of U.S. Environmental Technology Industries: Air Pollution Prevention and Control, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Industry-specific information may be obtained from Mr. David Ingersoll (202–205–2218) or Ms. Ann Shildneck (202–205–3499), Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation contact Mr. William Gearhart of the Office of the General Counsel (202–205–3091). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

Background

This is the second of two competitiveness studies requested by the Committee on Finance in its letter of October 14, 1993. The report on the first study, investigation No. 332–347, Global Competitiveness of U.S. Environmental Technology Industries: Municipal & Industrial Water and Wastewater was published on March 31, 1995. Notice of the first investigation was published on November 24, 1993 (58 FR 62137). The Commission expects to submit its second report to the Committee by April 19, 1996.

In its report, the Commission will, as requested by the Committee, seek to examine and report on factors relevant to the global competitiveness of the environmental technology industry, including but not limited to government policies such as export promotion and market development, environmental regulation, technology transfer, technical development assistance, economic development or other financial assistance, and intellectual property protection.

Written Submissions

Interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on October 31, 1995. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

List of Subjects

Environmental protection, Environmental technology, Air pollution, Pollution prevention, Pollution abatement, Pollution control, Export promotion.

Issued: April 14, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–9677 Filed 4–18–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

[1] The product scope covers natural honey, artificial honey containing more than 50 percent natural honey by weight, and preparations of natural honey containing more than 50 percent natural honey by weight. The subject products include all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

VOL 60 ISS 75 AP 19 1995 UMI

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203.

Comments on the following assessment are due 15 days after the date of availability:

AB–88 (Sub-No. 7X), Bessemer and Lake Erie Railroad Company—Abandonment Exemption—In Armstrong and Butler Counties, PA. EA available 4/7/95.

AB–290 (Sub-No. 169X), Norfolk and Western Railway Company—Abandonment—Between Ferguson Junction and Glen Echo, Missouri. EA available 4/7/95.

AB–290 (Sub-No. 163X), Central of Georgia Railway Company—Abandonment—at Atlanta, Georgia. EA available 4/11/95.

AB–290 (Sub No. 158X), Norfolk Southern Railway Company—Abandonment—at Elberton, GA. EA available 4/14/95.

AB–290 (Sub-No. 152X), Norfolk Southern Railway Company—Abandonment—At Blanch, Caswell County, NC. EA available 4/14/95.

Comments on the following assessment are due 30 days after the date of availability:

AB–3 (Sub-No. 122X), Missouri Pacific Railroad Company—Abandonment Exemption—In Saline County, Kansas (Trigo Industrial Lead). EA available 4/14/95.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9652 Filed 4–18–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32672]

Smoky Hill Railway and Historical Society, Inc.—Acquisition and Operation Exemption—Line of Burlington Northern Railroad Company [1]

Smoky Hill Railway and Historical Society, Inc. (SHRHS), a not-for-profit corporation,[2] has filed a notice of exemption to acquire and operate a portion of Burlington Northern Railroad Company's rail line, known as the East Lynne Missouri Branch. The trackage extends between milepost 25.9, between Belton and Peculiar in Cass County, MO, and milepost 37.7 in Kansas City, Jackson County, MO, a total distance of 11.8 miles. Consummation of the transaction was scheduled to take place on or after April 13, 1995.

Any comments must be filed with the Commission and served on: Jeremiah D. Finnegan, 3100 Broadway, Suite 1209, Kansas City, MO 64111.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 13, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9651 Filed 4–18–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Under the Commission's rules of practice at 49 CFR 1150.32(b), this notice, which was filed on March 6, 1995, should have been published in the **Federal Register** within 30 days of its filing, i.e., by April 5, 1995. The information needed to process this notice was not, however, received at the Commission until April 6, 1995.

[2] The involved property was conveyed and quitclaimed to SHRHS in 1990. SHRHS is currently operating the property primarily as a tourist railroad in connection with its railroad museum.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA No. 129F]

Established 1995 Aggregate Production Quota for a Schedule II Controlled Substance

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of an established 1995 aggregate production quota.

SUMMARY: This notice establishes a 1995 aggregate production quota for hydrocodone (for conversion), a controlled substance in Schedule II of the Controlled Substances Act (CSA).

DATES: This order is effective on April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for controlled substances in Schedule I and II each year. This responsibility has been redelegated to the Deputy Administrator of the DEA pursuant to § 0.104 of Title 28 of the Code of Federal Regulations.

On February 13, 1995, a notice of the proposed 1995 aggregate production quota for hydrocodone (for conversion), a Schedule II controlled substance, was published in the **Federal Register** (60 FR 8251). All interested persons were invited to comment on or object to this proposed aggregate production quota on or before March 15, 1995. Comments were received from and a hearing on this matter was requested by one pharmaceutical company. The company maintains that the establishment of this aggregate production quota could have an impact on the United States and international narcotic raw material supply, since hydrocodone is derived from narcotic raw materials.

Pursuant to the Code of Federal Regulations, Title 21, § 1303.11(c), the Deputy Administrator may at his discretion hold a hearing on any issue relevant to the determination of an aggregate production quota. After review of all pertinent information, the Deputy Administrator has determined that no issue was found which warrants a hearing on this matter. Moreover, the proposed 2,200 kg of hydrocodone will not threaten the balance and supply of narcotic raw materials. Therefore the proposal for the 1995 aggregate production quota for hydrocodone (for conversion) is adopted without change.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866. This action has been analyzed in accordance with the principles and criteria in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The establishment of annual aggregate production quotas for Schedules I and II controlled substances is mandated by law and by international treaty obligations. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and redelegated to the Deputy Administrator by § 0.104 of Title 28 of the Code of Federal Regulations, the Deputy Administrator of the DEA hereby orders that the 1995 aggregate production quota for the following controlled substance, expressed in grams of anhydrous base, be established as follows:

Basic class	Established 1995 quota (in grams)
Hydrocodone (for conversion) ..	2,200,000

Dated: April 11, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–9588 Filed 4–18–95; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4) and (6) of section 552b of Title 5, United States Code.

1. *Date:* May 1, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications to direct Summer Seminars for College Teachers in the field of English and American Literature, submitted to the Division of Education Programs, for projects beginning after June 1, 1996.

2. *Date:* May 2, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications to direct Summer Seminars for School Teachers in the field of Foreign Literature and Culture, submitted to the Division of Education Programs, for projects beginning after June 1, 1996.

3. *Date:* May 2, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: M–07.
Program: This meeting will review applications in the Faculty Graduate Study Program for Historically Black Colleges and Universities, submitted to the Division of Research Programs, for projects beginning after September 1, 1995.

4. *Date:* May 3, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications to direct Summer Seminars for School Teachers in the field of Philosophy and Religion, submitted to the Division of Education, for projects beginning after June 1, 1996.

5. *Date:* May 4, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications to direct Summer Seminars for School Teachers in the field of American Studies, submitted to the Division of Education, for projects beginning after June 1, 1996.

6. *Date:* May 4, 1995.
Time: 9:00 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for Elementary and Secondary Education in the Humanities, submitted to the Division of Education Programs, for projects beginning after August 1995.

7. *Date:* May 4–5, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted to Humanities Projects in Media Program during the March 10, 1995 deadline, submitted to the Division of Public Programs, for projects beginning September 1, 1995.

8. *Date:* May 5, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications to direct Summer Seminars for School Teachers in the field of History, Politics, and Society, submitted to the Division of Education Programs, for project beginning after June 1, 1996.

9. *Date:* May 5, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review Biennial/Triennial applications submitted by state humanities councils to Federal-State Partnership, for projects beginning after November 1995.

10. *Date:* May 8, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications to direct Summer Seminars for School Teachers in the field of Classical, Medieval, and Renaissance, submitted to the Division of Education Programs, for projects beginning after June 1, 1996.

11. *Date:* May 8, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review Biennial/Triennial applications submitted by state humanities councils to Federal-State Partnership, for projects beginning after November 1995.

12. *Date:* May 8–9, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415/May 8;—430/May 9.
Program: This meeting will review applications submitted to Humanities Projects in Media Program during the March 10, 1995 deadline, submitted to the Division of Public Programs, for projects beginning after September 1, 1995.

13. *Date:* May 9, 1995.
Time: 8:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review applications to direct Summer Seminars for School Teachers in the field of British and American Literature, submitted to the Division of Education Programs, for projects beginning after June 1, 1996.

14. *Date:* May 9, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review proposals submitted to the April 1, 1995 deadline in the Higher Education Programs, submitted to the Division of Education Programs, for projects beginning after October, 1995.

15. *Date:* May 15, 1995.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review Biennial/Triennial; applications submitted by state humanities councils to Federal-State Partnerships, for projects beginning after November, 1995.

16. *Date:* May 16, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review proposals submitted to the April 1, 1995 deadline in the Higher Education Programs, for projects beginning after October, 1995.

17. *Date:* May 18, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review proposals submitted to the April 1, 1995 deadline in the Higher Education Program, for projects beginning after October, 1995.

18. *Date:* May 19, 1995.

VOL 60 ISS 75 AP 19 1995 UMI

Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review Biennial/Triennial applications submitted by state humanities councils to Federal-State Partnership, for projects beginning after November, 1995.

19. *Date:* May 22, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review proposals submitted to the April 1, 1995 deadline in the Higher Education Program, for projects beginning after October, 1995.

20. *Date:* May 24, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 415.
Program: This meeting will review proposals submitted to the April 1, 1995 deadline in the Higher Education Program, for projects beginning after October, 1995.

21. *Date:* May 25–26, 1995.
Time: 9:00 a.m. to 5:30 p.m.
Room: 430.
Program: This meeting will review applications for Special Projects of the Special Competition deadline for April 28, 1995, submitted to the Division of Public Programs, for projects beginning after September, 1995.

David C. Fisher,

Advisory Committee, Management Officer.

[FR Doc. 95–9678 Filed 4–18–95; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–306]

Northern States Power Company (Prairie Island Unit 2); Exemption

I

Northern States Power Company (NSP, the licensee) is the holder of Facility Operating License No. DPR–60 which authorizes operation of Prairie Island Nuclear Generating Plant, Unit No. 2. The unit is a pressurized water reactor (PWR) located in Goodhue County, Minnesota. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II

Pursuant to 10 CFR 50.12(a), the NRC may grant exemptions from the requirements of the regulations (1) which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) where special circumstances are present.

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of three Type A containment integrated leakage rate tests (ILRTs), at approximately equal intervals during each 10-year service period of the primary containment. The third test of each set shall be conducted when the plant is shut down for the 10-year inservice inspection of the primary containment.

III

By letters dated February 23 and March 3, 1995, NSP requested temporary relief from the requirement to perform a set of three Type A tests at approximately equal intervals during each 10-year service period of the primary containment. The requested exemption would permit a one-time interval extension of the third Type A test by approximately 24 months (from the 1995 refueling outage, currently scheduled to begin in May 1995, to the 1997 refueling outage) and would permit the third Type A test of the second 10-year inservice inspection period to not correspond with the end of the current American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code) inservice inspection interval.

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii), as the basis for the exemption. NSP points out that the existing Type B and C testing programs are not being modified by this request and will continue to effectively detect containment leakage caused by the degradation of active containment isolation components as well as containment penetrations. It has been the consistent and uniform experience at Prairie Island Nuclear Generating Plant, Unit No. 2, during the five Type A tests conducted from 1977 to date, that any significant containment leakage paths are detected by the Type B and C testing. The Type A test results have only been confirmatory of the results of the Type B and C test results.

IV

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 states that a set of three Type A leakage rate tests shall be performed at approximately equal intervals during each 10-year service period.

The licensee proposes an exemption to this section which would provide a one-time interval extension for the Type A test by approximately 24 months. The Commission has determined, for the reasons discussed below, that pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of the requirement to perform Type A containment leak rate tests at intervals during the 10-year service period is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown. The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee has a good record of ensuring a leak-tight containment. All Type A tests have passed with significant margin and the licensee has noted that the results of the Type A testing have been confirmatory of the Type B and C tests which will continue to be performed. The licensee has stated that it will perform the general containment inspection although it is only required by Appendix J (Section V.A.) to be performed in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary. The Prairie Island containment vessels are free-standing steel structures designed for the peak pressure of the design basis accident and low leakage. A concrete shield building surrounds the containment vessel, providing a shield building annulus between the two structures. Penetrations of the containment vessel for piping, electrical conductors, ducts and access hatches are provided with double barriers against leakage. The NRC staff also notes that due to the free-standing design of the containment structure, the vessel shell and penetrations are accessible for inspection from both inside containment and outside in the shield building annulus.

The NRC staff has also made use of the information in a draft staff report, NUREG–1493, "Performance-Based Containment Leak-Test Program," which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG–1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3% of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks. The Prairie Island Nuclear Generating Plant, Unit No. 2, experience has also been consistent with these results.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1L_a$. Of these, only nine were not type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the leakage was found to be approximately $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG–1493). Therefore, based on these considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at Prairie Island Nuclear Generating Plant, Unit No. 2, would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule. Based on the generic and plant-specific data, the NRC staff finds the basis for the licensee's proposed one-time schedular exemption to allow an extension of one cycle for the performance of the Appendix J, Type A test, provided that the general containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this exemption will not have a significant effect on the quality of the human environment (60 FR 18428).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of April 1995.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9637 Filed 4–18–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Medical Uses of Isotopes: Meeting Notice

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Meeting.

SUMMARY: The U.S. Nuclear Regulatory Commission will convene its next regular meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) on May 11 and 12, 1995. Topics of discussion will include: (1) Brachytherapy issues; (2) Guidance documents for the final Radiopharmacy Rule; (3) Prostate implant procedures; (4) National Program Review II; (5) Training and experience of authorized users to allow exemptions to Subpart J; (6) Dose ranges in written directives; (7) Petition to review the final Radiopharmacy Rule; (8) Information from NIST on Sr–90 calibration errors for eye applicators; (9) Revisions to Regulatory Guide 10.8; (10) Status of implementation of the Quality Management rule; (11) Update on the study of the medical use program by the National Academy of Science; (12) Summary of "Business Process Reengineering;" (13) Update on rulemakings: "Medical Administration of Radiation and Radioactive Materials," "Release of Patients Containing Radiopharmaceuticals or Permanent Implants," and "Administration of Byproduct Material or Radiation from Byproduct Material to Patients who may be Pregnant or Nursing."

DATES: The meeting will begin at 8 a.m. on May 11 and 12, 1995.

ADDRESSES: U.S. Nuclear Regulatory Commission, Two White Flint North, 11545 Rockville Pike, Room T2B3, Rockville, MD 20852–2738.

FOR FURTHER INFORMATION CONTACT: Josephine M. Piccone, Ph.D., U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, MS T8F5, Washington, DC 20555, Telephone (301) 415–7270. For administrative information, contact Torre Taylor, (301) 415–7900.

Conduct of the Meeting

Barry Siegel, M.D., will chair the meeting. Dr. Siegel will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit a reproducible copy to Josephine M. Piccone (address listed above). Comments must be received by May 3, 1995, to ensure consideration at the meeting. The transcript of the meeting will be kept open until May 19, 1995, for inclusion of written comments.

2. Persons who wish to make oral statements should inform Dr. Piccone in writing, by May 3, 1995. Statements must pertain to the topics on the agenda for the meeting. The Chairman will rule on requests to make oral statements. Members of the public will be permitted to make oral statements if time permits. Permission to make oral statements will be based on the order in which requests are received. In general, oral statements will be limited to approximately 5 minutes. Oral statements must be supplemented by detailed written statements for the record. Rulings on who may speak, the order of presentation, and time allotments may be obtained by calling Dr. Piccone, (301) 415–7270, between 8 a.m. and 4 p.m., EST, on May 9, 1995.

3. At the meeting, questions from attendees other than committee members, NRC consultants, and NRC staff will be permitted at the discretion of the Chairman.

4. The transcript, minutes of the meeting, and written comments will be available for inspection, and copying, for a fee, at the NRC Public Document Room, 2120 L Street NW, Lower Level, Washington, DC 20555 (202) 634–3273, on or about May 26, 1995.

5. Seating for the public will be on a first-come, first-served basis.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in Title 10, *Code of Federal Regulations*, Part 7.

Dated: April 13, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–9638 Filed 4–18–95; 8:45 am]

BILLING CODE 7590–01–M

VOL 60 ISS 75 AP 19 1995 UMI

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Planning and Procedures

The ACRS Subcommittee on Planning and Procedures will hold a meeting on May 3, 1995, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy

The agenda for the subject meeting shall be as follows:

Wednesday, May 3, 1995—2:00 p.m. Until the Conclusion of Business

The Subcommittee will discuss proposed ACRS activities and related matters. It will also discuss the status of the appointment of members to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: April 13, 1995.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 95–9639 Filed 4–18–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 4–6, 1995, in Conference Room T2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Wednesday, December 28, 1994 (59 FR 66977).

Thursday, May 4, 1995

8:30 A.M.–8:45 A.M.. Opening Remarks by the ACRS Chairman (Open)

The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 A.M.–10:15 A.M. Regulatory Reform Initiatives (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the status of regulatory reform initiatives that involve a systematic review of reactor regulations, regulatory practices, and programs.

Representatives of the industry will participate, as appropriate.

10:30 A.M.–12:30 P.M. National Performance Review Phase II (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding its efforts and approach to evaluate the NRC regulations and functions along the lines suggested by the National Performance Review Phase II.

Representatives of the industry will participate, as appropriate.

1:30 P.M.–2:45 P.M.. Best-Estimate Thermal Hydraulic Codes (Open/Closed)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the procedures being used by the staff for reviewing the best-estimate ECCS thermal hydraulic codes

Representatives of the industry will participate, as appropriate.

A portion of this session may be closed to discuss Westinghouse proprietary information applicable to this matter

2:45 P.M.–4:15 P.M.. Generic Letter on Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Nuclear Energy Institute regarding the proposed final version of the Generic Letter on Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes.

4:30 P.M.–6:30 P.M. Preparation of ACRS Reports (Open)

The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, May 5, 1995

8:30 A.M.–8:35 A.M.. Opening Remarks by the ACRS Chairman (Open)

The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 A.M.–10:30 A.M. Processes for Reviewing and Evaluating Operating Events (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the processes being used by the NRC Offices of Nuclear Reactor Regulation (NRR) and Analysis and Evaluation of Operational Data (AEOD) for reviewing and evaluating operating events, including events at foreign nuclear power plants.

Representatives of the industry will participate, as appropriate

10:45 A.M.–11:45 A.M. Report of the Planning and Procedures Subcommittee (Open/Closed)

The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business and internal organizational and personnel matters relating to the ACRS staff members.

A portion of this session may be closed to discuss matters that relate solely to internal personnel rules and practices of this Advisory Committee, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy

11:45 A.M.–12:00 Noon: Reconciliation of ACRS Comments and Recommendations (Open)

The Committee will discuss responses expected from the NRC Executive Director for Operations to ACRS comments and recommendations included in recent ACRS reports.

1:00 P.M.–2:00 P.M.. License Renewal for Nuclear Power Plants, Scope of Environmental Effects (Open)

The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final revisions to 10 CFR Part 51, License Renewal for Nuclear Power Plants, Scope of Environmental Effects.

Representatives of the industry will participate, as appropriate.

2:00 P.M.–2:45 P.M.. Future ACRS Activities (Open)

The Committee will select topics for consideration during future ACRS meetings

3:00 P.M.–6:30 P.M.: Preparation of ACRS Reports (Open)

The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

Saturday, May 6, 1995

8:30 A.M.–11:30 A.M.: Preparation of ACRS Reports (Open)

The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

11:30 A.M.–12:30 P.M.: Strategic Planning (Open)

The Committee will continue its discussion of which items that are of importance to the Commission should receive additional emphasis in its future deliberations.

12:30 P.M.–12:45 P.M.. New Research Needs (Open)

The Committee will discuss new research needs, if any, identified during this meeting.

12:45 P.M.–1:00 P.M.: Miscellaneous (Open)

The Committee will discuss miscellaneous matters related to the conduct of Committee activities.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 5, 1994 (59 FR 50780). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Dr. John T. Larkins, at least five days before the meeting if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

In accordance with subsection 10(d) P.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss proprietary information per 5 U.S.C. 552b(c)(4); information that involves the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2); and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the ACRS Executive Director, Dr. John T. Larkins (telephone 301–415–7361), between 7:30 A.M. and 4:15 P.M. EDT.

Dated: April 13, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–9640 Filed 4–18–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given that the forty-fourth meeting of the Federal Salary Council will be held at the time and place shown below. At the meeting the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meeting is open to the public.

DATES: May 10, 1995, at 10:00 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street NW., Room 7B09, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office of Personnel Management, 1900 E Street NW., Room 6H31, Washington, DC 20415–0001. Telephone number: (202) 606–2838.

For The President's Pay Agent:

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–9593 Filed 4–18–95; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Certification Regarding Rights to Unemployment Benefits.

(2) *Form(s) submitted:* UI–45.

(3) *OMB Number:* 3220–0079.

(4) *Expiration date of current OMB clearance:* June 30, 1995.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households, Business or other for-profit.

(7) *Estimated annual number of respondents:* 2,250.

(8) *Total annual responses:* 3,750.

(9) *Total annual reporting hours:* 688.

(10) *Collection description:* In administering the disqualification for the voluntary leaving of work provision of Section 4 of the Railroad Unemployment Insurance Act, the Railroad Retirement Board investigates an unemployment claim that indicates the claimant left voluntarily. The certification obtains information needed to determine if the leaving was with good cause.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 95–9587 Filed 4–18–95; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T Copenhafer, (202) 942–8800

Upon written request copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549

Extension

Rule 15g–9

File No. 270–325

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. §§ 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval for Rule 15g–9 [17 CFR 240.15g–9] (formerly Rule 15c2–6) under the Securities Exchange Act of

VOL
60
ISS
75
AP
19
1995
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1934 (15 U.S.C. §§ 78a *et seq.*), which imposes sales practice requirements on broker-dealers who recommend purchases of certain low-priced, non-NASDAQ OTC securities to persons other than established customers of the broker-dealers. It is estimated that approximately 400 respondents will incur an average burden of 78 hours per year to comply with this rule, for a total annual burden of 31,200 hours.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and the Clearance Officer for the Securities and Exchange Commission, Paperwork Project Number 3235–0385, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: April 12, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9670 Filed 4–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21005; 811–4662]

SAFECO U.S. Government Securities Fund, Inc.; Notice of Application

April 13, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO U.S. Government Securities Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942–0579, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized as a corporation under the laws of the State of Washington. On May 6, 1986, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on July 15, 1986, and the initial public offering commenced on that date.

2. On May 6, 1993, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") between applicant and SAFECO Taxable Bond Trust, a registered open-end management investment company organized under the laws of Delaware (the "Acquiring Fund").[1]

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas Delaware trusts have no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Acquiring Fund, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC and afterwards distributed such proxy materials to its shareholders. On August 5, 1993, applicant's shareholders approved the reorganization.

5. Pursuant to the Plan, on September 30, 1993, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On September 30, 1993, applicant had 6,252,370.373 shares outstanding, having an aggregate net asset value of $62,719,739.85 and a per share net asset value of $10.03.

6. Expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs for the proxy solicitation, were approximately $12,068 and were paid by applicant.

7. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant filed articles of dissolution with the State of Washington on October 1, 1993.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9671 Filed 4–18–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

[Rel. No. IC–21006; 811–7296]

SAFECO Intermediate-Term Municipal Bond Fund, Inc.; Notice of Application

April 13, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO Intermediate-Term Municipal Bond Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942–0579, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized as a corporation under the laws of the State of Washington. On October 21, 1992, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on March 18, 1993, and the initial public offering commenced on that date.

2. On May 6, 1993, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") between applicant and SAFECO Tax-Exempt Bond Trust, a registered open-end management investment company organized under the laws of Delaware (the "Acquiring Fund").[1]

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas Delaware trusts have no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Acquiring Fund, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC and afterwards distributed such proxy materials to its shareholders. On August 5, 1993, applicant's shareholders approved the reorganization.

5. Pursuant to the Plan, on September 30, 1993, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On September 30, 1993, applicant had 716,492.424 shares outstanding, having an aggregate net asset value of $7,642,305.23 and a per share net asset value of $10.67.

6. Expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs for the proxy solicitation, were approximately $4,417 and were paid by SAFECO Asset Management Company, applicant's former investment adviser.

7. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant filed articles of dissolution with the State of Washington on October 1, 1993.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9672 Filed 4–18–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

[Rel. No. IC–21007; 811–278]

SAFECO Equity Fund, Inc.; Notice of Application

April 13, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SAFECO Equity Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, SAFECO Plaza, Seattle, WA 98185.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Senior Attorney, at (202) 942–0579, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

VOL 60 ISS 75 AP 19 1995 UMI

Applicant's Representations

1. Applicant is an open-end diversified management investment company that was organized as a corporation under the laws of the State of Washington. On November 28, 1933, applicant filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on November 28, 1933, and the initial public offering commenced on that date. On November 12, 1940, applicant registered under the Act as an investment company.

2. On May 6, 1993, applicant's board of directors approved an agreement and plan of reorganization (the "Plan") between applicant and SAFECO Common Stock Trust, a registered open-end management investment company organized under the laws of Delaware (the "Acquiring Fund").[1]

3. By moving its assets from a Washington corporation to a Delaware trust, applicant expects its shareholders to benefit from the adoption of new methods of operations and employment of new technologies that are expected to reduce costs. For example, Washington corporations are required to hold annual meetings, whereas Delaware trusts have no such requirement. Further, Delaware trusts generally have greater flexibility than Washington corporations to respond to future contingencies, allowing such trusts to operate under the most advanced and cost efficient form of organization. For example, Delaware law authorizes electronic or telephonic communications between a Delaware trust and its shareholders. In addition, as one of several series of the Acquiring Fund, applicant's shareholders should enjoy certain expense savings through economies of scale that would not be available to a stand-alone entity.

4. On May 7, 1993, applicant filed proxy materials with the SEC and afterwards distributed such proxy materials to its shareholders. Applicant's shareholders approved the reorganization at a regular meeting of shareholders on August 5, 1993, that was reconvened at a special meeting of shareholders on September 22, 1993.

5. Pursuant to the Plan, on September 30, 1993, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund. Immediately thereafter, applicant distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On September 30, 1993, applicant had 11,872,883.263 shares outstanding, having an aggregate net asset value of $148,894,185.84 and a per share net asset value of $12.54.

6. Expenses incurred in connection with the reorganization, consisting of legal fees, accounting fees, and printing and mailing costs for the proxy solicitation, were approximately $22,710 and were paid by applicant.

7. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

8. Applicant filed articles of dissolution with the State of Washington on October 1, 1993.

9. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret M. McFarland,

Deputy Secretary.

[FR Doc. 95-9673 Filed 4-18-95; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant's board of directors determined that the Plan was in the best interests of applicant and that the interests of applicant's existing shareholders would not be diluted as a result of effecting the transactions.

[Release No. 34-35801; File No. SR-PHLX-95-18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Automated Options Market System and AUTO-X Eligibility of Certain Orders

April 13, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1995, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to codify its practice of accepting stop, stop-limit, all-or-none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market-on-close, opening-only-market, and possible duplicate orders for delivery through the PHLX's Automated Options Market ("AUTOM") system. In addition, the PHLX proposes to codify its practice of accepting orders designated as "day" orders, which are executable on the day they are entered or not at all, and good-till-cancelled ("GTC") orders for delivery through AUTOM and execution through AUTO-X, the automatic execution feature of AUTOM. Currently, day orders and GTC orders are accepted on the PHLX's trading floor as both manually entered orders on floor tickets and through AUTOM.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposal is to codify (1) the acceptance of certain order types and designators for electronic execution through AUTOM; and (2) the designation of certain types of orders that are executed through AUTO-X. AUTOM, which has operated on a pilot basis since 1988 and was most recently extended through December 31, 1995,[1] is the PHLX's electronic order routing, delivery, execution and reporting system for equity and index options. AUTOM is an on-line system that allows electronic delivery of options orders from member firms directly to the appropriate specialist on the Exchange's trading floor.

Orders for up to 100 options contracts are eligible for AUTOM and public customer orders for up to 25 contracts are eligible for AUTO-X, the automatic execution feature of AUTOM.[2] AUTO-X orders are executed automatically at the disseminated quotation price on the Exchange and reported to the originating firm. Orders that are not eligible for AUTO-X are handled manually by the specialist.

At the inception of the AUTOM pilot program, only customer market orders were AUTOM-eligible. Thereafter, the Commission approved proposals permitting delivery of marketable limit, GTC, and cabinet orders (accommodation transactions) through AUTOM.[3]

Exchange By-Law Article X, "Standing Committees," Section 10-18, "Options Committee," grants authority over all connections and communications on the options floor, including AUTOM, to the Options Committee. Pursuant to this authority, the Options Committee decided in 1991 to accept certain additional order types for AUTOM and AUTO-X in the interest of maintaining fair and orderly markets.

The PHLX proposes to incorporate the following order types into the AUTOM pilot program: stop,[4] stop-limit,[5] all-or-none,[6] market-on-close,[7] opening-only-market,[8] and cancel-replacement orders.[9] In addition, the PHLX proposes to codify the following order conditions into the AUTO pilot program: or better,[10] possible duplicate orders,[11] and several types of cancellation conditions—simple cancel, simple cancel to reduce size (cancel leaves) and cancel to change price.[12] Currently, these orders are accepted and these designations are utilized for both manual and AUTOM-delivered orders.

With respect to automatic executions, market and marketable limit orders currently are eligible for AUTO-X. The PHLX proposes to codify its practice of designating AUTO-X orders with the conditions "day" or "GTC." Market or marketable limit orders, like all AUTOM orders, are necessarily "day" orders expiring at the end of the trading day or GTC orders that are good until cancelled. Thus the PHLX explains that the proposal to codify the use of "day" and "GTC" designators for AUTO-X merely reveals the life span of AUTO-X orders, without adding new order types.

The Exchange believes that these order types are appropriate for AUTOM and AUTO-X because they are commonly utilized in the securities industry and have been accepted through AUTOM since 1991 without significant problems reported by AUTOM users. In addition, the PHLX believes that incorporating such orders into AUTOM extends the benefits of these systems to additional order types.

The PHLX states that all of the additional order types and designators are currently accepted on the Exchange as manual orders, and are thus defined in PHLX Rule 1066, "Certain Types of Orders Defined." The PHLX specialist can accept these orders for placement on the limit order book. According to the PHLX, permitting these orders to be routed by AUTOM directly to the specialist does not affect the handling of the orders by the specialist. For example, an AUTOM order can be placed on the book. None of these orders are discretionary orders, which may not be placed on the book under Floor Procedure Advice ("Advice") A-2, "Types of Orders to be Accepted onto the Specialist's Book."[13] Thus, according to the PHLX, the effect of the proposal is to permit orders that can now be held by a specialist to be routed electronically through AUTOM, as opposed to be being routed manually through trading floor representatives.

The Exchange notes that the material terms of these orders are relayed to the specialist by AUTOM and displayed on the order ticket, which is printed at the specialist post. This information is the same as if the order were manually delivered. A computer screen displays the following information respecting incoming AUTOM orders to the trading crowd: numeric designation, buy or sell, call or put, volume, symbol, month, strike, price, and time received.

Accordingly, the PHLX believes that the proposal is consistent with Section 6(b) of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by codifying certain order types and condition designations into the AUTOM

[1] *See* Securities Exchange Act Release No. 35183 (December 30, 1994), 60 FR 2420 (January 9, 1995) (order approving File No. SR-PHLX-94-41). *See also* Securities Exchange Act Release Nos. 28540 (March 31, 1988), 53 FR 11390 (order approving AUTOM on a pilot basis); 25668 (June 30, 1988), 53 FR 25563 (order approving File No. SR-PHLX-88-22, extending pilot through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (order approving File No. SR-PHLX-88-33, extending pilot program through June 30, 1989); 26522 (February 3, 1989), 54 FR 6468 (order approving File No. SR-PHLX-89-1, extending pilot through December 31, 1989); 27509 (January 9, 1990), 55 FR 1751 (order approving File No. SR-PHLX-89-03, extending pilot through June 30, 1990); 28625 (July 26, 1990), 55 FR 31274 (order approving File No. SR-PHLX-90-16, extending pilot through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (order approving File No. SR-PHLX-90-34, extending pilot through December 31, 1991); 29662 (September 9, 1991), 56 FR 46816 (order approving File No. SR-PHLX-91-31, permitting AUTO-X orders up to 20 contracts in Duracell options only); 29782 (October 3, 1991), 56 FR 55146 (order approving File No. SR-PHLX-91-33, permitting AUTO-X for all strike prices and expiration months); 29837 (October 16, 1991), 56 FR 36496 (order approving File No. SR-PHLX-90-03, extending pilot through December 31, 1993); 32908 (September 15, 1993), 58 FR 15166 (order approving File No. SR-PHLX-93-36, permitting AUTO-X orders up to 25 contracts in all options); and 33405 (December 30, 1993), 59 FR 780 (order approving File No. SR-PHLX-93-57, extending pilot through December 31, 1994).

[2] The Commission recently approved a PHLX proposal to codify the use of AUTOM and AUTO-X for index options. *See* Securities Exchange Act Release No. 34439 (October 31, 1994), 59 FR 5510 (November 7, 1994) (order approving File No. SR-PHLX-94-49).

[3] *See* Securities Exchange Act Release Nos. 27509 (making day limit orders eligible for delivery through AUTOM) and 29978 (making GTC and cabinet orders eligible from AUTOM), *supra* note 1.

[4] A "stop" order is a contingency order to buy or sell when the market for a particular option contract reaches a specified price. A stop order to buy becomes a market order when the option contract trades at or above the stop price. A stop order to sell becomes a market order when the option contract trades at or below the stop price. *See* PHLX Rule 1066(c)(2), "Stop (stop-loss) Order."

[5] A stop-limit order is a contingency order to buy or sell at a limited price when the market for a particular option contract reaches a specified price. A stop-limit order to buy becomes a limit order when the option contract trades at or above the stop price. A stop-limit order to sell becomes a limit order when the option contract trades at or below the stop price. *See* PHLX Rule 1066(c)(1), "Stop-Limit Order."

[6] An "all-or-none order" is a market or limit order to be executed in its entirety or not at all. *See* PHLX Rule 1066(c)(4), "All or None Order."

[7] A "market-on-close" order is a market or limit order to be executed as close as possible to the closing bell, or during the closing rotation and should be near to or at the closing price for the particular series. *See* PHLX Rule 1066(c)(6), "Market-on-Close Order."

[8] An "opening-only-market" order is a market order which is to be executed in whole or in part during the opening rotation or not at all. *See* PHLX Rule 1066(c)(5).

[9] "Cancel-replacement" is an order which requires the immediate cancellation of a previous order prior to the replacement of a new order. *See* PHLX Rule 1066(c)(7), "Cancel-Replacement Order."

[10] The designation "or better" indicates that the originator of the order is aware that the market is currently better than the limit price of the order; this order is not filled at a price outside of the "or better" price. The "or better" designation is used to verify the validity of the order and confirms that the order was entered on the correct side.

[11] "Possible duplicate" is a status which indicates that before an AUTOM order is executed manually by the specialist, the specialist should confirm that the order has not yet been executed.

[12] Various types of cancellation conditions and procedures are defined in Option Floor Procedure Advice A-6, "Responsibility to Cancel Orders on the Book" as well as PHLX Rule 1066, "Certain Types of Orders Defined." The designation "simple cancel" indicates that an order is to be cancelled, while "cancel leaves" indicates that the size of a previous order is being reduced and "cancel to change price" cancels the price of a previous order.

[13] Under Advice A-2, a specialist may not accept option orders consisting of two or more option series (e.g., spread, straddle, and combination orders).

VOL 60 ISS 75 AP 19 1995 UMI

pilot program. Specifically, the Exchange believes that the additional order types benefit from the advantages of AUTOM, including efficient and prompt order delivery and execution.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after April 4, 1995, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes that the proposal does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 10, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9668 Filed 4–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35800; File No. SR–PSE–95–06]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to New Organizational Structures

April 13, 1995.

On February 21, 1995, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Articles V and VIII of its Constitution to allow for the admission of entities with new organizational structures as member organizations.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35443 (March 6, 1995), 60 FR 13196 (March 10, 1995). No comments were received on the proposal. This order approves the proposed rule change.

I. Proposal

The PSE Constitution currently allows members of the Exchange to confer the privileges of their memberships on a firm which may be either a partnership or a corporation. The Exchange is proposing to amend Article VIII, Section 1(a) of its Constitution to provide that the Exchange may, in its discretion, and on such terms as the Exchange may prescribe, approve as a member firm, entities that have characteristics essentially similar to corporations, partnerships, or both.[3] In addition, the Exchange is proposing to amend Article V, Sections 4, 5, and 7 of the PSE Constitution (definitions of "member firm," "member organization," and "associated person") to be consistent with the proposed change to Article VIII, Section 1(a). The Exchange is proposing to add the phrase "or other organization" to the definitions of "member firm" and "member organization" and to add the phrases "member of a Limited Liability Company" and "trustee of a business trust" to the definition of "associated person." These amendments would permit the Exchange to approve business trusts, limited liability companies and other organizational structures as member organizations so long as the characteristics of the entity in question are essentially similar to those of corporations or partnerships.

The Exchange believes that the rule change is consistent with Section 6(b) of the Exchange Act, in general, and Section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b).[4] Specifically, the Commission believes the amendment is consistent with the Section 6(b)(2)[5] of the Act, which requires the rules of an exchange, subject to the provisions of Section 6(c) of the Act,[6] to ensure that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of the exchange and any person may become associated with a member thereof.

The PSE Constitution currently allows members of the Exchange to confer the privileges of their membership on a firm which may be either a partnership or a corporation. The amendments would enable entities with new organizational structures similar to corporations and partnerships to become Exchange members and be included in the Exchange's definition of a member organization. As in the case of a partnership or corporation applying for

[14] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange stated that non-corporate or partnership entities would have to be structured in such a format that would qualify as a broker or dealer registered with the SEC pursuant to the Act, since this is a prerequisite to becoming an Exchange member organization. Telephone conversation between Michael D. Pierson, Senior Attorney, PSE, and Elisa Metzger, Senior Counsel, SEC, on March 3, 1995.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(2).

[6] 15 U.S.C. 78f(c).

membership, the new entity will be subject to all other requirements for membership approval.

The Commission believes that the amendments to Articles V and VIII of the PSE Constitution reasonably balance the Exchange's interest in having the flexibility to approve entities with new organizational structures for Exchange membership, with the regulatory interests in protecting the financial and structural integrity of a member organization. For example, although the amendments permit the Exchange to approve business trusts, limited liability companies, or other organizational structures with characteristics of corporations or partnerships as member organizations, the PSE will review each Exchange member organization application on a case-by-case basis, and prior to approving any such organization for membership, the Exchange must be satisfied that: (1) the Exchange would legally have appropriate jurisdiction over such an entity; and (2) the permanency of the entity's capital is consistent with that required of other member organizations.

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–PSE–95–06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9669 Filed 4–18–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Office of Inspector General

Privacy Act of 1974; Report on Changes to Systems of Records

AGENCY: Office of Inspector General (OIG), SSA.

ACTION: Notice.

SUMMARY: This notice sets forth information on two systems of records, currently maintained by the Inspector General of the Department of Health and Human Services (HHS/IG), that are now being duplicated and slightly modified for use by the Inspector General of the Social Security Administration (SSA/IG).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(1)(12).

FOR FURTHER INFORMATION CONTACT:

Olive Franklin, Office of Investigations, (202)–619–2501.Glenn Sklar, Office of the General Counsel, (410)–965–6247.

SUPPLEMENTARY INFORMATION: The Social Security Independence and Program Improvements Act of 1994 (SSIPIA), Pub. L. 103–296, separated the Social Security Administration (SSA) from its parent agency, the Department of Health and Human Services (HHS), and established SSA as an independent agency effective March 31, 1995. The SSIPIA also required that all functions relating to SSA that were previously performed by the HHS/IG must be transferred to the SSA/IG. In order to perform these functions, the SSA/IG must duplicate, and slightly modify, two systems of records that are currently maintained by the HHS/IG. Therefore, the system of records entitled "Criminal Investigative Files of the Inspector General, HHS/OS/OIG" (09–90–0003) last published on November 2, 1990, and the system of records entitled "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG" (09–90–0100) last published on September 30, 1982, will now describe both the HHS system of records and the SSA system of records. The SSA system of records will simply require minor conforming changes to system names, numbers, and managers that are described below.

At the present time, the SSA/IG will not be expanding record coverage, changing routine uses, or affecting an individual's ability to access his or her records in any significant way for these systems of records.

SYSTEM NAME AND NUMBER: OIG–001—Criminal Investigative Files of the Inspector General, SSA/OIG. (Duplicating existing HHS system of records 09–90–0003 entitled "Criminal Investigative Files of the Inspector General, HHS/OS/OIG,")

SYSTEM MANAGER AND ADDRESS: Office of Inspector General, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

SYSTEM NAME AND NUMBER: OIG–002—Civil and Administrative Investigative Files of the Inspector General, SSA/OIG. (Duplicating existing HHS system of records 09–90–0100 entitled "Civil and Administrative Investigative Files of the Inspector General, HHS/OS/OIG.")

SYSTEM MANAGER AND ADDRESS: Office of Inspector General, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235.

Dated: April 7, 1995.

June Gibbs Brown,

Inspector General.

[FR Doc. 95–9579 Filed 4–18–95; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 95–4–20]

Reissuance of the Section 41102 Certificate to Village Aviation, Inc.; d/b/a Camai Air; Order to Show Cause

AGENCY: Department of Transportation.

ACTION: Notice of reissuance of section 41102 certificate.

SUMMARY: The Department of Transportation is proposing to reissue the section 41102 certificate of Village Aviation, Inc. d/b/a Camai Air subject to conditions.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative reissuance should file their responses with the Documentary Services Division, in Docket 42860, C–55, room PL401, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Lawyer, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–1064.

Dated: April 13, 1995.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–9605 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–95–18]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain

VOL
60
ISS
75
AP
19
UMI

petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before May 1, 1995.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 14, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations

Petitions for Exemption

Docket No.: 28196.

Petitioner: Travis County EMS Department.

Sections of United States Code Affected: 49 U.S.C. Chapter 411; 41701, 41702, 41708, 41709, 41711, and 41738; 44701, 44702, 44704, 44705, 44709, 44711, 44713, and 44722; Chapter 451; and 46301, 46304, 46306, and 46310.

Description of Relief Sought: To allow Travis County, Texas; the aircraft, both currently owned and to be owned or leased for at least 90 days in the future; and the pilots, both currently employed and to be employed by Travis County in the future, to perform emergency first response medical helicopter; medically necessary relocation of patients to specialized care facilities; emergency search and rescue operations, over lake areas and isolated terrain; law enforcement support, when requested by county, city, or state agencies; fire suppression bucket operations and external load support during fire fighting assignments throughout the county and the immediate surrounding counties; general government air operations; such as search and rescue in flood operations, biological research, and litigation support when an aerial view is necessary for the operation to be effective, if allowed by the Commissioners Court; and training for all the above operations with partial cost reimbursement from the recipients of the services as public aircraft under standards for safety of operations and maintenance developed by Travis County.

[FR Doc. 95–9679 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Use the Revenue from a Passenger Facility Charge (PFC) at Bert Mooney Airport, Submitted by Bert Mooney Airport Authority, Butte, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use PFC revenue at Bert Mooney Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before May 19, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: David P. Gabbert, Manager; Helena Airports District Office, HLN–ADO; Federal Aviation Administration; FAA Building, Suite 2; 2725 Skyway Drive, Helena, MT 59601. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Rick Griffith, Airport Manager, at the following address: Bert Mooney Airport Authority, 101 Airport Road, Butte, MT 59701.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Bert Mooney Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. David P. Gabbert, (406) 449–5271; Helena Airports District Office, HLN–ADO; Federal Aviation Administration; FAA Building, Suite 2; 2725 Skyway Drive; Helena, Montana 59601. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use PFC revenue at Bert Mooney Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 13, 1995, the FAA determined that the application to use the revenue from a PFC submitted by the Bert Mooney Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 20, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Actual charge effective date: July 1, 1994.

Proposed charge expiration date: March 30, 2000.

Total estimated PFC revenues: $52,000.00.

Brief description of proposed project: Purchase new aircraft rescue and firefighting (ARFF) vehicle; expand ARFF building and update existing ARFF/Maintenance building.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Submitted in Bert Mooney's previous application and approved in the Record of Decision dated April 17, 1994.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Bert Mooney Airport.

Issued in Renton, Washington on April 13, 1995.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 95–9680 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–M

Flight Data Recorder Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and request comments on a proposed Technical Standard Order pertaining to flight data recorder systems. The proposed TSO prescribed the minimum performance standards that flight data recorder systems must meet to be identified with the marking "TSO–C124a."

DATES: Comments must identify the TSO file number and be received on or before July 21, 1995.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service-File No. TSO–C124a, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591 Or deliver comments to: Federal Aviation Administration, Room 804, 800 Independence Avenue, SW., Washington, DC 20591

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 804, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

The National Transportation Safety Board (NTSB) issued four safety recommendations to the FAA concerning the fire protection standards for cockpit voice records (CVRs) and flight data recorders (FDRs). The recommendations were prompted by the loss of vital information from several CVRs and FDRs as a result of thermal destruction of the recording medium in posit impact fires. The recommendations request, among other requests, to conduct a study to determine the actual thermal profile of post impact fires and to revise the certification test protocol; to revise TSO's C123 and C124 to reflect the results of the study.

The tests were conducted at the FAA Technical Center and final report was issued October 1994, titled "Investigation of Flight Data Recorder Fire Test Requirements." The revised fire test protocol from this report is included in this revised TSO and is essentially the fire test in the reference European Organisation of Civil Aviation Equipment document "Minimum Operational Performance Specification for Cockpit Voice Recorder System" ED–56A published December 1993 except for the high temperature fire test has been extended to 60 minutes from 30 minutes.

How to Obtain Copies

A copy of the proposed TSO–C124a may be obtained by contacting "For Further Information Contact." TSO–C124a references EUROCAE Document No. ED–55, dated May 1990, for the minimum operational performance specification, ED–14C, dated December 1989, and RTCA/DO–160C, dated December 1989, for environment standards, and RTCA/DO–178B, dated December 1992, for the computer software requirements. EUROCAE Documents No. ED–55 and ED–14C may be purchased from the European Organisation for Civil Aviation Electronics, 11 rue Hamelin, 75783 Paris Cedex 16, France. RTCA/DO–160C and DO–178B may be purchased from RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036–4001

Issued in Washington, DC, on April 13, 1995.

John K. McGrath,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 95–9645 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–M

Cockpit Voice Recorder Systems

AGENCY: Federal Aviation Administration, DOT

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and request comments on a proposed Technical Standard Order pertaining to cockpit voice recorder systems. The proposed TSO prescribes the minimum performance standards that cockpit voice recorder systems must meet to be identified with the marking "TSO–C123a."

DATES: Comments must identify the TSO file number and be received on or before July 21, 1995.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C123a, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591 Or deliver comments to: Federal Aviation Administration, Room 804, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 804, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

The National Transportation Safety Board (NTSB) issued four safety recommendations to the FAA concerning the fire protection standards for cockpit Voice recorders (CVRs) and flight data recorders (FDRs). The recommendations were prompted by the loss of vital information from several CVRs and FDRs as a result of thermal destruction of the recording medium in posit impact fires. The

VOL 60 ISS 75 AP 19 1995 UMI

recommendations request, among other requests, to conduct a study to determine the actual thermal profile of post impact fires and to revise the certification test protocol; to revise TSO's C123 and C124 to reflect the results of the study.

The tests were conducted at the FAA Technical Center and final report was issued October 1994, titled "Investigation of Flight Data Recorder Fire Test Requirements." The revise fire test protocol from this report is included in this revised TSO and is essentially the fire test in the reference European Organisation of Civil Aviation Equipment document "Minimum Operational Performance Specification for Cockpit Voice Recorder System" ED–56A published December 1993 except for the high temperature fire test has been extended to 60 minutes from 30 minutes.

How to Obtain Copies

A copy of the proposed TSO–C123a may be obtained by contacting "For Further Information Contact." TSO–C123a references EUROCAE Document No. ED–56, dated October 1993, for the minimum operational requirements for cockpit voice recorders, ED–55, dated May 1990, for the minimum operational performance specification for flight data recorders, ED–14C, dated December 1989, and RTCA/DO–160C, dated December 1989, for environment standards, and RTCA/DO–178B, dated December 1992, for the computer software requirements. EUROCAE Documents No. ED–55 and ED–14C may be purchased from the European Organisation for Civil Aviation Electronics, 11 rue Hamelin, 75783 Paris Cedex 16, France. RTCA/DO–160C and DO–178B may be purchased from RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036–4001.

Issued in Washington, DC, on April 13, 1995.

John K. McGrath,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 95–9646 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Savannah, GA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advice the public that an environmental impact statement will be prepared for a proposed Phase III, IV, and V extension of the Harry S. Truman Parkway, Savannah, Georgia.

FOR FURTHER INFORMATION CONTACT:

Mr. Marvin Woodward, Transportation Manager, Federal Highway Administration, Suite 300, 1720 Peachtree Road, N.W., Atlanta, Georgia 30367, Telephone (404) 347–3041; or Mr. David E. Studstill, State Environment/Location Engineer, Georgia Department of Transportation, Office of Environment/Location, 3993 Aviation Circle, Atlanta, Georgia 30336, Telephone (404) 699–4401.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Georgia Department of Transportation (GDOT), will prepare an Environmental Impact Statement (EIS) on a proposal to construct a 4 lane limited access highway on new location from the terminus of the existing Phase I segment at Derenne Street to the Abercorn Street extension. The project length is approximately 10.3 km. The proposed project is necessary to provide additional capacity to mitigate congestion for north-south traffic on the east side of Savannah.

Alternatives under consideration include: (1) The "no-build", and (2) A controlled access highway on new location.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies. A public hearing will be held and a public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. Georgia's approved clearinghouse review procedures apply to this program.)

Issued on: April 6, 1995.

Marvin Woodward,

Transportation Manager, Atlanta, Georgia.

[FR Doc. 95–9585 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

National High-Speed Ground Transportation Policy Outreach Meetings

AGENCY: Federal Railroad Administration, Office of Railroad Development, DOT.

ACTION: Chicago, Illinois Public Meeting Postponed.

SUMMARY: The Federal Railroad Administration (FRA) will hold regional public outreach meetings around the United States to invite public input for developing the National High Speed Ground Transportation (HSGT) Policy, as mandated by the Intermodal Surface Transportation Efficiency Act. The public is invited to attend and/or submit written comments. The first meeting which was scheduled to be held April 20, 1995 in Chicago, Illinois has been rescheduled for June 1, 1995.

DATES: Due to this change in dates, we have extended the time during which written comments will be accepted until June 9, 1995. Comments should be submitted by mail to the address below and will be accepted in person at each meeting.

The Chicago session will take place as follows:

DATE: June 1, 1995.

PLACE: The Westin Hotel Chicago, Oxford Ballroom, 909 North Michigan Avenue, Chicago, Illinois 60611, (312) 649–6439.

TIME: 5 p.m. to 7:30 p.m.

LOCAL CONTACT: Merrill Travis, IDOT, (217) 782–2835.

ADDRESSES: All written statements should be submitted to: Honorable Jolene M. Molitoris, Administrator, Federal Railroad Administration, 400 Seventh Street, S.W., Room 8206, Washington, D.C. 20590, Attn.: HSGT Policy.

Issued in Washington, D.C. on April 13, 1995.

Donald M. Itzkoff,

Deputy Administrator, Federal Railroad Administration.

[FR Doc. 95–9831 Filed 4–17–95; 2:58 pm]

BILLING CODE 4910–06–P

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on April 19 in Room 600, 301 4th Street, S.W., Washington, D.C. from 10:30 a.m.–12:00 p.m.

The Commission will hold a panel discussion on the Middle East Peace Process and Political Islam. The panelists are Ms. Judith Miller, Fellow, Twentieth Century Fund; Mr. Tom Melia, National Democratic Institute; and Mr. Kent Obee, Director, Office of Near East and South Asian Affairs, USIA.

FOR FURTHER INFORMATION: Please call Betty Hayes, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 95–9686 Filed 4–18–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Special Medical Advisory Group, authorized by Title 38, U.S.C., Section 7312, will be held at the Department of Veterans Affairs, Room 930, 810 Vermont Avenue, N.W., Washington, D.C., on May 10, 1995.

The meeting will convene at 8:15 a.m. (EST) and adjourn at approximately 4:00 p.m. (EST), May 10. The meeting will be open to the public up to the seating capacity of the room. Those wishing to attend should contact Susan Hall, Office of the Deputy Under Secretary for Health, at 202–273–5813, no later than May 5, 1995.

Dated: April 6, 1995.

By Direction of the Secretary

Heyward Bannister,

Committee Management Officer

[FR Doc. 95–9590 Filed 4–18–95; 8:45 am]

BILLING CODE 8320–01–M

Veterans' Advisory Committee on Education; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Education, authorized by 38 U.S.C. 3692, will be held on May 4, from 12 p.m. to 5 p.m. and on May 5, from 1 p.m. to 3 p.m. The meeting will take place at the American Association of Collegiate Registrars and Admissions Officers, One Dupont Circle, NW, Suite 330, Washington, DC 20036–1171. The purpose of the meeting will be to discuss Veterans Affairs education issues.

The meeting will be open to the public up to the seating capacity of the conference room. Due to the limited seating capacity, it will be necessary for those wishing to attend to contact Mrs. Celia P. Dollarhide, Director, Education Service, (phone 202–273–7132) prior to April 21, 1995.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 2 p.m. on May 4, 1995.

Dated: April 4, 1995.

By direction of the Secretary

Heyward Bannister,

Committee Management Officer

[FR Doc. 95–9591 Filed 4–18–95; 8:45 am]

BILLING CODE 8320–01–M

VOL 60 ISS 75 AP 19 1995 UMI

Sunshine Act Meetings

Federal Register
Vol. 60, No. 75
Wednesday April 19, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

POSTAL SERVICE

Board of Governors; Notice of Vote to Close Meeting

By telephone vote on April 6, 1995, a majority of the members contacted and voting, the Board of Governors voted to close to public observation its meeting scheduled for May 1, 1995, in New York, New York. The members will consider a filing with the Postal Rate Commission that concerns an experimental category of automatable, prebarcoded First-Class and Priority parcels under Commission Rule 67

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Dyhrkopp, Mackie, Pace, and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Elcano.

The Board determined that pursuant to section 552b(c)(3) of Title 5, United States Code, and § 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government of the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of Title 5, United States Code, and § 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of Title 5, United States Code; section 410(c)(4) of Title 39, United States Code; and § 7.3(c) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

David F. Harris,
Secretary.
[FR Doc. 95–9586 Filed 4–18–95; 8:45 am]
BILLING CODE 7710-12-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Monday, April 24, 1995, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Final amendments to Part 308 of the Corporation's rules and regulations, entitled "Rules of Practice and Procedure," which clarify that the rules' provisions relating to ex parte communications conform to the requirements of the Administrative Procedure Act and, in particular, that the ex parte provisions do not apply to intra-agency communications, which are governed by a separate provision of the Administrative Procedure Act.

Discussion Agenda

Memorandum and resolution re: Final amendments to Part 345 of the Corporations' rules and regulations, entitled "Community Reinvestment," which provide clearer guidance to financial institutions on the nature and extent of their Community Reinvestment Act obligation and the methods by which the obligation would be assessed and enforced.

Corporation's Strategic Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942–3132 (Voice); (202) 942–3111 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Acting Executive Secretary of the Corporation, at (202) 898–6757.

Dated: April 17, 1995.
Federal Deposit Insurance Corporation.
Robert E. Feldman,
Acting Executive Secretary.
[FR Doc. 95–9853 Filed 4–17–95; 3:49 pm]
BILLING CODE 6714-0-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, April 24, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 14, 1995.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 95–9735 Filed 4–17–95; 9:55 am]
BILLING CODE 6210-01-P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 17, 24, May 1, and 8, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 17

Wednesday, April 19

10:00 a.m.
Briefing on IPE Program and Severe Accident Research Program (Public Meeting)
(Contact: Themis Speis, 301–415–6802)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)
2:00 p.m.
Briefing on EEO Program (Public Meeting)
(Contact: Vandy Miller, 301–415–7380)

Friday, April 21

10:00 a.m.
Briefing on Commission Decision Tracking System (CDTS) (Public Meeting)
(Contact: Samuel Chilk, 301–415–1875)

Week of April 24—Tentative

Tuesday, April 25

2:00 p.m.
Briefing on NRC Status of High-Level Waste Management Program (Public Meeting)
(Contact: Joseph Holonich, 301–415–6643)

Wednesday, April 26

10:00 a.m
Briefing on Proposed Rule on Safety Equipment Reliability Data (Public Meeting)
(Contact: Charles Rossi, 301–415–7499)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, April 27

10:00 a.m.
Briefing by IG and Staff Concerning Audit of HLW Licensing Support System (LSS) (Public Meeting)
(Contact: John Hoyle, 301–415–1968)

Week of May 1—Tentative

Wednesday, May 3

2:00 p.m.
Briefing on NRR Licensing Actions Program (Public Meeting)
(Contact: Roy Zimmerman, 301–415–1284)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 8—Tentative

Thursday, May 11

10:00 a.m.
Briefing on Business Process Reengineering for Materials Licensing Area (Public Meeting)
(Contact: Pat Rathbun, 301–415–7178)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, May 12

10:00 a.m.
Briefing by DOE on HLW Licensing Support System (LSS) (Public Meeting)
2:00 p.m.
Briefing on Site Decommissioning Management Plan (SDMP) Program and Policy Issues (Public Meeting)
(Contact: Mike Weber, 301–415–7298)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the Internet system will also become available in the near future. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov

Dated: April 14, 1995

William M. Hill, Jr.,
SECY Tracking Officer, Office of the Secretary
[FR Doc. 95–9753 Filed 4–17–95; 9:55 am]
BILLING CODE 7590-01-M

VOL
60

ISS
75

AP
19

1995

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federal register

Wednesday
April 19, 1995

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 187
Fees for Certification Services and Approvals Performed Outside the United States; Rule and Notices

VOL 60 ISS 75 AP 19 1995 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 187

[Docket No. 27809; Amendment No. 187–5]

RIN 2120–AE72

Fees for Certification Services and Approvals Performed Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: This rulemaking: Updates existing fees for airman and repair station certification services to reflect current cost levels for such services performed outside the United States (U.S.); Establishes a schedule of fees where no fee currently exists for all tests, authorizations, certificates, permits, or ratings relating to any airman certification or repair station certification performed outside the U.S., Establishes the methodology for computing user fees and a timetable for periodic updates of fees; and Establishes additional methods of collecting those fees.

This regulation is necessary to allow the FAA to fully recover the costs it incurs in performing airman certification and repair station certification services outside the U.S. and to bring current airman fees charges in line with the General Agreement on Tariffs and Trade (GATT) and other international treaties.

The intended effect of this action is to offset the costs of providing airman and repair station certification services outside the U.S. Recovering these costs will allow the FAA to continue to provide airman and repair station certification services outside the U.S., thereby facilitating the FAA's effort to assure ready acceptance of U.S. aeronautical exports overseas.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Emily A. White, Flight Standards Service, AFS–50, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3301.

SUPPLEMENTARY INFORMATION:

Background

Statement of the Problem

The fee schedule that appears in 14 CFR part 187, Appendix A, was established by rulemaking and became effective on October 18, 1982. It contains fees for certain certification services performed outside the U.S by the FAA. However, it does not contain fees for the full scope of activities for which fees may be charged under current statutory authority. Rather, the fee schedule lists only fees for services that were being rendered outside the United States at the time of that rulemaking. The fee schedule has not been updated since 1982, although the FAA's costs for performing these services has escalated since adoption of the present rule in 1982. The FAA incurs special costs to operate overseas that increase the costs for providing services outside the U.S. These additional costs include cost-of-living allowances as well as allowances for housing and education. Due to these costs, employing an inspector outside the U.S. is approximately $85.4 thousand more costly than employing the same inspector within the U.S.

It is currently necessary to update part 187, including Appendix A, to reflect the services for which fees will be charged and to reflect the methodology for computing current and future fees. The fees for the services described in Appendix A are published in the "Notices" section of the Federal Register. The current fees are published in the "Notices" section of the Federal Register whenever a foe is revised. Changes to these fees will be published in the "Notices" section.

The changes set out in this rule make the FAA's fees practice more nearly consistent with the principles of nondiscrimination and most-favored-nation treatment that are at the core of the international trade regime set up by the GATT, and which includes the Aircraft Code and the General Agreement on Trade in Services (GATS). Under these core trade principles, governments should not treat foreign nationals differently in the measures that they take that affect international trade. Airman certifications are not governed by any trade agreement to which the U.S. is a party, but the FAA has determined that bringing its fee practices into line with international trade practices is desirable, if not required by any special obligation of the U.S. The FAA measures with regard to certification of foreign repair stations, however, including fees charged, will be subject to U.S. obligations under the GATS, which entered into force January 1, 1995. Applying multilateral trade principles to trade in service for the first time, the GATS covers measures affecting aircraft repair and maintenance services. This regulation is consistent with U.S. obligations under the GATS.

History

Statutory Authority

Under 49 U.S.C. 44701, formerly, Title VI of the Federal Aviation Act of 1958, as amended (the Act), gives the Administrator authority to issue certificates for airman, instructors, schools, and repair stations.

In addition, under Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701), the FAA has been charged with establishing a fair and equitable system for recovering full costs expended for any service, such as the issuance of the certificates, that provide a special benefit to an individual beyond those that accrue to the general public. Section 403a of that Act provides, in part, as follows:

> It is the sense of the Congress that any work service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared or issued by any Federal Agency * * * to or for any person (including groups, associations, organizations, partnerships, corporations, or businesses), except those engaged in the transaction of official business of the Government, shall be self-sustaining to the fullest extent possible * * *

Section 403a further provides, in part:

> The head of each Federal agency is authorized by regulation (which, in the case of agencies in the Executive Branch, shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therefore such fee, charge, or price, if any, as he shall determine, in case none exists, or redetermine, in case of any existing one, to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts * * *

In 1980, Congress passed the International Air Transportation Competition Act of 1979 (hereinafter "IATC Act") giving the FAA authority to establish fee schedules for airman and repair station certification services provided outside the U.S. Section 28 of the IATC Act amended Section 45 of the Airline Deregulation Act to read as follows:

> Nothing in this section shall prohibit the Secretary of Transportation or the Administrator from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station. (49 U.S.C. 334, second sentence).

Since the notice of proposed rulemaking (NPRM) was published (59 FR 33832, June 30, 1994), the Congress passed the Federal Aviation Administration Authorization Act of 1994 (hereinafter "FAA Authorization Act of 1994"), P.L. 103–305 (108 Stat. 1569), which was signed into law on August 23, 1994. Section 209 of the FAA Authorization Act of 1994, amended Section 45301 of Title 49 to, among other items, specifically require the FAA to establish and collect fees for foreign repair station certification and inspection actions outside the U.S. at such levels to fully recover the costs of providing such services. Section 209 reads in part:

> (2) Foreign Repair Station Certification and Inspection Fees—The Administrator must establish and collect under this subsection fees for certification and inspection of repair stations outside of the United States.
>
> (3) Level of Fees—Fees shall be established under this subsection as necessary * * * except that the Administrator may for such services as the Administrator designates (and shall for certification and inspection of repair stations outside the United States) establish fees at a level necessary to recover the full cost of providing such services.
>
> The amounts collected shall be paid to the Federal Government.

Office of Management and Budget (OMB) Guidelines

To aid in establishing fee schedules, OMB has prescribed in Circular No. A–25 the general guidelines to be used in developing an equitable and reasonable uniform system of charges for certain government services and property. The circular provides that "where a service (or privilege) provides special benefits to an identifiable recipient above and beyond those that accrue to the public at large, a charge should be imposed to receive the full cost to the Federal Government of rendering that service." Circular No. A–25 specifies the following:

A special benefit will be considered to accrue and a charge should be imposed when a Government-rendered service:

(a) Enables the beneficiary to obtain more immediate or substantial gains or values (which may or may not be measurable in monetary terms) than those which accrue to the general public (for example, receiving a patent, crop insurance, or license to carry on a specific business), or

(b) Provides business stability or assures public confidence in the business activity of the beneficiary (for example, certificates of necessity and convenience [sic: convenience and necessity] for airline routes, or safety inspections of craft); or

(c) Is performed at the request of the recipient and is above and beyond the services regularly received by other members of the same industry or group, or of the general public (for example, receiving passport visa, airman's certificate, or an inspection after regular duty hours).

In support of the President's guidance in Circular No. A–25, this final rule enables the FAA to fully recover its costs for repair station and airman certification services performed outside the U.S. This rule is also consistent with the guidance in Circular A–25 regarding the use of excise taxes because once the new fees are implemented, appropriated funds will not be used to support these services.

Related Activity

If adopted, the proposed new part 142, Aircraft Flight Simulator Use in Pilot Training, Testing, and Checking and at Training Centers (Notice No. 92–10), and Special Federal Aviation Regulation No. 58, Advanced Qualification Program, will provide for certification of training centers outside the U.S. The certification provisions relating to these training centers will be contained in the proposed new part 142. The fees for the certification of training centers and for airman certification will be contained in a new FAA advisory circular discussed elsewhere in this document.

The FAA Authorization Act of 1994, cited above, broadened the FAA's Statutory authority to charge for services outside the U.S. Prior to the enactment of this legislation, FAA authority to charge fees for services performed outside the U.S. was limited to repair station and airman certification actions.

Under this legislation, authority to charge fees for services performed outside the U.S. is extended to "any test, authorization, certificate, permit, rating, evaluation, approval, inspection, review," (49 U.S.C. 45301 (2)(c)). New fees authorized under this expanded authority will be proposed in future rulemaking action.

Discussion of Comments Received

The FAA mailed over 600 advance copies of Notice No. 94–24, Fees for Certification Services and Approvals Performed Outside the United States, to the Civil Aviation Authorities of member countries of the International Civil Aviation Organization (ICAO), FAA certificated foreign repair station operators, and interested Aviation Rulemaking Advisory Committee (ARAC) members. The ARAC is a formal standing committee, comprised of representatives from aviation associations and industry. ARAC provides industry input in the form of information, advice, and recommendations to be considered in the full range of FAA rulemaking activities.

Two commenters responded to the NPRM: Air Line Pilots Association (ALPA) and General Aviation Manufacturers Association (GAMA). All comments received were carefully considered

The ALPA is concerned that raising fees to reflect current costs for providing services will make FAA airman certification actions too expensive for potential applicants.

The FAA noted in Notice 94–24 that, in the past, most U.S. citizens outside the U.S. have sought airman certification services from designees, who charge market rates for such services, rather than seeking free airman certification services from the FAA. Even so, under the new schedule, FAA charges for airman certification services will be comparable to, or less than, those charged by designees. For example, a written test given by an FAA Aviation Safety Inspector will now be $40, whereas the same test given at an FAA approved test center ranges from $60 to $150 depending upon the location. Accordingly, the fees adopted by this rulemaking are not excessive or too expensive for potential applicants.

Also regarding testing, GAMA questioned if FAA was, in effect, receiving more than full cost recovery where multiple applicants would be simultaneously taking tests.

The proposed time of 0.5 hours, or one-half hour, as the base time for computation of fees for all written tests is based on the time that an FAA Aviation Safety Inspector must spend on each individual applicant in checking qualifications to take specific tests, review of the completed test package, and other individual instruction that might be necessary This 0.5 hour number does not include the actual test monitoring time, which averages two hours per written test under FAA regulations, where multiple applicants might be involved. FAA specifically sought to avoid the potential of multiple charges by not proposing charges for test monitoring time.

GAMA had several concerns regarding the charging for repair station certification actions that can be addressed by an elaboration on exactly how the U.S. Government may charge for its services.

Under the U.S. Government guidelines and proposed rules, the FAA may charge only for the actual service provided and may not make a profit from its services. Consequently, if no

VOL 60 ISS 75 AP 19 1995 UMI

government time or resources are expended on a particular service, then the FAA cannot charge for that service. There are oversight offices both within and outside of U.S. Government Agencies to assure agency compliance with applicable laws and regulations.

GAMA recommends the use of bilateral-type agreements with foreign governments to accomplish the FAA's foreign repair station workload, rather than using FAA inspectors on a cost recovery basis.

The FAA has been considering bilateral-type maintenance agreements with foreign countries for some time. The FAA expects that at the appropriate time, maintenance-type bilateral agreements will be concluded. This will not only be a cost savings to the end user but to the FAA as well

GAMA questioned whether an hourly charge for inspector services, such as for repair station certification actions, would encourage an inspector to artificially extend the time required for certification in order to generate more income for the office or as a punitive action against the applicant or certificate holder.

It should be pointed out that hourly billing for these services has been in place for over twelve years with no complaints from repair station certificate holders. Not has any question regarding billing practices ever arisen during the course of regular FAA financial management reviews. Fee collection practices are also subject to other audits by the U.S. Department of Transportation Inspector General, the General Accounting Office, and other oversight offices. Cost allocation studies have shown that the charging of an hourly rate for services that can vary widely in time per facility due to facility size, complexity, and, potential problems uncovered is a very fair and nondiscriminatory way of charging for these services.

GAMA is also concerned that transportation and subsistence not be charged for actions that are performed in the office. Approximately 95 percent of repair station certification actions are performed on site at the facility For repair station certification actions, that may be handled without a site visit, no transportation and subsistence expense will be incurred that could be charged to the certificate holder

Finally, GAMA states that since fees collected do not directly affect the FAA budget, the collection of these fees still might not assure the service is available when and where needed.

This statement is incorrect. Since 1991, the fees collected by FAA safety inspectors for repair station and airman certification actions outside the U.S. has been credited back to the budget of the safety office that performed the certification action as reimbursement for expenses. This procedure helps to ensure that sufficient funds remain available for necessary certification services.

Editorial and Administrative Changes

In Notice No. 94–24, the FAA proposed that certain administrative changes be made to facilitate review and adjustment of fees as necessary to reflect changes in fees for services performed. The FAA has removed the fees from the chart contained in appendix A of part 187 and replaced it with the methodology for determining fees and a yearly timetable for review. The actual fees derived from this methodology will be contained in Advisory Circular 187–1 Future notice of changes to fees for services will be published in the "Notices" section of the **Federal Register**.

Although the FAA proposed no change to proposed redesignated § 187.15(a), editorial changes are necessary to reflect the revised chart which now describes the fees for services.

All other proposals are adopted as proposed.

Paperwork Reduction Act

There are no reporting or recordkeeping requirements associated with this rule.

Regulatory Evaluation Summary

Executive Order 12866 established the requirement that, within the extent permitted by law, a Federal regulatory action may be undertaken only if the potential benefits to society for the regulation outweigh the potential costs to society. In response to this requirement, and in accordance with Department of Transportation policies and procedures, the FAA has estimated the anticipated benefits and costs of this rulemaking action. The FAA has determined that this amended rule is not a "significant rulemaking action," as defined by Executive Order 12866 (Regulatory Planning and Review). The results are summarized in this section.

This rule will not impose any additional costs on any members of society other than those requesting FAA certification services outside the United States. The rule will reimburse the FAA for the cost of services currently being provided to the users. Thus, the beneficiaries, rather than the general taxpayers, will pay for the services provided by the FAA. The new and amended fees are considered equitable and reflect the cost of providing these services. The benefits of this rule will therefore be the elimination of the need for general federal revenues by the FAA to cover the costs of these services provided by the FAA.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to consider the impact of rules on small entities, that is, small businesses, nonprofit organizations, and local governments. If there is a significant impact on a substantial numer of small entities, the Agency must prepare a draft Regulatory Flexibility Analysis (RFA) for the final rule.

The amended rule will primarily affect general aviation pilots and foreign repair stations. The RFA applies neither to individuals nor foreign entities. Therefore, a RFA is not required.

International Trade Impact

This rule will affect primarily general aviation pilots and foreign repair stations. The rule will have a favorable competitive impact on U.S. repair stations by removing the subsidy that the FAA has provided to foreign repair stations in the form of lower charges for certification services. The rule will enhance the competitiveness of domestic firms.

Federalism Implications

The regulations hereing will not have substantial direct implications on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparataion of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not significant under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered nonsignificant under DOT Order 2100 5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. A final regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT.

List of Subjects in 14 CFR Part 187

Administrative practice and procedure, Air transportation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14 of the Code of Federal Regulations as follows:

PART 187—FEES

1. The authority citation for part 187 continues to read as follows:

Authority: Sec. 501, 65 Stat. 290; 31 U.S.C. 483a; secs. 301, 302, 303, 305, 307, 313, 314; 72 Stat. 744, 747, 749, 752, 754; 49 U.S.C. 1341, 1343, 1344, 1346, 1348, 1354, 1355.

Section 187.15 is revised to read as follows:

§ 187.15 Payment of fees.

(a) The fees described in Appendix A of this part and published in the "Notices" section of the **Federal Register** are payable to the Federal Aviation Administration by check, money order, or draft payable in U.S. currency and drawn on a U.S. bank.

(b) The fees described in Appendix A of this part and published in the "Notices" section of the **Federal Register** may be paid by wire transfer.

(c) Applicants for the FAA services described in Appendix A of this part shall pay bank processing charges, when such charges are assessed by banks on U.S. Government deposits.

3. Appendix A to part 187 is revised to read as follows:

Appendix A to Part 187—Methodology for Computation of Fees for Certification Services Performed Outside the United States

(a) Fixed fees and hourly rates have been derived using the methodology described below to ensure full cost recovery for certification actions or approvals provided by the FAA for persons outside the United States.

(b) These rates are based on aviation safety inspector time rather than calculating a separate rate for managerial or clerical time because the inspector is the individual performing the actual service. Charging for inspector time, while building in all costs into the rate base, provides for efficient cost recovery and time management.

(c) The hourly billing rate has been determined by using the annual operations budget of the Flight Standards Service. The budget is comprised of the following:

(1) Personnel compensation and benefits, budget code series 1100 (excluding codes 1151 and 1152—overtime, Sunday and holiday pay), 1200, and 1300.

(2) Travel and transportation of persons, budget code series 2100 (excluding code 2100—site visit travel).

(3) Transportation of things, budget code series 2200.

(4) Rental, communications, utilities, budget code series 2300.

(5) Printing and reproduction, budget code series 2400.

(6) Contractual services, budget code series 2500.

(7) Supplies and materials, budget code series 2600.

(8) Equipment, budget code series 3100.

(9) Lands and structures, budget code series 3200.

(10) Insurance claims and indemnities, budget code series 4200.

(d) In order to recover overhead costs attributable to the budget, all costs other than direct inspector transportation and subsistence, overtime, and Sunday/holiday costs, are assigned to the number of inspector positions. An hourly cost per inspector is developed by dividing the annual Flight Standards Operations Budget, excluding the items enumerated above, by the number of aviation safety inspections (OMB position series 1825) on board at the beginning of the fiscal year, to determine the annual cost of an aviation safety inspector. This annual cost of an aviation safety inspector is divided by 2,087 hours, which is the annual paid hours of a U.S. Federal Government employee. This result in the hourly government paid cost of an aviation safety inspector.

(e) To ensure that the hourly inspector cost represents a billing rate that ensures full recovery of costs, the hourly cost per inspector must be multiplied by an indirect work factor to determine the hourly inspector billing rate. This is necessary for the following reasons:

(1) Inspectors spend a significant amount of time in indirect work to support their inspection activities, much of which cannot be allocated to any one client.

(2) Not all 2,087 annual paid hours are available as work hours because training, providing technical assistance, leave, and other indirect work activities reduce the work time that may be directly billed. Consequently, the hourly cost per inspector must be adjusted upwards by an indirect work factor. The calculation of an indirect work factor is discussed in paragraph (f) of this appendix.

(f)(1) The indirect work factor is determined using the following formula:

$$\left(1+\sum_{i}^{k} a_i\right)(1+b) = \text{indirect work factor}$$

where:

a=indirect work rate, and

b=leave usage (total leave hours divided by total hours available for work.

(2) The components of the formula are derived as follows:

(i) a=indirect work rate. Indirect work rate is take from the Flight Standards Staffing Standard Order and is used to project the amount of time an aviation safety inspector spends in indirect activities, as opposed to certification and surveillance work. The indirect work activities are:

(A) Development of master minimum equipment lists on Flight Operations Evaluation Board.

(B) Development of aircraft training documents on Flight Standardization Board.

(C) Development of Maintenance program documents on Maintenance Review Board.

(D) Providing technical assistance.

(E) Assisting legal counsel.

(F) Evaluation of technical documents.

(G) Leave (all types).

(H) Training.

(I) Administrative time.

(J) Travel for indirect work.

(ii) b=leave usage (total leave hours divided by total hours available for work). This is computed by using OMB guidelines of 280 average annual leave hours and 1,800 average annual hours available for work for computer manpower requirements.

(g) The hourly inspector cost, when multiplied by the indirect work factor, yields the hourly inspector billing rate and ensures full cost recovery by incorporating the total amount of FAA paid hours needed to produce one hour of direct billable inspector time.

(h) Certifications and approvals for which there are fixed times, such as airman tests, are determined by multiplying the time used in the Flight Standards Staffing Standard or airman test guidelines by the inspector hourly billing rate.

(i) Certifications and approvals for which there are no fixed work rates,

VOL 60 ISS 75 AP 19 1995 UMI

such as airman and repair station facilities (air agencies), are billed at the hourly inspector billing rate.

(j) Actual transportation and subsistence expenses incurred in certification or approval actions will be billed in addition to the hourly inspector billing rate, where such expenses are incurred.

(k) In no event will the fees exceed the actual costs of providing certification or approval services.

(l) The methodology for computing user fees is published in this Appendix. The User fee schedule is published in an FAA Advisory Circular entitled "Flight Standards Service Schedule of Charges Outside the United States." A copy of this publication may be obtained from: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954

(m) Fees will be reviewed every year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing tests, authorizations, certifications, permits, or ratings.

(n) Notice of each change to a fee for a service described in the user fee schedule will be published in the "Notices" section of the Federal Register.

Issued in Washington, D.C. on April 10, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95–9150 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 187–1]

Schedule of Charges Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) is announcing the availability of Advisory Circular (AC) 187–1 which transmits a schedule of charges for services of FAA Flight Standards Aviation Safety Inspectors outside the United States.

DATES: This AC is effective on May 19, 1995.

ADDRESSES: How to obtain copies: A copy of this publication may be obtained from: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

FOR FURTHER INFORMATION CONTACT:

Ms. Emily A. White, Flight Standards Service, AFS–50, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3301.

Issued in Washington, DC, on April 10, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

[FR Doc. 95–9151 Filed 4–18–95; 8:45 am]

BILLING CODE 4910–13–M

Schedule of User Fees for Certification Services and Approvals Performed Outside the United States

ACTION: Notice.

SUMMARY: This notice informs the public of the effective date of changes to the schedule of user fees for certification services and approvals outside the United States.

The methodology for computing these user fees and the resulting user fee levels were adopted through rulemaking action. This rulemaking "Fees for Certification Services and Approvals Performed Outside the United States", Docket No. 27809, Amendment No. 187–5, is published as a final rule in this same part of the Federal Register, and will become effective on May 19, 1995. In connection with its rulemaking initiative, the FAA indicated that it will publish a notice of issuance of Advisory Circular entitled, "Flight Standards Service Schedule of Charges Outside the United States." The Final Rule requires FAA to publish in the "Notices" section of the Federal Register all changes to the schedule of user fees for certification services and approvals performed outside the United States. This notice is issued in response to that requirement. The new schedule of fees, which will also appear in the Advisory Circular, is presented below.

EFFECTIVE DATE: The schedule of fees published below becomes effective on May 19, 1995.

FOR FURTHER INFORMATION CONTACT:

Ms. Emily A. White, Flight Standards Service, AFS–50, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591, telephone (202) 267–3301.

SUPPLEMENTARY INFORMATION: User fees will be reviewed every year, at the beginning of the fiscal year, and adjusted either upward or downward in order to reflect the current costs of performing certification services and approvals outside the United States.

Notice of each change to a fee for a service described in the user fee schedule will be published in the "Notices" section of the Federal Register.

Issued in Washington, DC on April 10, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

SCHEDULE OF SERVICES—FLIGHT STANDARDS SERVICE

Category of service	14 CFR reference	Charge
I. Transportation and Subsistence Charges:		
All Categories of Services		
Transportation and subsistence will be assessed to applicants in addition to the charge published below for certification actions requiring travel from the duty station.	.....	Actual cost.
II. Airman Certification:		
All Categories of Airmen		
Authorizations for written or practical tests (if different from those specified below)	Parts 61, 63, 65	$40.
Special medical check	Part 67	$160.
FA Act Section 609 re-exam	Parts 61, 63, 65	$208.
Inspector review for all tests, approvals, ratings given by designated examiners and evaluators	Parts 61, 63, 65	$40.
Pilots		
Each written test, including: tests for initial issue or renewal of a certificate or rating, restriction and limitation removals, reissuances, determination of knowledge based on military experience in the categories below:		
Private pilot	Part 61.103	$40.
Recreational pilot	Part 61.96	$40.
Commercial pilot	Part 61.123	$40.
Airline Transport pilot	Part 61.153 or Part 61.159.	$40.
Instrument Rating	Part 61.65 or Part 61.75.	$40.
Flight Instructor:		
Fundamental of Instructing	Part 61.183	$40.
Written, other than gyroplane	Part 61.183	$40.
Written for gyroplane	Part 61.183	$40.
Ground instructor	Part 143.2	$40.

VOL 60 ISS 75 AP 19 1995 UMI

SCHEDULE OF SERVICES—FLIGHT STANDARDS SERVICE—Continued

Category of service	14 CFR reference	Charge
Each practical test (oral, flight, simulated flight increments, or combined), for initial award, renewal of a certificate or rating, restriction & limitation removals, reissuances, determination of knowledge based on military competence in the categories below:		
Student pilot	Part 61.83	$32.
Recreational pilot	Part 61.96(a)	$248.
Private pilot	Part 61.103	$248.
Commercial pilot	Part 61.123	$248.
Commercial pilot limited to VFR	Part 61.129(a)	$248.
Commercial pilot reissue certificate	Part 61.11	$248.
Airline transport pilot	Part 61.157 or Part 61.163.	$400.
Airline transport pilot, applicant without IFR rating	Part 61.157 or Part 61.163 or Part 61.65.	$400.
Instrument rating	Part 61.65 or Part 61.75.	$256.
Flight instructor:		
Instrument rating	Part 61.191 or 61.65	$266.
Added category rating	Part 61.161 or Part 61.63.	$246.
Added class rating	Part 61.191 or 61.163	$248.
Renewal	Part 61.197	$160.
Reinstatement	Part 61.199(b)	$160.
Ground instructor	Part 143.3	$40.
Type rating with instrument rating	Part 61.63 or Part 61.157 or Part 61.163.	$368.
Type rating without instrument rating	Part 61.63	$368.
Category rating	Part 61.63 or Part 61.165.	$368.
Class rating	Part 61.63	$368.
Special purpose pilot on basis of foreign certificate	Part 61.75	$88.
Special purpose pilot on basis of aircraft lease	Part 61.77(a)(4)	$88.
Pilot proficiency check—12 month	Part 61.58(b)	$296.
Pilot proficiency check—24 month	Part 61.58(c)	$296.
Instrument competency check	Part 61.57	$320.
Statement of demonstrated ability	Part 61.13(d)	$320.
Category II authorization	Part 61.57	$320.
Category III authorization	Part 61.58	$320.
Pilot-in-command in lieu of type rating (LOA) authorization	Part 61.31(b) or Part 61.31(h)(3).	$464.
Aerobatic competence authorization	Part 91	$320.
Pilot knowledge/skill authorization	Parts 91, 125, 133, 135, 137.	$320.
Flight instructor simulator authorization	Parts 121, 135	$320.
Flight Engineers		
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.65 (a) & (b)	$40.
Each practical test (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency.	Part 63.33(b)(1)	$400.
Special purpose flight engineer based on foreign licenses (initial, renewal, VFR or IFR, with or without medical).	Part 63.42	$68.
Special purpose flight engineer based on aircraft lease (initial, renewal, VFR or IFR, with or without medical).	Part 63.23	$68.
Flight Navigators		
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.53(a)	$40.
Each practical test (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency.	Part 63.57	$400.
Aircraft Dispatchers		
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence.	Part 63.55(a)	$40.
Each practical test (oral, flight, or combined) for initials, renewals, added ratings, simulators, restriction removals, reissuances, including tests based on military competency—competency for airplane or helicopter.	Part 65.59	$400.
Mechanics		
Each written test, including: initial, renewal, added ratings, restriction removovals, reissuances, and tests based on military competence—general, airframe, or powerplant.	Part 65.71(a) or Part 65.77.	$40.
Each practical test for initials, renewals, added ratings, restriction removals, reissuances—airframe or powerplant.	Part 65.79	$504.

SCHEDULE OF SERVICES—FLIGHT STANDARDS SERVICE—Continued

Category of service	14 CFR reference	Charge
Inspection Authorization		
Inspection authorization (IA)—initial	Part 65.91	$392.
Inspection authorization (IA)—renewal	Part 65.93	$72.
Repairman		
Initial, renewal, added rating	Part 65.101	$152.
Parachute Riggers		
Each written test, including: initial, renewal, added ratings, restriction removals, reissuances, and tests based on military competence—senior or master.	Part 65.115(a); Part 65.117; Part 65.119(b).	$40.
Each practical test for initials, renewals, added ratings, restriction removals, reissuances, including tests based on military competence.	Part 65.115(c)	$440.
Designation of Examiners		
For all categories—Includes written and practical tests, initials, added ratings, renewals, restriction removals, reissuances in the categories below:		
Pilot examiners:	Part 183.23	
Large turbine		$960.
Pilot proficiency		$440.
Written test examiner		$640.
Airman certification representative		$400.
Other types as the FAA may designate	Part 183.11(b)	$960.
Aircraft dispatch examiner (DADE)	Part 183.25(f)	$960.
Flight engineer examiner (DFEE)	Part 183.25(d)	$960.
Flight navigator examiner (DFNE)	Part 183.25(e)	$960.
Designated Airworthiness Representative (DAR)—initial	Part 183.33	$440.
Designated Airworthiness Representative (DAR)—renewal	Part 183.33	$160.
Designated Mechanic Examiner (DME)—initial	Part 183.25(a)	$504.
Designated Mechanic Examiner (DME)—renewal	Part 183.25(a)	$184.
Designated Parachute Rigger Examiner (DPRE)—initial	Part 183.25(b)	$504.
Designated Parachute Rigger Examiner (DPRE)—renewal	Part 183.25(b)	$184.
Other designees as the FAA may designate	Part 183.11(b)	$504.
III. Air Agencies:		
Repair station certification/approval/authorization/inspection actions	Part 145, Subpart C	$80 per inspector hour.
Pilot school certification/approval/authorization/inspection actions	Part 141	$80 per inspector hour
Airman training centers certification/approval/authorization/inspection actions	Part 142	$80 per inspector hour.
Aviation maintenance technician schools certification/approval/authorization	Part 147	$80 per inspector hour.

NOTE: Future changes to the current fees will be published in the "Notices" section of the **Federal Register**. A fee is effective on the date of its publication in the "Notices" section of the **Federal Register**.

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BILLING CODE 4910–13–M

VOL
60

ISS
75

AP
19

1995

UMI

federal register

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April 19, 1995

Part III

Grants and Cooperative Agreements to State and Local Governments; Final Rule

Department of Agriculture
Department of Energy
Small Business Administration
Department of Commerce
Office of National Drug Control Policy
Department of State
Department of Housing and Urban Development
Department of Justice
Department of Labor
Federal Mediation and Conciliation Service
Department of Defense
Department of Education
National Archives and Records Administration
Department of Veterans Affairs
Environmental Protection Agency
General Services Administration
Department of the Interior
Federal Emergency Management Agency
Department of Health and Human Services
National Science Foundation
National Foundation on the Arts and the Humanities
National Endowment for the Arts
National Endowment for the Humanities
Institute of Museum Services
Corporation for National and Community Service
Department of Transportation

VOL
60
ISS
75
AP
19
1995
UMI

DEPARTMENT OF AGRICULTURE
7 CFR Part 3016
DEPARTMENT OF ENERGY
10 CFR Part 600
SMALL BUSINESS ADMINISTRATION
13 CFR Part 143
DEPARTMENT OF COMMERCE
15 CFR Part 24
OFFICE OF NATIONAL DRUG CONTROL POLICY
21 CFR Part 1403
DEPARTMENT OF STATE
22 CFR Part 135
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
24 CFR Part 85
DEPARTMENT OF JUSTICE
28 CFR Part 66
DEPARTMENT OF LABOR
29 CFR Part 97
FEDERAL MEDIATION AND CONCILIATION SERVICE
29 CFR Part 1470
DEPARTMENT OF DEFENSE
32 CFR Part 33
DEPARTMENT OF EDUCATION
34 CFR Part 80
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
36 CFR Part 1207
DEPARTMENT OF VETERANS AFFAIRS
38 CFR Part 43
ENVIRONMENTAL PROTECTION AGENCY
40 CFR Part 31
GENERAL SERVICES ADMINISTRATION
41 CFR Part 105–71
DEPARTMENT OF THE INTERIOR
43 CFR Part 12
FEDERAL EMERGENCY MANAGEMENT AGENCY
44 CFR Part 13
DEPARTMENT OF HEALTH AND HUMAN SERVICES
45 CFR Part 92
NATIONAL SCIENCE FOUNDATION
45 CFR Part 602
NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
National Endowment for the Arts
45 CFR Part 1157
National Endowment for the Humanities
45 CFR Part 1174
Institute of Museum Services
45 CFR Part 1183
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
45 CFR Part 2541
DEPARTMENT OF TRANSPORTATION
49 CFR Part 18

Grants and Cooperative Agreements to State and Local Governments

AGENCIES: Department of Agriculture, Department of Commerce, Department of Defense, Department of Education, Department of Energy, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of Veterans Affairs, Corporation for National and Community Service, Environmental Protection Agency, Federal Emergency Management Agency, Federal Mediation and Conciliation Service, General Services Administration, Institute of Museum Services, National Archives and Records Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Office of National Drug Control Policy, Small Business Administration.

ACTION: Final rule.

SUMMARY: In response to a recommendation by the National Performance Review, this final revision to the grants management common rule, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," originally issued in the March 11, 1988, **Federal Register**, raises the dollar threshold for simplified procedures for small purchases (simplified acquisition threshold) by State and local grantees. The agencies' common rule provides uniform fiscal and administrative requirements applicable to all types of grants and cooperative agreements to State and local governments.

EFFECTIVE DATE: This rule is effective May 19, 1995.

FOR FURTHER INFORMATION CONTACT: See preambles of the individual agencies below.

SUPPLEMENTARY INFORMATION:

Background

In 1983, a 20-agency task force explored streamlining grants management and reviewed OMB Circular A–102, "Uniform Administrative Requirements for Grants to State and Local Governments."

In response, two governmentwide documents were eventually issued: a March 1988 common rule (53 FR 8034–8103) containing fiscal and administrative requirements for grants and cooperative agreements to State and local governments (grantees) and subrecipients which are State and local governments (subgrantees), and a March 1988 revised OMB Circular A–102 (53 FR 8028–8032)—directed solely to Federal agencies—containing guidance to Federal agencies on how they should manage the award and administration of Federal grants. Consistent with a March 12, 1987, Presidential memorandum, all affected agencies adopted the common rule verbatim, except where inconsistent with specific statutory requirements.

In September 1993, in *Creating a Government that Works Better and Costs Less*, the National Performance Review (NPR) made a recommendation to "Simplify administration by modifying the common grant rules on small purchases" (FSL05). Specifically, NPR recommended an increase in the dollar threshold for small purchases (simplified acquisition threshold) by local governments from $25,000 to $100,000. NPR also made a companion recommendation in the area of reinventing Federal procurement to "Establish new simplified acquisition threshold and procedures" (PROC04). This recommendation sought legislation to simplify small purchases by raising the threshold for the use of simplified acquisition procedures from $25,000 to $100,000.

In a February 1994 accompanying report of the NPR entitled *Creating a Government that Works Better & Costs Less—Strengthening the Partnership in Intergovernmental Service Delivery*, NPR elaborated on recommendation FSL05. NPR stated "Local governments have found the $25,000 limit to be overly restrictive, especially for the purchase of small vehicles that often exceed this amount. For example, to procure one small van with federal funds to satisfy Americans with Disabilities Act requirements, grantees must formally advertise and solicit sealed public bids. This requirement delays the procurement process and prevents grantees from acquiring rolling stock quickly" (page 21).

In many cases, State statutes set a small purchase threshold below the Federal small purchase threshold. State and local governments are encouraged to amend their thresholds in similar fashion so that grantees will be able to more fully benefit from the change in Federal requirements in this rulemaking.

On October 13, 1994, President Clinton signed Public Law 103–355, the Federal Acquisition Streamlining Act of 1994. The Act amended 41 U.S.C. 403(11) to read "The term 'simplified acquisition threshold' means $100,000." Formerly, this section defined the "small purchase threshold" at $25,000. Thus, the proposed rule's language reading "the greater of $100,000 or the small purchase threshold fixed at 41 U.S.C. 403(11) (currently set at $25,000)" anticipated this new Act, and is fully consistent with it.

Also, since the latest revision to OMB Circular A–110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," published in the **Federal Register** on November 29, 1993 (58 FR 62992–63005), states at paragraph _____.44(e)(2), "The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently $25,000)," OMB has determined that the $100,000 threshold already applies to grants with institutions of higher education, hospitals, and other non-profit organizations.

On October 14, 1994, OMB published in the **Federal Register** a final revision to OMB Circular A–102 (59 FR 52224–52227).

Public Comments

On October 25, 1994, the agencies proposed amendments to the grants management common rule (59 FR 53706–53713). Fifteen public and agency comments were received. All basically supported the increase in the threshold, although some were concerned about whether the increase would have the intended effect in light of some lower State and local thresholds. Some commenters also indicated other desirable changes in grants administration for consideration in future rulemaking actions.

One commenter asked for a clarification whether professional services costing less than $100,000 could be procured under the small purchase procedures. The common rule does not provide for any different procedures for the procurement of professional services, except for the procurement of architectural/engineering (A/E) services. Grantees may use qualifications-based competitive proposals for the procurement of A/E professional services (see section _____.36(d)(3)(v)). However, this is not a requirement and grantees are authorized to use small purchase procedures for procuring A/E professional services.

Text Changes

In response to the new Federal Acquisition Streamlining Act, the following changes in the proposed text are reflected in the final text: (a) the term "simplified acquisition threshold" replaces the term "small purchase threshold," (b) the threshold level is now set at $100,000 instead of $25,000, and (c) the language reading "the greater of $100,000 or the small purchase threshold" now merely reads "the simplified acquisition threshold." In addition, "Contracts other than small purchases" in section _____.36(i)(1) has been changed to "Contracts more than the simplified acquisition threshold."

The language changes are reflected in the following eight paragraphs in section _____.36: (d)(1), (g)(2) introductory text, (g)(2)(ii), (g)(2)(iii), (g)(2)(iv), (g)(2)(v), (h) introductory text, and (i)(1).

Impact Analysis

Executive Order 12866

The participating agencies have determined that this rule is "not significant" for purposes of Executive Order 12866.

Regulatory Flexibility Act of 1980

The participating agencies certify to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The rule does not affect the amount of funds provided in the covered programs, but rather modifies and updates an administrative and procedural requirement that reduces burden on small entities. As such, a Regulatory Flexibility Analysis has not been prepared.

Paperwork Reduction Act

The participating agencies certify that this final rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

Text of the Final Common Rule

The text of the final common rule appears below:

PART _____—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. Section _____.36 is amended by revising paragraphs (d), (g), (h) and (i) to read as follows:

_____.36 Procurement.

* * * * * *

(d) *Methods of procurement to be followed (1) Procurement by small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by *sealed bids* (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in _____.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents,

VOL 60 ISS 75 AP 19 1995 UMI

factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by *competitive proposals*. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

* * * * *

(g) *Awarding agency review.* (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

(i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted

to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).

Adoption of Final Common Rule

The agency-specific adoptions of the final common rule, which appears at the end of the common preamble, appear below.

DEPARTMENT OF AGRICULTURE

7 CFR Part 3016

RIN 0503–AA08

FOR FURTHER INFORMATION CONTACT: Gerald Miske, Supervisory Management Analyst, Federal Assistance and Fiscal Policy Division, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–1553.

List of Subjects in 7 CFR Part 3016

Accounting, Contract programs, Grant programs—agriculture, Intergovernmental relations, Reporting and recordkeeping requirements.

Issued at Washington, DC.

Anthony A. Williams,

Chief Financial Officer.

Approved:

Dan Glickman,

Secretary of Agriculture.

Title 7 of the Code of Federal Regulations, part 3016 is amended as follows.

PART 3016—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 3016 continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 3016.36 is amended as set forth at the end of the common preamble.

BILLING CODE 3410–00–P

DEPARTMENT OF ENERGY

10 CFR Part 600

RIN 1991–AB15

FOR FURTHER INFORMATION CONTACT: Cherlyn Seckinger, Business and Financial Policy Division (HR–51) U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8192.

List of Subjects in 10 CFR Part 600

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

Title 10 of the Code of Federal Regulations, part 600 is amended as follows.

PART 600—FINANCIAL ASSISTANCE RULES

Subpart C—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

1. The authority for part 600 continues to read as follows:

Authority: Secs. 644 and 646, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254 and 7256); Pub. L. 97–258, 96 Stat. 1003–1005 (31 U.S.C. 6301–6308).

2. Section 600.236 [_____.36] is amended as set forth at the end of the common preamble.

BILLING CODE 6450–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 143

FOR FURTHER INFORMATION CONTACT: Calvin Jenkins, Assistant Administrator for Administration, 202–205–6630.

List of Subjects in 13 CFR Part 143

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Philip Lader,

Administrator.

Title 13 of the Code of Federal Regulations, part 143 is amended as follows:

VOL 60 ISS 75 AP 19 1995 UMI

PART 143—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The for part 143 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6).

2. Section 143.36 is amended as set forth at the end of the common preamble.

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

15 CFR Part 24

RIN 0605–AA04

FOR FURTHER INFORMATION CONTACT: John J. Phelan, III, 202–482–4115.

List of Subjects in 15 CFR Part 24

Accounting, Contract programs, Grants programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Sonya G. Stewart,
Director, Office of Executive Budgeting and Assistance Management.

Title 15 of the Code of Federal Regulations, part 24 is amended as follows.

PART 24—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 24 continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 24.36 is amended as set forth at the end of the common preamble.

BILLING CODE 3510-FA-M

OFFICE OF NATIONAL DRUG CONTROL POLICY

21 CFR Part 1403

RIN 3201–ZA00

FOR FURTHER INFORMATION CONTACT: Richard Yamamoto, Director, High Intensity Drug Trafficking Areas Program, (202) 395–6755.

List of Subjects in 21 CFR Part 1403

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Lee P. Brown,
Director.

Title 21 of the Code of Federal Regulations, part 1403 is amended as follows.

PART 1403—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1403 continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 1403.36 is amended as set forth at the end of the common preamble.

BILLING CODE 3180-02-M

DEPARTMENT OF STATE

22 CFR Part 135

RIN 1400–AA53

FOR FURTHER INFORMATION CONTACT: Robert Lloyd, Office of the Procurement Executive, 703–516–1690.

List of Subjects in 22 CFR Part 135

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Lloyd W. Pratsch,
Procurement Executive.

Title 22 of the Code of Federal Regulations, Part 135 is amended as follows:

PART 135—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 135 continues to read as follows:

Authority: 22 U.S.C. 2658.

2. Section 135.36 is amended as set forth at the end of the common preamble.

BILLING CODE 4710-24-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 85

RIN 2535–AA22

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, (202) 708–0294. TDD: (202) 708–1112.

List of Subjects in 24 CFR Part 85

Accounting, Contract programs, Grant programs, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Henry G. Cisneros,
Secretary.

Title 24 of the Code of Federal Regulations, part 85 is amended as follows:

PART 85—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL AND FEDERALLY RECOGNIZED INDIAN TRIBAL GOVERNMENTS

1. The authority for part 85 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

2. Section 85.36 is amended as set forth at the end of the common preamble.

BILLING CODE 4210-32-M

DEPARTMENT OF JUSTICE

28 CFR Part 66

[OJP No. 1007F; A.G. Order No. 1861–95]

RIN 1121–AA16

FOR FURTHER INFORMATION CONTACT: Cynthia J. Schwimer, Director, Financial Management Division, 202–307–3186.

List of Subjects in 28 CFR Part 66

Accounting, Contract programs, Grant programs, Intergovernmental relations; Reporting and recordkeeping requirements.

Janet Reno,
Attorney General.

Title 28, Chapter I, of the Code of Federal Regulations, part 66 is amended as follows.

PART 66—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 66 is revised to read as follows:

Authority: 18 U.S.C. 4042, 4351–4353; 42 U.S.C. 3711 *et seq.*, 5601 *et seq.*, 10601 *et seq.*

2. Sections 66.36 is amended as set forth at the end of the common preamble.

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

29 CFR Part 97

RIN 1291–AA22

FOR FURTHER INFORMATION CONTACT: Melvin Goldberg, Chief, Division of Procurement and Grant Policy, (202) 219–9174.

List of Subjects in 29 CFR Part 97

Accounting, Contract programs, Grants programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Cynthia A. Metzler,
Assistant Secretary for Administration and Management.

Title 27 of the Code of Federal Regulations, part 97 is amended as follows:

PART 97—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 97 continues to read as follows:

Authority: 5 U.S.C. 301; OMB Circular A–102.

2. Section 97.36 is amended as set forth at the end of the common preamble.

BILLING CODE 4150-23-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1470

RIN 3076–AA03

FOR FURTHER INFORMATION CONTACT: Peter Regner, (202) 606–8181

List of Subjects in 29 CFR Part 1470

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

John Calhoun Wells,
Director.

Title 29 of the Code of Federal Regulations, Part 1470 is amended as follows.

PART 1470—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1470 continues to read as follows:

Authority: 29 U.S.C. 175a.

2. Section 1470.36 is amended as set forth at the end of the common preamble.

BILLING CODE 6372-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 33

RIN 0790–AG06

FOR FURTHER INFORMATION CONTACT: Mark Herbst, (703) 614–0205.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Department of Defense adopts this amendment to the Governmentwide common rule on administration of grants and cooperative agreements to State and local governments. In adopting this rule, the Office of the Secretary of Defense, the Military Departments and the Defense Agencies will maintain uniform procedures that are consistent with those of other Executive Departments and Agencies.

The Department of Defense originally codified this Governmentwide rule on March 11, 1988 (53 FR 8034), at 32 CFR Part 278. On February 21, 1992 (57 FR 6199), Part 278 was redesignated as Part 33. This rulemaking amends the redesignated Part 33.

List of Subjects in 32 CFR Part 33

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Linda M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

Title 32 of the Code of Federal Regulations, part 33 is amended as follows:

PART 33—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 33 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 113.

2. Section 33.36 is amended as set forth at the end of the common preamble.

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 80

RIN 1880–AA83

FOR FURTHER INFORMATION CONTACT: Greg Vick, U.S. Department of Education, Room 3636 ROB, Washington, DC 20202–4700. Telephone: (202) 708–8199. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

List of Subjects in 34 CFR Part 80

Accounting, Contract programs, Grant programs—education, Intergovernmental relations, Reporting and recordkeeping requirements.

Richard W. Riley,
Secretary of Education.

Title 34 of the Code of Federal Regulations, part 80 is amended as follows.

PART 80—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 80 continues to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474, OMB Circular A–102, unless otherwise noted.

2. Section 80.36 is amended as set forth at the end of the common preamble.

BILLING CODE 4000-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1207

RIN 3095–AA23

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard on 301–713–6730.

List of Subjects in 36 CFR Part 1207

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Trudy Huskamp Peterson,
Acting Archivist of the United States.

Title 36 of the Code of Federal Regulations, part 1207 is amended as follows.

PART 1207—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1207 continues to read as follows:

Authority: 44 U.S.C. 2104.

VOL 60 ISS 75 AP 19 1995 UMI

2. Section 1207.36 is amended as set forth at the end of the common preamble.

BILLING CODE 7515-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 43

RIN 2900-AH25

FOR FURTHER INFORMATION CONTACT: Dale L. Renaud, Deputy Assistant Secretary for Intergovernmental Affairs (075), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–5760.

List of Subjects in 38 CFR Part 43

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Jesse Brown,

Secretary of Veterans Affairs.

Title 38 of the Code of Federal Regulations, part 43 is amended as follows:

PART 43—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 43 is revised to read as follows:

Authority: 38 U.S.C. 501, 1712.

2. Section 43.36 is amended as set forth at the end of the common preamble.

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 31

RIN 2030–AA34

FOR FURTHER INFORMATION CONTACT: Linda Yancey, Grants Policy and Procedures Branch, Grants Administration Division (3903F), 401 M Street SW., Washington, DC 20460, (202) 260–5264.

List of Subjects in 40 CFR Part 31

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 31, 1995.

Carol M. Browner,

Administrator.

Title 40 of the Code of Federal Regulations, part 31 is amended as follows.

PART 31—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 31 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 7401 *et seq.*; 42 U.S.C. 6901 *et seq.*; 42 U.S.C. 300f *et seq.*; 7 U.S.C. 136 *et seq.*; 15 U.S.C. 2601 *et seq.*; 42 U.S.C. 9601 *et seq.*; 20 U.S.C. 4011 *et seq.*; 33 U.S.C. 1401 *et seq.*

2. Section 31.36 is amended as set forth at the end of the common preamble.

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–71

RIN 3090–AF–59

FOR FURTHER INFORMATION CONTACT: John P. Dyer, General Services Administration, Public Buildings Service, Office of Federal Protective Service, 18th and F Streets, NW, Room 7316, Washington, DC 20405. Telephone: (202) 501–0160.

List of Subjects in 41 CFR Part 105–71

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 6, 1995.

Julia M. Stasch,

Acting Administrator of General Services.

Title 41 of the Code of Federal Regulations, part 105–71 is amended as follows:

PART 105–71—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 105–71 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

2. Section 105–71.136 [_____.36] is amended as set forth at the end of the common preamble.

BILLING CODE 6820-23-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 12

RIN 1090–AA47

FOR FURTHER INFORMATION CONTACT: Dean A. Titcomb, Chief, Acquisition and Assistance Division, (202) 208–6431.

List of Subjects in 43 CFR Part 12

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 27, 1995.

Joseph L. Sax,

Acting Assistant Secretary—Policy, Management and Budget.

Title 43 of the Code of Federal Regulations, Part 12 is amended as follows.

PART 12—ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

1. The authority for part 12 continues to read as follows:

Authority: 5 U.S.C. 301; U.S.C. 6101 note, 7501; 41 U.S.C. 252a; 701 *et seq.*; sec. 307, Pub. L. 103–332, 108 Stat. 2499; sec. 501, Pub. L. 103–316, 108 Stat. 1723; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12674, 3 CFR, 1989 Comp., p. 215; E.O. 12731, 3 CFR, 1990 Comp., p. 306; OMB Circular A–102; OMB Circular A–110; OMB Circular A–128; and OMB Circular A–133.

Subpart C—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

2. Section 12.76 [____.36] is amended as set forth at the end of the common preamble.

BILLING CODE 4310-RF-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 13

FOR FURTHER INFORMATION CONTACT: Charles F. McNulty, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2976.

List of Subjects in 44 CFR Part 13

Accounting, Contract programs, Grant programs, Intergovernmental relations,

Reporting and recordkeeping requirements.

Harvey G. Ryland,

Deputy Director.

Title 44 of the Code of Federal Regulations, part 13 is amended as follows.

PART 13—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 13 is revised to read as follows:

Authority: Reorg. Plan No. 3, 1978; E.O. 12148, 3 CFR, 1979 Comp., p. 412.

2. Section 13.36 is amended as set forth at the end of the common preamble.

BILLING CODE 6718-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 92

RIN 0991–AA77

FOR FURTHER INFORMATION CONTACT: Charles Gale, Director, Division of Grants Policy and Oversight, 202–690–6377. For the hearing impaired only: Telecommunications Device for the Deaf 202–690–6415.

ADDITIONAL SUPPLEMENTARY INFORMATION: For clarification, in addition to applying to State and local governments, this amendment also applies to Indian Tribal governments.

List of Subjects in 45 CFR Part 92

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 4, 1995.

Donna E. Shalala,

Secretary.

Title 45 of the Code of Federal Regulations, part 92 is amended as follows.

PART 92—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 92 continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 92.36 is amended as set forth at the end of the common preamble.

BILLING CODE 4150-04-M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 602

RIN 3145–AA30

FOR FURTHER INFORMATION CONTACT: Jean Feldman, Deputy Head, Policy Office, Division of Contracts, Policy & Oversight, 703–306–1243. For the hearing impaired only: Telecommunications Device for the Deaf, (703) 306–0090.

List of Subjects in 45 CFR Part 602

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Joseph L. Kull,

Chief Financial Officer.

Title 45 of the Code of Federal Regulations, part 602 is amended as follows.

PART 602—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 602 continues to read as follows:

Authority: 42 U.S.C. 1870(a).

2. Section 602.36 is amended as set forth at the end of the common preamble.

BILLING CODE 7555-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1157

RIN 3135–AA12

FOR FURTHER INFORMATION CONTACT: Ms. Donna DiRicco, Acting Grants Officer, National Endowment for the Arts, (202) 682–5403.

List of Subjects in 45 CFR Part 1157

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Laurence Baden,

Deputy Chairman for Management.

Title 45 of the Code of Federal Regulations, part 1157 is amended as follows.

PART 1157—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1157 continues to read as follows:

Authority: 20 U.S.C. 959(a)(1).

2. Section 1157.36 is amended as set forth at the end of the common preamble.

BILLING CODE 7537-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

45 CFR Part 1174

RIN 3136–AA17

FOR FURTHER INFORMATION CONTACT: David J. Wallace, Director, Grants Office, National Endowment for the Humanities, 202–606–8494.

List of Subjects in 45 CFR Part 1174

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Sheldon Hackney,

Chairman.

Title 45 of the Code of Federal Regulations, Part 1174 is amended as follows.

PART 1174—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1174 continues to read as follows:

Authority: 20 U.S.C. 959(a)(1).

2. Section 1174.36 is amended as set forth at the end of the common preamble.

BILLING CODE 7536-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum Services

45 CFR Part 1183

FOR FURTHER INFORMATION CONTACT: Rebecca Danvers, Program Director, 202–606–8539.

List of Subjects in 45 CFR Part 1183

Accounting, Contract programs, Grant programs, Intergovernmental relations,

VOL 60 ISS 75 AP 19 1995 UMI

Museums, Reporting and recordkeeping requirements.

Diane B. Frankel,

Director.

Title 45 of the Code of Federal Regulations, part 1183 is amended as follows:

PART 1183—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 1183 continues to read as follows:

Authority: 20 U.S.C. 961–968.

2. Section 1183.36 is amended as set forth at the end of the common preamble.

BILLING CODE 7026-01-M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2541

FOR FURTHER INFORMATION CONTACT: Rina Tucker, (202) 606–5000 x257 between the hours of 9 a.m. and 5 p.m. (202–565–2799 TDD). This document will be made available in an alternative format upon request for individuals with disabilities.

List of Subjects in 45 CFR Part 2541

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Terry Russell,

General Counsel.

Title 45 of the Code of Federal Regulations, part 2541 is amended as follows.

PART 2541—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 2541 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.* and 12501 *et seq.*

2. Section 2541.360 [_____.36] is amended as set forth at the end of the common preamble.

BILLING CODE 6050-28-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 18

RIN 2105–AB46

FOR FURTHER INFORMATION CONTACT: Robert G. Taylor, Department of Transportation, Office of Acquisition and Grant Management, M–62, 400 Seventh Street, SW., Room 9401, Washington, DC 20590, (202) 366–4289.

ADDITIONAL SUPPLEMENTARY INFORMATION:

Background

This rule is being revised to raise the dollar threshold for small purchases by State and local grantees in accordance with the National Performance Review recommendation and to be consistent with the accompanying governmentwide common rule.

Section 18.6, Additions and exceptions. This section has been revised to codify the current DOT policy for the review and concurrence of exceptions by the Assistant Secretary for Administration to ensure conformance with overall Department policies.

Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The Department of Transportation has determined that this rulemaking is not a significant regulatory action within the meaning of Executive Order 12866, nor a significant regulation under the Department's Regulatory Policies and Procedures. The regulations should create savings for recipients by reducing the costs of administering grants. The DOT Operating Administrations award approximately $23 billion through 40 separate assistance programs annually. An undetermined portion of these funds are utilized for small purchases.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would minimize the economic impact on small entities. We certify that these regulations will not have a significant economic impact on a substantial number of small entities, but rather modify and update administrative and procedural requirements.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The rule primarily applies to State or local governments. This action may have some Federalism benefits by removing some procedural restrictions on grantees; however, the Department certifies that this proposal does not have sufficient Federalism implications to warrant a full Federalism assessment under the principles and criteria contained in Executive Order 12612.

Paperwork Reduction Act

We certify that this rule would not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

List of Subjects in 49 CFR Part 18

Accounting, Contract programs, Grant programs, Intergovernmental relations, Reporting and recordkeeping requirements.

Federico Peña,

Secretary of Transportation.

Title 49 of the Code of Federal Regulations, part 18 is amended as follows:

PART 18—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

1. The authority for part 18 continues to read as follows:

Authority: 49 U.S.C. 322(a).

2. Section 18.6 is amended by adding paragraph (b)(1) and (c)(1), and adding and reserving paragraphs (b)(2) and (c)(2), to read as follows:

§ 18.6 Additions and exceptions.

* * * * *

(b) * * *

(1) All Departmental requests for exceptions shall be processed through the Assistant Secretary of Administration.

(2) [Reserved]

(c) * * *

(1) All case-by-case exceptions may be authorized by the affected operating administrations or departmental offices, with the concurrence of the Assistant Secretary for Administration.

(2) [Reserved]

§ 18.36 [Amended]

3. Section 18.36 is amended as set forth at the end of the common preamble.

BILLING CODE 4910-62-M

[FR Doc. 95–9374 Filed 4–18–95; 8:45 am]

BILLING CODE 3410-08-P; 6450-01-M; 6825-01-M; 3510-FA-M; 3180-03-M; 4710-24-M; 4210-32-M; 4410-18-M; 4150-03-M; 6372-01-M; 8000-04-M; 4000-01-M; 7515-01-M; 8320-01-M; 6560-01-M; 6025-33-M; 4310-RF-M; 6718-01-M; 4150-04-M; 7905-01-M; 7537-01-M; 7536-01-M; 7035-01-M; 6050-28-M; 4910-62-M

VOL
60

ISS
75

AP
19

1995

UMI

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Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 310

Drug Products Containing Quinine for the Treatment and/or Prevention of Malaria for Over-The-Counter Human Use; Proposed Rule

VOL 60 ISS 75 AP 19 1995 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 94N-0365]

Drug Products Containing Quinine for the Treatment and/or Prevention of Malaria for Over-The-Counter Human Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking that would establish that over-the-counter (OTC) drug products containing quinine for the treatment and/or prevention of malaria are not generally recognized as safe and are misbranded. FDA is issuing this notice of proposed rulemaking after considering data and information on the safety of quinine.

DATES: Written comments by July 3, 1995. Written comments on the agency's economic impact determination by July 3, 1995. The agency is proposing that any final rule that may issue based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-594-5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 8, 1977 (42 FR 35346), FDA published an advance notice of proposed rulemaking to amend § 330.10(a)(6) (21 CFR 330.10(a)(6)), and to establish a monograph for OTC internal analgesic, antipyretic, and antirheumatic drug products, together with the recommendations of the Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Drug Products (Internal Analgesic Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Although the Internal Analgesic Panel did not review the use of quinine as an antimalarial (other than to note its use in lowering the fever of malarial patients), it did review the safety of quinine used OTC as an analgesic, antipyretic, and muscle relaxant. The Internal Analgesic Panel concluded that "Until controlled studies show that a dose of not more than 325 milligrams (mg) daily is safe and useful for relief of nocturnal leg cramps the drug should not be available for OTC use for treatment of nocturnal leg cramps." (See 42 FR 35346 at 35434.)

The agency's proposed regulation, in the form of a tentative final monograph, for OTC internal analgesic, antipyretic, and antirheumatic drug products was published in the **Federal Register** of November 16, 1988 (53 FR 46204). In the proposed rule (53 FR 46204 at 46243), the agency agreed with the Internal Analgesic Panel's conclusions concerning the safety of quinine and proposed that quinine be Category II (not generally recognized as safe and effective, and misbranded) when labeled for any OTC antipyretic or internal analgesic use other than the treatment and/or prevention of nocturnal leg muscle cramps.

In the **Federal Register** of May 10, 1993 (58 FR 27636), the agency issued a final rule for certain Category II and III (more data needed) active ingredients for which no significant comments or new data to upgrade the status of these ingredients had been submitted. In that final rule (58 FR 27636 at 27639), the agency determined that quinine (among other ingredients) is not generally recognized as safe and effective and is misbranded when present in OTC internal analgesic, antipyretic, and antirheumatic drug products.

In the **Federal Register** of October 1, 1982 (47 FR 43562), FDA published an advance notice of proposed rulemaking to amend § 330.10(a)(6) and to reopen the rulemaking for OTC internal analgesic, antipyretic, and antirheumatic drug products to consider the OTC use of quinine for the treatment of nocturnal leg muscle cramps. The document reflected the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Although the Miscellaneous Internal Panel stated that quinine "* * * appears to be reasonably safe * * * in generally recommended doses of 200 to 325 mg daily" (47 FR 43562 at 43564), the Miscellaneous Internal Panel recommended that quinine be placed in Category III for use in the treatment of nocturnal leg muscle cramps because of the need for more information about both safety and efficacy (47 FR 43564).

The agency's proposed regulation for OTC drug products for the treatment and/or prevention of nocturnal leg muscle cramps was published in the **Federal Register** of November 8, 1985 (50 FR 46588). The agency concurred with both the Internal Analgesic and Miscellaneous Internal Panels that no active ingredient (including quinine) in OTC drug products for the treatment and/or prevention of nocturnal leg muscle cramps had been found to be generally recognized as safe and effective and not misbranded. Although the agency acknowledged the OTC availability of quinine for the treatment of malaria (50 FR 46588 at 46592), only its use in the treatment and/or prevention of leg muscle cramps was covered by the proposed rule.

Subsequently, a citizen petition (Ref. 1) requested, among other things, a ban on the OTC sale of all quinine sulfate drug products. Upon review of the citizen petition and other data and information, in the **Federal Register** of August 22, 1994 (59 FR 43234), the agency issued a final rule establishing that any OTC drug product for the treatment and/or prevention of nocturnal leg muscle cramps is not generally recognized as safe and effective and is misbranded. The agency concluded, among other things, that quinine is not safe for OTC use in the treatment and/or prevention of nocturnal leg muscle cramps (59 FR 43234 at 43239). In that final rule, the agency also stated that OTC quinine drug products for antimalarial use would be discussed in future issues of the **Federal Register**.

The agency recognizes that quinine has been marketed for decades, on both an OTC and prescription basis, as an anti-infective agent for the treatment and/or prevention of malaria, a serious and potentially life-threatening disease that at one time was endemic in this country (Ref. 2). However, data and information (discussed elsewhere in this document) reviewed by the agency during the rulemaking for OTC drug products for the treatment and/or prevention of nocturnal leg muscle cramps have raised serious safety concerns about the continued OTC availability of quinine for the treatment and/or prevention of malaria.

For reasons discussed in this document, FDA is proposing to classify OTC drug products containing quinine or any quinine salt (e.g., quinine sulfate) labeled for the treatment and/or prevention of malaria as not generally recognized as safe, as misbranded, and a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)), for which an application or abbreviated application (hereinafter called application) approved under section 505 of the act (21 U.S.C. 355) and 21 CFR part 314 is required for marketing. In the absence of an approved application, the proposed rule would also declare these products misbranded under section 502 of the act (21 U.S.C. 352). The rule will be incorporated into 21 CFR part 310, subpart E—Requirements for Specific New Drugs or Devices, by adding new § 310.547.

If this proposal is adopted as a final rule, the agency advises that the conditions under which the drug products that are subject to this rule are not generally recognized as safe and effective and are misbranded will be effective 30 days after the date of publication of the final rule in the **Federal Register**. On or after that date, no OTC drug product that is subject to the rule may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to the final rule that is repackaged or relabeled after the effective date of the final rule must be in compliance with the final rule regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce.

References

(1) Comment No. CP0008, Docket No. 77N-0094, Dockets Management Branch.

(2) Russell, P. F., "The United States and Malaria: Debits and Credits," *Bulletin of the New York Academy of Medicine*, 44(6):823-853, 1968.

I. Quinine Use In The Treatment and/or Prevention of Malaria

Malaria is an infectious and potentially fatal disease caused by microscopic parasites (known as protozoa) of the genus *Plasmodium* (Refs. 1 and 2). Of the four species of *Plasmodium* typically associated with malaria in humans (*P. falciparum*, *P. vivax*, *P. ovale*, and *P. malariae*), malaria caused by *P. falciparum* (i.e., falciparum malaria) is the form of the disease usually associated with severe symptoms and death (if not promptly and properly treated). Malaria is most commonly transmitted to humans through the bite of an infected *Anopheles* mosquito (Refs. 1 and 2).

Malaria is initially characterized by nonspecific symptoms similar to those in viral illnesses. Symptoms include fever, lack of well-being, headache, fatigue, and muscle aches (Refs. 1 and 2). Laboratory analysis of blood samples from persons suspected of having malaria in conjunction with medical assessment and monitoring are necessary to: (1) Confirm a diagnosis of malaria; (2) determine the species of parasite(s) involved; (3) determine the density of parasites in the blood; (4) monitor therapeutic efficacy of treatment; (5) determine the potential for possible exposure to drug-resistant *P. falciparum* and (6) assess coexistent medical complications (all of which influence treatment decisions) (Refs. 1, 2, and 3).

Malaria was a major infectious disease in the United States in the 19th century and through the first third of the 20th century (Ref. 4). Through a combination of control programs, drug development, and education, malaria has since been virtually eradicated from North America (Refs. 1 through 4). Although, approximately 1,000 cases of malaria are reported to the Centers for Disease Control and Prevention (CDC) each year, all but a few cases are associated with travel to or from malaria-endemic areas in other parts of the world (Ref. 3). In those areas, however, malaria remains a major infectious disease and cause of death (Ref. 3).

Preparations made from the bark of one or more species of tree of the genus *Cinchona* have been used for centuries in the treatment and prevention of malaria (Ref. 5). Although *Cinchona* bark contains varying amounts of several drugs with antimalarial action, collectively known as quinoline alkaloids, quinine is the chief member of this group. Use of the term "quinine" in this document includes both the purified alkaloid and its derivatives. Oral quinine for the treatment of malaria is most commonly available as the salt quinine sulfate (Refs. 5 and 6).

In discussing the period in which malaria was endemic in the United States, Russell (Ref. 4) states that quinine "* * * in large bottles stood on the clock shelf in thousands of homes". in the 19th century and was extensively used as a mass prophylactic in malaria control programs in the first quarter of the 20th century. Russell notes that the use of less toxic and more effective synthetic antimalarial drugs (especially chloroquine) replaced quinine as the drug of choice by the 1930's. However, quinine has again become therapeutically important in the management of malaria due to the increasing resistance of *P. falciparum* (and more recently *P. vivax*) to chloroquine (Refs. 3 and 7).

Current treatment of malaria includes the use of oral quinine (in combination with other prescription antimalarial drugs) in medically uncomplicated cases when the disease is diagnosed or suspected of having been caused by *P. falciparum* contracted in areas where the parasite has become resistant to treatment with chloroquine, and the person is able to tolerate oral medications (Refs. 1, 2, and 3). Quinine is also used for the treatment of malaria following therapies involving exchange blood transfusions and/or intravenous drug therapy during hospitalization for complicated or high density falciparum malaria (a medical emergency), or when the species/drug sensitivity of the parasite is unknown (Refs. 2 and 3).

Falciparum malaria contracted in some areas has demonstrated a reduced susceptibility to standard quinine therapy (Refs. 3 and 7). Increasing resistance to quinine in such endemic areas may in part be due to its extensive use in unsupervised therapy (Ref. 7). Unsupervised therapy (with a drug known to commonly cause unpleasant adverse effects (see section II)) allows for incomplete treatments due to poor compliance with dosing instructions, a practice that may promote proliferation of malarial parasites less sensitive to quinine (Ref. 7). During the treatment of falciparum malaria with quinine, it is recommended that therapeutic efficacy be monitored by the daily examination of blood samples for the presence of malarial parasites until the samples are negative (Ref. 2). Failure to show parasite reduction may indicate drug resistance and necessitate a change in therapy. It is believed that the use of combinations of drugs (e.g., quinine plus either sulfadoxine/pyrimethamine or tetracycline) in the treatment of malaria may help prevent the development of drug-resistant strains of malarial parasites (Refs. 7, 8, and 9). Furthermore, it is believed that such interrupted or irregular quinine therapy during the treatment of falciparum malaria may predispose persons to the serious complications of blackwater fever, including anemia, red blood cell destruction, and renal failure (Refs. 10 and 11).

The continued spread of chloroquine-resistant *P. falciparum* has reduced the number of effective drugs for malaria prevention. CDC recommendations for the prevention of malaria in travelers take into account "* * * the risk of exposure to malaria, the effectiveness and safety of antimalarial drugs, and the use of personal protective measures." Quinine is not included in the list of drugs currently recommended by CDC for the prevention of malaria (Ref. 12).

In summary, malaria is an infectious disease that has been virtually eradicated from North America. Quinine, once the major therapeutic

VOL 60 ISS 75 AP 19 1995 UMI

agent for the treatment of malaria, was replaced in the 1930's with less toxic and more effective drugs. Current public health recommendations do not include the use of quinine in the prevention of malaria and limit its use in the treatment of the disease. Current recommendations for the treatment of malaria only include the use of quinine in combination therapies with other prescription drugs or as part of an intensive therapy involving blood transfusions and parenteral drugs during hospitalization. Clinical and laboratory assessments are necessary for prompt and proper diagnosis and treatment, including clinical monitoring during drug therapy to determine therapeutic efficacy and confirm the successful treatment of this serious and potentially fatal disease.

References

(1) Wyler, D. J., "Plasmodium Species (Malaria)," in *Principles and Practice of Infectious Diseases*, 3d ed., edited by G. L. Mandell, R. G. Douglas, Jr., and J. E. Bennett, Churchill Livingstone, New York, pp. 2056–2066, 1990.

(2) White, N. J., and J. G. Breman, "Malaria," in *Harrison's Principles of Internal Medicine*, 13th ed., edited by K. J. Isselbacher et al., McGraw–Hill, New York, pp. 887–895, 1994.

(3) McCarthy, A. E., and J. S. Keystone, "Malaria," in *Conn's Current Therapy, 1994*, edited by R. E. Rakel, W. B. Saunders Co., Philadelphia, pp. 94–100, 1993.

(4) Russell, P. F., "The United States and Malaria: Debits and Credits," *Bulletin of the New York Academy of Medicine*, 44(6): 623–653, 1968.

(5) Webster, Jr., L. T., "Drugs Used in the Chemotherapy of Protozoal Infections," in *The Pharmacological Basis of Therapeutics*, 8th ed., edited by A. G. Gilman et al., Pergamon Press, New York, pp. 978–998, 1990.

(6) McEvoy, G. K., editor, *AHFS Drug Information*, American Society of Hospital Pharmacists, Bethesda, MD, pp. 437–440, 1993.

(7) Weinke, T. et al., "Malaria Therapy in 452 Patients with Special Reference to the Use of Quinine," *Journal of Infection*, 25(2): 173–180, 1992.

(8) Smit, E. H. D., "Quinine Is Not What It Used To Be," *Acta Leidensia*, 55:21–27, 1987.

(9) Gramiccia, G., "Quinine: Should the Past Be Taken as a Guidance for the Future," *Acta Leidensia*, 55:15–20, 1987.

(10) Bateman, D. N., and E. H. Dyson, "Quinine Toxicity," *Adverse Drug Reactions and Acute Poisoning Reviews*, 4:215–233, 1986.

(11) USPDI, *Drug Information for the Health Care Professional*, The U. S. Pharmacopeial Convention, Inc., Rockville, MD, vol. I, 14th ed., pp. 2379–2382, 1994.

(12) "Recommendations for the Prevention of Malaria Among Travelers," *Morbidity and Mortality Weekly Report*, Public Health Service, Centers for Disease Control, 39(RR–3):1–10, 1990.

II. Safety Considerations

Quinine taken orally is currently used as part of a combination drug treatment of uncomplicated, low-density, chloroquine-resistant falciparum malaria. The adult dosage of quinine sulfate used for treatment of this condition is 600 to 650 mg three times daily for 3 to 7 days (Refs. 1 through 5).

In the final rule for OTC drug products for the treatment and/or prevention of nocturnal leg muscle cramps (59 FR 43234), the agency discussed a number of safety concerns related to the OTC availability of quinine for this use. The agency noted that adverse reaction reports (59 FR 43234 at 43239) suggested that quinine doses of 260 to 325 mg/day (which are much lower than the dosage used for the treatment of malaria) in healthy, middle-aged adults can produce symptoms of quinine toxicity, including auditory, visual, and gastrointestinal effects. The agency also noted that vestibular, auditory, visual, and vascular effects of quinine can occur in healthy young adults at doses in and below the range commonly employed for the treatment and/or prevention of nocturnal leg muscle cramps (59 FR 43234 at 43239).

Symptoms of side effects associated with quinine (collectively referred to as "cinchonism") include tinnitus (a ringing or buzzing in the ear), nausea, vomiting, visual changes, auditory deficits, and cardiovascular abnormalities (Ref. 1). These symptoms are of varying severity depending upon the amount of quinine used. Some people will experience these side effects even at quinine doses of 260 to 325 mg/day (59 FR at 43239). These side effects occur more frequently at the higher dosages generally used in the treatment of malaria (Ref. 1).

A more severe problem is that people taking quinine remain at risk of developing hypersensitivity to the drug and experiencing a serious, life-threatening, or fatal reaction as a consequence. Reports of adverse reactions to quinine products listed in the agency's spontaneous reporting system show that, from 1969 through June 1992, FDA received 157 reports in which quinine was listed as a suspect drug. (See 59 FR 43234 at 43236.) There were 84 serious reactions: 23 deaths, 5 cases in which the person was disabled, and 56 hospitalizations not involving death or disablement. A trend of increasing numbers of reports per year since 1986 was also observed as the marketing of OTC drug products containing quinine for the treatment and/or prevention of nocturnal leg muscle cramps expanded after 1986.

A detailed review of 110 reports on file from 1969 through 1990 (59 FR 43236 to 43237) showed 69 (approximately 63 percent) of these reports involved hypersensitivity reactions ranging from rash and fever to angioneurotic edema, thrombocytopenia, or generalized anaphylaxis. Of these 69 reports, 57 (approximately 83 percent) involved quinine products and/or quinine dosages used in the treatment and/or prevention of nocturnal leg muscle cramps. An attempt was made to identify only those reports in which the relationship between quinine and the reported event was strong and reasonably unrelated to other factors. Factors considered included the temporal relationship between quinine administration and the event, absence of concomitant medications (or abatement of the adverse event after quinine was discontinued), absence of confounding medical conditions, a positive test for quinine mediated antibodies, or history of a similar reaction associated with previous quinine exposure. Using these factors, 26 of the 110 reports were identified as cases where it can be reasonably concluded that quinine was the causative agent. These included 6 moderately severe to severe skin reactions, 2 of which were erythema multiforme-like reactions; 13 hematologic events, with 2 resulting in death; 2 cases of hepatitis or elevated liver enzymes; 2 renal reactions, one leading to renal failure requiring dialysis, the other leading to death; 2 cases of a hypersensitivity syndrome with symptoms that included chills, nausea, vomiting, and diarrhea; and 1 report of anaphylaxis complicated by seizures and hypoxia following a single dose of quinine. None of these cases reported an overdose of the drug, and 21 of the 26 reports (approximately 81 percent) involved quinine products and/or quinine dosages used in the treatment and/or prevention of nocturnal leg muscle cramps.

Quinine-induced thrombocytopenia may occur after 1 week of exposure or after months or years of quinine administration, and there may be no characteristic that would predict an adverse event in the person using the product (59 FR 43234 at 43243). The agency believes that a physician could help people using this drug appreciate the nature and frequency of the risk and advise about the signs of thrombocytopenia, such as petechiae (pinpoint, nonraised, round, purplish red spots) and purpura (small hemorrhage), perhaps allowing identification of this condition before a significant hemorrhage occurred. A number of the adverse reaction reports note the occurrence of a similar prior event related to previous ingestion of quinine in which neither the user nor the physician recognized the relationship of the illness to quinine ingestion. Use of quinine under a physician's prescription, with appropriate emphasis on warning signs, may make timely recognition easier.

Although drug-induced immunologic thrombocytopenia may be the best studied idiosyncratic reaction caused by quinine, quinine has also been reported to have been associated with a number of other hypersensitivity reactions and pharmacologic effects (59 FR 43234 at 43243). These include the possibility of decreased digoxin clearance, increased half-life of quinine when given concurrently with cimetidine, pseudo-allergic reactions in aspirin-sensitive patients, drug fever, nonspecific granulomatous hepatitis, asthma, hemolytic anemia, inhibition of tolbutamide metabolism, hypoprothrombinemia, and hemolytic anemia in glucose-6-phosphate dehydrogenase (G6PD) deficient patients (59 FR 43234 at 43243). Furthermore, the possible pharmacologic effects may have particular significance for the elderly, who may be taking concomitant medications that adversely interact with quinine. Blackbourn and Bajrovic (Ref. 6) mention that altered pharmacokinetics with age result in a longer half-life of quinine in older people, which suggests that the frequency and severity of adverse effects may be greater in the elderly.

The agency is aware of reports asserting that the labeling of OTC quinine products for malaria may not be consistent with current medical recommendations and/or may be associated with excessive or inadequate dosages (Refs. 7 and 8). Houlihan (Ref. 7) reported a case involving a 63-year-old man with a history of malaria who thought he was having a recurrence and began self-treatment with 975 mg of quinine sulfate three times a day in accordance with the product's labeling. After 2 days of self-treatment, the man was hospitalized for blindness (that resolved after 10 days) and exhibited electrocardiographic abnormalities (that resolved after 2 days). However, blood tests after hospitalization showed no indication of the existence of malarial parasites. The agency randomly reviewed labels from eight OTC quinine products labeled for use in malaria (Ref. 9) and noted dosage recommendations as low as 200 mg three times a day (for 6 to 12 days) and as high as 975 mg three times a day (for 6 to 12 days). A fatal dose of quinine for an adult is approximately 2,000 to 8,000 mg (Refs. 3, 10, and 11).

Thus, in the treatment of malaria, a narrow margin of safety exists between a therapeutic dose and a toxic dose of quinine. The agency believes this risk requires that a prescribing physician participate in the decision to use the drug, by assuring the diagnosis, considering the species and possible drug resistance of the infecting parasite, evaluating concurrent medical problems and medications, counseling patients concerning common and potentially severe adverse reactions, and monitoring patient safety and treatment effectiveness.

References

(1) White, N. J., and J. G. Breman, "Malaria," in *Harrison's Principles of Internal Medicine*, 13th ed., edited by K. J. Isselbacher et al., McGraw-Hill, New York, pp. 887–895, 1994.

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(9) Copies of labeling for Genetco Quinine Sulfate 5 grain Capsules, Major Quinine Sulfate 325 mg Capsules, Royce Quinine Sulfate 325 mg Capsules, Rugby Quinine Sulfate 325 mg Captabs and Capsules, Westward Quinine Sulfate 200 mg and 325 mg Capsules, and Zenith Quinine Sulfate 200 mg Capsules, copy in OTC Vol. 260001, Docket No. 94N–0355, Dockets Management Branch.

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III. The Agency's Tentative Conclusions on OTC Quinine Drug Products for the Treatment and/or Prevention of Malaria

Malaria is a rare (in the United States) but serious and potentially deadly disease that exhibits several biologic patterns. Diagnosis and treatment of the disease depend on such factors as the species of parasite(s) involved, the density of parasites in the blood, the potential for possible exposure to drug-resistant *P. falciparum* or *P. vivax*, and the existence of coexistent medical complications. Malaria requires a medical diagnosis both to confirm the disease and to determine the treatment of choice. Prompt and proper diagnosis, treatment, and monitoring of therapeutic efficacy require laboratory analyses of blood samples and clinical assessments. Continuous physician monitoring is then necessary to determine if the selected drug therapy is effective and to determine if the malarial parasites have been eradicated. Accordingly, the agency concludes that consumers cannot safely and effectively self-treat malaria. Except for quinine products, no other antimalarial drug is available OTC.

Current public health recommendations do not include the use of oral quinine in the prevention of malaria and limit its use in the treatment of the disease (primarily to uncomplicated, low-density, chloroquine-resistant falciparum malaria). Current treatments for malaria include the use of quinine only in combination therapies with prescription drugs or as part of an intensive therapy involving blood transfusions and parenteral drugs during hospitalization. Thus, any patient properly using quinine should be under the care and supervision of a doctor.

Unsupervised quinine therapy (allowing for incomplete or interrupted treatments due to poor compliance with dosing instructions) is a practice believed to promote proliferation of malarial parasites less sensitive to quinine. Furthermore, interrupted quinine therapy in persons with falciparum malaria may also predispose them to the serious complications of blackwater fever, including anemia, red blood cell destruction, and renal failure.

There are serious safety concerns about the continued availability of quinine sulfate for OTC use, even at dosages much lower than those used for the treatment of malaria. Adverse events characteristic of quinine toxicity have been observed in healthy individuals at doses of 260 and 325 mg daily. These events included: Visual, auditory, and gastrointestinal symptoms, and fever.

VOL 60 ISS 75 AP 19 1995 UMI

Studies of auditory, vestibular, and visual function in subjects given quinine confirm sensory disturbances at even lower doses. Altered pharmacokinetics with age result in a longer half-life of quinine in older people, which suggests that the frequency and severity of adverse effects may be greater in the elderly.

Adverse events associated with quinine toxicity are common at the therapeutic doses of quinine used in the treatment of malaria (i.e., 600 to 650 mg three times daily for 3 to 7 days). A fatal dose of quinine for an adult is approximately 2,000 to 8,000 mg. Thus, in the treatment of malaria, a narrow margin of safety exists between a therapeutic dose and a toxic dose of quinine. Based upon quinine's demonstrated toxic effects and potential for harm if used in an unsupervised manner, the agency has determined that quinine should be available for the treatment of malaria only under the supervision of a doctor.

In addition to toxic effects, serious and unpredictable hypersensitivity reactions to quinine can occur. Symptoms are often dramatic, leading people to seek medical treatment. Hospitalization may be required, and fatalities have been reported. Quinine is the only drug available OTC that has such a high association with thrombocytopenia, a serious hematologic sensitivity. Because there are no known factors that predispose people to the development of hypersensitivity to quinine, which may occur after 1 week of exposure or after months or years of use, label warnings cannot be expected to protect consumers from hypersensitivity reactions to quinine products.

Quinine is an important drug in the treatment of drug-resistant forms of malaria. However, it is no longer the primary drug of choice for initial treatment of most types of malaria. In addition, there are serious and complicating aspects of the disease itself and some potentially serious and life threatening risks associated with the use of quinine at doses employed for the treatment of malaria. For these reasons, the agency tentatively concludes that quinine is not safe for OTC use in the treatment of malaria.

The agency is aware that quinine for the treatment of malaria has been marketed both OTC and by prescription, in all cases without approved new drug applications. This proposal would require that any OTC quinine drug products for the treatment and/or prevention of malaria be required to have an approved application for continued marketing. Prescription quinine drug products will be addressed in a future issue of the **Federal Register**.

IV. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and, so, is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Quinine formulations for the treatment of malaria are currently marketed as both OTC and prescription products. None have an approved application. The final rule would stop the initial introduction or initial delivery for introduction into interstate commerce of all OTC quinine products that are labeled for the treatment and/or prevention of malaria, until such time as an approved application is obtained. The final rule would not affect the continued marketing and availability of quinine products by a doctor's prescription. The agency will address this form of marketing in a future issue of the **Federal Register**. The final rule may impose a direct one-time cost associated with changing product labels to conform with prescription labeling requirements. Due to the safety concerns discussed elsewhere in this document, manufacturers would be required to comply with the provisions of the final rule, if implemented, 30 days after its date of publication. Manufacturers are therefore urged to comply voluntarily with this proposed rule and to cease OTC marketing at the earliest possible date. Accordingly, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC quinine drug products for the treatment and/or prevention of malaria. Types of impact may include, but are not limited to, costs associated with relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC quinine drug products for the treatment and/or prevention of malaria should be accompanied by appropriate documentation. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Interested persons may, on or before July 3, 1995, submit written comments to the Dockets Management Branch (address above). Written comments on the agency's economic impact determination may be submitted on or before July 3, 1995. Three copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 310 be amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 512–516, 520, 601(a), 701, 704, 705, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 360b–360f, 360j, 361(a), 371, 374, 375, 379e); secs. 215, 301, 302(a), 351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 242(a), 262, 263b–263n).

2. New § 310.547 is added to subpart E to read as follows:

§ 310.547 Drug products containing quinine offered over-the-counter (OTC) for the treatment and/or prevention of malaria.

(a) Quinine and quinine salts have been used OTC for the treatment and/or prevention of malaria, a serious and potentially life-threatening disease. Quinine is no longer the drug of choice for the treatment and/or prevention of most types of malaria. In addition, there are serious and complicating aspects of the disease itself and some potentially serious and life- threatening risks associated with the use of quinine at doses employed for the treatment of malaria. There is a lack of adequate data to establish general recognition of the safety of quinine drug products for OTC use in the treatment and/or prevention of malaria. Therefore, quinine or quinine salts cannot be safely and effectively used for the treatment and/or prevention of malaria except under the care and supervision of a doctor.

(b) Any OTC drug product containing quinine or quinine salts that is labeled, represented, or promoted for the treatment and/or prevention of malaria is regarded as a new drug within the meaning of section 201(p) of the act for which an approved application or abbreviated application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved new drug application or abbreviated new drug application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for OTC use for the treatment and/or prevention of malaria is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in part 312 of this chapter.

(d) After May 19, 1995, any such OTC drug product initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

Dated: April 12, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 95–9701 Filed 4–18–95; 8:45 am]

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VOL
60

ISS
75

AP
19

1995

UMI

federal register

Wednesday
April 19, 1995

Part V

Department of Labor

Office of the Secretary

29 CFR Part 15
Revision of Regulations Governing Administrative Claims Under the Federal Tort Claims Act and Related Statutes; Final Rule

VOL
60
ISS
75
AP
19
1995
UMI

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 15

RIN 1290–AA13

Revision of Regulations Governing Administrative Claims Under the Federal Tort Claims Act and Related Statutes

AGENCY: Department of Labor (DOL), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This amendment revises DOL's regulations governing administrative claims submitted to DOL pursuant to the Federal Tort Claims Act (FTCA) and the Military Personnel and Civilian Employees' Claims Act (MPCECA), and for payment of claims arising out of the operation of the Job Corps. These regulations are being revised to reflect previous delegations of authority to the Counsel for Claims and to the Regional Solicitors and Associate Regional Solicitors to issue determinations on claims under the statutes covered by these regulations, to clarify the manner in which organizational units of the Department provide administrative assistance to the Office of the Solicitor in regard to claims and litigation under these statutes and to clarify and provide further examples of the manner in which MPCECA claims are submitted and determined. The regulations are also being amended to reflect a change in statutory authority for payment of claims arising out of operation of the Job Corps.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Nesvet, Counsel for Claims and Compensation, Division of Employee Benefits, Office of the Solicitor, U.S. Department of Labor, Suite S4325, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–4405.

SUPPLEMENTARY INFORMATION: In the July 22, 1994, **Federal Register**, Volume 59, No. 140, 59 FR 37540–37546, the Office of the Secretary published a proposal to revise the regulations governing the Federal Tort Claims Act (FTCA) and Related Statutes.

The FTCA surrenders the sovereign immunity of the United States for the negligent or wrongful act or omission of a Government employee acting within the scope of his or her employment. The Military Personnel and Civilian Employees' Claims Act (MPCECA) authorizes payment of claims of employees of the Government for loss of, or damage to, property incident to Government service. The Job Training Partnership Act (JTPA) authorizes payment of claims arising out of the operation of the Job Corps that are not cognizable under the FTCA. Part 15 of title 29 of the Code of Federal Regulations currently contains regulations implementing these three claims authorities.

Interested persons have been afforded an opportunity to comment on the proposed rule. No comments were received on the proposed rule. The final rule is being adopted as proposed, with the exception of the addition of a definition for the term quarters, as used in Subpart B setting forth regulations implementing the MPCECA.

After further review it appears useful to resolve any ambiguity over that term by including a definition of that term. Therefore, a definition of the term quarters is included by adding subparagraph (d) to section 15.20. Since the addition of this definition merely eliminates an ambiguity in the original proposed regulation, public comment is unnecessary. In this connection, I find good cause pursuant to 5 U.S.C. 553(b)(B), to waive public comment.

An internal reorganization in the Office of the Solicitor resulted in a change of title from Counsel for Claims to Counsel for Claims and Compensation. This change is adopted in the final rule. Public comment is unnecessary on this matter pursuant to 5 U.S.C. 553(b)(A) because it relates to internal agency organization. For consistency, sections 15.11 to 15.32 have been renumbered as sections 15.20 to 15.42.

Regulatory Evaluation

This amendment is not considered a significant regulatory action under Executive Order 12866. In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned, at the time of publication of the proposed rule, certified to the Small Business Administration that this amendment will not have a significant economic impact on a substantial number of small entities.

This amendment contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

List of Subjects in 29 CFR Part 15

Tort claims, Indemnity payments, Administrative practice and procedure, Government employees.

For the reasons set out above, DOL revises 29 CFR part 15 to read as follows:

PART 15—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND RELATED STATUTES

Subpart A—Claims Against the Government Under the Federal Tort Claims Act

Sec.
15.1 Scope and purpose.
15.2 Definitions.
15.3 Administrative claim; who may file.
15.4 Administrative claim; where to file.
15.5 Administrative claim; evidence or information to substantiate.
15.6 Administrative action.
15.7 Determination of claims.
15.8 Referral to Department of Justice.
15.9 Final denial of claim.
15.10 Action on approved claimed.

Subpart B—Claims Under the Military Personnel and Civilian Employees' Claims Act of 1964

15.20 General provisions.
15.21 Filing of claims.
15.22 Allowable claims.
15.23 Restrictions on certain claims.
15.24 Unallowable claims.
15.25 Claims involving carriers or insurers.
15.26 Claims procedures.
15.27 Computation of award and finality of settlement.
15.28 Attorney fees.
15.29 Reconsideration.

Subpart C—Claims Arising Out of the Operation of the Job Corps

15.40 Scope and purpose.
15.41 Allowable claims.
15.42 Claim procedure.

Authority: 28 U.S.C. 2672; 28 CFR 14.11; 31 U.S.C. 3721; 29 U.S.C. 1706(b).

Subpart A—Claims Against the Government Under the Federal Tort Claims Act

§ 15.1 Scope and purpose.

(a) The purpose of this subpart is to set forth regulations relating to claims asserted under the Federal Tort Claims Act, as amended, accruing on or after January 18, 1967, for money damages against the United States for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an officer or employee of the Department of Labor while acting within the scope of his or her office or employment.

(b) This subpart is issued subject to and consistent with applicable regulations on administrative claims under the Federal Tort Claims Act issued by the Attorney General (28 CFR part 14).

§ 15.2 Definitions.

(a) *Department* means the Department of Labor.

(b) *Organizational unit* means the jurisdictional area of each Assistant Secretary and each office head reporting directly to the Secretary.

(c) *Act* means the Federal Tort Claims Act, as amended, (28 U.S.C. 1346(b), 28 U.S.C. 2671, et seq.).

§ 15.3 Administrative claim; who may file.

(a) A claim for the injury to or loss of property may be presented by the owner of the property, his or her duly authorized agent, or his or her legal representative.

(b) A claim for personal injury may be presented by the injured person, his or her duly authorized agent, or his or her legal representative.

(c) A claim for death may be presented by the executor or administrator of the decedent's estate, or by any other person legally entitled to assert such a claim in accordance with applicable State law.

(d) A claim for loss wholly compensated by an insurer with the rights of a subrogee may be presented by the insurer. A claim for loss partially compensated by an insurer with the rights of a subrogee may be presented by the insurer or the insured individually, as their respective interests appears, or jointly. Whenever an insurer presents a claim asserting the rights of a subrogee, it shall present with its claim appropriate evidence that it has the rights of a subrogee.

(e) A claim presented by an agent or legal representative shall be presented in the name of the claimant, be signed by the agent or representative, show the title or legal capacity of the person signing and be accompanied by evidence of his or her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or legal representative.

§ 15.4 Administrative claim; where to file.

(a) For the purposes of this subpart, a claim shall be deemed to have been presented when the Department receives, at a place designated in paragraph (b) of this section, a properly executed "Claim for Damage, Injury, or Death" on Standard Form 95, or other written notification of an incident accompanied by a claim for money damages in a sum certain for injury to or loss of property or personal injury or death by reason of the incident.

(b) In any case where the claim seeks damages in excess of $25,000 or which involves an alleged act or omission of an employee of the Department whose official duty station is in Washington, D.C., a claimant shall mail or deliver his or her claim for money damages for injury to or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Department while acting within the scope of his or her office or employment hereunder to the Council for Claims and Compensation, Office of the Solicitor of Labor, U.S. Department of Labor, 200 Constitution Avenue, NW., Suite S4325, Washington, DC 20210.

(c) In all other cases, the claimant shall address his or her claim to the official duty station of the employee whose act or omission forms the basis of the complaint.

§ 15.5 Administrative claim; evidence or information to substantiate.

(a) *Personal injury.* In support of a claim for personal injury, including pain and suffering, the claimant is required to submit the following evidence or information:

(1) A written report by the attending physician or dentist setting forth the nature and extent of the injury, nature and extent of treatment, any degree of temporary or permanent impairment, the prognosis, period of hospitalization, if any, and any diminished earning capacity. In addition, the claimant may be required to submit to a physical or mental examination by a physician employed or designated by the Department or another federal agency. A copy of the report of the examining physician shall be made available to the claimant upon the claimant's written request: *Provided*, That he or she has, upon request, furnished the report referred to in the first sentence of this subparagraph and has made, or agrees to make available to the Department, any other physician's report previously or thereafter made of the physical or mental condition which is the subject matter of the claim.

(2) Itemized bills for medical, dental and hospital, or any other, expenses incurred or itemized receipts of payment for such expenses.

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his or her employer showing actual time lost from employment, whether he or she is a full or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings lost. For example, income tax returns for several years prior to the injury in question and the year in which the injury occurred may be used to indicate or measure lost income; a statement of how much it did or would cost the claimant to hire someone else to do the same work he or she was doing at the time of injury might also be used in measuring lost income.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(b) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at the time of death, including his or her monthly or yearly salary or earnings (if any), and the duration of his or her last employment or occupation.

(3) Full name, address, birth date, kinship and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his or her death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him or her for support at the time of his or her death.

(5) Decedent's general physical and mental condition before his or her death.

(6) Itemized bills for medical and burial expenses incurred by reason of the incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or damages claimed.

(c) *Property damages.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information with respect to each item of property:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for

VOL 60 ISS 75 AP 19 1995 UMI

the injury to or loss of property or the damages claimed.

§ 15.6 Administrative action.

(a) *Investigation.* When an organizational unit learns of an incident that reasonably can be expected to result in an allegation of harm caused to an individual or organization by an alleged negligent act or omission by an employee of that organizational unit or when it learns of an administrative claim or of litigation alleging such harm, it has the responsibility to fully investigate the incident and to take all actions necessary to preserve all relevant documents and other evidence. Each organizational unit should institute appropriate procedures to ensure that notification of such incidents are reported to the office responsible for ensuring that evidence is preserved and investigation undertaken.

(b) *Notification.* Upon receipt of an administrative claim under the Act or of notice of litigation seeking damages for an alleged negligent act or omission of an employee of the Department acting within the scope of his or her employment, the Office of the Solicitor shall notify the organizational unit responsible for the activity which gave rise to the claim or litigation and shall provide a copy of the administrative claim or the claim filed in the litigation.

(c) *Administrative Report.* (1) Upon receiving notification of an administrative claim or litigation, the organizational unit or units involved in the circumstances of the claim or litigation shall be responsible for preparing an Administrative Report and forwarding it to the Office of the Solicitor in a timely manner. The Administrative Report shall be in the form of a single memorandum in narrative form with attachments. It should contain all of the following elements, unless permission is obtained from the Office of the Solicitor to dispense with a particular element:

(i) a brief explanation of the organization and operation of the program involved including statutory authority and applicable regulations;

(ii) a complete description of the events which gave rise to the claim or litigation, including a specific response to every allegation in the claim or litigation;

(iii) any information available regarding the questions of whether the claimant or plaintiff actually suffered the harm alleged in the claim or litigation and what individual or organization caused any harm which appears to have occurred;

(iv) any information available regarding the damages claimed;

(v) any policy reasons which the organizational unit wishes to advance for or against settlement of the claim or litigation; and

(vi) details of any claims the Department may have against the claimant or plaintiff, whether or not they appear to be related to the subject matter of the claim or litigation.

(2) A copy of all documents relevant to the issues involved in the claim or litigation should be attached to each copy of the Administrative Report. Original records should not be forwarded to the Office of the Solicitor unless specifically requested. They should be preserved, however, and remain available for litigation if necessary.

(3) Organizational units should ensure that all Administrative Reports are either prepared or reviewed by an official of the organizational unit who was not personally involved in the incident in question prior to filing of the claim or suit.

(d) *Litigation.* During the course of any litigation, organizational units are responsible for providing assistance to the Office of the Solicitor in responding to discovery requests such as interrogatories and requests to produce documents, for providing assistance in analyzing factual and program issues, for providing witnesses for depositions and trials, and for assistance in producing affidavits and exhibits for use in the litigation.

§ 15.7 Determination of claims.

(a) *Authority to consider, ascertain, adjust, determine, compromise and settle claims.* The Counsel for Claims and Compensation shall have the authority to consider, ascertain, adjust, determine, compromise and settle claims pursuant to the Federal Tort Claims Act which involve an alleged negligent or wrongful act or omission of an employee whose official duty station is the Department's national office in Washington, D.C., or which exceed $25,000 in amount, or which involve a new precedent, a new point of law, or a question of policy. Regional Solicitors and the Associate Regional Solicitors are authorized to consider, ascertain, adjust, determine, compromise and settle, claims arising in their respective jurisdictions pursuant to the Federal Tort Claims Act which do not exceed $25,000 in amount and which do not involve a new precedent, new point of law, or a question of policy.

(b) *Payment.* Any award, compromise, or settlement in the amount of $2,500 or less made pursuant to this section shall be paid by the Secretary of Labor out of appropriations available to the Department. Payment of an award, compromise, or settlement in an amount in excess of $2,500 made pursuant to this subpart shall be made in accordance with 28 CFR 14.10.

§ 15.8 Referral to Department of Justice.

An award, compromise or settlement of a claim under § 2672 title 28, United States Code, and this subpart, in excess of $25,000 may be effected only with the prior written approval of the Attorney General or his designee. For the purpose of this subpart, a principle claim and any derivative or subrogated claim shall be treated as a single claim.

§ 15.9 Final denial of claim.

Final denial of an administrative claim under this subpart shall be in writing, and notification of denial shall be sent to the claimant, or his or her attorney or legal representative by certified or registered mail. The notification of final denial shall include a statement of the reasons for the denial and shall include a statement that, if the claimant is dissatisfied with the Department's action, he or she may file suit in an appropriate U.S. District Court not later than 6 months after the date of mailing of the notification.

§ 15.10 Action on approved claim.

(a) *Payment.* Payment of a claim approved under this subpart is contingent upon claimant's execution of a "Voucher for Payment Under Federal Tort Claims Act," Standard Form 1145. When a claimant is represented by an attorney, the voucher for payment shall designate both the claimant and his or her attorney as payees, and the check shall be delivered to the attorney whose address shall appear on the voucher.

(b) *Acceptance.* Acceptance by the claimant, or his or her agent or legal representative, of an award, compromise, or settlement under § 2672 or § 2677 of title 28, U.S.C., is final and conclusive on the claimant, his or her agent or legal representative, and any other person on whose behalf or for whose benefit the claim has been presented and constitutes a complete release of any claim against the United States and against any officer or employee of the Government whose act or omission gave rise to the claim by reason of the same subject matter.

Subpart B—Claims Under the Military Personnel and Civilian Employees' Claims Act of 1964

§ 15.20 General provisions.

(a) *Scope and Purpose.* This subpart applies to all claims filed by or on behalf of employees of the Department for loss of or damage to personal property incident to their service with the Department under the Military Personnel and Civilian Employees' Claims Act of 1964, (hereinafter referred to as the Act). A claim must be substantiated and the possession of the property determined to be reasonable, useful or proper.

(b) *Payment.* The maximum amount that can be paid for any claim under the Act is $40,000 and property may be replaced in kind at the option of the Government.

(c) *Policy.* The Department is not an insurer and does not underwrite all personal property losses that an employee may sustain. Employees are encouraged to carry private insurance to the maximum extent practicable to avoid losses which may not be recoverable from the Department. The procedures set forth in this subpart are designed to enable the claimant to obtain the proper amount of compensation for the loss or damage. Failure of the claimant to comply with these procedures any reduce or preclude payment of the claim under this subpart.

(d) *Definition.* Quarters means a house, apartment or other residence that is a Department employee's principal residence.

§ 15.21 Filing of claims.

(a) *Who may file.* (1) A claim may be made pursuant to this subpart by an employee or by a spouse or authorized agent, or legal representative on behalf of the employee. If the employee is deceased, the claim may be filed by a survivor in the following order of preference: spouse, children, parent, brother or sister or the authorized agent or legal representative of such person or persons.

(2) A claim may not be made hereunder by or for the benefit of a subrogee, assignee, conditional vendor or other third party.

(b) *Where to file.* A claim hereunder must be presented in writing. If the claimant's official duty station is at the Department's national office in Washington, DC., or if the claim is for an amount in excess of $25,000, the claim should be filed with the Counsel for Claims and Compensation, Office of the Solicitor of Labor, U.S. Department of Labor, Suite S4325, 200 Constitution Avenue, NW., Washington, DC 20210. In all other cases the claimant shall address the claim to the regional or branch office of the Solicitor of Labor servicing the claimant's official duty station.

(c) *Evidence required.* The claimant is responsible for substantiating ownership or possession, the facts surrounding the loss or damage, and the value of the property. Any claim filed hereunder must be accompanied by the following:

(1) A written statement, signed by the claimant or his or her authorized agent, setting forth the circumstances under which the damage or loss occurred. This statement shall also include:

(i) A description of the type, design, model number or other identification of the property.

(ii) The date of purchase or acquisition and the original cost of the property.

(iii) The location of the property when the loss or damage occurred.

(iv) The value of the property when lost or damaged.

(v) The actual or estimated cost of the repair of any damaged item.

(vi) The purpose of and authority for travel, if the loss or damage occurred incident to transportation or to the use of a motor vehicle.

(vii) Any and all available information as to the party responsible for the loss or damage, if such party is someone other than the claimant, and all information as to insurance contracts, whether held by the claimant or by the party responsible.

(2) Copies of all available and appropriate documents such as bills of sale, estimates of repairs, or travel orders. In the case of an automobile, the claimant must file two estimates of repair or a certified paid bill showing the damage incurred and the cost of all parts, labor and other items necessary to the repair of the vehicle or a statement from an authorized dealer or repair garage showing that the cost of such repairs exceeds the value of the vehicle.

(3) A copy of the power of attorney or other authorization if the claim is filed by someone other than the employee.

(4) A statement from the employee's immediate supervisor confirming that possession of the property was reasonable, useful or proper under the circumstances and that the damage or loss was incident to service.

(d) *Time limitations.* A claim under this part may be allowed only if it is filed in writing within 2 years after accrual of the claim. For the purpose of this part, a claim accrues at the later of:

(1) the time of the accident or incident causing the loss or damage;

(2) such time as the loss or damage should have been discovered by the claimant by the exercise of due diligence; or

(3) such time as cause preventing filing no longer exists or as war or armed conflict ends, whichever is earlier, if a claim otherwise accrues during war or an armed conflict or has accrued within two years before war or an armed conflict begins, and for cause shown.

§ 15.22 Allowable claims.

(a) A claim may be allowed only if the property involved was being used incident to service with the Department and:

(1) The damage or loss was not caused wholly or partly by the negligent or wrongful act or omission of the claimant, his or her agent, the members of his or her family, or his or her private employee (the standard to be applied is that of reasonable care under the circumstances); and

(2) The possession of the property lost or damaged and the quantity and the quality possessed is determined to have been reasonable, useful or proper under the circumstances; and

(3) The claim is substantiated by proper and convincing evidence.

(b) Claims which are otherwise allowable under this subpart shall not be disallowed solely because the claimant was not the legal owner of the property for which the claim is made.

(c) Subject to the conditions in paragraph (a) of this section and the other provisions of this subpart, any claim for damage to, or loss, of personal property incident to service with the Department may be considered and allowed. For the purpose of subpart B of this part, an alternative work location at which an employee is performing duties pursuant to an approved Flexiplace agreement shall be considered an official duty station. The following are examples of the principal types of claims which may be allowed, but these examples are not exclusive and other types of claims may be allowed, unless hereinafter excluded:

(1) *Property or damage in quarters or other authorized places.* Claims may be allowable for damage to, or loss of, property arising from fire, flood, hurricane, other natural disaster, theft, or other unusual occurrence, while such property is located at:

(i) Quarters within the 50 States or the District of Columbia that were assigned to the claimant or otherwise provided in kind by the United States; or

(ii) Quarters outside the 50 States and the District of Columbia that were occupied by the claimant, whether or not they were assigned or otherwise provided in kind by the United States, except when the claimant is a civilian employee who is a local inhabitant; or

(iii) Any warehouse, office, working area or other place (except quarters) authorized or apparently authorized for the reception or storage of property.

VOL 60 ISS 75 AP 19 1995 UMI

(2) *Transportation or travel losses.* Claims may be allowed for damage to, or loss of, property incident to transportation or storage pursuant to order or in connection with travel under orders, including property in the custody of a carrier, an agent or agency of the Government, or the claimant.

(3) *Mobile homes.* Claims may be allowed for damage to, or loss of, mobile homes and their contents under the provisions of paragraph (c)(2) of this section. Claims for structural damage to mobile homes, other than that caused by collision, and damage to contents of mobile homes resulting from such structural damage, must contain conclusive evidence that the damage was not caused by structural deficiency of the mobile home and that it was not overloaded. Claims for damage to, or loss of, tires mounted on mobile homes will not be allowed, except in cases of collision, theft or vandalism.

(4) *Enemy action or public service.* Claims may be allowed for damage to, or loss of, property as a direct consequence of:

(i) Enemy action or threat thereof, or combat, guerrilla, brigandage, or other belligerent activity, or unjust confiscation by a foreign power or its nationals.

(ii) Action by the claimant to quiet a civil disturbance or to alleviate a public disaster.

(iii) Efforts by the claimant to save human life or Government property.

(5) *Property used for the benefit of the Government.* Claims may be allowed for damage to, or loss, of property when used for the benefit of the Government at the request of, or with the knowledge and consent of superior authority.

(6) *Clothing and Accessories.* Claims may be allowed for damage to, or loss of, clothing and accessories customarily worn on the person, such as eyeglasses, hearing aids, or dentures.

(7) *Expenses incident to repair.* Claimants may be reimbursed for the payment of any sales tax incurred in connection with repairs to an item. The costs of obtaining estimates of repair (subject to the limitations set forth in § 15.14(c)) are also allowable.

§ 15.23 Restrictions on certain claims.

Claims of the type described in this section are only allowable subject to the restrictions noted:

(a) *Money or currency.* Claims may be allowed for loss of money or currency (which includes coin collections) only when lost incident to fire, flood, hurricane, other natural disaster, or by theft from quarters (as limited by § 15.22(c)(1)). In incidents of theft from quarters, it must be conclusively shown that the quarters were locked at the time of the theft. Reimbursement for loss of money or currency is limited to an amount which is determined to have been reasonable for the claimant to have had in his or her possession at the time of the loss.

(b) *Government property.* Claims may only be allowed for property owned by the United States for which the claimant is financially responsible to an agency of the Government other than the Department.

(c) *Estimate fees.* Claims may include fees paid to obtain estimates of repairs only when it is clear that an estimate could not have been obtained without paying a fee. In that case, the fee may be allowed only in an amount determined to be reasonable in relation to the value of the property or the cost of the repairs.

(d) *Automobiles and motor vehicles.* Claims may only be allowed for damage to, or loss of automobiles and other motor vehicles if:

(1) Such motor vehicles were required to be used for official Government business (official Government business, as used here, does not include travel, or parking incident thereto, between quarters and office, or use of vehicles for the convenience of the owner. However, it does include travel, and parking incident thereto, between quarters and an assigned place of duty specifically authorized by the employee's supervisor as being more advantageous to the Government); or

(2) Shipment of such motor vehicles was being furnished or provided by the Government, subject to the provisions of § 15.25.

(e) *Computers and Electronics.* Claims may be allowed for loss of, or damage to, cellular phones, fax machines, computers and related hardware and software only when lost or damaged incident to fire, flood, hurricane, other natural disaster, or by theft from quarters (as limited by § 15.22((c)(1)) or unless it is being shipped as a part of a change of duty station paid for by the Department. In incidents of theft from quarters, it must be conclusively shown that the quarters were locked at the time of the theft.

§ 15.24 Unallowable claims.

Claims are not allowable for the following:

(a) *Unassigned quarters in United States.* Property loss or damage in quarters occupied by the claimant within the 50 States or the District of Columbia that were not assigned to him or otherwise provided in kind by the United States.

(b) *Business property.* Property used for business or profit.

(c) *Unserviceable property.* Wornout or unserviceable property.

(d) *Illegal possession.* Property acquired, possessed or transferred in violation of the law or in violation of applicable regulations or directives.

(e) *Articles of extraordinary value.* Valuable articles, such as cameras, watches, jewelry, furs or other articles of extraordinary value. This prohibition does not apply to articles in the personal custody of the claimant or articles properly checked, if reasonable protection or security measures have been taken by claimant.

(f) *Intangible property.* Loss of property that has no extrinsic and marketable value but is merely representative or evidence of value, such as non-negotiable stock certificates, promissory notes, bonds, bills of lading, warehouse receipts, insurance policies, baggage checks, and bank books, is not compensable. Loss of a thesis, or other similar item, is compensable only to the extent of the out-of-pocket expenses incurred by the claimant in preparing the item such as the cost of the paper or other materials. No compensation is authorized for the time spent by the claimant in its preparation or for supposed literary value.

(g) *Incidental expenses and consequential damages.* The Act and this subpart authorize payment for loss of or damage to personal property only. Except as provided in § 15.22(c)(7), consequential damages or other types of loss or incidental expenses (such as loss of use, interest, carrying charges, cost of lodging or food while awaiting arrival of shipment, attorney fees, telephone calls, cost of transporting claimant or family members, inconvenience, time spent in preparation of claim, or cost of insurance premiums) are not compensable.

(h) *Real property.* Damage to real property is not compensable. In determining whether an item is considered to be an item of personal property, as opposed to real property, normally, any movable item is considered personal property even if physically joined to the land.

(i) *Commercial property.* Articles acquired or held for sale or disposition by other commercial transactions on more than an occasional basis, or for use in a private profession or business enterprise.

(j) *Commercial storage.* Property stored at a commercial facility for the convenience of the claimant and at his or her expense.

(k) *Minimum amount.* Loss or damage amounting to less than $25.

§ 15.25 Claims involving carriers or insurers.

In the event the property which is the subject of the claim was lost or damaged while in the possession of a commercial carrier or was insured, the following procedures will apply:

(a) Whenever property is damaged, lost or destroyed while being shipped pursuant to authorized travel orders, the owner must file a written claim for reimbursement with the last commercial carrier known or believed to have handled the goods, or the carrier known to be in possession of the property when the damage or loss occurred, according to the terms of its bill of lading or contract, before submitting a claim against the Government under this subpart.

(b) Whenever property is damaged, lost or destroyed incident to the claimant's service and is insured in whole or in part, the claimant must make demand in writing against the insurer for reimbursement under the terms and conditions of the insurance coverage, prior to the filing of the claim against the Government.

(c) Failure to make a demand on a carrier or insurer or to make all reasonable efforts to protect and prosecute rights available against a carrier or insurer and to collect the amount recoverable from the carrier or insurer may result in reducing the amount recoverable from the Government by the maximum amount which would have been recoverable from the carrier or insurer had the claim been timely or diligently prosecuted.§ However, no deduction will be made where the circumstances of the claimant's service preclude reasonable filing of such a claim or diligent prosecution, or the evidence indicates a demand was impracticable or would have been unavailing.

(d) Following the submission of the claim against the carrier or insurer, the claimant may immediately submit his claim against the Government in accordance with the provisions of this subpart, without waiting until either final approval or denial of the claim is made by the carrier or insurer.

(1) Upon submitting his or her claim, the claimant shall certify in his claim that he or she has or has not gained any recovery from a carrier or insurer, and enclose all correspondence pertinent thereto.

(2) If final action has not been taken by the carrier or insurer on the claim, the claimant shall immediately notify them to address all correspondence in regard to the claim to the appropriate Office of the Solicitor of Labor.

(3) The claimant shall advise the appropriate Office of the Solicitor of any action taken by the carrier or insurer on the claim and, upon request, shall furnish all correspondence, documents, and other evidence pertinent to the matter.

(e) The claimant shall assign to the United States, to the extent of any payment on the claim accepted by him or her, all rights, title and interest in any claim he or she may have against any carrier, insurer, or other party arising out of the incident on which the claim against the United States is based. After payment of the claim by the United States, the claimant shall, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by him or her from the United States.

(f) Where a claimant recovers for the loss from the carrier or insurer before his or her claim under this subpart is settled, the amount of recovery shall be applied to the claim as follows:

(1) When the amount recovered from a carrier, insurer, or other third party is greater than or equal to the claimant's total loss as determined under this part, no compensation is allowable under this subpart.

(2) When the amount recovered is less than such total loss, the allowable amount is determined by deducting the recovery from the amount of such total loss.

(3) For this purpose, the claimant's total loss is to be determined without regard to the maximum payment limitations set forth in § 15.20. However, if the resulting amount, after making this deduction exceeds the maximum payment limitations, the claimant shall be allowed only the maximum amount set forth in § 15.20.

§ 15.26 Claims procedures.

(a) *Award.* The Counsel for Claims and Compensation, the Regional Solicitors, and the Associate Regional Solicitors are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this subpart that arose within their respective jurisdictions, except that any claim for an amount in excess of $25,000 shall fall within the exclusive jurisdiction of the Counsel for Claims and Compensation.

(b) *Form of claim.* Any writing received by the Office of the Solicitor within the time limits set forth in § 15.21(d) will be accepted and considered a claim under the Act if it constitutes a demand for compensation from the Department. A demand is not required to be for a specific sum of money.

(c) *Notification.* The determination upon the claim shall be provided to the claimant in writing by the deciding official.

§ 15.27 Computation of award and finality of settlement.

(a) The amount allowable for damage to or loss of any item of property may not exceed the lowest of:

(1) the amount requested by the claimant for the item as a result of its loss, damage or the cost of its repair;

(2) the actual or estimated cost of its repair; or

(3) the actual value at the time of its loss, damage, or destruction. The actual value is determined by using the current replacement cost or the depreciated value of the item since its acquisition, whichever is lower, less any salvage value of the item in question.

(b) Depreciation in value is determined by considering the type of article involved, its cost, its condition when damaged or lost, and the time elapsed between the date of acquisition and the date of damage or loss.

(c) Current replacement cost and depreciated value are determined by use of publicly available adjustment rates or through use of other reasonable methods at the discretion of the official authorized to issue a determination upon the claim in question.

(d) Replacement of lost or damaged property may be made in kind wherever appropriate.

(e) At the discretion of the official authorized to issue the determination upon the claim in question, a claimant may be required to turn over an item alleged to have been damaged beyond economical repair to the United States, in which case no deduction for salvage value will be made in the calculation of actual value.

(f) Notwithstanding any other provisions of law, settlement of claims under the Act are final and conclusive.

§ 15.28 Attorney fees.

No more than 10 per centum of the amount in settlement of each individual claim submitted and settled under this subpart shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with that claim.

§ 15.29 Reconsideration.

(a) *Deciding Official.* While there is no appeal from the decision of the deciding official in regard to claims under the Act, the deciding official may always reconsider his or her determination of a claim.

VOL 60 ISS 75 AP 19 1995 UMI

(b) *Claimant.* A claimant may request reconsideration from the deciding official by directing a written request for reconsideration to the deciding official within 180 days of the date of the original determination. The claimant must clearly state the factual or legal basis upon which he or she rests the request for a more favorable determination.

(c) *Notification.* The determination upon the reconsideration will be provided to the claimant in writing by the deciding official.

Subpart C—Claims Arising Out of the Operation of the Job Corps

§ 15.40 Scope and purpose.

(a) The purpose of this subpart is to set forth regulations relating to claims for damage to persons or property arising out of the operation of Job Corps which the Secretary of Labor finds to be a proper charge against the United States but which are not cognizable under the Federal Tort Claims Act.

(b) This subpart further amplifies the regulatory provisions set forth in 20 CFR 638.526(b) regarding such claims.

§ 15.41 Allowable claims.

(a)(1) A claim for damage to persons or property arising out of an act or omission of a student enrolled in the Job Corps may be considered pursuant to § 436(b) of the Job Training Partnership Act (29 U.S.C. 1706(b)):

(i) if the act or omission which gave rise to the claim took place at the center to which the student involved was assigned, or

(ii) if the student involved was not within the geographical limits of his hometown and was within 100 miles of the center to which he or she was assigned, or while he or she was on authorized travel to or from the center.

(2) The claim may be paid if the deciding official, in his or her discretion, finds the claim to be a proper charge against the United States resulting from an act or omission of a student enrolled in the Job Corps.

(b) A claim for damage to person or property hereunder may not be paid if the claim is cognizable under the Federal Tort Claims Act (28 U.S.C. 2677).

(c) A claim for damage to person or property may be adjusted and settled hereunder in an amount not exceeding $1500.

§ 15.42 Claim procedures.

(a) *Claim.* A claim under this subpart must be in writing and signed by the claimant or by an authorized representative. It must be received by the Office of the Solicitor within two years of the date upon which the claim accrued.

(b) *Award.* The Regional Solicitors and Associate Regional Solicitors are authorized to consider, ascertain, adjust, determine, compromise and settle claims filed under this subpart that arose within their respective jurisdictions.

(c) *Notification.* The determination upon the claim shall be provided to the claimant in writing by the deciding official.

(d) *Reconsideration.* Reconsideration of a determination under this subpart shall be available pursuant to the procedures and limitations set forth in § 15.29.

Signed at Washington, D.C., this 14th day of April 1995.

Robert B. Reich,

Secretary of Labor.

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Reader Aids

Federal Register

Vol. 60, No. 75

Wednesday, April 19, 1995

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534
Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3	18539–18726	12
16979–17190	4	18727–18948	13
17191–17432	5	18949–19152	14
17433–17624	6	19153–19342	17
17625–17980	7	19343–19484	18
17981–18342	10	19485–19664	19
18343–18538	11		

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6781 17979
6782 17981
6783 18537
6784 18707
6785 18725

Executive Orders:
April 17, 1926
(Revoked in part by PLO 7134) 19525

Administrative Orders:
Memorandums:
April 4, 1995 19153
April 14, 1995 19485

5 CFR
Ch. LII 17625
581 18949

Proposed Rules:
316 17655

7 CFR
Ch. II 19487
97 17188
201 16979
272 17628
273 17628
301 18727
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434, 18950
1001 18952
1002 18952
1004 18952
1005 18952
1006 18952
1007 18952
1011 18952
1012 18952
1013 18952
1030 18952
1032 18952
1033 18952
1036 18952
1040 18952
1044 18952
1046 18952
1049 18952
1050 ..... 18343, 18952
1064 18952
1065 18952
1068 18952
1075 18952
1076 18952
1079 18952
1093 18952
1094 18952
1096 18952
1106 18952
1108 18952
1124 18952
1126 ..... 17191, 18952
1131 ..... 17192, 18952
1134 18952
1135 18952
1137 18952
1138 18952
1139 18952
1413 17984
1427 17984
3016 ..... 19638, 19641

Proposed Rules:
250 18781
335 18374
905 19543
946 19382
956 17274
981 17466
1944 19168

8 CFR

Proposed Rules:
212 19001

9 CFR
77 18728
92 17634
318 19491
327 18540
381 19491
391 19491

Proposed Rules:
308 19543
310 19543
318 19543
320 19543
325 19543
326 19543
327 19543
381 19543
391 18551

10 CFR
2 18344
436 ..... 18326, 19343
600 ..... 17985, 19638, 19641

Proposed Rules:
50 ..... 19002, 19170
70 ..... 18035, 19170
52 ..... 17902, 17924, 17947
170 18882
171 18882
430 18782
490 19544

11 CFR
100 17193

VOL 60 ISS 75 AP 19 1995 UMI

104 17193
113 17193

12 CFR

3 17986
208 17436
215 17635
226 16771
400 17625

Proposed Rules:

792 18036

13 CFR

107 17438
121 18981
143 ..... 19638, 19641

14 CFR

25 17194
39 ..... 16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492
71 ..... 17196, 17442, 18346
97 ..... 17198, 17199, 19160, 19162
187 19628

Proposed Rules:

39 ..... 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551
71 ..... 17284, 18038, 18552, 19190, 19553
91 18700
119 19007
121 19007
125 19007
127 19007
135 ..... 18700, 19007

15 CFR

24 ..... 19638, 19642
771 18731
779 18731

16 CFR

1700 17992

Proposed Rules:

248 17032
409 17491
436 17656
460 17492
1700 17660

17 CFR

30 19493
200 17201
400 18733
403 18733
405 18733
449 ..... 18733, 18734

Proposed Rules:

239 17172
270 17172
274 17172

18 CFR

343 19494
385 19494
284 16979

Proposed Rules:

35 17662
141 17726
388 17726

19 CFR

7 18347
10 ..... 18542, 18983
11 18347
12 18347
18 18347
19 18347
24 18347
54 18347
101 ..... 18347, 18983
102 18347
111 ..... 18347, 18983
114 18347
123 ..... 18347, 18983
128 ..... 18347, 18983
132 18347
134 18347
141 ..... 18347, 18983
143 18983
145 ..... 18347, 18983
146 18347
148 ..... 18347, 18983
151 18347
152 18347
159 18983
177 18347
178 18983
181 18347
191 18347

Proposed Rules:

Ch. I 18783

20 CFR

Ch. III 18991
423 18991
638 18993
404 ..... 17443, 19163

Proposed Rules:

Ch. III 17731
404 19008
416 19008

21 CFR

20 16962
73 18736
101 17202
176 18349
178 ..... 18349, 18352, 18739
310 17611
558 18740
876 17208
1310 ..... 17636, 19509
1403 ..... 19638, 19642

Proposed Rules:

310 19650
876 17611

22 CFR

135 ..... 19638, 19642
514 16785

Proposed Rules:

502 19385

23 CFR

655 18520

24 CFR

85 ..... 19638, 19642
215 17388
236 17388
570 17445
813 17388
905 ..... 17388, 18174
913 17388
950 18174
3500 16985

Proposed Rules:

29 17968
120 19191

25 CFR

Proposed Rules:

900 19387

26 CFR

1 ..... 17216, 18741, 18742
602 18742

Proposed Rules:

1 ..... 17286, 17731, 18377, 18378, 19387

27 CFR

55 17446
72 17446
178 17446
179 17446

Proposed Rules:

Ch. I 18783
53 18039
55 17494
72 17494
178 17494
179 17494

28 CFR

0 17456
2 18353
66 ..... 19638, 19642
90 19474

Proposed Rules:

2 ..... 18378, 18379
16 16784

29 CFR

15 19658
97 ..... 19638, 19643
570 19336
580 17221
1470 ..... 19638, 19643
1960 18993
2610 18994
2619 18996
2622 18994
2644 18998
2676 18996

Proposed Rules:

1910 19192
1915 19192
1926 19192

30 CFR

903 18710
914 ..... 16985, 17637
915 17458
934 18744
938 16788

Proposed Rules:

Ch. 1 18044
901 18044
902 17495
904 17498
906 17501
913 17734
914 17736
915 17504
916 17504
917 ..... 17739, 19193
918 17498
920 18046
924 18044
925 17504
926 17495
931 17501
934 17495
935 ..... 17741, 18380, 19194
936 17498
938 18046
943 17498
944 17501
946 17743
948 18381
950 17495

32 CFR

33 ..... 19638, 19643
290 18005
354 18008
355 18008
357 18006
359 18006
360 18006
361 18006
374 18006

Proposed Rules:

63 17507
247 18049

33 CFR

3 17222
117 ..... 18006, 19351
154 17134
155 17134
162 ..... 16793, 19352
165 ..... 16793, 18008, 19354
334 18543

Proposed Rules:

Ch. I 17287
100 18785
117 18061
165 ..... 16818, 16820, 16821, 18063, 18065, 18066, 18068
211 18069
402 18384

34 CFR

80 ..... 19638, 19643
350 17424
351 17424
352 17424
353 17424
356 17424

36 CFR

7 17639
13 18532
1207 ..... 19638, 19643

Proposed Rules:

13 19011
215 18886
217 18886
219 18886

37 CFR

1 16920

38 CFR

2 18354
3 18354
43 ..... 19638, 19644

39 CFR

20 18009

111 19355
265 17224

Proposed Rules:

232 17287

40 CFR

9 ..... 17100, 18009
31 ..... 19638, 19644
52 ..... 16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522
63 ..... 18020, 18026
72 ..... 17100, 18462
73 17100
74 17100
75 17100
76 18751
77 17100
78 17100
81 16996
122 17950
124 17950
136 17160
180 ..... 18543, 18546, 18547, 19523
185 18547
186 18547
258 17649
260 17001
261 19165
271 ..... 18356, 18358, 18360, 19525
300 ..... 16808, 17004, 19525
302 19165
372 18361
720 17005
721 17005
723 17005
763 18364

Proposed Rules:

Ch. I 17288
51 17509
52 ..... 16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554
55 ..... 17748, 18787
58 17509
63 ..... 16829, 16920, 18071, 18078, 19556
70 ..... 17750, 18790
72 18472
76 18792
81 ..... 17034, 17756, 19197
86 17509
122 17958
124 17958
170 18555
180 ..... 18555, 18557, 18558, 18560, 18562, 19556
185 18562
186 ..... 18560, 18562
300 ..... 18565, 19203
372 16830
761 17510
799 18079

41 CFR

101–20 17653
105–71 ..... 19638, 19644

43 CFR

12 ..... 17237, 19638, 19644

Proposed Rules:

426 16922
427 16922
3100 18081

Public Land Orders:

2546 (Revoked by PLO 7135) 19526
7131 18030
7132 18777
7133 18777
7134 19525
7135 19526
7137 18778

44 CFR

13 ..... 19638, 19644
64 17005
65 ..... 17007, 17009, 17011, 17012
67 ..... 17013, 17020

Proposed Rules:

65 17758
67 ..... 17035, 17042

45 CFR

92 ..... 19638, 19645
602 ..... 19638, 19645
1157 ..... 19638, 19645
1174 ..... 19638, 19645
1183 ..... 19638, 19645
2541 ..... 19638, 19646

Proposed Rules:

2544 17761

46 CFR

12 17134
13 17134
15 17134
30 17134
31 17134
35 17134
78 17134
90 17134
97 17134
98 17134
105 17134
151 17134
153 17134
154 17134
401 18366
403 18366
404 18366

Proposed Rules:

Ch. I 17287
Ch. II 17763
67 17290
90 18793
97 18793
148 18793
382 19559

47 CFR

2 ..... 18778, 18999
61 19526
69 19528
73 19531
73 ..... 17023, 17253, 19000, 19359
90 18999

Proposed Rules:

1 17294
63 17763
73 ..... 17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566

48 CFR

225 19531
252 19531
538 19360
552 ..... 19360, 19362
570 19362
915 18030
916 18030
970 18030
1802 18032
1850 18032
1852 18032
6101 17023

Proposed Rules:

Ch. V 17764
6 17295
12 17184
16 17295
32 18794
52 ..... 17184, 17295, 18794

49 CFR

18 ..... 19638, 19646
40 19535
173 17398
178 17398
180 17398
219 19538
552 17254
554 17254
573 17254
576 17254
577 17254
1043 16808
1084 16808

Proposed Rules:

Ch. I 17049
Ch. II 18390
190 17295
191 17295
192 17295
193 17295
194 17295
195 17295
196 17295
197 17295
198 17295
199 17295
234 ..... 17770, 19012
571 18566

50 CFR

17 18940
227 19342
641 19363
646 19364
650 17272
651 19364
655 17464
663 16811
672 17465
675 ..... 17028, 17653

Proposed Rules:

Ch. VI 17770
17 ..... 16836, 17296, 19013, 19567
625 18795
641 17511
642 18391
655 18391
675 17512

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 1345/P.L. 104–8

District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Apr. 17, 1995; 109 Stat. 97; 57 pages)

Last List April 13, 1995

VOL
60
ISS
75
AP
19
1995
UMI

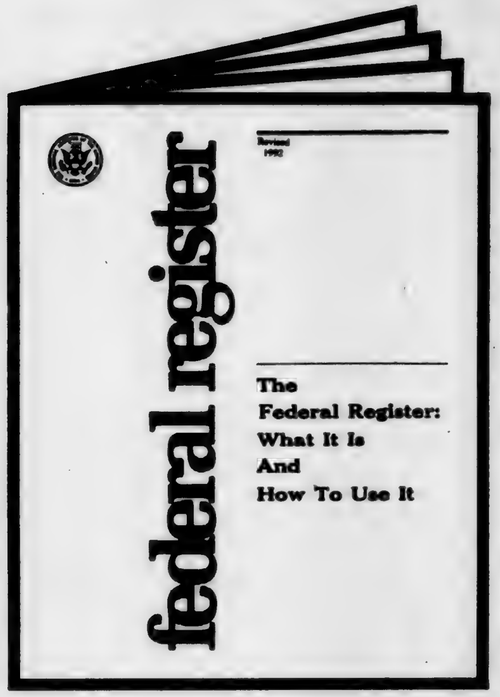

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76

AP
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Vol. 60 No. 76
Pages 19665–19844

federal register

Thursday
April 20, 1995

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VOL
60
ISS
76
AP
20
1995
UMI

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Contents

Federal Register
Vol. 60, No. 76
Thursday, April 20, 1995

Agency for Health Care Policy and Research
NOTICES
Meetings; advisory committees:
May, 19750
June, 19750

Agriculture Department
See Commodity Credit Corporation
See Food Safety and Inspection Service
See Rural Utilities Service
NOTICES
Agency information collection activities under OMB review, 19718

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 19743–19744

Antitrust Division
NOTICES
National cooperative research notifications:
Affymetrix, Inc., et al., 19778–19779
ATM Forum, 19779
Universal Instruments Corp., 19779

Army Department
See Engineers Corps
NOTICES
Meetings:
Armed Forces Epidemiological Board, 19744
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Method of utilize trial dyeings to improve color formulations, 19744

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Public health conference support program, 19750–19753

Coast Guard
PROPOSED RULES
Ports and waterways safety:
Automated dependent surveillance shipborne equipment; incorporation by reference, 19699–19701
NOTICES
Committees; establishment, renewal, termination, etc.:
Cook Inlet Regional Citizens' Advisory Council, 19803–19804
National preparedness for response exercise program; exercise schedule, workshop, and guidelines and training elements availability, 19804–19806

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 19719–19720

Commodity Credit Corporation
RULES
Loan and purchase programs:
Tobacco; importer assessments, 19665–19668

Defense Department
See Air Force Department
See Army Department
See Defense Logistics Agency
See Defense Mapping Agency
See Engineers Corps
See Navy Department
NOTICES
Agency information collection activities under OMB review, 19730–19736

Defense Logistics Agency
NOTICES
Privacy Act:
Computer matching programs, 19737–19738
Systems of records, 19738–19742

Defense Mapping Agency
NOTICES
Privacy Act:
Systems of records, 19742–19743

Delaware River Basin Commission
NOTICES
Hearings, 19729–19730

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Stepan Co., 19779–19780

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Bilingual education and minority languages affairs—
Comprehensive school grants, 19816–19817
Comprehensive school, systemwide improvement, and program enhancement grants, 19814–19816
Field-initiated research program, 19820
National professional development institutes, 19818
Program enhancement grants, 19817–19818
State grant program, 19818–19819
Systemwide improvement grants, 19817
Teachers and personnel grants, 19819

Employment and Training Administration
NOTICES
Adjustment assistance:
Anchor Drilling Fluids USA, Inc., 19781
Conoco Inc. Exploration & Production, North America, 19781–19782
CPC Vending et al., 19782

VOL
60
ISS
76
AP
20
1995
UMI

Meetings:
Job Training Partnership Act Native American Employment and Training Council, 19782–19783
NAFTA transitional adjustment assistance:
Footwear Management Co., 19783
General Electric Inc. et al., 19783–19784
Nonimmigrant aliens employed as registered nurses; attestations by facilities, list, 19784–19789

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grant and cooperative agreement awards:
Murdock, Niel, 19747–19748

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Seven Oaks Dam water conservation and supply study, CA, 19744–19745

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 19673–19674
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 19701–19702
Superfund program:
Toxic chemical release reporting; community right-to-know—
Monosodium methanearsonate, etc., 19702–19708

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
PROPOSED RULES
Airworthiness directives:
British Aerospace, 19693–19695
NOTICES
Meetings:
Informal airspace meetings—
California, 19806

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 19811

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
East Tennessee Natural Gas Co., 19748
El Paso Natural Gas Co., 19748
Tennessee Gas Pipeline Co., 19748–19749
Transwestern Pipeline Co., 19749

Federal Reserve System
PROPOSED RULES
Loans to executive officers, directors, and principal shareholders of member banks (Regulation O):
Unimpaired capital and unimpaired surplus; definition, 19689–19690
NOTICES
Applications, hearings, determinations, etc.:
Georgia Bancshares, Inc., et al., 19749

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 19764
Environmental statements; availability, etc.:
Incidental take permits—
Travis County, TX; single-family residences; golden-cheeked warbler, 19764–19765

Food and Drug Administration
NOTICES
Meetings:
Grassroots regulatory partnership meetings, 19753

Food Safety and Inspection Service
PROPOSED RULES
Meat and poultry inspection:
Poultry feet, undenatured; transportation to other establishments for processing prior to export, 19685–19686

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Missouri, 19720

General Services Administration
RULES
Federal property management:
Federal Supply Service schedule ordering instructions removed, 19674–19675
PROPOSED RULES
Acquisition regulations:
Real property leasing, 19708–19716

Health and Human Services Department
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See Indian Health Service
NOTICES
Scientific misconduct findings; administrative actions:
Kurtzman, James T., M.D., 19750

Health Care Financing Administration
NOTICES
Organization, functions, and authority delegations:
Acquisition and Grants Office, Financial and Human Resources Office; new address and telephone numbers, 19753

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Emergency medical services and trauma care in rural areas; improvement, 19753–19755

Housing and Urban Development Department
PROPOSED RULES
Low income housing:
Housing assistance payments (Section 8)—
Tax-exempt obligation refunds, 19695–19697
NOTICES
Agency information collection activities under OMB review, 19758–19759
Grants and cooperative agreements; availability, etc.:
Comprehensive needs assessments program, 19759–19760

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Confederated Tribes of Chehalis Reservation, WA, 19822
Miami Tribe of Oklahoma, OK, 19822
Squaxin Island Tribe, WA, 19822
Upper Skagit Indian Tribe, WA, 19822

Indian Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Indians into medicine program, 19755–19758

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Chrome-plated lug nuts from—
China, 19720–19723
Heavy forged hand tools, finished or unfinished, with or without handles, from—
China, 19723–19726
Meetings:
Automotive Parts Advisory Committee, 19726–19727

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
RailTex, Inc., et al., 19771–19772
Union County Industrial Railroad Co., 19772

Justice Department
See Antitrust Division
See Drug Enforcement Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
COPS Accelerated Hiring, Education and Deployment and COPS Funding Accelerated for Smaller Towns programs, 19772
Pollution control; consent judgments:
Azrael, Edward, et al., 19772–19773
Burlington Northern Railroad Co., 19773
Coleman Trucking, Inc., et al., 19773
Southern Foundry Supply, Inc., et al., 19773–19774
Witco Corp. et al., 19774
Privacy Act:
Systems of records, 19774–19778

Labor Department
See Employment and Training Administration
NOTICES
Agency information collection activities under OMB review, 19780
Frances Perkins/Elizabeth Hanford Dole National Award for Diversity and Excellence in American Executive Management; application procedure, 19780–19781
Meetings:
Excellence in State and Local Government through Labor-Management Cooperation Task Force, 19781

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 19760
Alaska Native claims selection:
Chugach Alaska Corp., 19760
Closure of public lands:
Nevada, 19760–19761
Management framework plans, etc.
Nevada, 19761
Realty actions; sales, leases, etc.:
Idaho, 19761–19762
Oregon, 19762
Recreation management restrictions, etc.:
Snake River Special Recreation Management Area, ID; boating and camping restrictions, 19762
Survey plat filings:
Arizona, 19762–19763
Idaho, 19763
Withdrawal and reservation of lands:
Nevada, 19763–19764

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Central and Western Gulf of Mexico OCS—
Lease sales, 19765–19766
Meetings:
Minerals Management Advisory Board, 19766–19767
Outer Continental Shelf operations:
Central and Western Gulf of Mexico—
Leasing policies; comment request and workshop, 19767–19771

National Aeronautics and Space Administration
NOTICES
Agency information collection activities under OMB review, 19789
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Sciencs & Technology Corp., 19789–19790

National Credit Union Administration
PROPOSED RULES
Credit unions:
Organization and operations—
Incentive pay or outside compensation for certain activities related to credit union lending, 19690–19693

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Expansion Arts Advisory Panel, 19790
Music Advisory Panel, 19790
Visual Arts Advisory Panel, 19790–19791

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Stop lamps, center highmounted; photometric conformance, 19681–19683
PROPOSED RULES
Motor vehicle safety standards:
License plate mounting location; cars and light trucks; petition denied, 19716–19717

VOL 60 ISS 76 AP 20 1995 UMI

National Labor Relations Board
NOTICES
Meetings; Sunshine Act, 19811

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
South Atlantic snapper-grouper, 19683–19684
NOTICES
Grants and cooperative agreements; availability, etc.:
Global Learning and Observations to Benefit Environment (GLOBE) program for K–12 U.S. schools, 19727–19729

Navy Department
NOTICES
Base realignment and closure:
Surplus Federal property—
Naval Air Warfare Center, Trenton, NJ, 19746–19747
Naval Reserve Center, Atlantic City, NJ, 19745–19746
Meetings:
Naval Academy, Board of Visitors, 19747

Nuclear Regulatory Commission
PROPOSED RULES
Meetings:
Maintenance inspection guidance revision and pilot site visits; results, 19686–19688
NOTICES
Environmental statements; availability, etc.:
Entergy Operations, Inc., 19791–19792
Meetings:
Licensing Support System Advisory Review Panel, 19792
Applications, hearings, determinations, etc.:
Pacific Gas & Electric Co., 19792–19793

Presidential Documents
EXECUTIVE ORDERS
Government agencies and employees:
Classified National Security Information (EO 12958), 19825–19843

Public Health Service
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See Indian Health Service

Rural Utilities Service
NOTICES
Environmental statements; availability, etc.:
Lamar Electric Membership Corp., 19718
Sunflower Electric Power Corp., 19718–19719

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
Applied Microbiology, Inc., 19793
Columbia Ventures, Inc., 19793–19794
Great-West Life & Annuity Insurance Co. et al., 19794–19796
Montgomery Asset Management, L.P., et al., 19796–19801
Nike Securities L.P. et al., 19801–19803

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Indiana, 19668–19673
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Illinois, 19697–19699

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
RULES
Omnibus Transportation Employee Testing Act of 1991:
Workplace drug and alcohol testing programs; non-evidential alcohol screening devices procedures, 19675–19681

Treasury Department
NOTICES
Agency information collection activities under OMB review, 19807–19808

Veterans Affairs Department
NOTICES
Legal interpretations; General Counsel-precedent opinions:
Veterans' benefits under VA administered laws; summaries, 19808–19810

Separate Parts In This Issue

Part II
Department of Education, 19814–19820

Part III
Department of the Interior, Bureau of Indian Affairs, 19822

Part IV
The President, 19825–19843

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12356 (Revoked by EO 12958)....19825
12958....19825
7 CFR
1464....19665
9 CFR
Proposed Rules:
381....19685
10 CFR
Proposed Rules:
50....19686
12 CFR
Proposed Rules:
215....19689
701....19690
14 CFR
Proposed Rules:
39....19693
24 CFR
Proposed Rules:
811....19695
30 CFR
914 (2 documents)....19668, 19669
Proposed Rules:
913....19697
33 CFR
Proposed Rules:
164....19699
40 CFR
52....19673
Proposed Rules:
52....19701
372....19702
41 CFR
101–26....19674
48 CFR
Proposed Rules:
501....19708
503....19708
505....19708
506....19708
507....19708
552....19708
570....19708
49 CFR
40....19675
571....19681
Proposed Rules:
571....19716
50 CFR
646....19683

VOL
60
ISS
76
AP
20
1995
UMI

Rules and Regulations

Federal Register
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Thursday, April 20, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AD943

Tobacco; Importer Assessments

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This rule provides, with respect to tobacco, authority to implement changes for the budget deficit marketing assessment (BDMA), sometimes referred to as a "nonrefundable marketing assessment," which is provided for in 7 CFR 1464.11 and 7 CFR 1464.102. The rule is needed because of the enactment of Section 422 of the Uruguay Round Agreements Act (P.L. No. 103–465). That section provides for modifications to the BDMA in the event that the President should issue a proclamation establishing a tariff-rate quota (TRQ) pursuant to Article 28 of the General Agreement on Tariffs and Trade (GATT). As yet, no such quota has been issued. However, this rule will allow for rapid implementation of the Section 422 modifications if a TRQ is issued. The modifications provided for in Section 422 are, with respect to imported tobacco, a restriction of the BDMA to certain tobaccos and a change in the BDMA rate. For covered domestic tobaccos, Section 422 would extend the term of coverage through the 1998 crops; otherwise, Section 422 would not change the application of the BDMA to domestic tobacco.

DATES: *Effective Date:* April 20, 1995.

Comment Date: Comments must be received on or before May 22, 1995, in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Tobacco and Peanuts Division, Consolidated Farm Service Agency (CFSA), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, D.C. 20013–2415, telephone 202–720–7413. All written comments will be available for public inspection in room 5750, South Building, U.S. Department of Agriculture, 14th St. and Independence Avenue SW., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary Wheeler, Tobacco Marketing Specialist, Tobacco and Peanuts Division, CFSA, at the address listed above, telephone 202–720–7562.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V published at 48 FR 2915 (June 24, 1983).

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this interim rule are not retroactive and preempt state laws to the extent that such laws are inconsistent with the provisions of this interim rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 1464, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

The information collection requirements contained in these regulations (7 CFR part 1464) have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0560–0148.

Background

A. Pre-1993 Coverage of Domestic Tobacco

The BDMAs for tobacco are also known as "nonrefundable marketing assessment" and are provided for in 7 CFR part 1464 and in particular in 7 CFR 1464.11 and 7 CFR 1464.102.

The BDMAs, for tobacco, are provided for in current law in Sections 106(g) and 106(h) of the Agricultural Act of 1949, as amended (1949 Act). Before 1993, only domestic tobacco was covered and only those domestic tobaccos for which price support was in effect by reason of the approval by producers of production controls.

The per pound BDMA rate that applies to domestic tobacco is the amount which equals 1% of the per pound national price support level for each kind of tobacco. For domestic tobacco, half of the BDMA is paid by the producer; the other half is paid by the first purchaser of the tobacco. The first purchaser either purchases the tobacco from the producer or obtains the tobacco by a purchase from the price support loan inventory.

Tobacco crops are divided into crop years based on the year of production. There is likewise assigned a marketing year for each crop. The marketing year for all but flue-cured tobacco runs from October 1 of the calendar year in which the crop is produced through September 30 of the following year. For flue-cured tobacco, the crop year runs for the 12-month period that begins on July 1 of the year of production.

VOL 60 ISS 76 AP 20 1995 UMI

B. 1993 Extension of BDMAs to Imported Tobacco

In 1993, Congress enacted the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66 (1993 Act). The 1993 Act extended the BDMA to all imported tobacco. Implementing rules were published in 7 CFR part 1464. Pursuant to the statute, the rules set the per pound BDMA rate on imported tobacco at a uniform amount equal to the average per pound total (producer and purchaser) BDMA for domestic burley and flue-cured tobacco applicable at the time of the entry of the imported tobacco into the commerce of the United States. The 1993 Act also extended "no net cost assessments" (NNCAs) to imported tobacco. However, the imported tobacco NNCAs apply only to imported flue-cured and imported burley tobacco.

C. Remittances of BDMAs

By law, BDMA payments are remitted to the CCC of USDA.

D. Coverage of Crop Years

But for new statutory law, described below, the term of the domestic BDMA ends with the 1995 crops. That for the imported tobacco ends with the 1998 crops.

E. Provisions of the Uruguay Round Agreements Act (URAA)

The 1993 Act measures described above and the other 1993 measures led to a challenge under GATT by countries that export tobacco to the United States. This led to on-going negotiations to establish a TRQ under Article 28 of GATT.

Countries have operated for many years under longstanding GATT provisions sometimes referred to as "GATT 1947." However, recent negotiations among many nations on new, broad-based "Uruguay Round Agreements" were completed. The GATT, as so modified, is sometimes referred to as "GATT 1994." This development led in turn to enactment by Congress of the "Uruguay Round Agreements Act" (URAA).

URAA Sections 421–423 contain tobacco provisions. Section 422 contains provisions dealing with the BDMA. However, those provisions are not effective unless and until a tobacco TRQ should be proclaimed by the President.

Specifically, Section 422 would revise Section 106 of the 1949 Act to provide that effective for each of the 1994 through 1998 crops of tobacco for which price support is made available under the 1949 Act, each producer and purchaser of such tobacco, and each importer of the same kind of tobacco shall remit to the CCC a non-refundable marketing assessment (BDMA). Section 106(g), as it would be revised by Section 422, provides further that the non-refundable marketing assessment (that is, the BDMA) would be an amount equal to:

(1) in the case of a producer or purchaser of domestic tobacco, .5% of the national price support level for each such crop; and

(2) in the case of an importer of tobacco, 1 percent of the national price support level for the same kind of tobacco.

Accordingly, Section 422, if and when it becomes effective, would limit the imported BDMA to imports with the same or similar characteristics as a price-supported (and BDMA-subject) domestic kind. Also, the rate for imported tobacco would change to that equal to the full amount of the BDMA for the corresponding domestic kind rather than be equal to a burley and flue-cured average.

Further, Section 422(c) allows the President to waive the application to imported tobacco of the BDMA or the NNCA if the President determines that the waiver is necessary or appropriate pursuant to an international agreement entered into by the United States.

As indicated, however, the provisions of Section 422 are not yet effective. That lack of current effectiveness is set out in Section 422(e). That section provides that Section 422 and the amendments made by it will be effective only beginning on the effective date of the Presidential proclamation establishing a TRQ pursuant to Article 28 of the GATT 1947 or the GATT 1994 with respect to tobacco. There is no such TRQ at this time.

F. Need for a Currently Effective Rule

It has been determined that an interim rule should be issued at this time so that there may be an immediate effectiveness under 7 CFR part 1464 of the BDMA modifications upon the proclamation by the President of a triggering TRQ.

G. Current Coverage of the Domestic BDMA

As indicated, Section 422 would tie the imported tobacco BDMA to domestic kinds that pay a BDMA. Those domestic kinds are those that are subject to price support. They are listed below. In the parentheses following each kind are three figures separated by slashes. The first figure is the current per pound national price support level. The second is the amount which would constitute 1% of the support level and thus the full per pound imported BDMA rate for the same kind or that having similar characteristics of a domestic quota kind. The third figure is the second figure expressed as an amount per kilogram. The list of price supported domestic tobaccos, with those three figures for each, is as follows:

(1) flue-cured tobacco ($1.583/$0.015830/$0.034899);
(2) burley ($1.714/$0.017140/$0.037787);
(3) Virginia fire-cured ($1.407/$0.014070/$0.031019);
(4) Kentucky-Tennessee fire-cured ($1.483/$0.014830/$0.032694);
(5) dark air-cured ($1.273/$0.012730/$0.028065);
(6) Virginia sun-cured ($1.245/$0.012450/$0.027447);
(7) cigar filler and binder ($1.084/$0.010840/$0.023899); and
(8) Puerto Rico cigar filler ($0.844/$0.008440/$0.018607).

H. Description of Provisions and Effect of The Interim Rule

Under the interim rule:

(1) *Effectiveness of the new regime.* The new BDMA provisions would be effective only upon: (i) the proclamation by the President of a triggering TRQ and (ii) a determination and announcement by the Executive Vice President of CCC (Executive Vice President) that the TRQ had been proclaimed and that the new BDMA provisions are in effect.

(2) *Timing of calculation of amount due.* The amount due under the new regime would be determined based on the date of entry of the tobacco into the commerce of the United States as determined in accordance with existing rules.

(3) *Effect on prior importations.* Any tobacco entered prior to the effective date of the new regime would be subject to the old regime. The inauguration of the new regime will not effect liabilities under the old regime.

(4) *Waivers.* The rule allows adjustments to be made as might be required due to an exercise of the President's Section 422(c) waiver authority.

(5) *Mixed lots.* Mixed lots (containing differing kinds of tobacco) would be handled as they are for the NNCA. The importer would be responsible for establishing and certifying to the composition of the lot. To the extent that the lot's composition could not be determined, the lot would be considered to be assessable in its entirety at the highest applicable rate.

(6) *Exemption of certain tobaccos.* Tobaccos which have distinct characteristics such as oriental tobacco and are commonly treated in the trade as a different "kind" of tobacco would be, in the new regime, free of the BDMA.

(7) *Burden of proof.* Unlike the old regime, the new regime does not cover all imported tobacco. The importer would have the burden of establishing that the tobacco was not subject to the BDMA or is subject to a lower rate. Importers of all kinds of tobacco, including exempt tobaccos, would be required to maintain all records relevant to the application of the assessments and its exemptions. Such records would be subject to inspection as under the old regime. As under the old regime, failures to keep proper records could be considered as evidence of a failure to make proper payments.

(8) *Authority of the Director of the Tobacco and Peanuts Division.* The Director of the Tobacco and Peanuts Division (Director), CFSA, would have the authority to resolve disputes, request information, and establish additional accounting procedures if needed.

(9) *Rate on imported tobacco.* In accordance with the Section 422, the BDMA rate on imported tobacco would be the lowest rate for a domestic tobacco which is the same kind.

(10) *Kinds of tobacco.* Tobacco could be considered the same kind if, discounting for the place of production, it is classified as the same kind for customs purposes, has similar characteristics, or is treated as the same kind of tobacco in the industry.

(11) *Extension of the domestic BDMA.* The domestic BDMA would be extended through the 1998 crops if a TRQ is issued.

(12) *Changes in coverage of the imported BDMA.* If the list of domestic tobaccos subject to the BDMA changes, the coverage of the imported BDMA would also change accordingly. In any case, the BDMA rate for imported tobacco will change based on changes in the price support level for relevant domestic tobaccos. The applicable rate will, as indicated above, be based on the time of the entry of the tobacco into the commerce of the United States.

(13) *Additional rule changes.* It is anticipated that if and when a TRQ is issued, the rules would be revised to reflect the new regime only. However, as indicated, this will not affect liabilities under the old regime.

I. Current Effectiveness and Comments

This rule is being issued as an interim rule without prior public comment as the change in the BDMA is mandated by law and a delay in implementation would be contrary to the public interest, including the public interest in the administration of foreign trade policy.

Comments both favorable and unfavorable to the rule are solicited. Further consideration of the rule, upon the receipt of the comments, could lead to modifications in the rule.

List of Subjects in 7 CFR Part 1464

Assessments, Loan program, Agriculture, Price support program, Tobacco, Warehouses.

For the reasons set forth in the preamble, 7 CFR part 1464 is amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1, and 1445–2; 15 U.S.C. 714b, 714c.

2. Section 1464.11 is amended by adding a new paragraph (f) to read as follows:

§ 1464.11 Nonrefundable marketing assessment.

* * * * *

(f) The term for the application of the assessment provided for in this section shall be extended through the 1998 crops if the President issues a Presidential proclamation establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or GATT 1994 with respect to tobacco. Accordingly, in the event that such a proclamation is issued all obligations which otherwise would terminate with the 1995 crop under this section shall apply equally for subsequent crops through the 1998 crops.

3. Section 1464.102 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 1464.102 Budget deficit marketing assessment.

* * * * *

(c) *Modification of the coverage and rate for imported tobacco.* (1) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the coverage, rates and obligations applicable to imported tobacco under this section shall be as provided in paragraph (d) of this section if:

(i) the President establishes a tariff-rate quota for tobacco; and

(ii) it is determined and announced by the Executive Vice President that a modification of the assessments is being made accordingly pursuant to Section 422 of Pub. L. 103–465.

(2) The effective date of the modification provided for in paragraph (c)(1) of this section shall be the date announced by the Executive Vice President consistent with the provisions of Pub. L. 103–465.

(3) (i) For entries of imported tobacco into the United States prior to the effective date for assessment modifications announced by the Executive Vice President under this paragraph, the rates and coverage of the assessment shall be as provided for in paragraphs (a) and (b) of this section.

(ii) For entries of imported tobacco into the United States after the effective date for assessment modifications announced by the Executive Vice President under this paragraph, the rates and coverage of the assessment shall be as provided for in paragraph (d) of this section.

(d) *Rates and coverage of the modified assessment.* If a modification of the assessments otherwise provided for in this section is announced by the Executive Vice President as provided for in paragraph (c) of this section then:

(1) Imports of tobacco under this section shall apply only to the same kind or tobacco having similar characteristics to a price-supported domestic kind, or considered in the trade to be the same or similar "kind", as a domestic tobacco which is, at the time the tobacco is entered into the commerce of the United States, currently subject to an assessment under § 1464.11.

(2) If the tobacco is subject to an assessment under paragraph (d)(1) of this section, then the assessment shall be paid by the importer and remitted to CCC. The amount due for each pound of subject tobacco, shall be the amount equal to 1% of the national price support level that applies for the current marketing year for the corresponding domestic kind of tobacco.

(3) It shall be the responsibility of all importers to establish that imported tobacco is not covered by the BDMA or not subject to a higher BDMA rate than that which is assessed or paid.

(4) In the case of the entry of mixed lots (containing tobacco of different kinds) the importer shall be required to certify to the composition of the lot. In the absence of such certification or in the absence of sufficient evidence to indicate the relevant kind of tobacco for purposes of administration of this section, then the importer shall be liable for the assessment as the highest possible relevant rate for all such tobacco.

(5) Importers of all tobacco, including those which are not subject to the modified BDMA, shall maintain sufficient records to demonstrate compliance with the obligations of this section.

(6) Disputes involving the application of the assessment shall be resolved by the Director.

VOL 60 ISS 76 APR 20 1995 UMI

Signed at Washington, D.C. on April 10, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95-9454 Filed 4-19-95; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[IN-117, Amendment Number 94-2]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of miscellaneous revisions to Indiana's Surface Coal Mining and Reclamation Rules. The amendment is intended to revise the Indiana program to eliminate typographical, clerical, and spelling errors and to amend those instances where the word "commission" should be changed to "director" in accordance with Indiana Senate Enrolled Act (SEA) 362.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone (317) 226-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program.
II. Submission of the Amendment.
III. Director's Findings.
IV. Summary and Disposition of Comments.
V. Director's Decision.
VI. Procedural Determinations.

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Amendment

By letter dated August 25, 1994 (Administrative Record No. IND-1394), Indiana submitted program amendment #94-2 concerning miscellaneous revisions to the Indiana rules to eliminate typographical, clerical, and spelling errors and to amend those instances where the word "commission" should be changed to "director" in accordance with Indiana SEA 362. OSM approved SEA 362 as a program amendment on August 2, 1991 (56 FR 37016). By letter dated August 30, 1994 (Administrative Record No. IND-1395), Indiana submitted a supplement to the August 25, 1994, submittal which consists of a hard copy of the rules being amended in those instances where "commission" should be changed to "director" as a response to SEA 362 along with miscellaneous revisions.

OSM announced receipt of the proposed amendment in the September 16, 1994, **Federal Register** (59 FR 47571), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on October 17, 1994. By letter dated March 20, 1995 (Administrative Record No. IND-1438), Indiana submitted additional typographical and clerical corrections to the proposed amendment in response to comments provided by OSM on February 14, 1995 (Administrative Record No. IND-1437). In addition, Indiana withdrew its proposed change to 310 IAC 12-7-1(c) and reinstated the word "commissions," to this subsection. Therefore, 310 IAC 12-7-1(c) is not part of this amendment.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Indiana program.

In amendment #94-2, Indiana corrected numerous typographical, clerical, or spelling errors and made numerous changes from the word "commission" to "director." The Director finds that the numerous typographical, clerical, and spelling changes are nonsubstantive changes or changes which improve the clarity or accuracy of the Indiana rules.

The Director finds that the changes from "commission" to "director" more accurately reflect the responsibilities within the Indiana program as provided by SEA 362 which was approved by OSM on August 2, 1991 (56 FR 37016), and that the changes do not render the Indian program less effective than Federal regulations.

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. No comments were received.

Public Comments

A public comment period and opportunity to request a public hearing was announced in the September 16, 1995, **Federal Register** (59 FR 47571). The comment period closed on October 17, 1995. No one commented and no one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND-1403). EPA responded on September 27, 1994 (Administrative Record No. IND-1402) and stated that EPA had no comments.

V. Director's Decision

Based on the findings above, the Director is approving Indiana's program amendment #94-2, concerning miscellaneous revisions to the Indiana rules as submitted by Indiana on August 25, 1994, supplemented on August 30, 1994, and amended on March 20, 1995.

The Federal regulations at 30 CFR Part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 13, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 914.15, paragraph (jjj) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(jjj) Amendment #94-2 to the Indiana program concerning miscellaneous revisions to the Indiana rules as submitted to OSM on August 25, 1994, supplemented on August 30, 1994, and amended on March 20, 1995, is approved effective April 20, 1995.

[FR Doc. 95-9774 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 914

[IN-112-FOR; Amendment 92-7C]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with exceptions, a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is a continuation of an earlier program amendment and consists of revisions to Indiana's Surface Coal Mining and Reclamation Rules concerning the control of subsidence caused by underground mining operations. The amendment is intended to revise the Indiana program to be consistent with SMCRA and to incorporate State initiatives.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, IN 46204, Telephone (317) 226-6166.

SUPPLEMENTARY INFORMATION:

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I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Amendment

By letter dated December 2, 1992 (Administrative Record No. IND-1175), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment (#92-7) to the Indiana program. Amendment #92-7 proposed changes to the Indiana surface mining rules concerning subsidence liability.

On May 17, 1993, OSM approved, with two exceptions, amendment #92-7 (58 FR 28775). By letter dated March 18, 1994 (Administrative Record Number IND-1340), Indiana submitted to OSM a notice of the final adoption of amendment #92-7 as published in the Indiana Register, Volume 17, Number 6, pages 1086-1089 (March 1, 1994).

The final adopted language of amendment #92-7 differs in some ways from the language approved by OSM on May 17, 1993. Therefore, OSM reopened the public comment period and invited comment on the substantive differences.

OSM announced receipt of the proposed amendment in the April 22, 1994, **Federal Register** (59 FR 19155),

VOL
60
ISS
76
AP
20
1995
UMI

and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The comment period closed on May 23, 1994.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Indiana program. Nonsubstantive word changes and paragraph notation changes also appear in the final adopted version of amendment #92–7. However, only the substantive changes are discussed below.

1. 310 IAC 12–3–87.1 Subsidence Control Plan

a. 310 IAC 12–3–87.1(c)(2). In the May 17, 1993, **Federal Register** notice which approved most of Indiana amendment #92–7 concerning subsidence, the Director did not fully approve the proposed language at subsection 87.1(c)(2). The language at subsection 87.1(c)(2) was approved except to the extent the provision defers to State law to correct subsidence related material damage.

On October 24, 1992, SMCRA was amended by the addition of new section 720 concerning subsidence. New section 720 provides that underground coal mining operations shall promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or noncommercial building due to underground coal mining operations. The new SMCRA provision does not provide for deference to State law regarding the repair or compensation for material damage resulting from subsidence due to underground coal mining operations. Therefore, in the May 17, 1993, **Federal Register** notice, the Director found the proposed language at 310 IAC 12–3–87.1(c)(2) less effective than the counterpart Federal regulations at 30 CFR 784.20(b) to the extent that the language affords a lesser degree of protection to occupied residential dwellings, related structures, and noncommercial buildings than SMCRA as revised.

The currently proposed 310 IAC 12–3–87.1(c)(2) provides that the subsidence control plan must contain a map of underground workings which includes all areas where the measures described in subdivisions (4) and (5) will be taken "where appropriate under state law" to correct subsidence related material damage. The quoted language, "where appropriate under state law" is identical to the language which OSM did not approve in the May 17, 1993, **Federal Register** notice.

In its submittal of this final adopted language, Indiana provided two reasons for its retention of the language quoted above. First, Indiana asserts that the language quoted above is substantially identical to the counterpart Federal regulations at 30 CFR 784.20(b). Second, Indiana asserts that a newly enacted statute, IC 13–4.1–9–2.5, which was included in Senate Enrolled Act No. 408 and signed into Indiana law on March 11, 1994, codifies the October 24, 1992, changes made to Federal SMCRA at section 720. Specifically, Indiana asserts that because Indiana law (IC 13–4.1–9–2.5) requires the correction of material subsidence damage to the same degree as amended SMCRA at section 720, the current regulation's (310 IAC 12–3–87.1(c)(2)(B)(ii)) reference to Indiana law is no longer less effective than the requirements of the Federal program.

In response to Indiana's assertions, the Director notes the following. On March 31, 1995 (60 FR 16722–16751), OSM amended the Federal subsidence regulations at 30 CFR 784 to bring those regulations into conformance with SMCRA at new section 720. Currently, neither SMCRA at section 720 nor 30 CFR 784.20(b) provide for deference to State law regarding the repair or compensation for material damage resulting from subsidence due to underground coal mining operations.

However, Indiana State law at IC 13–4.1–9–2.5 provides a counterpart to SMCRA section 720 from June 30, 1994, on.

On April 4, 1995 (60 FR 16985), the Director published an approval of IC 13–4.1–9–2.5, Indiana's new law concerning subsidence control. In that notice, the Director determined that IC 13–4.1–9–2.5 is substantively identical to and no less stringent than SMCRA at new section 720 with one exception. The Indiana law applies only to damage that occurs after June 30, 1994. SMCRA at section 729(a) provides that underground coal mining operations conducted after the date of enactment of section 720 (October 24, 1992) shall comply with each of the requirements of section 720. Therefore, the Director approved IC 13–4.1–9–2.5 to the extent that the Indiana law meets the requirements of SMCRA section 720(a) from June 30, 1994.

In addition, the Director deferred decision on the enforcement of the provisions of SMCRA section 720(a) during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994). Pursuant to newly promulgated 30 CFR 843.25, OSM intends to publish by July 31, 1995, for each State with a regulatory program, including Indiana, final rule notices concerning the enforcement of the provisions of the Energy Policy Act in those States.

Since, by letter dated March 18, 1994 (Administrative Record IND–1340), Indiana interpreted "state law" as used in 310 IACV 12–3–87.1 to mean the provisions found at IC 13–4.1–9–2.5, the Director finds that this provision is no less effective than 30 CFR 784.20(b) and no less stringent than SMCRA section 720, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision until July 31, 1995, on the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994).

b. 310 IAC 12–3–87.1(c)(7). In the second sentence of this subdivision, Indiana is deleting the word "operator" and adding in its place the word "permittee." With this change, the permittee is required to include required information in the permit application. The word "permittee" is the appropriate word to use in this section on permit application requirements. The Director finds the change to be consistent with and no less effective than the Federal regulations at 30 CFR 784.20 concerning subsidence control plan.

2. 310 IAC 12–5–130.1 Subsidence Control; General Requirements

In the final adopted language at subsection 130.1(c)(2), language appears which is identical to language which OSM did not approve in the May 17, 1993, **Federal Register** notice. Specifically, the language at subsection 130.1(c)(2) provides for the repair or compensation of damage caused by subsidence "[t]o the extent required under Indiana law." In the May 17, 1993 notice at Finding 2, OSM did not approve the language which reads "[t]o the extent required under Indiana law."

OSM did not approve the Indiana deference to State law because it afforded a lesser degree of protection to occupied residential dwellings, related structures, and noncommercial buildings than section 720 of SMCRA. See Finding 1, above, for a discussion of section 720 of SMCRA.

In its submittal of this final adopted language, Indiana provided an explanation why the language which defers to State law was retained. Indiana stated (also see Finding 1, above) that new Indiana law IC 13–4.1–9–2.5 requires the correction of material subsidence damage to the same degree as SMCRA at section 720. Therefore, Indiana asserts, the language at 310 IAC 12–5–130.1(c)(2) which defers to State law is no longer less effective than the requirements of the Federal program.

As discussed in Finding 1 above, the new Indiana law at IC 13–4.1–9–2.5 is substantially identical to and no less stringent than SMCRA at section 720 except to the extent that the Indiana law applies only to damage that occurs after June 30, 1994. SMCRA at section 720(a) provides for such repair or compensation by underground coal mining operations conducted after the date of enactment of section 720 (October 24, 1992). Since, by letter dated March 18, 1994 (Administrative Record No. IND–1340), Indiana interpreted "state law" as used in 310 IAC 12–5–130.1(c)(2), to mean the provisions found at IC 13–4.1–9–2.5, the Director finds that this provision is no less effective than 30 CFR 817.121(a)(2) and no less stringent than SMCRA section 720, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 and 30 CFR 817.121 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994).

3. 310 IAC 12–5–130.1(g) Suspension of Underground Mining

Indiana added language to this provision after the provision was approved by OSM on May 17, 1993. At subdivision 130.1(g)(2) the words "under or" are added. With the added language, the provision provides that the director of INDR shall suspend underground mining activities under or adjacent to industrial or commercial buildings, pipelines, major impoundments, or perennial streams.

In addition, the words "under any other location" are added in new subdivision 130.1(g)(3). With this new language, the director of INDR shall suspend underground mining activities under any other location if imminent danger is found to inhabitants of urbanized areas, cities, towns, or communities "or whenever required or authorized by IC 13–4.1–11–5."

The quoted language immediately above identifies the third revision to subsection 130.1(g). With this new language, the director of INDR shall also suspend underground mining activities whenever required or authorized by IC 13–4.1–11–5 concerning cessation orders. The Director finds that these changes are consistent with and no less effective than the Federal regulations at 30 CFR 817.121(f).

4. 310 IAC 12–5–130.1(h) Detailed Report of Underground Workings

The changes in this subsection are related to the preparation and certification of the required map of underground workings. Specifically, Indiana has deleted the word "registered" immediately preceding the words "professional engineer." Also, the words "or registered land surveyor" are added following the words "professional engineer." With these changes, the required map of underground workings shall be prepared by, or under the direction of, and certified by a qualified professional engineer or registered land surveyor with assistance from experts in related fields such as land surveying. The Director finds that the amendments are not inconsistent with and are no less effective than the counterpart Federal regulations at 30 CFR 817.121(g) which provide that the operator shall submit a detailed plan of the underground workings.

5. Repealed Provisions

Indiana proposes to repeal 310 IAC 12–3–87, 310 IAC 12–5–130, 310 IAC 12–5–131, and IAC 12–5–132. The provisions are proposed for repeal because they are replaced by 310 IAC 12–3–87.1, 310 IAC 12–5–130.1, and 10 IAC 12–5–131.1.

The Director is approving the repeal of 310 IAC 12–3–87, 310 IAC 12–5–130, and 310 IAC 12–5–131 because such repeal does not render the Indiana program less effective than the Federal regulations. The director is deferring decision on the repeal of 310 IAC 12–5–132 until July 31, 1995, when OSM will address the enforcement of the provisions of SMCRA section 720 and 30 CFR 784.20 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994).

IV. Summary and Disposition of Comments

Federal Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. The U.S. Department of Agriculture, Soil Conservation Service (SCS) commented on the amendment (Administrative Record Number IND–1345). The SCS stated that the SCS determined that the changes will not impact SCS programs differently from the existing rules.

Public Comments

The public comment period and opportunity to request a public hearing was announced in the April 22, 1994, **Federal Register** (59 FR 19155). The comment period closed on May 23, 1994. No one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

Ms. Freida K. Harris commented that OSM should not approve the proposed amendments because the amendments contain language which OSM has previously not approved. Specifically, the commenter is referring to Indiana's deference to State law at 310 IAC 12–3–87.1(c)(2)(B)(ii) and 310 IAC 12–5–130.1(c)(2).

As discussed above in Findings 1 and 2, the Director did not fully approve the previously-proposed language at 310 IAC 12–3–87.1(c)(2) and 310 IAC 12–5–130.1(c)(2) to the extent that the proposed language deferred to State law to correct subsidence related material damage. Since the time of that final rule notice, however, Indiana amended its statutes by adding IC 13–4.1–9–2.5 as a counterpart to the new SMCRA provision at section 720 concerning subsidence liability. Upon review of Indiana's new subsidence statute, the Director determined that the subsidence statute is no less stringent than SMCRA at section 720 to the extent that Indiana's statue meets the requirements of SMCRA section 720 from June 30, 1994. As discussed in Findings 1 and 2 above, the Director is deferring, until July 31, 1995, decision concerning the enforcement of the provisions of the Energy Policy Act in Indiana during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994). In the March 31, 1995, approval of the Federal subsidence regulations (60 FR 16722–16751) OSM stated that it will publish proposed notices and open public comment periods to seek comment on information submitted by States with approved regulatory programs, including Indiana, concerning enforcement of the Energy Policy Act provisions in those States. The public comment period for Indiana closes on May 8, 1995.

Mr. R. Gehres commented on the proposed changes at 310 IAC 12–5–130.1(h). Specifically, the commenter objected to the removal of the term "registered" as it appeared before the words "professional engineer," and to the addition of a "registered land surveyor" to the language describing who must prepare the required maps of

VOL 60 ISS 76 AP 20 1995 UMI

underground workings. In response, the Director notes that the counterpart Federal regulations at 30 CFR 817.121(g), while requiring the submittal of a detailed plan of the underground workings do not specify the credentials of individuals who may prepare those plans. Therefore, Indiana's amendments at 310 IAC 12–5–130.1(h) do not render the Indiana language less effective than 30 CFR 817.121(g).

Amoco Pipeline Company and Tennico Gas, Inc., pipeline operators, commented that the proposed amendments provide inadequate protection to pipelines from unplanned subsidence. The proposed wording is unnecessarily restrictive without justification the commenter stated.

In response, the Director notes that the proposed Indiana language is patterned after the Federal regulations at 30 CFR 817.121 concerning subsidence control, and SMCRA at section 720 concerning repair or compensation of subsidence damage. On March 31, 1995 (60 FR 16722–16751), OSM published subsidence regulations that are intended to implement the new provisions at SMCRA section 720. In that notice, OSM noted that Congress directed OSM to review existing Federal, State, and local laws, as well as common law related to underground coal mine subsidence and natural gas and petroleum pipeline safety. Since that mandated review and report are not finished, OSM believes that it would be premature to revise existing law at this time.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), the director is required to obtain the written concurrence of the Administrator of the EPA with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no provisions in these categories and that EPA's concurrence is not required.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND–1221). EPA responded by letter dated June 21, 1994 (Administrative Record Number IND–1373). In that letter, the EPA concurred without comment.

V. Director's Decision

Based on the findings above, the Director is approving, except as noted below, Indiana's program amendment concerning subsidence as submitted by Indiana on March 18, 1994. As discussed above in Finding 1 concerning 310 IAC 12–3–87.1(c)(2) and Finding 2 Concerning 310 IAC 12–5–130.1(c)(2), the Director is approving the propose deference to State law to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994). As discussed in Finding 5, the Director is deferring decision on the repeal of 310 IAC 12–5–132.

The Federal regulations at 30 CFR Part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In his oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by him, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic anflysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 14, 1995.

Tim L. Dieringer,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 914.15, paragraph (iii) is added to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(iii) The following amendment to the Indiana program concerning underground mine subsidence as submitted to OSM on March 18, 1994, is approved, except as noted herein, effective April 20, 1995: 310 IAC 12–3–87.1(c)(2) concerning subsidence control plan, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994); 310 IAC 12–3–87.1(c)(7) concerning subsidence control plan; 310 IAC 12–5–130.1(c)(2) concerning subsidence control plan, general requirements, to the extent that IC 13–4.1–9–2.5 meets the requirements of SMCRA section 720 from June 30, 1994. The Director is deferring decision on the enforcement of the provisions of SMCRA section 720 during the period from the effective date of SMCRA section 720 (October 24, 1992) to the effective date of IC 13–4.1–9–2.5 (June 30, 1994); 310 IAC 12–5–130.1(g) concerning suspension of underground mining; 310 IAC 12–5–130.1(h) concerning detailed report of underground workings; the repeal of 310 IAC 12–3–87, 310 IAC 12–5–130, and 310 IAC 12–5–131; decision on the repeal of 310 IAC 12–5–132 is deferred.

[FR Doc. 95–0775 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–3–6972b; FRL–5194–2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Interim Final Determination That State has Corrected Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register** EPA has published a proposed rulemaking fully approving revisions to the California State Implementation Plan. The revisions concern South Coast Air Quality Management District Rule 1164—Semiconductor Manufacturing. The proposed rulemaking provides the public with an opportunity to comment on EPA's action approving Rule 1164. Based on the proposed approval, EPA is making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock was activated on September 29, 1993. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final notice taking into consideration any comments received.

DATES: This interim final determination is effective on April 20, 1995.

Comments must be received by May 22, 1995.

ADDRESSES: Comments should be sent to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the following locations:

Environmental Protection Agency, Air Docket 6102, 401 "M" Street, S.W., Washington 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Helen Liu, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

I. Background

On May 13, 1991, the State submitted South Coast Air Quality Management (SCAQMD) Rule 1164—Semiconductor Manufacturing, for which EPA published a limited disapproval in the **Federal Register** on September 29, 1993 [58 FR 50850]. EPA's limited disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (CAA) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP) under section 110(c) of the CAA. The State subsequently submitted a revised rule on February 24, 1995. The revised rule was adopted by the SCAQMD on January 13, 1995. In the Proposed Rules section of today's **Federal Register**, EPA has proposed full approval of the State's submittal of SCAQMD Rule 1164—Semiconductor Manufacturing.

Based on the proposed approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiency. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred.

This action does not stop the sanctions clock that started for this area on September 29, 1993. However, this action will defer the application of the offsets sanction and will defer the application of the highway sanction. See 59 FR 39832 (Aug. 4, 1994). If EPA's proposal fully approving the State's submittal becomes final, such action will permanently stop the sanctions

VOL 60 ISS 76 AP 20 1995 UMI

clock and will permanently lift any applied, stayed or deferred sanctions. If EPA receives adverse comments and subsequently determines that the State, in fact, did not correct the disapproval deficiency, the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clock. Based on this action, application of the offset sanction will be deferred and application of the highway sanction will be deferred until EPA takes final rulemaking action fully approving the State's submittal or until EPA takes action proposing or disapproving in whole or part the State submittal. If EPA's proposed rulemaking action fully approving the State submittal becomes final, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has corrected the deficiencies identified in EPA's limited disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.[1] 5 U.S.C. 553(b)(B). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed action, is indicating that it is more likely than not that the State has corrected the deficiencies that started the sanctions clock. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiencies that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiencies prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

III. Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the CAA. Therefore, I certify that it does not have an impact on any small entities.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 11, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–9708 Filed 4–19–95; 8:45 am]

BILLING CODE 6560–50–W

[1] As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–26

[FPMR Amendment E–276]

RIN 3090–AF09

Removing Federal Supply Service Schedule Ordering Instructions

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Property Management Regulations (FPMR) to remove Federal Supply Service (FSS) schedule ordering instructions. Over time, these instructions have become obsolete. Hence, it is no longer necessary to retain these instructions in the FPMR. Removing these instructions from the FPMR will carry out the principles of the National Performance Review by unburdening all Federal agencies from unnecessary regulations.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Nicholas Economou, FSS Acquisition Management Center (703–305–6936).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. GSA published a proposed rule to amend the FPMR to remove FSS schedule ordering instructions on February 23, 1994 [59 FR 8587]. Comments were received from three organizations and one executive department. All comments were considered, and no revisions to the rule were made.

Two of the four respondents were pleased with the proposed change, and felt that it was consistent with the National Performance Review (NPR). The other two respondents expressed concerns regarding the transformation of existing regulations governing FSS schedule ordering into "guiding principles." However, this rule only removes Federal Supply Schedule ordering instructions that are obsolete and no longer necessary. GSA has already streamlined the Federal Supply Schedule ordering procedures in FAR Part 8.

Regulatory Flexibility Act

This final rule is not required to be published in the Federal Register for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101–26

Government property management.

For the reasons set forth in the preamble, 41 CFR Part 101–26 is amended as follows:

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

1. The authority citation for Part 101–26 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–26.5—GSA Procurement Programs

2. Section 101–26.406–7 is redesignated as § 101–26.502 and revised to read as follows:

§ 101–26.502 U.S. Government National Credit Card.

A waiver has been issued by the Government Printing Office to GSA for the procurement of the printing of Standard Form 149, U.S. Government National Credit Card.

3. Section 101–26.408–4(c) is redesignated § 101–26.503 and revised to read as follows:

§ 101–26.503 Multiple award schedule purchases made by GSA supply distribution facilities.

GSA supply distribution facilities are responsible for quickly and economically providing customers with frequently needed common-use items. Stocking a variety of commercial, high-demand items purchased from FSS multiple award schedules is an important way in which GSA supply distribution facilities meet this responsibility.

4. The heading for Subpart 101–26.4 is revised and the text is removed and reserved to read as follows:

Subpart 101–26.4—Federal Supply Schedules—[Reserved]

5. Section 101–26.507 is revised to read as follows:

§ 101–26.507 Security equipment.

Federal agencies and other activities authorized to purchase security equipment through GSA sources shall do so in accordance with the provisions of this § 101–26.507. Under section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), the Administrator of GSA has determined that fixed-price contractors and lower tier subcontractors who are required to protect and maintain custody of security classified records and information may purchase security equipment from GSA sources. Delivery orders for security equipment submitted by such contractors and lower tier subcontractors shall contain a statement that the security equipment is needed for housing Government security classified information and that the purchase of such equipment is required to comply with the security provision of a Government contract. In the event of any inconsistency between the terms and conditions of the delivery order and those of the Federal Supply Schedule contract, the latter shall govern. Security equipment shall be used as prescribed by the cognizant security office.

6. Section 101–26.507–3 is revised to read as follows:

§ 101–26.507–3 Purchase of security equipment from Federal Supply Schedules.

To ensure that a readily available source exists to meet the unforeseen demands for security equipment, Federal Supply Schedule contracts have been established to satisfy requirements that are not appropriate for consolidated procurement and do not exceed the maximum order limitations.

Dated: March 17, 1995.

Julia M. Stasch,

Acting Administrator of General Services.

[FR Doc. 95–9744 Filed 4–19–95; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 40

[Docket 50018]

RIN 2105–AC20

Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Procedures for Non-Evidential Alcohol Screening Devices

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; request for comments.

SUMMARY: When the Department of Transportation published its final alcohol testing rules in February 1994, it said that if non-evidential screening devices were approved, the devices could be used for screening tests in DOT-mandated alcohol testing programs. Several such devices have now been determined by the National Highway Traffic Safety Administration to be capable of detecting the presence of alcohol at the 0.02 or greater level of alcohol concentration. This rule establishes procedures for the use of these devices.

DATES: This rule is effective May 22, 1995. Comments on amendments to §§ 40.59(c), 40.63(d)(1), and 40.63(e)(2) should be received by June 5, 1995. Late-filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Albert Alvarez, Director, Department of Transportation, Office of Drug Enforcement and Program Compliance, 400 7th Street SW., Washington, DC 20590, Room 9404A, 202–366–3784; or Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, 400 7th Street SW., Room 10424, Washington, DC 20590; 202–366–9306.

SUPPLEMENTARY INFORMATION:

Background

When the Department published its final alcohol testing rules on February 15, 1994 (59 FR 7302 *et seq.*), the Department established breath testing, using evidential breath testing devices (EBTs), as the method to be used. However, in response to comments requesting additional flexibility in testing methods, the Department said that—

> NHTSA [the National Highway Traffic Safety Administration] will develop model specifications (using precision and accuracy criteria), evaluate additional screening devices against them, and periodically publish a conforming products list of those additional screening devices (not exclusively breath testing devices) that meet the model specifications. * * * Please note that the Department will also have to undertake separate rulemaking proceedings to establish procedures for the use of any devices after they are approved. (Id. at 7316.)

NHTSA published model specifications, tested several screening devices and, on December 2, 1994, published a conforming products list (CPL) including four non-evidential breath testing devices and one saliva testing device. As noted in the February 15 common preamble cited above, before these devices can be used in DOT alcohol testing programs, this procedural rule has to be issued. When this rule becomes effective, employers may begin using the approved non-evidential screening devices.

We emphasize that these devices may be used only for alcohol *screening* tests. Confirmation tests must be performed on EBTs. To the greatest extent feasible, we have drafted these procedures to incorporate the same basic requirements as the existing alcohol testing procedures. This makes the procedures simple and achieves the flexibility that is the goal of using non-evidential devices.

Comments and Responses

As of the close of the comment period, the Department received 23 comments on the January 17, 1995, notice of proposed rulemaking (NPRM) for this rule (60 FR 3371). Ten of these comments were from employers or employer associations, another 10 were from manufacturers or distributors of breath testing equipment, and three were from other testing industry participants. The comments focused on several issues.

Interval Between Screening and Confirmation Tests

In the NPRM leading to the February 15, 1994, final rule on alcohol testing procedures (57 FR 59416; December 15, 1992), the Department proposed a 15-minute waiting period before the confirmation test. The purpose of this waiting period was to ensure that residual mouth alcohol did not artificially raise the confirmation test result. The Department had considered,

VOL
60
ISS
76
AP
20
1995
UMI

and asked for comment on, the idea of requiring such a waiting period before all screening tests, but we decided against proposing such a requirement because it would waste employers' and employees' time in the great majority of screening tests that we expect to be negative. Because the Department believed, and notable forensic experts in the alcohol testing field agreed, that the confirmation test should follow the screening test as immediately as possible, the Department proposed a maximum of 20 minutes (i.e., no more than 5 minutes beyond the 15-minute waiting period) between the two tests. The NPRM said that—

> The purpose of establishing a maximum limit for the waiting period is to prevent the manipulation of confirmation results by affording time for the metabolism of alcohol so that results will be lower than first recorded on the initial test. Should there be greater flexibility in the timing of confirmation tests? (Id.)

In the final rule (59 FR 7351; February 15, 1994), the Department retained the 15–20-minute interval between the screening and confirmation tests. The preamble discussion of this issue was as follows:

> There were 29 comments concerning the waiting period before the confirmation test, fifteen of which supported the 15-minute minimum time proposed in the NPRM. Four comments wanted a shorter interval (e.g., two or five minutes) and four supported a longer interval (e.g., 20 or 30 minutes). Two comments opposed any requirement concerning an interval. Six comments either wanted no maximum waiting time or preferred to rely on the employer's or EBT manufacturer's discretion.
>
> The waiting period is important. It is intended to give the employee the opportunity to ensure that any residual mouth alcohol does not influence the result of the confirmation test. According to the Department's information, fifteen minutes is the minimum period after which one can be confident that any residual mouth alcohol has disappeared. A shorter interval is not feasible for this reason. At the same time, waiting a long period between tests can be costly in terms of lost employee time and could influence the outcome of the confirmation test. In order to guard against lengthy delays in the performance of confirmation tests, which can allow alcohol concentration levels to fall, the final rule retains the 20-minute maximum. It should be pointed out that failing to observe the minimum 15-minute period is a "fatal flaw" (see § 40.79(a)), automatically invalidating a test. This is because the Department believes it is important to prevent artificially high readings due to mouth alcohol residue. However, taking longer than 20 minutes between tests is not a "fatal flaw." The Department is aware that circumstances may sometimes result in stretching the time between tests for a few additional minutes. (Id.)

In establishing the 15–20-minute interval, then, the Department considered and decided the issue based on a specific request for and review of comments.

In the NPRM leading to this final rule, the Department again addressed this issue.

> Confirmation tests must be performed on EBTs, within 20 minutes of the screening test, as provided in existing 49 CFR 40.65(b). The Department is aware that increasing this interval for situations in which non-evidential devices are used could provide additional flexibility to employers, by increasing the distance that a non-evidential screening test could be conducted away from a confirmation EBT. However, as noted in the preamble to the February 15, 1994, final Part 40 rule, conducting the confirmation test within a brief time from the screening test is important to prevent metabolization of alcohol over time from negating what would otherwise be "positive" test results. This is no less true in a case where the screening test is conducted on a non-evidential device than where the screening test is conducted on an EBT. For this reason, the Department is not proposing to increase this interval, though we seek comment on the degree to which an increased interval between screening and confirmation tests could increase the utility of non-evidential devices, without concomitant loss of otherwise positive tests. (60 FR 3371; January 17, 1995.)

The Department received 11 comments on this issue. Four of these comments, all from breath testing equipment manufacturers or distributors, recommended retaining the 15–20-minute timeframe for completing tests. One commented that even a brief increase (e.g., five minutes) in the interval could result in losing otherwise positive results. Seven comments (5 employers or employer associations and 2 testing service providers) recommended increasing the interval. The longer intervals they suggested included 30 minutes, one hour, and two hours. Their basic rationale was that if employers had to get an employee from a field site where a non-evidential device was used for a screening test to a site where an EBT was available within 20 minutes, it would deter the use of non-evidential screening devices and limit the cost savings and increased flexibility that would result from using such devices. Two of the comments said that the loss of otherwise positive tests could be a small one.

The Department established consequences for employees testing at the .02 and .04 alcohol concentration levels because even these low levels of alcohol concentration can adversely affect the performance of safety-sensitive functions by transportation employees. If, because long periods of time intervene between screening and confirmation tests, significant numbers of individuals with such alcohol concentrations are able to avoid the consequences of their conduct, the deterrent effects and safety benefits of the alcohol testing rules will be reduced. Consequently, to help determine its response to the comments on this issue, the Department obtained further information about the effects of lengthier delays on tested alcohol concentration.

According to this information, most people (male and female) appear to eliminate alcohol in a range between 0.01 and 0.02 percent per hour. This is the range most forensically accepted and commonly cited. Individual employees' results will, of course, have individual differences based on such factors as gender, body weight, acquired tolerance for alcohol, etc. The following chart displays this data. The chart starts with a screening test alcohol concentration, at the moment the screening test result is obtained. It then shows what the predicted range of confirmation tests results would be after a 30–120 minute interval, assuming (as is very likely to be the case in most instances) that the individual's alcohol concentration is in the declining phase at the time of the screening test.

SCREENING TEST ALCOHOL CONCENTRATION

Interval	.06	.05	.04	.03
20 minutes	.053–.056	.043–.046	.033–.036	.023–.026
30 minutes	.050–.055	.040–.045	.030–.035	.020–.025
40 minutes	.048–.053	.036–.043	.026–.033	<.02–.023
60 minutes	.040–.050	.030–.040	.020–.030	<.02–.020
120 minutes	.020–.040	<.02–.030	<.02–.020	<.02

The chart shows that at any of the alcohol concentration levels shown, the longer intervals (e.g., 1–2 hours) suggested by some commenters would often result in loss of what would otherwise be valid "positive" tests, or even the loss of the ability to remove individuals from safety-sensitive functions for eight hours (24 hours in the case of the motor carrier industry). The Department does not have data that allow us to predict the distribution of various levels of screen positives among tested employees (e.g., what percentage of employees would screen at .02, .04, .08, 1.0, etc.). Consequently, we do not know what overall percentage of screen positives would be lost as the result of longer intervals. Nevertheless, it is clear that the effect of longer intervals would be to effectively immunize persons with alcohol concentrations in the .03–.06 range from the consequences stated in the regulations. Procedural flexibility of this magnitude would nullify the intended substantive impact of the rules.

The Department does not believe that it is appropriate to establish a provision which it knows, in advance, would make it more likely that someone who had violated the Department's regulations could avoid accountability for his or her actions. Nor would it be appropriate to increase significantly the opportunities for violators to manipulate the system to their advantage. Based on three years of rulemaking, participants had reason to know that the Department has consistently expected confirmation tests to follow screening tests as soon as possible. For these reasons, the Department is not going to increase the interval to the extent some commenters requested.

However, the data show that an individual whose alcohol concentration at the time of the screening test was .05–.06 would still, on average, test at .04 or above after a 30-minute interval. An individual whose alcohol concentration at the time of the screening test was .04 would test, on average, below .04 after a 30-minute interval, but this individual would also test below .04 after the present 20-minute interval. Consequently, increasing the interval from 20 to 30 minutes is unlikely to have a marked adverse effect on achieving the regulation's objectives. Such an increase would permit employers some additional degree of flexibility. Because the Department's regulatory policy is to provide appropriate flexibility to regulated parties, where doing so does not adversely affect the safety objectives of a rule, the Department has decided to increase the interval between the tests from 20 to 30 minutes. This change, to § 40.65(b), also affects the interval between EBT screening and confirmation tests.

One question that some comments raised is what the consequences are if a confirmation test is not conducted within 30 minutes of the screening test. First, the Department reemphasizes that a test conducted more than 30 minutes later than the screening test is not fatally flawed. For example, if an individual's confirmation test result is .04 or above, the test is valid and its consequences apply even though the confirmation test was conducted more than 30 minutes after the screening test. Second, an employer that conducts confirmation tests more than 30 minutes after screening tests—particularly if the employer has a pattern or practice of doing so—is subject to being found in violation of an operating administration's regulation. This has similar consequences to any other finding by an operating administration that an employer is failing to implement the regulation properly. To allow operating administrations to determine whether employers are meeting this requirement, the Department is adding a sentence to § 40.65(b) instructing the BAT conducting the confirmation test to note, in the remarks section of the form, any occasion on which the confirmation test is late and the reason for the delay.

Observation During Transit

The use of non-evidential screening devices would often occur at a site removed from the site of the EBT confirmation test. In this situation, the NPRM proposed that the employee would have to be observed by the saliva testing technician (STT) or an employer representative while traveling between the two sites. Two breath testing equipment manufacturers agreed with this proposal, while one employer association opposed it, saying it was unnecessary. The Department will retain this provision. Clearly, it is not appropriate for someone who has just tested at .02 or above to drive himself or herself to the next testing site. Someone else will necessarily be responsible for the employee's transportation. That someone else should be an individual with a stake in the success of the testing process (i.e., an STT or an employer representative), who can ensure that the employee arrives at the confirmation testing site safely and in a timely manner and reduce the probability that the employee could engage in behavior that might result in a refused or invalid test. This person should also be responsible for monitoring the employee with respect to observing the 15-minute deprivation period between the initial and confirmation tests. (The Department's view is that the time the employee spends in transit between tests, if the employee is under observation as provided in this section, counts toward the mandatory 15-minute deprivation period.) The final rule applies this same requirement to the situation in which an EBT without printing capability is used for the screening test and the employee is taken to a confirmation EBT for the confirmation test.

Procedures for Screening Tests

One commenter noted that the NPRM failed to require (as existing Part 40 requires for breath tests) that the STT inform the employee about the procedures to be followed in the test. The final rule adds this requirement.

The NPRM provided that the STT would take the reading from the saliva device in the time frame specified by the manufacturer. This led to comments that the testing process could be unnecessarily delayed, since the manufacturer's instructions on the only saliva device now approved by NHTSA appeared to call for a 2–15 minute period for reading the device. The Department discussed this matter with the manufacturer, which said that the device may always be read after two minutes. After 15 minutes, the result begins to degrade. Consistent with this understanding of the device, the final rule requires STTs to take a reading two minutes after inserting the swab into the device. The fatal flaws section now provides that a test is invalid if the reading is taken less than two or more than 15 minutes after insertion of the swab into the device.

One of the issues addressed in the NPRM was what the STT should do when a saliva test fails (e.g, the device indicates that a sample is unacceptable, the swab falls on the floor). The NPRM proposed that, in this case, the STT would first administer another saliva test, using a new saliva device. There were no comments on this provision, which the Department will retain. The Department will add one safeguard to this provision. The Department understands that, at least in some cases, companies may pre-place saliva packages in workplaces (e.g., in the glove compartment of a truck). Such a device might be used for the initial saliva test. If that test is not successfully completed, the final rule provides that the STT must use a new device that has been in the STT's (or employer's) possession prior to the test, rather than under the control of the employee. This

VOL 60 ISS 76 AP 20 1995 UMI

safeguard will help to preclude questions about whether environmental degradation or tampering could have affected the result of the screening test.

The NPRM proposed that if there were two consecutive failures of saliva tests, the employee would be referred for a breath test. The NPRM sought comment on whether this breath test should be on an EBT. Two breath testing equipment manufacturers favored using an EBT under these circumstances; two employer groups and a consortium thought doing so was unnecessary (i.e., that another non-evidential test was adequate). The Department has concluded that it makes the most sense to resort to an EBT in these circumstances. As noted in the NPRM preamble, going, after two saliva tests, to another non-evidential breath testing device, and then having to go to an EBT for confirmation, would unnecessarily lengthen the procedure and could result in the loss of what would otherwise be a positive test. The Department believes that keeping the procedure compact is most consistent with the objectives of the program.

There were several miscellaneous comments about testing procedures. One asked for more specificity about the type of gloves an STT should use if the STT is swabbing an employee's mouth. The Department believes that reference to a surgical glove—the kind that doctors and dentists use in examining patients—is adequate, though we have made the requirement more specific by deleting the NPRM's reference to other types of hand protection. Comments from two breath testing equipment manufacturers suggested that there should be serial numbers for each saliva device on the package and on the device itself, which if mismatched would result in a fatal flaw. Given that the procedures call for the STT to open the package in the presence of the employee, matching serial numbers seems superfluous and a likely source of unnecessary problems in the collection process. Another commenter suggested allowing the employee to select his or her own saliva device from among several that the STT would offer. The Department has no objection to this practice, but it seems unnecessary to require STTs to proceed in this fashion.

The NPRM called for the STT to use a logbook in connection with a non-evidential breath testing device. This proposed requirement paralleled the existing Part 40 requirement for situations in which an EBT without printing and sequential numbering capability is used for a screening test. The proposal did not apply to saliva devices, since a logbook traveling with the device makes no sense in the context of a disposable device.

In reexamining this requirement in the context of this rulemaking, the Department has determined that the paperwork burden involved is not justified by the utility of the requirement to the program. It essentially duplicated material required to be entered on the form. For this reason, the Department will not make the proposed requirement final with respect to non-evidential breath testing devices. The same logic applies to the existing requirement for using a logbook in connection with EBTs that do not have printout and sequential numbering capabilities. Consequently, the Department is withdrawing this requirement as well. The amendments to § 40.59, 40.63(d)(1), and 40.63(e)(3) remove references to this requirement. One of the amendments to § 40.63(e) corrects a codification error in this section resulting from the Department's August 19, 1994, amendment to part 40 (see 59 FR 43001). This action redesignates the presently codified paragraph (e)(3) as (e)(4), and adds the proper (e)(3)—modified to delete the reference to the logbook—back into the section. There is also an editorial correction to delete a substantively duplicative reference to the "quantitative result." The section already requires entry of the "displayed result." Because the Department did not propose to do so in the NPRM, we will seek comments on these amendments, which reduce paperwork burdens, for 45 days.

Forms

The NPRM suggested that STTs conducting non-evidential breath tests would use the existing breath testing form, while STTs conducting saliva tests would use a modified form. Four commenters suggested having one form for all tests rather than having separate forms. One of these commenters provided a suggested modification of the existing alcohol testing form that included boxes to check for what sort of test was involved. Three other commenters approved the idea of a separate form for saliva testing. One of these suggested adding blocks in which the starting and ending times of screening and confirmation tests would be noted, and also suggested adding other information to the form, such as initials by the observer who traveled to the confirmation site with the employee, the serial number of the saliva device, and the expiration date of the saliva device.

The Department is persuaded that for the sake of simplicity and avoiding confusion in the program, it is preferable to have only one form used in DOT alcohol testing. The Department believes that some of the suggestions commenters made—particularly including boxes to check off indicating the testing method and the inclusion of starting and ending times of tests—have merit. The Department is also aware, however, that it is important to issue this rule as soon as possible so that those employers who choose to do so can begin using non-evidential devices. Redesigning a form, securing Office of Management and Budget approval for it, and printing it all take a good deal of time. Consequently, the Department is making an interim solution part of this final rule. For now, employers will continue to use the existing alcohol form. The rule will direct STTs to note in the remarks section of the form that a non-evidential breath or saliva device, as applicable, was used for the screening test.

Subsequently, the Department intends to revise the alcohol testing form, incorporating some of the ideas proposed in the NPRM and in the comments responding to it. After the revised form is published, we anticipate permitting employers to exhaust stocks of existing forms before being required to use it.

STT Training

One employer and nine breath testing equipment manufacturers or distributors commented on the NPRM's proposal to require training for STTs, using a modified version of the Department's BAT training course. The employer wanted to be sure that STTs would be trained in how to operate the non-evidential devices they would use. The NPRM and final rule both provide that this must be the case. Of the remaining commenters, six favored the NPRM's concept of using a modified, shorter version of the BAT course for training of STTs, while the other three appeared to favor a closer integration of BAT and STT training.

The Department is aware that, while many people who have trained as BATs will also operate as STTs, there may also be many situations in which, in order to gain flexibility and reduce costs, employers may wish to use people who will only administer non-evidential screening tests. For this reason, we believe it is reasonable to establish training requirements for individuals who will be STTs only, and who will not train as BATs. The Department has prepared an STT training course, which will be the basis for training STTs. This will be made available to the public at a modest charge from the Government Printing Office. Training for STTs (as well as for BATs who will conduct non-evidential screening tests) must include hands-on training in the use of the specific non-evidential devices they will use. If the screening device used is a disposable, single-use device that requires the STT to evaluate a color change, some criteria for correct judgments should be included in the training.

Quality Assurance Plans (QAPs)

One commenter, a manufacturer of standards for calibrating alcohol testing devices, suggested that there be QAPs for calibration devices. There is a NHTSA conforming products list for such devices, and the Department is not convinced that additional requirements are needed now. Another commenter asked who is responsible for compliance with the QAP. The manufacturer is responsible for creating the QAP and getting NHTSA approval for it, and the employer or its agent is responsible for operating the equipment in conformity with it. A breath testing manufacturer recommended that saliva device QAPs call for periodic testing of each lot of devices. The commenter said that environmental conditions (e.g., storage conditions) could affect the accuracy of the devices, perhaps leading to an unacceptable number of false negatives. The Department is concerned that periodic testing of large numbers of disposable devices may not be feasible and could be overly costly and burdensome. Employers are required to comply with manufacturers' QAPs, which will provide for appropriate storage conditions. While the Department will not impose such a requirement as part of this final rule, the Department can revisit this issue if experience suggests that false negatives with a particular type of device become a serious problem.

One of the requirements of a QAP for disposable devices is that they include the shelf life of the devices. With the QAP, the Department wishes manufacturers to submit the data on which the shelf life determination for the device is based (e.g., tests over time of devices drawn from manufacturers' lots).

Regulatory Analyses and Notices

This is not a significant rule under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. It does not impose costs on regulated parties. It facilitates the use of devices that may increase flexibility, and decrease costs, for employers who choose to use them. There are not sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. To the extent that there is any such impact, it is expected to be a small favorable impact, since some small entities may be able to conduct screening tests at a lower cost.

List of Subjects in 49 CFR Part 40

Drug testing, Alcohol testing, laboratories, Reporting and recordkeeping requirements, Safety, Transportation.

Issued this 5th day of April, 1995, at Washington, DC.

Federico Peña,

Secretary of Transportation.

For the reasons set forth in the preamble, 49 CFR Part 40 is amended as follows:

PART 40—[AMENDED]

1. The authority citation for Part 40 continues to read as follows:

Authority: 49 U.S.C. 102,301,322; 49 U.S.C. app. 1301nt., app. 1434nt., app. 2717, app. 1618a.

§ 40.51 [Amended]

2. Section 40.51(c) is amended by adding the words "or non-evidential alcohol screening device" after the word "EBT".

§ 40.59 [Amended]

3. The heading of § 40.59 is revised to read "The breath alcohol testing form".

4. Section 40.59(c) is removed.

5. Section 40.63(d)(1) is revised to read as follows:

§ 40.63 Procedures for screening tests.

* * * * *

(d)(1) If the EBT does not meet the requirements of § 40.53(b) (1) through (3), the BAT shall ensure, before a screening test is administered to each employee, that he or she and the employee read the sequential test number displayed on the EBT. The BAT shall record the displayed result, test number, testing device, serial number of the testing device, and time in Step # of the form.

* * * * *

6. In § 40.63, paragraph (e)(4) is removed, paragraph (e)(3) is redesignated as paragraph (e)(4), and a new paragraph (e)(3) is added, to read as follows:

§ 40.63 Procedures for screening tests.

* * * * *

(e) * * *

(3) If the employee does not sign the certification in Step 4 of the form for a test, it shall not be considered a refusal to be tested. In this event, the BAT shall note the employee's failure to sign in the "Remarks" section of the form.

* * * * *

7. A new § 40.63(h) is added, to read as follows:

§ 40.63 Procedures for screening tests.

* * * * *

(h) If the confirmation test will be conducted at a different site from the screening test, the employer or its agent shall ensure that—

(1) The employee is advised against taking any of the actions mentioned in the first sentence of § 40.65(b) of this Part;

(2) The employee is advised that he or she must not drive, perform safety-sensitive duties, or operate heavy equipment, as noted in Block 4 of the alcohol testing form; and

(3) The employee is under observation of a BAT, STT, or other employer personnel while in transit from the screening test site to the confirmation test site.

8. In § 40.65(b), the third sentence is revised to read: "The confirmation test shall be conducted within 30 minutes of the completion of the screening test."

§ 40.65 [Amended]

9. In § 40.65, paragraph (b) is amended by adding, at the end thereof, to read: "If the BAT conducts the confirmation test more than 30 minutes after the result of the screening test has been obtained, the BAT shall note in the "Remarks" section of the form the time that elapsed between the screening and confirmation tests and the reason why the confirmation test could not be conducted within 30 minutes of the screening test."

10. A new Subpart D of Part 40 is added, to read as follows:

Subpart D—Non-Evidential Alcohol Screening Tests

40.91—Authorization for use of non-evidential alcohol screening devices
40.93—The screening test technician
40.95—Quality assurance plans for non-evidential screening devices
40.97—Locations for non-evidential alcohol screening tests
40.99—Testing forms
40.101—Screening test procedure
40.103—Refusals to test and uncompleted tests
40.105—Inability to provide an adequate amount of breath or saliva
40.107—Invalid tests
40.109—Availability and disclosure of alcohol testing information about individual employees
40.111—Maintenance and disclosure of records concerning non-evidential testing devices and STTs.

VOL 60 ISS 76 AP 20 1995 UMI

Subpart D—Non-Evidential Alcohol Screening Devices

§ 40.91 Authorization for use of non-evidential alcohol screening devices.

Non-evidential alcohol screening tests, performed using screening devices included by the National Highway Traffic Safety Administration on its conforming products list for non-evidential screening devices, may be used in lieu of EBTs to perform screening tests required by operating administrations' alcohol testing regulations. Non-evidential screening devices may not be used for confirmation alcohol tests, which must be conducted using EBTs as provided in Subpart C of this Part.

§ 40.93 The screening test technician.

(a) Anyone meeting the requirements of this Part to be a BAT may act as a screening test technician (STT), provided that the individual has demonstrated proficiency in the operation of the non-evidential screening device he or she is using.

(b) Any other individual may act as an STT if he or she successfully completes a course of instruction concerning the procedures required by this Part for conducting alcohol screening tests. Only the Department of Transportation model course, or a course of instruction determined by the Department of Transportation's Office of Drug Enforcement and Program Compliance to be equivalent to it, may be used for this purpose.

(c) With respect to any non-evidential screening device involving changes, contrasts, or other readings that are indicated on the device in terms of color, STTs shall, in order to be regarded as proficient, be able to discern correctly these changes, contrasts or readings.

(d) The STT shall receive additional training, as needed, to ensure proficiency, concerning new or additional devices or changes in technology that he or she will use.

(e) The employer or its agent shall document the training and proficiency of each STT it uses to test employees and maintain the documentation as provided in § 40.83.

(f) The provisions of § 40.51(b) and (c); § 40.57; § 40.59; § 40.61; § 40.63 (e)(1)–(2), (f), (g), and (h); § 40.69; and § 40.81; and other provisions, as applicable, of this Part apply to STTs as well as to BATs.

§ 40.95 Quality assurance plans for non-evidential screening devices.

(a) In order to be used for alcohol screening tests subject to this part, a non-evidential screening device shall have an approved quality assurance plan (QAP) developed by the manufacturer and approved by the National Highway Traffic Safety Administration (NHTSA).

(1) The plan shall designate the method or methods to be used to perform quality control checks; the temperatures at which the non-evidential screening device shall be stored and used, as well as other environmental conditions (e.g., altitude, humidity) that may affect the performance of the device; and, where relevant, the shelf life of the device.

(2) The QAP shall prohibit the use of any device that does not pass the specified quality control checks or that has passed its expiration date.

(b) The manufacturers' instructions on or included in the package for each saliva testing device shall include directions on the proper use of the device, the time frame within which the device must be read and the manner in which the reading is made.

(c) The employer and its agents shall comply with the QAP and manufacturer's instructions for each non-evidential screening device it uses for alcohol screening tests subject to this Part.

§ 40.97 Locations for non-evidential alcohol screening tests.

(a) Locations for non-evidential alcohol screening tests shall meet the same requirements set forth for breath alcohol testing in § 40.57 of this Part.

(b) The STT shall supervise only one employee's use of a non-evidential screening device at a time. The STT shall not leave the alcohol testing location while the screening test procedure for a given employee is in progress.

§ 40.99 Testing forms.

STTs conducting tests using a non-evidential screening device shall use the alcohol testing form as provided in § 40.59 and Appendix B of this Part for the screening test.

§ 40.101 Screening test procedure.

(a) The steps for preparation for testing shall be the same as provided for breath alcohol testing in § 40.61 of this Part.

(b) The STT shall complete Step 1 on the form required by § 40.99. The employee shall then complete Step 2 on the form, signing the certification. Refusal by the employee to sign this certification shall be regarded as a refusal to take the test.

(c) If the employer is using a non-evidential breath testing device, the STT shall follow the same steps outlined for screening tests using EBTs in § 40.63.

(d) If the employer is using a saliva testing device, the STT shall take the following steps:

(1) The STT shall explain the testing procedure to the employee.

(2) The STT shall check the expiration date of the saliva testing device, show the date to the employee, and shall not use a device at any time subsequent to the expiration date.

(3) The STT shall open an individually sealed package containing the device in the presence of the employee.

(4) The STT shall offer the employee the opportunity to use the swab. If the employee chooses to use the swab, the STT shall instruct the employee to insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as provided in the manufacturer's instructions for the device.

(5) If the employee chooses not to use the swab, or in all cases in which a new test is necessary because the device did not activate (see paragraph (d)(8) of this section), the STT shall insert the absorbent end of the swab into the employee's mouth, moving it actively throughout the mouth for a sufficient time to ensure that it is completely saturated, as provided in the manufacturer's instructions for the device. The STT shall wear a surgical grade glove while doing so.

(6) The STT shall place the device on a flat surface or otherwise in a position in which the swab can be firmly placed into the opening provided in the device for this purpose. The STT shall insert the swab into this opening and maintain firm pressure on the device until the device indicates that it is activated.

(7) If the procedures of paragraph (d)(3)–(d)(5) of this section are not followed successfully (e.g., the swab breaks, the STT drops the swab on the floor or another surface, the swab is removed or falls from the device before the device is activated), the STT shall discard the device and swab and conduct a new test using a new device. The new device shall be one that has been under the control of the employer or STT prior to the test. The STT shall note in the remarks section of the form the reason for the new test. In this case, the STT shall offer the employee the choice of using the swab himself or herself or having the STT use the swab. If the procedures of paragraph (d)(3)–(d)(5) of this section are not followed successfully on the new test, the collection shall be terminated and an explanation provided in the remarks section of the form. A new test shall then be conducted, using an EBT for both the screening and confirmation tests.

(8) If the procedures of paragraph (d)(3)–(d)(5) of this section are followed successfully, but the device is not activated, the STT shall discard the device and swab and conduct a new test, in the same manner as provided in paragraph (d)(7) of this section. In this case, the STT shall place the swab into the employee's mouth to collect saliva for the new test.

(9) The STT shall read the result displayed on the device two minutes after inserting the swab into the device. The STT shall show the device and its reading to the employee and enter the result on the form.

(10) Devices, swabs, gloves and other materials used in saliva testing shall not be reused, and shall be disposed of in a sanitary manner following their use, consistent with applicable requirements.

(e) In the case of any screening test performed under this section, the STT, after determining the alcohol concentration result, shall follow the applicable provisions of § 40.63 (e)(1)–(2), (f), (g), and (h). The STT shall also enter, in the "Remarks" section of the form, a notation that the screening test was performed using a non-evidential breath testing device or a saliva device, as applicable. Following completion of the screening test, the STT shall date the form and sign the certification in Step 3 of the form.

§ 40.103 Refusals to test and uncompleted tests.

(a) Refusal by an employee to complete and sign the alcohol testing form required by § 40.99 (Step 2), to provide a breath or saliva sample, to provide an adequate amount of breath, or otherwise to cooperate in a way that prevents the completion of the testing process, shall be noted by the STT in the remarks section of the form. This constitutes a refusal to test. The testing process shall be terminated and the STT shall immediately notify the employer.

(b) If the screening test cannot be completed, for reasons other than a refusal by the employee, or if an event occurs that would invalidate the test, the STT shall, if practicable, immediately begin a new screening test, using a new testing form and, in the case of a test using a saliva screening device, a new device.

§ 40.105 Inability to provide an adequate amount of breath or saliva.

(a) If an employee is unable to provide sufficient breath to complete a test on a non-evidential breath testing device, the procedures of § 40.69 apply.

(b) If an employee is unable to provide sufficient saliva to complete a test on a saliva screening device (e.g., the employee does not provide sufficient saliva to activate the device), the STT, as provided in § 40.101 of this Part, shall conduct a new test using a new device. If the employee refuses to complete the new test, the STT shall terminate testing and immediately inform the employer. This constitutes a refusal to test.

(c) If the new test is completed, but there is an insufficient amount of saliva to activate the device, STT shall immediately inform the employer, which shall immediately cause an alcohol test to be administered to the employee using an EBT.

§ 40.107 Invalid tests.

An alcohol test using a non-evidential screening device shall be invalid under the following circumstances:

(a) With respect to a test conducted on a saliva device—

(1) The result is read before two minutes or after 15 minutes from the time the swab is inserted into the device;

(2) The device does not activate;

(3) The device is used for a test after the expiration date printed on its package; or

(4) The STT fails to note in the remarks section of the form that the screening test was conducted using a saliva device;

(b) With respect to a test conducted on any non-evidential alcohol testing device, the STT has failed to note on the remarks section of the form that the employee has failed or refused to sign the form following the recording on the form of the test result.

§ 40.109 Availability and disclosure of alcohol testing information about individual employees.

The provisions of § 40.81 apply to records of non-evidential alcohol screening tests.

§ 40.111 Maintenance and disclosure of records concerning non-evidential testing devices and STTs.

Records concerning STTs and non-evidential testing devices shall be maintained and disclosed following the same requirements applicable to BATs and EBTs under § 40.81 of this Part.

[FR Doc. 95–9552 Filed 4–19–95; 8:45 am]
BILLING CODE 4910–62–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 94–104; Notice 2]

RIN 2127–AF45

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the Federal motor vehicle safety standard on lighting to allow the photometric conformance of rear center highmounted stop lamps to be determined by a grouping of test points. This action is consistent with the agency's requirements for other lamps and will lessen the testing burden for manufacturers.

DATES: The effective date of the final rule is May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA (202–366–5280).

SUPPLEMENTARY INFORMATION: Dennis Moore of Livermore, California, petitioned for rulemaking to amend Standard No. 108 to allow "a 'Zonal' approach * * * for Compliance Photometric Testing of 3rd Brake Lights which has already been adopted for Tail Lights, Regular Brake Lights and Turn Signals." Under S5.1.1.6 of Standard No. 108, taillamps and parking lamps need not meet the minimum photometric values specified for each of the test points of the relevant SAE Standards incorporated by reference, provided that the sum of the minimum candlepower measured at the test points is not less than that specified for each group listed in Figure 1c. In addition, the more recent SAE Standards for stop lamps and turn signal lamps that have been incorporated into Standard No. 108 no longer specify values for individual test points (though including them as photometric design guidelines). Instead, they specify required values for "zones" only.

In contrast, the applicable photometric values for center highmounted stop lamps (CHMSLs) are those of Figure 10 of Standard No. 108 and are for individual test points. Moore viewed this as an anomaly. He believes that laboratory test results vary so greatly that CHMSLs must be overdesigned to ensure compliance at each test point. As a result, they draw more power and have a shorter life expectancy. He argued that because

VOL 60 ISS 76 AP 20 1995 UMI

CHMSL bulbs burn out faster "and are generally located in an area that is inconvenient", they are not replaced.

NHTSA granted Mr. Moore's petition and published a notice of proposed rulemaking on November 25, 1994 (59 FR 60596). The notice proposed a revised Figure 10 which would establish zonal photometrics that are the sums of the minimum current photometric test point values. Comments on the proposal were submitted by Truck-Lite, Stanley Electric Co. Ltd., Ford Motor Co., General Motors, Chrysler Corporation, Mercedes-Benz of North America, Volkswagen of America, and American Automobile Manufacturers Association. Comments were received after the due date from Koito Mfg., Transportation Safety Equipment Institute (TSEI), and Advocates for Highway and Auto Safety (Advocates).

All commenters except Advocates supported the proposal, many noting that it was reasonable and consistent with the needs for motor vehicle safety. They concurred with NHTSA's conclusion that the change would reduce design and testing burdens.

Truck-Lite and TSEI recommended that NHTSA also reference SAE J1957 JUN93, a standard specifically written for CHMSLs required by Standard No. 108. In its opinion, the only major difference is that the SAE specifies a maximum intensity of 130 cd while Standard No. 108 allows 160 cd. The lower maximum is that established by Canada. An amendment would permit homologation with the requirements of that country.

NHTSA has decided not to adopt J1957 as the referenced standard on CHMSLs. An amendment is not necessary to permit a lamp to be designed and sold in both the Canadian and U.S. markets. This is, in fact, being done, according to Truck-Lite, simply by designing to the lower maximum level of 130 cd. SAE J1957 does not address light truck CHMSLs, which are required by NHTSA. Finally, much of the sections on "Installation Requirements" and "Guidelines" differ from the requirements of Standard No. 108 and, in some instances, are likely to increase the burden upon vehicle manufacturers. These manufacturers have not been given notice and an opportunity to comment upon a possible adoption of SAE J1957. If a manufacturer wishes to submit a formal petition for rulemaking to substitute SAE J1957, NHTSA will consider the matter further.

Advocates argued that NHTSA should not make the proposed change because the agency had not verified that zonal compliance rather than test point compliance would not derogate from safety. Relying on the petitioner's claim that CHMSL's are overdesigned, Advocates believes that the production performance level establish the safety norm which CHMSLs should meet.

The Federal motor vehicle safety standards set minimum performance levels requisite for safety. Lamp manufacturers generally design somewhat above the minimum photometric levels to ensure that all production units comply, rather than designing at the minimum where the vagaries of production could result in some production lamps being below the minimum. It may be this design philosophy to which the petitioner refers. But production lamps manifesting a design above the minimum is true for other lamps as well, including those for which zonal compliance is already permitted. The agency has concluded that Advocates' point is not well made.

Effective Date

The effective date of the final rule is May 22, 1995. Since the final rule is, in essence, permissive and relaxes a regulatory burden, it is hereby found for good cause shown that an effective date for the amendment to Standard No. 108 that is earlier than 180 days after its issuance is in the public interest.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This action has not been reviewed under Executive Order 12866. It has been determined that the rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rulemaking action is to simplify compliance with Standard No. 108. Since the rule does not have any significant cost or other impacts, preparation of a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

The agency has also considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and stop lamps, those affected by the rulemaking action, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected because the price of new vehicles and stop lamps will not be affected.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. It is not anticipated that the final rule will have a significant effect upon the environment. The design and composition of center highmounted stoplamps will not change from those presently in production.

Executive Order 12612 (Federalism)

This rulemaking action has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice

The final rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30163 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 30111, 30115, 30162; delegation of authority at 49 CFR 1.50.

2. Section 571.108 is amended by revising Figure 10 as follows:

§ 571.108 Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment.

FIGURE 10.—PHOTOMETRIC REQUIREMENTS FOR CENTER HIGH-MOUNTED STOP LAMPS

Individual test points	Minimum intensity (candela)	Zones (test points within zones, see note 2)	Minimum total for zone (canadela)
10U–10L	8	Zone I (5U–V, H–5L, H–V, H–5R, 5D–V)	125
–V	16		
–10R	8		
5U–10L	16	Zone II (5U–5R, 5U–10R, H–10R, 5D–10R, 5D–5R)	98
–5L	25		
–V	25		
–5R	25		
–10R	16		
5D–10L	16	Zone III (5U–5L, 5U–10L, H–10L, 5D–10L, 5D–5L)	98
–5L	25		
–V	25		
–5R	25		
–10R	16		
H–10L	16	Zone IV (10U–10L, 10U–V, 10U–10R)	32
–5L	25		
–V	25		
–5R	25		
–10R	16		
See Note 1	[1] 160		

Note 1: The listed maximum shall not occur over any area larger than that generated by a ¼ degree radius within an solid cone angle within the rectangle bounded by test points 10U–10L, 10U–10R, 5D–10L, and 5D–10R.
Note 2: The measured values at each test point shall not be less than 60% of the value listed.
[1] Maximum intensity (Candela).

Issued on: April 14, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–9839 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 950203035–5091–02; I.D. 120594C]

RIN 0648–AH44

Snapper-Grouper Fishery Off the Southern Atlantic States; Hogfish, Cubera Snapper, Gray Triggerfish Regulatory Amendment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), NMFS establishes a daily recreational bag limit of five hogfish per person; limits the harvest and possession of cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, to 2 per day; and establishes a minimum size limit for gray triggerfish of 12 inches (30.5 cm), total length. These measures apply only in the exclusive economic zone (EEZ) off the Atlantic coast of Florida. The intended effects of this rule are to rebuild the snapper-grouper resources and enhance enforcement.

EFFECTIVE DATE: May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: Snapper-grouper species in the Atlantic Ocean off the southern Atlantic states are managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 646 under the authority of the Magnuson Fishery Conservation and Management Act.

In accordance with the framework procedure of the FMP, the Council recommended and NMFS published a proposed rule to change the management measures applicable to certain snapper-grouper species in the EEZ off the Atlantic coast of Florida (60 FR 8620, February 15, 1995). That proposed rule specified the recommended changes and described the need and rationale for the recommended changes. Those descriptions are not repeated here.

No comments were received on the proposed rule. Accordingly, the proposed rule is adopted as final with one change. As a technical change, the title "Secretary" is revised to read "Assistant Administrator" where it appears in the snapper-grouper regulations. "Secretary" and "Assistant Administrator" are defined at 50 CFR 620.2 to mean "the Secretary of Commerce, or a designee" and "the Assistant Administrator for Fisheries, NOAA, or a designee," respectively. This change more clearly specifies the responsible official.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. The reasons were summarized in the preamble to the proposed rule (60 FR 8620, February 15, 1995). As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 13, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 646 is amended as follows:

VOL 60 ISS 76 APR 20 1995 UMI

PART 646—SNAPPER-GROUPER FISHERY OFF THE SOUTHERN ATLANTIC STATES

1. The authority citation for part 646 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 646.2, under the definition for "authorized statistical reporting agent" paragraphs (a) and (b) are redesignated as paragraphs (1) and (2) respectively; and a new definition of "Off Florida" is added, in alphabetical order, to read as follows:

§ 646.2 Definitions.

* * * * *

Off Florida means the waters off the east coast from a line extending directly east from the seaward terminus of the Georgia/Florida boundary (30°42'45.6" N. lat.) to the boundary between the Atlantic Ocean and the Gulf of Mexico, as specified in § 601.11(c) of this chapter.

* * * * *

3. In § 646.7, paragraphs (pp)(2) and (pp)(3) are redesignated as paragraphs (pp)(3) and (pp)(4), respectively; in newly designated paragraph (pp)(4), the reference to "§ 646.25(e)" is revised to read "§ 646.25(d)"; paragraph (bb) is added; and new paragraph (pp)(2) is added to read as follows:

§ 646.7 Prohibitions.

* * * * *

(bb) Harvest or possess cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, in or from the EEZ off Florida in excess of the limits specified in § 646.21(k)(1).

* * * * *

(pp) * * *

(2) Cubera snapper, as specified in § 646.21(k)(3);

* * * * *

4. In § 646.21, paragraphs (a)(1)(ix) and (k) are added to read as follows:

§ 646.21 Harvest limitations.

(a) * * *

(1) * * *

(ix) Gray triggerfish off Florida—12 inches (30.5 cm), total length.

* * * * *

(k) *Cubera snapper harvest and possession limit.* (1) No person may harvest in the EEZ off Florida more than 2 cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, per day and no more than 2 such cubera snapper in or from the EEZ off Florida may be possessed on board a vessel at any time.

(2) A person who fishes in the EEZ off Florida may not combine the harvest and possession limit specified in paragraph (k)(1) of this section with the bag and possession limit applicable to Florida's waters.

(3) A cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, taken in the EEZ off Florida may not be transferred at sea, regardless of where such transfer takes place; a cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, may not be transferred at sea in the EEZ off Florida, regardless of where such cubera snapper was taken.

5. In § 646.23, paragraph (b)(2) is revised and paragraph (b)(6) is added to read as follows:

§ 646.23 Bag and possession limits.

* * * * *

(b) * * *

(2) Snappers, excluding cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, in or from the EEZ off Florida and excluding vermillion—10, of which no more than 2 may be red snapper. (See § 646.21(k) for limitations on cubera snapper measuring 30 inches (76.2 cm) in total length, or larger, in or from the EEZ off Florida.)

* * * * *

(6) Hogfish in or from the EEZ off Florida—5.

* * * * *

6. Section 646.25 is revised to read as follows:

§ 646.25 Commercial limitations.

(a) *Trip limits.* Persons who are not subject to the bag limits and who fish in the EEZ on a trip are subject to the following vessel trip limits. (See § 646.23(a)(1) for applicability of the bag limits.)

(1) Snowy grouper (whole weight or gutted weight, that is, eviscerated but otherwise whole):

(i) Until the fishing year quota specified in § 646.24(b) is reached, 2,500 lb (1,134 kg).

(ii) After the fishing year quota specified in § 646.24(b) is reached, 300 lb (136 kg).

(2) Golden tilefish (whole weight or gutted weight, that is, eviscerated but otherwise whole):

(i) Until the fishing year quota specified in § 646.24(c) is reached, 5,000 lb (2,268 kg).

(ii) After the fishing year quota specified in § 646.24(c) is reached, 300 lb (136 kg).

(b) *Reduction of trip limits.* When a commercial quota specified in § 646.24(b) or (c) is reached, or is projected to be reached, the Assistant Administrator will file a notification to that effect with the Office of the Federal Register. On and after the effective date of such notification, for the remainder of the fishing year, the appropriate trip limit applies.

(c) *Combination of trip limits.* A person who fishes in the EEZ may not combine a trip limit under this section with any trip or possession limit applicable to state waters.

(d) *Transfer at sea.* A snowy grouper or golden tilefish taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place; a snowy grouper or golden tilefish may not be transferred at sea in the EEZ, regardless of where such snowy grouper or golden tilefish was taken.

(e) *Sale/purchase of excess fish.* Snowy grouper or golden tilefish in excess of an applicable trip limit specified in paragraph (a) of this section may not be sold, purchased, traded, or bartered, or attempted to be sold, purchased, traded, or bartered.

§ 646.6 [Amended]

6a. In § 646.6, the undesignated text at the end of the section is added to the end of paragraph (g).

§§ 646.2, 646.6, 646.22 [Amended]

7. The title "Secretary" is removed and the title "Assistant Administrator" is added in its place where it appears in the following places:

(a) Section 646.2, in the definition of "authorized statistical reporting agent, paragraph (2);

(b) Section 646.6(g); and

(c) Section 646.22(b) and (c)(1).

[FR Doc. 95–9641 Filed 4–19–95; 8:45 am]
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Proposed Rules

Federal Register
Vol. 60, No. 76
Thursday, April 20, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 94–027P]

RIN 0583–AB84

Transporting Undenatured Poultry Feet to Other Establishments for Processing Prior to Export

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one federally inspected poultry establishment to another establishment for further processing before the feet are exported. Establishments would be permitted to ship undenatured poultry feet to another establishment for export provided that the receiving establishment maintains records that identify the incoming undenatured poultry feet, their source, and their location at all times during processing. The receiving establishment would be required to certify in writing that the poultry feet have not been, nor will be, commingled with other products intended for human consumption within the United States. We are initiating this rulemaking in response to a petition submitted to the Agency by DanD Food Marketing, Inc., Springfield, MO.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Submit written comments in triplicate to Diane Moore, Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3171–S, Washington, DC 20250–3700. Please refer to docket number 94–027P in your comments. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act should contact Dr. Paula M. Cohen at (202) 720–7164 so that arrangements can be made. All comments submitted in response to this proposal will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 1:00 p.m., and 2:00 p.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700; (202) 720–7164.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Poultry Products Inspection Act (21 U.S.C. 458) prohibits the sale, [or] transportation, * * * from an official establishment, [of] any slaughtered poultry from which the * * * feet * * * have not been removed * * * except as may be authorized by regulations of the Secretary. Section 381.147(b) of the poultry products inspection regulations (9 CFR 381.147(b)) permits the processing of poultry feet for use as human food when handled in a manner approved by the [FSIS] Administrator in specific cases. 9 CFR 381.190(b) permits poultry feet collected and handled in an acceptable manner at an official establishment to be shipped from the official establishment and in commerce directly for export for further processing as human food, if they have been examined, found to be suitable for such purpose, and labeled as prescribed.

In 1994, DanD Food Marketing, Inc., Springfield, MO, a poultry slaughterer and processor, petitioned FSIS to amend the poultry products inspection regulations to permit the transportation of undenatured poultry feet from one or more establishments to another establishment, where the feet would be further processed for export. The petitioner provided FSIS with documents that set forth the procedures and safeguards that would be used by the receiving establishment when handling and processing the undenatured poultry feet. FSIS has reviewed the information submitted by the petitioner and has determined that the proposed procedures would ensure that the undenatured poultry feet are neither diverted to nor commingled with any product intended for domestic use.

The foreign demand for poultry feet continues to increase. However, as currently written, 9 CFR 381.190(b) does not permit an exporter of poultry feet to ship undenatured product from one slaughter establishment to a central establishment for processing before export. To prevent the possible commingling of the poultry feet with poultry products intended for domestic consumption, exporters must ship the poultry feet directly overseas from the original slaughter establishment. As a result, it is difficult for the exporters to keep up with the foreign demand for the poultry feet due to a lack of space and manpower in some slaughter establishments. As long as the establishment official at the receiving processing establishment remains accountable for the location of the poultry feet at all times before their export, this proposal would allow them to use a central establishment for pre-export processing. Furthermore, when poultry feet are handled in accordance with 9 CFR 381.190(c), sanitary transportation conditions are maintained, and the possibility of the product becoming contaminated or adulterated while en route to another establishment for processing prior to export is minimized. Therefore, we are proposing to amend the regulations to allow the transportation of undenatured poultry feet from one or more establishments to another official establishment for further processing before export.

Section 381.175(a) of the poultry products inspection regulations requires that every person, firm, or corporation engaged in certain activities related to poultry production and distribution maintain records which fully and correctly disclose all transactions involved in the business. Section 381.175(b) details the kinds of records that must be maintained, but does not specify the format for such recordkeeping. "Transactions" have been traditionally interpreted by FSIS to be sales, purchases, transportation, receipt, or handling of poultry products that would demonstrate the sources of the poultry products.

This proposal would require those processing establishments that receive undenatured poultry feet from slaughter establishments for further processing

VOL 60 ISS 76 AP 20 1995 UMI

before export overseas to maintain records that identify the incoming product, i.e. poultry feet, and their source, and identify the location of the product at all times during the processing and preparation for export. In addition, an establishment official would certify that the poultry feet have not been and will not be commingled with any products intended for human consumption within the United States.

These recordkeeping requirements would enable FSIS and the receiving processing establishments to accurately identify and locate the undenatured poultry feet intended for export while still in the central establishment. FSIS could then determine that the product has not been commingled with any products intended for domestic consumption.

Executive Order 12866

This proposed rule has been determined to be not significant and therefore has not been reviewed by the Office of Management and Budget.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Poultry Products Inspection Act (PPIA) from imposing any marking or packaging requirements on federally inspected poultry products that are in addition to, or different than, those imposed under the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over poultry products that are outside official establishments for the purpose of preventing the distribution of poultry products that are misbranded or adulterated under the PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the PPIA, States that maintain poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the PPIA. These States may, however, impose more stringent requirements on such State inspected products and establishments.

This proposed rule is not intended to have retroactive effect.

There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this proposed rule. However, the administrative procedures specified in 9 CFR 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the PPIA.

Effect on Small Entities

The Administrator has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). This proposal would require establishments that receive undenatured poultry feet for processing prior to export to record the source of the incoming product, identify its location at all times during processing and preparation for export, and certify that the product has not been, nor will be, commingled with any product intended for domestic use. While some establishments may have to change their current recordkeeping practices and make changes to their production practices to accommodate the proposed recordkeeping requirements, no significant economic impact would be imposed on the establishments.

Paperwork Requirements

Under this proposed rule, receiving poultry processing establishments would be required to maintain records that indicate the source of the incoming undenatured poultry feet, and track the poultry feet through processing and preparation for export. In addition, an official of the receiving establishment would certify in writing that the feet have not been, nor will be, commingled with any product intended for consumption in the United States. Establishments would develop their own systems for gathering and maintaining this information. These recordkeeping requirements have been submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*):

List of Subjects in 9 CFR Part 381

Exports, Poultry and poultry products, Reporting and recordkeeping requirements, Transportation.

For the reasons set forth in the preamble, FSIS is proposing to amend 9 CFR part 381 as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

2. Section 381.190 would be amended by revising the phrase "in subpart C or T" in the first sentence of paragraph (b) to read "in this subsection and subpart C or T" and disignating that sentence as paragraph (b)(1); revising the second sentence and designating it and the final two sentences of paragraph (b) as paragraph (b)(2), and adding a new paragraph (b)(3) to read as follows:

§ 381.190 Transactions in slaughtered poultry and other poultry products restricted; vehicle sanitation requirements.

* * * * *

(b)(1) * * *

(2) Poultry heads and feet that are collected and handled at an official establishment in an acceptable manner may be shipped from the official establishment directly for export as human food, if they have been examined and found to be suitable for such purpose, by an inspector and are labeled as prescribed in this paragraph.

* * *

(3) Poultry heads and feet that are collected and handled at an official establishment in an acceptable manner may be shipped from the official establishment and in commerce directly to another official establishment for processing before export, provided the receiving establishment maintains records that:

(i) Identify the source of the incoming undenatured poultry feet;

(ii) Identify the location of the product at all times during processing and preparation for export; and

(iii) Contain a written certification from an official of the receiving establishment that the undenatured poultry feet intended for export have not been, and will not be, commingled with any product intended for consumption in the United States. The receiving establishment may only ship the undenatured poultry feet intended for export in accordance with the inspection and labeling requirements of paragraph (b)(2) of this section.

* * * * *

Dated: April 12, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–9865 Filed 4–19–95; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Public Meeting on Results of Pilot Site Visits and Revision to Maintenance Inspection Guidance

AGENCY: Nuclear Regulatory Commission.

ACTION: Announcement of meeting.

SUMMARY: The United States Nuclear Regulatory Commission (USNRC) will hold a public workshop to discuss the results of nine pilot site visits which were conducted to assess the adequacy of the draft maintenance rule inspection procedure developed for use by NRC inspectors to verify the implementation of the maintenance rule. This document is necessary to inform the public that the meeting is open to the public as observers.

DATES: The meeting will be held on June 27, 1995, from 9:00 am to 5:00 pm. The workshop will provide the participants an opportunity to ask questions, make comments during the discussion, or submit written comments for NRC consideration. Written comments received from interested parties unable to attend the workshop will also be considered through July 15, 1995.

ADDRESSES: The meeting will be held at the Stouffers Concourse (Airport) Hotel, 9801 Natural Bridge Road, St. Louis, MO 63134, (Fax) (314) 429–3466. Written comments may be provided at this meeting or submitted after the meeting. Registration forms or further information should be addressed to Ronald Frahm (See **FOR FURTHER INFORMATION CONTACT**).

To ensure that adequate seating is available, persons planning to attend the workshop are requested to either call the contact designated below or complete and forward the attached registration form to the same contact by May 30, 1995. A block of rooms has been reserved at the Stouffers Concourse Hotel, St. Louis, Missouri, (314) 429–1100, for the convenience of meeting attendees. These rooms will be available at a reduced group rate until May 22, 1995. Attendees should identify themselves with the NRC Maintenance Workshop NRC–0626 to ensure the group rate. The NRC, however, does not encourage nor support frequenting this or any other specific establishment.

The original draft procedure "Maintenance Inspection Procedure XXXXX" (dated July 25, 1994) is publicly available at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001. A revised draft revision of the inspection procedure, including changes from the previous workshop (March 31, 1994), and lessons learned from the pilot site visits will be made available at the workshop for discussion.

FOR FURTHER INFORMATION CONTACT: Ronald Frahm, Jr. M/S 010–A19 U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, Telephone (301) 415–2986; FAX 301–415–2260; INTERNET:RKF@NRC.GOV

SUPPLEMENTARY INFORMATION: The draft NRC Inspection Procedure "Maintenance Inspection Procedure XXXXX" was developed for inspectors to ascertain whether licensees have satisfactorily implemented the requirements of the maintenance rule. The procedure is also structured to verify conformance with the maintenance rule for licensees using NUMARC 93–01, "Industry Guidance for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," as implementing guidance.

At the workshop, NRC representatives will present an overview of the pilot site visit program, revisions to the draft inspection procedure and, as applicable, issues related to the maintenance rule and the NUMARC 93–01 industry guidance. NRC regional inspection representatives will be available to participate in the discussions. The workshop will conclude with a summary of the major issues identified at the meeting.

On July 10, 1991 (56 FR 31306), the NRC published the "Requirements for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants" as § 50.65 of 10 CFR 50 "Domestic Licensing of Production and Utilization Facilities." The maintenance rule will become effective on July 10, 1996. The five year period to implement the rule permits time to develop implementation guidance, inspection procedures, and sufficient time for licensees to have in place the necessary controls that ensure conformance with the rule requirements. The Commission's determination that a maintenance rule was needed arose from the conclusion that proper maintenance is essential to plant safety, especially as plants age. Shortly after the maintenance rule was published, the NRC and the Nuclear Management and Resource Council (NUMARC) embarked on parallel efforts to develop rule implementation guidance. The NRC staff review of the NUMARC document found that it provided an acceptable method for licensees to implement the requirements of the maintenance rule. In June 1993, the Commission issued Regulatory Guide 1.160 which endorsed the NUMARC guidance NUMARC 93–01, "Industry Guideline for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants," dated May 1993. Subsequently a verification and validation (V & V) program was also conducted by NUMARC, with NRC staff observation, to test its guidance on several representative systems by eight nuclear utilities at nine nuclear units. The V & V effort concluded that the guidelines were adequate to implement the maintenance rule.

The NRC staff developed a draft inspection procedure to be used by NRC inspectors to verify the implementation of the maintenance rule requirements. The NRC staff, with NEI representatives observing, validated the inspection procedure during pilot inspection visits at nine volunteer nuclear power facilities between September 1994 and March 1995. After considering the comments obtained from the previous maintenance rule inspection procedure workshop conducted in March 1994, and information gathered during the pilot site visits, the NRC staff revised the inspection procedure and is conducting this workshop to provide interested parties another opportunity to participate in discussions on the lessons learned from the pilot site visits and the final revision of the inspection procedure.

Dated at Rockville, Maryland, this 14th day of April 1995.

For the Nuclear Regulatory Commission.

Richard Correia,

Chief, Reliability and Maintenance Section, Quality Assurance and Maintenance Branch, Division of Technical Support, Office of Nuclear Reactor Regulation.

BILLING CODE 7590–01–M

VOL
60
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76
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ATTACHMENT TO PUBLIC MEETING ON RESULTS OF PILOT SITE VISITS AND REVISION TO MAINTENANCE INSPECTION GUIDANCE

REGISTRATION FORM

UNITED STATES NUCLEAR REGULATORY COMMISSION
MAINTENANCE RULE INSPECTION PROCEDURE WORKSHOP

June 27, 1995

(PLEASE PRINT)

NAME: _____
(LAST) (FIRST) (MI)

COMPANY/ ORGANIZATION: _____

_____

_____

POSITION/TITLE: _____

_____

ADDRESS: _____

_____

_____

TELEPHONE NUMBER: _____

Send registration form to: Ronald Frahm, Jr. M/S O-10-A-19
U.S. Nuclear Regulatory Commission
Washington D.C. 20555

[FR Doc. 95-9764 Filed 4-19-95; 8:45 am]
BILLING CODE 7590-01-C

FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Regulation O; Docket No. R-0875]

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Loans to Holding Companies and Affiliates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing an amendment to Regulation O to conform the definition of unimpaired capital and unimpaired surplus in the regulation's definition of lending limit to the definition of capital and surplus recently adopted by the Office of the Comptroller of the Currency in calculating the limit on loans by a national bank to a single borrower. The proposed rule would reduce the recordkeeping burden for member banks monitoring lending to their insiders and their related interests.

DATES: Comments should be submitted on or before May 22, 1995.

ADDRESSES: Comments should refer to Docket No. R-0875, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street NW. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP-500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Gregory Baer, Managing Senior Counsel (202/452-3236), or Gordon Miller, Attorney (202/452-2534), Legal Division; or William G. Spaniel, Assistant to the Director (202/452-3469), Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544).

SUPPLEMENTARY INFORMATION:

Background

The Board's Regulation O (12 CFR Part 215) implements the insider lending prohibitions of section 22(h) of the Federal Reserve Act. Section 215.2(i) of the regulation (12 CFR 215.2(i)) defines the limit for loans to any insider of a member bank and insider of the bank's affiliates as an amount equal to the limit on loans to a single borrower established by the National Bank Act (12 U.S.C. 84). That amount is 15 percent of the bank's unimpaired capital and unimpaired surplus for loans that are not fully secured, and an additional 10 percent of the bank's unimpaired capital and unimpaired surplus for loans that are fully secured by certain readily marketable collateral.[1]

Although Regulation O adopts the percentage limits used in the National Bank Act, Regulation O provides its own definition of what constitutes unimpaired capital and unimpaired surplus. Unimpaired capital and unimpaired surplus are equal to the sum of (i) "total equity capital" as reported on the bank's most recent consolidated report of condition, (ii) any subordinated notes and debentures that comply with requirements of the bank's primary regulator for inclusion in the bank's capital structure and are reported on the bank's most recent consolidated report of condition, and (iii) any valuation reserves created by charges to the bank's income and reported on the bank's most recent consolidated report of condition. 12 CFR 215.2(i).

The Office of the Comptroller of the Currency (OCC) has recently revised its regulatory definition of unimpaired capital and unimpaired surplus for purposes of implementing the single borrower limit of the National Bank Act. *See* 59 FR 8533, February 15, 1995. Under that revised definition, a national bank's "capital and surplus" are equal to Tier 1 and Tier 2 capital included in the calculation of the bank's risk-based capital together with the amount of the bank's allowance for loan and lease losses not included in this calculation. 12 CFR 32.2(b).

The Board is proposing to amend Regulation O to conform its definition of unimpaired capital and unimpaired surplus to the OCC's revised definition of capital and surplus. In substantially all cases, the Board believes that calculating the insider lending limits of Regulation O using the revised definition would not significantly increase or decrease a bank's insider lending limit. The elimination of the separate definition of unimpaired capital and unimpaired surplus in Regulation O therefore is expected to create minimal disruption in lending by member banks to their insiders and to insiders of their affiliates, while eliminating duplication in the calculation of lending limits for national banks and for state member banks with state lending limits identical to national bank lending limits.

[1] The lending limit also includes any higher amounts that are permitted by the exceptions included in 12 U.S.C. 84. Where state law establishes a lower lending limit for a state member bank, that lower lending limit is the lending limit for the state member bank.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b))—a description of the reasons why the action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule—are contained in the supplementary information above.

Another requirement for the initial regulatory flexibility analysis is a description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposed rule would apply to all member banks, regardless of size. The Board has determined that its proposed rule would impose no additional reporting or recordkeeping requirements, and that there are no relevant federal rules that duplicate, overlap, or conflict with the proposed rule. In addition, the proposed rule is not expected to have a negative economic impact on small institutions. Instead, the proposed rule is expected to relieve the regulatory burden on a large majority of member banks.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507; 5 CFR 1320.13), the Board will review its proposed amendment to Regulation O under authority delegated to the Board by the Office of Management and Budget after considering comments received during the public comment period.

List of Subjects in 12 CFR Part 215

Credit, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 215 as set forth below:

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (REGULATION O)

1. The authority citation for part 215 continues to read as follows:

VOL 60 ISS 76 APR 20 1995 UMI

Authority: 12 U.S.C. 248(i), 375a(10), 375b (9) and (10), 1817(k)(3) and 1972(2)(G)(i); Pub. L. 102–242, 105 Stat. 2236.

2. Section 215.2 is amended as follows:

a. The last sentence of paragraph (i) introductory text is revised;

b. Paragraphs (i)(1) and (i)(2) are revised; and

c. Paragraph (i)(3) is removed.

The revisions read as follows:

§ 215.2 Definitions.

* * * * *

(i) * * * A member bank's unimpaired capital and unimpaired surplus equals:

(1) A bank's Tier 1 and Tier 2 capital included in the bank's risk-based capital under the capital guidelines of the appropriate Federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3); and

(2) The balance of a bank's allowance for loan and lease losses not included in the bank's Tier 2 capital for purposes of the calculation of risk-based capital by the appropriate Federal banking agency, based on the bank's most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3).

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 14, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–9737 Filed 4–19–95; 8:45 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: National Credit Union Administration (NCUA) Rules and Regulations prohibit officials and certain employees of federally insured credit unions from receiving either incentive pay or outside compensation for certain activities related to credit union lending. The regulations are ambiguous in places and have proved difficult to interpret. Further, the regulations may be too restrictive in some instances and too broad in others. The NCUA Board is proposing to amend the regulations to make them clearer, to authorize lending-related compensation in certain situations where it is currently prohibited, and to prohibit it in other situations. If amended as proposed, it should be easier for credit unions to determine when incentives may be paid and easier for officials and employees to determine whether they may accept compensation for outside activities.

DATES: Comments must be postmarked or posted on NCUA's electronic bulletin board by June 19, 1995.

ADDRESSES: Mail comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Send comments to Ms. Baker via the bulletin board by dialing 703–518–6480.

FOR FURTHER INFORMATION CONTACT: Lisa Henderson, Staff Attorney, (703) 518–6561, at the above address.

SUPPLEMENTARY INFORMATION:

Background

Section 701.21(c)(8) of the NCUA Rules and Regulations, 12 CFR 701.21(c)(8), prohibits federal credit unions from making a loan if, either directly or indirectly, any commission, fee, or other compensation is to be received by the credit union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan. However, non-commission salary may be paid to employees. As a condition of federal insurance pursuant to Section 741.3(a) of the Regulations, 12 CFR 741.3(a), the prohibition applies to federally insured state-chartered credit unions. The purpose of Section 701.21(c)(8) is to ensure that an individual who is in a position of authority in a credit union does not put self-interest ahead of the credit union's interest in making good loans and providing good service to its members. The provision prohibits compensation from third parties and from the credit union itself, in the form of commissions, incentive pay, or bonuses.

Under the current regulation, a "loan officer" is an individual who has the authority to approve a loan. A loan officer may or may not be involved in taking and processing loan applications. "Underwriting the loan" means approving or disapproving it. Thus, an individual who has any part in approving a loan is prohibited for receiving incentive pay in connection with that loan. An individual who is involved in processing a loan, but who has no role in its approval or disapproval, may receive incentive pay in connection with the loan.

The prohibition against making a loan if a commission or fee is to be received by a loan officer in connection with insuring the loan means, for example, that the individual who has the authority to approve a loan may not receive an incentive for selling credit life or disability insurance on it.

Noting that credit union management had become increasingly interested in implementing lending-related incentive pay programs, the NCUA Board, on March 9, 1994, issued a Request for Comment on whether § 701.21(c)(8) should be amended to permit loan officers and/or senior management to receive incentive pay for underwriting and insuring loans, 59 FR 11937 (March 15, 1994). A total of 252 comments was received, 177 of which expressed support for allowing incentive pay for loan officers. Most of the latter suggested that incentive pay be permitted only with controls in place.

A number of commenters described the success their credit unions had had with incentive programs involving employees other than loan officers; they argued that even greater benefits would accrue from paying incentives to loan officers. Most of these programs seem to have been implemented in the past few years, however, and some of the information submitted to the Board raises questions about whether they will be successful in the long run.

For example, information submitted by one commenter cites research which has shown that incentive programs can fail in the long term because employees become preoccupied with meeting goals and fail to carry out their normal routines. When management sets a specific goal, and offers a reward for meeting it, work or problems that do not relate to that goal are ignored. Cooperative spirit between people often diminishes because each has different goals and becomes wrapped up in his or her own work. Incentive pay can actually work to undermine an employee's internal motivation to perform well, as employees end up working for the incentive rather than the satisfaction of the work itself. Employees can also be demoralized by the underlying assumption that they are not working hard and need incentives to perform.

One credit union commenter learned about the risks of incentive programs the hard way. He reported that his credit union's incentive program for loan officers was unsuccessful for the following reasons: (1) Despite controls being in place, some loan officers exceed their authority in approving loans. The commenter noted that even if a loan officer can be disciplined for poor judgment, "once a loan is made, you can't take it back."; (2) Incentives caused disputes among loan officers, each of whom thought the others were receiving more favorable treatment from management by having more creditworthy loans routed to them; and (3) Incentives caused some animosity between employees who were eligible for incentive pay, such as those in the loan department, and those who were not.

Other commenters argued that incentives are not necessary for successful loan programs. One commenter provided details of how his credit union had dramatically improved productivity after *eliminating* all incentives. He reported that the credit union's consumer loan approval ratio had increased from 62% to 84% as a result of centralizing the origination function and implementing a credit scoring system. The credit union also improved service to members by providing loan decisions within 24 hours and making the terms and pricing of its products more competitive. In two years, the consumer loan portfolio increased by 38% while loan delinquencies and charge-off ratios remained better than the credit union's peer group. As a result of improved terms and pricing of mortgage products, originations increased from $62 million in 1991 to $161 million in 1993.

Despite misgivings about incentive pay, the Board recognizes the strong arguments made by many commenters that if incentive pay can be offered in a manner that protects against abuses, the decision whether to do so should be a management decision, not one that is precluded by an overly restrictive regulation. Therefore, the Board is proposing to allow credit unions to provide incentive pay to some employees, including loan officers, in certain circumstances, as described below.

Proposed Regulation

The proposed rule changes the structure of the regulation to a broad prohibition, with specific exceptions, against an official or employee receiving compensation in connection with any loan made by the credit union. The Board believes that this structure will be easier to interpret and administer. It has proved difficult to determine, in the current regulation, whether certain activities are part of "underwriting, insuring, servicing, or collecting" a loan, particularly "underwriting" and "insuring." Proposed paragraph 8(i) only requires that an activity be determined to be "in connection with" a loan. NCUA would take a reasonableness approach to that determination.

For example, suppose an official owns a company that manufactures forms. In this example, a credit union could purchase loan application forms from the company, even if it resulted in compensation to the official, since the purchase of loan application forms is not reasonably "in connection with" making a loan.[1] On the other hand, if an official owned a credit bureau, a credit union could not obtain credit reports from the company, resulting in compensation to the official, because providing credit reports is reasonably "in connection with" making a loan.

Similarly, a credit union could finance a home built by a construction company owned by an official, as long as the credit union was not financing the construction of the home, as building a home is not reasonably in connection with making a loan. However, a credit union would be prohibited from referring a member to the construction company to have a home built, as in that case, the construction would be in connection with making a loan.

In the context of incentive pay, rather than outside compensation, loan processing and making credit decisions on loans are clearly activities in connection with making loans. Thus, an employee would be prohibited from receiving incentive pay for performing those activities unless covered by an exception.

Exception (A) would allow credit unions to pay salary to employees who perform activities in connection with making loans. This is in the current regulation and needs no discussion.

Exception (B) would clarify that an incentive may be paid to an employee based on the overall financial performance of the credit union, which of course depends in part on its lending activities. While it could be argued that such an incentive is not truly "in connection with" a loan made by the credit union, the Board has included the exemption to avoid confusion. The Board believes that this type of incentive presents fewer problems than does an incentive based on the performance of a single individual, as it is focused on the interests of the credit union as a whole. However, incentives based on an organization's overall performance must still be monitored closely to avoid the problems discussed above. NCUA of course reserves the right to take exception to overall performance related incentive plans for safety and soundness reasons, for example, and plans where incentive pay is based on asset growth with no consideration of factors such as capital and asset quality.

Despite the concerns raised about incentives based on an individual's performance, the Board is proposing to allow credit unions to develop incentive programs with that feature. The Board is responsive to the significant interest on the part of credit unions to implement such programs. Proposed exceptions (C), (D), and (E) would allow credit unions to make incentive payments to employees for processing loans, making recommended or final decisions to approve or disapprove loans, and collecting loans, respectively. In order for an employee to be eligible for an incentive, there must be a supervisory level above the employee that does not receive incentive pay for the activity in question. Furthermore, a senior management employee may not receive incentive pay for any of the activities. Supervisors and senior management employees are excluded from direct incentive pay in the interests of sound internal control. However, the proposed rule would allow such employees to receive bonuses based on broad measures of management skill, such as profitability.

Credit unions already have the authority to provide incentive pay for processing and collecting loans. The real change is the proposal to allow loan officers to receive incentive pay. To address the concern regarding loan quality, the proposed rule provides that incentives for making recommended or final decisions to approve or disapprove loans may not be based on the number or dollar amount of loans approved. The Board requests comment on this restriction. Commenters who believe that it is not necessary should provide evidence to that effect.

The proposed rule also requires that there be sufficient controls in place to prevent an increase in problem loans. A credit union would have the responsibility of structuring its incentive pay program to meet this requirement.

Finally, proposed paragraph (8)(iv) of the regulation would require that the board of directors establish written policies and controls for any incentive plan and monitor compliance on at least a quarterly basis.

[1] Other legal restrictions would apply, however. For example, common law principles would require that the transaction be at arms length and in the credit union's best interest, and the standard FCU Bylaws would require that the interested director recuse himself or herself from the decision to purchase the forms.

VOL 60 ISS 76 AP 20 1995 UMI

Policy Changes

In addition to allowing incentive pay for loan officers under certain circumstances, the proposed rule would make additional policy changes. The current regulation has been interpreted to permit a credit union official or employee to receive compensation for acting as an agent in the sale of property securing a loan made by a credit union, on the rationale that listing or selling a property on which a loan is granted is not included in underwriting, insuring, servicing, or collecting the loan. Under this interpretation, an official or employee not only could receive a commission from an outside party for selling property financed by the credit union, he or she could also act as listing agent for the credit union's sale of foreclosed properties financed by the credit union. While listing or selling property financed by a credit union is not included in underwriting, insuring, etc., it is reasonably "in connection with" a loan made by the credit union. Thus, compensation for such activity would be prohibited unless the activity is covered by an exception. Since compensating an official or employee for listing or selling property financed by the credit union presents potential conflicts of interest, no exception is provided.

The current regulation also permits employees who are not senior managers or loan officers to receive incentives, from either the credit union or an insurance company, for selling credit life and disability insurance. Senior managers and loan officers may not receive such incentives because of the prohibition against compensation for "insuring" a loan. Since selling credit insurance is an activity reasonably "in connection with" a loan, the proposed rule prohibits all employees from receiving compensation for the activity, unless it is covered by an exception. The Board believes members should be allowed to make their own informed decisions about credit insurance and should not be pressured into purchasing it by employees who are motivated by incentive pay. Accordingly, no exception is provided. Lest there be any misunderstanding, however, credit unions are allowed to sell credit insurance and to generate income for the credit union from the activity.

The proposed regulation also clarifies another issue related to insuring loans. The current regulation has always been interpreted to prohibit, for example, a credit union official from owning an insurance company that sells car insurance to members who finance their cars at the credit union. Recently, it has been argued that the regulatory language prohibits compensation in connection with insuring the loan but not in connection with insuring collateral securing the loan. Under this argument, the regulation clearly would apply to credit life and disability insurance but would not appear to apply to ordinary car or homeowners insurance. NCUA is concerned about the inherent conflict that arises if an owner of an insurance agency that insures collateral securing loans made by a credit union serves as a credit union official, because of the opportunity to "steer" members to the official's agency. Since insuring collateral is reasonably "in connection with" a loan, the proposed regulation continues the prohibition against a director receiving compensation for such activity.

The Board also notes that "insuring the loan" recently has been interpreted to include the sale of vehicle warranties (also called insured vehicle service contracts and mechanical breakdown insurance) in states in which such products are considered insurance. Thus, credit union employees have been prohibited from receiving incentive pay for selling vehicle warranties in those states. Since such products generally are sold at the time a loan is made, they are reasonably "in connection with" a loan. Therefore, the proposed regulation would prohibit the payment of incentives to employees for the sale of these products, regardless of whether they are considered insurance in a particular state.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this final rule will not have a significant impact on a substantial number of small credit unions (those under $1 million in assets). Accordingly, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This proposed rule, if adopted, will impose no additional collection requirements and, therefore, need not be sent to the Office of Management and Budget for approval.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope." The risks to federally insured credit unions are concerns of national scope. The NCUA Board believes that the protection of the NCUSIF warrants this rule. It will not unduly burden federally insured state-chartered credit unions. This rule does not impose additional costs or burdens on the state, nor does it affect the states' ability to discharge traditional state government functions.

The benefits provided and protection afforded by the NCUSIF are the same for federally insured state-chartered credit unions as for federally chartered credit unions. It is protection afforded through a federal system. The responsibility for administering that system lies with the NCUA Board. The NCUA Board believes that all federally insured credit unions should continue to be subject to the same conflict provisions in the area of lending. The NCUA Board, pursuant to Executive Order 12612, has determined that this rule may have an occasional direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, the potential risk to the NCUSIF without these changes justifies them.

List of Subjects in 12 CFR Part 701

Credit unions.

By the National Credit Union Administration Board on April 13, 1995.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 USC 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, and Public Law 101–73. Section 701.6 is also authorized by 31 USC 3717. Section 701.31 is also authorized by 15 USC 1601, et seq., 42 USC 1981, and 42 USC 3601–3610. Section 701.35 is also authorized by 12 USC 4311–4312.

2. Section 701.21(c)(8) is revised to read as follows:

§ 701.21 Loans to members and lines of credit to members.

* * * * *

(c) * * *

(8) Prohibited fees; exceptions.

(i) Except as otherwise provided in this section, no official or employee of a Federal credit union, or immediate family member of an official or employee of a Federal credit union, may receive, directly or indirectly, from an outside party or the credit union, any commission, fee, or other compensation in connection with any loan made by the credit union.

(ii) For the purposes of this section:

(A) *Compensation* includes non monetary items.

(B) *Employee* includes an independent contractor.

(C) *Immediate family member* means a spouse or other family member living in the same household.

(D) *Loan* includes line of credit and workout loan.

(E) *Official* means any member of the board of directors or a volunteer committee.

(F) *Senior management employee* means the credit union's chief executive officer (typically, this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager), the chief financial officer (Comptroller), and any other employee who sets policy for the credit union.

(G) *Workout loan* means a loan which has had its original terms changed due to nonperformance or anticipated nonperformance.

(iii) This section does not prohibit a Federal credit union from paying:

(A) Salary to employees;

(B) An incentive or bonus to an employee based on the credit union's overall financial performance;

(C) An incentive or bonus to an employee in connection with processing loans, provided that no such incentive or bonus is paid to a supervisor of the employee, a senior management employee, or an immediate family member of a supervisor or senior management employee;

(D) An incentive or bonus to an employee in connection with making recommended or final decisions to approve or disapprove loans, provided that:

(*1*) No such incentive or bonus is paid to a supervisor of the employee, a senior management employee, or an immediate family member of a supervisor or senior management employee; and

(*2*) The incentive or bonus may not be based on the number or dollar amount of loans approved and must be structured in a manner that demonstrably protects against an increase in problem loans;

(E) An incentive or bonus to an employee in connection with collecting loans, provided that no such incentive or bonus is paid to a supervisor of the employee, a senior management employee, or an immediate family member of a supervisor or senior management employee.

(iv) The board of directors of a Federal credit union shall establish and implement written policies, procedures, and internal controls for any payment of incentives or bonuses to employees in connection with loans made by the credit union. At least quarterly, the board shall monitor compliance with such policies, procedures, and controls. Documentation of such monitoring shall be made available to the supervisory committee and NCUA.

* * * * *

[FR Doc. 95–9616 Filed 4–19–95; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–131–AD]

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model BAe 146–100A, –200A, and –300A airplanes. This proposal would require repetitive inspections for cracking of fuselage frame 29, and repair, if necessary. This proposal is prompted by testing that revealed fatigue cracking in the web and inboard flange of frame 29. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fuselage, due to fatigue cracking in frame 29.

DATES: Comments must be received by May 31, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–131–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Avro International Aerospace, Inc., 22111 Pacific Blvd., Sterling, Virginia 20166. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–131–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–131–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model BAe 146–100A, –200A, and –300A airplanes. The CAA advises that, during fatigue testing of the fuselage, cracking was discovered in the web and inboard flange of frame 29 between stringers 12

VOL 60 ISS 76 1995 AP 20 UMI

and 18 on the left and right side of the fuselage. The cracking emanated from bolt holes in these areas. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the fuselage of the airplane.

Avro International Aerospace has issued Inspection Service Bulletin S.B. 53–130, dated May 10, 1994, which describes procedures for repetitive visual inspections of frame 29 between stringers 12 and 18 on the left and right side of the fuselage. The Avro International Aerospace inspection service bulletin also references procedures for accomplishing a modification at each affected bolt position that would eliminate the need for the repetitive inspections when those modifications are installed at the time specified in the service bulletin. (Specific procedures for this modification are described in Repair Instruction Leaflet HC536H9159.) The CAA classified this inspection service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive visual inspections to detect cracking of the fuselage at frame 29. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The proposed AD would also require that all findings of cracking be repaired in accordance with a method approved by the FAA. Additionally, the proposed AD would also provide for optional terminating action for the repetitive inspections. Terminating action would consist of modification of each affected bolt position in accordance with the service bulletin described previously, provided that the modification is accomplished no later than the applicable time specified in that service bulletin.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long standing requirement.

The FAA estimates that 43 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 9 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $23,220, or $540 per airplane, per inspection cycle.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.69.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft Limited, Avro International Aerospace Division (Formerly British Aerospace, PLC, British Aerospace Commercial Aircraft Limited) Docket 94–NM–131–AD.

Applicability: All Model BAe 146–100A, –200A, and –300A airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously. To prevent reduced structural integrity of the fuselage of the airplane, due to fatigue cracking in frame 29, accomplish the following:

(a) Perform a detailed visual inspection for cracking of frame 29 between stringers 12 and 18 on the left and right side of the fuselage, in accordance with Avro International Aerospace Inspection Service Bulletin S.B. 53–130, dated May 10, 1994. If the polymer coating on frame 29 prevents a detailed visual inspection, perform a surface eddy current inspection for cracking in accordance with the service bulletin. Perform the inspections at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) For Model BAe 146–100A airplanes: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 30,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 6,000 landings.

(2) For Model BAe 146–200A airplanes, and for Model BAe 146–300A airplanes other than those airplanes identified in paragraph (a)(3) of this AD: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 24,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 6,000 landings.

(3) For Model BAe 146–300A airplanes having serial numbers E3207, E3212, E3214, E3216, E3218, E3219, and E3222: Perform the inspection within 6 months after the effective date of this AD, or prior to the accumulation of 13,000 total landings, whichever occurs later. Repeat the inspection thereafter at intervals not to exceed 4,000 landings.

(b) If any cracking is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(c) Accomplishment of the modification of each affected bolt position in accordance with Avro International Aerospace Inspection Service Bulletin S.B. 53–130, dated May 10, 1994, prior to the embodiment times shown in Table 'A' of that service bulletin, constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

Note 2: Repair Instruction Leaflet (RIL) HC536H9159 provides detailed instructions for modification of all bolt positions in the affected areas of frame 29.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 14, 1995.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9770 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 811

[Docket No. R–95–1779; FR–3692–P–01]

RIN 2502–AG33

Refunding of Tax-Exempt Obligations Issued to Finance Section 8 Housing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Department's regulations to provide the policy and procedural guidelines for Section 8 bond refundings under which local agency issuers of Section 11(b) tax-exempt bonds are encouraged to refinance projects at lower interest rates.

DATES: Comments due date June 19, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC, 20410. Facsimile (FAX) are not acceptable. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Director, Financial Services Division, Department of Housing and Urban Development, 470 L'Enfant Plaza East, room 3120, Washington, DC 20024; telephone (202) 755–7450, ext. 125 (TDD number for the hearing- and speech-impaired (202) 708–4594).

SUPPLEMENTARY INFORMATION:

I. Background

Since May 1989, the Department has conducted on an ad hoc basis a program of Section 8 assisted housing bond refundings, under which local agency issuers of Section 11(b) tax-exempt bonds (24 CFR part 811, subpart A) are encouraged to refinance projects at lower interest rates to reduce Section 8 subsidy. To date, over 400 bond refunding transactions have closed in which bonds issued during the interest rate peak years of 1980–1983 are prepaid by a new bond issue at substantially lower interest cost, resulting in subsidy recapture of over $500 million.

The Section 11(b) regulations under which HUD issues its Notification of Tax Exemption were designed for the original financing of new construction or substantial rehabilitation of 100 percent or partially subsidized Section 8 rental housing. These rules do not in all particulars fit a refinancing transaction where construction funding is not an element. Therefore, each refunding closing transaction has required that bond counsel for the issuing agency obtain from the Assistant Secretary for Housing-FHA Commissioner a Notification of Tax Exemption that waives several sections of 24 CFR part 811, subpart A. This waiver process elevates to the Assistant Secretary level a programmatic approval that has become routine and perfunctory in recent years. In addition, an Office of Inspector General finding (Interim Audit Report 93–HQ–119–0004) has criticized the excessive reliance on regulatory waivers to accomplish bond refundings.

In view of the relatively low interest rate environment that has prevailed since 1987, HUD has determined that bond refundings should be treated as an operational program, rather than a temporary market intervention dependent upon the economic cycle. The proposed rule would codify the policy and procedural guidelines that have governed Section 8 bond refundings since 1989, and would provide a self-contained refunding regulation intended to dispense with the need for most waivers.

II. Other Matters

A. Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 50.20(k) of the HUD regulations, the policies and procedures contained in this proposed rule relate only to HUD administrative procedures and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this proposed rule will not have federalism implications and, thus, are not subject to review under that order.

C. Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has

VOL 60 ISS 76 AP 20 1995 UMI

determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this proposed rule, as those policies and programs relate to family concerns.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act has reviewed and approved this proposed rule, and in so doing certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities.

E. Regulatory Agenda

This proposed rule was listed as sequence number 1779 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57634) in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 811

Public housing, Securities, Taxes.

Accordingly, 24 CFR part 811 would be amended as follows:

PART 811—TAX EXEMPTION OF OBLIGATIONS OF PUBLIC HOUSING AGENCIES AND RELATED AMENDMENTS

1. The authority citation for 24 CFR part 811 would be revised to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437c, 1437f, and 3535(d).

2. A new § 811.119 would be added to subpart A, to read as follows:

§ 811.119 Refunding of obligations issued to finance Section 8 projects.

(a) This section states the terms and conditions under which HUD will approve tax-exempt financing or defeasance of outstanding permanent obligations issued under Section 11(b) of the Act or the Internal Revenue Code to refund outstanding permanent obligations which financed new construction or substantial rehabilitation of Section 8 projects, including fully and partially assisted projects.

(b) Other sections of part 811, subpart A, shall not apply to bond refundings except that compliance with the following is required: §§ 811.101, 811.102, 811.103, 811.104, 811.105, 811.106(d), 811.108(a)(2)(ii), 811.108(a)(2)(iii), 811.108(b)(3)(ii), 811.108(b)(3)(iii), and 811.114(d), except as applicable provisions are modified in this section.

(c) Compliance with §§ 811.104 and 811.105 shall not be required for refunding obligations which derive tax exemption from authority other than Section 11(b) of the Act. In the case of bonds issued by State Agencies qualified under 24 CFR part 883 to refund bonds which financed projects assisted pursuant to 24 CFR part 883, compliance with the provisions of 24 CFR part 883 shall be required to the extent bond counsel finds such provisions applicable to a bond refunding transaction, as distinguished from requirements related to original financing of new construction or substantial rehabilitation of Section 8 housing. HUD requires compliance with the prohibition on duplicative fees contained in § 883.606 of this chapter.

(d) No agency shall issue obligations to refund outstanding 11(b) obligations until the Office of the Assistant Secretary for Housing sends the financing agency a Notification of Tax Exemption based on approval of the proposed refunding's terms and conditions as conforming to this subpart A's requirements, including continued operation of the project as housing for low-income families, and where possible, reduction of Section 8 assistance payments through lower contract rents or equivalent means. The agency shall submit such documentation as HUD determines is necessary for review and approval of the refunding transaction. Upon conclusion of the sale of refunding bonds, the results must be certified to HUD by bond counsel, including a schedule of the specific amount of savings in Section 8 assistance where applicable, and a final statement of Sources and Uses.

(e) (1) HUD approval of the terms and conditions of a Section 8 refunding proposal requires evaluation by HUD Central Office of the reasonableness of the terms of the Agency's proposed financing plan, including projected reductions in project debt service where warranted by market conditions and bond yields. This evaluation shall determine that the proposed amount of refunding obligations is the amount needed to pay off outstanding bonds, fund a debt service reserve to the extent required by bond rating agencies which rate the credit quality of the refunding bonds, pay credit enhancement fees acceptable to HUD and pay transaction costs as approved by HUD according to a sliding scale ceiling based on per amount of refunding bond principal. Exceptions may be approved by HUD, if consistent with applicable statutes, in the event that an additional issue amount is required for project purposes.

(2) The repayment term of the refunding bonds may not exceed the remaining term of the project mortgage, or in the absence of a mortgage, the remaining term of the Housing Assistance Payments Contract (the "HAPC").

(3) The bond yield may not exceed by more than 75 basis points the 20 Bond General Obligation Index published by the Daily Bond Buyer for the week immediately preceding the sale of the bonds. An amount not to exceed one-fourth of one percent annually of the bonds may be allowed for servicing and trustee fees.

(f) For projects placed under HAPC between January 1, 1979, and December 31, 1984 (otherwise known as "McKinney Act Projects"), for which a State or local agency initiates a refunding, the Secretary shall make available to an eligible issuing agency 50 percent of the Section 8 savings of a refunding, as determined by HUD on a project-by-project basis, to be used by the agency in accordance with the terms of a Refunding Agreement executed by the Agency and HUD which incorporates the Agency's Housing Plan for use of savings to provide decent, safe, and sanitary housing for very low-income households. The Housing Plans submitted for HUD review and approval shall address the physical condition of the projects participating in the refunding which generate the McKinney Act savings and, if necessary, provide for correction of existing deficiencies which cannot be funded completely by existing project replacement reserves and/or by a portion of refunding bond proceeds (including reserves released from the refunded bond's indenture), as approved by HUD.

(g) For refundings of Section 8 projects other than McKinney Act Projects, and for all transactions which substitute collateral for, but do not redeem, outstanding obligations, the Office of Housing in consultation with HUD Field Office Counsel will review the HAPC, the Trust Indenture for the outstanding obligations, and the applicable part 811 Regulations to determine what HUD approvals are required. In particular, HUD approval must be obtained for the release of reserves from the trust indenture of the bonds that are being refunded, defeased, or pre-paid. If the proposal contemplates distribution to a non-Federal entity of benefits of the refinancing, such as debt service savings and/or balances in reserves held under the original Trust Indenture, such proposal shall be referred to the Office of the Assistant Secretary for Housing for further review. HUD will consent to release reserves, as provided by the Trust Indenture, in an amount remaining after correction of project physical deficiencies and/or replenishment of replacement reserves, where needed, upon execution by the project owner of a use agreement, and amendment of a regulatory agreement, if applicable, to extend low-income tenant occupancy for ten years after expiration of the HAPC. Proposed use of benefits shall be consistent with applicable appropriations law, the HAPC, and other requirements applicable to the original project financing, and the proposed financing terms must be reasonable in relation to bond market yields and transaction fees, as approved by HUD Central Office.

(h) Agencies shall have wide latitude in the design of specific delivery vehicles for use of McKinney Act savings, subject to HUD audit of each Agency's performance in serving the targeted income eligible population. Savings shall be used for shelter costs of providing housing, rental, or owner-occupied, to very low-income households through new construction, rehabilitation, repairs, and acquisition with or without rehab, including assistance to very low-income units in mixed-income developments. Self-sufficiency services in support of very low-income housing are also eligible, specifically, homeownership counseling, additional security measures in high-crime areas, construction job training for residents' repair of housing units occupied by very low-income families, and empowerment activities designed to support formation and growth of resident entities. Except for the cost of providing third-party program audit reports to HUD, eligible costs exclude consultant fees or reimbursement of Agency staff expenses, even though the services may involve programs of assistance to very low-income families.

(i) Refunding bonds, including interest thereon, approved under this Section shall be exempt from all taxation now or hereafter imposed by the United States, and the notification of approval of tax exemption shall not be subject to revocation by HUD. Such bonds shall be prepaid during the HAPC term only under such conditions as HUD shall require.

Dated: March 20, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95-9727 Filed 4-19-95; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

[IL-091]

Illinois Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Illinois Abandoned Mine Land Reclamation Plan (hereinafter referred to as the "Illinois plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to the merger of the Illinois Abandoned Mined Lands Reclamation Council into the newly created Illinois Department of Natural Resources, Office of Mines and Minerals. The Amendment is intended to provide formal notification to OSM of this pending reorganization.

DATES: Written comments must be received by 4:00 p.m., C.D.T., May 22, 1995. If requested, a public hearing on the proposed amendment will be held on May 15, 1995. Requests to speak at the hearing must be received by 4:00 p.m., C.D.T., on May 5, 1995.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to James F. Fulton, Director, at the addresses listed below.

Copies of the Illinois plan, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Springfield Field Office.

James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 511 West Capitol, Suite 202, Springfield, Illinois 62704, Telephone: (217) 492-4495.

Illinois Abandoned Mined Lands Reclamation Council, 928 South Spring Street, Springfield, Illinois 62704, Telephone: (217) 782-0588.

FOR FURTHER INFORMATION CONTACT: James F. Fulton, Director, Springfield Field Office, Telephone: (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background on the Illinois Plan

Title IV of SMCRA established an Abandoned Mine Land Reclamation (AMLR) program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. As enacted in 1977, lands and waters eligible for reclamation were those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which they were no continuing reclamation responsibility under State or Federal law. The AML Reclamation Act of 1990 (Pub. L. 101-508, Title VI, Subtitle A, Nov. 5, 1990, effective Oct. 1, 1991) amended SMCRA, 30 U.S.C. 1231 *et. seq.*, to provide changes in the eligibility of project sites for abandoned mine land expenditures. Title IV of SMCRA now provides for reclamation of certain mine sites where the mining occurred after August 3, 1977 These include interim program sites where bond forfeiture proceeds were insufficient for adequate reclamation and sites affected any time between August 4, 1977, and November 5, 1990, for which there were insufficient funds for adequate reclamation due to the insolvency of the bond surety. Title IV provides that a State with an approved AMLR plan has the responsibility and primary authority to implement the program.

On June 1, 1982, the Secretary of the Interior approved the Illinois plan. Background information on the Illinois plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the June 1, 1982, **Federal Register** (47 FR 23886). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 913.25.

The Secretary adopted regulations at 30 CFR Part 884 that specify the content requirements of a State reclamation plan and the criteria for plan approval. The regulations provide that a State may submit to the Director proposed amendments or revisions to the

VOL
60
ISS
76
AP
20
1995
UMI

approved reclamation plan. If the amendments or revisions change the scope of major policies followed by the State in the conduct of its reclamation program, the Director must follow the procedures set out in 30 CFR 884.14 in approving or disapproving an amendment or revision.

II. Description of the Proposed Amendment

By letter dated April 10, 1995 (Administrative Record No. IL–800–AML), Illinois submitted a proposed amendment to its plan pursuant to SMCRA. Illinois submitted the proposed amendment at its own initiative. In accordance with 30 CFR 884.15, Illinois notified OSM that effective July 1, 1995, the authority and administrative responsibility for the Illinois plan will be transferred from the Abandoned Mined Lands Reclamation Council to the Illinois Department of Natural Resources, Office of Mines and Minerals, Abandoned Mined Lands Reclamation Division.

Specifically, the Abandoned Mined Lands Reclamation Council will be merged into the Illinois Department of Natural Resources by virtue of Executive Order Number 2 (1995) signed by the Governor of Illinois on March 1, 1995. Article V, Section 11 of the Constitution of the State of Illinois authorizes the Governor to reassign functions among or reorganize executive agencies to simplify the organizational structure of the Executive Branch, to improve accountability, to increase accessibility, and to achieve efficiency and effectiveness in operation.

Illinois specified that all rights, powers, and duties vested in the Abandoned Mined Lands Reclamation Council under the Illinois plan, including existing laws, rules, and statements of policy, would be administered by the Abandoned Mined Lands Reclamation Division of the Office of Mines and Minerals in accordance with the requirements of Title IV of SMCRA and consistent with all applicable Federal rules and guidelines.

The Executive Order contains the following applicable provisions:

Part I, paragraph C, provides that "[t]he Department of Natural Resources shall have within it an Office of Mines and Minerals which shall be responsible for the functions previously vested in * * * the Abandoned Mined Lands Reclamation Council and such other related functions and responsibilities as may be appropriate;"

Part II, paragraph D, transfers the Abandoned Mined Lands and Water Reclamation Act (20 ILCS 1920 *et seq.*), section 6a–1–a of the Illinois Purchasing Act (30 ILCS 505/6a–1–a), section 21(r)(2) of the Environmental Protection Act (415 ILCS 5/21(r)(2)), section 2 of the Surface Coal Mining Fee Act (20 ILCS 1915/2), section 1–3 of the Build Illinois Act (30 ILCS 750/1–3), and section 67.35 of the Civil Administrative Code (20 ILCS 405/67.35) from the Abandoned Mined Lands Reclamation Council to the Department of Natural Resources along with all rights, powers, and duties incidental to these Acts;

Part III, paragraph A abolishes the Abandoned Mined Lands Reclamation Council, and paragraph C transfers personnel previously assigned to the Abandoned Mined Lands Reclamation Council to the Department of Natural Resources; and

Part IV, paragraph F, provides that "[t]his Executive Order shall not affect the legality of any rules in the Illinois Administrative Code that are in force on the effective date of this Executive Order that have been duly adopted by the agencies reorganized under this Order. As soon as practicable hereafter, the Department of Natural Resources * * * shall propose and adopt under the Illinois Administrative Procedure Act such rules as may be necessary to consolidate and clarify the rules of the various reorganized agencies that will now be administered by the successor agency."

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884, OSM is seeking comments on whether the proposed amendment satisfies the program approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Illinois plan.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Springfield Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., C.D.T., on May 5, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 913

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 14, 1995

Tim L. Dieringer,

Acting Assistant Director, Eastern Support Center

[FR Doc. 95–9773 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[CGD 93–022]

RIN 2115–AE41

Automated Dependent Surveillance Shipborne Equipment: Incorporation by Reference

AGENCY: Coast Guard, DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the incorporation by reference provisions or the Automated Dependent Surveillance (ADS) Shipborne Equipment. Due to the development of new Differential Global Positioning System (DGPS) standards, the existing standard incorporated by reference, Radio Technical Commission for Maritime Services' (RTCM) Recommended Standards for Differential NAVSTAR GPS Service, Version 2.0 contained in 33 CFR 164.03, has been superseded by new standards contained in Version 2.1. The Coast Guard proposes to replace Version 2.0 by incorporating the new standards contained in Version 2.1.

Additionally, Digital Selective Calling (DSC) standards for use with Vessel Traffic Services (VTS) and Maritime Mobile Services have recently been developed by the International Telecommunication Union Radiocommunication Bureau (ITU–R) and are also being proposed as a new incorporation by reference.

The new DGPS standards will ensure that ADS is compatible with the Coast Guard national DGPS network. The standards will also provide additional user safety information such as differential station health indicators.

The new DSC standards will ensure that the Automated Dependent Surveillance Shipborne Equipment (ADSSE), built by various manufacturers, will provide the same message in an internationally accepted format.

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 93–022), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to Room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

A copy of the material proposed for "Incorporation by Reference" is available for inspection at Room 1409, U.S. Coast Guard Headquarters. It may also be obtained from the sources listed in the proposed rule.

FOR FURTHER INFORMATION CONTACT: Irene Hoffman, Project Manager, Vessel Traffic Services Division. The telephone number is 202–267–6277

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 93–022) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Irene Hoffman, Project Manager, Vessel Traffic Services Division and Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Background and Purpose

Section 5004 of the Oil Pollution Act of 1990, as codified in 33 U.S.C. 2374, directed the Coast Guard to acquire, install, and operate additional equipment, as necessary, to provide surveillance of tank vessels carrying oil

VOL 60 ISS 76 AP 20 1995 UMI

from the Trans-Alaskan Pipeline through Prince William Sound.

While endeavoring to meet the requirements of the Act, the Coast Guard investigated various types of surveillance systems, including radar and dependent surveillance systems. The Coast Guard determined an ADS system that uses DGPS would meet the Coast Guard's requirements without being cost prohibitive to the Government and the user. The shipboard portion of the system, ADSSE, includes a 12 channel all-in-view DGPS receiver, a marine radiobeacon band receiver capable of receiving DGPS error correction messages, a VHF/FM transceiver using DSC, and a control unit.

On July 17, 1992, the Coast Guard published a final rule, Prince William Sound Automated Dependent Surveillance System, in the **Federal Register** (57 FR 31660). This final rule amended the Prince William Sound VTS regulations by incorporating the use of ADS using DGPS. The regulation requires tank vessels of 20,000 DWT or more, transiting Prince William Sound, to carry operating ADSSE.

Since the publication of this regulation, the Coast Guard has determined that the use of ADS may expand beyond Prince William Sound. In order to facilitate future expansion into other areas of the U.S., the final rule amending the National VTS Regulations (59 FR 36316), divided the Prince William Sound Automated Dependent Surveillance System rule into two sections: (a) A navigation equipment rule (§ 164.43); and (b) a vessel operating rule for Prince William Sound (§ 165.1704). VTS Reporting Exemptions for vessels equipped with an operating ADSSE are set forth in § 161.23(c). The "Incorporation by Reference" section (§ 161.109) associated with this rule has been redesignated as § 164.03(b)(2).

Discussion of Proposed Rules

Due to the development of new DGPS standards, the existing standard incorporated by reference, RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.0 RTCM Paper 134–89/SC 104–68 incorporated in 33 CFR 164.03, has been superseded. Differential NAVSTAR GPS Service, Version 2.0 will be replaced with the new standards, RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.1 RTCM Paper 194–93/SC 104–STD, which have been developed with industry input and approved by RTCM.

Additionally, DSC standards for use with VTS and Maritime Mobile Service, Optional Expansion of the DSC System for use in the Maritime Mobile Service, ITU–R Recommendation 821 and Characteristics of a Transponder System using DSC Techniques for use with VTS and Ship-to-Ship Identification, ITU–R Recommendation 825, have been developed by the ITU–R with industry input and will also be incorporated by reference.

Incorporation by Reference

The proposed material would be incorporated by reference in § 164.03. Copies of the material are available for inspection where indicated under **ADDRESSES**. Copies of the material are also available from the sources listed in § 164.03.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The upgrade of DGPS receivers from Version 2.0 RTCM Paper 134–89/SC 104–68, to Version 2.1 RTCM Paper 194–93/SC 104–STD requires only a firmware upgrade. At least one manufacturer has indicated that this upgrade is available at no cost to the user. Additionally, recent indications are that the cost to initially outfit tank vessels with DGPS equipment may be less than the original estimate of $50,000 per vessel. A more reasonable estimate now would be approximately $15,000 per vessel. The cost is expected to drop further as dependent surveillance is implemented in other U.S. ports and worldwide.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include: (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields; and (2) governmental jurisdictions with populations of less than 50,000. This regulation will only affect owners and operators of tank vessels of 20,000 or more DWT operating in Prince William Sound and carrying oil from the Trans-Alaska Pipeline. The construction and operating costs of vessels of this size is such that their owners tend to be major corporations or subsidiaries of major corporations. Business entities with the capital and operating costs of this magnitude do not meet the definition of "small entities."

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation.

This rulemaking is intended to improve accuracy and reliability of vessel tracking equipment. It may benefit the environment by reducing the potential for catastrophic oil spills which may result from tank vessels involved in groundings, rammings, or collisions. While this rulemaking may have a positive effect on the environment by minimizing the risk of environmental harm resulting from collisions and groundings, the impact is not expected to be significant enough to warrant further documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 164

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways, Incorporation by reference.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 164 as follows:

PART 164—NAVIGATION SAFETY REGULATIONS

1. The authority citation for part 164 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. 2103, 3703; 49 CFR 1.46. Sec. 164.13 also issued under 46 U.S.C. 8502 sec. 4114(a), Pub.L. 101–380, 104 Stat. 517 (46 U.S.C. 3703 note). Sec. 164.61 also issued under 46 U.S.C. 6101.

2. Section 164.03 paragraph (b) is revised to read as follows:

§ 164.03 Incorporation by Reference

* * * * *

(b) The materials approved for incorporation by reference in this part and the sections affected are:

International Maritime Organization (IMO)	
4 Embankment, London, SE1 7SR, U.K	
Recommendation on Performance Standards for Automatic Pilots, Resolution A.342(IX), adopted November 12, 1975	164.13
Radio Technical Commission For Maritime Services (RTCM)	
655 Fifteenth St., N.W., Suite 300, Washington, D.C. 20005	
Minimum Performance Standards (MPS) Marine Loran C Receiving Equipment, RTCM Paper 12–78/DO–100, 1977	164.41
RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.1, RTCM Paper 194–93/SC 104–STD, 1994	164.43
International Telecommunication Union Radiocommunication Bureau (ITU–R)	
Place de Nations CH–1211 Geneva 20 Switzerland	
Optional Expansion of the Digital Selective-Calling System for use in the Maritime Mobile Service, ITU–R Recommendation 821, 1992	164.43
Characteristics of a Transponder System using Digital Selective-Calling Techniques for use with Vessel Traffic Services and Ship-to-Ship Identification, ITU–R Recommendation 825, 1992	164.43

Dated: March 30, 1995.

G.A. Pennington,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–9713 Filed 4–19–95; 8:45 am]

BILLING CODE 4910–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 144–3–6972a; FRL–5194–1]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from semiconductor manufacturing.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPRM) will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before May 22, 1995.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section [A–5–3], Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket 6102, ANR 443, 401 "M" Street, S.W., Washington 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

FOR FURTHER INFORMATION CONTACT: Helen Liu, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being proposed for approval into the California SIP is the South Coast Air Quality Management District (SCAQMD) Rule 1164—Semiconductor Manufacturing. This rule was submitted by the California Air Resources Board (CARB) to EPA on February 24, 1995

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included the Los Angeles-South Coast Air Basin Area (South Coast Area). 43 FR 8964; 40 CFR 81.305. Because this area was unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. [40 CFR 52.222] On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment

[1] Among other things, the pre-amendment guidance consists of these portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

VOL 60 ISS 76 AP 20 1995 UMI

areas. The South Coast Area has been designated as extreme [2]; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on February 24, 1995, including the rule being acted on in this document. This document addresses EPA's proposed action for SCAQMD Rule 1164. SCAQMD adopted Rule 1164 on January 13, 1995. This submitted rule was found to be complete on March 10, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V [3] and are being proposed for approval into the SIP.

SCAQMD Rule 1164 controls the VOC emissions during the operations of semiconductor manufacturing. VOCs contribute to the production of ground-level ozone and smog. This rule was adopted as part of the SCAQMD's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for this rule.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). EPA has not yet developed a CTG to outline control requirements for the semiconductor manufacturing source category. Therefore, interpretations of EPA policy are found in the Blue Book, referred to in footnote 1, and the Region IX/CARB document entitled, *Guidance Document for Correcting VOC Rule Deficiencies*. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

SCAQMD Rule 1164—Semiconductor Manufacturing includes the following significant changes from the current SIP:

- Section (b)(1) includes an appropriate definition for *approved emission control system* which requires the system to have an overall efficiency of at least 90 percent.
- Section (b)(14) includes an equation to determine VOC composite partial pressure.
- Other definitions were added or altered for clarity.
- Sections (e)(1) and (e)(2) list the test methods for determining VOC content of any VOC-containing materials or vapors. These methods include EPA Test Method 24, SCAQMD Method 303, SCAQMD Method 304, SCAQMD Method 308.
- Section (e)(3) includes test methods for determining the efficiency of the emission control systems. These methods include the EPA method cited in 55 Federal Register 26665, EPA Test Methods 25, 25A, 18, ARB 422, or SCAQMD Method 25.1.
- Section (e)(4) ensures that a violation of any requirement of this rule established by any one of the specified test methods shall constitute a violation of the rule when more than one test method is specified for any testing.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, SCAQMD Rule 1164 is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 11, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–9709 Filed 4–19–95; 8:45 am]

BILLING CODE 6560-50-W

[2] The South Coast Area retained its designation of nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 [55 FR 5830] and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

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40 CFR Part 372

[OPPTS–400092; FRL–4846–2]

Monosodium Methanearsonate and Disodium Methanearsonate; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

SUMMARY: EPA is denying a petition to delist monosodium methanearsonate (MSMA, CAS No. 2163–80–6) and disodium methanearsonate (DSMA, CAS No. 144–21–8) from the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). This action is based on EPA's conclusion that neither monosodium methanearsonate or disodium methanearsonate meet the deletion criteria of EPCRA section 313(d)(3). Specifically, EPA is denying this petition because: (1) Monosodium methanearsonate and disodium methanearsonate are known to cause toxic effects in experimental animals as a result of chronic exposure to either of these substances; and (2) monosodium methanearsonate and disodium methanearsonate can reasonably be anticipated to cause cancer in humans.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Petitions Coordinator, 202–260–9592, for specific information regarding this document. For further information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202, Toll free TDD: 800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action is issued under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499).

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. EPA has added and deleted chemicals from the original statutory list. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA must respond to petitions within 180 days, either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

EPA issued a statement of petition policy and guidance in the Federal Register of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories. EPA has also published a statement clarifying its interpretation of the section 313(d)(2) criteria for adding and deleting chemical substances from the section 313 list (59 FR 61439, November 30, 1994).

II. Description of Petition and Relevant Regulations

On October 18, 1994, EPA received a petition from the ISK Biosciences Corporation to remove monosodium methanearsonate (MSMA) and disodium methanearsonate (DSMA) from the list of toxic chemicals subject to the requirements of section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Specifically, the petition requests that MSMA and DSMA be excluded from the arsenic compounds category which is subject to annual release reporting requirements under EPCRA section 313. The petitioner contends that MSMA and DSMA should be deleted from the EPCRA section 313 arsenic compounds category because, in their opinion, the available data show that neither of these substances meet the criteria for inclusion on the list of EPCRA section 313 chemicals. The petitioner did not provide EPA with any of the studies cited in the petition.

MSMA and DSMA are organic arsenicals. EPA regulates arsenic and certain arsenic compounds under the Clean Air Act (CAA), Clean Water Act (CWA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Resource Conservation and Recovery Act (RCRA), Safe Drinking Water Act (SDWA), and EPCRA. Arsenic emissions from smelters and other facilities are regulated under the CAA. Under the CWA, guidelines have been established controlling the environmental release of arsenic compounds for certain industrial categories. Reportable quantities have been established under CERCLA and CWA for arsenic and certain arsenic compounds. Under RCRA, EPA regulates arsenic as a hazardous constituent of waste. The SDWA limits arsenic in drinking water to a maximum level of 0.05 milligrams/liter (mg/L). EPA and the National Toxicology Program have classified inorganic arsenicals, including arsenate, as known human carcinogens.

III. EPA's Technical Review of Monosodium Methanearsonate (MSMA) and Disodium Methanearsonate (DSMA)

The technical review of the petition to delete MSMA and DSMA included an analysis of the chemistry, health, ecological and environmental fate data known for these substances and for methanearsonic acid (MAA), the un-ionized form of MSMA and DSMA. From a human health standpoint, MSMA and DSMA will exist largely as MAA (their un-ionized form) under acidic conditions, such as those found in the gastrointestinal tract. Also, following absorption into the systemic circulation, MSMA, DSMA, and MAA will exist in an identical ionized form at the physiological pH of 7.4, regardless of their route of administration. EPA and the ISK Biosciences Corporation (as indicated in their petition) believe, therefore, that mammalian toxicity data on MAA should be suitable to assess the toxicity of MSMA and DSMA in cases where such data on the latter two substances are not available.

A. Chemistry

Monosodium methanearsonate ($CH_4AsO_3.Na$; CAS No. 2163–80–6), also known as MSMA, and disodium methanearsonate ($CH_3AsO_3.2Na$; CAS No. 144–21–8), also known as DSMA, are the monosodium and disodium salts, respectively, of methanearsonic acid (also known as MAA). MSMA, DSMA, and MAA are often refered to as organic arsenicals, because they each contain a methyl ($-CH_3$) group. Both MSMA and DSMA are highly water soluble crystalline solids, and are used as herbicides for the postemergent control of grassy weeds in cotton, sugarcane, nonbearing orchards, citrus groves, lawns, turf, and in noncrop areas. The predominant use of MSMA and DSMA is for postemergent control of Johnsongrass and other grassy weeds prior to planting cotton.

B. Toxicological Evaluation

Information on the health and environmental effects of MSMA, DSMA, and MAA were obtained from the following sources: a 1993 Agency for Toxic Substances and Disease Registry

VOL 60 ISS 76 AP 20 1995 UMI

document entitled *Toxicological Profile for Arsenic (Update)* (Refs. 2, 15, and 30); a 1984 EPA document entitled *Health Assessment Document for Arsenic* (Ref. 7); a 1994 National Toxicology Program document entitled *Seventh Annual Report on Carcinogens: 1994 Summary* (Ref. 33); studies obtained from EPA's Office of Pesticide Programs (Ref. 8, 10, 13–14, 16 and 19–24); and studies found in the literature (Refs. 1, 3–6, 9, 11, 17, 18, 25, 26, 28, 29, and 31). Specifically, toxicological and related data on MSMA, DSMA, and MAA (the un-ionized or free acid form of MSMA and DSMA) were reviewed for evidence indicating: (1) Bioavailability and metabolism to inorganic arsenic; (2) acute toxicity; (3) chronic toxicity; (4) carcinogenicity; and (5) ecotoxicity.

1. *Bioavailability and metabolism.* Shah and co-workers investigated the absorption of MSMA and DSMA from the skin of young and adult rats (Ref. 1). Both substances were very poorly absorbed through the skin of all animals tested, particularly in the younger animals. No human studies pertaining to the dermal absorption of MSMA and DSMA were found. However, human and animal studies involving dermal exposure to organic arsenicals closely related to MSMA and DSMA indicate that these substances are poorly absorbed from the skin (Ref. 2).

Sheristaneshi and Anderson found that MSMA is readily absorbed from the gastrointestinal tract following oral administration of the substance to sheep and goats (Ref. 3). These investigators observed that 90 percent of the arsenic content of orally administered MSMA was excreted in the urine of test animals within 120 hours of administration. Small amounts were excreted in the feces. Arsenic accumulation in the tissues was low. It is noteworthy to point out that metabolism of MSMA to other forms of arsenic (e.g., inorganic) was not studied in this investigation, and only total arsenic concentrations were determined. Specific assays for MSMA or other specific arsenicals were not used. The results of this study were consistent with the results of another study, which investigated the absorption, distribution and elimination of MSMA in New Zealand white rabbits following multiple oral doses of the substance (Ref. 4).

A 1991 EPA study investigated the absorption, distribution, and elimination of radiolabeled MSMA ([^{14}C-metnyl]MSMA) in rats (Ref. 8). Four groups of rats were used in this study. Each group consisted of male and female animals. One group received a single oral dose of [^{14}C-methyl]MSMA at 5 milligrams per kilogram (mg/kg), while another group received a single oral dose of 500 mg/kg. A third group received a single oral dose of MSMA at 5 mg/kg every day for 14 consecutive days, followed by a single oral dose of [^{14}C-methyl]MSMA. A fourth group received a single oral dose of MSMA at 5 mg/kg every day for 14 consecutive days, followed by a single intravenous dose of [^{14}C-methyl]MSMA at 5 mg/kg or a single oral dose of [^{14}C-methyl]MSMA at 5 mg/kg. In each of the test groups, the majority (79.7 to 97.4 percent) of administered [^{14}C-methyl]MSMA was excreted unchanged in the urine and feces within 7 days following dosing. Radiolabeled carbon dioxide ($^{14}CO_2$) was detected in all treated groups, and accounted for less than 0.5 percent of administered [^{14}C-methyl]MSMA. An unidentified metabolite, which accounted for 1.8 to 6.7 percent of administered [^{14}C-methyl]MSMA, was detected in the urine and feces of all test groups except the group receiving 200 mg/kg [^{14}C-methyl]MSMA orally. Another unidentified metabolite, accounting for 0.7 percent of administered [^{14}C-methyl]MSMA was found in only one of the test groups.

Buchet, et al., investigated the oral absorption and metabolism of MSMA in humans (Ref. 9). In this study four adult males were administered MSMA in a single oral dose equivalent to 500 micrograms of arsenic. The MSMA was well absorbed, and nearly 70 percent of the dose was excreted unchanged in the urine within 24 hours, while a small percentage was excreted in the urine as cacodylic acid (dimethylarsenic acid). Within 96 hours, 78.3 percent of the MSMA dose was excreted in the urine unchanged and approximately 13 percent was excreted in the urine as cacodylic acid. No inorganic arsenic metabolites were identified (Ref. 9).

Stevens and co-workers investigated the toxicity of DSMA in rats and mice exposed to the substance at aerosolized doses of 6.1 mg/L (for the rats) and 6.9 mg/L (for the mice) for 2 hours (Ref. 5). Total arsenic levels from body fluids or tissues were not determined, but the authors believed that some absorption of DSMA occurred from the lung.

2. *Acute toxicity.* Several rat oral median lethal dose (LD_{50}) values for MSMA and DSMA were found in the literature. For DSMA, the rat oral LD_{50} values, in mg/kg, are (male, female): 2,005, 1,842 (Ref. 10); and 928, 821 (Ref. 11). For MSMA, the rat oral LD_{50} values are 1,105 and 1,050 mg/kg for males and females respectively (Ref. 11). These data are consistent with rat median lethal dose data provided by the petitioner.

Neither DSMA or MSMA produced significant toxicity in rabbits when applied dermally at a dose of 2,000 mg/kg for 24 hours (Refs. 12 and 13). In the MSMA- treated group, however, there was evidence of decreased muscle tone noted in approximately 50 percent of the animals on observation days 5 through 9 (Ref. 13). By observation day 10, muscle tone was normal in all treated animals.

In a study investigating the acute inhalation toxicology of DSMA, mice and rats were placed in chambers and were exposed for 2-hours to experimental atmospheres containing DSMA in concentrations of at least 6.6 mg/L (Ref. 5). The animals were observed to have respiratory distress during the 2-hour exposure period, but recovered rapidly after removal from exposure. Respiratory irritation was the main toxicological effect observed. No mortality occurred in either species. These results are consistent with those of a similar DSMA inhalation study (Ref. 14). In the latter study, rats were exposed to experimental atmospheres of 6.0 mg/L DSMA for 4 hours. No deaths were noted during the 14-day post-exposure observation period. Clinical signs noted on the first day post-exposure included body weight loss and respiratory irritation. Lung discoloration in 40 percent of the animals was also noted (Ref. 14).

3. *Chronic toxicity.* Numerous studies investigating the chronic toxicity of inorganic arsenicals have been conducted. Relatively few studies, however, have investigated the potential for chronic toxicity of organic arsenicals such as MSMA, DSMA, and MAA. The limited amount of published examination toxicity data on these substances have been summarized (Ref. 15). In addition, the petitioner summarized unpublished chronic toxicity data that are available from EPA's Office of Pesticide Programs. Some of these studies will be briefly discussed here.

In a study investigating the health effects resulting from chronic administration of MAA, four groups of rats (each group consisting of 60 males and 60 females) were fed diets containing 0 (the control group), 50, 400, and 1,300 parts per million (ppm) of MAA for 104 weeks (Ref. 16). Mortality was significantly increased in animals fed diets containing 1,300 ppm MAA. Because of this increased mortality, the 1,300 ppm concentration was reduced to 1,000 ppm during week 53, and to 800 ppm at week 60. Animals in this group had acute gastrointestinal inflammation, ulceration and perforation of the large intestines, and evidence of acute or chronic peritonitis. These observations were less evident in animals receiving diets containing 400 ppm MAA. A reduction in the weight of the thyroid glands was noted in female rats receiving the 1,300 ppm and 400 ppm MAA diets, and in male rats receiving 400 ppm MAA. Thickening of the thyroid follicular epithelium was noted in both sexes receiving the 1,300 and 400 ppm MAA diets. An increased incidence of parathyroid adenomas may have occurred in male rats receiving the 1,300 and 400 ppm MAA diets. This observation is discussed in greater detail in unit III.B.4 below.

Jaghabir and co-workers investigated the health effects of low dose MSMA exposure in white rabbits (Ref. 17). Three groups of rabbits were used in this study. The first group consisted of four rabbits, which were administered MSMA orally once a day for 40 days at a dose of 5 mg/kg. The second group consisted of two animals, which were administered MSMA at a dose of 10 mg/kg orally for 40 days. The third group (also consisting of two animals) was similarly administered MSMA at a dose of 20 mg/kg. A control group of two animals was also used. All animals were euthanized and examined at the end of the 40-day test period. Post-mortem examination revealed distension and hyperemia of the digestive tract, intestinal wall fragility, enlargement of the kidneys, and intense peripheral hyperemia of the livers of all animals administered MSMA. Histopathological findings revealed hepatic cellular degeneration, periportal inflammation, renal tubular nephrosis, interstitial nephritis and vascular hyperemia. These observations are consistent with the observations of similar investigations cited in the study (Ref. 17), and indicate that low dose exposure to MSMA can result in tissue damage.

Results from several studies suggest that MSMA and DSMA may cause developmental and reproductive toxicity. In an investigation reported by Prukop and Savage (Ref. 18) it was observed that mice administered MSMA at doses of either 11.9 or 119 mg/kg orally three times a week for 10 weeks had decreased reproductive capabilities (males) and altered reproductive behavior (females). In another study, groups of beagle dogs were administered MAA at 0 (control), 2.5, 8.0 or 40 mg/kg/day for 1 week, followed by administration of 0 (control animals), 2, 8, or 35 mg/kg/day for an additional 51 weeks (Ref. 19). Decreased body weight gain occurred in male dogs that received the 35 mg/kg/day dose, and in females that received the 8 or 35 mg/kg/day doses. The incidence of female animals showing no corpora lutea were increased in the 35 mg/kg/day animal test group when compared to control animals (Ref. 19).

In another study, groups of inseminated New Zealand white rabbits were administered MAA orally at doses of 0 (control animals), 1, 3, 7, and 12 mg/kg/day during days 7 thru 19 of gestation (Ref. 20). Maternal toxicity at 12 mg/kg/day was characterized by abortion and decreases in mean absolute body weight, body weight gain, and food consumption. Decreases in body weight gain and food consumption were also noted in the 7 mg/kg/day test group. An increased incidence of skeletal variations was noted in the offspring of animals administered MAA at 12 mg/kg/day. These skeletal variations consisted of increased numbers of ribs and thoracic and lumbar vertebrae (Ref. 20).

In a multigeneration toxicity study, groups of male rats were fed MAA at doses of 0 (control group), 5.6, 17.8, or 63.5 mg/kg/day, and groups of female rats were fed 0 (control group), 7.5, 22.5, and 77.6 mg/kg/day for 14 weeks. Animals were mated, and mated females continued to receive MAA throughout gestation and lactation periods. Among other toxic effects noted in the 63.5 (males) and 77.6 (females) mg/kg/day dose groups, decreased pregnancy rates, male fertility rates, and decreased weights of the prostate and testes also occurred for parenteral generations F0 and F1 (Ref. 21).

A study was conducted in which MSMA was administered orally to pregnant female rats at doses of 0, 10, 100, or 500 mg/kg once daily on gestation days 6 through 15. No developmental effects were noted in the offspring of animals receiving 10 or 100 mg/kg MSMA. Decreased body weight gain and food consumption were noted in animals receiving 500 mg/kg MSMA. The fetuses of this test group had lower mean fetal body weights when compared to control animals (Ref. 22).

Based on the results of the animal studies discussed in the preceding paragraphs, EPA has determined that chronic exposure to either MSMA or DSMA can reasonably be anticipated to cause gastrointestinal toxicity, thyrotoxicity, nephrotoxicity, hepatotoxicity, and developmental and reproductive toxicity in humans.

4. *Carcinogenicity.* Data regarding the carcinogenic potential of MSMA, DSMA, or MAA are extremely limited. In a study involving chronic administration of MAA, four groups of rats, each group containing 60 males and 60 females, were fed diets containing 0 (the control group), 50, 400, and 1,300 ppm of MAA for 104 weeks (Ref. 16). Because of excessive mortality, the 1,300 ppm concentration was reduced to 1,000 ppm during week 53, and to 800 ppm at week 60. An increased incidence of parathyroid adenomas was observed in males receiving the 1,300 ppm (4/45) and 400 ppm (4/53) MAA diets, and in females (4/45) receiving the 1,300 ppm MAA diets. Evidence of parathyroid adenoma was also found in 1 of 52 male control rats. The increased incidence of parathyroid adenomas in the treated groups was found to be statistically significant relative to the control animals.

As stated previously, cacodylic acid (dimethylarsenic acid, CAS No. 75–60–5) is a known human metabolite of MSMA: Buchet and co-workers found that in human volunteers approximately 13 percent of an orally-administered dose of MSMA is converted into cacodylic acid (Ref 9). EPA has recently categorized cacodylic acid as a Group B2 or probable human carcinogen (Ref. 23). EPA's classification of cacodylic acid as a Group B2 carcinogen was based on the results of two studies. The first was a 2-year dietary feeding study in male and female rats receiving cacodylic acid at doses of 0, 2, 10, 40, and 100 ppm. An increase in urinary transitional cell bladder tumors with hyperplasia was noted in both sexes. The second study was a two year feeding study in which mice were fed diets containing 0, 8, 40, 200, and 500 ppm cacodylic acid. An increase in fibrosarcomas was noted in female mice fed 500 ppm cacodylic acid (23).

EPA is unaware of any human epidemiological studies pertaining to MSMA, DSMA or MAA and cancer. However, because MAA has been associated with a possible increased incidence of parathyroid adenomas in experimental animals, and cacodylic acid (a known human metabolite of MSMA) is categorized by EPA as a probable human (B2) carcinogen, EPA believes that it is reasonable to assume that MSMA, DSMA, and MAA may be potential human carcinogens.

5. *Ecotoxicity.* EPA has calculated a bobwhite quail oral LD_{50} of 425.2 mg MSMA/kg (Ref. 24). This value was based on 51 percent active ingredient (MSMA) in the test material. EPA concluded from this study that MSMA is moderately toxic to bobwhite quail. Based on the same study, the petitioner gave an LD_{50} value of MSMA in bobwhite quail as 834 mg/kg. This value, however, was not adjusted to take into account that the test product contains only 51 percent MSMA. Moffett, et al., have investigated the

VOL 60 ISS 76 AP 20 1995 UMI

toxicity of MSMA and DSMA in honeybees (Refs. 25 and 26). In one of the studies, MSMA was sprayed onto honeybees at a rate of 4 lb/acre in a carrier volume of 20 gallons/acre (Ref. 25). Mortalities were monitored for 14 days. Bee mortalities reached 50 percent after only approximately 2 days. Consequently, the investigators concluded that MSMA is highly toxic to honeybees (Ref. 25). In the other study MSMA and DSMA were fed to newly emerged honeybees in a 60 percent sucrose syrup (Ref. 26). Half-lives (i.e. the number of days for 50 percent mortality to occur) for MSMA and DSMA were 5.4 and 4.4 days at 100 parts per million by weight (ppmw) concentrations, and 2.5 and 1.2 days at 1,000 ppmw, respectively. The investigators concluded that both chemicals are "extremely toxic" at 100 and 1,000 ppmw. Of the 14 herbicides tested in this study, MSMA and DSMA were found to be the most toxic to honeybees (Ref. 26). EPA does not yet have toxicity criteria for honeybees in EPA's Draft Hazard Assessment Guidelines for Listing Chemicals on the Toxic Release Inventory (Ref. 27). EPA believes, however, that the results of the studies described above strongly indicate that MSMA and DSMA are quite toxic to honeybees.

The petitioner stated that for MSMA the acute median effective concentration (EC_{50}) producing lethality in the freshwater alga *Selenastrum capricornutum* is 7.6 mg/L. The petitioner concluded (page 68 of the petition) from this and other information that MSMA and DSMA are "* * * not particularly toxic to aquatic life * * *." However, based on the draft criteria developed by EPA to assess the hazard of chemical substances, EPA considers MSMA to be moderately toxic to aquatic life because the algal acute EC_{50} value for MSMA is between 100 micrograms per liter (ug/L) and 10 mg/L, the EC_{50} range considered by EPA to be moderately toxic for aquatic biota (Ref. 27). Other aquatic toxicity test data mentioned in the petition also indicate MSMA and DSMA are moderately acutely toxic (i.e., have EC_{50} or LC_{50} [median lethal concentration] values between 100 ug/L and 10 mg/L) to aquatic biota. The 96-h LC_{50} of MSMA in bluegill, for example, is 4.2 mg/L.

EPA obtained MSMA and DSMA aquatic toxicity data not mentioned by the petitioner (Ref. 28). The 28-day daphnid LC_0 (zero percent lethal concentration) value for DSMA is 0.83 mg/L. The LC_0 for DSMA in two species of invertebrates (a snail and a stonefly) and rainbow trout was found to be 0.97 mg/L (Ref. 28). A 28-day LC_{50} (40 percent lethal concentration) value of 0.97 mg/L DSMA was reported for a gammarid amphipod invertebrate. In bluegills, the 96-h LC_{50} for MSMA was found to be 1.9 mg/L. These data indicate that the toxicity of MSMA and DSMA to aquatic species is greater than that implied by the petitioner.

C. Environmental Fate

Anthropogenic input of arsenic into the environment occurs through smelting, coal burning, and the use of arsenical herbicides (e.g., MSMA and DSMA) (Refs. 29 and 30). Numerous investigators have studied the environmental fate of arsenic-containing substances, including MSMA and DSMA. Results from these studies have been summarized (Refs. 29, 30, and 31). Arsenic-containing substances such as MSMA, DSMA, and MAA undergo chemical and biochemical transformations in the environment that include oxidation, reduction, and methylation. These transformations are largely controlled by soil, sediment absorption/desorption processes, and affect the overall environmental distribution of arsenic-containing substances (Refs. 29, 30, and 31). Following their release into the environment, MAA, MSMA, and DSMA bind reversibly to ferrous and aluminum oxides contained on the surfaces of clay particles of soils and sediments. The bound form of these substances are insoluble in water, and exist in equilibrium with their unbound, soluble forms in the water present in soils and sediments. While unbound, MAA, MSMA, and DSMA undergo a cascade of biotic transformations that include oxidation, reduction, methylation, and demethylation (Ref. 31). Specifically, MAA, MSMA, and DSMA undergo oxidative demethylation to arsenate ($H_2AsO_4^-$), an inorganic form of arsenic, and reductive methylation to cacodylic acid. The arsenate can be methylated back to MAA, and the two species will exist in equilibrium. Cacodylic acid can undergo further methylation to dimethylarsine or trimethylarsine, which will exist in equilibrium with cacodylic acid. These alkylarsine products volatilize from the soils and waters in which they were formed and enter the atmosphere. While in the atmosphere the alkylarsines can be transported to other locations, and the transformation cascade is repeated: the alkylarsines are oxidized back to cacodylic acid, MAA, and arsenate (Refs. 29–31). Thus, anthropogenic releases of MSMA or DSMA may indirectly lead to increased arsenic concentrations in areas where direct anthropogenic releases of these substances do not occur (Refs. 29–31). Terrestrial plants may accumulate arsenic-containing substances by root uptake from soils or by absorption of airborne arsenic deposited on plant leaves (Ref. 30).

The predominant form of arsenic in surface waters (e.g., drinking waters, sea waters, etc.) is usually arsenate ($H_2AsO_4^-$), an inorganic form of arsenic. Arsenate in surface waters can result from (or enter into) the transformation cascade described in the preceding paragraph. Above average exposure of the general population to arsenic from drinking waters is possible in areas of high natural arsenic levels in ground waters, or elevated arsenic levels in drinking waters due to industrial discharges, application of arsenic-containing pesticides, or leaching from hazardous waste facilities (Ref. 30). Individuals living in the vicinity of large smelters and other industrial emitters of arsenic substances may be exposed to greater than average amounts of arsenate as a result of environmental transformation of organic (e.g., MSMA or DSMA) or inorganic arsenic substances to arsenate (Ref. 30).

Arsenate is an inorganic form of arsenic. An association between skin cancer and consumption of drinking water containing inorganic arsenic has been observed and confirmed (Ref. 32). Epidemiologic studies in areas where drinking waters containing inorganic arsenic concentrations ranging from 0.35 to 1.14 mg/L indicate elevated risks for cancers of the urinary bladder, kidney, skin, liver, lung, and colon in both men and women (Ref. 32). Increased incidences of cancer in individuals occupationally exposed to inorganic forms of arsenic have also been confirmed (Ref. 32). Because of these findings and the findings from other studies regarding human exposure to inorganic forms of arsenic and increased incidences of cancer, the National Toxicology Program categorizes arsenic and certain arsenic compounds (e.g., arsenate) as known human carcinogens (Ref. 32). EPA also categorizes inorganic arsenicals, including arsenate, as known human (Group A) carcinogens. The categorization by EPA of cacodylic acid as a Group B2 (probable human) carcinogen was discussed in unit III.B.4. above. Thus, releases of MSMA or DSMA into the environment will lead to the formation of arsenate and cacodylic acid, which have been categorized by the National Toxicology Program and EPA as carcinogens.

D. Technical Summary

MSMA and DSMA are highly water soluble organic arsenicals that are used as herbicides for the postemergent control of grassy weeds. MSMA and DSMA are poorly absorbed from the skin and lung, and well absorbed from the gastrointestinal tract. In the gastrointestinal tract, both MSMA and DSMA are expected to exist largely as MAA. Based on human and animal studies, MAA, MSMA, and DSMA are expected to be completely absorbed and widely distributed in humans following oral administration. In humans, MSMA is excreted largely unchanged in the urine, and approximately 13 percent is metabolized to cacodylic acid. MSMA and DSMA are not believed to be metabolized to inorganic arsenicals in humans.

The mammalian LD_{50} values of MSMA and DSMA following acute oral exposure are quite high, indicating that these substances have a low order of acute lethality. Some animal studies indicate, however, that chronic exposure to lower doses of MSMA or DSMA produce gastrointestinal toxicity, thyrotoxicity, nephrotoxicity, hepatotoxicity, developmental and reproductive toxicity. Data regarding the carcinogenic potential of MSMA, DSMA, or MAA are extremely limited. A suggestion of an increased incidence of parathyroid adenomas was observed in rats administered MAA in their diets. Cacodylic acid, a known human metabolite of MSMA, is categorized by EPA as a Group B2 (probable human) carcinogen. Because MSMA and, presumably, DSMA are converted into cacodylic acid, MSMA and DSMA may also be carcinogenic in humans.

MSMA and DSMA are moderately toxic to terrestrial and aquatic species that include, among others, bobwhite quail, honeybees, freshwater algae, fish, and daphnids.

In the environment, MSMA, DSMA, and MAA undergo a cascade of chemical and biochemical transformations that are controlled by soil, sediment adsorption/desorption processes. In this cascade, MSMA, DSMA, and MAA are converted into arsenate (inorganic arsenic), cacodylic acid, dimethylarsine and trimethylarsine. Inorganic arsenicals, including arsenate, are categorized by the National Toxicology Program and EPA as known human carcinogens. In addition, cacodylic acid is categorized by EPA as a Group B2 or probable human carcinogen.

IV. Rationale for Denial

EPA is denying the petition to delete MSMA and DSMA from the section 313 list of toxic chemicals. This denial is based on the Agency's determination that MSMA and DSMA: (1) May cause chronic toxic effects in humans; and (2) are potential carcinogens. In regard to the latter point, EPA has determined that because MSMA and, undoubtedly, DSMA are metabolized in humans to cacodylic acid (a probable human carcinogen), it is reasonable to assume that MSMA and DSMA are also probable human carcinogens. In addition, it has been demonstrated that MSMA and DSMA are converted into arsenate (an inorganic arsenic) and cacodylic acid in soils and sediments. Inorganic arsenics, including arsenate, are categorized by the National Toxicology Program and EPA as known human carcinogens. EPA concludes that MSMA and DSMA meet the EPCRA section 313(d)(2)(B) criteria because they can reasonably be anticipated to cause cancer in humans as a result of their metabolism to cacodylic acid or their environmental conversion to cacodylic acid and arsenate. Thus, in accordance with EPCRA section 313(d)(2), EPA has determined that MSMA and DSMA exhibit high chronic toxicity and, therefore, should not be deleted from the section 313 list of toxic chemicals.

EPA's denial of the petition to delist MSMA and DSMA from the section 313 list of toxic chemicals is based, in part, on the conversion of these substances to substances that are regarded as being either known or probable human carcinogens, and is consistent with past Agency decisions regarding section 313 delisting petitions. [See, e.g., Chromium (III) Oxide (56 FR 58859, November 22, 1991)]

V. References

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VOL 60 ISS 76 APR 20 1995 UMI

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VI. Administrative Record

The record supporting this decision is contained in docket control number OPPTS–400092. All documents, including an index of the docket, are available to the public in the TSCA NonConfidential Information Center (NCIC), also known as the Public Docket Office, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA NCIC is located at EPA Headquarters, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

List of Subjects in 40 CFR Part 372

Environmental protection, Chemicals, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: April 14, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–9782 Filed 4–17–95; 12:11 pm]

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 503, 505, 506, 507, 552, and 570

[GSAR Notice 5–399]

RIN–AF67

General Services Administration Acquisition Regulation; Leasing Real Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) invites written comments on a proposal to amend the General Services Administration Acquisition Regulation (GSAR) to implement various provisions of the Federal Acquisition Streamlining Act of 1994 as they apply to the acquisition of leasehold interests in real property and to implement recommendation of a GSA process re-engineering team for streamlining and/or improving the lease acquisition process.

DATES: Comments on the proposed rule should be submitted by June 19, 1995 to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to Ms. Marjorie Ashby, General Services Administration, Office of GSA Acquisition Policy, 18th & F Streets, NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Tom Wiznowski, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule implements several provisions of the Federal Acquisition Streamlining Act (FASA), Pub. L. 103–355, October 13, 1994 as it applies to the acquisition of leasehold interests in real property. Most of the provisions of FASA which are implemented in the Federal Acquisition Regulation (FAR) will also apply to leases of real property because the GSAR incorporates provision of the FAR that apply to leases of real property by reference. Other provisions of FASA are unique to leases of real property and are addressed in Part 570 of the GSAR. The most significant provisions of FASA that are implemented through changes in Part 570 are:

(1) Section 4402 of FASA amended the Federal Property and Administrative Services Act to authorize the Administrator of General Services to prescribe regulations that provide special simplified procedures for acquisitions of leasehold interests in real property at rental rates that do not exceed the simplified acquisition threshold. For purposes of establishing such procedures the rental rate or rates under a multiyear lease do not exceed the simplified acquisition threshold if the average annual rent payable for the period of the lease does not exceed the simplified acquisition threshold ($100,000).

(2) Section 1061 of FASA amended the Federal Property and Administrative Services Act to provide for disclosure of all significant evaluation factors and subfactors and to provide for disclosure to offerors whether all evaluation factors other than cost or price, when combined, are significantly more important than cost or price; approximately equal in importance to cost or price; or significantly less important than cost or price.

(3) Section 1063 of FASA amended the Federal Property and Administrative Services Act to provide for notification, in writing or by electronic means, of award to unsuccessful offerors within 3 days after the date of contract award.

(4) Section 1064 of FASA amended the Federal Property and Administrative Services Act to provide for post-award debriefings and outlined information to be disclosed in such debriefings. The law also provides for each solicitation for competitive proposals to include a statement that described the information that may be disclosed in post-award debriefings.

This proposed rule also implements several recommendations made by a GSA process re-engineering team for improving the procedures for acquiring leasehold interests in real property

B. Executive Order 12866

This proposed rule was submitted to the Office of Management and Budget under Executive Order 12866.

C. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because it will have a beneficial impact on all offerors, including small business concerns. The proposed rule substantially simplifies the acquisition process for leases of real property entered into by the General Services Administration making it easier for offerors to do business with GSA. An Initial Regulatory Analysis has, therefore, not been performed. Comments from small entities concerning this proposed rule will be considered in accordance with 5 U.S.C. 610.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3502, *et seq.*

List of Subjects in 48 CFR Parts 501, 503, 505, 506, 507, 552, and 570

Government procurement.

Accordingly, it is proposed that 48 CFR Parts 501, 503, 505, 506, 507, 552, and 570 are amended as follows:

1. The authority citation for 48 CFR Parts 501, 503, 505, 506, 507, 552, and 570 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

2. Section 501.103 is amended by revising paragraph (b) to read as follows:

501.103 Applicability.

* * * * *

(b) Parts 501, 502, 503, 505, 506, 519, 530, 533, 552, 553 and 570; part 504, subparts 504.2 and 504.9; part 509, subpart 509.4; part 515, subpart 515.1; part 522, subparts 522.8, 522.13, and 522.14; and part 532, subparts 532.1, 532.4, 532.6, 532.8 and 532.9 apply to leases of real property. Other provisions of the (GSAR) 48 CFR Chapter 5 do not apply to leases of real property unless a specific cross-reference is made in part 570.

* * * * *

PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTERESTS

3. Section 503.104–10 is amended by revising paragraph (a) and (b)(3) to read as follows:

503.104–10 Solicitation provisions and contract clauses.

(a) The contracting officer may insert the provision at 552.203–71, Prohibited Conduct, in solicitations for the acquisition of leasehold interests in real property if there is a need to inform prospective offerors of certain conduct which is prohibited by law.

(b) * * *

(3) Simplified procedures are being used (see 570.2).

* * * * *

PART 505—PUBLICIZING CONTRACT ACTIONS

4. Section 505.101 is amended by revising paragraph (c) introductory text and (c)(2) to read as follows:

505.101 Methods of disseminating information.

* * * * *

(c) Unless exempt under (FAR) 48 CFR 5.202 or 505.202, proposed acquisitions must be publicized in local newspapers or posted on GSA's electronic bulletin board for acquisition programs (To access, set your communications software to 9600 or lower baud, no parity, 8 data bits, and 1 stop bit. Dial 816–926–3387) when the acquisition is for:

* * * * *

(2) Leasehold interests in real property and exceeds the simplified lease acquisition threshold (see 570.102).

5. Section 505.202 is amended by revising paragraph (a) introductory text and by removing paragraph (b)(1) and redesignating paragraphs (b)(2) and (b)(3) as (b)(1) and (b)(2) to read as follows:

505.202 Exceptions.

* * * * *

(a) Advertising in local newspapers or posting on GSA's electronic bulletin board for acquisition programs (To access, set your communications software to 9600 or lower baud, no parity, 8 data bits, and 1 stop bit. Dial 816–926–3387) is more appropriate than synopsizing in the *Commerce Business Daily* (CBD) for proposed acquisitions of—

* * * * *

6. Section 505.203 is amended by inserting the words "or be posted on GSA's electronic bulletin board for acquisition programs" in paragraph (a) introductory text immediately following the word "newspapers" and by revising paragraph (b) to read as follows:

505.203 Publicizing and response time.

* * * * *

(b) The publicizing and response times in paragraph (a) do not apply to proposed acquisition of leasehold interests in real property being conducted using simplified lease acquisition procedures (see 570.2). In such cases, the contracting officer may establish response times appropriate for the individual acquisitions involved.

PART 506—COMPETITION REQUIREMENTS

7 Section 506.001 is added to read as follows:

506.001 Applicability.

This part and (FAR) 48 CFR Part 6 do not apply to acquisitions of leasehold interests in real property awarded using the simplified procedures of part 570, subpart 570.2.

PART 507—ACQUISITION PLANNING

8. Section 507 100 is removed.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Section 552.270–1 is amended to revise the prescription for use of the provision to read as follows:

552.270–1 Preparation of offers.

As prescribed in 570.702, insert the following provision:

* * * * *

10. Section 552.270–2 is amended to revise the prescription for use of the provision to read as follows:

552.270–2 Explanation to prospective offerors.

As prescribed in 570.702, insert the following provision

* * * * *

VOL 60 ISS 76 AP 20 1995 UMI

11. Section 552.270–3 is amended by revising the prescriptive language before the provision, by revising the date of the provision, by revising paragraph (a) introductory text of the provision, and by adding an Alternate I to read as follows:

552.270–3 Late submissions, modifications, and withdrawals of offers.

As prescribed in 570.702, insert the following provision:

Late Submissions, Modifications, and Withdrawals of Offers (XXX 1995)

(a) Any offer received at the office designated in the solicitation after the exact time specified for receipt of initial offers will not be considered unless it is received before award is made and it—

* * * * *

Alternate I (XXX 1995)

As prescribed in 570.702, substitute the following paragraph for paragraph (a) of the basic clause:

(a) Any offer received at the office designated in the solicitation after the exact time specified for receipt of best and final offers will not be considered unless it is received before award is made and it—

12. Section 552.270–4 is amended to revise the prescription for use of the provision to read as follows:

552.270–4 Historic preference.

As prescribed in 570.702, insert the following provision:

* * * * *

13. Section 552.270–5 is amended to revise the prescription for use of the provision to read as follows:

552.270–5 Lease award.

As prescribed in 570.702, insert the following provision:

* * * * *

14. Section 552.270–6 is amended to revise the prescription for use of the provision to read as follows:

552.270–6 Parties to execute lease.

As prescribed in 570.702, insert the following provision:

* * * * *

15. Section 552.270–10 is amended to revise the prescription for use of the clause to read as follows:

552.270–10 Definitions.

As prescribed in 570.703, insert the following provision:

* * * * *

16. Section 552.270–11 is amended to revise the prescription for use of the clause to read as follows:

552.270–11 Subletting and assignment.

As prescribed in 570.703, insert the following provision:

* * * * *

17. Section 552.270–12 is amended to revise the prescription for use of the clause to read as follows:

552.270–12 Maintenance of building and premises—Right of entry.

As prescribed in 570.703, insert the following provision:

* * * * *

18. Section 552.270–13 is amended to revise the prescription for use of the clause to read as follows:

552.270–13 Fire and casualty damage.

As prescribed in 570.703, insert the following provision:

* * * * *

19. Section 552.270–15 is amended to revise the prescription for use of the clause to read as follows:

552.270–15 Compliance with applicable law.

As prescribed in 570.703, insert the following provision:

* * * * *

20. Section 552.270–16 is amended to revise the prescription for use of the clause to read as follows:

552.270–16 Inspection—Right of entry.

As prescribed in 570.703, insert the following provision:

* * * * *

21. Section 552.270–17 is amended to revise the prescription for use of the clause to read as follows:

552.270–17 Failure in performance.

As prescribed in 570.703, insert the following provision:

* * * * *

22. Section 552.270–18 is amended to revise the prescription for use of the clause to read as follows:

552.270–18 Successors bound.

As prescribed in 570.703, insert the following provision:

* * * * *

23. Section 552.270–19 is amended to revise the prescription for use of the clause to read as follows:

552.270–19 Alterations.

As prescribed in 570.703, insert the following provision:

* * * * *

24. Section 552.270–20 is amended to revise the prescription for use of the clause to read as follows:

552.270–20 Proposals for adjustment.

As prescribed in 570.703, insert the following provision:

* * * * *

25. Section 552.270–21 is amended by revising the date of the provision and paragraph (a) to read as follows:

552.270–21 Changes.

* * * * *

Changes (APR 1995)

(a) The Contracting Officer may at any time by written order, with the consent of the Lessor, make changes within the general scope of this lease in any one or more of the following:

(1) Specifications (including drawings and designs);

(2) Work or services;

(3) Facilities or space layout; or

(4) Amount of space.

* * * * *

26. Section 552.270–22 is amended to revise the prescription for use of the clause to read as follows:

552.270–22 Liquidated damages.

As prescribed in 570.703, insert the following provision:

* * * * *

27. Sections 552.270–23 and 552.270–24 are removed and reserved.

28. Section 552.270–25 is amended to revise the prescription for use of the clause to read as follows:

552.270–25 Adjustment for vacant premises.

As prescribed in 570.703, insert the following provision:

* * * * *

29. Section 552.270–27 is amended to revise the prescription for use of the clause to read as follows:

552.270–27 Delivery and condition.

As prescribed in 570.703, insert the following provision:

* * * * *

30. Section 552.270–28 is amended to revise the prescription for use of the clause to read as follows:

552.270–28 Default in delivery—Time extensions.

As prescribed in 570.703, insert the following provision:

* * * * *

31. Section 552.270–30 is amended to revise the prescription for use of the clause to read as follows:

552.270–30 Progressive occupancy.

As prescribed in 570.703, insert the following provision:

* * * * *

32. Section 552.270–31 is amended to revise the prescription for use of the clause to read as follows:

552.270–31 Measurement for payment.

As prescribed in 570.703, insert the following provision:

* * * * *

Section 552.270.32 is amended to revise the prescription for use of the clause to read as follows:

552.270–32 Effect of acceptance and occupancy.

As prescribed in 570.703, insert the following provision:

* * * * *

34. Section 552.270–33 is amended to revise the prescription for use of the clause to read as follows:

552.270–33 Default by lessor during the term.

As prescribed in 570.703, insert the following provision:

* * * * *

35. Section 552.270–34 is amended to revise the prescription for use of the clause to read as follows:

552.270–34 Subordination, nondisturbance and attornment.

As prescribed in 570.703, insert the following provision:

* * * * *

35a. Section 552.270–35 is amended to revise the prescription for use of the clause to read as follows:

552.270–35 Statement of lease.

As prescribed in 570.703, insert the following provision:

* * * * *

36. Section 552.270–36 is amended to revise the prescription for use of the clause to read as follows:

552.270–36 Substitution of tenant agency.

As prescribed in 570.703, insert the following provision:

* * * * *

37 Section 552.270–37 is amended to revise the prescription for use of the clause to read as follows:

552.270–37 No waiver.

As prescribed in 570.703, insert the following provision:

* * * * *

38. Section 552.270–38 is amended to revise the prescription for use of the clause to read as follows:

552.270–38 Integrated agreement.

As prescribed in 570.703, insert the following provision:

* * * * *

39. Section 552.270–39 is amended to revise the prescription for use of the clause to read as follows:

552.270–39 Mutuality of obligation.

As prescribed in 570.703, insert the following provision:

* * * * *

40. Section 552.270–40 is amended to revise the prescription for use of the clause to read as follows:

552.270–40 Asbestos and hazardous waste management.

As prescribed in 570.703, insert the following provision:

* * * * *

PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY

41. Section 570.102 is amended by removing the definitions of "Fair Rental" and "Rent and related services" and by adding definitions for "Rent" and "Simplified leasing acquisition threshold" to read as follows:

570.102 Definitions.

* * * * *

Rent means the amount of consideration to be paid by the Government for use of land and buildings, or portions of buildings, under the lease, excluding the cost of any services such as heat, light, water, and janitorial service.

Simplified leasing acquisition threshold means $100,000 average annual rent for the term of the lease, including option periods.

* * * * *

42. Section 570.104 is removed.

43. Section 570.105 is redesignated as 570.104 and revised to read as follows:

570.104 Competition.

Unless the simplified procedures in 570.2 are used, the competition requirements of (FAR) 48 CFR Parts 6 and 506 apply to the acquisition of leasehold interests in real property

44. Subpart 570.2 is revised to read as follows:

Subpart 570.2—Simplified Lease Acquisition Procedures

570.201 Definitions.
570.202 Purpose.
570.203 Policy
570.204 Procedures.
570.204–1 Market survey
570.204–2 Competition.
570.204–3 Soliciting offers.
570.204–4 Negotiation and award.
570.204–5 Inspection.

570.201 Definitions.

Simplified lease acquisition procedures mean the procedures described in this subpart for awarding leases with annualized rent at or below the simplified acquisitions threshold of $100,000, including options.

570.202 Purpose.

The purpose of this subpart is to prescribe simplified procedures for small leases in order to reduce administrative costs while providing for the efficient and economical acquisition of leasehold interests in real property.

570.203 Policy.

Simplified lease acquisition procedures should be used to the maximum extent practicable for actions at or below the simplified lease acquisition threshold.

570.204 Procedures.

570.204–1 Market survey.

A market survey should be conducted to identify potential sources. The contracting officer may use information available within GSA or from other available sources to identify locations that will meet the Government's minimum requirements.

570.204–2 Competition.

(a) When the lease is not expected to exceed the simplified lease acquisition threshold, the solicitation of at least three sources is considered to promote competition to the maximum extent practicable When repeated requirements for space occur in the same market, and if practicable, two sources not include din the most recent solicitation should be invited to submit offers.

(b) If only one source is solicited, the file should be documented with an explanation for the lack of competition.

570.204–3 Soliciting offers.

(a) Offers should be solicited by presenting each prospective offeror with a proposed short form lease or SFO which identifies all factors, including price or cost, and any significant subfactors that will be considered in awarding the lease and which states the relative importance the Government places on the evaluation factors or subfactors. In describing the evaluation factors to be considered, the solicitation shall clearly disclose whether all evaluation factors other than cost or price when combined, are significantly more important than cost or price; approximately equal in importance to cost or price; or significantly less important than cost or price. The offerors must be informed of minimum requirements that apply to particular evaluation factors and significant subfactors.

(b) The proposed lease or SFR should describe the Government's requirements and include, either in full text or by reference, applicable FAR provisions and contract clauses required by 570.701 and applicable GSAR provisions and clauses required by 570.702 and 570.703.

(c) Generally, the following items should be reviewed with prospective offerors:

(1) Measurement of space and the amount of space offered;

VOL 60 ISS 76 APR 20 1995 UMI

(2) Alterations or modifications, if any, to be made by the offeror as part of the rent;
(3) Overtime rate (if needed);
(4) Level and frequency of service and maintenance;
(5) Rental;
(6) Rates for utility and service operating cost, if applicable;
(7) Percentage of occupancy of the building, if a tax adjustment clause is included; and
(8) Unit priced items (e.g., electrical and telephone outlets) if included in the lease.
(d) Following review, prospective offerors should be instructed to complete the appropriate sections of the lease or SFO and submit the proposed lease or offer to the Government by a designated time established for receipt of offers.

570.204–4 Negotiation and award.

Offers should be evaluated in accordance with the solicitation. The contracting officer should evaluate the price and document the lease file to demonstrate that the proposed contract prices represent fair and reasonable prices. In cases where the total cost exceeds $500,000 cost and pricing data must be obtained unless the requirement is waived or one of the exemptions at (FAR) 48 CFR 15.804–2 applies. The market price exemption from submission of cost or pricing data may be applied to proposed leases where there is evidence that the price is based on an established market price for similar space leased to the general public. A market survey and/or an appraisal conducted in accordance with accepted real property appraisal procedures may be used as evidence to establish the market price. An acceptable small business subcontracting plan must be provided if the lease will exceed $500,000, unless the lease will be awarded to a small business concern. Negotiations, if applicable, should be conducted in accordance with 570.305. For leases expected to exceed $100,000, a Certificate of Procurement Integrity must be provided to the proposed successful offeror for completion and submission before award. The contracting officer should review the List of Parties Excluded from Procurement or Nonprocurement Programs, to ensure the proposed awardee is eligible to receive the award and is otherwise responsible before awarding the lease.

570.204–5 Inspection.

The space must be inspected to ensure that it is in substantial compliance with the Government's requirements and specifications before acceptance by the contractor officer. The contract file must be documented accordingly.

45. Subpart 570.3 is revised to read as follows:

Subpart 570.3—Procedures for Contracting for Leasehold Interests in Real Property

570.301 Market surveys.
570.302 Publicizing/Advertising.
570.303 Solicitation for offers (SF).
570.304 Changes to SFO's.
570.305 Negotiations.
570.306 Evaluating offers.
570.307 Late offers, modifications of offers, and withdrawals of offers.
570.308 Preaward requirements.
570.308–1 General.
570.308–2 Cost or pricing data.
570.308–3 Proposal evaluation.
570.308–4 Responsibility determinations.
570.309 Award.
570.310 Debriefings.
570.311 Inspection.

570.301 Market surveys.

A market survey should be conducted to identify potential sources The Contracting officer may use information available within GSA or from other available sources to identify locations that will meet the Government's minimum requirements.

570.302 Publicizing/Advertising.

(a) Leasing actions expected to exceed the simplified lease acquisition threshold must be publicized in local newspapers or be posted on GSA's electronic bulletin board for acquisition programs unless exempt under (FAR) 48 CFR 5.202 or 505.202.
(b) When the Government intends to acquire a leasehold interest in a building to be constructed on a preselected site, the proposed acquisition must be synopsized in the Commerce Business Daily (CBD).

570.303 Solicitation for offers (SFO).

(a) The SFO is the basis for the entire lease negotiation process and must be made a part of the lease. SFO's must contain the information necessary to enable the prospective offeror to prepare a proposal. Each solicitation, as a minimum, must—
(1) Be in writing.
(2) Contain a description of the minimum requirements of the Government, including—
(i) A description of the required space.
(ii) Specifications. The type of specification will depend upon the nature of the space needed by the agency and the market available to satisfy the needs. Specifications may be stated in terms of function, performance, or design requirements. The specification must be drafted to promote full and open competition and include restrictive provisions or conditions only to the extent necessary to satisfy the needs of the agency or as authorized by law.
(iii) Any special requirements.
(iv) A delivery schedule.
(3) State the method to be used to measure space.
(4) Specify a date and place for the submission of offers.
(5) Indicate how offers will be evaluated.
(6) Indicate how offers are to be structured.
(7) Identify all factors, including price or cost, and any significant subfactors that will be considered in awarding the lease and state the relative importance the Government places on those evaluation factors and subfactors. In describing the evaluation factors to be considered, the solicitation shall clearly disclose whether all evaluation factors other than cost or price when combined, are significantly more important than cost or price; approximately equal in importance to cost or price; or significantly less important than cost or price. Numerical weights, which may be employed in the evaluation of proposals, need not be disclosed in solicitations. The solicitation must inform offerors of minimum requirements that apply to particular evaluation factors and significant subfactors. The other factors that will be considered in evaluating proposals should be tailored to each acquisition and include only those factors that will have an impact on the award decision. The evaluation factors that apply to an acquisition and the relative importance of those factors are within the broad discretion of the contracting officer However, price or cost to the Government must be included as an evaluation factor in every case. Other evaluation factors that may apply to a particular acquisition are the availability of public transportation, the availability of adequate food service within a reasonable distance, the neighborhood and building quality, the availability of daycare and physical fitness facilities, and any other relevant factors.
(8) Include a statement outlining the information that may be disclosed in postaward debriefings.
(9) Include appropriate forms as prescribed in part 570, subpart 570.8.
(b) The SFO must be released to all prospective offerors at the same time

570.304 Changes to SFO's.

(a) When the Government's requirements change (either before or after receipt of proposals), the solicitation must be amended in writing.
(b) When time is of the essence, information on modifications may be provided orally if—
(1) The modifications are not complex;
(2) A record is made of the information provided;
(3) All offerors or prospective offerors are given notice on the same day, if possible; and
(4) The information provided orally is promptly confirmed by a written amendment.
(c) When modifications in the Government's requirements occur, the following procedures apply—
(1) If proposals have not been submitted, amendments must be sent to all offerors solicited.
(2) If proposals have been received but not evaluated, the amendments must be sent to all of the offerors.
(3) If a modification is so substantial that it requires a complete revision of the solicitation, the solicitation should be canceled and a new solicitation issued.

570.305 Negotiations.

(a) Negotiations will be conducted with all offerors that are within the competitive range. The contracting officer shall determine the competitive range on the basis of cost and other factors that were stated in the solicitation and shall include in the competitive range all offers that have a reasonable chance of being selected for award.
(b) The content and extent of the negotiations are a matter of the contracting officer's judgment based on the particular facts of each acquisition. The contracting officer shall—
(1) Control all discussions;
(2) Advise the offeror of deficiencies in its offer so that the offeror is given an opportunity to satisfy the Government's requirements;
(3) Attempt to resolve any uncertainties concerning the offer;
(4) Resolve any suspected mistakes by calling them to the offeror's attention as specifically as possible without disclosing information concerning other offerors' proposals or the evaluation process; and
(5) Provide the offeror a reasonable opportunity to submit any cost or price, technical, or other revisions to its offer that may result from the discussion.
(c) No indication may be given to any offeror of a price which must be met since such practice constitutes an auction technique that is prohibited. Likewise, no offeror should be advised of its relative standing with other offerors.
(d) After receipt of offers, no information regarding the number or identity of the offerors participating in the negotiation may be made available to anyone whose official duties do not require such knowledge.
(e) Negotiations must be closed by establishing a date and time for closing of negotiations and requesting in writing that offerors submit a "best and final offer" by that date.
(f) Negotiations may not be conducted after the closing date for best and final offers unless negotiations are reopened with all offerors in the competitive range.
(g) Negotiations are confidential and must reflect complete agreement on all items and conditions of the lease contract. Information regarding the transaction will not be announced or made available until after the contract is awarded.
(h) A written negotiation record should be placed in the lease file.

570.306 Evaluating offers.

(a) An abstract of final offers may be prepared to aid in the analysis of offers received.
(b) Offers will be evaluated in accordance with the SFO.

570.307 Late offers, modifications of offers, and withdrawals of offers.

Offers determined to be received late will be considered under (FAR) 48 CFR 15.412.

570.308 Preaward requirements.

570.308–1 General.

(a) If an offeror answers affirmatively on the Contingent Fees Representation and Agreement, in order to comply with the warranty requirement of 41 U.S.C. 254(a), the requirements of (FAR) 48 CFR part 3, subpart 3.4 and part 503, subpart 503.4 must be followed for leasing actions expected to exceed the simplified lease acquisition threshold.
(b) Other applicable certifications should be reviewed for compliance with regulations.

570.308–2 Cost or pricing data.

(a) Cost or pricing data are required under the circumstances described in (FAR) 48 CFR 15.804–2.
(b) The exemptions from and waivers of submission of certified cost or pricing data are outlined in (FAR) 48 CFR 15.804–3. The competition exemption applies when adequate price competition, as defined in (FAR) 48 CFR 15.804–3(b), is obtained. The market price exemption from submission of cost or pricing data may be applied to proposed leases where there is evidence that the price is based on an established market price for similar space leased to the general public. A market survey and/or an appraisal conducted in accordance with accepted real property appraisal procedures may be used as evidence to establish the market price. The contracting officer may grant an exemption and need not require the prospective lessor to submit a Standard Form 1412, Claim for Exemption from Submission of Certified Cost or Pricing Data, when there is evidence, before solicitation, that there is an acceptable established market price (see (FAR) 48 CFR 15.804–3(e)(3)).
(c) In exceptional cases, the requirement for submission of certified cost or pricing data may be waived under (FAR) 48 CFR 15.804–3(i) and 515.804–3.
(d) When certified cost or pricing data is required, the contracting officer shall follow the procedural requirements in (FAR) 48 CFR 15.804–6(e).
(e) If the proposed lessor refuses to provide the data when required, the contracting officer shall follow the procedures in (FAR) 48 CFR 15.804–6(e) and 515.804–6.

570.308–3 Proposal evaluation.

(a) Offers should be evaluated in accordance with the solicitation. The contracting officer should evaluate the price and document the lease file to demonstrate that the proposed contract prices represent fair and reasonable prices.
(b) The lease file should also document the evaluation of other award factors listed in the solicitation. The file should include the basis for evaluation, an analysis of each offer, and a summary of findings.

570.308–4 Responsibility determinations.

(a) The contracting officer shall make a determination that the prospective offeror is responsible with respect to the lease being considered. The contracting officer's signature on the contract is deemed to be an affirmative determination. When an offeror is found to be nonresponsible, the contracting officer shall make, sign and place in the contract file a determination of nonresponsibility which shall state the basis for the determination.
(b) If a small business concern is found to be nonresponsible, the procedures at (FAR) 48 CFR 19.6 and (GSAR) 48 CFR 519.6 must be followed. All documents and reports supporting a determination of responsibility or

VOL 60 ISS 76 AP 20 1995 UMI

nonresponsibility must be placed in the permanent lease file.

570.309 Award.

(a) An award will be made to the responsible offeror whose proposal is most advantageous to the Government considering price and other factors included in the solicitation.

(b) Award will be made in writing within the timeframe specified in the SFO. If an award cannot be made within that time, the contracting officer shall request in writing from each offeror an extension of the acceptance period through a specific date.

(c) Unsuccessful offerors will be notified in writing or electronically within three days after the award.

(d) All proposals received in response to a solicitation may be rejected if the head of the contracting activity or designee determines that such action is in the public interest.

570.310 Debriefings.

(a) Unsuccessful offerors may request a debriefing by the agency, provided that said request is made in writing and is received by the agency within 3 days after the date of which the offeror received notice of the contract award.

(b) The agency shall debrief the offeror to the maximum extent possible within 5 days after the request for the debriefing.

(c) The debriefing shall include, at a minimum:

(1) The agency's evaluation of the significant weak or deficient factors in the offeror's offer;

(2) The overall evaluation cost and technical rating of the successful offer and the offer requesting the debriefing;

(3) The overall ranking of all offers;

(4) A summary of the rationale for the award;

(5) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source selection procedures set forth in the solicitation, applicable regulations and other applicable authorities were followed.

(6) A summary of the debriefing shall be maintained in the contract file.

(d) The debriefing may not include point-by-point comparisons of the debriefed offeror's offer with other offers and may not disclose any information that is exempt from disclosure.

570.311 Inspection.

The space must be inspected to ensure that it is in substantial compliance with the Government's requirements and specifications before acceptance by the contracting officer. The contract file must be documented accordingly.

46. Section 570.502 is amended by adding in the first sentence of paragraph (a) the phrase "which exceed the simplified lease acquisition threshold" immediately after the phrase "Succeeding leases" and by revising paragraphs (b)(1), (b)(2), (b)(3)(ii) and (b)(3)(iii)(B) to read as follows:

570.502 Succeeding leases.

* * * * *

(b) * * *

(1) *Publicizing/Advertising.* The contracting officer shall publish a notice in local newspapers or post a notice on GSA's electronic bulletin board for acquisition programs. The notice should normally

(i) Indicate the Government's lease in expiring,

(ii) Describe the agency's need in terms of type and quality of space,

(iii) Indicate the Government is interested in considering alternative space if economically advantageous,

(iv) Advise prospective offerors that the Government will consider the cost of moving, alterations, etc., when deciding whether it should relocate, and

(v) Provide a contact person for those interested in providing space to the Government.

(2) *Market survey.* A market survey must be conducted in accordance with 570.301.

(3) * * *

(ii) If potential acceptable locations are identified through the advertisement or market survey and relocation costs (including estimated moving costs, telecommunications costs, and the estimated cost of alterations, amortized over the firm term of the lease) will be low enough to allow recovery through a competitive process, the contracting officer should proceed to develop a formal SFO and negotiate with all interested parties in accordance with the procedures in part 570, subpart 570.3.

(iii) * * *

(B) Develop a SFO and negotiate with all interested parties in accordance with the procedures in part 570, subpart 570.3.

47. Section 570.503 is amended by revising paragraphs (a), (b) introductory text and (c) to read as follows:

570.503 Expansion requests.

(a) When the expansion space is within the general scope of the lease, the space may be acquired through a modification to the lease without further justification pursuant to (FAR) 48 CFR 6.3.

(b) When the expansion space needed is outside the general scope of the lease, the contracting officer must determine whether it is more prudent to provide the expansion space by supplemental agreement to the existing lease or to satisfy the requirement by competitive means. A market survey must be conducted to determine whether suitable alternative locations are available. If the market survey reveals alternate locations that can satisfy the total requirement, a cost benefit analysis must be performed to determine whether it is in the Government's best interest to relocate. This analysis may include—

* * * * *

(c) Unless competitive procedures are used to acquire the expansion space, a justification should be prepared for approval in accordance with (FAR) 48 CFR part 6, subpart 6.3 and part 506, subpart 506.3 except when simplified lease acquisition procedures in 570.2 are used.

48. Section 570.504 is amended by revising paragraph (b) to read as follows:

570.504 Superseding leases.

* * * * *

(b) The justification and approval requirements in (FAR) 48 CFR part 6, subpart 6.3 and part 506, subpart 506.3 must be complied with before negotiating a superseding lease if the amount of the lease, including options, exceeds the simplified leasing acquisition threshold. When the cost is less than or equal to the simplified leasing acquisition threshold, the contracting officer may use simplified procedures outlined in 570.2 and explain the absence of competition in the file.

49. Section 570.505 is amended by revising paragraph (a) to read as follows:

570.505 Lease extensions.

(a) The justification and approval requirements in (FAR) 48 CFR part 6, subpart 6.3 and part 506 subpart 506.3 must be complied with before negotiating a Supplemental Lease Agreement exceeding the simplified leasing acquisition threshold to extend the term of the lease to provide for continued occupancy on a short term basis (usually not to exceed 1 year). For extensions of less than or equal to the simplified leasing acquisition threshold the contracting officer must explain the absence of competition in the contract file.

50. Section 570.602–1 is amended by removing "$25,000" and substituting "$100,000" in paragraph (a) and paragraph (b).

51. Section 570.602–2 is amended by removing "$25,000" and substituting "$100,000" in paragraph (e)(3) and by removing "$25,000" and substituting "$100,000" in paragraph (g).

52. Subpart 570.7 is revised to read as follows:

Subpart 570.7—Solicitation Provisions and Contract Clauses

570.701 FAR provisions and clauses.
570.702 Solicitation provisions.
570.703 Contract clauses.
570.704 Use of provisions and clauses.

570.701 FAR provisions and clauses.

In addition to including solicitation provisions and contract clauses prescribed in the (GSAR) 48 CFR Chapter 5 provisions and/or clauses substantially the same as the FAR provisions/clauses listed, shall be included in the circumstances indicated.

(a) All solicitations and contracts regardless of the dollar value must include the following provisions/clauses:

FAR (48 CFR part 52) Cite and Title
52.204–3 Taxpayer Identification
52.233–1 Disputes

(b) All solicitations and contracts which exceed $2,500 must include the FAR clause at 48 CFR 52.222–36, Affirmative Action for Handicapped Workers.

(c) All solicitations and contracts which exceed $10,000 must include the following provisions/clauses:

FAR (48 CFR part 52) Cite and Title
52.222–21 Certification of Nonsegregated Facilities
52.222–22 Previous Contracts and Compliance Reports
52.222–25 Affirmative Action Compliance
52.222–26 Equal Opportunity
52.222–35 Affirmative Action for Special Disabled and Vietnam Era Veterans
52.222–37 Employment Reports on Special Disabled and Veterans of the Vietnam Era

(d) All solicitations and contracts which exceed $25,000 must include the FAR clauses at 48 CFR 52.219–8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

(e) All solicitations and contracts which exceed $100,000 must include the following FAR provision/clauses:

FAR (48 CFR part 52) Cite and Title
52.203–7 Anti-Kickback Procedures
52.203–9 Requirement for Certification of Procurement Integrity—Modification.
52.203–11 Certificate and Disclosure Regarding Payments to Influence Certain Federal Transactions
52.223–5 Certification Regarding a Drug Free Workplace

(f) All solicitations and contracts for actions which exceed the simplified acquisition threshold for leasing must include the following FAR provisions:

FAR (48 CFR part 52) Cite and Title
52.203–2 Certificate of Independent Price Determination
52.209–5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
52.209–6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
52.215–1 Examination of Records by Comptroller General
52 215–12 Restriction on Disclosure and Use of Data (Solicitations only)
52 219–2 Small Disadvantaged Business Concern Representation
52 219–3 Women-Owned Small Business Representation
52.219–13 Utilization of Women-Owned Small Businesses
52.232–23 Assignment of Claims
52.233–2 Service of Protest (Solicitations only)

(g) All solicitations and contracts which exceed $500,000 must include the deviations to the FAR clauses at 48 CFR 52.219–9, Small Business and Small Disadvantaged Business Subcontracting Plan, and 52.219–16, Liquidated Damages—Small Business Subcontracting Plan (see 519.708(a) and (b)).

(h) Solicitations which exceed $1 million must include the FAR provision at 48 CFR 52.222–24, Preaward On-site Equal Opportunity Compliance Review

(i) When cost or pricing data is required for work or service exceeding $500,000 the FAR clauses at 48 CFR 52.215–22, Price Reduction for Defective Cost or Pricing Data, and 52.215–24, Subcontractor Cost or Pricing Data, must be included in solicitations and contracts.

(j) When the contracting officer determines that it is desirable to authorize the submission of facsimile proposals the solicitation must include the FAR provision at 48 CFR 52.215–18, Facsimile Proposals.

570.702 Solicitation provisions.

When a solicitation for offers is issued the contracting officer should include provisions substantially the same as the following unless the contracting officer makes a determination that use of one or more of the provisions is not appropriate:

(a) 552.270–1 Preparation of Offers.
(b) 552.270–2 Explanation to Prospective Offerors.
(c) 552.270–3 Late Submissions, Modifications, and Withdrawals of Offers. Alternate I should be used when the contracting officer decides that it is advantageous to the Government to allow offers to be submitted up to the exact time specified for receipt of best and final offers.
(d) 552.270–4 Historic Preference.
(e) 552.270–5 Lease Award.
(f) 552.270–6 Parties to Execute Lease.

570.703 Contract clauses.

(a) The contracting officer shall insert the following clauses or clauses substantially the same as the following clauses in solicitations and contracts for leasehold interests in real property which exceed the simplified lease acquisition threshold unless the contracting officer makes a determination that use of one or more of the clauses is not appropriate. Use of the clauses is optional for those actions which fall at or below the simplified lease acquisition threshold.

(1) 552.270–10 Definitions (Included if 552.270–28 is used).
(2) 552.270–11 Subletting and assignment.
(3) 552.270–12 Maintenance of Building and Premises—Right of Entry.
(4) 552.270–13 Fire and Casualty Damage.
(5) 552.270–15 Compliance with Applicable Law.
(6) 552.270–16 Inspection—Right of Entry.
(7) 552.270–17 Failure in Performance.
(8) 552.270–18 Successors Bound.
(9) 552.270–19 Alterations.
(10) 552.270–20 Proposals for Adjustment.
(11) 552.270–21 Changes.
(12) 552.270–25 Adjustment for Vacant Premises.
(13) 552.270–27 Delivery and Condition.
(14) 552.270–28 Default in Delivery—Time Extensions.
(17) 552.270–32 Effect of Acceptance and Occupancy
(18) 552.270–33 Default by Lessor During the Term.
(19) 552.270–34 Subordination, Nondisturbance and Attornment.
(20) 552.270–35 Statement of Lease.
(21) 552.270–36 Substitution of Tenant Agency
(22) 552.270–37 No Waiver.
(23) 552.270–38 Integrated Agreement.
(24) 552.270–39 Mutuality of Obligation.
(25) 552.270–40 Asbestos and Hazardous Waste Management.
(26) 552.270–41 Acceptance of space.

(b) The contracting officer shall insert the clause at 552.270–22, Liquidated Damages, in solicitations and contracts for leasehold interests in real property

VOL 60 ISS 76 AP 20 1995 UMI

when there is a critical requirement that the delivery date be met and an actual cost cannot be established for the loss to the Government resulting from late delivery.

570.704 Use of provisions and clauses.

The omission of any provision or clause when its prescription requires its use constitutes a deviation which must be approved under part 501, subpart 501.4. Approval may be granted to deviate from provisions or clauses that are mandated by statute (e.g., (GSAR) 48 CFR 552.203–5, Covenant Against Contingent Fees, (FAR) 48 CFR 52.215–1, Examination of Records by the Comptroller General, etc.) in order to modify the language of the provision or clause. However, the statutory provisions and clauses may not be omitted from the SPO unless the statute provides for waiving the requirements of the provision or clause.

53. Section 570.801 is revised to read as follows:

570.801 Standard forms.

Standard Form 2, U.S. Government Lease for Real Property, should be used to award leases unless GSA Form 3626 is used. The reference to the Standard Form 2–A in paragraph 7 must be deleted.

54. Section 570.802 is revised to read as follows:

570.802 GSA forms.

(a) The GSA Form 3626, U.S. Government Lease for Real Property (Short Form), may be used to award leases when the simplified leasing procedures in 570.2 are used or when the Contracting Officer finds its use to be advantageous.

(b) GSA Form 276, Supplemental Lease Agreement, should be used to amend existing leases that involve the acquisition of additional space or partial release of space, revisions in the terms of a lease, restoration settlements, and alterations.

(c) GSA Form 1364, Proposal To Lease Space To The United States of America, may be used to obtain offers from prospective offerors.

Dated: March 27, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy.

[FR Doc. 95–9650 Filed 4–19–95; 8:45am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies Mr. John Chevedden's petition for rulemaking to specify the license plate mounting location of certain cars and light trucks. NHTSA's analysis of accident data indicates that requiring cars and light trucks with off-center front license plates to have those plates on the driver's side would not have more than a negligible effect on the occurrence of accidents or fatalities.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Van Iderstine, Office of Rulemaking, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Van Iderstine's telephone number is: (202) 366–5275.

SUPPLEMENTARY INFORMATION: By letter dated October 12, 1994, Mr. John Chevedden petitioned the agency to issue a rule applicable to new cars and light trucks with off-center front license plates. Mr. Chevedden asked NHTSA to mandate that those license plates be positioned on the driver's side. Mr. Chevedden stated that the rulemaking was needed because the chances of a vehicle's becoming involved in an accident at night or other times of reduced ambient light increase when the vehicle's headlights are off due to the driver's forgetfulness or to mechanical problems. Mr. Chevedden argued that the chances of such a vehicle's becoming involved in an accident would be reduced if the vehicle's off-center front license plate were mounted on the driver's side. In that location, today's license plates, which typically are reflectorized, would reflect the light from the headlights of oncoming traffic. This would indicate how close the vehicle is to opposing traffic. Mr. Chevedden argued that license plates mounted on the driver's side could also make parked vehicles more visible and lessen the possibility of collisions. Mr. Chevedden did not provide any analysis of the potential benefits of his requested rule.

For the following reasons, NHTSA believes that the safety benefits of specifying license plate location would be negligible. In attempting to quantify potential benefits of specifying license plate location, NHTSA reviewed the laws of States that mandate both front license plates and reflective license plates and reviewed the numbers and circumstances of fatal accidents that occurred in all states in 1992. The chance of achieving any benefits through mandating the location of front plates would depend on the simultaneous occurrence of a large number of events, several of which have a low probability of occurring even independently, much less in combination. Those events, and their probability of occurring individually in any accident, are set forth below, based on 1992 data:

Fatal accidents in which a vehicle is likely to have a reflective front plate—
.47 or 47 percent
Fatal accidents during non-daylight conditions—
.54 or 54 percent
Fatal accidents involving a head-on or side-swipe collision—
Head-on=.017 or 1.7 percent
Side-swipe=.05 or 5 percent
For a total of .067 or 6.7 percent
Vehicles having a passenger's side offset front license plate assumed to be in fatal accidents—
.01 or 1 percent
Motor vehicles with no front lamps turned on or having complete front lamp failure assumed to be in fatal accidents—
.01 or 1 percent
Fatal accidents involving parked vehicles—
.066 or 6.6 percent

To assess the impact of mandating that offset front license plates be located on the driver's side, the agency determined the probability of all of the above events occurring in the same accident by multiplying the probability of each of the first three events occurring individually in a fatal accident by the product of the probabilities that a fatally involved vehicle has a front passenger's side license plate and that a fatally involved vehicle will have no lights on while being driven. The agency believes that the assumption that 1 percent of vehicles are operated without lights in the dark is very optimistic to the computation of potential benefits.

NHTSA presumes that American drivers tend toward the right lane of the roadway while driving, regardless of the presence or absence of lane markings. Therefore, accidents with parked vehicles generally concern vehicles

parked in the right lane or on the right shoulder. Most vehicles in the right lane or shoulder would have their rear end facing oncoming vehicles, and the location of a front license plate would be irrelevant to the occurrence of a rear end collision. In the instances in which the parked vehicle is facing right lane traffic, a passenger's side, rather than driver's side, front license plate would be in the more favorable position to mark the extreme intrusion of the parked vehicle into the roadway. If the agency were to include in its computations collisions with parked vehicles located in the right lane or on the right shoulder and facing oncoming traffic, that inclusion would reduce the potential benefits of the requested rulemaking. This would occur because there would be a net liability instead of a net benefit for parked cars, according to the petitioner's logic, if their front license plates were moved from the passenger's side to the driver's side. Therefore, parked vehicles have been omitted from the computation of hypothetical maximum benefits. Thus, the combined probability of the above events is:

.47×.54×.067×.01×.01=.0000017

Next, NHTSA determined the number of fatalities that might have occurred in accidents involving that particular combination of events by multiplying the probability of that combination of events by the total number of occupant fatalities per year.

.0000017×39,235=0.067 relevant fatalities/year

Finally, to determine the number of those fatalities that might be prevented by mandating that off-center front license plates be mounted on the driver's side, the agency multiplied the number of relevant fatalities by a figure representing an assumed level of accident preventing effectiveness for that placement of the front license plate. For the purposes of analysis, the agency has used a very optimistic figure of 2.5 percent.

The trailer conspicuity achieved about 25 percent effectiveness for the rear treatment in its fleet study. Since the light reflected from license plates is about 2.6 percent of that from the rear of a trailer with conspicuity treatment, and the closure rate of vehicles in Chevedden's case is at least twice that of trailer conspicuity cases, a very low effectiveness should be assumed. Based on the foregoing, the agency assumes that the effectiveness of the off-center front reflectorized license plate is one-tenth that of rear trailer conspicuity, or 2.5 percent. The estimate of the benefit from the Chevedden proposal is:

0.067×0.025=.0017 fatalities prevented/year.

Based on the above analysis, NHTSA estimates that if it were to specify that those vehicles with off-center front license plates have their front plates located on the driver's side, the number of lives saved would not exceed one life for every 588 years.

The agency also considered the possibility of obtaining benefits by applying Chevedden's suggestion so that it would affect fatalities involving vehicles lacking any front license plate (16,977) and fatalities involving vehicles having front plates that are not reflective (22,254). The agency is powerless, however, to mandate that vehicles have front plates or that plates be reflective. Therefore, the agency cannot address those fatalities by expanding the scope of Chevedden's petition.

The agency disagrees with Mr. Chevedden's suggestion that adopting his requested rule would involve "no cost." Specifying license plate mounting location would impose redesign and retooling costs associated with relocating mounting holes, bumper fascia, and plate holders.

In accordance with 49 CFR part 552, this completes the agency's technical review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of a rulemaking proceeding. Accordingly, it denies Mr. Chevedden's petition.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: April 17, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–9840 Filed 4–19–95; 8:45 am]

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VOL 60 ISS 76 AP 20 1995 UMI

Notices

Federal Register
Vol. 60, No. 76
Thursday, April 20, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 14, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 690–2118.

Revision

- Agricultural Marketing Service
- Export Fruit Acts
- Business or other for-profit; 355 responses; 2,204 hours
- Teresa L. Hutchinson, (503) 326–2724

Expedited

- Rural Economic & Community Development
- Notification of Choice of Option for Borrowers with Section 515/8 and Interest Credit Agreements Signed Before October 27, 1980
- Individuals or households; Business or other for-profit; 636 responses; 1,272 hours
- Jack Holston, (202) 720–9736

New Collection

- Food Safety and Inspection Service
- Transporting Undenatured Poultry Feet to Other Establishments for Processing Before Export
- Not-for-profit institutions; 270 responses; 1,250 hours
- Lee Puricelli, (202) 720–7164

Donald E. Hulcher,
Deputy Departmental Clearance Officer.
[FR Doc. 95–9730 Filed 4–19–95; 8:45 am]
BILLING CODE 3410–01

Rural Utilities Service

Lamar Electric Membership Corporation; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.
ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request by Lamar Electric Membership Corporation (EMC) to use its general funds to construct an office and operations center in Lamar County, Georgia. The FONSI is based on a Borrower's Environmental Report (BER) submitted to RUS by Lamar EMC. RUS conducted an independent evaluation of the report and concurs with its scope and content. In accordance with RUS Environmental Policies and Procedures, 7 CFR 1794.61, RUS has adopted the BER as its environmental assessment for the project.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, RUS, Ag. Box 1569, Washington, DC 20250–1569, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: The office and operations center is proposed to be located at the 1300 block of Highway 341/Georgia Highway 7 approximately 1.5 miles south of Barnesville, Georgia, on the west side of Highway 341. The size of the proposed site for the center is 16.8 acres of which 10 acres will be developed for buildings, storage, parking, traffic lanes, and a landscaped yard.

The office and operations center will consist of the following:

A 36,000 square foot building to be made up of 13,083 square feet of office space and 24,829 square feet of warehouse, loading dock, and vehicle storage space,
A 3,600 square foot building that will contain an equipment maintenance area and wash bay for vehicles and equipment,
Outdoor concrete pads and platforms for storage of special equipment such as regulators and transformers,
A fuel service island with two 10,000 gallon fuel storage tanks,
Sixty-eight employee parking spaces and 27 visitor parking spaces, and Traffic lanes into, around, and out of the facility.

RUS considered the alternatives of no action and remodeling Lamar EMC's existing headquarters facility and adding a warehouse at that site as opposed to approving the use of general funds for construction at the proposed site.

Copies of the environmental assessment and FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Lamar Electric Membership Corporation, 314 College Drive, Barnesville, Georgia 30204, telephone (404) 358–1383.

Dated: April 13, 1995.

Adam M. Golodner,
Deputy Administrator, Program Operations.
[FR Doc. 95–9731 Filed 4–19–95; 8:45 am]
BILLING CODE 3410–15–M

Sunflower Electric Power Corporation; Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.
ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to the potential environmental impact related to the construction and operation of the Fletcher to Pioneer 115 kV Transmission Line Project by Sunflower Electric Power Corporation (Sunflower) of Hays, Kansas. The proposed project is located in Kearny and Grant Counties, Kansas.

RUS has concluded that the environmental impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not required.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, room 1246, Ag Box 1569, South Agriculture Building, RUS, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: RUS, in accordance with its environmental policies and procedures, required that Sunflower prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER, which includes input from Federal, State and local agencies and the public, has been adopted as RUS' Environmental Assessment for the project in accordance with 7 CFR 1794.61. RUS has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project should have no impact on cultural resources, floodplains, important farmland and federally listed or proposed for listing threatened or endangered species or their critical habitat. The proposed route may impact wetland areas associated with the crossing of the Arkansas River. Sunflower will avoid placing structures in wetland habitat. RUS has determined that there is no practicable alternative to crossing wetland areas associated with the Arkansas River and the impact to these areas should be minimal.

The proposed 115 kV transmission line would extend from the Fletcher Substation located in Kearny County south along section lines to the Pioneer Substation located in Grant County. The southern portion of the line in Grant County would be located on existing right-of-way. The primary structure type will be wood pole H-frame structures located on a 100-foot wide right-of-way.

Alternatives considered to the project included no action, demand side management, local generation, the addition of capacitor banks at the Pioneer Substation, closing the Cimarron Interconnection with WestPlains Energy and alternative routes. RUS has considered these alternatives and concluded that the project as proposed meets the needs of Sunflower to provide adequate service to its member system, Pioneer Electric Cooperative, Inc.

Copies of the BER and FONSI are available for review at RUS at the address provided herein; or can be reviewed at or obtained from the offices of Sunflower, 301 West 13th Street, Hays, Kansas 67601, telephone (913) 628–2845, during normal business hours.

Dated: April 13, 1995.

Adam M. Golodner,
Deputy Administrator, Program Operations.
[FR Doc. 95–9732 Filed 4–19–95; 8:45 am]
BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). An expedited review has been requested.

Agency: National Telecommunications and Information Administration (NTIA).

Title: Reviewer Information Form

Form Number: Agency—None; OMB Approval Number—None.

Type of Request: New Collection—Expedited Review Requested.

Burden: 100 hours; 400 responses; Avg. Hours Per Response is 15 minutes.

Needs and Uses: NTIA will be collecting administrative information necessary to select reviewers for the Telecommunications and Information Infrastructure Assistance Program grant application process.

Affected Public: Individuals.

Frequency: Annually.

Obligation: Voluntary.

OMB Desk Officer: Virginia Huth, (202) 395–3785.

A copy of the form is published below. Other information can be obtained by calling or writing DOC Clearance Officer, Gerald Taché, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Virginia Huth, OMB Desk Officer, Room 10236, New Executive Office Building, Washington, D.C. 20503.

Dated: April 13, 1995.

Gerald Taché,
Departmental Clearance Officer, Office of Management and Organization.

TIIAP, NTIA, U.S. Dept. of Commerce—1995
[OMB Approval #]

Reviewer Information Form

Name

Title

Organization

Dept/Org Unit

Street Address
City
State
ZIP

FedEx Address (if different)

Telephone (office) (home) FAX
e-mail

Current resume on file with TIIAP? If not, please enclose.

Where will you be traveling from?

Available dates between May 23 and September 1, 1995 (*Circle all that apply*)
May 23–26
May 30–June 2
June 6–9
June 13–16
June 20–23
June 27–30
July 11–14
July 18–21
July 25–28
August 1–4
August 8–11
August 15–18
August 22–25
August 29–Sept. 1

Application Domains (rank your top three choices, if applicable)
___ Arts & Culture
___ Community Networking
___ Economic Development
___ Health
___ Higher Education
___ Human Services
___ K–12 Education
___ Library Services
___ Public & Govt. Information
___ Public Safety
___ Statewide/Local Infras. Plan
___ Other (indicate what)

Please assist us by identifying any grant applications with which you are familiar and that may represent a conflict of interest or the appearance of a conflict of interest. Use additional paper as needed.

List of grants:

Admin. Use Only

VOL
60
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1995
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Resume on File _____
Panel No. _____
Local _____
COI on File _____
Domain(s) _____
Travel _____
Dates Available: _____
PO: _____
Federal Employee _____

Public reporting burden for this voluntary collection of information is estimated to average fifteen minutes per request, including the time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to TIIAP, NTIA, Rm 6043, U.S. Dept. of Commerce, 14 and Constitution Ave NW, Washington DC 20230 and to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Washington DC 20503 (Attn: NTIA Paperwork Reduction Desk Officer). Do not send completed forms to OMB.

[FR Doc. 95–9696 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–60–M

Foreign-Trade Zones Board

[Docket 15–95]

Foreign-Trade Zone 15—Kansas City, Missouri Area Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Kansas City Foreign Trade Zone, Inc., grantee of Foreign-Trade Zone 15, requesting authority to expand its zone in the Kansas City, Missouri area, within the Kansas City, Missouri, Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 14, 1995.

FTZ 15 was approved on March 23, 1973 (Board Order 93, 38 FR 8622, 4/4/73) and expanded on October 25, 1974 (Board Order 102, 39 FR 39487, 11/7/74). The zone project includes 3 general-purpose sites in the Kansas City, Missouri, port of entry area: *Site 1* (250,000 sq. ft.)—Midland International Corp. warehouse, 1650 North Topping, Kansas City; *Site 2* (2,815,000 sq. ft.)—Hunt Midwest Real Estate Development, Inc., surface and underground warehouse complex, 8300 N.E. Underground Drive, Kansas City; and, *Site 3* (101,000 sq. ft.)—Kansas City International Airport, 7,984 sq. ft. building and 93,016 sq. ft. of land, 12600 N.W. Prairie View Road, Kansas City.

The applicant is now requesting authority to further expand the general-purpose zone to include an additional site (proposed new Site 4—416 acres) at the Carefree Industrial Park, a surface and subsurface business park located at 1600 N M–291 Highway, Sugar Creek, Missouri. (A portion of the park is also in the City of Independence.)

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 19, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 5, 1995).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 601 East 12th Street, Room 635, Kansas City, Missouri 64106

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: April 14, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–9635 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–806]

Chrome-Plated Lug Nuts From the People's Republic of China; Preliminary Results of Antidumping Administrative Review

AGENCY: International Trade Administration/Import Administration.

ACTION: Notice of preliminary results of the Antidumping Duty Administrative Review of chrome-plated lug nuts from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on chrome-plated lug nuts (lug nuts) from the People's Republic of China (PRC) in response to requests by petitioner, Consolidated International Automotive, Inc. (Consolidated), for the first and second reviews, and an importer, Krosedale Accessories, Inc., for the second administrative review. These reviews cover shipments of this merchandise to the United States during the period April 18, 1991, through August 31, 1992, and September 1, 1992, through August 31, 1993.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Donald Little, Elisabeth Urfer, or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

Background

The Department published in the **Federal Register** an antidumping duty order on lug nuts from the PRC on April 24, 1992 (57 FR 15052). On September 11, 1992, and September 7, 1993, the Department published in the **Federal Register** (57 FR 41725 and 58 FR 47116) notices of opportunity to request administrative reviews of the antidumping duty order on lug nuts from the PRC covering the periods April 18, 1991, through August 31, 1992, (91–92 review) and September 1, 1992, through August 31, 1993 (92–93 review).

For the 91–92 review, in accordance with 19 CFR 353.22(a)(1994), the petitioner, Consolidated, requested that we conduct an administrative review of China National Automotive Industry I/E Corp.; China National Machinery & Equipment Import and Export Corporation, Jiangsu Co., Ltd. (Jiangsu); Rudong Grease Gun Factory (Rudong); China National Automotive Industry Shanghai Automobile Import & Export Corp. (Shanghai Automobile); Chu Fong Metallic Industrial Corporation (Chu Fong); and San Chien Electric Industrial Works, Ltd. (San Chien). We published a notice of initiation of this antidumping duty administrative review on October 22, 1992 (57 FR 48201).

For the 92–93 review, in accordance with 19 CFR 353.22(a), Consolidated requested that we conduct an administrative review of China National Automotive Industry I/E Corp; Jiangsu; China National Automobile Import and Export Corp., Yangzhou Branch (Yangzhou); Rudong; Ningbo Knives & Scissors Factory (Ningbo); Shanghai Automobile; and Tianjin Automotive Import and Export Co. (Tianjin). In accordance with 19 CFR 353.22(a), Krosedale Accessories, Inc. requested a review of its supplier, China National Machinery & Equipment Import & Export Corp., Nantong Branch (Nantong). We published a notice of initiation of this antidumping duty administrative review on October 18, 1993 (58 FR 53710). The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

On April 19, 1994, the Department issued its "Final Scope Clarifications on Chrome-Plated Lug Nuts from Taiwan and the PRC." The scope, as clarified, is described in the subsequent paragraph. All lug nuts covered by these reviews conform to the April 19, 1994, scope clarification.

Imports covered by these reviews are one-piece and two-piece chrome-plated lug nuts, finished or unfinished. The subject merchandise includes chrome-plated lug nuts, finished or unfinished, which are more than $1^{1}/_{16}$ inches (17.45 millimeters) in height and which have a hexagonal (hx) size of at least ¾ inches (19.05 millimeters) but not over one inch (25.4 millimeters), plus or minus $^{1}/_{16}$ of an inch (1.59 millimeters). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plated lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not included in the scope of this review. Chrome-plated lock nuts are also not subject to this review.

Chrome-plated lug nuts are currently classified under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

These reviews cover the periods April 18, 1991, through August 31, 1992, and September 1, 1992, through August 31, 1993. The 91–92 review covers six producer/exporters of Chinese lug nuts. The 92–93 review covers eight producer/exporters of Chinese lug nuts.

Separate Rates

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991) (Sparklers), as amplified by the Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China (59 FR 22585, May 2, 1994) (Silicon Carbide). Under this policy, exporters in non-market economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and (4) whether each exporter has autonomy from the government regarding the selection of management.

Nantong was the only exporter that responded to the Department's request for information; therefore, Nantong was the only firm on which we made a determination of whether it should receive a separate rate. The determination of whether Nantong should receive a separate rate is to be made under the policy set forth in Silicon Carbide and Sparklers. In Silicon Carbide we concluded that ownership by the people does not require the application of a single rate, and amplified the test set out in Sparklers by examining the management of an enterprise.

Nantong is owned by the local government. Such ownership does not, however, preclude a determination that a separate rate is appropriate. Nantong's management is elected by Nantong's staff, and is responsible for all decisions such as profit distribution, employment policy and marketing strategy.

We have found that the evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to Nantong's exports according to the criteria identified in Sparklers and Silicon Carbide. With respect to the absence of *de jure* government control, evidence on the record indicates that, even though Nantong is registered as a state-owned company, it is an independent entity. Further, several PRC laws establish that the responsibility for managing entities has been transferred from the central government to the enterprise. (See August 30, 1994, memorandum to the file, with attachments and November 18, 1994 memorandum to the file). In particular, "The People's Republic of China All People's Ownership Business Law," enacted on April 13, 1988, indicates that branch companies have become legally and financially independent of centrally-controlled foreign trade companies. Nantong is such a branch company. Additionally, lug nuts do not appear on the "Temporary Provisions for Administration of Export Commodities," approved on December 21, 1992, and are not, therefore, subject to the constraints of those provisions. With respect to the absence of *de facto* government control, Nantong states that it makes decisions based upon market requirements, that it is not subject to adverse financial costs for choosing one export strategy over another, that the management team makes all decisions, that there are no restrictions on the use of its profits, that the employees of Nantong elect the general manager and management team, and that it conducts negotiations with U.S. importers. For further discussion of the Department's preliminary determination that Nantong is entitled to a separate rate, see Decision Memorandum: "Separate Rates in the First and Second Administrative Reviews of Chrome-Plated Lug Nuts from the People's Republic of China," dated March 13, 1995; which is on file in the Central Record Unit (room B099 of the Main Commerce Building).

United States Price

For sales made by Nantong we based the USP on purchase price (PP), in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

VOL 60 ISS 76 AP 20 1995 UMI

We calculated PP based on the FOB price to unrelated purchasers. We made deductions for brokerage and handling and foreign inland freight. We valued brokerage and handling and foreign inland freight deductions using surrogate data based on Indian freight costs. We selected India as the surrogate country for the reasons explained in the "Foreign Market Value" section of this notice.

Foreign Market Value

For all companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors-of-production methodology if (1) the merchandise is exported from an NME country, and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value (CV) under section 773(a) of the Act.

In the amendment to the final determination of sales at less than fair value (LTFV), the Department treated the PRC as an NME country, and determined that lug nuts is not a market-oriented industry. (See Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China, 57 FR 15052, April 24, 1992.) Because no company in this review has argued that the PRC is a market-economy country, or that the lug nut industry in the PRC is market-oriented, we continue to consider the PRC to be an NME country, and the lug nut industry to be non-market oriented and, therefore, we have applied surrogate values to factors of production to determine CV and movement costs.

We calculated FMV based on factors of production in accordance with section 773(c) of the Act and section 353.52 of the Department's regulations. We determined that India is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and is a significant producer of comparable merchandise. For these reviews, we chose India as the most comparable surrogate on the basis of the above criteria, and have used publicly available information relating to India to value the various factors of production. (*See* Memorandum dated July 29, 1994).

We valued the factors of production as follows:

- For steel wire rods, we used a per kilogram value obtained from the Monthly Statistics of Foreign Trade of India for the period April through December, 1992. Using wholesale price indices (WPI) obtained from the International Financial Statistics, published by the International Monetary Fund (IMF), we adjusted these values to reflect inflation. We made further adjustments to include freight costs incurred between the supplier and the factory in the PRC.
- For chemicals used in the production of lug nuts, we used per kilogram values obtained from the Monthly Statistics of Foreign Trade of India, Chemical Business, and Chemical Weekly. We adjusted these rates to reflect inflation using WPI from the International Financial Statistics.
- For direct labor, we used the Business International Report IL&T India released in November 1992. We adjusted this rate to reflect inflation using WPI from the International Financial Statistics. The labor cost for each component was calculated by multiplying the labor time requirement by the surrogate labor rate.
- For factory overhead, we used information obtained from the Reserve Bank of India Bulletin, December 1992, for Indian metals and chemicals industries. From this information, we were able to determine factory overhead as a percentage of total cost of manufacture. We added factory overhead into the cost of manufacture. Factory overhead did not include electricity; therefore, we added an amount for electricity, using information from Energy Indicators of Developing Member Countries of Asian Development Bank from July 1992. We adjusted these rates to reflect inflation using WPI from the International Financial Statistics.
- For SG&A expenses, we used information obtained from the Reserve Bank of India Bulletin from December 1992. From this information, we calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture. SG&A expenses were less than ten percent of the cost of manufacture. Therefore, we used the statutory minimum of ten percent of the cost of manufacture for SG&A.
- For profit, we used the profit rate obtained from the Reserve Bank of India Bulletin from December 1992 because it was in excess of the statutory eight percent minimum.
- For packing, we used, as best information available (BIA), one percent of the cost of production. We applied BIA for packing because Rudong, the producer, did not supply sufficient factor information by which to allocate packing costs. This percentage, applied to publicly available data, was used in the Final Determination of Sales at Less than Fair Value: Tapered Roller Bearings from Italy, 52 FR 24198 (June 29, 1987). This methodology is consistent with the Department's valuation of packing in the Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings from the People's Republic of China, 56 FR 67590 (December 31, 1991).

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). Currency conversions were made at the rates certified by the Federal Reserve Bank.

Best Information Available

We preliminarily determine, in accordance with section 776(c) of the Act, that the use of BIA is appropriate for the China National Automotive Industry I/E Corp., Jiangsu, Shanghai Automobile, Chu Fong, San Chien, Yangzhou, Ningbo, and Tianjin because these firms did not respond to the Department's antidumping questionnaire.

In deciding what to use as BIA, 19 CFR 353.37(b) provides that the Department may take into account whether a party refused to provide requested information. Thus, the Department determines on a case-by-case basis what is BIA. When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's review, the Department will normally assign to that company the higher of (1) The highest rate for any firm in the investigation or prior administrative reviews of sales of subject merchandise from that same country; or (2) the highest rate found in the review for any firm. When a company has cooperated with the Department's request for information but fails to provide the information requested in a timely manner or in the form required, the Department will normally assign to that company the higher of either: (1) The highest margin calculated for that company in any previous review or the original investigation; or (2) the highest calculated margin for any respondent that supplied an adequate response for the current review. (See Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, et. al.; Final Results of Administrative Review, 56 FR 31705 (July 11, 1991).

For the 91–92 review we have applied BIA to sales made by China National Automotive Industry I/E Corp., Jiangsu, Shanghai Automobile, Chu Fong, and San Chien. Because these firms did not respond to our questionnaire, we have applied as BIA the highest margin ever calculated in the investigation or this first review.

For the 92–93 review we have applied BIA to sales made by China National Automotive Industry I/E Corp, Jiangsu, Yangzhou, Ningbo, Shanghai Automobile, and Tianjin. Because these firms did not respond to our questionnaire, as BIA we have applied the highest margin ever calculated in the investigation or this or the prior review.

Rudong responded to the Department's requests for information for both review periods, but reported no direct exports to the United States during either period. Therefore, we are treating Rudong as a non-shipper for these reviews. Since the Department has never determined that a separate rate should apply to exports from Rudong, future exports from Rudong will be subject to cash deposit at the PRC rate.

Preliminary Results of the Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
China National Machinery & Equipment Import & Export Corp., Nantong Branch	09/01/92–08/31/93	45.41
Rudong Grease-Gun	04/18/91–08/31/92	*42.42
Factory	09/01/92–08/31/93	*45.41

*No shipments during the period, but never determined to merit a separate rate. Therefore, we applied the PRC rate established in this review. This is the rate for companies that had shipments, or are presumed to have shipments, during the period, but which were not given separate rates.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of these administrative reviews for all shipments of lug nuts from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For Nantong, which has a separate rate, the cash deposit rate will be the company-specific rate published for the most recent (1992–1993) period; (2) for Jiangsu, which was previously investigated and given a separate rate, the cash deposit rate will be the company-specific rate published for the most recent (1992–1993) period, which is based on BIA; (3) for the companies named above which were not found to have separate rates, China National Automotive Industry I/E Corp., Yangzhou, Ningbo, Shanghai Automobile, and Tianjin, as well as for all other PRC exporters, the cash deposit rate will be 45.41 percent; and (4) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 13, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9635 Filed 4–19–95; 8:45 am]

BILLING CODE 3510-DS-P

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews.

SUMMARY: In response to a request by a U.S. importer, the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs), from the People's Republic of China (PRC). The reviews cover two exporters of subject merchandise to the United States and the period February 1, 1992, through January 31, 1993. The reviews indicate the existence of dumping margins during the period of review.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in or final results of administrative reviews, we will instruct U.S. Customs to assess antidumping duties equal to the difference between United States price (U.S. price) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Karin Price or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4733

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1991, the Department published in the Federal Register (56 FR 6622) the antidumping duty orders on HFHTs from the PRC. On February 17, 1993, the Department published in

VOL 60 ISS 76 APR 20 1995 UMI

the **Federal Register** (58 FR 8739) a notice of opportunity to request administrative reviews of these antidumping duty orders. On February 26, 1993, in accordance with 19 CFR 353.22(a), a U.S. importer of HFHTs from the PRC, Olympia Industrial Inc., requested that we conduct administrative reviews of its two suppliers, Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC). We published the notice of initiation of these antidumping duty administrative reviews on March 26, 1993 (58 FR 16397). The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of These Reviews

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg. (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools and wedges (bars and wedges); (3) picks and mattocks (picks/mattocks); and (4) axes, adzes and similar hewing tools (axes/adzes).

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and trucks tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded from these reviews are hammers and sledges with heads 1.5 kg. (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under.

These reviews cover two exporters of HFHTs from the PRC, FMEC and SMC. The review period is February 1, 1992 through January 31, 1993.

Separate Rates

The business licenses of both FMEC and SMC indicate that they are owned by "all the people." As stated in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (*Silicon Carbide*), "ownership of a company by all of the people does not require the application of a single rate." Accordingly, FMEC and SMC are eligible for consideration for separate rates.

To establish whether a company is sufficiently independent to be entitled for separate rates, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) (*Sparklers*), as amplified in *Silicon Carbide*. Under this policy, exporters in non-market-economy (NME) countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to exports. Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control with respect to exports is based on four criteria: (1) whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporters retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts.

We have found that the evidence on the record demonstrates an absence of government control, both in law and in fact, with respect to FMEC's and SMC's exports according to the criteria identified in *Sparklers* and *Silicon Carbide*. For further discussion of the Department's preliminary determination that FMEC and SMC are entitled to separate rates, *see Decision Memorandum to Holly A. Kuga, Director, Office of Antidumping Compliance*, dated March 13, 1995; "Separate rates for Fujian Machinery & Equipment Import & Export Corporation and Shandong Machinery Import & Export Corporation in the second administrative reviews of heavy forged hand tools, finished or unfinished, with or without handles, from the People's Republic of China," which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

Verification

Verification of the questionnaire responses of FMEC and SMC was conducted between June 24, 1994, and July 5, 1994, at FMEC's facility in Fuzhou, Fujian Province, at SMC's facility in Qingdao City, Shandong Province, and at two factories which manufacture HFHTs for FMEC and SMC, Rizhao Hardware & Machinery Factory (Rizhao) and Linyi Tool Factory (Linyi).

United States Price

With the exception of certain of SMC's U.S. sales for which the best information available (BIA) was used, as described below, the Department used purchase price and exporter's sales price (ESP), in accordance with sections 772(b) and (c) of the Act, in calculating U.S. price.

We calculated purchase price based on, as appropriate, the FOB, CIF, or C&F port price to unrelated purchasers. We made deductions from purchase price and ESP sales, where appropriate, for brokerage and handling, foreign inland freight, ocean freight, and marine insurance. Ocean freight services were provided by both PRC-owned and non-PRC-owned companies. Where we knew that the company providing the ocean freight services was not a PRC-owned company, we used the actual rates charged; for ocean freight services provided by PRC-owned companies, we applied a weighted-average ocean freight rate derived from those sales for which we used actual ocean freight rates. Since marine insurance services were provided by PRC-owned companies, we based the deduction for marine insurance on surrogate values. We also used surrogate data to value foreign inland freight and brokerage and handling. We selected India as the surrogate country for reasons explained in the "Foreign Market Value" section of this notice.

Foreign Market Value

For companies located in NME countries, section 773(c)(1) of the Act provides that the Department shall determine FMV using a factors of production methodology if (1) the merchandise is exported from a NME country, and (2) the information does not permit the calculation of FMV using home market prices, third country prices, or constructed value (CV) under section 773(a) of the Act.

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. None of the parties to these proceedings has contested such treatment in these reviews. Accordingly, we calculated FMV in accordance with section 773(c) of the Act and section 353.52 of the Department's regulations. We determined that India is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor, and is a significant producer of comparable merchandise. For further discussion of the Department's selection of India as the primary surrogate country, *see Memorandum to Laurie Lucksinger* dated March 18, 1993; "AD Order on Heavy Forged Hand Tools from the People's Republic of China (case #A–570–803): Nonmarket-Economy Status and Surrogate Country Determinations," which is on file in the Central Records Unit (room B099 of the Main Commerce Building).

For purposes of calculating FMV, we valued PRC factors of production as follows, in accordance with section 773(c)(1) of the Act:

- To value all direct materials used in the production of HFHTs, including steel, steel pellets, resin glue, paint, varnish, wood for handles, iron wedges, anti-rust oil, scrap steel, detergent, and dilution, we used the rupee per metric ton, per kilogram, or per cubic meter value of imports into India for April-December 1992, obtained from the *Monthly Statistics of the Foreign Trade of India, Volume II—Imports*, December 1992 (*1992 Indian Import Statistics*). We made adjustments to include freight costs incurred between the suppliers and the HFHT factories. We also made an adjustment to the steel input factor for scrap and waste steel which was sold.
- For direct labor, we used the labor rates reported in the Business International Corporation report *IL&T India*, released November 1992. This source breaks out labor rates between skilled, unskilled, semi-skilled, and foreman labor for 1992 and provides information on the number of labor hours worked per week.
- For factory overhead, we used information reported in the December 1992 *Reserve Bank of India Bulletin*. From this information, we were able to determine factory overhead as a percentage of total cost of manufacture.
- For selling, general, and administrative (SG&A) expenses, we used information obtained from the December 1992 *Reserve Bank of India Bulletin*. We calculated an SG&A rate by dividing SG&A expenses by the cost of manufacture. Since the calculated SG&A expense rate is less than 10 percent, we used the statutory minimum of 10 percent to calculate SG&A expenses.
- To calculate a profit rate, we used information obtained from the December 1992 *Reserve Bank of India Bulletin*.
- To value the packing materials, including cartons (except for cartons used at Rizhao), wood for pallets, anti-rust paper, anti-dump paper, plastic and iron straps, plastic bags, iron buttons and knots, nails, synthetic fiber, and iron wire, we used import statistics for India obtained from the *1992 Indian Import Statistics*. We adjusted these values to include freight costs incurred between the suppliers and the HFHT factories. Rizhao uses imported cartons for packing; we used the import price of these cartons to value cartons for Rizhao.
- To value coal, we used the price of steam coal reported for 1990 in the International Energy Agency publication *Energy Price and Taxes*, 3rd Quarter 1993. We adjusted the value of coal to reflect inflation through 1992 using wholesale price indices of India (WPI) as published in the *International Financial Statistics* by the International Monetary Fund (IMF).
- To value electricity, we used the price of electricity for 1990 reported in the Asian Development Bank publication *Energy Indicators of Developing Member Countries of Asian Development Bank*, July 1992. We adjusted the value of electricity to reflect inflation through 1992 using WPI published by the IMF.
- To value truck freight, we used the price reported in a June 1992 cable from the U.S. Embassy in India submitted for the *Final Determination of Sales at Less Than Fair Value; Sulfanilic Acid from the People's Republic of China* (57 FR 29705, July 6, 1992).
- To value rail freight, we used the price reported in a December 1989 cable from the U.S. Embassy in India submitted for the *Final Results of Antidumping Duty Administrative Review: Shop Towels of Cotton from the People's Republic of China* (56 FR 4040, February 1, 1991). We adjusted the rail freight rates to reflect inflation through 1992 using WPI published by the IMF.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). Currency conversions were made at the rates certified by the Federal Reserve Bank.

Best Information Available

In deciding what to use as BIA, section 353.37(b) of the Department's regulations provides that the Department may take into account whether a party refuses to provide requested information or impedes a proceeding. Thus, the Department determines on a case-by-case basis what is BIA. When a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's review, the Department will normally assign to that company the higher of (1) The highest of the rates found for any firm for the same class or kind of merchandise in the less-than-fair value (LTFV) investigation or a prior administrative review; or (2) the highest rate found in the current review for any firm for the same class or kind of merchandise.

When, on the other hand, a company has cooperated with the Department's request for information but fails to provide information requested in a timely manner or in the form required such that margins for certain sales cannot be calculated, the Department will normally assign to those sales the higher of either: (1) The highest margin calculated for that company in any previous review or the original investigation; or (2) the highest calculated margin for any respondent that supplied an adequate response for the current review. *See Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of An Antidumping Duty Order (Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Rumania, Singapore, Sweden, Thailand and the United Kingdom)* (58 FR 39729, July 26, 1993).

The Department used BIA for the following sales made by SMC: purchase price sales of axes and sales that were first presented to the Department at the onset of verification and not reported in SMC's questionnaire responses.

SMC's sales of axes, a separate class or kind, were first reported to the Department in its second supplemental questionnaire response dated May 14, 1994. Additional sales of axes were then presented to the Department for the first time at verification. SMC did not submit factors of production data for the models sold in these sales. Since these sales data were not submitted in a timely fashion, and because SMC failed to submit data necessary for the calculation of FMV for this class or kind of merchandise, we are applying the

VOL 60 ISS 76 AP 20 1995 UMI

most adverse BIA to all sales of axes. *See the Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers From the People's Republic of China* (58 FR 48833, September 20, 1993) (comment 6). As BIA, we are using the highest margin calculated for that class or kind in the investigation or any review of sales of subject merchandise from that same country.

At the onset of verification, SMC presented certain sales of axes, picks, and splitting mauls which had not been reported to the Department in the questionnaire responses. As discussed above, we have applied BIA to all sales of axes. With regard to picks and splitting mauls, since these sales data had not been previously reported to the Department in any of SMC's questionnaire responses, we have applied BIA to these sales.

Because SMC reported most of its sales of these classes or kinds of merchandise in its questionnaire responses and because it was an oversight on the part of SMC that these certain sales were not presented to the Department until verification, we are assigning as BIA the higher of either: (1) The highest margin calculated for the same class or kind of merchandise for that company in any previous review or the original investigation; or (2) the highest margin calculated for the same class or kind of merchandise for any respondent that supplied an adequate response for the current review.

Preliminary Results of the Reviews

As a result of our reviews, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Fujian Machinery & Equipment Import & Export Corporation:		
Axes/Adzes	2/1/92–1/31/93	89.99
Bars/Wedges	2/1/92–1/31/93	156.68
Hammers/Sledges	2/1/92–1/31/93	130.93
Picks/Mattocks	2/1/92–1/31/93	249.36
Shandong Machinery Import & Export Corporation:		
Axes/Adzes	2/1/92–1/31/93	89.99
Bars/Wedges	2/1/92–1/31/93	167.72
Hammers/Sledges	2/1/92–1/31/93	131.38
Picks/Mattocks	2/1/92–1/31/93	140.34

Parties to the proceedings may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. *See* section 353.38(d) of the Department's regulations. The Department will publish a notice of final results of these administrative reviews, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The case deposit rates for the reviewed companies named above which have separate rates will be the rates for those firms as stated above; (2) for all other PRC exporters, the cash deposit rates will be the rates established in the LTFV investigations; and (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. The rates established in the LTFV investigations are 45.42 percent for hammers/sledges, 31.76 percent for bars/wedges, 50.81 percent for picks/mattocks, and 15.02 percent for axes/adzes. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

Notification of Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: April 13, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–9837 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–DS–P

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultation with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will receive briefings on the status of ongoing consultations with the Government of Japan and will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on April 25, 1995 from 10:00 a.m. to 3:00 p.m. at the U.S. Department of Commerce in Washington, D.C. This meeting is being announced less than fifteen days prior to the meeting because the Department wanted to brief members at the conclusion of the latest round of automotive framework talks with the Government of Japan and was unable to determine the availability of members prior to the fifteen day requirement.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, D.C. 20230, telephone: (202) 482–1418.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 5, 1994, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged of confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: April 17, 1995.

John White,

Acting Director, Office of Automotive Affairs.

[FR Doc. 95–9830 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

[Docket No. 950113015–5089–02]

RIN 0648–ZA12

Global Learning and Observations To Benefit the Environment (GLOBE)

AGENCY: National Oceanic and Atmospheric Administration, COMMERCE (DOC).

ACTION: Notice of program and invitation to participate.

SUMMARY: This is an invitation for U.S. K–12 schools to participate in an international environmental science and education program known as Global Learning and Observations to Benefit the Environment (GLOBE). U.S. schools can participate in the GLOBE Program if they meet the "basic requirements" described in the announcement below. This notice revises a previous invitation to schools to participate in the GLOBE Program, which was published in the **Federal Register** on November 23, 1994 (59 FR 60351). Federal assistance is not available at this time to enable schools to participate in the GLOBE Program to enable them to meet the "basic requirements." In addition, more detailed information is provided for the scientific measurement instruments, other program information is updated, and the Government no longer provides Internet access to registered schools. This notice incorporates an Announcement section that includes a form for use by schools to register to participate in the GLOBE Program. This Announcement is also available in electronic and hard copy form from the sources listed below.

The GLOBE Program is a hands-on program that joins students, educators, and scientists from around the world in studying the global environment. GLOBE is a worldwide network of students who work under the guidance of GLOBE-trained teachers to make environmental observations at or near their schools, report their data to a GLOBE processing facility, receive and use global images created from their data, and study environmental topics in their classrooms. GLOBE in the United States is managed by an interagency team that includes the National Oceanic and Atmospheric Administration (NOAA), the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), the Environmental Protection Agency (EPA), and the Department of Education and State. GLOBE leadership also includes the Council on Environmental Quality and the Office of Science and Technology Policy, both within the Executive Office of the President. NOAA is the lead agency for GLOBE. As lead agency, NOAA invites U.S. K–12 schools to participate in the GLOBE Program as described in the announcement below.

DATES: This invitation is open until further notice.

FOR FURTHER INFORMATION CONTACT: Further information or copies of the Announcement below, which includes a registration form, may be obtained by connecting to the GLOBE Internet World Wide Web server at http://www.globe.gov, by sending a request by electronic mail to info@globe.gov, by calling the GLOBE information line at 202–395–6500, by mail to Thomas N. Pyke, Jr., Director, The GLOBE Program, 744 Jackson Place, N.W., Washington, D.C. 20503, or delivered by express or courier service to Director, The GLOBE Program, The White House, New Executive Office Building, 725 17th Street, N.W., Room G–1, Washington, D.C. 20006.

ANNOUNCEMENT: April 20, 1995.

The GLOBE Program

744 Jackson Place / Washington, DC 20503

U.S. SCHOOLS ARE INVITED TO PARTICIPATE IN THE GLOBE PROGRAM

U.S. K–12 schools are invited to participate in a new international environmental science and education program known as Global Learning and Observations to Benefit the Environment (GLOBE). U.S. schools can participate in the GLOBE Program by agreeing to meet a set of GLOBE "basic requirements" as listed below in "How to Become a GLOBE Schools" and completing the attached registration form.

The GLOBE Program is a hands-on program that joins students, educators, and scientists from around the world in studying the global environment. GLOBE is a worldwide network of students who work under the guidance of GLOBE-trained teachers to make environmental observations at or near their schools, report their data to a GLOBE processing facility, receive and use global images created from their data, and study environmental topics in their classrooms. The data acquired by students will be used worldwide by environmental scientists in their research to improve our understanding of the global environment.

GLOBE is managed by an interagency team that includes the National Oceanic and Atmospheric Administration (NOAA), the National Aeronautics and Space Administration (NASA), the National Science Foundation (NSF), the Environmental Protection Agency (EPA), and the Departments of Education and State. GLOBE leadership also includes the Office on Environmental Policy and the Office of Science and Technology Policy in the Executive Office of the President. NOAA is the lead agency for GLOBE.

VOL 60 ISS 76 AP 20 1995 UMI

What is GLOBE?

GLOBE is a hands-on, school-based program that will:

—Enhance environmental awareness of individuals throughout the world,
—Enable students to make environmental observations that will contribute to improving the health of planet Earth,
—Give students the opportunity to work with world class scientists, collaborating together through a worldwide network,
—Involve students, teachers, and scientists in sharing information about the global environment,
—Enrich and supplement existing school curricula in science and mathematics, and
—Help all students reach higher standards in science and mathematics.

The GLOBE concept was announced by Vice President Al Gore on Earth Day, April 22, 1994. Since then, over one hundred nations have expressed interest in joining the U.S. in the GLOBE Program. GLOBE will begin operation on the 25th Earth Day, April 22, 1995, and schools in the U.S. and throughout the world are invited to join in this exciting new venture.

How to Become a GLOBE School

A school can register to become a GLOBE school if the school meets the GLOBE "basic requirements," by agreeing to:

—Have its students acquire environmental data using scientific measurement instruments at their school,
—Have its students transmit these data to a GLOBE processing center as often as required for each measurement,
—Have its students study the global environmental images that will be generated based on GLOBE data taken by students around the world,
—Have its students participate in GLOBE guided by one or more teachers trained through the GLOBE Program, who will use GLOBE-provided educational materials,
—Send at least one teacher to a GLOBE-provided 3-day training workshop at a location in the school's general part of the country,
—Have the necessary GLOBE scientific measurement instruments, as identified below, for use by students, and
—Have a suitable school computer configuration, as described below, to be available for use at least 20% of each school day to support participation in GLOBE, i.e., to be used for data entry and transmission to a GLOBE processing center and for viewing of global environmental images and related information generated from GLOBE data by a GLOBE processing center.

GLOBE Scientific Measurement Instruments

The GLOBE environmental measurements are in the following study areas:

Atmosphere/Climate
Hydrology/Water Chemistry
Biology/Geology.

The initial GLOBE measurements and their respective instruments are:

Measurement	Instrument	Grade
Atmosphere/ Climate:		
Air temperature.	Maximum/Minimum Thermometer.	K–12
	Calibration Thermometer.	K–12
	Instrument Shelter.	K–12
Precipitation	Clear Plastic Rain Gauge.	K–12
Cloud cover	Cloud Charts	K–12
Hydrology/ Water Chemistry:		
Water pH	Litmus Paper	K–5
	pH Pen	6–8
	pH Meter	9–12
Water Temperature.	Alcohol Thermometer.	K–12
Soil Moisture	Soil Moisture Meter and Gypsum Blocks.	9–12
	Auger and PVC Piping.	9–12
Biology/Geology:		
Habitat Study	Compass	K–12
	Meter Measuring Tape.	K–12
	Surveying Markers or Stakes.	K–12
Tree Height	Hand-made Clinometer.	K–8
	Clinometer.	9–12
Tree Canopy	Hand-made Densiometer.	K–8
	Densiometer	9–12
Tree Diameter	Diameter Tape.	K–12
Species Identification.	Dichotomous Keys.	K–12
Phenology (seasonal change).	35 mm camera and film.	K–12

The total cost of the instruments, if they are not already available at the school, is estimated to be between $300–350 for elementary schools, $350–400 for middle schools, and $800–950 for high schools. After the initial year of GLOBE operation, additional measurements will be added, based on continuing work on the part of the GLOBE scientists and educators and the results of evaluation of the initial GLOBE Program by GLOBE teachers and others. The additional cost of the instruments necessary at that time to make these additional measurements is estimated to be about $100 for elementary schools, $300 for middle schools, and $500 for high schools.

School Computer Configuration and Internet Connectivity

Either an IBM-compatible PC or an Apple Macintosh computer can be used. An IBM-compatible PC must have at least a 386, 20 Mhz processor, 4 MB (preferably 8 MB) of RAM memory, and at least 60 MB of available hard disk. An Apple Macintosh computer must have at least a 68030, 20 Mhz processor, 4 MB (preferably 8 MB) of RAM memory, and at least 60 MB of available hard disk.

The computer must have either a direct Internet connection or a dial-up capability to the Internet using a 14.4 kbps or faster modem, preferably employing V.42 bis data compression, and using either SLIP or PPP protocols. The computer must be configured with a World Wide Web browser that supports the "forms" capability. If a school is not now connected to the Internet, the GLOBE Program will provide information and assistance, if needed, to help the school make contact with an Internet access service provider.

Registering as a GLOBE School

Schools that agree to meet the "basic requirements" listed above in "How to Become a GLOBE School," are invited to complete the registration form included below. The form must be signed by the school's principal, its designated GLOBE lead teacher, and by an official authorized to make the necessary certification on behalf of the school if the principal is not so authorized. The completed form, with original signatures, should be mailed to The GLOBE Program, 744 Jackson Place, Washington, D.C. 20503. Facsimile copies are not acceptable.

For each registered school, the Federal Government will provide:

—Global environmental images accessible through the Internet, based on the measurement data taken by GLOBE students around the world and a broad range of other information relevant to the study of the global environment,
—An opportunity for students and teachers to work interactively through the Internet with world class scientists, collaborating in the study of the environment,
—An opportunity for students, teachers, and scientists to share information about the global environment through the Internet with each other,
—Training for one teacher (the GLOBE lead teacher for the school) at a 3-day workshop to be held at a location in the school's general part of the country (but not including the cost of travel or per diem for the teacher to attend the training or the cost of a substitute teacher if one is necessary),
—A set of GLOBE educational materials for use by teachers and students in the school to enrich and supplement existing school curricula,
—Information, if needed, to help the school establish its own connection to the Internet through a suitable Internet access service provider,
—Access to GLOBE school computer software for use of the World Wide Web information browser through the Internet, if the school does not already have software that can be used for this purpose or cannot obtain this software from its Internet access service provider. (This is the software necessary to transmit GLOBE data and access GLOBE global environmental visualizations and other information), and
—Access to the Internet-based help facility to obtain answers to frequently asked questions and to obtain assistance relative to program participation, and toll-free telephone access to a GLOBE help desk.

FOR FURTHER INFORMATION: Connect to the GLOBE Internet World Wide Web Server at http://www.globe.gov, send a request by electronic mail to info@globe.gov, call the GLOBE information line: (202) 395–6500, or send a request by mail to The GLOBE Program, 744 Jackson Place, NW., Washington, DC 20503.

[Copies of this form may be reproduced so that a completed form can be submitted for each school.]

Registration for a School To Participate in the Globe Program

Name of School _____
Street Address _____
City _____
State _____
ZIP _____
Type of school:
Elementary _____
High school _____
Intermediate/middle/junior high _____
Name of the GLOBE Lead Teacher for the School _____
Name of the School Principal _____
Phone numbers to reach the Teacher and Principal (with area code)
Voice ( ) _____
FAX ( ) _____
Internet address for the Teacher, if available _____

Certification

I certify that this school meets the "basic requirements" to become a GLOBE school as described in the GLOBE School Invitation dated (Insert date of publication in **Federal Register**], and that the school intends to participate in the GLOBE Program for a period of at least 3 years.

Signature of the GLOBE Lead Teacher _____

Signature of the Principal _____

Identification of Local Educational Agency (e.g. school district) is this school is part of such an Agency _____

Name, title, and signature of official authorized to sign this certification on behalf of the registered school (e.g. authorized L.E.A. official) _____

Date _____

All communications, materials, or other resources under this agreement are administered as a joint project between the registered school and the Federal Government through the authority of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration under 15 U.S.C. 1525.

PAPERWORK REDUCTION ACT NOTICE: This notice contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by OMB, OMB Control Number 0648–0287, with collection approval through 11/30/97. Public reporting burden for this collection of information is estimated to average .5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the form used for collection of information. Send comments regarding this reporting burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Thomas N. Pyke, Jr. (see **FOR FURTHER INFORMATION CONTACT** section), and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer). The required form for registration is included above.

Thomas N. Pyke, Jr.,

Director, The GLOBE Program.

[FR Doc. 95–9760 Filed 4–19–95; 8:45 am]

BILLING CODE 3510–12–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, April 26, 1995. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1:00 p.m. in the Third Floor Conference Room of the Susquehanna River Basin Commission's offices at 1721 N. Front Street, Harrisburg, Pennsylvania.

An informal conference among the Commissioners and staff will be open for public observation at 10:00 a.m. at the same location and will include a briefing on proposed amendments to Commission regulations concerning water quality criteria for toxic pollutants and policies and procedures to establish wasteload allocations and effluent limitations for point source discharges to the tidal Delaware River.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Merrill Creek Owners Group (MCOG) D–77–110 CP (Amendment 6).* An application for inclusion of the Jersey Central Power & Light (JCP&L) Unit No. 9 CT (an oil/natural gas-fueled combustion turbine approved by Docket No. D–93–71 on March 23, 1994) as a Designated Unit to Table A (Revised) of the Merrill Creek Reservoir Project to enable releases from the reservoir to make up for consumptive water use during drought periods. In addition, Unit Nos. 1 and 2, which will be decommissioned on completion of Unit No. 9 CT, are to be removed as Designated Units. The JCP&L Unit No. 9 CT is expected to have a maximum monthly consumptive water use of 120,000 gallons per day (gpd) and a power output of 141 megawatts. All project units are located at JCP&L's Gilbert Generating Station in Holland Township, Hunterdon County, New Jersey. Merrill Creek Reservoir is located in Harmony Township, Warren County, New Jersey.

2. *Artesian Water Company D–79–58 RENEWAL 2.* An application for the renewal of a ground water withdrawal project to supply up to 530.42 million gallons (mg)/30 days of water to the applicant's distribution system from 38 existing wells. Commission approval on June 28, 1989 was limited to five years.

VOL 60 ISS 76 AP 20 1995 UMI

The applicant requests that the total withdrawal from all wells be increased from 502.05 mg/30 days to 530.42 mg/30 days. The project is located in New Castle County, Delaware.

3. *North Heidelberg Sewer Co. Inc. D–94–1.* A project to upgrade and expand the applicant's existing 0.025 million gallons per day (mgd) sewage treatment plant (STP) to provide 0.050 mgd of sewage treatment capacity to serve growth in the Heidelberg Investment Associates' planned community which is situated in both Jefferson and North Heidelberg Townships in Berks County, Pennsylvania. The upgraded STP will continue to provide secondary treatment via the activated sludge process and will also have tertiary filtration. The STP project is located just north of Tulpehocken Creek and west of Bernville in Jefferson Township. The treated effluent will continue to discharge via an existing outfall to an unnamed tributary of Tulpehocken Creek.

4. *Merck & Co., Inc. D–94–24.* An application for approval of a ground water withdrawal associated with a ground water decontamination project to supply up to 8.6 mg/30 days of water to the applicant's West Point facility from new Well Nos. PW–12 and PW–13, and to increase the existing withdrawal limit of 25 mg/30 days from all wells to 40 mg/30 days. Site remediation efforts are proceeding under an Administrative Consent Order with the United States Environmental Protection Agency. The project is located in Upper Gwynedd Township, Montgomery County, and is located in the Southeastern Pennsylvania Ground Water Protected Area.

5. *Borough of Bally Municipal Authority D–94–44 CP.* A project to modify and expand the applicant's existing 0.2 mgd municipal STP to provide 0.5 mgd secondary treatment capacity and serve growth of industrial, commercial and residential customers in the Borough of Bally and portions of Washington Township, Berks County, Pennsylvania. The STP system will be modified to provide more reliable and consistent treatment and to handle hydraulic overload. Treated effluent, after disinfection, will continue to discharge to Northwest Branch Perkiomen Creek approximately 500 feet west of the Berks County border with Montgomery County in Washington Township, Berks County.

6. *Meter Services Company D–94–49 CP.* An application for approval of an increased ground water withdrawal to supply up to 3.6 mg/30 days of water to the applicant's distribution system from existing Well Nos. 1 and 2. The applicant requests that the total withdrawal from all wells be increased from 1.8 mg/30 days to 3.6 mg/30 days. The project is located in Buckingham Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

7. *Estaugh Corporation (Trading as Medford Leas) D–94–56.* A project to withdraw up to 7.2 mg/30 days (0.24 mgd) from a proposed intake on the South Branch Rancocas Creek to serve the applicant's health care facility located between Route 70 and New Freedom Road just northeast of the Borough of Medford in Medford Township, Burlington County, New Jersey. The withdrawal will be used for irrigation of the grounds and the intake will be located on the applicant's property which is bordered on the east side by the South Branch Rancocas Creek. The project is proposed as a means to reduce usage of the applicant's existing permitted wells.

8. *Deptford Township Municipal Utilities Authority D–94–68 CP.* An application for approval of a ground water withdrawal project to supply up to 43.2 mg/30 days of water to the applicant's distribution system from new Well No. 8, and to retain the existing withdrawal limit from all wells of 123 mg/30 days. The project is located in Deptford Township, Gloucester County, New Jersey.

9. *New York City Department of Environmental Protection—Margaretville STP D–94–78 CP.* A project to upgrade the Margaretville-Arkville STP located in the southwestern corner of the Village of Margaretville in the Town of Middletown, Delaware County, New York. The existing 0.4 mgd capacity STP serves approximately half of the area of the Village of Margaretville and portions of the hamlet of Arkville, all in the Town of Middletown. The existing secondary treatment facilities will be replaced by a new advanced secondary STP with tertiary filtration. The upgraded STP is designed for the same flow and will continue to discharge to the East Branch Delaware River.

10. *New Jersey Foreign Trade Zone D–94–83.* An application for approval of a ground water withdrawal project to supply up to 12 mg/30 days of water to the applicant's office and industrial complex from Well Nos. BR–3 and BR–4, and to limit the withdrawal from all wells to 12 mg/30 days. The project is located in Mount Olive Township, Morris County, New Jersey.

11. *Wissahickon Spring Water, Inc. D–95–11.* An application for approval of a ground water withdrawal project to supply up to 8.64 mg/30 days of water to the applicant's bulk water loading facility from new Well No. 1, and to limit the withdrawal from all wells to 8.64 mg/30 days. The project is located in Pike Township, Berks County, Pennsylvania.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: April 11, 1995.

Susan M. Weisman,

Secretary.

[FR Doc. 95–9797 Filed 4–19–95; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title; Applicable Form; and OMB Control Number: Nomination for Appointment to the United States Military Academy, Naval Academy, and Air Force Academy; DD Form 1870; OMB Control Number 0701–0026.

Type of Request: Expedited Processing—Approval date requested: 30 days following publication in the Federal Register.

Number of Respondents: 15,425.

Responses per Respondent: 1.

Annual Responses: 15,425.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 7,712.

Needs and Uses: The information collected hereby, constitutes a nomination from the Vice President, a Member of Congress, or other designated individuals, of an applicant for appointment consideration to the United States Military Academies.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer—Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce—Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: April 17, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved OMB No. 0701-0026 Expires

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0701-0026), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR FORM TO EITHER OF THESE ADDRESSES. SEND YOUR COMPLETED FORM TO THE APPROPRIATE ADDRESS IN ITEM 12.

1. NAME OF NOMINEE (Last, First, Middle Initial)				2. DATE OF BIRTH (YYMMDD)	3. SOCIAL SECURITY NUMBER
4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS	
a. STREET (Include apartment number)				a. STREET (Include apartment number)	
b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY / d. STATE / e. ZIP CODE
6. SEX (X one) ☐ MALE ☐ FEMALE	7. TELEPHONE NUMBER (Include area code)			8. CONGRESSIONAL DISTRICT AND/OR STATE	

9. TYPE OF NOMINATION (X as applicable)

DRAFT

a. VACANCY	b. TYPE OF NOMINATION
☐ 1st ☐ 4th ☐ 2nd ☐ 5th ☐ 3rd	☐ PRINCIPAL ☐ COMPETITIVE ☐ ALTERNATE (1-5) _____ TO (Name of Principal) _____ ☐ COMPETITIVE ALTERNATE TO (Name of Principal) _____

10. REMARKS (Use instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)

11. NOMINATING AUTHORITY		
a. TYPED NAME (Last, First, Middle Initial)	b. SIGNATURE	c. DATE SIGNED (YYMMDD)

12. MAIL TO APPROPRIATE ACADEMY ADDRESS

ARMY:	NAVY:	AIR FORCE:
US Total Army Personnel Command ATTN: TAPC-OPD-CM 200 Stovall Street Alexandria, VA 22332-0413	Nominations and Appointment Branch U.S. Naval Academy 117 Decatur Road Annapolis, MD 21402-5019	USAF Academy Group 1040 Air Force Pentagon Room 4E144 Washington, DC 20330-1040

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE

VOL 60 ISS 76 AP 20 1995 UMI

INSTRUCTIONS FOR COMPLETING DD FORM 1870 AND EXPLANATION OF NOMINATING SYSTEMS

Type one complete set of forms for each nominee. Retain Copy 4 for your record.

Ten nominations are allowed for each vacancy.

Place an "X" in appropriate Service Academy block.

COMPETITIVE SYSTEM:

DRAFT

Selection will be made by the Academy Academic Board in order of merit based on the "Whole Person" concept as to the candidate whose all around performance indicates the greatest likelihood of success as a career officer in the Armed Forces of the United States. When filling one vacancy, place an "X" in the "1st Vacancy" block and the "Competitive" block. If filling more than one vacancy, place an "X" in each of the numbered vacancy blocks being filled and the "Competitive" block.

PRINCIPAL/NUMBERED ALTERNATE SYSTEM:

A Principal and nine numbered alternates may be named for each vacancy available. An appointment will be offered if the Principal meets the eligibility criteria. If the Principal fails to meet the Academy minimum requirements, the next designated alternate candidate who qualified will succeed as the Principal. Place an "X" in the appropriate "Vacancy" block and the "Alternate" block, and type the number of preference of this alternate and the name of the Principal.

PRINCIPAL/COMPETITIVE ALTERNATE SYSTEM:

A Principal and nine competitive alternates may be named for each vacancy available. If the named Principal fails to meet the requirements for admission the Academy will select the top candidate among the competitive alternates designated. Place an "X" in the appropriate "Vacancy" block and the "Competitive Alternate" block and the name of the Principal.

DD FORM 1870, 950407 DRAFT (BACK)

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved OMB No. 0701-0026 Expires

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0701-0026), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR FORM TO EITHER OF THESE ADDRESSES. SEND YOUR COMPLETED FORM TO THE APPROPRIATE ADDRESS IN ITEM 12.

1. NAME OF NOMINEE (Last, First, Middle Initial)				2. DATE OF BIRTH (YYMMDD)	3. SOCIAL SECURITY NUMBER
4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS	
a. STREET (Include apartment number)				a. STREET (Include apartment number)	
b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY / d. STATE / e. ZIP CODE
6. SEX (X one) ☐ MALE ☐ FEMALE	7. TELEPHONE NUMBER (Include area code)			8. CONGRESSIONAL DISTRICT AND/OR STATE	

9. TYPE OF NOMINATION (X as applicable)

DRAFT

a. VACANCY	b. TYPE OF NOMINATION
☐ 1st ☐ 4th	☐ PRINCIPAL ☐ COMPETITIVE
☐ 2nd ☐ 5th	☐ ALTERNATE (1-9) _____ TO (Name of Principal) _____
☐ 3rd	☐ COMPETITIVE ALTERNATE TO (Name of Principal) _____

10. REMARKS (See instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)

11. NOMINATING AUTHORITY		
a. TYPED NAME (Last, First, Middle Initial)	b. SIGNATURE	c. DATE SIGNED (YYMMDD)

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE. COPY 2 - SERVICE ACADEMY

VOL 60 ISS 76 AP 20 1995 UMI

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved OMB No. 0701-0026 Expires

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PLEASE DO NOT RETURN YOUR FORM TO EITHER OF THESE ADDRESSES. SEND YOUR COMPLETED FORM TO THE APPROPRIATE ADDRESS IN ITEM 12.

1. NAME OF NOMINEE (Last, First, Middle Initial) | 2. DATE OF BIRTH (YYMMDD) | 3. SOCIAL SECURITY NUMBER

4. DOMICILE IN CONSTITUENCY
a. STREET (Include apartment number)
b. CITY | c. COUNTY | d. STATE | e. ZIP CODE

5. TEMPORARY ADDRESS
a. STREET (Include apartment number)
b. CITY | c. COUNTY | d. STATE | e. ZIP CODE

6. SEX (X one) ☐ MALE ☐ FEMALE

7. TELEPHONE NUMBER (Include area code)

8. CONGRESSIONAL DISTRICT AND/OR STATE

9. TYPE OF NOMINATION (X as applicable)

DRAFT

a. VACANCY
☐ 1st ☐ 4th
☐ 2nd ☐ 5th
☐ 3rd

b. TYPE OF NOMINATION
☐ PRINCIPAL ☐ COMPETITIVE
☐ ALTERNATE (1-9) _____ TO (Name of Principal) _____
☐ COMPETITIVE ALTERNATE TO (Name of Principal) _____

10. REMARKS (See instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)

11. NOMINATING AUTHORITY
a. TYPED NAME (Last, First, Middle Initial)
b. SIGNATURE
c. DATE SIGNED (YYMMDD)

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE COPY 3 - ACADEMY LIAISON OFFICE

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

☐ MILITARY ACADEMY ☐ NAVAL ACADEMY ☐ AIR FORCE ACADEMY

Form Approved OMB No. 0701-0026 Expires

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1. NAME OF NOMINEE (Last, First, Middle Initial) | 2. DATE OF BIRTH (YYMMDD) | 3. SOCIAL SECURITY NUMBER

4. DOMICILE IN CONSTITUENCY
a. STREET (Include apartment number)
b. CITY | c. COUNTY | d. STATE | e. ZIP CODE

5. TEMPORARY ADDRESS
a. STREET (Include apartment number)
b. CITY | c. COUNTY | d. STATE | e. ZIP CODE

6. SEX (X one) ☐ MALE ☐ FEMALE

7. TELEPHONE NUMBER (Include area code)

8. CONGRESSIONAL DISTRICT AND/OR STATE

9. TYPE OF NOMINATION (X as applicable)

DRAFT

a. VACANCY
☐ 1st ☐ 4th
☐ 2nd ☐ 6th
☐ 3rd

b. TYPE OF NOMINATION
☐ PRINCIPAL ☐ COMPETITIVE
☐ ALTERNATE (1-9) _____ TO (Name of Principal) _____
☐ COMPETITIVE ALTERNATE TO (Name of Principal) _____

10. REMARKS (See instructions on back for completing form and explanation of nominating systems. Retain Copy 4 (Congressional) for your file.)

11. NOMINATING AUTHORITY
a. TYPED NAME (Last, First, Middle Initial)
b. SIGNATURE
c. DATE SIGNED (YYMMDD)

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VOL 60 ISS 76 AP 20 1995 UMI

NOMINATION FOR APPOINTMENT TO THE UNITED STATES

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Form Approved OMB No. 0701-0026 Expires

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4. DOMICILE IN CONSTITUENCY				5. TEMPORARY ADDRESS				
a. STREET (Include apartment number)				a. STREET (Include apartment number)				
b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	b. CITY	c. COUNTY	d. STATE	e. ZIP CODE	
6. SEX (X one) ☐ MALE ☐ FEMALE	7. TELEPHONE NUMBER (Include area code)			8. CONGRESSIONAL DISTRICT AND/OR STATE				

DRAFT

9. TYPE OF NOMINATION (X as applicable)

a. VACANCY ☐ 1st ☐ 2nd ☐ 3rd ☐ 4th ☐ 5th

b. TYPE OF NOMINATION ☐ PRINCIPAL ☐ COMPETITIVE ☐ ALTERNATE (1-5) _____ TO (Name of Principal) _____ ☐ COMPETITIVE ALTERNATE TO (Name of Principal) _____

c. OTHER CONGRESSIONAL NOMINATIONS		PRES		COGOV		W/D	DATE		SEPARATION DATE		
(1)		REC		HMS		MED DISQ	☐ CAREER GOALS		☐ HONOR		☐ ACADEMICS
(2)		V.P.		CMHW			☐ ENV ADJ		☐ MED DISQ		☐ CONDUCT
(3)		RES		ROTC		OTHER (Specify)					

11. NOMINATING AUTHORITY	b. SIGNATURE	c. DATE SIGNED (YYMMDD)
a. TYPED NAME (Last, First, Middle Initial)		

DD FORM 1870, 950407 DRAFT PREVIOUS EDITION IS OBSOLETE. COPY 5 - ACADEMY LIAISON OFFICE

[FR Doc. 95-9776 Filed 4-19-95; 8:45 am]

BILLING CODE 5000-04-C

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program Between the General Services Administration and the Defense Manpower Data Center of the Department of Defense

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Notice of a computer matching program between the General Services Administration (GSA) and the Department of Defense (DoD) for public comment.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between GSA and DoD that their records are being matched by computer. The record subjects are GSA delinquent debtors who may be current or former Federal employees receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the United States Government under programs administered by GSA so as to permit GSA to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will become effective May 22, 1995, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202-4502.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr. at telephone (703) 607-2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and GSA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal government so that GSA can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between GSA and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Chief Financial Officer, General Services Administration, 18th and F Streets, NW, Washington, DC 20405. Telephone (202) 501-1721.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the Federal Register at 54 FR 25818 on June 19, 1989.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on April 6, 1995, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated July 15, 1994 (59 FR 37906, July 25, 1994). The matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: April 13, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Notice of a Computer Matching Program Between the General Services Administration and the Department of Defense for Debt Collection

A. *Participating agencies:* Participants in this computer matching program are the General Services Administration (GSA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The GSA is the source agency, i.e., the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* Upon the execution of an agreement, the GSA will provide and disclose debtor records to DMDC to identify and locate any matched Federal personnel, employed or retired, who may owe delinquent debts to the Federal Government under certain programs administered by the DOD. The GSA will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982 when voluntary payment is not forthcoming. These collection efforts will include requests by the GSA of any employing Federal agency to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Pub.L. 97-365), 31 U.S.C. chapter 37, subchapter I (General) and subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, Assistant Secretaries of Defense, Appointment Powers and Duties; section 206 of Executive Order 11222; 4 CFR Ch. II, Federal Claims Collection Standards (General Accounting Office—Department of Justice); 5 CFR 550.1101-550.1108 Collection by Offset from Indebted Government Employees (OPM); 41 CFR part 105-56 (GSA).

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

The GSA will use personal data from the Privacy Act record system identified as GSA/PPFM-7, entitled, 'Credit Data on Individual Debtors', last published in the Federal Register at 58 FR 64587 on December 8, 1993.

DMDC will use personal data from the record systems identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the Federal Register on February 22, 1993, at 58 FR 10875.

Sections 5 and 10 of the Debt Collection Act (Pub.L. 97-365)

VOL 60 ISS 76 AP 20 1995 UMI

authorize agencies to disclose information about debtors in order to effect salary or administrative offsets. Agencies must publish routine uses pursuant to subsection (b)(3) of the Privacy Act for those systems of records from which they intend to disclose this information. Sections 5 and 10 of the Debt Collection Act will comprise the necessary authority to meet the Privacy Act's 'compatibility' condition. The systems of records described above contain an appropriate routine use disclosure between the agencies of the information proposed in the match. The routine use provisions are compatible with the purpose for which the information was collected.

E. *Description of computer matching program:* The GSA, as the source agency, will provide DMDC with a disk which contains the names of delinquent debtors in programs the GSA administers. Upon receipt of the disk file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the GSA file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of employment records of Federal employees and military members, active, and retired. Matching records ('hits'), based on the SSN, will produce the member's name, service or agency, category of employee, and current work or home address. The hits or matches will be furnished to the GSA. The GSA is responsible for verifying and determining that the data on the DMDC reply disk file are consistent with the GSA source file and for resolving any discrepancies or inconsistencies on an individual basis. The GSA will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The disk provided by GSA will contain data elements of the debtor's name, Social Security Number, debtor status and debt balance, internal account numbers and the total amount owed on approximately 1,870 delinquent debtors.

The DMDC computer database file contains approximately 10 million records of active duty and retired military members, including the Reserve and Guard, and the OPM government wide Federal civilian records of current and retired Federal employees.

F. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and will be repeated semi-annually. Under no circumstances shall the matching program be implemented before the 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between GSA and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 95–8648 Filed 04–19–95; 8:45 am]
BILLING CODE 5000–04–F

Privacy Act of 1974; Notice to Amend a Record System

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend a system of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on May 22, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DASC-RP, Alexandria, VA 22304–6100.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Christensen at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record systems being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: April 13, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base *(November 7, 1994, 59 FR 55462).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to end of entry 'Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.'

* * * * *

PURPOSE(S):

Add to entry 'Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals.'

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93943–5000.

Decentralized segments—Portions of this file may be maintained by the military and non-appropriated fund personnel and finance centers of the military services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DOD civilian employees since January 1, 1972. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey.

Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DOD contractors and are subject to the provisions of 10 U.S.C. 2397.

All U.S. Postal Service employees.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax I.D. of providers or potential providers of care.

Selective Service System registration data.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

U.S. Postal Service employment/personnel records containing Social Security Number, name, salary, home and work address. U.S. Postal Service records will be maintained on a temporary basis for approved computer matching between the U.S. Postal Service and DOD.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Appointment Powers and Duties; 10 U.S.C. 2358; Research Projects; 5 U.S.C. App. 3 (Pub. L. 95–452, as amended (Inspector General Act of 1978)); and E.O. 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions, to perform longitudinal statistical analyses, identify current and former DOD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified, and to collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the

VOL
60
ISS
76
AP
20
1995
UMI

DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Veteran Affairs (DVA) to provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans.

To the Department of Veteran Affairs (DVA) to provide identifying military personnel data to the DVA and its contractor, the Prudential Insurance Company, for the purpose of notifying members of the Individual Ready Reserve (IRR) of their right to apply for Veteran's Group Life Insurance coverage.

To the Department of Veterans Affairs (DVA) to register eligible veterans and their dependents for DVA programs.

To the Department of Veterans Affairs (DVA) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

1. Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program (38 U.S.C. 3104(c), 3006–3008). The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment.

2. Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 106—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

3. Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 684) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does permit waiver of DVA compensation to draw reserve pay.

4. Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law (38 U.S.C. 3104(c)) requires recoupment of severance payments before DVA disability compensation can be paid.

5. Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 3104(c), 3006–3008). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

To the Office of Personnel Management (OPM) consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

To the Office of Personnel Management (OPM) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

1. Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

2. Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DOD to insure that annuities of DOD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

3. Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DOD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

4. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DOD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

To the Department of Health and Human Services (DHHS):

1. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DOD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

2. To the Office of Child Support Enforcement, DHHS, pursuant to 42 U.S.C. 653 and Pub. L. 94–505, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

3. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns or residents are counted for HCFA reimbursement to hospitals.

4. To the Social Security Administration (SSA), Office of Research and Statistics, DHHS for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

5. To the Bureau of Supplemental Security Income, SSA, DHHS to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

6. To the Center for Disease Control, DHHS, for the purpose of conducting studies concerned with the health and well being of the active duty and veteran population.

To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

To DOD Civilian Contractors for the purpose of performing research on manpower problems for statistical analyses.

To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DOD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

To the Department of Housing and Urban Development (HUD) to provide data contained in this record system that includes the name, Social Security Number, salary and retirement pay for the purpose of verifying continuing eligibility in HUD's assisted housing programs maintained by the Public Housing Authorities (PHAs) and subsidized multi-family project owners or management agents. Data furnished will be reviewed by HUD or the PHAs with the technical assistance from the HUD Office of the Inspector General (OIG) to determine whether the income reported by tenants to the PHA or subsidized multi-family project owner or management agent is correct and complies with HUD and PHA requirements.

To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements. To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DOD personnel.

To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

To Defense contractors to monitor the employment of former DOD employees and members subject to the provisions of 10 U.S.C. 2397.

To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DOD civilian employees and military members.

To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the Unites States Government under the Debt Collection Act of 1982 (Pub. L. 97–365).

To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

1. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

2. Exchanging personnel and financial information on certain military retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

To the Armed Forces Retirement Home (AFRH), which includes the United States Soldier's and Airmen's Home (USSAH) and the United States Naval Home (USNH) for the purpose of verifying Federal payment information (military retired or retainer pay, civil service annuity, and compensation from the Department of Veterans Affairs) currently provided by the residents for computation of their monthly fee and to identify any unreported benefit payments as required by the Armed Forces Retirement Home Act of 1991, Pub.L. 101-510 (24 U.S.C. 414).

The 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of

VOL 60 ISS 76 AP 20 1995 UMI

record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center - Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location - Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

U.S. Postal Service records are temporary and are destroyed after the computer matching program results are verified.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, Personal Privacy and Rights of Individuals Regarding Their Personal Records; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veteran Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–9649 Filed 04–20–95; 8:45 am]

BILLING CODE 5000–04–F

Defense Mapping Agency

Privacy Act of 1974; Notice to Amend a System of Records

AGENCY: Defense Mapping Agency, DOD.

ACTION: Notice to amend a system of records.

SUMMARY: The Defense Mapping Agency is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on May 22, 1995, unless comments are received which result in a contrary determination.

ADDRESSES: Ms. Helen Sharetts-Sullivan, General Counsel Information, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Sharetts-Sullivan at (703) 285–9315.

SUPPLEMENTARY INFORMATION: The Defense Mapping Agency systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 6, 1995.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

B0502–03

SYSTEM NAME:

Master Billet/Access Record *(February 22, 1993, 58 FR 10198).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Primary system is located at the Special Security Office, Defense Mapping Agency Headquarters, 8613 Lee Highway, Fairfax, VA 22031–2137.

Decentralized segments exist at the DMA Hydrographic/Topographic Center; DMA Aerospace Center; DMA Reston Center; and the DMA Systems Center. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add 'or a clearance level' after (SCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to end of entry 'company or agency, type of badge the individual is eligible to receive, type of clearance held, date-time-group of the message, date of expiration of file at DMA location.'

* * * * *

PURPOSE(S):

Add to end of entry 'To verify visit approval and/or access to classified material through Security Specialists/Assistants, DMA Security Police and other contract security guards at DMA

* * * * *

STORAGE:

Delete entry and replace with 'Records are stored in file server database for retrieval through visual display terminals and line printers.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Destroy two years after transfer, reassignment or separation of the individual.'

* * * * *

B0502–03

SYSTEM NAME:

Master Billet/Access Record

SYSTEM LOCATION:

Primary system is located at the Special Security Office, Defense Mapping Agency Headquarters, 8613 Lee Highway, Fairfax, VA 22031–2137.

Decentralized segments exist at the DMA Hydrographic/Topographic Center; DMA Aerospace Center; DMA Reston Center; and the DMA Systems Center. Official mailing addresses are published as an appendix to DMA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DMA employees and contractor personnel who have been indoctrinated for access to Sensitive Compartmented Information (SCI) or have been granted a clearance level. In addition, employees of other government agencies are included for the period during which their security clearance or SCI access status is permanently certified to DMA.

CATEGORIES OF RECORDS IN THE SYSTEM:

File may contain for an individual the following: Name, rank/grade, military component or civilian status, Social Security Number, SCI billet number and title, SCI accesses authorized and held, date background investigation completed, date indoctrinated, date and state of birth, company or agency, type-of badge the individual is eligible to receive, type of clearance held.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12356, National Security Information and E.O. 9397.

PURPOSE(S):

To identify and verify DMA personnel authorized access to SCI in order to control access to secure areas for use of classified information, for periodic re-indoctrination (re-briefing) of employees for SCI access, for periodic security education and training, and for control and reissue of identification badges.

To certify personnel SCI access status to the Defense Intelligence Agency for updating the Security Management Information System.

To verify visit approval and/or access to classified material through Security Specialists/Assistants, DMA Security Police and other contract security guards at DMA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is used to certify and verify SCI access status to other government agencies.

The 'Blanket Routine Uses' set forth at the beginning of DMA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file server database for retrieval through visual display terminals and line printers.

RETRIEVABILITY:

Files are retrieved by name and at least one other personal identifier, such as a date of birth, place of birth, Social Security Number or military service number. Files may also be retrieved by billet number.

SAFEGUARDS:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained. Transmission of system data between DMA components is by secure mail channels. Access to the database is password-protected.

RETENTION AND DISPOSAL:

Destroy two years after transfer, reassignment or separation of the individual from DMA.

SYSTEM MANAGER(S) AND ADDRESS:

Security Policy Division, ST A–15, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Security Policy Division, ST A–15, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Security Policy Division, ST A–15, Defense Mapping Agency, 8613 Lee Highway, Fairfax, VA 22031–2137.

Written requests for information should contain the full name of the individual, Social Security Number, current address and telephone number. For personal visits, the individual should be able to furnish personal identification containing his/her full name, Social Security Number, physical description, photograph, and signature.

CONTESTING RECORD PROCEDURES:

DMA's rules for accessing records and contesting contents and appealing initial agency determinations are published in DMA Instruction 5400.11; 32 CFR part 320; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual concerned through completion of the Personal History Statement DD Form 398. The basis for billet entries are security clearance or access approval messages or correspondence from the Defense Intelligence Agency; bases for incumbent entries are indoctrination oaths executed by incumbents at time of indoctrination.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–9307 Filed 04–19–95; 8:45 am]

BILLING CODE 5000–04–F

Department of the Air Force

USAF Scientific Advisory Board Meeting

The USAF Scientific Advisory Board's New World Vistas Directed Energy Panel will meet from 8:00 a.m. to 5:00 p.m. on 8 June 1995 at Kirtland Air Force Base, NM.

The purpose of these meetings are to receive briefings and to have discussions concerning Directed Energy. These meetings will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the SAB Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–9791 Filed 4–19–95; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board Meeting

The Aircraft & Propulsion Panel of the USAF Scientific Advisory Board will meet on 16–17 May 1995 at The ANSER Corporation, 1215 Jefferson Davis

VOL 60 ISS 76 AP 20 1995 UMI

Highway, Arlington, VA from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information in support of the 1995 Summer Study on New World Vistas.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–9792 Filed 4–19–95; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board Meeting

The Aircraft & Propulsion Panel of the USAF Scientific Advisory Board will meet on 30–31 May 1995 at Wright Patterson AFB, OH from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather data in support of the 1995 Summer Study on New World Vistas.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–9793 Filed 4–19–95; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Notice of Closed Meeting

AGENCY: Armed Forces Epidemiological Board, DOD.

ACTION: Notice of closed meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–462) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD, Subcommittee on Disease Control.

Date of Meeting: 20–21 April 1995.

Time: 0800–1600.

Place: U.S. Army Medical Research Institute for Infectious Diseases (USAMRIID), Ft. Detrick, Maryland.

Proposed Agenda: Review of the Preservation of Stocks of Smallpox Vaccine.

2. A portion of this meeting will be closed to the public for an intelligence briefing in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C., appendix 1, sub-section 10(d). Should additional information be desired, please contact the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041–3258.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–9828 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–08–M

Armed Forces Epidemiological Board; Notice of Closed Meeting

AGENCY: Armed Forces Epidemiological Board, DOD.

ACTION: Notice of closed meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–462) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board, DOD.

Date of Meeting: 21 April 1995.

Time: 0800–1600.

Place: U.S. Army Medical Research Institute for Infectious Diseases (USAMRIID), Ft. Detrick, Maryland.

Proposed Agenda: Review of the Preservation of Stocks of Smallpox Virus.

2. A portion of this meeting will be closed to the public for an intelligence briefing in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof and title 5, U.S.C., appendix 1, sub-section 10(d). Should additional information be desired, please contact the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, Room 667, Falls Church, Virginia 22041–3258.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–9942 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–08–M

Availability of Patents for Exclusive, Partially Exclusive or Nonexclusive Licenses

AGENCY: U.S. Army Soldier Systems Command, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive, or nonexclusive licenses under the following patent. Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Issued patent	Title	Issue date
5,402,362	Method of Utilize Trial Dyeings to Improve Color Formulations.	03/28/95

FOR FURTHER INFORMATION CONTACT: For further information please contact either Mr. Vincent J. Ranucci, Patent Counsel or Ms. Jessica M. Niro, Paralegal Specialist, at (508) 651–4510, FAX (508) 651–5167 or by writing to the U.S. Army Soldier Systems Command (Prov), Office of Chief Counsel, Attention: Patents, Natick, MA 01760–5035.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–9747 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement/Environmental Impact Report (DEIS/EIR) for the Seven Oaks Dam Water Conservation and Supply Study, San Bernardino, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The Los Angeles District will prepare a EIS/EIR to evaluate the feasibility of establishing a seasonal water conservation and supply pool at Seven Oaks Dam. The dam, which is currently under construction, is the upstream component of the Santa Ana River Mainstem Project (SARP), and is located in the San Bernardino National Forest along the upper Santa Ana River at the base of the San Bernardino Mountains. The study was developed in response to local concerns regarding future water supply sources, given continued regional population growth, dwindling imported water supplies, and continued increases in the cost of water. Establishment of a seasonal water conservation and supply pool at Seven Oaks would increase groundwater reserves by extending the period water is available for release to downstream spreading grounds. Additionally, the feasibility of developing dispersed, non-motorized recreational facilities will be investigated in cooperation with staff from the San Bernardino National Forest.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS/EIR can be answered by: Mr. Gary Gunther, Study Manager, CESPL–PD–WA, P.O. Box 2711, Los Angeles, California 90053–22325, (213) 894–3825.

SUPPLEMENTARY INFORMATION:

a. Authority

The authority to study the feasibility of water conservation and supply storage at Seven Oaks Dam is contained in the Resolution of the Committee on Public Works of the U.S. House of Representatives, dated May 8, 1964.

b. Proposed Action/Alternatives

The proposed action for Seven Oaks Dam would investigate the feasibility of impounding natural flows during the months of March through May, with releases being made from June through September. Three alternative pool elevations and release rates are currently under consideration:

(1) Impounding water up to elevation 2,300 NGVD in the 100-year debris pool (16,000 acre-feet) with releases at the approximate rate of 67 cubic feet per second (CFS) beginning in June.

(2) Impounding water up to elevation 2,375 NGVD (35,000 acre-feet) with releases of approximately 84 cfs beginning in June, and

(3) Impounding water up to elevation 2,418 NGVD (50,000 acre-feet) with releases at the approximate rate of 208 cfs beginning in June.

c. Scoping

An extensive mailing list has been developed which includes Federal, State and local agencies and other interested public and private organizations and parties. Individuals on the mailing list will be sent a copy of each notice announcing a public scoping meeting. An initial public scoping meeting will be scheduled in the near future. Additional public meetings will be scheduled during the review period for the draft EIS/EIR. Specific meeting dates, times, and places will be published in local newspapers. Formal coordination with the appropriate Federal, State and local agencies has begun.

d. Potentially Significant Issues

Potentially significant issues identified include impacts to land and water use, water quality and circulation, recreation resources, and biological resources including endangered species and riparian habitat.

e. Availability of the Draft EIS/EIR

The draft EIS/EIR is expected to be available to the public for review and comment beginning in August of 1996.

f. Comments

Comments and questions regarding the project may be addressed to: U. S. Army Corps of Engineers, Los Angeles District, ATTN: Mr. Gary Gunther, CESPL–PD–WA, P.O. Box 2711, Los Angeles, California 90053–2325.

Dated March 27, 1995.

Jerome J. Dittman,

Lieutenant Colonel, Corps of Engineers, Acting Commander.

[FR Doc. 95–9746 Filed 4–19–95; 8:45 am]

BILLING CODE 3710–KF–M

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings at Military Installations Designated for Closure: Naval Reserve Center, Atlantic City, NJ

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Reserve Center, Atlantic City, NJ, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Helen McCabe, Realty Specialist, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Reserve Center, Atlantic City, New Jersey, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the facilities only, not the land, at this installation were on July 15, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, for removal off-site.

Election to Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 23, 1994, the Governor of New Jersey submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Reserve Center, Atlantic City, NJ, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Reserve Center, Atlantic City, NJ, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Atlantic City, acting by and through Mayor James Whelan. For further information contact the Office of the Mayor, City Hall, 1301 Bacharach Blvd., Atlantic City, NJ 08401, telephone (609) 347–5400.

Surplus Property Descriptions

The following is a listing of the facilities at the Naval Reserve Center, City of Atlantic City, Atlantic County, State of New Jersey that were declared surplus to the federal government on July 15, 1994. The facilities are located

VOL 60 ISS 76 AP 20 1995 UMI

on Coast Guard land. The land is not subject to this surplus notice.

Buildings

The following is a summary of the facilities which are presently available for removal off-site. The station closed on July 1, 1994. Property numbers are available on request.

—Administration/training facilities (1 structure). Comments: Approx. 16,809 square feet.
— Flammable storage facilities (1 structure). Comments: Approx. 128 square feet.
—Garage facilities (1 structure). Comments: Approx. 933 square feet.
—Miscellaneous facilities (4 structures). Comments: Measuring systems vary. Antenna masts, flagpoles, and fencing.
—Paved areas. Comments: Approx. 3,086 square yards. Parking areas, sidewalks, driveways, and roads.
—Utilities. Comments: Measuring systems vary. Electric, fuel oil storage, sewerage pumping station, and incinerator.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Reserve Center, Atlantic City, shall submit to the redevelopment authority (City of Atlantic City) a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Atlantic City, NJ, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Governor of New Jersey elected to proceed under the new statute, i.e., December 23, 1994.

Dated: April 10, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–0795 Filed 4–19–95; 8:45 am]

BILLING CODE 3810–FF–P

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Air Warfare Center, Aircraft Division, Trenton, NJ

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Air Warfare Center, Aircraft Division, Trenton, NJ, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Barry Barclay, Base Transition Coordinator, Naval Air Warfare Center, Aircraft Division, P.O. Box 7176, 1440 Parkway Avenue, Trenton, NJ 08628–0176, telephone (609) 538–6489.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Air Warfare Center, Aircraft Division, Trenton, New Jersey was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the land and facilities at this installation were on January 31, 1995, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 8, 1994, the County of Mercer, New Jersey submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Air Warfare Center, Aircraft Division, Trenton, NJ is published in the **Federal Register.**

Redevelopment Authority

The redevelopment authority for the Naval Air Warfare Center, Aircraft Division, Trenton, NJ, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Ewing Township Local Reuse Committee, whose chairman is William R. Mate. A cross section of community interests is represented on committee. For further information contact the Ewing Township Business Administrator, Ewing Township Municipal Complex, 2 Municipal Drive, Ewing, NJ 08628, telephone (609) 538–7606.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Air Warfare Center, Aircraft Division, Trenton, NJ, that were declared surplus to the federal government on January 31, 1995.

Land

Approximately 65.61 acres of improved and unimproved fee simple land at the U.S. Naval Air Warfare Center, Aircraft Division, Trenton, in Ewing Township, Mercer County, New Jersey. An additional 475 acres of land is held in easements, permits and agreements, including 463 acres in permanent easement rights for the ascension and landing of aircraft at Mercer County Airport.

Buildings

The following is a summary of the facilities located on the above described land which will also be available when the station closes on 30 September 1998 unless otherwise indicated. Property numbers are available on request.

—Administration/Office facilities (5 structures). Comments: Approx. 59,000 square feet.
—Laboratory Space (5 structures). Comments: Approx. 141,967 square feet.
—Covered Storage Space (8 structures). Comments: Approx. 40,450 square feet.
—Testing Facility Space (13 structures). Comments: Approx. 317,514 square feet.
—Electrical and Water Service (2 structures). Comments: Located off-base. Scotch Road meter house (100 KV) with a 0.8 mile easement. Delaware River non-potable water pumping station with a 2.2 mile easement.
—Fuel storage facilities (22 structures). Comments: Approx. 25,000 gallon capacity in each tank and 0.4 miles of pipeline.
—Steam Plant (1 structure). Comments: Rated at 120,000 lb./hr.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Air Warfare Center, Aircraft Division, Trenton, shall submit to the redevelopment authority (Ewing Township Local Reuse Committee) a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Trenton/Ewing Township, NJ, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the County of Mercer, NJ, elected to proceed under the new statute, i.e., December 8, 1994.

Dated: April 10, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–9794 Filed 4–19–95; 8:45 am]

BILLING CODE 3810–FF–P

Board of Visitors to the United States Naval Academy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on May 1, 1995, at Alumni Hall, United States Naval Academy, at 8:30 a.m. The session will be open to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy.

For further information concerning this meeting contact: Lieutenant Commander Timothy A. Batzler, U.S. Navy, Executive Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402–5000, Telephone: (410) 293–1503.

Dated: April 11, 1995.

L. R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–9796 Filed 4–19–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Financial Assistance Award: Niel Murdock

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a financial assistance award under Grant Number DE–FG01–95EE15624 to Niel Murdock. The proposed grant will provide funding in the estimated amount of $99,236 by the Department of Energy for the purpose of saving energy through development of the inventor's patented *Self Actuating Spillway Control Device*, a highly efficient alternative to rubber dams, wooden flashboards, and other common dam spillway gates.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Niel Murdock is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. The new technology is a molded rubber panel with internal reinforcement that bends under the force of flood waters. Once water levels decrease, potential energy absorbed by the panel forces it back to its normal, upright position. Thus the gate is totally self operating. This novel technology needs no external power to operate, as do inflatable rubber dams, and does not wash away in flood conditions, as do wooden flashboards. The panel costs approximately half that of rubber dams, and is very advantageous at remote sites. For hydroelectric dams alone, the market potential of the self-actuating panel is about $120 million. As hydroelectric facilities account for only three percent of the total number of dams in the U.S., the market potential appears significant.

The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the Energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation. This award will be made 14 calendar days after publication to allow for public comment.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.21, 1000 Independence Avenue SW., Washington, DC 20585.

VOL 60 ISS 76 AP 20 1995 UMI

The anticipated term of the proposed grant is 18 months from the date of award.

Lynn Warner,

Contracting Officer, Office of Placement and Administration.

[FR Doc. 95-9689 Filed 4-19-95; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. CP95-314-000]

East Tennessee Natural Gas Co.; Notice of Request Under Blanket Authorization

April 14, 1995

Take notice that on April 11, 1995, East Tennessee Natural Gas Company (East Tennessee), a Tennessee Corporation, P.O. Box 2511, Houston, Texas 77252, filed a request with the Commission in Docket No. CP95-314-000 pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for permission to establish a new delivery point, authorized in blanket certificate issued in Docket No. CP82-412-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

East Tennessee proposes to establish a new delivery point for service under an interruptible transportation contract with Equitable Resources Marketing Company (Equitable), who transports and delivers natural gas it sells to the Power Paper Company (Power). Midcoast Energy Resources, Inc. (Midcoast) would act as an agent for Power and would further install the meter and interconnecting piping. East Tennessee states that it would install a two-inch hot tap assembly and electronic gas measurement facilities (E.G.M/DAC), and would inspect the meter and interconnecting piping that Midcoast installed. Midcoast would reimburse East Tennessee an estimated $33,616 for this installation.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9750 Filed 4-19-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-234-000]

El Paso Natural Gas Co.; Notice of Tariff Filing

April 14, 1995.

Take notice that on April 12, 1995, El Paso Natural Gas Company (El Paso), tendered for filing pursuant to Part 154 of the Federal Energy Regulatory Commission Regulations Under the Natural Gas Act and in compliance with the Commission's Final Rule (Order No. 577) issued March 29, 1995 at Docket No. RM95-5-000, certain revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1-A.

El Paso states that the tendered tariff sheets reflect the Commission's revision of § 284.243(h) of its Regulations and provides for the extension of the exception which allows shippers to release capacity without having to comply with the Commission's advance posting and bidding requirements to one full calendar month. El Paso states that its tariff currently provides for the Commission's clarification of the exemptions of the posting and bidding requirements for transactions at the maximum rate.

El Paso states that the tendered tariff sheets also revise the posting of roll-overs of exempted releases by changing the period in which shippers that released capacity at less than the maximum rate may re-release capacity to the same shipper at less than the maximum rate from 30 days to 28 days.

El Paso, pursuant to Section 154.51 of the Commission's Regulations, respectfully requests waiver of the notice requirement of § 154.22 of said Regulations to permit the tendered tariff sheets to become effective on May 4, 1995, which is the date Order No. 577 will become effective.

El Paso states that copies of the filing were served upon all of El Paso's interstate pipeline system transportation customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 21, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9752 Filed 4-19-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-320-000]

Tennessee Gas Pipeline Co.; Notice of Application

April 14, 1995.

Take notice that on April 12, 1995, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed an application in Docket No. CP95-320-000 pursuant to sections 7(b) and 7(c) of the Natural Gas Act requesting permission and approval to abandon in place certain pipeline and to abandon by removal certain other pipeline facilities and for a certificate of public convenience and necessity authorizing it to construct and operate replacement pipeline facilities in order to improve an existing river crossing, all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee states that the results of a corrosion survey indicate that the three 16-inch pipelines located on Tennessee's 100-1, Line where it crosses the D'Arbonne Bayou in Ouachita Parish, Louisiana have deteriorated and must be replaced. In order to maintain the integrity of its mainline transmission system, Tennessee proposes to construct a single 24-inch replacement pipeline.

The existing crossing consists of two 24-inch headers with three connecting 16-inch with three connecting 16-inch lines and approximately 819 feet connecting the header on the west bank to Tennessee's Line 100-1. The portion of the three 16-inch lines beneath the bayou (536 feet each) will be abandoned in place and capped on the east and west banks. The remaining on-bank tie-in facilities (three segments of 423 feet each and one 24-inch line segment of 819 feet), including the two 24-inch headers will be removed.

Tennessee states that the age of the facilities (nearly 50 years old), the movement of the bayou, and the dictates of enhanced design technique make it advisable to install replacement facilities, which would be located approximately 100 feet south of the existing right-of-way. Tennessee proposes to use the existing cleared right-of-way to the maximum extent possible for an expanded work and staging area. The replacement line will consist of approximately 1,800 feet of piggable 24-inch pipeline, horizontally drilled, beginning at Milepost 47-1+1.72 and extending to Milepost 47-1+2.06 on Tennessee's Mainline 100-1 in Ouachita Parish, Louisiana. Tennessee states that directionally drilled pipelines under rivers are significantly more secure than older pipelines which were installed by way of trenching under the river bed. Tennessee indicates that upon completion of the proposed construction, the existing 1.2 acre existing right-of-way, after grading and implementation of erosion and revegetation measures, will be permitted to revert to its natural state.

Tennessee states that the replacement will not increase the capacity of Tennessee's mainline. No compression or metering facilities will be added or modified. Nor will there be any effect on Tennessee's customers, since Mainlines 100-2, 100-3, and 100-4 will handle all of the diverted gas volumes until the bayou crossing replacement is completed.

Tennessee estimates that the replacement project will cost approximately $1,085,458 for the pipeline facilities and $368,938 for abandonment of the three 16-inch lines.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 5, 1995, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9751 Filed 4-19-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-210-000]

Transwestern Pipeline Co.; Notice of Technical Conference

April 14, 1995.

Take notice that a technical conference will be convened in the above-docketed proceeding on Thursday, April 27, 1995, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE, Washington, DC.

Any party, as defined in 18 CFR 385.102(c), and any participant, as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations (18 CFR 385.214).

For additional information, please contact Maria K. Pavlou (713) 853-7555 at Transwestern or Lisa T. Long (202) 208-0691 at the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9749 Filed 4-19-95; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM

Georgia Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 15, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Georgia Bancshares, Inc., Tucker, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of DeKalb State Bank, Tucker, Georgia.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of Dickinson Bancorporation, Inc., Dickinson, North Dakota, and thereby indirectly acquire Liberty Bank and Trust, N.A., Dickson, North Dakota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. BOK Financial Corporation, Tulsa, Oklahoma; to acquire 7.5 percent of the voting shares of Security National Bancshares of Sapulpa, Inc., Sapulpa, Oklahoma, and thereby indirectly acquire Security National Bank of Sapulpa, Sapulpa, Oklahoma.

Board of Governors of the Federal Reserve System, April 14, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9736 Filed 4-19-95; 8:45 am]

BILLING CODE 6210-01-F

VOL
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

James T. Kurtzman, M.D., University of California at San Francisco. An investigation conducted by the University found that Dr. Kurtzman, a former Resident/Fellow in the Department of Obstetrics, Gynecology, and Reproductive Sciences, falsified results of research on the kinetics of nitric oxide synthase in cells and homogenates of human myometrial tissue in pregnant women. Dr. Kurtzman admitted that he had altered data in eight experiments that he performed during December 1993 and January 1994. Dr. Kurtzman reported that he had conducted the enzyme assays and entered the data into a computer-based spreadsheet, but then changed the data to generate graphs that would reproduce the type of results that he had submitted earlier to the Journal of Clinical Investigation. The paper was not published. Dr. Kurtzman executed a Voluntary Exclusion and Settlement Agreement in which he has agreed not to apply for Federal grant or contract funds and will not serve on PHS advisory committees, boards or peer review groups for a three-year period beginning March 18, 1995. The voluntary exclusion, however, shall not apply to Dr. Kurtzman's future training or practice of clinical medicine whether as a resident, fellow, or licensed practitioner, as the case may be, unless that practice involves federally funded research or the direct receipt of an award for federally funded research training.

FOR FURTHER INFORMATION, CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–9754 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–17–P

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of May 1995:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: May 8–9, 1995, 8:00 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Palladian East Room, Chevy Chase, MD 20815.

Open May 8, 8:00 a.m. to 9:00 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting review of Health Services Research grant applications requesting dissertation support.

Agenda: The open session of the meeting on May 8, from 8:00 a.m. to 9:00 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing Health Services Research grant applications requesting dissertation support. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact J. Terrell Hoffeld, D.D.S., Ph.D., Agency for Health Care Policy and Research, Suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1449.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: April 13, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–9757 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–90–M

Agency for Health Care Policy and Research

Notice of Health Care Policy and Research Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of June 1995:

Name: Health Care Policy and Research Special Emphasis Panel

Date and Time: June 15–16, 1995, 8:30 a.m.

Place: Ramada Inn, 1775 Rockville Pike, Montrose Room, Rockville, MD 20852.

Open June 15, 8:30 a.m. to 9:30 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications on research that will provide convincing evidence for or against the effectiveness and cost effectiveness of alternative clinical interventions used to prevent, diagnose, treat, and manage common clinical conditions.

Agenda: The open session for the meeting on June 15, from 8:30 a.m. to 9:30 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the committee will be reviewing grant applications dealing with complex, clinical medical effectiveness issues in response to the medical treatment effectiveness PORT II initiative. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Gerald E. Calderone, Ph.D., Agency for Health Care Policy and Research, Suite 602, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–2462.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: April 13, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–9758 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

[Announcement 000]

Public Health Conference Support Grant Program

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds in fiscal year (FY) 1996 for the Public Health Conference Support Grant Program. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to all of Healthy People 2000 priority areas, except HIV infection (an announcement for HIV entitled, "Public Health Conference Support Cooperative Agreement Program for Human Immunodeficiency Virus (HIV) Prevention" will be published). (For ordering a copy of "Healthy People 2000," see the Section "Where To Obtain Additional Information.")

Authority

This program is authorized under Section 301 [42 U.S.C. 241] and Section 310 [42 U.S.C. 242n] of the Public Health Service Act.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants include public and private (e.g., community-based, national and regional) organizations, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority-and/or women-owned businesses are eligible for these grants.

Availability of Funds

Approximately $300,000 is expected to be available in FY 1996 to fund approximately 15–20 awards. The awards range from $1,000 to $30,000 with the average award being approximately $15,000. The awards will be made for a 12-month budget and project period. The funding estimates may vary and are subject to change, based on the availability of funds.

Use of Funds

- CDC funds may be used for direct cost expenditures: salaries, speaker fees, rental of necessary equipment, registration fees, and transportation costs (not to exceed economy class fare) for non-Federal employees.
- CDC funds may NOT be used for the purchase of equipment, payments of honoraria, alterations or renovations, organizational dues, entertainment or personal expenses, cost of travel and payment of a Federal employee, nor per diem or expenses other than local mileage for local participants.
- CDC funds may NOT be used for reimbursement of indirect costs.
- Although the practice of handing out novelty items at meetings is often employed in the private sector to provide participants with souvenirs, Federal funds CANNOT be used for this purpose.
- CDC funds may be used for only those parts of the conference specifically supported by CDC as documented in the grant award.
- CDC will NOT fund 100% of any conference proposed under this announcement.

Purpose

The purpose of conference support grants is to provide PARTIAL support for specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs, (EXCEPT HIV INFECTION). Applications are being solicited for conferences on: (1) Chronic disease prevention; (2) infectious disease prevention; (3) control of injury or disease associated with environmental, home, and work-place hazards; (4) environmental health; (5) occupational safety and health; (6) control of risk factors such as poor nutrition, smoking, lack of exercise, high blood pressure, and stress; (7) health education and promotion; (8) laboratory practices; and (9) efforts that would strengthen the public health system. Because conference support by CDC creates the appearance of CDC co-sponsorship, there will be active participation by CDC in the development and approval of those portions of the agenda supported by CDC funds. In addition, CDC will reserve the right to approve or reject the content of the full agenda, speaker selection, and site selection. CDC funds will not be expended for non-approved portions of meetings. Contingency awards will be made allowing usage of only 10% of the total amount to be awarded until a final full agenda is approved by CDC. This will provide funds for costs associated with preparation of the agenda. The remainder of funds will be released only upon approval of the final full agenda. CDC reserves the right to terminate co-sponsorship if it does not concur with the final agenda.

Because CDC's mission and programs relate to the promotion of health and the *prevention* of disease, disability, and premature death, only conferences focusing on such programmatic areas will be considered. Those topics concerned with health-care and health-service issues and areas *other than prevention* should be directed to other public health agencies.

Program Requirements

Grantees must meet the following requirements:

A. Manage all activities related to program content (e.g., objectives, topics, attendees, session design, workshops, special exhibits, speakers, fees, agenda composition, and printing). Many of these items may be developed in concert with assigned CDC project personnel.

B. Provide draft copies of the agenda and proposed ancillary activities to CDC for approval. Submit copy of final agenda and proposed ancillary activities to CDC for approval.

C. Determine and manage all promotional activities (e.g., title, logo, announcements, mailers, press, etc.). CDC must review and approve any materials with reference to CDC involvement or support.

D. Manage all registration processes with participants, invitees, and registrants (e.g., travel, reservations, correspondence, conference materials and hand-outs, badges, registration procedures, etc.).

E. Plan, negotiate, and manage conference site arrangements, including all audio-visual needs.

F. Participate in the analysis of data from conference activities that pertain to the impact on prevention.

Letter of Intent

Potential applicants must submit an original and two copies of a one-page typewritten Letter of Intent that briefly describes the title, location, purpose, and date of the proposed conference and the intended audience (number and profession). This letter must also include the estimated total cost of the conference and the percentage of the total cost (which must be less than 100%) being requested from CDC. THE ONE PAGE LIMITATION MUST BE OBSERVED OR THE LETTER OF INTENT WILL BE RETURNED WITHOUT REVIEW.

Letters of Intent will be reviewed by program staff for consistency with CDC's health promotion and disease prevention goals and priorities and the purpose of this program.

An invitation to submit a final application will be made on the basis of the proposed conference's relationship to the CDC funding priorities and on the availability of funds.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (TOTAL 100 POINTS):

VOL 60 ISS 76 AP 20 1995 UMI

A. Proposed Program and Technical Approach (25 points)

Evaluation will be based on:

1. The applicant's description of the proposed conference as it relates to specific non-Federal conferences in the areas of health promotion and disease prevention information/education programs (except HIV infection), including the public health need of the proposed conference and the degree to which the conference can be expected to influence public health practices. Evaluation will be based also on the extent of the applicant's collaboration with other agencies serving the intended audience, including local health and education agencies concerned with health promotion and disease prevention.

2. The applicant's description of conference objectives in terms of quality and specificity and the feasibility of the conference based on the operational plan.

3. The quality of the proposed agenda in addressing the chosen non-HIV health and disease prevention/education topic.

B. Applicant Capability (10 points)

Evaluation will be based on the adequacy of applicant's resources (additional sources of funding, organization's strengths, staff time, proposed facilities, etc.) available for conducting conference activities.

C. The Qualification of Program Personnel (20 points)

Evaluation will be based on the extent to which the application has described:

1. The qualifications, experience, and commitment of the principal staff person, and his/her ability to devote adequate time and effort to provide effective leadership.

2. The competence of associate staff persons, discussion leaders, speakers, and presenters to accomplish conference objectives.

3. The degree to which the application demonstrates the knowledge of nation-wide and education efforts currently underway which may affect, and be affected by, the proposed conference.

D. Conference Objectives (25 points)

Evaluation will be based on:

1. The overall quality, reasonableness, feasibility, and logic of the designed conference objectives, including the overall workplan and timetable for accomplishment.

2. The likelihood of accomplishing conference objectives as they relate to disease prevention and health promotion goals, and the feasibility of the project in terms of the operational plan.

E. Evaluation Methods (20 points)

Evaluation will be based on the extent to which evaluation mechanisms for the conference will be able to adequately assess increased knowledge, attitudes, and behaviors of the target attendees.

F. Budget Justification and Adequacy of Facilities (not scored)

The proposed budget will be evaluated on the basis of its reasonableness, concise and clear justification, and consistency with the intended use of grant funds. The application will also be reviewed as to the adequacy of existing and proposed facilities and resources for conducting conference activities.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog Of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Number is 93.283.

Letter of Intent and Application Submission and Deadline

THE ORIGINAL AND TWO COPIES of the Letter of Intent must be postmarked by October 9, 1995, in order to be considered. (FACSIMILES ARE NOT ACCEPTABLE.)

Following submission of a Letter of Intent, successful applicants will receive a written notification to submit an application for funding. Applications may be accepted by CDC only after the Letter of Intent has been reviewed by CDC and written invitation from CDC has been received by prospective applicant. An invitation to submit an application does not constitute a commitment to fund the applicant. Availability of funds may limit the number of Letter of Intents, regardless of merit, that receive an invitation to submit an application.

The original and two copies of the invited application must be submitted on PHS Form 5161–1 (OMB Number 0937–0189) by January 26, 1996. The earliest possible award date is June 1996.

Invited applications must be postmarked on or before the deadline date to Henry S. Cassell, III, Grants Management Officer, Attention: Karen Reeves, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E–09, Room 300, Atlanta, GA 30305.

A. Deadline

Letters of Intent and Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will NOT be acceptable as proof of timely mailing.)

B. Late Applications

Applications that do not meet the criteria in A.1. or A.2. above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 600. You will receive a complete program description, information on application procedures. If you have questions after reviewing the contents of all the documents, business management assistance (application information) may be obtained from Karen Reeves, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–09, Atlanta, GA 30305, telephone (404) 842–6596. Programmatic technical assistance may be obtained from Bruce Granoff, Program Analyst, or Freida Quarles, Program Specialist, Public Health Practice Program Office, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–42, Atlanta, GA 30333, telephone (404) 639–0425.

Please refer to Announcement Number 600 when requesting information and when submitting your Letter of Intent and application in response to the announcement.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington DC 20402–9325, telephone (202) 512–1800.

Dated: April 14, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9708 Filed 4–19–95; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

Grassroots Regulatory Partnership Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: The Food and Drug Administration (FDA) (Office of External Affairs, Office of Regulatory Affairs, Office of the Southwest Region, Office of the Southeast Region, Office of the Mid-Atlantic Region, Office of the Pacific Region, and Office of the Mid-West Region) is announcing a series of five free public meetings around the country to promote the President's initiative for a partnership approach with front-line regulators and the people affected by the work of this agency, and to create local partnerships.

DATES: The public meetings are scheduled as follows:

1. Monday, April 24, 1995, 9 a.m. to 12 m., Dallas, TX.
2. Tuesday, April 25, 1995, 10 a.m. to 2 p.m., Atlanta, GA.
3. Tuesday, April 25, 1995, 9 a.m. to 12 m., Cherry Hill, NJ.
4. Thursday, April 27, 1995, 1 p.m. to 4 p.m., Burlingame, CA.
5. Thursday, April 27, 1995, 9 a.m., to 12 m., Chicago, IL.

ADDRESSES: The public meetings will be held at the following locations:

1. Dallas—FDA Regional Office, 7920 Elmbrook Rd., suite 102, Dallas, TX.
2. Atlanta—Sheraton Colony Square Hotel, Peachtree at 14th St., Atlanta, GA.
3. Cherry Hill—Cherry Hill Hilton Hotel, Cherry Hill, NJ.
4. Burlingame—Crowne Plaza San Francisco Airport, 600 Airport Blvd., Burlingame, CA.
5. Chicago—Sheraton Gateway Suites, 6501 North Manheim Rd., Rosemont, IL.

FOR FURTHER INFORMATION CONTACT:

Regarding attendance at the Dallas, TX public meeting: Marie T. Falcon, Small Business Representative Southwest Region, Food and Drug Administration, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247, 214–655–8100, ext. 129 or FAX 214–655–8130.

Regarding attendance at the Atlanta, GA public meeting: Barbara Ward-Groves, Small Business Representative Southeast Region, Food and Drug Administration, 60 Eighth St., NE., Atlanta, GA 30309, 404–347–4347 or FAX 404–347–4349.

Regarding attendance at the Cherry Hill, NJ public meeting: Joseph X. Phillips, Deputy Regional Director, Mid-Atlantic Region, Food and Drug Administration, 900 U.S. Customhouse, 2d & Chestnut Sts., Philadelphia, PA 19106, 215–597–0492 or FAX 215–597–8212.

Regarding attendance at the Burlingame, CA public meeting: Mark S. Roh, Small Business Representative Pacific Region, Federal Office Bldg., 50 United Nations Plaza, rm. 526, San Francisco, CA, 94102, 415–556–2263 or FAX 415–556–2822.

Regarding attendance at the Chicago, IL public meeting: Joseph L. Petty, Small Business Representative Mid-West Region, 20 North Michigan Ave., rm. 510, Chicago, IL 60602, 312–353–9406, ext. 23 or FAX 312–886–1882.

SUPPLEMENTARY INFORMATION: The public meetings are free of charge, however due to space limitations, it will be necessary to contact the appropriate Small Business Representative listed above prior to the meeting to check on availability. If there are any specific comments or questions you wish to be addressed at the meetings, you may fax or send them to the contact person listed above. The goal of these meetings are to "listen" to concerns and ideas, and to identify next-steps for the agency.

Dated: April 14, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9755 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[OFHR–001–N]

New Address and Telephone Numbers of the Office of Acquisition and Grants, Office of Financial and Human Resources

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the new address and telephone numbers of the primary staff of the Office of Acquisition and Grants, Office of Financial and Human Resources, Health Care Financing Administration. HCFA's Office of Acquisition and Grants (OAG) will relocate at Central 2–21–15, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

EFFECTIVE DATE: May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Barry Mikesell, (410) 966–8090.

SUPPLEMENTARY INFORMATION: The following is a list of the new telephone numbers and locations for some of the primary OAG staff:

Director, Office of Acquisition and Grants, Ellen L. Angus, Central 2–22–08 (410) 786–9280.

Small and Disadvantaged Business Utilization Specialist, Fred Suggs, Central 2–21–23 (410) 786–5132.

Acquisition Policy Team Leader, Debbie Powell, Central 2–23–15 (410) 786–3077.

Grants Policy Officer, Charles A. Johnson, Central 2–22–07 (410) 786–6256.

Director, Research Contracts and Grants Division, Marian D. Webb, Central 2–18–03 (410) 786–5161.

Director, ADP, Telecommunications and Services Division, Edward Hodges, Central 2–19–07 (410) 786–5131.

Director, Planning and Health Services Contracts Division, Glenada Moragne El, Central 2–23–17 (410) 786–5126.

Only the prefix 966 of the existing telephone numbers of OAG staff will be changed when OAG moves to the new HCFA site. The new prefix is 786. Persons wishing to contact OAG personnel not shown on the list above may still do so on or after May 22 by adding the new 786 prefix to the last 4 existing digits of the old telephone number, e.g., the old 966–1234 telephone number will become the new 786–1234 telephone number. Inquiries regarding the location or telephone numbers of OAG staff may be directed to (410) 966–9280.

Dated: April 6, 1995.

Ellen L. Angus,

Director, Office of Acquisition and Grants, Office of Financial and Human Resources.

[FR Doc. 95–9843 Filed 4–19–95; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Grants To Improve Emergency Medical Services and Trauma Care in Rural Areas

AGENCY: Health Resources and Services Administration.

VOL 60 ISS 76 AP 20 1995 UMI

ACTION: Notice of availability of grant funds.

SUMMARY: The Health Resources and Services Administration announces that approximately $310,000 is available in fiscal year 1995 for grants to public and private nonprofit entities for the purpose of carrying out research and demonstration projects with respect to improving the availability and quality of emergency medical services and trauma care in rural areas. These grants are authorized by Section 1204 of the Public Health Service Act, as amended. Funds are appropriated under Public Law 103–333.

DATES: To receive consideration, grant applications must be received by the close of business June 19, 1995. Applications will meet the deadline if they are either: (1) Received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Hand delivered applications must be received by 5:00 pm on June 19, 1995. Applications received after the deadline will be returned.

FOR FURTHER INFORMATION CONTACT: Additional information relating to technical or program issues may be obtained from Diane McMenamin, Deputy Director, or Mirtha Beadle, Emergency Medical Systems Analyst, Division of Trauma and Emergency Medical Systems, Bureau of Health Resources Development, Parklawn Building, Room 7–16, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–3401. Grant applications and additional information regarding business, administrative, or fiscal issues related to the awarding of grants under this Notice may be requested from the Grants Management Officer (GMO), Ms. Glenna Wilcom, Parklawn Building, Room 7–15, 5600 Fishers Lane, Rockville, Maryland 20857; 301–443–2280. Applicants for grants will use Form PHS 5161–1 (revised 7/92, approved under OMB No. 0937–0189). Completed applications should be sent to the GMO.

SUPPLEMENTARY INFORMATION:

Background and Objectives

The program provides assistance to public and private nonprofit organizations for the purpose of carrying out research and demonstration projects to improve the availability and quality of emergency medical services (EMS) and trauma care in rural areas. As mandated by legislation, applications must address one or more of the following five topics:

1. Developing innovative uses of communications technologies and the use of new communication technologies;

2. Developing model curricula for training EMS personnel, including first responders, emergency medical technicians, paramedics, emergency nurses, and physicians in the:

a. Assessment, stabilization, treatment, preparation for transport, and resuscitation of seriously injured patients, with special attention to problems that arise during long transports and methods of minimizing delays in transport to the appropriate facility; and

b. Management of the operation of an EMS system;

3. Making training for original certification, and continuing education, in the provision and management of EMS more accessible to emergency medical personnel in rural areas;

4. Developing innovative protocols and agreements to increase access to prehospital care and equipment necessary for the transportation of seriously injured patients to the appropriate facilities; and

5. Evaluating the effectiveness of protocols with respect to EMS and systems.

The program is not intended to purchase capital equipment or provide access to health resources. As such, a proposal should not be oriented towards the acquisition of new EMS or trauma care equipment, personnel, or other resources. Rather, as a research and demonstration program, proposed projects are intended to advance the science of rural EMS and trauma care through evaluation of a rural issue and statistical analysis of the project findings.

The Public Health Service urges applicants to submit workplans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325; 202 783–3238.

Program Priorities

The legislation requires that special consideration be given to applicants providing services in any rural area identified by a State for which:

1. There is no system of access to EMS through the telephone number 9–1–1; or

2. There is no basic life-support system; or

3. There is no advanced life-support system.

In order to receive special consideration under this legislative provision, the State EMS Office must certify that the proposed study will be conducted in a rural area(s) meeting one or more of the above listed program priorities. Special consideration means that approved applications providing services in the rural areas identified above will have funding priority over other approved applications.

The definition of basic or advanced life-support systems must be consistent with the definition recognized by the State.

Availability of Funds

Approximately $310,000 is available to fund 1–4 grants. Project periods may be requested for one or two years. Grants to support projects beyond the first budget year will be contingent upon the availability of funds and satisfactory progress in meeting the project's objectives. Applicants are required to submit budgets for each proposed project year in the initial application.

Eligible Applicants

Any public or private nonprofit entity may apply. Although the applicant is not required to be located in a rural area, the applicant must perform a research and demonstration activity in a rural area(s). In order to meet the rural requirement, an area must be located: (1) *Outside* a Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget; or (2) in a rural census tract within an MSA. If the city or county name does not appear on the MSA list, the area would meet the definition of rural under the first definition in this program. However, if the city or county name does appear on the MSA list, the applicant may contact the applicable regional Census Bureau office to determine the census tract for the area. If the census tract for the area appears on the list of approved rural census tracts, the applicant is eligible to apply under the second rural definition in this program. A list of the cities and counties that are designated as being within an MSA, rural census tracts for each county, and telephone numbers for regional offices of the Census Bureau will be included with the application.

Application Evaluation Criteria

Grant applications will be evaluated by an objective review committee according to the following:

1. **Capability of the Applicant:** applicant's demonstrated experience and qualifications to complete the project proposed and to perform a research or demonstration project.

2. **Impact of Study Objective:** (1) impact of the study on the advancement of rural EMS and trauma care delivery; (2) contribution of the study to existing knowledge on EMS and trauma care such that further work on the issue is a high priority; and (3) development of new methods rather than a duplication of methods previously implemented.

3. **Selection of Rural Community:** appropriateness of the rural area(s) where the project will be conducted and the adequacy of justification for inclusion of non-rural areas in the research or demonstration activity.

4. **Community Participation:** extent to which an applicant that is not located in the rural community where the research or demonstration activity will be conducted has established an equal partnership and coordinated project development activities with the rural constituency under study, including: the prehospital, acute care, and rehabilitation sectors; local medical control; concerned advocates; the State EMS Office; and other interested parties.

5. **Study Design:** appropriateness of study design to the stated hypothesis, and the likelihood that the proposed research activity will yield expected results and improve rural EMS and trauma care.

6. **Methodology:** appropriateness and adequacy of the work plan for completion of project activities and project evaluation, and of the schedule for organizing and completing the project within the project period.

Allowable Costs

The basis for determining the allowability and allocability of costs charged to PHS grants is set forth in 45 CFR Part 74, Subpart Q, and 45 CFR Part 92. The four separate sets of cost principles prescribed for recipients of grants for public and private nonprofit entities are: OMB Circular A–87 for State and local governments; OMB Circular A–21 for institutions of higher education; 45 CFR Part 74, Appendix E for hospitals; and OMB Circular A–122 for nonprofit organizations.

Reporting Requirements

A successful applicant under this notice will submit quarterly reports in accordance with provisions of the general regulations which apply under 45 CFR Part 74, Subpart J, Monitoring and Reporting of Program Performance, with the exception of State and local governments to which 45 CFR Part 92, Subpart C reporting requirements will apply.

Public Health System Impact Statement

This program is subject to the Public Health System Reporting Requirements. Reporting requirements have been approved by the Office of Management and Budget—0937–0195. Under these requirements, the community-based non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications by community-based non-governmental organizations within their jurisdictions.

Community-based non-governmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date:

a. A copy of the face page of the application (SF 424)

b. A summary of the project PHSIS, not to exceed one page, which provides:

(1) A description of the population to be served,

(2) A summary of the services to be provided,

(3) A description of the coordination planned with the appropriate State or local health agencies.

PHS Smoke-free Policy

Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities in which education, library, day care, regular and routine health care and early childhood development services are provided to children. Smoking must also be prohibited in indoor facilities that are constructed, operated or maintained with Federal funds.

Executive Order 12372

Grants awarded under this notice are subject to the provisions of Executive Order 12372, which sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribes) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposals serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current list of SPOCS is included in the application kit. The SPOC has 60 days after the application deadline date to submit comments. The granting agency does not guarantee to "accommodate or explain" State recommendations received after that date.

The OMB Catalog of Federal Domestic Assistance Number for this program is 93.952.

Dated: Arpil 14, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–9758 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Indian Health Service; Indians Into Medicine Programs

AGENCY: Indian Health Service.

ACTION: Notice of competitive grant applications for the Indians Into Medicine Program.

SUMMARY: The Indian Health Service (IHS) announces that competitive grant applications are being accepted for the Indians Into Medicine (INMED) Program established by section 114 of the Indian Health Care Improvement Act of 1976 [25 U.S.C. 1612), as amended by Public Law 102–573. There will be only one funding cycle during fiscal year (FY) 1995. This program is described at 93.970 in the catalog of Federal Domestic Assistance and is governed by regulations at 42 CFR 36.310 *et seq.* Costs will be determined in accordance with applicable OMB Circulars. Executive Order 12372 requiring intergovernmental review does not apply to this program.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Educational and Community-based programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone 202–783–3238).

Smoke Free Workplace: The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco

VOL 60 ISS 76 AP 20 1995 UMI

products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

DATES: A. Application Receipt Date—An original and two (2) copies of the completed grant application must be submitted with all required documentation to the Grants Management Branch, Division of Acquisition and Grants Operations, Twinbrook Building, Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, by close of business June 2, 1995.

Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline with hand carried applications received by close of business 5 p.m.; or (2) postmarked on or before the deadline date and received in time to be reviewed along with all other timely applications. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications not accepted for processing will be returned to the applicant and will *not* be considered for funding.

Additional Dates

1. Application Review: July 13, 1995.
2. Applicants Notified of Results (approved, approved unfunded, or disapproved): August 1, 1995.
3. Anticipated Start Date: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: For program information, contact Ms. Rosh M. Foley, Chief, Scholarship Branch, Division of Health Professions Recruitment and Training, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100A, Rockville, Maryland 20852, (301) 443–6197. For grants application and business management information, contact M. Kay Carpenter, Grants Management Officer, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Building, 12300 Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, (301) 443–5204. (The telephone numbers are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This announcement provides information on the general program purpose, eligibility and priority, fields of health care considered for support, required affiliation, fund availability and period of support, and application procedures for FY 1995.

A. General Program Purpose

The purpose of the INMED program is to augment the number of Indian health professionals serving Indians by encouraging Indians to enter the health professions and removing the multiple barriers to their entrance into the IHS and private practice among Indians.

B. Eligibility and Priority

Public and nonprofit private colleges and universities with medical and other allied health programs are eligible. Nursing programs are not eligible under this announcement since the IHS currently funds the Nursing Recruitment grant program. The existing INMED grant program at the University of North Dakota has as its target population Indian tribes primarily within the States of North Dakota, South Dakota, Nebraska, Wyoming and Montana. A college or university applying under this announcement must propose to conduct its program among Indian tribes in States not currently served by the University of North Dakota INMED program.

C. Program Objectives

Each proposal must address the following five objectives to be considered for funding:

1. Provides outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on Indian reservations which will be served by the program.
2. Incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program.
3. Provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions.
4. Provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university.
5. To the maximum extent feasible, employs qualified Indians into the program.

D. Fields of Health Care Considered for Support

The grant program must be developed to locate and recruit students with educational potential in a variety of health care fields. Primary recruitment efforts must be in the field of medicine with secondary efforts in other allied health fields such as pharmacy, dentistry, medical technology, X-ray technology, etc. The field of nursing is excluded since the IHS does fund the IHS Nursing Recruitment grant program.

E. Required Affiliations

The grant applicant must submit official documentation indicating a tribe's cooperation with and support of the program within the schools on its reservation and its willingness to have a tribal representative serving on the program advisory board. Documentation must be in the form prescribed by the tribe's governing body, i.e., letter of support or tribal resolution. Documentation must be submitted from every tribe involved in the grant program.

F. Fund Availability and Period of Support

It is anticipated that approximately $200,000 will be available for one award. The anticipated start date of the grant will be September 1, 1995, in order to begin recruitment for the 1995–1996 academic year. Projects will be awarded for a budget term of 12 months, with a maximum project period of up to three (3) years. Grant funding levels include both direct and indirect costs. Funding of succeeding years will be based on the FY 1995 level, continuing need for the program, satisfactory performance, and the availability of appropriations in those years.

G. Application Process

An IHS Grant Application Kit, including the required PHS 5161–1 (Rev. 7/92) (OMB Approval No. 0937–0189) and the U.S. Government Standard forms (SF–424, SF–424A and SF–424B), may be obtained from the Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, Twinbrook Parkway, Suite 100, Rockville, Maryland 20852, telephone (301) 443–5204. (This is not a toll free number.)

H. Grant Application Requirements

All applications must be single-spaced, typewritten, and consecutively numbered pages using black type not smaller than 12 characters per one inch, with conventional one inch border margins, on only one side of standard size 8½ x 11 paper that can be photocopied. The application narrative (not including abstract, tribal resolutions or letters of support, standard forms, table of contents or the appendix) must not exceed 15 typed pages as described above. All applications must include the following in the order presented:

—Standard Form 424, Application for Federal Assistance
—Standard Form 424A, Budget Information—Non-Construction Programs, (Pages 1 and 2)

—Standard Form 424B, Assurances—Non-Construction Programs (front and back)
—Certifications, PHS 5161–1 (pages 17–18)
—Checklist, PHS 5161–1 (pages 23–24)
—Project Abstract (one page)
—Table of Contents
—Program Narrative to include:
—Introduction and Potential Effectiveness of Project
—Project Administration
—Acessibility to Target Population
—Relationship of Objectives to Manpower Deficiencies
—Project Budget
—Appendix to include:
—Tribal Resolution(s) or Letters of Support
—Resumes (Curriculum Vitae) of key staff
—Position descriptions for key staff
—Organizational chart
—Workplan format
—Completed IHS Application Checklist
—Application Receipt Card, PHS 3038–1, Rev. 5–90

I. Application Instructions

The following instructions for preparing the application narrative also constitute the standards (criteria or basis for evaluation) for reviewing and scoring the application. Weights assigned each section are noted in parenthesis.

Abstract—An abstract may not exceed one typewritten page.

The abstract should clearly present the application in summary form, from a "who-what-when-where-how-cost" point of view so that reviewers see how the multiple parts of the application fit together to form a coherent whole.

Table of Contents—Provide a one page typewritten table of contents.

Narrative

1. Introduction and Potential Effectiveness of Project (30 Pts.)

a. Describe your legal status and organization.

b. State specific objectives of the project, which are measurable in terms of being quantified, significant to the needs of Indian people, logical, complete and consistent with the purpose of section 114.

c. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

d. Provide a project specific workplan (milestone chart) which lists each objective, the tasks to be conducted in order to reach the objective, and the timeframe needed to accomplish each task. Timeframes should be projected in a realistic manner to assure that the scope of work can be completed within each budget period. (A workplan format is provided.)

e. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

f. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

g. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

h. Identify who will perform the evaluation and when.

2. Project Administration (20 Pts.)

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangement and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the application's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, i.e., although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

3. Accessibility to Target Population (20 Pts.)

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

4. Relationship of Objectives to Manpower Deficiencies (20 Pts.)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

5. Project Budget (10 Pts.)

a. Clearly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary for the conduct of the project.

b. The available funding level of $200,000 is inclusive of both direct and indirect costs. Because this project is for a training grant, the Department of Health and Human Services' policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education other than agencies of State and local government.

c. The applicant may include as a direct cost tuition and student support costs related only to the summer preparatory program. Tuition and stipends for regular sessions are not allowable costs of the grant; however, students recruited through the INMED program may apply for funding from the IHS Scholarship Programs.

d. Projects requiring a second and third year must include a program narrative and categorical budget and justification for each additional year of funding requested (this is not considered part of the 15-page narrative).

Appendix—to include:

a. Tribal Resolution(s) or Letters of Support
b. Resumes (Curriculum Vitae) of key staff
c. Position descriptions for key staff
d. Organizational chart
e. Workplan format
f. Completed IHS Application Checklist
g. Application Receipt Card, PHS 3038–1, Rev. 5–90

J. Reporting

1. Progress Report—Program progress reports may be required quarterly or

VOL 60 ISS 76 AP 20 1995 UMI

semi-annually. These reports will include a brief description of a comparison of actual accomplishments to the goals established for the period, reasons for slippage and other pertinent information as required. A final report is due 90 days after expiration of the budget/project period.

2. Financial Status Report—Quarterly or semiannually financial status reports will be submitted 30 days after the end of the quarter or half year. Final financial status reports are due 90 days after expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

K. Grant Administration Requirements

Grants are administered in accordance with the following documents:

1. 45 CFR part 92, HHS, Uniform Administrative Requirements for grants and Cooperative Agreements to State and Local Governments or 45 CFR part 74, Administration of Grants,

2. PHS Grants Policy Statement, and

3. OMB Circular A–21, Cost Principles for Educational Institutions.

L. Objective Review Process

Applications meeting eligibility requirements that are complete, responsive, and conform to this program announcement will be reviewed by an Objective Review Committee (ORC) in accordance with IHS objective review procedures. The objective review process ensures a nationwide competition for limited funding. The ORC will be comprised of IHS (40% or less) and other federal or nonfederal individuals (60% or more) with appropriate expertise. The ORC will review each application against established criteria. Based upon the evaluation criteria, the reviewers will assign a numerical score to each application, which will be used in making the final funding decision. Approved applications scoring less than 60 points will not be considered for funding.

M. Results of the Review

The results of the objective review are forwarded to the Associate Director, Office of Human Resources (OHR), for final review and approval. The Associate Director, OHR, will also consider the recommendations from the Division of Health Professions Recruitment and Training and Grants Management Branch. Applicants are notified in writing on or about August 1, 1995. A Notice of Grant Award will be issued to successful applicants. Unsuccessful applicants are notified in writing of disapproval. A brief explanation of the reasons the application was not approved is provided along with the name of the IHS official to contact if more information is desired.

Dated: April 12, 1995.

Michael H. Trujillo,

Assistant Surgeon General, Director

[FR Doc. 95–9759 Filed 4–19–95; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–95–3893; FR–3879–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 25).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 14, 1995.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Emergency Shelter Grants Program Indian Set-Aside Application (FR–3879).

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: This program provides competitive grants to Indian tribes and Alaskan Native villages to help improve the quality of existing emergency shelters for the homeless, make available additional emergency shelters, meet the cost of operating emergency shelters, provide essential social services to homeless individuals, and help prevent homelessness.

Form Number: HUD–40114.

Respondents: State, Local or Tribal Governments and Not-For-Profit Institutions

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	40		1		32		1,280

Total Estimated Burden Hours: 1,280.

Status: New.

Contact: Maria-Lana Queen, HUD, (202) 755–0069, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: April 14, 1995.

[FR Doc. 95–9772 Filed 4–19–95; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–95–3813; FR–3821–N–01]

Comprehensive Needs Assessments—Instead of Notices of Funding Availability (NOFAs) for Flexible Subsidy and Loan Management Set-Aside

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of funding through comprehensive needs assessments.

SUMMARY: HUD plans to exclude the Flexible Subsidy and the Loan Management Set-Aside programs from the traditional NOFA process, beginning with Fiscal Year 1995. Instead, the funding for the projects under those two programs will be made on a noncompetitive basis. Funding will be based on Comprehensive Needs Assessments (CNAs) and other applicable program requirements. Funds will be allocated on a first come, first served basis from among those projects selected by local HUD offices to participate in the CNA program. The CNA approach will provide HUD with the flexibility to target limited resources to those projects most in need of repair. At a later date, HUD will publish a separate notice announcing the funding and criteria for the Flexible Subsidy and Loan Management Set-Aside Programs.

EFFECTIVE DATE: Funding through Comprehensive Needs Assessments for the Flexible Subsidy and Loan Management Set-aside programs will be effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: Barbara Hunter, Acting Director, Planning and Procedures Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Room 6184, 451 Seventh Street, SW, Washington, DC 20410; Telephone (202) 708–3944, or (202) 708–4594 (voice/TDD). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Legal Authority and Purpose

(a) Authority

Comprehensive Needs Assessments (CNAs) are legislatively authorized by Title IV of the Housing and Community Development Act of 1992 (HCDA 1992) (12 U.S.C. 1715z–1a note), as amended by section 103 of the Multifamily Housing Property Disposition Reform Act of 1994 (Pub. L. 103–233; approved April 11, 1994).

(b) Purpose

HUD is publishing this notice to inform HUD clients of a forthcoming change in funding practice. HUD will fund the Flexible Subsidy program (24 CFR part 219) and the Loan Management Set-Aside program (LMSA) (24 CFR part 886) through the CNA approach instead of the Notice of Funding Availability (NOFA) process. The purpose of this change is to provide HUD with the flexibility to target limited resources to those projects HUD deems to be most in need of repair.

II. Description of the CNA Approach

HUD will publish a separate notice announcing the funding and criteria for the Flexible Subsidy and Loan Management Set-Aside programs. For the funding of the Flexible Subsidy program, all parts of section 201(n) of the HCDA of 1978 will be met, including the parts that provide that the Secretary may make exceptions to the CNA approach when funding flexible subsidy to address certain emergency needs in projects. Loan Management Set-Aside will be funded based upon the needs identified in the Comprehensive Needs Assessment and other program requirements. HUD has issued a separate notice (H–95–27, dated 3/30/95) to the local HUD offices and industry explaining the CNA Program and process, and informing them how to select projects, beginning in Fiscal Year (FY) 1995.

(a) Contents in General

The CNAs submitted by applicants for the Flexible Subsidy and LMSA programs must contain the following information about the property:

(1) A description of current and future financial resources and needs of certain multifamily projects;

(2) A description of the involvement of project residents in its development, from start to finish;

(3) The results of a thorough and detailed physical inspection of the project;

(4) A statement of any assistance needed under programs administered by HUD;

(5) A description of available funding for meeting the current and future needs of the project and the likelihood of obtaining such resources. These resources include the assistance of private foundations, State and local governments, any HUD programs (including Community Planning and Development programs), rent increases, refinancing, Flexible Subsidy, LMSA, and Section 241 loans;

(6) Descriptions of modernization needs and activities, supportive services needed and provided, and any personnel needs of the project.

(b) Applicability of CNA Approach

Unless their project has received or is receiving assistance under the HOME Investment Partnerships Act, owners of the following kinds of projects are required to submit a Comprehensive Needs Assessment:

(1) Section 221(d)(3) (Market Interest Rate) projects, Section 221(d)(5) (Below Market Interest Rate) projects, and Section 236 projects with mortgages insured, assisted or held by HUD (including State/Local Agency Section 236 projects), *unless* the owner is receiving or has received assistance under titles II (ELIHPHA) or VI (LIHPRHA) or has filed a Notice of Intent under those statutes.

Note: Projects subject to prepayment restrictions under Title II or Title VI and that have *not* received assistance or filed a Notice of Intent under those statutes may not participate in the CNA Program in fiscal years 1995 or 1996 but may do so thereafter.

(2) Section 202 projects for elderly and handicapped and Section 202 Supportive Housing for the Elderly.

(3) Section 811 Supportive Housing for Persons with Disabilities.

(c) Cost Features for CNA

The project's mortgagor is responsible to pay for the preparation of the CNA. Based on section 404(e) of the HCDA 1992, HUD will consider CNA expenses up to $5,000 as eligible project expenses (payable from project funds). Up to that limit, HUD will authorize releases from Residual Receipts accounts and Reserve Fund for Replacement accounts when a project's operating account is insufficient to fund the CNA. While CNA preparation costs are considered to be an eligible project expense, they cannot be included to calculate rent increases.

VOL 60 ISS 76 AP 20 1995 UMI

Dated: April 12, 1995.

Jeanne K. Engel,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95-9728 Filed 4-19-95; 8:45 am]

BILLING CODE 4210-27-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-319-1320]

Information Collection Submitted to the Office of Management and Budget for Review under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project (1004-0160), Washington, DC 20503, telephone (202) 395-7340.

Title: Geothermal Leasing Reports.

OMB Approval Number: 1004-0160.

Abstract: Respondents supply information on diligent efforts toward utilization of geothermal resources; bona fide efforts made to produce geothermal resources; and significant expenditure of funds made on the geothermal lease. This information allows the authorized officer to determine if the lessee qualifies for a lease extension.

Bureau Form Numbers: N/A.

Frequency: Diligent Efforts Report—Yearly. Bona Fide Efforts Report—Every five years. Significant Expenditures Report—Yearly.

Description of Respondents: Individuals, small businesses and large corporations.

Estimated Completion Time: 2 hours each report.

Annual Responses: 75.

Annual Burden Hours: 150.

Bureau Clearance Officer: Wendy Spencer (303) 236-6642.

Dated: March 15, 1995.

W. Hord Tipton,

Assistant Director, Resource Use and Protection.

[FR Doc. 95-9788 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-84-M

[AK-962-1410-00-P; AA-11043]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h), will be issued to Chugach Alaska Corporation for approximately 15 acres. The lands involved are in the vicinity of Schrader Island, Alaska.

Seward Meridian, Alaska

T. 10 N., R. 12 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until May 22, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Margaret J. McDaniel,

Acting Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95-9766 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-JA-P

[AK-962-1410-00-P; AA-11057]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h), will be issued to Chugach Alaska Corporation for approximately 7.5 acres. The lands involved are in the vicinity of Prince William Sound, Alaska.

Seward Meridian, Alaska

T. 5 N., R. 9 E.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until May 22, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Margaret J. McDaniel,

Acting Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95-9769 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-JA-P

[NV-030-95-1220-00]

Temporary Closure of Public Lands: Nevada; Carson City District

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of certain public lands in Lyon and Douglas Counties on and adjacent to an Off Highway Vehicle race course: May 27-28, 1995 Valley Off-Road Racing Association Yerington 300—Permit Number NV-035-95-12.

SUMMARY: The Walker Resource Area Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety and to protect adjacent resources during the official running of the Yerington 300 Off Highway Vehicle Race.

EFFECTIVE DATES: May 27 & 28, 1995.

FOR FURTHER INFORMATION CONTACT: Fran Hull, Walker Area Recreation Planner, Carson City District, Bureau of Land Management, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706, Telephone: (702) 885-6000.

SUPPLEMENTARY INFORMATION: A map of the closure may be obtained from Fran Hull at the contact address. The event permittee is required to clearly mark and monitor the event route during the closure period. Spectators shall remain in safe locations as directed by event officials and BLM personnel.

Specific information pertaining to each event is as follows:

1. Valley Off-Road Racing Association Yerington 300 Off-Road Race—Permit Number NV-035-95-12. A multiple-lap OHV race on roads and washes near Yerington, Nevada in Douglas and Lyon Counties, within T12N R24E; T13N R24E; T14N R24E; T15N R24E; T16N R24E; T13N R25E; T15N R25E; T16N R25E; T17N R25E; T17N R26E.

Bureau Lands to be closed include existing roads and washes identified on the ground as the 1995 Yerington 300 Off-Road Race route except at designated pit and spectator areas. Spectator areas are: the Start/Finish area and Gallegher Pass Road and Churchill Canyon Road. Camping on public lands in conjunction with the event must be a minimum of fifty yards away from the race course centerline. This closure will be in effect from 6:00 p.m. May 27 until midnight on May 28, 1995.

The above restrictions do not apply to race officials, law enforcement and agency personnel monitoring the event.

Authority: 43 CFR 8364 and 43 CFR 8372.

Penalty: Any person failing to comply with the closure order may be subject to the penalties provided in 43 CFR 8360.7.

Dated: April 7, 1995.

John Matthiessen,

Walker Resource Area Manager.

[FR Doc. 95-9738 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-HC-P

[NV-055-1150-00, 5-0151-LM]

Caliente Management Framework Plan Desert Tortoise Amendment and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent and Additional Scoping Period.

SUMMARY: The Bureau of Land Management intends to amend the Caliente Management Framework Plan to implement the U.S. Fish and Wildlife Service Desert Tortoise (Mojave Population) Recovery Plan, issued June 1994. The purpose of the plan amendment is to outline the specific objectives and planned actions needed for desert tortoise recovery and for eventual removal of the desert tortoise from the federal list of threatened and endangered animals. The amendment will delineate Desert Wildlife Management Areas (Coyote Springs, Mormon Mesa, and Beaver Dam Slope) in desert tortoise habitat, and prescribe management actions inside and outside these areas in accordance with provisions in the recovery plan. These areas will be evaluated for potential designation as Areas of Critical Environmental Concern. Potential impacts will be analyzed through an environmental impact statement.

There will be an additional 30-day scoping period to solicit public comment on the desert tortoise amendment.

DATES: Additional written comments must be submitted and postmarked no later than May 22, 1995.

ADDRESSES: Written comments should be addressed to: Curtis G. Tucker, Area Manager, Caliente Resource Area, P.O. Box 237, Caliente, Nevada 89126.

FOR FURTHER INFORMATION CONTACT: Kyle Teel, Wildlife Biologist, at the above Caliente Resource Area Office address or telephone (702) 726-8100.

SUPPLEMENTARY INFORMATION: The Desert Wildlife Management Areas outlined in the Recovery Plan that are located within the Caliente Management Framework Plan area are: Coyote Springs, Mormon Mesa, and Beaver Dam slope. For a legal description and/or a map of these areas, contact the Caliente Resource Area Office. The boundaries of these areas may be modified based on public comments and resource information received during this land use plan amendment process.

This amendment was started in December of 1994 with a "Notice of Intent and Scoping Period," published in the **Federal Register** on January 30, 1995, Vol. 60, No. 19, p. 5784. The original intent was to amend the Caliente Management Framework Plan and analyze the potential impacts through an environmental assessment. However, due to the complexity of the resource management issues and responses from the public, the determination was made to prepare an Environmental Impact Statement to fully analyze the impacts of implementing the recovery plan and complete the amendment.

Federal, state and local agencies, and other individuals or organizations who are interested in, or affected by aspects of amending the Caliente Management Framework Plan to implement the U.S. Fish and Wildlife Service Desert Tortoise (Mojave Population) Recovery Plan, are invited to participate in this planning process. If you submitted comments during the previous scoping period, you need not resubmit them. They will be considered along with comments received as a result of this notice.

Dated: April 7, 1995.

Ann J. Morgan,

State Director, Nevada.

[FR Doc. 95-9743 Filed 4-19-95; 8:45 am]

BILLING CODE 4310-HC-M

[ID-943-5420-00-D010; IDI-31072]

Notice of Issuance of Disclaimer of Interest to Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of disclaimer of interest in lands in Idaho.

SUMMARY: The United States of America, pursuant to the provisions of section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), proposes to disclaim and release all interest to Bill Gatung, the owner of record, for the following described property, to wit:

Boise Meridian, Idaho

T. 20 N., R. 22 E.

All lands in section 7, lying between the adjusted original 1891 left and right bank meander lines and between the 1891 right bank meander line and the 1991 left bank meander line of the Salmon River, except for Lot 19, as shown on the plat of the dependent resurvey of Township 20 North, Range 22 East, Boise Meridian, Idaho, accepted July 23, 1993.

The official records, the original public land survey, and the dependent resurvey approved and accepted July 23, 1993, show that the land described above is a combination of avulsed, accreted, or non-substantial omitted land created when the river changed channels subsequent to the 1891 survey. The land, therefore, is not public land; and the application by Bill Gettung, for a disclaimer from the United States for this land will be approved if no valid objection is received. This action will clear a cloud on the title of the applicant's land.

DATES: Comments or protests to this action should be received by July 19, 1995.

ADDRESSES: Comments or protests must be filed with: State Director (943), Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: Cathie Foster, at the above address, or (208) 384-3163.

VOL 60 ISS 76 AP 20 1995 UMI

Dated: April 10, 1995.

Jerry L. Kidd,

State Office Team Leader for Operations Support Team.

[FR Doc. 95–9786 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–GG–M

[OR–060–05–1430–01: G5–103]

Realty Action; Revised Administrative Boundaries, Salem District

April 11, 1995.

The Salem District, Bureau of Land Management, announces a revision in its resource areas. Formerly, the Salem District was subdivided into five resource areas. Now, the Salem District is subdivided into three resource areas. Descriptions of the exterior management boundaries of the three resource areas are as follows:

Cascades Resource Area

Beginning at the Oregon state line at the confluence of the Columbia and Willamette Rivers; thence easterly along the Multnomah County line; thence southerly along the Multnomah-Hood River County line; thence southerly along the Clackamas-Hood River County line; thence southerly along the Clackamas-Wasco County line; thence southerly along the Marion-Wasco County line; thence southerly along the Marion-Jefferson County line; thence southerly along the Linn-Jefferson County line to its intersection with the township line between Ts. 13 and 14 S., Will. Mer., Oreg.; thence westerly along said township line to the center of the main channel of the Willamette River; thence northerly along the center of the main channel of the Willamette River to the place of beginning. The Resource Area combines the previous Clackamas and Santiam Resource Areas.

Tillamook Resource Area

Beginning at the Oregon state line at the confluence of the Columbia and Willamette Rivers; thence southerly along the center of the main channel of the Willamette River to the Yamhill-Polk County line; thence westerly along the said Yamhill-Polk County line; thence southerly along the Polk-Tillamook County line; thence westerly along the Tillamook-Lincoln County line to the Pacific Ocean; thence northerly along the Pacific Ocean to the mouth of the Columbia River; thence easterly along the Clatsop, Columbia, and Multnomah County lines to the place of beginning. The Resource Area combines the previous Tillamook Resource Area and the northern portion of the previous Yamhill Resource Area. The Resource Area headquarters is located in Tillamook, Oregon.

Marys Peak Resource Area

Beginning at a point on the Willamette River at the Yamhill-Polk County line; thence southerly along the center of the main channel of the Willamette River to the Benton-Lane County line; thence westerly along the existing Salem-Eugene District line to the Pacific Ocean; thence northerly along the Pacific Ocean to the Tillamook-Lincoln County line; thence easterly along the said Tillamook-Lincoln County line; thence northerly along the Polk-Tillamook County line; thence easterly along the Yamhill-Polk County line to the place of beginning. The Resource Area combines the previous Alsea Resource Area with the southern portion of the previous Yamhill Resource Area.

Maps showing the above-described boundaries are available for review at the Salem District Office, 1717 Fabry Road SE, Salem, Oregon 97306, and the Tillamook Resource Area Office, 4610 Third Street, Tillamook, Oregon 97141.

Van Manning,

Salem District Manager.

[FR Doc. 95–9790 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–33–M

[ID–030–05–1220–00]

Notice of Sanitation and Special Recreation Permit Requirements on the South Fork of the Snake River

SUMMARY: Pursuant to 43 CFR 8365.1–6 and 8372.1–1 the following acts are prohibited yearlong within the Snake River Special Recreation Management Area (SRMA) and Area of Critical Environmental Concern (ACEC) between Conant Boat Ramp (river mile 884) and Lufkin Bottom (river mile 875) on Bureau of Land Management lands.

(A) Boating, either float boating or power boating, on overnight trips without a portable sanitary device for carrying out all solid human waste (fecal matter).

(B) Camping without receipt of a properly executed self-issue permit allowing for overnight camping. A permit is required for each power boat and each float boat party for overnight trips. The permit is cost free, and it does not limit numbers of boaters.

SUPPLEMENTARY INFORMATION: These restrictions meet the requirements of the South Fork Activity Operations Plan and the Medicine Lodge Resource Management Plan for the Snake River SRMA and ACEC.

Implementing the portable toilet regulations will protect health and safety by removing fecal material from the camp areas. It will enhance the effort to keep campsites clean and free of litter (tissue paper) by requiring removal of waste. It will also aid in educating the public on no-trace camping techniques. Implementation of the regulations was highly favored by river users during visitor contacts.

Use of the South Fork of the Snake River has increased dramatically in recent years. Planning for present and future recreation demands requires specific information on amount and type of river use. Permits contain information and education that addresses social and environmental issues associated with resource use on the South Fork of the Snake River. Further, permit information provides for education concerning Bald Eagle Nesting Areas and requirements associated with their protection. Permits also provide accountability for user's actions when recreating in the permit area.

DATES: This notice is effective as of May 26, 1995.

ADDRESSES: Comments may be mailed to Bureau of Land Management, 1405 Hollipark Drive, Idaho Falls, ID 83401.

FOR FURTHER INFORMATION CONTACT: Wade Brown at (208) 524–7543.

Gary L. Bliss,

Associate District Manager.

[FR Doc. 95–9789 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–GG–M

[AZ–942–05–1420–00]

Notice of Filing of Plats of Survey; Arizona

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A supplemental plat showing amended lottings created by the segregation of certain mineral surveys in section 33, Township 13 North, Range 1 West, Gila and Salt River Meridian, Arizona, was approved January 23, 1995, and was officially filed January 26, 1995.

A supplemental plat showing amended lottings created by the segregation of certain mineral surveys in sections 20 and 21, Township 12½ North, Range 1 West, Gila and Salt River Meridian, Arizona, was approved January 23, 1995, and was officially filed January 26, 1995.

These plats were prepared at the request of Federal Land Exchange, Incorporated.

A plat, in four sheets, representing the dependent resurvey of the Gila and Salt River Base Line through a portion of Range 14 East, portions of Tract 40 and certain mineral surveys; and the surveys of Tracts 45 through 51, in unsurveyed Townships 1 North, Ranges 13 and 14 East, Gila and Salt River Meridian, Arizona, was approved January 31, 1995, and was officially filed February 9, 1995.

This plat was prepared at the request of the U.S. Forest Service, Tonto National Forest.

A supplemental plat depicting a new bearing of N. 1° 15' W. on the north ½ of the section line between sections 33 and 34, Township 15 South, Range 17 East, Gila and Salt River Meridian, Arizona was approved February 6, 1995, and was officially filed February 9, 1995.

The plat was prepared at the request of the U.S. Forest Service, Coronado National Forest.

A plat, in two sheets, representing the dependent resurvey of a portion of the Tenth Standard Parallel North through Range 8 East, and a portion of the subdivisional lines; and the subdivision of certain sections, in Township 40 North, Range 8 East, Gila and Salt River Meridian, Arizona, was approved February 8, 1995, and was officially filed February 16, 1995.

A plat, in two sheets, representing the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines and the subdivision of certain sections; and additional subdivision in section 25, Township 41 North, Range 8 East, Gila and Salt River Meridian, Arizona, was approved February 8, 1995, and was officially filed February 16, 1995.

A plat representing the retracement of a portion of the subdivisional lines and a portion of the subdivision of section 19, in Township 41 North, Range 9 East, Gila and Salt River Meridian, Arizona, was approved February 8, 1995, and was officially filed February 16, 1995.

These plats were prepared at the request of the National Park Service, Glen Canyon Recreation Area.

A plat representing the dependent resurvey of a portion of the south boundary, the west boundary, the north boundary, and a portion of the subdivisional lines; and the subdivision of sections 20 and 29, in Township 18 North, Range 27 East, Gila and Salt River Meridian, Arizona, was approved February 27, 1995, and was officially filed March 9, 1995.

A plat, in three sheets, representing the dependent resurvey of the Seventh Auxiliary Guide Meridian East (east boundary), the south boundary, the west boundary, the north boundary, a portion of the subdivisional lines; and the subdivision of section 2, and a metes-and-bounds survey, and an informative traverse, in Township 18 North, Range 28 East, Gila and Salt River Meridian, Arizona, was approved February 27, 1995, and was officially filed March 9, 1995.

A plat representing the dependent resurvey of the south, east and north boundaries, and a portion of the subdivisional lines, in Township 18 North, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 27, 1995, and was officially filed March 9, 1995.

A plat, in 3 sheets, representing the dependent resurvey of the Fifth Standard Parallel North (south boundary), the Seventh Auxiliary Guide Meridian East (west boundary), and a portion of the subdivisional lines; and the subdivision of sections 7, 17, and 22, and a metes-and-bounds survey in section 7, Township 21 North, Range 29 East, Gila and Salt River Meridian, Arizona, was approved March 16, 1995, and was officially filed March 23, 1995.

These plats were prepared at the request of the Navajo and Hopi Relocation Commission.

A plat representing the dependent resurvey of portions of the San Rafael del Valle Land Grant, a portion of the subdivisional lines; the subdivision of sections 18 and 19, and metes-and-bounds surveys and informative traverses of portions of the Southern Pacific Railroad in Township 21 South, Range 22 East, Gila and Salt River Meridian, Arizona, was approved February 28, 1995, and was officially filed March, 9, 1995.

This plat was prepared at the request of the Bureau of Land Management, Safford District Office.

A plat representing the dependent resurvey of a portion of the south boundary, and a portion of the subdivisional lines; and the subdivision, informative traverse and metes-and-bounds surveys in section 35, Township 4 North, Range 4 East, Gila and Salt River Meridian, Arizona, was approved March 7, 1995, and was officially filed March 16, 1995.

This plat was prepared at the request of the National Park Service, Santa Fe, New Mexico.

A supplemental plat showing amended lotting in section 32, Township 11 North, Range 18 West, Gila and Salt River Meridian, Arizona, was approved March 22, 1995, and was officially filed March 30, 1995.

A supplemental plat showing a subdivision of original lot 4, section 19, and new lotting in sections 20 and 29, Township 12 North, Range 18 West, Gila and Salt River Meridian, Arizona, was approved March 22, 1995, and was officially filed March 30, 1995.

These plats were prepared at the request of the Bureau of Land Management, Resource Planning, Use and Protection Division.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Dale C. Wilson,

Acting Chief Cadastral Surveyor of Arizona.

[FR Doc. 95–9745 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–32–M

[ID–942–1420–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., April 13, 1995.

The plat representing the dependent resurvey of portions of the south and west boundaries, and subdivisional lines, and the subdivision of sections 19, 29, 30, 31, and 32, and metes-and-bounds survey in section 31, T. 14 S., R. 30 E., Boise Meridian, Idaho, Group No. 884, was accepted, April 7, 1995.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 13, 1995.

Harry K. Smith,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–9783 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–GG–M

[NV–930–1430–01; N–57822]

Approved Amendment and Decision Record

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Caliente Management Framework Plan and Nellis Air Range Resource Plan Approved White Sides

VOL 60 ISS 76 AP 20 1995 UMI

Land Withdrawal Amendment and Decision Record has been completed and is available to the public. This amendment will allow for the implementation of a United States Air Force proposal to withdraw 3,972 acres of public land in Lincoln County, Nevada. The purpose of the withdrawal is to provide a security and safety buffer to the adjacent withdrawn Nellis Air Force Range.

ADDRESSES: Copies of the Approved Land Use Plan Amendment and Decision Record may be obtained by writing to: Bureau of Land Management, Las Vegas District Office, 4765 W. Vegas Drive, Las Vegas, Nevada, 89108.

FOR FURTHER INFORMATION CONTACT: Mike Dwyer, District Manager, at the above Las Vegas District address or telephone (702) 647–5000.

SUPPLEMENTARY INFORMATION: The withdrawal will remove the subject lands from settlement, sale, or entry under the public land laws, including the mining laws of the United States subject to valid existing rights. It will be for a period of about six years, ending November 6, 2001, with the opportunity for reviews and renewal. All forms of public access, recreation, mineral exploration, oil and gas leasing, and mineral development will be prohibited. The land withdrawal will not allow for the construction of any on-site facilities or air-to-ground targeting activities. However, it will allow for the maintenance of existing roads and placing of security devises (e.g., posting, warning signs, sensors) along or near the boundary of the withdrawal area.

The Caliente Management Framework Plan is amended to exclude the withdrawal area. The Nellis Air Force Range Resource Plan is amended to include the additional acreage. Management of the land to be withdrawn will conform to decisions in the Nellis Air Force Range Resource Plan. The Bureau of Land Management will continue to administer livestock grazing on the Bald Mountain Allotment. The Caliente Management Framework Plan will continue to provide management direction for the non-withdrawn portions of the grazing allotment and the Nellis Air Force Range Resource Plan will provide management direction for those portions of the allotment within the military withdrawal.

Copies of the Approved Plan Amendment and Decision Record will be mailed to all individuals who participated in the planning process and other individuals upon request.

Dated: April 7, 1995.

Ann J. Morgan,

State Director, Nevada.

[FR Doc. 95–9742 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: John Monson, Bedford, NH, PRT–801217.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. L. Tonks, Sondagsrivierhoek, Graaff Reinet, Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 14, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–9710 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–55–P

Availability of Environmental Assessment/Habitat Conservation Plans and Receipt of Applications for Incidental Take Permits for Construction of Single-family Residences Within Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The following applicants have applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permits would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of one single-family residence on each individually owned lot within Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plans (EA/HCP's) for the incidental take applications. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before May 22, 1995.

ADDRESSES: Persons wishing to review the application(s) may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the individual EA/HCP(s) may obtain a copy by contacting Joseph E. Johnston or Alma Barrera, Ecological Services Field Office, 10711 Burnet Road, suite 200, Hartland Bank Building, Austin, TX 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (9:00 to 4:30) U.S. Fish and Wildlife Service, Austin, TX. Written data or comments concerning the application(s) and EA/HCP(s) should be submitted to the Acting Field Supervisor, Ecological Services Field Office, Austin, TX (see **ADDRESSES** above). Please refer to the applicable Permit Number when submitting comments.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston or Alma Barrera at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: Steven G. Madere (Permit Number PRT–799859) plans to construct a single-family residence on Lot 22, Block H, Long Canyon Phase IIA Subdivision, a k a 9000 Bell Mountain Drive. This action will eliminate less than one half acre of land and indirectly impact less than one half additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Applicant: Cecil Eugene Ethridge and Doug Van Skyock (Permit Number PRT–799846) plan to construct a single-family residence on Lot 44 on Mountain Trail, Comanche Trail #3 Resubdivision. This action will eliminate less than one half acre of land and indirectly impact less than one half additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Applicant: Steven I. Adler (Permit Number PRT–800130) plans to construct a single-family residence on Lot 12 on Wildwind Point, Westlake Highlands Section 5, Phase 2, Revised Subdivision. This action will eliminate less than one half acre of land and indirectly impact less than one additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/menage lands for the conservation of the golden-cheeked warbler.

Applicant: Richard S. Baggett (Permit Number PRT–800131) plans to construct a single-family residence on Lot 2, Block L, Long canyon, Phase IIB, a k a 9611 Bell Mountain Drive. This action will eliminate less than one half acre of land and indirectly impact less than one additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Applicant: Mr. and Mrs. Larry Michael Beasley (Permit Number PRT–800080) plan to construct a single-family residence on Lot 4 on Lime Creek Road, Lake Travis Subdivision No. 2. This action will eliminate less than one half acre of land and indirectly impact less than one additional acre of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to these actions were rejected by the Applicant(s) because selling or not developing the individually owned subject property with federally listed species present was not economically feasible.

Lynn B. Starnes,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–9767 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

[DES 95–17]

Outer Continental Shelf, Gulf of Mexico Region, Proposed Central and Western Gulf Sales 157 and 161

AGENCY: Minerals Management Service.

ACTION: Notice of availability of the draft environmental impact statement and intent to hold public hearings regarding proposed central and western Gulf of Mexico sales 157 and 161.

The Minerals Management Service has prepared a draft environmental impact statement (EIS) relating to proposed 1996 Outer Continental Shelf (OCS) oil and gas lease sales in the Central and Western Gulf of Mexico. The proposed Central Gulf Sale 157 will offer for lease approximately 31.2 million unleased acres, and the Western Gulf Sale 161 will offer approximately 28.3 million unleased acres. Single copies of the draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Unit (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394.

Copies of the draft EIS will also be available for review by the public in the following libraries:

Texas

Alma M. Carpenter Public Library, 330 South Ann, Sourlake
Aransas Pass Public Library, 110 North Lamont Street, Aransas Pass
Austin Public Library, 402 West Ninth Street, Austin
Bay City Public Library, 1900 Fifth Street, Bay City
Brazoria County Library, 410 Brazoport Boulevard, Freeport
Calhoun County Library, 301 South Ann, Port Lavaca
Chambers County Library System, 202 Cummings Street, Anahuac
Comfort Public Library, Seventh & High Streets, Comfort
Corpus Christi Central Library, 805 Comanche Street, Corpus Christi
Dallas Public Library, 1513 Young Street, Dallas
Houston Public Library, 500 McKinney Street, Houston
Jackson County Library, 411 North Wells Street, Edna
Lamar University, Gray Library, Virginia Avenue, Beaumont
LaRatama Library, 505 Mesquite Street, Corpus Christi
Liberty Municipal Library, 1710 Sam Houston Avenue, Liberty
Orange Public Library, 220 North Fifth Street, Orange
Port Arthur Public Library, 3601 Cultural Center Drive, Port Arthur
Port Isabel Public Library, 213 Yturria Street, Port Isabel
Reber Memorial Library 193 North Fourth, Raymondville
Refugio County Public Library, 815 South Commerce Street, Refugio
Rice University, Fondren Library, 6100 South Main Street, Houston
R.J. Kleberg Public Library, Fourth and Henrietta, Kingsville
Rockwall County Library, 108 South Fannin Street, Rockwall
Rosenberg Library, 2310 Sealy Street, Galveston
Sam Houston Regional Library & Research Center, FM 1011 Governors Road, Liberty
Texas A & M University, Corpus Christi Library, 6300 Ocean Drive, Corpus Christi
Texas A & M University, Evans Library, Spence and Lubbock Streets, College Station
Texas Southmost College Library, 1825 May Street, Brownsville
Texas State Library, 1200 Brazos Street, Austin
University of Houston Library, 4800 Calhoun Boulevard, Houston
University of Texas at Brownsville, Arnulfo Oliveria Memorial Library, 80 Fort Brown, Brownsville
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin
University of Texas, LBJ School of Public Affairs Library, 2313 Red River Street, Austin,

VOL
60
ISS
76
AP
20
1995
UMI

University of Texas Library, 21st and Speedway Streets, Austin
Victoria Public Library, 329 North Main, Victoria

Louisiana

Calcasieu Parish Library, 327 Broad Street, Lake Charles
Cameron Parish Library, Marshall Street, Cameron
Grand Isle Branch Library, Highway 1, Grand Isle
Government Documents Library, Loyola University, 6363 St. Charles Avenue, New Orleans
Iberville Parish Library, 24605 J. Gerald Berret Boulevard, Plaquemine
Jefferson Parish Lobby Branch Library, 3410 North Causeway Boulevard, Metairie
Jefferson Parish West Bank Outreach Branch Library, 2751 Manhattan Boulevard, Harvey
Louisiana State University Library, 760 Riverside Road, Baton Rouge
Lafayette Public Library, 301 W Congress Street, Lafayette
Lafitte Branch Library, Route 1, Box 2, Lafitte
Lafourche Parish Library, 303 West 5th Street, Thibodaux
Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston
LUMCON, Library, Star Route 541, Chauvin
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles
New Orleans Public Library, 219 Loyola Avenue, New Orleans
Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux
Plaquemine Parish Library, 203 Highway 11, South, Buras
St. Bernard Parish Library, 1125 East St. Bernard Highway, Chalmette
St. Charles Parish Library, 105 Lakewood Drive, Luling
St. John The Baptist Parish Library, 1334 West Airline Highway, Laplace
St. Mary Parish Library, 206 Iberia Street, Franklin
St. Tammany Parish Library, Covington Branch, 310 West 21st Street, Covington
St. Tammany Parish Library, Slidell Branch, 555 Robert Boulevard, Slidell
Terrebonne Parish Library, 424 Roussell Street, Houma
Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans
University of New Orleans Library, Lakeshore Drive, New Orleans
University of Southwestern LA, Dupre Library, 302 East St. Mary Boulevard, Lafayette
Vermillion Parish Library, Abbeville Branch, 200 North Street, Abbeville

Mississippi

Gulf Coast Research Laboratory, Gunter Library, 703 East Beach Drive, Ocean Springs
Hancock County Library System, 312 Highway 90, Bay Saint Louis
Harrison County Library, 14th and 21st Avenues, Gulfport
Jackson George Regional Library System, 3214 Pascagoula Street, Pascagoula

Alabama

Dauphin Island Sea Lab, Marine Environmental Science Consortium, Library, Bienville Boulevard, Dauphin Island
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores
Mobile Public Library, 701 Government Street, Mobile
Montgomery Public Library, 445 South Lawrence Street, Montgomery
Thomas B. Norton Public Library, 221 West 19th Avenue, Gulf Shores
University of South Alabama, University Boulevard, Mobile

Florida

Bay County Public Library, 25 West Government Street, Panama City
Florida A & M University, Coleman Memorial Library, Martin Luther King Boulevard, Tallahassee
Florida Northwest Regional Library System, 25 West Government Street, Panama City
Florida State University, Strozier Library, Call Street and Copeland Avenue, Tallahassee
Fort Walton Beach Public Library, 185 Miracle Strip Parkway, Fort Walton Beach
Leon County Public Library, 200 West Park Avenue, Tallahassee
University of Florida Library, University Avenue, Gainesville
University of Florida, Holland Law Center Library, Southwest 25th Street and 2nd Avenue, Gainesville
West Florida Regional Library, 200 West Gregory Street, Pensacola

Public Hearings for Proposed Central and Western Gulf of Mexico Sales 157 and 161

In accordance with 30 CFR 256.26, the Minerals Management Service will hold three public hearings (dates, times, and locations are listed below) soliciting comments on the draft environmental impact statement (EIS) for proposed 1996 Gulf of Mexico Sales 157 and 161. The hearings will provide the Secretary of the Interior with information from interested parties that will help in the evaluation of the potential effects of proposed lease Sales 157 and 161. These hearings will also serve as an early opportunity for determining the scope of significant issues related to the development of a draft EIS for proposed 1997 Gulf of Mexico Sales 166 and 168, as well as for the draft EIS for the 5-year OCS oil and gas leasing program for 1997–2002. The hearings will provide information for the development of appropriate alternatives and mitigating measures, as well as for the identification of significant issues, to be considered in that draft EIS.

Persons who wish to testify at these hearings may register the day of the hearing at the hearing sites beginning one hour prior to the meeting. Oral testimony should be limited to 10 minutes. Each hearing will begin at the specified time and will recess when all speakers have had an opportunity to testify. If there are no additional speakers, the hearing will adjourn immediately after the recess. Testimony may be supplemented by a written statement that, if submitted at a hearing, will be considered as part of the hearing record. Those unable to attend the hearing may submit written statements until the close of the comment period, July 14, 1995. Written statements should be submitted to the Regional Director, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Alabama: Dauphin Island on June 8, 1995; 7:00–9:00 p.m.
Dauphin Island Sea Lab, 101 Bienville Boulevard, Dauphin Island, Alabama

Texas: Houston on June 13, 1995; 1:00–3:00 p.m.
Marriott International Airport Hotel, 18700 John F. Kennedy Boulevard, Houston, Texas

Louisiana: New Orleans on June 14, 1995; 1:00–3:00 p.m.
Minerals Management Service, 1201 Elmwood Park Boulevard, Conference Room 111, Jefferson, Louisiana

Dated: April 14, 1995.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 95–9705 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–MR–P

Minerals Management Service (MMS)

Minerals Management Advisory Board, Outer Continental Shelf (OCS), Scientific Committee (SC); Announcement of Plenary Session

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A–63, Revised.

The Minerals Management Advisory Board OCS SC will meet in plenary sessions on Wednesday, June 7, and Thursday, June 8, 1995, at the Regal Alaskan Hotel, 4800 Spenard Road, Anchorage, Alaska 99517–3236, telephone (907) 243–2300.

The SC is an outside group of scientists which advises the Director, MMS, on the feasibility,

appropriateness, and scientific value of the MMS' OCS Environmental Studies Program (ESP).

Below is a schedule of meetings that will occur.

The SC will meet in plenary session on Wednesday, June 7, from 8:30 a.m. to 5:30 p.m.

The Committee will also meet in plenary session on Thursday, June 8, from 8:30 a.m. to 5 p.m. Discussion will focus on continued review of Fiscal Years 1996 and 1997 proposed ESP and OCS activities off Alaska, and MMS future study plans for OCS areas with ongoing operations and planned activities.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Clark at the address below.

Other inquiries concerning the OCS SC meeting should be addressed to Dr. Ken Turgeon, Executive Secretary to the OCS Scientific Committee, Minerals Management Service, 381 Elden Street, Mail Stop 4310, Herndon, Virginia 22070. He may be reached by telephone at (703) 787–1717.

Dated: April 13, 1995

Thomas M. Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 95–9784 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–MR–M

Call for Comment on Proposed Policy Options and Announcement of Related Workshop for Outer Continental Shelf (OCS) Natural Gas and Oil Resource Management

AGENCY: Minerals Management Service (MMS), Department of the Interior.

ACTION: Call for Comment on proposed policy options and announcement of workshop.

SUMMARY: On December 7, 1993, the MMS published a Call for Public Comment on General Leasing Policies in the Central and Western Gulf of Mexico Planning Areas. The MMS has reviewed the comments it received and conducted additional analyses. In this Call for Comment, the MMS describes specific policy options being considered.

The primary objectives to be met are to slow expected declines in infrastructure and production in producing areas, to promote development of infrastructure in certain non-producing areas, and to assure continued receipt of fair market value for OCS leases. Implementation of one new policy, expanding the tract-specific data made available to all prospective bidders prior to a sale, has just begun. Other options under consideration are to publish specific guidelines for the treatment of applications for royalty relief, to offer more flexible royalty terms on some new leases, to increase flexibility to respond to requests for extensions in lease terms, to modify rental and minimum bid policies, to revise bid adequacy procedures, and to propose coastal impact assistance.

A 2-day workshop to discuss current policy options will be held in the Gulf of Mexico region in mid-June 1995. The first day will be devoted to an overall discussion of the various options. The second day will be spent on the guidelines being developed by the MMS for royalty relief on active leases. Details will be published in a second **Federal Register** Notice later this month.

DATES: Written responses should be received by July 19, 1995. Comments also may be presented in person at the workshop announced in this notice.

ADDRESSES: Written responses should be mailed to the Acting Deputy Associate Director, Resources and Environmental Management, Minerals Management Service (MS–4430), 381 Elden Street, Herndon, VA 22070. Hand deliveries may be made at 381 Elden Street, Room 3408, Herndon, Virginia (dial 1178 from lobby telephone). Envelopes or packages should be marked "Comments on Proposed Policy Options for the Gulf of Mexico." If any privileged or proprietary information is submitted that the respondent wishes to be treated as confidential, both the envelope and the contents should be marked "Confidential Information."

FOR FURTHER INFORMATION CONTACT: For information pertaining to this Call for Comment on Proposed Policy Options and Announcement of Workshop, telephone Marshall Rose or Mary Vavrina, Economic Evaluation Branch, at (703) 787–1536.

SUPPLEMENTARY INFORMATION: In the December 7, 1993, Call for Public Comment on General Leasing Policies in the Central and Western Gulf of Mexico Planning Areas, suggestions and comments were requested from States, local governments, Federal agencies, the oil and gas industry, environmental groups, and other interested individuals and groups to assist the MMS and the Department of the Interior in planning for the Central and Western GOM sales remaining under the Comprehensive OCS Natural Gas and Oil Resource Management Program for 1992–1997. After considering the comments received and conducting additional internal analyses, the MMS and the Department decided that, overall, the regulations and policies already in place were appropriate. However, the MMS did identify several areas where improvement was possible and has developed a number of options for further consideration.

The MMS has decided that the current approach of offering annual, area-wide sales in the Central and Western GOM is the most appropriate leasing system for those planning areas at this time. In other planning areas, the MMS may hold narrowly targeted sales, more typical tract selection sales, or tract nomination sales (where all tracts specifically nominated are offered, absent environmental or other concerns).

The MMS also has decided that an extension of the period used to evaluate bids from a lease sale is no longer needed. Its Resource Evaluation staff now has sufficient training in the use of new computer systems and interpretation of technical data to complete the evaluation of bids within the existing 90-day requirement.

Several commenters supported impact assistance. The Administration recognizes that coastal states and localities can incur impacts disproportionate to their share of the national benefits. The Administration supports impact assistance as a means to more equitably share the benefits and burdens of OCS production, protect coastal and marine resources, and strengthen the Federal-State partnership. The critical issue in designing an impact assistance program, however, is the budget offsets required so that there is no net impact on the Federal Treasury. The Administration is currently reviewing impact assistance but does not have a proposal at this time.

Primary Objectives

In considering the main purpose of the OCS oil and gas program (to contribute to the Nation's energy supply) and the range of opportunities currently available to make beneficial changes within its existing authority, the MMS decided to focus on three objectives:

—Slow expected declines in infrastructure and production in the producing portions of the Central and Western GOM
—Promote development of infrastructure in promising deep-water portions of the Central and Western GOM (and possibly in frontier planning areas) to encourage the domestic market to replenish reserves and to increase its ability to

VOL 60 ISS 76 AP 20 1995 UMI

respond to sudden decreases in the availability of moderately priced supplies of oil and gas from foreign sources

—Assure receipt of fair market value for OCS leases.

Policy Options for Comment

I. New Policy: Information on Tracts with Indicated Hydrocarbons

The MMS believes that early identification of available tracts with low geologic risk (those with indicated hydrocarbons) would be a service to potential bidders and would result in greater competition for some tracts. Scarce resources may make it difficult for some potential bidders to identify the tracts on their own. Fifty percent of the tracts with high bids rejected between 1990–92 had well bores with confirmed resources. In subsequent sales, both the number of bids per tract and high bids, on average, increased significantly. These findings suggest that wider dissemination of relevant geologic data on discovered resources would increase the bidding competition and high bid amounts in future sales.

An initial Indicated Hydrocarbon List has been prepared and distributed that identifies relevant unleased tracts by class in the Central GOM. The three classes are those that were fields or portions of fields that produced; those with well bores that qualified under 30 CFR 250.11 but did not produce; and those with well bores that the MMS believes would qualify under 30 CFR 250.11 but were never classified and never produced. Basic information relating to production, well bores, and pay range for every tract in each class also is included in the list. The data are available in hard copy and digital format. An updated list will be available to the public approximately 3 months before each GOM sale.

Specific Information Requested

The MMS would like two kinds of information on this new policy: evaluations of the usefulness of the information provided for the May 1995 Central GOM sale and suggestions for improvement or expansion. If the information has not been useful, why not? Are there ways to make it more useful? Are there other kinds of useful, non-proprietary data that could be provided by the MMS that are not readily available on the private market?

II. Royalty Policies for Active Leases

The MMS is authorized by the OCS Lands Act to reduce or eliminate royalties on oil-, gas-, and sulphur-producing leases in order to increase production from those leases. The MMS is considering guidelines for such royalty relief that would distinguish between two categories of requests. One is relief for expense type projects, which is designed to promote continued production from a lease by lowering lease royalty rates for a relatively short duration. The other is relief for capital investment projects, which focuses on encouraging incremental production from specific projects on the lease by lowering reservoir or lease royalty rates for extended periods. Royalty relief would be granted only for leases already in production.

For expense type projects, MMS would try to set royalty rates so that operators would more than cover their cost of continuing operations. For capital investment projects, to the extent possible through adjusting royalties, MMS will seek to ensure a targeted rate of return on the new capital invested before all but a nominal royalty becomes due.

Qualification for relief under expense type projects typically would require that the lease has a negative operating cash flow that is expected to persist for subsequent periods. Depending upon the anticipated stability of future prices and costs, MMS may use either a fixed or variable adjustment in the royalty rate for qualifying projects.

Under either approach for expense type projects, the MMS would calculate the minimal amount of relief needed to stimulate continuing operations, e.g., a royalty rate at which the lessee retains 25 percent of the difference between revenues and operating costs (excluding royalties). At about the point where the lease revenues would cover operating costs with the full royalty (the break-even operating level), the original lease royalty rate would apply.

When prices and/or costs are expected to be highly variable, or the interval between review periods is extended, then a variable royalty rate system would be considered. In this approach, the royalty rate that applies in any period could vary as product prices and production levels change. As with the case of the fixed royalty modification, the functional form of the royalty rate would reflect only that amount of relief needed to induce continued production, e.g., the lessee retains 25 percent of the difference between revenues and operating costs (excluding royalties), up to about the break-even operating level.

Qualification for relief under capital investment projects would require the lessee to demonstrate that the eligible project is not expected to generate an adequate rate of return to justify the needed expenditures which would promote increased production. In those cases where MMS is convinced that the additional production directly attributable to the proposed project is not economical under existing royalty terms, it would first determine whether royalty relief would make the proposed project worth pursuing.

If this appears to be the case, then the project may qualify for relief. Following documented payments for the development activities, incremental production would be charged a royalty at a predetermined lower rate, e.g., one-twenty fourth of the wellhead value of production. This rate would remain in effect until the project earned a specified rate of return, e.g., equal to the BBB bond rate, allowing for realized receipts, actual investment and transportation costs, and predetermined allowances for operating and overhead costs.

Production value in excess of the break-even operating level at the reduced royalty rate subsequently would be charged at the original royalty rate. Further, the lessee incurs a repayment obligation if the project proves, in retrospect, not to have needed the full amount of relief. Over the production interval between the investment break-even point at the reduced royalty rate and the break-even point at the original royalty rate, the lessee will incur an obligation to repay an increasing proportion of the difference in royalties owing to approval of the original application for relief. The required repayment will be the amount needed to provide the lessee with the specified return on investment up to that point. No additional obligation beyond the original royalty rate is incurred thereafter.

The repayment obligation would need to be paid either at the time the project ceases producing commercial amounts of production in excess of the investment break-even operating level at the modified royalty rate, or at the time the project generates sufficient revenues to break even on the original investment at the original royalty rate, whichever occurs first. The lessee could further manage the size and timing of the repayment obligation by requesting that the terms of the royalty modification cease earlier than planned and possibly forwarding payment at that time for any incurred or anticipated repayment obligations.

In addition, studies are underway to estimate the extent to which a particular category of reserves known as "behind-the-pipe," tend to be left in the ground when the producing reserves are abandoned. "Behind-the-pipe" reserves are those through which an operator has drilled—but is not producing—to get to another reservoir that is producing. If it is not economic to produce these reservoirs through an existing wellbore, it is highly unlikely that in the future they would justify the cost of drilling a new well, plus the attendant costs of completion and production. The following additional options may be considered for behind-the-pipe reserves:

A. Develop general (across-the-board or interpretive) guidelines for royalty relief for this category of reserves.

B. Develop procedures for case-by-case review of royalty rate requests for "behind-the-pipe" and related reserves that involve reductions in royalties and periodic reviews.

C. Initiate administrative reviews of development and conservation issues that could substitute for or supplement royalty relief in inducing lessees to produce socially beneficial reserves. Specifically, a lessee's plan to abandon a well or move to a new horizon would be reviewed in more depth to ensure that economically recoverable reserves are not left behind.

Specific Information Requested

The MMS is seeking comments on several questions pertaining to the proposed more specific interpretive guidelines for granting royalty relief on active leases.

1. Is the demarcation by the two types of projects the best approach? Are there other types of projects not adequately addressed by the proposed guidelines?

2. Are there particular categories of tracts that should be considered?

3. Would the establishment of more specific, interpretive guidelines encourage more lessees to apply for such relief? If so, how much additional production of oil, gas, and sulphur might result from expense-type projects? From capital investment projects? Would this appreciably affect the kind and level of infrastructure in the GOM?

4. Are there aspects of the proposal that would be burdensome or that would otherwise discourage lessees from applying? For example, would the documentation or payback requirements be problems?

5. A fee might be charged to cover the costs of processing applications. How high could this fee be without discouraging applicants?

III. Royalty Policies for New Leases

During the past 10 years, about 240 tracts have been relinquished despite the discovery of potentially economical reserves. An estimated 2 billion barrels of oil equivalent have been discovered but not produced on 30 deep-water leases. The Government holds in its inventory over 700 tracts in water depths of at least 200 meters each of which has, at least once, received a bonus bid of more than one million dollars. Thus, more flexible royalty policies might encourage production of discovered reserves when the price of the oil and gas exceeds the cost, excluding royalties, of bringing those resources to market.

The following options are being considered:

A. Offer reduced or deferred royalties on tracts that have a history of prior discoveries without production.

B. In deep-water areas, offer tracts with suspensions of royalties on substantial volumes or market values of production.

C. Offer suspension of royalties on tracts that have never received a bid or have not received a bid for over 10 years.

The MMS intends to seek the flexibility to offer royalty suspensions or lower fixed royalty rates for new leases. The OCS Lands Act requires for specified bidding systems that leases stipulate an initial royalty rate of at least 12½ percent. However, alternative bidding systems can be implemented under Section 8 of the OCS Lands Act [43 U.S.C. 1337(a)(1)(H)], as long as they are consistent with the duty to assure receipt of fair market value and help accomplish the purposes and policies of the Act. The new bidding systems could provide for leases containing royalty suspensions or lower fixed royalty rates for all tracts in deep water or for selected tracts, such as previously relinquished tracts with qualifying wells or marginal tracts in shallow waters.

By offering the same favorable royalty terms to all bidders, the MMS should be able to obtain correspondingly higher bonus bids for such leases. (Bid adequacy procedures would remain in effect.) At the same time, those who are successful in both bidding and exploration would face lower royalty costs, allowing them to develop and produce discoveries that would otherwise be uneconomic.

The MMS may want to provide additional or stronger incentives for exploration and production in some frontier areas, where the value to the Nation as a whole—but not the potential revenues for the lessee—would exceed the private costs of developing and producing certain discoveries. Additional exploration provides important information about the geology and prospective nature of the area. Each discovery that goes into production provides transportation and other infrastructure that generates an increase in the value of blocks in the vicinity of the development. Getting one or more leases in frontier areas into production could reduce the perceived risk of subsequent exploratory drilling and significantly improve the economics for future production on other leases. Because the incentives are meant to help compensate for the risks and costs that must be borne by those undertaking early investment in exploration and infrastructure development, they might be eliminated or offered in reduced amounts for leases offered after the initial discoveries and development in a targeted area.

For high-cost areas (such as the deep-water GOM) or frontier areas, the MMS also is considering the possibility of offering tracts that are larger than the standard size, in addition to favorable royalty terms or other incentives.

Possible Rulemaking

The MMS is likely to publish a Notice of Proposed Rulemaking before the end of the fiscal year that would propose changing the bidding systems for newly offered tracts under the OCS Lands Act to permit the MMS to (1) lower the prescribed minimum initial royalty rate below 12½ percent; (2) allow operating allowances in determining receipts subject to royalty; (3) suspend or defer royalty for periods, volumes, or values of production; and (4) extend the forms for calculating royalty rates under variable rate systems to include product prices, as well as value and amount of production. Ideally, the MMS would like to have any regulatory changes in place in time to accommodate proposed sale design options for the 1996 Central and Western GOM sales. However, given the obstacles inherent in the current regulatory process, an implementation target of 1997 sales may be more realistic.

Specific Information Requested

The MMS would like respondents to provide comments and suggestions both on the additional authority it seeks and on the new policy options it is considering.

First, which of the policy options above are most likely to help achieve the stated objectives or other relevant objectives? To what extent are they likely to make a difference? Are there ways to make them more effective or more efficient? Are there other policy options the MMS should be considering?

Second, if the MMS should be considering other alternative bidding systems or related policy options for which it has general rulemaking

VOL
60
ISS
76
AP
20
1995
UMI

authority, what regulatory changes would be most appropriate?

IV. Increased Flexibility in Length of Lease Terms, With Possible Changes in Rental Rates and Minimum Bids

Several industry respondents to the December 1993 **Federal Register** Call for Public Comment requested increased flexibility involving Suspensions of Operations (SOOs), Suspensions of Production (SOPs), and similar provisions, particularly for leases on deep-water tracts. Some lessees also have asked for more flexibility where sub-salt prospects exist. Lessees have complained that technical data and information developed for a prospect cannot always be evaluated in time to identify optimal drill sites and commence drilling to better develop exploratory targets within the primary lease term. There may be some benefit to providing industry more time for analysis or other tasks leading to exploration or development where adverse or unusual conditions exist.

However, there is an inventory of 3,000 undrilled tracts in industry hands. Most leases in the GOM are either explored early in their primary lease term or held undrilled until the end of their term. Less than 1 percent of the deep-water leases that were issued for $50 per acre or less since 1982 have been drilled. The MMS would like to grant additional flexibility where it is needed but also, where possible, to encourage earlier drilling or relinquishment so that tracts are not kept off the market by lessees who are unlikely to undertake exploration activity. Changes in minimum bid and rental policies, in combination with other new policies, may be an effective way to achieve this.

Currently, leases are issued with 5-year, 8-year, and 10-year terms for water depths of 400 meters or less, 400–900 meters, and greater than 900 meters, respectively. The 8-year leases require that an exploratory well be drilled within the first 5 years. With a few exceptions, the lessee must demonstrate a qualifying discovery to hold a lease beyond the primary term. Undrilled leases will be continued in effect if the lease is part of a unit agreement with other leases with a discovery, where there is continuous drilling, or as long as the leases in the unit are under a SOO or an SOP. No regulation specifically allows suspensions for the purpose of conducting analysis.

At present, the MMS is considering several options to increase flexibility and/or to encourage diligence:

A. Offer 7- or 8-year leases on some tracts in less than 400 meters of water based on pre-sale identification or post-sale evidence of "adverse conditions," such as sub-salt prospects. Higher rental rates (e.g., $25–$50 per acre, per year) could be charged in years 6–8.

B. Amend 30 CFR 250.13(b), by deleting the words "where environmental conditions warrant," to authorize MMS Regional Directors to approve a period of time greater than 180 days between termination of production, drilling, or well-reworking operations and the commencement of production, new drilling, or well-reworking operations in cases that are in the national interest. Escalating rental rates could be imposed for the additional years.

C. Develop general guidelines for escalating rentals that would apply to broad categories of tracts (e.g., 5-year lease term, 8-year lease term, etc.) in combination with a reduced minimum bid level (e.g., $10 per acre) so that the net present value of the reduced minimum bid and escalating rentals would be about equal to the present value of a $25 per acre minimum bid and $5 per-acre, per-year rental during the first 2–3 years of the lease. In addition, the escalating rental provision could substitute for the rigid requirement to initiate exploration drilling by the fifth year of leases with an 8-year term.

If escalating rental rates are imposed, another option would be to allow the additional rental payments to be applied to future royalty obligations from the same lease.

Possible Rulemaking

The MMS may issue a Notice of Proposed Rulemaking to delete the words "where environmental conditions warrant" from 30 CFR 250.13(b) and insert language specifically granting the Regional Director authority to require higher rental (or minimum royalty) rates during the additional time requested by, and granted to, the lessee under this regulation. Other appropriate changes to 30 CFR 250.13 and to 30 CFR 250.10 may be considered as well.

Specific Information Requested

Respondents may wish to consider the following questions.

1. What flexibility not now available to lessees would help increase production and develop or maintain infrastructure? In what cases should the flexibility be available? In what cases should it not be available (e.g., where it merely allows delays that deprive other companies the opportunity to lease and expeditiously develop the resources)?

2. Are there cases where this need might be temporary? For example, will new technology and additional experience make it possible to evaluate sub-salt prospects in less time?

3. What can the MMS do to provide flexibility where needed without ignoring its responsibility to enforce statutory diligence requirements? Should the MMS be considering other changes in its regulations?

4. When combined with additional flexibility, would rentals of $25–$50 per acre for additional years be appropriate? Would they provide incentives for diligence or would they be too low to influence timing decisions? Would they defeat the purpose of providing the flexibility?

5. Would a lower minimum bid, combined with an increasing rental rate help increase production without imposing undesirable timing constraints? If so, what levels of minimum bid and rentals would be effective and appropriate?

V. Bid Adequacy Procedures

The Bid Adequacy decision procedures have essentially remained the same since the advent of the area-wide leasing program in 1983. In recent years, it has been shown that rejected tracts, on average, receive much higher bids in subsequent sales. (This finding takes into account the foregone original bids for those few rejected tracts not receiving bids in subsequent sales.) Use of the 3-Bid Rule and the Bid Averaging Rule occasionally has resulted in the acceptance of some tracts that were highly valued by the MMS but received relatively low bids. The Office of the Inspector General has expressed concern that the Bid Averaging Rule places too much emphasis on losing bids in determining whether to accept the high bid on tracts about which the MMS has relatively good information.

In Phase 1 of the two-phased bid adequacy procedures, a high bid on a wildcat or confirmed tract can be accepted without further MMS evaluation if the tract receives three or more bids. The 3-Bid Rule was originally adopted to place reliance on the market to ensure receipt of fair market value when there was a sufficient number of competitive bids. Also, the rule was adopted to devote scarce tract evaluation resources on those cases where competition was weakest (i.e., tracts receiving one or two bids) or where MMS data were considered most reliable and some bidders might have an informational advantage over the rest of the market (i.e., drainage and development tracts).

Possible changes in Phase 1 procedures that are being considered include eliminating the 3-Bid Rule and applying the 3-Bid Rule to wildcat tracts only.

In Phase 2 of the two-phased bid adequacy procedures, the MMS estimate of tract value is averaged (geometrically) with the bids submitted. If the high bid exceeds the "average" bid, it is accepted. This averaging rule is applied to wildcat and confirmed tracts receiving two bids and to drainage and development tracts receiving three or more bids.

The three options currently being considered for Phase 2 procedures include replacing the geometric average with the median of the MMS tract value estimate and a lower percentile parameter as the number of bids on the tract increases, replacing the geometric average with an arithmetic average in the GOM Region and with the median elsewhere, and eliminating the geometric average with no replacement.

Whether or not changes are made in its bid adequacy procedures, the MMS is likely to adopt or retain at least one criterion incorporating market information provided by bids. In the past, changes in bid adequacy procedures have applied uniformly to all OCS lease sales, regardless of the planning area.

Should a decision be made to change the status quo, a notice to prospective bidders would be published in the **Federal Register**, and a discussion of the changes would be included in the appropriate Notice of Sale.

Specific Information Requested

The MMS would like any information that would help it, in the face of changing conditions, to continue to fulfill its obligation under the OCS Lands Act to assure the receipt of fair market value for oil and gas leases. Given the high return on rejected bids, what changes if any might be appropriate in current bid adequacy procedures? Are there options not identified above that MMS should consider?

Request for Comments

Specific kinds of comments are requested at the end of each of the five groups of policy options identified immediately above. In general, it would be helpful to the MMS for respondents to focus on the extent to which the options would help to achieve the objectives stated in this Call for Comment.

The MMS also requests any information indicating that certain options may have the potential for important negative consequences or would be less effective or less efficient than other actions under MMS control.

In addition to comments on the workability and possible effectiveness of individual options, the MMS would appreciate any suggestions for combinations of policies that might be superior to any individual options in achieving the stated objectives.

Respondents should not limit themselves to addressing the questions in this Call for Comment and should feel free to respond through the workshop, through written comments, or both. None of the policies discussed in this Call for Comment, with the exception of publishing the Indicated Hydrocarbon List, will receive final approval until after the comment period has closed and all comments—whether made at the workshop or submitted in writing—have been considered fully.

Workshop on Proposed Policy Options

A 2-day workshop to discuss the options presented in this Call for Comment will be held in the Gulf of Mexico region in mid-June 1995. The most likely site is Houston, with Metairie, Louisiana, as an alternate, and the tentative dates are June 14–15. The dates, exact location, and agenda will be announced in a **Federal Register** Notice later this month.

The first day of the workshop will be devoted to an overall discussion of the full set of options in this Call for Comment. This will include a limited discussion of the proposed guidelines for royalty relief on active leases and the purposes they are designed to achieve. The second day will be reserved for a more detailed discussion of how the proposed guidelines for royalty relief on active leases would work. All interested parties are invited to both sessions, but it would be especially valuable for those who might write the applications for royalty relief under the new guidelines to attend on the second day.

While the workshop is open, free of charge, to anyone who wishes to attend, the MMS requests that those wishing to attend any part of the two-day session register in advance. Registration information will be provided in the upcoming Notice announcing details of the workshop.

Assuming that a decision is made to issue specific royalty relief guidelines after comments have been analyzed, a training session will be held to explain the plan for implementation of the final guidelines.

Timing and Means of Implementation

As mentioned above, the MMS may issue two Notices of Proposed Rulemaking to gain more flexibility in the implementation of existing statutory authority for royalty rates and the effective length of lease terms. The decision to seek additional regulatory flexibility should not be interpreted as a decision to implement any particular policy option.

Most of the other options being considered could be implemented under existing authority. If, after considering the responses to this Call for Comment and any information gained from the workshop, a decision is made to change existing policies, the MMS hopes to announce in the **Federal Register** a package of proposals in time for implementation in the mid-1996 Western GOM sale (Sale 161) and subsequent GOM sales. Ideally, any decisions to change policies toward active leases would be made at the same time.

However, the MMS is not committed to adopting any specific options or to meeting a specific schedule for implementation. Regardless of any preferred timing, the MMS will assure that it has had adequate opportunity to hear and consider comments from industry, States, and other affected parties prior to any final decisions. In addition, the MMS will provide affected parties sufficient time to adjust to the decisions that eventually come out of this process.

Cynthia Quarterman,

Director, Minerals Management Service.

[FR Doc. 95–9704 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–MR–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32682]

RailTex, Inc.—Corporate Family Transaction Exemption—Georgia and Alabama Lines, South Carolina Central Railroad Co., Inc. and Georgia Southwestern Railroad, Inc.

RailTex, Inc. (RailTex), South Carolina Central Railroad Co., Inc. (SCC), and Georgia Southwestern Railroad, Inc. (GSWR), have filed a notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction.

RailTex, a noncarrier corporation, controls through stock ownership: (1) SCC, a class III shortline rail carrier; and (2) GSWR, a noncarrier company.

SCC currently operates about 56 miles of railroad in South Carolina. SCC also owns three railroad lines in Georgia and Alabama: (1) Georgia Southwestern Division, extending from Rochelle, GA to Mahrt, AL, and from Columbus to Bainbridge, GA; (2) Georgia & Alabama Division, extending from Smithville, GA

VOL 60 ISS 76 AP 20 1995 UMI

to White Oak, AL; and (3) Georgia Great Southern Division, extending from Dawson to Albany, GA. The railroad lines in Georgia and Alabama are separately managed as divisions of SCC.

As part of a corporate restructuring, SCC will transfer to GSWR its interests in the railroad lines in Georgia and Alabama. SCC and GSWR will function as separate corporate entities, with separate revenue centers, and each will be managed, administered, directed, and accounted for separately. The parties intended to consummate on or about April 1, 1995.

This is a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3) because it will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). Imposition of labor protective conditions is mandatory for transactions under 49 U.S.C. 11343.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the exemption's effectiveness. Pleadings must be filed with the Commission and served on: Michael W. Blaszak, 211 South Leitch Ave., LaGrange, IL 60525.

Decided: April 14, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9781 Filed 4–19–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32686]

Union County Industrial Railroad Company—Acquisition and Operation Exemption—Consolidated Rail Corporation

Union County Industrial Railroad Company (Union), a noncarrier, has filed a verified notice under 49 CFR Part 1150, Subpart D—*Exempt Transactions* to acquire and operate a 3.9-mile rail line, owned by Consolidated Rail Corporation (Conrail), between milepost 169.7, at or near New Columbia, and milepost 173.6, at or near Milton, in Union County, PA. The transaction was consummated April 4, 1995.

This proceeding is related to *Richard D. Robey—Continuance in Control Exemption—Union County Industrial Railroad Company*, Finance Docket No. 32686 (Sub-No. 1), wherein Richard D. Robey has concurrently filed a petition for exemption to continue to control Union upon its becoming a rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings must be filed with the Commission. In addition, one copy must be served on Richard R. Wilson, Vuono, Lavelle & Gray, 2310 Grant Building, Pittsburgh, PA 15219.

Decided: April 14, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9780 Filed 4–19–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services; COPS AHEAD and COPS FAST Grant Programs; Notice

AGENCY: Department of Justice, Office of Community Oriented Policing Services.

ACTION: Notice of final program guidelines adopting with no changes.

SUMMARY: On January 18, 1995, the Office of Community Oriented Policing Services, U.S. Department of Justice published, for a 45-day public comment period, interim guidelines to accompany the COPS AHEAD and COPS FAST programs (60 FR 3648). The 45-day period elapsed with one comment received and the interim guidelines are adopted as final.

DATES: Final guidelines are effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT:

Charlotte C. Black, Assistant General Counsel, Office of Community Oriented Policing Services, U.S. Department of Justice, 1100 Vermont Avenue NW., Washington, DC 20005; telephone (202) 514–3750.

SUPPLEMENTARY INFORMATION: The Catalog of Federal Domestic Assistance Number for COPS AHEAD and COPS FAST is 16.710.

Dated: April 10, 1995.

Joseph E. Brann,

Director.

[FR Doc. 95–9800 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)

Notice is hereby given that on April 10, 1995, a proposed consent decree in *United States* v. *Edward Azrael, et al.*, Civ. A. No. WN–89–2898, was lodged with the United States District Court for the District of Maryland. The complaint in this action seeks recovery of costs and injunctive relief under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99–499, 42 U.S.C. 9606, 9607(a). This action involves the Kane and Lombard Superfund Site located in Baltimore, Maryland. Under the proposed Consent Decree, Edward Azrael, Harriet Azrael and the Estate of Cele Landay (the "Settlors") will pay $375,000.00 to the United States and $175,000.00 to the State of Maryland toward reimbursement of past and future costs incurred by the United States and the State of Maryland in performing certain response actions at the Kane and Lombard Superfund Site. The Decree also requires the Settlors to provide to EPA and the State of Maryland access to the Site at all times for the performance of further response actions at the Site. The Decree reserves the right of the United States to seek further injunctive relief should the Settlors fail to meet the requirements of the Decree and to seek recovery of costs associated with damage to natural resources.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Edward Azrael, et al.*, DOJ Reference No. 90–11–2–299.

The proposed consent decree may be examined at the Office of the United States Attorney for the District of Maryland, U.S. Courthouse, Eighth Floor, 101 W. Lombard Street, Baltimore, Md. 21201; Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pa.; and at the Consent Decree Library, 1120 "G" Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9805 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act/Oil Pollution Act and the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Burlington Northern Railroad Company*, Civil Action No. 94C 0386C, was lodged on April 3, 1995 with the United States District Court for the Western District of Wisconsin. The proposed consent decree resolves the United States' claims for a civil penalty pursuant to the Clean Water Act, as amended by the Oil Pollution Act, 33 U.S.C. § 1321(b)(3), and for reimbursement of the United States' response costs pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a), and the Oil Pollution Act, 33 U.S.C. 2702(b)(2). In addition, the proposed consent decree resolves Burlington Northern Railroad Company's liability pursuant to 42 U.S.C. 9607(a) and 33 U.S.C. 2702(b)(2) for injury to natural resources.

The action and settlement arise from Burlington Northern's illegal discharges of oil and hazardous substances into waters of the United States as a result of three separate derailments: (1) On June 30, 1992 into the Nemadji River near Superior, Wisconsin; (2) on January 9, 1993 into the North Platte River near Guernsey, Wyoming; and (3) on May 6, 1993 into a tributary of the Bighorn River near Worland, Wyoming.

Under the proposed settlement, Burlington Northern agrees to pay a civil penalty in the amount of $1.1 million, to reimburse response costs spent by the United States in association with the Nemadji spill in the amount of $260,000, and to pay $140,000 into a fund to be jointly managed by the U.S. Department of Interior, the Bad River Band of Lake Superior Chippewas and the Red Cliff Band of Lake Superior Chippewas to address natural resources damaged as a result of the Nemadji spill. In addition, the settlement requires Burlington Northern to acquire improved rail inspection cars at an estimated cost of $1.2 million, and to contribute $100,000 to a fund to be used to study internal rail defects of the type that were involved in two of the three derailments in the case.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Burlington Northern Railroad Company*, Civil Action No. 94C 0386C and the Department of Justice Reference Nos. 90–11–3–1008 and 90–5–1–1–4103.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Wisconsin, 660 West Washington Avenue, Suite 200, Madison, Wisconsin 53703; the Region V Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; the Region VIII Office of the Environmental Protection Agency, 999 18th Street, Suite 500, Denver, Colorado 80202; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $4.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Grods,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9804 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Department of Justice policy, 28 C.F.R. § 50.7, notice is hereby given that on April 3, 1995 a proposed Consent Decree in *United States* v. *Coleman Trucking, Inc. et al.*, Case No. 1:91CV0499, was lodged in the United States District Court for the Northern District of Ohio. The Complaint filed by the United States alleged violations of the Clean Air Act and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Asbestos, 40 C.F.R. part 61, subpart M. The Consent Decree requires the defendant to comply with the asbestos NESHAP and provide U.S. EPA approved training to its asbestos abatement workers and inspectors during the term of the decree. The Consent Decree also requires the defendant to pay a civil penalty of $60,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Coleman Trucking, Inc. et al.*, D.J. Ref. No. 90–5–2–1–1378A.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Northern District of Ohio, Room 208 U.S. Courthouse, 2 South Main St, Akron, Ohio 44308 (contact Assistant United States Attorney James L. Bickett); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Assistant Regional Counsel Deborah Carlson); and (3) at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. For a copy of the Consent Decree please enclose a check in the amount of $3.00 (25 cents per page reproduction charge) payable to Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9741 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

Notice is hereby given that a Consent Decree in *United States* v *Southern*

VOL
60
ISS
76
AP
20
1995
UMI

Foundry Supply, Inc., et al, Civ. Act. No. 1:92–CV–567, was lodged with the United States District Court for the Eastern District of Tennessee on March 29, 1995. This action was brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9607.

The parties to this Consent Decree are Southern Foundry Supply, Inc.; the City of Chattanooga, Tennessee; Phelps-Dodge Corporation; Textile Rubber and Chemical Company, Inc.; NSPS, Inc.; Norfolk Southern Railway Company; Provident Life and Accident Insurance Company; CSX Transportation, Inc.; Edward and Helen Gomberg; and Browning-Ferris Industries of Tennessee, Inc. These parties agree to pay the United States $1,159,000 in reimbursement of costs incurred in responding to the release or threatened release of hazardous substances at the Amnicola Dump Site in Chattanooga, Tennessee.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, 10th and Pennsylvania Avenue NW., Washington, D.C. 20530. All comments should refer to *United States* v. *Southern Foundry Supply, Inc., et al*, DOJ Ref. #90–11–3–664A.

The proposed Consent Decree may be examined at the office of the United States Attorney, 1110 Market Street, Chattanooga, Tennessee 37402. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 "G" Street NW., 4th Floor, Washington, D.C. 20005. When requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.75 (25 cents per page copying cost), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9799 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Safe Drinking Water Act, the Clean Air Act, and the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Witco Corporation, et al.*, Civil Action No. CV–F–92–5705 REC, was lodged on April 5, 1995 with the United States District Court for the Eastern District of California.

The proposed consent decree resolves a case brought by the United States pursuant to the Clean Air Act, Safe Drinking Water Act, and Resource Conservation and Recovery Act against Witco Corporation ("Witco") and Catalyst Golden Bear Cogeneration Partnership ("Catalyst") for violations committed at Witco's refinery located in Oildale, California ("Refinery").

The proposed consent decree requires Witco and Catalyst jointly to pay $700,000 in civil penalties. The proposed decree also requires Witco to construct and operate a wastewater recycling system as a supplemental environmental Project and to comply with the following injunctive relief demands: Conducting site characterization work to determine the extent of soil and groundwater contamination at and around the Refinery; permanently closing and abandoning all injection wells at the Refinery; installing air pollution control and emissions monitoring equipment on certain Refinery equipment and complying with all federal regulations applicable to that equipment; complying with the applicable State Implementation Plan; and training Refinery employees concerning the proper disposal of solvents in the Refinery's laboratory.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Witco Corporation, et al.*, DOJ Ref. #90–5–1–1–3643.

The proposed consent decree may be examined at the office of the United States Attorney, 3654 Federal Building, 1130 "O" Street, Fresno, CA 93721 (209) 487–5820; the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $16.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–9740 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

[AAG/A Order No. 100–95]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, notice is given that the Department of Justice (DOJ), Federal Bureau of Investigation (FBI), is modifying the following system of records which was last published in the **Federal Register** on March 10, 1992 (57 FR 8479):

National Crime Information Center (NCIC), Justice/FBI–001

The NCIC is maintained for law enforcement purposes and provides a computerized data base for ready access by a criminal justice agency making an inquiry, and for prompt disclosure of responsive information in the system from other criminal justice agencies about crime and criminals. The FBI is modifying this system to add the names and identifying data of persons who are members of violent criminal gangs and terrorist organizations. This information will assist law enforcement in criminal investigations of these individuals and organizations, and in the protection of officers and others encountering these individuals. Changes related to this modification have been made throughout the system description.

In addition, the FBI is removing a reference to exemption from subsection (f) which it had inadvertently included in the prior publication of this system of records. However, a rule document which would include a reason for the exemption was never promulgated, and the DOJ/FBI is in compliance with this provision. Therefore, the erroneous reference to subsection (f) had no effect on the public, and the removal of any reference thereto constitutes a minor correction. Other minor changes have been made to improve and add clarity Where possible, changes have been noted by italics for the convenience of the public.

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given 30 days in which to comment on any new or intended uses of information in the system. While no new routine uses have been added, an opportunity to comment is provided because the existing routine uses may affect the new categories of individuals. In addition, the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires that OMB and the Congress be given 40 days in which to review major changes to the system.

Therefore, the public, OMB, and the Congress are invited to submit written comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Information Resources Management, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building). Comments from the public should be submitted May 22, 1995.

In accordance with Privacy Act requirements, the DOJ has provided a report on the modified system to the OMB and the Congress.

Dated: April 4, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/FBI 001

SYSTEM NAME:

National Crime Information Center (NCIC).

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Wanted Persons: 1. Individuals for whom Federal warrants are outstanding.

2. Individuals who have committed or have been identified with an offense which is classified as a felony or serious misdemeanor under the existing penal statutes of the jurisdiction originating the entry and *for whom a* felony or misdemeanor warrant has been issued with respect to the offense which was the basis of the entry Probation and parole violators meeting the foregoing criteria.

3. A "Temporary Felony Want" may be entered when a law enforcement agency has need to take prompt action to establish a "want" entry for the apprehension of a person who has committed or the officer has reasonable grounds to believe has committed, a felony and who may seek refuge by fleeing across jurisdictional boundaries and circumstances preclude the immediate procurement of a felony warrant. A "Temporary Felony Want" shall be specifically identified as such and subject to verification and support by a proper warrant within 48 hours following the entry of a temporary want. The agency originating the "Temporary Felony Want" shall be responsible for subsequent verification or re-entry of a permanent want.

4. Juveniles who have been adjudicated delinquent and who have escaped or absconded from custody, even though no arrest warrants were issued. Juveniles who have been charged with the commission of a delinquent act that would be a crime if committed by an adult, and who have fled from the state where the act was committed.

5. Individuals who have committed or have been identified with an offense committed in a foreign country, which would be a felony if committed in the United States, and for whom a warrant of arrest is outstanding and for which act an extradition treaty exists between the United States and that country.

6. Individuals who have committed or have been identified with an offense committed in Canada and for whom a Canada-Wide Warrant has been issued which meets the requirements of the Canada-U.S. Extradition Treaty, 18 U.S.C. 3184.

B. Individuals who have been charged with serious and/or significant offenses:

1. Individuals who have been fingerprinted and whose criminal history record information has been obtained.

2. Violent Felons: Persons with three or more convictions for a violent felony or serious drug offense as defined by 18 U.S.C. § 924(e).

C. Missing Persons: 1. A person of any age who is missing and who is under proven physical/mental disability or is senile, thereby subjecting *that person* or others to personal and immediate danger.

2. A person of any age who is missing under circumstances indicating that *the* disappearance was not voluntary.

3. A person of any age who is missing under circumstances indicating that *that person's* physical safety *may be* in danger.

4. A person of any age who is missing after a catastrophe.

5. A person who is missing and declared unemancipated as defined by the laws of *the person's* state of residence and does not meet any of the entry criteria set forth in *1–4* above.

D. Individuals designated by the U.S. Secret Service as posing a potential danger to the President and/or other authorized protectees.

E. Members of Violent Criminal Gangs: Individuals about whom investigation has developed sufficient information to establish membership in a particular violent criminal gang by either:

1. Self admission at the time of arrest or incarceration, or

2. Any two of the following criteria:

a. Identified as a gang member by a reliable informant;

b. Identified as a gang member by an informant whose information has been corroborated;

c. Frequents a gang's area, associates with known members, and/or affects gang dress, tattoos, or hand signals;

d. Has been arrested multiple times with known gang members for offenses consistent with gang activity; or

e. Self admission (other than at the time of arrest or incarceration).

F. Members of Terrorist Organizations: Individuals about whom investigations has developed sufficient information to establish membership in a particular terrorist organization using the same criteria listed above in paragraph E, items 1 and 2 a–e, as they apply to members of terrorist organizations rather than members of violent criminal gangs.

G. Unidentified Persons: 1. Any unidentified deceased person. 2. Any person who is living and unable to ascertain *the person's* identity (e.g., infant, amnesia victim). 3. Any unidentified catastrophe victim. 4. Body parts when a body has been dismembered.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Stolen Vehicle File: 1. Stolen vehicles. 2. Vehicles wanted in conjunction with felonies or serious misdemeanors. 3. Stolen vehicle parts including certificates of origin or title.

B. Stolen License Plate File.

C. Stolen Boat File.

D. Stolen Gun File: 1. Stolen guns. 2. Recovered guns, when ownership of which has not been established.

E. Stolen Article File.

F. Securities File: 1. Serially numbered stolen, embezzled *or* counterfeited, securities.

2. "Securities" for present purposes of this file are currently (e.g., bills, bank notes) and those documents or certificates which generally are considered to be evidence of debt (e.g., bonds, debentures, notes) or ownership of property (e.g., common stock, preferred stock), and documents which represent subscription rights, warrants and which are of *the* types traded in the securities exchanges in the United States, except for commodities futures. Also, included are warehouse receipts, travelers checks and money orders.

G. Wanted Person File: Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM. A. Wanted Persons, *1–4*."

H. Foreign Fugitive File: Identification data regarding persons

VOL 60 ISS 76 APR 20 1995 UMI

who are fugitives from foreign countries, who are described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: A. Wanted Persons, 5 *and 6.*"

I. Interstate Identification Index File: A cooperative Federal-state program for the interstate exchange of criminal history record information for the purpose of facilitating the interstate exchange of such information among criminal justice agencies. *Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: B. 1."*

J. Identification records regarding persons enrolled in the United States Marshals Service Witness Security Program who have been charged with serious and/or significant offenses: Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: B."

K. Bureau of Alcohol, Tobacco, and Firearms (BATF) Violent Felon File: Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: B. 2."

L. Missing Person File: Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: C. Missing Persons."

M. U.S. Secret Service Protective File: Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: D."

N. Violent Criminal Gang File: A cooperative Federal-state program for the interstate exchange of criminal gang information. For the purpose of this file, a "gang" is defined as a group of three or more persons with a common interest, bond, or activity characterized by criminal or delinquent conduct. Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: E. Members of Violent Criminal Gangs."

O. Terrorist File: A cooperative Federal-state program for the exchange of information about terrorist organizations and individuals. For the purposes of this file, "terrorism" is defined as activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any state or would be a criminal violation if committed within the jurisdiction of the United States or any state, which appear to be intended to:

1. Intimidate or coerce a civilian population,

2. Influence the policy of a government by intimidation or coercion, or

3. Affect the conduct of a government by crimes or kidnapping. Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: F. Members of Terrorist Organizations."

P. Unidentified Person File: Described in "CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: *G.* Unidentified Persons."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 28 U.S.C. § 534; Department of Justice Appropriation Act, 1973, Pub. L. 92–544, 86 Stat. 1115, Securities Acts Amendment of 1975, Pub. L. 94–29, 89 Stat. 97; *and 18 U.S.C. § 924 (e).* Exec. Order No. 10450, 3 CFR (1974).

PURPOSE:

The purpose for maintaining the NCIC system of record is to provide a computerized data base for ready access by a criminal justice agency making an inquiry and for prompt disclosure of information in the system from other criminal justice agencies about crimes and criminals. This information assists authorized agencies in criminal justice objectives, such as apprehending fugitives, locating missing persons, locating and returning stolen property, as well as in the protection of the law enforcement officers encountering the individuals described in the system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data in NCIC files is exchanged with and for the official use of authorized officials of the Federal Government, the States, cities, penal and other institutions, and certain foreign governments. The data is exchanged through NCIC lines to Federal criminal justice agencies, criminal justice agencies in the 50 States, the District of Columbia, Puerto Rico, U.S. Possessions and U.S. Territories. Additionally, data contained in the various "want files," i.e., the stolen vehicle file, stolen license plate file, stolen gun file, stolen article file, wanted person file, securities file, boat file, *and missing person data* may be accessed by the Royal Canadian Mounted Police. Criminal history data is disseminated to non-criminal justice agencies for use in connection with licensing for local/state employment or other uses, but only where such dissemination is authorized by Federal or state statutes and approved by the Attorney General of the United States.

Data in NCIC files, other than the *information described in "CATEGORIES OF RECORDS IN THE SYSTEM: I, J, K, M, N, and O," is* disseminated to (1) a nongovernmental agency *subunit* thereof which allocates a substantial part of its annual budget to the administration of criminal justice, whose regularly employed peace officers have full police powers pursuant to state law and have complied with the minimum employment standards of governmentally employed police officers as specified by state statute; (2) a noncriminal justice governmental department of motor vehicle or driver's license registry established by a statute, which provides vehicles registration and driver record information to criminal justice agencies; (3) a governmental regional dispatch center, established by a state statute, resolution, ordinance or Executive order, which provides communications services to criminal justice agencies; and (4) the national Automobile Theft Bureau, a nongovernmental nonprofit agency which acts as a national clearinghouse for information on stolen vehicles and offers free assistance to law enforcement agencies concerning automobile thefts, identification and recovery of stolen vehicles.

Disclosures of information from this system, as described above, are for the purpose of providing information to authorized agencies to facilitate the apprehension of fugitives, the location of missing persons, the location and/or return of stolen property, or similar criminal justice objectives.

Information on missing children, missing adults who were reported missing while children, and unidentified living and deceased persons may be disclosed to the National Center for Missing and Exploited Children (NCMEC). The NCMEC is a nongovernmental, nonprofit, federally funded corporation, serving as a national resource and technical assistance clearinghouse focusing on missing and exploited children. Information is disclosed to NCMEC to assist it in its efforts to provide technical assistance and education to parents and local governments regarding the problems of missing and exploited children, and to operate a nationwide missing children hotline to permit members of the public to telephone the Center from anywhere in the United States with information about a missing child.

In addition, information may be released to the news media and the public pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

To a Member of Congress or staff acting upon the member's behalf whom the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and,

To the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. §§ 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Information maintained in the NCIC system is stored electronically for use in a computer environment.

RETRIEVABILITY:

On line access to data in NCIC is achieved by using the following search descriptors:

A. Stolen Vehicle File:
1. Vehicle identification number;
2. Owner applied number;
3. License plate number;
4. NCIC number (unique number assigned by NCIC computer to each NCIC record.)
B. Stolen License Plate File:
1. License plate number;
2. NCIC number.
C. Stolen Boat File:
1. Registration document number;
2. Hull serial number;
3. Owner applied number;
4. NCIC number.
D. Stolen Gun File:
1. Serial number of gun;
2. NCIC number.
E. Stolen Article File:
1. Serial number of article;
2. Owner applied number;
3. NCIC number.
F Securities File:
1 Type, serial number, denomination of security, and issuer for other than U.S. Treasury issues and currency;
2. Type of security and name of owner of security;
3. Social Security number of owner of security (it is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system);
4. NCIC number.
G. Wanted Person File:
1. Name and one of the following numerical identifiers:
a. Date of birth;
b. FBI number (number assigned by the Federal Bureau of Investigation to an arrest fingerprint record);
c. Social Security number (it is noted the requirements of the Privacy Act with regard to the solicitation of Social Security numbers have been brought to the attention of the members of the NCIC system);
d. Operator's license number (driver's number);
e. Miscellaneous identifying number (military number or number assigned by Federal, state, or local authorities to an individual's record);
f. Originating agency case number;
2. Vehicle or license plate known to be in the possession of the wanted person;
3. NCIC number.
H. Foreign Fugitive File: See G, above.
I. Interstate Identification Index File:
1. Name, sex, race, and date of birth;
2. FBI number;
3. State identification number;
4. Social Security number;
5. Miscellaneous identifying number.
J. Witness Security Program File: See G, above.
K. BATF Violent Felon File: See G, above.
L. Missing Person File: See G, above, plus the age, sex, race, height and weight, eye and hair color of the missing person.
M. U.S. Secret Service Protective File: See G, above.
N. Violent Criminal Gang File: See G, above.
O. Terrorist File: See G, above.
P. Unidentified Person File: the age, sex, race, height and weight, eye and hair color of the unidentified person.

SAFEGUARDS:

Data stored in the NCIC is documented criminal justice agency information and access to that data is restricted to duly authorized criminal justice agencies. The following security measures are the minimum to be adopted by all criminal justice agencies having access to the NCIC.

Interstate Identification Index (III) File. These measures are designed to prevent unauthorized access to the system data and/or unauthorized use of data obtained from the computerized file.

1. Computer Center. a. The criminal justice agency computer site must have adequate physical security to protect against any unauthorized personnel gaining access to the computer equipment or to any of the stored data. b. Since personnel at these computer centers can have access to data stored in the system, they must be screened thoroughly under the authority and supervision of an NCIC control terminal agency. (This authority and supervision may be delegated to responsible criminal justice agency personnel in the case of a satellite computer center being serviced through a state control terminal agency.) This screening will also apply to non-criminal justice maintenance or technical personnel. c. All visitors to these computer centers must be accompanied by staff personnel at all times. d. Computers having access to the NCIC must have the proper computer instructions written and other built-in controls to prevent criminal history data from being accessible to any terminals other than authorized terminals. e. Computers having access to the NCIC must maintain a record of all transactions against the criminal history file in the same manner the NCIC computer logs all transactions. The NCIC identifies each specific agency entering or receiving information and maintains a record of those transactions. This transaction record must be monitored and reviewed on a regular basis to detect any possible misuse of criminal history data. f. Each State Control terminal shall build its data system around a central computer, through which each inquiry must pass for screening and verification. The configuration and operation of the center shall provide for the integrity of the data base.

2. Communications: a. Lines/channels being used to transmit criminal history information must be dedicated solely to criminal justice, i.e., there must be no terminals belonging to agencies outside the criminal justice system sharing these lines/channels. b. Physical security of the lines/channels must be protected to guard against clandestine devices being utilized to intercept or inject system traffic.

3. Terminal Devices Having Access to NCIC: a. All agencies having terminals on this system must be required to physically place these terminals in secure locations within the authorized agency. b. The agencies having terminals with access to criminal history must *screen* terminal operators and restrict access to the terminal to a minimum number of authorized employees. c. Copies of criminal history data obtained from terminal devices must be afforded security to prevent any unauthorized access to or use of the data. d. All remote terminals on NCIC *III* will maintain a *manual or automated log* of computerized criminal history inquiries with notations of individuals making requests for records *for a minimum of one year.*

RETENTION AND DISPOSAL:

Unless otherwise removed, records will be retained in files as follows:

A. Vehicle File: a. Unrecovered stolen vehicle records (including snowmobile records) which do not contain vehicle identification numbers (VIN) *or Owner-applied number (OAN)* therein, will be purged from file 90 days after date of entry. Unrecovered stolen vehicle records (including snowmobile records) which contain VIN's *or OANs* will

VOL 60 ISS 76 AP 20 1995 UMI

remain in file for the year of entry plus 4.

b. Unrecovered vehicles wanted in conjunction with a felony will remain in file for 90 days after entry. In the event a longer retention period is desired, the vehicle must be reentered. c. Unrecovered stolen VIN plates, certificates of origin or title, and serially numbered stolen vehicle engines or transmissions will remain in file for the year of entry plus 4.

(Job No. NC1–65–82–4, Part E. 13 h.(1))

B. License Plate File: Unrecovered stolen license plates will remain in file for one year after the end of the plate's expiration year as shown in the record.

(Job No. NC1–65–82–4, Part E. 13 h.(2))

C. Boat File: Unrecovered stolen boat *records, which contain a hull serial number of an OAN,* will be retained in file for the balance of the year entered plus 4. Unrecovered stolen boat records which do not contain a hull serial number *or an OAN* will be purged from file 90 days after date of entry.

(Job No. NC1–65–82–4, Part E. 13 h.(6))

D. Gun file: a. Unrecovered weapons will be retained in file for an indefinite period until action is taken by the originating agency to clear the record. b. Weapons entered in file as "recovered" weapons will remain in file for the balance of the year entered plus 2.

(Job No. NC1–65–82–4, Part E. 13 h.(3))

E. Article File: Unrecovered stolen articles will be retained for the balance of the year entered plus one year.

(Job No. NC1–65–82–4, Part E. 13 h.(4))

F. Securities File: Unrecovered stolen, embezzled *or* counterfeited securities will be retained for the balance of the year entered plus 4, except for travelers checks and money orders, which will be retained for the balance of the year entered plus 2.

(Job No. NC1–65–82–4, Part E. 13 h.(5))

G. Wanted Person File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record (except "Temporary Felony Wants", which will be automatically removed from the file after 48 hours).

(Job No. NC1–65–87–114, Part E. 13 h.(7))

H. Foreign Fugitive File: Person not located will remain in file indefinitely until action is taken by the originating agency to clear the record.

I. Interstate Identification Index File: When an individual reaches age of 80.

(Job No. NC1–65–76–1)

J. Witness Security Program File: Will remain in file until action is taken by the U.S. Marshals Service to clear or cancel the records.

K. BATF Violent Felon File: Will remain in file until action is taken by the BATF to clear or cancel the records.

L. Missing Persons File: Will remain in the file until the individual is located *or action is taken by the originating agency to clear the record.*

(Job No. NC1–65–87–11, Part E 13h (8))

M. U.S. Secret Service Protective File: Will be retained until names are removed by the U.S. Secret Service.

N. Violent Criminal Gang File: Records will be subject to mandatory purge if inactive for five years.

O. Terrorist File: Records will be subject to mandatory purge if inactive for five years.

P. Unidentified Person File: Will be retained for the remainder of the year of entry plus 9.

SYSTEM MANAGER AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

It is noted the Attorney General *has exempted* this system from the access and contest procedures of the Privacy Act. However, the following alternative procedures are available to requester. The procedures by which *computerized criminal history record information about an individual may be obtained by that individual* are as follows:

If an individual has a criminal record supported by fingerprints and that record has been entered in the NCIC *III file, criminal history record information,* it is available to that individual for review, upon presentation of appropriate identification and in accordance with applicable State and Federal administrative and statutory regulations.

Appropriate identification includes being fingerprinted for the purpose of insuring that the individual *is who the individual* purports to be. The record on file will then be verfied through comparison of fingerprints.

Procedure: 1. All requests for review must be made by the subject of *the* record through a law enforcement agency which has access to the NCIC *III* File. That agency within statutory or regulatory limits can require additional identification to assist in securing a positive identification.

2. If the cooperative law enforcement agency can make an identification with fingerprints previously taken which are on file locally and if the FBI identification number of the individual's record is available to that agency, it can make an on-line inquiry of NCIC to obtain *the* record on-line or, if it does not have suitable equipment to obtain an on-line response, obtain the record from Washington, DC by mail. The individual will then be afforded the opportunity to see that record.

3. Should the cooperating law enforcement agency not have the individual's fingerprints on file locally, it is necessary for that agency to relate *the* prints to an existing record by having *the* identification prints compared with those already on file in the FBI or possibly in the State's central identification agency.

CONTESTING RECORD PROCEDURES:

The Attorney General has exempted this system from the contest procedures of the Privacy Act. Under this alternative procedure described above under "Record Access Procedures," the subject of the requested record shall request the appropriate arresting agency, court, or correctional agency to initiate action necessary to correct any stated inaccuracy in *subject's* record or provide the information needed to make the record complete.

RECORD SOURCE CATEGORIES:

Information contained in the NCIC system is obtained from local, state, Federal and international criminal justice agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsection (c) (3) and (4), (d), (e)(1) (2), and (3), (e)(4) (G), (H), (e)(8) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(3). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. 95–9739 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Affymetrix, Inc./Molecular Dynamics, Inc.

Notice is hereby given that, on January 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993 15 U.S.C. 4301 *et seq.* ("the Act"),

Affymetrix, Inc. and Molecular Dynamics, Inc. have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Affymetrix, Inc., Santa Clara, CA; and Molecular Dynamics, Inc., Sunnyvale, CA. The research and development activities relate to miniaturized integrated nucleic acid diagnostic (MIND™) development.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9803 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on February 9, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The ATM Forum (the "ATM Forum") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members of ATM Forum are: Amdahl Corp., Sunnyvale, CA; Auspex Systems Inc., Santa Clara, CA; Cascade Communications, Westford, MA; Com21 Inc., Mountain View, CA; Cornell University, Ithaca, NY; Corning Inc., Corning, NY; Desknet Systems Inc., Armonk, NY; Divicom, Milpitas, CA; Helsinki Telephone Company, Helsinki, FINLAND; Ipsilon Networks Inc., Menlo Park, CA; Korea Telecom, Seoul, KOREA; Methode Electronics Inc., Chicago, IL; NTIA/ITS, Boulder, CO; Net2net Corp., Hollis, NH; Next Level Communications, Rohnert Park, CA; Optical Data Systems, Richardson, TX; Ossipee Networks, Waltham, MA; Rockwell International, Santa Barbara, CA; Samsung Electronics Co., Seoul, KOREA; Silcom Mfg Technology Inc., Mississauga, CANADA; TUT Systems, Pleasant Hill, CA; Telecom Lab MOTC ROC, Chung-Li, TAIWAN; and Telenetworks, Petaluma, CA.

No changes have been made in the planned activities of ATM Forum. Membership remains open, and the members intend to file additional written notifications disclosing all changes in membership.

On April 19, 1993, ATM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 2, 1993 (58 FR 31415).

The last notification was filed with the Department on November 10, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 23, 1995 (60 FR 15308).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9802 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Universal Instruments Corporation

Notice is hereby given that, on January 16, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Universal Instruments Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Apple Computer Corp., Cupertino, CA; Allen-Bradley, Milwaukee, WI; AMD, Incorporated, Sunnyvale, CA; Amkor-Anam, Chandler, AZ; AT&T Bell Labs, Allentown, PA; Bosch, Ansbach-brodswinden, GERMANY; Bull, Brighton, MA; Cabletron Systems, Inc., Rochester, NH; DEK Printing Machines, Ltd., Dorset, ENGLAND; Delco Electronics, Kokoma, IN; DOVstron International, Binghamton, NY; Eastman Kodak, Rochester, NY; Hadco, Salem, NH; Hewlett Packard, Palo Alto, CA; Intel Corporation, Chandler, AZ; LSI Logic, Milpitas, CA; Magnetic Marelli, Pavia, ITALY; Motorola, Schaumburg, IL; MPM Corporation, Franklin, MA; Plexus Corporation, Neenah, WI; Texas Instruments, Dallas, TX; and Universal Instruments Corporation, Binghamton, NY.

The nature and objectives of the joint venture are to investigate the problems associated with the attachment of Ball Grid Array (BGA) and Flip Chip (DCA) components to printed circuit boards for the development of new products in the electronics industry. The two technologies to be addressed are the process, component and material variables in: (1) BGA attachment with a lead pitch from 0.5–1.5mm with eutectic and 10/90 Sn/Pb solder balls; and (2) DCA attachment with a lead pitch from 0.18–0.05mm with eutectic and 10/90 Sn/Pb solder bumps.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9801 Filed 4–19–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 23 1995, Stepan Company, Natural Products Department, 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

The firms plans to manufacture bulk Cocaine for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537. Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 22, 1995.

VOL 60 ISS 76 AP 20 1995 UMI

Dated: April 7, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95-9715 Filed 4-19-95; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Information Collection Requirements

AGENCY: Office of the Secretary, Labor.

SUMMARY: The Director, Office of Information Resources Management Policy, invites comments on the following proposed expedited review information collection request as required by the Paperwork Reduction Act of 1980, as amended.

DATES: This expedited review is being requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by April 26, 1995.

ADDRESSES: Written comments should be addressed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, 725 17th St., NW., Room 10235, New Executive Office Building, Wash., DC 20503. Requests for copies of the proposed information collection request should be addressed to Kenneth A. Mills, Department of Labor, 200 Constitution Ave., NW., Room N-1301, Wash., DC 20210.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Mills, (202) 219-5095. Individuals who use a telecommunications device for the deaf (TTY/TDY) may call (202) 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with the agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management Policy, publishes this notice simultaneously with the submission of this request to OMB. This notice contains the following information:

Type of Review: Expedited.
Title: NAFTA Petition Form (ETA Form 9042)
Frequency of Response: As needed.
Affected Public: Individuals or households; farms; businesses or other for-profit.
Number of Respondents: 1,200.
Estimated Time Per Response: 20 minutes.
Total Annual Burden Hours: 400.
Respondents Obligation to Reply: Voluntary.
Title: NAFTA Confidential Data Request Form (ETA Form 9043)
Frequency of Response: As needed.
Affected Public: Businesses or other for-profit.
Number of Respondents: 1,200.
Estimated Time Per Response: 7½ hours.
Total Annual Burden Hours: 9,000 hours.
Respondents Obligation To Reply: Mandatory.
Title: NAFTA Customer Survey Data Request Form (ETA Form 9044).
Frequency of Response: As needed.
Affected Public: Businesses or other for-profit.
Number of Respondents: 1,260.
Estimated Time Per Response: One hour and 30 minutes.
Total Annual Burden Hours: 1,890.
Respondents Obligation To Reply: Mandatory.

Description: The North American Free Trade Agreement-Transitional Adjustment Assistance program (NAFTA-TAA) provides support and assistance to workers whose employment is adversely affected as a result of the North American Free Trade Agreement Implementation Act. Section 250 of the North American Free Trade Agreement Implementation Act amended Chapter 2 of Title II of the Trade Act of 1974 to provide assistance for workers in primary firms that are directly affected by imports from or shifts in production to Mexico or Canada. Through administrative action, the Secretary of Labor applies existing authority under Title III of the Job Training Partnership Act to provide assistance to workers in secondary firms that supply or assemble products produced by primary firms. The governor of each State accepts petitions from workers of primary firms that are directly affected and from workers in secondary firms. A petition may be filed by a group of workers or by their authorized representative, a company official or a family farmer. Within ten days of receipt of petition, the Governor makes a preliminary finding as to whether the petition meets certain criteria of the NAFTA-TAA program. The Governor forwards the petition to the Secretary of Labor. The Department of Labor collects data from firms to determine workers' eligibility for adjustment assistance services. The Petition, Confidential Data Request, and Customer Survey Data Request forms that have been used since January 1, 1994 are currently being revised to extend the expiration date and to include textual changes.

The Petition form is being revised to inform workers that assistance is available for workers in secondary firms and to provide space for workers in secondarily-affected firms to address activities that have occurred at their firm. The revised petition form also clarifies who needs to sign the petition form and provides a box to specify the date of the worker's separation from employment.

The Confidential Data Request and the Customer Survey Request forms are being revised to provide assurances of confidentiality to respondents and to clarify and simplify several questions addressed to company officials.

Signed at Washington, DC, this 18th day of April 1995.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 95-9940 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-30-M

Glass Ceiling Commission; Criteria and Application Process for the National Award for Diversity and Excellence in American Executive Management; Extension of Deadline for Applications

SUMMARY: This document extends the deadline for applications from April 30, 1995 until May 30, 1995. The criteria and application process were previously published in the **Federal Register** on March 9, 1995 at 60 FR 12978.

DATES: Applications are due by May 30, 1995.

ADDRESSES: Applications should be sent to: The Glass Ceiling Commission, Perkins-Dole Award, c/o U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C-2313, Washington, D.C. 20210. Telephone (202) 219-7342.

FOR FURTHER INFORMATION CONTACT: René A. Redwood, Executive Director, The Glass Ceiling Commission, c/o U.S. Department of Labor, 200 Constitution Avenue, N.W., Room C-2313, Washington, D.C. 20210. Telephone (202) 219-7342.

Signed at Washington, DC, this 14th day of April, 1995.

René A. Redwood,

Executive Director, Glass Ceiling Commission.

[FR Doc. 95-9815 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-23-M

Office of the Secretary

Secretary's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation: Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public meeting.

SUMMARY: The Secretary's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation was established in accordance with the Federal Advisory Committee Act (FACA) (Pub. L. 82-463). Pursuant to Section 10(a) of FACA, this is to announce that the Task Force will meet at the time and place shown below.

TIME AND PLACE: The meeting will be held on Tuesday, May 16, from 9 a.m. to 4 p.m. and on Wednesday, May 17, from 9 a.m. to 3 p.m. in Conference Room N-3437 B-D in the Department of Labor, 200 Constitution Avenue, NW, Washington, DC.

AGENDA: At this meeting, the Task Force intends to hear testimony on and discuss the following topics, among others: (1) Trends in privatization of state and local government services, (2) features of high-performance workplace environments, and (3) experiences of state and local elected officials in implementing workplace changes.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact the Task Force to request appropriate accommodations. Individuals or organizations wishing to submit written statements should send 20 copies on or before May 8 to Mr. Charles A. Richards, Designated Federal Official, Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-2203, Washington, DC 20210. These statements will be thoroughly reviewed and become part of the record.

For the purposes of this meeting, the Task Force is primarily interested in statements that address the topics mentioned above under the heading "Agenda." However, the Task Force continues to welcome submissions that address the questions in the mission statement and the following eight general areas: (1) Finding Models, Ingredients, and Barriers to Service Excellence and Labor-Management Cooperation and, as the following relate to promoting workplace cooperation and excellence; (2) Bargaining and Related Institutions and Practices; (3) Conflict Resolution Skills, Practices, and Institutions; (4) Legal and Regulatory Issues; (5) Affects of Civil Service; (6) Ensuring a High-Performance Work Environment; (7) Political and Electoral Considerations and Relationships; and (8) Financial Background, Financial Security, and Budget Systems.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Richards, Designated Federal Official, Secretary of Labor's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation, U.S. Department of Labor, Room S-2203, Washington, DC 20210, (202) 219-6231.

Signed at Washington, DC, this 13th day of April 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95-9808 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

[TA-W-29,956]

Anchor Drilling Fluids USA, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: Anchor Drilling Fluids USA, Inc. (Formerly Known as Unibar Energy Services, Inc.), Sidney, Montana and operating at various locations in the following states: TA-W-29,956A Utah, TA-W-29,956B Colorado, TA-W-29,956C Wyoming, TA-W-29,956D North Dakota, TA-W-29,956E South Dakota, TA-W-29,956F Montana (exc Sidney).

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on September 23, 1994, applicable to all workers of the subject firm in Sidney, Montana. The Notice was published in the **Federal Register** on November 1, 1994 (59 FR 54632).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred in Colorado, Wyoming, Utah, North Dakota, South Dakota and in Montana. Other findings show that Unibar Energy Services, Inc. was the predecessor-in-interest firm. Unibar Energy Services, Inc., was purchased by Anchor Drilling Fluids, USA in October, 1992.

Accordingly, the Department is amending the certification to include all workers of the subject firm including those who had their unemployment insurance (UI) taxes paid to Unibar Energy Services, Inc.

The amended notice applicable to TA-W-29,956 is hereby issued as follows:

All workers of Anchor Drilling Fluids, USA, Inc. (Formerly known as Unibar Energy Services, Inc.), Sidney, Montana and operating at various other locations in the following states: Utah, Colorado, Wyoming, North Dakota, South Dakota and Montana (except Sidney) who became totally or partially separated from employment on or after May 6, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 10th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-9809 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27, 456, etc.]

Conoco Inc.; Exploration and Production, North America; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: TA-W-27,456 Oklahoma City, OK; TA-W-27,456A Oklahoma (exc Oklahoma City); TA-W-27,480 New Orleans, LA; TA-W-27,480A Louisiana (exc New Orleans); TA-W-27,545 Midland, TX; TA-W-27,812 Headquartered in Houston, TX and operating out of other locations in the following States: TA-W-27,812A Alaska, TA-W-27,812B California, TA-W-27,812C Michigan, TA-W-27,812D Mississippi, TA-W-27,812E North Dakota, TA-W-27,812F New Mexico, TA-W-27,812G Texas (exc. Houston and Midland), TA-W-27,812H Wyoming.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 21, 1992, applicable to all workers of the subject firm. The certification notice was published in the **Federal Register** on October 13, 1992 (57 FR 46881).

VOL 60 ISS 76 AP 20 1995 UMI

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The findings show that support workers (Purchasing, Administration, etc.) should have been included under the above certification.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include support workers at Conoco's E&P facilities.

The amended notice applicable to TA-W-27,456, TA-W-27,480, TA-W-27,545 and TA-W-27,812 is hereby issued as follows:

All workers and former workers of Conoco, Inc., Exploration and Production, North America engaged in employment related to the production of crude oil and natural gas in Oklahoma (TA-W-27,456 and TA-W-27,456A) and in Louisiana (TA-W-27,480 and TA-W-27,480A) and in Midland, Texas (TA-W-27,545) who became totally or partially separated from employment on or after June 18, 1991; June 30, 1991; and July 20, 1991, respectively, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and All workers of Conoco, Inc., Exploration and Production, North America engaged in employment related to the production of crude oil and natural gas headquartered in Houston, Texas (TA-W-27,812) and operating out of other locations in the following states: Alaska (TA-W-27,812A), California (TA-W-27,812B), Michigan (TA-W-27,812C), Mississippi (TA-W-27,812D), North Dakota (TA-W-27,812E), New Mexico (TA-W-27,812F), Texas, except Houston and Midland (TA-W-27,812G) and Wyoming (TA-W-27,812H) who became totally or partially separated from employment on or after August 13, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 10th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-9810 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 1, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 1, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 10th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
CPC Vending(Wkrs)	Greenville, TX	04/10/95	03/28/95	30,898	Vending Machines.
Al Tech Specialty Steel Corp. (USWA)	Dunkirk, NY	04/10/95	03/21/95	30,899	Specialty Steel.
Al Tech Specialty Steel Corp.(USWA)	Watervliet, NY	04/10/95	03/21/95	30,900	Specialty Steel.
Caron International(Co.)	Rochelle, IL	04/10/95	03/21/95	30,901	Yarn.
Dartmouth Finishing Corp(Wkrs)	New Bedford, MA	04/10/95	03/23/95	30,902	Textiles—Ladies' Apparel.
Ullenberg Corp(Wkrs)	Chattanooga, TN	04/10/95	03/23/95	30,903	Jewelry.
Alliant Techsystems Inc.(USWA)	Kenvil, NJ	04/10/95	03/30/95	30,904	Smokeless Gunpowder.
Mitchell Energy Corp., Expl. & Prod(Wkrs).	Midland, TX	04/10/95	03/27/95	30,905	Crude Oil & Natural Gas.
United Engineering, Inc(Co)	Pittsburgh, PA	04/10/95	03/21/95	30,906	Hot and Cold Steel.
EVI-Highland(Wkrs)	Odessa, TX	04/10/95	03/31/95	30,907	Pumps for Oil and Gas.
EVI-Highland(Wkrs)	Oklahoma City, OK	04/10/95	03/31/95	30,908	Pumps for Oil and Gas.
Redpath Apparel Group(Wkrs)	Falfurrias, TX	04/10/95	03/22/95	30,909	Girl's Dresses & Infantwear.
Lakeview Lumber Co(WCAW)	Lakeview, OR	04/10/95	03/22/95	30,910	Dimensional Lumber.
Ferno-Washington(Wkrs)	Wilmington, OH	04/10/95	03/23/95	30,911	Emergency Patient Handling Equipment.
Elastic Stop Nut Div/Harvard Ind.(UAW)	Union, NJ	04/10/95	03/31/95	30,912	Aerospace Fasteners.
Heublein, Inc.(Co.)	Hartford, CT	04/10/95	03/25/95	30,913	Vodka & Other Spirits.
Dual Marine Drilling Co.(Wkrs)	Dallas, TX	04/10/95	03/01/95	30,914	Oil Drilling.
Circuit Tech., Inc.(Wkrs)	Wareham, MA	04/10/95	03/26/95	30,915	Printed Circuit Boards.

[FR Doc. 95-9812 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act: Native American Employment and Training Council; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and section 401(h)(1) of the Job Training Partnership Act (JTPA), as amended (29 U.S.C. 1671(h)(1), notice is hereby given of a meeting of the Native American Employment and Training Council.

Time and Date: The meeting will begin at 1:30 p.m. on May 18, 1995, and continue until close of business that day, and will reconvene at 9:00 a.m. on May 19, 1995, and adjourn at close of business that day. From 3:30 to 5:00 p.m. on March 18 will be reserved for participation and presentations by members of the public.

Place: Heart Room, Radisson Inn Bismarck, 800 South Third Street, Bismarck, North Dakota.

Status: The meeting will be open to the public. Persons with disabilities, who need special accommodations, should contact the undersigned no less than 10 days before the meeting.

Matters To Be Considered: The agenda will focus on the following topics: automated reporting pilot, communications network, nominations for expiring memberships, program evaluation, proposed revised regulations, Congressional activities, and establishment of subcommittees.

Contact Person for More Information: Thomas M. Dowd, Chief, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N-4641, Washington, D.C. 20210. Telephone: 202-219-8502 (this is not a toll-free number).

Signed at Washington, DC, this 14th day of April, 1995.

Doug Ross,

Assistant Secretary of Labor

[FR Doc. 95-9816 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00252, etc]

Footwear Management Co.; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In the matter of: Nafta-00252 Nocona Boot Company, Nocona, Texas, Nafta-00252A Tony Lama Division, El Paso, Texas, A/K/A Justin Management Company, El Paso, Texas, Nafta-00252B Justin Boot Company, Fort Worth, Texas, Nafta-00252C Justin Boot Company, Cassville, Missouri, Nafta-00252D Justin Boot Company, Sarcoxie, Missouri, and Nafta-00252E Justin Boot Company, Carthage, Missouri.

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued an Amended Certification for NAFTA Transitional Adjustment Assistance on February 6, 1995, applicable to all workers at the subject firm. The amended notice as published in the **Federal Register** on February 17, 1995 (60 FR 9409).

New information received from the company show that some of the workers at the Tony Lama Division, El Paso, Texas, had their unemployment insurance (UI) taxes paid to Justin Management Company.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to NAFTA—00252 is hereby issued as follows:

All workers of Footwear Management Company in the following divisions: Tony Lama Division, El Paso, Texas, a/k/a/ Justin Management Company, El Paso, Texas; Justin Boot Company, Fort Worth, Texas; Cassville, Missouri; Sarcoxie, Missouri; and Carthage Missouri and the Nocona Boot Company in Nocona, Texas who became totally or partially separated from employment on or after November 29, 1993 are eligible to apply for NAFTA-TAA Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-9813 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (P.L. 103-182), hereinafter called (NAFTA-TAA), have been filed with State Governors under Section 250(a) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA-TAA petition has been received, the Director of the Office of Trade Adjustment Assistance (OTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes actions pursuant to paragraphs (c) and (e) of Section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment after December 8, 1993 (date of enactment of P.L. 103-182) are eligible to apply for NAFTA-TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of OTAA at the U.S. Department of Labor (DOL) in Washington, D.C., provided such request is filed in writing with the Director of OTAA not later than May 1, 1995.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of OTAA at the address shown below not later than May 1, 1995.

Petitions filed with the Governors are available for inspection at the Office of the Director, OTAA, ETA, DOL, Room C-4318, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, DC, this 11th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
General Electric Inc.; G.E. Motors (IUE)	Murfreesboro, TN	03/14/95	NAFTA-00389	Small Appliance Motors.
Universal Medical Instrument Corp. (Wkrs)	Ballsto Spa, NY	03/13/95	NAFTA-00390	Spring Guides and Various Types of Catheters.
Raytheon Engineers & Constructors, Inc.; Raytheon Engineers (Wkrs).	Richland, WA	03/14/95	NAFTA-00391	Electricity.
General Mills, Inc.; CFTO—South Chicago (AFGM).	Chicago, IL	03/13/95	NAFTA-00392	Ready-to-Eat-Breakfast-Cereals.
Upper Peninsula Power Co. (IBEW)	Houghton, MI	03/07/95	NAFTA-00393	Electricity.
Modoc Lumber Co. (Wkrs)	Klamath Falls, OR	03/09/95	NAFTA-00394	Lumber.
Paul-Son Gaming Corporation (Wkrs)	Las Vegas, NV	03/16/95	NAFTA-00395	Playing Cards.
Voyager Emblems Inc. (USOA)	Sanborn, NY	03/16/95	NAFTA-00396	Embroidered Emblems and Caps.

VOL 60 ISS 76 AP 20 1995 UMI

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received at Governor's office	Petition No.	Articles produced
Plastmo, Inc. (Wkrs)	Creswell, OR	03/02/95	NAFTA-00397	Plastics.
Hancock Lumber Inc. (Wkrs)	Salem, OR	03/16/95	NAFTA-00398	Medium Density Fibreboard.
Teledyne Industries, Inc.; Fluid Systems (IAM).	Palisades Park, NJ	03/16/95	NAFTA-00399	Safety Relief Valves.
Takata Fabrication Corporation (Wkrs)	Piqua, OH	03/20/95	NAFTA-00400	Safety Restraints (Seat Belts).
Stewart Warner Instruments Corporation (Wkrs).	El Paso, TX	03/20/95	NAFTA-00401	Metal Stamped Parts for Automobiles i.e., Gauges.
Johnson Controls Inc., Battery Division (UAW).	Garland, TX	03/20/95	NAFTA-00402	Automobile Batteries.
Trans World Airlines Inc.; Kansas City Overhaul Base (IAMAW).	Kansas City, MO	03/20/95	NAFTA-00403	Aircraft Parts.
Dobie Industries Inc., Edgecombe Mfg. & Wilson Mfg. (Co.).	Tarboro, NC	03/20/95	NAFTA-00404	Ladies and Children's Apparel.
Paragon Trade Brands Inc.; Diaper Plant (GCU).	La Puente, CA	03/20/95	NAFTA-00405	Disposable Diapers.
Moore Business Forms; Systems Div. (Co.)	Buckhannon, WV	03/22/95	NAFTA-00406	Business Forms i.e., Credit Card Charge Forms.
Summit Timber Co. (Wkrs)	Dappington, WA	03/23/95	NAFTA-00407	Lumber/Timber.
Smith Valve Corp.; Ball Valve (Wkrs)	Whitinsville, MA	03/27/95	NAFTA-00408	Ball Valves.
Stratlec Security Corporation (UIPU)	Glendale, WI	03/27/95	NAFTA-00409	Automotive Locks and Keys.
Bechtel Corp.; WNP-2 Engineering Services (Wkrs).	Richland, WA	03/27/95	NAFTA-00410	Electricity.
Anchor Hocking Packaging Co.; Closure Division (GMP).	Glassboro, NJ	03/24/95	NAFTA-00411	Metal Closures.
Polk Audio, Inc. (Co.)	Baltimore MD	03/28/95	NAFTA-00412	Loudspeakers.
Amphenol Corporation; Amphenol Aerospace (Wkrs).	Torrance, CA	03/28/95	NAFTA-00413	Electronic Connectors.
Geptek Building Products, Inc.; Siding Division (Co.).	Woodbridge, NJ	03/29/95	NAFTA-00414	Vinyl Siding.
APC Corporation (SNW)	Houthorne, NJ	03/30/95	NAFTA-00415	Skylights.
Cabot Oil & Gas Corp.; (various locations) (Co.).	Houston, TX	03/31/95	NAFTA-00416	Natural Gas and Oil.
Redpath Apparel Group; Falfurias Plant (Wkrs).	Falfurias, TX	03/31/95	NAFTA-00417	Children's Clothing.
McCormick Ridge Company (Co.)	Copalis Crossing, WA.	03/31/95	NAFTA-00418	Cedar Ridges and Shakes.
Power Systems Inc. (Co.)	Bloomfield, CT	03/30/95	NAFTA-00419	Power Supplies.
ITT Hancock Engineered Products; Roscommon (Wkrs).	Roscommon, MI	03/23/95	NAFTA-00420	Winch Line for Spare Tire Holders.
Campbell Soup; Dry Soup Div. (Wkrs)	Sidney, OH	04/03/95	NAFTA-00421	Dry Soup Noodles.
General Electric Company; Medium Transformer Operations (IUE):	Rome, GA	04/04/95	NAFTA-00422	Medium Transformers.
Central Products Co.; Linden Plant (Co.)	Linden, NJ	04/03/95	NAFTA-00423	Carton Sealing Tape.
Astronautics Corporation of America; Milwaukee Div. 1 & 4 (Wkrs).	Milwaukee, WI	04/05/95	NAFTA-00424	Electronic and Mechanical Subassemblies for Aircraft Instruments.
Val Mode Lingerie (Co.)	Bridgeton, NJ	04/03/95	NAFTA-00425	Ladies Sleepwear.
Collegeville Imagineering; Zionsville Plant (Wkrs).	Collegeville, PA	04/05/95	NAFTA-00426	Halloween Costumes.

[FR Doc. 95-9811 Filed 4-19-95; 8:45 am]

BILLING CODE 4510-30-M

Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities that have submitted attestations (Form ETA 9029 and explanatory statements) to one of four Regional Offices of DOL (Boston, Chicago, Dallas and Seattle) for the purpose of employing nonimmigrant alien nurses. A decision has been made on these organizations' attestations and they are on file with DOL.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N-4456, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:
Regarding the Attestation Process: Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202-219-5263 (this is not a toll-free number).

Regarding the Complaint Process: Questions regarding the complaint process for the H-1A nurse attestation program will be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202-219-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H-1A visa petitions for bringing nonimmigrant registered nurses to the United States. 20 U.S.C. 1101(a)(15)(H)(i)(a) and 1184(m). The regulations implementing the nursing attestation program are at 20 CFR Parts 655, Subpart D, and 29 CFR Part 504, (January 6, 1994). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing and those which have been rejected.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staff. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities chief executive officer also are listed to aid public inquiries. In addition, attestations and explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the ADDRESSES section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the ADDRESSES section of this notice.

Signed at Washington, D.C., this 5th day of April 1995.

John M. Robinson,

Deputy Assistant Secretary, Employment and Training Administration

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS

[Form ETA-9029]

CEO—Name/Facility name/Address	State	Action date
ETA REGION 1 03/06/95 TO 03/12/95		
Delores Turco, Andover Nursing Center, P.O. Box 1279 99 Milford Road, Andover, NJ 07821, 201-383-6200 ETA CONTROL NUMBER—1/217776 ACTION—ACCEPTED	NJ	03/06/95
Colin Tierney, Woodcrest Center, 600 River Road, New Milford, NJ 07646, 201-967-1700 ETA CONTROL NUMBER—1/217775 ACTION—ACCEPTED	NJ	03/06/95
Meyer Rosenbaum, American Geri-Care, Inc., 40 Heyward St., Brooklyn, NY 11211, 718-858-6200 ETA CONTROL NUMBER—1/217906 ACTION—ACCEPTED	NY	03/09/95
Susane Dugay, Lifeline Health Services Int'l., 187-12 Hillside Avenue, Jamaica Estates, NY 11432, 718-479-3700 ETA CONTROL NUMBER—1/217777 ACTION—ACCEPTED	NY	03/07/95
David S. Orentreich, Orentreich Medical Group, 999 Fifth Avenue, New York, NY 10021, 212-794-0800 ETA CONTROL NUMBER—1/217903 ACTION—ACCEPTED	NY	03/06/95
ETA REGION 1 03/13/95 TO 03/19/95		
Daniel Straus, Norwalk Care & Rehabilitation Ctr., 73 Strawberry Hill Avenue, Norwalk, CT 06855, 203-852-9933 ETA CONTROL NUMBER—1/218071 ACTION—ACCEPTED	CT	03/16/95
Edmund W. DelPrete, Del Manor Nursing Home, Inc., 56 Webster Street, Rockland, MA 02370, 871-0555	MA	03/16/95
Patricia D. Barnes, Absolute Home Health Care, Inc., 401 Broadway, Suite 905, New York, NY 10013, 212-219-0243. ETA CONTROL NUMBER—1/218157 ACTION—ACCEPTED	NY	03/16/95
Jody Meddy, Haym Salomon Home for the Aged, 2300 Cropsey Avenue, Brooklyn, NY 11214, 718-373-1700 ETA CONTROL NUMBER—1/218084 ACTION—ACCEPTED	NY	03/16/95
Aniaba K. Casimir, Hurtig-Evans Nursing Services, 200 North Avenue, Suite 5, New Rochelle, NY 10801, 914-636-5660. ETA CONTROL NUMBER—1/218009 ACTION—ACCEPTED	NY	03/15/95
Nicholas Siso, International Healthcare Providers, 234 5th Avenue, New York, NY 10001, 212-213-0473 ETA CONTROL NUMBER—1/217988 ACTION—ACCEPTED	NY	03/15/95
Michael Kearney, Kearney Home Care Services, Inc., 44-21 Queens Boulevard, Long Island City, NY 11104, 718-472-2273. ETA CONTROL NUMBER—1/217985 ACTION—ACCEPTED	NY	03/15/95
Susane Dugay, Lifeline Personnel Agency, 187-12 Hillside Avenue, Jamaica Estates, NY 11432, 718-361-7843 ETA CONTROL NUMBER—1/218101 ACTION—ACCEPTED	NY	03/16/95
Michael Melnicke, Rockaway Care Center, 353 Beach 48th Street, Edgemere, NY 11691, 718-471-5000 ETA CONTROL NUMBER—1/218080 ACTION—ACCEPTED	NY	03/16/95
John B. Staffens, Southern Manhattan Dialysis Center, 390-342 West 13th Street, New York, NY 10014, 212-675-6560. ETA CONTROL NUMBER—1/218010 ACTION—ACCEPTED	NY	03/15/95
Jerome M. Mann, Willoughby Nursing Home, 949 Willoughby Avenue, Brooklyn, NY 11221, 718-443-1600	NY	03/16/95

VOL 60 ISS 76 AP 20 1995 UMI

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—1/218158 ACTION—ACCEPTED		
ETA REGION 10 03/06/95 TO 03/12/95		
Clarence Adolphus, A.A.A. Home Health Services, 326 North Vermont Avenue, Los Angeles, CA 90004, 213–663–1134. ETA CONTROL NUMBER—10/206673 ACTION—ACCEPTED	CA	03/08/95
Carl Shusterman, Century City Hospital, 2070 Century Park East, Los Angeles, CA 90067, 213–623–4592 ETA CONTROL NUMBER—10/206678 ACTION—ACCEPTED	CA	03/08/95
Michael Giardullo, Madera Rehab. & Convalescent Center, 517 South A Street, Madera, CA 93638, 209–673–9228 ETA CONTROL NUMBER—10/206675 ACTION—ACCEPTED	CA	03/08/95
ETA REGION 10 03/27/95 TO 04/02/95		
A G De Guzman, Pro Re Nata, Inc., 4037 West Bethany Home Road, Phoenix, AZ 85019, 602–841–6139 ETA CONTROL NUMBER—10/206798 ACTION—ACCEPTED	AZ	03/30/95
Lilia Abebao, Casa Allegre Nursing Home, 5901 Rose Arbor Avenue, San Pablo, CA 94806, 510–724–1484 ETA CONTROL NUMBER—10/206767 ACTION—ACCEPTED	CA	03/28/95
Joan Barlow, El Dorado Convalescent Hospital, 3280 Washington Street, Placerville, CA 95677, 916–624–6230 ETA CONTROL NUMBER—10/206835 ACTION—ACCEPTED	CA	03/30/95
Ana Rosenberg, Home Health Care of The Valley Inc., 18305 Sherman Way, Suite 202, Reseda, CA 91335, 818–345–9811. ETA CONTROL NUMBER—10/206766 ACTION—ACCEPTED	CA	03/28/95
Vicki Arellano, Live Oak Home Health Inc., 18000 Studebaker Road, Suite 600, Cerritos, CA 90701, 310–402–6819 ETA CONTROL NUMBER—10/206837 ACTION—ACCEPTED	CA	03/30/95
K. J. Page, Sunnyvale Convalescent Hospital, 1291 South Bernardo Avenue, Sunnyvale, CA 94087, 408–245–8070 ETA CONTROL NUMBER—10/206879 ACTION—ACCEPTED	CA	03/30/95
May Mallari, Unicare Health Services, 3400 West Sixth Street, Suite 302, Los Angeles, CA 90020, 213–385–9470 ... ETA CONTROL NUMBER—10/206836 ACTION—ACCEPTED	CA	03/27/95
Janet Slay, Nye Regional Medical Center, P.O. Box 391, 825 South Main Street, Tonopah, NV 89049, 702–482–6233. ETA CONTROL NUMBER—10/206770 ACTION—ACCEPTED	NV	03/28/95
ETA REGION 5 03/06/95 TO 03/12/95		
Michael Gillman, Care Centre of Urbana, 907 North Lincoln Avenue, Urbana, IL 61901, 217–367–8421 ETA CONTROL NUMBER—5/237982 ACTION—ACCEPTED	IL	03/06/95
Lilia Banawa, Columbus Park Inc., 901 S. Austin Blvd., Chicago, IL 60644, 312–287–5959 ETA CONTROL NUMBER—5/237979 ACTION—ACCEPTED	IL	03/06/95
Jess Cole, Sunset House, 5701 W. 79th Street, Burbank, IL 60459, 708–636–3850 ETA CONTROL NUMBER—5/237986 ACTION—ACCEPTED	IL	03/06/95
Holli Titus, Oak Pointe Villa Nursing Centre, 18901 Meyers Street, Detroit, MI 48235, 313–864–8481 ETA CONTROL NUMBER—5/237980 ACTION—ACCEPTED	MI	03/06/95
Velma Davis, Shore Pointe Associates, Inc., d/b/a Americare Convalescent Centre, 19211 Anglin, Detroit, MI 48234, 313–893–9745. ETA CONTROL NUMBER—5/237984 ACTION—ACCEPTED	MI	03/06/95
Kurt L. Luth, Park Place Nursing Center, 610 N. Darr, Grand Island, NE 68803, 308–372–2635 ETA CONTROL NUMBER—5/237981 ACTION—ACCEPTED	NE	03/06/95
ETA REGION 5 03/13/95 TO 03/19/95		
Michael Gillman, Care Centre of Champaign, 1915 South Mattis, Champaign, IL 61821, 217–352–0516 ETA CONTROL NUMBER—5/238375 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Care Centre to Wauconda, 176 Thomas Court, Wauconda, IL 60084, 708–526–5551 ETA CONTROL NUMBER—5/238377 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Countryside Healthcare Centre, 2330 Galena Blvd., Aurora, IL 60506, 708–896–4686 ETA CONTROL NUMBER—5/238372 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Deerbrook Nursing Centre, 306 N. Larkin Avenue, Joliet, IL 60435, 815–744–5560 ETA CONTROL NUMBER—5/238379 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Holt Healthcare Centre, 707 W. Riverside Blvd., Rockford, IL 61103, 815–877–5752 ETA CONTROL NUMBER—5/238380 ACTION—ACCEPTED	IL	03/14/95
Michael Gillman, Northwoods Healthcare Centre, 2250 S. Pearl Street Road, Belvidere, IL 61008, 815–544–0358 .... ETA CONTROL NUMBER—5/238381 ACTION—ACCEPTED	IL	03/14/95
Nancy Hefferon, Royal Nursing Center, 91 Glendale, Highland Park, MI 48203, 313–869–7711 ETA CONTROL NUMBER—5/238370 ACTION—ACCEPTED	MI	03/14/95
Timothy Spiro, West Bloomfield Nursing & Conval., 6445 W. Maple Road, West Bloomfield, MI 48322, 810–661–1600	MI	03/14/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—5/238383 ACTION—ACCEPTED		
ETA REGION 5 03/20/95 TO 03/26/95		
Mindy Kmetz, Firwood Health Care Center, 520 Fabyan Parkway, Batavia, IL 60510, 708–879–5266 ETA CONTROL NUMBER—5/239039 ACTION—ACCEPTED	IL	03/24/95
Michael Kaplan, Forest Villa, Ltd., 6262 W. Touhy Avenue, Niles, IL 60648, 708–647–8894 ETA CONTROL NUMBER—5/239033 ACTION—ACCEPTED	IL	03/24/95
Sue Morse, Grundy County Home, Clay & Quarry Streets, P.O. Box 669, Morris, IL 60450, 815–942–3255 ETA CONTROL NUMBER—5/239036 ACTION—ACCEPTED	IL	03/24/95
Wanda Bowling, Kenwood Health Care, Inc., 6125 S. Kenwood, Chicago, IL 60637, 312–752–6000 ETA CONTROL NUMBER—5/239030 ACTION—ACCEPTED	IL	03/24/95
Michael Kaplan, Morton Terrace, 191 East Queenland, Morton, IL 61550, 309–266–5331 ETA CONTROL NUMBER—5/239034 ACTION—ACCEPTED	IL	03/24/95
Neal Kjos, North Shore Terrace, 2222 West 14th, Waukegan, IL 60085, 708–249–2400 ETA CONTROL NUMBER—5/239032 ACTION—ACCEPTED	IL	03/24/95
Michael Kaplan, York Convalescent Center, 127 W. Diversey, Elmhurst, IL 60126, 708–530–5225 ETA CONTROL NUMBER—5/239035 ACTION—ACCEPTED	IL	03/24/95
Roderic Flowers, University of Maryland Medical Sys, 22 South Greene Street, Baltimore, MD 21201–1595, 410–328–2756. ETA CONTROL NUMBER—5/239040 ACTION—ACCEPTED	MD	03/24/95
David S. Midenberg, Lakeland Convalescent Center, Inc., P.O. Box 188, 751 E. Grand Blvd., St. Clair Shores, MI 48080, 313–921–0998. ETA CONTROL NUMBER—5/239029 ACTION—ACCEPTED	MI	03/24/95
Christy Albin, Ramona Villa Nursing Home, 8575 N. Granby Avenue, Kansas City, MO 64154, 816–436–8575 ETA CONTROL NUMBER—5/239036 ACTION—ACCEPTED	MO	03/24/95
Susan Foreman, Heritage Hall Incorporated, 122 Morven Park Road, NW, Leesburg, VA 22075, 703–777–8700 ETA CONTROL NUMBER—5/239031 ACTION—ACCEPTED	VA	03/24/95
ETA REGION 5 03/27/95 TO 04/02/95		
Jacqueline L. Mason or JoAnne Fishe, Burgess Square Healthcare Ctr., 5801 S. Cass Avenue, Westmont, IL 60559, 708–971–2645. ETA CONTROL NUMBER—5/239190 ACTION—ACCEPTED	IL	03/29/95
Janice Soukup, Lutheran Home and Services, 800 W. Oakton St., Arlington Hghts., IL 60004, 708–253–3710 ETA CONTROL NUMBER—5/239197 ACTION—ACCEPTED	IL	03/30/95
Charles Stumpf, Sacred Heart Home, 1550 South Albany Avenue, Chicago, IL 60623, 312–277–6868 ETA CONTROL NUMBER—5/239193 ACTION—ACCEPTED	IL	03/30/95
Frances Lachowicz, St. Agnes Health Care Center, 60 East 18th Street, Chicago, IL 60616, 312–922–2777 ETA CONTROL NUMBER—5/239192 ACTION—ACCEPTED	IL	03/30/95
Kathleen Stumpf, St. Martha Manor, 4621 North Racine Avenue, Chicago, IL 60640, 312–784–2300 ETA CONTROL NUMBER—5/239194 ACTION—ACCEPTED	IL	03/30/95
Kenneth J. Lewis, IHS-I Inc., 5160 Parkstone Drive, Suite 140, Chantilly, VA 22021, 703–222–3900 ETA CONTROL NUMBER—5/239189 ACTION—ACCEPTED	VA	03/29/95
ETA REGION 6 03/06/95 TO 03/12/95		
Ms. Adela Baldo, IHS of Florida at Lake Worth, 1201 12th Avenue South, Lake Worth, FL 33460, 407–586–7404 ETA CONTROL NUMBER—6/225640 ACTION—ACCEPTED	FL	03/08/95
Mr. Edward J. Rosasco, Jr., Mercy Hospital, 3663 South Miami Avenue, Miami, FL 33133, 305–285–2100 ETA CONTROL NUMBER—6/225782 ACTION—ACCEPTED	FL	03/08/95
Mr. Alan Pilgrim, MRA Staffing Systems, Inc., 7771 W. Oakland Park Blvd. Suite 106, Ft. Lauderdale, FL 33351, 305–327–2758. ETA CONTROL NUMBER—6/225646 ACTION—ACCEPTED	FL	03/08/95
Mr. Eduardo R. Hernando, Ventech Rehab, Inc., 300 71st Street Suite 300, Miami Beach, FL 33141, 305–868–7060 ETA CONTROL NUMBER—6/225647 ACTION—ACCEPTED	FL	03/08/95
Mr. Walter M. Lawson III, Georgia Reg. Hospital at Savannah, 1915 Eisenhower Drive P.O. Box 13607, Savannah, GA 31416, 912–356–2011. ETA CONTROL NUMBER—6/225641 ACTION—ACCEPTED	GA	03/08/95
Ms. Donna Horten, High Plains Nursing Center, 1400 West 21st Street, Clovis, NM 88101, 505–762–4765 ETA CONTROL NUMBER—6/225643 ACTION—ACCEPTED	NM	03/08/95
Mr. Dean Beamer, Byerly Hospital, 413 East Carolina Avenue, Hartsville, SC 29550, 803–339–2100 ETA CONTROL NUMBER—6/225784 ACTION—ACCEPTED	SC	03/09/95
Ms. Clarisse Christine C. Toledo, Carolina Medical Services, 304 Hillside Drive, Dillon, SC 29536, 803–774–4164 ETA CONTROL NUMBER—6/225785 ACTION—ACCEPTED	SC	03/09/95
Mr. Don Spaulding, Fort Duncan Medical Center, 350 S. Adams Street, Eagle Pass, TX 78852, 210–757–7512 ETA CONTROL NUMBER—6/225748 ACTION—ACCEPTED	TX	03/08/95
Mr. Milagros R. Aquino, Golden Cavalcade Adult Day Care Ctr., 4344 Thousand Oaks, San Antonio, TX 78217, 210–695–3316.	TX	03/09/95

VOL 60 ISS 76 AP 20 1995 UMI

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—6/225642 ACTION—ACCEPTED		
Mr. Ray Alway, Hays Nursing Center, 1900 Medical Parkway, San Marcos, TX 78666, 512–396–1888	TX	03/09/95
ETA CONTROL NUMBER—6/225780 ACTION—ACCEPTED		
Milagros R. Aquino, R&F Rehabilitation & Health Agency, 11212 Woodridge Forest, San Antonio, TX 78249, 210–696–3316.	TX	03/08/95
ETA CONTROL NUMBER—6/225644 ACTION—ACCEPTED		
Mr. Charles W. Thompson, Southeast Nursing & Rehab Center, 4302 E. Southcross, San Antonio, TX 78222, 210–333–1223.	TX	03/09/95
ETA CONTROL NUMBER—6/225781 ACTION—ACCEPTED		
ETA REGION 6 03/13/95 TO 03/19/95		
Ms. Joyce E. Plourde, Heartland Health Care Ctr. (Miami), 5275 N.W. 186th Street, Hialeah, FL 33015, 305–625–9857.	FL	03/15/95
ETA CONTROL NUMBER—6/225898 ACTION—ACCEPTED		
Senator Robert Crook, North Sunflower County Hospital, 840 North Oak Avenue, Ruleville, MS 38771, 601–756–2711.	MS	03/16/95
ETA CONTROL NUMBER—6/225896 ACTION—ACCEPTED		
Mr. Richard Barr, Presbyterian Healthcare Services, 1100 Central Ave. SE, Albuquerque, NM 87106, 505–841–1234	NM	03/15/95
ETA CONTROL NUMBER—6/225935 ACTION—ACCEPTED		
Mr. Louis Mitte, Brian Center of Columbia, 2451 Forest Drive, Columbia, SC 29204, 803–254–5960	SC	03/15/95
ETA CONTROL NUMBER—6/225982 ACTION—ACCEPTED		
ETA REGION 6 03/20/95 TO 03/26/95		
Mr. Hal Firestone, Paradigm Rehab Consultants, Inc., 2907–A Fritzke Road, Dover, FL 33527, 813–986–7746	FL	03/21/95
ETA CONTROL NUMBER—6/225993 ACTION—ACCEPTED		
Mr. James Reiss, Pinecrest Convalescent Center, 13650 N.E. Third Court, North Miami, FL 33161, 305–893–1170	FL	03/21/95
ETA CONTROL NUMBER—6/226001 ACTION—ACCEPTED		
Ms. Francine Grimsley, Canterbury Villa of Falfurrias, 1301 South Terrell P.O. Box 417, Falfurrias, TX 78355, 512–325–3658.	TX	03/21/95
ETA CONTROL NUMBER—6/226000 ACTION—ACCEPTED		
Mr. Gerald D. Phillips, Crockett County Hospital, 103 North Ave. H and 1st, Ozona, TX 76943, 915–392–2671	TX	03/21/95
ETA CONTROL NUMBER—6/225999 ACTION—ACCEPTED		
Ms. Connie Trunk, Sunrise Convalescent Center, 50 Briggs Street, San Antonio, TX 78224, 210–921–0184	TX	03/21/95
ETA CONTROL NUMBER—6/225997 ACTION—ACCEPTED		
ETA REGION 6 03/27/95 TO 04/02/95		
Ms. Lucinda DeBruce, Charter Behavioral Health System, 4253 Crossover Road, Fayetteville, AR 72703, 501–521–5731.	AR	03/29/95
ETA CONTROL NUMBER—6/226209 ACTION—ACCEPTED		
Mr. Jay Kapin, Camelot Care Center of Dade, Inc., 25268 S.W. 134 Avenue, Miami, FL 33032, 305–258–2222	FL	03/30/95
ETA CONTROL NUMBER—6/226259 ACTION—ACCEPTED		
Ms. Sharon Harris, Drew Village Rehab. & Nursing Ctr., 401 Fairwood Avenue, Clearwater, FL 34619, 813–797–6313.	FL	03/30/95
ETA CONTROL NUMBER—6/226364 ACTION—ACCEPTED		
Ms. Elaine Carvajal, John Knox Village of Florida, Inc., 661 S. W. 6th Street, Pompano Beach, FL 33060, 305–782–1300.	FL	03/30/95
ETA CONTROL NUMBER—6/226333 ACTION—ACCEPTED		
Joseph Thomas Bland, Monfort Jones Memorial Hospital, P.O. Box 677 Highway 12 West, Kosciusko, MS 39090, 601–289–4311.	MS	03/27/95
ETA CONTROL NUMBER—6/226201 ACTION—ACCEPTED		
Mr. Ted Carothers, Autumn Care of Drexel, Box 1278, Drexel, NC 28619, 704–433–6180	NC	03/30/95
ETA CONTROL NUMBER—6/226363 ACTION—ACCEPTED		
Julia Cooper-Goldenberg, Ivy Hill Health & Retirement Cntr., Route 3, Box 228, P.O. Box 1156, Brevard, NC 28712, 704–877–4020.	NC	03/27/95
ETA CONTROL NUMBER—6/226204 ACTION—ACCEPTED		
Sue Van Winkle, Salida del Sol, 419 Harding Street, Clayton, NM 88415, 505–374–2353	NM	03/27/95
ETA CONTROL NUMBER—6/226205 ACTION—ACCEPTED		
Ms. Louetta Slice, Hallmark Healthcare Center, 255 Midland Parkway, Summerville, SC 29485, 803–821–5005	SC	03/30/95
ETA CONTROL NUMBER—6/226291 ACTION—ACCEPTED		
Mr. G. Robert Owens, Watauga Mental Health Services Inc., 109 W. Watauga Ave., Johnson City, TN 37605, 615–928–0691.	TN	03/27/95
ETA CONTROL NUMBER—6/225998 ACTION—ACCEPTED		
Mr. Thomas Murphy, Advance Care Center at Amarillo E., 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS—Continued
[Form ETA–9029]

CEO—Name/Facility name/Address	State	Action date
ETA CONTROL NUMBER—6/226215 ACTION—ACCEPTED		
Mr Thomas Murphy, Advance Care Center at Amarillo W., 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226216 ACTION—ACCEPTED		
Mr Thomas Murphy, Advance Care Center at Athens, 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226211 ACTION—ACCEPTED		
Mr Thomas Murphy, Advance Care Center at Grand Salin, 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226213 ACTION—ACCEPTED		
Mr. Thomas Murphy, Advance Care Center at Kennedale, 14405 Walters Road, Suite 150, Houston, TX 77014, 713–444–4880.	TX	03/29/95
ETA CONTROL NUMBER—6/226212 ACTION—ACCEPTED		
Mr. Michael C. Waters, Hendrick Medical Center, 1242 North 9th, Abilene, TX 79601–2316, 915–670–2000	TX	03/30/95
ETA CONTROL NUMBER—6/226419 ACTION—ACCEPTED		
Dr. Rosario Carreon, Kidney Center of Vernon, Wilbarger Medical Plaza 1000, Garland F. Johnston Drive, Vernon, TX 76384, 817–553–4316.	TX	03/27/95
ETA CONTROL NUMBER—6/226087 ACTION—ACCEPTED		
Rafael M. Arceo, Medcore Therapy & Rehab Clinic, 6060 Richmond Avenue, Suite 240, Houston, TX 77057, 713–974–7556.	TX	03/27/95
ETA CONTROL NUMBER—6/226203 ACTION—ACCEPTED		
Fe dela Calzada, Quality Health Services, Inc., 9888 Bissonnet, Suite 475, Houston, TX 77036, 713–272–0077	TX	03/27/95
ETA CONTROL NUMBER—6/226202 ACTION—ACCEPTED		
Mr. Nelson R. Ayala, RN Staffing Resources, 13231 Champion Forest Drive, Suite 310, Houston, TX 77069, 713–580–7700.	TX	03/27/95
ETA CONTROL NUMBER—6/226207 ACTION—ACCEPTED		
Dr. Stephen Weiss, Texas Orthopedic & Trauma Associates, 7333 North Freeway, Houston, TX 77076, 713–691–0737.	TX	03/30/95
ETA CONTROL NUMBER—6/226332 ACTION—ACCEPTED		
Mildred Morrison, Vista Healthcare Inc., 4301 Vista, Pasadena, TX 77504, 713–947–0891	TX	03/27/95
ETA CONTROL NUMBER—6/226206 ACTION—ACCEPTED		

[FR Doc. 95–9817 Filed 4–19–95; 8:45 am]
BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–029]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made submission.

Copies of the proposed forms, the requests for clearance (OMB 83–1s), supporting statements, instructions, transmittal letters, and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by May 19, 1995. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Donald J. Andreotta, NASA Agency Clearance Officer, Code JT, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0052), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bessie Berry, NASA Reports Officer, (202) 358–1368.

Reports

Title: NASA FAR Supplement, Part 1827, Patents, Data and Copyrights.

OMB Number: 2700–0052.

Type of Request: Extension.

Frequency of Report: On occasion.

Type of Respondent: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Number of Respondents: 1,903.

Responses Per Respondent: 1.2.

Annual Responses: 2,284.

Hours Per Response: 8.

Annual Burden Hours: 18,272.

Number of Recordkeepers: 0.

Annual Hours Per Recordkeeping: 0.

Annual Recordkeeping Burden Hours: 0.

Total Annual Burden Hours: 18,272.

Abstract-Need/Uses: Patents, data, copyrights, inventions, utilization, disposition and contract records and reports regarding patents and data are required to comply with statutes and OMB and NASA impelmenting regulations.

Dated: April 11, 1995.

Donald J. Andreotta,

Deputy Director, IRM Divison.

[FR Doc. 95–9703 Filed 4–19–95; 8:45 am]
BILLING CODE 7510–01–M

[Notice 95–027]

Intent to Grant a Partially Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant a Patent License.

SUMMARY: NASA hereby gives notice of intent to grant the Science and Technology Corporation, Hampton,

VOL 60 ISS 76 AP 20 1995 UMI

Virginia 23666–1340, a partially exclusive license to practice the inventions protected by the following U.S. Patents: 4,829,035 entitled "REACTIVATION OF A TIN OXIDE-CONTAINING CATALYST," which was granted May 9, 1989; 4,855,274 entitled "PROCESS FOR MAKING A NOBLE METAL ON TIN OXIDE CATALYST," which was granted August 8, 1989; 4,912,082 entitled "CATALYST FOR CARBON MONOXIDE OXIDATION," which was granted March 27, 1990; and 4,991,181 entitled "CATALYST FOR CARBON MONOXIDE OXIDATION," which was granted February 5, 1991, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration.

The partially exclusive license will contain appropriate terms and conditions to be negotiated in accordance with NASA Patent Licensing Regulations (14 CFR Part 1245). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Patent Licensing will review all written responses to this notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to this notice must be received by (insert 60 days from the date of publication in the **Federal Register**).

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, NASA, Director of Patent Licensing at (202) 358–2041.

Dated: April 7, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–9822 Filed 4–19–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Rural Arts Initiative Section) to the National Council on the Arts will be held on May 16, 1995 from 9:00 a.m. to 5:30 p.m. in Room 714, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9:00 a.m. to 9:45 a.m. for opening remarks and a general program overview and from 3:30 p.m. to 5:30 p.m. for a policy discussion.

Remaining portion of this meeting from 9:45 a.m. to 3:30 p.m. is for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9833 Filed 4–19–95; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Section) to the National Council on the Arts will be held on May 15–18, 1995 from 9 a.m. to 5:30 p.m. This meeting will be held in Room M–14, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 18 from 3:00 p.m. to 5:30 p.m. for a policy discussion and guidelines review.

The remaining portions of this meeting from 9 a.m. to 5:30 p.m. on May 15–17 and from 9 a.m. to 3 p.m. on May 18 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9834 Filed 4–19–95; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Painting Fellowships Section) to the National Council on the Arts will be held on May 15–19, 1995. The panel will meet from 9:00 a.m. to 8:00 p.m. on May 15–18 and from 9:30 a.m. to 5:00 p.m. on May 19 in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 3:30 p.m. to 5:00 p.m. on May 19 for a policy and guidelines discussion.

The remaining portions of this meeting from 9:00 a.m. to 8:00 p.m. on May 15–18 and from 9:30 a.m. to 3:30 p.m. on May 19 are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9832 Filed 4–19–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–416]

Entergy Operations, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. NPF–29, issued to Entergy Operations, Inc. (the licensee), for operation of the Grand Gulf Nuclear Station, Unit 1 (GGNS), located in Claiborne County, Mississippi.

Environmental Assessment

Identification of Proposed Action

The proposed action is in accordance with the licensee's application dated August 13, 1993, as supplemented by letters dated April 15, May 11, June 24, and July 20, 1994, pursuant to 10 CFR 50.12(a), which would exempt Entergy Operations Inc. from Sections III.D.1(a), III.D.2, III.D.2(b)(i), III.D.2.(b)(iii) and III.D.3 of 10 CFR Part 50, Appendix J, to permit the selection of containment leakage rate testing intervals for components on the basis of performance.

The Need for the Proposed Action

The proposed action is needed to permit the licensee to defer a portion of the Type B and C tests from the April 1995 and September 1996 refueling outages to the April 1998 refueling outage, thereby reducing the occupational radiation exposure received by the plant staff, saving the cost of performing the test, and eliminating the test period from the critical path time of the outage.

Without this exemption, the licensee would incur additional personnel radiation exposure during system reconfigurations, and instrumentation setup and restoration.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed exemption would not increase the probability or consequences of accidents previously analyzed and the proposed exemption would not affect facility radiation levels or facility radiological effluents. The licensee, as a condition of the proposed exemption, will perform the visual containment inspection although it is only required by Appendix J to be conducted in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements related to operation of Grand Gulf Nuclear Station, Unit 1.

Agencies and Persons Consulted

In accordance with its stated policy, on March 30, 1995 the staff consulted with the Mississippi State official, Mr. Eddie Fuente of the Mississippi State Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for exemption dated August 13, 1993, as supplemented by letters dated April 15, May 11, June 24, and July 20, 1994, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi 39120.

Dated at Rockville, Maryland this 6th day of April 1995.

VOL 60 ISS 76 AP 20 1995 UMI

For the Nuclear Regulatory Commission.

Paul W. O'Connor,

Senior Project Manager, Project Directorate IV-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-9762 Filed 4-19-95; 8:45 am]

BILLING CODE 7590-01-M

Licensing Support System Advisory Review Panel

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Licensing Support System Advisory Review Panel (LSSARP) will hold its next meeting on May 12, 1995, at the Headquarters Building of the Nuclear Regulatory Commission, Room T-3 B45, 11545 Rockville Pike, Rockville, Maryland. The meeting will be open to the public pursuant to the Federal Advisory Committee Act (Pub. L. 94-463, 86 Stat. 770-776).

AGENDA: The meeting will be held from 1:00 p.m. to 2:30 p.m. on Friday, May 12, 1995. The agenda will consist of the following topics.

1. Consideration of a Report of the LSS Technical Working Group on Level One Requirements for the LSS Design
2. Current LSS Activity at NRC
3. Future Meeting Topics and Schedule

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission (NRC) established the LSSARP in 1989 to provide advice and recommendations to the NRC and to the Department of Energy (DOE) concerning the design, development and operation of an electronic information management system, known as the Licensing Support System (LSS), which will contain information relevant to the Commission's future licensing proceeding for a geologic repository for the disposal of high-level radioactive waste. Membership on the Panel consists of representatives of the State and Local Governments of Nevada, the National Congress of American Indians, the nuclear industry, DOE, NRC and other agencies of the Federal government which have experience with large electronic information management systems.

FOR FURTHER INFORMATION CONTACT: John C. Hoyle, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555: telephone 301-415-1969.

PUBLIC PARTICIPATION: Interested persons may make oral presentations to the Panel or file written statements. Requests for oral presentations should be made to the contact person listed above as far in advance as practicable so that appropriate arrangements can be made.

Dated: April 14, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95-9761 Filed 4-19-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 50-323]

Pacific Gas and Electric Company; Notice of Partial Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a portion of the request by Pacific Gas and Electric Company (the licensee) for amendments to Facility Operating License Nos. DPR-80 and DPR-82 issued to the licensee for operation of the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, located in San Luis Obispo County, California. Notice of Consideration of Issuance of these amendments was published in the **Federal Register** on October 12, 1994 (59 FR 51621).

The purpose of this portion of the license amendment request was to eliminate the minimum refueling water storage tank solution temperature from Technical Specifications (TS) Sections 3/4.1.2.5 and 3/4.5.5.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated April 14, 1995.

By May 22, 1995, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated August 17, 1994, and (2) the Commission's letter to the licensee dated April 14, 1995.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 14th day of April 1995.

For The Nuclear Regulatory Commission.

William H. Bateman,

Director, Project Directorate IV-2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-9765 Filed 4-19-95; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 and 50-323]

Pacific Gas and Electric Co., (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Exemption

I

The Pacific Gas and Electric Company (PG&E or the licensee) holds Facility Operating License Nos. DPR-80 and DPR-82, which authorizes operation of the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, respectively. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect. The facility consists of two pressurized water reactors located at the licensee's site in San Luis Obispo County, California.

II

Section 50.54(q) of 10 CFR Part 50 requires a licensee authorized to operate a nuclear power reactor to follow and maintain in effect emergency plans which meet the standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50. Section IV.F.3 of Appendix E requires that each licensee at each site exercise with offsite authorities such that the State and local government emergency plans for each operating reactor site are exercised biennially, with full or partial participation by State and local governments, within the plume exposure pathway emergency planning zone (EPZ).

The NRC may grant exemptions from the requirements of the regulations which, pursuant to 10 CFR 50.12(a), are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) present special circumstances. Section 50.12(a)(2)(iv) of 10 CFR Part 50 describes the special circumstances for an exemption where the exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the granting of the exemption.

III

By letter dated October 17, 1994, the licensee requested a schedular exemption from the requirement of 10 CFR Part 50, Appendix E, Section IV.F.3 that requires biennial exercise of emergency plans for State and local governmental authorities within the plume exposure pathway EPZ. The licensee has requested to postpone until 1996 the biennial, full-scale emergency preparedness exercise currently scheduled in 1995.

This schedular exemption is requested by the licensee in support of the State of California's request to the Federal Emergency Management Agency (FEMA) to grant the State a one-year extension in the current Radiological Emergency Preparedness Program six-year exercise cycle for the Diablo Canyon Nuclear Power Plant (DCPP). The granting of this request would result in the licensee conducting its biennial, full-scale emergency preparedness exercise in even-numbered years.

By letter dated March 2, 1995, FEMA informed the NRC that FEMA concurred with a request by the State of California to reschedule the DCPP offsite biennial exercise for 1995 to 1996. FEMA stated that such a schedule change would have no implications adverse to public health and safety. The most recent DCPP offsite exercise was conducted in 1993, and there were no issues identified which required immediate corrective actions. FEMA has granted a one-time exemption to the requirements of 44 CFR 350.9(c) for DCPP as requested by the State of California.

Based on a review of the licensee's request for a schedular exemption to postpone until 1996 the biennial full-scale emergency preparedness exercise currently scheduled in 1995, the NRC staff finds that granting this request would be beneficial to the public health and safety. Approval of this exemption would allow the realignment of the State of California's exercise participation schedule to include an exercise every year, instead of two exercises every other year. San Onofre Nuclear Generating Station's exercise would be conducted in odd-numbered years and DCPP's would be conducted in even-numbered years starting in 1996. This should enhance the level of emergency preparedness by allowing more frequent participation in an exercise by State personnel. It would allow for more even distribution of financial and personnel resources for both State and Federal agencies. Also, the offsite agencies at San Onofre Nuclear Generating Station would be able to perform as controllers and evaluators for the DCPP exercise and vice versa more easily and both plants would obtain the benefits since the plant exercise dates would not conflict. There would be no decrease in the level of safety of licensee operations as a result of granting this schedular exemption. The licensee would still be required to conduct an annual exercise in 1995 in accordance with the requirements of 10 CFR 50, Appendix E, Section IV.F.2.

IV

Accordingly, the Commission has determined pursuant to 10 CFR 50.12, this exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission further determines that special circumstances described by 10 CFR 50.12(a)(2)(iv) exist in that a benefit to public health and safety that compensates for any decrease in safety may result from granting the exemption.

Therefore, the Commission hereby grants Pacific Gas and Electric Company an exemption from the requirements of 10 CFR 50, Appendix E, Section IV.F.3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 18429).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of April 1995.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-9763 Filed 4-19-95; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Applied Microbiology, Inc. Common Stock $.005 Par Value) File No. 1-12106

April 14, 1995.

Applied Microbiology, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Pacific Stock Exchange, Incorporated. ("PSE").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it is listed on the Nasdaq/NMS, and in view of the limited trading in the Security, the Company believes that a single listing is adequate.

Any interested person may, on or before May 5, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95-9726 Filed 4-19-95; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 21009; 811-16930]

Columbia Ventures, Inc.

April 14, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Columbia Ventures, Inc.

RELEVANT ACT SECTION: Sections 3(c)(9) and 8(f).

VOL 60 ISS 76 AP 20 1995 UMI

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on December 13, 1994, and amended on March 30, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 9, 1995 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 809 North State Street, suite 215; Jackson, Mississippi 39202.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a New York corporation, registered under the Act on November 8, 1961. Applicant also was licensed as a small business investment company by the Small Business Administration ("SBA").

2. In 1973, applicant acquired certain oil and gas mineral rights and real estate from a small business company in exchange for the securities of that company held by applicant. By December 31, 1974, those assets constituted approximately 52 percent of the fair value of applicant's assets. At the 1975 annual meeting, stockholders adopted amendments to applicant's fundamental policies to allow applicant to concentrate its investment in real estate and oil and gas mineral rights and leases.

3. In 1980, Applicant defaulted on a subordinated debenture payable to the SBA ("SBA Indebtedness") which resulted in the acceleration of the entire SBA Indebtedness. Applicant and the SBA entered into an agreement ("SBA Agreement") which extended the maturity of the SBA Indebtedness and replaced an earlier agreement with the SBA. On December 31, 1986, applicant defaulted on its principal and accrued interest payment obligations to the SBA. Applicant repaid the principal balance in cash in June 1988 and in September 1989, applicant transferred two tracts of property to the SBA for settlement of accrued interest. Applicant relinquished its license as a small business investment company to the SBA in September 1989.

4. At a 1993 special meeting, applicant's shareholders approved an amendment to applicant's fundamental policies to state that applicant's business shall consist of purchasing, selling, owning or holding oil, gas, or other mineral royalties or leases. Applicant does not anticipate any substantial income and/or loss in the future from investment in investment securities. Income is expected to be derived from the mineral interests held by applicant. Applicant now manages its mineral interests and real property holdings and proposes to continue in such business for the foreseeable future.

Applicant's Legal Analysis

1. Applicant believes that it is no longer an investment company by virtue of the exception in section 3(c)(9) of the Act. Section 3(c)(9) specifically excepts from the definition of investment company "[a]ny person substantially all of whose business consists of owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein, or certificates of interest or participation in or investment contracts relative to such royalties, leases, or fractional interests." Section 8(f) of the Act provides, in pertinent part, that whenever the SEC, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

2. Applicant believes it is appropriate for the SEC to deregister the applicant because it engages in section 3(c)(9) activities. Applicant's fundamental policy is similar to section 3(c)(9) since it provides that "The Company's business shall consist of purchasing, selling, owning or holding oil, gas, or other mineral royalties or leases, or fractional interests therein * * *." Applicant owns both the mineral rights and mineral royalties for certain properties and, for other properties, owns the mineral rights only. Its mineral rights are direct ownership interests in minerals in the ground, and it receives income from mineral leases when it leases the mineral rights and mineral royalty income when the minerals are extracted. Applicant believes that these activities are the type of business referred to in section 3(c)(9), *i.e.*, "owning or holding oil, gas, or other mineral royalties or leases."

3. As of December 31, 1993, 98.9 percent of the fair value of applicant's assets (exclusive of cash and land) consisted of mineral rights and leases. 10.5 percent of the fair value of applicant's assets consisted of land not incident to the mineral rights and leases. For the fiscal year ended December 31, 1993, other than interest income from cash in banks, 99 percent of applicant's income was derived from mineral lease royalties.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9725 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21010; File No. 812–9226]

Great-West Life & Annuity Insurance Company, et al.

April 14, 1995.

AGENCY: U.S. Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Great-West Life & Annuity Insurance Company (the "Company"), The Great-West Life Assurance Company ("GWLAC"), and Retirement Plan Series Account (the "Separate Account").

RELEVANT ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the Company to deduct from the Separate Account the mortality and expense risk charge imposed under (1) flexible premium deferred individual variable annuity contracts ("Contracts") and (2) any other variable annuity contracts offered by the Company and made available through the Separate Account or through any other similar separate account(s) established by the Company, whether currently existing or hereafter created ("Other Separate Accounts"), which are substantially similar in all material respects ("Future Contracts"). Applicants also request that the relief be extended to any other broker-dealer, whether currently existing or hereafter created, which may serve in the future as principal underwriter of Contracts or Future Contracts.

FILING DATE: The Application was filed on September 13, 1994 and amended on February 23, 1995 and March 21, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 9, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: SEC, Secretary, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Jorden Burt & Berenson, 1025 Thomas Jefferson Street, NW., suite 400 East, Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Edward P. Macdonald, Staff Attorney, or Wendy Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the Application. The complete Application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Company is a stock life insurance company initially organized under the laws of the State of Kansas. In 1990, the Company redomesticated and is now organized under the laws of the State of Colorado. The Company, a wholly-owned subsidiary of the GWLAC, is qualified to do business in 49 states and the District of Columbia.

2. GWLAC, a life insurance company organized under the laws of Canada, will be the principal underwriter with respect to the Contracts. GWLAC is registered with the Commission under the Securities Exchange Act of 1934 as a broker-dealer and is a member of the National Association of Securities Dealers, Inc.

3. The Separate Account was established under the laws of the State of Colorado on January 25, 1994, as a funding vehicle for the Contracts and is registered under the Act as a unit investment trust. The Separate Account initially will have twelve investment divisions ("Divisions") available for allocation of contributions by contractowners ("Owners"). Each Division invests solely in a corresponding portfolio of Maxim Series Fund, Inc., an open-end management investment company registered under the Act. The shares of each portfolio may also be offered to other Separate Accounts.

4. Interests under the Contracts are registered under the Securities Act of 1933. The Contracts will receive favorable tax treatment under Section 408(b) of the Internal Revenue Code ("Code") as individual retirement annuities and will be available for an initial contribution of at least $3,500 rolled-over from retirement plans which qualify under Section 401(k) of the Code. Additional contributions may be made in amounts of at least $250. The Contracts provide that contributions can accumulate on a variable basis, a guaranteed basis, or on a combination of both. The Contracts also will offer several annuity options payable on a variable basis, a fixed basis, or on a combination of both.

5. The Company will not impose a sales charge or a Contract maintenance charge in connection with the Contracts.

6. A $50 charge will be imposed on any Contract surrendered in whole during the first 12 months after issue, excluding the "free look" period. A $25 charge will be imposed on any Contract surrendered in part during the first 12 months after issue. These charges reflect the actual expenses associated with such surrenders which the company expects to incur and would be assessed in reliance on Rule 269–1 under the Act.[1]

7. At any time prior to the annuity commencement date, Owners may make unlimited transfers between Divisions. The Company does not charge any fee for these transfers.

8. The Company may make a deduction for premium taxes imposed by states or other governmental entities, either (i) when a surrender or cancellation occurs, or (ii) at the annuity commencement date. Currently, these taxes range up to 2.5%.

9. The Company will impose a mortality and expense risk charge of up to .75% as compensation for bearing certain mortality and expense risks assumed under the Contracts. Contracts having a balance of: (1) $0 to $9,999.99 will be subject to a mortality and expense risk charge equal to .75%; (2) $10,000 to $24,999.99 will be subject to a mortality and expense risk charge equal to .50%; and (3) $25,000 to $49,999.99 will be subject to a mortality and expense risk charge equal to .25%. No mortality and expense risk charge will be imposed for an account balance of $50,000 or greater. The levels of these charges are guaranteed and will not be increased. Of the amounts charged for mortality and expense risk, where the total charge is: (1) .75%: 0.60% is a mortality risk charge and 0.15% is an expense risk charge; (2) .50%: 0.40% is a mortality risk charge and 0.10% is an expense risk charge; and (3) .25%: 0.20% is a mortality risk charge and 0.05% is an expense risk charge.

10. These annual charges will be assessed daily and will be based on the assets of the Separate Account. The level of the mortality and expense risk charge applicable to the Contract during the first calendar year will be based upon the initial account balance of the Contract. The initial account balance used to determine the appropriate mortality and expense risk charge level will include both fixed and variable money; however, the charge will only apply to the variable portion.

11. The level of mortality and expense risk charge applicable in subsequent calendar years will be based upon the account balance of the Contract as of December 31 of the previous calendar year.

12. The mortality risk to be borne by the Company under the Contracts arises from its obligations to make annuity payments, in the case where the life annuity is selected, regardless of how long an annuitant may live. The mortality risk under the Contracts, where a life annuity with a life contingency is selected, is the risk that annuitants will live longer than the Company's actuarial projections indicate resulting in higher than expected annuity payments.

13. The expense risk to be borne by the Company under the Contracts is the risk that the actual administrative expenses incurred in connection with the Contracts may exceed the anticipated administrative expenses.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to grant an exemption from any provision, rule or regulation of the Act to the extent that it is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of

[1] The Applicants represent that they will amend the application during the notice period to include this representation.

VOL 60 ISS 76 AP 20 1995 UMI

the Act. Sections 26(a)(2)(C) and 27(c)(2) of the Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

2. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit the deduction of a charge up to .75% from (i) the assets of the Separate Account with respect to the Contracts and Future Contracts and (ii) from the assets of Other Separate Accounts in connection with Future Contracts, to compensate the Company for the assumption of mortality and expense risks. In addition, Applicants also request that the exemptive relief requested extend to any other broker-dealer, whether currently existing or hereinafter created, which may serve in the future as principal underwriter of Contracts or Future Contracts. Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. With respect to the level of the mortality and expense risk charge, Applicants hereby represent that they have reviewed publicly available information regarding the aggregate level of mortality and expense risk charges under variable annuity contracts comparable to the Contracts currently being offered in the insurance industry, taking into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of charge level or annuity rate guarantees and the markets in which the Contracts will be offered. Based upon the foregoing, Applicants further represent that the mortality and expense risk charge contemplated under the Contracts are within the range of industry practice for comparable contracts. Applicants will maintain at their principal office and will make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

4. Similarly, prior to issuing any Future Contracts, Applicants will represent that the mortality and expense charges under any Future Contracts will be within the range of industry practice for comparable contracts. Applicants will maintain at their principal office and will make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

5. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be available for any lawful purpose including shortfalls in the costs of distributing the Contracts. The Company represents that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Account and Owners. The Company represents that the basis for that conclusion is set forth in a memorandum which will be maintained at its home office and will be available to the Commission upon request.

6. Applicants further represent that the Separate Account, and any Other Separate Accounts, will only invest in underlying funds which have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such fund, formulate and approve any plan under Rule 12b–1 under the Act to finance distribution expenses.

7. Applicants assert that extending relief to Future Contracts, Other Separate Accounts, and any other broker-dealer, whether currently existing or hereinafter created, which may serve in the future as principal underwriter of Contracts or Future Contracts is appropriate in the public interest because it would promote competitiveness in the variable annuity market by eliminating the need for the Company to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of its resources. The delay and expense involved in having to repeatedly seek exemptive relief would impair the Company's ability to effectively take advantage of business opportunities as they arise. If the Company were repeatedly required to seek exemptive relief with respect to the same issues addressed in the Application, investors would not receive any additional benefit or protection. Therefore, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9842 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21011; File No. 812–8272]

Montgomery Asset Management, L.P. et al.

April 14, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act" or "Act").

APPLICANTS: Montgomery Asset Management, L.P. ("Montgomery") and The Montgomery Funds III (the "Fund").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 9(a), 13(a), 15(a), and 15(b) and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order of exemption to the extent necessary to permit shares of the Fund and shares of certain other investment companies for which Montgomery or an affiliate of Montgomery serves as investment adviser, administrator, manager, principal underwriter or sponsor (collectively with the Fund, the "Funds") to be sold to and held by variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies and qualified pension and retirement plans.

FILING DATE: The application was filed on October 12, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on May 9, 1995, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of the hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 600 Montgomery Street, San Francisco, California 94111.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, on (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. The Fund, a Delaware trust, is a registered open-end management investment company with two separately managed series. Additional series may be added in the future. The Fund's registration statement on Form N–1A (File No. 33–84450) was filed on September 27, 1994 and is incorporated by reference into the application.

2. Montgomery, a California limited partnership, is an investment adviser registered under the Investment Advisers Act of 1940. Montgomery serves as the investment advisor and manager of the Fund.

3. Shares of each series of the Fund(s) may be offered to insurance company separate accounts that fund variable annuity or variable life insurance contracts ("Contracts"), regardless of whether such insurance companies are affiliated with each other ("Participating Insurance Companies"). Each Participating Insurance Company will have the legal obligation of satisfying all applicable requirements under state and federal law. Applicants anticipate that, in connection with their scheduled premium and flexible premium variable life insurance contracts, Participating Insurance Companies will rely on Rule 6e–2 or Rule 6e–3(T) under the 1940 Act, although some may rely on individual exemptive orders as well. The role of the Funds, so far as the federal securities laws are applicable, will be limited to that of offering their shares to separate accounts of various insurance companies, and Qualified Plans, and fulfilling any conditions that the Commission may impose upon granting the order requested in the application.

4. Shares of the Funds may also be offered to qualified pension and retirement plans outside of the separate account context ("Qualified Plans" or "Plan"). Qualified Plans may choose any of the Funds as the sole investment under the Plan or as one of several investments. Plan participants may or may not be given an investment choice depending on the Plan itself. Shares of any of the Funds sold to Qualified Plans would be held by the trustee(s) of said Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act ("ERISA"). Montgomery will not act as investment adviser to any of the Qualified Plans that will purchase shares of any of the Funds. There will be no pass-through voting to the participants in Qualified Plans.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust ("UIT"), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act. The relief provided by Rule 6e–2(b)(15) is available to a separate account's investment advisor, principal underwriter and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the UIT offers its shares "exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company." The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of a single insurance company (or of two or more affiliated insurance companies) is commonly referred to as "mixed funding." The use of a common management investment company as the underlying investment medium for variable annuity and variable life insurance separate accounts of unaffiliated insurance companies is commonly referred to as "shared funding." "Mixed and shared funding" denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. Rule 6e–2(b)(15) precludes mixed as well as shared funding.

2. In connection with flexible premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a) and 15(b) of the Act. The exemptions granted to a separate account by Rule 6e–3(T)(b)(15) are available only where all of the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares "exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled of flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company." Thus, Rule 6e–3(T)(b)(15) permits mixed funding but precludes shared funding.

3. According to the Applicants, the relief granted by Rule 6e–2(b)(15) and Rule 6e–3(T)(b)(15) is in no way affected by the purchase of shares of the Funds by Qualified Plans. However, because the relief under these Rules is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds are also to be sold to Qualified Plans. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a)(1) or (2). However, Rules 6e–2(b)(15)(i) and (ii) and 6e–3(T)(b)(15)(i) and (ii) provide partial exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the disqualification to affiliated individuals or companies that directly participate in the management or administration of the underlying investment company.

4. Applicants argue that the exemptions contained in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) recognize that is it unnecessary to apply Section 9(a) to the thousands of individuals who may be involved in a large insurance company but would have no connection with the investment company funding the separate accounts. Applicants believe that it is unnecessary to limit the applicability of the rules merely because shares of the Funds may be sold in connection with mixed and shared funding. Applicants submit that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds and, therefore, applying the restrictions of Section 9(a) serves no regulatory purpose. Applicants state that applying such restrictions would increase the monitoring costs incurred by the Participating Insurance

VOL
60
ISS
76
AP
20
1995
UMI

Companies and, therefore, would reduce the net rates of return realized by Contract owners. Applicants also state that the requested relief will in no way be affected by the proposed sale of shares of the Funds to Qualified Plans. The insulation of the Fund from those individuals who are disqualified under the Act remains in place. Since the Qualified Plans are not investment companies and will not be deemed to be affiliated solely by virtue of their shareholdings, no additional relief is necessary.

5. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) assume that Contract owners are entitled to pass-through voting privileges with respect to investment company shares held by a related separate account. Both Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that an insurance company may disregard the voting instructions of its Contract owners with respect to the investments of an underlying investment company or any contract between an investment company and its investment adviser, when an insurance regulatory authority requires. Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard contract owners' voting instructions with regard to changes initiated by the contract holders in the investment company's investment policies, principal underwriter or investment adviser. Under the rules, voting instructions with respect to a change in investment policies may be disregarded only if the insurance company makes a good faith determination that such change would: (1) violate state law; (2) result in investments that were not consistent with the investment objectives of the separate account; or (3) result in investments that would vary from the general quality and nature of investments and investment techniques used by other separate accounts of the company or of an affiliated life insurance company with similar investment objectives. Voting instructions with respect to a change in an investment adviser may be disregarded only if the insurance company makes a good faith determination that: (1) the adviser's fee would exceed the maximum rate that may be charged against the separate account's assets; (2) the proposed adviser may be expected to employ investment techniques that vary from the general techniques used by the current adviser; or (3) the proposed adviser may be expected to manage the investment company's investments in a manner that would be inconsistent with its investment objectives or in a manner that would result in investments that vary from certain standards.

6. Rule 6e–2 recognizes that variable life insurance contracts have important elements unique to insurance contracts and are subject to extensive state regulation of insurance. Thus, Applicants assert that in adopting Rule 6e–2, the Commission expressly recognized that exemptions from pass-through voting requirements were necessary to assure the solvency of the life insurer and the performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer. Applicants argue that flexible premium variable life insurance contracts and variable annuity contracts are subject to substantially the same state insurance regulatory authority, and therefore, the corresponding provisions of Rule 6e–3(T) presumably were adopted in recognition of the same considerations as the Commission applied in adopting Rule 6e–2.

According to the Applicants, these considerations are no less important or necessary when an insurance company funds its separate accounts in connection with shared and mixed funding. Such funding does not compromise the goals of the insurance regulatory authorities or of the Commission. While the Commission may have wished to reserve wide latitude with respect to the once unfamiliar variable annuity product, that product is now familiar and there appears to be no reason for the maintenance of prohibitions against mixed and shared funding arrangements. Indeed, permitting such arrangements, eliminates needless duplication of start-up and administrative expenses and potentially increases an investment company's assets, thereby making effective portfolio management strategies easier to implement and promoting other economies of scale.

7. Applicants submit that the Funds' sale of shares to Qualified Plans will not have any impact on the relief requested. Shares of the Funds sold to such Plans would be held by the trustees of said Plans as mandated by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the plan with two exceptions: (1) when the plan expressly provides that the trustee(s) are subject to the direction of a named fiduciary who is not a trustee, in which case the trustees are subject to proper directions made in accordance with the terms of the plan and not contrary to ERISA, and (2) when the authority to manage, acquire or dispose of assets of the plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or the named fiduciary. In any event, there is no pass-through voting to the participants in such plans. Accordingly, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

8. Applicants assert that no increased conflicts of interest would be present if the Commission grants the requested exemptive relief. Shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several states. For example, when different Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. That possibility, however, is no different and no greater than exists when a single insurer and its affiliates offer their insurance products in several states, as currently is permitted.

9. Applicants argue that affiliations do not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions discussed below (which are adapted from the conditions included in Rule 6e–3(T)(b)(15)) are designed to safeguard against any adverse effects that differences among state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Funds. Similarly, affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company could disregard Contract owner voting instructions. The potential for disagreement is limited by the requirement that disregarding voting instructions be reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard Contract owner voting instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its separate account's investment in that fund and no charge or penalty will be imposed as a result of such withdrawal.

10. Applicants assert that there is no reason why the investment policies of a Fund with mixed funding would or should be materially different from what they would or should be if such investment company or series thereof funded only variable annuity or only variable life insurance contracts. Hence, there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, the Funds will not be managed to favor or disfavor any particular insurer or type of Contract.

11. According to the Applicants, on March 2, 1989, the Treasury Department issued Regulations (Treas. Reg. 1.817–5), which established diversification requirements for the investment portfolios underlying variable annuity and variable life contracts ("Regulations"). The Regulations provide that, in order to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. However, the Regulations also contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company to also be held by the separate accounts of insurance companies in connection with their variable annuity and variable life contracts (Treas. Reg. 1.817–5(f)(3)(iii)). The Applicants state that the promulgation of Rules 6e–2(b)(15) and 6e–3(T)(b)(15) preceded the issuance of the Treasury Regulations. Thus, the sale of shares of the same investment company to separate accounts and Qualified Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15), given the then-current tax law

12. According to the Applicants, Section 817(h) of the Internal Revenue Code of 1986 ("Code") is the only section in the Code where separate accounts are discussed. Section 817(h) imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, "qualified pension or retirement plans" and separate accounts to share the same underlying management investment company. Therefore, neither the Code, the Treasury Regulations nor Revenue Rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life separate accounts all invest in the same management investment company.

13. Applicants submit that while there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance contracts and Qualified Plans, the tax consequences do not raise any conflicts of interest. When distributions are to be made, and the separate account or the Qualified Plan cannot net purchase payments to make the distributions, the separate account or the Plan will redeem shares of the Fund at their net asset value. The Qualified Plan will then make distributions in accordance with the terms of the Plan. The life insurance company will surrender values from the separate account into the general account to make distributions in accordance with the terms of the variable contract.

14. Applicants state that the ability of the Funds to sell their respective shares directly to Qualified Plans does not create a "senior security," as such term is defined under Section 18(g) of the 1940 Act, with respect to any Contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of participants under the Qualified Plans, or Contract owners under Contracts, the Qualified Plans and the separate accounts have rights only with respect to their respective shares of the Fund. They can only redeem such shares at their net asset value. No shareholder of any of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

15. Applicants submit that there are no conflicts between the Contract owners of the separate accounts and the participants under the Qualified Plans with respect to the state insurance commissioners' veto powers (direct with respect to variable life and indirect with respect to variable annuities) over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree that there are any inherent conflicts of interest between shareholders. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies cannot simply redeem their separate accounts out of one fund and invest in another. Time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers. On the other hand, trustees of Qualified Plans can make the decision quickly and implement the redemption of their shares from a Fund and reinvest in another funding vehicle without the same regulatory impediments or, as is the case with most Plans, even hold cash pending suitable investment. Based on the foregoing, Applicants assert that even if there should arise issues where the interests of Contract owners and the interest of Qualified Plans are in conflict, the issues can be almost immediately resolved because the trustees of the Qualified Plans can, on their own, redeem the shares out of the Fund.

16. According to the Applicants, various factors have kept more insurance companies from offering variable annuity and variable life insurance contracts than currently do so. These factors include the costs of organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments) and the lack of public name recognition as investment experts. In particular, some smaller life insurance companies may not find it economically feasible, or within their investment or administrative expertise, to enter the Contract business on their own. The Applicants submit that use of the Funds as common investment media for Contracts would ameliorate these concerns.

17. Applicants assert the Participating Insurance Companies would benefit not only from the investment advisory and administrative expertise of Montgomery, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Therefore, making the Funds available for mixed and shared funding will encourage more insurance companies to offer Contracts. This should result in increased competition with respect to both Contract design and pricing, which can be expected to result in more product variation and lower charges. Applicants also assert that Contract owners would benefit because mixed and shared funding eliminates a significant portion of the costs of establishing and administering separate funds. Moreover, sale of the shares of

VOL
60
ISS
76
AP
20
1995
UMI

Funds to Qualified Plans should result in an increased amount of assets available for investment by such Funds. This, in turn, should inure to the benefit of Contract owners by promoting economies of scale, by permitting greater safety through greater diversification, and by making the addition of new portfolios to the Fund more feasible.

Applicants' Conditions

Applicants have consented to the following conditions if the requested order is granted.

1. A majority of the Trustees or Board of Directors (each, a "Board") of each Fund will consist of persons who are not "interested persons" thereof, as defined by Section 2(a)(19) of the Act and the Rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or director, then the operation of this condition shall be suspended (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Fund for the existence of any material irreconcilable conflict between the interests of the Contract owners of all separate accounts investing in the Fund. An irreconcilable material conflict may arise for a variety of reasons, including: (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Fund are being managed; (e) a difference in voting instructions given by variable annuity Contract owners and variable life insurance Contract owners; or (f) a decision by a Participating Insurance Company to disregard the voting instructions of Contract owners.

3. Participating Insurance Companies and Montgomery and its affiliated advisers will report any potential or existing conflicts to the Board of any relevant Fund. Participating Insurance Companies will be responsible for assisting the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This includes, but is not limited to, an obligation by a Participating Insurance Company to inform the Board whenever it has determined to disregard Contract owner voting instructions. The responsibility to report such information and conflicts and to assist the Boards will be contractual obligations of all Participating Insurance Companies under their agreements governing participation in the Funds, and these responsibilities will be carried out with a view only to the interests of Contract owners.

4. If it is determined by a majority of the Board of a Fund, or by a majority of its disinterested trustees or directors, that a material irreconcilable conflict exists, the relevant Participating Insurance Companies will, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested trustees or directors), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, which steps could include: (a) withdrawing the assets allocable to some or all of the accounts from the Fund or any series and reinvesting such assets in a different investment medium, which may include another series of a Fund or another Fund, or submitting the question of whether such segregation should be implemented to a vote of all affected Contract owners and, as appropriate, segregating the assets of any appropriate group (i.e., variable annuity Contract owners or variable life insurance Contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation, or offering to the affected Contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision is to disregard Contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Fund, to withdraw its account's investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility of taking remedial action in the event of a Board determination of an irreconcilable material conflict and bearing the cost of such remedial action will be a contractual obligation of all Participating Insurance Companies under their agreements governing participating in the Funds and these responsibilities will be carried out with a view only to the interests of Contract owners.

For purposes of this condition 4, a majority of the disinterested members of the applicable Board will determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund be required to establish a new funding medium for any Contract. No Participating Insurance Company shall be required by this condition 4 to establish a new funding medium for any Contract if an offer to do so has been declined by vote of a majority of Contract owners materially and adversely affected by the irreconcilable material conflict.

5. Any Board's determination of the existence of an irreconcilable material conflict and its implications will be made known promptly and in writing to all Participating Insurance Companies.

6. Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the Commission interprets the 1940 Act to require pass-through voting privileges for variable contract owners. Accordingly, the Participating Insurance Companies will vote shares of the Funds held in their accounts in a manner consistent with voting instructions timely received from Contract owners. Participating Insurance Companies will be responsible for assuring that each of their accounts participating in a Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other accounts investing in the Fund will be a contractual obligation of all Participating Insurance Companies under the agreements governing participation in the Fund. Each Participating Insurance Company will vote shares for which it has not received voting instructions as well as shares attributable to it in the same proportion as it votes shares for which it has received instructions.

7. All reports of potential or existing conflicts received by a Board, and all Board action with regard to determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

8. Each Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund will disclose in its prospectus that: (a) Shares of the Fund are offered to insurance company separate accounts to fund both variable annuity and variable life insurance contracts and to Qualified Plans, (b) due to differences of tax treatment and other considerations, the interests of various Contract owners participating in the Funds and the interests of Qualified Plans investing in the funds may conflict, and (c) the Board of such fund will monitor for the existence of any material conflicts and determine what action, if any, should be taken.

9. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which for these purposes, shall be the persons having voting interests in the shares of the Funds), and, in particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act, as well as Section 16(a), and if applicable, Section 16(b) of the 1940 Act. Further each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

10. If and to the extent that Rules 6e–2 and 6e–3(T) are amended (or if Rule 6e–3 under the 1940 Act is adopted) to provide exemptive relief from any provisions of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested by the Applicants, then the Funds and the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T) as amended, and Rule 6e–3, as adopted, to the extent applicable.

11. No less than annually, the Participating Insurance Companies, and/or Montgomery and/or its affiliated advisors shall submit to each Board such reports, materials or data as such Board may reasonably request so that the Board may carry out fully the obligations imposed upon it by the conditions contained in the application. Such reports, materials and data shall be submitted more frequently if deemed appropriate by the applicable Board. The obligations of Participating Insurance Companies to provide these reports, materials and data shall be a contractual obligation of all Participating Insurance Companies under the agreements governing their participation in the Funds.

12. In the event that a Qualified Plan should ever become an owner of 10% or more of the assets of a Fund, such Qualified Plan will execute a fund participation agreement with such Fund. A Qualified Plan shareholder will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of the Fund.

Conclusion

For the reasons and upon the facts stated above, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9841 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–21006; 812–9404]

Nike Securities L.P., et al.; Notice of Application

April 14, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Nike Securities L.P. (the "Sponsor") and The First Trust of Insured Municipal Bonds, The First Trust GNMA, The First Trust of Insured Municipal Bonds—Multi-State, The First Trust Advantage Fund, The First Trust Special Situations Trust, The First Trust Combined Series (the "Trusts"), and their respective series.

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2) of the Act and rule 22c–1 thereunder, and pursuant to section 11(a) for an exemption from section 11(c).

SUMMARY OF APPLICATION: Applicants seek to impose sales charges on a deferred basis, waive the deferred sales charge in certain cases, and exchange Trust units having front-end and deferred sales charges.

FILING DATE: The application was filed on December 30, 1994, and was amended on March 29, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 9, 1995 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's request, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o Nike Securities L.P., 1001 Warrenville Road, suite 3000, Lisle, Illinois 60532.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Trusts is a unit investment trust sponsored by the Sponsor. Each of the Trusts consists of one or more separate series ("Series"). Applicants request that the relief sought herein apply to any future Trusts sponsored by the Sponsor, and any future Series of the Trusts.

2. Each Series is created by a trust indenture among the Sponsor, a banking institution or trust company as trustee, and an evaluator. The Sponsor acquires a portfolio of securities which it deposits with the trustee in exchange for certificates representing units of fractional undivided interest in the deposited portfolio ("Units"). The Units are then offered to the public through the Sponsor, underwriters, and dealers at a public offering price which, during the initial offering period, is based upon the aggregate offering side evaluation of the underlying securities plus a front-end sales charge. The sales charge currently ranges from 1.85% to 5.50% of the public offering price, generally depending on the terms of the underlying securities. The Sponsor may reduce the sales charge under certain circumstances, which will be disclosed in the prospectus. Any such reduction

VOL 60 ISS 76 AP 20 1995 UMI

will be made in accordance with rule 22d–1.

3. Applicants seeks an order under section 6(c) exempting them from sections 2(a)(32), 2(a)(35), 22(d), 26(a)(2) of the Act and rule 22c–1 thereunder, to the extent necessary to permit them to impose a deferred sales charge ("DSC") on Units, and reduce or waive the DSC under certain circumstances. Under applicants' proposal, the Sponsor will determine the maximum amount of the sales charge per Unit. The Sponsor will have the discretion to defer the collection of all or part of such sales charge over a period (the "Collection Period") subsequent to the settlement date for the purchase of Units. The Sponsor will in no event add to the deferred amount of the sales charge any additional amount for interest or any similar or related charge to reflect or adjust for such deferral.

4. The Sponsor anticipates collecting a portion of the total sales charge immediately upon purchase of Trust Units. The balance of the sales charge will be collected in installments over the Collection Period for the particular Trust Series. To the extent that distribution income is sufficient to pay a DSC installment, such deductions will be collected from distributions on a holder's Units ("Distribution Deductions"). If distribution income is insufficient to pay a DSC installment, the trustee, pursuant to the powers granted in the trust indenture, will have the ability to sell portfolio securities in an amount necessary to provide the requisite payments. If a Unitholder redeems or sells to the Sponsor his or her Units before the total sales charge has been collected from installment payments, the balance of the sales charge may be collected as a DSC at the time of redemption or sale. The Sponsor does not presently intend to deduct the remainder of any DSC from sale or redemption proceeds.

5. For purposes of calculating the amount of the DSC due upon redemption or sale of Units, it will be assumed that Units on which the sales charge has been paid in full are liquidated first. Any Units liquidated over and above such amounts will be subject to the DSC, which will be applied on the assumption that Units held for the longest time are redeemed first.

6. The Sponsor may adopt a procedure of waiving the DSC in connection with redemptions or sales of Units under certain circumstances. Any such waiver will be disclosed in the prospectus for each Series subject to the waiver, and will be implemented in accordance with rule 22d–1.

7. The Sponsor believes that the operation and implementation of the DSC program will be adequately disclosed and explained to potential investors as well as Unitholders. The prospectus for each Trust will describe the operation of the DSC, including the amount and date of each Distribution Deduction and the duration of the Collection Period. The prospectus will also contain disclosure pertaining to the Trustee's ability to sell Trust securities in the event that income generated by the Trust portfolio is partially or wholly insufficient to pay for DSC expenses. The securities confirmation statement for each Unitholder's purchase transaction will state both the front-end sales charge imposed, if any, and the amount of the DSC to be deducted in regular installments. In addition, each annual report will provide Unitholders with information as to the amount of annual DSC payments made by the Trust during the previous fiscal year on both a Series and per Unit basis.

8. Applicants also seeks an order under section 11(a) exempting them from section 11(c) to the extent necessary to permit an exchange option ("Exchange Option"). The Exchange Option will extend to all exchanges of Units, regardless of whether such Units are subject to a front-end sales charge or a DSC. An investor who purchases Units under the Exchange Option will pay a lower aggregate sales charge than that which would be paid by a new investor. While Units of an applicable Series are normally sold on the secondary market with maximum sales charges ranging from 1.85% to 5.80% of the public offering price, the sales charge on Units acquired pursuant to the Exchange Option will generally be reduced to a flat fee of $20 per Unit ($20 per 100 Units in the case of a Series whose Units initially cost approximately $10 per Unit, or $20 per 1,000 Units in the case of a Series whose Units initially cost approximately $1.00 per Unit). An adjustment will be made if Units of any Series are exchanged within five months of their acquisition for Units of a Series with a higher sales charge, or if Units that impose Distribution Deductions are exchanged for Units of a Series that imposes a front-end sales charge at any time before the Distribution Deductions have at least equaled the per Unit sales charge then applicable. In such cases, the exchange fee will be the greater of $20 per Unit (or its equivalent, depending on the cost of Units in a particular Series) or an amount which, together with the sales charge already paid on the Units being exchanged, equals the normal sales charge on the acquired Units.

9. Under the Exchange Option, if DSC Units are exchanged for DSC Units of another Series, the reduced sales charge will be collected in connection with such an exchange. The Distribution Deductions will continue to be taken from the investment income generated by the newly acquired Units, or proceeds from the sale of Trust portfolio securities, as the case may be, until the original balance of the sales charge owed on the initial investment has been collected. The DSC will not be collected at the time of exchange, except in the case of any exchange to a Series not having a DSC.

Applicants' Legal Analysis

1. Under section 6(c), the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 2(a)(32) defines a "redeemable security" as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent of those assets. Because the imposition of a DSC may cause a redeeming Unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from section 2(a)(32) so that Units subject to a DSC are considered redeemable securities for purposes of the Act.[1]

3. Section 2(a)(35) defines the term "sales load" to be the difference between the sales price and the proceeds to the issuer, less any expenses not properly chargeable to sales or promotional expenses. Because a DSC is not charged at the time of purchase, an exemption from section 2(a)(35) is necessary.

4. Rule 22c–1, promulgated pursuant to the Commission's authority under section 22(c), requires that the price of a redeemable security issued by an investment company for purposes of sale, redemption, and repurchase be based on the security's current net asset value. Because the imposition of a DSC may cause a redeeming Unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from this rule.

5. Section 22(d) requires an investment company and its principal underwriter and dealer to sell securities only at a current public offering price described in the investment company's prospectus. Because sales charges traditionally have been a component of the public offering price, section 22(d) historically required that all investors be charged the same load. Rule 22d–1 was adopted to permit the sale of redeemable securities at prices which reflect scheduled variations in, or elimination of, the sales load. Because rule 22d–1 does not extend to scheduled variations in DSCs, applicants seek relief from section 22(d) to permit them to waive or reduce their DSC in certain instances.

6. Section 26(a)(2), in relevant part, prohibits a trustee or custodian of a unit investment trust from collecting from the Trust as an expense any payment to a depositor or principal underwriter thereof. Because of this prohibition, applicants need an exemption to permit the trustee to collect the DSC installments from Distribution Deductions or Trust assets.

7. Applicants believe that implementation of the DSC program in the manner described above would be fair and in the best interests of the Unitholders of the Trusts. Thus, granting the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Section 11(c) prohibits any offers of exchange of the securities of a registered unit investment trust for the securities of any other investment company, unless the terms of the offer have been approved by the SEC. Applicants' assert that the reduced sales charge imposed at the time of exchange is a reasonable and justifiable expense to be allocated for the professional assistance and operational expenses incurred in connection with the Exchange Option.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Whenever the Exchange Option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given important notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Option, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Trust under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) a Trust temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

2. An investor who purchases Units under the Exchange Option will pay a lower aggregate sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Trust offering exchanges and any sales literature or advertising that mentions the existence of the Exchange Option will disclose that the Exchange Option is subject to modification, termination, or suspension, without notice except in certain limited cases.

4. Each Series offering Units subject to a DSC will include in its prospectus the table required by item 2 of Form N–1A (modified as appropriate to reflect the differences between unit investment trusts and open-end management investment companies) and a schedule setting forth the number and date of each installment payment.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9724 Filed 4–19–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Without an exemption, a Trust selling Units subject to a deferred sales charge could not meet the definition of a unit investment trust under section 4(2) of the Act. Section 4(2) defines a unit investment trust as an investment company that issues only "redeemable securities."

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–031]

Application for Recertification of Cook Inlet Regional Citizens' Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability; request for comments.

SUMMARY: The Coast Guard announces the availability of the application for recertification submitted by the Cook Inlet Regional Citizens' Advisory Council (CIRCAC) for June 1, 1995 through May 31, 1996. The application may be reviewed at the Cook Inlet Regional Citizens' Advisory Council's Office, 910 Highland Avenue, Kenai, Alaska 99611–8033, between the hours of 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (907) 283–7222. The Coast Guard seeks comments on the application from interested groups. The Coast Guard will publish a later notice in the Federal Register to notify the public of its decision regarding the recertification request.

DATES: Comments must be received on or before June 5, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–031), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between the hours of 8 a.m. to 3 p.m., Monday through Friday, except Federal holidays. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

FOR FURTHER INFORMATION CONTACT: Mrs. Janice Jackson, Marine Environmental Protection Division, (202) 267–0500.

SUPPLEMENTARY INFORMATION: Under the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990 (33 U.S.C. 2732) (the Act), the Coast Guard may certify, on an annual basis, an alternative voluntary advisory group (advisory group) in lieu of Regional Citizens' Advisory Councils for Cook Inlet and Prince William Sound Alaska. The Coast Guard published guidelines on December 31, 1992, to assist groups seeking recertification under the Act (57 FR 62600). The Coast Guard issued a policy statement on July 7, 1993 (58 FR 36505), to clarify the factors that the Coast Guard would be considering in making its determination as to whether advisory groups should be certified in accordance with the Act; and the procedures which the Coast Guard would follow in meeting its certification responsibilities under the Act.

The Coast Guard has received an application for recertification of CIRCAC, the currently certified advisory group for the Cook Inlet region. In

VOL 60 ISS 76 AP 20 1995 UMI

accordance with the review and certification process contained in the policy statement, the Coast Guard announces the availability of that application. It solicits comments from interested groups including oil terminal facility owners and operators, owners and operators of crude oil tankers calling at the terminal facilities, and fishing, aquacultural, recreational and environmental citizens groups, concerning the recertification application of CIRCAC. At the conclusion of the comment period, the Coast Guard will review all application materials and comments received and will take one of the following actions:

(a) Recertify the advisory group under 33 U.S.C. 2732(o).

(b) Issue a conditional recertification for a period of 90 days, with a statement of any discrepancies which must be corrected to qualify for recertification for the remainder of the year.

(c) Deny recertification of the advisory group if the Coast Guard finds that the group is not broadly representative of the interests and communities in the area or is not adequately fostering the goals and purposes of the Act.

The Coast Guard will notify CIRCAC by letter of the action taken on its application. A notice will be published in the **Federal Register** to advise the public of the Coast Guard's determination.

Dated: April 13, 1995.

G.N. Naccara,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95-9711 Filed 4-19-95; 8:45 am]

BILLING CODE 4910-14-P

[CGD 95-032]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Notice of PREP area exercise schedule for 1996, 1997 and 1998, annual workshop, and availability of the PREP guidelines and training elements.

SUMMARY: The Coast Guard, the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA) and the Minerals Management Service (MMS), in concert with the States, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the proposed schedule of the Area Exercises for 1996, 1997 and 1998 and solicits industry members to lead Area Exercises for 1996. It also announces the annual public workshop to discuss the PREP guidelines and the overall PREP program which will be held on June 14, 1995, in Alexandria, VA, and the availability of the PREP Guidelines and Training Elements.

DATES: Industry members interested in leading an Industry-led Area Exercise or participating in a Government-led Area Exercise should submit their requests directly to the Coast Guard or EPA On-Scene Coordinator (OSC) as soon as possible, but no later than May 15, 1995. Industry representatives should indicate the date and location of the exercise in which they are interested in participating or leading. Once the OSC has chosen an industry plan holder for an Industry-led Area Exercise or as participant for the Government-led Exercise, the OSC will contact the National Scheduling Coordinating Committee (NSCC) at the address listed below.

The annual PREP Scheduling Workshop is scheduled for June 14, 1995, from 9:00 am to 5:00 pm at the Best Western Old Colony Inn, in Alexandria, VA. Comments regarding the schedule or scheduling process should be submitted to the NSCC no later than May 15, 1995 at **ADDRESSES** below.

ADDRESSES: Written comments should be mailed to Commandant (G-MEP-4), Room 2100, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC, 20593-0001. ATTN: Ms. Karen Sahatjian.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Sahatjian, Office of Marine Safety, Security and Environmental Protection, Marine Environmental Protection Division, (G-MEP-4), (202) 267-0746. PREP Guidelines and Training Elements, previously available through Coast Guard Headquarters, are now available from the Government Printing Office, (202) 512-1800. Stock numbers and cost for each manual are: PREP GUIDELINES—050-012-00365-3 COST: $3.75; TRAINING REFERENCE—050-012-00364-5 COST: $8.50. PREP information is now available via the Coast Guard Navigation Information Service (NIS) Electronic Bulletin Board System (BBS). Most major modem communications software, including those packaged with operating systems can access the BBS. If using the communications software, call (703) 313-5910. First time users will need to answer some preliminary questions to establish an account. There is no charge for the use of the BBS. Once an account has been established, the user will be allowed to log on. Once logged on, the user should select option (1) to access the PREP specific menu.

SUPPLEMENTARY INFORMATION:

Background Information

The Coast Guard, EPA, RSPA and MMS developed the National Preparedness for Response Exercise Program (PREP) to provide guidelines for compliance with the Oil Pollution Act of 1990 pollution response exercise requirements (33 U.S.C. 1321(j)). One section of the PREP focuses on Area Exercises, which are designed to evaluate the entire response mechanism in a given area to ensure adequate pollution response preparedness. The goal of the PREP is to conduct approximately 20 Area Exercises per year, with the intent of exercising most areas of the country over a three year period. This notice sets forth the proposed exercise schedule for calendar years 1996, 1997 and 1998.

Scheduling Workshop

The annual PREP scheduling workshop will be conducted by the NSCC, which is comprised of representatives of the Coast Guard, EPA, RSPA and MMS. The workshop will focus primarily on the upcoming year's Area Exercise schedule, but will also address issues related to the following two years of the triennial schedule. Industry representation is strongly encouraged at these workshops, because this is an opportunity for industry plan holders to comment on the schedule and on the PREP program in general and address issues which may affect them and their operations. Additionally, it provides an opportunity for past industry participants to discuss their Area Exercises during the last year and an open discussion of changes that need to be made to the PREP guidelines.

This workshop is also an opportunity for the plan holders to comment on priorities for each exercise, particularly in instances where more than one plan holder expresses an interest in leading or participating in the same exercise. At the workshop, the NSCC would like to explore the idea of encouraging and incorporating "industry mentorship," where a large company and a smaller company would participate in a PREP exercise as partners. Although such partnerships need not be limited to the Area Exercises, the NSCC is particularly interested in involving more than one company in an Area Exercise. In considering the idea of joint participation in Area Exercises, the following questions and issues will be considered: What are the benefits and drawbacks to participation by more than one company? What suggestions and concerns do industry members have regarding the "industry mentorship" idea? What should be done to ensure successful implementation of such a plan? Has industry engaged in joint participation among companies in their own exercises?

Finally, the NSCC invites industry representatives to express concerns, or comment, on the PREP internal exercises (Qualified Individual Notification, Equipment Deployment and Spill Management Table Top Exercises).

During the workshop, the NSCC will highlight the changes in the final PREP Guidelines which was printed in August 1994 and discuss the accomplishments of the program since the last workshop.

The workshop will be the forum for discussion and final selection of the plan holders to lead the Area Exercises in calendar year 1996. Input from the workshop will be used for finalizing the upcoming year's schedule and proposing the schedule for the following two years.

Proposed Schedule

The following is the proposed PREP Schedule for calendar years 1996, 1997 and 1998. All of the comments received will be considered by the NSCC and the appropriate OSC. Where no industry plan holders have come forward to either participate or lead an exercise, the OSCs will solicit and recommend plan holders. Companies that wish to participate should contact the USCG or EPA OSC, who will then forward the name to the NSCC at the address listed under **ADDRESSES**. The Coast Guard will continue to publish a final schedule in the **Federal Register** annually in the fall.

PREP SCHEDULE—GOVERNMENT LED AREA EXERCISES, 1996

Area	Agency	Date/qtr*	Participant
Charleston, SC Area (MSO Charleston OSC)	CG	2/15-16	
Puget Sound Area (MSO Puget Sound OSC)	CG	4/18-19	
Buffalo, NY Area (MSO Buffalo OSC)	CG	6/13-14	
EPA Region VIII Area (EPA OSC)	EPA	8/8-9	
Philadelphia Coastal Area (MSO Philadelphia OSC)	CG	9/26-27	Christiana.
South Florida Area (MSO Miami OSC)	CG	12/12-13	
1997			
Providence, RI Area (MSO Providence OSC)	CG	1	
Jacksonsville Area (MSO Jacksonville OSC)	CG	1	
Southeast Alaska Area (MSO Juneau OSC)	CG	2	
Detroit Area (MSO Detroit OSC)	CG w/RSPA	3	
EPA Oceania Region (EPA OSC)	EPA	3	
New Orleans Area (MSO New Orleans OSC)	CG w/MMS	4	
1998			
Guam Area (MSO Guam OSC)	CG	1	
San Diego, CA Area (MSO San Diego OSC)	CG	2	
Savannah Area (MSO Savannah OSC)	CG	2	
EPA Region VII Area (EPA OSC)	EPA	3	
Long Island Sound, NY Area (COTP Long Island Sound OSC)	CG	3	
Morgan City Area (MSO Morgan City)	CG	4	

PREP SCHEDULE—INDUSTRY LED AREA EXERCISES 1996

Area	Ind**	Date/qtr*	Lead
Prince William Sound Area (MSO Valdez OSC)	f (mtr)	1	
Virginia Coastal Area (MSO Hampton Roads OSC)	v	1	
Portland, OR Area (MSO Portland OSC)	f (mtr)	2	
Western Lake Erie Area (MSO Toledo OSC)	f (mtr)	2	
EPA Region VI Area (EPA OSC)	p	2	
Central Coast Area (MSO San Francisco OSC)	v	2	
Western Alaska Area (MSO Anchorage OSC)	p	3	
Boston Area (MSO Boston OSC)	f	3	
EPA Region IX Area (EPA OSC)	f (nonmtr)	3	
Maine & New Hampshire Area (MSO Portland OSC)	v	3	
Santa Barbara/Ventura Area (MSO Los Angeles/Long Beach OSC)	v	4	
EPA Region II Area (EPA Caribbean OSC)	f (nonmtr)	4	
1997			
North Coast Area (MSO San Francisco OSC)	v	1	
Northeast North Carolina Coastal Area (MSO Hampton Roads OSC)	v	1	
Commonwealth of N. Marianas Islands Area (MSO Guam OSC)	v	1	Mobil Corp.
Caribbean Area (MSO San Juan OSC)	f (mtr)	2	
Florida Panhandle Area (MSO Mobile OSC)	v	2	Kirby Corp.
Eastern Wisconsin Area (MSO Milwaukee OSC)	f (mtr)	2	
Chicago Area (MSO Chicago OSC)	f (mtr)	2	
EPA Alaska Region (EPA OSC)	p	3	
Houston/Galveston Area (MSO Houston OSC)	v	3	Aramco Services Co.
New York, NY Area (COTP New York OSC)	v	3	OMI Corp.
Hawaii/American Samoa Area (MSO Honolulu OSC)	v	4	
EPA Region IV Area (EPA OSC)	p	4	
Duluth-Superior Area (MSO Duluth OSC)	v	3	

VOL 60 ISS 76 APR 20 1995 UMI

PREP SCHEDULE—INDUSTRY LED AREA EXERCISES 1996—Continued

Area	Ind**	Datalgn*	Lead
	1996		
Southern Coastal NC Area (MSO Wilmington)	v	1	
San Francisco Bay & Delta Region Area (MSO San Francisco OSC)	f (mtr)	1	
Cleveland, OH Area (MSO Cleveland OSC)	v	1	
EPA Region V Area (EPA OSC)	f (nonmtr)	1	
EPA Region III Area (EPA OSC)	p	2	
Sault Ste. Marie, MI Area (COTP Sault Ste. Marie OSC)	f (mtr)	2	
South Texas Coastal Zone Area (MSO Corpus Christie OSC)	v	2	
Maryland Coastal Area (MSO Baltimore OSC)	v	3	
SW Louisiana/SE Texas Area (MSO Port Arthur OSC)	v	3	
EPA Region X Area (EPA OSC)	f (nonmtr)	3	
Tampa, FL Area (MSO Tampa OSC)	v	3	
EPA Region I Area (EPA OSC)	p	4	
Los Angeles/Long Beach Area (MSO LA/LB OSC)	v	4	
EPA Region II (EPA OSC)	f (nonmtr)	4	

*Quarters: 1 (January–March); 2 (April–June); 3 (July–September); 4 (October–December).
**Industry: v-vessel; f(mtr)-marine transportation-related facility; f(nonmtr)-nonmarine transportation-related facility; p-pipeline.

Dated: April 14, 1995.

G.N. Naccara,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95-9712 Filed 4-19-95; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Airspace Docket No. 95-AWP-7NM]

Proposed Military Operations Area (MOA) for Naval Surface Warfare Center, Port Hueneme, CA; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces an informal airspace meeting to solicit information from airspace users and others concerning a proposal by the Department of the Navy to establish Special Use Airspace (SUA) MOA in the vicinity of Port Hueneme, CA, to provide a safe environment for the required flight scenarios conducted by this facility. The purpose of this meeting is to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal, and provide interested persons an opportunity to discuss the proposal. All comments received from this meeting will be considered.

TIME AND DATE: The public meeting will be held from 7 p.m. to 10 p.m., on Thursday, June 1, 1995, in Port Hueneme, CA. Comments must be received on or before July 17, 1995.

PLACE: City of Port Hueneme City Hall (Council Chambers), 250 N. Ventura Road, Port Hueneme, CA.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP-530, Docket No. 95-AWP-7NR, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

FOR FURTHER INFORMATION CONTACT: Scott Speer, System Management Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297-0010.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) This meeting will be informal in nature and will be conducted by representatives of the FAA Western-Pacific Region. Representatives from the NAVY will present a formal briefing on the proposed Port Hueneme MOA design. All other participants will be given an opportunity to make a presentation, although a time limit may be imposed.

(b) This meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any persons wishing to make a presentation to the FAA team will be asked to sign in and estimate the amount of time needed for such a presentation. This will permit the team to allocate an appropriate amount of time to each presenter. The team may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the team. The meeting may be adjourned prior to 10 p.m., if no additional comments are presented.

(d) Any person who wishes to present a position paper to the team pertinent to the topic of the Port Hueneme MOA for consideration may do so.

(e) Persons wishing to hand out pertinent positions papers to the attendees should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(f) The meeting will not be formally recorded, however, informal tape recordings of presentations may be made to ensure that each respondent's comments are noted accurately. A summary of the comments at the meeting will be made available to all interested parties.

Materials relating to the proposed Port Hueneme MOA will be accepted at the meeting. Every reasonable effort will be made to hear requests for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team until July 17, 1995.

Agenda for Meeting

—Opening Remarks and Discussion of Meeting Procedures

—Briefing on Background for Proposed Port Hueneme MOA

—Public Presentations

—Closing Comments.

Issued in Los Angeles, CA, on April 6, 1995.

Dennis T. Koehler,

Acting Manager, Air Traffic Division, Western-Pacific Region

[FR Doc. 95-9644 Filed 4-19-95; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 14, 1995.

The Department of The Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545-0044.

Form Number: IRS Form 973.

Type of Review: Extension.

Title: Corporation Claim for Deduction for Consent Dividends.

Description: Corporations file Form 973 to claim a deduction for dividends paid. If shareholders consent and IRS approves, the corporation may claim a deduction for dividends paid, which reduces the corporation's tax liability. IRS uses Form 973 to determine if shareholders have included the dividend in gross income.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—4 hr., 4 min.

Learning about the law or the form—24 min.

Preparing and sending the form to the IRS—29 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 2,475 hours

Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95-9779 Filed 4-19-95; 8:45 am]

BILLING CODE 4830-01-P

Public Information Collection Requirements Submitted to OMB for Review

April 12, 1995.

The Department of The Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Special Request

In order to conduct the customer satisfaction survey described below in the early-May timeframe, the Department of Treasury is requesting Office of Management and Budget (OMB) review and approval of this information collection by April 25, 1995. To obtain a copy of this survey, please write to the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545-1349.

Form Number: None.

Type of Review: Revision.

Title: 1995 TAXLINK Customer Satisfaction Survey.

Description: The Small Business Affairs Office and the Submission Processing Division of the Internal Revenue Service are interested in collecting customer satisfaction data from taxpayers currently enrolled in TAXLINK or the electronic federal deposit system. Additionally, the North American Free Trade Agreement (NAFTA) included a requirement that the U.S. government collect a certain percentage of depository taxes electronically. Regulations mandating usage of Electronic Funds Transfer (EFT) were issued on July 1, 1994. This survey is scheduled for early May to allow for a full quarter of federal tax deposits to be made electronically.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Respondent:

Survey Notification Letter—2 minutes.

Interviews—10 minutes.

Survey—10 minutes.

Frequency of Response: Other.

Estimated Total Reporting Burden: 634 hours.

Clearance Officer: Garrick Shear, (202) 622-3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer

[FR Doc. 95-9778 Filed 4-19-95; 8:45 am]

BILLING CODE 4830-01-P

Public Information Collection Requirements Submitted to OMB for Review

April 12, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545-0026.

Form Number: IRS Form 926.

Type of Review: Extension.

Title: Return by a U.S. Transfer of Property to a Foreign Corporation, Foreign Estate, or Trust or Foreign Partnership.

Description: U.S. persons file Form 926 to report the transfer of property to a foreign entity and to report information required by section 6038B. The IRS uses Form 926 to determine if the excise tax is properly computed and if any of the exceptions from the excise tax apply.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—7 hr., 25 min.

Learning about the law or the form—2 hr., 59 min.

Preparing and sending the form to the IRS—3 hr., 14 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 13,620 hours.

OMB Number: 1545-0159.

VOL 60 ISS 76 APR 20 1995 UMI

Form Number: IRS Form 3520.
Type of Review: Extension.
Title: Creation of or Transfers to Certain Foreign Trusts.
Description: Form 3520 is filed by U.S. persons who create a foreign trust or transfer property to a foreign trust. IRS uses Form 3520 to establish the identity of the U.S. person and to determine if the transfer is subject to the excise tax.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeepers:
Recordkeeping—5 hr., 44 min.
Learning about the law or the form—35 min.
Preparing and sending the form to the IRS—43 min.
Frequency of Response: On occasion.
Estimated Total Reporting/Reporting Burden: 3,525 hours.
OMB Number: 1545–0196.
Form Number: IRS Form 5227.
Type of Review: Revision.
Title: Split-Interest Trust Information Return.
Description: The data reported is used to verify that the beneficiaries of a charitable remainder trust include the correct amounts in their tax returns, and that the split-interest trust is not subject to private foundation tax.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 53,303.
Estimated Burden Hours Per Respondent/Recordkeepers:
Recordkeeping—46 hr., 38 min.
Learning about the law or the form—3 hr., 30 min.
Preparing the form—10 hr., 0 min.
Copying, assembling, and sending the form to the IRS—1 hr., 37 min.
Frequency of Response: Annually.
Estimated Total Reporting/Reporting Burden: 3,290,927 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 95–9777 Filed 4–19–95; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. These summaries are published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehnsen, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulations or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above. As of January 1, 1995, General Counsel precedent opinions are cited as *VAPOGCPREC XX–XX* (Number and Year), *e.g., VAOPGCPREC 1–95.*

O.G.C. Precedent 23–94

Question Presented

You have indicated you wish to instruct VA Regional Offices to adjudicate those pending 1151 claims which can be allowed on the basis of the U.S. Supreme Court's precedential decision in *Brown* v. *Gardner*, No. 93–1128 (S. Ct., Dec. 12, 1994), and seek advice as to the proper criteria for so doing.

Held

Pending an opinion from the U.S. Attorney General on the meaning of a footnote in the U.S. Supreme Court's opinion in *Brown* v. *Gardner*, U.S. Sup. Ct. No. 93–1128 (Dec. 12, 1994), VA may, based on the Supreme Court's opinion, allow claims for benefits under 38 U.S.C. 1151 if: (1) an injury resulting from VA treatment caused additional disability or death and the injury is not a risk of which the veteran was informed before consent to undergo the treatment, or (2) indicated fault on the part of VA care-providers or the occurrence of an accident resulted in additional disability or death. No claim for benefits under 38 U.S.C. 1151 should be denied because no fault on the part of VA care-providers or the occurrence of an accident was shown.

Effective date: December 27, 1994.

VAOPGCPREC 1–95

Question Presented

a. Is the Department of Veterans Affairs Adjudication Procedure Manual M21–1, part IV, ¶ 20.46b., inconsistent with applicable law and regulation insofar as the manual directs that a surviving spouse's improved-pension award shall reflect the dependency of a child who is not in the surviving spouse's custody, but who receives a protected apportionment of the surviving spouse's pension under section 306 of Public Law No. 95–588?

b. If the manual provision is consistent with the law and regulations, must it be applied uniformaly regardless of whether it is to the surviving spouse's advantage?

Held

a. The provision in VA Adjudication Procedure Manual M21–1, part IV, ¶ 20.46b., requiring payment of increased improved-pension to a surviving spouse when a veteran's child not in the spouse's custody receives a protected apportionment, is inconsistent with the provision of 38 U.S.C. 1541 (b) and (c) which authorize payment of the increased rate only when the veteran's child is in the surviving spouse's custody.

b. In view of the holding in paragraph a., above, the second question presented is moot.

Effective date: January 4, 1995.

VAOPGCPREC 2–95

Question Presented

Do the provisions of 38 U.S.C. § 5503(b)(1)(A) requiring withholding of compensation and pension payments to certain incompetent veterans apply in the case of a veteran who is being provided hospital care in a non-government facility outside the United States, with the cost of such care being paid by the Department of Veterans Affairs (VA)?

Held

The provisions of 38 U.S.C. 5503(b)(1)(A), which require withholding of compensation and pension payments to certain institutionalized, incompetent veterans whose estates equal or exceed $1,500, are applicable to veterans hospitalized in any hospital, including a private facility outside the United States, when care is provided at the expense of the United States.

Effective date: January 25, 1995.

VAOPGCPREC 3–95

Question Presented

What is the effect on entitlement to Department of Veterans Affairs (VA) dependency and indemnity compensation (DIC) during a period of remarriage, where a remarried spouse obtains an annulment which, under state law, renders the remarriage void ab initio?

Held

• For purposes of entitlement to dependency and indemnity compensation, a voidable marriage may be considered to have been valid until the date on which it was declared void by judicial action, even though under state law the annulment renders the marriage void ab initio. Thus, although entitlement to dependency and indemnity compensation may be restored upon annulment of the remarriage of the surviving spouse of a veteran, the annulment does not give rise to entitlement for the period of the remarriage.

Effective date: February 1, 1995.

VAOPGCPREC 4–95

Question Presented

Has a veteran, who has been notified that he or she has met the basic eligibility requirements for a specially adapted housing grant because he or she has a permanent and total service-connected disability due to one of the conditions enumerated in 38 U.S.C. 2101 and that it is medically feasible for the veteran to reside in the proposed housing unit, been "granted assistance" for purposes of Veterans' Mortgage Life Insurance under 38 U.S.C. 2106(a)?

Held

A determination of whether a veteran, who has been notified that he or she has met the basic eligibility requirements for a specially adapted housing grant because he or she has a permanent and total service-connected disability based upon one of the conditions enumerated in 38 U.S.C. 2101 and that it is medically feasible for the veteran to reside in the proposed housing unit, has been "granted assistance" for purposes of Veterans' Mortgage Life Insurance (VMLI) under 38 U.S.C. 2106(a) depends upon whether a specially adapted housing grant for the veteran was approved by the Department of Veterans Affairs, which is a factual matter requiring adjudication by the Veterans Benefits Administration based upon applicable statutory provisions and regulations and the evidence of record.

Effective date: February 6, 1995.

VAOPGCPREC 5–95

Question Presented

Do the provisions of 38 U.S.C. 110 and 38 C.F.R. 3.951, as interpreted by the Court of Veterans Appeals (CVA) in *Salgado* v. *Brown*, 4 Vet. App. 316 (1993), protect a disability rating established over twenty years ago, where compensation was discontinued upon the veteran's reentry into active service shortly after the rating was established and was not reinstated upon the veteran's discharge from service?

Held

Under 38 U.S.C. 110, a disability which has been continuously rated at or above a particular evaluation for twenty or more years for compensation purposes cannot thereafter be rated at less than that evaluation, in the absence of fraud. The protection provided by this statute, however, is dependent upon the disability being "continuously rated" at or above the level in question. Where compensation is discontinued following reentry into active service in accordance with the statutory prohibition on payment of compensation for a period in which an individual receives active-service pay, the continuity of the rating is interrupted for purposes of the rating-protection provisions of 38 U.S.C. 110 and the disability cannot be considered to have been continuously rated during the period in which compensation is discontinued.

Effective date: February 6, 1995.

VAOPGCPREC 6–95

Question Presented

Whether service consisting solely of attendance at the United States Military Academy Preparatory School or United States Naval Academy Preparatory School may be considered "active duty" for purposes of title 38, United States Code.

Held

The analysis of O.G.C. Prec. 18–94 regarding characterization of service while attending the United States Air force Academy Preparatory School applies equally to service consisting of attendance at the United States Military Academy Preparatory School or the United States Naval Academy Preparatory School. Accordingly, persons transferred to these schools from active duty remain on active duty status while in attendance at the schools. For members entering the USMAPS and the USNAPS from reserve components and the Army National Guard, attendance at the schools may generally be characterized as active duty for training. However, in adjudication of individual claims of persons who enrolled in the USNAPS from the Naval Reserve or Marine Corps Reserve, it may be necessary to confirm from service records that such persons attended the USNAPS in the status of reserves called to active duty for training purposes. In addition, it may be necessary in individual cases of persons entering the USMAPS and USNAPS from civilian life to examine the pertinent service records to confirm that such persons entered the service in reserve status in order to attend the preparatory school.

Effective date: February 10, 1995.

VAOPGCPREC 7–95

Questions Presented

1. In light of 38 U.S.C. 5106, may the National Archives and Records Administration (NARA) charge a fee for providing the Department of Veterans Affairs (VA) with copies of documents for its records?

2. Does VA's statutory duty to assist claimants under 38 U.S.C. 5107(a) require that VA pay fees charged by Federal, state, or local agencies or private sources to obtain copies of records maintained by those sources?

Held

1. The National Archives and Records Administration may charge a fee for providing the Department of Veterans Affairs with copies of records requested in connection with a benefit claim, notwithstanding 38 U.S.C. 5106, which requires that the head of any Federal

VOL
60
ISS
76
AP
20
1995
UMI

agency provide information to VA upon request for the purpose of determining benefit eligibility.

2. Under 38 U.S.C. 5107(a), which establishes the Secretary of Veterans Affairs' duty to assist claimants in developing the facts pertinent to their claims, the Secretary may require claimants to assume responsibility for payment of any fees associated with obtaining copies of records maintained by Federal, state, or local agencies or private sources.

Effective date: March 6, 1995.

VAOPGCPREC 8–95

Questions Presented

1. Must a veteran affirmatively seek a change of program of education?

2. If the answer to that question is yes, does affirmatively seeking a change of program of education require that the veteran submit an application for the change in the form prescribed by the Secretary?

3. If the answer to the first question is yes, must VA withhold payments pending receipt of a request for a change of program?

4. If the answer to the first question is yes, does the Secretary have statutory authority to eliminate this requirement by regulation?

Held

1. An individual must affirmatively seek a determination of his or her eligibility to make any change of his or her approved program of education.

2. The request for a determination of eligibility for a change of program must be made by the individual and, under the applicable regulations, may be in any form prescribed by VA. The form of the communication to VA may include the individual's telephonic confirmation of third-party information and even a third-party document bearing the individual's signature from which a reasonable inference of his or her intent to change programs may be discerned.

3. VA may not pay benefits to an individual for pursuit of a program other than the one currently approved until a request from the individual for a determination of his or her entitlement to pursue a particular new program has been received and approved by VA.

4. The Department may not legally implement, by regulation, procedures to administer determinations of eligibility to pursue a change of program that do not require the individual seeking approval of such a change to communicate to VA his or her intent to do so.

Effective date: March 24, 1995.

By Direction of the Secretary.

Mary Lou Keener,

General Counsel.

[FR Doc. 95–9734 Filed 4–19–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 76

Thursday, April 20, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 95–9295.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, April 20, 1995, at 10:00 a.m., meeting open to the public.

The following item has been postponed to the meeting of Thursday, April 27, 1995:

Final Audit Report on Bennett for Senate.

DATE AND TIME: Tuesday, April 25, 1995 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, April 27, 1995 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinions:

AOR 1995–10

Margaret Person Currin on behalf of the Helms for Senate Committee.

AOR 1995–11

Thomas J. Cooper on behalf of the Hawthorn Group.

Audit: Final Audit Report on Bennett for Senate.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 95–9952 Filed 4–18–95; 2:50 pm]

BILLING CODE 6715–01–M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 3:30 p.m., Wednesday, April 5, 1995.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy) and (9)(B) (disclosure would significantly frustrate implementation of a proposed Agency Action).

MATTERS TO BE CONSIDERED: Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: Joseph E. Moore, Acting Executive Secretary, Washington, D.C. 20570. Telephone: (202) 273–1940.

Dated, Washington, D.C., April 17, 1995.

By direction of the Board:

Joseph E. Moore,

Acting Executive Secretary.

[FR Doc. 95–9910 Filed 4–18–95; 12:54 pm]

BILLING CODE 7540–01–M

VOL
60

ISS
76

AP
20

1995

UMI

federal register

Thursday
April 20, 1995

Part II

Department of Education

Bilingual Education: Program Grants; Notices

VOL
60
ISS
76
AP
20
1995
UMI

DEPARTMENT OF EDUCATION

Bilingual Education: Comprehensive School Grants; Bilingual Education: Systemwide Improvement Grants; and Bilingual Education: Program Enhancement Grants

AGENCY: Department of Education.

ACTION: Notice of final priorities for fiscal year (FY) 1995.

SUMMARY: The Secretary announces priorities for FY 1995 under the following programs authorized by title VII of the Elementary and Secondary Education Act, as amended (the Act): (1) Bilingual Education: Comprehensive School Grants, (2) Bilingual Education: Systemwide Improvement Grants, and (3) Bilingual Education: Program Enhancement Grants. The Secretary takes this action to focus Federal financial assistance on an identified national need. These priorities provide for a competitive preference to be given to projects providing program services in an Empowerment Zone or Enterprise Community designated under section 1391 of the Internal Revenue Code, as amended by title XIII of the Omnibus Budget Reconciliation Act of 1993.

EFFECTIVE DATE: These priorities take effect on May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Harry Logel, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202. Telephone: (202) 205-5530. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice contains priorities under the following programs:

Bilingual Education: Comprehensive School Grants.
Bilingual Education: Systemwide Improvement Grants.
Bilingual Education: Program Enhancement Grants.

The purpose of each program is stated separately under the title of that program in a later section of this notice.

Funding of particular projects depends on the availability of funds and the quality of the applications received.

Note: This notice of final priorities does not solicit applications. Notices inviting applications under these competitions are published separately in this issue of the **Federal Register**.

Background

The Empowerment Zone and Enterprise Community program is a critical element of the Administration's community revitalization strategy. The program is a first step in rebuilding communities in America's poverty-stricken inner cities and rural heartlands. It is designed to empower people and communities by inspiring Americans to work together to create jobs and opportunity.

Under this program, the Federal Government has designated certain areas as Empowerment Zones and as Enterprise Communities in accordance with Internal Revenue Code (IRC) section 1391, as amended by title XIII of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66). Each of these areas was nominated by one or more local governments and the State or States in which it is located or by a State-Chartered Economic Development Corporation. The selected areas are characterized by pervasive poverty, unemployment, and general distress, and have a poverty rate of not less than the level specified in section 1392 of the IRC.

Interested individuals may contact the Department of Housing and Urban Development (HUD) at 1-800-998-9999 for additional information on the Empowerment Zone and Enterprise Community program. A listing of areas that have been selected as Empowerment Zones and Enterprise Communities is included as an appendix to this notice.

In the Empowerment Zone and Enterprise Community program, communities submitted strategic plans that comprehensively address how the community would link economic development with education and training as well as how community development, public safety, human services, and environmental initiatives together would support sustainable communities. Empowerment Zones and Enterprise Communities were designated by the Department of Agriculture and HUD based on the quality of their strategic plans. Designated areas will receive Federal grant funds and substantial tax benefits and will have access to other Federal programs.

The Department of Education is supporting the Empowerment Zone and Enterprise Community initiative in a variety of ways. It is encouraging Empowerment Zones and Enterprise Communities to use funds they already receive from Department of Education programs (including Title I of the Elementary and Secondary Education Act of 1965 as amended, the Drug-Free Schools and Community Act, the Adult Education Act, and the Carl D. Perkins Vocational and Applied Technology Education Act) to support the comprehensive vision of their strategic plans. In addition, the Department of Education intends to give preferences to Empowerment Zones and Enterprise Communities in a number of discretionary grant programs that are well-suited for inclusion in a comprehensive approach to economic and community development. In addition to the Bilingual Education: Comprehensive School Grants program, the Bilingual Education: Systemwide Improvement Grants program, and the Bilingual Education: Program Enhancement Grants program, the Department intends to give preferences to Empowerment Zones and Enterprise Communities in the Urban Community Service program, the Parent Training program and Early Childhood Education program under the Individuals With Disabilities Education Act, and a variety of discretionary programs under the Elementary and Secondary Education Act of 1965, as amended.

Relationship of the Program Enhancement Grants Program, the Comprehensive School Grants Program, and the Systemwide Improvement Grants Program to the Empowerment Zone or Enterprise Community Program

These Bilingual Education programs provide grants to assist local educational agencies (LEAs), LEAs in collaboration with other entities, institutions of higher education (IHEs), and community-based organizations (CBOs) to develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to limited English proficient (LEP) children and youth. These programs are intended to help LEP children and youth to develop proficiency in English and, to the extent possible, their native language and to meet the same challenging academic State standards set for all children and youth.

These Bilingual Education programs are ideally suited to play a key role in the Empowerment Zone and Enterprise Community program because of the high concentration of LEP children and youth in low-income areas. By improving the quality of education provided to LEP children and youth, these programs enhance their economic opportunities and contribute to the improvement of our communities.

Communities designated as Empowerment Zones or Enterprise Communities already have demonstrated a capacity for the type of cooperative planning that is critical to developing and maintaining successful educational systems. Projects funded under these programs will provide models for educational systems in other distressed areas.

In addition, these Bilingual Education programs provide a vehicle for achieving the National Education Goal that by the year 2000 every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. These programs help further this goal by encouraging programs that help LEP children and youth become proficient in English and meet the same high academic State standards set for all children and youth.

Accordingly, the Secretary has determined that it would serve the purposes of the three programs in this notice to award a competitive preference to applications that propose projects that serve these Empowerment Zones and Enterprise Communities.

Bilingual Education: Program Enhancement Grants

Purpose of Program

Under section 7113 of the Act, the purpose of the program is to assist (1) LEAs, (2) LEAs in collaboration with IHEs, CBOs, other LEAs, or an SEA, or (3) CBOs and IHEs that have had their applications approved by LEAs to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for LEP students.

Program Authority: 20 U.S.C. 7423

Bilingual Education: Comprehensive School Grants

Purpose of Program

Under section 7114 of the Act, the purpose of the program is to assist LEAs or LEAs in collaboration with IHEs, CBOs, other LEAs, or an SEA to implement schoolwide bilingual education programs or special alternative instructional programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve virtually all LEP children and youth in schools with significant concentrations of these children and youth.

Program Authority: 20 U.S.C. 7424.

Bilingual Education: Systemwide Improvement Grants

Purpose of Program

Under section 7115 of the Act, the purpose of the program is to assist LEAs or LEAs in collaboration with IHEs, CBOs, other LEAs, or an SEA to implement districtwide bilingual education programs or special alternative instructional programs to improve, reform, and upgrade relevant programs and operations, within an entire LEA, that serve a significant number of LEP children and youth in one or more LEAs with significant concentrations of these children and youth.

Program Authority: 20 U.S.C. 7425

Priority

Under 34 CFR 75.105(c)(2)(i), the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards 5 points to an application that meets this competitive priority. These points would be in addition to any points an application earns under the selection criteria for the programs to which this priority applies. The priority applies to the following programs:

Bilingual Education: Comprehensive School Grants.
Bilingual Education: Systemwide Improvement Grants.
Bilingual Education: Program Enhancement Grants.

Under each of these programs, competitive preference will be given to applications that—

(1) Propose to provide services to schools and LEP students eligible to be served under the program located in one or more Empowerment Zones or Enterprise Communities; and

(2) Propose projects that contribute to the strategic plan of the Empowerment Zone or Enterprise Community and that are made an integral component of the Empowerment Zone or Enterprise Community activities.

Waiver of Proposed Priority

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed priorities. However, in order to make timely grant awards in FY 1995, the Director, in accordance with section 437(d)(1) of the General Education Provisions Act, has decided to issue this final priority, which will apply only to the FY 1995 grant competition.

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

(Catalog of Federal Domestic Assistance Numbers: 84.289 Bilingual Education: Program Enhancement Grants; 84.290 Bilingual Education: Comprehensive School Grants; and 84.291 Bilingual Education: Systemwide Improvement Grants.)

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

Appendix—Areas Designated as Empowerment Zones and Enterprise Communities

Urban Empowerment Zones

Atlanta, Georgia
Baltimore, Maryland
Chicago, Illinois
Detroit, Michigan
New York, New York
Philadelphia, Pennsylvania & Camden, New Jersey

Urban Supplemental Zones

Los Angeles, California
Cleveland, Ohio

Rural Empowerment Zones

Kentucky Highlands (Clinton, Jackson, Wayne Counties, Kentucky)
Mid-Delta Mississippi (Bolivar, Holmes, Humphreys, Leflore Counties, Mississippi)
Rio Grande Valley Texas (Cameron, Hidalgo, Starr, Willacy Counties, Texas)

Urban Enhanced Enterprise Communities

Boston, Massachusetts
Houston, Texas
Kansas City, Kansas & Kansas City, Missouri
Oakland, California

Urban and Rural Enterprise Communities

(Listed Alphabetically by State)

Alabama

Birmingham
Chambers County
Green & Sumter Counties

Arizona

Arizona Border Region: Cochise, Santa Cruz & Yume Counties
Phoenix

Arkansas

Eastern Arkansas: Cross, Lee, Monrow & St. Francis Counties
Mississippi County
Pulaski County

California

Imperial County
Los Angeles (South Central/Huntington Park)
San Diego

VOL 60 ISS 76 AP 20 1995 UMI

San Francisco (Hunters Point)
City of Watsonville: Santa Cruz County
Colorado
Denver
Connecticut
Bridgeport
New Haven
Delaware
Wilmington
District of Columbia
Washington
Florida
Dade County/Miami
Jackson County
Tampa
Georgia
Albany
Crisp & Dooly Counties
Central Savannah River Area: Burke, Hancock, Jefferson, McDuffie, Taliaferro & Warren Counties
Illinois
East St. Louis
Springfield
Indiana
Indianapolis
Iowa
Des Moines
Kentucky
Louisville
McCreary County
Louisiana
Macon Ridge: Catahoula, Concordia, Franklin, Morehouse & Tensas Parishes
New Orleans
Northeast Louisiana Delta: Madison Parish
Ouachita Parish
Massachusetts
Lowell
Springfield
Michigan
Flint
Lake County
Muskegon
Minnesota
Minneapolis
St. Paul
Mississippi
Jackson
North Delta: Panola, Quitman & Tallahatchie Counties
Missouri
City of East Prairie: Mississippi County
St. Louis
Nebraska
Omaha
Nevada
Clark County/Las Vegas
New Hampshire
Manchester
New Jersey
Newark
New Mexico
Albuquerque
Mora, Taos, & Rio Arriba Counties
New York
Albany
Buffalo
Newburgh-Kingston
Rochester
North Carolina
Charlotte
Halifax, Edgecombe & Wilson Counties
Robeson County
Ohio
Akron
Columbus
Greater Portsmouth: Scioto County
Oklahoma
Oklahoma City
Southeast Oklahoma: Choctaw & McCurtain Counties
Oregon
Josephine County
Portland
Pennsylvania
Harrisburg
City of Lock Haven: Clinton County
Pittsburgh
Rhode Island
Providence
South Carolina
Charleston
Williamsburg County & Lake City: Florence & Williamsburg Counties
South Dakota
Boadie & Spink Counties
Tennessee
Fayette & Haywood Counties
Memphis
Nashville
Scott County
Texas
Dallas
El Paso
San Antonio
Waco
Utah
Ogden
Vermont
Burlington
Virginia
Accomack & Northampton Counties
Norfolk
Washington
Lower Yakima County
Seattle
Tacoma
West Virginia
Central Appalachia: Braxton, Clay, Fayette, Nicholas & Roane Counties
Huntington
McDowell County
Wisconsin
Milwaukee

[FR Doc. 95-9716 Filed 4-19-95; 8:45 am]
BILLING CODE 4000-01-P

[CFDA No. 84.290U]

Bilingual Education: Comprehensive School Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all or virtually all limited English proficient (LEP) children and youth in one or more schools with significant concentrations of these children and youth.

Eligible Applicants: One or more local educational agencies (LEAs), or one or more LEAs in collaboration with an institution of higher education, community-based organizations, other LEAs, or a State educational agency.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $49,772,000.

Estimated Range of Awards: $150,000–$400,000.

Estimated Average Size of Awards: $310,000.

Estimated Number of Awards: 160.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priorities

Absolute Priority

The following absolute priority, as published in the Federal Register on March 2, 1995 (60 FR 11868) in a notice of final priority for this program, applies to this competition:

Projects that serve only schools in which the number of LEP students, in each school served, equals at least 25 percent of the total student enrollment.

Competitive Priority

The competitive priority in the notice of final priorities for this program, as published elsewhere in this issue of the Federal Register, applies to this competition. The notice announces a competitive preference to be given to projects providing program services in a designated Empowerment Zone or Enterprise Community.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Rebecca Richey or Alex Stein, U.S. Department of Education, 600 Independence Avenue, SW., room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Rebecca Richey (202) 205–9717 or Alex Stein (202) 205–5717. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 7424.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9717 Filed 4–19–95; 8:45 am]
BILLING CODE 4000–01–P

[CFDA No. 84.291R]

Bilingual Education: Systemwide Improvement Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants to implement districtwide bilingual education programs or special alternative instructional programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency (LEA), that serve a significant number of limited English proficient (LEP) children and youth in one or more LEAs with significant concentrations of these children and youth.

Eligible Applicants: (1) One or more LEAs; or (2) one or more LEAs in collaboration with an institution of higher education, community-based organizations, other LEAs, or a State educational agency.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $17.4 million.

Estimated Range of Awards: $200,000 - $1,000,000.

Estimated Average Size of Awards: $700,000.

Estimated Number of Awards: 25.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priorities

Absolute Priority: The following absolute priority, as published in the Federal Register on March 2, 1995 (60 FR 11864) in a notice of final priority for this program, applies to this competition:

Projects that serve only LEAs in which the number of LEP students, in each LEA served, is at least 1,000 or at least 25 percent of the total student enrollment.

Competitive Priority: The competitive priority in the notice of final priorities for this program, as published elsewhere in this issue of the Federal Register, applies to this competition. The notice announces a competitive preference to be given to projects providing program services in a designated Empowerment Zone or Enterprise Community.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Harry Logel or James Lockhart, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Harry Logel (202) 205–5530 or James Lockhart (202) 205–5426. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 7424.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9718 Filed 4–19–95; 8:45 am]
BILLING CODE 4000–01–P

[CFDA No. 84.289P]

Bilingual Education: Program Enhancement Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants to carry out highly-focused, innovative, locally-designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

Eligible Applicants: (a) One or more local educational agencies (LEAs); (b) one or more LEAs in collaboration with an institution of higher education (IHE), community-based organization (CBO), other LEAs, or a State educational agency; or (c) a CBO or an IHE that has an application approved by the LEA to enhance early childhood education or family education programs or to conduct an instructional program that supplements the educational services provided by an LEA.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

VOL
60
ISS
76
AP
20
1995
UMI

Available Funds: $22.4 million.
Estimated Range of Awards: $100,000–$150,000.
Estimated Average Size of Awards: $125,000.
Estimated Number of Awards: 180.

Note: The Department is not bound by any estimates in this notice.

Project Period: 24 months.
Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priority

The priority in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition. The notice announces a competitive preference to be given to projects providing program services in a designated Empowerment Zone or Enterprise Community.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Extent of need for the project (34 CFR 75.210(b)(2)). Eight points are added to this criterion for a possible total of 28 points.

Plan of operation (34 CFR 75.210(b)(3)). Seven points are added to this criterion for a possible total of 22 points.

For Applications or Information Contact: Diane DeMaio, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–5716. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7423.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9719 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.195B]

Bilingual Education: National Professional Development Institutes; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to assist schools or departments of education in institutions of higher education (IHEs) to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, limited English proficient (LEP) children and youth.

Eligible Applicants: IHEs which have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs).

Deadline for Transmittal of Applications: May 30, 1995.
Deadline for Intergovernmental Review: July 31, 1995.
Applications Available: April 21, 1995.
Available Funds: $500,000.
Estimated Size of Awards: $500,000.
Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.
Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priority

Under 34 CFR 75.105(c)(2)(i) and 20 U.S.C. 7473(b) the Secretary gives a competitive preference to applications that meet the following priority:

IHEs, in consortia with SEAs or LEAs, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to LEP students.

The Secretary awards an additional 10 points to applications that meet the priority.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Cindy Ryan, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–8842. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7473.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9720 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.194Q]

Bilingual Education: State Grant Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to assist State educational agencies (SEAs) to (1) collect data on the State's limited English proficient (LEP) population and the educational programs and services available to that population; (2) assist local educational agencies (LEAs) in the State with program design, capacity building, assessment of student performance, and program evaluation; and (3) train SEA personnel in educational issues affecting LEP children and youth.

Eligible Applicants: SEAs.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.
Applications Available: April 21, 1995.
Available Funds: $5,150,000.
Estimated Range of Awards: $100,000–$709,862. (The amount paid to an SEA shall not exceed five percent of the total amount awarded to LEAs within the State under part A of Title VII of the Elementary and Secondary Education Act, P.L. 100–297 for fiscal year 1994, except that in no case shall the amount paid to any SEA be less than $100,000).
Estimated Number of Awards: 47.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.
Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(B)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Luis A. Catarineau, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–9907. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7454.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9721 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No. 84.195A]

Bilingual Education: Teachers and Personnel Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants for preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited English proficiency (LEP).

Eligible Applicants: (a) Institutions of higher education (IHEs) that have entered into consortia arrangements with local educational agencies (LEAs) or State educational agencies (SEAs). (b) SEAs proposing inservice professional development programs. (c) LEAs proposing inservice professional development programs.

Deadline for Transmittal of Applications: May 30, 1995.
Deadline for Intergovernmental Review: July 31, 1995.
Applications Available: April 21, 1995.
Available Funds: $5,630,000.
Estimated Range of Awards: $140,000–$200,000.
Estimated Average Size of Awards: $170,000.
Estimated Number of Awards: 33.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.
Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Priorities

Invitational Priority: The Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

IHEs with experience in providing bilingual education teacher training programs that propose to assist other IHEs to develop new training programs for bilingual education teachers.

Competitive Priority: Under 34 CFR 75.105(c)(2)(i) and 20 U.S.C. 7473(b), the Secretary gives a competitive preference to applications that meet the following priority:

IHEs, in consortia with SEAs or LEAs, which offer degree programs that prepare new bilingual education teachers, in order to increase the availability of educators to provide high-quality education to LEP students.

The Secretary awards an additional 10 points to applications that meet the priority.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

Evaluation plan (34 CFR 75.210(b)(6)). Seven points are added to this criterion for a possible total of 12 points.

For Applications or Information Contact: Cindy Ryan, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–8842. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7473.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–9722 Filed 4–19–95; 8:45 am]

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VOL
60
ISS
76
AP
20
1995
UMI

[CFDA No. 84.292B]

Bilingual Education: Field-Initiated Research Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants for field-initiated research conducted by current or recent recipients of grants under subpart 1 or 2 of Part A of Title VII of the Elementary and Secondary Education Act (ESEA) (or Part A or B of Title VII of ESEA, as in effect prior to its amendment on October 20, 1994) who have received these grants within the previous five years. The Department assists research activities related to the improvement of bilingual education and special alternative instructional programs for limited English proficient children and youth.

Eligible Applicants: Institutions of higher education, nonprofit organizations, State educational agencies and local educational agencies that are current or recent recipients of grants under subpart 1 or 2 of Part A of Title VII of the Elementary and Secondary Education Act (or Part A or B of Title VII of P.L. 100–297, the predecessor to Title VII of the ESEA). In order to be eligible for a grant under this program, an applicant must have received a grant under subpart 1 or 2 of Part A of Title VII, or Part A or B of Title VII of Pub. L. 100–297, within the previous five years.

Deadline for Transmittal of Applications: May 30, 1995.

Deadline for Intergovernmental Review: July 31, 1995.

Applications Available: April 21, 1995.

Available Funds: $1,000,000.

Estimated Range of Awards: $50,000–$150,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Meeting the purposes of the authorizing statute (34 CFR 75.210(b)(1)). Seven points are added to this criterion for a possible total of 37 points.

Plan of operation (34 CFR 75.210(b)(3)). Eight points are added to this criterion for a possible total of 23 points.

For Applications or Information Contact: Cecile Kreins, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Cecile Kreins (202) 205–5568. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7452.

Dated: April 7, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

Sharon Robinson,

Assistant Secretary, Office for Educational Research and Improvement.

[FR Doc. 95–9723 Filed 4–19–95; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
April 20, 1995

Part III

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Approved Amendment to Tribal/State Compact; Notices

VOL
60
ISS
76
AP
20
1995
UMI

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Amendment to Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal/State Gaming Compact Between the Confederated Tribes of the Chehalis Reservation and the State of Washington executed on January 26, 1995.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: April 4, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9818 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Amendment to Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal/State Gaming Compact Between the Squaxin Island Tribe and the State of Washington executed on January 26, 1995.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240. (202) 219–4068.

Dated: April 4, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9819 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Amendment to Tribal/State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Amendment to the Tribal/State Gaming Compact Between the Indian Tribe and the State of Washington executed on January 26, 1995.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4068.

Dated: April 4, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9820 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Tribal-State Compact between the Miami Tribe of Oklahoma and the State of Oklahoma, which was executed on June 10, 1994.

DATES: This action is effective April 20, 1995.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: April 7, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–9821 Filed 4–19–95; 8:45 am]

BILLING CODE 4310–02–P

federal register

Thursday
April 20, 1995

Part IV

The President

Executive Order 12958—Classified National Security Information

VOL
60

ISS
76

AP
20

1995

UMI

Federal Register
Vol. 60, No. 76
Thursday, April 20, 1995

Presidential Documents

Title 3—

The President

Executive Order 12958 of April 17, 1995

Classified National Security Information

This order prescribes a uniform system for classifying, safeguarding, and declassifying national security information. Our democratic principles require that the American people be informed of the activities of their Government. Also, our Nation's progress depends on the free flow of information. Nevertheless, throughout our history, the national interest has required that certain information be maintained in confidence in order to protect our citizens, our democratic institutions, and our participation within the community of nations. Protecting information critical to our Nation's security remains a priority. In recent years, however, dramatic changes have altered, although not eliminated, the national security threats that we confront. These changes provide a greater opportunity to emphasize our commitment to open Government.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

PART 1—ORIGINAL CLASSIFICATION

Section 1.1. *Definitions.* For purposes of this order:

(a) "National security" means the national defense or foreign relations of the United States.

(b) "Information" means any knowledge that can be communicated or documentary material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government. "Control" means the authority of the agency that originates information, or its successor in function, to regulate access to the information.

(c) "Classified national security information" (hereafter "classified information") means information that has been determined pursuant to this order or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.

(d) "Foreign Government Information" means:

(1) information provided to the United States Government by a foreign government or governments, an international organization of governments, or any element thereof, with the expectation that the information, the source of the information, or both, are to be held in confidence;

(2) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments, or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence; or

(3) information received and treated as "Foreign Government Information" under the terms of a predecessor order.

(e) "Classification" means the act or process by which information is determined to be classified information.

(f) "Original classification" means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure.

VOL
60
ISS
76
AP
20
1995
UMI

(g) "Original classification authority" means an individual authorized in writing, either by the President, or by agency heads or other officials designated by the President, to classify information in the first instance.

(h) "Unauthorized disclosure" means a communication or physical transfer of classified information to an unauthorized recipient.

(i) "Agency" means any "Executive agency," as defined in 5 U.S.C. 105, and any other entity within the executive branch that comes into the possession of classified information.

(j) "Senior agency official" means the official designated by the agency head under section 5.6(c) of this order to direct and administer the agency's program under which information is classified, safeguarded, and declassified.

(k) "Confidential source" means any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation that the information or relationship, or both, are to be held in confidence.

(l) "Damage to the national security" means harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, to include the sensitivity, value, and utility of that information.

Sec. 1.2. *Classification Standards.* (a) Information may be originally classified under the terms of this order only if all of the following conditions are met:

(1) an original classification authority is classifying the information;
(2) the information is owned by, produced by or for, or is under the control of the United States Government;
(3) the information falls within one or more of the categories of information listed in section 1.5 of this order; and
(4) the original classification authority determines that the unauthorized disclosure of the information reasonably could be expected to result in damage to the national security and the original classification authority is able to identify or describe the damage.

(b) If there is significant doubt about the need to classify information, it shall not be classified. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or
(2) create any substantive or procedural rights subject to judicial review.

(c) Classified information shall not be declassified automatically as a result of any unauthorized disclosure of identical or similar information.

Sec. 1.3. *Classification Levels.* (a) Information may be classified at one of the following three levels:

(1) "Top Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.
(2) "Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.
(3) "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.

(b) Except as otherwise provided by statute, no other terms shall be used to identify United States classified information.

(c) If there is significant doubt about the appropriate level of classification, it shall be classified at the lower level.

Sec. 1.4. *Classification Authority.* (a) The authority to classify information originally may be exercised only by:

(1) the President;
(2) agency heads and officials designated by the President in the **Federal Register**; or
(3) United States Government officials delegated this authority pursuant to paragraph (c), below.

(b) Officials authorized to classify information at a specified level are also authorized to classify information at a lower level.

(c) Delegation of original classification authority.

(1) Delegations of original classification authority shall be limited to the minimum required to administer this order. Agency heads are responsible for ensuring that designated subordinate officials have a demonstrable and continuing need to exercise this authority.
(2) "Top Secret" original classification authority may be delegated only by the President or by an agency head or official designated pursuant to paragraph (a)(2), above.
(3) "Secret" or "Confidential" original classification authority may be delegated only by the President; an agency head or official designated pursuant to paragraph (a)(2), above; or the senior agency official, provided that official has been delegated "Top Secret" original classification authority by the agency head.
(4) Each delegation of original classification authority shall be in writing and the authority shall not be redelegated except as provided in this order. Each delegation shall identify the official by name or position title.

(d) Original classification authorities must receive training in original classification as provided in this order and its implementing directives.

(e) Exceptional cases. When an employee, contractor, licensee, certificate holder, or grantee of an agency that does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with this order and its implementing directives. The information shall be transmitted promptly as provided under this order or its implementing directives to the agency that has appropriate subject matter interest and classification authority with respect to this information. That agency shall decide within 30 days whether to classify this information. If it is not clear which agency has classification responsibility for this information, it shall be sent to the Director of the Information Security Oversight Office. The Director shall determine the agency having primary subject matter interest and forward the information, with appropriate recommendations, to that agency for a classification determination.

Sec. 1.5. *Classification Categories.*

Information may not be considered for classification unless it concerns:

(a) military plans, weapons systems, or operations;

(b) foreign government information;

(c) intelligence activities (including special activities), intelligence sources or methods, or cryptology;

(d) foreign relations or foreign activities of the United States, including confidential sources;

(e) scientific, technological, or economic matters relating to the national security;

(f) United States Government programs for safeguarding nuclear materials or facilities; or

(g) vulnerabilities or capabilities of systems, installations, projects or plans relating to the national security.

Sec. 1.6. *Duration of Classification.* (a) At the time of original classification, the original classification authority shall attempt to establish a specific date

VOL
60
ISS
76
AP
20
1995
UMI

or event for declassification based upon the duration of the national security sensitivity of the information. The date or event shall not exceed the time frame in paragraph (b), below.

(b) If the original classification authority cannot determine an earlier specific date or event for declassification, information shall be marked for declassification 10 years from the date of the original decision, except as provided in paragraph (d), below.

(c) An original classification authority may extend the duration of classification or reclassify specific information for successive periods not to exceed 10 years at a time if such action is consistent with the standards and procedures established under this order. This provision does not apply to information contained in records that are more than 25 years old and have been determined to have permanent historical value under title 44, United States Code.

(d) At the time of original classification, the original classification authority may exempt from declassification within 10 years specific information, the unauthorized disclosure of which could reasonably be expected to cause damage to the national security for a period greater than that provided in paragraph (b), above, and the release of which could reasonably be expected to:

(1) reveal an intelligence source, method, or activity, or a cryptologic system or activity;
(2) reveal information that would assist in the development or use of weapons of mass destruction;
(3) reveal information that would impair the development or use of technology within a United States weapons system;
(4) reveal United States military plans, or national security emergency preparedness plans;
(5) reveal foreign government information;
(6) damage relations between the United States and a foreign government, reveal a confidential source, or seriously undermine diplomatic activities that are reasonably expected to be ongoing for a period greater than that provided in paragraph (b), above;
(7) impair the ability of responsible United States Government officials to protect the President, the Vice President, and other individuals for whom protection services, in the interest of national security, are authorized; or
(8) violate a statute, treaty, or international agreement.

(e) Information marked for an indefinite duration of classification under predecessor orders, for example, "Originating Agency's Determination Required," or information classified under predecessor orders that contains no declassification instructions shall be declassified in accordance with part 3 of this order.

Sec. 1.7. *Identification and Markings.* (a) At the time of original classification, the following shall appear on the face of each classified document, or shall be applied to other classified media in an appropriate manner:

(1) one of the three classification levels defined in section 1.3 of this order;
(2) the identity, by name or personal identifier and position, of the original classification authority;
(3) the agency and office of origin, if not otherwise evident;
(4) declassification instructions, which shall indicate one of the following:
(A) the date or event for declassification, as prescribed in section 1.6(a) or section 1.6(c); or
(B) the date that is 10 years from the date of original classification, as prescribed in section 1.6(b); or
(C) the exemption category from declassification, as prescribed in section 1.6(d); and
(5) a concise reason for classification which, at a minimum, cites the applicable classification categories in section 1.5 of this order.

(b) Specific information contained in paragraph (a), above, may be excluded if it would reveal additional classified information.

(c) Each classified document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, which portions are exempt from declassification under section 1.6(d) of this order, and which portions are unclassified. In accordance with standards prescribed in directives issued under this order, the Director of the Information Security Oversight Office may grant waivers of this requirement for specified classes of documents or information. The Director shall revoke any waiver upon a finding of abuse.

(d) Markings implementing the provisions of this order, including abbreviations and requirements to safeguard classified working papers, shall conform to the standards prescribed in implementing directives issued pursuant to this order.

(e) Foreign government information shall retain its original classification markings or shall be assigned a U.S. classification that provides a degree of protection at least equivalent to that required by the entity that furnished the information.

(f) Information assigned a level of classification under this or predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Whenever such information is used in the derivative classification process or is reviewed for possible declassification, holders of such information shall coordinate with an appropriate classification authority for the application of omitted markings.

(g) The classification authority shall, whenever practicable, use a classified addendum whenever classified information constitutes a small portion of an otherwise unclassified document.

Sec. 1.8. *Classification Prohibitions and Limitations.* (a) In no case shall information be classified in order to:

(1) conceal violations of law, inefficiency, or administrative error;
(2) prevent embarrassment to a person, organization, or agency;
(3) restrain competition; or
(4) prevent or delay the release of information that does not require protection in the interest of national security.

(b) Basic scientific research information not clearly related to the national security may not be classified.

(c) Information may not be reclassified after it has been declassified and released to the public under proper authority.

(d) Information that has not previously been disclosed to the public under proper authority may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of section 3.6 of this order only if such classification meets the requirements of this order and is accomplished on a document-by-document basis with the personal participation or under the direction of the agency head, the deputy agency head, or the senior agency official designated under section 5.6 of this order. This provision does not apply to classified information contained in records that are more than 25 years old and have been determined to have permanent historical value under title 44, United States Code.

(e) Compilations of items of information which are individually unclassified may be classified if the compiled information reveals an additional association or relationship that:

(1) meets the standards for classification under this order; and
(2) is not otherwise revealed in the individual items of information.

As used in this order, "compilation" means an aggregation of pre-existing unclassified items of information.

VOL
60
ISS
76
AP
20
1995
UMI

Sec. 1.9. *Classification Challenges.* (a) Authorized holders of information who, in good faith, believe that its classification status is improper are encouraged and expected to challenge the classification status of the information in accordance with agency procedures established under paragraph (b), below.

(b) In accordance with implementing directives issued pursuant to this order, an agency head or senior agency official shall establish procedures under which authorized holders of information are encouraged and expected to challenge the classification of information that they believe is improperly classified or unclassified. These procedures shall assure that:

(1) individuals are not subject to retribution for bringing such actions;

(2) an opportunity is provided for review by an impartial official or panel; and

(3) individuals are advised of their right to appeal agency decisions to the Interagency Security Classification Appeals Panel established by section 5.4 of this order.

PART 2—DERIVATIVE CLASSIFICATION

Sec. 2.1. *Definitions.* For purposes of this order:

(a) "Derivative classification" means the incorporating, paraphrasing, restating or generating in new form information that is already classified, and marking the newly developed material consistent with the classification markings that apply to the source information. Derivative classification includes the classification of information based on classification guidance. The duplication or reproduction of existing classified information is not derivative classification.

(b) "Classification guidance" means any instruction or source that prescribes the classification of specific information.

(c) "Classification guide" means a documentary form of classification guidance issued by an original classification authority that identifies the elements of information regarding a specific subject that must be classified and establishes the level and duration of classification for each such element.

(d) "Source document" means an existing document that contains classified information that is incorporated, paraphrased, restated, or generated in new form into a new document.

(e) "Multiple sources" means two or more source documents, classification guides, or a combination of both.

Sec. 2.2. *Use of Derivative Classification.* (a) Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(b) Persons who apply derivative classification markings shall:

(1) observe and respect original classification decisions; and

(2) carry forward to any newly created documents the pertinent classification markings. For information derivatively classified based on multiple sources, the derivative classifier shall carry forward:

(A) the date or event for declassification that corresponds to the longest period of classification among the sources; and

(B) a listing of these sources on or attached to the official file or record copy.

Sec. 2.3. *Classification Guides.* (a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information. These guides shall conform to standards contained in directives issued under this order.

(b) Each guide shall be approved personally and in writing by an official who:

(1) has program or supervisory responsibility over the information or is the senior agency official; and

(2) is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Agencies shall establish procedures to assure that classification guides are reviewed and updated as provided in directives issued under this order.

PART 3—DECLASSIFICATION AND DOWNGRADING

Sec. 3.1. *Definitions.* For purposes of this order:

(a) "Declassification" means the authorized change in the status of information from classified information to unclassified information.

(b) "Automatic declassification" means the declassification of information based solely upon:

(1) the occurrence of a specific date or event as determined by the original classification authority; or

(2) the expiration of a maximum time frame for duration of classification established under this order.

(c) "Declassification authority" means:

(1) the official who authorized the original classification, if that official is still serving in the same position;

(2) the originator's current successor in function;

(3) a supervisory official of either; or

(4) officials delegated declassification authority in writing by the agency head or the senior agency official.

(d) "Mandatory declassification review" means the review for declassification of classified information in response to a request for declassification that meets the requirements under section 3.6 of this order.

(e) "Systematic declassification review" means the review for declassification of classified information contained in records that have been determined by the Archivist of the United States ("Archivist") to have permanent historical value in accordance with chapter 33 of title 44, United States Code.

(f) "Declassification guide" means written instructions issued by a declassification authority that describes the elements of information regarding a specific subject that may be declassified and the elements that must remain classified.

(g) "Downgrading" means a determination by a declassification authority that information classified and safeguarded at a specified level shall be classified and safeguarded at a lower level.

(h) "File series" means documentary material, regardless of its physical form or characteristics, that is arranged in accordance with a filing system or maintained as a unit because it pertains to the same function or activity.

Sec. 3.2. *Authority for Declassification.* (a) Information shall be declassified as soon as it no longer meets the standards for classification under this order.

(b) It is presumed that information that continues to meet the classification requirements under this order requires continued protection. In some exceptional cases, however, the need to protect such information may be outweighed by the public interest in disclosure of the information, and in these cases the information should be declassified. When such questions arise, they shall be referred to the agency head or the senior agency official. That official will determine, as an exercise of discretion, whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure. This provision does not:

(1) amplify or modify the substantive criteria or procedures for classification; or

(2) create any substantive or procedural rights subject to judicial review.

(c) If the Director of the Information Security Oversight Office determines that information is classified in violation of this order, the Director may require the information to be declassified by the agency that originated

VOL
60
ISS
76
AP
20
1995
UMI

the classification. Any such decision by the Director may be appealed to the President through the Assistant to the President for National Security Affairs. The information shall remain classified pending a prompt decision on the appeal.

(d) The provisions of this section shall also apply to agencies that, under the terms of this order, do not have original classification authority, but had such authority under predecessor orders.

Sec. 3.3. *Transferred Information.* (a) In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of this order.

(b) In the case of classified information that is not officially transferred as described in paragraph (a), above, but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such information shall be deemed to be the originating agency for purposes of this order. Such information may be declassified or downgraded by the agency in possession after consultation with any other agency that has an interest in the subject matter of the information.

(c) Classified information accessioned into the National Archives and Records Administration ("National Archives") as of the effective date of this order shall be declassified or downgraded by the Archivist in accordance with this order, the directives issued pursuant to this order, agency declassification guides, and any existing procedural agreement between the Archivist and the relevant agency head.

(d) The originating agency shall take all reasonable steps to declassify classified information contained in records determined to have permanent historical value before they are accessioned into the National Archives. However, the Archivist may require that records containing classified information be accessioned into the National Archives when necessary to comply with the provisions of the Federal Records Act. This provision does not apply to information being transferred to the Archivist pursuant to section 2203 of title 44, United States Code, or information for which the National Archives and Records Administration serves as the custodian of the records of an agency or organization that goes out of existence.

(e) To the extent practicable, agencies shall adopt a system of records management that will facilitate the public release of documents at the time such documents are declassified pursuant to the provisions for automatic declassification in sections 1.6 and 3.4 of this order.

Sec. 3.4. *Automatic Declassification.* (a) Subject to paragraph (b), below, within 5 years from the date of this order, all classified information contained in records that (1) are more than 25 years old, and (2) have been determined to have permanent historical value under title 44, United States Code, shall be automatically declassified whether or not the records have been reviewed. Subsequently, all classified information in such records shall be automatically declassified no longer than 25 years from the date of its original classification, except as provided in paragraph (b), below.

(b) An agency head may exempt from automatic declassification under paragraph (a), above, specific information, the release of which should be expected to:

(1) reveal the identity of a confidential human source, or reveal information about the application of an intelligence source or method, or reveal the identity of a human intelligence source when the unauthorized disclosure of that source would clearly and demonstrably damage the national security interests of the United States;
(2) reveal information that would assist in the development or use of weapons of mass destruction;
(3) reveal information that would impair U.S. cryptologic systems or activities;
(4) reveal information that would impair the application of state of the art technology within a U.S. weapon system;

(5) reveal actual U.S. military war plans that remain in effect;
(6) reveal information that would seriously and demonstrably impair relations between the United States and a foreign government, or seriously and demonstrably undermine ongoing diplomatic activities of the United States;
(7) reveal information that would clearly and demonstrably impair the current ability of United States Government officials to protect the President, Vice President, and other officials for whom protection services, in the interest of national security, are authorized;
(8) reveal information that would seriously and demonstrably impair current national security emergency preparedness plans; or
(9) violate a statute, treaty, or international agreement.

(c) No later than the effective date of this order, an agency head shall notify the President through the Assistant to the President for National Security Affairs of any specific file series of records for which a review or assessment has determined that the information within those file series almost invariably falls within one or more of the exemption categories listed in paragraph (b), above, and which the agency proposes to exempt from automatic declassification. The notification shall include:

(1) a description of the file series;
(2) an explanation of why the information within the file series is almost invariably exempt from automatic declassification and why the information must remain classified for a longer period of time; and
(3) except for the identity of a confidential human source or a human intelligence source, as provided in paragraph (b), above, a specific date or event for declassification of the information.

The President may direct the agency head not to exempt the file series or to declassify the information within that series at an earlier date than recommended.

(d) At least 180 days before information is automatically declassified under this section, an agency head or senior agency official shall notify the Director of the Information Security Oversight Office, serving as Executive Secretary of the Interagency Security Classification Appeals Panel, of any specific information beyond that included in a notification to the President under paragraph (c), above, that the agency proposes to exempt from automatic declassification. The notification shall include:

(1) a description of the information;
(2) an explanation of why the information is exempt from automatic declassification and must remain classified for a longer period of time; and
(3) except for the identity of a confidential human source or a human intelligence source, as provided in paragraph (b), above, a specific date or event for declassification of the information. The Panel may direct the agency not to exempt the information or to declassify it at an earlier date than recommended. The agency head may appeal such a decision to the President through the Assistant to the President for National Security Affairs. The information will remain classified while such an appeal is pending.

(e) No later than the effective date of this order, the agency head or senior agency official shall provide the Director of the Information Security Oversight Office with a plan for compliance with the requirements of this section, including the establishment of interim target dates. Each such plan shall include the requirement that the agency declassify at least 15 percent of the records affected by this section no later than 1 year from the effective date of this order, and similar commitments for subsequent years until the effective date for automatic declassification.

(f) Information exempted from automatic declassification under this section shall remain subject to the mandatory and systematic declassification review provisions of this order.

VOL
60
ISS
76
AP
20
1995
UMI

(g) The Secretary of State shall determine when the United States should commence negotiations with the appropriate officials of a foreign government or international organization of governments to modify any treaty or international agreement that requires the classification of information contained in records affected by this section for a period longer than 25 years from the date of its creation, unless the treaty or international agreement pertains to information that may otherwise remain classified beyond 25 years under this section.

Sec. 3.5. *Systematic Declassification Review.* (a) Each agency that has originated classified information under this order or its predecessors shall establish and conduct a program for systematic declassification review. This program shall apply to historically valuable records exempted from automatic declassification under section 3.4 of this order. Agencies shall prioritize the systematic review of records based upon:

(1) recommendations of the Information Security Policy Advisory Council, established in section 5.5 of this order, on specific subject areas for systematic review concentration; or

(2) the degree of researcher interest and the likelihood of declassification upon review.

(b) The Archivist shall conduct a systematic declassification review program for classified information: (1) accessioned into the National Archives as of the effective date of this order; (2) information transferred to the Archivist pursuant to section 2203 of title 44, United States Code; and (3) information for which the National Archives and Records Administration serves as the custodian of the records of an agency or organization that has gone out of existence. This program shall apply to pertinent records no later than 25 years from the date of their creation. The Archivist shall establish priorities for the systematic review of these records based upon the recommendations of the Information Security Policy Advisory Council; or the degree of researcher interest and the likelihood of declassification upon review. These records shall be reviewed in accordance with the standards of this order, its implementing directives, and declassification guides provided to the Archivist by each agency that originated the records. The Director of the Information Security Oversight Office shall assure that agencies provide the Archivist with adequate and current declassification guides.

(c) After consultation with affected agencies, the Secretary of Defense may establish special procedures for systematic review for declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review for declassification of classified information pertaining to intelligence activities (including special activities), or intelligence sources or methods.

Sec. 3.6. *Mandatory Declassification Review.* (a) Except as provided in paragraph (b), below, all information classified under this order or predecessor orders shall be subject to a review for declassification by the originating agency if:

(1) the request for a review describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort;

(2) the information is not exempted from search and review under the Central Intelligence Agency Information Act; and

(3) the information has not been reviewed for declassification within the past 2 years. If the agency has reviewed the information within the past 2 years, or the information is the subject of pending litigation, the agency shall inform the requester of this fact and of the requester's appeal rights.

(b) Information originated by:

(1) the incumbent President;

(2) the incumbent President's White House Staff;

(3) committees, commissions, or boards appointed by the incumbent President; or

(4) other entities within the Executive Office of the President that solely advise and assist the incumbent President is exempted from the provisions of paragraph (a), above. However, the Archivist shall have the authority to review, downgrade, and declassify information of former Presidents under the control of the Archivist pursuant to sections 2107, 2111, 2111 note, or 2203 of title 44, United States Code. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matter interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective Presidential papers or records. Agencies with primary subject matter interest shall be notified promptly of the Archivist's decision. Any final decision by the Archivist may be appealed by the requester or an agency to the Interagency Security Classification Appeals Panel. The information shall remain classified pending a prompt decision on the appeal.

(c) Agencies conducting a mandatory review for declassification shall declassify information that no longer meets the standards for classification under this order. They shall release this information unless withholding is otherwise authorized and warranted under applicable law.

(d) In accordance with directives issued pursuant to this order, agency heads shall develop procedures to process requests for the mandatory review of classified information. These procedures shall apply to information classified under this or predecessor orders. They also shall provide a means for administratively appealing a denial of a mandatory review request, and for notifying the requester of the right to appeal a final agency decision to the Interagency Security Classification Appeals Panel.

(e) After consultation with affected agencies, the Secretary of Defense shall develop special procedures for the review of cryptologic information, the Director of Central Intelligence shall develop special procedures for the review of information pertaining to intelligence activities (including special activities), or intelligence sources or methods, and the Archivist shall develop special procedures for the review of information accessioned into the National Archives.

Sec. 3.7. *Processing Requests and Reviews.* In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of this order, or pursuant to the automatic declassification or systematic review provisions of this order:

(a) An agency may refuse to confirm or deny the existence or nonexistence of requested information whenever the fact of its existence or nonexistence is itself classified under this order.

(b) When an agency receives any request for documents in its custody that contain information that was originally classified by another agency, or comes across such documents inthe process of the automatic declassification or systematic review provisions of this order, it shall refer copies of any request and the pertinent documents to the originating agency for processing, and may, after consultation with the originating agency, inform any requester of the referral unless such association is itself classified under this order. In cases in which the originating agency determines in writing that a response under paragraph (a), above, is required, the referring agency shall respond to the requester in accordance with that paragraph.

Sec. 3.8. *Declassification Database.* (a) The Archivist in conjunction with the Director of the Information Security Oversight Office and those agencies that originate classified information, shall establish a Governmentwide database of information that has been declassified. The Archivist shall also explore other possible uses of technology to facilitate the declassification process.

(b) Agency heads shall fully cooperate with the Archivist in these efforts.

VOL
60
ISS
76
AP
20
1995
UMI

(c) Except as otherwise authorized and warranted by law, all declassified information contained within the database established under paragraph (a), above, shall be available to the public.

PART 4—SAFEGUARDING

Sec. 4.1. *Definitions.* For purposes of this order: (a) "Safeguarding" means measures and controls that are prescribed to protect classified information.

(b) "Access" means the ability or opportunity to gain knowledge of classified information.

(c) "Need-to-know" means a determination made by an authorized holder of classified information that a prospective recipient requires access to specific classified information in order to perform or assist in a lawful and authorized governmental function.

(d) "Automated information system" means an assembly of computer hardware, software, or firmware configured to collect, create, communicate, compute, disseminate, process, store, or control data or information.

(e) "Integrity" means the state that exists when information is unchanged from its source and has not been accidentally or intentionally modified, altered, or destroyed.

(f) "Network" means a system of two or more computers that can exchange data or information.

(g) "Telecommunications" means the preparation, transmission, or communication of information by electronic means.

(h) "Special access program" means a program established for a specific class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level.

Sec. 4.2. *General Restrictions on Access.* (a) A person may have access to classified information provided that:

(1) a favorable determination of eligibility for access has been made by an agency head or the agency head's designee;
(2) the person has signed an approved nondisclosure agreement; and
(3) the person has a need-to-know the information.

(b) Classified information shall remain under the control of the originating agency or its successor in function. An agency shall not disclose information originally classified by another agency without its authorization. An official or employee leaving agency service may not remove classified information from the agency's control.

(c) Classified information may not be removed from official premises without proper authorization.

(d) Persons authorized to disseminate classified information outside the executive branch shall assure the protection of the information in a manner equivalent to that provided within the executive branch.

(e) Consistent with law, directives, and regulation, an agency head or senior agency official shall establish uniform procedures to ensure that automated information systems, including networks and telecommunications systems, that collect, create, communicate, compute, disseminate, process, or store classified information have controls that:

(1) prevent access by unauthorized persons; and
(2) ensure the integrity of the information.

(f) Consistent with law, directives, and regulation, each agency head or senior agency official shall establish controls to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed under conditions that provide adequate protection and prevent access by unauthorized persons.

(g) Consistent with directives issued pursuant to this order, an agency shall safeguard foreign government information under standards that provide a degree of protection at least equivalent to that required by the government or international organization of governments that furnished the information. When adequate to achieve equivalency, these standards may be less restrictive than the safeguarding standards that ordinarily apply to United States "Confidential" information, including allowing access to individuals with a need-to-know who have not otherwise been cleared for access to classified information or executed an approved nondisclosure agreement.

(h) Except as provided by statute or directives issued pursuant to this order, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency. An agency head or senior agency official may waive this requirement for specific information originated within that agency. For purposes of this section, the Department of Defense shall be considered one agency.

Sec. 4.3. *Distribution Controls.* (a) Each agency shall establish controls over the distribution of classified information to assure that it is distributed only to organizations or individuals eligible for access who also have a need-to-know the information.

(b) Each agency shall update, at least annually, the automatic, routine, or recurring distribution of classified information that they distribute. Recipients shall cooperate fully with distributors who are updating distribution lists and shall notify distributors whenever a relevant change in status occurs.

Sec. 4.4. *Special Access Programs.* (a) Establishment of special access programs. Unless otherwise authorized by the President, only the Secretaries of State, Defense and Energy, and the Director of Central Intelligence, or the principal deputy of each, may create a special access program. For special access programs pertaining to intelligence activities (including special activities, but not including military operational, strategic and tactical programs), or intelligence sources or methods, this function will be exercised by the Director of Central Intelligence. These officials shall keep the number of these programs at an absolute minimum, and shall establish them only upon a specific finding that:

(1) the vulnerability of, or threat to, specific information is exceptional; and
(2) the normal criteria for determining eligibility for access applicable to information classified at the same level are not deemed sufficient to protect the information from unauthorized disclosure; or
(3) the program is required by statute.

(b) *Requirements and Limitations.* (1) Special access programs shall be limited to programs in which the number of persons who will have access ordinarily will be reasonably small and commensurate with the objective of providing enhanced protection for the information involved.

(2) Each agency head shall establish and maintain a system of accounting for special access programs consistent with directives issued pursuant to this order.
(3) Special access programs shall be subject to the oversight program established under section 5.6(c) of this order. In addition, the Director of the Information Security Oversight Office shall be afforded access to these programs, in accordance with the security requirements of each program, in order to perform the functions assigned to the Information Security Oversight Office under this order. An agency head may limit access to a special access program to the Director and no more than one other employee of the Information Security Oversight Office; or, for special access programs that are extraordinarily sensitive and vulnerable, to the Director only.
(4) The agency head or principal deputy shall review annually each special access program to determine whether it continues to meet the requirements of this order.

VOL
60
ISS
76
AP
20
1995
UMI

(5) Upon request, an agency shall brief the Assistant to the President for National Security Affairs, or his or her designee, on any or all of the agency's special access programs.

(c) Within 180 days after the effective date of this order, each agency head or principal deputy shall review all existing special access programs under the agency's jurisdiction. These officials shall terminate any special access programs that do not clearly meet the provisions of this order. Each existing special access program that an agency head or principal deputy validates shall be treated as if it were established on the effective date of this order.

(d) Nothing in this order shall supersede any requirement made by or under 10 U.S.C. 119.

Sec. 4.5. *Access by Historical Researchers and Former Presidential Appointees.* (a) The requirement in section 4.2(a)(3) of this order that access to classified information may be granted only to individuals who have a need-to-know the information may be waived for persons who:

(1) are engaged in historical research projects; or

(2) previously have occupied policy-making positions to which they were appointed by the President.

(b) Waivers under this section may be granted only if the agency head or senior agency official of the originating agency:

(1) determines in writing that access is consistent with the interest of national security;

(2) takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with this order; and

(3) limits the access granted to former Presidential appointees to items that the person originated, reviewed, signed, or received while serving as a Presidential appointee.

PART 5—IMPLEMENTATION AND REVIEW

Sec. 5.1. *Definitions.* For purposes of this order: (a) "Self-inspection" means the internal review and evaluation of individual agency activities and the agency as a whole with respect to the implementation of the program established under this order and its implementing directives.

(b) "Violation" means:

(1) any knowing, willful, or negligent action that could reasonably be expected to result in an unauthorized disclosure of classified information;

(2) any knowing, willful, or negligent action to classify or continue the classification of information contrary to the requirements of this order or its implementing directives; or

(3) any knowing, willful, or negligent action to create or continue a special access program contrary to the requirements of this order.

(c) "Infraction" means any knowing, willful, or negligent action contrary to the requirements of this order or its implementing directives that does not comprise a "violation," as defined above.

Sec. 5.2. *Program Direction.* (a) The Director of the Office of Management and Budget, in consultation with the Assistant to the President for National Security Affairs and the co-chairs of the Security Policy Board, shall issue such directives as are necessary to implement this order. These directives shall be binding upon the agencies. Directives issued by the Director of the Office of Management and Budget shall establish standards for:

(1) classification and marking principles;

(2) agency security education and training programs;

(3) agency self-inspection programs; and

(4) classification and declassification guides.

(b) The Director of the Office of Management and Budget shall delegate the implementation and monitorship functions of this program to the Director of the Information Security Oversight Office.

(c) The Security Policy Board, established by a Presidential Decision Directive, shall make a recommendation to the President through the Assistant to the President for National Security Affairs with respect to the issuance of a Presidential directive on safeguarding classified information. The Presidential directive shall pertain to the handling, storage, distribution, transmittal, and destruction of and accounting for classified information.

Sec. 5.3. *Information Security Oversight Office.* (a) There is established within the Office of Management and Budget an Information Security Oversight Office. The Director of the Office of Management and Budget shall appoint the Director of the Information Security Oversight Office, subject to the approval of the President.

(b) Under the direction of the Director of the Office of Management and Budget acting in consultation with the Assistant to the President for National Security Affairs, the Director of the Information Security Oversight Office shall:

(1) develop directives for the implementation of this order;

(2) oversee agency actions to ensure compliance with this order and its implementing directives;

(3) review and approve agency implementing regulations and agency guides for systematic declassification review prior to their issuance by the agency;

(4) have the authority to conduct on-site reviews of each agency's program established under this order, and to require of each agency those reports, information, and other cooperation that may be necessary to fulfill its responsibilities. If granting access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior agency official shall submit a written justification recommending the denial of access to the Director of the Office of Management and Budget within 60 days of the request for access. Access shall be denied pending a prompt decision by the Director of the Office of Management and Budget, who shall consult on this decision with the Assistant to the President for National Security Affairs;

(5) review requests for original classification authority from agencies or officials not granted original classification authority and, if deemed appropriate, recommend Presidential approval through the Director of the Office of Management and Budget;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the program established under this order;

(7) have the authority to prescribe, after consultation with affected agencies, standardization of forms or procedures that will promote the implementation of the program established under this order;

(8) report at least annually to the President on the implementation of this order; and

(9) convene and chair interagency meetings to discuss matters pertaining to the program established by this order.

Sec. 5.4. *Interagency Security Classification Appeals Panel.*

(a) Establishment and Administration.

(1) There is established an Interagency Security Classification Appeals Panel ("Panel"). The Secretaries of State and Defense, the Attorney General, the Director of Central Intelligence, the Archivist of the United States, and the Assistant to the President for National Security Affairs shall each appoint a senior level representative to serve as a member of the Panel. The President shall select the Chair of the Panel from among the Panel members.

(2) A vacancy on the Panel shall be filled as quickly as possible as provided in paragraph (1), above.

(3) The Director of the Information Security Oversight Office shall serve as the Executive Secretary. The staff of the Information Security Oversight Office shall provide program and administrative support for the Panel.

VOL
60
ISS
76
AP
20
1995
UMI

(4) The members and staff of the Panel shall be required to meet eligibility for access standards in order to fulfill the Panel's functions.
(5) The Panel shall meet at the call of the Chair. The Chair shall schedule meetings as may be necessary for the Panel to fulfill its functions in a timely manner.
(6) The Information Security Oversight Office shall include in its reports to the President a summary of the Panel's activities.

(b) *Functions.* The Panel shall:

(1) decide on appeals by persons who have filed classification challenges under section 1.9 of this order;
(2) approve, deny, or amend agency exemptions from automatic declassification as provided in section 3.4 of this order; and
(3) decide on appeals by persons or entities who have filed requests for mandatory declassification review under section 3.6 of this order.

(c) *Rules and Procedures.* The Panel shall issue bylaws, which shall be published in the **Federal Register** no later than 120 days from the effective date of this order. The bylaws shall establish the rules and procedures that the Panel will follow in accepting, considering, and issuing decisions on appeals. The rules and procedures of the Panel shall provide that the Panel will consider appeals only on actions in which: (1) the appellant has exhausted his or her administrative remedies within the responsible agency; (2) there is no current action pending on the issue within the federal courts; and (3) the information has not been the subject of review by the federal courts or the Panel within the past 2 years.

(d) Agency heads will cooperate fully with the Panel so that it can fulfill its functions in a timely and fully informed manner. An agency head may appeal a decision of the Panel to the President through the Assistant to the President for National Security Affairs. The Panel will report to the President through the Assistant to the President for National Security Affairs any instance in which it believes that an agency head is not cooperating fully with the Panel.

(e) The Appeals Panel is established for the sole purpose of advising and assisting the President in the discharge of his constitutional and discretionary authority to protect the national security of the United States. Panel decisions are committed to the discretion of the Panel, unless reversed by the President.

Sec. 5.5. *Information Security Policy Advisory Council.*

(a) *Establishment.* There is established an Information Security Policy Advisory Council ("Council"). The Council shall be composed of seven members appointed by the President for staggered terms not to exceed 4 years, from among persons whohave demonstrated interest and expertise in an area related to the subject matter of this order and are not otherwise employees of the Federal Government. The President shall appoint the Council Chair from among the members. The Council shall comply with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2.

(b) *Functions.* The Council shall:

(1) advise the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, or such other executive branch officials as it deems appropriate, on policies established under this order or its implementing directives, including recommended changes to those policies;
(2) provide recommendations to agency heads for specific subject areas for systematic declassification review; and
(3) serve as a forum to discuss policy issues in dispute.

(c) *Meetings.* The Council shall meet at least twice each calendar year, and as determined by the Assistant to the President for National Security Affairs or the Director of the Office of Management and Budget.

(d) *Administration.*

(1) Each Council member may be compensated at a rate of pay not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the general schedule under section 5376 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Council.
(2) While away from their homes or regular place of business in the actual performance of the duties of the Council, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5703(b)).
(3) To the extent permitted by law and subject to the availability of funds, the Information Security Oversight Office shall provide the Council with administrative services, facilities, staff, and other support services necessary for the performance of its functions.
(4) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, that are applicable to the Council, except that of reporting to the Congress, shall be performed by the Director of the Information Security Oversight Office in accordance with the guidelines and procedures established by the General Services Administration.

Sec. 5.6. *General Responsibilities.* Heads of agencies that originate or handle classified information shall:

(a) demonstrate personal commitment and commit senior management to the successful implementation of the program established under this order;

(b) commit necessary resources to the effective implementation of the program established under this order; and

(c) designate a senior agency official to direct and administer the program, whose responsibilities shall include:

(1) overseeing the agency's program established under this order, provided, an agency head may designate a separate official to oversee special access programs authorized under this order. This official shall provide a full accounting of the agency's special access programs at least annually;
(2) promulgating implementing regulations, which shall be published in the **Federal Register** to the extent that they affect members of the public;
(3) establishing and maintaining security education and training programs;
(4) establishing and maintaining an ongoing self-inspection program, which shall include the periodic review and assessment of the agency's classified product;
(5) establishing procedures to prevent unnecessary access to classified information, including procedures that: (i) require that a need for access to classified information is established before initiating administrative clearance procedures; and (ii) ensure that the number of persons granted access to classified information is limited to the minimum consistent with operational and security requirements and needs;
(6) developing special contingency plans for the safeguarding of classified information used in or near hostile or potentially hostile areas;
(7) assuring that the performance contract or other system used to rate civilian or military personnel performance includes the management of classified information as a critical element or item to be evaluated in the rating of: (i) original classification authorities; (ii) security managers or security specialists; and (iii) all other personnel whose duties significantly involve the creation or handling of classified information;

VOL
60
ISS
76
AP
20
1995
UMI

(8) accounting for the costs associated with the implementation of this order, which shall be reported to the Director of the Information Security Oversight Office for publication; and

(9) assigning in a prompt manner agency personnel to respond to any request, appeal, challenge, complaint, or suggestion arising out of this order that pertains to classified information that originated in a component of the agency that no longer exists and for which there is no clear successor in function.

Sec. 5.7. *Sanctions.* (a) If the Director of the Information Security Oversight Office finds that a violation of this order or its implementing directives may have occurred, the Director shall make a report to the head of the agency or to the senior agency official so that corrective steps, if appropriate, may be taken.

(b) Officers and employees of the United States Government, and its contractors, licensees, certificate holders, and grantees shall be subject to appropriate sanctions if they knowingly, willfully, or negligently:

(1) disclose to unauthorized persons information properly classified under this order or predecessor orders;

(2) classify or continue the classification of information in violation of this order or any implementing directive;

(3) create or continue a special access program contrary to the requirements of this order; or

(4) contravene any other provision of this order or its implementing directives.

(c) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation.

(d) The agency head, senior agency official, or other supervisory official shall, at a minimum, promptly remove the classification authority of any individual who demonstrates reckless disregard or a pattern of error in applying the classification standards of this order.

(e) The agency head or senior agency official shall:

(1) take appropriate and prompt corrective action when a violation or infraction under paragraph (b), above, occurs; and

(2) notify the Director of the Information Security Oversight Office when a violation under paragraph (b)(1), (2) or (3), above, occurs.

PART 6—GENERAL PROVISIONS

Sec. 6.1. *General Provisions.* (a) Nothing in this order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended, or the National Security Act of 1947, as amended. "Restricted Data" and "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued under that Act.

(b) The Attorney General, upon request by the head of an agency or the Director of the Information Security Oversight Office, shall render an interpretation of this order with respect to any question arising in the course of its administration.

(c) Nothing in this order limits the protection afforded any information by other provisions of law, including the exemptions to the Freedom of Information Act, the Privacy Act, and the National Security Act of 1947, as amended. This order is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, itsofficers, or its employees. The foregoing is in addition to the specific provisos set forth in sections 1.2(b), 3.2(b) and 5.4(e) of this order.

(d) Executive Order No. 12356 of April 6, 1982, is revoked as of the effective date of this order.

Sec. 6.2. *Effective Date.* This order shall become effective 180 days from the date of this order.

William J. Clinton

THE WHITE HOUSE,
April 17, 1995.

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VOL
60
ISS
76
AP
20
1995
UMI

Reader Aids

Federal Register

Vol. 60, No. 76

Thursday, April 20, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3	18539–18726	12
16979–17190	4	18727–18948	13
17191–17432	5	18949–19152	14
17433–17624	6	19153–19342	17
17625–17980	7	19343–19484	18
17981–18342	10	19485–19664	19
18343–18538	11	19665–19844	20

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6781 17979
6782 17981
6783 18537
6784 18707
6785 18725

Executive Orders:
April 17, 1926
(Revoked in part by PLO 7134) 19525
12356 (Revoked by EO 12958) 19825
12958 19825

Administrative Orders:
Memorandums:
April 4, 1995 19153
April 14, 1995 19485

5 CFR

Ch. LII 17625
581 18949

Proposed Rules:
316 17655

7 CFR

Ch. II 19487
97 17188
201 16979
272 17628
273 17628
301 18727
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434, 18950
1001 18952
1002 18952
1004 18952
1005 18952
1006 18952
1007 18952
1011 18952
1012 18952
1013 18952
1030 18952
1032 18952
1033 18952
1036 18952
1040 18952
1044 18952
1046 18952
1049 18952
1050 ..... 18343, 18952
1064 18952
1065 18952
1068 18952
1075 18952
1076 18952
1079 18952
1093 18952
1094 18952
1096 18952
1106 18952
1108 18952
1124 18952
1126 ..... 17191, 18952
1131 ..... 17192, 18952
1134 18952
1135 18952
1137 18952
1138 18952
1139 18952
1413 17984
1427 17984
1464 19665
3016 ..... 19638, 19641

Proposed Rules:
250 18781
335 18374
905 19543
946 19382
956 17274
981 17466
1944 19158

8 CFR

Proposed Rules:
212 19001

9 CFR

77 18728
92 17634
318 19491
327 18540
381 19491
391 19491

Proposed Rules:
308 19543
310 19543
318 19543
320 19543
325 19543
326 19543
327 19543
381 ..... 19543, 19685
391 18551

10 CFR

2 18344
436 ..... 18326, 19343
600 ..... 17985, 19638, 19641

Proposed Rules:
50 ..... 19002, 19170, 19686
70 ..... 18035, 19170
52 ..... 17902, 17924, 17947
170 18882
171 18882

VOL 60 ISS 76 AP 20 1995 UMI

430.....18782
490.....19544

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

3.....17986
208.....17436
215.....17635
226.....16771
400.....17625

Proposed Rules:

215.....19689
701.....19690
792.....18036

13 CFR

107.....17438
121.....18981
143.....19638, 19641

14 CFR

25.....17194
39.....16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492
71.....17196, 17442, 18346
97.....17198, 17199, 19160, 19162
187.....19628

Proposed Rules:

39.....16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693
71.....17284, 18038, 18552, 19190, 19553
91.....18700
119.....19007
121.....19007
125.....19007
127.....19007
135.....18700, 19007

15 CFR

24.....19638, 19642
771.....18731
779.....18731

16 CFR

1700.....17992

Proposed Rules:

248.....17032
409.....17491
436.....17656
460.....17492
1700.....17660

17 CFR

30.....19493
200.....17201
400.....18733
403.....18733
405.....18733
449.....18733, 18734

Proposed Rules:

239.....17172
270.....17172
274.....17172

18 CFR

343.....19494
385.....19494
284.....16979

Proposed Rules:

35.....17662
141.....17726
388.....17726

19 CFR

7.....18347
10.....18542, 18983
11.....18347
12.....18347
18.....18347
19.....18347
24.....18347
54.....18347
101.....18347, 18983
102.....18347
111.....18347, 18983
114.....18347
123.....18347, 18983
128.....18347, 18983
132.....18347
134.....18347
141.....18347, 18983
143.....18983
145.....18347, 18983
146.....18347
148.....18347, 18983
151.....18347
152.....18347
159.....18983
177.....18347
178.....18983
181.....18347
191.....18347

Proposed Rules:

Ch. I.....18783

20 CFR

Ch. III.....18991
423.....18991
638.....18993
404.....17443, 19163

Proposed Rules:

Ch. III.....17731
404.....19008
416.....19008

21 CFR

20.....16962
73.....18736
101.....17202
176.....18349
178.....18349, 18352, 18739
310.....17611
558.....18740
876.....17208
1310.....17636, 19509
1403.....19638, 19642

Proposed Rules:

310.....19650
876.....17611

22 CFR

135.....19638, 19642
514.....16785

Proposed Rules:

502.....19385

23 CFR

655.....18520

24 CFR

85.....19638, 19642
215.....17388
236.....17388
570.....17445
813.....17388
905.....17388, 18174
913.....17388
950.....18174
3500.....16985

Proposed Rules:

29.....17968
120.....19191
811.....19695

25 CFR

Proposed Rules:

900.....19387

26 CFR

1.....17216, 18741, 18742
602.....18742

Proposed Rules:

1.....17286, 17731, 18377, 18378, 19387

27 CFR

55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:

Ch. I.....18783
53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

0.....17456
2.....18353
66.....19638, 19642
90.....19474

Proposed Rules:

2.....18378, 18379
16.....18784

29 CFR

15.....19658
97.....19638, 19643
570.....19336
580.....17221
1470.....19638, 19643
1960.....18993
2610.....18994
2619.....18996
2622.....18994
2644.....18998
2676.....18996

Proposed Rules:

1910.....19192
1915.....19192
1926.....19192

30 CFR

903.....18710
914.....16985, 17637, 19668, 19669
915.....17458
934.....18744
938.....16788

Proposed Rules:

Ch. 1.....18044
901.....18044
902.....17495
904.....17498
906.....17501
913.....17734, 19697
914.....17736
915.....17504
916.....17504
917.....17739, 19193
918.....17498
920.....18046
924.....18044
925.....17504
926.....17495
931.....17501
934.....17495
935.....17741, 18380, 19194
936.....17498
938.....18046
943.....17498
944.....17501
946.....17743
948.....18381
950.....17495

32 CFR

33.....19638, 19643
290.....18005
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:

63.....17507
247.....18049

33 CFR

3.....17222
117.....18006, 19351
154.....17134
155.....17134
162.....16793, 19352
165.....16793, 18008, 19354
334.....18543

Proposed Rules:

Ch. I.....17287
100.....18785
117.....18061
164.....19699
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR

80.....19638, 19643
350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR

7.....17639
13.....18532
1207.....19638, 19643

Proposed Rules:

13.....19011
215.....18886
217.....18886
219.....18886

37 CFR

1.....16920

38 CFR

2.....18354
3.....18354
43.....19638, 19644

39 CFR

20.....18009
111.....19355
265.....17224

Proposed Rules:

232.....17287

40 CFR

9.....17100, 18009
31.....19638, 19644
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522, 19673
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
76.....18751
77.....17100
78.....17100
81.....16996
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547, 19523
185.....18547
186.....18547
258.....17649
260.....17001
261.....19165
271.....18356, 18358, 18360
300.....16808, 17004, 19525
302.....19165
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:

Ch. I.....7288
51.....17509
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554
55.....17748, 18787, 19701
58.....17509
63.....16829, 16920, 18071, 18078, 19556
70.....17750, 18790
72.....18472
76.....18792
81.....17034, 17756, 19197
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562, 19556
185.....18562
186.....18560, 18562
300.....18565, 19203
372.....16830, 19702
761.....17510
799.....18079

41 CFR

101–20.....17653
101–26.....19674
105–71.....19638, 19644

43 CFR

12.....17237, 19638, 19644

Proposed Rules:

426.....16922
427.....16922
3100.....18081

Public Land Orders:

2546 (Revoked by PLO 7135).....19526
7131.....18030
7132.....18777
7133.....18777
7134.....19525
7135.....19526
7137.....18778

44 CFR

13.....19638, 19644
64.....17005
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

65.....17758
67.....17035, 17042

45 CFR

92.....19638, 19645
602.....19638, 19645
1157.....19638, 19645
1174.....19638, 19645
1183.....19638, 19645
2541.....19638, 19646

Proposed Rules:

2544.....17761

46 CFR

12.....17134
13.....17134
15.....17134
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:

Ch. I.....17287
Ch. II.....17763
67.....17290
90.....18793
97.....18793
148.....18793
382.....19559

47 CFR

2.....18778, 18999
61.....19526
69.....19528
73.....19531
73.....17023, 17253, 19000, 19359
90.....18999

Proposed Rules:

1.....17294
63.....17763
73.....17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566

48 CFR

225.....19531
252.....19531
538.....19360
552.....19360, 19362
570.....19362
915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023

Proposed Rules:

Ch. V.....17764
6.....17295
12.....17184
16.....17295
32.....18794
52.....17184, 17295, 18794
501.....19708
503.....19708
505.....19708
506.....19708
507.....19708
5552.....19708
570.....19708

49 CFR

18.....19638, 19646
40.....19535, 19675
173.....17398
178.....17398
180.....17398
219.....19538
552.....17254
554.....17254
571.....19681
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:

Ch. I.....17049
Ch. II.....18390
190.....17295
191.....17295
192.....17295
193.....17295
194.....17295
195.....17295
196.....17295
197.....17295
198.....17295
199.....17295
234.....17770, 19012
571.....18566, 19716

50 CFR

17.....18940
227.....19342
641.....19363
646.....19364, 19683
650.....17272
651.....19364
655.....17464
663.....16811
672.....17465
675.....17028, 17653

Proposed Rules:

Ch. VI.....17770
17.....16836, 17296, 19013, 19567
625.....18795
641.....17511
642.....18391
655.....18391
675.....17512

VOL
60
ISS
76
AP
20
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AP
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VOL
60
ISS
77
AP
21
1995
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Contents

Federal Register
Vol. 60, No. 77
Friday, April 21, 1995

Agency for Toxic Substances and Disease Registry
NOTICES
Hazardous substance releases and facilities:
Public health assessments and effects—
Quarterly listing, 19940–19941

Agriculture Department
See Forest Service
See Grain Inspection, Packers and Stockyards Administration

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Birth defect surveillance demonstration projects, State-based; development, implementation, and evaluation, 19941–19943
Syphilis prevention, 19943–19948
Meetings:
Disease, Disability, and Injury Prevention and Control special emphasis panel, 19948

Children and Families Administration
RULES
Repatriate program:
Expenses for developing and preparing to implement repatriation plans; advance approval, 19862–19864
PROPOSED RULES
Native American programs:
Ineligible applications; appeals procedure, 19994–19997
NOTICES
Grants and cooperative agreements; availability, etc.:
Comprehensive early childhood demonstration projects, 19921–19940

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Maine, 19883

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 19883

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Agency information collection activities under OMB review, 19894
Procurement list; additions and deletions, 19894

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Mauritius, 19889
Philippines, 19889–19890
Textile consultation; review of trade:
Colombia, 19890–19891
Costa Rica et al., 19891
El Salvador, 19892–19893
Jamaica et al., 19893

Consumer Product Safety Commission
NOTICES
Settlement agreements:
Outboard Marine Corp., 19894–19896

Defense Department
See Engineers Corps

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Drug and violence prevention program in higher education, 19896–19898
Special education and rehabilitative services:
Formula grant programs; paperwork burden reduction, 19898–19899

Employment and Training Administration
NOTICES
Wagner-Peyser Act:
Allotments and planning estimates (1995 PY), 19961–19963

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 19960–19961

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Environmental statements; availability, etc.:
Foreign research reactor spent nuclear fuel, proposed nuclear weapons nonproliferation policy, 19899–19903
Meetings:
Environmental Management Site Specific Advisory Board—
Fernald Site, 19903
Hanford Site, 19903–19904

Engineers Corps
RULES
Engineering and design:
Completed civil works structures and bridges; inspection and evaluation; rescission, 19851

VOL 60 ISS 77 AP 21 1995 UMI

Environmental Protection Agency
PROPOSED RULES
Water pollution control:
Ocean dumping; site designations—
Humboldt Bay, CA, 19872–19878
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 19915–19916
Weekly receipts, 19916–19917

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 19987

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
North Carolina, 19878–19879

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
South Dakota, 19917
Meetings:
Advisory Board, 19917
National Mitigation Strategy forums, 19917

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Northern Indiana Public Service Co. et al., 19904–19905
Environmental statements; availability, etc.:
Missisquoi Associates, 19905
Hydroelectric applications, 19905–19911
Natural gas certificate filings:
Colorado Interstate Gas Co. et al., 19911–19913
Applications, hearings, determinations, etc.:
Williams Gas Processing—Mid-Continent Region Co., 19913–19914

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Chittenden County, VT, 19982–19983

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
Chicago & North Western Transportation Co. et al., 19983–19984
Renfe Talgo of America, Inc., 19984

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Akin, Charles Keith, 19917–19918
CSB Financial Group, Inc., 19918
First National of Nebraska, Inc., 19918
UJB Financial Corp., Inc., et al., 19918–19919

Federal Retirement Thrift Investment Board
RULES
Thrift savings plan:
Eligibility; plan account make-up contributions, withdrawn funds restoration, and loan accounts reestablishment, 19990–19992

Federal Trade Commission
RULES
Appliances, consumer; energy costs and consumption information in labeling and advertising:
Comparability ranges—
Clothes washers, 19845–19846
NOTICES
Premerger notification waiting periods; early terminations, 19919–19920

Food and Drug Administration
RULES
Human drugs:
Oral solid dosage form drug products; imprinting; clarification, 19846–19847
PROPOSED RULES
Food for human consumption:
Canned fruit nectars; revocation of stayed standard of identity, 19866–19867
NOTICES
Medical devices; premarket approval:
Cardiac Pacemakers, Inc.; VENTAK P2 AICD System, 19948–19949
Meetings:
Advisory committees, panels, etc., 19949–19951
Positron emission tomography radiopharmaceutical drug products guidance; workshop; correction, 19951

Forest Service
NOTICES
Environmental statements; availability, etc.:
Kootenai National Forest, MT, 19880
Tongass National Forest, AK, 19880–19881

General Services Administration
NOTICES
Environmental statements; availability, etc.:
Tucson, AZ; Federal Building-U.S. Courthouse, 19920–19921

Grain Inspection, Packers and Stockyards Administration
NOTICES
Agency designation actions:
Illinois, 19881–19882
Nebraska et al., 19882–19883

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Social Security Administration

Health Care Financing Administration
RULES
Medicaid:
Nurse practitioner services; required coverage, 19856–19862

Hearings and Appeals Office, Energy Department
NOTICES
Special refund procedures; implementation, 19914–19915

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 19953–19955

Interior Department
See Land Management Bureau
See National Park Service

Internal Revenue Service
PROPOSED RULES
Income taxes:
Lease term of tax-exempt use property, 19868–19871

International Trade Administration
NOTICES
Antidumping:
Granular polytetrafluoroethylene resin from—
Italy, 19884–19885
Oil country tubular goods from—
Canada, 19883–19884

Interstate Commerce Commission
NOTICES
Motor carriers:
Compensated intercorporate hauling operations, 19957
Railroad services abandonment:
Chicago & North Western Railway Co., 19957–19958

Justice Department
RULES
Juvenile Justice and Delinquency Prevention Office; formula grants, 19847–19851
PROPOSED RULES
Privacy Act:
Systems of records, 19871–19872
NOTICES
Privacy Act:
Systems of records, 19958–19959

Labor Department
See Employment and Training Administration
See Employment Standards Administration
NOTICES
Agency information collection activities under OMB review, 19959–19960
Meetings:
Trade Negotiations and Trade Policy Labor Advisory Committee, 19960

Land Management Bureau
NOTICES
Agency information collection activities under OMB review, 19955
Environmental statements; availability, etc.:
Expanded Moxa Arch Area Natural Gas Development Project, WY, 19955–19956

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Expansion Arts Advisory Panel, 19964
Visual Arts Advisory Panel, 19964

National Highway Traffic Safety Administration
NOTICES
Motor vehicle theft prevention standard; exemption petitions, etc.:
Saab Cars USA, Inc., 19984–19986

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 19864–19865
NOTICES
Endangered and threatened species:
Sea turtle/shrimp fishery emergency response plan, 19885–19886
Marine mammals:
Public display; export request for two nonreleasable beached and stranded California sea lions by Enoshima Aquarium, Japan, 19886–19887
Meetings:
Gulf of Mexico Fishery Management Council, 19887
Marine Fisheries Advisory Committee, 19887–19888
Mid-Atlantic Fishery Management Council, 19888
Permits:
Marine mammals, 19888–19889

National Park Service
NOTICES
Environmental statements; availability, etc.:
Lake Meredith National Recreation Area, TX, 19956
Meeting:
Santa Fe National Historic Trail Advisory Council, 19956
National Wild and Scenic Rivers System:
Wallowa River, OR; eligibility report availability, 19956–19957

National Science Foundation
NOTICES
Meetings:
Bioengineering and Environmental Systems Special Emphasis Panel, 19964
Biological Sciences Advisory Committee, 19964–19965
Computer and Computation Research Special Emphasis Panel, 19965
Electrical and Communications Systems Special Emphasis Panel, 19965
Graduate Education and Research Development Special Emphasis Panel, 19965
Materials Research Special Emphasis Panel, 19965
Neuroscience Advisory Panel, 19965–19966
Physics Special Emphasis Panel, 19966
Polar Programs Special Emphasis Panel, 19966
Research, Evaluation, and Dissemination Special Emphasis Panel, 19966
Science and Technology Infrastructure Special Emphasis Panel, 19966

Nuclear Regulatory Commission
NOTICES
Agency information collection activities under OMB review, 19967–19968
Environmental statements; availability, etc.:
Peco Energy Co. et al., 19968–19969
Meetings:
Nuclear Safety Research Review Committee, 19969
Applications, hearings, determinations, etc.:
Maine Yankee Atomic Power Co., 19969–19971

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Depository Trust Co., 19971–19973
Applications, hearings, determinations, etc.:
Public utility holding company filings, 19973–19981

VOL 60 ISS 77 AP 21 1995 UMI

Small Business Administration
NOTICES
Meetings:
Investment Advisory Council, 19981

Social Security Administration
NOTICES
Agency information collection activities under OMB review, 19951–19953

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Transportation Department
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 19982
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 19982
Government aircraft owners and operators; allowance to provide not-for-hire, cost-reimbursable transportation incidental to official government business, 19981–19982

Treasury Department
See Internal Revenue Service

Veterans Affairs Department
RULES
Disabilities rating schedules:
Gynecological conditions and breast disorders, 19851–19856

Separate Parts In This Issue

Part II
Federal Retirement Thrift Investment Board, 19990–19992

Part III
Department of Health and Human Services, Children and Families Administration, 19994–19997

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
1620.....19990
16 CFR
305.....19845
21 CFR
206.....19846
Proposed Rules:
146.....19866
26 CFR
Proposed Rules:
1.....19868
28 CFR
31.....19847
Proposed Rules:
16.....19871
33 CFR
222.....19851
38 CFR
4.....19851
40 CFR
Proposed Rules:
228.....19872
42 CFR
440.....19856
441.....19856
45 CFR
212.....19862
Proposed Rules:
1336.....19994
47 CFR
Proposed Rules:
73.....19878
50 CFR
675 (2 documents).....19864

VOL
60
ISS
77
AP
21
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 77
Friday, April 21, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by publishing new ranges of comparability to be used on required labels for clothes washers.

EFFECTIVE DATE: July 20, 1995.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580 (202–326–3035).

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 ("EPCA")[1] requires the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances. Clothes washers are included in those categories. The statute also requires the Department of Energy ("DOE") to develop test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule covering seven of the thirteen appliance categories that were then covered by DOE test procedures: refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces (this category includes boilers).[2] The Commission has extended the coverage of the Appliance Labeling Rule ("Rule") four times since it originally issued the Rule: in 1987 (central air conditioners, heat pumps, and pulse combustion and condensing furnaces);[3] 1989 (fluorescent lamp ballasts);[4] and, 1993 (certain plumbing products[5] and certain lighting products[6]). On July 1, 1994, the Commission amended the Rule to make certain improvements, including making the label format more "user-friendly," changing the energy usage descriptors required on labels, and adopting new product sub-categories for ranges of comparability purposes.[7] In addition to the new format, which applies to labels for all products, the changes for clothes washer labels are the requirement to disclose kilowatt-hour use per year (instead of estimated annual operating cost) for the primary energy usage disclosure and ranges of comparability, and the addition of the "front-loading" and "top-loading" sub-categories to the "standard" and "compact" categories.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report annually by specified dates for each product type.[8] These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the Rule, to publish new ranges (but not more often than annually) if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior ranges remain in effect for the next year.

The annual submissions of data for clothes washers have been made and have been analyzed by the Commission. These submissions of data were made by the affected manufacturers in compliance with the new requirements for new energy usage descriptors and sub-categories in the amendments published on July 1, 1994. These ranges will supersede the current ranges for clothes washers, which were published on April 16, 1991.[9]

In consideration of the foregoing, the Commission revises Appendix F of its Appliance Labeling Rule by publishing the following ranges of comparability for use in required disclosures (including labeling) for clothes washers manufactured on or after July 20, 1995.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. Appendix F to Part 305 is revised to read as follows:

Appendix F to Part 305—Clothes Washers

Range Information:

"Compact" includes all household clothes washers with a tub capacity of less than 1.6 cu. ft. or 13 gallons of water.

"Standard" includes all household clothes washers with a tub capacity of 1.6 cu. ft. or 13 gallons of water or more.

---

[1] 42 U.S.C. 6294.

[2] 44 FR 66466, 16 CFR Part 305 (Nov. 19, 1979). The Statement of Basis and Purpose for the final Rule describes the reasons the Commission declined to cover the other categories of covered products. *Id.* at 66467–69.

[3] 52 FR 46888 (Dec. 10, 1987).

[4] 54 FR 28031 (July 5, 1989).

[5] 58 FR 54955 (Oct. 25, 1993).

[6] 59 FR 25176 (May 13, 1993).

[7] 59 FR 34014. The effective date of the amendments was December 28, 1994. On December 8, 1994, however, the Commission published a partial delay of compliance dates for certain covered products, including clothes washers. 59 FR 63668. As a result of this second notice, manufacturers of clothes washers were given extra time to prepare the new labels. They must begin using the new labels, however, on all covered products manufactured on or after the effective date of today's notice.

[8] Reports for clothes washers are due March 1.

[9] 56 FR 15274.

VOL 60 ISS 77 AP 21 1995 UMI

Capacity	Range of estimated annual energy consumption (kWh/yr.)	
	Low	High
Compact:		
Top Loading	607	1,226
Front Loading	(1)	(1)
Standard:		
Top Loading	603	1,818
Front Loading	306	395

[1] No data submitted.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–9930 Filed 4–20–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 206

[Docket Nos. 88P–0380 and 89P–0163]

Imprinting of Solid Oral Dosage Form Drug Products for Human Use; Clarification

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; clarification.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations requiring the imprinting of solid oral dosage form drug products for human use. This final rule clarifies FDA's intent regarding the effective date for drug products introduced or delivered for introduction into interstate commerce.

DATES: Effective September 13, 1995; written comments by July 20, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Deborah A. Wolf, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1046.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 13, 1993 (58 FR 47948), FDA published a final rule requiring the imprinting of all solid oral dosage form drug products for human use. The regulation requires that all drugs covered by it bear an imprint that will permit the identification of the drug product, including its active ingredients and dosage strength, and its manufacturer or distributor. The regulation was based on a proposed rule that was published in the **Federal Register** of May 15, 1991 (56 FR 22370). The preamble to the proposed rule stated that, among other things, any final rule based on the proposal would become effective 1 year after its date of publication in the **Federal Register**. The preamble also stated that any drug product subject to the requirements of this rule that is *"introduced or delivered for introduction into interstate commerce"* after the effective date would be deemed to be adulterated, misbranded, or an unapproved new drug, unless it is imprinted in compliance with the regulation (see 56 FR 22370 at 22375 (emphasis added)). Under the proposed rule, FDA intended the rule to be effective for drug products entering interstate commerce at the manufacturing level 1 year after the date of publication of a final rule in the **Federal Register**.

In response to the proposed rule, many drug companies commented that 1 year was insufficient time to comply with the requirements of the rule. Industry comments indicated that it would take longer than 1 year for equipment retooling and product imprinting.

In response to industry's concerns, FDA provided for an implementation period of 2 years. The agency intended to provide an effective date of September 13, 1995, which is 2 years after its date of publication in the **Federal Register**.

However, in revising the final rule to provide for a 2-year implementation period, the agency inadvertently replaced the reference to drug products "introduced or delivered for introduction into interstate commerce" with a reference to drug products "*distributed in* interstate commerce" (see 58 FR 47948 at 47950) (emphasis added). This change created the misimpression that FDA intended the rule to apply to drug products distributed by manufacturers, repackers, and retail distributors, thereby increasing, rather than decreasing, the burden on the pharmaceutical industry. FDA has received inquires expressing concern that FDA intended to initiate recall actions at the retail level because "distribution" would include sale at that level.

This final rule amends 21 CFR 206.10(a) by replacing the language "distributed in interstate commerce" with "introduced or delivered for introduction into interstate commerce." This will clarify the requirements of the rule as it pertains to products in interstate commerce.

Because this amendment to the imprinting regulations makes only a change necessary to conform the rule to FDA's original intention as stated in the preamble to the proposed rule and to be consistent with the agency's intent to provide a 2-year implementation period as provided for in the final rule, notice and public procedure are unnecessary. FDA finds that there is good cause to dispense with notice of proposed rulemaking, pursuant to 5 U.S.C. 553(b)(3)(B). FDA is therefore publishing this revision as a final rule effective September 13, 1995. However, the agency is giving interested persons 90 days to comment on this final rule.

II. Request for Comments

Interested persons may, on or before July 20, 1995, submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 206

Drugs.

PART 206—IMPRINTING OF SOLID ORAL DOSAGE FORM DRUG PRODUCTS FOR HUMAN USE

1. The authority citation for 21 CFR part 206 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 505, 507, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 355, 357, 371); sec. 351 of the Public Health Service Act (42 U.S.C. 262).

2. Section 206.10 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 206.10 Code imprint required.

(a) Unless exempted under § 206.7, no drug product in solid oral dosage form may be introduced or delivered for introduction into interstate commerce unless it is clearly marked or imprinted with a code imprint that, in conjunction with the product's size, shape, and color, permits the unique identification of the drug product and the manufacturer or distributor of the product. * * *

* * * * *

Dated: April 13, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9951 Filed 4–20–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

[OJP No. 1045]

RIN 1121–AA28

Formula Grants; Correction

Date: April 13, 1995.

AGENCY: Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Correction to final regulation.

SUMMARY: This document contains corrections to the Final Regulation, revising 28 CFR part 31, which was published in the **Federal Register** on Friday, March 10, 1995, (60 FR 13330). The regulation revisions provided clarification and guidance to States in the formulation, submission and implementation of the State Formula Grants Program under Part B of Title II of the Juvenile Justice and Delinquency Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1992 (Pub. L. 102–586, November 18, 1992).

The 1992 Amendments reauthorize and modify the Federal assistance program to State, local governments, and private not-for-profit agencies for the prevention and control of delinquency and improvement of the juvenile justice system. This final revision to the existing regulation provides clarification and guidance to States in the formulation, submission, and implementation of State Formula Grants Program plans and determinations of State compliance with plan requirements. It provides additional flexibility and guidance to participating States while strengthening several key provisions related to the deinstitutionalization, separation, jail and lockup removal, and disproportionate minority confinement plan requirements of the JJDP Act.

EFFECTIVE DATE: This regulation is effective March 10, 1995.

FOR FURTHER INFORMATION CONTACT: Roberta Dorn, Director, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention (OJJDP), 633 Indiana Avenue NW., Room 543, Washington, D.C. 20531; (202) 307–5924.

SUPPLEMENTARY INFORMATION: The corrections include the requirement that collocated juvenile detention facilities approved by the State and concurred with by OJJDP on or before June 30, 1995, be reviewed against the regulatory criteria in effect at the time of the initial approval and concurrence. Facilities approved after the effective date of this regulation and prior to July 1, 1995, will be reviewed against the regulatory criteria in effect on the day before the effective date of this regulation. For those collocated juvenile detention facilities considered after June 30, 1995, OJJDP's concurrence is limited to one year and, thereafter, will be reviewed on an annual basis. The requirement that in order to receive OJJDP's initial and subsequent concurrences, a collocated juvenile detention facility must only provide secure custody for juvenile criminal-type offenders, status offenders accused of violating a valid court order, and adjudicated delinquents and valid court order violators who are awaiting * * * disposition hearings or transfer to a long term juvenile correctional facility, has been eliminated.

Need for Correction

As published in the **Federal Register** on March 10, 1995, (60 FR 13330), the Final Regulation was an earlier draft version that is materially different from the final draft that was intended to be published. These errors are in need of correction.

Correction of Publication

Accordingly, the Final Regulation, as published in the **Federal Register** on March 10, 1995, which was the subject of FR Doc. 95–5919, is corrected as follows:

§ 31.301 [Corrected]

Paragraph 1. On page 13334 in amendatory instruction 6, paragraph (e) of § 31.301 was revised. Paragraph (e) of § 31.301 in the second column, line 30, the numerals "1994" are corrected to read "1995".

§ 31.302 [Corrected]

Paragraph 2. On page 13334 in amendatory instruction 7, paragraph (b)(2) of § 31.302 was revised. Paragraph (b)(2) of § 31.302 is corrected to read as follows:

* * * * *

(b) * * *

(2) Should consider in meeting the statutory membership requirements and responsibilities of section 223(a)(3) (A)–(E), appointing at least one member who represents each of the following: A locally elected official representing general purpose local government; a law enforcement officer; representatives of juvenile justice agencies, including a juvenile or family court judge, a probation officer, a prosecutor, and a person who routinely provides legal representation to youth in juvenile court; a public agency representative concerned with delinquency prevention and treatment; a representative from a private, non-profit organization, such as a parents group, concerned with teenage drug and alcohol abuse; a high school principal; a recreation director; a volunteer who works with delinquent or at risk youth; a person with a special focus on the family; a youth worker experienced with programs that offer alternatives to incarceration; persons with special competence in addressing problems of school violence and vandalism and alternatives to expulsion and suspension; and persons with knowledge concerning learning disabilities, child abuse and neglect, and youth violence.

* * * * *

§ 31.303 [Corrected]

Paragraph 3. On page 13335, in the second column, in amendatory instruction 11, paragraph (d)(l)(i) of § 31.303 was revised. Paragraph (d)(1)(i) of § 31.303, line ten, the word "no" is corrected to read "any".

Paragraph 4. On page 13335 in amendatory instruction 13, paragraph (e)(3) of § 31.303 was revised. Paragraph (e)(3) of § 31.303 is corrected by removing (e)(3)(v). As corrected, § 31.303(e)(3) reads as follows:

* * * * *

(e) * * *

(3) *Collocated facilities.* (i) Determine whether or not a facility in which juveniles are detained or confined is an adult jail or lockup. The JJDP Act prohibits the secure custody of juveniles in adult jails and lockups, except as otherwise provided under the Act and implementing OJJDP regulations. Juvenile facilities collocated with these adult facilities are considered adult jails or lockups unless the paragraph (e)(3)(i)(D) (1)–(4) criteria established in this section are complied with and the determinations and concurrences set forth in paragraph (e)(3) (ii), (iii), and (iv) of this section have been made.

(A) A collocated facility is a juvenile facility that is located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings

VOL 60 ISS 77 AP 21 1995 UMI

is considered "related" when it shares physical features such as walls and fences services beyond mechanical services (heating, air conditioning, water and sewer), or the specialized services that are allowable under paragraph (e)(3)(i)(D)(3) of this section.

(B) The State, with OJJDP concurrence, must determine whether a collocated facility qualifies as a separate juvenile detention facility under the four criteria set forth in paragraph (e)(3)(i)(D) (1)–(4) of this section for the purpose of monitoring compliance with section 223(a) (12)(A), (13), and (14) of the JJDP Act.

(C) A needs based analysis must precede a jurisdiction's request for State approval and be included with the request for OJJDP concurrence that a collocated facility qualifies as a juvenile detention facility. The needs based analysis should include, but is not limited to, consideration of such factors as excessive travel time to an existing juvenile detention center, crowding in an existing facility (despite the use of objective detention criteria), obsolescence of an existing facility, and, in areas where there are no juvenile detention facilities, a measurable increase in the need for juvenile detention beds. OJJDP's technical assistance provider to the States should be involved in the needs based analysis (without cost to the State or local jurisdiction). The needs based analysis must take into consideration and be coordinated with the State's plans and programs designed to establish a continuum of detention care and to assist detention facilities to provide a full range of services for juvenile offenders.

(D) Each of the following four criteria must be met in order to ensure the requisite separateness of a juvenile detention facility that is collocated with an adult jail or lockup:

(1) Total separation between juvenile and adult facility spatial areas such that there could be no sight or sound contact between juveniles and incarcerated adults in the facility. Total separation of spatial areas can be achieved architecturally, and must provide for no common use areas (time-phasing is not permissible);

(2) Total separation in all juvenile and adult program areas, including recreation, education, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention center which provides for a full range of separate program services. No program activities may be shared by juveniles and incarcerated adults. However, equipment and other resources may be used by both populations subject to security concerns and the criterion in paragraph (e)(3)(i)(D)(1) of this section;

(3) Separate staff for the juvenile and adult populations, including management, security, and direct care staff. Staff providing specialized services (food service, laundry, maintenance and engineering, etc.), who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both populations (subject to State standards or licensing requirements). The day to day management, security and direct care functions of the juvenile detention center must be vested in a totally separate staff, dedicated solely to the juvenile population within the collocated facilities; and

(4) In States that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate. If there are no State standards or licensing requirements, then the jurisdiction must cooperate in a preapproval review of its physical plant, staffing patterns, and programs by an organization selected and compensated by OJJDP. This review will be based on prevailing national juvenile detention standards, and will inform the State's approval process and concurrence by OJJDP.

(ii) The State must initially determine that the four criteria are fully met. Upon such determination, the State must submit to OJJDP a request for concurrence with the State's finding that a separate juvenile detention facility exists. To enable OJJDP to assess the separateness of the two facilities, sufficient documentation must accompany the request to demonstrate that each criterion has been met. It is incumbent upon the State to make the initial determination through an on-site facility (or full construction and operations plan) review and, through the exercise of its oversight responsibility, to ensure that the separate character of the juvenile detention facility is maintained by continuing to fully meet the four criteria set forth in paragraphs (e)(3)(i)(D) (1)–(4) of this section.

(iii) Collocated juvenile detention facilities approved by the State and concurred with by OJJDP on or before June 30, 1995, are to be reviewed against the regulatory criteria and OJJDP policies in effect at the time of the initial approval and concurrence, except that facilities approved after the effective date of this regulation, but prior to July 1, 1995, shall be reviewed against the regulatory criteria in effect on the day before the effective date of this regulation, and except that all collocated facilities are subject to the separate staff requirement established by the 1992 Amendments to the JJDP Act, as set forth in paragraph (e)(3)(i)(D)(3) of this section. Unless otherwise indicated, review of previously approved collocated facilities is expected to occur as part of the State's regularly scheduled monitoring activities.

(iv) OJJDP's concurrence for facilities considered after June 30, 1995, is limited to one year and thereafter, will be reviewed on an annual basis. An annual on-site review of the facility must be conducted by the compliance monitoring staff person(s) representing or employed by the State agency administering the JJDP Act Formula Grants Program. OJJDP's concurrence is required annually, and may involve on-site review by OJJDP staff. The purpose of the annual review is to determine if compliance with the criteria set forth in paragraph (e)(3)(i)(D) (1)–(4) of this section is being maintained, and to assess the continuing need for the collocated facility and the jurisdiction's long term plan to move to a free-standing facility (single jurisdiction or regional) or other detention alternative, unless the juvenile detention center is part of a justice center, in which case the annual review will look solely at the four regulatory criteria. An example of a justice center is a building or a set of buildings in which various agencies are housed, such as law enforcement, courts, State's attorneys, public defenders, and probation, in addition to an adult jail or lockup and a juvenile detention facility.

* * * * *

Paragraph 5. On page 13337 in amendatory instruction 20, paragraph (f)(5) of section 31.303 was revised. Paragraph (f)(5) of § 31.303 is corrected by removing (f)(5)(i)(D) and redesignating paragraphs (f)(5)(i) (E), (F), (G) and (H) as paragraphs (f)(5)(i) (D), (E), (F) and (G), respectively. As corrected, § 31.303(f)(5) reads as follows:

* * * * *

(f) * * *

(5) Reporting requirement. The State shall report annually to the Administrator on the results of monitoring for section 223(a) (12), (13), and (14) of the JJDP Act. The reporting period should provide 12 months of data, but shall not be less than six months. The report shall be submitted to the Administrator by December 31 of each year.

(i) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) Total number of public and private secure detention and correctional facilities, the total number reporting, and the number inspected on-site;

(C) The total number of accused status offenders and nonoffenders, including out-of-State runaways and Federal wards, held in any secure detention or correctional facility for longer than 24 hours (not including weekends or holidays), excluding those held pursuant to the valid court order provision as set forth in paragraph (f)(3) of this section, or pursuant to section 922(x) of Title 18, United States Code, or a similar State law;

(D) The total number of accused status offenders (including valid court order violators, out of state runaways and Federal wards, but excluding Title 18 U.S.C. 922(x) violators) and nonoffenders securely detained in any adult jail, lockup, or nonapproved collocated facility for any length of time;

(E) The total number of adjudicated status offenders and nonoffenders, including out-of-state runaways and Federal wards, held for any length of time in a secure detention or correctional facility, excluding those held pursuant to the valid court order provision or pursuant to Title 18 U.S.C. 922(x);

(F) The total number of status offenders held in any secure detention or correctional facility pursuant to the valid court order provision set forth in paragraph (f)(3) of this section; and

(G) The total number of juvenile offenders held pursuant to Title 18 U.S.C. 922(x).

(ii) To demonstrate the extent to which the provisions of section 223(a)(12)(B) of the JJDP Act are being met, the report must include the total number of accused and adjudicated status offenders and nonoffenders placed in facilities that are:

(A) Not near their home community;

(B) Not the least restrictive appropriate alternative; and

(C) Not community-based.

(iii) To demonstrate the extent of compliance with section 223(a)(13) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) The total number of facilities used to detain or confine both juvenile offenders and adult criminal offenders during the past 12 months and the number inspected on-site;

(C) The total number of facilities used for the secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide sight and sound separation;

(D) The total number of juvenile offenders and nonoffenders not separated from adult criminal offenders in facilities used for the secure detention and confinement of both juveniles and adults;

(E) The total number of juvenile detention centers located within the same building or on the same grounds as an adult jail or lockup that have been concurred with by OJJDP, including a list of such facilities;

(F) The total number of juveniles detained in collocated facilities concurred with by OJJDP that were not separated from the management, security, or direct care staff of the adult jail or lockup;

(G) The total number of juvenile detention centers located within the same building or on the same grounds as an adult jail or lockup that have not been concurred with by OJJDP, including a list of such facilities; and

(H) The total number of juveniles detained in collocated facilities not approved by the State and concurred with by OJJDP, that were not sight and sound separated from adult criminal offenders.

(iv) To demonstrate the extent of compliance with section 223(a)(14) of the JJDP Act, the report must include, at a minimum, the following information for the current reporting period:

(A) Dates covered by the current reporting period;

(B) The total number of adult jails in the State AND the number inspected on-site;

(C) The total number of adult lockups in the State AND the number inspected on-site;

(D) The total number of adult jails holding juveniles during the past twelve months;

(E) The total number of adult lockups holding juveniles during the past twelve months;

(F) The total number of accused juvenile criminal-type offenders held securely in adult jails, lockups, and collocated facilities not concurred with by OJJDP, in excess of six hours (including those held pursuant to the "removal exception" as set forth in paragraph (f)(4) of this section);

(G) The total number of accused juvenile criminal-type offenders held securely in adult jails, lockups and collocated facilities not concurred with by OJJDP for less than six hours for purposes other than identification, investigation, processing, release to parent(s), transfer to court, or transfer to a juvenile facility following initial custody;

(H) The total number of adjudicated juvenile criminal-type offenders held securely in adult jails, lockups and collocated facilities not concurred with by OJJDP for any length of time;

(I) The total number of accused and adjudicated status offenders (including valid court order violators) and nonoffenders held securely in adult jails, lockups and collocated facilities not concurred with by OJJDP for any length of time;

(J) The total number of adult jails, lockups, and collocated facilities not concurred with by OJJDP, in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section, including a list of such facilities and the county or jurisdiction in which each is located;

(K) The total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than 24 hours in adult jails, lockups and collocated facilities not concurred with by OJJDP pursuant to the "removal exception" as set forth in paragraph (f)(4) of this section;

(L) The total number of juveniles accused of a criminal-type offense who were held in excess of 24 hours but not more than an additional 48 hours in adult jails, lockups and collocated facilities not concurred with by OJJDP pursuant to the "removal exception" as noted in paragraph (f)(4) of this section, due to conditions of distance or lack of ground transportation; and

(M) The total number of juveniles accused of a criminal-type offense who were held in excess of 24 hours, but not more than an additional 24 hours after the time such conditions as adverse weather allow for reasonably safe travel, in adult jails, lockups and collocated facilities not concurred with by OJJDP, in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section.

* * * * *

Paragraph 6. On page 13338 in amendatory instruction 23, paragraph (f)(6)(iii)(A) in § 31.303 was removed and paragraphs (f)(6)(iii) (B), (C), (D), and (E) of § 31.303 were redesignated as paragraphs (f)(6)(iii) (A), (B), (C), and (D) of § 31.303, respectively. Redesignated

VOL
60
ISS
77
AP
21
1995
UMI

paragraph (f)(6)(iii)(B) of § 31.303 is corrected to read as follows:

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(iii) * * *

(B) Full compliance with de minimis exceptions is achieved when a State demonstrates that it has met the standard set forth in either of paragraphs (f)(6)(iii)(B) (1) or (2) of this section:

(*1*) *Substantive de minimis standard.* To comply with this standard the State must demonstrate that each of the following requirements have been met:

(*i*) State law, court rule, or other statewide executive or judicial policy clearly prohibits the detention or confinement of all juveniles in circumstances that would be in violation of section 223(a)(14);

(*ii*) All instances of noncompliance reported in the last submitted monitoring report were in violation of or departures from, the State law, rule, or policy referred to in paragraph (f)(6)(iii)(B)(1)(i) of this section;

(*iii*) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances;

(*iv*) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (f)(6)(iii)(B)(1)(i) of this section are such that the instances of noncompliance are unlikely to recur in the future; and

(*v*) An acceptable plan has been developed to eliminate the noncompliant incidents and to monitor the existing mechanism referred to in paragraph (f)(6)(iii)(B)(1)(iv) of this section.

(*2*) *Numerical de minimis standard.* To comply with this standard the State must demonstrate that each of the following requirements under paragraphs (f)(6)(iii)(B)(2) (i) and (ii) of this section have been met:

(*i*) The incidents of noncompliance reported in the State's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the State; and

(*ii*) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of State law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(*iii*) *Exception.* When the annual rate for a State exceeds 9 incidents of noncompliance per 100,000 juvenile population, the State will be considered ineligible for a finding of full compliance with de minimis exceptions under the numerical de minimis standard unless the State has recently enacted changes in State law which have gone into effect and which the State demonstrates can reasonably be expected to have a substantial, significant and positive impact on the State's achieving full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

(*iv*) *Progress.* Beginning with the monitoring report due by December 31, 1990, any State whose prior full compliance status is based on having met the numerical de minimis standard set forth in paragraph (f)(6)(iii)(B)(2)(i) of this § 31.303, must annually demonstrate, in its request for a finding of full compliance with de minimis exceptions, continued and meaningful progress toward achieving full (100%) compliance in order to maintain eligibility for a continued finding of full compliance with de minimis exceptions.

(*v*) *Request submission.* Determinations of full compliance and full compliance with de minimis exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any State reporting less than full (100%) compliance in any annual monitoring report may request a finding of full compliance with de minimis exceptions under paragraph (f)(6)(iii)(B) (1) or (2) of this section. The request may be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual State plan and application for the State's Formula Grant Award.

* * * * *

Paragraph 7. On page 13338 in amendatory instruction 23, paragraph (f)(6)(iii)(D) of § 31.303 was redesignated as paragraph (f)(6)(iii)(C) of § 31.303. Redesignated paragraph (f)(6)(iii)(C) of § 31.303 is corrected to read as follows:

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(iii) * * *

(C) *Waiver.* Failure to achieve full compliance as defined in this section shall terminate any State's eligibility for FY 1993 and prior year formula grants funds unless the Administrator of OJJDP waives termination of the State's eligibility. In order to be eligible for a waiver of termination, a State must request a waiver and demonstrate that it meets the standards set forth in paragraph (f)(6)(iii)(C) (1) through (7) of this section:

(1) Agrees to expend all of its formula grant award except planning and administration, advisory group set-aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(2) Removed all status and nonoffender juveniles from adult jails and lockups. Compliance with this standard requires that the last submitted monitoring report demonstrate that no status offender (including those accused of or adjudicated for violating a valid court order) or nonoffender juveniles were securely detained in adult jails or lockups for any length of time; or that all status offenders and nonoffenders securely detained in adult jails and lockups for any length of time were held in violation of an enforceable State law and did not constitute a pattern or practice within the State; and

(3) Made meaningful progress in removing juvenile criminal-type offenders from adult jails and lockups. Compliance with this standard requires the State to document a significant reduction in the number of jurisdictions securely detaining juvenile criminal-type offenders in violation of section 223(a)(14) of the JJDP Act; or a significant reduction in the number of facilities securely detaining such juveniles; or a significant reduction in the average length of time each juvenile criminal-type offender is securely detained in an adult jail or lockup; or State legislation has recently been enacted and taken effect and which the State demonstrates will significantly impact the secure detention of juvenile criminal-type offenders in adult jails and lockups; and

(4) Diligently carried out the State's jail and lockup removal plan approved by OJJDP. Compliance with this standard requires that actions have been undertaken to achieve the State's jail and lockup removal goals and objectives within approved time lines, and that the State Advisory Group, required by section 223(a)(3) of the JJDP Act, has maintained an appropriate involvement in developing and/or implementing the State's plan; and

(5) Submitted an acceptable plan, based on an assessment of current jail and lockup removal barriers within the State, to eliminate noncompliant incidents; and

(6) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(7) Demonstrates an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance.

* * * * *

Paragraph 8. On page 13338 in amendatory instruction 23, paragraph (f)(6)(iii)(E) of § 31.303 was redesignated as paragraph (f)(6)(iii)(D) of § 31.303. Redesignated paragraph (f)(6)(iii)(D) is corrected to read as follows:

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(iii) * * *

(D) *Waiver maximum.* A State may receive a waiver of termination of eligibility from the Administrator under paragraph (f)(6)(iii)(C) of this section for a combined maximum of four Formula Grant Awards through Fiscal Year 1993. No additional waivers will be granted.

* * * * *

John J. Wilson,

Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 95–9826 Filed 4–20–95; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

33 CFR Part 222

Periodic Inspection and Continuing Evaluation of Completed Civil Works Structures and Inspection and Evaluation of Corps of Engineers Bridges; Rescission

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Rescission of regulations.

SUMMARY: This final rule rescinds regulations concerning periodic inspection and continuing evaluation of completed civil works structures and inspection and evaluation of Corps of Engineers bridges. Both regulations are no longer required to be published in the Code of Federal Regulations because they are for "in-house" guidance only. This rule renumbers the remaining regulations in part 222.

EFFECTIVE DATE: March 20, 1995.

ADDRESSES: U.S. Army Corps of Engineers, Engineering Division, Directorate of Civil Works, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Paul D. Barber or Yung Kuo, (202) 504–4533.

SUPPLEMENTARY INFORMATION:

List of Subjects in 33 CFR Part 222

Bridges, Dams, Reservoirs. Safety, Water resources.

For the reasons set forth in the preamble, 33 CFR part 222 is amended as follows:

PART 222—ENGINEERING AND DESIGN

1. The authority citations for part 222 continues to read as follows:

Authority: 23 U.S.C. 116(d); delegation in 49 CFR 1.45(b); 33 U.S.C. 467 et seq.; 33 U.S.C. 701, 701b, and 701c–1 and specific legislative authorization Acts and Public Laws listed in appendix E of § 222.7.

2. Sections 222.2 and 222.3 are removed and §§ 222.4 through 222.8 are redesignated as §§ 222.2 through 222.6.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–9654 Filed 4–20–95; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AE72

Schedule for Rating Disabilities; Gynecological Conditions and Disorders of the Breast

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: This document amends the section of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities on Gynecological Conditions and Disorders of the Breast. This amendment is based on a General Accounting Office (GAO) study noting that there has been no comprehensive review of the rating schedule since 1945, and recommending that such a review be conducted. The intended effect of this action is to update the gynecological and breast disorders section of the rating schedule to ensure that it uses current medical terminology, unambiguous criteria, and that it reflects medical advances which have occurred since the last review.

EFFECTIVE DATE: This amendment is effective May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–7210.

SUPPLEMENTARY INFORMATION: In December 1988, the General Accounting Office (GAO) recommended that VA prepare a plan for a comprehensive review of the rating schedule and, based on the results, revise the medical criteria accordingly. As part of the process to implement these recommendations, VA published in the **Federal Register** of March 26, 1992 (57 FR 10450–53) a proposal to amend 38 CFR 4.116 and 4.116a. Interested persons were invited to submit written comments, suggestions, or objections on or before April 27, 1992. We received comments from Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans of America, and from several VA employees.

Two commenters suggested that we revise the proposed criteria for rating endometriosis under diagnostic code (DC) 7629, placing the emphasis on pain and abnormal bleeding rather than on headaches.

Upon further review, VA concurs that symptoms such as headaches and muscle cramps are not the most appropriate criteria for evaluating endometriosis, and we have therefore modified the proposed criteria. At the 50 percent level, the proposed criteria specified endometriomas larger than 2×2 cm., ovary or tubes bound down or obstructed by adhesions, or obliteration of the cul-de-sac. These criteria have been modified to call for lesions involving the bladder or bowel confirmed by laparoscopy, pelvic pain or heavy or irregular bleeding not controlled by treatment, and bowel or bladder symptoms. The proposed 30 percent level called for several lesions or minimal adhesions with side effects such as headaches, muscle cramps, or edema despite treatment; but the schedule has been revised to require pelvic pain or heavy or irregular bleeding not controlled by treatment.

One commenter suggested that we include 10 percent and 100 percent levels for evaluation of endometriosis.

Upon further consideration we have added a 10 percent level for those cases in which pain or bleeding requires continuous treatment. However, endometriosis does not in our judgment reach the level of total disability. Some women have incapacitating symptoms, but on a cyclic basis related to their menstrual periods. Others have milder symptoms on a constant basis. Providing a 50 percent level recognizes the substantial level of disability that women may experience because of endometriosis, but we believe that, in general, the highest level of disability assigned for a condition should not exceed the evaluation for absence of the organ involved. In this case, 50 percent for removal of the uterus and both ovaries is the highest post-surgical evaluation.

One individual suggested that a convalescent period of six months at 100 percent should be provided for endometriosis following surgery or other corrective procedure.

VOL 60 ISS 77 AP 21 1995 UMI

VA does not concur. The most extensive surgery that is likely to be needed for endometriosis is a hysterectomy and bilateral salpingo-oophorectomy. Healing, convalescence, and residuals are likely to be similar to those after such surgery for other conditions. We have established a convalescent period for this type of surgery of three months, which is discussed in more detail below. More conservative surgery is often indicated, including some done on an outpatient basis. Recovery would be even more rapid in such cases and, in our judgment, six months of convalescence cannot be justified.

One commenter noted that 30–40 percent of patients with endometriosis become infertile and that 10–15 percent of infertile women have endometriosis.

While endometriosis may be associated with infertility, infertility is not itself a disability for VA rating purposes. It does not result in impairment of average earning capacity. If loss or loss of use of a creative organ is established as due to endometriosis, special monthly compensation under the provisions of 38 CFR 3.350(a) may be considered.

One commenter suggested a language change under the criteria for evaluation of prolapse of the uterus, DC 7621, from "complete—through vulva" to "complete—through vagina and introitus."

The language suggested by the commenter is more technically accurate and we have revised the language as suggested.

Four commenters expressed concern about a lack of clarity in the criteria for evaluating residuals of breast surgery under DC 7626. One said that the phrase "following mastectomy or lumpectomy without significant alteration of size or form" at the 0 percent level is confusing because literally "mastectomy" will result in significant alteration of size or form and that therefore "biopsy" should be substituted for "mastectomy." Another said that it is impossible to remove the breast (i.e., perform a mastectomy) without significant alteration of size or form, and that therefore "mastectomy" should be replaced by "lumpectomy." One felt that the phrase "significant alteration of size or form" is too subjective to be useful, and also that a mastectomy or lumpectomy which requires removal of some breast tissue together with supporting tissues will change the size and form of the breast and should be compensated at a 10 percent level.

In response to these comments, VA has simplified the criteria for evaluating breast surgery residuals and has clarified them by adding a note defining the terms used for the various types of breast surgery specified at each level of evaluation. At the 0 percent level, we have replaced the words "mastectomy or lumpectomy" with "wide local excision," a term that we also define for VA purposes in the note. Since the commenters did not offer alternative language for us to consider, however, we have retained the phrase "significant alteration of size or form." We believe the term is objective enough to be useful since it requires a substantial, as opposed to a subtle or minimal, alteration in the normal size or form of the breast. Furthermore, a mastectomy or lumpectomy or any other wide local excision that significantly alters the size or form of the breast will be compensated, not at 10 percent, but at 30 percent. For degrees of alteration that are not significant, a 10 percent evaluation is not warranted because there is no industrial impairment and little or no cosmetic deformity.

Two commenters suggested that there be major and minor evaluations for breast surgery under DC 7626, comparable to muscle loss under DC 5302, extrinsic muscles of shoulder girdle.

VA does not concur. Muscle loss is not the only disability that results from a radical mastectomy. There are two additional disabling aspects: removal of the breast and removal of lymphatic tissue. The residuals of removal of a breast include pain and deformity, each of variable extent, and a 30 percent level of disability has been established for removal of one breast without involvement of muscle or lymphatic tissue. Disability of the pectoral muscle under DC 5302 is assessed solely on loss of function, and complete removal warrants an evaluation of 30 percent or 40 percent, depending on whether it is on the major or minor side. Residuals from the removal of lymphatic tissue during a radical mastectomy may be as mild in degree as minimal deformity or pain or as severe as massive lymphedema of an arm. Thus the residual disability from each of the three elements has a range of severity, and it is the combination of the three that we have taken into account in assigning a level of disability following breast surgery. Considering all of these facets of disability, we do not believe that the difference between muscle loss on the major and on the minor side significantly influences the overall disability from a radical mastectomy. Fifty percent was the assigned level of impairment for a unilateral radical mastectomy in the 1945 rating schedule. In our judgment this is a reasonable assessment, and we have retained it in this revision. In other than radical breast surgery there is no muscle impairment at all, so the comment on major and minor evaluations is not applicable.

One commenter, stating that there is no industrial impairment following mastectomy with significant alteration of size or form but without removal of axillary lymph nodes unless there are painful scars, suggested that the proposed evaluation of 50 percent for both and 30 percent for one should be lower.

VA does not agree with the commenter. Residuals of mastectomy may include pain, deformity, and sense of loss with psychological distress. Any of these may have an effect on an individual's functioning and can occur regardless of whether or not the external appearance of the clothed individual is altered. We are retaining the current evaluations because the residuals remain essentially the same as they have been for many years, and, in our judgment, result in residual disability consistent with the levels currently assigned.

We proposed to retain § 4.116 of the 1945 rating schedule intact with only minor changes, but one commenter criticized that section as ambiguous and confusing, particularly the part which indicates that removal of uterus, ovaries, etc., is considered disabling, but only prior to the natural menopause.

VA agrees that the implied distinction of surgery before or after the natural menopause is not warranted. The rating schedule spells out, without qualification or restriction, the evaluations to be assigned following the removal of female reproductive organs once the convalescent period has ended. The surgical residuals from the anatomic removal of an organ or organs do not differ depending on whether or not natural, surgical, or any other type of menopause has occurred. The last sentence of § 4.116 has therefore been deleted.

We have also removed the sentences addressing congenital malformations and new growths. They are redundant since they state principles stated elsewhere, specifically in § 4.9, covering congenital or developmental defects as applied to the entire rating schedule, in § 4.10, covering functional impairment in general, and in the criteria under DC's 7627 and 7628, covering evaluation of neoplasms.

Finally, the first two sentences of § 4.116, "[i]n rating disability from gynecological conditions the following will not be considered as ratable conditions: (a) The natural menopause, (b) amenorrhea, when this is based upon developmental defect or abnormality, and (c) pregnancy and childbirth and their incidents, except surgical complications under certain circumstances" and "The surgical complications of pregnancy will not be held the result of service except when additional disability resulted from treatment therein or they are otherwise attributable to unusual circumstances of service," have been changed. The second sentence contains unclear remarks about the surgical complications of pregnancy, seemingly restricting service connection for many of them. Chronic disabilities resulting from pregnancy, whether medical or surgical, are subject to service connection if incurred during service, as with other chronic disabilities. Since this sentence is not only ambiguous but offers no specific information that would aid in evaluation of disabilities, it has been deleted.

The first sentence has been shortened and the type of amenorrhea that is not considered a ratable condition clarified as "primary" amenorrhea. This remaining sentence would serve better as a note, and we have deleted § 4.116 in its entirety and retained this sentence as part of Note (1) at the beginning of this portion of the rating schedule. We have also added a sentence to the note stating that chronic residuals of medical or surgical complications of pregnancy may be disabilities for rating purposes. Since § 4.116 has been deleted, § 4.116a has been redesignated as § 4.116.

One commenter felt that the rating schedule should include rating criteria for cervical dysplasia.

VA does not concur. Cervical dysplasia is neither disease nor injury, but a cellular abnormality of the cervix revealed by a Pap smear. It may resolve without residuals or it may represent a premalignant condition which is a forerunner of carcinoma or carcinoma in situ of the cervix. If carcinoma develops in service, whether or not preceded by cervical dysplasia, it will be service-connected. If carcinoma develops after service, the diagnosis of cervical dysplasia in service may or may not be a factor in establishing service connection, which will be determined under either presumptive provisions of 38 CFR 3.309(a) or the general principles relating to service connection in 38 CFR 3.303 *et seq.* Since cervical dysplasia is not itself a disability, it does not in our judgment warrant inclusion in the rating schedule.

One commenter objected to the retention of separate sections for genitourinary conditions and gynecological conditions, calling this a remnant of antiquated prejudices.

VA does not concur. In fact, the separation of these disciplines is standard throughout modern medicine, with separate specialists, textbooks, medical school and hospital departments, etc. Urology has developed as a specialty that includes both the urinary tract and the male genital tract because these two systems share some common anatomy. This is not the case in females, however, where the genital tract is independent of the urinary tract and is the focus of the separate specialty of gynecology. Combining these systems would be contrary to a major focus of the current revision, which is to bring the rating schedule in line with current medical practice, and would be of no discernible advantage to veterans or to those using the rating schedule.

The same commenter asserted that conditions of the gynecological system, especially the loss of procreative organs, do not cause impairment of earning capacity and should therefore not be compensated. A second commenter suggested that our proposed method of evaluating disabilities of the gynecological system based on the need for or response to treatment is inappropriate because it is not based on impairment of earning capacity as required by 38 U.S.C. 1155. A third related comment was an objection that the proposed evaluations covering disease, injury, or adhesions of the female reproductive organs (DC 7610–7615) were based on optimum success in overcoming the effects of disease and the results of surgery rather than the resultant average impairment.

VA disagrees with the three commenters. The conditions in this system may cause pain, abnormal bleeding, incontinence, etc., and such symptoms undoubtedly cause women to lose time from work, which affects the ability to obtain and retain employment, and thus affects income. In addition, loss of procreative organs may affect endocrine function, renal function, psychological function, etc., any of which may affect the ability to work. How well a patient feels, which often relates to how well or how poorly a disease or injury has responded to treatment, is a significant factor in employment. A person who requires continuous treatment is more disabled than one who does not, and one who has symptoms despite continuous treatment is even more impaired. Since evaluation criteria for conditions in other body systems (e.g., malaria (DC 9304), leukemia (DC 7703), and hypo- and hyper-thyroidism (DC 7900 and DC 7903)) take into account the need for treatment, the evaluation criteria which we proposed under DC's 7610 through 7615 are also consistent with other portions of the rating schedule. Our method of evaluating many of these conditions based on response to treatment is therefore appropriate because it assigns those who have symptoms despite treatment the highest level of evaluation because they are the ones who will suffer the most adverse effects on employment.

One commenter suggested that we not compensate pelvic inflammatory disease, which he states is most often a sexually transmitted disease, because, short of tertiary complications of syphilis, male veterans are not compensated for sexually transmitted diseases. He stated that the proposed rule retains disparate ratings for the same type of disability affecting male and female veterans.

VA again disagrees. The provisions of 38 CFR 3.301(c)(1) specifically permit consideration of service connection for residuals of venereal disease if the initial infection occurred during active service. The commenter's statement that males are not compensated for residuals of venereal disease is inaccurate. Urethral strictures, for example, which in some cases represent residuals of venereal disease, may be compensable disabilities. We would also point out that venereal disease presents differently, both acutely and chronically, in males and females, and that rating criteria and entitlement to compensation are based on disability, not on etiology. For these reasons, we find that the inclusion of pelvic inflammatory disease in the rating schedule does not represent disparate evaluations of similar disabilities for males and females, and the commenter's statements do not, in our judgment, establish a rational basis for deleting this condition from the rating schedule.

We proposed changing the convalescent periods for Ovary, removal of (DC 7619) and Uterus and both ovaries, removal of (DC 7617) from six months to three months, and two commenters objected. One stated that by reducing certain evaluations and periods of convalescence, VA was exceeding the GAO mandate to review the rating schedule to update medical terminology and evaluation criteria, and that a statistical study of impairment in earning capacity should be done. The other said that removal of both uterus and ovaries is a far more significant surgical procedure than the removal of the uterus alone or ovary alone and there is a basis for continuation of the six-month convalescent period.

VA disagrees. A convalescent period of three months after removal of the

VOL 60 ISS 77 AP 21 1995 UMI

uterus and/or ovaries is regarded as adequate for most patients because of improvements in surgical techniques and in postoperative care, including the practice of early ambulation. The average convalescent period is actually shorter than three months, with most patients requiring no more than six to eight weeks to convalesce. VA's mandate to readjust the schedule does not derive from GAO but from 38 U.S.C. 1155, which instructs the Secretary to revise the schedule "in accord with experience." A need for shorter periods of convalescence represents a significant medical advance since the last revision, and changes in the rating schedule to reflect this are appropriate.

Three commenters objected to the proposal concerning the period of total evaluation following the completion of therapy for malignancy, citing the wide variety of possible side effects, the varying individual time requirements for convalescence, and the complexity of certain medical procedures.

VA does not concur with the objections. The commenters appear to have misinterpreted the proposed rule to mean that a convalescent evaluation will be terminated six months after treatment has ceased. However, under the proposed change, there cannot be a reduction at the end of six months because the process of reevaluation does not begin until that time. First, there must be a VA examination six months after completion of treatment. Then, if the results of that or any subsequent examination warrant a reduction in evaluation, the reduction will be implemented under the provisions of 38 CFR 3.105(e), which require a 60-day notice before VA can reduce an evaluation and an additional 60-day notice before the reduced evaluation takes effect. The revision not only requires a current examination to assure that all residuals are documented, but also offers the veteran more contemporaneous notice of any proposed action and expands the veteran's opportunity to present evidence showing that the proposed action should not be taken. In our judgment this method will better ensure that actual side effects and recuperation times are taken into account because they will be noted on the required VA exam. Based on commenters' concerns, however, we have revised the note under this code so that it cannot be misinterpreted as requiring a reduction six months after treatment is terminated. We have also added to the note a direction to rate on residuals, if there has been no local recurrence or metastasis, in order to make these provisions consistent with those we provided for malignancies of the revised genitourinary system. This is not a substantive change, but has been made to provide further clarity, as well as internal consistency within the rating schedule.

Two commenters urged us to retain a minimum evaluation of 10 percent following surgery or the completion of therapy for malignancy.

VA does not agree. Residuals following the medical or surgical treatment of malignancy are common, but vary widely in type and severity, and a specified arbitrary level of residual disability cannot be assumed to be present in every case. As previously discussed, we will be requiring a VA examination for each individual before adjusting the convalescent evaluation, and that examination will also ensure that actual residual disabilities will be documented and assigned an accurate evaluation, which may be more or less than 10 percent.

Two commenters suggested that we retain the evaluation for removal of one ovary with or without partial removal of the other at 10 percent rather than changing it to 0 percent. Another stated that removal of one ovary is analogous to atrophy of both ovaries and should therefore be rated at 20 percent.

VA does not concur. One ovary or even part of an ovary produces sufficient hormone to maintain normal reproductive and endocrine functions without hormonal replacement therapy. The ultimate test of ovarian hormonal function is the ability to support a pregnancy, and it is a well-established medical fact that one ovary is sufficient to support a pregnancy. This is significantly different from complete atrophy of both ovaries (DC 7620), where there would be no hormonal output, and replacement therapy would be necessary.

Two commenters requested that we annotate certain diagnostic codes in this section to indicate entitlement to special monthly compensation (SMC) under 38 U.S.C. 1114(k) for loss of a creative organ. One suggested annotating DC's 7617, 7618, 7619, and 7626, and the other suggested annotations "where appropriate."

Because the statutory requirements for SMC are very complicated and in some cases involve more than one body system, it is impractical to provide detailed information at every location in the rating schedule where the potential for entitlement to SMC might arise. Rating specialists must be aware of the need to refer to 38 CFR 3.350, the governing regulation, in every instance where the veteran has a condition which potentially establishes eligibility for SMC. To that end, we have added a note at the beginning of § 4.116 requiring rating specialists to refer to § 3.350 any time they evaluate a claim involving loss or loss of use of one or more creative organs. In view of the comments received, we have also placed footnotes after diagnostic codes 7617 (removal of uterus and both ovaries), 7618 (removal of uterus), 7619 (removal of ovary), and 7620 (complete atrophy of both ovaries) instructing raters to review for entitlement to SMC. While the conditions we have annotated clearly call for review for entitlement to SMC, almost any condition in this section might, under certain circumstances, establish entitlement to SMC. The note at the beginning of § 4.116 makes it clear that it is the responsibility of the rating specialist to recognize those circumstances and assign SMC when warranted. The lack of a footnote does not relieve rating specialists of that responsibility.

Viewing the rating schedule as a whole, we are concerned that if there are footnotes only for obvious grants of SMC, individual veterans entitled to SMC in less obvious situations will be disadvantaged if rating specialists fail to recognize potential entitlement because they have not been prompted to do so by a footnote. We believe that the combination of the regulatory requirement in the note and the footnotes is the best method of making sure that potential entitlement to SMC is considered.

On further review, we have made some additional changes to the proposed revisions for the sake of clarity and objectivity. The title of DC 7627 has been changed from "Breast, removal of" to "Breast, surgery of," since surgery often stops short of removal of a breast.

In order to eliminate the need to search in other sections of the rating schedule for criteria to evaluate DC 7625, Fistula, urethrovaginal, (which in the proposed rule was to be rated as voiding dysfunction under the genitourinary schedule), we have provided the criteria for voiding dysfunction (continual urine leakage, post surgical urinary diversion, urinary incontinence, or stress incontinence subset of criteria) under DC 7625. The only difference is that we changed the word urethroperineal to urethrovaginal, as being more specific to this system.

Similarly, we proposed that Fistula, rectovaginal (DC 7624) be evaluated as DC 7332, rectum and anus, impairment of sphincter control (in the digestive system section of the rating schedule). In response to a general comment on the proposed rating schedule revisions of a number of body systems, which strongly favored the elimination of subjectivity and urged its extension, we removed terms such as "extensive leakage" and "fairly frequent", which are part of the criteria for DC 7332, in favor of criteria that are more precise, but still based on the extent of fecal leakage and the necessity for wearing a pad.

We made one additional minor technical change under DC 7628, Benign neoplasms of the gynecological system or breast. The word "genitourinary" has been replaced by the word "urinary" as being more specific to this system.

VA appreciates the comments submitted in response to the proposed rule, which is now adopted with the amendments noted above.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

This regulatory amendment has been reviewed by the Office of Management and Budget under the provisions of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993.

(The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.)

List of Subjects in 38 CFR Part 4

Individuals with disability, Pensions, Veterans.

Approved: December 22, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 4, subpart B, is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart B—Disability Ratings

1. The authority citation for part 4 is revised to read as follows:

Authority: 38 U.S.C. 1155.

2. The undesignated center heading appearing before § 4.116 is revised to read as follows:

Gynecological Conditions and Disorders of the Breast

3. Section 4.116 is removed.

4. Section 4.116a is redesignated as § 4.116 and its heading and text are revised to read as follows:

§ 4.116. Schedule of ratings—gynecological conditions and disorders of the breast.

	Rating
Note 1: Natural menopause, primary amenorrhea, and pregnancy and childbirth are not disabilities for rating purposes. Chronic residuals of medical or surgical complications of pregnancy may be disabilities for rating purposes.	
Note 2: When evaluating any claim involving loss or loss of use of one or more creative organs, refer to § 3.350 of this chapter to determine whether the veteran may be entitled to special monthly compensation. Footnotes in the schedule indicate conditions which potentially establish entitlement to special monthly compensation; however, almost any condition in this section might, under certain circumstances, establish entitlement to special monthly compensation.	
7610 Vulva, disease or injury of (including vulvovaginitis).	
7611 Vagina, disease or injury of.	
7612 Cervix, disease or injury of.	
7613 Uterus, disease, injury, or adhesions of.	
7614 Fallopian tube, disease, injury, or adhesions of (including pelvic inflammatory disease (PID)).	
7615 Ovary, disease, injury, or adhesions of.	
General Rating Formula for Disease, Injury, or Adhesions of Female Reproductive Organs (diagnostic codes 7610 through 7615):	
Symptoms not controlled by continuous treatment	30
Symptoms that require continuous treatment	10
Symptoms that do not require continuous treatment	0
7617 Uterus and both ovaries, removal of, complete:	
For three months after removal	[1] 100
Thereafter	[1] 50
7618 Uterus, removal of, including corpus:	
For three months after removal	[1] 100
Thereafter	[1] 30
7619 Ovary, removal of:	
For three months after removal	[1] 100
Thereafter:	
Complete removal of both ovaries	[1] 30
Removal of one with or without partial removal of the other	[1] 0
7620 Ovaries, atrophy of both, complete	[1] 20
7621 Uterus, prolapse:	
Complete, through vagina and introitus	50
Incomplete	30
7622 Uterus, displacement of:	
With marked displacement and frequent or continuous menstrual disturbances	30
With adhesions and irregular menstruation	10
7623 Pregnancy, surgical complications of:	
With rectocele or cystocele	50
With relaxation of perineum	10
7624 Fistula, rectovaginal:	
Vaginal fecal leakage at least once a day requiring wearing of pad	100
Vaginal fecal leakage four or more times per week, but less than daily, requiring wearing of pad	60
Vaginal fecal leakage one to three times per week requiring wearing of pad	30
Vaginal fecal leakage less than once a week	10
Without leakage	0
7625 Fistula, urethrovaginal:	
Multiple urethrovaginal fistulae	100
Requiring the use of an appliance or the wearing of absorbent materials which must be changed more than four times per day	60
Requiring the wearing of absorbent materials which must be changed two to four times per day	40
Requiring the wearing of absorbent materials which must be changed less than two times per day	20
7626 Breast, surgery of:	
Following radical mastectomy:	
Both	80
One	50
Following modified radical mastectomy:	
Both	60
One	40
Following simple mastectomy or wide local excision with significant alteration of size or form:	
Both	50
One	30
Following wide local excision without significant alteration of size or form:	
Both or one	0
Note: For VA purposes:	
(1) *Radical mastectomy* means removal of the entire breast, underlying pectoral muscles, and regional lymph nodes up to the coracoclavicular ligament.	

VOL 60 ISS 77 AP 21 1995 UMI

	Rating
(2) *Modified radical mastectomy* means removal of the entire breast and axillary lymph nodes (in continuity with the breast). Pectoral muscles are left intact.	
(3) *Simple (or total) mastectomy* means removal of all of the breast tissue, nipple, and a small portion of the overlying skin, but lymph nodes and muscles are left intact.	
(4) *Wide local excision* (including partial mastectomy, lumpectomy, tylectomy, segmentectomy, and quadrantectomy) means removal of a portion of the breast tissue.	
7627 Malignant neoplasms of gynecological system or breast	100
Note: A rating of 100 percent shall continue beyond the cessation of any surgical, X-ray, antineoplastic chemotherapy or other therapeutic procedure. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of §3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residuals.	
7628 Benign neoplasms of the gynecological system or breast. Rate according to impairment in function of the urinary or gynecological systems, or skin.	
7629 Endometriosis:	
Lesions involving bowel or bladder confirmed by laparoscopy, pelvic pain or heavy or irregular bleeding not controlled by treatment, and bowel or bladder symptoms	50
Pelvic pain or heavy or irregular bleeding not controlled by treatment	30
Pelvic pain or heavy or irregular bleeding requiring continuous treatment for control	10
Note: Diagnosis of endometriosis must be substantiated by laparoscopy.	

[1] Review for entitlement to special monthly compensation under §3.350 of this chapter.

[FR Doc. 95–9714 Filed 4–20–95; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 440 and 441

[MB–41–F]

RIN 0938–AF12

Medicaid Program; Required Coverage of Nurse Practitioner Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule stipulates the requirements for coverage of and payment for pediatric and family nurse practitioner services under the Medicaid program. The coverage of these additional services under the Medicaid program increases the availability and accessibility of medical care for specified Medicaid recipients.

This final rule adds to the Medicaid regulations provisions of sections 1902(a)(10)(A) and 1905(a)(21) of the Social Security Act, as amended by section 6405 of the Omnibus Budget Reconciliation Act of 1989.

EFFECTIVE DATE: These regulations are effective May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Wardwell, (410) 966–5659.

SUPPLEMENTARY INFORMATION:

I. General Background

Title XIX of the Social Security Act (the Act) authorizes States to establish Medicaid programs to provide medical assistance to needy individuals. Section 1902(a)(10) of the Act describes the two broad classifications of most individuals to whom medical assistance may be provided: The categorically needy (section 1902(a)(10)(A)) and the medically needy (section 1902(a)(10)(C)). Section 1905 of the Act defines medical assistance for purposes of the Medicaid program and specifies the services that constitute medical assistance.

Section 6405 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101–239, enacted on December 19, 1989, redesignated section 1905(a)(21) as section 1905(a)(22) and added a new section 1905(a)(21) to the Act to include services furnished by certified pediatric nurse practitioners (CPNPs) and by certified family nurse practitioners (CFNPs) in the definition of "medical assistance." Section 1905(a)(21) describes the added services as those that a nurse practitioner is legally authorized to perform under State law, whether or not the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider.

In addition, section 6405 of OBRA '89 amended section 1902(a)(10)(A) to include the nurse practitioner services listed in section 1905(a)(21) of the Act as services that must be made available to categorically needy recipients. Nurse practitioner services can be provided to medically needy recipients at the option of the State Medicaid agency.

Program instructions to help States implement the provisions of section 6405 of OBRA '89 were initially published in the State Medicaid Manual, Part 4, Services, in August 1990 (Transmittal Number 48). As a result, since July 1, 1990, States have been required to provide for direct payment to nurse practitioners for their services if the services are not billed by an employing provider (for example, a hospital clinic). These instructions included an administratively imposed requirement that CPNPs and CFNPs must be certified by national accrediting bodies.

II. Notice of Proposed Rulemaking

On December 23, 1991, we published in the **Federal Register** (56 FR 66392) a proposed rule to include in the Medicaid regulations coverage of and payment for services furnished by CPNPs and CFNPs, as provided by section 6405 of OBRA '89.

The proposed rule included revisions to 42 CFR parts 440 and 441 to define nurse practitioner services for purposes of this benefit, to set out the requirements for CPNPs and CFNPs, and to describe the permissible methods of payment for services. Under proposed § 440.166(a), we defined nurse practitioner services as services furnished within the scope of practice authorized by State law or regulations, by a practitioner who meets the requirements for a CPNP or a CFNP, regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider.

In § 440.166(b), we proposed that a CPNP must—

- Be a registered professional nurse;
- Be currently licensed to practice in the State as a registered professional nurse;
- Meet the State requirements for qualification of pediatric nurse practitioners or nurse practitioners in the State in which he or she furnishes the services; and
- Be currently engaged in a pediatric nurse practice within the scope of applicable State law.

We proposed in § 440.166(c) that a CFNP must—

- Be a registered professional nurse;
- Be currently licensed to practice in the State as a registered professional nurse;
- Meet the State requirements for qualification of family nurse practitioners or nurse practitioners in the State in which he or she furnishes the services; and
- Be currently engaged in a family nurse practice within the scope of applicable State law.

We did not include in the proposed regulations the national certification requirement for CPNPs and CFNPs that we issued in the State Medicaid Manual, Part 4, Services, in August 1990. We eliminated this requirement to allow States the opportunity to use criteria other than national certification to qualify individuals as nurse practitioners in specialties.

In § 440.166(d), we proposed to require State Medicaid agencies to pay nurse practitioners directly under an independent provider agreement with the State Medicaid agency or, at the option of the nurse practitioner, through an employing provider. We proposed a new § 441.22(c) to require that State plans provide nurse practitioners with these payment options.

We proposed to revise § 440.210 and to add a new § 441.22(a) to require that nurse practitioner services described in § 440.166 be furnished to categorically needy recipients. We also proposed a new § 441.22(b) to require that a State plan specify whether the State is electing the option to furnish nurse practitioner services to the medically needy.

We proposed a new § 440.225 to specify that any service not required to be provided either to the categorically needy or to the medically needy may be furnished under a State plan at the State's option.

We also proposed some technical changes.

III. Summary of Public Comments on the Proposed Rule and Departmental Responses

We received 28 timely pieces of correspondence that commented on the December 23, 1991, proposed rule. The comments came from State Medicaid agencies, medical centers, hospitals, consultant groups, nurse practitioners and associations of nurse practitioners, nurses, and medical directors. A summary of these public comments and our responses follow.

A. Requirements for CPNPs and CFNPs

Comment: Several commenters addressed our omission of the requirement that we had included in the State Medicaid Manual stipulating that CPNPs or CFNPs be certified by one of two specific national accrediting organizations. Two commenters indicated that we should have included the requirement in the proposed regulations, stating that the omission will result in less consistent quality of care and a less credible national standard. Three commenters supported our decision to omit the requirement, stressing the importance of allowing States flexibility to base qualifications on existing State certification mechanisms. These commenters stressed that this flexibility will result in additional qualified nurse practitioners.

Response: We intentionally did not incorporate the requirement included in the manual instructions that nurse practitioners be certified by national accrediting organizations into the proposed regulations. We omitted this requirement to avoid excluding from coverage nurse practitioners in several States that have detailed requirements for nurse practitioners that do not include use of national certification. This exclusion would be contrary to the statute's intent to provide maximum access to nurse practitioner services. Consequently, we are not making any change to the proposed § 440.166 to include the requirement that CPNPs or CFNPs be certified by national accrediting organizations. In the final rule, we are allowing States to determine their own requirements for pediatric and family nurse practitioners. In this way, by State law, a State can establish its own standards for these nurse practitioner specialties. For example, a State may specify its own requirements for training of pediatric or family nurse practitioners or, if it chooses, a State may require that nurse practitioners be certified by a national certification board.

Comment: Two commenters requested that we change the provision in the proposed rule that CPNPs and CFNPs must "meet the State requirements for qualification of pediatric or family nurse practitioners or nurse practitioners" to CPNPs and CFNPs must "meet the State requirements for nurses in advanced practice or nurse practitioners." The commenters pointed out that, in many States, State laws do not name nurse practitioners according to specialty; that is, pediatric or family practice, and instead refer to "nurses in advanced practice." In addition, both commenters suggested that we require the nurses to be certified by a national certification board in pediatrics or family practice. One of these commenters also suggested that we define nurses in advanced practice as those who are authorized under State law to furnish those services stipulated by the State Board of Nursing and that we leave the definition of pediatric and family practice up to the State.

Response: The language used in the proposed rule provides parameters for practitioners in States that do not have specific requirements for pediatric or family nurse practitioners. In these States, the practitioner must have a pediatric nurse practice limited to providing primary health care to persons less than 21 years of age, or a family nurse practice limited to providing primary health care to individuals and families.

We did not intend to exclude from participation pediatric nurse practitioners or family nurse practitioners in any State where State law does not specifically name nurse practitioners according to specialty. We agree with commenters that those States that do not specifically define the specialties may instead define nurses in "advanced practice" or "nurse practitioners." Generally this means that the nurse has met advanced practice requirements beyond the 2 to 4 years of basic nursing education required of all registered nurses. In these States, therefore, registered nurses must meet the State requirements for nurses in "advance practice" or general nurse practitioners and must have a pediatric nurse practice limited to providing primary health care to persons less than 21 years of age, or a family nurse practice limited to providing primary health care to individuals and families. We have, therefore, revised § 440.166 (b)(2) and (c)(2) and included reference to nurses in advanced practice. Nurses in advanced practice or general nurse practitioners who wish to have their services covered under this benefit must be practicing as pediatric or family nurse practitioners within broad Federal definitions established in these regulations.

We encourage States to establish requirements for pediatric and family nurse practitioners and to define the scope of their practices. A State may require that nurse practitioners be certified by a national certification board as a pediatric or family nurse practitioner, or a State, itself, may define the scope of services that constitute pediatric or family nurse practitioner services. The Federal definitions will apply in those States

VOL 60 ISS 77 AP 21 1995 UMI

that have not established their own definitions.

Comment: One commenter disagreed with the requirement that CPNPs and CFNPs be currently engaged in a pediatric or family nurse practice, contending that this requirement could bar access to services; for example, by excluding new practitioners.

Response: We agree that the requirements that all nurse practitioners meet the State requirements for pediatric and family nurse practitioners and be currently engaged in a pediatric or family nurse practice could reduce the provider base of nurse practitioners. Consequently, we have revised the final regulations at § 440.166 (b) and (c) to require that licensed registered nurses in States that have specific requirements for pediatric and family nurse practitioners will need only to meet those State requirements. In States that do not have specific requirements for pediatric or family nurse practitioners, nurses in advanced practice and nurse practitioners may qualify by being engaged in a pediatric or family nurse practice within the scope of the Federal definitions. Thus, being currently engaged in a pediatric or family nurse practice will be one way that an individual can qualify as a provider of these services, but it will not be the only way an individual can qualify.

Comment: One commenter requested that we specify that the State requirements that CPNPs and CFNPs must meet are State requirements "as specified by the State Board of Nursing", since, according to this commenter, it is the State entity that interprets laws and regulations on the scope of practice for nurses. This commenter also suggested that the nurses in advanced practice be defined as those who are authorized under State law to furnish those services stipulated by the State Board of Nursing, and leave the definition of pediatric and family practice up to the States.

Response: While a State Board of Nursing may be the State entity legally responsible for defining the scope of practice for nurse practitioners in most States, we believe it is not feasible to specify the particular State governmental entity in Federal regulations, since the requirements in the regulations must apply to all States.

Comment: A large number of commenters requested that nurse practitioners with distinct specialties be included in coverage under this regulation. Four commenters supported the inclusion of nurse practitioners who specialize in providing family planning, gynecological, and prenatal care services, including obstetrics-gynecology nurse practitioners, reproductive health nurse practitioners, and women's health nurse practitioners. Four commenters requested the inclusion of adult nurse practitioners—pointing out that these practitioners often provide access to care for adolescents and economically disadvantaged adults. Three commenters recommended covering the services of geriatric nurse practitioners. Four commenters noted that the inclusion of psychiatric clinical nurse specialists would provide important services for the mentally ill, reduce inappropriate care, and be unlikely to increase costs. One commenter asked for a clarification on whether other groups of nurse practitioners are included.

Response: Under the final regulations (§ 440.166 (b)(1) and (c)(1)), States will be able to define the scope of pediatric and family nurse practitioner services. The final rule specifies only that in States that have not established requirements for pediatric or family nurse practitioners or defined the scope of their practice, (1) pediatric nurse practitioners have a practice limited to providing primary health care to persons less than 21 years of age, and (2) family nurse practitioners have a practice limited to providing primary health care to individuals and families. These Federal definitions will apply only in States that have not established their own requirements or definitions. In these States, the State will decide if the practitioner's specialty fits within the broad Federal definitions and apply the regulations accordingly. The services performed by many of the specific nurse practitioners cited by the commenters may be covered under the nurse practitioner benefit if they fall under the broad Federal definition. Many of these specific nurse practitioner services could also be covered, at a State's option, under the Medicaid benefit of medical or other remedial care provided by licensed practitioners as specified in § 440.60.

Comment: One commenter requested that the requirements for family nurse practitioners who provide services to nursing facility residents include geriatric and drug therapy training.

Response: While we do not challenge the value of such training for CFNPs, we believe it is inappropriate for these regulations to specify requirements at this level of detail. A State may choose to address the need for this specific training in the requirements it establishes for certification of CFNPs.

B. Classification of Nurse Practitioner Services

Comment: One commenter opposed any provision of services in nursing facilities that are not under the direction of a physician, and raised concerns about nurse practitioners practicing independently in those settings. Another commenter asked for clarification on whether direct payment to nurse practitioners can be offered in any setting.

Response: These concerns raise some very complex Medicaid coverage issues. To help clarify the payment process for nurse practitioners, we are starting this response with some general information on how all Medicaid services are paid. We are following this with some more specific information on nurse practitioner services.

Generally, Medicaid services are classified by categories. Each separate category may have specific Federal requirements relating to supervision or location of services. Some services, such as inpatient hospital, nursing facility, and clinic services, are described in terms of their setting. Other services, such as rehabilitation or physical therapy, are described by the type of service being furnished. Finally, some services, such as nurse practitioner and physician services, are described in terms of the individual providing services. Each category is separate and has a distinct set of requirements.

While we view each category of services as separate, some services, including nurse practitioner services, can be classified in more than one category. However, the specific circumstances under which a service is provided will determine which category the provider should use when submitting a claim. It is possible that a specific claim could meet the requirements under one category and not another even though, as a general rule, the service could be submitted under either category.

When a provider submits a claim for payment, the provider must identify the service by using a procedure code. The claim is reviewed to assure that it meets the requirements for payment. This review is based on the information provided on the claim submission. Therefore, any service that is submitted for Medicaid payment must meet the requirements of the procedure code that the provider designates on a claim for payment. Consequently, the provider must use care when submitting a claim to avoid having the claim rejected because it does not meet the requirements of the designated category. The claim must meet those requirements to be eligible for payment; otherwise, it will be rejected. (A rejected claim could be resubmitted under the proper category.)

The category of nurse practitioner services has certain similarities to physician services that should help clarify how nurse practitioner services are classified under Medicaid.

First, like physician services, nurse practitioner services are limited in scope only through State licensure or scope of practice laws.

Second, at the Federal level, there are no restrictions on where either physician or nurse practitioner services are furnished.

Third, the Medicaid statute does not dictate that a physician who practices in a hospital or clinic must receive payment through the hospital or clinic. This same type of flexibility extends to nurse practitioners.

Fourth, while services provided by physicians or nurse practitioners can each be classified in its distinct category, both services can also be billed in other categories such as outpatient hospital and clinic services.

As an example of how the billing category governs the classification of nurse practitioner services, we can compare two methods of billing for nurse practitioner services performed in a clinic setting. If the clinic bills the program for the nurse practitioner services, the services will be considered to be clinic services and all Federal requirements relating to clinics must be met. That is, the service provided by a nurse practitioner in the clinic setting must be provided under the overall direction of a physician. If, instead, a nurse practitioner bills for the services as nurse practitioner services (which happen to be furnished in a clinic setting), supervision is irrelevant.

Generally, to be acceptable for direct payment, billing for nurse practitioner services provided in any setting must be submitted under the category of nurse practitioner services. A nurse practitioner furnishing services in a hospital or clinic should not bill Medicaid for direct payment under the categories of hospital or clinic services because the nurse practitioner would not be able to meet the criteria for payment under these categories, for example, the conditions of participation applicable to hospitals.

The issue of the setting of the services also has an impact on both the supervision of services and the billing for services. If a nurse practitioner furnishes services in a hospital or a clinic and bills Medicaid independently under the Medicaid service category of nurse practitioner services, the issue of supervision is generally irrelevant for purposes of Medicaid coverage. The issue of supervision is more complex for nurse practitioner services performed in nursing facilities and rural health clinics. However, for reasons discussed below, we will also allow direct billing for nurse practitioner services performed in these latter settings.

As mentioned by a commenter, section 1919(b)(6) of the Act requires that the health care of every resident of a nursing facility be provided under the supervision of a physician (or at State option, under the supervision of an nurse practitioner who is not an employee of the facility but is working in collaboration with a physician). When providing services in a nursing facility, a nurse practitioner must either be under the supervision of, or have an association with, a physician.

Services furnished in rural health clinics, as defined at section 1905(1) of the Act (which refers to section 1861(aa) of the Act), similarly require supervision of a nurse practitioner by a physician.

Because supervision is required under sections 1919(b)(6) and 1905(1), these sections appear to prohibit any nurse practitioner that works in a nursing facility or rural health clinic from directly billing Medicaid for services. We believe it would be contrary to the Congressional intent of section 1905(a)(2) of the Act to prohibit a nurse practitioner working in either of these settings from billing for direct payment for nurse practitioner services. Consequently, we are allowing a nurse practitioner to bill directly for nurse practitioner services furnished in a nursing facility or rural health clinic even though the services must be furnished under the supervision of, or in association with, a physician.

Because nurse practitioner services can now be billed either directly or indirectly, we recognize that there is some potential for duplicate billing. However, we anticipate that nurse practitioners will enter into billing agreements with other health care providers, for example, clinics. We expect that these agreements will specify which entity will bill the Medicaid program for the services and how a nurse practitioner will be paid—either directly by the Medicaid program or indirectly through the other health care provider. In addition, the respective provider agreements with a State Medicaid agency may also include provisions which ensure that duplicate payments are not made. The State, however, may not require a nurse practitioner to be associated with or bill through another health care provider.

C. Physician Referral and Supervision Issues

Comment: One commenter requested that HCFA amend the regulation regarding long-term care facilities (§ 483.40) to allow a physician to delegate tasks to a nurse practitioner only if the nurse practitioner is not an employee of the facility.

Response: This suggested revision has already been published under § 483.40 (56 FR 48875, September 26, 1991) effective April 1, 1992.

Comment: One commenter requested that we amend the regulation at § 440.110 that requires that physical therapy and occupational therapy be prescribed by a physician, and that speech, hearing, and language services be referred by a physician. The commenter pointed out that the proposed rule defines nurse practitioner services as services that the CPNP or CFNP is legally authorized to perform under State law, and that, in the commenter's State, nurse practitioners are legally authorized to order these therapy services for recipients. The commenter stated that an amendment that allowed nurse practitioners to prescribe or refer patients for these therapy services would further the statutory intent of ensuring that Medicaid payment is available for these services. The commenter noted that Federal regulations for a number of other services allow the services to be recommended by a physician or other licensed practitioner.

Response: We agree that the regulation, as written, requiring physician prescription or referral for the therapy services creates a barrier to allowing nurse practitioners to provide services that they are authorized to provide under State law in some States. This was not our intent. Consequently, we are expanding § 440.110 to permit a licensed practitioner of the healing arts, within the scope of his or her practice under State law, to prescribe or refer these therapy services for recipients. This revision enables nurse practitioners to refer recipients to physical therapy, occupational therapy, speech services and language services when allowed under State law.

D. Payment Options for Nurse Practitioner Services

Comment: One State agency disagreed with the proposed rule that requires States to permit nurse practitioners to be paid through employing providers. This State pays nurse practitioners directly through independent provider agreements. The commenter contended that this method allows the State to

VOL 60 ISS 77 AP 21 1995 UMI

avoid duplicate billing and verify licensing requirements. The commenter asserted that the change will create claims, reporting, and systems problems.

Response: The intent of the statute clearly is to provide maximum access to certain nurse practitioner services by providing alternative modes of payment. Payment for such services may be made either directly to a nurse practitioner or indirectly through an employing provider. Direct payment may be made to a nurse practitioner who is a participating Medicaid provider without regard to whether he or she practices independently or works under the supervision of, or in association with, health care providers. Indirect payment may be made when a nurse practitioner is paid through an employing provider and does not bill Medicaid. For example, if the nurse practitioner is an employee of a hospital or a clinic, the hospital or clinic may pay the nurse practitioner and bill Medicaid for hospital or clinic services. The State will need to establish administrative arrangements to avoid duplicate payments. While we realize that this places some administrative burden on States, we believe it is clearly the intent of the statute to allow nurse practitioners to participate in the Medicaid program and bill for services when appropriate (that is, if the services are not paid by an employing provider such as a hospital or clinic).

Comment: In one State, according to a commenter, nurse practitioners are limited by State law to providing routine nursing care. The commenter opposed the direct payment to a nurse practitioner for these services, and questioned whether the regulation intends to mandate direct payment to a nurse practitioner who provides this limited scope of services. The commenter indicated a willingness to propose a change in State law to allow nurse practitioners to provide advanced services, but must first determine the services that the nurse practitioners could perform that would qualify for payment.

Response: The statute states that the nurse practitioner services that are to be covered are those which a nurse practitioner is legally authorized to perform under State law. We believe the statute does not give us authority to override State nurse practice rules. Hence, any service that a nurse practitioner is authorized to perform under State law, such as the routine nursing care the commenter described, must be covered as nurse practitioner services. As the commenter pointed out, States can choose to expand or restrict the services that nurse practitioners are legally authorized to perform in the State by changing State laws or regulations defining nurse practitioner services..

Comment: Two commenters recommended changes that would clarify that States are required to allow a nurse practitioner to be paid either through an employing provider or through an independent provider agreement, whether or not the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider. One commenter asked that we clarify the language in § 440.166(d) that the Medicaid agency "may pay" for nurse practitioner services, and the other commenter suggested that we clarify the wording in § 441.22(c).

Response: The intent of the regulations on payment is to emphasize that States are required to allow a nurse practitioner the option of being paid either through an independent provider agreement as a Medicaid participating provider or through an employing provider when the employing provider bills Medicaid. We have clarified § 441.22(c) to explain a nurse practitioner may be paid through either method whether he or she is under the supervision of, or associated with, a physician or other health care provider.

E. Other Issues

Comment: One commenter disagrees with the decision to make nurse practitioner services optional for the medically needy. The commenter pointed out that nurse midwife services are mandated for the medically needy under the section of the regulations that describes the required services for the medically needy (§ 440.220), and stated that the Congress intended to include nurse practitioner services in this section.

Response: We do not agree that the Congress intended to mandate nurse practitioner services for the medically needy. Moreover, § 440.220 simply reiterates the options in the statute and does not mandate nurse midwife services for the medically needy. Under section 1902(a)(10)(C) (iii) and (iv) of the Act, if a State chooses to provide services to any medically needy group in institutions for mental diseases or intermediate care facilities for the mentally retarded, or both, the State must include for all medically needy groups at least the services listed in section 1905(a) (1) through (5) and (17) (nurse midwife services) *or* any seven services under section 1905(a) (1) through (21). A State may choose to *not* cover nurse midwife services for the medically needy by choosing seven other services. We have retained the proposed § 440.225 to clarify that any service that is not mandated for the categorically needy or medically needy may be furnished under a State plan at the State's option.

IV. Provisions of the Final Rule

We are adopting the proposed regulations as final regulations with the following revisions:

- We have revised § 440.110 to include provisions that allow a licensed practitioner of the healing arts, within the scope of his or her practice under State law, to prescribe physical and occupational therapy services for recipients and to refer recipients for other therapy services.
- We have revised the proposed § 440.166(a) to describe nurse practitioner services as services that are furnished by a registered professional nurse who meets a State's advanced educational and clinical practice requirements, if any, beyond the 2 to 4 years of basic nursing education required of all registered nurses.
- We have revised the proposed § 440.166 (b) and (c) to include the requirements that nurses in advanced practice must meet to qualify as CFNPs and CPNPs. Licensed registered nurses in States that have specific requirements for pediatric and family nurse practitioners will need only to meet those State requirements. In States that do not have specific requirements for pediatric or family nurse practitioners, nurses in advanced practice and general nurse practitioners may qualify by being engaged in a pediatric or family nurse practice within the scope of the State's definitions or within Federal definitions.
- We have revised the proposed § 441.22(c) to clarify that a nurse practitioner has the option of being paid either through an independent provider agreement or through an employing provider regardless of whether he or she is under the supervision of, or associated with, a physician or other health care provider.

V. Regulatory Impact Statement

We generally prepare a regulatory impact analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final regulation will not have a significant economic impact on a substantial number of small entities. For purposes of RFA, physicians and all nurse practitioners who work on a consulting basis or who are self-employed are considered to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule may have an impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and that has fewer than 50 beds.

This final rule adopts the December 23, 1991, proposed rule with modifications, based on comments submitted by the public. A summary of the public comments and the departmental responses are included in part II above. In the proposal, we included an impact analysis (57 FR 66394) that indicated that the impact was negligible. None of the responses to our request for public comment addressed our proposed impact analysis. In addition, we believe that none of the changes incorporated into the final rule require any revision to our statement in the proposal that the impact was negligible. Consequently, we continue to believe that the impact of this final rule is negligible. We are, therefore, not preparing a regulatory impact analysis for this final rule.

We have determined, and the Secretary certifies, that these final regulations will not have significant economic impact on a substantial number of small entities and will not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we have not prepared a regulatory flexibility analysis or an analysis of effects on small rural hospitals.

In accordance with the provisions of Executive Order 12866, this final regulation was reviewed by the Office of Management and Budget.

VI. Paperwork Burden

Section 441.22 of this final rule contains information collection requirements that are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). Under these final regulations, a State will be required to specify in its State Medicaid plan that it provides nurse practitioner services to the categorically needy. A State must also specify whether or not it furnishes nurse practitioner services to the medically needy. In addition, a State must provide that services furnished by a nurse practitioner, regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider, may be paid by the State Medicaid agency through an independent provider agreement between the State and the nurse practitioner; or be paid through the employing provider. The public reporting burden for this collection of information is estimated to be a half hour per response. A notice will be published in the **Federal Register** when OMB approval is received.

List of Subjects

42 CFR Part 440

Grant programs—health, Medicaid.

42 CFR Part 441

Family planning, Grant programs—health, Infants and children, Medicaid, Penalties, Prescription drugs, Reporting and recordkeeping requirements.

42 CFR Chapter IV is amended as follows:

PART 440—SERVICES: GENERAL PROVISIONS

A. Part 440 is amended as follows:

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.110, paragraphs (a)(1), (b)(1), and (c)(1), are revised to read as follows:

§ 440.110 Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

(a) *Physical therapy.* (1) *Physical therapy* means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified physical therapist. It includes any necessary supplies and equipment.

* * * * *

(b) *Occupational therapy.* (1) *Occupational therapy* means services prescribed by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law and provided to a recipient by or under the direction of a qualified occupational therapist. It includes any necessary supplies and equipment.

* * * * *

(c) *Services for individuals with speech, hearing, and language disorders.* (1) *Services for individuals with speech, hearing, and language disorders* means diagnostic, screening, preventive, or corrective services provided by or under the direction of a speech pathologist or audiologist, for which a patient is referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law. It includes any necessary supplies and equipment.

* * * * *

3. A new § 440.166 is added to read as follows:

§ 440.166 Nurse practitioner services.

(a) *Definition of nurse practitioner services.* Nurse practitioner services means services that are furnished by a registered professional nurse who meets a State's advanced educational and clinical practice requirements, if any, beyond the 2 to 4 years of basic nursing education required of all registered nurses.

(b) *Requirements for certified pediatric nurse practitioner.* The practitioner must be a registered professional nurse who meets the requirements specified in either paragraphs (b)(1) or (b)(2) of this section.

(1) If the State specifies qualifications for pediatric nurse practitioners, the practitioner must—

(i) Be currently licensed to practice in the State as a registered professional nurse; and

(ii) Meet the State requirements for qualification of pediatric nurse practitioners in the State in which he or she furnishes the services.

(2) If the State does not specify, by specialty, qualifications for pediatric nurse practitioners, but the State does define qualifications for nurses in advanced practice or general nurse practitioners, the practitioner must—

(i) Meet qualifications for nurses in advanced practice or general nurse practitioners as defined by the State; and

(ii) Have a pediatric nurse practice limited to providing primary health care to persons less than 21 years of age.

(c) *Requirements for certified family nurse practitioner.* The practitioner must be a registered professional nurse who meets the requirements specified in either paragraph (c)(1) or (c)(2) of this section.

(1) If the State specifies qualifications for family nurse practitioners, the practitioner must—

(i) Be currently licensed to practice in the State as a registered professional nurse; and

(ii) Meet the State requirements for qualification of family nurse practitioners in the State in which he or she furnishes the services.

(2) If the State does not specify, by specialty, qualifications for family nurse

VOL
60
ISS
77
AP
21
1995
UMI

practitioners, but the State does define qualifications for nurses in advanced practice or general nurse practitioners, the practitioner must—

(i) Meet qualifications for nurses in advanced practice or general nurse practitioners as defined by the State; and

(ii) Have a family nurse practice limited to providing primary health care to individuals and families.

(d) *Payment for nurse practitioner services.* The Medicaid agency must reimburse nurse practitioners for their services in accordance with § 441.22(c) of this subchapter.

4. In § 440.210, the introductory text of paragraph (a) and paragraph (a)(1) are revised to read as follows:

§ 440.210 Required services for the categorically needy.

(a) A State plan must specify that, at a minimum, categorically needy recipients are furnished the following services:

(1) The services defined in §§ 440.10 through 440.50, 440.70, and (to the extent nurse-midwives and nurse practitioners are authorized to practice under State law or regulation) the services defined in §§ 440.165 and 440.166, respectively.

* * * * *

5. A new § 440.225 is added to read as follows:

§ 440.225 Optional services.

Any of the services defined in subpart A of this part that are not required under §§ 440.210 and 440.220 may be furnished under the State plan at the State's option.

B. Part 441 is amended as follows:

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

1. The authority citation for part 441 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 441.10 is revised to read as follows:

§ 441.10 Basis.

This subpart is based on the following sections of the Act which state requirements and limits on the services specified or provide Secretarial authority to prescribe regulations relating to services:

(a) Section 1102 for end-stage renal disease (§ 441.40).

(b) Section 1138(b) for organ procurement organization services (§ 441.13(c)).

(c) Sections 1902(a)(10)(A) and 1905(a)(21) for nurse practitioner services (§ 441.22).

(d) Sections 1902(a)(10)(D) and 1905(a)(7) for home health services (§ 441.15).

(e) Section 1903(i)(1) for organ transplant procedures (§ 441.35).

(f) Section 1903(i)(5) for certain prescribed drugs (§ 441.25).

(g) Section 1903(i)(6) for prohibition (except in emergency situations) of FFP in expenditures for inpatient hospital tests that are not ordered by the attending physician or other licensed practitioner (§ 441.12).

(h) Section 1905(a)(4)(C) for family planning (§ 441.20).

(i) Sections 1905 (a)(12) and (e) for optometric services (§ 441.30).

(j) Section 1905(a)(17) for nurse-midwife services (§ 441.21).

(k) Section 1905(a) (following (a)(24)) for prohibition of FFP in expenditures for certain services (§ 441.13).

3. A new § 441.22 is added to read as follows:

§ 441.22 Nurse practitioner services.

With respect to nurse practitioner services that meet the definition of § 440.166(a) and the requirements of either § 440.166(b) or § 440.166(c), the State plan must meet the following requirements:

(a) Provide that nurse practitioner services are furnished to the categorically needy.

(b) Specify whether those services are furnished to the medically needy.

(c) Provide that services furnished by a nurse practitioner, regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider, may—

(1) Be reimbursed by the State Medicaid agency through an independent provider agreement between the State and the nurse practitioner; or

(2) Be paid through the employing provider.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: August 30, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: January 24, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–9954 Filed 4–20–95; 8:45 am]

BILLING CODE 4120–01–P

Administration for Children and Families

45 CFR Part 212

RIN 0970–AB45

Assistance for United States Citizens Returned From Foreign Countries

AGENCY: Administration for Children and Families, HHS, Office of Refugee Resettlement.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for the U.S. Repatriate Program. Under the U.S. Repatriate Program, State agencies provide assistance to groups of United States citizens who are returned from foreign countries to the United States by the Department of State due to war, threat of war, civil disorder, or natural disaster. This rule requires such agencies to request and obtain advance approval from the Administration for Children and Families (ACF) to incur expenses for developing and preparing to implement repatriation plans for groups of eligible persons. This rule is necessary in order for ACF to provide appropriate oversight of the limited funding available for such activities.

EFFECTIVE DATE: This rule is effective May 22, 1995.

FOR FURTHER INFORMATION CONTACT: David B. Smith, Director, Division of State Legalization and Repatriation, Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, SW., 6th floor, Washington, DC 20447. Telephone: 202–401–9255.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Repatriate Program is authorized by Section 1113 of the Social Security Act and is responsive to Executive Order 12656 regarding services provided to repatriated U.S. citizens. The program provides temporary assistance through State agencies to needy U.S. citizens and their dependents who are returned to the United States by the Department of State for reasons of destitution, illness, war, threat of war, invasion, civil unrest, or natural disaster in a foreign country. Under current law and regulations, assistance provided through the program to repatriates must be repaid to the United States Government unless the Administration for Children and Families specifically waives this requirement.

Group Repatriation

When groups of U.S. citizens and their dependents must be evacuated from foreign countries and returned to the United States due to war, threat of war, invasion, civil unrest, or natural disaster, States provide the necessary reception and assistance. These repatriation events are generally referred to as Group Repatriations. In the event that the President declares a national security emergency under Executive Order 12656, "Assignment of Emergency Preparedness Responsibilities," the Secretary of Health and Human Services is required to coordinate such a repatriation. This type of group repatriation is referred to as Emergency Repatriation.

In response to E.O. 12656, the U.S. Repatriate Program has developed a National Emergency Repatriation Plan which calls for States to develop their own Emergency Repatriation Plans. Under these plans, the States provide the logistical arrangements for receiving U.S. citizens repatriated as part of a declared national security emergency and for providing assistance for their travel to their final destinations. The States also provide necessary assistance to ensure the immediate welfare of the repatriates. States' Emergency Repatriation Plans are activated upon the request of the Secretary if, and only if, the President declares a national security emergency under E.O. 12656.

The States' Emergency Repatriation Plans are suitable for use when groups of American citizens are evacuated due to war or threat of war, invasion or other civil violence, or natural disaster in foreign countries—but a national security emergency is not declared under Executive Order 12656. The U.S. Repatriate Program recognizes that States could use these plans as both Emergency Repatriation Plans and Group Repatriation Plans, and encourages them to do so.

Administrative Costs

The statutory authority, as well as the current regulations, provide that States or other agencies providing repatriation assistance be reimbursed by the U.S. Repatriate Program for their administrative expenses. Since funds are limited and since group/emergency repatriations are relatively rare events, the Administration for Children and Families (ACF) wishes to ensure that the amount of administrative expenses incurred by States in advance planning or preparing for receiving group repatriations is reasonable and appropriate.

To this end, ACF published a notice of proposed rulemaking on August 19, 1994 (59 FR 42795). In the NPRM, we proposed that, if States wish to be reimbursed for their administrative expenses, they must seek and receive prior approval from ACF before incurring expenses associated with developing group/emergency repatriation plans. We further proposed that States must also receive prior approval to be reimbursed for the costs of preparing to implement the plans, such as conducting training exercises or making physical preparations to a reception site, unless notified by the Assistant Secretary that such preparations are necessary due to a crisis in a foreign country.

Comments and Response on Advance Approval Requirement

We received four comments on the proposed rule. One of the commenters agreed that the existing emergency plan should operate as a group repatriation plan, and enclosed a copy of the State's staff critique of the repatriation process experienced during the Persian Gulf evacuation. The commenter hoped that the points made in the letter would be addressed in guidelines for any group repatriation of U.S. citizens. We appreciate these suggestions, and will take them into consideration when addressing benefit levels and other aspects of providing services to repatriates during a group/emergency repatriation.

The three remaining commenters took issue with our proposal based on a misunderstanding of its provisions. Two commenters mistakenly took the proposal that States seek and receive prior approval before incurring administrative costs in advance planning for an emergency/group repatriation to mean that this requirement would apply in the event of an actual emergency or crisis situation. One commented, "The very nature of an emergency repatriation does not lend itself to pre-approval," while the other commented, "States are due reimbursement for activities in this regard and this proposed rule appears to be an attempt to place barriers to access."

Although the third comment pointed out the differences between advance planning and actual implementation, it also thought prior approval applied to both, noting that the proposed approval process "* * * is an appropriate request in relation to a state's planning in the absence of an impending event. However, we believe the process outlined is unreasonable when an immediate response is required." This view is a misunderstanding of the proposal which was not intended to apply to activities undertaken in response to an actual repatriation event.

The third commenter proposed additional language to clarify the intent of the proposal. With some modification, we have adopted the language of this commenter and incorporated it into the final rule, which now makes clear that prior approval is not required for administrative expenditures incurred by a State in implementing approved repatriation plans as a result of Federal notification that an evacuation may be necessary due to a crisis in a foreign country.

Format for the Request

In order to keep administrative requirements to a minimum, we did not propose any particular format for States to request approval. In submitting a written request for reimbursement of administrative expenses in advance of incurring costs, a State may use any format the State chooses. States should include an estimate of the expenses they will incur, along with a description of the activities to be undertaken and a rationale for the expenditure.

ACF review of the request will consist of (1) determining if the activities are, in fact, necessary, and (2) evaluating whether the estimated cost is reasonable for the activities to be conducted.

Technical Amendments

We are also making technical changes throughout 45 CFR part 212 to update references to the office's designation and the agency official's title.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (Public Law 96–354) requires the Federal Government to anticipate and reduce the impact of regulations and paperwork requirements on small entities.

The primary impact of this rule is on State governments. Therefore, we certify that this rule does not have a significant economic impact on a substantial number of small entities because it would simply require agencies to obtain advance approval before incurring administrative costs in developing implementation plans for the repatriation of groups of eligible individuals. Thus, a regulatory flexibility analysis is not required.

Executive Order 12866

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. ACF determined that this rule is

VOL
60
ISS
77
AP
21
1995
UMI

consistent with these priorities and principles. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost effective and least burdensome while still achieving the regulatory objectives.

Paperwork Reduction Act

This final rule would require States to submit information regarding their activities and estimated costs for ACF approval prior to the incurring of administrative expenses for planning and preparing to implement group/emergency repatriation procedures. The Office of Management and Budget (OMB) clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) has been requested.

(Catalog of Federal Domestic Assistance Program No. 93.579, U.S. Repatriate Program)

List of Subjects in 45 CFR Part 212

Administrative cost, Repatriation, Reporting and recordkeeping requirements, Social Security Act, U.S. Repatriate Program.

Approved: April 4, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, part 212 of subtitle B of title 45 of the Code of Federal Regulations is amended as follows:

PART 212—ASSISTANCE FOR UNITED STATES CITIZENS RETURNED FROM FOREIGN COUNTRIES

1. The authority citation for part 212 continues to read as follows:

Authority: Sec. 302, 75 Stat. 142, sec. 1102, 49 Stat. 647; 42 U.S.C. 1313, 1302.

2. Section 212.1 is amended by revising paragraph (d) and (e) to read as follows:

§ 212.1 General definitions.

* * * * *

(d) The term *Administration* means the Administration for Children and Families, Department of Health and Human Services;

(e) The term *Assistant Secretary* means the Assistant Secretary for Children and Families;

* * * * *

2. Section 212.8 is amended by redesignating the current text as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 212.8 Federal payments.

* * * * *

(b) To receive reimbursements, States, or other agencies, shall request and receive prior approval from the Assistant Secretary for administrative expenses incurred in developing or preparing to implement repatriation plans for groups of eligible persons. Such requests should include a description of the activities to be undertaken, an estimate of the expenses and a rationale for the expenditures. In reviewing requests, the Assistant Secretary will consider the necessity and reasonableness of the costs. Prior approval is not required for administrative expenditures incurred by a State in implementing approved repatriation plans as a result of Federal notification that an evacuation may be necessary.

§§ 212.1, 212.2, 212.8 and 212.9 [Amended]

4. In addition to the amendments set forth above, in 45 CFR 212 remove the word "Administrator" and add, in its place, the words "Assistant Secretary" in the following places: (a) Section 212.1(i); (b) Section 212.2; (c) section 212.8, as redesignated; and (d) Section 212.9 (a)(4) and (b).

§§ 212.3 and 212.10 [Amended]

5. Also, in 45 CFR 212 remove the words "the Service" and add, in their place, the words "the Administration" in the following places: (a) Section 212.3(b); and (b) Section 212.10(b).

[FR Doc. 95–9913 Filed 4–20–95; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 041795A]

Groundfish of the Bering Sea and Aleutian Islands Area; Pacific Ocean Perch in the Aleutian Islands Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific ocean perch (POP) in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the POP total allowable catch (TAC) in the AI.

EFFECTIVE DATE: Effective 12 noon, Alaska local time (A.l.t.), April 17, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the POP TAC for the AI was established by the final groundfish specifications (60 FR 8479, February 14, 1995) as 8,925 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the POP TAC in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 6,925 mt, with consideration that 2,000 mt will be taken as incidental catch in directed fishing for other species in the AI. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for POP in the AI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 17, 1985.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9862 Filed 4–17–95; 4:53 pm]

BILLING CODE 3510–22–F

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50 CFR Part 675

[Docket No. 950206040–5040–01, I.D. 041795B]

Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/"other flatfish" fishery category in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), April 17, 1995, until 12 noon, A.l.t., July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The second seasonal bycatch allowance of Pacific halibut for the BSAI trawl rock sole/flathead sole/"other flatfish" fishery category, which is defined at § 675.21(b)(1)(iii)(B)(2), was established as 180 metric tons by the final 1995 specifications of groundfish (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the second seasonal bycatch allowance of Pacific halibut apportioned to the trawl rock sole/flathead sole/"other flatfish" fishery in the BSAI has been caught. Therefore, NMFS is prohibiting directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under 50 CFR 675.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 17, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9863 Filed 4–17–95; 4:53 pm]

BILLING CODE 3510–22–F

VOL 60 ISS 77 AP 21 1995 UMI

Proposed Rules

Federal Register
Vol. 60, No. 77
Friday, April 21, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 146

[Docket No. 94N-0452]

RIN 0905-AC48

Canned Fruit Nectars; Proposal to Revoke the Stayed Standard of Identity

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revoke the standard of identity for canned fruit nectars. This standard has never gone into effect, having been stayed by the filing of objections. This proposal is based in part on a letter from the organization that petitioned for the nectar standard. This organization now states that the standard is not necessary in view of the FDA regulations that require declaration of the percentage of juice in beverage products that purport to contain juice. The agency tentatively concludes that revocation of the stayed standard will minimize confusion in the labeling of canned fruit nectars and will facilitate the marketing of these foods.

DATES: Written comments by July 5, 1995. The agency proposes that any final rule that may issue based on this proposal become effective on the date of publication of the final rule in the **Federal Register**.

ADDRESSES: Submit written comments, data, or information to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nannie H. Rainey, Center for Food Safety and Applied Nutrition (HFS-158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5099.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

In the **Federal Register** of October 1, 1964 (29 FR 13535), FDA published a proposal to establish a standard of identity for canned fruit nectars in § 146.113 (21 CFR 146.113) (formerly 21 CFR 27.126) (42 FR 14302, March 15, 1977). The proposal responded to a petition filed by the National Canners Association (now the National Food Processors Association (NFPA)). FDA issued the final regulation adopting the proposed standard in the **Federal Register** of May 7, 1968 (33 FR 6862). Several organizations filed objections to the standard and requested a hearing, based principally on the minimum soluble solids (Brix) values to be applied to the fruit ingredients of the unconcentrated or reconstituted single-strength fruit nectars. Consequently, FDA published a notice staying the regulation in its entirety in the **Federal Register** of July 27, 1968 (33 FR 10713), pending resolution of issues raised by the objections. No hearing on the objections has been held.

Even though the canned fruit nectars standard was stayed, FDA has often referred to the standard for guidance in the naming of diluted juice products with the term "nectar." The standard defined canned fruit nectars as the pulpy, liquid foods prepared from one or more of the optional fruit ingredients listed in the standard (i.e., apple, apricot, blackberry, boysenberry, cherry, guava, loganberry, mango, nectarine, papaya, passion fruit, peach, pear, pineapple, or plum in various forms: Fruit puree, pulp, juice, or concentrated juice), water, and sweeteners. The standard also specified minimum requirements for consistency, minimum Brix values for the fruits, and the level of such fruit, depending on fruit type or combination, that must be in the finished food.

B. The Nutrition Labeling Act of 1990 (the 1990 Amendments)

On November 8, 1990, President Bush signed into law the Nutrition Labeling and Education Act of 1990 (the 1990 amendments). Section 7 of the 1990 amendments amended section 403(i) of the Federal Food, Drug, and Cosmetic Act to provide that: "a food * * * shall be deemed to be misbranded unless its label bears (1) The common and usual name of the food * * * and if the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of such fruit or vegetable juice in the food * * *." This provision in the 1990 amendments provided the framework for a requirement for label declaration of information on the juice content of products, including diluted juices such as nectars, that permits consumers to make purchasing decisions based on the level of juice in these foods. This requirement also led to the termination of a number of rulemaking actions pertaining to the labeling of diluted juice products (see 56 FR 30452, July 2, 1991). However, FDA took no action with respect to the stayed standard for canned fruit nectars.

C. Agency's Response to the 1990 Amendments

In the **Federal Register** of July 2, 1991, FDA proposed requirements for declaration of the percentage of juice in foods that purport to be beverages containing fruit or vegetable juice. This proposal was based on section 7 of the 1990 amendments and on a petition from the National Food Processors Association (Docket No. 80N-0140). In addition to a requirement for percentage juice declaration in a new § 101.30 (21 CFR 101.30), FDA also proposed to establish minimum Brix values for 100 percent juice products that would serve as a basis for accurate and consistent percentage juice declarations and that would assist the agency in its enforcement actions. The Brix values were based primarily on information that FDA received from the National Juice Products Association. The agency also proposed to delete the similar provision for percent juice declaration from an existing common or usual name regulation for diluted fruit or vegetable juice beverages in § 102.33 (21 CFR 102.33) and to revise the provisions of that regulation regarding establishment of common or usual names for juice products. In addition, FDA proposed to revoke the common or usual name regulation for noncarbonated beverage products containing no fruit or vegetable juice in § 102.30 because these products would be covered by the labeling provisions in proposed §§ 101.30 and 102.33.

In the **Federal Register** of January 6, 1993 (58 FR 2897), FDA published a final rule on the July 2, 1991, proposal. As proposed, FDA adopted minimum Brix values in § 101.30 for 51 fruit and vegetable juice products, including values for all of the fruits listed in the canned fruit nectars standard. In adopting the final Brix values, FDA considered the minimum Brix values in the stayed canned fruit nectars standard along with the information received in comments on the proposal. Thus, the agency concludes that the Brix values in the canned fruit nectars standard have been effectively superceded by the values in § 101.30. Moreover, § 101.30 requires that the label of products that purport to contain fruit or vegetable juice, including canned fruit nectars, declare the total percentage of juice contained in such products. This provision ensures that consumers will be able to make value comparisons based on the level of juice used in the beverage.

Finally, in the January 6, 1993, final rule, FDA adopted § 102.33 on the common or usual names of juice beverages that purport to contain fruit or vegetable juice. Canned fruit nectars are among the foods that must be labeled in accordance with § 102.33. This regulation permits products that traditionally have been considered to be canned fruit nectars to continue to bear the term "nectar."

D. Conclusions and Proposal

The agency points out that the stayed standard of identity for canned fruit nectars was established under section 701(e) of the act (21 U.S.C. 371(e)), which required formal rulemaking in any action for the establishment, amendment, or repeal of a food standard. However, the 1990 amendments removed food standards rulemaking proceedings, except for the amendment or repeal of standards of identity for dairy products and maple syrup, from the formal rulemaking requirements of section 701(e) of the act (see section 8 of the 1990 amendments). Therefore, rulemaking proceedings to revise or repeal the stayed standard for canned fruit nectars are subject to section 701(a) of the act.

In considering its options with respect to the stayed standard, the agency considered proposing to amend it to incorporate the revised Brix values as a means of responding to the objections on the canned nectars final rule. FDA rejected this option because the Brix values in the standard would duplicate the provisions in § 101.30. In addition, § 102.33 provides for the use of an appropriately descriptive name for diluted juice beverages, including fruit nectars. FDA believes that use of an appropriately descriptive name, along with a declaration of the percentage of juice, will provide adequate information to consumers regarding the nature of fruit nectars, and that a separate standard of identity for canned fruit nectars is not necessary. Thus, the agency tentatively concludes that the stayed standard of identity for canned fruit nectars should be removed.

The agency's tentative view is supported by the petitioner for the canned fruit nectars standard. In a letter to the agency dated July 8, 1994, and filed under Docket No. 80N-0140, NFPA stated that the opinion of its members is that, with the advent of mandatory percent juice labeling for any food that purports to be a beverage that contains a fruit or vegetable juice (§ 101.30), the stayed standard is no longer necessary and should be removed from the Code of Federal Regulations. Accordingly, NFPA requested that the agency take such action.

Thus, in view of the petitioner's request and of the existing requirements for percent juice declaration in § 101.30 and for naming diluted juice beverages in § 102.33, FDA tentatively concludes that the standard of identity for canned fruit nectars in § 146.113 is not needed, and that no further action on the objections filed to the May 7, 1968, final rule establishing that standard is warranted. Therefore, FDA is proposing to revoke the stayed standard of identity for canned fruit nectars.

II. Economic Impact

As required by Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 354), FDA has examined the economic implications of this proposed rule that would remove the stayed standard of identity for canned fruit nectars in 21 CFR part 164. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects; distributive impacts; and equity). The Regulatory Flexibility Act requires that the agency analyze options for regulatory relief for small businesses.

FDA believes that there will be no economic impact on the juice processing industry from this proposed rule because the removal of the stayed standard will not result in any new costs or requirements. Canned fruit nectars, currently marketed as nonstandardized foods, will continue to be named and labeled in accordance with the existing requirements of §§ 101.30 and 102.33. Removal of the stayed standard will eliminate confusion regarding the compositional requirements for juice products named by use of the term "nectar."

Thus, FDA concludes that this is not a significant regulatory action as defined by Executive Order 12866. In compliance with the Regulatory Flexibility Act, the agency certifies that the final rule will not have a significant impact on a substantial number of small businesses.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Request for Comments

Interested persons may, on or before June 20, 1995, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 146

Food grades and standards, Fruit juices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, it is proposed that 21 CFR part 146 be amended as follows:

PART 146—CANNED FRUIT JUICES

1. The authority citation for 21 CFR part 146 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

§ 146.113 [Removed]

2. Section 146.113 *Canned fruit nectars* is removed from subpart B.

Dated: February 8, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

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VOL 60 ISS 77 AP 21 1995 UMI

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–18–95]

RIN 1545–AT33

Lease Term; Exchanges of Tax-Exempt Use Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the lease term of tax-exempt use property. The proposed regulations also provide guidance regarding certain like-kind exchanges among related parties involving tax-exempt use property. This document also provides notice of a public hearing on these regulations.

DATES: Written comments must be received by July 20, 1995. Requests to appear and outlines of topics to be discussed at the public hearing scheduled for August 2, 1995, must be received by July 12, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (IA–18–95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (IA–18–95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. The public hearing will be held in the IRS Auditorium, 7th Floor, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, John M. Aramburu of the Office of Assistant Chief Counsel (Income Tax and Accounting) at (202) 622–4960; concerning submissions and the public hearing, Christian Vasquez, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) relating to the depreciation of tax-exempt use property under section 168 of the Internal Revenue Code (Code). Section 168(h) provides rules relating to the definition of tax-exempt use property. Section 168(i)(3) provides rules for determining a lease term for purposes of section 168. These proposed regulations provide guidance relating to certain exchanges of tax-exempt use property among related parties and the determination of lease term under certain circumstances.

Explanation of Provisions

Current Law

Under section 168, property used in a trade or business, or held for the production of income, generally may be depreciated under the general depreciation system (GDS) using accelerated methods over relatively short recovery periods. However, certain property must be depreciated under the alternative depreciation system (ADS) described in section 168(g). Under ADS, depreciation deductions are determined using the straight-line method over longer recovery periods.

Under section 168(g)(1)(B), tax-exempt use property is subject to ADS. Section 168(h)(1) defines tax-exempt use property to include that portion of any tangible property (other than nonresidential real property) leased to a tax-exempt entity, as well as nonresidential real property, under certain conditions. For these purposes, section 168(h)(2)(A)(iii) provides that certain foreign entities and persons are considered tax-exempt entities. Under ADS, the recovery period of tax-exempt use property subject to a lease is no less than 125 percent of the lease term. See section 168(g)(3)(A).

The intent of Congress is subjecting tax-exempt use property to a slower depreciation system than GDS is expressed in the legislative history as follows:

> The committee believes that reform of the tax law is essential, insofar as it relates to property used by tax-exempt entities under a lease, a lease formulated as a service contract, or other similar arrangements. When tax-exempt entities use property under these arrangements, they pay reduced rents that reflect a pass-through of investment tax incentives from the owner of the property. Tax-exempt entities thereby benefit from investment incentives for which they do not qualify directly, and effectively gain the advantage of taking income tax deductions and credits while having no corresponding liability to pay any tax on income from the property.

S. Rep. No. 169 (Vol. 1), 98th Cong., 2d Sess. 123 (1984).

Thus, Congress subjected tax-exempt use property to a slower depreciation system in order to prevent tax-exempt entities from receiving, through reduced rentals, the tax benefits of GDS. Congress retained the rules for depreciating tax-exempt use property when it modified the accelerated cost recovery system in 1986. S. Rep. No. 313, 99th Cong., 2d Sess. 103 (1986).

Section 168(i)(5) provides that when property changes status, for example, ceases to be tax-exempt use property, the depreciation deduction for the year of change and subsequent taxable years shall be determined in such manner as the Secretary shall prescribe by regulation. Proposed § 1.168–2(j)(3) sets forth principles for depreciating property following a change in its status. Section 1.168(j)–1T, Q&A 2, which relates to tax-exempt use property, references that provision.

The tax-exempt use property rules contain a number of references to lease term. As noted above, the recovery period of tax-exempt use property subject to a lease is no less than 125 percent of the lease term. In addition, section 168(h)(1)(B)(ii)(III) characterizes as tax-exempt use property nonresidential real property leased to a tax-exempt entity for a term in excess of 20 years, section 168(h)(3)(A) excludes from the definition of tax-exempt use property certain high technology equipment leased to a tax-exempt entity for a term of no more than five years, and section 168(h)(1)(C) excludes property subject to certain short-term leases from the tax-exempt use property rules.

For each of these purposes, the lease term is determined under all the facts and circumstances. Further, legislative history states that rules "similar to those applied under section 46(e)(3) (relating to investment credits for non-corporate lessors) be applied in determining lease term. See, e.g., *Hokanson* v. *Commissioner*, 730 F.2d 1245, 1248 (9th Cir. 1984) (which applies a reasonable expectations test)." S. Rep. No. 169 (Vol. 1), 98th Cong., 2d Sess. 150 (1984). Section 168(i)(3) provides rules for determining a lease term. It indicates that, in determining a lease term, options to renew generally must be taken into account and the periods of certain successive leases must be aggregated with the period of an original lease.

Section 1.168(j)–1T, Q&A 17, provides additional rules for determining lease term. The regulation sets forth circumstances under which a lease term will include not only the stated duration of a lease but also an additional period, including options to renew and successive leases. It also provides examples of situations in which aggregation of lease periods is required, and situations in which lease periods are considered sufficiently independent so that aggregation is not required.

Lease Term

The proposed regulations generally clarify the rules for determining a lease term in certain situations. They require the aggregation of the stated duration of an original lease with any additional period for which the original, tax-exempt lessee (or a person related to the lessee) retains financial responsibility. The proposed regulations are intended to supplement existing authorities, including § 1.168(j)–1T, Q&A 17.

Specifically, the proposed regulations provide that an additional period of time during which a lessee may not continue to be the lessee is nevertheless included in the lease term if the lessee (or a related person) has agreed that one or both of them will or could be obligated to make a payment of rent, or a payment in the nature of rent, with respect to such period. For purposes of this rule, a payment in the nature of rent includes a payment intended to substitute for rent or to fund or supplement the rental payments of another. For example, a payment in the nature of rent includes a payment of any kind that is required to be made in the event that: (1) The leased property is not leased for the additional period; (2) the leased property is leased for the additional period under terms that do not satisfy specified terms and conditions; (3) there is a failure to make a payment of rent with respect to such additional period; or (4) similar circumstances occur. This rule disregards, however, obligations to make de minimis payments.

The proposed regulations also provide that in the event an additional period is included in the lease term, section 168(i)(5) (relating to changes in status) applies if the leased property ceases to be tax-exempt use property for such additional period.

The proposed regulations apply to leases entered into on or after the date the proposed regulations are filed with the Federal Register. No inference as to the treatment of additional lease periods under current law is intended by such effective date. The proposed regulations do not preclude the application of common law doctrines (such as the substance over form or step transaction doctrines) and other authorities to the determination of lease term or to the determination of whether a transaction is characterized as a lease, a conditional sale, or otherwise for federal income tax purposes.

Like-Kind Exchanges

The proposed regulations also addresses certain transactions between related persons that are designed to circumvent the tax-exempt use property rules. For example, a taxpayer might purchase tax-exempt use property for $100x and then promptly transfer the property to a related person in exchange for like-kind property of an equal value that has a zero basis and is not tax-exempt use property (the taxable property). If the exchange qualifies for nonrecognition treatment under section 1031 as to the related person, the related person recognizes none of its gain with respect to the taxable property and takes the tax-exempt use property with a zero basis. At the same time, the taxpayer has a $100x basis in the taxable property. The desired net tax result of the transaction is that a new investment in property that is properly subject to the ADS becomes subject to GDS.

To address this situation, the proposed regulations provide that property (tainted property) transferred directly or indirectly to the taxpayer by a related person (the related party) as part of, or in connection with, a transaction described in section 1031 where the related party receives tax-exempt use property (related tax-exempt use property) will, if the tainted property is subject to an allowance for depreciation, be treated in the same manner as the related tax-exempt use property for purposes of determining the allowable depreciation deduction under section 167(a). Under this rule, the tainted property is depreciated by the taxpayer over the remaining recovery period of, and using the same depreciation method and convention as that of, the related tax-exempt use property.

This rule is subject to certain limitations. In general, the rule applies only with respect to so much of the taxpayer's basis in the tainted property as does not exceed the taxpayer's adjusted basis in the related tax-exempt use property prior to the transfer. Any excess of the taxpayer's basis in the tainted property over its adjusted basis in the related tax-exempt use property prior to the transfer is treated as property to which the rule does not apply. Moreover, the rule does not apply to so much of the taxpayer's basis in the tainted property as is subject to section 168(i)(7).

The proposed regulations provide that related tax-exempt use property includes property that does not become tax-exempt use property (as defined in section 168(h)) until after the transfer if, at the time of the transfer, it was intended that the property become tax-exempt property. Moreover, in the circumstances described in the preceding sentence, the related tax-exempt use property will be treated as having, prior to the transfer, a lease term equal to the term of any lease that causes such property to become tax-exempt use property.

The proposed regulations only apply with respect to direct or indirect transfers of property involving related persons where (1) section 1031 applies to any party, and (2) a principal purpose of the transfer is to avoid or limit the application of ADS. For purposes of this rule, a person is related to another person if they bear a relationship specified in section 267(b) or section 707(b)(1).

The proposed regulations apply to transfers made on or after the date the proposed regulations are filed with the Federal Register. No inference is intended as to the treatment of transfers intended to avoid or limit the application of ADS that are made prior to the effective date. In addition, the proposed regulations do not preclude the application of common law doctrines (such as the substance over form or step transaction doctrines) and other authorities to transfers intended to avoid or limit the application of ADS, including transfers occurring prior to the effective date of the proposed regulations.

The IRS and Treasury invite comments on the scope of the proposed regulations. For example, comments are requested as to whether any transactions should be excepted from the proposed regulations or whether other transactions should be included within their scope.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these proposed regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for August 2, 1995, at 10 a.m. in the IRS Auditorium, 7th Floor, 1111

VOL 60 ISS 77 AP 21 1995 UMI

Constitution Avenue NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by July 20, 1995 and submit an outline of the topics to be discussed and the time to be devoted to each topic by July 12, 1995.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information.

The principal author of these proposed regulations is John M. Aramburu of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.168(h)–1 also issued under 26 U.S.C. 168.

Section 1.168(i)–2 also issued under 26 U.S.C. 168. * * *

Par. 2. Sections 1.168(h)–1 and 1.168(i)–2 are added to read as follows:

§ 1.168(h)–1 Like-kind exchanges involving tax-exempt use property.

(a) *Scope.* (1) This section applies with respect to a direct or indirect transfer of property among related persons, including transfers made through a qualified intermediary (as defined in § 1.1031(k)–1(g)(4)) or other unrelated person, (a *transfer*) if—

(i) Section 1031 applies to any party to the transfer or to any related transaction; and

(ii) A principal purpose of the transfer or any related transaction is to avoid or limit the application of the alternative depreciation system (within the meaning of section 168(g)).

(2) For purposes of this section, a person is related to another person if they bear a relationship specified in section 267(b) or section 707(b)(1).

(b) *Allowable depreciation deduction for property subject to this section*—(1) *In general.* Property (*tainted property*) transferred directly or indirectly to a taxpayer by a related person (*related party*) as part of, or in connection with, a transaction in which the related party receives tax-exempt use property (*related tax-exempt use property*) will, if the tainted property is subject to an allowance for depreciation, be treated in the same manner as the related tax-exempt use property for purposes of determining the allowable depreciation deduction under section 167(a). Under this paragraph (b), the tainted property is depreciated by the taxpayer over the remaining recovery period of, and using the same depreciation method and convention as that of, the related tax-exempt use property.

(2) *Limitations*—(i) *Taxpayer's basis in related tax-exempt use property.* This section applies only with respect to so much of the taxpayer's basis in the tainted property as does not exceed the taxpayer's adjusted basis in the related tax-exempt use property prior to the transfer. Any excess of the taxpayer's basis in the tainted property over its adjusted basis in the related tax-exempt use property prior to the transfer is treated as property to which this section does not apply. This paragraph (b)(2)(i) does not apply if the related tax-exempt use property is not acquired from the taxpayer (e.g., if the taxpayer acquires the tainted property for cash but section 1031 nevertheless applies to the related party because the transfer involves a qualified intermediary).

(ii) *Application of section 168(i)(7).* This section does not apply to so much of the taxpayer's basis in the tainted property as is subject to section 168(i)(7).

(c) *Related tax-exempt use property.* (1) For purposes of paragraph (b) of this section, related tax-exempt use property includes—

(i) Property that is tax-exempt use property (as defined in section 168(h)) at the time of the transfer; and

(ii) Property that does not become tax-exempt use property until after the transfer if, at the time of the transfer, it was intended that the property become tax-exempt use property.

(2) For purposes of determining the remaining recovery period of the related tax-exempt use property in the circumstances described in paragraph (c)(1)(ii) of this section, the related tax-exempt use property will be treated as having, prior to the transfer, a lease term equal to the term of any lease that causes such property to become tax-exempt use property.

(d) *Examples.* The following examples illustrate the application of this section. The examples do not address common law doctrines or other authorities that may apply to recharacterize or alter the effects of the transactions described therein. Unless otherwise indicated, parties to the transactions are not related to one another.

Example 1. (i) X owns all of the stock of two subsidiaries, B and Z. X, B and Z do not file a consolidated federal income tax return. On May 5, 1995, B purchases an aircraft (*FA*) for $1 million and leases it to a foreign airline whose income is not subject to United States taxation and which is a tax-exempt entity as defined in section 168(h)(2). On the same date, Z owns an aircraft (*DA*) with a fair market value of $1 million, which has been, and continues to be, leased to an airline that is a United States taxpayer. Z's adjusted basis in DA is $0. The next day, at a time when each aircraft is still worth $1 million, B transfers FA to Z (subject to the lease to the foreign airline) in exchange for DA (subject to the lease to the airline that is a United States taxpayer). Z realizes gain of $1 million on the exchange, but that gain is not recognized pursuant to section 1031(a) because the exchange is of like-kind properties. Assume that a principal purpose of the transfer of DA to B or of FA to Z is to avoid the application of the alternative depreciation system. Following the exchange, Z has a $0 basis in FA pursuant to section 1031(d). B has a $1 million basis in DA.

(ii) B has acquired property from Z, a related person; Z's gain is not recognized pursuant to section 1031(a); Z has received tax-exempt use property as part of the transaction; and a principal purpose of the transfer of DA to B or of FA to Z is to avoid the application of the alternative depreciation system. Accordingly, the transaction is within the scope of this section. Pursuant to paragraph (b) of this section, B must recover its $1 million basis in DA over the remaining recovery period of, and using the same depreciation method and convention as that of, FA, the related tax-exempt use property.

(iii) If FA did not become tax-exempt use property until after the exchange, it would still be related tax-exempt use property and paragraph (b) of this section would apply if, at the time of the exchange, it was intended that FA become tax-exempt use property.

Example 2. (i) X owns all of the stock of two subsidiaries, B and Z. X, B and Z do not file a consolidated federal income tax return. B and Z each own identical aircraft. B's aircraft (*FA*) is leased to a tax-exempt entity as defined in section 168(h)(2) and has a fair market value of $1 million and an adjusted basis of $500,000. Z's aircraft (*DA*) is leased to a United States taxpayer and has a fair market value of $1 million and an adjusted basis of $10,000. On May 1, 1995, B and Z exchange aircraft, subject to their respective leases. B realizes gain of $500,000 and Z realizes gain of $990,000, but neither person recognizes gain because of the operation of section 1031(a). Moreover, assume that a principal purpose of the transfer of DA to B or of FA to Z is to avoid the application of the alternative depreciation system.

(ii) As in example 1, B has acquired property from Z, a related person; Z's gain is not recognized pursuant to section 1031(a); Z has received tax-exempt use property as part of the transaction; and a principal purpose of the transfer of DA to B or of FA to Z is to avoid the application of the alternative depreciation system. Thus, the transaction is within the scope of this section even though B has held tax-exempt use property for a period of time and, during that time, has used the alternative depreciation system with respect to such property. Pursuant to paragraph (b) of this section, B, which has a substituted basis determined pursuant to section 1031(d) of $500,000 in DA, must depreciate the aircraft over the remaining recovery period of FA, using the same depreciation method and convention. Z holds tax-exempt use property with a basis of $10,000, which must be depreciated under the alternative depreciation system.

(iii) Assume the same facts as in paragraph (i) of this example, except that B and Z are members of an affiliated group that files a consolidated federal income tax return. Of B's $500,000 basis in DA, $10,000 is subject to section 168(i)(7) and therefore not subject to this section. The remaining $490,000 of basis is subject to this section.

(e) *Effective date.* This section applies to transfers made on or after April 20, 1995.

§ 1.168(i)–2 Lease term.

(a) *In general.* For purposes of section 168, a lease term is determined under all the facts and circumstances. Paragraph (b) of this section and § 1.168(i)–1T, Q&A 17, provide rules that apply to determine whether a period of time not included in the stated duration of an original lease (*additional period*) is included in the lease term, under certain circumstances. These rules do not prevent the inclusion of an additional period in the lease term in other circumstances.

(b) *Lessee retains financial obligation.* (1) An additional period of time during which a lessee may not continue to be the lessee will nevertheless be included in the lease term if the lessee (or a related person) has agreed that one or both of them will or could be obligated to make a payment of rent or a payment in the nature of rent with respect to such period.

(2) For the purposes of this paragraph (b), a payment in the nature of rent includes a payment intended to substitute for rent or to fund or supplement the rental payments of another. For example, a payment in the nature of rent includes a payment of any kind that is required to be made in the event that—

(i) The leased property is not leased for the additional period;

(ii) The leased property is leased for the additional period under terms that do not satisfy specified terms and conditions;

(iii) There is a failure to make a payment of rent with respect to such additional period; or

(iv) Circumstances similar to those described in paragraph (b)(2)(i), (ii), or (iii) occur.

(3) For the purposes of this paragraph (b), de minimis payments will be disregarded.

(c) *Related person.* For purposes of paragraph (b) of this section, a person is related to the lessee if such person is described in section 168(h)(4).

(d) *Changes in status.* Section 168(i)(5) (changes in status) applies if an additional period is included in a lease term under this section and the leased property ceases to be tax-exempt use property for such additional period.

(e) *Example.* The following example illustrates the application of this section. The example does not address common law doctrines or other authorities that may apply to cause an additional period to be included in the lease term or to recharacterize a lease as a conditional sale or otherwise for federal income tax purposes. Unless otherwise indicated, parties to the transactions are not related to one another.

Example. Financial obligation with respect to an additional period.—(i) *Facts.* X, a taxable corporation, and Y, a foreign airline whose income is not subject to United States taxation, enter into a lease agreement under which X agrees to lease an aircraft to Y for a period of 10 years. The lease agreement provides that, at the end of the lease period, Y is obligated to find a subsequent lessee (*replacement lessee*) to enter into a subsequent lease (*replacement lease*) of the aircraft from X for an additional 10-year period. The provisions of the lease agreement require that any replacement lessee be unrelated to Y and that it not be a tax-exempt entity as defined in section 168(h)(2). The provisions of the lease agreement also set forth the basic terms and conditions of the replacement lease, including its duration and the required rental payments. In the event Y fails to secure a replacement lease, the lease agreement requires Y to make a payment to X in an amount determined under the lease agreement.

(ii) *Application of this section.* The lease agreement between X and Y obligates Y to make a payment in the event the aircraft is not leased for the period commencing after the initial 10-year lease period and ending on the date the replacement lease is scheduled to end. Accordingly, pursuant to paragraph (b) of this section, the term of the lease between X and Y includes such additional period, and the lease term is 20 years for purposes of section 168.

(iii) *Facts modified.* Assume the same facts as in paragraph (i) of this example, except that Y is required to guarantee the payment of rentals under the 10-year replacement lease and to make a payment to X equal to the present value of any excess of the replacement lease rental payments specified in the lease agreement between X and Y, over the rental payments actually agreed to be paid by the replacement lessee. Pursuant to paragraph (b) of this section, the term of the lease between X and Y includes the additional period, and the lease term is 20 years for purposes of section 168.

(iv) *Changes in status.* If, upon the conclusion of the stated duration of the lease between X and Y, the aircraft either is returned to X or leased to a replacement lessee that is not a tax-exempt entity as defined in section 168(h)(2), the subsequent method of depreciation will be determined pursuant to section 168(i)(5).

(f) *Effective date.* This section applies to leases entered into on or after April 20, 1995.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–9946 Filed 4–20–95; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 102–95]

Exemption of Records System Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice, Bureau of Prisons (BOP), proposes to exempt a Privacy Act system of records from subsections (c)(3) and (4), (d), (e)(2) and (3), (e)(5) and (8), (f) and (g) of the Privacy Act, 5 U.S.C. 552a(j)(2) and (k)(2). This system of records is the BOP "Telephone Activity Record System (JUSTICE/BOP–011)." Information in this system relates to inmate telephone activity and may include information relating to official Federal investigations and matters of law enforcement of the BOP pursuant to 18 U.S.C. 2510 *et seq.*, 3621, 4003, 4042 and 4082. The exemptions are necessary to protect third party privacy and to avoid interference with law enforcement activities, e.g., to preclude the disclosure of investigative techniques, to prevent subjects of investigations from frustrating the investigative process, and to more effectively ensure the safety, security and good order of Federal correctional facilities.

DATES: Submit any comments by May 22, 1995.

VOL 60 ISS 77 AP 21 1995 UMI

ADDRESSES: Address all comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely (202–616–0178).

SUPPLEMENTARY INFORMATION: In the notice section of today's **Federal Register**, the Department of Justice provides a description of the "Telephone Activity Record System", JUSTICE/BOP–011."

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have a "significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative practices and procedure, Freedom of Information Act, Government in the Sunshine Act and Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by the Attorney General Order No. 793–78, it is proposed to amend 28 CFR part 16 as set forth below.

Dated: April 6, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g) and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

2. It is proposed to amend 28 CFR 16.97 by adding and reserving paragraph (d) and adding paragraphs (e) and (f), to read as follows:

§ 16.97 Exemption of Federal Bureau of Prisons (BOP) Systems—limited access.

* * * * *

(d) [Reserved]

(e) The following system of records is exempt from 5 U.S.C. 552a (c)(3) and (4), (d), (e)(2) and (3), (e)(5) and (8), (f) and (g):

Telephone Activity Record System (JUSTICE/BOP–011).

(f) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, the applicable exemption may be waived, either partially or totally, by the BOP. Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) to the extent that this system of records is exempt from subsection (d), and for such reasons as those cited for subsection (d) in paragraph (f)(3) below.

(2) From subsection (c)(4) to the extent that exemption from subsection (d) makes this exemption inapplicable.

(3) From the access provisions of subsection (d) because exemption from this subsection is essential to prevent access of information by record subjects that may invade third party privacy; frustrate the investigative process; jeopardize the legitimate correctional interests of safety, security, and good order of prison facilities; or otherwise compromise, impede, or interfere with BOP or other law enforcement agency activities.

(4) From the amendment provisions from subsection (d) because amendment of the records may interfere with law enforcement operations and would impose an impossible administrative burden by requiring that, in addition to efforts to ensure accuracy so as to withstand possible judicial scrutiny, it would require that law enforcement information be continuously reexamined, even where the information may have been collected from the record subject. Also, some of these records come from other Federal criminal justice agencies or State, local and foreign jurisdictions, or from Federal and State probation and judicial offices, and it is administratively impossible to ensure that the records comply with this provision.

(5) From subsection (e)(2) because the nature of criminal and other investigative activities is such that vital information about an individual can be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely solely upon information furnished by the individual concerning his/her own activities since it may result in inaccurate information.

(6) From subsection (e)(3) because in view of BOP's operational responsibilities, application of this provision to the collection of information is inappropriate. Application of this provision could provide the subject with substantial information which may in fact impede the information gathering process or compromise an investigation.

(7) From subsection (e)(5) because in the collection and maintenance of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely and complete. Material which may seem unrelated, irrelevant or incomplete when collected may take on added meaning or significance at a later date or as an investigation progresses. Also, some of these records may come from other Federal, State, local and foreign law enforcement agencies, and from Federal and State probation and judicial offices and it is administratively impossible to ensure that the records comply with this provision. It would also require that law enforcement information be continuously reexamined even where the information may have been collected from the record subject.

(8) From subsection (e)(8) because the nature of BOP law enforcement activities renders impractical the notice of compliance with compulsory legal process. This requirement could present a serious impediment to law enforcement such as revealing investigative techniques or the existence of confidential investigations, jeopardize the security of third parties, or otherwise compromise law enforcement efforts.

(11) From subsections (f) and (g) to the extent that this system is exempt from the access and amendment provisions of subsection (d).

[FR Doc. 95–9807 Filed 4–20–95; 8:45 am]

BILLING CODE 4410–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–5194–4]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to designate an ocean dredged material disposal site, the Humboldt Open Ocean Dredged Site (HOODS), located offshore of Humboldt Bay, California, for the disposal of suitable dredged material removed from the Humboldt Bay region and other nearby harbors or dredging sites. EPA has tentatively determined that the site selected in the Draft EIS as the preferred site will be the site designated as HOODS in this Proposed Rule. The proposed HOODS is located between approximately 3 and 4 nautical miles (5 and 7 kilometers) west of the Humboldt Bay entrance and occupies an area of 1 square nautical mile (3 square kilometers). Water depths within the area range from 160 to 180 feet (49 to 55 meters). The coordinates of the corners of the proposed square site are: 40°48′25″ North latitude (N) by 124°16′22″ West longitude (W); 40°49′03″ N by 124°17′22″ W; 40°47′38″ N by 124°17′22″ N; and 40°48′17″ N by 124°18′12″ W (North American Datum from 1983). This proposed action is necessary to provide an acceptable ocean dumping site for disposal of suitable dredged material from Northern California dredging sites, including Humboldt Bay and Harbor; the suitability of proposed dredged material will be determined by appropriate sediment testing protocols. The proposed designation of HOODS is for a period of 50 years. Disposal operations at the site will be prohibited if the site management and monitoring program is not implemented.

DATES: Comments on this proposed rule must be submitted by June 6, 1995.

ADDRESSES: Send questions or comments to: Mr. Allan Ota, Ocean Disposal Coordinator, U.S. Environmental Protection Agency, Region IX (W–3–3), 75 Hawthorne Street, San Francisco, California 94105, telephone (415) 744–1980. The supporting document for this designation is the Draft Environmental Impact Statement (EIS) for Designation of an Ocean Dredged Material Disposal Site off Humboldt Bay, California, March 1995, which is available for public inspection at the following locations:

A. EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, S.W., Washington, D.C.

B. EPA Region IX, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California.

C. Humboldt Bay Harbor, Recreation and Conservation District, P.O. Box 1030, Eureka, California.

D. Humboldt County Library, 421 I Street, Eureka, California.

E. Humboldt State University Library, Arcata, California.

F. Arcata City Library, 500 7th Street, Arcata, California.

FOR FURTHER INFORMATION CONTACT: Mr. Allan Ota, Ocean Disposal Coordinator, U.S. Environmental Protection Agency, Region IX (W–3–3), 75 Hawthorne Street, San Francisco, California 94105, telephone (415) 744–1980.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA authority to designate sites where ocean dumping may be permitted. On October 1, 1986 the Administrator delegated authority to designate ocean dredged material disposal sites (ODMDS) to the Regional Administrator of the EPA Region in which the sites are located. The proposed HOODS designation action is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR 228.4) state that ocean dumping sites will be designated by publication pursuant to 40 CFR part 228. This proposed site designation is being published as proposed rulemaking in accordance with § 228.4(e) of the Ocean Dumping Regulations, which permits the designation of ocean disposal sites for dredged material. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

The proposed HOODS is located between approximately 3 and 4 nautical miles (5 and 7 kilometers) west of the Humboldt Bay entrance and occupies an area of approximately 1 square nautical mile (3 square kilometers). Water depths within the area range from approximately 160 to 180 feet (49 to 55 meters). The coordinates of the corners of the proposed square site are: 40°48′25″ North latitude (N) by 124°16′22″ West longitude (W); 40°49′03″ N by 124°17′22″ W; 40°47′38″ N by 124°17′22″ N; and 40°48′17″ N by 124°18′12″ W (North American Datum from 1983). EPA Region IX now proposed to designate HOODS as an ocean dredged material disposal site for continued use for a period of 50 years.

Site use is subject to implementation of site management and monitoring requirements contained in the Draft EIS, which are now identified as the draft Site Management and Monitoring Plan (SMMP) for the HOODS. The draft SMMP incorporates a tiered site monitoring structure and MPRSA Section 103 permit review, and identifies standard conditions that must be included in any permit or authorization for disposal site use.

B. EIS Development

Section 102(c) of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, requires that Federal agencies prepare an environmental impact statement (EIS) on proposals for major Federal actions significantly affecting the quality of the human environment. The object of NEPA is to build into the agency decision-making process careful consideration of all environmental aspects of proposed actions, including evaluation of reasonable alternatives to the proposed action.

A Notice of Availability of the Draft EIS has been published in the **Federal Register** discussing EPA's intent to designate an open ocean dredged material disposal site off Humboldt Bay California. The Draft EIS, titled: *Draft Environmental Impact Statement (EIS) for Designation of an Ocean Dredged Material Disposal Site off Humboldt Bay, California*, evaluated a range of potential alternative disposal sites as summarized below. The comment period will close 45 days after the Notice of Availability of the Draft EIS has been published in the **Federal Register**. Anyone desiring a copy of the Proposed Rule or Draft EIS may obtain them from the EPA Region IX office address given above.

EIS Alternatives Analysis

On average, over 800,000 cubic yards of dredged material are generated annually as a result of routine federal maintenance dredging operations by the U.S. Army Corps of Engineers (Corps) in Humboldt Bay and Harbor. Historically, most of this dredged material has been disposed at 3 different sites offshore of Humboldt Bay. Although dredged material has been disposed at the sites known as "SF–3" and "NDS" in the past, environmental and navigational safety concerns shifted disposal operations to HOODS for the last 3 years.

EPA's analysis of alternatives included detailed examination of several potential ocean dumping sites for dredged materials from the Humboldt Bay region and other nearby harbors or dredging sites, including potential alternative means of handling these dredged materials other than disposal at an ocean dump site. Alternatives evaluated in detail in the draft EIS are discussed below. Note that designation of an ocean dumping site does not authorize any actual dumping and does not preclude EPA or the Corps from finding in the future, or for individual projects, that alternative means of managing dredged materials from the Humboldt Bay region are available and environmentally preferable.

EPA has determined that it is necessary to designate an ocean dumping site for dredged materials from Humboldt Bay site now, even if alternatives to ocean dumping should eventually prove to be available, because it is unlikely that alternative means of managing dredged material will accommodate all of the dredged

VOL 60 ISS 77 AP 21 1995 UMI

material that will be generated in the future. As discussed in the Draft EIS, there are significant limitations at present to the potential alternatives to ocean dumping of dredged material in the Humboldt Bay region. However, in all cases, the disposition of dredged materials from individual projects will be evaluated by EPA Region IX and the Corps' San Francisco District on a case-by-case basis, taking into account all the alternatives available at the time of permitting. Beneficial reuse alternatives will be preferred over ocean disposal whenever they are practicable and would cause less adverse impacts than ocean disposal.

The following ocean disposal alternatives were evaluated in the Draft EIS:

1. No Action—Failure to designate a permanent ocean disposal site pursuant to Section 102 of the MPRSA would have significant negative consequences. First, the continued foreseeable need to have an appropriate site for disposal of suitable sediments from various Humboldt Bay dredging projects would place pressure on the Corps and EPA to approve on a project-by-project basis the use of existing or temporary ocean dumping locations pursuant to MPRSA Section 103. This could result in: Increased cumulative effects if multiple disposal sites were used over time; projects delays (with potential navigation and human safety consequences); and the inefficient expenditure of limited government resources on multiple site designation actions and monitoring programs over time. Second, the Water Resources Development Act of 1992 prohibits the continued use of ocean dump sites which have not been designated by EPA as Section 102 dump sites by the end of 1997. If EPA fails to designate the HOODS by that date, then ocean disposal of dredged materials taken from Humboldt Bay projects will be effectively precluded under Section 102 of the MPRSA.

2. Upland Disposal—Several upland sites were considered for disposal of dredged materials from Humboldt Bay, including the "Superbowl" site which was originally designed to contain approximately 1 million cubic yards of dredged material. EPA has eliminated the "Superbowl" site from further consideration in the Draft EIS because of the nearby presence of an endangered plant species (*Erysium menziesii*, or Menzie's Wallflower) and the small capacity of the site relative to the needs of harbor maintenance and new work dredging over a 50-year period. Other land disposal sites were also considered but were not investigated in detail because of the potential for adverse impacts on wetlands, inadequate capacity, and/or conflicts with other land uses.

3. Beach Nourishment—This disposal alternative was considered because much of the sediment dredged from the Humboldt Bay region is sand. (Sediments dredged from the Bar and Entrance, North Bay Channels, and the Field's Landing Channel in the area north of Buhne Point are predominately medium- to fine-grained sand. However, sediments in the southern reach of the Field's Landing Channel and the Samoa and Eureka Channels have historically been finer-grained material that would not be suitable for beach nourishment.) EPA has eliminated this alternative from further consideration for these areas because the dredging and disposal operations are not expected to be practicable for all of the material generated in the region. Stationary dredging plants cannot be used in the entrance and main channel areas because of exposure to rough sea conditions. Use of a hopper dredge would require rehandling which would result in adverse localized (in-bay) environmental impacts. The dredged sediments would be deposited at a sheltered in-bay site by hopper dredge (effects on in-bay biota), and hydraulically re-dredged for transport by slurry pipeline to the North or South Spit beach sites. Dredging and nearshore disposal directly via hopper dredge without rehandling is discussed below. This alternative would have greater overall adverse impacts than the preferred alternative (HOODS). (Note that EPA and the Corps may still determine that beach nourishment is the preferable alternative for individual projects on a case-by-case basis.)

4. Disposal off the Continental Shelf—The EPA Ocean Dumping Regulations (40 CFR 228.5(e)) state that the EPA will, whenever feasible, designate ocean dumping sites beyond the edge of the continental shelf and/or at sites that have been historically used (to minimize cumulative effects). Disposal off the continental shelf would require use of a site located 10 nautical miles (19 kilometers) or farther from Humboldt Bay. The Corps has determined that the Zone of Siting Feasibility (ZSF—the radius limit for economically feasible disposal operations for the Humboldt Bay area) is 4 nautical miles from the entrance to Humboldt Bay. EPA has therefore eliminated alternatives off the continental shelf because they would be outside the ZSF, and because historical disposal sites exist on the continental shelf within the ZSF.

5. Nearshore Disposal Site (NDS)—This alternative site is located approximately 2 nautical miles (4 kilometers) southwest of the Humboldt Harbor mouth. Two disposal episodes occurred at this site as part of a study to determine whether sediments discharged at the NDS would remain in the littoral zone and promote beach nourishment. The study indicated some shoaling and some evidence of shoreward transport. EPA has eliminated this alternative from further consideration because, while it provides a potential beneficial reuse of sandy sediments, there has been strong objection by local fishermen's groups to the use of this site based on adverse impacts on navigational safety in the vicinity of the southern approach and on commercial fishery resources that inhabit the nearshore area. These resources include egg-brooding Dungeness crab, juvenile Dungeness crab, and juvenile English sole. This alternative would have greater overall adverse impacts than the preferred alternative (HOODS).

6. Disposal Site SF-3—This alternative disposal site is located approximately 1 nautical mile (2 kilometers) southwest of the Humboldt Harbor mouth. This site has been used previously by the Corps for disposal of dredged material from Humboldt Bay. This site was de-designated as an interim site on December 31, 1986, although it had been used subsequently under authority of the provisions of Section 103 of the MPRSA. EPA has eliminated this alternative from further consideration because of concerns about adverse impacts on safe navigation and on commercial and recreational fisheries. This site would have greater overall adverse impacts than the preferred alternative (HOODS).

7. Humboldt Open Ocean Disposal Site (HOODS)—The Draft EIS identified this alternative site as the preferred alternative based on comparison to the alternative sites listed above, and to the specific selection criteria listed in 40 CFR 228.6(a). The proposed HOODS is located furthest from the coast (between approximately 3 and 4 nautical miles west of the Humboldt Bay entrance) and in the deepest depth range (approximately 160 to 180 feet, or 49 to 55 meters). The 1 square nautical mile (3 square kilometer) site represents an extremely small area relative to the extent of similar habitat in the surrounding region. Bathymetric and sediment surveys indicate the proposed HOODS is located in a depositional area which is likely to retain dredged material deposited on the sea floor. No significant impacts to other resources or

amenity areas are expected to result from the proposed designation of the HOODS. Existing and potential fisheries resources within the proposed HOODS are minimal relative to the other ocean or nearshore alternatives and the site is removed from more important fishing grounds located closer to or within the other alternative sites. Studies have shown that abundances and biomass of demersal fishes and megafaunal invertebrates, at the proposed HOODS are lower than those at the other alternative sites. Water column impacts resulting from disposal of dredged material are expected to be temporary and localized within the site. Therefore, potential impacts to surface and mid-water dwelling organisms, such as seabirds, marine mammals, and midwater fishes, are expected to be insignificant.

EPA has determined that this proposed site represents the environmentally preferred alternative for designation of an open ocean dredged material disposal site for the Humboldt Bay area. Its selection, along with the general and specific restrictions on site use, avoids and minimizes environmental harm from ocean disposal of suitable dredged material to the maximum extend practicable. A Record of Decision (ROD) will not be issued as a separate document; instead the Final Rule will serve as the ROD for proposed designation of the HOODS.

C. Regulatory Requirements

Consistency With the Coastal Zone Management Act

EPA will prepare a Coastal Consistency Determination (CCD) document based on the evaluations presented in the Draft EIS. The CCD will evaluate whether the proposed action—designation of the HOODS as described in the Draft EIS as an ocean disposal site for up to 50 years, for dredged material meeting ocean disposal criteria—would be consistent with the provisions of the Coastal Zone Management Act. The CCD will be formally presented to the California Coastal Commission at the scheduled public hearing. Any Commission recommendations will be incorporated, as appropriate, into the Final EIS and Final Rule.

Endangered Species Act Consultation

EPA has initiated consultations with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) pursuant to provisions of the Endangered Species Act, regarding the potential for designation and use of any of the alternative ocean disposal sites under study to jeopardize the continued existence of any federally listed threatened or endangered species. This consultation process will be fully documented in the Final EIS.

Compliance With Ocean Dumping Criteria

Five general criteria are used in the selection and approval of ocean disposal sites for continuing use (40 CFR 228.5). First, sites must be selected to minimize interference with other activities, particularly avoiding fishery areas or major navigation areas. Second, sites must be situated such that temporary (during initial mixing) water quality perturbations caused by disposal operations would be reduced to normal ambient levels before reaching any beach, shoreline, sanctuary, or geographically limited fishery area. Third, if site designation studies show that any interim disposal site does not meet the site selection criteria, use of such site shall be terminated as soon as an alternate site can be designated. Fourth, disposal site size must be limited in order to localize for identification and control any immediate adverse impacts, and to facilitate effective monitoring for long-range effects. Fifth, EPA must, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and/or where historical disposal has occurred.

As described in the Draft EIS, the proposed HOODS was specifically selected to comply with these general criteria. First, as discussed further below in discussing the 11 specific site selection criteria, EPA has determined that the proposed HOODS is not a significant fishery area, is not a major navigation area and otherwise has no geographically limited resource values that are not abundant in other parts of this coastal region. Second, as also discussed further below, dredged material deposited at the proposed site is not expected to reach any significant area such as a marine sanctuary, beach, or other important natural resource area. Third, although it is a historically used site, the proposed HOODS is not an interim disposal site. Fourth, the proposed site has an appropriately limited size and has been selected to allow for effective monitoring. Fifth, although the proposed site is not located beyond the continental shelf, it is located in an area historically used for dumping.

In addition to the 5 general criteria, 11 specific site selection criteria are listed in 40 CFR 228.6(a) of the EPA Ocean Dumping Regulations for evaluation of all candidate disposal sites. The 5 general criteria and the 11 specific factors overlap to a great degree. The proposed HOODS site, as discussed below, is also acceptable under each of the 11 specific criteria.

1. Geographical position, depth of water, bottom topography and distance from coast (40 CFR 228.6(a)(1)). The proposed HOODS is located between approximately 3 and 4 nautical miles (5 and 7 kilometers) west of the Humboldt Bay entrance and occupies an area of 1 square nautical mile (3 kilometers). Water depths within the area range from 160 to 180 feet (49 to 55 meters). Bathymetric and sediment surveys indicate that the proposed site is located in a depositional area. The proposed site's depositional nature and natural topography is expected to minimize the extent of potential impacts to the benthos, and is expected to facilitate long-term containment of deposited material as well as site monitoring activities.

2 Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases (40 CFR 228.6(a)(2)). The proposed HOODS provides feeding and breeding areas for common resident benthic species. Floating larvae and eggs of various species are expected to be found at and near the water surface at the site as well as the alternative sites evaluated. However, the proposed designation of the site is not expected to affect any geographically limited (i.e., unique) habitats, breeding sites, or critical areas that are essential to rare or endangered species. In comparison to the other alternative sties evaluated, the proposed site has the least potential for adverse impact to commercially important species.

3. Location in relation to beaches and other amenity areas (40 CFR 228.6(a)(3)). The proposed HOODS site is located between approximately 3 and 4 nautical miles (5 and 7 kilometers) west of the Humboldt Bay entrance and approximately 4 to 7 nautical miles from the closest nearshore resources, beaches, and other coastal amenity areas. Ocean currents in the vicinity of the proposed HOOD flow predominately to the northwest and offshore in the winter and predominately to the southwest and offshore in the summer Current speeds are usually on the order of 0.5 knot (25 centimeters per second) at the surface and less at depth. These flows may be strongly influenced by local winds and tides. Any residual suspended solids from disposal operations at the proposed HOODS are expected to move primarily to the northwest or southwest depending on the oceanographic season during any

VOL 60 ISS 77 AP 21 1995 UMI

one year and generally in the offshore direction throughout the year. Because of the relatively shallow depths and slow current speeds, it is predicated that the vast bulk of the disposed material will remain within the proposed disposal site. For the above reasons, EPA has determined that aesthetic impacts of plumes, transport of dredged material to any shoreline, and alternation of any habitat of special biological significance or marine sanctuary is not expected to occur if this proposed site is designated.

4. Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packing the waste, if any (40 CFR 228.6(a)(4)). Over 800,000 cubic yards of dredged material are generated annually as a result of federal maintenance dredging operations by the Corps in Humboldt and Harbor. In addition, larger volumes of dredged material (e.g., from deepening projects) may also be generated periodically. Typical composition of dredged material disposed at the site is expected to range between two types: "predominantly sand" (grain size greater than 0.075 millimeters) versus "predominantly silt-clay" (grain size less than 0.075 millimeters). These material types are based on data from historical projects from the Humboldt Bay region. The expected typical disposal method would involve hopper dredges (hydraulic dredging), with a maximum capacity of up to 5,000 cubic yards but typically carrying loads of approximately 2,000 to 3,000 cubic yards of dredged material per trip. Dredged material would not be packaged. All dredged material proposed for disposal at the proposed site must be suitable for ocean disposal. This determination will be made by DPA Region IX and the Corps' San Francisco District based upon the results of an evaluation of information developed in accordance with the 1991 EPA/Corps "Green Book" (e.g., physical, chemical and biological tests) before a MPRSA Section 103 permit can be issued. Dumping of prohibited materials or other industrial or municipal wastes will not be permitted at the proposed site (40 CFR 227.5 and 227.6(a)). Existing information suggests that it is appropriate to dispose, via hopper dredge or bottom-dump barge, of the type of dredged material that will be removed from the Humboldt Bay region at the proposed HOODS. Because of the relatively shallow depths and slow current speeds, the dredged material is expected to settle rapidly to the ocean bottom within the boundaries of the proposed site and not to create plumes which will reach significant areas such as marine sanctuaries, recreational areas, or geographically limited habitats at greater than background concentrations. Disposing dredged material at the proposed site which meets regulatory criteria for ocean dumping is expected to create some limited alteration of benthic habitat within site boundaries, but should not create substantial adverse impacts extending beyond site boundaries. For these reasons, no significant adverse impacts are expected to be associated with the types and quantities of dredged material that may be disposed at the proposed site.

5. Feasibility of surveillance and monitoring (40 CFR 228.6(a)(5)). EPA Region IX and the Corps' San Francisco District share the responsibilities of managing and monitoring the disposal site, and, with the on-site assistance of the U.S. Coast Guard (USCG), to enforce permit conditions within the limits of their jurisdiction. The proposed HOODS is located between approximately 3 and 4 nautical miles (5 and 7 kilometers) offshore and occupies an area ranging in depth from 160 and 180 feet (49 to 55 meters). Standardized equipment and techniques would be used for surveillance and monitoring activities during transit to and at the proposed site, as described in the SMMP included in the Draft EIS. Based on previous experience at other ocean dredged material disposal sites located farther offshore and in deeper waters, EPA has determined that the surveillance and monitoring activities are fully feasible to implement at the proposed HOODS.

6. Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any (40 CFR 228.6(a)(6)). Ocean currents in the vicinity of the proposed HOODS flow predominantly to the northwest and offshore in the winter and predominantly to the southwest and offshore in the summer. Current speeds are usually on the order of 0.5 knot (25 centimeters per second) at the surface and less at depth. These flows may be strongly influenced by local winds and tides. Any residual suspended solids from disposal operations at the proposed HOODS are expected to move primarily to the northwest or southwest depending on the oceanographic season during any one year and generally in the offshore direction throughout the year. Because of the relatively shallow depths and slow current speeds, it is predicted that the vast bulk of the disposed material will remain within the proposed disposal site. For these reasons, EPA has determined that the dispersal, transport and mixing characteristics of the proposed site, and its current velocities and directions, are appropriate for its proposed designation as a dredged material disposal site.

7. Existence and effects of current and previous discharges and dumping in the area (including cumulative effects) (40 CFR 228.6(a)(7)). Under an MPRSA Section 103 permit, the Corps has been discharging on average over 800,000 cubic yards of dredged material at the proposed HOODS. The NDS has been used for two disposal episodes, totaling over 1.4 million cubic yards. The SF–3 site has been used for dredged material from maintenance dredging operations since the 1940's. It is estimated that a total of 20 to 25 million cubic yards of dredged material from the Humboldt Bay Federal navigation channels has been disposed at the SF–3 site. No other documented disposal of dredged material has occurred within or in the vicinity of the proposed site.

In addition, no other discharges occur in the immediate vicinity of the HOODS. The Simpson Paper Company presently discharges freshwater through an outfall into ocean waters adjacent to the Samoa Peninsula, although historically it discharged bleached kraft pulp effluent. The outfall is approximately 3 nautical miles (5.5 kilometers) east of the HOODS, 3 nautical miles (5.5 kilometers) north of the SF–3 site, and 3.5 nautical miles (6.5 kilometers) north of the NDS. The Louisiana Pacific Corporation owns and operates a market bleached kraft pulp mill located on the Samoa Peninsula. The discharge from this outfall consists of: Process wastewater from kraft pulping, pulp bleaching, and pulp drying; solids from its water treatment plant; power boiler effluent; and stormwater. As authorized under its National Pollutant Discharge Elimination System (NPDES) Permit, the Louisiana Pacific Corporation is prohibited from discharging waste water in violation of effluent standards or prohibitions established under Section 307(a) of the Clean Water Act, and it is prohibited from discharging sewage sludge. The outfall is located approximately 3.5 nautical miles (6.5 kilometers) east of the HOODS, 3.5 nautical miles (6.5 kilometers) north of the SF–3 site, and 4 nautical miles (7.5 kilometers) north of the NDS. Prevailing near-shore currents would direct discharge plumes from both outfalls up or down the coast, depending on the seasonal current regime, not offshore toward the HOODS. The effects of discharges are expected to be limited to local areas near the outfalls and to not extend to the vicinity of the proposed ocean dredged material disposal site (HOODS). For the above reasons, EPA has determined that there are no expected adverse cumulative or synergistic impacts from the use of the proposed HOODS and discharges from the outfalls described above.

8. Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean (40 CFR 228.6(a)(8)). In evaluating whether dumping activity at the site could interfere with shipping, fishing, recreation, mineral extraction, desalination, areas of scientific importance and other legitimate uses of the ocean, EPA considered both the direct effects from depositing dredged material on the ocean bottom within the proposed HOODS boundaries and the indirect effects associated with vessel traffic that will result from transportation of dredged material to the proposed dump site. Existing information indicates that the proposed site is not a significant fisheries area, is not a significant recreational area, is not a significant area for harvestable minerals, is not a potential staging ground or intake area for desalination activity, is not scientifically important in itself, and otherwise has no geographically limited resource values that are not abundant in other parts of this coastal region. Accordingly, depositing dredged material at the proposed site will not interfere with these activities. Finally, vessel traffic involved in transportation of dredged material to the proposed HOODS should also cause no substantial interference with any of the activities discussed above.

9. The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys (40 CFR 228.6(a)(9)). Existing information and regional studies described in the Draft EIS provide the following determinations: Water quality at the proposed HOODS is indistinguishable from the water quality of nearby areas. Sediments contain background levels or low concentrations of trace metal and organic contaminants. The demersal fish community within the proposed HOODS has lower numbers of species and lower abundances than the other alternative sites. The proposed HOODS contains moderate numbers of megafaunal invertebrate species (Dungeness crab) but lower overall abundances compared to the other alternative sites. Infaunal invertebrates (polychaetes, amphipods, and mollusks) within the proposed HOODS show higher diversity and abundance compared to the other alternative sites; however, these infaunal invertebrate trends are similar to the general depth-related trends of the surrounding region. Seabirds, marine mammals, and mid-water organisms including juvenile rockfishes are seasonally abundant; however, the proposed HOODS is not considered to have geographically limited resource values that are not also abundant in other alternative sites or other parts of this coastal region. Based on these Draft EIS conclusions, EPA has determined that, compared to the alternative sites evaluated, the HOODS is the environmentally preferred location for ocean disposal site designation.

10. Potentiality for the development or recruitment of nuisance species in the disposal site (40 CFR 228.6(a)(10)). Local opportunistic benthic species characteristic of disturbed conditions are expected to be present and abundant at any ocean dredged material disposal site in response to physical deposition of sediments. Opportunistic polychaetes, such as *Capitella*, may colonize the proposed disposal site. However, these worms can become food items for local bottom-feeding fish and are not directly harmful to other species. No recruitment of species capable of harming human health or the marine ecosystem is expected to occur at the proposed site. Previous studies of the benthic fauna present at the SF–3 site and at the NDS support the expectation that disposal of dredged material from the Humboldt Bay region will not promote the development of nuisance species.

11. Existence at or in close proximity to the site of any significant natural or cultural feature of historical importance (40 CFR 228.6(a)(11)). The ocean waters in the vicinity of Humboldt Bay contain sites of numerous vessel accidents and sinkings. Based on previous evaluations for and issuance of MPRSA Section 103 permits, no significant national or cultural features of historical importance have been identified in the vicinity of the proposed HOODS. The California State Historic Preservation Officer has been contacted for an initial examination of their inventory and whether there are any known historic shipwrecks or any known aboriginal artifacts at the HOODS or in the vicinity. Final determination will be made for the Final EIS and Final Rule.

D. Site Management and Monitoring of the HOODS

Implementation of site management and monitoring activities for the proposed HOODS is a requirement for site use. These activities must be performed in accordance with the Site Management and Monitoring Plan (SMMP) included in the Draft and Final EIS. Failure to implement the monitoring described in the SMMP precludes use of the proposed site for disposal of dredged material until such time when monitoring can be resumed.

The SMMP, jointly administered by EPA Region IX and the Corps San Francisco District, embodies management and monitoring activities. Management activities consists of: evaluating the suitability of sediments proposed for disposal at the HOODS for each project; evaluating the performance and conditions of the site based on the results of periodic site monitoring; and conducting surveillance and enforcement of permits issued for use of the proposed HOODS. Site monitoring activities are built upon a tiered monitoring approach. These monitoring activities are designed to ensure that the area of acceptable impact is primarily restricted to the disposal site and that unacceptable environmental impacts do not occur beyond the site boundaries. Management decisions at each tier are defined for sediment fate and effects, body burdens of chemicals of concern, or benthic biological community effects. Each tier will require a management decision based on the information gathered. If the null hypothesis for a particular tier is rejected, then an change in site management practices may be instituted, or a more complex set of tests are invoked at the next higher tier to determine the extent of impacts.

Physical monitoring (Tier 1) is expected to occur on an annual basis to determine changes in bathymetry and extent of the dredged material deposit (footprint) relative to the site boundaries. If the footprint extends beyond the site boundary and exceeds 10 centimeters of thickness outside of the site boundary, then an evaluation will be made to determine the potential of adverse physical impacts due to smothering of the benthic resources by the disposed sediments (Tier 2). If EPA determines that the extent of physical impact outside of the site boundary is unacceptable, a change in site management practices will be instituted. If the extent of the footprint is not unacceptable, but the adverse impacts to the benthic resources cannot be clearly attributed only to physical factors (i.e., burial), then an evaluation will be made to determine the potential of adverse impacts to the benthic resources due to elevated chemical contaminants and bioaccumulation (Tier 3).

This monitoring program is designed to facilitate detection of any potential

VOL
60
ISS
77
AP
21
1995
UMI

unacceptable adverse impacts due to dredged material disposal, so that decisions about the need for changes in management practices may be made in a timely manner. Depending on the results of the periodic monitoring, EPA may at any tier determine that one or more of the following types of site management actions is required: Continue existing site use; implement higher tier monitoring; modify some or all site use restrictions; or discontinue disposal activities. EPA expects that the SMMP will be revised and updated from time to time based on monitoring results, scientific advancements, and experience gained. EPA is committed to considering public comments prior to implementing substantive updates to the SMMP. To ensure that interested parties have the opportunity to comment, proposed substantive updates to the SMMP will be distributed in draft form via a Public Notice or similar means.

E. Action

EPA Region IX has determined that there is a need for an ocean dredged material disposal site in the vicinity of Humboldt Bay, California. Based on evaluation of alternatives, EPA Region IX has tentatively determined that the HOODS may appropriately be designated for use over a period of 50 years. The proposed designation of the HOODS complies with the general and specific criteria used for site evaluation. EPA is, therefore, proposing to designate the HOODS as an EPA-approved Ocean Dumping Site in this proposed rulemaking. Management of this proposed site will be the responsibility of the Regional Administrator of EPA Region IX in cooperation with the Corps' South Pacific Division Engineer and the San Francisco District Engineer, based on requirements defined in the Final EIS and Final Rule. The required management and monitoring activities will be described in a SMMP prepared by EPA and incorporated in the Draft and Final EIS, with the opportunity for public review. Subsequent substantive revisions of the SMMP will be published and subjected to public review.

It is emphasized that ocean dumping site designation does not constitute or imply EPA Region IX's or the Corps San Francisco District's approval of actual ocean disposal of dredged materials. Before ocean dumping of dredged material at the site may begin, EPA Region IX and the Corps San Francisco District must evaluate permit applications according to EPA's Ocean Dumping Criteria. Permits cannot be issued if either EPA Region IX or the Corps San Francisco District determines that the Ocean Dumping Criteria of MPRSA would not be met. The requirement for compliance with the Ocean Dumping Criteria of the MPRSA may not be superseded by the provisions of any future comprehensive regional management plan for dredged material.

F. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all Rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on a substantial number of small entities since the proposed site designation will only have the effect of providing a disposal option for dredged material. Consequently, this Proposed Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

This proposed action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a major Rule. Consequently, this Proposed Rule does not necessitate preparation of a Regulatory Impact Analysis.

G. Responses to Comments on the Site Designation Proposed Rule

Comment period for this Proposed Rule will end June 6, 1995. Comments will be considered and revisions, as appropriate, will be incorporated into the Final EIS and Final Rule.

List of Subjects in 40 CFR Part 228

Environmental protection water pollution control.

Dated: April 12, 1995.

Felicia A. Marcus,

Regional Administrator, EPA Region IX.

In consideration of the foregoing, subchapter H of chapter 1 of title 40 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15 is amended by adding paragraph (1)(10) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(1) * * *

(10) Humboldt Open Ocean Disposal Site (HOODS) Ocean Dredged Material Disposal Site—Regional IX

(i) Location: The coordinates of the corners of the square site are: 40°48'25" North latitude (N) by 124°16'22" West longitude (W); 40°49'03" N by 124°17'22" W; 40°47'38" N by 124°17'22" N; and 40°48'17" N by 124°18'12" W (North American Datum from 1983).

(ii) Size: 1 square nautical mile (3 square kilometers).

(iii) Depth: Water depths within the area range between approximately 160 to 180 feet (49 to 55 meters).

(iv) Use Restricted to Disposal of: Dredged materials.

(v) Period of Use: Continuing use over 50 years from date of site designation, subject to restrictions and provisions set forth in paragraph (1)(10)(vi) of this section.

(vi) Restrictions/Provisions: Site management and monitoring activities shall be implemented during the period of site use and in accordance with the Site Management and Monitoring Plan (SMMP) for the HOODS as incorporated in the Draft and Final EIS.[1] All disposal activities shall be terminated if monitoring, as described in the SMMP, is not implemented. The SMMP may be periodically revised as necessary; proposed substantive revisions to the SMMP shall be made following opportunity for public review and comment.

* * * * *

[FR Doc. 95–9927 Filed 4–20–95; 8:45 am]

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[1] The Draft and Final EIS are available at the following locations: EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, S.W., Washington, D.C. / EPA Region IX, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California. / Humboldt Bay Harbor, Recreation and Conservation District, P.O. Box 1030, Eureka, California. / Humboldt County Library, 421 I Street, Eureka, California. / Humboldt State University Library, Arcata, California. / Arcata City Library, 500 7th Street, Arcata, California.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–46, RM–8594]

Radio Broadcasting Services; Edenton, Columbia, Pine Knoll Shores, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Lawrence F. and Margaret A. Loesch seeking the substitution of Channel 273C1 for Channel 273C2 at Edenton, NC, the reallotment of Channel 273C1 to Columbia, NC, as the community's second local FM service, and the modification of Station WERX-FM's license to specify Columbia as the station's community of license. To accommodate the allotment at Columbia, petitioners also request the substitution of Channel 290A for unoccupied but applied for Channel 272A at Pine Knoll Shores, NC. Channel 273C1 can be allotted to Columbia with a site restriction of 24.7 kilometers (15.3 miles) south-southeast at coordinates 35–42–48 North Latitude; 76–08–34 West Longitude, to avoid short-spacings to Station WOLC, Channel 273B, Princess, MD, and Station WHLQ, Channel 273A, Louisburg, NC. Channel 290A can be allotted to Pine Knoll Shores at the transmitter site specified in the pending WMBL, Inc. application (BPH–920720MA), at coordinates 34–42–38 North Latitude; 76–37–52 West Longitude.

DATES: Comments must be filed on or before June 12, 1995, and reply comments on or before June 27, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Mark J. Prak, Esq., Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., P.O. Box 1800, 209 Fayetteville Street Mall, Raleigh, NC 27602 (Counsel to petitioners).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–46, adopted April 7, 1995, and released April 18, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–9888 Filed 4–20–95; 8:45 am]

BILLING CODE 6712–01–F

VOL 60 ISS 77 AP 21 1995 UMI

Notices

Federal Register
Vol. 60, No. 77
Friday, April 21, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Zulu Smoot EIS; Kootenai National Forest; Lincoln County, Montana; Cancellation of Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Environmental impact statement cancellation notice.

Notice is hereby given that the Three Rivers Ranger District, Kootenai National Forest is withdrawing its plan to prepare an Environmental Impact Statement for the Zulu Smoot project. A portion of the project proposal within this area will be incorporated into the South Fork Yaak Environmental Impact Statement for fire and insect mortality recovery.

The Notice of Intent, published in the **Federal Register** of January 14, 1994 (59 FR 2353) is hereby rescinded (FR document is FR 94–915 Filed 1–13–94).

FOR FURTHER INFORMATION CONTACT: Jack Zearfoss, South Fork Yaak EIS Team Leader, Three Rivers Ranger District (406) 295–4693.

Robert L. Schrenk,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 95–9864 Filed 4–20–95; 8:45 am]

BILLING CODE 3410–11–M

Eight Fathom Timber Sale(s), Tongass National Forest, Chatham Area, Sitka, AK

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent.

SUMMARY: The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) to disclose the environmental impacts of proposed actions within the Eight Fathom project area. This notice is an amendment to the original notice of intent for this project, published in the **Federal Register** on April 22, 1993 (Vol. 58, No. 76, pages 21559 and 21560). Planning activities for the proposed project have been delayed by the collection of inventory data and the termination of the Alaska Pulp Corporation Long-term Timber Sale Contract. A revision of the Notice of Intent is necessary because over six months have passed since notification of this proposal and the purpose of the project has changed, in part.

The proposed action provides for: (1) construction of about 37 miles of road; (2) harvest of about 3,382 acres of timber, and regeneration of new stands of trees; and (3) reuse of existing Log Transfer Facility sites at Eight Fathom Bight and Salt Lake Bay. This level of development would result in the harvest of about 117 million board feet (MMBF) of sawlog and utility timber volume.

DATES: The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) during July 1995 and the Final EIS and Record of Decision during January 1996.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action should be directed to: Michael J. Weber, Team Leader, Chatham Area, 204 Siginaka Way, Sitka, Alaska 99835, (907) 747–6671.

SUPPLEMENTARY INFORMATION:

Background

The Eight Fathom project area is located about 60 air miles north of Sitka, Alaska, and 8 miles west of Hoonah, Alaska, on the northern part of Chichagof Island within Value Comparison Units (VCUs) 193, 194, 195, 196, 197, 198, 200, 201, 202, 222, and 223 as designated in the Tongass Land Management Plan (TLMP). These VCUs are located within Management Areas C27, C28, and C29 as described in the TLMP on pages 57, 58, and 59. All three Management Areas are part of the former Alaska Pulp Corporation contract area.

This EIS will tier to the 1979 Tongass Land Management Plan (TLMP) Final EIS and the 1985–86 and 1991 amendments. The TLMP provides the overall guidance (Goals, Objectives, Standards, and Management Area direction) to achieve the desired future condition for the area in which the project is proposed.

A Notice of Intent to prepare an Environmental Impact Statement for the Eight Fathom Timber Sales(s) was published in the **Federal Register** on April 22, 1993 (Vol. 58, No. 76, pages 21559 and 21560). Public comments were received during the scoping period that concluded on June 7, 1993. Inventory information was collected from the project area from May to August 1993 and again from May to August 1994.

The April 1993 Notice of Intent stated that the purpose and need for the proposed action was to make timber available to meet requirements of the Alaska Pulp Corporation 50-year Timber Sale Contract (APC Contract). On April 14, 1994, Regional Forester Michael Barton made the decision to terminate the APC Contract. Termination ended APC Contract volume obligations. An independent sale program market assessment was completed in May 1994 to help define market demand for timber in Southeast Alaska in the absence of the APC Contract.

Proposed Action

The proposed action is to build about 37 miles of road; harvest about 3,382 acres of timber and regenerate new stands of trees; and utilize existing Log Transfer Facility sites located at Eight Fathom Bight and Salt Lake Bay within the Eight Fathom project area on Chichagof Island. This level of development would result in the harvest of approximately 117 MMBF of sawlog and utility volume to support local mills. The proposed action is one alternative to achieve the purpose and need for the project.

Purpose of the Proposed Action

The purpose and need for the proposed action is to make 60 to 170 million board feet of timber available from the project area to implement the Tongass Land Management Plan; to provide a sustained level of wood products to meet local, national, and international demand; and to improve the timber productivity of the project area. A comparison of the desired future condition for the project area (as identified in the TLMP) with the existing condition shows the need to convert suitable stands of old-growth timber to managed productive stands capable of long-term timber production. This EIS may result in two or more timber sales under the independent sale program or in offerings to the Ketchikan Pulp Company under the conditions of its long-term timber sale contract.

Gary A. Morrison, Forest Supervisor, Chatham Area, will decide whether or not to authorize timber harvest within the Eight Fathom project area and, if so, the design of any timber sale offerings consistent with meeting resource protection standards and guidelines in the TLMP. He will decide: (a) how much volume to make available; (b) the location and design of the arterial and collector road system needed to develop the Eight Fathom area; (c) the location of timber harvest units; (d) mitigation and monitoring measures for sound resource management, and (e) whether there may be a significant restriction on subsistence uses, and if so, other determinations required by section 810 of the Alaska National Interest Lands Conservation Act.

Analysis of Public Scoping

A number of public comments were received in response to the April 1993 timber sale proposal. Based on comments from the public and other agencies during the scoping effort, the following significant issues have been identified:

1. Project effects on recreation and tourism
2. Subsistence Impacts
3. Potential Economic Impacts
4. Protection of Fish and Wildlife Resources
5. Cultural and Historical Resource Protection
6. Protection of Caves and Karst Features
7. Concerns about Impacts and Alternatives to Clearcutting.

These issues are being used to design alternatives to the proposed action and to identify the potential environmental effects of the proposed action and alternatives.

Continued Public Participation Encouraged

Public participation is an important part of the environmental analysis process. The Forest Service will be seeking comments from Federal, State, and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed timber sale(s) when the Draft EIS is released. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) during July 1995. The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** Agencies and other interested persons or groups are invited to visit with Forest Service officials at any time during the process.

The Forest Service believes, at this early stage, it is important to alert reviewers about several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft Environmental Impact Statement stage but that are not raised until after completion of the Final Environmental Impact Statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is important that those interested in this proposed action participate by the close of the Draft EIS 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3, in addressing these points.

The Final EIS is expected to be released in January 1996. The Forest Supervisor for the Chatham Area of the Tongass National Forest will, as the responsible official for the EIS, make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies. The decision and supporting reasons will be documented in a Record of Decision.

Dated: April 7, 1995.

John C. Sherrod,

Planning Staff Officer.

[FR Doc. 95–9798 Filed 4–20–95; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Cairo (IL) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations shall end not later than triennially and may be renewed. The designation of Cairo Grain Inspection Agency, Inc. (Cairo), will end October 31, 1995, according to the Act, and GIPSA is asking persons interested in providing official services in the specified geographic area to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before May 30, 1995.

ADDRESSES: Applications must be submitted to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–720–1015, attention: Janet M. Hart. If an application is submitted by telecopier, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

GIPSA designated Cairo, main office located in Cairo, Illinois, to provide inspection and Class X and Class Y

VOL
60
ISS
77
AP
21
1995
UMI

weighing services under the Act on November 1, 1992.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designation of Cairo ends on October 31, 1995.

The geographic area presently assigned to Cairo, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows: Randolph County (southwest of State Route 150 from the Mississippi River north to State Route 3); Jackson County (southwest of State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union County); and Alexander, Johnson, Hardin, Massac, Pope, Pulaski, and Union Counties, Illinois. Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg Counties, Kentucky.

Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Obion, Stewart, and Weakley Counties, Tennessee.

Cairo's assigned geographic area does not include the following grain elevator inside Cairo's area which has been and will continue to be serviced by the following official agency: Memphis Grain and Hay Association: Continental Grain Co., Tiptonville, Lake County, Tennessee.

Interested persons, including Cairo, are hereby given the opportunity to apply for designation to provide official services in the geographic area specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning November 1, 1995, and ending October 31, 1998. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: April 13, 1995.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 95–9824 Filed 4–20–95; 8:45 am]

BILLING CODE 3410–EN–F

Designation for the Champaign (IL) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Champaign-Danville Grain Inspection Departments, Inc. (Champaign), to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATES: June 1, 1995.

ADDRESSES: Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454.

FOR FURTHER INFORMATION CONTACT: Janet M Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 2, 1994, **Federal Register** (59 FR 61868), GIPSA asked persons interested in providing official services in the geographic area assigned to Champaign to submit an application for designation. Applications were due by December 30, 1994. Champaign, the only applicant, applied for designation in the entire area they are currently assigned.

GIPSA requested comments on the applicant in the January 31, 1995, **Federal Register** (60 FR 5896). Comments were due by February 28, 1995. GIPSA received one comment by the deadline. The comment supported designation of Champaign.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act; and according to Section 7(f)(1)(B), determined that Champaign is able to provide official services in the geographic area for which they applied. Effective June 1, 1995, and ending May 31, 1998, Champaign is designated to provide official services in the geographic area specified in the December 2, 1994, **Federal Register**.

Interested persons may obtain official services by contacting Champaign at 217–398–0723.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: April 13, 1995.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 95–9823 Filed 4–20–95; 8:45 am]

BILLING CODE 3410–EN–F

Opportunity to Comment on the Applicants for the Fremont (NB) and Titus (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in the geographic areas currently assigned to Fremont Grain Inspection Department, Inc. (Fremont), and Titus Grain Inspection, Inc. (Titus).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by May 30, 1995.

ADDRESSES: Comments must be submitted in writing to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36JHART]. ATTMAIL and FTS2000MAIL users may respond to !A36JHART. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–720–1015, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 1, 1995, **Federal Register** (60 FR 11069), GIPSA asked persons interested in providing official services in the geographic areas assigned to Fremont, and Titus to submit an application for designation. Fremont and Titus, the only applicants, each applied for designation to provide official inspection services in the entire area currently assigned to them.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: April 13, 1995.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 95–9825 Filed 4–20–95; 8:45 am]

BILLING CODE 3410–EN–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will be convened at 1:30 p.m and adjourn at 4:00 p.m. on Monday, May 8, 1995, in the Magistrate Court of the U.S. District Court House, Third Floor, 202 Harlow Street, Bangor, Maine 04401. The purpose of the meeting is to brief the Maine Advisory Committee on the status of the Commission and the status of a draft Advisory Committee report, to discuss appointments to the Committee, and to review civil rights issues in Maine and select a 1995 project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Barney Berube, 207–287–5980, or Edward Darden, Acting Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 11, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–9846 Filed 4–20–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1995 Census Test—Integrated Coverage Measurement (ICM) Person Interview.

Form Number(s): DC–1309(L).

Agency Approval Number: 0607–0802.

Type of Request: Revision of a currently approved collection.

Burden: 8,570 hours.

Number of Respondents: 22,411.

Average Hours Per Response: 18 minutes.

Needs and Uses: Prompted by the need to improve estimation techniques during the decennial census, the Census Bureau has developed the Integrated Coverage Measurement (ICM) approach which will be tested during the 1995 Census Test. The ICM approach will utilize a separately sampled group of blocks within the 1995 Census Test sites which will be independently listed and enumerated. The independent enumeration will be reconciled to the census test results. This reconciliation will allow us to measure our coverage of persons in missed housing units and coverage of persons missed within housing units enumerated in the census test. This revision request is for clearance of an Evaluation Interview which will measure and evaluate errors caused by either enumerators or respondents during ICM enumerations. The Evaluation Interview will be identical to the ICM interview and will be conducted with a sample of persons who were enumerated during ICM. Information gathered will allow the Census Bureau to evaluate the ICM final coverage estimates.

Affected Public: Individuals or households.

Frequency: One-time only.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 17, 1995.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–9847 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

[A–122–506]

Oil Country Tubular Goods From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to a request from the respondent, IPSCO Inc. (IPSCO), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on oil country tubular goods (OCTG) from Canada. The review covers one manufacturer, IPSCO, and exports of the subject merchandise to the United States during the period June 1, 1993, through May 31, 1994.

We preliminary determine the dumping margin for IPSCO to be zero percent during this period. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 21, 1995.

FOR FURTHER INFORMATION CONTACT: David Genovese or Joseph Hanley, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–5254.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1994, the Department published a notice of "Opportunity to Request an Administrative Review" (59 FR 29411) of the antidumping duty order on OCTG from Canada (51 FR 21782; June 16, 1986). On June 24, 1994, IPSCO requested an administrative review. The Department initiated the review on July 15, 1994 (59 FR 36160), covering the period June 1, 1993, through May 31, 1994. The Department is conducting this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered by this review include shipments of OCTG from Canada. This includes American Petroleum Institute (API) specification OCTG and all other pipe with the following characteristics except entries which the Department determined through its end-use certification procedure were not used in OCTG

VOL 60 ISS 77 AP 21 1995 UMI

applications: Length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for OCTG with tolerances of plus 1/8 inch for diameters less than or equal to 8 5/8 inches and plus 1/8 inch for diameters greater than 8 5/8 inches, minimum wall thickness as identified for a given outer diameter as published in the API or proprietary specifications for OCTG; a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength; and if with seams, must be electric resistance welded. Furthermore, imports covered by this review include OCTG with non-standard size wall thickness greater than the minimum identified for a given outer diameter as published in the API or proprietary specifications for OCTG, with surface scabs or slivers, irregularly cut ends, ID or OD weld flash, or open seams; OCTG may be bent, flattened or oval, and may lack certification because the pipe has not been mechanically tested or has failed those tests.

This merchandise is currently classifiable under the Harmonized Tariff Schedules (HTS) item numbers 7304.20, 7305.20, and 7306.20. The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

United States Price

In calculating United States Price (USP), the Department used purchase price, as defined in section 772(b) of the Act. The Department based USP on the packed, delivered price to unrelated purchasers.

The Department made deductions, where appropriate, for foreign inland freight, U.S. duties, and U.S. brokerage fees. Additionally, in accordance with the Court of International Trade's decision in *Federal-Mogul Corp. and The Torrington Co.* v. *United States*, 834 F. Supp. 1391 (CIT 1993) (*Federal Mogul*), we adjusted USP for taxes that would have been assessed on the merchandise had it been sold in the home market. Where applicable, we also deducted from the USP the portion of the USP tax adjustment attributable to expenses included in the U.S. tax base.

No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), we used home market price, as defined in section 773(a) of the Act, since quantities of merchandise sufficient to provide a reasonable basis for comparison were sold in the home market to provide a reasonable basis for comparison. Home market price was based on the FOB stockyard or FOB mill price to unrelated purchasers in the home market.

The Department made adjustments, where applicable, for discounts, rebates, warranty and servicing expenses, royalty fees, fees for outside inspectors, and for differences in packing material and credit. The Department also made an adjustment to FMV for imputed consumption taxes in accordance with the aforementioned *Federal-Mogul* decision.

No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of USP to FMV, the Department preliminary determines that no margin exists for IPSCO for the period June 1, 1993, through May 31, 1994.

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter. Case briefs and written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of any such written comments or hearing.

The Department shall determine, and U.S. Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to U.S. Customs.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this administrative review; (2) the cash deposit rate for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous review or the original less-than-fair-value (LTFV) investigation, will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in this review, earlier reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in these final results of review, earlier reviews, or the original investigation, whichever is the most recent; and (4) the "all others" rate, as determined in the LTFV investigation, will be 16.65 percent.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 13, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-9938 Filed 4-20-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-475-703]

Granular Polytetrafluoroethylene Resin From Italy; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On December 21, 1994, the Department of Commerce (the Department) published its preliminary results of the administrative review of the antidumping duty order on granular polytetrafluoroethylene (PTFE) resin from Italy for the period August 1, 1991 through July 31, 1992. The review covers one manufacturer/exporter of this merchandise to the United States, Ausimont S.p.A. We did not receive any comments on our preliminary results, and, therefore, the final results are unchanged from those presented in our preliminary results.

EFFECTIVE DATE: April 21, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Richard Herring, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC.; telephone: (202) 482-2786

SUPPLEMENTARY INFORMATION:

Background

On August 12, 1992, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (57 FR 36063) of the antidumping order on PTFE resin from Italy (53 FR 33163; August 30, 1988). On August 31, 1992, Ausimont S.p.A. and Ausimont U.S.A. requested an administrative review of the order for the period August 1, 1991 through July 31, 1992. We initiated the review on September 28, 1992 (57 FR 44551). Verifications were conducted in Milan, Italy, September 13-16, 1993, and in Morristown, New Jersey, November 22-23, 1993. On December 21, 1994, the preliminary results of this administrative review were published (59 FR 65753). We have now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of PTFE resin which is classifiable under *Harmonized Tariff Schedule* (HTS) item number 3904.61.00. PTFE dispersions in water and fine powders are not covered by this order. The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive. The order on PTFE resin from Italy also covers PTFE wet raw polymer exported from Italy to the United States (*see Granular Polytetrafluoroethylene Resin from Italy; Final Determination of Circumvention of Antidumping Duty Order* (58 FR 26100; April 30, 1993)). However, because the Department issued its preliminary affirmative determination of circumvention and ordered the suspension of liquidation of wet raw polymer entries after the review period, entries of PTFE wet raw polymer were not subject to this particular review (*see Granular Polytetrafluoroethylene Resin from Italy; Preliminary Results of Antidumping Administrative Review*, 59 FR 65753, and Memorandum to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated September 10, 1993; The Third Administrative Review of the Antidumping Duty Order on Granular Polytetrafluoroethylene Resin from Italy, which is on file in the Central Records Unit (room B099 of the Main Commerce Building)). The review covers one manufacturer/exporter of Italian PTFE resin to the United States, Ausimont S.p.A., and the review period is August 1, 1991 through July 31, 1992.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We did not receive any comments. Therefore, the final results are unchanged from those presented in the preliminary results. As a result of our comparison of United States price with foreign market value, we determine that the following weighted-average dumping margin existed during the period August 1, 1991 through July 31, 1992:

Manufacturer/exporter	Period	Margin (percent)
Ausimont S.p.A.	08/01/91-07/31/92	13.31

Furthermore, the following deposit requirements will be effective upon publication of these final results of this administrative review, for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be 13.31 percent; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufactures and exporters will be 46.46 percent, the "all other" rate established in the original LTFV investigation by the Department (53 FR 26096, July 11, 1988), in accordance with the decisions of the CIT in *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (1993), and *Federal-Mogul Corporation* v. *United States*, 822 F. Supp. 782 (1993).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibilities concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1)(B) of the Act (19 U.S.C. 1675(a)(1)(B)) and 19 CFR 353.22(c)(5).

Dated: April 7, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95-9939 Filed 4-20-95; 8:45 am]

BILLING CODE 3510-DS-P

National Oceanic and Atmospheric Administration

[I.D. 040495C]

Endangered and Threatened Wildlife; Notice of Availability of the Sea Turtle/Shrimp Fishery Emergency Response Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability.

SUMMARY: NMFS announces the availability of an Emergency Response Plan (ERP) for protecting sea turtles in shrimp fishery operations. The ERP provides a general statement of policy with respect to NMFS' enforcement practice and use of future rulemaking in response to elevated sea turtle strandings associated with shrimping effort and ensures compliance with sea turtle conservation regulations.

DATES: The Sea Turtle/Shrimp Fishery Emergency Response Plan (ERP) describes NMFS policy as of March 14, 1994.

ADDRESSES: Persons wishing to obtain a copy of the ERP should address correspondence to the Protected Species Branch, National Marine Fisheries Service, Southeast Regional Office, 9721 Executive Center Drive, St. Petersburg, FL. 33702 telephone: 813-570-5312.

VOL
60
ISS
77
AP
21
1995
UMI

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312, or Russell Bellmer, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.*, NMFS consults on shrimp fishing operations in the southeastern United States that may affect sea turtles listed as threatened or endangered under the ESA. These shrimp fishing operations are managed, in part, under the Gulf of Mexico Shrimp Fishery Management Plan and the South Atlantic Shrimp Fishery Management Plan, both implemented pursuant to the Magnuson Fisheries Management and Conservation Act, 16 U.S.C. 1801 *et seq.*, and the Sea Turtle Conservation Regulations at 50 CFR 227.72, implemented under the ESA.

Unprecedented levels of sea turtle stranding levels in Texas, Louisiana, and Georgia associated with shrimp fishing during 1994 resulted in a reinitiation of consultation pursuant to 50 CFR 402.16 on shrimp fishing in the southeastern United States. The resulting Biological Opinion (Opinion), issued on November 14, 1994, concluded that continued long-term operation of the fishery under the current management regime was likely to jeopardize the continued existence of the Kemp's ridley and prevent the recovery of loggerheads, but identified a reasonable and prudent alternative to allow the fishery to continue while avoiding jeopardy. One of the components of the alternative was to develop an ERP by March 14, 1995, to ensure compliance with sea turtle conservation regulations and respond to sea turtle stranding events. The ERP provides internal guidance and policy on NMFS' enforcement efforts and seeks to use future rulemaking to meet these goals. The ERP is available for public information, and NMFS will accept public comments.

The scope of the ERP extends to waters 10 nautical miles (18.5 km) seaward of the COLREGs demarcation line (72 COLREGs) as described in 33 CFR part 80. This includes offshore waters, and does not include bays, estuaries and sounds.

The Opinion includes an incidental take statement identifying the expected impact of takings as a result of shrimp fishing. The Opinion provides that strandings of sea turtles will be considered an indicator of nearshore mortality resulting from shrimp fishing during periods when intensive shrimping effort occurs and there are no significant or intervening natural or human sources of mortality other than shrimping conclusively identified as the cause of the strandings. The ERP provides procedures for notification of strandings by Sea Turtle Stranding and Salvage Network coordinators to NMFS. The ERP also provides procedures for public dissemination of stranding report summaries, enforcement activities, and management measures.

In addition, the ERP provides internal guidelines for enforcement actions and future management measures to be implemented through rulemaking. The purpose of the ERP in providing this guidance is to take a progressive approach in avoiding increased levels of strandings as those levels approach the incidental take level identified in the Opinion.

The ERP identifies two areas in which strandings of Kemp's ridley sea turtles are historically high: The Northern Gulf Interim Special Management Area, including waters off Louisiana and Texas, and the Atlantic Special Management Area, including waters off northeast Florida and Georgia, from the COLREGS line out to 10 nautical miles (18.5 km). From April 1 through November 30, members of a trained Turtle Excluder Device (TED) law enforcement team will investigate compliance with TED regulations in these areas. If strandings exceed 75 percent of the weekly incidental take levels, identified in the Opinion, for 2 consecutive weeks, management measures will be implemented through separate rulemaking pursuant to 50 CFR 227.72(e)(6) and the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* (APA). These measures will remain in effect for 30 days in those NMFS statistical zones in which elevated strandings occur and adjacent statistical zones (or portions of adjacent zones), seaward of the COLREGs line to 10 nautical miles (18.5 km). These measures are expected to be:

1. Prohibition of the use of soft TEDs;
2. Prohibition of the use of bottom opening TEDs;
3. Prohibition of the use of try nets, unless equipped with legal TEDs; and
4. Prohibition of the use of flaps over the escape opening of TEDs.

Changes to the size and extent of the restricted area, or modification of restrictions, may be required through additional rulemaking effective for 30 days.

Continued elevated strandings associated with shrimping effort after the above restrictions have been implemented may result in closures to shrimp fishing in the NMFS statistical zones in which elevated strandings occur and adjacent statistical zones (or portions of adjacent zones), seaward of the COLREGs line to 10 nautical miles (18.5 km). Area closures, if necessary, will be implemented through separate rulemaking pursuant to the procedures identified at 50 CFR 227.72(e)(6) and the APA. Changes to the size and extent of the area closures, or modification of restrictions, may be required, through additional rulemaking, effective for 30 days.

The ERP further provides for procedures in the event that the Agency determines that such management measures are not necessary despite elevated stranding levels.

Lastly, the ERP provides for stranding notification procedures, procedures regarding enforcement efforts, and procedures for taking management measures in areas outside the Interim Special Management Areas.

The Opinion, in addition to the ERP requires a number of other management initiatives. In fulfilling these requirements, permanent rules may be prepared establishing special sea turtle management areas and/or contingency restrictions to the shrimp fishery. Such rulemaking will be done through normal rulemaking procedures, including publication of a proposed rule with a public comment period and, as appropriate, public hearings, prior to publication of a final rule and delayed effective date.

Dated: April 5, 1995.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–9877 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 041195B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Request to export nonreleasable beached and stranded marine mammals (P588).

SUMMARY: Notice is hereby given that Enoshima Aquarium, 2–17–25, Katase-Kaigan, Fujisawa-City, Kanagawa, 251, Japan, has requested authorization to export for public display purposes two nonreleasable beached and stranded California sea lions from a U.S. rehabilitation facility.

ADDRESSES: The request for authorization and related documents are available for review upon written request to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910–3226.

Relevant written comments about this request should be submitted to the above address on or before May 22, 1995.

FOR FURTHER INFORMATION CONTACT: Ann Hochman, 301/713–2289.

SUPPLEMENTARY INFORMATION: Enoshima Aquarium, Kanagawa, Japan, is requesting authorization for the export of two nonreleasable rehabilitated female California sea lions (*Zalophus californianus*) for the purpose of public display under the Marine Mammal Protection Act of 1972 (MMPA), as amended (16 U.S.C. 1361 *et seq.*).

The permanent retention or export for public display purposes of a beached or stranded marine mammal taken for the purpose of rehabilitation under section 109(h) of the MMPA must be authorized by NMFS. Under the 1994 amendments to the MMPA, in order to obtain any marine mammal for public display purposes, the recipient must: (1) Offer a program for education or conservation purposes that is based on professionally recognized standards of the public display community; (2) be registered or hold a license issued under 7 U.S.C. 2131 *et seq.*; i.e., from the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (or, for foreign facilities, meet comparable standards); and (3) maintain facilities for the public display of marine mammals that are open to the public on a regularly scheduled basis and to which access is not limited or restricted other than by charging of an admission fee.

In this regard, the required certifications and statements provided by the Enoshima Aquarium and the Japanese Fisheries Agency have been submitted to NMFS and APHIS, and have been found appropriate and sufficient to allow consideration of the request.

Dated: April 17, 1995.

Ann D. Terbush,

Chief, Division of Permits and Documentation, National Marine Fisheries Service.

[FR Doc. 95–9876 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 041395A]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of its Texas Habitat Protection Advisory Panel on May 3, 1995.

DATES: The meeting will be held on May 3, 1995, from 9:00 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Marriott Intercontinental Airport Hotel, 18700 John F. Kennedy Boulevard, Houston, TX 77032.

FOR FURTHER INFORMATION CONTACT: Richard J. Hoogland, Biologist, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The meeting agenda is as follows: Review and discuss fisheries-related studies by Texas A&M Sea Grant University, grass carp infestation into Texas estuaries, occurrence of an exotic brown mussel on the Texas coast, shrimp mariculture issues, Corps of Engineers activities concerning the Laguna Madre and other segments of the Gulf Intracoastal Waterway and the Houston/Galveston ship channel, as well as an update of the Wallisville project and Jefferson County beach nourishment.

Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by April 26, 1995.

Dated: April 18, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9947 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–23–F

[I.D. 041195C]

National Marine Fisheries Service; Marine Fisheries Advisory Committee; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) from May 8 to May 10, 1995.

DATES: The meetings are scheduled as follows:

1. May 8, 1995, 9 a.m.–4 p.m.;
2. May 9, 1995, 8:30 a.m.–5 p.m.; and
3. May 10, 1995, 8:30 a.m.–3:45 p.m.

ADDRESSES: The meeting will be held at the Bethesda Rameda, 8400 Wisconsin Ave, Bethesda, MD.

Requests for special accommodations may be directed to MAFAC, Management Services Office, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard Wheeler, Executive Secretary; telephone: (301) 713–2259.

SUPPLEMENTARY INFORMATION: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1971, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, and environmental, state, consumer, academic, and other national interests.

Matters to be Considered

May 8, 1995—Subcommittee Meetings

(1) Steering Committee;

(2) Marine Recreational Fisheries Committee;

(3) Protected Resources/Habitat Committee;

(4) Seafood Markets and Trade Committee; and,

(5) Commercial Fisheries Committee.

May 9, 1995

(1) Report of subcommittees;

(2) Report of Bycatch Task Force on research findings;

(3) Report on the NMFS budget(s); and

(4) Report on the Status of the NMFS Charter.

May 10, 1995

(1) Report on the NMFS Habitat Program: Status and water quality issues;

(2) Report on the Wetland Restoration Program;

(3) Examination of the wetland construction processes;

(4) Report on the status of bycatch-related legislation; and

(5) Open panel discussion.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to MAFAC (see ADDRESSES).

VOL 60 ISS 77 AP 21 1995 UMI

Dated: April 17, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–9874 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 041395B]

Mid-Atlantic Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder Monitoring Committee will hold a public meeting on May 4, 1995. The main objective of this meeting is to review fishing mortality rate reduction strategies for summer flounder.

DATES: The meeting will be held on May 4, 1995, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn, Essington Room, 45 Industrial Highway, Essington, PA; telephone: (610) 521–2400.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone (302) 674–2331.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting date.

Dated: April 18, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–9948 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 040495E]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (P66J).

SUMMARY: Notice is hereby given that the Alaska Department of Fish and Game has applied in due form for a permit to take Steller and California sea lions for the purposes of scientific research.

DATES: Written comments must be received on or before May 22, 1995.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802–1668 (907/586–7221).

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

The applicant seeks authorization to take a maximum of 125 Steller sea lions (*Eumetopias jubatus*) by trapping, darting, sampling, and gas anesthesia (including a maximum of 20 by recapture for follow-up blood sampling and removal of instruments); a maximum of 400 Steller pups over 6 months old by hand capture, gas anesthesia, and marking; a maximum of 10,000 Stellers by harassment during the course of capturing suitable animals; a maximum of 15 Stellers by unintentional mortality during the course of capture and chemical immobilization and salvaged specimens of stranded animals, premature pups, and mortalities associated with this and other research activities. The applicant also seeks authorization to take up to 30 rehabilitated California sea lions (*Zalophus californianus*) by injection with experimental immobilization drugs and a maximum of 3 for unintentional mortality. All takes will be over a 5-year period. The applicant proposes to initiate this work on June 15, 1995. The objectives of this research are to test and develop safe protocol for chemical restraint, determine movements, habitat usage and commercial fishery interactions, compare condition indices between eastern and western stocks, determine dispersal area and extent of mixing of eastern and western stock pups, and develop safe winter capturing methods of sea lions.

Dated: April 17, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–9875 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 041095A]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of scientific research permit No. 951 (P580).

SUMMARY: Notice is hereby given that Carole A. Conway, 407 Garces Drive, San Francisco, CA 94132, has been issued a permit to import two blue whale skin samples *Balaenoptera musculus*) (approximate weight 100–200 mg) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment, in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, NMFS, 501 West Ocean Boulevard, #4200, Long Beach, CA 90802–4213 (310/980–4015).

SUPPLEMENTARY INFORMATION: On February 23, 1995, notice was published in the **Federal Register** (60 FR 10067) that a request for a scientific research permit to import blue whale skin samples had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the Regulations Governing Endangered Species Permits (50 CFR parts 217–222).

Issuance of this permit as required by the ESA was based on a finding that

such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 14, 1995.

Ann D. Terbush,

Chief, Permits and Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–9882 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Mauritius

April 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 340/640 is being reduced for carryforward and special carryforward used in 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 17333, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 17, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 30, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Mauritius and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on April 28, 1995, you are directed to amend the directive dated March 30, 1995 to reduce the limit for the following categories, as provided under the terms of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Level not in a group: 340/640	511,875 dozen of which not more than 343,549 dozen shall be in Categories 340–Y/640–Y [2].

[1] The limit has not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–9904 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

April 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: April 24, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used during the previous agreement period.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 17334, published on April 5, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textile and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Dated: April 18, 1995.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 17, 1995.

Commissioner of Customers,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on _____, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on April 24, 1995, you are directed to amend the directive dated March 30, 1995 to reduce the limits for the

VOL 60 ISS 77 AP 21 1995 UMI

following categories, pursuant to the provisions of the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted 12-month limit [1]
Levels in Group I:	
331/631	4,372,026 dozen pairs.
333/334	215,684 dozen.
335	137,661 dozen.
340/640	706,929 dozen.
347/348	1,518,066 dozen.
433	3,043 dozen.
443	36,802 numbers.
634	346,412 dozen.
635	303,444 dozen.
647/648	915,986 dozen.
659–H [2]	1,075,745 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5080, 6505.90.6080, 6505.90.7080 and 6505.90.8090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–9908 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–DR–M

Request for Public Comments on Bilateral Textile Consultations With Colombia on Cotton and Man-Made Fiber Underwear

April 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On March 29, 1995, under the terms of Section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of Colombia with respect to cotton and man-made fiber underwear in Categories 352/652, produced or manufactured in Colombia.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Colombia, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 352/652, produced or manufactured in Colombia and exported during the twelve-month period which began on March 29, 1995 and extends through March 28, 1996, at a level of not less than 1,509,880 dozen.

A statement of serious damage concerning Categories 352/652 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 352/652, or to comment on domestic production or availability of products included in Categories 352/652, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Colombia.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 352/652. Should such a solution be reached in consultations with the Government of Colombia, further notice will be published in the Federal Register.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Statement of Serious Damage

Colombia

Cotton and Manmade Fiber Underwear

Category 352/652

Import Situation and Conclusion

U.S. imports of cotton and manmade fiber underwear, Category 352/652, from Colombia reached 1,509,880 dozen in 1994, 46 percent above the 1,032,210 dozen imported in 1993 and 160 percent above its 1992 level. Imports from Colombia were 1.6 percent of total U.S. imports of Category 352/652 in 1994, and were equivalent to nearly 1 percent of U.S. production of Category 352/652 in the year ending September 1994.

U.S. imports of cotton and manmade fiber underwear, from Colombia in Category 352/652, entered the U.S. at an average landed duty-paid value of $13.79 per dozen, 54 percent below U.S. producers' average price for cotton and manmade fiber underwear. The sharp and substantial increase of low priced imports from Colombia is causing serious damage to the U.S. domestic industry producing cotton and manmade fiber underwear.

U.S. Production, Import Penetration, and Market Share

U.S. production of cotton and manmade fiber underwear, Category 352/652, declined from 175,542,000 dozen in 1992 to 168,802,000 dozen in 1993, a decline of 4 percent. Production continued to decline in 1994, falling to 126,962,000 dozen during the first nine months of 1994, 4 percent below January-September 1993 production level. In contrast imports of Category 352/652 surged from 65,507,000 dozen in 1992 to 79,962,000 dozen in 1993, a 22 percent increase. Cotton and manmade fiber underwear, Category 352/652, imports continued to increase in 1994, reaching 97,375,000 dozen, 22 percent above the 1993 level and 49 percent above the level imported in 1992.

The ratio of imports to domestic production increased from 37 percent in 1992 to 47 percent in 1993, and reached 54 percent during January-September 1994. The share of this market held by domestic manufacturers fell from 73 percent in 1992 to 68 percent in 1993, a decline of five percentage points. The domestic market share dropped to 65 percent during the first nine months of 1994.

[FR Doc. 95–9903 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations on Cotton and Man-Made Fiber Underwear

April 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Anne Novak (Costa Rica, Turkey), Jennifer Tallarico (Dominican Republic), Jennifer Aldrich (Honduras) and Ross Arnold (Thailand), International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Under the terms of Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act, the Government of the United States requested consultations with the Governments of Costa Rica, the Dominican Republic, Honduras, Turkey and Thailand with respect to cotton and man-made fiber underwear in Categories 352/652. On March 29, 1995, CITA dropped its request for consultations with Thailand on Categories 352/652 that was made on November 28, 1994 (see 60 FR 2081, published on January 6, 1995) and recalled under Article 6 of the ATC.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Governments of Costa Rica, the Dominican Republic, Honduras, Turkey and Thailand, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 352/652, produced or manufactured in the aforementioned countries and exported during the following twelve-month periods, beginning on the date of the request for consultations, at levels of not less than the specified amounts:

Restraint period	Restraint level
Costa Rica March 27, 1995-March 26, 1996.	14,423,178 dozen.
Dominican Republic March 27, 1995-March 26, 1996.	16,442,148 dozen.
Honduras March 27, 1995-March 26, 1996.	6,550,810 dozen.
Turkey March 28, 1995-March 27, 1996.	1,291,118 dozen.
Thailand March 29, 1995-March 28, 1996.	1,586,005 dozen.

A statement of serious damage concerning Categories 352/652 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 352/652, or to comment on domestic production or availability of products included in Categories 352/652, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Governments of Costa Rica, the Dominican Republic, Honduras, Turkey and Thailand.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 352/652. Should such a solution be reached in consultations with the Governments of Costa Rica, the Dominican Republic, Honduras, Turkey and Thailand, further notice will be published in the Federal Register.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Statement of Serious Damage

Cotton and Manmade Fiber Underwear—Category 352/652

The sharp and substantial increase in imports of cotton and manmade fiber underwear, Category 352/652, is causing serious damage to the U.S. industry producing cotton and manmade fiber underwear.

Category 352/652 imports surged from 65,507,000 dozen in 1992 to 79,962,000 dozen in 1993, a 22 percent increase. Cotton and manmade fiber underwear imports, Category 352/652, continued to increase in 1994, reaching 97,375,000 dozen, 22 percent above the 1993 level and 49 percent above the level imported in 1992.

Serious damage to the domestic industry resulting from the sharp and substantial increase in imports of cotton and manmade fiber underwear is attributed to imports from the Dominican Republic, Costa Rica, Honduras, Thailand and Turkey [1]. The combination of high import levels, surging imports, and low priced goods from these countries have resulted in loss of domestic output, market share, investment, employment, and man-hours worked.

Total imports from the five countries listed above increased from 22,675,508 dozen in 1992 to 40,293,259 dozen in 1994, a sharp and substantial increase of 78 percent. As a group their imports were up 32 percent in 1994 over their 1993 level. Together their 1992 imports were 35 percent of total Category 352/652 imports. Their share of total category imports increased to 41 percent in 1994. Their 1994 imports were 24.5 percent of total U.S. production of cotton and manmade fiber underwear in the year ending September 1994.

[FR Doc. 95–9906 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] El Salvador and Colombia called under domestic legal authority. They are not WTO members.

VOL
60
ISS
77
AP
21
1995
UMI

Request for Public Comments on Bilateral Textile Consultations with El Salvador on Certain Cotton and Man-Made Fiber Textile Products

April 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On March 27, 1995, under the terms of Section 204 of the Agricultural Act of 1956, as amended, the Government of the United States requested consultations with the Government of El Salvador with respect to cotton and man-made fiber pajamas and other nightwear in Categories 351/651 and cotton and man-made fiber underwear in Categories 352/652, produced or manufactured in El Salvador.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of El Salvador, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of textile products in Categories 351/651 and 352/652, produced or manufactured in El Salvador and exported during the twelve-month period which began on March 27, 1995 and extends through March 26, 1996, at levels of not less than 259,914 dozen, in the case of Categories 351/651; and 3,687,034 dozen, in the case of Categories 352/652.

Statements of serious damage concerning Categories 351/651 and 352/652 follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 351/651 and 352/652, or to comment on domestic production or availability of products included in Categories 351/651 and 352/652, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of El Salvador.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 351/651 and 352/652. Should such a solution be reached in consultations with the Government of El Salvador, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Statement of Serious Damage—El Salvador

Cotton and Manmade Fiber Pajamas and Other Nightwear

Category 351/651

March 1995

Import Situation and Conclusion

U.S. imports of cotton and manmade fiber pajamas and other nightwear, Category 351/651, from El Salvador reached 259,914 dozen in 1994, 119 percent above the 118,550 dozen imported in 1993 and seven times its 1992 level. Imports from El Salvador were 2.3 percent of total U.S. imports of Category 351/651 in 1994, and were equivalent to 2.5 percent of U.S. production of Category 351/651 in the year ending September 1994.

U.S. imports of cotton and manmade fiber pajamas and other nightwear from El Salvador in Category 351/651, entered the U.S. at an average landed duty-paid value of $43.37 per dozen, 65 percent below U.S. producers' average price for cotton and manmade fiber pajamas and other nightwear.

The sharp and substantial increase of low valued Category 351/651 imports from El Salvador is causing serious damage to the U.S. industry producing cotton and manmade fiber pajamas and other nightwear.

U.S. Production, Import Penetration, and Market Share

U.S. production of cotton and manmade fiber pajamas and other nightwear, Category 351/651, fell from 11,639,000 dozen in 1992 to 10,442,000 dozen in 1993, a decline of 10 percent. Production continued to decline in 1994, falling to 7,620,000 dozen during the first nine months of 1994, 2 percent below the January-September 1993 production level. In contrast U.S. imports of Category 351/651 surged from 9,347,000 dozen in 1992 to 10,832,000 dozen in 1993, a 16 percent increase. Cotton and manmade fiber pajamas and other nightwear, Category 351/651, imports continued to increase in 1994, reaching 11,406,000 dozen, 5 percent above the 1993 level and 22 percent above the 1992 level.

The ratio of imports to domestic production increased from 80 percent in 1992 to 104 percent in 1993, and reached 111 percent during January-September 1994. The share of the U.S. cotton and manmade fiber pajamas and other nightwear market held by domestic manufacturers fell from 55 percent in 1992 to 49 percent in 1993, a decline of six percentage points, and fell to 47 percent during the first nine months of 1994.

Statement of Serious Damage—El Salvador

Cotton and Manmade Fiber Underwear

Category 352/652

March 1995

Import Situation and Conclusion

U.S. imports of cotton and manmade fiber underwear, Category 352/652, from El Salvador reached 3,687,034 dozen in 1994, 80 percent above the 2,053,364 dozen imported in 1993 and nearly five times its 1992 level. Imports from El Salvador were 3.8 percent of total U.S. imports of Category 352/652 in 1994, and were equivalent to 2.2 percent of U.S. production of Category 352/652 in the year ending September 1994.

U.S. imports of cotton and manmade fiber underwear, from El Salvador in Category 352/652, entered the U.S. at an average landed duty-paid value of $9.85 per dozen, 67 percent below U.S. producers' average price for cotton and manmade fiber underwear.

The sharp and substantial increase of low valued Category 352/652 imports from El Salvador is causing serious damage to the U.S. domestic industry producing cotton and manmade fiber underwear.

U.S. Production, Import Penetration, and Market Share

U.S. production of cotton and manmade fiber underwear, Category 352/652, declined from 175,542,000 dozen in 1992 to 168,802,000 dozen in 1993, a decline of 4 percent. Production continued to decline in 1994, falling to 126,962,000 dozen during the first nine months of 1994, 4 percent below January-September 1993 production level. In contrast imports of Category 352/652 surged from 65,507,000 dozen in 1992 to 79,962,000 dozen in 1993, a 22 percent increase. Cotton and manmade fiber underwear, Category 352/652, imports continued to increase in 1994, reaching 97,375,000 dozen, 22 percent above the 1993 level and 49 percent above the level imported in 1992.

The ratio of imports to domestic production increased from 37 percent in 1992 to 47 percent in 1993, and reached 54 percent during January-September 1994. The share of this market held by domestic manufacturers fell from 73 percent in 1992 to 68 percent in 1993, a decline of five percentage points. The domestic market share dropped to 65 percent during the first nine months of 1994.

[FR Doc. 95–9905 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations on Cotton and Man-Made Fiber Nightwear and Pajamas

April 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico (Jamaica) and Jennifer Aldrich (Honduras), International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On March 27, 1995, under the terms of Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act, the Government of the United States requested consultations with the Governments of Honduras and Jamaica with respect to cotton and man-made fiber nightwear and pajamas in Categories 351/651, produced or manufactured in Honduras and Jamaica.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of Honduras and the Government of Jamaica, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 351/651, produced or manufactured in Honduras and Jamaica and exported during the twelve-month period which began on March 27, 1995 and extends through March 26, 1996, at a level of not less than 157,980 dozen, in the case of Honduras, and a level of not less than 453,082 dozen, in the case of Jamaica.

A statement of serious damage concerning Categories 351/651 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 351/651, or to comment on domestic production or availability of products included in Categories 351/651, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of Honduras and the Government of Jamaica.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 351/651. Should such a solution be reached in consultations with the Governments of Honduras and Jamaica, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Statement of Serious Damage

Cotton and Manmade Fiber Pajamas and Other Nightwear—Category 351/651

The sharp and substantial increase in imports of cotton and manmade fiber pajamas and other nightwear, Category 351/651, is causing serious damage to the U.S. industry producing cotton and manmade fiber pajamas and other nightwear.

Category 351/651 imports surged from 9,347,000 dozen in 1992 to 10,832,000 dozen in 1993, a 16 percent increase. Cotton and manmade fiber pajamas and other nightwear imports, Category 351/651, continued to increase in 1994, reaching 11,406,000 dozen, 5 percent above the 1993 level and 22 percent above the 1992 level.

Serious damage to the domestic industry resulting from the sharp and substantial increase in imports of cotton and manmade fiber pajamas and other nightwear is attributed to imports from Jamaica and Honduras[1]. In both cases surging imports and low priced goods have resulted in loss of domestic output, market share, investment, employment, man-hours worked, and total annual wages.

Total imports from these two countries increased from 193,948 dozen in 1992 to 611,072 dozen in 1994, a sharp and substantial increase of 215 percent. Their imports nearly doubled in 1994 over their 1993 level. Together their 1992 imports were 2.0 percent of total Category 351/651 imports. Their share of total Category imports increased to 5.4 percent in 1994. Their 1994 imports were 5.9 percent of total U.S. production of cotton and manmade fiber pajamas and other nightwear in the year ending September 1994.

[FR Doc. 95–9907 Filed 4–20–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] El Salvador called under domestic legal authority. El Salvador is not a WTO member.

VOL 60 ISS 77 AP 21 1995 UMI

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Agency Information Collection Activities Under OMB Control

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled has submitted revised Initial Certification Forms to OMB for review and clearance under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATES: Comments must be submitted on or before May 22, 1995.

ADDRESSES: Written comments should be sent to: Laura Olivin, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503. Requests for information, including copies of the revised forms and supporting documentation, should be directed to: Beverly L. Milkman, Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, VA 22202–3461, (703) 603–7740.

SUPPLEMENTARY INFORMATION: The Committee has two initial certification forms, one for nonprofit agencies serving people who are blind and one for nonprofit agencies serving people who have other severe disabilities. The information included on the forms is required to ensure that nonprofit agencies requesting to participate in the Committee's program meet the requirements of 41 U.S.C. 46–48c.

Several modifications have been made to the form from the previous edition:

1. The language has been updated to reflect the current regulatory language;
2. Instructions have been included for each item;
3. The certifications have been modified so that it is clearer what the agency is certifying.

Dated: April 14, 1995.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–9933 Filed 4–20–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 22, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.
2. The action does not appear to have a severe economic impact on current contractors for the services.
3. The action will result in authorizing small entities to furnish the services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial
U.S. Courthouse (Whittle Building)
Knoxville, Tennessee
NPA: Goodwill Industries—Knoxville, Inc.
Knoxville, Tennessee

Medical Transcription
Veterans Administration Medical Center
508 Fulton Street
Durham, North Carolina
NPA: Durham Exchange Club Industries, Inc.
Durham, North Carolina

Beverly L. Milkman,

Executive Director

[FR Doc. 95–9932 Filed 4–20–95; 8:45 am]

BILLING CODE 6820–33–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 95–C0011]

Outboard Marine Corp., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional Acceptance of a Settlement Agreement Under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Outboard Marine Corporation, a corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 8, 1995.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 95–C0011, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207

FOR FURTHER INFORMATION CONTACT: Michael J. Gidding, Trial Attorney, Office of Compliance and Enforcement Consumer Product Safety Commission Washington, DC 20207, telephone (301) 504–0626.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: April 14, 1995

Sadye E. Dunn,

Secretary

Settlement Agreement

In the matter of: Outboard Marine Corporation, a corporation CPSC Docket No 95–C0011

1. This Settlement Agreement, entered into between the Outboard Marine Corporation, a corporation (hereinafter "OMC"), and the staff of the Consumer Product Safety Commission (hereinafter "the staff") is a compromise resolution of the matter described herein, without a hearing or determination of issues of law or fact.

I. The Parties

2. Outboard Marine Corporation is a manufacturer of boats and boating equipment. During the period of time relevant to this matter, OMC also owned subsidiaries that manufactured lawn and garden equipment. From 1987 to May, 1989, OMC owned and operated a division known as Lawn-Boy, Inc. (hereinafter "Lawn-Boy"), a manufacturer and distributor of various models of lawn mowers. From June, 1989 until November 7, 1989, when Lawn-Boy was sold to the Toro Company, Lawn-Boy operated as a wholly-owned corporate subsidiary of OMC.

3. The staff of the Consumer Product Safety Commission (hereinafter "the Commission") are those members of the Commission's staff responsible for enforcing the laws administered by the Commission. The Commission is an independent federal regulatory agency established by Congress pursuant to section 4 of the Consumer Product Safety Act (hereinafter, "the CPSA" or "the Act"), 15 U.S.C. 2053.

II. Jurisdiction

4. Lawn-Boy, acting in its capacity as a division and, after June 4, 1989, as a wholly-owned corporate subsidiary of OMC, manufactured the lawn mowers at issue in this proceeding for sale to consumers for use around permanent or temporary households or residences. These lawn mowers are "consumer products" within the meaning of subsection 3(a)(1) of the CPSA, 15 U.S.C. 2051(a)(1).

5. Between approximately October 1, 1987 and August 29, 1989, Lawn-Boy manufactured and distributed over 160,000 lawn mowers identified as "L" series lawn mowers for sale to consumers throughout the United States. During 1989, Lawn-Boy also manufactured lawn mowers under the "M" series and "Model 8157" designations, respectively, for sale to consumers throughout the United States. Lawn-Boy, therefore, is a "manufacturer" of consumer products which are "distributed in commerce", as those terms are defined in sections 3(a)(4) and (11) of the CPSA, 15 U.S.C. 2052(a)(4) and (11). With respect to lawn mowers manufactured during the time prior to June, 1989 when Lawn Boy was a division of OMC, OMC was also a "manufacturer" of consumer products which were distributed in commerce, as those terms are defined in sections 3(a)(4) and (11) of the CPSA.

III. The Products

6. The products at issue in this matter are walk-behind lawn mowers.

IV. Staff Allegations

7. OMC was responsible for controlling the acts and practices of Lawn-Boy, both as a division and subsequently as a corporate subsidiary of OMC, including complying with the requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), and the regulations issued thereunder, 16 CFR 1115, *et seq.*

8. Section 15(b) of the Consumer Product Safety Act, 15 U.S.C. 2064(b), requires a manufacturer of a consumer product who obtained information that reasonably supported the conclusion that the product contained a defect which could create a substantial product hazard to inform the Commission immediately of the defect or risk.

The "L" Series Lawn Mowers

9. Between October, 1987 and August, 1989, Lawn-Boy/OMC "L" series lawn mowers were equipped with gas tanks that were susceptible to leakage and thus were defective because of improper bonding of the tank halves during a hot-plate welding process. Lawn-Boy/OMC learned of the leakage problem in 1988 and replaced leaking gas tanks on lawn mowers brought in for service through 1988 and 1989. In early 1989, Lawn-Boy's/OMC's fuel tank supplier modified the tank design to improve bonding of the gas tank halves. In August, 1989, Lawn-Boy/OMC authorized its tank supplier to build new machinery to improve the hot-welding process to correct the leakage problem.

10. Both as the manufacturer of the lawn mowers that are the subject of paragraph 9 and, after June, 1989, in its capacity as corporate parent of its wholly-owned subsidiary, Lawn-Boy, OMC knew or, with the exercise of due diligence, should have known that the tanks on the "L" series lawn mowers were defective and that the defect could expose consumers to a substantial risk of injury from fire.

11. Despite the pattern of "L" series tank seam failures that occurred prior to the sale of Lawn-Boy, OMC failed to provide any information concerning the failures to the Commission.

12. OMC's failure to report information relating to gas tank seam failures on "L" series mowers to the Commission violated section 15(b) of the CPSA, as amended, 15 U.S.C. 2064(b).

The "M" Series Lawn Mowers

13. During 1989, Lawn-Boy/OMC manufactured and distributed "M" series lawn mowers that experienced gas tank leakage. The method of mounting and attaching the tanks to the mower engines resulted in wear on the tanks that caused the tanks to leak. Lawn-Boy/OMC received complaints of fuel leakage caused by the defective mounting method.

14. Both as the manufacturer of lawn mowers that are the subject of paragraph 13 and, after June, 1989, in its capacity as the corporate parent of its wholly-owned subsidiary, Lawn-Boy, OMC knew, or with the exercise of due diligence, should have known that the method of mounting the tanks was defective and could expose consumers to a substantial risk of injury from fire. Despite the pattern of "M" series tank failures, OMC failed to provide any information concerning the failures to the Commission.

15. OMC's failure to report information relating to gas tank failures on the "M" series lawn mowers to the Commission violated the requirements section 15(b) of the CPSA, as amended, 15 U.S.C. 2064(b).

The "Model 8157" Series Lawn Mowers

16. From 1987 to 1989, Lawn-Boy/OMC manufactured and distributed Model 8157 series lawn mowers. In 1989, Lawn-Boy/OMC received complaints that the gas tanks on these lawn mowers were experiencing gas leakage as a result of fractures in the fuel tank nipples.

17. Both as a manufacturer of the lawn mowers that are the subject of paragraph 16 and, after June, 1989, in its capacity as the corporate parent of its wholly-owned subsidiary, Lawn-Boy, OMC knew, or, with the exercise of due diligence, should have known that the fracturing gas tank fuel nipples were defective and could expose consumers to a substantial risk of injury from fire. Despite the pattern of Model 8157 tank failures, OMC failed to provide any information concerning the failures to the Commission.

18. OMC's failure to report information relating to gas tank failures on the Model 8157 series lawn mowers to the Commission violated section 15(b) of the CPSA, as amended, 15 U.S.C. 2064(b).

V. Response of OMC

19. OMC denies and does not accept as factual each and all of the staff

VOL 60 ISS 77 AP 21 1995 UMI

allegations with respect to the mowers identified in this agreement, nor does OMC admit to any liability in this matter. Further, OMC denies the allegations that the Lawn-Boy "L" series lawn mowers identified in paragraph 9 of this agreement, the "M" series lawn mowers identified in paragraph 13, and the "Model 8157" series lawn mowers identified in paragraph 16 contained defects which created or could have created a substantial product hazard within the meaning of section 15(a) of the CPSA, 15 U.S.C. 2064(a). Accordingly, OMC contends that no obligation to report to the Commission under section 15(b) existed with respect to any of these lawn mowers.

20. OMC further contends that the Commission's acceptance of a $170,000 civil penalty from the Toro Company for the failure to report to the Commission information relating to the gas tank failures identified in paragraphs 9, 13, and 16 of this Settlement Agreement and Order constitutes an election of remedies by the Commission which extinguishrs any alleged liability on the part of OMC.

21. OMC further asserts that it received no reports of injuries from the use of any of the products enumerated in this agreement prior to and after the sale of Lawn-Boy to Toro. OMC makes no admission whatsoever of any fault, liability, or statutory violation in the event any person should claim injuries resulting from the use of these products.

VI. Agreement of the Parties

22. The parties enter this agreement solely for the purposes of settlement. OMC and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement and Order.

23. OMC shall pay the Commission a civil penalty in the amount of seventy-five thousand dollars ($75,000) payable within twenty (20) days after service of the Final Order. Payment of the full amount of the penalty shall settle fully the staff's allegations set forth in paragraphs 9 through 18 above. OMC shall have no further liability to the Commission for any corrective action concerning the leaking gas tanks described in paragraphs 9, 13, and 16 of this complaint.

24. For the purposes of settlement, OMC waives any rights it may have in this matter under section 6(b)(1) through (5) of the CPSA, 15 U.S.C. 2055(a)(1)–(5).

25. Upon provisional acceptance of this Settlement Agreement and Order, the agreement and order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedure set forth in 16 CFR 1118.20(e). If, within 15 days of publication, the Commission has not received any written request not to accept the Settlement Agreement and Order, the Settlement Agreement and Order will be deemed to be finally accepted on the 16th day after the date it is published in the **Federal Register** (16 CFR 1118.20(f)). Upon final acceptance, the Commission shall issue and serve upon OMC the attached Order incorporated herein by reference.

26. Upon final acceptance of this Settlement Agreement and Order by the Commission, OMC knowingly, voluntarily, and completely waives any rights it might have: (1) To an administrative or judicial hearing with respect to the Commission's claim for a civil penalty, (2) to judicial review or other challenge to or contest of the validity of the Commission's action with regard to its claim for a civil penalty, (3) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occurred, and (4) to a statement of findings of fact and conclusions of law with regard to the Commission's claim for a civil penalty.

27. The parties further agree that the Commission shall issue the incorporated Order under the CPSA, 15 U.S.C. 2051 *et seq.*, and that a violation of the Order will subject OMC to appropriate legal action.

28. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement may be used to vary or contradict its terms.

Outboard Marine Corporation.
Dated: April 12, 1995.
Michael A. Brown,
Counsel.

The Consumer Product Safety Commission.
Dated: April 12, 1995.
David Schmeltzer,
Associate Executive Director, Office of Compliance and Enforcement.
Eric C. Stone,
Director, Division of Administrative Litigation, Office of Compliance and Enforcement.
Michael J. Gidding,
Attorney, Division of Administrative Litigation, Office of Compliance and Enforcement.

Order

In the matter of: Outboard Marine Corporation; a corporation. CPSC Docket No. 95–C0011.

Upon consideration of the Settlement Agreement entered between respondent Outboard Marine Corporation, a corporation, and the staff of the Consumer Product Safety Commission; and the Commission having jurisdiction over the subject matter and Outboard Marine Corporation; and it appearing the Settlement Agreement is in the public interest, it is

Ordered, that the Settlement Agreement be and hereby is accepted, as indicated below; and it is

Further Ordered, that upon final acceptance of the Settlement Agreement, Outboard Marine Corporation shall pay to the order of the Consumer Product Safety Commission a civil penalty in the amount of seventy-five thousand dollars ($75,000), within twenty (20) days after receipt of the Final Order and Decision in this matter

Provisionally accepted and Provisional Order issued on the 14th day of April, 1995.

By order of the Commission.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 95–9848 Filed 4–20–95; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.183F]

Drug and Violence Prevention Program in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: To provide grants to develop, implement, validate and disseminate model programs and strategies to promote the safety of students attending institutions of higher education (IHEs) by preventing the illegal use of alcohol and other drugs and by preventing violent behavior by such students.

Eligible Applicants: IHEs; and consortia of IHEs.

Deadline for Transmittal of Applications: June 5, 1995.

Deadline for Intergovernmental Review: August 4, 1995.

Applications Available: April 21 1995.

Available Funds: $500,000

Estimated Range of Awards. Up to $100,000 per year.

Estimated Average Size of Awards $100,000.

Estimated Number of Awards 5

Project Period: 24 months.

Note: The Department is not bound b any estimates in this notice

Applicable Regulations. (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 612.

SUPPLEMENTARY INFORMATION: The program is authorized under Title IV, section 4122, of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382 (October 20, 1994)(to be codified at 20 U.S.C. 7132, formerly at 20 U.S.C. 3211). This FY 1995 competition supports the sixth cohort of grants under the program.

The FY 1994 amendment of the statute modified the scope of authorized programs. Projects may now address violence prevention, in addition to alcohol and other drug abuse. Such projects must also serve as models for the field. This competition is covered by the scope of the amended statute and the application procedures in 34 CFR part 612. In the case of any inconsistency between the program regulations and the new statutory provisions, the statute will control.

Priorities

Absolute Priority. Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(d) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to analyze successful project designs, policies, and results of projects supported under Institution-Wide or Special Focus Program competitions.

Invitational Priority: Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet one or both of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or both of these invitational priorities does not receive absolute or competitive preference over other applications:

Invitational Priority 1. Applications by current or former recipients of grants under Institution-Wide or Special Focus Program competitions proposing to analyze the direct and indirect impacts of one or more fiscal-year cohorts of Institution-Wide or Special Focus projects for which departmental assistance has ended.

Invitational Priority 2. Applications by current or former recipients of grants under Institution-Wide or Special Focus Program competitions proposing to analyze special topics or issues related to the effectiveness of Institution-Wide or Special Focus projects, examples of which have been selected from Institution-Wide or Special Focus projects for which departmental assistance has ended.

Topics or issues may include, among others—

(a) Multi-site data resulting from the use of the Environmental Assessment Instrument by selected Institution-Wide projects;

(b) Multi-site data resulting from the use by Institution-Wide projects of the Core Survey Instrument developed by selected Institution-Wide projects;

(c) The use by IHEs of student peers as a means of influencing other peers to reduce alcohol and other drug problems;

(d) The approaches used in IHEs to plan student social activities not involving alcohol or other drugs and the success of those approaches;

(e) IHE activities or organizational changes associated with empowering students, staff, and faculty to set positive social norms; and

(f) The role of the IHE president, chancellor, or other senior policy makers in preventing alcohol and other drug problems in IHEs.

Selection Criteria

In evaluating applications for grants under the Analysis and Dissemination Program, the Secretary uses the selection criteria in 34 CFR 612.23(c)(3).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Key personnel (34 CFR 612.23(c)(3)(iii)). Ten points are added to this criterion for a possible total of 25 points.

Evaluation (34 CFR 612.23(c)(3)(iv)). Five points are added to this criterion for a possible total of 15 points.

For Applications or Information Contact: FIPSE, FY 1995–F Competition, U. S. Department of Education, 600 Independence Avenue, SW, Washington, D.C. 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between the hours of 8 a.m. and 8 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Information about the Department's funding opportunities, including copies of the application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at gopher.ed.gov (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7132.

Dated: April 17, 1995.

David A. Longanecker,
Assistant Secretary for Postsecondary Education.

[FR Doc. 95–9851 Filed 4–20–95; 8:45 am]
BILLING CODE 4000–01–P

[CFDA No. 84.183D]

Drug and Violence Prevention Program in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug and Violence Prevention); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: To provide grants to develop, implement, validate, and disseminate model programs and strategies to promote the safety of students attending institutions of higher education (IHEs) by preventing the illegal use of alcohol and other drugs and by preventing violent behavior by such students.

Eligible Applicants: IHEs; and consortia of IHEs.

Deadline for Transmittal of Applications: June 5, 1995.

Deadline for Intergovernmental Review: August 4, 1995.

Applications Available: April 21, 1995.

Available Funds: $1,400,000.

Estimated Range of Awards: Up to $45,000.

Estimated Average Size of Awards: $36,000.

Estimated Number of Awards: 30 to 60.

Project Period: 28 months.

Note: The Department is not bound by any estimates in this notice.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations for this program in 34 CFR part 612.

SUPPLEMENTARY INFORMATION: The program is authorized under Title IV, section 4122, of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382 (October 20, 1994) (to be codified at 20 U.S.C. 7132, formerly at 20 U.S.C. 3211).

VOL 60 ISS 77 AP 21 1995 UMI

This FY 1995 competition supports the seventh cohort of grants under the program.

The FY 1994 amendment of the statute modified the scope of authorized programs. Projects may now address violence prevention, in addition to alcohol and other drug abuse. Such projects must also serve as models in the field. This competition is covered by the scope of the amended statute and the application procedures in 34 CFR part 612. In the case of any inconsistency between the program regulations and the new statutory provisions, the statute will control.

Priorities

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 612.21(c)(2)(iii)(B) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects designed to develop, implement, validate, or disseminate model programs or strategies that concentrate on specific approaches to the prevention of illegal use of alcohol and other drugs and the prevention of violent behavior by students.

Invitational Priority: Within the absolute priority in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive absolute or competitive preference over other applications:

Applications proposing to develop or implement higher education consortia for the prevention of illegal alcohol and other drug use and the prevention of violent behavior by students.

Applicants are invited to propose consortium arrangements to assist either (a) local IHE alcohol and other drug and violence professionals, or (b) IHE chief executive officers and other senior administrators. In these types of arrangements, participants would be expected to meet monthly to work toward the development, implementation, validation, or dissemination of their own comprehensive, institution-wide programs to prevent the illegal use of alcohol and other drugs and the prevention of violent behavior by students.

Selection Criteria

In evaluating applications for Specific Approaches to Prevention grants, the Secretary uses the selection criteria in 34 CFR 612.23(c)(2)(iii).

The program regulations in 34 CFR 612.22(b) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition the Secretary distributes the 15 points as follows:

Need (34 CFR 612.23(c)(2)(iii)(A)). Five points are added to this criterion for a possible total of 20 points.

Methods and management plan (34 CFR 612.23(c)(2)(iii)(C)). Five points are added to this criterion for a possible total of 20 points.

Evaluation (34 CFR 612.23(c)(2)(iii)(E)). Five points are added to this criterion for a possible total of 15 points.

For Applications or Information Contact: FIPSE, FY 1995–D Competition, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–5175. Telephone: (202) 205–0082 to order applications; or (202) 708–5750 for information. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between the hours of 8 a.m. and 8 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Information about the Department's funding opportunities, including copies of the application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at gopher.ed.gov (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7132.

Dated: April 17, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–9850 Filed 4–20–95; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services; Paperwork Burden Reduction

AGENCY: Department of Education.

ACTION: Notice of Paperwork Burden Reduction.

SUMMARY: The Assistant Secretary, Office of Special Education and Rehabilitative Services (OSERS), provides notice that prior approval is no longer required for certain categories of costs for formula grant programs authorized by the Rehabilitation Act of 1973, as amended (the Rehabilitation Act) and the Individuals with Disabilities Education Act (IDEA). This change is intended to reduce paperwork burdens on grantees.

EFFECTIVE DATE: This change takes effect on April 21, 1995.

FOR FURTHER INFORMATION CONTACT: Greg March, U.S. Department of Education, 600 Independence Avenue, SW, Room 3124 Switzer Building, Washington, DC 20202–2551. Telephone: (202) 205–8441. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Education Department General Administrative Regulations (EDGAR), in 34 CFR 74.27 and 80.30(b), require prior approval from the Secretary before various categories of otherwise allowable costs may be charged to any ED grant or subgrant. The following formula grant programs authorized by the Rehabilitation Act are covered by this requirement: Vocational Rehabilitation (VR) State Grants (Title I); Client Assistance Program (Title I, Part B); Innovation and Expansion (Title I, Part C), which is currently unfunded; Protection and Advocacy of Individual Rights (Title V, Section 509); Supported Employment (Title VI–C); Independent Living State Grants (Title VII–B); Centers for Independent Living (Title VII–C, Section 723); and Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2), once the appropriation level reaches $13 million. The following formula grant programs authorized by IDEA are also covered by this requirement: Assistance to States for the Education of Children with Disabilities (Part B); Preschool Grants for Children with Disabilities (Section 619); and Early Intervention Program for Infants and Toddlers with Disabilities (Part H). The Assistant Secretary, OSERS, believes that it is no longer necessary to require prior approval for these formula grant programs with respect to certain cost categories and has authority, under a delegation from the Secretary, to exempt these programs from this paperwork requirement. The Assistant Secretary has decided that the prior approval is no longer required for seven cost categories and, under certain conditions, for an eighth cost category. The seven cost categories are—(1) Automatic data processing; (2) Capital expenditures; (3) Management studies; (4) Professional services; (5) Building space and related facilities; (6) Insurance and indemnification; and (7) Proposal costs.

An eighth cost category that requires prior approval is the pre-agreement or pre-award cost category. The Assistant Secretary has determined that prior approval for this cost category is no longer required to the extent that it does not create interest liabilities for the Federal Government under the Cash Management Improvement Act (CMIA). Interest liabilities are incurred under the CMIA when a State disburses its own funds for Federal program purposes before the date that Federal funds are deposited to the State's bank account for those obligations. Interest liabilities are not incurred, however, when a State uses its own funds to meet a program matching or maintenance of effort requirement. Thus, for programs subject to the CMIA (see the implementing Treasury Department regulations in 31 CFR part 205, Subpart A and check with the appropriate CMIA contact person for the State to determine coverage), the Assistant Secretary is no longer requiring prior approval for pre-agreement costs used to meet matching or maintenance of effort requirements. For programs in a State not subject to CMIA interest liabilities, the Secretary is no longer requiring prior approval for any pre-agreement costs.

The Assistant Secretary rarely has declined to approve requests for prior approval for these cost categories. Also, the Assistant Secretary does not believe that grantees will use grant funds inappropriately in these categories if prior approval is no longer required, and believes that grantees should be relieved of this paperwork burden. Under the authority of 34 CFR 74.27 and 80.30(b), the Assistant Secretary therefore exempts the OSERS formula grant programs covered by this notice from the requirement for prior approval for the eight cost categories as previously described.

The Assistant Secretary also notes that this policy change affects only the requirement to obtain prior approval from the Department of Education. If, upon audit or otherwise, it is determined that the claimed expenditures do not meet other requirements or tests for allowability specified by the applicable cost principles, such as reasonableness and necessity, the costs may be disallowed.

(20 U.S.C. 1221e–3 and 3474; OMB Circulars A–102 and A–110)

Dated: April 14, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–9849 Filed 4–20–95; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Draft Environmental Impact Statement on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel

AGENCY: Department of Energy.

ACTION: Notice of availability and announcement of public hearing schedule.

SUMMARY: The Department of Energy (DOE) has completed a draft Environmental Impact Statement (EIS) on a Proposed Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel (DOE/EIS–0218–D). The draft EIS was prepared in compliance with requirements established under the National Environmental Policy Act (NEPA) of 1969; Council on Environmental Quality regulations implementing NEPA, 40 CFR Parts 1500–1508; and DOE NEPA Implementing Procedures, 10 CFR Part 1021. The Department of State is a cooperating agency in preparing this EIS. DOE will conduct public hearings and receive comments on the draft EIS, which addresses policy issues and potential environmental impacts related to a proposed policy for management of foreign research reactor spent nuclear fuel. The draft EIS will be available to the public in DOE reading rooms and designated information locations. In addition, copies of the draft EIS may be obtained by following instructions given below under **SUPPLEMENTARY INFORMATION.**

DATES: DOE invites interested agencies, organizations, and the general public to provide oral and written comments on the draft EIS. All comments on the draft EIS are due by June 20, 1995, and those received by that date will be considered by DOE in preparation of the final EIS. Comments received after the close of the comment period will be considered to the extent practicable. Written comments will be accepted at the public hearings to be held at the times and locations listed below. Persons desiring to participate in a hearing are requested to preregister by calling the toll free number listed below (see "Public Hearing Locations and Schedule") no later than one week prior to the hearing. In the interest of cost savings, DOE may cancel hearings for which insufficient interest is indicated through preregistration. In any case, written comments may be submitted to the DOE Office of Spent Fuel Management at the address below. More information regarding the hearing dates may be found below under "Public Hearing Locations and Schedule".

ADDRESSES: Written comments should be sent to: Public Comments on the draft FRR SNF EIS, Attention: Charles R. Head, Office of Spent Fuel Management (EM–37), United States Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585–0001. Addresses of DOE Public Reading Rooms, and other locations where the draft EIS will be available for public review are listed below under **SUPPLEMENTARY INFORMATION.**

Public Hearing Locations and Schedule

Public hearings will be held at each of the locations listed below, on the dates indicated. Please call toll free to (800) 741–0060 to preregister to participate in one or more of these public hearings:

1. Charleston, South Carolina on May 8, 1995, from 6:00 p.m. to 10:00 p.m. at Mt. Pleasant Municipal Complex, Council Chamber, 100 Ann Edwards Lane, Mt. Pleasant, SC 29464 (803) 884–8517
2. North Augusta, South Carolina on May 9, 1995, from 6:00 p.m. to 10:00 p.m. at North Augusta Community Center, 495 Brookside Avenue, North Augusta, SC 29841, (803) 441–4290
3. Savannah, Georgia on May 11, 1995, from 6:00 p.m. to 10:00 p.m. at Coastal Georgia Center, 305 Martin Luther King, Jr. Boulevard, Savannah, GA 31401, (912) 651–2849
4. Jacksonville, Florida on May 12, 1995, from 6:00 p.m. to 10:00 p.m. at Prime F. Osborn III Convention Center, 1000 Water Street, Jacksonville, FL 32204, (904) 630–4000
5. Norfolk, Virginia on May 15, 1995, from 6:00 p.m. to 10:00 p.m. at Old Dominion University, Webb University Center, Hampton Boulevard, Norfolk, VA 23529, (804) 683–3417
6. Galveston, Texas on May 17, 1995, from 6:00 p.m. to 10:00 p.m. at Tremont House, 2300 Ship's Mechanic Row, Galveston, TX 77550, (409) 763–0300
7. Idaho Falls, Idaho on May 18, 1995, from 6:00 p.m. to 10:00 p.m. at Quality Inn, 850 Lindsay Boulevard, Idaho Falls, ID 83402, (208) 523–6260
8. Concord, California on May 22, 1995 from 6:00 p.m. to 10:00 p.m. at Centre Concord, 5298 Clayton Road, Concord, CA 94521, (510) 671–3466
9. Wilmington, North Carolina on May 22, 1995, from 6:00 p.m. to 10:00 p.m. at Cape Fear Community College Auditorium, 411 North Front Street, Room S002, Wilmington, NC 28401, (910) 251–5100

VOL
60
ISS
77
AP
21
1995
UMI

10. Southport, North Carolina on May 23, 1995, from 6:00 p.m. to 10:00 p.m. at Carolina Power and Light Visitors Center, 8520 River Road, SE., Southport, NC 28461, (910) 457–6041
11. Tacoma, Washington on May 24, 1995, from 6:00 p.m. to 10:00 p.m. at Radisson Hotel Seattle Airport, 17001 Pacific Highway South, Seattle, WA 98188, (206) 244–6000
12. Portland, Oregon, on May 25, 1995, from 6:00 p.m. to 10:00 p.m. at Portland Marriott, 1401 S.W. Front Avenue, Portland, OR 97201, (503) 226–7600
13. Washington, D.C., on May 31, 1995, from 1:00 p.m. to 5:00 p.m. at Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, D.C. 20008, (202) 234–0700
13. Las Vegas, Nevada on June 12, 1995, from 6:00 p.m. to 10:00 p.m. at Cashman Field, 850 Las Vegas Boulevard, North, Las Vegas, NV 89101, (702) 386–7100
15. Hanford, Washington on June 14, 1995, from 6:00 p.m. to 10:00 p.m. at Columbia Basin College, 2800 North 20th Avenue, Pasco, WA 99301, (509) 547–0511
16. Oak Ridge, Tennessee on June 16, 1995, from 6:00 p.m. to 10:00 p.m. at Pollard Auditorium, 210 Badger Avenue, Oak Ridge, TN 37830, (615) 576–3988.

FOR FURTHER INFORMATION CONTACT: Specific information on the draft EIS may be obtained from Mr. Charles R. Head, Office of Spent Fuel Management (EM–37), United States Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0001.

General information on the DOE NEPA process may be obtained from Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), United States Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Ms. Borgstrom may be reached at 202–586–4600 or by leaving a message through a toll free telephone call to (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Proposed Action

DOE has prepared a draft EIS that analyzes policy issues and potential environmental impacts of a proposal to adopt and implement a policy for management of spent nuclear fuel from foreign research reactors. More specifically, the proposed action is intended to reduce the risk of diversion of highly enriched uranium for use in nuclear weapons (by foreign nations, subnational groups, or terrorist organizations) by reducing the amount of highly enriched uranium used in civil programs worldwide. The proposed action is one action among many being pursued by the United States to reduce the potential for the proliferation of nuclear weapons. All of the spent nuclear fuel under consideration contains uranium enriched in the United States, much of it highly enriched uranium that could be used directly to make simple nuclear weapons.

This draft EIS evaluates the potential environmental impacts that could result from the proposed action, and from no action. The proposed action could be implemented through any one of the three following Management Alternatives considered in the draft EIS:

Management Alternative 1. Under this alternative foreign research reactor spent nuclear fuel would be accepted and managed in the United States. The implementation of Management Alternative 1 would include the following components:

1. The policy duration would be 10 years, beginning on the date that the policy would take effect, and would cover existing spent fuel and additional spent fuel generated during the course of the policy period. Actual shipments of the spent nuclear fuel could be made for a period of 13 years after the policy would take effect.
2. The United States would bear the full cost for transporting and managing the foreign research reactor spent nuclear fuel received from developing nations but would charge developed nations a competitive fee.
3. A fixed amount of foreign research reactor spent nuclear fuel containing uranium enriched in the United States would be eligible to be accepted. Approximately 22,700 individual spent nuclear fuel elements would be accepted, which represents the estimated inventories of foreign research reactor spent nuclear fuel currently stored and that which would be generated during the 10-year policy period.
4. DOE would take title to the foreign research reactor spent nuclear fuel at the United States territorial waters limit, or United States continental borders for shipments from Canada.
5. Marine transport of the foreign research reactor spent nuclear fuel would be made by either chartered or regularly scheduled commercial ships from foreign ports to the United States.
6. Under the proposed action, receipt of the foreign research reactor spent nuclear fuel could occur through any of the following 10 ports of entry:
   - Charleston, South Carolina
   - Galveston, Texas
   - Jacksonville, Florida
   - Hampton Roads, Virginia (includes Newport News, Norfolk, and Portsmouth terminals)
   - Military Ocean Terminal at Sunny Point, North Carolina
   - Naval Weapons Station, Concord, California
   - Portland, Oregon
   - Savannah, Georgia
   - Tacoma, Washington
   - Wilmington, North Carolina

   Potential points of entry for Canadian spent fuel include Alexandria Bay, New York and Sweetgrass, Montana.
7. Ground transport of casks containing foreign research reactor spent nuclear fuel would be by either truck or rail or both from ports of entry or Canadian border crossings to potential Department storage sites, and for shipments between Department storage sites.
8. Sites for the potential receipt and management of foreign research reactor spent nuclear fuel, along with existing and foreseeable future inventories of DOE spent fuel, will be decided in the Record of Decision for the Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Environmental Impact Statement. The sites being considered are the Savannah River Site, the Idaho National Engineering Laboratory, the Hanford Site, the Oak Ridge Reservation, and the Nevada Test Site. Since that decision has not been made yet, this draft EIS contains an analysis of potential impacts at all five of the candidate sites.
9. Storage of the foreign research reactor spent nuclear fuel would take place in existing facilities that use either wet or dry storage technologies and in new dry storage facilities.

Seven implementation alternatives, which are variations of the implementation components of Management Alternative 1, are also considered. These are:

1. Alternative amounts of spent fuel that might be accepted, including target material;
2. Alternative periods of time over which spent fuel might be accepted;
3. Alternative financing arrangements for foreign research reactors to pay for the services that might be provided by the Department;
4. Alternative locations for the Department to take title to the spent fuel;
5. Construction of new wet storage capacity, instead of new dry storage capacity;
6. Near-term chemical separation of the spent fuel in the United States, as an alternative to long-term storage; and
7. Development work possibly leading to the construction and operation of a new processing facility. The new processing facility would be used to change the physical form of the spent fuel to make the uranium in it less of a proliferation concern, and to produce a waste form that is more suitable for geologic disposal.

Management Alternative 2. This alternative consists of action to facilitate the management of foreign research reactor spent nuclear fuel overseas. Under this alternative there are two subalternatives: one is to provide assistance to foreign nations that are able to store their spent nuclear fuel in their own countries, and the second is to provide assistance in reprocessing their spent nuclear overseas under conditions that would satisfy United States nuclear weapons nonproliferation concerns, and in facilities operated under international safeguards.

Management Alternative 3. This alternative is a hybrid alternative formed from a combination of the implementation alternatives of Management Alternative 1, or a combination of the implementation components of Management Alternatives 1 and 2. An example hybrid alternative that is representative of numerous hybrid alternatives that could be chosen by the Department is analyzed in the draft Environmental Impact Statement. This example consists of encouraging the reprocessing of as much foreign research reactor spent nuclear fuel as possible at Western European reprocessing facilities, and accepting the remainder of the foreign research reactor spent nuclear fuel to be managed in the United States by conventional chemical seperation of the aluminum based spent nuclear fuel in existing facilities at the Savannah River Site and storage of the remaining spent fuel in existing facilities at the Idaho National Engineering Laboratory.

No Action Alternative. In the No Action Alternative, the United States would neither accept foreign research reactor spent nuclear fuel nor provide technical assistance or financial incentives for overseas management. If no action were taken to adopt a policy to manage foreign research reactor spent nuclear fuel, no environmental impacts would occur in the United States. However, failure to accept spent nuclear fuel would increase the amount of highly enriched uranium available in civilian commerce and possibly encourage the proliferation of nuclear weapons.

Decision Process

The Department will select a preferred alternative for management of foreign research reactor spent nuclear fuel and will identify and discuss that alternative, along with other reasonable alternatives, in the final EIS. The Department will apply a formal decision process in reaching a preferred alternative. This formal process will include application of various criteria to discriminate among the alternatives. Public comments on the draft EIS will be considered during development of these criteria. The Department will consider the results of the decision process leading to selection of the preferred alternative, and any comments received on the final EIS, in development of the Record of Decision. The final EIS is scheduled to be released in September 1995.

Public Hearings

Public hearings will be held to receive comments on the draft EIS; to provide information to the public concerning the content of the EIS; to receive comments on necessary or desirable attributes of foreign research reactor spent fuel management to use in discriminating among alternatives; and to respond to public questions on the analyses or the EIS process. Individuals wishing to participate in the hearings are encouraged to register in advance by contacting the telephone number listed above under "Hearing schedule and location". Individuals wishing to participate in the hearings are encouraged to provide DOE with written copies of their comments.

Conduct of Hearings

An independent facilitator will open the hearings by explaining the format to be followed. The hearings will be conducted in a manner that is intended to foster a cordial, open and mutually beneficial dialog between the participants and the DOE representatives. In the interests of achieving that, the DOE personnel conducting the hearings may ask clarifying questions regarding statements made at the hearings, will (to the best of their abilities) answer questions asked by hearing participants, and may comment on statements made by hearing participants. Summaries of the discussions conducted during the hearings will be prepared and made available at the DOE Reading Rooms listed below.

Availability of Copies of the Draft EIS

The draft EIS is being distributed to interested Federal, State, Indian Tribal, and local government agencies, and individuals throughout the country, and to libraries, local planning offices, and civic institutions in potentially affected areas. The draft EIS will also be available for public review at the locations listed below. Requests for copies should be directed to: Mr. Charles Head, Office of Spent Fuel Management (EM–37), United States Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585–0001, or you may call 1–800–7–EM–DATA toll free. A list of all individuals and organizations receiving a copy of the draft EIS can also be obtained from Mr. Charles Head.

The draft EIS, including appendices, is approximately 1400 pages in length, organized as follows:

Summary of the EIS (53 pages)

Volume I (416 pages)

Chapter 1. Introduction
Chapter 2. Proposed Action and Alternatives
Chapter 3. The Affected Environment
Chapter 4. Policy Considerations and Environmental Impacts
Chapter 5. Applicable Laws, Regulations and Other Requirements
Chapter 6. List of Preparers
Chapter 7. List of Agencies
Chapter 8. References

Volume II

Appendix A—Environmental Justice Analysis (43 pages)
Appendix B—Foreign Research Reactor Spent Nuclear Fuel Characteristics and Transportation Casks (54 pages)
Appendix C—Marine Transport and Associated Environmental Impacts (35 pages)
Appendix D—Selection and Evaluation of Potential Ports of Entry (278 pages)
Appendix E—Evaluation of Human Health Effects of Overland Transport (217 pages)
Appendix F—Descriptions and Impacts of Storage Technology Alternatives (305 pages)
Appendix G—Background Documents (19 pages)

The 53-page Summary of the draft EIS is separately available for review. When requesting copies of the draft EIS, please indicate whether you wish to receive only the Summary, the entire draft EIS and all of its associated appendices, or specific volumes or appendices, as listed above.

DOE Public Reading Rooms

U.S. Department of Energy, Headquarters, Freedom of Information Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6020, Monday–Friday, 9:00 a.m. to 4:00 p.m.

VOL
60
ISS
77
AP
21
1995
UMI

U.S. Department of Energy, Oakland Operations Office, Environmental Information Center, 1301 Clay Street, Room 700 North, Oakland, CA 94612, (510) 637–1762, Monday-Friday: 8:30 a.m. to 5:00 p.m.

U.S. Department of Energy, Rocky Flats Office, Public Reading Room, Front Range Community College Library, 3645 W. 112th Avenue, Level B, Center or the Building, Westminster, CO 80030, (303) 469–4435, Monday-Tuesday 10:30 a.m. to 6:30 p.m., Wednesday 10:30 a.m. to 4:00 p.m., Thursday-Friday 8:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Idaho Operations Office, Public Reading Room, 1776 Science Center Drive, Idaho Falls, ID 83402, (208) 526–9162, Monday-Friday: 8:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Chicago Operations Office, Public Reading Room, 801 South Morgan Street, Chicago, IL 60607, (312) 996–2738, Monday-Friday: 8:00 a.m. to 10:00 p.m., Saturday 10:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Albuquerque Operations Office, Public Reading Room, National Atomic Museum, 20358 Wyoming Boulevard, SE, Albuquerque, NM 87185, (505) 845–4378, Monday-Friday 9:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Nevada Operations Office, Public Reading Room, Coordination and Information Center, 3084 South Highland Drive, Las Vegas, NV 89106, (702) 295–0731, Monday-Friday: 7:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Fernald Area Office, Public Environmental Center, JANTER Building 10845, Hamilton-Cleves Highway, Harrison, Ohio 44503, (513) 738–0164, Monday and Thursday 9:00 a.m. to 8:00 p.m., Tuesday, Wednesday, Friday 9:00 a.m. to 4:30 p.m., Saturday 9:00 a.m. to 1:00 p.m.

U.S. Department of Energy, Savannah River Operations Office, Public Reading Room, University of South Carolina, 171 University Parkway, Aiken, SC 29801, (803) 641–3320, Monday-Thursday: 8:00 a.m. to 11:00 p.m., Friday: 8:00 a.m. to 5:00 p.m., Saturday: 10:00 a.m. to 5:00 p.m., Sunday: 2:00 p.m. to 11:00 p.m.

U.S. Department of Energy, Oak Ridge Operations Office, Public Reading Room, 55 Jefferson Avenue, Oak Ridge, TN 37831, (615) 576–1216, Monday-Friday: 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 5:00 p.m.

U.S. Department of Energy, Richland Operations Office, Public Reading Room, Washington State University Tri-Cities, 100 Sprout Road, Room 130W, Richland, WA 99352, (509) 376–8583, Monday-Friday: 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.

Other Information Locations

Newport News Public Library, Grissom Branch, 366 Deshazor Dr., Newport News, VA 23602, (804) 886–7896, Monday-Thursday: 9:00 a.m. to 9:00 p.m., Friday-Saturday: 9:00 a.m. to 6:00 p.m.

Kirn Library, 301 East City Hall Ave., Norfolk, VA 23510, (804) 441–2429, Monday-Thursday: 9:00 a.m. to 9:00 p.m., Friday: 9:00 a.m. to 5:30 p.m., Saturday: 9:00 a.m. to 5:00 p.m.

Hampton Public Library, 4207 Victoria Boulevard, Hampton, VA 23669, (804) 727–1154, Monday-Thursday: 9:00 a.m. to 9:00 p.m., Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Portsmouth Public Library, Main Branch, 601 Court St., Portsmouth, VA 23704, (804) 393–8501, Monday-Thursday: 9:00 a.m to 9:00 p.m, Friday-Saturday: 9:00 a.m to 5:00 p.m.

Suzzallo Library, SM25, University of Washington Libraries, University of Washington, Seattle, WA 98185, (206) 543–9158, Monday-Thursday: 7:30 a.m. to 12:00 midnight, Friday: 7:30 a.m. to 6:00 p.m., Saturday: 9:00 a.m. to 5:00 p.m. Sunday 12:00 p.m. to 12:00 midnight

Concord Branch Library, 2900 Salvio Street, Concord, CA 94519, (510) 646–5455, Monday and Thursday: 12:00 noon to 9:00 p.m., Tuesday-Wednesday: 10:00 a.m. to 6:00 p.m., Friday-Saturday: 1:00 p.m. to 5:00 p.m.

George A. Smathers Libraries, Library West, University of Florida Library, Room 241, P.O. Box 11701, Gainesville, FL 32611–7001, (904) 392–0367, Monday-Thursday: 8:00 a.m. to 9:30 p.m., Friday: 8:00 a.m. to 5:00 p.m., Saturday: Closed, Sunday: 2:30 p.m. to 9:30 p.m. (Hours may vary during semester breaks)

Jacksonville Public Library, 122 North Ocean Street, Jacksonville, FL 32202, (904) 630–2665, Monday-Thursday 10:00 a.m. to 8:00 p.m., Friday-Saturday 10:00 a.m. to 6:00 p.m. Sunday 1:00 p.m. to 5:00 p.m.

Atlanta Public Library, 1 Margaret Mitchell Square, Atlanta, GA 30303, (404) 730–1700, Monday: 9:00 a.m. to 6:00 p.m., Tuesday-Thursday: 9:00 a.m. to 8:00 p.m., Friday: 9:00 a.m. to 5:00 p.m., Saturday: 10:00 a.m. to 5:00 p.m.

Reese Library, Augusta College, 2500 Walton Way, Augusta, GA 30904–2200, (706) 737–1744, School Hours: Monday-Thursday: 7:45 a.m. to 10:30 p.m., Friday: 7:45 a.m. to 5:00 p.m., Saturday: 9:00 a.m. to 5:00 p.m., Sunday: 1:30 p.m. to 9:30 p.m., Summer Hours: Monday-Friday: 8:00 a.m. to 5:00 p.m.

Chatham-Effingham-Liberty Regional Library, 2002 Bull Street, Savannah, GA 31401, (912) 234–5127, Monday-Thursday: 9:00 a.m. to 9:00 p.m., Friday: 9:00 a.m. to 6:00 p.m., Saturday: 10:00 a.m. to 6:00 p.m.

Boise Public Library, 715 South Capitol Boulevard, Boise, ID 83702, (208) 384–4023, Monday, Friday: 10:00 a.m. to 6:00 p.m., Tuesday-Thursday: 10:00 a.m. to 9:00 p.m., Saturday: 1:00 p.m. to 5:00 p.m.

Idaho Department of Health and Welfare, Idaho National Engineering Laboratory Oversight Program Library, 1410 North Hilton, Boise, ID 83706, (208) 334–0498, Monday-Friday: 8:00 a.m. to 5:00 p.m.

Idaho Falls Public Library, 457 Broadway, Idaho Falls, ID 83402, (208) 529–1462, Monday-Thursday: 8:00 a.m. to 7:00 p.m., Friday: 8:00 a.m. to 5:00 p.m., Saturday: 9:00 a.m. to 1:00 p.m.

Pocatello Public Library, 812 East Clark Street, Pocatello, ID 83201, (208) 232–1263, Monday-Thursday: 10:00 a.m. to 9:00 p.m., Friday-Saturday: 10:00 a.m. to 6:00 p.m.

Twin Falls Public Library, 434 Second Street East, Twin Falls, ID 83301, (208) 733–2964, Monday-Thursday: 10:00 a.m. to 6:00 p.m., Friday: 10:00 a.m. to 5:00 p.m., Saturday: 12:00 noon to 5:00 p.m.

Carson City Public Library, 900 North Roop Street, Carson City, NV 89701, (702) 887–2244, Monday, Friday, Saturday: 10:00 a.m. to 6:00 p.m., Tuesday, Wednesday, Thursday: 10:00 a.m. to 9:00 p.m.

Brunswick County Government Center, P.O. Box 249, 45 Court House Drive, NE, Bolivia, NC 28422, (910) 253–4331, Monday-Friday: 8:30 a.m. to 5:00 p.m.

D. H. Hill Library, North Carolina State University, P.O. Box 7111, Raleigh, NC 27695–7111, (919) 515–3364, Monday-Thursday: 7:00 a.m. to 1:00 a.m, Friday: 7:00 a.m. to 9:30 p.m., Saturday: 9:30 a.m. to 6:30 p.m., Sunday 1:00 p.m. to 1:00 a.m.

New Hanover County Public Library, 201 Chestnut Street, Wilmington, NC 28401, (910) 341–4390, Monday-Thursday: 9:00 a.m. to 9:00 p.m., Friday: 9:00 a.m. to 6:00 p.m., Saturday: 9:00 a.m. to 5:00 p.m., Sunday: 1:00 p.m. to 5:00 p.m.

Pembroke State University Library, 1 University Drive, Pembroke, NC 28372, (910) 521–6265, Monday-Thursday: 8:00 a.m. to 11:00 p.m., Friday: 8:00 a.m. to 5:00 p.m., Saturday: 10:00 a.m. to 5:00 p.m., Sunday 2:00 p.m. to 10:00 p.m.

Brantford Price Millar Library, Portland State University, 934 S.W. Harrison, Portland, OR 97201, (503) 725–4617, Monday-Friday: 8:00 a.m. to 10:00 p.m., Saturday: 10:00 a.m. to 10:00 p.m., Sunday: 11:00 a.m. to 10:00 p.m.

Charleston County Main Library, 404 King Street, Charleston, SC 29403, (803) 723–1645, Monday-Thursday: 9:30 a.m. to 9:00 p.m., Friday-Saturday: 9:30 a.m. to 6:00 p.m., Sunday: 2:00 p.m. to 6:00 p.m.

South Carolina State Library, 1500 Senate Street, Columbia, SC 29201, (803) 734–8666, Monday-Friday: 8:15 a.m. to 5:30 p.m., Saturday: 9:00 to 1:00 p.m.

Clinton Public Library, 118 South Hicks Street, Clinton, TN 37716, (615) 457–0519, Monday, Thursday: 10:00 a.m. to 8:00 p.m., Tuesday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m.

Lawson McGhee Public Library, 500 West Church Avenue, Knoxville, TN 37902, (615) 544–5750, Monday-Thursday: 9:00 a.m. to 8:30 p.m., Friday: 9:00 a.m. to 5:30 p.m., Saturday-Sunday: 1:00 p.m. to 5:00 p.m.

Memphis/Shelby County Public Library and Information Center, 1850 Peabody Avenue, Memphis, TN 38104, (901) 725–8800, Monday-Thursday: 9:00 a.m. to 9:00 p.m., Friday-Saturday: 9:00 a.m. to 6:00 p.m., Sunday 1:00 p.m. to 5:00 p.m.

Oak Ridge Public Library, Civic Center, Oak Ridge, TN 37830, (615) 482–8455, Monday-Thursday: 10:00 a.m. to 9:00 p.m., Friday: 10:00 a.m. to 6:00 p.m., Saturday: 9:00 a.m. to 6:00 p.m., Sunday: 2:00 p.m. to 6:00 p.m.

Rosenberg Library, 2310 Sealy Avenue, Galveston, TX 77550–2296, (409) 763–2526, Monday-Thursday: 9:00 a.m. to 9:00 p.m., Friday-Saturday: 9:00 a.m. to 6:00 p.m., Sunday 1:00 p.m. to 5:00 p.m.

Houston Public Library, 500 McKinney, Houston, TX 77002, (713) 247–1000, Monday-Friday: 9:00 a.m. to 9:00 p.m., Saturday: 9:00 a.m. to 6:00 p.m., Sunday 2:00 p.m. to 6:00 p.m.

Owen Science & Engineering Library, Washington State University, Pullman, WA 99164–3200, (509) 335–4151, School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m., Friday: 8:00 a.m. to 9:00 p.m., Saturday: 12:00 noon to 9:00 p.m., Sunday: 12:00 noon to 11:00 p.m., Summer Hours: Monday, Thursday: 7:30 a.m. to 12:00 p.m., Tuesday, Wednesday, Friday: 7:30 a.m. to 6:00 p.m., Saturday-Sunday: 12:00 noon to 6:00 p.m.

Foley Center, Gonzaga University, East 502 Boone Avenue, Spokane, WA 99258, (509) 328–4220, extension 3725, School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight, Friday-Saturday: 8:00 a.m. to 9:00 p.m., Sunday: 12:00 a.m. to 12:00 midnight, Summer Hours: Monday-Friday: 8:00 a.m. to 9:00 p.m., Saturday: 10:00 a.m. to 6:00 p.m., Sunday: 1:00 p.m. to 7:00 p.m.

Tacoma Public Library, 1102 Tacoma Avenue South, Tacoma, WA 98402, (206) 591–5666, Monday-Thursday: 9:00 a.m. to 9:00 p.m, Friday-Saturday: 9:00 a.m. to 6:00 p.m.

Issued in Washington, DC on April 17, 1995.

Jill E. Lyth,

Deputy Assistant Secretary for Waste Management, Environmental Management.

[FR Doc. 95–9937 Filed 4–20–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Fernald Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Fernald Site.

DATES: Saturday, May 6, 1995: 8:30 a.m.–12:30 p.m. (public comment session, 11:45 a.m.–12:00 p.m.)

ADDRESSES: The Joint Information Center, 6025 Dixie Highway, Route 4, Fairfield, Ohio.

FOR FURTHER INFORMATION CONTACT: John S. Applegate, Chair of the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061, or call the Fernald Citizens Task Force message line (513) 648–6478.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the Fernald site.

Tentative Agenda

Saturday, May 6, 1995

Safety and General Cleanup Criteria

8:30 a.m. Task Force Administration (Call to order Approval of Minutes Chair's Remarks)
8:50 a.m. Review of New Information Presentation of Assumptions Subcommittee
9:45 a.m. Break
10:00 a.m. Discussion and Draft Resolutions
11:45 a.m. Opportunity for Public Input
12:00 p.m. Vote on Resolutions
12:15 p.m. Wrap Up
12:30 p.m. Adjourn

A final agenda will be available at the meeting, Saturday, May 6, 1995.

Public Participation: The meeting is open to the public. Written statements may be filed with the Task Force chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Task Force chair at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official, Kenneth Morgan, Public Affairs Officer, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to John S. Applegate, Chair, the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061 or by calling the Task Force message line at (513) 648–6478.

Issued at Washington, DC on April 18, 1995.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–9935 Filed 4–20–95; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site Specific Advisory Board (EM SSAB), Hanford Site.

DATES: Thursday, May 4: 8:30 a.m.–5:00 p.m.

ADDRESSES: O'Callahan's Shilo Inn, 50 Comstock, Richland, Washington.

FOR FURTHER INFORMATION CONTACT: Jon Yerxa, Public Participation Coordinator, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA, 99352.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

May Meeting Topics

The Hanford Advisory Board will receive information on and discuss issues related to: discussion of general budget advice to the Department of Energy Headquarters and the Department of Energy Richland; review of the report for the need for additional double shell tanks; review of the integrated public participation strategy; and review of recommendations of the 100 Area.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jon Yerxa's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Jon Yerxa, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509)–376–9628.

VOL
60
ISS
77
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Issued at Washington, DC on April 18, 1995.

Rachel Murphy Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 95–9936 Filed 4–20–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–842–000, et al.]

Northern Indiana Public Service Co., et al.; Electric Rate and Corporate Regulation Filings

April 14, 1995.

Take notice that the following filings have been made with the Commission:

1. Northern Indiana Public Service Company

[Docket No. ER95–842–000]

Take notice that on March 31, 1995, Northern Indiana Public Service Company tendered for filing an Interchange Agreement between Northern Indiana Public Service Company and Rainbow Energy Marketing Company.

The Interchange Agreement allows for General Purpose transactions of Negotiated Capacity transactions. General Purpose transactions are economy based energy transactions which may be made available from the supplying party's resources from time to time. Negotiated Capacity transactions provide capacity and energy to the buyer, customized to the specific needs at the time of the reservation.

Copies of this filing have been sent to Rainbow Energy Marketing Company and the Indiana Utility Regulatory Commission.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Dabhol Power Company

[Docket No. EG95–40–000]

On April 6, 1995, Dabhol Power Company ("Dabhol"), with its principal office at Maker Chambers VI, 161, Nariman Point, Bombay 400 021, India, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Dabhol states that it is a company organized under the laws of India. Dabhol will be engaged directly and exclusively in owning an approximately 695 MW distil late fuel oil-fired electric generating facility located in the State of Maharashtra, India. It is expected that Dabhol will subsequently endeavor to expand the generating capabilities of the facility by building additional capacity of 1,320 MW, in which event it is anticipated that the entire facility would be fueled by liquified natural gas. Electric energy produced by the facility will be sold at wholesale to the Maharashtra State Electricity Board, an independent Indian statutory entity that is the largest electric power supplier in the State of Maharashtra. Dabhol may, in the future, sell electricity at retail in a foreign county, although no such sales are presently contemplated. In no event will any electric energy be sold to consumers in the United States.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Entergy Power Development Corporation

[Docket No. EG95–41–000]

On April 6, 1995, Entergy Power Development Corporation, Three Financial Centre, Suite 210, 900 South Shackleford Road, Little Rock, Arkansas 72211, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 711 of the Energy Policy Act of 1992.

The applicant is a corporation that is engaged directly or indirectly and exclusively in owning or operating, or both owning and operating, several electric power facilities. The applicant has previously been found to be an exempt wholesale generator. This application is occasioned by the applicant's intended acquisition of an indirect ownership interest in an approximately 695 MW distillate fuel oil-fired electric generating facility located in the State of Maharashtra, India.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Massachusetts Electric Company

[Docket No. ER94–129–001]

Take notice that on April 10, 1995, Massachusetts Electric Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Power & Light Company

[Docket No. ER94–1506–000]

Take notice that on April 5, 1995, Puget Sound Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Power & Light Company

[Docket No. ER95–331–000]

Take notice that on April 5, 1995, Puget Sound Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Gulf Power Company

[Docket No. ER95–352–000]

Take notice that on February 6, 1995, Gulf Power Company tendered for filing a modification to its amendment to the Interconnection Agreement between Gulf Power Company and Alabama Electric Cooperative, Inc. The purpose of this modification is to allow for the in kind payment of allowance costs prior to the EPA reporting date rather than at the time of the transaction.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Tampa Electric Company

[Docket No. ER95–577–000]

Take notice that on April 5, 1995, Tampa Electric Company (Tampa Electric) tendered an amendment to its filing in this docket.

Tampa Electric continues to propose an effective date of April 1, 1995, and therefore requests waiver of the Commission's notice requirement.

Copies of the amendatory filing have been served on each of the customers under Tampa Electric's FERC Electric Tariff, First Revised Volume No. 1, and the Florida Public Service Commission.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Arizona Public Service Company

[Docket No. ER95–710–000]

Take notice that on April 3, 1995, Arizona Public Service Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER95–838–000]

Take notice that on March 31, 1995, New England Power Company tendered for filing a Letter Agreement under which it provides NEPOOL reporting services to the Princeton (Mass.) Electric Light Department.

Comment date: April 28, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9859 Filed 4–20–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 7186–026 Vermont]

Missisquoi Associates; Notice of Availability of Environmental Assessment

April 17, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order 486, 52 F.R. 47897), the Commission's Office of Hydropower Licensing has reviewed a non-capacity related amendment of license for the Sheldon Springs Hydroelectric Project, No. 7186–026. The Sheldon Springs Hydroelectric Project is located on the Missisquoi River in Franklin County, Vermont. The application is to add a spillway gate at the dam and to construct a flow diversion spur in the project's forebay area. The Environmental Assessment (EA) finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA are available for review in the Public Reference Branch, Room 3104, of the Commission's offices at 941 North Capitol Street NE., Washington, D.C. 20426. Copies can also be obtained by calling the project manager, Rebecca Martin at (202) 219–2650.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9857 Filed 4–20–95; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 1494–094, et al.]

Hydroelectric Applications [Grand River Dam Authority, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. Type of Application: Request For Commission Approval To Grant A Permit For Dredging On Project Lands.

b. Project No.: 1494–094.

c. Date filed: February 27, 1995.

d. Applicant: Grand River Dam Authority.

e. Name of Project: Pensacola Project.

f. Location: Grand Lake O' The Cherokees, Delaware County, Afton, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Bob Sullivan, Grand River Dam Authority, P.O. Box 409, Drawer G, Vinita, OK 74301, (918) 256–5545.

i. FERC Contact: Joseph C. Adamson, (202) 219–1040.

j. Comment Date: May 17, 1995.

k. Description of Proposed Action: Grand River Dam Authority requested Commission authorization to issue a dredging permit as required by license article 21. The application is to permit Mr. Robert Micco to excavate an area 310 feet long, 80 feet wide, and 10 feet deep, from the lake bottom of Grand Lake O' The Cherokees, for a boat launch. The applicant was granted approval to dredge an area 90 feet long, 90 feet wide, and 10 feet deep in the Order Approving Non-Project Use of Project Lands, 68 FERC ¶ 62,094, issued July 27, 1994. The permit would allow the applicant to increase the length of the area by 310 feet, making the area 400 feet long, 90 feet wide, and 10 feet deep.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 11524–000.

c. Date filed: March 2, 1995.

d. Applicant: Mokelumne River Water and Power Authority.

e. Name of Project: Middle Bar.

f. Location: Partially on lands administered by the Bureau of Land Management, on the Mokelumne River, in Amador and Calaveras Counties, California. Township 5 N, Range 11 E, and Section 16.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. David B. Ward, Counsel, Flood & Ward, 1000 Potomac St. N.W., Suite 402, Washington DC 20007, (202) 298–6910.

i. FERC Contact: Michael Spencer at (202) 219–2846.

j. Comment Date: June 30, 1995.

k. Description of Project: The project would utilize the upper reach of Pardee Reservoir for the Lower Mokelumne Project No. 2716 and consist of: (1) A 190-foot-high concrete arch dam; (2) a reservoir with a storage capacity of 40,000 acre-feet; (3) a powerhouse containing a generating unit with a capacity of 31 MW and an average annual generation of 80 Gwh; and (4) a 3-mile-long transmission line.

No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $2,484,000.

l. Purpose of Project: Project power would be sold.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

3 a. Type of Application: Conduit Exemption.

b. Project No.: 11529–000.

c. Date filed: March 17, 1995.

d. Applicant: John Forgy.

e. Name of Project: Forgy Project.

f. Location: At Mr. Forgy's end of his 1¼-inch-diameter PVC domestic and irrigation water supply pipe that takes water from an unnamed spring, in Adams County, Idaho, at NW¼ of SW¼ Section 33 Township 22N Range 1E. The spring is within Payette National Forest.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. Applicant Contact: Mr. John Forgy, 2740 Hillman Basin Road, New Meadows, ID 83654, (208) 628–3136.

i. FERC Contact: Héctor M. Pérez at (202) 219–2843.

j. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached paragraph D–4.

k. Comment Date: June 12, 1995.

l. The existing project would consist of: A 180-watt unit at the end of Mr. Forgy's water supply pipeline.

VOL 60 ISS 77 AP 21 1995 UMI

m. This notice also consists of the following standard paragraphs: A2, A9, B1, and D4.

n. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, N.E., Room 3104, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address shown in item h above.

4 a. Type of Application: Approval of the Upper Androscoggin River Comprehensive Recreation Plan.

b. Project Nos: 2422–014, 2326–012, 2311–012, 2300–012.

c. Date filed: March 1, 1995.

d. Applicant: James River-New Hampshire Electric, Inc.

e. Name of Projects: Sawmill Hydroelectric Project, Cross Power Hydroelectric Project, Gorham Hydroelectric Project, Shelburne Hydroelectric Project.

f. Location: All five projects are in Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Jon M. Christensen, Project Manager, Kleinschmidt Associates, Consulting Engineers, 75 Main Street, P.O. Box 576, Pittsfield, ME 04967, (207) 487–3328.

i. FERC Contact: Jean Potvin, (202) 219–0022.

j. Comment Date: May 22, 1995.

k. Description of Project: The licensee requests approval for the Upper Androscoggin River Comprehensive Recreation Plan which includes the recreation facility development for the above referenced projects.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

5 a. Type of Application: New Major License.

b. Project No.: 2474–004.

c. Date filed: December 4, 1991.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Oswego River Project.

f. Location: On the Oswego River in Oswego County, New York.

g. Filed pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Jerry Sabattis, Hydro Licensing Coordinator, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.

i. FERC Contact: John McEachern (202) 219–3056.

j. Deadline Date: See paragraph D9.

k. Status of Environmental Analysis: This application has been accepted for filing and is ready for environmental analysis at this time with one exception. Fish entrainment studies, being conducted as a result of additional information requested by the Commission, have not yet been completed. Nevertheless, we believe the issues with respect of this issue are identifiable at this time. When the draft and final entrainment reports are submitted to the Commission, they will be reviewed for adequacy. In the interim, environmental analysis will proceed on all other issues—see attached paragraph D9. No second REA notice will be issued.

l. Description of Project: The project as licensed consists of the following: The Oswego River Project consists of three generating facilities, beginning with the most upstream: the Fulton Development, the Minetto Development, and the Varick Development. The existing features are described below for each development.

Fulton Development

The development is comprised of the following features: (1) A concrete buttress dam, totaling about 509 feet long, with a maximum height of 15 feet at a crest elevation of 334.0 feet mean sea level (msl), topped with about 6-inch-high flashboards, consisting of a gated concrete intake section, about 35 feet high by 41 feet long by 14 feet wide, having (a) three steel gates, measuring 8 feet high by 6.5 feet wide; (b) a forebay measuring 10 feet long by 40 feet wide; (c) perpendicular trashracks with ⅝-inch steel bars at 2½-inch openings for a total gross area of 538 square feet; and (d) an existing bypass reach about 1,850 feet long; (2) a concrete-steel with brick masonry powerhouse, about 55 feet high by 25 feet wide by 43 feet long, equipped with two vertical fixed-propeller turbine and synchronous generator combinations having (a) a total rated capacity of 1,250 kilowatts (Kw); (b) an operating hydraulic capacity of 1,010 cubic feet per second (cfs); (c) a rated head of 17 feet; and (d) an average annual generation of 7,380 Mwh; (3) a switchgear building, about 24 feet by 32 feet, housing the main controls for the units; (4) an impoundment having (a) a surface area of about 33 acres (AC); (b) a 620 acre-feet (AF) gross storage capacity; (c) a useable storage capacity of 30 AF; and (d) a normal pool headwater elevation of 334.5 feet msl; and (5) appurtenant facilities.

Minetto Development

The development is comprised of the following features: (1) A concrete gravity dam, totaling about 500 feet long, with a maximum height of 22.5 feet at a crest elevation of 307.0 feet msl, topped with proposed 18-inch-high pneumatic flashboards, consisting of a gated concrete intake section, about 40 feet high by 230 feet long, having (a) nine steel gates, measuring 9 feet high by 11 feet wide; and (b) perpendicular trashracks with ½-inch steel bars at 2½ inch openings for a total gross area of 2,891 square feet; (2) a concrete-steel with brick masonry powerhouse, about 77 feet high by 88 feet wide by 230 feet long, equipped with five vertical Francis turbine and General Electric generator combinations having (a) an existing total rated capacity of 8,000 Kw, a total hydraulic capacity of 7,600 cfs, and an average annual generation of 31,800 Mwh; (b) a proposed total rated capacity of 10,500 Kw, a total hydraulic capacity of 8,000 cfs, and an average annual generation of 47,300 Mwh; and (c) a rated head of 17.5 feet; (3) an impoundment having (a) a surface area of about 350 AC; (b) a gross storage capacity of 4,730 AF; (c) a useable storage capacity of 290 AF; and (d) a normal pool headwater elevation of 307.8 msl; and (4) appurtenant facilities.

Varick Development

The development is comprised of the following features: (1) A masonry gravity dam, totaling about 730 feet long with a maximum height of 13 feet, consisting of (a) a curved section, measuring 480 feet long with a crest elevation of 267.5 feet msl, topped with proposed 2.5-foot-high replacing the existing "stepped" flashboards, which varies from the west to each in heights at each quarter of the section: 30 inches, 32 inches, 34 inches and 36 inches; (b) a straight section, measuring 250 feet long with a crest elevation of 268.5 msl, also topped with a proposed 2.5-foot-high rubber dam, replacing the existing "stepped" flashboards, varying in heights of 10 inches; and (c) a gated section, about 139 feet long by 28 feet wide, with (i) 24 steel gates measuring 11 feet high by 6.25 feet wide, (ii) an unused minimum flow gate, (iii) a forebay measuring 950 feet long by 150 feet wide; (iv) perpendicular trashracks with 3/8-inch steel bars at 4-inch openings for a total gross area of 3,083 square feet; and an existing bypass reach about 1,940 feet long; (2) a concrete and brick powerhouse, about 78 feet high by 66 feet wide by 271 feet long, equipped with four vertical fixed-blade turbine and synchronous generator

combinations having (a) an existing total rated capacity of 8,800 Kw, a total hydraulic capacity of 5,600 cfs, and an average annual generation of 35,000 MWH; (b) a proposed total rated capacity of 10,000 kW, a total hydraulic capacity of 6,400 cfs, and an average annual generation of 43,300 mWH; and (c) a rated head of 19.6 feet; (3) an impoundment having (a) a surface area of about 32 AC; (b) a 435 AF of gross storage capacity; (c) a useable storage capacity of 80 AF; and (d) a normal pool headwater elevation of 270.0 msl; and (4) appurtenant facilities.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, N.E., Room 3104, Washington, D.C., 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, NY 13202, (315) 474–1511.

p. Scoping Process: In gathering background information for preparation of the Environmental Assessment for the issuance of a Federal hydropower license, staff of the Federal Energy Regulatory Commission, is using a scoping process to identify significant environmental issues related to the construction and operation or the continued operation of hydropower projects. The staff will review all issues raised during the scoping process and identify issues deserving of study and also deemphasize insignificant issues, narrowing the scope of the environmental assessment as well. If preliminary analysis indicates that any issues presented in the scoping process would have little potential for causing significant impacts, the issue or issues will be identified and the reasons for not providing a more detailed analysis will be given.

q. Request for Scoping Comments: Federal, state, and local resource agencies; licensees, applicants, and developers; Indian tribes; other interested groups and individuals, are requested to forward to the Commission, any information that they believe will assist the Commission staff in conducting an accurate and thorough analysis of the site-specific and cumulative environmental effects of the proposed licensing activities of the project(s). Therefore you are requested to provide information related to the following items:

- Information, data, maps, or professional opinion may contribute to defining the geographical and temporal scope of the analysis and identifying significant environmental issues.
- Identification of and information from any other EIS or similar study (previous, on-going, or planned) relevant to the proposed licensing activities in the subject river basin.
- Existing information and any data that would aid in describing the past and present effects of the project(s) and other developmental activities on the physical/chemical, biological, and socioeconomic environments. For example, fish stocking/management histories in the subject river, historic water quality data and the reasons for improvement or degradation of the quality, any wetland habitat loss or proposals to develop land and water resources within the basin.
- Identification of any federal, state, or local resource plans and future project proposals that encompass the subject river or basin. For example, proposals to construct or operate water treatment facilities, recreation areas, or implement fishery management programs.
- Documentation that would support a conclusion that the project(s) does not contribute, or does contribute to adverse and beneficial cumulative effects on resources and therefore should be excluded for further study or excluded from further consideration of cumulative impacts within the river basin. Documentation should include, but not be limited to: How the project(s) interact with other projects within the river basin or other developmental activities; results from studies; resource management policies; and, reports from federal, state, and local agencies.

Comments concerning the scope of the environmental assessment should be filed by the deadline established in paragraph D9.

6 a. Type of Application: New License.

b. Project No.: P–2188–030.

c. Date filed: November 30, 1992.

d. Applicant: Montana Power Company.

e. Name of Project: Missouri-Madison Hydroelectric Project.

f. Location: On the Madison and Missouri Rivers in Gallatin, Madison, Lewis and Clark, and Cascade Counties, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Ms. Linda McGillan, Montana Power Company, 40 East Broadway, Butte, MT 59701, (406) 723–5454 ext. 73352.

i. FERC Contact: John McEachern (202) 219–3056.

j. Deadline Date: See paragraph D9.

k. Status of Environmental Analysis: This application has been accepted for filing and is ready for environmental analysis at this time—see attached paragraph D9.

l. Description of Project: The existing Missouri-Madison Project consists of nine developments described as follows.

The Hebgen Development which includes: A reservoir that stores and regulates flow from a 905 square mile drainage area and has a surface area of 13,000 acres at normal maximum reservoir water level of 6,534.87 feet. Normal maximum reservoir storage is 386,184 acre-feet, of which 378,845 acre-feet are usable storage between elevations 6,473 feet and 6,534.87 feet. Existing structures consist of a diversion dam, an outlet works, a side-channel spillway, several buildings, and two 15 kW diesel-fueled generators. The dam is an earth-filled structure 721 feet long and 85 feet above the streambed. The outlet works consists of an intake structure, an outlet conduit through the dam, and a terminal structure. The spillway, which is located on the right bank of the river, is 375 feet long and discharges to a discharge chute that varies from 47 feet wide at the inlet to 20 feet wide at the downstream end. The downstream end is equipped with a flip bucket that provides energy dissipation into a riprap-lined plunge pool in the Madison River. The buildings include a residence, garage, recreation residences, and boathouse.

The Madison Development which includes: A reservoir, known as Ennis Lake, that intercepts a drainage area of 2,181 square miles and has a normal maximum surface area of 3,900 acres at elevation 4,841 feet. Normal maximum reservoir storage is 41,917 acre-feet, of which 39,115 acre-feet are usable storage between elevations 4,826 feet and 4,841 feet. Existing structures consist of the diversion dam, intake, a flow line, a surge chamber, penstocks, a powerhouse, and a tailrace. The generating facilities at the powerhouse connect to a 100-kV power line that is part of Montana Power's transmission system. The dam, which is 257 feet long and 38.5 feet high above the streambed, consists of a rock-filled spillway, a concrete intake structure, and two non-overflow abutment sections at each end. The spillway is 140 feet long with roller-equipped side panels for providing control of flow. The intake is at the right end of the spillway and provides flow control to the steel flow

VOL 60 ISS 77 AP 21 1995 UMI

line. The flow line, which is 7,500 feet long and 13 feet in diameter, is located on the right side of the river and leads to the surge chamber and the powerhouse. The concrete surge chamber is 36 feet wide, 117 feet long, and 34 feet high, and has an overflow spillway over which water is discharged in the event of a plant trip. Four penstocks 9 feet in diameter and about 90 feet long convey water from the surge chamber to the powerhouse. The powerhouse is 203 feet long, 67 feet wide, and 36 feet high, and contains four generating units and associated equipment.

The Hauser Development which includes: Two connected reservoirs, Hauser Lake and Lake Helena, that have a surface area of 5,970 acres and intercept a drainage area of 16,876 square miles. Usable storage capacities are 52,893 acre-feet for Hauser Lake and 11,360 acre-feet for Lake Helena. Existing structures consist of a diversion dam, a forebay, six penstocks, a powerhouse, a tailrace, and two 69-kV transmission lines. A roadway embankment with a sluiceway connection to the main reservoir isolates Lake Helena from Hauser Lake. Hauser Dam is 700 feet long and 80 feet high above the streambed. It consists of a spillway, a non-overflow section, a forebay intake section, and two abutment sections. The spillway is 493 feet long with slidegates and removable flashboards for flow control. The intake, which enters the forebay, is located between the non-overflow section and the right abutment section. The forebay is a concrete structure 250 feet long and 39 feet wide, which directs flow to the powerhouse. Six steel penstocks 12 to 14 feet in diameter convey water from the forebay to the six turbines in the powerhouse, which is 236 feet long and 57 feet wide. Each of the two transmission lines is 12 miles long and extends to the East Helena switching station.

The Holter Development which includes: A reservoir that has a surface area of 4,550 acres at an elevation of 3,564 feet and intercepts an area of 17,150 square miles. Normal maximum reservoir storage is 240,000 acre-feet, of which 81,920 acre-feet are usable storage between elevations 3,543 feet and 3,564 feet. Existing structures consist of a diversion dam, a powerhouse, and a tailrace. The dam is 1,364 feet long and 124 feet high above the streambed. It consists of a central overflow spillway section, right and left non-overflow sections, and a powerhouse intake section. The spillway is 682 feet long with slide gates and removable flashboards for flow control. The powerhouse is constructed integrally with the dam and averages 208 feet long and 81 feet wide.

The Black Eagle Development which includes: A reservoir that intercepts an area of 22,100 square miles and has a surface area of 402 acres at the normal maximum reservoir water level of 3,290 feet elevation. Normal maximum reservoir storage is 1,830 acre-feet, of which 1,710 acre-feet are usable storage between elevations 3,279 feet and 3,290 feet. Existing structures consist of a diversion dam, a forebay, a powerhouse, and a tailrace. The dam is 782 feet long and 34.5 feet high above the streambed. It consists of a 646-foot-long overflow spillway with removable flashboards for flow control, a 105-foot-long wastegate section with slidegates for flow control, and a right abutment section. The forebay, which forms the left abutment of the dam, is 421 feet long and 96 feet wide and directs flow to the powerhouse. The intake and the powerhouse are constructed integrally with the dam. The powerhouse averages 135 feet long and 50 feet wide and contains three generators. The tailrace channel is about 1,500 feet long with concrete sidewalls.

The Rainbow Development which includes: A reservoir that has a surface area of 126 acres at normal reservoir water level of 3,224 feet. Normal maximum reservoir storage is 1,237 acre-feet, of which 1,170 acre-feet are usable storage between elevations 3,212 feet and 3,224 feet. Existing structures include a diversion dam, three flow lines, a surge tank, a surge chamber, 16 penstocks, a powerhouse, and a tailrace. The dam, which is 1,146 feet long and 44 feet high above the streambed, consists of an overflow spillway, a concrete intake section, and a wastegate structure on the right abutment. The spillway is 1,065 feet long with rubber dams and removable flashboards for flow control. Two adjacent structures totaling about 200 feet wide form the intake, which discharges into flow lines that are about 2,400 feet long. Flow lines for units 7 and 8 have a surge tank 40 feet in diameter and 65 feet high. A standpipe 12 feet in diameter and 45 feet high is upstream of the surge tank. Flow lines for units 1 through 6 lead to the surge chamber, which is 182 feet wide and 346 feet long and has a spillway for discharge of water in the event of a plant trip. Sixteen buried penstocks transfer water from the surge tank and surge chamber to the eight turbine generating units in the powerhouse. The powerhouse is 41 feet wide and 415 feet long with smaller extensions. The tailrace below the powerhouse is about 60 feet wide and 850 feet long.

The Cochrane Development which includes: A reservoir that intercepts an area of 23,270 square miles and has a surface area of 249 acres at the normal maximum reservoir water level of 3,115 feet elevation. Normal maximum reservoir storage is 8,464 acre-feet, of which 4,503 acre-feet are usable storage between elevations 3,090 feet and 3,115 feet. Existing structures consist of a diversion dam, a powerhouse, a tailrace, and a 100-kV transmission line. The diversion dam is 856 feet long and 100 feet high above the streambed. It has a spillway section, a powerhouse/intake section, and left and right non-overflow sections. The spillway has radial gates for flow control and a standby generator for emergency gate operation. The intake, penstocks, and powerhouse are constructed integrally with the dam. The left and right non-overflow sections are 190 and 144 feet long, respectively The transmission line is 2.9 miles long and connects the Cochrane Development to the Rainbow Development switchyard.

The Ryan Development which includes: A reservoir that intercepts a drainage area of 23,080 square miles and has a surface area of 168 acres at normal maximum elevation of 3,037 feet. Normal maximum reservoir storage is 3,653 acre-feet, of which 2,440 acre-feet are usable storage between elevations 3,020 feet and 3,037 feet. Existing structures consist of a diversion dam, penstocks, a powerhouse, a tailrace, and two adjacent 100-kV transmission lines. The diversion dam is 1,465 feet long and 82 feet high above the streambed. It consists of an overflow spillway, a wastegate section, an intake section, and left and right abutment sections. The spillway is 1,000 feet long with removable flashboards for flow control. The wastegate is 129 feet long with gates for flow control and a skimmer gate. The intake section is between the wastegate section and the left abutment and is 135 feet long. The left and right abutments are 150 and 100 feet long, respectively Eight buried 327-foot-long penstocks convey water from the intake to the powerhouse, which is 253 feet long and 89 feet wide with six main generators and two exciters. The tailrace is about 1,500 feet long and tapers from 220 feet wide at its upstream end to 100 feet wide at the discharge. The two adjacent power lines are 4.8 miles long and terminate at the Rainbow Development switching station.

The Morony Development which includes: A reservoir that intercepts a total drainage area of 23,292 square miles and has a surface area of 304 acres at normal maximum reservoir water level of 2,887 feet elevation. Normal maximum reservoir storage is 13,598 acre-feet, of which 7,595 acre-feet are usable storage between elevations 2,887 feet and 2,861 feet. Existing structures consist of a diversion dam, a powerhouse integral with the dam, a tailrace, and a 100-kV transmission line. The dam is 842 feet long and 96 feet high above the streambed. It consists of an overflow spillway section, a powerhouse/intake section, and left and right non-overflow sections. The spillway is 390 feet long with nine radial gates for regulating flow and a slide gate for handling trash. The powerhouse/intake section is 195 feet long and contains the penstocks leading to the powerhouse, which is 162 feet long and 58 feet wide. Water is discharged through a short tail race. The left and right non-overflow sections of the dam are 199 and 68 feet long, respectively. The 100-kV transmission line is 8.5 miles long and terminates at the Great Falls switchyard. The original license included a 7.4-mile-long, 100-kV transmission line to the Rainbow Development switchyard.

m. Purpose of Project: Project power would be utilized by the applicant for sale to its customers.

n. This notice also consists of the following standard paragraphs: A4 and D9.

o. Available Location of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, N.E., Room 3104, Washington, D.C., 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Montana Power Company, 40 East Broadway, Butte, MT 59701 or by calling (406) 723–5454.

p. Scoping Process: In gathering background information for preparation of the environmental impact statement (EIS) for the issuance of a Federal hydropower license, staff of the Federal Energy Regulatory Commission conducted a scoping process to identify significant environmental issues related to the continued operation of the project. A scoping document was issued in December 1993, and comments were invited. Commission staff also conducted four scoping meetings; three meetings were primarily for public input, while one meeting focused on resource agency and non-governmental organization concerns. All interested individuals, organizations, and agencies were invited to attend one or more of the meetings and to provide written scoping comments to assist the staff in identifying the scope of environmental issues that should be analyzed in the EIS. The staff has reviewed all issues raised during the scoping process and identified those issues deserving of detailed analysis in the EIS. The staff has also narrowed the scope of the EIS by identifying insignificant issues; the reasons for not providing a more detailed analysis of these issues will be given in the draft EIS.

q. Request for Scoping Comments: Federal, state, and local resource agencies and other interested groups or individuals were requested to forward to the Commission any information that they believed would assist the Commission staff in conducting an accurate and thorough analysis of the site-specific and cumulative environmental effects of the proposed licensing of the project. The types of information requested included:

- Existing information, data, reports or resource plans that would aid in characterizing baseline physical, biological, and social environments in the project's vicinity.
- Information, data, or professional judgement that may help identify or evaluate significant environmental issues, and other environmental issues that are determined not significant.

Comments concerning the scope of the environmental assessment should be filed by the deadline established in paragraph D9.

7 a. Type of Application: Preliminary Permit.

b. Project No.: 11528–000.

c. Date filed: March 20, 1995.

d. Applicant: Alaska Business and Industrial Development Corporation.

e. Name of Project: Grant Lake Water Power Project.

f. Location: On Falls Creek and Grant Creek, near the town of Seward, in the Third Judicial District of the state of Alaska. All project lands are owned by the state.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Fred G. Brown, President, Alaska Business and Industrial Development Corporation, 1469 Holy Cross Drive, Fairbanks, AK 99701, (907) 451–2898.

i. FERC Contact: Mr. Michael Strzelecki, (202) 219–2827.

j. Comment Date: June 26, 1995.

k. Description of Project: The proposed run-of-river project would involve dredging a 1,200-foot-long, 40-foot-deep channel in the state's existing Grant Lake, and would consist of: (1) A lake tap at the outlet of Grant Lake; (2) a 9-foot-diameter, 3,200-foot-long tunnel; (3) a powerhouse containing an unspecified number of generating units with a total installed capacity of 7,000 kW; (4) a 1.2-mile-long transmission line interconnecting with an existing Daves Creek-Seward transmission line; (5) a 2.6-mile-long access road; and (6) appurtenant facilities.

The applicant is also exploring the option of diverting water from nearby Falls Creek into Grant Lake to supplement the flow available for the project. This option would consist of: (1) An intake on Falls Creek; and (2) a 2-mile-long pipeline leading to Grant Lake.

No new roads will be constructed to conduct the studies.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

8 a. Type of Application: Amendment of License.

b. Project No.: P–6901–026.

c. Date filed: June 18, 1993, and supplemented on February 14, 1994, and March 17, 1995.

d. Applicant: City of New Martinsville.

e. Name of Project: New Cumberland Project.

f. Location: At the U.S. Army Corps of Engineers' New Cumberland Locks and Dam on the Ohio River, in Hancock County, West Virginia and Jefferson County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: David F. Pritchard, Burgess and Niple, Limited, 5085 Reed Road, Columbus, OH 43220, (614) 459–2050.

i. FERC Contact: Monica Maynard, (202) 219–2652

j. Comment date: June 2, 1995

k. Description of Amendment: Article 402 of the project license requires a continuous mitigative spillflow release of 15,000 cubic feet per second from the project during the period from July through October, to ensure maintenance of 6.5 milligrams per liter of dissolved oxygen (DO) throughout the downstream pool. The City of New Martinsville requests to substitute real-time monitoring and project operation adjustments to detect and alleviate low DO concentrations in the Ohio River downstream from the project for the continuous spillflow requirement.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

Standard Paragraphs

A2. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the

VOL 60 ISS 77 AP 21 1995 UMI

particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D4. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (June 12, 1995 for Project No. 11529-000). All reply comments must be filed with the Commission within 105 days from the date of this notice (July 26, 1995 for Project No. 11529-000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (June 2, 1995 for Project No. 2474-004; June 5, 1995 for Project No. 2188-030). All reply comments must be filed with the Commission within 105 days from the date of this notice (July 17, 1995 for Project No. 2474-004; July 20, 1995 for Project No. 2188-030).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: April 17, 1995, Washington, D. C.

Lois D. Cashell,

Secretary.

[FR Doc. 95-9855 Filed 4-20-95; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP71-319-000, et al.]

Colorado Interstate Gas Co., et al.; Natural Gas Certificate Filings

April 12, 1995.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP71-319-000]

Take notice that on April 4, 1995, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP71-319-000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to amend the order of November 18, 1971 to allow CIG to increase the maximum allowable operating pressure (MAOP) of its Oregon Basin Lateral (Lateral), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that by order of November 18, 1971, at Docket No. CP71-319, CIG was authorized, in part, to construct and operate the Lateral, a 19.7 mile six-inch diameter lateral in Park and Big Horn Counties, Wyoming. Because of negotiations with a shipper, CIG now needs to increase the capacity of the Lateral by installing compression under its blanket certificate. This additional compression will result in the need to increase the MAOP of the Lateral. CIG avers that the increase in the MAOP would be consistent with Part 192 of 49 CFR.

Comment date: May 3, 1995, in accordance with Standard Paragraph F at the end of this notice.

2. Washington Natural Gas Company, as Project Operator

[Docket No. CP95-300-000]

Take notice that on April 5, 1995, Washington Natural Gas Company (Washington Natural), as Project Operator of the Jackson Prairie Storage Project, 815 Mercer Street, Seattle, Washington 98109 filed an abbreviated application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for a certificate of public convenience and necessity authorizing Washington Natural to construct facilities and to inject additional cushion gas to increase the maximum daily deliverability of the Jackson Prairie Storage Project (Storage Project) located in Lewis County, Washington from 450 Mmcf/d to 550 Mmcf/d, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

To increase the deliverability of the Storage Project, Washington Natural requests Commission authority to:

- Increase the cushion gas of Zone 2 of the Storage Project from 16.8 Bcf to 17.2 Bcf;
- Construct four injection/withdrawal wells with appurtenant facilities in Zone 2 of the Storage Project;
- Upgrade existing compressors C6 and C7 by a total of 2,000 horsepower;
- Install an additional dehydration unit;
- Add two air-cooled heat exchangers; and
- Make miscellaneous station piping modifications.

Washington Natural says the estimated cost of the new facilities and the cushion gas will be $5,375,000 which will be shared equally among the three partners in the Storage Project: Washington Natural, Washington Water Power Company (Water Power), and

VOL
60
ISS
77
AP
21
1995
UMI

Northwest Pipeline Corporation (Northwest).

Washington Natural states that each of the three partners in the Storage Project is entitled to one-third of the proposed increased deliverability. Washington Natural says there will be no change in the seasonal working capacity of the Storage Project. Further, Washington Natural says that Northwest will file an application in the near future to provide the increased deliverability to subscribing customers under Northwest's SGS rate schedules.

Comment date: May 3, 1995, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Company

[Docket No. CP95–301–000]

Take notice that on April 5, 1995, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP95–301–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon two transportation services performed for Panhandle Eastern Pipeline Company (Panhandle), all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR proposes to abandon two transportation services performed for Panhandle which are designated as Rate Schedules X–92 and X–93 and contained in Original Volume No. 2 of its FERC Gas Tariff. The transportation services were authorized in Docket No. CP78–545. It is stated that no facilities are proposed to be abandoned.

Comment date: May 3, 1995, in accordance with Standard Paragraph F at the end of this notice.

4. CNG Transmission Corporation

[Docket No. CP95–302–000]

Take notice that on April 5, 1995, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26302, filed an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order authorizing the abandonment of a certificated exchange of gas [1] in CNG's production area in West Virginia with Pennzoil Products, Inc. (Pennzoil), pursuant to CNG's Rate Schedule No. X–50, to be effective January 1, 1995. CNG's application is on file with the Commission and open to public inspection.

CNG states that due to the fact that CNG is no longer purchasing gas from Pennzoil, the exchange of natural gas production between the parties is no longer needed. CNG states that pursuant to the provisions of a Letter Agreement between CNG and Pennzoil, the parties have agreed to cancel and terminate Rate Schedule X–50 for the exchange of natural gas at certain delivery and receipt points in the State of West Virginia. The original term of the Exchange Agreement was to continue until January 1, 1992, and from year to year thereafter until terminated by either party on six months' notice.

CNG states that no customers' service will be affected by the cancellation of Rate Schedule No. X–50. CNG states that no facilities are involved in the abandonment of this rate schedule.

Comment date: May 3, 1995, in accordance with Standard Paragraph F at the end of this notice.

5. Columbia Gas Transmission Corporation

[Docket No. CP95–305–000]

Take notice that on April 6, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP95–305–000 an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act for authorization to abandon certain pipeline facilities and to construct and operate other pipeline facilities to replace those being abandoned in Madison County, Ohio, and to increase the pressure on another part of the system, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to abandon approximately 1.2 miles of 18-inch pipeline and appurtenances on Line A of its mainline system and to construct and operate 1.2 miles of 20-inch pipeline and appurtenances as replacement facilities. It is stated that the existing facilities were installed in 1941 and have deteriorated to the point where they can no longer provide adequate service to existing customers at current levels. It is further stated that the proposed replacement would enable Columbia to ensure continued service to its customers and the integrity of the line.

Columbia also proposes to increase the maximum allowable operating pressure on a 23.8 mile segment of its Line A from 400 psig to 500 psig. It is stated that this increase would involve a segment of pipeline from the Mt. Sterling gate valve to the Howell Measuring Station. It is asserted that the increased pressure would allow Columbia to take advantage of the increased capabilities of the new pipeline. Columbia asserts that it does not propose any new or additional service as a result of the pipeline replacement or pressure increase. Columbia further asserts that the proposal would not result in any abandonment of service to existing customers.

The construction cost is estimated at $778,200, which would be generated from internal sources. It is estimated that the increase in pressure would cost an additional $30,000.

Comment date: May 3, 1995, in accordance with Standard Paragraph F at the end of this notice.

6. Koch Gateway Pipeline Company

[Docket No. CP95–309–000]

Take notice that on April 7, 1995, Koch Gateway Pipeline Company (Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP95–309–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to operate as a jurisdictional facility, a delivery tap placed in service under Section 311(a) of the Natural Gas Policy Act under Gateway's blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Gateway proposes to provide transportation services under its blanket transportation certificate through an existing delivery tap serving Entex, Inc., a local distribution company, in Rusk County, Texas, after receiving the proposed certification.

Comment date: May 30, 1995, in accordance with Standard Paragraph G at the end of this notice.

7. Northern Natural Gas Company

[Docket No. CP95–312–000]

Take notice that on April 10, 1995, Northern Natural Gas Company (Northern), P.O. Box 3330, Omaha, Nebraska, 68103–0330, filed in Docket No. CP95–312–000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, as amended, and §§ 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder, for permission to abandon one field area compressor unit and appurtenant facilities located in Reagan County, Texas, and an entire compression station located in Pecos County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

[1] *See, Consolidated Gas Supply Corporation,* 28 FERC ¶ 62,072 (1984).

Northern proposes to abandon in-place a single staged 1,080 horsepower compressor unit (Big Lake Unit No. 1) located at its Big Lake compressor station (Big Lake Station) in Reagan County, Texas. Northern indicates that currently the Big Lake Station consists of four compressor units totaling 4,360 horsepower. Northern indicates that the installation of blind flanges or weld caps during abandonment will be completed, as required, so as not to affect the operation of the remaining units at the Big Lake Station.

Northern advises that it proposes to abandon in its entirety the Pecos County No. 2 Station (Pecos Station), which currently consists of three compressor units, totaling 3,000 horsepower, and to move two of those units to a new facility to be constructed during the summer 1995, the Jal Compressor Station located in Lea County, New Mexico. Northern states that the new facility will be constructed on Northern's 16 inch transmission branchline approximately 26 miles north of the existing Kermit Compressor Station in Winkler County, Texas, and will be installed pursuant to Northern's blanket authority granted on September 1, 1982, in Docket No. CP82–401. Northern proposes to abandon the remaining unit at the Pecos Station in-place. Northern further indicates that all gas and service piping to the Pecos Station will be disconnected and sealed off either by the installation of blind flanges or weld caps.

Northern avers that it intends to utilize the remaining Pecos Station unit and the Big Lake unit No. one, or parts from these units, in the future at other locations within Northern's field area as the need for these units may arise. Northern states that in certain instances, the units proposed to be abandoned may be salvaged rather than utilized elsewhere on Northern's pipeline system. Northern indicates that it will seek, to the extent applicable, the required Commission authority in order to install and operate these compressor facilities at a new location if these facilities are to be utilized in the future. Northern further states that the Big Lake compressor Unit No. 1 and the Pecos Station are not required due to reduced deliverability in the systems located upstream of the compressor units. Northern advises that the abandonment of the Big Lake unit and the Pecos Station will not result in the abandonment of service to any of Northern's existing customers or producers, nor will the proposed abandonment adversely impact capacity since this compression is no longer needed by Northern to receive the remaining gas supplies available from upstream gathering systems.

Comment date: May 3, 1995, in accordance with Standard Paragraph F at the end of this notice.

8. Texas Gas Transmission Corporation

[Docket No. CP95–313–000]

Take notice that on April 10, 1995, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP95–313–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to upgrade an existing delivery point through which it delivers gas to Indiana Gas Company, Inc. (Indiana Gas) in Parke County, Indiana, under Texas Gas's blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

It is stated that Indiana Gas has requested that Texas Gas increase the measurement capability at the Hercules Powder Meter Station to allow Indiana Gas to serve, in addition to existing requirements, new load attributable to the Wabash River Coal Gasification Project. Texas Gas proposes to upgrade the meter station by replacing the dual 2-inch meter runs, two 2-inch side valves and related piping with a dual 4-inch station at this point. It is stated that Indiana Gas will reimburse Texas Gas for the cost of upgrading the measurement facilities, which is estimated to be $92,700.

It is further stated that Indiana Gas has informed Texas Gas that it will not require any increase in existing firm contract quantities to accommodate service at the delivery point as the new load will be served with interruptible and capacity release volumes.

Comment date: May 30, 1995, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9858 Filed 4–20–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–316–000]

Williams Gas Processing—Mid-Continent Region Company; Petition for Declaratory Order

April 17, 1995.

Take notice that on April 11, 1995, Williams Gas Processing—Mid-

VOL 60 ISS 77 AP 21 1995 UMI

Continent Region Company (WGP–MCR), Post Office Box 3102, Tulsa, Oklahoma 74101, filed a petition for a declaratory order in Docket No. CP95–318–000, requesting that the Commission declare that WGP–MCR's acquisition, ownership, and operation of approximately 25.8 miles of 26-inch pipeline and appurtenant facilities located in Texas County, Oklahoma currently owned by Williams Natural Gas Company (WNG) are exempt from the Commission's Regulations pursuant to Section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

WGP–MCR states that the current filing is necessary because the subject line's function will change as a result of the construction and operation of a new processing plant, the Baker Plant. The new plant is being constructed by Williams Field Services Company (WFS), an affiliate of WGP–MCR, and will process gas from both the Straight sub-system and the Liberal-Baker subsystem as well as third-party gathering systems. WGP–MCR states that the Baker Plant will replace the Guymon drip control plant and is scheduled to be in operation by November 1, 1995. WGP–MCR states that the subject 25.8 mile pipeline is located upstream of the new Baker Plant, and upon completion of the plant the function of the subject line will be gathering.

WGP–MCR asks that the Commission process this petition for declaratory order and WNG's related abandonment application, but it does not request an order until the Baker Plant begins operations. WGP–MCR states that it will use the same default contract for services on the subject facilities as was submitted to the Commission in Docket No. CP94–196–000.

WGP–MCR asserts that the Baker Plant will be capable of processing greater volumes and of removing more liquids compared to the capabilities of the Guymon drip control plant, and this will result in better value to the gathering and processing customers. WGP–MCR claims that the location of the plant was chosen for primarily two reasons: (1) Located in the middle of the production facilities owned by third parties—whereas the Guymon drip control plant could only process gas from the Straight facilities; and (2) the location of the Baker Plant is conducive to the formation of a hub, with other transmission pipelines located in the vicinity.

WGP–MCR states that it will provide gathering services consistent with open-access principles and will operate as a company separate and independent from WNG. WNG currently provides transportation service to one direct delivery irrigation customer connected to the subject pipeline. WGP–MCR asserts that it will assume WNG's obligations and provide gathering services to this customer following abandonment.

Any person desiring to be heard or to make a protest with reference to said petition should, on or before May 8, 1995, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 95–9856 Filed 4–20–95; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

New Filing Deadline in Special Refund Proceeding Involving Crude Oil Overcharge Refunds

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of new deadline for filing applications for refund in the crude oil overcharge special refund proceeding.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy has determined that the period for filing applications for refund in the crude oil overcharge special refund proceeding shall close on June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas L. Wieker, Deputy Director, Virginia Lipton, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2390 (Wieker), (202) 586–2400 (Lipton).

SUPPLEMENTARY INFORMATION: On November 1, 1994, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Notice stating that it would reopen the period for filing Subpart V crude oil overcharge refund applications and take comments on the issue of the appropriate closing date for filing refund claims in this proceeding. In the Notice we set a new tentative filing deadline of June 3, 1996. 59 FR 55055 (November 8, 1994). The Notice further stated that comments regarding this issue should be provided by April 3, 1995. The period for filing comments has now closed. We have carefully reviewed the comments we received in order to set a final deadline for submission of refund applications.

In all, we received comments from ten firms and individuals. Nine of these comments were submitted by entities that file refund claims on behalf of Subpart V crude oil overcharge refund claimants. We refer to such representatives as "filing services." The tenth comment was filed by an attorney who represents a group of States. [Under the DOE's Modified Statement of Restitutionary Policy, the States and Territories of the United States and the federal government will receive the balance of any funds remaining after all disbursements to Subpart V crude oil overcharge claimants have been made.]

The comments submitted by filing services that represent smaller claimants tended to favor extending the filing deadline as long as possible, even beyond the tentative June 3, 1996 deadline. These filing services believe that there are still many eligible claimants who have not applied for a refund. One commenter in this group estimated that there are between 500,000 and 1 million entities that used more than 65,500 gallons of refined petroleum products during the August 1973 through January 1981 refund period. This commenter believes that since the OHA has received only 100,000 Subpart V crude oil overcharge refund claims, there are many potential applicants who have not yet applied. Although they offer no supporting statistics, the other commenters in this group agree that there are many potential refund applicants who have not yet been contacted. In this regard, the commenters state that after the prior June 30, 1994 deadline passed, they closed their operations that focused on searching for these claimants. They suggest that they are now actively seeking new clients and that it will require significant additional time for them to fully reopen their searching processes and solicit new claimants. They therefore seek an extended additional refund application period.

We are certainly aware that many potential refund applicants have not filed a crude oil overcharge refund claim. However, this fact, in and of itself, is not a reason to allow for another long window of opportunity to file refund applications. Many firms and individuals may have already heard of the Subpart V refund process and simply decided not to apply for a refund. Further, even those that have not yet heard about the refund process might not wish to file a claim, even if they were made aware of their eligibility. We do not believe that it would be useful to hold open the refund process based upon the speculation raised by commenters. It is simply not feasible to hold the proceeding open to ensure that all eligible claimants have received notice of the opportunity to apply. We believe it is sufficient to provide adequate notice of the proceeding, and a reasonable period for applications to be submitted. We find that this notice and opportunity have been provided over the course of the eight-year refund period. Further, in view of the fact that notice of the reopening of this refund proceeding was published on November 8, 1994, we find that there has been adequate time for filing services to renew their search efforts and provide additional notification.

The comments submitted by filing services representing larger refund applicants in this proceeding indicate that they are generally not now seeking to locate additional refund claimants. This group urged that the application period be quickly terminated. These firms and individuals point out that the longer the claim period remains open, the more delay there will be in terminating the entire crude oil overcharge refund process, and in disbursing the final refund payment. We believe that there is considerable merit to this position.

We are also aware that a new, lengthy additional window of opportunity for filing refund claims may result in a large number of duplicate claims, administrative waste, and confusion among members of the public. Accordingly, we find that prompt closure of the refund application period will best promote our goals of administrative efficiency and finality. Therefore, the final date for filing Applications for Refund in the OHA Subpart V crude oil overcharge refund proceeding will be June 30, 1995. All crude oil refund applications must be postmarked no later than that date.

Dated: April 17, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–9934 Filed 4–20–95; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4722–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 20, 1995 Through March 24, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (72 FR 19047).

Draft EISs

ERP No. D–AFS–J65227–MT Rating EC2, Wagner-Atlanta Vegetation Treatment Project, Implementation, Helena National Forest, Townsend Ranger District, Meagher County, MT.

Summary

EPA expressed environmental concerns with the treatment methods/units, existing degraded water quality/fisheries in the project area, and an inadequate plan for a water quality monitoring program. EPA recommended additional information be collected to fully assess and mitigate impacts of the proposed action. EPA supported a combination of grass burns (Alternative C) and harvest methods from the other alternatives which protect big game, minimize new road construction, protect water quality, in stream uses and the aquatic ecosystem.

ERP No. D–AFS–J65228–UT Rating EC1, Jacob/Swale Vegetation Management Project, Implementation, Dixie National Forest, Escalante Ranger District, Garfield County, UT.

Summary

EPA expressed environmental concerns and recommended that a preferred alternative be selected that minimizes the impacts to road management, roadless areas and wildlife habitat concerns.

ERP No. D–AFS–L65233–OR Rating EC2, Sandy River Delta Plan, Implementation, Special Management Area (SMA), Columbia River Gorge National Scenic Area (NSA), Several Permits for Approval, US Coast Guard Bridge Permit and COE Section 404 Permit, Multnomah County, OR.

Summary

EPA supported the wetland vegetation restoration objectives of the draft EIS, but expressed environmental concerns regarding the repeated use of herbicides to meet vegetative objectives. EPA preferred the re-establishment of the original native species mix to the extent possible, to create a self-sustaining wetland system without using herbicides.

ERP No. D–AFS–L65234–ID Rating EC2, Hobo Cornwall Project Area Timber Sale and Ecosystem Management Plan, Implementation, Idaho Panhandle National Forests, St. Joe Ranger District, Shoshone County, ID.

Summary

EPA expressed environmental concerns based on potential water quality standards violations and the lack of an air quality impacts analysis. Additional information is requested to clarify compliance with state water quality standards and to disclose air quality impacts related to prescribed burning.

ERP No. D–AFS–L65236–OR Rating LO, Santiam Pass Forest Health Project, Implementation, Willamette National Forest, McKenzie Ranger District, Linn County, OR.

Summary

EPA expressed lack of objections to the proposed project.

ERP No. D–BLM–G65061–NM Rating LO, Rosewell Resource Area Management Plan and Carlsbad Resource Area Management Plan Amendment, Implementation, Quay, Curry, DeBaca, Roosevelt, Lincoln, Guadalupe, Chaves, Eddy, and Lea Counties, NM.

Summary

EPA expressed lack of objections and supported the preferred alternative. For clarification EPA requested that the air impact analysis be expanded to include definitive effects of oil and gas operations on air quality and consider the cumulative impacts of 23,000 wells on the 2 resource areas.

ERP No. D–BLM–J60016–WY Rating EC2, Kenetech/PacifiCorp Windpower Development Project, Construction of a 500–MW Windplant and 230-kV Transmission Line between Arlington and Hanna, Right-of-Way Grant, COE Section 404 Permit and Special-Use-Permit, Carbon County, WY.

Summary

EPA expressed environmental concerns based on potential adverse

VOL 60 ISS 77 AP 21 1995 UMI

impacts of the proposed project on raptors.

ERP No. D-NPS-D61039-PA Rating LO, White-Tailed Deer Management Plan, Implementation, Gettysburg National Military Park and Eisenhower Historic Site, Adams County, PA.

Summary

EPA expressed lack of objections to the proposed action, but suggested the Final EIS include reproduction intervention methods which are currently Food and Drug Administration approved (Alternative 2B and 4).

ERP No. D-NPS-E61071-FL Rating EC1, Timucuan Ecological and Historic Preserve, General Management Plan and Development Concept Plans, Implementation, Fort Caroline National Memorial Area, Duval County, FL.

Summary

EPA expressed environmental concerns over potential project impacts. EPA recommended that the FEIS address guidelines regarding ORV use on the natural resource portions of the Preserve.

ERP No. D-USN-K11028-CA Rating EO2/EC2, Long Beach Naval Hospital Base Disposal and Reuse, Implementation, City of Long Beach, CA.

Summary

EPA expressed environmental objections to the "Retail Alternative" due to air quality impacts. EPA had environmental concerns with the remaining alternatives. The DEIS is lacking a comprehensive air quality analysis, although it is exempt from a conformity determination.

Final EISs

ERP No. F-AFS-J67014-UT, Gardner Canyon Gypsum Open Pit Mine, Development and Operation, Special Use Permit and Possible COE Section 404 Permit, Mount Nebo Wilderness Area, Unita National Forest, Jaub County, UT.

Summary

EPA expressed lack of objections to the proposed project.

ERP No. F-AFS-L61196-OR, Washington Analysis Area/Baker City Municipal Watershed Project, Implementation, Wallowa-Whitman National Forest, Baker Ranger District, Baker County, OR.

Summary

EPA expressed no objection to the preferred alternative as described in the FEIS. No formal written comment letter was sent to the preparing agency.

ERP No. F-DOA-D81024-MD, Beltsville Agricultural Research Center, Construction of an Office Complex and Site Selection, Prince Georges County, MD.

Summary

EPA expressed lack of objections to the proposed project.

ERP No. F-NPS-K61131-00, Lake Mead National Recreation Area, Management of Burros, Implementation, Clark Co., NV and Mohave Co., AZ.

Summary

EPA expressed lack of objections to the proposed action.

Dated: April 18, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95-9929 Filed 4-20-95; 8:45 am]

BILLING CODE 6560-60-U

[ER-FRL-4722-3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 OR (202) 260-5075. Weekly receipt of Environmental Impact Statements Filed April 10, 1995 Through April 14, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950113, FINAL EIS, DOE, CO, Flatiron-Erie 115-kV Electrical Transmission Line Replacement of Wood-Pole Structures, Construction, Operation and Right-of-Way Grant, City of Longmont, Larimer, Boulder and Weld Counties, CO, Due: May 22, 1995, Contact: Rodney Jones (303) 490-7200. Published FR-03-31-95-Refiled/Due Date Correction.

EIS No. 950133, FINAL SUPPLEMENT, AFS, CA, Bear Mountain Ski Resort Expansion, (Formerly Known as Goldmine) New Information, San Bernardino National Forest, Special-Use-Permit and Possible COE Section 404 Permit, San Bernardino County, CA, Due: May 22, 1995, Contact: Hal Seyden (909) 383-5586.

EIS No. 950134, FINAL EIS, FHW, OK, OK-99/OK-3E/US 377 North of Ada Transportation Corridor Reconstruction, Funding, COE Section 404 and NPDES Permits, Pontotoc and Seminole Cos., OK, Due: May 22, 1995, Contact: Gary E. Larsen (405) 231-4724.

EIS No. 950135, FINAL EIS, USA, NC, Military Ocean Terminal Navigation Basins and Entrance Channels Improvements, Implementation, Sunny Point, Brunswick and New Hanover Counties, NC, Due: May 22, 1995, Contact: Gordon Schwerzmann (703) 614-6065.

EIS No. 950136, DRAFT EIS, AFS, NM, Agua/Caballos Timber Sale, Harvesting Timber and Managing Existing Vegetation, Implementation, Carson National Forest, El Rito Ranger District, Taos County, NM, Due: June 16, 1995, Contact: Audrey Kuykendall (505) 758-6200.

EIS No. 950137, DRAFT EIS, BIA, MT, Yellowstone Pipe Line Easement, Construction and Operation, Renewal of Right-of-Way (ROW) Grant for Easement, Across the Flathead Indian Reservation, Approval of Trust and Allotted Lands and COE Section 404 Permit, Missoula, Lake and Sanders Counties, MT, Due: June 05, 1995, Contact: George Farris (202) 208-4791.

EIS No. 950138, DRAFT EIS, AFS, WY, Tie Hack Dam and Reservoir Construction, Special-Use-Permit, NPDES and COE Section 404 Permits, Bighorn National Forest, Buffalo Ranger District, City of Buffalo, WY, Due: June 05, 1995, Contact: John W Almond (307) 672-0751.

EIS No. 950139, DRAFT EIS, EPA, CA, Humboldt Bay Open Ocean Dredged Material Disposal Site (ODMDs) Designation, Samoa Peninsula, Humboldt County, CA, Due: June 05, 1995, Contact: Allan Ota (415) 744-1960.

EIS No. 950140, DRAFT EIS, FHW, PA, US 22/US 322 (PA-0022 Section C02) Lewistown Improvements, Construction, Funding and COE Section 404 Permit, Mifflin County, PA, Due: June 05, 1995, Contact: Manual A. Marks (717) 782-3461.

EIS No. 950141, DRAFT EIS, AFS, CA, Barkley Fire Salvage Sale, Implementation, Lower Deer Creek Management Area, Lassen National Forest, Almanor Ranger District, Tehama County, CA, Due: June 05, 1995, Contact: Phillip Tuma (916) 258-2141.

EIS No. 950142, DRAFT EIS, DOE, Nuclear Weapons Nonproliferation Policy Concerning Foreign Research Reactor Spent Nuclear Fuel, Implementation, Due: June 20, 1995, Contact: Charles Head (1) (800) 736-3282.

EIS No. 950143, DRAFT EIS, MMS, AL, TX, MS, LA, 1996 Center and Western Gulf of Mexico Outer Continental Shelf (OSC) Oil and Gas Lease, Sales No. 157 (March 1996) and No. 161 (August 1996), Lease Offerings, offshore Coastal Counties/Parishes of Al, MS, LA and TX, Due: July 14, 1995, Contact: Archie P. Melancon (703) 787-1471.

EIS No. 950144, DRAFT EIS, BLM, WY, Fontenelle Natural Gas Infill Drilling Projects, Implementation, Right-of-Way Grants and Permit Issuance, Sweetwater and Lincoln Counties, WY, Due: June 06, 1995, Contact: Bill McMahan (307) 382-5350.

EIS No. 950145, FINAL EIS, FHW, MD, Canal Parkway Development Study, Improvement from MD-51 to the Wiley Ford Bridge in Cumberland, Funding, Right-of-Way Grant and COE Section 404 Permit, Allegany County, MD, Due: May 22, 1995, Contact: David Lawton (410) 962-4440

EIS No. 950146, DRAFT EIS, GSA, AZ, Evo A. Deconcini Federal Building-United States Courthouse, Site Selection and Construction, Central Business Area (CBA), City of Tucson, AZ, Due: June 06, 1995, Contact: Mitra K. Nejad (415) 744-8107

Amended Notices

EIS No. 950079, DRAFT EIS, FHW, MT, US 93 Highway Transportation Project, Improvements between Evaro and Polson, Funding and COE Section 404 Permit, Missoula and Lake Counties, MT, Due: June 23, 1995, Contact: Joe Marskik (406) 444-6394. Published FR 03-17-95-Review period extended.

Dated: April 18, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95-9928 Filed 4-20-95; 8:45 am]

BILLING CODE 6560-60-U

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1045-DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota, (FEMA-1045-DR), dated March 14, 1995, and related determinations.

EFFECTIVE DATE: April 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of South Dakota dated March 14, 1995, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 14, 1995:

Brule County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95-9924 Filed 4-20-95; 8:45 am]

BILLING CODE 6718-02-M

Meeting, Federal Emergency Management Agency Advisory Board

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10 (a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, FEMA announces the meeting of the FEMA Advisory Board.

Name: Federal Emergency Management Agency Advisory Board (FAB).

Dates of Meeting: May 9-10, 1995

Place: May 9, 1995-Response 95 Visitor's Center, Louisiana Office of Emergency Preparedness, 635 N. Fourth St., Baton Rouge, LA.

May 10, 1995-Royal Sonesta Hotel, Revelers Room, 300 Bourbon St., New Orleans, LA 70140.

Time: May 9, 1995, 10 a.m.-4 p.m., May 10, 1995, 8:30 a.m.-4 p.m.

Proposed Agenda: May 9, 1995-Observation of FEMA hurricane exercise called Response 95 at the Visitor's Center in Baton Rouge.

May 10, 1995-Discussion of the results of the FEMA Phase II of the National Performance Review; Performance Partnership Agreements with the States; and information technology issues at FEMA and among FEMA's partners in the emergency management system.

SUPPLEMENTARY INFORMATION: Members will be brought current on programs and issues concerning FEMA. Senior FEMA executives will discuss FEMA programs, including the status of the FEMA Phase II of National Performance Review and the Performance Partnership Agreements. The Board's advice will be solicited on the future direction of FEMA. The meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact George Haddow, Policy Advisor to the Director of the Federal Emergency Management Agency, 500 C Street, SW, Room 825, Washington, DC 20472, (202) 646-3291, on or before May 5, 1995.

Minutes of the meeting will be prepared and will be available for public viewing upon request 60 days after the meeting.

Dated: April 14, 1995

James L. Witt,

Director

[FR Doc. 95-9925 Filed 4-20-95; 8:45 am]

BILLING CODE 6718-01-P

Open Meeting, Solicitation of Comments on the National Mitigation Strategy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with Administrative Procedure Act, 5 U.S.C. 552b, FEMA announces the following meeting:

Name: National Mitigation Strategy Forum.

Date of Meeting: June 8, 1995.

Place: Pagoda Hotel, 1525 Rycroft Street, Honolulu, Hawaii

Time: 1-4 p.m.

Proposed Agenda: June 8: FEMA staff will make a presentation on the National Mitigation Strategy and will solicit comments and questions from the attendees.

SUPPLEMENTARY INFORMATION: In addition to the invitees, the meeting will be open to the public with approximately 10 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Federal Emergency Management Agency, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-3079, on or before June 1, 1995.

A transcript of the meeting will be prepared and will be available for public viewing at Federal Emergency Management Agency, Mitigation Directorate, 500 C Street SW., Room 417, Washington, DC 20472.

Dated: April 13, 1995.

Richard T. Moore,

Associate Director for Mitigation.

[FR Doc. 95-9926 Filed 4-20-95; 8:45 am]

BILLING CODE 6718-01-P

FEDERAL RESERVE SYSTEM

Charles Keith Akin; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set

VOL 60 ISS 77 AP 21 1995 UMI

forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than May 5, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Charles Keith Akin, Clinton, Kentucky; to acquire an additional 9.92 percent, for a total of 17.58 percent, of the voting shares of Purchase Area Bancorp, Bardwell, Kentucky, and thereby indirectly acquire Bardwell Deposit Bank, Bardwell, Kentucky.

Board of Governors of the Federal Reserve System, April 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9899 Filed 4-20-95; 8:45 am]

BILLING CODE 6210-01-F

CSB Financial Group, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CSB Financial Group, Inc., Centralia, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Centralia Savings Bank, Centralia, Illinois.

In connection with this application, Applicant also has applied to engage in the making and servicing of a loan, pursuant to § 225.25(b)(1) of the Board's Regulation Y, by proposing to make a loan to an Employee Stock Ownership Plan that has been adopted by the Board of Directors of the Savings Bank (the ESOP). The ESOP will use the loan to purchase shares of common stock of the notificant to be sold in connection with the mutual-to-stock conversion of the Savings Bank and the related acquisition of the Savings Bank by the notificant.

Board of Governors of the Federal Reserve System, April 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9900 Filed 4-20-95; 8:45 am]

BILLING CODE 6210-01-F

First National of Nebraska, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First National of Nebraska, Inc., Omaha, Nebraska; to engage *de novo* through its subsidiary Premier Payment Processing, Inc. Omaha, Nebraska, in courier activities, pursuant to § 225.25(b)(10) of the Board's Regulation Y, and data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9901 Filed 4-20-95; 8:45 am]

BILLING CODE 6210-01-F

UJB Financial Corp., Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 15, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. UJB Financial Corp., Princeton, New Jersey; to acquire 100 percent of the voting shares of Bancorp New Jersey, Inc., Somerville, New Jersey, and thereby indirectly acquire New Jersey Savings Bank, Somerville, New Jersey.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. United Financial, M.H.C., Philadelphia, Pennsylvania; to become a bank holding company by acquiring at least 50.1 percent of the voting shares of United Savings Bank, Philadelphia, Pennsylvania.

Board of Governors of the Federal Reserve System, April 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-9902 Filed 4-20-95; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 03/27/95 AND 04/07/95

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Springs Industries, Inc., Dundee Mills, Incorporated, Dundee Mills, Incorporated	95-1023	03/27/95
Borg-Warner Automotive, Inc., Federal-Mogul Corporation, Precision Forged Products Division	95-1126	03/27/95
Siebe plc, LeROI International Inc., LeROI International Inc	95-1138	03/27/95
The Williams Companies, Inc., Public Service Company of New Mexico, Sunterra Gas Gathering Company	95-1146	03/27/95
Morgan Stanley Leveraged Equity Fund II, L.P., SBM Company, State Bond and Mortgage Life Insurance Company	95-1182	03/27/95
Morgan Stanley Capital Partners III, L.P., Morgan Stanley Leveraged Equity Fund II, L.P., ARM Financial Group, Inc	95-1183	03/27/95
BMC West Corporation, Stripling-Blake Lumber Company, Inc., Stripling-Blake Lumber Company, Inc	95-1227	03/27/95
Rayonier Inc., Edward J. Chopot, Pacific Crown Timber Products, Inc	95-1230	03/27/95
Hicks, Muse, Tate & Furst Equity Fund II, L.P. HM/Wirekraft, L.P., Wirekraft Holdings Corp	95-1245	03/27/95
Hicks, Muse, Tate & Furst Equity Fund II, L.P., THL-Omega Holding Corporation, THL-Omega Holding Corporation	95-1246	03/27/95
Kansas City Southern Industries, Inc., Kemper Corporation, Supervised Service Company, Inc. & Kemper Service Co	95-1248	03/27/95
Enron Corp., Alfred C. Glassell, Jr., Alfred C. Glassell, Jr	95-1266	03/27/95
GSC Enterprise, Inc., The Lewis Bear Company, The Lewis Bear Company	95-1269	03/27/95
Trust-Kenneth G. Herrick, Tecumseh Products Company, Tecumseh Products Company	95-1270	03/27/95
First Financial Management Corporation, NationsBank Corporation, NationsBank, N.A	95-1277	03/27/95
Ioannis A. Alafouzos, Texaco Inc., Texaco Overseas Tankship Limited/Texaco Panama Inc	95-1235	03/28/95
The Parsons Corporation, Gilbert Associates, Inc., Gilbert/Commonwealth, Inc	95-1244	03/28/95
Johnson Worldwide Associates, Inc., Neale A. Perkins, Safariland, Ltd., Inc	95-1261	03/28/95
U.S. Office Products Company, H.H. West Company (The), H.H. West Company (The)	95-1278	03/28/95
General Electric Company, LTC Holdings L.L., C LTC Holdings L.L.C	95-1290	03/28/95
FMR Corp., Harte-Hanks Communications, Inc., Harte-Hanks Communications, Inc	95-0510	03/29/95
Trust of Fred R. Smith and Ouida M. Smith, Vectura Group, Inc., Ryan-Walsh, Inc	95-1197	03/29/95
Berkshire Hathaway Inc., Barnett C. Helzberg, Jr., Helzberg's Diamond Shops, Inc	95-1252	03/29/95
Roger S. Penske, LTC Holdings, L.L.C., LTC Holdings, L.L.C	95-1291	03/29/95
Bolt Beranek and Newman Inc., Southeastern Universities Research Association, Inc., Southeastern Universities Research Association, Inc	95-1173	03/30/95
Columbia/HCA Healthcare Corporation, The Retreat Health Systems, Inc., The Retreat Hospital	95-0744	03/31/95
Pechiney S.A., Union Camp Corporation, Union Camp Corporation	95-1131	03/31/95
TECO Electric & Machinery Co., Ltd., Westinghouse Electric Corporation, Westinghouse Motor Company	95-1269	03/31/95
Terex Corporation, Legris Industries S.A., Legris Industries, Inc	95-1259	03/31/95
Bayer AG, Jack and Lorraine Friedman, Florasynth, Inc	95-1276	03/31/95

VOL 60 ISS 77 AP 21 1995 UMI

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 03/27/95 AND 04/07/95—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Ralston Purina Company, Golden Cat Corporation Voting Trust, Golden Cat Corporation	95-1279	03/31/95
Mutual Assurance, Inc., Indiana State Medical Association, Physicians Insurance Company of Indiana	95-1281	03/31/95
AGCO Corporation, John M. Tye III, The Tye Company and J.T. Acquisition Corporation	95-1283	03/31/95
Lifetouch Inc. Employee Stock Ownership Trust, Delano E. Bellew, United Photographic Industries, Inc	95-1287	03/31/95
Union Pacific Corporation, Oryx Energ Company, Sun Operating Limited Partnership	95-1289	03/31/95
Mr. Reinhard Mohn, America Online, Inc., America Online Inc	95-1295	03/31/95
Ruhrkohle, A.G., Westfalia Becorit Industrietechnik GmbH, Westfalia Becorit Industrietechnik GmbH	95-1298	03/31/95
The Alpine Group, Inc., Alcatel Alsthom, Alcatel NA Cable Systems, Inc	95-1301	03/31/95
Corange Limited, CellPro, Incorporated, CellPro, Incorporated	95-1302	03/31/95
Code, Hennessy & Simmons II, L.P., James R. and Linda Cannaley, J Richard Industries, Inc	95-1305	03/31/95
Eaton Corporation, DeWaardsedijk Montfoort B.V., DeWaardsedijk Montfoort B.V	95-1306	03/31/95
AT&T Corp., Dr. Michael Gelfand, Auburn Television Group, Inc	95-1308	03/31/95
Nicholas-Applegate Capital Management, Inc., Transamerica Corporation, Criterion Investment Management Company	95-1309	03/31/95
Morgan Stanley Capital Partners III, L.P., PageMart Nationwide, Inc., PageMart Nationwide, Inc	95-1310	03/31/95
Price/Costco, Inc., Price Enterprises, Inc., Mexico Clubs, L.L.C	95-1313	03/31/95
Carsustar Industries, Inc., Gibraltar Packaging Group, Inc., Gibraltar Packaging Group, Inc	95-1314	03/31/95
Alexander & Baldwin, Inc., Michael C. Dermody, Dermody Properties	95-1315	03/31/95
Chempower, Inc., Henry Crown and Company, Controlled Power Limited Partnership	95-1316	03/31/95
The Chase Manhattan Corporation, The Goldman Sachs Group, L.P., Main Street Mortgage Company, Limited Partnership	95-1321	03/31/95
American HomePatient, Inc., Continental Pharma Cryosan Inc., ConPharma Home Healthcare, Inc	95-1330	03/31/95
Malcolm I. Glazer, Culverhouse Trust, Tampa Bay Area NFL Football, Inc	95-1232	04/03/95
GWF Holdings Trust, Hilladown Holdings plc, Maple Leaf Foods, Inc	95-1263	04/03/95
Lou Elmaleh, Princeton Credit Corporation, Princeton Credit Corporation	95-1265	04/03/95
Petroleos de Venezuela, S.A., Kerr-McGee Corporation, Cato Property Co	95-1267	04/03/95
Lynn C. Fritz, Intertrans Corporation, Intertrans Corporation	95-1280	04/03/95
JDC Corporation, Winton M. Blount, Pozzo Construction Co	95-1300	04/03/95
FKI plc, Amdura Corporation, Amdura Corporation	95-1304	04/03/95
Arrow International, Inc., Raymond Shamie, Therex Limited Partnership	95-1318	04/03/95
The President and Fellows of Harvard College, United Auto Group, Inc., United Auto Group, Inc	95-1338	04/03/95
John Mork, Allegheny & Western Energy Corporation, Allegheny & Western Energy Corporation	95-0828	04/04/95
Life Partners Group, Inc., First Spring Financial Associates, Lamar Financial Group, Inc	95-1336	04/04/95
First Spring Financial Associates, Life Partners Group, Inc., Life Partners Group, Inc	95-1337	04/04/95
3Com Corporation, Primary Access Corporation, Primary Access Corporation	95-1317	04/05/95
NGC Corporation, Ozark Gas Transmission System, Ozark Gas Transmission System	95-1319	04/05/95
Ruhrkohle, A.G., Herman Hemscheidt Maschinenfabrik GmbH & Co., Herman Hemscheidt Maschinenfabrik GmbH & Co	95-1297	04/07/95
Ruhrkohle, A.G., Halbach & Braun Maschinenfabrik GmbH & Co., Halbach & Braun Maschinenfabrik GmbH & Co	95-1299	04/07/95
Physicans Insurance Company of Ohio, QBE Insurance Group Limited, Sequoia Insurance Company	95-1332	04/07/95
Unilever N.V., General Mills, Inc., General Mills, Inc. (Gorton's Division)	95-1339	04/07/95
Marley plc, Syratech Corporation, Syroco, Inc	95-1344	04/07/95
E. Merck, VWR Corporation, VWR Corporation	95-1345	04/07/95
Samsung Electronics Co., Ltd., AST Research, Inc., AST Research, Inc	95-1349	04/07/95
Marshall S. Cogan, United Auto Group, Inc., United Auto Group, Inc	95-1350	04/07/95
Whittaker Corporation, General Motors Corporation, Hughes LAN Systems, Inc	95-1356	04/07/95
Samsung Electronics Co., Ltd., AST Research, Inc., AST Research, Inc	95-1358	04/07/95
Chevron Corporation, Pennzoil Company, Pennzoil Exploration and Production Company	95-1359	04/07/95
Pennzoil Company, Chevron Corporation, Chevron U.S.A. Production Company	95-1360	04/07/95
Res-Care, Inc., Beverly Enterprises, Inc., Beverly Health and Rehabilitation Services, Inc	95-1361	04/07/95
Praxair, Inc., Ontario Corporation, Pyromet Group, Inc	95-1368	04/07/95
Masco Corporation, Gale Lemerand, Gale Industries, Inc	95-1371	04/07/95
Stephan Schmidheiny, Forestal Terranova S.A., Forestal Terranova S.A.	95-1372	04/07/95
Edward J. DeBartolo, Jr., Calcasieu Gaming Company, L.L.C., Calcasieu Gaming Company, L.L.C	95-1373	04/07/95
Crown Casino Corporation, Calcasieu Gaming Company, L.L.C., Calcasieu Gaming Company, L.L.C	95-1374	04/07/95
Casino America, Inc., Calcasieu Gaming Company, L.L.C., Calcasieu Gaming Company, L.L.C	95-1375	04/07/95
K-III Communications Corporation, Cristina C. Yee, Trustee, Yee Family Trust UDT 9/22/62, McMullen & Yee Publishing, Inc	95-1376	04/07/95
Atlantic Equity Partners, L.P., M. Francois Pinault, ICG Holdings, Inc	95-1381	04/07/95

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326-3100.

By Direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95-9931 Filed 4-20-95; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Public Buildings Service; Public Information Notice

Pursuant to the Council of Environmental Quality Regulations (40 CFR parts 1500-1508) implementing procedural provisions of the National Environmental Policy Act (NEPA), the General Services Administration (GSA) hereby gives notice that a Draft Environmental Impact Statement (DEIS) for the Construction of a new Federal Building—United States Courthouse (FB-CT) within the city of Tucson, Arizona, has been prepared and filed with the United States Environmental Protection Agency (EPA) on April 14, 1995.

Proposed Action: The proposed project includes construction of a new FB-CT with approximately 422,000 gross square feet (GSF) of building space including 100 inside and 87 outside parking spaces. The preferred site is an area of approximately four acres located on the southwest corner of the intersection of West Congress Street and Granada Avenue in the Central Business Area (CBA) of the city of Tucson.

Alternatives: In addition to the preferred site, the DEIS examines construction of the FB-CT at three alternative sites including:

(1) West of Granada Avenue across from the Tucson Convention Center;

(2) a site bounded by Interstate 10 on the west, West Congress Street on the north, and the Southern Pacific Transportation Company railroad tracks on the east; and

(3) a site bounded by North Stone Avenue on the west, Toole Avenue on the North, Grossetta Street on the east, and Alameda Street on the south.

All of the sites being considered are approximately four acres in size and located within the CBA of the city of Tucson.

The Draft EIS also examines the No Action alternative which assumes continued use of the existing James A. Walsh Federal Courthouse and accompanying leased space.

Public Involvement: The DEIS prepared by GSA addressing this action is on file and may be obtained from: Ms. Mitra K. Nejad, Asset Manager (9PT), Public Buildings Service, Portfolio Management, 525 Market Street, San Francisco, California 94105-2799. Telephone: (415) 744-8107.

A limited number of copies of the DEIS are available to fill single copy requests. Loan copies of the DEIS are available for review at Tucson City Library and the GSA Field Office at 300 West Congress Street, second floor, Tucson, Arizona 85701.

A public meeting will be held on May 2, 1995 from 3:30 p.m. to 6:30 p.m. at the Tucson City Hall, Council Chambers, 255 West Alameda, Tucson, Arizona 85701. The purpose of this meeting is to provide the community with an opportunity to submit comments on the DEIS. In addition, written comments on the DEIS can be submitted until June 1, 1995 to the address listed above.

Dated: April 12, 1995.

Aki K. Nakao,

Acting Regional Administrator.

[FR Doc. 95- Filed 4-20-95; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF-HS 93600-953]

Administration on Children, Youth and Families and Public and Indian Housing Comprehensive Early Childhood Demonstration Projects; Grants Availability

AGENCY: Administration on Children, Youth and Families (ACYF), ACF, DHHS.

ACTION: Announcement of the availability of financial assistance to establish or increase the availability of comprehensive child development services in or near Public or Indian Housing developments. This announcement does not allow funds to be used for child care services in Section 8 programs.

SUMMARY: The purpose of this solicitation is to increase the availability of comprehensive child development services for residents of Public and Indian Housing developments so that parents or guardians of children aged 0-13 can seek, retain or train for employment. Grant funds will be made available to: (1) Non-profit child care providers; (2) Head Start grantees; and (3) Resident Management Corporations (RMCs) and Resident Councils (RCs). These grants are for a 17-month period and are not renewable. Consortia consisting of a non-profit child care provider, a Head Start grantee and a RMC or RC are encouraged to develop projects with one of the consortia members filing the application. The applicant must have a plan for continuing the comprehensive child development services with Federal, State, local or other child care funds after the 17-mopth grant period is over.

DATES: The closing date for receipt of applications is June 20, 1995.

ADDRESSES: Submit applications to: ACYF/HUD Comprehensive Early Childhood Demonstration, Ellsworth Associates, Inc., 3030 Clarendon Blvd., Suite 240, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center, Technical Assistance Team at 1-800-351-2293 will answer questions regarding application requirements or refer you to the appropriate contact person in ACYF for programmatic questions.

REQUEST FOR POSTCARD: If you plan to submit an application, please send a postcard with the following information: the name, address, and telephone number of the contact person; the name of the organization; and indicate if you are a non-profit child care provider, Head Start grantee, or a RC/RMC, within two (2) weeks of the receipt of this announcement to: ACYF/HUD Comprehensive Early Childhood Demonstration, Ellsworth Associates, Inc., 3030 Clarendon Blvd., Suite 240, Arlington, Virginia 22201.

This information will be used to determine the number of expert reviewers needed in the application review process.

Contents of this Announcement

Part I. General Information
A. Background
B. Program Purpose
C. Statutory Authorities
D. Funding
Part II. Eligible Applicants
A. Non-Profit Child Care Providers
B. Head Start Grantees
C. Resident Management Corporations and Resident Councils
Part III. Use of Grant Funds
Part IV. Technical Proposal
A. Project Summary
B. Program Narrative
Part V. Evaluation Criteria
Part VI. Required Documentation
A. Profile Information
B. Required Documentation
Part VII. Application Process
A. Required Forms and Signatures
B. Application Submission
C. Checklist for a Complete Application
D. Receipt of Applications
E. Paperwork Reduction Act of 1980
F. Executive Order 12372—Notification Process
G. The Selection Process
H. Award of Grants
I. Effective Date of Awards

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Background

This announcement solicits applications from non-profit child care providers, Head Start grantees, and Resident Management Corporations or Resident Councils to establish or expand comprehensive child development programs in or near Public or Indian Housing developments. The competitive grants solicited in this

VOL 60 ISS 77 AP 21 1995 UMI

announcement are made available through the Public Housing Early Childhood Development Demonstration Program of the Department of Housing and Urban Development (HUD). Under an interagency agreement between the Department of Housing and Urban Development and the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF), $14 million in FY 1995 funds for this program have been transferred to the DHHS/ACF Administration on Children, Youth and Families (ACYF) to administer the grant program.

Within ACYF there are Federal programs which provide early childhood services to low-income children. Head Start is a family-focused, comprehensive, community-based program to promote the development and well-being of young children. The AFDC/JOBS Child Care and Transitional Child Care (TCC) programs help families move from welfare to work, while the At-Risk Child Care Grant (ARCC) and the Child Care and Development Block Grant (CCDBG) enable low-income working families to remain economically self-sufficient. The CCDBG program helps states provide, expand and improve child care services for children and families. The Dependent Care and Development Grants provide funds to States for the start-up of school age child care services, child care resources and referrals.

Resident Management Corporations are resident groups that are incorporated for the purpose of entering into a contract to manage one or more activities of a Housing authority or an Indian Housing Authority. A Resident Management Corporation must meet the requirements of 24 CFR 964.120.

A Resident Council consists of persons who live in public housing and meet the requirements of 24 CFR Part 964.115 in order to be able to receive funds for resident council activities, and stipends for officers for their related costs for volunteer work in public housing.

B. Program Purpose

The HUD/ACYF partnership was developed to assist in the establishment or expansion of comprehensive child development services through projects located in or near Public or Indian Housing developments so that low-income parents or guardians of infants, toddlers, preschool or school-aged children may seek, maintain or train for employment. The grant funds will establish quality programs marked by facilities planned for use as child care centers, high staff to child ratios, staff with education and training specific to child care, administrators with education, experience and training which will promote quality programming, staff compensation commensurate with qualifications and adequate to employ and retain staff. It is likely that the successful applicant will provide the early childhood education services and nutrition services directly and link with the community providers to assure that the child's medical, dental, mental health needs are met.

The Comprehensive Early Childhood Demonstration projects are developed to establish quality comprehensive child development services through consortia or partnerships among experienced non-profit child care providers, Head Start grantees and RMCs/RCs in or near Public or Indian Housing developments. The comprehensive child development services are being made available so that parents or guardians of children ages birth to thirteen can seek, retain or train for employment by: (1) *Establishing* one or more full-day or part-day comprehensive child care centers or a cluster of family child care homes (five home minimum); or (2) *expanding* current part-day centers to provide more hours of services per day or per year. The service schedule is designed to be responsive to the needs of the parents or guardians whose work or job training requires child care services for their children.

The phrase "in or near" is defined as located in the defined area of the Public or Indian Housing development or within walking distance of the housing development. This definition may be extended to allow flexibility in the transportation of children (in the case of rural communities and Indian Reservations) where the direct service area extends beyond the immediate vicinity of the Public or Indian Housing development.

Comprehensive child development services are defined as early childhood education plus child medical, dental, mental health and nutrition services with parental involvement.

Non-profit organization—Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission (see Checklist for Complete Application-Part VI-Required Documentation). The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501–(c)(3) of the IRS codes or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Homeless—Preference will be given to homeless children in the vicinity when slots cannot be filled by children living in Public and Indian Housing developments.

Funds awarded to non-profit child care providers and Head Start grantees may be used to establish services or to expand current service hours in one or more centers or to a cluster of family child care homes (a minimum of five homes). The RMCs and RCs may also use these demonstration funds to establish services or to expand current service hours in one or more centers. RMCs/RCs will only be eligible to receive funding for family child care services when they form a contractual relationship with a non-profit child care organization or a Head Start grantee which will directly provide the services.

Non-profit child care providers, Head Start grantees, RMCs or RCs may establish a cooperative agreement, a delegate agreement or a contract with another private non-profit agency for the direct operation of some or all of their programs.

Grantees must: (1) Give priority to enrolling the children of families who reside in a Public or Indian Housing development, are employed, are seeking employment and/or are participating in training that will lead to employment, and are in need of child care services; (2) assure that the program director and program staff have received appropriate training or have sound experience in early childhood education and child development; (3) designate a staff person who will provide linkages to the health care community; (4) designate a project director who has demonstrated program management and linkages to the community; (5) provide opportunities for the employment of residents from the Public or Indian Housing development, especially elderly residents; (6) involve the parents of the enrolled children as classroom volunteers, members of a governing council or board, or as volunteers assisting in other center functions; and (7) comply with all applicable State, tribal and local laws, regulations, licensing, and ordinances.

C. Statutory Authorities (Catalog of Federal Domestic Assistance (CFDA) Number 93.600, Project Head Start)

1. 42 U.S.C. 801, et seq., The Head Start Act, as amended;
2. Pub. L. 100–242, Section 117, the Housing and Community Development Act of 1987, Public Housing Child Care Demonstration Programs;
3. The Economy Act, 31 U.S.C. 1535;
4. Pub. L. 100–242 02, Stewart B. McKinney Homeless Assistance Act;
5. Cranston Gonzales National Affordable Housing Act;
6. Pub. L. 98–181, Section 222, The Housing and Urban Rural Recovery Act of 1983, Public Housing Early Childhood Development Program.

D. Funding

Funding for this grant program is made available through an interagency transfer from HUD to ACYF of $14,000,000 in FY 1995. Approximately $1,800,000 has been set aside for grants to RMCs and RCs. The remainder of these funds, approximately $12,200,000, will be awarded to non-profit child care providers and Head Start grantees.

Each applicant can apply for up to $200,000 per center or cluster of family child care homes (five home minimum per cluster). The maximum funding per applicant is $400,000. The grants may be used for both startup costs and operations cost. Start up costs would include the design, renovation and equipping of the child care facility. Operations costs include the actual operation of the quality comprehensive child care services. Grants will be funded for a period of 17 months.

These comprehensive child development projects may be funded in full with Federal funds. There is no non-Federal matching requirement.

Applicants may *not* receive funds to support child care services at sites that were funded either as part of the HUD Public Housing Early Childhood Development Demonstration Program during fiscal years 1988, 1989, and 1990 or as part of the Head Start-HUD Child Care Demonstration Projects in fiscal years 1991, 1992 and 1994. Previously funded organizations may, however, apply to provide services at other sites.

Part II. Eligible Applicants

Applicant eligibility for this competition is limited to three types of organizations: (1) Non-profit child care providers; (2) Head Start grantees; and (3) Resident Management Corporations or Resident Councils. Consortia of organizations interested in high quality, comprehensive services for children are encouraged to develop a joint proposal with the understanding that only an eligible applicant of the three types listed above may actually apply for the grant.

A. Non-Profit Child Care Providers

A non-profit child care provider is defined as a child care center, preschool, early childhood development program, before- or after-school program or similar entity which operates as a non-profit organization under section 501(c)(3) of the Internal Revenue code.

In order to be eligible for a Comprehensive Early Childhood Development Project grant, a non-profit child care provider must: (1) Be in compliance with all applicable State and local child care requirements; (2) be bonded; (3) demonstrate program management and fiscal stability and responsibility; (4) demonstrate experience in or capability of delivering high quality comprehensive child development services for low-income children; (5) have had a child care license for 3 consecutive years; and (6) demonstrate the ability to create and participate in community linkages for comprehensive services, including child care funding beyond the 17 months of the grant.

B. Head Start Grantees

A Head Start grantee is one that is currently funded by the Administration on Children and Families, to provide Head Start services and whose services meet the Head Start Program Performance Standards. Head Start is a national program providing comprehensive developmental services primarily to preschool children of low-income families. To help enrolled preschool children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. In addition, Head Start programs are required to provide for the direct participation of parents of enrolled preschool children in the development, conduct, and direction of local programs. Head Start currently serves approximately 740,000 children through a network of 1,405 grantees, including 125 Tribes and Tribal organizations.

C. Resident Management Corporations (RMCs)/Resident Councils (RCs)

Resident Management Corporations must meet the requirements of 24 CFR 964.120. Resident Councils must meet the requirements of 24 CFR 964.115. In order to be eligible for a Comprehensive Early Childhood Development Project grant, a RC or RMC must: (1) Demonstrate program and fiscal stability and responsibility; (2) demonstrate experience in or capability of delivering good quality comprehensive services for low-income children, either directly or through another agency; (3) demonstrate the ability to create and participate in community linkages for comprehensive services, including child care funding beyond the 17 months of the grant and (4) be a non-profit organization.

Part III. Use of Grant Funds

The grants are intended to cover allowable costs incurred in the development and operation of a comprehensive child development program. Allowable costs include planning costs, administration, leasing and/or the purchase of equipment and/or vehicles, maintenance, minor or routine repairs, security, utilities, furnishings, equipment and supplies (including curriculum), insurance, bonding for the amount of the grant, and staff salaries. Staffing patterns should assure that there are sufficient staff for program direction, classroom services, liaison for health services and support to parent involvement. Additional personnel may be approved in the grant when they support the purposes of the grant. Nutritional services funds may be budgeted for start-up until funding from the Child and Adult Care Food Program (7 CFR Part 226) begins.

Grant funds may also be used for the cost of minor renovations. Renovation costs may include the reconfiguration of space; installation of bathrooms or kitchens; renovations necessary to achieve compliance with physical accessibility standards for the disabled or renovations required to meet State, Tribal or local licensing and building code standards; landscaping; painting; and lighting. Costs associated with lead-based paint abatement are not allowable since removal of lead-based paint is funded through another HUD program. In addition, funds may not be used for new construction of a facility.

Applicants should include in the budget funds for one program person to attend a three day project conference in Washington, DC.

Part IV. Technical Proposal

This section addresses the technical proposal requirements focusing on a description of the project and how the applicant proposes to carry out the project.

A. Project Summary

The proposal must contain a one-page summary. This summary is to be a separate document which includes the following information: (1) Applicant name, address, contact person, telephone and FAX number; (2) funding level; (3) consortium names and description of collaborative approach if applicable; (4) a description of the Public or Indian Housing development; (5) a description of the proposed program, including goals and objectives, number and ages of children to be

VOL 60 ISS 77 AP 21 1995 UMI

served, services to be offered, and expected outcomes or benefits; and (6) a description of any other unusual commitments from the community or foundations. The summaries of funded projects will be combined into a compendium for public dissemination after grants have been awarded.

B. Program Narrative

The narrative should be comprehensive and not exceed 40 double spaced pages. Below is a guideline for the organization of your narrative section so that each section includes all the program requirements.

(1) Geographic Area

The narrative must describe the Public or Indian housing development and surrounding geographic area to be served by the proposed project. Applicants are expected to provide a sound rationale for establishing a project in this location. This discussion should include such factors as location, relevant population demographics, available community services and resources, and distinguishing community features.

(2) Objectives and Need for Assistance

The proposal must clearly document the need for a comprehensive child development program. Applicants should discuss what services are needed for infants, toddlers, preschool and school-aged children who reside in or near a Public or Indian Housing development. The application should explain how the services will help the parents or guardians of those children to seek, retain or train for employment.

Applicants must provide a recent assessment of community needs. This assessment must document sufficient numbers of eligible children for the proposed project period and the needed hours of services for each category or categories of children to be served.

Applicants must indicate in the narrative how families and children will be identified, recruited and selected. The age group and the number of children in each age group proposed for full-day or part-day child care must be clearly specified. The application should also explain how priority will be given to serving those children who reside in the development, and how homeless children in the vicinity will be served if a slot becomes available.

This demonstration is not intended to replace existing services. Applicants should not propose to serve children of the same age as those currently being served by an existing child care program in the targeted Public or Indian Housing development, unless the applicant can demonstrate by findings from the needs assessment that there is an unfilled gap in services for children of that age. This prohibition does not apply to applicants who propose to extend the hours of service provided by a center or family child care homes already located in the development.

The application must include a timeline indicating the major milestones and the projected dates of accomplishment for each of the milestones.

(3) Expected Benefits or Outcomes

The proposal must describe how the Public or Indian Housing community is expected to benefit from the proposed comprehensive child development program.

(4) Approach

Applicants are expected to describe their approach to the design and implementation of a comprehensive child development program in sufficient depth to demonstrate: (1) An understanding of the developmental needs of children and how to enhance their growth and well-being through comprehensive, developmentally appropriate practices; (2) an understanding of and ability to resolve issues, difficulties, and challenges; (3) sound professional experience and expertise in the delivery of comprehensive, developmentally appropriate services to children of each age group to be served; (4) the managerial skills and experience to carry out the proposed project; and (5) organizational capacity and fiscal responsibility.

The narrative must describe the goals and objectives of the proposed project and how they will be achieved. This discussion should include a description of the applicant's philosophy and programmatic approach, as well as what specific types of services and activities are envisioned. The narrative should also describe what measures will be taken to ensure the health and safety of the children and staff participating in the demonstration.

The proposal must explain how the new comprehensive services will be implemented and carried out in a timely and efficient manner throughout the 17 month project period and beyond. This includes, but is not limited to, how eligible children and families will be recruited, how the applicant will assure that the available classroom space or family child care home meets required licensing standards, how the child care center or family child care system will become operational within a reasonable period of time, and how arrangements will be made to continue services after the grant ends.

The proposal must contain a discussion of staff qualifications, how qualified staff will be hired, and what opportunities will be available for the employment of residents from the Public or Indian Housing development, especially elderly residents. The proposal must contain a description of the proposed staffing pattern, including job descriptions of the Project Director and the lead Program Director. Resumes should also be included if individuals have been identified. Applicants should identify the positions and number per position of proposed staff, their salary rates and employee benefits, the proportion of their time to be committed to the project, the period of time for which they will be employed, and the expected source of funding after the Federal grant terminates. The proposal must include: a timeline for beginning and completing each component of the strategy; a description of how residents and parents are involved in the program's planning and implementation; how comprehensive child development services will be coordinated and complemented by current supportive services.

(5) Consortium Members and Other Partners

We encourage a consortium of eligible applicants (a non-profit child care provider, and/or a Head Start grantee, and/or a RMC/RC) to design and/or carry out the proposed comprehensive child development program together. The application must lay out a description of the consortium members and their roles in the planning and operation of the project. Where there is a consortium that results in subgrants or delegate agency contracts for the provision of services, the applicant should detail the nature of this contract in the application and include the contract/agreement in the application. If grantee services are being subgranted, a complete detailed budget of the subgrant should be included. A consortium may be two or more organizations. Only one of the eligible applicants may file the application. We encourage the RMCs and RCs to work with a non-profit child care provider and/or a Head Start grantee. The responsibility for the administration of the Federal grant, compliance with terms and conditions of the grant and oversight of the proper use of Federal funds will reside with the organizational entity that is the recipient of the Federal grant.

Other partnerships, collaborations and agreements should be described in the application. The applicant should include information on how the Public or Indian Housing Authority has been included in the planning of the project and what contributions (facilities, renovations and staff) it will be making to the project. If the center or family child care home is to be located in a Public or Indian Housing development, the applicant must reach an agreement with the housing authority to provide, at nominal cost or no cost, suitable facilities to the applicant. A letter of confirmation from the housing authority must be included in the application, and a description of the agreement between the applicant and the Public or Indian Housing Authority should be in the narrative.

The proposal must include a plan for sustaining the comprehensive child development program in or near the Public or Indian Housing development after the 17 months ends. Applicants must explain in the narrative how quality comprehensive child development services will continue to be provided at a reasonable cost after the end of the demonstration period.

Applications must give evidence of the collaborative effort existing between the applicant and the parents, service agency providers and other community members in the development and planning of the application. The proposal should present specific plans to obtain the financial support of others in the community for continuing program operations. Applications must describe what other resources in the community will help support the proposed child care program, including existing commitments from other organizations in the community. The application must describe the extent to which funds, staff time, in-kind services, and other resources in the local community, especially from local businesses, have been committed to the demonstration effort during the planning period. Also, the plan for their continued support during and after the 17 month grant period, should be detailed in the application.

Applicants should include in their applications a list of financial supporters and partners, including the name and address of the organization, the name of its director, and telephone number. Letters of commitment or support should not be included.

Part V. Evaluation Criteria

The following are the criteria which will be used to review and evaluate the grant applications. Information provided throughout this announcement will be used to review and evaluate applicants on the following criteria.

1. Geographic Location (5 points)

The extent to which the application gives a precise location of the project and area to be served by the proposed project and describes the families to be served. Information provided in response to this announcement Part IV(B)(1) will be used to review and evaluate applicants on the above criterion.

2. Objectives and Need for Assistance (10 points)

The extent to which the application pinpoints any relevant physical, economic, social, financial, institutional, or other problems requiring a grant; demonstrates the need for assistance; states the principal and subordinate objectives of the project; and provides supporting documentation or other testimonies from concerned interests other than the applicant.

Information provided in response to Part IV(B)(2) will be used to review and evaluate the above criterion.

3. Expected Results or Benefits (5 Points)

The extent to which the application identifies results and benefits to be derived.

Information provided in response to Part IV(B)(3) will be used to review and evaluate the above criterion.

4. Approach (50 Points)

The extent to which the application outlines an acceptable plan of action pertaining to the scope of the project; the timeline indicated by the applicant for beginning and completing each component of the strategy; details how the proposed work will be accomplished and lists each organization, consultant, and other key individuals who will work on the project, along with resumes of the project director and lead program director and a short description of their responsibilities or contribution to the applicant's work plan; descibes how comprehensive child development services will be coordinated and complemented by the current supportive services; and details a plan for employing residents of the applicant's proposed service area.

Information provided in response to Part IV(B)(4) of this announcement will be used to review and evaluate the above criterion.

5. Consortium Members and Other Partners (15 Points)

Applicants who demonstrate a consortium for the planning and operation of the project may be awarded up to 10 points. The consortium should include a non-profit child care provider, and/or a Head Start grantee and/or a RC or RMC.

Other Partnerships—Up to five (5) points will be assigned to this criteria for other special partnerships with the State or community who are providing in-kind donations or volunteers.

Information provided in response to Part IV(B)(5) will be used to review and evaluate the above criterion.

6. Budget Appropriateness and Reasonableness (15 Points)

The extent to which the project's costs are reasonable and well supported in the narrative in view of the activities to be carried out and the anticipated outcomes.

Five of the 15 points available under this criterion will be assigned based on the extent to which the applicant provides assurances or firm commitments from community and/or business sources to continue the project funding beyond the demonstration phase.

The extent to which the applicant's strategy is realistic, given the amount of funding requested in relation to the overall strategy. The extent to which the applicant provides a line-item budget for each category of expenses to implement their strategy and describes the financial and other resources (as applied for under this Announcement and from other sources) that may reasonably be expected to be available to carry out the program.

Part VI. Required Documentation

This section deals with the required documentation.

A. Profile Information

All applicants must provide the following profile information for themselves and for each organization (consortium member non-profit child care provider, Head Start Grantee, and RC or RMC) with which it has a cooperative agreement or contract or delegate agency agreement for the direct operation of the program services. This profile should be no more than two pages (preferably one) for each organization and should comply with the following structure. The information provided by the applicant will be used to determine whether the applicant has the basic organizational capacity to be considered for managing this grant. Applicants whose profile information is incomplete or such the organizational capacity is deemed inadequate to manage a grant of this scope, will have their applications screened out by the Federal agency without further review by the panel of experts.

VOL
60
ISS
77
AP
21
1995
UMI

Non-Profit Child Care Provider

1. Name of non-profit child care provider, name of Director or CEO, telephone number, street address, city, state, zip code.
2. Employer Identification Number.
3. The name of bond carrier, contact person and telephone number. If the applicant is not currently bonded the applicant must provide the name of the prospective bond carrier. Every grantee must be bonded to receive the grant award and proof of bonding will be required prior to award of grant funds. This cost of bonding up to the amount of the grant is an allowable expense under this grant.
4. Name of PHA/IHA with which the applicant will be working including: contact person and telephone number, street address, city, state and zip code. (only applicable to the applicant).
5. State child care license (not provisional), date of issuance.
6. Documentation of any other professional accreditation and date of issuance.
7. Date of last state or local child care monitoring visit; date of last fire department monitoring visit.
8. List of recent Federal grants, Federal Project officer, specifying what, if any, required the grantee to renovate a child care facility.

Head Start Grantee

1. Name of grantee, name of Director or CEO, telephone number, street address, city, state, zip code.
2. Employer Identification Number.
3. Name of PHA/IHA with which the applicant will be working including: Contact person and telephone number, street address, city, state and zip code. (only applicable to the applicant)
4. The date of the last Federal Head Start monitoring visit.
5. Documentation of any other professional accreditation and date of issuance.

RC or RMC

1. Name of organization, name of contact person, telephone number, street address, city, state and zip code.
2. Employer Identification Number.
3. The name of bond carrier, contact person and telephone number. If the applicant is not currently bonded the applicant must provide the name of the prospective bond carrier. Every grantee must be bonded to receive the grant award and proof of bonding will be required prior to award of grant funds. This cost of bonding up to the amount of the grant is an allowable expense under this grant.
4. Date of last board election, names of all board members, titles, and appointment dates, and appointment term.
5. Name of PHA/IHA, code, contact person and telephone number, street address, city, state and zip code.
6. Name of Housing Development, number of units family units, elderly units).
7. Name, address, contact person, telephone number of any other child care facility that you operate.
8. Documentation of any other professional accreditation and date of issuance.
9. List of Federal grants, Federal project officer, telephone number; identify the grants, if any, which required the grantee to renovate a child care facility.

B. Other Documents

In addition to the one or two page profile, all applicants must include the information listed below for their organization and the other consortium members with which they have subgrant or delegate agency agreements for the operation of some or all of the program.

1. Proof of non-profit status.
2. A recent audit or a statement from a Certified Public Accountant/Licensed Public Accountant certifying the applicant has an accounting system with financial controls adequate to safeguard federal funds, including a system for monitoring the disbursement and reconciliation of funds, that there is a method where budget costs are compared to actual costs, and interfund loans are not allowed.
3. A letter of commitment from the appropriate Public Housing Authority (PHA) or Indian Housing Authority (IHA) (for applicants only).
4. The job descriptions and resumes of key staff.
5. Copy of child care license.

Part VII. Application Process

A. Required Forms and Signatures

Applicants must submit all of the required forms and certifications included at the end of this Announcement.

B. Application Submission

Applications must be prepared in accordance with the guidance provided in this Announcement. Applications are restricted to no more than 40 double-spaced pages of program narrative. This restriction does not include the project summary, documentation required in Part VI above and the forms which make up the SF 424. The application must be paginated beginning with the SF 424 and in the order of the checklist (Part VII, C). It must contain a table of contents listing each section of the application with the respective pages identified. Each application must be single-sided on 8½"×11" paper. Applications must contain only the information requested. Because each application will be duplicated, do not use or include separate covers, binders clips, tabs, plastic inserts, maps, brochures, curriculum, videos, or any other items that cannot be photocopied Any extraneous information, including curriculum documents, brochures, etc will be removed from your application Applicants must submit three copies of the application, including one with original signatures, and all forms and required documentation. An application without a SF 424 or with an unsigned SF 424 is considered incomplete and will not be eligible for review.

C. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared. Each application should include one signed original and two additional copies of the following:

Section I: Technical Proposal—Project Description

—Standard Form 424, SF 424A, and SF 424A page 2, REV.4–88. Child Care Providers and RC/RMCs must include the Employer Identification Number on the SF 424; (If this information is not included, the application will not be eligible for review.)
—Table of Contents;
—Project Summary—one page only;
—Project Narrative—maximum of 40 double spaced pages;
—Timeline (one or two sheets of paper); and
—Copies of contracts/delegate or cooperative agreements.

Section II: Required Documentation

—Profiles
—Proof of non-profit status from IRS
—Audit or statement
—Letter of commitment from PHA or IHA
—Job description and resume of project director; job description and resume of lead program director
—Copy of child care license

Section III: Additional Forms/ Certifications/Assurances

—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424, REV.4–88);
—ASSURANCES—NON-CONSTRUCTION PROGRAMS (Signed)
—Certification Regarding Lobbying (signed)

[1] Note.—Signature on the SF 424 indicates that it will comply with the requirements in the certifications included in the announcement:

—Certification Regarding Environmental Tobacco Smoke (Attached)
—Certification Regarding Drug Free Workplace (Attached)
—Certification Regarding Lobbying (signed)
—Certification Regarding Debarment, Suspension and Other Responsibility Matters—Primary Covered Transactions
—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

D. Receipt of Applications

1. Address

The application must be submitted to the following address: ACYF/HUD Comprehensive Early Childhood Demonstration, Ellsworth Associates, Inc., 3030 Clarendon Blvd., Suite 240, Arlington, Virginia 22201.

2. Deadlines

Applications shall be considered as meeting an announced deadline if they are received on or before the deadline date at the receipt point specified in this program announcement.

3. Late Applications

Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

4. Hand Delivered Applications

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, on or before the closing date at: ACYF/HUD Comprehensive Early Childhood Demonstration, Ellsworth Associates, Inc., 3030 Clarendon Blvd., Suite 240, Arlington, Virginia 22201.

5. Extension of Deadline

The Administration for Children and Families may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the ACYF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

E. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to OMB for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0348–0043.

F. Executive Order 12372—Notification Process

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under Executive Order 12372, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these nineteen jurisdictions need take no action regarding Executive Order 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOC as soon as possible to alert them to the prospective application and to receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOC's are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly they should be addressed to: ACYF/HUD Early Childhood Demonstration, Ellsworth Associates, Inc., 3030 Clarendon Blvd., Suite 240, Arlington, Virginia 22201.

ACF will notify the State of any application received which has no indication that the State process has had an opportunity for review.

A list of SPOCs for each State and territory is included at the end of this announcement.

G. The Selection Process

Applications will be reviewed by a panel of experts including people knowledgeable in HUD and Public and Indian Housing programs, child care, early childhood and child development, and Head Start.

Applicants who are eligible non-profit child care providers or Head Start grantees will compete only against other Head Start grantees and child care providers while applicants which are RCs/RMCs will compete only against other RCs/RMCs. Discrete funds have been set aside for each of the two areas of competition.

The results of the competitive review will be taken into consideration by the Associate Commissioner (ACYF) of the Child Care Bureau and of the Head Start Bureau, and the Assistant Secretary, Office of Public and Indian Housing, who, in consultation with ACYF Regional officials, will recommend projects to be funded. The Commissioner of ACYF will make the final selection of the applicants to be funded. Successful applications may be funded in whole or in part depending on the relative need for services, applicant ranking, geographic location and funds available.

The Commissioner may elect not to fund Head Start grantees who are in high risk status as of the closing date of this Announcement or those applicants that have management, fiscal, or other problems and situations which make it unlikely that they would be able to provide effective full-day child care services. The Commissioner may also elect not to provide funding to applicants experiencing problems in providing quality services.

Within the framework of a competitive grant review process, consideration will be given to an equitable geographic distribution of the grants between urban, tribal and rural areas.

H. Award of Grants

Successful applicants will be notified through the issuance of a Financial Assistance Award which sets forth the

VOL
60
ISS
77
AP
21
1995
UMI

amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, and the total project period for which support is provided.

I. Effective Date of Awards

It is anticipated that successful applications shall be funded by September 30, 1995.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: April 10, 1995.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

BILLING CODE 4184-01-P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1 TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name	Organizational Unit
Address (give city, county, state and zip code)	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A State; B County; C Municipal; D Township; E Interstate; F Intermunicipal; G Special District; H Independent School Dist; I State Controlled Institution of Higher Learning; J Private University; K Indian Tribe; L Individual; M Profit Organization; N Other (Specify) _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es) ☐ ☐
A Increase Award; B Decrease Award; C Increase Duration; D Decrease Duration; Other (specify) _____

9. NAME OF FEDERAL AGENCY

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐
TITLE

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT

12. AREAS AFFECTED BY PROJECT (cities, counties, states etc.)

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF
Start Date	Ending Date	a Applicant / b Project

15. ESTIMATED FUNDING		
a Federal	$	.00
b Applicant	$	.00
c State	$	.00
d Local	$	00
e Other	$	00
f Program Income	$	00
g TOTAL	$	00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes" attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative	b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184-01-C

VOL 60 ISS 77 AP 21 1995 UMI

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
—"New" means a new assistance award.
—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184-84-P

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		Total (g)
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	
1		$	$	$	$	$
2						
3						
4.						
5 TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7 Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 - 19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach additional Sheets if Necessary)

21. Direct Charges:

22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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Instructions for the SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6 a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e) .The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will

VOL 60 ISS 77 AP 21 1995 UMI

establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683 and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

Title _____

_____

Applicant Organization

Date Submitted _____

BILLING CODE 4184–01–P

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

VOL 60 ISS 77 AP 21 1995 UMI

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184-01-C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of this or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184-01-P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, if known: Congressional District, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable _____	
8. Federal Action Number, if known:	9. Award Amount, if known: $	
10 a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):	
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
11. Amount of Payment (check all that apply): $ _____ ☐ actual ☐ planned	13. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____	
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No		
16. Information requested through this form is authorized by title 31 U.S.C section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

BILLING CODE 4184-01-C

Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, Attn: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street NW., Suite 500, Washington, D.C. 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy, Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station 38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 447, Columbia, South Carolina 29201, Telephone (803) 734–0494

VOL 60 ISS 77 AP 21 1995 UMI

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, Attn: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305,Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002,Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/José H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

José L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802. Please direct correspondence to: Linda Clarke, Telephone (809) 774–0750.

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in the subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

[FR Doc. 95–9827 Filed 4–20–95; 8:45 am]

BILLING CODE 4184–01–P

Agency for Toxic Substances and Disease Registry

[ATSDR–92]

Quarterly Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice contains a list of sites for which ATSDR has completed a public health assessment during the period October–December 1994. This list includes sites that are on, or proposed for inclusion on, the National Priorities List (NPL), and non-NPL sites for which ATSDR has prepared public health assessments in response to requests from the public (petitioned sites).

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments and petitioned public health assessments which were accepted by ATSDR during July–September 1994, was published in the **Federal Register** on February 8, 1995, [60 FR 7572]. The quarterly announcement is the responsibility of ATSDR under the regulation, Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR Part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended [42 U.S.C. 9604(i)].

Availability

The completed public health assessments are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487–4650. There is a charge determined by NTIS for these public health assessments. The NTIS order numbers are listed in parentheses after the site name.

Public Health Assessments Completed or Issued

Between October 1, 1994, and December 31, 1994, public health assessments were issued for the sites listed below:

NPL Sites

Alabama

Monarch Tile—Florence—(PB95–159695)

Arkansas

Popile Incorporated—El Dorado—(PB95–154035)

South 8th Street Landfill (a/k/a West Memphis Landfill)—West Memphis—(PB95–154092)

Connecticut

Starr Property—Enfield—(PB95–154795)

Illinois

Kerr McGee Radiation Areas—West Chicago—(PB95–154803)

Includes:

Kress Creek

Reed-Keppler Park

Residential Areas

Sewage Treatment Plant

Kentucky

National Electric Coil/Cooper Industries—Dayhoit (PB95–154639)

Massachusetts

Groveland Wells—Groveland—(PB95–154084)

New Jersey

Delilah Road—Egg Harbor Township—(PB95–154076)

Washington

Pacific Sound Resources—Seattle—(PB95–149241)

Seattle Municipal Landfill/Kent Highlands—Kent (PB95–154100)

Vancouver Water Station No. 1 Contamination—Vancouver (PB95–166278)

Non-NPL Petitioned Sites

Louisana

Marine Shale Processors, Incorporated—Amelia—(PB95–130811)

Dated: April 14, 1995.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry

[FR Doc. 95–9878 Filed 4–20–95; 8:45 am]

BILLING CODE 4163–70–P

Centers for Disease Control and Prevention

[Announcement 531]

Cooperative Agreements for State-Based Birth Defect Surveillance Demonstration Projects

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program for state-based birth defect surveillance demonstration projects. This cooperative agreement will support the development, implementation, and evaluation of state-based birth defect surveillance systems.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Alcohol and Other Drugs, Environmental Health, Maternal and Infant Health, and Surveillance and Data Systems. (For ordering a copy of "Healthy People 2000," see the section "Where To Obtain Additional Information.")

Authority

This program is authorized under sections 301, 311 and 317C of the Public Health Service Act (42 U.S.C. 241, 243, and 247b–4) as amended.

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

All duly constituted State and local public health agencies that are officially recognized as such, including State, local, county, city-county, district, and territorial health departments are eligible to apply. Also, universities with formal agreements for working with State or local health departments for carrying out the surveillance and surveillance-based research are eligible to apply

Availability of Funds

Approximately $500,000 is available in FY 1995 to fund approximately 8 to 12 awards. It is expected that awards will be made to 4 to 6 States with operational birth defect surveillance systems, and to 4 to 6 States with inactive or no birth defect surveillance systems. It is expected that the average award will be $50,000. It is expected that the awards will begin on or about September 30, 1995, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change.

These awards may be used for personnel services, equipment, travel, and other cost related to project activities. Project funds may not be used to supplant State funds available for birth defect surveillance or birth defect prevention.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this cooperative agreement is to assist States:

a. To develop and implement pilot methodologies and approaches which will improve or expand the State's capacity to ascertain cases and generate timely population-based data of major birth defects;

b. To engage, and collaborate with other States and appropriate organizations in the timely sharing and analysis of surveillance and epidemiologic data related to birth defects and;

c. To evaluate, in a timely fashion, the effectiveness of surveillance approaches and progress in the prevention of folic acid-preventable spina bifida and anencephaly.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities for States with inactive or no birth defect surveillance systems); or B. (Recipient Activities for States with operational birth defect surveillance systems); and CDC will be responsible for the activities listed under C. (CDC Activities).

A. Recipient Activities for States with inactive or no birth defect surveillance systems:

1. Develop plans for, and begin implementation of, a pilot state-based surveillance system which will ascertain cases and generate population-based data of major birth defects occurring in the State.

2. Develop a plan for the sharing and analysis of surveillance and epidemiologic data related to birth

VOL 60 ISS 77 AP 21 1995 UMI

defects with other States and appropriate organizations.

B. Recipient Activities for States with operational birth defect surveillance systems:

1. Develop and implement pilot methodologies and approaches which will improve or expand the capacity of an existing state-based surveillance system to ascertain cases and generate timely population-based data of major birth defects occurring in the State.

2. Collaborate with other States and appropriate organizations in the timely sharing and analysis of surveillance and epidemiologic data related to birth defects.

3. Evaluate, in a timely fashion, the progress in the prevention of folic acid-preventable spina bifida and anencephaly in the State.

C. CDC Activities:

1. Provide technical assistance.

2. Assist recipients in designing, developing, and evaluating pilot and demonstration components of state-based birth defect surveillance systems.

3. Assist recipients in analyzing surveillance and epidemiologic data related to birth defects.

4. Assist recipients in evaluating the progress in the prevention of folic acid-preventable spina bifida and anencephaly.

5. Provide a reference point for sharing regional and national data and information pertinent to the surveillance and prevention of birth defects.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria as they relate to the applicant's response to either A., or B., in the "Program Requirements."

1. Applicant's Understanding of the Problem (10%)

The extent to which the applicant has a clear, concise understanding of the requirements, objectives, and purpose of the cooperative agreement. The extent to which the application reflects an understanding of the complexities of birth defect surveillance.

2. Impact on State-Based Birth Defects Surveillance (65%)

The extent to which the applicant describes the anticipated level of impact this cooperative agreement will have on birth defect surveillance activities in the State. This description may include current and proposed:

a. Methods of case ascertainment;

b. Level of coverage of the population;

c. Specific birth defects ascertained;

d. Timeliness of case ascertainment and reporting;

e. Utility of surveillance data for epidemiologic studies and;

f. Utility of surveillance data for evaluating the progress in the prevention of folic acid-preventable spina bifida and anencephaly.

3. Organizational and Program Personnel Capability (20%)

The extent to which the applicant has the experience, skills, and ability to implement and evaluate a birth defect surveillance system. The adequacy of the present staff and capability to assemble competent staff to implement and evaluate a birth defect surveillance system and a prevention program. The applicant shall identify, to the extent possible, all current and potential personnel who will work on this cooperative agreement, including qualifications and specific experience as it relates to the requirements set forth in this request.

4. Matching Funds (5%)

The extent to which the applicant proposes matching funds. Matching funds may be contributions by the recipient of at least five percent of Federal funds awarded under this program. The applicant should identify and describe:

a. The amount expended during the preceding year for birth defect surveillance activities and birth defect prevention activities.

These amounts will be used to establish a baseline for current and future match amounts and;

b. Sources of matching funds for the project and the estimated amounts from each.

5. Budget Justification and Adequacy of Facilities (Not Scored)

The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of the cooperative agreement funds. The applicant shall describe and indicate the availability of facilities and equipment necessary to carry out this project. Proposed matching funds must be detailed in the budget.

6. Human Subject Review (not scored)

The applicant must clearly state whether or not human subjects will be used in research.

Executive Order 12372

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305. (The receipt date for SPOC comments will be 60 days after the application deadline date.) The Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to "accommodate or explain" the State process recommendations it receives after that date.

Public Health System Reporting Requirement

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health department agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal Application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

A. A copy of the face page of the application (SF 424).

B. A summary of the project that should be titled "Public Health System Impact Statement" (PHSIS), not exceed one page, and include the following:

1. A description of the population to be served;

2. A summary of the services to be provided; and

3. A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the State Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, on or before June 20, 1995.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date; or

B. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.A. or 1.B., above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement 531.

You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Adrienne S. Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6630. Programmatic technical assistance may be obtained from Larry D. Edmonds or David Montanez, State Services, Birth Defects and Genetic Diseases Branch, Division of Birth Defects and Developmental Disabilities, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway NE., Mailstop F–45, Atlanta, GA 30341–3724, telephone (404) 488–7170.

Please refer to Announcement 531 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: April 14, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9880 Filed 4–20–95; 8:45 am]

BILLING CODE 4163–18–P

[Announcement 523]

Innovations in Syphilis Prevention in the United States: Reconsidering the Epidemiology and Involving Communities

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for cooperative agreements to conduct research toward substantially reducing syphilis in the United States, especially in the southeastern United States, the region with the highest syphilis rates. Syphilis is linked to substantial mortality and morbidity through congenital syphilis, and through its ecologic relationship with and cofactor role in HIV transmission. Therefore, effective, innovative, community-based approaches to syphilis prevention may have an important multiplier effect on HIV prevention and adult and infant health in the communities where syphilis is most prevalent.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Sexually Transmitted Diseases. (To order a copy of "Healthy People 2000," see the section "Where to Obtain Additional Information.")

Authority

These cooperative agreements are authorized under Section 318(b) of the Public Health Service Act (42 U.S.C. 247c(b)) as amended. Applicable program regulations are found in part 51 (b), subparts A and F of title 42, Code of Federal Regulations.

Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for-profit organizations and governments and their agencies. Universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- or women-owned businesses are eligible to apply. Applicants must, however, document collaboration with each of the following entities:

1. At least one non-profit, public or private research institution (e.g., university, college, hospital, laboratory);

2. A public health agency in State or local government; and

3. At least one community-based organization (CBO) or other institution or agency with a track record for working with communities affected by syphilis in the project area. The CBO does not need to have a record of working on the problem of sexually transmitted diseases, only to have

VOL 60 ISS 77 AP 21 1995 UMI

worked with the communities that are affected.

To be eligible, the *project area* as defined under "Program Requirements" must have an incidence of primary and secondary (P&S) syphilis in calendar year (CY) 1993 above the PHS year 2000 objective of 10/100,000 and a total of more than 150 cases of P&S syphilis in CY 1993.

Availability of Funds

Approximately $1 million is available in FY 1995 for a 12-month budget period; the project period for Phase I (Preparation) is expected to be for two years. Four to five awards will be funded for Phase I. The awards are expected to range from $200,000 to $250,000, beginning in September 1995. Shortly before the completion of Phase I, recipients will compete for continuation of award in years 3 through 5 (Phase II—Implementation). Two to three awards are anticipated for expansion into Phase II research activities for the remaining three years of the project period. (Further details on Phases I and II is presented below under the heading "Purpose and Outline of Program Plan.") Funding estimates may vary and are subject to change. Continuation awards within an approved project period will be based on satisfactory progress and the availability of funds.

Program Goals

By the end of Phase I (24 months), it is expected that:

1. Strong partnerships among research institutions, health departments, and at least one community-based organization will have been established or strengthened.

2. The epidemiology of the transmission of syphilis will have been analyzed to identify characteristics and target interventions to the most important mechanisms that sustain syphilis spread and persistance in the community (Component 1).

3. A programmatic intervention will have been pilot tested and assessed for its potential for measurably lowering syphilis transmission in a defined area while being acceptable to members of the affected communities and to participating organizations or agencies (Component 2).

4. A sensitive surveillance system for following trends in syphilis transmission in a population will have been implemented and at least one full year of baseline data collected.

5. A management information system will have been implemented to track activities and costs in syphilis prevention activities (Component 3).

At approximately month 18 of the project, applications for a competitive continuation award for the implementation and evaluation of a population-level intervention (Phase II) will be due. Fewer, larger, Phase II awards are foreseen for interventions that show the greatest potential impact and that are based on well-conducted research from Phase I. Supplementary guidance for Phase II awards will be provided to the recipients of Phase I awards.

Purpose and Outline of Program Plan

The purpose of this announcement is to generate new knowledge, tools, and strategies toward sharply reducing syphilis incidence, particularly in the southeastern States where incidence is disproportionately high. Congenital syphilis is closely linked to newly acquired syphilis infections in women, so an intensified focus on syphilis transmissions is expected to contribute directly to a principal, short-term PHS goal of eliminating congenital syphilis.

Phase I and Phase II of the research program. This research program is separated into two phases of activity and funding (Table 1). The fundamental goal is best understood in the context of Phase II (years 3 to 5 of the anticipated 5-year project), in which the grantees will implement and evaluate an innovative, science-based, cost-effective approach to reducing the transmission of syphilis in a project area.

TABLE 1

Phase	Project years	Grantees (No.)	Focus of activities
I	1 and 2	4–5	Preparation for innovative approaches to syphilis control and prevention.
II	3 to 5	2–3	Implementation of interventions and evaluation of impact on population.

However, CDC is not seeking final proposals for such Phase II intervention trials at this time because science-based, innovative approaches to syphilis prevention will require multifaceted preparation and planning. In particular, communities affected by syphilis should be represented more substantively than in the past in developing new approaches to syphilis prevention. This announcement, therefore, focuses on Phase I subject areas and solicits research proposals that will yield scientific findings and stimulate the building of multi-disciplinary research teams needed to guide and implement the Phase II intervention trial.

Areas of preparatory research in Phase I. During Phase I of this program, three key research components will be addressed:

1. Innovative uses of epidemiologic and behavioral science methods and findings about syphilis transmission in communities to direct prevention strategies.

2. Development of a programmatic intervention and pilot test of that proposed intervention before large-scale implementation; development of partnerships with communities affected by syphilis.

3. Development of a sensitive syphilis surveillance activity to be used in evaluating the efficacy and cost-effectiveness of efforts to prevent syphilis.

Further explanation of these Phase I activities can be found in the section "Program Requirements."

Program Requirements

This cooperative agreement is foreseen as an important element in a national reassessment of our approaches to syphilis control and prevention. To achieve the purpose of this program, the recipient will be responsible for activities under A. and CDC for activities under B., below:

A. Recipient Activities

1. Develop an overall framework to design an effective, innovative approach to syphilis prevention and to evaluate its impact on a population.

2. Define a project area. The geographic area defined as the project area for this program announcement must have reported at least 150 cases of P&S syphilis in 1993. An entire State could be defined as the project area for this cooperative agreement, or several counties could be combined to establish the minimum number of syphilis cases. Applications are especially encouraged from rural areas that meet this minimum morbidity requirement (150 cases of P&S syphilis).

3. Undertake the following three research components during Phase I of this cooperative agreement:

A. Analyze the epidemiology of syphilis transmission within the project area with the goal of identifying more efficacious and cost-effective ways to prevent syphilis.

B. Develop an intervention and conduct a pre-implementation of that evaluation. In collaboration with representatives from affected communities, consider hypotheses about barriers to or opportunities for more efficacious and cost-effective innovations in syphilis prevention.

C. Establish surveillance and information systems adequate for monitoring and evaluating innovative syphilis prevention activities.

Note: Traditional disease surveillance for syphilis demonstrates substantial year-to-year variability as well as incompletely understood cyclic oscillations over periods of 5 to 10 years.

During Phase I, you will be expected to implement: (1) A sensitive, population-level surveillance system for syphilis incidence; and (2) a management information system (MIS) for estimating the cost of syphilis prevention, including the costs of collecting and analyzing program data. Although components 1 and 2 are distinct foci of activity that involve different types of expertise, they are related in that interventions that do not focus prevention resources on settings, social contexts, or individuals who help maintain syphilis transmission in the community are unlikely to be effective. Likewise, components 1 and 3 are related in that a sensitive surveillance system that truly reflects incident syphilis cases should have some direct relationship to syphilis transmission events characterized by the "epidemiologic model" of syphilis for that community.

4. Include affected communities as partners in the research. Syphilis generally is concentrated in communities with limited resources. In many communities, syphilis is also a stigmatizing condition and one for which the most important consequences (congenital syphilis and facilitation of HIV transmission) often occur unrecognized. Furthermore, some past control efforts and research activities may have damaged community rapport with the health departments and with CDC rather than building trust in a common purpose. Partnerships with communities affected by syphilis, including many African American communities where racism may have a continuing effect, is essential to building trust and to finding solutions.

5. Linkage to other public health programs. Research on syphilis prevention in the 1990s should occur in the context of other major public health program areas. These include:

A. *Prenatal care (required).* The first priority in syphilis prevention is the elimination of congenital syphilis, which can be accomplished through prenatal care for women at risk for syphilis and the appropriate screening for and management of syphilis during pregnancy. However, it is possible that many pregnant women with syphilis have a low risk for transmitting syphilis to other adults, and therefore, are not central to the persistence of syphilis among adults in the community.

B. *HIV Prevention (required).* Communities, sub-populations, and individuals with syphilis are probably at high risk for HIV infection because of common modes of transmission, the usually higher prevalence of syphilis and HIV in the same communities, infection, and the role of genital ulcer diseases as cofactors for sexual transmission of HIV. Syphilis prevention should be coordinated with and should reinforce community intervention strategies and other efforts to change sexual behavior as are associated with HIV prevention. Because syphilis is a curable communicable disease, screening, health care seeking, and treatment will likely play prominent roles in syphilis prevention. Nonetheless, some effort to change behavior must be a component of a responsible syphilis prevention activity, both to prevent HIV infection and other STDs in the community from which one is trying to eliminate syphilis, and to lower the risk of spread if syphilis is reintroduced.

C. *Substance abuse (optional).* A number of studies have shown that crack cocaine was closely linked to local epidemics of syphilis in the late 1980s. People who inject drugs are at high risk for STDs. Effective, innovative, epidemiologically focused syphilis prevention activities may be augmented if they are closely linked to substance abuse treatment. Explain how the proposed syphilis prevention activities interact with, and possibly reinforce, efforts to prevent drug abuse.

D. *Correctional systems (optional).* Because of the association of syphilis with substance abuse and prostitution, collaboration with the criminal justice system (e.g., correctional health programs, probation officers, court referral, juvenile justice) could result in highly effective approaches to syphilis and HIV prevention. Explain any interaction between the proposed syphilis prevention activities and criminal justice programs.

6. Manage, analyze, and interpret data. Data from the three core activities in part 3 should be secure and confidential. In collaboration with CDC, analyze, interpret, and publish data promptly in scientific, programmatic, and policy-making forums. Data should regularly be communicated to community partners in language that they can understand.

7. Build a multidisciplinary research team and program implementation capability. Assemble a multidisciplinary team with the appropriate expertise (such as in microbiology, medicine, epidemiology, behavioral sciences, health care services research) to undertake each of the enumerated steps or activities.

8. Implement a unified core protocol common to all grant recipients that will be established for component 3 of the required activities (population-based surveillance for new syphilis transmissions) and implemented by each recipient. The final core multicenter protocol for component 3 will likely differ somewhat from the protocol specified by any individual recipient. Core protocols or common approaches will be encouraged but will not be required for other components, especially component 1.

9. Each grantee will participate with other recipients and CDC representatives in as many as four meetings during the first 24 months, during which the core protocol for component 3 will be established, and strategies for and progress toward achieving the goals of the program announcement will be assessed.

10. The recipient will share reports on progress toward goals with representatives of communities affected by syphilis and other involved organizations, agencies, and persons.

11. The recipients will take the lead in data analysis and publication of data from their own research centers, with participation and support from CDC.

B. CDC Activities

1. Provide scientific and technical assistance in the general operation of this syphilis prevention project and in the three key research components in Phase I.

2. Within 45 days of the notice of grant award, host a meeting of the successful applicants to develop the core protocol for component 3 and to plan other aspects of the research program. CDC will host as many as three other meetings of investigators during the first 24 months of the project to

VOL 60 ISS 77 AP 21 1995 UMI

promote progress toward core and national objectives.

3. Assist in monitoring and evaluating scientific and operational accomplishments of this syphilis elimination project through periodic site visits for research program reviews, frequent telephone calls, and review of technical reports and interim data analyses.

4. CDC will assist in data analysis and in the presentation and publication of data from Phase I and Phase II activities in scientific, programmatic, and policy-making forums. CDC will actively participate in evaluating the multicenter core protocol data for component 3 (surveillance and evaluation).

Review Conditions and Evaluation Criteria

To be referred to the independent review group for consideration, applications must:

1. Document effective partnerships among research institutions, State or local health departments, and CBOs; and

2. Address the specific requirements in all three research components.

Applications not meeting these two requirements will be returned to the applicant without being reviewed. Applications that meet the preceding requirements will be evaluated according to the following criteria:

1. Understanding of Goals, Purpose, and Context

Understanding of the objectives of this research and evaluation program as reflected in statement of research background, program objectives, and linkage of the specific activities of Phase I to a well-articulated vision of what is needed to substantially reduce the prevalence of syphilis in the United States (5 points). Extent the choice of a project area in which to conduct this research is appropriate to the research objectives and is explained and justified in those terms, and extent in the proposed project area the epidemiology of syphilis, barriers to its reduction or elimination, and resources available to STD/HIV prevention are well-described (5 points). (Total, 10 points.) (APPLICATION CONTENT items 1 and 2.)

2. Quality and Focus of Proposed Phase I Research

The extent to which excellent research designs address the three major components of the program announcement while avoiding extraneous efforts. (APPLICATION CONTENT item 9.)

Component 1: *Innovative uses of epidemiologic methods and findings about syphilis transmission in communities to direct prevention strategies.* The extent to which the proposal is theoretically sound and reflects detailed knowledge of the meaning of the underlying data, such as reported syphilis cases of different durations (primary, secondary, early latent, late latent), reports of sexual contacts among patients, syphilis seroprevalence from screening data, and other data sources. The extent to which the planned approaches to analyzing, interpreting, and using data are innovative and likely to yield new insights into the transmission of syphilis and the opportunities for prevention and elimination within the study community (10 points). The extent to which the findings might be directly translated into public health practice (e.g., changes in screening criteria or the location for syphilis serologic testing; changes in PN practices or priorities; relocation or reorganization of clinical services; development of community-based interventions), and the clarity with which that potential for translation is explained in the application (5 points). (Total, 15 points.)

Component 2: *Development of a programmatic intervention and pilot test of that proposed intervention before large-scale implementation; developing partnerships with communities affected by syphilis.* Choice of an appropriate potential intervention, based on syphilis epidemiology in the study region plus analysis of community, program, or other factors that compose an important barrier or opportunity for more effective, epidemiologic programs (10 points). Scientifically sound plan for evaluating, during this pre-implementation phase, the potential impact of the proposed intervention on syphilis transmission (5 points) and on community perceptions and support for those prevention activities (5 points). The extent to which the planned research findings from this component could be directly translated into public health practice, and the clarity with which that translation is explained in the application (5 points). (Total, 25 points.)

Component 3: *Development of a sensitive syphilis surveillance activity to serve as a basis for evaluating the efficacy and cost-effectiveness of syphilis prevention efforts.* The extent to which the proposal is theoretically sound for evaluating the sensitivity and cost-effectiveness of estimating and following population and sub-population trends in the transmission of syphilis (5 points). The extent to which the proposal demonstrates detailed familiarity with public health disease surveillance and the complexity of trying to change practices in disease surveillance settings proposed (e.g., jails, maternity wards delivery suites) (5 points). Implementation of a management information system adequate for a cost-effectiveness analysis of new approaches to prevention programs 5 points). (Total, 15 points.)

3. Capacity, Interdisciplinary Involvement, and Partnerships

Overall ability of a multidisciplinary research team (including persons in various academic disciplines, public health practitioners, and community collaborators) to perform the technical aspects of the project(s) (i.e., qualified and experienced personnel with a record of excellent scientific achievement) (15 points); appropriate facilities and plans for the administration of the project(s), and a detailed and realistic schedule for the specified activities (5 points). (Total, 20 points: APPLICATION CONTENT items 3, 4, 5, and 6.)

4. Inclusion of Affected Communities

The extent to which communities affected by syphilis are involved in all parts of these research and demonstration activities (5 points). The extent to which the effective work of one or more CBOs is documented in attachments to the application and the collaboration and support of a CBO is thoroughly incorporated into the work of the multidisciplinary team (5 points). (Total, 10 points: APPLICATION CONTENT items 3 and 6.)

5. Linkage to Related Prevention Activities

The extent to which the proposed research agenda and the intervention reflect awareness of other critical prevention services in the community (pre-natal care, HIV, drug abuse, correctional health) and are synergistic or at least well-coordinated with those other preventive health services. (Total, 5 points: APPLICATION CONTENT item 7.)

In addition, consideration will be given to the extent to which the budget is reasonable, clearly justified, and consistent with the intended use of the funds. (APPLICATION CONTENT item 8

Funding Priorities

CDC intends to achieve some geographic diversity of project sites while retaining a principal focus on syphilis in the southeastern United States. It is the intention to fund at least two Phase I projects that address syphilis in rural areas in the southeastern United States, if those applications are fully competitive.

Interested persons are invited to comment on the proposed funding priority. All comments received on or before May 19, 1995, will be considered before the funding priority is established. If the funding priority should change as a result of any comments received, a revised Announcement will be published in the **Federal Register** and revised applications accepted.

Written comments should be addressed to: Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305, not later than 60 days after due date for receipt of applications. The Program Announcement Number and Program Title should be referenced on the document. CDC does not guarantee to "accommodate or explain" State process recommendations it receives after that date. Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305. This should be done no later than 60 days after the application deadline date. The granting agency does not guarantee to "accommodate or explain" for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

A. A copy of the face page of the application (SF 424).

B. A summary of the project that should be titled "Public Health System Impact Statement" (PHSIS), not exceeding one page, and including the following:

1. A description of the population to be served;

2. A summary of the services to be provided; and

3. A description of the coordination plans with the appropriate State and/or local health agencies.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.978, Preventive Health Services—Sexually Transmitted Diseases Research, Demonstration, and Public Information and Education Grants.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Confidentiality

Applicants must have in place systems to ensure the confidentiality of patient records.

HIV/AIDS Requirements

Recipients must comply with the document entitled *Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions* (June 1992) (a copy is in the application kit). To meet the requirements for a program review panel, recipients are encouraged to use an existing program review panel, such as the one created by the State health department's HIV/AIDS Prevention Program. If the recipient forms its own program review panel, at least one member must also be an employee (or a designated representative) of a State or local health department. The names of the review panel members must be listed on the Assurance of Compliance form CDC 0.1113, which is also included in the application kit. The recipient must submit the program review panel's report that indicates all materials have been reviewed and approved.

Before funds can be used to develop HIV/AIDS-related materials, determine whether suitable materials are already available at the CDC National AIDS Clearinghouse.

Human Subjects

If your project involves research on human subjects, you must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Provide assurance that the project will be subject to initial and continuing review by an appropriate institutional review committee. You must provide assurance in accordance with the guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Letters of Intent

Letters of intent are required. On or before *May 15, 1995*, submit the original and two copies of a letter of intent to submit an application to: Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305.

VOL 60 ISS 77 AP 21 1995 UMI

Application Submission and Deadline

On or before *July 3, 1995*, submit the original and two copies of the application (Form PHS 5161–1—OMB Number 0937–0189) and one electronic copy on disk to: Henry S. Cassell III, Grants Management Officer, Procurement and Grants Office, Grants Management Branch, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are:

A. Received on or before the deadline or

B. Sent on or before the deadline date and received in time for submission to the independent review committee. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable proof of timely mailing.)

2. *Late Applications:* Applications that do not meet the criteria in 1.A. or 1.B. are considered late applications and will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance may be obtained from: Manuel Lambrinos, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–16, Atlanta, GA 30305, telephone (404) 842–6777. Programmatic technical assistance may be obtained from: Sevgi Aral, Ph.D., Division of STD/HIV Prevention, National Center for Prevention Services, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–02, Atlanta, GA 30333, telephone (404) 639–8259.

Please refer to Announcement 523 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the "Introduction" through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: April 14, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–9879 Filed 4–20–95; 8:45 am]

BILLING CODE 4163–18–P

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Cooperative Agreements for National/Regional Minority Organization Human Immunodeficiency Virus/Sexually Transmitted Diseases Prevention, Immunization, and Tuberculosis Projects—Program Announcement 305b: Amendment of Time and Date

Federal Register Citation of Previous Announcement 60 FR 13728—dated March 14, 1995.

This notice announces an amendment in the time and date of a previously announced meeting.

Previously Announced Time and Date: 8:30 a.m.–4:30 p.m., April 18, 1995.

Amendment in Meeting Time and Date: 8:30 a.m.–4:30 p.m., April 18, 1995. 8:30 a.m.–4:30 p.m., April 19, 1995.

Dated: April 18, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–10009 Filed 4–19–95; 10:14 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95M–0072]

Cardiac Pacemakers, Inc., Premarket Approval of VENTAK® P2 AICD™ System: Model 1625 VENTAK® P2 Pulse Generator, Model 2835 Software Module, and Model 2815 VENTAK® ECD External Cardioverter Defibrillator

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Cardiac Pacemakers, Inc., St. Paul, MN, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the VENTAK® P2 AICD™ System. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of March 10, 1995, of the approval of the application.

DATES: Petitions for administrative review by May 22, 1995.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Carole C. Carey, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609.

SUPPLEMENTARY INFORMATION: On August 30, 1993, Cardiac Pacemakers, Inc., St. Paul, MN 55112, submitted to CDRH an application for premarket approval of VENTAK® P2 AICD™ System consists of the following: Model 1625 VENTAK® P2 pulse generator; Model 2835 Software Module to be used with commercially available Cardiac Pacemakers, Inc., (CPI®) Model 2035 Handheld Programmer and Model 6575 or 6577 Telemetry Wand; Model 2815 VENTAK® ECD External Cardioverter Defibrillator (which includes the Model 6873 High Voltage Cable with Model 6838 Thumbscrew, Model 6843 Bipolar Cable with Model 6838 Thumbscrew, Model 6874 Bipolar Cable, and related CPI® commercially available accessories); commercially available CPI® ENDOTAK® 60–Series Lead System and accessories; commercially available CPI® epicardial defibrillation leads and accessories; and commercially available pace/sense leads and accessories. The device is an automatic implantable cardioverter defibrillator system and is indicated for the treatment of patients with ventricular fibrillation and/or ventricular tachyarrhythmias who are at high risk of sudden cardiac death. Such patients are defined as having experienced the following situations: (1) The survival of at least one episode of cardiac arrest presumably due to hemodynamically unstable ventricular tachyarrhythmia not associated with acute myocardial infarction, and/or (2) a poorly tolerated, sustained ventricular tachycardia (VT) and/or ventricular fibrillation (VF) which recurs spontaneously or can be induced despite the best antiarrhythmic drug therapy. Note: The clinical outcome of hemodynamically stable, sustained VT patients is not fully known. A study of the safety and effectiveness of the VENTAK® P2 system on this selected subgroup of VT patients has not been conducted.

In accordance with the provisions of section 515(c)(2) of the act (21 U.S.C. 360e(c)(2)) as amended by the Safe Medical Devices Act of 1990, this premarket approval application (PMA) was not referred to the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel. On March 10, 1995, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 22, 1995, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 6, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95–9950 Filed 4–20–95; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETINGS: The following advisory committee meetings are announced:

Subcommittee Meeting of the Food Advisory Committee

Date, time, and place. May 8 and 9, 1995, 8:30 a.m., Days Inn—Downtown Convention Center, Franklin Square I Ballroom, 1201 K St. NW., Washington, DC.

Type of meeting and contact person. Open subcommittee discussion, May 8, 1995, 8:30 a.m. to 5:15 p.m.; open subcommittee discussion, May 9, 1995, 8:30 a.m. to 10 a.m.; open public hearing, 10 a.m. to 11 a.m., unless public participation does not last that long; open subcommittee discussion, 11 a.m. to 2 p.m.; Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS–5), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4727, Catherine M. DeRoever, Advisory Committee Staff (HFS–22), 202–205–4251, FAX 202–205–4970, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Food Advisory Committee, code 10564.

General function of the committee. The committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person by close of business May 1, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. If necessary, comments may be limited to 5 minutes.

Open committee discussion. The subcommittee will review the Center for Food Safety and Applied Nutrition's Microbiology Research Program in the context of the Center's science program. A peer review panel will be asked to present its findings to the subcommittee. More detailed information regarding the meeting agenda that may become available prior to the meeting will be provided to the public via the 800 number listed above.

Circulatory System Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. May 8 and 9, 1995, 8:30 a.m., Holiday Inn—Gaithersburg, Walker and Whetstone Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD. A limited number of overnight accommodations have been reserved at the Holiday Inn—Gaithersburg. Attendees requiring overnight accommodations may contact the hotel at 301–948–8900 and reference the FDA Panel meeting block. Reservations will be confirmed at the group rate based on availability.

Type of meeting and contact person. Open public hearing, May 8, 1995, 8:30 a.m. to 9:30 a.m., unless public

VOL 60 ISS 77 AP 21 1995 UMI

participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; open public hearing, May 9, 1995, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; Ramiah Subramanian, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Circulatory System Devices Panel, code 12625.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 28, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss general issues relating to the review of four premarket approval applications; on May 8, 1995, the committee will discuss two hemostasis devices and on May 9, 1995, two pacemaker devices.

Veterinary Medicine Advisory Committee

Date, time, and place. May 10 and 11, 1995, 8:30 a.m., Holiday Inn—Bethesda, Versailles Ballroom III, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open committee discussion, May 10, 1995, 8:30 a.m. to 10:30 a.m.; open public hearing, 10:30 a.m. to 3 p.m., unless public participation does not last that long; open committee discussion, 3 p.m. to 4:30 p.m.; open committee discussion, May 11, 1995, 8:30 a.m. to 9:30 a.m.; open public hearing, 9:30 a.m. to 11 a.m., unless public participation does not last that long; open committee discussion, 11 a.m. to 12 m.; Gary E. Stefan, Center for Veterinary Medicine (HFV–244), 7500 Standish Pl., Rockville, MD 20855, 301–594–1769, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Veterinary Medicine Advisory Committee, code 12546.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal disease and increased animal production.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 9, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the amount of time required to make their comments.

Open committee discussion. On May 10, 1995, the committee will discuss veterinary medical issues related to implementation of the Animal Medicinal Drug Use Clarification Act of 1994 (extra-label animal drug use). On May 11, 1995, the committee will discuss options for obtaining approvals for minor use (orphan) animal drugs.

Science Board to the Food and Drug Administration

Date, time, and place. May 16, 1995, 8:30 a.m., Holiday Inn—Eisenhower Metro, Eisenhower Ballroom, 2460 Eisenhower Ave., Alexandria, VA.

Type of meeting and contact person. Open committee discussion, 8:30 a.m. to 2:30 p.m.; open public hearing, 2:30 p.m. to 3:30 p.m., unless public participation does not last that long; open committee discussion, 3:30 p.m. to 5 p.m.; Anita O'Connor, Office of Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5839, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Science Board to the Food and Drug Administration, code 12603.

General function of the board. The board shall provide advice primarily to the agency's Senior Science Advisor and, as needed, to the Commissioner and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science; on formulating an appropriate research agenda; and on upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency sponsored intramural and extramural scientific research programs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the board. Those desiring to make formal presentations must notify the contact person before May 2, 1995, and submit a brief statement of the general nature of the evidence or arguments they wish to present, and the names and addresses of proposed participants. Each presenter will be limited in time and not all requests to speak may be able to be accommodated. All written statements submitted in a timely manner will be provided to the board.

Open committee discussion. The board will discuss issues related to the testing strategy for toxicity and carcinogenicity of substances regulated by FDA. The discussion is designed to give the agency direction for future program development.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 17, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–9889 Filed 4–20–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0005]

Regulation of Positron Emission Tomography Radiopharmaceutical Drug Products; Guidance; Public Workshop; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the Federal Register of February 27, 1995 (60 FR 10594). The document published guidance on the regulation of positron emission tomography (PET) radiopharmaceutical drug products and announced a public workshop to facilitate an understanding of regulatory requirements regarding these products. The document was published with some typographical errors. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

In FR Doc. 95–4691, appearing on page 10594 in the Federal Register of February 27, 1995, the following corrections are made:

1. On page 10594, in the third column, in the title heading, "TomographyRadiopharmaceutical" is corrected to read "Tomography Radiopharmaceutical".

2. On page 10595, in the third column, in the third full paragraph, in the 4th line from the bottom, "§ 1A207.10" is corrected to read "§ 207.10".

3. On page 10596, in the first column, in the first full paragraph, in line 8, "§ 1A361.1" is corrected to read "§ 361.1".

4. On page 10596, in the first column, in the second paragraph, in lines 4 and 20, "§ 1A361.1(c)" is corrected to read "§ 361.1(c)".

5. On page 10596, in the second column, in the first full paragraph, in line 3, "§ 1A361.1(c)(3)" is corrected to read "§ 361.1(c)(3)".

Dated: April 14, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–9844 Filed 4–20–95; 8:45 am]

BILLING CODE 4160–01–F

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the Federal Register on Friday, April 7, 1995.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package.)

1. Measuring Public Perception of the Value of Social Security—0960–0551. The information on these questionnaires is used by the Social Security Administration (SSA) to measure public perception of the value of Social Security and to determine whether the Personal Earnings and Benefit Statement (PEBES) affects public confidence in Social Security. The control group respondents are members of the general public who have not received an SSA-initiated PEBES. The study group respondents are members of the general public who have received recently an SSA-initiated PEBES.

SSA has requested and received expedited approval for this collection of information (both the study group collection instrument and the control group collection instrument) from OMB and is, accordingly, publishing in the Federal Register a copy of each of the collection instruments (5 CFR 1320.18(g)).

Number of Respondents: 6,000
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 1,500 hours
OMB Desk Officer: Laura Oliven

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: Office of Management and Budget, OIRA, New Executive Office Building, Room 10230, Washington, DC 20503.

Dated: April 17, 1995.

Charlotte Whitenight,

Reports Clearance Officer, Social Security Administration.

Measuring Public Perception of the Value of Social Security (Control Group)

Your Name _____

Your Social Security Number _____-____-_____

1. Are you aware that Social Security pays benefits (circle all that you are aware of):
   a. To you when you retire?
   b. To you if you became disabled?
   c. To your spouse if you became disabled or retired?
   d. To your young children if you became disabled or retired?
   e. To your widow if you should die?
   f. To your young children should you die?
2. How important is it for you to plan financially for your retirement?
   a. Very important
   b. Somewhat important

VOL 60 ISS 77 AP 21 1995 UMI

c. Not important

3. Which of the following statements best describes the way the Social Security retirement program works?

Social Security benefits provide:

a. A retirement income, *which is enough by itself* to meet the living expenses of retired people.

b. A partial retirement income, *which must be combined with other source(s) of income* to meet the living expenses of retired people.

4. Do you have any source of income protection other than Social Security if you have to stop working because of a disability?
a. Yes
b. No
c. Don't know

5. Do you have any source of financial protection for your survivors other than Social Security should you die?
a. Yes
b. No
c. Don't know

6. How would you rate the importance of Social Security benefits in your life?
a. Very important
b. Important
c. Not at all important
d. No opinion

Comments: _____

7. How confident are you that Social Security benefits will be able to meet your future financial needs?
a. Very confident
b. Somewhat confident
c. Not confident
d. No opinion

Comments: _____

8. How would you rate your level of confidence in the following?

a. The economy
1. Very confident
2. Confident
3. Somewhat confident
4. Not at all confident
5. No opinion

b. The future prosperity of the United States
1. Very confident
2. Confident
3. Somewhat confident
4. Not at all confident
5. No opinion

c. The way the federal government is run
1. Very confident
2. Confident
3. Somewhat confident
4. Not at all confident
5. No opinion

9. What types of income do you plan to rely on when you retire? (Circle all that apply)
a. Social Security benefits
b. Employer sponsored pension
c. Spouse's pension
d. Savings bonds
e. Other savings (includes certificates of deposit, IRAs, etc.)
f. Stocks, bonds, and/or mutual funds
g. Income from children
h. Earnings from part-time employment
i. Benefits from other government programs
j. Other sources. Specify _____

10. Overall, how confident are you that you will have sufficient funds to meet your retirement needs?
a. Highly confident
b. Somewhat confident
c. Not at all confident

Comments: _____

11. How important is Social Security as a source of income in your retirement?
a. Only source
b. Major source
c. Minor source
d. Not a source at all
e. Don't know

Comments: _____

12. Would you find it helpful in planning your retirement to get an estimate of the amount of benefits Social Security will pay you each month when you retire?
a. Yes
b. No
c. Don't know

13. Did you know that you could request this information from Social Security?
a. Yes
b. No

14. Have you ever requested a Personal Earnings and Benefit Estimate Statement from Social Security?
a. Yes
b. No
c. Don't know

15. Would you describe yourself as:
a. Professional
b. Business manager or executive
c. Service worker
d. Clerical and sales
e. Skilled worker
f. Unskilled worker
g. Farmer
h. Housewife
i. Retired
j. Unemployed, not working
k. Student
l. Disabled
m. Something else.
Specify: _____

Measuring Public Perception of the Value of Social Security

1. Within the past 2 weeks do you recall receiving a Personal Earnings and Benefit Estimate Statement from Social Security?
a. Yes
b. No
c. Don't remember

(If b or c, STOP. Do not answer the remaining questions.)

2. After receiving the statement, did you:
a. Read all or almost all of the statement?
b. Read some or a little? (If read all or some, go to Q.4)
c. Read none?

3. What was the main reason you did not read it?
a. Not interested
b. Too hard to understand
c. No time
d. Other

Skip to Q.7.

4. How much of the information that you read was easy to understand?
a. All
b. Most
c. A little
d. None

Comments: _____

5. After reading over the statement, do you think the information was valuable to you and your family?
a. Yes, of significant value
b. Yes, of some value
c. No value
d. Don't know

Comments: _____

6. Before you received the statement, were you aware that Social Security paid benefits (circle all that you were aware of *before* you read the statement):
a. To you when you retire?
b. To you if you become disabled?
c. To your spouse if you became disabled or retired?
d. To your young children if you became disabled or retired?
e. To your widow if you should die?
f. To your young children should you die?

7. How important is it for you to plan financially for your retirement?
a. Very important
b. Somewhat important
c. Not important

8. Which of the following statements best describes the way the Social Security retirement program works?

Social Security benefits provide:

a. A retirement income, *which is enough by itself* to meet the living expenses of retired people.

b. A partial retirement income, *which must be combined with other source(s) of income* to meet the living expenses of retired people.

9. The Personal Earnings and Benefit Estimate Statement shows an estimate of the amount of benefits you will receive when you retire. Did you read the part of the statement that explains the estimate?
a. Yes
b. No (If No, skip to Q. 12)

10. Would you say the amount shown was:
a. About what I expected
b. More than I expected
c. Less than I expected

Comments: _____

11. Based on the estimate for your retirement benefits given on your statement, would you say that the amount of retirement benefits is:
a. Generous
b. Adequate
c. Inadequate
d. Not sure

Comments: _____

12. Do you have any source of income protection other than Social Security if you have to stop working because of a disability?
a. Yes
b. No
c. Don't know

13. Do you have any source of financial protection for your survivors other than Social Security should you die?
a. Yes
b. No
c. Don't know

14. How would you rate the importance of Social Security benefits in your life?
a. Very important
b. Important
c. Not at all important
e. No opinion

Comments: _____

15. How confident are you that Social Security benefits will be able to meet your future financial needs?
a. Very confident
b. Somewhat confident
c. Not confident
d. No opinion

Comments: _____

16. How would you rate your level of confidence in the following?

a. The economy
1. Very confident
2. Confident
3. Somewhat confident
4. Not at all confident
5. No opinion

b. The future prosperity of the United States
1. Very confident
2. Confident
3. Somewhat confident
4. Not at all confident
5. No opinion

c. The way the federal government is run
1. Very confident
2. Confident
3. Somewhat confident
4. Not at all confident
5. No opinion

17. What types of income do you plan to rely on when you retire? (Circle all that apply)
a. Social Security benefits
b. Employer sponsored pension
c. Spouse's pension
d. Savings bonds
e. Other savings (includes certificates of deposit, IRAs, etc.)
f. Stocks, bonds, and/or mutual funds
g. Income from children
h. Earnings from part-time employment
i. Benefits from other government programs
j. Other sources. Specify _____

18. Overall, how confident are you that you will have sufficient funds to meet your retirement needs?
a. Highly confident
b. Somewhat confident
c. Not at all confident

Comments: _____

19. How important is Social Security as a source of income in your retirement?
a. Only source
b. Major source
c. Minor source
d. Not a source at all
e. Don't know

Comments: _____

20. Would you describe yourself as:
a. Professional
b. Business manager or executive
c. Service worker
d. Clerical and sales
e. Skilled worker
f. Unskilled worker
g. Farmer
h. Housewife
i. Retired
j. Unemployed, not working
k. Student
l. Disabled
m. Something else (Specify: _____)

Privacy and Paperwork Reduction Act Notice: We are allowed to collect the information on this survey under Sections 205 and 1143 of the Social Security Act. Giving us this information is voluntary. We will use your answers, along with the answers of other people who are part of the survey, to measure public perception of the value of Social Security programs and the benefit of receiving a Personal Earnings and Benefit Estimate Statement. We will not use the information on this form for any other purpose.

Time it Takes to Complete This Form: We estimate it will take you about 15 minutes to complete this survey. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form. If you have any comments or suggestions on this estimate, or on any other aspect of this form, write to the Social Security Administration, ATTN: Reports Clearance Officer, 1–A–21 Operations Bldg., Baltimore, MD 21235–0001. Send only comments relating to our estimate or other aspects of this form to the office listed above. All requests for Social Security cards and other claims-related information should be sent to your local Social Security Office, whose address is listed in your telephone directory under the Social Security Administration.

[FR Doc. 95–9909 Filed 4–20–95; 8:45 am]
BILLING CODE 4190–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–1917; FR–3778–N–33]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact David Pollack, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the

VOL 60 ISS 77 AP 21 1995 UMI

property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to David Pollack at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; Dept. of Interior: Lola D. Knight, Property Management Specialist, Dept. of Interior, 1849 C St. NW, Mailstop 5512–MIB, Washington, DC 20240; (202) 208–4080; (These are not toll-free numbers).

Dated: April 14, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 04/21/95

Suitable/Available Properties

Building (by State)

California

144 Family Housing Facilities
Naval Air Weapons Station
Chinal Lake Co: Kern CA 93555–
Location: 504 units which are two story each
Landholding Agency: Navy
Property Number: 779520014
Status: Excess
Comment: 800–1000 sq. ft. ea., wood frame w/aluminum siding, off-site removal only, ea. unit weights 50–85 tons, some need rehab, removal via marine transp., 76 units may have Federal need.

Unsuitable Properties

Buildings (by State)

California

Bldg. 00366
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520001
Status: Excess
Reason: Secured Area

Bldg. 00405
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520002
Status: Excess
Reason: Secured Area

Bldg. 00418
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520003
Status: Excess
Reason: Secured Area

Bldg. 00421
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520004
Status: Excess
Reason: Secured Area

Bldg. 00426
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520005
Status: Excess
Reason: Secured Area

Bldg. 00427
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520006
Status: Excess
Reason: Secured Area

Bldg. 00429
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520007
Status: Excess
Reason: Secured Area

Bldg. 00430
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Landholding Agency: Navy
Property Number: 779520008
Status: Excess
Reason: Secured Area

5 Bldgs.
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Location Include: #'s 00360, 00415, 00419, 00423, 00414
Landholding Agency: Navy
Property Number: 779520009
Status: Excess
Reason: Secured Area

5 Bldgs.
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Location Include: #'s 00428, 00359, 00362, 00369, 00409
Landholding Agency: Navy
Property Number: 779520010
Status: Excess
Reason: Secured Area

5 Bldgs.
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Location Include: #'s 00367, 00416, 00425, 00365, 00368
Landholding Agency: Navy
Property Number: 779520011
Status: Excess
Reason: Secured Area

4 Bldgs.
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Location Include: #'s 00370, 00371, 00385, 00404
Landholding Agency: Navy
Property Number: 779520012
Status: Excess
Reason: Secured Area

4 Bldgs.
Naval Air Weapons Station
China Lake Co: Kern CA 93555–
Location Include: #'s 00412, 00433, 00434, 00435
Landholding Agency: Navy
Property Number: 779520013
Status: Excess
Reason: Secured Area

Montana

Barn/Garage
316 N. 26th Street
Billings Co: Yellowstone MT
Landholding Agency: Interior
Property Number: 619520022
Status: Excess
Reason: Extensive deterioration

[FR Doc. 95–9729 Filed 4–20–95; 8:45 am]

BILLING CODE 4310–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Information Collections Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest for the reasons given below. Approval has been requested by May 1, 1995. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1004–0011), Washington, D.C. 20503, telephone 202–395–7340.

Title: Jobs-in-the-Woods Employment Evaluation

OMB approval number:

Abstract: Four items of information will be requested in each Jobs-in-the-Woods contract issued, for the contractor to respond to at the close of the contract:

(1) Number of workers employed on the contract including managers, supervisors and support.

(2) Number of days these workers worked on the contract (total based on an eight hour work day).

(3) Total amount of wages and benefits paid to these workers.

(4) Number of workers, if any, considered to be displaced timber workers.

The information collected will be used by Federal land management agencies, Department-level officials in the Departments of Agriculture and Interior, White House officials, and Congress to gauge the effectiveness in achieving the intent of Federal appropriations for the Jobs-in-the-Woods program. The consequence of not having the information is that the outcome of the Jobs-in-the-Woods program will remain unknown and speculative. Adjustments to the program cannot be knowledgeably made in the absence of this information.

Reason for expedited review: To be able to include the contract clause into all Jobs-in-the-Woods contracts beginning in Fiscal Year 1995.

Bureau form number: Not applicable

Frequency: Once

Description of respondents: Businesses awarded Jobs-in-the-Woods contracts under the President's Northwest Economic Adjustment Initiative.

Estimated completion time: One half hour

Annual responses: 400

Annual burden hours: 200

Bureau clearance officer: Wendy Spencer, 303–236–6642

Charles E. Wassinger,

Associate State Director, Bureau of Land Management, Oregon/Washington.

[FR Doc. 95–9787 Filed 4–20–95; 8:45 am]

BILLING CODE 4310–33–M

[WY–040–05–1310–01]

Expanded Moxa Arch Area Natural Gas Development Project, Sweetwater, Lincoln, and Uinta Counties, WY; Availability of Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior—Lead Agency; Bureau of Reclamation, Interior—Cooperating Agency.

ACTION: Notice of availability of Draft Environmental Impact Statement (EIS).

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Expanded Moxa Arch Area Natural Gas Development Project Draft EIS which analyzes the environmental consequences of the Moxa Arch operators proposal to continue to drill additional development wells in their leased acreage within the Moxa Arch oil and gas development area of southwestern Wyoming. The Moxa analysis area includes portions of western Sweetwater, southwestern Lincoln, and northeastern Uinta Counties, Wyoming. The project area is generally located within Townships 15 through 23 North, Ranges 111 through 113 West, 6th Principal Meridian. The area is accessed by Interstate 80 and U.S. Highway 30. Access to the interior of the Moxa analysis area is provided by an extensive road network developed to service prior and on-going drilling and production activities.

DATES: Comments on the draft EIS will be accepted for 45 days following the date that the Environmental Protection Agency (EPA) publishes their Notice of Availability in the Federal Register. The EPA notice is expected to be published on April 28, 1995. There are presently no plans to hold a public hearing on the Expanded Moxa Arch Area Natural Gas Development Project draft EIS because of apparent lack of unresolved substantial environmental controversy concerning the proposed project. Reviewers are encouraged to visit the local BLM offices in Cheyenne, Rock Springs, and Kemmerer, Wyoming, and talk with the managers about any concerns. If enough people indicate a desire to testify by returning the tear-out sheet provided in the draft EIS, a public hearing(s) will be scheduled. Information on the hearing(s) will be published in State and local newspapers and other media sources, and direct mailing to the recipients of the draft EIS to give the public enough notice.

ADDRESSES: Comments on the draft EIS should be sent to Bureau of Land Management, Bill McMahan (Project Coordinator), P.O. Box 1869, Rock Springs, WY 82902–1869.

SUPPLEMENTARY INFORMATION: The draft EIS analyzes a proposed action, one development alternative, and the no action alternative. The proposal by the Moxa Arch operators is to continue to drill additional development wells in their leased acreage within the Moxa Arch oil and gas development area of southwestern Wyoming. The Moxa Arch operators include Amoco Production Company, Union Pacific Resources Company, Wexpro/Celsius Energy Company, Bannon Energy, Marathon Oil Company, Presidio Exploration, and other companies (collectively referred to as the Moxa Operators). Lands associated with the additional drilling program include those previously analyzed in the Amoco Production Company Moxa Arch Natural Gas Production Environmental Assessment (EA) and Decision Record (DR) (USDI–BLM 1991) and the supplemental EA and DR to the Amoco Production Company Moxa Arch Natural Gas Production Project (USDI–BLM 1992). Additional areas analyzed in the EIS include lands north and south of the area analyzed in the previous EAs. The additional area combined with the lands analyzed in the previous two environmental analysis documents form the Expanded Moxa Arch Natural Gas Development (Moxa) analysis area (approximately 476,261 acres).

The Moxa analysis area includes portions of western Sweetwater, southwestern Lincoln, and northeastern Uinta Counties, Wyoming. The project area is generally located within Townships 15 through 23 North, Ranges 111 through 113 West, 6th Principal Meridian. The area is accessed by

VOL 60 ISS 77 AP 21 1995 UMI

Interstate 80 and U.S. Highway 30. Access to the interior of the Moxa analysis area is provided by an extensive road network developed to service prior and on-going drilling and production activities. The Moxa Arch Field is located in an area of checkerboard land ownership with approximately 55 percent Federal, 42 percent private, and 3 percent State. An extensive infrastructure of roads and pipelines for natural gas production is already in place within the Moxa Arch Development Area.

Over the next 10 years, the Moxa Operators propose to drill up to 1,325 additional infill wells, where 957 wells are presently active, to allow for the maximum recovery of natural gas from existing Federal, State, and private oil and gas leases. Additional roads and pipelines would be necessary to link the wells with existing transportation pipelines. Drilling estimates were based on the Moxa operators reasonable expectations that the "tight-gas" formation in this area could be developed at a average level of four wells per section within the "proven" production area and up to two wells per section within the "flank" area. A portion of the project area is presently developed on a 160 acre spacing (four wells per 640 acres). The Moxa Operators' plans and drilling schedules would be contingent upon both an increased demand for natural gas supplies in response to the Clean Air Act amendments of 1990 and an adequate price for the gas at the wellhead. The draft EIS describes the physical, biological, cultural, historic, and socio-economic resources in and surrounding the project area. The focus for impact analysis was based upon resource issues and concerns identified during public scoping. Potential impacts of concern from development were to livestock forage; recreation associated with Fontenelle Reservoir; crucial big game winter range and antelope migrations; sage grouse and raptor breeding and nesting; special status plant and wildlife species; soil erosion and sediment increases to the Hams Fork, Blacks Fork, and Green Rivers; groundwater contamination; Oregon, Mormon Pioneer, Pony Express, and California Historic Trails condition and viewshed; and cumulative effects.

This draft EIS, in compliance with Section 7(c) of the Endangered Species Act (as amended), includes the Biological Assessment for the purpose of identifying any endangered or threatened species which are likely to be affected by the proposed action.

Dated: April 14, 1995?

Alan R. Pierson,

State Director.

[FR Doc. 95–9861 Filed 4–20–95; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Availability of Plan of Operations and Environmental Assessment for Conversion of the Alamosa-Sanford No. 11 Gas Well to a Salt Water Disposal System; Mustang Oil and Gas Corporation, Lake Meredith National Recreation Area, Hutchinson County, TX

Notice is hereby given in accordance with § 9.52(b) of Title 36 of the Code of Federal Regulations that the National Park Service has received from Mustang Oil and Gas Corporation a Plan of Operations for converting the Alamosa-Sanford No. 11 gas well to a salt water disposal system within Lake Meredith National Recreation Area, Hutchinson County, Texas.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, 419 East Broadway, Fritch, Texas; and the Southwest Regional Office, National Park Service, 1220 South St. Francis Drive, Room 211, Santa Fe, New Mexico. Copies are available from the Superintendent, Lake Meredith National Recreation Area/Alibates Flint Quarries National Monument, Post Office Box 1438, Fritch, Texas 79036, and will be sent upon request.

Dated: April 13, 1995.

Richard C. Niemeyer,

Regional Director, Southwest Region.

[FR Doc. 95–9920 Filed 4–20–95; 8:45 am]

BILLING CODE 4310–70–M

Santa Fe National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Santa Fe National Historic Trail Advisory Council will be held May 11–12, 1995, at 8:15 a.m., in the Best Western Silver Spur, 1510 W. Wyatt Earp, Business Highway 50, Dodge City, Kansas.

The Santa Fe National Historic Trail Advisory Council was established pursuant to Public Law 90–543 establishing the Santa Fe National Historic Trail to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, as well as administrative matters.

The matters to be discussed include:

—Review of interpretive planning matters.
—Cultural resources management.
—Fundraising proposals.
—Status of certification projects and agreements with cooperators.
—Historical research projects.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with David Gaines, Superintendent.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact David Gaines, Superintendent, Long Distance Trails Group Office-Santa Fe, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87504–0728, telephone 505/988–6888. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Superintendent, located in Room 358, Pinon Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

Dated: April 6, 1995.

Jerry L. Rogers,

Regional Director, Southwest Region.

[FR Doc. 95–9919 Filed 4–20–95; 8:45 am]

BILLING CODE 4310–70–M

Availability of Draft Wild and Scenic River Eligibility Report for the Wallowa River, OR

AGENCY: National Park Service, Interior.

ACTION: Publication of draft report for public comment.

SUMMARY: The National Park Service is publishing for public review and comment a draft study report on designating the Wallowa River, Oregon, into the National Wild and Scenic Rivers System. The National Park Service has found that the lower Wallowa River is eligible for the national system and is recommending that the river be designated.

DATES: Comments must be postmarked by June 7,1995.

ADDRESSES: Copies of the draft report are available for public inspection at: National Park Service, 909 First Avenue, 4th Floor, Seattle, Washington 98104–1060; National Park Service, 800 North Capitol Street, NW., Suite 490, Washington, DC 20013–7127; and U.S. Forest Service, Wallowa-Whitman National Forest, 1550 Dewey Avenue, Baker City, Oregon 97814. Hours of availability are between 8:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Additional copies for review are located in the Baker City, Elgin, Enterprise, Joseph, and LaGrande, Oregon, libraries during normal hours of operation. Copies of the draft report may be obtained from Dan Haas, National Park Service, Pacific Northwest Regional Office, 909 First Avenue, Seattle, Washington 98104–1060, (206) 220–4120.

Comments should be directed to the National Park Service, Pacific Northwest Regional Office, attention Dan Haas at the address above.

FOR FURTHER INFORMATION CONTACT: Dan Haas, National Park Service, Pacific Northwest Regional Office, 909 First Avenue, Seattle, Washington 98104–1060, (206) 220–4120.

SUPPLEMENTARY INFORMATION: On December 29, 1994, Oregon Governor Barbara Roberts petitioned the Secretary of the Interior to add a 10-mile reach of the Wallowa River to the National Wild and Scenic Rivers System. The section of river under consideration extends from the confluence of the Wallowa and Minam Rivers in the hamlet of Minam (river mile 10.0) downstream to the confluence of the Wallowa and Grande Ronde Rivers (river mile 0.0). Under section 2(a)(ii) of the National Wild and Scenic Rivers Act (P.L. 90–542, as amended), the Secretary has the authority to add a river to the national system at the request of a state, provided the state has met certain conditions and the river meets eligibility criteria. These preconditions are:

(1) The river is already designated into a state river protection system.

(2) The state has the ability to manage the river at no cost to the federal government, except for those lands already in federal ownership.

(3) The river has resources of regional or national significance and is free-flowing as defined by the Departments of the Interior and Agriculture.

(4) The state has adequate mechanisms in place to protect the resources for which the river is eligible in the first place.

Upon the request of a state governor to the Secretary, the National Park Service, acting for the Secretary, undertakes an evaluation of the state's request. The National Park Service requested the assistance of the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) in the preparation of the report. This was done for two reasons: (1) The BLM currently administers 41% of the area under consideration; and (2) the USFS recently completed a wild and scenic assessment—and an environmental impact statement on the impacts of designation—at the request of Congress through the 1988 Oregon Omnibus Rivers Act. The National Park Service acted as a cooperating agency in the preparation of the USFS report. In addition, the BLM and USFS have an adopted river management plan in place for the Wallowa River. Both the BLM and the USFS acted as cooperating agencies in this assessment on behalf of the state.

As a result of the evaluation, the National Park Service has concluded that the state of Oregon has met all requirements to include the Wallowa River in the national system and the river itself meets all eligibility criteria. The National Park Service is tentatively recommending that the Secretary designate the Wallowa as a National Recreational River.

Dated: April 17, 1995.

Roger G. Kennedy,

Director, National Park Service.

[FR Doc. 95–9918 Filed 4–20–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. The name of the parent corporation is: ProSource, Inc. The principal office address of the parent corporation is: 550 Biltmore Way, 10th Floor, Coral Gables, FL 33134.

2. The wholly-owned subsidiary of ProSource, Inc. which will participate in the operations is:

Name	State of incorporation
ProSource Services Corporation d/b/a ProSource Distribution Services.	Delaware.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9916 Filed 4–20–95; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–1 (Sub-No. 262X)]

Chicago and North Western Railway Co.—Abandonment Exemption—Albert Lea Spur, in Freeborn County, MN

Chicago and North Western Railway Company (C&NW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its line of railroad, known as the Albert Lea Spur, in Freeborn County, MN. The line extends from milepost 119.3 to milepost 120.5, near Albert Lea, a distance of approximately 1.2 miles.[1]

C&NW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) all overhead traffic previously routed over this line has recently been rerouted to alternate lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 21, 1995, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2]

[1] C&NW states that the involved line segment is an unused industrial spur and that the track was formerly part of a longer C&NW line. It cites *The Atchison, Topeka and Santa Fe Railway Company—Abandonment Exemption—In Lyon County, KS*, Docket No. AB–52 (Sub-No. 71X) (ICC served June 17, 1991) for the proposition that Commission approval is required for abandonment of the track because of its prior main line status.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its

Continued

VOL 60 ISS 77 AP 21 1995 UMI

formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by May 1, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 11, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Stuart F. Gassner, 165 North Canal St., Chicago, IL 60606–1551.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

C&NW has filed an environmental report which addresses the abandonment's effects, if any, on environmental and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by April 26, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 17, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–9917 Filed 4–20–95; 8:45 am]

BILLING CODE 7035–01–P

request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

[AAG/A Order No. 101–95]

Privacy Act of 1974; New System

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice, Federal Bureau of Prisons, proposes to establish a new system of records entitled "Telephone Activity Record System (JUSTICE/BOP–011)."

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be provided a 30-day period in which to comment on the routine uses of a new system; the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires that it be given a 40-day period in which to review the system.

Therefore, please submit any comments by May 22, 1995. The public, OMB and Congress are invited to send written comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with Privacy Act requirements, the Department of Justice has provided a report on the proposed system to OMB and the Congress.

Dated: April 6, 1995.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/BOP–11

SYSTEM NAME:

Telephone Activity Record System, Justice/BOP–011.

SYSTEM LOCATIONS:

Bureau of Prisons (BOP) Central Office, 320 First Street, NW., Washington, DC 20534;

BOP Northeast Regional Office, U.S. Customs House, 7th Floor, 2nd and Chestnut Street, Philadelphia, Pennsylvania, 19106;

BOP Mid-Atlantic Regional Office, Junction Business Park, 10010 Junction Drive, Suite 100N, Annapolis Junction, Maryland 20701;

BOP Southeast Regional Office, 523 McDonough Boulevard, Atlanta, Georgia 30315;

BOP North Central Regional Office, Gateway Complex, Inc., Tower II, 8th Floor, 4th and State Avenue, Kansas City, Kansas 66101–2492;

BOP South Central Regional Office, 4211 Cedar Springs Road, Suite 300, Dallas, Texas 75219;

BOP Western Regional Office, 7950 Dublin Boulevard, 3rd Floor, Dublin, California 94568.

In addition, records may be retained at any of the BOP institutions located within the regions. A complete list may be found in 28 CFR part 503.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former inmates, including pre-trial detainees, under the custody of the Attorney General. Recipients of telephone calls from current and former inmates. Individuals on the approved telephone lists of current or former inmates. Individuals who request, in writing, that the BOP delete their name and telephone number from inmate telephone lists.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Personal identification data; (2) accounting data, including amounts deposited by the inmate, call charges, and account balances; (3) telephone call data, including date, time, and duration of each call; the name and register number of the inmate who placed the call; and the telephone number and name of the call recipient and his/her relationship to the inmate, and audiotapes of telephone calls; and (4) investigatory data developed internally as well as any related data collected from Federal, State, local and foreign law enforcement agencies, and from Federal and State probation and judicial offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

18 U.S.C. 2510 et. seq., 3621, 4003, 4042 and 4082.

PURPOSE:

This system of records is maintained to manage financial records relating to inmate calls and to ensure that inmates exercise their telephone privileges in a manner consistent with correctional goals. The related uses for which BOP will maintain the system include (1) accounting of inmate funds for telephone use; (2) maintaining inmate telephone lists; (3) monitoring of inmate telephone activity; and (4) conducting investigations, e.g., investigations of inmate funds as related to telephone usage, and/or illegal activities or suspected illegal activities being conducted, coordinated, or directed from within a Federal correctional institution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information will be disclosed from this system as follows:

a. To Federal, State, local and foreign law enforcement officials for law enforcement needs such as civil court actions, regulatory proceedings, responding to an emergency, inmate disciplinary proceedings in the course of apprehensions or other disposition; or for such law enforcement needs as prison administration, investigations, and possible criminal prosecutions, including possible criminal violations discovered as part of telephone monitoring done for the safety, security and good order of penal institutions. Such telephone monitoring information will be disclosed only in accordance with the provisions of the Federal wiretap statutes contained in 18 U.S.C. 2510 et. seq. and BOP implementing policy.

b. To a court or adjudicative body before which the Department and/or BOP is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by BOP to be arguably relevant to the litigation: (i) BOP, or any subdivision thereof, or (ii) any employee of BOP in his or her official capacity, or (iii) any employee of BOP in his or her individual capacity where the Department of Justice has agreed to provide representation for the employee, or (iv) the United States, where BOP determines that the litigation is likely to affect it or any of its subdivisions.

c. To contractors and subcontractors responsible for maintaining telephone service to Federal inmates to the extent necessary to perform contractual duties.

d. To Members of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of a record subject.

e. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

f. To the National Archives and Records Administration and to the General Services Administration during a records management inspection conducted under 44 U.S.C. 2904 and 2906.

g. To affected non-inmate record subjects to the extent necessary to provide such persons with information concerning placement and/or removal from an inmate's telephone list.

h. To any person or entity to the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury.

i. To an administrative forum, which may or may not include an Administrative Law Judge, or which may or may not convene public hearings/proceedings, or to other established adjudicatory or regulatory agencies, e.g., the Merit Systems Protection Board, the National Labor Relations Board, or other agencies with similar or related statutory responsibilities, where necessary to adjudicate decisions affecting individuals who are the subject of BOP investigations, including (but not limited to) decisions to effect any necessary remedial actions, e.g., disciplinary and/or other appropriate personnel actions, and/or other law enforcement related actions, where appropriate; to protect the privacy of the individuals, information provided will be sanitized as warranted and/or protective order may be requested to prevent further dissemination.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored in electronic media via a configuration of personal computer, client/server, and mainframe systems architecture and may be accessible by those with a need-to-know at all BOP facilities. Some information may be stored on other computerized media, e.g., hard disk, floppy diskettes, magnetic tape and/or optical disks. Documentary records are maintained in manual file folders and/or on index card files.

RETRIEVABILITY:

Records may be retrieved by identifying data including name and/or register number of inmate; and/or by name and/or telephone number of call recipient or individual on approved inmate telephone list.

SAFEGUARDS:

Manual records are stored in locked filing cabinets or in safes and can be accessed only by authorized personnel by key or combination formula. Automated equipment is kept in secured rooms and can be accessed only by authorized personnel through passwords and identification codes. All records are maintained in guarded buildings.

RETENTION AND DISPOSAL:

Automated records in this system are maintained on magnetic medium ordinarily for six years from the date created, at which time they will be overwritten with new data. Paper documents are maintained for a period of 30 years from expiration of sentence of the inmate, at which time they are destroyed by shredding. Audiotapes are maintained ordinarily for six months from the date created, at which time they are overwritten with new data.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Administration Division, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534.

NOTIFICATION PROCEDURE:

The major part of this system is exempt pursuant to 5 U.S.C. 552a(j)(2). Inquiries should be directed pursuant to the "Record Access Procedures" listed below.

RECORD ACCESS PROCEDURES:

All requests for records may be made by writing to the System Manager identified above, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. The envelope should be clearly marked "Freedom of Information/Privacy Act Request." This system of records is exempted from access pursuant to 5 U.S.C. 552a(j)(2). A determination as to the applicability of the exemption to a particular record(s) shall be made at the time a request for access is received.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

Individuals covered by the system; BOP staff; Federal, State, local and foreign law enforcement agencies; and Federal/State probation and judicial offices.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (2) and (3), (e) (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the **Federal Register**.

[FR Doc. 95–9806 Filed 4–20–95; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

April 18, 1995.

The Department of Labor has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act (44 U.S.C. Chapter 35) of 1980, as amended (Pub. L. 96–511). Copies may be obtained by calling the Department of Labor Departmental Clearance Officer, Kenneth A. Mills ((202) 219–5095). Comments and questions about the ICRs listed below should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW.,

VOL 60 ISS 77 AP 21 1995 UMI

Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Bureau of Labor Statistics, Office of Management and Budget, Room 10325, Washington, DC 20503 ((202) 395–7316).

Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Type of Review: *Reinstatement*
Agency: Bureau of Labor Statistics
Title: Current Point of Purchase Survey Computer Assisted Telephone Interview
OMB Number: 1220–0140
Frequency: Quarterly
Affected Public: Individuals or households
Number of Respondents: 17,583
Estimated Time Per Respondent: 12.6 minutes
Total Burden Hours: 3,696
Description: The Current Point of Purchase Survey (CPP), Computer Assisted telephone Interview (CATI) is used to develop and maintain a timely list of retail, wholesale, and service establishments (outlets) where people shop. The list of outlets produced from the survey serves as a sampling frame from which the Bureau of Labor Statistics selects places to price items in the Consumer Price Index (CPI) market basket. The 1995–1996 CPP/CATI survey data are necessary to obtain a list of outlets for new and redefined items that will be introduced to the CPI market basket for the 1998 revised index.

Theresa M. O'Malley,
Acting Departmental Clearance Officer.
[FR Doc. 95–9923 Filed 4–20–95; 8:45 am]
BILLING CODE 4510–24–M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: May 11, 1995, 10:00 a.m.–12:00 noon, U.S. Department of Labor, Room N–4437 B&C, 200 Constitution Ave., NW., Washington, DC 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 219–4752.

Signed at Washington, DC this 17th day of April, 1995.

Joaquin Otero,
Deputy Under Secretary International Affairs.
[FR Doc. 95–9922 Filed 4–20–95; 8:45 am]
BILLING CODE 4510–28–M

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA950001 (Feb. 10, 1995)
MA950003 (Feb. 10, 1995)
MA950005 (Feb. 10, 1995)
MA950007 (Feb. 10, 1995)
MA950010 (Feb. 10, 1995)
MA950012 (Feb. 10, 1995)
MA950013 (Feb. 10, 1995)
MA950017 (Feb. 10, 1995)
MA950018 (Feb. 10, 1995)
MA950019 (Feb. 10, 1995)
MA950020 (Feb. 10, 1995)
MA950021 (Feb. 10, 1995)
Maine
ME950026 (Feb. 10, 1995)
New York
NY950003 (Feb. 10, 1995)
NY950006 (Feb. 10, 1995)
NY950042 (Feb. 10, 1995)

Volume II

Maryland
MD950011 (Feb. 10, 1995)
MD950012 (Feb. 10, 1995)
West Virginia
WV950018(Feb.24,1995)

Volume III

Tennessee
TN950059(Mar.17,1995)

Volume IV

Illinois
IL950012 (Feb. 10, 1995)
IL950014 (Feb. 10, 1995)
Indiana
IN950002 (Feb. 10, 1995)
IN950003 (Feb. 10, 1995)
IN950004 (Feb. 10, 1995)
IN950006 (Feb. 10, 1995)
Minnesota
MN950005 (Feb. 10, 1995)
MN950007 (Feb. 10, 1995)
MN950008 (Feb. 10, 1995)
MN950015 (Feb. 10, 1995)
MN950027 (Feb. 10, 1995)
MN950031 (Feb. 10, 1995)
MN950035 (Feb. 10, 1995)
MN950039 (Feb. 10, 1995)
MN950043 (Feb. 10, 1995)
MN950046 (Feb. 10, 1995)
MN950048 (Feb. 10, 1995)
MN950061 (Feb. 10, 1995)

Volume V

Louisiana
LA950001 (Feb. 10, 1995)
LA950004 (Feb. 10, 1995)
LA950005 (Feb. 10, 1995)
LA950009 (Feb. 10, 1995)
LA950014 (Feb. 10, 1995)
LA950015 (Feb. 10, 1995)
LA950018 (Feb. 10, 1995)

Volume VI

Colorado
CO950001 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 14th day of April 1995.

Alan L. Moss,
Director, Division of Wage Determinations.
[FR Doc. 95–9658 Filed 4–20–95; 8:45 am]
BILLING CODE 4510–27–M

Employment and Training Administration

Wagner-Peyser Act Final Planning Allotments for Program Year (PY) 1995

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final planning allotments for Program Year (PY) 1995 (July 1, 1995, through June 30, 1996) for basic labor exchange activities provided under the Wagner-Peyser Act.

FOR FURTHER INFORMATION CONTACT: John Robinson, Deputy Assistant Secretary, U.S. Employment Service, 200 Constitution Avenue, NW, Room N–4470, Washington DC 20010. Telephone: (202) 219–5257 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with Section 6(b)(5) of the Wagner-Peyser Act, the Employment and Training Administration is publishing final planning allotments for each State for Program Year (PY) 1995 (July 1, 1995, through June 30, 1996). Preliminary planning estimates were provided to each State on December 19, 1994. Funds are distributed in accordance with formula criteria established in Section 6 (a) and (b) of the Wagner-Peyser Act. Civilian labor force (CLF) and unemployment data for Calendar Year 1994 are used in making the formula calculations.

The total amount of funds currently available for distribution is $845,912,000. The Secretary of Labor set aside 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required by Section 6(b)(4) of the Act. In accordance with this provision, $24,791,040 is set aside for administrative formula allocation. These funds are included in the total planning allotment. The funds that are set aside are distributed in two steps to States which have lost in relative share of resources from the prior year. In Step 1, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. The remainder is distributed in Step 2 to all other States losing in relative share from the prior year but which do not meet the size and density criteria for Step 1.

Postage costs incurred by States during the conduct of employment service (ES) activities are billed directly to the Department of Labor by the U.S. Postal Service. The total final planning allotment reflects $19,544,000, or 2.31 percent of the total amount available, withheld from distribution to finance postage costs associated with the conduct of ES business. Ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public ES offices; services for groups with special needs; and for the extra costs of exemplary models for delivering job services.

Differences between preliminary planning estimates and final planning allotments are caused by: (1) An additional $2.5 million distributed to the States and Guam and the Virgin Islands due to postage savings related to U.S. Postal Services changes methodology of calculating charges and improved State mail management practices, and (2) the use of Calendar Year 1994 data as opposed to the earlier data (12 months ending September 1994) used for preliminary planning estimates.

Signed at Washington, DC, this 17th day of April, 1995.

John Robinson,
Deputy Assistant Secretary, U.S. Employment Service.
BILLING CODE 4510–30–M

VOL
60
ISS
77
AP
21
1995
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U.S. Department of Labor
Employment and Training Administration
Final PY 1995 Employment Service Allotments to States

	PY 1995
Total	$45,912,000
Alabama	11,846,638
Alaska	8,983,014
Arizona	11,569,261
Arkansas	6,836,494
California	100,856,814
Colorado	10,298,867
Connecticut	10,215,358
Delaware	2,308,190
District of Columbia	4,475,318
Florida	40,192,597
Georgia	19,481,812
Hawaii	3,332,360
Idaho	7,484,450
Illinois	35,623,216
Indiana	16,485,771
Iowa	8,120,319
Kansas	7,300,944
Kentucky	10,353,194
Louisiana	12,309,780
Maine	4,450,932
Maryland	14,927,991
Massachusetts	19,154,900
Michigan	28,489,257
Minnesota	13,259,523
Mississippi	7,436,410
Missouri	15,085,490
Montana	6,116,331
Nebraska	7,350,627
Nevada	5,945,717
New Hampshire	3,605,723
New Jersey	24,194,526
New Mexico	6,863,599
New York	52,682,743
North Carolina	19,091,852
North Dakota	6,228,254
Ohio	31,697,187
Oklahoma	10,543,472
Oregon	9,301,849
Pennsylvania	34,785,796
Puerto Rico	10,360,384
Rhode Island	3,195,584
South Carolina	10,872,582
South Dakota	5,756,339
Tennessee	14,210,690
Texas	54,896,894
Utah	12,589,812
Vermont	2,696,599
Virginia	18,488,988
Washington	16,096,539
West Virginia	6,588,699
Wisconsin	14,866,867
Wyoming	4,466,047
Guam	386,676
Virgin Islands	1,627,722
Postage	19,544,000

U.S. DEPARTMENT OF LABOR
EMPLOYMENT AND TRAINING ADMINISTRATION
FINAL PY 1995 WAGNER–PEYSER ALLOTMENTS TO STATES

State	Basic Formula	3% Distribution Step 1*	3% Distribution Step 2**	3% Distribution Total	Total Allotment
Alabama	11,611,137	0	235,501	235,501	11,846,638
Alaska	7,841,578	1,141,436	0	1,141,436	8,983,014
Arizona	11,569,261	0	0	0	11,569,261
Arkansas	6,667,902	0	168,592	168,592	6,836,494
California	100,856,814	0	0	0	100,856,814
Colorado	10,298,867	0	0	0	10,298,867
Connecticut	9,629,556	0	585,802	585,802	10,215,358
Delaware	2,238,775	0	69,415	69,415	2,308,190
District of Columbia	4,076,180	0	399,138	399,138	4,475,318
Florida	40,192,597	0	0	0	40,192,597
Georgia	19,481,812	0	0	0	19,481,812
Hawaii	3,332,360	0	0	0	3,332,360
Idaho	6,533,431	951,019	0	951,019	7,484,450
Illinois	33,661,571	0	1,961,645	1,961,645	35,623,216
Indiana	16,485,771	0	0	0	16,485,771
Iowa	7,831,442	0	288,877	288,877	8,120,319
Kansas	7,300,944	0	0	0	7,300,944
Kentucky	10,073,255	0	279,939	279,939	10,353,194
Louisiana	12,309,780	0	0	0	12,309,780
Maine	3,885,370	565,562	0	565,562	4,450,932
Maryland	14,620,763	0	307,228	307,228	14,927,991
Massachusetts	18,175,469	0	979,431	979,431	19,154,900
Michigan	27,002,054	0	1,487,203	1,487,203	28,489,257
Minnesota	13,158,851	0	100,672	100,672	13,259,523
Mississippi	7,410,660	0	25,750	25,750	7,436,410
Missouri	14,450,295	0	635,195	635,195	15,085,490
Montana	5,339,153	777,178	0	777,178	6,116,331
Nebraska	6,416,613	934,014	0	934,014	7,350,627
Nevada	5,190,218	755,499	0	755,499	5,945,717
New Hampshire	3,319,984	0	285,739	285,739	3,605,723
New Jersey	23,816,000	0	378,526	378,526	24,194,526
New Mexico	5,991,469	872,130	0	872,130	6,863,599
New York	51,421,243	0	1,261,500	1,261,500	52,682,743
North Carolina	18,811,103	0	280,749	280,749	19,091,852
North Dakota	5,436,855	791,399	0	791,399	6,228,254
Ohio	30,861,595	0	835,592	835,592	31,697,187
Oklahoma	9,603,135	0	940,337	940,337	10,543,472
Oregon	9,092,643	0	209,206	209,206	9,301,849
Pennsylvania	33,660,544	0	1,125,254	1,125,254	34,785,798
Puerto Rico	10,056,636	0	303,748	303,748	10,360,384
Rhode Island	3,062,581	0	133,003	133,003	3,195,584
South Carolina	10,611,515	0	261,067	261,067	10,872,582
South Dakota	5,024,904	731,435	0	731,435	5,756,339
Tennessee	14,210,690	0	0	0	14,210,690
Texas	54,896,894	0	0	0	54,896,894
Utah	10,999,075	1,589,737	0	1,589,737	12,589,812
Vermont	2,353,953	342,646	0	342,646	2,696,599
Virginia	18,368,887	0	120,101	120,101	18,488,988
Washington	15,832,645	0	263,894	263,894	16,096,539
West Virginia	5,751,499	837,200	0	837,200	6,588,699
Wisconsin	14,866,867	0	0	0	14,866,867
Wyoming	3,898,595	567,452	0	567,452	4,466,047
FORMULA TOTAL	799,582,562	10,996,738	13,824,304	24,791,040	824,353,602
Guam	386,676	0	0	0	386,676
Virgin Islands	1,827,722	0	0	0	1,827,722
Indicia Postage	19,544,000	0	0	0	19,544,000
NATIONAL TOTAL	821,120,960	10,996,738	13,824,304	24,791,040	845,912,000

* Funds are allocated to the 13 States whose relative share decreased from PY 1994 to the PY 1995 basic formula amount and which have a Civilian Labor Force (CLF) below one million and are below the median CLF density. These States are held harmless at 100% of their PY 1994 relative share.

** The balance of the 3% funds are distributed to the remaining 27 States losing in relative share from PY 1994 to their PY 1995 total allotment amount.

[FR Doc. 95–9921 Filed 4–20–95; 8:45 am]
BILLING CODE 4510–30–C

VOL 60 ISS 77 AP 21 1995 UMI

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Rural Arts Initiative Section) to the National Council on the Arts will be held on May 16, 1995 from 9 a.m. to 5:30 p.m. in Room 714, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9 a.m. to 9:45 a.m. for opening remarks and a general program overview and from 3:30 p.m. to 5:30 p.m. for policy discussion.

Remaining portion of this meeting from 9:45 a.m. to 3:30 p.m. is for the purpose of panel review discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, this session will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9886 Filed 4–20–95; 8:45 am]

BILLING CODE 7537–01–M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Painting Fellowships Section) to the National Council on the Arts will be held on May 15–19, 1995. The panel will meet from 9 a.m. to 8 p.m. on May 15–18 and from 9:30 a.m. to 5 p.m. on May 19 in room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 3:30 p.m. to 5:00 p.m. on May 19 for a policy and guidelines discussion.

The remaining portions of this meeting from 9 a.m. to 8 p.m. on May 15–18 and from 9:30 a.m. to 3:30 p.m. on May 19 are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5946, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5433.

Dated: April 13, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–9887 Filed 4–20–95; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: May 9, 1995; 8:30 pm–5 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, room 330, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Gilbert B. Devey, Program Director, Biomedical Engineering & Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–9870 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Biological Sciences; Committee of Visitors; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences; Committee of Visitors.

Date and Time: Monday, May 8 through Tuesday, May 9, 1995; 8:30 a.m. to 5 p.m.

Place: The National Science Foundation, Rooms 630 and 680, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Dr. James H. Brown, Division Director for Biological Instrumentation and Resources, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: 703–306–1470.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Instrumentation and Instrument Development and the Field Stations and Marine Laboratories Programs in the Division of Biological Instrumentation and Resources.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9865 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Computer and Computation Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Computer and Computation Research.

Date and Time: May 8, 1995; 8:30 a.m.–5 p.m.

Place: Holiday Inn Arlington at Ballston, 4610 North Fairfax Dr., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Gerald L. Engel, Program Director, Special Projects, Computer and Computation Research, Room 1145, NSF, 4201 Wilson Blvd., Arlington, VA 22230, (703) 306–1910.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Division of Computer and Computation Research.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–9869 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: May 9–10, 1995, 8:30 am–5 pm.

Place: Rooms 675 and 680, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Deborah Crawford, Program Director, Solid State and Microstructures, Division of Electrical and Communications Systems, room 675, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Fort Monmouth-EPSD proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 18, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9912 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Graduate Education and Research Development; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Graduate Education and Research Development.

Date and Time: May 8–9, 1995; 8:30 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., room 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Roosevelt Y Johnson, Program Director, 4201 Wilson Blvd., room 907, Arlington, VA 22230. Telephone: 306–1690.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the Graduate Research Traineeships Program (GRT).

Agenda: Review and evaluate GRT proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–9871 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (DMR).

Date and Time: May 11 and 12, 1995, 8:30 am–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 530 and 580, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Lorretta J. Inglehart, Program Director, Division of Materials Research, room 1065, National Science Foundation, 4201 Wilson Blvd. Arlington, VA 22230. Telephone (703) 306–1817

Purpose of Meeting: To provide advice and recommendations concerning support for Instrument Development for Nano-Science and Engineering (NANO 95) proposals.

Agenda: Evaluation of proposals.

Reason for Closing: The proposals being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–9872 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: May 10–11, 1995, 9 a.m. to 5 p.m.

Place: National Science Foundation, Rm 310, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Laurence Stanford, Program Director, Developmental Neuroscience; Division of Integrative Biology

VOL 60 ISS 77 AP 21 1995 UMI

and Neuroscience, room 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: May 11, 11 a.m. to 12 p.m., to discuss research trends and opportunities in Developmental Neuroscience. Closed Session: May 10, 9 a.m. to 5 p.m.; May 11, 1995, 9 a.m. to 11 a.m., 12 p.m. to 5 p.m.; to Developmental Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b (c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 18, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9806 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Physics (#1208).

Date: May 11–12, 1995.

Place: Room 456, Cornell Theory Center, Cornell University, Ithaca, New York.

Type of Meeting: Closed.

Contact Person: Dr. Barry Schneider, Program Director, Theoretical Physics, Physics Division, room 1015, National Science Foundation, 4201 Arlington Blvd., Arlington, VA 22230. Telephone: (703) 306–1808.

Purpose of Meeting: To assess the recent progress, and future plans of the Black Hole Binaries Computational Grand Challenge Alliance, after its first year of operation.

Agenda: To review the initial physics and computer-science accomplishments, as well as the management, schedule, budget, and plans for the future.

Reason for Closing: The Project plans being reviewed include information of a proprietary nature or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9867 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Polar Programs; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Polar Programs(1209).

Date and Time: May 12, 1995; 8:30 am to 5 pm.

Place: Room 730, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Noel Broadbent, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1031.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Arctic Social Science proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individual associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9873 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Research, Evaluation and Dissemination Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Dissemination.

Date and Time: May 8, 1995; 8:30 a.m. to 5:30 p.m.

Place: Room 855, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Ms. Barbara Lovitts, Assistant Program Director, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. Telephone (703) 306–1652.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to the Research in Teaching and Learning Program.

Reason for Closing: Because the proposals reviewed include information of a proprietary or confidential nature, including technical information financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Governme nt in the Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9868 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Science and Technology Infrastructure; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L., 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel In Science and Technology. Infrastructure #1373.

Date and Time: May 11, 1995; 8 a.m.–6:30 p.m. May 12, 1995; 8:30 a.m.–12 noon.

Place: Room 1060, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Joseph Reed, National Science Foundation, Division of Chemistry, 4201 Wilson Blvd., room 1055, Arlington, VA 22230, (703) 306–1849.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the instrumentation component of the Academic Research Infrastructure Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552.b(C) (4) and (6) of the Government in Sunshine Act.

Dated: April 17, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–9866 Filed 4–20–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 11—Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.

3. The form number if applicable: Not applicable.

4. How often the collection is required: New applications, certifications, and amendments may be submitted at any time. Applications for renewal are submitted every 5 years.

5. Who will be required or asked to report: Employees (including applicants for employment), contractors and consultants of NRC licensees and contractors whose activities involve access to or control over special nuclear material at either fixed sites or in transportation activities.

6. An estimate of the number of responses: The majority of responses required under part 11 are submitted using Standard Form 86, Personnel Security Packet, OMB Clearance No. 3206–0007, and NRC Form 237, Request for Access Authorization, OMB Clearance No. 3150–0050. The response and burden information for those forms is reported separately under those clearances. The remaining number of responses under Part 11 is estimated to be 5.

7. An estimate of the total number of hours needed to complete the requirement or request: Approximately 0.25 hours annually per response, for an industry total of 1.25 hours annually.

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: NRC regulations in 10 CFR Part 11 establish requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. Personal history information which is submitted on applicants for relevant jobs is provided to OPM, which conducts investigations. NRC reviews the results of these investigations and makes determinations of the eligibility of the applicants for access authorization.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0062), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (302) 415–7233.

Dated at Rockville, Maryland, this 13th day of April 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–9890 Filed 4–20–95; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Revision.

2. The title of the information collection: 10 CFR Part 19, "Notices, Instructions, and Reports to Workers: Inspections and Investigations."

3. The form number if applicable: Not applicable.

4. How often the collection is required: As necessary in order that adequate and timely reports of radiation exposure be made to individuals involved in NRC-licensed activities.

5. Who will be required or asked to report: Licensees authorized to receive, possess, use, or transfer material licensed by the NRC.

6. An estimate of the number of annual responses: 401,000.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 33,417 (an average of 5 minutes per response).

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Title 10 of the Code of Federal Regulations, Part 19, requires licensees to advise workers on an annual basis of any radiation exposure they may have received as a result of NRC-licensed activities or when certain conditions are met. These conditions apply during termination of the worker's employment, at the request of a worker, former worker, or when the worker's employer (the NRC licensee) must report radiation exposure information on the worker to the NRC. Part 19 also establishes requirements for instructions by licensees to individuals participating in licensed activities and options available to these individuals in connection with Commission inspections of licensees to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, Title II of the Energy Reorganization Act of 1974, and regulations, orders and licenses thereunder regarding radiological working conditions.

The worker should be informed of the radiation dose he or she receives because: (a) That information is needed by both a new employer and the individual when the employee changes jobs in the nuclear industry; (b) the individual needs to know the radiation dose received as a result of an accident or incident (if this dose is in excess of the 10 CFR Part 20 limits) so that he or she can seek counseling about future work involving radiation, medical attention, or both, as desired; and (c) since long-term exposure to radiation may be an adverse health factor, the individual needs to know whether the accumulated dose is being controlled within NRC limits. The worker also needs to know about health risks from occupational exposure to radioactive materials or radiation, precautions or procedures to minimize exposure, worker responsibilities and options to report any licensee conditions which may lead to or cause a violation of Commission regulations, and individual radiation exposure reports which are available to him.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room 2120 L Street, NW. (Lower Level), Washington DC 20555–0001.

Comments and questions should be directed to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0044), NEOB–

VOL
60
ISS
77
AP
21
1995
UMI

10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 17th day of April 1995.

For the Nuclear Regulatory Commission

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–9891 Filed 4–20–95; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The NRC has recently submitted to the OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection: NRC Survey: Handling of Your Concern.

3. The form number if applicable: NRC Form 592.

4. How often the collection is required: Twice only (initial survey and a followup survey).

5. Who will be required or asked to report: Individuals who have submitted allegations to the NRC.

6. An estimate of the number of responses: 200.

7. An estimate of average burden per response: 20 minutes.

8. An estimate of the total number of hours needed to complete the requirement or request: 67.

9. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

10. Abstract: NRC plans to conduct a voluntary survey of individuals who have submitted allegations to the NRC to determine the effectiveness of its existing program and to develop training to address identified deficiencies.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555

Comments and questions should be directed to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 7th day of April, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95–9892 Filed 4–20–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–278]

PECO Energy Company Public Service Electric and Gas Company Delmarva Power and Light Company, Atlantic City Electric Company, Peach Bottom Atomic Power Station, Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Sections III.D.2.(a) and III.D.3 of Appendix J to 10 CFR Part 50, to PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, (the licensee), for the Peach Bottom Atomic Power Station (PBAPS), Unit 3, located at the licensee's site in York County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from 10 CFR Part 50, Appendix J, Sections III.D.2.(a) and III.D.3. Section III.D.2.(a) states, in part: "Type B tests, except tests for air locks, shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years." Section III.D.3 states: "Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years." The exemption would allow a one-time 60-day extension of the 2-year requirement. Hence, this exemption would allow the licensee to perform the testing in Sections III.D.2.(a) and III.D.3 during Unit 3's Cycle 10 refueling outage scheduled to begin no later than September 30, 1995.

The proposed action is in accordance with the licensee's application for exemption dated February 22, 1995.

Need for the Proposed Action

PBAPS, Unit 3 is utilizing a new core design which allows the intervals between reactor shutdowns for refueling to extend beyond the maximum allowable 2-year interval. Prior to the current operating cycle, local leak rate tests were performed in conjunction with an operating cycle of 18 months. Use of extended cycle core designs has been recognized as a growing trend in the industry as discussed in the staff's Generic Letter 91–04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle," dated April 2, 1991. The staff previously granted the licensee license amendments to allow PBAPS, Unit 3 to perform selected surveillances on a 24-month interval (see Amendment 173 dated August 19, 1992, and Amendment 182 dated August 2, 1993). However, the regulations cited by the licensee in the exemption request have not been revised to reflect the use of a 24-month operating cycle. Therefore, the licensee has requested an exemption in order to avoid a premature shutdown which would be needed to accomplish the testing and to properly schedule the testing during the refueling outage.

Environmental Impacts of the Proposed Action

The Commission has completed the evaluation of the proposed exemption and concludes that this action would not significantly increase the probability or amount of expected primary containment leakage; hence, the containment integrity would be maintained.

Based on the information presented in the licensee's application, the proposed extended test interval would not result in a non-detectable leakage rate in excess of the value established by 10 CFR Part 50, Appendix J, or in any changes to the containment structure or plant systems. Consequently, the probability of accidents would not be increased, nor would the post-accident radiological releases be greater than previously determined. Neither would the proposed exemption otherwise affect radiological plant effluents. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission concluded that there are no measurable environmental affects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternate Use of Resources

This proposed action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Peach Bottom Atomic Power Station, Units 2 and 3, dated April 1973.

Agencies and Persons Consulted

The staff consulted with the State of Pennsylvania regarding the environmental impact of the proposed action. The State Official had no comment.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated February 22, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at Government Publications Section, State Library of Pennsylvania, (Regional Depository) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 14th day of April 1994.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate, I–2 Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation

[FR Doc. 95–9893 Filed 4–20–95; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Safety Research Review Committee Meetings of Subcommittee on Instrumentation and Control (I&C) and Human Factors and Subcommittee on Research in Support of Risk-Based Regulation (PRA Subcommittee)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meetings.

The NSRRC I&C and Human Factors Subcommittee will hold a meeting on May 18 and 19, 1995 and the PRA Subcommittee on May 19, 1995. A part of the May 19 meeting will be a joint meeting of the two subcommittees. The meetings will take place in Room T–2B3, Two White Flint North (TWFN) Building, 11545 Rockville Pike, Rockville, MD.

The meetings will be open to public attendance.

The I&C and Human Factors Subcommittee will review human factors research programs. In the joint meeting, the two subcommittees will jointly review research related to representation of human performance and organizational factors in probabilistic risk assessments. After the joint meeting, the PRA subcommittee will review NRC probabilistic risk assessment policy and practice in relation to research needs.

The agenda will be as follows:

Thursday, May 18: I&C and Human Factors Subcommittee

8:30–10:00 Introduction; overview of human factors research.
10:15–11:45 Human-system interface; safety-related operator actions.
1:00–3:45 Human performance data collection, Halden human error project, communications, simulator training; radiation therapy; staffing projects.
3:45–5:00 Subcommittee discussion.

Friday, May 19: Joint Meeting of Both Subcommittees

8:00–8:30 Introduction, background.
8:30–9:45 Organizational performance measures and methods to include organizational factors in PRA.
10:00–11:45 Human performance measures.
11:45–12:00 Subcommittees discussion.
12:00 I&C and Human Factors Subcommittee adjourns at the conclusion of the joint meeting.

Friday, May 19, continued: PRA Subcommittee

1:15–1:30 Introductory remarks.
1:30–4:00 Update on PRA Policy Statement and PRA Implementation Plan.
4:00–5:00 Subcommittee discussion.

The Subcommittees will report to the full Committee on the facts and analyses discussed at the meetings

Detailed agenda will be made available at the meetings

Oral statements may be presented by members of the public with the concurrence of the presiding Subcommittee Chairman; written statements will be accepted and made available to the Subcommittee. Questions may be asked only by members of the Committee and the staff. Persons desiring to make oral statements should notify the Nuclear Regulatory Commission staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portions of the meetings, the Subcommittees may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittees will then hear presentations by and hold discussions with representatives of the NRC staff regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions, whether the meetings have been canceled or rescheduled, and the Chairmen's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to Mr. George Sege (telephone 301/415–6593) between 8:00 a.m. and 4:30 p.m. (EST). Persons planning to attend these meetings are urged to contact the above named individual one or two business days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: April 13 1995.

George Sege,

Technical Assistant to the Director Office of Nuclear Regulatory Research.

[FR Doc. 95–9895 Filed 4–20–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–309]

Maine Yankee Atomic Power Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity For a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–36 issued to Maine Yankee Atomic Power Company (the licensee) for operation of the Maine Yankee Atomic Power Station located in Lincoln County, Maine.

The proposed amendment would revise the Technical Specifications to allow the use of the Westinghouse Electric Corporation sleeving process for repairing steam generator tubes.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

VOL 60 ISS 77 AP 21 1995 UMI

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. The proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. With the sleeve dimensions, materials, and connecting joints to the existing tube designed to the applicable ASME Boiler and Pressure Vessel Code, the proposed sleeving repair acts as an in-kind substitution for the original steam generator tubing. The applicable design criteria for the sleeves conform to the stress limits and margins of Section III of the ASME Code. Safety factors of 3 for normal operation and 1.5 for accident conditions were applied to the design. Mechanical testing using the ASME Code stress allowables has been performed in support of the design. Based on the results of vendor analytical and test programs, the sleeves fulfill their intended function as leak tight structural members and meet or exceed all design criteria.

Evaluation of the proposed sleeved tubes indicates no detrimental effects on the sleeve or sleeve-tube assembly from reactor system flow, thermal conditions or transients, or pressure conditions or transients as may be experienced at the Maine Yankee plant. Field experience and corrosion testing of sleeve-tube assemblies indicate acceptable primary and secondary corrosion performance of the sleeve and parent tube under anticipated service conditions. Installation of the proposed sleeves (joined at the top by laser welding, and at the bottom by mechanical means) is controlled via the sleeving vendor's proprietary process and equipment. This process has been in use since 1989 for the installation of approximately 12,000 laser welded sleeves. The Maine Yankee steam generator design was reviewed and found to be compatible with the installation process and equipment. Installation of the proposed sleeves will have no significant effect on either plant configuration or operation.

The licensee therefore concludes that implementation of the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. As discussed above, the structural integrity, thermal characteristics, and material properties of the proposed sleeves are consistent with Maine Yankee's steam generators. Therefore, the functions of the steam generators will not be significantly affected by installation of the proposed sleeves. In addition, the proposed sleeves do not interact with any other plant systems. Finally, the continued integrity of installed sleeves is periodically verified by steam generator inspections required by plant Technical Specifications. The licensee therefore concludes that implementation of the proposed change will not create a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment would not involve a significant reduction in a margin of safety.

Repair of degraded steam generator tubes via the use of the proposed sleeves has been confirmed to restore the structural integrity of faulted tubes under normal operating and postulated accident conditions. The design safety factors used for the sleeves are consistent with ASME Code safety factors required in the design of Maine Yankee's steam generators. The repair limit for the proposed sleeves is consistent with that established for Maine Yankee's steam generators. The design of the sleeve-to-tube joint has been verified by testing to preclude significant leakage during normal and postulated accident conditions. Use of the previously identified design safety factors and design verification testing assures that margin to safety with respect to installation of the proposed sleeves is not significantly different from the original steam generator tubes.

The licensee therefore concludes that implementation of the proposed change would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW , Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 22, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Phillip F. McKee: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 14, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

Dated at Rockville, Maryland, this 17th day of April 1995.

For the Nuclear Regulatory Commission.

Edouard H. Trottier,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–9894 Filed 4–20–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35613; File No. SR–DTC–95–06]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Seeking to Modify the Same-Day Funds Settlement System to Accommodate the Overall Conversion to Same-Day Funds Settlement for Securities Transactions

April 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 22, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–95–06) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

VOL 60 ISS 77 AP 21 1995 UMI

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to convert DTC's current same-day funds[2] settlement ("SDFS") system Participants Fund to an all cash fund and to modify certain risk management controls and other features of the SDFS system. The proposed rule change is part of the conversion of DTC's entire money settlement system to an SDFS system. The Participants Fund for the next-day funds[3] settlement ("NDFS") system will not be affected by the proposed rule change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC currently processes the money settlements related to different types of securities transactions in either the NDFS system or the SDFS system. The NDFS system is used primarily for the money settlement of equity, corporate debt, and municipal debt issue transactions. The SDFS system began operation in 1987 and is used primarily for the money settlement of transactions in commercial paper and other money market instruments ("MMIs").[4]

DTC and the National Securities Clearing Corporation ("NSCC") jointly issued three memoranda which described DTC's and NSCC's respective plans for converting their payment system to SDFS.[5] DTC's sections of the memoranda described its plan to combine its NDFS and SDFS systems into a single system which will be based on the design of the current SDFS system with some modifications. DTC's and NSCC's plans are in accord with the 1989 recommendation of the international Group of Thirty[6] that all securities transactions should settle in same-day funds.[7]

All issues currently settling in DTC's NDFS system will be converted to the SDFS system on a single day, which DTC anticipates will occur in the fourth quarter of 1995 or the first quarter of 1996. In order to assure an efficient conversion, certain modifications to the current SDFS system will be implemented at various times during 1995 prior to the overall conversion date. The proposed rule change will implement a number of the modifications described in the 1994 Memorandum.

Currently, the SDFS system Participants Fund consists of cash and securities and has separate components for money market instruments and for other SDFS system securities. The proposed rule change seeks to convert DTC's SDFS system Participants Fund to an all cash fund with no separate component for the MMI Program.[8] The proposed rule change also seeks to decrease the minimum deposit to the SDFS system Participants Fund from $200,000 to $10,000 and to change the method of calculating a participant's required deposit.

The proposed SDFS Participants Fund formula bases each participant's required deposit on the amount of liquidity that the participant uses in the system. A participant's liquidity use is determined by a sixty day rolling average of the participant's intraday net debit peaks.[9] The proposed rule change will require a participant to deposit in the SDFS Participants Fund an amount equal to that participant's proportional liquidity needs.[10]

A: $10,000+($99,990,000×.799988)=	$80,000,800
B: $10,000+	
($199,990,000×.799988)=	159,999,600
C: $10,000+	
($199,990,000×.799988)=	159,999,600
	400,000,000

In addition, the proposed rule change seeks to modify certain risk management controls in the SDFS system. The method used to calculate the net debit cap for each participant will be changed[11] and the maximum net debit cap for each participant will be increased to $900,000,000 for approximately $580,000,000 today. The proposed rule change also seeks to add the Largest Provisional Net Credit ("LPNC") calculation control which is applied to a participant's net settlement balance and collateral monitor in order to protect DTC against the combined failure of an issuer of MMIs and a participant. The LPNC control creates a provisional or simulated net balance by withholding a participant's largest net settlement credit due to transactions in any single issuer's MMIs. The risk management controls will be applied to the provisional net balance that is created by the LPNC procedure, and transactions that cause the provisional net balance to violate those risk management controls will not be completed.[12]

The proposed rule change also seeks to modify certain aspects of DTC's Participant Operating Procedures on reclamations for both the NDFS and the SDFS systems,[13] the Receiver Authorized Delivery ("RAD") service[14] and the recycle algorithm for delivery orders.[15] The modified procedures provide for the validation of all delivery order and payment order reclaims by DTC's system and establish a minimum threshold of $15,000,000 for bilateral RAD limits. DTC also proposes to offer SDFS system users a second recycle option for delivery orders. Transactions that are recycled because of insufficient positions or management controls are currently prioritorized based on type of transaction and then size of transaction ("Option 1"). The second option will provide participants with the ability to choose whether pending transactions caused by an insufficient position would be recycled in the order in which they were entered (first in, first out) or in the Option 1 prioritization schedule.[16]

Most of the modifications to be implemented by the proposed rule change will be effective on dates to be specified by DTC in the second quarter of 1995. The control involving the LPNC calculation and the $15,000,000 threshold of bilateral RAD limits will be made effective on dates to be specified by DTC in the third quarter of 1995.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because converting all of DTC's payment systems to an SDFS system will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The conversion plans were described in detail in the three memoranda referenced above and have been discussed extensively with DTC participants and securities industry organizations. The 1994 Memorandum described changes in the conversion plans as a result of those discussions. Since the distribution of the 1994 Memorandum, written comments from DTC participants or others on the modifications to the current SDFS system to be implemented by this proposed rule change have not been received. No other written comments have been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to file number SR–DTC–95–06 and should be submitted by May 12, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9911 Filed 4–20–95; 8:45 am]

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[2] The term "same-day funds" refers to payment in funds that are immediately available and generally are transferred by electronic means.

[3] The term "next-day funds" refers to payment by means of certified checks that are for value on the following day.

[4] For a description of the SDFS system, refer to Securities Exchange Act Release Nos. 24689 (July 9, 1987), 52 FR 26613 [File No. SR–DTC–87–04] (order granting temporary approval to DTC's SDFS settlement service); 26051 (August 31, 1988), 53 FR 34853 [File No. SR–DTC–88–06] (order granting permanent approval to DTC's SDFS settlement service); and 33958 (April 22, 1994), 59 FR 22678 [SR–DTC–93–12] (order temporarily approving the MMI settlement program).

[5] The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 1, 1992) ("1992 Memorandum"); The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 28, 1993) ("1993 Memorandum"); The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 29, 1994) ("1994 Memorandum").

[6] The Group of Thirty was established in 1978 as an independent, non-partisan, non-profit organization composed of international financial leaders whose focus is on international economic and financial issues.

[7] Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets (March 1989) ("Group of Thirty Report").

[8] Only one DTC Participants Fund will be needed when the NDFS system and the SDFS system are combined in a new SDFS system. Based on current activity levels, DTC believes that a $400 million cash-only Participants Fund will provide sufficient protection against present liquidity and credit risks. Pursuant to its rules, DTC may change the formulas used to determine a participant's required deposit or require a participant to make additional deposits to the Participants Fund.

[9] The new SDFS system would monitor the levels of a participant's net settlement debits during each day and record the highest net debit experienced by that participant. This measure of liquidity is referred to as the participant's "intra-day net debit peak."

[10] For example, assume DTC had three participants, A, B, and C, and had established a $400,000,000 Participants Fund. Each participant's minimum deposit would be $10,000 for a total of $30,000 which leaves $399,970,000 as the incremental fund deposit amount needed for the Participants Fund. In order to allocate the $399,970,000 among the three participants, their respective average intraday net debit peaks would be used. Assume Participant A's average net debit peak is $300,000,000, Participant B's is $500,000,000, and Participant C's is $500,000,000. Since all incurred net debit peaks of at least $300,000,000, each created liquidity needs of $300,000,000 and would contribute equally to provide DTC's first $300,000,000. Each would be responsible for a $10,000 minimum deposit plus a $99,990,000 increment bringing the total to $100,000,000 for each participant. Participants B and C would be assigned an additional $100,000,000 increment since they were responsible for creating liquidity needs up to $500,000,000. Together, A, B, and C would be assigned incremental amounts totaling $499,970,000. Since the goal is to create a $400,000,000 Participants Fund, the $499,970,000 must be prorated downward to 399,370,000, the amount needed in addition to their minimum contributions to achieve $400,000,000. Each participant's increments would be reduced by applying a factor of .799988 (*i.e.*, 399,970,000/499,970,000). Their required deposits would then be as follows:

[11] Net debit caps will be determined by and will be applied to a participant's simulated net debit balances caused by the Largest Provisional Net Credit ("LPNC") procedure described below

[12] DTC will subtract the amount of a participant's largest provisional net credit due to transactions in any single issuer's MMIs from the participant's collateral monitor ("simulated collateral monitor") and net debit or credit balance ("simulated balance"). If a transaction will cause the simulated collateral monitor to turn negative (*i.e.*, the participant's collateral would be insufficient to cover its simulated net debit after the transaction) or the resulting net debit balance to exceed the participant's net debit cap, the transaction will be blocked. Blocked transactions will be recycled until credits from other transactions in MMIs of issuers other than those of the largest provisional net credit cause the simulated collateral monitor to be positive or the resulting net debit to be within the net debit cap limits.

[13] A reclamation is the return of a delivery order or a payment order by a participant.

[14] RAD allows participants to review and either approve or cancel incoming deliveries before they are processed in DTC's system.

[15] DTC's Account Transfer Processor system provides for the recycling or pending of transactions that cannot be completed due to a participant's insufficient positions or violation of risk management controls (*i.e.*, Net Debit Cap and Collateral Monitor).

[16] Under Options 1 and 2, CNS deliveries are always given the highest priority on the recycle queue.

[17] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 35–26273]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

April 14, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declarations(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 8, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing,

VOL 60 ISS 77 AP 21 1995 UMI

if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Northeast Utilities, et al. (70–8076)

Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, HEC Inc. ("HEC"), 24 Prime Parkway, Natick, Massachusetts 01760, a nonutility subsidiary of Northeast, HEC International Corporation ("HEC International"), 24 Prime Parkway, Natick, Massachusetts 01760 and HEC Energy Consulting Canada Inc. ("HEC Canada"), 285 Yorkland Boulevard, Willowdale, Ontario M2J 1S5 Canada, each a wholly owned nonutility subsidiary of HEC, and HECI, 1800 Harrison Street, Oakland, California 94612, a joint venture subsidiary that is 50% owned by HEC International and 50% owned by a non-affiliate (collectively, "Applicants") have filed a post-effective amendment under sections 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 54, 87, 90 and 91 to HEC's application-declaration filed under sections 9(a), 10, 12(b) and 13 (b) of the Act and rules 45, 87, 90 and 91 thereunder.

By order dated July 27, 1990 (HCAR No. 25114–A) ("1990 Order"), among other things, Northeast was authorized to organize HEC and acquire HEC's capital stock. The 1990 Order also authorized HEC to acquire substantially all of the assets of HEC Energy Corporation, a company that provided energy management services to large institutional customers in New England, New York and elsewhere. In addition, the 1990 Order authorized HEC's provision of energy management services and demand-side management ("DSM") services to customers in New England and New York ("Region"). Furthermore, the 1990 Order authorized HEC to provide limited services outside the Region.

By order dated September 30, 1993 (HCAR No. 25900) ("1993 Order"), HEC was authorized to provide additional energy management and DSM services and to enter the consulting business in the energy management and DSM area. The 1993 Order provided that revenues (other than consulting revenues) attributed to customers outside the Region would not exceed revenues (other than consulting revenues) attributed to customers within the Region ("50% Limitation").

By order dated August 19, 1994 (HCAR No. 26108) ("1994 Order"), the Commission authorized HEC to organize and acquire HEC Canada and HEC International. HEC Canada was organized to provide energy management, DSM and consulting services to customers located in Canada. HEC International was organized to participate, on a 50/50 basis, in a joint venture with Barakat & Chamberlin, an unaffiliated company, to form HECI, a subsidiary of HEC International. HECI was formed to provide energy management, DSM and consulting services to customers located in the western United States (Washington, Oregon, California, Montana, Idaho, Wyoming, Colorado, Utah, New Mexico, Nevada and Arizona) and in foreign countries (except Canada). Under the 1994 Order, the revenues (except consulting revenues) of HEC Canada and HEC's share of HECI's revenues are combined with HEC's revenues for purposes of the 50% Limitation.

The Applicants now propose that the Commission authorize HEC's and HEC's direct and indirect subsidiaries' activities, as authorized in the 1990 Order, 1993 Order and 1994 Order, without regard to the 50% Limitation.

In addition, HEC requests authorization to form joint ventures with utilities serving customers in different areas outside of the Region, without subsequent Commission approval. These joint ventures would be organized to provide the services that HEC currently provides. The services of each such joint venture would be provided to customers located in a defined region that would include, but not be limited to, the service areas of the participating utility.

The joint ventures between HEC and the utilities would usually be formed on a 50/50 ownership basis, although other equity sharing may be negotiated. HEC and the participant utility would each advance money, property or other consideration to the joint venture (all of which will be treated as open account advances) for their respective interests in the joint venture as needed for the joint venture's operations during the period through June 30, 1996. The joint ventures will reimburse HEC for its cost of money allocable to such advances. Similarly, each of the joint ventures would also reimburse the participating utility for its advance at a rate not to exceed the utility's cost of money.

Some of the joint ventures' expenses may be paid directly by HEC or the participating utility. For those expenses, the joint venture participant paying the bill will invoice the other participant's share of the paid expense. Direct payment of the joint venture's expenses would be treated as an advance to the joint venture with the same term and interest rate as the open account advances described above.

HEC's outstanding advances plus the value of any other contributions to a joint venture combined with HEC's direct payment of any costs associated with that venture would not exceed $1 million at any time for any of these joint ventures, unless further Commission authorization is obtained. In aggregate, HEC's outstanding advances and other payments to all such joint ventures will not exceed $8 million at any time, unless further Commission approval is obtained.

The joint ventures would enter into agreements with HEC (and the participating utilities) to subcontract for their services. Those services would be provided at cost pursuant to rule 90 and would not be applied toward the $1 million per venture limit. These subcontract agreements would include provisions prohibiting HEC and the participating utility from competing with the joint venture.

Cinergy Corporation, et al. (70–8589)

CINergy Corp. ("CINergy"), a registered holding company, CINergy Investments, Inc. ("CINergy Investments"), a wholly owned subsidiary of CINergy, and CINergy Services, Inc. ("Services"), a wholly owned subsidiary service company of CINergy all located at 139 East Fourth Street, Cincinnati, Ohio 45202, have filed an application-declaration under Sections 6(a), 7, 9(a), 10, 12(b), 13(b), 32 and 33 of the Act and Rules 43, 45, 51, 53 and 83.

CINergy and CINergy Investments propose, through May 31, 1998, to facilitate investments in foreign utility companies ("FUCOs") and foreign exempt wholesale generators ("EWGs"). Specifically, CINergy and CINergy Investments propose to: (1) Acquire, in one or more transactions, the securities of one or more Companies to be organized for the purpose of engaging, directly or indirectly, and exclusively, in the business of acquiring, owning and holding the securities of, and/or providing services to, one or more FUCOs and/or EWGs; (2) make direct and/or indirect debt and equity investments in companies ("Special Purpose Companies") and certain existing special purpose subsidiary companies ("Existing Special Purpose Companies") and provide guarantees in connection with the activities of the Special Purpose Companies up to an aggregate principal amount of $115 million; and (3) for the Special Purpose Companies to engage in external equity and non-recourse debt financing transactions with unaffiliated third parties up to an aggregate principal amount of $300 million.

The terms of such debt and equity securities and guaranties would be determined in light of the circumstances then prevailing and through later negotiations with third parties, within certain parameters as to maximum rates of interest, maturity dates, minimum consideration for par value shares, and other matters. As of December 31, 1994, CINergy's aggregate net outstanding investment in FUCOs and EWGs through Existing Special Purpose Companies was approximately $20 million. The aggregate net investment of CINergy and CINergy Investments outstanding at any one time in Special Purpose Companies and Existing Special Purpose Companies would not exceed $115 million.

CINergy and CINergy Investment also propose that the Special Purpose Companies provide services to their subsidiaries, an to other Special Purpose Companies and their subsidiaries. CINergy Services proposes to provide such additional services as may be necessary or desirable for the development, acquisition, establishment and operation of the Special Purpose Companies and their investments and properties.

CINergy anticipates that the Special Purpose Companies and their subsidiaries will meet (and, in the case of the Existing Special Purpose Subsidiaries and their subsidiaries, will continue to meet) the requirements of Rule 83(a) under the Act. Accordingly, the CINergy requests that services provided to the Special Purpose Companies and their subsidiaries be exempt from the standards of Section 13 (b) of the Act and the rules and regulations promulgated thereunder.

CINergy Corp. et al. (70–8587)

CINergy Corp. ("CINergy"), 139 East Fourth Street, Cincinnati, Ohio 45202, a registered holding company, and certain of its subsidiaries, CINergy Services, Inc. ("Services"), The Cincinnati Gas & Electric Co. ("CC&E"), The Union Light, Heat and Power Co. ("ULH&P"), The West Harrison Gas and Electric Co. ("West Harrison"), Lawrenceburg Gas Co. ("Lawrenceburg"), Miami Power Corp. ("Miami"), Tri-State Improvement Co. ("Tri-State"), KO Transmission Co. ("KO"), CINergy Investments, Inc. ("Investments"), CG&E Resource Marketing, Inc. ("Resource Marketing"), Power International, Inc. ("PII"), Beheer-En Beleggingsmaatschappij Bruwabel B.V. ("Bruwabel"), Power International s.r.o. ("Power International"), and Power Development s.r.o. ("Power Development"), each of 139 East Fourth Street, Cincinnati, Ohio 45202, and PSI Energy, Inc. ("PSI Energy"), Wholesale Power Services, Inc. ("Wholesale Power"), PSI Recycling, Inc. ("Recycling"), and Power Equipment Supply Co. ("Equipment"), each of 1000 East Main Street, Plainfield, Indiana 46168 (collectively, the "Applicants"), have filed an application-declaration under sections 6, 7, 9(a), 10, 12(b), 12(f) and 13 of the Act and rules 40, 43, 45, 53, 54, and 80–95 thereunder.

The Applicants seek authorization, through May 31, 1997, to incur short-term borrowings, to issue notes and/or commercial paper, to make capital contributions, and to implement a system of money pools to provide for their short-term cash requirements. The aggregate principal amount of short-term borrowings, notes and/or commercial paper outstanding at any one time for the CINergy system as a whole would not exceed $1 billion. The proposed transactions and the proposed participation of the various Applicants are described below.

Transactions by Utilities and Related Companies

Through May 31, 1997, (1) CG&E, PSI Energy, ULH&P, Lawrenceburg, West Harrison, Miami, Services, KO and Tri-State seek authorization to incur short-term borrowings, and to issue notes in connection therewith; (2) CG&E and PSI Energy seek authorization to issue and sell commercial paper; (3) CINergy seeks authorization to issue guarantees and provide letters of credit in connection with the short-term borrowings; and (4) all of the foregoing companies seek authorization to implement a money pool ("Utility Money Pool") to coordinate and provide for certain of their short-term cash and working capital requirements. The aggregate principal amount of short-term borrowings and/or commercial paper outstanding at any one time would not exceed the following amounts[1]: For Services, $100,000,000; for PSI Energy, $400,000,000; for CG&E, $400,000,000; for ULH&P, $35,000,000; for West Harrison, $200,000; for Lawrenceburg, $3,000,000; for Miami, $100,000; for KO, $2,000,000; and for Tri-State, $40,000,000.

PSI Energy, CG&E, UHL&P and Lawrenceburg have existing lines of credit with banks with commitments aggregating $230 million, $82 million, $30 million and $400,000, respectively, under which $120.5 million, $0, $14.5 million and $0, respectively, in borrowings were outstanding as of December 31, 1994. As of December 31, 1994, Services, West Harrison, Miami, KO and Tri-State had no committed lines of credit. Certain of the Applicants also have informal arrangements for short-term borrowings with various banks on an "as offered" basis, also known as uncommitted lines of credit. Authorization is sought for the above Applicants to borrow from banks pursuant to the existing formal and informal lines of credit described above (and any increases therein that may be negotiated) and pursuant to new credit facilities (formal or informal) that may be arranged from time to time, or to borrow funds managed by bank trust departments, if the effective cost of money is equal to or less than that available from the sale of commercial paper or other bank borrowings.

Bank borrowings may be evidenced by promissory notes, each of which would be issued on or before May 31, 1997 and would mature on a date no later than one year (or, in the case of up to $200 million in borrowings by PSI Energy, no later than 24 months) from the date of issuance, would bear interest at a rate no higher than the effective cost of money for unsecured prime commercial bank loans prevailing on the date of such borrowing, and would be subject to prepayment at the option of borrower, or under certain circumstances with the consent of the lending bank, in whole at any time or in part from time to time, without premium or penalty. Amounts outstanding under formal lines of credit typically would become due immediately upon an event of default, including non-payment, default under other agreements governing indebtedness, bankruptcy, or insolvency. Short-term notes may be issued on either a "grid" note basis or a transactional basis, under similar terms and conditions. The Applicants state that the actual terms of the notes may vary from the terms described above to reflect customary terms or particular lending practices and policies of different lending institutions, but otherwise are expected to be substantially similar. Compensation arrangements under lines of credit would be on a compensating balance and/or fee basis. Fees will not exceed 25 basis points per annum on the commitment, and balance arrangements will require average balances not to

[1] CINergy was authorized to incur short-term indebtedness through bank borrowings, to issue notes and commercial paper, and to obtain letters of credit, in an aggregate amount of up to $375,000,000 in HCAR No. 26215 (Jan. 11, 1995). CINergy's proposed guarantees in support of bank borrowings would also be subject to this limitation.

VOL 60 ISS 77 AP 21 1995 UMI

exceed 10% of the amount of the commitment.

PSI Energy and CG&E also propose to issue and sell commercial paper to one or more dealers (or directly to financial institutions if such sale results in an equal or lower cost of money than that applicable to dealer-placed notes), subject to the limitations on aggregate outstanding principal amount stated above. The commercial paper will be in the form of book-entry unsecured promissory notes, with varying denominations of no less than $25,000 each, and will be issued and sold by CG&E and PSI Energy at market rates. No commission or fee will be payable in connection with the issuance and sale of the commercial paper. The purchasing dealer, however, will reoffer such notes at a rate less than the rate to the issuer and, as principal, will reoffer such notes in such a manner as not to constitute a public offering under the Securities Act of 1933. The discount rate to dealers will not exceed the maximum discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and the same maturity.

The commercial paper proposed to be issued by CG&E and PSI Energy will have varying maturities of no more than 270 days from date of issue and will be issued and sold by CG&E and PSI Energy from time to time through May 31, 1997. Subject to such limitations, sales of commercial paper (and the bank borrowings described above) ordinarily will be structured to mature at such time as excess funds are expected to become available for money pool loans. Upon the availability of any such excess funds, external borrowings would be retired and loans refinanced to the extent such funds became available.

Proceeds of any short-term borrowings and, in the case of CG&E and PSI Energy, sales of commercial paper, may be used by each such company: (i) For the interim financing of its construction and capital expenditure programs; (ii) for its working capital needs; (iii) for the repayment, redemption or refinancing of its debt and preferred stock; (iv) to meet unexpected contingencies, payment and timing differences, and cash requirements, to cover intercompany balances, and for other lawful general corporate purposes; (v) to loan to other participants in the Utility Money Pool (except the proceeds of certain borrowings by PSI Energy with maturities more than twelve months from the date of issuance); and (vi) in the case of borrowings by Services, for other lawful purposes in connection with the performance by Services of its functions as a subsidiary service company under the Act. In addition, proceeds of borrowings, and other available funds, may be used: (a) By CG&E to make capital contributions of up to $40 million to Tri-State and up to $2 million to KO for the purpose of settling intercompany open-account balances and indebtedness to CG&E and to provide Tri-State and KO with working capital for their activities in support of CG&E's operations, and (b) by CG&E and its utility subsidiaries to make loans and open-account advances to one another in connection with services, goods and construction provided to one another, in amounts not to exceed $400 million for CG&E, $35 million for ULH&P, $200,000 for West Harrison, $3 million for Lawrenceburg and $100,000 for Miami.

Authorization is also sought for CINergy to issue guarantees and provide letters of credit in connection with short-term borrowings, subject to the limitations on aggregate principal amount described above. Fees and expenses incurred by CINergy will not exceed 1% per year of the face amount of such letters of credit, and CINergy may charge an annual fee up to 2% of the face amount of guarantees.

Under the proposed terms of the Utility Money Pool, short-term funds would be available from the following sources for short-term loans to CG&E, PSI Energy, ULH&P, Lawrenceburg, Miami, West Harrison, Services, KO and Tri-State from time to time: (1) Surplus funds in the treasuries of Utility Money Pool participants, including CINergy ("Utility Internal Funds"), and (2) proceeds from bank borrowings by Utility Money Pool participants or the sale of commercial paper by CINergy, CG&E and PSI Energy for loan to the Utility Money Pool ("Utility External Funds").[2] Funds would be made available from such sources in such order as Services, as administrator of the Utility Money Pool, may determine would result in a lower cost of borrowing, consistent with the individual borrowing needs and financial standing of the companies providing funds to the pool. Companies that borrow would borrow pro rata from each company that lends, in the proportion that the total amount loaned by each such lending company bears to the total amount then loaned through the Utility Money Pool. On any day when more than one fund source with different rates of interest is used to fund loans through the Utility Money Pool, each borrower would borrow pro rata from each such fund source in the Utility Money Pool in the same proportion that the amount of funds provided by that fund source bears to the total amount of short-term funds available to the Utility Money Pool. No party would be required to effect a borrowing through the Utility Money Pool if it is determined that it could effect a borrowing at lower cost directly from banks or through the sale of its own commercial paper. No loans through the Utility Money Pool would be made to CINergy.

The cost of compensating balances and fees paid to banks to maintain credit lines by Utility Money Pool participants lending Utility External Funds to the Utility Money Pool would initially be paid by the participant maintaining such line. A portion of such costs would be allocated monthly to the companies borrowing such Utility External Funds through the Utility Money Pool in proportion to their outstanding borrowings of such Utility External Funds.

If only Utility Internal Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such funds would be the CD yield equivalent of the 30-day Federal Reserve "AA" Industrial Commercial Paper Composite Rate (or if no such Composite Rate is established for that day, then the applicable rate would be the Composite Rate for the next preceding day for which such Composite Rate was established). If only Utility External Funds comprise the funds available in the Utility Money Pool, the interest rate applicable to loans of such Utility External Funds would be equal to the lending company's cost for such Utility External Funds (or, if more than one Utility Money Pool participant had made available Utility External Funds on such day, the applicable interest rate would be a composite rate equal to the weighted average of the cost incurred by the respective Utility Money Pool participants for such Utility External Funds). In cases where both Utility Internal Funds and Utility External Funds are concurrently borrowed through the Utility Money Pool, the rate applicable to all loans comprised of such "blended" funds would be a composite rate equal to the weighted average of (a) the cost of all Utility Internal Funds contributed by Utility Money Pool participants and (b) the cost of all such Utility External Funds. In circumstances where Utility Internal Funds and Utility External Funds are available for loans through the Utility Money Pool, loans may be made exclusively from Utility Internal Funds or Utility External Funds, rather than from a "blend" of such funds, to the extent it is expected that such loans would result in a lower cost of borrowing.

Funds not required by the Utility Money Pool to make loans (with the exception of funds required to satisfy the Utility Money Pool's liquidity requirements) would ordinarily be invested in one or more short-term investments, including: (i) Interest-bearing accounts with banks; (ii) obligations issued or guaranteed by the U.S. government and/or its agencies and instrumentalities, including obligations under repurchase agreements; (iii) obligations issued or guaranteed by any state or political subdivision thereof, provided that such obligations are rated not less than A by a nationally recognized rating agency; (iv) commercial paper rated not less than A–1 or P–1 or their equivalent by a nationally recognized rating agency; (v) money market funds; (vi bank certificates of deposit; (vii) Eurodollar funds; and (viii) such other investments as are permitted by section 9(c) of the Act and rule 40 thereunder.

The interest income and investment income earned on loans and investments of surplus funds would be allocated among the participants in the Utility Money Pool in accordance with the proportion each participant's contribution of funds bears to the total amount of funds in the Utility Money Pool and the cost of funds provided to the Utility Money Pool by such participant.

Each Applicant receiving a loan through the Utility Money Pool would be required to repay the principal amount of such loan, together with all interest accrued thereon, upon demand and in any event not later than one year from the date of such advance. All loans would be prepayable by the borrower without premium or penalty. Loans would ordinarily be made pursuant to open-account advances, and all loans would be made on or before May 31, 1997. Each lender would at all times be entitled to receive upon demand one or more promissory notes evidencing any and all loans by such lender, dated as of the date of the initial borrowing (and in any event not later than May 31, 1997), maturing on demand or on a specified date not latter than one year after the date of the applicable borrowing, and prepayable in whole at any time or in part from time to time, without premium or penalty. Interest would be accrued by each borrower monthly.

Transactions by Nonutility Companies

Through May 31, 1997, (1) PII, Bruwabel, Power International, Power Development, Recycling, Equipment and Wholesale Power ("Designated Nonutility Companies"), Resource Marketing and CINergy Investments seek authorization to incur short-term borrowings and to issue notes in connection therewith; (2) CINergy seeks authorization to issue guarantees and provide letters of credit in connection with such borrowings; and (3) all of the foregoing companies seek authorization to implement a money pool arrangement ("Nonutility Money Pool") to coordinate and provide for their short-term cash and working capital requirements. The aggregate principal amount of short-term borrowings and notes outstanding would not exceed the following amounts:[3] for CINergy Investments, $22,000,000; for PII, $6,750,000; for Bruwabel, Power International and Power Development, an aggregate of $4,000,000; for Recycling, $4,400,000; for Equipment, $1,100,000; for Wholesale Power, $1,200,000; and for Resource Marketing, $2,000,000.

Proceeds of borrowings by CINergy Investments, Resource Marketing and the Designated Nonutility Companies would be used (a) to provide working capital to continue to operate such companies' businesses and to fund commitments existing as of the registration of CINergy as a holding company under the Act on October 25, 1994, (b) to repay and refinance indebtedness, (c) to loan to other participants in the Nonutility Money Pool, and (d) in the case of Resource Marketing, for the additional purposes of making loans and capital contributions to U.S. Energy Partners, a partnership in which Resource Marketing holds an interest.

PII has a $1,000,000 bank line of credit, under which no borrowings were outstanding at December 31, 1994, which PII proposes to maintain. It is also proposed that CINergy Investments, Resource Marketing, and the Designated Non-Utility Companies also have authority to borrow under bank facilities, and or CINergy to provide guaranties and letters of credit in connection therewith. Borrowings under such facilities would be evidenced by promissory notes with terms substantially similar to those described above under *Transactions by Utilities and Related Companies* (but could bear interest at a rate of up to prime plus 2%) and would be subject to compensation arrangements similar to those described therein. Fees and expenses in connection with guaranties and letters of credit to be provided by CINergy also will not exceed the amounts stated above under such heading.

Because certain of the Designated Nonutility Companies and Resource Marketing have heretofore been net borrowers from their corporate parents, it has been the practice of such corporate parents to advance funds to such companies in the form of intercompany loans and open-account advances and periodically to forgive such indebtedness, thereby making capital contributions in the amount forgiven. Because certain of the Designated Nonutility Companies and Resource Marketing may remain net borrowers during the period covered by the proposed transactions, authorization is requested for CINergy from time to time through May 31, 1997 to make capital contributions and loans (in the form of open-account advances, repayable on demand, or otherwise through the Nonutility Money Pool described below) to CINergy Investments and the Designated Nonutility Companies, and for CINergy Investments and the Designated Nonutility Companies to make capital contributions and loans (in the form of open-account advances, repayable on demand, or otherwise through the Nonutility Money Pool) to their subsidiary companies, provided that the aggregate amount of all outstanding borrowings by, and capital contributions to, a company shall not exceed its aggregate borrowing limit.

Authority is also requested through May 31, 1997 (i) for CINergy and CINergy Investments from time to time to make capital contributions and loans (in the form of open-account advances, repayable on demand, or otherwise through the Nonutility Money Pool) to Resource Marketing, and (ii) for Resource Marketing from time to time to make capital contributions and loans to Energy Partners, to provide for working capital needs, repayment or refinancing of debt, unexpected contingencies, payment and timing differences, cash requirements and other general business purposes of Energy Partners. The aggregate amount of all outstanding capital contributions and loans would not exceed $2 million to Resource Marketing and $2 million to Energy Partners.

Under the proposed arrangements governing the Nonutility Money Pool, short-term funds will be available from the following sources for use by the respective participants from time to

[2] CINergy proposes to use the proceeds of certain borrowings and sales of commercial paper or common stock, previously authorized in File Nos. 70–8477 and 70–8521, and any funds available for general corporate purposes, to loan to the other Applicants when required through the money pools described in the Application-Declaration.

[3] See footnote 1.

VOL 60 ISS 77 AP 21 1995 UMI

time: (1) Surplus funds in the treasuries of the Nonutility Money Pool participants, including CINergy ("Nonutility Internal Funds"), and (2) proceeds from the sale by CINergy of commercial paper and bank borrowings by the Nonutility Money Pool participants ("Nonutility External Funds").[4] Loans through the Nonutility Money Pool will be made only from funds provided by CINergy, CINergy Investments, Resource Marketing or Designated Nonutility Companies, and no loan will be made to CINergy, CINergy Investments, Resource Marketing, Energy Partners or any Designated Non-Utility Company by the Utility Money Pool or by any public utility company in the CINergy system. In addition, no loans through the Nonutility Money Pool will be made to CINergy. Funds made available by CINergy for loans through the money pools will be first made available for loans through the Utility Money Pool and thereafter for loans through the Nonutility Money Pool.

The Nonutility Money Fund will be administered by Services and will have terms similar to those governing the Utility Money Pool (described above under *Transactions by Utilities and Related Companies*) with respect to pro rata borrowing, costs and fees for Nonutility External Funds lent to the Nonutility Money Pool, interest rates for loans from Nonutility Internal Funds, Nonutility External Funds and combinations of Nonutility Internal and External Funds, temporary investment of funds in the Nonutility Money Pool not required to make loans, allocation of interest and other investment income earned on loans and investment of surplus funds, terms of loans made by the Nonutility Money Pool, and terms of notes evidencing such loans.

Surplus funds of the Utility Money Pool and the Nonutility Money Pool may be combined in common short-term investments, but separate records of such funds shall be maintained by Services as administrator of the pools, and interest thereon shall be separately allocated, on a daily basis, to each money pool in accordance with the proportion that the amount of each money pool's surplus funds bears to the total amount of surplus funds available for investment from both money pools.

Operation of the Utility and Nonutility Money Pools, including record keeping and coordination of loans, will be handled by Services under the authority of the appropriate officers of the Applicants. Services will administer the Utility and Nonutility Money Pools on an "at cost" basis and will maintain separate records for each money pool.

[4] See footnote 2.

Appalachian Power Company, et al. (70–8591)

Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24022, Columbus Southern Power Company, 215 North Front Street, Columbus, Ohio 43215, Kentucky Power Company, 1701 Central Avenue, Ashland, Kentucky 41101, Kingsport Power Company, 422 Board Street, Kingsport, Tennessee 37660, Indiana Michigan Power Company, One Summit Square, Fort Wayne, Indiana 46801, Ohio Power Company, 339 Cleveland Avenue, SW., Canton, Ohio 44702, and Wheeling Power Company, 51—16th Street, Wheeling, West Virginia 26003 (sometimes individually referred to herein as "Company" and collectively as "Companies"), all public-utility subsidiary companies of American Electric Power Company, a registered holding company, have filed an application-declaration under sections 6, 7, 9(a), 10, and 12(d) of the Act and rules 40(a)(5), 41 and 44 thereunder.

The Companies each propose to market, construct, install, service, maintain, acquire, sell (and sell maintenance agreements and warranties for) (i) equipment generating, transmitting or distributing electric power or steam, (ii) manufacturing and other equipment consuming electric power or using steam (including electro-technologies), or (iii) equipment providing load management or communications to the equipment described in (i) or (ii) above (collectively, "Customer Equipment Services"). In addition, each Company proposes to broker Customer Equipment Services provided by third party contractors and provide energy management, technical, operating, training and consulting services ("Customer Consulting Services"). Customer Equipment Services and Customer Consulting Services will be provided for (i) present and anticipated industrial, commercial and governmental retail electric customers of the Company and of full and partial requirement wholesale customers of the Company and (ii) present and anticipated nonaffiliated wholesale customers of the Company.

Cutomer Equipment Services will be provided at market-based fees; the price for Customer Consulting Services will range from free to market-based rates. The maximum annual revenues from Customer Equipment Services for each Company will be 5% of the operating revenues of the Company for the prior calendar year.

Each Company also proposes to provide or broker financing to customers in connection with Customer Equipment Services through direct loan, installment purchase, operating or finance lease arrangements (including sublease arrangements) or loan guarantees. The maximum amount of equipment that each Company may finance at any one time is 5% of capitalization of the Company at the end of the prior calendar year. Interest on loans and imputed interest lease payments will be at prevailing market rates. The obligations will have terms ranging from one to thirty years and will be secured or unsecured. Each Company will finance the Customer Equipment Services with its general corporate funds and may assign obligations acquired from customers to banks or other financial institutions with or without recourse.

Finally, each Company proposes to provide meter reading, billing and other services to gas, water and other utilities in their service territories. Such services would be provided at market based rates.

Central Power & Light Co. (70–8597)

Central Power and Light Company ("CPL"), a wholly owned electric utility subsidiary company of Central and South West Corporation, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(c) and 12(d) of the Act and rules 44 and 51 thereunder.

CPL seeks authorization through December 31, 1997 to incur obligations in connection with the proposed issuance by Matagorda County Navigation District No. One ("District") in one or more series of up to $475 million in Pollution Control Revenue Bonds. Of this amount, up to $325 million will be Pollution Control Revenue Refunding Bonds ("Refunding Bonds") and up to $150 million will be Pollution Control Revenue Bonds and/or Solid Waste Revenue Bonds ("New Money Bonds"). The issuance of New Money Bonds and the Refunding Bonds ("New Bonds") might be combined.

The purpose of the Refunding Bonds is to reacquire all or a portion of five types of previously issued Pollution Control Revenue Bonds ("Old Bonds"). The purpose of the New Money Bonds is to reimburse CPL for expenditures qualified for tax-exempt financing or to provide for current solid waste expenditures.

CPL also seeks authorization to manage interest rate risk or to reduce interest rate costs through forward refinancing techniques and through the use of interest rate swaps through the life of the Old Bonds and/or New Bonds.

The Old Bonds were issued to finance pollution control and solid waste disposal facilities ("Facilities") for the South Texas Project Electric Generating Station ("Plant"). CPL owns a 25.2% undivided interest in the Plant. The Old Bonds were issued pursuant to Indentures of Trust ("Indentures") with three banks for trustees—NationsBank of Texas, N.A., the Bank of New York, and Texas Commerce Bank, N.A. ("Trustees"):

Series	Interest rate (percent)	Maturity date	First redemption date
1984	10⅛	10/15/14	10/15/95
1984–A	7½	12/15/14	12/15/99
1985–A	9¾	07/01/15	07/01/95
1986	7⅞	12/01/16	12/01/96
1990	7½	03/01/20	03/01/00

CPL and the District entered into Installment Sale Agreements ("Sale Agreements") to provide for the issuance of the Old Bonds. In connection with the issuance of the New Bonds, CPL will amend the Sale Agreements, enter into agreements with similar terms, and/or enter into new installment sale agreements ("Amended Sale Agreements").

The New Bonds will bear a fixed or floating interest rate, might be secured with First Mortgage Bonds, and will mature between one and forty years. The interest rate, redemption provisions and other terms and conditions applicable to the New Bonds will be determined through negotiation between CPL and one or more investment banking firms that will purchase or underwrite the New Bonds ("Purchasers").

It is anticipated that the New Bonds will be optionally redeemable upon the occurrence of various events specified in the Amended Sale Agreements and the Indentures, which might be amended or supplemented ("Supplemental Indentures"), or, in the case of the New Money Bonds, a new indenture ("New Indenture"). The New Bonds also will be optionally redeemable with premiums to be determined through negotiation between CPL and the Purchasers and will be mandatorily redeemable in the event the interest on the New Bonds becomes subject to federal income tax.

CPL might obtain credit enhancement for the New Bonds, which could include bond insurance, a letter of credit or a liquidity facility, if, for example, it were to issue floating rate bonds. A premium or fee would be paid to obtain the credit enhancement, which would, however, result in a net benefit through a reduced interest rate on the New Bonds.

CPL might issue First Mortgage Bonds, to secure the New Bonds, subject to applicable indenture restrictions, under a Supplemental Indenture to its Mortgage Indenture dated November 1, 1943 to the First National Bank of Chicago and A.H. Bohm ("Mortgage Indenture"). The First Mortgage Bonds will be issued to the Trustee for the New Bonds pursuant to the Mortgage Indenture. The First Mortgage Bonds will be held by the Trustee for the benefit of the holders of the New Bonds and will not be transferable. The First Mortgage Bonds will be issued in the exact amount and have terms similar to the New Bonds. To the extent payments in respect of the New Bonds are made in accordance with their terms, like payment obligations under the First Mortgage Bonds will be deemed satisfied.

The optional redemption provisions, the sinking-fund provisions, and the limitation on dividends relative to the First Mortgage Bonds might deviate from the SEC Statement of Policy Regarding First Mortgage Bonds.

CPL anticipates that the New Bonds will be sold by the District pursuant to a Bond Purchase Agreement ("Purchase Agreement") between the District and one or more Purchasers. CPL requests authority to enter into negotiations with Purchasers with respect to the interest rate, redemption provisions and other terms and conditions applicable to the New Bonds and to set the terms of the New Bonds subject to the receipt of a Commission order if an order has not been issued when CPL enters into the Purchase Agreement.

The proceeds of the New Bonds will be used to redeem the Old Bonds pursuant to the terms of the Indentures or reacquire all or a portion of the Old Bonds through open market and negotiated transactions or pursuant to one or more tender offers ("Reacquisition") and reimburse CPL for expenditures qualified for tax-exempt financing or to provide for current solid waste expenditures. The proceeds might also be used to reimburse CPL for Old Bonds previously acquired. Additional funds required to pay for the Reacquisition and the costs of issuance of the New Bonds will be provided by CPL from internally generated funds and short-term borrowings.

CPL will not permit the issuance of the Refunding Bonds unless the estimated net present value savings is, on an after-tax basis, in excess of the present value of all costs to acquire the Old Bonds and issue the Refunding Bonds on the basis of an appropriate discount rate. Such discount rate would be based on the estimated after-tax interest rate on the Refunding Bonds.

CPL proposes to manage interest rate risk through interest rate swaps, forward swaps, caps, collars and floors, and through forward transactions. CPL might also use interest rate swaps to lower its interest costs on one or more series of Old Bonds and/or New Bonds. CPL requests authorization to enter into these types of transactions from time to time either in connection with the issuance of New Bonds or otherwise.

CPL could use the interest rate swap market to hedge against changes in the interest rates of variable rate securities through a "fixed-for-floating" swap arrangement. In addition, CPL might be able to realize a reduced all-in rate in the synthetic fixed market. CPL might also issue fixed rate New Bonds and then seek to reduce its interest costs on such New Bonds through a "floating-for-fixed" interest rate swap arrangement. In this manner, CPL would hope to take advantage of interest cost savings associated with short-term interest rates.

None of the interest rate swaps would be "leveraged." Thus changes in interest payments or receipts under an interest rate swap due to changes in the floating rate index used in the swap will not exceed the product of the change in such index and the notional amount of that swap. In no event would the aggregate notional amount of the interest rate swaps exceed $475 million. The interest rate swaps might also be forward swaps, whereby a swap agreement is entered into but the exchange of fixed and floating payments does not begin until a future date, which is generally the call date on outstanding bonds.

It is anticipated that interest rate swap agreements would provide that redemption, reacquisition or maturation of the Old Bonds and/or New Bonds would terminate obligations under the swap agreement for a like notional amount. CPL might enter into a swap that allows optional termination and CPL would exercise such option for a like notional amount upon the redemption, reacquisition or maturation of the corresponding Old Bonds and/or New Bonds. Termination of its obligations under the interest rate swap agreement might require CPL to pay an additional amount under the terms of the swap agreement, which could be substantial.

Finally, CPL also requests authorization to enter into reverse interest rate swap agreements, or other

VOL 60 ISS 77 AP 21 1995 UMI

contractual arrangements, in order to limit the impact of anticipated movements in interest rates or offset the effect of interest rate swap agreements. If CPL issues variable rate New Bonds, it might elect to purchase an interest rate cap to limit its exposure to increased interest rates. CPL might also sell an interest rate floor to either reduce the cost of variable rate debt, or in conjunction with an interest rate cap to reduce the cost of the cap.

Consolidated Natural Gas Co. et al. (70–8599)

Consolidated Natural Gas Co. ("Consolidated"), CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania, 15222–3199, a registered holding company, and Consolidated System LNG Company ("Consolidated LNG"), of the same address, a wholly owned subsidiary company of Consolidated, have filed a declaration under section 12(c) of the Act and rule 46 thereunder.

Consolidated LNG holds what remains of a past venture on the part of Consolidated into the liquefied natural gas ("LNG") business, and LNG terminal and re-gasification facilities at Cove Point, Maryland and a pipeline between Cove Point and underground pipelines near Loudoun, Virginia ("LNG Facilities"). Consolidated LNG is for all practical purposes, and is expected to remain, dormant. Consolidated contemplates the dissolution of Consolidated LNG.

Consolidated LNG proposes to declare on its common stock ($10,000 par value per share) a one-time dividend to Consolidated of $48,816,000. This will provide additional cash to Consolidated to finance other non-utility and utility subsidiaries.

Consolidated LNG has no physical assets. Thus, its asset value is its capitalization. No dividend was paid from 1988 to 1994. Consolidated LNG has not made the standard payout of 100% of its liquid cash assets to Consolidated since 1988. A dividend of $2,502,000 was declared on December 15, 1994 and paid on February 15, 1995, which left $304,000 in retained earnings as of that date.

Consolidated LNG now proposes to declare a one-time dividend of $48,816,000, of which $48,512,000 will come from capital surplus and $304,000 will be out of retained earnings. When combined with the 1994 dividend of $2,502,000, it achieves an approximate 100% payout of liquid cash assets to Consolidated. For the remainder of the ten-year amortization period (until 1997), Consolidated LNG will pay 100% of its liquid cash assets to Consolidated out of retained earnings.

Consolidated LNG requests Commission authorization to declare and pay from capital surplus the $48,512,000 portion of the one-time dividend of $48,816,000 to Consolidated.

The Columbia Gas System, Inc. et al. (70–8605)

The Columbia Gas System, Inc. ("Columbia"), a registered holding company and a debtor-in-possession under Chapter 11 of the United States Bankruptcy Code, and its wholly owned subsidiary company, TriStar Ventures Corporation ("TVC"), both located at 20 Montchanin Road, Wilmington, Delaware 19807, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b), and 13(b) of the Act and rules 16, 43, 45, 87, 90 and 91 thereunder.

Columbia proposes to invest up to $7 million through December 31, 1996, in natural gas vehicle ("NGV") activities indirectly through a new subsidiary corporation ("TNGV") that will be established solely to engage in such activities. TNGV will be a wholly owned subsidiary of TVC.

TNGV proposes to use the $7 million to develop and promote consumer use and acceptance of natural gas as a fuel for cars, buses, trucks and other vehicles. TNGV intends to provide natural gas fueling stations, promote the establishment of facilities for the conversion of vehicles to NGVs, provide related training and to provide fuel supply and management services (all such activities, the "NGV Activities").

TNGV proposes to engage in some of the NGV Activities through various arrangements with nonassociated companies or individuals. Columbia's public-utility subsidiary companies may also provide TNGV with services such as training in the use of fueling station and conversion equipment, identification of potential customers, and station design, construction maintenance and operations.

The application-declaration states that TNGV may acquire an ownership interest, which may be up to 100% voting or nonvoting stock, in one or more corporations or other entities established for the sole purpose of engaging in NGV Activities. Such entities would be established by TNGV and/or nonassociates knowledgeable and experienced in the construction and operation of gasoline stations or natural gas fueling stations, and/or who have expertise in vehicle repair and maintenance or specialized technical experience with NGVs. Each such entity would provide limited liability protection to the owners and would be formed to build NGV infrastructure in a specific geographic area or to provide management of a specific NGV Activity. The organizational documents governing such entities would expressly limit the activities of these corporations primarily to NGV Activities.

TNGV may also invest in and participate in joint arrangements such as partnerships or joint ventures to carry out NGV Activities. If necessary, TNGV would establish one or more wholly owned limited purpose corporations or entities for the sole purpose of engaging in NGV Activities through such partnerships or joint ventures or other arrangements. The organizational documents governing such partnerships or joint ventures would expressly limit the activities of these entities primarily to NGV Activities.

The application-declaration states that TNGV may lend funds to vehicle fleet owners, or may guarantee borrowings by those owners from a third party lender such as a bank, to enable such nonassociates to carry out NGV Activities in connection with their business, or to acquire the equipment, personnel or facilities needed to do so. Loans either made by TNGV directly or with respect to the TNGV is giving a guarantee would have an interest rate not exceeding the maximum legal rate, and would have a maturity not exceeding 20 years. Such loans may be unsecured or secured by a lien on, or other security interest in, NGV conversion equipment, fueling station equipment or facilities or other real or personal property, excluding utility assets.

It is further proposed that corporations, partnerships, joint ventures or other entities in which TNGV has an ownership interest of less than 100% may obtain third party debt financing.

In entering into arrangements with nonassociates to engage in the NGV Activities described in this application, TNGV and its subsidiaries will limit the amount of their equity or debt investment, contractual obligations, loan guarantees, loan obligations and other financial obligations and commitments to an amount that, when aggregated with all other investments, obligations and commitments made or undertaken, directly or indirectly, by TNGV and its subsidiaries in connection with the NGV Activities as described in the Application, will not exceed $7 million through December 31, 1996.

Columbia, TVC and TNGV propose that TNGV be authorized to engage in the above described NGV Activities and to obtain funds from time to time through December 31, 1996, to finance such NGV Activities through the sale of shares of TVC common stock, $25 par value, to Columbia at or above par value, and the sale of shares of TNGV Common Stock, $25 par value, to TVC at or above par value provided that the aggregate amount of funds obtained by TVC from Columbia, and by TNGV from TVC, outstanding at any one time for NGV Activities shall not exceed $7 million.

In the event that a wholly owned limited purpose subsidiary corporation of TNGV is established to engage in the NGV Activities through a non-corporate entity, such subsidiary will have mirror-image authorizations and obligations of TNGV under this filing as such relate to the relevant investment, with TNGV functioning as "passthrough" with regard to its indirect financing of the entity.

Eastern Utilities Associates, et al. (70–8609)

Eastern Utilities Associates ("EUA"), a registered holding company, and its direct subsidiary companies, Eastern Edison Company, EUA Cogenex Corporation, P.O. Box 2333, Boston, Massachusetts 02107, EUA Service Corporation, P.O. Box 543, West Bridgewater, Massachusetts 02379, and Newport Electric Corporation, 12 Turner Road, Middletown, Rhode Island 02840, and its indirect subsidiary companies, Montaup Electric Company, P.O. Box 2333, Boston; Massachusetts 02107, TransCapacity Limited Partnership, 2 Corporate Place 128, Suite 101, Wakefield, Massachusetts 01880, and Blackstone Valley Electric Company, Washington Highway, Lincoln, Rhode Island 02865 (collectively "Subsidiaries") have filed an application-declaration under Sections 6(a), 7, 9(a) and 10 of the Act and Rule 54 thereunder.

By Order dated March 8, 1991, (HCAR No. 25269) ("1991 Order"), EUA and certain of its subsidiaries were authorized, among other things, to contribute up to 200,000 common shares of EUA, $5.00 par value per share ("Common Shares"), or cash for the purchase thereof, to the Eastern Utilities Associates Employees' Savings Plan ("Plan"), through December 15, 1995. The Common Shares issued to the Plan may be: (1) Authorized but unissued shares issued to the Plan by EUA; (2) purchased on the open market; or (3) purchase shares from EUA. Whenever cash contributions to the Plan by EUA or the participating subsidiary companies are used to purchase Common Shares from EUA, the proceeds are added to the general funds of EUA and may be used for, among other corporate purposes, the payment or prepayment of outstanding short-term indebtedness.

The number of Common Shares available under the 1991 Order is now expected to be depleted by July 1995. Therefore, EUA and the Subsidiaries now propose to contribute an additional 150,000 common shares of EUA or cash to purchase such number of shares for the Plan, through December 15, 1997 under the terms and conditions authorized in the 1994 Order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9854 Filed 4–20–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Investment Advisory Council Privatization Committee; Public Meeting

The U.S. Small Business Investment Advisory Council, Privatization Committee, will hold a public meeting from 9 a.m. to 3 p.m. on Tuesday, April 25, 1995, at the Office of Pat Cloherty, President, Patricof & Co. Ventures, located at 445 Park Avenue, New York, NY 10022, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Saunders Miller, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20426, (202) 205–6510.

Dated: April 17, 1995.

Dorothy A. Overal,

Director, Office of Advisory Councils.

[FR Doc. 95–9860 Filed 4–20–95; 8:45 am]

BILLING CODE 8025–01–M

Investment Advisory Council; Public Meeting

The U.S. Small Business Investment Advisory Council will hold a public meeting from 10 a.m. to 3 p.m. on Monday, April 24, 1995, at the ANA Hotel, located at 2900 M Street, NW., Washington, DC, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ed Cleveland, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20426, (202) 205–6510.

Dated: April 17, 1995.

Dorothy A. Overal,

Director, Office of Advisory Councils.

[FR Doc. 95–9861 Filed 4–20–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 50295]

Exemption for Government Aircraft Owners and Operators

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Order.

SUMMARY: The Department of Transportation issued Order 95–4–28 on April 17, 1995, granting an exemption from the requirements of 49 U.S.C. 41102 to the extent necessary to allow all owners and operators of government aircraft to provide not-for-hire, cost-reimbursable transportation incidental to official government business. This order was issued pursuant to 49 U.S.C. 40113.

FOR FURTHER INFORMATION CONTACT: Patricia L. Thomas, Chief, Air Carrier Fitness Division, X–56, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

SUPPLEMENTARY INFORMATION: The following is the Department's Order 95–4–28, dated April 17, 1995.

Dated: April 17, 1995.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

In the matter of Government Aircraft Owners and Operators exemption from 49 U.S.C. 41102.

Order Granting Exemption

Recent amendments to section 40102 of Title 49 of the United States Code require that certain aircraft owned by or operated for government entities now comply with additional safety-related air carrier certification and operating regulations of the Federal Aviation Administration ("FAA").[1] Those FAA regulations require, among other things, that such operators also obtain any applicable air carrier economic authority under 49 U.S.C. 41102.[2] Confusion among some government aircraft owners and operators has arisen concerning the effect on them, if any, of the statutory amendments on

[1] Those amendments—which are contained in the Independent Safety Board Act of 1994, Pub. L. 103–411—relate to safety only and make no changes to the Department's statutory authority or rules relating to the economic regulation of air carriers.

[2] *See, e.g.*, 14 CFR 135.13(a)(3).

VOL 60 ISS 77 AP 21 1995 UMI

whether they need to obtain economic operating authority under 49 U.S.C. 41102.

The Department has long held that economic authority need not be obtained by operators of aircraft owned by or being exclusively operated for government entities so long as those aircraft are not used to engage in common carriage operations.[3] The Department has also held that economic authority is not required in cases where a government aircraft owner or operator receives, on a limited basis, reimbursement for transportation of non-official passengers incidental to official government business.[4] In such cases, the government aircraft owner or operator may not receive more than a pro-rata reimbursement of its expenses, or, if required by law, the commercial equivalent fare. Examples of situations in which such reimbursement would be permitted—or required—include transportation of a spouse of a government employee on official business[5] and transportation of members of the media accompanying the President on government aircraft.

The amendments to 49 U.S.C. 40102 are entirely safety-related and have no effect on the Department's economic licensing requirements, including fitness determinations made under 49 U.S.C. 41102. Imposing an economic licensing requirement where none is needed would impose an unwarranted burden on government aircraft owners and operators.

In order to avoid any confusion over the matter, we have decided that it is in the public interest to grant an exemption from the requirements of 49 U.S.C. 41102 to the extent necessary to allow all government owners and operators of aircraft to provide not-for-hire, cost-reimbursable transportation incidental to official government business.

Accordingly,

1. We grant an exemption from the requirements of 49 U.S.C. 41102 to the extent necessary to allow all owners and operators of government aircraft to provide not-for-hire, cost-reimbursable transportation incidental to official government business.

2. This order may be amended, modified, or revoked at any time, without hearing, in the discretion of the Department.

3. This order will be effective immediately, and the filing of a petition for reconsideration shall not preclude such effectiveness.

4. This order shall be published in the **Federal Register**.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–9945 Filed 4–20–95; 8:45 am]

BILLING CODE 4910–62–P

[3] *See, e.g.*, Order 92–2–8 (issued February 7, 1992) and Order 74–2–34 (issued February 11, 1974).

[4] *Id.*

[5] In such cases, at least some federal agencies, including the Department of Transportation, require reimbursement equivalent to the full coach commercial fare.

Aviation Proceedings; Agreements Filed During the Week Ended April 14, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C parts 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50277.
Date filed: April 10, 1995.
Parties: Members of the International Air Transport Association.
Subject: CAC/Reso/180 dated April 7, 1995, 18th CAC—Expedited Resolutions: r–1—801z r–2—803 r–3—833a.
Proposed Effective Date: Expedited May 1, 1995.

Docket Number: 50288.
Date filed: April 13, 1995.
Parties: Members of the International Air Transport Association.
Subject: Telex TC2 Mail Vote 737, Malawi-Zimbabwe fares, r–1—042c r–2—052c r–3—062c r–4—079c.
Proposed Effective Date: May 1, 1995.

Docket Number: 50293.
Date filed: April 13, 1995.
Parties: Members of the International Air Transport Association.
Subject: Telex TC2 Mail Vote 738, Fares within Africa.
Proposed Effective Date: May 1, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–9884 Filed 4–20–95; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 14, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50279.
Date filed: April 10, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 8, 1995.

Description: Application of Executive Airlines, Inc., Flagship Airlines, Inc., Simmons Airlines, Inc., and Wings West Airlines, Inc. (d/b/a American Eagle), pursuant to 49 U.S.C. 41008 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing foreign air transportation of persons, property, and mail between any point in the United States and any point in Canada, subject to the two- and three-year phase-in conditions for Vancouver, Montreal, and Toronto set forth in the United States-Canada Air Transport Agreement signed on February 24, 1995.

Docket Number: 50291.
Date filed: April 13, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 11, 1995.
Description: Application of Khors Air Company, pursuant to 49 U.S.C. Section 41203 and Subpart Q of the Regulations, applies for a foreign air carrier permit authorizing it to provide (1) foreign charter all-cargo air transportation between the United States and Ukraine, and (2) fifth Freedom foreign charter all-cargo air transportation between the United States and third countries pursuant to Part 212 of the Regulations.

Docket Number: 48075.
Date filed: April 13, 1995.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 11, 1995.
Description: Seventh Amendment to Application of Laker Airways (Bahamas) Limited, pursuant to 49 U.S.C. 41302, and Subpart Q of the Regulations, amends its currently pending application to the extent necessary to permit Laker to add the terminal point New Orleans, Louisiana to the points that Laker has applied to serve from Freeport and Nassau, Bahamas.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–9883 Filed 4–20–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Highway Administration

Environmental Impact Statement: Chittenden County, Vermont

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a draft Supplemental Environmental Impact Statement will be prepared for a proposed highway project in Chittenden County, Vermont.

FOR FURTHER INFORMATION CONTACT: Donald J. West, Division Administrator, Federal Highway Administration, Federal Building, Montpelier, VT 05601, Telephone (802)828–4423.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Vermont Agency of Transportation, will prepare a draft Supplemental Environmental Impact Statement (SEIS) to focus on a proposed temporary project change for a portion of the previously approved Burlington Southern Connector/Champlain Parkway Project. The entire project involves the construction of approximately 2.5 miles of a four lane, access controlled highway known as the Southern Connector, commencing at the interchange of I–189 with Shelburne Street (US Route 7), and extending westerly and northerly to the intersection of Battery and King Streets in the Burlington Central Business District.

A draft Environmental Impact Statement (EIS) for the project was completed in 1977, and a final EIS (FHWA–VT–EIS–77–02–F) was completed and approved in 1979. A portion of the original proposed project has been constructed. Final design for an additional portion has been completed. The remaining segment has been delayed due to the fact that it traverses an EPA Superfund Site. Resolution of issues on the cleanup of the Superfund Site have prohibited the entire project from being constructed. The proposed temporary project change would involve the construction of improvements to detour around the Superfund Site to allow the collector to function as intended and provide traffic relief until the Superfund Site issues are resolved.

The draft SEIS will summarize issues for the entire project, as covered in the original draft and final EIS. Additional information and impact analysis will be presented for a temporary detour around the Superfund Site, which will generally follow existing streets (Lakeside Avenue and Pine Streets); however, an approximately .5 mile section of the detour will involve new route location. Alternatives under consideration are: (1) Taking no action (i.e., no changes from the approved project); and (2) a range of alternatives for making a temporary connection via use of Lakeside Avenue and Pine Street to avoid the Superfund Site.

Impacts anticipated with the project change would be focused on right-of-way and possible section 106 and section 4(f) issues, primarily concerned with the northern portion of the temporary detour. Impacts of the project change on wetlands, if any, are expected to be minimal. Secondary and cumulative impacts of the project change will also be addressed.

No formal scoping meeting will be held. However, comments will be solicited from the US Environmental Protection Agency (EPA), US Army Corps of Engineers (ACOE), US Fish and Wildlife Service (USFWS), State Historic Preservation Office (SHPO), and State Agency of Natural Resources (ANR). Also, a public informational meeting will be held in the project area early in the document development. The draft SEIS is expected to be filed on or about June 1, 1995, and will be sent to appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed interest in this project for their comments. A public hearing will be held following the filing of the draft SEIS.

Comments and suggestions are invited from all interested parties to ensure that the full range of issues related to this proposed action are addressed and that all significant issues are identified. Comments or questions concerning this proposal action and the SEIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental coordination consultation on Federal programs and activities apply to this program)

Issued on: April 13, 1995.

William K. Fung,

Engineering Coordinator, Montpelier.

[FR Doc. 95–9845 Filed 4–20–95; 8:45 am]

BILLING CODE 4910–22–P

Federal Railroad Administration

Petition for Test of New Technologies

In accordance with title 49 CFR 211.9 and 211.41, notice is hereby given that the following railroads have petitioned the Federal Railroad Administration (FRA) for exemptions from or waivers of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis of their request.

All communications concerning these proceedings should identify the appropriate waiver petition docket number (e.g., Waiver Petition Docket Number HS–94–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received within 45 days of the date of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The individual petitions are as follows:

Chicago and North Western Transportation Company

FRA Waiver Petition Docket No. HS–94–4

Chicago and North Western requests a permanent waiver.

Norfolk Southern Corporation

FRA Waiver Petition Docket No. HS–94–6

Norfolk Southern requests a six month test waiver with a permanent waiver at the conclusion of the test period.

Atchison, Topeka and Santa Fe Railway Company

FRA Waiver Docket No. HS–95–1

Atchison, Topeka and Santa Fe requests a permanent waiver.

The above railroads seek a waiver of compliance with certain provisions of FRA Safety Regulations (Hours of Service of Railroad Employees, 49 CFR part 228). The railroads seek a waiver of 49 CFR 228.9(a)(1) which requires that records maintained under part 228 be signed by the employee whose time of duty is being recorded, or in the case of train and engine crews, signed by the ranking crew member. Each railroad seeks to establish a program that utilizes a computerized system of recording hours of duty information which would not comply with the above requirement for a "signature" of the employee or

VOL 60 ISS 77 AP 21 1995 UMI

ranking crew member. The individual railroads propose that each employee will have his or her own personal identification number ("pin") which will remain confidential to the employee. When accessing the computer for input of the hours of service record, required by § 228.11, the "pin" will not appear on the computer screen when the employee enters his or her number. The "pin" is proposed to satisfy the signature requirements of the "Hours of Service of Railroad Employees." The railroads maintain that the change is necessary to modernize recordkeeping.

Issued in Washington, DC, on April 17, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–9943 Filed 4–20–95; 8:45 am]

BILLING CODE 4910–06–P

Petition for Waivers of Compliance

In accordance with 49 CFR 211.9, 211.41 and 211.45, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Renfe Talgo of America, Incorporated

Addendum to Docket Numbers RSGM–94–2 and SA–94–1

The Washington State Department of Transportation (WDT) is the lessee of the Renfe Talgo of America, Incorporated (RTOA) passenger train currently in service in the Pacific Northwest High Speed Corridor between Seattle, Washington and Portland, Oregon. The Talgo train is operating under the Federal Railroad Administration (FRA) waivers Docket Numbers RSGM–94–2 and SA–94–1. The waivers were conditionally granted on March 25, 1994.

RTOA requested the waivers of compliance with certain provisions of the Railroad Safety Glazing Standards (49 CFR Part 223) under Docket Number RSGM–94–2 and the Railroad Safety Appliance Standards (49 CFR Part 231), under Docket Number SA–94–1 and the (see 59 FR 9016, February 24, 1994).

The RSGM–94–2 conditional waiver permits the operation of the Talgo train in revenue service in the Pacific Northwest High Speed Rail Corridor for the WDT operated by the National Railroad Passenger Corporation (Amtrak). The waiver is from compliance with the Railroad Glazing Standards (49 CFR 223.15(b)), which requires that all side facing glazing on passenger cars must meet the FRA Type II testing criteria. RTOA states that the side facing glazing of the TALGO train may in fact meet the FRA requirements for FRA Type II, but it has not been subjected to the test specified in the regulation. The windows in the sides of the cars are double glazed with tempered safety glass. Each layer is 6 mm. (.24 inches) thick with an air space in between the two layers.

The SA–94–1 conditional waiver from compliance of the Railroad Safety Appliance Standards (49 CFR 231.14) and Sections 2 and 4 of the Safety Appliance Act (45 U.S.C. Sections 2 and 4), which requires that each passenger car must be equipped with side handholds, end handholds and uncoupling levers. The passenger cars have side handholds at the doors for the assistance of passengers, but there are no side handholds or end handholds which the rules contemplate for use in switching operations or coupling and uncoupling. RTOA states that the 12 cars in the TALGO train constitute a single unit, in that the cars will not be uncoupled from one another, except at specified maintenance facilities. The individual cars are joined by swivel type traction couplers which will not uncouple in normal operations and because of this configuration there is no need for uncoupling levers. Standard AAR Type E couplers will be installed at the ends of the front and rear service cars.

WDT has requested a change in the waiver in order to place the Talgo train in temporary revenue service between Seattle and Vancouver, British Columbia, Canada; and removing it from revenue service between Seattle and Portland.

Interested parties are invited to participate in this proceeding by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding. However, if an opportunity for oral presentation before representatives of the FRA is requested before May 1, 1995, FRA will provide such opportunity at a public hearing. If held, this public hearing will take place in Seattle, Washington, on May 16, 1995. Information as to whether a hearing will be held, and specific location, may be obtained after May 1, 1995, by contacting the FRA Docket Clerk at 202–366–2257 or by writing the Docket Clerk at the Federal Railroad Administration, Office of Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number SA–94–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Communications received before May 26, 1995, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC, on April 17, 1995.

Phil Olekszyk,

Acting Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–9944 Filed 4–20–95; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

Petitions for Modification of Exemptions From the Vehicle Theft Protection Standard; Saab Cars USA, Inc.

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Grant of petitions for modification of exemptions from vehicle theft protection standard.

SUMMARY: On September 8 and September 12, 1994, Saab Cars, USA, Inc. ("Saab") filed petitions with the National Highway Traffic Safety Adminsitration ("NHTSA") asking for modification to agency-approved exemptions from the vehicle theft protection standard for its model years (MY) 1995–1997 900 and 9000 car lines. NHTSA is granting Saab's petitions for modification of its exemption from the parts-marking requirement of the vehicle theft prevention standard for the MY 1995–1997 900 and 9000 car lines because it has determined, based on substantial evidence, that the antitheft devices described in Saab's petition to be placed on the car lines as standard equipment, are likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements.

DATES: The exemptions granted by this notice are effective for MY 1995 and thereafter.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Gray, Office of Market Incentives, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Gray's telephone number is (202) 366–1740.

SUPPLEMENTARY INFORMATION: On June 1, 1988, NHTSA published in the **Federal Register** a notice granting a petition from Saab Cars USA, Inc. (Saab) for an exemption from the parts-marking requirements of the vehicle theft prevention standard for the Saab 9000 car line beginning with MY 1989. (See 53 FR 20061, June 1, 1988.) On July 26, 1993, the agency published a **Federal Register** notice granting a petition from Saab for an exemption from the parts-marking requirement of the vehicle theft protection standard beginning with MY 1994 for a car line whose nameplate was at that time confidential. (See 58 FR 39853, July 26, 1993.) With the beginning of production in MY 1994, the identity of that car line, the Saab 900, became publicly available. The agency determined that the antitheft devices, which Saab intends to install on the two car lines as standard equipment was likely to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of the theft prevention standard.

Saab submitted petitions for modification of those previously approved antitheft systems, dated September 8, 1994, and September 12, 1994, for the MYs 1995 through 1997 Saab 900 and 9000 car lines, respectively. This notice responds to both of those petitions.

These petitions contained detailed descriptions of the identity, design, and location of the components of the antitheft systems, including diagrams of the components and their location in each vehicle. Saab stated that the modified antitheft systems have been enhanced to incorporate a glass-breakage sensor; a remote transmitter which arms, locks, unlocks, and disarms the systems; and an ignition-fuel disengagement feature.

The functions of the existing systems have been modified by adding three components: (1) A radio frequency remote transmitter; (2) a separate glass breakage sensor for the windows (excluding the Saab 900 convertible' models); (3) an ignition and fuel-cutoff feature to supplement the starter disengagement feature. Presently, the operator may activate these systems by using the key. This function has been extended to incorporate the use of a remote transmitter. Saab stated that the transmitter uses radio frequencies and rolling security codes. Thus, each time the driver uses the remote transmitter, a different code is set, making it virtually impossible to circumvent. The transmitter also has a small LED indicator beside each button of the transmitter to show battery charge. On the Saab 9000, locking of either front door with the key or the remote transmitter will automatically lock all vehicle doors and the hatch/trunk lid, and arm the starter interrupt, fuel pump, and ignition system relays. On the 900 activation of the system can only be accomplished by using the remote. The ignition key will only lock the doors. Furthermore, Saab stated, in a telephone call, that use of the key or the remote transmitter to lock the doors will protect all windows (except on the Saab 900 convertible) from unauthorized entry.

Once the systems are armed, unauthorized entry or breach of the protected areas will trigger the antitheft system. In addition to activating the audible alarm, flashing lights and starter interrupt, arming the new system causes the fuel and ignition systems to be disabled for 30 minutes. If the alarm is disarmed within a 30 to 300 second period, the alarm will be interrupted and the turn signals will stop. However, if another attempted unauthorized entry is made during that time, the system will reset itself for another 30-minute period. Saab has added a glass breakage sensor (except on the Saab 900 convertible), which will further attract attention to unauthorized entry attempts. There is an LED display on the dashboard that indicates the various states of alarm.

Saab has customized some features of the alarm system, giving customers the ability to configure the system to automatic arming whenever the ignition is turned off, to change the type of confirmation signal when the alarm is armed/disarmed, or to select among different responses when the alarm is triggered.

To prevent defeat of these system, all system components will be inaccessibly located and be monitored by the antitheft system for unauthorized tampering. In addition, all door lock mechanisms are covered and recessed inside the door, making it very difficult for an unauthorized person to unlock the doors using an instrument that slides between the window and the outer door. The interior door lock plungers are designed so that they cannot be snagged with a wire inserted between the weatherstripping and the window glass. Because the latch mechanism will be located in the door, it will be more difficult to unlatch the door by sliding an instrument between the door and the B- or C-pillar. In the event that there is unauthorized entry without a key despite activation of the visual and audible alarm features, the fuel, ignition and starter disengagement features will be activated, preventing operation of the vehicle.

Saab also stated that the keylocks on the 900 and 9000 are unique to Saab and almost impossible to pick; and it would be extremely difficult to duplicate the keys on either vehicle. Special key-cutting equipment and blanks are needed to duplicate the keys. In addition, access to codes and key blanks is made more difficult by the fact that they are protected within the Saab dealer and corporate network.

Saab addressed the reliability and durability of its antitheft device by providing a list of specific testing programs that validate the system's integrity. The examinations included testing for electrical strength, electromagnetic compatibility, radiated interference susceptibility, conduction emissions/audio frequency, disturbance (supply lines), transient emissions, radiated emissions/radio-frequency disturbance (vehicle level), mechanical vibration, random and cycled temperature, durability life cycle, mechanical shock, ambient temperature extremes, corrosion resistance, dust and small particle exposure, salt spray and low air pressure.

In addition, Saab stated that its antitheft systems are protected against false activation caused by sound wave vibration, air turbulence, and temperature or light changes. They are also equipped with a self-diagnosis system which monitors proper functioning of the system each time it is armed. If the system detects failure, a fault code is stored, and the LED will blink for ten seconds after the arming of the alarm (rather than remaining steadily lit for ten seconds) as long as the code is left in memory.

In discussing why it believes these antitheft devices will be effective in reducing and deterring motor vehicle theft, Saab said that the modified systems will add features to already effective antitheft systems. Saab based its contention in part on NHTSA's preliminary MY 1992 theft data, which shows that the Saab 9000 car line equipped with the system for which it was previously granted an exemption has a theft rate of .4695, ranking it 195th out of 215 vehicle lines. Saab also based its contention on Highway Loss Data

VOL
60
ISS
77
AP
21
1995
UMI

Institute (HLDI) results for MYs 1991–1993. Based on that data, the Saab 9000 had a relative theft rate of 57, compared with an average rate for mid-size luxury models of 94. This included the following specific vehicle theft rate numbers: Buick Riviera—114; Volvo 940/960—68; Infiniti J30—71; Mercedes 190E—121; BMW 318i/325i—126; and the BMW 525i/535i—112.

Saab contends that its system for the 900 line is effective at reducing theft based on the HLDI data for 1991–1993. That data indicated that for the Saab 900 convertible, which used an antitheft system that was activated by a remote transmitter but lacked the immobilization feature of the modified system, the relative theft rate was 128 as compared to 140 for all cars in the "small sports model category." Comparable models were the Chevrolet Corvette convertible, the Mazda Miata convertible, and the Mercury Capri convertible. Saab also stated that the preliminary NHTSA theft data for MY 1992 showed that the rate for the Saab 900 line was 1.7442, well below the median. Saab said that it expects the rate for the MYs 1995–1996 900 line will be below this low rate, and close to the 9000's rate of .4695.

Saab states that it believes that the antitheft systems to be installed on the 9000 and 900 car lines will be more effective than parts marking in reducing and deterring motor vehicle theft because the existing system already comply with all of the criteria of § 543.6(a)(3), the new modifications are designed to improve the current systems, and Saab now uses visible antitheft system window warning labels.

NHTSA believes that there is substantial evidence indicating that the modified antitheft systems planned to be installed as standard equipment on the MY 1995 Saab 900 and 9000 car lines will likely be as effective in reducing and deterring motor vehicle theft as compliance with the requirements of the theft prevention standard (49 CFR part 541). This determination is based on the information that Saab submitted with its petitions and on other available information. The agency believes that the modified device will continue to provide the types of performance listed in section 543.6(a)(3): Promoting activation, attracting attention to unauthorized entries, preventing defeat or circumventing of the device by unauthorized persons, preventing operation of the vehicle by unauthorized entrants, and ensuring the reliability and durability of the device.

As required by 49 CFR 543.6(a)(4), the agency also finds that Saab has provided adequate reasons for its belief that the modified antitheft device will reduce and deter theft. This conclusion is based on the information Saab provided on its devices. This information included a description of reliability and functional tests conducted by Saab for the antitheft device and its components.

49 CFR section 543.9(h)(2)(ii) permits the agency to establish an effective date for the modification of the exemptions earlier than "the model year following the model year in which NHTSA issued the modification decision" upon a showing of good cause by the manufacturer that an earlier effective date for modifying its exemption is consistent with the public interest and purposes of 49 U.S.C. section 33106. Saab's petitions sought a 1995 model year effective date for the modification of its exemption, which is earlier than the model year following the one in which its petition is granted. Making the modification of Saab's antitheft systems effective beginning with MY 1995 are in the public interest since it would permit expeditious manufacture and sale of vehicles with the modified antitheft systems as standard equipment. Saab cited the 1992 theft data published by NHTSA in the **Federal Register** showing that the Saab 9000 line had a theft rate of .4695 and for the 900 the rate was 1.7442, well below the median theft rate. Saab stated its belief that the antitheft device proposed for the MY 1995 900, which is essentially the same device, will continue to have a theft rate well below the median. NHTSA finds that this constitutes a showing of "good cause" and that making the modification of Saab's petition effective beginning with MY 1995 is consistent with the public interest and 49 U.S.C. 33106.

For the foregoing reasons, the agency hereby exempts the Saab 900 and 9000 car lines that are the subject of this notice, in whole, from the requirements of 49 CFR part 541 for MYs 1995 through 1997.

If, in the future, Saab decides not to use the exemptions for a car lines that are the subject of this notice, it should formally notify the agency. If such a decision is made, the car lines must be fully marked according to the requirements under 49 CFR 541.5 and 541.6 (marking of major component parts and replacement parts).

The agency notes that the limited and apparently conflicting data on the effectiveness of the pre-standard parts marking programs continue to make it difficult to compare the effectiveness of an antitheft device with the effectiveness of compliance with the theft prevention standard. The statute clearly invites such a comparison, which the agency has made on the basis of the limited data available. With implementation of the requirements of the "Anti Car Theft Act of 1992," NHTSA anticipates more probative data upon which comparisons may be made.

NHTSA notes also that if Saab wishes in the future to modify the device on which these exemptions are based, the company may have to submit a petition to modify the exemptions. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions "(t)o modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

However, the agency wishes to minimize the administrative burden which § 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Issued on: April 14, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–9885 Filed 4–20–95; 8:45 am]

BILLING CODE 4910–59–P

Sunshine Act Meetings

Federal Register
Vol. 60, No. 77
Friday, April 21, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the May 11, 1995 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Tuesday, May 9, 1995 at 10:00 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: April 13, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95–1006 Filed 4–19–95; 9:26 am]

BILLING CODE 6705–01–P

VOL
60

ISS
77

AP
21

1995

UMI

federal register

Friday
April 21, 1995

Part II

Federal Retirement Thrift Investment Board

5 CFR Part 1620
Thrift Savings Plan, Continuation of Eligibility; Interim Final Rule

VOL
60
ISS
77
AP
21
1995
UMI

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1620

Thrift Savings Plan; Continuation of Eligibility

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing interim regulations concerning the eligibility of certain individuals to have make-up contributions credited to their Thrift Savings Plan (TSP) accounts and, in certain cases, restore withdrawn funds and reestablish loan accounts. Section 4 of the Uniformed Services Employment and Reemployment Rights Act amends Title 5 of the United States Code to add a new section 8432b that addresses TSP benefits that apply to any Federal employee whose release from military service, discharge from hospitalization related to that service, or other similar event making the individual eligible to seek restoration from leave-without-pay status or reemployment under 38 U.S.C. Chapter 43, occurs on or after August 2, 1990. This interim rule governs retroactive participation in the TSP by these employees.

DATES: The interim rule is effective August 2, 1990. Comments must be received by June 21, 1995.

ADDRESSES: Comments may be sent to: John J. O'Meara, Federal Retirement Thrift Investment Board, 1250 H Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara (202) 942–1660.

SUPPLEMENTARY INFORMATION: These regulations are being given retroactive effect to August 2, 1990, in order to provide eligible employees an opportunity to seek and obtain TSP benefits from the effective date of Public Law 103–353.

These regulations include provisions to ensure that all employees are given the opportunity to make up any TSP contributions that were not made to their TSP accounts because they separated (or were in a leave-without-pay status) from Federal civilian employment to perform military service. Employing agencies are required to deposit the appropriate amount of Agency Matching Contributions to the accounts of those employees covered by the Federal Employees' Retirement System (FERS) who elect to make up missed contributions. In addition, employing agencies are required to deposit to the accounts of eligible FERS employees an amount equal to one percent of their basic pay for the retroactive period. Subject to *de minimis* rules, lost earnings will also be paid by the employing agencies on retroactive agency contributions that are reported for investment.

Employing agencies are required to notify the TSP recordkeeper if an employee's Agency Automatic (1%) Contributions and associated earnings were forfeited because the employee was not vested when he or she separated to perform military service. The employing agency will request that these funds be restored.

Employees who are subject to the TSP automatic cashout provisions (those employees whose account balances were $3,500 or less) and employees who separated without eligibility for retirement benefits and prior to March 1995 withdrew amounts greater than $3,500, may elect to have the separation for military service treated as if it had never occurred. These employees will be allowed to return amounts to the Thrift Savings Plan that represent the full amount of the withdrawal. In addition, in certain cases, if a taxable distribution was declared on a Thrift Savings Plan loan and the employee returns the full amount of the withdrawal to the Thrift Savings Plan, the taxable distribution that was declared on a Thrift Savings Plan loan may be reversed. In this case, the employee will be able to resume regular loan payments.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only Federal employees who leave, or have left, Federal civilian service to perform military service and have, under certain conditions, returned to Federal civilian service.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the Paperwork Reduction Act.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Under 5 U.S.C. 553(b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. It is necessary for these regulations to be effective as of August 2, 1990, which is the day on which employees eligible under the regulations were first eligible to obtain retroactive Thrift Savings Plan benefits.

List of Subjects in 5 CFR Part 1620

Employee benefit plans, Government employees, Retirement, Pensions.

Dated: April 13, 1995.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

Accordingly, 5 CFR Part 1620 is amended as follows:

PART 1620—CONTINUATION OF ELIGIBILITY

1. The authority citation for Part 1620 is revised to read as follows:

Authority: 5 U.S.C. 8474 and 8432b; Pub. L. 99–591, 100 Stat. 3341; Pub. L. 100–238, 101 Stat. 1744; Pub. L. 100–659, 102 Stat. 3910.

2. Part 1620 is amended by adding subpart H, consisting of §§ 1620.100 through 1620.107, to read as follows:

Subpart H—Military Service

Sec.

1620.100 Scope.
1620.101 Definitions.
1620.102 Processing contribution elections.
1620.103 Processing lost earnings.
1620.104 Agency payments to recordkeeper; agency ultimately responsible.
1620.105 Restoring forfeited Agency Automatic (1%) Contributions.
1620.106 Returning withdrawals.
1620.107 Agency responsibilities.

Subpart H—Military Service

§ 1620.100 Scope.

(a) *General.* To be covered by this subpart, an employee must have:

(1) Been separated from Federal civilian service or entered leave-without-pay status in order to perform military service;

(2) Been reemployed; and

(3) Become eligible to seek reemployment by virtue of a release from military service, discharge from hospitalization, or other similar event that occurred on or after August 2, 1990.

(b) *Other rules.* Except as provided in this part, the rules governing contributions to the TSP set forth in 5 CFR Part 1600 will apply to persons reemployed under this subpart.

§ 1620.101 Definitions.

As used in this subpart:

(a) *Basic pay* has one of two meanings:

(1) For the portion of the retroactive period when an employee did not receive a Federal civilian salary, the rate of basic pay is that which would have been payable to the employee if the employee had remained continuously employed in the position which he or she last held before separating (or entering leave-without-pay status) to perform military service;

(2) For the portion of the retroactive period that occurs after the employee is reemployed, his or her actual basic pay will be used to calculate contributions.

(b) *Current contributions* means those contributions that are made prospectively for any pay period after the employee has been reemployed.

(c) *Employee* means any Federal employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under 38 U.S.C. chapter 43 occurs on or after August 2, 1990.

(d) *Leave-without-pay* means a temporary nonpay status and absence from duty (including military furlough) to perform military service.

(e) *Recordkeeper* means the organization designated by the Federal Retirement Thrift Investment Board as the Thrift Savings Plan's recordkeeper.

(f) *Reemployed* or *reemployment* means reemployed in (or restored to) a position pursuant to 38 U.S.C. chapter 43, which is subject to 5 U.S.C. chapter 84 or which entitles the employee to contribute to the Thrift Savings Plan pursuant to 5 U.S.C. 8351.

(g) *Retroactive period* means the period for which an employee is entitled to make up missed Employee Contributions and to receive retroactive Agency Automatic (1%) Contributions and Agency Matching Contributions.

(1) *Beginning of retroactive period.* For an employee who was eligible to make contributions when military service began, the retroactive period begins on the date following the effective date of separation or, in the case of leave-without-pay, the date the employee enters leave-without-pay status. For an employee who was not eligible to make contributions when military service began, the retroactive period begins on the first day of the first pay period in the election period during which the employee would have been eligible to make contributions had the employee remained in Federal civilian service.

(2) *End of retroactive period.* The retroactive period ends on the earlier of the following two dates: the date before the first day of the first election period during which a contribution election could have been made effective after reemployment, or the last day of the pay period before the pay period during which routine current contributions are begun after the employee is reemployed (or restored). If an employee who was making contributions when he or she separated elects not to make routine current contributions, the ending date of the retroactive period is the last day of the pay period during which the employee elects to terminate contributions.

(h) *Separation* or *separated* means the period an employee was separated from Federal civilian service (or entered a leave-without-pay status) in order to perform military service.

§ 1620.102 Processing contribution elections.

(a) *Current contribution elections.* Immediately upon reemployment, an employee's agency will give an eligible employee the opportunity to submit a contribution election form (Form TSP–1) to make current contributions. The effective date of the current Form TSP–1 will be the first day of the first full pay period in the most recent TSP election period. If the employee is reemployed during a TSP Open Season but before the election period, he or she can also submit an election form that will become effective the first day of the first full pay period in the following election period.

(b) *Retroactive contribution elections.* (1) An employee has the following options for making retroactive contributions:

(i) If the employee had a valid contribution election form (Form TSP–1) on file when he or she separated, that election form will be reinstated for purposes of retroactive contributions upon the employee's reemployment, unless a new contribution election form is submitted to terminate all retroactive contributions or those contributions that would have been made from the date of separation through the end of the Open Season that occurred immediately after the separation.

(ii) Instead of making the contributions for the retroactive period under the reinstated contribution election form, the employee may submit a new election form for any Open Season that occurred during the retroactive period. However, the allocation election on each Form TSP–1 for the retroactive period must be the same as the allocation election on the current Form TSP–1.

(2) An employee who terminated contributions within two months before entering military service will be eligible to make a retroactive contribution election effective for the first Open Season that occurs after the effective date that the contributions were terminated. This election may be made even if the termination was made outside of an Open Season.

(3) Employees may not make any retroactive contributions that will cause them to exceed the Internal Revenue Service's elective deferral limit. If an employee's current contributions, when added to the make-up contributions, will exceed the annual elective deferral limit, the employing agency must suspend the make-up contributions in accordance with 5 CFR 1605.2(b)(2)(ii).

§ 1620.103 Processing lost earnings.

(a) *Agency Automatic (1%) Contributions.* Subject to the *de minimis* rules in 5 CFR part 1606, employing agencies are required to pay lost earnings on the Agency Automatic (1%) Contributions that are made for the retroactive period.

(b) *Agency Matching Contributions.* Subject to the *de minimis* rules in 5 CFR part 1606, employing agencies are required to pay lost earnings for the agency contributions that match make-up Employee Contributions.

(c) *Make-up Employee Contributions.* Employing agencies may not pay lost earnings for make-up Employee Contributions associated with the retroactive period.

(d) *Lost earnings calculation.* Lost earnings will be calculated on all retroactive agency contributions using the rates of return for the Government Securities Investment Fund (G Fund), unless the employee submitted one or more interfund transfer requests during the period of separation. In the case of interfund transfer requests, the earnings will be calculated using the G Fund rates of return until the first interfund transfer was processed. The contribution that is subject to lost earnings will be moved to the investment fund(s) the employee requested and lost earnings will be calculated based on the earnings for that fund(s). The amount of lost earnings calculated will be posted to the investment fund(s) to which the contribution was moved. If there were no interfund transfers processed during the lost earnings calculation period, the amount of lost earnings calculated will be posted to the employee's G Fund account.

§ 1620.104 Agency payments to recordkeeper; agency ultimately chargeable.

(a) *Agency making payments to recordkeeper.* The current employing agency will always be the agency responsible for making payments to the recordkeeper for all contributions (both employee and agency) and lost earnings, regardless of whether some of that expense is ultimately chargeable to a prior employing agency.

VOL 60 ISS 77 AP 21 1995 UMI

(b) *Agency ultimately chargeable with expense.* The agency ultimately chargeable with the expense of agency contributions and lost earnings attributable to the retroactive period is ordinarily the agency that reemployed the employee. However, if an employee changed agencies during the period between the date of reemployment and October 13, 1994, the employing agency as of October 13, 1994, is the agency ultimately chargeable with the expense.

(c) *Reimbursement by agency ultimately chargeable with expense.* If the agency that made the payments to the recordkeeper for agency contributions and lost earnings is not the agency ultimately chargeable with that expense, the agency that made the payments to the recordkeeper may, but is not required to, obtain reimbursement from the agency ultimately chargeable with the expense.

§ 1620.105 Restoring forfeited Agency Automatic (1%) Contributions.

If an employee's Agency Automatic (1%) Contributions were forfeited because the employee was not vested when he or she separated to perform military service, the employee must notify the employing agency that a forfeiture occurred. Employing agencies will submit a written request to the recordkeeper to restore any Agency Automatic (1%) Contributions that were forfeited from an employee's account because he or she was not vested at the time the employee separated to perform military service.

§ 1620.106 Returning withdrawals.

(a) *General.* Employees who are subject to the TSP automatic cashout provisions (employees whose account balances were $3,500 or less) and employees who separated without eligibility for retirement benefits and prior to March 1995 withdrew amounts greater than $3,500, may elect to have the separation for military service treated as if it had never occurred. These employees will be allowed to return amounts to the Thrift Savings Plan that represent the full amount of the withdrawal. Eligible employees must notify the recordkeeper by April 21, 1996, or one year from the date of reemployment, whichever is later, of their intent to return the withdrawn funds.

(b) *Documentation.* An eligible employee who elects to return the full amount of a withdrawal under this section must provide documentation of reemployment to the recordkeeper. The recordkeeper will notify the employee of the amount of funds to be returned and the deadline for making that payment. The employee must provide the funds in a single payment to the recordkeeper within 90 days after the recordkeeper sends the employee the notice advising of the amount and procedures for returning the funds.

(c) *Earnings.* Employees will not receive retroactive earnings on any amounts withdrawn that they later return to their accounts.

(d) *Taxable distribution reversed.* Employees who return withdrawn funds under this section may be eligible to have a taxable distribution associated with a loan reversed. At the time the recordkeeper notifies the employee of the amount required to return the withdrawn funds, it will notify the employee whether he or she is eligible to have a taxable distribution reversed.

§ 1620.107 Agency responsibilities.

(a) *General.* Each employing agency must establish procedures for implementing these regulations. These procedures must at a minimum, require agency personnel to identify and notify eligible employees concerning their options under these regulations and tell them the time period within which those options must be exercised. For employees who are reemployed on or after August 2, 1990, and before April 21, 1995, the agency must perform these functions by June 20, 1995. For employees who are reemployed on or after April 21, 1995, employing agencies must perform these functions within 60 days of the employee's reemployment. An employee must submit a written request to the employing agency to make up Employee Contributions for the retroactive period on or before April 21, 1996, or one year from the date the employee was reemployed, whichever is later, or forfeit the right to make up these contributions.

(b) *Agency records; procedure for reimbursement.* The agency that is making the payments to the recordkeeper for all contributions (both employee and agency) and lost earnings will obtain from prior employing agencies whatever information is necessary in order to make accurate payments. If a prior employing agency is ultimately chargeable under § 1620.104(b) for all or part of the expense of agency contributions and lost earnings, the agency making the payments to the recordkeeper will determine the procedure to follow in order to collect amounts owed to it by the agency ultimately chargeable with the expense.

(c) *Payment schedule; matching contributions report.* Agencies will, with the employee's consent, prepare a payment schedule for making retroactive Employee Contributions. In addition, the employing agencies will calculate the Agency Matching Contributions that will be reported for investment to the recordkeeper in equal installments for each pay period covered by the payment schedule. The employing agency may impose limits on the maximum amount of time during which an employee may make up the missed contributions. This maximum amount of time may be no less than two times and no more than four times the number of pay periods that were covered by the period of missed contributions. An employee may decide to terminate the make-up contributions; however, such a decision is irrevocable.

(d) *Agency Automatic (1%) Contributions.* Employing agencies must calculate the Agency Automatic (1%) Contributions for all reemployed FERS employees, report these contributions to the recordkeeper, and submit lost earnings records to cover the retroactive period by June 20, 1995, or 60 days from the date of reemployment, whichever is later.

(e) *Forfeiture restoration.* When notified by an employee that a forfeiture of the Agency Automatic (1%) Contributions occurred after the employee separated to perform military service, the employing agency must submit a written request to the recordkeeper to restore these funds.

(f) *Thrift Savings Plan Service Computation Date.* The agencies must review the Thrift Savings Plan Service Computation Date for all reemployed Federal Employees' Retirement System employees for purposes of crediting military service performed during the separation period. If the period of military service has not been credited, the agency must submit a corrected Thrift Savings Plan Service Computation Date to the recordkeeper.

[FR Doc. 95–9606 Filed 4–20–95; 8:45 am]
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federal register

Friday
April 21, 1995

Part III

Department of Health and Human Services

Administration for Children and Families

45 CFR Part 1336

Native American Programs; Proposed Rule

VOL 60 ISS 77 AP 21 1995 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1336

RIN 0970–AB37

Native American Programs

AGENCY: Administration for Native Americans, Administration for Children and Families, HHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: On September 30, 1992, the Congress passed the Older Americans Act Amendments of 1992, amending the Native American Programs Act of 1974. In accordance with these amendments, the Administration for Native Americans (ANA) is proposing to amend 45 CFR part 1336 to incorporate an appeals procedure for ANA ineligible applications. This action affords the applicants in ANA grant program announcement areas the opportunity to appeal the rejection of an application based on a finding that either the applicant or the proposed activities are ineligible for funding. A successful appeal would lead to reconsideration of the application in the next cycle of grant proposals following the Assistant Secretary's determination to uphold the appeal. It does not guarantee ANA approval for grant funding.

DATES: Interested parties are invited to comment on these proposed amendments. Comments must be submitted on or before June 20, 1995.

ADDRESSES: Submit comments on the proposed rule, in duplicate, to: Administration for Native Americans, ATTN: INELIGIBILITY APPEAL, Room 348–F, HHH Bldg., 200 Independence Avenue, SW., Washington, DC 20201–0001.

Two weeks after close of the comment period, comments and letters will be available for public inspection in Room 348–F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, Monday through Friday, 7:30 a.m. to 3:30 p.m., telephone (202) 690–7730.

FOR FURTHER INFORMATION CONTACT: Sharon McCully (202) 690–5780.

SUPPLEMENTARY INFORMATION:

I. Program Description

In 1974, the Native American Programs Act (the Act) was enacted as Title VIII of the Economic Opportunity Act of 1964, (Pub. L. 93–644) (42 U.S.C. 2991a *et seq.*) to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, and Native Hawaiians. The legislation was subsequently amended by the Older Americans Act Amendments of 1987 (Pub. L. 100–175), which extended eligibility to Native American Pacific Islanders (including American Samoan Natives), and the Indian Environmental Regulatory Enhancement Act of 1990 (Pub. L. 101–408). Most recently it was amended by the Older Americans Act Amendments of 1992, (Pub. L. 102–375); the Native American Languages Act of 1992, (Pub. L. 102–524); Technical Amendments to Certain Indian Statutes, 1992, (Pub. L. 102–497); and the Older Americans Act Technical Amendments of 1993 (Pub. L. 103–171).

Background

Financial assistance provided by ANA, under the Act, is designed to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and Native American Pacific Islanders through programs and projects that: (1) Advance locally developed social and economic development strategies (SEDS) and strengthen local governance capabilities as authorized by § 803(a); (2) preserve Native American languages authorized by § 803C; (3) improve the capability of the governing body of the Indian tribe to regulate environmental quality authorized by § 803(d); and (4) mitigate the environmental impacts to Indian lands due to Department of Defense activities. The funding for the mitigation of environmental impacts to Indian lands due to Department of Defense activities is authorized by § 809A of the Department of Defense Appropriations Act, 1994 (Pub. L. 103–139). The Act also authorizes a Hawaiian Loan Program in § 803A. Under this program, ANA makes grants to the Office of Hawaiian Affairs of the State of Hawaii to support a revolving loan fund. Because of the unique nature of this program an appeal is unlikely to arise under it, and for this reason ANA has not addressed the question of eligibility of organizations or activities under this program in the regulations.

II. Discussion of Proposed Regulations

These proposed regulations are to establish new procedures mandated by reauthorization legislation, the Older Americans Act Amendments of 1992 (Pub. L. 102–375, Title VIII, Subtitle C; "Native American Programs Act Amendments of 1992"). The proposed regulations would add three new sections to 45 CFR part 1336, subpart C, that would list the categories of eligible applicants and activities that are ineligible, § 1336.33, requirements for the notice of ineligibility, § 1336.34, and the procedures for appeal of such a determination, § 1336.35.

A successful appeal under § 1336.35 would lead to reconsideration of the application in the next cycle of grant proposals. It does not guarantee ANA approval for grant funding. Furthermore, the decision that an application is deficient by ANA prior to competitive panel review for reasons other than applicant ineligibility or the ineligibility of proposed activities is not appealable under this section and in accordance with section 810(b) of the Act. The decision not to fund an application because it fails the competitive review panel also is not appealable under this section.

Section-by-Section Discussion of the Proposed Changes

In subpart C, part 1336, Native American Projects, we are proposing to include a new § 1336.33, Ineligible applicants and proposed activities which are ineligible. This section lists the categories of organizations which are eligible for four of the grant programs administered by ANA. An organization not within the categories specified for a program is not eligible to receive funding under that program.

The provision also lists activities which, based upon its experience in administering the program, ANA has declined to fund in the past. The Agency has found that these activities are by their nature of limited or no value in furthering the goals of the respective grant programs administered by ANA.

Paragraph (a)(1) lists categories of applicants eligible to apply for SEDS and Preservation and Enhancement of Native American Language grants. The categories are in accordance with Section 803(a) of the Native American Programs Act, as amended, and Section 803C, which provides that organizations eligible under Section 803(a) are also eligible for grants under the Native American languages program. The following are some examples of the eligible organizations listed in paragraph (a)(1): Federally recognized Indian Tribes; urban Indian Centers; consortia of Indian Tribes; Alaska Native villages as defined by the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia; public and nonprofit private agencies serving native people from Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands; public and nonprofit private agencies serving Native Hawaiians; and incorporated non-Federally recognized Tribes.

Under the SEDS program, applications submitted by organizations applying to serve members of a Federally recognized tribe must be submitted through the tribe. This interpretation of the requirements of section 803(a) of the Act reflects the legal principle that Indian tribes possess inherent governmental power over all internal affairs. See, for example, *Merrion* v. *Jicarilla Apache Tribe*, 455 U.S. 130 (1982) (Tribe has inherent power to impose severance tax on mining activities). Attributes of sovereign authority of tribes extends over both their members and territory, except where that authority has been withdrawn or modified by treaty or Federal statute. *Iowa Mutual Insurance Co.* v. *LaPlante*, 480 U.S. 9, 14 (1987). Tribes generally retain sovereignty by way of tribal self-government and control over other aspects of its internal affairs. *Brendale* v. *Confederated Tribes and Band of Yakima*, 109 S. Ct. 2994 (1989). When the eligibility requirements of section 803(a) are applied to organizations serving members of a Federally recognized tribe through activities within its jurisdiction it is appropriate to interpret the requirements in light of the principle that tribes have an inherent authority over their internal affairs and over their members. To do otherwise would undermine the ability of tribes to exercise that authority. It is also particularly important in such circumstances to have the support of the tribal government since the grant is intended to further the social and economic development of the tribe and its members.

The requirements of paragraph (a)(1) set forth ANA's interpretation of the eligibility requirements of section 803(a) of the Act. The Agency proposes to remove 45 CFR 1336.30(a) which restates the language of the statute. Continued use of this provision in the regulations would cause confusion. In addition, ANA is removing 45 CFR 1336.30(c) which provides that projects in American Samoa, Guam and the Northern Mariana Islands receive funding under § 803 "subject to the availability of funds." This provision was based upon a requirement in section 803(a) which was deleted in 1992 by Public Law 102–497.

Paragraph (a)(2) lists 5 categories of applicants eligible to apply for funds provided by the Department of Defense (DoD) and ANA for the purpose of mitigating environmental impacts on Indian Lands related to DoD activities. This list was derived from the Environmental Mitigation Program Announcement as published in the **Federal Register:** Availability of Financial Assistance; (58 FR 69106; December 29, 1993). ANA does not interpret Section 810(b) of the Act as requiring that applicants under the DoD program have a right to appeal rulings of ineligibility; however the Agency has decided as a matter of policy to include this program under the regulations.

Paragraph (a)(3) lists 5 categories of applicants eligible to apply for funds for the improvement of the capability of tribal governing bodies to regulate environmental quality. The eligible categories of organizations are: (1) Federally recognized Indian Tribes; (2) incorporated non-Federally and State recognized Tribes; (3) consortia of Indian Tribes; (4) Alaska Native villages as defined by the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia; (5) Tribal governing bodies (Indian Reorganization Act (IRA) or traditional councils) as recognized by the Bureau of Indian Affairs. The list of 5 categories are derived from the recent program announcement: Availability of Financial Assistance for Improving the Capability of Indian Tribal Governments to Regulate Environmental Quality (59 FR 16650, April 7, 1994).

The regulations do not include a list of organizations eligible for grants authorized by § 805 of the Act, which authorizes grants for research, demonstration and pilot projects. ANA is not currently awarding grants under this provision, nor does it have plans to do so. If, at some point in the future, it does issue an announcement for funding under section 805, the Agency will state which categories of organizations and the types of activities are eligible for funding. Applicants for funding under § 805 which wish to appeal the rejection of an application based on a finding that either the applicant or the proposed activities are ineligible for funding will be able to do so by submitting an appeal as provided for by the proposed 45 CFR 1336.35.

Paragraph (b) provides a nonexclusive list of 7 activities that are ineligible for funding under programs authorized by the Native American Programs Act of 1974. (It is impossible to list all activities that would be considered eligible.) With the exception of one activity, the purchase of real estate, which is prohibited by law, the remaining 6 listed are derived from ANA's past experiences in managing grants and working with organizations, both public and private. Several examples of these are:

(a) Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations ("third party T/TA"). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable. Third party T/TA is not an eligible activity because ANA believes it is inefficient to fund organizations which would otherwise be able to apply directly to ANA for TA funding;

(b) Projects that request funds for feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's SEDS long-range development plan. ANA is not interested in funding "wish lists" of business possibilities. This policy reflects ANA's belief that the limited amount of funds available to the Agency is better used to support activities which directly affect the well-being of the members of Native American communities;

(c) The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs. This area is covered by other Federal programs and would result in a duplicative effort by ANA; and

(d) Core administration functions, or other activities, that essentially support only the applicant's on-going administrative functions. ANA funds are used for specific products that become self-sustaining and not for the on-going administration of Tribes or organizations. This policy reflects ANA's goal of husbanding the scare resources available to it.

In § 1336.34, Notice of ineligibility, we propose that upon a finding by the Commissioner that an organization which has applied for funding is ineligible or that the activities proposed by an organization are ineligible, the Commissioner shall inform the applicant, by certified letter, of the decision. The notice must include a statement of the legal and factual grounds for the finding concerning eligibility, a copy of these regulations, and the statement regarding how to appeal the decision.

In § 1336.35, Appeal of ineligibility, we propose to establish the procedures an applicant must follow when seeking to appeal the ANA Commissioner's determination that an applicant, or proposed activities, are rejected on grounds of ineligibility. This section describes the steps that apply when seeking such an appeal. In accordance with the Native Americans Programs Act, Section 810(b), the applicant may make an appeal to the Secretary for review of the determination of ineligibility. The Secretary has delegated the authority for review of appeals made under section 810(b) to the Assistant Secretary for Children and Families. Under this section, the applicant has 30 days following receipt of ineligibility notification to appeal, in writing, the Commissioner's ruling. The

VOL 60 ISS 77 AP 21 1995 UMI

appeal must clearly identify the issues. The Assistant Secretary may appoint an individual who is not a member of the staff of the Administration for Native Americans to develop the record in the appeal and to recommend a decision. The Assistant Secretary or his or her designee shall give the Commissioner 21 days to respond to the applicant's submission and allow the applicant to respond to the Commissioner's submission within 10 days of its receipt by the applicant. The individual presiding over the appeal may request the parties to submit additional information within a specified time period before closing the record in the appeal. The Assistant Secretary will provide a final written decision within 30 days of the closing of the record. If a determination is made by the Assistant Secretary that the applicant or application is eligible, as required by law, the eligibility will not take effect until the next cycle of grant proposals are considered by ANA.

III. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles.

The NPRM amends the current rules to establish an appeal procedure authorized by the Older Americans Act Amendments of 1992. It adds three new sections to 45 CFR part 1336 that list the categories of eligible applicants and ineligible activities, set forth requirements for the notice of ineligibility, and establish procedures on how to appeal determinations of ineligibility made by the Commissioner, ANA. The NPRM also deletes existing provisions from the regulations that are no longer applicable or are rendered obsolete by the proposed provisions. We estimate that these regulations will not result in significant additional costs to the Federal Government or Native American programs.

Regulatory Flexibility Act of 1980

Consistent with the Regulatory Flexibility Act (5 U.S.C. Ch. 6), we try to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities," we prepare an analysis describing the rule's imapct on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. While this rule would affect small entities, i.e., Alaskan Native villages and non-profit organizations, the impact should be minimal. The only requirement imposed on small entities is for applicant organizations to submit written appeals. For these reasons, the Secretary certifies that these rules will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Public Law 96–511, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or recordkeeping requirement contained in a proposed or final rule. This NPRM does not contain any reporting or recordkeeping requirements, thus, no submission to OMB is required.

List of Subjects in 45 CFR Part 1336

Administrative practice and procedure, American Samoa, Appeals Grant programs—Indians, Grant programs-social programs, Guam, Indians, Native Hawaiians, Northern Mariana Islands, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 93.612 Native American Programs)

Approved: April 4, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, 45 CFR part 1336 is proposed to be amended as follows:

SUBCHAPTER D—THE ADMINISTRATION FOR NATIVE AMERICANS, NATIVE AMERICAN PROGRAMS

PART 1336—NATIVE AMERICAN PROGRAMS

The authority citation for part 1336 continues to read as follows:

Authority: 42 U.S.C. 2991 et seq.

2. Section 1336.30 is amended by removing paragraphs (a) and (c) and removing the designation (b) from the remaining paragraph.

3. Sections 1336.33, 1336.34, and 1336.35 are added to read as follows:

§ 1336.33 Eligible applicants and proposed activities which are ineligible.

(a) Eligibility for the listed programs is restricted to the following specified categories of organizations. In addition, applications under the SEDS program from an organization serving members of a Federally recognized tribe must be submitted through the tribe.

(1) Social and Economic Development Strategies (SEDS) and Preservation and Enhancement of Native American Languages:

(i) Federally recognized Indian Tribes;

(ii) Consortia of Indian Tribes;

(iii) Incorporated non-Federally recognized Tribes;

(iv) Incorporated nonprofit multipurpose community-based Indian organizations;

(v) Urban Indian Centers;

(vi) Public and nonprofit private agencies serving native Hawaiians;

(vii) National and regional incorporated nonprofit Native American organizations with Native American community-specific objectives;

(viii) Public and nonprofit private agencies serving native peoples from Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands;

(ix) Alaska Native villages as defined by the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;

(x) Incorporated nonprofit Alaska Native multipurpose community-based organizations;

(xi) Nonprofit Alaska Native Regional Associations in Alaska with village specific projects;

(xii) Nonprofit Native organizations in Alaska with village specific projects; and

(xiii) Nonprofit Alaska Native community entities or tribal governing bodies (Indian Reorganization Act or traditional councils) as recognized by the Bureau of Indian Affairs.

(2) Mitigation of Environmental Impacts to Indian Lands Due to Department of Defense Activities:

(i) Federally recognized Indian Tribes;

(ii) Incorporated non-Federally and State recognized Tribes;

(iii) Nonprofit Alaska Native community entities or tribal governing bodies (Indian Reorganization Act (IRA) or traditional councils) as recognized by the Bureau of Indian Affairs;

(iv) Nonprofit Alaska Native Regional Associations and/or Corporations with village specific projects; and

(v) Other tribal or village organizations or consortia of Indian Tribes.

(3) Improvement of the capability of tribal governing bodies to regulate environmental quality:

(i) Federally recognized Indian Tribes;

(ii) Incorporated non-Federally and State recognized Tribes;

(iii) Consortia of Indian Tribes;

(iv) Alaska Native villages as defined by the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;

(v) Tribal governing bodies (IRA or traditional councils) as recognized by the Bureau of Indian Affairs.

(b) The following is a nonexclusive list of activities that are ineligible for funding under programs authorized by the Native American Programs Act of 1974:

(1) Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations ("third party T/TA"). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable;

(2) Projects that request funds for feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's SEDS long-range development plan;

(3) The support of ongoing social service delivery programs or the expansion, or continuation, of existing social service delivery programs;

(4) Core administration functions, or other activities, that essentially support only the applicant's ongoing administrative functions;

(5) The conduct of activities which are not responsive to one or more of the three interrelated ANA goals (Governance Development, Economic Development, and Social Development);

(6) Proposals from consortia of tribes that are not specific with regard to support from, and roles of member tribes. An application from a consortium must have goals and objectives that will create positive impacts and outcomes in the communities of its members. ANA will not fund activities by a consortium of tribes which duplicates activities for which member tribes also receive funding from ANA; and

(7) The purchase of real estate.

§ 1336.34 Notice of ineligibility.

(a) Upon a finding by the Commissioner that an organization which has applied for funding is ineligible or that the activities proposed by an organization are ineligible, the Commissioner shall inform the applicant by certified letter of the decision.

(b) The letter must include the following:

(1) The legal and factual grounds for the Commissioner's finding concerning eligibility;

(2) A copy of these regulations; and

(3) The following statement: This is the final decision of the Commissioner, Administration for Native Americans. It shall be the final decision of the Department unless, within 30 days after receiving this decision as provided in section 810(b) of the Native American Programs Act of 1974, as amended, and 45 CFR part 1336, you deliver or mail (you should use registered or certified mail to establish the date) a written notice of appeal to the Assistant Secretary for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447. You shall attach to the notice a copy of this decision and note that you intend an appeal. The appeal must clearly identify the issue(s) in dispute and contain a full statement of the applicant's position on such issue(s) along with pertinent facts and reasons in support of the position. We are enclosing a copy of 45 CFR part 1336 which governs the conduct of appeals under section 810(b). For additional information on the appeals process see 45 CFR 1336.35.

§ 1336.35 Appeal of ineligibility.

The following steps apply when seeking an appeal on a finding of ineligibility for funding:

(a) An applicant, which has had its application rejected either because it has been found ineligible or because the activities it proposes are ineligible for funding by the Commissioner of ANA, may appeal the Commissioner's ruling to the Assistant Secretary for Children and Families, in writing, within 30 days following receipt of ineligibility notification. Written notification as described above will be served on the applicant by certified mail.

(b) The appeal must clearly identify the issue(s) in dispute and contain a full statement of the applicant's position on such issue(s) along with pertinent facts and reasons in support of the position.

(c) Upon receipt of appeal for reconsideration of a rejected application or activities proposed by an applicant, the Assistant Secretary will notify the applicant by certified mail that the appeal has been received.

(d) The Assistant Secretary may appoint an individual who is not a member of the staff of the Administration for Native Americans to develop the record in the appeal and to recommend a decision.

(e) The Assistant Secretary or his or her designee shall give the Commissioner 21 days to respond to the applicant's submission under paragraph (a) of this section.

(f) The Assistant Secretary or his or her designee shall allow the applicant to respond to the Commissioner's submission within 10 days of its receipt by the applicant, and may request the parties to submit additional information within a specified time period before closing the record in the appeal.

(g) The Assistant Secretary will review the record in the appeal and provide a final written decision within 30 days following the closing of the record.

(h) If the Assistant Secretary determines that the applicant is eligible or that the activities proposed by the applicant are eligible for funding, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration for Native Americans.

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VOL
60
ISS
77
AP
21
1995
UMI

Reader Aids

Federal Register
Vol. 60, No. 77
Friday, April 21, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3
16979–17190	4
17191–17432	5
17433–17624	6
17625–17980	7
17981–18342	10
18343–18538	11
18539–18726	12
18727–18948	13
18949–19152	14
19153–19342	17
19343–19484	18
19485–19664	19
19665–19844	20
19845–19998	21

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6781 17979
6782 17981
6783 18537
6784 18707
6785 18725

Executive Orders:
April 17, 1926
(Revoked in part by PLO 7134) 19525
12356 (Revoked by EO 12958) 19825
12958 19825

Administrative Orders:
Memorandums:
April 4, 1995 19153
April 14, 1995 19485

5 CFR

Ch. LII 17625
581 18949
1620 19990

Proposed Rules:
316 17655

7 CFR

Ch. II 19487
97 17188
201 16979
272 17628
273 17628
301 18727
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434, 18950
1001 18952
1002 18952
1004 18952
1005 18952
1006 18952
1007 18952
1011 18952
1012 18952
1013 18952
1030 18952
1032 18952
1033 18952
1036 18952
1040 18952
1044 18952
1046 18952
1049 18952
1050 ..... 18343, 18952
1064 18952
1065 18952
1068 18952
1075 18952
1076 18952
1079 18952
1093 18952
1094 18952
1096 18952
1106 18952
1108 18952
1124 18952
1126 ..... 17191, 18952
1131 ..... 17192, 18952
1134 18952
1135 18952
1137 18952
1138 18952
1139 18952
1413 17984
1427 17984
1464 19665
3016 ..... 19638, 19641

Proposed Rules:
250 18781
335 18374
905 19543
946 19382
956 17274
981 17466
1944 19168

8 CFR

Proposed Rules:
212 19001

9 CFR

77 18726
92 17634
318 19491
327 18540
381 19491
391 19491

Proposed Rules:
308 19543
310 19543
318 19543
320 19543
325 19543
326 19543
327 19543
381 ..... 19543, 19685
391 18551

10 CFR

2 18344
436 ..... 18326, 19343
600 ..... 17985, 19638, 19641

Proposed Rules:
50 ..... 19002, 19170, 19686
70 ..... 18035, 19170
52 ..... 17902, 17924, 17947
170 18882

VOL 60 ISS 77 AP 21 1995 UMI

171.....18862
430.....18782
490.....19544

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

3.....17986
208.....17436
215.....17635
226.....16771
400.....17625

Proposed Rules:

215.....19689
701.....19690
792.....18036

13 CFR

107.....17438
121.....18981
143.....19638, 19641

14 CFR

25.....17194
39.....16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492
71.....17196, 17442, 18346
97.....17198, 17199, 19160, 19162
187.....19628

Proposed Rules:

39.....16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693
71.....17284, 18038, 18552, 19190, 19553
91.....18700
119.....19007
121.....19007
125.....19007
127.....19007
135.....18700, 19007

15 CFR

24.....19638, 19642
771.....18731
779.....18731

16 CFR

305.....19845
1700.....17992

Proposed Rules:

248.....17032
409.....17491
436.....17656
460.....17492
1700.....17660

17 CFR

30.....19493
200.....17201
400.....18733
403.....18733
405.....18733
449.....18733, 18734

Proposed Rules:

239.....17172
270.....17172
274.....17172

18 CFR

343.....19494
385.....19494
284.....16979

Proposed Rules:

35.....17662
141.....17726
388.....17726

19 CFR

7.....18347
10.....18542, 18983
11.....18347
12.....18347
18.....18347
19.....18347
24.....18347
54.....18347
101.....18347, 18983
102.....18347
111.....18347, 18983
114.....18347
123.....18347, 18983
128.....18347, 18983
132.....18347
134.....18347
141.....18347, 18983
143.....18983
145.....18347, 18983
146.....18347
148.....18347, 18983
151.....18347
152.....18347
159.....18983
177.....18347
178.....18983
181.....18347
191.....18347

Proposed Rules:

Ch. I.....18783

20 CFR

Ch. III.....18991
423.....18991
638.....18993
404.....17443, 19163

Proposed Rules:

Ch. III.....17731
404.....19008
416.....19008

21 CFR

20.....16962
73.....18736
101.....17202
176.....18349
178.....18349, 18352, 18739
206.....19846
310.....17611
558.....18740
876.....17208
1310.....17636, 19509
1403.....19638, 19642

Proposed Rules:

146.....19866
310.....19650
876.....17611

22 CFR

135.....19638, 19642
514.....16785

Proposed Rules:

502.....19385

23 CFR

655.....18520

24 CFR

85.....19638, 19642
215.....17388
236.....17388
570.....17445
813.....17388
905.....17388, 18174
913.....17388
950.....18174
3500.....16985

Proposed Rules:

29.....17968
120.....19191
811.....19695

25 CFR

Proposed Rules:

900.....19387

26 CFR

1.....17216, 18741, 18742
602.....18742

Proposed Rules:

1.....17286, 17731, 18377, 18378, 19387, 19868

27 CFR

55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:

Ch. I.....18783
53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

0.....17456
2.....18353
31.....19847
66.....19638, 19642
90.....19474

Proposed Rules:

2.....18378, 18379
16.....18784, 19871

29 CFR

15.....19658
97.....19638, 19643
570.....19336
580.....17221
1470.....19638, 19643
1960.....18993
2610.....18994
2619.....18996
2622.....18994
2644.....18998
2676.....18996

Proposed Rules:

1910.....19192
1915.....19192
1926.....19192

30 CFR

903.....18710
914.....16985, 17637, 19668, 19869
915.....17458
934.....18744
938.....16788

Proposed Rules:

Ch. 1.....18044
901.....18044
902.....17495
904.....17498
906.....17501
913.....17734, 19697
914.....17736
915.....17504
916.....17504
917.....17739, 19193
918.....17498
920.....18046
924.....18044
925.....17504
926.....17495
931.....17501
934.....17495
935.....17741, 18380, 19194
936.....17498
938.....18046
943.....17498
944.....17501
946.....17743
948.....18381
950.....17495

32 CFR

33.....19638, 19643
290.....18005
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:

63.....17507
247.....18049

33 CFR

3.....17222
117.....18006, 19351
154.....17134
155.....17134
162.....16793, 19352
165.....16793, 18008, 19354
222.....19851
334.....18543

Proposed Rules:

Ch. I.....17287
100.....18785
117.....18061
164.....19699
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR

80.....19638, 19643
350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR

7.....17639
13.....18532

1207.....19638, 19643

Proposed Rules:

13.....19011
215.....18886
217.....18886
219.....18886

37 CFR

1.....16920

38 CFR

2.....18354
3.....18354
4.....19851
43.....19638, 19644

39 CFR

20.....18009
111.....19355
265.....17224

Proposed Rules:

232.....17287

40 CFR

9.....17100, 18009
31.....19638, 19644
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522, 19673
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
76.....18751
77.....17100
78.....17100
81.....16996
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547, 19523
185.....18547
186.....18547
258.....17649
260.....17001
261.....19165
271.....18356, 18358, 18360,
300.....16808, 17004, 19525
302.....19165
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:

Ch. I.....17288
51.....17509
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554
55.....17748, 18787, 19701
58.....17509
63.....16829, 16920, 18071, 18078, 19556
70.....17750, 18790
72.....18472
76.....18792
81.....17034, 17756, 19197
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562, 19556
185.....18562
186.....18560, 18562
228.....19872
300.....18565, 19203
372.....16830, 19702
761.....17510
799.....18079

41 CFR

101–20.....17653
101–26.....19674
105–71.....19638, 19644

42 CFR

440.....19856
441.....19856

43 CFR

12.....17237, 19638, 19644

Proposed Rules:

426.....16922
427.....16922
3100.....18081

Public Land Orders:

2546 (Revoked by PLO 7135).....19526
7131.....18030
7132.....18777
7133.....18777
7134.....19525
7135.....19526
7137.....18778

44 CFR

13.....19638, 19644
64.....17005
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

65.....17758
67.....17035, 17042

45 CFR

92.....19638, 19645
212.....19862
602.....19638, 19645
1157.....19638, 19645
1174.....19638, 19645
1183.....19638, 19645
2541.....19638, 19646

Proposed Rules:

1336.....19994
2544.....17761

46 CFR

12.....17134
13.....17134
15.....17134
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:

Ch. I.....17287
Ch. II.....17763
67.....17290
90.....18793
97.....18793
148.....18793
382.....19559

47 CFR

2.....18778, 18999
61.....19526
69.....19528
73.....19531
73.....17023, 17253, 19000, 19359
90.....18999

Proposed Rules:

1.....17294
63.....17763
73.....17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566, 19878

48 CFR

225.....19531
252.....19531
538.....19360
552.....19360, 19362
570.....19362
915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023

Proposed Rules:

Ch. V.....17764
6.....17295
12.....17184
16.....17295
32.....18794
52.....17184, 17295, 18794
501.....19708
503.....19708
505.....19708
506.....19708
507.....19708
5552.....19708
570.....19708

49 CFR

18.....19638, 19646
40.....19535, 19675
173.....17398
178.....17398
180.....17398
219.....19538
552.....17254
554.....17254
571.....19681
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:

Ch. I.....17049
Ch. II.....18390
190.....17295
191.....17295
192.....17295
193.....17295
194.....17295
195.....17295
196.....17295
197.....17295
198.....17295
199.....17295
234.....17770, 19012
571.....18566, 19716

50 CFR

17.....18940
227.....19342
641.....19363
646.....19364, 19683
650.....17272
651.....19364
655.....17464
663.....16811
672.....17465
675.....17028, 17653, 19864

Proposed Rules:

Ch. VI.....17770
17.....16836, 17296, 19013, 19567
625.....18795
641.....17511
642.....18391
655.....18391
675.....17512

VOL
60
ISS
77
AP
21
1995
UMI

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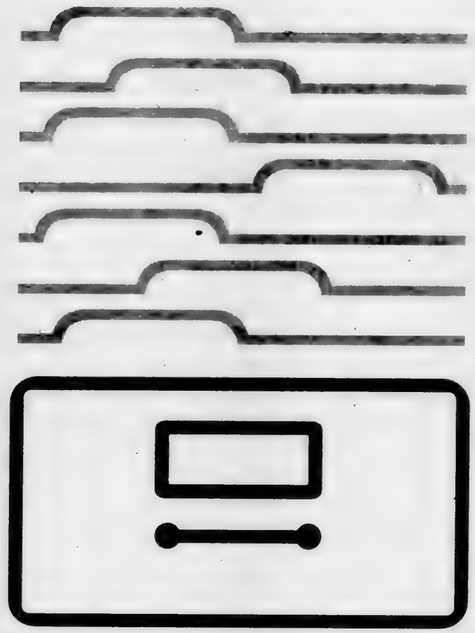

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60
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77
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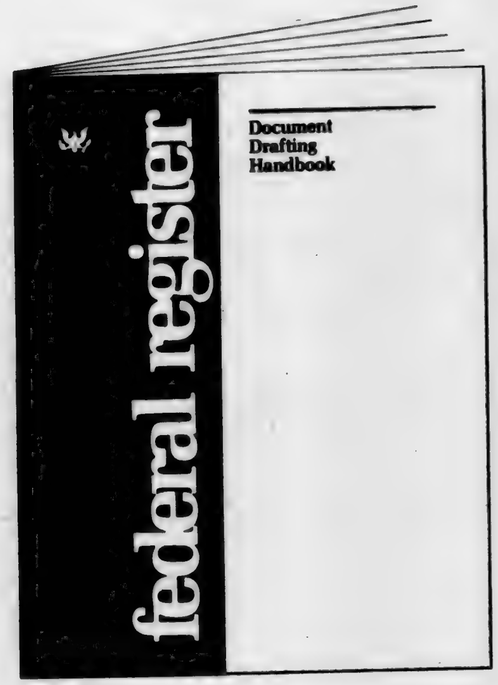

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VOL
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ISS
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AP
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VOL
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78

AP
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1995

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Pages 19999–20170

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ISS
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Contents

Federal Register
Vol. 60, No. 78
Monday, April 24, 1995

Administration on Aging
See Aging Administration

Administrative Conference of the United States
NOTICES
Meetings:
Administration and Regulations Committees, 20073

Aging Administration
NOTICES
Meetings:
White House Conference on Aging Disability Advisory Committee, 20095
White House Conference on Aging:
Post-conference activities; national aging policy resolutions, 20095–20096

Agricultural Marketing Service
PROPOSED RULES
Cranberries grow in Massachusetts et al., 20064–20065
Eggs and egg products:
Voluntary and mandatory inspection—Regulations update, 20054–20059
Kiwifruit grown in California, 20062–20064
Oranges grown in Texas and imported oranges, 20059–20061
NOTICES
Meetings:
Burley Tobacco Advisory Committee, 20073
Flue-Cured Tobacco Advisory Committee, 20073

Agriculture Department
See Agricultural Marketing Service
See Consolidated Farm Service Agency
See Forest Service
See Rural Business and Cooperative Development Service
See Rural Housing and Community Development Service
See Rural Utilities Service

Antitrust Division
NOTICES
National cooperative research notifications:
Center for Waste Reduction Technologies, 20119
Cross Industry Working Team Project, 20119
Fuel Filtration Cooperative Research Program, 20119–20120
High-Information Content Display Technology Joint Venture, 20120
Petroleum Environmental Research Forum, 20120

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Developmental disabilities—
American Indian consortiums; protection and advocacy services, 20096–20104

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Idaho, 20075
Kentucky, 20075

Coast Guard
RULES
Ports and waterways safety:
Greenwood Lake, NJ; safety zone, 20033–20034
PROPOSED RULES
Regattas and marine parades:
Harvard-Yale Regatta, 20065–20066

Commerce Department
See International Trade Administration

Commission on Immigration Reform
NOTICES
Refugee and humanitarian admissions; consultation, 20078

Commodity Futures Trading Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Financial Products Advisory Committee, 20078

Consolidated Farm Service Agency
RULES
Organization, functions, and authority delegations:
Agency name change from Farmers Home Administration; CFR correction, 20005

Defense Department
RULES
Conflict of interests, 20029–20032
Freedom of Information Act; implementation:
Defense Investigative Service, 20032–20033
NOTICES
Committees; establishment, renewal, termination, etc.:
Military Health Care Advisory Committee, 20078–20079
Grants and cooperative agreements; availability, etc.:
Pilot mentor-protege program, 20079–20080
Meetings:
Science Board task forces, 20079
Wage Committee, 20079

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Special education and rehabilitative services—Technology-related assistance for individuals with disabilities program, 20168–20169

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Innovative concepts for improving industrial processing, 20080

VOL 60 ISS 78 APR 24 1995 UMI

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 20066–20068
NOTICES
Agency information collection activities under OMB review, 20083–20084
Air programs:
Ambient air quality standards, national—
Ozone; scientific and technical information assessment, 20084
Air quality criteria for particulate matter; document availability, 20085–20086
Clean Air Act:
Acid rain provisions—
Sulfur dioxide control program; transferable allowances auctions and sales, 20086–20089
Drinking water:
Public water supply supervision program—
Colorado, 20089–20090
Kentucky, 20090
Meetings:
State FIFRA Issues Research and Evaluation Group, 20090–20091

Executive Office of the President
See Management and Budget Office
See Presidential Documents

Farm Credit Administration
RULES
Farm credit system:
Disclosure to shareholders—
Association annual meeting information statement and director positions nominating process, 20011–20013
Regulatory burden reduction, 20008–20011

Federal Aviation Administration
RULES
Airworthiness directives:
AlliedSignal, Inc., 20017–20019
B. Grob Flugzeugbau, 20016–20017
Boeing, 20013–20016
Pratt & Whitney, 20019–20021
Class D airspace, 20021–20022
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Government-owned aircraft operations; definition of whether public or civil; guidance, 20142–20149
Environmental statements; availability, etc.:
Seattle-Tacoma International Airport, WA, 20149–20150
Meetings:
Aviation Rulemaking Advisory Committee, 20150–20151
Passenger facility charges; applications, etc.:
Pensacola Regional Airport, FL, 20151–20152

Federal Communications Commission
RULES
Common carrier services:
Local exchange carrier price cap rules; add-back adjustment incorporation, 20051–20052
Radio stations; table of assignments:
Illinois, 20052
Montana, 20052–20053

Federal Emergency Management Agency
NOTICES
Hotel and Motel Fire Safety Act; national master list, 20091–20094

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Washington Water Power Co. et al., 20080–20082
Applications, hearings, determinations, etc.:
Mid-American Resources, Inc., 20083

Federal Reserve System
RULES
Securities credit transactions; OTC margin stocks list (Regulations G, T, U, and X), 20005–20008
NOTICES
Applications, hearings, determinations, etc.:
First Union Corp., 20094–20095
Henderson Bancshares, Inc., 20095
Ryan, James L., 20095
WSB Bancorp, 20094

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Fat three-ridge, etc. (seven freshwater mussels), 20072
NOTICES
Wild Bird Conservation Act of 1992:
Approval applications—
Blocker, Jerry, 20112

Food and Drug Administration
RULES
Human drugs:
Exocrine pancreatic insufficiency products (OTC); misbranding as safe and effective, 20162–20165
NOTICES
Committees; establishment, renewal, termination, etc.:
Food Advisory Committee, 20104–20105
Human drugs:
Patent extension; regulatory review period determinations—
LUVOX, 20105–20106
SERZONE, 20106–20107
Zosyn; correction, 20107
Medical devices:
Patent extension; regulatory review period determinations—
Sonic Accelerated Fracture Healing System (SAFHS), 20107–20108

Forest Service
NOTICES
Environmental statements; availability, etc.:
Ochoco National Forest and Crooked River National Grassland, OR, 20073–20075

Geological Survey
NOTICES
Nevada; hydrogeochemical studies of gold and ore-related elements in ground water systems; contribution acceptance from Barrick Gold Exploration, Inc., 20112

Health and Human Services Department
See Aging Administration
See Children and Families Administration
See Food and Drug Administration

See Health Care Financing Administration
See Health Resources and Services Administration
See Social Security Administration

Health Care Financing Administration
RULES
Clinical Laboratories Improvement Act:
Categorization of tests and personnel modifications, 20035–20051

Health Resources and Services Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Migrant health centers and related organizations, 20108–20109
Pacific Basin primary health care infrastructure development, 20109–20111

Housing and Urban Development Department
NOTICES
Organization, functions, and authority delegations:
Acting General Counsel; order of succession, 20111–20112

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
NOTICES
Privacy Act:
Computer matching programs, 20153–20155

International Trade Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Special American business internship training program, 20075–20078

Justice Department
See Antitrust Division
NOTICES
Agency information collection activities under OMB review, 20115–20119

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Owyhee County, ID, 20112
Realty actions; sales, leases, etc.:
Wyoming, 20112–20113
Resource management plans, etc.:
Cedar/Beaver/Garfield/Antimony (CBGA) Resource Management Plan, UT et al., 20113–20114

Management and Budget Office
NOTICES
Budget rescissions and deferrals
Cumulative reports, 20122–20124
Meetings:
Electronic government and National Information Infrastructure, 20124–20129

Maritime Administration
PROPOSED RULES
U.S.-flag commercial liner vessels; carriage of less-than-shipload lots of bulk and packaged preference cargoes; fair and reasonable guideline rates, 20069–20072

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 20120–20121

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts National Council, 20121
Music Advisory Panel, 20121–20122

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
John Russo Industrial, Inc., 20152–20153

National Park Service
NOTICES
Meetings:
Acadia National Park Advisory Commission, 20114

National Science Foundation
NOTICES
Meetings:
Biological Sciences Special Emphasis Panel, 20122

Office of Management and Budget
See Management and Budget Office

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
Benedict, MN, 20129
Clarkia, ID, 20129–20130

Postal Service
NOTICES
Meetings; Sunshine Act, 20159

Presidential Documents
PROCLAMATIONS
Victims of the Oklahoma City bombing (Proc. 6786), 19999
Special observances:
D.A.R.E. Day, National (Proc. 6787), 20001
Jewish Heritage Week (Proc. 6788), 20003

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration

Railroad Retirement Board
NOTICES
Meetings; Sunshine Act, 20159

Reclamation Bureau
PROPOSED RULES
Acreage limitation and water conservation rules and regulations:
Reclamation reform administration and settlement contract requirements
Hearings, 20068–20069
NOTICES
Environmental statements; availability, etc.:
Acreage limitation and water conservation rules and regulations

VOL 60 ISS 78 AP 24 1995 UMI

Hearings, 20114–20115
Central Arizona Project, AZ; Tucson aqueduct system reliability investigation, 20115

Rural Business and Cooperative Development Service
RULES
Organization, functions, and authority delegations:
Agency name change from Farmers Home Administration; CFR correction, 20005

Rural Housing and Community Development Service
RULES
Organization, functions, and authority delegations:
Agency name change from Farmers Home Administration; CFR correction, 20005

Rural Utilities Service
RULES
Organization, functions, and authority delegations:
Agency name change from Farmers Home Administration; CFR correction, 20005

Securities and Exchange Commission
RULES
Accounting bulletins, staff:
Early extinguishment of debt; gain or loss recognition, 20022–20023
NOTICES
Agency information collection activities under OMB review, 20130
Self regulatory organizations:
Clearing agency registration applications—
Government Securities Clearing Corp., 20131–20132
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 20130–20131
Chicago Board Options Exchange, Inc., 20132
Chicago Stock Exchange, Inc., 20132–20133
Philadelphia Stock Exchange, Inc., 20133–20136
Applications, hearings, determinations, etc.:
Smith Barney California Municipal Money Market Fund, 20136–20137
Smith Barney Daily Dividend Fund Inc., 20138–20139
Smith Barney Government & Agencies Fund Inc., 20137–20138
Smith Barney New York Municipal Money Market Fund, 20137
SSL 1993–1 Trust, 20139
Van Kampen American Capital Distributors Inc., et al., 20139–20141

Social Security Administration
RULES
Social security benefits and supplemental security income:
Disability determination procedures; testing modifications, 20023–20029

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Maritime Administration
See National Highway Traffic Safety Administration
NOTICES
Agency information collection activities under OMB review, 20142

Treasury Department
See Internal Revenue Service
PROPOSED RULES
Government Securities Act of 1986; financial responsibility and reporting and recordkeeping requirements amendments:
Comments deadline extension, 20065

Veterans Affairs Department
RULES
Vocational rehabilitation and education:
Veterans education—
Montgomery GI Bill-Active Duty, eligibility requirements; entrance into Selected Reserve within one year of discharge from active duty, 20035
NOTICES
Meetings:
Persian Gulf Expert Scientific Committee, 20155–20156
Women Veterans Advisory Committee, 20156
Privacy Act:
Systems of records, 20156–20158

Separate Parts in This Issue

Part II
Department of Health and Human Services, Food and Drug Administration, 20162–20165

Part III
Department of Education, 20168–20169

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6786 19999
6787 20001
6788 20003

7 CFR
Ch. XVIII 20005
Proposed Rules:
55 20054
59 20054
906 20059
920 20062
929 20064
944 20059

12 CFR
207 20005
220 20005
221 20005
224 20005
614 20008
615 20008
618 20008
620 20011

14 CFR
39 (4 documents) 20013, 20016, 20017, 20019
71 20021

17 CFR
211 20022
Proposed Rules:
404 20065
405 20065

20 CFR
404 20023
416 20023

21 CFR
310 20162

32 CFR
83 20029
84 20029
298 20032

33 CFR
165 20033
Proposed Rules:
100 20065

38 CFR
21 20035

40 CFR
Proposed Rules:
52 20066

42 CFR
493 20035

43 CFR
Proposed Rules:
426 20068
427 20068

46 CFR
Proposed Rules:
383 20069

47 CFR
61 20051
73 (2 documents) 20052

50 CFR
Proposed Rules:
17 20072

VOL
60
ISS
78
AP
24
1995
UMI

Federal Register
Vol. 60, No. 78
Monday, April 24, 1995

Presidential Documents

Title 3—

The President

Proclamation 6786 of April 20, 1995

Victims of the Oklahoma City Bombing

By the President of the United States of America

A Proclamation

On April 19, 1995, the Alfred P. Murrah Federal Building in Oklahoma City was brutally bombed in an appalling act of cowardice. As a mark of respect for those killed in the bombing, I hereby order, by the authority vested in me as President of the United States of America by section 175 of title 36 of the United States Code, that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions through Monday, April 24, 1995. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95-10170
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VOL
60

ISS
78

AP
24

1995

UMI

Presidential Documents

Proclamation 6787 of April 20, 1995

National D.A.R.E. Day, 1995

By the President of the United States of America

A Proclamation

Drug Abuse Resistance Education (D.A.R.E.) is America's largest and most effective drug-use prevention program. Reaching 25.5 million young people, from kindergarten through 12th grade, its precepts are taught in more than 250,000 classrooms in all 50 States and many other lands worldwide.

D.A.R.E. was designed to help prevent the substance abuse and violence that plague too many of our Nation's children. Teaching conflict resolution and anger management skills, providing accurate information about alcohol, drugs, and tobacco, and educating students about the consequences of their behavior, D.A.R.E. has served to increase self-esteem among our youth and give them the tools they need to resist destructive peer pressure.

Today, people everywhere recognize that empowering kids and teens with sound advice is important, but it is not enough. Parents and teachers, counselors and concerned citizens all must play a role in encouraging our young people to lead safe, productive, drug-free lives. That is why D.A.R.E. is taught by veteran police officers, whose knowledge and skills have prepared them to understand the reality of the streets and the lives of children in need. D.A.R.E. demonstrates that, working together, communities have the power within themselves to keep the American Dream alive for all of us.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 20, 1995, as "National D.A.R.E. Day." I encourage parents, teachers, and children across the country to join in observing this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95-10171
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VOL
60
ISS
78
AP
24
1995
UMI

Presidential Documents

Proclamation 6788 of April 20, 1995

Jewish Heritage Week, 1995

By the President of the United States of America

A Proclamation

Throughout history and through times of profound adversity, the Jewish people have built their lives on the strength of family and the spirit of community. Millions have made a home in America—a Nation filled with opportunity and blessed with the miracle of freedom. And here, with hard work and dedication, the Jewish-American community has flourished.

Jewish citizens have made vital contributions to every sector of our society. From academia to the arts, from business to government, from the smallest towns to the largest cities, Jewish Americans have infused our Nation with a powerful faith, a commitment to family and community, and a devotion to scholarship and self-improvement.

Judaism is a unique gift to this land that people of myriad faiths and cultures call home. The ancient commandment of *tzedakah*—charity—challenges us to embrace the duty of service to others. The Talmudic teachings of mercy and justice, and those who have sought to uphold these ideals, grace the pages of American history. We can draw strength and inspiration from the enduring lessons of Judaism, and it is entirely fitting that we honor the great traditions of its followers.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 30 through May 7, 1995, as "Jewish Heritage Week." I call upon the people of the United States to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95-6788
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VOL
60
ISS
78
AP
24
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 78
Monday, April 24, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, Department of Agriculture

7 CFR Chapter XVIII

CFR Correction

In title 7 of the Code of Federal Regulations, parts 1940 to 1949, revised as of January 1, 1995, make the following corrections:

1. On pages iii, 1 and 5, the heading for chapter XVIII which currently reads "Farmers Home Administration, Department of Agriculture" should read "Rural Housing and Community Development Service, Rural Business and Cooperative Development Service, Rural Utilities Service, and Consolidated Farm Service Agency, Department of Agriculture".

2. Everywhere "Farmers Home Administration", "FHA", "FmHA", "Rural Development Administration", or "RDA" are mentioned, the phrase "or its successor agency under Public Law 103–354" should follow immediately thereafter.

BILLING CODE 1505-01-D

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is composed of stocks traded over-the-counter (OTC) in the United States that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List of Foreign Margin Stocks (Foreign List) is composed of foreign equity securities that have met the Board's eligibility criteria under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to and deletions from the previous OTC List and Foreign List.

EFFECTIVE DATE: May 8, 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452–2781, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452–3544.

SUPPLEMENTARY INFORMATION: Listed below are additions to and deletions from the OTC List, which was last published on January 31, 1995 (60 FR 5845), and became effective February 13, 1995. A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks that meet the criteria in Regulations G, T and U (12 CFR Parts 207, 220 and 221, respectively). This determination also affects the applicability of Regulation X (12 CFR Part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated for trading in the national market system (NMS security) under a rule approved by the Securities and Exchange Commission (SEC). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the SEC and at the National Association of Securities Dealers, Inc. and will be incorporated into the Board's next quarterly publication of the OTC List.

Also listed below are additions to and one deletion from the Board's Foreign List, which was last published on January 31, 1995 (60 FR 5845), and which became effective February 13, 1995. The Foreign List includes those foreign securities that meet the criteria in section 220.17 of Regulation T and are eligible for margin treatment at broker-dealers on the same basis as domestic margin securities. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6 (a) and (b), 220.17 (a), (b), (c) and (d), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed approximately a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

VOL 60 ISS 78 AP 24 1995 UMI

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 207.2(k) and 207.6 (Regulation G), 12 CFR 220.2(u) and 220.17 (Regulation T), and 12 CFR 221.2(j) and 221.7 (Regulation U), there is set forth below a listing of deletions from and additions to the OTC List and the Foreign List.

Deletions From the List of Marginable OTC Stocks

Stocks Removed for Failing Continued Listing Requirements

Applied Laser Systems
Class A, no par common
California Micro Devices Corp.
No par common
CCAIR, Inc.
$.01 par common
Communications & Entertainment Corporation
$.01 par common
Cooper Development Company
$.10 par common
Crescent Airways Corporation
$.01 par common
Warrants (expire 01–09–98)
Immunix Corporation
Warrants (expire 01–31–95)
Invitro International
No par common
Jasmine Ltd.
$.001 par common
Lone Star Casino Corporation
$.001 par common
Lukens Medical Corporation
$.01 par common
Medical Care America, Inc.
7% convertible debentures, due 2015
Medical Dynamics, Inc.
$.001 par common
Medicis Pharmaceutical Corp.
Class B, warrants (expire 03–28–95)
Ministor Peripherals International Ltd.
$.012454 par common
Redeemable warrants (expire 07–29–99)
Octus, Inc.
No par common
Oesi Power Corporation
$.01 par common
PDK Labs, Inc.
$.01 par common
Pharmhouse Corporation
$.01 par common
Pharmos Corporation
$.03 par common
Phycor, Inc.
6.5% convertible subordinated debentures
Primedex Health Systems, Inc.
$.01 par common
PXRE Corporation
Depositary Shares
Regency Equities Corporation
$.01 par common
RGB Computer & Video, Inc.
No par common
Sayett Group, Inc.
Warrants (expire 02–05–95)
Search Capital Group, Inc.
$.01 par common
Security Environmental Systems, Inc.
$.03 par common
Southern Mineral Corporation
$.01 par common
Sports & Recreation, Inc.
4¼% convertible subordinated notes
Standish Care Company, The
Series A, $.01 par cumulative convertible preferred
Staodyn, Inc.
Warrants (expire 02–28–95)
Synetic, Inc.
7% convertible subordinated debentures
T*HQ, Inc.
$.001 par common
Transamerican Waste Industries, Inc.
$.001 par common
Class A, warrants (expire 11–16–96)
Class B, warrants (expire 11–16–96)
Vaalco Energy, Inc.
$.10 par common
Value-Added Communications, Inc.
$.01 par common
Wellstead Industries, Inc.
$.01 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

A Pea in the Pod, Inc.
$.01 par common
Affymax N.V.
Common stock (NLG .06)
Air-Cure Environmental, Inc.
$.001 par common
AK Steel Holding Corporation
$.01 par common,
7% convertible preferred
Ameribanc Investors Group Inc.
$1.00 par shares of beneficial interest
Arbor National Holdings, Inc.
$.01 par common
Atlanfed Bancorp, Inc. (Maryland)
$1.00 par common
Balchem Corporation
$.06⅔ par common
BB & T Financial Corporation
$2.50 par common
Birtcher Medical Systems, Inc.
No par common
Canstar Sports Inc.
No par common
Cardiovascular Imaging Systems, Inc.
No par common
Club Car, Inc.
$.01 par common
Colonial Bancgroup, Inc., The (Alabama)
Class A, $2.50 par common
Colonial Group, Inc., The Class A, $.10 par common
Commerce Group, Inc., The
$.50 par common
Concord Holding Corporation
$.01 par common
Convertech International, Inc.
$.01 par common
Convergent Solutions, Inc.
$.01 par common
Crop Genetics International Corp.
$.10 par common,
$.95 convertible exchangeable preferred
Cytorad Incorporated
Units (expire 01–31–97)
Dibrell Brothers, Inc.
$1.00 par common
Dollar General Corporation
$.50 par common
Drew Industries Incorporated
$.01 par common
Energynorth, Inc.
$1.00 par common
Equicredit Corporation
$.01 par common
Fidelity New York F.S.B.
$.01 par common
First Colonial Bankshares (Illinois)
Class A, $1.25 par common,
No par Despoitary Shares
First National Bank Corp. (Michigan)
$3.125 par common
Firstock Bancorp, Inc. (Illinois)
$.01 par common
Furon Company
No par common
General Computer Corporation
$.10 par common
Great Bay Bankshares, Inc. (New Hampshire)
$.10 par common
Great Lakes Bancorp, a Federal Savings Bank
$.01 par common
Gwinnett Bancshares, Inc. (Georgia)
$1.00 par common
Hamilton Bancorp, Inc. (New York)
$.01 par common
Healthy Planet Products Inc.
$.01 par common
Huntco Inc.
Class A, $.01 par common
Isomedix Inc.
$.01 par common
Kankakee Bancorp, Inc. (Illinois)
$.01 par common
LF Bancorp, Inc. (Mississippi)
$.01 par common
Magma Power Company
$.10 par common
Mayflower Group, Inc.
No par common
Megahertz Corporation
$.004 par common
Mitek Surgical Products, Inc.

$.01 par common
Morgan Group, Inc., The
Class A, $.015 par common
Namic U.S.A. Corporation
$.01 par common
NBSC Corporation
$2.50 par common
Network Systems Corporation
$.02 par common
New England Business Service, Inc.
$1.00 par common
Plaza Home Mortgage Corporation
$.01 par common
PMC Commercial Trust
Shares of beneficial interest
Polymedica Industries, Inc.
$.01 par common
Powersoft Corporation
$.00167 par common
Public Service Company of North Carolina
$1.00 par common
Pyramid Technology Corporation
$.01 par common
QVC Inc.
$.01 par common
Radiation Care, Inc.
$.01 par common
Scimed Life Systems, Inc.
$.05 par common
Sonoco Products Company
No par common
Series A, cumulative convertible preferred
Southern Starr Broadcasting Group, Inc.
$.01 par common
State Street Boston Corporation
$1.00 par common
Tidemark Bancorp Inc. (Virginia)
$.01 par common
Tomkins PLC
American Depositary Receipts
U.S. Can Corporation
$.01 par common
United States Paging Corporation
$.01 par common
University Bank & Trust Company (California)
$2.50 par common
Vestar, Inc.
$.01 par common
Webco Industries, Inc.
$.01 par common
Welbilt Corporation
$.01 par common
West Coast Bancorp (California)
No par common
Wisconsin Pharmacal Co., Inc.
$.01 par common

Additions to the List of Marginable OTC Stocks

Access Healthnet, Inc.
$.001 par common
Act Manufacturing, Inc.
$.01 par common
ADCO Technologies, Inc.
$.01 par common
Aegis Consumer Funding Group, The
$.01 par common
American Bancorp of Nevada
$.05 par common
Ames Department Stores, Inc.
$.01 par common
Warrants (expire 01–31–99)
Ampace Corporation
$.0001 par common
Analytical Surveys, Inc.
No par common
ASM Lithography Holding N.V.
Ordinary Shares
ATS Medical Inc.
Warrants (expire 03–09–97)
Avondale Financial Corporation
$.01 par common
Bank West Financial Corporation
$.01 par common
BCT International Inc.
$.04 par common
Benihana National Corp.
Class A, $.10 par common
Bio-Reference Laboratories, Inc.
$.001 par common
Bio-Technology General Corporation
Warrants (expire 12–31–98)
Bridgeville Savings Bank, FSB (Pennsylvania)
$.10 par common
Brooks Automation, Inc.
$.01 par common
Burke Mills, Inc.
No par common
C*ATS Software Inc.
$.001 par common
Cameron Financial Corporation
$.01 par common
Cardinal Realty Services, Inc.
No par common
Carrington Laboratories, Inc.
$.01 par common
CBT Group PLC
American Depositary Receipts
Chief Consolidated Mining Company
$.50 par common
Coastwide Energy Services, Inc.
$.01 par common
Coin Bill Validator, Inc.
$.01 par common
Commonwealth Aluminum Corporation
$.01 par common
Concentra Corporation
$.00001 par common
Continental Circuits Corporation
$.01 par common
Corporate Renaissance Group, Inc.
$.01 par common
Creative Computers, Inc.
$.001 par common
Creative Technologies Corporation
$.03 par common
Cytogen Corporation
Rights (expire 01–31–97)
Warrants (expire 01–31–97)
Daisytek International Corporation
$.01 par common
Datastream Systems, Inc.
$.01 par common
Diamond Multimedia Systems, Inc.
No par common
Dualstar Technologies Corporation
$.01 par common
Class A, warrants (expire 02–14–2000)
Easco Inc.
No par common
Equalnet Holding Corporation
$.01 par common
Equus Gaming Company L.P.
Class A, units representing beneficial ownership
Expert Software Inc.
$.01 par common
Finlay Enterprises, Inc.
$.01 par common
First Federal Bancorp, Inc. (Ohio)
No par common
First Keystone Financial Inc.
$.01 par common
First Southern Bancshares Inc.
No par common
First United Bancorporation
$1.67 par common
Firstar Corporation
American Depositary Shares
Firstfederal Financial Services Corp.
Series B, 6½% no par cumulative convertible preferred
Fort Howard Corporation
$.01 par common
Fountain Oil Incorporated
$.10 par common
Garden State Bancshares, Inc. (New Jersey)
No par common
General Acceptance Corporation
No par common
General Magic, Inc.
$.001 par common
Globalstar Telecommunications, Ltd.
$1.00 par common
Guaranty Federal Savings Bank
$1.00 par common
Hain Food Group, Inc., The
$.01 par common
HCIA, Inc.
$.01 par common
Hello Direct, INC.
$.001 par common
Hictory Tech Corporation
No par common
Home Bancorp (Indiana)
No par common
Independence Bancorp, Inc. (New Jersey)
$1.667 par common
Information Storage Devices, Inc.
No par common
Insight Enterprises, Inc.
$.01 par common
Integrated Silicon Solution, Inc.
$.0001 par common
Interface, Inc.
Warrants (expire 06–30–95)
International Nursing Service
12% cumulative convertible preferred
ISB Financial Corporation
$1.00 par common
Kelly Oil & Gas Corporation

VOL 60 ISS 78 AP 24 1995 UMI

$.01 par common
$2.625 convertible exchangeable preferred
Krug International Corp.
Warrants (expire 01–27–98)
LSB Financial Corporation
$.01 par common
Medpartners, Inc.
$.001 par common
Monterey Bay Bancorp, Inc.
$.01 par common
Mountbatten, Inc.
$.001 par common
Mustang Software, Inc.
No par common
Nastech Pharmaceutical Company Inc.
$.006 par common
National Instruments Corporation
$.01 par common
Neopath, Inc.
$.01 par common
NTN Canada, Inc.
$.07 par common
Oak Technology, Inc.
$.001 par common
Open Environment Corporation
No par common
Ostex International Inc.
$.01 par common
P–COM, Inc.
$.0001 par common
Pacific Basin Bulk Shipping Ltd.
$.7327 par common
Warrants (expire 09–30–99)
Palmer Wireless, Inc.
Class A, $.01 par common
Periphonics Corporation
$.01 par common
Premisys Communications, Inc.
$.01 par common
QCF Bancorp, Inc. (Minnesota)
$.01 par common
Remedy Corporation
$.00005 par common
Renaissance Solutions, Inc.
$.001 par common
Renters Choice Inc.
$.01 par common
Riviana Foods Inc.
$1.00 par common
SDL, Inc.
$.001 par common
Select Media Communications, Inc.
$.001 par common
Semitool, Inc.
No par common
Semtech Corporation
$.01 par common
Sirrom Capital Corporation
No par common
Software Artistry, Inc.
No par common
South Carolina Community Bancshares, Inc.
$.01 par common
Springfield Institution for Savings
$1.00 par common
STB Systems, Inc.
$.01 par common
Strattec Security Corporation
$.01 par common
Sure Shot International, Inc.
$.01 par common
TGV Software, Inc.
$.001 par common
Third Financial Corporation
$.01 par common
Thrustmaster, Inc.
No par common
Tivoli Systems Inc.
$.01 par common
Transaction Systems Architects Inc.
Class A, $.005 par common
Tylan General Inc.
$.001 par common
Uniholding Corporation
$.01 par common
Uniroyal Chemical Corporation
$.01 par common
US Office Products Company
$.001 par common
Vari-L Company, Inc.
$.01 par common
Viasoft, Inc.
$.001 par common
Video Sentry Corporation
$.01 par common
Videotron Holdings, PLC
American Depositary Receipts
Webster City Federal Savings Bank (Iowa)
$.10 par common
Wells Financial Corporation
$.10 par common

Deletion From the List of Foreign Margin Stocks

Hitachi Sales Corporation
¥ 50 par common

Additions to the List of Foreign Margin Stocks

Allianz Holdings AG
Registered, par DM 50
Basf AG Holding
Ordinary, par DM 50
Bayer AG
Ordinary, par DM 50
Bayerische Motoren Werke AG
Ordinary, par DM 50
Beiersdorf AG
Ordinary, par DM 50
Commerzbank AG
Bearer, par DM 50
Deutsche Bank AG
Ordinary, par DM 50
Gehe AG
Ordinary, par DM 50
Henkel KGAA-VORZUG
Preference, par DM 50
Hoechst AG
Ordinary, par DM 50
Mannesmann AG
Ordinary, par DM 50
Muenchener Rueckversicherungs
Registered, par DM 100
S.A.P. AG
Preference, par DM 50
Schering AG
Ordinary, par DM 50
Volkswagen AG
Ordinary, par DM 50

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), April 18, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–10018 Filed 4–21–95; 8:45 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614, 615, 618

RIN 3052–AB53

Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by order of the FCA Board (Board), adopts a final rule that repeals several regulations concerning loan policies and operations, funding, and miscellaneous items as well as two Agency prior-approval requirements. These repeals are part of an ongoing effort by the FCA to reduce unnecessary regulatory burdens on Farm Credit System (FCS or System) institutions.

EFFECTIVE DATE: This rule shall become effective upon the expiration of 30 days after publication in the **Federal Register**, during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

W. Eric Howard, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Richard A. Katz, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

On June 10, 1993, the FCA Board approved a Statement on Regulatory

Burden seeking public comment on the appropriateness of requirements that the FCA regulations impose on the FCS. More specifically, the FCA asked the public to identify regulations that either duplicate other governmental requirements, are not effective, or impose a burden that is greater than the benefit derived. The notice of intent was published in the **Federal Register** (58 FR 34003) on June 23, 1993. After reviewing all responses to the notice of intent, the FCA proposed on January 10, 1995, to delete the following regulatory provisions: §§ 615.5104; 615.5105(c); 615.5170 (b) through (e); 615.5190; 615.5498; 615.5500; 615.5520; 615.5530; and 618.8220. Additionally, the FCA proposed the repeal of the Agency prior-approval requirements in § 614.4470 (b)(1) and (b)(3). See 60 FR 2552 (January 10, 1995).

The Farm Credit Council (Council), on behalf of its members, and a production credit association (PCA) submitted comments concerning the proposed deletions. The Council strongly supported the repeal of the above-cited regulations and Agency prior-approval requirements, and encouraged the FCA to adopt the entire proposal as a final rule. Although the PCA lauded the FCA's effort to reduce regulatory burdens on System institutions, it offered no comments about the FCA's proposal to repeal the above-cited regulations and prior-approval requirements. Instead, the PCA petitioned the FCA to address three regulatory burden issues that were not included in the proposed rule.

In response, the FCA emphasizes that its proposal of January 10, 1995, represents the first phase in an ongoing process to reduce regulatory burdens on FCS institutions. As the FCA explained in the preamble to the proposed rule, the FCA is in the process of evaluating all recommendations for reducing regulatory burdens that System commenters submitted to the Agency in response to the notice of intent. The FCA will address all remaining regulatory burden issues, including those raised by the PCA, either in (1) Regulatory projects that the FCA Board identifies in the Unified Agenda of Federal Regulations, which is routinely published in the **Federal Register**, or (2) subsequent phases of this project.

The FCA now adopts its January 10, 1995 proposal as a final rule without amendment. The regulations that the FCA now repeals are not necessary to implement or interpret the Farm Credit Act of 1971, as amended (Act), or to promote the safe and sound operations of FCS institutions. For this reason, the repeal of these regulations and Agency prior-approval requirements will relieve unnecessary regulatory burdens on the FCS. The following is a brief explanation of the rationale for repealing each of these regulatory requirements.

II. Analysis of Changes and Comments by Section

A. Loans Subject to Bank Approval

The FCA now eliminates from both §§ 614.4470 (b)(1) and (b)(3) the requirement that the Agency preapprove certain insider loan transactions at System associations. Section 614.4470(a) requires funding banks to preapprove loans that their affiliated associations make to: (1) Their own directors or employees; (2) directors or employees of a jointly managed association; or (3) bank employees. Until now, § 614.4470(b) required FCA approval of loans to any borrower whenever certain institution-affiliated parties: (1) Received proceeds of a loan in excess of an amount established by the funding bank; or (2) endorsed, guaranteed, or co-made a loan in excess of the amount established by the funding bank.

These Agency prior-approval requirements in § 614.4470 (b)(1) and (b)(3) are inconsistent with the FCA's status as an arm's-length regulator. Furthermore, these insider activities can be adequately evaluated and controlled through means other than prior approval by the FCA. Sections 612.2140 and 612.2150 establish adequate safeguards to prevent directors, officers, and employees of System institutions from using their positions for personal gain. In addition, § 620.5 requires System institutions to disclose insider loan transactions in their annual reports to shareholders. The FCA has sufficient examination and enforcement powers to ensure that loans to institution-affiliated parties do not undermine the solvency of any FCS bank or association. Once the repeal of the Agency prior-approval requirements in § 614.4470(b) becomes effective, the FCA shall rely upon its examination authority to determine whether: (1) Bank policy adequately deters insider abuses at System institutions; and (2) associations are complying with bank policy. The FCA is currently reviewing whether other prior-approval requirements that are not mandated by the Act should be retained.

B. Debt Policy and Consolidated Systemwide Notes

The FCA now repeals §§ 615.5104 and 615.5105(c) because they have been superseded by a new regulation, § 615.5135. Section 615.5104 requires each bank to adopt a policy for the management of its debt, while § 615.5105(c) requires the debt management policy of each bank to identify the maximum amount of discount notes that can be outstanding at any one time. Each FCS bank is now required by § 615.5135 to adopt an asset/liability management policy. Furthermore, § 615.5135 requires the policies of System banks to address the management of both assets and liabilities in a more comprehensive manner than §§ 615.5104 and 615.5105(c). Because § 615.5135 has rendered §§ 615.5104 and 615.5105(c) obsolete, the Agency is deleting these two regulations. In the FCA's opinion, the new investment regulations in subpart E of part 615 enhance the ability of Farm Credit banks to control liquidity and solvency risks in their portfolios.

C. Real and Personal Property

The FCA now repeals §§ 615.5170 (b) through (e). These regulations are not needed to: (1) Implement or interpret provisions in the Act that govern the acquisition of real or personal property by FCS banks and associations; or (2) promote safety and soundness. In FCA's opinion, these provisions impose burdens on System institutions that are no longer justified by the benefits derived. These regulatory provisions prescribe detailed operational standards, rather than performance criteria, for ensuring the safe and sound operation of System banks and associations. The FCA also believes that § 615.5170 (d) and (e) are no longer necessary because the safety and soundness concerns posed by information system processing technology are now adequately addressed in FCA Information Systems Bulletins. Additionally, Information Systems Bulletin 92–1 addresses information system risks in mergers and acquisitions. The FCA also observes that paragraphs (b), (c), and (d) of § 615.5170 contain obsolete references to the "district boards" that were abolished by section 409(d) of the Agricultural Credit Technical Corrections Act of 1988.[1]

The FCA will, however, retain § 615.5170(a) because this provision implements sections 1.5(5) and 3.1(5) of the Act. These sections authorize each bank, subject to regulation by the FCA, to acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business. Sections 2.2(5) and 2.12(5) of the Act provide associations with similar

[1] Pub. L. 100–399, section 409(d), 102 Stat. 989, 1003, (August 17, 1988).

VOL
60
ISS
78
AP
24
995
UMI

authorities subject to the supervision by their funding bank and regulation by the FCA. Section 615.5170(a) implements these sections of the Act by specifically stating that the ownership of real estate for office quarters of any bank or association "shall be limited to facilities reasonable and necessary to meet the foreseeable requirements of the institution." Furthermore, § 615.5170(a) expressly prohibits any FCS institution from acquiring real property "if it involves, or appears to involve, a bank or association in the real estate or other unrelated business." This restriction also serves a safety and soundness purpose because such extraneous business activities may increase the exposure of System institutions to loss.

D. Deposits of Funds

The FCA is repealing § 615.5190 because sections 1.5(14), 2.2(10), 2.12(18) and 3.1(12) of the Act provide the requisite authority for FCS institutions to deposit current funds in commercial banks that are either members of the Federal Reserve System or are insured by the Federal Deposit Insurance Corporation (FDIC).

The FCA is also repealing § 615.5190(b) because there is no statutory basis for requiring CoBank to make foreign deposits for the other banks for cooperatives (BCs). The FCA originally adopted this provision in 1981 because, at that time, only the former Central Bank for Cooperatives (CBC) had expertise to reduce the safety and soundness risks that derive from currency exchange transactions. See 46 FR 51881 (October 22, 1981). After the CBC and most district BCs merged to form CoBank, the FCA amended § 615.5190(b) to require CoBank to assume the CBC's function. See 56 FR 2671 (January 24, 1991). The rationale for § 615.5190(b) no longer exists because: (1) Individual BCs have acquired greater international lending experience since 1981; and (2) most BCs have consolidated into CoBank. In this context, § 615.5190(b) unnecessarily restricts BCs, other than CoBank, from becoming active in the international arena. The FCA has determined that the safety and soundness risks inherent in currency exchange transactions should not be controlled by a regulation that unduly restricts the business flexibility of BCs and ACBs to offer a full range of high-quality, low-cost international financial and credit services to their customers independently of CoBank. Rather, the FCA will rely upon its examination and enforcement powers to ensure that all BCs and ACBs conduct their currency exchange transactions in a safe and sound manner. Another FCA regulation, § 614.4900 establishes safety and soundness standards for currency exchange transactions by BCs and ACBs.

Another provision in § 615.5190(b) prohibits FCS banks from holding certificates of deposit that are denominated in foreign currencies as investments under § 615.5140. This provision predates the recent revision of § 615.5140, which now requires System banks to acquire investments that are denominated only in United States dollars. Hence, § 615.5190(b) is unnecessary.

E. Farm Credit Securities as Illustrations

The FCA also repeals § 615.5498, which regulates the illustration of Farm Credit securities that are used for educational or illustrative purposes. The purpose of this regulation is to deter counterfeiting of definitive FCS securities. Since virtually all FCS securities are now issued in book-entry form, § 615.5498 is obsolete. The Federal Farm Credit Banks Funding Corporation and individual System banks can implement adequate safeguards to minimize the risk of counterfeiting of the few securities that are still issued in definitive form.

F. Open Registered Mail and Express Policy

The FCA now repeals subpart P of part 615, which consists of §§ 615.5500, 615.5520, and 615.5530. These three regulations govern the shipment of negotiable securities through the United States Postal Service. The regulations of subpart P of part 615 were designed to eliminate the System's exposure to loss at a time when FCS negotiable securities were routinely shipped by mail between the Bureau of Printing and Engraving and the Federal Reserve Bank of New York. The practice of shipping negotiable securities through the mail was discontinued several years ago. The advent of electronic and computer technology for transferring negotiable securities through the book-entry system has rendered subpart P of part 615 obsolete.

G. Contributions and Membership in Other Organizations

The FCA is repealing § 618.8220, which requires the boards of directors of FCS banks and associations to approve: (1) Charitable contributions; and (2) the payment of membership dues in any voluntary association, club, or society. The regulation further requires boards of directors, during the approval process, to consider the business benefits and tax consequences of such contributions and memberships for the bank or association.

In the FCA's opinion, § 618.8220 unnecessarily interferes in the internal operations of System institutions and imposes a regulatory burden that is not commensurate with the safety and soundness risks posed by System charitable and social activities. The FCA's examination and enforcement powers can adequately deter System institutions from conducting these activities in an unsafe and unsound manner.

List of Subjects

12 CFR Part 614

Agriculture, Banks, banking, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, parts 614, 615, and 618 of chapter VI, title 12 of the Code of Federal Regulations are hereby amended to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5, of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart M—Loan Approval Requirements

§ 614.4470 [Amended]

2. Section 614.4470 is amended by removing the words "and approved by the Farm Credit Administration" from paragraphs (b)(1) and (b)(3).

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

3. The authority citation for part 615 continues to read as follows:

Authority: Secs. 1.5, 1.7, 1.10, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26, 8.0, 8.4, 8.6, 8.7, 8.8, 8.10, 8.12 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2018, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6, 2279aa, 2279aa–4, 2279aa–6, 2279aa–7, 2279aa–8, 2279aa–10, 2279aa–12); sec. 301(a) of Pub. L. 100–233, 101 Stat. 1568, 1608.

Subpart C—Issuance of Bonds, Notes, Debentures and Similar Obligations

§ 615.5104 [Removed]

4. Section 615.5104 is removed.

§ 615.5105 [Amended]

5. Section 615.5105 is amended by removing paragraph (c).

Subpart F—Property and Other Investments

§ 615.5170 [Amended]

6. Section 615.5170 is amended by removing paragraphs (b), (c), (d), (e) and the designation for paragraph (a).

Subpart G—[Removed and reserved]

7. Subpart G, consisting of § 615.5190, is removed and reserved.

Subpart O—Issuance of Farm Credit Securities

§ 615.5498 [Removed and reserved]

8. Section 615.5498 is removed and reserved.

Subpart P—[Removed and reserved]

9. Subpart P, consisting of §§ 615.5500, 615.5520, and 615.5530 is removed and reserved.

PART 618—GENERAL PROVISIONS

10. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart F—Miscellaneous Provisions

§ 618.8220 [Removed and reserved]

11. Section 618.8220 is removed and reserved.

Dated: March 13, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95–10007 Filed 4–21–95; 8:45 am]

BILLING CODE 6705–01–P

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12 CFR Part 620

RIN 3052–AB37

Disclosure to Shareholders

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board, issues a final regulation amending its disclosure requirements for association annual meeting information statements including required disclosures for director candidates nominated from the floor. The amendments provide associations more flexibility in accepting floor nominations for director positions, clarify disclosure requirements when annual meetings are held in more than one session and shareholders vote by mail, and make other technical changes.

EFFECTIVE DATE: The regulations shall become effective upon expiration of 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Laurie A. Rea, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, or

James M. Morris, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1993, the FCA issued a proposed regulation (58 FR 47836) that would amend certain aspects of § 620.21(d) pertaining to required disclosures in the association annual meeting information statement (Statement) concerning the nominating and balloting process for association directors. The FCA proposed changes to § 620.21(d) after learning that the regulation may have inadvertently placed an undue burden on certain members. Section 620.21(d)(3) required the Statement to "contain a notice that nominations from the floor must be made at the first sectional meeting" when the association's annual meeting was held in consecutive sectional sessions. Consequently, certain members that would have otherwise attended a different session were required to travel to the first sectional session if they wished to participate in the floor nominating process. Sections 620.21(d)(5) and (d)(6) also required that persons nominated from the floor provide the necessary written disclosures "in writing at the meeting(s) at which the nomination is considered."

The FCA proposed regulatory amendments to make it less burdensome for members to participate in the floor nominating process. If the association's members are voting by mail ballot at the conclusion of all sessions of the annual meeting, the proposed rule allowed floor nominations at any sectional session. The proposed rule also relaxed the disclosure requirement for floor nominees by allowing them to provide the mandated disclosures "within 10 days of nominations" instead of "at the meeting(s) at which the nomination is considered." The FCA believed that these regulatory changes would afford members more opportunity to nominate candidates from the floor when voting by mail ballot after the annual meeting is concluded and make it easier for floor nominees to provide the required disclosures without any significant inconvenience to management or other nominees.

The FCA received four comment letters on the proposed rule during the comment period that expired on October 13, 1993. One letter was submitted by a Farm Credit bank, two letters by associations, and one by the Farm Credit Council (Council) on behalf of its membership. Commenters were generally supportive of the proposed changes. The Council commented that its membership applauded the FCA's responsiveness to Farm Credit System institutions' concerns.

The final regulation allows persons to be nominated from the floor at any sectional session when the director election is conducted by mail balloting following the final session of the annual meeting. However, in response to a comment from the Council, the FCA has changed the regulation so that associations can specify in their bylaws that nominations from the floor will be accepted only at the first session. The final rule requires persons nominated from the floor to provide associations with the written disclosure information for mailing with the ballot. The final rule also allows associations using mail balloting after the last session the latitude to prescribe in their bylaws the time period for floor nominees to submit the required disclosures.

Response to Comments

The Council asserted that some associations interpreted the proposed regulation to require a change in their current method of nominating and electing directors because their stockholders have the option of voting by mail or in person at each association's annual meeting. Therefore, the Council requested that the proposed regulation be modified to permit associations that hold annual meetings in sectional sessions and conduct elections by mail ballot after the final sectional session to require in their bylaws that all floor nominations be made at the first sectional session. Section 4.15 of the Farm Credit Act of 1971 (Act), concerning the nomination of association directors, states "Nominations shall also be accepted from the floor." To comply with § 4.15 of the Act, associations must continue to afford a full, fair, and meaningful opportunity for members to make viable nominations from the floor. Section 620.21(d)(3) has been revised to emphasize this requirement.

The FCA believes allowing nominations at *any* session of an association annual meeting when mail balloting occurs after those sessions is the best method of ensuring members an opportunity to nominate candidates from the floor. Nevertheless, the FCA is aware that some associations may wish to retain bylaw provisions that provide for the acceptance of floor nominations only at the first session. The FCA is engaged in a continuing effort to reduce regulatory burden by eliminating regulations that prescribe specific operational or managerial practices[1] and amending regulations to provide flexibility, so long as the requirements of the Act are satisfied. Accordingly, the FCA has revised the final § 620.21(d)(3) to allow associations to prescribe that nominations from the floor will be accepted only at the first session. Further, the FCA notes that, if an association uses a combination of voting in person and voting by mail ballot, nominations from the floor can only be made at the first session so that every stockholder has the opportunity to vote on floor nominees.

One commenter suggested that the regulations be modified to expressly accommodate a pre-annual meeting mail balloting process. The commenter argued that it is impossible for associations employing a pre-annual meeting mail balloting process to comply with the floor nomination and disclosure requirements of the proposed regulations because many stockholders have already voted by mail at the time a floor nomination is made. The commenter suggested that the FCA allow associations to accept nominations by mail. The suggestions were not incorporated in the final regulation for several reasons.

The FCA does not believe the use of mail ballots prior to an association's annual meeting is legally permissible. In addition to the slate of eligible candidates presented by the nominating committee, § 4.15 of the Act expressly requires associations to accept nominations "from the floor." A stockholder voting by mail prior to the annual meeting would not be able to vote for floor nominees because their candidacy would not be known until the meeting. In addition, a stockholder who has voted by mail prior to the annual meeting would not be able to revoke his or her mail ballot and vote in person at the meeting. Consequently, stockholders who vote by mail ballot prior to the annual meeting relinquish their rights to vote for candidates nominated from the floor at the meeting.

The FCA believes that accepting nominations solely by mail would discourage the borrowers' active participation in the management and control of System institutions. Mail nominations do not foster borrowers' active involvement in the director nomination and election process but rather may minimize the stockholders' role. Nominations by mail restrict stockholders' opportunity to discuss potential candidates for director positions. If nominations by mail were employed, the absence of consideration and discussion by members at the annual meeting would also inhibit the origination of viable nominations from the floor. Accordingly, the FCA has not modified the regulation to include a procedure to accept floor nominations by mail so that associations may conduct mail balloting prior to the annual meeting. The FCA notes that proxy voting in director elections is a permissible alternative voting method, although it is not specifically mandated by the Act.[2] A secret proxy ballot allows a stockholder who will be absent from the meeting to designate another person to cast his vote. Although proxies must be returned to the association prior to the start of the annual meeting, a stockholder attending the meeting can revoke his or her proxy prior to the balloting at the annual meeting and vote in person for a floor nominee.

Commenters raised concerns about the appropriateness of the 10-day timeframe prescribed in proposed § 620.21(d)(5) for floor nominees to provide written disclosure information. Three commenters suggested that the 10-day period be shortened to 5 business days. Commenters argued that this would give floor nominees sufficient time to prepare and submit the required disclosure information without unduly delaying the mailing of ballots after the last sectional session. The Council stated that its members suggested a time period of 3 days or no more than 5 days, and it recommended that associations be allowed to set an appropriate timeframe in their bylaws. Consistent with its role as an arm's-length regulator, the FCA has revised the regulation to allow associations the latitude to prescribe in their bylaws the time period for floor nominees to submit the required disclosure. Associations should provide a sufficient time for floor nominees to compile the information necessary to comply with the regulatory requirements and ensure that the election process is completed expeditiously. Therefore, the time period for floor nominees to submit the required disclosure information was changed in the final rule from "within 10 days of nomination" to "within the time period prescribed by the association's bylaws." If the bylaws do not address this issue, the regulation requires that this information be submitted within 5 business days.

The Council also requested that the regulation, as proposed, be changed by adding the words "upon conclusion of all sessions" after "mail ballot" in § 620.21(d)(5). The FCA agrees that the suggested change clarifies the meaning of paragraph (d)(5) and modified the regulation accordingly.

The final regulation makes a technical correction to § 620.21(c)(3). (See 51 FR 8644, March 13, 1986). The technical correction deletes the words "during the last year fiscal year to date" and inserts the words "since the last annual meeting" to clarify that associations are required to disclose in the Statement any resignations by directors that stem from disagreements with the board that occurred during the time period between annual meetings.

List of Subjects in 12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, part 620 of chapter VI, title 12 of the Code of Federal Regulations is amended to read as follows:

PART 620—DISCLOSURE TO SHAREHOLDERS

1. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11 of the Farm Credit Act (12 U.S.C. 2252, 2254, 2279aa–11); sec. 424 of Pub. L. 100–233, 101 Stat. 1568, 1656.

Subpart D—Association Annual Meeting Information Statement

2. Section 620.21 is amended by revising the heading and paragraphs (c)(3), (d)(1), (d)(3), (d)(5), and (d)(6) to read as follows:

§ 620.21 Contents of the information statement and other information to be furnished in connection with the annual meeting.

* * * * *

(c) * * *

(3) If any director resigned or declined to stand for reelection since the last annual meeting because of a policy disagreement with the board, and if the director has furnished a letter requesting disclosure of the nature of the disagreement, state the date of the director's resignation and summarize the director's description of the disagreement contained in the letter. If the institution holds a different view of the disagreement, the institution's view may be summarized.

* * * * *

(d) * * *

(1) If directors are nominated by region, describe the regions and state the number of voting shareholders entitled to vote in each region. Any nominee from the floor must be an eligible candidate for the director position for which the person has been nominated.

* * * * *

(3) State that nominations shall be accepted from the floor.

(i) If the annual meeting is to be held in more than one session and mail balloting will be conducted upon the conclusion of all sessions, state that nominations from the floor may be made at any session or, if the association's bylaws so provide, state that nominations from the floor shall be accepted only at the first session.

(ii) If shareholders will not vote solely by mail ballot upon conclusion of all sessions, state that nominations from the floor may be made only at the first session.

* * * * *

(5) For each nominee who is not an incumbent director, except a nominee from the floor, provide the information referred to in § 620.5 (j) and (k) and § 620.21(d)(4). If shareholders will vote by mail ballot upon conclusion of all sessions, each floor nominee must provide the information referred to in § 620.5 (j) and (k) and § 620.21(d)(4) in writing to the association within the time period prescribed by the association's bylaws. If the association's bylaws do not prescribe a time period, state that each floor nominee must provide the written disclosure to the association within 5 business days of the nomination. The association shall ensure that the information is distributed to the voting shareholders with the mailing of the ballots for the election of directors in the same format as the comparable information contained in the association's annual meeting information statement. If shareholders will not vote by mail ballot upon conclusion of all sessions, each floor nominee must provide the information referred to in § 620.5 (j) and (k) and § 620.21(d)(4) in writing at the first session at which voting is held.

(6) No person may be a nominee for director who does not make the disclosures required by this subpart.

* * * * *

Dated: April 13, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95–10008 Filed 4–21–95; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–91–AD; Amendment 39–9200; AD 95–08–11]

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped With Off-Wing Escape Slides

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires replacement of the currently installed door opening actuators of the emergency off-wing escape system with new, improved actuators. This amendment is prompted by reports indicating that the requirements of a previously issued AD do not adequately preclude leakage from these actuators. The actions specified by this AD are intended to prevent failure of the escape slide to deploy due to failure of the door opening/snubbing actuator, which could delay and possibly jeopardize successful emergency evacuation of an airplane.

DATES: Effective May 24, 1995.

The incorporation by reference of Boeing Service Bulletin 767–25–0216, dated February 3, 1994, as listed in regulations, is approved by the Director of the Federal Register as of May 24, 1995.

The incorporation by reference of certain other publications listed in the regulations was approved previously by the Director of the Federal Register as of November 25, 1992 (57 FR 47987, October 21, 1992).

ADDRESSES: The service information referenced in this AD may be obtained from OEA Aerospace, Inc., P.O. Box KK, Highway 12, Explosive Technology Road, Fairfield, California 94533–0659; and Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2784; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the **Federal Register** on August 30, 1994 (59 FR 44672). That action proposed to require replacement of the currently installed door opening actuators of the emergency off-wing escape system on Model 767 series airplanes with new, improved actuators.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Response to Comments

One commenter supports the proposed rule.

One commenter requests that the name and address for obtaining service information from OEA Aerospace, Inc., be corrected. The FAA concurs. Since the issuance of the proposal, OEA has changed its name from OEA, Inc., to

[1] The FCA Board's Policy Statement on Regulatory Philosophy (59 FR 32169, June 22, 1994).

[2] The rights of stockholders to vote by proxy is mandated by the Act in certain situations. See §§ 4.3A(c)(2), 7.8(a)(3), and 7.13(a)(3) of the Act.

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OEA Aerospace, Inc., and has relocated from Colorado to California. Therefore, the ADDRESSES section and paragraph (g) of the final rule have been revised accordingly.

One commenter requests that all references in the proposal to the escape system for Model 747 series airplanes be revised to "the door opening thrusters of the two-piece off-wing escape ramp and slide system." The commenter notes that this change in nomenclature would clearly differentiate the escape system installed on Model 747 series airplanes from those installed on Model 767 series airplanes. The FAA does not concur. Since this rule is applicable only to Model 767 series airplanes, the FAA finds that the broad, generic references to the escape systems cannot and has not created confusion for the operators. Therefore, no change to the final rule is necessary.

One commenter requests that the description of the unsafe condition be edited to specify that the unsafe condition would exist during certain flight configurations or during certain failure modes. The commenter states that the description should include the fact that only one door opening/snubbing actuator is necessary to open the door when the airplane is at a level altitude, and that two door opening/snubbing actuators are necessary to open the slide compartment door on the upward facing side when the airplane is at an adverse roll. The FAA does not concur that a revision to the description is necessary. According to § 39.1 ("Airworthiness Directives") of the Federal Aviation Regulations (14 CFR 39.1), the issuance of an AD is based on the finding that an unsafe condition exists or is likely to develop in aircraft of a particular type design. While the FAA's intent is to describe as specifically as possible the addressed unsafe condition that has prompted an AD, the FAA considers that it would be virtually impossible to list every potential flight configuration or failure mode for when the unsafe condition may exist or occur. To do so would add little value, and would make for an especially long, complex, and cumbersome regulation.

Two commenters request that the proposed compliance time of 2 years to accomplish the replacement of door opening actuators with new, improved actuators be extended to 4 years. One of the commenters asserts that safety of the fleet would be ensured in the interim with the repetitive inspections (weighing program) currently required by AD 92–16–17, amendment 39–8327 (57 FR 47987, October 21, 1992), which are restated in proposed paragraph (a). The other commenter notes that the suggested 4-year compliance time would allow operators to amortize these costs over a longer period of time, which would significantly minimize the economic impact of having to purchase and install the new actuators. Two other commenters point to a potential parts availability problem due to the large number of airplanes that will be affected by the proposed rule.

The FAA does not concur with these commenters' request. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, the availability of required parts, and the practical aspect of replacing the actuators within a maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. The FAA has been advised that replacement actuators are readily available; therefore, obtaining them within the proposed compliance time should not pose a problem for any affected operator. Further, the FAA took into account the 2-year compliance time recommended by the manufacturer, as well as the number of days required for the rulemaking process; in consideration of these factors, the FAA finds that 2 years after the effective date of this final rule is consistent with the time recommended by the manufacturer. However, under the provisions of paragraph (e) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Two commenters request that the proposed requirement of paragraph (c) to replace the actuators be optional rather than mandatory. These commenters state that safety of the fleet could be ensured in the interim with the repetitive inspections required by paragraph (a) of the proposal. The FAA does not concur. Paragraph (a) merely restates the requirements of AD 92–16–17, which proved to be unreliable in accurately determining the fluid level in the actuators. Therefore, the FAA has determined that these fluid-filled actuators must be replaced with new, improved actuators that are gas-filled.

One commenter requests that proposed paragraph (d) be revised to correct a typographical error in the reference to the Boeing part number. (The OEA part number was correctly referenced in the proposal. The Boeing part number was provided only for purposes of cross-referencing the OEA part number. It is only this cross-referenced Boeing part number that contained a typographical error.) The FAA concurs. Paragraph (d) of the final rule has been revised accordingly to correct this typographical error.

One commenter requests that the reference to airplanes in proposed paragraph (d) be revised to specify that the old oil-filled actuators may not be installed on Model 767 series airplanes equipped with off-wing emergency escape systems. The FAA does not concur. Since the rule is applicable to Boeing Model 767 series airplanes equipped with off-wing escape slides, the reference to airplanes clearly refers to Boeing Model 767 series airplanes equipped with off-wing escape slides. Repeating the applicability statement for this paragraph of the final rule would only be redundant and would not add to the clarity of the rule. Conversely, repeating the applicability for this paragraph may introduce confusion by leading the reader to deduce that the remaining paragraphs are applicable to other models or configurations.

Two commenters request that the cost of the proposed replacement action be partially borne by Boeing and partially by OEA. These commenters point to the faulty design of the OEA actuators that caused the initial problem (oil leakage from the actuators). Therefore, these commenters contend that OEA should assume partial financial responsibility for its faulty design, and that Boeing should assume partial financial responsibility for this problem since it chose to use these actuators on its airplanes.

The FAA cannot concur with this request. According to § 39.1 of the Federal Aviation Regulations (14 CFR 39.1), the issuance of an AD is based on the finding that an unsafe condition exists or is likely to develop in aircraft of a particular type design. The FAA has the authority to issue an AD when it is found that an unsafe condition is likely to exist or develop on other products of the same type design. In accordance with § 39.3 (14 CFR 39.3), operators whose products are subject to an AD must operate those products in accordance with the requirements of that AD. While the subject of this AD relates to a problem with the escape slides, this AD eliminates the unsafe condition by requiring replacement of the door opening actuators with new, improved actuators. The AD is the appropriate vehicle for mandating such actions. The FAA's authority in part 39 does not extend to whether or how those costs are negotiated. However, operators may negotiate the costs associated with accomplishing those actions with manufacturer.

Other Changes to the Final Rule

The FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been added to this final rule to clarify this long-standing requirement.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Impact

There are approximately 460 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 173 airplanes of U.S. registry will be affected by this AD.

The inspections and modification currently required by AD 92–16–17, and retained in this AD, take approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $510 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $212,790, or $1,230 per airplane.

The replacement will take approximately 2 work hours per airplane at an average labor rate of $60 per work hour. Required parts will cost approximately $6,400 per airplane. Based on these figures, the total cost impact of the replacement on U.S. operators is estimated to be $1,127,960, or $6,520 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD action, makes a finding of an unsafe condition, this means that this cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD action would be redundant and unnecessary.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–08–11 Boeing: Amendment 39–9200. Docket 94–NM–91–AD.

Applicability: Model 767 series airplanes equipped with off-wing escape slides, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the escape slide to deploy, which could delay and possibly jeopardize successful emergency evacuation of an airplane, accomplish the following:

(a) Within 18 months after November 25, 1992 (the effective date of AD 92–16–17, amendment 39–8327), inspect the off-wing escape slide door opening/snubbing actuators in accordance with OEA Service Bulletin 3092100–25–002, dated July 26, 1991. Repeat this inspection thereafter at intervals not to exceed 20 months until the replacement required by paragraph (c) of this AD is accomplished. For operators that have previously accomplished this inspection in accordance with AD 92–16–17: This paragraph requires that the next scheduled inspection be performed within 20 months after the last inspection performed in

accordance with paragraph (b)(1) of AD 92–16–17.

(b) Within 18 months after November 25, 1992 (the effective date of AD 92–16–17, amendment 39–8327), inspect and modify the escape slide compartment door latching mechanism in accordance with Boeing Alert Service Bulletin 767–25A0174, dated August 15, 1991. Accomplishment of the actions required by this paragraph prior to the effective date of this AD terminates the actions required by paragraph (b)(2) of AD 92–16–17.

(c) Within 2 years after the effective date of this AD, replace the currently installed door opening actuator of the emergency off-wing escape system with a new, improved actuator, in accordance with Boeing Service Bulletin 767–25–0216, dated February 3, 1994. Accomplishment of this replacement terminates the repetitive inspection requirements of paragraph (a) of this AD.

(d) As of 2 years after the effective date of this AD, only door opening actuators of the emergency off-wing escape system having OEA part number 5262100 (Boeing part number S416T208–12) shall be installed on any airplane.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The replacement shall be done in accordance with Boeing Service Bulletin 767–25–0216, dated February 3, 1994. This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The inspections and modification shall be done in accordance with OEA Service Bulletin 3092100–25–002, dated July 26, 1991, and Boeing Alert Service Bulletin 767–25A0174, dated August 15, 1991; as applicable. The incorporation by reference of these documents was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of November 25, 1992 (57 FR 47987, October 21, 1992). Copies may be obtained from OEA Aerospace, Inc., P.O. Box KK, Highway 12, Explosive Technology Road, Fairfield, California 94533–0659; and Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 24, 1995.

Issued in Renton, Washington, on April 10, 1995.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9341 Filed 4–21–95; 8:45 am]

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14 CFR Part 39

[Docket No. 94–CE–30–AD; Amendment 39–9202; AD 95–08–13]

Airworthiness Directives; B. Grob Flugzeugbau Model G109B Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to B. Grob Flugzeugbau (Grob) Model G109B gliders. This action requires replacing the elevator inner hinges with hinges of improved design. Two occurrences where the elevator inner hinges separated from the elevator prompted the required action. The actions specified by this AD are intended to prevent failure of these hinges because of delamination or corrosion, which, if not detected and corrected, could lead to loss of control of the glider.

DATES: Effective June 2, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 2, 1995.

ADDRESSES: Service information that applies to this AD may be obtained from B. Grob Flugzeugbau, D–8939 Mattsies, Germany. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Herman Belderok, Project Officer, Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Grob Model G109B gliders was published in the **Federal Register** on January 10, 1995 (59 FR 2555). The action proposed to require replacing the elevator inner hinges with hinges of improved design. Accomplishment of the proposed action would be in accordance with Grob Repair Instructions No. 817–25 for Service Bulletin TM 817–25, dated November 9, 1987.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD or add any additional burden upon the public than was already proposed.

The unsafe condition referenced in this AD is caused by both stress loads and corrosion. Stress loads are a direct result of glider usage. Corrosion can then develop regardless of whether the glider is utilized in flight or is on the ground. With this in mind, the FAA has determined that the compliance time of this AD should be in both calendar time and hours time-in-service (TIS).

The FAA estimates that 30 gliders in the U.S. registry will be affected by this proposed AD, that it will take approximately 8 workhours per glider to accomplish the required action, and that the average labor rate is approximately $60 an hour. Parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $14,400. This figure is based on the assumption that no affected glider owner/operator has accomplished the proposed replacement of the elevator inner hinges.

Grob has informed the FAA that approximately 20 of the affected gliders already have the required replacement incorporated. With this in mind, the cost impact upon the public of the required action would be reduced from $14,400 to $5,280.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under

Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

95–08–13 B. Grob Flugzeugbau: Amendment 39–9202; Docket No. 94–CE–30–AD.

Applicability: Model G109B gliders, serial numbers 6200 through 6445, certificated in any category.

Note 1: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any glider from the applicability of this AD.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD or within the next 6 calendar months after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent failure of the elevator inner hinges because of delamination or corrosion, which, if not detected and corrected, could lead to loss of control of the glider, accomplish the following:

(a) Replace the elevator inner hinges (2) with hinges of improved design, part number 109B–3550, in accordance with Grob Repair Instructions No. 817–25 for Service Bulletin TM 817–25, dated November 9, 1987.

Note 2: The service instructions of this AD call for "the execution of the instructions to be certified in the log-book by an authorized inspector class 3." This type of inspector is not applicable in the United States and the person accomplishing the AD is as outlined in part 43 of the Federal Aviation Regulations (14 CFR part 43). This is not a change over normal AD procedures.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate gliders to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) The replacement required by this AD shall be done in accordance with Grob Repair Instructions No. 817–25 for Service Bulletin TM 817–25, dated November 9, 1987. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from B. Grob Flugzeugbau, D–8939 Mattsies, Germany. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39–9202) becomes effective on June 2, 1995.

Issued in Kansas City, Missouri, on April 11, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9342 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–ANE–58; Amendment 39–9203; AD 95–08–14]

Airworthiness Directives; AlliedSignal, Inc. (Formerly Textron Lycoming) LTS101 Series Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to AlliedSignal, Inc. (formerly Textron Lycoming) LTS101 series turboshaft engines. This action requires a one-time replacement of magnetic speed pickups in the engine electronic overspeed protection system, or inspection, and replacement, if necessary, of pickups with incorrect polarity. This amendment is prompted by reports of a manufacturing error that resulted in improper sensor polarity of magnetic speed pickups. The actions specified in this AD are intended to prevent the engine electronic overspeed protection system from failing to function as designed, which can result in the inability to arrest an uncontrolled power turbine (PT) rotor overspeed and damage to the aircraft.

DATES: Effective May 9, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 9, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 23, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–58, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from AlliedSignal Engines, 550 Main Street, Stratford, CT 06497; telephone (203) 385–1470, fax (203) 385–2256. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

VOL 60 ISS 78 AP 24 1995 UMI

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received reports of a manufacturing error that resulted in improper sensor polarity of magnetic speed pickups on certain AlliedSignal, Inc. (formerly Textron Lycoming) Models LTS101–650B1, –750B1, –650C3/3A, and –750C1 turboshaft engines. These engines incorporate an engine electronic overspeed protection system installed in production or retrofitted in accordance with Textron Lycoming Service Bulletin (SB) No. LTS101B–73–10–0127, Revision 2, dated August 14, 1992, or previous revisions; or SB No. LTS101C–73–10–0129, Revision 3, dated August 14, 1992, or previous revisions. The engine electronic overspeed protection system utilizes signals from two magnetic pickups to sense and arrest power turbine (PT) rotor overspeed. The improper sensor polarity induced by the manufacturing error can result in a malfunctioning engine electronic overspeed protection system although the system self-test indicates normal operation. This condition, if not corrected, could result in the engine electronic overspeed protection system failing to function as designed, which can result in the inability to arrest an uncontrolled PT rotor overspeed and damage to the aircraft.

The FAA has reviewed and approved the technical contents of AlliedSignal Engines SB No. LTS101–73–10–0169, dated December 12, 1994, that describes procedures for a one-time replacement of magnetic speed pickups in the engine electronic overspeed protection system, or inspection, and replacement, if necessary, of pickups with incorrect polarity.

Since an unsafe condition has been identified that is likely to exist or develop on other AlliedSignal, Inc. LTS101 series engines of the same type design, this airworthiness directive (AD) is being issued to prevent the engine electronic overspeed protection system from failing to function as designed. This AD requires a one-time replacement of magnetic speed pickups in the engine electronic overspeed protection system, or inspection, and replacement, if necessary, of pickups with incorrect polarity. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–58." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–08–14 AlliedSignal, Inc.: Amendment 39–9203. Docket 94–ANE–58.

Applicability: AlliedSignal, Inc. (formerly Textron Lycoming) Models LTS101–650B1, –750B1, –650C3/3A, and –750C1 turboshaft engines incorporating engine electronic overspeed protection system installed in production prior to the effective date of this airworthiness directive (AD), or retrofitted in accordance with Textron Lycoming Service Bulletin (SB) No. LTS101B–73–10–0127, Revision 2, dated August 14, 1992, or previous revisions; or SB No. LTS101C–73–10–0129, Revision 3, dated August 14, 1992, or previous revisions. These engines are installed on but not limited to Messerschmitt-Bolkow-Blohm BK117 series and Bell Helicopter Textron 222 series helicopters.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously:

To prevent the engine electronic overspeed protection system from failing to function as designed, which can result in the inability to arrest an uncontrolled power turbine (PT) rotor overspeed and damage to the aircraft, accomplish the following:

(a) Within 150 hours time in service after the effective date of this AD, accomplish either paragraph (a)(1) or paragraph (a)(2) of this AD.

(1) Replace magnetic speed pickups, P/N 4–301–356–01, in the engine electronic overspeed protection system, with a serviceable part in accordance with Allied Signal Engines SB No. LTS101–73–10–0169, dated December 12, 1994.

(2) Inspect magnetic speed pickups, P/N 4–301–356–01, in the engine electronic overspeed protection system, for polarity in accordance with AlliedSignal Engines SB No. LTS101–73–10–0169, dated December 12, 1994, and prior to further flight, remove magnetic speed pickups with incorrect polarity, and replace with a serviceable part, in accordance with AlliedSignal Engines SB No. LTS101–73–10–0169, dated December 12, 1994.

(b) Prior to installation, inspect all uninstalled magnetic speed pickups, P/N 4–301–356–01, for polarity, and replace pickups with incorrect polarity with a serviceable part, in accordance with AlliedSignal Engines SB No. LTS101–73–10–0169, dated December 12, 1994.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(e) The inspection, and replacement, of the magnetic speed pickups shall be done in accordance with the following AlliedSignal Engines service document:

Document No.	Pages	Date
SB No. LTS101–73–10–0169. Total pages: 3	1–3	Dec. 12, 1994.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Engines, 550 Main Street, Stratford, CT 06497; telephone (203) 385–1470, fax (203) 385–2256. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 9, 1995.

Issued in Burlington, Massachusetts, on April 11, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–9472 Filed 4–19–95; 2:14 pm]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–ANE–04; Amendment 39–9204; AD 95–08–15]

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Pratt & Whitney (PW) JT8D series turbofan engines. This action requires a one-time borescope inspection of certain combustion chamber outer cases (CCOC) installed only on McDonnell Douglas DC–9 series and Boeing 737 series aircraft, and an ultrasonic inspection of all affected CCOC's at every accessibility. This amendment is prompted by reports of two CCOC ruptures in service and of two CCOC's discovered during maintenance with intergranular cracks. The actions specified in this AD are intended to prevent CCOC rupture, which can result in an uncontained engine failure and damage to the aircraft.

DATES: Effective May 9, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 9, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 23, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–04, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St, East Hartford, CT 06108. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark A. Rumizen, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7137, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received reports of two uncontained engine failures on Pratt & Whitney (PW) JT8D series turbofan engines. Investigation revealed that the engine failures were due to combustion chamber outer case (CCOC) ruptures that exhibited intergranular cracking. The CCOC ruptures resulted from the low cycle fatigue (LCF) propagation of the intergranular crack. In addition, intergranular cracking on two other CCOC's was discovered during in-shop maintenance. The FAA has determined that intergranular cracks may develop from an initiation site on the case during assembly of the CCOC to the high pressure turbine (HPT) case, or during engine operation in which an impact load is imposed on the CCOC. During subsequent engine operation, the crack can then propagate to failure due to normal LCF loads. Analysis of operating experience relative to CCOC ruptures indicated that only engines installed on McDonnell Douglas DC–9 series and Boeing 737 series aircraft have a significant risk of CCOC rupture, whereas engines installed on other aircraft have been statistically proven to have less risk of CCOC rupture. Therefore, the FAA has determined that a borescope inspection of CCOC's installed only on McDonnell Douglas DC–9 series and Boeing 737 series aircraft is required to meet safety of flight criteria. However, the FAA has determined that an ultrasonic inspection of all affected CCOC's during in-shop maintenance is also required, regardless of intended aircraft installation, to meet safety of flight criteria. This condition, if not corrected, could result in CCOC rupture, which can result in an uncontained engine failure and damage to the aircraft.

The FAA has reviewed and approved the technical contents of PW Alert Service Bulletin (ASB) No. A6202, dated February 20, 1995, that describes procedures for a one-time borescope inspection of certain CCOC's installed

VOL
60
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78
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only on McDonnell Douglas DC–9 series and Boeing 737 series aircraft, and an ultrasonic inspection of all affected CCOC's at every accessibility when the "J" and "K" flanges are separated and the outer split fan ducts are removed.

Since an unsafe condition has been identified that is likely to exist or develop on other PW JT8D series turbofan engines of the same type design, this AD is being issued to prevent CCOC rupture, which can result in an uncontained engine failure and damage to the aircraft. This AD requires a one-time borescope inspection of certain CCOC's installed only on McDonnell Douglas DC–9 series and Boeing 737 series aircraft, and an ultrasonic inspection of all affected CCOC's at every accessibility when the "J" and "K" flanges are separated and the outer split fan ducts are removed. However, performing the ultrasonic inspection in the shop or on-wing is an acceptable alternative to performing the borescope inspection. The actions are required to be accomplished in accordance with the ASB described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–04." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–08–15 Pratt & Whitney: Amendment 39–9204. Docket 95–ANE–04.

Applicability: Pratt & Whitney (PW) Models JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, and –17AR turbofan engines, with combustion chamber outer cases (CCOC) Part Numbers (P/N) 490547, 542155, 616315, 728829, 728829–001, 730413, 730413–001, 730414, 730414–001, 767197, 767279, and 767279–001. These engines are installed on but not limited to Boeing 737 series and 727 series, and McDonnell Douglas DC–9 series aircraft.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different action necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent CCOC rupture, which can result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) For engines installed on McDonnell Douglas DC–9 series aircraft, perform the following:

(1) Perform a borescope inspection of the CCOC for cracking within 1,000 cycles in service (CIS) after the effective date of this airworthiness directive (AD), in accordance with Section 2.A of PW Alert Service Bulletin (ASB) No. A6202, dated February 20, 1995.

(2) Remove from service CCOC's that exhibit cracking in accordance with Section 2.A of PW ASB No. A6202, dated February 20, 1995.

(b) For engines installed on Boeing 737 series aircraft, perform the following:

(1) Perform a borescope inspection of the CCOC for cracking within 1,500 CIS after the effective date of this AD, in accordance with Section 2.A of PW ASB No. A6202, dated February 20, 1995.

(2) Remove from service CCOC's that exhibit cracking in accordance with section 2.A of PW ASB No. A6202, dated February 20, 1995.

(c) At every accessibility of the CCOC after the effective date of this AD, perform the following:

(1) Prior to reassembly of the outer split fan ducts, perform an ultrasonic inspection for cracking in accordance with Section 2.B of PW ASB No. A6202, dated February 20, 1995.

(2) Remove from service CCOC's that exhibit cracking in accordance with Section 2.B of PW ASB No. A6202, dated February 20, 1995.

(d) Compliance with paragraph (c) of this AD is an acceptable alternative to performing the borescope inspection required by paragraph (a) or (b) of this AD, as applicable.

(e) For the purpose of this AD, accessibility of the CCOC is defined as separation of the "J" and "K" flanges and removal of the outer split fan ducts.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(h) The inspections of the CCOC shall be done in accordance with the following service document:

Document No.	Pages	Date
PW ASB No. A6202. Total pages: 11.	1–11	Feb. 20, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St, East Hartford, CT 06108. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on May 9, 1995.

Issued in Burlington, Massachusetts, on April 11, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–9471 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 94–AGL–36]

Modification of Class D Airspace Areas; Detroit, MI, and Alton, IL

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class D airspace area at Willow Run Airport, Detroit, MI, and St. Louis Regional Airport, Alton, IL. The Class D airspace area at Willow Run Airport, Detroit, MI, will be modified by lowering the vertical limit of the Class D airspace area up to but not including the base altitude of the overlying Detroit, MI, Class B airspace area. The Class D airspace area description at St. Louis Regional Airport, Alton, IL, will be modified by excluding that airspace within the Lambert-St. Louis International Airport, MO, Class B airspace area. Airspace reclassification has necessitated new guidelines for depicting and describing Class D airspace areas that underlie Class B airspace areas. The intended effect is to eliminate pilot confusion by modifying the controlled airspace areas at Willow Run Airport, Detroit, MI, and St. Louis Regional Airport, Alton, IL.

EFFECTIVE DATE: 0901 UTC, July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Griffith, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On January 6, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class D airspace area at Willow Run Airport, Detroit, MI, and St. Louis Regional Airport, Alton, IL (60 FR 2043). No comment objecting to the proposal were received.

The coordinates for this airspace docket as based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the Class D airspace areas at Willow Run Airport, Detroit, MI, and St. Louis Regional Airport, Alton, IL. The Class D airspace area at Willow Run Airport, Detroit, MI, will be modified by lowering the vertical limited of the Class D airspace area up to not including the base altitude of the overlying Detroit, MI, Class B airspace area. The Class D airspace area description at St. Louis Regional Airport, Alton, IL, will be modified by excluding that airspace within the Lambert-St. Louis International Airport, MO, Class B airspace area. Airspace reclassification, effective September 16, 1993, has necessitated new guidelines for depicting and describing Class D airspace areas that underlie Class B airspace areas. The intended effect is to eliminate pilot confusion by modifying the controlled airspace areas at Willow Run Airport, Detroit, MI, and St. Louis Regional Airport, Alton, IL.

The FAA has determined that this regulation only involves an established body of technical regulations for the frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only effect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective

September 16, 1994, is amended as follows:

Paragraph 500 General

* * * * *

AGL MI D Detroit, MI [Revised]

Detroit, Willow Run Airport, MI
(Lat. 42°14'16" N., long. 83°31'50" W.)

That airspace extending upward from the surface to but not including 3,000 feet MSL within a 4.4-mile radius of Willow Run Airport, excluding that airspace within the Detroit, MI, Class B airspace area.

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AGL IL D Alton, IL [Revised]

Alton, St. Louis Regional Airport, IL
(Lat. 38°53'25" N., long. 90°02'45" W.)

That airspace extending upward from the surface to and including 3,000 feet MSL within a 4.2-mile radius of the St. Louis Regional Airport, excluding that airspace within the Lambert-St. Louis International Airport, MO, Class B airspace area. The Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

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Issued in Des Plaines, Illinois on April 11, 1995.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 95–10042 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 94]

Staff Accounting Bulletin No. 94

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: The interpretations in this staff accounting bulletin express the views of the staff regarding the period in which a gain or loss is recognized on the early extinguishment of debt.

EFFECTIVE DATE: April 18, 1995.

FOR FURTHER INFORMATION CONTACT: Tracey Barber, Office of Chief Accountant (202) 942–4400, or Douglas Tanner, Division of Corporation Finance (202) 942–2960, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Margaret H. McFarland,

Deputy Secretary.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 94 to the table found in Subpart B.

Staff Accounting Bulletin No. 94

The staff hereby adds Section AA to Topic 5 of the Staff Accounting Bulletin Series. Topic 5–AA provides guidance regarding the period in which a gain or loss is recognized on the early extinguishment of debt.

Topic 5: Miscellaneous Accounting

* * * * *

AA. Recognition of a Gain or Loss on Early Extinguishment of Debt

Facts: In the fourth quarter of its fiscal year, a registrant announces its intent to call for redemption certain of its outstanding debt obligations. By their terms, the debt obligations are not callable until the third quarter of the subsequent fiscal year. The obligations will be redeemed for an amount that exceeds the net amount at which they are carried on the registrant's balance sheet. The debt extinguishment would not be deemed a troubled debt restructuring addressed by *Statement of Financial Accounting Standards No. 15,* "Accounting by Debtors and Creditors for Troubled Debt Restructurings."

Question: Would the staff object if the registrant recorded the loss expected to result from redemption of the debt obligations (the excess of the reacquisition cost over the net carrying amount of the extinguished debt) in the period that it announces its intent to call the debt for redemption?

Interpretive Response: Yes. *Accounting Principles Board Opinion No. 26,* "Early Extinguishment of Debt," (APB 26) and its amendments, including, among others, *Statement of Financial Accounting Standards No. 76,* "Extinguishment of Debt," (SFAS 76) govern the accounting and disclosure for extinguishment of debt. Pursuant to APB 26, the gain or loss from an extinguishment of debt "should be recognized currently in income of the period of extinguishment." Paragraph 3 of SFAS 76 identifies the circumstances under which a debt obligation would be considered extinguished.[1] The staff would object to recognition of a gain or loss from a debt extinguishment in a period other than the period in which the debt is considered extinguished.[2] Disclosure regarding a planned extinguishment and its likely effects would be required in footnotes to the financial statements and in Management's Discussion and Analysis to the extent material. In periods preceding extinguishment, interest expense and other carrying costs of the debt should be recognized in accordance with the terms of the instrument. Deferred debt issue costs and debt discount or premium would continue to be amortized based on the life of the debt that was assumed when the obligation initially was recorded.

Some registrants have suggested that *Statement of Financial Accounting Standards No. 5,* "Accounting for Contingencies," (SFAS 5) requires recognition of an estimated loss on extinguishment when the extinguishment becomes probable, such as upon an issuer's announcement of a plan to call the debt. The staff does not believe that SFAS 5 supersedes or conflicts with other authoritative literature providing specific guidance concerning the accounting for debt extinguishment. A probable and estimable loss is recognized under SFAS 5 if, and only if, an asset has been impaired or a liability had been incurred at the balance sheet date. The staff believes that announcement of an intent to extinguish a liability in the future does not, by itself, result in a requirement to recognize a loss. Further, the staff believes that an issuer's irrevocable offer to repurchase a debt obligation is not sufficient to result in the debt's extinguishment for accounting purposes. A debt holder's acceptance of that offer at or prior to the balance sheet date by means of tendering the security and surrendering all rights under the instrument's terms, however, would be considered an extinguishment of that debt. In the case of an issuer's call of a debt obligation (including an original issue discount obligation), extinguishment is not considered to have occurred before interest ceases to accrue or accrete under the terms of the obligation as a result of the call. In any case, loss recognition is not elective under SFAS 5. The accounting consequence for an issuer that enters into a binding contract with a holder of the issuer's debt obligation to exchange that security at a future date for specified amount may be subject to conflicting literature. The staff intends to request that the Emerging Issues Task Force address that issue

[1] Paragraph 3 of SFAS 76 states that "[a] debtor shall consider debt to be extinguished for financial reporting purposes in the following circumstances:

a. The debtor pays for creditor and is relieved of all of its obligations with respect to the debt. This includes the debtor's reacquisition of its outstanding securities in the public securities markets, regardless of whether the securities are cancelled or held as so-called treasury bonds.

b. The debtor is legally released from being the primary obligor under the debt either judicially or by the creditor and its is probable that the debtor will not be required to make future payments with respect to that debt under any guarantees. (footnotes omitted)

c. The debtor irrevocably places cash or other assets in a trust to be used solely for satisfying scheduled payments of both the interest and principal of a specific obligation and the possibility that the debtor will be required to make future payments with respect to the debt is remote. In this circumstance, debt is extinguished even though the debtor is not legally released from being the primary obligor under the debt obligations."

[2] The extinguishment of a debt obligation subsequent to the balance sheet date but prior to the issuance of financial statements reporting as of and for the period ended on the balance sheet date should not result in adjustment to those financial statements.

[FR Doc. 95–9981 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AD63

Testing Modifications to the Disability Determination Procedures

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are adding new rules which provide authority to test procedures that modify the disability determination process we currently follow under titles II and XVI of the Social Security Act (the Act). We intend to test up to four model procedures either singly or in combination. These tests will provide us with information so we can determine the effectiveness of the models in improving the disability process. The intended result is to enable us to make recommendations for national implementation of improvements identified by the tests. These final rules only refer to the changes to the disability procedures we may test. Unless specified, all other regulations related to the disability determination process remain unchanged. Videoconferencing may be used with any of the models.

EFFECTIVE DATE: These rules are effective April 24, 1995.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965–1762.

SUPPLEMENTARY INFORMATION:

Background

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on October 22, 1993, (58 FR 54532) proposing to establish the authority to test model projects designed to improve the disability determination process. The initial public comment period was 30 days. A 30-day extension of the public comment period was published in the **Federal Register** on December 6, 1993, (58 FR 64207) and the comment period ended on January 5, 1994. The comments we received on the NPRM and the changes we have made in the final rules are discussed below.

On April 15, 1994, the Social Security Administration (SSA) published a notice in the **Federal Register** (59 FR 18188) setting out a proposal to redesign the initial and administrative appeals system for determining an individual's entitlement to Social Security and Supplementary Security Income (SSI) disability payments. Comments on this comprehensive and far reaching proposal developed by SSA's Disability Process Reengineering Team (the Team) were requested, and during the comment period that began on April 1, 1994, and ended on June 14, 1994, SSA received over 6,000 written responses. They came from a broad spectrum of respondents including: Professional associations, claimant representatives, claimant advocacy groups, Federal and State agencies, State governments, employee unions, Federal and State employees, and other members of the public. Comments also were received by members of the Team who conducted briefings and spoke with more than 3,000 individuals about their reaction to the proposal. The commenters expressed their belief that improvements were needed to provide better service and to manage the claims process more effectively. While some concerns were expressed, the commenters praised SSA and the Team for taking on the task of redesigning the disability claim process.

The Team made revisions to the redesign proposal and submitted them to the Commissioner of Social Security on June 30, 1994. The Commissioner accepted the recommendations of the Team on September 7, 1994, with the full understanding that certain aspects of the redesign proposal recommended by the Team would require extensive research and testing to determine whether they can be implemented. The plan approved by the Commissioner was published in the **Federal Register** on September 19, 1994 (59 FR 47887). The proposed changes to the disability determination process contained in the plan approved by the Commissioner that are the same as or similar to changes we proposed to test in the NPRM include:

- Making the process more personalized by assigning a disability claim manager who is knowledgeable about the case to be the claimant's principal contact with SSA;
- Providing the claimant with an opportunity for a predecision interview with the decisionmaker(s) when the decisionmaker finds that the evidence in the claim file is insufficient to make a fully favorable determination or requires an initial determination denying the claim;
- Eliminating the reconsideration step of the administrative review process and providing a claimant who is dissatisfied with his or her initial determination with the opportunity to request a hearing before an administrative law judge (ALJ).

These final rules were developed based on the NPRM, the comments we received on it which are discussed below, and the Commissioner's acceptance on September 7, 1994, of the Team's recommendations to redesign the disability process. Under the final rules we plan to test one or more modifications to the current disability determination process to determine whether the modifications should become permanent. The modifications we plan to test pursuant to these final rules that were not contained in the NPRM, are based on, and are an outgrowth of, the NPRM.

Some modifications of procedures that were in the NPRM, such as having a single decisionmaker in the proposed claims intake and determination model, the face-to-face predenial interview model and the face-to-face Federal reconsideration models, are now found in these final rules in the single decisionmaker model. Also, a modification similar to, though less formal than, the predenial interview concept that was part of the face-to-face predenial interview model is now found in the predecision interview model.

Other modifications contained within the models described in the NPRM and the redesign proposal are now combined in models in these final rules. For example, the NPRM described a disability specialist as a claims representative who would be given special disability program training similar to the training that State agency disability examiners receive. The disability specialist would be able to review the claim before forwarding it to the State agency, request and evaluate existing medical evidence and, if appropriate, arrange for a consultative examination. With respect to applications for SSI payments based on disability, the disability specialist would, where appropriate, make presumptive disability findings. The second model in the NPRM, the claims intake and determination model, described a process whereby the applicant would be interviewed by a decisionmaker when a claim for disability benefits or SSI payments based on disability was filed.

Whereas the NPRM described a disability specialist and a decisionmaker at claims intake who could perform these functions, the final rules now have a disability claim manager model and a single decisionmaker model. The disability claim manager will assume primary responsibility for the processing of any initial disability claim, and he or she will act as the focal point for the claimant's contacts with us throughout the claims intake process and until an initial determination is issued. The disability claim manager will perform many of the functions associated with a disability specialist, but will also perform other functions. A disability claim manager will provide the claimant with an explanation of the disability programs, including the definition of disability and how we determine whether or not the claimant meets the other requirements for entitlement to disability benefits. The disability claim manager will also explain what the claimant will be asked to do throughout the initial claims process and provide information that will assist the claimant in pursuing his or her claim. When tested in combination with the single decisionmaker model, the disability claim manager will also be the decisionmaker, similar to the decisionmaker in the claims intake and determination model described in the NPRM.

The disability claim manager may work in a team environment with medical consultants who provide assistance for case adjudication, as well as with technical and other clerical personnel who may handle other aspects of case development and payment effectuation. Each team member will have a familiarity with all the steps in the process and an understanding of how he or she assists another's efforts. Team members will be able to draw upon each other's expertise on complex issues. We expect that this team environment, combined with the proper training, program tools and technological support, will eventually enable one individual to handle the responsibilities of the disability claim manager. This individual may be either a Federal employee or a State agency employee. An individual employee serving as the disability claim manager is basic to our objective of providing a single point of contact for the claimant during the initial disability process.

In the near term, it may be necessary to have the duties of a disability claim manager carried out by more than one individual and, therefore, to expand the "disability team" described above to include additional employees. The final rules will allow us to test the disability claim manager function performed by one individual or a team of individuals. If the disability claim manager model is being tested in combination with the single decisionmaker model (i.e., the disability claim manager would be the single decisionmaker for both the medical and nonmedical aspects of the claim), and a State agency employee is performing the duties of the disability claim manager, the ultimate determination of whether or not the claimant is entitled to benefits will be made by a team that includes a Federal employee. This procedure is in accordance with current provisions of the Act which authorize State agency employees only to make determinations of disability and not determinations of entitlement to benefits based on disability.

The disability models proposed in the NPRM were designed only to modify those aspects of the disability determination process based upon the medical factors of entitlement. That is why, for example, the face-to-face predenial interview model proposed in the NPRM only provided for direct appeal of disability issues to the ALJ. Since then, we have decided to test ways to improve both the disability and nondisability aspects of the disability determination process. The face-to-face predenial interview model with limited direct appeal rights to the ALJ has been changed in the final rules to a less formal predecision interview model. As some commenters suggested, the predecision interview model does not place conditions on a claimant's appeal rights. It still provides, however, the claimant with the opportunity for an interview with the decisionmaker(s) before an initial determination denying the claim is made or when the evidence is insufficient to make a fully favorable determination. The decisionmaker(s) who will conduct the interview has the discretion to determine which method of interview (face-to-face, videoconferencing, or telephone) is most appropriate for each claimant's special needs. The reconsideration elimination model has also been modified to allow appeal to an administrative law judge if the claimant is dissatisfied with the initial determination made in his or her claim, based upon either disability or nondisability factors.

Finally, we decided not to test the face-to-face Federal reconsideration model described in the NPRM because its primary benefit, namely, an earlier opportunity to appear before a Federal decisionmaker is now contained within the single decisionmaker model.

These regulations provide the authority to test major elements of our Disability Redesign Plan. However, there are elements of the Redesign not referenced in these final regulations. There are two principal reasons why elements are omitted. First, we do not need regulatory authority to test or implement many aspects of the Redesign (e.g., improved public information materials or more efficient ways of working with applicants to obtain medical evidence). Second, some elements of the Redesign were not referenced in the NPRM, since the Redesign was developed subsequent to issuance of the NPRM. Therefore, separate regulations will be needed for those elements which are beyond the scope of the original rulemaking.

For example, separate regulations are required to establish the position of an adjudication officer who is authorized to issue some disability decisions. Current implementation planning for the Disability Redesign includes the development of regulations to test the adjudication officer element in the Redesign. We plan to test the adjudication officer in combination with one or more of the models included in these regulations as well as other aspects of the Redesign in some test sites. This will provide us with a body of information about each individual part of the Redesign as well as the combined effect on individuals and on program expenditures of the overall Redesign.

Public Comments

We received comments on the NPRM from twenty-one commenters. The commenters included attorneys, medical professionals, advocates, State agency employees and Federal employees, and representatives of numerous organizations that represent the disabled. We received no comments from persons receiving benefits based on disability. Many commenters supported and applauded us for undertaking tests of models that modify the disability determination process. These commenters included the ARC (formerly known as the Association for Retarded Citizens of the United States); the American Academy of Pediatrics; the American Foundation for the Blind; the United Cerebral Palsy Associations; the Administrative Conference of the United States; the Council for Exceptional Children; and the National Council on Disability. Some of the comments we received were outside the scope of the proposed rules, and therefore, have not been addressed. The substantive comments made by the commenters and our responses are summarized below.

Comment: Many commenters raised concerns regarding the adequacy of the training that would be provided to interviewers and decisionmakers (particularly single decisionmakers).

Response: We will ensure that the interviewers and decisionmakers who participate in our tests will be highly trained individuals who are well versed in both the disability and nondisability aspects of the disability programs and are individuals who have the necessary knowledge, skills, and abilities to conduct personal interviews, develop evidentiary records, and fully adjudicate disability claims, as appropriate. These individuals will also be able to call on other SSA resources, including medical and technical support personnel, to provide advice and assistance in the claims process.

Comment: Several commenters raised concerns regarding the apparent lack of involvement of the medical consultant in making disability determinations because the medical consultant would not be required to sign the disability determination forms used to certify the determination of disability to us.

Response: The fact that we intend to test a model or combinations of models where the determination of disability is made by a single decisionmaker does not mean that the medical consultant is being removed from the decisionmaking process. The decisionmaker will consult with the medical consultant whenever appropriate. This means that the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician or other appropriate specialist evaluates the claim whenever a determination of disability is required in claims filed on behalf of children under age 18 claiming SSI payments based on disability. Similarly, before making a determination that an individual is not under a disability in any case which indicates the existence of a mental impairment, the decisionmaker will make every reasonable effort to ensure that a qualified psychiatrist or psychologist completes the medical portion of the case review and any applicable residual functional assessment. In addition, the decisionmaker will consult with the medical consultant in all other situations where the decisionmaker finds that a consultation is appropriate. However, the single decisionmaker concept is based on the premise that the decisionmaker is fully competent to make an initial determination when an individual files an application for benefits based on disability. It also gives the decisionmaker flexibility to make such determinations without having to wait for the medical consultant to take part formally in the determination.

Comment: Several commenters wanted us to include quality assessments of accuracy in our evaluation of all possible approaches to improved disability determinations. The commenters' concerns stem partially from the use of a single decisionmaker in some of the proposed models and from the fact that medical consultants will not be required to sign the disability determination forms used to certify the determination of disability to us.

Response: Our evaluation of the models we test will include quality assurance procedures to ensure a thorough assessment of the accuracy of the disability determinations made under the test procedures. As previously noted, decisionmakers will comply with the statutory requirements regarding the use of medical consultants in SSI childhood disability claims, and in all denials of claims based upon mental impairments. In addition, such consultation will take place with respect to any other claim in which the decisionmaker finds it is appropriate to consult with the medical consultant.

Comment: One commenter was concerned with how we would evaluate the success and impact of the model procedures.

Response: We will have a study design and evaluation plan in place to assure a valid and accurate assessment of the degree to which the modifications to the disability determination process we test attain the goals we wish to achieve before any national implementation of the modifications begins.

Comment: Several commenters expressed concerns that the proposed models did not appear to make any provisions for applicants requiring special assistance—e.g., individuals with mental impairments, older persons, the homeless, etc.

Response: The modifications to the disability determination process we test will not compromise any provisions that we currently have to provide accommodations for those individuals who require special assistance. As we stated in the summary sections of the NPRM and final rules, all other regulations related to the disability determination procedures remain unchanged unless specified. This would include provisions for claimants who may require special assistance. In fact, the disability claim manager model we now intend to test provides even more flexibility and opportunity to assist claimants who may require special assistance. The disability claim manager, acting as the focal point for the claimant's contacts with us throughout the initial disability process, will explain the disability programs to the claimant, including the definition of disability and how SSA determines if a claimant meets the disability requirements of the Act. The disability claim manager will also tell the claimant what he or she will be asked to do throughout the process, what the claimant may expect from SSA during the process, and how the claimant can interact with the disability claim manager to obtain more information or assistance. The disability claim manager will also advise the claimant regarding the right to representation and provide the appropriate referral sources for representation.

Comment: Several commenters were concerned regarding the use of videoconferencing as a substitute for personal face-to-face interviews, because videoconferencing may not carry the same weight as a face-to-face interview and the lack of personal contact could make the applicant feel depersonalized. In addition, some commenters expressed concerns that videoconferencing may not be an option for those claimants with special needs such as those with visual or hearing-related disabilities, or for those individuals who could not provide their own videoconferencing equipment.

Response: The testing of videoconferencing as an alternative to a personal face-to-face interview was proposed and is included in these final rules because it has the potential of becoming a viable and more convenient alternative for many claimants who would find it a hardship or impossibility to travel for an interview, but who still wanted to take advantage of the opportunity of an interview with the decisionmaker prior to the determination of disability. An interview conducted via video or via the telephone will carry the same weight as an interview conducted face-to-face. In these final rules the decisionmaker(s) who will conduct the interview has the discretion to determine which method of interview (face-to-face, videoconferencing, or telephone) is most appropriate for each claimant's special needs. If we decide to conduct a claimant's interview via videoconferencing, we will provide the necessary videoconferencing services for the claimant. We are exploring and testing the option of videoconferencing at all levels of the claims process, both within and outside the projects to be done under these regulations.

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Regulatory authority to offer it as a service option is not needed.

Comment: We received several comments regarding claimant due process rights and the possibility that they could be compromised by some of the models.

Response: None of the models we intend to test will compromise or diminish the claimant's due process rights. In fact, the disability claim manager model we now intend to test provides a process that is committed to keeping the claimant more informed regarding his or her rights and allows the claimant to obtain information and assistance more easily. Also, in the context of ensuring a fair and correct initial determination of disability, the predecision interview model provides the claimant an opportunity to have an interview with the decisionmaker(s) and to submit additional evidence before an initial determination denying the claim is made or when the evidence in file is insufficient to make a fully favorable determination.

Comment: Several commenters were interested in having us test the models that involved face-to-face contact with the decisionmaker(s) prior to the initial disability determination in combination with the reconsideration elimination model.

Response: These final rules provide us with the flexibility to test models individually or in combination with other models. Therefore, we may test model(s) involving the opportunity for face-to-face contact between the claimant and the decisionmaker(s) with the reconsideration elimination model.

Comment: Several commenters were concerned with the fact that the face-to-face predenial interview model only provided direct appeal of disability issues involved in the initial determination to the ALJ.

Response: These final rules have been revised to allow appeal of both disability and nondisability factors to the ALJ whenever any of the first three models are tested in combination with the reconsideration elimination model. As stated earlier, the face-to-face predenial interview model with limited direct appeal rights to the administrative law judge has been changed in the final rule to a less formal predecision interview model. The predecision interview model does not place conditions on a claimant's appeal rights, but still provides the claimant with the opportunity for a face-to-face interview with the decisionmaker(s) when the decisionmaker finds that the evidence in the file is insufficient to make a fully favorable determination or requires an initial determination denying the claim. The reconsideration elimination model has also been modified to allow appeal to the ALJ if the claimant is dissatisfied with the initial determination made on his or her claim, based upon either medical or nonmedical factors.

Comment: Several commenters were concerned that there was no specific indication as to whether children's claims would be included in the tests.

Response: As stated previously, the summary section of the NPRM and these final rules state that all other regulations related to the disability determination procedures remain unchanged unless specified. That includes the rules for determinations of disability in children. We have no plans to exclude claims filed by or behalf of children from the tests. As stated previously, the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician or other appropriate specialist evaluates the claim whenever a determination of disability is required in claims filed by or on behalf of children under age 18 claiming SSI benefits based on disability. We have no intention of compromising any of the safeguards currently in place to protect the rights of children in the disability determination process.

Comment: Several commenters were concerned that the models would generate increased workload demands (particularly the elimination of the reconsideration model and its predicted effect of increasing ALJ workloads) and some felt that some of the models would be too costly.

Response: These types of concerns are one of the reasons why we proposed testing, rather than implementing changes to our current rules. If the model process or combination of processes we test proves to be prohibitively costly or to create unmanageable workloads or both, we will either drop the model from consideration or revise the model process to address the problem.

Regulatory Procedures

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed these final rules and determined they do not meet the criteria for a significant regulatory action under E.O. 12866.

Paperwork Reduction Act

Data collection involved in the evaluation of any of the models may necessitate new reporting or recordkeeping requirements which may need clearance by OMB. These requirements are still being developed. When specifics have been determined, any necessary request for clearance will be forwarded to OMB as required by the Paperwork Reduction Act.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.807, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Reporting and recordkeeping requirements, Survivors and Disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income.

Dated: February 15, 1995

Shirley Chater,

Commissioner of Social Security

Approved: March 30, 1995

Donna E. Shalala,

Secretary of Health and Human Services

For the reasons set out in the preamble, parts 404 and 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J is amended as follows:

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205 (a), (b), (d)–(h), and (j), 221(d), and 1102 of the Social Security Act; 31 U.S.C. 3720A; 42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421(d), and 1302, sec. 5 of Pub. L. 97–455, 96 Stat. 2500; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

2. Section 404.906 is revised to read as follows:

§ 404.906 Testing modifications to the disability determination procedures.

(a) *Applicability and scope.* Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out in this section to test modifications to our disability determination process. These modifications will enable us to test, either individually or in one or more combinations, the effect of: having disability claim managers assume primary responsibility for processing an application for disability benefits; providing persons who have applied for benefits based on disability with the opportunity for an interview with a decisionmaker when the decisionmaker finds that the evidence in the file is insufficient to make a fully favorable determination or requires an initial determination denying the claim; having a single decisionmaker make the initial determination with assistance from medical consultants, where appropriate; and eliminating the reconsideration step in the administrative review process and having a claimant who is dissatisfied with the initial determination request a hearing before an administrative law judge. The model procedures we test will be designed to provide us with information regarding the effect of these procedural modifications and enable us to decide whether and to what degree the disability determination process would be improved if they were implemented on a national level.

(b) *Procedures for cases included in the tests.* Prior to commencing each test or group of tests in selected site(s), we will publish a notice in the **Federal Register**. The notice will describe which model or combinations of models we intend to test, where the specific test site(s) will be, and the duration of the test(s). The individuals who participate in the test(s) will be randomly assigned to a test group in each site where the tests are conducted. Paragraphs (b) (1) through (4) of this section lists descriptions of each model.

(1) In the disability claim manager model, when you file an application for benefits based on disability, a disability claim manager will assume primary responsibility for the processing of your claim. The disability claim manager will be the focal point for your contacts with us during the claims intake process and until an initial determination on your claim is made. The disability claim manager will explain the disability programs to you, including the definition of disability and how we determine whether you meet all the requirements for benefits based on disability. The disability claim manager will explain what you will be asked to do throughout the claims process and how you can obtain information or assistance through him or her. The disability claim manager will also provide you with information regarding your right to representation, and he or she will provide you with appropriate referral sources for representation. The disability claim manager may be either a State agency employee or a Federal employee. In some instances, the disability claim manager may be assisted by other individuals.

(2) In the single decisionmaker model, the decisionmaker will make the disability determination and may also determine whether the other conditions for entitlement to benefits based on disability are met. The decisionmaker will make the disability determination after any appropriate consultation with a medical or psychological consultant. The medical or psychological consultant will not be required to sign the disability determination forms we use to have the State agency certify the determination of disability to us (see § 404.1615). However, before an initial determination is made that a claimant is not disabled in any case where there is evidence which indicates the existence of a mental impairment, the decisionmaker will make every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment pursuant to our existing procedures (see § 404.1617). In some instances the decisionmaker may be the disability claim manager described in paragraph (b)(1) of this section. When the decisionmaker is a State agency employee, a team of individuals that includes a Federal employee will determine whether the other conditions for entitlement to benefits are met.

(3) In the predecision interview model, if the decisionmaker(s) finds that the evidence in your file is insufficient to make a fully favorable determination or requires an initial determination denying your claim, a predecision notice will be mailed to you. The notice will tell you that, before the decisionmaker(s) makes an initial determination about whether you are disabled, you may request a predecision interview with the decisionmaker(s). The notice will also tell you that you may submit additional evidence. You must request a predecision interview within 10 days after the date you receive the predecision notice. You must also submit any additional evidence within 10 days after you receive the predecision notice. If you request a predecision interview, the decisionmaker(s) will conduct the predecision interview in person, by videoconference, or by telephone as the decisionmaker(s) determines is appropriate under the circumstances. If you make a late request for a predecision interview, or submit additional evidence late, but show in writing that you had good cause under the standards in § 404.911 for missing the deadline, the decisionmaker(s) will extend the deadline. If you do not request the predecision interview, or if you do not appear for a scheduled predecision interview and do not submit additional evidence, or if you do not respond to our attempts to communicate with you, the decisionmaker(s) will make an initial determination based upon the evidence in your file. If you identify additional evidence during the predecision interview, which was previously not available, the decisionmaker(s) will advise you to submit the evidence. If you are unable to do so, the decisionmaker(s) may assist you in obtaining it. The decisionmaker(s) also will advise you of the specific timeframes you have for submitting any additional evidence identified during the predecision interview. If you have no treating source(s) (see § 404.1502), or your treating source(s) is unable or unwilling to provide the necessary evidence, or there is a conflict in the evidence that cannot be resolved through evidence from your treating source(s), the decisionmaker(s) may arrange a consultative examination or resolve conflicts according to existing procedures (see § 404.1519a). If you attend the predecision interview, or do not attend the predecision interview but you submit additional evidence, the decisionmaker(s) will make an initial determination based on the evidence in your file, including the additional evidence you submit or the evidence obtained as a result of the predecision notice or interview, or both.

(4) In the reconsideration elimination model, we will modify the disability determination process by eliminating the reconsideration step of the administrative review process. If you receive an initial determination on your claim for benefits based on disability, and you are dissatisfied with the determination, we will notify you that you may request a hearing before an administrative law judge. If you request a hearing before an administrative law judge, we will apply our usual procedures contained in subpart J of this part.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N is amended as follows:

1. The authority citation for subpart N of part 416 continues to read as follows:

VOL 60 ISS 78 AP 24 1995 UMI

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b.

2. Section 416.1406 is revised to read as follows:

§ 416.1406 Testing modifications to the disability determination procedures.

(a) *Applicability and scope.* Notwithstanding any other provision in this part or part 422 of this chapter, we are establishing the procedures set out in this section to test modifications to our disability determination process. These modifications will enable us to test, either individually or in one or more combinations, the effect of: having disability claim managers assume primary responsibility for processing an application for SSI payments based on disability; providing persons who have applied for benefits based on disability with the opportunity for an interview with a decisionmaker when the decisionmaker finds that the evidence in the file is insufficient to make a fully favorable determination or requires an initial determination denying the claim; having a single decisionmaker make the initial determination with assistance from medical consultants, where appropriate; and eliminating the reconsideration step in the administrative review process and having a claimant who is dissatisfied with the initial determination request a hearing before an administrative law judge. The model procedures we test will be designed to provide us with information regarding the effect of these procedural modifications and enable us to decide whether and to what degree the disability determination process would be improved if they were implemented on a national level.

(b) *Procedures for cases included in the tests.* Prior to commencing each test or group of tests in selected site(s), we will publish a notice in the **Federal Register**. The notice will describe which model or combinations of models we intend to test, where the specific test site(s) will be, and the duration of the test(s). The individuals who participate in the test(s) will be randomly assigned to a test group in each site where the tests are conducted. Paragraph (b) (1) through (4) of this section lists descriptions of each model.

(1) In the disability claim manager model, when you file an application for SSI payments based on disability, a disability claim manager will assume primary responsibility for the processing of your claim. The disability claim manager will be the focal point for your contacts with us during the claims intake process and until an initial determination on your claim is made. The disability claim manager will explain the SSI disability program to you, including the definition of disability and how we determine whether you meet all the requirements for SSI payments based on disability. The disability claim manager will explain what you will be asked to do throughout the claims process and how you can obtain information or assistance through him or her. The disability claim manager will also provide you with information regarding your right to representation, and he or she will provide you with appropriate referral sources for representation. The disability claim manager may be either a State agency employee or a Federal employee. In some instances, the disability claim manager may be assisted by other individuals.

(2) In the single decisionmaker model, the decisionmaker will make the disability determination and may also determine whether the other conditions of eligibility for SSI payments based on disability are met. The decisionmaker will make the disability determination after any appropriate consultation with a medical or psychological consultant. The medical or psychological consultant will not be required to sign the disability determination forms we use to have the State agency certify the determination of disability to us (see § 416.1015). However, before an initial determination is made that a claimant is not disabled in any case where there is evidence which indicates the existence of a mental impairment, the decisionmaker will make every reasonable effort to ensure that a qualified psychiatrist or psychologist has completed the medical portion of the case review and any applicable residual functional capacity assessment pursuant to our existing procedures (see § 416.1017). Similarly, in making an initial determination with respect to the disability of a child under age 18 claiming SSI payments based on disability, the decisionmaker will make reasonable efforts to ensure that a qualified pediatrician, or other individual who specializes in a field of medicine appropriate to the child's impairment(s), evaluates the claim of such child (see § 416.903(i)). In some instances the decisionmaker may be the disability claim manager described in paragraph (b)(1) of this section. When the decisionmaker is a State agency employee, a team of individuals that includes a Federal employee will determine whether the other conditions of eligibility for SSI payments are met.

(3) In the predecision interview model, if the decisionmaker(s) finds that the evidence in your file is insufficient to make a fully favorable determination or requires an initial determination denying your claim, a predecision notice will be mailed to you. The notice will tell you that, before the decisionmaker(s) makes an initial determination about whether you are disabled, you may request a predecision interview with the decisionmaker(s). The notice will also tell you that you may also submit additional evidence. You must request a predecision interview within 10 days after the date you receive the predecision notice. You must also submit any additional evidence within 10 days after the date you receive the predecision notice. If you request a predecision interview, the decisionmaker(s) will conduct the predecision interview in person, by videoconference, or by telephone as the decisionmaker(s) determines is appropriate under the circumstances. If you make a late request for a predecision interview, or submit additional evidence late, but show in writing that you had good cause under the standards in § 416.1411 for missing the deadline, the decisionmaker(s) will extend the deadline. If you do not request the predecision interview or if you do not appear for a scheduled predecision interview and do not submit additional evidence, or if you do not respond to our attempts to communicate with you, the decisionmaker(s) will make an initial determination based upon the evidence in your file. If you identify additional evidence during the predecision interview, which was previously not available, the decisionmaker(s) will advise you to submit the evidence. If you are unable to do so, the decisionmaker(s) may assist you in obtaining it. The decisionmaker(s) also will advise you of the specific timeframes you have for submitting any additional evidence identified during the predecision interview. If you have no treating source(s) (see § 416.902), or your treating source(s) is unable or unwilling to provide the necessary evidence, or there is a conflict in the evidence that cannot be resolved through evidence from your treating source(s), the decisionmaker(s) may arrange a consultative examination or resolve conflicts according to existing procedures (see § 416.919a). If you attend the predecision interview, or do not attend the predecision interview but you submit additional evidence, the decisionmaker(s) will make an initial determination based on the evidence in your file, including the additional evidence you submit or the evidence obtained as a result of the predecision notice or interview, or both.

(4) In the reconsideration elimination model, we will modify the disability determination process by eliminating the reconsideration step of the administrative review process. If you receive an initial determination on your claim for SSI payments based on disability, and you are dissatisfied with the determination, we will notify you that you may request a hearing before an administrative law judge. If you request a hearing before an administrative law judge, we will apply our usual procedures contained in subpart N of this part.

[FR Doc. 95–9897 Filed 4–21–95; 8:45 am]
BILLING CODE 4190–29–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 83 and 84

[DoD Directive 5500.7 and DoD 5500.7–R; 0790–AG12, and 0790–AF83]

Standards of Conduct and Joint Ethics Regulation

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule and request for comments.

SUMMARY: The changes to these parts, concerning standards of conduct and joint ethics, correct typographical errors and update the regulations in accordance with changes to related statutes. The changes are intended to keep these parts current.

DATES: These changes are effective November 2, 1994. Comments must be received no later than June 23, 1995.

ADDRESSES: Forward comments to DoD Standards of Conduct Office, Office of General Counsel, 1600 Defense Pentagon, Washington, DC 20301–1600.

FOR FURTHER INFORMATION CONTACT: Randi Elizabeth DuFresne, DoD Standards of Conduct Office, (703) 697–5305, FAX (703) 697–1640.

SUPPLEMENTARY INFORMATION: On March 21, 1994, the Department of Defense published a final rule and request for comments on Standards of Conduct and Joint Ethics Regulation. See 59 FR 13212 and 13213. Two public comments were received. Both expressed appreciation of the regulation and required no further action.

Executive Order 12866

It has been determined that these are not significant changes as defined under section 3(f)(1) through 3(f)(4) of Executive Order 12866.

Regulatory Flexibility Act

It has been certified that these changes are not subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6) because they do not have a significant economic impact on a substantial number of small entities. The changes affects only DoD employees and are to update existing regulations in keeping with changes to related statutes.

Paperwork Reduction Act

It has been certified that these changes impose no reporting or record keeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3502).

List of Subjects in 32 CFR Parts 83 and 84

Conflicts of interest, Government procurement.

Accordingly, 32 CFR parts 83 and 84 are amended as follows:

PART 83—[AMENDED]

1. The authority citation for part 83 continues to read as follows:

Authority: 5 U.S.C., 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215 as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR part 2635.

§ 83.1 [Amended]

2. Section 83.1(c) is amended by removing "August 1989."

PART 84—[AMENDED]

1. The authority citation for part 84 continues to read as follows:

Authority: 5 U.S.C., 301, 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215 as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR part 2635.

§ 84.4 [Amended]

2. Section 84.4 is amended in paragraphs (a)(1) and (a)(4) after the acronyms "DAEO" by adding "or designee".

3. Section 84.7 is amended in paragraph (c)(1) by removing "735.208" and adding in its place "735.201", in paragraph (c)(3) by removing "406" adding in its place "40b"; and by revising paragraph (c)(1)(ii), by removing the period at the end of paragraph (c)(1)(iii) and adding ";or" and by adding paragraph (c)(1)(iv) to read as follows:

§ 84.7 DoD guidance.

* * * * *

(c) * * *

(1) * * *

(ii) Activities by organizations composed primarily of DoD employees or their dependents for the benefit of welfare funds for their own members or for the benefit of other DoD employees or their dependents, subject to the limitations of local law and of § 84.9(k) and (l), when approved by the Head of the DoD Component or designee;

* * * * *

(iv) Purchases of lottery tickets authorized by any State from blind vendors licensed to operate vending facilities in accordance with 20 U.S.C. 107a(5).

* * * * *

4. Section 84.9 is amended in paragraph (b) after the word "entities" by removing the word "where" and adding in its place "when appointed by the head of the DoD Component command or organization who determines"; in paragraph (k)(1)(vi) after the word "composed" by adding "primarily"; in paragraph (k)(2) by revising "paragraph (d)" to read "paragraph (f)"; in paragraph (l)(1) introductory text by revising "DoD equipment" to read "DoD facilities and equipment"; in paragraph (l)(1)(ii) after the word "event" by adding "(OPM generally has no objection to support of events that do not specifically target Federal employees for fundraising)"; and by revising paragraphs (l)(1)(vi), (l)(1)(vii) and (m) introductory text to read as follows:

§ 84.9 Official participation in non-Federal entities.

* * * * *

(l) * * *

(1) * * *

(vi) The DoD Component command or organization is able and willing to provide the same support to comparable events that meet the criteria of this subsection and are sponsored by other similar non-Federal entities;

* * * * *

(viii) Except for a charitable fundraising event that meets all other criteria for DoD participation, no admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the event, no admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the portion of the event supported by the DoD, or DoD support to the event is incidental to the entire event in accordance with public affairs guidance.

* * * * *

VOL 60 ISS 78 AP 24 1995 UMI

(m) *Relationship governed by other authorities.* In addition to the provisions of this section, certain organizations have special relationships with the DoD or its employees specially recognized by law or by other directives. The organizations include:

* * * * *

Footnotes 14 through 29 [Redesignated as 15 through 27].

5. Redesignate footnotes 14 through 26 as footnotes 15 through 27.

6. Section 84.10 is amended in paragraph (a)(2) introductory text by removing ", in accordance with FPM 252 and 630 [12] and related DoD regulations," and footnote 12; by redesignating paragraph (a)(2)(ii) as paragraph (a)(2)(iii); by revising the first sentence in paragraph (b); by redesignating footnote 13 as footnote 12 in paragraph (g)(5); and by adding a new paragraph (a)(2)(ii) and revising paragraphs (a)(3) and (b)(3) to read as follows:

§ 84.10 Personal participation in non-Federal entities.

* * * * *

(a) * * *

(2) * * *

(ii) The Agency can derive some benefit from the participation or preparation, such as expansion of professional expertise by DoD employees or improved public confidence derived from the professional recognition of the DoD employee's competence;

* * * * *

(3) *Community support activities.* Agency designees may permit excused absences for reasonable periods of time for their DoD employees to voluntarily participate in community support activities that promote civic awareness and uncompensated public service such as disaster relief events, blood donations, and voting and registering to vote.

* * * * *

(b) * * * Except for such service in the organizations listed in § 84.9(k)(1), a DoD employee may not serve in a personal capacity as an officer, member of the Board of Directors, or in any other similar position in any non-Federal entity offered because of their DoD assignment or position. * * *

* * * * *

(h) * * *

(3) *Honoraria.* Compensation for a lecture, speech or writing may be restricted by the honoraria prohibition of 5 U.S.C. App. (Ethics in Government Act of 1978, sec 501); 5 CFR part 2636, and 5 CFR 2635.807. However, the U.S. Office of Government Ethics, by memorandum dated February 2, 1994,[13] determined in accordance with a Department of Justice letter to the Director, Office of Government Ethics,[14] that the Department of Justice will not seek to impose penalties for violations of 5 U.S.C. App. (Ethics in Government Act of 1978, sec 501); with respect to receipt of honoraria between September 28, 1993 and the date on which the Supreme Court issues its decision on this matter.

§ 84.16 [Amended]

7. Section 84.16 is amended by removing paragraph (j)(1), redesignating paragraphs (j)(2) through (j)(4) as paragraphs (j)(1) through (j)(3).

§ 84.17 [Amended]

8. Section 84.17 is amended by removing "733" and adding in its place "734".

9. Section 84.18 is revised to read as follows:

§ 84.18 Political activities of civilian DoD employees.

(a) *Policy.*

(1) The policy governing the political activities of civilian DoD employees is derived from the Hatch Act Amendments, 5 U.S.C. 7321 through 7325. Guidance on the application of the Hatch Act Amendments is provided by the Hatch Act Hotline at the Office of Special Counsel at 1–(800) 854–2824.

(2) Primary enforcement responsibility under the Hatch Act Amendments lies with the Office of Special Counsel under 5 U.S.C. 1216(c); however, DoD Components have responsibility to investigate allegations of prohibited political activity by excepted service employees of the DoD Component.

(3) It is DoD policy to encourage civilian DoD employees and members of the Armed Forces to carry out the obligations of citizenship to the maximum extent possible consistent with the restrictions imposed by law and by this part.

(b) *Permissible activities.* Subject to paragraphs (b) and (c) of this section, civilian DoD employees may, in their personal capacities:

(1) Be candidates for public office in nonpartisan elections;

(2) Register and vote as they choose;

(3) Assist in voter registration drives;

(4) Express opinions about candidates and issues;

(5) Contribute money to political organizations;

(6) Attend political fundraising functions;

(7) Attend and be active at political rallies and meetings;

(8) Join and be an active member of a political party or club;

(9) Sign nominating petitions;

(10) Campaign for or against referendum questions, constitutional amendments, or municipal ordinances;

(11) Campaign for or against candidates in partisan elections (see paragraph (b)(3) of this section);

(12) Make campaign speeches for candidates in partisan elections (see paragraph (b)(3) of this section);

(13) Distribute campaign literature in partisan elections (see paragraph (b)(3) of this section);

(14) Hold office in political clubs or parties (see paragraph (b)(3) of this section).

(c) *Limitations.*

(1) Military members are not covered by the Hatch Act Amendments, 5 U.S.C. 7321 through 7327. Political activities of Military members are covered in § 84.19.

(2) Notwithstanding paragraph (a) of this section, as a matter of longstanding DoD policy, DoD employees who are appointed by the President, by and with the advice and consent of the Senate (e.g. the Secretary of Defense, the Secretaries of the Military Departments, etc.), and DoD employees who are appointed by the Secretary of Defense to non-career Senior Executive Service positions may not engage in activities that could be interpreted as associating the DoD with any partisan political cause or issue.

(3) The following DoD employees (except for Presidential appointees who are confirmed by and with the consent of the Senate) are prohibited from engaging in the activities described in paragraphs (a)(11) through (a)(14) of this section:

(i) Employees of the National Security Agency;

(ii) Employees of the Defense Intelligence Agency;

(iii) Career members of the senior executive service;

(iv) Administrative Law Judges; and

(v) Contract appeals board members.

(d) *Prohibited activities.* Civilian DoD employees may not:

(1) Use official authority or influence for the purpose of interfering with or affecting the result of an election;

(2) Collect political contributions unless both the collector and the donor are members of the same Federal labor organization or employee organization and the donor is not a subordinate;

(3) Knowingly solicit or discourage the political activity of any person who has business with DoD

[13] See footnote 2 to § 84.4(d)(7).

[14] See footnote 2 to § 84.4(d)(7).

(4) Engage in political activity while on duty;

(5) Engage in political activity while in any Federal workplace;

(6) Engage in political activity while wearing an official uniform or displaying official insignia identifying the office or position of the DoD employee;

(7) Engage in political activity while using a Government owned or leased vehicle;

(8) Solicit political contributions from the general public;

(9) Be a candidate for public office in partisan elections;

(10) Wear political buttons on duty;

(11) Contribute to the political campaign of another Federal Government employee who is in the DoD employee's chain of command or supervision or who is the employing authority, including the political campaign to re-elect the President or Vice President.

(e) *DoD employees residing in designated localities.* Notwithstanding the prohibitions of paragraph (c) of this section, a DoD employee (except those DoD employees listed in paragraph (b)(3) of this section) who resides in a municipality or political subdivision, either in the immediate vicinity of the District of Columbia or in which the majority of voters are employed by the Federal Government, as designated by OPM under 5 CFR 733.102(d) may:

(1) Run as an independent candidate for election to a partisan political office in an election for local office of the municipality or political subdivision provided the candidacy for, and service in, the partisan political office shall not result in neglect of, or interference with, the performance of the duties of the DoD employee or create an actual or apparent conflict of interest; and

(2) Accept or receive political contributions in connection with a local election of the municipality or political subdivision provided the DoD employee does not solicit political contributions from the general public.

(f) *Political recommendations.*

(1) The restrictions of 5 U.S.C. 3303 apply to all personnel actions described in 5 U.S.C. 2302(a)(2)(A) (i) through (x) for individuals in or applicants to the following DoD positions:

(i) Competitive service employees;

(ii) Career appointees in the Senior Executive Service; and

(iii) Excepted service employees other than one who is appointed by the President or whose position has been determined to be of confidential, policy-determining, policy-making, or policy-advocating character.

(2) Each personnel action with respect to a DoD employee or applicant, as described in paragraph (c)(1) of this section, shall be taken without regard to any recommendation or statement, oral or written, made by the following types of individuals:

(i) Members of Congress or Congressional employees;

(ii) Elected officials of any State (including the District of Columbia and the Commonwealth of Puerto Rico), county, city, or other subdivision thereof;

(iii) Officials of political parties; or

(iv) Other individuals or organizations making such recommendations or statements on the basis of the party affiliations of the DoD employee or applicant recommended.

(3) DoD employees may solicit, accept, and consider any statement with respect to a DoD employee or applicant described in paragraph (c)(1) of this section if the statement meets one of the following conditions:

(i) It is pursuant to a request or requirement of the DoD Component and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of the DoD employee or applicant;

(ii) It relates solely to the character and residence of the DoD employee or applicant;

(iii) It is furnished pursuant to a request made by an authorized representative of the Government of the United States solely in order to determine whether the DoD employee or applicant meets suitability or security standards;

(iv) It is furnished by a former employer of the DoD employee or applicant pursuant to a request of an agency, and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of such DoD employee or applicant during employment with such former employer; or

(v) It is furnished pursuant to a provision of law or regulation authorizing consideration of such statement with respect to a specific position or category of positions.

(4) DoD Component Heads are required by 5 CFR 300.801 to ensure that DoD employees and applicants described in paragraph (c)(1) of this section are notified of the provisions of 5 U.S.C. 3303.

10. Section 84.21 is amended in paragraph (a)(1)(iv) after the first time the word "or" appears by adding "civilian DoD employees under other pay systems" and by revising the heading and paragraph (g)(2)(iv) to read as follows:

§ 84.21 Public financial disclosure report (SF 278).

* * * * *

(g) * * *

(2) * * *

(iv) If the Ethics Counselor agrees with the supervisor's evaluation that no item violates, or appears to violate, applicable laws or regulations, then:

(A) The Ethics Counselor shall annotate the report or attach an endorsement stating that no conflicts of interest under applicable laws or regulations exist, and forward it to the appropriate DoD Component DAEO or designee; and

(B) If there are no financial interests in non-Federal entities doing or seeking business with DoD reported on the SF 278, the Ethics Counselor may issue a memorandum with the SF 278 to the appropriate DoD Component DAEO or designee.

* * * * *

11. In § 84.22, paragraph (a)(2) introductory text is redesignated as paragraph (a)(2)(i) and paragraph (a)(2)(ii) is added to read as follows:

§ 84.22 Confidential financial disclosure report (SF 450).

* * * * *

(a) * * *

(2) * * *

(ii) DoD employees who are not employed in contracting or procurement and who have decision making responsibilities regarding expenditures of less than $2,500 per purchase and less than $25,000 cumulatively per year are excluded from the requirement to file the SF 450. However, Agency Designees may require such DoD employees, in individual cases, to file the SF 450. Such DoD employees remain subject to conflict of interest statutes and regulations.

* * * * *

12. Section 84.23 is amended in paragraph (a) introductory text by removing "August 1989" and paragraphs (d)(1) and (d)(2) are revised to read as follows:

§ 84.23 Report on DoD and defense related employment (DD form 1787).

* * * * *

(d) * * *

(1) After the Ethics Counselor signs and dates the report, the Ethics Counselor shall send the original to the entire DoD Component DAEO or designee, who shall forward it, together with all other such reports that were received during the previous calendar year, to SOCO not later than March 15.

(2) The DoD Component DAEO or designee shall ensure that appropriate data from each DD Form 1787 is

VOL 60 ISS 78 AP 24 1995 UMI

extracted and sent, together with all other such data from other such reports that were received during the previous calendar year for the entire DoD Component, by March 15, to the Defense Manpower Data Center (DMDC) where a consolidated report to Congress is compiled. DMDC will accept data only on computer disk using any common word processing software or ASCII.

* * * * *

13. Section 84.33 is amended by removing paragraphs (a)(1)(ii) and (a)(3) and removing the paragraph designation "(i)" in paragraph (a)(1); by redesignating paragraphs (a)(1)(A) through (a)(1)(C) as paragraphs (a)(1)(i) through (a)(1)(iii); in paragraph (a)(2) by revising "these two statutes" to read "this statute"; in newly designated paragraph (a)(1)(ii) remove "DoD" and add in its place "Do]"; and by revising paragraph (a) introductory text to read as follows:

§ 84.33 Restrictions on retired military members.

* * * * *

(a) *18 U.S.C. 281(a).* This statute restricts the selling activities of retired military officers. The provisions of this statute were suspended by the Federal Acquisition Streamlining Act of 1994 through December 31, 1996.

* * * * *

14. Section 84.36 (d)(1) through (d)(3) are revised to read as follows:

§ 84.36 Reports of DoD and defense related employment (DD Form 1787).

* * * * *

(d) * * *

(1) After the Ethics Counselor signs and dates the report, the Ethics Counselor shall send the original to the DoD Component DAEO or designee, who shall forward it, together with all other such reports that were received during the previous calendar year, to SOCO not later than March 15.

(2) The DoD Component DAEO or designee shall ensure that appropriate data from each DD Form 1787 is extracted and sent, together with all other such data from other such reports that were received during the previous calendar year for the entire DoD Component, by March 15 to the Defense Manpower Data Center (DMDC) where a consolidated report to Congress is compiled. DMDC will accept data only on computer disk using any common word processing software or ASCII.

(3) If steps ensuring compliance with applicable law and regulations are not taken by the date established, the Ethics Counselor shall report the matter to the DoD Component DAEO and take whatever other action might be required in accordance with subchapter J of this part.

* * * * *

§ 84.38 [Amended]

15. Section 84.38 is amended in paragraph (c)(2) by revising "shall" to read "may".

Appendix A to Part 84 [Amended]

16. Appendix A to Part 84 is amended by removing paragraph (f) of section 1.

Dated: April 18, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9967 Filed 4–21–95; 8:45 am]

BILLING CODE 5000–04–M

32 CFR Part 298

[DIS Regulation 01–12]

Defense Investigative Service Freedom of Information Act Program

AGENCY: Defense Investigative Service (DIS), DOD.

ACTION: Final rule.

SUMMARY: This revision regarding implementation of the DIS Freedom of Information Act program makes organizational and administrative changes and conforms these regulations to the DOD Freedom of Information Act program.

EFFECTIVE DATE: April 24, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Dale L. Hartig, Chief, Office of Information and Public Affairs, (703) 325–5324.

SUPPLEMENTARY INFORMATION: It has been certified that this final rule does not exert a significant economic impact on a substantial number of small entities. This determination is based upon the fact that the rule merely recodifies the procedural aspects of the Defense Investigative Service Freedom of Information Act Program, which includes guidance on how and from whom to request information pertaining to the agency; imposes no new requirements, rights, or benefits on small entities; and will have neither a beneficial nor adverse affect on small entities. This rule conforms to 32 CFR part 286. A notice of proposed rulemaking was published in the **Federal Register** on May 6, 1994 (59 FR 23649).

Interested parties were given until July 5, 1994 to respond. No comments were received.

List of Subjects in 32 CFR Part 298

Freedom of information.

Accordingly, 32 CFR Part 298 is revised to read as follows:

PART 298—DEFENSE INVESTIGATIVE SERVICE (DIS) FREEDOM OF INFORMATION ACT PROGRAM

Sec.

298.1 Purpose.
298.2 Organization.
298.3 Records maintained by DIS.
298.4 Procedure for release of DIS records.
298.5 Information requirements.

Authority: 5 U.S.C. 552.

§ 298.1 Purpose.

This part states the intent of the agency regarding policy and procedures for the public to obtain information from the Defense Investigative Service (DIS) under the Freedom of Information Act (FOIA).

§ 298.2 Organization.

(a) The DIS organization includes a Headquarters located in Alexandria, Virginia; four Regions and one operational area with subordinate operating locations throughout the Continental United States (CONUS), Alaska, Hawaii, and Puerto Rico; the Defense Industrial Security Clearance Office (DISCO), Columbus, Ohio; the Personnel Investigations Center (PIC) and National Computer Center (NCC) in Baltimore, Maryland; Office of Industrial Security International Europe (OISI–E), located in Brussels, Belgium with a subordinate office in Mannheim, Germany; Office of Industrial Security International Far East (OISI–FE) located at Camp Zama, Japan; and the Department of Defense Security Institute, located in Richmond, Virginia.

(b) A copy of the DIS Directory showing the addresses of all offices, is available to the public upon request and may be obtained by following the procedures outlined in § 298.4. The names and duty addresses of DIS personnel serving overseas are not released.

§ 298.3 Records maintained by DIS.

It is the policy of DIS to make publicly available all information which may be released under the Freedom of Information Act (FOIA), consistent with its other responsibilities. In implementing this policy, DIS follows the procedures set forth in 32 CFR part 286. DIS maintains the following records which may be of interest to the public:

(a) The Defense Clearance and Investigations Index (DCII), which contains references to investigative records created and held by DoD Components. The records indexed are primarily those prepared by the

investigative agencies of the DoD, covering criminal, fraud, counterintelligence, and personnel security information. This index also includes security clearance determinations made by the various components of the Department of Defense. Information in the DCII is not usually available to the general public, since general release would violate the privacy of individuals whose names are indexed therein.

(b) Records created as required by DoD Directive 5105.42, "Defense Investigative Service (DA&M)," (32 CFR part 361) including investigative and industrial security records.

(c) Publications referenced in "DIS Directives Listing" (DIS 00–1–L). A copy of DIS 00–1–L may be obtained upon request from the DIS Office of Information and Public Affairs (V0020), 1340 Braddock Place, Alexandria, VA 22314–1651. While this document will be provided for the convenience of possible users of the materials, such release does not constitute a determination that all or any of the publications listed affect the public or have been cleared for public release.

§ 298.4 Procedures for release of DIS records.

(a)(1) All requests will be submitted in writing to: Defense Investigative Service, Office of Information and Public Affairs (V0020), 1340 Braddock Place, Alexandria, Virginia 22314–1651.

(2) Requests directed to any agency activity (headquarters or field elements) will be forwarded to the Office of Information and Public Affairs.

(b) All requests shall contain the following information:

(1) As complete an identification as possible of the desired material including to the extent known, the title description, and date. 32 CFR part 286 does not authorize "fishing expeditions." In the event a request is not reasonably described as defined in 32 CFR part 286, the requester will be notified by DIS of the defect.

(2) The request must contain the first name, middle name or initial, surname, date and place of birth, social security number, and, if applicable, military service number of the individual concerned, with respect to material concerning investigations of an individual.

(3) A statement as to whether the requester wishes to inspect the record or obtain a copy of it.

(4) A statement that all costs for search (in the case of "other" and "commercial" requesters), duplication (in case of all categories of requesters), and review (in the case of "commercial requesters") will be borne by the requester even if no records, or no releasable records, are found, if appropriate. See 32 CFR part 286 for information on fees and fee waivers.

(5) The full address (including ZIP code) of the requester.

(c) A notarized request by an individual requesting investigative or other personnel records may be required to avoid the risk of invasion of privacy. Requesters will be notified and furnished appropriate forms if this requirement is deemed necessary. In lieu of a notarized statement, an unsworn declaration in accordance with 28 U.S.C. 1746 may be required.

(d) When a request is incomplete or fails to include all of the information required, the requester will be contacted for additional information prior to beginning release procedures.

(e) DIS shall normally respond to request within 10 working days after receipt by the Office of Information and Public Affairs, unless an extension is required and the requester is notified in writing. If a significant number of requests prevents responding in 10 working days, requests, will be processed on a first-come, first-served basis to ensure equitable treatment to all requesters.

(f) When the release of information has been approved, a statement of costs computed in accordance with the DoD Fee Schedule (32 CFR part 286), or a statement waiving the fee, will be included in the notification of approval. Records approved for release will generally be mailed immediately following the receipt of fees. Fees may be waived or reduced in accordance with 32 CFR part 286. Remittances must be in the form of a personal check, bank draft, or postal money order. Remittances are to be made payable to the Treasurer of the United States. Certified documents may be requested for an official government or legal function, and will be provided at a rate established by 32 CFR part 286 for each authentication.

(g) When requests are denied in whole or in part in accordance with 32 CFR part 286, the requester will be advised of the identity of the official making the denial, the reason for the denial, the right of appeal of the decision, and the identity of the person to whom an appeal may be addressed.

(h) Facilities for the review or reproduction of records following approval of the request or appeal are available at the Defense Investigative Service, Office of Information and Public Affairs, 1340 Braddock Place, Alexandria, Virginia 22314–1651. All other transactions will be conducted by mail.

(i) *Appeal of denial of DIS records and information.* (1) All appeals will be submitted in writing and reach the following appellate authority no later than 60 days after the date of the initial denial letter: Director, Defense Investigative Service (V0000), 1340 Braddock Place, Alexandria, Virginia 22314–1651.

(2) All appeals will contain at least the same identification of the records requested as the original request, and a copy of the letter denying the request, if available. Requesters will be given appeal rights when a search has been conducted and no records are located.

(3) All appeals will be reviewed by the Director, DIS, or the Special Assistant to the Director, DIS. Responses to appeals normally shall be made within 20 working days after receipt, unless an extension is required and the appellant is notified. When a request is approved on appeal, the procedures set forth in paragraph (f) of this section will be followed.

§ 298.5 Information requirements.

The DIS Office of Information and Public Affairs is responsible for preparation of the annual "Freedom of Information Act Report." This report has been assigned control symbol PA (TRA&AN) 1365. No forms or publications are required by this part.

Dated: April 11, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9301 Filed 4–21–95; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–95–037]

RIN 2115–AA97

Safety Zone: Greenwood Lake Powerboat Race, Greenwood Lake, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a powerboat race located on Greenwood Lake, New Jersey. This safety zone is in effect from 10 a.m. until 7 p.m. on Saturday, May 20, and Sunday, May 21, 1995. The safety zone temporarily closes a southern portion of Greenwood Lake to protect the racing participants and

VOL
60
ISS
78
AP
24
1995
UMI

spectator craft from the hazards associated with high speed powerboat racing.

EFFECTIVE DATE: This rule is effective from 10 a.m. until 7 p.m. on May 20, and May 21, 1995, unless extended or terminated sooner by the Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York, (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and this regulation is being made effective in less than 30 days as good cause exists for not publishing an NPRM and making this regulation effective in less than 30 days. Due to the date this application was received, there was insufficient time to draft and publish a notice of proposed rulemaking that allows for a reasonable comment period prior to the event. The delay encountered if normal rulemaking procedures were followed would effectively cancel this event. Cancellation of this event is contrary to public interest.

Background and Purpose

On March 16, 1995, the Greenwood Lake Powerboat Association and the West Milford Chamber of Commerce submitted an application to hold a powerboat race on the waters of Greenwood Lake. The safety zone encompasses a southern portion of Greenwood Lake, shore to shore, south of latitude 41°09′ N, and north of latitude 41°08′ N. The safety zone is rectangular in shape with the northern and southern boundaries both marked by four temporary buoys. The safety zone is in effect from 10 a.m. until 7 p.m. on May 20, and May 21, 1995, unless extended or terminated sooner by the Captain of the Port, New York. This safety zone precludes all vessels from transiting this portion of Greenwood Lake and is needed to protect mariners from the hazards associated with high speed powerboats racing in confined waters.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a one mile segment in the southern portion of Greenwood Lake to all vessel traffic from 10 a.m. until 7 p.m. on May 20, and May 21, 1995, unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation will not be significant for several reasons. Due to the limited duration of the race; that the event is taking place on an inland lake which has no commercial traffic; and that this is an annual event with local support, the impact of this regulation is expected to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the powerboat race will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5, 49 CFR 1.46.

2. A temporary section, 165.T01–037, is added to read as follows:

§ 165.T01–037 Safety Zone; Greenwood Lake Powerboat Race, Greenwood Lake, New Jersey.

(a) *Location.* The waters of Greenwood Lake, shore to shore, south of latitude 41°08′ N.

(b) *Effective period.* This safety zone is in effect from 10 a.m. until 7 p.m. on May 20, and May 21, 1995, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 13, 1995.

T.H. Gilmour,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 95–10069 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AH25

Veterans Education: Establishing Eligibility Under the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Vocational Rehabilitation and Education regulations to reflect the statutory requirement that individuals seeking to establish eligibility for educational assistance under the Montgomery GI Bill—Active Duty through a combination of active duty service and service in the Selected Reserve must enter the Selected Reserve within one year of discharge from active duty

EFFECTIVE DATE: December 18, 1989, the date this requirement became effective.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration (202) 273–7187

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This final rule merely reflects statutory requirements. Further, the final rule affects only individuals, and does not directly affect small entities.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 21, 1995

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21, subpart K is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

1. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. chapter 30, Pub. L. 98–525, 38 U.S.C. 510(a).

2. In § 21.7042 paragraph (b)(4) and its authority citation are revised to read as follows:

§ 21.7042 Basic eligibility requirements.

* * * * *

(b) * * *

(4) Except as provided in paragraph (b)(7) of this section, after completion of active duty service, the individual must serve at least four continuous years of service in the Selected Reserve. An individual whose release from active duty service occurs after December 17, 1989, must begin this service in the Selected Reserve within one year from the date of his or her release from active duty. During this period of service in the Selected Reserve the individual must satisfactorily participate in training as prescribed by the Secretary concerned.

(Authority: 38 U.S.C. 3012(a)(1); Pub. L. 100–689, Pub. L. 101–237)

* * * * *

[FR Doc. 95–9990 Filed 4–21–95; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 493

[HSQ–216–FC]

RIN 0938–AG71

CLIA Program; Categorization of Tests and Personnel Modifications

AGENCY: Health Care Financing Administration (HCFA) and Public Health Service (PHS), HHS.

ACTION: Final rule with comment period.

SUMMARY: In this rule we are responding to some of the comments on categorization of tests and personnel requirements received in response to rules published on February 28, 1992 and January 19, 1993. (In a future rule, we will be responding to the remaining comments.) We are revising our regulations to: Allow dentists and midlevel practitioners to perform tests in the "physician-performed" microscopy (PPM) subcategory of moderate complexity procedures (we now call the subcategory "provider-performed"); include three additional tests in PPM; and expand provisions relating to general supervisor and high complexity testing personnel.

DATES: *Effective date:* These regulations are effective April 24, 1995.

Comment date: Comments on the addition of three PPM tests will be considered if we receive them at the appropriate address, as provided under **ADDRESSES**, no later than 5 p.m. on June 23, 1995.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ–216–FC, P.O. Box 26676, Baltimore, MD 21207

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201,

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HSQ–216–FC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

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VOL
60
ISS
78
AP
24
1995
UMI

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FOR FURTHER INFORMATION CONTACT: Rosemary Baker-Martin, (404) 488–7655, for questions regarding the addition of the three PPM tests; Rhonda S. Whalen, (404) 488–7655, for questions regarding personnel; and Judy Yost, (410) 597–5007, for certificate, fee, and inspection issues.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 353 of the Public Health Service Act (42 U.S.C. 263a), as amended by the Clinical Laboratory Improvement Amendments of 1988 (CLIA), all laboratories that examine human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings must meet certain requirements to perform the examination. Many of the requirements are based on the complexity of the tests performed. There are currently three test categories: Waived, moderate complexity, including the subcategory of physician-performed microscopy, and high complexity.

Following the publication on February 28, 1992 (57 FR 7002) of the initial regulations implementing CLIA, HHS established a Clinical Laboratory Improvement Advisory Committee (CLIAC) to advise and make recommendations on technical and scientific aspects of the regulations. The CLIAC is composed of individuals involved in the provision of laboratory services, use of laboratory services, development of laboratory testing devices or methodologies, and others as approved by HHS. In addition, HHS has designated the following four CLIAC subcommittees: cytology; personnel; proficiency testing, quality control and quality assurance; and test categorization.

The CLIAC meets as needed, but not less than once a year. So far, the CLIAC has met in October, 1992, February, May, August, and December, 1993, and March and September, 1994. The subcommittee on test categorization has met in January and June, 1993; the subcommittee on cytology has met in December, 1993; and the subcommittee on proficiency testing, quality control, and quality assurance has met in March and September, 1994.

Following publication of the February 28, 1992 regulations, we received approximately 16,000 letters from professional organizations and individuals that provided around 71,000 comments. In response to public comments received concerning certain physician performed microscopy procedures, we requested the CLIAC to evaluate the categorization of these tests. As a result, we developed a new subcategory of moderate complexity testing, called physician-performed microscopy (PPM) procedures, and published the requirements concerning the subcategory in a rule on January 19, 1993 (58 FR 5215).

In this rule, we address the comments we received concerning the application of certain personnel requirements and comments concerning categorization of PPM tests. One area of commenter concern was that currently employed supervisors and high complexity testing personnel continue to be qualified. Another area of concern was that our requirements would diminish access to services, particularly in rural and underserved areas, leading to recommendations that we expand the PPM procedures subcategory to include dentists and midlevel practitioners.

II. Responses to Comments

A. Categorization. Physician-Performed Microscopy Procedures

As stated earlier, we established a new subcategory of moderate complexity testing called "physician-performed microscopy (PPM) procedures" in revisions to the CLIA regulations, published in the Federal Register on January 19, 1993. In response to the regulations establishing PPM, we received approximately 2,200 comments from professional organizations and individuals. A significant number of these comments addressed the tests categorized as PPM procedures, including requests that some of these tests be waived, or that additional tests be added to the list of PPM procedures. Some commenters asked that PPM be expanded to include specific tests related to a particular medical specialty or practice. Conversely, other commenters were opposed to adding additional tests or criteria to PPM, and felt that this subcategory should remain very limited.

Comments and Responses

Comment: A number of commenters stated that PPM is too restrictive, and that all of the PPM procedures should be categorized as waived tests. Some commenters specifically stated that wet mounts and urine sediment examinations should not be in PPM but should be waived tests.

Response: Tests included in PPM are moderate complexity microscopic examinations that do not meet the criteria for waiver because they are not simple procedures; they require training and specific skills for test performance. Personnel performing these tests must be proficient in the use of a microscope and must be able to detect and identify cellular elements present in a specimen, both of which require substantial training, experience, and specific knowledge to be accurately performed. To differentiate significant elements in a specimen from debris or artifacts requires a high level of interpretive skills. In fact, personnel requirements for this subcategory of moderate complexity testing are more stringent than for other moderate complexity testing due to the nature of testing in PPM. Examinations of wet mount preparations and urine sediment were included in PPM because they meet the PPM criteria. These microscopic examinations are performed during a patient's physical examination on specimens that are labile or not appropriate to send to another laboratory for analysis. In addition, controls are generally not available to monitor the complete testing process for these procedures. Therefore, only limited activities are suitable for inspection.

Comment. Several commenters expressed confusion as to which examinations are considered "wet mount examinations"

Response: We are revising the description of "wet mount examinations" at § 493.19(c)(1) (formerly § 493.18(c)(1)), to clarify what we mean by wet mount preparations. Although we provided the examples of vaginal, cervical or skin specimens as part of the wet mount definition, we never intended to limit wet mount examinations to only these specimens. By revising the definition of this test, we are not making any changes in what was originally intended for this group of examinations. They are moderate complexity microscopic examinations performed on any direct specimen that may be suspended in a drop of water or saline. They are performed using a microscope, which is limited to bright-field or phase-contrast, in order to recognize the presence or absence of bacteria, fungi, parasites, and human cellular elements (including red and white blood cells, epithelial cells, etc.) and to differentiate these from artifacts. They are not procedures in which definitive identification or enumeration is made or any staining is performed.

Comment: A number of commenters requested that additional tests be added to PPM. Microscopic tests that were suggested include synovial fluid analysis, qualitative and quantitative semen analysis, nasal smears or sputum for eosinophils or basophils, wet mount examination of prostatic fluid or secretions, stools for leukocytes, scabies examinations, Gram stain, Tzanck preparations, white blood cell counts and leukocyte differentials, microscopic examinations of hair morphology, dark-field examinations and molluscum smears. A number of non-microscopic procedures were also requested, including microbiology cultures, serum glucose and BUN levels, qualitative drug screens, a variety of serologic tests, and miscellaneous tests performed using hand-held or elementary instrumentation.

Other organizations and professionals were opposed to adding tests or criteria to PPM. Two organizations suggested explicit language to limit procedures included in PPM to specific microscopic examinations and exclude any testing that involves automated instrumentation or biochemical reactions.

Response: Tests in PPM are limited to specific microscopic examinations that are moderately complex procedures and meet the criteria for PPM. Most of the tests named by commenters for addition to PPM do not meet these established criteria. However, nasal smear examinations for granulocytes, fecal leukocyte examinations, and qualitative semen analysis (limited to the presence or absence of sperm and detection of motility) do meet the criteria for inclusion in PPM. They are all moderate complexity microscopic examinations that are performed during the course of a patient examination. They are performed on labile specimens, require very limited specimen processing and handling, and controls are not available to monitor the entire testing process. Fecal leukocyte examinations and qualitative semen analyses are actually forms of wet mount examinations. The CLIAC recommended that these three examinations be included in PPM, and HHS agrees with CLIAC that these procedures meet the PPM criteria. The other examination that the CLIAC recommended be added to PPM, the wet mount examination of expressed prostatic secretions, is now included in PPM because it meets the clarified definition of wet mounts in § 493.19(c)(1). Tests that the CLIAC reviewed, and recommended not be included in PPM, are the Gram stain, quantitative semen analysis, histodermatology slides, white blood cell (WBC) differential, and polarization of synovial fluid for crystals. These examinations do not meet the criteria for inclusion in the PPM subcategory. The quantitative semen analysis, histodermatology slides, and polarization of synovial fluid for crystals are all high complexity procedures. Although some Gram stains and WBC differentials are categorized as moderate complexity, these examinations do not meet the additional criteria required for inclusion in PPM. They are not performed on labile specimens, and quality control materials are readily available for Gram stains and WBC differentials. Both of these examinations are performed on specimen preparations that must be stained in order to differentiate and identify cellular elements. These staining procedures require multiple, critical steps. Therefore, HHS concurs with the CLIAC recommendations that these tests not be included in the PPM subcategory, and has not added these tests to the list of PPM examinations.

Comment: Several organizations requested that tests relevant to specific medical specialties, including pediatrics, internal medicine, family practice, rheumatology, and infectious disease, be added to PPM for physicians with appropriate training.

Response: The CLIAC considered a proposal by HHS to expand PPM to include additional medical specialty-specific microscopic examinations when performed by physicians with specialty training. The CLIAC recommended that PPM not be expanded to include medical specialty-specific procedures, due to the difficulty in establishing a mechanism to assure adequate training and competency in performing each of these specialized procedures. HHS agrees with this recommendation and we have not added medical specialty-specific procedures to PPM; however, physicians may continue to perform these procedures in accordance with the applicable requirements for the level of complexity in which the test is categorized.

Comment: One organization stated that, in order to contain costs, physicians should be able to perform essential laboratory tests in their offices without restrictions and recommended that a free-standing physician category be established with the range of tests performed in each laboratory based on the physician's specialty, training and experience. The organization indicated that there should be no specific test list; any testing other than cytopathology would be included in this category. Testing could be performed by the physician, or by other personnel under the direction and control of the physician. Quality control and proficiency testing would be required, and laboratories would be subject to on-site inspections if it was suspected that they were not in compliance with the regulations.

Response: The CLIA regulations were developed in an effort to ensure the quality of laboratory services in every testing situation and assure that accurate and reliable testing is available to all patients. To do this, minimum requirements were established for laboratory testing that, in accordance with the law, depend on the complexity of the procedures being performed and are independent of the testing location. As test procedures become more complex, more stringent testing requirements are imposed. PPM contains a unique group of microscopic procedures that are routinely performed in the course of a patient examination. They are tests for which it is difficult to enforce regulatory requirements because biological controls that monitor the entire testing process are not readily available and because the inspection process would interfere with a patient examination. The PPM subcategory was established to exempt physicians (and, as discussed below, mid-level practitioners and dentists are now included) from the requirement for routine inspections if the PPM procedures are the only tests, in addition to waived tests, that they perform. Physicians, mid-level practitioners, and dentists are not prohibited from performing other laboratory procedures in their offices or clinics. However, for procedures that can be regulated through an inspection process, routine inspections are required, since this is one mechanism to assure that the quality of testing is maintained.

Changes to the Regulations

In this regulation, we have moved the PPM subcategory, formerly located at § 493.16, to a new § 493.19.

In the list of PPM procedures now located at § 493.19(c), we are changing the description of wet mounts at § 493.19 (c)(1) to clarify the types of examinations that are included in this procedure. Also, to the list of PPM procedures, we are adding three tests: nasal smears for granulocytes, fecal leukocyte examinations, and qualitative semen analysis (limited to the presence or absence of sperm and detection of motility).

VOL 60 ISS 78 AP 24 1995 UMI

Other Revisions to the Regulations

Currently, PPM procedures are subsumed in the category of moderate complexity, with changes made to moderate complexity testing requirements as needed. To aid readers in finding requirements pertinent to their needs, we have created a discrete subcategory of requirements for PPM procedures, by breaking out the requirements for PPM as necessary.

Currently, a laboratory that meets the requirements to perform high or moderate complexity tests is issued a "certificate". We also have certificates for PPM procedures. For clarity, to distinguish between the generic use of the word certificate and the type of certificate issued to a laboratory that performs tests of moderate or high complexity, or both, we are changing "certificate" (for tests of moderate or high complexity, or both) to "certificate of compliance." This is the certificate that will be issued following the determination of successful compliance with the CLIA regulations for testing that includes moderate and/or high complexity. Where necessary, we make revisions concerning each specific certificate and/or subcategory (including waived tests). We are changing, as required, references to specific certificates to refer to "appropriate" certificates.

We make these technical changes in the following existing sections and headings: §§ 493.2, definition of "certificate" under "CLIA certificate", 493.3(a)(1); 493.5(a)(2) and (c) (formerly 493.10); 493.20(a) and (b); 493.25(c) (formerly 493.25(d)); subpart C heading; 493.43 heading and paragraph (a); 493.45 introductory paragraph and paragraphs (a)(1), (2) and (3) (the last is deleted) and (d) and (f); 493.49; 493.51 heading, introductory paragraph, and paragraphs (b) and (c); 493.55(a); 493.57 introductory paragraph and subparagraph (b)(1)(ii); 493.511(h); 493.521(j); 493.602; 493.638; 493.639(b); 493.643(d); 493.645 heading and paragraph (c) (redesignated from paragraph (a)(2)); 493.646(a); 493.649(a) and (b); subpart H heading; 493.803(a); 493.807 heading; subheading preceding 493.821; subpart I heading; subpart J heading; 493.1101, including the heading; subpart K heading; 493.1201 heading; subpart M heading; subpart P heading; 493.1701, including heading; 493.1777 heading, introductory paragraph and paragraphs (a) and (g); 493.1814(b)(3); 493.1834(b) and (f)(2)(iii); 493.1836(c)(2) and (3); and 493.2001.

B. Personnel

1. Physician-Performed Microscopy Procedures

Comment: Approximately 68 percent of the 2,200 comments received in response to the regulation establishing PPM addressed personnel requirements, especially expansion of the PPM subcategory to include other health care practitioners. The comments were divided between individuals who suggested expansion of PPM to include other health care professionals and those commenters who believed that PPM should be limited to physicians. While national laboratory organizations and individual laboratory professionals commented that PPM should be limited to physicians, professional organizations representing physicians and midlevel health care practitioners stated that PPM should be expanded to include other health care providers. We also received comments requesting that dentists be included in PPM to allow them to perform wet mount examinations as part of their dental evaluations.

Several commenters representing physicians and midlevel health care practitioners included information and responded to questions posed in the preamble to the January 19, 1993, Federal Register rule creating the PPM subcategory. In that publication, we specifically asked commenters to comment on the type of health care professionals who usually perform the PPM tests as part of a physical examination, how often the tests are performed, and the quality, access and cost implications in establishing the PPM subcategory.

The commenters who responded to these questions stated that depending on the type of health care setting, physicians, or quite often nurse practitioners, nurse midwives, or physician assistants, perform physical examinations and the laboratory tests related to these examinations. In some cases, State laws authorize these midlevel practitioners to practice independently. These commenters added that, because of the variety of settings, it is impossible to estimate the percentage of testing done by each group of health professionals. However, they did say that many midlevel practitioners perform patient examinations and certain microscopic tests on a daily basis and in equal or greater numbers than physicians in some places. They also said that midlevel practitioners receive the training needed to perform these tests and the quality of their test results is at least equivalent to testing performed by physicians. Commenters indicated that, in addition to the physicians and the midlevel practitioners listed above, emergency personnel, registered nurses, licensed practical nurses, and medical assistants perform PPM tests. Commenters indicated that although the cost of testing might vary, this was not related to who performed the test.

Lastly, the commenters stressed that the quality, cost and access implications of not including midlevel practitioners under the certificate for the PPM subcategory were extensive, especially in rural areas, among low-income populations, and in other areas where there is a shortage of physicians. In some of these settings, midlevel practitioners are the only available health care providers. Excluding these professionals from obtaining a certificate for the PPM subcategory has substantial cost implications. Since laboratories that have a certificate for the PPM subcategory are not subject to fees for routine inspections, the cost of providing services under the PPM certificate is lower than under a certificate of compliance. If facilities cannot afford to provide testing under a certificate of compliance, patient access to health care would be limited.

Response: In considering these comments, we sought the advice of the CLIAC. In an effort to provide an opportunity for public discussion and consideration of these issues, we scheduled two CLIAC meetings on the PPM subcategory. Presentations were made by HHS, and the public was invited to comment and provide information. The CLIAC recommended that individuals and organizations representing practitioners seeking to be included in the PPM subcategory submit documentation concerning the specific course work and the amount of training such individuals receive in the performance of microscopic examinations. Over 100 individuals and organizations responded to the request for information, with many of the commenters providing documentation of specific training curricula in microscopic procedures. The CLIAC asked CDC to evaluate the materials submitted. In reviewing the training programs of nurse midwives, nurse practitioners and physician assistants, CDC concluded that these practitioners, like physicians, perform the procedures currently included in the PPM subcategory in conjunction with patient evaluations, and the training they receive in microscopic examinations is comparable to that of physicians. The CLIAC considered this information and recommended that midlevel practitioners, defined as nurse practitioners, nurse midwives, and physician assistants, be included in the PPM subcategory. The CLIAC suggested that these midlevel practitioners be permitted to perform PPM procedures under the supervision of a physician or to function independently in States that authorize institutional practice.

In view of the CLIAC recommendation and the CDC conclusion that nurse midwives, nurse practitioners and physician assistants receive sufficient training to properly perform and interpret the microscopic examinations currently included in the PPM subcategory, we are adding midlevel practitioners to the PPM subcategory. We define them in § 493.2 as nurse practitioners, nurse midwives and physician assistants, licensed by a State if such licensing is required.

As a result of the comments received, we also considered the inclusion of dentists in the PPM subcategory. After evaluating the education and training that dentists receive in clinical laboratory procedures, we concluded that dentists, with either a Doctor of Dental Medicine (DDM) or Doctor of Dental Surgery (DDS) degree, are qualified to perform the examinations in the PPM subcategory and we are adding dentists as persons who may perform PPM procedures.

Upon evaluation of the education and training of emergency personnel, registered nurses, licensed practical nurses, and medical assistants, we determined that these practitioners do not receive sufficient training to properly perform and interpret the microscopic examinations currently included in the PPM subcategory. For this reason, we are not adding them as persons who may perform PPM procedures.

Changes to the Regulations

To accommodate the above additions, we are changing the name from "physician-performed microscopy procedures" to "provider-performed microscopy procedures."

To be consistent with other personnel requirements, we are moving the personnel requirements for the PPM subcategory, formerly located at § 493.16(e)(2) (§ 493.26(e)(2) is redesignated as § 493.19(e)(2)), to subpart M. At § 493.1356, we are specifying the condition requirements for laboratory director of PPM procedures, with director qualification requirements located at § 493.1357 and director responsibilities at § 493.1359. To the director responsibility requirements, we are adding the requirement limiting the number of laboratories that an individual can direct to five, which was inadvertently not included in previous regulations; currently, directors of laboratories performing other moderate complexity testing may only direct five. The condition requirements for testing personnel performing PPM procedures are now located at § 493.1363, while testing personnel qualifications are located at § 493.1365 and responsibilities are at § 493.1365.

We are also making numerous conforming changes to part 493 to accommodate the revision to include midlevel practitioners and dentists. We are revising the following additional sections and headings: §§ 493.2—definition of "CLIA certificate—certificate for physician-performed microscopy procedures" by adding "dentist" and "midlevel practitioner", and revising "physician" (for consistency to include doctors of osteopathy and to require the physician to be licensed in the State in which the laboratory is located); 493.20(b); 493.25(c) (redesignated from 493.25(d)); heading for subpart C, 493.43 heading; 493.45(a)(2); 493.47; 493.49(a)(1); 493.53 heading and introductory paragraph; 493.538; 493.539(c); 493.643(a); 493.646(a); 493.1776 heading and paragraphs (a) (ii) and (4) and (ii); 493.1814(b)(3); 493.1834(b) and (f)(2)(iii); and 493.1836(c)(2) and (3).

2. General Discussion of General Supervisor and High Complexity Testing Personnel Comments

In response to the personnel requirements contained in the final regulations published February 28, 1992, we received approximately 55,000 comments from individuals and organizations. The qualification requirements for general supervisor and high complexity testing personnel received the most extensive comments. Approximately 8,000 comments concerned general supervisor, 14,000 comments related to high complexity testing personnel and more than 10,000 comments pertained to testing personnel, with the complexity of testing not specified. Some commenters indicated that the regulations were too stringent, while others thought the requirements were too lenient. Among the commenters who thought that the minimum qualifications should be raised, there was a general consensus that the increase in requirements should be prospective and that the regulations should include alternative qualifying pathways to avoid affecting currently employed individuals adversely. Many commenters were concerned that the regulations would eliminate the jobs of many laboratory employees who possess extensive work experience but lack the requisite degree or formal laboratory training. This would particularly exacerbate the shortage of qualified laboratory personnel in rural and underserved areas and limit patient access to testing.

In evaluating the many comments we sought advice from the CLIAC concerning whether changes were needed in the regulations pertaining to general supervisor and high complexity testing personnel. Many individuals and organizations provided detailed information and suggestions to CLIAC about the qualifications that should be required for supervision and performance of high complexity testing. The CLIAC recommended revising the regulations to recognize currently employed individuals who do not meet the qualifications contained in the final regulations but who have clinical laboratory training and extensive laboratory experience.

We acknowledge that extensive experience can qualify individuals to competently perform these functions. Therefore, in response to the comments provided to the regulations published February 28, 1992, and to the CLIAC advice, and to mitigate the impact of the regulations on currently employed people, especially those in rural and underserved areas, we are making in this regulation the changes necessary to provide alternative qualification pathways.

We are revising the general supervisor (§ 493.1461) and high complexity testing personnel (§ 493.1489) requirements to: qualify individuals currently performing high complexity testing and those currently employed general supervisors if they have the requisite laboratory training or experience; recognize 50-week U.S. military medical laboratory training programs and accredited laboratory training programs; and establish equivalent requirements for the associate degree. More specific comments and responses concerning revisions to the regulations to create alternative qualifications for general supervisor and high complexity testing personnel follow.

We also are making conforming cross-reference changes to §§ 493.1463 and 493.1495.

3. Specific Comments and Responses

General Supervisor Qualifications

Comment: Although many commenters agreed that the minimum requirement for general supervisor should be an associate degree in clinical laboratory science or medical laboratory technology, others indicated that the

VOL 60 ISS 78 AP 24 1995 UMI

requirement should be an associate degree with area of study not specified. Some commenters said that requirements equivalent to the associate degree should be established. Several commenters indicated that individuals having a bachelor of arts or education degree with a specified number of science courses should be qualified.

Response: We agree with the commenters who suggested the establishment of requirements equivalent to the associate degree with appropriate study in the sciences because we believe individuals who have completed the requisite courses and training are qualified to supervise high complexity testing. In this regulation, we are defining the following as equivalent to the academic requirements for an associate degree: 60 semester hours, which must include either 24 semester hours of medical laboratory technology courses or 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology, and twelve semester hours of courses in chemistry, biology or medical laboratory technology, or any combination. In addition, individuals must have completed either an accredited clinical laboratory or medical laboratory training program (which may be included in the 60 semester hours specified above) or three months of documented training in each specialty in which the individual performs high complexity testing. We are specifying the equivalent requirements for the associate degree under high complexity testing personnel, which are adopted by cross-reference to the general supervisor requirements. Therefore, individuals who do not have a degree or who have a bachelor's degree that is not in a science can now qualify as a general supervisor if they meet the equivalency requirements for an associate degree and have at least two additional years of laboratory training or experience in high complexity testing.

Comment: Many commenters recommended qualifying medical laboratory technicians without an associate degree to serve as general supervisor. Some commenters recommended qualifying individuals, including certified laboratory assistants, who received training in an accredited hospital or approved technical school training program. Other commenters recommended qualifying individuals with military training.

Response: We agree with the commenters that the regulations should recognize individuals who were serving as a general supervisor of high complexity testing on or before September 1, 1992 (the effective date of the CLIA personnel regulations) but do not have an associate degree, or equivalent, provided they have completed an accredited clinical laboratory training program. We believe individuals having this training and experience have the appropriate qualifications to serve as a general supervisor. Therefore, we are adding a provision to the general supervisor qualification requirements to qualify individuals who, on or before September 1, 1992, were serving as a general supervisor of high complexity testing. The individual must on or before April 24, 1995, have completed a 50-week U.S. military medical laboratory training program or have graduated from a medical laboratory or clinical laboratory training program accredited by the Accrediting Bureau of Health Education Schools, Commission on Allied Health Education Accreditation or other organization approved by HHS. To help assure equivalency to other qualification pathways, individuals having this type of training are required to have two additional years of laboratory training or experience in high complexity testing in order to qualify as general supervisor This additional training or experience may be acquired before or after completing the accredited or U.S. military medical laboratory training program.

Comment. Several commenters misread the regulations and thought that individuals qualified under regulations published March 14, 1990 (55 FR 9576) were required to obtain an associate degree.

Response Individuals who qualified as general supervisors under the previous Federal regulations are qualified under these regulations and are not required to obtain an associate degree.

Comment: Some commenters recommended that all laboratory personnel currently employed as general supervisors be qualified through a "grandfather" provision.

Response: We agree with the commenters and the CLIAC recommendation that regulations should include provisions to allow currently employed supervisors who have pertinent laboratory experience to continue their employment. We are adding a provision to the general supervisor requirements to qualify high school graduates, or equivalent, who, on or before September 1, 1992, were serving as a general supervisor and have at least ten years of laboratory training or experience in high complexity testing, including at least 6 years of supervisory experience in high complexity testing within the last 10 years because we believe this amount of experience is appropriate to qualify individuals as general supervisors and is commensurate with the general supervisor responsibility requirements.

Comment: A few commenters agreed with the responsibilities for general supervisor, while a few commenters disagreed. Most of the commenters who disagreed with the responsibilities were opposed to requiring the general supervisor to be onsite when high complexity tests are performed by personnel who do not have at least an associate degree. Conversely, many commenters indicated that an individual with an associate degree should be allowed to perform high complexity testing only when a technologist or supervisor is onsite

Response. In the revised regulation published in the **Federal Register** on January 19, 1993, we changed the requirement for onsite supervision to require 24-hour review of any high complexity testing performed by personnel who do not have at a minimum an associate degree and were performing high complexity testing on or before January 19, 1993. However, in the January 19, 1993 regulation, we retained the onsite supervision requirement for those high school graduates, or equivalent, who began performing high complexity testing after January 19, 1993. In this regulation, we are not changing the requirements for onsite supervision or 24-hour review However, we believe individuals who have completed accredited or 50-week U.S. military medical laboratory training programs or have academic qualifications equivalent to the associate degree are qualified to perform high complexity testing. Therefore, we are revising the regulations to qualify as high complexity testing personnel individuals having these qualifications. Individuals who qualify under these new provisions may perform high complexity testing without onsite supervision or 24-hour review.

We do not agree with the commenters that onsite supervision should be required for high complexity testing performed by individuals having an associate degree; such a requirement would be unnecessarily burdensome and could exacerbate personnel shortages and limit patient access to testing. It should be emphasized that these are minimum requirements that do not restrict laboratories from establishing their own policies requiring higher personnel qualifications. In all cases, the laboratory director is responsible for ensuring that all testing personnel have the necessary education and training or experience required for test performance.

Testing Personnel Qualifications (High Complexity)

Comment: Numerous commenters believed an associate degree in laboratory sciences or medical laboratory technology should be the minimum education requirement. Several commenters suggested recognizing associate degrees in fields other than clinical laboratory sciences or medical laboratory technology, with others suggesting equivalent requirements be established for the associate degree.

Response. Currently, the qualification requirements for high complexity testing personnel contain provisions that prospectively require high school graduates to obtain an associate degree. As mentioned above, in evaluating the comments received concerning high complexity testing personnel, we sought the advice of the CLIAC about the appropriateness of the qualifications required. The CLIAC recommended that the associate degree be established as the minimum education requirement and, in addition, that equivalent academic requirements be established for the associate degree. In this regulation, we are adding a provision to qualify individuals who have completed specific college courses but do not have an associate degree or who have an associate degree that is not in medical laboratory technology or a laboratory science. As previously mentioned, we have defined requirements equivalent to the associate degree (60 semester hours that must include 24 semester hours of medical laboratory technology courses *or* 24 semester hours of science courses that include six semester hours of chemistry, six semester hours of biology and twelve semester hours of courses in chemistry, biology or medical laboratory technology, or any combination); individuals qualifying under the equivalency provisions also must have completed either an accredited clinical laboratory or medical laboratory training program (which may be included in the 60 semester hours) or three months of documented training in each specialty in which the individual performs high complexity testing. The laboratory training may be acquired before, during or after completing the academic requirements.

Comment: Many commenters recommended recognizing medical laboratory technicians without an associate degree. Commenters also recommended qualifying individuals, including certified laboratory assistants, who received training in an accredited hospital or technical school training program. A large number of commenters suggested qualifying individuals with military training.

Response: We agree with the commenters that, in addition to the revisions made to the general supervisor requirements, revisions are needed in the qualification requirements for high complexity testing personnel to recognize individuals who have completed a nondegree clinical laboratory training program and, therefore, have equivalent training. Therefore, we are adding to the high complexity testing personnel requirements, a provision to qualify individuals who, on or before April 24, 1995 have completed a 50-week U.S. military medical laboratory training program or have graduated from a medical laboratory or clinical laboratory training program accredited by the Accrediting Bureau of Health Education Schools, Commission on Allied Health Education Accreditation or other organization approved by HHS.

Comment: A number of commenters recommended that the regulations be revised to qualify all currently employed high complexity testing personnel. Other commenters said currently employed high school graduates, who were trained on the job, should be allowed to continue performing high complexity testing but only under supervision.

Response: We agree with the CLIAC recommendation that the regulations should be revised to alleviate the impact on currently employed personnel. We also believe that high school graduates with appropriate training, who were performing high complexity testing on or before April 24, 1995 have obtained sufficient work experience to allow them to continue performing testing with supervisory oversight. Therefore, we are revising the regulations to allow these individuals to continue performing high complexity testing even after September 1, 1997 (the current limit) and do not require that they obtain additional training or education However, performance of any high complexity testing by these individuals must be in accordance with the supervision requirements discussed below.

Comment: A few commenters agreed with the responsibility requirements for high complexity testing personnel, while numerous commenters disagreed. The majority of the commenters who disagreed were opposed to requiring onsite supervision when individuals who do not have an associate degree perform high complexity testing.

Response: As previously mentioned above under the discussion of qualifications of the general supervisor in the regulation published in the **Federal Register** on January 19, 1993, we changed the requirement for onsite supervision to only require 24-hour review of any high complexity testing performed by personnel who do not have an associate degree and who were performing high complexity testing on or before January 19, 1993. The onsite supervision requirement was retained only for those high school graduates, or equivalent, who began performing high complexity testing after January 19, 1993. In this regulation, we are not changing the requirements for onsite supervision or 24-hour review However, we believe individuals who have completed accredited or U.S. military laboratory training programs or have qualifications equivalent to the associate degree and have appropriate laboratory training are qualified to perform high complexity testing without supervision. Therefore, we are revising the qualification requirements for high complexity testing personnel to allow individuals having these qualifications to perform high complexity testing without onsite supervision or 24-hour review.

III. Other Revisions

We are making the following technical changes in addition to those discussed above:

- We are making minor editorial changes to improve clarity and remove redundancies. This includes removing §§ 493.610, 493.614, 493.618, 493.622, 493.626, 493.629, 493.630, 493.631, 493.632, 493.633 and 493.634.
- We are revising the definition of "certificate of registration" in § 493.2 to exclude reference to laboratories that are exempt from CLIA requirements because they are licensed by a HCFA-approved laboratory licensure program. these laboratories are not required to obtain a registration certificate.
- From the definition of "physician" in § 493.2 we are deleting the phrase "or equivalent degree" as there are no degrees equivalent to doctor of medicine, osteopathy or podiatric medicine.
- To §§ 493.35(d)(2) and 493.37(b)(2) we are adding a requirement that a laboratory seeking a certificate of waiver must permit announced inspections by HHS (as well as unannounced) because it was inadvertently omitted from the January 19, 1993 rule.
- In §§ 493.35(d)(2)(iv), 493.49(b)(2)(iv), 493.1776(a)(4) and 493.1783(b)(4)(iv), we indicate that we will collect information during

inspections to determine the "appropriateness" of tests, rather than their "addition, deletion or continued inclusion".

- In § 493.602 we clarify Federal validation survey activity to include accredited laboratories and change "State-exempt" to "CLIA exempt" to agree with references that were changed in previous regulations.
- In §§ 493.638, 493.639, and 493.645(c), we revise the text so that it more accurately reflects what costs fees do and do not cover; for example, they do cover the cost of categorizing tests.
- In the title of § 493.645 and paragraph (a) we are changing the word "licensure" to "laboratory" and, in paragraph (a), "State-exempt" to "CLIA-exempt" to conform to changes made in previous regulations.

IV. Waiver of Delay in Effective Date

We find good cause to waive the usual 30-day delay in effective date for most of the revisions. Those persons who become qualified under the revised regulations are no less qualified now than they will be in 30 days. Hence, it serves no purpose to delay our regulations. Other revisions are very technical in nature and to delay their effective date is also unnecessary. Also, under the provisions of the current regulations, revisions of the list of PPM tests may be done outside of a rulemaking process through publication of a **Federal Register** notice that does not require a 30 day delay. As indicated earlier, we also will consider comments received on the addition of three new PPM procedures. Therefore, we find good cause to waive the delay in effective date of this rule.

V. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VI. Collection of Information Requirements

The portions of §§ 493.7, 493.35, 493.39, 493.43, 493.53, 493.55, and 493.57 of this document that have been revised contain information collection and recordkeeping requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These reporting and recordkeeping requirements are not effective until a notice of OMB's approval is published in the **Federal Register**. The information collection requirements concern the performance of recordkeeping. The respondents who will provide the information include any entity performing laboratory testing used for assessment, diagnostic or treatment purposes. Public reporting burden for this collection of information is estimated to be 61 hours per laboratory per year.

Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official whose name appears in the **ADDRESSES** section of this preamble.

VII. Regulatory Impact Statement

Background

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all laboratories are considered to be small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

General

This rule modifies CLIA regulations published February 28, 1992 and January 19, 1993. There are approximately 157,000 entities enrolled under CLIA that may be affected by the provisions of this rule. The significance of the effect will vary depending on the volume and complexity of tests performed; whether the entity employs midlevel practitioners to perform provider-performed microscopy (PPM) procedures; and whether employees meet the personnel requirements contained in the February 28, 1992 regulations. While we cannot estimate the number of entities that may make changes in their laboratory testing practices as a result of this rule, we believe the modifications to the CLIA program will benefit the affected entities in several ways. This rule will help to ease implementation of the CLIA program at no loss to public health and safety by offering alternative qualification standards for laboratory employees who would be adversely affected by the original personnel requirements. It also increases patient access to laboratory services, especially in rural and underserved areas, by expanding the list of personnel qualified to conduct certain laboratory tests. In addition, it reduces the regulatory burden for laboratories by enabling them to provide an expanded menu of tests under a PPM certificate without incurring the costs associated with obtaining a certificate of compliance.

Categorization of Tests

Expanding the list of PPM procedures may affect a laboratory's choice of certificate. Laboratories with certificates for PPM are not subject to costs associated with the routine inspections required under a certificate of compliance. Therefore, laboratories holding a certificate of compliance that change to a certificate for PPM will have a decrease in compliance costs and the number of inspections. Certificate of waiver laboratories choosing to expand their test menu to include PPM procedures and obtain a certificate of PPM will have increased certificate fees, as well as additional costs inherent in meeting applicable requirements, such as personnel and proficiency testing. The current biennial fee for a certificate of waiver is $100, as compared to $150 for a certificate for PPM. Although the cost of obtaining a certificate for PPM is more than for a certificate of waiver, it is less than the cost associated with a certificate of compliance.

Provider-Performed Microscopy Procedures

All providers performing microscopy examinations in conjunction with patient evaluations may be affected by the expansion of the subcategory of microscopy procedures to include midlevel health care practitioners and dentists. Many midlevel practitioners routinely perform patient examinations and associated laboratory testing, and in some States, are authorized to practice independently Because there is such a wide variety of settings in which these services are offered, we cannot quantify the percentage of tests done by each type of health professional. However, there are no data to indicate that the quality of their tests results is not at least equivalent to the tests performed by physicians. As a result of this expansion, patient access to care and services will increase, particularly in rural and underserved areas where there are shortages of physicians and, as many commenters pointed out, midlevel practitioners are the only health care providers available.

Personnel Requirements

As a result of our evaluation of the 32,000 comments received on the general supervisor and testing personnel requirements contained in the February 28, 1992 regulations, and after consultation with the CLIAC, we are revising the regulations to mitigate the impact of the regulations on currently employed individuals. Adding alternative qualification standards to the general supervisor and high complexity testing personnel requirements enables currently employed individuals with equivalent training and experience to continue to qualify for these positions. As stated in the impact analysis that accompanied the February 28, 1992 regulations, we recognize that flexibility is needed by the laboratory industry to effectively take advantage of the personnel resources available to it, and it was not our intention to disenfranchise anyone currently employed. By providing equivalent qualification standards, we will increase the available pool of qualified laboratory personnel which will enable laboratories to meet the certification requirements without compromising the health and safety of patients. We expect many laboratories to benefit from this revision to the regulations, especially those in rural and underserved areas who are experiencing personnel shortages and the resultant limited patient access to laboratory services.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 493

Grant programs—health, Health facilities, Laboratories, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR part 493 is amended as set forth below:

PART 493—LABORATORY PROCEDURES

1. The authority citation for part 493 is revised to read as follows:

Authority: Sec. 353 of the Public Health Service Act, secs. 1102, 1861(e), the sentence following 1861(s)(11), 1861(s)(12), 1861(s)(13), 1861(s)(14), 1861(s)(15), and 1861(s)(16) of the Social Security Act (42 U.S.C. 263a, 1302, 1395x(e), the sentence following 1395x(s)(11), 1395x(s)(12), 1395x(s)(13), 1395x(s)(14), 1395x(s)(15), and 1395x(s)(16)).

2. Section 493.2 is amended by revising the definition of "CLIA certificate" and "physician" and adding in alphabetical order definitions of "Dentist" and "Midlevel practitioner" to read as follows:

§ 493.2 Definitions.

* * * * *

CLIA certificate means any of the following types of certificates issued by HCFA or its agent:

(1) *Certificate of compliance* means a certificate issued to a laboratory after an inspection that finds the laboratory to be in compliance with all applicable condition level requirements, or reissued before the expiration date, pending an appeal, in accordance with § 493.49, when an inspection has found the laboratory to be out of compliance with one or more condition level requirements.

(2) *Certificate for provider-performed microscopy (PPM) procedures* means a certificate issued or reissued before the expiration date, pending an appeal, in accordance with § 493.47, to a laboratory in which a physician, midlevel practitioner or dentist performs no tests other than PPM procedures and, if desired, waived tests listed in § 493.15(c).

(3) *Certificate of accreditation* means a certificate issued on the basis of the laboratory's accreditation by an accreditation organization approved by HCFA (indicating that the laboratory is deemed to meet applicable CLIA requirements) or reissued before the expiration date, pending an appeal, in accordance with § 493.61, when a validation or complaint survey has found the laboratory to be noncompliant with one or more CLIA conditions.

(4) *Certificate of registration or registration certificate* means a certificate issued or reissued before the expiration date, pending an appeal, in accordance with § 493.45, that enables the entity to conduct moderate or high complexity laboratory testing or both until the entity is determined to be in compliance through a survey by HCFA or its agent; or in accordance with § 493.57 to an entity that is accredited by an approved accreditation organization.

(5) *Certificate of waiver* means a certificate issued or reissued before the expiration date, pending an appeal, in accordance with § 493.37, to a laboratory to perform only the waived tests listed at § 493.15(c).

* * * * *

Dentist means a doctor of dental medicine or doctor of dental surgery licensed by the State to practice dentistry within the State in which the laboratory is located.

* * * * *

Midlevel practitioner means a nurse midwife, nurse practitioner, or physician assistant, licensed by the State within which the individual practices, if such licensing is required in the State in which the laboratory is located.

* * * * *

Physician means an individual with a doctor of medicine, doctor of osteopathy, or doctor of podiatric medicine degree who is licensed by the State to practice medicine, osteopathy, or podiatry within the State in which the laboratory is located.

* * * * *

3. In § 493.3, the introductory text of paragraph (a) is republished and paragraph (a)(1) is revised to read as follows:

§ 493.3 Applicability.

(a) *Basic rule.* Except as specified in paragraph (b) of this section, a laboratory will be cited as out of compliance with section 353 of the Public Health Service Act unless it—

(1) Has a current, unrevoked or unsuspended certificate of waiver, registration certificate, certificate of compliance, certificate for PPM procedures, or certificate of accreditation issued by HHS applicable to the category of examinations or procedures performed by the laboratory; or

* * * * *

4. A new § 493.5 is added to read as follows:

§ 493.5 Categories of tests by complexity.

(a) Laboratory tests are categorized as one of the following:

(1) Waived tests.

(2) Tests of moderate complexity, including the subcategory of PPM procedures.

(3) Tests of high complexity.

(b) A laboratory may perform only waived tests, only tests of moderate complexity, only PPM procedures, only tests of high complexity or any combination of these tests.

(c) Each laboratory must be either CLIA-exempt or possess one of the following CLIA certificates, as defined in § 493.2:

(1) Certificate of registration or registration certificate.

(2) Certificate of waiver.

(3) Certificate for PPM procedures.

(4) Certificate of compliance.

(5) Certificate of accreditation.

§ 493.10 [Removed]

5. Section 493.10 is removed.

§ 493.16 [Redesignated as § 493.19]

6. Section 493.16 is redesignated as § 493.19 and is revised to read as follows:

§ 493.19 Provider-performed microscopy (PPM) procedures.

(a) *Requirement.* To be categorized as a PPM procedure, the procedure must meet the criteria specified in paragraph (b) of this section.

(b) *Criteria.* Procedures must meet the following specifications:

(1) The examination must be personally performed by one of the following practitioners:

(i) A physician during the patient's visit on a specimen obtained from his or her own patient or from a patient of a group medical practice of which the physician is a member or an employee.

(ii) A midlevel practitioner, under the supervision of a physician or in independent practice only if authorized by the State, during the patient's visit on a specimen obtained from his or her own patient or from a patient of a clinic, group medical practice, or other health care provider of which the midlevel practitioner is a member or an employee.

(iii) A dentist during the patient's visit on a specimen obtained from his or her own patient or from a patient of a group dental practice of which the dentist is a member or an employee.

(2) The procedure must be categorized as moderately complex.

(3) The primary instrument for performing the test is the microscope, limited to bright-field or phase-contrast microscopy.

(4) The specimen is labile or delay in performing the test could compromise the accuracy of the test result.

(5) Control materials are not available to monitor the entire testing process.

(6) Limited specimen handling or processing is required.

(c) *Provider-performed microscopy (PPM) examinations.* A laboratory may qualify to perform tests under this section if it restricts PPM examinations to one or more of the following procedures (or additional procedures added to this list as provided under paragraph (d) of this section), waived tests and no others:

(1) All direct wet mount preparations for the presence or absence of bacteria, fungi, parasites, and human cellular elements.

(2) All potassium hydroxide (KOH) preparations.

(3) Pinworm examinations.

(4) Fern tests.

(5) Post-coital direct, qualitative examinations of vaginal or cervical mucous.

(6) Urine sediment examinations.

(7) Nasal smears for granulocytes.

(8) Fecal leukocyte examinations.

(9) Qualitative semen analysis (limited to the presence or absence of sperm and detection of motility).

(d) *Revisions to criteria and the list of PPM procedures.*

(1) The CLIAC conducts reviews upon HHS' request and recommends to HHS revisions to the criteria for categorization of procedures.

(2) HHS determines whether a laboratory procedure meets the criteria listed under paragraph (b) of this section for a PPM procedure. Revisions to the list of PPM procedures proposed by HHS are published in the **Federal Register** as a notice with an opportunity for public comment.

(e) *Laboratory requirements.* Laboratories eligible to perform PPM examinations must—

(1) Meet the applicable requirements in subpart C or subpart D, and subparts F, H, J, K, M, and P of this part.

(2) Be subject to inspection as specified under subpart Q of this part.

7. Section 493.20 is revised to read as follows:

§ 493.20 Laboratories performing tests of moderate complexity.

(a) A laboratory may qualify for a certificate to perform tests of moderate complexity provided that it restricts its test performance to waived tests or examinations and one or more tests or examinations meeting criteria for tests of moderate complexity including the subcategory of PPM procedures.

(b) A laboratory that performs tests or examinations of moderate complexity must meet the applicable requirements in subpart C or subpart D, and subparts F, H, J, K, M, P, and Q of this part. Under a registration certificate or certificate of compliance, laboratories also performing PPM procedures must meet the inspection requirements at § 493.1777.

(c) If the laboratory also performs waived tests, compliance with subparts H, J, K, M, and P of this part is not applicable to the waived tests. However, the laboratory must comply with the requirements in §§ 493.15(e) and 493.1775.

8. In § 493.25, paragraphs (c) and (d) are redesignated as (d) and (c), respectively, and paragraphs (b), (c) and (d) are revised to read as follows:

§ 493.25 Laboratories performing tests of high complexity.

* * * * *

(b) A laboratory performing one or more tests of high complexity must meet the applicable requirements of subpart C or subpart D, and subparts F, H, J, K, M, P, and Q of this part.

(c) If the laboratory also performs tests of moderate complexity, the applicable requirements of subparts H, J, K, M, P, and Q of this part must be met. Under a registration certificate or certificate of compliance, PPM procedures must meet the inspection requirements at § 493.1777.

(d) If the laboratory also performs waived tests, the requirements of subparts H, J, K, M, and P are not applicable to the waived tests. However, the laboratory must comply with the requirements in §§ 493.15(e) and 493.1775.

9. In § 493.35, paragraphs (a) and (d) are revised to read as follows:

§ 493.35 Application for a certificate of waiver.

(a) *Filing of application.* Except as specified in paragraph (b) of this section, a laboratory performing only one or more waived tests listed in § 493.15 must file a separate application for each laboratory location.

* * * * *

(d) *Access requirements.* Laboratories that perform one or more waived tests listed in § 493.15(c) and no other tests must meet the following conditions:

(1) Make records available and submit reports to HHS as HHS may reasonably require to determine compliance with this section and § 493.15(e);

(2) Agree to permit announced and unannounced inspections by HHS in accordance with subpart Q of this part under the following circumstances:

(i) When HHS has substantive reason to believe that the laboratory is being operated in a manner that constitutes an imminent and serious risk to human health.

(ii) To evaluate complaints from the public.

(iii) On a random basis to determine whether the laboratory is performing tests not listed in § 493.15.

(iv) To collect information regarding the appropriateness of waiver of tests listed in § 493.15.

* * * * *

10. In § 493.37, the introductory text of paragraph (b) is republished and paragraphs (b)(2) and (g) are revised to read as follows:

§ 493.37 Requirements for a certificate of waiver.

* * * * *

(b) Laboratories issued a certificate of waiver—

* * * * *

(2) Must permit announced or unannounced inspections by HHS in accordance with subpart Q of this part.

* * * * *

(g) A laboratory with a certificate of waiver that wishes to perform examinations or tests not listed in the waiver test category must meet the requirements set forth in subpart C or subpart D of this part, as applicable.

11. In § 493.39, the introductory paragraph is republished and paragraph (a) is revised to read as follows:

§ 493.39 Notification requirements for laboratories issued a certificate of waiver.

Laboratories performing one or more tests listed in § 493.15 and no others must notify HHS or its designee—

(a) Before performing and reporting results for any test or examination that is not specified under § 493.15 for which the laboratory does not have the appropriate certificate as required in subpart C or subpart D of this part, as applicable; and

* * * * *

12. The heading of subpart C is revised to read as follows:

Subpart C—Registration Certificate, Certificate for Provider-performed Microscopy Procedures, and Certificate of Compliance

13. In § 493.43, the heading and paragraph (a) are revised to read as follows:

§ 493.43 Application for registration certificate, certificate for provider-performed microscopy (PPM) procedures, and certificate of compliance.

(a) *Filing of application.* Except as specified in paragraph (b) of this section, all laboratories performing tests of moderate complexity (including the subcategory) or high complexity, or any combination of these tests, must file a separate application for each laboratory location.

* * * * *

14. In § 493.45, a new introductory paragraph is added, the introductory paragraph (a) is republished, paragraph (a)(3) is removed, and paragraphs (a)(1), (a)(2), (d), and (f) are revised to read as follows:

§ 493.45 Requirements for a registration certificate.

Laboratories performing only waived tests, PPM procedures, or any combination of these tests, are not required to obtain a registration certificate.

(a) A registration certificate is required—(1) Initially for all laboratories performing test procedures of moderate complexity (other than the subcategory of PPM procedures) or high complexity, or both; and

(2) For all laboratories that have been issued a certificate of waiver or certificate for PPM procedures that intend to perform tests of moderate or high complexity, or both, in addition to those tests listed in § 493.15(c) or specified as PPM procedures.

* * * * *

(d) In accordance with subpart R of this part, HHS will initiate suspension or revocation of a laboratory's registration certificate and will deny the laboratory's application for a certificate of compliance for failure to comply with the requirements set forth in this subpart. HHS may also impose certain alternative sanctions. In addition, failure to meet the requirements of this subpart will result in suspension of payments under Medicare and Medicaid as specified in subpart R of this part.

* * * * *

(f) In the event of a noncompliance determination resulting in an HHS denial of a laboratory's certificate of compliance application, HHS will provide the laboratory with a statement of grounds on which the noncompliance determination is based and offer an opportunity for appeal as provided in subpart R.

* * * * *

15. In § 493.47, the heading, paragraph (a), the introductory text of paragraphs (b) and (c), paragraph (c)(2), and paragraphs (d) and (e) are revised to read as follows:

§ 493.47 Requirements for a certificate for provider-performed microscopy (PPM) procedures.

(a) A certificate for PPM procedures is required—

(1) Initially for all laboratories performing test procedures specified as PPM procedures; and

(2) For all certificate of waiver laboratories that intend to perform only test procedures specified as PPM procedures in addition to those tests listed in § 493.15(c).

(b) HHS will issue a certificate for PPM procedures if the laboratory—

* * * * *

(c) Laboratories issued a certificate for PPM procedures are subject to—

* * * * *

(2) The applicable requirements of this subpart and subparts H, J, K, M, and P of this part; and

* * * * *

(d) In accordance with subpart R of this part, HHS will initiate suspension, limitation, or revocation of a laboratory's certificate for PPM procedures for failure to comply with the applicable requirements set forth in this subpart. HHS may also impose certain alternative sanctions. In addition, failure to meet the requirements of this subpart may result in suspension of all or part of payments under Medicare and Medicaid, as specified in subpart R of this part.

(e) A certificate for PPM procedures is valid for a period of no more than 2 years.

16. Section 493.49 is revised to read as follows:

§ 493.49 Requirements for a certificate of compliance.

A certificate of compliance may include any combination of tests categorized as high complexity or moderate complexity or listed in § 493.15(c) as waived tests. Moderate complexity tests may include those specified as PPM procedures.

(a) HHS will issue a certificate of compliance to a laboratory only if the laboratory—

(1) Meets the requirements of §§ 493.43 and 493.45;

(2) Remits the certificate fee specified in subpart F of this part; and

(3) Meets the applicable requirements of this subpart and subparts H, J, K, M, P, and Q of this part.

(b) Laboratories issued a certificate of compliance—

(1) Are subject to the notification requirements of § 493.51; and

(2) Must permit announced or unannounced inspections by HHS in accordance with subpart Q of this part—

(i) To determine compliance with the applicable requirements of this part;

(ii) To evaluate complaints;

(iii) When HHS has substantive reason to believe that tests are being performed, or the laboratory is being operated in a manner that constitutes an imminent and serious risk to human health; and

(iv) To collect information regarding the appropriateness of tests listed in § 493.15 or tests categorized as moderate complexity (including the subcategory) or high complexity.

(c) Failure to comply with the requirements of this subpart will result in—

(1) Suspension, revocation or limitation of a laboratory's certificate of compliance in accordance with subpart R of this part; and

(2) Suspension or denial of payments under Medicare and Medicaid in accordance with subpart R of this part.

(d) A certificate of compliance issued under this subpart is valid for no more than 2 years.

(e) In the event of a noncompliance determination resulting in an HHS action to revoke, suspend or limit the laboratory's certificate of compliance, HHS will—

(1) Provide the laboratory with a statement of grounds on which the determination of noncompliance is based; and

(2) Offer an opportunity for appeal as provided in subpart R of this part. If the laboratory requests a hearing within 60 days of the notice of sanction, it retains its certificate of compliance or reissued certificate of compliance until a decision is made by an administrative law judge (ALJ) as provided in subpart R of this part, except when HHS finds that conditions at the laboratory pose an imminent and serious risk to human health or when the criteria at § 493.1840(a) (4) and (5) are met.

(f) For laboratories receiving payment from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory of a noncompliance determination even if there has been no appeals decision issued.

(g) A laboratory seeking to renew its certificate of compliance must—

(1) Complete and return the renewal application to HHS 9 to 12 months prior to the expiration of the certificate of compliance; and

(2) Meet the requirements of § 493.43 and paragraphs (a)(2) and (b)(2) of this section.

(h) If HHS determines that the application for the renewal of a certificate of compliance must be denied or limited, HHS will notify the laboratory in writing of the—

(1) Basis for denial of the application; and

(2) Opportunity for appeal as provided in subpart R of this part.

(i) If the laboratory requests a hearing within the time period specified by HHS, the laboratory retains its certificate of compliance or reissued certificate of compliance until a decision is made by an ALJ as provided in subpart R, except when HHS finds that conditions at the laboratory pose an imminent and serious risk to human health.

(j) For laboratories receiving payment from the Medicare or Medicaid program, such payments will be suspended on the effective date specified in the notice to the laboratory of nonrenewal of the certificate of compliance even if there has been no appeals decision issued.

17. In § 493.51, the introductory paragraph of paragraph (a) is republished and the heading, the section's introductory paragraph and paragraphs (a)(5), (b) and (c) are revised to read as follows:

§ 493.51 Notification requirements for laboratories issued a certificate of compliance.

Laboratories issued a certificate of compliance must meet the following conditions:

(a) Notify HHS or its designee within 30 days of any change in—

* * * * *

(5) Technical supervisor (laboratories performing high complexity only).

(b) Notify HHS no later than 6 months after performing any test or examination within a specialty or subspecialty area that is not included on the laboratory's certificate of compliance, so that compliance with requirements can be determined.

(c) Notify HHS no later than 6 months after any deletions or changes in test methodologies for any test or examination included in a specialty or subspecialty, or both, for which the laboratory has been issued a certificate of compliance.

18. In § 493.53, the heading, the introductory paragraph, and paragraph (a) are revised to read as follows:

§ 493.53 Notification requirements for laboratories issued a certificate for provider-performed microscopy (PPM) procedures.

Laboratories issued a certificate for PPM procedures must notify HHS or its designee—

(a) Before performing and reporting results for any test of moderate or high complexity, or both, in addition to tests specified as PPM procedures or any test or examination that is not specified under § 493.15(c), for which it does not have a registration certificate as required in subpart C or subpart D, as applicable, of this part; and

* * * * *

19. The introductory text of § 493.55(a) is revised to read as follows:

§ 493.55 Application for registration certificate and certificate of accreditation.

(a) *Filing of application.* A laboratory may be issued a certificate of accreditation in lieu of the applicable certificate specified in subpart B or subpart C of this part provided the laboratory—

* * * * *

20. In § 493.57, the introductory paragraph and paragraph (b) are revised to read as follows:

§ 493.57 Requirements for a registration certificate.

A registration certificate is required for all laboratories seeking a certificate of accreditation, unless the laboratory holds a valid certificate of compliance issued by HHS.

* * * * *

(b)(1) The laboratory must provide HHS with proof of accreditation by an approved accreditation program—

(i) Within 11 months of issuance of the registration certificate; or

(ii) Prior to the expiration of the certificate of compliance.

(2) If such proof of accreditation is not supplied within this timeframe, the laboratory must meet, or continue to meet, the requirements of § 493.49.

* * * * *

21. In § 493.511, paragraph (h) is revised to read as follows:

§ 493.511 Removal of deeming authority and final determination review.

* * * * *

(h) After HCFA withdraws approval of an accreditation organization's deeming authority, the certificates of accreditation of all affected laboratories continue in effect for 60 days after the laboratory receives notification of the withdrawal of approval. HCFA may extend the period for an additional 60 days for a laboratory if it determines that the laboratory submitted an application for inspection to another approved accreditation organization or an application for the appropriate certificate to HCFA, the State agency, or other HCFA agent before the initial 60-day period ends.

* * * * *

22. Paragraph (j) of § 493.521 is revised to read as follows:

§ 493.521 Removal of CLIA exemption and final determination review.

* * * * *

(j) After HCFA withdraws approval of a State laboratory licensure program, the exempt status of licensed or approved laboratories in the State continues in effect for 60 days after the laboratory receives notification from the State of the withdrawal of HCFA's approval of the program. HCFA may extend this period for an additional 60 days for a laboratory if it determines that the laboratory submitted an application for accreditation to an approved accreditation organization or an application to HCFA for the appropriate certificate before the initial 60-day period ends.

* * * * *

23. Section 493.602 is revised to read as follows:

§ 493.602 Scope of subpart.

This subpart sets forth the methodology for determining the amount of the fees for issuing the appropriate certificate, and for determining compliance with the applicable standards of the Public Health Service Act (the PHS Act) and the Federal validation of accredited laboratories and of CLIA-exempt laboratories.

§§ 493.610, 493.614, 493.618, 493.622, 493.626, 493.629, 493.630, 493.631, 493.632, 493.633 and 493.634 [Removed]

24. Sections 493.610, 493.614, 493.618, 493.622, 493.626, 493.629, 493.630, 493.631, 493.632, 493.633 and 493.634 are removed.

25. Section 493.638 is revised to read as follows:

§ 493.638 Certificate fees.

(a) *Basic rule.* Laboratories must pay a fee for the issuance of a registration certificate, certificate for PPM procedures, certificate of waiver, certificate of accreditation, or a certificate of compliance, as applicable. Laboratories must also pay a fee to reapply for a certificate for PPM procedures, certificate of waiver, certificate of accreditation, or a certificate of compliance. The total of fees collected by HHS under the laboratory program must be sufficient to cover the general costs of administering the laboratory certification program under section 353 of the PHS Act.

(1) For registration certificates and certificates of compliance, the costs include issuing the certificates, collecting the fees, evaluating and monitoring proficiency testing programs, evaluating which procedures, tests or examinations meet the criteria for inclusion in the appropriate complexity category, and implementing section 353 of the PHS Act.

(2) For a certificate of waiver, the costs include issuing the certificate, collecting the fees, determining if a certificate of waiver should be issued, evaluating which tests qualify for inclusion in the waived category, and other direct administrative costs.

(3) For a certificate for PPM procedures, the costs include issuing the certificate, collecting the fees, determining if a certificate for PPM procedures should be issued, evaluating which procedures meet the criteria for inclusion in the subcategory of PPM procedures, and other direct administrative costs.

(4) For a certificate of accreditation, the costs include issuing the certificate, collecting the fees, evaluating the programs of accrediting bodies, and other direct administrative costs.

(b) *Fee amount.* The fee amount is set annually by HHS on a calendar year basis and is based on the category of test complexity, or on the category of test complexity and schedules or ranges of annual laboratory test volume (excluding waived tests and tests performed for quality control, quality assurance, and proficiency testing purposes) and specialties tested, with the amounts of the fees in each schedule being a function of the costs for all aspects of general administration of CLIA as set forth in § 493.649 (b) and (c). This fee is assessed and payable at least biennially. The methodology used to determine the amount of the fee is found in § 493.649. The amount of the fee applicable to the issuance of the registration certificate or the issuance or renewal of the certificate for PPM procedures, certificate of waiver, certificate of accreditation, or certificate of compliance is the amount in effect at the time the application is received. Upon receipt of an application for a certificate, HHS or its designee notifies the laboratory of the amount of the required fee for the requested certificate.

26. Section 493.639(b) is revised to read as follows:

§ 493.639 Fee for revised certificate.

* * * * *

(b) A laboratory must pay a fee to cover the cost of issuing a revised certificate in any of the following circumstances:

(1) The fee for issuing an appropriate revised certificate is based on the cost to issue the revised certificate to the laboratory as follows:

(i) If a laboratory with a certificate of waiver wishes to perform tests in addition to those listed in § 493.15(c) as waived tests, it must, as set forth in § 493.636, pay an additional fee for the appropriate certificate to cover the additional testing.

(ii) If a laboratory with a certificate for PPM procedures wishes to perform tests in addition to those specified as PPM procedures or listed in § 493.15(c) as waived tests, it must, as set forth in § 493.638, pay an additional fee for the appropriate certificate to cover the additional testing.

(2) A laboratory must pay a fee to cover the cost of issuing a revised certificate when—

(i) A laboratory changes its name, location, or its director; or

(ii) A laboratory deletes services or wishes to add services and requests that its certificate be changed. (An additional fee is also required under § 493.643(d) if it is necessary to determine compliance with additional requirements.)

27. In § 493.643, paragraphs (a) and (d) are revised to read as follows:

§ 493.643 Fee for determination of program compliance.

(a) *Fee requirement.* In addition to the fee required under § 493.638, a laboratory subject to routine inspections must pay a fee to cover the cost of determining program compliance. Laboratories issued a certificate for PPM procedures, certificate of waiver, or a certificate of accreditation are not subject to this fee for routine inspections.

* * * * *

(d) *Additional fees.* (1) If after a certificate of compliance is issued, a laboratory adds services and requests that its certificate be upgraded, the laboratory must pay an additional fee if, in order to determine compliance with additional requirements, it is necessary to conduct an inspection, evaluate personnel, or monitor proficiency testing performance. The additional fee is based on the actual resources and time necessary to perform the activities. HHS revokes the laboratory's certificate for failure to pay the compliance determination fee.

(2) If it is necessary to conduct a complaint investigation, impose sanctions, or conduct a hearing, HHS assesses the laboratory holding a certificate of compliance a fee to cover the cost of these activities. If a complaint investigation results in a complaint being unsubstantiated, or if an HHS adverse action is overturned at the conclusion of the administrative appeals process, the government's costs of these activities are not imposed upon the laboratory. Costs for these activities are based on the actual resources and time necessary to perform the activities and are not assessed until after the laboratory concedes the existence of deficiencies or an ALJ rules in favor of HHS. HHS revokes the laboratory's certificate of compliance for failure to pay the assessed costs.

28. Section 493.645 is revised to read as follows:

§ 493.645 Additional fee(s) applicable to approved State laboratory programs and laboratories issued a certificate of accreditation, certificate of waiver, or certificate for PPM procedures.

(a) *Approved State laboratory programs.* State laboratory programs approved by HHS are assessed a fee for the following:

(1) Costs of Federal inspections of laboratories in that State (that is, CLIA-exempt laboratories) to verify that

standards are being enforced in an appropriate manner.

(2) Costs incurred for investigations of complaints against the State's CLIA-exempt laboratories if the complaint is substantiated.

(3) Costs of the State's prorata share of general overhead to develop and implement CLIA.

(b) *Accredited laboratories.* (1) In addition to the certificate fee, a laboratory that is issued a certificate of accreditation is also assessed a fee to cover the cost of evaluating individual laboratories to determine overall whether an accreditation organization's standards and inspection policies are equivalent to the Federal program. All accredited laboratories share in the cost of these inspections. These costs are the same as those that are incurred when inspecting nonaccredited laboratories.

(2) If a laboratory issued a certificate of accreditation has been inspected and followup visits are necessary because of identified deficiencies, HHS assesses the laboratory a fee to cover the cost of these visits. The fee is based on the actual resources and time necessary to perform the followup visits. HHS revokes the laboratory's certificate of accreditation for failure to pay the assessed fee.

(c) If, in the case of a laboratory that has been issued a certificate of accreditation, certificate of waiver, or certificate for PPM procedures, it is necessary to conduct a complaint investigation, impose sanctions, or conduct a hearing, HHS assesses that laboratory a fee to cover the cost of these activities. Costs are based on the actual resources and time necessary to perform the activities and are not assessed until after the laboratory concedes the existence of deficiencies or an ALJ rules in favor of HHS. HHS revokes the laboratory's certificate for failure to pay the assessed costs. If a complaint investigation results in a complaint being unsubstantiated, or if an HHS adverse action is overturned at the conclusion of the administrative appeals process, the costs of these activities are not imposed upon the laboratory.

29. Section 493.646(a) is revised to read as follows:

§ 493.646 Payment of fees.

(a) Except for CLIA-exempt laboratories, all laboratories are notified in writing by HHS or its designee of the appropriate fee(s) and instructions for submitting the fee(s), including the due date for payment and where to make payment. The appropriate certificate is not issued until the applicable fees have been paid.

* * * * *

30. In § 493.649, paragraph (a) and the introductory paragraph of paragraph (b) are revised to read as follows:

§ 493.649 Methodology for determining fee amount.

(a) *General rule.* The amount of the fee in each schedule for compliance determination inspections is based on the average hourly rate (which includes the costs to perform the required activities and necessary administration costs) multiplied by the average number of hours required or, if activities are performed by more than one of the entities listed in paragraph (b) of this section, the sum of the products of the applicable hourly rates multiplied by the average number of hours required by the entity to perform the activity. The fee for issuance of the registration certificate or certificate of compliance is based on the laboratory's scope and volume of testing.

(b) *Determining average hourly rates used in fee schedules.* Three different entities perform activities related to the issuance or reissuance of any certificate. HHS determines the average hourly rates for the activities of each of these entities.

* * * * *

31. The heading of subpart H is revised to read as follows:

Subpart H—Participation in Proficiency Testing for Laboratories Performing Tests of Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests

32. Section 493.803(a) is revised to read as follows:

§ 493.803 Condition: Successful participation.

(a) Each laboratory performing tests of moderate complexity (including the subcategory) and/or high complexity must successfully participate in a proficiency testing program approved by HCFA, if applicable, as described in subpart I of this part for each specialty, subspecialty, and analyte or test in which the laboratory is certified under CLIA.

* * * * *

33. The heading of § 493.807 is revised to read as follows:

§ 493.807 Condition: Reinstatement of laboratories performing tests of moderate complexity (including the subcategory), high complexity, or any combination of these tests, after failure to participate successfully.

* * * * *

34. The undesignated center heading immediately preceding § 493.821 is revised to read as follows:

Proficiency Testing by Specialty and Subspecialty for Laboratories Performing Tests of Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests

35. The heading to subpart I is revised to read as follows:

Subpart I—Proficiency Testing Programs for Tests of Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests

36. The heading for subpart J is revised to read as follows:

Subpart J—Patient Test Management for Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests

37. Section 493.1101 is revised to read as follows:

§ 493.1101 Condition: Patient test management; moderate complexity (including the subcategory), or high complexity testing, or any combination of these tests.

Each laboratory performing moderate complexity (including the subcategory) or high complexity testing, or any combination of these tests, must employ and maintain a system that provides for proper patient preparation; proper specimen collection, identification, preservation, transportation, and processing; and accurate result reporting. This system must assure optimum patient specimen integrity and positive identification throughout the preanalytic (pre-testing), analytic (testing), and postanalytic (post-testing) processes and must meet the standards as they apply to the testing performed.

38. The heading to subpart K is revised to read as follows:

Subpart K—Quality Control for Tests of Moderate Complexity (Including the Subcategory), High Complexity, or Any Combination of These Tests

39. The heading to § 493.1201 is revised to read as follows:

§ 493.1201 Condition: General quality control; moderate complexity (including the subcategory) or high complexity testing, or any combination of these tests.

40. The heading to subpart M is revised to read as follows:

Subpart M—Personnel for Moderate Complexity (Including the Subcategory) and High Complexity Testing

41. New § 493.1351 is added to subpart M to read as follows:

§ 493.1351 General.

This subpart consists of the personnel requirements that must be met by laboratories performing moderate complexity testing, PPM procedures, high complexity testing, or any combination of these tests.

42. Following § 493.1351, a new undesignated center heading and new §§ 493.1353, 493.1355, 493.1357, 493.1359, 493.1361, 493.1363, and 493.1365 are added to subpart M to read as follows:

Laboratories Performing Provider-Performed Microscopy (PPM) Procedures

§ 493.1353 Scope.

In accordance with § 493.19(b), the moderate complexity procedures specified as PPM procedures are considered such only when personally performed by a health care provider during a patient visit in the context of a physical examination. PPM procedures are subject to the personnel requirements in §§ 493.1355 through 493.1365.

§ 493.1355 Condition: Laboratories performing PPM procedures; laboratory director.

The laboratory must have a director who meets the qualification requirements of § 493.1357 and provides overall management and direction in accordance with § 493.1359.

§ 493.1357 Standard; laboratory director qualifications.

The laboratory director must be qualified to manage and direct the laboratory personnel and the performance of PPM procedures as specified in § 493.19(c) and must be eligible to be an operator of a laboratory within the requirements of subpart R of this part.

(a) The laboratory director must possess a current license as a laboratory director issued by the State in which the laboratory is located, if the licensing is required.

(b) The laboratory director must meet one of the following requirements:

(1) Be a physician, as defined in § 493.2.

(2) Be a midlevel practitioner, as defined in § 493.2, authorized by a State to practice independently in the State in which the laboratory is located.

(3) Be a dentist, as defined in § 493.2.

§ 493.1359 Standard; PPM laboratory director responsibilities.

The laboratory director is responsible for the overall operation and administration of the laboratory, including the prompt, accurate, and proficient reporting of test results. The laboratory director must—

(a) Direct no more than five laboratories; and

(b) Ensure that any procedure listed under § 493.19(c)—

(1) Is personally performed by an individual who meets the qualification requirements in § 493.1363; and

(2) Is performed in accordance with applicable requirements in subparts H, J, K, M, and P of this part.

§ 493.1361 Condition: Laboratories performing PPM procedures; testing personnel.

The laboratory must have a sufficient number of individuals who meet the qualification requirements of § 493.1363 to perform the functions specified in § 493.1365 for the volume and complexity of testing performed.

§ 493.1363 Standard: PPM testing personnel qualifications.

Each individual performing PPM procedures must—

(a) Possess a current license issued by the State in which the laboratory is located if the licensing is required; and

(b) Meet one of the following requirements:

(1) Be a physician, as defined in § 493.2.

(2) Be a midlevel practitioner, as defined in § 493.2, under the supervision of a physician or in independent practice if authorized by the State in which the laboratory is located.

(3) Be a dentist as defined in § 493.2 of this part.

§ 493.1365 Standard; PPM testing personnel responsibilities.

The testing personnel are responsible for specimen processing, test performance, and for reporting test results. Any PPM procedure must be—

(a) Personally performed by one of the following practitioners:

(1) A physician during the patient's visit on a specimen obtained from his or her own patient or from a patient of a group medical practice of which the physician is a member or employee.

(2) A midlevel practitioner, under the supervision of a physician or in independent practice if authorized by the State in which the laboratory is located, during the patient's visit on a specimen obtained from his or her own patient or from the patient of a clinic, group medical practice, or other health care provider, in which the midlevel practitioner is a member or an employee.

(3) A dentist during the patient's visit on a specimen obtained from his or her own patient or from a patient of a group dental practice of which the dentist is a member or an employee; and

(b) Performed using a microscope limited to a bright field or a phase/contrast microscope.

§ 493.1401 [Removed]

43. Section 493.1401 is removed.

44. In § 493.1461, the introductory text of paragraph (c) and paragraph (c)(2) is revised, and new paragraphs (c)(4) and (c)(5) are added to read as follows:

§ 493.1461 Standard; General supervisor qualifications.

* * * * *

(c) If the requirements of paragraph (b)(1) or paragraph (b)(2) of this section are not met, the individual functioning as the general supervisor must—

* * * * *

(2)(i) Qualify as testing personnel under § 493.1489(b)(2); and

(ii) Have at least 2 years of laboratory training or experience, or both, in high complexity testing; or

* * * * *

(4) On or before September 1, 1992, have served as a general supervisor of high complexity testing and as of April 24, 1995—

(i) Meet one of the following requirements:

(A) Have graduated from a medical laboratory or clinical laboratory training program approved or accredited by the Accrediting Bureau of Health Education Schools (ABHES), the Commission on Allied Health Education Accreditation (CAHEA), or other organization approved by HHS.

(B) Be a high school graduate or equivalent and have successfully completed an official U.S. military medical laboratory procedures course of at least 50 weeks duration and have held the military enlisted occupational specialty of Medical Laboratory Specialist (Laboratory Technician).

(ii) Have at least 2 years of clinical laboratory training, or experience, or both, in high complexity testing; or

(5) On or before September 1, 1992, have served as a general supervisor of high complexity testing and—

(i) Be a high school graduate or equivalent; and

(ii) Have had at least 10 years of laboratory training or experience, or both, in high complexity testing, including at least 6 years of supervisory

experience between September 1, 1982 and September 1, 1992.

* * * * *

§ 493.1483 [Amended]

45. In § 493.1483, all references to "§ 493.1489(b)(4)" are amended to read "§ 493.1489(b)(5)."

46. In § 493.1489, the introductory text to the section and to paragraph (b) are republished, paragraphs (b)(2) and (b)(4) through (b)(6) are revised, and paragraph (b)(7) is added to read as follows:

§ 493.1489 Standard; Testing personnel qualifications.

Each individual performing high complexity testing must—

* * * * *

(b) Meet one of the following requirements:

* * * * *

(2)(i) Have earned an associate degree in a laboratory science, or medical laboratory technology from an accredited institution or—

(ii) Have education and training equivalent to that specified in paragraph (b)(2)(i) of this section that includes—

(A) At least 60 semester hours, or equivalent, from an accredited institution that, at a minimum, include either—

(*1*) 24 semester hours of medical laboratory technology courses; or

(*2*) 24 semester hours of science courses that include—

(*i*) Six semester hours of chemistry;

(*ii*) Six semester hours of biology; and

(*iii*) Twelve semester hours of chemistry, biology, or medical laboratory technology in any combination; and

(B) Have laboratory training that includes either of the following:

(*1*) Completion of a clinical laboratory training program approved or accredited by the ABHES, the CAHEA, or other organization approved by HHS. (This training may be included in the 60 semester hours listed in paragraph (b)(2)(ii)(A) of this section.)

(*2*) At least 3 months documented laboratory training in each specialty in which the individual performs high complexity testing.

* * * * *

(4) On or before April 24, 1995 be a high school graduate or equivalent and have either—

(i) Graduated from a medical laboratory or clinical laboratory training program approved or accredited by ABHES, CAHEA, or other organization approved by HHS; or

(ii) Successfully completed an official U.S. military medical laboratory procedures training course of at least 50 weeks duration and have held the military enlisted occupational specialty of Medical Laboratory Specialist (Laboratory Technician);

(5)(i) Until September 1, 1997—

(A) Have earned a high school diploma or equivalent; and

(B) Have documentation of training appropriate for the testing performed before analyzing patient specimens. Such training must ensure that the individual has—

(*1*) The skills required for proper specimen collection, including patient preparation, if applicable, labeling, handling, preservation or fixation, processing or preparation, transportation and storage of specimens;

(*2*) The skills required for implementing all standard laboratory procedures;

(*3*) The skills required for performing each test method and for proper instrument use;

(*4*) The skills required for performing preventive maintenance, troubleshooting, and calibration procedures related to each test performed;

(*5*) A working knowledge of reagent stability and storage;

(*6*) The skills required to implement the quality control policies and procedures of the laboratory;

(*7*) An awareness of the factors that influence test results; and

(*8*) The skills required to assess and verify the validity of patient test results through the evaluation of quality control values before reporting patient test results; and

(ii) As of September 1, 1997, be qualified under § 493.1489(b)(1), (b)(2), or (b)(4), except for those individuals qualified under paragraph (b)(5)(i) of this section who were performing high complexity testing on or before April 24, 1995;

(6) For blood gas analysis—

(i) Be qualified under § 493.1489(b)(1), (b)(2), (b)(3), (b)(4), or (b)(5);

(ii) Have earned a bachelor's degree in respiratory therapy or cardiovascular technology from an accredited institution; or

(iii) Have earned an associate degree related to pulmonary function from an accredited institution; or

(7) For histopathology, meet the qualifications of § 493.1449 (b) or (l) to perform tissue examinations.

§ 493.1495 [Amended]

47. In § 493.1495, all references to "§ 493.1489(b)(4)" are amended to read "§ 493.1489(b)(5)."

48. The heading to subpart P is revised to read as follows:

Subpart P—Quality Assurance for Moderate Complexity (including the Subcategory) or High Complexity Testing, or Any Combination of These Tests

49. Section 493.1701 is revised to read as follows:

§ 493.1701 Condition: Quality assurance; moderate complexity (including the subcategory) or high complexity testing, or any combination of these tests.

Each laboratory performing moderate complexity (including the subcategory) or high complexity testing, or any combination of these tests, must establish and follow written policies and procedures for a comprehensive quality assurance program that is designed to monitor and evaluate the ongoing and overall quality of the total testing process (preanalytic, analytic, postanalytic). The laboratory's quality assurance program must evaluate the effectiveness of its policies and procedures; identify and correct problems; assure the accurate, reliable and prompt reporting of test results; and assure the adequacy and competency of the staff. As necessary, the laboratory must revise policies and procedures based upon the results of these evaluations. The laboratory must meet the standards as they apply to the services offered, complexity of testing performed and test results reported, and the unique practices of each testing entity. All quality assurance activities must be documented.

50. In § 493.1778, the introductory text of paragraphs (a), (b), and (b)(4) are republished and the heading and paragraphs (a)(3), (a)(4), (b)(1), (b)(4)(iii) and (b)(4)(iv) are revised to read as follows:

§ 493.1778 Condition: Inspection of laboratories issued a certificate for PPM procedures.

(a) HHS or its designee will conduct announced or unannounced inspections of any laboratory at any time during its hours of operation to—

* * * * *

(3) Determine whether the laboratory is performing tests in addition to procedures specified as PPM procedures; and

(4) Collect information regarding the appropriateness of tests specified as PPM procedures.

(b) The laboratory may be required, as part of this inspection, to—(1) Permit HHS or its designee to interview all employees of the laboratory concerning the laboratory's compliance with the applicable requirements of part 493. Requirements for the purposes of this section are located in subpart C or subpart D, if applicable, and subparts H, J, K, M, and P of this part;

* * * * *

(4) Permit HHS or its designee upon request to review all information and data necessary to—

* * * * *

(iii) Determine whether the laboratory is performing tests in addition to procedures specified as PPM procedures; (iv) Collect information regarding the appropriateness of tests specified as PPM procedures; and

* * * * *

51. In § 493.1777, introductory text to the section is added and the heading and paragraphs (a) and (g) are revised to read as follows:

§ 493.1777 Condition: Inspection of laboratories requesting or issued a certificate of compliance.

Laboratories requesting or issued a certificate of compliance must permit an inspection to assess compliance with part 493 of this chapter. Testing in the subcategory of PPM procedures, may be included in the laboratory's routine or complaint inspection. PPM procedures are assessed for compliance with only the applicable requirements specific to the subcategory of testing.

(a) HHS or its designee may conduct unannounced or announced inspections on at least a biennial basis of any laboratory at any time during its hours of operation. To assess compliance with the requirements of part 493, HHS will inspect a laboratory possessing a registration certificate before issuance of a certificate of compliance.

* * * * *

(g) Failure to permit an inspection under this subsection will result in the suspension of Medicare and Medicaid payments to the laboratory, or termination of the laboratory's participation in Medicare and Medicaid for payment, and suspension of or action to revoke the laboratory's CLIA certificate of compliance in accordance with subpart R of this part.

§ 493.1804 [Amended]

52. In § 493.1804(b)(2), the word "ore" is revised to read "or".

53. In § 493.1814, the introductory text of paragraph (b) is republished and paragraph (b)(3) is revised to read as follows:

§ 493.1814 Action when deficiencies are at the condition level but do not pose immediate jeopardy.

* * * * *

(b) *Failure to correct condition level deficiencies.* If HCFA imposes alternative sanctions for condition level deficiencies that do not pose immediate jeopardy, and the laboratory does not correct the condition level deficiencies within 12 months after the last day of inspection, HCFA—

* * * * *

(3) May impose (or continue, if already imposed) any alternative sanctions that do not pertain to Medicare payments. (Sanctions imposed under the authority of section 353 of the PHS Act may continue for more than 12 months from the last date of inspection, while a hearing on the proposed suspension, limitation, or revocation of the certificate of compliance, registration certificate, certificate of accreditation, or certificate for PPM procedures is pending.)

* * * * *

54. In § 493.1834, the heading and introductory text of paragraph (f)(2) are republished and paragraphs (b) and (f)(2)(iii) are revised to read as follows:

§ 493.1834 Civil money penalty.

* * * * *

(b) *Scope.* This section sets forth the procedures that HCFA follows to impose a civil money penalty in lieu of, or in addition to, suspending, limiting, or revoking the certificate of compliance, registration certificate, certificate of accreditation, or certificate for PPM procedures of a laboratory that is found to have condition level deficiencies.

* * * * *

(f) *Accrual and duration of penalty—*

* * * * *

(2) *Duration of penalty.* The civil money penalty continues to accrue until the earliest of the following occurs:

* * * * *

(iii) HCFA suspends, limits, or revokes the laboratory's certificate of compliance, registration certificate, certificate of accreditation, or certificate for PPM procedures.

* * * * *

55. In § 493.1836, the heading of paragraph (c) is republished and paragraphs (c)(2) and (c)(3) are revised to read as follows:

§ 493.1836 State onsite monitoring.

* * * * *

(c) *Duration of sanction.*

* * * * *

(2) If the laboratory does not correct all deficiencies within 12 months, and a revisit indicates that deficiencies remain, HCFA cancels the laboratory's approval for Medicare payment for its services and notifies the laboratory of its intent to suspend, limit, or revoke the laboratory's certificate of compliance, registration certificate, certificate of accreditation, or certificate for PPM procedures.

(3) If the laboratory still does not correct its deficiencies, the Medicare sanction continues until the suspension, limitation, or revocation of the laboratory's certificate of compliance, registration certificate, certificate of accreditation, or certificate for PPM procedures is effective.

56. In § 493.2001, paragraph (e) and paragraph (e)(1) are revised to read as follows:

§ 493.2001 Establishment and function of the Clinical Laboratory Improvement Advisory Committee.

* * * * *

(e) The Clinical Laboratory Improvement Advisory Committee or subcommittee, at the request of HHS, will review and make recommendations concerning:

(1) Criteria for categorizing tests and examinations of moderate complexity (including the subcategory) and high complexity;

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance; Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 23, 1994.

Philip R. Lee,

Assistant Secretary for Health.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: December 27, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 95–9953 Filed 4–21–95; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 93–179, FCC 95–133]

Price Cap Rules for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action is taken to incorporate explicitly the "add-back" adjustment into the local exchange carrier (LEC) price cap rules. The explicit add-back rule will first be applied when the LECs file their 1995 access tariffs. It is intended that the explicit add-back rule will ensure that

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the LEC price cap plan operates as the Commission intended when it adopted the LEC price cap plan.

EFFECTIVE DATE: May 24, 1995.

FOR FURTHER INFORMATION CONTACT:

Joanne F. Wall, (202) 418–1550.

SUPPLEMENTARY INFORMATION: On March 30, 1995, the Commission adopted a Report and Order in CC Docket No. 93–179 amending the Commission's LEC price cap rules. This order makes explicit the requirement that LECs must exclude the effects of sharing and low-end adjustments relating to the prior year before computing the earnings levels that determine required sharing or permitted low-end adjustments for the current year. The Commission found that this requirement, known as the "add-back adjustment" rule, is essential to ensure that the sharing and low-end adjustments of the LEC price cap plan achieve their intended purpose.

The full text of this item is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Part 61 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 61—TARIFFS

1. The authority citation continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403.

2. Section 61.3(o) is amended by adding a last sentence to read as follows:

§ 61.3 Definitions.

* * * * *

(o) * * * Base year or base period earnings shall not include amounts associated with exogenous adjustments to the PCI for the sharing or lower formula adjustment mechanisms.

* * * * *

[FR Doc. 95–10027 Filed 4–21–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–142; RM–8546]

Radio Broadcasting Services; Knoxville, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 287A to Knoxville, Illinois, as that community's first local aural service, at the request of John Pritchard. *See* 59 FR 64391, December 14, 1994. Channel 287A can be allotted to Knoxville in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for Channel 287A at Knoxville, Illinois, are North Latitude 40–54–30 and West Longitude 90–16–54. With this action, this proceeding is terminated.

DATES: Effective May 29, 1995. The window period for filing applications for Channel 287A at Knoxville, Illinois will open on May 29, 1995, and close on June 13, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94–142, adopted April 12, 1995, and released April 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW, Room 246, or 2100 M Street, NW, Suite 140, Washington, D. C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Knoxville, Channel 287A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–10026 Filed 4–21–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No.94–66; RM–8485]

Radio Broadcasting Services; Billings, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 286A to Billings, Montana, as that community's seventh FM broadcast service in response to a petition filed by Bruce L. Erickson. *See* 59 FR 35293, July 11, 1994. The coordinates for Channel 286A are 45–46–58 and 108–30–13. With this action this proceeding is terminated.

DATES: Effective May 29, 1995. The window period for filing applications for Channel 286A at Billings will open on May 29, 1995, and close on June 13, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 94–66, adopted April 12, 1995, and released April 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel 286A at Billings.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–10025 Filed 4–21–95; 8:45 am]

BILLING CODE 6712–01–F

Proposed Rules

Federal Register
Vol. 60, No. 78
Monday, April 24, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 55 and 59

[Docket No. PY-93-001]

RIN 0581-AA56

Voluntary and Mandatory Egg and Egg Products Inspection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: A review of the regulations implementing the voluntary and mandatory egg and egg products inspection programs authorized by the Agricultural Marketing Act of 1946, as amended, and the Egg Products Inspection Act identified a number of changes which are proposed to clarify and update the subject regulations. The proposed revisions redefine dirty eggs; define nest-run eggs, washed ungraded eggs, egg products split samples, and recognized laboratories; and clarify the type of facilities and equipment to be supplied to the grader/inspector, scheduling operations, officially identifying products, appeal procedures, equipment requirements, sanitizing shell eggs prior to breaking, and general operating procedures. The revisions would also provide for less than quarterly visits to hatcheries and update the types of nonallowed discrimination in providing service.

DATES: Comments must be received on or before June 23, 1995.

ADDRESSES: Send written comments, in duplicate, to Janice L. Lockard, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, Room 3944–South, P.O. Box 96456, Washington, DC 20090–6456. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Eastern Time, Monday through Friday, except holidays. State that your comments refer to Docket No. PY–93–001.

FOR FURTHER INFORMATION CONTACT: Larry W. Robinson, Chief, Grading Branch, 202/720–3271.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for purpose of Executive Order 12866 and therefore has not been reviewed by OMB.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The AMS Administrator has determined that these proposed rules, if promulgated, will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the proposed changes are primarily to remove obsolete material, correct erroneous wording and otherwise clarify, update, and simplify the regulations. Further, the revisions reflect sound manufacturing practices currently in use by most segments of industry and impose no major new requirements.

The information collection requirements contained in 7 CFR parts 55 and 59 have been approved by the Office of Management and Budget and assigned OMB Control Numbers 0581–0146 and 0581–0113, respectively, under the Paperwork Reduction Act of 1980.

Background

The proposed rule encompasses amendments for two separate, but related regulations. Regulations for voluntary inspection of egg products and grading (7 CFR part 55) are authorized by the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627). These regulations cover several types of inspection and grading activities and product identification or certification which are not covered by the mandatory inspection regulations. Regulations for the mandatory inspection of eggs and egg products (7 CFR part 59) are authorized by the Egg Products Inspection Act. (21 U.S.C. 1034). The regulations require and provide for the continuous inspection of the processing of egg products and the control and disposition of restricted eggs. The Act and regulations were designed to provide a safe food source for the consuming public. The proposed amendments for both regulations serve to clarify and update provisions commensurate with changes in industry technology and marketing practices, or are editorial in nature.

Proposed Changes

For the voluntary inspection program, the proposal would update the types of prohibited discrimination (§ 55.11). It would specify the facilities and equipment to be provided for sampling, weighing, and examination of product and the office space and equipment to be furnished (§ 55.95). Alternative work schedules also would be provided (§ 55.96). The proposal would provide for application of the official plant number at alternative locations on official labels (§ 55.310) and specify the permitted disposition of labels and packaging materials bearing official identification when inspection service is terminated by USDA (§ 55.330). The proposed revision also would clarify appeal gradings and inspections including certificate issuance (§ 55.410 through § 55.460).

For the mandatory inspection program, the proposal would redefine dirty eggs by deleting the term prominent stains. The proposal would also define nest-run eggs, washed ungraded eggs, egg products split samples, and recognized laboratories. (§ 59.5). It also would update the types of nonallowed discrimination (§ 59.17). The proposal would provide a minimum of one visit each fiscal year to hatcheries since present operating practices pose minimal risk of incubator reject eggs or other restricted eggs entering consumer channels (§ 59.28). In official egg products plants, it would define or specify the following: time of inspection, schedule of operation, basis of billing, the type of facilities and equipment to be furnished by the plant, application for continuous inspection and the requirements for blueprints, changes and approval (§§ 59.122 through 59.146). The proposal would clarify the conditions under which labeling of product is to be corrected in the appeal procedure (§§ 59.300 through 59.360), It also would clarify the

labeling requirements with regard to approval, format, terminology, identification, and disposition (§§ 59.411 through 59.417). In addition, the proposal expands on equipment requirements and general plant operational procedures, including the shipment of nondenatured inedible, use of approved compounds, candling and transfer room facilities and equipment and egg sanitizing requirements (§§ 59.502 through 59.515) due to changes in industry technology. Provisions are also proposed for liquid egg cooling and frozen egg defrosting with a definition of "cold tap water" (§§ 59.530 through 59.539). The disposition of restricted eggs and the labeling and sale of nest-run and washed ungraded eggs are further defined (§§ 59.720 through 59.801). The section dealing with imported shell eggs and egg products would be revised to require that the date of production be provided for shell eggs, to exempt certain shell eggs imported for breaking from primary container labeling requirements, and to clarify the provisions for relabeling imported egg products. (§§ 59.900 through 59.956).

List of Subjects

7 CFR Part 55

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 59

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, title 7, Code of Federal Regulations, parts 55 and 59 are amended as follows:

PART 55—REGULATIONS GOVERNING THE VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING.

1. The authority citation for part 55 continues to read as follows:

Authority: 7 U.S.C. 1621–1627

§ 55.11 [Amended]

2. Section 55.11 is amended by removing the words "or national origin" and adding in its place "national origin, age or disability".

3. Section 55.95 is revised to read as follows:

§ 55.95 Facilities and equipment to be furnished for use of graders and inspectors in performing service on a resident inspection basis.

(a) Facilities and equipment for proper sampling, weighing, examination of products and monitoring processing procedures shall be furnished by the official plant for use by inspectors and graders. Such facilities and equipment shall include but not be limited to a room or area suitable for sampling product, and acceptable candling light, flashlight, heavy duty, high speed drill with an eleven sixteenths-inch or larger bit of sufficient length to reach the bottom of containers used for frozen eggs, metal stem thermometer(s), test thermometer(s), stop watch, test weighing scale(s) and test weight(s), test kit for determining the bactericidal strength of sanitizing solutions, and stationary or adequately secured storage box or cage (capable of being locked only by the inspector) for holding official samples.

(b) Acceptable furnished office space and equipment, including but not being limited to, a desk, lockers or cabinets (equipped with a satisfactory locking device) suitable for the protection and storage of supplies, and with facilities for inspectors and graders to change clothing.

4. Section 55.96 is amended by adding a sentence before the last sentence and revising the last sentence of the section to read as follows:

§ 55.96 Schedule of operation of official plants.

* * * As an alternative, the normal operating schedule shall consist of a continuous 10-hour period per day (excluding not to exceed 1 hour for lunch), 4 consecutive days per week, within the administrative workweek, Sunday through Saturday for each full shift required. Graders are to be given reasonable advance notice by management of any change in the hours that grading service is requested.

5. In § 55.310, paragraph (b) is revised to read as follows:

§ 55.310 Form of official identification symbol and inspection mark.

* * * * *

(b) The inspection marks which are permitted to be used on products shall be contained within the outline of a shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be preceded by the letter "P" in lieu of the word "plant". Alternatively, it may be omitted from the official shield if applied on the container's principal display panel or other prominent location and preceded by the letter "P" or the word "Plant".

6. In § 55.330, paragraph (c) is revised to read as follows:

§ 55.330 Unauthorized use or disposition of approved labels.

* * * * *

(c) Upon termination of inspection service in an official plant pursuant to the regulations in this part, all labels or packaging material bearing official identification to be used to identify product packed by the plant shall either be destroyed, or have the official identification completely obliterated under the supervision of a USDA representative, or, if to be used at another location, modified in a manner acceptable to the Service.

7. In § 55.410, paragraph (b) is amended by removing the words "in the regional office" and adding in its place "with the Regional Director in the region", and revising the heading of paragraph (a) to read as follows:

§ 55.410 Where to file an appeal.

(a) *Appeal of resident grader's or inspector's grading or decision in an official plant.* * * *

8. Section 55.420 is revised to read as follows:

§ 55.420 How to file an appeal.

The request for an appeal grading or inspection or review of a grader's or inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reason(s) for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal grading or inspection site shall be provided to the appeal grader or inspector assigned to make the appeal grading or inspection.

§ 55.430 [Amended]

9. Section 55.430 is amended by adding after the words "or not substantial," the words "class, quality, quantity," and removing the word "such" after the words "reason(s) for"

10. Section 55.450 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c) and adding a new paragraph (a) to read as follows:

§ 55.450 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the grading or inspection being appealed was performed and must have been maintained under adequate refrigeration, when applicable.

* * * * *

11. In § 55.460, the last sentence is revised to read as follows:

§ 55.400 Appeal certificates.

* * * When the appeal grader or inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

12. The authority citation for part 59 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

13. Section 59.5 is amended by revising the definition for the term "Dirty egg" or "Dirties"; adding alphabetically four new terms; and by removing the word "salmonella" and adding the word "Salmonella" in its place everywhere it appears in the part.

§ 59.5 Terms defined.

* * * * *

Dirty egg or *Dirties* means an egg(s) that has an unbroken shell with adhering dirt or foreign material.

* * * * *

Nest-run eggs means eggs which are packed as they come from the production facilities without having been washed, sized and/or candled for quality, with the exception that some checks, dirties, or other obvious undergrades may have been removed.

* * * * *

Recognized Laboratory means a non-Federal laboratory which, upon review, meets the requirements established by USDA for analysis of egg products for the presence of Salmonella.

* * * * *

Split sample means an official sample of a pasteurized egg product collected by an inspector and divided into duplicate portions. One portion is to be analyzed for the presence of Salmonella by a recognized laboratory (for surveillance purposes) and the other portion by an AMS laboratory for comparative purposes.

* * * * *

Washed ungraded eggs means eggs which have been washed but not sized or segregated for quality.

* * * * *

§ 59.17 [Amended]

14. Section 59.17 is amended by removing the words "or national origin" and adding in its place "national origin, age, or disability".

15. Section 59.28(a)(1) is amended by revising the last sentence and adding an additional sentence, to read as follows:

§ 59.28 Other inspections.

(a) * * *

(1) * * * In the case of shell egg packers packing eggs for the ultimate consumer (i.e., packed for direct use of household consumers, restaurants, institutions, etc.), such inspections shall be made a minimum of once each calendar quarter. Hatcheries are to be inspected a minimum of once each fiscal year.

16. Section 59.122 is revised to read as follows:

§ 59.122 Time of inspection.

The inspector who is to perform the inspection in an official plant shall be given reasonable advance notice by plant management of the hours when such inspection will be required.

17. Section 59.124 is amended by adding a sentence at the end of the section to read as follows:

§ 59.124 Schedule of operation of official plants.

* * * As an alternative, the normal operating schedule shall consist of a continuous 10-hour period per day (excluding not to exceed 1 hour for lunch), 4 consecutive days per week, within the administrative workweek, Sunday through Saturday for each full shift required.

18. Section 59.130 is amended by adding two sentences at the end of the section to read as follows:

§ 59.130 Basis of billing plants.

* * * In addition, fees will be charged and collected for certifications requested by and provided for the official plant that are not within the scope of these regulations. Unless otherwise provided in this part, the fees to be charged and collected for any service performed (other than an appeal) shall be based on the applicable rates specified in the Regulations Governing the Voluntary Inspection of Egg Products and Grading (7 CFR 55.510 through 55.560).

19. In § 59.136, paragraph (a) is revised to read as follows:

§ 59.136 Facilities and equipment to be furnished by official plants for use of inspectors in performing service.

(a) Such facilities and equipment shall include but not be limited to a room or area suitable for sampling product, and acceptable: candling light, flashlight, heavy duty, high speed drill with an eleven sixteenths-inch or larger bit of sufficient length to reach the bottom of containers used for frozen eggs, metal stem thermometer(s), test thermometer(s), stop watch, test weighing scale(s) and test weight(s), test kit for determining the bactericidal strength of sanitizing solutions, and stationary or adequately secured storage box or cage (capable of being locked) for holding official samples.

* * * * *

20. Section 59.146 is amended by redesignating paragraph (d) as paragraph (e) and paragraph (e) as paragraph (d), revising paragraphs (b)(1), (b)(2), (b)(7), (c), newly redesignated (d) and (e) to read as follows, and removing paragraph (b)(8):

§ 59.146 Application for continuous inspection in official plants; approval.

* * * * *

(b) * * *

(1) Applicants may obtain information or assistance from the applicable Regional Director as to the requirements before submitting blueprint drawings, specifications, and supplemental information.

(2) Four copies of each blueprint drawing, as specified in this section of the complete floor plan, plot plan, supplemental information, and specifications shall be submitted. Sheet size of the print shall not exceed 34 by 44 inches, the wording shall be legible, all lines sharp and clear, and properly drawn to scale. Each print shall show the scale used, north point of the compass, and the firm name, street, city, state, and zip code or an accurate description of the location.

* * * * *

(7) Supplemental information may be shown as notations on the blueprint drawings or on supplemental sheets. Supplemental information shall include clarifying information such as sequence of processing edible products, handling of inedible product, shell disposal, handling of packaging material, liquid pumping systems, cleaned-in-place systems, description of pasteurizer, description of drier, type and efficiency of air filtration, hot water facilities, sewage disposal, and such other notations as may be required. Specification sheets shall indicate height of ceilings and type construction, type of floor and wall construction, wall and partition material, that floor/wall junctions are coved, when applicable, and number of employees who will use each toilet room and facilities.

(c) Upon approval of the blueprints, supplemental information, and specifications, the application for service may be approved.

(d) Final survey and plant approval: Prior to the inauguration of continuous inspection service, a final survey of the plant and premises shall be made by the supervisory egg products inspector to determine if the plant is constructed and facilities are installed in accordance with the approved blueprints and these regulations. The plant may be approved only when these requirements have been met.

(e) Changes and revisions of official plant: When changes are planned in official plant construction, facilities, and equipment covered by previously approved prints, a completely revised blueprint(s) showing proposed alterations and additions or an overlay print drawn to the same scale as the print to be modified or revised is required. Blueprints as specified shall be submitted prior to beginning new construction or alteration of existing facilities. A final survey of the completed alterations and additions shall be made by the supervisory egg products inspector to determine if the changes are in accordance with approved drawings and the regulations.

§ 59.155 [Amended]

21. Section 59.155 is amended by removing the last sentence of the section.

§ 59.300 [Amended]

22. Section 59.300 is amended by adding immediately after the word "class" the word ", quantity,".

§ 59.310 [Amended]

23. In § 59.310, paragraph (e) is amended by removing the word "from" in the heading and replacing it with the word "of", and in the first sentence, adding a comma followed by the word "quantity," immediately after the words "determination of the class", and adding a comma immediately after the words "left such plant".

24. Section 59.320 is revised to read as follows:

§ 59.320 How to file an appeal.

The request for an appeal inspection or review of an inspector's decision may be made orally or in writing. If made orally, written confirmation may be required. The applicant shall clearly state the identity of the product, the decision which is questioned, and the reason(s) for requesting the appeal service. If such appeal request is based on the results stated on an official certificate, the original and all copies of the certificate available at the appeal inspection site shall be provided to the inspector assigned to make the appeal inspection.

25. A new § 59.330 is added to read as follows:

§ 59.330 When an application for an appeal grading or inspection may be refused.

When it appears to the official with whom an appeal request is filed that the reasons given in the request are frivolous or not substantial, or that the condition of the product has undergone a material change since the original grading or inspection, or that the original lot has changed in some manner, or the Act or the regulations in this part have not been complied with, the applicant's request for the appeal inspection may be refused. In such case, the applicant shall be promptly notified of the reason(s) for such refusal.

26. Section 59.350 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c) and adding a new paragraph (a) to read as follows:

§ 59.350 Procedures for selecting appeal samples.

(a) *Prohibition on movement of product.* Products shall not have been moved from the place where the inspection being appealed was performed and must have been maintained under adequate refrigeration when applicable.

* * * * *

27. Section 59.360 is amended by revising the last sentence to read as follows:

§ 59.360 Appeal inspection certificates.

* * * When the appeal inspector assigns a different class to the lot or determines that a net weight shortage exists, the lot shall be retained pending correction of the labeling or approval of the product disposition by the National Supervisor.

28. Section 59.411 is amended by revising (b)(1) and (c)(1), revising the first sentence of (c)(1) and (e), and revising the last sentence of (e)(3) to read as follows:

§ 59.411 Requirement of formulas and approval of labels for use in official egg products plants.

* * * * *

(b) * * *

(1) A statement showing by their common or usual names the kinds and percentages of the ingredients comprising the egg product. A range may be given in cases where the percentages may vary from time to time. Formulas are to be expressed in terms of a liquid product except for products which are dry blended. Also, for products to be dried, the label may show the ingredients in the order of descending proportions by weight in the dried form. However, the formula submitted must include the percentage of ingredients in both liquid and dried form.

* * * * *

(c) * * *

(1) The common or usual name, if any, and if the product is comprised of two or more ingredients, such ingredients shall be listed in the order of descending proportions by weight in the form in which the product is to be marketed (sold), except that ingredients in dried products (other than dry blended) may be listed in either liquid or dried form. * * *

* * * * *

(3) The lot number or approved alternative code number indicating date of production;

* * * * *

(e) Nutrition information may be included on labels used to identify egg products, providing such labeling complies with the provisions of 21 CFR part 101, promulgated under the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act. * * *

* * * * *

(3) * * * All labels showing nutrition information or claims are subject to review by the Food and Drug Administration prior to approval by the Department.

* * * * *

29. In § 59.412, paragraph (b) is revised to read as follows:

§ 59.412 Form of official identification symbol and inspection mark.

* * * * *

(b) The inspection mark which is to be used on containers of edible egg products shall be contained within the outline of a shield and with the wording and design set forth in Figure 2 of this section, except the plant number may be preceded by the letter "P" in lieu of the word "plant". Alternatively, it may be omitted from the official shield if applied on the container's principal display panel or other prominent location and preceded by the letter "P" or the word "Plant".

* * * * *

30. Section 59.415 is amended by revising the second sentence to read as follows:

§ 59.415 Use of other official identification.

* * * The plant number may be omitted from the identification if applied elsewhere on the container's principal display panel or other prominent location and preceded by the letter "P" or the word "plant". * * *

31. In § 59.417, paragraph (c) is revised to read as follows:

§ 59.417 Unauthorized use or disposition of approved labels.

* * * * *

(c) Upon termination of inspection service in an official plant pursuant to these regulations, all labels or packaging materials indicating product packed by

the plant which bear official identification shall either be destroyed under the supervision of the Service or, if used in another location, modified in a manner acceptable to the Service before use.

32. In § 59.502, paragraph (b) is revised to read as follows:

§ 59.502 Equipment and utensils; PCB-containing equipment.

* * * * *

(b) Except as authorized by the Administrator, in new or remodeled equipment and equipment installations, the equipment and installation shall comply with the applicable 3–A or E–3–A Sanitary Standards and accepted practices currently in effect for such equipment.

* * * * *

33. In § 59.504, the last sentence of paragraph (c) and paragraph (h) are revised to read as follows:

§ 59.504 General operating procedures.

* * * * *

(c) * * * In addition, product shipped from the official plant for industrial use or animal food need not be denatured or decharacterized, provided, that such product is properly packaged, labeled, segregated, and inventory controls are maintained, and that such product is shipped under Government seal and certificate and received at the destination location by an inspector or grader as defined in this part.

* * * * *

(h) Only germicides, insecticides, rodenticides, detergents, or wetting agents or other similar compounds which will not deleteriously affect the eggs or egg products when used in an approved manner and which have been approved by the Administrator, may be used in an official plant. The identification, storage, and use of such compounds shall be in a manner approved by the Administrator.

* * * * *

34. In § 59.506, paragraph (d) is revised to read as follows:

§ 59.506 Candling and transfer-room facilities and equipment.

* * * * *

(d) Candling devices of an approved type shall be provided to enable candlers to detect loss, inedible, dirty eggs, and eggs other than chicken eggs.

* * * * *

35. Section 59.515 is amended by removing the last sentence of paragraph (a)(8), removing paragraph (a)(9), redesignating paragraph (b) as paragraph (a)(9), removing paragraph (c), and reserving paragraph (b).

36. A new § 59.516 is added to read as follows:

§ 59.516 Sanitizing and drying of shell eggs prior to breaking.

(a) Immediately prior to breaking, all shell eggs shall be spray rinsed with potable water containing an approved sanitizer of not less than 100 ppm nor more than 200 ppm of available chlorine or its equivalent. Alternative procedures may be approved by the Administrator in lieu of sanitizing shell eggs washed in the plant.

(b) Shell eggs shall be sufficiently dry at time of breaking to prevent contamination or adulteration of the liquid egg product from free moisture on the shell.

37. In § 59.530, paragraph (g) is added to read as follows:

§ 59.530 Liquid egg cooling.

* * * * *

(g) Previously frozen egg or egg product cannot be added to liquid product for the purpose of complying with liquid cooling requirements.

38. In § 59.539, paragraph (d)(1) is revised to read as follows:

§ 59.539 Defrosting operations.

* * * * *

(d) * * *

(1) Frozen eggs packed in metal or plastic containers may be placed in running tap water (70 F° or lower) without submersion to speed defrosting.

* * * * *

39. Section 59.580 is amended by revising the last sentence of paragraph (b), revising paragraphs (c) and (d), and adding a new paragraph (e) to read as follows:

§ 59.580 Laboratory tests and analyses.

* * * * *

(b) * * * Samples of pasteurized egg products and heat treated dried egg whites shall be drawn from the final packaged form, in accordance with the approved sampling plan for the plant, and submitted for analysis to a laboratory recognized by USDA under its Laboratory Recognition Program.

(c) Results of all analyses and tests performed under paragraphs (a) and (b) of this section shall be provided to the inspector promptly upon receipt by the plant. If samples of pasteurized products or heat treated dried egg whites, in addition to those described in paragraphs (a) and (b) of this section, are analyzed for the presence of Salmonella, the plant shall immediately advise the inspector of any such samples which are determined to be Salmonella positive.

(d) USDA will draw split samples and submit a percentage of such samples to a USDA laboratory for Salmonella analysis at USDA's expense. The results of split samples analyzed by the recognized laboratory shall correlate with those of the USDA laboratory, in accordance with requirements specified in the Laboratory Recognition Program.

(e) USDA will periodically draw confirmation samples and submit them to a USDA laboratory for analysis at USDA's expense to determine the accuracy of the plant's tests and analyses under paragraph (a) of this section. USDA may also draw additional samples for Salmonella analysis at a USDA laboratory at USDA's expense.

40. In § 59.720, paragraphs (a)(1) and (b) are revised to read as follows:

§ 59.720 Disposition of restricted eggs.

(a) * * *

(1) Checks and dirties shall be labeled in accordance with § 59.800 and shipped directly or indirectly to an official egg products plant for segregation and processing. Inedible and loss eggs shall not be intermingled in the same container with checks and dirties.

* * * * *

(b) Eggs which are packed for the ultimate consumer and which have been found to exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B shall be identified as required in §§ 59.800 and 59.860 and shall be shipped directly or indirectly:

(1) To an official egg products plant for proper segregation and processing; or

(2) Be regraded so that they comply with the official standards; or

(3) Used as other than human food.

* * * * *

41. Section 59.800 is amended by revising the next to last sentence to read as follows:

§ 59.800 Identification of restricted eggs.

* * * When eggs are packed in immediate containers, e.g., cartons, sleeve packs, overwrapped 2½- or 3-dozen packs, etc., for sale to household consumers under the exemptions provided for in § 59.100 (c), or (f), they shall be deemed to be satisfactorily identified in accordance with the requirements of this part if such immediate containers bear the packer's name and address and the quality of the eggs. * * *

42. In § 59.801, the section heading and first sentence are revised to read as follows:

§ 59.801 Nest run or washed ungraded eggs.

Nest run or washed ungraded eggs are exempt from the labeling provisions in § 59.800. However, when such eggs are packed and sold to consumers, they may not exceed the tolerance for restricted eggs permitted in the official standards for U.S. Consumer Grade B shell eggs.* * *

43. In § 59.905, paragraph (a) is revised to read as follows:

§ 59.905 Importation of restricted eggs or eggs containing more restricted eggs than permitted in the official standards for U.S. Consumer Grade B.

(a) No containers of restricted egg(s) other than checks or dirties shall be imported into the United States. The shipping containers of such eggs shall be identified with the name, address, and country of origin of the exporter, and the date of pack and quality of the eggs (e.g., checks, or dirties) preceded by the word "Imported" or the statement "Imported Restricted Eggs—For Processing Only In An Official USDA Plant," or "Restricted Eggs—Not To Be Used As Human Food." Alternatively, for properly sealed and certified shipments of shell eggs imported for breaking at an official egg product plant, the shipping containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant. Such identification shall be legible and conspicuous.

* * * * *

§ 59.915 [Amended]

44. In § 59.915, paragraph (b)(8) is amended by adding after the words "shell egg" the words ", including date of pack,".

§ 59.940 [Amended]

45. In § 59.940, the last sentence is removed.

46. In § 59.945, paragraph (b) is revised to read as follows:

§ 59.945 Foreign eggs and egg products offered for importation; reporting of findings to customs; handling of products refused entry.

* * * * *

(b) Consignees shall, at their own expense, return immediately to the collector of customs, in means of conveyance or packages sealed by the U.S. Department of Agriculture, any eggs or egg products received by them under this part which in any respect do not comply with this part.

47. Section 59.950 is amended by revising paragraphs (a)(3) and (a)(8), redesignating paragraph (b) as (c), and adding a new paragraph (b) to read as follows:

§ 59.950 Labeling of containers of eggs or egg products for importation.

(a) * * * (3) the quality or description of shell eggs, including date of pack; * * * (8) the date of production and plant number of the plant at which the egg product was processed and/or packed.

(b) For properly sealed and certified shipments of shell eggs imported for breaking at an official egg products plant, the immediate containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

* * * * *

48. Section 59.955 is amended by redesignating paragraph (b) as (c) and adding a new paragraph (b) to read as follows:

§ 59.955 Labeling of shipping containers of eggs or egg products for importation.

* * * * *

(b) For properly sealed and certified shipments of shell eggs imported for breaking at an official egg products plant, the shipping containers need not be labeled, provided that the shipment is segregated and controlled upon arrival at the destination breaking plant.

49. A new § 59.956 is added to read as follows:

§ 59.956 Relabeling of imported egg products.

(a) Egg products eligible for importation may be relabeled with an approved label under the supervision of an inspector at an official egg products plant or other location. The new label for such product shall indicate the country of origin except for products which are reprocessed (repasteurized, or in the case of dried products, dry blended with products produced in the United States) in an official egg products plant.

(b) The label for relabeled products must state the name, address, and zip code of the distributor, qualified by an appropriate term such as "packed for", "distributed by" or "distributors".

Dated: April 17, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–9974 Filed 4–21–95; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 906 and 944

[Docket No. FV–95–906–1PR]

Oranges Grown in the Lower Rio Grande Valley in Texas and Imported Oranges; Proposed Suspension of Regulations for Domestic and Imported Oranges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend, for the period July 1 through August 31, the handling regulations for oranges grown in the Lower Rio Grande Valley in Texas and the orange import regulations. Currently, the effective period for both domestic and imported oranges is January 1 through December 31 of each year. The purpose of the proposed suspension is to remove unnecessary handling regulations applicable to shipments of Texas oranges for the two month period July and August. The proposed suspension of regulations applicable to imported oranges is necessary under section 8e of the amended Agricultural Marketing Agreement Act of 1937.

DATES: Comments must be received by May 15, 1995.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed suspension Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456, or by facsimile at 202–720–5698 Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles L. Rush, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: 202–720–2431; or Belinda G. Garza, McAllen Marketing Field Office, USDA/AMS, 1313 East Hackberry, McAllen, TX 78501; telephone: 210–682–2833.

SUPPLEMENTARY INFORMATION: This proposed suspension is issued under Marketing Agreement and Order No. 906 (7 CFR Part 906) regulating the handling of oranges and grapefruit

grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the order. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

This proposed suspension is also issued pursuant to section 8e of the Act, which requires the Secretary of Agriculture to issue grade, size, quality, or maturity requirements for certain listed commodities imported into the United States that are the same as, or comparable to, those imposed upon the domestic commodities under Federal marketing orders.

The Department of Agriculture (Department) is issuing this proposed suspension in conformance with Executive Order 12866.

This proposed suspension has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed suspension is not intended to have retroactive effect. This action would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this proposed suspension.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

Import regulations issued under the Act are based on domestic grade, size, quality or maturity regulations established under Federal marketing orders.

There are approximately 15 handlers of oranges and grapefruit regulated under the marketing order each season and approximately 750 orange and grapefruit producers in South Texas. In addition, there are approximately 20 importers of oranges subject to the requirements of the orange import requirements. Small agricultural service firms, which include handlers and importers, have been defined by the Small Business Administration (13 CFR § 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of these handlers, producers, and importers may be classified as small entities.

Under the marketing order, oranges grown in the Lower Rio Grande Valley in Texas are currently subject to a minimum grade requirement of U.S. No. 2 and a minimum size requirement of 2⁹⁄₁₆ inches in diameter. These requirements are in effect throughout the year on a continuous basis. The grade and size requirements for oranges grown in the Lower Rio Grande Valley in Texas are found in § 906.365 (7 CFR part 906) under the order. In addition, there are container and pack requirements found in § 906.340.

The Texas Valley Citrus Committee (Committee), the agency responsible for local administration of the order, meets prior to and during each season to review the handling regulations effective on a continuous basis for oranges regulated under the order. Committee meetings are open to the public, and interested persons may express their views at these meetings. The Department reviews Committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the handling regulations would tend to effectuate the declared policy of the Act.

The Committee met on March 9, 1995, and recommended by a 14 to 1 vote to relax the effective dates of the regulatory period for oranges from continuous to July 15 through August 31, 1995, for one year. Committee members limited the relaxation to one year because of concerns about imported oranges being in commercial channels after August 31, and the need to study the impact of such a change. The Committee acknowledged that the Texas orange requirements only need to be in effect when there are shipments of Texas oranges.

The Committee member who voted in opposition to the recommended change expressed concern about the potential impact imported oranges could have on the marketing of Texas oranges if substandard imports are in commercial channels when the Texas orange shipping season begins. However, this rule proposes that the quality and size regulations for both Texas and imported oranges be in effect when the Texas shipping season begins and all fruit handled during the Texas shipping season would be subject to those requirements.

According to the Committee, Texas orange shipments typically begin in mid to late September and end in mid to late June. The Texas citrus industry has been in a vigorous recovery since the freeze of 1989. Prior to the freeze, shipments of oranges during the 1986/87 season totaled 1,334,548 cartons, shipments for the 1987/88 season totaled 2,240,161 cartons, and shipments for the 1988/89 season totaled 1,220,101 cartons. The 1989/90 shipping season ended in early January 1990 due to the harsh freeze. There was no commercial production or shipments of oranges during the 1990/91 season due to the December 1989 freeze. Orange shipments were minimal during the 1991/92 season as the recovery from the freeze of 1989 was still underway. Shipments for the 1992/93 season totaled approximately 688,000 cartons and shipments in the 1993/94 season approximated 833,000 cartons. The Committee expects the 1994/95 season to be an excellent year for orange production and sales. A review of 1986/87 to 1993/94 Texas orange shipment data revealed that the industry's shipping season consistantly runs from September through the following June. This pattern was consistent in both pre-freeze and post-freeze seasons.

The Department reviewed the Committee's recommendation and determined that the quality and size requirements for Texas oranges should be suspended for the period July 1 through August 31, when there are no Texas orange shipments. The regulatory period would begin in September and end in June. There have been production changes over the last five to six seasons. However, as mentioned above, the change in production is a result of the freeze of 1989. The change in production has not resulted in a change in the industry's shipping pattern. The industry's shipping pattern consistently begins in September and ends in June. Although shipping patterns have not changed to date, in the future there may be changes in production and, therefore, we are proposing a suspension. An annual evaluation will be conducted to determine the impact of the suspension on the Texas orange industry. If it is determined that the suspension has been deleterious to the Texas orange industry, necessary modifications will be made.

Minimum grade and size requirements for fresh oranges grown in Texas are in effect under § 906.365 (7 CFR 906.365). This action proposes suspending the provisions of § 906.365 that apply to oranges during the months of July and August.

Since the grade and size requirements for Texas oranges would be in effect during the entire Texas shipping season, this change should not have an adverse impact on the Texas orange industry.

Section 8e of the Act provides that when certain domestically produced commodities, including oranges, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Section 8e further provides that whenever two or more marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the imports shall be subject to the requirements applicable to the commodity produced in the area with which the imported commodity is in most direct competition. The Secretary has determined that oranges imported into the United States are in most direct competition with oranges grown in Texas regulated under M.O. No. 906, and has found that the minimum grade and size requirements for imported oranges should be the same as those established for oranges under M.O. No. 906.

Currently, imported oranges are subject to minimum grade and size requirements under § 944.312 (7 CFR 944.312). These requirements are in effect on a continuous basis because domestic oranges are currently subject to the minimum grade and size requirements under Marketing Order No. 906 on a continuous basis. This rule proposes suspending section 944.312(a) for the period July 1 through August 31 indefinitely so that it would be effective September 1 through June 30, the same time period that is being proposed for the Texas orange regulation.

According to the Department's Market News Branch, U.S. fresh orange imports during the 1993/94 season (beginning November 1) totaled 37.2 million pounds, up nearly 60 percent from the 1992/93 total. The increase is attributable to additional supplies from Australia as compared with the prior season. Australia's largest shipments arrive in July and August. By comparison, U.S. orange imports averaged 48.3 million pounds per season from 1988/89 through 1992/93, ranging from a low of nearly 19 million pounds to 137.3 million pounds in 1990/91 when domestic supplies were reduced following freeze damage to the California crop. In both 1992/93 and 1993/94, Australia was the principal source of fresh orange imports. Other sources of orange imports were the Dominican Republic, whose largest shipments arrive in August and September, Mexico, Israel, and Jamaica. In the 1992/93 season, Australia accounted for 10.1 million pounds, or 43 percent of U.S. fresh orange imports and 20.7 million pounds, or 56 percent of the U.S. total in 1993/94. Mexico is an important source of orange imports during the fall and winter. Imports from Israel are most active during the winter, with imports from other countries widely distributed throughout the season.

This rule would result in relaxed import requirements because the orange import regulations would not be in effect during the months of July and August. This could result in reduced costs to importers. This action should not have an adverse impact on the Texas industry, however, because its shipping season does not begin until September. Domestic producers will not be significantly impacted, since all oranges in commercial channels during the domestic shipping season would be subject to the same minimum grade and size requirements.

The purpose of these changes is to assure that applicable quality requirements are in place only during such periods as needed by the Texas orange industry to provide a consistent supply of oranges of acceptable quality to fresh market outlets.

Based on the above, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

This proposed rule reflects the Department's appraisal of the need to revise the dates of the regulatory period for imported oranges, as hereinafter set forth, to effectuate the declared policy of the Act.

A comment period of 20 days is deemed appropriate because this rule would relax requirements currently in effect, and to be of maximum benefit it should be in effect by July 1, 1995.

List of Subjects

7 CFR Part 906

Oranges, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 906 and 944 are proposed to be amended as follows:

PART 906—ORANGES GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for both 7 CFR parts 906 and 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 906.365 [Amended]

2. In § 906.365, paragraph (a)(7) is added, reading as follows:

§ 906.365 Texas Orange and Grapefruit Regulation 34.

(a) * * *

(7) Beginning in 1995, this paragraph (a) is suspended each year from July 1 through August 31.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.312 [Amended]

3. In § 944.312, paragraph (a)(3) is added, reading as follows:

§ 944.312 Orange import regulation.

(a) * * *

(3) Beginning in 1995, this paragraph (a) is suspended each year from July 1 through August 31.

* * * * *

Dated: April 18, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division

[FR Doc. 95–9970 Filed 4–21–95; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 920

[Docket No. FV95-920-1PR]

Kiwifruit Grown in California; Proposed Relaxation of Pack Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would relax the pack requirements for kiwifruit packed in Size 45 containers under the Federal marketing order (order) for kiwifruit grown in California. This relaxation would increase the size variation tolerance for all Size 45 containers of kiwifruit from 5 percent, by count, to 10 percent, by count. This rule would reduce grower and handler costs and enable more fruit to be packed and sold. Several editorial changes are also being proposed to clarify the current kiwifruit handling requirements.

DATES: Comments must be received by May 24, 1995.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be submitted in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456, or by facsimile at (202) 720–5698. Comments should reference this docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone (209) 487–5901; or Charles Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2526–S, Washington, DC 20090–6456, telephone (202) 690–3670.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 920 (7 CFR part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principle place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of California kiwifruit subject to regulation under the order and approximately 600 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

This proposal is in accordance with § 920.52(a)(3) of the order which authorizes regulations to establish the pack of the container or containers which may be used in the packaging or handling of kiwifruit. Under the terms of the marketing order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack and container requirements. Among the pack requirements, is a size variation tolerance requirement which specifies that not more than 5 percent, by count, of kiwifruit in any container may fail to meet the pack requirements of § 920.302(a)(4). The size variation tolerance does not apply to other pack requirements such as how the fruit fills the cell compartments, cardboard fillers, or molded trays, or any weight requirements.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the marketing order, met on February 8, 1995, and recommended by unanimous vote to relax the current size variation tolerance from 5 percent to 10 percent for bag, volume fill, bulk, cell compartments, cardboard fillers, or molded tray containers of Size 45 kiwifruit for pack under the Federal marketing order for kiwifruit grown in California.

The order authorizes under § 920.52 the establishment of pack requirements. Section 920.302(a)(4) of the rules and regulations outlines the pack requirements for fresh shipments of California kiwifruit. Section 920.302(a)(4)(i) outlines pack requirements for proper size, and size variation, and contains a table that provides minimum net weights for count designation of kiwifruit packed in containers with cell compartments, cardboard fillers, or molded trays. Section 920.302(a)(4)(ii) outlines pack requirements for fruit size variation in bags, volume fill and bulk containers and includes a table that specifies numerical size designations that are used to determine kiwifruit sizes. These size designations are defined by numerical counts, which establish the maximum number of fruit per 8-pound sample for each of the established sizes.

The committee recommended increasing the size variation tolerance for Size 45 containers from 5 percent to 10 percent, by count, of kiwifruit in any container, because handlers cannot visually determine if fruit in a Size 45 container would meet the 5 percent tolerance.

Packout by fruit size, of Size 45 containers, increased from 1.80 percent for the 1993–94 season to 14.34 percent for the 1994–95 season. This increase in packout, of Size 45 fruit, is a result of blending Size 49 fruit into Size 45 fruit containers and as a result of weather conditions in the central and southern parts of California which produced a larger percentage of smaller and flatter kiwifruit. Generally Size 45 fruit is a rounder fruit. Blending occurs because adjoining size designations have size tolerances that partially overlap and kiwifruit within either size tolerance may be packed in either size designation. In larger sized fruit, handlers see more of a variety of shapes and pack boxes of round fruit and boxes of flat fruit for each size in order to stay within the size variation requirements. For economic and practical reasons, most handlers pack boxes that include both the round Size 45 fruit, as well as smaller flat fruit.

During the past season, a number of handlers experienced increased difficulty in meeting the size variation tolerance in the Size 45 containers. Currently, a variation of ¼-inch (6.4 mm) difference is allowed between the widest and narrowest pieces of fruit in a Size 45 pack for all containers. There is a tolerance of 5 percent for fruit that exceeds that ¼-inch variation, meaning that up to 5 percent of the fruit in any one container may exceed the ¼-inch variation. As the size of the fruit increases, so does the size of the variation allowed. In the larger fruit sizes, failure to meet the required size variation standards results in packs that are visibly irregular in size. In Size 45, however, when the 5 percent tolerance is exceeded, the variation is difficult to detect visually. During the packing operation, a mechanical sizer routinely sorts the fruit by shape and size. The fruit which is missed by the mechanical sizer must be correctly sorted by the handler. Since it is not economically feasible for each handler to be equipped with a caliper to measure size variation, they rely on their visual judgment. During inspection, calipers are utilized by the inspectors to determine if the size variation is met for Size 45 containers. The 5 percent tolerance requirement is seldom met, but the fruit is found to vary slightly above the allowed tolerance of 5 percent (within 6–8 percent tolerance). Handlers have found that it is cost-prohibitive to slow down their operations in an attempt to stay within the current tolerance levels and to recondition the fruit that fails inspection.

The committee's intention in recommending this increase in the size variation tolerance is to set an acceptable size variation tolerance that can be visually discerned while the packing operation is in progress and results in a Size 45 container that is uniform in size.

There is support in the industry to increase the size variation tolerance to 10 percent, by count, for the fruit in any Size 45 container. An alternative studied by the committee field staff and considered by the committee was to increase the degree, or size of the variation allowed, from ¼-inch to ⅜-inch. Throughout the season, fruit was measured and sample boxes were made up depicting this increased variation. It was the consensus of the field staff, inspection service and industry handlers that such an increase would allow for the blending up of undersize fruit. The end result would be a box that visibly showed a variation of fruit size, including undersize fruit. This was deemed not acceptable as the industry desires to pack a uniform box of fruit.

Another alternative examined and proposed herein is to increase the 5 percent size variation tolerance level to 10 percent. Throughout the season, field staff observed and polled handlers and inspectors on problems encountered with Size 45. The overwhelming majority of the cases where Size 45 fruit was rejected for size variation, the tolerance level was in the 6 percent to 8 percent range. It was not possible to distinguish a box at 10 percent variation from one at 5 percent, without the use of a caliper. The general consensus was that once a 10 percent tolerance was exceeded, the variation became more visibly apparent and the handlers would recognize the need for repacking before calling for inspection.

Relaxing the tolerance for Size 45 packs would allow an increased number of Size 45 kiwifruit in a container that are not within the ¼-inch variance. For example, the pieces of fruit, which vary more than ¼-inch in a 22-pound volume fill container, could increase from 2 pieces to 5 pieces. This tolerance increase would not allow for the blending of additional sizes beyond those currently blended, but would grant more flexibility for varying shapes of the fruit. This relaxation would be beneficial to both growers and handlers. The proposed 10 percent size variation tolerance would decrease the amount of handler repacking and reduce inspection time and cost, thereby making it more cost effective for handlers. This would also result in no visual difference in uniformity.

Section 920.302(a)(4) would be amended by revising paragraphs (i) through (iv) and adding new paragraphs (v) and (vi). Included in these changes are editorial changes made for clarity. Diameter variances would be specified for kiwifruit packed in cell compartments, cardboard fillers or molded trays. These provisions appear in § 51.2338(d) of the United States Standards for Grades of Kiwifruit (7 CFR 51.2338(d)). Also, these changes would delete the phrase: "Provided, That for the season ending July 31, 1995, such containers may also hold 23-pounds net weight of kiwifruit" in § 920.320(a)(4)(iv) (59 FR 53565). This phrase is no longer needed as it applied to the 1994–95 season.

This proposed rule would impact all handlers in the same manner. The increased size variation tolerance would ease some of the burden associated with packing and sizing kiwifruit and enable handlers to pack and sell more kiwifruit. This change would reduce costs for handlers and growers.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons an opportunity to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 920.302 is amended by revising paragraphs (a)(4) (i) through (iv) and adding new paragraphs (a)(4) (v) and (vi) to read as follows:

§ 920.302 [Amended]

(a) * * *

(4) * * *

(i) Kiwifruit packed in containers with cell compartments, cardboard fillers, or molded trays shall be of proper size for the cells, fillers, or molds in which they are packed. Such fruit shall be fairly uniform in size.

(ii)(A) Kiwifruit packed in cell compartments, cardboard fillers or molded trays may not vary in diameter more than:

Sizes	Diameter
30 or larger	½-inch (12.7 mm)
31–38	⅜-inch (9.5 mm)
39 or smaller	¼-inch (6.4 mm)

(B) Kiwifruit packed in bags, volume fill or bulk containers, fruit may not vary more than:

Sizes	Diameter
30 or larger	½-inch (12.7 mm)
33, 36, 39, and 42	⅜-inch (9.5 mm)
45 or smaller	¼-inch (6.4 mm)

Not more than 10 percent, by count of the containers in any lot and not more than 5 percent, by count, of kiwifruit in any container, (except that for Size 45 kiwifruit, the tolerance, by count, in any one container, may not be more than 10 percent) may fail to meet the requirements of this paragraph.

(iii) The fruit packed in containers with cell compartments, cardboard fillers, or molded trays shall meet the following minimum weight requirements at the time of initial inspection:

Count designation of fruit	Minimum net weight of fruit (pounds)
34 or larger	7.5
35 to 37	7.25
38 to 40	6.875
41 to 43	6.75
44 and smaller	6.50

The average weight of all sample units in a lot must meet the specified minimum net weight, but no sample unit may be more than 4 ounces less than such weight.

(iv) When kiwifruit is packed in bags, volume fill or bulk containers, the following table specifying the numerical size designation and maximum number of fruit per 8-pound sample is to be used.

Column 1 Numerical count size designation	Column 2 Maximum number of fruit per 8-pound sample
21	22
25	27
27/28	30
30	32
33	35
36	40
39	45
42	50
45	55

The average weight of all sample units in a lot must weigh at least 8 pounds, but no sample unit may be more than 4 ounces less than 8 pounds.

(v) For shipments in volume fill containers in which the quantity is specified by count, the count must equal three times the size designation in accordance with tolerances specified in the U.S. Standards for Grades of Kiwifruit (7 CFR 51.2328(c)(2)).

(vi) All volume fill containers of kiwifruit designated by weight shall hold 22-pounds (10-kilograms) net weight of kiwifruit unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit.

* * * * *

Dated: April 17, 1995.

Sharon Bomer Lauritsen,

Director, Fruit and Vegetable Division.

[FR Doc. 95-9973 Filed 4-21-95; 8:45 am]

BILLING CODE 3410-02-P

7 CFR Part 929

[Docket No. FV95-929-1]

Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible growers of cranberries to determine whether they favor continuance of the marketing order regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York.

DATES: The referendum will be conducted from May 15 through May 26, 1995. To vote in this referendum, growers must have been producing cranberries during the period September 1, 1994, through March 31, 1995.

ADDRESSES: Copies of the marketing order may be obtained from the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kathleen M. Finn, Marketing Order Administration Branch, Fruit & Vegetable Division, Agricultural Marketing Service, Department of Agriculture, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 720–1509 or fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 929 (7 CFR part 929), hereinafter referred to as the "order" and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act", it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by the growers. The referendum shall be conducted during the period May 15 through May 26, 1995, among cranberry growers in the production area. Only growers that were engaged in the production of cranberries during the period of September 1, 1994, through March 31, 1995, may participate in the continuance referendum.

The Secretary of Agriculture has determined that continuance referenda are an effective means for ascertaining whether growers favor continuation of marketing order programs. The Secretary would consider termination of the order if less than two-thirds of the growers voting in the referendum and growers of less than two-thirds of the volume of cranberries represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary would not only consider the results of the continuance referendum. The Secretary would also consider other relevant information concerning the operation of the order; the order's relative benefits and disadvantages to growers, handlers, and consumers; and whether continued operation of the order would tend to effectuate the declared policy of the Act.

In any event, section 8c(16)(B) of the Act requires the Secretary to terminate an order whenever the Secretary finds that a majority of all growers affected by the order favor termination, and such majority produced for market more than 50 percent of the commodity covered under such order.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the ballot materials to be used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0103 for cranberries. It has been estimated that it will take an average of 20 minutes for each of the approximately 1,050 growers of cranberries to cast a ballot. Participation is voluntary. The voting period is May 15 through May 26, 1995. Ballots postmarked after May 26, 1995, will not be included in the vote tabulation.

Patricia A. Petrella and Kathleen M. Finn of the Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, are hereby designated as the referendum agents of the Secretary of Agriculture to conduct such referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruit, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR part 900.400 *et. seq.*).

Ballots will be mailed to all growers of record and may also be obtained from the referendum agents.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: April 17, 1995

David R. Shipman,

Acting Deputy Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 95-10001 Filed 4-21-95; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Parts 404 and 405

RIN 1505-AA53

Amendments to Regulations for the Government Securities Act of 1986

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Notice of extension of time for submission of comments.

SUMMARY: This document extends until May 24, 1995, the deadline for the submission of comments on the Advance Notice of Proposed Rulemaking addressing large position reporting for Treasury securities. The extension is at the request of a trade association representing government securities brokers and dealers. The advance notice was published in the Federal Register on January 24, 1995 (60 FR 4576) and comments were to be received on or before April 24, 1995.

DATES: Comments must be submitted on or before May 24, 1995.

ADDRESSES: Comments should be sent to: Government Securities Regulations Staff, Bureau of the Public Debt, Department of the Treasury, Room 515, 999 E Street NW., Washington, DC 20239–0001. Comments received will be available for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Ken Papaj (Director) or Don Hammond (Assistant Director) at 202–219–3632.

SUPPLEMENTARY INFORMATION: The Government Securities Act Amendments of 1993 granted Treasury the authority to prescribe large position recordkeeping and reporting rules for certain Treasury securities. An advance notice of proposed rulemaking was published to advise market participants of our intention to issue large position recordkeeping and reporting regulations, describe the purposes of, and objectives to be achieved by, such rules and identify key elements related to any rule proposal. The notice invited comments, advice and recommendations from interested parties and requested that they address specific questions.

The Department has received a request for a 30 day extension of the comment period from a trade association representing approximately 300 government securities brokers and dealers (Public Securities Association, PSA). PSA has requested the extension in order to permit the association to obtain additional information from its membership and more fully discuss the issues at its annual meeting during the last week of April. Given the limited additional time requested, the Department agrees to extend the comment period until May 24, 1995.

Dated: April 19, 1995.

Frank N. Newman,

Deputy Secretary

[FR Doc. 95-10128 Filed 4-21-95; 8:45 am]

BILLING CODE 4810-39-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01-95-017]

RIN 2115-AE46

Special Local Regulation: Harvard-Yale Regatta, Thames River, New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend 33 CFR § 100.101 governing the Harvard-Yale Regatta. The specified race time of 10 a.m. until 1:30 p.m. would be deleted to allow for a flexible race period. Notice of each year's race time would be published in a Local Notice to Mariners and the Federal Register. A flexible time period is warranted because the actual race schedule is based on specific tidal conditions which occur at various hours of the day and which differ from year to year.

DATES: Comments must be received on or before June 23, 1995.

ADDRESSES: Comments should be mailed to Commander(b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, Massachusetts 02110–3350. Comments also may be hand-delivered to room 428 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) B.M. Algeo, Chief, Boating Safety Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–95–017), the specific section of the proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½" x 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander(b), First Coast Guard District at the address under ADDRESSES. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The drafters of this notice are LTJG B.M. Algeo, Project Manager, Boating Safety Affairs Branch and LCDR S.R. Watkins, Project Counsel, District Legal Office.

Background and Purpose

The annual Harvard-Yale Regatta is a long-standing traditional race entering its 130th year. The race is held in the Thames River, New London, CT, between the Penn Central Drawbridge

and Bartlett Cove. The regatta consists of three races of two, nine-men racing shells. The event is expected to draw up to 100 spectator craft. The Coast Guard expects no significant difference in the race from years past. This proposal would give the race sponsors greater flexibility in scheduling race times around the prevailing tidal conditions.

Discussion of Proposed Amendments

The Coast Guard proposes to permanently amend the Special Local Regulation found in 33 CFR § 100.101 governing the Harvard-Yale Regatta. The existing regulation provides for an effective period of 10 a.m. until 1:30 p.m. for the regulated area. Because a race of this nature is dependent upon certain tidal conditions which differ in time from year to year, the Coast Guard proposes to delete the specific time period from the regulation. A provision allowing for annual notice of the race time would be made a part of the permanent regulation. This notice of specific race times for any given year would be published in a Local Notice to Mariners and the **Federal Register** prior to the event.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that have been and will be made to the affected maritime community, and the fact that the event is taking place in an area where the only commercial interests affected are a few marinas. This regulation also will allow vessels to transit to and from these affected marinas under Coast Guard escort or as otherwise directed by the Patrol Commander.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard is considering the environmental impact of this proposal, and it is expected that preparation of an environmental impact statement will not be necessary. An Environmental Assessment and a Finding of No Significant Impact will be made available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 USC 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. In section 100.101 paragraph (b) is revised to read as follows:

§ 100.101 Harvard-Yale Regatta, Thames River, New London, CT.

* * * * *

(b) *Effective period.* This regulation will be effective annually on the first or second Saturday in June at times to be determined and as published in the Coast Guard Local Notice to Mariners and a **Federal Register** Notice. In case of postponement, this regulation will be in effect the following day.

* * * * *

Dated: March 10, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 95-10068 Filed 4-21-95; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 78-1-6814; FRL-5195-7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Placer County Air Pollution Control District and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) for ozone which concern the control of oxides of nitrogen (NO_X) from gas turbines and internal combustion engines. The intended effect of proposing approval of these rules is to regulate emissions of NO_X in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking will incorporate these rules into the federally approved SIP. EPA has evaluated these rules and is proposing to approve them under provisions of the CAA regarding EPA actions on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

DATES: Comments on this proposed action must be received in writing on or before May 24, 1995.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901. Please refer to document number CA 78-1-6814 in all correspondence.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Placer County Air Pollution Control District, 11464 B Avenue, Auburn, CA 95603.

Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Duane F James, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1191.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being proposed for approval into the California SIP include: Placer County Air Pollution Control District's (PCAPCD) Rule 250, "Stationary Gas Turbines," and Ventura County Air Pollution Control District's (VCAPCD) Rule 74.9, "Stationary Internal Combustion Engines." These rules were submitted by the California Air Resources Board (ARB) to EPA on March 29, 1994 (Rule 74.9) and October 19, 1994 (Rule 250).

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAA) were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. The air quality planning requirements for the reduction of NO_X emissions through reasonably available control technology (RACT) are set out in section 182(f) of the CAA. On November 25, 1992, EPA published a NPRM entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_X Supplement) which describes the requirements of section 182(f). The NO_X Supplement should be referred to for further information on the NO_X requirements and is incorporated into this document by reference.

Section 182(f) of the Clean Air Act requires States to apply the same requirements to major stationary sources of NO_X ("major" as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs), in moderate or above ozone nonattainment areas. The Placer County part of the Sacramento Metro Area is classified as serious, and the Ventura County area is classified as severe;[1] therefore these areas were subject to the RACT requirements of section 182(b)(2), cited below, and the November 15, 1992 deadline.

Section 182(b)(2) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control technologies guidelines (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_X CTGs issued before enactment and EPA has not issued a CTG document for any NO_X sources since enactment of the CAA. The RACT rules covering NO_X sources and submitted as SIP revisions are expected to require final installation of the actual NO_X controls by May 31, 1995, for those sources where installation by that date is practicable.

This document addresses EPA's proposed action for PCAPCD's Rule 250, "Stationary Gas Turbines," and VCAPCD's Rule 74.9, "Stationary Internal Combustion Engines." Rule 250 was adopted by the PCAPCD on October 17, 1994, and Rule 74.9 was adopted by the VCAPCD on December 21, 1993. These submitted rules were found to be complete on June 3, 1994 (Rule 74.9) and October 21, 1994 (Rule 250) pursuant of EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V[2] and are being proposed for approval into the SIP.

NO_X emissions contribute to the production of ground level ozone and smog. Rule 250 controls NO_X emission from gas turbines, and Rule 74.9 controls NO_X, carbon monoxide (CO), and VOC emissions from internal combustion engines. The rules were adopted as part of PCAPCD's and VCAPCD's efforts to achieve the National Ambient Air Quality Standards (NAAQS) for ozone and in response to the CAA requirements cited above. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a NO_X rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110, and Part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents.[3] Among these provisions is the requirement that a NO_X rule must, at a minimum, provide for the implementation of RACT for stationary sources of NO_X emissions.

For the purposes of assisting state and local agencies in developing NO_X RACT rules, EPA prepared the NO_X supplement to the General Preamble, cited above (57 FR 55620). In the NO_X supplement, EPA provides guidance on how RACT will be determined for stationary sources of NO_X emissions. While most of the guidance issued by EPA on what constitutes RACT for stationary sources has been directed towards application for VOC sources, much of the guidance is also applicable to RACT for stationary sources of NO_X (see section 4.5 of the NO_X Supplement). In addition, pursuant to section 183(c), EPA is issuing alternative control technique documents (ACTs), that identify alternative controls for all categories of stationary sources of NO_X. The ACT documents will provide information on control technology for stationary sources that emit or have the potential to emit 25 tons per year or more of NO_X. However, the ACTs will not establish a presumptive norm for what is considered RACT for stationary sources of NO_X. In general, the guidance documents cited above, as well as other relevant and applicable guidance documents, have been set forth to ensure that submitted NO_X RACT rules are fully enforceable and strengthen or maintain the SIP.

The California ARB has published a RACT/BARCT guidance document for gas turbines entitled, "Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for the Control of Oxides of Nitrogen from Stationary Gas Turbines" (May 18, 1992). The guidance document defines RACT as an emission limit of 42 parts per million volume (ppmv) for gas-fired units and an emission limit of 65 ppmv for oil-fired units. BARCT for gas-fired units is defined as an emission limit of 42 ppmv for 0.3 to 2.9 Megawatt (MW) units, 25 ppmv for 2.9 to 10 MW units, 9 ppmv for units greater than 10 MW using selective catalytic reduction (SCR), and

[1] The Sacramento Metro and Ventura County areas retained their designations of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988).

VOL 60 ISS 78 AP 24 1995 UMI

15 ppmv for units greater than 10 MW not using SCR. The corresponding emission limits for oil-fired units are 65 ppmv, 65 ppmv, 25 ppmv, and 42 ppmv, respectively. PCAPCD's Rule 250 incorporates the BARCT limits for gas turbines and is consistent with all of the guidance's other requirements. The rule contains adequate recordkeeping requirements, and the appropriate test methods for compliance determinations are referenced. The exemptions provided in the rule are consistent with EPA guidelines. The rule requires final compliance by May 31, 1995. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 250, dated November 28, 1994.

The NO_X limits suggested by the California Air Resources Board (ARB) as RACT for IC engines rated at 50 brake horsepower or more are 50 ppmv (90% reduction) for rich-burn engines, 125 ppmv (80% reduction) for lean-burn engines, and 610 ppmv for diesel engines. These limits were recommended using information regarding average, actual, uncontrolled levels and previous regulatory control in Ventura County, the South Coast Basin, and Santa Barbara County. EPA agrees that these limits are consistent with the Agency's guidance and policy for making RACT determinations in terms of general cost-effectiveness, emission reductions, and environmental impacts.

VCAPCD's Rule 74.9 has already been incorporated into the SIP and its RACT limits are consistent with those recommended by the California ARB. However, this most recent submittal includes the following significant changes from the current SIP:

1. The provisions of the rule now apply to IC engines rated at 50 hp and above, operating on any gaseous fuel, including liquid petroleum gas (LPG) or diesel fuel.

2. The NO_X emission standards for rich-burn engines and lean-burn engines have been reduced to 25 ppmv and 45 ppmv, respectively. Rich-burn engines and lean-burn engines that operate on waste gas are no longer exempt from the rule and must comply with the rule's old emission limits of 50 ppmv and 125 ppmv, respectively. An 80 ppmv standard for diesel engines and emission limits for CO and VOCs have also been added to the rule.

3. The rule prohibits the discharge of ammonia in excess of 20 ppmv from any emission control device.

4. The provisions allowing groups of operators to combine their engines and resources and be considered a single operator have been deleted.

5. The provisions allowing the results from NO_X control demonstration projects on lean-burn engines in other counties, to be used by sources in the VCAPCD to satisfy the requirements of the rule, have been deleted.

6. The Cost-Effectiveness Certification provision has been deleted since it is no longer necessary.

7. The rule now requires annual reports of fuel usage, source test results, and other operational data about each engine before permit renewal.

8. The Special Circumstances provisions that allow variances from the rule have been deleted. EPA Method 30 with the District's modifications is no longer used for compliance determinations.

9. The rule's definitions and exemptions have been updated.

The California ARB is in the process of adopting the more stringent emission standards of Rule 74.9 as BARCT for IC engines. A more detailed discussion of the sources controlled, the controls required, and the justification for why these controls represent RACT can be found in the Technical Support Document (TSD) for Rule 74.9, dated December 5, 1994.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, PCAPCD's Rule 250, "Stationary Gas Turbines," and VCAPCD Rule 74.9, "Stationary Internal Combustion Engines," are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a), section 182(b)(2), section 182(f) and the NO_X Supplement to the General Preamble.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.[4]

Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The OMB has exempted this regulatory action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 12, 1995.

Felicia Marcus,

Regional Administrator

[FR Doc. 95–10059 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–W

[4] VCAPCD's Rule 74.9 references California ARB Method 100, which has been cited for certain deficiencies by the Emissions Measurement Branch. The California ARB has committed to correcting those deficiencies, and final approval of Rule 74.9 is contingent on these corrections.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Parts 426 and 427

[IN: 1006–AA32]

Acreage Limitation and Water Conservation Rules and Regulations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public hearings on the proposed rulemaking.

SUMMARY: In response to a September 1993 contract for settlement of a lawsuit filed by the Natural Resources Defense Council, National Wildlife Federation, California Natural Resources Federation, California Association of Family Farmers, California Action Network, League of Rural Voters Inc., and County of Trinity, California; the Bureau of Reclamation (Reclamation) has prepared new acreage limitation and water conservation rules and regulations for implementing the Reclamation Reform Act of 1982, as amended, throughout the 17 Western United States. The proposed rules were published in the **Federal Register** on April 3, 1995 (60 FR 16922, Apr. 3, 1995), and are open to a 60-day review and comment period which will close on June 2, 1995.

Public hearings will be held to receive comments from interested organizations and individuals on the proposed rules. During the week prior to the scheduled hearings there will be several public forums at various locations throughout the Western States to provide an opportunity for the public to receive information and clarification concerning the proposed changes to the rules and regulations. Information regarding these forums will be provided to affected parties by mail.

DATES: Public hearings on the proposed rules are scheduled as follows:

1. May 8, 1995, at 7:00 p.m. Yakima, Washington; Billings, Montana
2. May 9, 1995, at 7:00 p.m., Boise, Idaho; Lakewood, Colorado
3. May 10, 1995, at 7:00 p.m., Sacramento, California; Phoenix, Arizona
4. May 11, 1995, at 7:00 p.m., Salt Lake City, Utah; Fresno, California

ADDRESSES: The hearings will be held at the following locations:

1 Yakima—Red Lion Inn (Yakima Valley), 1507 North First Street, Yakima, Washington
Billings—Sheraton Hotel, 27 North 27th Street, Billings, Montana
2. Boise—Red Lion Inn Riverside, 2900 Chinden Blvd., Boise, Idaho
Lakewood—Sheraton Denver West Hotel, 360 Union Blvd, Lakewood, Colorado
3. Sacramento—Red Lion Hotel, 2001 Point West Way, Sacramento, California
Phoenix—Hilton Point at South Mountain, 7777 South Point Parkway, Phoenix, Arizona
4. Salt Lake City—Hilton Hotel, 150 West 500 South, Salt Lake City, utah
Fresno—Holiday Inn (Airport), 5090 East Clinton, Fresno, California

Written comments for inclusion in the official record should be received at the Bureau of Reclamation by June 2, 1995. Comments should be addressed to: Mr Ronald J. Schuster (D–5010), Westwide Settlement Manager, Bureau of Reclamation, Denver Office, PO Box 25007, Denver CO 80225.

A dedicated toll-free telephone line has been established at 1–800–861–5443 through June 2, 1995 to accommodate oral comments from those not attending a public hearing. Comments will be recorded on tape and transcribed by a court reporter, and will be part of the official record. Statements are limited to 10 minutes and must include the commentor's name in order to be included in the official record. Address and affiliation are optional.

FOR FURTHER INFORMATION CONTACT: Ronald J. Schuster, (303) 236–9336, ext. 237

SUPPLEMENTARY INFORMATION: An identical notice is published in this **Federal Register** regarding public hearings on the environmental impacts of the proposed rules and regulations for implementing the Reclamation Reform Act of 1982.

Ground rules for the hearings are presented below:

—While each hearing is in session, all comments will be recorded by a court reporter.
—Speakers should identify themselves and any organization that they represent.
—Statements will be limited to 10 minutes, and speakers will not be allowed to trade time to obtain longer presentations. The hearing officer may allow any speaker additional time after all scheduled speakers have been heard. The hearing officer may also shorten the 10 minute limit if the number of speakers is too large to fit within a reasonable time frame.
—No one will be recognized to speak other than those parties who are presenting statements.
—To ensure a complete and accurate record, it will be necessary that only one person speak at a time.
—Persons presenting views will not be sworn in or otherwise placed under oath.
—There will be no examination or interrogation of speakers.
—There will be no response by the hearing officer or other Bureau of Reclamation staff on speaker comments.
—Due to the shortness of available time, speakers are encouraged to summarize their comments as much as possible and give the court reporter a copy of their full statement which will be added to the official record.
—Speakers will be scheduled according to the order in which they sign up. Any speaker not present when called will lose his or her turn in the scheduled order, but will be given an opportunity to speak at the end of the scheduled presentations.
—After the scheduled speakers have been heard, each individual who wishes to speak will be afforded that opportunity.
—People are asked to refrain from clapping or other actions that might interfere with the speakers or hearing

Dated: April 18, 1995.

Wayne O. Deason,

Assistant Director, Program Analysis Office

[FR Doc. 95–10011 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–94–P–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 383

[Docket No. R–156]

RIN 2133–AB16

Determination of Fair and Reasonable Guideline Rates for the Carriage of Less-Than-Shipload Lots of Bulk and Packaged Preference Cargoes on U.S.-Flag Commercial Liner Vessels

AGENCY: Maritime Administration, DOT

ACTION: Notice of proposed rulemaking.

SUMMARY: The regulations at 46 CFR part 383 ("Rule") specify the procedures for the calculation of fair and reasonable guideline rates for certain preference cargoes carried in U.S.-flag vessels employed in a liner service. Currently, the rule applies only to less-than-shipload lots of dry bulk preference cargoes on U.S.-flag vessels. The United States Department of Agriculture (USDA) and the Agency for International Development (AID), the major U.S. government shipper agencies, have requested that the Maritime Administration (MARAD) provide them with guideline rates for bagged and packaged agricultural commodities and to clarify MARAD's policy for prioritization of U.S.-flag shipping services for compliance with the cargo preference requirements of the Cargo Preference Act of 1954. MARAD provides guideline rates for such commodities on bulk vessels, under a similar regulation for bulk vessels at 46 CFR part 382, but does not now provide guideline rates for bagged or packaged cargoes in less-than-shipload lots on vessels in a liner service. This amendment will extend the scope of the rule to cover bagged or packaged agricultural commodities in parcels of 5,000 tons and greater on vessels in a liner service. Prioritization is outside the scope of these regulations; MARAD will address this issue separately at a later date.

DATES: Comments on the proposed rule must be received on or before June 23, 1995.

ADDRESSES: Send an original and two copies of the comments to Secretary, Maritime Administration, Room 7210, 400 7th St., SW., Washington DC 20590. To expedite reviewing the comments the agency requests, but does not require, submission of an additional ten (10) copies. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a stamped self-addressed envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Michael P Ferris, Director, Office of Costs and Rates, Maritime Administration, Washington, DC 20590. Telephone (202) 366–2324.

SUPPLEMENTARY INFORMATION: Section 901(b) of the Merchant Marine Act, 1936, as amended, cited as the Cargo Preference Act of 1954, requires that, with respect to certain cargoes which could be described as "government-impelled," such as food donation programs administered by the State Department or the Department of Agriculture, the cognizant government agency or agencies must take appropriate steps to assure that at least 50 percent of the gross tonnage of such cargoes transported on ocean vessels will be "transported on privately owned United States-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels" (46 App. U.S.C. 1241(b)). Section 901b of the Act, cited as the Food Security Act of 1985, increased the 50 percent carriage requirement to 75 percent for agricultural commodities or products shipped under certain food donation programs (46 App U.S.C. 1241f). The rule (46 CFR part 383) was promulgated to govern the determination of "fair and reasonable rates" (also referred to as guideline rates) for the carriage of dry bulk preference cargoes, in less-than-shipload lots, on U.S.-flag vessels employed in a liner service. It was originally issued on and became effective November 9, 1987. It was subsequently modified, effective January 2, 1992 (57 FR 21036).

Liner operators provide important services to the public as well as shippers of packaged agricultural commodities, for example, consolidations of cargo, intermodal movements and scheduled services. These services are frequently needed and sought by shippers of government impelled cargo. USDA's Commodity Credit Corporation (CCC) through a system of monthly invitations for the purchase of agricultural products and transportation services is the major government contractor of agricultural liner cargo. U.S.-flag liner operators offer transportation bids for the carriage of certain liner cargoes, and the cargo is allocated as to load and discharge ranges based on product prices and these bids. The CCC may then seek lower bids from U.S. liner and bulk operators for the 75% allocation or book the cargo at the rates originally bid.

In general, liner services have complex cost and operating structures which frequently make the determination of guideline rates difficult and impractical. When the Rule was originally proposed in 1986, liner operators carrying most agricultural preference cargoes operated in this more structured environment carrying a wide variety of cargoes to and from numerous domestic and foreign ports. It was also believed, since packaged liner preference cargoes were generally transported under conference freight tariffs filed with the Federal Maritime Commission, that the rates charged were subject to sufficient competition to assure reasonableness. Additionally, the numerous types of parcels in a wide variety of sizes, many below 1,000 metric tons, shipped to various locations would pose substantial administrative and technical problems if guideline rates calculations were to be attempted.

However, MARAD now believes that a significant portion of the bagged and packaged agricultural preference cargoes are carried on voyages in large parcel lots, frequently a consolidation of several small parcels. In these instances, where large parcel lots are being carried, the liner voyage often takes on enough of the pricing characteristics of a bulk voyage that it should be treated on an equal basis with bulk voyages. Also, many of the administrative and technical restraints are eliminated or minimized when guideline rates are only determined for large parcels. As such, it is appropriate and feasible that MARAD furnish a shipper agency with a guideline rate for large parcels when it is requested.

MARAD also recognizes that certain sizes or amounts of cargo are well suited for carriage by a vessel in a common carrier liner service, while larger amounts are better suited for carriage outside the liner service system. This recognition, which was expounded in the Administration's proposed maritime reform legislation, has resulted in the decision to calculate a fair and reasonable guideline rate when a vessel carries a 5,000 ton parcel of preference cargo. Parcels smaller than 5,000 tons pose administrative and technical restraints that prevent calculation of rates that can be reliably termed fair and reasonable, so these parcels will continue to be subject only to the common carrier rate process.

Since U.S. shipper agencies may consolidate two or more distinct cargoes from the same port or region to the same discharge port or region, and those cargoes may individually be less than 5,000 metric tons, but collectively exceed 5,000 metric tons, a clear definition of the term "parcel" is required. To determine the most functional definition, MARAD evaluated over 2,000 bills of lading, pertaining to over 1.0 million metric tons of agricultural liner parcels shipped by U.S. shipper agencies during the period October 1, 1992 to September 30, 1993. The data showed that various agricultural preference cargoes destined for the same country were frequently carried on the same voyage.

In analyzing this sample, MARAD consolidated preference cargoes into parcel lots under three different definitions for a parcel, all of which were at least 5,000 metric tons. The first, equal to approximately one-third of the sample, was preference cargo in parcel lots shipped on voyages from a single U.S. port to a single foreign port. The second definition used an expanded load range which included all the ports within a U.S. load port range (i.e., U.S. Gulf) to a single foreign port. This expansion increased the amount of sample tonnage covered to about 45 percent of the sample cargo. The third definition used a further expansion to include a discharge range of all ports of the recipient country. This third definition of parcel covered over two-thirds of the cargo analyzed.

As part of the analysis, MARAD reviewed the three options for complexity of determining guideline rates and for their conformity with MARAD's policy goals of providing guideline rates that are reasonable for the shipper agencies and fair to an efficient U.S.-flag operator. The first option, parcels over 5,000 metric tons shipped from a single load to a single discharge port, would involve the simplest ratemaking but would have the least impact on the number of shipments subject to fair and reasonable guideline rate calculations. The third option, parcels over 5,000 metric tons shipped from a single U.S port range to a port or ports within a single discharge country, would have the greatest level of cargo coverage but results in a slightly more complicated ratemaking process

The second option falls between the other options in both considerations. MARAD believes that it would be feasible within the current regulations to determine fair and reasonable guideline rates under any of the three options. Since the third option provides guideline rate coverage to the largest amount of cargo and is most consistent with MARAD policy goals stated above, this definition for parcel is being proposed.

As a result of this analysis, for purposes of this rulemaking a parcel will be defined as any group of cargoes subject to cargo preference laws offered by a U.S. shipper agency, host country and/or Private Voluntary Organization (PVO), individually or in combination, loaded in a port or ports within a single U.S. coastal port range (U.S. Gulf coast, U.S. East coast, U.S. West coast, U.S. Great Lakes, Alaska and Hawaii) and discharged at a port or ports of a single foreign country or destined for a single foreign country.

Accordingly, this rulemaking proposes to change the scope of the Rule to include bagged and packaged preference parcels of 5,000 metric tons and greater which are offered for carriage to U.S.-flag operators. In addition, certain conforming changes will be necessary to parts of the existing regulation to administratively facilitate the proposed amendment.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review)

This regulation has been reviewed under Executive Order 12866 and Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is not considered to be an economically significant regulatory action under section 3(f) of E.O. 12866, since it has been determined that it will not result in an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

While this rulemaking does not involve any change in important Departmental policies, it is considered significant because it addresses a matter of considerable importance to the maritime industry and may be expected to generate significant public interest. MARAD has estimated the potential economic impact of this rulemaking based on a sample of approximately 2,000 individual liner parcels totalling over 1.0 million metric tons booked during the period October 1, 1992 to September 30, 1993. Based on this data, MARAD estimates that guideline rates for approximately 700,000 metric tons could have been calculated and proffered to the responsible shipper agency. If guideline rates were calculated using this rulemaking and the actual fixture reduced to guideline rate, when appropriate, freight charges paid by the government would have declined resulting in a reduction in shipper revenue and government expenditures of approximately 2 to 4 percent. During this period, estimated freight charges paid by government agencies for agricultural liner cargoes were about $260 million. Under market conditions characterizing the study period, total savings are estimated to be $4 to 8 million annually. Because the economic impact should be minimal relative to the total freight costs for agricultural preference cargoes, further regulatory evaluation is not necessary.

Federalism

The Maritime Administration has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that this regulation will not have a significant economic impact on a substantial number of small entities

Environmental Assessment

This regulation does not significantly affect the environment. An Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This proposed regulation does not significantly change the current requirement for the collection of information. The Office of Management and Budget (OMB) has reviewed the current regulation under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has approved it under OMB Approval Number 2133–0515.

List of Subjects in 46 CFR Part 383

Agricultural commodities, Cargo vessels, Government procurement, Grant programs—foreign relations, Loan programs—foreign relations, Water transportation.

MARAD hereby proposes to amend 46 CFR part 383, as follows:

1. The authority citation for part 383 would continue to read as follows:

Authority: 46 App U.S.C. 1114(b), 1241(b), 49 CFR 1.66.

2. The heading is proposed to be revised to read as follows:

PART 383—DETERMINATION OF FAIR AND REASONABLE RATES FOR THE CARRIAGE OF LESS-THAN-SHIPLOAD LOTS OF BULK AND PACKAGED PREFERENCE CARGOES ON U.S.-FLAG COMMERCIAL LINER VESSELS

3. Section 383.1 is proposed to be revised to read as follows:

§ 383.1 Scope.

Part 383 prescribes regulations applying to the waterborne transportation of bulk and packaged preference cargoes in less than full shiploads on U.S.-flag commercial liner vessels. Full shiploads of preference cargo and preference cargoes carried by vessels not operated in the liner trades are covered under 46 CFR Part 382. These regulations contain the method that the Maritime Administration (MARAD) shall use in calculating fair and reasonable rates, and the type of information that shall be submitted by liner operators interested in carrying such preference cargoes. For the purpose of these regulations the term less-than full shipload shall include: All cargoes in bulk; or, bagged and/or packaged parcels greater than or equal to 5,000 metric tons and up to the full deadweight capacity of the specific vessel. *A U.S.-flag commercial liner vessel* is any vessel used by the operator which has previously carried cargo (except newly purchased or constructed vessels) in the liner trades and will carry the subject preference cargo in a liner trade previously established by the operator. For these purposes, liner trades is defined as service provided on an advertised schedule, giving relatively frequent sailing between specific U.S. ports or ranges and designated foreign ports or ranges; parcel is defined as any group of cargoes subject to cargo preference laws offered by a U.S. shipper agency, host country or Private Voluntary Organization (PVO), singularly or in combination, loaded in a port or ports within a single U.S. coastal port range and discharged at a port or ports of a single foreign country or destined for a single foreign country

§ 383.2 [Amended]

4. Section 383.2 Data Submission is proposed to be amended in paragraph (a) *General*, in the first sentence, by removing the term "dry bulk"

5. Section 383.3 is proposed to be amended by revising paragraph (g) to read as follows:

§ 383.3 Determination of fair and reasonable rates.

* * * * *

(g) *Total rate.* The operating cost component, capital cost component, fuel cost component and port and cargo handling cost component shall be added together to yield a total cost element. This total shall be multiplied by 13.5 percent to yield an allowance for broker's commissions, and general and administrative expenses. This allowance shall be added to the total cost element and divided by the cargo tonnage to yield the guideline rate, generally expressed as a cost per ton, except in those circumstances where a cost per ton rate is not appropriate; for example, where two or more cargoes are carried on the same voyage at differing rates per ton. In the event a cost per ton rate is inappropriate, the rate shall be expressed in terms appropriate to the circumstance.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 95–10016 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC83

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for Five Freshwater Mussels and Proposed Threatened Status for Two Freshwater Mussels From Eastern Gulf Slope Drainages of Alabama, Florida, and Georgia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period is reopened on a proposal to list the fat three-ridge, shiny-rayed pocketbook, Gulf moccasinshell, Ochlockonee moccasinshell, and oval pigtoe as endangered, and the Chipola slabshell and purple bankclimber as threatened, pursuant to the Endangered Species Act of 1973 (Act), as amended. The Service is reopening the comment period on this proposal to allow members of the public to submit comments.

DATES: The comment period on this proposal is reopened until May 5, 1995.

ADDRESSES: Written comments and materials concerning the proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert S. Butler at the above address (telephone: 904/232–2580, fax 904/232–2404).

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1994, the Service published a proposal (59 FR 39524) to add seven freshwater mussels (fat three-ridge, shiny-rayed pocketbook, Gulf moccasinshell, Ochlockonee moccasinshell, oval pigtoe, Chipola slabshell, and purple bankclimber) to the list of endangered and threatened animals. These seven species are endemic to the Apalachicolan Region of the eastern Gulf Slope, defined as the rivers from the Escambia River in the west to the Suwannee River in the east. These drainages comprise southeast Alabama, southwest Georgia, and north Florida.

Section 4(b)(5)(E) of the Act requires that a public hearing be held if requested within 45 days of the publication of a proposed rule. By September 19, 1994, the Service had received 12 public hearing requests on the proposal to list these seven mussels. The Service conducted five public informational meetings and five public hearings in January 1995. A notice of the public informational meetings, public hearings, and reopening of the comment period until February 10, 1995, was published in the **Federal Register** on December 12, 1994 (59 FR 63987).

The Service hereby announces the reopening of the comment period until May 5, 1995. This extension will allow the Service to accept comments received after the close of the previous comment period and the interested public to further comment upon these proposals

Author: The primary author of this notice is Robert S. Butler, Jacksonville Field Office U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216 (904/232–2580 or fax 904/232–2404).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*)

Dated: April 17, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service

[FR Doc. 95–10066 Filed 4–21–95 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register

Vol. 60, No. 78

Monday, April 24, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration and Committee on Regulation

ACTION: Notice of public meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of meetings of the Committee on Administration and the Committee on Regulation of the Administrative Conference of the United States.

Agency: Committee on Administration.

Date: Tuesday, May 2, 1995, at 10:00.

Location: Federal Energy Regulatory Commission, 810 First Street, N.E., 8th Floor Hearing Room, Washington, DC.

For Further Information Contact: Charles Pou, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Agency: Committee on Regulation.

Date: Thursday, May 4, 1995, at 1:30 p.m.

Location: Office of the Chairman, Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, DC.

For Further Information Contact: David M. Pritzker, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

Supplementary Information: The Committee on Administration will meet to continue its discussion of proposed recommendations regarding the Freedom of Information Act and confidentiality of records under the Administrative Dispute Resolution Act. The Conference's consultant for this project is Professor Mark Grunewald of the Washington and Lee University School of Law.

The Committee on Regulation will meet to continue discussion of proposed recommendations on self-implementation, or self-enforcement, as a regulatory alternative to direct enforcement. The committee has been considering a draft report on this subject by Professor Douglas C. Michael of the University of Kentucky College of Law. This draft report follows an earlier study by Professor Michael, which led to Recommendation 94–1, The Use of Audited Self-Regulation as a Regulatory Technique, adopted by the Administrative Conference in June 1994. The Committee on Regulation will also discuss a draft recommendation on dispute resolution under the Americans with Disabilities Act (ADA), based on a draft report by Professor Ann C. Hodges of the T.C. Williams School of Law, University of Richmond. Copies of the reports and of the draft recommendation on the ADA are available from the Administrative Conference.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of each committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of each meeting will be available on request.

Dated: April 19, 1995.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 95–10068 Filed 4–21–95; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–95–11]

Burley Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Burley Tobacco Advisory Committee.

Date: June 20, 1995.

Time: 10 a.m.

Place: Campbell House Inn, North Colonial Hall, 1375 Harrodsburg Road, Lexington, Kentucky 40504.

Purpose: To elect officers, recommend opening dates, review the 1995 policies and procedures and other related matters for the 1995 burley tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Director, Tobacco Division, AMS, U.S. Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: April 17, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–9972 Filed 4–21–95; 8:45 am]

BILLING CODE 3410–02–P

[Docket No. TB–95–10]

Flue-Cured Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Flue-Cured Tobacco Advisory Committee.

Date: June 15, 1995.

Time: 10 a.m.

Place: United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Tobacco Division, Flue-Cured Tobacco Cooperative Stabilization Corporation Building, Room 223, 1306 Annapolis Drive, Raleigh, North Carolina 27608.

Purpose: To elect officers, establish submarketing areas, discuss selling schedules and recommend opening dates. The Committee will also update the 1995 policies and procedures and review other related matters for the 1995 flue-cured tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Director, Tobacco Division, AMS, USDA, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: April 17, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–9971 Filed 4–21–95; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Trail System and Off Highway Vehicle Management and Development, Ochoco National Forest and Crooked River National Grassland, Crook, Grant, Jefferson, Harney, and Wheeler Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Revision of notice of intent.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) for analysis of

development and management of the Ochoco National Forest and Crooked River National Grassland trail system and off highway vehicle (OHV) use. Forest Service proposes to develop a framework for designating OHV routes and areas to provide a variety of motorized recreation opportunities. Regulations prescribing operating conditions for OHV use will be developed for specific areas. Regulations considered may include designated areas and/or routes, seasonal closures, and/or complete area closures.

The revised proposed action will also include: (1) Clarifying conflicting trail standards and guidelines and/or developing additional trail standards and guidelines for all Forest and Grassland lands; and (2) developing recreation trail objectives that address all user groups and acceptable intensity of use for all Forest and Grassland lands.

The purpose of the EIS is to develop a framework for providing well-designed OHV trails while protecting fish, wildlife, soils, air quality, and adjacent land owner rights; as well as mitigating conflicts between various recreation trail groups.

Changes proposed in this EIS to the current Management Allocations Standards and Guidelines in the Ochoco National Forest and Grassland Land and Resource Management Plans (LRMP) will result in amendments to these plans. The EIS will be programmatic in nature. Any future proposed ground disturbing activities that tier to this EIS and associated Forest and Grassland Plan amendment will have a site specific environmental analysis conducted at a later date. The Forest Service invites written comments on the scope of this project. In addition, the Forest Service gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of analysis of this proposal must be received by May 20, 1995.

ADDRESSES: Submit written comments and suggestions concerning the scope of analysis to Thomas A. Schmidt, Forest Supervisor, Ochoco National Forest, P.O. Box 490, Prineville, Oregon 97754.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Susan Kocis, Forest Recreation Planner, Ochoco National Forest, P.O. Box 490, Prineville, Oregon 97754, phone 503–447–6247.

SUPPLEMENTARY INFORMATION: A need to address access and travel on the Ochoco National Forest and Crooked River National Grassland became apparent from public comments and appeals to the Record of Decision for the LRMP. Increasing resource damage and public demand for OHV opportunities on the Ochoco National Forest and Grassland continues to show the need to complete this EIS process, which started in 1991 (Notice of Intent, Federal Register, May 22, 1991, (56 FR 23548)). Based on new issues the proposed action has been revised. This revised proposed action has lead to the development of several different alternatives considered. At a minimum, alternatives being considered will include. One, Existing Condition Alternative, which will continue with existing Forest and Grassland Plan direction. Two, No Action Alternative, which will build no new motorized or nonmotorized trails. Three, Designated Trail Alternative, which would allow OHV use only on designated Forest and Grassland trails and off-trail use would not be allowed.

Currently the Forest and Grassland provide 196 miles of trail of which 8.1 miles are designated for OHV summer use, 75 miles are for winter motorized use, and 123 miles are for summer and winter nonmotorized use. The Forest and Grassland Plans call for additional construction of approximately 130 miles of OHV trail and 196 miles of nonmotorized trail by 1999. Since 1989 the Forest and Grassland have constructed 23.0 miles of nonmotorized trail. An additional 12 miles of trail were analyzed and a decision not to build them was made.

Demand for OHV trail opportunities has been increasing, as evidenced by increasing comments and letters from the public. There is a need to proceed with attaining the Desired Future Condition (DFC) for trails as stated in the LRMP.

To attain DFC, direction prescribing operating conditions for OHV use will be developed for the following areas:

—Riparian areas (including springs, seeps and meadows);
—Closed areas (identified in the existing LRMP);
—Sensitive plant communities (including high elevation sites, rare plants, and old growth);
—Sensitive soils (including erodible and/or compactable soils on moderate/steep slopes, and scablands); and
—Sensitive areas (including cultural resource sites, forest tree plantations, wild animal calving areas, and threatened, endangered and sensitive wildlife use sites).

A tentative list of issues has been identified from the Forest and Grassland access and travel meeting in 1990–1991, as well as from letter and comments received from the public through 1994. Issues can be grouped into five keys areas: Social; travel route management; multi-recreational use; resource considerations; public affairs and user education.

Since the Notice of Intent, the Forest and Grassland have held over 30 public meetings and received comments from over 40 individuals and groups. Public participation is and will be an important during this environmental analysis. The Forest Service is seeking information, comments, and assistance from Federal, State, Tribes, and local agencies, and other individuals or organizations who may be interested in or affected by the revised proposed action. Comments received regarding travel and access from 1990–1994 will also be used. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis process.
4. Exploring additional alternatives.
5. Identifying potential environmental effects or the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review June 1995. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date of the EPA notice appears in the **Federal Register**. It is very important that those interested in the management of the Ochoco National Forest and Crooked River National Grassland participate at that time.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court ruling related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp* v. *NRDC*, 435, U.S. 519, 553, (1978)). Also, environmental objections that could be raised at the draft EIS state but that are not raised until after completion of the final EIS may be waived or dismissed by the courts (*City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). In light of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible.

The final EIS is scheduled to be completed around October 1995. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations and policies considered in making the decision regarding this proposal. Tom Schmidt, Forest Supervisor, Ochoco National Forest, is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR Part 217).

Dated: April 14, 1995.

Thomas A. Schmidt,

Forest Supervisor.

[FR Doc. 95–10013 Filed 4–21–95; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Idaho Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Idaho Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Friday, June 2, 1995, at the Double Tree Hotel, 475 Park Center Boulevard, Boise, Idaho 83706. The purpose of the meeting is to discuss law enforcement issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gladys Esquibel, 208–678–3838, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 17, 1995.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit

[FR Doc. 95–9975 Filed 4–21–95; 8:45 am]

BILLING CODE 6335–01–F

Agenda and Notice of Public Meeting of the Kentucky Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S, Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Thursday, May 11, 1995, at the Raddison Plaza, 369 West Vine Street, Lexington, Kentucky 40507. The meeting will include: orientation for new members, a review of Commission activity, a discussion of civil rights problems and progress in the State, and review and discussion of the report, "Bigotry Related Violence in Kentucky.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Porter Peeples, 606–233–1561, or Robert L. Knight, Civil Rights Analyst of the Southern Regional Office, 404–730–2476 (TDD 404–730–2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 17, 1995.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit

[FR Doc. 95–9976 Filed 4–21–95; 8:45 am]

BILLING CODE 6335–01–F

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 950329080–5080–01]

Special American Business Internship Training Program (SABIT)

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This Notice announces availability of funds for the Special American Business Internship Training Program (SABIT), for training business executives and scientists (also referred to as "interns") from the New Independent States (NIS) of the former Soviet Union. The Department of Commerce, International Trade Administration (ITA) established the SABIT program in September 1990 to assist the former Soviet Union's transition to a market economy. Since that time, SABIT has been matching business executives and scientists from the NIS with U.S. firms which provide them with three to six months of hands-on training in a market economy.

Under the SABIT program, qualified U.S. firms will receive funds through a cooperative agreement with ITA to help defray the cost of hosting interns. ITA will interview and recommend eligible interns to participating companies. Interns may be from any of the following Independent States: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The U.S. firms will be expected to provide the interns with a hands-on, non-academic, executive training program designed to maximize their exposure to management or commercially-oriented scientific operations. At the end of the training program, interns must return to the NIS.

DATES: The closing date for applications is April 30, 1996. An original and two copies of the application (Standard Form 424 (Rev. 4–92) and supplemental material) are to be sent to the address designated in the Application Kit and postmarked by the closing date. Applications will be considered on a "rolling" basis as they are received, subject to the availability of funds. If available funds are depleted prior to the closing date, a notice to that effect will be published in the **Federal Register**. Processing of complete applications takes approximately two to three months.

ADDRESSES: Request for Applications: Competitive Application kits will be available from ITA starting on the day

this notice is published. To obtain a copy of the Application Kit please telephone (202) 482–0073, or facsimile (202) 482–2443 (these are not toll free numbers) or send a written request with two self-addressed mailing labels to Liesel C. Dubon, Acting Director, SABIT Program, HCHB Room 3319, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Only one copy of the Application Kit will be provided to each organization requesting it, but it may be reproduced by the requester.

FOR FURTHER INFORMATION CONTACT: Liesel C. Dubon, Acting Director, SABIT Program, U.S. Department of Commerce, phone—(202) 482–0073, facsimile—(202) 482–2443. These are not toll free numbers.

SUPPLEMENTARY INFORMATION: SABIT exposes NIS business managers and scientists to a completely new way of thinking in which demand, consumer satisfaction, and profits drive production. Senior-level interns visiting the U.S. for internship programs with public or private sector companies will be exposed to an environment which will provide them with practical knowledge for transforming their countries' enterprises and economies to the free market. The program provides first-hand, eye-opening experience to managers and scientists which cannot be duplicated by American managers travelling to their territories.

Business Executives: SABIT assists economic restructuring in the NIS by providing top-level business managers with practical training in American methods of innovation and management in such areas as strategic planning, financing, production, distribution, marketing, accounting, wholesaling, and labor relations. This first-hand experience in the U.S. economy enables interns to become leaders in establishing and operating a market economy in the NIS, and creates a unique opportunity for U.S. firms to familiarize key executives from the NIS with their products and services.

Scientists: SABIT provides opportunities for gifted scientists to apply their skills to peaceful research and development in the civilian sector, in areas such as defense conversion, medical research, and the environment, and exposes them to the role of scientific research in a market economy where applicability of research relates to business success. Sponsoring firms in the U.S. scientific community also benefit from exchanging information and ideas, and different approaches to new technologies.

All internships are for three to six months; however, ITA reserves the right to allow an intern to stay for a shorter period if the U.S. company agrees and the intern demonstrates a need for a shorter internship based on his or her management responsibilities.

Funding Availability: Pursuant to section 633(a) of the Foreign Assistance Act of 1961, as amended (the "Act") funding for the program will be provided by the United States Agency for International Development (A.I.D). ITA will extend financial assistance and administer the program pursuant to the authority contained in section 635(b) of the Act. The estimated amount of financial assistance available for the program is $1.4 million. Additional funding may become available during this funding period.

Funding Instrument and Project Duration: Federal assistance will be awarded pursuant to a cooperative agreement between ITA and the recipient firm. ITA will reimburse companies for the round trip international travel of each intern from the intern's home city in the NIS to the U.S. internship site, upon submission to ITA of the travel invoice and the form SF–270, "Request for Advance or Reimbursement." Travel under the program is subject to the Fly America Act. Recipient firms provide $30 per day directly to interns; ITA will reimburse companies for this stipend of $30 per day per intern for up to six months, upon submission by company of an end-of-internship report and form SF–270. Each award will have a cap of $7,500 per intern for total cost of airline travel and stipend. ITA reserves the right to allow an award to exceed this amount in cases of unusually high costs, such as airfare from remote regions of the NIS. There are no specific matching requirements for the awards. Host firms, however, are expected to bear the costs beyond those covered by the award, including: visa fees, housing, insurance, any food and incidentals costs beyond $30 per day, any training-related travel within the U.S., and provision of the hands-on training for the interns.

U.S. firms wishing to utilize SABIT in order to be matched with an intern without applying for financial assistance may do so. Such firms will be responsible for all costs, including travel expenses, related to sponsoring the intern.

Eligibility: Eligible applicants for the SABIT program will be any for profit or non-profit U.S. corporation, association, organization or other public or private entity. Branches or divisions of the federal government are not eligible.

Evaluation Criteria: Consideration for financial assistance will be given to those SABIT proposals which:

(1) Demonstrate a commitment to the intent and goals of the program to provide practical, on-the-job, non-academic, non-classroom, training; in the case of manager interns, an appropriate management training experience, or, in the case of scientist interns, a practical, commercially-oriented scientific training experience.

(2) Respond to the priority needs of senior business managers and scientists in the NIS, as determined by ITA. Host firms must be solidly committed to interns' return to their own countries upon completion of the internships.

(3) Present a realistic work plan describing in detail the training program to be provided to the SABIT intern(s). Work plans must include the following: (a) Whether Applicant is applying to host managers or scientists, or both (and the number of each); (b) the duration of the internship (at least three but not more than six months.) As noted above, ITA reserves the right to allow an intern with very senior management responsibilities to stay for a shorter period (minimum of one month) if the U.S. company agrees and the intern demonstrates a compelling need for a shorter internship based on his or her management responsibilities; (c) the location(s) of the internship; (d) the name, address, and telephone number of the designated internship coordinator; (e) name(s) of division(s) in which the intern(s) will be placed; (f) the individual(s) in the U.S. company under whose supervision the intern will train; (g) the proposed internship training activities. The components of the training activities must be described in as much detail as possible, preferably on a week-by-week basis. The description of the training activities should include an accounting of what the intern's(s') duties and responsibilities will be during the training; (h) the anticipated housing arrangements to be provided for the intern(s). Note that housing arrangements should be suitable for mid- and senior-level professionals, and that each intern must be provided with a private room.

(4) Include a brief objectives section indicating why the Applicant wishes to provide an internship to a manager(s) or scientist(s) from the NIS, and how the proposed internship would further the purpose of the SABIT program as described above. If Applicant is nominating a specific individual for training, this objectives section must describe any existing relationship between the Applicant and the individual.

(5) Provide a general description of the profile of the intern(s) the Applicant would like to host, including: educational background; occupational/professional background (including number of years and areas of experience); size and nature of organization at which the intern(s) is/are presently employed; preference for the region of the NIS where the intern(s) is/are employed; and whether Applicant is open to sponsoring interns from a variety of NIS countries.

(6) Indicate whether Applicant organization operates in one or more of the following business sectors: (a) Agribusiness (including food processing and distribution, and agricultural equipment), (b) Defense conversion, (c) Energy, (d) Environment (including environmental clean-up), (e) Financial services (including banking and accounting), (f) Housing, construction and infrastructure, (g) Medical equipment, supplies, pharmaceuticals, and health care management, (h) Product standards and quality control, (i) Telecommunications, and (j) Transportation. Applicant proposal must provide an explanation including description and extent of involvement in the sector(s). While Applicants involved in any industry sector may apply to the program, priority consideration is given to those operating in the above sectors.

Evaluation criteria 1–6 will be weighted equally. ITA does not guarantee that it will match Applicant with the profile provided to SABIT

Additional Information: Applicants must submit: (1) Evidence of adequate financial resources of Applicant organization to cover the costs involved in providing an internship(s). As evidence of such resources, Applicant should submit financial statements audited by an outside organization or an annual report including such statements. If these are not available, a letter should be provided from the Applicant's bank or outside accountant attesting to the financial capability of the firm to undertake the scope of work involved in training an intern under the SABIT program. (2) Evidence of a satisfactory record of performance in grants, contracts and/or cooperative agreements with the Federal Government, if applicable. (Applicants who are or have been deficient in current or recent performance in their grants, contracts, and/or cooperative agreements with the Federal Government shall be presumed to be unable to meet this requirement). (3) A statement that the Applicant will provide medical insurance coverage for interns during their internships. Recipients will be required to submit proof of the interns' medical insurance coverage to the Federal Program Officer, before the interns' arrivals. The insurance coverage must include an accident and comprehensive medical insurance program as well as coverage for accidental death, emergency medical evacuation, and repatriation.

Selection Procedures: Each application will receive an independent, objective review by one or more three or four-member ITA review panels qualified to evaluate applications submitted under the program. Applications will be evaluated on a competitive, "rolling" basis as they are received in accordance with the selection criteria set forth above. Awards will be made to those applications which successfully meet the selection criteria. If funds are not available for all those applications which successfully meet the criteria, awards will be made to the first applications received which successfully do so. ITA review panel(s) reserve(s) the right to reject any application; to limit the number of interns per applicant; to waive informalities and minor irregularities in applications received; and to consider other than competitive procedures to distribute assistance under this program and in accordance with the law. ITA review panel(s) reserve(s) the right to make awards based on U.S. geographic and organization size diversity among applicants. Recipients may be eligible, pursuant to approval of an amendment to the award, to host additional interns under the program.

Other Requirements: All applicants are advised of the following:

1. No award of Federal funds shall be made to an Applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to DOC are made.

2. A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C.1001.

3. Recipients and subrecipients are subject to all Federal laws and Federal and Departmental regulations, policies and procedures applicable to financial assistance awards.

4. Participating companies will be required to comply with all relevant U.S. tax and export regulations. Export controls may relate not only to licensing of products for export, but also to technical data transfer.

5. Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

6. If applicants incur any costs prior to an award being made, they do solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

7 Past performance: Unsatisfactory performance by an applicant under prior Federal awards may result in an application not being considered for funding.

8. No obligation for future funding: If an application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

9. Primary Applicant Certifications: All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

(a) Nonprocurement Debarment and Suspension: Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

(b) Drug Free Workplace: Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

(c) Anti-Lobbying: Funds provided under the SABIT program may not be used for lobbying activities. Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater.

(d) Anti-Lobbying Disclosures: Any applicant that has paid or will pay for lobbying in connection with this award

VOL 60 ISS 78 AP 24 1995 UMI

using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

10. Lower Tier Certifications: Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11. Indirect Costs: Indirect costs are not allowed under the SABIT program.

12. Buy-American-made equipment or products: Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible in accordance with Public Law 103–121, Sections 606. (a) and (b).

13. The following statutes apply to this program: Restriction on Assistance to the Government of Azerbaijan (Section 907 of the FREEDOM Support Act, Public Law 103–511); Chapter 11 of Part I of the Foreign Assistance Act of 1961, as amended, including section 498A (b), regarding ineligibility for assistance; provisions in annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, including the following provisions contained in Public Law 103–87: Use of American Resources (Section 559 of the Foreign Operation, Export Financing, and Related Programs Appropriations Act, 1995, Pub. L. 103–87); Impact on Jobs in the United States (Section 545 of the Foreign Operation, Export Financing, and Related Programs Appropriations Act, 1995, Pub. L. 103–87); Bumpers Amendment (Section 513(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994, Pub. L. 103–87); Lautenberg Amendment (Section 513(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994, Pub. L. 103–87); and Section 680(a) of the Foreign Assistance Act of 1961, as amended.

Dated: April 18, 1995

Lionel C. Dahms,

Acting Director, SABIT Program

[FR Doc. 95–10012 Filed 4–21–95; 8:45 am]

BILLING CODE 3510–DS–P

COMMISSION ON IMMIGRATION REFORM

Consultation on Refugee and Humanitarian Admissions

Announcement of Commission Consultation

This notice announces a consultation to be held by the U.S. Commission on Immigration Reform in Washington, D.C. on April 25, 1995. The Commission, created by Section 141 of the Immigration Act of 1990, is mandated to review the implementation and impact of U.S. immigration policy and report its findings to Congress. An interim report, U.S. Immigration Policy: Restoring Credibility, was issued on September 30, 1994; the final report is due in 1997

The consultation participants will include the Commissioners, researchers, current and former Administration officials, Congressional staff, and representatives of international and non-governmental organizations. The consultation will examine U.S. refugee and humanitarian admissions policies.

Date: April 25, 1995.

Time: 9:00 am–2:15 pm.

Address: Carnegie Endowment for International Peace, 2400 N Street, N.W., Washington, D.C. 20037–1153.

For Further Information Contact: Paul Donnelly (202) 673–5348.

Dated: April 19, 1995.

Susan Martin,

Executive Director

[FR Doc. 95–10115 Filed 4–20–95; 10:40 am]

BILLING CODE 6820–97–M

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; Fifth Renewal

The Commodity Futures Trading Commission has determined to renew for a period of two years its advisory committee designated as the "Commodity Futures Trading Commission Financial Products Advisory Committee." As required by Section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, Section 14(a)(2)(A), and 41 CFR 101–6.1007 and 101–6.1029, the Commission has consulted with the Committee Management Secretariat of the General Services Administration, and the Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, as amended.

The objectives and scope of activities of the Financial Products Advisory Committee are to conduct public meetings and submit reports and recommendations on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission.

Commissioner Sheila C. Bair serves as Chairman and Designated Federal Official of the Financial Products Advisory Committee. The Committee's membership represents a cross-section of interested and affected persons and groups including representatives of newer institutional market participants, such as broker-dealers, pension sponsors and investment companies; traditional market participants, such as futures commission merchants, commodity pool operators and commodity trading advisors; and representatives of the academic, legal and accounting communities and other appropriate public participants.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Issued in Washington, D.C. on April 18, 1995, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 95–10038 Filed 4–21–95; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Military Health Care Advisory Committee

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Military Health Care Advisory Committee (MHCAC) is being established in consonance with the public interest, and in accordance with the provisions of Public Law 92–463, the "Federal Advisory Committee Act."

The MHCAC will advise the Secretary of Defense, Assistant Secretary of Defense for Health Affairs, and other senior officials in both the Office of the Secretary of Defense and the Military Departments, on problems,

opportunities, preferred solutions, and strategies for managing and sustaining a comprehensive and effective military health care system. Included among the specific areas to be examined and evaluated will be: enhancing beneficiary support and care; increasing medical readiness and preparedness to meet national security missions; increasing the efficiency of both military and private sector medical and health care systems; and, identifying and implementing measures to reduce health risks and improve the health o beneficiaries, especially active duty troops.

The Committee will be composed of 15–20 members who will be a diverse mix of individuals from government, industry, academia, and the private sector, with varied backgrounds in military health care disciplines. Efforts will be made to ensure a balanced membership, considering the functions to be performed and the interest groups represented.

For further information regarding the MHCAC, contact: Mr. Gary Christopherson, (703) 697–2111

Dated: April 17, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9965 Filed 4–21–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Depot Maintenance Operations and Management

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee meetings.

SUMMARY: The Defense Science Board Task Force on Depot Maintenance Operations and Management will meet in closed session on May 2, 1995 at the Pentagon, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will provide advice, recommendations and suggested implementations for improvements to the Department's depot maintenance operations.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 18, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9968 Filed 4–21–95; 8:45 am]

BILLING CODE 5000–04–M

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on May 2, 1995; May 9, 1995; May 16, 1995; May 23 1995; and May 30, 1995, at 10:00 a.m. in Room 800, Hoffman Building #1, Alexandria, Virginia.

Under the provisions of section 10(d) of Pubic Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rule and practices of the Department of Defense and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: April 18, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–9969 Filed 4–21–95; 8:45 am]

BILLING CODE 5000–04–M

Office of the Under Secretary of Defense (Acquisition and Technology)

Pilot Mentor-Protege Program; Notice

AGENCY: Department of Defense, Office of Small and Disadvantaged Business Utilization.

SUMMARY: The Department of Defense is issuing this announcement inviting companies to participate in the DoD Pilot Mentor-Protege Program (hereinafter referred to as MPP). Prior to September 30, 1995, all requests for participation in the MPP should be submitted to either: (1) Credit technical assistance cost toward established subcontracting goals, or (2) credit these costs and charge them as allowable costs to indirect expenses. During this period, requests for direct cost reimbursement under the MPP will not be considered, except where major program managers identify program funds for the MPP

Requests for participation in the MPP should be prepared in accordance with the DoD Policy for the Pilot Mentor-Protege Program, Appendix I of the Defense Federal Acquisition Regulation. Consideration should also be given to selecting proteges that can be developed in the following DoD thrust areas: manufacturing, environmental, health care, management information systems and telecommunications. Mentors are encouraged to select proteges in other areas as well.

Mentors are encouraged to target the protege's developmental assistance program to enhancing the ability of the protege to perform as a subcontractor to the mentor under specific contracts awarded to the mentor by the government. If such an effort is planned under a DoD major contract (valued in excess of $100 million over the life of the contract), in order to demonstrate good faith in providing subcontracting opportunities, the mentor-protege agreement should be supported or endorsed by the appropriate program manager and or the head of the contracting activity that awarded the major contract.

To expedite the review process, companies interested in participating in the program may submit the mentor protege agreement with the initial request, in lieu of the letter of intent.

Please submit requests for participation in the MPP to: Director, DoD Office of Small and Disadvantaged Business Utilization, 3061 Defense Pentagon, Washington, DC 20301–3061

FOR FURTHER INFORMATION CONTACT: Tracy Mitchell, 1–800–553–1858, to receive a copy of Appendix I, the DoD policy, regulations, and written information about the program; Dora Thomas, DoD Office of Small and Disadvantaged Business Utilization, 3061 Defense Pentagon, Washington, DC 20401–3061, for other information about the program.

SUPPLEMENTARY INFORMATION: Section 831 of Public Law 101–510 as amended, establishes the Pilot Mentor-Protege Program. The purpose of the program is to provide incentives to major DoD contractors to furnish small

VOL 60 ISS 78 AP 24 1995 UMI

disadvantaged businesses (SDB) with technical assistance designed to enhance their capabilities to perform as subcontractors and suppliers. The ultimate objective of the program is to increase the participation of these concerns as subcontractors and suppliers under DoD contracts, other federal government contracts and commercial contracts. The policy and procedures governing the MPP are set forth in Appendix I of the Defense Federal Acquisition Regulation.

Incentives under the MPP consist of: Direct reimbursement of technical assistance costs, authority to charge these costs as allowable indirect costs and credit them against established subcontracting goals, credit only against established SDB subcontracting goals and a combination of credit and direct reimbursement.

The following dates are pertinent to this MPP announcement: Companies may be approved for participation in the program until September 30, 1995; companies may be directly reimbursed or charge technical assistance cost as allowable indirect costs until October 1, 1996; companies may credit costs for providing technical assistance toward established subcontracting goals for SDBs until October, 1999.

In order to be approved as a mentor, a company must be performing under at least one active subcontracting plan negotiated pursuant to FAR 19.7. Companies that are interested in becoming a mentor will be responsible for the selection of SDBs as proteges. DoD will not be involved in matching mentors and proteges. SDBs selected as proteges by the mentor must meet the eligibility criteria with respect to size and disadvantage status set forth in the DoD Policy. Pursuant to the law, a protege may have only one mentor.

Dated: April 18, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95-9866 Filed 4-21-95; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF ENERGY

Solicitation; Innovative Concepts for Improving Industrial Processing; EERE-Denver Regional Support Office

AGENCY: Department of Energy.

ACTION: Notice of solicitation, Number DE-PS48-95R81053, for Financial Assistance Applications.

SUMMARY: The Department of Energy (DOE), Denver Regional Support Office, pursuant to 10 CFR 600, announces its intention to issue a competitive solicitation and make financial assistance grant awards under the Innovative Concepts for Improving Industrial Processes. The solicitation is being issued based on the authority contained in the Department of Energy Organization Act of 1977, as amended, Public Law 95-91 and 97-377, and the Federal Non-nuclear Energy Research and Development Act of 1974, Public Law 93-577. Applications submitted in response to this solicitation are not covered by Executive Order 12372, Intergovernmental Review of Federal Programs.

AVAILABILITY OF THE SOLICITATION: To obtain a copy of the solicitation write or fax to the U.S. Department of Energy, Denver Support Office, 2801 Youngfield St., Suite 380, Golden, CO 80401. Attn: Dennis D. Maez. Requests for the solicitation can be made at (303)231-5750 ext. 110 or facsimile (303)231-5757

SUPPLEMENTARY INFORMATION: Numerous efforts have been undertaken in recent years to stimulate and provide assistance to independent and small business inventors in developing and commercializing new technology. These programs are aimed at improving the possibilities for the commercial success of inventions. In an effort to assist these groups by providing a mechanism of sharing information and reducing the risk of trying new approaches to assisting inventors, the Inventions and Innovations Division of DOE established the Innovative Concepts Grant Program (InnCon). The InnCon program is inviting applications for grants to support new initiatives from inventor groups and individuals. Applications must identify a complete project and the necessary resources required to complete it. Each application submitted will be reviewed against established criteria in order to be eligible for a grant. The InnCon Program is not intended to offset the cost of established operation of existing programs. It is intended to award 25 grants in the amounts of $20,000 each, for a total of $500,000. Federal Laboratories, Battelle Memorial Institute, their affiliates and employees are not eligible.

Review of applications will begin on or about July 1, 1995. Selections will commence approximately mid-July, with anticipated award issuance during August through September 1995. Projects should be completed approximately within nine months of the award date.

Awards may be either grants or cooperative agreements, depending on the amount of substantial involvement anticipated between the Department of Energy and the recipient during performance of the contemplated activity.

The solicitation will be issued on or about April 15, 1995, and will contain detailed information on funding, cost sharing requirements, eligibility, application preparation, and evaluation. Responses to the solicitation will be due 60 days after solicitation release.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Denver Regional Support Office, 2801 Youngfield St., Golden, CO 80401, Attention: Dennis D. Maez, Contracting Officer.

Issued in Golden, Colorado on: April 13, 1995

John Meeker,

Chief, Procurement, GO.

[FR Doc. 95-10064 Filed 4-21-95; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. EC94-23-000, et al.]

Washington Water Power Co., et al.; Electric Rate and Corporate Regulation Filings

April 17, 1995.

Take notice that the following filings have been made with the Commission:

1. Washington Water Power Co.

[Docket No. EC94-23-000]

Take notice that on March 28, 1995, Washington Water Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. PowerNet Co.

[Docket No. ER94-931-003]

Take notice that on March 30, 1995, PowerNet Company tendered for filing a letter reporting that it did not engage in any electric power purchases and sales during the quarters ended September 30, 1994 and December 31, 1994.

3. Eclipse Energy Inc.

[Docket No. ER94-1099-004]

Take notice that on March 29, 1995, Eclipse Energy Inc. tendered for filing a letter reporting that no transactions occurred during the time period January 1, 1995 through March 31, 1995

4. J. Aron & Co.

[Docket No. ER95-34-001]

Take notice that on March 29, 1995, J. Aron & Company tendered for filing a letter reporting that it did not engage in any electric power purchases and sales during the calendar quarter ended December 31, 1994.

5. J. Aron & Co.

[Docket No. ER95-34-002]

Take notice that on March 29, 1995, J. Aron & Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Co.

[Docket Nos. ER95-371-001 and ER93-777-003]

Take notice that on March 24, 1995, Commonwealth Edison Company tendered for filing a compliance filing pursuant to the Commission's order of February 22, 1995 in the above-referenced docket.

Comment date: May 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Company

[Docket No. ER95-797-000]

Take notice that on March 24, 1995, Portland General Electric Company (PGE) tendered for filing a Revision of the Integration of Resources Agreement (IR Agreement) Between Portland General Electric Company and the Bonneville Power Administration (BPA) relating to a new point of delivery associated with the Coyote Springs Generating Project. The IR Agreement is BPA Contract No. DE-MS79-894BP92273.

Comment date: May 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. UtiliCorp United Inc.

[Docket No. ER95-858-000]

Take notice that on April 3, 1995, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a service agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Missouri Joint Municipal Electric Utility Commission (MEUC)*.

UtiliCorp requests waiver of the Commission's Regulations to permit the service agreement to become effective in accordance with its terms.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. UtiliCorp United Inc.

[Docket No. ER95-859-000]

Take notice that on April 3, 1995, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a service agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *NorAm Energy Services*. The service agreement provides for the sale of capacity and energy by Missouri Public Service to *NorAm Energy Services* pursuant to the tariff and for the sale of capacity and energy by *NorAm Energy Services* to Missouri Public Service pursuant to *NorAm Energy Services'* Rate Schedule No. 1.

UtiliCorp also has tendered for filing a certificate of concurrence by *NorAm Energy Services*.

UtiliCorp requests waiver of the Commission's Regulations to permit the service agreement to become effective in accordance with its terms.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Atlantic City Electric Co.

[Docket No. ER95-860-000]

Take notice that on April 3, 1995, Atlantic City Electric Company (ACE), tendered for filing an Agreement for Short-Term Energy Transactions between ACE and Baltimore Gas and Electric Company. ACE requests that the Agreement be accepted to become effective April 4, 1995.

Copies of the filing were served on the New Jersey Board of Regulatory Commissioners.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Power & Light Co.

[Docket No. ER95-861-000]

Take notice that on April 3, 1995, Wisconsin Power & Light Company (WP&L), tendered for filing an amended Wholesale Power Agreement dated January 18, 1995, between the Village of Mazomanie and WP&L. WP&L states that this amended wholesale power agreement revises the previous agreement between the two parties dated December 4, 1980, and designated Rate Schedule No. 140 by the Commission.

The parties have executed this amended Wholesale Power Agreement to add an additional delivery point. Service under this amended Wholesale Power Agreement will be in accordance with standard WP&L Rate Schedule W-3.

WP&L requests that an effective date concurrent with the contract effective date be assigned. WP&L states that copies of the amended Wholesale Power Agreement and the filing have been provided to the Village of Mazomanie and the Public Service Commission of Wisconsin.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. West Texas Utilities Co.

[Docket No. ER95-862-000]

Take notice that on April 3, 1995, West Texas Utilities Company (WTU), submitted nine unexecuted Service Agreements establishing the City of Austin, Texas (City of Austin), the City of Brownsville, Texas (City of Brownsville), the City Public Service Board of San Antonio, Texas (City Public Service Board of San Antonio), Houston Lighting & Power Company (HL&P), Lower Colorado River Authority (LCRA), South Texas Electric Cooperative, Inc. (STEC), Texas Municipal Power Pool (TMPP), Texas-New Mexico Power Company (TNP) and Texas Utilities Electric Company (TU Electric) as customers under the terms of WTU's Coordination Sales Tariff CST-1 (CST-1 Tariff).

WTU requests an effective date of March 1, 1995, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon the City of Austin, the City of Brownsville, the City Public Service Board of San Antonio, HL&P, LCRA, STEC, TMPP, TNP, TU Electric and the Public Utility Commission of Texas.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Mississippi Power Co.

[Docket No. ER95-863-000]

Take notice that on April 4, 1995, Mississippi Power Company, tendered for filing four Service Delivery Point Contracts with Coast Electric Power Association and South Mississippi Electric Power Association. The contracts were taken pursuant to Mississippi's Electric Tariff, First Revised Volume No. 1.

The contracts will permit the Company to provide wholesale, all-requirements electric service to Coast Electric Power Association and South Mississippi Electric Power Association at four new service delivery points.

Copies of the filing were served upon Coast Electric Power Association, South Mississippi Electric Power Association, the Mississippi Public Service Commission, and the Mississippi Public Utilities Staff.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Old Dominion Electric Cooperative

[Docket No. ER95-865-000]

Take notice that on April 4, 1995, Old Dominion Electric Cooperative (Old

VOL
60
ISS
78
AP
24
1995
UMI

Dominion); filed to make certain changes to the formula rate methodology as approved by this Commission for Old Dominion. The proposed changes are necessary to reflect (1) the termination of an agreement between Bear Island Paper Company and Old Dominion Electric Cooperative; (2) the acceptance of a new agreement between the aforementioned parties; (3) a revision to Note K as a consequence of the termination of the current agreement; (4) a deletion of Note P and discontinuance of the non-coincident demand charge contingent upon acceptance of the new agreement; and (5) the formula rate that will be effective with the approval of this submission. The proposed effective date of these changes is June 1, 1995.

Copies of this filing have been provided to each of the 12 Member distribution cooperatives, Bear Island Paper Company and all parties of record.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Arizona Public Service Company

[Docket No. ER95–868–000]

Take notice that on April 4, 1995, Arizona Public Service Company (APS), tendered for filing revised Exhibits applicable under the following rate schedules:

APS-FPC/FERC No.	Customer name	Exhibit
120	Southern California Edison Company	Exhibit B.
128	Electrical District No. 7	Exhibit "II"
143	Tonopah Irrigation District	Exhibit "II"

Current Rate levels are unaffected, revenue levels for the 12 months following the proposed effective date are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

A copy of this filing has been served on the above customers, the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Northern States Power Co. (Minnesota)

[Docket No. ER95–867–000]

Take notice that on April 4, 1995, Northern States Power Company (Minnesota) (NSP), tendered for filing the Installation and Ownership Agreement between NSP and Minnkota Power Cooperative, Inc. (MPC) dated February 28, 1995. This agreement allows MPC to double circuit a quarter of a mile of an existing NSP transmission line between NSP's Prairie and Gateway substations.

NSP requests that the Commission accept for filing this agreement effective as of August 1, 1995. NSP requests that the Agreement be accepted as a supplement to Rate Schedule No. 284, the rate schedule for previously filed agreements between NSP and MPC.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. PECO Energy Co.

[Docket No. ER95–868–000]

Take notice that on April 4, 1995, PECO Energy Company (PECO), tendered for filing an Agreement between PECO and Ohio Edison Company (OE) dated March 23, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to OE. In order to optimize the economic advantage to both PECO and OE, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on April 7, 1995.

PECO states that a copy of this filing has been sent to OE and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. K N Marketing, Inc.

[Docket No. ER95–869–000]

Take notice that on April 4, 1995, K N Marketing, Inc. (KNM), a Colorado corporation, petitioned the Commission for acceptance of KNM's Rate Schedule FERC No. 1, providing for the sale of electricity at market based rates; the granting of certain blanket approvals; and the waiver of certain Commission regulations. KNM is a wholly owned subsidiary of K N Energy, Inc. and is affiliated with K N Interstate Gas Transmission Co. and K N Wattenberg Transmission Limited Liability Company, interstate natural gas pipeline companies.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Milford Power Limited Partnership

[Docket No. ER95–870–000]

Take notice that on April 5, 1995, Milford Power Limited Partnership (MPLP), tendered for filing pursuant to 18 CFR 385.204 and 385.205 (1994), its proposed initial Rate Schedule No. 3.

The proposed Initial Rate Schedule No. 3 would allow MPLP to charge non-cost-based, negotiated rates for energy sales and short- and long-term sales of capacity and associated energy from its facility located in the town of Milford, Massachusetts, to Enron Power Marketing, Inc.

Comment date: May 2, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 95–10031 Filed 4–21–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER95–78–000]

Mid-American Resources, Inc.; Notice of Issuance of Order

April 18, 1995.

On October 25, and November 17, 1994, and January 11, January 12, and February 22, 1995, Mid-American Resources, Inc. (MAR) submitted for filing a rate schedule under which will engage in wholesale electric power and energy transactions as a marketer. MAR also requested waiver of various Commission regulations. In particular, MAR requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by MAR.

On April 6, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by MAR should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, MAR is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of MAR's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 8, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10030 Filed 4–21–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5194–7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Budget and Management (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before May 24, 1995.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740. Please refer to EPA ICR #1748.01.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: State Small Business Stationary Source Technical and Environmental Compliance Assistance Program-Annual Reporting Form (EPA No. 1748.01, OMB No. 2060–XXXX).

Abstract: This ICR is a new collection in support of the Clean Air Act Amendments of 1990 (the Act), Title V, section 507. All States, Puerto Rico, the Virgin Islands, and the District of Columbia must demonstrate compliance by fulfilling specific reporting and recordkeeping requirements. The information collected will be used by EPA to report to Congress as required under section 507 of the Act.

As part of the Act, section 507 requires that each state and territory mentioned above, establish a Small Business Stationary Source Technical And Environmental Compliance Assistance Program to assist small businesses to comply with the Act.

Annually, States, Puerto Rico, the Virgin Islands, and the District of Columbia must report: (1) Source of information, (2) organization description, (3) location of staffing within organization, (4) organizational budget, (5) source of funds and changes, (6) services provided, (7) activities conducted, (8) external assessment of information, (9) significant accomplishments, and (10) enforcement mechanisms.

Annually, all reporters must record: (1) The above information. This information must be maintained for 2 years.

Fifty States, Puerto Rico, the Virgin Islands, and the District of Columbia would be subject to this regulation. The data collected through this survey would be retained for 2 years.

Burden Statement: Public reporting burden for this collection of information is estimated to average 80 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collections of information. Total public burden is estimated to be 4,240 hours per year.

Respondents: All States, the territories of Puerto Rico and the Virgin Islands, and the District of Columbia.

Number of Respondents: 53

Number of Responses Per Respondent: 1

Estimated Total Annual Burden: 4,240 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing burden (please refer to EPA ICR #1748.01 and OMB #2060–XXXX), to:

Sandy Farmer, EPA ICR #1748.01, U.S. Environmental Protection Agency, Regulatory Information Division (2136), 401 M St., SW., Washington, DC 20460 and

Chris Wolz, OMB #2060–XXXX, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503

Dated: April 18, 1995.

Joseph Retzer,

Chief, Regulatory Information Division.

[FR Doc. 95–10056 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5195–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before May 24, 1995.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740. Please refer to EPA ICA #1063.06.

VOL
60
ISS
78
AP
24
1995
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SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standard (NSPS) For Sewage Treatment Plant Incinerators (subpart O) (EPA No. 1063.08, OMB No. 2060–0035).

Abstract: This ICR is for an extension of an existing information collection in support of NSPS requirements as established by the Clean Air Act (the Act), under the general NSPS requirements at 40 CFR 60.7–60.8 and the more specific requirements at 40 CFR 61.7 and 40 CFR 61.153–61.155. Owners or operators of facilities subject to the NSPS must demonstrate compliance by fulfilling specific monitoring, reporting, and recordkeeping requirements. The information collected will be used by EPA and State agencies for monitoring, inspection, and enforcement purposes.

Owners or operators of new plants must: (1) Notify EPA of the facility's construction and reconstruction, (2) provide EPA with the anticipated and actual start-up dates of the facility, (3) submit results of the initial performance test and the date of the test to EPA, and (4) notify EPA of the continuous monitoring system demonstration.

Owners and operators of all subject facilities must: (1) Notify EPA of any relevant physical or operational changes. Owners and operators must semiannually submit a report that includes: (1) The periods of 15 minutes or more during which the pressure of the wet scrubbing device fell below a specified level, (2) the average oxygen content in the incinerator exhaust gas for each period of 1 hour or more than it exceeds a specified level, and (3) periods of excess emission.

Owners and operators of all subject facilities must: (1) Continuously monitor and record the pressure drop, (2) monitor the amount of oxygen in the incinerator exhaust gases upstream of the emission control device, (3) maintain records of the occurrences and duration of startups, shutdowns and malfunctions, (4) maintain files on all measurements including performance test, (5) record mass or volume data from measuring device, and (6) record daily charging rates.

In addition, owners and operators of incinerators with particulate emissions exceeding 0.38 grams/kilogram dry sludge input must: (1) Continuously monitor and record the temperature profile of the incinerator and sludge feed rate to the incinerator, (2) measure and record the fuel consumed for each 8-hour period of incinerator operation, (3) record the moisture and volatile content of sludge being incinerated daily, (4) record the average scrubber pressure drop, and (5) record the average oxygen content of the incinerator exhaust over each one hour period. This information must be included in their semiannual report.

Owners or operators of facilities with control devices other than wet scrubbers must seek EPA approval by submitting a plan for monitoring and recording incinerator and control device operation parameters and report semiannually on the measurements as described in the approved plan.

An estimated average of 77 facilities will be subject to the regulations with an average growth of 3 facilities per year over the next three years. The data collected by the monitoring and recordkeeping systems would be retained at the facility for a minimum of 2 years.

Burden Statement: Public reporting burden for this collection of information is estimated to average 53 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collections of information. Public burden is estimated to average 8200 hours annually.

Respondents: Sewage treatment plant incinerators.

Estimated Number of Respondents: 77

Estimated Number of Responses Per Respondent: 2

Estimated Total Annual Burden on Respondents: 8200

Frequency of Collection: Semiannually for reporting requirements. Daily recordkeeping requirements.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, (please refer to EPA ICR #1063.06 and OMB #2060–0035) to:

Sandy Farmer, EPA ICR #1063.06, U.S. Environmental Protection Agency, Regulatory Information Division (2136), 401 M St., SW., Washington, DC 20460 and

Chris Wolz, OMB #2060–0035, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503

Dated: April 18, 1995.

Joseph Retzer,

Chief, Regulatory Information Division.

[FR Doc. 95–10057 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–5195–8]

Review of the National Ambient Air Quality Standards for Ozone: Assessment of Scientific and Technical Information—OAQPS Staff Paper and Related Support Documents on Exposure and Risk Assessment

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Extension of public comment period.

SUMMARY: The EPA is announcing the extension of the public comment period on the first external review draft of Review of the National Ambient Air Quality Standards for Ozone: Assessment of Scientific and Technical Information—OAQPS Staff Paper. Concerns have been raised that due to the large volume of material contained in the Office of Air Quality Planning and Standards' (OAQPS') Staff Paper and related support documents, there might not be adequate time for concerned parties to complete a thorough review and provide meaningful comments. In the interest of encouraging full public participation in the review of national ambient air quality standards and to permit a thorough review of those documents upon which decisions on the ozone standards will be based, the EPA hereby extends the comment period from April 15, 1995 to May 15, 1995.

DATES: Written comments must be received on or before May 15, 1995.

ADDRESSES: Submit written comments on the external review draft OAQPS Staff Paper to Dr. David J. McKee, Air Quality Strategies and Standards Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. Dr. McKee can also be reached by phone at (919) 541–5208 or by FAX at (919) 541–0237. Submit written comments on the draft exposure analysis reports and draft health risk assessment report to Mr. Harvey Richmond, Air Quality Strategies and Standards Division (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. Mr. Richmond can also be reached by phone at (919) 541–5271 or by FAX at (919) 541–0624.

Dated: April 18, 1995.

John S. Seitz,

Director Office of Air Quality Planning and Standards.

[FR Doc. 95–10058 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–P

[ECAO–CD–0671; FRL–5195–5]

External Review Draft of the Revised Air Quality Criteria for Particulate Matter

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of external review draft.

SUMMARY: This notice announces the availability of an external review draft of a document, Air Quality Criteria for Particulate Matter, prepared by the U.S. Environmental Protection Agency's (EPA) Office of Research and Development (ORD), and invites comment from the public on the draft document. As discussed below, there will be only one opportunity for public written comment on the draft document.

DATES: The Agency plans to complete the external review draft and place copies in the EPA Air Docket (ECAO–CD–0671) and in the EPA Library by April 30, 1995. After duplication, bound copies will be available on or about May 8, 1995 from ORD's Publication Center. Comments on the draft document must be submitted in writing and be postmarked by August 1, 1995.

ADDRESSES: To obtain bound copies of all volumes of the external review draft document, interested parties should contact the ORD Publications Center, CERI–FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268; telephone (513) 569–7562; FAX (513) 569–7566; and request the external review draft of Air Quality Criteria for Particulate Matter (PM). Please provide your name and address, and the EPA document number, EPA 600/AP–95/001a–d.

The document will also be available electronically on the Agency's OAQPS TTN Bulletin Board. The telephone number of the bulletin board is (919) 541–5742. To access the TTN Bulletin Board, a modem and communications software will be necessary. The following parameters on the communications software are required: Data Bits—8; Parity—N; and Stop Bits—1. The document will be located under the Clean Air Act Amendments section of the menu. If assistance is needed in accessing the system, call the help desk at (919) 541–5384 in Research Triangle Park, NC. Copies of figures for some chapters (e.g., Chapter 6) may not be available by this electronic bulletin board, but can be obtained from the individual listed below under FOR FURTHER INFORMATION CONTACT.

The draft document will also be available starting on May 1, 1995 for public inspection in the EPA Air Docket (ECAO–CD–0671) and at the EPA Library, both in EPA Headquarters, Waterside Mall, 401 M Street SW., Washington, DC. EPA Air Docket hours in Room M1500 of Waterside Mall are 8 a.m. to 5:30 p.m., Monday through Friday, excluding holidays. EPA Library hours are 10 a.m. until 2 p.m., Monday through Friday, excluding holidays.

In addition to the Washington, DC locations previously mentioned, copies of the document will be available for public inspection at each of the 10 EPA Regional Libraries. The addresses of each of the EPA Regional Libraries are as listed at the end of this notice.

Comments on the draft should be sent to the Project Manager for the Air Quality Criteria for Particulate Matter, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Diane Ray, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–3637.

SUPPLEMENTARY INFORMATION: As discussed in a previous call for information (59 FR 17375, April 12, 1994), EPA is undertaking to review and, where appropriate, update and revise the 1982 document, Air Quality Criteria for Particulate Matter and Sulfur Oxides and its 1986 addendum (EPA 600/8–82/029aF–cF; EPA 600/8–86/020F). As part of the process employed in preparing the revised particulate matter criteria document, initial drafts of chapters to be included in the document underwent preliminary peer review by non-EPA experts. This included peer review of several key chapters at a series of workshops in January, 1995 which were open to the public as announced in the Federal Register (60 FR 453, January 4, 1995) on January 4, 1995. Having incorporated revisions taking into account peer review comments on the initial draft chapters, EPA is making available for public review an external review draft of the revised document. Members of the public have the opportunity to submit written review comments during the comment period. EPA will consider all comments received within that period in preparing the final document.

The external review draft is being prepared under section 109(d) of the Clean Air Act, which requires periodic review and, as appropriate, revision of air quality criteria and national ambient air quality standards (NAAQS) for certain air pollutants. As announced at a public meeting of the Clean Air Scientific Advisory Committee (CASAC) in December 1994, a court order entered in *American Lung Association* v. *Browner*, No 93–643 (D. Ariz., Oct. 6, 1994), imposes a highly accelerated schedule for completion of EPA's current review of the air quality criteria and NAAQS for particulate matter. That schedule requires substantial departures from procedures followed in previous reviews of air quality criteria and NAAQS. Regarding revision of the criteria document in particular, there will be only one external review draft of the revised document, and there will be no extension of the deadline for public written comments on the draft. Accordingly, EPA urges interested parties to respond promptly to this opportunity for comment.

The draft document will also undergo peer review by CASAC at a public meeting to be held in Research Triangle Park, NC in August, 1995. Specific details on the site and dates of the meeting will be announced in a later Federal Register notice. Members of the public will also be afforded an opportunity to present brief oral comments on the draft document at the meeting.

EPA Regional Library Addresses

Library, U.S. EPA, Region 1, John F. Kennedy Federal Building, Boston, MA 02203

Library, U.S. EPA, Region 2, 26 Federal Plaza, Room 402, New York, NY 10278

Library, U.S. EPA, Region 3, 841 Chestnut Building, Philadelphia, PA 19107

Library, U.S. EPA, Region 4 (G6), 345 Courtland Street, NE, Atlanta, GA 30365

Library, U.S. EPA, Region 5, 77 West Jackson Blvd., Chicago, IL 60604–3507

Library, U.S. EPA, Region 6, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, TX 75202–2733

Library, U.S. EPA, Region 7, 726 Minnesota Ave., Kansas City, KS 66101

Library, U.S. EPA, Region 8, 8PM–IML, 999 18th St., Suite 500, Denver, CO 80202–2405

Library, U.S. EPA, Region 9, MS: P–5–3, 75 Hawthorne Street, San Francisco, CA 94105

Library, U.S. EPA, Region 10, 1200 Sixth Avenue (MD–108), Seattle, WA 98101

VOL 60 ISS 78 AP 24 1995 UMI

Dated: April 13, 1995.

Joseph K. Alexander,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95-10087 Filed 4-21-95; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5185-7]

Clean Air Act; Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of the 1995 EPA SO_2 allowance auctions results.

SUMMARY: Pursuant to Title IV of the Clean Air Act and 40 CFR part 73, the EPA is responsible for implementing a program to reduce emissions of sulfur dioxide (SO_2), a precursor of acid rain. The centerpiece of the SO_2 control program is the allocation of transferable allowances, or authorizations to emit SO_2, which are distributed in limited quantities to existing utility units and which eventually must be held by virtually all utility units to cover their SO_2 emissions. These allowances may be transferred among polluting sources and others, so that market forces may govern their ultimate use and distribution, resulting in the most cost-effective sharing of the emissions control burden. EPA is directed under section 416 of the Act to conduct annual sales and auctions of a small portion of allowances (2.8%) withheld from the total allowances allocated to utilities each year. Sales and auctions are expected to stimulate and support the allowance market and to provide a public source of allowances, particularly to new units for which no allowances are allocated. In the Fall of 1992, EPA delegated the administration of the EPA allowance auctions and sales to the Chicago Board of Trade (CBOT). Today, the Acid Rain Division is giving notice of the results of the third annual SO_2 allowance auctions that were conducted by the CBOT on March 27, 1995.

For rules governing the conduct of the auctions and sales see 40 CFR Part 73, Subpart E.

I. Offers

A. Total Allowances Available for Auction

In the spot auction (year 1995 allowances sold), a total of 58,366 allowances were offered for sale: 50,000 that were withheld from the utilities and an additional 8,366 that were voluntarily contributed from utilities. In the 6-year advance auction (year 2001 allowances sold), a total of 32,000 allowances were offered for sale: 25,000 that were unsold from the 1994 direct sale and an additional 7,000 that were contributed from utilities. In the 7-year advance auction (year 2002 allowances sold), a total of 107,000 allowances were offered for sale: 100,000 that were withheld from the utilities and an additional 7,000 that were contributed. The minimum prices that utilities would accept for their contributed allowances are listed in Table 1.

TABLE 1.—OFFER DATA FOR THE 1995 AUCTIONS

SPOT AUCTION OFFERS (1995)

Minimum price	Quantity	Cumulative total
• • • •	*600	600
$135.00	102	702
$140.00	102	804
$145.00	102	906
$150.00	600	1,506
$155.00	2,500	4,006
$160.00	2,500	6,506
$170.00	600	7,106
$180.00	600	7,706
$190.00	600	8,306

*600 allowances, with offer prices equal to or less than $130.00, were sold at $130.00.

6-YEAR ALLOWANCE AUCTION OFFERS (2001)

Minimum price	Quantity	Cumulative total
• • • •	*400	400
$140.00	400	800
$160.00	400	1,200
$180.00	400	1,600
$199.00	2,000	3,600
$260.00	400	4,000
$298.00	2,000	6,000
$399.00	1,000	7,000

*Three allowances, with offer prices equal to or less than $120.00, were sold at $120.00 and 397 allowances, with offer prices equal to or less than $128.00, were sold at $126.00.

7-YEAR ALLOWANCE AUCTION OFFERS (2002)

Minimum price	Quantity cumulative	Total
• • • •	*400	400
$135.00	*400	800
$155.00	400	1,200
$175.00	400	1,600
$195.00	2,000	2,000
$199.00	2,000	4,000
$299.00	1,800	6,000
$389.00	8,200	7,000

*400 allowances, with offer prices equal to or less than $126.00, were sold at $126.00.

II. Bids

A. Spot Auction Results

CBOT received 89 bids requesting 255,371 year 1995 allowances. There were 46 successful bids and 50,600 allowances were sold (50,000 withheld and 600 contributed). Spot auction proceeds totaled $8,676,386.

Per EPA regulations, unsuccessful bidders' names are not revealed.

TABLE 2.—SPOT AUCTION BIDS (1995)

Bid	Quantity	Bidder's name	Cumulative total
$350.00	1	New England School of Law Environmental Law Society	1
$210.00	1	Environmental Law Students Association	2
$200.00	1	Environmental Law Students Association	3
$200.00	1	Thomas M. Cooley Environmental Law Society	4
$200.00	5	University of Michigan Environmental Law Society	9
$180.00	1	Hamline University School of Law	10
$176.00	1	Duke University School of the Environment	11
$170.00	1	Hamline University School of Law	12
$170.00	1	Michael S. Hamilton	13
$160.00	1	Pollution Retirement Center	14
$153.00	1	L.J. O'Callaghan, Sr.	15
$151.00	21	IHLH.A.L.E./Glens Falls, NY Middle School	36
$150.00	2	Electric Software Products/David Gilardi	38
$150.00	2	Electric Software Products/Alexander Leng	40
$150.00	1	University of Maryland School of Law	41

TABLE 2.—SPOT AUCTION BIDS (1995)—Continued

Bid	Quantity	Bidder's name	Cumulative total
$146.00	5	National Healthy Air License Exchange	46
$142.00	10	National Healthy Air License Exchange	56
$141.00	50	Sam Peltzman Revocable Trust	106
$140.00	15	National Healthy Air License Exchange	121
$137.00	30	National Healthy Air License Exchange	151
$136.00	500	Hoosier Energy REC, Inc./Frank E. Ratts Plant Unit 1SG1	651
$136.00	500	Hoosier Energy REC, Inc./Frank E. Ratts Plant Unit 2SG1	1,151
$136.00	1,000	PECO Energy Company	2,151
$136.00	2,000	Virginia Power	4,151
$135.00	500	Marine Coal Sales Company	4,651
$135.00	30	National Healthy Air License Exchange	4,681
$135.00	1,000	PECO Energy Company	5,681
$134.00	1,000	PECO Energy Company	6,681
$133.00	5,000	Cantor Fitzgerald Brokerage, L.P.	11,681
$133.00	4,000	Duke Power Company	15,681
$133.00	30	National Healthy Air License Exchange	15,711
$133.00	1,000	PECO Energy Company	16,711
$133.00	2,000	Virginia Power	18,711
$132.00	12	CATEX Vitol Electric Inc.	18,723
$132.00	4,250	Duke Power Company	22,973
$132.00	1,000	PECO Energy Company	23,973
$131.00	3,000	Cantor Fitzgerald Brokerage, L.P.	26,973
$131.00	2,952	Detroit Edison Company	29,925
$131.00	4,500	Duke Power Company	34,425
$131.00	1,000	PECO Energy Company	35,425
$131.00	2,000	Virginia Power	37,425
*$130.00	15	National Healthy Air License Exchange	37,440
*$130.00	4,000	Canterbury Coal Company	41,440
*$130.00	2,000	PECO Energy Company	43,440
*$130.00	5,000	Duke Power Company	48,440
*$130.00	**25,000	Allowance Holdings Corporation	73,440
*$130.00	5,000	.....	78,440
*$130.00	500	.....	78,940
$129.00	6,000	.....	84,940
$129.00	2,000	.....	86,940
$128.00	8,000	.....	94,940
$128.00	5,000	.....	99,940
$128.00	2,000	.....	101,940
$128.00	2,000	.....	103,940
$127.00	10,500	.....	114,440
$127.00	10	.....	114,450
$127.00	5,000	.....	119,450
$127.00	1,000	.....	120,450
$126.00	7,750	.....	128,200
$126.00	8,000	.....	136,200
$126.00	2,000	.....	138,200
$125.00	15,000	.....	153,200
$125.00	120	.....	153,320
$125.00	500	.....	153,820
$125.00	1,250	.....	155,070
$125.00	50	.....	155,120
$125.00	1,000	.....	156,120
$124.00	1,000	.....	157,120
$123.00	5,000	.....	162,120
$123.00	1,000	.....	163,120
$122.00	1,000	.....	164,120
$121.00	10,000	.....	174,120
$121.00	3,000	.....	177,120
$121.00	2,000	.....	179,120
$121.00	1,000	.....	180,120
$120.00	2,000	.....	182,120
$120.00	1,000	.....	183,120
$119.00	10,000	.....	193,120
$118.00	1,250	.....	194,370
$118.00	5,000	.....	199,370
$117.00	10,000	.....	209,370
$115.00	2,000	.....	211,370
$115.00	10,000	.....	221,370
$115.00	1,200	.....	222,570
$112.00	15,000	.....	237,570
$111.00	1,250	.....	238,820

TABLE 2.—SPOT AUCTION BIDS (1995)—Continued

Bid	Quantity	Bidder's name	Cumulative total
$100.00	4,800		243,620
$50.00	11,750		255,370
$1.00	1		255,371

*Per EPA auction regulations on breaking ties, bids at the same price that exceed the number of remaining allowances are awarded allowances by lottery, the result of which is reflected in the table.
**Awarded a partial fill of 2,160 out of 25,000 (1,560 allowances from the EPA reserve and 600 offered allowances).

B. 6-Year Advance Auction Results

CBOT received 24 bids requesting 70,286 year 2001 allowances. Nine bids were successful and 25,400 allowances were sold (25,000 withheld and 400 contributed). 6-Year advance auction proceeds totaled $3,319,026.

TABLE 3.—6-YEAR ADVANCE AUCTION BIDS (2001)

Bid	Quantity	Bidder's name	Cumulative total
$160.00	1	University of Maryland School of Law	1
$150.00	1	University of Maryland School of Law	2
$150.00	1	Hamline University School of Law	3
$133.00	4,000	Duke Power Company	4,003
$132.00	4,250	Duke Power Company	8,253
$131.00	4,500	Duke Power Company	12,753
$130.00	5,000	Duke Power Company	17,753
$129.00	7,250*	Duke Power Company	25,003
$128.00	2,500**	Virginia Power	27,503
$126.00	656		28,159
$126.00	1,260		29,419
$126.00	2,500		31,919
$124.00	2,500		34,419
$123.00	718		35,137
$121.00	1,677		36,814
$120.00	2,500		39,314
$116.00	1,883		41,197
$111.00	2,089		43,286
$70.00	1,000		44,286
$67.00	10,000		54,286
$66.00	5,000		59,286
$65.00	5,000		64,286
$64.00	5,000		69,286
$63.00	1,000		70,286

*This bid was awarded 7,247 allowances from the EPA reserve and 3 offered allowances.
**Awarded a partial fill of 397 offered allowances.

C. 7-Year Advance Auction Results

CBOT received 37 bids requesting 236,928 year 2002 allowances. Seventeen bids were successful and 100,400 allowances were sold (100,000 withheld and 400 contributed). 7-Year advance auction proceeds totaled $12,839,884.

TABLE 4.—7-YEAR ADVANCE AUCTION BIDS (2002)

Bid	Quantity	Bidder's name	Cumulative total
$160.00	1	University of Maryland School of Law	1
$143.00	350	Paul Wedel	351
$133.00	4,000	Duke Power Company	4,351
$132.00	4,250	Duke Power Company	8,601
$131.00	4,500	Duke Power Company	13,101
$130.00	5,000	Duke Power Company	18,101
$129.00	1,000	United Power Association	19,101
$129.00	6,000	Duke Power Company	25,101
$128.00	8,000	Duke Power Company	33,101
$128.00	5,000	Virginia Power	38,101
$127.00	10,500	Duke Power Company	48,601
$127.00	30,000	Allowance Holdings Corporation	78,601
$126.00*	5,000	Virginia Power	83,601
$126.00*	1,000	United Power Association	84,601
$126.00*	5,041	Carolina Power & Light Company	89,642
$126.00*	2,625	Carolina Power & Light Company	92,267
$126.00*	11,000**	Duke Power Company	103,267

TABLE 4.—7-YEAR ADVANCE AUCTION BIDS (2002)—Continued

Bid	Quantity	Bidder's name	Cumulative total
$125.00	10,500		113,767
$124.00	8,000		121,767
$124.00	5,000		126,767
$123.00	6,000		132,767
$123.00	2,873		135,640
$122.00	5,000		140,640
$121.00	900		141,540
$121.00	4,500		146,040
$121.00	6,710		152,750
$120.00	10,538		163,288
$120.00	4,250		167,538
$120.00	5,000		172,538
$119.00	4,250		176,788
$118.00	4,250		181,038
$116.00	7,535		188,573
$111.00	8,355		196,928
$81.00	10,000		206,928
$60.00	10,000		216,928
$59.00	10,000		226,928
$58.00	10,000		236,928

*Per EPA auction regulations on breaking ties, bids at the same price that exceed the number of remaining allowances are awarded allowances by lottery, the result of which is reflected in the table.
*Awarded a partial fill of 8,133 (7,733 allowances from the EPA reserve and 400 offered allowances).

Proceeds from all three auctions totaled $22,835,296, all of which will be returned to the utilities from which allowances were withheld or offered, per EPA regulations.

FOR FURTHER INFORMATION CONTACT: Eugene Casey, EPA/OAP/Acid Rain Division (6204J), 401 M Street SW., Washington, DC 20460 (202) 233–9194.

Dated: April 13, 1995.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 95–10060 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5195–6]

Public Water System Supervision Program Revision for the State of Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provisions of section 1413 the Safe Drinking Water Act as amended, 42 U.S.C. 300g–2, and 40 CFR Part 142, Subpart B-Primary Enforcement Responsibility, that the State of Colorado has revised its Public Water System Supervision (PWSS) Primacy Program. Colorado's PWSS program, administered by the Drinking Water Section of the Colorado Department of Public Health and Environment, has adopted regulations for surface water treatment, Phase II (7 inorganic and 26 organic chemicals), Phase IIb (1 inorganic and 4 organic chemicals), Phase V (5 inorganic and 18 organic chemicals), and lead and copper that correspond to the National Primary Drinking Water Regulations (NPDWR) in 40 CFR Part 141 for surface water treatment (54 FR 27486–27541 published on June 29, 1989), Phase II 56 FR 3526–3597 published on January 30, 1991), Phase IIb (56 FR 30266–30281 published on July 1, 1991), Phase V (Federal Register Vol. 57, No. 138, July 17, 1992, Pg. 31776–31849), and lead and copper (56 FR 26460–26564 published on June 7, 1991). The Environmental Protection Agency (EPA) has completed its review of Colorado's primacy revisions and has determined that they are no less stringent than the NPDWRs. EPA therefore approves Colorado's primacy revisions for Surface Water Treatment, Phase II, IIb, V, and Lead and Copper Rules. This determination shall become effective May 24, 1995.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before May 24, 1995. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: William P. Yellowtail, Regional Administrator, c/o Marty Swickard (8WM–DW), U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202–2466.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of the responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the Federal Register

VOL 60 ISS 78 AP 24 1995 UMI

and in newspapers of general circulation in the State of Colorado. A notice will also be sent to the person(s) requesting the hearing as well as to the State of Colorado. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on May 24, 1995. Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection at the following locations: (1) U.S. EPA Region VIII, Drinking Water Branch, 999 18th Street (4th floor), Denver, Colorado; (2) Colorado Department of Public Health and Environment, Drinking Water Section, 4300 Cherry Creek Drive South, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Marty Swickard, Drinking Water Branch, EPA Region VIII (8WM–DW), 999 18th Street, Suite 500, Denver, Colorado 80202–2466, telephone (303) 293–1629.

Dated: April 13, 1995.

Robert L. Duprey,

Acting Regional Administrator, EPA, Region VIII.

[FR Doc. 95–10061 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5191–7]

Public Water System Supervision Program Revision for the Commonwealth of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Commonwealth of Kentucky is revising its approved Public Water System Supervision Primacy Program. Kentucky has adopted drinking water regulations for Volatile Organic Chemicals, Synthetic Organic Chemicals and Inorganic Chemicals (known as the Phase II and Phase V Rules of the National Primary Drinking Water Regulations). Kentucky has also adopted drinking water regulations for lead and copper (known as the Lead and Copper Rule of the National Primary Drinking Water Regulations). EPA has determined that Kentucky's program revisions are no less stringent than the corresponding federal regulations. Therefore, EPA has tentatively decided to approve the revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted by not later than May 24, 1995 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by not later than May 24, 1995, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his/her own motion, this determination shall become final and effective on May 24, 1995.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and (3) the signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Kentucky Natural Resources and Environmental Protection Cabinet, Fort Boone Plaza, 14 Reilly Road, Frankfort, Kentucky 40601.

Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Philip H. Vorsatz, EPA, Region IV, Drinking Water Section at the Atlanta address given above or telephone (404) 347–2913.

(Sec. 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 141 and 142 of the National Primary Drinking Water Regulations).

Dated: April 5, 1995.

Patrick M. Tobin,

Acting Regional Administrator, EPA, Region IV.

[FR Doc. 95–9381 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–P

[OPP–00407; FRL–4947–8]

State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Certification-Enforcement & Registration-Classification Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Certification-Enforcement and Registration-Classification will hold a 3–day meeting, beginning on Monday, May 1, 1995 and ending on Wednesday, May 3, 1995. This notice announces the location and times for the meetings and sets forth tentative agenda topics. The meetings are open to the public.

DATES: The SFIREG Working Committee on Certification-Enforcement will meet alone on Monday, May 1, 1995 from 8:30 a.m. to 4:30 p.m., the two Working Committees will meet together on Tuesday, May 2, 1995 from 8:30 a.m. to 5:00 p.m. The Working Committee on Registration-Classification will meet alone on Wednesday, May 3, 1995 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at: Hyatt Regency Hotel, 320 West Jefferson, Louisville, KY 40202, (502) 587–3434.

FOR FURTHER INFORMATION CONTACT: By mail: Shirley M. Howard, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

Office location and telephone number: Rm. 1101, Crystal Mall No. 2, 1921 Jefferson-Davis Highway, Arlington, VA 22202 (703) 305–5306.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Certification-Enforcement includes the following:

1. Update on cross contamination.
2. Status of the National Enforcement Investigations Center (NEIC).
3. Laboratory issues activity discussion.
4. Update on Certification & Training Funds for Uncertified Applicators.
5. Update on EPA's Special review of triazines.

6. Discussion of Agency Performance Partnership Grants and OECA-OPP Grants.
7. Other topics as appropriate.

The agenda for the joint session of the SFIREG Working Committees on Certification-Enforcement and Registration-Classification includes the following:

1. Impact of the proposed Office of Pesticide Programs' Re-organization.
2. Regulatory Reinvention Initiative Discussion.
3. Committee and regional reports.
4. Update on special local needs registrations for seed crops.
5. Other topics as appropriate.

The agenda for the SFIREG Working Committee on Registration-Classification includes the following:

1. Update on labeling issues.
2. Streamlining section 18 regulations and procedures.
3. Update on experimental use permits and reduced risk pesticides.
4. Update on pesticidal plants.
5. Tolerance revocation and minor crop use discussion.
6. Status of the 24(c) Guidance document.
7. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: April 17, 1995.

William L. Jordan,

Acting Director, Field Operations Division, Office of Pesticide Programs.

[FR Doc. 95–10055 Filed 4–21–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: May 24, 1995.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, D.C. 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, please see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Friday, December 2, 1994, 59 FR 61932, with corrections published Monday, February 27, 1995, 60 FR 10636, and published changes approximately monthly since then.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 59 FR 50132 on September 30, 1994. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices.

Each update contains or may contain three categories: "Additions;" "Corrections/changes;" and "Deletions." For the purposes of the updates, the three categories mean and include the following:

"Additions" are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

"Corrections/changes" are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

"Deletions" are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: April 18, 1995.

John P. Carey,

General Counsel.

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 04/17/95 UPDATE

Index	Property name	PO Box/Rt No., Street Address	City	State/ZIP	Telephone
Additions					
Alaska					
AK0043	Marina Motel	1603 Seward Hwy	Seward	AK 99664	(907) 224–5518
California					
CA1445	Bahia Resort Hotel	998 West Mission Bay Drive.	San Diego	CA 92109	(619) 488–0551
CA1446	Holiday Inn—San Diego Bayside.	4875 N. Harbor Dr	San Diego	CA 92106	(619) 224–3621
Florida					
FL4266	Hawthorne Suites Hotel.	6435 Westwood Blvd	Orlando	FL 32821	(407) 351–6600

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 04/17/95 UPDATE—Continued

Index	Property name	PO Box/Rt No., Street Address	City	State/ZIP	Telephone
Illinois					
IL0543	Fairfield Inn Galesburg.	901 West Carl Sandburg Drive.	Galesburg	IL 61401	(309) 344–1911
IL0545	Residence Inn By Marriott Chicago O'Hare.	9450 W. Lawrence Ave.	Schiller Park	IL 60176	(708) 678–22'0
IL0544	Clubhouse Inn	630 Pasquinelli Drive	Westmont	IL 60559	(708) 920–2200
Kansas					
KS0157	Clubhouse Inn	924 South West Henderson.	Topeka	KS 666150000	(913) 273–8888
Massachusetts					
MA0258	Ramada Inn	929 Higham St	Rockland	MA 02370	(617) 871–0545
MA0257	Wyndham Garden Hotel—Waltham.	420 Totten Pond Rd	Waltham	MA 02154	(617) 890–0100
Michigan					
MI0315	Budgetel Inn	4725 Beckley Rd	Battle Creek	MI 49017	(617) 979–5400
MI0317	Lake View Hotel	PO Box 190, 1 Huron St.	Mackinac Island	MI 49757	(906) 847–3384
MI0316	Hampton Inn	27500 Northwestern Hwy.	Southfield	MI 48034	(313) 356–5500
North Carolina					
NC0360	Charlotte Hilton Executive Park.	5624 Westpark Drive	Charlotte	NC 28217	(704) 527–8000
New Jersey					
NJ0207	Hilton At Cherry Hill	2349 W. Marlton Pk	Cherry Hill	NJ 08002	(609) 665–6666
NJ0210	The Inn At Clarke, Inc. (Ramada Clark).	36 Valley Rd	Clark	NJ 07066	(908) 574–0100
NJ0206	Radisson Hotel Newark Airport.	128 Frontage Rd	Newark	NJ 07114	(201) 690–5500
NJ0209	Union Motor Lodge	2735 Rt. 22 W	Union	NJ 07083	(908) 687–8600
NJ0208	Howard Johnson—Wayne.	1850 Route 23 and Ratzer Rd.	Wayne	NJ 07470	(201) 696–8050
New York					
NY0610	Ramada Inn Downtown Albany.	300 Broadway	Albany	NY 12207	(518) 434–4111
NY0608	Budget Host/AmeriCana Motor Inn.	9401 Niagara Falls Blvd.	Niagara Falls	NY 14304	(716) 297–2660
NY0609	Courtyard By Marriott—Rochester East.	1000 Linden Park	Rochester	NY 14625	(716) 385–1000
Oregon					
OR0192	Capt. John's Motel	8016 Kingfisher Dr	Charleston	OR97420	(503) 888–4041
OR0193	Gracie's Landing Bed & Breakfast Inn.	235 SE Bay Vies Ave	Depoe Bay	OR 97341	(503) 765–2322
OR0191	Phoenix Inn	850 Franklin Blvd	Eugene	OR 97401	(503) 868–6500
OR0195	Salishan Lodge	7760 Hwy 101 N	Gleneden Beach	OR 97388	(503) 764–2371
OR0190	Phoenix Inn	14905 SW Bangy Rd	Lake Oswego	OR 97034	(503) 624–7400
OR0194	Red Lion/Medford	200 North Riverside	Medford	OR 97501	(503) 779–5811
OR0196	Howard Johnson	7101 NE 82nd Ave	Portland	OR 97220	(503) 255–6722
OR0189	Phoenix Inn	4370 Commercial St. SE.	Salem	OR 97302	(503) 588–9220
Pennsylvania					
PA0432	Days Inn Harrisburg North.	3919 N. Front St	Harrisburg	PA 17110	(717) 233–3100
Tennessee					
TN0272	Comfort Inn North	I–24, Exit 4, 111 Westfield Dr.	Clarksville	TN 37040	(615) 647–6144
TN0271	Best Western Dayton	7635 Rhea County Hwy.	Dayton	TN 37321	(615) 775–6560
TN0273	Red Fox Lodge, LLC	Camp Ozone Rd	Ozone	TN 37842	(615) 584–4444
TN0270	Best Western Travelers Inn.	1297 E Wood St	Paris	TN 38242	(901) 642–8881
Texas					
TX0637	Ramada Inn West	6801 I–40 West	Amarillo	TX 79106	(806) 358–7881

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 04/17/95 UPDATE—Continued

Index	Property name	PO Box/Rt No., Street Address	City	State/ZIP	Telephone
TX0636	Edinburg Executive Inn.	2006 S. Closner Blvd	Edinburg	TX 78539	(210) 380–6201
Virginia					
VA0616	Ramada Inn	4641 Kenmore Avenue.	Alexandria	VA 22304	(703) 751–4510
VA0612	Super 8 Motel—Appomattox.	Rt. 4, Box 100	Appomattox	VA 24522	(804) 352–2339
VA0614	Super 8 Motel—Bristol.	2139 Lee Hwy	Bristol	VA 24201	(703) 466–8800
VA0628	Super 8 Motel—Churchland.	3216 Churchland Blvd	Chesapeake	VA 23321	(804) 686–8888
VA0618	Holiday Inn—Fair Oaks.	11787 Lee Jackson Mem Hwy.	Fairfax	VA 22033	(703) 352–2525
VA0613	Super 8 Motel—Farmville.	6 Box 1755, Highway 15 South.	Farmville	VA 23901	(804) 392–8196
VA0620	Super 8 Motel—Franklin.	1599 Armory Dr	Franklin	VA 23851	(804) 562–2888
VA0611	Super 8 Motel—Fredericksburg.	3002 Mall Court	Fredericksburg	VA 22401	(703) 786–8881
VA0621	Super 8 Motel—Hampton.	1330 Thomas St	Hampton	VA 23669	(804) 723–2888
VA0622	Super 8 Motel—Clyde Morris.	945 J. Clyde Morris Blvd.	Newport News	VA 23601	(804) 595–8888
VA0623	Super 8 Motel—Jefferson.	6105 Jefferson Ave	Newport News	VA 23605	(804) 825–1422
VA0624	Super 8 Motel—Portsmouth.	825 London Blvd	Portsmouth	VA 23704	(804) 398–0612
VA0625	Super 8 Motel—Airport.	5110 Williamsburg Rd	Richmond	VA 23231	(804) 222–8008
VA0627	Super 8 Motel—Chamberlayne.	5615 Chamberlayne Rd.	Richmond	VA 23227	(804) 262–8880
VA0626	Super 8 Motel—Midlothian.	8260 Midlothian Turnpike.	Richmond	VA 23235	(804) 320–2823
VA0629	Super 8 Motel—Suffolk.	633 N Main St	Suffolk	VA 23434	(804) 925–0922

Changes/Corrections

Florida					
FL3280	Adam's Mark Caribbean Gulf Resort.	430 S. Gulfview Blvd	Clearwater Beach	FL 346302598	(813) 443–5714
FL0331	Walculta Motel, Inc	3550 N. Atlantic Ave	Cocoa Beach	FL 32931	(407) 783–2230
FL0821	Comfort Suites Deerfield.	1040 E. Newport Center Dr.	Deerfield Beach	FL 33442	(305) 570–8887
FL0822	Quality Suites Deerfield.	1050 E. Newport Center Dr.	Deerfield Beach	FL 33442	(305) 570–8888
FL4248	Wyndham Garden Hotel—Lake Buena Vista.	8688 Palm Pkwy	Lake Buena Vista	FL 32830	(407) 239–8500
FL1617	Knights Inn Pensacola.	1953 Northcross Ln	Pensacola	FL 32514	(904) 477–2554
FL1857	Wyndham Harbour Island Hotel.	725 S. Harbour Island Blvd.	Tampa	FL 336025731	(813) 229–5000
Illinois					
IL0265	Wyndham Garden Hotel O'Hare Plaza.	5615 N. Cumberland	Chicago	IL 60631	(312) 693–5800
IL0406	Wyndham Wood Dale	1200 N. Mittel Blvd	Wood Dale	IL 60191	(708) 860–2900
Kansas					
KS0155	Wichita Airport Hilton/ Conference Center.	2098 Airport Road	Wichita	KS 672090000	(316) 945–5272
New Jersey					
NJ0191	Clarion Hotel and Conference Center.	2055 Lincoln Hwy	Edison	NJ 08817	(908) 526–1861
Tennessee					
TN0269	Budget Host Inn	395 Main St	Kimball	TN 37347	(615) 837–7815
TN0045	Hyatt Regency Knoxville.	500 Hill Ave. S.E	Knoxville	TN 37915	(615) 637–1234

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 04/17/95 UPDATE—Continued

Index	Property name	PO Box/Rt No., Street Address	City	State/ZIP	Telephone
TN0078	Residence Inn By Marriott.	6141 Poplar Pk	Memphis	TN 38119	(901) 685-9585
TN0088	Best Western Calumet Inn Lakeview.	701 Stewarts Ferry Pk.	Nashville	TN 37214	(615) 889-9199
TN0089	Budgetel Inn	531 Donelson Pk	Nashville	TN 37214	(615) 885-3100
TN0099	Hampton Inn North	2407 Brick Church Pk	Nashville	TN 37207	(615) 226-3300
TN0101	Holiday Inn Briley Parkway.	2200 Elm Hill Pk	Nashville	TN 37214	(615) 883-8770
TN0112	Residence Inn By Marriott.	2300 Elm Hill Pk	Nashville	TN 37214	(615) 889-8600
TN0114	Sheraton Music City Hotel.	777 McGavock Pk	Nashville	TN 37214	(615) 885-2200
TN0261	Apple Valley Comfort Inn.	1850 Pkwy	Sevierville	TN 37862	(615) 428-1069
TN0170	Hampton Inn	PO Box 28, 7829 E. Lamar Alexander Pkwy.	Townsend	TN 37882	(615) 448-6000
		Deletions			
Tennessee					
TN0225	Comfort Suites	2915 Elm Hill Pk	Nashville	TN 37214	(615) 883-0114
TN0102	Holiday Inn Crowne Plaza.	623 Union St	Nashville	TN 37219	(615) 259-2000

[FR Doc. 95-10043 Filed 4-21-95; 8:45 am]
BILLING CODE 4716-35-M

FEDERAL RESERVE SYSTEM

WSB Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than May 4, 1995.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. WSB Bancorp, Bellingham, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Whatcom State Bank, Ferndale, Washington.

Board of Governors of the Federal Reserve System, April 18, 1995.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 95-10020 Filed 4-21-95; 8:45 am]
BILLING CODE 6210-01-F

First Union Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal

Comments regarding the applicatuon must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 9, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Union Corporation, Charlotte, North Carolina; to acquire United Financial Corporation of South Carolina, Inc., Greenwood, South Carolina, and thereby indirectly acquire United Savings, FSB, Greenwood, South Carolina, and Home Federal Savings Bank of South Carolina, Rock Hill, South Carolina, and thereby engage in operating a federal savings bank holding company and its subsidiary federal savings banks, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 18, 1995.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 95-10021 Filed 4-21-95; 8:45 am]
BILLING CODE 6210-01-F

Henderson Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than May 19, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Henderson Bancshares, Inc., Troy, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Troy Bank & Trust Company, Troy, Alabama.

Board of Governors of the Federal Reserve System, April 18, 1995.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 95-10022 Filed 4-21-95; 8:45 am]
BILLING CODE 6210-01-F

James L. Ryan; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than May 9, 1995.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. James L. Ryan, Orinda, California; to acquire an additional 2.32 percent, for a total of 10.65 percent, of the voting shares of BWC Financial Corp., Walnut Creek, California, and thereby indirectly acquire Bank of Walnut Creek, Walnut Creek, California.

Board of Governors of the Federal Reserve System, April 18, 1995.
Jennifer J. Johnson,
Deputy Secretary of the Board.
[FR Doc. 95-10023 Filed 4-21-95; 8:45 am]
BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

White House Conference on Aging

AGENCY: White House Conference on Aging, AoA, HHS.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to Title II of the Older Americans Act Amendments of 1987, Public Law 100-175 as amended by Public Law 102-375 and Public Law 103-171, that the 1995 White House Conference on Aging Disability Advisory Committee will hold a meeting on Tuesday, May 2, 1995. The meeting will be held at the Washington Hilton and Towers Hotel on Connecticut Avenue at Columbia Road, NW in Washington, DC. More specific information on the time of the meeting and the room at the hotel can be obtained by calling the telephone number given below.

The meeting of the Committee shall be open to the public. The proposed agenda includes discussion of how the Committee can assist with planning for the Conference, and then implementing and reviewing it, providing leadership and guidance on disability issues as they relate to aging. The committee will focus particularly on post-conference activities.

Records shall be kept of all Committee proceedings and shall be available for public inspection at 501 School Street SW., 8th Floor, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: White House Conference on Aging, 501 School Street SW., 8th Floor, Washington, DC 20024; telephone (202) 245-7116.

Dated: April 18, 1995.
Fernando M. Torres-Gil,
Assistant Secretary for Aging.
[FR Doc. 95-9964 Filed 4-21-95; 8:45 am]
BILLING CODE 4130-02-M

Turning Resolutions into Results: Building the Legacy of the 1995 White House Conference on Aging

AGENCY: White House Conference on Aging, AoA, HHS.

ACTION: Notice; extension of deadline.

SUMMARY: The February 28, 1995 edition of the **Federal Register** (Vol. 60, No. 39) announces two categories of post-Conference activities devised to ensure the implementation of resolutions announced at the 1995 White House Conference on Aging (WHCoA). First, organizations may sponsor post-Conference events under the auspices of the White House Conference on Aging, provided that they meet requirements set forth in Part VI of the February 28 **Federal Register**. These requirements include submitting a letter of intent describing the event to the Executive Director of the WHCoA for approval. Second, individuals and organizations may submit public comments that address the practical aspects of resolution implementation.

This notice announces an extension of the deadlines for these activities. In

VOL
60
ISS
78
AP
24
1995
UMI

regard to post-Conference events, letters of intent may be submitted until June 30, 1995. Reports from these events and public comments will now be accepted until November 15, 1995.

FOR FURTHER INFORMATION CONTACT: Karen Goldmeier, White House Conference on Aging, 501 School Street, SW, 8th Floor, Washington, DC 20024–2755, phone (202) 245–7116.

Dated: April 18, 1995.

Fernando M. Torres-Gil,

Assistant Secretary for Aging.

[FR Doc. 95–9963 Filed 4–21–95; 8:45 am]

BILLING CODE 4130–69–M

Administration for Children and Families

[Program Announcement No. 93630–95–1]

Administration on Developmental Disabilities: Availability of Financial Assistance for American Indian Consortiums to Provide Protection and Advocacy Services for Fiscal Year 1995

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Announcement of the availability of funds for American Indian Consortiums to provide Protection and Advocacy (P&A) services for Fiscal Year 1995.

SUMMARY: The Administration on Developmental Disabilities, Administration for Children and Families, announces the availability of fiscal year 1995 funding for two American Indian Consortiums. Financial funding provided by ADD to American Indian Consortiums is designed to provide P&A services to Native Americans with developmental disabilities.

DATES: The closing date for submittal of applications is June 8, 1995.

ADDRESSES: Applications should be mailed to: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, Room 329–D, HHH Building, 200 Independence Avenue SW., Washington, DC 20201, Attn: 93.630–95–1 American Indian Consortium.

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m. Monday through Friday, on or prior to the established closing date at the above address

FOR FURTHER INFORMATION CONTACT: Isadora Wills, Division of Program Operations, Administration on Developmental Disabilities, (202) 690–5791.

SUPPLEMENTARY INFORMATION:

Part I. Program Purpose

The Administration on Developmental Disabilities is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of individuals with developmental disabilities.

The 1994 Amendments (Pub. L. 103–230) to the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 *et seq.*) (the Act) authorizes assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

Programs Funded Under the Act Are:

- Federal assistance to State developmental disabilities councils;
- State system for the protection and advocacy of individual rights;
- Grants to university affiliated programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

Part II. General Information for P&A Consortium

Based on section 142(b) of the Act (42 U.S.C. 6042(b)), an American Indian Consortium established to provide protection and advocacy services under Part C of the Act may submit an application to the Secretary to receive funding pursuant to section 142(c)(5). Such consortium shall coordinate activities with existing P&A systems.

Currently, the States' have difficulties which prohibit the P&A systems from adequately serving large populations of American Indians who reside in isolated, expansive reservations. Despite their efforts, P&A systems in these States have not been able to overcome linguistic, geographic and cultural barriers in order to provide adequate protection and advocacy services to these populations. The American Indian Consortium will help alleviate this problem by allowing certain tribes to join together and apply to the Secretary for a Consortium award similar to those received by the territories. It is expected that the Consortium, when established, will work cooperatively with the existing P&A systems in the States where the Consortium operates and develop cooperative agreements on how to best serve Native Americans with developmental disabilities.

For the purpose of this announcement an American Indian Consortium is "any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States." (section 102(1) (42 U.S.C. 6001(1)).

Part III. P&A Description and Requirements for Consortiums

A. Under the Act categorical grants are made to States and American Indian Consortiums for the protection and advocacy of individual rights through P&A systems. Systems must advocate on behalf of, and provide services to, all persons who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements. The P&A systems have been expanding their efforts on behalf of institutionalized people, with special attention on behalf of minorities and other traditionally underserved populations. Typically, these systems provide direct services to clients during a fiscal year, and also provide information and referral services to others. Assistance is provided for education, habilitation services, financial entitlement, consent, architectural barriers removal, day care, employment, rights or privacy, abuse and neglect cases, sterilization, transportation, voting and zoning.

B. Statutory Authority

The Developmental Disabilities Assistance and Bill of Rights Act, as amended, 42 U.S.C. 6000 et seq.

C. Funding Period

In Fiscal Year 1995, ADD has set aside approximate $272,322 for funding two American Indian Consortiums. Each grant will be approximate $136,161. As specified in 45 CFR 1386.2 of the ADD regulations, Fiscal Year 1995 funds must be obligated by September 30, 1996. These funds must be liquidated by September 30, 1997, in accordance with 45 CFR 1386.3 of the ADD regulations. Funding is authorized through Fiscal Year 1996.

Part IV. Specific Responsibilities of the Applicant

An applicant under this announcement must:

A. Provide the resolutions from the participating tribes designating the applicant to operate the Protection and Advocacy system, to receive the federal funds available for this program, and to be responsible for reporting and accounting for such funds to ADD.

B. Indicate that the System shall have the authority to:

1. Pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of individuals with developmental disabilities within the exterior boundaries of the Tribes who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to enrolled members of the Tribes (142(a)(2)(A)(i));

2. Provide information on and referral to programs and services addressing the needs of persons with developmental disabilities (142(a)(2)(A)(ii));

3. Investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred (142(a)(2)(B)); and

4. Educate policymakers (142(a)(2)(K)).

C. Specify that the system, on an annual basis:

1. Develops a statement of objectives and priorities for the system's activities (142(a)(2)(C)); and

2. Provide to the public including individuals with developmental disabilities attributable to either physical impairment, mental impairments, and their representatives, as appropriate, or a combination of physical or mental impairments, non-Tribal agency representatives, and non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State,) an opportunity to comment on—

(a) The objectives and priorities established by the system and the rationale for the establishment of such objectives; and

(b) The activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individual Act of 1986 and with other related programs, including the parent training and information centers, education ombudsman programs and assistive technology projects (142(a)(2)(D)).

D. Demonstrate that the system:

1. Has or will establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system (142(a)(2)(E));

2. Is not being administered by the State Developmental Disabilities Council authorized under Part B (142(a)(2)(F));

3. Is independent of any agency which provides treatment, services, or habilitation to individuals with developmental disabilities (142(a)(2)(G));

4. Has access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident (142(a)(2)(H));

5. Has access to all records of—

(a) Any individual with developmental disabilities who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access (142(a)(2)(I)(i));

(b) Any individual with developmental disabilities—

(i) Who, by reason of such individual's mental or physical condition, is unable to authorize the system to have access (142(a)(2)(I)(ii)(I));

(ii) Who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the Tribe (142(a)(2)(I)(ii)(II)); and

(iii) With respect to whom a complaint has been received by the system or with respect to whom as a result of monitoring or other activities there is probable cause to believe that such individual has been subject to abuse or neglect (142(a)(2)(I)(ii)(III)); and

(c) Any individual with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

(i) Such representative has been contacted by the system upon receipt of the name and address of such representative (142(a)(2)(I)(iii)(I));

(ii) The system has offered assistance to such representative to resolve the situation (142(a)(2)(I)(iii)(II)); and

(iii) Such representative have failed or refused to act on behalf of the individual (142(a)(2)(I)(iii)(III));

6. Has hired and maintains sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such system shall not apply hiring freezes, reductions in force, or prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under the Act (142(a)(2)(J));

7. Will provide assurances to the Secretary that funds awarded to the consortium under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds (142(a)(2)(L)); and

8. Will submit to: Administration on Developmental Disabilities, Division of Program Operation, Room 329–D, HHH Building, 200 Independence Avenue, SW, Washington, DC 20201 the following reports: Financial status reports (269s) bi-annually, Program Performance Report (PPRs) annually and the Statement of Objectives and Priorities (SOPs) annually.

E. Describe how the system will assure that a multimember governing board is selected according to the policies and procedures of the system except that—

1. The governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family member, guardians, advocates, or authorized representative of such individuals;

2. Not more than ⅓ of the membership of the governing board may be appointed by the chief executive officers of the tribes involved, in the case of any tribe in which such officer has the authority to appoint the membership of the board; and

3. Any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

Part V. Intergovernmental Review of Federal Programs

This program is covered by the State Plan Consolidation Section of E.O. 12372, but is excluded from intergovernmental consultation review.

VOL
60
ISS
78
AP
24
1995
UMI

Part VI. The Application Process

A. Application Submission

To be considered as an applicant for an allotment, interested Consortiums must submit an application to the Administration for Children and Families at the address specified in the Program Announcement. There is no application kit; the Consortium's applications may be in a format chosen by the applicant. It must, however contain resolutions from two or more tribes and be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award and contain the following:

1. The name and Employer Identification Number (EIN) of the agency designated by the Tribes to implement the Protection and Advocacy system.

2. The name address, and telephone number of the director of the system or a contact person, if different from the director.

3. Assurances that:

a. One signed original and two copies of the application including all attachments, have been submitted on or before June 6, 1995 to: Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, Room 329–D, HHH Building, 200 Independence Avenue SW., Washington, DC 20201, Attn: 93.630–95–1 American Indian Consortium.

b. Not more than five percent of the total funds will be used for monitoring the administration of the system.

4. Appropriate Certifications:

a. *Non-Profit Status.* Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

b. Applicants requesting financial assistance for a non-construction project must file the Standard Form 424B, "Assurances: Non-Construction Programs." Applicants must sign and return the Standard Form 424B with their applications.

c. *Lobbying.* Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their applications.

d. *Compliance with the Drug-Free Workplace Act of 1988.* By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications.

e. *Debarment, suspension or otherwise ineligible for award.* By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurance are located at the end of this announcement.

d. *Certification regarding environmental tobacco smoke.* By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

B. Application Consideration

The Commissioner of the Administration on Developmental Disabilities determines the final action to be taken with respect to each application received under this announcement. The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determinations by ADD.
- The Commissioner's funding decision takes into account the analysis of the application, recommendation and comments of the Federal reviewing officials.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this program announcement, and the availability of funds.

Part VII. Review Process and Criteria

Applications submitted by the closing date and verified by the postmark under this program announcement will undergo a pre-review to determine:

- That the applicant is eligible in accordance with the definition of an American Indian Consortium in Part II; and
- That the application forms and materials submitted are adequate to allow an indepth evaluation (all required materials and forms are included in this announcement)

Competing application from Consortiums will be reviewed and evaluated against the following criteria.

A. Objectives and Priorities (60 points)

The applicant's description of objectives and priorities to be established. Information provided in response to the items under Part IV of this announcement "Specific Responsibilities of the Applicant" will be used to review and evaluate applications.

B. Approach (40 points)

The applicants description of the system's operations/approach toward accomplishing the objectives and priorities. Evidence of the applicant's ability to manage a P&A System is well defined.

Part VII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements in regulations including program announcements. This program announcement does not contain information collection requirement beyond those approved for ADD.

Part VIII. Receipt of Applications

Applications shall be considered as meeting an announced deadline if they are either:

1. Received on or before the deadline date at the Office specified in this announcement; or

2. Sent on or before the deadline date and received by ACF in time for the review. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier of U.S. Postal Services. Private metered postmarks shall not be acceptable as proof of timely mailing).

A. Late Applications

Applications which do not meet the criteria stated above are considered late applications. ACF/ADD shall notify each late applicant that its application will not be considered in the competition.

B. Extension of Deadlines

ACF may extend the deadline for all applicants due to acts of God, such as floods, hurricanes or earthquakes; or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

C. Effective Date

We anticipate that successful applications shall be funded no later than June 30, 1995.

(Catalog of Federal Domestic Assistance Program Number 93.630 Developmental Disabilities—Protection and Advocacy Program)

Dated: April 17, 1995.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

Attachment A—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 1601–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention. Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1506 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Attachment B—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation,

VOL 60 ISS 78 AP 24 1995 UMI

renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184-01-P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by O[illegible] 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*
Congressional District, *if known:*

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:
CFDA Number, *if applicable:* _____

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply):*
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply):*
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

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VOL
60
ISS
78
AP
24
1995
UMI

ATTACHMENT C

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government-wide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), *if it previously identified the workplaces in question* (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

BGMO Form#2 Revised May 1990

BILLING CODE 4184-01-C

VOL 60 ISS 78 AP 24 1995 UMI

Attachment D—Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction, "provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certificaiton Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, Voluntary Exclusion-Lower Tier Covered Transactions. "without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment E—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee.The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of an administrative compliance order on the responsible entity

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

[FR Doc. 95–10029 Filed 4–21–95; 8:45 am]

BILLING CODE 4164–01–P

Food and Drug Administration

Request for Nominations for Members on Public Advisory Committees; Food Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for members to serve on the Food Advisory Committee (the Committee) in FDA's Center for Food Safety and Applied Nutrition. Nominations will be accepted for current vacancies and vacancies that will or may occur on the Committee during the next 12 months.

FDA has special interest in ensuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates. Final selection from among qualified candidates for each vacancy will be determined by the expertise required to meet specific agency needs and in a manner to ensure appropriate balance of membership.

DATES: Nominations should be received by May 24, 1995.

ADDRESSES: All nominations for membership, except for consumer-nominated members, should be sent to Catherine M. DeRoever (address below) All nominations for the consumer-nominated members should be sent to Martha F. Waugh or Annette J. Funn (address below).

FOR FURTHER INFORMATION CONTACT:

Regarding all nominations for membership, except for consumer-nominated members: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–22), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4251.

Regarding all nominations for consumer-nominated members: Martha F. Waugh or Annette J. Funn, Office of Consumer Affairs (HFE–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for members to serve on the advisory committee listed below. Individuals should have expertise in the activity of the Committee. Eight vacancies will occur June 30, 1995.

Food Advisory Committee

The Committee provides advice primarily to the Director, Center for food Safety and Applied Nutrition, and as needed, to the Commissioner of Food and Drugs, and other appropriate officials, on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade. The Committee also provides advice and makes recommendations on ways of communicating to the public the potential risks associated with these issues and recommends approaches to be considered in addressing them.

Criteria for Members

Persons nominated for membership on the Committee shall be knowledgeable in the fields of life sciences, food science, risk assessment or other relevant scientific disciplines. The Committee may include technically qualified members who are identified

with consumer interests and are recommended by either a consortium of consumer-oriented organizations or other interested persons.

Representatives of industry interests will serve as liaisons to the regulated industry. The term of office is up to 4 years.

Nomination Procedures

Interested persons may nominate one or more qualified persons for membership on the Committee. Nominations shall state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude Committee membership. Additionally, the nominee's mailing address, telephone number, and curriculum vitae must accompany the nominations. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, employment, consultancies, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

Criteria for Consumer-Nominated Members

Selection of representatives of consumer interests will be conducted through procedures that include use of a consortium of consumer organizations which has the responsibility for screening, interviewing, and recommending candidates for the agency's selection. Candidates from this group, like all other candidates for membership on the Committee, should possess appropriate qualifications to understand and contribute to the Committee's work.

Industry Representatives

Regarding nominations for members representing industry interests, a letter will be sent to each person or organization that has made a nomination and to other organizations that have expressed an interest in participating in the selection process together with a complete list of all such organizations and the nominees. The letter will state that it is the responsibility of each nominator or organization that has expressed an interest in participating in the selection process to consult with the others and to provide a consensus slate of possible members representing industry interests within 60 days. In the event that a slate of nominees has not been provided within 60 days, the agency will select an industry representative for each such vacancy from the entire list of industry nominees to avoid delay or disruption of the work of the Committee. The agency is particularly interested in nominees that possess the essential scientific credentials needed to participate fully and knowledgeably in the Committee's deliberations. In addition to this expertise, the agency believes that it would be an advantage to the Committee's work if the individual(s) had special insight and direct experience into specific industrywide issues, practices, and concerns that might not otherwise be available to others not similarly situated.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: April 17, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–10075 Filed 4–21–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95E–0035]

Determination of Regulatory Review Period for Purposes of Patent Extension; LUVOX™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for LUVOX™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product LUVOX™ (fluvoxamine maleate). LUVOX™ is indicated for the treatment of obsessions and complusions in patients with obsessive compulsive disorder. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for LUVOX™ (U.S. Patent No. 4,085,225) from Duphar International, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 1, 1995, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of LUVOX™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for LUVOX™ is 6,958 days. Of this time, 5,886 days occurred during the testing phase of the regulatory review period, while 1,072 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* November 19, 1975. FDA has verified the applicant's claim that the date the investigational new drug application

VOL
60
ISS
78
AP
24
1995
UMI

(IND) became effective was on November 19, 1975.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: December 30, 1991. The applicant claims December 24, 1991, as the date the new drug application (NDA) for LUVOX™ (NDA 20–243) was initially submitted. However, FDA records indicate that NDA 20–243 was submitted and received on December 30, 1991.

3. *The date the applications was approved*: December 5, 1994. FDA has verified the applicant's claim that NDA 20–243 was approved on December 5, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 23, 1995, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 23, 1995, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 17, 1995.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 95–10073 Filed 4–21–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95E–0038]

Determination of Regulatory Review Period for Purposes of Patent Extension; SERZONE®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for SERZONE® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product SERZONE® (nefazodone hydrochloride). SERZONE® is indicated for treatment of depression. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for SERZONE® (U.S. Patent No. 4,338,317) from Bristol-Myers Squibb, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 1, 1995, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of SERZONE® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for SERZONE® is 4,420 days. Of this time, 3,216 days occurred during the testing phase of the regulatory review period, while 1,204 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: November 17, 1982. FDA has verified the applicant's claim that the date that the investigational new drug application (IND) became effective was on November 17, 1982.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: September 6, 1991. FDA has verified the applicant's claim that the date the new drug application (NDA) for SERZONE® (NDA 20–152) was initially submitted was on September 6, 1991.

3. *The date the application was approved:* December 22, 1994. FDA has verified the applicant's claim that NDA 20–152 was approved on December 22, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 23, 1995, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 23, 1995, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 17, 1995.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 95–10077 Filed 4–21–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94E–0071]

Determination of Regulatory Review Period for Purposes of Patent Extension; Zosyn®; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the notice that appeared in the Federal Register of August 30, 1994. The document announced FDA's determination of the regulatory review period for purposes of patent extension for Zosyn® (tazobactam sodium and piperacillin sodium). The document was published with some errors. The document incorrectly stated:

FDA has determined that the applicable regulatory review period for Zosyn® is 1,819 days. Of this time, 1,038 days occurred during the testing phase of the regulatory review period, while 781 days occurred during the approval phase.

1. *The date an exemption under 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: October 31, 1988. The applicant claims July 10, 1988, as the date the investigational new drug application (IND) for Zosyn® (IND 31,705) became effective. However, IND 31,705 was received on June 14, 1988, and it was placed on clinical hold on July 1, 1988. It was removed from clinical hold on October 31, 1988, making the IND effective date October 31, 1988.

It should have stated:

FDA has determined that the applicable regulatory review period for Zosyn® is 1,906 days. Of this time, 1,125 days occurred during the testing phase of the regulatory review period, while 781 days occurred during the approval phase.

1. *The date an exemption under 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: August 5, 1988. The applicant claims July 10, 1988, as the date the investigational new drug application (IND) for Zosyn® (IND 31,705) became effective. However, IND 31,705 was received on June 14, 1988, and it was placed on clinical hold on July 1, 1988. It was removed from clinical hold on August 5, 1988, making the IND effective date August 5, 1988.

This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: In FR Doc. 94–21286, appearing on page 44738 in the Federal Register of August 30, 1994, the following corrections are made:

On page 44739, in the first column, in the third full paragraph, in the third line, "1,819" is corrected to read "1,906" and in the fourth line, "1,038" is corrected to read "1,125"; in the same column, in the fourth line from the bottom, "October 31, 1988" is corrected to read "August 5, 1988"; and in the second column, in the fifth and sixth lines, "October 31, 1988" is corrected to read "August 5, 1988".

Dated: April 17, 1995.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 95–10074 Filed 4–21–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95E–0012]

Determination of Regulatory Review Period for Purposes of Patent Extension; Sonic Accelerated Fracture Healing System (SAFHS®)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for SAFHS® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device SAFHS®. SAFHS® is indicated for the acceleration of the time to a healed fracture for fresh, closed, distal radius (Colle's) fractures and fresh, closed or Grade I open tibial diaphysis fractures in skeletally mature individuals when these fractures are orthopedically managed by closed reduction and cast immobilization. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for SAFHS® (U.S Patent No. 4,530,360) from Exogen, Inc., and the Patent and

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Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 21, 1995, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of SAFHS® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for SAFHS® is 3,073 days. Of this time, 1,532 days occurred during the testing phase of the regulatory review period, while 1,541 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun:* May 9, 1986. FDA has verified the applicant's claim that the date the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(g)) for human tests to begin became effective on May 9, 1986.

2. *The date an application was initially submitted with respect to the device under section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e):* July 18, 1990. FDA has verified the applicant's claim that the premarket approval application (PMA) for SAFHS® (PMA P90009) was initially submitted on July 18, 1990.

3. *The date the application was approved:* October 5, 1994. FDA has verified the applicant's claim that PMA P90009 was approved on October 5, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,825 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 23, 1995, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 23, 1995, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 17, 1995.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 95–10078 Filed 4–21–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Availability of Funds for the Provision of Technical and Nonfinancial Assistance to Federally Funded Migrant Health Centers and Related Organizations

AGENCY: Health Resources and Services Administration, PHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration announces the availability of approximately $1.4 million in fiscal year (FY) 1995, to support a total of four grants under Section 329(g)(1) of the Public Health Service (PHS) Act for the provision of technical and nonfinancial assistance to migrant health centers (MHCs).

The above technical assistance includes the following activities:

(1) Assist MHCs by the development of cost effective vision screening and treatment tools (e.g. health education and training materials, focometer), as well as, optometric technical assistance to MHCs (e.g. assistance request form, needs assessment, planning, training of providers and identification of community and regional resources).

(2) Recruit, train and place, seasonal bilingual and culturally sensitive health (e.g., MDs, ODs, mid-levels) and allied health professionals (e.g., nutritionist, social worker, health educator and community service worker) at East Coast MHCs to perform outreach duties.

(3) Provide technical assistance to MHCs nationwide to develop farmworker peer counseling and outreach programs; including the recruitment, training and placement of peer counselors, and program planning and identification of resources.

(4) Recruit, train and place bilingual outreach teams (e.g., nurse practitioner/nurse, health educator/community outreach worker) in Florida that specifically target farmworker infants, children and youth up to 21 years of age not currently receiving health care services. The teams are to work with MHCs and other organizations serving farmworkers. Other activities of this grant are to assist in State and local strategic planning to increase farmworker access to MHCs and health services.

The four grants will be awarded with a budget period of one year and a project period of up to three years.

The objective of these activities is to improve access to preventive and primary care services for underserved populations, especially minority and other disadvantaged populations. This is in keeping with the health promotion and disease prevention objectives of Healthy People 2000, and also the objectives defined specifically for the farmworker population in the PHS publication Migrant and Seasonal Farmworker (MSFW) Health Objectives for the Year 2000. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No.017–001–00474–0 or Healthy People 2000 (Summary Report: Stock No. 017–00473–01) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238). Potential applicants may obtain a copy of MSFW Objectives for the Year 2000 through the National Migrant Resource Program, Inc., 1515 Capital of Texas Highway South, Suite 220, Austin, Texas 78746 (Telephone 1–800–531–5120).

Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities in which education, library, day care, regular and routine health care and early childhood development services are provided to children. Smoking must also be prohibited in indoor facilities that are constructed, operated or maintained with Federal funds.

DATES: Applications are due June 8, 1995. Applications shall be considered as meeting the deadline date if they are either: (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for orderly processing. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable proof of timely mailing. Applications which do not meet the deadline will be considered late and will be returned to the applicant.

ADDRESSES: Application materials (PHS Form 5161–1 with revised face sheet DHHS Form 424, as approved by the Office of Management and Budget (OMB) under control number 0937–0189) may be obtained from the Bureau of Primary Health Care (BPHC), Office of Grants Management, Nancy Benson, (301) 594–4260, 4350 East-West Highway, 11th Floor, Bethesda, MD 20814. Ms. Benson is available for further information regarding application submission procedures and to provide assistance on business management issues. Completed applications should be mailed to: Grants Management Officer, BPHC, c/o Houston Associates, Inc., 1010 Wayne Avenue, Suite 240, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: For general program information, contact Mr. Antonio Duran, Director, or Helen Kavanagh, Migrant Health Branch, Division of Community and Migrant Health, BPHC, Health Resources and Services Administration, (301) 594–4303, 4350 East-West Highway, 7th Floor, Bethesda, MD 20814.

SUPPLEMENTARY INFORMATION:

Background

There are 106 MHCs which provide comprehensive primary health care to migrant and seasonal farmworkers and their families in their home base or as they work along one of the three migrant streams. The technical and nonfinancial assistance will be arranged for or provided within available resources by four separate grantees in response to MHC requests for: (1) vision screening and treatment services, (2) bilingual seasonal outreach staff, (3) peer counselor training and outreach, and (4) outreach staff specializing in identifying children and youth who fall through the "cracks" of health care services.

Legislation governing these activities can be found at section 329 of the PHS Act. Paragraph (1)(B) of section 329(a) requires that a migrant health center provide "as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services," and paragraph (1)(G) requires that a migrant health center provide "information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals".

Number and Amount of Awards

Each individual and/or organization is limited to submitting a maximum of one grant proposal for any one of the four activities mentioned. A maximum of 4 separate grants will be awarded for: optometric technical assistance for MHCs nationwide (approximately $45,000); the recruitment, training and placement of outreach allied health and health professionals with MHCs on the East Coast (approximately $800,000); the development, implementation and promotion of farmworker peer counselor programs at MHCs nationwide (approximately $225,000); and the enhancement of farmworker outreach health care services targeting infants, children and youth at MHCs in Florida, in addition, to State and local strategic planning (approximately $320,000).

Eligible Applicants

Eligible applicants are public and private nonprofit entities with culturally competent and diverse staff which have demonstrated experience, as appropriate to the requested grant, in optometric technical assistance for MHCs; farmworker outreach; the recruitment, training and placement of health and allied health professionals at MHCs; or in farmworker peer counselor recruitment, training and placement.

Criteria for Evaluation

Regulations governing these awards provide that the Secretary will award funds to applicants which, in her judgment, will best promote the purposes of the statute, taking into consideration (a) the cost effectiveness of the application, and (b) the number of centers and entities to be served by the applicant. 42 CFR 56.704. In addition to these two criteria, the Secretary, in considering what will best promote the purposes of the statue, will consider:

(1) The extent to which the applicant's program activity demonstrates and addresses the particular needs of the migrant and seasonal farmworkers and migrant health centers;

(2) The degree to which the applicant addresses the overall goals and objectives of one of the aforementioned activities;

(3) The appropriateness and adequacy of the methodology which describes how the activity will be evaluated, along with relevant timeliness;

(4) The information contained in annual progress reports (for existing grantees only);

(5) The extent to which the project plan describes activities in measurable terms;

(6) The extent of the organization's prior related and applicable experience (to be documented by a short synopsis of work completed for each Federal and non-Federal grant received, contact person(s) and phone number(s)); and

(7) The degree to which the fiscal and administrative management systems, and the budget are well organized, detailed, justified and consistent with the project plan.

All applications for the technical and nonfinancial assistance to MHCs will be reviewed competitively by a PHS Objective Review Committee.

Other Award Information

The grants awarded under this notice are not subject to the provisions of Executive Order 12372 or the Public Health System Reporting Requirements.

In the OMB Catalog of Federal Domestic Assistance, the Migrant Health Center program is Number 93.129.

Dated: April 14, 1995.

Ciro V. Sumaya,

Administrator

[FR Doc. 95–10019 Filed 4–21–95; 8:45 am]

BILLING CODE 4160–15–P

Health Resources Services Administration

Availability of Funds for Grants To Build Primary Health Care Capacity in the Pacific Basin

AGENCY: Health Resources and Services Administration, PHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces the availability of approximately $1.3 million in fiscal year (FY) 1995 for competing applications for the Pacific Basin Health Initiative. This Initiative supports the development of primary health care infrastructure in the Pacific Basin, and funds will be awarded under the authority of section 301 of the Public Health Service (PHS) Act. The overall goal of the program is to achieve the effective delivery of comprehensive primary health care services and to encourage community responsibility for health promotion and disease prevention. The six Pacific jurisdictions affected by this initiative are the three flag territories (the Commonwealth of the Northern Mariana Islands, American Samoa, and Guam), and the three sovereign nations whose relationships with the U.S. are governed by Compacts

of Free Association (the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau).

Approximately 15–20 awards will be made, ranging from approximately $15,000 to $200,000, for up to three-year project periods and one-year budget periods. The average award will be approximately $75,000.

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting health priorities. The Pacific Basin Health Initiative will contribute toward meeting the Healthy People 2000 objectives cited for: clinical preventive services, environmental health, maternal and infant health, nutrition, oral health, diabetes and chronic disabling conditions, and health data collection. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities in which education, library, day care, regular and routine health care and early childhood development services are provided to children. Smoking must also be prohibited in indoor facilities that are constructed, operated or maintained with Federal funds.

DUE DATE: Applications are due by July 1, 1995. Applications will be considered as having met the deadline if they are: (1) received on or before the established deadline date; or (2) sent on or before the established deadline date and received in time for orderly processing. Applicants should obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service or obtain a legibly dated U.S. Postal Service postmark. Private metered postmarks will not be accepted as proof of timely mailing. Late applications will not be considered for funding and will be returned to the applicant.

ADDRESSES FOR APPLICATION KITS: Application kits and additional guidance (Form PHS 5161–1 with revised face sheet DHHS form 424, as approved by the OMB under control number 0937–0189) may be obtained from, and completed applications sent to: Bureau of Primary Health Care, c/o Houston Associates, Inc., 1010 Wayne Avenue, Suite 1200, Silver Spring, Maryland 20910. The telephone number is (800) 523–2192. The FAX number is (800) 523–2193. Ms. Harriet Green, Acting Branch Chief, Grants Management Office can also assist with grants policy and business management issues. The telephone number is (301) 594–4242. The FAX number is (301) 594–4073. Her Internet address is: hgreen@hrsa.ssw.dhhs.gov.

FOR FURTHER INFORMATION CONTACT: For general program information and technical assistance, contact: Tom Coughlin, Chief, Special Initiatives, Policy and Evaluation Branch, Division of Programs for Special Populations, Bureau of Primary Health Care, 4350 East-West Highway, 9th Floor, Bethesda, Maryland 20814, Telephone (301) 594–4450, fax (301) 594–2470. Prospective applicants are encouraged to send or FAX a letter of intent before May 31, 1995. This will allow program staff the opportunity to offer technical assistance.

SUPPLEMENTARY INFORMATION: The six jurisdictions have different levels of economic/social development and varying capacities to meet the primary health care needs of their rapidly expanding populations, but they share characteristics of many developing nations, such as: Poor health status indicators including high infant mortality rates, rapidly expanding populations, a large portion of the health care budget spent on off-island referrals, a shortage of health care professionals, and high rates of poverty.

Based on these basic needs, the Pacific Basin Health Initiative is designed to support infrastructure development and capacity building for comprehensive primary health care delivery and preventive services in the six jurisdictions. It is the intention of the program to increase the jurisdictions' long-term self-sufficiency by investing in human resource and administrative development.

Through collaboration with the health departments in the Pacific jurisdictions, the Bureau of Primary Health Care is committed to achieving the health promotion and disease prevention objectives as defined by the individual Pacific jurisdictions. The Bureau intends to fund activities that best meet the program goals, originate within the jurisdiction(s), and align with the areas of concern outlined by each of the jurisdictions' Health Departments. A listing of the Health Department contacts and the areas of concern outlined by the six jurisdictions will be provided in the application package.

Program Areas of Emphasis

In addition to the areas of concern outlined by the jurisdictions, the Bureau has identified the following three areas of emphasis:

(1) Build local capacity to develop, improve upon and operationalize appropriate models for the delivery of comprehensive primary health care and prevention services—including strengthening of human resource components. This area of emphasis focuses on developing long-term, internal planning capacity and projects that demonstrate feasible and sustainable models of delivery.

(2) *Integrate information systems* among various health sectors within each jurisdiction.

(3) Promote services to remote islands and underserved communities.

Eligible Applicants

An eligible applicant is a public or private nonprofit entity within the jurisdictions or any U.S. state.

Restrictions

Applications may not exceed 50 pages including the cover sheet and appendices for new applicants and 55 pages for previously funded applicants (to include end-of-the year project reports). Grant funds may not be used to supplant locally funded public programs. Grant funds may not be used to pay for major construction or for the acquisition of major pieces of equipment. However, a very limited amount of grant funds may be requested for alterations, renovations and equipment purchases (less than $25,000).

Applicants who propose projects that were primarily funded by PHS or other governmental agencies (such as laboratory capacity and epidemiology/CDC; sanitation/EPA) must specify why the funding from these agencies is insufficient or why this Initiative better serves the purposes of the project.

Criteria for Evaluation

Eligible applicants will be evaluated based upon the following:

Need

• The extent to which the applicant documents need for proposed services in the community or jurisdiction(s) based upon:

(1) A thorough description of demographic and health status indicators of the populations to be served as they relate to primary health care; (2) an identification of gaps within the existing health care system; and (3) an assessment of barriers within the existing system that hinder the delivery of primary care services.

Organizational Capacity/Staffing Expertise

• The extent to which applicants demonstrate the expertise of the staff and organizational capacity to implement the project based upon:

(1) Experience in and knowledge of the proposed service area and health service project; (2) strong leadership and staffing plans; and (3) demonstration by grantees, previously funded under this Initiative, of their past success in managing and implementing projects.

Coordination/Collaboration:

• The extent to which services will be integrated:

(1) Within the community; (2) with needs identified by officials of the jurisdiction(s); and (3) with the private sector, where applicable.

Sustainability/Capacity Building

• The extent to which applicants demonstrate that the proposed projects will: (1) Build local capacity, (2) relate to the jurisdiction(s)' master health plan or areas of concern; and (3) if applicable, decrease dependence on costly off-island referrals.

Health Care Plan (Proposed Plan to Close Gaps in Services)

• The adequacy of the project description will be evaluated based upon the extent to which:

(1) Problem statements are clear and are based on the needs assessment;

(2) Long-term goals are appropriate, measurable, and relate to the problem statements;

(3) Objectives are realistic, measurable and appropriate to the population being served;

(4) Action-steps are feasible and have a reasonable time-line, and;

Evaluation

• The adequacy of the evaluation plan designed to measure how well the goals and objectives were achieved.

• The extent to which grantees previously funded under this Initiative met their goals and objectives and analyzed their achievements and shortcomings.

Budget

The appropriateness of the budget in relation to other resources and the adequacy of the budget justification and future financial plans to support the proposed interventions for this initiative.

This program is not subject to the Public Health System Reporting Requirements.

This program is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system to review applications from within their States under certain Federal programs. The application kit, to be made available under this notice, will contain a listing of States which have chosen to set up a review system and will provide a single point of contact (SPOC) in the States for that review. Applicants (other than federally recognized Indian tribal governments) should contact their State SPOC as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the appropriate application deadline date. The BPHC does not guarantee that it will accommodate or explain its responses to State process recommendations received after the due date.

The OMB Catalog of Federal Domestic Assistance number for this program is 93.163.

Dated: April 19, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–10070 Filed 4–21–95; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of General Counsel

[Docket No. D–95–1089; FR–3909–D–01]

Order of Succession, Acting General Counsel

AGENCY: Office of General Counsel, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the General Counsel for the Department of Housing and Development designates the Order of Succession for the position of General Counsel, and revokes the prior Order of Succession for this position.

EFFECTIVE DATE: April 18, 1995.

FOR FURTHER INFORMATION CONTACT: John P. Opitz, Assistant General Counsel for Training and Administrative Law, Department of Housing and Urban Development, Room 10246, 451 7th Street, SW, Washington, DC 20410, 202–708–9991. A telecommunications device for hearing-impaired persons (TDD) is available at 202–708–3259. [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: The General Counsel for the Department of Housing and Urban Development is issuing this Order of Succession of officials authorized to serve as Acting General Counsel when, by reason of absence, disability, or vacancy in office, the General Counsel is not available to exercise the powers or perform the duties of the office. The authorization to act under this Order is subject to the 120-day rule of the Vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than 120 days.

Accordingly, the General Counsel designates the following order of succession:

Section A. Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, the General Counsel is not available to exercise the powers or perform the duties of the Office of General Counsel, the following are hereby designated to serve as Acting General Counsel:

(1) Deputy General Counsel (Civil Rights & Litigation);

(2) Deputy General Counsel (Programs & Regulations);

(3) Deputy General Counsel (Operations);

(4) Associate General Counsel for Assisted Housing and Community Development;

(5) Associate General Counsel for Legislation and Regulations;

(6) Associate General Counsel for Program Enforcement;

(7) Associate General Counsel for Insured Housing;

(8) Associate General Counsel for Finance and Regulatory Enforcement.

(9) Associate General Counsel for Litigation and Fair Housing Enforcement.

(10) Associate General Counsel for Human Resources Law.

These officials shall serve as Acting General Counsel in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office. If all the officials designated in this order of succession are unable to serve as Acting General Counsel by reason of absence, disability or vacancy in office, officials designated to serve as acting officials for these designated officials shall serve in

the same order of succession as their principals.

Officials ranking below the Deputy General Counsel (Operations) in the above Order of Succession and their designees, while serving as Acting General Counsel, may only take actions with the approval of the Special Assistant to the General Counsel.

Authorization to serve as Acting General Counsel shall not exceed 120 days pursuant to the Vacancies Act, 5 U.S.C. 3348.

Section B. Authority Revoked

The Order of Succession of the General Counsel, published in the **Federal Register** on March 1, 1994, at 59 FR 9766, is hereby revoked.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 18, 1995.

Nelson A. Díaz,

General Counsel.

[FR Doc. 95–10036 Filed 4–21–95; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Approval

The following applicants have applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Jerry Blocker, Rio Linda, CA. The applicant wishes to establish a cooperative breeding program for the Eurasian eagle owl *(Bubo bubo)*, Lanner falcon *(Falco biarmicus)*, Saker falcon *(Falco cherrug)*, and the Tawny eagle *(Aquila rapax)*. Mr. Blocker wishes to be an active participant in this program with one other private individual. The American Wildlife Rescue Service has assumed the responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420C, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 14, 1995.

Dr. Susan Lieberman,

Chief, Branch of Operations, Office of Management Authority.

[FR Doc. 95–10048 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Nevada, Hydrogeochemical Studies of Gold and Ore-Related Elements in Ground Water Systems

AGENCY: U.S. Geological Survey.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S Geological Survey has accepted from Barrick Gold Exploration, Inc. a contribution of $7,500 to support hydrogeochemical studies of the chemical mobility of gold and ore-related elements in ground water systems that may be associated with buried gold deposits in north-central Nevada.

DATES: This notice is effective April 24, 1995.

ADDRESSES: Information on the work is available to the public upon request at the following location: U.S. Geological Survey, Branch of Geochemistry, Denver Federal Center, MS–973, P.O. Box 25046, Denver, Colorado 80225–0046.

FOR FURTHER INFORMATION CONTACT: Dr. David Grimes of the U.S. Geological Survey, Branch of Geochemistry, at the address given above; telephone 303/236–5510.

P. Patrick Leahy,

Acting Chief Geologist.

[FR Doc. 95–9955 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[ID–016–05–1060–01; IDI–29233]

Notice of Availability of Record of Decision

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act and 43 CFR part 3809 (Mining Regulations) the Bureau of Land Management (BLM) has issued a Record of Decision for the final environmental impact statement (EIS) on the Stone Cabin Mine Plan of Operations. The decision authorizes implementation of the Proposed Action in the final EIS. The decision, which includes stipulations, authorizes open-pit mining in Owyhee County, Idaho.

EFFECTIVE DATE: The decision became effective on the date of issuance which was April 14, 1995. The decision is subject to appeal pursuant to 43 CFR 3809.4. The operator has the right of appeal to the Bureau of Land Management, Idaho State Director and thereafter to the Department of Interior, Board of Land Appeals under procedures found at 43 CFR 3809.4(a) through (e). A party, other than the operator, has the right of appeal to the Department of Interior, Board of Land Appeals under procedures found at 43 CFR part 4, subpart E. An appeal under 43 CFR part 4, subpart E must be filed not later than May 24, 1995. The appeal period will end on May 24, 1995.

ADDRESSES: Copies of the Record of Decision and the final EIS are available from: Bureau of Land Management, 3948 Development Avenue, Boise, ID 83705.

FOR FURTHER INFORMATION CONTACT: Fred Minckler, Team Leader at the address above. Telephone (208) 384–3300.

SUPPLEMENTARY INFORMATION: The Stone Cabin Mine will be an open-pit gold and silver mine located in the Owyhee Mountains in Southwestern Idaho. The mine pit will be located on Florida Mountain, about 50 miles southwest of Boise, Idaho and about one mile west of the historic mining town of Silver City, Idaho. The Stone Cabin Mine will be operated as a satellite facility and will share some components of the existing Kinross DeLamar Mine located about five miles west of the Stone Cabin Mine site. The final EIS was released to the public on August 19, 1994. Copies of the Record of Decision were mailed to those who received a copy of the final EIS.

Rodger E. Schmitt,

Associate Ecosystem Manager

[FR Doc. 95–9785 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–GG–P

[WY–010–4212–14; WYW 129048]

Realty Actions; Sales, Leases, etc.: Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; sale of public land in Washakie County, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) has determined that the lands described below are suitable for public sale by modified competitive sale procedures under sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1713, 1719). The BLM must receive fair market value for the land sold and any bid for less than fair market value will be rejected. The BLM may accept or reject any and all offers, or withdraw any land or interest on the land for sale if the sale would not be consistent with FLPMA or other applicable law. The lands are legally described as:

Sixth Principal Meridian

T. 47 N., R. 92 W.
Sec. 23, W1/2NE1/4SW1/4, NW¼/4SE¼SW¼.

The above land aggregates 30 acres more or less.

FOR FURTHER INFORMATION CONTACT: Karen Hepp, Range Management Specialist or Charles F. Wilkie, Area Manager, Bighorn Basin Resource Area, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401–0119 (307)347–9871.

SUPPLEMENTARY INFORMATION: Sale of the above land will be conducted by modified competitive bidding. The land sale is subject to a preference consideration to allow Timberline Feedlot Inc. to meet the high bid. Timberline requires the land to expand their feedlot. A bid will also constitute an application for conveyance of unreserved mineral estate, excluding oil and gas resources. At the time of the sale, the bidder will be required to pay a $50.00 nonreturnable filing fee (in addition to their bid) for all unreserved mineral interests in accordance with 43 CFR Subpart 2720.

The public sale parcel is within livestock grazing allotment number 00034. The permittee holding the livestock grazing privileges in the allotment has either signed a waiver on the two-year grazing notice or is being served a two-year notice that the subject lands are being excluded from the grazing allotment. The notice is being sent with a copy of this Notice of Realty Action. Less than one animal unit of forage is being lost and no reduction in grazing preference will be required.

The proposed sale is consistent with the Washakie Resource Management Plan and will serve an important public objective. The proposed sale meets the sale criteria described in 43 CFR 2710.0–3(a)(2).

The planning document, environmental assessment, and other relevant information concerning the sale are available for review at the Bureau of Land Management, Bighorn Basin Resource Area office, 101 South 23rd, Worland, Wyoming.

Any patent issued will be subject to all valid existing rights. Specific patent reservations include:

1. Reservation of rights-of-way (ROWs) for ditches or canals pursuant to the Act of August 30, 1890, 43 U.S.C. 945.
2. Reservation of Oil and Gas Lease WYW60494.
3. Oil and Gas Pipeline ROW WYW75340.
4. BLM Access Road ROW WYW81772 and WYW74710.
5. Federal Aid Highway ROW WYW0189320.
6. Power Transmission Line ROW WYW72986.
7. Water Pipeline ROW WYW77981.
8. Telephone/Telegraph ROW WYW68159.

Publication of this notice in the **Federal Register** shall segregate the land from all forms of appropriation under the public land laws, including the general mining laws. The segregative effect will terminate upon issuance of the patent, 270 days from the date of the publication of this notice, or upon publication in the **Federal Register** of a notice of termination of segregation, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Worland District Office, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401–0119. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any action by the State Director, this realty action will become final.

Charles F. Wilkie,

Area Manager, Bighorn Basin Resource Area.

Dated: April 18, 1995.

[FR Doc. 95–10015 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–22–P

[UT–040–05–1430–00]

Resource Management Plans, etc.: Cedar/Beaver/Garfield/Antimony (CBGA) Resource Management Plan; Utah et al.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: This notice is to advise the public that the proposed planning amendments and associated environmental assessment for the Cedar/Beaver/Garfield/Antimony (CBGA) Resource Management Plan (RMP), and the Paria Management Framework Plan (MFP) have been completed. The proposed plan amendments provide for the disposal of two tracts of public land in Garfield County and Kane County, Utah, comprising 12.5 acres described as follows:

Salt Lake Meridian, Utah

T. 34 S., R. 5 W.,
Sec. 26, SW¼SW¼SE¼.
Containing 10 acres.
T. 42 S., R. 1 E.,
Sec. 35, SE¼SE¼SE¼SE¼.
Containing 2.5 acres.

DATES: The protest period for these proposed plan amendments will commence with the date of this publication. Protests must be submitted on or before May 24, 1995.

ADDRESSES: Protests should be addressed to the Director, Bureau of Land Management (480), Resource Planning Team, P.O. Box 65775, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Verlin L. Smith, Area Manager, Kanab Resource Area, 318 North 100 East, Kanab, Utah 84741, telephone (801) 644–2672, Ext. 2646.

SUPPLEMENTARY INFORMATION: These plan amendments are necessary since the existing plans do not identify these lands for disposal. The environmental assessment does not identify any significant impacts. Resource values, public values, objectives involved, and the public interest would be served by providing these lands to Panguitch City and the Church Wells Special Service District.

This action is announced pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The proposed planning amendments are subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provisions of 43 CFR 1610.5–2. Protests must contain the following minimal information:

—The name, mailing address, telephone number, and interest of the person filing the protest.
—A statement on the issue or issues being protested.
—A statement of the part or parts being protested and a citing of pages, paragraphs, maps, etc., of the proposed plan amendment, where practical.
—A copy of all documents addressing the issue(s) submitted by the protester during the planning process or a reference to the date when the protester discussed the issue(s) for the record.

—A concise statement as to why the protester believes the BLM State Director's decision is incorrect.

G. William Lamb,

Acting State Director

[FR Doc. 95–9961 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–DQ–M

National Park Service

Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. Ap. 1, sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, May 15, 1995.

The Commission was established pursuant to Pub. L. 99–420, sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene park headquarters, Acadia National Park, Rt. 233, Bar Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held December 12, 1994.
2. Report of the Conservation Easement Subcommittee.
3. Report of the Acquisition Subcommittee.
4. Report of the GMP Subcommittee.
5. Superintendent's report.
6. Public comments.
7 Proposed agenda and date of next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, PO Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Chrysandra L. Walter,

Acting Regional Director

[FR Doc. 95–10053 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Draft Environmental Impact Statement for Proposed Acreage Limitation and Water Conservation Rules and Regulations

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public hearings on the draft environmental impact statement; INT–DES–95–13.

SUMMARY: In response to a September 1993 contract for settlement of a lawsuit filed by the Natural Resources Defense Council, National Wildlife Federation, California Natural Resources Federation, California Association of Family Farmers, California Action Network, League of Rural Voters Inc., and County of Trinity, California; and pursuant to the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a draft environmental impact statement (DEIS) on proposed acreage limitation and water conservation rules and regulations for implementing the Reclamation Reform Act of 1982, as amended, throughout the 17 Western United States. The DEIS was made available to the public on March 27, 1995, and a notice of availability was published in the **Federal Register** (60 FR 16662, Mar. 31, 1995). The DEIS is open to a 60-day review and comment period, which will close on May 31, 1995.

Public hearings will be held to receive comments from interested organizations and individuals on the environmental impacts of the proposed rules. During the week prior to the scheduled hearings there will be several public forums at various locations throughout the Western States to provide an opportunity for the public to receive information and clarification concerning the proposed changes to the rules and regulations. Information regarding these forums will be provided to affected parties by mail.

DATES: Public hearings on the DEIS will be held on the following dates at the locations indicated.

May 8, 1995, at 7:00 p.m.

- Red Lion Inn (Yakima Valley), 1507 North First Street, Yakima Washington.
- Sheraton Hotel, 27 North 27th Street, Billings, Montana.

May 9, 1995, at 7:00 p.m.

- Red Lion Inn Riverside, 2900 Chinden Blvd., Boise, Idaho.
- Sheraton Denver West Hotel, 360 Union Blvd, Lakewood, Colorado.

May 10, 1995, at 7:00 p.m

- Red Lion Hotel, 2001 Point West Way, Sacramento, California
- Hilton Point at South Mountain, 7777 South Point Parkway, Phoenix, Arizona.

May 11, 1995, at 7:00 p.m.

- Hilton Hotel, 150 West 500 South, Salt Lake City, Utah.
- Holiday Inn (Airport), 5090 East Clinton, Fresno, California

ADDRESSES: Written comments for inclusion in the official record should be received at the Bureau of Reclamation by May 31, 1995 Comments should be addressed to: Mr Ronald J. Schuster (D–5010), Westwide Settlement Manager, Bureau of Reclamation, PO Box 25007, Denver CO 80225.

A dedicated toll-free telephone line has been established at 1–800–861–5443 through May 31, 1995 to accommodate oral comments from those not attending a public hearing. Comments will be recorded on tape and transcribed by a court reporter, and will be part of the official record. Statements are limited to 10 minutes and must include the commentor's name in order to be included in the official record. Address and affiliation are optional.

SUPPLEMENTARY INFORMATION: An identical notice is published in this **Federal Register** regarding public hearings on the proposed rules and regulations implementing the Reclamation Reform Act of 1982.

Ground rules for the hearings are presented below:

—While each hearing is in session, all comments will be recorded by a court reporter.
—Speakers should identify themselves and any organization that they represent.
—Statements will be limited to 10 minutes, and speakers will not be allowed to trade time to obtain longer presentations. The hearings officer may allow any speaker additional time after all scheduled speakers have been heard. The hearing officer may also shorten the 10 minute limit if the number of speakers is too large to fit within a reasonable time frame.
—No one will be recognized to speak other than those parties who are presenting statements.
—To ensure a complete and accurate record, it will be necessary that only one person speak at a time.
—Persons presenting views will not be sworn in or otherwise placed under oath.
—There will be no examination or interrogation of speakers.
—There will be no response by the hearing officer or other Bureau of Reclamation staff on speaker comments.
—Due to the shortness of available time, speakers are encouraged to summarize their comments as much as possible and give the court reporter a copy of their full statement which will be added to the official record.
—Speakers will be scheduled according to the order in which they sign up. Any speaker not present when called will lose his or her turn in the scheduled order, but will be given an opportunity to speak at the end of the scheduled presentations.
—After the scheduled speakers have been heard, each individual who wishes to speak will be afforded that opportunity.
—People are asked to refrain from clapping or other actions that might interfere with the speakers or hearing.

Dated: April 18, 1995

Wayne O. Deason,

Assistant Director, Program Analysis Office.

[FR Doc. 95–10010 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–94–P

Tucson Aqueduct System Reliability Investigation, Pima County, AZ

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and notice of public hearings on draft environmental impact statement (DEIS); DES 95–16, filed April 18, 1995.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior, Bureau of Reclamation (Reclamation), has prepared a draft environmental impact statement (EIS) for the Tucson Aqueduct System Reliability Investigation, Tucson Division, Central Arizona Project (CAP). The draft EIS addresses alternatives that have been studied to incorporate short-term delivery reliability into the Central Arizona Project (CAP) system for the Tucson area. This short-term reliability would ensure the delivery of CAP water to Tucson area users during periods of planned maintenance outages of the CAP. Reclamation proposes the construction of a 15,000 acre-foot surface storage reservoir to provide reliability to Tucson area CAP water users.

DATES: Two public hearings will be held on the draft EIS:

- Wednesday, June 7, 1995, 7–10 p.m., Tucson, Arizona.
- Thursday, June 8, 1995, 7–10 p.m., Drexel Heights, Arizona.

ADDRESSES:

- Tucson Convention Center, Coconino/Apache Rooms, 260 South Church, Tucson, Arizona.
- Southwest Community Center, 5950 South Cardinal, Drexel Heights, Arizona.

Written comments should be addressed to the Area Manager, Bureau of Reclamation, Phoenix Area Office, PO Box 9980, Phoenix, AZ 85068–0980.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce D. Ellis, Chief, Environmental Division, Bureau of Reclamation, Phoenix Area Office, PO Box 9980, Phoenix, AZ 85068–0980; telephone (602) 870–6767.

SUPPLEMENTARY INFORMATION: The CAP, authorized as part of the Colorado River Basin Project Act of 1968, is a multipurpose water project which develops water for municipal and industrial use, as well as for Indian uses and non-Indian agricultural uses in central and southern Arizona. Because of Tucson's greater exposure to water service interruptions, the Tucson Aqueduct System Reliability Investigation was initiated in 1986 to study alternatives that would provide as "reasonably reliable" a supply of Central Arizona Project (CAP) water to the Tucson area as is available to Phoenix area cities. The draft EIS analyzes the environmental consequences of the construction and operation of a 15,000 acre-foot surface storage reservoir (the Agency Proposed Action), two additional alternatives, and a no Federal action alternative.

Oral comments regarding the proposed action are welcome at the public hearing. Reclamation also solicits written comments on the draft EIS. To ensure consideration in the preparation of the final EIS, all written comments must be received at the above address by July 14, 1995. Copies of the draft EIS are available from Mr. Bruce Ellis at the same address.

Dated: April 18, 1995.

Lawrence F. Hancock,

Regional Director

[FR Doc. 95–10014 Filed 4–21–95; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Community Oriented Policing Services (COPS) Payment Selection Sheet.

(2) COPS Form 007. Office of Community Oriented Policing Services (COPS), United States Department of Justice.

(3) Primary = State, Local, or Tribal Government. Others = None. The Payment Selection Sheet is used by recipients of COPS grants to specify the mode in which they would like to receive payment from the Federal government. If COPS Coupons is elected, the Sheet request limited payroll information to be used to prepare the Coupons.

(4) 2,000 annual respondents at .2 hours per response.

(5) 400 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9991 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–21–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Community Oriented Policing Services (COPS) Coupons.

(2) COPS 006. Office of the Community Oriented Policing Services (COPS), United States Department of Justice.

(3) Primary—State, Local, or Tribal Government. Others—None. COPS Coupons is a new payment method available to recipients of COPS grants. Agencies that elect to participate in COPS Coupons may receive payment under their grant in a predetermined installment amount by mailing in a COPS Coupon to the United States Department of Justice on a monthly or quarterly basis.

(4) 2,000 annual respondents at .1 hours per response, 6 submissions per year.

(5) 1,800 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this term is encouraged.

Dated: April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9992 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–21–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable Component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Affidavit Of Financial Support And Intent To Petition For Legal Custody For Public Law 97–359 Amerasian.

(2) Form I–361. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary—Individuals or households. Others—None. The information collected is used in support of Form I–360 to assure financial support for Public Law 97–359 Amerasian. The affidavit is used only to sponsor individuals eligible for immigration under Public Law 97–359.

(4) 50 annual respondents at .5 hours per response.

(5) 25 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511

Public comment on this item is encouraged.

Dated: April 18, 1995

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice

[FR Doc. 95–9994 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information

(1) The title of the form/collection,

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Application for Nonresident Alien's Mexican Border Crossing Card

(2) Form I–190. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary=Individuals or households. Others=None. This form will be used to obtain data from an applicant for a Mexican Border Crossing Card, I–186 and I–586. Data is used to determine eligibility of applicant.

(4) 230,000 annual respondents at 083 hours per response.

(5) 19,090 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511

Public comment on this item is encouraged.

Dated: April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9995 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Health and Human Services (HHS) Statistical Data for Refugee/Asylee Adjusting Status.

(2) Form I–643. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary = Individuals or households. Others = None. This information is required by 8 United States Code 1522 (a)(8) on situation of refugees at time of adjustment to lawful permanent resident of United States. Data used by the Office of Refugees Settlements (HHS) for report to Congress as required by 8 United States Code 1523.

(4) 150,000 annual respondents at .166 hours per response.

(5) 24,900 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9996 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of

Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Petition For Approval Of School For Attendance By Nonimmigrant Students.

(2) Forms I–17, I–17A, and I–17B. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary = Business or other for-Profit. Others = Not-for-profit institutionns. The information is used by learning institutions to determine acceptance of nonimmigrant students, as well as the Immigration and Naturalization Service to establish a list of names and locations of schools or campuses within school systems or districts with multiple locations, which schools are bona fide institutions of learning.

(4) 1,700 annual respondents at 1.0 hours per response.

(5) 1,700 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9997 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–01–M

Information Collections Under Review

The Office of Management and Budget (OMB) has sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/ collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert E. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Certification of Satisfactory Pursuit.

(2) Form I–699. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary-Individuals or households. Others-Business or other for profit, Not-for-profit institutions, or State, Local or Tribal Government. The Immigration and Naturalization Service will use this form to verify that a certified course provider has supplied the required instruction to Temporary Resident Aliens. In compliance with Public Law 99–603 and 100–204, Section 902.

(4) 100,000 annual respondents at 166 hours per response.

(5) 16,600 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9998 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–9999 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–18–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Center for Waste Reduction Technologies

Notice is hereby given that, on March 14, 1995, pursuant to the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Center for Waste Reduction Technologies ("CWRT") and its participants have filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties and its general area of planned activity are: Center for Waste Reduction Technologies, New York, NY; American Institute of Chemical Engineers, New York, NY; ACS Industries, Inc., Woonsocket, RI; Air Products and Chemicals, Inc., Allentown, PA; Arthur D. Little, Inc., Cambridge, MA; B&V Waste Science & Technology Corp., Kansas City, MO; Battelle-Pacific NorthWest Laboratories, Richland, WA; Bechtl Group, Inc., San Francisco, CA; The B.F. Goodrich Company, Akron, OH; The BOC Group, Murray Hill, NY; CH2M HILL, Inc., Corvallis, OR; C.W. Nofsinger division of Burns & McDonnell, Kansas City, MO; The Dow Chemical Company, Midland, MI; Electric Power Research Institute, Palo Alto, CA; Gas Research Institute, Chicago, IL; Hoechst Celanese Corporation, Bridgewater, NJ; ICI Americas Inc., Wilmington, DE; Kinetics Technology International Corporation, San Dimas, Ca; Minnesota Mining & Manufacturing Company, St. Paul, MN; Mobil Research and Development Corporation, Pennington, NJ; Monsanto Company, St. Louis, MO; The M.W. Kellogg Company, Houston, TX; Rhone Poulenc North America, Monmouth Junction, NJ; SRI International, Menlo Park, CA; US Department of Energy, Washington, DC; and Union Carbide Corporation, Danbury, CT.

The nature and objectives of this joint venture are to foster cooperation among industry, academia, and government for research and development, education, and information exchange on waste reduction technologies and processes to achieve the clean, efficient, and economical production and manufacturing facilities needed for sustainable development. The objectives of this venture will be achieved by establishing a broad program for the theoretical and practical analysis, experimentation, and systematic study of the relevant phenomena; the collection, exchange and analysis of the research data thus obtained; the development and testing of basic engineering techniques; and the extension of the findings and theories observed into practical application for experimental and demonstration purposes. In pursuing these objectives, CWRT will seek to stimulate, encourage and provide a means of establishing separate groups to undertake specific research projects that are consistent with the broad objectives of this venture.

Participation in this joint venture will remain open to qualified persons and organizations. The Participants intend to file additional written notifications disclosing all changes in membership. Information regarding participation in this joint venture may be obtained from: Center for Waste Reduction Technologies, 345 East 47th Street, New York, NY 10017–2395.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 95–9956 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cross Industry Working Team Project

Notice is hereby given that, on March 8, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Corporation for National Research Initiatives ("CNRI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership of the Cross Industry Working Team Project ("XIWT"). The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically the following parties have become Primary Members of XIWT: Bell Atlantic Network Services, Inc., Philadelphia, PA; The Ericsson Corporation, Washington, DC; Fujitsu Network Switching of America, Inc., Raleigh, NC; NEC USA, Inc., Mellville, NY; and Northern Telecom, Inc., Nashville, TN. Prodigy Services Company, White Plains, NY, has become an Associate Member of XIWT Bay Networks, Inc. (formerly Wellfleet Communications, Inc.), Billerica, MA, has changed from a Primary Member to an Associate Member.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CNRI intends to file additional written notifications disclosing all changes in membership.

On September 28, 1993, CNRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on December 17, 1993 (58 FR 66022).

The last notification was filed with the Department on August 5, 1994. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on November 14, 1994 (59 FR 56532).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9958 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Fuel Filtration Cooperative Research Program

Notice is hereby given that, on February 10, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), Southwest Research Institute ("SwRI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a party to its group research project entitled "Fuel Filtration Cooperative Research Program." The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, United Defense LP, San Jose, CA (effective January 10, 1995) has become a party to the group research project.

No other changes have been made in either the membership, or planned activity of the group research project. Membership in this group research project remains open, and SwRI intends to file additional written notifications disclosing all changes in membership.

On October 5, 1994, SwRI filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 30, 1994, (59 FR 67733–34).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9960 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—High-Information Content Display Technology Joint Venture

Notice is hereby given that, on February 6, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), High-Information Content Display Technology Joint Venture has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Kopin Corporation, Taunton, MA; and Philips Electronics North America Corporation, Briarcliff Manor, NY.

The purpose of this venture is to develop the technology for high-information content liquid crystal projection display systems necessary for monitors, multimedia applications and high-definition television, including liquid crystal display development, data processing methods and systems integration.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9957 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993— Petroleum Environmental Research Forum Project No. 94–05

Notice is hereby given that, on March 10, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), the Participants in the Petroleum Environmental Research Forum ("PERF") Project No. 94–05, titled "Cooperative Air Program for Clean Air Act Amendments Compliance Research", have filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Amoco Oil Company, Naperville, IL; BP Oil, Cleveland, OH; Chevron Research and Technology Company, Richmond, CA; Exxon Research and Engineering Company, Florham Park, NJ; Mobil Research and Development Corporation, Paulsboro, NJ; Phillips Petroleum Company, Bartlesville, OK; Texaco, Inc., Port Arthur, TX; and Shell Development Company, Houston, TX.

The objective of this Program is to develop approaches, data, and technologies that lead to cost effective compliance with the Clean Air Act and its Amendments as applied to petroleum, petrochemical and chemical industry facilities. The activities to be carried out include the collection, exchange and analysis of research, development of basic engineering techniques, and systematic study of phenomena related to achieving these objectives.

Participation in the Program remains open to interested persons and organizations until issuance of the final Project Report,which is presently anticipated to occur 36 months after the date of publication of this notice. PERF also intends to file additional written notifications disclosing all changes in membership of the Participants in the Program. Information regarding participation in the Program may be obtained from John King, Shell Development Company, Westhollow Technology Center EC–252, Houston, TX 77082–3101.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–9959 Filed 4–21–95; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before June 8, 1995. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Labor maintained by the Office of the Executive Secretariat (N1–174–94–3). Invitations and meeting request files.

2. Department of Veterans Affairs, Veterans Health Administration (N1–15–95–4). Older electronic data tapes for which documentation required to read tapes is lacking.

3. Department of Veterans Affairs, Veterans Health Administration (N1–15–95–3). Monthly Reports of Restraint and Seclusion Files.

4. Bipartisan Commission on Entitlement and Tax Reform (N1–220–95–6). Comprehensive schedule.

5. Bonneville Power Administration (N1–305–95–1). Records documenting land policies of other Federal agencies or state and local governments.

6. Government Printing Office (N1–149–95–1). Comprehensive records schedule.

7. National Archives and Records Administration (N2–370–95–1). Fourteen poor visual quality motion picture films created by the National Operational Meteorological Satellite System, c. 1950–1960.

8. Office of Management and Budget (N1–51–95–1). On-line versions of automated budget data. (Archived versions of automated budget files will be preserved.)

9. Central Intelligence Agency (N1–263–92–2). Automated and textual records tracking real property holdings.

Dated: April 13, 1995.

Ralph C. Bledsoe,

Acting Archivist of the United States.

[FR Doc. 95–10003 Filed 4–21–95; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on May 5–6, 1995. The Council will meet from 9 a.m. to 6:15 p.m. on May 5, 1995 and from 8:30 a.m. to 1 p.m. on May 6, 1995 in Room MO–9, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting will be open to the public on May 5, 1995, from 9 a.m. to 6:15 p.m. and from 10:30 a.m. to 1 p.m. on May 6, 1995. Topics of discussions will include opening remarks; a Legislative Update; a preliminary discussion of the FY 97 Budget; a report from the Council Operations Committee; a discussion of Financial Need as a Review Criterion; A Program Reviews and/or Guidelines for the State and Regional, Local Arts Agencies, and International, Literature, Music and Visual Arts Programs.

The remaining portion of this meeting on May 6, 1995 from 8:30 a.m. to 10:30 a.m. is for the purpose of reviewing nominations for the National Medal of Arts. In accordance with the determination of the Chairman of April 18, 1995, this session will be closed to the public pursdant to subsections (c)(6) and 9(B) of section 552b of Title 5, United States Code.

If, in the course of application discussion review, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Any interested persons may attend, as observers, Council discussions and reviews which are open to the public.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Karen Murphy, Office of Public Affairs, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: April 19, 1995.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–10032 Filed 4–21–95; 8:45 am]

BILLING CODE 7537–01–M

Music Advisory Panel; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Services to Composers Section) to the National Council on the Arts will be held on May 19, 1995, 9 a.m. to 4:30 p.m. This meeting will be held in Room M–14, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public from 2:30 p.m. to 4:30 p.m. for a policy discussion and guidelines review.

The remaining portion of this meeting from 9 a.m. to 2:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

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Dated: April 17, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–10033 Filed 4–21–95; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Special Emphasis Panel for Biological Sciences.

Date and Time: May 11 and 12, 1995; 8:30 a.m.–5 p.m.

Place: National Science Foundation, Room 380, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-open.

Contact Persons: Dr. David Vlack, Program Director, Ecological and Evolutionary Physiology, Dr. Ronald Barfield, Program Director, Animal Behavior Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: May 11, 1995 4 p.m. to 5 p.m.—for a discussion Integrative Biology and Neuroscience on research trends and opportunities and assessment procedures.

Closed Session: May 11, 1995, 8:30 a.m.–4 p.m; May 12, 1995 8:30 a.m. to 3 p.m. To review and evaluate Ecological and Evolutionary Physiology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 18, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–10002 Filed 4–21–95; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

April 1, 1995.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of April 1, 1995, of 25 rescission proposals and seven deferrals contained in four special messages for FY 1995. These messages were transmitted to Congress on October 18, and December 13, 1994, and on February 6, and February 22, 1995.

Rescissions (Attachments A and C)

As of April 1, 1995, 25 rescission proposals totaling $1,067.8 million had been transmitted to the Congress. Attachment C shows the status of the FY 1995 rescission proposals.

Deferrals (Attachments B and D)

As of April 1, 1995, $2,512.2 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1995.

Information from Special Messages

The special messages containing information on the rescission proposals and deferrals that are covered by this cumulative report are printed in the **Federal Register** cited below:

59 FR 54066, Thursday, October 27, 1994

59 FR 67108, Wednesday, December 28, 1994

60 FR 8842, Wednesday, February 15, 1995

60 FR 12636, Tuesday, March 7, 1995

Alice M. Rivlin,

Director

ATTACHMENT A—STATUS OF FY 1995 RESCISSIONS

[In millions of dollars]

	Budgetary resources
Rescissions proposed by the President	1,067.8
Rejected by the Congress	
Currently before the Congress	1,067.8

ATTACHMENT B—STATUS OF FY 1995 DEFERRALS

[In millions of dollars]

	Budgetary resources
Deferrals proposed by the President	4,699.1
Routine Executive releases through April 1, 1995 (OMB/Agency releases of $2,188.5 million, partially offset by cumulative positive adjustment of $1.6 million)	−2,186.8
Overturned by the Congress	
Currently before this Congress	2,512.2

ATTACHMENT C—STATUS OF FY 1995 RESCISSION PROPOSALS—AS OF APRIL 1, 1995

[Amounts in thousands of dollars]

Agency/bureau/account	Rescission No.	Amounts pending before congress: Less than 45 days	Amounts pending before congress: More than 45 days	Date of message	Previously withheld and made available	Date made available	Amount rescinded	Congressional action
Department of Agriculture								
Foreign Agricultural Service:								
Public Law 480 program account	R95–1		43,865	2–6–95	43,865	3–28–95		
Public Law 480 grants, title I (OFD), II, and III.			98,635	2–6–95	98,635	3–28–95		
Food and Nutrition Service—Food stamp program.	R95–2		2,900	2–6–95	2,900	3–28–95		
Department of Commerce								
National Telecommunications and Information Administration—Public broadcasting facilities, planning and construction.	R95–3		18,000	2–6–95	18,000	3–31–95		
Department of Education								
Office of Elementary and Secondary Education—School improvement programs.	R95–4		138,084	2–6–95	35,000	3–15–95		
	R95–4A		−35,000	2–22–95	103,084	3–30–95		
Office of Vocational and Adult Education—Vocational and adult education.	R95–5		43,888	2–6–95	43,888	3–30–95		
Office of Postsecondary Education:								
Higher education	R95–6		26,903	2–6–95	26,903	3–30–95		
College housing and academic facilities program.	R95–7		168	2–6–95	168	3–30–95		
Office of Educational Research and Improvement:								
Education research, statistics, and improvement.	R95–8		750	2–6–95	750	3–30–95		
Libraries	R95–9		12,942	2–6–95	12,942	3–31–95		
Department of Health and Human Services								
Health Resources and Services Administration—Health resources and services.	R95–10		29,147	2–6–95	29,147	3–28–95		
Department of Health and Human Services								
Centers for Disease Control and Prevention—Disease control, research, and training.	R95–11		1,300	2–6–95	1,300	3–28–95		
National Institutes of Health—National Center for Research Resources.	R95–12		1,000	2–6–95	1,000	3–28–95		
Department of Housing and Urban Development								
Housing Programs:								
Annual contributions for assisted housing.	R95–13		439,200	2–6–95	439,200	3–28–95		
Congregate services	R95–14		37,000	2–6–95	37,000	3–28–95		
Department of Labor								
Bureau of Labor Statistics—Salaries and expenses.	R95–15		1,100	2–6–95	1,100	3–29–95		
Department of Transportation								
Federal Railroad Administration—Local rail freight assistance.	R95–16		13,216	2–6–95	13,216	3–31–95		
Office of the Secretary—Payments to air carriers (Airport and airway trust fund).	R95–17		7,680	2–6–95	(1)			
Environmental Protection Agency								
Abatement, control, and compliance	R95–18		11,642	2–6–95	5,835	2–6–95		
	R95–18A		−6,835	2–6–95	4,807	3–28–95		
Water infrastructure financing	R95–18B		3,200	2–6–95	3,200	3–28–95		
Research and development	R95–18C–1		3,635	2–6–95	3,635	3–28–95		

ATTACHMENT C—STATUS OF FY 1995 RESCISSION PROPOSALS—AS OF APRIL 1, 1995—Continued

[Amounts in thousands of dollars]

Agency/bureau/account	Rescission No.	Amounts pending before congress		Date of message	Previously withheld and made available	Date made available	Amount rescinded	Congressional action
		Less than 45 days	More than 45 days					
	R95–10C–1	.....	(2)	2–22–95	.....	.....	.....	.....
National Aeronautics and Space Administration								
Mission support	R95–19	.....	1,000	2–6–95	1,000	3–28–95	.....	.....
Construction of facilities	R95–20	.....	27,000	2–6–95	27,000	3–28–95	.....	.....
Small Business Administration								
Salaries and expenses	R95–21	.....	15,000	2–6–95	15,000	4–6–95	.....	.....
Other Independent Agencies								
Chemical Safety and Hazard Investigation Board—Salaries and expenses.	R95–22	.....	500	2–6–95	500	3–28–95	.....	.....
National Science Foundation—Academic research infrastructure.	R95–23	.....	131,867	2–6–95	131,867	3–27–95	.....	.....
Total Rescissions		0	1,087,787	.....	1,101,942	.....	0	.....

[1] Funds were never withheld from obligation.
[2] Language.

ATTACHMENT D—STATUS OF FY 1995 DEFERRALS—AS OF APRIL 1, 1995

[Amounts in thousands of dollars]

Agency/bureau/account	Deferral No.	Amounts transmitted		Date of message	Releases(−)		Congressional action	Cumulative adjustments (+)	Amount deferred as of 4–1–95
		Original request	Subsequent change (+)		Cumulative OMB/agency	Congressionally required			
Funds Appropriated to the President									
International Security Assistance:									
Economic support fund	D95–1	53,300	.....	10–18–94	.....	.....	.....	.....	.....
	D95–1A	.....	1,173,948	12–13–94	151,839	.....	.....	1,647	1,077,056
Foreign military financing grants	D95–2	3,139,279	.....	10–18–94	1,821,280	.....	.....	.....	1,317,999
Foreign military financing program account.	D95–3	47,917	.....	10–18–94	42,774	.....	.....	.....	5,143
Military-to-military contact program	D95–4	2,000	.....	10–18–94	.....	.....	.....	.....	2,000
Agency for International Development—International disaster assistance, executive.	D95–5	169,998	.....	10–18–94	127,830	.....	.....	.....	42,168
Department of Health and Human Services									
Social Security Administration—Limitation on administrative expenses.	D95–6	7,319	.....	10–18–94	.....	.....	.....	.....	.....
	D95–6A	.....	2	2–22–95	.....	.....	.....	.....	7,321
Department of State									
Bureau for Refugee Programs—United States emergency refugee and migration assistance fund.	D95–7	105,300	.....	10–18–94	44,814	.....	.....	.....	60,486
Total, Deferrals		3,525,113	1,173,950	.....	2,188,538	.....	.....	1,647	2,512,172

[FR Doc. 95–10050 Filed 4–21–95; 8:45 am]
BILLING CODE 3110–01–M

Electronic Government and the National Information Infrastructure

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of inquiry and electronic open meeting.

SUMMARY: The Office of Management and Budget (OMB) seeks comments from all interested parties on how Federal, State, local, and Tribal governments should interact with industry, the public interest and library communities, academia, and the general public on the National Information Infrastructure. This notice is part of the work of the Information Policy Committee of the Information Infrastructure Task Force. To facilitate public input, OMB, along with the Commerce Department's National Technical Information Service (NTIS) and National Telecommunications and Information Administration (NTIA), the National Performance Review (NPR), and assistance from the US Government Printing Office, will host a nationwide electronic open meeting to discuss a number of questions related to this topic.

DATES: An electronic open meeting will be held from May 1 to 14, 1995. Those who wish to may submit written comments no later than May 31, 1995.

FOR FURTHER INFORMATION OR TO SUBMIT WRITTEN COMMENTS CONTACT: *To Submit Written Comments send to:* Information Policy and Technology Branch, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10236, New Executive Office Building, Washington, D.C. 20503.

For Further Information contact: Lew Oleinick, Telephone: (202) 395–4638, E-mail: OLEINICK—L@A1.EOP.GOV

SUPPLEMENTARY INFORMATION:

Background

The world has entered the age of electronic information. We are present at the creation of a Global Information Infrastructure that will build on what aviation and communications have already done to shrink the world into ever more interdependent communities. Our U.S. National Information Infrastructure (NII) will in many ways be the paradigm upon which the global infrastructure is modeled.

The NII is a combination of facilities, services, and people that will allow all Americans to send and receive information when and where they want it at an affordable cost. The NII includes the physical facilities used to transmit, store, process, and display voice, data, and images. It includes software and services, including security services, that will integrate and interconnect these physical components through the efforts of a wide variety of private sector providers. It includes vast quantities of information that exist today in government agencies and the valuable information produced every day in the private sector. Finally, it includes all Americans, but especially the people who create information, develop applications, information products and services, construct facilities, and train others to tap the NII's potential.

The Federal government should be in step with the change from paper to electronic information. The U.S. government is the world's largest creator, collector, user, and disseminator of information. Sound scientific research, the public health and safety, and the delivery of benefits and services are a few of the national priorities that depend on Federal information systems.

The Federal government, then, should act as a facilitator and catalyst to the development of the NII. It should help create a legal and policy framework that allows the information highway to develop in a manner consistent with consumer choice, universal service, and security and privacy protections. It should also be a model user—creating a government that works better and costs less by using technology to improve information dissemination and service delivery.

For the NII to succeed, it must be built upon a partnership of business, labor, academia, the public, and government that is committed to deployment of an advanced, rapid, powerful infrastructure accessible and accountable to all Americans. The Administration has established the Information Infrastructure Task Force (IITF) to coordinate the Administration's efforts to formulate forward-looking telecommunications and information policy. Its goals are set forth in the Agenda for Action, published on September 15, 1993.

One of the fundamental tenets of the Administration's philosophy is that government information is a public asset and a valuable national resource. The Federal government should make information available to the public on timely and equitable terms. It is also necessary to foster the existing diversity of information sources, in which the private sector, along with State and local governments, libraries, and other entities, are significant partners. On the one hand, this means that the government should not expend public resources filling needs which have already been met by others in the public or private sector. On the other, it means that the Federal government should actively disseminate its information at the cost of dissemination and not attempt to exert copyright-like controls or other restrictive practices on government information. These guiding principles are set forth in OMB Circular A–130, most recently republished in the **Federal Register** on July 25, 1994. (59 FR 26906).

Toward those goals, the recent revisions to the Office of Management and Budget Circular A–130 have increasingly focused on the exchange of information with the public and the promotion of agency investments in technologies that improve service delivery to the public. On December 7, 1994, OMB Bulletin 95–01 unveiled the Government Information Locator Service (GILS)—the "virtual card catalog" called for in the Agenda for Action. This first phase of GILS is a step toward improving the infrastructure for information and service delivery to the public.

Even before GILS, a number of Federal agencies, such as the Department of Commerce's "NTIS FedWorld" and the Government Printing Office's "GPO Access" systems, were using dial-up electronic bulletin boards and connections to the Internet. The GILS initiative then is an effort to stimulate the expanded use of electronic access and dissemination practices in a more coordinated manner.

Beyond GILS, questions arise as to other appropriate courses of action for the near and far term. Generally, how should Federal, State, local, and Tribal governments interact with industry, the public interest and library communities, academia, and the general public on the National Information Infrastructure? More specifically, how can the delivery of services to the public be enhanced by electronic means? What services should they be, and how can they be delivered cost effectively and within overall budgetary constraints? What methods are best suited to further disseminate government information to the public, collect information from the public, and reduce burden while maximizing efficiency? In what ways can the interaction between agencies of the Federal government, or between agencies at the Federal, state and local levels be improved? How can we best encourage partnerships among governmental entities at all levels with private sector entities to ensure a diversity of information sources, providers and facilitators? Finally, what are the priorities? These topics are elucidated further below for discussion in the electronic open meeting.

Five relevant topic areas have been identified:

Services—from emergency help to health care,
Benefits—from social security and food stamps to small business grants,
Information—from declassified secrets and travel aids to satellite weather maps,
Participatory Democracy—improving everyone's opportunity to participate in rulemaking and other governmental decisions,
Technology—how the technical portion of electronic government will work.

The following sections provide additional information and issues for

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discussion. Participants will provide us with comments, questions, and suggestions to particular issues or problems.

Services: From Emergency Help to Health Care

The Federal government provides a range of services from disaster relief and public safety to health care. Already, information technology is being used to help deliver these services. Fishing licenses are being issued from electronic terminals and reservations for a campground in a National Park can be made on-line. Governments at all levels are creating electronic systems like California's "Info/California" kiosk based service delivery that, so far, includes twelve State agencies, two county governments and the US Internal Revenue Service. The US Postal Service has been a leader in kiosk-based service delivery and continues to expand its use of kiosks.

In the public safety arena, for years the FBI's National Crime Information Center has helped State and local police catch fugitives from justice no matter where they attempt to hide. And each year the American people and governments at all levels must cope with natural disasters—tornadoes, floods, earthquakes and hurricanes. Property is destroyed and, most tragically, lives are lost. In times like these how can governments best deliver the services that are needed? How can information technology assist governments and the public in these times of need?

Questions related to services: As electronic delivery systems evolve what government services should they provide and where should they be located—in libraries, schools, shopping centers, community centers? When are kiosks a good idea? How should these services be paid for or funded? What types of services would be best provided by using information technology?

Benefits: From Social Security and Food Stamps to Small Business Loans

Social Security, Medicaid, Medicare, Aid to Dependent Children, and care to disabled veterans are some of the major Federal benefits programs. Can governments deliver these benefits more quickly and efficiently while maintaining the accountability and security of the programs and the dignity of the recipients?

Each year some $500 billion in cash payments and food assistance are provided to needy Americans. Most of these entitlements are delivered by checks or vouchers—paper and postage—while some are directly deposited electronically into bank accounts—no paper, no postage. But, many recipients of this form of assistance do not have bank accounts. In those instances, how can we take advantage of emerging technologies, avoid paper and postage and thus save time and money? An answer may be electronic transfer of benefits to a credit card-like benefits card. This is actually being done in several states right now.

Systems using bank-like automated teller machines and retail point-of-sale terminals (scanners already installed in many grocery stores) are undergoing testing in six states (Iowa, Minnesota, New Jersey, New Mexico, Ohio, and Pennsylvania) and are planned in thirty-one more. This year Texas goes on-line with the nation's largest electronic benefit transfer (EBT) system. Elsewhere, eight other southern states are joining forces to create the first regional system and every month since 1993, Maryland's "Independence Card" program has delivered some $57 million in food stamps, welfare and child-support benefits to 170,000 households statewide. No paper, no postage, and no lost or stolen checks.

Of course, entitlement programs are not the only types of government benefits. Also included are small business loans and grants for educational projects and agricultural research. For example, notices of National Science Foundation grants are available on-line. They may be downloaded and printed by the applicant at his or her ease. When an application is completed, it may be submitted to the National Science Foundation by electronic mail. The whole process has been made more efficient and user-friendly which ends up saving the taxpayers' money.

Questions regarding benefits: What do people think about the pilot EBT projects in Iowa, Minnesota, New Jersey, New Mexico, Ohio, and Pennsylvania? What have people's experiences been with the Maryland EBT program? How can governments continue to improve the delivery of other benefits? Which enabling technologies should we pursue? Are added safeguards needed to protect from fraud and abuse or will electronic transfer make controls easier?

Information: From Declassified Secrets and Travel Aids to Satellite Weather Maps

Government agencies at all levels collect, maintain and disseminate an incredible array of information. It ranges from routine data relating to consumer products to vital weather information. It includes layers of regulations that apply to small businesses, major corporations or even government agencies themselves. We know the information is out there, but how do we find it? Until recently, our only option was to write or call the agency that had the information. Of course, first we had to figure out which agency that was. And then we waited.

All of that is changing. In December 1994, the Federal Government Information Locator Service (GILS) was launched. As it evolves, more and more Federal data will be at our fingertips. This locator service is similar to the card catalog at the local library, only it is electronic and on-line. GILS allows one to search on-line using a specific set of key-words of interest to locate appropriate subject matter. For example, suppose one had an interest in a major construction project and its effect on wildlife habitat. Using GILS, one could locate the various environmental impact statements. In addition, one might also locate pertinent satellite photographs.

Even declassified secrets are available electronically on the Department of Energy's OpenNet service. More agencies will follow. The National Archives and Records Administration is developing a government-wide declassification database.

One information source which is quite useful when planning to plant or harvest crops, or when planning a day at the beach, is the National Oceanic and Atmospheric Administration's (NOAA) national weather forecasts. These forecasts are available for any city in the United States which has a NOAA weather station. At last count, there were over 150 city forecasts available from NOAA's on-line computers.

For businesses, the Department of Commerce provides a bulletin board which contains timely economic information. For companies involved in export activities with Mexico and Canada, such items as export and import levels for particular product categories, such as paper products, from these two countries are easily available.

For the academic community, the Department of Commerce's Bureau of the Census provides a bulletin board containing detailed demographic information about our country's citizens. For the medical community, the National Institutes of Health provide a bibliography of medical and scientific articles which allow physicians and scientists to remain up-to-date with the latest advances in medicine.

Questions regarding information dissemination. What level of effort should the Federal government devote to electronic dissemination of government information? Are there benefits to the public at large or only to

relatively sophisticated professional researchers, environmentalists, historians, or scientists? Where should access be available—at libraries, schools, community centers, on home computers? Which enabling technologies should be pursued?

Participatory Democracy: Improving Everyone's Opportunity to Participate in Rulemaking and other Governmental Decisions

While several million Americans have electronic mail capability, with a population of more than 250 million, such access is still relatively limited. More and more agencies are advertising that they are now "on-line" and are soliciting citizens to contact them at their electronic mail address.

There is little dispute that using information technology to support government rulemaking can reduce costs for both agencies and the public. And, as a practical matter, electronic notices can possibly reach a greater number of interested parties than by merely publishing in the **Federal Register**, corresponding by mail, talking by telephone and traveling to hearings and meetings. This same technology also enables interested parties to review public comments without having to travel to Washington, D.C. or file Freedom of Information Act requests. For example, the Department of Commerce's National Telecommunication and Information Administration recently used electronic mail to gather responses to a report on reallocating the Federal radio spectrum. The report was placed on-line and was made available through an electronic bulletin board system and via the Internet. Sixty organizations responded to the report. These sixty responses were then placed on-line for everyone to see and discuss.

A related effort is making available to the public the rules and regulations they are expected to follow. Also relevant are legislative materials and supporting documents, such as Congressional committee reports. The ultimate issue is whether the National Information Infrastructure can make it possible, more practical, and more attractive for Americans to participate in government at all levels.

Questions regarding participatory democracy. As more of us utilize information technology to participate in governmental processes will the volume become overwhelming? How do we balance the level of involvement with expectations and governments' ability to deliver? What are the best strategies for seeing that citizens have access to the rules, regulations and related information needed to comply with government requirements and how can we improve their ability to participate in the rulemaking process?

Technology: How the Information Infrastructure of Electronic Government Will Work

We are in an era of technological upheaval—the information age. The advances in information technologies of all types have caused businesses to rethink the way they operate and governments to reinvent the way they do business. The future look of government is what this electronic meeting is all about. How will it work for Americans?

In the other topical discussion areas, we are talking about what electronic governments will do and generally how it will be done. Here, it is more what they will do it with—the technological tools to accomplish the tasks of governing.

The Information Infrastructure Task Force, a Federal government body, along with the Information Infrastructure Advisory Council, made up of representatives of State and local governments, industry, and academia, are also looking at the face of future governments. They are looking at issues such as the need for telecommunications reform, security matters, privacy, reliability and vulnerability, intellectual property rights, health issues and the technologies themselves.

Interoperability, the ability to communicate with one another, is a critical goal for future governments. Federal, State, Tribal and local agencies must be able to interact instantly and effectively.

Questions regarding the technology of electronic government. What will be the role of the Internet or its progeny? What criteria should be used for selecting the appropriate technology for a given function or the delivery of particular services? Does interoperability of governmental systems cause concerns? What if some government agencies systems aren't interoperable or they can't afford a system at all? Will their citizen customers suffer as a result? Will the information they use be as accurate and timely as necessary? What about reliability? We know it is essential, but won't technological vulnerabilities still exist? Will governments become so dependent on the use of advanced technologies that they will be unable to function if the system fails during an emergency?

Electronic Availability and Electronic Open Meeting

General: This document, along with the other documents referenced herein, are available by any HTML viewer, such as Mosaic or Netscape, at: URL:http://meeting.fedworld.gov, or via FTP from meeting.fedworld.gov

For those with electronic mail access who wish to find out more about the open meeting, send a blank electronic mail message to: info@meeting.fedworld.gov This will result in delivery of a more detailed description of the electronic open meeting.

Public Access Sites: A primary goal of the meeting is to enable as many Americans as possible to participate. This includes people who do not have a computer with a modem, or access to the Internet. In order to permit their participation, a number of "Public Access Sites" have been established. To either locate the nearest Public Access Site, or to order a list of all Public Access Sites, call the GPO Access Support Team at (202) 512–1530 or, for the duration of the meeting, (800) 881–6842.

Participation options: It is possible to participate in the electronic open meeting in four ways depending upon desired level of interaction—electronic mail of comments, subscription to a "Listserv," subscribing to a "Usenet" newsgroup, and accessing the open meeting homepage via an HTML viewer, such as "Mosaic" or "Netscape".

Electronic mail of comments—This is the easiest way to participate in the open meeting. However, interaction will be limited. Choosing one of the options below is recommended.

Subscribing to a Mailing List—Subscribing to a mailing list allows more interactive participation in the meeting. When one subscribes to a mailing list, one receives all the mail messages which everyone posts to the mailing list. It is much like putting a note on a bulletin board. However, instead of having to go to the bulletin board to look for new messages, the bulletin board comes to you in the form of electronic mail. To subscribe to the National Electronic Open Meeting mailing list, send an e-mail to: join@meeting.fedworld.gov

The text of the e-mail message should be:

subscribe topic your __ name

where the first word of the message must be the word "subscribe," the second word of the message must be the topic acronym, and the last two words of the message must be your name. The topic acronyms are:

services
benefits
infoaccs
partdemo
techgoal

Services and benefits are obvious acronyms. "Infoaccs" refers to the "information" topic. "Partdemo" refers to the "participatory democracy" topic. "Techgoal" refers to the "technology" topic. For example, to subscribe to the "benefits" topic, an individual would send the message:

subscribe benefits Joe Smith

to

join@meeting.fedworld.gov

Individuals who subscribe to a mailing list topic will receive (via e-mail) a welcome message with information about the topic and will also automatically receive (via e-mail) all comments posted to that topic. To submit a comment on a particular topic, send an e-mail message containing the comment to

topic@meeting.fedworld.gov

where the "topic" is one of the topic acronyms detailed above. For example to submit a comment to the technology topic, send an e-mail message containing that comment to:

techgoal@meeting.fedworld.gov

It is expected that each topic will generate a large number of comments. Individuals using the mailing lists to participate in the conference should expect to receive a very large number of e-mail messages.

Subscribing to a USENET newsgroup—Subscribing to a USENET newsgroup is similar to joining a mailing list. The difference is that to subscribe to a USENET newsgroup, one needs to have a newsreader configured for his or her own computer. Remember, you will need to ensure that your News provider carries the appropriate alt.gov.meeting Newsgroups. Many News providers do no carry the alt. Newsgroups. Please ensure that your provider has the Newsgroups available. You should notify your News provider of your interest in accessing the Newsgroups immediately.

If you are familiar with a newsreader on your system, you will be able to participate in the newsgroups like any other regular newsgroup. The newsgroups have the following names:

alt.gov.meeting.services
alt.gov.meeting.benefits
alt.gov.meeting.infoaccs
alt.gov.meeting.partdemo
alt.gov.meeting.techgoal

Each of the newsgroups corresponds with one of the five subject areas, described in detail above.

World Wide Web Access—Using a World Wide Web browser offers the greatest level of interaction for participating in the electronic open meeting. Point the browser to: http://meeting.fedworld.gov

The participant will arrive at a user friendly interface from where one can search the different newsgroup mailing list responses and reply (either anonymously or not) as one deems appropriate. The participant will also be able to view background documents on-line.

Accessing Background Materials On-line—Any user who has access to a file transfer program, such as FTP or Fetch, may access the document archive from: meeting.fedworld.gov or may view the relevant documents by pointing a Web browser to the open meeting homepage URL cited above.

Dialing-In to FedWorld—Individuals wishing to use the FedWorld Bulletin Board will need a computer, a modem, and a communications program. The bulletin board can by accessed by calling 1–703–321–3339. For the duration of the meeting, if you are calling long-distance, please dial 1–800–779–3272. The communication parameters are no parity, eight data bits, and one stop bit, commonly referred to as N–8–1 or 8–N–1. The FedWorld Bulletin Board will allow full participation in the meeting and will contain all the instructions necessary to participate in the open meeting.

Relevant Information Sources

The following documents relevant to the topics to be discussed in the electronic open meeting are available electronically via anonymous FTP at: meeting.fedworld.gov The description of each document is followed by its file designation.

"Public Information in the National Information Infrastructure," Report to the Regulatory Information Service Center, General Services Administration, and to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, Henry R. Perritt, Jr., Villanova University Law School, September, 1994. PERRITT1.TXT

"The Electronic Agency and The Traditional Paradigms of Administrative Law," Henry R. Perritt, Jr., Administrative Law Review, Vol. 44, pp. 79–105, Winter 1992. PERRITT2.TXT

"Agenda for Access: Public Access to Federal Information for Sustainability through the Information Superhighway," The Bauman Foundation, Washington, DC. January 1995. BAUMAN.TXT

"Information Superhighway: Issues Affecting Development," US General Accounting Office, Report to the Congress, September, 1994, Wash., DC, GAO/RCED–94–285. GAO94285.TXT

"Information Superhighway: An Overview of Technology Challenges," US General Accounting Office, Report to the Congress, January, 1995, Wash., DC, GAO/AIMD–95–23. GAO9523.TXT

"Executive Guide: Improving Mission Performance Through Strategic Information Management and Technology—Best Practices," US General Accounting Office, Comptroller General of the United States, May, 1994, Wash., DC, GAO/AIMD–94–115. BESTPRAC.HTM (only by HTML viewer)

"Making Government Work: Electronic Delivery of Federal Services," US Congress, Office of Technology Assessment, September, 1993, Wash., DC, OTA-TCT–578. GOVWORK.TXT

"Reengineering Through Information Technology: Creating a Government That Works Better and Costs Less," National Performance Review, Accompanying Report of the National Performance Review, Office of Vice President, September, 1993, Wash., DC. REENGIN.TXT

"Management of Federal Information Resources, Office of Management and Budget Circular A–130," 59 Federal Register 37906, 25 July 1994. OMB __ A130.TXT

"National Information Infrastructure; Draft Principles for Providing and Using Personal Information and Commentary; Notice," 60 Federal Register 4362, 20 January 1995. PRIVPRIN.TXT

"The National Information Infrastructure: Agenda for Action," Information Infrastructure Task Force, 15 September 1993. AGENDA.TXT

"The Information Infrastructure: Reaching Society's Goals," Report of the Information Infrastructure Task Force Committee on Applications and Technology, National Institute of Standards and Technology, US Department of Commerce, Wash., DC, Septembe:, 1994. GOALS.TXT

"Protecting Privacy in Computerized Medical Information," US Congress, Office of Technology Assessment, September, 1993, Wash., DC, OTA–TCT–576. MEDPRIV TXT

"Putting the Information Infrastructure to Work," Report of the Information Infrastructure Task Force Committee on Applications and Technology, National Institute of Standards and Technology, US Department of Commerce, Wash., DC, May, 1994. PUT2WORK.TXT

"Breaking the Barriers to the National Information Infrastructure," A Conference Report by the Council on Competitiveness, Wash., DC, December, 1994. BARRIERS.TXT

Conclusion

After the public meeting and receipt of comments, we will analyze the results and prepare a report. The report will summarize not only the substantive comments received, but will evaluate the success of the meeting. Notice of availability of the report will be published on-line and in the Federal Register.

We hope that the lessons learned from this meeting will be extremely useful to future developers of nation-wide electronic open meetings.

Sally Katzen

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 95–10051 Filed 4–21–95; 8:45 am]

BILLING CODE 3110-01-P

POSTAL RATE COMMISSION

[Docket No. A95–8; Order No. 1051]

Before Commissioners: Edward J. Gleiman, Chairman; W. H. "Trey" LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

In the Matter of: Benedict, Minnesota 56436 (Irv Morrill, Petitioner).

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued April 14, 1995.

Docket Number: A95–8.

Name of Affected Post Office: Benedict, Minnesota 56436.

Name(s) of Petitioner(s): Irv Morrill.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: March 31, 1995.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by April 17, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Margaret P. Crenshaw,

Secretary.

Appendix

March 31, 1995: Filing of Appeal letter
April 14, 1995: Commission Notice and Order of Filing of Appeal
April 25, 1995: Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)]
May 5, 1995: Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)]
May 25, 1995: Postal Service's Answering Brief [see 39 CFR 3001.115(c)]
June 9, 1995: Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR 3001.115(d)]
June 16, 1995: Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116]
July 29, 1995: Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[FR Doc. 95–10034 Filed 4–21–95; 8:45 am]

BILLING CODE 7715-FW-P

[Docket No. A95–9; Order No. 1052]

Before Commissioners: Edward J. Gleiman, Chairman; W. H. "Trey" LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley.

In the Matter of: Clarkia, Idaho 83812 (Dawn Kruger, Petitioner).

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued April 14, 1995.

Docket Number: A95–9.

Name of Affected Post Office: Clarkia, Idaho 83812.

Name(s) of Petitioner(s): Dawn Kruger.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: April 3, 1995.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission Orders

(a) The Postal Service shall file the record in this appeal by April 18, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Margaret P. Crenshaw,

Secretary.

Appendix

April 3, 1995: Filing of Appeal letter
April 14, 1995: Commission Notice and Order of Filing of Appeal
April 28, 1995: Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)]
May 8, 1995: Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)]
May 29, 1995: Postal Service's Answering Brief [see 39 CFR 3001.115(c)]
June 13, 1995: Petitioner's Reply Brief should Petitioner choose to file one [see 39 CFR 3001.115(d)]
June 20, 1995: Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116]

VOL
60
ISS
78
AP
24
1995
UMI

August 1, 1995: Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[FR Doc. 95–10035 Filed 4–21–95; 8:45 am]
BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer, (202) 942–8800
Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549
Extension:
Form U–6B–2—File No. 270–81
Rule 52—File No. 270–326

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Form U–6B–2 (17 CFR 250.20(d), 250.47(b) and 250.52(b)) and Rule 52 (17 CFR 250.52), and proposed amendments thereto, under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 *et seq.*).

Form U–6B–2 generally is necessary to provide basic information relating to securities issued, sold, reissued or guaranteed pursuant to an exemption from section 6(a) of the Act. Exemption from section 6(a) eliminates the requirement of filing a declaration of Form U–1.

Rule 52 permits public-utility subsidiary companies of registered holding companies to issue and sell certain securities without filing a declaration if certain conditions are met. Within ten days after the issue or sale of any security exempt under rule 52 (or, in some cases, on a quarterly basis), the issuer or seller must file with the Commission a certificate of notification on Form U–6B–2 containing the information prescribed by that form. Amendments to rule 52 have been proposed but not adopted. The proposed amendments would exempt additional public-utility financing, as well as certain nonutility financings. The current reporting requirement would not change as a result of these amendments.

The Commission estimates that the compliance time for Form U–6B–2 is one hour per filing, compared to 142 hours per filing for Form U–1. The Commission estimates the filing of 36 certificates of notification on Form U–6B–2 per year, having an annual burden of 36 hours.

General comments regarding the estimated burden hours should be directed to the OMB Clearance Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to David T. Copenhafer, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and SEC Clearance Officer, Office of Management and Budget, Paperwork Reduction Act Project Nos. 3235–0163 (Form U–6B–2) and 3235–0369 (Rule 52), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 12, 1995.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 95–10045 Filed 4–21–95; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–35820; File No. SR–Amex–95–16]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Amendments Updating Various Exchange Rules

April 18, 1995.

On February 22, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend several of its rules to reflect current practices and to update various rules that have become obsolete.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35451 (Mar. 7, 1995), 60 FR 13742 (Mar. 14, 1995). No comments were received on the proposal.

As described more fully below, the Exchange has proposed amendments to several of its rules to conform an Amex rule to recent changes to a comparable New York Stock Exchange ("NYSE") rule, to update certain rules that contain provisions that are no longer applicable, and to reflect current practices.

The Commission has reviewed carefully the Amex's proposed rule changes and concludes that the proposed changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Sections 6(b)(5), 6(b)(8), and 11A(a)(1) of the Act.[3] The Commission supports the Amex's efforts to continue to review the form and substance of its market trading regulations in response to changes in market structure and eliminate requirements that no longer serve a meaningful regulatory purpose. The Commission believes that it is important to market quality that the Exchange have a regulatory program that is tailored to the current market structure. The Commission believes that the proposed rule changes will be helpful in updating the Amex market structure and trading rules and will further the purposes of the Act.

Specifically, the Exchange proposes a rule change that would amend Commentary .01 to Rule 155 (Precedence Accorded to Orders Entrusted to Specialists) to delete the prohibition that a specialist may not disclose the amount of stock that the specialist and the book would be buying or selling in clearing up the block. The Commission agrees that the proposed amendment to Rule 155 is substantially similar to recent revisions to NYSE Rule 104.10(7)[4] and, therefore, should be approved. In the Commission's order approving the NYSE's amendment to Rule 104.10(7), the Commission stated that the changes to the rule increase fairness in execution of block orders in accordance with Section 6(b)(5) of the Act, which requires that the rules of an exchange be designed to promote just and equitable principles of trade. The Commission also stated that the rule change would help to assure that investors' orders are executed at the best possible market in accordance with section 11A(a)(1)(c)(iv) of the Act, which provides that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the practicability of brokers executing investors' orders in the best market. The Commission believes that the Exchange's proposed rule change similarly would further the purposes of the Act.

Moreover, the Exchange is updating other rules to eliminate obsolete references and reflect current Exchange practices. The Exchange proposes to delete reference in Rule 5(d)(viii) (Over-the-Counter Execution of Equity Securities Transactions) to Rules 560 and 570 because these rules have been rescinded. Because Rules 560 and 570 no longer exist, the Commission agrees that these references should be deleted. The Exchange is also proposing to delete the signature requirement in Rule 181 (Cancellations Must Be Written) to reflect its current practice. The Exchange believes that the signature requirement is no longer necessary on the Trading Floor because of the use of printed tickets, which include the name and clearing number of the broker or brokerage firm. The Commission agrees that this change to remove the signature requirement is appropriate in light of technological developments in the market.

The Exchange is also proposing to amend Rules 183 (Specialist Registration Fee) and 184 (Specialist Clerks) to eliminate references to out-of-date charges and schedule of payments. The Commission agrees that the rules should be revised to delete references to the outdated fees and payment schedules. Rather than make repeated amendments in the Rules whenever the fees are changed, the Exchange proposes to use general language in these rules to refer to the fees that are imposed by the Exchange each year. The Exchange is also amending Rule 783 (d) (Normal Buy-Ins) to delete the reference to a member's entitlement to a Floor brokerag commission because such commissions are now negotiated. The Commission believes that these changes will help to remove impediments to and perfect the mechanism of a free and open market in accordance with Section 6(b)(5) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (SR–Amex–95–10) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

[FR Doc. 95–10044 Filed 4–21–95; 8:45 am]
BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1988).
[2] 17 CFR 240.19b–4 (1994).
[3] 15 U.S.C. 78f(b)(5), 78f(b)(8), and 78k-1(a)(1) (1988 & Supp. V 1993).
[4] See Securities Exchange Act Release No. 34231 (June 17, 1994), 59 FR 32722 (approving File No. SR–NYSE–90–10).
[5] 15 U.S.C. 78s(b)(2) (1988).
[6] 17 CFR 200.30–3(a)(12) (1994).

[Release 34–35618; File No. 600–23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of an Amended Application for Full Clearing Agency Registration and a Request for Extension of Temporary Registration as a Clearing Agency

April 17, 1995.

Notice is hereby given that on February 3, 1995, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") an application, pursuant to Sections 17A and 19(a) of the Securities Exchange Act of 1934 ("Act"),[1] requesting that the Commission grant GSCC full registration as a clearing agency or, in the alternative, extend GSCC's temporary registration as a clearing agency until such time as the Commission is able to grant GSCC permanent registration.[2] On March 13, 1995, GSCC filed with the Commission an amended CA–1. The Commission is publishing this notice to solicit comments from interested persons on the request for extension of registration.

On May 24, 1988, the Commission approved, pursuant to Sections 17A and 19(a) of the Act and Rule 17Ab2–1(c) thereunder,[3] the application of GSCC for registration as a clearing agency on a temporary basis for a period of three years.[4] The Commission subsequently extended GSCC's registration until May 31, 1995.[5]

GSCC provides clearance and settlement services for its members' transactions in government securities. GSCC offers its members services for next-day settling trades, forward settling trades, auction takedown activity, the multilateral netting of trades, the novation of netted trades, and daily marking-to-the-market. In connection with GSCC's clearance and settlement services, GSCC provides a centralized loss allocation procedure and maintains margin to offset netting and settlement risks.

At the time of GSCC's initial registration, the Commission granted GSCC exemptions from compliance with the participation standards in Sections 17A(b)(3)(B) and 17A(b)(4)(B) and the fair representation requirements in Section 17A(b)(3)(C) of the Act.[6] GSCC has requested that the Commission remove GSCC's exemption from the participation standards in Section 17A(b)(3)(B) and 17A(b)(4)(B) of the Act.[7] The Commission recently has approved two proposed rule changes that increase the categories of those eligible for membership in GSCC's netting system.[8] In addition, GSCC has asserted that its current selection process for its board of directors, which permits any GSCC member to nominate candidates for election to the Board and to vote for candidates so nominated, assures fair representation.[9] GSCC further states that it recognizes future membership growth may require GSCC to adjust the selection process to ensure fair member representation on the Board. The Commission is reviewing GSCC's request to remove the exemptions.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application by May 15, 1995. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with Section 19(a)(1) of the Act.[10] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Reference should be made to File No 600–23. Copies of the amended application for registration and all written comments will be available for inspection at the Commission's Public

[1] 15 U.S.C. 78q–1, 78s(a) (1988).
[2] Letter from Charles A. Moran, President, GSCC, to Brandon Becker, Director, Division of Market Regulation, Commission (February 3, 1995) ("Registration Letter").
[3] 17 CFR 240.17Ab2–1 (1994).
[4] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839.
[5] Securities Exchange Act Release Nos. 29067 (April 11, 1991), 56 FR 15852 and 32365 (June 3, 1993), 58 FR 32405.
[6] The Commission determined that GSCC's rules did not enumerate the statutory categories of membership as required by Section 17A(b)(3)(B) and the financial standards for applicants and members as contemplated by Section 17A(b)(4)(B) of the Act. 15 U.S.C. 78q–1(b)(3)(B), 78q–1(b)(4)(B) (1988). In addition, the Commission determined that while the composition of GSCC's Board of Directors reasonably reflected GSCC's anticipated initial membership, it would be appropriate to reevaluate whether GSCC's process for selecting its Board of Directors complied with the fair representation requirements in Section 17A(b)(3)(C) of the Act before granting full registration as a clearing agency. 15 U.S.C. 78q–1(b)(3)(C) (1988).
[7] See Registration Letter, note 2 supra.
[8] Securities Exchange Act Release Nos. 34035 (November 3, 1994), 59 FR 56100 (order approving establishment of new categories of netting system membership for futures commission merchants) and 32722 (August 5, 1993), 58 FR 42993 (order approving establishment of new categories of netting system membership for dealer and interdealer brokers, issuers of government securities, insurance companies, registered clearing agencies, and registered insurance companies).
[9] See Registration Letter, note 2 *supra*
[10] 15 U.S.C. 78s(a)(1) (1988).

VOL
60
ISS
78
AP
24
1995
UMI

Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9986 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35617; File No. SR–CBOE–95–02]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Listing of Long-Term Index Options Series ("LEAPS") With a Duration of up to Sixty Months Until Expiration

April 17, 1995.

On January 19, 1995, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission") a proposed rule change to permit the listing of long-term index options series ("LEAPS") with a duration of up to sixty months (five years) until expiration. Notice of the proposal appeared in the Federal Register on February 1, 1995.[3] No comment letters were received on the proposed rule change. This order approves the CBOE proposal.

The purpose of the proposed rule change is to permit the Exchange to list index LEAPS with a duration of up to sixty months (five years).[4] Presently, the Exchange has authority pursuant to CBOE Rule 24.9(b) to list index LEAPS that expire from twelve to thirty-six months from the time they are listed. The Exchange represents that there has been increasing member firm and customer interest in longer term instruments. The Exchange, therefore, is proposing to amend Exchange Rule 24.9 to permit the listing of index options with up to sixty months until expiration. In addition, the Exchange proposes to amend Rule 24.9 to allow for up to ten expiration months for index LEAPS, as opposed to the six months currently allowed. The proposal does not change any other rule regarding the listing and trading of index LEAPS.[5]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[6] Specifically, the Commission believes the proposal is designed to provide investors with additional means of hedging equity portfolios from long-term market risk with an exchange-traded security (*i.e.*, a standardized option), thereby facilitating transactions in options and contributing to the protection of investors and the maintenance of fair and orderly markets.[7]

Currently, institutional customers use index options to hedge the risks associated with holding diversified equity portfolios. The Commission continues to believe, as originally stated in its approval of the listing of index LEAPS by the Exchange, that allowing investors to lock in their hedges with longer-term index LEAPS will permit institutions to protect better their portfolios from adverse market moves.[8] Further, the Commission believes that index LEAPS with up to five years until expiration will allow this protection at a known and limited cost.[9] Moreover, the proposal will provide institutions with an additional securities product with which to hedge their portfolios as an alternative to hedging with futures positions or off-exchange customized index options.[10] Accordingly, the Commission believes that the proposed rule change will better serve the long-term hedging needs of institutional investors.[11]

Finally, although as with index LEAPS presently trading on the Exchange, specific strike price interval, bid/ask differential, and price continuity rules will not apply until the proposed longer-term index LEAPS have less than 12 months until expiration,[12] the Commission notes that CBOE's general rule obligating market makers to maintain fair and orderly markets will continue to apply to the proposed longer-term index LEAPS.[13] The Commission believes that the requirements of CBOE Rule 8.7(a) are broad enough, even in the absence of strike price interval, bid/ask differential, and continuity requirements, to provide the Exchange with the authority to make a finding of inadequate market maker performance should market makers enter into transactions or make bids or offers (or fail to do so) in the proposed longer-term index LEAPS that are inconsistent with the maintenance of a fair and orderly market.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–CBOE–95–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9979 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35614; File No. SR–CHX–95–05]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change Relating to the Authority of the Committee on Floor Procedure

April 17, 1995.

On February 10, 1995, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CHX Rule 3 of Article XII to provide the Committee on Floor Procedure with the same authority over persons associated with a member as it currently has over members. On March 1, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, including Amendment No. 1 thereto, was published for comment in Securities Exchange Act Release No. 35449 (Mar. 7, 1995), 60 FR 13492 (Mar. 13, 1995). No comments were received on the proposal.

At present, Rule 3 of Article XII provides the Committee on Floor Procedure with the authority to summarily fine members and exclude them from the Exchange premises under certain circumstances. The Rule provides that the Committee on Floor Procedure or an appropriately designated subcommittee has the authority to summarily fine and exclude from the Exchange a member whose conduct is deemed to be improper and to recommend investigations pursuant to Rule 1 of Article XII[4] regarding any conduct on the floor of the Exchange. Specifically, any member of the Floor Committee or a member of its appropriately designated subcommittee may summarily fine any member for conduct classified as Class B[5] in an amount not to exceed $100. For conduct classified as Class A offenses,[6] any member of the Floor Committee or a member of its appropriately designated subcommittee with the concurrence of two other floor officials (floor governors if immediately available) may summarily fine a member in an amount not to exceed $2,500 and summarily exclude a member from the Exchange for no longer than the remainder of the trading day.

For either class of offenses, a member, who has been adversely affected by any action taken under Rule 3, except for a summary exclusion,[7] by any person or body, other than the full Floor Procedure Committee, may appeal to the full Floor Procedure Committee within five days of receiving notice of the action by making a written request. Upon appeal, the full Floor Procedure Committee may increase or decrease the amount of a summary fine or the length of an exclusion from the Exchange. The Floor Procedure Committee, however, may not fine a member in an amount in excess of $2,500 or exclude a member from the Exchange in excess of five full business days. The decision of the Floor Procedure Committee is deemed final with respect to any action involving no more than a $100 fine.

By written request, a member may appeal a determination of the full Floor Procedure Committee involving more than a $100 fine to the Executive Committee. The Executive Committee will review the report of the action as certified by the Secretary unless it decides to open the record for additional evidence. Upon review, the Executive Committee may increase or decrease the amount of a summary fine or the length of an exclusion. The Executive Committee, however, may not fine a member in an amount in excess of $2,500 or exclude a member from the Exchange in excess of five full business days.

The Exchange proposes to amend Rule 3 and interpretation .02 thereunder to extend the application of the rule to persons associated with a member.[8] Therefore, under the proposed rule change, the Committee on Floor Procedure would exercise the same authority over members and persons associated with a member.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[9] The Commission believes the proposal is consistent with the Section 6(b)(6) requirements that the rules of an exchange provide for the appropriate discipline of its members and persons associated with its members for violation of the Act, the rules promulgated thereunder, or the rules of the exchange because the rule change provides that members and persons associated with a member may be summarily fined or excluded from the Exchange premises for conduct that the Exchange deems improper. Moreover, the Commission believes the proposal is consistent with the Section 6(b)(1) requirements that an exchange have the capacity to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules promulgated thereunder, and the rules of the exchange because under the proposed rule change, the Exchange's Committee on Floor Procedure would have the authority to enforce compliance by members and persons associated with a member, with the rules that it deems important in the fair administration of the Exchange.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CHX–95–05) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9980 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35615; International Series Release No. 802 File No. SR–Phlx–95–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Response Period for Customized Foreign Currency Options

April 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 21, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Exchange Rule 1069(b) in order to

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[1] 17 CFR 200.30–3(a)(16)(1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See Securities Exchange Act Release No. 35278 (January 25, 1995), 60 FR 6324.

[4] The proposal would permit five-year LEAPS on both broad-based and narrow-based indexes on which LEAPS have been approved for trading on the CBOE.

[5] See CBOE Rule 24.9(b).

[6] 15 U.S.C. 78f(b)(5) (1988 & Supp. V 1993).

[7] The Commission also finds that extending the maximum term for index LEAPS from three to five years does not alter the Commission's designation of index LEAPS as standardized options pursuant to Rule 9b–1(a)(4) of the Act.

[8] See Securities Exchange Act Release No. 24853 (August 27, 1987), 52 FR 33486 (September 3, 1987).

[9] *Id.*

[10] *Id.*

[11] The Commission's findings are predicated on the somewhat limited length of five-year index LEAPS. Any subsequent proposal to list index LEAPS with expirations beyond five years could alter the nature of the product and would raise new regulatory concerns, including, among other things, the appropriate margin treatment, disclosure, and trading rules for the product.

[12] See CBOE Rule 24.9(b)(1).

[13] See CBOE Rule 8.7(a).

[14] 15 U.S.C. 78s(b)(2) (1988).

[15] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See letter from David Rusoff, Foley & Lardner, to Jennifer Choi, SEC, dated February 27, 1995. The original filing incorrectly referenced Rule 3 of Article IV of the Exchange Rules as the rule to be amended. Amendment No. 1 altered the proposed rule change to reference Rule 3 of Article XII as the correct rule to be amended.

[4] Under Rule 1 of Article XII, any default, misconduct or other offense alleged to have been committed by a member, member organization or any other person or organization subject to the Exchange's jurisdiction that comes to the attention of the president shall be investigated by the staff and a written report of such investigation shall be made to the president. In addition, if the president decides from such a report that such member, member organization, or other person or organization has committed a default or other offense in violation of the Constitution or Rules of the Exchange, the president shall direct the staff to prefer written charges against the accused, a copy of which will be served upon the accused.

[5] Class B violations involve minor offenses such as dress code and smoking violations. See .01 of the Interpretations and Policies to Rule 3 of Article XII.

[6] Class A represents more serious violations than Class B and includes such conduct as fighting, threatening speech, and other conduct that is detrimental to the interest or welfare of the Exchange. See .01 of the Interpretations and Policies to Rule 3 of Article XII.

[7] A member summarily excluded has the right to petition for reinstatement after a sufficient "cooling-off" period has elapsed. See .03 of the Interpretations and Policies to Rule 3 of Article XII.

[8] The Exchange does not specifically define the term "associated person" in its Rules. For purposes of Rule 3, Article XII, the Exchange refers to an associated person as defined in Section 3(a)(21) of the Securities Exchange Act of 1934. Telephone conversation with David Rusoff, Foley & Lardner, and Jennifer Choi, Attorney, SEC, dated February 27, 1995. Section 3(a)(21) defines an "associated person of a member" as any "partner, officer, director, or branch manager of such member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such member, or any employee of such member."

[9] 15 U.S.C. 78f(b) (1988 & Supp. v 1993).

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1994).

simplify customized foreign currency option ("Customized FCO") trading by conforming the procedure for obtaining quotes and executing trades with existing rules for regular Exchange-traded FCOs. Additionally, the Exchange proposes to adopt Floor Procedure Advice F–20 (Quoting and Trading Customized Foreign Currency Options) which will parallel the provisions of Exchange Rule 1069(b). The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

On November 1, 1994, the Commission approved the Exchange's proposal to trade customized foreign currency options.[1] The Phlx proposes to amend Exchange Rule 1069(b) in order to eliminate the response period and the special parity rules for assigned Registered Options Traders ("ROTs") that apply during that response period. Presently, when a participant requests a quote for a Customized FCO ("RFQ"), if any participant requests a response time, the preset amount of time applicable to that type of Customized FCO is invoked and the assigned ROTs are given the ability to match any responsive quote that improves their previously voiced responsive quote. The response period was initially set by the Exchange's FCO Committee at two minutes for simple strike options, five minutes for simple spreads, inverses, and cross-rates, and eight minutes for options strategies involving more than three legs.[2] Once the response period has been invoked, a trade may only occur prior to the end of the response period if at least two assigned ROTs respond to the RFQ. The Exchange has found that in almost every instance, participants have requested a response period; however, responsive quotes generally are not received until after the end of the response period.[3]

The Exchange represents that the intent of the response period was to give all participants and customers an equal amount of time to calculate a price in response to a RFQ because Customized FCOs are not continuously quoted FCOs for which participants have readily available trade sheets. Presently, when a RFQ is disseminated, a ROT who intends to respond may have to leave the crowd that he is in, go over to the Customized FCO post to listen to the RFQ, formulate a responsive quote, and then voice the responsive quote in the trading crowd.

The response period and attendant parity rules were intended, according to the Exchange, to assure that the floor traders who are crucial to providing liquidity to the market place were not placed at a competitive disadvantage to the off-floor traders due to their lack of prepared trading sheets. The Exchange has not been able to determine whether this concern is valid or not by reviewing the present level of activity in Customized FCOs. The Exchange has determined, however, that it is important at this time to promote more activity in Customized FCOs and, therefore, it is proposing to eliminate the response period. The Exchange represents that, pursuant to the proposed rule change, Customized FCOs will trade similar to regular Exchange-traded FCOs such that trades will be executable as soon as any responsive quote is made. Moreover, existing parity and priority principles in Exchange Rule 1014(h) will apply to trades in Customized FCOs. As more experience is gained, the Exchange feels that it will be in a better position to review trading activity to ensure that no competitive disparity is actually occurring.

The Phlx also proposes to adopt a new Floor Procedure Advice applicable to the FCO floor. Proposed Advice F–20 (Quoting and Trading Customized Foreign Currency Options), generally follows the text of Rule 1069(b). The Exchange represents that the purpose of Advice F–20 is to codify the trading procedure for Customized FCOs in the Floor Procedure Advice Handbook for ease of reference.

The Exchange believes that the foregoing rule change proposal is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by simplifying the trading process for Customized FCOs.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95–05 and should be submitted by May 15, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9977 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[1] See Securities Exchange Act Release No. 34925 (November 1, 1994), 59 FR 55720 (November 8, 1994).

[2] The FCO Committee shortened the response period to one minute for all types of RFQs for Customized FCOs on January 16, 1995, effective at the opening on January 17, 1995.

[3] Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on February 22, 1995.

[4] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35819; File No. SR–Phlx–95–11]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Listing of Long-Term Index Options Series ("LEAPS") With a Duration of up to Sixty Months Until Expiration

April 17, 1995.

On February 8, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission") a proposed rule change to permit the listing of long-term index options series ("LEAPS") with a duration of up to sixty months (five years) until expiration. Notice of the proposal appeared in the Federal Register on February 22, 1995.[3] No comment letters were received on the proposed rule change. The Exchange filed Amendment No. 1 to the proposal on February 23, 1995.[4] This order approves the Phlx proposal, as amended.

The purpose of the proposed rule change is to permit the Exchange to list index LEAPS with a duration of up to sixty months (five years).[5] Presently, the Exchange has authority pursuant to Phlx Rule 1101A(b)(iii) to list index LEAPS that expire from twelve to thirty-six months from the time they are listed. The Exchange represents that there has been increasing member firm and customer interest in longer term instruments. The Exchange, therefore, is proposing to amend Exchange Rule 1101A to permit the listing of index options with up to sixty months until expiration. In addition, the Exchange proposes to amend Rule 1101A(b)(iii) to allow for up to ten expiration months for index LEAPS, as opposed to the six months currently allowed.[6] The proposal does not change any other rule regarding the listing and trading of index LEAPS.[7]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[8] Specifically, the Commission believes the proposal is designed to provide investors with additional means of hedging equity portfolios from long-term market risk with an exchange-traded security (*i.e.*, a standardized option), thereby facilitating transactions in options and contributing to the protection of investors and the maintenance of fair and orderly markets.[9]

Currently, institutional customers use index options to hedge the risks associated with holding diversified equity portfolios. The Commission continues to believe, as originally stated in its approval of the listing of index LEAPS by the Exchange, that allowing investors to lock in their hedges with longer-term index LEAPS will permit institutions to protect better their portfolios from adverse market moves.[10] Further, the Commission believes that index LEAPS with up to five years until expiration will allow this protection at a known and limited cost.[11] Moreover, the proposal will provide institutions with an additional securities product with which to hedge their portfolios as an alternative to hedging with futures positions or off-exchange customized index options.[12] Accordingly, the Commission believes that the proposed rule change will better serve the long-term hedging needs of institutional investors.[13]

Finally, although as with index LEAPS presently trading on the Exchange, specific strike price interval, bid/ask differential, and price continuity rules will not apply until the proposed longer-term index LEAPS have less than 12 months until expiration,[14] the Commission notes that Phlx's general rule obligating market makers to maintain fair and orderly markets will continue to apply to the proposed longer-term index LEAPS.[15] The Commission believes that the requirements of Phlx Rules 1014 and 1020 are broad enough, even in the absence of strike price interval, bid/ask differential, and continuity requirements, to provide the Exchange with the authority to make a finding of inadequate market maker performance should market makers enter into transactions or make bids or offers (or fail to do so) in the proposed longer-term index LEAPS that are inconsistent with the maintenance of a fair and orderly market.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the Federal Register. Specifically, Amendment No. 1 provides that the Exchange may list up to ten additional expiration months when listing the proposed longer-term index LEAPS. The Commission believes this is consistent with the original approval of index LEAPS which allowed for up to six additional expiration months for LEAPS expiring 36 months from the date of

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See Securities Exchange Act Release No. 35376 (February 14, 1995), 60 FR 9880.

[4] In Amendment No. 1, the Phlx proposed to: (1) Amend Rule 1101A to specify that ten additional expiration months may be added for the proposed longer-term index LEAPS, as opposed to the six additional months currently allowed for LEAPS; and (2) provide that the proposal will apply to all indexes, both broad-based and narrow-based, previously approved for the trading of standardized index options on the Exchange. See Letter from Edith Hallahan, Special Counsel, Phlx, to Michael Wellsaker, Branch Chief, Office of Market Supervision, Division of Market Regulation, Commission, dated February 23, 1995.

[5] The proposal would permit five-year LEAPS on both broad-based and narrow-based indexes on which LEAPS have been approved for trading on the CBOE. *Id.*

[6] *Id.*

[7] See Phlx Rule 1101A(b)(iii) and Securities Exchange Act Release No. 28910 (February 22, 1991), 56 FR 9032 (March 4, 1991) ("Exchange Act Release No. 28910").

[8] 15 U.S.C. 78f(b)(5) (1988 & Supp. V 1993).

[9] The Commission also finds that extending the maximum term for index LEAPS from three to five years does not alter the Commission's designation of index LEAPS as standardized options pursuant to Rule 9b–1(a)(4) of the Act.

[10] See Exchange Act Release No. 28910, *supra* note 7.

[11] *Id.*

[12] *Id.*

[13] The Commission's findings are predicated on the somewhat limited length of five-year index LEAPS. Any subsequent proposal to list index LEAPS with expirations beyond five years could alter the nature of the product and would raise new regulatory concerns, including, among other things, the appropriate margin treatment, disclosure, and trading rules for the product.

[14] See Exchange Act Release No. 28910, *supra* note 7.

[15] See Phlx Rules 1014, 1020, and 1060A(a).

VOL 60 ISS 78 AP 24 1995 UMI

listing[16] and, therefore, does not raise any new regulatory issues.

Moreover, Amendment No. 1 provides that the Exchange may list longer-term LEAPS on all indexes currently approved for the trading of standardized options, regardless of whether the index was previously approved for the trading of LEAPS. For those indexes approved for trading LEAPS, the Commission believes that Amendment No. 1 clarifies the application of the proposal and minimizes the potential for investor confusion. With regard to those indexes not previously approved for trading LEAPS, the Commission believes that allowing index LEAPS on these indexes, including the proposed longer-term LEAPS, does not raise any new regulatory issues. Specifically, each of these indexes has previously been approved by the Commission for the listing of standardized index options, and LEAPS on these indexes will be subject to the limitations discussed above.

Accordingly, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the Phlx's proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the File No. SR–Phlx–95–11 and should be submitted by May 15, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (File No. SR–Phlx–95–11) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9979 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21013; 811–4403]

Smith Barney California Municipal Money Market Fund; Notice of Application

April 17, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Smith Barney California Municipal Money Market Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on February 22, 1995 and amended on April 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a business trust under the laws of Massachusetts. On September 4, 1985, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on November 20, 1985, and the initial public offering commenced shortly thereafter.

2. On April 27, 1994 and May 25, 1994, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Smith Barney Muni Funds—California Money Market Portfolio (the "Acquiring Fund")—a registered open-end management investment company. In addition, the board of trustees made the findings required by rule 17a–8 under the Act.[1]

3. On August 2, 1994, applicant mailed proxy materials to its shareholders. On November 11, 1994, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on November 18, 1994, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund and the assumption by the Acquiring Fund of certain liabilities of applicant. Immediately thereafter, applicant liquidated and distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On November 18, 1994, applicant had 631,064,778 shares outstanding, having an aggregate net asset value of $830,713,099 and a per share net asset value of $1.00.[2]

5. Expenses incurred in connection with the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $91,857. One half of the expenses were borne by the Fund's sponsor, Smith Barney Inc., and the remainder were divided between applicant and the Acquiring Fund based on relative net assets.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant intends to file the appropriate notice of termination with Massachusetts authorities.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9983 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21012; 811–4402]

Smith Barney New York Municipal Money Market Fund; Notice of Application

April 17, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Smith Barney New York Municipal Money Market Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on February 22, 1995 and amended on April 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a business trust under the laws of Massachusetts. On September 4, 1985, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on November 20, 1985, and the initial public offering commenced shortly thereafter.

2. On April 27, 1994 and May 25, 1994, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Smith Barney Muni Funds—New York Money Market Portfolio (the "Acquiring Fund")—a registered open-end management investment company. In addition, the board of trustees made the findings required by rule 17a–8 under the Act.[1]

3. On August 2, 1994, applicant mailed proxy materials to its shareholders. On November 11, 1994, applicant's shareholders approved the reorganization.

4. Pursuant to the Plan, on November 18, 1994, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund and the assumption by the Acquiring Fund of certain liabilities of applicant. Immediately thereafter, applicant liquidated and distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On November 18, 1994, applicant had 605,581,399 shares outstanding, having an aggregate net asset value of $605,235,435 and a per share net asset value of $1.00.[2]

5. Expenses incurred in connection with the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $92,383. One half of the expenses were borne by the Fund's sponsor, Smith Barney Inc., and the remainder were divided between applicant and the Acquiring Fund based on relative net assets.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant intends to file the appropriate notice of termination with Massachusetts authorities.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–9984 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No IC–21018; 811–3019]

Smith Barney Government and Agencies Fund Inc.; Application

April 18, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Smith Barney Government and Agencies Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company

FILING DATE: The application was filed on February 22, 1995 and amended on April 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a

[1] Section 17(a) of the Act generally prohibits sales or purchases of securities between registered investment companies and any affiliated person of that company. Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. Applicant and the Acquiring Fund were "affiliated persons" as defined in the Act solely by reason of having a common investment adviser.

[2] Dividing the number of outstanding shares by the total net assets does not yield a precise figure of $1.00 per share. This results from both the effect on the total net assets of realized gains and losses resulting from the sale of portfolio securities prior to their stated maturity and the effect of penny rounding.

[16] See Exchange Act Release No. 28910, *supra* note 7.

[17] 15 U.S.C. 78s(b)(2) (1988).

[18] 17 CFR 200.30–3(a)(12) (1994).

[1] Section 17(a) of the Act generally prohibits sales or purchases of securities between registered investment companies and any affiliated person of that company. Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors and/or common officers. Applicant and the Acquiring Fund were "affiliated persons" as defined in the Act solely by reason of having a common investment adviser.

[2] Dividing the number of outstanding shares by the total net assets does not yield a precise figure of $1.00 per share. This results from both the effect on the total net assets of realized gains and losses resulting from the sale of portfolio securities prior to their stated maturity and the effect of penny rounding.

hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a corporation under the laws of Maryland. On March 24, 1980, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on March 31, 1980, and the initial public offering commenced shortly thereafter.

2. On April 27, 1994 and May 25, 1994, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Smith Barney Money Funds, Inc.—Government Portfolio (the "Acquiring Fund")—a registered open-end management investment company. In addition, the board of trustees made the findings required by rule 17a–8 under the Act.[1]

3. On July 27, 1994, applicant mailed proxy materials to its shareholders. On November 11, 1994, applicant's shareholders approved the reorganization at a special meeting of shareholders.

4. Pursuant to the Plan, on November 18, 1994, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund and the assumption by the Acquiring Fund of certain liabilities of applicant. Immediately thereafter, applicant liquidated and distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On November 18, 1994, applicant had 3,137,812,379 shares outstanding, having an aggregate net asset value of $3,137,185,387 and a per share net asset value of $1.00.[2]

5. Expenses incurred in connection with the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $472,492. One half of the expenses were borne by the Fund's sponsor, Smith Barney Inc., and the remainder were divided between applicant and the Acquiring Fund based on relative net assets.

6. There are no security holders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant intents to file the appropriate notice of termination with Maryland authorities.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10046 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Section 17(a) of the Act generally prohibits sales or purchases of securities between registered investment companies and any affiliated person of that company. Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. Applicant and the Acquiring Fund were "affiliated persons" as defined in the Act solely by reason of having a common investment adviser

[2] Dividing the number of outstanding shares by the total net assets does not yield a precise figure of $1.00 per share. This results from both the effect on the total net assets of realized gains and losses resulting from the sale of portfolio securities prior to their stated maturity and the effect of penny rounding.

[Rel. No. IC–21017; 811–2914]

Smith Barney Daily Dividend Fund Inc.; Application

April 18, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Smith Barney Daily Dividend Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company

FILING DATE: The application was filed on February 22, 1995 and amended on April 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a corporation under the laws of Maryland. On March 20, 1979, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933 The registration statement was declared effective on June 21, 1979, and the initial public offering commenced shortly thereafter.

2. On April 27, 1994 and May 25, 1994, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Smith Barney Money Funds, Inc.—Cash Portfolio (the "Acquiring Fund")—a registered open end management investment company. In addition, the board of trustees made the findings required by rule 17a–8 under the Act.[1]

3. On July 27, 1994, applicant mailed proxy materials to its shareholders. On November 11, 1994, applicant's shareholders approved the reorganization at a special meeting of shareholders.

4. Pursuant to the Plan, on November 18, 1994, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund and the assumption by the Acquiring Fund of certain liabilities of applicant. Immediately thereafter, applicant liquidated and distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On November 18, 1994, applicant had 14,865,420,439 shares outstanding, having an aggregate net asset value of $14,862,405,321 and a per share net asset value of $1.00.[2]

5. Expenses incurred in connection with the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $3,351,547. One half of the expenses were borne by the Fund's sponsor, Smith Barney Inc., and the remainder were divided between applicant and the Acquiring Fund based on relative net assets.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administration proceeding.

7. Applicant intends to file the appropriate notice of termination with Maryland authorities.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

[1] Section 17(a) of the Act generally prohibits sales or purchases of securities between registered investment companies and any affiliated person of that company. Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. Applicant and the Acquiring Fund were "affiliated persons" as defined in the Act solely by reason of having a common investment adviser.

[2] Dividing the number of outstanding shares by the total net assets does not yield a precise figure of $1.00 per share. This results from both the effect on the total net assets of realized gains and losses resulting from the sale of portfolio securities prior to their stated maturity and the effect of penny rounding.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10047 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–2105; 811–7133]

SSL 1993–1 Trust; Notice of Application

April 17, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: SSL 1993–1 Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company

FILING DATE: The application was filed on April 7, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 200 Park Avenue, New York, New York 10166.

FOR FURTHER INFORMATION CONTACT: Elaine M. Beggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company that was organized as a business trust under the laws of Massachusetts. Applicant originally registered under the Act and filed a registration statement under the Securities Act of 1933 on December 23, 1993. Applicant's registration statement under the Securities Act of 1933 was declared effective on April 13, 1994. Applicant has not commenced a public offering of its shares.

2. Applicant has not sold any securities of which it is the issuer other than the shares sold to its sponsor, Major Trading Corporation, to meet the net worth requirements of section 14(a) of the Act. On December 7, 1994, applicant's board of trustees determined that is was advisable and in the best interests of applicant that applicant terminate its existence as a Massachusetts business trust and liquidate its assets and that the proceeds be returned to applicant's sponsor.

3. There are no security holders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

4. Applicant is not now engaged, nor does it proposes to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 95–9985 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21014; 812–9478]

Van Kampen American Capital Distributors Inc., et al.; Notice of Application

April 17, 1995

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Van Kampen American Capital Distributors Inc. (the "Sponsor"); Insured Municipals Income Trust, California Insured Municipals Income Trust, New York Insured Municipals Income Trust, Pennsylvania Insured Municipals Income Trust, Insured Municipals Income Trust, Insured Multi-Series, Insured Tax Free Bond Trust, Investors' Quality Tax-Exempt Trust, Insured Municipals Income Trust and Investors Quality Tax

Exempt Trust, Multi-Series Investors' Governmental Securities—Income Trust, Van Kampen American Capital Insured Income Trust, Van Kampen Merritt Utility Income Trust, Van Kampen Merritt Emerging Markets Income Trust, Van Kampen Merritt Equity Opportunity Trust, California Investors' Quality Tax-Exempt Trust, and Pennsylvania Investors' Quality Tax-Exempt Trust (each an "Existing Trust"); and any other future unit investment trust sponsored by the Sponsor (collectively, with the Existing Trusts, the "Trusts").

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2) of the Act, and rule 22c–1 thereunder, and pursuant to section 11(a) to amend a prior order (the "Prior Order") granting relief from section 11(c).[1]

SUMMARY OF APPLICATION: Applicants seek to impose sales charges on a deferred basis and waive the deferred sales charge in certain cases, exchange Trust units having deferred sales charges, and exchange units of a terminating series of a Trust for units of the next available series of that Trust.

FILING DATES: The application was filed on February 7, 1995, and amended on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street N.W., Washington, D.C. 20549. Applicants, c/o Mark J. Kneedy, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603–4080.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942–0581, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Trusts is or will be a unit investment trust sponsored by the Sponsor and is or will be registered under the Act. The Trusts are made up of one or more separate series ("Series"). Each Series is created by a trust indenture among the Sponsor, a banking institution or trust company as trustee, and an evaluator. The Sponsor acquires a portfolio of securities and deposits them with the trustee of the Series in exchange for certificates representing fractional undivided interests ("Units") in the deposited portfolio. The Units will be registered under the Securities Act of 1933 and offered to the public through the Sponsor, underwriters, and dealers at a price based upon the aggregate offering side evaluation of the underlying securities plus an up-front sales charge. The maximum sales charge currently ranges from 5.5% to 1.9% of the public offering price, and is subject to reduction as permitted by rule 22d–1. In addition, although not legally obligated to do so, the Sponsor maintains a secondary market for Units of outstanding Series and continually offers to purchase such Units. The sales charge imposed for sales in the secondary market typically is 1% higher than it is during the initial offering period, and decreases over time.

2. Applicants seek an order under section 6(c) exempting the Trusts from sections 2(a)(32), 2(a)(35), 22(d), and 26(a)(2), and rule 22c–1, to let the Trusts impose sales charges on Units on a deferred basis and waive the deferred sales charge in certain cases. Under applicants' proposal, the Sponsor will determine the amount of sales charge per Unit at the time portfolio securities are deposited in a Series. The Sponsor also may defer collection of all or part of this sales charge over a period following the purchase of Units. In no event, however, will the Sponsor add to the deferred amount initially determined any additional amount for interest or any similar or related charge to reflect or adjust for such deferral.

3. Deferred sales charges, if any, generally will be paid in regular installments over a period of time. To the extent a particular Series provides distribution income, the trustee of the Series will withdraw the appropriate amount of the deferred sales charge from such distribution income. If the distribution income is insufficient to pay the deferred sales charge, the trustee may sell portfolio securities in an amount necessary to provide the requisite payments.

4. Although the Sponsor does not presently intend to do so, a sales charge may be deducted from the proceeds of any redemption of Units or of any sale of Units to the Sponsor. For purposes of calculating the amount of the deferred sales charge due upon redemption or sale of Units, it will be assumed that Units on which no sales charge is due are liquidated first. Any Units disposed of over such amounts will be redeemed in the order of their purchase, so that Units held for the longest time are redeemed first. If any deferred sales charge is collected upon sale or redemption of Units, the Sponsor may, and intends to, waive payment of the balance of the deferred sales charge on such redemptions or sales in certain cases. Any such waiver will be disclosed in the prospectus and will satisfy the other conditions of rule 22d–1.

5. The Sponsor believes that the operation and implementation of the deferred sales charge program will be disclosed adequately to potential investors and unitholders. The prospectus for each Trust will describe the operation of the deferred sales charge, including the amount of and date of each installment payment. The prospectus also will describe the trustee's ability to sell portfolio securities if the income generated by a Series' portfolio is insufficient to pay an installment. The securities confirmation statement sent to each purchaser will state the amount of any initial sales charge, and the amount of the deferred sales charge to be deducted in regular installments. The annual report of each Series will state the amount of annual installment payments deducted during the previous fiscal year on both a Series and per Unit basis.

6. Applicants seek an order under section 11(a) to approve certain exchange transactions subject to section 11(c). The Prior Order permits applicants covered thereunder to allow unitholders to exchange Units of one Series for Units of another Series generally subject to a flat fee of $25 per Unit. The requested order would amend the Prior Order to create an expanded exchange option that would apply to all exchanges of Units sold with a sales charge imposed either at the time of purchase or on a deferred basis, and to include all Series. The sales charge imposed on the exchange of Units is calculated as the greater of (a) $25 per Unit, or (b) if Units of any Series are exchanged within five months of their acquisition for Units of a Series with a higher sales charge, or if Units subject to a deferred sales charge are exchanged for Units sold with an initial sales charge, an amount that, together with the sales charge already paid on the Units being exchanged, equals the normal sales charge on the acquired Units.

7. If Units subject to a deferred sales charge are exchanged for Units of a Series not having such a charge, the deferred sales charge will be collected at the time of the exchange. If Units subject to a deferred sales charge are exchanged for Units without such a charge, installment payments will continue to be deducted from the distributions on the acquired Units until the original balance of the sales charge owed on the initial investment has been collected. In either case, the additional sales charge will be imposed at the time of the exchange.

Applicants' Legal Analysis

1. Under section 6(c), the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Section 2(a)(32) defines a "redeemable security" as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent of those assets. Because the imposition of deferred sales charge may cause a redeeming unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from section 2(a)(32) so that Units subject to a deferred sales charge are considered redeemable securities for purposes of the Act.[2]

3. Section 2(a)(35) defines the term "sales load" to be the difference between the sales price and the proceeds to the issuer, less any expenses not properly chargeable to sales or promotional expenses. Because a deferred sales charge is not charged at the time of purchase, an exemption from section 2(a)(35) is necessary.

4. Rule 22c–1 requires that the price of a redeemable security issued by an investment company for purposes of sale, redemption, and repurchase be based on the investment company's current net asset value. Because the imposition of a deferred sales charge may cause a redeeming unitholder to receive an amount less than the net asset value of the redeemed Units, applicants seek an exemption from this rule.

5. Section 22(d) requires an investment company and its principal underwriter and dealer to sell securities only at a current public offering price described in the investment company's prospectus. Because sales charges traditionally have been a component of the public offering price, section 22(d) historically required that all investors be charged the same load. Rule 22d–1 was adopted to permit the sale of redeemable securities "at prices that reflect scheduled variations in, or elimination of, the sales load." Because rule 22d–1 does not extend to scheduled variations in deferred sales charges, applicants seek relief from section 22(d) to let them waive or reduce their deferred sales charge in certain instances.

6. Section 26(a)(2) in relevant part prohibits a trustee or custodian of a unit investment trust from collecting from the trust as an expense any payment to a depositor or principal underwriter thereof. Because of this prohibition, applicants need an exemption to let the trustee collect the deferred sales charge installments from distribution deductions or Trust assets.

7. Applicants believe that implementation of the deferred sales charge program in the manner described above would be fair and equitable and consistent with all provisions of the Act. Thus, granting the requested order would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Section 11(c) prohibits any offers of exchange of the securities of a registered unit investment trust for the securities of any other investment company, unless the terms of the offer have been approved by the SEC. Applicants assert that the reduced sales charge imposed at the time of exchange is a reasonable and justifiable expense to be allocated for the professional assistance and operational expenses incurred in connection with the exchange.

Applicants' Conditions

Applicants agree that any relief granted will be subject to the following conditions:

1. Whenever the exchange option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the exchange option, or to delete a Series that has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of units of the Trust under section 22(e) and the rules and regulations promulgated thereunder, or (ii) a Trust temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

2. An investor who purchases Units under the exchange option will pay a lower aggregate sales charge than that that would be paid for the Units by a new investor.

3. The prospectus of each Trust offering exchanges and any sales literature or advertising that mentions the existence of the exchange option will disclose that the exchange option is subject to modification, termination, or suspension, without notice except in certain limited cases.

4. Each Series offering Units subject to a deferred sales charge will include in its prospectus the table required by item 2 of Form N–1A (modified as appropriate to reflect the differences between unit investment trusts and open-end management investment companies) and a schedule setting forth the number and date of each installment payment.

For the SEC, by the Division of Investment Management, under delegated authority

Margaret H. McFarland,

Deputy Secretary

[FR Doc 95–9982 Filed 4–21–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Investment Company Act Release Nos. 11514 (Dec. 24, 1980) (notice) and 11589 (Feb. 25, 1981) (order).

[2] Without an exemption, a Trust selling Units subject to a deferred sales charge could not meet the definition of a unit investment trust under section 4(2) of the Act. Section 4(2) defines a unit investment trust as an investment company that issues only "redeemable securities."

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATES: April 14, 1995.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB official of your intent immediately.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Susan Pickrel or Annette Wilson, IRM Strategies Division, M–32, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4735.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on April 14, 1995:

DOT No: 4048.
OMB No: 2125–0030.
Administration: Federal Highway Administration.
Title: Outdoor Advertising and Junkyard Report.
Need for Information: Title 23 USC 131 and 136 prescribe the requirements for controlling the erection and maintenance of outdoor advertising signs, displays, and devices and the maintenance of junkyards in areas adjacent to the Interstate System and the primary system.
Proposed Use of Information: The information will be used to administer and monitor the control of outdoor advertising and junkyards as implemented by State highway agencies.
Frequency: Annually.
Burden Estimate: 6,526 hours.
Respondents: State highway agencies.
Form(s): FHWA 1424.
Average Burden Hours Per Response: 30 minutes reporting.

DOT No: 4049.
OMB No: 2138–0041.
Administration: Research and Special Programs Administration.
Title: Airline Service Quality Reporting.
Need for Information: Title 14 CFR Part 234 prescribes the requirements for airline service quality performance reports.
Proposed Use of Information: The information will be used to produce reports for the travelling public. DOT issues a monthly report providing consumers with the on-time flight performance and the rate of mishandled baggage reports for the reporting air carriers. The FAA will use the data base for air traffic control modeling.
Frequency: Monthly.
Burden Estimate: 1,440 hours.
Respondents: Large schedule passenger air carriers.
Form(s): None.
Average Burden Hours Per Response: 12 hours reporting.

DOT No: 4050.
OMB No: 2115–New.
Administration: U.S. Coast Guard.
Title: Boating Statistics Questionnaire.
Need for Information: Under the mandate of the National Performance Review and Executive Order 12802, Coast Guard is conducting this survey to determine its customer information needs and to measure the customer's satisfaction with the annual published report on recreational boating accidents.
Proposed Use of Information: The data collected from this survey will be used to improve the quality and customer satisfaction with information contained in this report.
Frequency: Annually.
Burden Estimate: 320 hours.
Respondents: Recreational boaters.
Form(s): CG–5590.
Average Burden Hours Per Response 15 minutes reporting.

DOT No: 4051.
OMB No: 2115–0141.
Administration: U.S. Coast Guard.
Title: Reporting and Recordkeeping Requirements for Firefighting and Lifesaving Equipment, Marine Sanitation Devices, and Structural Fire Protection Material.
Need for Information: Title 46 CFR Ch. I, Parts 159–164 and 33 CFR Ch. I prescribe the technical standards for Coast Guard approval on specific types of lifesaving and safety equipment before this equipment can be installed on vessels. Manufacturers of such equipment are required to submit drawings, specifications, and laboratory test reports.
Proposed Use of Information: Technical data submitted to the Coast Guard by manufacturers of lifesaving and safety equipment will be reviewed to determine that equipment is in compliance with applicable regulations. The information submitted by laboratories will be used to determine technical qualifications and independence.
Frequency: On occasion, one time.
Burden Estimate: 7,140 hours.
Respondents: Manufacturers of safety equipment, testing laboratories.
Form(s): None.
Average Burden Hours Per Response: manufacturers: 2 hours reporting; 100 hours recordkeeping; laboratories: 4 hours reporting.

Issued in Washington, DC, on April 14, 1995.

Paula R. Ewen,
Manager, IRM Strategies Division.

[FR Doc. 95–10072 Filed 4–21–95; 8:45 am]
BILLING CODE 4910–62–P

Federal Aviation Administration

[AC No. 1–1]

Advisory Circular on Government-Owned Aircraft

AGENCY: Federal Aviation Administration, DOT.

ACTION: Advisory Circular.

SUMMARY: Advisory Circular (AC) 1–1, Government Owned Aircraft provides guidance on whether particular government-owned aircraft operations are public aircraft operations or civil aircraft operations under the new statutory definition of "public aircraft." This Advisory Circular contains the FAA's interpretation of key terms in the new statutory definition. For operations that have lost public aircraft status under the new law, this Advisory Circular provides information on bringing those operations into compliance with FAA safety regulations for civil aircraft. It also provides information on applying for an exemption. This Advisory Circular provides acceptable, but not exclusive, means of complying with the law.

DATES: This Advisory Circular is effective on April 19, 1995.

FOR FURTHER INFORMATION CONTACT: David Catey, Air Carrier Branch [AFS–220), (202) 267–8094, 800 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: The guidance in this AC provides one method, but not the only method of complying with the new definition of public aircraft as defined in the Independent Safety Board Act Amendments of 1994, Pub. L. 103–411. This guidance material supplements the final rule titled Public Aircraft Definition and Exemption Authority. Because Pub. L. 103–411 becomes effective April 23, 1995, the AC is published in its entirety in order to allow expedient access to the document by the general public.

Issued in Washington, DC on April 19, 1995.

William J. White,
Acting Director, Flight Standards Service.

Advisory Circular

Subject: Government Aircraft Operations
Date: 4/19/95
Initiated by:
AC No: 00–1.1
Change:

1. *Purpose.* The purpose of this advisory circular (AC) is to provide guidance on whether particular government aircraft operations are public aircraft operations or civil aircraft operations under the new statutory definition of "public aircraft." This AC contains the Federal Aviation Administration's (FAA) intended application of key terms in the new statutory definition. For operations that have lost public aircraft status under the new law, this AC provides information on bringing those operations into compliance with FAA safety regulations for civil aircraft. It also provides information on applying for an exemption. This AC provides acceptable, but not exclusive, means of complying with the law. Agencies which conduct public aircraft operations are encouraged to comply with the Federal Aviation Regulations (FAR), even when they are not required to do so. They and the flying public will benefit from their voluntary adherence to the enhanced safety standards set out in the regulations. The FAA will continue to provide assistance to public agencies which seek to voluntarily comply with the regulatory requirements.

2. *Reference.* 49 U.S.C. 40102(A)(37).

3. *Related Material.*

a. AC 00–2.8, Advisory Circular Checklist, lists documents that provide guidance on many of the processes required to be followed in the certification and operation of civil aircraft.

b. AC 00–44FF, Status of Federal Aviation Regulations, provides the current public status of the Federal Aviation Regulations (FAR), prices, and order forms.

c. AC 20–132, Public Aircraft, provides guidance that public aircraft status under the Federal Aviation Act does not permit operations outside the territorial limits of the United States without a valid airworthiness certificate.

d. AC 120–12A, Private Carriage Versus Common Carriage of Persons or Property, furnishes general guidelines for determining whether transportation operations by air constitute private or common carriage.

e. AC 120–49, Certification of Air Carriers, provides information and guidance on the certification process for air carriers under FAR Parts 121 and 135.

f. Guide to Federal Aviation Administration Publications provides guidance on identifying and obtaining FAA and other aviation-related publications issued by the Federal government.

Note: Copies of the above documents may be obtained from the Department of Transportation, M–45.3, General Services Section, Washington, DC 20590.

Thomas C. Accardi,
Director, Flight Standards Service.

Contents

Chapter 1 Determining Whether Aircraft Operations are Public or Civil

1. Public Aircraft Definition.
   a. Background.
   b. Legislative History
   c. Statutory Text.
   d. Operational Nature of Definition.
   e. Effective Date.
2. Key Statutory Terms.
   a. "For Commercial Purposes."
   b. "Whose Presence Is Required to Perform."
   c. "Associated with the Performance of."
   d. "A Governmental Function such as * * * ."
   (1) Examples.
   (2) "Firefighting."
   (3) "Search and Rescue."
   (4) "Law Enforcement."
   (5) "Aeronautical Research."
   (6) "Biological and Geological Resources Management."
   (7) "Other Governmental Functions—Examples."
   e. "Cost Reimbursement Agreement."
   f. "Unit of Government."
   g. "Certifies."
   h. "Significant and Imminent Threat * * * "
   i. "No Service by a Private Operator * * * Reasonably Available."

Chapter 2. Bringing Operations Into Compliance

3. Basic Types of Civil Aircraft Operations.
   a. FAR Part 91.
   b. FAR Part 125.
   c. FAR Part 121 or 135
   d. FAR Part 133.
   e. FAR Part 137.
4. Pilot Certification.
   a. Generally.
   b. Domestic Aircraft.
   c. Foreign Aircraft.
   d. Medical Certification.
   e. Instrument Rating.
5. Aircraft Certification.
   a. Generally.
   b. Type Certification.
   c. Aircraft Previously Type Certificated.
   d. Aircraft with No Prior Certification.
   e. Airworthiness Certification.
   f. Procedures for Obtaining Certificate.

Chapter 3. Applying for an Exemption

6. Administrator's Exemption Authority.
   a. In General.
   b. Statutory Requirements.
   c. Delegation of Authority.
7. Key Statutory Terms.
   a. "The Administrator Finds * * * and * * * Certifies."
   b. "Undue Economic Burden."
   c. "Aviation Safety Program."
   d. "Aircraft with No Previous FAA Type Certification."
8. Petitions for Exemption.
   a. Procedure.
   b. Contents.

Chapter 1. Determining Whether Operations are Public or Civil

1 Public Aircraft Definition

a. *Background.* In recent years, there has been an increasing interest in matters involving operations of public aircraft, which are generally exempt from compliance with the Federal Aviation Regulations.

(1) One area of interest is related to government agencies' receipt of reimbursement for their operation of government-owned aircraft. Prior to the enactment of the Public Law 103–411, the Independent Safety Board Act Amendments of 1994, "public aircraft" was defined to exclude "any government-owned aircraft engaged in carrying persons or property for commercial purposes." (P.L. 100–223, 1987). The FAA's long-standing interpretation has been that, where there is a receipt of compensation, such an operation is "for commercial purposes" and that such an operation therefore is not a public aircraft operation. This interpretation has been applied to intergovernmental arrangements wherein one government agency receives compensation for providing aircraft services to another government agency. Such services may be provided for firefighting, search and rescue or other governmental functions. Many government operators objected to the FAA's interpretation, claiming that such an interpretation impeded their governmental missions. They urged that it was impractical or impossible to obtain the services commercially, and that it was too costly to conduct their operations under the Federal Aviation Regulations as civil aircraft.

(2) On October 9, 1994, Congress passed the Independent Safety Board Act Amendments, Pub. L. 103–411, which changed the definition of the term "public

aircraft." The law was signed by President Clinton on October 25, 1994.

(3) On January 26, 1995, the proposed advisory circular on Government Aircraft Operations was published in the **Federal Register**. 60 FR 5237. The proposed advisory circular set forth the FAA's understanding of the terms set forth in the new statute and the agency's intended application of those terms. The proposed advisory circular requested comments from affected parties on the positions taken by the FAA.

(4) Between January 26 and the current date, the FAA received and considered numerous comments from federal, state, and local governmental organizations as well as from representatives of private aircraft operators. Additionally, the FAA received an opinion of the Office of Legal Counsel, United States Department of Justice. That opinion, dated March 31, 1995, addresses whether the transport of prisoners on government aircraft falls within the statutory definition of "public aircraft." The opinion advised that the position taken by the FAA in the proposed advisory circular regarding the transport of prisoners was unnecessarily restrictive. It discusses generally the terms used in that section of the statute which relate to the transporting of passengers in government-owned aircraft and advises that those terms would more appropriately be given a slightly broader interpretation than that in the proposed advisory circular. The FAA has modified its position to accord with the legal direction received.

b. *Legislative History.* The general purpose of the new law, as reflected in the legislative history, is to extend FAA regulatory oversight to some government aircraft operations. In part, Congress determined that government-owned aircraft, which operate for commercial purposes or engage in transport of passengers, should be subject to the regulations applicable to civil aircraft. The new law (with certain exceptions) preserved as public aircraft operations, those relating to the performance of certain governmental functions and, further, allowed public agencies to receive reimbursement from other public agencies for some operations conducted in response to significant and imminent threats. The FAA was also authorized to grant exemptions for operations whose status had changed as a result of the new law.

c. *Statutory Text.* The new definition of public aircraft enacted by Congress is as follows:

"(1) an aircraft—

(i) used only for the United States Government; or

(ii) Owned and operated (except for commercial purposes) or exclusively leased for at least 90 continuous days by a government (except the United States Government), including a State, the District of Columbia, or a territory or possession of the United States, or political subdivision of that government; but

(2) Does not include a government-owned aircraft—

(i) Transporting property for commercial purposes; or

(ii) Transporting passengers other than—

(A) Transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

(B) Transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

(3) An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat." 49 U.S.C. 40102(a)(37).

d. *Operational Nature of Definition.* The status of an aircraft as "public aircraft" or "civil aircraft" depends on its use in government service and the type of operation that the aircraft is conducting at the time. Rather than speaking of particular aircraft as public aircraft or civil aircraft, it is more precise to speak of particular operations as public or civil in nature. *Example:* An aircraft owned by a state government is used in the morning for a search and rescue mission. During the search and rescue operation, the aircraft is a public aircraft. Later that same day, however, the aircraft is used to fly the governor of the state from one meeting to another. At that time, the aircraft loses its public aircraft status and must be operated as a civil aircraft.

e. *Effective Date.* The effective date of the new statute is April 23, 1995.

2. Meaning of Key Statutory Terms

The FAA interprets various words, phrases, and clauses in the statutory definition (in their order of appearance in the statute) as follows:

a. *"For Commercial Purposes."* The FAA has consistently taken the position that this term means "for compensation or hire." The test historically applied to determine whether an operation is for "compensation or hire" is whether the operator receives direct or indirect payment for the operation. It is not necessary that a flight be conducted for profit to constitute an operation for "compensation or hire," the term may be applicable even where there is no intent or ability to make a profit from the flight. Even where there is only cost-reimbursement from a unit of one government to a unit of another for the operation of an aircraft, such reimbursement constitutes "compensation." Accordingly, operations conducted pursuant to cost-reimbursement arrangements between units of government are considered to be "for commercial purposes." The new statute provides a limited exception allowing for public aircraft status where the unit of government on whose behalf the operation is conducted certifies that the operation was necessary to respond to a significant and imminent threat to life or property and that no service by a private operator was reasonably available to meet the threat. By providing this limited exception, Congress clearly recognized that operations conducted pursuant to cost-reimbursement agreements are to be considered "for commercial purposes." Generally, a transfer of funds by one element of government to another element within that same government will not be treated as compensation. Operations conducted pursuant to those arrangements are not considered "for commercial purposes" where the reimbursement is essentially an accounting of transactions within the same unit of government.

(1) One state agency reimburses another agency of the same state for conducting operations on its behalf using a state-owned aircraft. If the two agencies share a common treasury, the operation is not "for commercial purposes" within the meaning of the statute.

(2) A federal agency reimburses a state agency for conducting aircraft operations on the former's behalf using state-owned aircraft. Such an operation is considered to be "for commercial purposes." Generally, this operation would be a civil aircraft operation, unless the federal agency certified that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat. In that case, the operation would be considered a public aircraft operation.

b. *"Whose Presence is Required to Perform."* This phrase means that the person is aboard the aircraft for the purpose of performing a task or duty directly related to an ongoing governmental function of the sort enumerated in the statute. It indicates that the person's presence is essential to the performance of that function.

(1) Examples:

(i) Firefighters who are being transported for the purpose of engaging in a current firefighting activity are considered persons whose presence is essential for the performance of that activity. The transport of firefighters directly to a firefront by aircraft as part of a mission for which the use of an aircraft is necessary would constitute an accepted activity. Similarly, the transport of firefighters to a base camp by aircraft where they are to be dispersed to the firefront may be viewed in the same manner.

(ii) Officials who are conducting law enforcement operations while in an aircraft would be considered as being required for the performance of that governmental function. Thus, the carriage of law enforcement personnel performing aerial surveillance would be considered as necessary to perform the law enforcement function. So too, might officials who are being transported for the purpose of engaging in a law enforcement activity. For example, the carriage of officers to the scene of a public disturbance for the purpose of performing riot control duty on the ground would also be included if the effectiveness of riot control would be compromised by inability to use the aircraft. The movement of law enforcement personnel for administrative purposes would not be considered necessary for the performance of an excepted government function.

(iii) Persons engaging in search and rescue operations from an aircraft would be considered necessary for the performance of the governmental function. Also included would be persons who are being carried to a remote search area from which they would conduct ground search and rescue operations, provided that the use of the aircraft is necessary for the performance of that mission.

(iv) Persons on board aircraft conducting aeronautical research who are engaged in the airborne gathering of data or information are necessary for performance of the governmental function.

(v) Persons on board an aircraft that is engaged in biological and geological resource management would be included, so long as they perform biological and geological resource management-related duties on the aircraft. Also included would be persons carried to a location from which they would engage in an ongoing operation or mission.

c. *"Associated with the Performance of."* This clause operates to include persons who, while not directly engaged in performing the governmental function, are present on the aircraft in connection with that function.

(1) Examples:

(i) An official who accompanies firefighters to a fire to oversee or assess the success of the operation and/or the need to commit further resources to the fire fight would be associated with the performance of the governmental function.

(ii) A ground crew that accompanies a weather research aircraft to the theater of operations for the purpose of maintaining the aircraft and equipment would be associated with the performance of the governmental function.

(iii) Prisoners who are being transported aboard an aircraft are associated with the performance of a law enforcement function.

(iv) Persons who are rescued during a search and rescue operation are associated with that function. Also included are members of a ground rescue party which assists in the search and rescue operation.

d. *"Governmental Function Such As."* The term "such as," when used in the clause "a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management" indicates that the listed functions are not exhaustive and that the exception may apply to other governmental functions as well. However, the exception is limited to those other governmental functions that are comparable to and consistent with the listed functions. The unifying characteristic shared by the governmental functions listed in the statute is that they each involve the carriage of persons as part of a mission for which the use of an aircraft is necessary. Thus, it is not sufficient to merely show that the passengers are being transported to perform one of the functions listed in the statute; the use of the aircraft must be necessary for the performance of the mission. The aircraft would be necessary for the performance of a mission if the inability to use the aircraft would compromise the effectiveness of that mission.

(1) Examples:

(i) The use of an aircraft for administrative travel, such as to attend meetings or make speeches, would not be considered for the performance of a listed or comparable governmental mission. Such an operation would not qualify for the exception.

(ii) Training flights would be included if the persons on board are being trained on the aircraft to perform one of the functions listed in the statute. Flights to transport persons to receive ground training would not be included.

(2) *"Firefighting."* This term includes the dispensing of water or fire retardants on a fire. It also includes the transport of firefighters and equipment to a fire or to a base camp from which they would be dispersed to conduct the firefighting activities.

(3) *"Search and Rescue."* This term is commonly used to mean operations conducted to locate and rescue persons who are lost, injured, and/or exposed to some degree of danger or harm. Generally, the use of an aircraft is indispensable to the search effort or is the only feasible means of recovering the victim. Persons rescued would be considered "associated with" the activity

(4) *"Law Enforcement."* Operations requiring the use of an aircraft, such as aerial surveillance, fugitive apprehension, and riot control could be included. Also included would be other situations where the use of an aircraft is essential for the performance of an ongoing law enforcement mission. For instance, deployment of SWAT teams to the theater of operations by aircraft would be included when the use of an aircraft is essential for the successful performance of the mission.

(5) *"Aeronautical Research."* This term would include flights to measure the performance of aircraft or aeronautical components. It would also include atmospheric research, meteorological observation and airborne astronomy

(6) *"Biological and Geological-Resource Management."* This term would include operations which require the use of an aircraft for the successful performance of the mission. For example, counting wildlife from an aircraft would be included.

(7) *"Other Governmental Functions—Examples:"*

(i) *Medical evacuation.* While this term is not considered synonymous with "search and rescue," it may be an included governmental function, depending on the particular circumstances of the operation. Again, the use of an aircraft must be essential to the successful performance of the mission. It is unlikely that the use of an aircraft would be essential for a medical evacuation operation in an urban area where other means of transportation are routinely available.

(ii) *Aerial Survey.* Operations conducted to assure compliance with state or local laws or codes are included if the inability to use an aircraft would compromise the effectiveness of the mission. Examples:

(A) The identification of environmental polluters would be included if the use of an aircraft was necessary to locate the offenders.

(B) Aerial patrol of nuclear test sites to deter or locate trespassers would be included.

e. *"Cost-Reimbursement Agreement."* This term means any agreement, oral or written, providing for reimbursement of all or part of the costs of an aircraft operation. Any charge or payment in excess of the cost of the operation would not constitute a cost-reimbursement agreement.

f. *"Unit of Government."* This term means a government body. Generally, the singular characteristic of a unit of government in this context is its common treasury. Reimbursement for flight operations between two elements of the same unit of government would not be considered an operation for "compensation or hire." However, the receipt of reimbursement for a flight operation from an element of one unit of government to an element of a separate unit of government would constitute an operation "for commercial purposes." Such operation would be considered a civil aircraft operation, except when the government unit, which receives the benefit of the operation, certifies that there is a significant and immediate threat to life or property and that not private operator is reasonably available.

g. *"Certifies."* The certification that there is a significant and immediate threat to life or property and that no private operator is reasonably available should be made by the unit of government on whose behalf the operation is conducted. Without the certification, the unit of government who receives reimbursement for conducting the operation will be assumed to have conducted the operation "for commercial purposes." Such an operation will be considered a civil aircraft operation and may require compliance with FAR Part 121, 125, 133, 135, or 137

(1) The certification should include: the date of the operation, a description of the flight operation conducted, a description of the significant or immediate threat, and an explanation of why it was determined that no service by a private operator was reasonably available.

(2) The certification is the responsibility of the unit of government which provides the flight operations. It is suggested that the certification be completed contemporaneously with the operation and be retained by the unit of government which operated the aircraft.

h. *"Significant and Imminent Threat."* This term refers to a situation where the public agency responsible for responding to a threat has determined that serious injury or death, or significant damage to property (including natural resources) is present. The agency must also determine that the use of an aircraft is necessary to respond to the threat.

i. *"No Service by a Private Operator was Reasonably Available."* This term means that the public agency responsible for responding to a threat has reasonably determined that, at

the time of the response, no private operator was available and capable of responding to the threat in a timely manner.

Chapter 2. Bringing Operations Into Compliance

3. Basic Types of Civil Aircraft Operations

The government operator should contact the nearest FAA Flight Standards district office (FSDO) for assistance and guidance in bringing its operations into compliance with the FAR. For operations requiring certification, the FSDO manager will assign an FAA aviation safety inspector to assist the government operator during the certification process. Initial inquiries about certification or requests for applications should be in writing or by personal visit to the FSDO.

a. *FAR Part 91.*

(1) FAR Part 91 prescribes the general flight rules for all aircraft operations within the United States, including the waters within 3 nautical miles of the U.S. coast. U.S.-registered civil aircraft are required to comply with FAR Part 91. When over the high seas, they must comply with Annex 2 (Rules of the Air) to the Convention on International Civil Aviation.

(2) FAR Part 91 prohibits a pilot from operating a civil aircraft unless it is in an airworthy condition. The pilot in command (PIC) is responsible for determining whether the aircraft is in condition for safe flight. The PIC is required to terminate the flight when unairworthy mechanical, electrical, or structural conditions occur. In addition, the PIC may not operate the aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual, markings, and placards, or as otherwise prescribed by the certificating authority of the country of registry.

(3) Under FAR Part 91, the PIC of an aircraft is directly responsible for, and is the final authority as to the operation of that aircraft. In case of an inflight emergency, the PIC is authorized to deviate from any rule in FAR Part 91 to the extent necessary to meet the emergency. However, any PIC who deviates from a rule in FAR Part 91 is required, upon the request of the Administrator, to send a written report of that deviation to the Administrator.

b. *FAR Part 125.* If an operator uses an airplane with a seating configuration for 20 or more passenger seats or a maximum payload capacity of 6,000 pounds or more, and is not engaged in "common carriage," then FAR Part 125 applies. A person is considered to be engaged in "common carriage" when "holding out" to the general public or to a segment of the public as willing to furnish transportation within the limits of its facilities to any person who wants it. Examples of holding out are as follows: advertising through telephone yellow pages, billboards, television, radio, and individual ticketing. FAR Section 125.11(b) prohibits FAR Part 125 certificate holders from conducting any operation which results directly or indirectly from holding out to the general public. Further information regarding common carriage vs. private carriage can be found in AC 120–12. If the operator is engaged in "common carriage," then FAR Part 121 or 135 applies rather than FAR Part 125.

c. *FAR Part 121 or 135.* When a government-owned aircraft is operated "for commercial purposes" (see paragraph 2(a) above), the requirements contained in either FAR Part 121 or 135, depending on the type of operation, must be met. Generally, FAR Part 121 applies to domestic, flag, and supplemental air carriers and commercial operators of large aircraft, while FAR Part 135 applies to air taxi operators and commercial operators. An operator should consult Special Federal Aviation Regulation (SFAR) No. 38–2 as well as the applicability provisions of each part (FAR Sections 121.1 and 135.1) to determine whether it is FAR Part 121 or 135 that applies to a particular operation. The FSDO will provide an applicant for a FAR Part 121 or 135 certificate with a videotape on certification and a copy of AC 120–49, Certification of Air Carriers. Once the videotape and the AC have been reviewed, the applicant will complete FAA Form 8400–6, Preapplication Statement of Intent, and the FSDO manager will assign a Certification Team to assist the applicant through each phase of the certification process.

d. *FAR Part 133.* FAR Part 133, Rotorcraft External-Load Operations, prescribes the airworthiness certification requirements for rotorcraft, and the operating and certification rules governing the operation of rotorcraft conducting external-load operations in the United States by any person. The certification rules do not apply to a Federal, state, or local government conducting operations with a government-owned aircraft unless it is operating as a civil aircraft due to receipt of compensation. Federal, state, or local governments must; however, comply with all of the other rules contained in FAR Part 133, even when operating a public aircraft.

(1) FAR Part 133 requires that a person must obtain a Rotorcraft External-Load Operator Certificate issued by the FAA before any rotorcraft external-load operations in the United States are begun. This certificate is valid for 24-calendar months unless it is surrendered, suspended, or revoked prior to the expiration date shown on the certificate.

(2) Rotorcraft used in external-load operations must have been type certificated and must continue to meet the requirements of FAR Part 27 or 29 or of FAR Section 21.25. Rotorcraft must also comply with the airworthiness requirements contained in Subpart D of FAR Part 133 and must have a valid standard or restricted category airworthiness certificate. At the present time, only rotorcraft of U.S. registry are eligible for external-load operations.

(3) Pilots conducting rotorcraft external-load operations must have at least a current commercial pilot certificate with a rating appropriate to the rotorcraft being used, and a Second Class Medical Certificate.

e. *FAR Part 137.* FAR Part 137, Agricultural Aircraft Operations, prescribes the rules which govern the certification and operation of agricultural aircraft operated in the United States, and the issuance of either a private or commercial agricultural aircraft operator certificate for those operations. In a public emergency, a person who conducts agricultural aircraft operations may, where necessary, deviate from any operating rule contained in FAR Part 137 for relief and welfare activities approved by an agency of the United States or of a state or local government. However, each person who deviates from a rule shall complete a report of the aircraft operation involved within 10 days, including a description of the operation and the reasons for it, to the nearest FAA FSDO.

(1) As defined in FAR Part 137, an agricultural aircraft operation means the operation of an aircraft for the purpose of:

(i) Dispensing any economic poison;

(ii) Dispensing any other substance intended for plant nourishment, soil treatment, propagation of plant life, or pest control; or

(iii) Engaging in dispensing activities directly affecting agriculture, horticulture, or forest preservation. It does not include the dispensing of live insects. Forest firefighting is considered to be an agricultural aircraft operation.

(2) FAR Part 137 requires that a person must obtain an Agricultural Aircraft Operator Certificate issued by the FAA before any agricultural aircraft operations in the United States are begun. A rotorcraft may conduct agricultural aircraft operations with external dispensing equipment in place without a rotorcraft external-load operator certificate. However, an operator with a rotorcraft external-load operator certificate may conduct agricultural aircraft operations if it disperses only water on forest fires by rotorcraft external-load means without an agricultural aircraft operator certificate. A Federal, state, or local government conducting agricultural aircraft operations is not required to obtain an Agricultural Aircraft Operator Certificate. They must; however, comply with all of the other rules contained in FAR Part 137

(3) Aircraft used in agricultural aircraft operations must be certificated and airworthy, and equipped for agricultural operation. They must be equipped with a suitable and properly installed shoulder harness for use by each pilot.

(4) Operators conducting agricultural aircraft operations must have the services of one person who has at least a current U.S commercial pilot certificate and who is properly rated for the aircraft to be used

4. Pilot Certification

a. *Generally.* All civil aircraft are required to be operated by pilots certificated under FAR Part 61, Certification: Pilots And Flight Instructors. FAR Part 61 prescribes the requirements for issuing pilot certificates and ratings, the conditions under which those certificates and ratings are necessary, and the privileges and limitations of those certificates and ratings.

b. *Domestic Aircraft.* Pilots operating civil aircraft of U.S. registry are required to have in their personal possession a current pilot certificate issued to them under FAR Part 61 U.S.-registered aircraft may be operated in a foreign country with a pilot license issued by that country.

c. *Foreign Aircraft.* Foreign aircraft may be operated in the U.S. by pilots who have in their personal possession current pilot certificates issued under FAR Part 61 or a pilot license issued to them or validated for them by the country in which the aircraft is registered.

d. *Medical Certificate.* Pilots operating U.S.-registered civil aircraft are required to have in their personal possession an appropriate current medical certificate issued to them under FAR Part 67, Medical Standards and Certification. FAR Part 67 prescribes the medical standards for issuing medical certificates. A Third Class Medical Certificate is required for Private Pilot certification. A Second Class Medical Certificate is required for Commercial Pilot certification. A First Class Medical Certificate is required for Airline Transport Pilot Certification.

e. *Instrument Rating.* Pilots operating civil aircraft under instrument flight rules or in weather conditions less than the minimums prescribed for Visual Flights Rules are required to hold an Instrument Rating or an Airline Transport Pilot Certificate appropriate for the aircraft flown.

5. Aircraft Certification

a. *Generally.* Government aircraft operations that are no longer eligible for public aircraft status must now meet the civil airworthiness standards for certification of aircraft. This includes the aircraft's engines and propellers as well as the aircraft as a whole. A civil aircraft must have a current airworthiness certificate to operate in the National Airspace System. Additionally, all civil aircraft must meet the following requirements:

(1) The aircraft must have an effective U.S. registration certificate on board during all operations as required by FAR Section 91.203.

(2) An appropriate and current airworthiness certificate must be displayed in accordance with FAR § 91.203(c). An airworthiness certificate is effective as long as the maintenance, preventative maintenance, and alterations are performed in accordance with FAR Parts 21, 43, and 91, as appropriate, and the aircraft is registered in the United States.

(3) The aircraft must have been inspected in accordance with FAR § 91.409 within the preceding 12-calendar months.

(i) If the government agency plans to use a progressive inspection program, it must submit a written request to the FAA. The request must be sent to the FSDO having jurisdiction over the area in which the applicant is located and the applicant must be able to meet the requirements identified in FAR § 91.409(d).

(ii) Large airplanes, turobjet multiengine airplanes, turbopropeller-powered multiengine airplanes, and turbine-powered rotorcraft must have a program approved that meets the requirements of FAR § 91.409(e).

(4) All maintenance and required inspections must have been completed by a person authorized under FAR Sections 43.3 and 43.7. Additionally, the maintenance and inspections performed must be recorded in accordance with FAR Sections 43.9 and 43.11. FAR Part 43 prescribes the rules governing the maintenance, preventative maintenance, rebuilding, and alteration of civil U.S.-registered aircraft.

(5) Any alterations to the aircraft must have been accomplished and returned to service by an appropriately certified and authorized person under FAR Part 43.

(6) Aircraft operations for compensation or hire must be performed in accordance with the appropriate Air Operations Certificate, e.g., FAR Part 125, 135, etc.

b. *Type Certification.* Prior to airworthiness certification, the type design must be certificated by the FAA. Section 603(c) of the Federal Aviation Act of 1958 makes a type certificate a prerequisite for issuance of airworthiness certificates. Each government operator who wishes to determine the eligibility of its aircraft for civil operations must contact the responsible geographic Aircraft Certification Office (ACO) for assistance in seeking either:

(1) Design approval for aircraft that have been type certificated in the past; or

(2) Type certification approval of aircraft that have been operated in the past under aircraft status without a type certificate.

c. *Aircraft Previously Type Certificated.* If the aircraft was originally built to an FAA type certificate, the Aircraft Certification Office will review the type certificate data and make a comparison with the aircraft's current design and condition.

(1) The applicant should provide the FAA Aircraft Certification Office with the technical information to assist in the following:

(i) A review of type design for any engineering changes or modifications;

(ii) A review of replacement parts and technical data on the replacement parts;

(iii) A review of applicable Airworthiness Directives (AD);

(iv) A review of previous operating regimes;

(v) If needed, application of later regulatory amendments or special conditions for any changes found necessary to establish current airworthiness standards for safe design.

(2) The applicant must provide accurate records of any changes from the approved type design that are necessary to establish the current design. The applicant should update all maintenance manuals as necessary. If there has been a substantial change in the type design, e.g., in the configuration, power, power limitations, speed limitations, or weight that have proven so extensive that a substantially complete investigation of compliance with the applicable regulations is required, the owner will be required to apply for a new type certificate.

d. *Aircraft with No Prior Certification.* It may be difficult to obtain type certification of aircraft that have no history of civil certification. However, if a government operator wishes to apply for type certification, it should file an application for a type certificate on FAA Form 8110.12. The applicant must submit the application and all type design data for the aircraft, including the aircraft's engines and propellers, to the Aircraft Certification Office in its geographic area for approval. The application form must be accompanied by a three-view drawing and available basic data so that a preliminary regulatory certification basis may be established. The applicable airworthiness certification regulations, i.e., FAR Part 23, 25, 27, 29, 33, 35, etc., will be those that are in effect on the date of application for the certificate, unless otherwise noted in the regulations. The applicant must submit the type design, test reports, and computations necessary to show that the product to be certificated meets the applicable airworthiness, aircraft noise, fuel venting, and exhaust emission requirements of the FAR. Upon examining the data and test reports, participating in testing, and inspecting the prototype aircraft, the Administrator must be able to find that the type design in fact complies with the above-mentioned regulations.

e. *Airworthiness Certification.* An operator of an aircraft that has been operated in public aircraft status cannot obtain a standard airworthiness certificate or return the aircraft to civil operations without showing that the aircraft meets all the criteria for that airworthiness certificate as prescribed by the regulations. Making that showing may be difficult when the aircraft has not been maintained, altered, or inspected in accordance with the FAR. In order to receive a standard airworthiness certificate, the operator should show that the aircraft has been maintained according to the manufacturer's instructions, and that any modifications to the aircraft either were removed or approved by the FAA. Before a standard airworthiness certificate can be issued, the applicant must show that:

(1) The aircraft conforms to its approved type design and is in condition for safe operation.

(2) Any alterations were accomplished in accordance with an approved supplemental type certificate (STC) or other FAA approved data, such as a field approval as reflected by the issuance of an FAA Form 337, Major Repair or Alteration.

(3) All applicable AD's have been complied with.

(4) If altered while in another category, the aircraft continues to meet, or has been returned to, its approved type design configuration and is in a condition for safe operation.

f. *Procedures for Obtaining Certificate.* Applicants interested in obtaining an airworthiness certificate must follow the following procedures.

(1) Applicants are required to submit a properly executed Application for Airworthiness, FAA Form 8130–6, and any other documents called for in FAR Parts 21 and 45 for certification. An applicant may obtain an FAA Form 8130–6, "Application for Airworthiness" from the local Manufacturing Inspection district office (MIDO) or FSDO. The applicant must have completed and signed the appropriate sections prior to submitting it to the FAA.

(2) The applicant is required to make available for inspection and review the aircraft, aircraft records, and any other data necessary to establish conformity to its type design.

(3) The applicant must properly register the aircraft in accordance with FAR Part 47, Aircraft Registration.

(4) The applicant is also required to show that the aircraft complies with the noise

standards of FAR §§ 21.93(b), 21.183(e), Part 36, or Part 91, as appropriate. This may be demonstrated through the use of data. Also, the applicant is required to show that the aircraft's fuel venting and exhaust emission systems comply with the requirements of FAR Part 34. In addition, the applicant must show the aircraft meets the applicable passenger emergency exist requirements of FAR Section 21.183(f) and SFAR No. 41.

(5) During the course of the certification process, the FAA will review records and documentation to the extent necessary to establish that:

(i) All of the required records and documentation are provided for the aircraft; i.e., an up-to-date approved flight manual, a current weight and balance report, equipment list, maintenance records, FAA-accepted Instructions for Continued Airworthiness (ICAW) and/or FAA-acceptance maintenance manual(s) (MM), and any other manuals required by FAR §§ 21.31, 21.50, 23.1529, 25.1529, 27.1529, 29.1529, 33.4, and 35.4. These documents must be in the English language.

(ii) The applicant should ensure that the appropriate markings are present in accordance with FAR Part 45. The applicant should make available the Type Certificate Data Sheets (TCDS), aircraft specification, or aircraft listing that is applicable.

(iii) The inspection records and technical data should reflect that the aircraft conforms to the type design, and all required inspections, including those provided for in FAR § 21.183(d)(2), which provides for a 100-hour inspection, as described in FAR § 43.15 and Appendix D. The applicant must also show that the tests the aircraft has been subjected to have been satisfactorily completed, the records completed, and reflect no unapproved design changes.

(iv) The aircraft has been flight tested, if required. If it has not been flight tested, the FAA may issue a special airworthiness certificate as provided for in FAR § 21.35 and 21.191(b). The flight test must be recorded in the aircraft records in accordance with FAR § 91.417(a)(2)(i) as time in service as defined in FAR Part 1. Aircraft assembled by a person other than the manufacturer (e.g., a dealer or distributor) must have been assembled and, when applicable, flight tested in accordance with the manufacturer's FAA-approved procedures.

(v) Large airplanes, turbojet, or turbopropeller multiengined airplanes must comply with the inspection program requirements of Subpart C of FAR Part 91 or other FAR referenced therein. A supplemental structural inspection program is also required for certain large transport category airplanes. Reference AC 91–56, Supplemental Structural Inspection Program for Large Transport Category Airplanes.

(6) Inspection of the aircraft. Aircraft submitted by the applicant for inspection will be inspected for the following:

(i) The nationality and registration marks and identification plate should be displayed and marked in accordance with FAR Part 45. The information presented should agree with the application for airworthiness certification.

(ii) All equipment, both required and optional, should be properly installed and listed in the aircraft equipment list.

(iii) Instruments and placards should be located in the appropriate places, installed, and properly marked in the English language.

(iv) All applicable AD's must have been complied with and appropriately recorded.

(v) The aircraft should conform to its approved U.S. type certificate and should be in a condition for safe operation.

(vi) All aircraft systems should have been satisfactorily checked for proper operation. The operation of the engine(s) and propeller(s) should be checked in accordance with the aircraft manufacturer's instructions.

Chapter 2. Applying for an Exemption

6. Administrator's Exemption Authority

a. *In General.* The FAA Administrator has the authority to grant exemptions, provided certain requirements are met, to units of government for operations that do not have public aircraft status. The Independent Safety Board Act Amendments of 1994, Pub. L. 103–411, provide, in pertinent part:

(1) Authority to Grant Statutory Exemptions.

(i) In General. The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section (the revised "public aircraft" definition).

Note: The above provision authorizes exemptions from the United States Code—specifically, the Federal Aviation Act of 1958, as amended and recodified—rather than from the regulations. The above provision authorizes such exemptions only for operations whose status has changed as a result of the revised definition of public aircraft. This authorization does not apply to operations conducted for commercial purposes, in as much as they were considered civil aircraft operations under both the original and revised definitions.

b. *Statutory Requirements.* The statute provides as follows:

(1) The Administrator may grant an exemption (to a unit of government) * * * only if—

(i) The Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government and

(ii) The Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

Independent Safety Board Act Amendments of 1994, Section (b)(2), Pub. L. 103–411 (emphasis added).

c. *Delegation of Authority.* In the interest of administrative efficiency, the Administrator's authority to grant exemptions to units of government has been delegated to the Director, Flight Standards Service, and the Director, Aircraft Certification Service. FAR Section 11.25(b)(6).

7. Key Statutory Terms

a. *"The Administrator Finds * * * and * * * Certifies."* This language indicates that the Administrator, or his or her delegate, is to make an independent determination as to whether the statutory requirements for granting an exemption have been met. This is in contrast to an earlier portion of the statute in which the unit of government rather than the Administrator makes the required certifications (that the operation was necessary to respond to a significant and imminent threat, and that no private operator was reasonably available to meet the threat).

b. *"Undue Economic Burden."* One finding that the Administrator or his or her delegate must make before granting an exemption is that the exemption is necessary to prevent an undue economic burden on the unit of government. "Undue economic burden" means that it would cost substantially more to comply with FAA regulations than with "an aviation safety program that is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government" under the statute's exemption provision. To show "substantial additional costs," a petitioner for exemption should submit information that will allow the FAA to compare the cost of operating in compliance with Part A of Subtitle VII of Title 49 of the United States Code with comparable costs if an exemption were granted.

c. *"Aviation Safety Program."* The Administrator or the Administrator's delegate may not grant an exemption to a unit of government without certifying that the aviation safety program of the unit of government is "effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government." As a result, in the petition for an exemption, the petitioner must show to the Administrator's satisfaction that the petitioner's aviation safety program is effective and appropriate to ensure safe operations of the type of aircraft operated by the petitioner. Example: A unit of government applies for an exemption on an aircraft whose wings were modified to carry external pods for various surveillance activities. In its proposed aviation safety program, the unit of government would need to identify how the continued airworthiness of the modification will be accomplished. At minimum, the following may be required: a special structural inspection of the wing attach points, additional training for pilots operating the aircraft during pod installations, and flight manual changes to reflect any new operating limitations that may be necessary due to the modifications.

d. *Aircraft with No Previous FAA Type Certification.* It may be difficult for units of government to show that, for aircraft having no previous FAA type certification, e.g., military surplus aircraft, they have "an aviation safety program that is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government." In order to make the "effective and appropriate aviation safety program" finding, the FAA must be assured that the safety of the aircraft in question is comparable to that provided by the FAR. Aircraft that have no history of civil certification often present significant "unknowns" when it comes to such critical safety matters as life-limited parts and aircraft design. Thus, such aircraft often do not have the basis on which to build an aviation safety program that is effective and appropriate to ensure safe operations. A unit of government developing a proposal for an aviation safety program may find the information below helpful:

(1) *Generally.* Subpart E of FAR Part 91 prescribes the rules governing the maintenance, preventative maintenance, and alterations of U.S.-registered aircraft civil aircraft operating within and outside the United States. FAR § 91.403 states that the owner or operator of an aircraft is primarily responsible for maintaining that aircraft in an airworthy condition, including compliance with FAR Part 39. FAR Part 39 describes the requirements for compliance to AD's issued by the FAA.

(2) *Inspection Programs.* Operators of large aircraft, turbojet multiengine airplanes, or turbopropeller powered multiengine airplanes, should select and use one of the four inspection program options outlined in FAR §§ 91.409 (e) and (f).

(i) For one of the four inspection program options, that identified in FAR § 91.409(f)(4), the inspection program submitted should be compared with the manufacturer's recommended program. Where there is no manufacturer's program, a time-tested program should be utilized. The program developed must provide a level of safety equivalent to or greater than that provided by the other inspection options identified in FAR, § 91.409(f).

(ii) For the other three inspection options outlined in FAR §§ 91.409 (e) and (f), the basis for the development of the inspection program or the instructions for continued airworthiness, including the detail of the parts and areas of the airplane to be inspected, is the manufacturer's recommendations. In the case of surplus military aircraft, the manufacturers provide this basic information to the specific military service that has contracted for the airplane. The military service then develops a reliability-centered maintenance program to meet its needs and environment which are often comparable to the continuous airworthiness maintenance programs developed by air carriers.

(iii) In many cases, manufacturers may be unwilling or unable to provide instructions for continued airworthiness for operation of the airplane in other than a military environment. Therefore, in keeping with existing policy as provided by the FAA, the only reasonable basis that for detailing the inspection criteria for the aircraft to be inspected, as required by FAR § 91.409(g)(1), is the scope and detail developed by the applicable military service.

(iv) In addition to the "field" level inspection requirements set forth in the military maintenance program, the "depot" level inspection requirements should also be included in any inspection program approved under FAR § 91.409(f)(4). The military "field" level maintenance is roughly equivalent to the civil terminology that air carriers use to describe "A, B or C" checks. The military "depot" level maintenance is comparable to the "heavy C or D" checks used by air carriers. Some air carriers may use a numerical description verses the alphabetical identifier for inspection checks.

(v) The inspection frequency and program structure established by the military may not be appropriate for use in a civilian environment. Therefore, inspection frequency and program structure may require adjustment to meet the government operator's requirement. However, facts and sound judgment must form the basis for any inspection frequency adjustment beyond that which has been established for use by the military.

(vi) An alternate means of compliance for individual specific inspection requirements, in lieu of that which is called for in the military "field" or "depot" level programs, may be approved following evaluation of the applicant's inspection process instructions.

(vii) Revisions to an operator's existing approved inspection program can be requested by the Administrator in accordance with FAR § 91.415.

(3) *Persons Conducting Inspections and Maintenance.* The program proposed by the petitioner should include procedures to insure that inspections and maintenance tasks are performed by persons authorized by FAR §§ 43.5 and 43.7.

(4) *Modifications and Repairs.* The program must identify all major modifications and repairs accomplished since the aircraft was put into service. Additionally, all further modifications and major repairs will need to be approved in the same format as required for civil aircraft under the regulations.

8. Petition for Exemption

a. *Procedure.* FAR § 11.25—contains the procedures to be followed by a unit of government seeking any kind of exemption. The petition for exemption should be submitted in duplicate to the Rules Docket (AGC–10), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Under FAR Part 11, petitions for exemption are published in the **Federal Register** for notice and comment period.

b. *Contents.* The petition for statutory exemption must set forth the text or substance of the statute from which the exemption is sought. (As noted above, Congress authorized exemptions from the *statute*—the Federal Aviation Act of 1958, as amended and recodified—rather than from the *regulations*). The petition for exemption must contain any information, views, or analysis available to the petitioner to show that the statutory requirements for granting an exemption have been met—i.e.:

(1) That the exemption is necessary to prevent an undue economic burden on the unit of government; and

(2) That the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government. Individuals drafting a petition for exemption on behalf of a unit of government should familiarize themselves with FAR Part 11.

[FR Doc. 95–10052 Filed 4–19–95; 3:14 pm]

BILLING CODE 4910–13–M

Notice of Availability, Draft Environmental Impact Statement for the Proposed Master Plan Update at Seattle-Tacoma International Airport, Seattle, Washington

AGENCY: Federal Aviation Administration (FAA).

ACTION: Draft Environmental Impact Statement Notice of Availability.

SUMMARY: The Federal Aviation Administration (FAA) has released, for public and agency review, the Draft Environmental Impact Statement (DEIS) for the Master Plan Update at Seattle-Tacoma International Airport, Seattle, Washington. This document summarizes the anticipated environmental impacts of the proposed alternatives that include development of a new parallel runway, and additional terminal, landside and cargo facilities. All of the development alternatives will result in floodplain encroachment, wetland filling, stream relocation, property acquisition, as well as other impacts such as changes in noise and air quality.

DATES: In order to be considered, written comments must be received by Mr. Dennis G. Ossenkop, Federal Aviation Administration, Airports Division, 1601 Lind Ave. SW., Renton, WA 98055–4056, on or before August 3, 1995. Questions concerning the draft EIS should also be directed to Mr. Ossenkop.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has released, for public and agency review, the Draft Environmental Impact Statement for the Master Plan Update at Seattle-Tacoma International Airport. This document summarizes the anticipated environmental impacts of the proposed alternatives that include development of a new parallel runway, and additional terminal, landside and cargo facilities. All of the development alternatives will result in floodplain encroachment, wetland filling, stream relocation, and property acquisition, as well as other impacts.

The FAA and the Port of Seattle (owner of the airport), as joint lead agencies, will host two Public Hearings concerning the proposed Master Plan Update alternatives. The first Public Hearing will be held from 1:00 PM to 10:00 PM on Thursday, June 1, 1995 at the Red Lion Hotel near Sea-Tac Airport, 18740 Pacific Highway South,

Seattle, Washington. Simultaneously, an open house/workshop will be conducted to give interested persons an opportunity to meet with representatives from the study team. The date, time and location of the second public hearing will be announced in a future notice.

The purpose of the Hearing is to consider the economic, social, and environmental effects of the proposed Master Plan Development. The public will be afforded the opportunity to present oral testimony and/or written testimony pertinent to the intent of the hearing. Individuals wishing to testify can obtain a pre-reserved testimony slot by calling the FAA at (206) 431–4993. The first half-hour of each hour of the Hearing will be allocated to pre-reserved testimony. Testimony from a group or agency representative will be limited to 5 minutes. All others will be given 3 minutes. Additional comments should be submitted no later than August 3, 1995, to Mr. Dennis Ossenkop, ANM–611, Federal Aviation Administration, Northwest Mountain Region, Airports Division, 1601 Lind Avenue, SW., Renton, WA 98055–4056.

Any person desiring to review the Draft Environmental Impact Statement may do so during normal business hours at the following locations:

Federal Aviation Administration, Airports Division Regional Office, Room 540, 1601 Lind Avenue, SW., Renton, Washington.

Port of Seattle, Aviation Planning, Terminal Building, 3rd Floor, Room 301, Sea-Tac Airport, Seattle, Washington.

Port of Seattle, Second Floor Bid Counter, Pier 66, 2711 Alaskan Way, Seattle, Washington.

Boulevard Park Library, 12015 Roseberg, South, Seattle, Washington.

Burien Library, 14700–6th, SW., Burien, Washington.

Des Moines Library, 21620–11th, South, Des Moines, Washington.

Federal Way Library, 34200–1st South, Federal Way, Washington.

Foster Library, 4205 South 142nd, Tukwila, Washington.

Seattle Library, 1000–4th Avenue, Seattle, Washington.

Tacoma Public Library, 1102 Tacoma Avenue, South, Tacoma, Washington.

University of Washington, Suzallo Library, Government Publications, Seattle, Washington.

Valley View Library, 17850 Military Road, South, SeaTac, Washington.

Issued in Renton, Washington on April 14, 1995.

Lowell H. Johnson,

Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 95–10038 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss general aviation operations issues.

DATES: The meeting will be held on May 16, 1995, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Aircraft Owners and Pilots Association, 421 Aviation Way, Frederick, MD.

FOR FURTHER INFORMATION CONTACT: Mr. Louis C. Cusimano, Assistant Executive Director for General Aviation Operations, Flight Standards Service (AFS–800), 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267–8452; FAX: (202) 267–5094.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss general aviation operations issues. This meeting will be held on May 16, 1995, at 9:30 a.m., at the Aircraft Owners and Pilots Association, 421 Aviation Way, Frederick MD. The agenda for this meeting will include status reports from the part 103 (Ultralight Vehicles) Working Group and the VHF Navigation and Communications Working Group. In addition, the IFR Fuel Requirements/ Destination and Alternate Weather Minimums Working Group will present a concept briefing at the meeting, and the ARAC members will vote whether or not the working group should begin drafting a recommendation. Members of the public may contact Cindy Herman, ARM–108, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–7627, fax (202) 267–5075 to obtain a copy of the briefing prior to the meeting.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading FOR FURTHER INFORMATION CONTACT.

Issued in Washington, DC on April 18, 1995.

Louis C. Cusimano,

Assistant Executive Director for General Aviation Operations, Aviation Rulemaking Advisory Committee

[FR Doc. 95–10039 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee to discuss rotorcraft issues, current rulemaking actions, and future activities and plans.

DATES: The meeting will be held on May 12, 1995, 8 a.m. Arrange for oral presentations by April 28, 1995.

ADDRESSES: The meeting will be held at the FAA Southwest Regional Office, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76137–0110.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Herber, Office of Rulemaking, Aircraft & Airport Rules Division, ARM–200, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3498.

SUPPLEMENTARY INFORMATION: The referenced meeting is announced pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II). The agenda will include:

- Status reports on:
  - Final rules resulting from the ARAC recommendations on "Occupant Protection" Notice of Proposed Rulemaking (NPRM) 94–8 (59 FR 17156) and "Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirements" NPRM 94–36 (59 FR 57066).
  - Status of the development of a recommendation regarding Class D external loads.
  - Progress on the efforts to identify new upper weight/passenger limits for Normal Category Rotorcraft.
- Presentation for approval of the "Work Plan" and the "Concept" for resolution of each of the following assigned tasks:
  - Harmonization of Miscellaneous Rotorcraft Regulations.
  - Critical parts.
  - Performance and Handling Qualities Requirements.
- Review of future rotorcraft issues.
  - Performance and Handling Qualities Requirements.
- Review of future rotorcraft issues.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by April 28, 1995, to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 16 copies to the Assistant Chair or by providing the copies to him at the meeting. In addition, sign and oral interpretation, as well as a listening device, can be made available at the meeting if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading FOR FURTHER INFORMATION CONTACT.

Issued in Fort Worth, Texas, on April 18, 1995.

Mark R. Schilling,

Assistant Executive Director for Rotorcraft Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–10040 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–M

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on May 10, 1995, at 9 a.m. Arrange for oral presentations by April 28, 1995.

ADDRESSES: The meeting will be held at the Aerospace Industries Association of America, 1250 Eye Street, NW., Goddard A/B, Washington, DC, 9 a.m.

FOR FURTHER INFORMATION CONTACT: Miss Jean Casciano, Federal Aviation Administration (ARM–25), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on May 10, 1995, at the Aerospace Industries Association, 1250 Eye Street, NW., Goddard A/B, Washington, DC, 9 a.m. The agenda will include:

- ARAC mailouts
- A follow-up on open action items
- A briefing on the digital information initiative
- Notable comments on specific issues
- EXCOM involvement in tasking and setting of priorities
- Other business

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by April 28, 1995, to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading FOR FURTHER INFORMATION CONTACT.

Issued in Washington, DC, on April 17, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–1004 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Pensacola Regional Airport, Pensacola, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Pensacola Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 24, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Frank R. Miller, Airport Director, Pensacola Regional Airport, at the following address: Pensacola Regional Airport, 2430 Airport Boulevard, Pensacola, Florida 32504–8977.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Pensacola under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra A. Nazar, Program Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397, telephone 407–648–6586. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Pensacola Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation regulations (14 CFR Part 158).

On April 14, 1995, the FAA determined that the application to use the revenue from a PFC submitted by the City of Pensacola was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 10, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 1993.

Proposed charge expiration date: April 1, 1995.

Total estimated PFC revenue: $585,000.

Brief description of proposed project(s): Install Vegatation Barrier, Purchase Avigation Easement.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/ Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under FOR FURTHER INFORMATION CONTACT.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Pensacola.

Issued in Orlando, Florida on April 14, 1995.

Charles E. Blair,

Manager, Orlando Airports District Office Southern Region.

[FR Doc. 95–10037 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 94–48; Notice 2]

John Russo Industrial, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

John Russo Industrial, Inc. (Russo) of San Jose, California, determined that some of its trucks failed to comply with requirements of several Federal motor vehicle safety standards (FMVSS) in 49 CFR Part 571. These are FMVSS No. 113, "Hood Latch Systems," FMVSS No. 120, "Tire Selection and Rims for Motor Vehicles other than Passenger Cars," FMVSS No. 205, "Glazing Materials," and FMVSS No. 207, "Seating Systems." All these noncompliances were discovered on July 13, 1993 during inspection of vehicles by NHTSA's Office of Vehicle Safety Compliance (File NCI 3288). Russo filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Russo also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) (now 49 U.S.C. 30118 and 30120) on the basis that the noncompliances were inconsequential as they relate to motor vehicle safety. This notice grants the petition.

Notice of receipt of the petition was published on June 9, 1994 (59 FR 29861), and an opportunity afforded for comment. Comments on the petition were received from Donald W. Beams (Fleet Manager, Vehicle Maintenance Division, Department of General Services, City of San Jose); R. A. Gaffney (a senior member of the board of the California Fire Chief's Mechanics Education Committee); and Darlene E. Skelton. These commenters recommended that the petition be denied. Comments on the safety issues were also received from the Fire Marshal of the State of California, Ronny J. Coleman.

1. FMVSS No. 113, "Hood Latch Systems"

In 1991, Russo completed two vehicles which do not comply with the hood latching requirements in S4.2 of FMVSS No. 113, in that panels opening on the front were not provided with a second latch position on the hood latch system or with a second hood latch system. With respect to this noncompliance, Russo argued:

[49 CFR 571.113 S3] definition, "Hood means any movable exterior body panel forward of the windshield that is used to cover [an] engine, luggage, storage, or battery compartment." The forward face panels on our vehicles are below the windshield, and are not used as compartment, storage, or any criteria to classify it as a hood.

Paragraph S4.2 of standard 113 states: "A front opening hood which, in any open position partially or completely obstructs a driver's forward view through the windshield must be provided with a second latch position on the hood latch system or with a second hood latch system."

The access panels in question are not classified as a hood mechanism, therefore [they] do not need to follow these guidelines. If the panel were left open it would not obstruct the driver's view enough to cause a driving hazard.

Our testing of this design consisted of the air flow testing of up to 78 mph with a head wind of 14 mph that brought the total air speed to 92 mph. Air flow only holds the access panel down more securely. The panel cannot fly up as a result of the air flow.

Panels of similar design are easily found on hundreds of thousands of on-road vehicles including GMC Astro 9500, Chevrolet Titan 90, Ford CLT 9000, Freight Liner cab overs, and many other vehicles * * *.

The Hazmat and Command vehicles are built with windshields which are much larger than those of typical van or cab over engine type vehicles. This large windshield is provided partially as a styling feature and partly to provide exceptional visibility in low speed maneuvering situations. The small area of windshield which would be blocked if the access panel could physically be lifted up by air flow, would not even be in the field of view on typical vehicles in this class.

The City of San Jose disputes Russo's contention that the panel is not a hood, saying that the front compartment "has some storage capacity." Commenters expressed concern that the panel could rise and strike the windshield. The Fire Marshal asks whether a standard has been developed for air flow tests; if no standard exists, the panel's performance in Russo's tests is an inadequate justification for granting the petition.

NHTSA has reviewed Russo's arguments and the comments received. The agency accepts the manufacturer's position that the panels do not cover the engine, luggage or storage space, or battery compartment. The panel, therefore, would not appear to be a "hood" within the meaning of the standard's definition. Even if it were a hood, Russo's 92 mph wind tests provide a measure of assurance that the airflow increases the pressure on the panels, making it unlikely that the wind could blow the panels open. Even if the panels do blow open, any obstruction to the operator's view is minor and affects visibility only through the lowest portion of the windshield.

2. FMVSS No. 120, "Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars"

Seventeen vehicles completed or modified by Russo from 1989 through 1991 do not have the label required by S5.3 of FMVSS No. 120, which includes the size designation of the tires, the size designation of the rims, and the cold inflation pressure of the tires. According to Russo, the noncompliances are due to removal of labels after the purchaser took delivery of the vehicles. It commented that

Without waiving this petition for exemption due to inconsequential non-compliance, we will notify the Deputy Chief of the San Jose Fire Dept. of our offer to supply and install new decals if they wish in a coordinated verifiable supervised manner. We shall document it for NHTSA and send NHTSA all copies of the labels.

The City of San Jose comments that it has no records that the labels were installed or removed. Darlene E. Skelton says that the same noncompliance can be found on Russo vehicles provided to fire departments other than those of San Jose. The Fire Marshal notes that Russo has offered to provide the labels.

Russo's provision of the labels is the same remedy that other manufacturers with similar noncompliances have performed in the absence of an inconsequentiality petition. Thus, this action moots the petition for relief from remedy. Russo's notification letter to the Fire Department does not contain all the information required by 49 CFR Part 577, but the omissions (safety warnings, DOT address, etc.) are not critical in this case where there is only one owner, who is aware of the problem and who has contacted NHTSA already with comments on it.

3. FMVSS No. 205, "Glazing Materials"

In 1991, Russo completed two vehicles that do not comply with the glazing materials marking requirements in Section 6 of FMVSS No. 205, which state that windshields must be marked AS–1 and windows to the right and left of the driver's position must be marked AS–2. The subject vehicles have no marking on the windshields, and the markings on the windows to the right and left of the driver's position are AS–3, not AS–2. Russo provided a photocopy of a purchase order for AS–1 windshield glass which it claims were used for the windshields. Russo further provided a copy of a letter from the supplier of the cockpit side windows stating that the windows in question were marked AS–3. Russo argued:

The windshields that were installed in these vehicles were labeled AS–1.

The [installers] had shown us the windshield label on the windshield stock plate before the installation and fitting process. The San Jose Fire Dept.'s Battalion Chief Master Mechanic was also shown the label at this time and he said this to Mr. Shifflet [of NHTSA's Office of Vehicle Safety Compliance] during his visit.

We have a sample of the label that the glass company that supplies the Fire Dept. And all of California had supplied(sic) to show DOT.

The windshield that was supplied to us by San Jose Glass contained this label:

Laminated
16 CFR 1201 M550
CATT II AS–1
DOT 273

* * * * *

The labeling on the driver's and passenger's window is also inconsequential to vehicle safety as shown by supporting data that the glass manufacturer uses all the same AS 2 glass except for a very slight insignificant light transmission in AS-certified configuration.

The City of San Jose notes that the side windows are AS–3 rather than AS–2. Darlene E. Skelton and the Fire Marshal note that the noncompliance is easily remedied by the installation of new glass. The Fire Marshal also believes that the windshield should be marked to bring it into full compliance with Standard No. 205.

Because all windshields are required to be AS–1 glazing, NHTSA is confident that, if the unmarked windshields have to be replaced, the replacement windshield will be AS–1 glazing. The agency does not concur with Russo's characterization of the substitution of AS–3 glazing for AS–2 glazing as resulting in "a very slight insignificant light transmission", but it does conclude that, because the noncompliance exists in only two vehicles, it will have an inconsequential effect on safety.

4. FMVSS No. 207, "Seating Systems"

In April 1991, Russo produced one Command/Communications van (1989 Gillig chassis) with an 18,000 pound gross vehicle weight rating. The vehicle is a specially configured portable meeting room for use at the scene of disasters. It is a closed, straight body van-type vehicle consisting essentially of a cab for vehicle operation and a cargo area which Russo converted into a conference room.

Section 4.4 of FMVSS No. 207 requires that all seats not designed to be occupied while the vehicle is in motion are to be conspicuously labeled to that effect. The seats located in the meeting room area of this vehicle are not designed to be occupied while the vehicle is being operated, but are not labeled as such.

Subsequent to its petition, Russo agreed to provide the labels for the seats in question. This moots its penalty for exemption from the statutory remedial requirements. Any failures to comply with the letter of the notification requirements of Part 577 are less significant in the case where notification is to be provided a single owner who is aware of the noncompliance and has commented to NHTSA on it.

Accordingly, in consideration of the foregoing, it is hereby found that the petitioner has met its burden of persuasion that the noncompliances herein described are inconsequential to motor vehicle safety, and its petition is granted.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 18, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–10000 Filed 4–21–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; Computer Matching Programs

AGENCY: Internal Revenue Service; Treasury Department.

ACTION: Notice.

SUMMARY: Pursuant to Section 552a(e)(12) of the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of Internal Revenue Service computer matching programs.

In accordance with various provisions of section 6103 of the Internal Revenue Code (IRC) of 1986, the computer matching programs provide Federal, State, and local agencies with tax information from IRS records to assist them in administering the programs and activities described hereafter. The purpose of these programs is to prevent or reduce fraud and abuse in certain Federally assisted benefit programs and facilitate the settlement of government claims while protecting the privacy interest of the subjects of the match. The matches are conducted on an on-going basis in accordance with the terms of the Computer Matching Agreement in effect with each participant as approved by the Data Integrity Boards of both agencies, and for the period of time specified in such Agreement. Members of the public desiring specific information concerning an on-going matching activity may request a copy of the agreement at the address provided below.

EFFECTIVE DATE: June 5, 1995.

ADDRESSES: Inquiries may be mailed to Director, Office of Disclosure, Internal Revenue Service, P.O. Box 795, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Gwen Collins, Program Manager, Privacy Act and Education Branch, Internal Revenue Service, (202) 622–6240.

SUPPLEMENTARY INFORMATION: The nature, purposes, and authorities for IRS computer matching programs are as follows:

Matches Conducted Pursuant to IRC 6103(1)(7)

The Service is required, upon written request, to disclose current information from returns with respect to unearned income to any Federal, State, or local agency administering federally-assisted benefit programs which provide:

(a) Aid to Families with Dependent Children (AFDC) under a State Plan approved under Part A of Title IV of the Social Security Act;

(b) Medical assistance under a State plan approved under Title XIX of the Social Security Act;

(c) Supplemental Security Income benefits under Title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93–66, 87 Stat. 155);

(d) Any benefits under a State plan approved under Titles I, X, XIV or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam and the Virgin Islands);

(e) Unemployment Compensation under a State law as described in section 3304 of the Internal Revenue Code;

(f) Assistance under the Food Stamp Act of 1977; and

(g) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93–66);

(h) Needs-based pensions under United States Code (USC) Title 38, Chapter 15 or under any other law administered by the Secretary of Veterans Affairs;

(i) Parents' dependency and indemnity compensation under section 1315 of Title 38, USC;

(j) Health-care services under sections 1710(a)(1)(I), 1710(a)(2), 1710(b) and 1712(a)(2)(B) of USC Title 38;

(k) Compensation under chapter 11 of Title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule; and

(l) Any housing assistance administered by the Department of Housing and Urban Development that involves initial and periodic review of an applicant's or participant's income.

Information is disclosed by the Service only for the purpose of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under the aforementioned programs.

The return information is extracted on a monthly basis from the Internal Revenue Service Wage and Information Returns Processing File (Treas./IRS System 22.061 (IRP)) for the latest tax year. This file contains information returns (e.g., Forms 1099–DIV, 1099–INT AND w–2G) filed by payers of income.

Federal agencies expected to participate in (1)(7) matches, and their Privacy Act systems of records:

(1) Department of Health and Human Services, Administration for Children and Families (Income and Eligibility Verification for Aid to Families With Dependent Children Quality Control (AFDC–QC) Review, HHS/ACF/OFA 09–80–0201).

(2) Department of Health and Human Services, Health Care Financing Administration (Income and Eligibility Verification for Medicaid Eligibility Quality Control Reviews System, HHS/HCFA/MB 09–07–2006);

(3) Department of Housing and Urban Development, Office of Public and Indian Housing (Tenant Assistance and Contract Verification Data System, HUD/H–11);

(4) Department of Verterans Affairs, Veterans Benefits Administration (Compensation, Pension, Education and Rehabilitation Records, 58 VA 21/22; and Loan Guaranty Home, Condominium, and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records and Vendee Loan Applicant Records, 55VA26);

(5) Department of Veterans Affairs, Veterans Health Administration (Patient Medical Records-VA, 24VA136); and

(6) Social Security Administration, Office of Supplemental Security Income (Supplemental Security Record (SSR), HHS/SSA/OSR 90–60–0103).

State agencies expected to participate in (1)(7) matches are using a non-Federal system of records:

(1) Alabama Department of Human Resources
(2) Alabama Medicaid Agency
(3) Alaska Department of Health and Social Services
(4) Arizona Department of Economic Security
(5) Arkansas Department of Human Services
(6) California Department of Social Services
(7) Colorado Department of Social Services
(8) Connecticut Department of Social Services
(9) Delaware Department of Health and Social Services
(10) District of Columbia Department of Human Services
(11) Florida Department of Health and Rehabilitative Services
(12) Georgia Department of Human Resources
(13) Guam Department of Public Health and Social Services
(14) Hawaii Department of Human Services
(15) Idaho Department of Health and Welfare
(16) Illinois Department of Public Aid
(17) Indiana Department of Public Welfare
(18) Iowa Department of Human Services
(19) Kansas Department of Social and Rehabilitative Services
(20) Kentucky Cabinet for Human Resources
(21) Louisiana Department of Social Services
(22) Louisiana Department of Health and Hospitals
(23) Maine Department of Human Services
(24) Maryland Department of Human Resources
(25) Massachusetts Department of Public Welfare
(26) Michigan Department of Social Services
(27) Minnesota Department of Human Services
(28) Mississippi Department of Human Services
(29) Mississippi Division of Medicaid
(30) Missouri Department of Social Services
(31) Montana Department of Social and Rehabilitation Services
(32) Nebraska Department of Social Services
(33) Nevada State Welfare Division
(34) New Hampshire Division of Human Services
(35) New Jersey Department of Human Services
(36) New Mexico Human Services Department
(37) New York Department of Social Services
(38) North Carolina Department of Human Resources
(39) North Dakota Department of Human Services
(40) Ohio Department of Human Services
(41) Oklahoma Department of Human Services
(42) Oregon Department of Human Resources
(43) Pennsylvania Department of Public Aid
(44) Puerto Rico Department of Social Services
(45) Puerto Rico Department of Health
(46) Rhode Island Department of Human Services
(47) South Carolina Department of Social Services
(48) South Dakota Department of Social Services
(49) Tennessee Department of Human Services
(50) Texas Department of Human Services
(51) Utah Department of Social Services
(52) Vermont Agency for Human Services
(53) Virgin Islands Department of Human Services
(54) Virgin Islands Bureau of Health Insurance and Medical Assistance
(55) Virginia Department of Social Services
(56) Washington Department of Social and Health Services
(57) West Virginia Department of Human Services
(58) Wisconsin Department of Health and Social Services
(59) Wyoming Department Family Services

Matches Conducted Pursuant to IRC 6103(m)(2)

The Service may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayor to collect or compromise a Federal claim against the taxpayer in accordance with sections 3711, 3717, and 3718 of Title 31 of the United States Code. This section also provides for the redisclosure of a taxpayer's mailing address to a consumer reporting agency, but only to allow for the preparation of a commercial credit report on the taxpayer for use by the requesting Federal agency in accordance with the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982.

The IRS information provided is extracted weekly from the Individual Master File (IMF) (Treas./IRS System 24.030).

Federal agencies participating in (m)(2) matches and the Privacy Act systems of records involved, are:

(1) U.S. Army Community and Family Support Center (Nonappropriated Fund Accounts Receivable System (A0215–16SAFM));

(2) Defense Finance & Accounting Service, Indianapolis Center (A0037–104–1bSAFM Debt Management System);

(3) Equal Employment Opportunity Commission (Claim Collection Record (EEOC–10));

(4) Health Resources & Services Administration (Loan Repayment/Debt Management Records System (HHS/HRSA/OA 09–15–0045));

(5) Department of Housing & Urban Development (Accounting Records (HUD/DEPT–2));

(6) Defense Finance and Accounting Service, Kansas City Center (Debt Management and Collection System (N07430–1));

(7) National Institute of Health (IRS Address Request System (116841));

(8) Defense Finance and Accounting Service, Cleveland Center (Debt Management and Collection System (N07430–1));

(9) Navy Exchange Services Command (Bad Check and Indebtedness List (N04066–1));

(10) Railroad Retirement Board (Railroad Unemployment and Sickness Insurance Benefit System (RRB–21); Railroad Retirement, Survivor and Pensioner Benefit System (RRB–22); and Uncollectible Benefit Overpayment Accounts (RRB–42));

(11) Social Security Administration (Supplemental Security Income Record (HHS/SSA/OSR 09–60–0103); and Master Beneficiary Record (HHS/SSA/OSR 09.60.0090));

(12) Department of Education (Guaranteed Student Loan Program Pre-Claims Assistance System (ED 18–40–0031); Financial Management Information System (18–40–0033); Payroll, Attendance and Leave Records (18–11–0008); National Defense Student Loan File System (18–40–0025); and Guaranteed Student Loan Paid Claim Files System (18–40–0026));

(13) Department of Health & Human Services (Administrative Claims System (HHS/OS/OGC 09–90–0062)); and

(14) Department of Veterans Affairs (Compensation, Pension, Education and Rehabilitation Records (58VA21/22/28) and Loan Guarantee Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records (55VA26));

Matches Conducted Pursuant to IRC 6103(m)(4)

Upon written request from the Secretary of Education, the Service may disclose the mailing address of any taxpayer who has defaulted on certain loans extended under the Higher Education Act or Migration and Refugee Assistance Act for purposes of locating such taxpayer to collect the loan. This section further provides for the redisclosure by the Secretary of Education of a taxpayer's mailing address to any lender, or any State or nonprofit guarantee agency, participating under the Higher Education Act, or any educational institution with which the Secretary of Education has an agreement under that Act.

Redisclosure is made by the Secretary of Education for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.

The IRS information provided is extracted from the IMF (Treas./IRS System 24.030). The U.S. Department of Education matches the Guaranteed Student Loan Program Pre-Claims Assistance System (ED 18–40–0031) with the IMF.

Matches Conducted Pursuant to IRC 6103(m)(5)

Upon written request from the Secretary of Health and Human Services (HHS), the Service may disclose the mailing address of any taxpayer who has defaulted on certain loans extended under the Public Health Service Act for purposes of locating such taxpayer to collect the loan. This section also provides for the redisclosure by the Secretary of HHS of a taxpayer's mailing address to any school with which the Secretary has an agreement under the Public Health Service Act, or any eligible lender participating under such Act.

Redisclosure is made by the Secretary of HHS for use only by officers, employees, or agents of such school or eligible lender whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under the Public Health Service Act for the purposes of collecting such loans.

The IRS information provided is extracted from the IMF (Treas./IRS System 24.030). The Department of Health and Human Services matches the Public Health Service and National Health Service Corps Provider Records System (HHS/HRSA/BHCDA 09–15–0037) with the IMF.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Dated: April 14, 1995.

Alex Rodriguez,
Deputy Assistant Secretary (Administration).

[FR Doc. 95–10049 Filed 4–21–95; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF VETERANS AFFAIRS

Persian Gulf Expert Scientific Committee; Meeting

The Department of Veterans Affairs, (VA), in accordance with Pub. L. 92–463, gives notice that meetings of the VA Persian Gulf Expert Scientific Committee will be held on: Monday, June 26, 1995, at 9:00 a.m.–5:00 p.m., Tuesday June 27, 1995, at 8:30 a.m.–12:01 p.m. The location of the meeting will be 801 I Street, NW., Washington, DC, room 1105.

The Committee's objectives are to advise the Under Secretary for Health about medical findings affecting Persian Gulf era veterans.

At this meeting the Committee will review all aspects of patient care and medical diagnoses and will provide professional consultation as needed. The Committee may advise on other areas involving research and development, veterans benefits and/or training aspects for patients and staff.

All portions of the meeting will be open to the public except from 4:00 p.m. until 5:00 p.m. on June 26, 1995, and 11:00 a.m. until 12:01 p.m. on June 27, 1995. During these executive sessions discussions and recommendations will deal with medical records of specific patients and individually identifiable patient medical histories. The disclosure of this information would constitute a clearly unwarranted invasion of personal privacy. Closure of these portions of the meetings is in accordance with subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, and as cited in 5 U.S.C. 552b(c)(6).

Additional information concerning these meetings may be obtained from the Chairperson, Office of Public Health & Environmental Hazards, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: April 14, 1995.

By Direction of the Secretary.
Heyward Bannister,
Committee Management Officer.
[FR Doc. 95-9987 Filed 4-21-95; 8:45 am]
BILLING CODE 8320-01-M

Advisory Committee on Women Veterans; Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that a meeting of the Advisory Committee on Women Veterans will be held June 27-28, 1995, in Washington, DC. The purpose of the Advisory Committee on Women veterans is to advise the Secretary regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs administered by the Department of Veterans Affairs, and the activities of the Department of Veterans Affairs designed to meet such needs. The Committee will make recommendations to the Secretary regarding such activities.

The sessions will convene on June 27, 9:00 a.m. to 4:30 p.m.; and on June 28, 9:00 a.m. to 12 noon in room 230, VA Central Office Building, 810 Vermont Avenue, NW., Washington, DC. All sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Maryanne Carson, Department of Veterans Affairs (phone 202/273-5078) prior to June 8, 1995.

Dated: April 14, 1995.
By Direction of the Secretary.
Heyward Bannister,
Committee Management Officer.
[FR Doc. 95-9989 Filed 4-21-95; 8:45 am]
BILLING CODE 8320-01-M

Privacy Act of 1974, Amendment of System of Records, Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22)

AGENCY: Department of Veterans Affairs.
ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) is considering adding two new routine uses to, and amending the storage policies for the records in, the system of records entitled Compensation, Pension, Education and Rehabilitation Records—VA (58VA21/22) published at 41 FR 9294 (03/03/76), and amended at 43 FR 3984 (01/30/78), 43 FR 15026 (04/10/78), 43 FR 23797 (06/01/78), 45 FR 57641 (08/28/80), 45 FR 77220 (11/21/80), 47 FR 367 (01/05/82), 47 FR 16132 (04/14/482), 47 FR 4072 (09/15/82), 48 FR 1364 (01/12/83), 48 FR 15994 (04/13/83), 48 FR 39197 (08/29/83), 48 FR 52798 (11/22/83), 49 FR 23974 (06/08/84), 49 FR 36046 (09/13/84), 50 FR 10886 (03/18/85), 50 FR 31453 (06/28/85), 50 FR 31453 (08/02/85), 51 FR 24781 (07/08/86), 51 FR 28289 (08/06/86), 51 FR 36894 (10/16/86), 52 FR 4078 (02/09/87), 54 FR 36933 (09/05/89), 55 FR 28508 (07/11/90), 55 FR 42540 (10/19/90), 56 FR 15667 (04/17/91), 56 FR 16354 (04/22/91), 57 FR 12374 (04/09/92), 57 FR 44007 (09/23/92), 58 FR 38164 (07/15/93) and 58 FR 54643 (10/22/93).

VA has published a notice of final rulemaking (59 FR 47062 (September 14, 1994)) amending its regulations to add sections 38 CFR 14.640 through 14.643 to provide for expanded remote access to computerized claims records by individuals approved by the Department to represent claimants before VA in the preparation, presentation, and prosecution of claims for veterans' benefits.

Those regulations provide that VA would disclose information concerning how these representatives use their access privileges in two circumstances for which routine uses do not currently exist. First, if VA is considering whether to revoke the individual representative's access privileges generally, VA will then notify the representative's employer.

Second, if the representative is licensed by a governmental entity, such as a state bar association, VA will report the conduct of the representative to that entity after revocation of access privileges if VA concludes that the conduct which was the basis for revocation of access privileges merits reporting.

These two routine uses would add provisions to allow the release of information concerning the conduct of individual representatives in both these cases.

VA has determined that release of information under the circumstances described above is a necessary and proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate.

VA is also amending the storage policies and practices for the records in this system of records to reflect the policies and practices applicable to claimants' representatives and attorneys who are granted access to automated claimant's record.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amended routine use statements to the Director, Office of Regulations Management(02), 810 Vermont Avenue, NW, Washington, DC 20420. All relevant material received before May 24, 1995, will be considered. All written comments received will be available for public inspection at the Office of Regulations Management, room 1176, 801 I Street, NW., Washington, DC 20001 only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays) until June 5, 1995.

If no public comment is received during the 30 day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Department of Veterans Affairs, the amendments to 58VA21/22 included herein are effective May 24, 1995.

Approved: April 10, 1995.
Jesse Brown,
Secetary of Veterans Affairs.

Notice of Amendment to System of Records

The system of records identified as 58 VA 21/22, "Compensation, Pension, Education and Rehabilitation records—VA" published at 41 FR 9294 (03/03/76) and amended at 43 FR 3984 (01/30/78), 43 FR 15026 (04/10/78), 43 FR 23797 (06/01/78), 45 FR 57641 (08/28/80), 45 FR 77220 (11/21/80), 47 FR 367 (01/05/82), 47 FR 16132 (04/14/482), 47 FR 4072 (09/15/82), 48 FR 1364 (01/12/83), 48 FR 15994 (04/13/83), 48 FR 39197 (08/29/83), 48 FR 52798 (11/22/83), 49 FR 23974 (06/08/84), 49 FR 36046 (09/13/84), 50 FR 10886 (03/18/85), 50 FR 31453 (06/28/85), 50 FR 31453 (08/02/85), 51 FR 24781 (07/08/86), 51 FR 25141 (07/10/86), 51 FR 28289 (08/06/86), 51 FR 36894 (10/16/86), 52 FR 4078 (02/09/87), 54 FR 36933 (09/05/89), 55 FR 28508 (07/11/90), 55 FR 42540 (10/19/90), 56 FR 15667 (04/17/91), 56 FR 16354 (04/22/91), 57 FR 12374 (04/09/92), 57 FR 44007 (09/23/92), 58 FR 38164 (07/15/93) and 58 FR 54643 (10/22/93), is amended by adding the following:

58 VA 21/22

SYSTEM NAME:

Compensation, Pension, Education and Rehabilitation Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSES OF SUCH USES:

* * * * *

59. The name and address of a prospective, present, or former accredited representative, claims agent or attorney and any information concerning such indjvidual which is relevant to a refusal to grant access privileges to automated veterans claims records, or a potential or past suspension or termination of such access privileges may be disclosed to the entity employing the individual to represent veterans on claims for veterans benefits.

60. The name and address of a former accredited representative, claim agent or attorney, and any information concerning such individual, except a veteran's name and home address, which is relevant to a revocation of such access privileges may be disclosed to an appropriate governmental licensing organization where VA determines that the individual's conduct which resulted in revocation merits reporting.

* * * * *

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records (or information contained in records) are maintained on paper documents in claims file folders (e.g., "C" file folders, educational file folders and vocational rehabilitation folders) and on automated storage media (e.g., microfilm, microfiche, magnetic tape and disks). Such information may be accessed through a data telecommunication terminal system designated the Benefits Delivery Network (BDN). BDN terminal locations include VA Central Office, regional offices, some VA health care facilities, Department of Defense Finance and Accounting Service Centers and the U.S. Coast Guard Pay and Personnel Center.

Remote on-line access is also made available to authorized representatives of claimants and to attorneys of record for claimants. A VA claimant must execute a prior written consent or a power of attorney authorizing access to his or her claims records before VA will allow the representative or attorney to have access to the claimant's automated claims records. Access by representatives and attorneys of record is to be used solely for the purpose of assisting an individual claimant whose records are accessed in a claim for benefits administered by VA.

Information relating to receivable accounts owed to VA, designated the Centralized Accounts Receivable System (CARS), is maintained on magnetic tape, microfiche and microfilm. CARS is accessed through a data telecommunications terminal system at St. Paul, Minnesota.

* * * * *

RETRIEVABILITY:

The proposed change should have no effect upon the current RETRETVABILITY policies or practices.

* * * * *

SAFEGUARDS:

1. *Physical Security:* (a) Access to working spaces and claims folder file storage areas in VA regional offices and centers is restricted to VA employees on a need-to-know basis. Generally, file areas are locked after normal duty hours and the offices and centers are protected from outside access by the Federal Protective Service or other security personnel. Employee claims file records and claims file records of public figures are stored in separate locked files. Strict control measures are enforced to ensure that access to and disclosure from these claims file records are limited to a need-to-know basis.

(b) Access to BDN data telecommunications network is by authorization controlled by the site security officer who is responsible for authorizing access to the BDN by a claimant's representative or attorney approved for access in accordance with VA regulations. The site security officer is responsible for ensuring that the hardware, software and security practices of a representative or attorney satisfy VA security requirements before granting access. The security requirements applicable to access to automated claims files by VA employees also apply to access to automated claims files by claimants' representatives or attorneys. The security officer is assigned responsibility for privacy-security measures, especially for review of violation logs, information logs and control of password distribution, including password distribution for claimants' representatives.

(c) Access to data processing centers is generally restricted to center employees, custodial personnel, Federal Protective Service and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons provided access to computer rooms are escorted.

(d) Employee production records are identified by the confidential BDN access number, not name, and are protected by management/supervisory personnel from unauthorized disclosure in the same manner as other confidential records maintained by supervisors.

2. *BDN System Security:* (a) Usage of the BDN system is protected by the usage of "logan" identification passwords and authorized function passwords. The passwords are changed periodically. These same protections apply to remote access users.

(b) At the data processing centers, identification of magnetic tapes and disks containing data is rigidly enforced using labeling techniques. Automated storage media which are not in use are stored in tape libraries which are secured in locked rooms. Access to programs is controlled at three levels: Programming, auditing and operations. Access to the data processing centers where HUD maintains CAIVRS is generally restricted to center employees and authorized subcontractors. Access to computer rooms is restricted to center employees and authorized operational personnel through electronic locking devices. All other persons granted access to computer rooms are escorted.

Files in CAIVRS use social security numbers as identifiers. Access to information files is restricted to authorized employees of participating agencies and authorized employees of lenders who participate in the agencies' programs. Access is controlled by agency distribution of passwords. Information in the system may be accessed by use of a touch-tone telephone by authorized agency and lender employees on a "need-to-know" basis.

* * * * *

Report of Intention to Alter Federal Notice of System of Records for "Compensation, Pension, Education and Rehabilitation Records—VA" 58 VA 21/22

Purpose

Amending this system of records will allow VA to use information maintained by this system of records to be used to revoke the access of claimant's representatives to the system of records for violation of the provisions of 38 CFR 14.640 through 14.643.

Authority

Regulations 38 CFR 14.640 through 14.643.

Probable or Potential Effect on the Privacy of Individuals

These changes should have minimal effect on the privacy rights of individuals. They will permit VA to use information contained in this system of records to revoke access to this system to representatives of claimants who violate the provisions of regulations 38 CFR 14.640 through 14.643.

Steps Taken to Minimize Risks

VA will safeguard individual records as required by the Privacy Act of 1974. Access to working areas and claims

folder storage areas in VA regional offices is restricted to VA employees on a need to know basis. Files are locked afternormal duty hours and the offices are protected from outside access by the Federal Protective Service or other security personnel. Access to automated VA records by VA employees and authorized representatives of claimants requires clearance by the site security officer, whose responsibilities include control of password distribution.

Satisfaction of Compatibility Requirements of Subsection (a)(7) of the Privacy Act

These routine uses will permit VA to disclose information from the BDN system to service organizations whenever VA contemplates revocation of a representative's access privileges. These are necessary to protect the integrity of the BDN system.

[FR Doc. 95–9986 Filed 4–21–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 78
Monday, April 24, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, May 1, 1995, and at 8:30 a.m. on Tuesday, May 2, 1995, in New York, New York.

The May 1 meeting is closed to the public. (See 60 FR 19624, April 19, 1995). The May 2 meeting is open to the public and will be held at The Hotel Inter-Continental, 111 East 48th Street, in the Whitney Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary for the Board, David F. Harris, at (202) 268–4800.

Agenda

Monday Session

May 1–1:00 p.m. (Closed)

1. Consideration of a Filing with the Postal Rate Commission for an Experimental Category of Automatable, Prebarcoded First-Class and Priority Parcels Under Commission Rule 67. (Cathy Rogerson, Manager, New Business Opportunities)

Tuesday Session

May 2–8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 3–4, 1995.
2. Remarks of the Postmaster General/Chief Executive Officer. (Marvin Runyon.)
3. Capital Investments.
   a. South River, New Jersey, Material Distribution Center. (Informational Briefing, Darrah Porter, Vice President, Purchasing)
   b. Santa Barbara, California, Processing & Distribution Center. (Final Decision, Gene R. Howard, Vice President, Pacific Area Operations; and Rudolph K. Umscheid, Vice President, Facilities)
4. Quarterly Report on Service Performance. (Jeffrey P. Kaneff, Manager, External Measurement Systems.)
5. Quarterly Report on Financial Performance. (Michael J. Riley, Chief Financial Officer and Senior Vice President, Finance.)
6. Report on the New York Metro Area and the Apartment Readdressing Program. (John F. Kelly, Vice President, New York Metro Area Operations.)
7. Tentative Agenda for the June 5–6, 1995, meeting in Austin, Texas.

David F. Harris,
Secretary.

[FR Doc. 95–10137 Filed 4–20–95; 2:21 pm]

BILLING CODE 7710–12–M

U.S. RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on April 27, 1995, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Request for Transfer of Funds—Replacement of Xerox 9790 Non-Impact Printer—Bureau of Data Processing
(2) Legislation—104th Congress
(3) Personal Papers of Executive Branch Officials
(4) Description of the Board for the Administrative Circular on Agency Organization
(5) Regulations:
B. Part 255, Recovery of Overpayments
C. Part 366 and 367, Collection of Debts

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: April 18, 1995.

Beatrice Ezerski,
Secretary to the Board.

[FR Doc. 95–10136 Filed 4–20–95; 2:21 pm]

BILLING CODE 7905–01–M

VOL
60

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78

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federal register

Monday
April 24, 1995

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 310

Exocrine Pancreatic Insufficiency Drug Products for Over-The-Counter Human Use; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 79N–0379]

RIN 0905–AA06

Exocrine Pancreatic Insufficiency Drug Products for Over-The-Counter Human Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule establishing that over-the-counter (OTC) exocrine pancreatic insufficiency drug products (drug products used to treat pancreatic enzyme deficiency) are not generally recognized as safe and effective and are misbranded. FDA is issuing this final rule after considering public comments on the agency's notice of proposed rulemaking and all new information on OTC exocrine pancreatic insufficiency drug products that has come to the agency's attention. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: October 24, 1995.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 21, 1979 (44 FR 75666), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC exocrine pancreatic insufficiency drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (the Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 21, 1980. Reply comments in response to comments filed in the initial comment period could be submitted by May 21, 1980.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were placed on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, after deletion of a small amount of trade secret information. Only five comments were submitted in response to the publication of the advance notice of proposed rulemaking.

The agency's proposed regulation, in the form of a tentative final monograph, for OTC exocrine pancreatic insufficiency drug products was published in the **Federal Register** of November 8, 1985 (50 FR 46394). That proposal constituted FDA's tentative adoption of the Panel's conclusions and recommendations on OTC exocrine pancreatic insufficiency drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report and information available at that time. In that document, the agency accepted the Panel's recommendation that exocrine pancreatic insufficiency drug products be available as OTC drug products and proposed the conditions under which these drug products would be generally recognized as safe and effective and not misbranded. Interested persons were invited to file by January 7, 1986, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs (the Commissioner) regarding the proposal, and by March 10, 1986, to file comments on the agency's economic impact determination. New data could have been submitted until November 10, 1986, and comments on the new data until January 8, 1987.

New information submitted in response to the tentative final monograph caused the agency to reconsider the approach proposed in that document. In vivo and in vitro studies of various commercial pancreatic enzyme preparations had demonstrated variations in lipase activity and release rates among the products. These variations in pancreatic extract drug products occurred both among various dosage forms and among products from different manufacturers of the same dosage form. In addition, problems had been reported with pancreatic extract products manufactured as tablets with enteric coatings and as encapsulated enteric-coated microspheres. As a result of the wide range of enzyme activity in these products, the variety of dosage forms marketed, and the apparent uneven quality of the enteric coatings among pancreatic extract drug products, instances of underdosing and overdosing with pancreatic extract products have occurred. The agency determined that preclearance of each product in order to standardize enzyme bioactivity was necessary to avoid serious safety problems resulting from too little or too much enzyme supplementation. The agency tentatively concluded that an OTC drug monograph would not be sufficient to adequately regulate these drug products. The agency discussed these problems in the **Federal Register** of July 15, 1991 (56 FR 32282 at 32286 and 32287).

In that notice, FDA proposed to classify OTC drug products to treat exocrine pancreatic insufficiency as not generally recognized as safe and effective, as being misbranded, and as new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)). FDA proposed to amend part 310, subpart E by adding new § 310.543 (21 CFR 310.543) for OTC exocrine pancreatic insufficiency drug products. The agency also withdrew its proposed rule (part 357, subpart E) issued on November 8, 1985. Interested persons were invited to file by November 12, 1991, written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner, and to file comments on the agency's economic impact determination by November 12, 1991. Final agency action occurs with the publication of this final rule on OTC exocrine pancreatic insufficiency drug products.

In the **Federal Register** of March 11, 1992 (57 FR 8586), the agency reopened the administrative record and announced that a workshop would be held on April 23, 1992, to discuss testing procedures that will be required as part of new drug applications (NDA's) for all exocrine pancreatic insufficiency drug products. Relevant data and notice of participation were to be submitted by April 10, 1992. The administrative record remained open until July 23, 1992, to receive comments regarding matters raised at the workshop.

In response to the announcement of the workshop, eight notices of participation and three comments were submitted. Copies of the comments, notices received, and information coming to the agency's attention after the workshop are also on public display in the Dockets Management Branch (address above). At the conclusion of the workshop, manufacturers were encouraged to arrange pre-NDA meetings with agency personnel so that NDA submissions could proceed as quickly as possible (Ref. 1).

This final rule amends part 310 to include drug products containing ingredients for the treatment of exocrine pancreatic insufficiency by adding new

§ 310.543 to subpart E. The inclusion of OTC exocrine pancreatic insufficiency drug products in part 310 follows FDA's established policy for regulations in which there are no monograph conditions. (See, e.g., §§ 310.510, 310.519, 310.525, 310.526, 310.532, 310.533, 310.534, and 310.546.) It is the agency's intent that exocrine pancreatic insufficiency drug products be marketed by prescription only. However, if, in the future, any ingredient is determined to be generally recognized as safe and effective for use in an OTC exocrine pancreatic insufficiency drug product, the agency will promulgate an appropriate regulation at that time.

FDA no longer uses the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final rule stage. In place of Category I, the term "monograph conditions" is used; in place of Category II or III, the term "nonmonograph conditions" is used.

In the proposed rule for OTC exocrine pancreatic insufficiency drug products (56 FR 32282 at 32283), the agency advised that the final rule for these drug products would be effective 6 months after the date of its publication in the **Federal Register**. Therefore, on or after October 24, 1995, no OTC drug products that are subject to this final rule may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved application. The agency is unaware of any OTC exocrine pancreatic insufficiency drug products that are the subject of an approved application. Any such drug product in interstate commerce after the effective date of this final rule that is not in compliance with the regulation is subject to regulatory action.

In response to the proposed rule on OTC exocrine pancreatic insufficiency drug products, five drug manufacturers, one foundation, and three individuals submitted comments. Copies of the comments received and any additional information that has come to the agency's attention since publication of the proposed rule are on public display in the Dockets Management Branch (address above).

Reference

(1) Comment No. MM1, Docket No. 79N–0379, Dockets Management Branch.

II. The Agency's Conclusions on the Comments

1. Six comments (including the Cystic Fibrosis Foundation and the American Academy of Pediatrics) agreed with the agency's proposal that exocrine pancreatic insufficiency drug products should not be marketed OTC. Three comments opposed the proposal. Two of those comments stated that increased costs to consumers would include a physician's fee and a higher markup when sold by prescription. The third comment indicated that these products are currently reasonably priced as nonprescription drugs.

The agency appreciates the support of the six agreeing comments and is finalizing its proposal that all exocrine pancreatic insufficiency drug products should be available only by a doctor's prescription. The agency stated in the proposed rule that continuous physician monitoring of patients appears to be one of several important factors in the increased survival rates for exocrine pancreatic insufficiency patients (56 FR 32282 at 32285). Accordingly, such collateral measures necessary to the use of these drug products require that they be available by prescription only, as required by section 503(b)(1)(B) of the act (21 U.S.C. 353(b)(1)(B)). The agency acknowledges the cost concerns raised by the three opposing comments. However, as stated in the proposed rule (56 FR 32282 at 32285), financial considerations are not among the statutory criteria for determining whether a drug product should be restricted to prescription status.

2. Two comments disagreed with the agency's proposal that NDA approval be required for continued marketing of all exocrine pancreatic insufficiency drug products. One comment stated that the proposal is inconsistent with the Panel's and the agency's previous conclusion that these products have been safely used to treat exocrine pancreatic insufficiency for many years (50 FR 46594 at 46597). The comment contended that the July 15, 1991, proposal did not contain any new evidence showing that the initial conclusion was erroneous. The comment stated that the agency's concerns are based on a perceived inability of patients to treat themselves and mentioned that this problem could be remedied by requiring these products to be available by prescription, without the need for an NDA for continued safe and effective use. The comment contended that an NDA requirement would have a devastating effect on patients who require these products for survival, e.g., cystic fibrosis patients. The comment surmised that most manufacturers would withdraw their exocrine pancreatic insufficiency drug products from the market if an NDA were required, primarily because of NDA-associated costs. The comment added that manufacturers would wait until another manufacturer's application was approved so they could submit an abbreviated NDA. A third comment made a number of suggestions for the bioactivity testing requirements, urged that certain products that had been extensively used and studied be granted approval on the basis of published reports and in vitro data, and contended that placebo-controlled safety and effectiveness studies in cystic fibrosis patients are unethical.

The agency disagrees with the first two comments. The agency's position on exocrine pancreatic insufficiency drug products changed between 1985 and 1991. Based on variations in formulations and dosage forms, e.g., encapsulated microsphere dosage forms, in use in 1991, the agency determined that final formulation effectiveness testing and information on the product's formulation, manufacture, and quality control procedures are necessary to ensure that a company has the ability to manufacture a proper, bioactive formulation (56 FR 32282 at 32283). Because there are no approved NDA's for any exocrine pancreatic insufficiency drug products, the agency has no information on the bioactivity of these products. The agency notes that even if all products were available only by prescription, variances in bioactivity of final formulations could pose safety concerns. Additional information (which an NDA would contain) is needed to assure safe and effective use of these products. Bioactivity must be shown to correlate with the stated potency of each proposed product, particularly for newer formulations that include microspheres and high potency levels of the pancreatic enzymes.

The agency is not persuaded by the comment's suggestion that manufacturers would not submit applications for pancreatic enzyme products and would wait until abbreviated NDA's were possible. The agency acknowledges that a number of manufacturers are currently seeking NDA approval for their currently marketed exocrine pancreatic insufficiency drug products.

The agency has received a number of reports of occurrences of stricture of the colon in cystic fibrosis patients who had taken higher potency pancreatic enzymes in delayed release microtablets and microspheres for varying numbers of months prior to corrective surgery

(Refs. 1 through 8). The agency is concerned that there may be a relationship between the use of these formulations and stricture of the colon. The agency needs to evaluate manufacturing information for these formulations, which would be included in an NDA.

The third comment's suggested bioactivity testing requirements, support for approval of certain products, and opposition to placebo-controlled studies are outside the scope of this document. The agency notes, however, that it is widely believed that demonstration of the fat digestive actions of various preparations can be done in ethical human studies. Inquiries relating to these subjects should be directed to the Division of Gastrointestinal and Coagulation Drug Products (HFD–160), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–0479.

References

(1) Cystic Fibrosis Foundation Results of a Survey of 114 Cystic Fibrosis Care Centers in United States, Patient Registry 1992 Annual Data Report, Bethesda, MD, October 1993, in OTC Vol. 17BFR, Docket No. 79N–0379, Dockets Management Branch.

(2) Smyth, R. L. et al., "Strictures of Ascending Colon in Cystic Fibrosis and High-Strength Pancreatic Enzymes," Lancet, 343:85–86, 1994.

(3) Cades, P. J. et al., "Letter to the Editor," Lancet, 343:109, 1994.

(4) Campbell, C. A., J. Forrest, and C. Musgrove, "Letter to the Editor," Lancet, 343:109, 1994.

(5) Briars, G. L. et al., "Letter to the Editor," Lancet, 343:600, 1994.

(6) Mahony, M. J., and M. Corcoran, "Letter to the Editor," Lancet, 343:599–600, 1994.

(7) Knabe, N. et al., "Letter to the Editor," Lancet, 343:1230, 1994.

(8) Taylor, C. J., "Colonic Strictures in Cystic Fibrosis," Lancet, 343:615–616, 1994.

3. As an alternative to the NDA process, one comment recommended that a uniform convention be developed for labeling exocrine pancreatic insufficiency drug products to clearly describe product potency. The comment urged that labels include the expiration date and rate of loss of potency, and indicate that proprietary agents are not generally equivalent.

The agency disagrees with the comment's alternative to the NDA process. Uniform labeling to describe product potency is important; however, that alone will not ensure safety and effectiveness of these products. The comment's labeling suggestions will be considered, based on data considered in applications, as NDA's for these products are approved. These issues are outside of the scope of this rulemaking.

4. One comment urged the agency not to issue a final rule for OTC exocrine pancreatic insufficiency drug products until NDA's for these products have been approved. Alternatively, the comment asked that the agency withdraw its proposal and request that NDA's be submitted for exocrine pancreatic insufficiency drug products. The comment contended that the latter action would be similar to the agency's action in 1978 regarding potassium iodide. The comment stated that either approach would guarantee the availability of these products to patients who are benefitting from them.

The agency disagrees with both of the comment's suggestions. In the **Federal Register** of December 15, 1978 (43 FR 58798), the agency published a notice requesting submission of NDA's for potassium iodide in oral dosage forms for use as a thyroid-blocking agent in a radiation emergency. The Commissioner concluded that potassium iodide was safe and effective under certain specified conditions of use. However, the Commissioner did not conclude that potassium iodide was generally recognized as safe and effective (43 FR 58798 at 58799). Therefore, potassium iodide was regarded as a new drug requiring an approved NDA as a condition of marketing.

Exocrine pancreatic insufficiency drug products are a similar situation. These products are safe and effective under specified conditions of use, but their bioactivity raises both safety and effectiveness concerns that require agency preclearance under NDA's. The agency sees no reason to withdraw its proposal because the final rule resulting from that proposal requires that an NDA be submitted for any exocrine pancreatic insufficiency drug product marketed OTC. Manufacturers have known since 1991 that an approved NDA would be needed for continued marketing of their product(s) on an OTC basis. While this final rule affects availability of these products when marketed OTC, it does not affect products marketed on a prescription basis. The agency intends that exocrine pancreatic insufficiency drug products marketed by prescription also have an approved NDA. All manufacturers of prescription exocrine pancreatic insufficiency drug products will need to have an NDA for their product(s). The agency will address this subject further in a future issue of the **Federal Register**.

III. The Agency's Final Conclusions on OTC Exocrine Pancreatic Insufficiency Drug Products

A number of pancreatic enzyme drug products are currently marketed OTC, and other products are marketed by prescription. Some of the prescription products are encapsulated enteric coated microsphere dosage forms. None of these pancreatic enzyme drug products have approved applications, i.e, none have been precleared for marketing by FDA. Some products are produced by different manufacturers and contain the same active ingredient(s); however, these products have shown significant differences in bioavailability. The agency finds that these differences raise a potential for serious risk to patients using these products.

Based on all available evidence, the agency has determined that the bioavailability of pancreatic enzymes is dependent on the process used to manufacture the drug products. Information on this process is not addressed by an OTC drug monograph. Therefore, the agency has determined that the safe and effective use of these enzymes for treating exocrine pancreatic insufficiency cannot be regulated adequately by an OTC drug monograph. In this final rule, the agency is declaring that all exocrine pancreatic insufficiency drug products (whether currently marketed on an OTC or prescription basis) are new drugs for which approved applications will be required for marketing.

In the **Federal Register** of November 7, 1990 (55 FR 46914), the agency published a final rule in part 310 establishing that certain active ingredients that had been under consideration in a number of OTC drug rulemaking proceedings were not generally recognized as safe and effective. That final rule was effective on May 7, 1991, and included in § 310.545(a)(9) the ingredient hemicellulase, which had been previously considered under this rulemaking for OTC exocrine pancreatic insufficiency drug products. In order to avoid duplication in listing OTC exocrine pancreatic insufficiency active ingredients in more than one regulation, and for ease in locating these ingredients in the Code of Federal Regulations, the agency is listing all of these ingredients in a single regulation in new § 310.543 entitled "Drug products containing active ingredients offered over-the-counter (OTC) for human use in exocrine pancreatic insufficiency." Accordingly, the ingredient hemicellulase, currently listed in § 310.545(a)(9) is now being listed in § 310.543(d), and § 310.545(a)(9) is being removed and reserved. The ingredients pancreatin and pancrelipase, covered by this final rule, are being listed in § 310.543(e).

IV. Analysis of Impacts

An analysis of the costs and benefits of this regulation, conducted under Executive Order 12291 was discussed in the proposed rule (56 FR 32282 at 32289). Comments received were discussed in part II of this final rule. Executive Order 12291 has been superseded by Executive Order 12866.

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and, so, is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This final rule will result in the removal of all drug products containing the ingredients pancreatin and pancrelipase from the OTC marketplace. However, only a limited number of OTC drug products are marketed in this manner and are affected by this final rule. Accordingly, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 310 is amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR part 310 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 506, 507, 512–516, 520, 601(a), 701, 704, 705, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 360b–360f, 360j, 361(a), 371, 374, 375, 379(e); secs. 215, 301, 302(a), 351, 354–360F of the Public Health Service Act (42 U.S.C. 216, 241, 242(a), 262, 263b–263n).

2. New § 310.543 is added to subpart E to read as follows:

§ 310.543 Drug products containing active ingredients offered over-the-counter (OTC) for human use in exocrine pancreatic insufficiency.

(a) Hemicellulase, pancreatin, and pancrelipase have been present as ingredients in exocrine pancreatic insufficiency drug products. Pancreatin and pancrelipase are composed of enzymes: amylase, trypsin (protease), and lipase. Significant differences have been shown in the bioavailability of marketed exocrine pancreatic insufficiency drug products produced by different manufacturers. These differences raise a potential for serious risk to patients using these drug products. The bioavailability of pancreatic enzymes is dependent on the process used to manufacture the drug products. Information on this process is not included in an OTC drug monograph. Therefore, the safe and effective use of these enzymes for treating exocrine pancreatic insufficiency cannot be regulated adequately by an OTC drug monograph. Information on the product's formulation, manufacture, quality control procedures, and final formulation effectiveness testing are necessary in an approved application to ensure that a company has the ability to manufacture a proper bioactive formulation. In addition, continuous physician monitoring of patients who take these drug products is a collateral measure necessary to the safe and effective use of these enzymes, causing such products to be available by prescription only.

(b) Any drug product that is labeled, represented, or promoted for OTC use in the treatment of exocrine pancreatic insufficiency is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), for which an approved application under section 505 of the act and part 314 of this chapter is required for marketing. In the absence of an approved application, such product is also misbranded under section 502 of the act.

(c) Clinical investigations designed to obtain evidence that any drug product labeled, represented, or promoted for OTC use in the treatment of exocrine pancreatic insufficiency is safe and effective for the purpose intended must comply with the requirements and procedures governing the use of investigational new drugs set forth in part 312 of this chapter.

(d) After May 7, 1991, any such OTC drug product that contains hemicellulase initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

(e) After October 24, 1995, any such OTC drug product that contains pancreatin or pancrelipase initially introduced or initially delivered for introduction into interstate commerce that is not in compliance with this section is subject to regulatory action.

§ 310.545 [Amended]

3. Section 310.545 *Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses* is amended by removing and reserving paragraph (a)(9), and by revising paragraph (d)(1) to read as follows:

§ 310.545 Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses.

(d) * * *

(1) May 7, 1991, for products subject to paragraphs (a)(1) through (a)(4), (a)(6)(i)(A), (a)(6)(ii)(A), (a)(7) (except as covered by paragraph (d)(3) of this section), (a)(8)(i), (a)(10)(i) through (a)(10)(iii), (a)(12)(i) through (a)(12)(iv), and (a)(14) through (a)(18)(i) of this section.

* * * * *

Dated: April 13, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 95–10078 Filed 4–21–95; 8:45 am]

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VOL
60

ISS
78

AP
24

1995

UMI

federal register

Monday
April 24, 1995

Part III

Department of Education

Grants and Cooperative Agreements, etc.: Technology-Related Assistance for Individuals With Disabilities Program; Notices

DEPARTMENT OF EDUCATION

[CFDA No.: 84.224A7]

Office of Special Education and Rehabilitative Services National Institute on Disability and Rehabilitation Research Notice Inviting Application for a New Award Under the Technology-Related Assistance for Individuals With Disabilities Program

Purpose of Program: The purpose of the State grants for technology-related assistance program is to assist States to develop and implement comprehensive statewide systems of consumer-responsive technology-related assistance for individuals with disabilities. NIDRR has conducted prior competitions under this program, and 55 States and territories have received grants. NIDRR is now inviting an application from the remaining territory. In preparing the application, the applicant is advised to respond to the statutory provisions of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, as amended.

Eligible Applicants: Only the entity designated by the Governor of the U.S. Virgin Islands is eligible to apply on behalf of the territory.

Deadline for Transmittal of Applications: June 23, 1995.

Applications Available: April 26, 1995.

Available Funds: $150,000.

Estimated Average Size of Awards: $150,000 per year.

Estimated Number of Awards: 1.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 81, 82, 85, and 86.

Selection Criteria: In evaluating an application for the grant under this competition, the Secretary uses the selection criteria in 34 CFR 75.210(b). Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the criteria to bring the total to a maximum of 100 points. For this competition, the Secretary distributes the additional points as follows:

Plan of Operation: (34 CFR 75.210(b)(3)). Fifteen additional points are added to this criterion for a possible of 30 points.

For Further Information Contact: Carol Cohen, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202. Telephone (202) 205–5666. Individuals who use a telecommunication device for the deaf (TDD) may call the TDD number at (202) 732–5079 for TDD services.

For Applications Contact: Dianne Villines, U.S. Department of Education, 600 Independence Avenue SW., Washington, DC 20202. Telephone: (202) 205–9141.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.Gov (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 2211–2271.

Dated: April 17, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–10004 Filed 4–21–95; 8:45 am]

BILLING CODE 4000–01–P

[CFDA No.: 84.224A6]

Office of Special Education and Rehabilitative Services National Institute on Disability and Rehabilitation Research Notice Inviting Applications for a New Award for Technical Assistance Project Under the Technology-Related Assistance for Individuals With Disabilities Program

Purpose of Program: The purpose of the Technology-Related Assistance for Individuals with Disabilities program is to assist States to develop and implement comprehensive statewide systems of consumer-responsive technology-related assistance for individuals with disabilities. NIDRR has conducted prior competitions under this program, and 55 States and territories have received grants. NIDRR is now inviting applications for the purpose of providing information and technical assistance to States. The Secretary shall award one technical assistance project for the purpose of assisting the States as they work toward establishing a statewide comprehensive system of technology related for individuals of all ages. NIDRR has conducted prior contract competitions under this authority and has awarded contracts for the provision of information and technical assistance to the State grantees over the past six years.

Applicants are advised to respond to the requirements of section 106(b)(1)(B) of the Technology-Related Assistance for Individuals with Disabilities Act of 1988, as amended. In meeting the requirements of this section for the provision of technical assistance to States, applicants shall consider the input of the directors of consumer-responsive comprehensive statewide programs of technology-related assistance. The applicant shall provide information on how they shall support a clearinghouse for activities that have been developed and implemented through programs funded under this title, and how they shall provide information and technical assistance to the State grantees that will: (1) Facilitate service delivery capacity building, training of personnel from a variety of disciplines, and improvement of evaluation strategies, research, and data collection; (2) foster the development and replication of effective approaches to information referral, interagency coordination of training and service delivery, outreach to underrepresented populations and rural populations, and public awareness activities; (3) improve the awareness and adoption of successful approaches to increasing the availability of public and private funding for and access to the provision of assistive technology devices and assistive technology services by appropriate State agencies; (4) assist in planning, developing, implementing, and evaluating appropriate activities to further extend consumer-responsive comprehensive statewide programs of technology-related assistance; (5) promote effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of assistive technology devices and assistive technology services; (6) provide technical assistance and training to the entities carrying out activities funded pursuant to this title, to establish or participate in electronic communication activities with other States; and (7) provide any other appropriate information and technical assistance to assist the States in accomplishing the purposes of this Act.

Eligible Applicants: Public or private agencies and organizations including institutions of higher education with documented experience, expertise and capacity in assistive technology service delivery, interagency coordination, and systems change and advocacy activities are eligible to apply.

Deadline for Transmittal of Applications: June 23, 1995.

Applications Available: April 26, 1995.

Available Funds: $750,000.

Estimated Average Size of Awards: $750,000 per year.

Estimated Number of Awards: 1.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: Up to 48 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 81, 82, 85, and 86.

Selection Criteria: In evaluating applications for the grant under this competition, the Secretary uses the selection criteria in 34 CFR 75.210(b). Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the criteria to bring the total to a maximum of 100 points. For this competition, the Secretary distributes the additional points as follows:

Plan of Operation: (34 CFR 75.210(b)(3)). Fifteen additional points are added to this criterion for a possible of 30 points.

For Further Information Contact: Carol Cohen, U.S. Department of Education, 600 Independence Avenue SW., Washington, DC 20202. Telephone: (202) 205–5666. Individuals who use a telecommunication device for the deaf (TDD) may call the TDD number at (202) 732–5079.

For Applications Contact: Dianne Villines, U.S. Department of Education, 600 Independence Avenue SW., Washington, DC 20202. Telephone: (202) 205–9141.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.Gov (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 2211–2271.

Dated: April 17, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–10005 Filed 4–21–95; 8:45 am]

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VOL
60
ISS
78
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24
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Vol. 60, No. 78
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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3
16979–17190	4
17191–17432	5
17433–17624	6
17625–17980	7
17981–18342	10
18343–18538	11
18539–18726	12
18727–18948	13
18949–19152	14
19153–19342	17
19343–19484	18
19485–19664	19
19665–19844	20
19845–19998	21
19999–20170	24

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6781 17979
6782 17981
6783 18537
6784 18707
6785 18725
6786 19999
6787 20001
6788 20003
Executive Orders:
April 17, 1926
(Revoked in part by PLO 7134) 19525
12356 (Revoked by EO 12958) 19825
12958 19825
Administrative Orders:
Memorandums:
April 4, 1995 19153
April 14, 1995 19485

5 CFR

Ch. LII 17625
581 18949
1620 19990
Proposed Rules:
316 17655

7 CFR

Ch. II 19487
97 17188
201 16979
272 17628
273 17628
301 18727
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434, 18950
1001 18952
1002 18952
1004 18952
1005 18952
1006 18952
1007 18952
1011 18952
1012 18952
1013 18952
1030 18952
1032 18952
1033 18952
1036 18952
1040 18952
1044 18952
1046 18952
1049 18952
1050 ..... 18343, 18952
1064 18952
1065 18952
1068 18952
1075 18952
1076 18952
1079 18952
1093 18952
1094 18952
1096 18952
1106 18952
1106 18952
1124 18952
1126 ..... 17191, 18952
1131 ..... 17192, 18952
1134 18952
1135 18952
1137 18952
1138 18952
1139 18952
1413 17984
1427 17984
1464 19665
Ch. XVIII 20005
3016 ..... 19638, 19641
Proposed Rules:
55 20054
59 20054
250 18781
335 18374
905 19543
906 20059
920 20062
929 20064
944 20059
946 19382
956 17274
981 17466
1944 19168

8 CFR

Proposed Rules:
212 19001

9 CFR

77 18728
92 17634
318 19491
327 18540
381 19491
391 19491
Proposed Rules:
308 19543
310 19543
318 19543
320 19543
325 19543
326 19543
327 19543
381 ..... 19543, 19685
391 18551

10 CFR
2 18344
436 ..... 18326, 19343
600 ..... 17985, 19638, 19641
Proposed Rules:
50 ..... 19002, 19170, 19686
70 ..... 18035, 19170
52 ..... 17902, 17924, 17947
170 18882
171 18882
430 18782
490 19544

11 CFR
100 17193
104 17193
113 17193

12 CFR
3 17986
207 20005
208 17436
215 17635
220 20005
221 20005
224 20005
226 16771
400 17625
614 20008
615 20008
618 20008
620 20011
Proposed Rules:
215 19689
701 19690
792 18036

13 CFR
107 17438
121 18981
143 ..... 19638, 19641

14 CFR
25 17194
39 ..... 16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18951, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492, 20013, 20016, 20017, 20019
71 ..... 17196, 17442, 18346, 20021
97 ..... 17198, 17199, 19160, 19162
187 19628
Proposed Rules:
39 ..... 16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693
71 ..... 17284, 18038, 18552, 19190, 19553
91 13700
119 19007
121 19007
125 19007
127 19007
135 ..... 18700, 19007

15 CFR
24 ..... 19638, 19642
771 18731
779 18731

16 CFR
305 19845
1700 17992
Proposed Rules:
248 17032
409 17491
436 17656
460 17492
1700 17660

17 CFR
30 19493
200 17201
211 20022
400 18733
403 18733
405 18733
449 ..... 18733, 18734
Proposed Rules:
239 17172
270 17172
274 17172
404 20065
405 20065

18 CFR
343 19494
385 19494
284 16979
Proposed Rules:
35 17662
141 17726
388 17726

19 CFR
7 16347
10 ..... 18542, 18983
11 18347
12 18347
18 18347
19 18347
24 18347
54 18347
101 ..... 18347, 18983
102 18347
111 ..... 18347, 18983
114 18347
123 ..... 18347, 18983
128 ..... 18347, 18983
132 18347
134 18347
141 ..... 18347, 18983
143 18983
145 ..... 18347, 18983
146 18347
148 ..... 18347, 18983
151 18347
152 18347
159 18983
177 18347
178 18983
181 18347
191 18347
Proposed Rules:
Ch. I 18783

20 CFR
Ch. III 18991
404 20023
416 20023
423 18991
638 18993
404 ..... 17443, 19163
Proposed Rules:
Ch. III 17731
404 19008
416 19008

21 CFR
20 16962
73 18736
101 17202
176 18349
178 ..... 16349, 18352, 18739
206 19646
310 ..... 17611, 20162
558 18740
876 17208
1310 ..... 17636, 19509
1403 ..... 19638, 19642
Proposed Rules:
146 19866
310 19650
876 17611

22 CFR
135 ..... 19638, 19642
514 16785
Proposed Rules:
502 19385

23 CFR
655 18520

24 CFR
85 ..... 19638, 19642
215 17388
236 17388
570 17445
813 17388
905 ..... 17388, 18174
913 17388
950 18174
3500 16985
Proposed Rules:
29 17968
120 19191
811 19695

25 CFR
Proposed Rules:
900 19387

26 CFR
1 ..... 17216, 18741, 18742
602 18742
Proposed Rules:
1 ..... 17286, 17731, 18377, 18378, 19387, 19868

27 CFR
55 17446
72 17446
178 17446
179 17446
Proposed Rules:
Ch. I 18783
53 18039
55 17494
72 17494
178 17494
179 17494

28 CFR
0 17456
2 18353
31 19847
66 ..... 19638, 19642
90 19474
Proposed Rules:
2 ..... 16378, 18379
16 ..... 18784, 19871

29 CFR
15 19658
97 ..... 19638, 19643
570 19336
580 17221
1470 ..... 19638, 19643
1960 18993
2610 18994
2619 18996
2622 18994
2644 18996
2676 18996
Proposed Rules:
1910 19192
1915 19192
1926 19192

30 CFR
903 18710
914 ..... 16985, 17637, 19668, 19669
915 17458
934 18744
936 16788
Proposed Rules:
Ch. I 18044
901 18044
902 17495
904 17498
906 17501
913 ..... 17734, 19697
914 17736
915 17504
916 17504
917 ..... 17739, 19193
918 17498
920 18046
924 18044
925 17504
926 17495
931 17501
934 17495
935 ..... 17741, 18380, 19194
936 17498
938 18046
943 17498
944 17501
946 17743
948 18381
950 17495

32 CFR
33 ..... 19638, 19643
83 20029
84 20029
290 18005
298 20032
354 18006
355 18006
357 18006
359 18006
360 18006
361 18006
374 18006
Proposed Rules:
63 17507
247 18049

33 CFR
3 17222

117 ..... 18006, 19351
154 17134
155 17134
162 ..... 16793, 19352
165 ..... 16793, 18006, 19354, 20033
222 19851
334 18543
Proposed Rules:
Ch. I 17287
100 ..... 16785, 20085
117 18061
164 19699
165 ..... 16818, 16820, 16821, 18063, 18065, 18066, 18068
211 16069
402 18384

34 CFR
80 ..... 19638, 19643
350 17424
351 17424
352 17424
353 17424
356 17424

36 CFR
7 17639
13 18532
1207 ..... 19638, 19643
Proposed Rules:
13 19011
215 18886
217 18886
219 18886

37 CFR
1 16920

38 CFR
2 18354
3 18354
4 19851
21 20035
43 ..... 19638, 19644

39 CFR
20 18009
111 19355
265 17224
Proposed Rules:
232 17287

40 CFR
9 ..... 17100, 18009
31 ..... 19638, 19644
52 ..... 16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522, 19673
63 ..... 18020, 18026
72 ..... 17100, 18462
73 17100
74 17100
75 17100
76 18751
77 17100
78 17100
81 16996
122 17950
124 17950
136 17160
180 ..... 18543, 18546, 18547, 19523
185 18547
186 18547
258 17649
260 17001
261 19165
271 ..... 18356, 18358, 18360, 18543
300 ..... 16808, 17004, 19525
302 19165
372 18361
720 17005
721 17005
723 17005
763 18364
Proposed Rules:
Ch. I 17288
51 17509
52 ..... 16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554, 20066
55 ..... 17748, 18787, 19701
58 17509
63 ..... 16829, 16920, 18071, 18078, 19556
70 ..... 17750, 18790
72 18472
76 18792
81 ..... 17034, 17756, 19197
86 17509
122 17958
124 17958
170 18555
180 ..... 18555, 18557, 18558, 18560, 18562, 19556
185 18562
186 ..... 18560, 18562
228 19872
300 ..... 18565, 19203
372 ..... 16830, 19702
761 17510
799 18079

41 CFR
101–20 17653
101–26 19674
105–71 ..... 19638, 19644

42 CFR
440 19856
441 19856
493 20035

43 CFR
12 ..... 17237, 19638, 19644
Proposed Rules:
426 ..... 16922, 20068
427 ..... 16922, 20068
3100 18081
Public Land Orders:
2546 (Revoked by PLO 7135) 19526
7131 18030
7132 18777
7133 18777
7134 19525
7135 19526
7137 18778

44 CFR
13 ..... 19638, 19644
64 17005
65 ..... 17007, 17009, 17011, 17012
67 ..... 17013, 17020
Proposed Rules:
65 17758
67 ..... 17035, 17042

45 CFR
92 ..... 19638, 19645
212 19862
602 ..... 19638, 19645
1157 ..... 19638, 19645
1174 ..... 19638, 19645
1183 ..... 19638, 19645
2541 ..... 19638, 19646
Proposed Rules:
1336 19994
2544 17761

46 CFR
12 17134
13 17134
15 17134
30 17134
31 17134
35 17134
78 17134
90 17134
97 17134
98 17134
105 17134
151 17134
153 17134
154 17134
401 18366
403 18366
404 18366
Proposed Rules:
Ch. I 17287
Ch. II 17763
67 17290
90 18793
97 18793
148 18793
382 19559
383 20069

47 CFR
2 ..... 18778, 18999
61 ..... 19526, 20051
69 19528
73 19531
73 ..... 17023, 17253, 19000, 19359, 20052
90 18999
Proposed Rules:
1 17294
63 17763
73 ..... 17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566, 19878

48 CFR
225 19531
252 19531
538 19360
552 ..... 19360, 19362
570 19362
915 18030
916 18030
970 18030
1802 18032
1850 18032
1852 18032
6101 17023
Proposed Rules:
Ch. V 17764
6 17295
12 17184
16 17295
32 18794
52 ..... 17184, 17295, 18794
501 19708
503 19708
505 19708
506 19708
507 19708
5552 19708
570 19708

49 CFR
18 ..... 19638, 19646
40 ..... 19535, 19675
173 17398
178 17398
180 17398
219 19538
552 17254
554 17254
571 19681
573 17254
576 17254
577 17254
1043 16808
1084 16808
Proposed Rules:
Ch. I 17049
Ch. II 18390
190 17295
191 17295
192 17295
193 17295
194 17295
195 17295
196 17295
197 17295
198 17295
199 17295
234 ..... 17770, 19012
571 ..... 18566, 19716

50 CFR
17 18940
227 19342
641 19363
646 ..... 19364, 19683
650 17272
651 19364
655 17464
663 16811
672 17465
675 ..... 17028, 17653, 19864
Proposed Rules:
Ch. VI 17770
17 ..... 16836, 17296, 19013, 19567, 20072
625 18795
641 17511
642 18391
655 18391
675 17512

CFR CHECKLIST

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-026-00001-8)	$5.00	Jan. 1, 1995
3 (1993 Compilation and Parts 100 and 101)	(869-022-00002-1)	33.00	[1] Jan. 1, 1994
4	(869-026-00003-4)	5.50	Jan. 1, 1995
5 Parts:			
1-699	(869-026-00004-2)	23.00	Jan. 1, 1995
700-1199	(869-026-00005-1)	20.00	Jan. 1, 1995
1200-End, 6 (6 Reserved)	(869-022-00006-3)	23.00	Jan. 1, 1994
7 Parts:			
0-26	(869-026-00007-7)	21.00	Jan. 1, 1995
27-45	(869-026-00008-5)	14.00	Jan. 1, 1995
46-51	(869-026-00009-3)	21.00	Jan. 1, 1995
52	(869-026-00010-7)	30.00	Jan. 1, 1995
53-209	(869-022-00011-0)	23.00	Jan. 1, 1994
210-299	(869-026-00012-3)	34.00	Jan. 1, 1995
300-399	(869-026-00013-1)	16.00	Jan. 1, 1995
400-699	(869-026-00014-0)	21.00	Jan. 1, 1995
700-899	(869-022-00015-2)	22.00	Jan. 1, 1994
900-999	(869-022-00016-1)	34.00	Jan. 1, 1994
1000-1059	(869-026-00017-4)	23.00	Jan. 1, 1995
1060-1119	(869-026-00018-2)	15.00	Jan. 1, 1995
1120-1199	(869-026-00019-1	12.00	Jan. 1, 1995
1200-1499	(869-026-00020-4)	32.00	Jan. 1, 1995
1500-1899	(869-026-00021-2)	35.00	Jan. 1, 1995
1900-1939	(869-026-00022-1)	16.00	Jan. 1, 1995
1940-1949	(869-026-00023-9)	30.00	Jan. 1, 1995
1950-1999	(869-026-00024-7)	40.00	Jan. 1, 1995
2000-End	(869-026-00025-5)	14.00	Jan. 1, 1995
8	(869-026-00026-3)	23.00	Jan. 1, 1995
9 Parts:			
1-199	(869-022-00027-6)	29.00	Jan. 1, 1994
200-End	(869-026-00028-0)	23.00	Jan. 1, 1995
10 Parts:			
0-50	(869-026-00029-8)	30.00	Jan. 1, 1995
51-199	(869-026-00030-1)	23.00	Jan. 1, 1995
200-399	(869-026-00031-0)	15.00	[6] Jan. 1, 1993
400-499	(869-026-00032-8)	21.00	Jan. 1, 1995
500-End	(869-026-00033-6)	39.00	Jan. 1, 1995
11	(869-026-00034-4)	14.00	Jan. 1, 1995
12 Parts:			
1-199	(869-026-00035-2)	12.00	Jan. 1, 1995
200-219	(869-026-00036-1)	16.00	Jan. 1, 1995
220-299	(869-026-00037-9)	28.00	Jan. 1, 1995
300-499	(869-022-00038-1)	22.00	Jan. 1, 1994
*500-599	(869-026-00039-5)	19.00	Jan. 1, 1995
600-End	(869-026-00040-9)	35.00	Jan. 1, 1995
13	(869-026-00041-7)	32.00	Jan. 1, 1995
14 Parts:			
1-59	(869-026-00042-5)	33.00	Jan. 1, 1995
*60-139	(869-026-00043-3)	27.00	Jan. 1, 1995
140-199	(869-026-00044-1)	13.00	Jan. 1, 1995
200-1199	(869-026-00045-0)	23.00	Jan. 1, 1995
1200-End	(869-026-00046-8)	16.00	Jan. 1, 1995
15 Parts:			
0-299	(869-022-00047-1)	15.00	Jan. 1, 1994
300-799	(869-022-00048-9)	26.00	Jan. 1, 1994
800-End	(869-026-00049-2)	21.00	Jan. 1, 1995
16 Parts:			
0-149	(869-026-00050-6)	7.00	Jan. 1, 1995
150-999	(869-022-00051-9)	18.00	Jan. 1, 1994
1000-End	(869-026-00052-2)	25.00	Jan. 1, 1995
17 Parts:			
1-199	(869-022-00054-3)	20.00	Apr. 1, 1994
200-239	(869-022-00055-1)	23.00	Apr. 1, 1994
240-End	(869-022-00056-0)	30.00	Apr. 1, 1994
18 Parts:			
1-149	(869-022-00057-8)	16.00	Apr. 1, 1994
150-279	(869-022-00058-6)	19.00	Apr. 1, 1994
280-399	(869-022-00059-4)	13.00	Apr. 1, 1994
400-End	(869-022-00060-8)	11.00	Apr. 1, 1994
19 Parts:			
1-199	(869-022-00061-6)	39.00	Apr. 1, 1994
200-End	(869-022-00062-4)	12.00	Apr. 1, 1994
20 Parts:			
1-399	(869-022-00063-2)	20.00	Apr. 1, 1994
400-499	(869-022-00064-1)	34.00	Apr. 1, 1994
500-End	(869-022-00065-9)	31.00	Apr. 1, 1994
21 Parts:			
1-99	(869-022-00066-7)	16.00	Apr. 1, 1994
100-169	(869-022-00067-5)	21.00	Apr. 1, 1994
170-199	(869-022-00068-3)	21.00	Apr. 1, 1994
200-299	(869-022-00069-1)	7.00	Apr. 1, 1994
300-499	(869-022-00070-5)	36.00	Apr. 1, 1994
500-599	(869-022-00071-3)	16.00	Apr. 1, 1994
600-799	(869-022-00072-1)	8.50	Apr. 1, 1994
800-1299	(869-022-00073-0)	22.00	Apr. 1, 1994
1300-End	(869-022-00074-8)	13.00	Apr. 1, 1994
22 Parts:			
1-299	(869-022-00075-6)	32.00	Apr. 1, 1994
300-End	(869-022-00076-4)	23.00	Apr. 1, 1994
23	(869-022-00077-2)	21.00	Apr. 1, 1994
24 Parts:			
0-199	(869-022-00078-1)	36.00	Apr. 1, 1994
200-499	(869-022-00079-9)	38.00	Apr. 1, 1994
500-699	(869-022-00080-2)	20.00	Apr. 1, 1994
700-1699	(869-022-00081-1)	39.00	Apr. 1, 1994
1700-End	(869-022-00082-9)	17.00	Apr. 1, 1994
25	(869-022-00083-7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1-1.60	(869-022-00084-5)	20.00	Apr. 1, 1994
§§ 1.61-1.169	(869-022-00085-3)	33.00	Apr. 1, 1994
§§ 1.170-1.300	(869-022-00086-1)	24.00	Apr. 1, 1994
§§ 1.301-1.400	(869-022-00087-0)	17.00	Apr. 1, 1994
§§ 1.401-1.440	(869-022-00088-8)	30.00	Apr. 1, 1994
§§ 1.441-1.500	(869-022-00089-6)	22.00	Apr. 1, 1994
§§ 1.501-1.640	(869-022-00090-0)	21.00	Apr. 1, 1994
§§ 1.641-1.850	(869-022-00091-8)	24.00	Apr. 1, 1994
§§ 1.851-1.907	(869-022-00092-6)	26.00	Apr. 1, 1994
§§ 1.908-1.1000	(869-022-00093-4)	27.00	Apr. 1, 1994
§§ 1.1001-1.1400	(869-022-00094-2)	24.00	Apr. 1, 1994
§§ 1.1401-End	(869-022-00095-1)	32.00	Apr. 1, 1994
2-29	(869-022-00096-9)	24.00	Apr. 1, 1994
30-39	(869-022-00097-7)	18.00	Apr. 1, 1994
40-49	(869-022-00098-4)	14.00	Apr. 1, 1994
50-299	(869-022-00099-3)	14.00	Apr. 1, 1994
300-499	(869-022-00100-1)	24.00	Apr. 1, 1994
500-599	(869-022-00101-9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600-End	(869-022-00102-7)	8.00	Apr. 1, 1994
27 Parts:			
1-199	(869-022-00103-5)	36.00	Apr. 1, 1994
200-End	(869-022-00104-3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869-022-00105-1)	27.00	July 1, 1994
43-end	(869-022-00106-0)	21.00	July 1, 1994
29 Parts:			
0-99	(869-022-00107-8)	21.00	July 1, 1994
100-499	(869-022-00108-6)	9.50	July 1, 1994
500-899	(869-022-00109-4)	35.00	July 1, 1994
900-1899	(869-022-00110-8)	17.00	July 1, 1994
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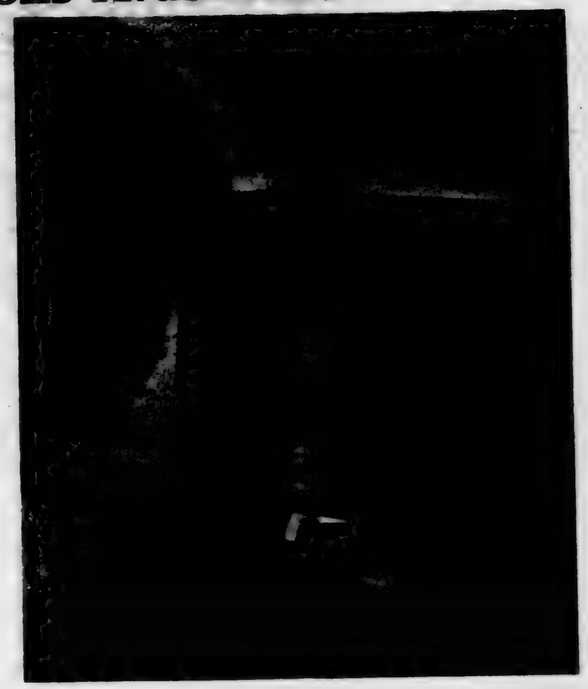

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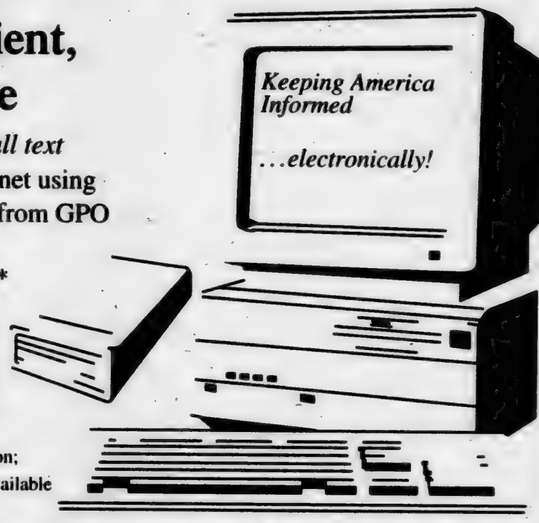

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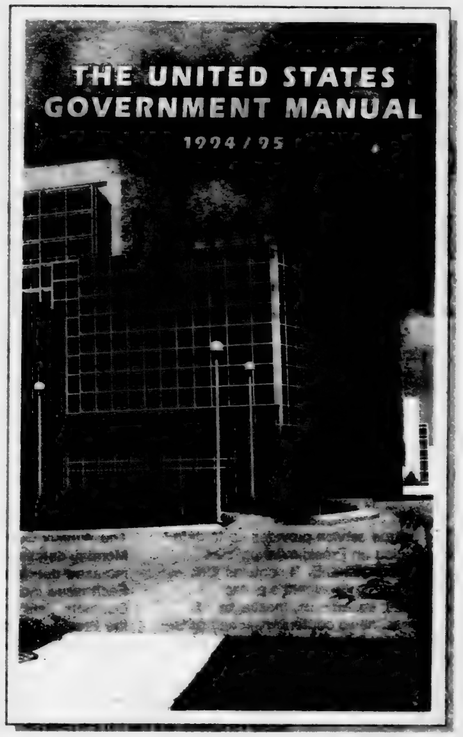

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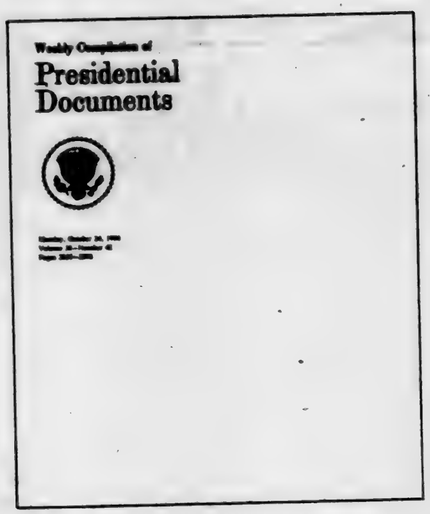

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60
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79
AP
25
1995
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Contents

Federal Register
Vol. 60, No. 79
Tuesday, April 25, 1995

Agency for Health Care Policy and Research
NOTICES
Meetings:
Health Care Policy, Research, and Evaluation National Advisory Council, 20275–20276

Agricultural Marketing Service
RULES
Dairy products; grading, inspection, and standards:
Colby cheese
Correction, 20178

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Food and Consumer Service
See Forest Service
See Natural Resources Conservation Service

Animal and Plant Health Inspection Service
RULES
Overtime services relating to imports and exports:
Commuted traveltime allowances
Correction, 20306

Army Department
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Anticonvulsant and neuroprotective agents, 20259
Lysing thrombi method, 20259–20260

Children and Families Administration
NOTICES
Adoption and foster care placements; policy guidance on use of race, color, or national origin as considerations, 20272–20275

Coast Guard
RULES
Vessel identification system, 20310–20319

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Defense Department
See Army Department

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Jacob K. Javits gifted and talented students education program, 20322–20324
Meetings:
Institutional Quality and Integrity National Advisory Committee; correction, 20306
National Assessment Governing Board, 20260
President's Advisory Commission on Educational Excellence for Hispanic Americans, 20260–20261
Postsecondary education:
Higher Education Act of 1965—
Federal student assistance programs under Title IV; experimental sites, 20326–20327

Employment and Training Administration
NOTICES
Job Training Partnership Act:
Targeted jobs tax credit program—
Lower living standard income level; economically disadvantaged, definition, 20283–20287

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
RULES
Classified matter or significant quantities of special nuclear material; criteria and procedures for determining eligibility for access:
Personnel security assurance program; substance abuse testing procedures, 20366–20371
NOTICES
Meetings:
International Energy Agency Industry Advisory Board, 20261–20262
Natural gas exportation and importation:
Brewton Corp., 20262
KCS Energy Marketing, Inc., 20262

Environmental Protection Agency
RULES
Air programs; fuel and fuel additives:
Deposit control gasoline additive standards; reporting and recordkeeping requirements, 20232–20233
Air quality implementation plans; approval and promulgation; various States:
California, 20233–20237
Air quality planning purposes; designation of areas:
California, 20237–20238
Clean Air Act:
Fuel and fuel additives; highway diesel fuel sold in 1993 and later calendar years fuel quality regulations; reporting and recordkeeping requirements, 20232
Hazardous waste program authorizations:
New Mexico, 20238–20240
Superfund:
National oil and hazardous substances contingency plan—
National priorities list update, 20330–20353
NOTICES
Agency information collection activities under OMB review, 20269
Drinking water:
Public water supply supervision program—
Michigan, 20269–20270
Superfund; response and remedial actions, proposed settlements, etc.:
Lorentz Barrel and Drum Site, CA; correction, 20306

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

VOL 60 ISS 79 AP 25 1995 UMI

Federal Aviation Administration
RULES
Airworthiness directives:
AlliedSignal Engines, 20189–20191
Bombardier; correction, 20306

Federal Bureau of Investigation
NOTICES
Meetings:
Criminal Justice Information Services Advisory Policy Board, 20282

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
806–821/851–866 MHz bands; inter-category sharing; freeze on filing new applications, 20247–20248
Television broadcasting:
Experimental, auxiliary, and special broadcast and other program distributional services; instructional television fixed service filing window, 20241–20247

Federal Deposit Insurance Corporation
RULES
Conflict of interests, 20171–20178

Federal Energy Regulatory Commission
NOTICES
Meetings; Sunshine Act, 20303–20304
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 20267
Columbia Gas Transmission Corp., 20267–20268
Columbia Gulf Transmission Co., 20267
Eastern Shore Natural Gas Co., 20268
PacifiCorp, 20268
Viking Gas Transmission Co., 20268–20269

Federal Maritime Commission
NOTICES
Complaints filed:
Shipco Transport Inc., 20270

Federal Procurement Policy Office
RULES
Acquisition regulations:
Cost Accounting Standards Board—
Pension costs; composition, measurement, adjustment, and allocation; cost accounting standards; correction, 20248
PROPOSED RULES
Acquisition regulations:
Cost Accounting Standards Board—
Cost accounting practices changes, 20252–20253

Federal Reserve System
RULES
Bank holding companies and change in bank control (Regulation Y):
Anti-tying restrictions, safe harbor from; combined-balance discount, 20186–20189
NOTICES
Applications, hearings, determinations, etc.:
First Union Corp., 20270–20271
Northwest Bancorp et al., 20271
Wilmington Trust Corp. et al., 20271

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
American Reliable Insurance Co.; correction, 20307

Fish and Wildlife Service
PROPOSED RULES
Alaska National Wildlife Refuges:
Visitor service authorizations, 20380–20383
NOTICES
Environmental statements; availability, etc.:
Incidental take permits—
Desert tortoises, 20280–20281
Travis County, TX; golden-cheeked warbler, 20281

Food and Consumer Service
RULES
Food stamp program:
Benefit delivery rule, 20178–20183

Forest Service
NOTICES
Meetings:
Klamath, Northwest Sacramento and California Coast Provincial Interagency Executive Committee Advisory Committees, 20258

Health and Human Services Department
See Agency for Health Care Policy and Research
See Children and Families Administration
See National Institutes of Health

Hearings and Appeals Office, Energy Department
NOTICES
Decisions and orders, 20262–20267

Housing and Urban Development Department
RULES
Mortgage and loan insurance programs, etc.:
Holocaust reparation payments, treatment in assisted housing programs; notification of affected individuals, 20356–20358
NOTICES
Grants and cooperative agreements; availability, etc.:
Housing counseling program, 20360–20363

Indian Affairs Bureau
PROPOSED RULES
Indian Self-Determination Negotiated Rulemaking Committee—
Meeting, 20250

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Countervailing duties:
Textile mill products from—
Thailand, 20258–20259

Justice Department
See Federal Bureau of Investigation
See National Institute of Justice

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration
NOTICES
Agency information collection activities under OMB review, 20282

Land Management Bureau
RULES
Public land orders:
Oregon, 20240–20241
NOTICES
Withdrawal and reservation of lands:
Idaho; correction, 20306

Management and Budget Office
See Federal Procurement Policy Office

National Capital Planning Commission
NOTICES
Meetings:
Washington, D.C.; sports and entertainment arena; construction and operation; historic preservation issues, 20288–20289

National Credit Union Administration
NOTICES
Agency information collection activities under OMB review, 20289

National Institute of Justice
NOTICES
Operation Weed and Seed; impact evaluation, 20289

National Institutes of Health
NOTICES
Grants and cooperative agreements; availability, etc.:
Monoclonal antibodies for therapy and/or diagnosis of cancer; scientific and commercial development, 20276–20278
Signal transduction inhibitor "CAI" as anticancer agent; scientific and commercial development, 20278–20279
Signal transduction inhibitors as anticancer agents; scientific and commercial development, 20279–20280
Meetings:
Research Grants Division Advisory Committee, 20280

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish and limited access management of Federal fisheries in and off of Alaska, 20248–20249
PROPOSED RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands Groundfish and North Pacific Fisheries research plan; implementation, 20253–20257

National Park Service
PROPOSED RULES
National Park System:
Alaska visitor service authorizations, 20374–20378
NOTICES
National Register of Historic Places:
Pending nominations, 20281

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Delta-Clearwater River Watershed, AK, 20258

Nuclear Regulatory Commission
RULES
Radiation protection standards:
Protection of individuals exposed to ionizing radiation during routine activities; removal of expired material; record retention requirements reinstated, 20183–20186
NOTICES
Environmental statements; availability, etc.:
Idaho State University, 20290–20291
Watts Bar Nuclear Power Plants (Units 1 and 2), 20291–20292
Meetings; Sunshine Act, 20304–20305
Applications, hearings, determinations, etc.:
Houston Lighting & Power Co. et al., 20289–20290

Occupational Safety and Health Administration
RULES
State plans; development, enforcement, etc.:
Michigan, 20191–20193
NOTICES
State plans; standards approval, etc.:
Vermont, 20288

Office of United States Trade Representative
See Trade Representative, Office of United States

Patent and Trademark Office
RULES
Patent cases:
Twenty-year patent term and provisional applications; implementation, 20195–20231

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 20292–20296

Presidential Documents
PROCLAMATIONS
Special observances:
Day of Mourning in Memory of Those Who Died in Oklahoma City, National (Proc. 6789), 20387
Volunteer Week, National (Proc. 6790), 20389

Public Health Service
See Agency for Health Care Policy and Research
See National Institutes of Health

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange, Inc.; correction, 20306
Pacific Stock Exchange, Inc.; correction, 20306
Applications, hearings, determinations, etc.:
General American Life Insurance Co. et al., 20296–20301

Surface Mining Reclamation and Enforcement Office
RULES
Indian lands program:
Abandoned mine land reclamation plan—
Navajo Nation, AZ, 20193–20195

VOL
60
ISS
79
AP
25
1995
UMI

PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Alabama et al., 20250
Montana, 20251–20252

Trade Representative, Office of United States
NOTICES
World Trade Organization:
Members' antidumping and countervailing duty legislation and regulations; comment request, 20302

Transportation Department
See Coast Guard
See Federal Aviation Administration
NOTICES
Meetings:
Commercial Space Transportation Advisory Committee, 20301–20302

Treasury Department
See Fiscal Service

Separate Parts In This Issue

Part II
Department of Transportation, United States Coast Guard, 20310–20319

Part III
Department of Education, 20322–20324

Part IV
Department of Education, 20326–20327

Part V
Environmental Protection Agency, 20330–20353

Part VI
Department of Housing and Urban Development, 20356–20358

Part VII
Department of Housing and Urban Development, 20360–20363

Part VIII
Department of Energy, 20366–20371

Part IX
Department of the Interior, National Park Service, 20374–20378

Part X
Department of the Interior, Fish and Wildlife Service, 20380–20383

Part XI
The President, 20385–20389

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6789 20387
6790 20389

5 CFR
3201 20171

7 CFR
58 20178
272 20178
274 .....

10 CFR
20 20183
710 20366

12 CFR
225 20186
336 20171

14 CFR
39 20189

24 CFR
215 20356
235 20356
236 20356
280 20356
813 20356
913 20356
950 20356

25 CFR
Proposed Rules:
Ch. I 20250

29 CFR
1952 20191

30 CFR
756 20193
Proposed Rules:
901 20250
924 20250
926 20251

33 CFR
187 20310

36 CFR
Proposed Rules:
13 20374

37 CFR
1 20195
3 20195

40 CFR
9 (2 documents) 20232
52 20233
80 20232
81 20237
271 20238
300 20330

43 CFR
Public Land Order
7136 20240

47 CFR
74 20241
90 20247

48 CFR
9904 20248
Proposed Rules:
9903 20252

50 CFR
672 20248
675 20248
676 20248
Proposed Rules:
36 20380
675 20253
677 20253

VOL
60
ISS
79
AP
25
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 79
Tuesday, April 25, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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FEDERAL DEPOSIT INSURANCE CORPORATION

5 CFR Part 3201

12 CFR Part 336

RINs 3064–AA08, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation (FDIC or Corporation).

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics (OGE), is issuing a final rule establishing uniform standards of ethical conduct for employees of the Corporation to supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Executive Branch-wide Standards) issued by OGE. The final rule will become effective 30 days after the date of publication, and will establish: prohibitions on borrowing and extensions of credit; prohibitions on the ownership of certain financial interests; prohibitions on the purchase of property controlled by the Corporation or the Resolution Trust Corporation (RTC); limitations on official dealings with former employers and clients; disqualification requirements relating to employment of family members outside the Corporation; and limitations on outside employment activities.

EFFECTIVE DATE: May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Katherine A. Corigliano, Assistant Executive Secretary (Ethics), (202) 898–7272; Richard M. Handy, Ethics Program Manager, (202) 898–7271; or Paul A. Jeddeloh, Senior Program Attorney, (202) 898–7161, in the Office of the Executive Secretary of the FDIC.

SUPPLEMENTARY INFORMATION:

I. Background

On July 12, 1994, with the concurrence of OGE, the Corporation published for comment a proposed rule to establish supplemental standards of ethical conduct for employees of the FDIC (59 FR 35480–35487). The proposed rule was issued to supplement the Standards of Ethical Conduct for Employees of the Executive Branch published by OGE on August 7, 1992, and effective February 3, 1993 (57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583, with additional grace period extensions for certain existing agency standards of conduct at 59 FR 4779–4780 and 60 FR 6390–6391, which grace period expires on January 3, 1996). The Executive Branch-wide Standards, now codified at 5 CFR part 2635, establish uniform standards of ethical conduct for executive branch employees. The proposed rule was issued pursuant to 5 CFR 2635.105 and the Resolution Trust Corporation Completion Act (P.L. 103–204) which authorize the Corporation to publish agency-specific supplemental regulations necessary to implement its ethics program. The Corporation, with the concurrence of OGE, determined that the supplemental regulations contained in the proposed rule were necessary successfully to continue the Corporation's ethics program in light of the Corporation's unique programs and operations.

The proposed rule prescribed a 60-day comment period and invited comments from all interested parties. The Corporation received nine comment letters and, after careful consideration of each comment, has made appropriate modifications to the rule. Technical changes were made to accommodate the formation, subsequent to the publication of the proposed rule, of a new Division within the Corporation—the Division of Compliance and Consumer Affairs. At the request of the Board of Directors, a provision was added to the credit restrictions in order to retain the current restrictions for certain categories of employees of the Division of Depositor and Asset Services. The Corporation, with the concurrence of OGE, is now publishing as a final rule the Supplemental Standards of Conduct for Employees of the Federal Deposit Insurance Corporation, to be codified in new part 3201 of 5 CFR chapter XXII.

II. Summary of the Comments

The Corporation received comments from eight employees and one financial institution trade association. The comments from employees contained both requests for substantive changes and for guidance on the application of the rule in general or in specific sections. The comments received from the trade association expressed support for certain specific sections of the rule and suggested substantive changes.

III. Analysis of the Comments

Section 3201.101 General

One commenter requested guidance on the meaning of the term *employee* as defined in § 3201.101(d) as it would be applied to employees of contractors doing business with the Corporation. As required by section 19 of the Resolution Trust Corporation Completion Act and implemented in the final rule, the term *employee* includes any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation. All employees of contractors who fall under such definition would be subject to the Executive Branch-wide Standards and specified provisions of part 3201.

Section 3201.102 Extensions of Credit From FDIC-Insured Depository Institutions

One commenter, in reference to the preamble discussion of § 3201.102(c) in the proposed rule, asked whether the prohibition on examiners obtaining extensions of credit from institutions that they have examined carried a time limitation and expressed concern that the restriction, if it did not carry a time limitation, was too severe. The prohibition referred to by the commenter is found at 18 U.S.C. 213, a criminal statute, and was referenced in the preamble to assist the reader in understanding part of the basis for the imposition of the restrictions found at § 3201.102(c). 18 U.S.C. 213 does not carry a time limitation.

One commenter suggested that, for purposes of § 3201.102(c), an examiner might not be aware of the identity of the person or company from whom or which he or she intended to obtain

VOL 60 ISS 79 AP 25 1995 UMI

credit. The Board believes it is reasonable to expect an employee to make inquiries in order to ascertain the identity of a lender prior to engaging in a credit transaction. Similarly, the same commenter suggested that, for purposes of § 3201.102(c)(ii), the headquarters of a credit card issuer might not be readily apparent. The Board believes it is also reasonable to expect employees of the Division of Supervision and the Division of Compliance and Consumer Affairs to make inquiries to ascertain the location of the headquarters of a credit card issuer.

The Corporation did not adopt the suggestion of one employee, in reference to § 3201.102(d) and § 3201.103(c), to restate in part 3201 the text of certain definitions found in the Executive Branch-wide Standards and referred to in such part. Since part 3201 is a supplement to the Executive Branch-wide Standards, it is appropriate to make references to the text of the primary regulation.

The Corporation did not adopt the suggestions of two employees to narrow or remove the provisions of the regulation found at §§ 3201.102(a), as well as at 3201.103(a) and 3201.104(a), under which the interests of an employee's spouse or minor child are to be considered as if they were the interests of the employee. The Board determined that the application of the prohibitions in §§ 3201.102 to 3201.104 to the interests of a spouse or minor child of an employee is necessary to avoid the appearance of a lack of impartiality by the employee in his or her official dealings and to avoid a significant number of recusals which would hinder program operations. The application of these provisions to the interests of a spouse or minor child is consistent with such application in § 2635.403(a) of the Executive Branch-wide Standards.

The trade association, commenting on the proposed rule, expressed support for the provisions of § 3201.102 but expressed concern that an unreasonable recordkeeping burden might result from the two-year prohibition on acceptance of credit found at § 3201.102(d). The Board does not believe that compliance with the provision would create an unreasonable recordkeeping burden since employees have the responsibility to keep track of matters in which they have participated and since such requirement imposes no greater burden on an employee than is imposed by other ethics provisions, such as the statutory post-employment restrictions found at 18 U.S.C. 207 (a)(1) and (a)(2).

Section 3201.103 Prohibitions on Ownership of Securities of FDIC-Insured Depository Institutions

One employee and the trade association commented that the exception dealing with the ownership of interests in investment funds set forth at § 3201.103(b)(5) was too restrictive since its practical application would prohibit ownership interests in investment funds which might not hold interests in FDIC-insured depository institutions. Based upon the comments, the reference to a fund "concentrating its investments in the financial services sector" was deleted and replaced with language which prohibits an employee from acquiring an interest in a fund which, at the time an employee acquires an interest, holds more than 30 percent of its investments in FDIC-insured depository institutions or FDIC-insured depository institution holding companies. Under the revised provision, an employee is required to verify the holdings of the investment fund at any time the employee acquires an interest in the fund, unless the acquisition results from the ordinary reinvestment of earnings the employee has accrued from ownership interests in the fund. The revised provision addresses the Corporation's concern over employees holding ownership interests in the institutions that it insures by prohibiting the acquisition of interests in banking sector funds and provides employees with broader investment opportunities than would have been provided by the proposed rule.

Section 3201.104 Restrictions Concerning the Purchase of Property Held by the Corporation or the RTC as Conservator, Receiver, or Liquidator of the Assets of an Insured Depository Institution, or by a Bridge Bank Organized by the Corporation

One commenter asked whether the term "property" as used in § 3201.104(a) includes furniture, fixtures, equipment, securities and other items. The term "property" is intended to include all of the items specified as well as other assets held by the Corporation or the RTC as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation.

One employee suggested that the prohibition on employee purchases of property held by the FDIC or RTC be expanded to prohibit employees of FDIC contractors from purchasing such assets. No change was made to the provision since the application of the rule is limited to FDIC employees. Employees of contractors would only be covered by the rule when such contractor employees are considered employees of the FDIC as delineated in § 3201.101(d)(4).

Section 3201.105 Prohibitions on Dealings With Former Employers, Associates, and Clients

One employee suggested that the discretionary extension of the one-year disqualification on dealings with former employers, associates, and clients at § 3201.105(c) specify that the discretion to impose the extension would only be applicable after an individual becomes an employee of the Corporation. No change was made to accommodate this suggestion since the rule, as proposed, is only applicable to those who have become Corporation employees.

In response to the suggestion of the trade association that, in the case of an employee who was unemployed for the one-year period immediately preceding entry on duty with the Corporation, the prohibition on dealings with former employers be extended to include a one-year prohibition on dealings with the last employer of the employee regardless of when the employee was last employed, § 3201.105(c) was modified to provide the Corporation with discretion to extend the one-year period preceding an employee's entrance on duty with the Corporation, during which extended period employment will trigger disqualification from matters affecting that former employer. The interests of the Corporation in avoiding the appearance of a lack of impartiality by an employee in his or her official dealings is better served by extending the rule on a case-by-case basis as circumstances warrant.

Section 3201.106 Employment of Family Members Outside the Corporation

The Board did not adopt the suggestion of one employee to define separately the terms "family" and "household." The term "family" is used only in the title of § 3201.106 with specific classifications of family members set forth in that section. The phrase "member of the employee's household" is generally understood, and is used without specific regulatory definition in the Executive Branch-wide Standards at § 2635.502. The same employee also commented that an undue burden would be created by requiring employees to report the employment of family members not residing with the employee by FDIC-insured depository institutions. Because the reporting requirement applies only to the employment of spouses, children, parents, and siblings, the Board does not

share the commenter's view that the requirement could be onerous and unreasonable. Moreover, the Corporation's prior regulation at 12 CFR 336.23, containing a substantially identical reporting requirement, appears to have been implemented without unduly burdening employees.

Section 3201.107 Outside Employment and Other Activities

The Corporation did not adopt the suggestions of one employee and the trade association to tailor the application of the prohibition on outside employment with FDIC-insured depository institutions to the various positions held by Corporation employees within the Corporation or to positions held by employees in FDIC-insured depository institutions. The Corporation's sensitive relationships with FDIC-insured depository institutions would invariably raise, at a minimum, the appearance of preferential dealings or treatment whenever an FDIC employee is provided compensation by such institution. In order to avoid an adverse public perception and recusals in the operation of the Corporation's programs, the Board determined that it was appropriate to prohibit employees from engaging in compensated outside employment with FDIC-insured depository institutions.

The Board did not adopt the suggestion of one commenter that the restriction at § 3201.107(b) on the use of real estate licenses by employees whose duties with the Corporation require involvement in matters related to real estate be eliminated for purposes of the purchase and sale of an employee's personal residence or the purchase and sale of real estate for the employee's personal investment portfolio. The rule, as proposed and now as being adopted in final, is intended to balance an employee's right to engage in outside activities against the interests of the Corporation in protecting against questions regarding the impartiality and objectivity of employees and the administration of the Corporation's programs. It would hinder the Corporation in meeting its missions if members of the public were to question whether Corporation employees are using their public positions or official contacts for private gain, including advancing their personal real estate careers. It is important to note that the restriction on the use of such licenses specifies that the prohibition applies only to those situations involving the production of income, thus targeting those situations most likely to raise questions by members of the public. The use of a real estate license for the purchase of a personal residence or vacation home would not ordinarily be restricted since such transaction normally does not result in the production of income.

The same commenter also suggested that § 3201.107(b) was vague and uncertain as written and that it should be re-written to provide detailed procedural rules and an appeals procedure. The Board did not share the view of the commenter. As written, the rule clearly prohibits the use of professional licenses by employees and sets forth a standard of review for requests for exceptions to the application of the prohibition.

IV. Other Changes

The Board of Directors, upon reconsideration of the existing FDIC standards set forth at 12 CFR part 336, requested that the existing restriction on extensions of credit for field employees of the Division of Depositor and Asset Services, formerly the Division of Liquidation, be retained in the final rule in order to eliminate the possibility that employees who participate in asset disposition activities will be able to obtain favored treatment from assisted or assuming entities located in their region of assignment. Therefore, a new § 3201.102(e) was added which continues to apply the existing standard as set forth at 12 CFR 336.16(b)(3) to field employees of the Division of Depositor and Asset Services. To accommodate the added provision, definitions for *assisted entity* and *assuming entity* were taken from part 336 and added at § 3201.101(d)(3) and § 3201.101(d)(4), respectively. The existing standard, as set forth in the final rule, provides that a covered employee in the Division of Depositor and Asset Services assigned to a service center or other field office is prohibited from obtaining credit from an assisted or assuming entity, except for credit extended through the use of a credit card under the same terms and conditions as are offered to the general public. An *assisted entity* is generally defined as an FDIC-insured depository institution which has received financial assistance from the FDIC in order to prevent its failure, any FDIC-insured depository institution resulting from a merger or consolidation with an institution that has received such assistance, and a holding company of an institution that has received assistance or has resulted from a merger or consolidation with such institution. An assisted entity retains its status as an assisted entity for such time as there is an ongoing financial relationship with the FDIC.

An *assuming entity* is generally defined as an FDIC-insured depository institution which has entered into a transaction to purchase some or all of the assets and some or all of the liabilities of a failed FDIC-insured depository institution, any holding company of such institution, any FDIC-insured depository institution resulting from such transaction and its wholly owned subsidiaries, and any branches or wholly owned subsidiaries of the purchaser or its holding company. An assuming entity retains its status as an assuming entity for a period of one year after the failure of the FDIC-insured depository institution.

V. Removal of FDIC Employee Responsibilities and Conduct Regulations and Related Modifications

On the effective date of the final rule, the Employee Responsibilities and Conduct regulation, 12 CFR part 336, will be amended to remove and reserve subparts A, B, C, E, and F, §§ 336.1–336.23 and §§ 336.29–336.37, and remove the appendix to part 336. Additionally, a new § 336.1 will be added to provide a cross-reference to the Corporation's supplemental ethical conduct regulation, to be codified at 5 CFR part 3201, the Corporation's supplemental financial disclosure regulation at 5 CFR part 3202, and to the Executive Branch-wide financial disclosure and standards of ethical conduct regulations at 5 CFR parts 2634 and 2635. 12 CFR part 336, subpart D, §§ 336.24 through 336.28, was removed and reserved by action of the Board of Directors of the Corporation dated November 24, 1992, 57 FR 39628.

VI. Matters of Regulatory Procedure

Regulatory Flexibility Act

The Board of Directors has concluded that the final rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The Board of Directors has determined that this final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget

VOL 60 ISS 79 AP 25 1995 UMI

pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects

5 CFR Part 3201

Administrative practice and procedure, Conflict of interests, Government employees, Reporting and recordkeeping requirements.

12 CFR Part 336

Conflict of interests, Government employees.

Dated at Washington, D.C. this 11th day of April, 1995.

By Order of the Board of Directors.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

(SEAL)

Concurred in this 14th day of April, 1995.

Stephen D. Potts,

Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation, with the concurrence of the Office of Government Ethics, is amending title 5, Chapter XXII, of the Code of Federal Regulations and title 12, Chapter III, of the Code of Federal Regulations as follows:

5 CFR CHAPTER XXII—FEDERAL DEPOSIT INSURANCE CORPORATION

1. A new part 3201 is added to 5 CFR chapter XXII to read as follows:

PART 3201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

Sec.

3201.101 General.
3201.102 Extensions of credit from FDIC-insured depository institutions.
3201.103 Prohibitions on ownership of securities of FDIC-insured depository institutions.
3201.104 Restrictions concerning the purchase of property held by the Corporation or the RTC as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation.
3201.105 Prohibition on dealings with former employers, associates, and clients.
3201.106 Employment of family members outside the Corporation.
3201.107 Outside employment and other activities.
3201.108 Related statutory and regulatory authorities.
3201.109 Provisions of 5 CFR part 2635 not applicable to Corporation employees.

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 1819(a), 1822; 26 U.S.C. 1043; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403, 2635.502, and 2635.803.

§ 3201.101 General.

(a) *Purpose.* The regulations in this part apply to employees of the Federal Deposit Insurance Corporation (Corporation) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. Where specified, these regulations also apply to the Comptroller of the Currency and the Director of the Office of Thrift Supervision in connection with their activities as members of the Corporation's Board of Directors.

(b) *Corporation ethics officials.* The Executive Secretary of the Corporation shall act as the Corporation's Ethics Counselor and as its Designated Agency Ethics Official under 5 CFR part 2638. The Assistant Executive Secretary (Ethics) shall act as the Corporation's Alternate Ethics Counselor and as the Alternate Agency Ethics Official.

(1) The Ethics Counselor or Alternate Ethics Counselor may delegate authority to one or more employees to serve as Deputy Ethics Counselors.

(2) The delegation to a Deputy Ethics Counselor shall be in writing and cannot be redelegated.

(c) *Agency designees.* The Ethics Counselor and Alternate Ethics Counselor shall serve as the agency designees for purposes of making the determinations, granting the approvals, and taking other actions required by an agency designee under part 2635 and this part. The Ethics Counselor or Alternate Ethics Counselor may delegate authority to Deputy Ethics Counselors or to other employees to serve as agency designees for specified purposes. The delegation to any agency designee shall be in writing and cannot be redelegated.

(d) *Definitions.* For purposes of this part:

(1) *Affiliate,* as defined in 12 U.S.C. 1841(k), means any company that controls, is controlled by, or is under common control with another company.

(2) *Appropriate director* means the head of a Washington office or division or the highest ranking official assigned to a regional office in each division or the Ethics Counselor.

(3)(i) *Assisted entity* means:

(A) Any FDIC-insured depository institution which has received financial assistance from the FDIC to prevent its failure;

(B) Any FDIC-insured depository institution resulting from a merger or consolidation with any institution described in paragraph (d)(3)(i) of this section; and

(C) Any holding company of an FDIC-insured depository institution described in paragraphs (d)(3)(i) or (d)(3)(ii) of this section.

(ii) An assisted entity retains its status as an assisted entity for such time as there is an ongoing financial relationship with the FDIC including, but not limited to, a loan repayment obligation, the servicing of assets on behalf of the FDIC, or the retention by the FDIC of stock or stock warrants in the assisted entity.

(4)(i) *Assuming entity* means:

(A) Any FDIC-insured depository institution or FDIC-insured depository institution holding company which has entered into a transaction with the FDIC to purchase some or all of the assets and assume some or all of the liabilities of a failed FDIC-insured depository institution;

(B) Any FDIC-insured depository institution resulting from the transaction described in paragraph (d)(4)(i) of this section and its wholly owned subsidiaries; and

(C) Any branches and the wholly owned subsidiaries of the institutions described in paragraph (d)(4)(i) of this section.

(ii) An assuming entity retains its status as an assuming entity for a period of one year after the failure of the FDIC-insured depository institution.

(5) *Covered employee* means an employee of the Corporation required to file a public or confidential financial disclosure report under 5 CFR part 2634 or 5 CFR part 3202.

(6) *Employee* means an officer or employee, other than a special Government employee, of the Corporation including a member of the Board of Directors appointed under the authority of 12 U.S.C. 1812(a)(1)(C), and a liquidation graded employee. For purposes of 5 CFR part 2635 and §§ 3201.103 and 3201.104, *employee* includes any individual who, pursuant to a contract or any other arrangement, performs functions or activities of the Corporation, under the direct supervision of an officer or employee of the Corporation.

(7) *Security* includes an interest in debt or equity instruments. The term includes, without limitation, a secured or unsecured bond, debenture, note, securitized assets, commercial paper, and all types of preferred and common stock. The term includes an interest or right in a security, whether current or contingent, a beneficial or legal interest derived from a trust, the right to acquire or dispose of any long or short position, an interest convertible into a security, and an option, right, warrant, put, or call with respect to a security. The term *security* does not include a deposit account.

(8) *State nonmember bank* means any State bank as defined in 12 U.S.C. 1813(e) which is not a member of the Federal Reserve System.

(9) *Subsidiary,* as defined in 12 U.S.C. 1813(w), means any company which is owned or controlled directly or indirectly by another company.

§ 3201.102 Extensions of credit from FDIC-insured depository institutions.

(a) *Credit subject to this section.* The prohibition, disqualification, and retention provisions of this section apply to a current or contingent financial obligation of the employee. For purposes of this section, a current or contingent financial obligation of an employee's spouse or minor child is considered to be an obligation of the employee.

(b) *Prohibition on acceptance of credit from FDIC-insured State nonmember banks applicable to certain high-level officials.* (1) An employee described in paragraph (b)(2) of this section shall not, directly or indirectly, accept or become obligated on an extension of credit from an FDIC-insured State nonmember bank or its subsidiary, except credit extended through the use of a credit card under the same terms and conditions as are offered to the general public.

(2) The prohibition in paragraph (b)(1) of this section applies to:

(i) An employee who is a member of the Board of Directors, an assistant or deputy to the Board of Directors or to an appointed Board member, and a covered employee who is an assistant to such person; and

(ii) The director of a Washington office or of a division, other than the Division of Supervision and the Division of Compliance and Consumer Affairs, and a covered employee who holds a position immediately subordinate to such director.

(c) *Prohibition on acceptance of credit from FDIC-insured State nonmember banks for employees assigned to the Division of Supervision and employees assigned to the Division of Compliance and Consumer Affairs.* (1) An employee described in paragraph (c)(2) of this section shall not, directly or indirectly, accept or become obligated on an extension of credit from an FDIC-insured State nonmember bank or from an officer, director, employee, or subsidiary of such bank, except:

(i) For an employee assigned to the Washington office, credit extended through the use of a credit card on the same terms and conditions as are offered to the general public; and

(ii) For an employee assigned to other than the Washington office, credit extended by an FDIC-insured State nonmember bank headquartered outside the employee's region of official assignment through the use of a credit card on the same terms and conditions as are offered to the general public.

(2) The prohibition in paragraph (c)(1) of this section applies to the Executive Director for Supervision, Resolutions, and Compliance, the Director of the Division of Supervision, the Director of the Division of Compliance and Consumer Affairs, a covered employee immediately subordinate to the Executive Director for Supervision, Resolutions, and Compliance, the Director of the Division of Supervision, or the Director of the Division of Compliance and Consumer Affairs, and the following employees assigned to the Division of Supervision and the Division of Compliance and Consumer Affairs: an Assistant Director, Regional Director, Deputy Regional Director, Assistant Regional Director, Regional Manager, examiner, assistant examiner, review examiner, compliance examiner, assistant compliance examiner, and a covered employee.

(3) Upon accepting credit extended by a credit card in accordance with paragraph (c)(1)(i) or (c)(1)(ii) of this section, the employee shall be disqualified in accordance with paragraph (f)(1) of this section, and, within 30 days of accepting such credit, shall file with the appropriate director a Statement of Credit Card Obligation in Insured State Nonmember Bank and Acknowledgement of Conditions for Retention—Notice of Disqualification.

(d) *Two-year prohibition on acceptance of credit from FDIC-insured depository institutions.* (1) An employee described in paragraph (d)(2) of this section shall not, directly or indirectly, accept or become obligated on an extension of credit from an FDIC-insured depository institution or its subsidiary for a period of two years from the date of the employee's last personal and substantial participation in an audit, resolution, liquidation, supervisory proceeding, or internal agency deliberation affecting that particular institution, its predecessor or successor, or any subsidiary of such institution. This prohibition does not apply to credit obtained through the use of a credit card under the same terms and conditions as are offered to the general public.

(2) The prohibition in paragraph (d)(1) of this section applies to an employee in the Division of Finance, Division of Depositor and Asset Services, Division of Resolutions, Legal Division, or who is a member of a standing committee of the Board of Directors whose official duties include:

(i) Audit of insured depository institutions for deposit insurance assessment purposes;

(ii) Resolution or liquidation of failed or failing insured depository institutions;

(iii) Participation in the supervision of insured depository institutions or enforcement proceedings under the Federal Deposit Insurance Act; or

(iv) Internal agency deliberations affecting a particular insured depository institution, its predecessor or successor, or a subsidiary of such institution.

(e) *Prohibition on acceptance of credit from an assisted or assuming entity for employees of the Division of Depositor and Asset Services.* (1) An employee described in paragraph (e)(2) of this section shall not, directly or indirectly, accept or become obligated on any extension of credit from an assisted or assuming entity located in the employee's region of official assignment. This prohibition does not apply to credit obtained through the use of a credit card under the same terms and conditions as are offered to the general public.

(2) The prohibition in paragraph (e)(1) of this section applies to a regional director, deputy regional director, and any other covered employee in the Division of Depositor and Asset Services assigned to a service center or other field office.

(f) *Employee disqualification.* (1) An employee described in paragraph (c)(2) of this section shall not participate in an examination, audit, visitation, review, or investigation, or other particular matter involving an FDIC-insured depository institution or other person with whom the employee has an outstanding extension of credit.

(2) A covered employee, other than an employee who is described in paragraph (c)(2) of this section, shall not participate in any particular matter involving an FDIC-insured depository institution or other person with whom the employee has an outstanding extension of credit.

(3) Disqualification is not required under paragraph (f)(2) of this section:

(i) If the credit was extended through the use of a credit card on the same terms and conditions as are offered to the general public; or

(ii) When the agency designee, with the concurrence of the appropriate director, has authorized the employee to participate in the matter using the standard set forth in 5 CFR 2635.502(d).

(4) The Comptroller of the Currency and the Director of the Office of Thrift

VOL 60 ISS 79 AP 25 1995 UMI

Supervision shall be disqualified from matters pending before the Board of Directors to the same extent as a covered employee subject to paragraph (f)(2) of this section.

(g) *Retention and renegotiation of pre-existing extensions of credit.* (1) Nothing in this section prohibits the retention of a pre-existing extension of credit that an employee would be prohibited from accepting by § 3201.102(b) or (c) if the extension of credit was permitted to be retained under 12 CFR part 336 prior to the adoption of this regulation or if the employee's acceptance of the extension of credit was proper at the time the obligation was incurred, as in the case of an extension of credit incurred prior to commencement of employment or reassignment to another division or location. Subsequent action affecting the status of the creditor, such as merger, acquisition, or transaction under 12 U.S.C. 1823, does not change the character of an extension of credit that was proper when incurred. An employee who retains a pre-existing extension that he or she would be prohibited from accepting by § 3201.102(b) or (c) shall report the pre-existing extension of credit to the appropriate director or agency designee within 30 days from the following event, as appropriate:

(i) Adoption of this part;

(ii) Commencement of employment;

(iii) Assignment to another division or location; or

(iv) Action affecting the status of the creditor.

(2) Any renegotiation of a pre-existing extension of credit shall be treated as a new extension of credit that is subject to the prohibitions contained in § 3201.102(b) through (d). An employee may request that an exception be made to the prohibitions to permit renegotiation of a pre-existing extension of credit. Any such request shall be made in writing to the appropriate director and agency designee, or in the case of an employee described in paragraph (b)(2)(i) and (ii) of this section, to the Ethics Counselor, stating:

(i) The purpose of the renegotiation;

(ii) The terms and conditions of the original extension of credit;

(iii) The terms and conditions now available to the general public;

(iv) The terms and conditions now offered to the employee;

(v) The action the employee has taken to move the loan to an institution from which an employee would not be prohibited from accepting an extension of credit; and

(vi) The financial hardship, if any, denial of the request will cause.

(3) After submission of the request, the appropriate director and agency designee, or the Ethics Counselor, may grant the employee's request based upon a written determination that the request is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of the misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which agency programs are administered.

§ 3201.103 Prohibitions on ownership of securities of FDIC-insured depository institutions.

(a) *Prohibition on ownership.* Except as permitted by this section, an employee or the spouse or minor child of an employee, shall not acquire, own, or control, directly or indirectly, a security of an FDIC-insured depository institution, or an affiliate of an FDIC-insured depository institution.

(b) *Exception to prohibition for certain interests.* Nothing in this section prohibits an employee, or the spouse or minor child of an employee, from:

(1) Acquiring, owning or controlling the securities of certain publicly traded bank holding companies or their nonbank subsidiaries where the bank holding company is not primarily engaged in banking and either the bank holding company or the bank it holds is exempt under the provisions of the Bank Holding Company Act of 1956 and which are identified as such by the Board of Governors of the Federal Reserve System (a list of exempt institutions can be obtained from the Corporation's Ethics Section);

(2) Acquiring, owning, or controlling the securities of certain nonfinancial savings association holding companies whose principal business is unrelated to the financial services industry and which are identified as such by the Office of Thrift Supervision pursuant to 5 CFR 3101.109(b)(3)(ii) (a list of such institutions can be obtained from the Corporation's Ethics Section);

(3) Retaining a security of an FDIC-insured depository institution or an affiliate of an FDIC-insured depository institution if the security was permitted to be retained by the employee under 12 CFR part 336 prior to the adoption of this regulation, was obtained prior to commencement of employment with the Corporation, or was acquired by a spouse prior to marriage to the employee;

(4) Acquiring, owning, or controlling a security of an FDIC-insured depository institution or the affiliate of an FDIC-insured depository institution where the security was acquired by inheritance, gift, stock split, involuntary stock dividend, merger, acquisition, or other change in corporate ownership, exercise of preemptive right, or otherwise without specific intent to acquire the security. This provision permits the retention of any such interest only where:

(i) The employee makes full, written disclosure on FDIC form 2410/07 to the Ethics Counselor within 30 days of commencing employment or acquiring the interest; and

(ii) The employee is disqualified in accordance with 5 CFR part 2635, subpart D, from participating in any particular matter that affects his or her financial interests, or that of his or her spouse or minor child;

(5) Acquiring, owning, or controlling an interest in a publicly traded or publicly available investment fund provided that, upon initial or subsequent investment by the employee (excluding ordinary dividend reinvestment), the fund does not have invested, or indicate in its prospectus the intent to invest, more than 30 percent of its assets in the securities of one or more FDIC-insured depository institutions or FDIC-insured depository institution holding companies and the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund; or

(6) Using an FDIC-insured depository institution or an affiliate of an FDIC-insured depository institution as custodian or trustee of accounts containing tax-deferred retirement funds.

(c) *Divestiture.* Based upon a determination of substantial conflict under 5 CFR 2635.403(b), the Ethics Counselor may require an employee, or the spouse or minor child of an employee, to divest a security he or she is otherwise authorized to retain under paragraph (b) of this section.

§ 3201.104 Restrictions concerning the purchase of property held by the Corporation or the RTC as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation.

(a) *Prohibition on purchase of property.* An employee, and an employee's spouse or minor child shall not, directly or indirectly, purchase or acquire any property held or managed by the Corporation or the Resolution Trust Corporation (RTC) as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the

Corporation, regardless of the method of disposition of the property.

(b) *Disqualification.* An employee who is involved in the disposition of assets held by the Corporation or the RTC as conservator, receiver, or liquidator of the assets of an insured depository institution, or by a bridge bank organized by the Corporation shall not participate in the disposition of assets held in such capacities when the employee knows that any party with whom the employee has a covered relationship, as defined in 5 CFR 2635.502(b)(1), is or will be attempting to acquire such assets. The employee shall provide written notification of the disqualification to his or her immediate supervisor and the agency designee.

§ 3201.105 Prohibition on dealings with former employers, associates, and clients.

(a) An employee is prohibited for one year from the date of entry on duty with the Corporation from participating in a particular matter when an employer, or the successor to the employer, for whom the employee worked at any time during the one year preceding the employee's entrance on duty is a party or represents a party to the matter.

(b) For purposes of this section, the term *employer* means a person with whom the employee served as officer, director, trustee, general partner, agent, attorney, accountant, consultant, contractor, or employee.

(c) The one-year prohibition imposed by paragraph (a) of this section, and the one-year period preceding the employee's entrance on duty specified in paragraph (a) of this section, may each be extended in an individual case based on a written determination by the agency designee that, under the particular circumstances, the employee's participation in the particular matter would cause a reasonable person with knowledge of the facts to question his or her impartiality.

§ 3201.106 Employment of family members outside the Corporation.

(a) *Disqualification of employees.* An employee shall not participate in an examination, audit, investigation, application, contract, or other particular matter if the employer of the employee's spouse, child, parent, brother, sister, or a member of the employee's household is a party or represents a party to the matter, unless an agency designee authorizes the employee to participate using the standard in 5 CFR 2635.502(d).

(b) *Reporting certain relationships.* A covered employee shall make a written report to an agency designee within 30 days of the employment of the employee's spouse, child, parent, brother, sister, or a member of the employee's household by:

(1) An FDIC-insured depository institution or its affiliate;

(2) A firm or business with which, to the employee's knowledge, the Corporation has a contractual or other business or financial relationship; or

(3) A firm or business which, to the employee's knowledge, is seeking a business or contractual relationship with the Corporation.

§ 3201.107 Outside employment and other activities.

(a) *Prohibition on employment with FDIC-insured depository institutions.* An employee shall not provide service for compensation, in any capacity, to an FDIC-insured depository institution or an employee or person employed by or connected with such institution.

(b) *Use of professional licenses.* A covered employee who holds a license related to real estate, appraisals, securities, or insurance and whose official duties with the Corporation require personal and substantial involvement in matters related to, respectively, real estate, appraisal, securities, or insurance is prohibited from using such license, other than in the performance of his or her official duties, for the production of income. The appropriate director, in consultation with an agency designee, may grant exceptions to this prohibition based on a finding that the specific transactions which require use of the license will not create an appearance of loss of impartiality or use of public office for private gain.

(c) *Responsibility to consult with agency designee.* An employee who engages in, or intends to engage in, any outside employment or other activity that may require disqualification from the employee's official duties shall consult with an agency designee prior to engaging in or continuing to engage in the activity.

§ 3201.108 Related statutory and regulatory authorities.

(a) 18 U.S.C. 213, which prohibits an examiner from accepting a loan or gratuity from an FDIC-insured depository institution examined by him or her or from any person connected with such institution.

(b) 18 U.S.C. 1906, which prohibits disclosure of information from a bank examination report except as authorized by law.

(c) 17 CFR 240.10b–5 which prohibits the use of manipulative or deceptive devices in connection with the purchase or sale of any security.

(d) 18 U.S.C. 1909, which prohibits examiners from providing any service for compensation for any bank or person connected therewith.

§ 3201.109 Provisions of 5 CFR part 2635 not applicable to Corporation employees.

The following provisions of 5 CFR part 2635 are not applicable to employees of the Corporation:

(a) Because of the restrictions imposed by 18 U.S.C. 213 on examiners accepting loans or gratuities, an examiner in the Division of Supervision or Division of Compliance and Consumer Affairs may not use any of the gift exceptions at 5 CFR 2635.204 to accept a gift from an FDIC-insured depository institution examined by him or her or from any person connected with such institution.

(b) Provisions of 41 U.S.C. 423 (Procurement integrity) and the implementing regulations at 48 CFR 3.104 (of the Federal Acquisition Regulation) applicable to procurement officials referred to in:

(1) 5 CFR 2635.202(c)(4)(iii);

(2) The note following 5 CFR 2635.203(b)(7);

(3) Example 5 following 5 CFR 2635.204(a);

(4) Examples 2 and 3 following 5 CFR 2635.703(b)(3);

(5) 5 CFR 2635.902(f), (h), (l), and (bb);

(c) Provisions of 31 U.S.C. 1353 (Acceptance of travel and related expenses from non-Federal sources) and the implementing regulations at 41 CFR part 304–1 (Acceptance of payment from a non-Federal source for travel expenses) referred to in 5 CFR 2635.203(b)(8)(i).

(d) Provisions of 41 CFR Chapter 101 (Federal Property Management Regulations) referred to in 5 CFR 2635.205(a)(4).

(e) Provisions of 41 CFR Chapter 201 (Federal Information Resources Management Regulation) referred to in Example 1 following 5 CFR 2635.704(b)(2).

12 CFR CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 336—EMPLOYEE RESPONSIBILITIES AND CONDUCT

2. The authority citation for part 336 is revised to read as follows:

Authority: 5 U.S.C. 7301; 12 U.S.C. 1819(a).

3. Section 336.1 is revised to read as follows:

VOL 60 ISS 79 AP 25 1995 UMI

§ 336.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Federal Deposit Insurance Corporation (Corporation) are subject to the Executive Branch-wide Standards of Ethical Conduct at 5 CFR part 2635, the Corporation regulation at 5 CFR part 3201 which supplements the Executive Branch-wide Standards, the Executive Branch-wide financial disclosure regulations at 5 CFR part 2634, and the Corporation regulation at 5 CFR part 3202 which supplements the Executive Branch-wide financial disclosure regulations.

§§ 336.2–336.23 [Removed]

§§ 336.29–336.37 [Removed]

Appendix to Part 336 [Removed]

4. Sections 336.2 through 336.23 and 336.29 through 336.37 and all subpart headings are removed and reserved and the appendix to part 336 is removed.

[FR Doc. 95–9733 Filed 4–24–95; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA–91–010A]

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; United States Standards for Grades of Colby Cheese; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction to final rule.

SUMMARY: This document corrects the final rule [DA–91–010A], published Wednesday, March 1, 1995 [60 FR 11246]. The regulations related to changes in the United States Standards for Grades of Colby Cheese.

EFFECTIVE DATE: April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Roland S. Golden, Dairy Products Marketing Specialist, Dairy Standardization Branch, USDA/AMS/Dairy Division, Room 2750–S, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–7473.

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of these corrections inadvertently omitted the word "not" in the third sentence of 7 CFR 58.2475. This omission created an error in the maximum moisture content for colby cheese.

Need for Corrections

As published, the final rule contained an error which needs to be corrected to provide accuracy.

§ 58.2475 Colby cheese. [Corrected]

On page 11247, at the top of the third column, in § 58.2475, in sentence three of the paragraph, after "common salt and" and before "more than 40 percent moisture" add the word "not".

Dated: April 19, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–10154 Filed 4–25–95; 8:45 am]

BILLING CODE 3410–02–M

Food and Consumer Service

7 CFR Parts 272 and 274

[Amendment No. 333]

RIN 0584–AB32

Food Stamp Program: Benefit Delivery Rule

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking finalizes three Food Stamp Program provisions relating to benefit delivery. These regulations relate to the staggered issuance of benefits on Indian reservations, combined or aggregate allotments, and the issuance of benefits in rural areas where households may experience difficulty in obtaining program benefits.

In addition to the regulatory changes described above, this rule makes final three minor technical changes in current regulatory issuance provisions which are deemed appropriate by the Department to improve benefit issuance.

DATES: The amendments to §§ 272.2(a)(2) and (d)(1)(xi), and §§ 274.2(a), (c), and (g) are effective February 1, 1992. State agencies were instructed through an agency directive dated May 20, 1992, to implement these provisions on that date. The amendment to § 274.2(d)(2) is effective March 25, 1994. State agencies were instructed through an agency directive dated March 31, 1994, to implement this provision on that date. All remaining amendments are effective September 1, 1995.

FOR FURTHER INFORMATION CONTACT: James I. Porter, Supervisor, Issuance and Accountability Section, State Administration Branch, Program Accountability Division, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Room 904, Alexandria, Virginia 22302, telephone (703) 305–2383.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Ellen Haas, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this final rule will not have a significant impact on a substantial number of small entities. The requirements of the rule will affect State and local agencies which administer the Food Stamp Program, as well as food stamp applicants and recipients.

Paperwork Reduction Act

The provisions of this final rule do not contain record-keeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program the administrative procedures are as follows: (1) for program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(10) and set out at 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 and set out at 7 CFR 276.7; and (3) for program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 and set out at 7 CFR 278.8.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule at 7 CFR part 3015, subpart V, and related Notice (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Public Participation

Section 274.2(c) is simply a restatement of existing Food Stamp Program regulations regarding the obligation of State agencies to provide combined or aggregate allotments in certain circumstances and makes no changes in existing policy. Section 274.2(d)(2) is the regulatory adoption of Section 102 of Pub. L. 103–225 regarding the availability of staggered issuance of benefits on Indian reservations. Therefore, the amendments to 7 CFR 274.2(c) and (d)(2) are being issued as final rules without prior notice and public comment. The language of § 274.2(d)(2) is the same as that employed in Pub. L. 103–225. Section 102 of Pub. L. 103–225 is non-discretionary in that it makes an existing policy, staggered issuance, available to Indian reservations for at least 15 days per month at the request of the tribal governing authority. Because of the non-discretionary nature of the amendments to 7 CFR 274.2(c) and (d)(2), the Department has determined, pursuant to 5 U.S.C. 553, that public comment on these provisions prior to implementation is unnecessary as it would serve no practical purpose.

Background

The Mickey Leland Memorial Domestic Hunger Relief Act (Title XVII of Pub. L. 101–624, enacted November 28, 1990) amended three provisions of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2011 *et seq.*) (the Act), relating to the timing and method of benefit delivery (issuance). These amendments related to staggered issuance of benefits on Indian reservations, aggregate (combined) allotments to households applying after the 15th of the month, and mail issuance in rural areas where households experience transportation difficulties in obtaining benefits.

The Department issued a proposed rulemaking and sought comments on these three provisions of Pub. L. 101–624 on May 20, 1991, at 56 FR 23027. In the same publication, the Department also announced its intent to make three minor technical changes to existing issuance provisions deemed appropriate to improve benefit issuance. Comments were sought on these changes as well. Each of the six regulatory changes proposed on May 20, 1991, will be separately discussed in this rulemaking.

The 1990 Amendments (Pub. L. 101–624): Comments and Analyses

1. Section 1728 of Pub. L. 101–624 amended Section 7(h)(1) of the Act, 7 U.S.C. 2016(h)(1) to mandate the use of staggered issuance throughout the month on Indian reservations. This provision reflected the findings of a GAO audit (Recipient and Expert Views on Food Assistance at Four Indian Reservations, GAO/RCED 90–152, dated June 28, 1990) in which auditors were told by recipients that each month certain retail food stores authorized to accept food stamps on or near reservations were increasing the prices of eligible food during the week containing the one or more issuance days.

Subsequent to the publication of the proposed rule on this issue, Congress enacted Section 908 of Pub. L. 102–237, delaying the implementation of Section 1728 of Pub. L. 101–624 until April 1, 1993. Section 908 of Pub. L. 102–237 directed GAO to report to Congress by June 13, 1992, on the difficulties that residents on Indian reservations experience in obtaining benefits. The study was to examine prices at food stores, determine issuance-period preferences of households, analyze any transportation problems that may exist, and examine monthly reporting requirements.

On November 25, 1992, GAO released Letter Report RCED–93–70R concerning the need for staggered issuance on Indian reservations. This report summarized comments from 13 State agencies and two national Indian organizations, but arrived at no conclusive recommendation.

Due in significant part to the inconclusive nature of the GAO Report, Congress, on April 1, 1993, in Pub. L. 103–11, "Food Stamp Requirements on Indian Reservations: Delay," delayed implementation of the mandatory staggered issuance requirement of Section 1728 of Pub. L. 101–624, until January 24, 1994. Implementation of Section 1728 was further delayed until March 15, 1994, by section 1 of Pub. L. 103–205, "Food Stamp Program on Indian Reservations," on December 17, 1993.

With section 102 of the Food Stamp Improvements Act of 1994, Pub. L. 103–225, enacted on March 25, 1994, Congress amended Section 7(h)(1) of the Act by deleting the mandatory requirement for staggered issuance on Indian reservations, which had been provided for in Section 1728 of Pub. L. 101–624, and making staggered issuance on Indian reservations discretionary with each tribal organization. Section 7(h)(1) of the Act, 7 U.S.C. 2016(h)(1), now provides that staggered issuance shall be provided to tribal organizations by State agencies over a period of at least 15 days each month if so requested by the organization exercising governmental jurisdiction over the reservation.

In light of the amendment to section 7(h)(1) of the Act by section 102 of Pub. L. 103–225, making staggered issuance an Indian tribal organization option, the Department believes that a lengthy discussion of the public comments on the proposed rule, pertaining to the parts of the statutory provision which were amended, is no longer necessary, since the comments, while appreciated, are no longer relevant. The Department also believes that the implementation of section 102 of Pub. L. 103–225 does not require public comment. Congress has given the Department and State agencies no discretion and no options with regard to the use of staggered issuance on Indian reservations; the sole discretion to be exercised is with Indian tribal organizations. Under the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553, public comment on a regulatory change is not required if that comment would serve no practical purpose. As a reflection of the Department's absence of discretion in this matter, the Department hereby implements as a final rule without prior notice and comment section 102 of Pub. L. 103–225 in regulatory language identical to that employed by Congress in the legislation. This provision will be located at § 274.2(d)(2).

2. In the May 20, 1991, rulemaking published at 56 FR 23027, the Department sought comments on its proposal to implement section 1732 of Pub. L. 101–624. That provision amended section 8(c)(3) of the Act, 7 U.S.C. 2017(c)(3), to change program requirements concerning aggregate benefits (combined benefits for the month of application and the first full month of benefit receipt) for eligible households applying after the 15th of the month. Prior to the amendment, section 8(c)(3) required that an initial allotment reflecting an aggregate of prorated benefits for the application month and benefits for the first full month was required if the application was made after the 15th day of the month. Amended section 8(c)(3) made

VOL
60
ISS
79
AP
25
1995
UMI

the combined allotment a State agency option for eligible households applying under normal processing standards. Despite the amendment to section 8(c)(3), combined allotments, however, remained mandatory for eligible households that met the requirements for expedited service. This program change was implemented by State agencies retroactively to February 1, 1992, pursuant to an FNS directive dated May 20, 1992.

To implement section 1732 of Pub. L. 101–624 in the Code of Federal Regulations, the Department proposed amendments to several paragraphs of § 274.2(b). Subsequently, it was determined that program regulatory provisions regarding eligibility for combined allotments would more appropriately be located in § 273.2(i) of program regulations, which deals with household application requirements. A rule reflecting this redesignation, including the adoption as final of the changes previously proposed for § 274.2(b), will be published in the near future. Comments received on this program change in response to the May 20, 1991, proposed rule will be discussed in that rulemaking.

The effect of the above-described modification will be to locate in part 273 of the program regulations all provisions regarding eligibility for combined or aggregate allotments. Section 274.2 will contain only program provisions regarding State agency benefit issuance requirements. To reflect this redesignation, the Department adopts as a final rule an amendment to § 274.2, paragraph (c), which simply restates existing program policy with regard to State agency obligations concerning combined allotments. As § 274.2(c) summarizes existing regulations and makes no changes to those regulations, the Department, pursuant to 5 U.S.C. 553, deems prior notice and public comment on this regulatory provision to be unnecessary.

3. Section 1738 of Pub. L. 101–624 amended section 11(e) of the Act, 7 U.S.C. 2020(e), to require State agencies to use mail issuance in rural areas where State agencies determine that recipients face substantial difficulties in obtaining transportation to issuance points. Amended section 11(e) provides an exception to mandatory mail issuance for households which have experienced excessive mail issuance losses. In addition, mail issuance is not required in localities where the mail loss rates exceed standards set by the Secretary. This amendment was prompted by concern that some eligible households in rural areas have difficulty getting to issuance sites because they lack cars or sufficient funds to hire someone to drive them (House Report No. 101–569, pages 433–34).

Under the proposed rule, a State agency which is not currently using mail issuance throughout the State must engage in an assessment of transportation barriers which rural recipients may experience in getting to issuance offices, and report both the assessment process and its results as an attachment to its State Plan of Operation. Section 272.2 of the regulations is revised to add this requirement to the State Plan of Operation. Section 274.2 is also revised to add a new subsection describing the required content of this new attachment to the State Plan of Operation.

In enacting Section 1738 of Pub. L. 101–624, Congress was concerned with transportation problems that make it difficult for recipients to obtain their benefits at issuance offices (House Report No. 101–569, pages 433–34). These problems, rather than transportation problems in general, should be the focus of the State agency's assessment of the need for mail issuance. For example, mail issuance is not required where electronic benefits transfer (EBT) removes the need for transportation to an issuance office. As an alternative to mail issuance, State agencies finding substantial transportation difficulties could reduce or eliminate them by a variety of methods, such as through the use of authorized representatives as provided for in 7 CFR 274.5.

To implement the exception to mail issuance for individual households that experience excessive mail losses, the Department proposed to use the current standard at 7 CFR 274.6(c)(3)(ii), which provides that households experiencing two losses or thefts of benefits from the mail within a six-month period shall be placed on an alternative delivery system.

To implement the exception to mail issuance in amended Section 11(e)(25) of the Act for localities with excessive mail losses, the Department proposed to utilize the standards set by the mail issuance loss tolerance levels provided at 7 CFR 276.2(b)(4). State agencies would not have to use mail issuance where mail losses exceed, or could reasonably be expected to exceed, the mail loss tolerance levels for the reporting unit within which the particular rural area is located. Section 276.2(b)(4) provides three separate mail issuance tolerance levels. The applicable mail loss tolerance level depends on the size of the reporting unit. In determining whether mail losses in a given rural area would be excessive, State agencies without mail issuance in that area may use the tolerance level associated with a hypothetical reporting unit. Tolerance levels applied to any hypothetical reporting area would have to be consistent with existing rules and any existing reporting units. For example, States with some mail issuance in place, and currently reporting issuance losses by project areas, could not exempt a rural area without mail issuance from the mail issuance requirements of amended Section 11(e)(25) on the basis of its losses exceeding a State-wide tolerance. Similarly, a State agency that does not have mail issuance would have to use the same tolerance levels in assessing any rural areas subject to this rule; the State could not exempt some areas because they would exceed the State-wide tolerance level and other areas because they would exceed the project area tolerance level. States which choose not to introduce mail issuance based upon findings that losses would exceed tolerance levels will be required to provide evidence to support such findings.

Three comments were received on these proposals. One State agency was concerned that the provision requiring mail issuance would eliminate the State's current practice of offering recipients either mail issuance or direct delivery of benefits. This is not the case. State agencies may accommodate individual household requests; the requirement is to provide or offer mail issuance as a means of overcoming transportation difficulties. Another commenter was concerned that the proposed provisions might overturn established efforts and procedures geared to reduce mail losses. It would subvert the purpose of the legislation, namely to encourage mail issuance, if the implementing rules prevented reductions in mail losses that in turn created pressures to abandon mail issuance altogether. Therefore, the Department will not require mail issuance in situations in which State agencies can demonstrate that losses incurred in attempts to issue benefits by mail in rural areas would be excessive. The third comment came from a State agency which stated that it would not be affected by the provision because the State currently has statewide direct-mail issuance.

The wording in the first sentence of the proposed paragraph has been revised slightly for conformity with the description of other planning documents listed in 7 CFR 272.2(d). This minor change does not alter the intent of the provision.

Accordingly, with this final rule, the wording of the proposed rule, with the exception noted above, is adopted.

Changes to Current Regulations

On February 15, 1989, at 54 FR 6990, the Department issued a final rule constituting the first comprehensive review and modification of food stamp issuance regulations since their adoption pursuant to the Food Stamp Act of 1977 (Pub. L. 95–113).

This final rule makes changes to three of those provisions, in an effort to clarify interpretive problems brought to the Department's attention over the past three years. These changes were proposed on May 20, 1991, at 56 FR 23028–29.

4. In the May 20, 1991, proposed rule the Department suggested changes to make clear that staggering may be used in any issuance system and that the 40-day limit on intervals between issuances applies to all issuance systems. Current rules at § 274.2(c)(1) refer to a 40-day limit between "mail issuances" because, in the past, State agencies staggered only mail issuance. The word "mail" is being removed to make it clear that the 40-day limit applies to all staggered issuance situations, and to remove any implication that staggering is relevant only to mail issuance.

Whenever staggered issuance is utilized, the State agency must ensure that the interval between any two issuances after the first full month of participation is not longer than 40 days as required by Section 7(h) of the Act, 7 U.S.C. 2016(h)(2). This applies to instances in which a State agency changes its issuance system, is starting to stagger within any issuance system, decides to no longer stagger within a system, or is fluctuating the issuance schedule by a day or two within a current staggered system. The only exception to the 40-day limit occurs for some households which apply after the 15th of the month and receive their first and second month's benefit as a combined allotment. Since they may receive their benefits for the first and second months of participation in the first month, more than 40 days may elapse before they are put on a regular issuance schedule, beginning with benefits issued for the third month.

Three commenters addressed this proposal. One stated that households which are required to submit monthly reports may have to wait as long as 50 days between issuances. Such an interval would only be permissible in situations in which the State agency is required to wait for the household to meet its monthly reporting requirement. The 40-day rule pertains to on-going households which have complied with all reporting requirements and expect their benefits at about the same time every month.

Another commenter was concerned that the Department is reading something into the law which established the 40-day requirement that Congress did not intend, and that more than 40 days should be allowed under normal fluctuations within an established staggered issuance system. The Department disagrees; intervals beyond 40 days between normal issuances do not meet the requirement of the law and its legislative history. The 40-day requirement is an extension of the requirement at 7 CFR 274.2(c), which states that issuance schedules shall be established so that households receive benefits on or about the same time each month. The amendment gives State agencies room to adjust issuance schedules when issuance systems are being changed, rather than holding the State agency to the requirement that households receive benefits on or about the same day each month. The Department considers the amendment less restrictive, not more so.

The provision in this rule has been reworded to state more clearly the situations to which it applies. This also addresses a third commenter who said the 40-day rule is simply burdensome.

With this final rule, the Department adopts as final 7 CFR 274.2(c)(1) as proposed to indicate that the requirements of staggered issuance are applicable to all issuance systems.

5. The regulations at 7 CFR 274.3(e) currently provide for validity periods for issuances made in authorization document, direct access, and direct delivery issuance systems. A validity period is the time-frame during which a household may obtain benefits by transacting an authorization document or receiving benefits at an issuance point. The validity period begins the day a household is issued an authorization document or is authorized to obtain its issuance at an issuance point. The validity period for issuances ends on the last day of the month in which authorization to receive benefits is made, with two exceptions. First, for normal issuances made on or after the 20th day of the month, the State agency must extend the validity or availability period at least 20 days into the following month and may extend the validity or availability period until the end of the following month; second, for combined issuances for households applying after the 15th of the month, the validity period must continue until the end of the month following application since benefits for which the household is eligible are intended for use during both months. States have pointed out that Program administration would be simplified if normal issuances made after the 15th of the month could have the same validity period as the validity period for combined issuance made in the month of application. The proposed rule addressed that concern by changing the issuance date that initiates an extension for validity periods for normal issuances from "on or after the 20th" to "after the 15th" of the month.

Three commenters addressed this provision. One simply stated the amount of time (3 months) that would be required to make the necessary computer changes, but made no statement for or against the provision. Another commenter questioned whether the new trigger date would allow State agencies to retain the option to extend the validity period for normal issuances for 20 days or until the end of the following issuance month. The answer to this question is that, as stated in the proposed rule, State agencies will retain the option. The third commenter suggested that the provision of having the validity dates coincide be optional because of the time and expense required in modifying the State agency's on-line issuance computer. Because this provision was adopted in response to State agency requests as a means of easing the Program's administrative burden, the Department is making this date change an option for State agencies. The Department would also like to clarify that when a combined allotment is issued with the use of two documents in authorization document systems during the month of application, the validity period for both documents must continue until the end of the second month, as that is the period of intended use for the combined benefits.

With this final rule, the Department adopts as final 7 CFR 274.3(e) as previously proposed by making the proposed modification of the validity period for normal issuances a State agency option.

6. In 7 CFR 274.11(a) a change was proposed by the Department to clarify which issuance documents, including signature cards used by direct-delivery agents, are required to be retained for three years in order to provide an audit trail for accountability. The current regulation at 7 CFR 274.11(a)(1) lists specific forms required to be retained. However, as established issuance systems have changed and newer ones have been implemented, the list has not been revised. The Department proposed to replace the listing of specific forms with a general retention requirement covering all issuance system documents

VOL
60
ISS
79
AP
25
1995
UMI

which provide an audit record for accountability. An additional change made the wording about the period of retention conform to 7 CFR 272.1(f).

The one commenter responding to the Department's proposal stated that the provision would not affect the program operations of that State. Wording and punctuation within the first ten words in paragraphs (a) and (a)(1) of 7 CFR 274.11 are revised slightly from the proposed rule to make clearer the fact that the provision addresses four separate groups of documents to be retained—issuance records, inventory records, reconciliation records, and other records. These latter changes do not affect the meaning or intent of the proposed rule.

Therefore, the wording of the proposed rule, regarding sections 7 CFR 274.11(a) and (a)(1) with the exception noted above, is adopted as final.

Dates

1. *Effective.* Section 1738 of Pub. L. 101–624 was effective February 1, 1992. Section 102 of Pub. L. 103–225 was effective March 25, 1994. The effective date for the amendments to 274.2(d)(1), 274.3(e), and 274.11(a) is September 1, 1995.

2. *Implementation.* The implementation date for Section 102 of Pub. L. 103–225 was March 25, 1994. The implementation date for Section 1738 of Pub. L. 101–624 was February 1, 1992. By that date, or soon thereafter, States should have submitted to FCS, an approvable amendment to the State Plan of Operation, for direct-mail issuance in rural areas. The timetable for actual implementation of any new direct-mail issuance system will be set by the State agency, with FCS approval. The implementation date for the amendments to 274.2(d)(1), 274.3(e), and 274.11(a) is September 1, 1995.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

As stated in the Preamble, parts 272 and 274 of chapter II of Title 7, Code of Federal Regulations, are amended as follows:

1. The authority citation for parts 272 and 274 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g)(140) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(140) *Amendment No. 333.* The provisions of Amendment No. 333 are effective and must be implemented as follows:

(i) The provisions relating to aggregated (combined) allotments to households applying after the 15th of the month and mail issuance in rural areas where households experience transportation difficulties in obtaining benefits are effective and must be implemented by statute retroactive to February 1, 1992.

(ii) The provision relating to staggered issuance on Indian reservations was in place on March 25, 1994, is effective and must be implemented according to statute retroactive to March 25, 1994.

(iii) The remaining provisions are effective and must be implemented September 1, 1995.

3. In § 272.2, a new sentence is added to the end of paragraph (a)(2), and a new paragraph (d)(1)(xi) is added, to read as follows:

§ 272.2 Plan of operation.

(a) *General purpose and content.* * * *

(2) *Content.* * * * The Plan's attachments shall describe the State agency's review of direct-mail issuance requirements in rural areas.

* * * * *

(d) *Planning Documents.*

(1) * * *

(xi) A plan to review direct-mail issuance requirements in rural areas. State agencies using direct-mail issuance throughout the State with exceptions only for individual households, shall simply state this fact. State agencies which use methods of benefit issuance other than direct-mail issuance in any part of the State shall submit an attachment to their State Plan of Operation which includes the State agency's procedure for reviewing direct-mail issuance requirements in rural areas, and the results of applying that procedure for designating parts of, or entire, project areas as requiring direct-mail issuance because they are rural, and are areas in which benefit-eligible households face substantial difficulties in obtaining transportation. The requirements for this attachment to the State Plan of Operation are described in § 274.2(g) of this chapter.

* * * * *

PART 274—ISSUANCE AND USE OF COUPONS

4. In § 274.2:

a. a new sentence is added at the end of paragraph (a);

b. the heading of paragraph (b) is revised;

c. paragraphs (b)(2), (b)(3), and (b)(4) are removed;

d. paragraphs (b)(1), (c), (d), and (e) are redesignated as paragraphs (b), (d), (e), and (f), respectively;

e. two new sentences are added at the end of newly-redesignated paragraph (b);

f. newly-redesignated paragraph (d)(1) is revised;

g. paragraphs (d)(2) and (d)(3) are redesignated as paragraphs (d)(3) and (d)(4), respectively;

h. newly-redesignated paragraph (d)(3) is revised; and

i. new paragraphs (c), (d)(2) and (g) are added.

The additions and revisions read as follows:

§ 274.2 Providing benefits to participants.

(a) *General* * * * Requirements to assure timely and accurate issuance of benefits to eligible households in rural areas are described in paragraph (g) of this section.

(b) *Availability of benefits.* * * * For households entitled to expedited service, the State agency shall make benefits available to the household not later than the fifth calendar day following the date of application. Whatever system a State agency uses to ensure meeting this delivery standard shall be designed to allow a reasonable opportunity for redemption of ATPs no later than the fifth calendar day following the date of application.

(c) *Combined allotments.* For those households which are to receive a combined allotment, the State agency shall provide the benefits for both months as an aggregate (combined) allotment, or as two separate allotments, with the same validity period, made available at the same time, in accordance with the timeframes specified in § 273.2 of this chapter.

(d) *Ongoing households* * * *

(1) State agencies that use direct-mail issuance shall stagger issuance over at least 10 days of the issuance month, and may stagger issuance over the entire issuance month. State agencies using a method other than direct-mail issuance may stagger issuance throughout the month, or for a shorter period. When staggering benefit delivery, however, State agencies shall not allow more than 40 days to elapse between the issuance of any two allotments provided to a household participating longer than two consecutive, complete months. Regardless of the issuance schedule used, the State agency shall adhere to the reporting requirements specified in § 274.4.

(2) Upon the request of the tribal organization that exercises governmental jurisdiction over a reservation, the State agency shall stagger the issuance of benefits for eligible households located on reservations for at least 15 days each month.

(3) When a participating household is transferred from one issuance system or procedure to another issuance system or procedure, the State agency shall not permit more than 40 days to elapse between the last issuance under the previous system or procedure, and the first issuance under the new system or procedure. The 40-day requirement does not apply to instances in which actions by recipients, such as failure to submit a monthly report, disrupt benefits. Transfers include, but are not limited to, households being moved into or out of a staggered issuance procedure, households on a fluctuating schedule within a staggered system, and households being moved from a direct-mail issuance system to an authorization document system. If the State agency determines that more than 40 days may elapse between issuances, the State agency shall divide the new issuance into two parts, with one part being issued within the 40-day period, and the second part, or supplemental issuance, being issued on the household's established issuance date in the new system or procedure. The supplemental issuance cannot provide the household more benefits than the household is entitled to receive.

* * * * *

(g) *Issuance in rural areas.* State agencies shall use direct-mail issuance in any rural areas where the State agency determines that recipients face substantial difficulties in obtaining transportation in order to obtain their food stamp benefits by methods other than direct-mail issuance. Exceptions shall be made for households which have exceeded the two allowable reported losses within a six-month period and replacements set forth in § 274.6 (b) and (g), and direct-mail issuance is not required in those localities where the direct mail loss rates exceed, or are likely to exceed, standards set by the Secretary at § 276.2(b) of this chapter. The State agency shall:

(1) Submit an attachment to the State Plan of Operation (§ 272.2(d)(1)(xi) of this chapter) which describes the State's exemption from this requirement, because the State agency uses direct-mail issuance throughout the State, or

(2) Submit an attachment to the State Plan of Operation (§ 272.2(d)(1)(xi) of this chapter) which describes:

(i) The areas designated by the State agency as rural;

(ii) The rural areas where direct-mail issuance will not be used because:

(A) Recipients do not face substantial difficulties in obtaining transportation to obtain their benefits, and/or;

(B) Direct-mail issuance losses exceed the loss tolerance levels, or there is evidence which indicates that direct-mail issuance, if used, would produce losses which would exceed the loss tolerance levels established under § 276.2(b)(4) of this chapter.

(iii) The State agency's criteria for designating an area as rural. Such criteria may include, but are not limited to: the use of the Bureau of the Census definition; the distances that recipients may need to travel to reach an issuance office; or, other criteria described by the State agency.

(iv) The State agency's minimum criteria for determining that recipients in an area designated as rural do not face substantial difficulties in obtaining transportation to obtain their benefits.

(v) The State agency's schedule for introducing direct-mail issuance into any rural areas requiring direct-mail issuance because of substantial transportation problems.

5. In § 274.3, paragraph (e)(1) is revised to read as follows:

§ 274.3 Issuance systems.

* * * * *

(e) *Validity periods.* (1) State agencies shall establish validity periods for issuances made in both authorization document and direct access systems. A validity period is the time frame during which a household may obtain benefits by transacting an authorization document, or receiving the benefits directly at an issuance point. Generally, the validity period coincides with the issuance month or the period of intended use, which may or may not be a calendar month. However, in instances in which authorization documents are distributed, or benefits become available for ongoing households late in the issuance month, the State agency shall extend the validity or availability period for either twenty (20) additional days, or until the end of the following issuance month, at the State agency's option. The State agency may also choose one of two dates which will initiate this extension of the validity or availability period. The State agency may choose to extend the period for authorization documents distributed or for benefits made available, on or after the 20th day of the issuance month or after the 15th day of the issuance month. Whichever date the State agency chooses to initiate the required extension, the State agency must use the date consistently for all extensions in this category. A household which does not transact its authorization document, or obtain the benefits directly from an issuance point during the issuance's validity period, shall lose its entitlement to the benefits, and the State agency shall not issue benefits to such a household for such a period.

* * * * *

6. In § 274.11, the section heading, the heading and introductory text of paragraph (a), and paragraph (a)(1) are revised to read as follows:

§ 274.11 Issuance and inventory record retention, and forms security.

(a) *Availability of records.* The State agency shall maintain issuance, inventory, reconciliation, and other accountability records for a period of three years as specified in § 272.1(f) of this chapter. This period may be extended at the written request of FNS.

(1) Issuance, inventory, reconciliation, and other accountability records shall include all Agency, State, and local forms involved in the State agency's receipt, storage, handling, issuance, and destruction of coupons completed by contract agents or any other individuals or entities involved in issuance or inventory, as well as those completed by the State agency.

* * * * *

Dated: April 11, 1995.

Ellen Haas,

Under Secretary for Food, Nutrition, and Consumer Services.

[FR Doc. 95–10091 Filed 4–24–95; 8:45 am]

BILLING CODE 3410–30–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AA38

Standards for Protection Against Radiation; Clarification

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; clarification.

SUMMARY: A final rule was published in the **Federal Register** on December 22, 1993 (58 FR 67657) that made a number

VOL
60
ISS
79
AP
25
1995
UMI

of conforming amendments to the NRC's standards for protection against radiation. References to the former 10 CFR Part 20 were removed from the revised Part 20, and, in that process, certain requirements not intended to be removed were inadvertently deleted. This final rule reinstates those requirements to retain records generated under the previously existing provisions of Part 20 which were intended to remain in effect.

EFFECTIVE DATE: April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mary L. Thomas or Jayne M. McCausland, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6230 or 415–6219, email MLT1@NRC.GOV or JMM2@NRC.GOV.

SUPPLEMENTARY INFORMATION: On May 21, 1991 (56 FR 23360), the Nuclear Regulatory Commission (NRC) published its revised standards for protection against radiation (10 CFR 20.1001–20.2401 and the associated appendices). The revised standards for protection against radiation incorporated scientific information and reflected changes in the basic philosophy of radiation protection that had occurred since the promulgation of the original regulations. The revisions conformed the Commission's regulations to the "Presidential Radiation Protection Guidance to Federal Agencies for Occupational Exposure" and to recommendations of national and international radiation protection organizations. The revised standards for protection against radiation became effective on June 20, 1991. However, NRC licensees were permitted to defer the mandatory implementation of these regulations until January 1, 1994.

On December 22, 1993 (58 FR 67657), the NRC published a final rule, effective on January 1, 1994, that removed or modified a number of provisions to reflect the effective date for NRC's revised standards for radiation protection. It has been determined that several requirements, scheduled for removal or modification by the December 22, 1993 rulemaking, should not have been removed or modified because they have continuing effect beyond the January 1, 1994, effective date for 10 CFR Part 20. Accordingly, the current action restores those requirements that were incorrectly modified or removed by the December 22, 1993, rulemaking.

Specifically, this action is necessary to clarify the Commission's intent in 10 CFR Part 20 to require that licensees continue to retain the following records until the Commission terminates the pertinent license:

(1) Records of surveys which were required by the formerly applicable § 20.401(c)(2) (i), (ii), and (iii), such as records of the results of surveys to determine the external radiation dose in the absence of personnel monitoring data to ensure compliance with NRC regulations concerning the concentrations of radioactive materials in air (formerly applicable 10 CFR Part 20 Appendix B), and records of the results of surveys used to evaluate the release of radioactive effluents to the environment;

(2) Records used in the preparation of NRC Form 4, such as records of the individual's occupational exposure from former employers which were required by the formerly applicable § 20.102(c)(2);

(3) Waste shipment manifests and documentation of acknowledgement of receipt which were required by the formerly applicable §§ 20.311(d)(7), (e)(5), (f)(8), and (g)(2);

(4) Records of radiation monitoring which were required by the formerly applicable § 20.401(c)(1);

(5) Records of disposal into sanitary sewers, by land burial, and other approved disposals which were required by the formerly applicable § 20.401(c)(3).

2. In addition, this action is necessary to correct the reference to "appendices A, B, C, D, or F to §§ 20.1001–20.2401" to read "appendices B, C, D, or F to part 20" in § 20.1201 (d) and (e), § 20.1204(c)(3), (e)(i), and (h)(2), § 20.1302 (b)(2)(i) and (c), § 20.1502(b)(1), § 20.1703 (b)(1), (b)(2), and (d), § 20.1704, § 20.1902(e), § 20.1905 (a) and (b), § 20.1906(d), § 20.2003 (a)(2) and (a)(3)(i), § 20.2006 (a), (b), (c), and (d), § 20.2201 (a)(i), (a)(ii), and (b)(2)(ii), § 20.2203(d), and § 20.2204.

3. To be consistent with the ALARA definition found in § 20.1003, the word "practicable" is changed to read "practical" in §§ 20.1701, 20.1702, 20.1906(c), and Appendix F to Part 20.

4. Finally, in Appendix C to 10 CFR Part 20, Quantities of licensed material requiring labeling, the quantity for Carbon-14 is corrected to read "100" rather than "1000." This change corrects a typographical error.

These amendments are corrective in nature, restore provisions inadvertently deleted in prior amendments, and correct reference and typographical errors found in the aforementioned sections of the revised 10 CFR part 20 (December 22, 1993; 58 FR 67657). Because the opportunity for public comment was previously provided for the changes which formed the basis for the December 22, 1993, amendments (May 21, 1991; 56 FR 23360 and August 26, 1992; 57 FR 38588), and because the proposed changes are minor corrective amendments, the NRC has determined that good cause exists to dispense with the notice and comment provisions of the Administrative Procedures Act (APA) pursuant to 5 U.S.C. 553(b)(B). For the same reasons, the NRC has determined that good cause exists to waive the 30-day deferred effective date provisions of the APA (5 U.S.C. 553(d)).

Enforcement

During the interim period from January 1, 1994 to the present, there has been no explicit requirement that licensees retain the five categories of records addressed in this rule that were required under the old Part 20. Therefore, a violation will not be cited in any case in which a licensee discarded the records during this period. In the case of a licensee that retained any of the five categories of records but discards those records *after the effective date of this rulemaking*, a violation may be cited in accordance with the NRC Enforcement Policy.

Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0014.

Regulatory Analysis

This final rule is administrative in that it reinstates provisions inadvertently removed from the text of an existing regulation and corrects errors found in the revised 10 CFR Part 20. These amendments will not have a significant impact. Therefore, the NRC has not prepared a separate regulatory analysis for this final rule. The final regulatory analysis for the May 21, 1991, final rule examined the costs and benefits of the alternatives considered by the Commission in developing the revised standards for protection against radiation and is available for inspection in the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC 20037.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provision that would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553 the NRC is adopting the following amendments to 10 CFR Part 20.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended (2 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

§ 20.1201 [Amended]

2. In § 20.1201, paragraphs (d) and (e) are amended by correcting the reference to "Appendix B to §§ 20.1001–20.2401" to read "Appendix B to Part 20."

§ 20.1203 [Amended]

3. Section 20.1203 is amended by correcting the reference to "Appendix B to §§ 20.1001–20.2401" to read "Appendix B to Part 20."

§ 20.1204 [Amended]

4. In § 20.1204, paragraphs (c)(3), (e)(1), and (h)(2) are amended by correcting the reference to "Appendix B to §§ 20.1001–20.2401" to read "Appendix B to Part 20."

§ 20.1302 [Amended]

5. In § 20.1302, paragraphs (b)(2)(i) and (c) are amended by correcting the reference to "Appendix B to §§ 20.1001–20.2401" to read "Appendix B to Part 20."

§ 20.1502 [Amended]

6. In § 20.1502, paragraph (b)(1) is amended by correcting the reference to "Appendix B to §§ 20.1001–20.2401" to read "Appendix B to Part 20."

§ 20.1701 [Amended]

7. Section 20.1701 is amended by deleting the word "practicable" and replacing it with the word "practical."

§ 20.1702 [Amended]

8. Section 20.1702 is amended by deleting the word "practicable" and replacing it with the word "practical."

9. In § 20.1703, paragraph (b)(1), the introductory text of paragraph (b)(2), and paragraph (d) are revised to read as follows:

§ 20.1703 Use of individual respiratory protection equipment.

* * * * *

(b) * * *

(1) The licensee selects respiratory protection equipment that provides a protection factor (see Appendix A, Part 20) greater than the multiple by which peak concentrations of airborne radioactive materials in the working area are expected to exceed the values specified in Appendix B to Part 20, Table 1, column 3. If the selection of a respiratory protection device with a protection factor greater than the multiple defined in the preceding sentence is inconsistent with the goal specified in § 20.1702 of keeping the total effective dose equivalent ALARA, the licensee may select respiratory protection equipment with a lower protection factor only if such a selection would result in keeping the total effective dose equivalent ALARA. The concentration of radioactive material in the air that is inhaled when respirators are worn may be initially estimated by dividing the average concentration in air, during each period of uninterrupted use, by the protection factor. If the exposure is later found to be greater than estimated, the corrected value must be used; if the exposure is later found to be less than estimated, the corrected value may be used.

(2) The licensee shall obtain authorization from the Commission before assigning respiratory protection factors in excess of those specified in Appendix A to Part 20. The Commission may authorize a licensee to use higher protection factors on receipt of an application that—

* * * * *

(d) The licensee shall notify, in writing, the Regional Administrator of the appropriate NRC Regional Office listed in Appendix D to Part 20 at least 30 days before the date that respiratory protection equipment is first used under the provisions of either § 20.1703 (a) or (b).

§ 20.1704 [Amended]

10. The introductory paragraph of § 20.1704 is amended by correcting the reference to "Appendix A to §§ 20.1001–20.2401" to read "Appendix A to Part 20."

§ 20.1902 [Amended]

11. In § 20.1902, paragraph (e) is amended by correcting the reference to "Appendix C to §§ 20.1001–20.2401" to read "Appendix C to Part 20."

§ 20.1905 [Amended]

12. In § 20.1905, paragraph (a) is amended by correcting the reference to "Appendix C to §§ 20.1001–20.2401" to read "Appendix C to Part 20" and paragraph (b) is amended by correcting the reference to "Appendix B to §§ 20.1001–20.2401" to read "Appendix B to Part 20."

§ 20.1906 [Amended]

13. In § 20.1906, paragraph (c) is amended by deleting the word "practicable" and replacing it with the word "practical," and the introductory text of paragraph (d) is amended by correcting the reference to "Appendix D to §§ 20.1001–20.2401" to read "Appendix D to Part 20."

§ 20.2003 [Amended]

14. In § 20.2003, paragraphs (a)(2) and (a)(3)(i) are amended by correcting the reference to "Appendix B to §§ 20.1001–20.2401" to read "Appendix B to Part 20."

§ 20.2006 [Amended]

15. In § 20.2006, paragraphs (a), (b), (c), and (d) are amended by correcting the reference to "Appendix F to §§ 20.1001–20.2401" to read "Appendix F to Part 20."

16. In § 20.2103, paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) are revised to read as follows:

§ 20.2103 Records of surveys.

* * * * *

(b) * * *

(1) Records of the results of surveys to determine the dose from external sources and used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents. This includes those records of results of surveys to determine the dose from external sources and used, in the absence of or in combination with individual monitoring data, in the assessment of individual dose equivalents required under the

VOL
60
ISS
79
AP
25
1995
UMI

standards for protection against radiation in effect prior to January 1, 1994; and

(2) Records of the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal dose. This includes those records of the results of measurements and calculations used to determine individual intakes of radioactive material and used in the assessment of internal dose required under the standards for protection against radiation in effect prior to January 1, 1994; and

(3) Records showing the results of air sampling, surveys, and bioassays required pursuant to § 20.1703(a)(3) (i) and (ii). This includes those records showing the results of air sampling, surveys, and bioassays required under the standards for protection against radiation in effect prior to January 1, 1994; and

(4) Records of the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment. This includes those records of the results of measurements and calculations used to evaluate the release of radioactive effluents to the environment required under the standards for protection against radiation in effect prior to January 1, 1994.

17. In § 20.2104, paragraph (f) is revised to read as follows:

§ 20.2104 Determination of prior occupational dose.

* * * * *

(f) The licensee shall retain the records on NRC Form 4 or equivalent until the Commission terminates each pertinent license requiring this record. The licensee shall retain records used in preparing NRC Form 4 for 3 years after the record is made. This includes records required under the standards for protection against radiation in effect prior to January 1, 1994.

18. In § 20.2106, paragraph (f) is revised to read as follows:

§ 20.2106 Records of individual monitoring results.

* * * * *

(f) The licensee shall retain the required form or record until the Commission terminates each pertinent license requiring this record. This includes records required under the standards for protection against radiation in effect prior to January 1, 1994.

19. In § 20.2108, paragraph (b) is revised to read as follows:

§ 20.2108 Records of waste disposal.

* * * * *

(b) The licensee shall retain the records required by paragraph (a) of this section until the Commission terminates each pertinent license requiring this record. This includes records required under the standards for protection against radiation in effect prior to January 1, 1994.

§ 20.2201 [Amended]

20. In § 20.2201, paragraphs (a)(1) (i) and (ii), are amended by correcting the reference to "Appendix C to §§ 20.1001–20.2401" to read "Appendix C to Part 20," and paragraph (b)(2)(ii) is amended by correcting the reference to "Appendix D to §§ 20.1001–20.2401" to read "Appendix D to Part 20."

§ 20.2203 [Amended]

21. In § 20.2203, paragraph (d) is amended by correcting the reference to "Appendix D to §§ 20.1001–20.2401" to read "Appendix D to Part 20."

§ 20.2204 [Amended]

22. Section 20.2204 is amended by correcting the reference to "Appendix D to §§ 20.1001–20.2401" to read "Appendix D to Part 20."

23. In Appendix C, the quantity for Carbon-14 is revised to read as follows:

Appendix C to Part 20—Quantities of Licensed Material Requiring Labeling

* * * * *

APPENDIX C TO PART 20—QUANTITIES OF LICENSED MATERIAL REQUIRING LABELING

Radionuclide	Quantity (μCi)
Carbon-14	100

* * * * *

Appendix F to part 20 [Amended]

24. In Appendix F, paragraph I, Manifest is amended by deleting the word "practicable" and replacing it with the word "practical," and paragraphs III(A)(7), (B)(5), (C)(8), and (D)(2) are revised to read as follows:

III. Control and Tracking

(A) * * *

(7) Retain a copy of the manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by parts 30, 40, and 70 of this chapter. This includes those manifests and documents required under the standards for protection against radiation in effect prior to January 1, 1994; and

* * * * *

(B) * * *

(5) Retain a copy of the manifest and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by parts 30, 40, and 70 of this chapter, and retain information from generator manifest until the license is terminated. This includes those manifests and documents of acknowledgement of receipt required under the standards for protection against radiation in effect prior to January 1, 1994; and

* * * * *

(C) * * *

(8) Retain copies of original manifests and new manifests and documentation of acknowledgement of receipt as the record of transfer of licensed material as required by parts 30, 40, and 70 of this chapter. This includes those manifests and documents of acknowledgement of receipt required under the standards for protection against radiation in effect prior to January 1, 1994; and

* * * * *

(D) * * *

(2) Maintain copies of all completed manifests or equivalent documentation until the license is terminated. This includes those manifests or equivalent documents required under the standards for protection against radiation in effect prior to January 1, 1994; and

* * * * *

Dated at Rockville, Maryland, this 11th day of April 1995.

For the Nuclear Regulatory Commission.

James L. Milhoan,

Acting Executive Director for Operations.

[FR Doc. 95–10123 Filed 4–24–95; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R–0851]

Revisions Regarding Tying Restrictions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting a regulatory "safe harbor" from the anti-tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 and the Board's Regulation Y. The safe harbor permits any bank or nonbank subsidiary of a bank holding company to offer a "combined-balance discount"—that is, a discount based on a customer maintaining a combined minimum balance in products specified by the company offering the discount.

EFFECTIVE DATE: May 26, 1995.

FOR FURTHER INFORMATION CONTACT: Gregory A. Baer, Managing Senior Counsel (202/452–3236), or David S. Simon, Attorney (202/452–3611), Legal Division; or Anthony Cyrnak, Economist, (202/452–2917), Division of Research and Statistics, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972) generally prohibits a bank from tying a product or service to another product or service offered by the bank or by any of its affiliates.[1] A bank engages in a tie for purposes of section 106 by conditioning the availability of, or offering a discount on, one product or service (the "tying product") on the condition that the customer obtain some additional product or service (the "tied product") from the bank or from any of its affiliates. Violations of section 106 can be addressed by the Board through an enforcement action, by the Department of Justice through a request for an injunction, or by a customer or other party through an action for damages. 12 U.S.C. 1972, 1973, and 1975.

Section 106 contains an explicit exception (the "statutory traditional bank product exception") that permits a bank to tie a product or service to a loan, discount, deposit, or trust service offered by that bank. The Board has extended this exception by providing that a bank or any of its affiliates also may vary the consideration for a traditional bank product on condition that the customer obtain another traditional bank product from an affiliate (the "regulatory traditional bank product exception").[2]

Section 106 authorizes the Board to grant exceptions to its restrictions by regulation or order. On October 19, 1994, the Board issued an order permitting the subsidiary banks of Fleet Financial Group, Inc., Providence, Rhode Island (Fleet) to offer a discount on the monthly service fee charged for its "Fleet One Account" to customers who maintain a combined minimum balance of at least $10,000 in one or more products selected from a menu of eligible Fleet products. All products offered as part of this arrangement were separately available to customers at competitive prices. In granting Fleet's request, the Board determined that, to the extent that Fleet's combined-balance discount was prohibited by section 106, an exemption was warranted given the public benefits and absence of anti-competitive concerns generated by the arrangement.

Final Rule

On October 21, 1994, the Board proposed a regulatory safe harbor from section 106 for combined-balance discounts similar to that offered by Fleet (59 FR 53761, October 26, 1994). The proposal would have permitted any bank to offer a combined-balance discount provided that (1) the bank offered deposits, (2) all such deposits were considered in the arrangement, and (3) all balances in products eligible to be contributed to the minimum balance counted equally towards the minimum balance. In addition, all products involved in the arrangement were required to be separately available for purchase. The Board proposed the safe harbor to provide certainty as to the general permissibility of combined-balance discounts similar to that proposed by Fleet, and because it believed that such discounts are pro-consumer and not anti-competitive.

As noted above, the proposal included a requirement that all deposits count toward the minimum balance. The Board was concerned that absent such a requirement, combined-balance discount plans could be constructed so that a non-traditional bank product, such as securities brokerage services, represented the only viable option for a customer to reach the minimum balance. Under the Board's proposal, a customer could have qualified for the discount based solely on deposit balances. Therefore, there would be no incentive for a customer to establish a securities brokerage account, or any other non-traditional bank product, that the customer did not want in order to obtain the discount.[3]

Summary of Comments

The Board received 58 comments on its proposal. Those commenting included 42 banking organizations, seven trade associations representing the banking industry, six Reserve Banks, two thrifts, and one law firm representing numerous insurance trade associations. Commenters overwhelmingly supported the Board's proposal because they believed that it would provide benefits to both consumers and banks.[4] Commenters stated that the proposal would provide customers increased opportunities to obtain services from a bank at discounted prices based on the customer's overall relationship with the bank by allowing customers to meet combined-balance requirements through non-traditional products as well as traditional bank products.

Commenters also supported the proposed safe harbor because it would permit banks to market products more efficiently and compete more effectively with their nonbanking competitors who currently offer combined-balance discount arrangements. In addition, commenters commended the Board for recognizing that the financial services industry is evolving as banks provide customers a broader range of financial services. The proposed safe harbor would permit banks to package these products and therefore attract and retain more customers.

A few commenters suggested modifications to the Board's proposal and recommended that the safe harbor be enlarged. First, six commenters objected to the requirement that the bank offering the discount also offer deposits because this would prevent a nonbank subsidiary of a bank holding company—for example, a trust company—from offering the type of combined-balance discount proposed by the Board.[5] Commenters believed that customers could be protected from any anti-competitive effects so long as an affiliated bank offered deposits and those deposits count towards the minimum balance.

[1] Although section 106 applies only when a bank offers the tying product, the Board in 1971 extended the same restrictions to bank holding companies and their nonbank subsidiaries. See 12 CFR 225.7(a).

[2] See 12 CFR 225.7(b)(2).

[3] The Board also noted that, under the statutory and regulatory traditional bank product exceptions, a bank already could offer a combined-balance discount where all products in an arrangement were traditional bank products. The proposed safe harbor would simply permit a bank to increase customer choice by adding a customer's securities brokerage account or other non-traditional products to the menu of traditional bank products that count toward the minimum balance.

[4] One commenter continued to oppose blanket exceptions to section 106, recommending that the Board act on exemption requests on a case-by-case basis. As noted below, the Board believes that a safe harbor can be designed narrowly enough to prevent anti-competitive effects.

[5] Under the Board's Rules, a nonbank subsidiary of a bank holding company could offer a combined-balance discount involving products offered by the company and its nonbank affiliates so long as no bank was involved in the arrangement. See 12 CFR 225.7(b)(3). Because combined-balance discount arrangements under this proposal include products and services offered by banks and nonbanks, a further exception is required.

VOL 60 ISS 79 AP 25 1995 UMI

Second, thirteen commenters sought modification to the requirement that all deposits be eligible products (that is, count toward the combined minimum balance). Commenters argued that deposits should not be distinguished from other traditional bank products and that therefore the safe harbor should include plans where, for example, loans are among the eligible products but deposits are not. Commenters also argued that requiring all deposits at a bank to be counted as eligible products was unnecessary and burdensome, and that a requirement that a "substantial majority" or "all types" of deposits would serve to prevent anti-competitive arrangements.

Finally, eight commenters objected to the requirement that all eligible products count equally toward the minimum balance, arguing that different products impose different costs on banks and that a company should be able to weight the products in an economically rational way.[6]

Consideration of Comments

The Board agrees with the commenters that customers should be able to count deposits at an affiliated bank toward a minimum balance, and thus that a trust company, for example, should be able to offer a combined-balance discount arrangement that includes deposits at its affiliated bank. Accordingly, the final rule has been modified so that a combined-balance discount arrangement involving products from banks and nonbanks also may be offered by a nonbank subsidiary of a bank holding company so long as a customer may use deposit balances at an affiliated bank to reach the minimum balance required to obtain the discount. This modification assumes that the affiliated bank offering the eligible deposits is reasonably accessible to the customer.

As noted above, the Board proposed the requirement that a bank include deposits among the eligible products in order to ensure that any exempt combined-balance discount would offer customers meaningful choices and therefore could not have an anti-competitive effect. Loans, discounts, or trust services—the other "traditional bank products" that commenters suggested should be able to replace deposits in a combined-balance arrangement—may not be so viable a choice for many customers. While the Board believes that deposits should in almost every case be an attractive option; a large trust account or mortgage loan may be a realistic option for only a small percentage of customers. Without deposits as eligible products, customers who are not eligible for a large trust account or mortgage loan may effectively be required to elect another, non-traditional, product in order to obtain the combined-balance discount. Thus, the Board is maintaining a deposit requirement for combined-discount plans that fall under this safe harbor.[7] For similar reasons, the Board is not adopting the suggestion by commenters that only some deposits be required to count toward the minimum balance, simply because it is impossible to predict the effect of this more malleable standard.

The Board recognizes, however, that discount arrangements other than those within the safe harbor may also be consistent with the purposes of section 106. The Board will continue to consider such plans on a case-by-case basis and is delegating authority to approve such plans to the General Counsel. The Board will also, in appropriate cases, expand the safe harbor by rule.

The Board shares commenters' concerns that the proposal would prevent banks from assigning products different weights in counting them toward the minimum balance, and thereby could force banks to price their products irrationally. Commenters stressed that some products are more profitable than others, and that different weights should be assigned accordingly. Although there is a concern that weighting could be used to require purchase of certain non-traditional products, the Board believes this concern can be addressed by the narrower requirement that any deposit included in a combined-balance discount arrangement count at least as much toward the minimum balance as any non-deposit. This approach, which was suggested by several commenters, will allow companies to assign different weights among deposits and non-deposits.[8]

One commenter argued that combined-balance discounts do not violate section 106 when a multiplicity of options that includes traditional bank products means that there is no "condition or requirement" that the customer purchase a non-traditional bank product. However, the commenter acknowledged that a bank could effectively tie through differential pricing. In order to address this possibility, the commenter favored general language providing that combined-balance discounts generally are not covered by section 106 so long as all eligible products are "meaningful alternatives." The commenter urged the Board to adopt this reading as an interpretation, in lieu of a safe harbor.

As discussed in the preamble to the proposed rule, section 106 covers any condition or requirement that a customer purchase "some additional product," which would appear to include combined-balance discounts. The statutory and regulatory traditional bank product exceptions would clearly exempt combined-balance discounts where all eligible products are traditional bank products. However, the question is whether, when both traditional and non-traditional bank products are included in the list of eligible products: (1) The transaction continues to be covered, does not qualify for the traditional bank product exceptions, and therefore requires an exemption, or (2) the transaction is not covered by section 106 because it is possible for a customer to meet the minimum balance through traditional products. The commenter urges the Board to adopt the second interpretation with the added requirement that the choice of traditional products be "meaningful."

The Board sees no need to resolve this issue in prescribing the final rule, as any interpretation would not be binding and the need for the safe harbor would be the same in either case. Even under the second interpretation, there would remain confusion about what constitutes sufficiently "meaningful" choice among traditional bank products so that a combined-balance discount is not covered by section 106.

Related Issue

As in past rulemakings in the tying area, the Board has received numerous comments recommending that the Board repeal its extension of section 106 to bank holding companies and their nonbank subsidiaries. These comments argue that section 106, by its terms, only applies to banks and the Board's extension of these restrictions places bank holding companies and their nonbank subsidiaries at a competitive disadvantage. These commenters emphasize that, even without these restrictions, bank holding companies and their nonbank subsidiaries remain subject to the antitrust laws. The Board has this matter under consideration and has asked staff to analyze whether additional steps should be taken.

[6] One commenter representing the insurance industry indicated that the inclusion of certain insurance products in a combined-balance discount arrangement may undermine or perhaps contradict state insurance laws which generally prohibit insurance agents from varying the consideration charged for insurance products. The Board's regulation is not intended to, and does not, exempt any arrangements from state or federal law. Companies offering combined-balance discount arrangements are responsible for ensuring that these arrangements comply with all applicable state and federal restrictions.

[7] The Board also is retaining the requirement that all products involved in a combined-balance discount arrangement are separately available for purchase.

[8] For example, a bank could count toward the minimum balance 100 percent of demand deposits, 80 percent of certificates of deposit, 70 percent of mutual fund shares, and 60 percent of stock held in a brokerage account. So long as the percentages assigned to all deposits are higher than the percentages assigned to the non-deposits, the safe harbor would apply.

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in the final rule.

Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board amends 12 CFR Part 225 as set forth below:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for 12 CFR part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In section 225.7, a new paragraph (b)(4) is added to read as follows:

§ 225.7 Tying restrictions.

* * * * *

(b) * * *

(4) *Safe harbor for combined-balance discounts.* A bank holding company or any bank or nonbank subsidiary thereof may vary the consideration for any product or package of products based on a customer's maintaining a combined minimum balance in certain products specified by the company varying the consideration (eligible products), if:

(i) That company (if it is a bank) or a bank affiliate of that company (if it is not a bank) offers deposits, and all such deposits are eligible products; and

(ii) Balances in deposits count at least as much as non-deposit products toward the minimum balance.

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 19, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–10120 Filed 4–24–95; 8:45am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–38; Amendment 39–9206, AD 95–09–02]

Airworthiness Directives; AlliedSignal Engines (Formerly Textron Lycoming) LTS101 Series Turboshaft and LTP101 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to AlliedSignal Engines (formerly Textron Lycoming) LTS101 series turboshaft and LTP101 series turboprop engines. This action supersedes priority letter AD 94–19–01 that currently requires initial and repetitive inspections for wear of the engine fuel pump internal drive splines, and replacement of engine fuel pumps that exhibit wear beyond specified limits. This action clarifies the original requirements of the current AD by providing additional information to emphasize that the AD only applies to engines installed on single-engine aircraft and to emphasize that removed fuel pumps must be returned to the manufacturer for inspection. In addition, this action defines a serviceable part. This amendment is prompted by requests to clarify interpretations of the current priority letter AD. The actions specified by this AD are intended to prevent engine fuel pump failure, which can result in total engine power loss and possible loss of the aircraft.

DATES: Effective May 10, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 10, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–38, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from AlliedSignal Engines, 550 Main Street, Stratford, CT 06497; telephone (203) 385–2000. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: On September 2, 1994, the Federal Aviation Administration (FAA) issued priority letter airworthiness directive (AD) 94–19–01, applicable to Textron Lycoming LTS101 series turboshaft and LTP101 series turboprop engines, which requires initial and repetitive inspections for wear of the engine fuel pump internal drive splines, and replacement of engine fuel pumps that exhibit wear beyond the limits specified in Textron Lycoming Service Bulletin (SB) No. LT101–73–20–0165, dated September 1, 1994, with a serviceable part. Fuel pumps removed in accordance with that AD must be returned to Chandler Evans (CECO) for disassembly, inspection and repair. That action was prompted by a report of a helicopter accident that resulted in a total loss of engine power and subsequent autorotation of a helicopter powered by a Textron Lycoming Model LTS101–600A–3 turboshaft engine. Investigation of that accident and other recent engine failures found that CECO Model MFP261 engine fuel pump internal drive spline teeth were worn away and failed to engage, resulting in loss of fuel delivery to the engine. The wear progressed to failure prior to the specified overhaul interval of 2,400 hours time in service (TIS). The FAA has determined that the present engine fuel pump overhaul interval is insufficient to prevent excessive wear of internal drive splines during service. That condition, if not corrected, could result in engine fuel pump failure, which can result in total engine power loss and possible loss of the aircraft.

VOL 60 ISS 79 AP 25 1995 UMI

Since issuance of that priority letter AD, on October 28, 1994, AlliedSignal Inc. purchased the turbine engine product line of Textron Lycoming. In addition, the FAA has approved the technical contents of AlliedSignal Engines Service Bulletin (SB) No. LT101–73–20–0165, Revision 1, dated January 3, 1995, that adds fuel pump Part Number 4–301–128–09 to the SB's effectivity. The FAA has accordingly revised the applicability of this AD to include that additional part number.

In addition, the FAA has received requests to clarify interpretations of the current priority letter AD. To begin, this AD is applicable to single-engine aircraft only. Although other AlliedSignal Engines LTS101 and LTP101 engine models, installed on multi-engine aircraft, use the same fuel pump internal spline design, the FAA has not determined that those other engine models face the same unsafe condition. Should unsafe conditions develop in the future on other engine models that incorporate fuel pumps with internal spline designs, the FAA may consider additional AD actions. This finding has been coordinated with the Small Aircraft and the Rotorcraft Directorates.

Second, the FAA has determined that the removed fuel pumps must be returned to CECO due to CECO's specialized disassembly and inspection capabilities. The manufacturer must also obtain data necessary to further define the fuel pump failure characteristics, and to develop design modifications to correct the unsafe condition.

Finally, for the purpose of this AD, a serviceable part is defined as a new part, or a part that has been inspected by CECO in accordance with AlliedSignal Engines SB No. LT101–73–20–0165, Revision 1, dated January 3, 1995, and that has not yet accumulated 900 hours time in service (TIS) since new, or since inspection by CECO.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of this same type design, this AD supersedes priority letter AD 94–19–01 to require initial and repetitive inspections for wear of the engine fuel pump internal drive splines, and replacement of engine fuel pumps that exhibit wear beyond the limits specified in AlliedSignal Engines SB No. LT101–73–20–0165, Revision 1, dated January 3, 1995, with a serviceable part. Fuel pumps removed in accordance with this AD must be returned to CECO for disassembly, inspection and repair. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–38." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354 (a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–09–02 AlliedSignal Engines: Amendment 39–9206. Docket No. 94–ANE–38.

Applicability: AlliedSignal Engines (formerly Textron Lycoming) LTS101 series turboshaft and LTP101 series turboprop engines incorporating Chandler Evans (CECO) engine fuel pumps, Part Numbers 4–301–128–01, –02, –03, –04, –05, –06, –07, –08, –09, and –10. These engines are installed on but not limited to the following single-engine aircraft: Eurocopter France (formerly Aerospatiale) AS350D series helicopters and Airtractor AT302, PAC Aero Cresco, and Page (Ayres S–2R) Thrush airplanes. This AD is not applicable to engines installed on twin-engine aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine fuel pump failure, which can result in total engine power loss and possible loss of the aircraft, remove CECO engine fuel pumps, return to CECO for inspection, and replace with a serviceable part, in accordance with the following schedule:

(a) Remove from service CECO engine fuel pumps with greater than 1,300 hours time in service (TIS) since new or overhaul on the effective date of this airworthiness directive (AD), within the next 100 hours TIS after the effective date of this AD, in accordance with AlliedSignal Engines Service Bulletin (SB) No. LT101–73–20–0165, Revision 1, dated January 3, 1995, or previous revision.

(b) Remove from service CECO engine fuel pumps with greater than 850 hours TIS but less than or equal to 1,300 hours TIS since new or overhaul on the effective date of this AD, within the next 150 hours TIS after the effective date of this AD, in accordance with AlliedSignal Engines SB No. LT101–73–20–0165, Revision 1, dated January 3, 1995, or previous revision.

(c) Remove from service CECO engine fuel pumps with less than or equal to 850 hours TIS since new or overhaul on the effective date of this AD, within the next 300 hours TIS after the effective date of this AD, or prior to accumulating 1,000 hours TIS since new or overhaul, whichever occurs first, in accordance with AlliedSignal Engines SB No. LT101–73–20–0165, Revision 1, dated January 3, 1995, or previous revision.

(d) Thereafter, remove from service CECO engine fuel pump at intervals not to exceed 900 hours TIS since the last inspection in accordance with the Accomplishment Instructions of AlliedSignal Engines SB No. LT101–73–20–0165, Revision 1, dated January 3, 1995, or previous revision.

(e) Engine fuel pumps that exhibit wear beyond the limits specified in AlliedSignal Engines SB No. LT101–73–20–0165, Revision 1, dated January 3, 1995, or previous revision, may not be returned to service.

(f) For the purpose of this AD, a serviceable part is defined as a new part, or a part that has been inspected by CECO in accordance with AlliedSignal Engines SB No. LT101–73–20–0165, Revision 1, dated January 3, 1995, or previous revision, and that has not yet accumulated 900 hours TIS since new, or since inspection by CECO.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(i) The actions required by this AD shall be done in accordance with the following service bulletin:

Document No.	Revision	Pages	Date
AlliedSignal Engines SB No. LT101–73–20–0165	1	1–3	January 3, 1995.
Total Pages: 3.			
Chandler Evans SB No. 73–13	1	1–5	January 3, 1995.
Total Pages: 5.			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AlliedSignal Engines, 550 Main Street, Stratford, CT 06497; telephone (203) 385–2000. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment supersedes priority letter AD 94–19–01, issued September 2, 1994.

(k) This amendment becomes effective on May 10, 1995.

Issued in Burlington, Massachusetts, on April 17, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–10134 Filed 4–21–95; 11:19 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

[Docket No. T–026]

Michigan State Plan: Approval of Revised Compliance Staffing Benchmarks

AGENCY: Department of Labor, Occupational Safety and Health Administration (OSHA).

ACTION: Final Rule: approval of revised State compliance staffing benchmarks.

SUMMARY: This document amends agency regulations to reflect the Assistant Secretary's decision to approve revised compliance staffing benchmarks for the Michigan State plan.

EFFECTIVE DATE: April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Richard Liblong, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3637. 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 219–8148.

SUPPLEMENTARY INFORMATION:

Background

Section 18 of the Occupational Safety and Health Act of 1970 ("the Act," 29 U.S.C. 651 et seq.) provides that States which desire to assume responsibility for developing and enforcing occupational safety and health standards may be so by submitting, and obtaining Federal approval of, a State plan. Section 18(c) of the Act sets forth the statutory criteria for plan approval, and among these criteria is the requirement that the State's plan provide satisfactory assurances that the state agency or agencies responsible for implementing the plan have "* * * the qualified personnel necessary for the enforcement of * * * standards," 29 U.S.C. 667(c)(4).

A 1978 decision of the U.S. Court of Appeals and the resultant implementing order issued by the U.S. District Court for the District of Columbia (*AFL–CIO* v. *Marshall*, C.A. No. 74–406) interpreted this provision of the Act to require States operating approved State plans to have sufficient compliance personnel necessary to assure a "fully effective" enforcement effort. The Assistant Secretary of Labor for Occupational Safety and Health (the Assistant Secretary) was directed to establish "fully effective" compliance staffing levels, or benchmarks, for each State plan.

In 1980 OSHA submitted a *Report to the Court* containing these benchmarks and requiring Michigan to allocate 141 safety and 225 health compliance personnel to conduct inspections under the plan. Attainment of the 1980 benchmark levels or subsequent

VOL 60 ISS 79 AP 25 1995 UMI

revision thereto is a prerequisite for State plan final approval consideration under section 18(e) of the Act.

Both the 1978 Court Order and the 1980 *Report to the Court* explicitly contemplate subsequent revisions to the benchmarks in light of more current data, including State-specific information, and other relevant considerations. In August 1983 OSHA, together with State plan representatives, initiated a comprehensive review and revision of the 1980 benchmarks. The State of Michigan participated in this benchmark revision process, which resulted in a methodology whereby a State could submit data that would justify revision of its 1980 benchmarks. In 1992, Michigan proposed to the Assistant Secretary revised compliance staffing levels for a "fully effective" program responsive to the occupational safety and health needs of the State. (A complete discussion of both the 1980 benchmarks and the present revision system process is set forth in the January 16, 1985 **Federal Register** (50 FR 2491) regarding the Wyoming occupational safety and health plan.)

Proposed Revision of Benchmarks

In 1980, OSHA submitted a report to the Court containing the benchmarks and requiring Michigan to allocate 141 safety compliance officers and 225 industrial hygienists. Pursuant to the initiative begun in August 1983 by the State plan designees as a group, and in accord with the formula and general principles established by that group for individual State revision of benchmarks, Michigan reassessed the compliance staffing necessary for a "fully effective" occupational safety and health program in the State.

In 1992, the Michigan Department of Labor (the designated agency or "designee" for safety enforcement in the State) and the Michigan Department of Public Health (the designated agency or "designee" for health enforcement in the State) completed, in conjunction with OSHA, a review of the compliance staffing benchmarks approved for Michigan in 1980. This reassessment resulted in a proposal to OSHA of revised compliance staffing benchmarks of 56 safety and 45 health compliance officers for the State of Michigan.

History of the Present Proceedings

On March 29, 1994, the Occupational Safety and Health Administration published notice in the **Federal Register** of its proposal to approve revised compliance staffing benchmarks for Michigan (59 FR 14586). A detailed description of the methodology and State-specific information used to develop the revised compliance staffing levels for Michigan was included in the notice. In addition, OSHA submitted, as a part of the record, detailed submissions containing both narrative explanation and supporting data for Michigan's proposed revised benchmarks (Docket No. T–026). An informational record was established in a separate docket (Docket No. T–018) and contains background information relevant to the benchmark issue and the current benchmark revision process.

To assist and encourage public participation in the benchmark revision process, a copy of Michigan's complete record was maintained in the OSHA Docket Office in Washington, DC. Copies of Michigan's record were also maintained in the OSHA Region V Office in Chicago, Illinois, and in the offices of the Michigan Department of Labor and the Michigan Department of Public Health in Lansing, Michigan.

The March 29 proposal invited interested parties to submit, by May 3, 1994, written comments and views regarding whether Michigan's proposed revised compliance staffing benchmark levels should be approved. One comment was received regarding Michigan's proposed benchmarks.

Summary and Evaluation of Comments Received

In response to the March 29 **Federal Register** notice for Michigan, OSHA received one comment from Paul M. Schubert of Akron, Ohio (Exhibit 4–1). Douglas J. Kalinowski, Chief of the Michigan Division of Occupational Health, responded to the public comment (Exhibit 4–2).

Mr. Schubert commented that he had been a health compliance officer with the Michigan Department of Public Health from 1975 through 1981, and that it was his opinion, based on his experience as a compliance officer, that the complexity of many of the health compliance inspections would require more than the State's historical average of 27.8 hours per health compliance inspection. Mr. Schubert also noted that during one of his years as a compliance officer his inspections had averaged 210 hours per inspection.

In his response, Mr. Kalinowski noted that the annual number of hours available for compliance activity per Michigan health compliance officer is 1,462 hours. If each health inspection required an average of 210 hours, fewer than seven inspections would be conducted per compliance officer. According to Mr. Kalinowski, 31.5 health inspectors conducted a total of 1,766 health inspections in 1980, with an average of 56 inspections per health inspector and an average of 26 hours per inspection. In its 1992 submission proposing revised compliance staffing benchmarks, Michigan utilized actual inspection activity data for Fiscal Years 1990 and 1991 to determine that the average health inspection required approximately 27.8 hours. Michigan's data was comparable to the national average number of hours per health inspection for all 18(b) State plans of 24 in Fiscal Year 1990 and 25 in Fiscal Year 1991. It is OSHA's determination that the State's use of the average of 27.8 hours per health inspection is reasonable and acceptable.

Decision

OSHA has carefully reviewed the record developed during the above described proceedings. In light of all the facts presented on the record, including all comments received thereon, the Assistant Secretary has determined that the revised compliance staffing levels proposed for Michigan meet the requirements of the 1978 Court Order in *AFL–CIO* v. *Marshall* in providing the number of safety and health compliance officers for a "fully effective" enforcement program. Therefore, the revised compliance staffing levels of 56 safety and 45 health for Michigan are approved.

Effect of Decision

The approval of the revised staffing levels for Michigan, set forth elsewhere in this notice, establishes the requirement for a sufficient number of adequately trained and qualified compliance personnel as set forth in Section 18(c) of the Act and 29 CFR 1902.37(b)(1). These benchmarks are established pursuant to the 1978 Court Order in *AFL–CIO* v. *Marshall* and define the compliance staffing levels necessary for a "fully effective" program in Michigan. The allocation of sufficient staffing to meet the benchmarks is one of the conditions necessary for States to receive an 18(e) determination (final State plan approval) with its resultant relinquishment of concurrent Federal enforcement jurisdiction.

Explanation of Changes to 29 CFR Part 1952

29 CFR 1952 contains, for each State having an approved occupational safety and health plan, a subpart generally describing the plan and setting forth the Federal approval status of the plan. This notice makes several changes to Subpart T to reflect the approval of Michigan's revised compliance staffing benchmarks, as well as to reflect minor editorial modifications to the structure of the Subpart.

A new § 1952.393, *Compliance staffing benchmarks*, has been added to Subpart T to reflect the approval of the revised benchmarks for Michigan.

While most of the existing subparts have been retained, paragraphs within the subpart have been rearranged and renumbered so that the major steps in the development of the plan (initial approval, developmental steps and certification of completion of developmental steps) are set forth in chronological order.

Related editorial changes to the subparts include modification of the heading of § 1952.260 to clearly identify the initial plan approval of Michigan. The addresses of locations where the Michigan plan may be inspected have been updated and are found at § 1952.266.

Regulatory Flexibility Act

OSHA certifies, pursuant to the Regulatory Act of 1980 (5 U.S.C. 601, *et seq.*), that this rulemaking will not have significant economic impact on a substantial number of small entities. Approval of the revised compliance staffing benchmarks for Michigan will not place small employers in the State under any new or different requirements nor would any additional burden be placed upon the State government beyond the responsibilities already assumed as part of the approved plan.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 1–90 (55 FR 9033))

Signed at Washington, DC, this 20th day of April 1995.

Joseph A. Dear,

Assistant Secretary of Labor.

PART 1952—[AMENDED]

Accordingly, Subpart T of 29 CFR Part 1952 is amended to read as follows:

Subpart T—Michigan

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 1–90 (55 FR 9033).

2. Section 1952.260 is amended by revising the heading to read:

§ 1952.260 Description of the plan as initially approved.

§ 1952.265 [Redesignated as § 1952.267]

§ 1952.262 [Redesignated as § 1952.265]

3. Section 1952.265 is redesignated as § 1952.267, and § 1952.262 is redesignated as § 1952.265.

§ 1952.264 [Redesignated as § 1952.262]

4. Section 1952.264 is redesignated as § 1952.262, and is amended by revising the heading to read:

§ 1952.262 Completion of developmental steps and certification.

§ 1952.264 [Reserved]

5. A new § 1952.264 is added and reserved.

§ 1952.261 [Redesignated as § 1952.266]

6. Section 1952.261 is redesignated as § 1952.266 and revised to read as follows:

§ 1952.266 Where the plan may be inspected

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N3700, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604; Michigan Department of Labor, Victor Office Center, 201 North Washington Square, Lansing, Michigan 48933; and Michigan Department of Public Health, 3423 North Logan Street, Lansing, Michigan 48909

§ 1952.261 [Redesignated from § 1952.263]

7. Section 1952.263 is redesignated as § 1952.261 and a new § 1952.263 is added to read as follows:

§ 1952.263 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall*, compliance staffing levels ("benchmarks") necessary for a "fully effective" enforcement program were required for each State operating an approved State plan. In 1992, Michigan completed, in conjunction with OSHA, a reassessment of the levels initially established in 1980 and proposed revised benchmarks of 56 safety and 45 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on April 20, 1995.

8. Newly designated § 1952.261 is amended by revising the heading to read:

§ 1952.261 Developmental schedule.

§ 1952.261 [Amended]

9. Newly designated § 1952.261(i) is further redesignated as § 1952.262(i).

[FR Doc. 95–10138 Filed 4–24–95; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 756

Navajo Nation Abandoned Mine Land Reclamation (AMLR) Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Navajo Nation AMLR plan (hereinafter referred to as the "Navajo plan") under the Surface Mining Control Reclamation Act of 1977 (SMCRA). The Navajo Nation proposed revisions to its AMLR Code of 1987 pertaining to the reclamation of interim program coal sites. The amendment is intended to revise the Navajo plan to be consistent with SMCRA, and to improve operational efficiency.

EFFECTIVE DATE: April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on Title IV of SMCRA

Title IV of SMCRA established an AMLR program for the purposes of reclaiming and restoring lands and waters adversely affected by past mining. The program is funded by a reclamation fee levied on the production of coal. Generally, lands and waters eligible for reclamation under Title IV are those that are mined or affected by mining and abandoned or inadequately reclaimed prior to August 3, 1977, and for which there is no continuing reclamation responsibilities under State, Federal, Tribal, or other laws. Lands and waters abandoned or inadequately reclaimed after August 3, 1977, are also eligible for reclamation under provisions at sections 402(g)(4) and 404 of SMCRA.

Title IV provides for State or Tribal submittal to OSM of an AMLR plan. The

VOL 60 ISS 79 AP 25 1995 UMI

Secretary of the Interior adopted regulations at 30 CFR 870 through 888 that implement Title IV of SMCRA. Under these regulations, the Secretary reviewed the plans submitted by States and Tribes and solicited and considered comments of State and Federal agencies and the public. Based upon the comments received, the Secretary determined whether a State or Tribe had the ability and necessary legislation to implement the provisions of Title IV. After making such a determination, the Secretary decided whether to approve the State or Tribal program. Approval granted the State or Tribe exclusive authority to administer its plan.

Ordinarily, under section 405 of SMCRA, a State or Tribe must have an approved surface mining regulatory program prior to submittal of an AMLR plan to OSM. However, on July 11, 1987, the President signed a supplemental appropriations bill (Pub. L. 100–71) that authorized the Crow and Hopi Tribes and Navajo Nation to adopt AMLR programs without approval of Tribal surface mining regulatory programs.

Upon approval of a State or Tribal plan by the Secretary, the State or Tribe may submit to OSM, on an annual basis, an application for funds to be expended by that State or Tribe on specific projects that are necessary to implement the approved plan. Such annual requests are reviewed and approved by OSM in accordance with the requirements of 30 CFR Part 886.

II. Background on the Navajo Plan

On May 16, 1988, the Secretary of the Interior approved the Navajo plan. General background information on the Navajo plan, including the Secretary's findings, the disposition of comments, and the approval of the Navajo plan can be found in the May 16, 1988, **Federal Register** (53 FR 17186). Approval of the Navajo plan is codified at 30 CFR 756.13. Subsequent actions concerning the Navajo plan and plan amendments can be found at 30 CFR 756.14.

III. Proposed Amendment

By letter dated January 12, 1995, the Navajo Nation submitted a proposed amendment to its AMLR plan pursuant to SMCRA (administrative record No. NA–227). The Navajo Nation submitted the proposed amendment at its own initiative and in response to the final rule **Federal Register** notice acknowledging that the Navajo Nation would amend its AMLR Code of 1987 to provide for the reclamation of interim program coal sites (59 FR 49178, 48181, finding No. 1(f), September 27, 1994; administrative record No. NA–225). The Navajo Nation proposed the addition of new language at section 404(b) of its AMLR Code to provide for such reclamation.

OSM announced receipt of the proposed amendment in the February 10, 1995, **Federal Register** (60 FR 7926), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. NA–232). Because no one requested a public hearing or meeting, none was held. The public comment period ended on March 10, 1995.

During its review of the proposed amendment, OSM identified concerns relating to the provisions of the Navajo AMLR Code of 1987 at section 404(b)(2) pertaining to the dates used to define interim program coal sites, and the lack of a provision requiring a determination that there are insufficient funds to provide for adequate reclamation or abatement at the site. OSM notified the Navajo Nation of the concerns in a telephone conversation of February 23, 1995 (administrative record No. NA–233).

The Navajo Nation responded in a letter dated February 23, 1995, by submitting a revised amendment (administrative record No. NA–234). Based upon the revisions to the proposed plan amendment submitted by the Navajo Nation, OSM reopened the public comment period in the March 10, 1995, **Federal Register** (60 FR 13086, administrative record No. NA–236). The public comment period ended on March 27, 1995.

IV. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 884.14 and 884.15, finds that the proposed Navajo plan amendment as submitted by the Navajo Nation on January 12, 1995, and as revised by it on February 23, 1995, is not inconsistent with SMCRA and is in compliance with the corresponding Federal regulations at 30 CFR 884.14 and 884.15. Thus, the Director approves the proposed amendment.

1. Nonsubstantive Revisions to the Navajo Nation AMLR Code of 1987

The Navajo Nation proposed to recodify sections 404 (a) and (c), eligible lands and water, of its AMLR Code of 1987, (corresponding provisions at section 404 of SMCRA).

Because the recodification of this previously-approved section of the Navajo Nation's AMLR Code is nonsubstantive in nature, the Director finds it is not inconsistent with SMCRA. The Director approved the proposed recodification.

2. Reclamation of Interim Program Coal Sites

The Navajo Nation proposed the addition of provisions at section 404(b) of its AMLR Code to provide for the reclamation of interim program coal sites. Such sites were left in either unreclaimed or inadequately reclaimed condition (1) between August 4, 1977, and September 28, 1984, and the amount of the bond or other financial guarantee is insufficient to provide for adequate reclamation or abatement at the site, or (2) where the mining occurred between August 4, 1977, and November 5, 1990, and the surety of the mining operator became insolvent, and as of November 5, 1990, funds immediately available from proceedings relating to such insolvency or from any other source were insufficient to provide adequate reclamation or abatement at the site. In addition, to qualify for reclamation or abatement, such sites must be either priority 1 or 2 sites pursuant to section 403(a) (1) and (2) of SMCRA, and priority will be given to those sites in the immediate vicinity of a residential area or which have an adverse economic impact upon a community.

Proposed section 404(b) of the Navajo Nation AMLR Code contains the same requirements as the counterpart Federal requirements at section 402(g)(4) of SMCRA. Therefore, the Director finds that the proposed AMLR Code provisions are consistent with the counterpart SMCRA provisions. The Director approves proposed section 404(b) of the Navajo Nation AMLR Code.

V. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Agency Comments

Pursuant to 30 CFR 884.15(a) and 884.14(a)(2), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Navajo plan (administrative record Nos. NA–231 and NA–235).

(a) *Arizona State Historic Preservation Officer (SHPO).* On March 13, 1995, the Arizona SHPO agreed with OSM's determination that no aspects of the proposed amendment pertain to cultural or historic resources (administrative record No. NA–239). As such, the Arizona SHPO determined that the amendment would have no effect on cultural resources under the National Historic Preservation Act of 1966 and 36 CFR part 800.

(b) *Navajo Nation Historic Preservation Department.*

By letter dated February 21, 1995, the Department agreed with OSM's determination that the proposed changes to the Navajo Nation AMLR Code of 1987 do not pertain to cultural resources. Therefore, ti stated that the amendment will have no effect on cultural resources (administrative record No. NA–237).

(c) *U.S. Bureau of Indian Affairs.* The Bureau of Indian Affairs stated in a memorandum dated March 13, 1995, that a technical review had been completed by its Area Real Estate Services, Rights Protection Section, and that it had no comments (administrative record No. NA–238).

VI. Director's Decision

Based on the above findings, the Director approves the Navajo Nation's proposed plan amendment as submitted on January 12, 1995, and as revised on February 23, 1995.

As discussed in finding No. 1, the Director approves nonsubstantive revisions to the Navajo Nation AMLR Code of 1987 at sections 404(a) and (c), eligible lands and water.

As discussed in finding No. 2, the Director approves substantive revisions to the Navajo Nation AMLR Code of 1987 at section 404(b), reclamation of interim program coal sites.

The Director approves the proposed revisions of the Navajo Nation AMLR Code of 1987 with the provision that they be fully promulgated in identical form to the code submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 756, codifying decisions concerning the Navajo plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the Tribal plan amendment process and to encourage Tribes to bring their plans into conformity with the Federal standards without undue delay. Consistency of Tribal and Federal standards is required by SMCRA.

VII. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State or Tribal AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed State or Tribal AMLR plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribal AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Tribal submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the Tribe. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 756

Abandoned mine land reclamation program, Indian lands.

Dated: April 19, 1995.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter E of the Code of Federal Regulations is amended as set forth below:

PART 756—INDIAN TRIBE ABANDONED MINE LAND RECLAMATION PROGRAMS

1. The authority citation for part 756 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.* and Pub. L. 100–71.

2. Section 756.14 is amended by adding paragraph (c) to read as follows:

§ 756.14 Approval of amendments to the Navajo Nation's Abandoned Mine Land Plan.

* * * * *

(c) Revisions to sections 404 (a), (b), and (c) of the Navajo Nation Abandoned Mine Land Reclamation (AMLR) Code of 1987, pertaining to eligible lands and water, as submitted to OSM on January 12, 1995, and as subsequently revised on February 23 1995, are approved effective April 25, 1995.

[FR Doc. 95–10169 Filed 4–24–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 3

[Docket No. 950404087–5087–01]

RIN 0651–AA76

Changes To Implement 20-Year Patent Term and Provisional Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending the rules of practice in patent cases to establish procedures for: filing and processing provisional application papers; calculating the length of any patent term extension to which an applicant is entitled where the issuance of a patent on an application filed on or after June 8, 1995 (the implementation date of the 20-year patent term provisions of the Uruguay Round Agreements Act), other

VOL 60 ISS 79 AP 25 1995 UMI

than for designs, was delayed due to interference proceedings, the imposition of a secrecy order and/or appellate review; and implementing certain transitional provisions contained in the Uruguay Round Agreements Act.

EFFECTIVE DATE: June 8, 1995.

FOR FURTHER INFORMATION CONTACT: Magdalen Y. Greenlief or John F. Gonzales, Senior Legal Advisors, Office of the Deputy Assistant Commissioner for Patent Policy and Projects, by telephone at (703) 305–9285, by fax at (703) 308–6916 or by mail marked to their attention and addressed to the Commissioner of Patents and Trademarks, Box DAC, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Uruguay Round Agreements Act (Public Law 103–465) was enacted on December 8, 1994. Public Law 103–465 amends 35 U.S.C. 154 to provide that the term of patent protection begins on the date of grant and ends 20 years from the filing date of the application. The amendment applies to all utility and plant patents issued on applications having an actual United States application filing date on or after June 8, 1995. Specifically, 35 U.S.C. 154(a)(2), as contained in Public Law 103–465, provides that the patent term will begin on the date on which the patent issues and will end twenty years from the date on which the application was filed in the United States. If the application contains a specific reference to an earlier application under 35 U.S.C. 120, 121 or 365(c), the patent term will end twenty years from the date on which the earliest application referred to was filed. As amended by Public Law 103–465, 35 U.S.C. 154 does not take into account for determination of the patent term any application on which priority is claimed under 35 U.S.C. 119, 365(a) or 365(b).

Under 35 U.S.C. 154(b)(1), as contained in Public Law 103–465, if the issuance of an original patent is delayed due to interference proceedings under 35 U.S.C. 135(a) or because the application is placed under a secrecy order under 35 U.S.C. 181, the term of the patent shall be extended for the period of delay, but in no case more than five (5) years.

Under 35 U.S.C. 154(b)(2), as contained in Public Law 103–465, if the issuance of a patent is delayed due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court and the patent is issued pursuant to a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended for a period of time but in no case more than five (5) years. However, a patent shall not be eligible for extension under 35 U.S.C. 154(b)(2) if the patent is subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review.

Under 35 U.S.C. 154(b)(3)(B) and 154(b)(3)(C), as contained in Public Law 103–465, the period of extension under 35 U.S.C. 154(b)(2) shall be reduced by any time attributable to appellate review before the expiration of three (3) years from the filing date of the application and for any period of time during which the applicant for patent did not act with due diligence, as determined by the Commissioner.

Under 35 U.S.C. 154(b)(4), as contained in Public Law 103–465, the total duration of all extensions of a patent under 35 U.S.C. 154(b) shall not exceed five (5) years.

The provisions for patent term extension under 35 U.S.C. 154(b) are separate from and in addition to the patent term extension provisions of 35 U.S.C. 156. The patent term extension provisions of 35 U.S.C. 154(b) are designed to compensate the patent owner for delays in issuing a patent, whereas the patent term extension provisions of 35 U.S.C. 156 are designed to restore term lost to premarket regulatory review after the grant of a patent. In order to prevent a term extension under 35 U.S.C. 154(b) from precluding a term extension under 35 U.S.C. 156, Public Law 103–465 amends 35 U.S.C. 156(a)(2) to specify that the term has never been extended under 35 U.S.C. 156(e)(1).

The 20-year patent term provision is contained in 35 U.S.C. 154, as amended by Public Law 103–465. Section 154 of title 35, United States Code, applies to utility and plant patents, but not to design patents. The term of a design patent is defined in 35 U.S.C. 173 as fourteen (14) years from the date of grant. Therefore, the patent term and patent term extension provisions set forth in 35 U.S.C. 154, as amended by Public Law 103–465, do not apply to patents for designs.

In addition, Public Law 103–465 establishes a domestic priority system. In accordance with the provisions of the Paris Convention for the Protection of Industrial Property, the term of a patent cannot include the Paris Convention priority period. Public Law 103–465 provides a mechanism to enable applicants to quickly and inexpensively file provisional applications. Applicants will be entitled to claim the benefit of priority in a given application based upon a previously filed provisional application in the United States. The domestic priority period will not count in the measurement of the term.

Section 111 of title 35, United States Code, was amended by Public Law 103–465 to provide for the filing of a provisional application on or after June 8, 1995. Section 41(a)(1) of title 35, United States Code, was amended by Public Law 103–465 to provide a $150.00 filing fee for each provisional application, subject to a fifty (50) percent reduction for a small entity. The requirements for obtaining a filing date for a provisional application are the same as those which previously existed for an application filed under 35 U.S.C. 111, except that no claim or claims as set forth in 35 U.S.C. 112, second paragraph, is required. Moreover, no oath/declaration as set forth in 35 U.S.C. 115 is required. The provisional application is also not subject to the provisions of 35 U.S.C. 131, 135 and 157, i.e., a provisional application will not be examined for patentability, placed in interference or made the subject of a statutory invention registration. Further, the provisional application will automatically be abandoned no later than twelve (12) months after its filing date and will not be subject to revival to restore it to pending status beyond a date which is after twelve (12) months from its filing date. A provisional application will not be entitled to claim priority benefits based on any other application under 35 U.S.C. 119, 120, 121 or 365.

Also, Public Law 103–465 amended 35 U.S.C. 119 to allow an applicant to claim the benefit of the filing date of one or more copending provisional applications in a later filed application for patent under 35 U.S.C. 111(a) or 363. The later filed application for patent under 35 U.S.C. 111(a) or 363 must be filed by an inventor or inventors named in the copending provisional application not later than 12 months after the date on which the provisional application was filed and must contain or be amended to contain a specific reference to the provisional application. The provisional application must disclose an invention which is claimed in the application for patent under 35 U.S.C. 111(a) or 363 in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, the provisional application must be pending on the filing date of the application for patent under 35 U.S.C. 111(a) or 363 and the filing fee set forth in subparagaph (A) or (C) of 35 U.S.C. 41(a)(1) must be paid.

Since 35 U.S.C. 154(a)(3), as contained in Public Law 103–465, excludes from the determination of the patent term any application on which priority is claimed under 35 U.S.C. 119, 365(a) or 365(b), the filing date of a provisional application is not considered in determining the term of any patent.

Section 119(e)(1) of title 35, United States Code, provides that if all of the conditions of 35 U.S.C. 119 (e)(1) and (e)(2) are met, an application for patent filed under 35 U.S.C. 111(a) or 363 shall have the same effect as though filed on the date of the provisional application. Thus, the effective United States filing date of an application for patent filed under 35 U.S.C. 111(a), and entitled to benefits under 35 U.S.C. 119(e), is the filing date of the provisional application. Any patent granted on such an application, is prior art under 35 U.S.C. 102(e) as of the filing date of the provisional application.

Likewise, the effective United States filing date of a patent issued on an international application filed under 35 U.S.C. 363, and entitled to benefits under 35 U.S.C. 119(e), is the filing date of the provisional application, except for the purpose of applying that patent as prior art under 35 U.S.C. 102(e). For that purpose only, 35 U.S.C. 102(e) defines the filing date of the international application as the date the requirements of 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) were fulfilled.

Public Law 103–465 further includes transitional provisions for limited reexamination in certain applications pending for two (2) years or longer as of June 8, 1995, taking into account any reference to any earlier application under 35 U.S.C. 120, 121 or 365(c). The transitional provisions also permit examination of more than one independent and distinct invention in certain applications pending for three (3) years or longer as of June 8, 1995, taking into account any reference to any earlier application under 35 U.S.C. 120, 121 or 365(c). These transitional provisions are not applicable to any application which is filed after June 8, 1995, regardless of whether the application is a continuing application.

The amendments to title 35 relating to 20-year patent term, patent term extension, provisional applications and the transitional provisions are effective on the date which is six (6) months after the date of enactment, i.e., on June 8, 1995.

A Notice of Proposed Rulemaking was published in the **Federal Register** at 59 FR 63951 (December 12, 1994) and in the Patent and Trademark Office Gazette at 1170 Off. Gaz. Pat. Office 377–390 (January 3, 1995).

Forty-nine written comments were received in response to the Notice of Proposed Rulemaking. A public hearing was held at 9:30 a.m. on February 16, 1995. Fourteen individuals offered oral comments at the hearing. The forty-nine written comments and a transcript of the hearing are available for public inspection in the Special Program Law Office, Office of the Deputy Assistant Commissioner for Patent Policy and Projects, Room 520, Crystal Park I, 2011 Crystal Drive, Arlington, Virginia, and are available on the Internet through anonymous file transfer protocol (ftp), address: ftp.uspto.gov.

The following includes a discussion of the rules being added or amended, the reasons for those additions and amendments and an analysis of the comments received in response to the Notice of Proposed Rulemaking.

Changes in text: The final rules contain numerous changes to the text of the rules as proposed for comment. Those changes are discussed below. Familiarity with the Notice of Proposed Rulemaking is assumed.

Section 1.9(a)(1) is being changed for clarity to define a national application as a U.S. application for patent which was either filed in the Office under 35 U.S.C. 111, or which entered the national stage from an international application after compliance with 35 U.S.C. 371. Also, a new paragraph (a)(3) is being added to define the term "nonprovisional application" as a U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111(a), or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

The proposed deletion of § 1.60 is being withdrawn. Therefore, § 1.17(i) is being changed to retain the reference to § 1.60.

Section 1.17(q) is being changed to delete the fifty (50) percent reduction for small entities in the $50.00 fee established for filing a petition under § 1.48 in a provisional application and a petition to accord a provisional application a filing date or to convert an application filed under § 1.53(b)(1) to a provisional application.

Sections 1.17(r) and (s) are being changed to include a fifty (50) percent reduction for small entities in the fees established for entry of a submission after final rejection under § 1.129(a) and for each additional invention requested to be examined under § 1.129(b). In the final rule, the fee required by §§ 1.17(r) and 1.17(s) from a small entity is $365.00. The fee required from other than a small entity is $730.00.

The elimination of the small entity reduction in § 1.17(q) and the addition of the small entity reduction in §§ 1.17 (r) and (s) are the result of additional review, which resulted in the conclusion that the fees established for the transitional procedures in §§ 1.129 (a) and (b) may be reduced by fifty (50) percent for small entities. However, the petition fees required by § 1.17(q) are not subject to the fifty (50) percent reduction for small entities.

The proposed deletion of the retention fee practice set forth in former § 1.53(d), now redesignated § 1.53(d)(1), is being withdrawn. Therefore, § 1.21(1) is being retained and amended to refer to § 1.53(d)(1). Also, the proposed change in the text to § 1.17(n) is being withdrawn, since § 1.60 is being retained.

Section 1.28(a) is being changed to clarify the procedure for establishing status as a small entity in a nonprovisional application claiming benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) of a prior application. In such cases, applicants may file a new verified statement or they may rely on a verified statement filed in the prior application, if status as a small entity is still proper and desired. If applicants intend to rely on a verified statement filed in the prior application, applicants must include in the nonprovisional application either a reference to the verified statement filed in the prior application or a copy of the verified statement filed in the prior application. A verified statement in compliance with existing § 1.27 is required to be filed in each provisional application in which it is desired to pay reduced fees.

Section 1.45(c), first sentence, is being changed for clarity to refer to a "nonprovisional" application.

Section 1.48 is being changed to include a new paragraph (e) setting forth the procedure for deleting the name of a person who was erroneously named as an inventor in a provisional application. The procedure requires an amendment deleting the name of the person who was erroneously named accompanied by: a petition including a statement of facts verified by the person whose name is being deleted establishing that the error occurred without deceptive intention; the fee set forth in § 1.17(q); and the written consent of any assignee. The first sentences of §§ 1.48 (a)–(c) are also being changed for clarity to refer to a "nonprovisional" application.

Section 1.51(a)(2)(i) is being changed to require that the provisional application cover sheet include the residence of each named inventor and, if the invention was made by an agency of the U.S. Government or under a contract with an agency of the U.S. Government, the name of the U.S. Government agency and Government contract number. The residence of each named inventor is information which is

VOL 60 ISS 79 AP 25 1995 UMI

necessary to identify those provisional applications which must be reviewed by the PTO for foreign filing licenses. If the invention disclosed in the provisional application was made by an agency of the U.S. Government or under a contract with an agency of the U.S. Government, the security review for that application should already have been done by that agency of the U.S. Government. Therefore, identification of those particular provisional applications on the cover sheet will reduce the number of applications which the PTO must forward to other agencies of the U.S. Government for security review.

Section 1.53(b)(1) is being changed to retain the reference to § 1.60.

Section 1.53(b)(2)(ii) is being changed to require that any petition and petition fee to convert a § 1.53(b)(1) application to a provisional application be filed in the § 1.53(b)(1) application prior to the earlier of the abandonment of the § 1.53(b)(1) application, the payment of the issue fee, the expiration of twelve (12) months after the filing date of the § 1.53(b)(1) application, or the filing of a request for a statutory invention registration under § 1.293. Where the § 1.53(b)(1) application was abandoned before the expiration of twelve (12) months after the filing date of the application, a petition to convert the application to a provisional application may be filed in the § 1.53(b)(1) application if the petition to convert is filed prior to the expiration of twelve (12) months after the filing date of the § 1.53(b)(1) application and is accompanied by an appropriate petition to revive an abandoned application under § 1.137.

Section 1.53(b)(2)(iii) is being changed to indicate that the requirements of §§ 1.821–1.825 regarding application disclosures containing nucleotide and/or amino acid sequences are not mandatory for provisional applications.

Section 1.53(d)(1) is being changed to retain the retention fee practice. The proposal to delete the retention fee practice set forth in § 1.53(d) is being withdrawn.

The first sentences of §§ 1.55 (a) and (b) are being changed for clarity to refer to a "nonprovisional" application.

Also, §§ 1.55 (a) and (b) are being changed to clarify that the nonprovisional application may claim the benefit of one or more prior foreign applications or one or more applications for inventor's certificate.

Section 1.59 is being changed to retain the reference to the retention fee set forth in § 1.21(l) and to clarify that the retention fee practice applies only to applications filed under § 1.53(b)(1).

The proposal to delete § 1.60 is being withdrawn. Therefore, § 1.60 is being retained and amended to clarify in the title of the section and in paragraph (b)(1) that the procedure set forth in the section is only available for filing a continuation or divisional application if the prior application was a nonprovisional application and complete as set forth in § 1.51(a)(1). Also, paragraph (b)(4) is being amended to delete the requirement that the statement which must accompany the copy of the prior application include the language that "no amendments referred to in the oath or declaration filed to complete the prior application introduced new matter therein." The requirement is unnecessary because any amendment filed to complete the prior application would be considered a part of the original disclosure of the prior application and, by definition, could not contain new matter. Also, paragraph (b)(4) is being amended to refer to § 1.17(i).

Section 1.62(a) is being changed to refer to a prior complete "nonprovisional" application and to clarify that a continuing application may be filed under § 1.62 after payment of the issue fee if a petition under § 1.313(b)(5) is granted in the prior application. Section 1.62(a) is also being changed to clarify the existing practice that the request for a § 1.62 application must include identification of the inventors named in the prior application.

Section 1.63(a) is being changed for clarity to refer to an oath or declaration filed as a part of a "nonprovisional" application.

Section 1.67(b) is being changed for clarity to refer to a "nonprovisional" application.

Section 1.78 (a)(1) and (a)(2) are being changed to refer to a "nonprovisional" application and to clarify that the nonprovisional application may claim the benefit of one or more prior copending nonprovisional applications or international applications designating the United States of America. Section 1.78(a)(1)(ii) is being changed to retain the reference to § 1.60. Section 1.78(a)(1)(iii) is being retained and amended to refer to §§ 1.53(b)(1) and 1.53(d)(1).

Sections 1.78 (a)(3) and (a)(4) are being changed to refer to a "nonprovisional" application and to clarify that the nonprovisional application may claim the benefit of one or more prior copending provisional applications.

Section 1.78(a)(3) is also being changed to remind applicants and practitioners that when the last day of pendency of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, any nonprovisional application claiming benefit of the provisional application must be filed prior to the Saturday, Sunday, or Federal holiday within the District of Columbia. Section 111(b)(5) of title 35, United States Code, states that a provisional application is abandoned twelve months after its filing date. Sections 119 (e)(1) and (e)(2) of title 35, United States Code, require that a nonprovisional application claiming benefit of a prior provisional application be filed not later than twelve months after the date on which the provisional application was filed and that the provisional application be pending on the filing date of the nonprovisional application. Under § § 1.6 and 1.10, no filing dates are accorded to applications on a Saturday, Sunday, or Federal holiday within the District of Columbia. Thus, if a provisional application is abandoned by operation of 35 U.S.C. 111(b)(5) on a Saturday, Sunday, or Federal holiday within the District of Columbia, a nonprovisional application claiming benefit of the provisional application under 35 U.S.C. 119(e) must be filed no later than the preceding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

Section 1.78(a)(4) is also being changed to delete the requirement that the reference in the nonprovisional application to the provisional application indicate the relationship of the applications. As a result of the change, § 1.78(a)(4) provides that a nonprovisional application claiming benefit of one or more provisional applications must contain a reference to each provisional application, identifying it as a provisional application and including the provisional application number (consisting of series code and serial number). However, the section does not require the nonprovisional application to identify the nonprovisional application as a continuation, divisional or continuation-in-part application of the provisional application.

Section 1.83(a) is being changed to delete the proposed redesignation of paragraph (a) and to delete proposed paragraph (a)(2). Also, §§ 1.83 (a) and (c) are being changed for clarity to refer to a "nonprovisional" application. Further, § 1.83(c) is being changed to remove the reference to paragraph (a)(1).

Section 1.101 is being changed for clarity to refer to a "nonprovisional" application.

Sections 1.129 (a) and (b) are being changed to identify the effective date of 35 U.S.C. 154(a)(2) as June 8, 1995.

Further, § 1.129(a) is being changed to provide that the first and second submissions and fees set forth in § 1.17(r) must be filed prior to the filing of an Appeal Brief, rather than prior to the filing of the Notice of Appeal, and prior to abandonment of the application. The requirement that the fee set forth in § 1.17(r) be filed within one month of the notice refusing entry is being deleted. Section 1.129(a) is also being changed to provide that the finality of the final rejection is automatically withdrawn upon the timely filing of the submission and payment of the fee set forth in § 1.17(r). The language indicating that the submission would be entered and considered after timely payment of the fee set forth in § 1.17(r) "to the extent that it would have been entered and considered if made prior to final rejection" is being deleted. In view of the magnitude of the fee set forth in § 1.17(r), the next PTO action following timely payment of the fee set forth in § 1.17(r) will be equivalent to a first action in a continuing application. Under existing PTO practice, it would not be proper to make final a first Office action in a continuing application where the continuing application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised. The identical procedure will apply to examination of a submission considered as a result of the procedure under § 1.129(a). Thus, under § 1.129(a), if the first submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final. Likewise, if the second submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final. In view of 35 U.S.C. 132, no amendment considered as a result of the payment of the fee set forth in § 1.17(r) may introduce new matter into the disclosure of the application.

Section 1.129(b)(1) is being changed to identify the date which is two months prior to the effective date of 35 U.S.C. 154(a)(2) as April 8, 1995. Section 1.129(b)(1) is also being changed to clarify in subsection (ii) that the examiner has not made a requirement for restriction in the present or parent application prior to April 8, 1995, due to actions by the applicant.

Section 1.129(b)(2) is being changed to delete the identification of the period provided for applicants to respond to a notification under § 1.129(b) as one month. The time period for response will be identified in any written notification under § 1.129(b) and will usually be one month, but in no case will it be less than thirty days. The period may be extended under § 1.136(a). The language is also being changed to provide that applicant may respond to the notification by (i) electing the invention or inventions to be searched and examined, if no election has been made prior to the notice, and paying the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects, (ii) confirming an election made prior to the notice and paying the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in addition to the one invention which applicant previously elected, or (iii) filing a petition under § 1.129(b)(2) traversing the requirement without regard to whether the requirement has been made final. No petition fee is required. The section is also being changed to provide that if the petition under § 1.129(b)(2) is filed in a timely manner, the original time period for electing and paying the fee set forth in § 1.17(s) will be deferred and any decision on the petition affirming or modifying the requirement will set a new time period to elect the invention or inventions to be searched and examined and to pay the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects.

Section 1.129(c) is being changed to clarify that the provisions of §§ 1.129 (a) and (b) are not applicable to any application filed after June 8, 1995. However, any application filed on June 8, 1995 would be subject to a 20-year patent term.

Section 1.137 is being amended by revising paragraph (c) to eliminate, in all applications filed on or after June 8, 1995, except design applications, the requirement that a terminal disclaimer accompany any petition under § 1.137(a) not filed within six (6) months of the date of the abandonment of the application. The language "filed before June 8, 1995" and "filed on or after June 8, 1995" as used in the amended rule, refer to the actual United States filing date, without reference to any claim for benefit under 35 U.S.C. 120, 121, or 365. No change to § 1.137 was proposed in the Notice of Proposed Rulemaking. However, in all applications filed on or after June 8, 1995, except design applications, any delay in filing a petition under § 1.137(a) will automatically result in the loss of patent term. The loss of patent term will be the incentive for applicants to promptly file any petition to revive. Therefore, no need is seen for requiring a terminal disclaimer in such applications. It would amount to a penalty if a terminal disclaimer was required.

Section 1.136 is being amended by revising paragraph (d) to eliminate, in all applications filed on or after June 8, 1995, except design applications, the requirement that a terminal disclaimer accompany any petition under § 1.316(b) not filed within six (6) months of the date of the abandonment of the application. Acceptance of a late payment of an issue fee in a design application is specifically provided for in § 1.155. Therefore, § 1.316 does not apply to design applications. The language "filed before June 8, 1995" as used in the amended rule, refers to the actual United States filing date, without reference to any claim for benefit under 35 U.S.C. 120, 121, or 365. No change to § 1.316 was proposed in the Notice of Proposed Rulemaking. However, in all applications filed on or after June 8, 1995, except design applications, any delay in filing a petition under § 1.316(b) will automatically result in the loss of patent term. The loss of patent term will be the incentive for applicants to promptly file any petition under § 1.316(b). Therefore, no need is seen for requiring a terminal disclaimer in such applications. It would amount to a penalty if a terminal disclaimer was required.

Section 1.317 is being amended by removing and reserving paragraph (d) to eliminate the requirement that a terminal disclaimer accompany any petition under § 1.317(b) not filed within six (6) months of the date of lapse of the patent. No change to § 1.317 was proposed in the Notice of Proposed Rulemaking. However, the delay in filing a petition under § 1.317(b) does not result in any gain of patent term. Therefore, no reason is seen for requiring a terminal disclaimer in such cases.

Section 1.701(a) is being changed to identify the implementation date as June 8, 1995, and to clarify that a proceeding under 35 U.S.C. 135(a) is an interference proceeding.

VOL
60
ISS
79
AP
25
1995
UMI

Section 1.701(b) is being changed to provide that the term of a patent entitled to an extension under § 1.701 shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of § 1.701 and the extension will run from the expiration date of the patent. The reference to a terminal disclaimer is being deleted to be consistent with § 1.701(a)(3) and to avoid any confusion.

Section 1.701(c)(1)(i) is being changed for clarity by deleting the phrase "if any" after the first occurrence of "interference" and by inserting the same phrase after the phrase "the number of days."

Section 1.701(c)(1)(ii) is being changed to clarify that the period referred to ends on the "date of the termination of the suspension" rather than on the date of the next PTO communication reopening prosecution.

Section 1.701(d)(1) is being amended to clarify that the "time" referred to is time "during the period of appellate review".

Section 1.701(d)(2) is being amended to clarify that the Commissioner, under the broad discretion granted by 35 U.S.C. 154(b)(3)(C), has decided to limit consideration of applicant's due diligence only to acts occurring during the period of appellate review. The supplementary information published in the Notice of Proposed Rulemaking contained examples of what might be considered a lack of due diligence for purposes of § 1.701(d)(2) as proposed. Specifically, the supplementary information identified requests for extensions of time to respond to Office communications, submission of a response which is not fully responsive to an Office communication, and filing of informal applications as examples. In view of the comments received and the language adopted in the final rules, those examples are withdrawn. Acts which the Commissioner considers to constitute *prima facie* evidence of lack of due diligence under § 1.701(d)(2) are suspensions at applicant's request under § 1.103(a) during the period of appellate review and abandonments during the period of appellate review.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Parts 1 and 3, are being amended as indicated below:

Section 1.1 is being amended to add a paragraph (i) to provide a special "Box Provisional Patent Application" address to assist the Mail Room in separating and processing provisional applications and mail relating thereto.

Section 1.9 is being amended to redesignate paragraph (a) as paragraph (a)(1) and to define a national application as a U.S. application for patent which was either filed in the Office under 35 U.S.C. 111, or which entered the national stage from an international application after compliance with 35 U.S.C. 371. A new paragraph (a)(2) is being added to define the term "provisional application" as a U.S. national application filed under 35 U.S.C. 111(b). Also, a new paragraph (a)(3) is being added to define the term "nonprovisional application" as a U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111(a), or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

Sections 1.12 and 1.14 are being amended to replace the references to § 1.17(i)(1) with references to § 1.17(i).

Sections 1.16(a)–(e) and (g) are being amended to clarify that those sections do not apply to provisional applications. A complete provisional application does not require claims. However, provisional applications may be filed with one or more claims as part of the application. Nevertheless, no additional claim fee or multiple dependent claim fee will be required in a provisional application. Section 1.16(f) is being amended to insert the words "basic fee". Section 1.16(e) refers to "the basic filing fee". Current Office practice allows a design application to be filed without the design filing fee or the oath/declaration as set forth in § 1.53(d)(1). The change to § 1.16(f) is merely for clarification. In addition, § 1.16(a) is being amended to replace the word "cases" with the word "applications", since the word "applications" is used elsewhere in the rule.

Section 1.16 is also being amended to add a new paragraph (k) which lists the basic filing fee for a provisional application as $75.00 for a small entity (see §§ 1.9(c)–(f)) or $150.00 for other than a small entity as contained in Public Law 103–465. Since the filing fee for a provisional application is established by Public Law 103–465 as a 35 U.S.C. 41(a) fee, the filing fee for a provisional application will be subject to the fifty (50) percent reduction provided for in 35 U.S.C. 41(h).

Further, § 1.16 is being amended to add a new paragraph (l) which establishes the surcharge required by new § 1.53(d)(2) for filing the basic filing fee or the cover sheet required by new § 1.51(a)(2) for a provisional application at a time later than the provisional application filing date as $25.00 for a small entity or $50.00 for other than a small entity.

Section 1.17(h) is being amended to clarify that the $130.00 petition fee for filing a petition for correction of inventorship under § 1.48 applies to all patent applications, except provisional applications. Paragraph (i)(1) is being redesignated as paragraph (i) and paragraph (i)(2) is being removed. The fee for a petition under § 1.102 to make an application special has been placed in paragraph (i). The words "of this part", in § 1.17, paragraphs (h) and (i), are being deleted, since the paragraphs currently refer to sections in parts other than Part 1. Section 1.17(i) is also being amended to clarify that the fee set forth in paragraph (i) for filing a petition to accord a filing date under § 1.53 applies to all patent applications, except provisional applications.

A new § 1.17(q) is being added to establish a petition fee of $50.00 for filing a petition for correction of inventorship under § 1.48 in a provisional application and for filing a petition to accord a provisional application a filing date or to convert an application filed under § 1.53(b)(1) to a provisional application. The petition fee set forth in § 1.17(q) is not reduced for a small entity.

New §§ 1.17 (r) and (s) are being added to establish the fees for entry of a submission after final rejection under § 1.129(a) and for each additional invention requested to be examined under § 1.129(b), respectively. These fees have been set at $365.00 for a small entity and $730.00 for other than a small entity.

Section 1.21(l) is being amended to refer to § 1.53(d)(1).

Section 1.28(a) is being amended to clarify the procedure for establishing status as a small entity in a nonprovisional application claiming benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) of a prior application. In such cases, applicants may file a new verified statement or rely on a verified statement filed in the prior application, if status as a small entity is still proper and desired. If applicants intend to rely on a verified statement filed in the prior application, applicants must include in the nonprovisional application either a reference to the verified statement filed in the prior application or a copy of the verified statement filed in the prior application. Status as a small entity may be established in a provisional application by complying with existing § 1.27.

Section 1.45(c) is being amended to clarify that the first sentence applies to a "nonprovisional" application. Section 1.45 (c) is also being amended to add a second sentence relating to joint inventors named in a provisional application. The second sentence states that each inventor named in a provisional application must have made a contribution to the subject matter disclosed in the provisional application. All that § 1.45(c), second sentence, requires is that if a person is named as an inventor in a provisional application, that person must have made a contribution to the subject matter disclosed in the provisional application.

Sections 1.48 (a)–(c) are being amended to specify that the procedures for correcting an error in inventorship set forth in those sections apply to nonprovisional applications. New paragraph (d) is being added to establish a procedure for adding the name of an inventor in a provisional application, where the name was originally omitted without deceptive intent. Paragraph (d) does not require the verified statement of facts by the original inventor or inventors, the oath or declaration by each actual inventor in compliance with § 1.63 or the consent of any assignee as required in paragraph (a). Instead, the procedure requires the filing of a petition identifying the name or names of the inventors to be added and including a statement that the name or names of the inventors were omitted through error without deceptive intention on the part of the actual inventor(s). The statement would be required to be verified if made by a person not registered to practice before the PTO. The statement could be signed by a registered practitioner of record in the application or acting in a representative capacity under § 1.34(a). The $50.00 petition fee set forth in § 1.17(q) would also be required. New paragraph (e) is also being added setting forth the procedure for deleting the name of a person who was erroneously named as an inventor in a provisional application. The procedure requires an amendment deleting the name of the person who was erroneously named accompanied by: a petition including a statement of facts verified by the person whose name is being deleted establishing that the error occurred without deceptive intention; the fee set forth in § 1.17(q); and the written consent of any assignee.

Section 1.51 is being amended to redesignate § 1.51(a) as § 1.51(a)(1) and to include a new paragraph (a)(2) identifying the required parts of a complete provisional application. As set forth in § 1.51(a)(2), a complete provisional application includes a cover sheet, a specification as prescribed in 35 U.S.C. 112, first paragraph, any necessary drawings and the provisional application filing fee. A suggested cover sheet format for a provisional application is included as an Appendix A to this Notice of Final Rulemaking and is available from the PTO free of charge to the public. However, the rule does *not* require the applicant to use the PTO suggested cover sheet. Any paper containing the information required in § 1.51(a)(2)(i) will be acceptable. The cover sheet is required to identify the paper as a provisional application and to provide the information which is necessary for the PTO to prepare the provisional application filing receipt. Also, the residence of each named inventor and, if the invention disclosed in the provisional application was made by an agency of the U.S. Government or under a contract with an agency of the U.S. Government, the name of the U.S. Government agency and Government contract number must be identified on the cover sheet.

Section 1.51(b) is being amended to indicate that an information disclosure statement is not required and may not be filed in a provisional application. Any information disclosure statements filed in a provisional application will either be returned or disposed of at the convenience of the Office. An information disclosure statement filed in a § 1.53(b)(1) application which has been converted to a provisional application will be retained in the application after the conversion, if the information disclosure statement was filed before the petition required by § 1.53(b)(2)(ii) was filed.

The title of § 1.53 and paragraph (a) are being amended to refer to application number, rather than application serial number. The term "application number" is found in current § 1.53(a).

Section 1.53(b) is being redesignated as § 1.53(b)(1) and is being amended to refer to § 1.17(i) rather than § 1.17(i)(1) to conform to the change therein.

A new § 1.53(b)(2) is being added to set forth the requirements for obtaining a filing date for a provisional application. Section 1.53(b)(2) states that a filing date will be accorded to a provisional application as of the date the specification as prescribed by 35 U.S.C. 112, first paragraph, any necessary drawings, and the name of each inventor of the subject matter disclosed are filed in the PTO. The filing date requirements for a provisional application set forth in new paragraph (b)(2) parallel the existing requirements set forth in former paragraph (b), now redesignated paragraph (b)(1), except that no claim is required. In order to minimize the cost of processing provisional applications and to reduce the handling of provisional applications, amendments, other than those required to make the provisional application comply with applicable regulations, are not permitted after the filing date of the provisional application.

Section 1.53(b)(2)(i) is being added requiring all provisional applications to be filed with a cover sheet identifying the application as a provisional application. The section also indicates that the PTO will treat an application as having been filed under § 1.53(b)(1), unless the application is identified as a provisional application on filing. A provisional application, which is identified as such on filing, but which does not include all of the information required by § 1.51(a)(2)(i) would still be treated as a provisional application. However, the omitted information and a surcharge would be required to be submitted at a later date under new § 1.53(d)(2).

Section 1.53(b)(2)(ii) is being added to establish a procedure for converting an application filed under § 1.53(b)(1) to a provisional application. The section requires that a petition requesting the conversion and a petition fee be filed in the § 1.53(b)(1) application prior to the earlier of the abandonment of the § 1.53(b)(1) application, the payment of the issue fee, the expiration of twelve (12) months after the filing date of the § 1.53(b)(1) application, or the filing of a request for a statutory invention registration under § 1.293. The grant of any such petition would not entitle applicant to a refund of the fees properly paid in the application filed under § 1.53(b)(1).

Section 1.53(b)(2)(iii) is being added to call attention to the provisions of Public Law 103–465 which prohibit any provisional application from claiming a right of priority under 35 U.S.C. 120, 121 or 365(c) of any other application. The section also calls attention to the provisions of Public Law 103–465 which provide that no claim for benefit of an earlier filing date may be made in a design application based on a provisional application and that no request for a statutory invention registration may be filed in a provisional application. Section 1.53(b)(2)(iii) further specifies that the requirements of §§ 1.821–1.825 are not mandatory for provisional applications. However, applicants are reminded that an invention being claimed in an application filed under 35 U.S.C. 111(a) or 365 which claims benefit under 35 U.S.C. 119(e) of a provisional application must be disclosed in the provisional application in the manner provided by the first paragraph of 35 U.S.C. 112. Voluntary compliance with the requirements of §§ 1.821–1.825 in

VOL 60 ISS 79 AP 25 1995 UMI

the provisional application is recommended, in order to ensure that support for the invention claimed in the 35 U.S.C. 111(a) application can be readily ascertained in the provisional application.

Section 1.53(c) is being amended to require that any request for review of a refusal to accord an application a filing date be made by way of a petition accompanied by the fee set forth in § 1.17(i), if the application was filed under § 1.53(b)(1), or by the fee set forth in § 1.17(q), if the application was filed under § 1.53(b)(2). This reflects the current practice set forth in the Manual of Patent Examining Procedure (MPEP), section 506.02 (Sixth Edition, Jan. 1995) with regard to any request for review of a refusal to accord a filing date for an application. The PTO will continue its current practice of refunding the petition fee, if the refusal to accord the requested filing date is found to have been a PTO error.

Section 1.53(d) is being redesignated as § 1.53(d)(1).

Section 1.53(d)(2) is being added to provide that a provisional application may be filed without the basic filing fee and without the complete cover sheet required by § 1.51(a)(2). In such a case, the applicant will be notified and given a period of time in which to file the missing fee, and/or cover sheet and to pay the surcharge set forth in § 1.16(l).

Section 1.53(e) is being redesignated as § 1.53(e)(1) and amended to refer to § 1.53(b)(1). Also, a new § 1.53(e)(2) is being added to indicate that a provisional application will not be given a substantive examination and will be abandoned no later than twelve (12) months after its filing date.

Sections 1.55(a) and (b) are being amended to clarify that the sections apply to nonprovisional applications and to clarify that a nonprovisional application may claim the benefit of one or more prior foreign applications or one or more applications for inventor's certificate. Also, § 1.55(a) is being amended to replace the reference to 35 U.S.C. 119 with a reference to 35 U.S.C. 119(a)–(d). In addition, the reference to § 1.17(i)(1) in § 1.55(a) is being replaced by a reference to § 1.17(i) to be consistent with the change to § 1.17. Section 1.55(b) is also being amended to refer to 35 U.S.C. 119(d) to conform to the paragraph designations contained in Public Law 103–465.

Section 1.59 is being amended to clarify that the retention fee practice set forth in § 1.53(d)(1) applies only to applications filed under § 1.53(b)(1).

Section 1.60 is being amended to clarify in the title of the section and in paragraph (b)(1) that the procedure set forth in the section is only available for filing a continuation or divisional application if the prior application was a nonprovisional application and complete as set forth in § 1.51(a)(1). Paregraph (b)(4) is being amended to delete the requirement that the statement which must accompany the copy of the prior application include the language that "no amendments referred to in the oath or declaration filed to complete the prior application introduced new matter therein." The requirement is unnecessary because any amendment filed to complete the prior application would be considered a part of the original disclosure of the prior application and, by definition, could not contain new matter. Also, paragraph (b)(4) is being amended to refer to § 1.17(i).

Section 1.62(a) is being amended to clarify that the procedure set forth in the section is only available for filing a continuation, continuation-in-part, or divisional application of a prior nonprovisional application which is complete as defined in § 1.51(a)(1). Section 1.62(a) is also being amended to clarify that a continuing application may be filed under § 1.62 after payment of the issue fee if a petition under § 1.313(b)(5) is granted in the prior application and that the request for a § 1.62 application must include identification of the inventors named in the prior application. The phrase "Serial number, filing date" in § 1.62(a) is being changed to "application number."

Section 1.62(e) is being amended to replace the reference to § 1.17(i)(1) with a reference to § 1.17(i) to be consistent with the change to § 1.17. Also, the term "application serial number" in § 1.62(e) is being changed to "application number."

Section 1.63(a) is being amended to replace the reference to § 1.51(a)(2) with a reference to § 1.51(a)(1)(ii) in order to conform with the changes in § 1.51 and to refer to an oath or declaration filed as a part of a nonprovisional application.

Section 1.67(b) is being amended to replace the reference to § 1.53(d) with a reference to § 1.53(d)(1) in order to conform with the changes in § 1.53. Furthermore, the references to §§ 1.53(b) and 1.118 are being deleted to make clear that the new matter exclusion applies to all applications including those filed under §§ 1.60 and 1.62. Also, the section is being amended to refer to a nonprovisional application.

Sections 1.78 (a)(1) and (a)(2) are being amended to clarify that the sections apply to nonprovisional applications claiming the benefit of one or more copending nonprovisional applications or international applications designating the United States of America. Section 1.78(a)(1)(iii) is being amended to refer to §§ 1.53(b)(1) and 1.53(d)(1). Section 1.78(a)(2) is also being amended to eliminate the use of serial number and filing date as an identifier for a prior application. The section will require that the prior application be identified by application number (consisting of the series code and serial number) or international application number and international filing date.

Sections 1.78 (a)(3) and (a)(4) are being added to set forth the conditions under which a nonprovisional application may claim the benefit of one or more prior copending provisional applications. The later filed nonprovisional application must be an application other than for a design patent and must be copending with each provisional application. There must be a common inventor named in the prior provisional application and the later filed nonprovisional application. Each prior provisional application must be complete as set forth in § 1.51(a)(2), or entitled to a filing date as set forth in § 1.53(b)(2) and include the basic filing fee. Section 1.78(a)(3) also includes the warning that when the last day of pendency of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, any nonprovisional application claiming benefit of the provisional application must be filed prior to the Saturday, Sunday, or Federal holiday within the District of Columbia. A provisional application may be abandoned by operation of 35 U.S.C. 111(b)(5) on a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case, a nonprovisional application claiming benefit of the provisional application under 35 U.S.C. 119(e) must be filed no later than the preceding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

Section 1.78(a)(4) is also being added to provide that a nonprovisional application claiming benefit of one or more provisional applications must contain a reference to each provisional application, identifying it as a provisional application and including the provisional application number (consisting of series code and serial number). The section does not require the nonprovisional application to identify the nonprovisional application as a continuation, divisional or continuation-in-part application of the provisional application.

Sections 1.83 (a) and (c) are being amended to clarify that the sections apply to nonprovisional applications.

Section 1.97(d) is being amended to replace the reference to § 1.17(i)(1) with a reference to § 1.17(i) to be consistent with the change to § 1.17.

Section 1.101(a) is being amended to indicate that the section applies to nonprovisional applications.

Section 1.102(d) is being amended to replace the reference to § 1.17(i)(2) with a reference to § 1.17(i) to be consistent with the change to § 1.17.

Section 1.103(a) is amended to replace the reference to § 1.17(i)(1) with a reference to § 1.17(i) to be consistent with the change to § 1.17.

Section 1.129 is being added to set forth the procedure for implementing certain transitional provisions contained in Public Law 103–465. Section 1.129(a) provides for limited reexamination of applications pending for 2 years or longer as of June 8, 1995, taking into account any reference to any earlier application under 35 U.S.C. 120, 121 or 365(c). An applicant will be entitled to have a first submission entered and considered on the merits after final rejection if the submission and the fee set forth in § 1.17(r) are filed prior to the filing of an Appeal Brief and prior to abandonment of the application. Section 1.129(a) also provides that the finality of the final rejection is automatically withdrawn upon the timely filing of the submission and payment of the fee set forth in § 1.17(r). After submission and payment of the fee set forth in § 1.17(r), the next PTO action on the merits may be made final only under the conditions currently followed by the PTO for making a first action in a continuing application final. If a subsequent final rejection is made in the application, applicant would be entitled to have a second submission entered and considered on the merits under the same conditions set forth for consideration of the first submission. Section 1.129(a) defines the term "submission" as including, but not limited to, an information disclosure statement, an amendment to the written description, claims or drawings, and a new substantive argument or new evidence in support of patentability. For example, the submission may include an amendment, a new substantive argument and an information disclosure statement. In view of the fee set forth in § 1.17(r), any information disclosure statement previously refused consideration in the application because of applicant's failure to comply with § 1.97 (c) or (d) or which is filed as part of either the first or second submission will be treated as though it had been filed within one of the time periods set forth in § 1.97(b) and will be considered without the petition and petition fee required in § 1.97(d), if it complies with the requirements of § 1.98. In view of 35 U.S.C. 132, no amendment considered as a result of the payment of the fee set forth in § 1.17(r) may introduce new matter into the disclosure of the application.

Section 1.129(b)(1) is being added to provide for examination of more than one independent and distinct invention in certain applications pending for 3 years or longer as of June 8, 1995, taking into account any reference to any earlier application under 35 U.S.C. 120, 121 or 365(c). Under § 1.129(b)(1), a requirement for restriction or for the filing of divisional applications would only be made or maintained in the application after June 8, 1995, if: (1) The requirement was made in the application or in an earlier application relied on under 35 U.S.C. 120, 121 or 365(c) prior to April 8, 1995; (2) the examiner has not made a requirement for restriction in the present or parent application prior to April 8, 1995, due to actions by the applicant; or (3) the required fee for examination of each additional invention was not paid. Under § 1.129(b)(2), if the application contains claims to more than one independent and distinct invention, and no requirement for restriction or for the filing of divisional applications can be made or maintained, applicant will be notified and given a time period to (i) elect the invention or inventions to be searched and examined, if no election has been made prior to the notice, and pay the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects, (ii) in situations where an election was made in response to a requirement for restriction that cannot be maintained, confirm the election made prior to the notice and pay the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in addition to the one invention which applicant previously elected, or (iii) file a petition under § 1.129(b)(2) traversing the requirement without regard to whether the requirement has been made final. No petition fee is required. Section 1.129(b)(2) also provides that if the petition is filed in a timely manner, the original time period for electing and paying the fee set forth in § 1.17(s) will be deferred and any decision on the petition affirming or modifying the requirement will set a new time period to elect the invention or inventions to be searched and examined and to pay the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects. Under § 1.129(b)(3), each additional invention for which the required fee set forth in § 1.17(s) has not been paid will be withdrawn from consideration under § 1.142(b). An applicant who desires examination of an invention so withdrawn from consideration can file a divisional application under 35 U.S.C. 121.

Section 1.129(c) is being added to clarify that the provisions of §§ 1.129 (a) and (b) are not applicable to any application filed after June 8, 1995. However, any application filed on June 8, 1995, would be subject to a 20-year patent term.

Section 1.137 is being amended by revising paragraph (c) to eliminate, in all applications filed on or after June 8, 1995, except design applications, the requirement that a terminal disclaimer accompany any petition under § 1.137(a) not filed within six (6) months of the date of the abandonment of the application. The language "filed before June 8, 1995" and "filed on or after June 8, 1995" as used in the amended rule, refer to the actual United States filing date, without reference to any claim for benefit under 35 U.S.C. 120, 121 or 365.

Section 1.139 is being added to set forth the procedure for reviving a provisional application where the delay was unavoidable or unintentional. Section 1.139(a) addresses the revival of a provisional application where the delay was unavoidable and § 1.139(b) addresses the revival of a provisional application where the delay was unintentional. Applicant may petition to have an abandoned provisional application revived as a pending provisional application for a period of no longer than twelve months from the filing date of the provisional application where the delay was unavoidable or unintentional. It would be permissible to file a petition for revival later than twelve months from the filing date of the provisional application but only to revive the application for the twelve-month period following the filing of the provisional application. Thus, even if the petition were granted to reestablish the pendency up to the end of the twelve-month period, the provisional application would not be considered pending after twelve months from its filing date. The requirements for reviving an abandoned provisional application set forth in § 1.139 parallel the existing requirements set forth in § 1.137.

VOL 60 ISS 79 AP 25 1995 UMI

Sections 1.177, 1.312(b), 1.313(a), and 1.314 are being amended to replace the references to § 1.17(i)(1) with references to § 1.17(i) to be consistent with the change to § 1.17.

Section 1.316(d) is being amended to eliminate, in all applications filed on or after June 8, 1995, except design applications, the requirement that a terminal disclaimer accompany any petition under § 1.316(b) not filed within six (6) months of the date of the abandonment of the application. Acceptance of a late payment of an issue fee in a design application is specifically provided for in § 1.155. Therefore, § 1.316 does not apply to design applications. The language "filed before June 8, 1955" as used in the amended rule, refers to the actual United States filing date, without reference to any claim for benefit under 35 U.S.C. 120, 121 or 365.

Section 1.317(d) is being removed and reserved to eliminate the requirement that a terminal disclaimer accompany any petition under § 1.317(b) not filed within six (6) months of the date of lapse of the patent.

Section 1.666 is being amended to replace the reference to § 1.17(i)(1) with a reference to § 1.17(i) to be consistent with the change to § 1.17.

Section 1.701 is being added to set forth the procedure the PTO will follow in calculating the length of any extension of patent term to which an applicant is entitled under 35 U.S.C. 154(b) where the issuance of a patent on an application, other than for designs, filed on or after June 8, 1995, was delayed due to certain causes of prosecution delay. Applicants need not file a request for the extension of patent term under § 1.701. The extension of patent term is automatic by operation of law. It is currently anticipated that applicant will be advised as to the length of any patent term extension at the time of receiving the Notice of Allowance and Issue Fee Due. Review of the length of a patent term extension calculated by the PTO under § 1.701 prior to the issuance of the patent would be by way of petition under § 1.181. If an error is noted after the patent issues, patentee and any third party may seek correction of the period of patent term granted by filing a request for Certificate of Correction pursuant to § 1.322. The PTO intends to identify the length of any patent term extension calculated under § 1.701 on the printed patent.

Section 1.701(a) is being added to identify those patents which are entitled to an extension of patent term under 35 U.S.C. 154(b).

Section 1.701(b) is being added to provide that the term of a patent entitled to extension under § 1.701(a) shall be extended for the sum of the periods of delay calculated under §§ 1.701 (c)(1), (c)(2), (c)(3) and (d), to the extent that those periods are not overlapping, up to a maximum of five years. The section also provides that the extension will run from the expiration date of the patent.

Section 1.701(c)(1) is being added to set forth the method for calculating the period of delay where the delay was a result of an interference proceeding under 35 U.S.C. 135(a). The period of delay with respect to each interference in which the application was involved is calculated under § 1.701(c)(1)(i) to include the number of days in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application. An interference is considered terminated as of the date the time for filing an appeal under 35 U.S.C. 141 or civil action under 35 U.S.C. 146 expired. If an appeal under 35 U.S.C. 141 is taken to the Court of Appeals for the Federal Circuit, the interference terminates on the date of receipt of the court's mandate by the PTO. If a civil action is filed under 35 U.S.C. 146, and the decision of the district court is not appealed, the interference terminates on the date the time for filing an appeal from the court's decision expires. See section 2361 of the MPEP. The period of delay with respect to an application suspended by the PTO due to interference proceedings under 35 U.S.C. 135(a) not involving the application is calculated under § 1.701(c)(1)(ii) to include the number of days in the period beginning on the date prosecution in the application is suspended due to interference proceedings not involving the application and ending on the date of the termination of the suspension. The period of delay under § 1.701(a)(1) is the sum of the periods calculated under §§ 1.701 (c)(1)(i) and (c)(1)(ii), to the extent that the periods are not overlapping.

Section 1.701(c)(2) is being added to set forth the method for calculating the period of delay where the delay was a result of the application being placed under a secrecy order.

Section 1.701(c)(3) is being added to set forth the method for calculating the period of delay where the delay was a result of appellate review. The period of delay is calculated under § 1.701(c)(3) to include the number of days in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

Section 1.701(d) is being added to set forth the method for calculating any reduction in the period calculated under § 1.701(c)(3). As required by 35 U.S.C. 154(b)(3)(B), § 1.701(d)(1) provides that the period of delay calculated under § 1.701(c)(3) shall be reduced by any time during the period of appellate review that occurred before three years from the filing date of the first national application for patent presented for examination. The "filing date" for the purpose of § 1.701(d)(1) would be the earliest effective U.S. filing date, but not including the filing date of a provisional application or the international filing date of a PCT application. For PCT applications entering the national stage, the PTO will consider the "filing date" for the purpose of § 1.701(d)(1) to be the date on which applicant has complied with the requirements of § 1.494(b), or § 1.495(b), if applicable.

As contained in Public Law 103–465, 35 U.S.C. 154(b)(3)(C) states that the period of extension referred to in 35 U.S.C. 154(b)(2) "shall be reduced for the period of time during which the applicant for patent did not act with due diligence, as determined by the Commissioner." Section 1.701(d)(2) is being added to provide that the period of delay calculated under § 1.701(c)(3) shall be reduced by any time during the period of appellate review, as determined by the Commissioner, during which the applicant for patent did not act with due diligence. Section 1.701(d)(2) also provide that in determining the due diligence of an applicant, the Commissioner may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review. Acts which the Commissioner considers to constitute *prima facie* evidence of lack of due diligence under § 1.701(d)(2) are suspension at applicant's request under § 1.103(a) during the period of appellate review and abandonment during the period of appellate review.

Section 3.21 is being amended to provide that an assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, e.g., 07/123,456) and to eliminate the use of serial number and filing date as an identifier for national patent applications in assignment documents. This change is intended to eliminate any confusion as to whether an application identified by its serial number and filing date in an assignment document is an application filed under § 1.53(b)(1), 1.60 or 1.62 or a design application or a provisional application since there is a different series code assigned to each of these types of applications.

Section 3.21 is also being amended to provide that if an assignment of a patent application filed under § 1.53(b)(1) or § 1.62 is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by its date of execution, name of each inventor, and title of the invention so that there can be no mistake as to the patent application intended.

Further, § 3.21 is being amended to provide that if an assignment of a provisional application is executed before the provisional application is filed, it must identify the provisional application by name of each inventor and title of the invention so that there can be no mistake as to the provisional application intended.

Section 3.81 is being amended to replace the reference to § 1.17(i)(1) with a reference to §1.17(i) to be consistent with the change to § 1.17.

Responses to and Analysis of Comments: Forty-nine written comments were received in response to the Notice of Proposed Rulemaking. These comments, along with those made at the public hearing, have been analyzed. Some suggestions made in the comments have been adopted and others have not been adopted. Responses to the comments follow.

General Comments

1. Comment: One comment questioned the use of the word "proposed" in the notice of proposed rulemaking in describing the statutory amendments contained in Public Law 103–465.

Response: The statutory changes contained in Public Law 103–465 were described as "proposed" changes in the Notice of Proposed Rulemaking because the President had not signed the legislation at the time the notice was prepared for publication. In fact, the legislation was signed by the President on December 8, 1994, which is the date of enactment.

2. Comment: Several comments urged the PTO to favorably consider the 17/20 patent term specified in H.R. 359 since this proposed legislation would overcome the existing impact of extended PTO prosecution and eliminate patent term extensions for prosecution delays. Furthermore, the proposed legislation is consistent with the Uruguay Round Agreements Act, Public Law 103–465.

Response: The administration and the PTO strongly believe that the 20-year patent term as enacted in Public Law 103–465 is the appropriate way to implement the 20-year patent term required by the GATT Uruguay Round Agreements Act. The PTO will take steps to ensure that processing and examination of applications are handled expeditiously.

3. Comment: One comment stated that the proposed rules are premature in view of the Rohrabacher bill, H.R. 359.

Response: The proposed rules are not premature. Public Law 103–465 was signed into law on December 8, 1994, with an effective date of June 8, 1995, for the implementation of the 20-year patent term and provisional applications. The Commissioner must promulgate regulations to implement the changes required by Public Law 103–465.

4. Comment: One comment stated that there is nothing in the TRIPs agreement that requires the term to be measured from filing, nor that provisional applications be provided for, nor that new fees of $730 as set forth in §§ 1.17 (r) and (s) be established. It is suggested that 35 U.S.C. 154 be amended to provide that "every patent (other than a design patent) shall be granted a term of twenty years from the patent issue date, subject to the payment of maintenance fees." It was also suggested that the section regarding maintenance fees be amended to add a new fee payable at 16.5 years of $5000 (for large entity)/ $2500 (for small entity) for maintenance of patent between 17 and 20 years.

Response: The suggestion has not been adopted. The administration and the PTO strongly believe that the 20-year patent term as enacted in Public Law 103–465 is the appropriate way to implement the 20-year patent term required by the GATT Uruguay Round Agreements Act. The establishment of a provisional application is not required by GATT. The provisional application has been adopted as a mechanism to provide easy and inexpensive entry into the patent system. The filing of provisional applications is optional. Provisional applications will place domestic applicants on an equal footing with foreign applicants as far as the measurement of term is concerned because the domestic priority period, like the foreign priority period, is not counted in determining the endpoint of the patent term. As to the §§ 1.17 (r) and (s) fees, the statute authorizes the Commissioner to establish appropriate fees for further limited reexamination of applications and for examination of more than one independent and distinct inventions in an application.

5. Comment: One comment suggested that the 20-year patent term of claims drawn to new matter in continuation-in-part (CIP) applications be measured from the filing date of the CIP application, irrespective of any reference to a parent application under 35 U.S.C. 120.

Response: The suggestion has not been adopted. The term of a patent is not based on a claim-by-claim approach. Under 35 U.S.C. 154(a)(2), if an application claims the benefit of the filing date of an earlier filed application under 35 U.S.C. 120, 121 or 365(a), the 20-year term of that application will be based upon the filing date of the earliest U.S. application that the application makes reference to under 35 U.S.C. 120, 121 or 365(a). For a CIP application, applicant should review whether any claim in the patent that will issue is supported in an earlier application. If not, applicant should consider canceling the reference to the earlier filed application.

6. Comment: One comment objected to the 20-year term provisions of Public Law 103–465 because it was believed that payment of maintenance fees would be required earlier under 20-year term than under 17-year term.

Response: The payment of maintenance fees are not due earlier under 20-year term than under 17-year term. Maintenance fees continue to be due at 3.5, 7.5 and 11.5 years from the issue date of the patent.

7. Comment: Several comments suggested that the expiration date be printed on the face of the patent.

Response: The suggestion has not been adopted. The expiration date will not be printed on the face of the patent. The PTO will publish any patent term extension that is granted as a result of administrative delay pursuant to § 1.701 on the face of the patent. The term of a patent will be readily discernible from the face of the patent. Furthermore, it is noted that the term of a patent is dependent on the timely payment of maintenance fees which is not printed on the face of the patent.

8. Comment: One comment suggested that in order to aid the bar in advising clients as to whether a provisional application has had its priority claimed in a patent, the PTO should somehow link the provisional application number

VOL 60 ISS 79 AP 25 1995 UMI

with the complete application number and/or the patent number.

Response: It is contemplated by the PTO that all provisional applications will be given application numbers, starting with a series code "60" followed by a six digit number, e.g., "60/123,456." If a subsequent 35 U.S.C. 111(a) application claims the benefit of the filing date of the provisional application pursuant to 35 U.S.C. 119(e) and the 35 U.S.C. 111(a) application results in a patent, the provisional application would be listed by its application number and filing date on the face of the patent under the heading "Related U.S. Application Data." The public will be able to identify an application under the above-noted heading as a provisional application by checking to see if it has a series code of "60."

9. Comment: Several comments suggested that the PTO consider modifying the rules to permit the filing of all applications by assignees. This would promote harmonization with other patent laws throughout the world and would eliminate one of the difficulties which will occur for the PTO in considering claims for priority based on the filing of a provisional application.

Response: Assignee filing was recommended in the 1992 Advisory Commission Report on Patent Law Reform. The PTO is currently undertaking a project to reengineer the entire patent process. The suggestion will be taken under advisement in that project.

10. Comment: Several comments stated that a complete provisional application should not be forwarded to a central repository for storage.

Response: In view of the relatively small filing fee for a provisional application and the fact that the provisional application will not be examined, PTO handling must be kept to a minimum and these provisional applications, once complete, will be sent to the Files Repository for storage rather than being kept in the examination area of the PTO.

11. Comment: One comment suggested that the provisional application be maintained with the 35 U.S.C. 111(a) application because the examiner may need it to determine whether the 35 U.S.C. 111(a) application is entitled to the benefit of the prior provisional application and in the event of 18-month publication, there will be a demand for accessibility by the public to the provisional and 35 U.S.C. 111(a) applications upon publication.

Response: The suggestion has not been adopted. Benefit of the same provisional application may be claimed in a number of 35 U.S.C. 111(a) applications. If the PTO is to maintain the provisional application file with one of several 35 U.S.C. 111(a) applications claiming benefit of the provisional application and the 35 U.S.C. 111(a) application containing the provisional application file were to go abandoned while one of the other 35 U.S.C. 111(a) application issues, the public would be entitled to inspect the provisional application file but not the abandoned 35 U.S.C. 111(a) application file containing the provisional application file. This would create access problems.

12. Comment: One comment suggested that provisional applications be available in full to the public if the benefit of priority is being claimed.

Response: Section 1.14 relating to access applies to all applications including provisional applications. If the benefit of a provisional application is claimed in a later filed 35 U.S.C. 111(a) application which resulted in a patent, then access to the provisional application will be available to the public pursuant to § 1.14. The mere fact that a provisional application is claimed in a later filed 35 U.S.C. 111(a) application does not give the public access to the provisional application unless the 35 U.S.C. 111(a) application issues as a patent.

13. Comment: Several comments requested that the PTO clarify whether a 35 U.S.C. 111(a) application will be accorded an effective date as a reference under 35 U.S.C. 102(e) as of the filing date of the provisional application for which benefit under 35 U.S.C. 119(e) is claimed. If so, the comment questioned whether pending applications will be rejected under 35 U.S.C. 102(e) on the basis that an invention was described in a patent granted on a provisional application by another filed in the U.S. before the invention thereof by the applicant for patent.

Response: If a patent is granted on a 35 U.S.C. 111(a) application claiming the benefit of the filing date of a provisional application, the filing date of the provisional application will be the 35 U.S.C. 102(e) prior art date. A pending application will be rejected under 35 U.S.C. 102(e) on the basis that an invention was described in a patent granted on a 35 U.S.C. 111(a) application which claimed the benefit of the filing date of a provisional application by another filed in the U.S. before the invention thereof by the applicant for patent.

14. Comment: One comment suggested that the PTO issue a final rule stating that if a 35 U.S.C. 111(a) application claims the benefit of the filing date of a provisional application, the "inventive entity" for the purposes of 35 U.S.C. 102(e) will be the inventors listed on the issued patent, and the list of inventors in the provisional application shall have no effect on the identity of an "inventive entity" for the purposes of 35 U.S.C. 102(e).

Response: The suggestion has not been adopted. The "inventive entity" for the purpose of 35 U.S.C. 102(e) is determined by the patent and not by the inventors named in the provisional application. As long as the requirements of 35 U.S.C. 119(e) are satisfied, a patent granted on a 35 U.S.C. 111(a) application which claimed the benefit of the filing date of a provisional application has a 35 U.S.C. 102(e) prior art effect as of the filing date of the provisional application based on the inventive entity of the patent. It is clear from 35 U.S.C. 102(e) that the inventive entity is determined by the patent and a rule to this effect is not necessary.

15. Comment: One comment requested the PTO to express its position as to whether the filing of a provisional application with the subsequent filing of a 35 U.S.C. 111(a) application claiming benefit of the provisional application under 35 U.S.C. 119(e) creates a prior art date against other patent applicants under 35 U.S.C. 102(g).

Response: As to 35 U.S.C. 102(g), the filing of a provisional application with the subsequent filing of a 35 U.S.C. 111(a) application claiming benefit of the provisional application under 35 U.S.C. 119(e) creates a prior art date under 35 U.S.C. 102(g) as of the filing date of the provisional application.

16. Comment: One comment suggested that in view of the 20-year patent term measured from filing, § 1.103(a) should be deleted. The PTO should not have the right to suspend action on any application, thereby reducing applicant's term of protection.

Response: Section 1.103(a) refers to suspension of action as a result of a request by applicant. If applicant wishes to suspend prosecution and thereby reduce his/her term of protection, applicant should be permitted to do so.

17. Comment: One comment suggested that in order to avoid delays resulting from consideration of petitions to withdraw premature notices of abandonment, examiners should be required to contact an attorney of record prior to abandoning the application to find out if a response to an Office communication has been filed.

Response: The suggestion has not been adopted. However, in order to avoid loss of patent term, applicants are encouraged to check on the status in cases where applicants have not received a return postcard from the PTO within two (2) weeks of the filing of any response to a PTO action.

18. Comment: One comment asked whether there is a "cut-off" date after which patentees may lose the opportunity to choose 17- vs. 20-year patent term.

Response: The "cut-off" date is June 8, 1995. A patent that is in force on June 8, 1995, or a patent that issues after June 8, 1995, on an application filed before June 8, 1995, is automatically entitled to the longer of the 20-year patent term measured from the earliest U.S. effective filing date or 17 years from grant. This is automatic by operation of law. Patentees need not make any election to be entitled to the longer term. A patent that issues on an application filed on or after June 8, 1995 is entitled to a 20-year patent term measured from the earliest U.S. effective filing date.

19. Comment: One comment stated that there is no clear guidance as to a patentee's "bonus rights" that may arise because of the difference in a 17-year term vs. a 20-year term. Will parties that were previously in a licensing arrangement have to renegotiate terms for the bonus patent term?

Response: Section 154(c) of title 35, United States Code, states that the remedies of sections 283 (injunction), 284 (damages) and 285 (attorney fees) shall not apply to acts which were commenced or for which substantial investment was made before June 8, 1995, and became infringing by reason of the 17/20 year term and that these acts may be continued only upon the payment of an equitable remuneration to the patentee that is determined in an action brought under chapters 28 and 29 of Title 35. There is no guidance provided in the statute as to the meaning of "substantial investment" and "equitable remuneration." Licensing arrangements are between the parties to the agreement and are determined by the terms of the agreement and state law and are outside the jurisdiction of the PTO.

20. Comment: One comment questioned whether an international application designating the U.S. filed before June 8, 1995, with entry into the U.S. national stage on or after June 8, 1995, preserves the 17-year patent term measured from grant.

Response: An international application designating the U.S. that is filed before June 8, 1995, with entry into the U.S. national stage under 35 U.S.C. 371 on or after June 8, 1995, preserves the option for a 17-year patent term measured from date of grant.

21. Comment: One comment suggested that 35 U.S.C. 371(c) be amended because a declaration should not be required to obtain a filing date and a prior art date under 35 U.S.C. 102(e).

Response: The suggestion has not been adopted. This issue was not addressed in the Notice of Proposed Rulemaking. However, the suggestion will be taken under advisement as part of a comprehensive effort being conducted by the PTO to re-engineer the entire patent process.

22. Comment: One comment suggested that §§ 1.604, 1.605 and 1.607 be amended to state that provisional applications are not subject to interference.

Response: The suggestion has not been adopted because it is unnecessary. By statute, 35 U.S.C. 111(b)(8), provisional applications are not subject to 35 U.S.C. 135, i.e., a provisional application will not be placed in interference.

23. Comment: One comment suggested that §§ 1.821–1.825 be amended so that (1) only unbranched sequences of ten or more amino acids and twenty or more nucleotides which are claimed have to be included in Sequence Listings, (2) previously published sequences can be omitted, and (3) the sequences of primers and oligonucleotide probes should not be included in a Sequence Listing if encompassed by another disclosed sequence.

Response: The suggestion has not been adopted. There was no change proposed to §§ 1.821–1.825 in the Notice of Proposed Rulemaking. However, the suggestion will be taken under advisement as part of a comprehensive effort being conducted by the PTO to reengineer the entire patent process.

24. Comment: One comment suggested that §§ 5.11 to 5.15 be amended to provide for the grant of a foreign license for a provisional application.

Response: The suggestion has not been adopted. The present language of §§ 5.11 to 5.15 already provides for the grant of a foreign license for a provisional application.

25. Comment: One comment suggested that in order to assist defense agencies in reviewing application for secrecy orders, PTO should (1) automatically impose a secrecy order on any application filed under 35 U.S.C. 111(a) if a secrecy order was previously imposed on corresponding provisional application, and (2) require applications filed under 35 U.S.C. 111(a) based on a previous provisional application to indicate changes made to the provisional application in the 35 U.S.C. 111(a) application by means of underlining and bracketing.

Response: The suggestions have not been adopted. The PTO cannot automatically impose a secrecy order on any 35 U.S.C. 111(a) applications even if a secrecy order was previously imposed on a provisional application, for which benefit under 35 U.S.C. 119(e) is claimed, unless the agency which imposed the secrecy order on the provisional application specifically requests the PTO to do so since the 35 U.S.C. 111(a) application could disclose subject matter which is different from that which is disclosed in the provisional application.

As to item (2), the PTO will not require applicants to identify the differences in subject matter disclosed in the 35 U.S.C. 111(a) application and the provisional application.

26. Comment: One comment suggested that in order to relieve defense agencies from possible liability for secrecy orders imposed for more than 5 years, the PTO should seek legislation setting patent term at 20 years from the earliest filing date or 17 years from the issue date, whichever is longer, for any patent application placed under secrecy order.

Response: The suggestion has not been adopted. The PTO strongly believes that the 20-year patent term as enacted in Public Law 103–465 is the appropriate way to implement the 20-year patent term required by the GATT Uruguay Round Agreements Act. The 35-year limit for patent term extension set forth in § 1.701(b) is required by statute, 35 U.S.C. 154(b).

Comments Directed to Specific Rules

27. Comment: One comment suggested that in order to eliminate the need for the expression "other than a provisional application" in other parts of the regulations, § 1.9 should be amended to identify a 35 U.S.C. 111(a) application by some term that can be used in the rules to distinguish that type of application from a provisional application.

Response: The suggestion has been adopted. The rules are being amended to include a definition of the term "nonprovisional application" in § 1.9(a) to describe an application filed under 35 U.S.C. 111(a) or 371. Further, the term "nonprovisional application" is being used in the final rules where the rule applies only to applications filed under 35 U.S.C. 111(a) or 371 and not to provisional applications.

28. Comment: One comment suggested that the rules be simplified if

VOL 60 ISS 79 AP 25 1995 UMI

a "national application" could be defined in § 1.9 to exclude a provisional application.

Response: The suggestion has not been adopted. Section 1.9(a), prior to this rulemaking, defined a national application to include any application filed under 35 U.S.C. 111. A provisional application is an application filed under 35 U.S.C. 111. It is appropriate to define a provisional application as a special type of national application.

29. Comment: One comment requested an explanation of the showing required in a petition under §§ 1.12 and 1.14 for access to pending applications and to assignment records for pending applications.

Response: There was no substantive change proposed to either § 1.12 or 1.14 in the Notice of Proposed Rulemaking. Thus, the showing required in a petition under § 1.12 or 1.14 remains the same after this final rulemaking as before. A discussion of such a petition can be found in section 103 of the MPEP.

30. Comment: Several comments objected to the definition in § 1.45(c) of joint inventors in provisional applications as being those having made a contribution to "the subject matter disclosed" in the provisional application. Various language, such as, "the subject matter which constitutes the invention," "subject matter disclosed and regarded to be the invention," "disclosed invention," "the inventive subject matter disclosed" was suggested. Another comment requested guidance as to the determination of inventorship in a provisional application.

Response: The suggestion has not been adopted. The term "invention" is typically used to refer to subject matter which applicant is claiming in his/her application. Since claims are not required in a provisional application, it would not be appropriate to reference joint inventors as those who have made a contribution to the "invention" disclosed in the provisional application. If the "invention" has not been determined in the provisional application because no claims have been presented, then the name(s) of those person(s) who have made a contribution to the subject matter disclosed in the provisional application should be submitted. Section 1.45(c) states that "if multiple inventors are named in a provisional application, each named inventor must have made a contribution, individually or jointly, to the subject matter disclosed in the provisional application." All that § 1.45(c) requires is that if someone is named as an inventor, that person must have made a contribution to the subject matter disclosed in the provisional application. When applicant has determined what the invention is by the filing of the 35 U.S.C. 111(a) application, that is the time when the correct inventors must be named. The 35 U.S.C. 111(a) application must have an inventor in common with the provisional application in order for the 35 U.S.C. 111(a) application to be entitled to claim the benefit of the provisional application under 35 U.S.C. 119(e).

31. Comment: Several comments suggested that it might be desirable to correct inventorship in a provisional application where an individual was erroneously named as an inventor and that the procedure for doing so should be set forth in § 1.48.

Response: Under 35 U.S.C. 119(e), as contained in Public Law 103–465, a later filed application under 35 U.S.C. 111(a) may claim priority benefits based on a copending provisional application so long as the applications have at least one inventor in common. An error in naming a person as an inventor in a provisional application would not require correction by deleting the erroneously named inventor from the provisional application since this would have no effect upon the ability of the provisional application to serve as a basis for a priority claim under 35 U.S.C. 119(e). However, in response to the comments, § 1.48 is being amended to include a new paragraph (e) which sets forth the requirements for deleting the names of the inventors incorrectly named as joint inventors in a provisional application, namely, a petition including a verified statement by the inventor(s) whose name(s) are being deleted stating that the error arose without deceptive intent, the fee set forth in § 1.17(q) and the written consent of all assignees.

32. Comment: One comment suggested that in order to make the procedures for provisional applications as simple as possible, there is no need to provide any rules to add inventor(s) or change inventorship in a provisional application since the whole concept of inventorship is meaningless without a claim. Error in inventorship can be corrected by the filing of and 35 U.S.C. 111(a) application within 12 months after the filing of a provisional application.

Response: The suggestion has not been adopted. One of the requirements of 35 U.S.C. 119(e) is that a 35 U.S.C. 111(a) application must have at least one inventor in common with a provisional application in order for the 35 U.S.C. 111(a) application to be entitled to claim the benefit of the filing date of the provisional application. In situations where there is no inventor in common between the 35 U.S.C. 111(a) application and the provisional application due to error in naming the inventors in the provisional application, procedures must be established to permit applicant to correct the inventorship in the provisional application.

33. Comment: One comment suggested that an individual who is the inventor of subject matter disclosed in a provisional application, but who is not named as an inventor in the provisional application because that subject matter was not intended to be claimed in a later filed 35 U.S.C. 111(a) application, could be added as an inventor pursuant to § 1.48(d) in the provisional application if the subject matter was claimed in 35 U.S.C. 111(a) application.

Response: The individual could be added as an inventor pursuant to § 1.48(d) in the provisional application so long as the individual was originally omitted without deceptive intent.

34. Comment: One comment questioned whether it would be proper for a registered practitioner who did not file the provisional application to sign the statement required by § 1.48(d) that the error occurred without deceptive intention on the part of the inventors.

Response: It would be proper for a registered practitioner who did not file the provisional application to sign the statement required by § 1.48(d), if the registered practitioner has a reasonable basis to believe the truth of the statement being signed.

35. Comment: One comment suggested that there should be no diligence requirement to correct inventorship in a provisional application.

Response: Diligence is not a requirement to correct inventorship in a provisional application in either § 1.48(d) or 1.48(e).

36. Comment: One comment suggested that § 1.48(a) be amended by deleting the requirements for "a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred" and for the written consent of any assignee.

Response: The suggestion has not been adopted. There was no substantive change proposed to § 1.48(a) in the Notice of Proposed Rulemaking. Since the correction of inventorship affects ownership rights, the existing rules are designed to provide assurances that all parties including the original named inventors and all assignees agree to the change of inventorship. If the requirements for verified statements of facts from the original named inventors and written consent of the assignees are to be deleted, the PTO would no longer have the assurances that all parties agree to the change.

37. Comment: One comment expressed concern that a provisional application filed without a claim will leave subsequent readers with little or no clue as to what the inventors in the provisional application considered to be their invention at the time the provisional application was filed and doubted that a provisional application filed without a claim defining the invention could ever provide a sufficient disclosure to support a claim for a foreign or U.S. priority date.

Response: Claims are not required by the statute to provide a specification in compliance with the requirements of 35 U.S.C. 112, first paragraph. However, if an applicant desires, one or more claims may be included in a provisional application. Any claim field with a provisional application will, of course, be considered part of the original provisional application disclosure.

38. Comment: One comment suggested that the PTO issue a specification format or guideline for a provisional application to enable an inventor to comply with 35 U.S.C. 112, first paragraph.

Response: The format of a provisional application is the same as for other applications and is set forth in existing § 1.77 which is applicable to provisional applications except no claims are required for provisional applications.

39. Comment: Several comments suggested that the PTO revise its rules to clarify that strict adherence to the enablement, description and best mode requirements of 35 U.S.C. 112, first paragraph, is not required in provisional applications.

Response: The suggestion has not been adopted. The substantive requirements of a specification necessary to comply with 35 U.S.C. 112, first paragraph, are established by court cases interpreting that section of the statute, not by rule. The case law applies to provisional applications as well as to applications filed under 35 U.S.C. 111(a).

40. Comment: Several comments suggested that the rules or comments published with the Final Rule indicate whether there is any requirement to update the best mode disclosed in the provisional application when filing the 35 U.S.C. 111(a) application.

Response: No rule was proposed to address the issue when going from a provisional application to a 35 U.S.C. 111(a) application because no current rule exists when going from one 35 U.S.C. 111(a) application to another 35 U.S.C. 111(a) application. The question of whether the best mode has to be updated is the same when going from one 35 U.S.C. 111(a) application to another 35 U.S.C. 111(a) application or from a provisional application to a 35 U.S.C. 111(a) application. Accordingly, the rationale of *Transco Products, Inc.* v. *Performance Contracting Inc.*, 38 F.3d 551, 32 U.S.P.Q.2d 1077 (Fed. Cir. 1994), would appear to be applicable. Clearly, if the substantive content of the application does not change when filing the 35 U.S.C. 111(a) application, there is no requirement to update the best mode. However, if subject matter is added to the 35 U.S.C. 111(a) application, there may be a requirement to update the best mode.

41. Comment: One comment suggested that § 1.51(c) be amended to permit a provisional application to be filed with an authorization to charge fees to a deposit account.

Response: Section 1.51(c) permits an application to be filed with an authorization to charge fees to a deposit account. Section 1.51(c) applies to provisional applications. Therefore, no change to § 1.51(c) is necessary.

42. Comment: One comment suggested that the PTO confirm that there will be no procedural examination of a provisional application other than to determine whether the provisional application complies with § 1.51(a)(2).

Response: The PTO intends to require compliance with the formal requirements of §§ 1.52(a)–(c) only to the extent necessary to permit the PTO to properly microfilm and store the application papers.

43. Comment: Several comments suggested that an English translation of a foreign language provisional application should not be required unless necessary in prosecution of the 35 U.S.C. 111(a) application to establish benefit. If an English translation is required, there is no useful purpose to require the translation at any time earlier than the filing of 35 U.S.C. 111(a) application claiming the benefit of the provisional application.

Response: Provisional applications may be filed in a language other than English as set forth in existing § 1.52(d). However, an English language translation is necessary for security screening purposes. Therefore, the PTO will require the English language translation and payment of the fee required in § 1.52(d) in the provisional application. Failure to timely submit the translation in response to a PTO requirement will result in the abandonment of the provisional application. If a 35 U.S.C. 111(a) application is filed without providing the English language translation in the provisional application, the English language translation will be required to be supplied in every 35 U.S.C. 111(a) application claiming priority of the non-English language provisional application.

44. Comment: One comment suggested that a new model oath or declaration form for use in claiming 35 U.S.C. 119(e) priority and a "cover sheet" for use in filing provisional applications be published as an addendum to the final rules.

Response: The suggestion has been adopted. See Appendix A for the sample cover sheet for filing a provisional application and Appendix B for the sample declaration for use in claiming 35 U.S.C. 119(e) priority.

45. Comment: One comment suggested that the statement in § 1.53(b)(2) that the provisional application will not be given a filing date if all the names of the actual inventor or inventor(s) are not supplied be deleted and § 1.41 be amended to make an exception for provisional applications. The comment suggested that 35 U.S.C. 111(b) is satisfied as long as the name of one person who made an inventive contribution to the subject matter of the application is given.

Response: The suggestion has not been adopted. Section 111(b) of title 35, United States Code, states that "a provisional application shall be made or authorized to be made by the inventor." This language parallels 35 U.S.C. 111(a). The naming of inventors for obtaining a filing date for a provisional application is the same as for other applications. A provisional application filed with the inventors identified as "Jones et al." will not be accorded a filing date earlier than the date upon which the name of each inventor is supplied unless a petition with the fee set forth in § 1.17(i) is filed which sets forth the reasons the delay in supplying the names should be excused. Administrative oversight is an acceptable reason. It should be noted that for a 35 U.S.C. 111(a) application to be entitled to claim the benefit of the filing date of a provisional application, the 35 U.S.C. 111(a), application must have at least one inventor in common with the provisional application.

46. Comment: One comment suggested that a drawing should not be required to obtain a filing date for a provisional application. Whatever is filed should be given a serial number and filing date in order to establish status as a provisional application, regardless of what is in the specification or drawing. If the provisional

VOL 60 ISS 79 AP 25 1995 UMI

application omitted drawings, has pages missing, or is otherwise incomplete, then applicant may not be able to rely on the filing date of the provisional application in a subsequently filed 35 U.S.C. 111(a) application. It should not be the job of the Application Branch to review compliance with § 1.81(a).

Response: Section 111(b) of title 35, United States Code, states that a provisional application must include a specification as prescribed by 35 U.S.C. 112, first paragraph and a drawing as prescribed by 35 U.S.C. 113. Drawings are required pursuant to 35 U.S.C. 113 if they are necessary to understand the subject matter sought to be patented. If a provisional application as filed omitted drawings and/or has pages missing, the provisional application is prima facie incomplete and no filing date will be granted. Application Branch currently reviews all applications to make sure that no filing date will be granted to an application that is prima facie incomplete. Application Branch will perform the same type of review with provisional applications. If a filing date is not granted to a provisional application because it is prima facie incomplete, applicant may petition the PTO under § 1.182 to grant a filing date to the provisional application as of the date of deposit of the application papers if it can be shown that the omitted items are not necessary for the understanding of the subject matter.

47. Comment: One comment objected to the requirement in § 1.53(b)(2)(i) for a cover sheet identifying the application as a provisional application because it is unnecessarily rigid and contrary to Congress' desire to keep the filing of provisional application as simple as possible.

Response: The requirement that a provisional application be specifically identified on filing as a provisional application is not seen to be burdensome on the applicant and is necessary for the PTO to properly process the papers as a provisional application. All an applicant is required to do in order to comply with the requirement of § 1.53(b)(2)(i) is to include a transmittal sheet identifying the papers being filed as a PROVISIONAL application.

48. Comment: Several comments suggested that in § 1.53(b)(2)(ii), as proposed, the phrase "the expiration of 12 months after the filing date of the provisional application" should read "the expiration of 12 months after the filing date of the § 1.53(b)(1) application".

Response: The suggestion has been adopted.

49. Comment: One comment objected to the requirement in § 1.53(b)(2)(ii) for a petition to convert an application filed under § 1.53(b)(1) to a provisional application and suggested that any confusion concerning applicant's intention could be handled informally without a petition or petition fee.

Response: The requirement for a petition and fee is intended to ensure that the cost of any PTO reprocessing is borne specifically by the applicant requesting the action.

50. Comment: Several comments suggested that the filing fee required in an application filed under 35 U.S.C. 111(a) claiming benefit of the filing date of an earlier 35 U.S.C. 111(a) application which has been converted to a provisional application under proposed § 1.53(b)(2)(ii) be reduced, since the $730/$365 filing fee was paid in the earlier application.

Response: The suggestion has not been adopted. The filing fee required in an application filed under 35 U.S.C. 111(a) is set by statute. The statute does not provide for the suggested reduction in the filing fee.

51. Comment: One comment suggested that the proposed § 1.53(b)(2)(iii) should apply retroactively to permit applications filed between June 9, 1994, and June 8, 1995, to be converted to provisional applications.

Response: The suggestion has not been adopted. The statute does not permit a provisional application to have a filing date prior to June 8, 1995.

52. Comment: One comment suggested that § 1.53(b)(2)(ii) be revised to state that the petition requesting conversion must also be filed before (1) the application becomes involved in interference, or (2) notice by the PTO of intent to publish the application as a statutory invention registration. This suggestion conforms with 35 U.S.C. 11(b)(8).

Response: The suggestion has not been fully adopted. It is not necessary to include interference in § 1.53(b)(2)(ii) because if a 35 U.S.C. 111(a) application becomes involved in an interference proceeding and applicant files a petition requesting conversion of that 35 U.S.C. 111(a) application to a provisional application, the 35 U.S.C. 111(a) will be removed from the interference proceeding upon granting the petition to convert. When a subsequent 35 U.S.C. 111(a) application is filed based on the provisional application, the subsequent 35 U.S.C. 111(a) application could be placed in the interference proceeding if necessary. As to the reference to statutory invention registration, § 1.53(b)(2)(ii) is being amended to require the petition and the fee be filed prior to the earlier of the abandonment of the 35 U.S.C. 111(a) application, the payment of the issue fee, the expiration of 12 months after the filing date of the 35 U.S.C. 111(a) application, or the filing of a request for a statutory invention registration under § 1.293.

53. Comment: One comment suggested that the procedures for converting a 35 U.S.C. 111(a) application to a provisional application be explained in greater detail in § 1.53(b)(2)(ii) or in the discussion. If a 35 U.S.C. 111(a) application is converted to a provisional application on the last day of the 12-month period, and a second 35 U.S.C. 111(a) application is concurrently filed, how should this be done and how should the first sentence in the second 35 U.S.C. 111(a) application be worded. Furthermore, if a 35 U.S.C. 111(a) application is converted to a provisional application on the last day of the 12-month period, will it be necessary to file a second 35 U.S.C. 111(a) application on the same day, or else lose the priority claim.

Response: The suggestion has not been adopted. The language in § 1.53(b)(2)(ii) is clear relating to the requirements for converting a 35 U.S.C. 111(a) application to a provisional application. If applicant wishes to convert a 35 U.S.C. 111(a) application to a provisional application, applicant must file a petition requesting the conversion along with the petition fee set forth in § 1.17(q). The petition and the fee must be filed prior to the earlier of the abandonment of the 35 U.S.C. 111(a) application, the payment of the issue fee, the expiration of 12 months after the filing date of the 35 U.S.C. 111(a) application, or the filing of a request for a statutory invention registration under § 1.293. In the example noted in the comment, if a 35 U.S.C. 111(a) application is converted to a provisional application on the last day of the 12-month period, a second 35 U.S.C. 111(a) application must be filed on that same day, otherwise, applicant will lose the priority pursuant to 35 U.S.C. 119(e). An example of how the first sentence of the second 35 U.S.C. 111(a) application would read is, "This application claims the benefit of U.S. Provisional Application No. 60/———, filed ———, which was converted from Application No.———."

54. Comment: One comment suggested that the PTO consider a rule mandating that any prior U.S. application that would have been eligible for conversion to a provisional application that is abandoned in favor of a continuing application within one year of the earlier priority date asserted be deemed constructively converted to a provisional application.

Response: The suggestion has not been adopted. Conversion of a 35 U.S.C. 111(a) application to a provisional will be permitted only by way of a petition and under the conditions set forth in § 1.53(b)(2)(ii). One reason for this is that the PTO plans to provide sufficient information on the printed patent to determine the end date of the 20-year patent term by identifying provisional applications using a unique series code, i.e., "60". Thus, a 35 U.S.C. 111(a) application converted to a provisional application will need to be reprocessed by the PTO with a new application number. The petition fee is intended to reimburse the PTO for the extra processing necessitated by the conversion.

55. Comment: One comment stated that § 1.53(b)(2)(ii) permits the conversion of a 35 U.S.C. 111(a) application to a provisional application. However, it is silent as to whether such a conversion would kill any benefit the 35 U.S.C. 111(a) application had of domestic and/or foreign priority.

Response: Section 111(b)(7) of title 35, United States Code, specifically states that a provisional application shall not be entitled to the right of priority of any other application under 35 U.S.C. 119 or 365(a) or to the benefit of an earlier filing date in the United States under 35 U.S.C. 120, 121, or 365(c). If a 35 U.S.C. 111(a) application is converted to a provisional application, the granting of the conversion will automatically eliminate any claim of priority which could have been made in the 35 U.S.C. 111(a) application.

56. Comment: Several comments suggested that it was inconsistent with the purpose of the provisional application to require any compliance with the Sequence Disclosure Rules §§ 1.821–1.823 and 1.825, since the provisional applications are not examined and there is no comparison of the sequences with the prior art.

Response: The Office agrees with the comments that a provisional application need not comply with the requirements of §§ 1.821 through 1.825. Section 1.53(b)(2)(iii) is being amended to indicate that the requirements of §§ 1.821 through 1.825 regarding sequence listings are not mandatory for a provisional application. However, applicants are cautioned that in order for a 35 U.S.C. 111(a) application to obtain the benefit of the filing date of an earlier filed provisional application, the claimed subject matter of the 35 U.S.C. 111(a) application must have been disclosed in the provisional application in a manner provided by 35 U.S.C. 112, first paragraph. Applicants are encouraged to follow the sequence rules to ensure that support for the invention claimed in the 35 U.S.C. 111(a) application can be readily ascertained in the provisional application.

57. Comment: One comment suggested that the language in § 1.53(e)(2) that a provisional application will become abandoned no later than twelve months after its filing date was misleading and that the words "no later than" should be deleted because it was believed that a provisional application could not be abandoned prior to twelve months after its filing date.

Response: The statute does not state that a provisional application can never be abandoned prior to twelve months after its filing date. In fact, a provisional application may be abandoned as a result of applicant's failure to timely respond to a PTO requirement. For example, if a provisional application which has been accorded a filing date does not include the appropriate filing fee or the cover sheet required by § 1.51(a)(2), applicant will be so notified if a correspondence address has been provided and given a period of time within which to file the fee, cover sheet and to pay the surcharge as set forth in § 1.16(l). Failure to timely respond will result in the abandonment of the application. This may occur prior to twelve months after its filing date. Furthermore, a provisional application may also be expressly abandoned prior to twelve months from its filing date.

58. Comment: One comment objected to the deletion of the "retention fee" practice in § 1.53(d) since it permits an applicant in a first application claiming benefits under 35 U.S.C. 119 (a)–(d) or 120 to correct inventorship by filing a second application without having to pay the full filing fee in the first application.

Response: Since the comment indicated that there is a benefit to retain the retention fee practice, the proposal to eliminate the practice is withdrawn.

59. Comment: One comment stated that the language of §§ 1.53 (d)(1) and (d)(2) indicates an intent by the PTO to mail the "Notice Of Missing Parts" to applicant's post office address and argues that the "Notice" should be mailed to the registered practitioner who filed the application on behalf of the applicant.

Response: The language in §§ 1.53 (d)(1) and (d)(2) states that the applicant will be notified of the missing part, if a correspondence address is provided. This means that the "Notice" to applicant will be mailed to the correspondence address provided in the application papers. Under current PTO practice, if no specific correspondence address is identified in the application, the address of the registered practitioner who filed the application on behalf of the applicant is used as the correspondence address. If no specific correspondence address or registered practitioner is identified in the application, the post office address of the first named inventor is used as the correspondence address. No change in current PTO practice in this regard is required as a result of § 1.53(d)(2) nor is any change planned.

60. Comment: Several comments objected to the proposed deletion of § 1.60. One comment suggested that the deletion of § 1.60 was a major rule change and should have been proposed separate from the proposed rules dealing with the changes in practice required by Public Law 103–465.

Response: In view of the comments received, the proposal to delete § 1.60 is withdrawn. However, the proposal will be considered as part of a comprehensive effort being conducted by the PTO to reengineer the entire patent process.

61. Comment: One comment suggested that in view of the deletion of § 1.60, language should be incorporated in § 1.53(a)(1) to state that a copy of the prior application along with a copy of the declaration may be filed to obtain a filing date. Furthermore, full details and guidelines of the procedure should accompany the rule.

Response: The suggestion has not been adopted. The proposal to delete § 1.60 is withdrawn in view of several comments received objecting to the deletion.

62. Comment: One comment suggested that the removal of the stale oath practice be codified.

Response: The suggestion has not been adopted. Neither the statute nor the rules require a recent date of execution to appear on the oath or declaration. The PTO practice of objecting to an oath or declaration where the time elapsed between the date of execution and the filing date of the application is more than three months is found in section 602.05 of the MPEP. Therefore, the removal of the stale oath practice will be accomplished by amending the MPEP.

63. Comment: One comment questioned whether a copy of an application faxed to an attorney could be filed in the PTO as the application papers.

Response: Yes. While a patent application may not be faxed directly to the PTO, an application faxed to an

VOL 60 ISS 79 APR 25 1995 UMI

attorney may be forwarded to the PTO by mail or courier as the application papers provided the papers meet the formal requirements of § 1.52. Effective November 22, 1993, § 1.4 was amended to include a new paragraph (d) to specify that most correspondence filed in the PTO, which requires a person's signature, may be an original, a copy of an original or a copy of a copy. Only correspondence identified in §§ 1.4(e) and (f) require the original to be filed in the PTO. Thus, an oath or declaration required by § 1.63, 1.153, 1.162 or 1.175 may be an original, a copy of an original or a copy of a copy. See 1156 Off. Gaz. Pat. Office 61 (November 16, 1993).

64. Comment: One comment suggested that applicant be permitted to use § 1.62 procedure to file the 35 U.S.C. 111(a) application which claims the benefit of a provisional application, at least in those situations where the 35 U.S.C. 111(a) application has been converted to a provisional application which is followed by the filing of a second 35 U.S.C. 111(a) application.

Response: The suggestion has not been adopted. Section 1.62 will not be amended to permit the filing of a 35 U.S.C. 111(a) application based on a provisional application because the PTO sees this situation as a trap for applicants. The filing procedures would be made more complicated if an exception is provided to address situations where a 35 U.S.C. 111(a) application is converted to a provisional application and a second 35 U.S.C. 111(a) application is later filed. However, the suggestion will be taken under advisement when greater familiarity with provisional applications is developed.

65. Comment: One comment suggested that § 1.62 procedure be replaced with a simple petition procedure to reopen prosecution.

Response: The suggestion is not being adopted. However, the suggestion will be taken under advisement as part of a comprehensive effort being conducted by the PTO to reengineer the entire patent process.

66. Comment: One comment suggested that the language in § 1.62(a) that requires an identification of the "applicant's name of the prior complete application" is confusing and should be clarified.

Response: The suggestion has been adopted. Section 1.62 is being amended to require the identification of the "applicants named in the prior complete application."

67. Comment: One comment suggested that § 1.62 be amended to state that the refiling procedures set forth in § 1.62 may be used after the issue fee is paid when a petition under § 1.313(b)(5) is granted. This practice is permitted pursuant to the notice published in 1138 Off. Gaz. Pat. Office 40 (May 19, 1992).

Response: The suggestion has been adopted.

68. Comment: One comment suggested that § 1.62 be amended to clarify whether applicant needs to re-list, in the § 1.62 application, all the references cited by the examiner and applicant in the parent application in order to get those references printed on the eventual patent.

Response: The suggestion has not been adopted. Section 609 of the MPEP (Sixth Edition, Jan. 1995) has been amended to clarify that in a § 1.62 application, references submitted and cited in the parent application need not be resubmitted. These references will be printed on the patent. However, in any continuing application filed under § 1.53(b)(1) or 1.60, a list of the references must be resubmitted if applicant wishes to have the references printed in the eventual patent.

69. Comment: One comment suggested that § 1.67 should go into more detail on when supplemental oaths are required in § 1.53 filings of continuation and divisional applications.

Response: The suggestion has been adopted because it is seen to be unnecessary and no substantive change was proposed to § 1.67 in the Notice of Proposed Rulemaking.

70. Comment: One comment suggested that "not but" in § 1.67(b) should read "but not".

Response: The suggestion has been adopted.

71. Comment: Several comments suggested that a rule be provided to state that an application for patent is permitted to claim the benefit of the filing date of more than one prior provisional application so long as the applicant complies with all statutory provisions.

Response: The suggestion has been adopted. Section 1.78(a)(3) is being amended to indicate that applicants are permitted to separately claim the benefit of the filing date of more than one prior provisional application in a later filed 35 U.S.C. 111(a) application provided all statutory requirements of 35 U.S.C. 119(e) are complied with. It is noted that current practice permits an application to claim the benefits of the filing date of more than one prior foreign application under 35 U.S.C. 119(a)–(d) and of more than one prior copending U.S. application under 35 U.S.C. 120, without an explicit statement to that effect in the rules. Since the final rules are being amended to specifically permit applications filed under 35 U.S.C. 111(a) to claim the benefits of the filing date of more than one prior copending provisional application, corresponding changes are also being made to §§ 1.55 and 1.78(a)(1) relating to claims for the benefits available under 35 U.S.C. 119(a)–(d) and 120 to be consistent with § 1.78(a)(3).

72. Comment: Several comments requested that the PTO specify language to use in the first sentence of an application when priority is based on more than one provisional application.

Response: Section 1.78(a)(4) requires that "any application claiming the benefit of a prior filed copending provisional application must contain or be amended to contain in the first sentence of the specification following the title a reference to such prior provisional application, identifying it as a provisional application, and including the provisional application number." Where a 35 U.S.C. 111(a) application claims the benefit of more than one provisional application, a suitable reference would read, "This application claims the benefit of U.S. Provisional Application No. 60/——, filed —— and U.S. Provisional Application No. 60/——, filed ——." In addition, for an application which is claiming the benefit under 35 U.S.C. 120 of a prior application, which in turn claims the benefit of a provisional application under 35 U.S.C. 119(e), a suitable reference would read, "This application is a continuation of U.S. application No. 08/——, filed ——, now abandoned, which claims the benefit of U.S. Provisional Application No. 60/——, filed ——."

73. Comment: One comment suggested that the rules address the effect on patent term where an applicant in a continuing application deletes the reference to the prior filed application before the patent issues.

Response: an applicant has full control over claims to the benefit of an earlier filing date under 35 U.S.C. 120, 121 or 365(c). The 20-year patent term will be based upon the filing date of the earliest U.S. application that the applicant makes reference to under 35 U.S.C. 120, 121 and 365(c). Whether an applicant is entitled to the benefit of the filing date of an earlier application is something that an applicant should examine before the patent is issued. The PTO is not, unless it comes up as an issue in the examination process, going to determine whether any of the claims are entitled to the earlier filing date. Applicant however, should determine whether the claims are entitled to or require the benefit of the earlier filing date. If not, the applicant should consider canceling the reference to the earlier filed application to avoid having the 20-year patent term measured from that earlier filing date. An amendment adding or deleting a reference to an earlier filed application presented prior to a final action will be entered, however, the claims may be subject to possible intervening prior art.

74. Comment: One comment stated that in view of the fact that a provisional application is not entitled to claim the benefit of a prior filed copending national or international application as stated in § 1.53(b)(2)(iii), the phrase "other than a provisional application" in § 1.78(a)(2) is unnecessary.

Response: Section 1.78(a)(2) is being amended to state that "any nonprovisional application claiming the benefit of a prior copending nonprovisional or international application must contain * * *." Section 1.78(a)(2) addresses a 35 U.S.C. 111(a) application which claims the benefit of a prior copending 35 U.S.C. 111(a) application or international application.

75. Comment: Several comments objected to the content requirements for drawings filed in a provisional application as originally set forth in proposed § 1.83(a)(2). One comment suggested that no rule was necessary to set forth the required content of drawings in a provisional application.

Response: In view of the comments received, the proposed amendment to § 1.83 is withdrawn. Under 35 U.S.C. 113, first sentence, applicant must furnish drawings in a provisional application "where necessary for the understanding of the subject matter sought to be patented." This requirement is also stated in existing § 1.81(a). Therefore, no further elaboration on the content of the drawings in a provisional application is believed necessary in the rules.

76. Comment: One comment suggested that the rules specify that formal drawings are not required in a provisional application.

Response: The suggestion has not been adopted. However, the PTO intends to examine provisional applications for requirements of form only to the extent that is necessary to permit normal storage and microfilming of the application papers. Formal drawings are usually not required for those purposes.

77. Comment: Several comments suggested that § 1.97(d) be amended to require the PTO to consider any information disclosure statement submitted after a final rejection or notice of allowance if an appropriate fee is paid.

Response: The suggestion has not been adopted because no substantive change to this rule was proposed in the Notice of Proposed Rulemaking. The existing rules are designed to encourage prompt submission of information to the PTO. To permit applicant to merely pay a fee to have any information disclosure statement submitted after a final rejection or Notice of Allowance would be contrary to the effort to encourage prompt submissions.

78. Comment: One comment suggested that § 1.97 be changed so that an office action which uses a newly cited reference as a ground for rejection under 35 U.S.C. 102 or 103 cannot be made final.

Response: The suggestion has not been adopted because no substantive change to this rule was proposed in the Notice of Proposed Rulemaking.

79. Comment: One comment suggested that the words "which are not examined" in § 1.101 as proposed are unnecessary and could create a negative implication that some provisional applications are examined.

Response: The suggestion has not been adopted. By statute, provisional applications are not subject to 35 U.S.C. 131, i.e., the Commissioner is not permitted to examine a provisional application for patentability.

80. Comment: Several comments stated that it is unfair to require small entities to pay the full $730.00 fee set forth in proposed § 1.129. It is suggested that the fee be changed to $365.00 or less.

Response: Pursuant to Public Law 103–465, the Commissioner has the authority to establish appropriate fees for the further limited reexamination of applications and for the examination of more than one independent and distinct invention in an application. As a result of additional review, it was concluded that these fees may be reduced by 50% for small entities. Sections 1.17 (r) and (s) are being amended to indicate that the fees are reduced by 50% for small entities, that is, $365.00 for small entities.

81. Comment: Several comments suggested that the transitional procedure set forth in § 1.129(a) as proposed is equivalent to filing one application, i.e., it provides for an extra examination and reexamination after the original final rejection, and, therefore, the requirement for two $730.00 fees, which is equivalent to two filing fees, is unwarranted. Another comment suggested that if the proposed $730.00 fee is adopted, the examiner should be instructed to treat the after-final amendment as any other initial filing, i.e., a new application, not as an amendment submitted after a non-final office action.

Response: Under existing PTO practice, it would not be proper to make final a first Office action in a continuing or substitute application where the continuing or substitute application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised. The identical procedure will apply to examination of a submission consideration as a result of the procedure under § 1.129(a). Thus, under § 1.129(a), if the first submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final. Likewise, if the second submission after final rejection was initially denied entry in the application because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised, then the next action in the application will not be made final. Thus, the fee required by § 1.129(a) has been set at the amount required for filing an application because the procedure provided by the rule is equivalent to the filing of two applications. No new matter can be entered by payment of the fee set forth in § 1.17(r).

82. Comment: Several comments suggested that the fees required for filing a provisional application and those fees required by §§ 1.129(a) and (b) for the transitional procedures should not be greater than the average cost of processing such matters by the PTO. Two comments stated that the fee required by § 1.129(a) is excessive relative to PTO costs.

Response: The fee required for filing a provisional application is set by Public Law 103–465 and the PTO has no discretion with respect to the amount of that particular fee. As to the fee required by § 1.129(a), the procedures relating to the first submission provided by § 1.129(a) is equivalent to the filing of a file wrapper continuation application under § 1.62, and therefore, the fee required with the first submission is appropriately set at the same amount as a filing fee, which is $730.00. The $730.00 fee is subject to a 50% reduction for small entities. The second submission is equivalent to the filing of

VOL 60 ISS 79 AP 25 1995 UMI

a second file wrapper continuation application and the fee for the second submission is appropriately set at the same amount as a filing fee. As to the fee required by § 1.129(b), the procedures set forth in § 1.129(b) permit applicants to retain multiple inventions in a single application rather than having to file multiple divisional applications. The fee for each independent and distinct invention in excess of one is appropriately set at the same amount as the filing fee for a divisional application, which is $730.00. The $730.00 fee is subject to a 50% reduction for small entities.

83. Comment: One comment suggested that the time period for the payment of the $730.00 fee for the transitional after-final practice by extended if applicant files a petition seeking reversal of the examiner's refusal to enter the amendment after final without fee, until one month after an unfavorable decision on the petition.

Response: If an earlier filed petition seeking reversal of the examiner's refusal to enter the amendment after final is granted by the Director finding that the final rejection was premature, but the petition had not been decided by the time the § 1.129(a) fee was due, applicant must submit the § 1.129(a) fee so as to toll the time period for response to the final rejection. Otherwise, the application would be abandoned. Upon granting of such a petition by the Director, the § 1.129(a) fee paid will be refundable to applicant on request. Applications that fall under § 1.129(a) are under final rejection and there is a time period running against the applicant. Applicant must toll that time period by paying the transitional after-final fee set forth in § 1.129(a) and any necessary extension of time fees and Notice of Appeal fee. Section 1.129(a) is being amended to indicate that the submission and the fee set forth in § 1.17(r) may be submitted before the filing of the Appeal Brief and prior to abandonment of the application.

84. Comment: One comment suggested that if it is decided that the transitional after-final practice is made permanent, the PTO should seek legislative authorization to provide reduced fees for small entities.

Response: If it is decided that the transitional after-final practice be made permanent, the PTO will propose legislation to accomplish this change.

85. Comment: Several comments suggested that §§ 1.129 (a) and (b) should apply to all applications regardless of whether they were filed before or after June 8, 1995.

Several comments suggested that the practices set forth in §§ 1.129 (a) and (b) should be made permanent.

Several comments suggested that an applicant should be permitted to have a submission entered and considered after any final rejection upon payment of a fee as set forth in § 1.17(r), not just the first and second final rejections.

Response: The suggestions have not been adopted at this time. However, the PTO is undertaking a project to reengineer the entire patent process. These suggestions will be taken under advisement in that project.

86. Comment: One comment suggested that the PTO make an effort to treat applications in which a submission under § 1.129(a) has been filed on an expedited basis.

Response: Once the submission is filed and the fee set forth in § 1.17(r) is paid the finality of the last PTO action is withdrawn. The filing of the submission and the fee under § 1.129(a) is equivalent to the filing of a continuing application and will be treated in the same fashion and under the same turnaround time frame as a continuing application.

87. Comment: One comment suggested that PTO practice be changed so that a first Office action in a continuing application cannot be made final.

One comment suggested that PTO practice regarding second action final be relaxed.

Response: The suggestions have not been adopted at this time. However, the PTO is undertaking a project to reengineer the entire patent process. These suggestions will be taken under advisement in that project.

88. Comment: One comment stated that in proposed § 1.129, there is no express provision for the finality of the previous rejection to be withdrawn if applicant complies with the proposed rule. It is suggested that the proposed rule state that the finality of the previous action would be withdrawn if applicant complied with the rule when making a first or second submission after a final action.

Response: The suggestion has been adopted.

89. Comment: One comment requested that the PTO clarify whether § 1.129(a) required the first final rejection to be specifically withdrawn and a different final (i.e., one containing a new ground of rejection) rejection made before applicant is entitled to make a second submission.

Response: The final rule provides that the finality of the previous final office action is automatically withdrawn upon the timely filing of the first § 1.129(a) submission and the fee set forth in § 1.17(r). If the first PTO action following the payment of the § 1.17(r) fee is a non-final office action, a further response from applicant will be entered and considered as a matter of right without payment of the fee set forth in § 1.17(r). If the next office action or any subsequent action is made final, the finality of that office action will be automatically withdrawn upon the timely filing of a second § 1.129(a) submission and the fee set forth in § 1.17(r).

90. Comment: One comment suggested that the PTO not permit the first PTO action following the payment of the § 1.17(r) fee to be made final under any circumstances.

Response: The suggestion has not been adopted. The first PTO action following the payment of the § 1.17(r) fee may be made final under the same conditions that a first office action may be made final in a continuing application (see section 706.07(b) of the MPEP). However, it would not be proper to make final a first Office action in a continuing or substitute application where the continuing or substitute application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (1) new issues were raised that required further consideration and/or search, or (2) the issue of new matter was raised. The procedure set forth in section 706.07(b) of the MPEP will apply to examination of a submission considered as a result of the procedure under § 1.129(a).

91. Comment: Several comments suggested that the filing of the first submission under § 1.129(a) within the statutory period for response set in final rejection should toll the running of the six-month statutory period.

Response: The filing of a submission, e.g., an information disclosure statement or an amendment, after a final rejection without payment of the fee set forth in § 1.17(r) will not toll the period for response set in the final rejection. However, § 1.129(a) is being amended to provide in the rule that the finality of the previous Office action is automatically withdrawn upon the filing of the submission and the payment of the fee set forth in § 1.17(r). Thus, the filing of a submission and the payment of the fee set forth in § 1.17(r) and any extension of time fees and Notice of Appeal fee, if they are necessary to avoid abandonment of the application, will automatically toll the period for response set in the final rejection. It must be kept in mind that the provisions of § 1.129 apply only to an application, other than for reissue or

a design patent, that has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 U.S.C. 120, 121 and 365(c).

92. Comment: One comment asked (1) whether it would be necessary to file a Notice of Appeal and appeal fee with or after the first submission and fee if the examiner acts on the first submission and before the end of the six months from the date of the final rejection issues (a) a notice of allowance, (b) a non-final action, or (c) a second final rejection; (2) would the Notice of Appeal and fee be due only at the end of the six months from the date of the final rejection regardless of whether the examiner has acted on the submission by then; and (3) if the Notice of Appeal and fee have once been paid following a first final rejection, would a second notice and fee need to be paid if a second final rejection were issued and applicant desired to file a second submission under § 1.129(a).

Another comment suggested that the appeal fee set forth in § 1.17(e) should not be required where the Notice of Appeal is filed with a § 1.129(a) submission and the fee set forth in § 1.17(r).

Response: As to questions (1) and (2) and the second comment, if the first submission and the proper fee set forth in § 1.17(r) are timely filed in response to the final rejection, the finality of the previous rejection will be automatically withdrawn and applicant need not file the Notice of Appeal or the appeal fee. For example, if the first submission and the proper fee set forth in § 1.17(r) were filed on the last day of the six-month period for response to the final rejection, applicant must also file a petition for three months extension of time with the appropriate fee in order to avoid abandonment of the application. In such case, applicant need not file the Notice of Appeal or the appeal fee if the proper fee set forth in § 1.17(r) was timely paid. However, under the same fact situation, if applicant failed to submit the proper fee set forth in § 1.17(r), the finality of the previous rejection would not be withdrawn and the time period for response would still be running against applicant. In such case, a Notice of Appeal and appeal fee must also accompany the papers filed at the six-month period in order to avoid abandonment of the application. The proper fee set forth in § 1.17(r) must be filed prior to the filing of the Appeal Brief and prior to the abandonment of the application.

As to question (3), if the Notice of Appeal and fee have once been paid following a first final rejection and applicant timely files a first submission and the proper fee set forth in § 1.17(r), the finality of the previous final rejection will be withdrawn and the appeal fee paid could be applied against any subsequent appeal. If the examiner issues a non-final rejection in response to applicant's first submission, a further response from applicant will be entered and considered as a matter of right. If any subsequent Office action is made final, applicant may file a second submission along with the proper fee pursuant to § 1.129(a). If the second submission and the proper fee set forth in § 1.17(r) are timely filed in response to the subsequent final rejection, the finality of the previous final rejection will be withdrawn. Any submission filed after a final rejection made in the application subsequent to the fee under § 1.129(a) having been paid twice will be treated as set forth in § 1.116. Applicant may, upon payment of the appeal fee, appeal a final rejection within the time allowed for response pursuant to § 1.191.

93. Comment: One comment questioned whether the "first submission" under § 1.129(a) has to be the first response filed after a final rejection or could it include subsequent responses to the same final rejection.

Response: The "first submission" under § 1.129(a) would include all responses filed prior to and with the payment of the fee required by § 1.129(a) provided the submission and fee are filed prior to the filing of the Appeal Brief and prior to abandonment of the application.

94. Comment: One comment suggested that § 1.129(a) be changed to permit the procedure to be available up until the filing of an Appeal Brief since it is not uncommon to file an amendment after a Notice of Appeal is filed but before the filing of an Appeal Brief.

Response: The suggestion has been adopted. Section 1.129(a) is being amended to indicate that the submission and the fee set forth in § 1.17(r) must be submitted before the filing of the Appeal Brief and prior to abandonment of the application.

95. Comment: One comment suggested that the transitional after-final practice be available at any time after final, including after the resolution of an appeal unfavorable to applicant in whole or in part.

Response: The suggestion has not been adopted. Section 1.129(a) is being amended to indicate that the submission and the fee set forth in § 1.17(r) must be submitted before the filing of the Appeal Brief and prior to abandonment of the application. The suggestion to extend the period to after the resolution of an appeal unfavorable to applicant in whole or in part has not been adopted because the suggestion would further unduly extend prosecution of the application.

96. Comment: One comment stated that if an examiner must withdraw the finality of the rejection as a result of the transitional provision, the examiner should be credited with two counts in order to be compensated for the additional work.

Response: The examiner credit system is not part of this rulemaking package. However, as part of the Public Law 103–465 implementation plan, some accommodation will be made for the extra work performed.

97. Comment: One comment stated that regarding the transitional after-final practice, the fee should not be required if the only reason is to have the PTO consider recently obtained art.

Response: Under current practice, if applicant submits prior art after final rejection but before the payment of issue fee, the art will be considered if applicant makes the required certification and submits a petition with the required petition fee of $130.00 (see section 609 of the MPEP). If applicant can make the certification, applicant would not have to rely on the transitional after-final procedure to have the prior art considered. In the event that applicant cannot make the certification, then the procedure under § 1.129(a) is available if applicant wishes the PTO to consider the prior art without refiling the application.

98. Comment: One comment suggested that the PTO modify existing restriction practice to make it more difficult for examiners to require restriction, for example, by requiring every restriction requirement to show two-way distinctness and separate status in the art established by means other than reference to the PTO's classification system.

Response: The suggestion has not been adopted. However, the PTO is undertaking a project to reengineer the entire patent process. This suggestion will be taken under advisement in that project.

99. Comment: One comment suggested that the pendency periods required by §§ 1.129(a) and (b) should be 18 months rather than 2-year and 3-year, respectively.

Response: The pendency periods set forth in the rule which establish eligibility for the transitional procedures are set forth in Public Law 103–465.

100. Comment: One comment suggested that § 1.129(a) be amended to

VOL 60 ISS 79 AP 25 1995 UMI

permit prosecution to be reopened after a Notice of Allowance or final rejection upon the filing of a form requesting that prosecution be reopened and payment of the necessary fee.

Response: The procedures set forth in § 1.129(a) are not applicable to amendments filed after a Notice of Allowance. Amendments filed after the mailing of a Notice of Allowance are governed by § 1.312. The procedures set forth in § 1.129(a) are applicable to amendments filed after a final rejection. If applicant submits an amendment after final and the examiner notifies the applicant in writing that the amendment is not entered, § 1.129(a) permits applicant to submit a letter prior to abandonment of the application and prior to the filing of the Appeal Brief, requesting entry of the prior filed amendment along with the payment of the appropriate fee set forth in § 1.17(r). The letter requesting entry of the prior filed amendment would be equivalent to "a form" as suggested in the comment.

101. Comment: One comment suggested that the PTO liberalize its current practice under § 1.116 to make it easier for amendments or evidence to be entered and considered after a final rejection.

Response: The suggestion has not been adopted since no change was proposed to § 1.116 in the Notice of Proposed Rulemaking. However, the suggestion will be taken under advisement as part of a comprehensive effort being conducted by the PTO to reengineer the entire patent process. It should be noted that any change to liberalize the current practice under § 1.116 would necessitate increasing fees.

102. Comment: Several comments suggested that the transitional restriction provision be modified to state that no restriction requirement shall be made or maintained in any application pending for three years on the effective date of the legislation. The comment stated that if restriction requirements made prior to April 8, 1995, are permitted to be maintained then applicants will be forced to file divisional applications resulting in the automatic loss of term after June 8, 1995. A heavy penalty will be placed on the chemical, pharmaceutical and biotechnology industries, who have less than 4 months to search through the ancestors of all pending applications and to identify all restriction requirements and to file divisional applications before June 8, 1995. The comment further suggested that the current restriction practice be changed in view of the implementation of the 20-year term.

Response: The suggestion has not been adopted. The two-month date set forth in § 1.129(b)(1)(i) is from the Statement of Administrative Action, which is part of Public Law 103–465. Under section 102 of Public Law 103–465, "the statement of administrative action approved by the Congress shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application." The Commissioner does not have any authority to establish rules which are inconsistent with the Act. It is noted that in cases where a restriction requirement was made prior to April 8, 1995, applicant will have sufficient time to file divisional applications prior to June 8, 1995, so as to retain the benefit of the 17-year patent term for those divisional applications.

The PTO is currently reviewing the restriction practice in view of the implementation of the 20-year patent term. It is noted that a change in restriction practice without changes to other fees would have a negative impact on funding needed to operate the PTO.

103. Comment: Several comments suggested that proposed exceptions (1) and (2) in § 1.129(b) ignore the mandatory language of section 532(2)(B) of Public Law 103–465 and should be deleted.

Response: The suggestion has not been adopted. The exceptions referred to are contained in the Statement of Administrative Action, which is part of Public Law 103–465. Under section 102 of Public Law 103–465, "the statement of administrative action approved by the Congress shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application."

104. Comment: One comment asked whether "restriction" under § 1.129(b) apply to election of species under § 1.146.

Response: "Restriction" under § 1.129(b) applies to both requirements under § 1.142 and elections under § 1.146.

105. Comment: Several comments requested that clarification be made as to what constitutes "actions by the applicant" in § 1.129(b)(1) and specifically, whether a request for extension of time under § 1.136(a) constitutes such "actions" by the applicant.

Response: Examples of what constitute "actions by the applicant" in § 1.129(b)(1) are: (1) applicant abandons the application and continues to refile the application such that no Office action can be issued in the application, and (2) applicant requests suspension of prosecution under § 1.103(a) such that no Office action can be issued in the application. Extension of time under § 1.136(a) would not constitute such "actions by the applicant" under § 1.129(b)(1).

106. Comment: One comment suggested that the one-month period set forth in § 1.129(b) is insufficient to give an applicant time to file a petition under § 1.144 from a restriction requirement. Several comments suggested that § 1.129(b) be amended to permit applicant to challenge the restriction requirement by way of a petition before being required to pay the fees set forth in § 1.17(s).

Response: Section 1.129(b)(2) is being amended in the final rule package to indicate that applicant will be given "a time period" to (1) make an election, if no election has been previously made, and pay the fee set forth in § 1.17(s), (2) confirm an earlier election and pay the fee set forth in § 1.17(s), or (3) file a petition under § 1.129(b)(2) traversing the restriction requirement. If applicant chooses not to pay the fee set forth in § 1.17(s), applicant may file a petition under § 1.129(b)(2) requesting immediate review by the Group Director of the restriction requirement. No petition fee is required. A petition under § 1.129(b)(2) rather than under § 1.144 would be more appropriate under the circumstances since a petition under § 1.144 requires the examiner to make the restriction final before the petition can be considered.

107. Comment: One comment suggested that if applicant elects not to pay the fee set forth in § 1.17(s), applicant should be allowed to elect the invention to be examined.

Response: The suggestion has been adopted. Section 1.129(b) is being amended to indicate that if applicant chooses not to pay the fees for the additional inventions, applicant must elect the invention to be examined and the claims directed to the non-elected inventions for which no fee has been paid will be withdrawn from consideration.

108. Comment: One comment suggested that the PTO amend the rules to permit all, or at least several, inventions to be examined in a single application upon payment of an appropriate fee.

Response: The suggestion has not been adopted at this time. However, the PTO is currently undertaking a project to reengineer the entire patent process. The suggestion will be taken in advisement in this project.

109. Comment: One comment suggested that PTO follow the wording of 35 U.S.C. 121 and only require restriction where an application claims two or more independent and distinct inventions rather than two or more independent or distinct inventions.

Response: In making restriction requirements, the PTO has always followed the wording of 35 U.S.C. 121 to require restriction if two or more independent and distinct inventions are claimed in an application rather than independent or distinct as suggested by the comment. The term "independent" includes species and related inventions such as combination/subcombination and process and product. Restriction is proper if these independent inventions are patentably distinct (see section 802.01 of the MPEP).

110. Comment: One comment suggested that the standard for determining whether an application contains independent and distinct inventions should only be the "unity of invention" standard used for PCT applications.

Response: The suggestion has not been adopted. The current restriction practice for 35 U.S.C. 111(a) applications is governed by 35 U.S.C. 121 and §§ 1.141, 1.142 and 1.146. The PCT "unity of invention" standard only applies to PCT applications and applications filed under 35 U.S.C. 371. The PTO is currently reviewing the restriction practice in view of the implementation of the 20-year patent term. It is noted that a change in restriction practice without changes to other fees would have a negative impact on funding needed to operate the PTO.

111. Comment: One comment suggested that the PTO apply the PCT unity of invention standard as interpreted by the EPO and that § 1.475(b) be amended to permit a broad range of claims in a single application.

Response: The PTO is currently undertaking a project to reengineer the entire patent process. The suggestion will be taken under advisement in this project.

112. Comment: One comment suggested that the PTO examiner should not be permitted to issue a restriction requirement or an election of species requirement if the ISA and the IPEA have found that an application complies with the unity of invention requirement.

Another comment suggested that the PTO consider allowing applicants to retain all claims in a single application when the claims are related, e.g., method and apparatus claims.

Another comment suggested that all species be searched before the first Office action regardless of whether one species is found to be unpatentable.

Another comment suggested that election of species requirements be prohibited.

Response: The suggestions have not been adopted. These issues were not addressed in the Notice of Proposed Rulemaking. However, the PTO is currently undertaking a project to reengineer the entire patent process. The suggestions will be taken under advisement in that project.

113. Comment: One comment suggested that decisions on whether to issue a restriction requirement be made within two-three months of the application filing date, and, if the requirement is traversed, the examiner should determine within four-five months of the filing date whether to maintain the requirement. Decisions on petitions to withdraw a restriction requirement should be decided within one month.

Response: The suggestion has not been adopted. Current practice dictates that restriction requirements be made at the earliest appropriate time in the pendency of a given application, e.g., in the first Office action. It would be difficult to issue a restriction requirement within two-three months of the application filing date as suggested since a large number of applications are filed with missing parts and applicants are given a time period to submit the missing parts. Furthermore, applications must be processed by the Application Branch and must be screened by Licensing and Review for national security. Petitions to withdraw a restriction requirement should be acted on by the Group Director expeditiously.

114. Comment: One comment argued that the phrases, "so as to be pending for a period of no longer than 12 months" and "under no circumstances will the provisional application be pending after 12 months", in § 1.139 were repetitious and suggested that one or both of the phrases be deleted.

Response: The suggestion has not been adopted. The statements are included for emphasis.

115. Comment: One comment suggested that § 1.139 clearly state that if the revival petition is filed later than 12 months after filing of the provisional application, then the revival is for the sole purpose of providing copendency for a 35 U.S.C. 111(a) application filed during that 12-month period.

Response: The suggestion has not been adopted. The proposed language is not necessary.

116. Comment: One comment stated that 35 U.S.C. 154(b) as contained in Public Law 103–465 does not give the Commissioner any authority to decide the period of extension. Therefore, proposed § 1.701 is without statutory basis.

Response: 35 U.S.C. 6(a) gives the Commissioner authority to establish regulations not inconsistent with law. Section 1.701 is consistent with 35 U.S.C. 154(b) and furthermore, the Commissioner has the authority under 35 U.S.C. 154(b)(3)(C) to establish regulations to address the standards for determining due diligence.

117. Comment: One comment questioned whether patent term extension under 35 U.S.C. 154(b) is available for patents issuing: (1) Before June 8, 1995, with a 17-year patent term or a 17/20 year patent term; (2) on or after June 8, 1995, on applications filed before June 8, 1995, with a 17-year patent term or a 17/20 year patent term.

Response: None of the patents set forth in the examples are eligible for patent term extension. Under the terms of the statute, patent term extension is only available for patents issued on applications filed on or after June 8, 1995.

118. Comment: Several comments questioned whether a patent issued on a continuing application is entitled to a patent term extension under 35 U.S.C. 154(b) due to interference, secrecy order, or appellate review delays occurring in the examination of the parent application.

Response: If the delay in the parent application contributed to a delay in the issuance of a patent in the continuing application, the patent granted on the continuing application may be eligible for an extension under 35 U.S.C. 154(b).

119. Comment: One comment suggested that the patent term be extended for a period of time equal to the time necessary to revive an application improperly abandoned due to PTO error. Another comment suggested that patent time extension be available for other PTO delays.

Response: The suggestions have not been adopted. Section 154(b) of title 35, United States Code, only permits patent term extension for delays due to interferences, secrecy orders, and/or successful appeals.

120. Comment: One comment suggested that the period of an extension granted under § 1.701 be printed on the face of the patent.

Response: The PTO will publish on the face of the patent any patent term

VOL 60 ISS 79 AP 25 1995 UMI

extension that is granted pursuant to § 1.701.

121. Comment: One comment suggested that the word "interference" be inserted before the word "proceedings" in § 1.701(a)(1).

Response: The suggestion has been adopted.

122. Comment: One comment stated that the last sentence of § 1.701(b) is confusing because it suggests that patent term extension will be available in cases of terminal disclaimer and that the extension begins on the terminal disclaimer date rather than the original expiration date. This statement is contrary to 35 U.S.C. 154(b)(2) which does not permit any patent term extension for appellate delay if the patent is subject to a terminal disclaimer.

Response: In order to reduce confusion, the last sentence of § 1.701(b) is being amended to state that the extension will run from the expiration date of the patent. The reference to "terminal disclaimer" is being deleted.

123. Comment: Two comments stated that if an application involved in an interference proceeding contains uninvolved claims, those uninvolved claims should not be entitled to extension of patent term under proposed § 1.701 because applicant could cancel those uninvolved claims from the application and refile those claims in a continuation application. It is suggested that if an applicant leaves conclusively uninvolved claims (where no § 1.633(c)(4) motion is filed) in the application in interference, applicant does not get the benefit of the extension for any claim.

Response: The suggestion has not been adopted. The statute, 35 U.S.C. 154(b), grants patent term extension to a patent if the issuance of the patent was delayed due to interference proceeding under 35 U.S.C. 135(a). The statute does not exclude applications containing uninvolved claims. The Commissioner does not have the authority to establish regulations which are inconsistent with the law. Therefore, an application involved in an interference which contains uninvolved claims will be entitled to patent term extension if the issuance of the patent was delayed due to interference proceeding under 35 U.S.C. 135(a).

124. Comment: One comment asked whether applicant is entitled to patent term extension regardless of whether an interference involving applicant's application is ultimately declared.

One comment asked if the PTO ends the suspension without declaring an interference, and continued prosecution results in filing of a continuation or divisional application, are such subsequent cases entitled to the extension.

Response: An application will not be suspended unless it is decided that an interference can be declared involving that application. If prosecution of applicant's application is suspended due to an interference not involving applicant's application and an interference involving applicant's application is later declared, applicant will be entitled to patent term extension under § 1.701(c)(1)(ii) for the suspension period and under § 1.701(c)(1)(ii) for the interference period. However, if prosecution of applicant's application is suspended due to an interference not involving applicant's application and if the PTO ends the suspension of the application without declaring an interference involving applicant's application, that application will be entitled to patent term extension under § 1.701(c)(1)(ii). If prosecution results in filing of a continuing application and if the delay in the parent application contributed to a delay in the issuance of a patent on the continuing application, the patent granted on the continuing application may be eligible for an extension under 35 U.S.C. 154(b).

125. Comment: One comment stated that delays in the issuance of a patent can exceed the five-year limit provided for in proposed § 1.701(b). Where the delay was not the fault of the applicant, why should there be this maximum?

Another comment stated that in a biotechnology application, if suspension of the application results in a declared interference, the period of delay calculated under § 1.701(c)(1)(i) will likely consume most of the five-year maximum extension. This renders the value of any time period measured under § 1.701(c)(1)(ii) negligible, thus diminishing the rights of applicant due to the unregulated suspension powers of the PTO.

Response: The five-year limit for patent term extension set forth in § 1.701(b) is required by statute, 35 U.S.C. 154(b).

126. Comment: One comment suggested that § 1.701(c)(1)(i) be amended to state that an application added after an interference is declared is entitled to an extension measured only from the date of redeclaration.

Response: The suggestion has not been adopted. The language in § 1.701(c)(1)(i) is clear that for an application that is added to an interference, that application is entitled to an extension measured from the date of redeclaration of the interference.

127. Comment: One comment stated that § 1.701(c)(1)(ii) does not address the case where a suspended application is added to the interference without the suspension being lifted.

Response: Section 1.701(c)(1)(ii) is being amended to reference the endpoint for the suspension period to the date of termination of the suspension. Where prosecution of an application is suspended due to interference proceedings not involving the application, the suspension is made pursuant to § 1.103(b). When that application is added to an interference, the suspension pursuant to § 1.103(b) will be automatically lifted. The application is entitled to patent term extension for the period of suspension pursuant to § 1.701(c)(1)(ii) and for the period of interference pursuant to § 1.701(c)(1)(i). Under § 1.701(c)(1)(ii), the period of suspension begins on the date the application is suspended and ends on the date the suspension under § 1.103(b) is terminated, which in this case would be the same date as the date of redeclaration of the interference.

128. Comment: One comment suggested that the phrase ", if any," in § 1.701(c)(1)(i) and (ii) is unnecessary.

Response: The suggestion has not been adopted. However, § 1.701(c)(1)(i) is being amended for clarity by deleting the phrase "if any" after the first occurrence of "interference" and by inserting the same phrase after the phrase "the number of days."

129. Comment: Several comments suggested that the phrase "was declared or redeclared" in § 1.701(c)(1)(i) be changed to—was first declared—.

Response: The suggestion has not been adopted. The language of the rule reads "with respect to each interference in which the application was involved, the number of days in the period beginning on the date the interference was declared or redeclared to involve the application in the interference." An interference may be declared as A vs. B and later redeclared as A vs. B vs. C. Under the rule, the period of extension would be counted, with respect to applications A and B, from the date the interference was declared to involve the applications A and B. With respect to application C, the period of extension would be counted from the date the interference was redeclared to involve the application C. No ambiguity is seen in the language as originally proposed.

130. Comment: One comment suggested that the use of the phrase "appellate review" in reference to an action under 35 U.S.C. 145 or 146 is incorrect, since an action under 35 U.S.C. 145 or 146 is not considered as an "appellate review" and suggests that § 1.701(a)(3) be amended so that the introductory phrase reads "Appellate review by the Board of Patent Appeals and Interferences or review by a Federal court under 35 U.S.C. 141 or 145," * * *."

Response: The suggestion has not been adopted. The use of the phrase "appellate review" in reference to an action under 35 U.S.C. 145 or 146 is technically incorrect. However, Public Law 103–465 provides for extension of patent term for "delay due to appellate review by the Board of Patent Appeals and Interferences or by a Federal court". The introductory phrase referred to in the comment uses the exact language found in the statute.

131. Comment: One comment suggested that § 1.701(a) be amended to specify whether extensions for appellate delays are available for reissue applications.

Response: The suggestion has not been adopted. Under 35 U.S.C. 251, the term of a reissue patent is "for the unexpired part of the term of the original patent." Therefore, patent term extension for appellate delays is not available for reissue applications.

132. Comment: One comment suggested that § 1.701(d) be deleted.

Response: The suggestion has not been adopted. Section 1.701(d) sets forth the language found in the statute, 35 U.S.C. 154(b)(3) and further provides a standard for determining due diligence.

133. Comment: Several comments suggested that the lack of due diligence set forth in § 1.701(d)(2) be limited to the acts which occurred during the appellate period (after the filing of a Notice of Appeal) and not during prosecution.

Response: The suggestion has been adopted. Section 1.701(d) is being amended accordingly.

134. Comment: One comment suggested that the rules be made clear that a suspension under § 1.103 does not constitute a lack of due diligence under § 1.701(d)(2).

Response: The suggestion has not been adopted. A request for suspension pursuant to § 1.103(a) during the appellate review period will be considered to be *prima facie* evidence of lack of due diligence.

135. Comment: Several comments stated that the rules permit extensions of time and the filing of informal applications. These acts should not constitute lack of due diligence since the proposed rule defined the standard for determining due diligence is whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person. One comment suggested that the Office adopt a gross negligence standard.

Response: The examples of acts that may constitute lack of due diligence set forth in the Notice of Proposed Rulemaking (extensions of time, filing of nonresponsive submissions, and filing of informal applications) are being withdrawn. The suggestion regarding the adoptions of a gross negligence standard has not been adopted. As set forth in § 1.701(d)(2), the standard for determining due diligence is whether applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during the appellate review period.

136. Comment: One comment stated that the PTO list in the rule all circumstances in which an applicant will be considered not to have acted with due diligence.

Another comment suggested that objective criteria for "diligence" be set forth in § 1.701(d)(2).

Response: The suggestion has not been adopted. Whether an action by the applicant constitutes lack of due diligence will be determined by the facts and circumstances of each case. Since lack of due diligence is determined on a case-by-case basis, it would not be possible to list all circumstances in the rule. Examples of acts which will constitute prima facie evidence of lack of due diligence are: (1) abandonment of the application during appellate review; and (2) suspension of action under § 1.103(a) during appellate review.

137. Comment: One comment suggested that guidance be provided in the comments to the Notice of Final Rules identifying in what circumstances is a patent issued "pursuant to an appellate decision reversing an adverse determination of patentability."

Several comments questioned whether the reversal of all rejections on one of several appealed claims would entitle applicant to an extension under § 1.701(a)(3). Two comments suggested that the rule be redrafted to allow appropriate extension of term where the Board or a court reverses at least "in part."

Response: Extension of patent term under § 1.701(a)(3) is applicable if all the rejections of any one claim are ultimately reversed. The rule is clear and no clarification is needed.

138. Comment: One comment stated that § 1.701 does not address the situation where applicant appeals with both allowed and rejected claims. In such case, patent term extension should be available for any claims that were allowed prior to appellate review, if the allowed claims were in the same application, whether or not the decision of the examiner on the rejected claims is ultimately reversed. Applicant should not have to refile the allowed claims and rejected claims in separate cases in order to take advantage of the patent term extension.

Response: If applicant chooses to keep the allowed claims with the rejected claims in the application on appeal, patent term extension pursuant to 35 U.S.C. 154(b)(2) is only available if a patent was issued pursuant to a decision reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review. If the appellate review is not successful, applicant will not be entitled to patent term extension.

139. Comment: One comment questioned whether the phrase "if the patent is not subject to a terminal disclaimer" in § 1.701(a)(3) is intended to be limited to those applications in which a terminal disclaimer has actually been filed or encompass those applications in which a double patenting rejection has been made and a terminal disclaimer suggested by an examiner.

Response: The calculation of any applicable extension under § 1.701 will be made prior to the mailing of the Notice of Allowance and Issue Fee Due. At that time, any double patenting rejection would have been resolved and a terminal disclaimer would have been filed if one was required.

140. Comment: One comment stated that § 1.701(d)(1) is inconsistent with 35 U.S.C. 154(b)(2) and (b)(3), because the period of extension for appellate review would be calculated under § 1.701(d)(1) by first subtracting the period of appellate review occurring within three years of the filing date before the five-year limit is imposed. It is suggested that § 1.701 be modified to be consistent with 35 U.S.C. 154(b)(2) which requires the five-year limit to be imposed before the subtraction for appellate review occurring within three years of the filing date.

Response: The suggestion has not been adopted. Section 1.701 is not inconsistent with 35 U.S.C. 154(b)(2) and (b)(3). The period of extension referred to in 35 U.S.C. 154(b)(2) is defined in 35 U.S.C. 154(b)(3). Therefore, one must determine the period of extension in 35 U.S.C. 154(b)(3)(A), then reduce that period by the time determined in 35 U.S.C. 154(b)(3)(B) and (b)(3)(C). Then, according to 35 U.S.C. 154(b)(2), the

VOL 60 ISS 79 AP 25 1995 UMI

resulting time period may not be more than five years.

141. Comment: One comment suggested that the Commissioner identify a senior person who is charged with approving all reductions in extension of patent term rather than leaving the decision to the examiner or the SPE.

One comment questioned who will make the calculation of the period of patent term extension under § 1.701 and whether that calculation can be challenged and by whom.

Response: It is contemplated that the period of patent term extension calculated and any reduction in the extension of patent term will not be made by an examiner. It is noted that the period of patent term extension will be identified in the Notice of Allowance and Issue Fee Due and if applicant disagrees with the period, applicant may request further review by way of a petition under § 1.181. If an error is noted after the patent issues, patentee or any third party may seek correction of the period of patent term extension granted by filing a request for a Certificate of Correction pursuant to § 1.322.

142. Comment: One comment questioned whether a challenge to the period of patent term extension calculated by the PTO under § 1.701 would be required to be made within a fixed period.

Response: No. However, the longer applicant delays filing a petition under § 1.181 challenging the period of extension calculated by the PTO, the less likely any error will be corrected before the patent is issued with the error printed on the patent. If the patent issues with an incorrect period of extension, applicant should file a request for a Certificate of Correction pursuant to § 1.322 instead of a petition under § 1.181.

143. Comment: One comment suggested that § 1.701(d)(2) be amended to require PTO to notify applicant in writing of any intent to reduce the term extension for lack of due diligence, stating the specific basis, and provide applicant with a reasonable opportunity to respond.

Response: The suggestion has not been adopted. The period of patent term extension will be identified in the Notice of Allowance and Issue Fee Due and if applicant disagrees with the period, applicant may request further review by way of a petition under § 1.181.

144. Comment: One comment suggested that a cover sheet for use in recording assignments be included in the final rules package as an addendum.

Response: The suggestion has not been adopted. A sample cover sheet for use in recording assignments was published as Appendix B in the **Federal Register** on July 6, 1992, at 57 FR 29634 and in the Official Gazette on July 28, 1992, at 1140 Off. Gaz. Pat. Office 63 and may be obtained from Assignment Branch.

Other Considerations

This final rule change is in conformity with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., Executive Order 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. This final rule has been determined not to be significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that these final rule changes will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The principal impact of these changes is to provide a procedure for domestic applicants to quickly and inexpensively file a provisional application. The filing date of the provisional application will not be used to measure the term of a patent granted on an application which claims the earlier filing date of the provisional application.

The Patent and Trademark Office has also determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in E.O. 12612.

These final rules contain collections of information subject to the requirements of the Paperwork Reduction Act (Act). The provisional application has been approved by the Office of Management and Budget under control numbers 0651–0031 and 0651–0032. The cover sheet is approved under OMB control number 0651–0037. The cover sheet is necessary to expedite the processing of a provisional application and improve quality. Public reporting burden for the collection of information on the cover sheet is estimated to average 12 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to the Office of Assistance Quality and Enhancement Division, Patent and Trademark Office, Washington, D.C. 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (ATTN: Paperwork Reduction Act Projects 0651–0031, 0651–0032, and 0651–0037).

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small businesses.

37 CFR Part 3

Administrative practice and procedure, Inventions and patents, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 37 CFR Parts 1 and 3 are amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.1 is amended by adding new paragraph (i) to read as follows:

§ 1.1 All communications to be addressed to Commissioner of Patents and Trademarks.

* * * * *

(i) The filing of all provisional applications and any communications relating thereto should be additionally marked "Box Provisional Patent Application."

* * * * *

3. Section 1.9 is amended by revising paragraph (a) to read as follows:

§ 1.9 Definitions.

(a)(1) A national application as used in this chapter means a U.S. application for patent which was either filed in the Office under 35 U.S.C. 111, or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

(2) A provisional application as used in this chapter means a U.S. national application for patent filed in the Office under 35 U.S.C. 111(b).

(3) A nonprovisional application as used in this chapter means a U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111(a), or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

* * * * *

4. Section 1.12 is amended by revising paragraph (c) to read as follows:

§ 1.12 Assignment records open to public inspection.

* * * * *

(c) Any request by a member of the public seeking copies of any assignment records of any pending or abandoned patent application preserved in secrecy under § 1.14, or any information with respect thereto, must

(1) Be in the form of a petition accompanied by the petition fee set forth in § 1.17(i), or

(2) Include written authority granting access to the member of the public to the particular assignment records from the applicant or applicant's assignee or attorney or agent of record.

* * * * *

5. Section 1.14 is amended by revising paragraph (e) to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(e) Any request by a member of the public seeking access to, or copies of, any pending or abandoned application preserved in secrecy pursuant to paragraphs (a) and (b) of this section, or any papers relating thereto, must

(1) Be in the form of a petition and be accompanied by the petition fee set forth in § 1.17(i), or

(2) Include written authority granting access to the member of the public in that particular application from the applicant or the applicant's assignee or attorney or agent of record.

* * * * *

6. Section 1.16 is amended by revising paragraphs (a) through (g) and by adding new paragraphs (k) and (l) to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except provisional, design or plant applications:

By a small entity (§ 1.9(f)) $365.00
By other than a small entity 730.00

(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.9(f)) 38.00
By other than a small entity 76.00

(c) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 (Note that § 1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.):

By a small entity (§ 1.9(f)) 11.00
By other than a small entity 22.00

(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.9(f)) 120.00
By other than a small entity 240.00

(If the additional fees required by paragraphs (b), (c), and (d) of this section are not paid on filing or on later presentation of the claims for which the additional fees are due, they must be paid or the claims canceled by amendment, prior to the expiration of the time period set for response by the Office in any notice of fee deficiency.)

(e) Surcharge for filing the basic filing fee or oath or declaration on a date later than the filing date of the application, except provisional applications:

By a small entity (§ 1.9(f)) 65.00
By other than a small entity 130.00

(f) Basic fee for filing each design application:

By a small entity (§ 1.9(f)) 150.00
By other than a small entity 300.00

(g) Basic fee for filing each plant application, except provisional applications:

By a small entity (§ 1.9(f)) 245.00
By other than a small entity 490.00

* * * * *

(k) Basic fee for filing each provisional application:

By a small entity (§ 1.9(f)) 75.00
By other than a small entity 150.00

(l) Surcharge for filing the basic filing fee or cover sheet (§ 1.51(a)(2)(i)) on a date later than the filing date of the provisional application:

By a small entity (§ 1.9(f)) 25.00
By other than a small entity 50.00

* * * * *

7. Section 1.17 is amended by revising paragraphs (h) and (i), and by adding new paragraphs (q), (r) and (s) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(h) For filing a petition to the Commissioner under a section listed below which refers to this paragraph 130.00

§ 1.47—for filing by other than all the inventors or a person not the inventor

§ 1.48—for correction of inventorship, except in provisional applications

§ 1.84—for accepting color drawings or photographs

§ 1.182—for decision on questions not specifically provided for

§ 1.183—to suspend the rules

§ 1.295—for review of refusal to publish a statutory invention registration

§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of patent

§ 1.378(e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in expired patent

§ 1.644(e)—for petition in an interference

§ 1.644(f)—for request for reconsideration of a decision on petition in an interference

§ 1.666(c)—for late filing of interference settlement agreement

§§ 5.12, 5.13 and 5.14—for expedited handling of a foreign filing license

§ 5.15—for changing the scope of a license

§ 5.25—for retroactive license

(i) For filing a petition to the Commissioner under a section listed below which refers to this paragraph 130.00

§ 1.12—for access to an assignment record

§ 1.14—for access to an application

§ 1.53—to accord a filing date, except in provisional applications

§ 1.55—for entry of late priority papers

§ 1.60—to accord a filing date

§ 1.62—to accord a filing date

§ 1.97(d)—to consider an information disclosure statement

§ 1.102—to make application special

§ 1.103—to suspend action in application

§ 1.177—for divisional reissues to issue separately

§ 1.312—for amendment after payment of issue fee

§ 1.313—to withdraw an application from issue

§ 1.314—to defer issuance of a patent

§ 1.666(b)—for access to interference settlement agreement

§ 3.81—for patent to issue to assignee, assignment submitted after payment of the issue fee

* * * * *

(q) For filing a petition to the Commissioner under a section listed below which refers to this paragraph 50.00

§ 1.48—for correction of inventorship in a provisional application

§ 1.53—to accord a provisional application a filing date or to convert an application filed under

VOL 60 ISS 79 AP 25 1995 UMI

§ 1.53(b)(1) to a provisional application

(r) For entry of a submission after final rejection under § 1.129(a):

By a small entity (§ 1.9(f)).....365.00
By other than a small entity 730.00

(s) For each additional invention requested to be examined under § 1.129(b):

By a small entity (§ 1.9(f)).....365.00
By other than a small entity 730.00

8. Section 1.21 is amended by revising paragraph (l) to read as follows:

§ 1.21 Miscellaneous fees and charges.

* * * * *

(l) For processing and retaining any application abandoned pursuant to § 1.53(d)(1) unless the required basic filing fee has been paid.....$130.00

* * * * *

9. Section 1.28 is amended by revising paragraph (a) to read as follows:

§ 1.28 Effect on fees of failure to establish status, or change status, as a small entity.

(a) The failure to establish status as a small entity (§§ 1.9(f) and 1.27 of this part) in any application or patent prior to paying, or at the time of paying, any fee precludes payment of the fee in the amount established for small entities. A refund pursuant to § 1.26 of this part, based on establishment of small entity status, of a portion of fees timely paid in full prior to establishing status as a small entity may only be obtained if a verified statement under § 1.27 and a request for a refund of the excess amount are filed within two months of the date of the timely payment of the full fee. The two-month time period is not extendable under § 1.136. Status as a small entity is waived for any fee by the failure to establish the status prior to paying, at the time of paying, or within two months of the date of payment of, the fee. Status as a small entity must be specifically established in each application or patent in which the status is available and desired. Status as a small entity in one application or patent does not affect any other application or patent, including applications or patents which are directly or indirectly dependent upon the application or patent in which the status has been established. A nonprovisional application claiming benefit under 35 U.S.C. 119(e), 120, 121, or 365(c) of a prior application may rely on a verified statement filed in the prior application if the nonprovisional application includes a reference to the verified statement in the prior application or includes a copy of the verified statement in the prior application and status as a small entity is still proper and desired. Once status as a small entity has been established in an application or patent, the status remains in the application or patent without the filing of a further verified statement pursuant to § 1.27 of this part unless the Office is notified of a change in status.

* * * * *

10. Section 1.45 paragraph (c) is revised to read as follows:

§ 1.45 Joint inventors.

* * * * *

(c) If multiple inventors are named in a nonprovisional application, each named inventor must have made a contribution, individually or jointly, to the subject matter of at least one claim of the application and the application will be considered to be a joint application under 35 U.S.C. 116. If multiple inventors are named in a provisional application, each named inventor must have made a contribution, individually or jointly, to the subject matter disclosed in the provisional application and the provisional application will be considered to be a joint application under 35 U.S.C. 116.

11. Section 1.48 is revised to read as follows:

§ 1.48 Correction of inventorship.

(a) If the correct inventor or inventors are not named in a nonprovisional application through error without any deceptive intention on the part of the actual inventor or inventors, the application may be amended to name only the actual inventor or inventors. Such amendment must be diligently made and must be accompanied by:

(1) A petition including a statement of facts verified by the original named inventor or inventors establishing when the error without deceptive intention was discovered and how it occurred;

(2) An oath or declaration by each actual inventor or inventors as required by § 1.63;

(3) The fee set forth in § 1.17(h); and

(4) The written consent of any assignee. When the application is involved in an interference, the petition shall comply with the requirements of this section and shall be accompanied by a motion under § 1.634.

(b) If the correct inventors are named in the nonprovisional application when filed and the prosecution of the application results in the amendment or cancellation of claims so that less than all of the originally named inventors are the actual inventors of the invention being claimed in the application, an amendment shall be filed deleting the names of the person or persons who are not inventors of the invention being claimed. The amendment must be diligently made and shall be accompanied by:

(1) A petition including a statement identifying each named inventor who is being deleted and acknowledging that the inventor's invention is no longer being claimed in the application; and

(2) The fee set forth in § 1.17(h).

(c) If a nonprovisional application discloses unclaimed subject matter by an inventor or inventors not named in the application, the application may be amended pursuant to paragraph (a) of this section to add claims to the subject matter and name the correct inventors for the application.

(d) If the name or names of an inventor or inventors were omitted in a provisional application through error without any deceptive intention on the part of the actual inventor or inventors, the provisional application may be amended to add the name or names of the actual inventor or inventors. Such amendment must be accompanied by:

(1) A petition including a statement that the error occurred without deceptive intention on the part of the actual inventor or inventors, which statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office; and

(2) The fee set forth in § 1.17(q).

(e) If a person or persons were named as an inventor or inventors in a provisional application through error without any deceptive intention, an amendment may be filed in the provisional application deleting the name or names of the person or persons who were erroneously named. Such amendment must be accompanied by:

(1) A petition including a statement of facts verified by the person or persons whose name or names are being deleted establishing that the error occurred without deceptive intention;

(2) The fee set forth in § 1.17(q); and

(3) The written consent of any assignee.

12. Section 1.51 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.51 General requisites of an application.

(a) Applications for patents must be made to the Commissioner of Patents and Trademarks.

(1) A complete application filed under § 1.53(b)(1) comprises:

(i) A specification, including a claim or claims, see §§ 1.71 to 1.77;

(ii) An oath or declaration, see §§ 1.63 and 1.68;

(iii) Drawings, when necessary, see §§ 1.81 to 1.85; and

(iv) The prescribed filing fee, see § 1.16.

(2) A complete provisional application filed under § 1.53(b)(2) comprises:

(i) A cover sheet identifying:

(A) The application as a provisional application,

(B) The name or names of the inventor or inventors, (see § 1.41),

(C) The residence of each named inventor,

(D) The title of the invention,

(E) The name and registration number of the attorney or agent (if applicable),

(F) The docket number used by the person filing the application to identify the application (if applicable),

(G) The correspondence address, and

(H) The name of the U.S. Government agency and Government contract number (if the invention was made by an agency of the U.S. Government or under a contract with an agency of the U.S. Government);

(ii) A specification as prescribed by 35 U.S.C. 112, first paragraph, see § 1.71;

(iii) Drawings, when necessary, see §§ 1.81 to 1.85; and

(iv) The prescribed filing fee, see § 1.16.

(b) Applicants are encouraged to file an information disclosure statement in nonprovisional applications. See §§ 1.97 and 1.98. No information disclosure statement may be filed in a provisional application.

* * * * *

13. Section 1.53 heading and paragraphs (a) through (e) are revised to read as follows:

§ 1.53 Application number, filing date, and completion of application.

(a) Any application for a patent received in the Patent and Trademark Office will be assigned an application number for identification purposes.

(b)(1) The filing date of an application for patent filed under this section, except for a provisional application, is the date on which: a specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1,41. No new matter may be introduced into an application after its filing date (§ 1.118). If all the names of the actual inventor or inventors are not supplied when the specification and any required drawing are filed, the application will not be given a filing date earlier than the date upon which the names are supplied unless a petition with the fee set forth in § 1.17(i) is filed which sets forth the reasons the delay in supplying the names should be excused. A continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) may be filed under this section, § 1.60 or § 1.62. A continuation-in-part application may be filed under this section or § 1.62.

(2) The filing date of a provisional application is the date on which: a specification as prescribed by 35 U.S.C. 112, first paragraph; and any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41. No amendment, other than to make the provisional application comply with all applicable regulations, may be made to the provisional application after the filing date of the provisional application. If all the names of the actual inventor or inventors are not supplied when the specification and any required drawing are filed, the provisional application will not be given a filing date earlier than the date upon which the names are supplied unless a petition with the fee set forth in § 1.17(q) is filed which sets forth the reasons the delay in supplying the names should be excused.

(i) A provisional application must also include a cover sheet identifying the application as a provisional application. Otherwise, the application will be treated as an application filed under § 1.53(b)(1).

(ii) An application for patent filed under § 1.53(b)(1) may be treated as a provisional application and be accorded the original filing date provided that a petition requesting the conversion, with the fee set forth in § 1.17(q), is filed prior to the earlier of the abandonment of the § 1.53(b)(1) application, the payment of the issue fee, the expiration of 12 months after the filing date of the § 1.53(b)(1) application, or the filing of a request for a statutory invention registration under § 1.293. The grant of any such petition will not entitle applicant to a refund of the fees which were properly paid in the application filed under § 1.53(b)(1).

(iii) A provisional application shall not be entitled to the right of priority under § 1.55 or 35 U.S.C. 119 or 365(a) or to the benefit of an earlier filing date under § 1.78 or 35 U.S.C. 120, 121 or 365(c) of any other application. No claim for priority under § 1.78(a)(3) may be made in a design application based on a provisional application. No request under § 1.293 for a statutory invention registration may be filed in a provisional application. The requirements of §§ 1.821 through 1.825 regarding application disclosures containing nucleotide and/or amino acid sequences are not mandatory for provisional applications.

(c) If any application is filed without the specification, drawing or name, or names, of the actual inventor or inventors required by paragraph (b)(1) or (b)(2) of this section, applicant will be so notified and given a time period within which to submit the omitted specification, drawing, name, or names, of the actual inventor, or inventors, in order to obtain a filing date as of the date of filing of such submission. A copy of the "Notice of Incomplete Application" form notifying the applicant should accompany any response thereto submitted to the Office. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less the handling fee set forth in § 1.21(n). Any request for review of a refusal to accord an application a filing date must be by way of a petition accompanied by the fee set forth in § 1.17(i), if the application was filed under § 1.53(b)(1), or by the fee set forth in § 1.17(q), if the application was filed under § 1.53(b)(2).

(d)(1) If an application which has been accorded a filing date pursuant to paragraph (b)(1) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified, if a correspondence address has been provided and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. A copy of the "Notice to File Missing Parts" form mailed to applicant should accompany any response thereto submitted to the Office. If the required filing fee is not timely paid, or if the processing and retention fee set forth in § 1.21(l) is not paid within one year of the date of mailing of the notification required by this paragraph, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which neither the required basic filing fee nor the processing and retention fee has been paid. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. If no correspondence address is included in the application, applicant has two months from the filing date to file the basic filing fee, oath or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application; or, if no basic filing fee has been paid, one

VOL 60 ISS 79 AP 25 1995 UMI

year from the filing date to pay the processing and retention fee set forth in § 1.21(l) to prevent disposal of the application.

(2) If a provisional application which has been accorded a filing date pursuant to paragraph (b)(2) of this section does not include the appropriate filing fee or the cover sheet required by § 1.51(a)(2), applicant will be so notified if a correspondence address has been provided and given a period of time within which to file the fee, cover sheet and to pay the surcharge as set forth in § 1.16(l) in order to prevent abandonment of the application. A copy of the "Notice to File Missing Parts" form mailed to applicant should accompany any response thereto submitted to the Office. If the required filing fee is not timely paid, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which the required basic filing fee has not been paid. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. If no correspondence address is included in the application, applicant has two months from the filing date to file the basic filing fee, cover sheet and to pay the surcharge as set forth in § 1.16(l) in order to prevent abandonment of the application.

(e)(1) An application for a patent filed under paragraph (b)(1) of this section will not be placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(2) A provisional application for a patent filed under paragraph (b)(2) of this section will not be placed upon the files for examination and will become abandoned no later than twelve months after its filing date pursuant to 35 U.S.C. 111(b)(1).

* * * * *

14. Section 1.55 is revised to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant in a nonprovisional application may claim the benefit of the filing date of one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a)–(d) and 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) must be filed in the case of an interference (§ 1.630), when necessary to overcome the date of a reference relied upon by the examiner, when specifically required by the examiner, and in all other cases, before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by a petition requesting entry and by the fee set forth in § 1.17(i). If the certified copy filed is not in the English language, a translation need not be filed except in the case of interference; or when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner, in which event an English language translation must be filed together with a statement that the translation of the certified copy is accurate. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.

(b) An applicant in a nonprovisional application may under certain circumstances claim priority on the basis of one or more applications for an inventor's certificate in a country granting both inventor's certificates and patents. To claim the right of priority on the basis of an application for an inventor's certificate in such a country under 35 U.S.C. 119(d), the applicant when submitting a claim for such right as specified in paragraph (a) of this section, shall include an affidavit or declaration. The affidavit or declaration must include a specific statement that, upon an investigation, he or she is satisfied that to the best of his or her knowledge, the applicant, when filing the application for the inventor's certificate, had the option to file an application for either a patent or an inventor's certificate as to the subject matter of the identified claim or claims forming the basis for the claim of priority.

15. Section 1.59 is revised to read as follows:

§ 1.59 Papers of application with filing date not to be returned.

Papers in an application which has received a filing date pursuant to § 1.53 will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost of any application in which either the required basic filing fee (§ 1.16) or, if the application was filed under § 1.53(b)(1), the processing and retention fee (§ 1.21(1)) has been paid. See § 1.618 for return of unauthorized and improper papers in interferences.

16. Section 1.60 is amended by revising the heading and paragraph (b) to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior nonprovisional application.

* * * * *

(b) An applicant may omit signing of the oath or declaration in a continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) if:

(1) The prior application was a nonprovisional application and a complete application as set forth in § 1.51(a)(1);

(2) Applicant indicates that the application is being filed pursuant to this section and files a true copy of the prior complete application as filed including the specification (with claims), drawings, oath or declaration showing the signature or an indication it was signed, and any amendments referred to in the oath or declaration filed to complete the prior application;

(3) The inventors named in the continuation or divisional application are the same or less than all the inventors named in the prior application; and

(4) The application is filed before the patenting, or abandonment of, or termination of proceedings on the prior application. The copy of the prior application must be accompanied by a statement that the application papers filed are a true copy of the prior complete application. Such statement must be by the applicant or applicant's attorney or agent and must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of claims or adding a reference to the prior application (§ 1.78(a)) will be entered before calculating the filing fee and granting the filing date. If the continuation or divisional application is filed by less than all the inventors named in the prior application, a statement must accompany the application when filed requesting deletion of the names of the person or persons who are not inventors of the invention being claimed in the continuation or divisional application. Except as provided in paragraph (d) of this section, if a true copy of the prior application as filed is not filed with the application or if the statement that the application papers are a true copy is omitted, the application will not be given a filing date earlier than the date upon which the copy and statement are filed, unless a petition with the fee set forth in § 1.17(i) is filed which satisfactorily explains the delay in filing these items.

* * * * *

17. Section 1.62 is amended by revising paragraphs (a) and (e) to read as follows:

§ 1.62 File wrapper continuing procedure.

(a) A continuation, continuation-in-part, or divisional application, which uses the specification, drawings and oath or declaration from a prior nonprovisional application which is complete as defined by § 1.51(a)(1), and which is to be abandoned, may be filed under this section before the payment of the issue fee, abandonment of, or termination of proceedings on the prior application, or after payment of the issue fee if a petition under § 1.313(b)(5) is granted in the prior application. The filing date of an application filed under this section is the date on which a request is filed for an application under this section including identification of the application number and the names of the inventors named in the prior complete application. If the continuation, continuation-in-part, or divisional application is filed by less than all the inventors named in the prior application a statement must accompany the application when filed requesting deletion of the names of the person or persons who are not inventors of the invention being claimed in the continuation, continuation-in-part, or divisional application.

* * * * *

(e) An application filed under this section will utilize the file wrapper and contents of the prior application to constitute the new continuation, continuation-in-part, or divisional application but will be assigned a new application number. Changes to the prior application must be made in the form of an amendment to the prior application as it exists at the time of filing the application under this section. No copy of the prior application or new specification is required. The filing of such a copy or specification will be considered improper, and a filing date as of the date of deposit of the request for an application under this section will not be granted to the application unless a petition with the fee set forth in § 1.17(i) is filed with instructions to cancel the copy or specification.

* * * * *

18. Section 1.63 is amended by revising paragraph (a) to read as follows:

§ 1.63 Oath or declaration.

(a) An oath or declaration filed under § 1.51(a)(1)(ii) as a part of a nonprovisional application must:

(1) Be executed in accordance with either § 1.66 or § 1.68;

(2) Identify the specification to which it is directed;

(3) Identify each inventor and the residence and country of citizenship of each inventor; and

(4) State whether the inventor is a sole or joint inventor of the invention claimed.

* * * * *

19. Section 1.67 is amended by revising paragraph (b) to read as follows:

§ 1.67 Supplemental oath or declaration.

* * * * *

(b) A supplemental oath or declaration meeting the requirements of § 1.63 must be filed when a claim is presented for matter originally shown or described but not substantially embraced in the statement of invention or claims originally presented or when an oath or declaration submitted in accordance with § 1.53(d)(1) after the filing of the specification and any required drawings specifically and improperly refers to an amendment which includes new matter. No new matter may be introduced into a nonprovisional application after its filing date even if a supplemental oath or declaration is filed. In proper cases, the oath or declaration here required may be made on information and belief by an applicant other than the inventor.

* * * * *

20. Section 1.78 is amended by revising paragraphs (a)(1) and (a)(2) and by adding new paragraphs (a)(3) and (a)(4) to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a)(1) A nonprovisional application may claim an invention disclosed in one or more prior filed copending nonprovisional applications or international applications designating the United States of America. In order for a nonprovisional application to claim the benefit of a prior filed copending nonprovisional application or international application designating the United States of America, each prior application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior application must be:

(i) Complete as set forth in § 1.51(a)(1); or

(ii) Entitled to a filing date as set forth in § 1.53(b)(1), § 1.60 or § 1.62 and include the basic filing fee set forth in § 1.16; or

(iii) Entitled to a filing date as set forth in § 1.53(b)(1) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(d)(1).

(2) Any nonprovisional application claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross-references to other related applications may be made when appropriate. (See § 1.14(b)).

(3) A nonprovisional application other than for a design patent may claim an invention disclosed in one or more prior filed copending provisional applications. Since a provisional application can be pending for no more than twelve months, the last day of pendency may occur on a Saturday, Sunday, or Federal holiday within the District of Columbia which for copendency would require the nonprovisional application to be filed prior to the Saturday, Sunday, or Federal holiday. In order for a nonprovisional application to claim the benefit of one or more prior filed copending provisional applications, each prior provisional application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior provisional application must be:

(i) Complete as set forth in § 1.51(a)(2); or

(ii) Entitled to a filing date as set forth in § 1.53(b)(2) and include the basic filing fee set forth in § 1.16(k).

(4) Any nonprovisional application claiming the benefit of one or more prior filed copending provisional applications must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior provisional application, identifying it as a provisional application, and including the

VOL 60 ISS 79 AP 25 1995 UMI

provisional application number (consisting of series code and serial number).

* * * * *

21. Section 1.83 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.83 Content of drawing.

(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).

* * * * *

(c) Where the drawings in a nonprovisional application do not comply with the requirements of paragraphs (a) and (b) of this section, the examiner shall require such additional illustration within a time period of not less than two months from the date of the sending of a notice thereof. Such corrections are subject to the requirements of § 1.81(d).

22. Section 1.97 is amended by revising paragraph (d) to read as follows:

§ 1.97 Filing of information disclosure statement.

* * * * *

(d) An information disclosure statement shall be considered by the Office if filed after the mailing date of either a final action under § 1.113 or a notice of allowance under § 1.311, whichever occurs first, but before payment of the issue fee, provided the statement is accompanied by:

(1) A certification as specified in paragraph (e) of this section;

(2) A petition requesting consideration of the information disclosure statement; and

(3) The petition fee set forth in § 1.17(i).

* * * * *

23. Section 1.101 is amended by revising paragraph (a) to read as follows:

§ 1.101 Order of examination.

(a) Nonprovisional applications filed in the Patent and Trademark Office and accepted as complete applications are assigned for examination to the respective examining groups having the classes of inventions to which the applications relate. Nonprovisional applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed except for those applications in which examination has been advanced pursuant to § 1.102. See § 1.496 for order of examination of international applications in the national stage.

* * * * *

24. Section 1.102 is amended by revising paragraph (d) to read as follows:

§ 1.102 Advancement of examination.

* * * * *

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the petition fee set forth in § 1.17(i).

25. Section 1.103 is amended by revising paragraph (a) to read as follows:

§ 1.103 Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in § 1.17(i). Action will not be suspended when a response by the applicant to an Office action is required.

* * * * *

26. A new, undesignated center heading and new section 1.129 are added to Subpart B—National Processing Provisions to read as follows:

Transitional Provisions

§ 1.129 Transitional procedures for limited examination after final rejection and restriction practice.

(a) An applicant in an application, other than for reissue or a design patent, that has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 U.S.C. 120, 121 and 365(c), is entitled to have a first submission entered and considered on the merits after final rejection under the following circumstances: The Office will consider such a submission, if the first submission and the fee set forth in § 1.17(r) are filed prior to the filing of an appeal brief and prior to abandonment of the application. The finality of the final rejection is automatically withdrawn upon the timely filing of the submission and payment of the fee set forth in § 1.17(r). If a subsequent final rejection is made in the application, applicant is entitled to have a second submission entered and considered on the merits after the subsequent final rejection under the following circumstances: The Office will consider such a submission, if the second submission and a second fee set forth in § 1.17(r) are filed prior to the filing of an appeal brief and prior to abandonment of the application. The finality of the subsequent final rejection is automatically withdrawn upon the timely filing of the submission and payment of the second fee set forth in § 1.17(r). Any submission filed after a final rejection made in an application subsequent to the fee set forth in § 1.17(r) having been twice paid will be treated as set forth in § 1.116. A submission as used in this paragraph includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims or drawings and a new substantive argument or new evidence in support of patentability.

(b)(1) In an application, other than for reissue or a design patent, that has been pending for at least three years as of June 8, 1995; taking into account any reference made in the application to any earlier filed application under 35 U.S.C. 120, 121, and 365(c), no requirement for restriction or for the filing of divisional applications shall be made or maintained in the application after June 8, 1995, except where:

(i) The requirement was first made in the application or any earlier filed application under 35 U.S.C. 120, 121 and 365(c) prior to April 8, 1995;

(ii) The examiner has not made a requirement for restriction in the present or parent application prior to April 8, 1995, due to actions by the applicant; or

(iii) The required fee for examination of each additional invention was not paid.

(2) If the application contains more than one independent and distinct invention and a requirement for restriction or for the filing of divisional applications cannot be made or maintained pursuant to this paragraph, applicant will be so notified and given a time period to:

(i) Elect the invention or inventions to be searched and examined, if no election has been made prior to the notice, and pay the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects;

(ii) Confirm an election made prior to the notice and pay the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in addition to the one invention which applicant previously elected; or

(iii) File a petition under this section traversing the requirement. If the required petition is filed in a timely manner, the original time period for electing and paying the fee set forth in § 1.17(s) will be deferred and any decision on the petition affirming or modifying the requirement will set a new time period to elect the invention or inventions to be searched and examined and to pay the fee set forth in § 1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects.

(3) The additional inventions for which the required fee has not been paid will be withdrawn from consideration under § 1.142(b). An applicant who desires examination of an invention so withdrawn from consideration can file a divisional application under 35 U.S.C. 121.

(c) The provisions of this section shall not be applicable to any application filed after June 8, 1995.

27. Section 1.137 is amended by revising paragraph (c) to read as follows:

§ 1.137 Revival of abandoned application.

* * * * *

(c) In all applications filed before June 8, 1995, and in all design applications filed on or after June 8, 1995, any petition pursuant to paragraph (a) of this section not filed within six months of the date of abandonment of the application, must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The terminal disclaimer must also apply to any patent granted on any continuing application entitled under 35 U.S.C. 120 to the benefit of the filing date of the application for which revival is sought.

* * * * *

28. Section 1.139 is added to read as follows:

§ 1.139 Revival of provisional application.

(a) A provisional application which has been accorded a filing date and abandoned for failure to timely respond to an Office requirement may be revived so as to be pending for a period of no longer than twelve months from its filing date if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. Under no circumstances will the provisional application be pending after twelve months from its filing date. A petition to revive an abandoned provisional application must be promptly filed after the applicant is notified of, or otherwise becomes aware of, the abandonment, and must be accompanied by:

(1) The required response unless it has been previously filed;

(2) The petition fee as set forth in § 1.17(l); and

(3) A showing that the delay was unavoidable. The showing must be a verified showing if made by a person not registered to practice before the Patent and Trademark Office.

(b) A provisional application which has been accorded a filing date and abandoned for failure to timely respond to an Office requirement may be revived so as to be pending for a period of no longer than twelve months from its filing date if the delay was unintentional. Under no circumstances will the provisional application be pending after twelve months from its filing date. A petition to revive an abandoned provisional application must be:

(1) Accompanied by the required response unless it has been previously filed;

(2) Accompanied by the petition fee as set forth in § 1.17(m);

(3) Accompanied by a statement that the delay was unintentional. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) Filed either:

(i) Within one year of the date on which the provisional application became abandoned; or

(ii) Within three months of the date of the first decision on a petition to revive under paragraph (a) of this section which was filed within one year of the date on which the provisional application became abandoned.

(c) Any request for reconsideration or review of a decision refusing to revive a provisional application upon petition filed pursuant to paragraphs (a) or (b) of this section, to be considered timely, must be filed within two months of the decision refusing to revive or within such time as set in the decision.

(d) The time periods set forth in this section cannot be extended, except that the three-month period set forth in paragraph (b)(4)(ii) of this section and the time period set forth in paragraph (c) of this section may be extended under the provisions of § 1.136.

29. Section 1.177 is revised to read as follows:

§ 1.177 Reissue in divisions.

The Commissioner may, in his or her discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of §§ 1.83 and 1.84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner upon petition and payment of the fee set forth in § 1.17(i), all the divisions of a reissue will issue simultaneously; if there is any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner orders otherwise.

30. Section 1.312 is amended by revising paragraph (b) to read as follows:

§ 1.312 Amendments after allowance.

* * * * *

(b) Any amendment pursuant to paragraph (a) of this section filed after the date the issue fee is paid must be accompanied by a petition including the fee set forth in § 1.17(i) and a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.

31. Section 1.313 is amended by revising paragraph (a) to read as follows:

§ 1.313 Withdrawal from issue.

(a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. Any such petition by the applicant must include a showing of good and sufficient reasons why withdrawal of the application is necessary and, if the reason for the withdrawal is not the fault of the Office, must be accompanied by the fee set forth in § 1.17(i). If the application is withdrawn from issue, a new notice of allowance will be sent if the application is again allowed. Any amendment accompanying a petition to withdraw an application from issue must comply with the requirements of § 1.312.

* * * * *

32. Section 1.314 is revised to read as follows:

§ 1.314 Issuance of patent.

If payment of the issue fee is timely made, the patent will issue in regular course unless the application is withdrawn from issue (§ 1.313), or issuance of the patent is deferred. Any petition by the applicant requesting a deferral of the issuance of a patent must be accompanied by the fee set forth in § 1.17(i) and must include a showing of good and sufficient reasons why it is necessary to defer issuance of the patent.

VOL 60 ISS 79 AP 25 1995 UMI

33. Section 1.316 is amended by revising paragraph (d) to read as follows:

§ 1.316 Application abandoned for failure to pay issue fee.

* * * * *

(d) In all applications filed before June 8, 1995, any petition pursuant to paragraph (b) of this section not filed within six months of the date of abandonment of the application, must be accompanied by a terminal disclaimer with fee under § 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. The terminal disclaimer must also apply to any patent granted on any continuing application entitled under 35 U.S.C. 120 to the benefit of the filing date of the application for which revival is sought.

* * * * *

34. Section 1.317 is amended by removing and reserving paragraph (d).

§ 1.317 [Amended]

35. Section 1.666 is amended by revising paragraph (b) to read as follows:

§ 1.666 Filing of interference settlement agreements.

* * * * *

(b) If any party filing the agreement or understanding under paragraph (a) of this section so requests, the copy will be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person upon petition accompanied by the fee set forth in § 1.17(i) and on a showing of good cause.

* * * * *

36. Section 1.701 is added to Subpart F to read as follows:

§ 1.701 Extension of patent term due to prosecution delay.

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to:

(1) Interference proceedings under 35 U.S.C. 135(a); and/or

(2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or

(3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review.

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 1.193 in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

(d) The period of delay set forth in paragraph (c)(3) shall be reduced by:

(1) Any time during the period of appellate review that occurred before three years from the filing date of the first national application for patent presented for examination; and

(2) Any time during the period of appellate review, as determined by the Commissioner, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Commissioner may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.

PART 3—ASSIGNMENT, RECORDING, AND RIGHTS OF ASSIGNEE

37. The authority citation for 37 CFR Part 3 continues to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6.

38. Section 3.21 is revised to read as follows:

§ 3.21 Identification of patents and patent applications.

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, e.g., 07/123,456). An assignment relating to an international patent application which designates the United States of America must identify the international application by the international number (e.g., PCT/US90/01234). If an assignment of a patent application filed under § 1.53(b)(1) or § 1.62 is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by its date of execution, name of each inventor, and title of the invention so that there can be no mistake as to the patent application intended. If an assignment of a provisional application is executed before the provisional application is filed, it must identify the provisional application by name of each inventor and title of the invention so that there can be no mistake as to the provisional application intended.

39. Section 3.81 is amended by revising paragraph (b) to read as follows:

§ 3.81 Issue of patent to assignee.

* * * * *

(b) If the assignment is submitted for recording after the date of payment of the issue fee, but prior to issuance of the patent, the assignee may petition that the patent issue to the assignee. Any such petition must be accompanied by the fee set forth in § 1.17(i) of this chapter.

Dated: April 14, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

Note—The following appendix will not appear in the Code of Federal Regulations.

BILLING CODE 3510-16-M

VOL 60 ISS 79 APR 25 1995 UMI

Appendix

Appendix A

PTO/SB/16 (6-95)
Approved for use through 04/11/98. OMB 0651-0037
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

PROVISIONAL APPLICATION COVER SHEET

This is a request for filing a PROVISIONAL APPLICATION under 37 CFR 1.53 (b)(2).

Docket Number		Type a plus sign (+) inside this box -->	

INVENTOR(s)/APPLICANT(s)			
LAST NAME	FIRST NAME	MIDDLE INITIAL	RESIDENCE (CITY AND EITHER STATE OR FOREIGN COUNTRY)

TITLE OF THE INVENTION (280 characters max)

CORRESPONDENCE ADDRESS

STATE		ZIP CODE		COUNTRY	

ENCLOSED APPLICATION PARTS *(check all that apply)*

☐	Specification	*Number of Pages*		☐	Small Entity Statement
☐	Drawing(s)	*Number of Sheets*		☐	Other (specify)

METHOD OF PAYMENT *(check one)*

☐	A check or money order is enclosed to cover the Provisional filing fees	PROVISIONAL FILING FEE AMOUNT ($)	
☐	The Commissioner is hereby authorized to charge filing fees and credit Deposit Account Number:		

The invention was made by an agency of the United States Government or under a contract with an agency of the United States Government.

☐ No.

☐ Yes, the name of the U.S. Government agency and the Government contract number are: _____

Respectfully submitted,

SIGNATURE _____ Date / /

TYPED or PRINTED NAME _____ REGISTRATION NO. *(if appropriate)*

☐ Additional inventors are being named on separately numbered sheets attached hereto

PROVISIONAL APPLICATION FILING ONLY

Burden Hour Statement: This form is estimated to take .2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Office of Assistant Quality and Enhancement Division, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0037), Washington, DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Appendix B

PTO/SB/01 (6-95)
Approved for use through 06/30/98. OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

DECLARATION FOR PATENT APPLICATION

Docket Number (Optional)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled _____, the specification of which

is attached hereto unless the following box is checked:

☐ was filed on _____ as United States Application Number or PCT International Application Number _____ and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior ForeignApplication(s)			Priority Claimed
(Number)	(Country)	(Day/Month/Year Filed)	☐ Yes ☐ No
(Number)	(Country)	(Day/Month/Year Filed)	☐ Yes ☐ No

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

(Application Number)	(Filing Date)
(Application Number)	(Filing Date)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

(Application Number)	(Filing Date)	(Status -- patented, pending, abandoned)
(Application Number)	(Filing Date)	(Status -- patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Address all telephone calls to _____ at telephone number _____

Address all correspondence to _____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor (given name, family name) _____

Inventor's signature _____ Date _____

Residence _____ Citizenship _____

Post Office Address _____

Full name of second joint inventor, if any (given name, family name) _____

Second Inventor's signature _____ Date _____

Residence _____ Citizenship _____

Post Office Address _____

☐ Additional inventors are being named on separately numbered sheets attached hereto.

Burden Hour Statement: This form is estimated to take .4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Office of Assistance Quality and Enhancement Division, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington, DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

[FR Doc. 95-9838 Filed 4-24-95; 8:45 am]
BILLING CODE 3510-16-C

VOL 60 ISS 79 AP 25 1995 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[FRL–5194–9]

OMB Approval Number Under the Paperwork Reduction Act; Regulation of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment; and confirmation of effective date.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that the Information Collection Requirements (ICR) contained in the Regulations of Fuels and Fuel Additives; Fuel Quality Regulations for Highway Diesel Fuel Sold in 1993 and Later Calendar Years Interim Final Rule, as published in the **Federal Register** on July 14, 1994, have been approved by the Office of Management and Budget (OMB) and the affected subsection of the regulation is effective April 25, 1995. This document also displays the OMB control number issued under the Paperwork Reduction Act (PRA) in the OMB approval table.

EFFECTIVE DATE: 40 CFR 80.29(e), which contains ICRs, and the amendment to 40 CFR part 9 are effective April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Paul N. Argyropoulos, Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, phone: (202) 233–9004.

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. Today's amendment updates the table to accurately display those information requirements promulgated under the Regulations of Fuels and Fuel Additives, Fuel Quality Regulations for Highway Diesel Fuel Sold in 1993 and Later Calendar Years which appeared in the **Federal Register** on July 14, 1994 (59 FR 35854). The affected regulations are codified at 40 CFR 80.29(c). This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

The information collection requirement was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is "good cause" under the Administrative Procedure Act (5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3)) to amend this regulation without prior notice and comment. Also due to the technical nature of this revision, the Agency believes further notice and comment is unnecessary.

List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: December 21, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I is amended as follows:

PART 9—[AMENDED]

1. Part 9 is amended as follows:

a. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345, (d) and (e), 1361; E.O. 11735, 38 FR 21243; 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g-1, 300g-2, 300g-3, 300g-4, 300g-5, 300g-6, 300j-1, 300j-2, 300j-3, 300j-4, 300j-9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

b. In § 9.1 the table is amended by adding under the indicated heading an entry in numerical order to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

REGULATION OF FUELS AND FUEL ADDITIVES

40 CFR citation	OMB control No.
* * * * *	
80.29(c)	2060–0308
* * * * *	

[FR Doc. 95–10141 Filed 4–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 9 and 80

[FRL–5194–8]

RIN 2060–AD71

OMB Approval Number Under the Paperwork Reduction Act; Regulation of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment; and confirmation of effective date.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that the Information Collection Requirements (ICR) contained in the Interim Requirements for Deposit Control Gasoline Additives Final Rule, as published in the **Federal Register** on November 1, 1994, have been approved by the Office of Management and Budget (OMB) on December 16, 1994. The ICR recrements of this regulation are effective April 25, 1995. This document also displays the OMB control number issued under the Paperwork Reduction Act (PRA) in the OMB approval table.

EFFECTIVE DATE: 40 CFR 80.141(c)–(f), 80.157, 80.158 and 80.160 which contain information collection requirements (ICR) and the amendments to 40 CFR part 9, are effective April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Ervin B. Pickell, U.S. EPA, Office of Enforcement and Compliance Assurance, Western Field Office, 12345 West Alameda Parkway, Suite 214, Denver, CO 80228, Telephone: (303) 969–6476, FAX: (303) 969–6490.

SUPPLEMENTARY INFORMATION: EPA is today amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. Today's amendment updates the table to accurately display those information requirements promulgated under the Interim Requirements for Deposit Control Gasoline Additives Final Rule, which appeared in the **Federal Register** on November 1, 1994 (59 FR 54678 *et seq.*) The affected regulations are codified at 40 CFR part 80, subpart G. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists the section numbers with reporting and recordkeeping requirements, and the current OMB numbers. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

This ICR was previously subject to public notice and comment prior to OMB approval. As a result, EPA finds that there is "good cause" under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary.

List of Subjects

40 CFR Part 9

Reporting and recordkeeping requirements.

40 CFR Part 80

Fuel additives, Motor vehicle pollution.

Dated: April 13, 1995.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, title 40, chapter 1 is amended as follows:

PART 9—[AMENDED]

a. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345, (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

b. The table in § 9.1 is amended by adding under the indicated heading the new entries in numerical order to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

REGULATION OF FUELS AND FUEL ADDITIVES

40 CFR citation	OMB control No.
* * * * *	
80.141(c)–(f)	2060–0275
80.157	2060–0275
80.158	2060–0275
80.160	2060–0275
* * * * *	

[FR Doc. 95–10063 Filed 4–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CA–82–1–6926; FRL–5195–9]

Clean Air Act Section 182(f) NO_x Exemption Petition; Monterey Bay Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing the approval of a petition submitted by the Monterey Bay Unified Air Pollution Control District (MBUAPCD) requesting that EPA grant an exemption for the Monterey Bay ozone nonattainment area (Monterey Bay) from the section 182(f) requirement to control major stationary sources of oxides of nitrogen (NO_x) emissions. EPA published a proposed action to approve the Monterey Bay NO_x exemption in the **Federal Register** on December 20, 1994. In accordance with the requirements of the Clean Air Act, as amended in 1990 (the Act or CAA), the EPA has determined that additional NO_x reductions from major stationary sources in Monterey Bay would not contribute to attainment of the national ambient air quality standard (NAAQS) for ozone. The approval of this action exempts Monterey Bay from implementing the NO_x requirements for reasonably available control technology (RACT), new source review (NSR), and the applicable general and transportation conformity and inspection and maintenance (I/M) requirements of the CAA. The EPA is finalizing approval of this action under provisions of the Act regarding plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective as of April 12, 1995. The Administrative Procedure Act (APA) 5 U.S.C. 553(d)(1), permits the effective date of a substantive rule to be less than thirty days after publication of the rule if the rule "relieves a restriction". Since the approval of the section 182(f) exemption for the Monterey Bay area is a substantive action that relieves the restrictions associated with the CAA title I requirements to control NO_x emissions, the NO_x exemption approval may be made effective upon signature by the EPA Administrator.

ADDRESSES: Copies of the petition and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted petition are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street SW., Washington, DC 20460.

Monterey Bay Unified Air Pollution Control District, Rule Development Section, 24580 Silver Cloud Court, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Wendy Colombo, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1202.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1994, EPA proposed to approve the Monterey Bay NO_x exemption petition, submitted by the MBUAPCD on April 26, 1994. 59 FR 65523. The exemption petition is based on ambient monitoring data and demonstrates that additional NO_x reductions in Monterey Bay would not contribute to attainment of the NAAQS for ozone. A detailed discussion of the background concerning the NO_x requirements and the submitted petition is provided in the notice of proposed rulemaking (NPRM) cited above.

EPA has evaluated the exemption petition for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA believes that the petition satisfies the applicable EPA requirements and is, therefore, exempting the Monterey Bay area from implementing the NO_x requirements for RACT, NSR, and the applicable general and transportation conformity and I/M requirements [1] of the CAA.

The proposal identifies two NO_x RACT source categories MBUAPCD has identified which encompass the major stationary sources of NO_x in the Monterey Bay nonattainment area.

Rules have been developed and submitted for these two categories, entitled, Rule 431, Emissions From Utility Power Boilers, and Rule 435, Control of Nitrogen Oxides From Kilns. EPA indicated in the NPRM that once the final approval of the NO_x waiver is granted, MBUAPCD would then rescind the two NO_x rules submitted for inclusion into the California SIP. This is not the intention of MBUAPCD with respect to one of these rules. MBUAPCD, in subsequently applying to EPA for redesignation to attainment of the NAAQS for ozone, has indicated that the emissions reductions achieved by rule 431 will form part of its ozone

[1] See "Scope of Nitrogen Oxides (NO_x) Exemptions," from G.T. Helms, Group Leader, Ozone/Carbon Monoxide Programs Branch (MD–15), to the Air Branch Chiefs, January 12, 1995. "I/M Requirements in NO_x RACT Exempt Areas", from Mary T. Smith, Acting Director, Office of Mobile Sources, to the Air Division Directors, October 14, 1994.

VOL 60 ISS 79 AP 25 1995 UMI

maintenance plan. Although NO_X waivers may be granted for areas demonstrating that NO_X reductions do not contribute to attainment of the ozone standard, areas may choose to impose NO_X restrictions on other bases, such as ozone maintenance, visibility protection, PM–10 control, acid deposition, or other environmental protection purposes. MBUAPCD has indicated in its attainment plan its belief that the reductions achieved from rule 431 are needed for maintenance of the ozone standard. Therefore, rule 431 will not be rescinded, but instead will be evaluated for incorporation into the California SIP. However, rule 435 contains language within the rule which will make its applicability void upon final approval of the NO_X waiver.

Response to Public Comments

A 30-day public comment period was provided in 59 FR 65523. EPA received no comments specifically regarding the Monterey Bay exemption petition. However, in August 1994, three environmental groups submitted joint comments on the proposed approvals of NO_X exemptions for the Ohio and Michigan ozone nonattainment areas. The comments address EPA's policy regarding NO_X exemptions in general and apply to all actions EPA takes regarding section 182(f) NO_X exemptions. Therefore, these comments are addressed below.

Comment: The commenters argued that NO_X exemptions are provided for in two separate parts of the CAA, section 182(b)(1) and section 182(f). Because the NO_X exemption tests in subsections 182(b)(1) and 182(f)(1) include language indicating that action on such requests should take place "when [EPA] approves a plan or plan revision," these commenters conclude that all NO_X exemption determinations by the EPA, including exemption actions taken under the petition process established by subsection 182(f)(3), must occur during consideration of an approvable attainment or maintenance plan, unless the area has been redesignated as attainment. These commenters also argue that even if the petition procedures of subsection 182(f)(3) may be used to relieve areas of certain NO_X requirements, exemptions from the NO_X conformity requirements must follow the process provided in subsection 182(b)(1), since this is the only provision explicitly referenced by section 176(c), the CAA's conformity provisions.

Response: Section 182(f) contains very few details regarding the administrative procedure for acting on NO_X exemption requests. The absence of specific guidelines by Congress leaves EPA with discretion to establish reasonable procedures, consistent with the requirements of the APA.

The EPA disagrees with the commenters regarding the process for considering exemption requests under section 182(f), and instead believes that subsections 182(f)(1) and 182(f)(3) provide independent procedures by which the EPA may act on NO_X exemption requests. The language in subsection 182(f)(1), which indicates that the EPA should act on NO_X exemptions in conjunction with action on a plan or plan revision, does not appear in subsection 182(f)(3). And, while subsection 182(f)(3) references subsection 182(f)(1), the EPA believes that this reference encompasses only the substantive tests in paragraph (1) [and, by extension, paragraph (2)], not the procedural requirement that the EPA act on exemptions only when acting on SIPs. Additionally, paragraph (3) provides that "person[s]" (which section 302(e) of the CAA defines to include States) may petition for NO_X exemptions "at any time," and requires the EPA to make its determination within six months of the petition's submission. These key differences lead EPA to believe that Congress intended the exemption petition process of paragraph (3) to be distinct and more expeditious than the longer plan revision process intended under paragraph (1).

With respect to major stationary sources, section 182(f) requires States to adopt NO_X NSR and RACT rules, unless exempted. These rules were generally due to be submitted to EPA by November 15, 1992. Thus, in order to avoid the CAA sanctions, areas seeking a NO_X exemption would have needed to submit their exemption request for EPA review and rulemaking action several months before November 15, 1992. In contrast, the CAA specifies that the attainment demonstrations are not due until November 1993 or 1994 (and EPA may take 12–18 months to approve or disapprove the demonstration). For marginal ozone nonattainment areas (subject to NO_X NSR), no attainment demonstration is called for in the CAA. For maintenance plans, the CAA does not specify a deadline for submittal of maintenance demonstrations. Clearly, the CAA envisions the submittal of and EPA action on exemption requests, in some cases, prior to submittal of attainment or maintenance demonstrations.

The CAA requires conformity to the applicable SIP with regard to federally-supported NO_X generating activities in relevant nonattainment and maintenance areas. However, EPA's conformity rules explicitly provide that these NO_X requirements would not apply if EPA grants an exemption under section 182(f). In response to the comment that section 182(b)(1) should be the appropriate vehicle for dealing with exemptions from the NO_X requirements of the conformity rule, EPA notes that this issue has previously been raised in a formal petition for reconsideration of EPA's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. The issue, thus, is under consideration within EPA, but at this time remains unresolved. Additionally, subsection 182(f)(3) requires that NO_X exemption petition determinations be made by the EPA within six months. The EPA has stated in previous guidance that it intends to meet this statutory deadline as long as doing so is consistent with the APA. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in EPA's final conformity regulations, and EPA remains bound by their existing terms.

Comment: The commenters stated that the modeling required by EPA guidance is insufficient to establish that NO_X reductions would not contribute to attainment since only one level of NO_X control, i.e., "substantial" reductions, is required to be analyzed. They further explained that an area must submit an approvable attainment plan before EPA can know whether NO_X reductions will aid or undermine attainment.

Response: The EPA does not believe that this comment is applicable to the Monterey Bay exemption because the demonstration is based on three years of ambient monitoring data and not modeling.

Comment: The commenters provided a comment that three years of "clean" data fail to demonstrate that NO_X reductions would not contribute to attainment, and that EPA's policy erroneously equates the absence of a violation for one three-year period with "attainment."

Response: The EPA has separate criteria for determining if an area should be redesignated to attainment under section 107 of the CAA. The section 107 criteria are more comprehensive than the CAA requires with respect to NO_X exemptions under section 182(f).

Under section 182(f)(1)(A), an exemption from the NO_X requirements may be granted for nonattainment areas outside an ozone transport region if EPA determines that "additional reductions of (NO_X) would not contribute to attainment" of the ozone NAAQS in those areas. In some cases, an ozone nonattainment area might attain the ozone standard, as demonstrated by 3 years of adequate monitoring data, without having implemented the section 182(f) NO_X provisions over that 3-year period. The EPA believes that, in cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data without having implemented the section 182(f) NO_X provisions, it is clear that the section 182(f) test is met since "additional reductions of (NO_X) would not contribute to attainment" of the NAAQS in that area. The EPA's approval of the exemption, if warranted, would be granted on a contingent basis (i.e., the exemption would last for only as long as the area's monitoring data continue to demonstrate attainment).

Comment: Some commenters provided a comment on all section 182(f) actions that a waiver of NO_X controls is unlawful if such a waiver will impede attainment and maintenance of the ozone standard in separate downwind areas.

Response: The EPA believes that while this comment may be applicable to proposed NO_X exemption actions in other areas, it is not applicable to the Monterey Bay exemption action because the EPA is unaware of, and the comment itself does not specify, any downwind areas for which NO_X transport is of concern.

However, as a result of these comments and comments received regarding transport in NO_X exemption requests for other areas in the United States, EPA reevaluated its position on this issue and decided to revise the previously issued guidance.[2] As described below, EPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that NO_X emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State. This action would be independent of any action taken by EPA on a NO_X exemption request for stationary sources under section 182(f). That is, EPA action to grant or deny a NO_X exemption request under section 182(f) would not shield that area from EPA action to require NO_X emission reductions, if necessary, under section 110(a)(2)(D).

Modeling analyses are underway in many areas for the purpose of demonstrating attainment in the 1994 SIP revisions. Recent modeling data suggest that certain ozone nonattainment areas may benefit from reductions in NO_X emissions far upwind of the nonattainment area. For example, the northeast corridor and the Lake Michigan areas are considering attainment strategies which rely in part on NO_X emission reductions hundreds of kilometers upwind. The EPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. As the studies progress, EPA will continue to work with the States and other organizations to develop mutually acceptable attainment strategies.

At the same time as these large scale modeling analyses are being conducted, certain nonattainment areas in the modeling domain have requested exemptions from NO_X requirements under section 182(f). Some areas requesting an exemption may be upwind of and impact upon downwind nonattainment areas. EPA intends to address the transport issue through section 110(a)(2)(D) based on a domain-wide modeling analysis.

Under section 182(f) of the Act, an exemption from the NO_X requirements may be granted for nonattainment areas outside an ozone transport region if EPA determines that "additional reductions of [NO_X] would not contribute to attainment of the national ambient air quality standard for ozone in the area."[3] As described in section 4.3 of the December 16, 1993 guidance document, EPA believes that the term "area" means the "nonattainment area" and that EPA's determination is limited to consideration of the effects in a single nonattainment area due to NO_X emissions reductions from sources in the same nonattainment area.

Section 4.3 of the guidance goes on to encourage, but not require, States/petitioners to include consideration of the entire modeling domain, since the effects of an attainment strategy may extend beyond the designated nonattainment area. Specifically, the guidance encourages States to "consider imposition of the NO_X requirements if needed to avoid adverse impacts in downwind areas, either intra- or inter-State. States need to consider such impacts since they are ultimately responsible for achieving attainment in all portions of their State (see generally section 110) and for ensuring that emissions originating in their State do not contribute significantly to nonattainment in, or interfere with maintenance by, any other State [see section 110(a)(2)(D)(i)(I)]."

In contrast, section 4.4 of the guidance states that the section 182(f) demonstration would not be approved if there is evidence, such as photochemical grid modeling, showing that the NO_X exemption would interfere with attainment or maintenance in downwind areas. The guidance goes on to explain that section 110(a)(2)(D) [not section 182(f)] prohibits such impacts.

Consistent with the guidance in section 4.3, EPA believes that the section 110(a)(2)(D) and 182(f) provisions must be considered independently, and hence, is withdrawing the guidance presently contained in section 4.4. Thus, if there is evidence that NO_X emissions in an upwind area would interfere with attainment or maintenance in a downwind area, that action should be separately addressed by the State(s) or, if necessary, by EPA in a section 110(a)(2)(D) action. In addition, a section 182(f) exemption request should be independently considered by EPA. In some cases, then, EPA may grant an exemption from across-the-board NO_X RACT controls under section 182(f) and, in a separate action, require NO_X controls from stationary and/or mobile sources under section 110(a)(2)(D). It should be noted that the controls required under section 110(a)(2)(D) may be more or less stringent than RACT, depending upon the circumstances.

Comment: Comments were received regarding exemption of areas from the NO_X requirements of the conformity rules. The commenters argue that such exemptions waive only the requirements of section 182(b)(1) to contribute to specific annual reductions, not the requirement that conformity SIPs contain information showing the maximum amount of motor vehicle NO_X emissions allowed under the transportation conformity rules and,

[2] See "Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria", issued February 8, 1995 by John S. Seitz, Director of EPA's Office of Air Quality Planning and Standards.

[3] There are 3 NO_X exemption tests specified in section 182(f). Of these, 2 are applicable for areas outside an ozone transport region; the "contribute to attainment" test described above, and the "net air quality benefits" test. EPA must determine, under the latter test, that the net benefits to air quality in an area "are greater in the absence of NO_X reductions" from relevant sources. Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption. Consequently, as stated in section 1.4 of the December 16, 1993 EPA guidance, "[w]here any one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply."

VOL
60
ISS
79
AP
25
1995
UMI

similarly, the maximum allowable amounts of any such NO_X emissions under the general conformity rules. The commenters admit that, in prior guidance, EPA has acknowledged the need to amend a drafting error in the existing transportation conformity rules to ensure consistency with motor vehicle emissions budgets for NO_X, but want EPA in actions on NO_X exemptions to explicitly affirm this obligation and to also avoid granting waivers until a budget controlling future NO_X increases is in place.

Response: With respect to conformity, EPA's conformity rules[4][5] provide a NO_X waiver if an area receives a section 182(f) exemption. In its "Conformity; General Preamble for Exemption From Nitrogen Oxides Provisions," 59 FR 31238, 31241 (June 17, 1994), EPA reiterated its view that in order to conform, nonattainment and maintenance areas must demonstrate that the transportation plan and transportation improvement program (TIP) are consistent with the motor vehicle emissions budget for NO_X even where a conformity NO_X waiver has been granted. Due to a drafting error, that view is not reflected in the current transportation conformity rules. As the commenters correctly note, EPA states in the June 17th notice that it intends to remedy the problem by amending the conformity rule. Although that notice specifically mentions only requiring consistency with the approved maintenance plan's NO_X motor vehicle emissions budget, EPA also intends to require consistency with the attainment demonstration's NO_X motor vehicle emissions budget. However, the exemption for Monterey Bay was submitted pursuant to section 182(f)(3), and EPA does not believe it is appropriate to delay the statutory deadline for acting on this petition until the conformity rule is amended. As noted earlier in response to a previous issue raised by these commenters, this issue has also been raised in a formal petition for reconsideration of the Agency's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. This issue, thus, is under consideration within the Agency, but at this time remains unresolved. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in the Agency's final conformity regulations, and the Agency remains bound by their existing terms.

Comment: The commenters argue that the CAA does not authorize any waiver of the NO_X reduction requirements until conclusive evidence exists that such reductions are counter-productive.

Response: EPA does not agree with this comment since it ignores Congressional intent as evidenced by the plain language of section 182(f), the structure of the Title I ozone subpart as a whole, and relevant legislative history. By contrast, in developing and implementing its NO_X exemption policies, EPA has sought an approach that reasonably accords with Congress' intent. Section 182(f), in addition to imposing control requirements on major stationary sources of NO_X similar to those that apply for such sources of VOC, also provides for an exemption (or limitation) from application of these requirements if, under one of several tests, EPA determines that in certain areas NO_X reductions would generally not be beneficial. In subsection 182(f)(1), Congress explicitly conditioned action on NO_X exemptions on the results of an ozone precursor study required under section 185B. Because of the possibility that reducing NO_X in a particular area may either not contribute to ozone attainment or may cause the ozone problem to worsen, Congress included attenuating language, not just in section 182(f) but throughout the Title I ozone subpart, to avoid requiring NO_X reductions where it would be nonbeneficial or counterproductive. In describing these various ozone provisions (including section 182(f)), the House Conference Committee Report states in pertinent part: "[T]he Committee included a separate NO_X/VOC study provision in section [185B] to serve as the basis for the various findings contemplated in the NO_X provisions. The Committee does not intend NO_X reduction for reduction's sake, but rather as a measure scaled to the value of NO_X reductions for achieving attainment in the particular ozone nonattainment area." H.R. Rep. No. 490, 101st Cong., 2d Sess. 257–258 (1990). As noted in response to an earlier comment by these same commenters, the command in subsection 182(f)(1) that EPA "shall consider" the 185B report taken together with the timeframe the Act provides both for completion of the report and for acting on NO_X exemption petitions clearly demonstrate that Congress believed the information in the completed section 185B report would provide a sufficient basis for EPA to act on NO_X exemption requests, even absent the additional information that would be included in affected areas' attainment or maintenance demonstrations. However, while there is no specific requirement in the Act that EPA actions granting NO_X exemption requests must await "conclusive evidence", as the commenters argue, there is also nothing in the Act to prevent EPA from revisiting an approved NO_X exemption if warranted due to better ambient information.

In addition, the EPA believes (as described in EPA's December 1993 guidance) that section 182(f)(1) of the CAA provides that the new NO_X requirements shall not apply (or may be limited to the extent necessary to avoid excess reductions) if the Administrator determines that any one of the following tests is met:

(1) In any area, the net air quality benefits are greater in the absence of NO_X reductions from the sources concerned;

(2) In nonattainment areas not within an ozone transport region, additional NO_X reductions would not contribute to ozone attainment in the area; or

(3) In nonattainment areas within an ozone transport region, additional NO_X reductions would not produce net ozone air quality benefits in the transport region.

Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption.

Only the first test listed above is based on a showing that NO_X reductions are "counter-productive." If one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.

EPA Action

EPA is finalizing this action to exempt Monterey Bay from implementing the NO_X requirements for RACT, NSR, the applicable general and transportation conformity requirements, and I/M.

The EPA believes that all section 182(f) exemptions that are approved should be approved only on a contingent basis. As described in the EPA's NO_X Supplement to the General Preamble (57 FR 55628, November 25, 1992) and further guidance issued by EPA,[6] section 182(f) exemptions are granted on a contingent basis and last for only as long as the area's monitoring data continue to demonstrate attainment. Monterey Bay is required to continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area.

If, prior to redesignation of the area to attainment, a violation of the ozone NAAQS is monitored in Monterey Bay (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS), the section 182(f) exemption would no longer apply, as of the date EPA makes a determination that a violation has occurred. EPA would notify the area that the exemption no longer applies, and would also provide notice to the public in the **Federal Register**. If the exemption is revoked, the area must comply with any applicable NO_X requirements set forth in the CAA. Thus, a determination that the NO_X exemption no longer applies would mean that the applicable NO_X NSR, general and transportation conformity, and I/M provisions would immediately be applicable (see 58 FR 63214 and 58 FR 62188) in Monterey Bay.

If Monterey Bay is redesignated to attainment of the ozone NAAQS, NO_X RACT is to be implemented as provided for as contingency measures in the maintenance plan.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant", and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. It has been determined that this action is not a "significant regulatory action" under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

EPA's final action relieves requirements otherwise imposed under the CAA and, hence does not impose and Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. This action also will not impose a mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 25, 1995. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such a rule. This action may not be challenged later in proceedings to enforce its requirements. Section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 12, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—California

2. Subpart F is amended by adding § 52.235 to read as follows:

§ 52.235 Control strategy for ozone: Oxides of nitrogen.

EPA is approving an exemption request submitted by the Monterey Bay Unified Air Pollution Control District on April 26, 1994 for the Monterey Bay ozone nonattainment area from the NO_X RACT requirements contained in section 182(f) of the Clean Air Act. This approval exempts the area from implementing the oxides of nitrogen (NO_X) requirements for reasonably available control technology (RACT), new source review (NSR), the related requirements of general and transportation conformity regulations, and applicable inspection and maintenance (I/M). The exemption is based on ambient air monitoring data and lasts for only as long as the area's monitoring efforts continue to demonstrate attainment without NO_X reductions from major stationary sources.

[FR Doc. 95–10104 Filed 4–24–95; 8:45 am]
BILLING CODE 6560–50–W

40 CFR Part 81

[CA132–1–6898; 5159–6]

California, Sacramento Ozone Nonattainment Area, Reclassification to Severe

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 6, 1991, the Sacramento Metro ozone nonattainment area was classified under the Clean Air Act (CAA) as "Serious" with an attainment date of no later than 1999. On November 15, 1994, California submitted the State implementation plan (SIP) for ozone attainment. For the Sacramento Metro ozone nonattainment area, the SIP relied on an attainment date of 2005. On December 29, 1994, the State submitted a revision to the SIP which reaffirmed the 2005 attainment date. EPA construes these submittals to be a voluntary request for a reclassification of the Sacramento Metro area from a "Serious" to a "Severe" ozone nonattainment area pursuant to section 181(b)(3) of the CAA. EPA is granting California's request for reclassification of the Sacramento Metro area to "Severe" in today's document.

EFFECTIVE DATE: June 1, 1995.

ADDRESSES: Materials relevant to this document can be found in the following locations: EPA Air Docket Section, Attn: Docket No. A–94–09, Environmental Protection Agency (Mail Code—6102), Waterside Mall, Room M–1500, 401 M Street, S.W., Washington, DC 20460, (phone 202–260–7549).

The docket is available for public inspection between 8:30 a.m. and 12 noon, and between 1:30 p.m. and 3:30 p.m. EPA may charge a reasonable fee for copying.

[4] See "Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act," November 24, 1993 (58 FR 62188).

[5] See "Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule," November 30, 1993 (58 FR 63214).

[6] See "Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria", issued by John S. Seitz, Director, Office of Air Quality Planning and Standards (MD–10), May 27, 1994.

VOL
60
ISS
79
AP
25
1995
UMI

A copy of the docket is also available for review at: Regional Administrator, Attention: Office of Federal Planning (A–1–2), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Interested persons may make an appointment with Ms. Virginia Petersen at (415) 744–1265, to inspect the docket at EPA's San Francisco office on weekdays between 9 a.m. and 4 p.m.

Copies of this document and associated documents are also available for inspection at the addresses listed below:

California Air Resources Board, 2020 L Street, Sacramento, California
Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, California
Sacramento Area Council of Governments, 3000 S Street, Suite 300, Sacramento, California
El Dorado County Air Pollution Control District, 2850 Fair Lane Court, Bldg. C, Placerville, California
Feather River Air Quality Management District, 463 Palora Avenue, Yuba City, California
Placer County Air Pollution Control District, 11464 B Avenue, Auburn, California
Yolo-Solano County Air Pollution Control District, 1947 Galileo Court, Suite 103, Davis, California

FOR FURTHER INFORMATION CONTACT: Julia Barrow (415) 744–2434, at the Office of Federal Planning (A–1–2), Air and Toxics Division, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California, 94105–3901.

SUPPLEMENTARY INFORMATION: On November 6, 1991 (40 CFR 81.305, 56 FR 56694) the Sacramento Metro area was classified as a "Serious" ozone nonattainment area under the Clean Air Act (CAA). A "Serious" ozone classification requires that the area attain the ozone standard as expeditiously as practicable, but not later than 1999.

On November 15, 1994, California submitted the Statewide SIP for ozone attainment. For the Sacramento Metro ozone nonattainment area, the SIP relied on an ozone attainment date of 2005. On December 29, 1994, the State submitted a revision to the SIP which reaffirmed the 2005 attainment date request for a reclassification of the Sacramento Metro area from a "Serious" to a "Severe" ozone nonattainment area pursuant to section 181(b)(3) of the CAA.

Section 181(b)(3) of the CAA provides for "voluntary reclassification" and states that "* * * [t]he Administrator shall grant the request of any State to reclassify a nonattainment area in that State * * * to a higher classification" and that "* * * [t]he Adminstrator shall publish a notice in the **Federal Register** of any such request and of action by the Administrator granting the request." EPA is granting California's request for voluntary reclassification under section 181(b)(3) of the Sacramento Metro area to "Severe" in today's document.

List of Subjects in 40 CFR Part 81

Environmental Protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: February 14, 1995.

Carol M. Browner,

Administrator.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.305 is amended in the table for California—Ozone by revising the entry for "Sacramento Metro Area" to read as follows:

§ 81.305 California.

* * * * *

CALIFORNIA—OZONE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
. . . . .				
Sacramento Metro Area	May 25, 1995	Non-attainment	May 25, 1995	Severe.
. . . . .				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 95–10099 Filed 4–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 271

[FRL–5196–4]

New Mexico: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of New Mexico has applied for authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) reviewed New Mexico's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve New Mexico's hazardous waste program revision subject to the authority retained by EPA in accordance with Hazardous and Solid Waste Amendments of 1984. New Mexico's application for the program revision is available for public review and comment.

DATES: This authorization for New Mexico shall be effective July 10, 1995 unless EPA publishes a prior **Federal Register** (FR) action withdrawing this immediate final rule. All comments on New Mexico's program revision application must be received by the close of business June 10, 1995.

ADDRESSES: Copies of the New Mexico program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: New Mexico Environment Department, 1190 St Francis Drive, Sante Fe, New Mexico 87502, and U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone (214) 665–6444. Written comments, referring to Docket Number NM–95–1, should be sent to Alima Patterson, Region 6 AR–NM Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 AR–NM Authorization Coordinator, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. Background

States authorized under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260–268, and 270.

B. New Mexico

New Mexico received authorization January 25, 1985, (see 50 FR 1515) to implement its base hazardous waste management program. New Mexico received authorization for revisions to its program on April 10, 1990 (see 55 FR 4604), July 25, 1990 (see 55 FR 28397), December 4, 1992 (see 57 FR 45717), August 23, 1994 (see 59 FR 29734) and December 21, 1994 (see 59 FR 51122). The authorized New Mexico RCRA program was incorporated by reference to the Code of Federal Regulations (CFR), effective December 13, 1993 (see 58 FR 52677). On December 23, 1994, New Mexico submitted a final complete program revision application for additional program approvals. Today, New Mexico is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

On August 24, 1994, New Mexico promulgated 20 New Mexico Administrative Code (NMAC) 4.1 which adopts the July 1, 1993, version of 40 CFR part 261. Specifically, 20 NMAC 4.1, which became effective 30 days after filing on September 23, 1994, incorporates by reference 40 CFR part 261 at 20 NMAC 4.1.201. This is the version that is referred to in the Attorney General's Statement submitted with this program revision. Also, 20 NMAC 4.1.201 is inclusive of the identification and listing amendments to 40 CFR part 261 promulgated June 13, 1991, at 56 FR 27332; August 18, 1992, at 57 FR 37284; October 15, 1992, at 57 FR 47376; and December 24, 1992, at 57 FR 61492. New Mexico Statutes Annotated (NMSA) 1978, §§ 74–4–4A(1) and 74–4–4E (Replacement Pamphlet 1993) provides New Mexico with authority to adopt federal regulations by reference including the sections on identification and listing.

EPA reviewed New Mexico's application and made an immediate final determination that New Mexico's hazardous waste program revision satisfies all of the requirements necessary to qualify for authorization. Consequently, EPA intends to grant authorization for the additional program modifications to New Mexico. The public may submit written comments on EPA's proposed final decision until June 9, 1995. Copies of New Mexico's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of New Mexico's program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision; or (2) a notice containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

Mexico's program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260–262, 264, 265, 266, and 270 that were published in the **Federal Register** through June 30, 1993. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Toxicity Characteristics Revisions; Technical Corrections, (57 FR 30657–30658) July 10, 1992. (Checklist 108).	New Mexico Statutes Annotated (NMSA) 1978, §§74–4–4A(1) and 74–4–4E (Replacement Pamphlet 1993); Hazardous Waste Management, New Mexico Environmental Improvement Board, 20 New Mexico Administrative Code (NMAC) 4.1.201, Subparts I, V, VI, and VIII, .501, .502, .601, .602 and .801 as amended September 23, 1994, effective September 23, 1994.
2. Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris, (57 FR 37194–37282) August 18, 1992. (Checklist 109).	NMSA 1978, §§74–4–4A and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.101 and 4.1.201 Subparts III, V, VI, VIII and IX, .301, .501, .502, .601, .602, .801 and .901 as amended September 23, 1994, effective September 23, 1994.
3. Coke By-Products Listings, (57 FR 37284–37306) August 18, 1992. (Checklist 110).	NMSA 1978, §§74–4–4A(1) and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.201 as amended September 23, 1994, effective September 23, 1994.
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III, (57 FR 38558–38566) August 25, 1992. (Checklist 111).	NMSA 1978, §§74–4–4A and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.201 as amended September 23, 1994, effective September 23, 1994.
5. Consolidated Liability Requirements, (53 FR 42832) September 16, 1992, (53 FR 33938–33960) September 1, 1988, (56 FR 30200) July 1, 1991 and (57 FR 42832–42844) September 16, 1992. (Checklist 113, 113.1 and 113.2).	NMSA 1978, §§74–4–4A(5)(f) and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.501, Subparts V, and VI, .502, .601 and .602 as amended September 23, 1994, effective September 23, 1994.

VOL 60 ISS 79 AP 25 1995 UMI

Federal citation	State analog
6. Burning of Hazardous Waste in Boilers and Industrial Furnaces, Amendment IV, (57 FR 44999–45001) September 30, 1992. (Checklist 114).	NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.101, Subparts I, II, V, VI and VII, .102, .201, .501, .502, .601, .602 and .701 as amended September 23, 1994, effective September 23, 1994.
7. Chlorinated Toluene Production Waste Listing, (57 FR 47376–47386) October 15, 1992. (Checklist 115).	NMSA 1978, §§ 74–4–4A(1) and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.201 as amended September 23, 1994, effective September 23, 1994.
8. Hazardous Soil Case-By-Case Capacity Variance, (57 FR 47772–47776) October 20, 1992. (Checklist 116).	NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.801 as amended September 23, 1994, effective September 23, 1994.
9. Toxicity Characteristic Amendment, (57 FR 23062–23063) June 1, 1992. (Checklist 117B).	NMSA 1978, §§ 74–4–4A(1) and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.201 Subparts II, V, VI, and VIII .201, .501, .502, .601, .602 and .801 as amended September 23, 1994, effective September 23, 1994.
10. Liquids in Landfills II, (57 FR 54452–54461) November 18, 1992. (Checklist 118).	NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.101, Subparts I, II, V, and VI, .102, .501, .502, .601, and .602 as amended September 23, 1994, effective September 23, 1994.
11. Wood Preserving; Amendments to Listings and Technical Requirements, (57 FR 61492–61505) December 24, 1992. (Checklist 120).	NMSA 1978, §§ 74–4–4A, 74–4–4A(1) and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.201 and 4.1.301, Subparts II, III, V, and VI, .201, .501, .502, .601, and.602 as amended September 23, 1994, effective September 23, 1994.
12. Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-By-Case Capacity Variance, (58 FR 28506–28511) May 14, 1993. (Checklist 123).	NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.801 as amended September 23, 1994, effective September 23, 1994.
13. Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated, (58 FR 29860–29887) May 24, 1993. (Checklist 124).	NMSA 1978, §§ 74–4–4A and 74–4–4E (Repl. Pamp. 1993); 20 NMAC 4.1.801 as amended September 23, 1994, effective September 23, 1994.

New Mexico is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that New Mexico's application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, New Mexico is granted authorization to operate its hazardous waste program as revised. New Mexico now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. New Mexico also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR part 272 for codification of the decision to authorize New Mexico's program and for incorporation by reference of those provisions of New Mexico's Statutes and regulations that EPA will enforce under section 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart GG until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of New Mexico's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 17, 1995.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 95–10143 Filed 4–24–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7136

[OR–943–1430–01; GP5–083; OR–49219]

Withdrawal of Public Lands for the Galice Creek Recreation Area; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 290.02 acres of Revested Oregon and California Railroad Grant Lands from surface entry and mining for a period of 20 years for the Bureau of Land Management to protect the Galice Creek Recreation Area located in Josephine County. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6171.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the significant historic and recreational values along Galice Creek:

Willamette Meridian

Revested Oregon and California Railroad Grant Lands

T. 34 S., R. 8 W.,
Sec. 35, S½SE¼SE¼.
T. 35 S., R. 8 W.,
Sec. 2, lots 7 to 14, inclusive, and lots 16, 17, and 19, N½SW¼NE¼, SE¼NW¼, and NW¼SW¼;
Sec. 3, SE¼NE¼SE¼ and E½SE¼SE¼.

The areas described aggregate 290.02 acres in Josephine County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: April 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–10081 Filed 4–24–95; 8:45 am]

BILLING CODE 4310–33–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MM Docket No. 93–24, FCC 95–51]

Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services; ITFS Filing Window

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Report and Order adopts a window filing procedure for the processing of applications for new Instructional Television Fixed Service (ITFS) stations and major changes to existing stations. It further adopts rules affecting the four-channel rule, receive site interference protection, the protected service area, and other aspects of ITFS operation. The Report and Order responds to the comments received in response to the Notice of Proposed Rulemaking in this proceeding. Notice of Proposed Rulemaking in MM Docket No. 93–24, (Notice), Order and Further Notice of Proposed Rulemaking in MM Docket No. 93–24 (Further Notice). The action is required to hasten ITFS and wireless cable service to the public by streamlining the processing of ITFS applications.

EFFECTIVE DATE: Upon approval of the Office of Management and Budget of a modified FCC Form 330 to effectuate the modifications approved in this Report and Order. The FCC will published a document announcing the effective date in the **Federal Register** when OMB approval is imminent.

FOR FURTHER INFORMATION CONTACT: Paul R. Gordon, Mass Media Bureau, Policy and Rules Division, (202) 739–0773.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in MM Docket No. 93–24, adopted and released on February 7, 1995. The complete text of this Report and Order is available for inspection and copying in the FCC Reference Center (room 239) at the Federal Communications Commission, 1919 M St., NW, Washington, DC 20554, and may also be purchased from the Commission's copying contractor, International Transcription Service, at (202) 857–3800, 2100 M St., NW, Suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. By this Report and Order, the Commission adopts rules that will increase the efficiency of our processing of applications for new ITFS stations, major amendments to such applications, and major changes to existing stations. The Commission also considers additional proposals intended to increase the efficiency, and curtail potential abuse, of the application processes.

2. During the past decade, applicants for new ITFS stations or major changes in existing stations have been subject to an A/B cut-off procedure. This procedure involves placing the first application(s) accepted for filing and determined to be substantially complete on a public notice called an "A" cut-off list. This list notifies the public that the application has been accepted and gives interested parties 60 days to file competing applications or petitions to deny. An applicant placed on the "A" cut-off list is required to make any major changes to its proposal before the end of the "A" cut-off period. After the "A" period expires, the staff places all substantially complete applications which were filed during that period and found to be mutually exclusive with any listed "A" application on a "B" list. This list notifies the public that the specified applications have been accepted for filing, and it provides 30 days for the filing of petitions to deny or minor amendments to those applications.

3. The telecommunications environment has changed substantially since 1985, when the Commission instituted this procedure. Also, in more than 90% of recently filed applications, ITFS licensees plan to lease their excess channel capacity to wireless cable operators, who almost always pays for the construction of the ITFS facilities. These changes have fostered a substantial increase in the rate of applications filed for new ITFS stations or major changes in existing stations, creating a significant backlog of applications. Therefore, in the Notice of Proposed Rulemaking in this proceeding, 58 FR 12011 (March 2, 1993), we proposed a filing window procedure for the acceptance of applications, to allow us to better control the flow of applications and to improve processing efficiency.

4. Pursuant to our proposal, we would accept applications for new facilities and applications for major changes in existing facilities only during limited periods (or "windows"). We would place applications filed in the window that were not mutually exclusive with any other application, and that were found to be acceptable for filing, on a proposed grant list. We would then provide the immediately following 30 days for the submission of petitions to deny. Uncontested applications would then be granted, if in the public interest. With regard to mutually exclusive applications, we would similarly give 30-day Public Notice for the submission of petitions to deny. Thereafter, we would evaluate those applications under the existing comparative selection process. Any applications currently tendered but not yet placed on an "A" cut-off list would be treated as having been filed and cut off as of the close of the first filing window.

5. Currently, simply to allow the release of an "A" cut-off list, each application must undergo a substantive engineering analysis upon filing. No applications are granted or denied in this stage of processing. Subsequently, after the "B" cut-off period, each

VOL 60 ISS 79 AP 25 1995 UMI

application undergoes a second technical analysis in order to determine whether it is grantable. Because each of these analyses requires significant resources, eliminating the duplicative step would substantially improve processing efficiency.

6. The Commission concludes that a window filing system, as enhanced by an electronic filing and processing system as proposed in our outstanding MDS rulemaking proceeding, 59 FR 63743 (Dec. 9, 1994), would serve the public interest. A window filing procedure would allow us to better control the flow of applications and it would prevent speculators from filing against applicants that had appeared on an "A" cut-off list.

7. A 60-day Public Notice period before each filing window will provide potential applicants adequate notice and opportunity to prepare their applications. As most commenters observe, this is the same period within which parties currently have to file an application in response to an "A" cut-off list. The window shall remain open for at least five business days. This period, when combined with the 60-day public notice, will provide all potential applicants time to prepare their applications.

8. Potential inefficiencies caused by the submission of a large number of applications during a national (as opposed to a regional) window are significantly diminished by our likely adoption of the electronic filing system for ITFS applications. A regional window would unfairly require educators not located within the relevant area to delay their educational plans. Finally, a national window will allow all interested parties to commence or continue their ITFS and MDS plans as soon as possible. This will provide the certainty of an imminent filing opportunity to all wireless cable entities, not just those within a restricted geographic area.

9. *Frequency.* Some commenters support a fixed schedule, arguing that this would allow educators to plan their proposals in advance of the Public Notice. They also advocate the non-discretionary opening of a window at least once each quarter, asserting that frequent filing periods are necessary to avoid unduly delaying the licensing of ITFS facilities that are essential to the growth of the wireless cable industry. However, we have never before utilized a window filing system with ITFS, and we therefore believe that we should take a more cautious approach as we structure the window filing system. The rate of the submission of applications could vary significantly in the future, and a fixed requirement could quickly and unpredictably become counterproductive or impracticable to meet. Also, we intend to open filing windows as frequently as is consistent with our goals of efficient and expeditious processing.

10. *Amendments.* Some commenters propose that, after a filing window closes, the Commission should prohibit amendments that demonstrate eligibility, improve comparative standing, or seek rule waivers. Currently, they claim, many applicants impose an unnecessary burden on the Commission by filing such amendments, such as requests for waiver of the four-channel-per-market rule, § 74.902(d) of the Commission's rules, 47 CFR 74.902(d).

11. We agree that amendments that pertain either to improving comparative standing or to establishing eligibility, as set forth in §§ 74.913(b) and 74.932(a) of the Commission's Rules, respectively, 47 CFR 74.913(b) and 74.932(a) should not be filed outside the window period. Similarly, we shall prohibit the filing of amendments to a facility's proposed technical operations, including amendments to add any receive sites, outside the window. Such engineering amendments often require a time-consuming re-analysis by the staff of the amendment's effects on other applications and thus delay the processing of all pending applications. However, with the two exceptions noted above, such delay is not inherent in non-engineering amendments, including requests for waiver of the four-channel rule, and we will consequently permit their filing.

12. We make a narrow exception to the window filing system. NTIA rules require a party seeking a grant to have already filed its application with the Commission, and those requests are subject to an annual deadline. Accordingly, in order not to obstruct these grants, we shall allow the tendering of applications that rely upon NTIA funding during the 30 days preceding the annual deadline. They shall be considered as having been filed during the current or immediately subsequent window, whichever is appropriate.

13. In response to several commenters, we decline generally to exempt the filing of major change applications from the window filing process, and, as discussed above, we similarly decline to exempt amendments with similar effects. By definition, such changes can substantially impact both existing and proposed facilities. Accordingly, for the purpose of the window filing procedure, they should be treated the same as applications for new facilities. However, consistent with existing practice, we shall continue to make a narrow exception for amendments to pending applications that would resolve mutually exclusive applications without creating any additional interference. We will accept such amendments at any time, and we shall provide a 30-day period for the submission of petitions to deny those amendments. We believe that this will most efficiently bring new or improved service to the public. Further, to encourage market settlements, we shall now allow licensees of existing facilities to submit at any time applications for major changes, as long as the changes are essential components of a settlement involving mutually exclusive applications.

14. The Commission declines to adopt several other exceptions that the commenters propose. These rules would significantly disrupt the new window filing system, while promoting no public interest that is not already being served by the filing procedure or other ITFS rules.

Proposals to Improve the Application Process

15. As argued by the commenters, and noted in the *Further Notice*, the goals of the proposed window filing procedure could be maximized if we at the same time enacted additional rules that would increase its efficiency. Therefore, we set forth several proposals, many initially advanced by the commenters, that were intended to improve service to the public or otherwise enhance processing efficiency. Our analysis of each of the proposals will be affected by two factors. First, as noted above, is the proposed electronic filing and processing system for ITFS applications, which would diminish the negative impact that a large number of applications has had on our processing in the past. Second, implementation of the proposals adopted herein and strict enforcement of our existing rules will, we believe, eliminate many of the inefficiencies and alleged abuses of the existing processing system.

Financial Qualifications

16. *Proposal.* Currently, applicants are required to certify their financial ability or their reliance upon NTIA funding. In response to the *Notice*, two commenters proposed to require applicants or their prospective wireless cable lessees to submit with their applications proof of their financial ability to construct. In the *Further Notice*, 59 FR 35665 (July 13, 1994) we postulated that such a requirement might deter a significant number of ITFS speculators. We also asked whether we should require separate financial documentation for each station applied for, and whether we should require the wireless cable lessee to submit the documentation when it is paying for construction of the facilities.

17. The record does not indicate that our reliance on applicant certification has been ill-placed. Further, we believe that the submission of detailed financial information would in practice neither increase processing efficiency nor deter abuse. Collecting the data would impose significant costs on the wireless cable lessee, regardless of whether the supporting documents were kept on hand by the educator or submitted to the Commission. We believe that a sound analysis of all of the incoming detailed financial submissions would consume a great deal of the staff's time, severely slowing the rate of processing. Conversely, any reliance on the documents without our own rigorous independent analysis would enable us to detect only a small proportion of potential abuse.

18. A financially unqualified educator would generally not be able to complete construction within the prescribed period. Because that educator would then need an extension of time within which to construct, it would have to submit an appropriate application to the Commission, explaining the reasons for its delay in construction. Thus, we already have a process in place by which we can monitor and assess ITFS licensees' progress in constructing their authorized facilities and forestall any dilatory conduct on their part. Should it become necessary in the future, we can revise this process accordingly.

Application Caps

19. We now address two proposals, raised in response to the Notice by the Educational Parties: (1) To impose a cap of 25 applications associated with the same wireless cable entity, including any entity with direct or indirect common ownership or control; and (2) to limit an individual nonlocal ITFS entity to filing no more than three to five applications during a window. To support this restriction, the Educational Parties argued that nonlocal applicants often work with wireless cable entities as frequency speculators. The overwhelming majority of interested commenters oppose the adoption of either type of cap.

20. To suddenly impose limits on the number of applications that particular parties may be affiliated with would slow both ITFS and wireless cable development. Further, it would artificially constrain MDS operators' business decisions as to the number of ITFS channels needed to establish economically viable wireless cable operations. Also, we can deter the speculation complained of by the less restrictive process of analyzing construction extension applications, as noted above.

Assignment of Unbuilt Facilities

21. In the Further Notice, we proposed to formalize our current practice of limiting the allowable consideration for the assignment of authorizations for unbuilt ITFS facilities to out-of-pocket expenses, as we do with broadcast construction permits. Our stated goal was to diminish the incentive of frequency speculators to submit applications for authorizations that they intend to later assign for profit. Every commenter addressing this issue supports the proposal, agreeing that it would help deter abuse. We agree that this limitation, applicable to broadcast construction permits, will have similar deterrent effects on frequency speculation in the ITFS service, and we shall therefore adopt it.

Excess Capacity Lease Terms

22. *Proposal and Comments.* Our existing policy does not authorize an educator to execute a lease agreement the term of which extends beyond the end of the educator's license term. Consequently, depending on how many years remain in the term, there may be situations in which our policy would prohibit a lease agreement to extend beyond one or two years. At most, MDS operators can have contractual access to ITFS channels for no more than ten years, the length of a full license period. Some commenters propose that we modify our policy to allow parties to negotiate lease agreements whose terms extend beyond the end of the license term, to demonstrate to potential investors their long-term channel access. The proposal is unopposed.

23. *Discussion.* The wireless cable industry requires substantial equity investment in order to become a viable competitor in the video marketplace. However, potential financiers are likely to exercise caution before investing in an MDS system, where there is uncertain long-term availability of the ITFS channels that provide the basic capacity for that system. Authorizing lease agreements that extend beyond the end of the license term would reduce the anxiety of potential investors that the MDS entity would shortly lose four channels, crippling the entire system. The increased confidence of investors will significantly accelerate the development of the wireless cable industry and provide competition to wired cable. Hence, we are revising our policy to permit an educator, if it chooses, to execute a 10-year lease agreement without regard to the duration of the educator's current license term. ITFS lease agreements that extend beyond the end of the license term must note that such an extension is contingent on the renewal of the educator's license.

Application of the Four-Channel Rule

24. *Proposal.* We seek to provide as many educators as possible with the opportunity to operate ITFS systems that meet their educational needs. Consequently, the four-channel limitation rule generally limits an ITFS licensee to four channels for use in a single area of operation. However, we have never clearly and formally defined what constitutes an "area of operation." The Further Notice proposed to adopt the staff's informal policy of considering a single area of operation for this purpose to extend no farther than 20 miles from the transmitter site. Many commenters supported such a mileage-based proposal, while others preferred one based on predicted interference.

25. *Discussion.* We adopt the 20-mile standard. Our experience has demonstrated that this standard is efficient and easily understood and implemented. Determining a station's area of operation by use of the interference approach would require a considerable amount of technical analysis by the staff. As a consequence, adoption of this proposal could inordinately slow processing and delay service to the public. We recognize that any mileage standard will be imprecise, because there will always be educators that serve sites beyond the designated distance. However, the bright-line test we are adopting today has the important advantage of being easy for applicants to comprehend and apply. Further, the Commission staff can process applications far more efficiently using this standard. Moreover, staff, educators, and wireless cable entities are extremely familiar with this standard, having utilized it for a number of years.

Protected Service Areas

26. *Proposal.* The Further Notice also solicited comment on a proposed change in the application of protected service areas for wireless cable lessees. Currently, we provide a 15-mile interference protection for a service area regardless of receive site locations, but solely at the request of the ITFS

VOL 60 ISS 79 AP 25 1995 UMI

applicant or licensee. The Further Notice observed that an applicant for new facilities often requests and receives interference protection that restricts an existing licensee lacking such protection from pursuing certain modifications to its facilities. At the same time, an existing facility that has not requested such protection, upon learning that an application for a nearby operation has been filed, often requests interference protection and possibly obstructs the new applicant. We therefore proposed to apply interference protection only prospectively, making it effective solely with regard to applications filed after the protection request. We asked commenters whether our proposal would sufficiently diminish the disruption and delay resulting from the current system. We also asked commenters to address a specific application of the proposed rule: If two applications are (1) submitted during the same filing window, (2) otherwise grantable, and (3) mutually exclusive only because both applicants request a protected service area, we proposed to consider them as mutually exclusive. Most commenters addressing the proposal express support.

27. *Discussion.* We conclude that the public interest will be served by adoption of the proposal to apply protected service area protection only prospectively. Adoption of the proposal will diminish disruption to existing and proposed facilities. Only one commenter expressed opposition to the proposed specific application of the rule involving mutual exclusivity, and we shall adopt it, with a slight exception. There is no public interest benefit in protecting an uninhabitable area. To do so would needlessly restrict neighboring facilities, unduly depriving the area of both ITFS and wireless cable programming. Thus, if an applicant shows that interference will occur solely over water, we shall not consider the applications to be mutually exclusive. However, in order to avoid future conflicting interpretations and confusion, we will not extend the exception to cover any area in which no subscribers or potential subscribers would be affected by the interference.

Receive Site Interference Protection

28. *Proposal.* The Commission's rules currently provide interference protection to an educator's receive sites, regardless of their distance from the transmitter. The Further Notice cited instances in which interference protection was requested for receive sites apparently beyond an educational institution's reasonable coverage area. We stated in the Further Notice that such requests could be an abuse of our processes, designed to artificially increase the service area of the wireless cable lessee. We also opined that eliminating this practice would significantly increase the efficiency of our processing of applications, thereby hastening service to the public. We tentatively concluded that an educational institution is generally unlikely to reasonably serve a receive site located more than 35 miles from the transmitter. Thus, absent a showing of unique circumstances, we proposed to protect only those receive sites 35 miles or less from the transmitter. Further, we proposed that an applicant not be able to claim basic eligibility for a license by use of any receive site more than 35 miles from the transmitter. With regard to the 35-mile standard generally, the commenters are nearly evenly divided.

29. *Discussion.* We acknowledge the concerns of some commenters that educators may at times serve receive sites beyond the proposed boundary. In fact, however, under the proposed rule, a licensee could protect two receive sites that were as far as 70 miles apart, depending on the location of the transmitter. Thus, we find that the 35-mile standard is not unduly restrictive, and we adopt the proposal as it regards both interference protection and basic eligibility for receive sites not more than 35 miles from the transmitter. However, we will waive the rule for a particular site if an applicant can demonstrate that it is located within the educator's reasonable coverage area.

Major Modifications

30. *Proposal.* We turn now to our proposal to reclassify certain types of modifications to existing ITFS facilities. As stated in the Further Notice, we have classified these as either major or minor, attaching different procedural rules to each. In the Further Notice, we expressed our belief that our consideration of certain changes as minor does not realistically take into account the impact that they would have on the facilities in question, nearby facilities, or proposed facilities. Consequently, we proposed to reclassify as a major change any application involving: (1) Any polarization change; (2) the addition of any receive site that would experience interference from any licensee or applicant on file prior to the submission of the application; (3) an increase in the EIRP in any direction by more than 1.5 dB; (4) an increase of 25 feet or more in the transmitting antenna height; or (5) any change that would cause interference to any previously proposed application or existing facility. We additionally proposed to formalize our policy of considering proposals to relocate a facility's transmitter site by ten miles or more as a major change. We also proposed to exempt from the new rule any change that would resolve mutually exclusive applications without creating new frequency conflicts. Most of the commenters that addressed this issue generally supported the proposal. Also, the supporting comments assert that the adoption of the MDS modification rules would be desirable, due to the technical and regulatory relationship that exists between the two services.

31. *Discussion.* Our experience, as supported by many of the comments, warrants the need to modify the current classification system to increase processing efficiency, and we do not believe that the reclassification of certain amendments as major will diminish processing efficiency. Also, adoption of the MDS classification system would not be appropriate. Its definition of a major change is significantly broader than that previously used or now adopted for ITFS. However, the MDS rolling one-day filing window is structured to accommodate such an expansive definition, and it does not significantly restrict the submission of applications to change existing facilities. The ITFS window filing system, on the other hand, is not compatible with such an expansive classification that would needlessly restrict the filing of many ITFS technical modifications. Thus, we shall classify as major any application involving: (1) Any polarization change; (2) an increase in the EIRP in any direction by more than 1.5 dB; (3) an increase of 25 feet or more in the transmitting antenna height; and (4) relocation of a facility's transmitter site by ten miles or more. We shall, however, accept such applications at any time, if their grant would resolve mutually exclusive applications without creating new conflicts. Adoption of the proposal will significantly expedite the processing of ITFS applications.

32. We do not incorporate into the new rule two types of changes that we had earlier listed: (1) The addition of any receive site that would experience interference from any licensee or applicant on file prior to the submission of the application; and (2) any change that would cause interference to any previously proposed application or existing facility. By eliminating the cut-off system, the window filing system will prevent parties from requesting changes that are mutually exclusive with a tendered but not yet cut-off application.

Reasonable Assurance of Receive Sites

33. *Proposal.* The Further Notice requested comment on how best to ensure the accuracy of each applicant's list of receive sites. We seek to deter applicants from listing receive sites that have in fact not agreed to participate in the proposed ITFS system. We therefore proposed requiring a letter of assurance from the applicant, listing each receive site's contact person, title, and telephone number. Most interested commenters support a stricter requirement than we proposed, and two commenters oppose the proposal in any form. Supporters argue that for adequate deterrence, we should require a verification letter from an authorized official of each receive site listed in an application.

34. *Discussion.* To better ensure the accuracy of receive site lists submitted both by local and nonlocal applicants, we adopt a modified version of the proposal. Processing efficiency will be enhanced because the additional data would allow for rapid confirmation of a site's participation. However, requiring a separate letter of verification from each receive site would involve the submission of potentially dozens of separate letters. We believe, though, that we can expedite processing to the same degree on the application form: where we already ask for information about each of the applicant's receive sites, we shall simply add a column asking for a contact person's name, title, and telephone number. The contact person should be the person (or one of the people) responsible for implementation of the ITFS program at that receive site.

Accreditation of Applicants

35. *Proposal.* While applicants seeking to construct a new ITFS station must indicate their accreditation or that of the schools or other institutions that intend to utilize the proposed ITFS service, we noted in the Further Notice that the extent to which the specified receive sites are being utilized by students from accredited institutions is not called for. Accordingly, we proposed to require applicants to state whether and by whom each listed receive site is accredited. We also asked whether having only one proposed receive site out of many as accredited defeats the fundamental purpose of ITFS: To serve the educational needs of accredited institutions. Thus, we invited commenters to address whether we should require a majority of receive sites to be accredited in order for the application to be grantable, or if we should deny interference protection for any unaccredited receive site. The proposed changes are generally opposed by the commenters. Many of them argue that receive sites are increasingly being used for distance learning without regard to whether they are accredited.

36. *Discussion.* The record does not demonstrate that serving one accredited receive site among other unaccredited receive sites is incompatible with serving the formal, for-credit educational needs of students enrolled at accredited institutions, and we therefore decline to adopt either proposal. To do otherwise would artificially restrict those enrolled students' accessibility to formal ITFS educational programming, while depriving others of worthwhile programming, such as in-service training and instruction in special skills and safety programs. As most commenters note, while the essential purpose of the ITFS service is to provide formal educational programming to students enrolled in accredited schools, colleges and universities, the Commission has long recognized the value of transmitting "other visual and aural educational, instructional and cultural material to selected receiving locations * * *" 47 CFR 74.931(a)–(b). We find no evidence on the record that persuades us to now significantly alter the existing relationship between the provision of formal, for-credit educational ITFS programming and the offering of other educational, instructional, and cultural material, Indeed, we reaffirm our commitment to our longstanding objective, one that permits ITFS licensees to transmit educational and cultural programs for use in other than a classroom setting or to persons other than students enrolled at accredited institutions. However, we take this opportunity to modify and make clearer our requirements regarding the need for further specification with respect to the accreditation of the parties utilizing the proposed ITFS services.

37. To attain eligibility, an ITFS applicant must, among other things, be accredited in its own right and serve its own students or serve accredited institutional or governmental organizations. It has come to our attention that some applicants accredited in their own right propose service only to receive sites which will not be used by their own students. Such applicants do not satisfy the eligibility requirements. They must, therefore, as Item 3 of Section II in the FCC Form 330 now requires, indicate the name of the "school/institution" it will serve, the accreditation date and the accrediting agency or organization. However, we have found, in processing applications, that the name of the school or institution often does not match with any receive site specified in Section VI of the Form 330. For ease of processing, we shall require, for applicants accredited in their own right and serving their own students, to identify in Section II, Item 3(a), the receive sites in Section VI which fall under their jurisdiction. For other applicants, that is, those which are accredited and not serving their own students and those applicants which are unaccredited and establishing their eligibility by serving accredited institutions, we shall require that they specify in Section II, Item 3(b), the receive sites belonging to or being used by the accredited institution. This additional information will enable the staff and all interested parties to immediately determine the accreditation status of an applicant.

Other Proposals

38. *Offset.* The Further Notice proposed requiring the use of offset when all affected transmitters are capable of handling frequency offset stability requirements. This proposal is supported by most of the commenters. However, we believe that voluntary agreements to utilize frequency offsets better serve the public interest. The use of frequency offsets represents a balancing of the need to prevent co-channel interference with our desire to allow an increase in the number of stations in a geographic area. As such, frequency offsets are not a substitute for the standard of interference protection, a desired-to-undesired signal ratio of 45dB, that our technical rules are designed to ensure. Indeed, the efficacy of frequency offsets, which is not universally acclaimed by the engineering society, is largely determined by the exigencies of the situation at hand, requiring affected applicants and licensees to engage in cooperative efforts to construct and adjust their respective technical operations to successfully avail themselves of this engineering technique, if possible. Under these circumstances, we are not persuaded to require the mandatory specification of frequency offsets.

39. *Expedited Consideration of Applications.* In the Further Notice, we asked for comments on the Educational Parties and WCA's proposal that we expedite consideration of certain ITFS applications in return for the applicant's agreeing to an accelerated construction schedule. The stated purpose was to rapidly authorize facilities that would most likely become part of an operating wireless cable system. Most commenters are supportive of the proposal, although

VOL 60 ISS 79 AP 25 1995 UMI

they disagree on the details of its implementation. Opponents of expedited consideration argue that it would not in fact accelerate the construction of viable MDS systems, because processing the likely high number of requests would delay service to the public. We agree. Rapid authorization of ITFS facilities is essential to providing unique educational programming to greater numbers of people, and to accelerating the ability of MDS systems to compete with wired cable operators. The more rapid processing sought by the commenters will likely be achieved by implementation of the filing window, as enhanced by the proposed electronic filing and processing system and the other modifications adopted in this proceeding Hence, we do not believe that adoption of the commenters' proposal is warranted.

40. *FAA Authorization.* As mentioned in the Further Notice, we do not grant or modify a license until the Federal Aviation Administration (FAA) has determined that the proposed transmitter site and receive sites will pose no hazard to air navigation. To prevent needless delay in processing applications, we proposed to require applicants to inform the Commission of the FAA's determination. The record clearly supports our belief that enactment of this policy would speed processing at minimal cost to applicants. Therefore, to expedite processing, we require applicants to inform the Commission of the FAA's determination on a timely basis.

41. *Interference Studies.* The Further Notice noted that applicants frequently make technical claims that lack adequate supporting data. To address this problem, we proposed requiring the submission of terrain profiles and a quantitative analysis of any additional signal loss calculated by using the Longley-Rice propagation model, Version 1.2.2, in the point-to-point mode. Most of the commenters that addressed this issue generally support the proposal, but advocate various exceptions to the rule, allowing the use of less rigorous models under a variety of circumstances.

42. Based on the information before us, we shall not adopt the proposal. The record demonstrates that our concern will be met by the submission of any valid profile maps or sufficient data that takes terrain shielding into account and supports the validity of each claim, regardless of whether the study involves the Model. Also, for each instance where terrain shielding is relied upon to protect ITFS facilities, applicants will be required to submit the quantitative amount of signal attenuation, in dB, attributable to terrain shielding. Any study must use generally acceptable engineering practices, and applicants must state the specific model they have used in their analysis.

43. *Construction of Facilities.* Some commenters express concern that the Commission has extended construction periods for parties with no intention to construct. Hence, they request strict guidelines for granting such extensions. One proposes decreasing the period within which an ITFS licensee must construct its facilities from 18 months to 12 months. It alleges that, if its proposal were adopted, frequency speculators would quickly lose their licenses and their channels would consequently become available during the next window. In both cases, however, our existing rules already address these matters. We have set forth the requirements an educator must meet in order to obtain an extension of time within which to construct: (1) Construction is complete and testing of the facilities has begun; (2) substantial progress has been made; or (3) reasons clearly beyond the applicant's control, which applicant has taken all possible steps to resolve, have prevented construction. We have no specific evidence that these rules have not operated sufficiently to prevent abuses by frequency speculators. Therefore, we decline to modify the period of time to construct.

Administrative Matters

A. Regulatory Flexibility Analysis

44. These rules are not major rules for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that these rules will not have a significant impact on small business entities.

B. Final Regulatory Flexibility Analysis

45. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that this decision will have an impact on ITFS stations by establishing a window filing procedure for the processing of such applications and applications for major changes to existing ITFS stations, and by adopting rules affecting the four-channel ruleee, receive site interference protection, the protected service area, and other aspects of ITFS operation. As detailed in the full text of the Report and Order, the Commission has attempted, wherever possible within the statutory constraints, to establish regulations which, to the extent possible, minimize the burdens of ITFS stations. The full text of the Commission's final regulatory flexibility analysis may be found in Appendix A of the full text of this Report and Order.

C. Ordering Clauses

46. It is ordered that this Report and Order is adopted.

47. It is further ordered that, pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 CFR 74 is amended as set forth below. The change to the rules adopted in this Report and Order will become effective upon approval of the Office of Management and Budget of a modified FCC Form 330 to effectuate the modifications approved in this Report and Order.

48. It is further ordered that MM Docket No. 93–24 is terminated.

List of Subjects in 47 CFR Part 74

Television broadcasting, Instructional television fixed service.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules

Part 74 of title 47 of the Code of Federal Regulations is amended as follows:

PART 74—EXPERIMENTAL AUXILIARY, AND SPECIAL BROADCAST DISTRIBUTION SERVICES

1. The authority citation for part 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended; 47 U.S.C. 301, 303, 307.

2. Section 74.902 is amended by revising the second sentence of paragraph (d)(1) to read as follows:

§ 74.902 Frequency assignments.

* * * * *

(d)(1) * * * An area of operation is defined as the area 20 miles or less from the ITFS transmitter.* * *

* * * * *

3. Section 74.903 is amended by adding a new paragraph (a)(5), by adding a final sentence to paragraph (e), and by adding a new paragraph (f), to read follows:

§ 74.903 Interference.

(a) * * *

(5) No receive site more than 35 miles from the transmitter shall be entitled to interference protection.

* * * * *

(e) * * * Such protection shall be applied solely with regard to applications filed subsequent to the request for a protected service area.

(f) With respect to protected service area proposals, two applications will be regarded as mutually exclusive if they are:

(1) Submitted during the same filing window;

(2) Otherwise grantable;

(3) Mutually exclusive only because either or both applicants request a protected service area. However, if an applicant in such a situation shows that the resulting interference would occur solely over water, the applications will not be considered to be mutually exclusive.

§ 74.910 [Amended]

4. Section 74.190 is amended by removing the entry Section 73.3564(a), (b) Acceptance of applications, and adding in its place, 73.3597(c)(2) Procedures on transfer and assignment applications.

5. Section 74.911 is amended by revising the third sentence of paragraph (a)(1), and by revising paragraph (c) to read as follows:

§ 74.911 Processing of ITFS station applications.

(a) * * *

(1) * * * A major change for an ITFS station will be any proposal to add new channels, change from one channel (or channel group) to another, change polarization, increase the EIRP in any direction by more than 1.5dB, increase the transmitting antenna height by 25 feet or more, or relocate a facility's transmitter site by 10 miles or more.* * *

* * * * *

(c)(1) New and major change applications for ITFS stations will be accepted only on dates specified by the Commission. Filing periods will be designated by the Commission in a Public Notice, to be released not fewer than 60 days before the commencement of the filing period. Qualified parties will have no fewer than 5 business days within which to submit their applications. After termination of the filing period, the Commission shall release a Public Notice with a list of applications filed in the window and provide no fewer than 30 days for the submission of petitions to deny. Uncontested applications that are not mutually exclusive with any other application or licensed facility, and are found to be acceptable, shall be granted. Mutually exclusive applications shall be evaluated pursuant to the comparative selection process set forth in § 74.913 as herein amended.

(2) The requirements of this section apply to a wireless cable entity requesting to be licensed on ITFS frequency pursuant to § 74.990. The application of such a wireless cable entity shall be included in the Public Notice released after the termination of the filing period.

* * * * *

6. Section 74.913 is amended by revising the first sentence of paragraph (d)(1), and adding a new paragraph (d)(5), to read as follows:

§ 74.913 Selection procedure for mutually exclusive ITFS applications.

* * * * *

(d) * * *

(1) Enrollment will be considered as of the last date of the filing window during which the applications were filed, as provided by § 74.911(c).* * *

* * * * *

(5) A receive site not receiving interference protection may not be utilized by an applicant for tie-breaking purposes.

* * * * *

7. Section 74.932 is amended by adding a new paragraph (e), to read as follows:

§ 74.932 Eligibility and licensing requirements.

* * * * *

(e) No receive site more than 35 miles from the transmitter site shall be used to establish basic eligibility.

* * * * *

8. Section 74.991 is amended by revising the last two sentences of paragraph (a) to read as follows:

§ 74.991 Wireless cable application procedures.

(a) * * * A wireless cable application for available instructional television fixed service channels will be subject to § 21.914 of this chapter with respect to other wireless cable applicants, and to the ITFS window filing period with respect to instructional television fixed service applications. All lists of accepted applications for ITFS frequencies, regardless of the nature of the applicant, will be published as ITFS public notices.

* * * * *

[FR Doc. 95–10024 Filed 4–24–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 90

[DA95–741]

Inter-Category Sharing of Private Mobile Radio Services in the 806–821/851–866 MHz bands

AGENCY: Federal Communications Commission.

ACTION: Notice of policy.

SUMMARY: The Wireless Telecommunications Bureau has imposed a freeze on the filing of new applications for inter-category sharing on all private mobile radio service frequencies in the 806–821/851–866 MHz bands. This action was taken to ensure the continued availability of these channels to currently eligible Part 90 applicants not licensed in the Specialized Mobile Radio (SMR) Service until the Commission resolves inter-category sharing issues in PR Docket No. 93–144 and PP Docket No. 93–253. This action will assure the integrity of the Commission's licensing process.

EFFECTIVE DATE: April 5, 1995.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Wireless Telecommunications Bureau, (202) 418–0627.

SUPPLEMENTARY INFORMATION: This is a summary of the Wireless Telecommunications Bureau's Order, DA95–741, adopted April 5, 1995, and released April 5, 1995. The full text of this Order is available for inspection and copying during normal business hours in the Private Wireless Division, Wireless Telecommunications Bureau, 2025 M Street, Room 5322, Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, Suite 140, Washington, DC 20037, telephone (202) 857–3800.

This will impose no paperwork burden on the public.

Summary of Order

1. The Wireless Telecommunications Bureau imposed a temporary freeze on inter-category sharing of frequencies in the 806–821/851–866 MHz band allocated to the Public Safety, Industrial/Land Transportation (I/LT), Specialized Mobile Radio (SMR) and Business Services, in response to a request by the Association of Public Safety Communications Officials, Inc. (APCO). This request was opposed by the Industrial Telecommunications Association, Inc. (ITA).

2. APCO asserts that as a consequence of a Commission-imposed freeze (59 Fed. Reg. 60111 (November 22, 1994))

VOL 60 ISS 79 AP 25 1995 UMI

on the acceptance of 800 MHz applications on 280 SMR category channels, SMR applicants sought inter-category use of frequencies in the I/LT and Business Categories which, in turn, caused I/LT and Business applicants to seek out-of-category channel assignments on Public Safety category channels. APCO asserts that this situation endangers the continued availability of these frequencies to the public service community.

3. ITA opposes APCO's request asserting that it is a cavalier approach to eliminating a long-standing and beneficial rule. Opponent further contends that the stay request is merely a reiteration of APCO's long-standing objection to the inter-category sharing rules.

4. The Commission has undertaken a rule making proceeding (PR Docket 93–144, 59 FR 60111 (November 22, 1994)), in which it is considering Part 90 spectrum allocation issues. In response to a Congressional directive, the Commission is also in the process of developing a specific plan to ensure adequate spectrum to meet public safety demands. Continued inter-category sharing at this time, and at this substantial rate, could compromise both issues by exhausting the supply of available channels, particularly in the public safety spectrum.

5. Freezing acceptance of new inter-category sharing applications does not eliminate, as alleged by ITA, the inter-category rules. This temporary action merely ensures the successful resolution of the spectrum allocation issues raised in PR Docket No. 93–144 and the concerns raised by the public safety community.

List of Subjects in 47 CFR Part 90

Administrative practice and procedure.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 95–10131 Filed 4–24–95; 8:45 am]

BILLING CODE 6712–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9904

Cost Accounting Standards Board; Cost Accounting Standards for Composition, Measurement, Adjustment, and Allocation of Pension Costs

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule revising the Cost Accounting Standards relating to accounting for pension costs under negotiated government contracts, which was published Thursday, March 30, 1995 (60 FR 16534).

EFFECTIVE DATE: March 30, 1995.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board (telephone: 202–395–3254).

The final rule published Thursday, March 30, 1995, at 60 FR 16534 is corrected as follows.

§ 9904.412–64 [Corrected]

1. On page 16548, in the first column, in 9904.412–64(a)(1), in the fourth line, after "to" delete bracketed information and insert "March 30, 1995".

§ 9904.413–60 [Corrected]

2. On page 16555, in the third column, in 9904.413–60(c)(16), in the second line, after "(c)" delete "(17)" and insert "(15)".

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

[FR Doc. 95–10100 Filed 4–24–95; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672, 675, and 676

[Docket No. 950418107–5107–01; I.D. 022295A]

Groundfish of the Gulf of Alaska, Groundfish of the Bering Sea and Aleutian Islands Area, Limited Access Management of Federal Fisheries In and Off of Alaska; Nomenclature Change

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS announces a technical amendment to revise references to the term "the Secretary" and similar language in fisheries regulations dealing with North Pacific fisheries. The purpose of this revision is to reflect the delegation of the Secretary of Commerce's authority to implement Magnuson Fishery Conservation and Management Act (Magnuson Act) fishery regulations to NMFS. This revision clearly identifies for the public the agency responsible for these regulations.

EFFECTIVE DATE: April 25, 1995.

FOR FURTHER INFORMATION CONTACT: William D. Chappell, 301–713–2341.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone off Alaska are managed by NMFS according to Fishery Management Plans (FMPs) for Groundfish of the Gulf of Alaska and Groundfish of the Bering Sea and Aleutian Islands Area prepared by the North Pacific Fishery Management Council under the authority of the Magnuson Act. These FMPs are implemented by regulations governing the U.S. groundfish fishery at 50 CFR parts 672 and 675, respectively. Limited Access Management of Federal Fisheries In and Off Alaska is implemented by regulations at 50 CFR part 676. General regulations that also pertain to U.S. fisheries are implemented at 50 CFR part 620.

Department of Commerce Organization Order 10–15 of January 15, 1988, delegated certain authority of the Secretary of Commerce to the Under Secretary/Administrator of NOAA. The Under Secretary has redelegated part of this authority, including management of living marine resources under the Magnuson Act, to NMFS. This action revises the North Pacific fisheries regulations to identify the agency that has the redelegated authority and responsibility for issuing the regulations and otherwise performing the management functions required by the Magnuson Act.

The term "the Secretary, the Secretary of Commerce," or "Secretarial" are used throughout the regulations in referring to functions and authorities assigned to the Secretary of Commerce in the Magnuson Act. These functions have been delegated and are performed by NMFS. These amendments revise the nomenclature to reflect that NMFS is the responsible agency.

Classification

Because these technical amendments make only minor, non-substantive corrections to existing rules, notice and public procedure thereon and a delay in effective date are unnecessary. Accordingly, under 5 U.S.C. 553(b)(B) and (d), notice and public procedure thereon and a delay in effective date are unnecessary.

Because this rule is being issued without prior comment, it is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis and none has been prepared.

This rule makes minor technical changes to rules that have been determined to be not significant under E.O. 12866, does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612, and does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act. No changes in the regulatory impacts previously reviewed and analyzed will result from implementation of this technical amendment.

List of Subjects in 50 CFR Parts 672, 675, and 676

Fisheries, Reporting and recordkeeping requirements.

Dated: April 18, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts, 672, 675, and 676 are amended as follows:

PART 672—GROUNDFISH OF GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In part 672, all references to "The Secretary" or "the Secretary" are revised to read "NMFS".

3. In § 672.20, paragraphs (d)(1)(i), (d)(1)(ii), (d)(2), (d)(5)(i), and (d)(5)(iv)(A)(*3*), all references to "he" are revised to read "NMFS".

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. In part 675, all references to "The Secretary", "the Secretary", or "The Secretary of Commerce" are revised to read "NMFS", except for § 675.27(d)(2)(ii) where the title "the Secretary of the Interior" is retained.

6. In § 675.20, paragraphs (b)(1)(i) through (b)(1)(iii) and (b)(2)(i), all references to "he" are revised to read "NMFS".

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

7. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

8. In part 676, all references to "The Secretary" or "the Secretary" are revised to read "NMFS", except for § 676.24(f)(2)(ii) where the title "the Secretary of the Interior" is retained.

9. In § 676.24(c), remove the word "Secretarial" in the last sentence.

10. In the heading of § 676.24(e) and in § 676.24(h)(3)(i), remove the word "Secretarial" and add in its place the acronym "NMFS".

[FR Doc. 95–10105 Filed 4–24–95; 8:45 am]

BILLING CODE 3510–22–F

VOL 60 ISS 79 APR 25 1995 UMI

Proposed Rules

Federal Register
Vol. 60, No. 79
Tuesday, April 25, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Chapter I

Meeting of the Indian Self-Determination Negotiated Rulemaking Committee

AGENCY: Bureau of Indian Affairs, Interior, Indian Health Service, HHS.

ACTION: Notice of meeting.

SUMMARY: The Secretary of the Interior (DOI) and the Secretary of Health and Human Services (DHHS) have established an Indian Self-Determination Negotiated Rulemaking Committee (Committee) to negotiate and develop a proposed rule implementing the Indian Self-Determination and Education Assistance Act (ISDEAA), as amended. The Departments have determined that the establishment of this Committee is in the public interest and will assist the agencies in developing regulations authorized under section 107 of the ISDEAA. The agenda for this meeting will consist of workgroup reports on the advantages and disadvantages of developing regulations in those subject areas provided in the ISDEAA where regulations are permitted. In addition, further meeting and work assignments will be planned.

DATES: The Committee will meet on the following days beginning at approximately 8:30 am and ending at approximately 5:00 pm on each day: Thursday, May 11, Friday, May 12, Saturday, May 13 (Workgroups may be meeting May 9th and the 10th 1995.)

ADDRESSES: All meetings May 11 through 13, 1995, will be held at the: Denver Marriott Tech Center, 4900 S. Syracuse Street, Denver CO 80237. Tel.: (303) 749–2528. (Workgroups will also be meeting at the same location.)

Written statements may be submitted to Mr. James J. Thomas, Chief, Division of Self-Determination Services, Bureau of Indian Affairs, 1849 C Street, NW., MS–4627–MIB, Washington, DC 20240, Telephone (202) 208–3708.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Thomas, Chief, Division of Self-Determination Services, Bureau of Indian Affairs, 1849 C Street, NW., MS–4627–MIB, Washington, DC 20240, Telephone (202) 208–3708, or Ms. Merry Elrod, Acting Director, Division of Self-Determination, Indian Health Service, 5600 Fishers Lane, Parklawn Building, Room 6A–19, Rockville, MD 20857. Telephone (301) 443–1104/1044.

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register**. The meetings will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits and file written statements with the Committee for its consideration. Written statements should be submitted to the address listed above. Summaries of Committee meetings will be available for public inspection and copying ten days following each meeting at the same address. In addition, the materials received to date during the input sessions are available for inspection and copying at the same address.

Dated: April 20, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–10194 Filed 4–21–95; 10:06 am]

BILLING CODE 4310–02–M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901 and 924

Alabama and Mississippi Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: OSM is announcing the extension of the public comment period to May 10, 1995, pertaining to the implementation in Alabama and Mississippi of the underground coal mine subsidence control and water replacement provisions of the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM requested public comment on this issue on April 10, 1995 (60 FR 18044). The public comment period is being extended for the convenience of the public.

DATES: Written comments must be received by 4:00 p.m., C.S.T. on May 10, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Jesse Jackson, Jr., Director, Birmingham Field Office at the address listed below.

Copies of the applicable parts of the Alabama and Mississippi programs, SMCRA, the implementing Federal regulations, information provided by Alabama and Mississippi concerning their authority to implement State counterparts to SMCRA and the implementing Federal regulations, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the address listed below during normal business hours, Monday through Friday, excluding holidays.

Jesse Jackson, Jr., Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 135 Gemini Circle, Suite 215, Birmingham, Alabama 35209, Telephone: (205) 290–7282.

FOR FURTHER INFORMATION CONTACT: Jesse Jackson, Jr., Director, Birmingham Field Office, Telephone: (205) 290–7282.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Birmingham Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Dated: April 17, 1995.

Richard J. Seibel,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 95–10086 Filed 4–24–95; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 926

Montana Abandoned Mine Land Reclamation (AMLR) Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Montana AMLR plan (hereinafter, the "Montana plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of the addition of new provisions to the Montana plan concerning the reclamation of interim program and insolvent surety bond forfeiture coal sites, future set-aside funds and an acid mine drainage program, and water supply replacement project requirements. The amendment is intended to incorporate the additional flexibility afforded by SMCRA, as amended by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), and to improve operational efficiency.

DATES: Written comments must be received by 4 p.m., m.d.t., May 25, 1995. If requested, a public hearing on the proposed amendment will be held on May 22, 1995. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t., on May 10, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the Montana plan, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, room 2128, Casper, Wyoming 82601–1918

Vic Anderson, Director, Abandoned Mine Reclamation Bureau, Montana Department of State Lands, Capitol Station, 1625 Eleventh Avenue, Helena, Montana 59620, Telephone: (406) 444–2074

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Montana AMLR Plan

On November 24, 1980, the Secretary of the Interior approved the Montana plan. General background information, including the Secretary's findings, the disposition of comments, and the approval of the Montana plan can be found in the November 24, 1980, **Federal Register** (45 FR 70445). Subsequent actions concerning Montana's plan and plan amendments can be found at 30 CFR 926.20 and 926.25.

II. Proposed Amendment

By letter dated March 22, 1995 (administrative record No. MT–AML–01), and memorandum dated April 5, 1995 (administrative record No. MT–AML–02), Montana submitted a proposed amendment to its AMLR plan pursuant to SMCRA. Montana submitted the proposed amendment at its own initiative. Montana proposed to revise its AMLR plan to allow implementation of several initiatives established under the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508). The first initiative involves use of abandoned mine reclamation funds for reclaiming high priority sites where mining occurred during the period beginning on August 4, 1977, and ending on or before April 1, 1980, and where any funds available for reclamation or abatement are not sufficient to provide for adequate reclamation or abatement at the site. The second initiative involves use of abandoned mine reclamation funds for reclaiming high priority sites where mining occurred during the period beginning on August 4, 1977, and ending on or before November 5, 1990, during which time the surety became insolvent, and where funds immediately available from proceedings relating to such insolvency or from any other source, are not sufficient to provide for adequate reclamation or abatement at the site. The third initiative involves setting aside up to 10 percent of the total of the abandoned mine reclamation grants made annually to Montana to provide for restoration of eligible lands and waters after expiration of the Federal abandoned mine land program and implementation of an acid mine drainage program. The fourth initiative allows Montana to expend up to 30 percent of the abandoned mine reclamation grant funds allocated each year to the State for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, and to replace water supplies adversely affected by past mineral mining practices.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 884.15(a) and 884.14(a), OSM is seeking comments on whether the proposed amendment satisfies the applicable plan approval criteria of 30 CFR 884.14. If the amendment is deemed adequate, it will become part of the Montana plan.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t., May 10, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may

VOL
60
ISS
79
AP
25
1995
UMI

request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State or Tribal AMLR plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed State or Tribal AMLR plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the applicable Federal regulations at 30 CFR parts 884 and 888.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State or Tribe AMLR plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements established by SMCRA or previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 926

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 19, 1995.

Russell F. Price,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–10168 Filed 4–24–95; 8:45 am]

BILLING CODE 4310–05–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9903

Cost Accounting Standards Board; Changes in Cost Accounting Practices

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Cost Accounting Standards Board (CASB) invites coverage comments on proposed amendments to the regulatory provisions contained in Chapter 99 of Title 48. The proposed amendments would revise the current definitions and illustrations governing changes in cost accounting practices. Also proposed is the addition of a new Subpart to clarify the process for determining and resolving the cost impact on covered contract prices and/or contract costs when a contractor makes a change to its cost accounting practices, fails to comply with a Cost Accounting Standard (CAS) or fails to consistently follow its established cost accounting practices.

DATES: Requests for a copy of the proposed amendments must be in writing and must be received by June 26, 1995. Comments must be in writing and must be received by July 10, 1995.

ADDRESSES: Requests for a copy of the proposed amendments or comments pertaining to this Advance Notice of Proposed Rulemaking (ANPRM) should be addressed to Mr. Rudolph J. Schuhbauer, Project Director, Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, NW, Room 9001, Washington, DC 20503. Attn: CASB Docket No. 93–01A.

FOR FURTHER INFORMATION CONTACT: Rudolph J. Schuhbauer, Project Director, Cost Accounting Standards Board (telephone 202–395–3254).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The Cost Accounting Standards Board's rules and regulations are codified at 48 CFR Chapter 99. Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. § 422(g)(1), requires that the Board, prior to the promulgation of any new or revised Cost Accounting Standard, complete a prescribed rulemaking process. This process consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of a proposed Standard.
2. Promulgate an Advance Notice of Proposed Rulemaking.
3. Promulgate a Notice of Proposed Rulemaking.
4. Promulgate a Final Rule.

This proposal is step two in the four step process.

B. Summary of Proposed Rule

In response to the Cost Accounting Standards Board's solicitation of agenda items, several commenters identified the Board's regulatory coverage on "changes in cost accounting practice" as a potential agenda item. The commenters advised the Board that industry and Government officials are interpreting the regulatory coverage differently and often disagree on whether a particular change made in a contractor's organizational structure did or did not result in a change in cost accounting practice. The Board, after review and extended discussions of the issues associated with the proposed topic, identified Organizational Changes and Changes In Cost Accounting Practices as a topic on which a research project should be started.

On April 9, 1993, the CASB published a notice in the **Federal Register**, 58 FR 18428, requesting public comments from interested parties concerning a Staff Discussion Paper on that topic. The purpose of the Staff Discussion Paper was to solicit public views concerning the advantages, disadvantages and improvements anticipated if the Board were to promulgate more explicit provisions on whether organizational changes made by contractors do or do not result in cost accounting practice changes.

After consideration of the public comments received, the Board concluded that contractors and Federal officials appear to be interpreting the Board's rules and regulations governing changes in cost accounting practice under CAS-covered contracts differently. Furthermore, the contract price and cost adjustment provisions governing cost accounting practice changes under CAS-covered contracts do not appear to be clearly understood and, consequently, some inefficient, uneconomical and possibly inequitable practices may have evolved as the contracting parties proceeded to comply with the Board's requirements.

Therefore, the Board is proposing to amend Chapter 99 by:

Revising the definitions and illustrations governing cost accounting practice changes, for purposes of making it explicit that a change in the manner in which costs are grouped and accumulated constitutes a change in cost accounting practice and that organizational changes must be evaluated on a case-by-case basis in order to determine if a change in cost accounting practice has occurred.

Adding a new Subpart 9903.4 to delineate the contract price and cost adjustment process to be applied when a contractor changes a cost accounting practice, fails to comply with a Standard, or fails to consistently follow its established cost accounting practices. The proposed coverage is intended to facilitate the resolution of the cost impact of such compliant and noncompliant cost accounting practice changes under the requirements of existing and future CAS-covered contracts. Accordingly, when issued as a final rule, the proposed Subpart 9903.4 provisions would apply to all CAS-covered contracts requiring adjustment, including those CAS-covered contracts awarded prior to the effective date of the final rule.

The purpose of this ANPRM is to seek broad public comment concerning the proposed amendments. In particular, the Board is considering the establishment of certain new requirements that it believes would clarify and facilitate the overall cost impact process governing cost accounting practice changes. Accordingly, the Board invites interested parties to specifically comment on the following ANPRM provisions:

—Proposed 9903.201–4, in paragraphs (a)(4) of the proposed contract clauses, includes new provisions requiring a contractor to agree to price adjustments if its CAS-covered subcontractors make required, voluntary or desirable changes to their cost accounting practices pursuant to the subcontracts' terms and conditions.

—Proposed 9903.201–6(b) establishes new criteria for determining when a voluntary change in cost accounting practice may be treated as a desirable change.

—Proposed 9903.404(b)(ii)(A) requires CAS-covered contractors to notify the Government of and fully disclose cost accounting practice changes required to comply with a new or modified Standard 60 days prior to the Standard's effective date. This requirement is predicated on the Board's decision that final rules will generally be issued 120 days prior to the effective date of a new or modified Standard.

—Proposed 9903.404(b)(ii)(B) establishes new notification requirements for voluntary and desirable changes.

—Proposed 9903.404(b)(vi) provides a new equitable adjustment provision for contracts negotiated within 60 days after a contractor notifies the Government of a voluntary change that would otherwise be subject to a CAS-covered contract's "no increased cost" provision.

—Proposed 9903.404(e) provides for the use of a cost impact settlement proposal that would permit early resolution of the estimated cost impact in lieu of the use of a detailed cost impact proposal.

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

[FR Doc. 95–10071 Filed 4–24–95; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 675 and 677

[Docket No. 950414105–5105–01; I.D. 033095A]

RIN 0648–AH69

Groundfish of the Bering Sea and Aleutian Islands Area; Chum Salmon Savings Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would implement Amendment 35 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). This amendment proposes to prohibit the use of trawl gear in a specified area of the Bering Sea (BS) during the pollock nonroe season. Regulatory amendments also are proposed that would increase 1995 observer coverage for mothership processor vessels, and some shoreside processors receiving pollock harvested in the catcher vessel operational area (CVOA) and require the mothership processor vessels and shoreside processors to obtain the capability for electronic transmission of daily observer reports. This action is necessary to reduce chum salmon bycatch amounts in the pollock fishery and is intended to promote the objectives of the FMP.

DATES: Comments must be submitted by June 5, 1995.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 35 and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared for Amendment 35 are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act), and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 675 and 676. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620. Regulations governing observer coverage requirements for specified U.S. fisheries under the North Pacific Fisheries Research Plan (Research Plan) are codified at 50 CFR part 677.

This action proposes regulations to implement Amendment 35 to the FMP.

VOL
60
ISS
79
AP
25
1995
UMI

If approved by NMFS, this amendment would prohibit the use of trawl gear in a specified area of the BS that historically contributes to relatively high salmon bycatch rates during late summer months. This action also proposes two associated regulatory amendments that would (1) require mothership processor vessels and some shoreside processing plants to obtain an additional observer, and (2) require the affected mothership processor vessels and 100–percent-observer-coverage shoreside processing plants to obtain the necessary software and hardware for electronic transmission of daily observer reports.

In 1993, the total "other" salmon bycatch amount in the BSAI fisheries was 245,000 fish—approximately six times the bycatch level estimated for each of the previous 2 years and triple the previous highest bycatch amount of 72,000 "other" salmon estimated in the 1984 foreign trawl fishery. "Other" salmon is defined as salmon other than chinook salmon. Historical observer data indicate that approximately 95 percent of the "other" salmon bycatch in the BS is chum salmon.

The magnitude of the 1993 chum salmon bycatch in the pollock nonroe season is of concern especially in view of poor returns of chum salmon to western Alaska river systems during recent years. These poor returns have precipitated closure, by the Alaska Department of Fish and Game, of commercial, sport, and subsistence fisheries in several western Alaska Districts.

To address the problems of high salmon bycatch in the BS, NMFS implemented an emergency rule on August 15, 1994 (59 FR 35476, July 12, 1994) that imposed restrictions on "other" salmon bycatch during the pollock nonroe season of 1994. The emergency rule closed a specific area (the salmon savings area) in the CVOA after a limit of 42,000 "other" salmon had been taken in the CVOA. The salmon savings area (SSA) was defined based on historical observer data that indicated a relatively high "other" salmon bycatch rate. Under the emergency rule the SSA was closed to all trawling on August 20, 1994, 5 days after the opening of the pollock nonroe season. As in past years, vessels fishing in the SSA in 1994, prior to closure of this area, experienced a high "other" salmon bycatch rate. Continued fishing in the SSA in 1994 would likely have led to higher bycatch rates than those seen after the closure.

At its January 1995 meeting, the Council recommended that NMFS implement the following long-term management measures to address the chum salmon bycatch problem in the BSAI pollock nonroe season:

1. The chum salmon savings area (CSSA), defined under the emergency rule as the SSA, would be closed to all trawling for the month of August, with the closure continuing or being reinstated once a bycatch limit of 42,000 "other" salmon has been reached in the CVOA. Accounting for chum salmon bycatch attributable towards the bycatch limit would begin on August 15. The CSSA would reopen to trawling on October 15.

2. Mothership processor vessels that receive pollock harvested in the CVOA during the 1995 pollock nonroe season would be required to carry two observers until the bycatch limit for "other" salmon is reached or until October 15, whichever occurs first. For the same period of time, those shoreside processing plants that also receive pollock harvested in the CVOA during the 1995 pollock nonroe season and that offload fish at two locations on the same dock and have distinct and separate equipment at each location to process those fish would also be required to have an extra observer. For 1996 and beyond, observer coverage requirements for these vessels and shoreside plants could be specified annually under the Research Plan.

3. Electronic communication capabilities would be required for each mothership processor vessel that receives pollock harvested in the CVOA during the pollock nonroe season and for each shoreside processing facility that receives pollock harvested from the CVOA during the pollock nonroe season and that is required to have 100–percent-observer-coverage under 50 CFR 677.10.

These measures are described in detail and justified below.

Chum Salmon Savings Area

At its January 1995 meeting, the Council adopted an FMP amendment that would provide the authority to prohibit trawl fisheries in an area within the CVOA that historically accounts for relatively high salmon bycatch rates during summer and fall months. The area would be closed from August 1 through August 31. The closure would continue or be reinstated once a bycatch limit of 42,000 "other" salmon is reached and the area would remain closed through October 14. Accounting of salmon towards the bycatch limit would start at the beginning of the pollock nonroe season on August 15. Only salmon caught in the CVOA would be counted towards the bycatch limit. This measure is intended to reduce chum salmon bycatch in the pollock nonroe fishery.

The closure area (the CSSA) is defined by straight lines connecting the following coordinates in the order listed:

56°00′ N., 167°00′ W.;
56°00′ N., 165°00′ W.;
55°30′ N., 165°00′ W.;
55°30′ N., 164°00′ W.;
55°00′ N., 164°00′ W.;
55°00′ N., 167°00′ W.;
56°00′ N., 167°00′ W.

At its January 1995 meeting, the Council considered three different alternatives with seven options for time/area closures to limit chum salmon bycatch during the pollock nonroe season. The Council recommended the same closure area that was previously chosen for closure under the emergency rule. This area was chosen as a minimum closure area that would provide the most consistent protection to "other" salmon during the pollock nonroe season, but would still allow access to productive pollock fishing grounds.

The CSSA historically has accounted for a large proportion of "other" salmon bycatch and a relatively small proportion of groundfish harvest. The recommended 42,000 "other" salmon bycatch limit represents 50 percent of the 1991, 1992, and 1993 average of "other" salmon bycatch in the CVOA. The 42,000 "other" salmon limit approximates the 1991 and 1992 bycatch, while providing some buffer to accommodate slight increases in bycatch.

During the period July through October, the recommended CSSA accounted for 1.0, 0.8, and 7.0 percent of the total annual observed groundfish catch in the BSAI pollock and Pacific cod trawl fisheries during 1991, 1992, and 1993, respectively. During the period July through October of 1991, 1992, and 1993, this area accounted for 38, 40, and 54 percent, respectively, of the total annual "other" salmon bycatch. During the period July through October 1993, the CSSA had the highest "other" salmon bycatch rate of the areas analyzed—approximately 1.2 "other" salmon per metric ton (mt) of groundfish. Also, during the pollock nonroe season in 1994, the CSSA had a similarly high "other" salmon bycatch rate (1.12 salmon/mt groundfish) prior to the closure of this area. The initial number of salmon estimated in the first week of the 1994 pollock nonroe season was similar in both 1993 and 1994. Total bycatch was reduced in 1994 following the closure of the CSSA. Determining whether the reduced weekly catch of "other" salmon was due to the closure or would have occurred without the closure is difficult. Given the high bycatch rates within the CSSA, closing this area likely had the desired effect of reducing overall "other" salmon bycatch.

This proposed rule is intended to prevent a recurrence of the high 1993 chum salmon bycatch experienced during the BSAI pollock nonroe season. The bycatch of "other" salmon appears to be a function of the time of year, distribution of fishing effort, and spatial distribution of salmon. Historical data indicate that "other" salmon bycatch is reduced generally during the winter months and elevated during the months of July through October. Approximately 67 percent of all "other" salmon bycatch in observed hauls during 1991 was taken during August, and 40 percent and 62 percent of the 1992 and 1993 "other" salmon bycatch, respectively, was taken during the month of September. Starting in 1993, the opening of the pollock nonroe season was delayed from June 1 until August 15 (58 FR 30997, May 28, 1993). This delay was implemented to achieve increased revenues from the harvest of BSAI pollock during the nonroe season and to provide participants in the pollock nonroe fishery increased opportunities to fish in other groundfish fisheries.

Although the delay of the pollock nonroe season until August 15 was expected to increase chum salmon bycatch, the magnitude of the 1993 bycatch amount was not anticipated. Spatially, the number of "other" salmon appears to be highest south of 57° N. lat. and east of 168° W. long. Consistent with historical data, about 80 percent of the 1993 BSAI "other" salmon bycatch was taken in the CVOA.

Increased Observer Coverage and Electronic Transmission of Observer Data

NMFS must rely on data collected by NMFS-certified observers to manage the "other" salmon bycatch limit of 42,000 fish. Currently, one observer is required on each mothership processor vessel participating in either the inshore or offshore component pollock fishery and at most shoreside processing plants receiving pollock. Regulations at § 675.20(c)(6) require that all salmon taken in BSAI trawl operations be retained until the number of salmon is determined by a NMFS-certified observer. NMFS intends to use these observed counts to monitor the "other" salmon bycatch limit. To monitor the chum salmon bycatch limit effectively and close the CSSA once the 42,000 fish bycatch limit has been reached, NMFS must receive daily electronic reports of salmon bycatch numbers. NMFS typically receives weekly reports on groundfish catch and on prohibited species bycatch to monitor the fisheries.

The time required to process these reports results in a delay between the receipt of reports and determination of overall catch statistics that provide the basis for determining whether a closure is required. If the "other" salmon bycatch were to proceed at the 1993 or 1994 rates, weekly reporting would not be sufficient to allow timely closure of the CSSA once the 42,000 "other" salmon limit had been reached, thus contributing to higher than necessary salmon bycatch during the pollock nonroe season.

Effective monitoring of the bycatch limit requires a second observer on each mothership processor vessel and at some shoreside processing plants that receive fish from catcher boats fishing in the CVOA during the pollock nonroe season. This requirement is necessary to ensure accurate and timely counts of salmon bycatch, without compromising the other groundfish sampling duties of the observer. The time required by observers to count salmon bycatch for each haul and transmit these data on a daily basis, places an extra burden on observers. Because large numbers of hauls are delivered to mothership processor vessels compared to some other processors a greater burden would be placed on a single observer to obtain the necessary salmon counts and transmit that information on a daily basis. Those shoreside processors that offload fish at more than one location on the same dock and have distinct and separate equipment at each location to process those fish would also be required to have an extra observer to monitor the large number of deliveries.

Salmon counts, to be attributed to the bycatch limit, would begin on August 15. NMFS would require the additional observers to be aboard the mothership processor vessels and at the shoreside processing plants from August 15, the start of the pollock nonroe season, until the bycatch limit of 42,000 fish has been reached. These vessels and shoreside plants would be directly responsible for observer coverage costs in 1995 and would not receive credit for these costs, under § 677.6(d), against 1995 Research Plan fee assessments authorized under § 677.6(b). Subsequent assignment of observer coverage for 1996 and beyond would be annually specified under the Research Plan (§ 677.11).

To enable the observers to report haul-by-haul statistics and salmon bycatch numbers on a daily basis, the operator of each mothership processor vessel that receives fish harvested in the CVOA must provide specific communication equipment.

The specific equipment listed below is similar to the requirements for the emergency rule that also imposed restrictions on "other" salmon bycatch during the pollock nonroe season of 1994. The processors affected by this rule should already have this communication equipment, except that some computers may need to be upgraded. Significant additional costs would not be incurred. This specific equipment is necessary to ensure compatibility with the software developed by the NMFS Observer Program Office. Equipment that differs from these specifications would not operate the data-entry software that allows electronic data transmission. Not all computer hardware and software and satellite systems are compatible and it would be economically and practically inefficient to set up multiple systems to transmit and collect the same information. These equipment requirements are consistent with the applicable specifications for vessel monitoring systems published in the **Federal Register** on March 31, 1994 (59 FR 15180).

Mothership processor vessels would be required to have INMARSAT Standard A satellite communication capabilities and associated software (cc:Mail remote and a data entry program provided by the Regional Director) for observer's use. Each mothership processor vessel must also have the following equipment or equipment compatible therewith and having the ability to operate the NMFS-supplied data entry software program: a personal computer (PC) with a 486 or better processing chip, a DOS version 3.0 or better operating system, and 10 megabytes of free hard disk storage, and eight megabytes of random access memory (RAM) available to support the program used by the observer. Each shoreside facility that receives pollock harvested in the CVOA during the pollock nonroe season and that is required to have 100–percent-observer-coverage under 50 CFR 677.10, must have the capability to transmit data over telephone lines using a computer modem. These processors would make available to observers the following equipment or equipment compatible therewith: a PC with a 486 or better processing chip, with at least a 9600 baud modem, and a phone line. The PC must be equipped with a mouse, Windows version 3.1, or a program having the ability to operate the NMFS-supplied data entry software program, and have at least 10 megabytes of free

VOL
60
ISS
79
AP
25
1995
UMI

hard disk storage with eight megabytes RAM to support the software program used by the observer.

Vessels and shoreside processing facilities would be required to maintain fully functional and operational electronic-data communication equipment.

The affected mothership processor vessels and shoreside processors must obtain for observers' use the data entry software program provided by the Regional Director.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of the FMP amendment and regulations. At this time NMFS has not determined that the FMP amendment that these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an IRFA as part of the RIR, which describes the impact of this proposed rule on small entities, if adopted. The IRFA indicates that the preferred option was the most cost-effective of the options considered.

Although, the groundfish historically caught in this area can be harvested elsewhere in the BS, this proposed action could have a significant economic impact on the segment of the fishing industry that fishes for nonroe pollock because all of the catcher vessels would be prohibited from trawling in the closure area and would have to relocate, incurring undeterminable expenses. Operating costs could increase for catcher vessels that are forced to fish in locations other than the closure area and the catch-per-unit-effort in the locations that these vessels are displaced to may be less than in the closure area. These factors could contribute, for these catcher vessels, to reductions in gross revenues of more than 5 percent, annual compliance costs that increased total costs of production by more than 5 percent, or compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities.

A copy of this analysis is available from the Council (see **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Parts 675 and 677

Fisheries, Reporting and recordkeeping requirements.

Dated: April 19, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR parts 675 and 677 are proposed to be amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 675.22, paragraph (h) is added to read as follows:

§ 675.22 Time and area closures.

* * * * *

(h) *Chum Salmon Savings Area.* (1) Trawling is prohibited from August 1 through August 31 in the area defined by straight lines connecting the following coordinates in the order listed:

56°00′ N. 167°00′ W.,
56°00′ N. 165°00′ W.,
55°30′ N. 165°00′ W.,
55°30′ N. 164°00′ W.,
55°00′ N. 164°00′ W.,
55°00′ N. 167°00′ W.,
56°00′ N. 167°00′ W.

(2) When the Regional Director determines that 42,000 nonchinook salmon have been caught by vessels using trawl gear during the time period of August 15 through October 14 in the catcher vessel operational area, defined in paragraph (g) of this section, NMFS will prohibit fishing with trawl gear for the remainder of the period September 1 through October 14 in the area defined under paragraph (h)(1) of this section.

3. Section 675.25 is revised as follows:

§ 675.25 Observer requirements.

(a) *General.* Bering Sea and Aleutian Islands management area groundfish observer requirements are contained in part 677 of this chapter.

(b) *Additional observer coverage requirements applicable through December 31, 1995.* (1) Each mothership processor vessel that receives pollock harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g), during the second pollock season that starts on August 15 under § 675.23(e), is required to have a second NMFS-certified observer aboard, in addition to the observer required under § 677.10(a)(1)(i) of this chapter for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2).

(2) Each shoreside processor that offloads fish at more than one location on the same dock and has distinct and separate equipment at each location to process those fish and that receives pollock harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g), during the second pollock season that starts on August 15, under § 675.23(e) is required to have a NMFS-certified observer, in addition to the observer required under § 677.10(a)(1)(i) of this chapter, at each location where fish is offloaded, for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2).

PART 677—NORTH PACIFIC FISHERIES RESEARCH PLAN

4. The authority citation for part 677 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. Section 677.10, paragraphs (c)(3) and (d)(3) are revised to read as follows:

§ 677.10 General requirements.

* * * * *

(c) * * *

(3) Facilitate transmission of observer data by:

(i) Allowing observers to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States;

(ii) Ensuring that each mothership that receives pollock harvested in the catcher vessel operational area, defined at

§ 675.22(g) of this chapter, during the pollock nonroe season that starts on August 15, is equipped with INMARSAT Standard A satellite communication capabilities, cc:Mail remote, and the data entry software, provided by the Regional Director, for use by the observer. The operator of each mothership processing vessel shall also make available for the observers' use the following equipment compatible therewith and having the ability to operate the NMFS-supplied data entry software program: a personal computer with a 486 or better processing chip, a DOS 3.0, or better operating system with 10 megabytes free hard disk storage and 8 megabytes RAM; and

(iii) Ensuring that the communication equipment that is on mothership processor vessels as specified at paragraph (c)(3)(ii) of this section, and

that is used by observers to transmit data is fully functional and operational.

* * * * *

(d) * * *

(3) Facilitate transmission of observer data by:

(i) Allowing observers to use the shoreside processing facility's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States;

(ii) Ensuring that each shoreside processing facility that is required to have 100–percent-observer-coverage under § 677.10 and that receives pollock harvested in the catcher vessel operational area, defined at § 675.22(g) of this chapter, during the second pollock season that starts on August 15, under § 675.23(e) of this chapter, makes available to the observer the following equipment or equipment compatible therewith: a personal computer with a minimum of a 486 processing chip with at least a 9600–baud modem and a telephone line. The personal computer must be equipped with a mouse, Windows version 3.1, or a program having the ability to operate the NMFS-supplied data entry software program, 10 megabytes free hard disk storage, 8 megabytes RAM, and with data entry software provided by the Regional Director for use by the observers; and

(iii) Ensuring that the communication equipment that is in the shoreside processing facility as specified at paragraph (d)(3)(ii) of this section, and that is used by observers to transmit data is fully functional and operational.

* * * * *

[FR Doc. 95–10150 Filed 4–20–95; 2:46 pm]
BILLING CODE 3510-22-F

VOL 60 ISS 79 AP 25 1995 UMI

Notices

Federal Register
Vol. 60, No. 79
Tuesday, April 25, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath, Northwest Sacramento and California Coast Provincial Interagency Executive Committee (PIEC) Advisory Committees

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath, Northwest Sacramento and California Coast PIEC Advisory Committees will meet on May 24 and May 25, 1995 at the Park Terrace Convention Center, 1900 Hilltop Drive in Redding, California. The meeting will begin at 12:00 noon on May 24 and adjourn at 5:30 p.m. The meeting will reconvene at 8:00 a.m. on May 25 and continue until 3:00 p.m. The three PIEC Advisory Committees will meet both together and separately during the scheduled meeting time. Agenda items to be covered include: (1) Context of the Advisory Committees, including background on the President's Forest Plan; (2) mission and purpose of the Advisory Committees; (3) relationship between the Advisory Committees and the PIECs; (4) introduction of members and orientation; (5) operating guidelines and ground rules; and (6) a public comment period. All PIEC Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT:

Jim Anderson, USDA Klamath National Forest, at 1312 Fairlane Road, Yreka, California 96097; telephone 916–842–6131, (FTS) 700–467–1300.

Dated: April 19, 1995.

Barbara Holder,

Forest Supervisor.

[FR Doc. 95–10112 Filed 4–24–95; 8:45 am]

BILLING CODE 3410–11–M

Natural Resources Conservation Service

Delta-Clearwater River Watershed, Delta Junction, AK

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Delta-Clearwater River Watershed, Delta Junction, Alaska.

FOR FURTHER INFORMATION CONTACT:

Steven A. Probst, State Conservationist, Natural Resources Conservation Service, 949 E. 36th Avenue, Suite 400, Anchorage, AK 99508–4362, Phone (907) 271–2424.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Steven A. Probst, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The proposed project is to reduce the threat of flooding and associated erosion on the tributaries of the Delta-Clearwater River. This proposed project will protect the unique coho salmon and arctic grayling found in the Delta-Clearwater River by eliminating the threat of fishery habitat destruction from sediment deposition. The Delta-Clearwater River fisheries provide significant benefits not only to commercial and sport catch but also to the subsistence way of life in numerous, downstream villages. The project also will reduce other flood damage to cropland, the Alaska Highway, local roads, and general recreation areas.

The recommended action proposed measures for flood prevention:

- 2,400 acres of wetland and floodplain easements.
- 1,200 acres of vegetative stabilization structures.
- Four 5,000 foot long waterspreading diversions.
- One 16,000 foot long diversion between Granite and Rhoads Creeks.
- 3.8 miles of grassed waterways.
- Ten grade stabilization structures.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting James E. Schmidt, Assistant State Conservationist, Programs, (907) 271–2424.

No administrative action on implementation of the proposal will be taken until 30 days after the date of the publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

Dated: April 19, 1995.

Steven A. Probst,

State Conservationist.

[FR Doc. 95–10090 Filed 4–24–95; 8:45 am]

BILLING CODE 3401–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–549–401]

Certain Textile Mill Products From Thailand; Notice of Termination in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination in part of the countervailing duty suspended investigation of certain textile mill products from Thailand.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its termination in part of the countervailing duty suspended investigation (suspended investigation) of Certain Textile Mill Products from Thailand with respect to three like product categories classified under 12 Harmonized Tariff Schedule (HTS) item numbers.

EFFECTIVE DATE: April 25, 1995.

FOR FURTHER INFORMATION CONTACT:

Jacqueline Wallace or Steve Presing, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1394 or (202) 482–0194.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1994, the Department published in the **Federal Register** notification of its intent to terminate the suspended investigation covering Certain Textile Mill Products from Thailand and invited interested parties to comment (59 FR 9727, dated March 1, 1994). On March 31, 1994, the Department received timely objections to the intent to terminate the suspended investigation from the Amalgamated Clothing and Textile Workers Union (ACTWU); American Textile Manufacturers Institute, Inc. (ATMI); Certain Individual Producers of ATMI; American Yarn Spinners Association (AYSA); and Certain Individual Producers of AYSA.

On April 22, 1994, the Royal Thai Government (RTG) and Thai Textile Manufacturers Association (TTMA), challenged the interested party status of those parties who objected to our intent to terminate the suspended investigation. As a result of the objections received from the RTG and TTMA, the Department requested certifications demonstrating interested party status from ACTWU, ATMI, certain individual producers of ATMI, AYSA, and certain individual producers of AYSA in accordance with 19 CFR 355.2(i) (3), (4), and (5). Based on our analysis of interested party status by like product categories (*See internal recommendation from Roland MacDonald to Joseph A. Spetrini* dated January 12, 1995, for a complete analysis), we have determined that it is appropriate to terminate the suspended investigation with respect to the following three like product categories because the Department did not receive certifications demonstrating interested party status:

(1) Yarn of Man Made Fiber

Continuous Cellulosic
5401.20.0000
5406.20.0000

(2) Other Miscellaneous Categories

Wadding & Articles
5601.10.1000
5601.21.0010
5601.21.0090
Other Made-up Articles
6307.10.2005
6307.10.2015
6307.10.2020
6307.10.2027
6307.10.2028
6307.10.2030

(3) Wool Made-Ups and Miscellaneous

Floor Coverings
5703.10.0000

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–10166 Filed 4–24–95; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patents Concerning Anticonvulsant and Neuroprotective Agents

AGENCY: U.S. Army Medical Research and Materiel Command, Department of the Army, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. 5,258,386 entitled "(+)-3-Substituted-N-Alkylmorphinans, Synthesis and use as Anticonvulsant and Neuroprotective Agents" and issued on November 1, 1993, and U.S. Patent No. 5,331,010 entitled "1-Phenylalkanecarboxylic Acid Derivatives as Anticonvulsant and Neuroprotective Agents; and issued on July 19, 1994. These patents have been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The inventions represent discoveries that members of certain classes of compounds [(+)-3-substituted-N-alkylmorphinans and 1-phenylalkanecarboxylic acids] possess effective usefulness as nonaddictive anticonvulsant and neuroprotective agents. The 1-phenylalkanecarboxylic acids include novel non-opiate derivatives as well as previously published species. Methods for controlling convulsions in a variety of pharmaceutical formulations and modalities are described. In both inventions, novel compounds which possess these biological properties are presented in a method or methods of use for preventing, treating, or controlling convulsions in mammals having a need for such treatment. The compounds do not lead to dependency, have low toxicity, and provide effective anticonvulsant or neuroprotective treatment with little or no behavioral detriment to the recipient.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–10079 Filed 4–24–95; 8:45 am]

BILLING CODE 3710–08–M

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Concerning a Method for Lysing Thrombi

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. 5,399,158, entitled "Method of Lysing Thrombi", and issued on March 21, 1995. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The invention describes an improved method for prevention or treatment of thrombosis, including deep venous thrombosis (DVT) and acute arterial thrombosis, such as coronary artery thrombosis, while avoiding damage to the surrounding tissue. The method includes the administration of plasminogen activators in conjunction with intermittent (pulse mode) ultrasound and the imposition of a fluid-containing barrier between the

VOL 60 ISS 79 AP 25 1995 UMI

ultrasound source and the patient's skin. It is also the purpose of the invention to provide a means for preventing formation of thrombi by administration of small doses of plasminogen-activating agents along with intermittent ultrasound of patients who are likely to suffer from formation of thrombi. Particularly at risk are older patients that are immobilized or patients whose injuries have caused decreased circulation in the extremities.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–10080 Filed 4–24–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: May 11, 12, 13, 1995.

TIME: May 11, 1995—Full Board, 2:00 P.M.–6:30 P.M.; Executive Committee, 7:00 P.M.–8:30 P.M. May 12, 1995—Achievement Levels Committee, 7:30 A.M.–10:00 A.M.; Subject Area Committee #1, and Reporting and Dissemination Committee, 8:30 A.M.–10:00 A.M.; Design and Methodology Committee, and Nominations Committee, 10:00–11:30 A.M.; Full Board 11:30 A.M.–5:00 P.M. May 13, 1995—Full Board, 9:00 A.M. until adjournment, approximately, 12:00 Noon.

LOCATION: The Madison Hotel, 15th and M Streets, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On May 11, the full Board will convene in open session at 2:00 P.M. until 6:30 P.M. The full Board agenda will be devoted to review and discussion of the Board's strategic planning activities.

Also, on May 11, the Executive Committee will be in session. Agenda items for the meeting include consideration of the structure of the NAEP schedule, and the NAGB nominations process.

On May 12, 1995 from 7:30 A.M.–11:00 A.M. the Achievement Levels Committee will meet to hear a general update on the 1994 achievement-level setting process. The Achievement Levels Committee will meet jointly with the Reporting and Dissemination Committee beginning at 9:30 A.M. to discuss the anchor descriptions for the 1994 U.S. history and world geography in relation to the achievement levels descriptions. Beginning at 8:30 A.M., there will be meetings of the Subject Area Committee #1 (SAC #1) and the Reporting and Dissemination Committee. SAC #1 will discuss the progress on the NAEP civics project. Agenda for the Reporting and Dissemination (R&D) Committee includes consideration of policy on public access to NAEP cognitive and background questions, and discussion of release schedule for future NAEP reports and implementation of Board policy on background questionnaires. The R&D Committee will meet jointly with the Achievement Levels Committee as referenced above. Also, in joint session with the Design and Methodology Committee, the R&D Committee will consider separate reporting of NAEP results for Spanish-language and disabled students.

The Design and Methodology Committee will meet from 10:00 A.M. until 11:30 A.M., to continue discussions on below state level reporting, and to review policy guidance and implementation recommendations on sampling issues for 1996. The Committee will meet jointly with the R&D Committee as referenced above.

There will be a meeting of the Nominations Committee from 10:00 A.M. until 11:30 A.M. The agenda for this meeting will be devoted to the Committee's consideration of the process for soliciting nominations to prepare a list of recommended persons for the Secretary's appointment to upcoming vacancies in Board membership.

Also, on May 12, the full Board will be in session, from 11:30 A.M. until 5:00 P.M. Agenda items for the full Board meeting include an update on NAEP program, an overview of the achievement levels setting process, and continuation of strategic planning activities.

On May 13, at 9:00 A.M., the full Board will reconvene when the Board will hear reports from its subcommittees. This meeting of the National Assessment Governing Board will be adjourned at approximately, 12:00 Noon.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 A.M. to 5:00 P.M.

Dated: April 20, 1995.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 95–10130 Filed 4–24–95; 8:45 am]

BILLING CODE 4000–01–M

President's Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

AGENCY: President's Advisory Commission on Educational Excellence for Hispanic Americans.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule and agenda of a forthcoming meeting of the President's Advisory Commission on Educational Excellence for Hispanic Americans. This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: April 28 and 29, 1995, 9 a.m.–5 p.m.

ADDRESSES: Washington Marriott Hotel, 1221 22nd Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Marsha Harper, Telephone: (202) 401–1411.

SUPPLEMENTARY INFORMATION: The President's Advisory Commission on Educational Excellence for Hispanic Americans is established under Executive Order 12900 on February, 1994. The Commission is established to advise on Hispanic achievements of the National Goals, as well as other educational accomplishments. The meeting of the Commission is open to the public. The Agenda includes:

April 28, 1995, Friday, 9 a.m.–5 p.m.

Introductions and Commission update; strategic planning for 1995 public hearings; discussion of legislative issues.

April 29, 1995, Saturday 9 a.m.–5 p.m.

Media and federal program inventory updates; review of outlines for topic analyses; creation of expert panels.

Records are kept of all Commission proceedings, and are available for public inspection at the White House Initiative For Hispanic Education at 600 Independence Avenue, S.W., Room 2115, Washington, D.C. 20202 from the hours of 9 a.m. to 5 p.m. Due to administrative difficulties, this notice was not able to make the legal deadline.

Dated: April 20, 1995.

Mario Moreno,

Assistant Secretary, Office of Intergovernmental and Interagency Affairs.

[FR Doc. 95–10201 Filed 4–21–95; 10:23 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet May 2, 1995, at the offices of the Organization for Economic Cooperation and Development (OECD) in Paris, France. The IAB also will meet May 3–4 at the OECD to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions on the same dates at the OECD offices.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Acting Assistant General Counsel for International and Legal Policy, Department of Energy, 1000 Independence Avenue SW., Washington, DC. 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notices are provided:

I. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on May 2, 1995, at the headquarters of the Organization for Economic Cooperation and Development (OECD), 2, rue Andre-Pascal, Paris, France, beginning at 9:30 a.m. The agenda for the meeting is as follows:

1. Introductory Remarks
2. Approval of Agenda
3. Approval of the IAB Record Notes of Meetings on February 21, 1994; April 21, 1994; September 20, 1994; and January 30, 1995
4. Governing Board Decision on Emergency Response Policies
5. Legislative Developments in Member Countries
   —Energy Policy and Conservation Act (U.S.)
6. Emergency Reference Guide
7. Industry Supply Advisory Group Training
8. Preparation for October/November 1995 Test Submission of Questionnaires A and B
9. SEQ Work Program
   —Status of 1995 Work Program
   —Proposals for the 1996 Work Program
10. Emergency Response Issues Related to Refining and Oil Products
    —Aviation Fuel
    —Progress of SEQ/Standing Group on Oil Market Study on Product Specifications and Related Issues
11. Emergency Response Reviews of Member Countries
    —Draft Revised Questionnaire
    —Tentative Schedule of Reviews
12. Emergency Response Issues in IEA Candidate Countries
    —Revision of the Strategic Stock Building Plan of Korea
    —Participation in SEQ and IAB Activities by Candidate Countries
13. Communication Systems
14. Future Work

II. A meeting of the IAB will be held on May 3–4, 1995, at the OECD offices, beginning at 9:30 a.m. on May 3. The purpose of this meeting is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ) which is scheduled to be held at the OECD on these dates. The agenda for the meeting of the SEQ is under the control of the SEQ. It is expected that the following draft agenda will be followed:

1. Adoption of the Agenda
2. Approval of Summary Record of the 83rd Meeting
3. SEQ Work Program
   —Preparations for Governing Board Meeting at Ministerial Level
   —Proposals for 1996 Work Program
4. Proposals on IEA Emergency Response
   —Report by Chairman of the SEQ on Governing Board Decision of February 22, 1995 and Proposals for Follow-up by the SEQ
5. Emergency Reserve Situation of IEA Countries
   —Emergency Reserve and Net Import Situation of IEA Countries on October 1, 1994
   —Emergency Reserve and Net Import Situation of IEA Countries on January 1, 1995
   —Report to the Governing Board on the Emergency Reserve Situation of IEA Countries on October 1, 1994
6. IAB Activities
   —IAB Activities, including IAB Meeting of May 2, 1995
   —ISAG Training Program of June 1995
7. Emergency Response Reviews
   —Draft Revised Questionnaire
   —Tentative Schedule of Reviews
8. The Emergency Response Issues in IEA Candidate Countries
   —Revision of the Strategic Stock Building Plan of Korea
   —Participation in SEQ Activities by Candidate Countries
9. Oil Market Situtation
10. Natural Gas Security Study
11. Coordinated Emergency Response Measures (CERM) Conference/Test
    —Discussion of agenda and work program for preparation of the CERM Conference/Test to be held in September 1995
12. World Energy Outlook 1995 Update and Publications
    —Future Oil Product Demand Patterns and Supply Sources
13. Emergency Data System and Related Questions
    —Preparations for October/November 1995 Test Submission of Questionnaires A and B
    —Questionnaires A and B
    —Monthly Oil Statistics (MOS) for November 1994
    —MOS for December 1994
    —MOS for January 1995
    —Base Period Final Consumption—Q194–Q494
    —Quarterly Oil Forecast Q195/Q495; Q295/Q196 and Current Trigger Situation
14. Emergency Response Issues Related to Oil Product and Refining Issues
    —SEQ/SOM Study on Product Specifications and Related Issues
15. Policy and Legislative Developments in Member Countries
    —Energy Policy and Conservation Act (U.S.)
    —Other Country Developments
16. Any Other Business.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), these meetings are open only to

VOL 60 ISS 79 AP 25 1995 UMI

representatives of members of the IAB and their counsel, representatives of members of the SEQ, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of the Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ or the IEA.

Issued in Washington, DC., April 19, 1995.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 95–10165 Filed 4–24–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No. 95–17–NG]

Brewton Corp; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting The Brewton Corporation authorization to import up to 20 Bcf of natural gas from Canada over a two-year term beginning on the date of the first import delivery.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 12, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–10164 Filed 4–24–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–20–NG]

KCS Energy Marketing, Inc.; Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting KCS Energy Marketing, Inc. authorization to import up to 50 Bcf of natural gas from Canada over a two-year term beginning on the date of the first delivery after April 10, 1995.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, April 12, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–10163 Filed 4–24–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of February 27 Through March 3, 1995

During the week of February 27 through March 3, 1995, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Cowles Publishing Company, 2/28/95, VFA–0010

Cowles Publishing Company (Cowles) filed an Appeal from a denial by the DOE's Richland Operations Office (Richland) of a request for information submitted under the Freedom of Information Act (FOIA). Cowles sought three legal memoranda written in 1963 by an attorney employed by General Electric d/b/a Hanford Atomic Products Operation (GE/Hanford). The three memoranda concerned GE's potential liability for "Voluntary and Planned" human radiation experiments. GE/Hanford was the management and operations contractor at DOE's Hanford, Washington facility from the 1940s until the mid 1960s when Battelle Memorial Institute (Battelle) assumed GE/Hanford's research and development functions. The three withheld records had been transferred to Battelle during the transition period between the two contractors. The memoranda were withheld by Richland because they were not "agency records" and, even if "agency records", were protected by the attorney-client privilege component of FOIA Exemption 5. On appeal, the DOE found that the memoranda are neither "agency records" within the meaning of the FOIA, nor subject to the FOIA under a new DOE contractor records regulation at 10 CFR 1004.3(e), 59 FR 63,884 (December 12, 1994). Although the DOE found that it owns the documents under the DOE/GE contract and the DOE/Battelle contract, it concluded that the documents are protected by the attorney-client communications privilege and the attorney work product privilege. The DOE also found that because the DOE, GE and Battelle share a "common legal interest" in the documents and because the requirements for finding waiver were not met, the documents have maintained their privileged status. Accordingly, the DOE denied Cowles' FOIA Appeal.

Kenneth W. Warden, 3/1/95, VFA–0023

Kenneth W. Warden filed an Appeal from a partial denial by the DOE's Oak Ridge Operation's Office of a Request for Information that he had submitted under the Freedom of Information Act (FOIA). Two documents had been withheld pursuant to Exemption 6. In considering the Appeal, the DOE found that the public's interest in disclosure of the documents was slight in comparison with the privacy interest of the individuals mentioned in the documents. Accordingly, the Appeal was denied.

Request for Exception

Commonwealth Oil Refining Company, Inc., 2/27/95, LEE–0002

Commonwealth Oil Refining Company, Inc. filed an Application for Exception in which the firm requested relief based on the delay in its receipt of exception relief pursuant to a 1978 exception application. In considering the request, the DOE found that Corco's claim did not form the basis for an independent grant of exception relief. The DOE further found that modification of the original grant of relief was unwarranted on the grounds, inter alia, that the delays in the case were largely the result of Corco's litigation strategy, that the receipt of relief in 1978 would not have permitted the survival of Corco's refinery and petrochemical operations, and that Corco was actually better off as the result of its receipt of relief in 1989 and 1994. Accordingly, exception relief was denied.

Refund Applications

County of Los Angeles CAO/Purchasing and Stores Department, et al., 3/3/95, RF272–29545, et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed by various departments of the County of Los Angeles in the crude oil special refund proceeding being conducted by the DOE under 10 CFR part 205, subpart V. The DOE rejected comments filed by a group of Utilities, Transporters, and Manufacturers, finding that the arguments presented were without merit. The DOE then determined, after adjustment for overlapping volume claims, that the corrected claims were meritorious and granted a refund of $64,302.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Air Molokai, Ltd.	RC272–283	03/03/95
Baltimore Storage Company	RA272–68	03/03/95
City of Burnsville et al	RF272–97501	03/03/95
Continental Grain Company	RC272–282	03/03/95
Continental Grain Company	RC272–281	03/03/95
Frontier Airlines	RC272–280	03/03/95
G & J Freight, Inc	RA272–66	03/03/95
Gulf Oil Corporation/Southeastern Freight Lines Inc et al	RF300–21305	02/27/95
Hamilton Hybar Inc	RF272–92579	03/01/95
Adhesives & Chemicals, Inc	RF272–92776	
Hudson River & Conf. Ctr.	RA272–67	03/03/95
Lambert Oil Co., Inc.	RR272–180	02/27/95
Moran Coal Co., Inc	RF272–91542	03/01/95
Red Top Coach, Inc	RF272–91665	
Container Corp. of America	RF272–98199	
Mort Hall Ford, Inc	RC272–284	03/03/95
Rhea County Dept. of Education et al	RF272–86753	03/03/95
Roundy's, Inc	RF272–97218	03/03/95
Superior Water, Light and Power Company	RF272–96593	02/27/95
Texaco Inc./Doug's Texaco	RF321–21059	03/03/95
Texaco Inc./Valley Seeding Co., Inc. et al	RF321–12851	02/27/95
Texaco Inc./Wiesenthal's Texaco Service et al	RF321–20522	03/03/95
Town of North Hempstead et al	RF272–96544	02/27/95
Wilkinson County et al	RF272–86105	03/03/95

Dismissals

The following submissions were dismissed:

Name	Case No.
A.J. Cole & Sons, Inc	RF315–9584
Albuquerque Operations Office	VSO–0017
Albuquerque Operations Office	VSO–0004
Chicago West Pullman & Southern Railroad	RF321–19762
Doan's Texaco	RF321–20519
Food Services, Inc	RF272–93662
Givens Texaco	RF321–6740
Hill Aircraft & Leasing Corp	RF351–00030
Kevork Texaco	RF321–9622
Stofa's Texaco	RF321–7238
W. & J. Propane Gas, Inc	RF304–14999

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10158 Filed 4–24–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Proposed Decision and Order During the Week of April 3 Through April 7, 1995

During the week of April 3 through April 7, 1995, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of

VOL
60
ISS
79
AP
25
1995
UMI

Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: April 18, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Pitcher Sales Inc. Lewiston, Utah
Reporting Requirements VEE–0004

Pitcher Sales, Inc. (Pitcher) filed an Application for Exception from the provision of filing Form EIA–782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report" and Form EIA–863, entitled "Petroleum Product Sales Identification Survey." The Exception request, if granted, would relieve Pitcher from the obligation of filing Form EIA–782B and Form EIA–863. On April 4, 1995, the Department of Energy issued a Proposed Decision and Order which determined that the Exception request be denied.

[FR Doc. 95–10159 Filed 4–24–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of March 6 Through March 10, 1995

During the week of March 6 through March 10, 1995, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Gulf Oil Corporation/Tom's Countryside Gulf	RF300–21597	03/09/95
A–1 Gulf	RF300–21598	
City of Westbrook	RF300–21705	
Texaco Inc./Penn Mart Texaco et al	RF321–16971	03/09/95
Texaco Inc./Ron Garrett's Texaco et al	RF321–16209	03/09/95

Dismissals

The following submissions were dismissed:

Name	Case No.
A. Scott Hartman Texaco	RF321–20468
AG Pro Co-Op	RF272–97230
Bailey's Texaco	RF321–19770
Ballard Gulf	RF300–21304
Cape Giradeau S.D. No. 63	RF272–88990
Capital Transport Company, Inc	RF272–97066
Cedar Flats Texaco	RF321–20686
Elliot Tire Distributors	RF304–14109
Farmers Cooperative Co	RF272–92417
Feaster & Sons Oil Distributors, Inc	RF321–20701
Flasher Farmers Union Oil Co	RF272–92082
Guthrie County Rural Electric Coop	RF272–92053
Hank's Texaco in Aromas	RF321–17141
Hank's Texaco on Abbott	RF321–17140
Hunter Grain Company	RF272–97255
M.G. Inc	RF272–94045
Peh Texaco	RF321–16969
Plains Equity Exchange & Coop	RF272–92079
Princeton Circle	RF321–16973
Union Oil Company of Maine, Inc	RF321–20609
Woodbury County Rural Electric Co	RF272–92008

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10160 Filed 4–24–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of January 30 Through February 3, 1995

During the week of January 30 through February 3, 1995 the decisions and orders summarized below were issued with respect to appeals and for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Lloyd Makey, 2/1/95, VFA–0019

Lloyd Makey filed an Appeal from a determination issued to him by the Assistant Inspector General for Investigations. In that determination, the Assistant Inspector General released several documents responsive to Mr. Makey's request under the Freedom of Information Act. In his Appeal, Mr. Makey contended that the DOE search was inadequate. In considering the Appeal, the DOE confirmed that the Assistant Inspector General followed procedures which were reasonably calculated to uncover responsive documents. Accordingly, the DOE denied the Appeal.

Requests for Exception

Coker Oil, Inc., 2/2/95, LEE–0161

Coker Oil, Inc., filed an Application for Exception from the requirement that it file Form EIA–782B, the "Reseller/Retailer's Monthly Petroleum Product Sales Report." The DOE found that the firm was not affected by the reporting requirement in a manner different from other similar firms, and consequently was not experiencing a special hardship, inequity, or unfair distribution of burdens. Accordingly, the firm's Application for Exception was denied.

John E. Retzner Oil Co., Inc., 1/30/95, LEE–0147

John E. Retzner Oil Company, Inc. (Retzner) filed an Application for Exception from the Energy Information Administration requirement that it file Form EIA–782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The DOE issued a Proposed Decision and Order on November 4, 1994, that would deny Retzner's application. Retzner filed a Statement of Objections to that Proposed Decision and Order. In the course of reviewing Retzner's objections, the DOE discovered that Retzner's selection in the current sample group of firms required to file Form EIA–782 was the result of a record-keeping error, by which Retzner had been listed twice on the list of firms eligible to participate in the survey. Accordingly, the DOE issued a final Decision and Order granting Retzner's Application for Exception.

Keith E. Dowhard, 1/30/95, LEE–0128

Keith E. Downard filed an Application for Exception from filing Form EIA–782B, "Resellers'/Detailers' Monthly Petroleum Product Sales Report". In considering the request, the DOE found that the firm was not suffering any serious hardship, gross inequity, or unequal distribution of burdens. Accordingly, exception relief was denied.

Personnel Security Hearing

Albuquerque Operations Office, 1/31/95, VSO–0002

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. After carefully considering the record of the proceeding in view of the standards set forth in 10 C.F.R. part 710, the Hearing Officer found that the individual: (i) Had omitted significant information from a Questionnaire for Sensitive Positions and from a personnel security interview; (ii) had been diagnosed by a board-certified psychiatrist as having two mental disorders which could cause a significant defect in the individual's judgment or reliability; (iii) was a user of alcohol habitually to excess; (iv) had possessed and used illegal substances, i.e., marijuana and cocaine; and (v) had exhibited conduct that shows that he is not honest, reliable, or trustworthy. The Hearing Officer rejected the individual's arguments that he had been improperly diagnosed under Diagnostic and Statistical Manual III-R criteria and that the psychiatrist who evaluated him was biased. The Hearing Officer further found no evidence of significant rehabilitation or reformation regarding the individual. Accordingly, the Hearing Officer recommended that the individual's access authorization should not be granted.

Implementation of Special Refund Procedures

King Petroleum, Inc. et al., Billy Bridewell, William J. Cobb, et al., 2/1/95, LEF–0125, LEF–0126

The DOE issued a final Decision and Order setting forth refund procedures for the distribution of $337,022.86, plus accrued interest, obtained from King Petroleum, Inc., et al. (King), and Billy Bridewell and William J. Cobb, et al. (Bridewell), in settlement of proceedings relating to violations of the mandatory petroleum price and allocation regulations. The DOE determined that the funds would be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the states (40%), the federal government (40%), and injured purchasers of refined products (20%).

Supplemental Order

David Ramirez, 1/30/95, VWX–0001

A Hearing Officer of the Office of Hearings and Appeals issued a final order awarding $38,695.25 for attorney fees and disbursements in a "whistleblower" case under the DOE's Contractor Employee Protection Program, 10 C.F.R. part 708. In prior Decisions, the Hearing Officer found that Brookhaven National Laboratory (BNL) violated the part 708 regulations by directing that David Ramirez, a subcontractor employee, be laid off in reprisal for his making protected safety disclosures, and awarded Mr. Ramirez back pay and reimbursement for all costs and expenses reasonably incurred by him in bringing his complaint, including the legal services rendered in the review phase of the proceeding. The present Decision approves the attorney's fees request except for the period of time in which the attorney engaged in clerical tasks. For that period, the Decision approves payment at the rate of $10 per hour, and not at the approved rate for legal services, $175 per hour.

Refund Applications

Burnup & Sims, Inc., 2/1/95, RA272–65

The DOE granted an Application for a Supplemental Refund from crude oil overcharge funds to Burnup & Sims, Inc., based upon documentation demonstrating that the purchase volume approved for it in a December 19, 1994 Decision was incorrect.

LPS Laboratories, Inc., 1/30/95, RF272–97045

LPS Laboratories, Inc., applied for a refund in the Subpart V crude oil refund proceeding for purchases of mineral spirits and propane used in its chemical manufacturing business. Because of the volume of mineral spirits in certain products, we determined that LPS was a reseller. LPS did not make a detailed showing of injury, and therefore the portion of LPS's Application for mineral spirits was ineligible for a refund. Furthermore, LPS did not show that its purchases of propane, which it used in a rust inhibitor, were separate and distinct from its reseller operations. Therefore, LPS was not eligible to use the end-user presumption of injury, and the entire refund was denied.

Tesoro Petroleum Corporation/Fletcher Oil Company, 2/2/95, RF326–2851

Fletcher Oil Company filed an Application for Refund in the Tesoro Petroleum Corporation special refund proceeding. Fletcher sought an above-volumetric refund based upon a claim that it suffered a disproportionate injury with respect to its purchases of No. 2 fuel oil. Fletcher alleged that Tesoro had violated the normal business practices rule by requiring that it take delivery of the fuel oil in Alaska and pay the freight from Alaska to Seattle. Fletcher, however, failed to show that its combined purchase price and freight charge was higher than the lawful price that Tesoro could have charged for the fuel oil if it had been delivered to Seattle. Furthermore, the record indicated that Fletcher's delivered cost of fuel oil from Tesoro was lower than the average cost from other suppliers in Fletcher's marketing area. Fletcher, therefore, failed to demonstrate that its Tesoro purchases placed it at a competitive disadvantage. The DOE found that Fletcher should be granted a volumetric refund. However, since evidence submitted by Fletcher

VOL 60 ISS 79 AP 25 1995 UMI

indicated that the firm's banks of increased fuel oil costs were negative until September 1974, Fletcher's purchases between November 1973 and September 1974 were excluded from the calculation of its volumetric refund.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Bulkmatic Transport Company	RF272-94066	01/31/95
Clay Central Community School et al	RF272-83481	02/03/95
Farmers Co-Op et al	RF272-85657	02/03/95
Green Bay Food Co. et al	RF272-93697	01/31/95
Gulf Oil Corporation/George C. Miller Brick Co., Inc	RF300-21660	01/31/95
Rutherford East	RF300-21672	
Rutherford	RF300-21673	
Gulf Oil Corporation/Jumping Brook Gulf et al	RF300-21511	02/01/95
Gulf Oil Corporation/North Jackson Aviation, Inc.	RF300-18401	02/03/95
Hampshire County Board of Education et al	RF272-86905	02/03/95
Revere Copper & Brass Inc. et al	RF272-90844	02/01/95
Texaco Inc./Higgins Texaco	RF321-21055	02/03/95
Texaco Inc./Jamul Texaco et al	RF321-20454	01/31/95
Texaco Inc./Johnson & Hurlock Texaco et al	RF321-18299	02/03/95
Texaco Inc./Riverview Super Service	RF321-13116	02/02/95
Texaco Inc./Rubidoux Texaco et al	RF321-20399	02/01/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Aircomfort, Inc	RF272-94643
Brooks Products, Inc	RF272-93525
City of Corry	RF272-85888
City of Covina	RF272-85997
City of Dinuba	RF272-85954
City of Hamlin	RF272-85998
City of Mason City	RF272-85825
City of Poquoson	RF272-86998
Dakota County	RF272-85086
Ewing's Texaco	RF321-20545
Lamar County	RF272-85920
Mongtomery County	RF272-85996
Pace's Texaco	RF321-20586
Simmons Pole & Piling	RF300-18835
Township of Glen Ridge	RF272-85949
Township of W. Manchester	RF272-85943
Village of Cornwall-on-Hudson	RF272-85889
Village of Great Neck Plaza	RF272-85990

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 18, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95-10161 Filed 4-24-95; 8:45 am]

BILLING CODE 6450-01-P

Issuance of Proposed Decision and Order; Week of March 13 Through March 17, 1995

During the week of March 13 through March 17, 1995, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234,

Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays.

Dated: April 18, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Home Oil Co., Inc., Ashford, AL, LEE-0135, Reporting Requirements

Home Oil Co., Inc. (Home Oil), filed an Application for Exception from filing Form EIA-782B, "Reseller's/Retailers' Monthly Petroleum Products Sales Report." The exception request, if granted, would relieve Home Oil from filing the Form. On March 13, 1995, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 95-10162 Filed 4-24-95; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. RP95-235-000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

April 19, 1995.

Take notice that on April 13, 1995, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of May 13, 1995:

Twentieth Revised Sheet No. 20A
Original Sheet No. 98H

Algonquin states that the purpose of this filing is to (i) recover upstream transition costs of $19,785.39 billed to Algonquin by Texas Eastern Transmission Corporation (Texas Eastern), (ii) recover Order No. 528 upstream costs of $706.19 billed to Algonquin by Texas Eastern and (iii) flow through a refund of Order No. 528 upstream costs of $22,276.40 allocated to Algonquin by Texas Eastern. Algonquin requests that the Commission grant any waiver that may be necessary to place these tariff sheets into effect on the date requested.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10095 Filed 4-24-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-195-002]

Columbia Gulf Transmission Company; Compliance Filing

April 19, 1995.

Take notice that on April 13, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing in compliance with the Commission's March 29, 1995, letter order in this proceeding. On March 1 and March 13, 1995, Columbia Gulf submitted tariff sheets reflecting an annual Transportation Retainage Adjustment (TRA). The March 29, 1995 letter order accepted and suspended those filings to be effective April 1, 1995, subject to Columbia Gulf providing additional explanation and data.

Columbia Gulf states that in this compliance filing it is providing additional workpapers, supporting data and explanations as required by the March 29, 1995 letter order.

Columbia Gulf states that copies of this filing have been mailed to all firm customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before April 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10097 Filed 4-24-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP94-157-004 and RP95-196-002]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

April 19, 1995.

Take notice that on April 13, 1995, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, to be effective April 1, 1995.

Second Revised Sheet No. 453

Columbia states that the instant filing is being made in compliance with the Commission's order issued March 17, 1995, in Docket Nos. RP94-157, et al. Ordering Paragraph (C) required that within 30 days from the date of the order, Columbia make a tariff filing to modify the Transportation Costs Recovery Adjustment (TCRA) mechanism as discussed in the body of the order. Specifically, the order required Columbia to revise its TCRA, on a prospective basis, to require Columbia to include its estimate of capacity release revenue when projecting its stranded Account Number 858 costs in future TCRA filings. Columbia states that Sheet No. 453 revises the language in Section 36.3(1) of its General Terms and Conditions (GTC) in accordance with this requirement.

Columbia states that copies of its filing have been mailed to each of its firm customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10098 Filed 4-24-95; 8:45 am]

BILLING CODE 6717-01-M

VOL 60 ISS 79 AP 25 1995 UMI

[Docket No. RP95–196–001]

Columbia Gas Transmission Corporation; Compliance Filing

April 19, 1995.

Take notice that on April 13, 1995, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective April 1, 1995.

Second Revised Sheet No. 395
Second Revised Sheet No. 452
Third Revised Sheet No. 453

On March 1, 1995, Columbia filed tariff sheets initiating the proceeding in Docket No. RP95–196–000 and implementing its annual filing pursuant to the Transportation Cost Rate Adjustment (TCRA) mechanism in Section 36 of the General Terms and Conditions (GTC) of its FERC Gas Tariff, Second Revised Volume No. 1. The Commission issued an order in this proceeding on March 30, 1995, accepting and suspending those tariff sheets effective April 1, 1995, subject to refund and conditions. (See, 70 FERC ¶ 61,364 (1995).)

Columbia states that the instant filing is being made to address and comply with Ordering Paragraphs (B), (C), and (D) in that order.

Columbia states that copies of its filing have been mailed to each of its firm customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedigs. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10096 Filed 4–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ95–2–23–001]

Eastern Shore Natural Gas Company; Filing of Corrected Tariff Sheets

April 19, 1995.

Take notice that on April 12, 1995, Eastern Shore Natural Gas Company (ESNG) tendered for filing certain substitute revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective May 1, 1995.

On April 3, 1995, ESNG filed revised tariff sheets in Docket No. TQ95–2–23–000, its regularly scheduled quarterly PGA filing, proposed to be effective May 1, 1995. ESNG, however, inadvertently used as its starting point the cumulative commodity gas cost adjustment contained in Docket No. TF95–4–23–000, *et al.*, effective February 1, 1995 (an interim PGA filing). The proper cumulative commodity gas cost adjustment to track was established in Docket No. TQ95–1–23–000, *et al.* (its regularly scheduled quarterly PGA filing), effective February 1, 1995.

ESNG states that the result of this error was an understatement of $0.1209 per dt in ESNG's Commodity sales rates. The tariff sheets contained in this filing correct the tracking error and are filed to substitute for the ones originally filed, to be effective May 1, 1995.

ESNG states that copies of its filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures (18 CFR 385.211). All such protests should be filed on or before April 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10092 Filed 4–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2659 Oregon]

PacifiCorp; Intent to File an Application for a New License

April 19, 1995.

Take notice that PacifiCorp, the existing licensee for the Powerdale Hydroelectric Project No. 2659, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 2659 was issued effective April 1, 1962 and expires February 28, 2000.

The project is located on the Hood River in Hood River County, Oregon. The principal works of the Powerdale Project include a concrete gravity dam, 206 feet long and 10 feet high with overflow spillway sections; a 5 acre impoundment; a concrete power canal intake structure to a concrete lined canal and a wood flume; a 14,354-foot-long pipeline, with a surge tank, to the Powerdale Powerhouse containing a single 6000-Kw generator; a 7.2-kV transmission line to a switchyard; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is now available from the licensee at 920 SW. 6th Avenue, Portland, Oregon 97204, phone (503) 464–5343.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1998.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10093 Filed 4–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–323–000]

Viking Gas Transmission Company; Request Under Blanket Authorization

April 19, 1995.

Take notice that on April 13, 1995, Viking Gas Transmission Company (Viking), 825 Rice Street, St. Paul, Minnesota 55117, filed in Docket No. CP95–323–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to relocate an existing delivery point for firm transportation services that Viking currently provides for Minnegasco (Minnegasco) under Viking's blanket certificate issued in Docket No. CP82–414–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Viking proposes to relocate an existing delivery point, for firm transportation services that Viking currently provides for Minnegasco, from Anoka County, Minnesota to Isanti County, Minnesota. It is stated that Minnegasco has requested deliveries of up to 50,350 Mcfd of gas at this point, and that it has agreed to reimburse Viking for the costs of the facilities.

It is also stated that the total quantities are within authorized quantities and the delivery point would be of no detriment to any of Viking's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10094 Filed 4–24–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5196–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 25, 1995.

FOR FURTHER INFORMATION CONTACT: For further information, or a copy of this ICR, contact Sandy Farmer at (202) 260–2740, please refer to EPA ICR #107.05.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Source Compliance and State Action Reporting (EPA ICR #107.05; OMB #2060–0096). This ICR requests renewal of the existing clearance.

Abstract: State, District, Commonwealth, and territorial governments make air compliance information available to EPA on a quarterly basis via input to the Aerometric Information Retrieval System (AIRS) Facility Subsystem (AFS). The information provided to EPA includes compliance determinations and compliance activities. EPA uses this information to assess progress toward meeting emission requirements developed under the authority of the Clean Air Act to protect and maintain the atmospheric environment and the public health. All ten EPA Regional Offices and most of the 55 State, District, Commonwealth and territorial governments use the compliance information in AFS on a daily basis for managing activities of their air pollution control programs.

Burden Statement: Public reporting burden for this collection of information is estimated to average 224 hours per small state, 1692 hours per medium state and 1700 hours per large state annually per response, including time for reviewing instructions, searching existing data sources, gathering the data needed, completing the collection of information, and maintaining records.

Respondents: State, District, Commonwealth, and Territorial air pollution control agencies.

Estimated Number of Respondents: 55.

Estimated Total Annual Burden on Respondents: 58,686 hours.

Frequency of Collection: quarterly.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, (please refer to EPA ICR #107.05 and OMB #2060–0096) to:

Sandy Farmer,
EPA ICR #107.05,
U.S. Environmental Protection Agency,
Information Policy Branch (2136),
401 M Street SW.,
Washington, DC 20460

and

Chris Wolz,
OMB #2060–0096,
Office of Management and Budget,
Office of Information and Regulatory Affairs,
725 17th Street NW.,
Washington, DC 20503.

Dated: April 18, 1995.

Joseph Retzer,

Chief, Regulatory Information Division.

[FR Doc. 95–10142 Filed 4–24–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5196–3]

Public Water System Supervision Program Revision for the State of Michigan

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Public notice is hereby given in accordance with the provision of Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300f *et seq.*, and 40 CFR part 142, subpart B, the National Primary Drinking Water Regulations (NPDWR), that the State of Michigan is revising its approved Public Water System Supervision (PWSS) primacy program. The Michigan Department of Public Health (MDPH) has adopted drinking water regulations for Lead and Copper, 18 synthetic organic chemicals (SOCs), and 5 inorganic chemicals (IOCs), that correspond to the NPDWR for Lead and Copper, SOCs, and IOCs, and promulgated by the U.S. Environmental Protection Agency (U.S. EPA) on June 7, 1991 (56 FR 26460–26564), and on July 17, 1992 (57 FR 31776–31849). The USEPA has completed its review of Michigan's PWSS primacy program revision.

The USEPA has determined that the Michigan rule revisions meet the requirements of the Federal rule. Therefore, the USEPA has determined that the State program revisions referenced above are no less stringent than the corresponding Federal regulations and is proposing to approve the MDPH's rule revisions.

All interested parties are invited to submit written comments on these proposed determinations, and may request a public hearing on or before May 25, 1995. If a public hearing is requested and granted, the corresponding determination shall not become effective until such time following the hearing, at which the Regional Administrator issues an order affirming or rescinding this action. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator.

Requests for public hearing should be addressed to: Jennifer Kurtz Crooks, (WD–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization; or other entity requesting a hearing. (2) A brief statement of the requesting person's

VOL
60
ISS
79
AP
25
1995
UMI

interest in the Regional Administrator's determinations and of information that the requesting person intends to submit at such hearing. (3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the **Federal Register** and in newspapers of general circulation in the State of Michigan. A notice will be sent to the person(s) requesting the hearing as well as to the State of Michigan. The hearing notice will include a statement of purpose, information regarding the time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and should the Regional Administrator not elect to hold a hearing on his own motion, these determinations shall become effective on May 25, 1995. Please bring this notice to the attention of any persons known by you to have an interest in these determinations.

All documents related to these determinations are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Michigan Department of Health, Division of Water Supply, Michigan Department of Public Health, 3423 North Logan/Martin L. King, Jr. Blvd., P.O. Box 30195, Lansing, Michigan 48909.

State Docket Officer: Mr. James K. Cleland, (517) 335–9216.

Safe Drinking Water Branch, Drinking Water Section, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Jennifer Kurtz Crooks, Region 5, Drinking Water Section at the Chicago address given above, telephone 312/886–0244.

(Section 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 142.10 of the National Primary Drinking Water Regulations)

Signed this 11th day of April, 1995.

Valdas V. Adamkus,

Regional Administrator, USEPA, Region 5.

[FR Doc. 95–10145 Filed 4–24–95; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION

[Docket No. 95–07]

SHIPCO Transport Inc. v. Saturn Air Sea Cargo; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Shipco Transport Inc. ("Complainant") against Saturn Air Sea Cargo ("Respondent") was served April 19, 1995. Complainant alleges that Respondent has violated section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. app. § 1709(a)(1), by failing to pay to complainant ocean freight due on numerous shipments of cargo and, through bad faith and deceitful misrepresentations, inducing complainant to relinquish possessory liens over the cargo.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 19, 1996, and the final decision of the Commission shall be issued by October 21, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10083 Filed 4–24–95; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First Union Corporation; Notice to Engage in Certain Nonbanking Activities

First Union Corporation, Charlotte, North Carolina (Notificant), has provided notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to engage through its subsidiary, First Union Capital Markets Corp., Charlotte, North Carolina (Company), in underwriting and dealing in debt and equity securities of all types, other than shares of open-end investment companies, and acting as advisor with respect to swaps, caps and similar instruments based on commodities; stock, bond or commodities indices; or a hybrid of interest rates and such commodities or indices. These activities will be conducted nationwide.

Notificant maintains that the Board previously has determined that the proposed activities are closely related to banking. *See Canadian Imperial Bank of Commerce*, 76 Federal Reserve Bulletin 158 (1990); *J.P. Morgan & Co. Incorporated, et al.*, 75 Federal Reserve Bulletin 192 (1989), *aff'd sub nom. Securities Industries Ass'n v. Board of Governors of the Federal Reserve System*, 900 F.2d 360 (D.C. Cir. 1990); and *Citicorp, et al.*, 73 Federal Reserve Bulletin 473 (1987), *aff'd sub nom. Securities Industry Ass'n v. Board of Governors of the Federal Reserve System*, 839 F.2d 47 (2d Cir.), *cert. denied*, 486 U.S. 1059 (1988); *Swiss Bank Corporation*, 81 Federal Reserve Bulletin 185 (1995). Notificant states that Company would conduct the proposed activities within the limitations and prudential guidelines established by the Board in previous orders.

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. § 1843(c)(8). Notificant believes that the proposal would produce public benefits that outweigh any potential adverse effects. In particular, Notificant maintains that the proposal would enhance competition and enable Notificant to offer its customers a broader range of products. Notificant also maintains that its proposal would not result in any adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of

interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 15, 1995. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, April 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10117 Filed 4-24-95; 8:45 am]

BILLING CODE 6210-01-F

Northwest Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 19, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Northwest Bancorp, MHC, Warren, Pennsylvania; to acquire 100 percent of the voting shares of Jamestown Savings Bank, Lakeview, New York, a de novo bank.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Greater Brazos Valley Bancorp, Inc., College Station, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Greater Brazos Valley Delaware Bancorp, Inc., Dover, Delaware, and thereby indirectly acquire Commerce National Bank, College Station, Texas.

In connection with this application Greater Brazos Valley Delaware Bancorp, Inc., Dover, Delaware, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of Commerce National Bank, College Station, Texas.

Board of Governors of the Federal Reserve System, April 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10118 Filed 4-24-95; 8:45 am]

BILLING CODE 6210-01-F

Wilmington Trust Corporation, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 10, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Wilmington Trust Corporation, Wilmington, Delaware; to acquire Wilmington Trust of Florida, Stuart, Florida, and thereby engage in certain trust activities through a subsidiary, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Brazosport Corporation, Corpus Christi, Texas; to acquire First Commerce Mortgage Corporation, Corpus Christi, Texas, and thereby engage in making, acquiring, or servicing loans for itself or for others, and loan marketing and advisory services, pursuant to § 225.25(b)(1) of the Board's Regulation Y. The geographic scope for these activities is Corpus Christi, Texas; the Brazosport area (which includes Freeport, Lake Jackson, Clute, and Richwood, Texas); and adjacent areas.

Board of Governors of the Federal Reserve System, April 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10119 Filed 4-24-95; 8:45 am]

BILLING CODE 6210-01-F

VOL
60
ISS
79
AP
25
1995
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Civil Rights

Administration for Children and Families

Policy Guidance on the Use of Race, Color or National Origin as Considerations in Adoption and Foster Care Placements

AGENCY: Office for Civil Rights; Administration for Children and Families; HHS.

ACTION: Policy guidance.

SUMMARY: The United States Department of Health and Human Services (HHS) is publishing policy guidance on the use of race, color, or national origin as considerations in adoption and foster care placements.

DATES: The guidance is effective on April 25, 1995.

FOR FURTHER INFORMATION CONTACT: Carol Williams or Dan Lewis (ACF) at 202–205–8618 or Ronald Copeland (OCR) at 202–619–0553; TDD: 1–800–537–7697. Arrangements to receive the policy guidance in an alternative format may be made by contacting the named individuals.

SUPPLEMENTARY INFORMATION: The Improving America's Schools Act, Pub. L. No. 103–382, 108 Stat. 3518, contains the Multiethnic Placement Act of 1994 (hereinafter referred to as "the Act"). The Act directs the Secretary to publish guidance to concerned public and private agencies and entities with respect to compliance with the Act. Section 553, 108 Stat. 4057 (to be codified at 42 U.S.C. § 5115a). This guidance carries out that direction.

The policy guidance is designed to assist agencies, which are involved in adoption or foster care placements and which receive Federal assistance, in complying with the Act, the U.S. Constitution and Title VI of the Civil Rights Act of 1964. The guidance provides, consistent with those laws, that an agency or entity that receives Federal financial assistance and is involved in adoption or foster care placements may not discriminate on the basis of the race, color or national origin of the adoptive or foster parent or the child involved. The guidance further specifies that the consideration of race, color, or national origin by agencies making placement determinations is permissible only when an adoption or foster care agency has made a narrowly tailored, individualized determination that the facts and circumstances of a particular case require the consideration of race, color, or national origin in order to advance the best interests of the child in need of placement.

In addition to prohibiting discrimination in placements on the basis of race, color or national origin, the Act requires that agencies engage in diligent recruitment efforts to ensure that all children needing placement are served in a timely and adequate manner. The guidance sets forth a number of methods that agencies should utilize in order to develop an adequate pool of families capable of promoting each child's development and case goals.

Covered agencies or entities must be in full compliance with the Act no later than six months after publication of this guidance or one year after the date of the enactment of this Act, whichever occurs first, i.e., October 21, 1995. Under limited circumstances outlined in the guidance, the Secretary of HHS may extend the compliance date for states able to demonstrate that they must amend state statutory law in order to change a particular practice that is inconsistent with the Act. The guidance explains in detail the vehicles for enforcement of the Act's prohibition against discrimination in adoption or foster care placement.

The text of the guidance appears below.

Dated: April 20, 1995.

Dennis Hayashi,

Director, Office for Civil Rights.

Dated: April 20, 1995.

Mary Jo Bane,

Assistant Secretary, Administration for Children and Families.

Policy Guidance—Race, Color, or National Origin as Considerations in Adoption and Foster Care Placements

Background

On October 20, 1994, President Clinton signed the "Improving America's Schools Act of 1994," Public Law 103–382, which includes among other provisions, Section 551, titled "The Multiethnic Placement Act of 1944" (MEPA).

The purposes of that Act are: to decrease the length of time that children wait to be adopted; to prevent discrimination in the placement of children on the basis of race, color, or national origin; and to facilitate the identification and recruitment of foster and adoptive parents who can meet children's needs.

To accomplish these goals the Act identifies specific impermissible activities by an agency or entity (agency) which receives Federal assistance and is involved in adoption or foster care placements. The law prohibits such agencies from "categorically denying to any person the opportunity to become an adoptive or foster parent solely on the basis of the race, color, or national origin of the adoptive or foster parent or the child" and "from delaying or denying the placement of a child solely on the basis of race, color, or national origin of the adoptive or foster parent or parents involved." Under the Act, these prohibitions also apply to the failure to seek termination of parental rights or otherwise make a child legally available for adoption.

The law does permit an agency to consider, in determining whether a placement is in a child's best interests, "the child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of this background." If an agency chooses to include this factor among those to be considered in making placement decisions, it must be considered in conjunction with other factors relevant to the child's best interests and must not be used in a manner that delays the placement decision.

The Act also seeks to ensure that agencies engage in active recruitment of potential foster and adoptive parents who reflect the racial and ethnic diversity of the children needing placement. Section 554 of the Act amends Section 422(b) and Part A of Title XI of the Social Security Act. The amendment specifies the following requirements for child welfare services programs: "[Each plan for child welfare services under this part shall . . .] (9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed."

The Multiethnic Placement Act is to be viewed in conjunction with Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits recipients of Federal financial assistance from discriminating based on race, color, or national origin in their programs and activities and from operating their programs in ways that have the effect of discriminating on the basis of race, color, or national origin.

The Administration for Children and Families (ACF) and the Office for Civil Rights (OCR) in the Department of Health and Human Services (HHS) have the responsibility for implementing these laws. OCR has the responsibility to enforce compliance with Title VI and its implementing regulation (45 CFR part 80), as well as other civil rights laws. ACF administers programs of Federal financial assistance to child welfare agencies and has responsibility to enforce compliance with the laws authorizing this assistance.

Private, as well as public, adoption and foster care agencies often receive Federal financial assistance, through State Block Grant programs, programs under Title IV–E of the Social Security Act, and discretionary grants. The assistance may reach an agency directly, or indirectly as a subrecipient of other agencies. Receipt of such assistance obligates recipients to comply with Title VI and other civil rights laws and regulations and with the requirements of the Social Security Act. Further, the Civil Rights Restoration Act of 1987 confers jurisdiction over entities any part of which receive any Federal funds.

This guidance is being issued jointly by ACF and OCR, pursuant to Section 553(a) of MEPA, to enable affected agencies to conform their laws, rules, and practices to the requirements of the Multiethnic Placement Act and Title VI.

Discussion

A. Race, Culture, or Ethnicity as a Factor in Selecting Placements

1. Impermissible Activities

In enacting MEPA, Congress was concerned that many children, in particular those from minority groups, were spending lengthy periods of time in foster care awaiting placement in adoptive homes.[1] At present, there are over twenty thousand children who are legally free for adoption but who are not in preadoptive homes. While there is no definitive study indicating how long children who are adoptable must wait until placement, the available data indicate the average wait may be as long as two years after the time that a child is legally free for adoption, and that minority children spend, on average, twice as long as non-minority children before they are placed. Both the number of children needing placements and the length of time they await placement increase substantially when those children awaiting termination of parental rights are taken into account.

MEPA reflects Congress' judgment that children are harmed when placements are delayed for a period longer than is necessary to find qualified families. The legislation seeks to eliminate barriers that delay or prevent the placement of children into qualified homes. In particular, it focuses on the possibility that policies with respect to matching children with families of the same race, culture, or ethnicity may result in delaying, or even preventing, the adoption of children by qualified families. It also is designed to ensure that every effort is made to develop a large and diverse pool of potential foster and adoptive families, so that all children can be quickly placed in homes that meet their needs.

In developing this guidance, the department recognizes that states seek to achieve a variety of goals when making foster or adoptive placements. For example, in making a foster care placement, agencies generally are concerned with finding a home that the child can easily fit into, that minimizes the number of adjustments that the child, already facing a difficult situation, must face, and that is capable of meeting any special physical, psychological, or educational needs of the child. In making adoption placements, agencies seek to find homes that will maximize the current and future well-being of the child. They evaluate whether the particular prospective parents are equipped to raise the child, both in terms of their capacity and interests to meet the individual needs of the particular child, and the capacity of the child to benefit from membership in a particular family.

Among the factors that many state statutes, regulations, or policy manuals now specify as being relevant to placement decisions are the racial, ethnic, and cultural background of the child. Some states specify an order of preference for placements, which make placement in a family of the same race, culture, or ethnicity as the child a preferred category. Some states prescribe set periods of time in which agencies must try to place a child with a family of the same race, culture, or ethnicity before the children can be placed with a family of a different race, culture, or ethnicity. Some states have a general preference for same race or ethnicity placements, although they do not specify a placement order or a search period. And some states indicate that children should be placed with families of the same race or ethnicity provided that this is consistent with the best interests of the child.

Establishing standards for making foster care and adoption placement decisions, and determining the factors that are relevant in deciding whether a particular placement meets the standards, generally are matters of state law and policy. Agencies which receive Federal assistance, however, may use race, culture, or ethnicity as factors in making placement decisions only insofar as the Constitution, MEPA, and Title VI permit.

In the context of child placement decisions, the United States Constitution and Title VI forbid decision making on the basis of race or ethnicity unless the consideration advances a compelling governmental interest. The only compelling governmental interest, in this context, is protecting the "best interests" of the child who is to be placed. Moreover, the consideration must be narrowly tailored to advancing the child's interests and must be made as an individualized determination for each child. An adoption agency may take race into account only if it has made an individualized determination that the facts and circumstances of the specific case require the consideration of race in order to advance the best interests of the specific child. Any placement policy that takes race or ethnicity into account is subject to strict scrutiny by the courts to determine whether it satisfies these tests. *Palmore* v. *Sidoti*, 466 U.S. 429 (1984).

A number of practices currently followed by some agencies clearly violate MEPA or Title VI. These include statutes or policies that:

- Establish time periods during which only a same race/ethnicity search will occur;
- Establish orders of placement preferences based on race, culture, or ethnicity;
- Require caseworkers to specially justify transracial placements; or
- Otherwise have the effect of delaying placements, either before or after termination of parental rights, in order to find a family of a particular race, culture, or ethnicity.

Other rules, policies, or practices that do not meet the constitutional strict scrutiny test would also be illegal.

2. Permissible Considerations

MEPA does specifically allow, but not require, agencies to consider "the child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of this background" as one of the factors in determining whether a particular placement is in a child's best interests.

When an agency chooses to use this factor, it must be on an individualized basis. Agencies that provide professional adoption services usually involve prospective parents in an educative family assessment process designed to increase the likelihood of successful placements. This process includes providing potential adoptive parents with an understanding of the special needs of adoptive children, such as how children react to separation and

[1] MEPA applies to decisions regarding both foster care and adoption placements. In discussions regarding the bill, members of Congress focused primarily on problems related to adoption decisions.

VOL 60 ISS 79 AP 25 1995 UMI

maltreatment and the significance of the biological family to a child. Adoption specialists also assess the strengths and weaknesses of prospective parents. They help them decide whether adoption is the right thing for them and identify the kind of child the family thinks it can parent. Approved families are profiled, as are the waiting children.

When a child becomes available for adoption, the pool of families is reviewed to see if there is an available family suitable for the specific child.[2] Where possible, a number of families are identified and the agency conducts a case conference to determine which family is most suitable. The goal is to find the family which has the greatest ability to meet the child's psychological needs.[3] The child is discussed with the family, and decisions are made about the placement of the specific child with the family. This process helps prevent unsuccessful placements, and promotes the interest of children in finding permanent homes.

To the extent that an agency looks at a child's race, ethnicity, or cultural background in making placement decisions, it must do so in a manner consistent with the mode of individualized decision-making that characterizes the general placement process for all children. Specifically, in recruiting placements for each child, the agency must focus on that child's particular needs and the capacities of the particular prospective parent(s).

In making individualized decisions, agencies may examine the capacity of the prospective parent(s) to meet the child's psychological needs that are related to the child's racial, ethnic, or cultural background. This may include assessing the attitudes of prospective parents that relate to their capacity to nurture a child of a particular background. Agencies are not prohibited from discussing with prospective adoptive and foster parents their feelings, capacities and preferences regarding caring for a child of a particular race or ethnicity, just as they discuss issues related to other characteristics, such as sex, age, or disability; nor are they prohibited from considering the expressed preference of the prospective parents as one of several factors in making placement decisions.

Agencies may consider the ability of prospective parents to cope with the particular consequences of the child's developmental history and to promote the development of a positive sense of self, which often has been compromised by maltreatment and separations. An agency also may assess a family's ability to nurture, support, and reinforce the racial, ethnic, or cultural identity of the child and to help the child cope with any forms of discrimination the child may encounter. When an agency is making a choice among a pool of generally qualified families, it may consider whether a placement with one family is more likely to benefit a child, in the ways described above or in other ways that the agency considers relevant to the child's best interest.

Under the law, application of the "best interests" test would permit race or ethnicity to be taken into account in certain narrow situations. For example, for children who have lived in one racial, ethnic, or cultural community, the agency may assess the child's ability to make the transition to another community. A child may have a strong sense of identity with a particular racial, ethnic, or cultural community that should not be disrupted. This is not a universally applicable consideration. For instance, it is doubtful that infants or young children will have developed such needs. Ultimately, however, the determination must be individualized. Another example would be when a prospective parent has demonstrated an inability to care for, or nurture self-esteem in, a child of a different race or ethnicity. In making such determinations, an adoption agency may not rely on generalizations about the identity needs of children of a particular race or ethnicity or on generalizations about the abilities of prospective parents of one race or ethnicity to care for, or nurture the sense of identity of, a child of another race, culture, or ethnicity. Nor may an agency presume from the race or ethnicity of the prospective parents that those parents would be unable to maintain the child's ties to another racial, ethnic, or cultural community.

B. Recruitment Efforts

As recognized in the Multiethnic Placement Act, in order to achieve timely and appropriate placement of all children, placement agencies need an adequate pool of families capable of promoting each child's development and case goals. This requires that each agency's recruitment process focuses on developing a pool of potential foster and adoptive parents willing and able to foster or adopt the children needing placement. The failure to conduct recruitment in a manner that seeks to provide all children with the opportunity for placement, and all qualified members of the community an opportunity to adopt, is inconsistent with the goals of MEPA and could create circumstances which would constitute a violation of Title VI.

An adequate recruitment process has a number of features. Recruitment efforts should be designed to provide to potential foster and adoptive parents throughout the community information about the characteristics and needs of the available children, the nature of the foster care and adoption processes, and the supports available to foster and adoptive families.

Both general and targeted recruiting are important. Reaching all members of the community requires use of general media—radio, television, and print. In addition, information should be disseminated to targeted communities through community organizations, such as religious institutions and neighborhood centers. The dissemination of information is strengthened when agencies develop partnerships with groups from the communities from which children come, to help identify and support potential foster and adoptive families and to conduct activities which make the waiting children more visible.

To meet MEPA's diligent efforts requirements, an agency should have a comprehensive recruitment plan that includes:

- A description of the characteristics of waiting children;
- Specific strategies to reach all parts of the community;
- Diverse methods of disseminating both general and child specific information;
- Strategies for assuring that all prospective parents have access to the home study process, including location and hours of services that facilitate access by all members of the community;
- Strategies for training staff to work with diverse cultural, racial, and economic communities;
- Strategies for dealing with linguistic barriers;
- Non-discriminatory fee structures; and
- Procedures for a timely search for prospective parents for a waiting child, including the use of exchanges and other interagency efforts, provided that such procedures must insure that placement of a child in an appropriate household is not delayed by the search for a same race or ethnic placement.

Agencies receiving Federal funds may not use standards related to income, age, education, family structure, and size or ownership of housing, which exclude groups of prospective parents on the basis of race, color, or national origin, where those standards are arbitrary or unnecessary or where less exclusionary standards are available.

Enforcement

As provided in Section 553(d)(1) of MEPA, covered agencies or entities are required to comply with the Act no later than six months after publication of this guidance or one year after the date of the enactment of this Act, whichever occurs first, i.e., October 21, 1995. Pursuant to Section 553(d)(2) of MEPA, if a state demonstrates to the satisfaction of the Secretary of HHS that it is necessary to amend state statutory law in order to change a particular practice that is inconsistent with MEPA, the Secretary may extend the compliance date for the state a reasonable number of days after the close of the first state legislative session beginning after April 25, 1995. In determining whether to extend the compliance date, the Secretary will take into account the constitutional standards described in Part A of this guidance. Because states need not enforce unconstitutional provisions of their laws, statutory amendments are not an essential precondition to coming into compliance with respect to any such provisions.

HHS emphasizes voluntary compliance with the law and recognizes that covered agencies may want further guidance on their obligations under these laws. Accordingly, HHS is offering technical assistance to any covered agency seeking to better understand and more fully comply with the Multiethnic Placement Act. Organizations wishing to be provided with technical assistance on compliance with the nondiscrimination provisions of MEPA should contact Ronald Copeland of OCR at 202–619–0553. Organizations wishing to be provided with technical assistance regarding required recruitment efforts should contact Carol Williams or Dan Lewis of the Administration on Children and Families at 202–205–8618.

The Multiethnic Placement Act provides two vehicles for enforcement of its prohibition against discrimination in adoption or foster care placement. First, pursuant to Section 553(b), any individual who is aggrieved by an action he or she believes constitutes discrimination in violation of the Act has the right to bring an action seeking equitable relief in a United States district court of appropriate jurisdiction. Second, the Act provides that noncompliance with the prohibition is deemed a violation of Title VI.

OCR has published regulations to effectuate the provisions of Title VI. 45 CFR part 80. Any individual may file a complaint with OCR alleging that an adoption or foster care organization funded by HHS makes placement decisions in violation of the Multiethnic Placement Act and Title VI. OCR may also initiate compliance reviews to determine whether violations have occurred. If OCR determines that an adoption or foster care organization makes discriminatory placement decisions, OCR will first seek voluntary compliance with the law. Should attempts at voluntary compliance prove unsuccessful, OCR will take further steps to enforce the law.

These steps may involve referring the matter to the Department of Justice with a recommendation that appropriate court proceedings be brought. HHS may also initiate administrative proceedings leading to the termination of the offending agency's Federal financial assistance. These proceedings include the opportunity for a covered agency or entity to have a hearing on any OCR findings made against it. 45 CFR 80.8.

At any point in the complaint investigation process or during the pendency of fund termination proceedings, organizations may agree to come into voluntary compliance with the law. OCR will work closely with organizations to develop necessary remedial actions, such as training of staff in the requirements of Title VI and MEPA, to ensure that their efforts at compliance are successful.

When a state fails to develop an adequate recruitment plan and expedite the placement of children consistent with MEPA, the Secretary through ACF and OCR will provide technical assistance to the state in the development of the plan and where necessary resolve through corrective action major compliance issues. When these efforts fail the Secretary will make a determination of appropriate proportional penalties.

[FR Doc. 95–10155 Filed 4–24–95; 8:45 am]

BILLING CODE 4150–04–M

[2] Among the child-related factors often considered are:
- The child's current functioning and behaviors;
- The medical, educational and developmental needs of the child;
- The child's history and past experience;
- The child's cultural and racial identity needs;
- The child's interests and talents;
- The child's attachments to current caretakers.

[3] Among the factors that agencies consider in assessing a prospective parent's suitability to care for a particular child are:
- Ability to form relationships and to bond with the specific child;
- The ability to help the child integrate into the family;
- The ability to accept the child's background and help the child cope with her or his past;
- The ability to accept the behavior and personality of the specific child;
- The ability to validate the child's cultural, racial and ethnic background;
- The ability to meet the child's particular educational, developmental or psychological needs.

Agency for Health Care Policy and Research

Meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation

AGENCY: Agency for Health Care Policy and Research.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation.

DATES: The meeting will be open to the public on Tuesday, May 16, from 12:30 p.m. to 5:30 p.m., and on Wednesday, May 17, from 8:30 a.m. to 10:15 a.m.

In accordance with the provisions set forth in section 552b(c)(6), title 5, U.S. Code, and section 10(d) of the Federal Advisory Committee Act, a meeting closed to the public will be held on May 17, 1995, from 10:15 a.m. to 12:00 p.m. to discuss the relative emphasis and focus of topics in the AHCPR grant portfolio. The discussion could reveal confidential personal information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

ADDRESSES: The meeting will be held at the Madison Hotel, 1177 15th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Deborah L. Queenan, Executive Secretary of the Advisory Council at the Agency for Health Care Policy and Research, 2101 East Jefferson Street, suite 603, Rockville, Maryland 20852, (301) 594–1459.

In addition, if sign language interpretation or other reasonable accommodation for a disability is needed, please contact Linda Reeves, the Assistant Administrator for Equal Opportunity, AHCPR, on (301) 594–6666 no later than May 5, 1995.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) establishes the National Advisory Council for Health Care Policy, Research, and Evaluation. The Council provides advice to the Secretary and the Administrator, Agency for Health Care Policy and Research (AHCPR), on matters related to AHCPR activities to enhance the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and

VOL 60 ISS 79 AP 25 1995 UMI

in the organization, financing, and delivery of health care services.

The Council is composed of public members appointed by the Secretary. These members are: Robert A. Berenson, M.D.; F. Marion Bishop, Ph.D.; Linda Burnes Bolton, Dr. P.H.; John W. Danaher, M.D.; Helen Darling, M.A.; Nancy J. Kaufman, M.S.; William S. Kiser, M.D.; Robert M. Krughoff; Risa J. Lavizzo-Mourey, M.D.; W. David Leak, M.D.; Harold S. Luft, Ph.D.; Barbara J. McNeil, M.D.; Walter J. McNerney, M.H.A.; Edward B. Perrin, Ph.D.; Louis F. Rossiter, Ph.D.; Albert L. Siu, M.D.; and Ellen B. White, M.B.A.

There also are Federal ex officio members. These members are: Administrator, Substance Abuse and Mental Health Services Administration; Director, National Institutes of Health; Director, Centers for Disease Control and Prevention; Administrator, Health Care Financing Administration; Commissioner, Food and Drug Administration; Assistant Secretary of Defense (Health Affairs); and Chief Medical Director, Department of Veterans Affairs.

II. Agenda

On Tuesday, May 16, 1995, the open portion of the meeting will begin at 12:30 p.m. with the call to order by the Council Chairman. The Administrator, AHCPR, will update the status of current Agency issues and program initiatives. The meeting will adjourn at 5:30 p.m.

On Wednesday, May 17, 1995, the open portion of the Council meeting will resume at 8:30 a.m. with a discussion of the AHCPR grant application review process. The open meeting will adjourn at 10:15 a.m. The Council will begin the closed portion of the meeting to discuss the AHCPR grant portfolio from 10:15 a.m. to 12:00 p.m. The meeting will then adjourn at 12:00 p.m.

Agenda items are subject to change as priorities dictate.

Dated: April 19, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–10121 Filed 4–24–95; 8:45 am]

BILLING CODE 4160–90–M

National Institutes of Health

National Cancer Institute: Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Scientific and Commercial Development of Monoclonal Antibodies for the Therapy and/or Diagnosis of Cancer

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Advertisement.

SUMMARY: The Laboratory of Tumor Immunology and Biology (LTIB), National Cancer Institute is seeking pharmaceutical or biotechnology collaborator(s) which can effectively pursue the scientific and commercial development of a panel of monoclonal antibodies generated against tumor associated antigens for use in the therapy and/or diagnosis of a range of human cancers. The primary focus of these collaborations will be the development and commercialization of a panel of monoclonal antibodies consisting of two major groups: (A) Monoclonal antibodies directed against the pancarcinoma antigen, TAG–72. TAG–72 is expressed on a range of human carcinomas including colorectal, gastric, pancreatic, ovarian, endometrial, breast, non-small cell lung, and prostate. Monoclonal antibody CC49 is the prototype monoclonal antibody of this group. Humanized and other genetically engineered variants of monoclonal antibody CC49 have already been developed. (B) Monoclonal antibodies directed against human carcinoembryonic antigen, which is expressed on the following carcinomas: colorectal, pancreatic, gastric, non-small cell lung, and breast carcinoma. The prototype for this group of monoclonal antibodies is COL–1. (C) Additionally, it may likely be a further goal of these collaborations to develop novel recombinant forms of these monoclonal antibodies.

It is anticipated that because of the magnitude, diversity, and expense of these proposed research projects the collaboration(s) may take the form of multiple CRADAs. The collaboration(s) will involve all aspects of diagnostic and/or therapeutic development from basic scientific inquiry to late stage clinical trials which selected sponsor(s) will be required to partially support. The selected sponsor(s) will collaborate in the development of one or more of the following diagnostic or therapeutic forms of these monoclonal antibodies: (1) Radiolabeled monoclonal antibodies (diagnostic (oncologic imaging) and/or therapeutics); (2) Drug and/or toxin conjugated monoclonal antibodies; (3) Pro-drug conjugated monoclonal antibodies; (4) Unconjugated monoclonal antibodies (including bifunctional forms).

Sponsors will be selected based upon their ability to collaborate with NCI for the development of any of these therapeutic or diagnostic forms in accordance with the corporate role and selection criteria outlined below. It is emphasized that selection of a collaborator will not be dependent upon an entity's ability to perform the largest portion of the research project. Rather, a collaborator will be selected based upon the scientific merit and intellectual contributions brought to each individual project(s). Potential collaborators are, therefore, urged to submit proposals which focus on particular area(s) of expertise in a well-organized and precise manner which clearly outlines a development and commercialization plan. Finally, it is also possible that logical extensions of these research protocols may be considered as potential collaborative projects. Accordingly, proposals must address the requested criteria and protocols, but in addition, may include any additional unique development projects relating to the core technology.

The term of the CRADA(s) is anticipated to be three (3) to five (5) years.

ADDRESSES: Inquiries and proposals regarding this opportunity should be addressed to either Michael Christini or Mark Noel (Tel #301–496–0477, Fax #301–402–2117), Office of Technology Development, National Cancer Institute, Building 31, Room 4A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

DATES: Proposals must be received at the above address by 5 p.m. June 26, 1995.

SUPPLEMENTARY INFORMATION: Cooperative Research and Development Agreement or "CRADA" means the anticipated joint agreement to be entered into by NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of October 10, 1987 to collaborate on the specific research project described below. Under the present proposal, the Government is seeking collaborator(s), which in accordance with the requirements of the regulations governing the transfer of technology in which the Government has taken an active role in developing (37 CFR 404.8), can further develop this technology to a commercially available status to best meet the needs of the public.

This technology has been the focal point of much research and development within the LTIB for many years. During that time, there has been continual advances in the field of antibody development within LTIB via extensive intramural research, corporate sponsored CRADA projects, and independent corporate development under licensing arrangements.

When the excellent tumor targeting characteristics of anti-TAG–72 monoclonal antibody B72.3 in the clinic were observed, the LTIB developed a series of second generation, higher affinity monoclonal antibodies for TAG–72. This "CC" series, of which monoclonal antibody CC49 is the prototype, has been extensively characterized both preclinically and clinically. Radiolabeled CC49 shows much better tumor targeting in the clinic than B72.3. CC49 reacts with the majority of the following carcinomas: Colorectal, gastric, pancreatic, non-small cell lung, ovarian, endometrial, breast and prostate.

The LTIB has also developed a series of anti-carcinoembryonic antigen monoclonal antibodies (COL series). The prototype (COL–1) reacts to the vast majority of gastrointestinal and pancreatic cancers, and also to 50% of breast cancers and 70% of non-small cell lung cancers. A Phase 1 trial has just been completed with radiolabeled COL–1.

The LTIB has shown successful tumor targeting in cancer patients with radiolabeled forms of both monoclonal antibodies which are the primary focus of these collaborations: CC49 and COL–1. Phase I therapy trials for both monoclonal antibodies have been completed. Additionally, radiolabeled forms of CC49 are currently in Phase II clinical trials for colorectal, breast, ovarian, and prostatic cancer as a murine monoclonal antibody.

As a corollary, the progression of the technology can be illustrated in two specific examples of ongoing research collaborations which will not be a part of the present CRADA:

(A) The LTIB, NCI initially developed a monoclonal antibody designated B72.3, which reacts to the pancacinoma antigen termed TAG–72. This breakthrough technology provided the basis for the first and still only monoclonal antibody approved by the FDA for any *in vivo* use in cancer. Under a separate licensing agreement, Cytogen Corporation conjugated B72.3 with ^{111} In and developed Onco Scint CR/OV® for oncologic imaging to be used in conjunction with CT scan. OncoScint CR/OV® has been approved for use in both colorectal cancer and ovarian cancer.

(B) Under a separate CRADA agreement, a Phase III multicenter trial is also in progress employing ^{125} I-labeled murine CC49 with an intraoperative hand held probe as a method of radioimmunoguided surgery.

Additional Background Information

- The LTIB has shown via immunohistochemistry that anti-TAG–72 and anti-carcinoembryonic antigen monoclonal antibodies complement each other extremely well in overcoming antigen heterogeneity. Serum assays for carcinoembryonic antigen and TAG–72 (CA72–4) are also complementary in that non-coordinate expression is observed.
- Previous collaborative studies on the use of the CC49 and COL–1 monoclonal antibodies as drug conjugates demonstrated anti-tumor effects in animal models.
- The LTIB has recently developed CDR grafted (humanized) forms of monoclonal antibody CC49, and other novel genetically engineered immunoglobulin forms for CC49 could be the subject of any CRADA. Similar constructs of anti-carcinoembryonic antigen monoclonal antibodies could also be the subject of any CRADA.
- Recent clinical trials have supported the preclinical observations that recombinant interferon will selectively upregulate both TAG–72 and carcinoembryonic antigen expression on the surface of tumor cells. This finding should enhance both diagnostic and therapeutic uses of these classes of monoclonal antibodies, and these studies could be included as CRADA activities.
- The NIH has exclusively licensed the rights for monoclonal antibody CC49 for use with the radioimmunoguided surgery intraoperative probe as part of a separate collaboration.
- A comprehensive list of publications relating to this technology, intellectual property and background licensing information, and general CRADA information will be provided upon initial contact with NCI.

Party Contributions

The role of the National Cancer Institute includes the following:

(1) Develop novel recombinant forms of monoclonal antibodies.

(2) Initial characterization of hybridoma cell lines producing monoclonal antibodies.

(3) Conduct preclinical testing (tumor targeting and therapy) of these monoclonal antibodies both *in vivo* and *in vitro* as unlabeled immunoglobulin forms and/or as antibody conjugates.

(4) Conduct preclinical studies on the use of biologic response modifiers to upregulate tumor targeting and therapy.

(5) Analyze pharmacokinetics and anti-immunoglobulin responses in some clinical trials.

The role of the successful corporate sponsor(s) will include:

(1) Develop high producer clones of the monoclonal antibodies and recombinant immunoglobulin producing cells lines and cultures supplied by the NCI and optimize production and purification procedures for experimental tumor targeting and therapy studies.

(2) Produce and purify clinical grade (GMP) monoclonal antibodies for clinical trials and submit Drug Master Files in support of the monoclonal antibody production.

(3) Conduct toxicity studies as required by the FDA.

(4) Develop methodologies for the conjugation of monoclonal antibodies with (A) Radionuclides, (B) Drugs and/or toxins, (C) Pro-drugs, (D) Bifunctional antibodies.

(5) Submit IND application in support of clinical trials.

(6) Conduct clinical trials using monoclonal antibody and immunoglobulin forms.

The role of both the National Cancer Institute and the successful corporate sponsor(s) will include:

(1) Optimize purification schemes for immunoglobulin forms, prior to and post conjugation.

(2) Collaborate on clinical trial design including protocols using biologic response modifiers (e.g., recombinant interferon).

(3) Collaborate on data analysis in support of clinical trials.

Selection Criteria

Proposals submitted for consideration should fully address each of the following qualifications:

(1) Experience in the GMP production, purification, quality control of monoclonal antibodies and regulatory requirements of monoclonal antibody clinical trials.

(2) Experience in the conjugation of monoclonal antibodies with one or more of the following: (A) Radionuclides, (B) Drugs and/or toxins, (C) Pro-drugs, (D) Bifunctional Antibodies *and* the analyses of these reagents.

(3) Ability to provide necessary reagents on a timely basis.

(4) Experience in conducting clinical trials.

(5) Willingness to cooperate with the National Cancer Institute in the collection and evaluation of data.

VOL 60 ISS 79 AP 25 1995 UMI

(6) Agreement to be bound by the DHHS rules involving the use of human and animal subject, and human tissue.

(7) Ability to obtain background license to relevant patent rights.

(8) Willingness to agree to Federal Statutory provisions for the equitable distribution of patent rights to any CRADA subject-matter inventions. Generally, the rights of ownership are retained by the organization which is the employer of the inventor, with (A) an irrevocable, non-exclusive, royalty-free research license to the Government (when a company employee is the sole inventor) or (B) an option for an exclusive or non-exclusive license to the company on terms that are appropriate (when the Government employee is the sole or joint inventor).

(9) Willingness to cost share in laboratory studies including the funding of personnel dedicated to completion of the CRADA research project.

(10) Submission of an initial response to the NIH Model CRADA boilerplate provisions.

Dated: April 13, 1995.

Dr. Thomas Mays,

Director, Office of Technology Development, National Cancer Institute, National Institutes of Health.

[FR Doc. 95–10110 Filed 4–24–95; 8:45 am]

BILLING CODE 4140–01–P

National Cancer Institute: Opportunity for a Clinical Trial Cooperative Research and Development Agreement (Clinical Trial "CRADA") for the Scientific and Commercial Development of the Signal Transduction Inhibitor, "CAI", as an Anticancer Agent

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks a pharmaceutical company which can effectively pursue the clinical development of the signal transduction inhibitor, carboxyamide-amino triazole ("CAI", NSC 609974), for the treatment and/or prevention of cancer. The National Cancer Institute has data suggesting that CAI may have potential for the treatment and prevention of cancer. The selected sponsor will be awarded a CRADA for the co-development of this agent with the National Cancer Institute.

ADDRESSES: Questions about this opportunity may be addressed to Mark W. Noel, Office of Technology Development, NCI, Building 31/Room 4A51, 9000 Rockville Pike, Bethesda, Maryland 20892, (301) 496–0477, facsimile (301) 402–2117, from whom further information including a summary copy of the preclinical and clinical data may be obtained.

DATES: In view of the important priority of developing new agents for the treatment or prevention of cancer, interested parties should notify this office in writing no later than June 25, 1995. Respondents will then be provided an additional 60 days for the filing of formal proposals.

SUPPLEMENTARY INFORMATION:

"Cooperative Research and Development Agreement" or "CRADA" means the anticipated joint agreement to be entered into by NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of October 10, 1987 to collaborate on the specific research project described below. The present opportunity will be for a Clinical Trial CRADA. The Clinical Trial CRADA is a modification of the standard NIH Model Agreement wherein additional language has been drafted to enable the Collaborator to access and utilitize clinical trial data.

The Government is seeking a pharmaceutical company which, in accordance with the requirements of the regulations governing the transfer of agents in which the Government has taken an active role in developing (37 CFR 404.8), can further develop CAI through Federal Food and Drug Administration approval and to a commercially available status to meet the needs of the public and with the best terms for the Government.

CAI is a novel chemically defined compound which has shown promising antitumor activity in several preclinical trials. The drug is under patent to Merck & Co., Inc. (U.S. Patent 4,590,201). The use of CAI in a method of treating peritoneal carcinomatosis of solid tumors is claimed in U.S. Patent 5,132,315 assigned to the Dept. of Health and Human Services. A method for the detection and quantitation of CAI levels in blood is claimed in U.S. Patent 5,405,782 which is also assigned to the Dept. of Health and Human Services. Its use in the treatment of cancer in patients with a surgically excised tumor with a high probability of metastasis and its use in treatment of cancers involving the transportation of individual cells to other tissue from a metastasizing tumor are claimed in U.S. Patent 5,045,543 (assigned to Merck & Co. Inc). The Clinical Trial CRADA will allow a pharmaceutical company to provide resources, in collaboration with the NCI, for the continuing preclinical and clinical development work for this agent and its eventual commercialization. Merck & Co.'s patent rights will be available for licensing on terms to be mutually agreed upon by Merck and the selected Collaborator. Similarly, the Government will make its relevant intellectual property rights available for licensing to the Collaborator.

Based on the promising data obtained from the ongoing Phase I clinical trials, there is a need to obtain greater quantities of CAI and to continue clinical development of this agent. The NCI is interested in establishing a Clinical Trial CRADA with a pharmaceutical company to assist in the continuing development of CAI. The government will provide all relevant available expertise and information to date and will jointly pursue new trials as required giving the pharmaceutical company exclusive rights to all preclinical and clinical data for regulatory approval and its New Drug Application (NDA). The successful pharmaceutical company will provide the necessary quantities of drug plus the necessary financial and organizational support to complete further development of CAI to establish clinical efficacy and possible commercial status.

The expected duration of the CRADA will be three (3) to five (5) years.

The role of the National Cancer Institute, includes the following:

1. The government has data for the bulk production of clinical grade CAI. The successful pharmaceutical company will be allowed access to this data.
2. The government will provide data concerning pharmaceutical manufacturing and controls, including dosage form development data for the finished product.
3. The government will allow the pharmaceutical company to review and cross-file the NCI's IND.
4. The government will make the NCI's IND proprietary under such circumstances and make the IND available (exclusively) to the pharmaceutical company.
5. The government will continue the clinical development of this compound under its clinical trials network in coordination with the pharmaceutical company.
6. Relevant Government intellectual property rights are available for licensing through the Office of Technology Transfer, National Institutes of Health. For further information contact Jack Spiegel, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892; (301) 496–7735; facsimile (301) 402–0220.

The role of Merck & Co. under the CRADA will include the following:

1. Participate in the selection of the CRADA collaborator and in the development of the CRADA Research Plan.
2. Provide for the licensing of Merck intellectual property rights to the selected Collaborator as necessary for the clinical development and commercialization of CAI as an anti-cancer agent.

The role of the successful pharmaceutical company under the CRADA will include the following:

1. Provide plans to independently secure future continuing supplies of GMP produced and formulated material to assure continued collaborative clinical development of CAI.
2. Provide funds to supplement the clinical trials support contracts and offer any other necessary support to the NCI for continued collaborative clinical development of this compound. This includes both financial support as well as personnel for data management and clinical care.
3. Provide planning and support for clinical development leading to FDA approval for marketing.

Criteria for choosing the pharmaceutical company include its demonstrated experience and commitment to the following:

1. Experience in preclinical and clinical drug development.
2. Experience and ability to produce, package, market and distribute pharmaceutical products.
3. Experience in the monitoring, evaluation and interpretation of the data from investigational agent clinical studies under an IND.
4. A willingness to cooperate with the NCI in the collection, evaluation, publication and maintaining of data from clinical trials of investigational agents.
5. The provision of adequate quantities of GMP produced and formulated CAI as needed for clinical development of this agent for the specified field of use to be determined upon mutual agreement of the parties.
6. Provide defined financial and personnel support for the clinical trials to be mutually agreed upon.
7. An agreement to be bound by the DHHS rules involving human and animal subjects.
8. The aggressiveness of the development plan, including the appropriateness of milestones and deadlines for preclinical and clinical development.
9. Provisions for equitable distribution of patent rights to any inventions. Generally the rights of ownership are retained by the organization which is the employer of the inventor, with (1) an irrevocable, nonexclusive, royalty-free license to the Government (when a company employee(s) is (are) the sole inventor(s)) or (2) an option to negotiate an exclusive or nonexclusive license to the company on terms that are appropriate (when the Government employee(s) is (are) the sole inventor(s) or where a joint invention arises).

Dated: April 13, 1995.

Thomas D. Mays,

Director, Office of Technology Development, OD, NCI.

[FR Doc. 95–10109 Filed 4–24–95; 8:45 am]

BILLING CODE 4140–01–P

National Cancer Institute: Opportunity for a Cooperative Research and Development Agreement ("CRADA") for the Scientific and Commercial Development of Certain Signal Transduction Inhibitors as Anticancer Agents

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks a pharmaceutical company which can effectively pursue the preclinical development and possible eventual clinical development of a family of agents which inhibit the signal transduction pathways required for the growth and metastasis of cancer cells. The National Cancer Institute has preclinical data suggesting that these agents may have potential for the treatment and/or prevention of cancer. The selected sponsor will be awarded a CRADA for the co-development of these agents in a specified field of use to be determined upon mutual agreement of the parties.

ADDRESSES: Questions about this opportunity may be addressed to Mark W. Noel, Office of Technology Development, NCI, Building 31/Room 4A51, 9000 Rockville Pike, Bethesda, Maryland 20892, (301) 496–0477, facsimile (301) 402–2117, from whom further information including a summary copy of the preclinical data may be obtained.

DATES: In view of the important priority of developing new drugs for the treatment or prevention of cancer, interested parties should notify this office in writing no later than June 26, 1995. Respondents will then be provided an additional 60 days for the filing of formal proposals.

SUPPLEMENTARY INFORMATION:

"Cooperative Research and Development Agreement" or "CRADA" means the anticipated joint agreement to be entered into by NCI pursuant to the Federal Technology Transfer Act of 1986 and Executive Order 12591 of October 10, 1987 to collaborate on the specific research project described below.

The Government is seeking a pharmaceutical company which, in accordance with the requirements of the regulations governing the transfer of Government-developed agents (37 CFR 404.8), can develop the subject agents to a marketable status to meet the needs of the public and with the best terms for the Government. These agents are a novel, chemically-defined family of agents being investigated in the Laboratory of Pathology of the Division of Cancer Biology, Diagnosis and Centers, National Cancer Institute. These agents have been demonstrated to inhibit the signal transduction pathways required for the growth and metastasis of cancer cells and have shown promising antitumor activity in preclinical investigations. The majority of the agents which are the subject of the CRADA opportunity are the subject of patent U.S. Patent 5,359,078 which is assigned to the Dept. of Health and Human Services. A method for the detection and quantitation of the levels of these agents in blood is claimed in U.S. Patent 5,405,782 which is also assigned to the Dept. of Health and Human Services. The Cooperative Research and Development Agreement ("CRADA") will allow a pharmaceutical company to provide resources, in collaboration with the NCI, for the continuing preclinical development and possibly the clinical development for this group of agents.

The government will provide all relevant available expertise and information to date and will, jointly pursue further preclinical development of these agents with the chosen Collaborator. Relevant background patent rights are available for licensing to the Collaborator.

The successful pharmaceutical company will provide the necessary quantities of the agents plus the necessary technical expertise, financial and organizational support to complete further development of these agents to establish their efficacy and possible commercial status.

The expected duration of the CRADA will be three (3) to five (5) years.

The role of the National Cancer Institute, includes the following:

1. The government will continue preclinical development of the agents as

VOL 60 ISS 79 AP 25 1995 UMI

signal transduction inhibitors *in vitro* and *in vivo*. Data from these studies will be provided to the Collaborator and evaluated jointly.

2. The government will provide data for the production of the subject agents. The successful pharmaceutical company will be allowed exclusive access to this resource.

3. As appropriate, agents showing promise in preclinical studies may proceed to collaborative clinical development under NCI's clinical trials network, as mutually agreed upon by both parties and subject to appropriate amendment of this CRADA or alternatively by negotiation and execution of a Clinical Trials CRADA. The Clinical Trial CRADA is a modification of the standard NIH Model Agreement wherein additional language has been drafted to enable the Collaborator to access and utilize clinical trial data.

4. Relevant Government patent rights are available for licensing through the Office of Technology Transfer, National Institutes of Health. For further information contact Jack Spiegel, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892; (301) 496–7735; Facsimile (301) 402–0220.

The role of the successful pharmaceutical company under the CRADA will include the following:

1. Provide plans to independently secure future continuing supplies of the selected agents for their continued preclinical development. The collaborator will also supply sufficient quantities of GMP produced and formulated material for the selected agents which, upon mutual consent of the parties, proceed to collaborative clinical development.

2. Provide scientific development strategy and financial and other support for the collaborative preclinical development of the selected agents.

Criteria for choosing the pharmaceutical company include its demonstrated experience and commitment to the following:

1. Experience in preclinical and clinical drug development.

2. Experience and ability to produce, package, market and distribute pharmaceutical products.

3. Experience in the monitoring, evaluation and interpretation of the data from preclinical studies and investigational agent clinical studies under an Investigational New Drug Application (IND).

4. A willingness to cooperate with the NCI in the collection, evaluation, publication and maintaining of data from preclinical investigations and clinical trials, as appropriate, of investigational agent(s).

5. The ability to provide adequate quantities of the subject agents for their continued preclinical investigation and ability, as appropriate to provide adequate quantities of GMP produced and formulated material as needed for clinical development of one or more of these agents, as mutually agreed by the parties.

6. Provide defined financial and personnel support for the preclinical studies and clinical trials (as appropriate) to be mutually agreed upon.

7. An agreement to be bound by the DHHS rules involving human and animal subjects.

8. The aggressiveness of the development plan, including the appropriateness of milestones and deadlines for preclinical and clinical development.

9. Provisions for equitable distribution of patent rights to any inventions. Generally the rights of ownership are retained by the organization which is the employer of the inventor, with (1) an irrevocable, nonexclusive, royalty-free license to the Government (when a company employee(s) is (are) the sole inventor(s)) or (2) an option to negotiate an exclusive or nonexclusive license to the company on terms that are appropriate (when the Government employee(s) is (are) the sole inventor(s) or where a joint invention arises).

Dated: April 13, 1995.

Thomas D. Mays,

Director, Office of Technology Development, OD, NCI.

[FR Doc. 95–10108 Filed 4–24–95; 8:45 am]

BILLING CODE 4140–01–P

Division of Research Grants; Amended Notice of Meeting

Notice is hereby given of a change in the meeting May 8–9, 1995, starting at 8:30 a.m., Building 31C, Conference Room 6, of the Division of Research Grants Advisory Committee, which was published in the **Federal Register** on April 3 (60 FR 16880).

This committee was to have convened at 8:30 a.m. on May 8 to adjournment on May 9, but has been changed to May 10–11, 1995, Building 31C, Conference Room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. on May 10 to adjournment on May 11.

Dated: April 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10107 Filed 4–24–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

On February 9, 1995, a notice was published in the **Federal Register** (60 FR 7785) that an application had been filed with the U.S. Fish and Wildlife Service (Service) by Heritage Arts Foundation, Inc., St. George, Utah, for a permit to incidentally take, pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), threatened desert tortoises (*Gopherus agassizii*) in conjunction with operation of an access road to the Tuacahn School and Performing Arts Center in Padre Canyon, town of Ivins, Washington County, Utah, pursuant to an implementation agreement which implements the Heritage Arts Foundation's Habitat Conservation Plan. Thirty-seven comments were received. Thirty-six commenters expressed support for issuance of the incidental take permit, and one commenter opposed issuance of any incidental take permits in this area and questioned the evaluation of alternatives to, and impacts of, the proposal. These comments have been addressed and are incorporated into the final environmental assessment.

Notice is hereby given that on March 31, 1995, as authorized by the provisions of the Act, the Service issued an incidental take permit (PRT–798634) to the above-named party subject to certain conditions set forth therein. The permit was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Act, as amended.

Additional information on this permit action may be obtained by contacting the Assistant Field Supervisor, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84114, telephone (801) 524–5001, between the hours of 7:30 a.m. to 4:30 p.m. weekdays.

Dated: April 19, 1995.

Terry T. Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 95–10135 Filed 4–24–95; 8:45 am]

BILLING CODE 4310–55–M

Finding of No Significant Impact for Incidental Take Permits for the Construction of Single Family Residences at the Specific Site Locations Below in Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared an Environmental Assessment for issuance of Section 10(a)(1)(B) permits for the incidental take of the Federally endangered golden-cheeked warbler (*Dendroica chrysoparia*) during the construction and operation of single-family residences in Travis County, Texas.

Proposed Action

The proposed action is the issuance of permits under Section 10(a)(1)(B) of the Endangered Species Act to authorize the incidental take of the golden-cheeked warbler.

The Applicant (Howard L. Burris Jr.) plans to construct single-family residences at the specific sites indicated in Block D, Section 4, Jester Point 2: Lot 35 aka 7116 Foxtree Cove (PRT–798292), Lot 19 aka 7115 Foxtree Cove (PRT–798296), Lot 20 aka 7113 Foxtree Cove (PRT–798290), Lot 23 aka 7107 Foxtree Cove (PRT–798289), Lot 22, aka 7109 Foxtree Cove (PRT–798288), Lot 21 aka 7111 Foxtree Cove (PRT–798286), Lot 28 aka 7102 Foxtree Cove (PRT–798302), Lot 27 aka 7100 Foxtree Cove (PRT–798295), Lot 25 aka 7103 Foxtree Cove (PRT–798297), Lot 36 aka 7200 Foxtree Cove (PRT–798301), Lot 323 aka 7112 Foxtree Cove (PRT–798293), Lot 15 aka 7205 Foxtree Cove (PRT–798294), Lot 34 aka 7114 Foxtree Cove (PRT–798299), Lot 18 aka 7117 Foxtree Cove (PRT–798291), Lot 17 aka 7201 Foxtree Cove (PRT–798300), and Lot 24 aka 7105 Foxtree Cove (PRT–798298).

The proposed construction and operation of single-family residences will comply with all local, State, and Federal environmental regulations addressing environmental impacts associated with this type of development. Details of the mitigation are provided in the individual Environmental Assessment/Habitat Conservation Plans. These conservation plan actions ensure that the criteria established for issuance of an incidental take permits will be fully satisfied.

Alternatives Considered

1. Proposed action,
2. Alternate site locations,
3. Alternate site designs,
4. Wait for issuance of a regional Section 10(a)(1)(B) permit
5. No action.

Determination

Based upon information contained in the Environmental Assessment/Habitat Conservation Plans, the Service has determined that this action is not a major Federal action which would significantly affect the quality of the human environment with the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of Environmental Impact Statements on the proposed action is not warranted.

It is my decision to issue the Section 10(a)(1)(B) permits for the construction and operation of the single-family residences at the sites specified above in Travis County, Texas.

Lynn B. Starnes,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–10133 Filed 4–24–95; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 15, 1995. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by May 10, 1995.

Carol D. Shull,

Chief of Registration, National Register.

CALIFORNIA

Los Angeles County

Los Angeles Nurses' Club, 245 S. Lucas Ave., Los Angeles, 95000581

CONNECTICUT

Fairfield County

West End Congregation—Achavath Achim Synagogue (Historic Synagogues of Connecticut MPS), 725 Hancock Ave., Bridgeport, 95000574

Hartford County

Beth Hamedrash Hagodol Synagogue (Historic Synagogues of Connecticut MPS), 370 Garden St., Hartford, 95000577

Chevry Lomday Mishnayes Synagogue (Historic Synagogues of Connecticut MPS), 148–150 Bedford St., Hartford, 95000575

Tephereth Israel Synagogue (Historic Synagogues of Connecticut MPS), 76 Winter St., New Britain, 95000576

New Haven County

Beth Israel Synagogue (Historic Synagogues of Connecticut MPS), 232 Orchard St., New Haven, 95000578

KANSAS

Chase County

Whitney Ranch Historic District, SE of Hymer off unnamed rd., Hymer vicinity, 95000589

Marion County

Island Field Ranch House, US 56/77 S of Lincolnville, Lincolnville vicinity, 95000579

Santa Fe Trail—Marion County Trail Segments (Santa Fe Trail MPS), 3½ mi. S of FAS Hwy. 426 on FAS Hwy. 184, Durham vicinity, 95000584

Morris County

Six Mile Creek Stage Station Historic District (Santa Fe Trail MPS), 600 ft. E of FAS Hwy. 468, 4¼ mi. S of jct. with US 56, Burdick vicinity, 95000585

Osage County

Hunt, Samuel, Grove (Santa Fe Trail MPS), KS 31 E of crossing of I–335 (Kansas Tpk.), Burlingame Township, Burlingame vicinity, 95000586

Rice County

Santa Fe Trail– -Rice County Trail Segments (Santa Fe Trail MPS), Bushton Blacktop (FAS Hwy. 570), ¾ mi. N of US 56, Chase vicinity, 95000582

Station Little Arkansas (Santa Fe Trail MPS), 5 mi. S of US 56 on FAS Hwy. 443, ¾ mi. W on gravel rd., Windom vicinity, 95000583

MISSOURI

Buchanan County

Nelson—Pettis Farmsteads Historic District, 4401 Ajax Rd., 3412 Pettis Rd., St. Joseph, 95000587

OHIO

Franklin County

Engine House No. 16, 260 N. Fourth St., Columbus, 95000580

Summit County

Jyrovat Farmstead (Agricultural Resources of the Cuyahoga Valley MPS), 696 Streetsboro Rd., Peninsula vicinity, 95000588

[FR Doc. 95–10106 Filed 4–24–95; 8:45 am]

BILLING CODE 4310–70–M

VOL 60 ISS 79 AP 25 1995 UMI

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Advisory Policy Board

The Criminal Justice Information Services (CJIS) Advisory Policy Board will meet on June 7–8, 1995, from 9 a.m. until 5 p.m., at the Sheraton Fisherman's Wharf Hotel, 2500 Mason Street, San Francisco, California, telephone 415–362–5500, to formulate recommendations to the Director, Federal Bureau of Investigation (FBI) on the security, policy, and operation of the National Crime Information Center (NCIC), NCIC 2000, the Integrated Automated Fingerprint Identification System (IAFIS), and the Uniform Crime Reporting (UCR) and National Incident Based Reporting System (NIBRS) programs.

The topics to be discussed will include the progress of the NCIC 2000 and IAFIS projects, status of the Brady Handgun Violence Prevention Act, and other topics related to the management of the FBI's criminal history information systems.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public may file a written statement concerning the FBI CJIS Division programs or related matters with the Board, before or after. Anyone wishing to address this session of the meeting should notify the Designated Federal Employee, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, facsimile, or a hand-delivered note. It should contain the requester's name; corporate designation, consumer affiliation, or Government designation; along with a short statement describing the topic to be addressed; and the time needed for presentation. A nonmember requestor will ordinarily be allowed not more than 15 minutes to present a topic, unless specifically approved by the Chairman of the Board.

Inquiries may be addressed to the Designated Federal Employee, Mr. Demery R. Bishop, Section Chief, Programs Development Section, CJIS Division, FBI, 10th and Pennsylvania Avenue, Northwest, Washington, DC 20535, telephone 202–324–5084, facsimile 202–324–8906.

Dated: April 17, 1995.

Demery R. Bishop,

Section Chief, Programs Development Section, Federal Bureau of Investigation, Designated Federal Employee.

[FR Doc. 95–10082 Filed 4–24–95; 8:45 am]

BILLING CODE 4410–2–M

DEPARTMENT OF LABOR

Office of the Secretary

Proposed Information Collection Requirement

April 20, 1995.

AGENCY: Office of the Secretary, Labor.

SUMMARY: The Director, Office of Information Resources Management Policy, invites comments on the following proposed expedited review information collection request as required by the Paperwork Reduction Act of 1980, as amended.

DATES: This expedited review is being requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 5, 1995.

ADDRESSES: Written comments should be addressed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, 725 17th St., NW., Room 10235, New Executive Office Building, Wash., DC 20503. Requests for copies of the proposed information collection request should be addressed to Kenneth A. Mills, Department of Labor, 200 Constitution Ave., NW., Room N–1301, Wash, DC 20210.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Mills, (202) 219–5095. Individuals who use a telecommunications device for the deaf (TTY/TDY) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested persons an early opportunity to comment on an information collection request. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with the agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management Policy, publishes this notice simultaneously with the submission of this request to OMB. This notice contains the following information:

Type of Review: *Expedited.*

Agency: Women's Bureau.

Title: The Working Women Count Honor Roll—Recognizing Employers and Others Who Value Making Work Better for Women.

Frequency of Response: One-time.

Affected Public: Business or other for-profit; Not-for-profit; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 2,500.

Estimated Time Per Response: 30 minutes.

Total Annual Burden Hours: 1,250.

Respondents Obligation to Reply: Voluntary.

Description: The Women's Bureau is establishing a "Working Women Count Honor Roll" to stimulate local action and recognize employers in both the private and public sector, unions and other local, State and national organizations who through their own policies and practices are valuing the work the women do. The Women's Bureau staff and Working Women Count partners will distribute pledge cards to interested businesses, labor unions, government officials, media and community organizations to stimulate interest at the local level. Those interested in making a pledge will voluntarily return the pledge cards to the National Office. Once received, the pledge cards will be placed on the Working Women Count pledges mailing list for additional information.

Respondents will receive an information kit to further describe the concerns of customers and tell pledges how they may qualify for membership on the Working Women Count Honor Roll. The Women's Bureau will use a self-nomination approach to membership on the Working Women Count Honor Roll. Interested parties will make a pledge, track their progress and upon completion of their tasks provide the requested information according to the information kit.

The Women's Bureau will review nomination forms for completeness and admit completed projects to the Working Women Count Honor Roll. Those admitted will receive a letter from the Women's Bureau Director and a certificate of appreciation from the Secretary of Labor for accomplishing their Working Women Count pledge.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 95–10242 Filed 4–24–95; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Job Training Partnership Act and Targeted Jobs Tax Credit; Lower Living Standard Income Level

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of determination of lower living standard income level.

SUMMARY: The Job Training Partnership Act (JTPA) provides that the term "economically disadvantaged" may be defined as 70 percent of the "lower living standard income level" (LLSIL). To provide the most accurate data possible, the Department of Labor is issuing revised figures for the LLSIL. The Internal Revenue Code also provides that the term "economically disadvantaged" may be defined as 70 percent of the LLSIL for purposes of the Targeted Jobs Tax Credit (TJTC).

EFFECTIVE DATE: This notice is effective on April 25, 1995.

ADDRESSES: Send written comments to: Ms. Diane Mayronne, Office of Employment and Training Programs, Employment and Training Administration, Department of Labor, Room N–4463, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Mayronne, Telephone: 202–219–5305 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: It is a purpose of the Job Training Partnership Act (JTPA) "to afford job training to those economically disadvantaged individuals * * * who are in special need of such training to obtain productive employment." JTPA Section 2; see 20 CFR 626.1 and 626.3(b). JTPA Section 4(8) defines, for the purposes of JTPA eligibility, the term "economically disadvantaged" in part by reference to the "lower living standard income level" (LLSIL). See 20 CFR 626.5.

The LLSIL figures published in this notice shall be used to determine whether an individual is economically disadvantaged for applicable JTPA purposes. JTPA Section 4(16) defines the LLSIL as follows:

> The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary [of Labor] based on the most recent "lower living family budget" issued by the Secretary.

Internal Revenue Code (I.R.C.) Section 51 established the Targeted Jobs Tax Credit (TJTC) for a portion of the wages paid by employers to employees from "targeted" groups who begin work for the employer before January 1, 1995. 26 U.S.C. 51(c)(4). Certain of the targeted groups require that the worker be a member of "an economically disadvantaged family." See, *e.g.*, 26 U.S.C. 51(d)(3)(A)(ii), (4)(C), (7)(B), (8)(A)(iv), and (12)(A)(iv). Pursuant to 26 U.S.C. 51(d)(11), the LLSIL is used to determine whether an individual is a member of an economically disadvantaged family for applicable TJTC purposes. Since the determination of whether an individual is a member of an economically disadvantaged family necessarily will relate to a period prior to 1995, the LLSIL figures in this notice will not be utilized by the TJTC program under current law.

The most recent lower living family budget was issued by the Secretary in the fall of 1981. Using those data, the 1981 LLSIL was determined for programs under the now-repealed Comprehensive Employment and Training Act, and for the TJTC. The four-person urban family budget estimates previously published by the Bureau of Labor Statistics (BLS) provide the basis for the Secretary to determine the LLSIL for training and employment program operators. BLS terminated the four-person family budget series in 1982, after publication of the Fall 1981 estimates.

Under JTPA, the Employment and Training Administration (ETA) published the 1994 updates to the LLSIL in the **Federal Register** of April 22, 1994. 59 FR 19241. ETA has again updated the LLSIL to reflect cost of living increases for 1994 by applying the percentage change in the December 1994 Consumer Price Index for All Urban Consumers (CPI–U), compared with the December 1993 CPI–U, to each of the April 22, 1994, LLSIL figures. Those updated figures for a family of four are listed in Table 1 below by region for both metropolitan and nonmetropolitan areas. Since eligibility is determined by family income at 70 percent of the LLSIL, pursuant to Section 4(8) of JTPA, those figures are listed below as well.

Jurisdictions included in the various regions, based generally on Census Divisions of the U.S. Department of Commerce, are as follows:

Northeast

Connecticut
Maine
Massachusetts
New Hampshire
New Jersey
New York
Pennsylvania
Rhode Island
Vermont
Virgin Islands

North Central

Illinois
Indiana
Iowa
Kansas
Michigan
Minnesota
Missouri
Nebraska
North Dakota
Ohio
South Dakota
Wisconsin

South

Alabama
American Samoa
Arkansas
Delaware
District of Columbia
Florida
Georgia
Northern Marianas
Oklahoma
Palau
Puerto Rico
South Carolina
Kentucky
Louisiana
Marshall Islands
Maryland
Mississippi
Micronesia
North Carolina
Tennessee
Texas
Virginia
West Virginia

West

Arizona
California
Colorado
Idaho
Montana
Nevada
New Mexico
Oregon
Utah
Washington
Wyoming

Additionally, separate figures have been provided for Alaska, Hawaii, and Guam as indicated in Table 2 below.

For Alaska, Hawaii, and Guam, the 1995 figures were updated by creating a "State Index" based on the ratio of the urban change in the State (using Anchorage for Alaska and Honolulu for Hawaii and Guam) compared to the West regional metropolitan change, and then applying that index to the West regional nonmetropolitan change.

Data on 25 selected Metropolitan Statistical Areas (MSAs) are also available. These are based on monthly, bimonthly or semiannual CPI–U changes for a 12-month period ending in

VOL 60 ISS 79 AP 25 1995 UMI

December 1994. The updated LLSIL figures for these MSAs, and 70 percent of the LLSIL, rounded to the next highest ten, are set forth in Table 3 below.

Table 4 below is a listing of each of the various figures at 70 percent of the updated 1995 LLSIL for family sizes of one to six persons. For families larger than six persons, an amount equal to the difference between the six-person and the five-person family income levels should be added to the six-person family income level for each additional person in the family. Where the poverty level for a particular family size is greater than the corresponding LLSIL figure, the figure is indicated in parentheses.

Section 4(8) of JTPA defines "economically disadvantaged" as, among other things, an individual whose family income was not in excess of the higher of the poverty level or 70 percent of the LLSIL. The Department of Health and Human Services published the annual update of the poverty-level guidelines at 60 FR 7772 (February 9, 1995).

Use of These Data

Based on these data, Governors should provide the appropriate figures to service delivery areas (SDAs), State Employment Security Agencies, and employers in their States to use in determining eligibility for JTPA. The Governor should designate the appropriate LLSILs for use within the State from Tables 1 through 3. Table 4 may be used with any of the levels designated.

Information may be provided by disseminating information on MSAs and metropolitan and nonmetropolitan areas within the State, or it may involve further calculations. For example, the State of New Jersey may have four or more figures: Metropolitan, nonmetropolitan, for portions of the State in the New York City MSA, and for those in the Philadelphia MSA. If an SDA includes areas that would be covered by more than one figure, the Governor may determine which is to be used. Pursuant to the JTPA regulations at 20 CFR 627.200, guidelines, interpretations, and definitions adopted by the Governor shall be accepted by the Secretary to the extent that they are consistent with the JTPA and the JTPA regulations.

Disclaimer on Statistical Uses

It should be noted that the publication of these figures is only for the purpose of determining eligibility for applicable JTPA programs. BLS has not revised the lower living family budget since 1981, and has no plans to do so. The four-person urban family budget estimates series has been terminated. The CPI–U adjustments used to update the LLSIL for this publication are not precisely comparable, most notably because certain tax items were included in the 1981 LLSIL, but are not in the CPI–U.

Thus, these figures should not be used for any statistical purposes, and are valid only for eligibility determination purposes under the JTPA program.

Signed at Washington, DC, this 18th day of April, 1995.

Donald J. Kulick,

Deputy Administrator.

BILLING CODE 4510–30–M

Appendix

Table 1 -- Lower Living Standard Income Level By Region [1]

Region	1995 Adjusted LLSIL	70 percent LLSIL
Northeast		
Metro	26,130	18,340
Non–Metro	26,210	18,350
North Central		
Metro	24,230	16,960
Non–Metro	22,910	16,040
South		
Metro	23,050	16,130
Non–Metro	21,630	15,140
West		
Metro	25,800	18,060
Non–Metro	25,150	17,600

[1] For ease of calculation, these figures have been rounded to the next highest ten dollars.

Table 2 -- Lower Living Standard Income Level -- Alaska, Hawaii and Guam [1]

Region	1995 Adjusted LLSIL	70 percent LLSIL
Alaska:		
Metro	33,080	23,160
Non–Metro	32,190	22,530
Hawaii–Guam:		
Metro	36,130	25,290
Non–Metro	35,160	24,610

[1] Rounded to the next highest ten dollars.

VOL 60 ISS 79 AP 25 1995 UMI

Table 3 -- Lower Living Standard Income Level -- 25 MSAs [1]

Region MSA	1995 Adjusted LLSIL	70 percent LLSIL
Anchorage, AK	33,080	23,160
Atlanta, GA	22,870	16,010
Baltimore, MD	24,560	17,190
Boston-Lawrence-Salem, MA/NH	27,500	19,250
Buffalo-Niagara Falls, NY	23,580	16,510
Chicago-Gary-Lake County, IL/IN/WI	25,300	17,710
Cincinnati-Hamilton, OH/KY/IN	24,560	17,190
Cleveland-Akron-Lorain, OH	25,100	17,570
Dallas-Ft Worth, TX	21,970	15,380
Denver-Boulder, CO	24,540	17,180
Detroit-Ann Arbor, MI	23,350	16,350
Honolulu, HI	36,130	25,290
Houston-Galveston-Brazoria, TX	21,950	15,370
Kansas City, MO/KS	23,150	16,200
Los Angeles-Anaheim-Riverside, CA	26,820	18,770
Milwaukee, WI	24,690	17,280
Minneapolis-St Paul, MN/WI	23,710	16,600
New York-Northern N.J.-Long Island, NY/NJ/CT	27,290	19,100
Philadelphia-Wilmington-Trenton, PA/NJ/DE/MD	25,700	17,990
Pittsburgh-Beaver Valley, PA	24,450	17,120
St Louis-East St Louis, MO/IL	23,490	16,440
San Diego, CA	26,920	18,840
San Francisco-Oakland-San Jose, CA	26,570	18,600
Seattle-Tacoma, WA	27,380	19,170
Washington, DC/MD/VA	28,010	19,610

[1] Rounded to the next highest ten dollars.

Table 4--SEVENTY PERCENT OF UPDATED 1995 LLSIL, BY FAMILY SIZE [1]

Family of One	Two	Three	Four	Five	Six
5,450	8,930	12,260	15,140	17,870	20,890
5,530	9,070	12,450	15,370	18,140	21,210
5,540	9,070	12,460	15,380	18,150	21,220
5,760	9,450	12,970	16,010	18,890	22,090
5,770	9,460	12,990	16,040	18,930	22,140
5,810	9,520	13,070	16,130	19,030	22,260
5,830	9,560	13,120	16,200	19,120	22,360
5,890	9,650	13,240	16,350	19,290	22,560
5,920	9,700	13,320	16,440	19,400	22,690
5,940	9,740	13,370	16,510	19,480	22,780
5,980	9,800	13,450	16,600	19,590	22,910
6,110	10,010	13,740	16,960	20,010	23,410
6,160	10,100	13,870	17,120	20,200	23,630
6,190	10,140	13,920	17,180	20,270	23,710
6,190	10,140	13,920	17,190	20,280	23,720
6,220	10,200	14,000	17,280	20,390	23,850
6,330	10,370	14,230	17,570	20,730	24,250
6,340	10,380	14,260	17,600	20,770	24,290
6,380	10,450	14,350	17,710	20,900	24,440
6,480	10,610	14,570	17,990	21,230	24,830
6,500	10,660	14,630	18,060	21,310	24,920
6,600	10,820	14,860	18,340	21,640	25,310
6,610	10,830	14,860	18,350	21,650	25,320
6,700	10,970	15,070	18,600	21,950	25,670
6,760	11,070	15,200	18,770	22,150	25,900
6,780	11,120	15,260	18,840	22,230	26,000
6,880	11,270	15,470	19,100	22,540	26,360
6,900	11,310	15,530	19,170	22,620	26,460
6,930	11,360	15,590	19,250	22,720	26,570
7,060	11,570	15,880	19,610	23,140	27,060
8,110	13,290	18,250	22,530	26,590	31,090
8,340	13,660	18,760	23,160	27,330	31,960
8,860	14,520	19,930	24,610	29,040	33,960
9,100	14,920	20,490	25,290	29,840	34,900

[1] Figures provided in Tables 1-3 of this notice are for a family of four persons. To use Table 4, the appropriate figure should be found in the Family of Four column. Then one may read across the row for family sizes other than four in the appropriate column.

[FR Doc. 95-10152 Filed 4-24-95; 8:45 am]
BILLING CODE 4810-30-C

VOL
60
ISS
79
AP
25
1995
UMI

Occupational Safety and Health Administration

Vermont State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State Plan, which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On October 16,1973, notice was published in the **Federal Register** (38 FR 28658) of the approval of the Vermont State Plan and the adoption of Subpart U to Part 1952 containing the decision. The Vermont State Plan provides for the adoption of Federal standards as State standards after:

a. Publishing for two (2) successive weeks, in three (3) newspapers having general circulation in the center, northern and southern parts of the State, an intent to amend the State Plan by adopting the standard(s).

b. Review of standards by the Interagency Committee on Administrative Rules, State of Vermont.

c. Approval by the Legislative Committee on Administrative Rules, State of Vermont.

d. Filing in the Office of the Secretary of State, State of Vermont.

e. The Secretary of State publishing, not less than quarterly, a bulletin of all standard(s) adopted by the State.

The Vermont State Plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. By letter dated January 23, 1995, from Mary S. Hooper, Commissioner, Vermont Department of Labor and Industry, to Cindy A. Coe, then Acting Regional Administrator, and incorporated as part of the plan, the State submitted updated State standards identical to 29 CFR Parts 1904 and 1910, and subsequent amendments thereto, as described below:

(1) Revision to 29 CFR 1904.8, Reporting of fatality or multiple hospitalization incidents, as published in the **Federal Register** of April 1, 1994 (59 FR 15600); and

(2) Revisions and corrections to 29 CFR 1910.132, 1910.133, 1910.135, 1910.136, 1910.138, and Appendices A and B, Personal Protective Equipment for General Industry as published in the **Federal Register** of April 6, 1994 (59 FR 16360) and July 1, 1994 (59 FR 33910).

These standards became effective on January 1, 1995, pursuant to Section 224 of State Law.

2. Decision

The above State standards have been reviewed and compared with the relevant Federal standards. It has been determined that the State standards are identical to the Federal standards, and are accordingly approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 133 Portland Street, Boston, Massachusetts 02114; Office of the Commissioner, State of Vermont, Department of Labor and Industry, 120 State Street, Montpelier, Vermont, 05602; and the Office of State Programs, 200 Constitution Avenue, N.W., Room N–3700, Washington, D.C. 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Vermont State Plan as proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

1. The standards were adopted in accordance with the procedural requirements of the State Law which included public comment, and further public participation would be repetitious.

This decision is effective on April 25, 1995.

Authority: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Boston, Massachusetts, this 21st day of March, 1995.

Cindy A. Coe,

Deputy Regional Administrator.

[FR Doc. 95–10151 Filed 4–24–95; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL CAPITAL PLANNING COMMISSION

District of Columbia Historic Preservation Review Board; Proposed Sports and Entertainment Arena; Public Meeting on Historic Preservation Issues

AGENCY: National Capital Planning Commission.

SUMMARY: In accordance with Section 106 of the National Historic Preservation Act, the National Capital Planning Commission has requested the comments of the State Historic Preservation Officer for the District of Columbia in assessing the potential effects on historic properties of the proposed sports and entertainment arena.

The proposed 20,600 seat arena is scheduled to be completed in time for the 1997/98 basketball and hockey seasons. The proposed site is at Gallery Place, which includes the following: Square 455, which is bounded by G, 6th, F, and 7th Streets, N.W.; the right-of-way of the 600 block of G Street, NW., and approximately the southern fifth of Square 454 which is bounded by H, G, and 7th Streets, NW.

The National Capital Planning Commission announces that as part of the State Historic Preservation Officer's review, the Historic Preservation Review Board is holding a public meeting to review the Section 106 documentation which identifies affected historic properties, assesses the potential impacts, and discusses potential measures to mitigate or avoid the adverse effects, including consideration of alternative sites. The meeting will be held on: Wednesday, May 24, 1995 at 10:00 AM, 441–4th Street, NW. (#1 Judiciary Square), Room 220 South (Zoning Commission Hearing Room).

The documentation to be considered will be available to the Board and to the general public on and after May 10, 1995 and may be reviewed by calling the Historic Preservation Division at 727–7360.

SUPPLEMENTARY INFORMATION: This meeting will also serve as a component of the public participation efforts required to be undertaken by the National Capital Planning Commission by Section 106 under regulations of the Advisory Council on Historic Preservation. (See 36 CFR 800.3, 800.4 and 800.5). Part 800.5 stipulates that interested persons must be given an opportunity to receive information and express their views. Use of existing public agency involvement procedures is encouraged. Interested persons shall be invited to participate as consulting parties when they so request, including the head of local government, applicants for or holders of grants, permits, or licenses and owners of affected lands, and other interested persons when jointly determined appropriate by the National Capital Planning Commission, the State Historic Preservation Officer, and the Advisory Council on Historic Preservation. To request consulting party status, write: State Historic Preservation Officer, c/o Historic Preservation Division/DCRA, 614 H Street, NW, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Nancy Witherell, National Capital Planning Commission, 801 Pennsylvania Ave., NW., Suite 301, Washington, DC 20576, Phone: (202) 724–0174 or Steve Raiche, DC Department of Consumer & Regulatory Affairs, 614 H Street, NW., Room 305, Washington, DC 20001, Phone: (202) 727–7360.

Sandra H. Shapiro,

General Counsel.

[FR Doc. 95–10167 Filed 4–24–95; 8:45 am]

BILLING CODE 7502–02–M

NATIONAL CREDIT UNION ADMINISTRATION

Public Information Collection Requirement Submitted to OMB for Review

April 21, 1995.

The National Credit Union Administration submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission may be obtained by calling the NCUA Clearance Officer listed. Comments regarding information collections should be addressed to the OMB reviewer listed and to the NCUA Clearance Officer, NCUA, Office of Administration, Room 4009, 1775 Duke Street, Alexandria, VA 22314–3428.

National Credit Union Administration

OMB Number: 3133–0125.

Form Number: None

Type of Review: Reinstatement with change of previously approved collection.

Title: Appraisals.

Description: The Financial Institutions, Recovery, and Enforcement Act of 1989 (FIRREA) directed the National Credit Union Administration to adopt standards for the performance of real estate appraisals in connection with federally related transactions. FIRREA requires that appraisals be in writing and meet certain standards. Credit unions use the information in the loan review process. The information collection in this clearance request is a direct consequence of the legislative intent and statutory requirement.

Respondents: All federally insured credit unions.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours per Response: .25 hours.

Frequency of Response: As required.

Estimated Total Reporting Burden: 137,500 hours.

Clearance Office: Wilmer A. Theard (703) 518–6410, National Credit Union Administration, Room 4009, 1775 Duke Street, Alexandria, VA 22314–3428.

OMB Reviewer: Milo Sunderhauf (202) 395-5167, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Becky Baker,

Secretary to the NCUA Board.

[FR Doc. 95–10153 Filed 4–24–95; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) No. 1049]

RIN 1121–ZA12

National Institute of Justice; Solicitation for an Impact Evaluation of Operation Weed and Seed

AGENCY: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

ACTION: Announcement of the availability of the solicitation for an impact evaluation of operation weed and seed.

ADDRESSES: National Institute of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531.

DATES: The deadline for receipt of proposals is close of business on June 30, 1995.

FOR FURTHER INFORMATION CONTACT: Laurie Bright, National Institute of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1988).

Background

The National Institute of Justice is soliciting proposals for an impact evaluation of Operation Weed and Seed. Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of the "Solicitation for an Impact Evaluation of Operation Weed and Seed" (refer to document No. SL000089). The solicitation is available electronically via the NCJRS Bulletin Board, which can be accessed via Internet. Telnet to ncjrsbbs.aspensys.com, or gopher to ncjrs.aspensys.com 71. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301–738–8895. Set modem at 9600 baud, 8–N–1.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 95–10113 Filed 4–24–95; 8:45 am]

BILLING CODE 4410–18–M

NUCLEAR REGULATORY COMMISSION

Houston Lighting & Power Co., City Public Service Board of San Antonio and Central Power and Light Co.; City of Austin, Texas; Notice of Partial Withdrawal of Application for Amendments to Facility Operating Licences

[Docket Nos. 50–498 and 50–499]

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Houston Lighting & Power Company, et al., (the licensee) to partially withdraw its November 8, 1994, application for proposed amendments to Facility Operating License Nos. NPF–76 and NPF–80 for the South Texas Project (STP), Units 1 and 2, located in Matagorda County, Texas.

The proposed amendment would have revised the Technical Specifications (TSs) to require only one of the two battery chargers associated with each Class IE 125 VDC Channel I and Channel IV to be operable, in TS 3/4.8.2.1, D.C. Sources, Operating, and in TS 3/4.8.2.2, D.C. Sources, Shutdown.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on December 7, 1994, (59 FR 63123). However, by letter dated March 14, 1995, the licensee withdrew that portion of the proposed change regarding TS 3/4.8.2.2, because

VOL 60 ISS 79 AP 25 1995 UMI

the required wording was incorporated into this TS by Amendment Nos. 71 and 60, issued by the NRC on February 14, 1995, in response to another amendment request.

For further details with respect to this action, see the application for amendment dated November 8, 1994, and the licensee's letter dated March 14, 1995, which withdrew a portion of the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Dated at Rockville, Maryland, this 17th day of April 1995.

For the Nuclear Regulatory Commission.

Lawrence E. Kokajko,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10125 Filed 4–24–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–20457]

Environmental Assessment: Finding of No Significant Impact and Notice of Opportunity for Hearing Related to Amendment of Materials License No. 11–27380–01

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: NRC plans to issue an amendment to License No. 11–27380–01, authorizing Idaho State University to use carbon–14 (C–14) labeled particulate organic material in dispersion studies in two streams in Idaho. Three streams were chosen with one being a backup location. These are the Bloomington, Deep, and Toponce Creeks, which traverse the Cache and Caribou National Forests and the Curlew National Grasslands. The study calls for releases of 25 microcuries of C–14 at a time, with no more than 100 microcuries used in each stream in a year.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 415–7909.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment action would authorize personnel from Idaho State University to use C–14 labeled particulate organic material in dispersion studies in two streams in Idaho. Three streams were chosen with one being a backup location. These are the Bloomington, Deep, and Toponce Streams, which traverse the Cache and Caribou National Forests and the Curlew National Grasslands. The study calls for release of 25 microcuries of C–14 at a time, with no more than 100 microcuries used in each stream in a year. The amount of C–14 used in an experiment is such that the radioactivity is "instantaneously" diluted to concentrations below drinking water standards and additional dilution occurs continuously thereafter.

Background

Idaho State University (ISU) submitted a letter to the NRC, dated December 9, 1994, requesting to amend its Byproduct Material License No. 11–27380–01. ISU's request is for authorization to use C–14 as radioisotopic tracers to study the dispersal and fate of "fine particulate organic matter" (FPOM) in lotic ecosystems. This study is funded through a grant by the National Science Foundation to the Stream Ecology Center at ISU. Along with its letter, ISU also submitted an Environmental Assessment (EA) for its proposed action based on guidelines provided by NRC's RIV Office.

Need for the Proposed Action

FPOM constitutes that bulk of particulate organic matter carried in the suspended matter in streams and is a major component of food webs, energy flow, and organic matter budgets in stream ecosystems. The issues involved in FPOM dynamics cover a range of disciplines, and workers from many different areas, from water treatment engineering to population dynamics of marine organisms, face similar questions about how particles exchange between surfaces and the suspended state. The proposed research by ISU is important to further major advances in the understanding of the ecology of stream ecosystems because it will result in determination of: (1) The detailed dynamics of FPOM transport over a range of flow and channel conditions, (2) the specific mechanisms of transport and deposition, and (3) the relative importance of physical and biological factors in the transport of organic matter in streams.

In its submitted EA, the applicant has considered alternatives to the proposed isotope study. Specifically, two alternatives to radiolabeled natural FPOM have been reviewed for the proposed study: Use of exotic pollen and use of plastic microspheres. Although both of these options may hold promise for future FPOM research, certain characteristics of each may cause these particles to behave differently from natural FPOM, thus defeating the purpose of the proposed study.

Environmental Impacts of the Proposed Action

In the EA submitted by ISU, and based on telephone discussion with the licensee, the applicant stated that it's current plan is to conduct approximately two or three releases per year, per stream. The study will be for 2 years using no more than two streams. ISU identified three streams (i.e., Bloomington Creek, Deep Creek, and Toponce Creek) for this study, with the Toponce Creek being a backup location. The releases would be in medium-sized surface waters (i.e., flowing streams having discharge rates of 0.25 to 0.75 cubic meters per second or more) located in remote areas, on Federal lands, miles away from human habitation and domestic animals. Each release would be separated by 7 or more days and involve 25 microcuries of C–14; thus, the total amount of C–14 introduced into any stream in any year would not exceed 100 microcuries. The introduction of C–14 into a stream takes place over several hours and the concentrations in the stream are immediately diluted to 26 picocuries per liter or less at the point of release. These levels are well below Environmental Protection Agency's established drinking water standard of 2500 picocuries per liter for C–14 (40 CFR 141.16), even at the point (and time) of introduction.

The study sites have been selected so that the nearest human residence is located several miles from the study area. The nearest human community is located about 5 miles away in Bloomington, Idaho. No endangered plants or species will be affected by this study. According to National Council on Radiation Protection and Measurements (NCRP) Publication No. 45 on Natural Background Radiation, there are 303.3 million curies or 303.3 trillion microcuries of natural C–14 in the environment. Despite this large inventory of natural C–14 in the environment, the average annual whole body dose, due to natural C–14 to an adult member of the general public, is estimated to be 0.7 millirem (page 42, NCRP 45) per year. Therefore, the dose to an adult member of the general public, due to no more than 200 microcuries of C–14 released per year over a predominately remote Federal lands, is insignificant.

ISU has also submitted to the NRC, written responses from the Division of Environmental Quality, Idaho Department of Health and Welfare; the U.S. Environmental Protection Agency, Region X Office; and the U.S. Department of Agriculture, U.S. Forest Service. All three agencies responded in writing that they have no objections to the proposed ISU study. In addition, the U.S. Forest Service has made available in November, 1994, the submitted EA, for a 45 days public review and comment period.

Conclusions

Based on the foregoing assessment, the NRC staff concludes that the environmental effects of using C–14 in the proposed ISU stream ecosystems study are expected to be extremely small. Authorizing the study will help to better understand how to preserve our ecosystems. Since ISU's proposed study will be conducted in a predominately remote Federal land administered by the U.S. Forest Service, there is no environmental justice issue in this EA.

Therefore, in accordance with 10 CFR 51.31, a Finding of No Significant Impact is considered appropriate for this proposed action.

Agencies and Persons Consulted

In performing this assessment and in accordance with the NRC's Office of Nuclear Material Safety and Safeguards procedure 1–48, the staff consulted with Mr. Steve Oberg, State Liaison Officer with the NRC, Division of Environmental Quality, State of Idaho, on March 17, 1995, at (208) 334–0436. The State of Idaho has no objection to the proposed action. The staff also contacted Mr. Lee Leffert of the U.S. Forest Service, Department of Agriculture, on March 21, 1995, at (208) 236–7534. The U.S. Forest Service informed the NRC that based on comments received on its Federal Register Notice, it is preparing a Finding of No Significant Impact (FONSI) and will issue a Decision Notice authorizing ISU's project implementation as proposed.

Finding of No Significant Impact

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in 10 CFR Part 51, that the proposed action to amend Byproduct Material License No. 11–27380–01 to permit the introduction of C–14 into two streams, if granted, would not have a significant effect on the quality of the human environment and that an environmental impact statement is not required. This determination is based on the foregoing environmental assessment performed in accordance with the procedures and criteria in 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."

For further details on this action, see ISU's letter, dated December 9, 1995, and the attached EA, requesting amendment of License No. 11–27380–01 and related correspondence. These documents (in Docket No. 030–32322) may be examined or copied for a fee in the Commission's Region IV Walnut Creek Field Office's Public Document Room, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596.

Notice of Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this license amendment may file a request for a hearing. Any request for a hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of publication of this notice in the Federal Register and must be served on the NRC staff by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or be delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; and must be served on the applicant by mail or delivery to Idaho State University, Technical Safety Office, Physical Science 103, 785 South Eighth Avenue, Campus Box 8106, Pocatello, ID 83209. The request for a hearing must comply with the requirements set forth in the Commission's regulations, 10 CFR Part 2, Subpart L, "Informal Hearing Procedures for Adjudications in Material Licensing Proceedings." Subpart L of 10 CFR Part 2, may be examined or copied for a fee in the Commission's Region IV Walnut Creek Field Office's Public Document Room, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596 or in the Commission's Public Document Room, 2120 L Street (Lower Level), NW, Washington, DC 20555.

As required by Part 2, Subpart L (10 CFR 2.1205), the request for hearing must describe in detail: (1) The interest of the requestor in the proceeding; (2) how that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in paragraph (g) of 10 CFR 2.1205; (3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and (4) the circumstances establishing that the request for a hearing is timely in accordance with paragraph (c) of 10 CFR 2.1205(c).

The factors in 10 CFR 2.1205(g), which must be addressed in the request for hearing include: (1) The nature of the requestor's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's property, financial, or other intesest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland this 19th day of April 1995.

For The U.S. Nuclear Regulatory Commission

Larry W. Camper,

Chief, Medical, Academic, and Commercial Use Safety Branch; Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–10126 Filed 4–24–95; 8:45 am]

BILLING CODE 7590–01–M

Watts Bar Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

[Docket Nos. 50–390 and 50–391]

The U.S. Nuclear Regulatory Commission (the Commission) is considering incorporating an exemption from certain requirements of its regulations in the operating licenses for operation of the Watts Bar Nuclear Plant, Units 1 and 2, located in Spring City, Tennessee. Operating licenses have not been issued for Watts Bar; Units 1 and 2 are currently under Construction Permits CPPR–91 and CPPR–92, respectively.

Environmental Assessment

Identification of Proposed Action

10 CFR 73.55(c)(10) requires a license applicant whose application was submitted prior to August 31, 1994, to incorporate a land vehicle bomb control program into the site physical security plan and implement it by the date of receipt of the operating license. Since Watts Bar Unit 1 will seek to obtain an operating license ahead of the schedule by which operating power reactors are required to fully implement the vehicle control measures, the applicant requested, by letter dated November 30, 1994, that Watts Bar be granted the same implementation date (February 29, 1996) imposed on operating reactor licensees to implement the land vehicle bomb control program.

VOL 60 ISS 79 AP 25 1995 UMI

The Need for the Proposed Action

The Commission extended the implementation schedule for operating plants to 18 months from the effective date of the rule, given that it involves a new power for power reactor sites, that some procurement problems may arise and that scheduling problems may occur. Under the present rule and current licensing schedule, the applicant would be required to implement the rule several months (depending on the actual date of operating license issuance) ahead of operating power reactors. The applicant will implement interim compensatory measures to justify the scheduler exemption.

Environmental Impacts of the Proposed Action

The applicant's request for scheduler exemption involves delaying, by several months, implementation of control measures per the regulation. The proposed action will not increase the probability or consequences of accidents, makes no changes in the types of any effluents that may be released offsite, and does not increase the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the Commission considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statement and Supplement 1 related to operation of the Watts Bar Nuclear Plant, dated December 1978 and April 1995, respectively.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with the Tennessee State official regarding the environmental impact of the proposed action. The State official had no comment.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for exemption dated November 30, 1994, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the local public document room located at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee.

Dated at Rockville, Maryland, this 18th day of April 1995.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10124 Filed 4–24–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Expedited Review of Revised Form RI 10–72

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for expedited review of a revised information collection. Form RI 10–72, Client Satisfaction Survey, is used to determine how well the Office of Personnel Management has served federal civil service annuitants and survivor annuitants. An expedited clearance is requested for this survey questionnaire so we can meet our scheduled mailing date of May 1, 1995.

The questionnaire will be sent to approximately 1500 annuitants and will require approximately 25 minutes to complete, for a total public burden of 625 hours.

A copy of this proposal is appended to this notice.

DATES: Comments on this proposal should be received by April 28, 1995. OMB has been requested to take action within five (5) calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Lawrence P. Holman, Chief, Quality Assurance Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4316, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–4025.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

Dear Annuitant: We are conducting a survey of people across the country to find out how well the Office of Personnel Management is serving the Federal annuitant population.

You are one of a relatively small number of annuitants randomly selected for this survey, so your answers are very important. This is your chance to tell us how satisfied you are with the service you receive from the Office of Personnel Management.

This survey is completely voluntary. It is your choice whether or not to help us, and your decision will not be recorded or affect your eligibility for any Government benefits. Your answers will be kept confidential. No permanent record will be kept on how you answered any of the questions.

If you have any questions about our survey please call collect at (202) 606–0283. This is a special telephone number we have established just for this survey. Your questions about your claim or the benefits you are receiving should continue to be referred to OPM's Retirement Information Office at (202) 606–0500.

Please use the addressed, postage-paid envelope to return your questionnaire to us after you have completed it. Remember, your answers will help OPM to improve its services to you and your fellow annuitants.

Thank you for your help.

Sincerely,

James B. King,

Director.

Dear Annuitant: Several weeks ago, we mailed you a questionnaire regarding the service you receive from the Office of Personnel Management. To date we have not heard from you. In case our other letter did not reach you or has been misplaced, a new questionnaire is enclosed. I urge you to complete it and return it in the enclosed addressed, post-paid envelope.

This survey is completely voluntary and your responses will not affect your eligibility for any Government benefits. However, as you are one of a relatively small number of annuitants randomly selected for this survey, your answers are very important. The high percentage of people who have already returned their questionnaires is encouraging, but we need your opinions too.

If you have any problems or questions regarding this survey questionnaire, please call collect at (202) 606–0283. This is a special phone number we have established just for this survey. Your questions about your claim or the benefits you are receiving should continue to be referred to OPM's Retirement Information Office at (202) 606–0500.

Thank you for your cooperation.

Sincerely,

James B. King,

Director.

Office of Personnel Management

Client Satisfaction Survey

How Well Has the Office of Personnel Management Served You?

Retirement and Insurance Service

Survey of How Well the Office of Personnel Management Serves Federal Annuitants

Conducted by OPM's Retirement and Insurance Service

Instructions

Please answer the questions on the following pages and return the questionnaire to us in the enclosed envelope. It should take about 25 minutes to finish. If you have trouble filling out this questionnaire, you may have a relative or friend help you. The answers you give, however, should be based on your own feelings and opinions and refer to your experience with the Office of Personnel Management (OPM).

Please return the completed questionnaire in the postage-paid envelope to: U.S. Office of Personnel Management, Client Satisfaction Survey, Room 4316, RIS/QAD, Attention: Dom Marro/Nancy Wolf, 1900 E Street, N.W., Washington, DC 20415.

If you have any questions about this questionnaire, please call collect at (202) 606–0283. We will be happy to help you.

Any questions about your claim or your benefits should be directed to OPM's Retirement Information Office at (202) 606–0500.

Public Burden Statement

We think providing this information takes an average 25 minutes per response, including the time for reviewing instructions, getting the needed data, and reviewing the requested information. Send comments regarding our estimate or any other aspect of this form, including suggestions for reducing time needed, to the Office of Personnel Management, Reports and Forms Officer, 500 CHP, Washington, DC 20415.

Privacy Act Statement

Title 5, U.S. Code, 83 and 84 authorizes the solicitation of this information. The purpose of this collection of information is to find out how well the Office of Personnel Management is serving the Federal annuitant population. Participation is voluntary for those annuitants who are selected for the survey. The information provided by annuitants will be kept confidential and will not be released outside of the Office of Personnel Management.

Client Satisfaction Survey

Part I

Mail To/From the Office of Personnel Management (OPM).

1. Did you write to OPM regarding retirement or insurance matters within the past 12 months? (Do not include mailing in any forms you may have been asked to complete.)

(Check One)

a. ☐ No (Skip to Question #7)
b. ☐ Yes.

2. If you have written to OPM, about how many times in all have you written in the past 12 months?

(Check One)

a. ☐ Once.
b. ☐ Twice.
c. ☐ Three times.
d. ☐ More than 3 times.

3. What did you write about?

(Check All That Apply)

a. ☐ I asked a general question about my benefits.
b. ☐ I asked a specific question about an action that was taken on my annuity account (such as a change in my monthly benefit).
c. ☐ I asked that some action be taken on my annuity account (such as an address change or health benefits change).
d. ☐ I complained or expressed concern about some aspect of the retirement or insurance program (such as the cost of or amount of insurance).
e. ☐ I complained, expressed concern, or followed up on an action that I had requested (such as the amount of time taken to process a requested action).
f. ☐ Other (Please specify.)

_____

4. Why did you choose to write to OPM rather than telephone?

(Check All That Apply)

a. ☐ I prefer to write a letter rather than telephone.
b. ☐ I could not get through by telephone.
c. ☐ Based on my past experience, it is difficult to get retirement or insurance problems resolved by telephoning OPM.
d. ☐ It is not convenient for me to call OPM during its regular business hours.
e. ☐ I did not want to pay for a long distance telephone call to OPM.
f. ☐ Other (Please specify.)

_____

5. Overall, how satisfied or dissatisfied were you with the content of the response to the letter(s) you wrote to OPM within the last 12 months?

(Check One)

a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.
f. ☐ I never received a response.

6. Overall, how satisfied were you with the *amount of time* it took OPM to respond to the letter(s) you wrote within the last 12 months?

(Check One)

a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.
f. ☐ I never received a response.

7. OPM mails various informational materials and notices to its annuitant beneficiaries. In general, how easy or difficult to understand is the mail you have received from OPM?

(Check One)

a. ☐ Very easy to understand.
b. ☐ Generally easy to understand.
c. ☐ Neither easy nor difficult to understand.
d. ☐ Generally difficult to understand.
e. ☐ Very difficult to understand.

8. What do you usually do with the OPM informational materials and notices sent to you?

(Check One)

a. ☐ I read all the information that is sent to me.
b. ☐ I glance at the notices to see if they apply to me but find that most of them don't.
c. ☐ I glance at the notices and find that most of them do apply to me.
d. ☐ I don't read the notices. If there is something I need to know I ask about it.
e. ☐ Other (Please specify.)

_____

_____

9. If you have sought assistance to understand a notice you received from OPM, where did you last seek assistance?

(Check One)

a. ☐ I did not seek assistance (Skip to Question #11.)
b. ☐ OPM office in Washington, D.C.
c. ☐ Another OPM office (that is, not in Washington, D.C.).
d. ☐ The agency where I used to work.
e. ☐ Another agency.
f. ☐ The National Association of Retired Federal Employees (NARFE).
g. ☐ The union that represented me as an employee.
h. ☐ Someone I know who received the same notice.
i. ☐ Friends or family.
j. ☐ Other (Please specify.)

_____

_____

10. How satisfied or dissatisfied were you with the help you received from the place noted above?

(Check One)

VOL 60 ISS 79 AP 25 1995 UMI

a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.

11. The following is a list of pamphlets OPM provides to its customers. If you have read any of the pamphlets within the past 12 months, indicate how clear the pamphlet was.
(Check Only One Rating Column For Each Pamphlet You Have Read In The Past 12 Months)

OPM pamphlets	Clear	Somewhat clear	Not clear
a. Information for Annuitants			
b. Information for Annuitants About the Federal Employees Health Benefits Program			
c. Information for Survivor Annuitants			
d. Death Benefits for Children			
e. Information for Disability Annuitants			

12. The following is a list of forms that OPM provides to its customers. If you had to complete any of the OPM forms within the past 12 months, please indicate if the instructions were clear and understandable.
(Check Only One Rating Column For Each Form You Have Completed In The Past 12 Months.)

OPM forms	Clear	Somewhat clear	Not clear
a. Open Season Health Benefits forms			
b. Student-child entitlement forms			
c. Disability retirement earnings survey forms			
d. Change of Address forms			
e. Annuity payment direct deposit forms			

13. Have you ever requested the assistance of any of the following parties regarding a retirement or insurance matter handled by OPM?
(Check All That Apply)
a. ☐ My Congressional Representative.
b. ☐ My Senator.
c. ☐ The White House.
d. ☐ The Director of OPM.
e. ☐ Official from some other Federal agency.
f. ☐ The news media.
g. ☐ No, I have not requested assistance of any of the above parties.

Part II

Telephoning the Office of Personnel Management

14. What type of telephone service do you have?
(Check One)
a. ☐ Touch tone.
b. ☐ Rotary dial or pulse.
c. ☐ I don't know.
d. ☐ I don't have a phone.

15. Have you tried to call OPM's retirement offices within the past 12 months?
(Check One)
a. ☐ No. (Skip to Question #25.)
b. ☐ Yes.

16. In the past 12 months, how many different times did you call OPM's retirement offices?
(Check One)
a. ☐ Once.
b. ☐ Twice.
c. ☐ Three times.
d. ☐ More than three times.

17. Think about all the times you've called OPM's retirement offices over the past 12 months, and indicate which of the following things happened when you called.
(Check All That Apply)
a. ☐ I got through without any problem.
b. ☐ My call had to be transferred or I was told to call a different number.
c. ☐ An answering machine put me on hold.
d. ☐ A person put me on hold.
e. ☐ I gave up after being placed on hold.
f. ☐ I had to call several times before getting through.
g. ☐ My call was disconnected.
h. ☐ I got a busy signal.
i. ☐ Other. (Please specify.)

_____

_____

18. On your most recent phone call how many times did you have to dial before you got through?
(Check One)
a. ☐ Once.
b. ☐ Twice.
c. ☐ Three times.
d. ☐ More than three times.
e. ☐ I never got through.
f. ☐ I don't remember.

19. Listed below are several reasons why a person might telephone OPM. In your most recent phone call, indicate the reason(s) you called.
(Check All That Apply)
a. ☐ I had a question about a claim for retirement or survivor benefits.
b. ☐ I asked about health benefits or life insurance coverage.
c. ☐ I asked about a tax related matter.
d. ☐ I asked about an adjustment to my benefit.
e. ☐ I asked about a benefit for a child(ren).
f. ☐ I asked about a notice or other mail I received from OPM.
g. ☐ I was following up on a previous call or request that some action be taken.
h. ☐ OPM asked me to contact them.
i. ☐ I reported the death of an annuitant.
j. ☐ I notified OPM of a name or address change.
k. ☐ I reported non-receipt of a benefit check.
l. ☐ I telephoned OPM for some other reason. (Please specify.)

_____

_____

20. In general, how courteous was the OPM employee(s) during this call?
(Check One)
a. ☐ Very courteous.
b. ☐ Generally courteous.
c. ☐ Neither courteous nor discourteous.
d. ☐ Generally discourteous.
e. ☐ Very discourteous.

21. How clearly did the OPM employee answer your question(s)?
(Check One)
a. ☐ Clearly.
b. ☐ Somewhat clearly.
c. ☐ Not clearly.

22. Think about the reason why you last contacted OPM by telephone. What kind of job has OPM done to handle this matter?
(Check One)
a. ☐ Very good job.
b. ☐ Good job.
c. ☐ Fair job.
d. ☐ Poor job.
e. ☐ Very poor job.

23. Once again, think about the reason why you last contacted OPM by phone. How satisfied are you with the amount of time it has taken OPM, so far, to take care of this matter?
(Check One)
a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.

24. About how long (including time you waited, if any) did your last phone call to OPM last?
(Check One)

a. ☐ Less than 3 minutes.
b. ☐ At least 3 but less than 10 minutes.
c. ☐ At least 10 but less than 20 minutes.
d. ☐ 20 minutes or more.
e. ☐ I don't remember.

Part III

Benefits From the Office of Personnel Management

25. Do you usually get your retirement or survivor annuity payment by the first business day of the month?
(Check One)
a. ☐ Yes.
b. ☐ No.

26. In most cases, interim or special payments are paid until an applicant's annuity claim is completely processed and regular payments begin. Was this the case for your initial annuity claim?
(Check One)
a. ☐ Yes.
b. ☐ No.
c. ☐ I don't remember.

27. After you applied for your annuity benefit, when did you receive your first payment from OPM?
(Check One)
a. ☐ Much sooner than I expected.
b. ☐ A little sooner than I expected.
c. ☐ About when I expected.
d. ☐ A little later than I expected.
e. ☐ A lot later than I expected.
f. ☐ I don't remember.

28. Listed below are some of the actions that can be taken on an annuity account. Please check the *most recent actions* that were taken on your account.
(Check All That Apply)
a. ☐ No action has been taken on my account within the past 12 months. (Skip to Question #29.)
b. ☐ An initial claim for retirement or survivor benefits.
c. ☐ Stop or change Federal tax withholding.
d. ☐ Change health benefits plans or options.
e. ☐ Change life insurance option(s).
f. ☐ Change mailing address.
g. ☐ Direct annuity benefits to a bank account.
h. ☐ Adjust annuity benefit after a change in marital status.
i. ☐ Suspend annuity payments.
j. ☐ Add or drop child(ren) benefit.
k. ☐ Non-receipt of a benefit check.
l. ☐ Other reason. (Please specify.)

_____

_____

29. If you requested that OPM take action on your account, how was (were) the actions(s) handled?
(Check All that Apply)
a. ☐ I did not request action. (Skip to Question #33.)
b. ☐ The action was taken based on my telephone request.
c. ☐ The action was taken after my first request.
d. ☐ The action was taken only after I made a second request.
e. ☐ The action was taken only after I made more than two requests.
f. ☐ I don't remember.

30. Overall, how satisfied were you with the way the above action(s) was (were) handled by OPM?
(Check One)
a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.

31. Did you receive some form of communication from OPM about the action(s) that was (were) taken?
(Check One)
a. ☐ No, I never received any communication regarding the action that was taken. (Skip to Question #33.)
b. ☐ Yes, a computer generated notice.
c. ☐ Yes, a hand-written notice.
d. ☐ Yes, a form letter or notice.
e. ☐ Yes, a typed letter.
f. ☐ Yes, some other type of communication.
g. ☐ I don't remember. (Skip to Question #33.)

32. Was the communication about the action on your account clear to you?
(Check One)
a. ☐ Yes, it was very clear.
b. ☐ It was somewhat clear.
c. ☐ No, it was not clear.

Part IV

Overall Quality of the Office of Personnel Management's Service

33. Overall, since your annuity began, how would you rate the service that OPM has given you?
(Check One)
a. ☐ Very good.
b. ☐ Good.
c. ☐ Fair.
d. ☐ Poor.
e. ☐ Very poor.

34. How would you rate OPM's service in comparison to the service you got from other Federal, State, and local government agencies?
(Check One)
a. ☐ OPM much better than others.
b. ☐ OPM somewhat better than others.
c. ☐ OPM is about as good as others.
d. ☐ OPM somewhat worse than others.
e. ☐ OPM much worse than others.
f. ☐ Can't say, have had no contact with other government agencies.

35. If you must contact OPM in the future, would your first preference be to write, telephone, or visit?
(Check One)
a. ☐ Write.
b. ☐ Telephone.
c. ☐ Visit.

36. The following is a list of important service quality factors. Please read through the list. From your point of view, please rank the five most important factors to you in your dealings with OPM. Mark "1" next to the item that is most important to you, a "2" next to the second most important factor, a "3" next to the third most important factor, etc.
(Rank Only The Five Most Important Factors From "1" to "5." Leave The Remaining Factors Blank.)

Ranking	OPM service quality factors
	a. Concern for me and my problems
	b. Friendly OPM employees
	c. Knowledgeable OPM employees
	d. Easily obtainable information
	e. Clear information about changes in law and regulations
	f. Clear statements and correspondence
	g. Clear information about payments or services
	h. Fair treatment of all customers
	i. Timely action on my concerns and complaints
	j. Timely payments
	k. Accurate answers to questions
	l. Replacement of missing payments
	m. Minimal interruptions of benefits
	n. Flexible billing and payment arrangements for benefit overpayments
	o. Accurate payments
	p. Good telephone service

If you retired since January 1, 1985, please answer the next three questions. Otherwise, skip to question #40.

37. When you retired, how satisfied were you with how OPM handled all aspects of your retirement (including, if applicable, your requests for direct deposit of your monthly retirement check in your bank and federal income tax withholdings from your check)?
(Check One)
a. ☐ Very Satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.

38. If you requested that your retirement check be deposited directly in your bank by OPM, how satisfied were you with how long it took for your bank account to be credited with your first retirement payment?
(Check One)
a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied or dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.
f. ☐ I did not request that my retirement check be deposited directly in my bank.

39. What kind of job did OPM do in giving you professional and personalized information concerning your retirement?
(Check One)
a. ☐ Very good job.
b. ☐ Good job.
c. ☐ Fair job.
d. ☐ Poor job.
e. ☐ Very poor job.

Answer the following question (Question #40) *only* if you began receiving, since January 1, 1995, a monthly *survivor's* check as a *result of the death of a Federal retiree*. Otherwise, skip to question #41

VOL 60 ISS 79 APR 25 1995 UMI

40. How satisfied were you with the assistance you received from OPM in filing the paperwork needed to obtain benefits?

(Check One)
a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied or dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.

41. Do you have a personal computer and a modem?

(Check One)
a. ☐ Yes.
b. ☐ No. (Skip to Question #43)

42. Do you have access to any of the following On-line services?

(Check All that Apply)
a. ☐ CompuServe.
b. ☐ USENET.
c. ☐ America On-line.
d. ☐ Prodigy.
e. ☐ Genie.
f. ☐ Other (Please specify.)

_____

Part V

Retirement Counseling

Please answer the following questions *only* if you retired within the last two years.

43. Did you receive retirement counseling?

(Check One)
a. ☐ No. (Skip to Question #51.)
b. ☐ Yes.

44. Who initiated the contact to plan for your retirement?

(Check One)
a. ☐ I did.
b. ☐ My agency did.
c. ☐ I don't remember.

45. Who did the counseling?

(Check One)
a. ☐ An employee of my former agency.
b. ☐ A contract employee to my former agency.
c. ☐ I don't know.

46. When did your agency start to counsel you concerning your retirement planning?

(Check One)
a. ☐ More than one year before I retired.
b. ☐ Six to twelve months before I retired.
c. ☐ Less than six months before I retired.

47. What did the counseling cover?

(Check All That Apply)
a. ☐ Retirement coverage.
b. ☐ Amount of annuity.
c. ☐ Survivor benefits.
d. ☐ Health insurance benefits.
e. ☐ Life insurance benefits.
f. ☐ Social Security benefits.
g. ☐ Thrift Savings Plan.
h. ☐ Other (Please specify.)

_____

48. How satisfied were you that the information from your agency (including responses to your questions and concerns) was accurate and up to date?

(Check One).
a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.

49. How satisfied were you with how well your agency helped you in taking appropriate actions (such as submitting retirement forms and making decisions about health and life insurance) and in learning what to expect after you retired (such as how long it would take to get your annuity, notices to be received, tax withholding, etc.)?

(Check One)
a. ☐ Very satisfied.
b. ☐ Generally satisfied.
c. ☐ Neither satisfied nor dissatisfied.
d. ☐ Generally dissatisfied.
e. ☐ Very dissatisfied.

Comments (Especially about any improvements you would suggest.)

_____

50. How did your agency's estimate of your annuity compare with the annuity computed by OPM?

(Check One And Skip To Question #52)
a. ☐ The annuity estimate was close to the annuity computed by OPM.
b. ☐ The annuity estimate was significantly more than the annuity computed by OPM.
c. ☐ The annuity estimate was significantly less than the annuity computed by OPM.
d. ☐ I did not receive an annuity estimate from my agency.
e. ☐ I don't remember.

51. If your employing agency never counseled you, where did you go to get information on retirement and insurance matters?

(Check All That Apply)
a. ☐ National Association of Retired Federal Employees (NARFE).
b. ☐ Private publications (such as Federal Employees Almanac).
c. ☐ I contacted OPM directly.
d. ☐ Other.
e. ☐ I didn't receive any retirement planning information.

52. In planning your retirement, did you?

(Check One)
a. ☐ Attend agency sponsored retirement seminars AND receive individual counseling from your personnel office.
b. ☐ Only attend an agency sponsored retirement seminar.
c. ☐ Only receive individual counseling.
d. ☐ Neither retirement seminars nor individual counseling was provided by my agency.

53. Were you provided a copy of "Thinking About Retirement"?

(Check One)
a. ☐ Yes.
b. ☐ No.
c. ☐ I don't know.

Thank you for your cooperation. We appreciate your help. Please return the completed questionnaire in the postage paid envelope to: U.S. Office of Personnel Management, Client Satisfaction Survey, Room 4316, RIS/QAD, Attention: Dom Marro/Nancy Wolf, 1900 E Street, N.W., Washington, DC 20415.

If you have any comments about how OPM has served you or if you have suggestions on how we can improve our service, please write them in the space below.

_____

If you have questions concerning your annuity or survivor annuity, write directly to: U.S. Office of Personnel Management, Retirement Operations Center, Boyers, PA 16017.

[FR Doc. 95–10122 Filed 4–24–95; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–21021; No. 812–8154]

General American Life Insurance Company, et al.

April 19, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: General American Life Insurance Company ("General American"), General American Separate Account Eleven ("Account 11") and Walnut Street Securities, Inc. ("Underwriter").

RELEVANT 1940 ACT SECTION: Order requested under Section 6(c) granting exemptions from Sections 27(c)(2) and 27(e) of the 1940 Act and from Rules 6e–3(T)(b)(13)(vii), 6e–3(T)(c)(4)(v) and 27e–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order to permit Account 11 and other variable life insurance separate accounts that General American may establish in the future ("Future Accounts") to: (1) Deduct a charge from premium payments under certain variable life insurance contracts to compensate General American for its increased federal tax burden resulting from the application of Section 848 of the Internal Revenue Code of 1986, as amended, to the receipt of such payments; and (2) to permit General American not to send such contract owners a written notice of their refund and withdrawal rights.

FILING DATES: The application initially was filed on November 9, 1992, declared inactive on August 12, 1993, and amended on September 12, 1994, and April 14, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requestor's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: c/o Matthew P. McCauley, Esq., General American Life Insurance Company, 700 Market Street, St. Louis, Missouri 63101.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Wendy Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. General American, a mutual life insurance company, is principally engaged in offering insurance policies and annuity contracts. General American is authorized to conduct business in the District of Columbia, all states except New York, and ten Canadian provinces.

2. Account 11 is a separate account established by General American and registered as a unit investment trust under the 1940 Act. Account 11 currently has 13 sub-accounts, each of which invests in corresponding portfolios of one of four series-type registered open-end, diversified management investment companies (collectively, "Funds").[1] The Future Accounts will be separate accounts, as defined in Rule 0–1(e) under the 1940 Act, and registered as unit investment trusts under the 1940 Act.

3. The Underwriter acts as principal underwriter for certain variable life and variable annuity contracts by General American. The Underwriter is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. The Underwriter is an indirect wholly-owned subsidiary of General American.

4. Account 11 currently funds two flexible premium variable life insurance contracts offered by General American, the VUL–95 Contract and the General Select Plus Contract (together, "Existing Contracts"). Account 11 will, and Future Accounts may, be used to fund a new flexible premium variable life insurance contract ("Contract"), as well as other flexible premium variable life insurance contracts ("Future Contracts") that in the future may be offered by General American. (Future Contracts and Existing Contracts are hereinafter referred to together as "Other Contracts".) Interests in all of the contracts are or will be registered as securities under the Securities Act of 1933.

5. The Contract offers the payment of premiums in any amount and frequency, subject to certain limitations, three death benefit options, cash value, loan privileges and other traditional life insurance features. The Contract owner may receive a refund of premium payments by cancelling and returning the Contract within the latest of: (1) 20 days of receipt (30 days for California residents, and for age 60 or older), (2) 45 days of signing the application, or (3) 10 days of General American's mailing a notice of this provision to the Contract owner.[2]

6. Certain charges and deductions are made under the Contract to compensate General American for its costs and expenses.

(a) Premium Tax Charge

A charge of 2.10% is deducted from each premium payment for state taxes assessed on premium payments received by General American. Such premium taxes vary from jurisdiction to jurisdiction and range between 0.75% to 3.50%. This charge represents the average deduction considered necessary for General American to pay such taxes. Some jurisdictions do not impose a premium tax while others may impose a tax that is greater than or less than the 2.10% deduction under the Contract. If the average premium tax increases in the future, General American may increase this deduction.

(b) Section 848 Deferred Acquisition Costs Charge

A charge of 1.25% ("DAC Tax Charge") will be deducted from each premium payment to reimburse General American for its increased federal income tax burden resulting from changes made to Section 848 of the Internal Revenue Code of 1986 ("Code"), by the Omnibus Budget Reconciliation Act of 1990 ("OBRA 1990"), affecting the treatment of deferred acquisition costs. The requested order would permit the deduction of 1.25% of each premium payment under the Contract and Future Contracts. The 1.25% DAC Tax Charge will not be deducted under Existing Contracts issued prior to the receipt of the requested order. However, the DAC Tax Charge may be deducted under Existing Contracts issued after issuance of the requested order[3] and after endorsements permitting the charge have been approved by insurance regulators in each applicable jurisdiction. Applicants represent that the DAC Tax Charge is a legitimate expense of the company, is not used for sales and distribution expenses and will be reasonably related to General American's increased federal tax burden.

(c) Administration Charge

The monthly administration charge is $13 per month during the first Contract year, and $6 per month thereafter. This charge cannot be increased under a Contract once it is issued.

(d) Selection and Issue Expense Charge

The selection and issue expense charge is $0.16 per month per $1,000 of face amount during the first Contract year and $0.01 per month per $1,000 of face amount thereafter. In the event that the face amount is increased (other than by a change in death benefit options or increasing death benefit rider), this charge is $0.16 per month per $1,000 of increased face amount during the first Contract year following the increase and $0.01 per month per $1,000 of face amount thereafter.

(e) Cost of Insurance Charge

The monthly cost of insurance charge varies with each Contract because it is based on the attained age, rate class, and sex (except Montana) of the insured.

[1] The Funds include General American Capital Company, Variable Insurance Products Fund, Variable Insurance Products Fund II, and Van Eck Investment Trust.

[2] Contracts purchased in Kansas provide for a return of an amount equal to the: (1) difference between premium payments and amounts allocated to Account 11; and (2) cash value on the date the Contract is returned.

[3] Applicants undertake to make this representation in an amendment to the Application which is to be filed during the notice period.

VOL 60 ISS 79 AP 25 1995 UMI

(f) Charge for Riders

A monthly charge will be deducted for any riders. This charge will vary with each Contract.

(g) Mortality and Expense Risk Charge

A daily charge equivalent to an effective annual rate of .90% of Account 11's average daily net assets [4] will be deducted for General American's assumption of mortality and expense risks.

(h) Contingent Deferred Sales Charge ("CDSC")

For a period of up to 15 years after issuance of the Contract or an effective face amount increase, General American will impose a CDSC upon surrender, lapse, a requested decrease in face amount or a partial withdrawal that results in a decrease in face amount.

The amount of the CDSC will depend upon a number of factors, including the type of event, amount of premium payments made prior to the event, number of Contract years that has elapsed since issuance of the Contract or face amount increase, as applicable.

A separate CDSC applies to the initial face amount and to each increase in face amount and is deducted whenever, and to the extent that, a surrender, lapse or face amount decrease affects the applicable increment of face amount. The length of time over which a CDSC will apply to any increment of face amount will depend upon the attained age of the insured on the issue date or the effective date of the increase, as applicable, and the insured's sex and risk class, as follows:

CONTINGENT DEFERRED SALES CHARGE PERIOD

(Duration in years)

Insured's age	Male non-smoker	Male smoker	Female non-smoker	Female smoker
0–50	15	15	15	15
51	14	14	14	14
52	13	13	13	13
53	12	12	12	12
54	11	11	11	11
55–79	10	11	10	10
80	10	6	10	10

The CDSC will equal the CDSC grading percentage [5] multiplied by the sum of (1) and (2) where: (1) is 40% of the lesser of the premium payments made or the target premium for the Contract, and (2) is the excess premium surrender charge factor multiplied by premium payments made in excess of the target premium for the Contract. With regard to a face amount increase, multiplied by the sum of (1) and (2) where: (1) is 40% of the lesser of the premium payments attributable to the increase, and (2) is the excess premium surrender charge factor multiplied by the premium payments attributable to the increase in excess of the target premium for the increase. The excess premium surrender charge factors vary with the attained age, sex and risk class of the insured. The target premium for the Contracts is somewhat less than the guideline annual premium ("GAP") as defined in Rule 6e–3(T)(c)(8).

The CDSC for the initial face amount during the first two Contract years will not exceed: (a) 30% of the first GAP paid under the Contract; (b) 10% of the second GAP paid; and (c) 9% of premium payments made in excess of two GAPs. The CDSC for any increase in face amount during the first two Contract years following the increase will not exceed: (a) 30% of the first GAP attributable to the increase; (b) 10% of the second GAP attributable to the increase; and (c) 9% of premium payments attributable to the increase of two GAPs.

7. *Application of Section 848 of the Code.* Section 848 of the Code, as amended by OBRA, requires life insurance companies to capitalize and amortize over a period of ten years part of their general expenses for the current year. Prior law allowed these expenses to be deducted in full from the current year's gross income. Section 848 effectively accelerates the realization of income from certain categories of life insurance and other contracts ("Specified Contracts") categorized under this Section and, thus, the payment of taxes on that income. The Contract and Other Contracts will be categorized under Section 848 as Specified Contracts. Taking into account the time value of money, Section 848 increases the insurance company's tax burden because the amount of general deductions that must be capitalized and amortized is measured by the premiums received under the Specified Contracts.

8. The amount of deductions subject to Section 848 equals a percentage of the current year's net premiums received (*i.e.*, gross premiums minus return premiums and reinsurance premiums) under the Specified Contracts. Consequently, 7.7% of the net premiums received must be capitalized and amortized under the schedule set forth in Section 848(c)(1) of the Code.

9. The increased tax burden on every $10,000 of net premiums received is quantified as follows. For each $10,000 of net premiums received in a given year, Section 848 requires General American to capitalize $770 (*i.e.*, 7.7% of $10,000), and $38.50 of this amount may be deducted in the current year. The remaining $731.50 ($770 less $38.50), which is subject to taxation at the corporate tax rate of 35%, results in General American owning $256.03 (.35% × $731.50) more in taxes for the current year than it otherwise would have owed prior to OBRA 1990. However, the current tax increase will be partially offset by deductions that will be allowed during the next ten years as a result of amortizing the remainder of the $770 ($77 in each of the following nine years and $38.50 in year ten).

10. In its business judgment, General American believes it appropriate to use a discount rate of at least 10% in evaluating the present value of its future tax deductions for the following reasons. Capital that General American must use to pay its increased federal tax

[4] The value of Account 11's net assets will reflect operating expenses of the Funds held by Account 11.

[5] Grading percentages range, on a declining scale, policy year, and vary depending on the sex, issue

burden under Section 848 will be unavailable for investment. The cost of capital used to pay this increased tax burden essentially will be General American's after tax rate of return on surplus (i.e., return sought on invested capital), which is 10% to 12%. Accordingly, Applicants assert that the after tax rate of return on surplus is appropriate for use in this present value calculation.

11. In determining the after tax rate of return, General American considered a number of factors, including market interest rates, anticipated long-term growth rate, acceptable risk levels, inflation, and available information about the rates of return obtained by other mutual life insurance companies. General American represents these are appropriate factors to consider.

12. General American first projects its future growth rate based on sales projections, current interest rates, inflation rate, and the amount of surplus that it can provide to support such growth. General American then uses these factors, giving market interest rates, acceptable risk level, and inflation rate significantly more weight, to set a rate of return on surplus equal to or in excess of the anticipated rate of growth. General American seeks to maintain a ratio of surplus to assets that it establishes based on its judgment of the risks represented by various components of its assets and liabilities. Maintaining the ratio of surplus to assets is critical to General American maintaining a competitive rating from various rating agencies and to offering competitively priced products. Consequently, General American's surplus must grow at least at the same rate as its assets.

13. Using a federal corporate tax rate of 35%, and assuming a discount rate of 10%, the present value of the tax effect of the increased deductions allowable in the following ten years, which partially offsets the increased tax burden, comes to $160.40. The effect of Section 848 on the Contracts and Other Contracts is therefore an increased tax burden with a present value of $95.63 for each $10,000 of net premiums received (i.e., $256.03 minus $160.40).

14. General American does not incur incremental federal income tax when it passes on state premium taxes to Contract Owners because state premium taxes are deductible in computing federal income taxes. Conversely, federal income taxes are not deductible in computing General American's federal income taxes. To compensate General American fully for the impact of Section 848, General American must impose an additional charge to make it whole not only for the $95.63 additional tax burden attributable to Section 848, but also for the tax on the additional $95.63 itself. This federal tax can be determined by dividing $95.63 by the complement of 35% federal corporate income tax rate (i.e., 65%), resulting in an additional charge of $147.12 for each $10,000 of net premiums, or 1.47%.

15. Based on its prior experience, General American reasonably expects to take almost all future deductions. It is General American's judgment that a 1.25% charge would reimburse it for its increased federal income tax liabilities under Section 848. Applicants represent that the 1.25 charge will be reasonably related to General American's increased federal income tax burden under Section 848. This representation takes into account the benefit to General American of the amortization permitted by Section 848 and the use of a 10% discount rate (which is equivalent to General American's cost of capital) in computing the future deductions resulting from such amortization. To the extent that General American's actual cost of capital exceeds an annual rate of 10%, the calculation of this increased tax burden will continue to be reasonable over time.

16. General American believes that the 1.25% charge would have to be increased if future changes in, or interpretations of, Section 848 or any successor provision result in a further increased tax burden due to receipt of premiums. The increase could be caused by a change in the corporate tax rate, or in the 7.7% figure, or in the amortization period. Accordingly, the Contract, Future Contracts and endorsements to the Existing Contracts offered after issuance of an order in this matter will or may reserve the right to increase, or decrease, the 1.25% charge in response to such future changes or interpretations that increase or decrease its tax burden. Any increase of the charge above 1.25% would require additional exemptive relief from the Commission under the 1940 Act.

Applicants' Legal Analysis

1. Applicants request an order under Section 6(c) of the 1940 Act for exemptions from Section 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction from premium payments of a DAC Tax Charge in an amount that is reasonable in relation to General American's increased federal tax burden based on receipt of premiums under the Contract. The DAC Tax Charge also may be included in Future Contracts and may be added to Existing Contracts issued after receipt of the order requested herein. Applicants also request exemptions from Rule 6e–3(T)(c)(4)(v) under the 1940 Act to permit the proposed DAC Tax Charge to be treated as other than "sales load," as defined under Section 2(a)(35) of the 1940 Act, for purposes of Section 27 and the exemptions from various provisions of that Section found in Rule 6e–3(T).

2. Applicants also request an order under Section 6(c) exempting them and any Future Accounts from Section 27(e) of the 1940 Act and Rules 27e–1 and 6e–3(T)(b)(13)(vii) thereunder to the extent necessary to eliminate the requirement of written notice to owners of the Contract or Future Contracts concerning certain withdrawal and refund rights.

3. Section 6(c) authorizes the Commission, by order and upon application, to exempt any person, security, or transaction, or class of persons, securities, or transactions, from any provisions of the 1940 Act. The Commission grants relief under Section 6(c) to the extent an exemption is "necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the 1940 Act]."

A. DAC Tax Charge

1. *Section 27(c)(2).* Section 27(c)(2) prohibits any deduction from premium payments made under periodic payment plan certificates other than a deduction for "sales load." "Sales load" is defined under Section 2(a)(35), in relevant part, as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer (or in the case of a unit investment trust, by the depositor or trustee), less any portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities.

Sales loads on periodic payment plan certificates are limited by Sections 27(a)(1) and 27(h)(1) to 9% of total payments.

2. *Rule 6e–3(T)(b).* Certain provisions of Rule 6e–3(T) provide exemptive relief from Section 27(c)(2) if the separate account issues flexible premium variable life insurance contracts, as defined in subparagraph (c)(1) of that Rule. Rule 6e–3(T)(b)(13)(iii) provides exemptive relief from Section 27(c)(2) to permit an insurer to make certain deductions, other than sales load, including "[t]he deduction of premium or other taxes imposed by any State or other governmental entity."

VOL 60 ISS 79 AP 25 1995 UMI

3. Applicants assert that the proposed deduction with respect to Section 848 of the Code arguably is covered by subparagraph (b)(13)(iii)(E) of Rule 6e–3(T), but that the language of paragraph (c)(4) of the Rule appears to require that deductions for federal tax obligations from receipt of premium payments be treated as "sales load." Applicants state that they request relief from Section 27(c)(2) only to preclude the possibility that a charge related to the increased burden resulting from Section 848 is not covered by the exemption provided by Rule 6e–3(T)(b)(13)(iii)(E). Applicants submit that the public policy reasons underlying subparagraph (b)(13)(iii)(E) provide support for the exemption requested.

4. *Rule 6e–3(T)(c)(4).* Paragraph (b)(1), together with paragraph (c)(4), of Rule 6e–3(T) provide an exemption from the Section 2(a)(35) definition of "sales load" by substituting a new definition to be used for purposes of the Rule.

Rule 6e–3(T)(c)(4) defines "sales load" during a period as the excess of any purchase payments made during that period over certain itemized charges and adjustments, including a deduction for state premium taxes. Under a literal reading of paragraph (c)(4) of the Rule, a deduction for an insurer's increased federal tax burden does not fall squarely into those itemized charges or deductions, arguably causing the deduction to be treated as part of "sales load." Applicants maintain, however, that there is no public policy reason why a tax burden charge designed to cover the expense of federal taxes should be treated as sales load or otherwise be subject to the sales load limits of Rule 6e–3(T). Moreover, Applicants assert that nothing in the administrative history of Rule 6e–3(T) suggests that the Commission intended to treat tax charges as sales load.

5. Applicants argue that the exemption is necessary in order for Account 11 and any Future Account to rely on subparagraph (c)(13)(i), which provides critical exemptions from Sections 27(a)(1) and 27(h)(1) of the 1940 Act. Applicants note that issuers and their affiliates may only rely, however, on subparagraph (b)(13)(i) if they meet its alternate limits that apply to sales load as defined in paragraph (c)(4). Applicants represent that they and Future Accounts could not meet these limits if the DAC Tax charge is included in sales load.

6. Applicants assert that the public policy that underlies paragraph (b)(13) of Rule 6e–3(T), and particularly subparagraph (b)(13)(i), like that which underlies Sections 27(a)(1) and 27(h)(1), is to prevent excessive sales loads from being charged for the sale of periodic payment plan certificates. Applicants argue that this legislative purpose is not furthered by treating a federal income tax charge based on premium payments as a sales load because the deduction is not related to the payment of sales commissions or other distribution expenses. Applicants assert that the Commission has concurred with this conclusion by excluding deductions for state premium taxes from the definition of sales load in paragraph (c)(4) of each Rule.

7. Applicants suggest that the source for the definition of "sales load" found in paragraph (c)(4) of Rule 6e–3(T) supports this analysis. In adopting paragraph (c)(4) of the Rule, the Commission intended to tailor the general terms of Section 2(a)(35) to flexible premium variable life insurance contracts to ease verification by the Commission of compliance with the sales load limits of subparagraph (b)(13)(i) of the Rule. Just as the percentage limits of Section 27(a)(1) and 27(h)(1) depend on the definition of sales load in Section 2(a)(35) for their efficacy, the percentage limits in subparagraph (b)(13)(i) of Rule 6e–3(T) depend on paragraph (c)(4), which does not depart, in principle, from Section 2(a)(35).

8. Applicants further suggest that the exclusion from the definition of "sales load" under Section 2(a)(35) of deductions from premiums for "issue taxes" indicates that it is consistent with the policies of the 1940 Act to exclude from the definition of "sales load" in Rule 6e–3(T) deductions made to pay an insurer's costs attributable to its federal tax obligations. By extension, it is equally consistent to exclude such charges from Rule 6e–3(T)(c)(4) definition of sales load. Additionally, the exclusion of administrative expenses or fees that are "not properly chargeable to sales or promotional activities" also suggests that the only deductions intended to fall within the definition of "sales load" are those that are properly chargeable to sales or promotional activities. The proposed deductions will be used to compensate General American for its increased federal tax burden attributable to the receipt of premiums and not for sales or promotional activities. Therefore, the language in Section 2(a)(35) further indicates that not treating such deductions as sales load is consistent with the policies and provisions of the 1940 Act.

9. Finally, Applicants submit that it is probably an historical accident that the exclusion of premium tax in subparagraph (c)(4)(v) of Rule 6e–3(T) from the definition of "sales load" is limited to state premium taxes. When Rule 6e–3(T) was adopted and later amended, the additional Section 848 tax burden attributable to the receipt of premiums did not yet exist.

10. *Applicant's Conditions for DAC Tax Relief:* Applicants agree to the following conditions:

(a) General American will monitor the reasonableness of the 1.25% DAC Tax Charge;

(b) The registration statement for any variable life insurance contract under which the 1.25% charge is deducted will include: (1) disclosure of the charge; (2) disclosure explaining the purpose of the charge; and (3) a statement that the charge is reasonable in relation to General American's increased federal tax burden under Section 848 of the Code; and

(c) General American also will include as an exhibit to the registration statement for any variable life insurance contract under which the 1.25% charge is deducted an actuarial opinion as to: (1) the reasonableness of the charge in relation to General American's increased federal tax burden under Section 848 of the Code; (2) the reasonableness of the after-tax rate of return that is used in calculating such charge; and (3) the appropriateness of the factors taken into account by General American in determining such after-tax rate of return.

11. *Request for Class Relief.* Applicants also request exemptions to deduct the DAC Tax Charge for any Future Account established by General American to support Future Contracts, as defined in Rule 6e–3(T)(c)(1). Applicants assert that granting exemptive relief to deduct the 1.25% DAC Tax Charge from the assets of any Future Account established in connection with the issuance of Future Contracts would promote competitiveness in the variable life insurance market by eliminating the need for General American to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. Applicants further represent that the delay and expense involved in having repeatedly to seek exemptive relief would impair General American's ability effectively to take advantage of business opportunities as they arise. Further, any additional requests for exemptive relief for such Future Accounts would present no issues under the 1940 Act that have not already been addressed in this application. Without the requested relief, General American would have to obtain exemptions for each Future Account with respect to the same issues addressed in this application. Thus, investors would receive no benefit or additional protection and might be disadvantaged by General American's increased overhead expenses.

12. Applicants submit that, for the reasons stated above, it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act to deduct a DAC Tax Charge and to exclude it from sales load.

B. Waiver of Notice of Withdrawal and Refund Rights

1. Section 27(e) requires, with respect to any periodic payment plan certificate sold subject to Section 27(d), written notification of the right to surrender and receive a refund of the excess sales load. Section 27(d) requires the refund of any excess sales load paid during the first eighteen months after issuance of a periodic payment plan certificate. Rule 27e–2 establishes the requirements for the notice mandated by Section 27(e) and prescribes Form N–271–1 for that purpose. Rule 6e–3(T)(b)(13) modifies the requirements of Section 27 and the rules thereunder. Rule 6e–3(T)(b)(13)(vii) adopts Form N–27–1, originally intended for application to contractual plans, and requires it to be sent to a contract owner upon issuance of the contract and again during any lapse period in the first two contract years. The Form requires statements of (1) the contract owner's right to a refund of the excess sales load for a surrender during the first two contract years, (2) the date that the right expires, and (3) the circumstances in which the right may not apply upon lapse. Thus, Section 27(e) of the 1940 Act and Rules 27e–1 and 6e–3(T)(b)(13)(vii), in effect, require a notice of right of withdrawal and refund, on Form N–271–1, to be provided to owners of the Contracts or Future Contracts ("Contract Owners") entitled to a refund of sales load in excess of the limits stated in paragraph (b)(13)(v)(A) of Rule 6e–3(T).

2. Applicants note that the CDSC may be deducted upon surrender, face amount reduction or lapse of the Contract, which does not assess any other sales charges. The CDSC does not, during the first two Contract years, or during the first two Contract years after the increase in face amount, exceed the limits described under paragraph (b)(13)(v)(A) of Rule 6e–3(T), beyond which sales charges are characterized as "excess sales charges." Thus, Applicants assert that no "excess sales charge" is ever paid by a Contract Owner surrendering, reducing the face amount, or lapsing in the first two Contract years, or during the first two Contract years after the increase in face amount. Moreover, Applicants state that the Contract does not impose an excess sales load upon lapse, thus negating the value of a notice being sent during the lapse period.

3. Rule 27e–1, pursuant to which Form N–271–1 was first prescribed, specifies in paragraph (e) that a notice need be mailed when there is otherwise no entitlement to receive any refund of sales charges. Moreover, Rule 27e–1 and Rule 6e–2, from which Rule 6e–3(T) was derived, were adopted in the context of front-end loaded products only and in the broader context of the companion requirements in Section 27 for the depositor or underwriter to maintain segregated funds as security to assure the refund of any excess sales charges.

4. Applicants submit that requiring of a Form N–271–1 could confuse Contract Owners or encourage them to surrender during the first two Contract years, or surrender or decrease face amount during the first two Contract years following a face amount increase, when it may not be in their best interests to do so. A Contract Owner with a declining contingent deferred sales load, unlike a contract with a front-end sales charge, does not foreclose the opportunity, at the end of the first two Contract years, to receive a refund of monies spent. Such a Contract Owner has not paid any excess sales charge and, as the deferred sales charge declines over the life of the Contract, may never pay it. Applicants thus assert that encouraging a surrender during the first two Contract years could cost such a Contract owner more in total sales load, relative to total premium payments, than would otherwise be paid if the Contract were held for the long-term period originally intended.

5. Applicants submit that the absence of excess sales charge and, therefore, the absence of an obligation to assure repayment of that amount, do not create a right in a Contract owner which Form N–271–1 was designed to highlight. In the absence of this right, the notification contemplated by Form N–271–1 is an unnecessary and counter-productive administrative burden the cost of which appears unjustified. Any other purpose potentially served by Form N–271–1 would already be addressed by the required Form N–271–2 Notice of Withdrawal Right, generally describing the charges associated with the Contract, and prospectus disclosure detailing the sales load design. Neither Congress, in enacting Section 27, nor the Commission, in adopting Rule 27e–1, contemplated the applicability of Form N–271–1 in the context of a contract with a declining contingent deferred sales load.

C. Applicants' Conclusion

For the reasons and upon the facts set forth above, Applicants submit that the exemptions requested under Section 6(c) of the 1940 Act form: (1) Section 27(c)(2) of the 1940 Act and Rule 6e–3(T)(c)(4)(v) thereunder to permit General America to deduct up to 1.25% from premium payments as a DAC Tax Charge, and (2) under Section 27(e) of the 1940 Act and Rules 27e–1 and 6e–3(T)(b)(13)(vii) thereunder to permit the elimination of the requirement of written notice to owners of the Contract or Future Contracts concerning certain withdrawal and refund rights, are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10132 Filed 4–24–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Commercial Space Transportation Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, May 18, 1995, from 8:30 a.m. to 12:30 p.m. in Room 2230 of the Department of Transportation's headquarters building at 400 Seventh Street, SW, in Washington, DC. This will be the twenty-first meeting of the COMSTAC. In addition to reports from the respective COMSTAC Working Groups, the meeting will provide a legislative update on Congressional activities involving commercial space transportation; a briefing on the status of the insurance industry; an activities report from the Office of Commercial Space Transportation; and other related topics. This meeting is open to the public; however, space may be limited. Additional information may be obtained by contacting Linda H. Strine at (202) 366–5770.

VOL 60 ISS 79 AP 25 1995 UMI

Dated: April 19, 1995.

Frank C. Weaver,

Director, Office of Commercial Space Transportation.

[FR Doc. 95–10114 Filed 4–24–95; 8:45 am]

BILLING CODE 4910–62–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Opportunity to Submit Written Comments on WTO Members' Antidumping and Countervailing Duty Legislation and Regulations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of opportunity to submit written comments to the Office of the United States Trade Representative on other World Trade Organization (WTO) Members' antidumping and countervailing duty legislation and regulations.

SUMMARY: The WTO Committee on Antidumping Practices and the WTO Committee on Subsidies and Countervailing Measures will hold meetings the week of June 12, 1995 to begin reviewing Members' notifications of the full and integrated texts of their antidumping and countervailing duty laws and regulations. USTR invites interested persons to provide comments on other WTO Members' notifications to assist USTR in preparing for these meetings. USTR is particularly interested in receiving comments that are illustrated with examples taken from application of other Members' actual antidumping and countervailing duty laws and regulations. The notifications are available for reading and photocopying in the Public Reading Room at USTR and in Room B–099 of the Central Records Unit at the Department of Commerce.

DATES: Interested persons are invited to provide written comments to USTR on the following WTO Members' notifications by May 15, 1995: Korea, Australia, Venezuela, Mexico, Chile, New Zealand, Canada, Argentina, Brazil, India, and the European Union. Comments on other WTO Members' notifications should be provided by July 1, 1995.

FORMAT AND NUMBER OF COPIES: Interested persons should submit the original and two copies of their typewritten comments on other WTO Members' notifications to Sybia Harrison, WTO Members' AD/CFD Notifications, Office of the USTR, Room 223, 600 17th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Questions concerning USTR's Public Reading Room and the availability of specific Members' notifications should be directed to: Brenda Webb, Information Services Assistant (202) 395–6186. Questions concerning Commerce's Central Records Unit and the availability of specific Members' notifications should be directed to: Andrew Lee Beller, Director of Central Records (202) 482–1246. Other inquiries should be directed to Joanna McIntosh, Assistant General Counsel, (202) 395–7203.

SUPPLEMENTARY INFORMATION: Article 18.5 of the WTO Agreement on Implementation of Article VI and Article 32.6 of the WTO Agreement on Subsidies and Countervailing Measures require Members to inform the relevant Committee of any changes in their laws, regulations, or administration thereof, relevant to the Agreements. The Antidumping and Subsidies Committees agreed at their inaugural meetings in February 1995 that WTO Members should notify the full and integrated texts of their antidumping and countervailing duty laws and regulations to the relevant Committees by March 15, 1995.

The Committees further decided to begin reviewing the following twelve notifications at meetings to be held the week of June 12, 1995: Korea, Australia, Venezuela, Mexico, Chile, United States, New Zealand, Canada, Argentina, Brazil, India, and the European Union. Other Members' notifications will be reviewed subsequently.

The Committees have requested Members to submit written questions concerning the notifications prior to the respective meetings. Answers to the questions will be given orally at the meetings and subsequently in writing. The review process offers a meaningful opportunity to verify other Members' compliance with the Antidumping and Subsidies Agreements and to provide suggestions as to possible modifications to Members' laws, regulations or the administration of those provisions.

Irving Williamson,

Deputy General Counsel.

[FR Doc. 95–10139 Filed 4–24–95; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 79

Tuesday, April 25, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: April 26, 1995, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 629th Meeting—April 26, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 10661–004, Indiana Michigan Power Company

CAH–2.
Project No. 1473–010, Montana Power Company and Granite County, Montana

CAH–3.
Omitted

CAH–4.
Omitted

CAH–5.
Project No. 10395–001, City of Augusta, Kentucky
Project No. 10646–000, City of Vanceburg, Kentucky
Project No. 11053–000, City of Hamilton, Ohio

CAH–6.
Project Nos. 2570–018, 019 and 020, Ohio Power Company

CAH–7.
Project No. 2506–002, Mead Corporation, Publishing
Paper Division

Consent Agenda—Electric

CAE–1.
Docket No. ER95–625–000, Cincinnati Gas & Electric Company

CAE–2.
Docket No. ER95–651–000, United Illuminating Company

CAE–3.
Omitted

CAE–4.
Docket No. ER95–626–000, PSI Energy, Inc.

CAE–5.
Docket Nos. QF93–29–003 and EL95–20–000, Auburndale Power Partners, Limited Partnership

CAE–6.
Docket No. ER95–408–001, Gulf States Utilities Company

CAE–7.
Docket Nos. EL91–32–003 and EL91–34–003, Power Authority of the State of New York and Municipal Electric Utilities Association of New York State v. Long Island Lighting Company

CAE–8.
Omitted

CAE–9.
Docket No. ER94–1685–001, Citizens Lehman Power Sales

CAE–10.
Docket No. ER95–181–001, Florida Power & Light Company

CAE–11.
Docket No. ER94–1691–002, AIG Trading Corporation

CAE–12.
Docket No. ER95–393–001, CLP Hartford Sales, L.L.C.

CAE–13.
Docket Nos. ER95–371–002 and ER93–777–004, Commonwealth Edison Company

CAE–14.
Docket No. RM92–12–001, Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978

CAE–15.
Docket No. ER79–97–016, Century Power Corporation

CAE–16.
Docket Nos. ER91–569–002, 004, ER92–761–001 and ER93–250–001, Entergy Services, Inc.

CAE–17.
Docket No. EG95–32–000, Coastal Technology Salvador, S.A. de C.V.

CAE–18.
Docket No. EG95–33–000, Coastal Nejapa Ltd.

CAE–19.
Docket No. EG95–35–000, Nejapa Power Company

CAE–20.
Docket No. EG95–36–000, 1994 El Salvador Power Trust, Acting Through its Trustee, State Street Bank and Trust Company

CAE–21.
Docket No. EL95–21–000, Board of Public Utilities, City of McPherson, Kansas

CAE–23.
Docket No. ER84–560–036, Union Electric Company

CAE–24.
Docket No. EL93–19–000, San Diego Gas & Electric v. Tucson Electric Power Company and Century Power Corporation
Docket No. FA90–34–001, Tucson Electric Power Company

CAE–25.
Docket No. PL95–1–001, Ratemaking Treatment of the Cost of Emissions Allowances in Coordination Rates

CAE–26.
Docket Nos. EL95–7–000 and QF91–138–002, LG&E- Westmoreland Rensselaer

Consent Agenda—Oil and Gas

CAG–1.
Docket No. RP95–206–000, Tennessee Gas Pipeline Company

CAG–2.
Docket Nos. RP95–215–000, RP94–375–000, 001 and RP94–125–008, Texas Gas Transmission Corporation

CAG–3.
Docket No. RP95–216–000, Tennessee Gas Pipeline Company

CAG–4.
Omitted

CAG–5.
Docket No. RP95–219–000, Texas Eastern Transmission Corporation

CAG–6.
Docket No. RP95–222–000, CNG Transmission Corporation

CAG–7.
Docket No. RP95–224–000, ANR Pipeline Company

CAG–8.
Omitted

CAG–9.
Docket No. RP95–228–000, Carnegie Interstate Pipeline Company
Docket No. RP93–186–003, Carnegie Natural Gas Company

CAG–10.
Omitted

CAG–11.
Omitted

CAG–12.
Docket Nos. RP95–217–000 and RP95–220–000, Trunkline Gas Company

CAG–13.
Docket No. RP95–221–000, Northern Natural Gas Company

CAG–14.
Docket No. RP95–223–000, Williston Basin Interstate Pipeline Company

CAG–15.
Docket No. RP95–226–000, Mississippi River Transmission Corporation

CAG–16.
Omitted

CAG–17.
Docket No. TM95–4–26–000, Panhandle Eastern Pipe Line Company

VOL 60 ISS 79 AP 25 1995 UMI

CAG–18.
Docket No. RP95–41–000, Natural Gas Pipeline Company of America
CAG–19.
Docket No. RP89–161–030, ANR Pipeline Company
CAG–20.
Docket No. RP94–365–000, Williams Natural Gas Company
CAG–21.
Docket No. GT95–22–000, Panhandle Eastern Pipe Line Company
CAG–22.
Omitted
CAG–23.
Docket No. RP95–3–002, Williams Natural Gas Company
CAG–24.
Docket No. RP95–75–000, K N Interstate Gas Transmission Company
CAG–25.
Docket No. RP95–99–000, Koch Gateway Pipeline Company
CAG–26.
Docket No. RP95–225–000, Questar Pipeline Company
CAG–27.
Omitted
CAG–28.
Docket Nos. RP95–152–001, 002, RP94–343–000 and 006, NorAm Gas Transmission Company
CAG–29.
Docket No. RP95–141–001, Pacific Gas Transmission Company
CAG–30.
Docket No. RP95–149–001, ANR Pipeline Company
CAG–31.
Docket No. RP95–15–005, Texas Eastern Transmission Corporation
CAG–32.
Docket Nos. RP92–137–036 and RP93–136–005, Transcontinental Gas Pipe Line Corporation
CAG–33.
Docket Nos. RP92–149–005 and 004, Transcontinental Gas Pipe Line Corporation
CAG–34.
Docket Nos. RP94–407–001 and 002, Mississippi River Transmission Corporation
CAG–35.
Docket Nos. RP85–203–016 and RP86–203–013, Panhandle Eastern Pipe Line Company
Docket No. RP85–170–011, Texas Eastern Transmission Corporation
CAG–36.
Omitted
CAG–37.
Omitted
CAG–38.
Docket Nos. RP94–105–005 and 006 (Phases I and II), Ozark Gas Transmission System
CAG–39.
Omitted
CAG–40.
Docket No. IN92–2–000 (Phase I), Amoco Production Company and Oryx Energy Company
Docket No. IN83–2–000, Various Producer-Owned Natural Gas Processing Plants
Docket No. IN92–1–000, Producers Selling Gas Processed at the Laverne and/or Moorehead Plants
CAG–41.
Docket No. MG88–30–002, Great Lakes Gas Transmission Company
CAG–42.
Docket No. MG88–51–008, Transcontinental Gas Pipe Line Corporation
CAG–43.
Docket No. MG95–2–000, Columbia Gas Transmission Corporation
Docket No. MG95–3–000, Columbia Gulf Transmission Company
CAG–44.
Docket No. MG88–11–003, Questar Pipeline Company
Docket No. MG91–5–002, Overthrust Pipeline Company
CAG–45.
Docket No. CP93–258–005, Mojave Pipeline Company
CAG–46.
Docket Nos. CP93–505–005, CP93–506–005 and RP95–162–001, Panhandle Eastern Pipe Line Company
CAG–47.
Docket No. CP94–679–001, Great Lakes Gas Transmission Limited Partnership
CAG–48.
Docket No. CP93–281–003, Paiute Pipeline Company
CAG–49.
Docket Nos. CP94–6–002 and 000, Texas Eastern Transmission Corporation
Docket No. CP94–89–001 and 000, CNG Transmission Corporation
CAG–50.
Docket No. CP94–161–002, Avoca Natural Gas Storage
CAG–51.
Docket No. CP94–342–000, Crossroads Pipeline Company
CAG–52.
Docket No. CP95–187–000, K N Interstate Gas Transmission Company
CAG–53.
Omitted
CAG–54.
Docket Nos. CP94–682–000 and 001, Southern Natural Gas Company
CAG–55.
Omitted
CAG–56.
Docket Nos. CP95–61–000 and CP95–62–000, Columbia Gas Transmission Corporation
CAG–57.
Docket No. RP92–133–004, Gas Research Institute
CAG–58.
Docket No. CP93–500–002, Natural Gas Pipeline Company of America
CAG–59.
Docket No. CP95–116–001, Natural Gas Pipeline Company of America v. Northern Border Pipeline Company
CAG–60.
Docket No. RP95–60–001, National Fuel Gas Supply Corporation
CAG–61.
Docket No. RP94–43–000, ANR Pipeline Company
CAG–62.
Docket No. RP95–124–001, Gas Research Institute
CAG–63.
Docket No. RP94–43–011, ANR Pipeline Company
CAG–64.
Docket Nos. RP95–58–001, RP94–43–008 and 010, ANR Pipeline Company
CAG–65.
Docket No. IS95–25–000, Plantation Pipe Line Company
CAG–66.
Docket No. CP95–12–000, Williams Gas Processing-Kansas Hugoton Company
Docket No. CP95–11–000, Williams Natural Gas Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Omitted
E–2.
Omitted
E–3.
Omitted

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.
Reserved

II. Pipeline Certificate Matters

PC–1.
Omitted
Dated: April 19, 1995.
Lois D. Cashell,
Secretary.
[FR Doc. 95–10216 Filed 4–21–95; 4:00 pm]
BILLING CODE 6717–01–P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 24, May 1, 8, and 15, 1995.
PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.
STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 24

Tuesday, April 25

2:00 p.m.
Briefing on NRC Status of High-Level Waste Management Program (Public Meeting)
(Contact: Joseph Holonich, 301–415–6643)

Wednesday, April 26

10:00 a.m.
Briefing on Proposed Rule on Safety Equipment Reliability Data (Public Meeting)
(Contact: Charles Rossi, 301–415–7499)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Babcock and Wilcox Company (Pennsylvania Nuclear Service

Operations, Parks Township, PA), Initial Decision (License Renewal), LBP–95–1, Docket No. 70–364–ML–Ren (Tentative)
(Contact: Andrew Bates, 301–415–1963)

Thursday, April 27

10:00 a.m.
Briefing by IG and Staff Concerning Audit of HLW Licensing Support System (LSS) (Public Meeting)
(Contact: John Hoyle, 301–415–1968)

Week of May 1—Tentative

Wednesday, May 3

2:00 p.m.
Briefing on NRR Licensing Actions Program (Public Meeting)
(Contact: Roy Zimmerman, 301–415–1284)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 8—Tentative

Thursday, May 11

10:00 a.m.
Briefing on Business Process Reengineering for Materials Licensing Area (Public Meeting)
(Contact: Pat Rathbun, 301–415–7178)
11:30 a.m.
Affirmative/Discussion and Vote (Public Meeting) (if needed)

Friday, May 12

10:00 a.m.
Briefing by DOE on HLW Licensing Support System (LSS) (Public Meeting)
2:00 p.m.
Briefing on Site Decommissioning Management Plan (SDMP) Program and Policy Issues (Public Meeting)
(Contact: Mike Weber, 301–415–7298)

Week of May 15—Tentative

There are no meetings scheduled for the week of May 15.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system will also become available in the near future. if you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: April 21, 1995.
William M. Hill, Jr.,
SECY Tracking Officer, Office of the Secretary.
[FR Doc. 95–10260 Filed 4–21–95; 3:10 pm]
BILLING CODE 7590–01–M

VOL 60 ISS 79 AP 25 1995 UMI

Corrections

Federal Register
Vol. 60, No. 79
Tuesday, April 25, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 95-003-1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

Correction

In rule document 95–8616 beginning on page 17631 in the issue of Friday, April 7, 1995, make the following correction:

§354.2 [Corrected]

On page 17632, in §354.2, in the third column of the table, the second entry, "Astoria" should appear under the "Served from" column.

BILLING CODE 1505-01-D

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Meeting

Correction

In notice document 95–8633 beginning on page 17780, in the issue of Friday, April 7, 1995, make the following correction:

On page 17781, in the first column, in paragraph 12., in the first line, "Transitional" should read "Transnational".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5179-8]

Notice of Proposed Administrative Settlement; Lorentz Barrel and Drum Superfund Site

Correction

In notice document 95–7592 beginning on page 16135, in the issue of Wednesday, March 29, 1995, make the following corrections:

1.On page 16135, in the second column, under **SUMMARY:**, in the first full paragraph, in the third line, "part" should read "past".

2.On page 16136, in the 1st column, under **SUPPLEMENTARY INFORMATION:**, in the 20th line from the top, "Van" should read "Varn".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-943-1430-01; IDI-31261]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Idaho

Correction

In notice document 95–8019 beginning on page 16658 in the issue of Friday, March 31, 1995, make the following correction:

On page 16659, in the first column, in the first line, "lots 2 to 4" should read "lots 1 to 4".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35571; File No. SR-NYSE-95-01]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Domestic Listing Standards

Correction

In notice document 95–8996 beginning on page 18649, in the issue of Wednesday, April 12, 1995, make the following correction:

On page 18653, in the first column, before the FR document line, the signature line was omitted and should have appeared as follows:

Margaret H. McFarland,
Deputy Secretary.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-35551; File No. SR-PSE-95-05]

Self-Regulatory Organizations; Notice of Filing Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Its Rules on Short Interest Reporting

Correction

In notice document 95–8666 beginning on page 18160, in the issue of Monday, April 10, 1995, make the following correction:

On page 18161, in the third column, before the FR document line, the signature line was omitted and should have appeared as follows:

Margaret H. McFarland,
Deputy Secretary.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-97-AD; Amendment 39-9157; AD 95-04-05]

Airworthiness Directives; Bombardier (Formerly Canadair) Model CL-600-2B19 (Regional Jet Series 100) Series Airplanes

Correction

In rule document 95–4256 beginning on page 12666, in the issue of Wednesday, March 8, 1995, make the following corrections:

§39.13 [Corrected]

1.On page 12667, in the third column, in §39.13 (k), in the first full paragraph, in the first line, before the word "This" insert "paragraph designation (k)".

2.On the same page, in the same column, in the same paragraph, in the second line, "April 17, 1995." should read "April 7, 1995.".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1994 Rev., Supp. No. 17]

Surety Companies Acceptable on Federal Bonds, American Reliable Insurance Company

Correction

In notice document 95–8496 appearing on page 17609 in the issue of Thursday, April 6, 1995 make the following correction:

On page 17609, in the second column, in the first full paragraph, in the eighth line, "HH" should read "NH".

BILLING CODE 1505-01-D

VOL
60

ISS
79

AP
25

1995

UMI

federal register

Tuesday
April 25, 1995

Part II

Department of Transportation

Coast Guard

33 CFR Part 187
Establishment of Vessel Identification System; Final Rule

VOL 60 ISS 79 AP 25 1995 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 187

[CGD 89-050]

RIN 2115-AD35

Vessel Identification System

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule with request for comments.

SUMMARY: The Coast Guard is establishing a vessel identification system (VIS), as required by statute, which includes guidelines for State vessel titling systems, procedures for certifying compliance with those guidelines, and rules for participation in this system for undocumented vessels. VIS, in conjunction with current Coast Guard vessel documentation information, will provide a nationwide pool of vessel and vessel owner information that will help in identification and recovery of stolen vessels and deter vessel theft. A mortgage that covers the whole of an undocumented vessel and is perfected in a State that both participates in VIS and holds certification of compliance with guidelines for State vessel titling systems will be deemed to have preferred mortgage status.

DATES: This rule is effective on April 24, 1996. Comments must be received on or before July 24, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406), (CGD 89-050), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CDR Keith Cameron, Office of Marine Safety, Security and Environmental Protection, Information Management Division (G-MIM), (202) 267-0385.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 89-050) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are CDR Keith Cameron, Project Manager, Office of Marine Safety, Security and Environmental Protection and Helen Boutrous, Project Counsel, Office of Chief Counsel.

Regulatory History

On October 5, 1993, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled Vessel Identification System in the **Federal Register** (58 FR 51920). The Coast Guard received 27 letters commenting on the NPRM. No public hearing was requested, and none was held.

Background and Purpose

The Secretary of Transportation is required to establish VIS; to prescribe the manner and form for participating States to make information available to VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines (46 U.S.C. chapters 125, 131 & 313). The Secretary has delegated to the Commandant, U.S. Coast Guard, the authority to implement VIS. State participation in VIS is entirely voluntary, however, in order to participate, States must comply with certain requirements to ensure the integrity and uniformity of the information provided to VIS.

This interim final rule establishes the minimum requirements for States electing to participate in VIS. VIS will comprise a nationwide information system for identifying recreational vessels that are either numbered in accordance with 46 U.S.C. 123 or titled under the laws of a State. VIS will include information identifying vessels and vessel owners, and information to assist law enforcement officials in the investigation of stolen vessels. Most of the information to be included in VIS is already collected by States that number vessels in accordance with 33 CFR 174.17. This and other information collected by the States will be automatically accessed by VIS, resulting in a central, nationwide pool of vessel information, while minimizing the burden of participating States. Once the VIS requirements are effective, the Coast Guard will begin to work with participating States to coordinate VIS access.

This interim final rule also prescribes guidelines for State vessel titling systems and the procedures for obtaining certification of compliance with those guidelines. Under 46 U.S.C. 31322(d), perfected mortgages covering the whole of a vessel titled in a State that both participates in VIS and has a vessel titling system that has been certified as meeting the titling guidelines issued by this interim final rule will be deemed to have preferred mortgage status. Compliance with the State titling guidelines and requests for certification of that compliance is entirely voluntary. However, preferred mortgage status under 46 U.S.C. 31321(d) is conditioned upon both participation in VIS and certification of compliance with the State titling guidelines issued by this interim final rule.

This action is being published as an interim final rule to allow for public comment on a provision, § 187.315, that has been added to the State vessel titling requirements since publication of the NPRM. Also, this action is being published with an effective date of one year from today's date. This effective date will allow States affected by a statutory amendment to 46 U.S.C. chapter 121, which becomes effective one year from the effective date of the State titling guidelines issued as a part of this interim final rule, time to review, and if necessary, amend their vessel titling requirements. These issues are addressed in greater detail in the discussion of § 187.315 later in this preamble.

It is not anticipated that VIS will be operational before the effective date of this interim final rule. Publishing the VIS requirements now, however, will provide States with the information necessary to prepare for participation in the voluntary VIS system.

Discussion of Comments and Changes

All of the comments received were considered in the development of this interim final rule. The issues raised by the comments received, and the sections which have been revised or added since publication of the NPRM, are discussed below. Some sections were revised or reorganized for clarity.

Subpart A—General

§ 187.1 Applicability.

VIS will cover vessels that are numbered or titled under the laws of a State. Information pertaining to vessels which are documented by the Coast Guard will continue to be collected under the current regulations. Many of the comments suggested that documented vessels be covered by the VIS requirements. After analyzing the merits of applying the VIS requirements to documented vessels, the Coast Guard determined that it will be more efficient to maintain the current Coast Guard data base on documented vessels, and allow increased access to that information through VIS. Therefore, documented vessels will not be covered by the vessel identification system requirements of this interim final rule. Users of VIS will, however, have access to a nationwide pool of information on recreational vessels, whether documented or undocumented, because the planned enhancement of the documentation data base will allow access to the Coast Guard's data base on documented vessels through VIS. The Coast Guard currently maintains an information system on over 200,000 vessels documented under 46 U.S.C. chapter 121. Maintaining this documentation system, while allowing access to the data base through VIS, satisfies the statutory goal of establishing a nationwide vessel data base and is more efficient than discontinuing the existing documentation record keeping system.

One comment suggested that the VIS final rule specifically exempt barges from VIS. The comment noted that the Abandoned Barge Act of 1992 amended 46 U.S.C. 12301 to require the numbering of undocumented barges greater than 100 gross tons. The Coast Guard published a notice on October 18, 1994, seeking comments on the development of a numbering system for barges (59 FR 52646). Currently, barges are not numbered, and the Coast Guard is in the early stages of developing a mandatory numbering system. Because this interim final rule applies only to vessels that are numbered or titled under the laws of a State, barges are not currently covered by VIS. As the Coast Guard's efforts to establish a barge numbering system continue, the Coast Guard will examine whether a specific exclusion of barges from VIS is appropriate. The Coast Guard will propose future amendments to VIS, if necessary.

§ 187.3 Definitions.

One comment suggested that the Coast Guard add the definition of "titled vessel" to § 187.3 and another comment suggested adding the definition of "perfection". Under § 187.303, the Coast Guard requires that participating States define most of the terms included in § 187.3 in their titling systems substantially as those terms are defined by the Coast Guard. Therefore, in order to allow the States the most flexibility possible in establishing approved titling systems, the Coast Guard has attempted to minimize the number of required definitions. The Coast Guard agrees that a definition of the term "titled vessel" would be helpful, and a definition of that term has been added. However, the term "perfection" will be left to the States to define in accordance with their own titling systems. The definition of the term "person" has been revised to be consistent with the definition provided in the regulations regarding State numbering system requirements at 33 CFR 173.3(e). This revision is intended to result in no substantive change.

§ 187.5 Vessel identifier.

Many comments objected to the use of "VIN" as an acronym for "Vessel Identification Number." The comments suggested that this acronym would confuse law enforcement personnel who are far more familiar with VIN meaning Vehicle Identification Number. The Coast Guard agrees with these comments and will not use the acronym VIN in the VIS regulations. The title of the section has been revised accordingly.

Some of the comments revealed a misunderstanding of this provision by objecting to the establishment of a new number. VIS will not establish a new numbering system for vessels. For purposes of identifying a vessel within VIS, the number to be used will be the hull identification number (HIN) assigned to an undocumented vessel in accordance with Subpart C of part 181. Several comments suggested that documented vessels be identified within VIS by their HIN. However, as discussed above, the Coast Guard is maintaining its existing data base on documented vessels which uses the Coast Guard Official Number to identify vessels within the current documentation system. Therefore, it will be necessary to keep the Coast Guard Official Number as the primary identifier for documented vessels. Information on documented vessels, such as owner name, Official Number, HIN if one has been assigned, length, and hailing port, will be available through VIS.

Several comments suggested that § 187.5(c), which requires States to assign an HIN to vessels under certain circumstances, will be problematic for States. The comments stated that the requirement leaves no room for discretion by the States to refuse to assign an HIN to a vessel which the State may believe to be stolen. These comments suggested replacing the word "shall" with "may" in paragraph (c). The Coast Guard disagrees with these comments. The HIN will be the primary identifier for all State registered or numbered vessels in the United States. Section 187.5(b) allows for the use of other identifiers, such as the number issued on a certificate of number by the issuing authority of a State, only where a vessel does not have an HIN (e.g., a vessel built prior to 1972). However, under § 187.5(c), if the ownership or State of principle use of the vessel changes, the State is required to assign an HIN to that vessel, just as States currently do under the authority of 33 CFR 181.31(c) for "backyard boat builders". The HIN must meet the format requirements of 33 CFR 181.25. States may impose any controls necessary to ensure HINs are assigned appropriately. Section 187.5(c) has been revised to clarify this issue for the States. The Coast Guard specifically invites comments on this revised provision from States that anticipate participating in VIS.

One comment suggested that VIS require mandatory inspection of a vessel prior to a State assigning an HIN. While the Coast Guard agrees that inspections could lessen the probability of illegal action by those attempting to obtain an HIN, it is the Coast Guard's position that the decision to implement such procedures should be left to the individual States.

Several comments suggested requiring that all documented vessels be assigned an HIN. Vessels manufactured or used primarily for noncommercial use (33 CFR 181.3), the only vessels included in VIS, are currently required to have an HIN, whether they are documented or not. However, as discussed above, to utilize the existing database of information on documented vessels, it

VOL 60 ISS 79 AP 25 1995 UMI

will be necessary to use the Coast Guard Official Number as the primary identifier for a documented vessel.

Subpart B—Information to be Collected by Participating States

§ 187.101 Information to identify a vessel owner.

Many comments objected to the provision that would have required participating States to collect information on the percentage of ownership interest of each owner for each vessel. Many comments also objected to the proposed requirement to obtain the address of each owner. These comments contended that collecting this amount of information would be overly burdensome. The Coast Guard agrees with the comments on this matter, and § 187.101 has been revised to lessen the information burden. This interim final rule requires the State to obtain the name of each owner of a vessel, but does not require States to collect any information regarding the percentages of ownership interest. Further, States are required to obtain the address of only one owner.

Several comments objected to the collection of an individual owner's Social Security Number or, where not available, date of birth and driver's license number. The comments indicated that some States do not allow the required collection of an individual's social security number, and not all individuals have a driver's license. For an effective information and identification system, there must be a method of identifying the owner of a vessel beyond the individual's name. The Coast Guard included collection of date of birth and driver's license number to assist those States that may have problems collecting Social Security Numbers. To alleviate the situation that may arise for a State where no Social Security Number or driver's license number is available, the Coast Guard will accept, in such situations only, the individual's date of birth and alternative information identifying the individual vessel owner as specified by the regulations of the State or issuing authority.

§ 187.103 Information to identify a vessel.

Most of the comments agreed with the NPRM regarding the information to be collected to identify a vessel.

One comment suggested that information regarding a vessel's type of propulsion is too detailed for inclusion in VIS. However, it is the Coast Guard's position that a vessel's type of propulsion is an excellent means, in combination with other information, to identify a vessel. Propulsion type greatly influences the value of a vessel, and this information is currently required to be collected by States with authorized numbering systems under 33 CFR 174. Therefore, inclusion of this information in VIS will cause no additional information collection requirement for these States. However, the term "jet drive" has been removed from the list of propulsion types to be consistent with the list of propulsion types provided in the regulations regarding State numbering system requirements at 33 CFR 174.19.

One comment argued that the final rule should not require the collection of the vessel number previously issued by an issuing authority. It is the Coast Guard's position that this is valuable information in assisting in the identification of a vessel. Also, like propulsion type, this information is required to be collected by States with authorized numbering systems under 33 CFR part 174 and represents no increased burden for these States that choose to participate.

§ 187.105 Information on titled vessels.

There was general agreement among those commenting regarding the information to be collected on titled vessels by a participating State.

One comment however, disagreed with the requirement to collect information regarding evidence of a lien or other security interest. The comment argued that the information would not be helpful. Also, the comment argued that it would be difficult to collect information regarding evidence of a lien kept in another State. Under 46 U.S.C. 12501(b)(5), VIS must include information on titled vessels indicating where evidence of a lien or other security interest may be found against the vessel in that State. Therefore, the requirement to collect information indicating where evidence of a lien may be found is retained in this interim final rule. Section 187.105(a)(3) has been revised, however, to clarify that a State must collect information regarding evidence of a lien or other security interest found in that State only.

§ 187.107 Information to assist law enforcement officials.

Several of the comments agreed with the requirements of § 187.107 as proposed. The information listed in paragraph (a) of § 187.107 (report of loss or theft, point of contact) is required to be collected, while collection of the more detailed information listed in paragraph (b) is optional. One comment suggested that the Coast Guard require the collection of the information listed in both paragraphs (a) and (b). The Coast Guard encourages participating States to collect the detailed information listed in paragraph (b). However, in the interest of putting the least possible burden on participating States while still meeting the needs of the VIS system, the Coast Guard has determined that, for now, collection of the information listed in paragraph (b) will remain optional. The Coast Guard has been working with the Criminal Justice Information Service, Department of Justice, regarding the mutual supporting roles of the National Crime Information Center (NCIC) and VIS. Because much of the information listed in paragraph (b) is contained in NCIC's Boat File, collection of that information will not be required in this rulemaking.

Subpart C—Vessel Identification System Participation Requirements

§ 187.201 Participating State requirements.

Paragraph (b) was reserved in proposed § 187.201. It has been determined that additional requirments are not necessary in that section and the paragraphs of § 187.201 have been redesignated accordingly. Also, a printing error in the wording of proposed § 187.201(a)(6) (now § 187.201(f)) has been corrected in this interim final rule.

One comment stated that the retention of previously issued certificates of number or titles would be overly burdensome. This section requires a State to collect old, no longer valid, certificates of number and title when issuing new certificates of number or titles. The State may retain or dispose of the old documents as it sees fit. Because a State is free to dispose of these invalid records, the Coast Guard does not agree that the provision is overly burdensome and the provision is retained.

Two comments suggested that compliance with the participation requirements would be easier if States are allowed to use microfiche technology. States are free to use such technology or other methods of electronic storage where appropriate. This rulemaking does not address how that information is to be stored by the States. As discussed earlier, and in § 187.201(a), Coast Guard-State Cooperative Agreements will be developed to specify the manner and form that information will be accessed by VIS.

Several comments suggested that participation in VIS be made mandatory for States. There is no statutory authority to require participation in VIS Under 46 U.S.C. chapter 125, participation in VIS by the States is to be voluntary.

One comment suggested that the Coast Guard utilize an existing system, the American Association of Motor Vehicles Administrator's network (AAMVANET) rather than develop VIS. It was further suggested that a "pointer system" such as used in AAMVANET, would eliminate the need for a participating State to maintain two systems. VIS, which the Coast Guard is required by statute to create, will automatically access information collected by participating States from their databases. There will be no need for participating States to maintain two systems. The purpose of VIS is to create a national vessel database that consists of the information collected by States during numbering and titling procedures. There will be no need for a participating State to enter any vessel data twice. VIS will contain data that has been electronically copied.

One comment suggested that the project was redundant, would place a paperwork burden on the States, and would be funded by a boat tax. VIS will be the first nationwide pool of information containing the vessel and vessel owner information prescribed by this interim final rule. The framework of the system has been designed to minimize any additional burden on participating States. Almost all of the information required is currently collected by States with numbering or titling systems. There will be no need for these States to collect the information a second time. As discussed, the information will be automatically accessed or accepted by VIS. Therefore, the Coast Guard estimates that participation will not be burdensome for participating States. Finally, there is no "boat tax" associated with this rulemaking or the enabling legislation. Funding for the establishment of VIS is provided through the Coast Guard appropriations process.

Subpart D—Guidelines for State Vessel Titling Systems

§ 187.301 Eligibility for preferred mortgage status.

One comment suggested that preferred mortgage status would not be available as described in the NPRM. The comment questioned the "legality of assigning 'preferred mortgage status' to instruments recorded within" VIS. No "instruments" will be "recorded" within VIS. VIS is an information data base only. As for preferred mortgage status, 46 U.S.C. 31322(d)(1)(A) and (B) state that a mortgage perfected under State law, covering the whole of a vessel, is deemed to be a preferred mortgage if the State's titling system is certified to be in compliance with the titling guidelines issued by the Secretary, and if information on the vessel covered by the mortgage is made available to VIS. Therefore, § 187.301 remains unchanged.

§ 187.305 Application for title.

In the NPRM, § 187.305(a) proposed that States require application for a title within a specified period of time, not to exceed 90 days, after a change in ownership. Many of the comments suggested that the period of time required to apply for a title be changed to within 60 days of a change in ownership. The Coast Guard agrees with this suggestion and the provision is revised accordingly.

One comment suggested that the phrase "first purchased" be removed from paragraph (a). However, the Coast Guard has decided to retain this phrase in the provision to distinguish between an act requiring an initial application for title and other acts transferring the title.

Many comments disagreed with the requirement in paragraph (b) to include the amount of indebtedness covered by any security agreement pertaining to the vessel in its titling application form. The comments indicated that this requirement constituted unnecessary detail in the application process. The Coast Guard agrees that including the amount of indebtedness on a vessel in the titling application form does not serve a sufficiently useful purpose to outweigh the burden of collection of that information. Consequently, this interim final rule requires that the titling application form include an entry indicating whether there is indebtedness covered by any security agreement pertaining to the vessel, but does not require disclosure of the actual amount.

§ 187.307 Dealer and manufacturer provisions.

Many of the comments disagreed with paragraphs (a) and (b) of proposed § 187.307. Paragraph (a) proposed to require States to require dealers to report acquisition of a used numbered vessel for resale, and allow them to apply for a certificate of title. Paragraph (b) proposed to require States to require dealers to apply for a certificate of title for a used unnumbered vessel acquired for resale if the vessel is required to be titled. The comments contended that these provisions are unclear. One comment stated that paragraphs (a) and (b) are unnecessary because paragraph (a) merely allows something that States could do without such a provision, and very few vessels fit the description in paragraph (b). A different comment argued that requiring dealers to apply for title as described in paragraph (b) would cause procedural burden. The Coast Guard has revised paragraph (a) to clarify that States must require dealers to either report acquisition of used vessels for resale, or, title these vessels if State law requires such vessels to be titled. Paragraph (b) is deleted.

One comment suggested that the Coast Guard increase the length of time that dealers and manufacturers must maintain records from 3 to 10 years. Another suggested that the 3 year requirement be decreased. The Coast Guard's position is that 3 years is a sufficient amount of time to retain such records without placing an undue burden on dealers and manufacturers.

Paragraph (d) requires dealers and manufacturers to provide to the vessel owner a certificate of origin (COO), or other document, at the time of delivery of a new vessel. Several comments suggested requiring that manufacturers supply a COO only and delete the words "or other documents". Other comments suggested specific contents to be required in a COO. The Coast Guard, in another rulemaking, is considering requirements for COOs (Expanded Hull Identification Number and New Requirements for Certificates of Origin [CGD 92–065]; May 6, 1994; 59 FR 23651). Such requirements have not been considered as a part of this rulemaking. If future requirements for COOs are established, the VIS requirements can be amended if necessary. At the present time, there is no requirement that manufacturers issue COOs. Therefore, the language allowing for other documents such as a Builder's Certificate (CG 1261), is necessary.

§ 187.311 Transfer by operation of law.

Many comments suggested that the time limits set for accomplishing various requirements, such as applying for a certificate of title if a vessel is transferred by operation of law, as required in § 187.311, and after a transfer in ownership, as required in § 187.305(a), be consistent throughout the titling guidelines. Most comments preferred a 60 day time limit. Consequently, this interim final rule changes the time limit proposed in § 187.311 from "not to exceed 90 days" to "not to exceed 60 days."

§ 187.315 Surrender of title for purposes of documentation.

Under Federal law, a vessel must be documented by the Coast Guard if it engages in coastwise trade, foreign trade, or fisheries. A recreational vessel is not required to be documented, but

VOL 60 ISS 79 AP 25 1995 UMI

may be if it meets eligibility requirements. In the past, some lending institutions have required recreational vessel owners to obtain Coast Guard documentation so that preferred mortgages may be recorded to protect security interests. After implementation of VIS, a mortgage may acquire preferred status under 46 U.S.C. 31322(d) if it is perfected under State law for a vessel titled in a State that both participates in VIS and has a titling system certified by the Coast Guard. However, some States may not choose to participate in VIS. Therefore, the Coast Guard will continue to provide documentation services for eligible vessels, whether or not required to be documented, in order to extend the opportunity to record a preferred mortgage to those vessels.

Although it was not specifically addressed in the NPRM, a comment noted that a 1989 amendment to 46 U.S.C. 12102 would render a vessel titled in a State ineligible for documentation by the Coast Guard. This amendment will become effective on April 25, 1997, one year after the effective date of these vessel titling guidelines.

The Coast Guard wishes to emphasize that the statutory prohibition applies to all State-titled vessels, whether or not the State that issued the title participates in VIS or follows these titling guidelines. If a vessel owner has obtained a State title for purposes of convenience, the owner must choose to surrender either the State title or the Certificate of Documentation. For a vessel engaged in a trade for which documentation is required under Federal law, the owner could not choose to relinquish the Certificate of Documentation and continue to employ the vessel in trade. Three States (Iowa, New Jersey, and Vermont) currently require that a vessel receive a State title if the owner resides in the State or the vessel is principally used in the State, whether or not the vessel is documented by the Coast Guard. The Coast Guard's position is that, for vessels required to be documented under Federal law, the Federal documentation requirement preempts the State titling requirement. The vessel's Certificate of Documentation will remain valid and the State title will be void, even if a title is required by State law.

However, this preemption does not extend to recreational vessels not required to be documented by Federal law. As of the effective date of the amendment, a recreational vessel titled by a State is ineligible for documentation, and any existing Certificate of Documentation will be invalid. The vessel owner will have to either surrender the title to the issuing State authority before April 25, 1997 or surrender the Certificate of Documentation to the Coast Guard. However, an owner will be unable to surrender the title if the vessel is required to be titled under State law.

To address this issue, a new provision, entitled "Surrender of title for purposes of documentation", has been added to the State titling guidelines. To obtain certification of compliance with the guidelines, a State would have to deem a State-issued title invalid if a vessel owner surrenders the title to the Coast Guard for the purpose of obtaining Coast Guard documentation. The Coast Guard would return the title to the issuing State. This is intended to prevent an owner from establishing dual chains of ownership, and is consistent with current practice in most States. States generally accept surrender of title when a vessel is purchased by an out-of-State owner or an owner moves to a different State and applies for a new title and registration. A similar process is used for automobile titles.

This provision was not included in the NPRM. Therefore, the Coast Guard is promulgating this action as an interim rule to allow interested parties the opportunity to comment. The Coast Guard specifically requests comments from States on the impact of the statutory amendment and the surrender guidelines. Additionally, the Coast Guard has delayed the effective date of this rule until April 25, 1996 to allow States time to review their titling requirements and make any necessary changes.

§ 187.317 Information on a certificate of title.

Many comments argued against including the percentage of ownership interest and the address of every owner on certificates of title. These comments came from State officials who explained that often many people may own a boat and including the percentage of ownership and each address on certificates of title would be burdensome and unhelpful. Also, many married couples own boats jointly and it would serve no purpose to indicate the percentage of ownership between them. None of those States commenting on this issue currently collect this information. The Coast Guard agrees with these comments and has revised § 187.317 to require the name(s) of all current owner(s) and the address of one of the owners.

Only one comment argued against the recording of liens on certificates of title. Lien information is specifically required to be included in VIS under 46 U.S.C. 12501(b)(5). Lien information is very important in the development of the integrated boat information and titling system envisioned by Congress. Therefore, the requirement to include lien information on the certificate of title is retained in this interim final rule.

§ 187.319 Duplicate title.

Several comments suggested revisions to § 187.319. The NPRM required that the word "duplicate" be "stamped" across the face of a duplicate certificate of title. The comments noted that other means of marking the document besides "stamping" it should be allowed, and the marking should not be required to be "across" the face of the document. The Coast Guard agrees with these comments and has revised this provision to require that the word "duplicate" be "clearly and permanently marked on" the face of the document.

One comment argued that duplicate certificates of title should not be allowed. The Coast Guard does not agree with this comment. Circumstances such as loss, theft, or destruction of the document can arise and after the State has inquired into those circumstances as required by this section, a duplicate certificate of title should be available to the owner.

Another comment suggested specifying a period of time in which an owner must apply for a duplicate certificate of title. In the interest of allowing States wishing to comply with these titling guidelines as much flexibility as possible in designing titling programs for their States, the Coast Guard has decided to leave to the States the determination of the appropriate amount of time within which an owner must apply for a duplicate certificate of title.

§ 187.321 Hull identification number provisions.

Several comments suggested that the provisions of § 187.321 be optional for States complying with the guidelines. The Coast Guard does not agree with this suggestion. Section 187.321 requires States that seek certification of compliance with the guidelines to: assign an HIN to an undocumented vessel without an HIN at the time of registration upon transfer of ownership or change in State of principal operation; assign an HIN to an undocumented vessel without an HIN at the time of title application and record the HIN on the certificate of title; and prohibit the removal or alteration of an HIN without the authorization of the Commandant. The proper assignment of an HIN to a vessel that previously did not have one, whether because of its age or because the manufacturer failed to permanently affix one, will protect the new owner and assist law enforcement efforts. Proper identification of vessels is vital to the success of the VIS and law enforcement efforts.

One of these comments also suggested that States be allowed to authorize the removal of an HIN. However, the Coast Guard has determined that this authority should remain with the Coast Guard consistent with the HIN requirements at 33 CFR 181.35.

Regulatory Evaluation

This action is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this interim final rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This interim final rule implements the provisions of the Act requiring the establishment of VIS, and establishes requirements for States that elect to participate in VIS, guidelines for State vessel titling systems, and procedures for certifying compliance with those guidelines. Participation in VIS and compliance with the guidelines for State vessel titling systems is entirely voluntary. Most of the information to be included in VIS is already collected by States when registering vessels within the State. Preliminary review of titling laws, regulations and administrative procedures of 28 States revealed that 21 of the State vessel titling systems would comply with most or all of the titling guidelines issued by this interim final rule. The overall impact of this rule will be the improvement of vessel and owner identification, and a potential decrease in the amount of information that is collected, other than for vessel registration, to identify a vessel or owner by State and Federal officials.

Small Entities

It is anticipated that the VIS computer system will facilitate the collection of information directly from State computer files. The impact of the rulemaking will be on States electing to participate in VIS, rather than on small entities. Most of the information to be included in VIS is already collected by States when registering vessels within the State and by States that title vessels.

Therefore, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that this interim final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection of information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), and OMB has approved them. The section numbers are: 187.7, 187.9, 187.101, 187.103, 187.105, 187.107, 187.201, and 187.301. The corresponding OMB control number is 2115–0607.

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

This rule is not expected to infringe upon the rights of States to regulate, or preempt existing State regulations. State participation is entirely voluntary. However, once electing to participate, a State must comply with the requirements to ensure integrity and uniformity of information in VIS. Likewise, requesting certification that a State vessel titling system complies with the guidelines is also voluntary. Such certification, for participating States, confers preferred status on mortgages covering the whole of vessels titled in that State.

However, an amendment to 46 U.S.C. 12102 prohibits vessels from being both documented and titled beginning one year after the effective date of the vessel titling guidelines. The statutory amendment applies to all vessel owners whether or not the State chooses to participate in VIS or follow the State titling guidelines. For vessels required to be documented under Federal law, the Federal documentation requirement preempts State titling requirements. This preemption does not extend to recreational vessels, for which documentation is not required by Federal law. States that require documented vessels to be titled may desire to amend their requirements regarding vessels that are required by Federal law to be documented.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rule establishes a nationwide information system for identifying vessels and vessel owners, and guidelines for State vessel titling systems. This action clearly would have no environmental consequences. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 187

Marine safety, Reporting and recordkeeping requirements, Administrative practice and procedure.

For the reasons set out in the preamble, the Coast Guard amends chapter I of title 33, Code of Federal Regulations, by adding part 187 to read as follows:

PART 187—VESSEL IDENTIFICATION SYSTEM

Subpart A—General

Sec.
187.1 Applicability.
187.3 Definitions.
187.5 Vessel identifier.
187.7 Participation procedures.
187.9 Procedures for certification of compliance with guidelines for State vessel titling systems.

Subpart B—Information To Be Collected by Participating States

Sec.
187.101 Information to identify a vessel owner.
187.103 Information to identify a vessel.
187.105 Information on titled vessels.
187.107 Information to assist law enforcement officials.

Subpart C—Vessel Identification System Participation Requirements

Sec.
187.201 Participating State requirements.
187.203 Voluntary provisions for participating States.

Subpart D—Guidelines for State Vessel Titling Systems

Sec.
187.301 Eligibility for preferred mortgage status.
187.303 Definitions.
187.305 Application for title.
187.307 Dealer and manufacturer provisions.
187.309 Transfer of title.
187.311 Transfer by operation of law.

VOL 60 ISS 79 AP 25 1995 UMI

187.313 Title of another State.
187.315 Surrender of title for purposes of documentation.
187.317 Information on a certificate of title.
187.319 Duplicate title.
187.321 Hull identification number (HIN) provisions.
187.323 Perfection of security interests.
187.325 Assignments.
187.327 Satisfaction of a security interest.
187.329 Forms.
187.331 Retaining information.

Appendix A to Part 187—Participating Authorities

Appendix B to Part 187—Participating And Certified Titling Authorities

Authority: 46 U.S.C. 2103; 49 CFR 1.46.

Subpart A—General

§ 187.1 Applicability.

(a) This part establishes minimum requirements for States electing to participate in the vessel identification system (VIS) established under 46 U.S.C. chapter 125. This part also prescribes guidelines for State vessel titling systems and the procedures for obtaining certification of compliance with those guidelines for those States electing to establish titling systems to support preferred mortgages.

(b) This part applies only to vessels numbered or titled under the laws of a State. It does not apply to vessels documented under 46 U.S.C. chapter 121 and the regulations in 46 CFR parts 67 and 68.

§ 187.3 Definitions.

The following definitions apply to terms used in this part.

Certificate of Origin (COO) means a document establishing the initial chain of ownership, such as manufacturer's certificate of origin (MCO) or statement of origin (MSO), importer's certificate of origin (ICO) or statement of origin (ISO), and builder's certification (Form CG–1261; see 46 CFR part 67).

Commandant means the Commandant of the United States Coast Guard.

Dealer means any person who engages wholly or in part in the business of buying, selling, or exchanging new or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage or otherwise, and who has an established place of business for the sale, trade, and display of such vessels.

Department or *division* means the State agency designated to issue certificates of number or title, or both for vessels, and its duly authorized representatives.

Documented vessel means a vessel documented under 46 U.S.C. chapter 121.

HIN means the hull identification number assigned to an undocumented vessel in accordance with subpart C of part 181 of this subchapter.

Issuing authority means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a State numbering system has not been approved.

Lienholder means a person holding a security interest.

Manufacturer means any person engaged in the business of manufacturing or importing new vessels for the purpose of sale or trade.

Owner means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest in it that entitles that person to such possession.

Participating State means a State that has elected to participate in VIS and has been certified as complying with the participation requirements in subpart C of this part. Certified States participating in VIS are listed in Appendix A of this part.

Person means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity and includes a trustee, receiver, assignee, or similar representative of any of them.

Security interest means an interest that is reserved or created by an agreement and that secures payment or performance of an obligation and is valid against third parties generally.

State means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

Titled vessel means a vessel titled in accordance with the laws of a State.

Titling authority means a State whose vessel titling system has been certified by the Coast Guard as complying with the guidelines for State vessel titling systems listed in this part. Titling authorities participating in VIS are listed in Appendix B of this part.

Vessel includes every description of watercraft other than a seaplane on the water, used or capable of being used, as a means of transportation on water.

§ 187.5 Vessel identifier.

(a) The vessel identifier is the hull identification number (HIN) assigned to an undocumented vessel in accordance with subpart C of part 181 of this subchapter. The vessel identifier for a documented vessel is the official number assigned by the Coast Guard in accordance with 46 U.S.C. chapter 121.

(b) If the vessel does not have an HIN, the vessel identifier for vessels subject to the numbering requirements of parts 173 and 174 of this subchapter is the number issued on a certificate of number by the issuing authority for the State in which the vessel is principally operated.

(c) If a vessel subject to the numbering requirements of parts 173 and 174 of this subchapter is transferred to a new owner, or the vessel is required to be numbered in a new State of principal operation, or application for a title is made, a hull identification number meeting the format requirements of § 181.25 shall be assigned by the issuing authority for the State in which the vessel is principally operated in accordance with the State's established procedures if the vessel does not have a valid HIN.

§ 187.7 Participation procedures.

(a) To participate in VIS, a State official within the department must submit a written request to the Commandant (G–NAB) and certify that the State will comply with the VIS participation requirements in subpart C of this part.

(b) Appendix A of this part lists those States that have elected to participate in VIS and comply with the participation requirements prescribed in this part. A State will remain listed in Appendix A of this part as long as it continues to comply with the participation requirements in subpart C of this part.

§ 187.9 Procedures for certification of compliance with guidelines for State vessel titling systems.

(a) Under 46 U.S.C. 31322(d), a mortgage or instrument perfected under State law for a vessel titled under the law of a participating State is deemed to be a preferred mortgage if the State has been certified as complying with the guidelines in subpart D of this part.

(b) To obtain certification of compliance with the State titling guidelines, a State official within the department must submit a written request along with a copy of the State's titling laws, regulations and administrative procedures, to the Commandant (G–NAB), and certify that the State will comply with the participation requirements in subpart C of this part.

(c) The Commandant will review the material, and, if the State complies with the guidelines provided in subpart D of this part, certify compliance.

(d) Appendix B of this part indicates those States that participate in VIS and, have been certified by the Commandant as complying with the guidelines prescribed in subpart D of this part and the date of that certification. A State

with a vessel titling system that complies with the guidelines of subpart D of this part will remain listed, in Appendix B of this part.

Subpart B—Information To Be Collected by Participating States

§ 187.101 Information to identify a vessel owner.

A participating State must collect the following information regarding the ownership of vessels numbered or titled under the laws of that State:

(a) Name of each owner.

(b) The address of the principal place of residence of at least one individual owner, or the address of the principal place of business of an owner that is not an individual, including zip code.

(c) Mailing address of at least one owner, if different from the address required by paragraph (b) of this section.

(d) If the owner is an individual, the owner's social security number, or, if that number is not available, the individual's birth date and driver's license number or, if the individual does not have a driver's license, the individual's birth date and other information to identify that individual as prescribed by the State or titling authority.

(e) If the owner is other than an individual, the owner's—

(1) Taxpayer identification number; or

(2) If the owner does not have a taxpayer identification number, the social security number, or if the social security number is not available, birth date and driver's license number, or if no driver's license number is available, the birth date and other identifying information prescribed by State regulation, of an individual who is a corporate officer, general partner, or individual trustee of the owner and who signed the application for numbering the vessel.

§ 187.103 Information to identify a vessel.

A participating State must collect the following information regarding the identity of a vessel numbered or titled under the laws of that State:

(a) Make of vessel or name of vessel builder, if known.

(b) Manufacture year, year vessel built, or vessel model year, if known.

(c) Vessel identifier required by § 187.5 of this part.

(d) Official number assigned by U.S. Coast Guard or predecessor agency, if applicable.

(e) Number currently assigned by the State issuing authority, as printed on the certificate of number.

(f) Length of vessel.

(g) Type of vessel (open, cabin, house, or other).

(h) Whether the hull is wood, fiberglass, metal, plastic, or other.

(i) Whether the propulsion is inboard, outboard, inboard-outdrive, sail, or other.

(j) Whether the fuel is gasoline, diesel, or other.

(k) Whether the vessel is operated for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial operation.

(l) Number previously issued to the vessel by an issuing authority.

(m) Expiration date of certificate of number issued by the State vessel numbering authority.

§ 187.105 Information on titled vessels.

(a) In addition to the information required under § 187.103, a participating State must collect the following information on a vessel titled in that State:

(1) Title number issued by the State.

(2) Where evidence of a lien or other security interest may be found against a vessel titled in that State.

(3) Name(s) of the lienholder(s).

(4) Address of principal place of residence of each individual lienholder and the address of the principal place of business of each lienholder that is not an individual, including zip code.

(b) Participating States may collect the following information on titled vessels:

(1) Mailing address of any lienholder that is different from the addresses required by paragraph (a)(4) of this section.

(2) Telephone number of each lienholder.

§ 187.107 Information to assist law enforcement officials.

(a) Participating States must make the following information available to assist law enforcement officials:

(1) Notice that a vessel, identified by its vessel identifier, has been reported lost, stolen, destroyed, abandoned, or recovered.

(2) Name and telephone number of organization to contact for additional information or to notify regarding the recovery of a vessel.

(b) Participating States may make the following information available to assist law enforcement officials:

(1) Reported date that the vessel was stolen.

(2) Reported location of vessel when stolen.

(3) Vessel insurance policy number, if insured.

(4) Name of the insurance company.

(5) Address of insurance company, including zip code.

(6) Mailing address of the insurance company for notification, if different from the address provided under paragraph (b)(5) of this section.

(7) Telephone number of insurance company.

(8) Date that the vessel was recovered.

(9) Location of vessel when recovered.

(10) Name(s) and telephone number(s) of organization(s), in addition to the one provided under paragraph (a) of this section, public or private, to contact for additional information on sighting and recovery of vessels.

(11) Request to be notified if vessel is sighted.

(12) Purpose of sighting notification request.

(13) Date and time when vessel last sighted.

(14) Location of vessel when last sighted.

(15) Organization to contact for additional information on sighting.

Subpart C—Vessel Identification System Participation Requirements

§ 187.201 Participating State requirements.

A participating State must comply with the following requirements:

(a) Collect the required information listed in subpart B of this part and provide that information to the vessel identification system in the manner and form specified in the applicable Coast Guard-State Cooperative Agreement.

(b) Obtain specific evidence of ownership, such as certificate of origin or current certificate of title or number, to identify a vessel's owner.

(c) Return any surrendered Certificate of Documentation to the issuing Coast Guard Vessel Documentation Office.

(d) Retain previously issued certificate of number or title and notify issuing authority by mail or electronic message.

(e) Retain information identifying the type of evidence used to establish the accuracy of the information required to be made available to VIS, and make it available to the Coast Guard upon request.

(f) Update the information required to be made available to VIS on a vessel that has not been re-registered by labeling the vessel file "inactive" or, if notified that a vessel has been moved to a nonparticipating State, by indicating the new State and notifying the Coast Guard.

§ 187.203 Voluntary provisions for participating States.

A participating State may—

(a) Provide VIS with the optional information listed in subpart B of this part;

VOL 60 ISS 79 AP 25 1995 UMI

(b) Make updated information provided by the vessel owner, government agency or lienholder, available to VIS regarding a vessel that has been moved to a nonparticipating State; and

(c) Interact with nonparticipating States to make information available to, or request information from, VIS concerning a vessel or nationwide statistics.

Subpart D—Guidelines for State Vessel Titling Systems

§ 187.301 Eligibility for preferred mortgage status.

A State vessel titling system that meets the requirements of this subpart may be certified by the Commandant under 46 U.S.C. 31322 (d)(1)(A), in accordance with the procedures of § 187.9, as complying with the guidelines for vessel titling systems for the purpose of conveying preferred mortgage status on mortgages perfected after the date of certification, covering the whole of a vessel titled in that State, provided that the State also complies with the vessel identification system participation requirements of § 187.7 and subpart C of this part.

§ 187.303 Definitions.

A State must define the terms, "certificate of origin", "dealer", "department" or "division", "documented vessel", "issuing authority", "lienholder", "manufacturer", "owner", "person", "security interest", "titling authority", and "vessel", substantially as those terms are defined in § 187.3.

§ 187.305 Application for title.

(a) Except as provided in § 187.307, a State must require application for a title within a specified period of time, not to exceed 60 days, after a vessel is first purchased, ownership is transferred, or there is a change in vessel data listed on the certificate of title.

(b) A State must require disclosure of the existence of indebtedness covered by any security agreement pertaining to the vessel in its titling application form.

(c) The title application must include an entry for identification of the State or country in which the vessel was last numbered or titled, if applicable.

(d) A State must require that the title application include a signed certification that statements made are true and correct to the best of the applicant's knowledge, information and belief, under penalty of perjury.

§ 187.307 Dealer and manufacturer provisions.

A State must include the following provisions for dealers or manufacturers, building, buying, acquiring, or transferring vessels, in that State.

(a) Dealers must be required to either report acquisition of a used numbered vessel for resale, or, apply for certificate of title if such vessel is required to be titled.

(b) Dealers must be allowed to apply for a certificate of title for a new vessel acquired for resale.

(c) Dealers and manufacturers must be required to provide to the vessel owner a certificate of origin, or other document, at the time of delivery of a new vessel to initiate the chain of ownership.

(d) Dealers and manufacturers must be required to maintain for at least 3 years a record of any vessel bought, sold, exchanged, or received for sale or exchange, and have such records open for inspection by the State.

§ 187.309 Transfer of title.

Except for transfers by operation of law such as inheritance, order in bankruptcy, replevin, default judgment or execution sale, a State must require that to complete the sale, assignment or transfer of a titled vessel, a manufacturer, dealer or individual, must deliver the vessel's certificate of title to the new owner.

§ 187.311 Transfer by operation of law.

A State must require a new owner to apply for a certificate of title within a specified period of time, not to exceed 60 days, if ownership of a vessel is transferred by operation of law, such as inheritance, order in bankruptcy, replevin, default judgment or execution sale, and to include an original or certified copy of the legal transfer document along with the application.

§ 187.313 Title of another State.

A State must provide for honoring a current and valid title issued by another State, or a Certificate of Ownership issued by the Coast Guard, as proof of ownership for transfer or sale of a vessel, and for applying for certificates of number or title in a new State of principal operation.

§ 187.315 Surrender of title for purposes of documentation.

A State must deem a title issued by that State as invalid when a vessel owner surrenders it to the U.S. Coast Guard for vessel documentation purposes. Upon receipt of a title from the U.S. Coast Guard, a State must accept the returned title for administrative processing and cancellation.

§ 187.317 Information on a certificate of title.

(a) A State must specify the following information on a certificate of title:

(1) Current owner(s) name(s).

(2) The address of the principal place of residence of an individual owner, and the address of the principal place of business of an owner that is not an individual, including zip code.

(3) Date of title issuance.

(4) Vessel description, including the vessel identification number required by § 187.05 of this part, name of manufacturer or model, year built or the model year, vessel length, vessel type, drive or propulsion type, vessel use hull material and fuel type.

(5) Each lienholder's name and address.

(6) Recording or perfection date of new liens and original recording date of any liens outstanding.

(b) Space must be provided on the certificate of title form for assignment of interests in the vessel, with a certification that statements provided on the title assignment are true and correct to the best of the owner's knowledge, under penalty of perjury.

§ 187.319 Duplicate title.

(a) The term "DUPLICATE" must be clearly and permanently marked on the face of a duplicate certificate.

(b) A State must require the holder of an original title, whether the owner or lienholder, to apply for a duplicate title within a specified period of time after, or after the discovery of, the loss, theft, mutilation, or destruction of an original certificate of title; provide information concerning the original certificate and the circumstances of its loss, theft, mutilation, or destruction; and surrender to the department any recovered original title or remains.

§ 187.321 Hull identification number (HIN) provisions.

A State must—

(a) Assign an HIN and require that it be affixed to an undocumented vessel that does not have an HIN at the time of registration or application for title after transfer of ownership or change of State of principal operation;

(b) Assign an HIN to an undocumented vessel without an HIN at time of title application and record the HIN on the certificate of title; and

(c) Prohibit removal or alteration of an HIN without authorization from the Commandant.

§ 187.323 Perfection of security interests.

(a) A State must provide that a security interest is not valid under State law unless perfected under procedures specified by the State. If a vessel is already subject to a security interest when it is brought into a State, the validity of the security interest is to be determined by the law of the jurisdiction where the vessel was titled when the security interest attached. The State must specify at least the following procedures.

(1) The procedures by which a security interest is perfected, including a requirement for the delivery of an application for new or amended certificate of title.

(2) The procedures by which the date of perfection is determined.

(b) The perfection provisions required to be established under paragraphs (a) and (b) of this section must not apply to—

(1) A lien given by statute or rule of law to a supplier of services or materials for the vessel;

(2) A lien given by statute to the United States, a State, or a political subdivision thereof; or

(3) Any lien arising out of an attachment of a vessel.

§ 187.325 Assignments.

A State must specify whether a security interest in a vessel titled under the State titling system may be assigned and the procedures for perfecting assignments.

§ 187.327 Satisfaction of security interests.

A State must specify evidence and information that lienholders are required to submit to the State regarding satisfaction of a security interest, and establish procedures and time limits for its submission.

§ 187.329 Forms.

A State must prescribe and provide the application, certificate of title, notice of security interests, and other forms needed to comply with the titling system provisions.

§ 187.331 Retaining information.

A State must retain information identifying the evidence used to establish the accuracy of the information required for vessel titling purposes for 3 years and make the information available to the Coast Guard on request.

Appendix A to Part 187—Participating Authorities

The following States comply with the requirements for participating in VIS:

[No States currently comply with the requirements for participating in VIS.]

Appendix B to Part 187—Participating and Certified Titling Authorities

The following States both comply with the requirements for participating in VIS and have a titling system certified to be in compliance with the guidelines for State vessel titling systems:

[No States currently have a certified titling system and participate in VIS.]

Dated: April 17, 1995.

J.C. Card,

Rear Admiral, U.S Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95–10067 Filed 4–24–95; 8:45 am]

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VOL
60

ISS
79

AP
25

1995

UMI

federal register

Tuesday
April 25, 1995

Part III

Department of Education

Jacob K. Javits Gifted and Talented Education Program—National Research and Development Center; Final Priority and Invitation to Apply for New Awards; Notices

VOL
60
ISS
79
AP
25
1995
UMI

DEPARTMENT OF EDUCATION

[CFDA No.: 84.206R]

Jacob K. Javits Gifted and Talented Education Program—National Research and Development Center; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: To support a national research and development center to study the education of gifted and talented children and youth.

Eligible Applicants: The following are eligible for a new award under this program: institutions of higher education, State educational agencies, or a combination of these entities.

Deadline for Transmittal of Applications: June 26, 1995.

Applications Available: May 12, 1995.

Estimated Available Funds: This center will be awarded as a cooperative agreement. In fiscal year 1995, $1,750,000 is available for the first year of funding for a national research and development center to study the education of gifted and talented children and youth. The following list indicates the estimated funding levels over the five-year project period. The funding levels for years 1 through 5 are estimates. Actual funding will depend upon the availability of funds and needs as reflected in the approved application.

First Year Funding: $1.75 Million
Second Year Funding: $1.75 Million
Third Year Funding: $1.75 Million
Fourth Year Funding: $1.75 Million
Fifth Year Funding: $1.75 Million

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Budget Period: 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86.

Priority and Selection Criteria: The priority and selection criteria in the notice of final priority, selection criteria and post-award requirements for this program, as published elsewhere in this issue of the **Federal Register** apply to this competition.

For Applications or Information Contact: Beverly E. Coleman, U.S. Department of Education, 555 New Jersey Avenue NW., Room 610F, Washington, D.C. 20208–5573. Telephone: (202) 219–2280; E-mail: bcoleman@inet.ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices or discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 10204.

Dated: April 19, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–10103 Filed 4–24–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Jacob K. Javits Gifted and Talented Education Program—National Research and Development Center

AGENCY: Department of Education.

ACTION: Notice of final priority, selection criteria and post-award requirements for fiscal year 1995.

SUMMARY: The Secretary announces a priority, selection criteria, and post-award requirements for fiscal year 1995. The Secretary takes this action to support a national research and development center to study the education of gifted and talented children and youth. The work of the center is intended to increase knowledge related to improving educational practices so that the nation's gifted and talented children and youth may better contribute to the national welfare. The priority is intended to increase knowledge related to improving educational practices for all students.

EFFECTIVE DATE: This notice of final priority, selection criteria and post-award requirements takes effect May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Beverly E. Coleman, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 610F, Washington, D.C. 20208–5573. Telephone: (202) 219–2280; E-mail: bcoleman@inet.ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Secretary seeks to improve the education of gifted and talented children and youth and to use the methods and materials developed in gifted and talented education programs to improve education for all children. This is an integral part of advancing the National Education Goals and GOALS 2000, which require that all students attain high standards of academic excellence. Gifted and talented education programs and methods can contribute to systemic reform, in which schoolwide efforts are used to coordinate high standards, assessments, challenging curricula, and teacher preparation to improve the education of all students. The Secretary also believes that the educational needs of gifted and talented students from populations historically underserved by gifted education programs deserve particular attention.

Under the Jacob K. Javits Gifted and Talented Students Education Act of 1994 (Javits Act) as authorized by the Elementary and Secondary Education Act of 1965 as amended, the Secretary seeks to provide support for a national research and development center designed to conduct sound and coherent education research programs on methods and techniques for gifted and talented education. A deliberate, sustained, and coordinated initiative must be undertaken to carry out research and development activities related to improving the education of gifted and talented students.

The Secretary plans to make the award under this competition as a cooperative agreement. Applicants for the award must be institutions of higher education, State educational agencies, or a combination of these entities. The Secretary believes that this center can strengthen its capacity to accomplish the work of its mission by involving partners such as Historically Black Colleges and Universities (HBCUs), tribal colleges, community colleges, or state and local education research organizations. As described in the Javits Act, the purpose of the center is to increase the understanding of how to improve the education of gifted and talented students, including those who may not be identified or served through traditional assessment methods and programs, such as economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities. Furthermore, the Secretary believes that the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to develop rich and challenging curricula for all students, and to design instructional strategies and other means to improve all students' education. Finally, the Secretary believes that educators should consider the schoolwide impact of gifted and talented programs.

In the course of developing this final priority, selection criteria and post-award requirements, the Secretary has followed legally mandated procedures for rulemaking. On January 12, 1995, the Secretary published a notice in the **Federal Register** (60 FR 2956) inviting written public comments to be submitted on or before February 27, 1995.

Note: This notice of final priority, selection criteria and post-award requirements does not solicit applications. A notice inviting applications under this competition is published elsewhere in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, selection criteria, and post-award requirements, two parties submitted comments. An analysis of the comments follows.

Comments: One commenter wrote to endorse the current grantee. One commenter wrote to express concern that the proposed absolute priority requiring applicants to submit plans to establish a national research and development center that contributes to increasing the capacity of educational systems to provide all students with equal opportunities to learn to high standards and achieve educational success might shift the focus away from the needs of students with high abilities and unusual talents and undercut many reform efforts.

Discussion: Under the Jacob K. Javits Gifted and Talented Students Education Act of 1994, Congress found and declared that, "(6) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—"(A) develop a rich and challenging curriculum for all students; and "(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work."

Changes: None.

Comments: The Department's review revealed an inadvertent omission in the **SUPPLEMENTARY INFORMATION** listing of partners that might strengthen the center's capacity to accomplish its mission. Tribal colleges should have been included in the list.

Discussion: The Secretary believes that a partnership with tribal colleges could strengthen the center's capacity to accomplish its mission and to better serve a special population of gifted and talented students who may not be identified and served through traditional assessment methods.

Changes: The list of partners has been revised to include tribal colleges.

Absolute Priority

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Each project must propose plans to establish a national research and development center that—

- Conducts research and development activities concerning the educational needs of children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities;
- Contributes to increasing the capacity of educational systems to provide all students with equal opportunities to learn to high standards and achieve educational success;
- Uses research methods in at least some of its studies that involve advanced or innovative quantitative or qualitative techniques of sampling, data gathering, conceptualization and measurement of variables, data analyses, and interdisciplinary perspectives;
- Conducts one or more definitive research studies that have national implications and that will inform policy or practice across the nation; i.e., use large representative samples and rigorous scientific techniques that preclude biased results and support generalizable, replicable findings concerning the education of sizable populations of children or youth;
- Includes research and development activities related to the following topics:

(a) Identifying, teaching, and serving gifted and talented students;

(b) Improving the education of gifted and talented students who may not be identified and served through traditional assessment methods and programs, (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities);

(c) Using knowledge and experience gained in developing and implementing gifted and talented programs and methods to serve all students; and

(d) Understanding the effects of gifted education programs on the educational achievement of students schoolwide; and

- Documents, reports, and disseminates its research activities in ways that will allow others to use the research results.

Selection Criteria

The Secretary will not use the selection criteria established in the Javits Gifted and Talented Program regulations, 34 CFR 791.21. The Secretary will use selection criteria consistent with the provisions for the Educational Research, Development, Dissemination and Improvement Act of 1994. The Secretary will use the following selection criteria to evaluate applications for the center award. The maximum score for all these criteria is 100 points. The maximum score for each criterion is indicated in parentheses:

(a) *Research Mission and Technical Soundness.* (40 points) The Secretary reviews each application to determine the quality and significance of the center's overall research agenda, definitive study or studies, and other individual research projects, including—

(1) The coherence, significance, and technical merits of the center's research projects and agenda, in the context of the current state of the field; and

(2) The importance, quality of design and methodological rigor of the center's definitive study or studies.

(b) *Personnel.* (30 points) The Secretary reviews each application to determine the qualifications and time commitments of the center's personnel, including—

(1) The time commitment, experiences, and expertise of the primary researchers enabling them to achieve the center's mission; and

(2) The qualifications of the Director and support staff, and whether they will commit at least a majority of their time to center activities.

(c) *Institutional Arrangements.* (30 points) The Secretary reviews each application to evaluate the capacity of the center's institutional structure and arrangements to support the center's projects and objectives, including—

(1) The center's ability to respond to and provide leadership for those who can use or benefit from the center's research;

(2) The center's plans to support, monitor, and complete research projects that meet the highest standards of professional excellence; and

(3) The center's ability to disseminate useful research findings and other information to appropriate audiences in

VOL
60
ISS
79
AP
25
1995
UMI

ways that will maximize the benefits of its work.

Post-Award Requirements

The Secretary will use the following post-award requirements to evaluate applications for the center award. The post-award requirements are consistent with the Educational Research, Development, Dissemination and Improvement Act of 1994. A grantee receiving a center award shall—

(a) Provide OERI with information about center projects and products and other appropriate research information so that OERI can monitor center progress and maintain its inventory of funded research projects. This information must be provided through media that include an electronic network;

(b) Conduct and evaluate research projects in conformity to the highest professional standards of research practice; and

(c) Reserve five percent of each budget period's funds to support activities that fall within the center's mission, are designed and mutually agreed to by both the center and OERI, and enhance OERI's ability to carry out its mission. Such activities may include developing research agendas, conducting research projects, collaborating with other federally-supported entities, and engaging in leadership and dissemination activities.

The Secretary believes that use of the selection criteria will improve the quality of applications, and that the post-award requirements will enhance the quality of the center's research, development, and dissemination activities.

Program Authority: 20 U.S.C. 10204.

(Catalog of Federal Domestic Assistance Number 84.206, Jacob K. Javits Gifted and Talented Students Education Program)

Dated: April 19, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–10102 Filed 4–24–95; 8:45 am]

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Part IV

Department of Education

Postsecondary Education: Federal Student Assistance Programs Under Title IV; Experimental Sites; Notice

VOL
60
ISS
79
AP
25
1995
UMI

DEPARTMENT OF EDUCATION

Federal Student Assistance Programs Under Title IV of the Higher Education Act of 1965, as Amended

AGENCY: Department of Education.

ACTION: Notice inviting proposals for experimental sites.

SUMMARY: The Secretary invites institutions of higher education to propose new ways of administering the student assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). Under section 487A(d) of the HEA, if the Secretary approves an institution as an experimental site as a part of this student aid reform initiative, he may exempt the institution from any Title IV statutory or regulatory requirement that would bias experimental results. The Secretary anticipates approving approximately 50 experiments in the first phase of this initiative and more after those experiments are in place. The Secretary establishes no regulatory requirements for the proposals invited by this notice.

DATES: Proposals may be submitted in response to this notice at any time after April 25, 1995.

ADDRESSES: Jeffrey S. Baker, U.S. Department of Education, 600 Independence Avenue, SW (Room 3042, ROB–3), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Baker, telephone: (202) 708–9261. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

Over the course of the past year, the Department of Education has made progress in simplifying regulations and administrative processes for the Federal student assistance programs authorized by Title IV of the HEA. Regulatory burden on institutions, students, and families has been reduced, and institutional flexibility in meeting legal requirements has been increased.

During the coming months, the Secretary will undertake a series of additional initiatives to free institutions of higher education from administrative burdens that unnecessarily draw resources away from their educational mission. With this notice, the Secretary invites proposals to reinvent the administration of Federal student assistance programs through the use of the experimental sites authority. At the same time, at the direction of the President, the Secretary is conducting a page-by-page review of all student financial assistance regulations to identify those that should be modified or eliminated. On the basis of these two initiatives, as well as the Department's continuing dialogue with the higher education community, the Secretary will also consider developing proposals for statutory amendments to eliminate unnecessary administrative burden. Finally, the Secretary will increase the flexibility and expand the scope of the Department's Institutional Quality Assurance Program, which employs a cycle of assessment, improvement, and preventive actions in the administration of Title IV programs.

The invitation for proposals in this notice is a part of the Secretary's effort to reform Title IV program administration in partnership with the higher education community. The community has given the Department the benefit of its views in a variety of ways during the past year—in negotiated rulemaking, in comments on proposed rules, at a series of regional meetings, and in numerous informal discussions. The community's views were indispensable to the reforms that the Department has undertaken to date. It is the Secretary's hope that the community will address issues of program administration that remain to be resolved in the proposals invited by this notice.

Invitation for Proposals

The Secretary invites institutions of higher education that administer one or more Title IV programs to submit one or more proposals to participate as "experimental sites" under section 487A(d) of the HEA. This section authorizes the Secretary to select institutions for voluntary participation in experiments to test new ways of administering the student assistance programs. The Secretary is further authorized to exempt a participating institution from any Title IV statutory or regulatory requirement that would bias experimental results.

The Secretary establishes no regulatory requirements for the proposals invited by this notice. It is the Secretary's hope that this approach will encourage institutions to develop truly innovative strategies that relieve unnecessary burden, maintain program accountability, and inform the Department's future efforts to improve Title IV program administration. If these experimental strategies prove successful, the Secretary intends to incorporate them into Title IV program regulations or, if appropriate, legislative proposals.

Submission of Proposals

Any institution that administers a Title IV program, or a group of these institutions, may submit a proposal in response to this notice at any time by mailing the proposal to Jeffrey S. Baker at the address provided at the beginning of this notice or by faxing it to him at (202) 205–0786. Early submission is encouraged, as the Secretary anticipates that the review of proposals will begin within 60 days of the date of this notice; however, proposals that are received later will also be considered.

The Secretary particularly invites proposals from institutions that are participating in the William D. Ford Federal Direct Loan (Direct Loan) Program. The availability of comprehensive and timely management information under the Direct Loan Program permits effective monitoring, evaluation, and adjustment of administrative practices by participating institutions. The Secretary encourages these institutions to develop proposals that take advantage of this capability. Similarly, the Secretary encourages proposals from institutions that are participating in the Department's Institutional Quality Assurance Program and have developed their own comprehensive systems to identify and remedy problems in the administration of Title IV programs.

The Secretary emphasizes that the Department seeks to approve proposals for innovative approaches in a variety of different areas. Since the Secretary anticipates approving only a small number of different experimental solutions to any one problem, he encourages institutions to collaborate in the development of proposals and to submit proposals together.

To aid in the Department's review of proposals, the Secretary suggests, but does not require, that a proposal be in the range of two to eight pages and that it answer the following questions:

- What problem experienced by the institution or its students, or both, does the proposal address?
- What is the institution's proposed solution to that problem?
- From which specific statutory or regulatory requirements does the institution seek relief in order to test its proposed solution?
- What performance measures or alternative actions does the institution propose to use to fulfill the underlying purpose of the requirements from which relief is sought?
- For what period is the experiment proposed?
- When and how will the results of the experiment be reported to the Department?
- For an experiment proposed by a group of institutions, how will the group monitor and aggregate the results of the experiment?

The following examples illustrate the elements of the proposals solicited by this notice. The problems addressed by the examples were selected because they have been the subject of considerable commentary by the higher education community. The Secretary's inclusion of these examples and not others is in no way intended to circumscribe the creativity of the community in identifying problems and developing solutions to them.

Example 1. An institution finds that the statutorily-required 30-day delay in the disbursement of student loan proceeds to college freshmen makes it difficult for them to pay for books, housing, and other educational costs incurred at the beginning of the school term. The institution proposes to disburse loan proceeds by the beginning of the school term and seeks relief from the requirements that preclude this action:

- Section 428G(b)(1) of the HEA;
- 34 CFR 682.604(c)(5), for the Federal Family Education Loan (FFEL) Program; and
- 34 CFR 685.303(b)(6) and 685.303(b)(4), for the Direct Loan Program in its first year and its subsequent years, respectively.

To address the underlying purpose of the 30-day delayed disbursement requirement (protection against possible losses to the taxpayer and harm to the student in the event of the student's early withdrawal from school), the institution provides information indicating that few of its freshmen have withdrawn from school in the first 30 days of their courses of study. The institution also describes how it proposes to measure its performance in this respect and report that performance to the Department over a specified period.

Example 2. An institution finds that its counseling of student loan borrowers, required in part by statute and in part by regulation, is inefficient and ineffective in ensuring that borrowers repay their student loans. The institution proposes an innovative alternative and seeks relief from the requirements that preclude this action:

- Sections 485(b) and, for the Federal Perkins Loan Program, 463A of the HEA;
- 34 CFR 682.604 (f) and (g), for the FFEL Program;
- 34 CFR 685.303 (e) and (f), and 685.304, for the Direct Loan Program in its first year and its subsequent years, respectively; and
- 34 CFR 674.16(a) and 674.42(a) for the Federal Perkins Loan Program.

To address the underlying purpose of the entrance and exit counseling requirements (promotion of borrowers' understanding of their responsibilities under the student loan programs), the institution describes its alternative approach and explains why it believes this approach will be more effective. It also describes how it proposes to measure its success in ensuring that borrowers repay their loans and report its performance to the Department over a specified period.

(Approved by the Office of Management and Budget under control number 1840–0708)

Review of Proposals

The Secretary will review each proposal submitted in response to this notice on its own merits. If a proposal is approved, the participating institution's program participation agreement will be amended to reflect the terms of the experiment, including the obligations undertaken by the institution, the requirements from which the institution is relieved, the length of the experiment, and the right of either the institution or the Department to terminate the experiment.

In reviewing proposals, the Secretary will be guided by the statutory purpose of the experimental sites authority namely, to inform future policy choices relating to the administration of Title IV programs. The Secretary may approve a proposal as submitted, reject it, or, if he finds that a proposal is not fully approvable but has merit, work with the institution to refine it. To maximize the usefulness of experimental sites in informing future policy choices, the Secretary may encourage different approaches in similar institutions and similar approaches in different types of institutions. In addition, to ensure the smooth implementation of this reform initiative, the Secretary anticipates approving approximately 50 proposals from among those submitted in the first phase of the initiative and more after those experiments are in place.

Request for Comment

The Secretary invites institutions of higher education, students, and other interested parties to comment on the student aid reform initiative announced in this notice. Is the Department on the right track in inviting proposals to reinvent Title IV program administration in this way? What else should the Department be doing to accomplish the objectives of this initiative? Does the Department's non-regulatory guidance impose unnecessary administrative burdens? If so, how can the Department provide relief from that guidance? Comments may be directed to the contact person identified in this notice.

Dated: April 19, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–10101 Filed 4–24–95; 8:45 am]

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VOL
60

ISS
79

AP
25

1995

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Part V

Environmental Protection Agency

40 CFR Part 300
National Priorities List for Uncontrolled Hazardous Waste Sites; Rule

VOL
60
ISS
79
AP
25
1995
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5193–3]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") which is Appendix B to 40 CFR part 300 constitutes this list.

This rule adds 4 new sites to the NPL, 3 to the General Superfund Section and 1 to the Federal Facilities Section.

The NPL is intended primarily to guide the Environmental Protection Agency ("EPA" or "the Agency") in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL is not intended to define the boundaries of a site or to determine the extent of contamination (see Section II, subsection, "Facility Boundaries"). This action results in an NPL of 1,238 sites, 1,083 of them in the General Superfund Section and 155 of them in the Federal Facilities Section. An additional 51 sites are proposed, 44 in the General Superfund Section and 7 in the Federal Facilities Section. Final and proposed sites now total 1,289.

EFFECTIVE DATE: The effective date is May 25, 1995. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the **Federal Register**.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see "Information Available to the Public" in Section I of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (mail code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Purpose and Implementation of the NPL
III. Contents of This Final Rule
IV. Executive Order 12866
V. Regulatory Flexibility Act Analysis
VI. Unfunded Mandates Reform Act of 1995

I. Introduction

Background

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 ("CERCLA" or "the Act"), in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act ("SARA"), Public Law No. 99–499, stat. 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

Section 105(a)(8)(A) of CERCLA requires that the NCP include "criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action * * * and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action." "Removal" actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases. 42 USC 9601(23). "Remedial" actions" are those "consistent with permanent remedy, taken instead of or in addition to removal actions * * *." 42 USC 9601(24).

Pursuant to section 105(a)(8)(B) of CERCLA, as amended by SARA, EPA has promulgated a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. That list, which is Appendix B of 40 CFR Part 300, is the National Priorities List ("NPL").

CERCLA section 105(a)(8)(B) defines the NPL as a list of "releases" and as a list of the highest priority "facilities." The discussion below may refer to the "releases or threatened releases" that are included on the NPL interchangeably as "releases," "facilities," or "sites."

CERCLA section 105(a)(8)(B) also requires that the NPL be revised at least annually. A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the "Superfund") only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). However, under 40 CFR 300.425(b)(2) placing a site on the NPL "does not imply that monies will be expended." EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha*, 462 U.S. 919,103 S. Ct. 2764 (1983) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. Three mechanisms for placing sites on the NPL for possible remedial action are included in the NCP at 40 CFR 300.425(c) (55 FR 8845, March 8, 1990) Under 40 CFR 300.425(c)(1), a site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of 40 CFR Part 300. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL.

Under a second mechanism for adding sites to the NPL, each State may designate a single site as its top priority regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2), requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State.

The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority (available only at NPL sites) than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on December 16, 1994 (59 FR 65206).

The NPL includes two sections, one of sites that are evaluated and cleaned up by EPA (the "General Superfund Section"), and one of sites being addressed by other Federal agencies (the "Federal Facilities Section"). Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA is not the lead agency at these sites, and its role at such sites is accordingly less extensive than at other sites. The Federal Facilities Section includes those facilities at which EPA is not the lead agency.

Deletions/Cleanups

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e) (55 FR 8845, March 8, 1990). To date, the Agency has deleted 75 sites from the General Superfund Section of the NPL, most recently Olmsted County Sanitary Landfill, Oronoco, Minnesota (60 FR 8570, February 15, 1995); Boise Cascade/Onan Corp./Medtronics, Inc., Fridley, Minnesota (60 FR 8570, February 15, 1995); Kent City Mobile Home Park, Kent City, Michigan (60 FR 14645, March 20, 1995); Crystal City Airport, Crystal City, Texas (60 FR 15247, March 23, 1995); Radium Chemical Co., Inc., New York City, New York (60 FR 15489, March 24, 1995); Independent Nail Co., Beaufort, South Carolina (60 FR 16808, April 3, 1995); and Wilson Concepts of Florida, Inc., Pompano Beach, Florida (60 FR 17004, April 4, 1995).

EPA also has developed an NPL construction completion list ("CCL") to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Sites qualify for the CCL when:

(1) any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) the site qualifies for deletion from the NPL. Inclusion of a site on the CCL has no legal significance.

In addition to the 74 sites that have been deleted from the NPL because they have been cleaned up (the Waste Research and Reclamation site was deleted based on deferral to another program and is not considered cleaned up), an additional 217 sites are also in the NPL CCL, all but three from the General Superfund Section. Thus, as of March 1995, the CCL consists of 291 sites.

Cleanups at sites on the NPL do not reflect the total picture of Superfund accomplishments. As of February 28, 1995, EPA had conducted 660 removal actions at NPL sites, and 2,382 removal actions at non-NPL sites. Information on removals is available from the Superfund hotline.

Action in This Notice

This final rule adds 4 sites to the NPL, 3 to the General Superfund Section and 1 to the Federal Facilities Section. Two of these sites are added to the NPL based on an HRS score of 28.5 or greater. One is added based on the ATSDR Health Advisory Criteria and one is added consequent to its designation as a State top priority. These actions result in an NPL of 1,238 sites, 1,083 of them in the General Superfund Section and 155 of them in the Federal Facilities Section. An additional 51 sites remain proposed, 44 in the General Superfund Section and 7 in the Federal Facilities Section, and are awaiting final Agency action. Final and proposed sites now total 1,289.

Information Available to the Public

The Headquarters and Regional public dockets for the NPL contain documents relating to the evaluation and scoring of sites in this final rule. The dockets are available for viewing, by appointment only, after the appearance of this notice. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional Dockets for hours.

Addresses and phone numbers for the Headquarters and Regional dockets follow.

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 12th Floor, 1235 Jefferson Davis Highway, Arlington, VA 703/603–8917 (Please note this is viewing address only. Do not mail documents to this address.)

James Kyed, Region 1, U.S. EPA Waste Management Records Center, HES-CAN 6, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–9656

Walter Schoepf, Region 2, U.S. EPA, 290 Broadway, 18th Floor, New York, NY 10007–1866, 212/637–4319

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597–7904

Kathy Piselli, Region 4, U.S. EPA, 345 Courtland Street, NE, Atlanta, GA 30365, 404/347–4216

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740

Carole Long, Region 7, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7224

Greg Oberley, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/294–7598

Rachel Loftin, Region 9, U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2347

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103

For the sites added to the NPL based on an HRS score of 28.5 or greater, the Headquarters docket for this rule contains HRS score sheets for the final sites; Documentation Records for the sites describing the information used to compute the scores; pertinent information regarding statutory requirements or EPA listing policies that affect the sites; and a list of documents referenced in each of the Documentation Records. For the site based on ATSDR Health Advisory criteria the Headquarters docket contains the health advisory issued by ATSDR and other supporting documentation. For the site added to the NPL consequent to its designation as a State top priority, the Headquarters docket contains supporting documentation supplied by the State of Washington and other appropriate documentation. For all of the final sites, the Headquarters docket contains comments received; and the Agency's responses to those comments. The Agency's responses are contained in the "Support Document for the

VOL
60
ISS
79
AP
25
1995
UMI

Revised National Priorities List Final Rule—April 1995."

The Regional docket contains all the information in the Headquarters docket, plus the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS score, when the HRS is used, for the sites. These reference documents are available only in the Regional dockets.

Interested parties may view documents, by appointment only, in the Headquarters or Regional Dockets, or copies may be requested from the Headquarters or Regional Dockets. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents. If you wish to obtain documents by mail from EPA Headquarters Docket the mailing address is as follows: Docket Coordinator, Headquarters, U.S. EPA' CERCLA Docket Office (Mail Code 5201G), 401 M Street, SW., Washington, DC 20460, 703/603–8917. (Please note this is the mailing address only. If you wish to visit the HQ Docket to view documents, see viewing address above.)

II. Purpose and Implementation of the NPL

Purpose

The legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d Sess. 60 (1980)) states the primary purpose of the NPL:

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites that EPA believes warrant further investigation. Finally, listing a site serves as notice to potentially responsible parties that the Agency may initiate CERCLA-financed remedial action.

Implementation

After initial discovery of a site at which a release or threatened release may exist, EPA may begin a series of increasingly complex evaluations. The first step, the Preliminary Assessment (PA), is a low-cost review of existing information to determine if the site poses a threat to the public health or the environment. If the site presents a serious imminent threat, EPA may take immediate removal action. If the PA shows that the site presents a threat but not an imminent threat, EPA generally will perform a more extensive study called the Site Inspection (SI). The SI involves collecting additional information to better understand the extent of the problem at the site, screen out sites that will not qualify for the NPL, and obtain data necessary to calculate an HRS score for sites that warrant placement on the NPL and further study. To date EPA has completed approximately 37,000 PAs and approximately 18,000 SIs.

The NCP at 40 CFR 300.425(b)(1) limits expenditure of the Trust Fund for remedial actions to sites on the NPL. However, EPA may take enforcement actions under CERCLA or other applicable statutes against responsible parties regardless of whether the site is on the NPL. Although, as a practical matter, the focus of EPA's CERCLA enforcement actions has been and will continue to be on NPL sites. Similarly, in the case of CERCLA removal actions, EPA has the authority to act at any site, whether listed or not, that meets the criteria of the NCP at 40 CFR 300.415(b)(2) (55 FR 8842, March 8, 1990).

EPA's policy is to pursue cleanup of NPL sites using all the appropriate response and/or enforcement actions available to the Agency, including authorities other than CERCLA. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities prior to undertaking response action, to proceed directly with Trust Fund-financed response actions and seek to recover response costs after cleanup, or do both. To the extent feasible, once sites are on the NPL, EPA will determine high-priority candidates for CERCLA-financed response action and/or enforcement action through both State and Federal initiatives. EPA will take into account which approach is more likely to accomplish cleanup of the site most expeditiously while using CERCLA's limited resources as efficiently as possible.

Although it is a factor that is considered, the ranking of sites by HRS scores does not by itself determine the sequence in which EPA funds remedial response actions, since the information collected to develop HRS scores is not sufficient to determine either the extent of contamination or the appropriate response for a particular site (40 CFR 300.425(a)(2), 55 FR 8845). Additionally, resource constraints may preclude EPA from evaluating all HRS pathways. Only those that present significant environmental risk or are sufficient to make a site eligible for the NPL may be evaluated. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it already was underway. In addition, site listings based on the ATSDR Health Advisory Criteria or designated by states as highest priorities would not have HRS scores.

More detailed studies of a site are undertaken in the Remedial Investigation/Feasibility Study ("RI/FS") that typically follows listing. The purpose of the RI/FS is to assess site conditions and evaluate alternatives to the extent necessary to select a remedy (40 CFR 300.430(a)(2). The RI/FS takes into account the amount of contaminants released into the environment, the risk to affected populations and environment, the cost to remediate contamination at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of response action to be taken at these sites are made in accordance with 40 CFR 300.415 and 40 CFR 300.430.

After conducting these additional studies, EPA may conclude that initiating a CERCLA remedial action using the Trust Fund at some sites on the NPL is not appropriate because of more pressing needs at other sites, or because a private party cleanup already is underway pursuant to an enforcement action. Given the limited resources available in the Trust Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant remedial action.

RI/FS at Proposed Sites

An RI/FS may be performed at sites proposed in the **Federal Register** for placement on the NPL (or even sites that have not been proposed for placement on the NPL) pursuant to the Agency's removal authority under CERCLA, as outlined in the NCP at 40 CFR 300.415. Although an RI/FS generally is conducted at a site after it has been placed on the NPL, in a number of circumstances the Agency elects to conduct an RI/FS at a site proposed for placement on the NPL in preparation for a possible Superfund-financed response action, such as when the Agency believes that a delay may create unnecessary risks to public health or the environment. In addition, the Agency may conduct an RI/FS to assist in determining whether to conduct a removal or enforcement action at a site.

Facility (Site) Boundaries

The Agency's position is that the NPL does not describe releases in precise geographical terms, and that it would be neither feasible nor consistent with the limited purpose of the NPL (as the mere identification of releases), for it to do so.

CERCLA section 105(a)(8)(B) directs EPA to list national priorities among the known "releases or threatened releases." Thus, the purpose of the NPL is merely to identify releases that are priorities for further evaluation. Although a CERCLA "facility" is broadly defined to include any area where a hazardous substance release has "come to be located" (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data upon which the NPL placement was based will, to some extent, describe which release is at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis (including noncontiguous releases evaluated under the NPL aggregation policy, described at 48 FR 40663 (September 8, 1983)).

EPA regulations provide that the "nature and extent of the threat presented by a release" will be determined by an RI/FS as more information is developed on site contamination (40 CFR 300.68(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed. The boundaries of the release need not be defined. Moreover, it generally is impossible to discover the full extent of where the contamination "has come to be located" before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it will be impossible to describe the boundaries of a release with certainty.

For these reasons, the NPL need not be amended if further research into the extent of the contamination expands the apparent boundaries of the release. Further, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), quoted above and at 48 FR 40659 (September 8, 1983). If a party contests liability for releases on discrete parcels of property, it may do so if and when the Agency brings an action against that party to recover costs or to compel a response action at that property.

At the same time, however, the RI/FS or the Record of Decision (which defines the remedy selected, 40 CFR 300.430(f)) may offer a useful indication to the public of the areas of contamination at which the Agency is considering taking a response action, based on information known at that time. For example, EPA may evaluate (and list) a release over a 400-acre area, but the Record of Decision may select a remedy over 100 acres only. This information may be useful to a landowner seeking to sell the other 300 acres, but it would result in no formal change in the fact that a release is included on the NPL. The landowner (and the public) also should note in such a case that if further study (or the remedial construction itself) reveals that the contamination is located on or has spread to other areas, the Agency may address those areas as well.

This view of the NPL as an initial identification of a release that is not subject to constant re-evaluation is consistent with the Agency's policy of not rescoring NPL sites:

> EPA recognizes that the NPL process cannot be perfect, and it is possible that errors exist or that new data will alter previous assumptions. Once the initial scoring effort is complete, however, the focus of EPA activity must be on investigating sites in detail and determining the appropriate response. New data or errors can be considered in that process. . . . [T]he NPL serves as a guide to EPA and does not determine liability or the need for response. (49 FR 37081 (September 21, 1984).

See also *City of Stoughton, Wisc.* v. *U.S. EPA*, 858 F. 2d 747, 751 (D.C. Cir. 1988):

> Certainly EPA could have permitted further comment or conducted further testing [on proposed NPL sites]. Either course would have consumed further assets of the Agency and would have delayed a determination of the risk priority associated with the site. Yet * * * "the NPL is simply a rough list of priorities, assembled quickly and inexpensively to comply with Congress' mandate for the Agency to take action straightaway." Eagle-Picher [Industries v. EPA] II, 759 F. 2d [921,] at 932 [(D.C. Cir. 1985)].

It is the Agency's policy that, in the exercise of its enforcement discretion, EPA will not take enforcement actions against an owner of residential property to require such owner to undertake response actions or pay response costs, unless the residential homeowner's activities lead to a release or threat of release of hazardous substances, resulting in the taking of a response action at the site (OSWER Directive #9834.6, July 3, 1991). This policy includes residential property owners whose property is located above a ground water plume that is proposed to or on the NPL, where the residential property owner did not contribute to the contamination of the site. EPA may, however, require access to that property during the course of implementing a clean up.

III. Contents of This Notice

This notice promulgates final rules to add 4 sites to the NPL, 3 to the General Superfund Section (Table 1) and 1 to the Federal Facilities Section (Table 2). Proposal #11 (56 FR 35840, July 29, 1991) provided 1 site, and Proposal #15 (58 FR 34018, June 23, 1993) provided 1 site, both of which are being added to the NPL based on HRS scores of 28.50 or greater. Proposal #16 (59 FR 2568, January 18, 1994) provided 2 sites, one of which is being added to the NPL based on ATSDR Health Advisory criteria and one of which is being added to the NPL consequent to being designated as the State's top priority.

As discussed more fully below, the following tables present the sites in this rule arranged alphabetically by State and identifies their rank by group number. Group numbers are determined by arranging the NPL by rank and dividing it into groups of 50 sites. For example, a site in Group 4 has a score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

VOL 60 ISS 79 AP 25 1995 UMI

NATIONAL PRIORITIES LIST FINAL RULE—GENERAL SUPERFUND SECTION

State	Site name	City/County	Group
CT	Raymark Industries, Inc	Stratford	NA
WA	Boomsnub/Airco	Vancouver	NA
WA	Tulalip Landfill	Marysville	5/6

Number of Sites Listed: 3.

NATIONAL PRIORITIES LIST FINAL RULE—FEDERAL FACILITIES SECTION

State	Site name	City/County	Group
OR	Fremont National Forest Uranium Mines (USDA)	Lake County	5/6

Number of Sites Listed: 1.

Public Comments

EPA reviewed all comments received on sites included in this notice. The formal comment period ended on September 27, 1991 for the site from Proposal #11; August 23, 1993 for the site from Proposal #15; February 17, 1994 for the sites from Proposal #16, and October 21, 1994 for the site from Proposal #17.

Based on comments received on the proposed sites, as well as investigation by EPA and the States (generally in response to comment), EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List Final Rule—April 1995."

Economic Impacts

The costs of cleanup actions that may be taken at any site are not directly attributable to placement on the NPL. EPA has conducted a preliminary analysis of economic implications of today's amendment to the NPL. EPA believes that the kinds of economic effects associated with this revision generally are similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to adding sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis.

Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to the sites included in this rulemaking.

The major events that follow the proposed listing of a site on the NPL are a search for potentially responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

EPA initially bears costs associated with responsible party searches. Responsible parties may bear some or all the costs of the RI/FS, remedial design and construction, and O&M, or EPA and the States may share costs.

The State cost share for site cleanup activities is controlled by Section 104(c) of CERCLA and the NCP. For privately operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. For publicly-operated sites, the State cost share is at least 50% of all response costs at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

—For restoration of ground water and surface water, EPA will share in startup costs according to the criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.

—For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes full responsibilities for O&M.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average per site and total cost basis. EPA will continue with this approach, using the most recent (1994) cost estimates available. The estimates are presented below. However, there is wide variation in costs for individual sites, depending on the amount, type, and extent of contamination. Additionally, EPA is unable to predict what portions of the total costs responsible parties will bear, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Average total cost per site [1]
RI/FS	1,350,000
Remedial Design	1,260,000
Remedial Action	[3] 22,500,000
Present Discounted Value O&M [2]	5,630,000

[1] 1994 U.S. Dollars.
[2] Assumes cost of O&M over 30 years, $400,000 for the first year and 5.8% discount rate.
[3] Includes State cost-share.
Source: Office of Program Management, Office of Emergency and Remedial Response, U.S. EPA, Washington, DC.

Costs to the States associated with today's final rule arise from the required State cost-share of: (1) 10% of remedial actions and 10% of first-year O&M costs at privately-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly-operated sites. States will assume the cost for O&M after EPA's period of participation. Using the budget projections presented above, the cost to the States of undertaking Federal remedial planning and actions, but excluding O&M costs, would be approximately $7 million. State O&M costs cannot be accurately determined because EPA, as noted above, will share O&M costs for up to 10 years for restoration of ground water and surface water, and it is not known if the site will require this treatment and for how long. Assuming EPA involvement for 10 years is needed, State O&M costs would be approximately $14.7 million.

Placing a hazardous waste site on the final NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against the parties.

Economy-wide effects of this amendment to the NPL are aggregations of efforts on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this amendment on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's amendment are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts. Listing sites as national priority targets also may give States increased support for funding responses at particular sites.

As a result of the additional CERCLA remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these sites.

IV. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

V. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While this rule revises the NCP, it is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that the listing of the sites in this NPL rule could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only the firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this rule does not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

Unfunded Mandates Reform Act of 1995

Under Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a statement to accompany any rule where the estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, will be $100 million or more in any one year. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

EPA has determined, since adding sites to the NPL does not in itself require any action by any party, and does not determine the liability of any party for the cost of cleanup at the site, that this rule does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Environmental protection, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: April 20, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C.1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. Appendix B to part 300 is revised to read as set forth below:

Appendix B to Part 300—National Priorities List

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995

State	Site name	City/County	Notes (a)
AK	Alaska Battery Enterprises	Fairbanks N Star Borough	C
AK	Arctic Surplus	Fairbanks	
AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh	
AL	Interstate Lead Co. (ILCO)	Leeds	
AL	Olin Corp. (McIntosh Plant)	McIntosh	
AL	Perdido Ground Water Contamination	Perdido	C
AL	Redwing Carriers, Inc. (Saraland)	Saraland	
AL	Stauffer Chemical Co. (Cold Creek Plant)	Bucks	
AL	Stauffer Chemical Co. (LeMoyne Plant)	Axis	
AL	T.H. Agriculture & Nutrition (Montgomery)	Montgomery	
AL	Triana/Tennessee River	Limestone/Morgan	C
AR	Arkwood, Inc	Omaha	
AR	Frit Industries	Walnut Ridge	
AR	Gurley Pit	Edmondson	C
AR	Industrial Waste Control	Fort Smith	C
AR	Jacksonville Municipal Landfill	Jacksonville	
AR	Mid-South Wood Products	Mena	C
AR	Midland Products	Ola/Birta	C
AR	Monroe Auto Equipment (Paragould Pit)	Paragould	
AR	Popile, Inc	El Dorado	
AR	Rogers Road Municipal Landfill	Jacksonville	
AR	South 8th Street Landfill	West Memphis	
AR	Vertac, Inc	Jacksonville	
AZ	Apache Powder Co	St. David	
AZ	Hassayampa Landfill	Hassayampa	
AZ	Indian Bend Wash Area	Scottsdale/Tempe/Phoenix	
AZ	Litchfield Airport Area	Goodyear/Avondale	
AZ	Motorola, Inc.(52nd Street Plant)	Phoenix	
AZ	Nineteenth Avenue Landfill	Phoenix	
AZ	Tucson International Airport Area	Tucson.	
CA	Advanced Micro Devices, Inc	Sunnyvale	C
CA	Advanced Micro Devices, Inc. (Bldg. 915)	Sunnyvale	C
CA	Aerojet General Corp	Rancho Cordova	
CA	Applied Materials	Santa Clara	C
CA	Atlas Asbestos Mine	Fresno County	
CA	Beckman Instruments (Porterville Plant)	Porterville	C
CA	Brown & Bryant, Inc.(Arvin Plant)	Arvin	
CA	CTS Printex, Inc	Mountain View	C
CA	Celtor Chemical Works	Hoopa	C
CA	Coalinga Asbestos Mine	Coalinga	
CA	Coast Wood Preserving	Ukiah	
CA	Crazy Horse Sanitary Landfill	Salinas	
CA	Del Norte Pesticide Storage	Crescent City	C
CA	Fairchild Semiconductor Corp. (Mt View)	Mountain View	
CA	Fairchild Semiconductor Corp. (S San Jose)	South San Jose	C
CA	Firestone Tire & Rubber Co. (Salinas Plant)	Salinas	C
CA	Fresno Municipal Sanitary Landfill	Fresno	
CA	Frontier Fertilizer	Davis	
CA	Hewlett-Packard (620–640 Page Mill Road)	Palo Alto	
CA	Industrial Waste Processing	Fresno	
CA	Intel Corp. (Mountain View Plant)	Mountain View	
CA	Intel Corp. (Santa Clara III)	Santa Clara	C
CA	Intel Magnetics	Santa Clara	C
CA	Intersil Inc./Siemens Components	Cupertino	C
CA	Iron Mountain Mine	Redding	
CA	J.H. Baxter & Co	Weed	
CA	Jasco Chemical Corp	Mountain View	
CA	Koppers Co., Inc. (Oroville Plant)	Oroville	
CA	Liquid Gold Oil Corp	Richmond	
CA	Lorentz Barrel & Drum Co	San Jose	
CA	Louisiana-Pacific Corp	Oroville	
CA	MGM Brakes	Cloverdale	C
CA	McColl	Fullerton	
CA	McCormick & Baxter Creosoting Co	Stockton	
CA	Modesto Ground Water Contamination	Modesto	
CA	Monolithic Memories	Sunnyvale	C
CA	Montrose Chemical Corp	Torrance	
CA	National Semiconductor Corp	Santa Clara	
CA	Newmark Ground Water Contamination	San Bernardino	
CA	Operating Industries, Inc., Landfill	Monterey Park	
CA	Pacific Coast Pipe Lines	Fillmore	
CA	Purity Oil Sales, Inc	Malaga	

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
CA	Ralph Gray Trucking Co	Westminster	
CA	Raytheon Corp	Mountain View	
CA	San Fernando Valley (Area 1)	Los Angeles	
CA	San Fernando Valley (Area 2)	Los Angeles/Glendale	
CA	San Fernando Valley (Area 3)	Glendale	
CA	San Fernando Valley (Area 4)	Los Angeles	
CA	San Gabriel Valley (Area 1)	El Monte	
CA	San Gabriel Valley (Area 2)	Baldwin Park Area	
CA	San Gabriel Valley (Area 3)	Alhambra	
CA	San Gabriel Valley (Area 4)	La Puente	
CA	Selma Treating Co	Selma	
CA	Sola Optical USA, Inc	Petaluma	C
CA	South Bay Asbestos Area	Alviso	
CA	Southern California Edison Co. (Visalia)	Visalia	
CA	Spectra-Physics, Inc	Mountain View	C
CA	Stringfellow	Glen Avon Heights	S
CA	Sulphur Bank Mercury Mine	Clear Lake	
CA	Synertek, Inc. (Building 1)	Santa Clara	C
CA	T.H. Agriculture & Nutrition Co	Fresno	
CA	TRW Microwave, Inc. (Building 825)	Sunnyvale	C
CA	Teledyne Semiconductor	Mountain View	C
CA	United Heckathorn Co	Richmond	
CA	Valley Wood Preserving, Inc	Turlock	
CA	Waste Disposal, Inc	Santa Fe Springs	
CA	Watkins-Johnson Co (Stewart Division)	Scotts Valley	C
CA	Western Pacific Railroad Co	Oroville	
CA	Westinghouse Electric Corp (Sunnyvale)	Sunnyvale	
CO	Broderick Wood Products	Denver	
CO	California Gulch	Leadville	
CO	Central City-Clear Creek	Idaho Springs	
CO	Chemical Sales Co	Denver	
CO	Denver Radium Site	Denver	
CO	Eagle Mine	Minturn/Redcliff	
CO	Lincoln Park	Canon City	
CO	Lowry Landfill	Arapahoe County	
CO	Marshall Landfill	Boulder County	C, S
CO	Sand Creek Industrial	Commerce City	C
CO	Smuggler Mountain	Pitkin County	
CO	Summitville Mine	Rio Grande County	
CO	Uravan Uranium Project (Union Carbide)	Uravan	
CT	Barkhamsted-New Hartford Landfill	Barkhamsted	
CT	Beacon Heights Landfill	Beacon Falls	
CT	Cheshire Ground Water Contamination	Cheshire	
CT	Durham Meadows	Durham	
CT	Gallup's Quarry	Plainfield	
CT	Kellogg-Deering Well Field	Norwalk	
CT	Laurel Park, Inc	Naugatuck Borough	S
CT	Linemaster Switch Corp	Woodstock	
CT	Nutmeg Valley Road	Wolcott	
CT	Old Southington Landfill	Southington	
CT	Precision Plating Corp	Vernon	
CT	Raymark Industries, Inc	Stratford	A
CT	Solvents Recovery Service New England	Southington	
CT	Yaworski Waste Lagoon	Canterbury	
DE	Army Creek Landfill	New Castle County	C
DE	Chem-Solv, Inc	Cheswold	
DE	Coker's Sanitation Service Landfills	Kent County	C
DE	Delaware City PVC Plant	Delaware City	
DE	Delaware Sand & Gravel Landfill	New Castle County	
DE	Dover Gas Light Co	Dover	
DE	E.I.Du Pont de Nemours (Newport Landfill	Newport	
DE	Halby Chemical Co	New Castle	
DE	Harvey & Knott Drum, Inc	Kirkwood	C
DE	Koppers Co., Inc. (Newport Plant)	Newport	
DE	NCR Corp. (Millsboro Plant)	Millsboro	
DE	New Castle Spill	New Castle County	C
DE	Sealand Limited	Mount Pleasant	C
DE	Standard Chlorine of Delaware, Inc	Delaware City	
DE	Sussex County Landfill No. 5	Laurel	C
DE	Tybouts Corner Landfill	New Castle County	S
DE	Tyler Refrigeration Pit	Smyrna	
DE	Wildcat Landfill	Dover	C

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
FL	Agrico Chemical Co	Pensacola	
FL	Airco Plating Co	Miami	
FL	Alpha Chemical Corp	Galloway	C
FL	American Creosote Works (Pensacola Plt)	Pensacola	
FL	Anaconda Aluminum Co./Milgo Electronics	Miami	C
FL	Anodyne, Inc	North Miami Beach	
FL	B&B Chemical Co., Inc.	Hialeah	C
FL	BMI-Textron	Lake Park	C
FL	Beulah Landfill	Pensacola	C
FL	Brown Wood Preserving	Live Oak	C
FL	Cabot/Koppers	Gainesville	
FL	Chemform, Inc	Pompano Beach	C
FL	Chevron Chemical Co. (Ortho Division)	Orlando	
FL	City Industries, Inc	Orlando	C
FL	Coleman-Evans Wood Preserving Co	Whitehouse	
FL	Davie Landfill	Davie	
FL	Dubose Oil Products Co	Cantonment	
FL	Escambia Wood—Pensacola	Pensacola	
FL	Florida Steel Corp	Indiantown	
FL	Gold Coast Oil Corp	Miami	C
FL	Harris Corp. (Palm Bay Plant)	Palm Bay	
FL	Helena Chemical Co. (Tampa Plant)	Tampa	
FL	Hipps Road Landfill	Duval County	C
FL	Hollingsworth Solderless Terminal	Fort Lauderdale	C
FL	Kassauf-Kimerling Battery Disposal	Tampa	
FL	Madison County Sanitary Landfill	Madison	
FL	Miami Drum Services	Miami	C
FL	Munisport Landfill	North Miami	
FL	Northwest 58th Street Landfill	Hialeah	C
FL	Peak Oil Co./Bay Drum Co	Tampa	
FL	Pepper Steel & Alloys, Inc	Medley	C
FL	Petroleum Products Corp	Pembroke Park	
FL	Pickettville Road Landfill	Jacksonville	
FL	Piper Aircraft/Vero Beach Water & Sewer	Vero Beach	
FL	Reeves Southeast Galvanizing Corp	Tampa	
FL	Sapp Battery Salvage	Cottondale	
FL	Schuylkill Metals Corp	Plant City	
FL	Sherwood Medical Industries	Deland	
FL	Sixty-Second Street Dump	Tampa	
FL	Standard Auto Bumper Corp	Hialeah	C
FL	Stauffer Chemical Co. (Tarpon Springs)	Tarpon Springs	
FL	Sydney Mine Sludge Ponds	Brandon	
FL	Taylor Road Landfill	Seffner	
FL	Tower Chemical Co	Clermont	
FL	Whitehouse Oil Pits	Whitehouse	
FL	Wingate Road Municipal Incinerator Dump	Fort Lauderdale	
FL	Woodbury Chemical Co. (Princeton Plant)	Princeton	C
FL	Yellow Water Road Dump	Baldwin	
FL	Zellwood Ground Water Contamination	Zellwood	
GA	Cedartown Industries, Inc	Cedartown	
GA	Cedartown Municipal Landfill	Cedartown	
GA	Diamond Shamrock Corp. Landfill	Cedartown	
GA	Firestone Tire & Rubber Co. (Albany Plant)	Albany	
GA	Hercules 009 Landfill	Brunswick	
GA	Marzone Inc./Chevron Chemical Co	Tifton	
GA	Mathis Brothers Landfill	Kensington	
GA	Monsanto Corp. (Augusta Plant)	Augusta	C
GA	Powersville Site	Peach County	C
GA	T.H. Agriculture & Nutrition (Albany)	Albany	
GA	Woolfolk Chemical Works, Inc	Fort Valley	
GU	Ordot Landfill	Guam	C, S
HI	Del Monte Corp. (Oahu Plantation)	Honolulu County	
IA	Des Moines TCE	Des Moines	
IA	E.I. du Pont de Nemours (County Rd X23)	West Point	C
IA	Electro-Coatings, Inc	Cedar Rapids	
IA	Fairfield Coal Gasification Plant	Fairfield	
IA	Farmers' Mutual Cooperative	Hospers	
IA	John Deere (Ottumwa Works Landfills)	Ottumwa	C
IA	Lawrence Todtz Farm	Camanche	C
IA	Mason City Coal Gasification Plant	Mason City	
IA	Mid-America Tanning Co	Sergeant Bluff	
IA	Midwest Manufacturing/North Farm	Kellogg	

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
IA	Northwestern States Portland Cement Co	Mason City	C
IA	Peoples Natural Gas Co	Dubuque	
IA	Red Oak City Landfill	Red Oak	
IA	Shaw Avenue Dump	Charles City	
IA	Sheller-Globe Corp. Disposal	Keokuk	
IA	Vogel Paint & Wax Co	Orange City	C
IA	White Farm Equipment Co. Dump	Charles City	
ID	Bunker Hill Mining & Metallurgical	Smelterville	
ID	Eastern Michaud Flats Contamination	Pocatello	
ID	Kerr-McGee Chemical Corp. (Soda Springs)	Soda Springs	
ID	Monsanto Chemical Co. (Soda Springs)	Soda Springs	
ID	Pacific Hide & Fur Recycling Co	Pocatello	
ID	Union Pacific Railroad Co	Pocatello	
IL	A & F Material Reclaiming, Inc	Greenup	C
IL	Acme Solvent Reclaiming (Morristown Plant	Morristown	
IL	Adams County Quincy Landfills 2 & 3	Quincy	
IL	Amoco Chemicals (Joliet Landfill)	Joliet	
IL	Beloit Corp	Rockton	
IL	Belvidere Municipal Landfill	Belvidere	C
IL	Byron Salvage Yard	Byron	
IL	Central Illinois Public Service Co	Taylorville	
IL	Cross Brothers Pail Recycling (Pembroke)	Pembroke Township	
IL	DuPage County Landfill/Blackwell Forest	Warrenville	
IL	Galesburg/Koppers Co	Galesburg	
IL	H.O.D. Landfill	Antioch	
IL	Ilada Energy Co	East Cape Girardeau	
IL	Interstate Pollution Control, Inc	Rockford	
IL	Johns-Manville Corp	Waukegan	C
IL	Kerr-McGee (Kress Creek/W Branch DuPage)	DuPage County	
IL	Kerr-McGee (Reed-Keppler Park)	West Chicago	
IL	Kerr-McGee (Residential Areas)	West Chicago/DuPage County	
IL	Kerr-McGee (Sewage Treatment Plant)	West Chicago	
IL	LaSalle Electric Utilities	LaSalle	C
IL	Lenz Oil Service, Inc	Lemont	
IL	MIG/Dewane Landfill	Belvidere	
IL	NL Industries/Taracorp Lead Smelter	Granite City	
IL	Ottawa Radiation Areas	Ottawa	
IL	Outboard Marine Corp	Waukegan	S
IL	Pagel's Pit	Rockford	
IL	Parsons Casket Hardware Co	Belvidere	
IL	Southeast Rockford Gd Wtr Contamination	Rockford	
IL	Tri-County Landfill/Waste Mgmt Illinois	South Elgin	
IL	Velsicol Chemical Corp. (Illinois)	Marshall	C
IL	Wauconda Sand & Gravel	Wauconda	
IL	Woodstock Municipal Landfill	Woodstock	
IL	Yeoman Creek Landfill	Waukegan	
IN	American Chemical Service, Inc	Griffith	
IN	Bennett Stone Quarry	Bloomington	
IN	Carter Lee Lumber Co	Indianapolis	
IN	Columbus Old Municipal Landfill #1	Columbus	C
IN	Conrail Rail Yard (Elkhart)	Elkhart	
IN	Continental Steel Corp	Kokomo	
IN	Douglass Road/Uniroyal, Inc., Landfill	Mishawaka	
IN	Envirochem Corp	Zionsville	
IN	Fisher-Calo	LaPorte	
IN	Fort Wayne Reduction Dump	Fort Wayne	
IN	Galen Myers Dump/Drum Salvage	Osceola	
IN	Himoo Dump	Elkhart	
IN	Lake Sandy Jo (M&M Landfill)	Gary	C
IN	Lakeland Disposal Service, Inc	Claypool	
IN	Lemon Lane Landfill	Bloomington	
IN	MIDCO I	Gary	
IN	MIDCO II	Gary	
IN	Main Street Well Field	Elkhart	
IN	Marion (Bragg) Dump	Marion	
IN	Neal's Dump (Spencer)	Spencer	
IN	Neal's Landfill (Bloomington)	Bloomington	
IN	Ninth Avenue Dump	Gary	
IN	Northside Sanitary Landfill, Inc	Zionsville	
IN	Prestolite Battery Division	Vincennes	
IN	Reilly Tar & Chemical (Indianapolis Plant	Indianapolis	
IN	Seymour Recycling Corp	Seymour	C, S

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
IN	Southside Sanitary Landfill	Indianapolis	
IN	Tippecanoe Sanitary Landfill, Inc	Lafayette	
IN	Tri-State Plating	Columbus	C
IN	Waste, Inc., Landfill	Michigan City	
IN	Wayne Waste Oil	Columbia City	
IN	Whiteford Sales & Service/Nationalease	South Bend	
KS	29th & Mead Ground Water Contamination	Wichita	
KS	57th and North Broadway Streets Site	Wichita Heights	
KS	Arkansas City Dump	Arkansas City	C, S
KS	Chemical Commodities, Inc	Olathe	
KS	Cherokee County	Cherokee County	
KS	Doepke Disposal (Holliday)	Johnson County	
KS	Obee Road	Hutchinson	
KS	Pester Refinery Co	El Dorado	
KS	Strother Field Industrial Park	Cowley County	
KY	A.L. Taylor (Valley of Drums)	Brooks	C
KY	Airco	Calvert City	
KY	B.F. Goodrich	Calvert City	
KY	Brantley Landfill	Island	
KY	Caldwell Lace Leather Co., Inc	Auburn	C
KY	Distler Brickyard	West Point	C
KY	Distler Farm	Jefferson County	C
KY	Fort Hartford Coal Co. Stone Quarry	Olaton	
KY	General Tire & Rubber (Mayfield Landfill)	Mayfield	C
KY	Green River Disposal, Inc	Maceo	
KY	Howe Valley Landfill	Howe Valley	C
KY	Lee's Lane Landfill	Louisville	C
KY	Maxey Flats Nuclear Disposal	Hillsboro	
KY	National Electric Coil/Cooper Industries	Dayhoit	
KY	National Southwire Aluminum Co	Hawesville	
KY	Newport Dump	Newport	C
KY	Red Penn Sanitation Co. Landfill	PeeWee Valley	
KY	Smith's Farm	Brooks	
KY	Tri-City Disposal Co	Shepherdsville	
LA	Agriculture Street Landfill	New Orleans	
LA	American Creosote Works, Inc. (Winnfield)	Winnfield	
LA	Bayou Bonfouca	Slidell	
LA	Bayou Sorrel Site	Bayou Sorrel	C
LA	Cleve Reber	Sorrento	
LA	Combustion, Inc	Denham Springs	
LA	D.L. Mud, Inc	Abbeville	
LA	Dutchtown Treatment Plant	Ascension Parish	
LA	Gulf Coast Vacuum Services	Abbeville	
LA	Old Inger Oil Refinery	Darrow	S
LA	PAB Oil & Chemical Service, Inc	Abbeville	
LA	Petro-Processors of Louisiana Inc	Scotlandville	
MA	Atlas Tack Corp	Fairhaven	
MA	Baird & McGuire	Holbrook	
MA	Blackburn & Union Privileges	Walpole	
MA	Cannon Engineering Corp. (CEC)	Bridgewater	C
MA	Charles-George Reclamation Landfill	Tyngsborough	
MA	Groveland Wells	Groveland	
MA	Haverhill Municipal Landfill	Haverhill	
MA	Hocomonco Pond	Westborough	
MA	Industri-Plex	Woburn	
MA	Iron Horse Park	Billerica	
MA	New Bedford Site	New Bedford	S
MA	Norwood PCBs	Norwood	
MA	Nyanza Chemical Waste Dump	Ashland	
MA	PSC Resources	Palmer	
MA	Re-Solve, Inc	Dartmouth	
MA	Rose Disposal Pit	Lanesboro	C
MA	Salem Acres	Salem	
MA	Shpack Landfill	Norton/Attleboro	
MA	Silresim Chemical Corp	Lowell	
MA	Sullivan's Ledge	New Bedford	
MA	W.R. Grace & Co. Inc. (Acton Plant)	Acton	
MA	Wells G&H	Woburn	
MD	Bush Valley Landfill	Abingdon	
MD	Kane & Lombard Street Drums	Baltimore	
MD	Limestone Road	Cumberland	
MD	Mid-Atlantic Wood Preservers, Inc	Harmans	C

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
MD	Sand, Gravel & Stone	Elkton	
MD	Southern Maryland Wood Treating	Hollywood	
MD	Spectron, Inc	Elkton	
MD	Woodlawn County Landfill	Woodlawn	
ME	McKin Co	Gray	C
ME	O'Connor Co	Augusta	
ME	Pinette's Salvage Yard	Washburn	
ME	Saco Municipal Landfill	Saco	
ME	Saco Tannery Waste Pits	Saco	C
ME	Union Chemical Co., Inc	South Hope	
ME	Winthrop Landfill	Winthrop	
MI	Adam's Plating	Lansing	C
MI	Albion-Sheridan Township Landfill	Albion	
MI	Allied Paper/Portage Ck/Kalamazoo River	Kalamazoo	
MI	American Anodco, Inc	Ionia	C
MI	Anderson Development Co	Adrian	C
MI	Auto Ion Chemicals, Inc	Kalamazoo	C
MI	Avenue "E" Ground Water Contamination	Traverse City	
MI	Barrels, Inc	Lansing	
MI	Bendix Corp./Allied Automotive	St. Joseph	
MI	Berlin & Farro	Swartz Creek	
MI	Bofors Nobel, Inc	Muskegon	
MI	Burrows Sanitation	Hartford	C
MI	Butterworth #2 Landfill	Grand Rapids	
MI	Cannelton Industries, Inc	Sault Saint Marie	
MI	Carter Industrials, Inc	Detroit	
MI	Chem Central	Wyoming Township	
MI	Clare Water Supply	Clare	
MI	Cliff/Dow Dump	Marquette	
MI	Duell & Gardner Landfill	Dalton Township	
MI	Electrovoice	Buchanan	
MI	Folkertsma Refuse	Grand Rapids	C
MI	Forest Waste Products	Otisville	
MI	G&H Landfill	Utica	
MI	Grand Traverse Overall Supply Co	Greilickville	C
MI	Gratiot County Landfill	St. Louis	S
MI	H. Brown Co., Inc	Grand Rapids	
MI	Hedblum Industries	Oscoda	C
MI	Hi-Mill Manufacturing Co	Highland	C
MI	Ionia City Landfill	Ionia	
MI	J & L Landfill	Rochester Hills	
MI	K&L Avenue Landfill	Oshtemo Township	
MI	Kaydon Corp	Muskegon	
MI	Kentwood Landfill	Kentwood	
MI	Kysor Industrial Corp	Cadillac	
MI	Liquid Disposal, Inc	Utica	
MI	Lower Ecorse Creek Dump	Wyandotte	A
MI	Mason County Landfill	Pere Marquette Twp	C
MI	McGraw Edison Corp	Albion	
MI	Metamora Landfill	Metamora	
MI	Michigan Disposal (Cork Street Landfill)	Kalamazoo	
MI	Motor Wheel, Inc	Lansing	
MI	Muskegon Chemical Co	Whitehall	
MI	North Bronson Industrial Area	Bronson	
MI	Northernaire Plating	Cadillac	
MI	Novaco Industries	Temperance	C
MI	Organic Chemicals, Inc	Grandville	
MI	Ossineke Ground Water Contamination	Ossineke	
MI	Ott/Story/Cordova Chemical Co	Dalton Township	
MI	Packaging Corp. of America	Filer City	
MI	Parsons Chemical Works, Inc	Grand Ledge	
MI	Peerless Plating Co	Muskegon	
MI	Petoskey Municipal Well Field	Petoskey	
MI	Rasmussen's Dump	Green Oak Township	
MI	Rockwell International Corp. (Allegan)	Allegan	
MI	Rose Township Dump	Rose Township	
MI	Roto-Finish Co., Inc	Kalamazoo	
MI	SCA Independent Landfill	Muskegon Heights	
MI	Shiawassee River	Howell	
MI	South Macomb Disposal (Landfills 9 & 9A)	Macomb Township	
MI	Southwest Ottawa County Landfill	Park Township	C
MI	Sparta Landfill	Sparta Township	

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
MI	Spartan Chemical Co	Wyoming	
MI	Spiegelberg Landfill	Green Oak Township	
MI	Springfield Township Dump	Davisburg	
MI	State Disposal Landfill, Inc	Grand Rapids	
MI	Sturgis Municipal Wells	Sturgis	
MI	Tar Lake	Mancelona Township	
MI	Thermo-Chem, Inc	Muskegon	
MI	Torch Lake	Houghton County	
MI	U.S. Aviex	Howard Township	C
MI	Velsicol Chemical Corp. (Michigan)	St. Louis	C
MI	Verona Well Field	Battle Creek	
MI	Wash King Laundry	Pleasant Plains Twp	
MI	Waste Management of Michigan (Holland)	Holland	
MN	Agate Lake Scrapyard	Fairview Township	C
MN	Arrowhead Refinery Co	Hermantown	
MN	Baytown Township Ground Water Plume	Baytown Township	
MN	Burlington Northern (Brainerd/Baxter)	Brainerd/Baxter	
MN	Dakhue Sanitary Landfill	Cannon Falls	C
MN	East Bethel Demolition Landfill	East Bethel Township	
MN	FMC Corp. (Fridley Plant)	Fridley	C
MN	Freeway Sanitary Landfill	Burnsville	
MN	General Mills/Henkel Corp	Minneapolis	C
MN	Joslyn Manufacturing & Supply Co	Brooklyn Center	
MN	Koch Refining Co./N-Ren Corp	Pine Bend	
MN	Koppers Coke	St. Paul	
MN	Kummer Sanitary Landfill	Bemidji	
MN	Kurt Manufacturing Co	Fridley	
MN	LaGrand Sanitary Landfill	LaGrand Township	
MN	Lehillier/Mankato Site	Lehillier/Mankato	C
MN	Long Prairie Ground Water Contamination	Long Prairie	
MN	MacGillis & Gibbs/Bell Lumber & Pole Co	New Brighton	
MN	NL Industries/Taracorp/Golden Auto	St. Louis Park	
MN	Nutting Truck & Caster Co	Faribault	C
MN	Oak Grove Sanitary Landfill	Oak Grove Township	C
MN	Oakdale Dump	Oakdale	
MN	Perham Arsenic Site	Perham	
MN	Pine Bend Sanitary Landfill	Dakota County	
MN	Reilly Tar&Chem (St. Louis Park Plant)	St. Louis Park	S
MN	Ritari Post & Pole	Sebeka	
MN	South Andover Site	Andover	C
MN	St. Augusta Sanitary Landfill/Engen Dump	St. Augusta Township	
MN	St. Louis River Site	St. Louis County	
MN	St. Regis Paper Co	Cass Lake	
MN	University Minnesota (Rosemount Res Cen)	Rosemount	C
MN	Waite Park Wells	Waite Park	
MN	Washington County Landfill	Lake Elmo	C
MN	Waste Disposal Engineering	Andover	
MN	Whittaker Corp	Minneapolis	C
MN	Windom Dump	Windom	C
MO	Bee Cee Manufacturing Co	Malden	
MO	Big River Mine Tailings/St. Joe Minerals	Desloge	
MO	Conservation Chemical Co	Kansas City	C
MO	Ellisville Site	Ellisville	S
MO	Fulbright Landfill	Springfield	C
MO	Kem-Pest Laboratories	Cape Girardeau	
MO	Lee Chemical	Liberty	C
MO	Minker/Stout/Romaine Creek	Imperial	
MO	Missouri Electric Works	Cape Girardeau	
MO	Oronogo-Duenweg Mining Belt	Jasper County	
MO	Quality Plating	Sikeston	
MO	Shenandoah Stables	Moecow Mills	
MO	Solid State Circuits, Inc	Republic	C
MO	St Louis Airport/HIS/Futura Coatings Co	St. Louis County	
MO	Syntex Facility	Verona	
MO	Times Beach Site	Times Beach	
MO	Valley Park TCE	Valley Park	
MO	Westlake Landfill	Bridgeton	
MO	Wheeling Disposal Service Co. Landfill	Amazonia	C
MS	Flowood Site	Flowood	C, S
MS	Newsom Brothers/Old Reichhold Chemicals	Columbia	
MT	Anaconda Co. Smelter	Anaconda	
MT	East Helena Site	East Helena	

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
MT	Idaho Pole Co	Bozeman	
MT	Libby Ground Water Contamination	Libby	C
MT	Milltown Reservoir Sediments	Milltown	
MT	Montana Pole and Treating	Butte	
MT	Mouat Industries	Columbus	
MT	Silver Bow Creek/Butte Area	Sil Bow/Deer Lodge	
NC	ABC One Hour Cleaners	Jacksonville	
NC	Aberdeen Pesticide Dumps	Aberdeen	
NC	Benfield Industries, Inc	Hazelwood	
NC	Bypass 601 Ground Water Contamination	Concord	
NC	Cape Fear Wood Preserving	Fayetteville	
NC	Carolina Transformer Co	Fayetteville	
NC	Celanese Corp. (Shelby Fiber Operations)	Shelby	C
NC	Charles Macon Lagoon & Drum Storage	Cordova	
NC	Chemtronics, Inc	Swannanoa	C
NC	FCX, Inc. (Statesville Plant)	Statesville	
NC	FCX, Inc. (Washington Plant)	Washington	
NC	Geigy Chemical Corp. (Aberdeen Plant)	Aberdeen	
NC	General Electric Co./Shepherd Farm	East Flat Rock	
NC	JFD Electronics/Channel Master	Oxford	
NC	Jadco-Hughes Facility	Belmont	
NC	Koppers Co. Inc. (Morrisville Plant)	Morrisville	
NC	Martin-Marietta, Sodyeco, Inc	Charlotte	
NC	NC State University (Lot 86, Farm Unit #1)	Raleigh	
NC	National Starch & Chemical Corp	Salisbury	
NC	New Hanover Cnty Airport Burn Pit	Wilmington	
NC	Potter's Septic Tank Service Pits	Maco	
ND	Arsenic Trioxide Site	Southeastern ND	C, S
ND	Minot Landfill	Minot	
NE	10th Street Site	Columbus	
NE	Cleburn Street Well	Grand Island	
NE	Hastings Ground Water Contamination	Hastings	
NE	Lindsay Manufacturing Co	Lindsay	
NE	Nebraska Ordnance Plant (Former)	Mead	
NE	Ogallala Ground Water Contamination	Ogallala	
NE	Sherwood Medical Co	Norfolk	
NE	Waverly Ground Water Contamination	Waverly	C
NH	Auburn Road Landfill	Londonderry	
NH	Coakley Landfill	North Hampton	
NH	Dover Municipal Landfill	Dover	
NH	Fletcher's Paint Works & Storage	Milford	
NH	Kearsarge Metallurgical Corp	Conway	C
NH	Keefe Environmental Services	Epping	C
NH	Mottolo Pig Farm	Raymond	C
NH	New Hampshire Plating Co	Merrimack	
NH	Ottati & Goss/Kingston Steel Drum	Kingston	
NH	Savage Municipal Water Supply	Milford	
NH	Somersworth Sanitary Landfill	Somersworth	
NH	South Municipal Water Supply Well	Peterborough	C
NH	Sylvester	Nashua	C, S
NH	Tibbets Road	Barrington	
NH	Tinkham Garage	Londonderry	
NH	Town Garage/Radio Beacon	Londonderry	C
NJ	A.O. Polymer	Sparta Township	
NJ	American Cyanamid Co	Bound Brook	
NJ	Asbestos Dump	Millington	
NJ	Bog Creek Farm	Howell Township	C
NJ	Brick Township Landfill	Brick Township	
NJ	Bridgeport Rental & Oil Services	Bridgeport	
NJ	Brook Industrial Park	Bound Brook	
NJ	Burnt Fly Bog	Marlboro Township	
NJ	CPS/Madison Industries	Old Bridge Township	
NJ	Caldwell Trucking Co	Fairfield	
NJ	Chemical Control	Elizabeth	C
NJ	Chemical Insecticide Corp	Edison Township	
NJ	Chemical Leaman Tank Lines, Inc	Bridgeport	
NJ	Chemsol, Inc	Piscataway	
NJ	Ciba-Geigy Corp	Toms River	
NJ	Cinnaminson Ground Water Contamination	Cinnaminson Township	
NJ	Combe Fill North Landfill	Mount Olive Township	C
NJ	Combe Fill South Landfill	Chester Township	
NJ	Coeden Chemical Coatings Corp	Beverly	

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
NJ	Curcio Scrap Metal, Inc	Saddle Brook Township	
NJ	D'Imperio Property	Hamilton Township	
NJ	Dayco Corp./L.E Carpenter Co	Wharton Borough	
NJ	De Rewal Chemical Co	Kingwood Township	
NJ	Delilah Road	Egg Harbor Township	
NJ	Denzer & Schafer X-Ray Co	Bayville	
NJ	Diamond Alkali Co	Newark	
NJ	Dover Municipal Well 4	Dover Township	
NJ	Ellis Property	Evesham Township	
NJ	Evor Phillips Leasing	Old Bridge Township	
NJ	Ewan Property	Shamong Township	
NJ	Fair Lawn Well Field	Fair Lawn	
NJ	Florence Land Recontouring Landfill	Florence Township	
NJ	Fried Industries	East Brunswick Township	
NJ	GEMS Landfill	Gloucester Township	
NJ	Garden State Cleaners Co	Minotola	
NJ	Glen Ridge Radium Site	Glen Ridge	
NJ	Global Sanitary Landfill	Old Bridge Township	
NJ	Goose Farm	Plumstead Township	C
NJ	Helen Kramer Landfill	Mantua Township	C
NJ	Hercules, Inc. (Gibbstown Plant)	Gibbstown	
NJ	Higgins Disposal	Kingston	
NJ	Higgins Farm	Franklin Township	
NJ	Hopkins Farm	Plumstead Township	
NJ	Imperial Oil Co., Inc./Champion Chemicals	Morganville	
NJ	Industrial Latex Corp	Wallington Borough	
NJ	JIS Landfill	Jamesburg/S. Brnswck	
NJ	Jackson Township Landfill	Jackson Township	C
NJ	Kauffman & Minteer, Inc	Jobstown	
NJ	Kin-Buc Landfill	Edison Township	
NJ	King of Prussia	Winslow Township	
NJ	Landfill & Development Co	Mount Holly	
NJ	Lang Property	Pemberton Township	
NJ	Lipari Landfill	Pitman	
NJ	Lodi Municipal Well	Lodi	C
NJ	Lone Pine Landfill	Freehold Township	C
NJ	Mannheim Avenue Dump	Galloway Township	C
NJ	Maywood Chemical Co	Maywood/Rochelle Park	
NJ	Metaltec/Aerosystems	Franklin Borough	
NJ	Monitor Devices/Intercircuits Inc	Wall Township	
NJ	Montclair/West Orange Radium Site	Montclair/W Orange	
NJ	Montgomery Township Housing Development	Montgomery Township	
NJ	Myers Property	Franklin Township	
NJ	NL Industries	Pedricktown	
NJ	Nascolite Corp	Millville	
NJ	PJP Landfill	Jersey City	
NJ	Pepe Field	Boonton	
NJ	Pijak Farm	Plumstead Township	
NJ	Pohatcong Valley Ground Water Contaminat	Warren County	
NJ	Pomona Oaks Residential Wells	Galloway Township	C
NJ	Price Landfill	Pleasantville	S
NJ	Radiation Technology, Inc	Rockaway Township	
NJ	Reich Farms	Pleasant Plains	
NJ	Renora, Inc	Edison Township	
NJ	Rockaway Borough Well Field	Rockaway Township	
NJ	Rockaway Township Wells	Rockaway	
NJ	Rocky Hill Municipal Well	Rocky Hill Borough	
NJ	Roebling Steel Co	Florence	
NJ	Sayreville Landfill	Sayreville	
NJ	Scientific Chemical Processing	Carlstadt	
NJ	Sharkey Landfill	Parsippany/Troy Hls	
NJ	Shieldalloy Corp	Newfield Borough	
NJ	South Brunswick Landfill	South Brunswick	C
NJ	South Jersey Clothing Co	Minotola	
NJ	Spence Farm	Plumstead Township	
NJ	Swope Oil & Chemical Co	Pennsauken	
NJ	Syncon Resins	South Kearny	
NJ	Tabernacle Drum Dump	Tabernacle Township	C
NJ	U.S. Radium Corp	Orange	
NJ	Universal Oil Products (Chemical Division)	East Rutherford	
NJ	Upper Deerfield Township Sanit. Landfill	Upper Deerfield Township	C
NJ	Ventron/Velsicol	Wood Ridge Borough	

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
NJ	Vineland Chemical Co., Inc	Vineland	
NJ	Vineland State School	Vineland	C
NJ	Waldick Aerospace Devices, Inc	Wall Township	
NJ	White Chemical Corp	Newark	A
NJ	Williams Property	Swainton	
NJ	Wilson Farm	Plumstead Township	C
NJ	Witco Chemical Corp. (Oakland Plt)	Oakland	C
NJ	Woodland Route 532 Dump	Woodland Township	
NJ	Woodland Route 72 Dump	Woodland Township	
NM	AT & SF (Clovis)	Clovis	
NM	AT&SF (Albuquerque)	Albuquerque	
NM	Cimarron Mining Corp	Carrizozo	C
NM	Cleveland Mill	Silver City	
NM	Homestake Mining Co	Milan	
NM	Prewitt Abandoned Refinery	Prewitt	
NM	South Valley	Albuquerque	S
NM	United Nuclear Corp	Church Rock	
NV	Carson River Mercury Site	Lyon/Churchill Cnty	
NY	Action Anodizing, Plating, & Polishing	Copiague	C
NY	American Thermostat Co	South Cairo	
NY	Anchor Chemicals	Hicksville	
NY	Applied Environmental Services	Glenwood Landing	
NY	Batavia Landfill	Batavia	
NY	Brewster Well Field	Putnam County	
NY	Byron Barrel & Drum	Byron	
NY	Carroll & Dubies Sewage Disposal	Port Jervis	
NY	Circuitron Corp	East Farmingdale	
NY	Claremont Polychemical	Old Bethpage	
NY	Clothier Disposal	Town of Granby	C
NY	Colesville Municipal Landfill	Town of Colesville	
NY	Conklin Dumps	Conklin	
NY	Cortese Landfill	Village of Narrowsburg	
NY	Endicott Village Well Field	Village of Endicott	
NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby	
NY	Facet Enterprises, Inc	Elmira	
NY	Forest Glen Mobile Home Subdivision	Niagara Falls	A
NY	Fulton Terminals	Fulton	
NY	GCL Tie & Treating Inc	Village of Sidney	
NY	GE Moreau	South Glen Falls	
NY	General Motors (Central Foundry Division)	Massena	
NY	Genzale Plating Co	Franklin Square	
NY	Goldisc Recordings, Inc	Holbrook	
NY	Haviland Complex	Town of Hyde Park	
NY	Hertel Landfill	Plattekill	
NY	Hooker (102nd Street)	Niagara Falls	
NY	Hooker (Hyde Park)	Niagara Falls	
NY	Hooker (S Area)	Niagara Falls	
NY	Hooker Chemical/Ruco Polymer Corp	Hicksville	
NY	Hudson River PCBs	Hudson River	
NY	Islip Municipal Sanitary Landfill	Islip	
NY	Johnstown City Landfill	Town of Johnstown	
NY	Jones Chemicals, Inc	Caledonia	
NY	Jones Sanitation	Hyde Park	
NY	Katonah Municipal Well	Town of Bedford	C
NY	Kenmark Textile Corp	Farmingdale	C
NY	Kentucky Avenue Well Field	Horseheads	
NY	Li Tungsten Corp	Glen Cove	
NY	Liberty Industrial Finishing	Farmingdale	
NY	Love Canal	Niagara Falls	
NY	Ludlow Sand & Gravel	Clayville	
NY	Malta Rocket Fuel Area	Malta	
NY	Marathon Battery Corp	Cold Springs	
NY	Mattiace Petrochemical Co., Inc	Glen Cove	
NY	Mercury Refining, Inc	Colonie	
NY	Nepera Chemical Co., Inc	Maybrook	
NY	Niagara County Refuse	Wheatfield	
NY	Niagara Mohawk Power Co (Saratoga Springs)	Saratoga Springs	
NY	North Sea Municipal Landfill	North Sea	C
NY	Old Bethpage Landfill	Oyster Bay	C
NY	Olean Well Field	Olean	
NY	Onondaga Lake	Syracuse	
NY	Pasley Solvents & Chemicals, Inc	Hempstead	

VOL 60 ISS 79 APR 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
NY	Pfohl Brothers Landfill	Cheektowaga	
NY	Pollution Abatement Services	Oswego	S
NY	Port Washington Landfill	Port Washington	
NY	Preferred Plating Corp	Farmingdale	
NY	Ramapo Landfill	Ramapo	
NY	Richardson Hill Road Landfill/Pond	Sidney Center	
NY	Robintech, Inc./National Pipe Co	Town of Vestal	
NY	Rosen Brothers Scrap Yard/Dump	Cortland	
NY	Rowe Industries Gnd Water Contamination	Noyack/Sag Harbor	
NY	SMS Instruments, Inc	Deer Park	
NY	Sarney Farm	Amenia	
NY	Sealand Restoration, Inc	Lisbon	
NY	Sidney Landfill	Sidney	
NY	Sinclair Refinery	Wellsville	
NY	Solvent Savers	Lincklaen	
NY	Syosset Landfill	Oyster Bay	
NY	Tri-Cities Barrel Co., Inc	Port Crane	
NY	Tronic Plating Co., Inc	Farmingdale	C
NY	Vestal Water Supply Well 1–1	Vestal	
NY	Vestal Water Supply Well 4–2	Vestal	
NY	Volney Municipal Landfill	Town of Volney	
NY	Warwick Landfill	Warwick	
NY	York Oil Co	Moira	
OH	Allied Chemical & Ironton Coke	Ironton	
OH	Alsco Anaconda	Gnadenhutten	
OH	Arcanum Iron & Metal	Darke County	
OH	Big D Campground	Kingsville	
OH	Bowers Landfill	Circleville	C
OH	Buckeye Reclamation	St. Clairsville	
OH	Chem-Dyne	Hamilton	C, S
OH	Coshocton Landfill	Franklin Township	
OH	E.H. Schilling Landfill	Hamilton Township	C
OH	Fields Brook	Ashtabula	
OH	Fultz Landfill	Jackson Township	
OH	Industrial Excess Landfill	Uniontown	
OH	Laskin/Poplar Oil Co	Jefferson Township	C
OH	Miami County Incinerator	Troy	
OH	Nease Chemical	Salem	
OH	New Lyme Landfill	New Lyme	C
OH	North Sanitary Landfill	Dayton	
OH	Old Mill	Rock Creek	C
OH	Ormet Corp	Hannibal	
OH	Powell Road Landfill	Dayton	
OH	Pristine, Inc	Reading	
OH	Reilly Tar & Chemical (Dover Plant)	Dover	
OH	Republic Steel Corp. Quarry	Elyria	C
OH	Sanitary Landfill Co. (Industrial Waste)	Dayton	
OH	Skinner Landfill	West Chester	
OH	South Point Plant	South Point	
OH	Summit National	Deerfield Township	
OH	TRW, Inc. (Minerva Plant)	Minerva	C
OH	United Scrap Lead Co., Inc.	Troy	
OH	Van Dale Junkyard	Marietta	
OH	Zanesville Well Field	Zanesville	
OK	Compass Industries (Avery Drive)	Tulsa	C
OK	Double Eagle Refinery Co	Oklahoma City	
OK	Fourth Street Abandoned Refinery	Oklahoma City	
OK	Hardage/Criner	Criner	
OK	Mosley Road Sanitary Landfill	Oklahoma City	
OK	Oklahoma Refining Co	Cyril	
OK	Sand Springs Petrochemical Complex	Sand Springs	
OK	Tar Creek (Ottawa County)	Ottawa County	
OK	Tenth Street Dump/Junkyard	Oklahoma City	
OR	Gould, Inc	Portland	
OR	Joseph Forest Products	Joseph	C
OR	Martin-Marietta Aluminum Co	The Dalles	C
OR	McCormick & Baxter Creos. Co. (Portland)	Portland	
OR	Northwest Pipe & Casing Co	Clackamas	
OR	Reynolds Metals Company	Troutdale	
OR	Teledyne Wah Chang	Albany	
OR	Union Pacific Railroad Tie Treatment	The Dalles	
OR	United Chrome Products, Inc	Corvallis	C

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
PA	A.I.W. Frank/Mid-County Mustang	Exton	
PA	AMP, Inc. (Glen Rock Facility)	Glen Rock	
PA	Aladdin Plating	Scott Township	
PA	Ambler Asbestos Piles	Ambler	C
PA	Austin Avenue Radiation Site	Delaware County	A
PA	Avco Lycoming (Williamsport Division)	Williamsport	
PA	Bally Ground Water Contamination	Bally Borough	
PA	Bell Landfill	Terry Township	
PA	Bendix Flight Systems Division	Bridgewater Township	
PA	Berkley Products Co. Dump	Denver	
PA	Berks Landfill	Spring Township	
PA	Berks Sand Pit	Longswamp Township	C
PA	Blosenski Landfill	West Caln Township	
PA	Boarhead Farms	Bridgeton Township	
PA	Brodhead Creek	Stroudsburg	
PA	Brown's Battery Breaking	Shoemakersville	
PA	Bruin Lagoon	Bruin Borough	C
PA	Butler Mine Tunnel	Pittston	
PA	Butz Landfill	Stroudsburg	
PA	C & D Recycling	Foster Township	
PA	Centre County Kepone	State College Borough	
PA	Commodore Semiconductor Group	Lower Providence Township	
PA	Craig Farm Drum	Parker	
PA	Crater Resources/Keystone Coke/Alan Wood	Upper Merion Township	
PA	Crossley Farm	Hereford Township	
PA	Croydon TCE	Croydon	
PA	CryoChem, Inc	Worman	
PA	Delta Quarries & Disp./Stotler Landfill	Antis/Logan Twps	
PA	Dorney Road Landfill	Upper Macungie Township	
PA	Douglassville Disposal	Douglassville	
PA	Drake Chemical	Lock Haven	
PA	Dublin TCE Site	Dublin Borough	
PA	East Mount Zion	Springettsbury Township	
PA	Eastern Diversified Metals	Hometown	
PA	Elizabethtown Landfill	Elizabethtown	
PA	Fischer & Porter Co	Warminster	
PA	Foote Mineral Co	East Whiteland Township	
PA	Havertown PCP	Haverford	
PA	Hebelka Auto Salvage Yard	Weisenberg Township	C
PA	Heleva Landfill	North Whitehall Township	
PA	Hellertown Manufacturing Co	Hellertown	
PA	Henderson Road	Upper Merion Township	C
PA	Hranica Landfill	Buffalo Township	C
PA	Hunterstown Road	Straban Township	
PA	Industrial Lane	Williams Township	
PA	Jacks Creek/Sitkin Smelting and Refinery	Maitland	
PA	Keystone Sanitation Landfill	Union Township	
PA	Kimberton Site	Kimberton Borough	C
PA	Lackawanna Refuse	Old Forge Borough	C
PA	Lindane Dump	Harrison Township	
PA	Lord-Shope Landfill	Girard Township	
PA	MW Manufacturing	Valley Township	
PA	Malvern TCE	Malvern	
PA	McAdoo Associates	McAdoo Borough	S
PA	Metal Banks	Philadelphia	
PA	Metropolitan Mirror and Glass	Frackville	
PA	Middletown Air Field	Middletown	
PA	Mill Creek Dump	Erie	
PA	Modern Sanitation Landfill	Lower Windsor Township	
PA	Moyers Landfill	Eagleville	
PA	North Penn—Area 1	Souderton	
PA	North Penn—Area 12	Worcester	
PA	North Penn—Area 2	Hatfield	
PA	North Penn—Area 5	Montgomery Township	
PA	North Penn—Area 6	Lansdale	
PA	North Penn—Area 7	North Wales	
PA	Novak Sanitary Landfill	South Whitehall Township	
PA	Occidental Chemical Corp./Firestone Tire	Lower Pottsgrove Township	
PA	Ohio River Park	Neville Island	
PA	Old City of York Landfill	Seven Valleys	
PA	Osborne Landfill	Grove City	
PA	Palmerton Zinc Pile	Palmerton	

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
PA	Paoli Rail Yard	Paoli	
PA	Publicker Industries Inc	Philadelphia	
PA	Raymark	Hatboro	
PA	Recticon/Allied Steel Corp	East Coventry Twp	
PA	Resin Disposal	Jefferson Borough	
PA	Revere Chemical Co	Nockamixon Township	
PA	River Road Landfill/Waste Mngmnt, Inc	Hermitage	
PA	Rodale Manufacturing Co., Inc	Emmaus Borough	
PA	Route 940 Drum Dump	Pocono Summit	C
PA	Saegertown Industrial Area	Saegertown	
PA	Shriver's Corner	Straban Township	
PA	Stanley Kessler	King of Prussia	
PA	Strasburg Landfill	Newlin Township	
PA	Taylor Borough Dump	Taylor Borough	C
PA	Tonolli Corp	Nesquehoning	
PA	Tysons Dump	Upper Merion Twp	
PA	UGI Columbia Gas Plant	Columbia	
PA	Walsh Landfill	Honeybrook Township	
PA	Westinghouse Electronic (Sharon Plant)	Sharon	
PA	Westinghouse Elevator Co. Plant	Gettysburg	
PA	Whitmoyer Laboratories	Jackson Township	
PA	William Dick Lagoons	West Caln Township	
PA	York County Solid Waste/Refuse Landfill	Hopewell Township	
PR	Barceloneta Landfill	Florida Afuera	
PR	Fibers Public Supply Wells	Jobos	
PR	Frontera Creek	Rio Abajo	
PR	GE Wiring Devices	Juana Diaz	
PR	Juncos Landfill	Juncos	
PR	RCA Del Caribe	Barceloneta	
PR	Upjohn Facility	Barceloneta	
PR	Vega Alta Public Supply Wells	Vega Alta	
RI	Central Landfill	Johnston	
RI	Davis (GSR) Landfill	Glocester	
RI	Davis Liquid Waste	Smithfield	
RI	Landfill & Resource Recovery, Inc. (L&RR)	North Smithfield	
RI	Peterson/Puritan, Inc	Lincoln/Cumberland	
RI	Picillo Farm	Coventry	S
RI	Rose Hill Regional Landfill	South Kingston	
RI	Stamina Mills, Inc	North Smithfield	
RI	West Kingston Town Dump/URI Disposal	South Kingston	
RI	Western Sand & Gravel	Burrillville	C
SC	Aqua-Tech Environmental Inc. (Groce Labs)	Greer	
SC	Beaunit Corp. (Circular Knit & Dye)	Fountain Inn	
SC	Carolawn, Inc	Fort Lawn	
SC	Elmore Waste Disposal	Greer	
SC	Geiger (C & M Oil)	Rantoules	
SC	Golden Strip Septic Tank Service	Simpsonville	
SC	Helena Chemical Co. Landfill	Fairfax	
SC	Kalama Specialty Chemicals	Beaufort	
SC	Koppers Co., Inc. (Charleston Plant)	Charleston	
SC	Koppers Co., Inc. (Florence Plant)	Florence	
SC	Leonard Chemical Co., Inc	Rock Hill	
SC	Lexington County Landfill Area	Cayce	
SC	Medley Farm Drum Dump	Gaffney	
SC	Palmetto Recycling, Inc	Columbia	
SC	Palmetto Wood Preserving	Dixiana	
SC	Para-Chem Southern, Inc	Simpsonville	
SC	Rochester Property	Travelers Rest	
SC	Rock Hill Chemical Co	Rock Hill	
SC	SCRDI Bluff Road	Columbia	S
SC	SCRDI Dixiana	Cayce	C
SC	Sangamo Weston/Twelve-Mile/Hartwell PCB	Pickens	
SC	Townsend Saw Chain Co	Pontiac	
SC	Wamchem, Inc	Burton	
SD	Whitewood Creek Whitewood	C, S	
SD	Williams Pipe Line Co. Disposal Pit	Sioux Falls	C
TN	American Creosote Works (Jackson Plant)	Jackson	
TN	Amnicola Dump	Chattanooga	C
TN	Arlington Blending & Packaging	Arlington	
TN	Carrier Air Conditioning Co	Collierville	
TN	Chemet Co	Moscow	
TN	Gallaway Pits	Gallaway	

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
TN	ICG Iselin Railroad Yard	Jackson	
TN	Lewisburg Dump	Lewisburg	C
TN	Mallory Capacitor Co	Waynesboro	
TN	Murray-Ohio Dump	Lawrenceburg	
TN	North Hollywood Dump	Memphis	S
TN	Velsicol Chemical Corp (Hardeman County)	Toone	
TN	Wrigley Charcoal Plant	Wrigley	
TX	ALCOA (Point Comfort)/Lavaca Bay	Point Comfort	
TX	Bailey Waste Disposal	Bridge City	
TX	Bio-Ecology Systems, Inc	Grand Prairie	C
TX	Brio Refining, Inc	Friendswood	
TX	Crystal Chemical Co	Houston	
TX	Dixie Oil Processors, Inc	Friendswood	C
TX	French, Ltd	Crosby	C
TX	Geneva Industries/Fuhrmann Energy	Houston	
TX	Highlands Acid Pit	Highlands	C
TX	Koppers Co.Inc (Texarkana Plant)	Texarkana	
TX	Motco, Inc	La Marque S	
TX	North Cavalcade Street	Houston	
TX	Odessa Chromium #1	Odessa	C
TX	Odessa Chromium #2 (Andrews Highway)	Odessa	C
TX	Pesses Chemical Co	Fort Worth	C
TX	Petro-Chemical Systems (Turtle Bayou)	Liberty County	
TX	Sheridan Disposal Services	Hempstead	
TX	Sikes Disposal Pits	Grosby	C
TX	Sol Lynn/Industrial Transformers	Houston	C
TX	South Cavalcade Street	Houston	
TX	Stewco, Inc	Waskom	C
TX	Texarkana Wood Preserving Co	Texarkana	
TX	Triangle Chemical Co	Bridge City	C
TX	United Creosoting Co	Conroe	
UT	Midvale Slag	Midvale	
UT	Monticello Radioactive Contaminated Prop	Monticello	
UT	Petrochem Recycling Corp./Ekotek Plant	Salt Lake City	
UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	
UT	Rose Park Sludge Pit	Salt Lake City	C, S
UT	Sharon Steel Corp. (Midvale Tailings)	Midvale	
UT	Utah Power & Light/American Barrel Co	Salt Lake City	
UT	Wasatch Chemical Co. (Lot 6)	Salt Lake City	
VA	Abex Corp	Portsmouth	
VA	Arrowhead Associates/Scovill Corp	Montross	
VA	Atlantic Wood Industries, Inc	Portsmouth	
VA	Avtex Fibers, Inc	Front Royal	
VA	Buckingham County Landfill	Buckingham	
VA	C & R Battery Co., Inc	Chesterfield County	C
VA	Chisman Creek	York County	C
VA	Culpeper Wood Preservers, Inc	Culpeper	
VA	Dixie Caverns County Landfill	Salem	
VA	First Piedmont Rock Quarry (Route 719)	Pittsylvania County	
VA	Greenwood Chemical Co	Newtown	
VA	H & H Inc., Burn Pit	Farrington	
VA	L.A. Clarke & Son	Spotsylvania County	
VA	Rentokil, Inc. (VA Wood Preserving Div)	Richmond	
VA	Rhinehart Tire Fire Dump	Frederick County	
VA	Saltville Waste Disposal Ponds	Saltville	
VA	Saunders Supply Co	Chuckatuck	
VA	U.S. Titanium	Piney River	
VT	BFI Sanitary Landfill (Rockingham)	Rockingham	
VT	Bennington Municipal Sanitary Landfill	Bennington	
VT	Burgess Brothers Landfill	Woodford	
VT	Darling Hill Dump	Lyndon	C
VT	Old Springfield Landfill	Springfield	C
VT	Parker Sanitary Landfill	Lyndon	
VT	Pine Street Canal	Burlington	S
VT	Tansitor Electronics, Inc	Bennington	
WA	ALCOA (Vancouver Smelter)	Vancouver	
WA	American Crossarm & Conduit Co	Chehalis	
WA	Boomsnub/Airco	Vancouver	S
WA	Centralia Municipal Landfill	Centralia	
WA	Colbert Landfill	Colbert	
WA	Commencement Bay, Near Shore/Tide Flats	Pierce County	
WA	Commencement Bay, South Tacoma Channel	Tacoma	

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
WA	FMC Corp. (Yakima Pit)	Yakima	C
WA	Frontier Hard Chrome, Inc	Vancouver	
WA	General Electric Co. (Spokane Shop)	Spokane	
WA	Greenacres Landfill	Spokane County	
WA	Harbor Island (Lead)	Seattle	
WA	Hidden Valley Landfill (Thun Field)	Pierce County	
WA	Kaiser Aluminum Mead Works	Mead	
WA	Lakewood Site	Lakewood	C
WA	Mica Landfill	Mica	
WA	Midway Landfill	Kent	
WA	Moses Lake Wellfield Contamination	Moses Lake	
WA	North Market Street	Spokane	
WA	Northside Landfill	Spokane	C
WA	Northwest Transformer	Everson	C
WA	Northwest Transformer (South Harkness St.)	Everson	C
WA	Old Inland Pit	Spokane	
WA	Pacific Car & Foundry Co	Renton	
WA	Pacific Sound Resources	Seattle	
WA	Pasco Sanitary Landfill	Pasco	
WA	Queen City Farms	Maple Valley	
WA	Seattle Municipal Landfill (Kent Highinds)	Kent	
WA	Silver Mountain Mine	Loomis	C
WA	Spokane Junkyard/Associated Properties	Spokane	
WA	Tulalip Landfill	Marysville	
WA	Vancouver Water Station #1 Contamination	Vancouver	
WA	Vancouver Water Station #4 Contamination	Vancouver	
WA	Western Processing Co., Inc	Kent	C
WA	Wyckoff Co./Eagle Harbor	Bainbridge Island	
WI	Algoma Municipal Landfill	Algoma	C
WI	Better Brite Plating Chrome & Zinc Shops	DePere	
WI	City Disposal Corp. Landfill	Dunn	
WI	Delavan Municipal Well #4	Delavan	
WI	Eau Claire Municipal Well Field	Eau Claire	C
WI	Fadrowski Drum Disposal	Franklin	
WI	Hagen Farm	Stoughton	
WI	Hechimovich Sanitary Landfill	Williamstown	
WI	Hunts Disposal Landfill	Caledonia	
WI	Janesville Ash Beds	Janesville	
WI	Janesville Old Landfill	Janesville	
WI	Kohler Co. Landfill	Kohler	
WI	Lauer I Sanitary Landfill	Menomonee Falls	
WI	Lemberger Landfill, Inc	Whitelaw	
WI	Lemberger Transport & Recycling	Franklin Township	
WI	Madison Metropolitan Sewerage District	Blooming Grove	
WI	Master Disposal Service Landfill	Brookfield	
WI	Mid-State Disposal, Inc. Landfill	Cleveland Township	C
WI	Moss-American (Kerr-McGee Oil Co.)	Milwaukee	
WI	Muskego Sanitary Landfill	Muskego	
WI	N.W. Mauthe Co., Inc	Appleton	S
WI	National Presto Industries, Inc	Eau Claire	
WI	Northern Engraving Co	Sparta	C
WI	Oconomowoc Electroplating Co., Inc	Ashippin	
WI	Omega Hills North Landfill	Germantown	
WI	Onalaska Municipal Landfill	Onalaska	C
WI	Refuse Hideaway Landfill	Middleton	
WI	Ripon City Landfill	Ripon	
WI	Sauk County Landfill	Excelsior	
WI	Schmalz Dump	Harrison	C
WI	Scrap Processing Co., Inc	Medford	
WI	Sheboygan Harbor & River	Sheboygan	
WI	Spickler Landfill	Spencer	
WI	Stoughton City Landfill	Stoughton	
WI	Tomah Armory	Tomah	
WI	Tomah Fairgrounds	Tomah	
WI	Tomah Municipal Sanitary Landfill	Tomah	
WI	Waste Mgmt of WI (Brookfield Sanit LF)	Brookfield	
WI	Wausau Ground Water Contamination	Wausau	C
WI	Wheeler Pit	La Prairie Township	C
WV	Fike Chemical, Inc	Nitro	
WV	Follansbee Site	Follansbee	
WV	Leetown Pesticide	Leetown	C
WV	Ordnance Works Disposal Areas	Morgantown	

TABLE 1.—GENERAL SUPERFUND SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
WY	Baxter/Union Pacific Tie Treating	Laramie	
WY	Mystery Bridge Rd/U.S. Highway 20	Evansville	C

(a) A=Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28.50).
C=Sites on construction completion list.
S=State top priority (included among the 100 top priority sites regardless of score).

TABLE 2.—FEDERAL FACILITIES SECTION, APRIL 1995

State	Site name	City/County	Notes (a)
AK	Adak Naval Air Station	Adak	
AK	Eielson Air Force Base	Fairbanks N Star Borough	
AK	Elmendorf Air Force Base	Greater Anchorage Borough	
AK	Fort Richardson (USARMY)	Anchorage	
AK	Fort Wainwright	Fairbanks N Star Borough	
AK	Standard Steel & Metals Salvage Yard (USDOT)	Anchorage	
AL	Alabama Army Ammunition Plant	Childersburg	
AL	Anniston Army Depot (SE Industrial Area)	Anniston	
AL	Redstone Arsenal (USARMY/NASA)	Huntsville	
AZ	Luke Air Force Base	Glendale	
AZ	Williams Air Force Base	Chandler	
AZ	Yuma Marine Corps Air Station	Yuma	
CA	Barstow Marine Corps Logistics Base	Barstow	
CA	Camp Pendleton Marine Corps Base	San Diego County	
CA	Castle Air Force Base	Merced	
CA	Concord Naval Weapons Station	Concord	
CA	Edwards Air Force Base	Kern County	
CA	El Toro Marine Corps Air Station	El Toro	
CA	Fort Ord	Marina	
CA	George Air Force Base	Victorville	
CA	Jet Propulsion Laboratory (NASA)	Pasadena	
CA	LEHR/Old Campus Landfill (USDOE)	Davis	
CA	Lawrence Livermore Lab Site 300 (USDOE)	Livermore	
CA	Lawrence Livermore Laboratory (USDOE)	Livermore	
CA	March Air Force Base	Riverside	
CA	Mather Air Force Base	Sacramento	
CA	McClellan Air Force Base (GW Contam)	Sacramento	
CA	Moffett Naval Air Station	Sunnyvale	
CA	Norton Air Force Base	San Bernardino	
CA	Riverbank Army Ammunition Plant	Riverbank	
CA	Sacramento Army Depot	Sacramento	
CA	Sharpe Army Depot	Lathrop	
CA	Tracy Defense Depot (USARMY)	Tracy	
CA	Travis Air Force Base	Solano County	
CA	Treasure Island Naval Station-Hun Pt An	San Francisco	
CO	Air Force Plant PJKS	Waterton	
CO	Rocky Flats Plant (USDOE)	Golden	
CO	Rocky Mountain Arsenal (USARMY)	Adams County	
CT	New London Submarine Base	New London	
DE	Dover Air Force Base	Dover	
FL	Cecil Field Naval Air Station	Jacksonville	
FL	Homestead Air Force Base	Homestead	
FL	Jacksonville Naval Air Station	Jacksonville	
FL	Pensacola Naval Air Station	Pensacola	
FL	Whiting Field Naval Air Station	Milton	
GA	Marine Corps Logistics Base	Albany	
GA	Robins Air Force Base(Lf#4/Sludge lagoon)	Houston County	
GU	Andersen Air Force Base	Yigo	
HI	Naval Computer & Telecommunications Area	Oahu	
HI	Pearl Harbor Naval Complex	Pearl Harbor	
HI	Schofield Barracks (USARMY)	Oahu	
IA	Iowa Army Ammunition Plant	Middletown	
ID	Idaho National Engineering Lab (USDOE)	Idaho Falls	
ID	Mountain Home Air Force Base	Mountain Home	
IL	Joliet Army Ammunition Plant (LAP Area)	Joliet	
IL	Joliet Army Ammunition Plant (Mfg Area)	Joliet	
IL	Sangamo Electric/Crab Orchard NWR (USDOI)	Carterville	
IL	Savanna Army Depot Activity	Savanna	
KS	Fort Riley	Junction City	
KY	Paducah Gaseous Diffusion Plant (USDOE)	Paducah	

VOL 60 ISS 79 AP 25 1995 UMI

TABLE 2.—FEDERAL FACILITIES SECTION, APRIL 1995—Continued

State	Site name	City/County	Notes (a)
LA	Louisiana Army Ammunition Plant	Doyline	
MA	Fort Devens	Fort Devens	
MA	Fort Devens-Sudbury Training Annex	Middlesex County	
MA	Hanscom Field/Hanscom Air Force Base	Bedford	
MA	Materials Technology Laboratory (USARMY)	Watertown	
MA	Natick Laboratory Army Research,D&E Cntr	Natick	
MA	Naval Weapons Industrial Reserve Plant	Bedford	
MA	Otis Air National Guard (USAF)	Falmouth	
MA	South Weymouth Naval Air Station	Weymouth	
MD	Aberdeen Proving Ground (Edgewood Area)	Edgewood	
MD	Aberdeen Proving Ground (Michaelsville LF)	Aberdeen	
MD	Beltsville Agricultural Research (USDA)	Beltsville	
MD	Patuxent River Naval Air Station	St. Mary's County	
ME	Brunswick Naval Air Station	Brunswick	
ME	Loring Air Force Base	Limestone	
ME	Portsmouth Naval Shipyard	Kittery	
MN	Naval Industrial Reserve Ordnance Plant	Fridley	
MN	New Brighton/Arden Hills/TCAAP (USARMY)	New Brighton	
MN	Twin Cities Air Force Base (SAR Landfill)	Minneapolis	C
MO	Lake City Army Ammu. Plant (NW Lagoon)	Independence	
MO	Weldon Spring Former Army Ordnance Works	St.Charles County	
MO	Weldon Spring Quarry/Plant/Pitts (USDOE)	St. Charles County	
NC	Camp Lejeune Military Res. (USNAVY)	Onslow County	
NC	Cherry Point Marine Corps Air Station	Havelock	
NE	Cornhusker Army Ammunition Plant	Hall County	
NH	Pease Air Force Base	Portsmouth/Newington	
NJ	Federal Aviation Admin. Tech. Center	Atlantic County	
NJ	Fort Dix (Landfill Site)	Pemberton Township	
NJ	Naval Air Engineering Center	Lakehurst	
NJ	Naval Weapons Station Earle (Site A)	Colts Neck	
NJ	Picatinny Arsenal (USARMY)	Rockaway Township	
NJ	W.R. Grace/Wayne Interim Storage (USDOE)	Wayne Township	
NM	Cal West Metals (USSBA)	Lemitar	
NM	Lee Acres Landfill (USDOI)	Farmington	
NY	Brookhaven National Laboratory (USDOE)	Upton	
NY	Griffiss Air Force Base	Rome	
NY	Plattsburgh Air Force Base	Plattsburgh	
NY	Seneca Army Depot	Romulus	
OH	Feed Materials Production Center (USDOE)	Fernald	
OH	Mound Plant (USDOE)	Miamisburg	
OH	Wright-Patterson Air Force Base	Dayton	
OK	Tinker Air Force (Soldier Cr/Bldg 300)	Oklahoma City	
OR	Fremont Nat. Forest Uranium Mines (USDA)	Lake County	
OR	Umatilla Army Depot (Lagoons)	Hermiston	
PA	Letterkenny Army Depot (PDO Area)	Franklin County	
PA	Letterkenny Army Depot (SE Area)	Chambersburg	
PA	Naval Air Development Center (8 Areas)	Warminster Township	
PA	Navy Ships Parts Control Center	Mechanicsburg	
PA	Tobyhanna Army Depot	Tobyhanna	
PR	Naval Security Group Activity	Sabana Seca	
RI	Davisville Naval Construction Batt Cent	North Kingston	
RI	Newport Naval Education/Training Center	Newport	
SC	Parris Island Marine Corps Recruit Depot	Parris Island	
SC	Savannah River Site (USDOE)	Aiken	
SD	Ellsworth Air Force Base	Rapid City	
TN	Memphis Defense Depot (DLA)	Memphis	
TN	Milan Army Ammunition Plant	Milan	
TN	Oak Ridge Reservation (USDOE)	Oak Ridge	
TX	Air Force Plant #4 (General Dynamics)	Fort Worth	
TX	Lone Star Army Ammunition Plant	Texarkana	
TX	Longhorn Army Ammunition Plant	Karnack	
TX	Pantex Plant (USDOE)	Pantex Village	
UT	Hill Air Force Base	Ogden	
UT	Monticello Mill Tailings (USDOE)	Monticello	
UT	Ogden Defense Depot (DLA)	Ogden	
UT	Tooele Army Depot (North Area)	Tooele	
VA	Defense General Supply Center (DLA)	Chesterfield County	
VA	Fort Eustis (US Army)	Newport News	
VA	Langley Air Force Base/NASA Langley Cntr	Hampton	
VA	Marine Corps Combat Development Command	Quantico	
VA	Naval Surface Warfare—Dahlgren	Dahlgren	
VA	Naval Weapons Station—Yorktown	Yorktown	
WA	American Lake Gardens/McChord AFB	Tacoma	C
WA	Bangor Naval Submarine Base	Silverdale	
WA	Bangor Ordnance Disposal (USNAVY)	Bremerton	
WA	Bonneville Power Admin Ross (USDOE)	Vancouver	
WA	Fairchild Air Force Base (4 Waste Areas)	Spokane County	
WA	Fort Lewis (Landfill No. 5)	Tacoma	C
WA	Fort Lewis Logistics Center	Tillicum	
WA	Hamilton Island Landfill (USA/COE)	North Bonneville	
WA	Hanford 100–Area (USDOE)	Benton County	
WA	Hanford 1100–Area (USDOE)	Benton County	
WA	Hanford 200–Area (USDOE)	Benton County	
WA	Hanford 300–Area (USDOE)	Benton County	
WA	Jackson Park Housing Complex (USNAVY)	Kitsap County	
WA	McChord Air Force Base (Wash Rack/Treat)	Tacoma	
WA	Naval Air Station, Whidbey Is (Seaplane)	Whidbey Island	
WA	Naval Air Station, Whidbey Island (Ault)	Whidbey Island	
WA	Naval Undersea Warfare Station (4 Areas)	Keyport	
WA	Old Navy Dump/Manchester Lab (USEPA/NOAA)	Manchester	
WA	Port Hadlock Detachment (USNAVY)	Indian Island	
WA	Puget Sound Naval Shipyard Complex	Bremerton	
WV	Allegany Ballistics Laboratory (USNAVY)	Mineral	
WV	West Virginia Ordnance (USARMY)	Point Pleasant	S
WY	F.E. Warren Air Force Base	Cheyenne	

(a) A=Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be > 28.50).
C=Sites on construction completion list.
S=State top priority (included among the 100 top priority sites regardless of score).

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VOL
60

ISS
79

AP
25

1995

UMI

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Tuesday
April 25, 1995

Part VI

Department of Housing and Urban Development

24 CFR Part 215, et al.
Treatment of Holocaust Reparation Payments in Assisted Housing; Rule

VOL
60
ISS
79
AP
25
1995
UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 215, 235, 236, 280, 813, 913, and 950

[Docket No. N-95-3900; FR-3856-N-01]

Treatment of Holocaust Reparation Payments in Assisted Housing Programs: Notification of Affected Individuals

AGENCY: Office of the Secretary, HUD.

ACTION: Notification of policy.

SUMMARY: Before April 23, 1993, the Department of Housing and Urban Development counted Holocaust reparation payments made by foreign governments as income in its means-tested rental housing assistance programs. This policy may have caused some applicants to be denied admission to assisted housing, and some residents of the housing to pay a higher contribution to rent, because these payments were included in their income.

This document announces that the Department will attempt to provide relief to individuals adversely affected by this policy. As described more fully below, the Department will attempt to inform those who were denied eligibility of their potential current eligibility for rental assistance. For those whose rents were increased, the Department will attempt to find an administrative way to recompense them for the increased rent they paid.

The policy announced in this document applies to all initial and continuing income determinations that were conducted before April 23, 1993. The policy also applies to the Section 235 Homeownership Program. Members of the public who believe they may qualify for relief are encouraged to contact the appropriate Departmental official listed below for more information. It should be noted that in some cases, recompense may not be possible without further congressional action.

FOR FURTHER INFORMATION CONTACT: *For Public and Indian Housing programs:* Contact Sherone Ivey, Acting Director, Office of Assisted Housing, Room 4206, telephone (202) 708–0744 (voice), (202) 708–9300 (TDD).

For the Rent Supplement Program; the Section 236 Program (including RAP); Section 8 Programs (including New Construction, Substantial Rehabilitation, State Agency Set-Aside, and Loan Management Set-Aside); the Section 515/8 Farmers Home Set-Aside Program, and the Nehemiah Housing Opportunity Grants Program: Contact Barbara Hunter, Acting Division Director, Planning and Procedures Division, Office of Multifamily Housing Management, Room 6180, telephone (202) 708–3944 (voice), (202) 708–4594 (TDD).

For the Section 202 and Section 202/8 Housing for the Elderly and Handicapped Programs; the Section 202 Supportive Housing for the Elderly Program; the Section 811 Supportive Housing for Persons with Disabilities Program; and the HOPE 2 Program: Contact Margaret Milner, Acting Director, Office of Elderly and Assisted Housing, Room 6130, telephone (202) 708–4542 (voice), (202) 708–4594 (TDD).

For the Section 235 Homeownership Program: Contact Joseph Bates, Director, Single Family Servicing Division, Room 9178, telephone (202) 708–1672 (voice), (202) 708–4594 (TDD).

For the HOPE 3 Program: Contact Clifford Taffet, Program Policy Division, Office of Community Planning and Development, Room 7168, telephone (202) 708–3226 (voice), (202) 708–2565 (TDD).

The address for all the above-listed persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. The telephone numbers listed above are not toll-free.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements in this notice have been submitted to the Office of Management and Budget (OMB) for review. These information collection requirements are not effective until such time that OMB grants its approval. The approval numbers will be published in the **Federal Register** through separate notice.

Background

The Department provides means-tested housing assistance to eligible low-income families under a variety of programs. Rental assistance programs include the following: Rent Supplement,[1] Section 236,[2] Section 8 and Public and Indian Housing,[3] and Supportive Housing for Elderly[4] and Disabled Persons.[5] Programs using Section 8 assistance include Section 8 new construction, substantial rehabilitation, certificate/voucher, State Housing Agency, Farmers Home Administration, moderate rehabilitation, loan management, property disposition, and Section 202/Section 8. The Department also provides means-tested subsidies in the Section 235 Homeownership Program.[6]

In these programs, the Department takes family income into account in determining initial program eligibility, and uses periodic income reexaminations to determine the level of benefits to be provided eligible families. The Department also uses family income to determine eligibility for the HOPE Programs (1, 2, and 3),[7] the Nehemiah Housing Opportunity Grants program,[8] and the Section 23 Housing Assistance Payments Program.[9]

In establishing criteria for calculating family income, the Department historically counted the full amount of periodic payments received by program applicants and participants.[10] Since reparation payments made by foreign governments in connection with the Holocaust are made periodically (normally on a monthly basis), they were traditionally included in family income.

Almost two years ago, the Department reversed this position. On March 24, 1993, the Department published a final rule in the **Federal Register**[11] that excluded reparation payments, paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era, from family income under the rental assistance programs described above.[12]

[1] Section 101 of the Housing and Urban Development Act of 1965.

[2] Section 236 of the National Housing Act.

[3] The United States Housing Act of 1937.

[4] Section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act.

[5] Section 811 of the Cranston-Gonzalez National Affordable Housing Act.

[6] Section 235 of the National Housing Act. New business under this program was terminated effective October 1, 1989, by section 401(d) of the Housing and Community Development Act of 1987.

[7] Title IV of the Cranston-Gonzalez National Affordable Housing Act.

[8] Title VI of the Housing and Community Development Act of 1987, repealed by section 289(b) of the Cranston-Gonzalez National Affordable Housing Act.

[9] Section 23 of the U.S. Housing Act of 1937, repealed by section 201(a) of the Housing and Community Development Act of 1974.

[10] See the following regulations, as they existed before April 23, 1993: Rent Supplement—24 CFR 215.21(b)(7); Section 236—24 CFR 236.3(b)(4); Section 8—24 CFR 813.106(b)(4); and Public Housing—24 CFR 913.106(b)(4).

[11] 58 FR 15773, effective April 23, 1993.

[12] This final rule did not include amendments to the Section 235 regulations. The Department intends to implement the exclusion of reparation payments from income in this program through administrative instructions. Anyone who believes his or her reparation payments were included in income on or after April 23, 1993 should contact the person identified above for this program.

The Department took this action voluntarily, under its general authority to define "income" for the programs involved. As indicated in the preamble to the final rule, the Department believes that the Holocaust—in both its scope and severity—represents a unique situation, and that payments by foreign governments intended to atone for atrocities committed during the Nazi era should not be taken into account with respect to the housing assistance programs involved.

The final rule was *prospective* only. It applied to all initial and continuing income determinations conducted *on or after its effective date*—April 23, 1993. It also made clear that any assisted housing residents who had been asked to repay assistance because of their failure to include past reparation payments in income would be excused from further repayment beginning on April 23, 1993.

The rule did not, however, provide *retroactive* relief to those for whom reparation payments were included in income pursuant to initial and continuing income determinations conducted *before* April 23, 1993. The preamble to the rule indicated that the Department was reviewing the feasibility, practicality, and desirability of making the new policy retroactive, and would advise the public of its conclusions in a later **Federal Register** publication.

This notice announces that as a result of this review, the Department will take steps to provide appropriate retroactive relief where possible under current law. This notice is part of an outreach effort to identify individuals who may be eligible for this relief. This outreach will include, among other efforts, contacting Survivors' groups. The relief has two aspects.

1. *Those who were denied eligibility in the Department's assisted rental housing programs as a result of including reparation payments in family income.*

Section 1(d) of Pub. L. 103–286 (approved August 1, 1994) (42 U.S.C. 1437a note) requires any Federal agency that denied individuals eligibility for means-tested programs by reason of counting reparation payments as income to make a good faith effort to notify them of their potential eligibility under the programs. This notice, and the outreach effort described above, constitute the Department's good faith effort to identify potential affected individuals.

The Department encourages anyone who believes that he or she was found to be income-ineligible for any of the above rental assistance programs by reason of counting reparation payments in income, to notify the person listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for the program involved. Consistent with section 1(d) of the above statute, the Department will determine the individual's current potential eligibility for rental housing assistance.

2. *Those whose rents under the Department's assisted rental housing programs were increased as a result of including reparation payments in family income.*

The Department will, on a voluntary basis, attempt to repay the amount of any such rent increases and any repayments made by individuals to the extent permissible. Since there is no specific appropriation for these purposes, the critical question in determining whether the Department can provide this relief is the availability of the necessary funding under the particular program involved.

a. *Budget-based Section 202/8 projects.* Based on the circumstances of one claimant, the Department has determined that there are funds to recompense residents of Section 202/Section 8 elderly projects that receive rent adjustments on the basis of project budgets, rather than through Annual Adjustment Factors. To be eligible, the individual:

—must be a current resident of the project, and

—must have resided in a Section 202/8 project during the period in which the reparation payments were counted as income.

For any eligible residents of these projects, the Department will attempt to repay, or offset against any increased future tenant rental payments, the full amount of any increased rental payments stemming from the inclusion of reparation payments in income. The Department will also attempt to repay the full amount of any repayments of assistance paid by tenants because of their failure to include past reparation payments in income. The Department encourages residents of these projects who believe they may qualify for recompense to contact the individual listed under Section 8 project-based programs in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

b. *Other projects.* Similarly, the Department encourages current residents of other assisted projects who resided in the project during the period in which the reparation payments were counted as income to contact the persons listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice for the appropriate program. Public housing authorities (PHAs) with locally-owned projects receiving operating subsidies under the Performance Funding System may, after HUD review of the calculations, utilize the regulatory provision at § 990.110(g) to recalculate operating subsidy eligibility, and request current year funds to cover the payment of retroactive payments to eligible recipients. For other programs, the Department will determine the eligibility of the individual, as well as the availability of funds to provide the recompense administratively without the need for further congressional action. Since the Department's assisted rental housing programs use a variety of funding techniques, the ability to provide the necessary relief administratively, without the need for further congressional appropriation action, depends on the program involved.

It should be noted that section 1(e) of Pub. L. 103–286 also purports to provide retroactive relief for those whose rents were increased by reason of counting reparation payments. The relief is limited, however, to rental payments from February 1, 1993 through April 30, 1993. In addition, the authority to make any recompense under Pub. L. 103–286 is conditioned on approval in an appropriation Act. Since no such approval was provided, Pub. L. 103–286 may NOT be used as a source of recompensing eligible individuals.

In contrast, the Department's voluntary action announced in this notice is designed to provide full compensation not just for a three-month period, but for the entire time in which reparation payments were taken into account. It also provides a mechanism for recompensing at least some eligible claimants, without the necessity of further appropriation action. Any recompense that cannot be provided pursuant to the provisions set forth in this notice requires further congressional action.

3. *Those who were denied eligibility, or whose level of subsidy was determined, as a result of including reparation payments in family income in the Section 235 Homeownership Program.*

Although the Department did not include the Section 235 Homeownership Program in its March 24, 1993 final rule (58 FR 15773), the Department is including in its outreach

VOL
60
ISS
79
AP
25
1995
UMI

effort those individuals who may have been affected in this program. Any such individuals should notify the person listed above in the FOR FURTHER INFORMATION CONTACT section for this program.

Other Matters

National Environmental Policy Act (NEPA)

This action is categorically excluded from the NEPA requirements at 24 CFR part 50 in accordance with 24 CFR 50.20(k), because it relates to an internal administrative procedure, the content of which does not constitute a development decision nor affect the physical condition of project areas or building sites.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of the Executive Order 12612, *Federalism*, has determined that the policies contained in this notice would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The notice simply announces the Department's intent to provide relief to those whose eligibility or rental payments under HUD's assisted rental housing programs were adversely affected by counting reparation payments as family income.

Executive Order 12606, The Family

The General Counsel, as the Designated Officer under Executive Order 12606, *The Family*, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being, and thus is not subject to review under the Order. The notice simply announces the Department's intent to provide relief to those whose eligibility or rental payments under HUD's assisted rental housing programs were adversely affected by counting reparation payments as family income.

Dated: March 30, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–10087 Filed 4–24–95; 8:45 am]

BILLING CODE 4210–32–P

federal register

Tuesday
April 25, 1995

Part VII

Department of Housing and Urban Development

HUD Housing Counseling Agency; Inviting National, Regional, and Multi-State Nonprofit or Public Organizations to Apply for Approval; Notice

VOL 60 ISS 79 AP 25 1995 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Housing—Federal Housing Commissioner

[Docket No. N–95–3902; FR–3888–N–01]

Notice Inviting National, Regional, and Multi-State Nonprofit or Public Organizations To Apply for Approval as a HUD Housing Counseling Agency

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Application for approval of national, regional and multi-state nonprofits or public entities as HUD-approved housing counseling agencies.

SUMMARY: This Notice describes the criteria for approval by the U.S. Department of Housing and Urban Development (HUD) of national, regional, and multi-state nonprofit or public organizations as housing counseling agencies and sets forth the application approval process.

All organizations wishing to participate in HUD's FY '95 housing counseling program must first receive HUD approval as a housing counseling agency. Although HUD has an established process for approving local counseling agencies, FY '95 will mark the first year that HUD will approve national, regional, and multi-state organizations for participation in its counseling program. National, regional, and multi-state nonprofit or public organizations that apply for HUD approval under this Notice are not necessarily guaranteed HUD housing counseling funding for FY '95. However, the HUD approval process outlined in this Notice is a prerequisite to the application for FY '95 funding by national, regional, or multi-state nonprofit or public organizations. The NOFA announcing the availability of FY '95 funds is expected to be published at a later date.

DATES: Complete applications must be submitted for HUD approval no later than 4:30 p.m. e.s.t. on May 10, 1995. In order to be assured of eligibility for FY '95 funding, all applications for HUD certification must be physically received by this deadline date and hour by Emelda P. Johnson, Deputy Assistant Secretary for Single Family Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9282, Washington D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Written inquiries about this Notice may be mailed or faxed to the attention of Marion F. Connell, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9282, Washington D.C. 20410; fax number (202) 708–4006. Telephone inquiries may be directed to (202) 708–0740 (voice) or (202) 708–4594 (TDD). Please note: these are *not* toll free numbers.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0261.

I. Purpose and Substantive Description

A. Authority and Purpose

Section 106 of the Department of Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) authorizes the Secretary of HUD to provide, or contract with public or private organizations to provide, counseling and advice to tenants and homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership. In accordance with its responsibilities under the Fair Housing Act and other Civil Rights laws, the Department requires housing counseling agencies to be familiar with these laws. Appropriations acts for the past several years have consistently provided funds for counseling and advice under Section 106 to current and prospective tenants and homeowners. Under the counseling program, HUD funds housing counseling agencies which offer a range of services to renters, first-time homebuyers, and current homeowners.

In order to participate in the HUD program, housing counseling agencies must first be approved by the Department. In previous fiscal years, HUD provided all of its housing counseling funding directly to local housing counseling agencies. The approval process for local housing counseling agencies requires that the local agency submit information documenting minimum levels of experience and technical expertise. Once approved, these local agencies are eligible to apply for HUD funding. Currently there are 661 HUD-approved local housing counseling agencies, of which 431 received funding in FY '94.

For FY '95, HUD will fund both local counseling agencies and national, regional, or multi-state nonprofit or public organizations. These national, regional, or multi-state nonprofit or public organizations (sometimes referred to as "intermediaries") will assist HUD to manage the use of housing counseling funds in a more efficient and effective manner. These organizations may use the HUD program to fund local affiliates which offer housing counseling services, and/or may provide counseling services directly to the public.

All national, regional, or multi-state organizations wishing to participate in the program must receive HUD approval before applying for funding. HUD will publish a separate NOFA announcing the availability of FY '95 housing counseling funding. In order to allow sufficient review time, the Department requires that all applications for approval as a HUD housing counseling agency be submitted by the date stated above. Organizations that are not HUD-approved as of the NOFA publication date will be ineligible to participate in the FY '95 program.

B. Applicability of Handbook

The Housing Counseling Program is generally governed by HUD Handbook 7610.1, REV–3. However, since the current version of that handbook did not contemplate the inclusion of national, regional, and multi-state housing counseling agencies, its provisions are hereby superseded with respect to this new category of participants. Although the handbook does not apply to this category of participants, these participants are responsible to provide, either directly or through their affiliates, housing counseling services of the same quality as are provided by the HUD-approved independent housing agencies that are subject to the provisions of the handbook.

C. Eligible Applicants

(1) Type of Organization

In order to apply for HUD approval under this Notice, an organization must be a nonprofit or public agency that is authorized to provide housing counseling; and a national, regional, or multi-state organization. (Local agencies may continue to apply for approval at the appropriate HUD Field Office under existing procedures.) For purpose of determining the type of organization, national, regional, and multi-state organizations are defined as follows:

- National organizations are entities that have branches or affiliates covering more than one regional area of the country.
- Regional organizations serve a "regional area" such as the Southwest or Northeast. The regional organization's operational boundaries need not conform precisely to the typically accepted definition of a particular area.
- Multi-state organizations serve two or more states. The states need not be contiguous and the operational boundaries of the organization need not precisely conform to State boundaries.

(2) Civil Rights Compliance

The organization may have no outstanding finding of a violation of: Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR Part 1); the Fair Housing Act (42 U.S.C. 3601–19); Executive Order 11063, as amended by Executive Order 12892 and HUD regulations (24 CFR Part 107); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR Part 8); Title II of the Americans with Disabilities Act of 1990 and applicable regulations at 28 CFR Part 36); the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and regulations issued pursuant thereto (24 CFR Part 146); Executive Order 11246 and all regulations issued pursuant thereto (41 CFR Chapter 60–1); and Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and regulations pursuant thereto (24 CFR Part 135).

II. Application Process

A. Submitting an Application Package

The signed original and one signed copy of the application information must be submitted in a sealed envelope addressed to Emelda P. Johnson, Deputy Assistant Secretary for Single Family Housing, U.S. Department of Housing and Urban Development, 451 7th Street SW., Room 9282, Washington D.C. 20410. Envelopes should be clearly marked, "Housing Counseling Application". Applicants should retain a copy of the application for their records. Where the application requests submission of existing legal or corporate documents, send only a copy—not the original document.

Applications must be physically received by no later than the date stated above in the "Dates" section. Applicants have the option of submitting their response to sections B 4–9 below after receiving preliminary approval. In that case, the first phase of the application must be submitted within five working days of publication of this Notice. HUD will respond by telephone within two working days of receipt of the first phase. The second phase of the application must then be received by the date stated above in the "Dates" section of this Notice. HUD recommends a one-step application process in the interest of timeliness and efficiency for the applicant but is making the two-step option available in conformance with previous practice.

The above stated application deadline is firm as to its date and hour. In the interest of fairness to all applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this policy into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

Facsimile (FAX) applications are not acceptable and will not be reviewed.

B. Application Content

Applicants must submit an application following the format prescribed in forms HUD–9900C and HUD–9900D to HUD by the date and time stated above. After review and approval of this application, HUD will send the applicant a letter stating that the organization is recognized as a HUD-approved housing counseling agency with a copy of HUD's standard approval certificate. The following sections of this Notice state the submission requirements for each portion of the application package.

All application materials should be on 8.5×11" paper and should be typewritten or produced using other methods of wordprocessing. For identification purposes, assure that the name and complete address of the applicant appear on the top or bottom of each page. Use the outline format specified below and do not deviate or add or skip sections. Applicants should ensure that submitted materials are clear and concise.

National, regional, or multi-state organizations seeking HUD approval as a housing counseling agency must submit the following information as part of their application package:

(1) Transmittal Letter

In the transmittal letter, or cover sheet, to the application, clearly list the following information about the applicant:

a. Official name of organization;

b. Acronym, if any, for official name;

c. Address of main office; (If the applicant will use a location other than the main office for counseling coordination activities, please indicate this address as well.)

d. Main office telephone and FAX number. Also, toll free 800 # if applicable;

e. Name and title of chief operating officer;

f. Counseling program administrator's name and title;

g. The name, title, and telephone number of the person to contact regarding the organization's application.

The cover sheet or transmittal letter should be signed and dated by the person authorized by the applicant's governing body to submit this application. Beneath the signature and date, type the signer's name and title and affirmatively state that this person is authorized to submit the application.

(2) Executive Summary

Provide a one page summary of the organization's proposed housing counseling plan and describe how this plan meets the housing needs and problems of the organization's targeted population. Also note how the organization's resources will enable it to implement its plan.

(3) Type of Organization

a. National Organizations: Note the number of the States where housing counseling services will be provided. State the number of offices (main, branch, or affiliate) where these services will be provided.

b. Regional Organizations: State the name of the region where services will be provided. Note the number of the States which are included in the organization's region. State the number of offices (main, branch, or affiliate) where these services will be provided.

c. Multi-State Organizations: List the names of the States where housing counseling services will be provided. For each state, list the number of offices (main, branch, or affiliate) where these services will be provided.

(4) Community Base

a. Describe the applicant's experience and record of achievement in housing counseling during the past year. This experience should be specific to the communities where the organization proposes to offer housing counseling services.

b. List the following information for all affiliates or branch offices:

- Official Name.
- Address, including ZIP code.
- Mailing address (if different).
- Telephone and FAX number (if a toll free number is available please note that number as well).
- Name, title, and telephone number of the person in charge of the housing counseling program.

VOL 60 ISS 79 AP 25 1995 UMI

Please note: The information requested in this section (b.) may alternatively be submitted at the time a HUD-approved organization applies for funding. HUD recognizes that some national groups are still forming their counseling network.

c. If housing counseling services will be offered to non-English speaking persons, please attach evidence of staff members who fluently speak the clients' native language.

(5) Target Area

a. Describe the organization's proposed target area for housing counseling, including: size of population; racial and ethnic make-up of the population; socio-economic factors; and age and condition of the housing stock. Do not exceed two typewritten pages.

b. State why the organization selected this particular target area and why the organization believes it is particularly well situated to service this area. Do not exceed one typewritten page.

c. If other housing counseling agencies serve this same target area, describe why the applicant believes that it should also target this area. Do not exceed one typewritten page.

d. List the U.S. Postal Service ZIP codes for all areas serviced by the main office and its affiliates or branch offices over the past 12 months.

(6) Housing Needs and Problems

Describe the housing needs and problems of the target area serviced by the organization. Include special needs and problems, such as those related to available housing stock, low income or poverty, homelessness, language, persons with disabilities, and ethnic, minority, and racial factors.

(7) Resources

Submit a narrative statement of the resources the applicant has on-hand as of the submission date of this application. "On-hand" is defined as the staff, facilities, and funding which the applicant either possesses or has a written commitment to receive but does not include amounts which the organization hopes to receive or plans to seek. Break out the statement of resources by staff, facilities, and funding categories:

a. Staff.

• Attach a brief resume for each person who will oversee the housing counseling program at the applicant's headquarters. Each resume should indicate position title and duties.

b. Facilities.

• Provide a general description of the applicant's facilities. State whether privacy and accessibility for persons with disabilities is provided at each affiliate or branch location. An opportunity for privacy during consultation and reasonable accommodations for accessibility are required at each location. If access for persons with disabilities, including persons with mobility, hearing, visual, and other disabilities, is not possible at all sites, indicate how counseling will be provided to persons with disabilities as needed. Also state whether public transportation is available within a 15 minute walk of each housing counseling location, to ensure accessibility of all populations needing to be served.

c. Funding.

• List the sources and amount of funds available "on-hand" within the initial 12 month period of working as a HUD-approved housing counseling agency. The Department will give priority consideration to organizations that can demonstrate the ability to leverage funding received from HUD.

• Submit a copy of the organization's current housing counseling budget and indicate the sources of funds for that budget.

(8) Community Resources

List the names of the types of community resources from which you expect your branches or affiliates to receive services or other forms of assistance for clients either at your facilities or those of the resource. Community resources consist of the types of local, state, and federal public and private resources with whom the applicant expects branches or affiliates to have firm working relationships. This may also include other HUD-approved housing counseling agencies.

(9) Housing Counseling Plan

Describe in detail the housing counseling which will be provided by the applicant organization. This plan should take into account the resources, housing needs and problems, and target areas identified by the applicant. Be concise.

(10) Legal Status

Submit a copy of the document which verifies that the applicant is a nonprofit organization, such as a copy of a 501 (c) determination from the IRS, or official document duly authorizing a public agency. This document must include the official name, address, and telephone number of the entity that granted this status. HUD assumes, and the applicant assures, that all affiliates and branch offices are also nonprofit organizations or public agencies.

(11) Charter

Attach a copy of the organization's document that authorizes housing counseling activities. This document might include the charter, by-laws, board resolution, etc.

(12) Audit Report

Attach a copy of an audit report conducted within the 12 month period prior to the date of the application. HUD assumes and the applicant assures that affiliates and branch offices have also been audited within the last 12 months. If an audit has not been conducted within the last 12 months, certification must be received that one will be immediately undertaken, and a copy provided to HUD when completed. Regardless of how recently the last audit was done, a copy of the organization's most recent audit must be immediately submitted. The applicant must also assure that each affiliate or branch has a functioning management system in accordance with generally accepted accounting standards.

(13) Assurances and Signatures

Affirmatively state that the applicant will comply with the following requirements:

a. Administer its housing counseling program in compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and applicable provisions of the Americans with Disabilities Act of 1990.

b. Provide its housing counseling services without subagreements with agencies other than the stated affiliates and branches or other HUD-approved housing counseling agencies. Written agreements must be executed with affiliates or branches delineating the respective responsibilities of the various organizations party to the agreement.

c. Represent its clients without any conflicts of interest on the part of the applicant or its staff that might compromise the agency's ability to represent fully and impartially the best interests of the client.

d. Meet all local, State, and federal requirements necessary to provide the applicant's housing services. Agency staff must possess a working knowledge of all current laws and ordinances that relate to housing counseling, such as debt management and a range of mortgage loan products available in their area.

e. Comply with fee guidelines set forth in HUD's Handbook 7610.1 REV–3, if the applicant plans to charge a fee to some of its clients.

C. Corrections to Deficient Applications

After the deadline, applicants that met the deadline may cure only non-substantive, technical deficiencies in their application. Applicants have a 14 calendar day "cure period" to correct deficiencies in the application that are not integral to HUD's review of the application. Applicants have 14 days from the date HUD notifies the applicant of any problem to submit the appropriate information to HUD. Notification of a technical deficiency may be in writing or by telephone. If the notification is by telephone, a written confirmation will be transmitted by HUD to the applicant. Such deficiencies should be cured prior to application for HUD funding; however, exceptions may be made if circumstances warrant.

III. Other Matters

Environmental Review

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332, in connection with the Notice of Funding Availability published in connection with the Housing Counseling program on March 21, 1994 (59 FR 13366). That Finding is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this notice does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government. This notice only affects multi-state, regional and national nonprofit or public organizations who want to apply to participate in HUD's program to provide housing counseling services, assisting and advising housing consumers about how to develop competence and responsibility in meeting their housing needs.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this notice has potential significant impact on family formation, maintenance, and general well-being only to the extent that the entities who qualify for participation in HUD's housing counseling program under this notice will provide families with the counseling and advice they need to avoid rent delinquencies or mortgage defaults, and to develop competence and responsibility in meeting their housing needs. Since the potential impact on the family is considered beneficial, no further review under the Order is necessary.

Catalog

The Catalog of Federal Domestic Assistance Program number is 14.169.

Authority: 12 U.S.C. 1701x; 42 U.S.C. 3535(d).

Dated: April 13, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

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Part VIII

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10 CFR Part 710

Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material; Final Rule

VOL 60 ISS 79 AP 25 1995 UMI

DEPARTMENT OF ENERGY

10 CFR Part 710

RIN 1992–AA13

Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Significant Quantities of Special Nuclear Material

AGENCY: Office of Safeguards and Security, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending its regulations regarding access to classified matter and special nuclear material which establish the Personnel Security Assurance Program (PSAP). The PSAP was created to assure the reliability of individuals in certain positions, referred to as PSAP positions for purposes of this rule. The Department now amends this rule to include references to the drug testing protocols used in the PSAP and to reflect the Government-wide requirements for a standard background investigation. This change will reduce the scope of the background investigation for the PSAP, and thereby reduce cost and intrusiveness.

EFFECTIVE DATE: May 25, 1995.

FOR FURTHER INFORMATION CONTACT: Lynn Gebrowsky, Personnel Security Policy Branch, Office of Safeguards and Security, Office of Security Affairs, Department of Energy, (301) 903–3200, or Stephen P. Smith, Office of the Assistant General Counsel for General Law, Office of the General Counsel, Department of Energy, (202) 586–8618.

SUPPLEMENTARY INFORMATION:

I. General

A proposed rule to amend 10 CFR part 710, subpart B, by the addition of certain drug and alcohol testing provisions, was published in the **Federal Register** on March 8, 1991 (56 FR 10075). Comments received in response to that publication are discussed in this final rule.

Four written comments were received on the proposed rule. Most of the comments concerned the provision in the proposed rule for alcohol testing in cases of occurrence or reasonable suspicion. This provision has been removed from the final rule pending a government-wide decision on the subject of alcohol testing. In consequence, none of the comments received in reference to alcohol testing will be addressed at this time.

The detailed drug testing protocols put forward in the proposed rule have been removed as a consequence of the publication of 10 CFR part 707, "Workplace Substance Abuse Programs at DOE Sites," (57 FR 32652) which established those protocols for all drug testing conducted on contractor populations at sites operated under the authority of the Atomic Energy Act of 1954, as amended. The drug testing requirements set out in 10 CFR part 707 serve as the drug testing element for contractors in the PSAP. Drug testing procedures for Federal employees in the PSAP are found in Departmental directives.

One commenter felt that the most recent body of case law in the area of drug and alcohol testing for occurrence and reasonable suspicion had not been examined carefully in its applicability to the PSAP. DOE responds that it is difficult to anticipate the development of the law in such a relatively new field as drug testing, but the relevant case law has been adequately taken into account. The judicial examination of the issues surrounding drug testing has increased greatly over the past 5 years, stimulated by the growing realization of the safety, security, and performance threats represented by employee drug use. Further growth accompanied the issuance of Executive Order 12564 and the concomitant expansion of private sector testing programs.

The threshold issues of constitutionality, with particular reference to the Fourth Amendment, have been thoroughly discussed by the courts. The cases now generally have moved on to matters of detail in the actual conduct of the tests, which have been determined to be constitutionally permissible under the proper circumstances. Throughout the time that this rule (and 10 CFR part 707, which now promulgates the drug testing procedures) has been under development, DOE has been in contact with other Federal agencies having a responsibility for oversight of drug testing procedures. The Department is confident that this rule, relying upon the provisions of 10 CFR part 707 and DOE policies implementing Executive Order 12564, will bear scrutiny under the presently existing case law.

That commenter also expressed uneasiness over the evaluation of "applicants" under the PSAP. No evaluation, other than that which might be understood by drug testing, is addressed in this rule. However, in the proposed rule of March 8, 1991, the issue was considered and the phrase "tentatively selected applicants" employed to narrow the requirement for evaluation from all applicants to those selected for the job but not yet performing the duties of the job.

More specific and detailed comments are addressed below.

II. Comments Received and DOE Responses

A. Americans With Disabilities Act of 1990

One commenter stressed that any assessments of individuals under the PSAP need to be consistent with the Americans with Disabilities Act (ADA), which took effect July 26, 1992. Under this act, reasonable accommodation must be afforded individuals with disabilities who are "otherwise qualified" for the job. An individual with a disability is defined as one who has a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or who is regarded as having such an impairment. In order to be considered "otherwise qualified," a person must be able to meet all of a program's requirements in spite of his handicap. *Southeastern Community College* v. *Davis*, 442 U.S. 397, 406 (1979).

The overriding qualifications for a PSAP position are trustworthiness, reliability and sound judgment (see subpart A of part 710). All evaluations under PSAP are directed toward that determination. The U.S. Court of Appeals for the Second Circuit has held that having poor judgment and exhibiting irresponsible behavior, while it may disqualify an applicant from a job, is not such a substantial limitation in a major life activity that it qualifies as a handicap under the Rehabilitation Act. *Daley v. Koch*, 892 F.2d 212 (2d Cir., 1989).

It is certainly possible for an individual with a disability, either physical or mental, to hold a PSAP position, provided the individual meets the requirements of the program. Current illegal drug users and alcoholics who cannot safely perform their jobs are not protected by the ADA.

B. Guidelines of the Department of Health and Human Services

It was suggested that the PSAP rule (and, by inference, the Workplace Substance Abuse rule, which provides the drug testing procedures for the PSAP) could not impose the "Mandatory Guidelines for Federal Workplace Drug Testing Programs," issued by the Department of Health and Human Services (HHS), on contractors without further clarification from the DOE. This concern resulted from an apparent misinterpretation of references to the HHS Guidelines in the proposed rule. Those references were specific and limited. The text in question is now covered by 10 CFR part 707; however, to respond fully to the commenter, the following is provided:

In paragraph 710.59(e)(1) (superseded by § 707.12(a) of 10 CFR part 707) there was a requirement that laboratories conducting drug testing for the PSAP use the cutoff levels in the HHS Guidelines for determining whether a test is negative or positive. The paragraph continued with the requirement that any laboratory utilized for PSAP drug testing be certified by the Department of Health and Human Services. Paragraph 710.59(e)(3) (superseded by § 707.12(b)(2)) stated that the amount of urine collected in a specimen will be at least 60 milliliters, in accordance with the HHS Guidelines. This statement provided the rationale for the amount specified (i.e., it reflected the widely used and accepted standard). Under 10 CFR part 707, the requirement for a specific volume is deleted and the site collection person is directed to ascertain that a sufficient amount of urine is collected for an initial test, a confirmatory test, and a retest. Paragraph 710.59(f)(1) (superseded by § 707.13(a)) indicated that the gas chromatography/mass spectrometry method would be used in confirmatory tests and directed the reader to certain paragraphs in the HHS Guidelines for information on the procedure. Paragraph 710.59(f)(2) (superseded by § 707.13(b)) directed the medical review officer to make any determinations of substance abuse in accordance with the criteria provided in the Medical Review Officer Manual issued by HHS.

It was never intended that the HHS Guidelines be adopted in their entirety by contractors under the PSAP. Only those sections of the Mandatory Guidelines and the Medical Review Officer Manual referenced in 10 CFR part 707 apply to the PSAP. An inadvertent reference was made in § 710.59(e)(3) to a "permanent record book," which reflects an HHS requirement. This reference has been deleted, as the paragraph was superseded by the provisions of 10 CFR part 707, which replaces the requirement for a permanent record book with the use of a multi-part specimen chain of custody form.

C. Drug Testing

Two commenters took exception to the requirement in paragraph 710.59(b) that employees who have not undergone a random drug test for a given year at the time of that year's medical examination be tested for the use of illegal drugs during the medical examination. It was observed that, under the procedures used in certain facilities, this would prevent the test from being unannounced. The intent of the statement was to offer a method of assuring that all individuals in the PSAP were tested annually. There are any number of mechanisms through which the testing can be conducted on an unannounced, random basis, with every individual in the population being tested at least annually. The sentence is therefore removed and the precise mechanism of testing administration left to the contractor, with the stipulation that any method used result in random, unannounced, annual tests.

D. Training

One commenter felt that the supervisor training referred to in the preamble to the proposed rule implied that training would be incorporated as a requirement in the final rule without due opportunity for public comment. This was never intended. The reference to training was solely to provide information to contractors on the assistance available through the DOE for implementation of the PSAP. This final rule contains no training requirements.

III. Changes From Proposed Rule

In addition to the removal of alcohol testing requirements and those drug testing protocols now found in 10 CFR part 707, there has been a revision in the security requirements, based on recent personnel security research findings and on comments from within the Department of Energy. Specifically, in § 710.60(c), the investigative requirement is now a single-scope background investigation, the standard used by the Department for the granting of a Q access authorization. In keeping with that standard, § 710.60(e) now requires a periodic reinvestigation in accordance with those procedures used to maintain a Q access authorization. Paragraph 710.60(d) is changed to eliminate the annual national agency check (NAC) and to clarify that the yearly update of the SF–86 is for Part II of that form only. The strength of the PSAP is in its continuing evaluation of covered individuals, and while its investigative elements are important, it is felt that there is little benefit gained by a 15-year scope investigation and annual NAC, relative to the cost incurred.

In § 710.54, Definitions, the definition for "drug certification" has been deleted, as this administrative instrument is not a form or procedure of the PSAP.

A non-substantive change has been made to §§ 710.50(a) and 710.55, regarding the positions covered by the Personnel Security Assurance Program. The second category of positions in each of those paragraphs has been revised to refer to positions "which afford unescorted access to the control areas of a nuclear material production reactor," instead of positions "identified as nuclear material production reactor operators." This change makes the second category of covered positions grammatically parallel with the first category. The Department does not intend any change in the scope of the second category of covered positions.

IV. Procedural Requirements

A. Executive Order 12866

Today's regulatory action has been determined not to be a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

B. Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., DOE finds that sections 603 and 604 of the said Act do not apply to this rule because, if promulgated, the rule will affect only DOE contractors operating Government-owned or leased sites and their subcontractors, and will not have significant economic impact on a substantial number of small entities.

C. National Environmental Policy Act

There is no impact on the environment under today's rule. Accordingly, preparation of neither an environmental assessment nor an environmental impact statement is required.

D. Paperwork Reduction Act

Today's rule has been reviewed in accordance with the Paperwork Reduction Act and has been determined to contain no collection of information requirements other than those already approved under OMB Control Number 1910–1800.

E. Federalism Effects

The principal impact of today's rule will be on government contractors and their employees. The rule is unlikely to have a substantial direct effect on the States, the relationship between the States and Federal government, or the distribution of power and responsibilities among various levels of government. No Federalism assessment under E.O. 12612 is required.

VOL 60 ISS 79 AP 25 1995 UMI

F. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations. These requirements, set forth in sections 2(a) and 2(b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected legal conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that regulations define key terms and are clear on such matters as exhaustion of administrative remedies and preemption. The Department certified that today's regulatory action meets the requirements of sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 10 CFR Part 710

Administrative practice and procedure, classified information, government contracts, government employees, nuclear materials.

Kenneth E. Baker,

Acting Director, Office of Nonproliferation and National Security.

For the reasons set forth in the preamble, part 710 of title 10 of the Code of Federal Regulations is amended as set forth below.

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO CLASSIFIED MATTER OR SIGNIFICANT QUANTITIES OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for part 710 is revised to read as follows:

Authority: Sec. 145, 68 Stat. 942 (42 U.S.C. 2165) and sec. 161, 68 Stat. 948 (42 U.S.C. 2201); E.O. 10450, 3 CFR 1949–1953 Comp., p. 936, as amended; E.O. 10865, 3 CFR 1959–1963 Comp., p. 398, as amended, 3 CFR Chap. IV; sec. 104(c), 38 Stat. 1237 (42 U.S.C. 5814); sec. 105(a), 88 Stat. 1238 (42 U.S.C. 5815); secs. 641, 644, 646, 91 Stat. 598, 599 (42 U.S.C. 7251, 7254, and 7256).

2. Subpart B of part 710 is revised to read as set forth below:

Subpart B—Criteria and Procedure for Establishment of the Personnel Security Assurance Program and Determinations of an Individual's Eligibility for Access to a Personnel Security Assurance Program Position

General Provisions

710.50 Purpose.
710.51 Scope.
710.52 References.
710.53 Policy.
710.54 Definitions.

Procedures

710.55 Designation of PSAP positions.
710.56 Program process.
710.57 Supervisory review.
710.58 Medical assessment.
710.59 Management evaluation.
710.60 DOE security review and clearance determination.

Subpart B—Criteria and Procedures for Establishment of the Personnel Security Assurance Program and Determinations of an Individual's Eligibility for Access to a Personnel Security Assurance Program Position

General Provisions

§ 710.50 Purpose.

(a) This subpart establishes the policies and procedures for implementing the Department of Energy (DOE) Personnel Security Assurance Program (PSAP) for individuals in positions:

(1) Which afford direct access to or have direct responsibility for transportation or protection of Category I quantities of special nuclear materials (SNM);

(2) Which afford unescorted access to the control areas of a nuclear material production reactor; or

(3) With the potential for causing unacceptable damage to national security.

(b) The DOE Personnel Security Assurance Program is designed to establish the procedures for DOE and DOE contractors to utilize in the selection and continuing evaluation of individuals for assignment to positions described by paragraph (a) of this section. Individuals selected for assignment to such positions must be granted access authorization in accordance with the procedures and requirements set forth in subparts A and B of this part.

§ 710.51 Scope.

The criteria and procedures establishing the Personnel Security Assurance Program shall apply to:

(a) Those employees of, and applicants for employment with, DOE who either occupy or make application for PSAP positions, as described by paragraph (a) of § 710.50.

(b) Those employees of, and applicants for employment with, contractors and agents of the DOE who either occupy or make application for PSAP positions, as described by paragraph (a) of § 710.50.

§ 710.52 References.

(a) Atomic Energy Act of 1954, as amended, section 11, "Definitions"; section 141, "Policy"; section 143, "Department of Defense Participation"; section 145, "Restrictions"; section 161 b., "General Provisions"; which provide statutory authority for establishing and implementing a DOE security program for controlling access to Restricted Data and special nuclear material. Copies of selected provisions appear as appendix A to subpart A of this part.

(b) Executive Orders 10450, April 29, 1953, "Security Requirements for Government Employment," 10865, February 20, 1960, "Safeguarding Classified Information Within Industry," and 12564, September 15, 1986, "Drug-Free Federal Workplace," all as amended.

(c) 10 CFR part 707, "Workplace Substance Abuse Programs at DOE Sites," which requires DOE contractors to establish workplace substance abuse prevention programs, including urine drug testing for individuals who occupy sensitive positions such as those requiring a PSAP access authorization.

(d) Implementing directives (DOE Orders) which provide Departmental guidance on the PSAP and related areas are available from the U.S. Department of Energy, Washington, DC 20585, Attention: Directives Distribution.

§ 710.53 Policy.

The protection of certain of the DOE's security interests, with the potential, if compromised, of causing unacceptable damage to the national security requires the implementation of a program designed to assure that individuals occupying positions affording access to certain material, facilities, and programs meet the highest standards of reliability. This objective is accomplished under this subpart through a system of continuous evaluation which identifies those individuals whose judgment may be impaired by physical and/or emotional disorders, substance abuse, or the use of alcohol habitually to excess. This process will reduce the risk resulting from the potential threat represented by such employees to an acceptable level. The determination to grant initially and to continue annually the access authorization to a PSAP position is based upon a DOE security assessment of any information of security concern developed in the course of an initial and annual security review process.

§ 710.54 Definitions.

As used in this part:

Contractor means the contractor and subcontractors at all tiers.

Direct access means access to Category I quantities of SNM which would permit an individual to remove, divert, or misuse that material in spite of any controls that have been established to prevent such unauthorized actions.

Illegal drugs means a controlled substance included in Schedules I, II, III, IV, or V, as defined by 21 U.S.C. 802(6), the possession of which is unlawful under chapter 13 of that title. The term "illegal drugs" does not apply to the use of a controlled substance in accordance with the terms of a valid prescription, or other uses authorized by law.

Management official means an individual designated by the DOE or a DOE contractor, as appropriate, who has programmatic responsibility for PSAP positions.

Occurrence means any event or incident that is a deviation from the planned or expected behavior or course of events in connection with any Department of Energy or Department of Energy-controlled operation, if the deviation has environmental, public health and safety, or national security protection significance. Incidents having such significance include the following, or incidents of a similar nature:

(1) Injury or fatality to any person involving actions of a Department of Energy contractor employee.

(2) Involvement of nuclear explosives under Department of Energy jurisdiction which results in an explosion, fire, the spread of radioactive material, personal injury or death, or significant damage to property.

(3) Accidental release of pollutants which results or could result in a significant effect on the public or environment.

(4) Accidental release of radioactive material above regulatory limits.

PSAP Approving Official means a senior DOE official with direct personnel security responsibilities appointed by an operations office manager to review all relevant information, including DOE F 5631.35, "PSAP Management, Medical, and Security Report" as part of the DOE security review process, and who is responsible for granting or continuing the PSAP access authorization, or determining that an individual be processed under the provisions of subpart A of this part.

PSAP position means a position that affords direct access to or has direct responsibility for transportation or protection of Category I quantities of SNM, affords unescorted access to nuclear material production reactor control areas, or with the potential to cause unacceptable damage to national security.

Reasonable suspicion means a suspicion based on an articulable belief that an employee uses illegal drugs, drawn from particularized facts and reasonable inferences from those facts, as detailed further in part 707 of this chapter.

Security concern means the presence of information, regarding an individual applying for or holding a PSAP position, that may be considered derogatory under the criteria in subpart A of this part.

Selecting official means the management official responsible for making the final employment decision regarding an individual seeking a PSAP position.

Site occupational Medical Director means a physician responsible for the overall direction and operation of the occupational medical program at a particular site.

Supervisor means an individual who has direct oversight and responsibility for a person holding a PSAP position.

Unacceptable damage means an incident that could result in a nuclear explosive detonation, a major environmental release from a nuclear material production reactor, or an interruption of nuclear weapons production with a significant impact on national security.

Procedures

§ 710.55 Designation of PSAP positions.

PSAP positions shall be designated by the cognizant Operations Office Manager in accordance with the following criteria:

(a) Positions that afford direct access to Category I quantities of SNM or have direct responsibility for transportation or protection of Category I quantities of SNM.

(b) Positions that afford direct access to the control areas of a nuclear material production reactor.

(c) Positions with the potential for causing unacceptable damage to national security which are not included in paragraph (a) or (b) of this section, and are designated by the Director, Office of Safeguards and Security, DOE.

§ 710.56 Program process.

(a) Individuals selected for assignment to PSAP positions must be granted a PSAP access authorization in accordance with the procedures and requirements set forth in this subpart.

(b) The PSAP involves four components: Supervisory review: Medical assessment; management evaluation; and security determination. A DOE determination to grant initially and to continue annually an individual's PSAP access authorization is based upon a DOE security assessment of any information of security concern developed in the course of the supervisory review, medical assessment, management evaluation, and security review.

(c) DOE shall make its decision as to a PSAP access authorization in accordance with the criteria in subpart A, § 710.8 of this part.

§ 710.57 Supervisory review.

(a) The supervisory review shall be performed on all applicants tentatively selected for PSAP positions, transferees to PSAP positions, individuals occupying PSAP positions but not yet holding a PSAP access authorization, and PSAP-cleared employees.

(b) The initial SF–86, OMB Control No. 3206.007, "Questionnaire for Sensitive Fositions" of an applicant tentatively selected for a PSAP position and an annual update of the "Questionnaire for Sensitive Positions," Part II, of each incumbent in a PSAP position shall be completed and forwarded to the appropriate PSAP Approving Official.

(c) Before being selected for a PSAP position, any tentatively selected applicant must undergo a pre-employment suitability determination as defined by 48 CFR 970.2201. For DOE employees, this pre-employment check must comply with the requirements established by the Office of Personnel Management in part 731 of title 5, Code of Federal Regulations. For contractor employees, this pre-employment check must comply with the requirements established by the DOE in section 970.2201(b)(1)(ii) of title 48.

(d) Each applicant tentatively selected for a PSAP position and each individual occupying a PSAP position but not a yet holding a PSAP access authorization shall execute the appropriate PSAP releases, acknowledgements, and waivers. The request for a PSAP access authorization shall not be further processed until these documents are completed. Failure of an individual, occupying a PSAP position but not yet holding a PSAP access authorization, to complete these documents may prevent DOE from reaching an affirmative finding required for granting or continuing PSAP access authorization. An effort shall be made to reassign that individual to a position not requiring a PSAP access authorization. For purposes of this section and all sections of this rule that relate to reassignment from PSAP duties, any Federal employee will be immediately removed from PSAP duties. The affected employee's supervisor may reassign the

VOL 60 ISS 79 AP 25 1995 UMI

employee or realign the employee's current duties. If these actions are not feasible, the supervisor must contact the appropriate servicing personnel office for guidance.

(e) Applicants tentatively selected for PSAP positions and each individual occupying a PSAP position, but not yet holding a PSAP access authorization, shall undergo testing for the use of illegal drugs in accordance with the provisions of the DOE policies implementing Executive Order 12564, or Part 707 of this chapter, which establish workplace substance abuse programs for DOE and contractor employees respectively. A determination of the use of illegal drugs, based on a drug test, shall result in termination of consideration for the PSAP access authorization. An employee who has been determined to have used illegal drugs, based on a drug test, shall be immediately reassigned from the PSAP duties and processed under the provisions of Subpart A of this part.

(f) The supervisor (or selecting official) shall report any security concerns, resulting from his or her review, to the appropriate management official.

(g) Annual review. Each PSAP-cleared employee shall have an annual PSAP review conducted by the supervisor during which the supervisor shall evaluate information relevant to security. The supervisor shall report any security concerns, resulting from his or her review, to the appropriate management official.

(h) Recognition of security concerns and unusual Conduct. In order to facilitate early recognition of an individual who represents a possible security concern, individuals who, in the judgment of the responsible supervisor, exhibit unusual conduct shall be referred to the site Occupational Medical Director, who may arrange for the PSAP-cleared employee to be examined by the appropriate medical staff. Information indicating a possible security concern shall be reported immediately to the appropriate management official and PSAP Approving Official.

(i) Temporary reassignment to non-PSAP duties. Where an individual has demonstrated a possible security concern or a condition which may temporarily affect his or her reliability, the individual, with the recommendation of the site Occupational Medical Director or the PSAP Approving Official, may be temporarily reassigned to non-PSAP duties. In the event that a PSAP-cleared employee is temporarily reassigned to non-PSAP duties, the supervisor, jointly with the site Occupational Medical Director and/or the PSAP Approving Official, as appropriate, may determine the temporary restrictions to be placed on the employee. The PSAP Approving Official shall be notified immediately upon the decision to temporarily reassign the employee to non-PSAP duties and the reason for such action, and upon the decision to reinstate such employee. If the reason for the temporary reassignment was based upon a security concern, the PSAP Approving Official must approve the request for reinstatement.

§ 710.58 Medical assessment.

(a) *The medical examination.* The purpose of the PSAP medical examination is to ensure that an applicant tentatively selected for, or incumbent in, a PSAP position does not represent a security concern or have a condition which may prevent the individual from performing PSAP duties in a reliable and safe manner. The examination shall include an evaluation to determine the presence of any physical or mental condition that causes or may cause a significant defect in the judgment or reliability of the individual, including that which may result from the use of illegal drugs or the use of alcohol habitually to excess.

(b) *When performed.* The medical assessment is performed initially upon applicants tentatively selected for PSAP positions and employees occupying PSAP positions who have not yet received a PSAP access authorization. The medical assessment shall be performed annually, or more often as may be required by the site Occupational Medical Director, for PSAP-cleared employees.

(c) *Contents of medical assessment.* The medical assessment shall include: A comprehensive medical examination; an examination for use of alcohol habitually to excess; a psychological assessment and/or psychiatric evaluation as provided for in any applicable DOE medical standards, and as permitted by Federal regulations; and an examination for the cause of any reported unusual conduct.

(d) *Examination for use of alcohol habitually to excess.* The use of alcohol habitually to excess represents a potential threat to national security and is inconsistent with access to a PSAP position. Accordingly, the medical assessment shall include:

(1) *Diagnosis.* Employees in, or applicants tentatively selected for, a PSAP position shall be evaluated for the use of alcohol habitually to excess. Those employees diagnosed currently to use alcohol habitually to excess shall be temporarily reassigned to non-PSAP duties and the PSAP Approving Official shall be notified immediately.

(2) *Rehabilitation.* Individuals reinstated to PSAP duties following treatment leading to rehabilitation from the use of alcohol habitually to excess shall be required to undergo evaluation as prescribed by the site Occupational Medical Director to ensure continued rehabilitation. Such evaluation shall be consistent with appropriate Departmental substance abuse programs.

(e) *Examination for the cause of reported unusual conduct.* Upon referral of a PSAP-cleared employee by a supervisor for observed unusual conduct, the site Occupational Medical Director may arrange for the employee to be examined by appropriate specialists.

(f) *Report of occupational Medical Director.* Upon completion of the medical assessment, the site Occupational Medical Director shall report any security concerns resulting from the medical assessment to the appropriate management official.

(g) *Temporary restrictions on a PSAP position.* In the event that a condition or circumstance develops that may affect the judgment or reliability of a PSAP-cleared employee, the site Occupational Medical Director may recommend restrictions. The site Occupational Medical Director shall report these restrictions immediately, in writing, to the appropriate management official who shall immediately notify the appropriate PSAP Approving Official. Removal of restrictions requires notification in writing to both the management official and the PSAP Approving Official by the site Occupational Medical Director.

(h) *Sick leave from a PSAP position.* PSAP-cleared employees who have been on sick leave for five or more consecutive work days are required to report in person to the site Occupational Medical Director before being allowed to return to normal duties. The site Occupational Medical Director shall provide a recommendation to the appropriate management official regarding the employee's return to work. A PSAP-cleared employee may in certain circumstances also be required to report to the site Occupational Medical Director for written recommendation to return to normal duties after any period of sick leave.

§ 710.59 Management evaluation.

(a) *Evaluation components.* A management evaluation based upon a careful review of the results of the supervisory review, medical assessment, and drug testing of an individual in, or an applicant tentatively selected for, a PSAP position is required before that individual can be considered for an initial granting or the continuance of a PSAP access authorization. The appropriate manager of an organization having PSAP positions (management official) shall evaluate the information in these reports and forward his or her recommendation, including any security concern, to the PSAP Approving Official.

(b) *Drug testing component.* Drug testing for the use of illegal drugs, as required by the PSAP, shall be established to test all individuals in, or applicants tentatively selected for, PSAP positions. Testing shall be conducted in accordance with the DOE policies implementing Executive Order 12564, or part 707 of this chapter, which establish workplace substance abuse programs for DOE and contractor employees respectively. The program shall include unannounced annual drug testing and testing for occurrence or reasonable suspicion for all PSAP-cleared individuals. A PSAP-cleared individual who has been determined to have used illegal drugs based on a drug test shall be reassigned immediately to non-PSAP duties, and the PSAP Approving Official shall be notified immediately.

(c) *Occurrence or reasonable suspicion testing component.* When a PSAP-cleared employee is involved in or associated with an occurrence requiring notification to the DOE or whose behavior creates the basis for a reasonable suspicion of substance abuse, the employee shall be tested for the use of illegal drugs. Drug testing shall be conducted in accordance with the provisions of the DOE policies implementing Executive Order 12564, or part 707 of this chapter, which establish workplace substance abuse programs for DOE and contractor employees respectively.

(d) *Rehabilitation.* Individuals reinstated to PSAP duties following treatment leading to rehabilitation from the use of illegal drugs shall be required to undergo evaluation and testing as prescribed in DOE drug-free workplace and substance abuse policies and by the site Occupational Medical Director or other designated official, as appropriate, in order to ensure continued rehabilitation.

(e) *Corporate policy.* Nothing in this subpart is intended to interfere with or prohibit a contractor of the Department from conducting medical and other evaluations, including testing for the use of illegal drugs as a matter of corporate policy, so long as such policy is at least as effective as the requirements and procedures of this subpart.

§ 710.60 DOE security review and clearance determination.

(a) *When performed.* The final component of the PSAP process is a security review and clearance determination performed by the PSAP Approving Official upon receipt of the management evaluation and recommendation.

(b) *The criteria.* The PSAP access authorization and adjudication shall be conducted in accordance with the criteria and procedures contained in relevant sections of this part.

(c) *Review for initial PSAP access authorization.* An initial PSAP access authorization requires the applicant or employee to have a DOE Q access authorization, based upon a background investigation. The adjudication and determination for a PSAP access authorization shall be based upon a review of security information, including the results of the background investigation and the information provided by management and medical sources.

(d) *Annual PSAP access authorization continuance.* Once an employee has received the PSAP access authorization, he or she shall thereafter undergo an annual security evaluation by the PSAP Approving Official. The evaluation shall include a review of the individual's DOE personnel security file, and an updated SF–86, OMB Control No. 3206–007, "Questionnaire for Sensitive Positions," Part II. The determination to continue the PSAP access authorization shall be based upon a review and any necessary adjudication of the information resulting from the annual security evaluation, and the information provided by management and medical sources, in accordance with the criteria and procedures contained in relevant sections of this part.

(e) *Periodic reinvestigation.* The PSAP-cleared employee shall undergo periodic reinvestigation as required to maintain a Q access authorization. The determination to continue the PSAP access authorization shall be based upon a review of security information, including the results of the limited background investigation and the information provided by management and medical sources.

(f) *Processing under 10 CFR part 710, subpart A.* Any matters of security concern raised to the attention of the PSAP Approving Official, such as confirmed use of illegal drugs or use of alcohol habitually to excess, shall be evaluated in accordance with the criteria under subpart A, § 710.8 of this part. Any administrative review under the PSAP shall be conducted in accordance with the provisions and procedures in subpart A of this part.

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VOL
60

ISS
79

AP
25

1995

UMI

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Part IX

Department of the Interior

National Park Service

36 CFR Part 13
National Park System Units in Alaska; Proposed Rule

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AC19

National Park System Units in Alaska

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) proposes regulations to implement section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). This action is necessary to establish procedures for administering the statutory rights and preferences established by section 1307 for certain persons to conduct revenue-producing visitor services in certain units of the National Park System located in the State of Alaska. Particularly, this rulemaking will provide guidance in the solicitation, award and renewal of Alaska visitor service authorizations.

DATES: Written comments will be accepted through June 26, 1995.

ADDRESSES: Comments should be addressed to: Regional Director, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Docket 1307, Anchorage, AK 99503–2892.

FOR FURTHER INFORMATION CONTACT: Chief of Concessions Management, Alaska Region, National Park Service, 2525 Gambell Street, Room 107, Anchorage, Alaska 99503–2892. Phone: (907) 257–2475.

SUPPLEMENTARY INFORMATION:

Background

ANILCA (16 U.S.C. 3101 *et seq.*) was signed into law on December 2, 1980. Its broad purpose is to provide for the disposition and use of a variety of federally-owned lands in Alaska. Section 1307 of ANILCA (16 U.S.C. 3197) contains two provisions concerning persons and entities who are to be given special rights and preferences with respect to providing "visitor services" in certain lands under the administration of the Secretary of the Interior as part of the National Park System. The term "visitor service" is defined in section 1307 as "any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours and guides excepting the guiding of sport hunting and fishing." Subsection (a) of section 1307 states as follows:

> Notwithstanding any other provision of law, the Secretary [of the Interior], under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service [as defined in subsection (c)] within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded (16 U.S.C. 3197).

Subsection (b) of section 1307 states as follows:

> Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in the contracting of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary [of the Interior]—
>
> (1) shall give preference to the Native corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;
>
> (2) shall give preference to persons whom he determines, by rule, are local residents * * * (16 U.S.C. 3197).

Subsection (b) also provides to Cook Inlet Region, Incorporated (CIRI), in cooperation with village corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide new visitor services within that portion of Lake Clark National Park and Preserve that is located within the Cook Inlet Region.

The NPS was created by Congress in 1916 to manage the growing number of park areas. The purposes of the NPS as stated in the NPS Organic Act of August 25, 1916, are "to conserve the scenery and the natural and historic objects and the wild life therein, and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations" (16 U.S.C. 1). Additionally, Congress has declared that the National Park System should be, "preserved and managed for the benefit and inspiration of all the people of the United States" (16 U.S.C. 1a–1). The National Park Service seeks both to preserve and to provide for the public enjoyment of significant aspects of the Nation's natural and cultural heritage.

To provide park visitors necessary and appropriate facilities and services to enjoy park areas, Congress established a concessions program in the National Park Service through the Concessions Policy Act of 1965 (79 Stat. 969; 16 U.S.C. 20). Regulations implementing the Concessions Policy Act are found in 36 CFR part 51.

The Concessions Policy Act authorizes the Secretary of the Interior or designee to enter into concessions contracts or issue permits to qualified concessioners. The NPS may provide "necessary and appropriate" visitor facilities and services for the public through these contracts and permits. These services include a wide variety of commercial visitor services from backcountry guiding to hotel operations. All are provided by private corporations, partnerships, individuals, or other entities under contract with the National Park Service. All exist for the purpose of providing park visitors with the services and accommodations that are necessary and appropriate for their full enjoyment of America's national parks. The determination of what is necessary and appropriate is done through the National Park Service planning process. Needs vary with the purposes of the various park areas and their individual circumstances at the time of contracting. As applicable, the Concessions Policy Act grants a preference in renewal of concession authorizations to those concessioners who have performed contractual obligations to the satisfaction of the Secretary. These proposed regulations describe the relationship of the Concessions Policy Act's preference to the preferences to continue providing visitor services provided by section 1307 of ANILCA.

Section-by-Section Analysis

Section 13.80 Applicability and Scope

Section 13.80 explains in which park areas these regulations are applicable, and the extent to which they apply to existing and future operators.

Section 13.81 Definitions

Section 13.81 provides a number of definitions for terms used in the regulations. "Historical operators" and "preferred operators" are new terms which are explained in detail below. The term "persons" as used in these regulations is defined in 36 CFR § 1.4.

Section 13.82 Visitor Services Existing on or Before January 1, 1979 (Historical Operators)

These provisions implement subsection (a) of section 1307 and permits persons who were adequately providing visitor services in applicable areas in Alaska prior to January 1, 1979, to continue to do so under reasonable terms and conditions. Such persons are referred to as "historical operators."

Section 13.82 makes clear that the existence of a right to continue to provide visitor services under subsection 1307(a) is not an unlimited right. The right is subordinate to the management of the park area and does not grant a monopoly to provide all visitor services in a given area to the exclusion of other individuals or entities. An historical operator, however, may provide services similar to those provided prior to January 1, 1979, if acceptable to NPS as consistent with the purposes of the park area and provided that the similar services are not in excess of those provided by the concessioner as of January 1, 1979. In addition, the rights of an historical operator are considered terminated upon a change in the controlling interest in the historical operator. This provision is intended to implement the "grandfather clause" intention of section 1307(a) while not permitting the effective transfer of these "grandfather rights" to third parties.

Persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service within a park area in Alaska, who have continued to provide that visitor service without a break in the service, and who have retained controlling interest in the business are considered historical operators under these regulations. A break in service is defined as not having operated the approved visitor service for more than 11 consecutive months.

Section 13.83 Visitor Services Authorized After January 1, 1979 (Preferred Operators)

This section implements subsection (b) of section 1307 (except with respect to CIRI) and grants a "preference" (generally defined for the purpose of these regulations as a right to meet the terms of the best offer received by NPS in a public solicitation process for visitor services) to certain individuals and corporations to provide visitor services in certain Alaska park areas.

Section 13.83 of the proposed regulations applies to the two categories of persons to be given a preference pursuant to section 1307(b) of ANILCA, collectively referred to as "preferred operators." The first category of preferred operator is the Native corporation determined by the Director to be most directly affected by the park area.

The second category of preferred operator consists of persons who are determined by the Director to be local residents of any park area, whether or not it pre-existed ANILCA. A "local resident" as defined in these proposed regulations means a person living within 35 straight-line miles of a park area boundary. This would not apply under section 13.83 to persons living in communities with a population of more than 5,000 in order to effect the general legislative intent of assisting persons located in sparsely populated areas of Alaska.

Section 13.83 as proposed establishes a procedure for the solicitation and award of visitor service authorizations which incorporates the rights of preferred operators under section 1307(b). In order to exercise the preference, a preferred operator must submit a responsive offer under the terms of a public solicitation. If a person without a preference submits a better offer, the preferred operator is given an opportunity to meet the terms of the better offer, and if the preferred operator does so, will be awarded the contract or permit if the preferred operator is capable of carrying out the terms of the better offer, as determined by the Director.

As with historical operators, the NPS does not consider that section 1307(b) intended to provide preferred operators with an exclusive right to provide visitor services. Section 13.83 permits other persons to provide visitor services in park areas in a manner consistent with the preference of preferred operators. Accordingly, public solicitations for section 13.83 purposes will generally be the public solicitation used for general concession authorizations under 36 CFR Part 51.

Congress recognized the possibility that more than one Native corporation preferred operator and/or more than one local resident preferred operator may submit proposals, and meant for them to hold equal status. Section 13.83 also establishes procedures for resolving disputes where more than one person qualifies as a preferred operator with respect to a particular visitor service authorization.

Section 13.84 Preference to Cook Inlet Region, Incorporated

This section describes the right of first refusal granted by section 1307(b) to Cook Inlet Region, Incorporated to provide new visitor services within that portion of Lake Clark National Park and Preserve that is within the boundaries of the Cook Inlet Region.

Section 13.85 Most Directly Affected Native Corporation Determination

This section establishes procedures and criteria for determining which Native corporation is most directly affected by a park area and accordingly is a preferred operator with respect to that park area. The Director's "most directly affected" Native corporation decision or appeal decision is final for all future applicable visitor services.

Section 13.86 Appeal Procedures

This section establishes procedures and criteria under which a person who considers that they have not been provided section 1307 rights may appeal to the Director for a final administrative determination in this regard.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed rule as described above. Public hearings on these proposed regulations may be held following their publication in the **Federal Register**. If such hearings are held, specific locations, dates and times will be announced later in the **Federal Register** and in local publications.

Drafting Information

The primary author of these proposed regulations is William P. Quinn, Concessions Analyst, Alaska Region, NPS.

Paperwork Reduction Act

The collections of information contained in §§ 13.82—13.84 of this proposed rule are for the purposes of preparing an offer in response to a contract solicitation pursuant to 36 CFR Part 51, and have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0095.

The collections of information contained in section 13.85 of this proposed rule will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information in the final rule will not be required until it has been approved by the Office of Management and Budget.

Public reporting burden for the collection of information under section 13.85 is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Officer, National Park Service, 800 North Capitol Street, Washington, D.C. 20013; and the Office of Management and Budget, Paperwork Reduction Project, Washington, D.C. 20002.

VOL
60
ISS
79
AP
25
1995
UMI

Compliance With Other Laws

This rule was reviewed under Executive Order 12866 and the Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analysis for rules that will have a significant effect on a substantial number of small entities, that include small businesses, organizations or governmental jurisdictions. Local visitor service providers, exercising their right under Section 1307(b) of ANILCA, will benefit more than companies without the preference. This preference will have a positive impact on the local areas by increasing the economic base of these communities. This impact, while important in relation to the total economic level of the local area, is very small in actual dollar value. Therefore, this rule would have no "significant" economic impact on the local communities or local governmental entities.

The NPS has determined that this proposed rulemaking will not have a significant effect on the quality of the human environmental health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships of land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 13

Alaska national parks, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Title 36, Chapter I, Part 13 of the Code of Federal Regulations is proposed to be amended as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

1. The authority citation for part 13 is revised to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; subpart D also issued under 16 U.S.C. 20, 3197; § 13.65(b) also issued under 16 U.S.C. 1361, 1531.

2. In § 13.2, paragraph (e) is redesignated as paragraph (f), and a new paragraph (e) is added to read as follows:

§ 13.2 Applicability and scope.

(e) Subpart D of this Part 13 contains regulations applicable to authorized visitor service providers operating within certain park areas. The regulations in subpart D of this part amend in part the general regulations contained in this chapter.

* * * * *

3. In part 13, a new Subpart D is added to read as follows:

Subpart D—Special Concessions Regulations; Visitor Services

Sec.

13.80 Applicability and scope.
13.81 Definitions.
13.82 Visitor services existing on or before January 1, 1979 (historical operators).
13.83 Visitor services authorized after January 1, 1979 (preferred operators).
13.84 Preference granted to Cook Inlet Region, Incorporated.
13.85 Most directly affected Native corporation.
13.86 Appeal procedures.
13.87 Information collection. [Reserved]

Subpart D—Special Concessions Regulations; Visitor Services

§ 13.80 Applicability and scope.

(a) Except as otherwise provided for in this section, the regulations contained in this part apply to visitor services provided within all park areas in Alaska.

(b) The rights or preferences granted by this subpart to historical operators, preferred operators, and Cook Inlet Region, Incorporated are not exclusive. The Director may authorize other persons to provide visitor services on park lands.

§ 13.81 Definitions.

The following definitions shall apply to this subpart:

(a) *Director* means the Director of the National Park Service or an authorized representative.

(b) *Controlling interest* means, in the case of a corporation, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business, so as to permit exercise of managerial authority over the actions and operations of the corporation, or election of a majority of the Board of Directors of the corporation. "Controlling interest" in the case of a partnership, limited partnership, joint venture or individual entrepreneurship, means a beneficial ownership of or interest in the entity or its capital so as to permit the exercise of managerial authority over the actions and operations of the entity. In other circumstances, "controlling interest" means any arrangement under which a third party has the ability to exercise management authority over the actions or operations of the business.

(c) *Historical operator* means any person who:

(1) On or before January 1, 1979, was lawfully engaged in adequately providing any type of visitor service in a park area within the scope of § 13.82;

(2) Has continued to provide that visitor service without a break in the service for more than eleven continuous months; and

(3) Is otherwise determined by the Director to have a right to continue to provide such services or similar services pursuant to § 13.82.

(d) *Local area* means that area in Alaska within the park boundary, as well as the area within 35 straight-line miles of a park boundary, but excluding communities with a population in excess of 5,000 persons.

(e) *Local resident* means:

(1) *For individuals that operate a business as a sole proprietorship or partnership.* Those individuals that maintain a primary, permanent residence and business within the local area and whenever absent from this primary, permanent residence, have the intention of returning to it. Factors demonstrating the location of an individual's primary, permanent residence and business may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska, Department of Fish and Game, tax returns, and voter registrations.

(2) *For corporations.* A corporation that maintains its headquarters within the local area, and all of the stockholders, who own a controlling interest in the corporation, qualify as individual local residents under this section.

(f) *Native Corporation* means the same as defined in section 102(6) of ANILCA.

(g) *Preferred operator* means a local resident or Native Corporation that is entitled to a preference under this subpart in the award of visitor service authorizations as provided under section 1307(b) of ANILCA.

(h) *Similar visitor service* means that visitor service authorized by the Director to be provided in a park area and determined by the Director, on a case-by-case basis, to be similar in kind and scope to an established service being provided by a historical operator.

(i) *Visitor service* means any service or activity made available for a fee, commission, brokerage or other compensation to persons who visit a park area, including such services as providing food, accommodations, transportation, tours, and guides, excepting the guiding of sport hunting and fishing. This also includes any activity where one participant/member or group of participants pays more in fees than the other participants (non-member fees, etc.), or fees are paid to the organization that are in excess of the bona fide expenses of the trip.

§ 13.82 Visitor services existing on or before January 1, 1979 (historical operators).

(a) A historical operator shall have a right to continue to provide visitor services or similar services in a qualified park area under appropriate terms and conditions so long as such services are determined by the Director to be consistent with the purposes for which the park area was established. A historical operator must obtain a permit from the Director to conduct the visitor services. The permit shall be for a fixed term and shall contain such terms and conditions as are in the public interest. Failure to comply with the terms and conditions of the permit may result in cancellation of the authorization and consequent loss of historical operator rights under this subpart. Nothing in this subpart shall prohibit the Director from permitting persons in addition to historical operators to provide visitor services in park areas at the Director's discretion so long as historical operators are permitted to conduct a scope or level of visitor services equal to those provided prior to January 1, 1979, under terms and conditions consistent with this subpart. A historical operator may be permitted by the Director under separate authority to increase the scope or level of visitor services provided prior to January 1, 1979, but no historical operating rights shall be obtained in such increase.

(b) When a historical operator permit has expired, and if the visitor services permitted thereunder continue to be adequately provided and consistent with the purposes for which the park area was established as determined by the Director, the Director shall renew the permit for a fixed term consistent with such new terms and conditions as are in the public interest. Should a historical operator decline to accept an offer of renewal, its rights as a historical operator shall be considered as terminated.

(c) If the Director determines that permitted visitor services must be curtailed or reduced in scope, level or season to protect park resources, or for other purposes, the Director shall require the historical operator to make such changes in visitor services. If more than one historical operator providing the same type of visitor services is required to have those services curtailed, the Director shall establish a proportionate reduction of visitor services among all such historical operators taking into account historical operating levels and other appropriate factors so as to achieve a fair curtailment of visitor services among the historical operators. If the level of visitor services must be so curtailed that only one historical operator feasibly may continue to provide the visitor services, the Director shall select one historical operator to continue to provide the curtailed visitor services through a competitive selection process.

(d) The rights of a historical operator shall terminate if the historical operator fails to provide the visitor services under the terms and conditions of a permit issued by the Director or fails to provided the visitor services for a period of more than eleven consecutive months.

(e) The rights of a historical operator under this subpart shall terminate upon a change, after January 1, 1979, in the controlling interest of the historical operator through sale, assignment, devise, transfer or otherwise.

(f) A historical operator may apply to the Director for a permit or amended permit to provide similar visitor services. The Director shall grant the request if such visitor services are determined by the Director:

(1) To be consistent with the protection of park resources and the purposes for which the park area was established;

(2) Similar to the visitor services provided by the historical operator prior to January 1, 1979;

(3) Not to be in violation of the legal rights of any other person; and

(4) Granting the request will not result in an increase in the scope and level of service in excess of those provided by the requesting historical operator as of January 1, 1979.

(g) The Director may authorize other persons to provide visitor services in a park area in addition to historical operators.

§ 13.83 Visitor services authorized after January 1, 1979 (preferred operators).

(a) In selecting persons to provide, and in contracting for the provision of, any type of visitor services for a qualified park area, the Director will give a preference to preferred operators determined qualified to provide such a visitor service.

(b) In selecting persons to provide any type of visitor services for park areas subject to a preferred operator preference under this section, the Director will publicly solicit offers for persons to apply for an authorization, or the renewal of an authorization, to provide such visitor services pursuant to 36 CFR part 51 and other National Park Service procedures. A preferred operator must submit a responsive offer in response to such solicitation in order to effect its preference. If, as a result of the solicitation, an offer from a person other than a preferred operator is determined to be the best offer received and that offeror is determined to be capable of carrying out the terms of the authorization, a preferred operator that submitted a responsive offer shall be given an opportunity to meet the terms of the best offer received by amending its offer. If the amended offer of a preferred operator is considered by the Director as meeting the terms of the best offer, the preferred operator, if it is determined to be capable as carrying out the terms of the authorization, shall be awarded the visitor service authorization. If a preferred operator fails to meet these requirements, the Director shall award the authorization to the person who submitted the best offer in response to the solicitation. In the event this process results in more than one preferred operator having submitted an offer meeting the terms of the best offer received, the Director will select for award of the authorization that preferred operator that submitted the best offer as determined by the Director.

(c) The rights of preferred operators under this section take precedence over the right of preference granted to existing satisfactory NPS concessioners pursuant to the Concessions Policy Act (16 U.S.C. 20) and implementing regulations and procedures, but do not take precedence over the rights of historical operators as described in this subpart. Nothing in this subpart shall prohibit the Director from authorizing persons other than preferred operators to provide visitor services in park areas so long as the procedures described in this section have been followed. Preferred operators are not entitled by this section to provide all visitor services in a qualified park area.

VOL
60
ISS
79
AP
25
1995
UMI

(d) An offer from a Native corporation under this section must document its total ownership of the business entity making the offer.

(e) The preferences described in this section may not be sold, assigned, transferred or devised, directly or indirectly.

§ 13.84 Preference to Cook Inlet Region, Incorporated.

(a) The Cook Inlet Region, Incorporated (CIRI), in cooperation with village corporations within the Cook Inlet Region, when appropriate, shall have a right of first refusal to provide new visitor services within that portion of Lake Clark National Park and Preserve that is within the boundaries of the Cook Inlet Region. In order to exercise this right of first refusal, CIRI must submit a responsive offer under the terms of an NPS public solicitation for offers to conduct such visitor services. A responsive offer is one that is timely made and meets the terms and conditions of the solicitation document. If CIRI makes such an offer and is determined by the Director to be capable of carrying out the terms of the visitor services authorization, it shall be awarded the authorization. If it does not, the authorization may be awarded to another person pursuant to usual National Park Service policies and procedures. An offer from CIRI under this section must document total ownership in the entity making the offer by CIRI and/or a village corporation. The CIRI right of first refusal shall have precedence over the rights of preferred operators.

(b) The right of first refusal described in this section may not be sold, transferred, devised or assigned, directly or indirectly.

§ 13.85 Most directly affected Native corporation.

(a) Prior to the award of a concession authorization for a visitor service in a park area, the Director shall provide an opportunity for any Native corporation interested in providing such new visitor services within an applicable park area to submit an application to the Superintendent including, but not limited to, the following information:

(1) The name, address, and phone number of the Native corporation; the date of incorporation; its articles of incorporation and structure; and the name of the applicable park area;

(2) The location of the corporation's population center or centers; and

(3) The socio-economic impacts and their effects as a result of the expansion or establishment of the park area.

(b) Upon receipt of all applications from interested Native corporations, the Director will determine the "most directly affected" Native corporation based on the following criteria:

(1) The number of acres of surface land within and adjoining the park area that the Native corporation owns, or that has been selected under the Alaska Native Claims Settlement Act, unless such selection is determined to be invalid or is relinquished;

(2) The distance and accessibility from the corporation's population center and/or business address to the applicable park area; and

(3) The socio-economic impacts and their effects as a result of the expansion or establishment of the park area.

(c) In the event that more than one Native corporation is determined to be equally affected, each such Native corporation shall be considered as a preferred operator under this subpart. Preferred operators may form joint ventures with other preferred operators in applying for a visitor service authorization under this subpart.

(d) The Director's "most directly affected" Native corporation determination or, when requested, appeal decision for a park area is final for all applicable solicitations for all future visitor services which are issued after the Director's determination or appeal decision.

§ 13.86 Appeal procedures.

Any person who considers that they have been improperly denied rights with respect to providing visitor services under this subpart may appeal the denial to the Director. Such an appeal must be submitted in writing within 30 days of receipt of the denial from which an appeal is sought. Appeals must set forth the facts and circumstances which the appellant considers supports the appeal. The appellant may request an informal meeting to discuss the appeal with the Director. After consideration of the materials submitted by the appellant and the National Park Service record of the matter, and meeting with the appellant if so requested, the Director shall affirm, reverse, or modify the denial appealed from and shall set forth in writing the basis of the decision. A copy of the decision shall be forwarded to the appellant and shall constitute the final administrative decision in the matter. No person shall be considered to have exhausted administrative remedies with respect to a denial of rights to provide visitor services under this subpart until a final administrative decision has been made pursuant to this section.

§ 13.87 Information collection.

[Reserved]

Dated: March 18, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–10129 Filed 4–24–95; 8:45 am]

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Part X

Department of the Interior

Fish and Wildlife Service

50 CFR Part 36

Visitor Service Authorizations on Alaska National Wildlife Refuges; Proposed Rule

VOL 60 ISS 79 AP 25 1995 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018–AC02

Visitor Service Authorizations on Alaska National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (FWS) proposes regulations to implement Section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). This action is necessary to establish the procedures for granting historical use, Native Corporation, and local preferences in the selection of commercial operators who provide visitor services other than hunting and fishing guiding on National Wildlife Refuge System lands in Alaska. This rulemaking will provide guidance in the solicitation, award, and renewal of Alaska visitor service authorizations.

DATES: Written comments will be accepted until June 26, 1995.

ADDRESSES: Comments should be addressed to: Regional Director, Alaska Region, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: David G. Patterson, Regional Public Use Specialist, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; Telephone (907) 786–3389.

SUPPLEMENTARY INFORMATION:

Background

ANILCA (16 U.S.C. 3101 et. seq.) was signed into law on December 2, 1980. Its broad purpose is to provide for the disposition and use of a variety of federally owned lands in Alaska. Section 1307 of ANILCA (16 U.S.C. 3197) contains two provisions concerning persons and entities who are to be given special rights and preferences with respect to providing "visitor services" in certain lands under the administration of the Secretary of the Interior, in this context, units of the National Wildlife Refuge System. The term "visitor service" is defined in section 1307 as "any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours and guides excepting the guiding of sport hunting and fishing."

Section (a) of Section 1307 states as follows:

Notwithstanding any other provision of law, the Secretary [of the Interior], under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged in adequately providing any type of visitor service [as defined in subsection (c)] within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded. (16 U.S.C. 3197)

Subsection (b) of Section 1307 states as follows:

Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in the contracting of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary [of the Interior]—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;

(2) shall give preference to persons whom he determines, by rule, are local residents * * * (16 U.S.C. 3197).

Subsection (b) also provides to Cook Inlet Region, Incorporated (CIRI), in cooperation with Village Corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide new visitor services within the Kenai National Moose Range, (Kenai National Wildlife Refuge), within the Cook Inlet Region.

The Alaska National Wildlife Refuge System is managed by the U.S. Fish and Wildlife Service under the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–668ee), Refuge Recreation Act (16 U.S.C. 460k–460k–4), and the Alaska National Interest Lands Conservation Act (ANILCA) (84 Stat. 2371 *et seq.*; codified as amended in scattered sections of 16 U.S.C., 43 U.S.C., 48 U.S.C.).

The Secretary of the Interior is authorized under the National Wildlife Refuge System Administration Act to provide for visitor services within the refuge system which he determines are compatible with the purposes for which the area was established as a refuge (16 U.S.C. 668dd(b)(1)). In accordance with that authority, provision is made in the Fish and Wildlife Service refuge regulations for operation of public use facilities and services on national wildlife refuges by concessionaires or cooperators under appropriate contracts or legal agreements (50 C.F.R. 25.61). These proposed regulations provide the means for selecting the providers of services and facilities (except sport fishing and hunting guiding activities) to the public on national wildlife refuges in Alaska under section 1307 of ANILCA.

Paperwork Reduction Act

The information collection requirements contained in part 36 have been approved by the Office of Management and Budget under 44 U.S.C. et seq. and assigned clearance number 1018–0077. The information is being collected to assist the Service in administering these programs and, particularly, in the issuance of permits and the granting of statutory or administrative benefits. The information requested in the application form is required to obtain a benefit. The public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Information Collection Clearance Officer, MS 224 ARLSQ, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0077), Washington, DC 20530.

Environmental Considerations

In accordance with 516 DM 2, Appendix 2, the Service claims a categorical exclusion to this rulemaking as this is pursuant to "policies, directives, regulations and guidelines of an administrative, financial, legal technical or procedural nature", and as this rulemaking establishes procedures to allow continuing services on certain Alaska refuge units.

Economic Effects/Regulatory Flexibility Act Compliance

This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et. seq.) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. It is estimated that the need for new visitor services will result in less than five (5) special use permits per year statewide. There is a high probability that local visitor service providers, exercising their right under Section 1307(b) of ANILCA, would be awarded more permits than companies without the preference. This preference will have a positive impact on the local areas by increasing the economic base of these communities. This impact, while important in relation to the total economic level of the local area, is very small in actual dollar value. It is anticipated that each of the projected new permits issued annually will generate between $50,000 and $200,000 in revenue, depending on the service provided. Therefore, this rule would have no "significant" economic impact on the local communities or local governmental entities.

Drafting Information

The primary author of this proposed regulation is David G. Patterson, Regional Public Use Specialist, Fish and Wildlife Service, Alaska Region.

List of Subjects 50 CFR Part 36

Alaska, Recreation and recreation areas, Reporting and recordkeeping requirements, and Wildlife refuges.

Accordingly, part 36 of chapter I of Title 50 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 36—[AMENDED]

1. The authority citation for Part 36 continues to read as follows:

Authority: 16 U.S.C. 460k *et seq.*, 668dd *et seq.*, 742(a) *et seq.*, 3101 *et seq.*, 44 U.S.C. 3501 *et seq.*

2. A new § 36.37 is added to subpart D of part 36 to read as follows:

§ 36.37 Revenue producing visitor services.

(a) *Applicability.*

The regulations contained in this section apply to visitor services, except guided sport fishing and hunting, provided within all Alaska National Wildlife Refuge areas.

(b) *Definitions.* The following definitions shall apply to this section:

(1) *Adequate services* means, services which are safe, sanitary, and attractive, at levels visitors would expect from the private sector operating outside U.S. Fish and Wildlife Service (Service) areas, have been evaluated as satisfactory, and meet the needs and requirements of the Service and the refuge in which the service is authorized.

(2) *Controlling interest* means, in the case of a corporation, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business, so as to permit exercise of final managerial authority over the actions and operations of the corporation, or election of a majority of the Board of Directors of the corporation. "Controlling interest" in the case of a partnership, limited partnership, joint venture or individual entrepreneurship, means a beneficial ownership of or interest in the entity so as to permit the exercise of final managerial authority over the actions and operations of the entity. In other circumstances, "controlling interest" means any arrangement under which a third party has the ability to exercise general management authority over the actions or operations of the business.

(3) *Historical operator* means any person who:

(i) On or before January 1, 1979, was lawfully engaged in adequately providing any type of visitor service in a refuge within the scope of paragraph (c) of this section;

(ii) Has continued to provide that visitor service without a break in the service for more than eleven continuous months; and

(iii) Is otherwise determined by the Refuge Manager to have a right to continue to provide such services or similar services pursuant to paragraph (c) of this section.

(4) *Local area* means that area in Alaska within the refuge boundary as well as the area within 35 straight-line miles of the refuge boundary, but excluding communities with a population in excess of five thousand persons.

(5) *Local resident* means:

(i) *For individuals that operate a business as a sole proprietorship or partnership.* Those individuals that maintain a primary, permanent residence and business within the local area and whenever absent from this primary, permanent residence, have the intention of returning to it. Factors demonstrating the location of an individual's primary, permanent residence and business may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska, Department of Fish and Game, tax returns, and voter registrations.

(ii) *For corporations.* A corporation which maintains its headquarters within the local area, and all of the stockholders, who own a controlling interest in the corporation, qualify as individual local residents under this section.

(6) *Native Corporation* means the same as defined in section 102(6) of ANILCA.

(7) *Preferred operator* means a local resident or Native Corporation which is entitled to a preference under this section in the award of visitor service authorizations, and as otherwise provided under section 1307(b) of ANILCA.

(8) *Similar visitor service* means that visitor service authorized by the Refuge Manager to be provided on a refuge and determined by the Refuge Manager, on a case by case basis, to be similar to an established service being provided by an historical operator.

(9) *Visitor service* means any service or activity made available for a fee, commission, brokerage or other compensation to persons who visit a refuge, including such services as providing food, accommodations, transportation, tours, and guides, excepting the guiding of sport hunting and fishing. This also includes any activity where one participant/member or group of participants pays more in fees than the other participants (non-member fees, etc.), or fees are paid to the organization which are in excess of the bona fide expenses of the trip.

(10) *Right of first refusal* means, as it relates to section 1307(a) of ANILCA, a reasonable opportunity for a historical operator to review a description of the new similar service and the terms and conditions upon which it is to be provided to determine if the historical visitor service operator wishes to provide the service. As it relates to section 1307(c) of ANILCA, it refers to the opportunity for Cook Inlet Region, Incorporated, to have the first opportunity to provide new visitor services on the Kenai National Wildlife Refuge in the Cook Inlet Region.

(11) *Right of preference* means that persons with a preference conveyed by section 1307(b) of ANILCA will be given an opportunity to meet the terms and conditions of the best proposal submitted in response to a visitor service prospectus.

(c) *Visitor services existing on or before January 1, 1979, "historical operators".* (1) An historical operator shall have a right to continue to provide visitor services or similar services in a refuge under appropriate terms and conditions so long as such services are determined by the Refuge Manager to be consistent with the purposes for which the refuge was established. An historical operator must obtain a permit from the refuge manager to conduct the visitor services. The permit shall be for a fixed term and shall contain such terms and conditions as are in the public interest. Failure to comply with the terms and conditions of the permit may result in cancellation of the authorization and consequent loss of historical operator rights under this section. Nothing in this section shall prohibit the Refuge

VOL 60 ISS 79 AP 25 1995 UMI

Manager from permitting persons in addition to historical operators to provide visitor services in the refuge at the Refuge Manager's discretion so long as historical operators are permitted to conduct a scope or level of visitor services equal to or greater than those provided prior to January 1, 1979, under terms and conditions consistent with this section. An historical operator may be permitted by the Refuge Manager under seperate authority to increase the scope or level of visitor services provided prior to January 1, 1979, but no historical operating rights shall be obtained in such increase.

(2) When an historical operator permit has expired, and if the visitor services permitted thereunder continue to be adequately provided and consistent with the purposes of the refuge as determined by the Refuge Manager, the Refuge Manager shall renew the permit for a fixed term consistent with such new terms and conditions as are in the public interest. Should an historical operator decline to accept an offer of renewal, its rights as an historical operator shall be considered as terminated.

(3) If the Refuge Manager determines that permitted visitor services must be curtailed or reduced in scope or season to protect refuge resources, or for other purposes, the Refuge Manager shall require the historical operator to make such changes in visitor services. If more than one historical operator providing the same type of visitor services is required to have those services curtailed, the Refuge Manager shall establish a proportionate reduction of visitor services among all such historical operators taking into account historical operating levels and other appropriate factors so as to achieve a fair curtailment of visitor services among the historical operators. If the level of visitor services must be so curtailed that only one historical operator feasibly may continue to provide the visitor services, the Refuge Manager shall select one historical operator to continue to provide the curtailed visitor services through a competitive selection process.

(4) The rights of an historical operator shall terminate if the historical operator fails to provide the visitor services under the terms and conditions of a permit issued by the Refuge Manager or fails to provide the visitor services for a period of more than eleven consecutive months.

(5) The rights of an historical operator under this section shall terminate upon a change, after January 1, 1979, in the controlling interest in the historical operator through sale, assignment, devise, transfer or otherwise.

(6) An historical operator may apply to the Refuge Manager for a permit or amended permit to provide similar visitor services. The Refuge Manager shall grant the request if such visitor services are determined by the Refuge Manager:

(i) To be consistent with the management of refuge resources and the purposes for which the refuge area was established;

(ii) Similar to the visitor services provided by the historical operator prior to January 1, 1979;

(iii) To not be in violation of the legal rights of any other person; and

(iv) Granting the request will not result in an increase in the scope and level of service in excess of those provided by the requesting historical operator as of January 1, 1979.

(7) The Refuge Manager may authorize other persons to provide visitor services in a refuge in addition to historical operators, as long as such other persons conducted the services in a manner compatible with the purposes of the refuge.

(d) *Visitor services initially authorized after January 1, 1979, "preferred operators".* (1) In selecting persons to provide, and in permitting any type of visitor services, excepting guided hunting or fishing, the Refuge Manager will give a preference to preferred operators determined qualified to provide such visitor services.

(2) In selecting persons to provide any type of visitor services for refuges subject to a preferred operator preference under this section, the Refuge Manager will publicly solicit offers for persons to apply for a permit, or the renewal of a permit, to provide such visitor services pursuant to Service procedures. A preferred operator must submit a responsive offer to such solicitation in order to effect their preference. If, as a result of the solicitation, an offer from a person other than a preferred operator is determined to be the best offer received and that offeror is determined to be capable of carrying out the terms of the authorization, a preferred operator which submitted a responsive offer shall be given an opportunity to meet the terms of the best offer received by amending its offer. If the amended offer of a preferred operator is considered by the Refuge Manager as meeting the terms of the best offer, the preferred operator, if it is determined to be capable of carrying out the terms of the permit, shall be awarded the visitor service permit. If a preferred operator fails to meet these requirements, the Refuge Manager shall award the permit to the person who submitted the best offer in response to the solicitation. In the event this process results in more than one preferred operator having submitted an offer meeting the terms of the best offer received, the Refuge Manager will select for award of the permit that preferred operator who submitted the best offer as determined by the Refuge Manager.

(3) The rights of preferred operators under this section take precedence over the permit privileges granted to satisfactorily performing current special use permit holders, but do not take precedence over the rights of historical operators as described in this section. Nothing in this section shall prohibit the Refuge Manager from authorizing persons other than preferred operators to provide visitor services in refuge areas so long as the procedures described in this section have been followed with respect to preferred operators. Preferred operators are not entitled by this section to provide all visitor services in a qualified refuge.

(4) An offer from a Native Corporation under this section must document its total ownership of the business entity making the offer.

(5) The preferences described in this section may not be sold, assigned, transferred or devised, directly or indirectly.

(e) *Preference to Cook Inlet Region, Incorporated (CIRI).* (1) Cook Inlet Region, Incorporated, (CIRI) in cooperation with village corporations within Cook Inlet Region, when appropriate, shall have a right of first refusal to provide new visitor services within that portion of the Kenai National Moose Range, (Kenai National Wildlife Refuge), within the boundaries of Cook Inlet Region. CIRI shall have ninety (90) days from receipt of a prospectus in which to exercise its right.

(2) In order to exercise this right of first refusal, CIRI must submit a responsive offer under the terms of a Service public solicitation for offers to conduct such visitor services. A responsive offer is one which is timely made and meets the terms and conditions of the solicitation document. If CIRI makes such an offer and is determined by the Refuge Manager to be capable of carrying out the terms of the special use permit, it shall be awarded the permit. If it does not, the permit may be awarded to another person pursuant to a showing that such other person can carry out the conditions of the special use permit in a manner compatible with the purposes of the refuge. An offer from CIRI under this section must document total ownership in the entity making the offer by CIRI and/or a Village Corporation. The CIRI right of first refusal shall have precedence over the rights of preferred operators.

(3) The right of first refusal described in this section may not be sold, transferred, devised or assigned, directly or indirectly.

(f) *Most directly affected Native Corporation determination.* (1) Prior to the issuance of a solicitation document for any future visitor service in a refuge, the Refuge Manager shall provide an opportunity for any Native Corporation interested in providing such new visitor services within a refuge to submit an application to the Refuge Manager including, but not limited to, the following information:

(i) The name, address, and phone number of the Native Corporation; the date of incorporation; its articles of incorporation and structure; and the name of the applicable refuge area;

(ii) The location of the Native Corporation's population center or centers; and

(iii) The socio-economic impacts and their effects as a result of the expansion or establishment of the refuge area.

(2) Upon receipt of all applications from interested Native Corporations, the Refuge Manager will determine the "most directly affected" Native Corporation based on the following criteria:

(i) The number of acres of surface land within and adjoining the refuge that the Native Corporation owns, or which has been selected under the Alaska Native Claims Settlement Act, unless such selection is determined to be invalid or is relinquished;

(ii) The distance and accessibility from the Native Corporation's population center and/or business address to the applicable refuge; and

(iii) The socio-economic impacts and their effects as a result of the expansion or establishment of the refuge.

(3) In the event that more than one Native Corporation is determined to be equally affected, each such Native Corporation shall be considered as a preferred operator under this section. Preferred operators may form joint ventures with other preferred operators in applying for a visitor service authorization under this section.

(4) The Refuge Manager's "most directly affected" Native Corporation determination or, when requested, the Regional Director's appeal decision, for a refuge is final for all applicable solicitations for new visitor services.

(g) *Appeal procedures.* Any person who considers that they have been improperly denied rights with respect to providing visitor services under this section may appeal the denial to the Regional Director. Such an appeal must be submitted in writing within thirty (30) days of receipt of the denial from which an appeal is sought. Appeals must set forth the facts and circumstances which the appellant considers as supporting the appeal. The appellant may request an informal meeting to discuss the appeal with the Regional Director. After consideration of the materials submitted by the appellant, the Service record of the matter, and any meeting as requested by the appellant, the Regional Director shall affirm, reverse, or modify the denial appealed from and shall set forth in writing the basis of the decision. A copy of the decision shall be forwarded to the appellant and shall constitute the final administrative decision in the matter. No person shall be considered to have exhausted administrative remedies with respect to a denial of rights to provide visitor services under this section until a final administrative decision has been made pursuant to this section.

Dated: March 18, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

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VOL
60

ISS
79

AP
25

1995

UMI

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Part XI

The President

Proclamation 6789—National Day of Mourning in Memory of Those Who Died in Oklahoma City

Proclamation 6790—National Volunteer Week

VOL
60

ISS
79

AP
25

1995

UMI

Federal Register
Vol. 60, No. 79
Tuesday, April 25, 1995

Presidential Documents

Title 3—

The President

Proclamation 6789 of April 21, 1995

National Day of Mourning in Memory of Those Who Died in Oklahoma City

By the President of the United States of America

A Proclamation

As we seek justice for the evil done in Oklahoma City on April 19, 1995, good and decent people everywhere mourn the loss of innocents. Our sons and daughters, parents and friends were stolen from us. Their families can never replace the gift of their laughter. Our Nation can never replace the spirit of their character. But even as we grieve, we resolve today in solemn promise that those on earth shall never be bowed by murderous cowards. This sin against humanity shall not go unpunished.

It has been said that, "In every child who is born, the potentiality of the whole human race is born again." We lost unimaginable potential this past week. And we will miss our loved ones dearly. But the children who died in this violence may yet lift up humanity. We do them no greater honor than by taking from their deaths the memory of their hopes, by carrying with us always their dreams, their kind and trusting ways. We redeem the value of their lives no further than by heeding the voices of children everywhere, who ask simply and invariably for peace and love.

We take comfort in knowing that all who perished are in God's hands.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby appoint Sunday, April 23, 1995, as a National Day of Mourning throughout the United States. I ask the American people assembled on that day in their homes and places of worship to pay homage to the memory of those lost in the Oklahoma City tragedy and to pray for them and their community. I invite all those around the world who share our grief to join us in this solemn observance.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

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VOL
60
ISS
79
AP
25
1995
UMI

Presidential Documents

Proclamation 6790 of April 21, 1995

National Volunteer Week, 1995

By the President of the United States of America

A Proclamation

Our ancestors built this Nation on the spirit of independence and the strength of community. Yesterday's Americans came together to raise a barn, till a farm, or teach a child to write. They came together to care for one another and to lift up their neighbors in need. For rich and poor, old and young, giving their talents to benefit the community was the most fundamental responsibility of American citizenship.

Through the years, this basic ideal has endured. Service remains the noblest quality of the American character. Our people still come together to build a house, plant a garden, or tutor a child. Elementary school students help older Americans in their daily lives. Seniors help struggling teenagers stay out of trouble. Countless dedicated citizens claim our country's challenges as their own. Their service sets a powerful example of leadership and compassion for each of us to follow.

As a partner in progress, government can expand and strengthen this great American legacy. AmeriCorps, the Senior Corps, and Learn and Serve America now provide service opportunities for more than a million of our citizens. These initiatives enable us to keep faith with the covenant of citizenship. This week, we celebrate the tens of millions of volunteers who give their time, their energy, and their hearts to making our world a better place.

We are indeed fortunate that, even as we face difficult problems in our streets, schools, homes, and communities, citizens are volunteering to help one another in numerous ways. Some spend a few hours every week. Others give entire days—even years—of their lives to service. Each makes a lasting contribution to the substance and the spirit of community in America. And each helps lead us into an ever brighter future.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 23 through April 29, 1995, as "National Volunteer Week." I call upon all Americans to observe this week with appropriate programs, ceremonies, and activities in expression of their commitment.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

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VOL
60

ISS
79

AP
25

1995

UMI

Reader Aids

Federal Register

Vol. 60, No. 79

Tuesday, April 25, 1995

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534
Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3
16979–17190	4
17191–17432	5
17433–17624	6
17625–17980	7
17981–18342	10
18343–18538	11
18539–18726	12
18727–18948	13
18949–19152	14
19153–19342	17
19343–19484	18
19485–19664	19
19665–19844	20
19845–19998	21
19999–20170	24
20171–20390	25

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6781 17979
6782 17981
6783 18537
6784 18707
6785 18725
6786 19999
6787 20001
6788 20003
6789 20387
6790 20389

Executive Orders:
April 17, 1926 (Revoked in part by PLO 7134) 19525
12356 (Revoked by EO 12958) 19825
12958 19825

Administrative Orders:
Memorandums:
April 4, 1995 19153
April 14, 1995 19485

5 CFR

Ch. LII 17625
581 18949
1620 19990
3201 20171

Proposed Rules:
316 17655

7 CFR

Ch. II 19487
58 20178
97 17188
201 16979
272 ..... 17628, 20178
273 17628
274 20178
301 18727
354 17631
457 16765
918 17633
925 16765
927 17983
932 18539
946 17433
979 16767
982 16768
985 ..... 16770, 17434, 18950
1001 18952
1002 18952
1004 18952
1005 18952
1006 18952
1007 18952
1011 18952
1012 18952
1013 18952
1030 18952
1032 18952
1033 18952
1036 18952
1040 18952
1044 18952
1046 18952
1049 18952
1050 ..... 18343, 18952
1064 18952
1065 18952
1068 18952
1075 18952
1076 18952
1079 18952
1093 18952
1094 18952
1096 18952
1106 18952
1108 18952
1124 18952
1126 ..... 17191, 18952
1131 ..... 17192, 18952
1134 18952
1135 18952
1137 18952
1138 18952
1139 18952
1413 17984
1427 17984
1464 19665
Ch. XVIII 20005
3016 ..... 19638, 19641

Proposed Rules:
55 20054
59 20054
250 18781
335 18374
905 19543
906 20059
920 20062
929 20064
944 20059
946 19382
956 17274
981 17466
1944 19168

8 CFR

Proposed Rules:
212 19001

9 CFR

77 18728
92 17634
318 19491
327 18540
381 19491
391 19491

Proposed Rules:
308 19543
310 19543
318 19543
320 19543

VOL 60 ISS 79 AP 25 1995 UMI

325.....19543
326.....19543
327.....19543
381.....19543, 19685
391.....18551

10 CFR

2.....18344
20.....20183
436.....18326, 19343
600.....17985, 19638, 19641
710.....20366

Proposed Rules:

50.....19002, 19170, 19686
70.....18035, 19170
52.....17902, 17924, 17947
170.....18882
171.....18882
430.....18782
490.....19544

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

3.....17986
207.....20005
208.....17436
215.....17635
220.....20005
221.....20005
224.....20005
225.....20186
226.....16771
336.....20171
400.....17625
614.....20008
615.....20008
618.....20008
620.....20011

Proposed Rules:

215.....19689
701.....19690
792.....18036

13 CFR

107.....17438
121.....18981
143.....19638, 19641

14 CFR

25.....17184
39.....16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492, 20013, 20016, 20017, 20019, 20189
71.....17196, 17442, 18346, 20021
97.....17198, 17199, 19160, 19162
187.....19628

Proposed Rules:

39.....16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693
71.....17284, 18038, 18552, 19190, 19553
91.....18700
119.....19007
121.....19007
125.....19007
127.....19007
135.....18700, 19007

15 CFR

24.....19638, 19642
771.....18731
779.....18731

16 CFR

305.....19845
1700.....17992

Proposed Rules:

248.....17032
409.....17491
436.....17656
460.....17492
1700.....17660

17 CFR

30.....19493
200.....17201
211.....20022
400.....18733
403.....18733
405.....18733
449.....18733, 18734

Proposed Rules:

239.....17172
270.....17172
274.....17172
404.....20065
405.....20065

18 CFR

343.....19494
385.....19494
284.....16979

Proposed Rules:

35.....17662
141.....17726
388.....17726

19 CFR

7.....18347
10.....18542, 18983
11.....18347
12.....18347
18.....18347
19.....18347
24.....18347
54.....18347
101.....18347, 18983
102.....18347
111.....18347, 18983
114.....18347
123.....18347, 18983
128.....18347, 18983
132.....18347
134.....18347
141.....18347, 18983
143.....18983
145.....18347, 18983
146.....18347
148.....18347, 18983
151.....18347
152.....18347
159.....18983
177.....18347
178.....18983
181.....18347
191.....18347

Proposed Rules:

Ch. I.....18783

20 CFR

Ch. III.....18991
404.....20023
416.....20023
423.....18991
638.....18993
404.....17443, 19163

Proposed Rules:

Ch. III.....17731
404.....19008
416.....19008

21 CFR

20.....16962
73.....18736
101.....17202
176.....18349
178.....18349, 18352, 18739
206.....19846
310.....17611, 20162
556.....18740
876.....17208
1310.....17636, 19509
1403.....19638, 19642

Proposed Rules:

146.....19666
310.....19650
876.....17611

22 CFR

135.....19638, 19642
514.....16785

Proposed Rules:

502.....19385

23 CFR

655.....18520

24 CFR

85.....19638, 19642
215.....17388, 20356
235.....20356
236.....17388, 20356
280.....20356
570.....17445
813.....17388, 20356
905.....17388, 18174
913.....17388, 20356
950.....18174, 20356
3500.....16985

Proposed Rules:

29.....17968
120.....19191
811.....19695

25 CFR

Proposed Rules:

Ch. I.....20250
900.....19387

26 CFR

1.....17216, 18741, 18742
602.....18742

Proposed Rules:

1.....17286, 17731, 18377, 18378, 19387, 19868

27 CFR

55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:

Ch. I.....18783
53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

0.....17456
2.....18353
31.....19847
66.....19638, 19642
90.....19474

Proposed Rules:

2.....18378, 18379
16.....18784, 19871

29 CFR

15.....19858
97.....19638, 19643
570.....19336
580.....17221
1470.....19638, 19643
1952.....20191
1960.....18993
2610.....18994
2619.....18996
2622.....18994
2644.....18998
2676.....18996

Proposed Rules:

1910.....19192
1915.....19192
1926.....19192

30 CFR

756.....20193
903.....18710
914.....16985, 17637, 19668, 19669
915.....17458
934.....18744
938.....16788

Proposed Rules:

Ch. I.....18044
901.....18044, 20250
902.....17495
904.....17498
906.....17501
913.....17734, 19697
914.....17736
915.....17504
916.....17504
917.....17739, 19193
918.....17498
920.....18046
924.....18044, 20250
925.....17504
926.....17495, 20251
931.....17501
934.....17495
935.....17741, 18380, 19194
936.....17498
938.....18046
943.....17498
944.....17501
946.....17743
948.....18381
950.....17495

32 CFR

33.....19638, 19643
83.....20029
84.....20029
290.....18005

298.....20032
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:

63.....17507
247.....18049

33 CFR

3.....17222
117.....18006, 19351
154.....17134
155.....17134
162.....16793, 19352
165.....16793, 18008, 19354, 20033
187.....20310
222.....19851
334.....18543

Proposed Rules:

Ch. I.....17287
100.....18785, 20065
117.....18061
164.....19699
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR

80.....19638, 19643
350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR

7.....17639
13.....18532
1207.....19638, 19643

Proposed Rules:

13.....19011, 20374
215.....18886
217.....18886
219.....18886

37 CFR

1.....16920, 20195
3.....20195

38 CFR

2.....18354
3.....18354
4.....19851
21.....20035
43.....19638, 19644

39 CFR

20.....18009
111.....19355
265.....17224

Proposed Rules:

232.....17287

40 CFR

9.....17100, 18009, 20232
31.....19638, 19644
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522, 19673, 20233
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
76.....18751
77.....17100
78.....17100
80.....20232
81.....16998, 20237
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547, 19523
185.....18547
186.....18547
258.....17649
260.....17001
261.....19165
271.....18356, 18358, 18360, 20238
300.....16808, 17004, 19525, 20330
302.....19165
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:

Ch. I.....17288
51.....17509
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554, 20066
55.....17748, 18787, 19701
58.....17509
63.....16829, 16920, 18071, 18078, 19556
70.....17750, 18790
72.....18472
76.....18792
81.....17034, 17756, 19197
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562, 19556
185.....18562
186.....18560, 18562
228.....19872
300.....18565, 19203
372.....16830, 19702
761.....17510
799.....18079

41 CFR

101–20.....17653
101–26.....19674
105–71.....19638, 19644

42 CFR

440.....19856
441.....19856
493.....20035

43 CFR

12.....17237, 19638, 19644

Proposed Rules:

426.....16922, 20068
427.....16922, 20068
3100.....18081

Public Land Orders:

2546 (Revoked by PLO 7135).....19526
7131.....18030
7132.....18777
7133.....18777
7134.....19525
7135.....19526
7136.....20240
7137.....18778

44 CFR

13.....19638, 19644
64.....17005
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

65.....17758
67.....17035, 17042

45 CFR

92.....19638, 19645
212.....19862
602.....19638, 19645
1157.....19638, 19645
1174.....19638, 19645
1183.....19638, 19645
2541.....19638, 19646

Proposed Rules:

1336.....19994
2544.....17761

46 CFR

12.....17134
13.....17134
15.....17134
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:

Ch. I.....17287
Ch. II.....17763
67.....17290
90.....18793
97.....18793
148.....18793
382.....19559
383.....20069

47 CFR

2.....18778, 18999
61.....19526, 20051
69.....19528
73.....17023, 17253, 19000, 19359, 19531, 20052
74.....20241
90.....18999, 20247

Proposed Rules:

1.....17294
63.....17763
73.....17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566, 19878

48 CFR

225.....19531
252.....19531
538.....19360
552.....19360, 19362
570.....19362
915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023
9904.....20248

Proposed Rules:

Ch. V.....17764
6.....17295
12.....17184
16.....17295
32.....18794
52.....17184, 17295, 18794
501.....19708
503.....19708
505.....19708
506.....19708
507.....19708
5552.....19708
570.....19708
9903.....20252

49 CFR

18.....19638, 19646
40.....19535, 19675
173.....17398
178.....17398
180.....17398
219.....19538
552.....17254
554.....17254
571.....19681
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:

Ch. I.....17049
Ch. II.....18390
190.....17295
191.....17295
192.....17295
193.....17295
194.....17295
195.....17295
196.....17295
197.....17295
198.....17295
199.....17295
234.....17770, 19012
571.....18566, 19716

VOL
60
ISS
79
AP
25
1995
UMI

50 CFR

17.....18940
227.....19342
641.....19363
646.....19364, 19683
650.....17272
651.....19364
655.....17464
663.....16811
672.....17465, 20248
675.....17028, 17853, 19864, 20248
676.....20248

Proposed Rules:

Ch. VI.....17770
17.....16836, 17296, 19013, 19567, 20072
36.....20380
625.....18795
641.....17511
642.....18391
655.....18391
675.....17512, 20253
677.....20253

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

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VOL
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VOL
60
ISS
80
AP
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1995
UMI

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Contents

Federal Register
Vol. 60, No. 80
Wednesday, April 26, 1995

Agency for International Development
NOTICES
Meetings:
Malaria Vaccine Program Advisory Committee, 20476

Agriculture Department
See Animal and Plant Health Inspection Service

Alcohol, Tobacco and Firearms Bureau
RULES
Alcoholic beverages:
Tied-house, exclusive outlets, commercial bribery, and consignment sales; unfair trade practices, 20402–20428
NOTICES
Commerce in explosives:
Explosive materials list, 20553–20555

Animal and Plant Health Inspection Service
PROPOSED RULES
Plant-related quarantine, foreign:
Fruit trees from France, 20436
NOTICES
Environmental statements; availability, etc.:
Conditional veterinary biological product license issuance, 20476–20477

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Occupational safety and health—
Occupational respiratory disease evaluation and rehabilitation, 20495–20497
Meetings:
Vital and Health Statistics National Committee, 20497

Coast Guard
RULES
Drawbridge operations:
North Carolina, 20428–20429
Ports and waterways safety:
East River, NY; safety zone, 20429–20430
Hempstead Harbor, NY; safety zone, 20430–20431
PROPOSED RULES
Regattas and marine parades:
Whatever Festival Hydroplanes, 20463–20465
NOTICES
Environmental statements; availability, etc.:
Seattle Seafair Unlimited Hydroplane Races and Airshow, Seattle, WA, 20551–20552
Meetings:
National Boating Safety Advisory Council, 20552–20553

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Comptroller of the Currency
NOTICES
Agency information collection activities under OMB review, 20555

Customs Service
NOTICES
General Agreements on Tariff and Trade (GATT):
Pharmaceutical tables 1 and 3 of Harmonized Tariff Schedule of U.S.; alphabetical listing of products and corresponding chemical abstracts service numbers, 20558–20584

Defense Department
See Engineers Corps
See Navy Department

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Human Radiation Experiments Advisory Committee, 20486

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Central and Southern Florida project for flood control and other purposes, 20481–20482
San Francisco Bay to Stockton, CA, Phase III; navigation channel deepening, 20482–20483

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 20431–20432
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Methyl anthranilate, 20432–20433
Prometryn, 20433–20434
PROPOSED RULES
Clean Air Act:
State operating permits programs—
Iowa, 20465–20469
Oklahoma, 20465
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Definitions and interpretations, etc.—
Summer squash, 20470–20471
Fenarimal fungicide residues in or on imported bananas, 20471–20473
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 20473–20475
NOTICES
Inventions, Government-owned; availability for licensing, 20490–20491
Meetings:
Science Advisory Board, 20491–20492
Pesticides; emergency exemptions, etc.:
Norflurazon, etc., 20492–20494

VOL 60 ISS 80 AP 26 1995 UMI

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 20394–20396
PROPOSED RULES
Airworthiness directives:
British Aerospace, 20458–20463

Federal Bureau of Investigation
NOTICES
Meetings:
DNA Advisory Board, 20507

Federal Communications Commission
PROPOSED RULES
Television broadcasting:
Children's television broadcast services, 20586–20590
NOTICES
Rulemaking proceedings; petitions filed, granted, denied, etc., 20494

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
GVK Industries Ltd. et al., 20486–20488
Philbro Division of Salomon, Inc., et al., 20488–20489
Natural gas certificate filings:
East Tennessee Natural Gas Co. et al., 20489–20490

Federal Maritime Commission
NOTICES
Investigations, hearings, petitions, etc.:
Household Goods Forwarders Association of America, Inc., 20494

Federal Reserve System
PROPOSED RULES
Equal credit opportunity (Regulation B):
Data collection relating to applicant's race, color, sex, religion, or national origin; prohibition elimination, 20436–20438
NOTICES
Meetings; Sunshine Act, 20556
Applications, hearings, determinations, etc.:
Dalrymple Family Limited Partnership, L.P., et al., 20494
Republic Security Financial Corp., 20494

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 20504

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
New drug applications—
Lufenuron suspension, 20402
NOTICES
Animal drugs, feeds, and related products:
Benton County Ag Center, Inc.; medicated animal feeds applications; proposal to withdraw, 20497–20499
Human drugs:
New drug applications—
Warren Teed Pharmaceuticals, Inc., et al.; approval withdrawn, 20499–20501

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See Social Security Administration
See Substance Abuse and Mental Health Services Administration

Health Resources and Services Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Childhood Vaccines Advisory Commission, 20501–20502

Immigration and Naturalization Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Naturalization pilot project, 20507–20511

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Flathead Indian Reservation, MT, 20502–20503

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping and countervailing duties:
Electrical conductor aluminum redraw rod from—
Venezuela, 20478
Countervailing duties:
Castor oil products from—
Brazil, 20478–20480

International Trade Commission
PROPOSED RULES
Practice and procedure:
Import trade unfair practices; investigations and related proceedings; voting procedures, 20463
NOTICES
Import investigations:
Fresh winter tomatoes, 20506
Meetings; Sunshine Act, 20556

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
CSX Transportation, Inc., 20506–20507

Justice Department
See Federal Bureau of Investigation
See Immigration and Naturalization Service

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Montana; correction, 20503
Nevada, 20503–20504

Library of Congress
NOTICES
Meetings:
American Folklife Center Board of Trustees, 20511–20512

Maritime Administration
PROPOSED RULES
Vessel financing assistance:
Obligation guarantees; program administration, 20592–20599

Minerals Management Service
NOTICES
Federal offshore mineral leases; de minimis amount for recoupments, 20504–20505

National Credit Union Administration
PROPOSED RULES
Credit unions:
Corporate credit unions; requirements for insurance, 20438–20458

National Foundation on the Arts and the Humanities
NOTICES
Grants and cooperative agreements; availability, etc.:
Local arts agencies program, 20512
Meetings:
Humanities National Council, 20512

National Highway Traffic Safety Administration
RULES
Organization, functions, and authority delegations:
Chief Counsel, 20434–20435

National Institute for Literacy
NOTICES
Grants and cooperative agreements; availability, etc.:
State literacy resource centers—
National electronic information and communication network, 20602–20617

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 20480
Permits:
Endangered and threatened species, 20480–20481
Marine mammals, 20481

National Park Service
NOTICES
Meetings:
National Capital Memorial Commission, 20505

National Science Foundation
NOTICES
Meetings:
Cross Disciplinary Activities Special Emphasis Panel, 20512

Navy Department
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Naval Reserve Center, Jamestown, NY, 20483–20484
Naval Reserve Center, New Bedford, MA, 20485–20486
Naval Reserve Center, Pittsfield, MA, 20484–20485

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Rochester Gas & Electric Corp., 20513
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 20513–20539
Regulatory guides; issuance, availability, and withdrawal, 20539–20540
Applications, hearings, determinations, etc.:
Detroit Edison Co., 20540

Pacific Northwest Electric Power and Conservation Planning Council
NOTICES
Power plan amendments:
Columbia River Basin fish and wildlife program, 20540–20541

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 20540

Presidential Documents
ADMINISTRATIVE ORDERS
Government agencies and employees:
Regulatory Reform—Waiver of Penalties and Reduction of Reports (Memorandum of April 21, 1995), 20621–20622

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See Substance Abuse and Mental Health Services Administration

Securities and Exchange Commission
NOTICES
Meetings:
Capital Formation and Regulatory Processes Advisory Committee, 20541
Self-regulatory organizations; proposed rule changes:
Boston Stock Exchange, Inc., 20541–20542
Chicago Board Options Exchange, Inc., 20542–20544
Philadelphia Stock Exchange, Inc., 20544–20545
Applications, hearings, determinations, etc.:
Equity Income Fund, Select Ten Portfolio, 20545–20547
Semtech Corp., 20547
Smith Barney Muni Funds et al., 20547–20548
Smith Barney Shearson Municipal Money Market Fund Inc., 20548–20549

Small Business Administration
RULES
Loans to State and local development companies:
Certified development companies—
Accredited lenders program, 20391–20392
Premier certified lenders program, 20392–20394
NOTICES
Meetings; district and regional advisory councils:
Arkansas, 20549

Social Security Administration
NOTICES
Social security rulings:
Good cause for missing deadline to request administrative review, 20549–20551

VOL 60 ISS 80 AP 26 1995 UMI

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Women's Services Advisory Committee, 20502

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency information collection activities under OMB review, 20505

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Maritime Administration
See National Highway Traffic Safety Administration

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Comptroller of the Currency
See Customs Service
RULES
Government Securities Act of 1986; financial responsibility and reporting and recordkeeping requirements; amendments, 20396–20401

Separate Parts In This Issue

Part II
Department of the Treasury, United States Customs Service, 20558–20584

Part III
Federal Communication Commission, 20586–20590

Part IV
Department of Transportation, Maritime Administration, 20592–20599

Part V
National Institute of Literacy, 20602–20617

Part VI
The President, 20621–20622

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Memorandums:
April 21, 1995 20621

7 CFR
Proposed Rules:
319 20436

12 CFR
Proposed Rules:
202 20436
704 20438
741 20438

13 CFR
108 (2 documents) 20391, 20392

14 CFR
39 20394
Proposed Rules:
39 (3 documents) 20458, 20459, 20461

17 CFR
404 20396
405 20396

19 CFR
Proposed Rules:
210 20463

21 CFR
520 20402

27 CFR
6 20402
8 20402
10 20402
11 20402

33 CFR
117 20426
165 (2 documents) 20429, 20430
Proposed Rules:
100 20463

40 CFR
52 20431
180 (2 documents) 20432, 20433
Proposed Rules:
70 (2 documents) 20465
180 (2 documents) 20470, 20471
300 20473

46 CFR
Proposed Rules:
298 20592

47 CFR
Proposed Rules:
73 20586

49 CFR
501 20434

VOL
60
ISS
80
AP
26
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 80
Wednesday, April 26, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Loans to State and Local Development Companies Accredited Lenders Program for Certified Development Companies

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: On October 22, 1994, the President signed Public Law 103–403, The Small Business Administration Amendments Act of 1994. Section 212 of that act added a new section 507 of the Small Business Investment act, 15 U.S.C. 695 et seq. That new section authorizes the Small Business Administration (SBA) to establish an Accredited Lenders Program. This final rule, published in accordance with Public Law 103–403, implements this new program.

EFFECTIVE DATE: This rule is effective on April 26, 1995.

FOR FURTHER INFORMATION CONTACT: LeAnn Oliver, Acting Director, Office of Rural Affairs and Economic Development Small Business Administration, 409 3rd Street S.W., Suite 8300 Washington, D.C. 20416, 202–205–6485.

SUPPLEMENTARY INFORMATION: Public Law 103–403, enacted October 22, 1994, required SBA to establish an Accredited Lenders Program for Certified Development Companies, which provides for expedited processing of loan applications and servicing actions by SBA field offices for qualified development companies. The Accredited Lender Program (ALP) is intended to build upon the successful Certified Lenders Program (CLP) for the SBA's General Business Loan program and the pilot Accredited Lenders Program for Certified Development Companies which has been administered by SBA since 1991.

During 1991, SBA established an "Accredited Lender Program" for Certified Development Companies (CDCs) on a demonstration program basis with selected development companies through the United States. During the Demonstration program, SBA Field Offices worked with the selected development companies to expedite processing of requests for guarantee approval and servicing actions submitted by them. The program was premised upon rewarding CDCs which have developed a good partnership with their SBA Field Office in promoting local economic development and have demonstrated a good track record in the submission of documentation needed for making and servicing of sound loans. The positive experience of the demonstration program led to its statutory authorization which makes the Accredited Lender Program a permanent tool for the improvement of the program.

The concept of the ALP demonstration program was based on a similar program developed for lenders participating with the SBA 7(a) General Business Loan program (CLP) which has also been authorized by statute. Under that program, CLP lenders are required to submit a complete loan package as well as a draft loan authorization ready for SBA review of eligibility, credit analysis and legal sufficiency. In consideration for the receipt of a completed loan application package, SBA agrees to issue an approved loan authorization to a CLP lender within three working days.

Similar to the CLP lender in the General Business Loan program, under these regulations if adopted in final form, an ALP–CDC will be required to submit complete loan applications and draft loan authorizations to SBA in order to expedite SBA's review of eligibility, credit analysis and legal sufficiency and enable SBA to quickly authorize a guaranty; and completely documented requests for a loan servicing action which will enable SBA to expedite processing of such a request. In exchange SBA will agree to provide three business day processing for such submissions. Notwithstanding a requester's ALP status, SBA will retain the right to reject incomplete packages or requests, thereby denying ALP consideration to individual actions on a case by case basis.

In order to attain ALP status a CDC will be required to meet minimum standards with regard to lending activity and demonstrated proficiency in quality of its loan packaging, closing and servicing. An ALP–CDC and an SBA field office will function as a team for purposes of the ALP program. SBA's agreement to expedite approval of loans and servicing actions will be premised upon the SBA confidence in the judgment and quality of work of the ALP–CDC which is based upon a good relationship and good communication between the SBA field office and ALP–CDC staffs.

In that regard, under these regulations, if adopted, SBA field offices will nominate CDCs for ALP status. SBA's Director of Economic Development and Rural Affairs will be the deciding official for admission to the program and for suspension or revocation of the status of a company once admitted. Criteria for nomination which are expressed in the proposed regulations reflect the intent that only successful CDCs which demonstrate a high degree of program proficiency will attain ALP status. ALP status will be granted for periods of two years and will be renewable based on request by the CDC and favorable review by SBA.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

SBA certifies that this rule will not constitute a significant regulatory action for purposes of Executive Order 12866, since the change is not likely to result in an annual effect on the economy of $100 million or more.

SBA certifies that this rule will not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

SBA certifies that this rule will not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

SBA certifies that this rule is drafted, to the extent practicable, in accordance

VOL
60
ISS
80
AP
26
1995
UMI

with the standards set forth in Section 2 of Executive Order 12778.

This rule is published as a final rule in conformity with the statutory deadline established in section 212 of Public Law 103–403.

(Catalog of Federal Domestic Assistance Program Nos. 59.036, Certified Development Company Loans (503 Loans); 59.041, Certified Development Company Loans (504 Loans).

List of Subjects in 13 CFR Part 108

Loan programs—business, Small businesses.

For the reasons set forth above, SBA is amending part 108 of title 13 of the Code of Federal Regulations as follows:

PART 108—[AMENDED]

1. The authority citation for part 108 continues to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.2 is amended by adding definitions of the following terms in the appropriate alphabetical order: "Accredited Lender" and "ALP" to read as follows:

§ 108.2 Definitions.

* * * * *

Accredited Lender means a 503 Company which has met the eligibility requirements of § 108.508–3 and which has executed with SBA the ALP Agreement.

ALP means the Accredited Lenders Program as provided for in § 108.508.

* * * * *

3. A new undesignated center heading and §§ 108.508–1 through 108.508–5 are added to read as follows:

Accredited Lenders Program

§ 108.508–1 Objective and characteristics of Certified Lenders Program.

(a) *Purpose.* The purpose of this subpart is to authorize for designated 503 companies, hereinafter called Accredited Lenders, expedited approval by SBA of loan processing, closing and servicing functions on specified terms and conditions.

(b) *Objective of Accredited Lender Status.* SBA will process an application for authorization of a guarantee or a loan servicing action submitted by an Accredited Lender within three business days from receipt of a complete application for authorization or a fully documented request for a loan servicing action, as the case may be. SBA reserves the right to reject any such application or request for incompleteness or other regulatory deficiency.

§ 108.508–2 Application procedure.

In order to be designated an Accredited Lender, a 503 company shall apply for designation to the SBA District or Branch Office where responsible for the area in which its headquarters is located by submitting a statement of its eligibility demonstrating satisfaction of the criteria contained in § 108.508–3. The relevant District or Branch Office will review all such applications using SBA's "rule of two procedure" and forward only favorable recommendations to the Director, Office of Rural Affairs and Economic Development for final determination. The Director will advise all relevant District or Branch Office of his or her final decision on any such recommendation. Favorable decisions by the Director will be followed by accreditations by the relevant District or Branch Office. Unfavorable decisions by the Director will be communicated to the applicant by the Director.

§ 108.508–3 Eligibility.

In evaluating the application of a 503 Company to become an Accredited Lender, SBA must make a favorable determination based upon its consideration of the following factors:

(a) The 503 Company must have been an active participant in the development company loan program for not less than the preceding 12 months;

(b) The 503 Company must have well-trained, qualified loan officers who are knowledgeable concerning SBA's lending policies and procedures for the development company loan program;

(c) The 503 Company must have demonstrated the ability to process, close, and service loans under the development company program;

(d) The 503 Company must have had a loss rate on its portfolio of loans made under the development company program that is reasonable and acceptable to the SBA;

(e) The 503 Company must have demonstrated to SBA's satisfaction a history of submitting to SBA complete and accurate debenture guaranty application packages;

(f) The 503 Company must have demonstrated the ability to work with the sponsoring SBA office in a cooperative and constructive manner; and

(g) The 503 Company must have demonstrated to SBA's satisfaction the ability to serve small business credit needs through the development company program.

§ 108.508–4 Term of designation.

Any designation of a 503 Company to be an Accredited Lender shall be for a term of two years, renewable for additional two year terms at the discretion of SBA upon the application of the 503 Company.

§ 108.508–5 Suspension or revocation.

The Director may suspend or revoke the accreditation of an Accredited Lender for good cause by forwarding a written statement of suspension or revocation to the Accredited Lender. Such statement shall specify the nature of the sanction and the reasons therefore. The decision to suspend or revoke accreditation may be appealed to the Associate Deputy Administrator for Economic Development whose decision on any such appeal shall be the final decision of SBA. Examples of good cause for purposes of these regulations include but are not limited to:

(a) The 503 Company has not continued to meet the criteria for eligibility under § 108.508–3; or

(b) The 503 Company has failed to adhere to the SBA's rules and regulations or is violating any other applicable provision of law.

Dated: March 2, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–10179 Filed 4–25–95; 8:45 am]

BILLING CODE 8025–01–M

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13 CFR Part 108

Loans to State and Local Development Companies; Premier Certified Lenders Program for Certified Development Companies

AGENCY: Small Business Administration (SBA).

ACTION: Interim final rule.

SUMMARY: On October 22, 1994, the President signed Public Law 103–403, the Small Business Administration Reauthorization and Amendments Act of 1994. Section 217 of that Act added a new section 508 to the Small Business Investment Act, 15 U.S.C. 695 et seq. This new section authorizes the Small Business Administration (SBA) to establish a Premier Certified Lenders Program. This rule, published in accordance with Public Law 103–403, is intended to implement this new program.

DATES: This rule is effective on April 26, 1995; however, SBA will accept comments submitted by May 26, 1995.

ADDRESSES: Comments should be sent to LeAnn M. Oliver, Acting Director, Office of Rural Affairs & Economic Development, Small Business Administration, 409 Third Street SW., suite 8300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: LeAnn Oliver, (202) 205–6485.

SUPPLEMENTARY INFORMATION: Public Law 103–403, enacted October 22, 1994, established a Premier Certified Lenders Program (PCLP) for Certified Development Companies (CDCs). The law provides that, on a three-year pilot program basis, SBA may establish the PCLP for not more than 15 CDCs. The PCLP is intended to emulate the successful Preferred Lender Program for the SBA's General Business Loan Program and to transfer that experience to the development company loan program. This recognizes the maturity of individual local certified development companies and the favorable track record of the overall development company loan program. In this way, it will enable SBA to increase responsiveness to small business borrowers by taking the partnership role it normally maintains with the certified development companies to a higher level with CDCs that are designated as PCLP/CDCs.

The concept of a PCLP/CDC is based on the PLP designation for lenders participating with the SBA 7(a) General Business Loan Program. In consideration for a PCLP/CDC agreeing to share in the risk of loan making, the SBA will delegate authority to the PCLP/CDC for the purpose of authorizing, closing and servicing development company loans. Similar to the work of the preferred participating lender in the General Business Loan Program, a PCLP/CDC will be required to obtain SBA's final approval of the eligibility of a debenture for guaranty, but will not be required to obtain SBA's approval for underlying decisions regarding creditworthiness of the borrower, loan closing, or legal requirements imposed by law or regulation. Both PCLP and PLP loans will be processed through the same centralized SBA processing center.

The Premier Certified Lender Program responds to the significant increase in development company loan program activity and recognizes the growing strength and capability of CDCs. A PCLP/CDC will be designated based on a high level of 504 loan activity, a history of submitting adequately analyzed debenture guarantee application packages to SBA, and a favorable recommendation from the SBA field office with which the CDC works. Also as a condition of designation, a PCLP/CDC will commit to establish and maintain a loss reserve equal to the greater of the company's historic loss rate on guaranteed debentures or 1% of the outstanding amount of debentures issued by the company and guaranteed by SBA under the PLCP Program.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act and the Paperwork Reduction Act

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

SBA certifies that this rule will not constitute a significant regulatory action for purposes of Executive Order 12866, since the change is not likely to result in an annual effect on the economy of $100 million or more.

SBA certifies this rule will not impose additional reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

SBA certifies that this rule will not have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of Executive Order 12778.

List of Subjects in 13 CFR Part 108

Loan programs—business, Small businesses.

For the reasons set forth above, SBA amends part 108 of title 13 of the Code of Federal Regulations as follows:

PART 108—[AMENDED]

1. The authority citation for part 108 continues to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.2 is amended by adding definitions of the following terms in the appropriate alphabetical order: "Premier Certified Lender" and "PCLP" to read as follows:

§ 108.2 Definitions.

* * * * *

PCLP means the Premier Certified Lenders Program as provided for in § 108–509.

Premier Certified Lender means a 503 Company which has met the eligibility requirements of § 108.509–3 and which has executed with SBA the PCLP Agreement.

* * * * *

3. A new undesignated center heading and §§ 108.509–1 through 108.509–5 are added to read as follows:

Premier Certified Lenders Program

§ 108.509–1 Objectives and characteristics of premier certified lenders program.

(a) *Purpose.* The purpose of this subpart is to implement section 217 of Public Law 103–403 which authorizes SBA to delegate authority to designated 503 companies, hereinafter called Premier Certified Lenders, to undertake processing, approval, closing and servicing of loans made with the proceeds of SBA guaranteed debentures.

(b) *Characteristics.* SBA will solicit and approve qualified 503 companies to serve as Premier Certified Lenders. Each Premier Certified Lender will be delegated authority to approve loans that are funded with the proceeds of debentures issued by such company. SBA will retain the responsibility to guarantee any such debenture. All rules in this part 108 relating to the operations of participating 503 companies shall apply to Premier Certified Lenders.

(c) *Approval.* The approval of a loan by a Premier Certified Lender shall be subject to final approval by SBA as to eligibility of the guarantee of a debenture, the proceeds of which will fund the loan. Such final approval shall not include a detailed review of decisions by the Lender relative to the loan involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation, provided that SBA will satisfy itself that its guarantee of any debenture issued by a Premier Certified Lender is fully supportable under applicable laws and regulations as to the eligibility of the guaranty of a debenture before it approves any such guarantee.

(d) *Pilot Program Period.* On a pilot program basis, SBA may designate not more than fifteen Premier Certified Lenders. Effective on October 1, 1997, the pilot program ends and sections 108–509–1 thru 108–509–5 of part 108 are repealed.

§ 108.509–2 Application procedure.

Upon the request of a 503 company to participate in the Premier Certified Lender program, the SBA branch or district office with which the 503 Company has had its most significant activity shall review the 503 company's application and prepare its recommendation. The District Director or Branch Manager of that district or branch office shall transmit all requests, accompanied by the district or branch office recommendation, to SBA Central Office where the Director of the Office of Rural Affairs and Economic Development shall make the final decision on all such requests. After a

VOL 60 ISS 80 AP 26 1995 UMI

favorable decision, the district director will designate the lender by executing with the 503 Company the PCLP Agreement. Before it can operate as a Premier Certified Lender, the 503 company must execute such PCLP Agreement.

§ 108.509–3 Eligibility.

In making the determination of whether a 503 company may become a Premier Certified Lender, SBA shall consider, but is not limited to, the following factors:

(a) Whether the 503 company has been an active participant in the Accredited Lenders Program under § 108.508 for not less than the preceding 12 months, and whether the 503 company has demonstrated ability to work with the local SBA office in a cooperative and constructive manner. Prior to January 1, 1996, SBA may waive the requirement for prior activity in the Accredited Lenders Program if such company is otherwise qualified to participate in that program;

(b) Whether the 503 company has a history of submitting to SBA complete, accurate and adequately analyzed debenture guaranty application packages;

(c) Whether the 503 company agrees to assume and to reimburse SBA for 10 percent of any loss sustained by the SBA as a result of a default by the company in the payment of principal or interest on a debenture issued by such company and guaranteed by SBA under the PCLP Program; and

Whether the 503 company has a historical loss rate acceptable to SBA.

§ 108.509–4 Loss reserve.

Each Premier Certified Lender shall establish a loss reserve for financings approved pursuant to the PCL Program.

(a) *Amount.* The amount of the loss reserve shall be the greater of:

(1) The historic loss rate on all debentures issued by such company; or

(2) 10 percent of the amount of the company's exposure on debentures issued under the PCL Program.

(b) *Assets.* The loss reserve shall be comprised of segregated assets of the company which shall be securitized in favor of the SBA.

(c) *Contributions.* For each debenture issued by a Premier Certified Lender, the company shall make a contribution proportionate to the total amount of loss reserve required in the following amounts and at the following intervals:

(1) 50 percent when the debenture is funded,

(2) 25 percent not later than one year after the debenture is funded, and

(3) 25 percent not later than two years after the debenture is funded.

§ 108.509–5 Suspension or revocation.

(a) *Cause.* The designation of a 503 Company as a Premier Certified Lender may be suspended or revoked if the SBA determines that:

(1) The 503 company has not continued to meet the criteria for eligibility under § 108.509–3; or

(2) The 503 company has not established or maintained the loss reserve required under § 108.509–4; or

(3) The 503 company has failed to adhere to the SBA's rules and regulations or has violated any other applicable provision of law.

(b) *Review.* At intervals not greater than 12 months, SBA shall review the financings made by each Premier Certified Lender. The review shall include the lender's credit decisions and general compliance with the eligibility requirements for each financing approved under the program authorized by this section.

(c) *Procedure.* SBA reserves the unilateral right to suspend or revoke the designation of any Premier Certified Lender as a result of any violation of SBA regulations, any breach of any agreement with SBA, or any change of circumstance resulting in the Lender's inability to meet the operational requirements set forth herein: Provided, however, that such suspension or revocation shall not invalidate any guaranty previously entered into by SBA. Proceedings for such purposes will be initiated by a determination to suspend or revoke issued by the Director of the Office of Rural Affairs and Economic Development. Such determination may be appealed to the Associate Deputy Administrator for Economic Development whose decision on any appeal shall be the final decision of SBA.

Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans).

Dated: March 17, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–10178 Filed 4–25–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–158–AD; Amendment 39–9205; AD 95–09–01]

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, that requires an inspection to determine the type of topcoat material currently on the insulation of the inner wall of the fan duct cowl (the firewall) of the thrust reversers, and application of an improved topcoat material, if necessary. This amendment is prompted by tests, which demonstrated that flames can penetrate the firewall if certain combinations of insulation and topcoat materials are used. The actions specified by this AD are intended to prevent failure of the fireproof insulation top coat installed on the firewalls of the thrust reverser fan cowls, which could result in degradation or loss of the firewall and lead to an uncontained engine fire.

DATES: Effective May 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 26, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Bray, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2681; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, –400, and –500 series airplanes was published in the **Federal Register** on December 8, 1994 (59 FR 63277). That action proposed to require an inspection to determine the type of topcoat material currently on the insulation of the inner wall of the fan duct cowl (the firewall) of the thrust reversers, and application of an improved topcoat material, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Several commenters request that the rule be revised so that, if the inspection reveals that the suspect topcoat material is present, operators would not be required to apply the improved topcoat material immediately prior to further flight. These commenters state that the application of the improved topcoat material should be permitted at the operator's convenience after a positive inspection finding. This would encourage operators to conduct the inspection promptly, and then allow them to schedule the time and materials necessary for accomplishing the topcoat application at their subsequent heavy maintenance check. One commenter contends that in-service experience has shown that the risk of an engine fire resulting from the problems associated with the topcoat material is very low; in light of this, it is appropriate to allow an extended interval of time between conducting the inspection and applying the improved top coat.

The FAA does not concur with the request to permit application of the improved topcoat material at an extended interval after the inspection findings. It is the FAA's general policy that, once an unsafe condition has been determined to exist, that condition cannot be allowed to continue in the fleet. Therefore, it is essential that, if the inspection reveals that application of the improved topcoat is necessary, such application must be accomplished prior to further flight after the inspection.

However, in light of the fact that there have been no in-service incidents associated with the addressed unsafe condition, and because the topcoat application procedures may be extensive for some operators, the FAA considers that the compliance time for the required actions can be extended somewhat. It is the FAA's intent that, if the application of the improved topcoat is necessary, it should be performed during a regularly scheduled maintenance interval when the airplane is at a base where special equipment, necessary parts, and trained personnel are available. If the compliance time for the action required by this AD is parallel to the operator's regular maintenance interval, the operator can easily schedule both the inspection and any necessary topcoat application to be performed during the same maintenance hold. In consideration of these factors, the FAA finds that the compliance time may be extended from the proposed 24 months to 30 months without compromising safety. This extension will allow the majority of affected operators to accomplish the required actions during scheduled maintenance visits.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 135 Model 737–300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry will be affected by this AD, that it will take approximately 13 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no charge to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $14,040, or $780 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–09–01 Boeing: Amendment 39–9205. Docket 94–NM–158–AD.

Applicability: Model 737–300, –400, and –500 series airplanes; line numbers 2137 through 2271, inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the failure of the fireproof insulation topcoat installed on the firewalls for the thrust reverser fan cowls, which can result in degradation or loss of the firewall and lead to an uncontained engine fire, accomplish the following:

(a) Within 30 months after the effective date of this AD, inspect the inner wall of the

VOL 60 ISS 80 AP 26 1995 UMI

fan duct cowl (the firewall) of the thrust reversers to determine the type of topcoat material installed, in accordance with Boeing Alert Service Bulletin 737–78A1056, dated August 11, 1994.

(1) If the existing topcoat has silica fibers in it, no further action is required by this AD.

(2) If the existing topcoat does not have silica fibers in it, prior to further flight, accomplish the application of the DC92–010 topcoat to the firewall of the thrust reversers in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection and application shall be done in accordance with Boeing Alert Service Bulletin 737–78A1056, dated August 11, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 26, 1995.

Issued in Renton, Washington, on April 14, 1995.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–9771 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Office of the Under Secretary for Domestic Finance

17 CFR Parts 404 and 405

RIN 1505–AA47

Amendments to Regulations for the Government Securities Act of 1986

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury ("Department" or "Treasury") is publishing, as a final rule, amendments to the recordkeeping rules in part 404 and the reporting rules in part 405 of the regulations issued under the Government Securities Act of 1986 ("GSA"). The recordkeeping amendment requires entities registered with the Securities and Exchange Commission ("SEC") as specialized government securities brokers and dealers ("registered government securities brokers and dealers") under section 15C(a)(2) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78o–5(a)(2)) to maintain and preserve records concerning the financial and securities activities of affiliates whose business activities are reasonably likely to have a material impact on the financial or operational condition of the registered government securities brokers and dealers. The reporting amendment requires registered government securities brokers and dealers to file with the SEC quarterly summary reports of the information required to be maintained and preserved by the recordkeeping amendment. The amendments ("risk assessment rules") parallel the SEC's final temporary risk assessment rules applicable to brokers and dealers that conduct general or municipal securities businesses ("registered brokers and dealers"). The Department's risk assessment rules are being promulgated pursuant to the authority granted to the Department by the Market Reform Act of 1990 (the "Reform Act") and are intended to provide regulators with access to information concerning the financial risk posed to registered government securities brokers and dealers—and to the securities markets as a whole—as a result of certain financial and securities activities conducted by affiliates within holding company structures. The Department is adopting the amendments essentially unchanged from their proposed form.

DATES: The effective date is June 30, 1995. The rules are being implemented in accordance with a phase-in schedule. See Section III of this preamble for the entire schedule.

FOR FURTHER INFORMATION CONTACT: Kerry Lanham (Government Securities Specialist) or Lee Grandy (Government Securities Specialist) at 202–219–3632. (TDD for hearing impaired: 202–219–3988.)

SUPPLEMENTARY INFORMATION:

I. Background

In response to the stock market disruption of October 1987, the bankruptcy of Drexel Burnham Lambert Group, Inc. ("Drexel") in February 1990, and other developments in the securities markets, Congress passed the Reform Act in September 1990.[1] Among other things, the Reform Act provided the SEC and Treasury separate but parallel authority to promulgate risk assessment rules for certain broker-dealer holding company structures. The Reform Act authorized Treasury to require registered government securities brokers and dealers to maintain and report information on the financial and securities activities of certain affiliates that had the potential to pose material amounts of risk to the brokers and dealers. The Reform Act did not authorize Treasury to require financial institutions that have filed notice (or are required to file notice) as government securities brokers and dealers to maintain and report risk assessment information, although registered government securities brokers and dealers that are subject to the rules must maintain records and submit reports pertaining to the financial and securities activities of certain affiliates that are financial institutions.

The Drexel failure demonstrated that financial difficulties or liquidity problems of parent companies or affiliates of brokers and dealers could have a material and adverse effect on brokers and dealers themselves; risk assessment authority was therefore intended to help regulators monitor such developments. The primary focus of the risk assessment authority was the financial health of large holding companies whose potential failures pose risks to their affiliated brokers and dealers, as well as to the securities markets and the financial system as a whole. The Department believes that these rules will enhance the safety of the government securities market and provide for more effective regulatory oversight.

The legislative history[2] of the Reform Act indicated that risk assessment rules would require information concerning several particular types of potentially risky financial and securities activities conducted by affiliates of brokers and dealers, including bridge loans, interest rate swaps, foreign currency transactions, other derivatives (e.g., forwards and futures), and real estate

[1] Pub. L. 101–432, 104 Stat. 963 (1990).

[2] H.R. Rep. No. 101–524 and 101–477, 101st Cong., 2nd Sess. (1990).

developments. Off-balance sheet derivatives such as interest rate swaps and foreign currency transactions were identified as particularly important categories for risk assessment rules given their high growth rates and the limited public information available regarding their magnitude and use.

Affiliates conducting these largely unregulated activities can attain a degree of leverage and assume credit risks that brokers and dealers, which are subject to the capital and customer protection rules of the Treasury and the SEC, cannot attain. The business activities of these affiliates could have significant and adverse effects on the financial health of brokers and dealers. For example, large losses at the parent company level might cause the credit rating of the parent to decline, which could cause liquidity problems at the broker or dealer. Thus, the Reform Act specifically provided the SEC with direct access to information concerning the business activities of brokers' and dealers' affiliates that are outside of SEC oversight.

In September 1991, the SEC published for comment proposed temporary Rules 17h–1T and 17h–2T, which together with proposed Form 17–H, would establish a risk assessment recordkeeping and reporting system for registered brokers and dealers.[3] After reviewing the 63 comment letters it received and making modifications, the SEC issued in July 1992 final temporary risk assessment rules.[4] Rule 17h–1T[5] is a recordkeeping rule identifying and describing the records that registered brokers and dealers are required to maintain and preserve. Rule 17h–2T[6] sets forth requirements for registered brokers and dealers to submit quarterly reports summarizing the information required to be maintained under Rule 17h–1T. The preamble of the SEC's final temporary rules stated that the SEC staff would issue for public comment a study evaluating the effectiveness of the SEC's risk assessment rules within 90 days after the rules have been fully operative for two years. At that time, the SEC will consider what, if any, modifications to its rules would be appropriate. Treasury will consult with the SEC regarding the study and assessment of its rules to determine whether any of the SEC's findings are germane to Treasury's risk assessment rules.

[3] Securities Exchange Act Release No. 34–29935 (August 30, 1991), 56 FR 44014 (September 6, 1991).

[4] Securities Exchange Act Release No. 34–30629 (July 16, 1992), 57FR 32159 (July 21, 1992).

[5] 17 CFR 240.17h–1T.

[6] 17 CFR 240.17h–2T.

The Commodity Futures Trading Commission ("CFTC") was also authorized to promulgate risk assessment rules applicable to registered futures commission merchants ("FCMs") pursuant to the Futures Trading Practices Act of 1992.[7] The CFTC published its proposed risk assessment rules in March 1994.[8] The CFTC extended its comment period twice before promulgating the first part of its final risk assessment rules in December 1994,[9] which require certain FCMs to maintain and file key information addressing the overall structure of holding companies involving the FCMs. The CFTC deferred action on other portions of its proposed rules pending further review and consultation with other regulators.

Treasury published its risk assessment amendments in proposed form on November 15, 1994,[10] and the comment period closed on January 17, 1995. The Department received no comments in response to the proposal.

II. Analysis

A. Reporting and Recordkeeping Requirements

The Department's risk assessment rules incorporate the SEC's final temporary risk assessment Rules 17h–1T and 17h–2T, with minor modifications that reflect both the specialized activities of registered government securities brokers and dealers and the Department's analysis of the SEC's interpretive letter to the Securities Industry Association ("SIA") in September 1993.[11] Under the Department's rules, two general categories of records will be required: (1) Information concerning the holding company organization, risk management policies, and material legal proceedings; and (2) financial and securities information pertinent to assessing risk in the holding company system (e.g., consolidating and consolidated financial statements and positions in various financial instruments). The information required to be maintained and preserved pursuant to the recordkeeping rules will be subject to routine inspection by the SEC and the self-regulatory organizations. Under the reporting rules, registered government securities brokers and dealers will be required to file with the SEC quarterly summaries of the information that must be maintained under the recordkeeping rules. These quarterly summaries will be required to be filed on the SEC's Form 17–H. A more detailed discussion of the Department's specific risk assessment requirements is included in the preamble to the proposed rules.

The information required to be maintained and reported by the firms pertains only to the firms' "Material Associated Persons" ("MAPs"). The Reform Act did not define MAPs. However, the legislative history accompanying the statute specified a number of factors that should be considered when determining which affiliates (associated persons) might have a "material" impact on the financial or operational condition of brokers and dealers. These factors have been incorporated into paragraph 17h–1T(a)(2), thereby providing guidelines for determining which affiliates of the brokers and dealers are MAPs. The initial designation of MAPs will be made by the affected registered government securities brokers and dealers.

The term "associated persons," as explained in the legislative history, is based on the definition at 3(a)(18) of the Exchange Act (15 U.S.C. 78c(a)(18)), except that natural persons are excluded for the purposes of the risk assessment rules (which automatically excludes natural persons from the definition of MAPs). Consistent with the SEC approach,[12] partnerships will not be treated as natural persons and, depending on the circumstances, may be deemed to be MAPs of the registered government securities broker or dealer. Subchapter S corporations may be treated as natural persons for purposes of the amendments if the Subchapter S corporation is owned by one natural person.

Note that, with respect to the Department's risk assessment rules, the definition of "associated persons" differs from the definition of that term as specified in § 400.3 of the GSA regulations. The term as used in § 400.3 specifically applies to certain natural persons who are associated with government securities brokers or dealers.

B. Exemptions and Special Provisions

The Department is incorporating, with modifications and supplements, the SEC's exemptive provisions (17 CFR 240.17h–1T(d) and 240.17h–2T(b)). The Department's provisions will exempt registered government securities brokers

[7] Pub. L. 102–546, 106 Stat. 3590 (1992).

[8] 59 FR 9689 (March 1, 1994).

[9] 59 FR 66674 (December 28, 1994).

[10] 59 FR 58792 (November 15, 1994).

[11] See letter from Michael Macchiaroli, Associate Director, Division of Market Regulation, Securities and Exchange Commission to Douglas G. Preston, Esq., Securities Industry Association (September 20, 1993). (1993 Transfer Binder) Fed. Sec. L. Rep. (CCH) ¶ 76,696.

[12] Id.

VOL
60
ISS
80
AP
26
1995
UMI

and dealers from all of Treasury's risk assessment rules if they: (1) Do not carry customer accounts and maintain capital (equity capital plus subordinated debt) of less than $20 million; (2) maintain capital of less than $250,000 (regardless of whether they carry customer accounts or not); or (3) have an affiliated registered broker or dealer,[13] provided that the registered broker or dealer is subject to, and in compliance with, the SEC's risk assessment rules, and provided that all of the MAPs of the registered government securities broker or dealer are also MAPs of the registered broker or dealer. A registered government securities broker or dealer that has no affiliates or holding company would not be subject to the Department's risk assessment rules. The Department's rules also allow affiliated registered government securities brokers and dealers to request in writing that the Department permit one of the firms—a "Reporting Registered Government Securities Broker or Dealer"—to maintain and report risk assessment information on behalf of the other affiliated firms. The Department will promptly advise the SEC and the National Association of Securities Dealers of such a request and consult with them in order to provide for an efficient examination process.

The Department is also adopting the SEC's special provisions for affiliates that are already subject to supervision by certain U.S. or foreign financial regulatory authorities. (See paragraphs (b) and (c) of 17 CFR 240.17h–1T, and paragraphs (c) and (d) of 17 CFR 240.17h–2T, as modified by §§ 404.2(b) and 405.5, respectively). With respect to such affiliates, registered government securities brokers and dealers will be deemed in compliance with the financial and securities recordkeeping requirements of the rule by maintaining copies of reports that such affiliates already submit to certain domestic and foreign regulators. The registered government securities brokers and dealers will, however, remain responsible for maintaining organizational charts, risk management policies, and records of legal proceedings in which they are involved, and will have to submit such information on Form 17–H (Items 1–3 of Part I of the form).

The Department believes that these types of special provisions and exemptions will preclude duplicative and unnecessary recordkeeping and reporting for various registered government securities brokers and dealers without compromising regulators' need to capture information on the potentially risky activities of entire holding company systems.

C. Scope of Proposed Risk Assessment Rules

In proposing its risk assessment rules, the SEC noted that it believed the majority of registered brokers and dealers that conduct a business with the public do not pose the types of risks the Reform Act was designed to address.

Following this precept, the SEC exempted from its rules registered brokers and dealers whose activities are not likely to pose a material threat to the investing public or the marketplace (e.g., limited purpose mutual fund brokers), whose operations are relatively small (as measured by capital levels), or whose functions do not include carrying customer accounts (unless they are large firms).

The SEC also adopted special provisions for registered brokers and dealers that have certain regulated affiliates, such as banks, insurance companies, futures commission merchants, and foreign affiliates, recognizing the existence of certain regulatory reporting by these entities and eliminating the need to create a new set of records for such entities. In lieu of adhering to the bulk of the SEC's risk assessment rules, registered brokers and dealers are, in certain specified cases, able to maintain and submit copies of reports that these affiliates already routinely submit to U.S. and foreign regulators.

Of the approximately 5,600 registered brokers and dealers that conduct a public business, SEC staff informs us that roughly 250 firms are currently following the SEC's risk assessment rules. These are the largest firms and the ones that potentially pose the most risk to the markets. In contrast, of the 33 registered government securities firms in existence at the time of this writing, approximately 11 are potentially subject to the Department's risk assessment rules since we estimate that 22 of the 33 firms will qualify for at least one of the Treasury exemptions. It appears that five registered government securities brokers and dealers will qualify for an exemption because their capital levels are under $250,000. Fourteen firms will qualify for an exemption because they do not carry customer accounts and have capital of less than $20 million. Six firms will potentially qualify for an exemption because their affiliated registered brokers and dealers follow the SEC's risk assessment rules.[14]

Of the 11 firms potentially subject to the Department's rules, three are affiliated within the same holding company structure. Thus, any one of the firms will be able to request that the Department authorize it to be the Reporting Registered Government Securities Broker or Dealer on behalf of the other two firms. Of the remaining eight firms that are potentially subject to the Department's rules, three have foreign bank holding companies, which could ease their recordkeeping and reporting requirements considerably. These firms should be able to maintain and submit the same reports that their holding companies submit to foreign financial regulatory authorities, with a copy translated into English. The amount of information the remaining five firms will be required to maintain and report will be based on the number of MAPs designated and the types of activities the MAPs conduct. The Department believes this approach meets the objectives of the statute without imposing significant costs or burdens on market participants. In order to provide affected firms time to make personnel and systems adjustments required for compliance, the Department has adopted a multi-month phase-in period.[15] Refer to Section III below for the Department's implementation schedule.

In preparing the rules, the Department consulted with the staffs of the SEC and the bank regulatory agencies; they concur with the Department's approach.

The Department is also promulgating technical amendments to § 404.2 by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and by revising newly redesignated paragraph (c). The revisions to redesignated paragraph (c) will more accurately define the terms "registered government securities broker or dealer" and "the Secretary of the Treasury" as they are used to modify 17 CFR 240.17a–7.

III. Implementation Schedule

Most of the Department's implementation dates have been

[13] Similarly, the CFTC's final risk assessment rules permit FCMs that are, or that have affiliates that are, registered broker-dealers or registered government securities broker-dealers to file Form 17–H in partial compliance with the CFTC's rules. *See Supra* note 9.

[14] The total estimated number of firms qualifying for exemptions exceeds 22 because we anticipate that some firms will qualify for more than one exemption.

[15] Many of the commentators to the SEC's proposed risk assessment rules stated that they would be required to make personnel and systems adjustments to comply with the rules. To ease the burden associated with meeting the requirements of its rules, the SEC adopted a phased-in implementation schedule. The Department is adopting a similar phased-in approach to implementation.

modified from the dates in the proposed rules to provide affected firms with sufficient time to make the necessary preparations to comply with the rules. Effective June 30, 1995, affected firms will be required to maintain records of an organizational chart, written risk management procedures, and a description of material legal or arbitration proceedings; the entire recordkeeping provisions will apply as of September 30, 1995.

The Department's rules will require affected firms to file the organizational chart, the written risk management procedures, and the description of material legal or arbitration proceedings (Part I, Items 1–3 of Form 17–H) by July 31, 1995; the entire reporting provisions (i.e., the remaining portions of Form 17–H, including documents attached in accordance with the special provisions for entities subject to certain domestic and foreign regulators) will apply for the period ending September 30, 1995. The affected firms will have 60 calendar days after September 30, 1995, and after each subsequent fiscal quarter, to actually file the remaining portions of Form 17–H. The cumulative year-end financial statements required pursuant to § 404.2(b)(4) must be filed within 105 calendar days of the end of the fiscal year.

Note that following the first filing by July 31, 1995, of the organizational chart, the written risk management procedures, and the description of material legal or arbitration proceedings, this information need be included in quarterly filings only when a material change in the information has occurred. Additionally, the organizational chart is required in each year-end filing.

IV. Special Analysis

It has been determined that these amendments are not a "significant regulatory action" for the purposes of Executive Order 12866. Therefore, a Regulatory Assessment is not required.

In the preamble to the proposed rules, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Department certified that these amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared. In reviewing the final rules being adopted herein and in light of the fact that no comments were received, the Department has concluded that there is no reason to alter the previous certification.

The collections of information contained in the final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1535–0089.

Estimated total annual reporting and recordkeeping burden: 264 hours
Estimated average annual burden per respondent and recordkeeper: 24 hours
Estimated number of respondents and recordkeepers: 11
Estimated annual frequency of response: Four

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Forms Management Branch, Bureau of the Public Debt, Department of the Treasury, Parkersburg, West Virginia 26106–1328; and to the Office of Management and Budget, Paperwork Reduction Project 1535–0089, Attention: Desk Officer for Department of the Treasury, Washington, DC 20503.

List of Subjects

17 CFR Part 404

Banks, Banking, Brokers, Government securities, Reporting and recordkeeping requirements.

17 CFR Part 405

Brokers, Government securities, Reporting and recordkeeping requirements.

For the reasons set out in the Preamble, 17 CFR parts 404 and 405 are amended as follows:

PART 404—RECORDKEEPING AND PRESERVATION OF RECORDS

1. The authority citation for part 404 is revised to read as follows:

Authority: 15 U.S.C. 78o–5 (b)(1)(B), (b)(1)(C), (b)(2), (b)(4).

2. Section 404.2 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively; by revising newly redesignated paragraph (c); and by adding new paragraph (b) to read as follows:

§ 404.2 Records to be made and kept current by registered government securities brokers and dealers; records of non-resident registered government securities brokers and dealers.

* * * * *

(b) Every registered government securities broker or dealer shall comply with the requirements of § 240.17h–1T of this title (SEC Rule 17h–1T), with the following modifications:

(1) For the purposes of this section, references to "broker or dealer" and "broker or dealer registered with the Commission pursuant to Section 15 of the Act" mean registered government securities brokers or dealers.

(2) For the purposes of this section, references to §§ 240.17h–1T and 240.17h–2T of this title mean those sections as modified by §§ 404.2(b) and 405.5, respectively.

(3) For the purposes of this section, "associated person" has the meaning set out in Section 3(a)(18) of the Act (15 U.S.C. 78c(a)(18)), except that natural persons are excluded.

(4) Paragraphs 240.17h–1T(a)(1)(iii) through (vi) of this title are modified to read as follows:

"(iii) A description of all material pending legal or arbitration proceedings involving a Material Associated Person or the registered government securities broker or dealer that are required to be disclosed, under generally accepted accounting principles on a consolidated basis, by the highest level holding company that is a Material Associated Person.

"(iv) Consolidated and consolidating balance sheets, prepared in accordance with generally accepted accounting principles, which may be unaudited and which shall include the notes to the financial statements, as of quarter-end for the registered government securities broker or dealer and its highest level holding company that is a Material Associated Person;

"(v) Quarterly consolidated and consolidating income statements and consolidated cash flow statements, prepared in accordance with generally accepted accounting principles, which may be unaudited and which shall include the notes to the financial statements, for the registered government securities broker or dealer and its highest level holding company that is a Material Associated Person;

"(vi) The amount as of quarter-end, and at month-end if greater than quarter-end, of the aggregate long and short securities and commodities positions held by each Material Associated Person, including a separate listing of each single unhedged securities or commodities position, other than U.S. Treasury securities, that exceeds the Materiality Threshold at any month-end;"

(5) Paragraphs 240.17h–1T(a)(3) and (a)(4) of this title are modified to read as follows:

"(3) The information, reports and records required by the provisions of this section shall be maintained and preserved in accordance with the provisions of § 404.3 of this title and shall be kept for a period of not less than three years in an easily accessible place.

"(4) For the purposes of this section and § 405.5 of this title, the term

VOL 60 ISS 80 AP 26 1995 UMI

"Materiality Threshold" shall mean the greater of:

"(i) $100 million; or

"(ii) 10 percent of the registered government securities broker's or dealer's liquid capital based on the most recently filed Form G–405 (or, in the case of futures commission merchants and interdealer brokers subject to the capital rules in §§ 402.1(d) and 402.1(e), respectively, tentative net capital based on the most recently filed Form X–17A–5) or 10 percent of the Material Associated Person's tangible net worth, whichever is greater."

(6) Paragraph 240.17h–1T(b) of this title is modified to read as follows:

"(b) *Special provisions with respect to Material Associated Persons subject to the supervision of certain domestic regulators.* A registered government securities broker or dealer shall be deemed to be in compliance with the recordkeeping requirements of paragraph (a)(1)(iii) through (x) of this section with respect to a Material Associated Person if:"

* * * * *

(7) Paragraph 240.17h–1T(c) of this title is modified to read as follows:

"(c) *Special provisions with respect to Material Associated Persons subject to the supervision of a foreign financial regulatory authority.* A registered government securities broker or dealer shall be deemed to be in compliance with the recordkeeping requirements of paragraph (a)(1)(iii) through (x) of this section with respect to a Material Associated Person if such registered government securities broker or dealer maintains in accordance with the provisions of this section copies of the reports filed by such Material Associated Person with a Foreign Financial Regulatory Authority. The registered government securities broker or dealer shall maintain a copy of the original report and a copy translated into the English language. For the purposes of this section, the term Foreign Financial Regulatory Authority shall have the meaning set forth in section 3(a)(52) of the Act."

(8) Paragraph 240.17h–1T(d) of this title is modified to read as follows:

"(d) *Exemptions.* (1) The provisions of this section shall not apply to any registered government securities broker or dealer:

"(i) Which is exempt from the provisions of § 240.15c3–3 of this title, as made applicable by § 403.4, pursuant to paragraph (k)(2) of § 240.15c3–3 of this title; or

"(ii) If the registered government securities broker or dealer does not qualify for an exemption from the provisions of § 240.15c3–3 of this title, as made applicable by § 403.4, and such registered government securities broker or dealer does not hold funds or securities for, or owe money or securities to, customers and does not carry the accounts of, or for, customers; unless

"(iii) In the case of paragraphs (d)(1)(i) or (ii) of this section, the registered government securities broker or dealer maintains capital of at least $20,000,000, including debt subordinated in accordance with Appendix D of § 240.15c3–1 of this title, as modified by Appendix D of § 402.2.

"(2) The provisions of this section shall not apply to any registered government securities broker or dealer which maintains capital of less than $250,000, including debt subordinated in accordance with Appendix D of § 240.15c3–1 of this title, as modified by Appendix D of § 402.2, even if the registered government securities broker or dealer holds funds or securities for, or owes money or securities to, customers or carries the accounts of, or for, customers.

"(3) The provisions of this section shall not apply to any registered government securities broker or dealer which has an associated person that is a registered broker or dealer, provided that:

"(i) The registered broker or dealer is subject to, and in compliance with, the provisions of § 240.17h–1T and § 240.17h–2T of this title, and

"(ii) All of the Material Associated Persons of the registered government securities broker or dealer are Material Associated Persons of the registered broker or dealer subject to § 240.17h–1T and § 240.17h–2T of this title.

"(4) In calculating capital for the purposes of this paragraph, a registered government securities broker or dealer shall include with its equity capital and subordinated debt the equity capital and subordinated debt of any other registered government securities brokers or dealers or registered brokers or dealers that are associated persons of such registered government securities broker or dealer, except that the equity capital and subordinated debt of registered brokers and dealers that are exempt from the provisions of § 240.15c3–3 of this title, pursuant to paragraph (k)(1) of § 240.15c3–3, shall not be included in the capital computation.

"(5) The Secretary may, upon written application by a Reporting Registered Government Securities Broker or Dealer, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any registered government securities brokers or dealers that are associated persons of such Reporting Registered Government Securities Broker or Dealer. The term "Reporting Registered Government Securities Broker or Dealer" shall mean any registered government securities broker or dealer that submits such application to the Secretary on behalf of its associated registered government securities brokers or dealers."

(9) Paragraph 240.17h–1T(g) of this title is modified to read as follows:

"(g) *Implementation schedule.* Every registered government securities broker or dealer subject to the requirements of this section shall maintain and preserve the information required by paragraphs (a)(1)(i), (ii), and (iii) of this section commencing June 30, 1995. Commencing September 30, 1995, the provisions of this section shall apply in their entirety."

(c) (1) Every non-resident government securities broker or dealer registered or applying for registration pursuant to Section 15C of the Act shall comply with § 240.17a–7 of this title, provided that:

(i) For the purposes of this section, references to "broker or dealer" and "broker or dealer registered or applying for registration pursuant to Section 15 of the Act" mean registered government securities brokers or dealers; and

(ii) For the purposes of this section, references to "any rule or regulation of the Commission" and "any rule or regulation of the Securities and Exchange Commission" mean any rule or regulation of the Secretary.

(2) For the purposes of this section, the term "non-resident government securities broker or dealer" means:

(i) In the case of an individual, one who resides in or has his principal place of business in any place not subject to the jurisdiction of the United States;

(ii) In the case of a corporation, one incorporated in or having its principal place of business in any place not subject to the jurisdiction of the United States; and

(iii) In the case of a partnership or other unincorporated organization or association, one having its principal place of business in any place not subject to the jurisdiction of the United States.

* * * * *

PART 405—REPORTS AND AUDIT

3. The authority citation for part 405 is revised to read as follows:

Authority: 15 U.S.C. 78o–5 (b)(1)(B), (b)(1)(C), (b)(2), (b)(4).

4. Section 405.5 is added to read as follows:

§ 405.5 Risk assessment reporting requirements for registered government securities brokers and dealers.

(a) Every registered government securities broker or dealer shall comply with the requirements of § 240.17h–2T of this title (SEC Rule 17h–2T), with the following modifications:

(1) For the purposes of this section, references to "broker or dealer" and "broker or dealer registered with the Commission pursuant to Section 15 of the Act" mean registered government securities brokers or dealers.

(2) For the purposes of this section, references to §§ 240.17h–1T and 240.17h–2T of this title mean those sections as modified by §§ 404.2(b) and 405.5, respectively.

(3) For the purposes of this section, "associated person" has the meaning set out in Section 3(a)(18) of the Act (15 U.S.C. 78c(a)(18)), except that natural persons are excluded.

(4) Paragraph 240.17h–2T(b) of this title is modified to read as follows:

"(b) *Exemptions.* (1) The provisions of this section shall not apply to any registered government securities broker or dealer:

"(i) Which is exempt from the provisions of § 240.15c3–3 of this title, as made applicable by § 403.4, pursuant to paragraph (k)(2) of § 240.15c3–3 of this title; or

"(ii) If the registered government securities broker or dealer does not qualify for exemption from the provisions of § 240.15c3–3 of this title, as made applicable by § 403.4, and such registered government securities broker or dealer does not hold funds or securities for, or owe money or securities to, customers and does not carry the accounts of, or for, customers; unless

"(iii) In the case of paragraphs (b)(1)(i) or (ii) of this section, the registered government securities broker or dealer maintains capital of at least $20,000,000, including debt subordinated in accordance with Appendix D of § 240.15c3–1 of this title, as modified by Appendix D of § 402.2.

"(2) The provisions of this section shall not apply to any registered government securities broker or dealer which maintains capital of less than $250,000, including debt subordinated in accordance with Appendix D of § 240.15c3–1 of this title, as modified by Appendix D of § 402.2, even if the registered government securities broker or dealer holds funds or securities for, or owes money or securities to, customers or carries the accounts of, or for, customers.

"(3) The provisions of this section shall not apply to any registered government securities broker or dealer which has an associated person that is a registered broker or dealer, provided that:

"(i) The registered broker or dealer is subject to, and in compliance with, the provisions of § 240.17h–1T and § 240.17h–2T of this title, and

"(ii) All of the Material Associated Persons of the registered government securities broker or dealer are Material Associated Persons of the registered broker or dealer subject to § 240.17h–1T and § 240.17h–2T of this title.

"(4) In calculating capital for the purposes of this paragraph, a registered government securities broker or dealer shall include with its equity capital and subordinated debt the equity capital and subordinated debt of any other registered government securities brokers or dealers or registered brokers or dealers that are associated persons of such registered government securities broker or dealer, except that the equity capital and subordinated debt of registered brokers and dealers that are exempt from the provisions of § 240.15c3–3 of this title, pursuant to paragraph (k)(1) of § 240.15c3–3, shall not be included in the capital computation.

"(5) The Secretary may, upon written application by a Reporting Registered Government Securities Broker or Dealer, exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any registered government securities brokers or dealers that are associated persons of such Reporting Registered Government Securities Broker or Dealer. The term "Reporting Registered Government Securities Broker or Dealer" shall mean any registered government securities broker or dealer that submits such application to the Secretary on behalf of its associated registered government securities brokers or dealers."

(5) Paragraph 240.17h–2T(c) of this title is modified to read as follows:

"(c) *Special provisions with respect to Material Associated Persons subject to the supervision of certain domestic regulators.* A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer files Items 1, 2, and 3 (in Part I) of Form 17–H in accordance with paragraph (a) of this section, provided that:

"(1) Such Material Associated Person is subject to examination by or the reporting requirements of a Federal banking agency and the registered government securities broker or dealer or such Material Associated Person furnishes in accordance with paragraph (a) of this section copies of reports filed by the Material Associated Person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 5 of the Bank Holding Company Act of 1956; or"

* * * * *

(6) Paragraph 240.17h–2T(d) of this title is modified to read as follows:

"(d) *Special provisions with respect to Material Associated Persons subject to the supervision of a foreign financial regulatory authority.* A registered government securities broker or dealer shall be deemed to be in compliance with the reporting requirements of paragraph (a) of this section with respect to a Material Associated Person if such registered government securities broker or dealer furnishes, in accordance with the provisions of paragraph (a) of this section, Items 1, 2, and 3 (in Part I) of Form 17–H and copies of the reports filed by such Material Associated Person with a Foreign Financial Regulatory Authority. The registered government securities broker or dealer shall file a copy of the original Foreign Financial Regulatory report and a copy translated into the English language. For the purposes of this section, the term Foreign Financial Regulatory Authority shall have the meaning set forth in section 3(a)(52) of the Act."

(7) Paragraph 240.17h–2T(f) of this title is modified to read as follows:

"(f) *Implementation schedule.* Every registered government securities broker or dealer subject to the requirements of this section shall file the information required by Items 1, 2 and 3 (in Part I) of Form 17–H by July 31, 1995. Commencing September 30, 1995, the provisions of this section shall apply in their entirety."

(Approved by the Office of Management and Budget under control number 1535–0089)

Dated: April 18, 1995.

Frank N. Newman,

Deputy Secretary.

[FR Doc. 95–10219 Filed 4–25–95; 8:45 am]

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VOL
60
ISS
80
AP
26
1995
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Lufenuron Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Ciba Animal Health, Ciba-Geigy Corp. The NADA provides for oral administration of lufenuron suspension to cats for the control of flea populations.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0614.

SUPPLEMENTARY INFORMATION: Ciba Animal Health, Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419–8300, filed NADA 141–026, which provides for oral administration of Program® (Lufenuron) Suspension to cats 6 weeks of age or older. The drug is provided once a month, mixed in food, for the control of flea populations. The product contains six individual dose packs of 135 or 270 milligrams lufenuron. Lufenuron has no deleterious effect on adult fleas, but it prevents most flea eggs from hatching or maturing into adults. The NADA is approved as of March 28, 1995, and the regulations are amended in part 520 (21 CFR 520) by adding new § 520.1289 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning March 28, 1995, because it contains reports of new clinical or field investigations, other than bioequivalence or residue studies, essential to the approval and conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 520.1289 is added to read as follows:

§ 520.1289 Lufenuron suspension.

(a) *Specifications.* Each individual dose pack contains either 135 or 270 milligrams of lufenuron.

(b) *Sponsor.* See No. 058198 in § 510.600(c) of this chapter.

(c) *Conditions of use in cats*—(1) *Amount.* Minimum of 13.6 milligrams per pound of body weight (30 milligrams per kilogram). Recommended dose of 135 milligrams for up to 10 pounds of body weight or 270 milligrams for 11 to 20 pounds. Cats over 20 pounds are provided the appropriate combination of packs.

(2) *Indications for use.* For control of flea populations.

(3) *Limitations.* For oral use in cats 6 weeks of age or older, once a month, mixed with food. Administer in conjunction with a full meal to ensure adequate absorption. Treat all cats in the household to ensure maximum benefits. Because the drug has no affect on adult fleas, the concurrent use of insecticides that kill adults may be necessary depending on the severity of the infestation. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: April 19, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–10273 Filed 4–25–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 6, 8, 10 and 11

[T.D. ATF–364, Re: Notice No. 794 and Notice No. 796]

RIN 1512–AB10

Unfair Trade Practices Under the Federal Alcohol Administration Act (93F–003P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is amending trade practice regulations under the Federal Alcohol Administration (FAA) Act on tied-house, exclusive outlets, commercial bribery, and consignment sales by adding standards for enforcing the "exclusion" element where appropriate. Under the FAA Act, "exclusion, in whole or in part, of distilled spirits, wine, or malt beverages, sold or offered for sale by other persons" is a necessary element of a violation of the tied-house, exclusive outlets or commercial bribery provisions. In this final rule, ATF promulgates a framework for establishing "exclusion," identifies promotional practices which result in control of a retailer or in exclusion under the Act, identifies factors which will apply in evaluating exclusion, and identifies those practices for which there is no likelihood that exclusion will result and for which the Bureau will not take action (safe harbors). Other regulatory amendments are also made as a result of an ATF review of the regulations and an industry petition submitted in 1992.

EFFECTIVE DATE: May 26, 1995.

FOR FURTHER INFORMATION CONTACT: James R. Crandall, Coordinator, Market Compliance Branch, 650 Massachusetts Avenue, NW, Washington, DC 20226; telephone (202) 927–8100.

SUPPLEMENTARY INFORMATION:

Background

The Federal Alcohol Administration Act

The Federal Alcohol Administration Act (hereinafter referred to as FAA Act or Act) provides for Federal regulation of the alcoholic beverage industry. The FAA Act contains particular restrictions that are unique to the alcoholic beverage industry and reflects Congress' concern with a variety of trade practices and abuses that took place before, during and immediately after Prohibition. This final rule amends regulations under four parts of the statute, Exclusive Outlet (27 U.S.C. 205(a)), Tied-House (27 U.S.C. 205(b)), Commercial Bribery (27 U.S.C. 205(c)), and Consignment Sales (27 U.S.C. 205(d)). The supplementary information is divided into two sections. The first section deals with the subject of exclusion, and the second section covers other changes implemented as a result of an internal review of trade practice regulations and an industry petition.

Exclusion

One element which is necessary for these practices (other than consignment sales) to result in violation of Federal law is "exclusion, in whole or in part, of distilled spirits, wine, or malt beverages, sold or offered for sale by other persons."

Although exclusion is not defined in the FAA Act or in the current implementing regulations at 27 CFR Parts 6, 8 and 10, ATF has, in the past, held that "exclusion in part" includes simply causing retailers to purchase less of a competing brand than they otherwise would have bought.

In *Fedway Associates, Inc., et al. v. United States Treasury, Bureau of Alcohol, Tobacco and Firearms,* 976 F.2d 1416 (DC Cir. 1992) (*Fedway*), however, the United States Court of Appeals for the District of Columbia Circuit held that Congress had intended something more than just a retailer purchasing less of a competing brand than it otherwise would have. For a violation to occur there must *also* be a tie or link between a supplier and retailer that at least threatens the retailer's independence (that is, in addition to affecting the retailer's purchasing pattern).

The court based this conclusion on several points. The court said "exclusion" means to exclude a rival product from the marketplace by some direct action of the violator. Merely taking some action which influences a retailer not to purchase a rival product is not exclusion under the Act if the retailer's response is the result of a free economic choice. This interpretation of exclusion as meaning the shutting out or expelling of a rival's product, according to the court, is consistent with conduct addressed by the Act such as tied-house, commercial bribery and exclusive outlets. Any broader interpretation would, in the view of the court, likely result in restriction of pro-competitive activities.

The *Fedway* court was concerned that ATF enforcement actions could hinder legitimate competitive activities. Consequently, the opinion states that if ATF suspects a particular practice places retailer independence at risk then the agency must provide substantial support backing up its suspicion. The court recognized the utility of the rulemaking process to provide evidence which substantially supports the conclusion that a particular practice either actually or potentially threatens retailer independence.

Factual or substantive proof is necessary, the court stated, to ensure that the Government does not take an overly-broad enforcement posture in its efforts to prevent potential threats to retailer independence and risk outlawing conduct that fosters a competitive alcohol market. In the *Fedway* proceeding, the court held this factual basis was not met because the only datum or evidence presented was the fact that certain retailers purchased less of a rival product.

In summary, the court offered the following guidance about this statutory element:

> Congress, we are satisfied, used "exclusion" to indicate placement of retailer independence at risk by means of a "tie" or "link" between the wholesaler and the retailer or by any other means of wholesaler control.
>
> [We demand] a factual showing that retailer independence is potentially threatened * * *.
>
> [ATF should] take reasonable account of both policy interests underlying the [trade practice] provisions * * * that the alcohol industry requires special oversight and regulation * * * and the value of pro-competitive wholesale promotions. This value derives not only from the traditional benefits of competition in terms of lower prices and improved quality, but also * * * from the fact that a competitive alcohol market helps deter the formation of a corrupt black market.
>
> Finally, in arriving at a reasonable interpretation of "exclusion" * * * the Bureau must take care to distinguish rationally between those promotions it decides are lawful and those it decides are not.

Notice of Proposed Rulemaking

On April 26, 1994, ATF published Notice No. 794 (59 FR 21698), proposing amendments to the trade practice regulations to address the concerns of the *Fedway* court and to make other changes suggested by its internal review and the industry petition. Notice No. 794 solicited comments on these proposed changes by June 27, 1994. The comment due date was extended to July 27, 1994 by Notice No. 796 (59 FR 29215).

ATF emphasizes that the revision of the trade practices regulations is an ongoing process. Any interested person may petition ATF under 27 CFR 71.41(c) for a rule change.

Comments on Notice of Proposed Rulemaking

ATF received 1,347 letters of comment on Notice No. 794, containing a total of 1,593 signatures. Comments were submitted by alcoholic beverage producers, importers, wholesalers, retailers, trade associations, related businesses, consumers and government agencies.

National trade associations who commented on trade practices include:

American Brandy Association
American Vintners Association (AVA)
Beer Institute
Brewers' Association of America (BAA)
Distilled Spirits Council of the United States (DISCUS)
Institute for Brewing Studies
National Alcohol Beverage Control Association (NABCA)
National Association of Beverage Importers (NABI)
National Association of Beverage Retailers (NABR)
National Association of Convenience Stores (NACS)
National Beer Wholesalers Association (NBWA)
Presidents' Forum of the Beverage Alcohol Industry (the Forum)
The National Wine Coalition
Wine and Spirits Wholesalers of America (WSWA)
Wine Institute

Summary of Proposals, Comments and Changes Incorporated in this Final Rule

The following paragraphs provide a summary of ATF's original proposals, the comments received on each as a result of Notice No. 794, and an explanation of ATF's decision concerning each issue. Proposals which concern a general topic will be addressed first, followed by discussion of proposals concerning individual sections of the regulations.

Proposed New Subparts on Exclusion

ATF proposed amendments and additions to the regulations on the subject of exclusion which follow a framework which ATF believes is consistent with the statutory interpretation of exclusion adopted by the *Fedway* court as well as similar concerns previously raised in *Foremost Sales Promotions, Inc. v. Director,*

VOL
60
ISS
80
AP
26
1995
UMI

Bureau of Alcohol, Tobacco and Firearms, 860 F.2d 229 (7th Cir., 1988) (*Foremost*). The courts in both *Fedway* and *Foremost* found that "exclusion" as used in the FAA Act cannot occur without a relationship or arrangement between the industry member and the retailer which actually or potentially threatens the retailer's independence.

ATF proposed to amend regulatory parts of Title 27 CFR relating to exclusive outlet (Part 8), tied-house (Part 6), and commercial bribery (Part 10), by adding new subparts on exclusion. Even though the exclusive outlet provision was not involved in the *Fedway* or *Foremost* decisions, the provision is impacted by the decisions since the provision requires the showing of exclusion in order for a violation to arise.

ATF proposed a two-step framework to describe exclusion, in whole or in part, of distilled spirits, wine or malt beverages sold or offered for sale by others as occurring (1) when a practice places retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry control over the retailer, *and* (2) such a practice by an industry member, whether direct, indirect, or through an affiliate, results in the retailer purchasing less than it otherwise would have of a competitor's product. The proposed regulations included a set of criteria by which ATF will determine the existence of the first element. These criteria include the duration of the practice or promotion, the degree to which a practice involves an industry member in the day-to-day operations of a retailer, and, in some cases, the non-discrimination feature of the practice where it is available to all retailers. Exclusion under the Act will exist when ATF can establish the presence of both of these elements.

General Comments on Exclusion

While some commenters expressed support for the approach ATF took in the proposed rule, others objected to certain areas of the proposals. For example, NABI stated it was "disappointed to see BATF reassert the so-called 'hair trigger' or 'one bottle less' test for determining exclusion. Proposed section 6.152(a)(2) was pointedly rejected by the court in *Fedway*, yet BATF drags up this albatross once again." Secondly, NABI quoted the *Fedway* decision which said the "* * * definition of the 'exclusion' criterion must also recognize adequately—as the agency's current definition does not—the value of pro-competitive wholesale promotion." The DISCUS comment stated similar concerns and asked that the second element, relating to retailer purchases, be deleted.

ATF disagrees with the DISCUS/NABI comment about the second part of ATF's two-step framework of exclusion (§§ 6.151(a)(2), 8.51(a)(2), and 10.51(a)(2)) where ATF states that a practice must result in a retailer or trade buyer purchasing less than it would have of competitor's product for exclusion to occur. On this subject, the *Fedway* court stated:

> The Bureau explains that the phrase means that the inducement in question must be successful, i.e., it must in fact cause retailers to buy comparatively less from competitors—a minimal requirement, to be sure, but not a meaningless one.

It was the showing of this minimal requirement in conjunction with evidence that a particular practice threatens retailer independence that the court held is exclusion under the Act. Under the two-step framework, exclusion is present only if both parts or elements of the framework are established. If ATF were to drop the second element as requested by NABI and DISCUS, then ATF could prove exclusion under the Act without ever showing that a competing industry member's products were actually excluded in whole or in part. While this would ease ATF's burden in proving a violation it would ignore the statutory requirement of "exclusion, in whole or in part" which by its terms requires some impact on a retailer's purchases.

Regarding NABI's second observation, ATF's goal in airing these proposals and soliciting interested persons' response was to develop a public record showing why certain practices are anticompetitive, in that they threaten retailer independence, and why other practices do not threaten retailer independence. (In the context of commercial bribery, the trade buyer's independence is evaluated.) Relying on all of the comments received, ATF has made adjustments to its original proposals and developed a final rule which it believes does, as *Fedway* directed, "distinguish rationally between those promotions it decides are lawful and those it decides are not."

The Federal Trade Commission (FTC) staff (rather than the Commission or Commissioners) submitted comments on the general approach to exclusion. While the staff concurs that the threat to retailer independence analysis is consistent with promoting a competitive market, they recommend that ATF adopt more of a market share or "market power" approach.

Before responding to the particular FTC staff comments; ATF feels it is necessary to point out that the FAA Act is concerned with the impact of a particular marketing practice on an individual retailer and not on the entire retail market in any particular locality (e.g., "relevant market"). The latter market focus is the concern of the antitrust laws enforced by the FTC and explains why the vertical restraint framework applied by the FTC is not relevant to an FAA Act analysis. Congress deemed the general antitrust laws insufficient to address the unique unfair trade practice problems in the alcoholic beverage industry. This is why the FAA Act itself does not contain the term "competitive" unlike the general antitrust laws: an absence acknowledged by the FTC staff. Instead, the Act focuses on the transactions between an industry member and "any retailer" or "any trade buyer."

The FTC staff comments implicitly recognize this difference when they state that the FAA Act speaks in terms of supplier power over retailers rather than simply a supplier's market share or power. If the proper focus of the FAA Act were market share or power, then the Act would be identical to the general antitrust laws rather than merely "analogous" as Congress intended.

Turning to the particular comments, the staff objects to the second part of the general approach to exclusion that requires ATF to show the retailer purchased less of a competitor's product than it would have, as a result of a supplier's promotional practices. The FTC staff suggests that this is "ambiguous" since there may be many legitimate reasons explaining a decrease in a retailer's purchases. The FTC staff also suggests that the FAA Act does not require the fact of reduced purchases as an element of a statutory violation.

In promulgating the regulation on the exclusion approach, ATF is not concluding that a mere reduction in purchases results in a violation. ATF has deliberately taken a narrow approach to ensure that legitimate competition is not hindered. The fact of reduced purchases is only relevant when that fact results from a supplier practice that creates a tie or link (or other method of control) that threatens retailer independence. By requiring this nexus, ATF is ensuring that reduced purchase situations resulting from free economic choice or pro-competitive marketing practices are not pursued as a violation.

ATF believes that the FAA Act mandates a consideration of whether the retailer's purchases have been impacted by a practice because the statute speaks of "exclusion, in whole or in part" of a competing supplier's products as a result of a transaction between the industry member and any retailer. As noted above, the *Fedway* court recognized this impact as "a minimal requirement, to be sure, but not a meaningless one." (The FTC staff also commented on the criteria used to evaluate exclusion, and those comments will be discussed in that section.)

Finally, E. & J. Gallo Winery, in its comment, noted that the *Fedway* court did not "question ATF's authority to strike at threats to retailer independence in their incipiency, before harm occurred." Their comment quoted the *Fedway* court's demand that ATF make a "factual showing that retailer independence is potentially threatened." The Wine Institute also noted the *Fedway* court demanded only "a factual showing that retailer independence is potentially threatened." These comments caused ATF to review its proposed rule and amend the discussion of exclusion, in general, to address this potential threat by adding "places (*or has the potential to place*) retailer independence at risk" in each subpart on exclusion. This revision is consistent with the discussion of the exclusion standard in both the *Fedway* and *Foremost* decisions, since those decisions refer to potential threats.

Practices Which Place Retailer or Trade Buyer Independence at Risk and Practices Not Resulting in Exclusion

In each part, ATF proposed to identify certain practices which the rulemaking record and judicial precedent indicate place retailer independence at risk by their very existence. When such practices are undertaken, ATF would determine through the course of an investigation whether the other part of the exclusion element relating to the actual impact on a retailer's purchases is present. In the exclusive outlet and commercial bribery regulations, ATF also proposed sections for discussion of practices not resulting in exclusion. In the tied-house regulations, ATF proposed to revise and expand the Subpart D exceptions to provide safe harbors.

Exclusive Outlet

Section 105(a) of the FAA Act makes it unlawful for an industry member to require, by agreement or otherwise, any retailer engaged in the sale of alcoholic beverages to purchase any such product from such person to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce, provided one of the three interstate or foreign commerce jurisdictional clauses is met.

Retailer independence is threatened in an exclusive outlet arrangement when the ability of the retailer to decide which brands of alcoholic beverages to purchase is restricted or impeded. In the *Fedway* context, the question is whether any restriction negates the retailer's free economic choice or has been utilized by the industry member to restrict such choice.

In that regard, ATF proposed adding a new section 8.52 to identify two practices that clearly result in exclusion under section 105(a) of the Act. The first practice involves purchases of distilled spirits, wine, or malt beverages by a retailer as a result, directly or indirectly, of a threat or act of physical or economic harm by the selling industry member. The second practice involves contracts between an industry member and a retailer which require the retailer to purchase distilled spirits, wine or malt beverages from that industry member and expressly restrict the retailer from purchasing, in whole or in part, such products from another industry member. In both situations, exclusion of a competitor's products results directly from the arrangement or the contract without any action by the retailer. Further, ATF has always viewed an exclusive outlet arrangement as including a situation where the retailer offers exclusivity privileges and the industry member accepts that offer. In other words, it does not matter whether the requirement originates with the industry member or the retailer; rather, the requirement is within the exclusive outlet prohibition so long as it is understood as part of the bargain. This position was enunciated in Industry Circulars 75–20 and 76–18, concerning sales to the U.S. military or other trade buyers. By availing itself of the requirement offer, the industry member has, in effect, specifically conditioned the promotional arrangement on this understanding.

ATF also proposed to add a new section 8.53 to describe practices not resulting in exclusion. Only one practice was identified in the proposed rule, a supply contract for one year or less, under which an industry member agrees to sell alcoholic beverage products to a retailer on an "as needed" basis provided that the retailer is not required to purchase any minimum quantity of such products. Commenters Hinman & Carmichael expressed concern that retailers' private label wine supply contracts would not be within this safe harbor, since they often last for more than a year. The commenters state there are legitimate business reasons for the longer duration of the contract, such as the time needed for product development and promotion and wine production. After consideration, ATF believes the one year duration is appropriate since the supply contracts which ATF has reviewed have involved that timeframe. ATF is concerned that supply contracts for three years involve a continuing relationship that has a potential, under certain circumstances, for tying that retailer to the industry member. Nevertheless, the fact that longer contracts are outside this safe harbor does not foreclose their use; it only means that ATF will apply the criteria in section 8.54 to these situations. Sections 8.52 and 8.53 are adopted without change in the final rule.

Part 6—"Tied-House"

Section 105(b) of the FAA Act makes it unlawful for an industry member to induce through any of the following means, any retailer engaged in the sale of alcoholic beverages to purchase any such products from such person to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce, provided one of the three jurisdictional clauses is met:

(1) By acquiring or holding any interest in any license with respect to the premises of the retailer; or

(2) By acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of the business; or

(3) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, or other things of value, subject to the exceptions prescribed by regulations, having due regard to public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of the subsection; or

(4) By paying or crediting the retailer for any advertising, display, or distribution service; or

(5) By guaranteeing any loan or repayment of any financial obligation of the retailer; or

(6) By extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions as ascertained by the Secretary and prescribed by regulation; or

(7) By requiring the retailer to take and dispose of a certain quota of any of such products.

Retailer independence can be threatened in a tied-house arrangement between an industry member and a

VOL
60
ISS
80
AP
26
1995
UMI

retailer when the arrangement involves a continuing business relationship which restricts the retailer's ability to make free economic choices on which brands of products to purchase. In effect, competition is restricted because the retailer who is dependent on or tied to an industry member cannot make free and rational business choices on whether to make a current purchase from another industry member based on current business considerations such as consumer demand or lower prices offered by the competition.

The proposed regulations identified threats to a retailer's independence which include: a wholesaler's partial ownership of a retailer, sales where the wholesaler conditions the purchase of one distilled spirits product on the retailer purchasing another distilled spirits product at the same time, and wholesaler control over the retailer through controlling the resetting of the products on a retailer's premises.

Commenters on the other practices listed in § 6.152 requested several amendments to these practices. The law firm of Schreiber, Simmons, MacKnight & Tweedy, commenting on behalf of an Asian brewer, expressed concern that because of the way paragraph (c) is worded, it appears that partial ownership of a retailer by an industry member is automatically deemed to put retailer independence at risk. E. & J. Gallo Winery also commented on this section, recommending that ATF allow industry members to own small amounts of stock in publicly traded retailers. ATF revised the wording of this section to show use of the ownership of a less than 100 percent interest in a retailer to influence the retailer's purchases is the act deemed to put retailer independence at risk, not partial ownership alone.

With respect to all the practices listed in proposed § 6.152, ATF will also be required to determine whether the practice results in the retailer purchasing less than it otherwise would have of a competitor's product.

ATF also proposed to revise and consolidate several of the provisions contained in Subpart D of Part 6 of the current regulations which find that certain practices will not result in exclusion under the tied-house provisions (that is, safe harbors).

The classification of these practices in Subpart D of Part 6 is intended to provide guidance to the regulated industry so that legitimate product marketing programs can be developed without the uncertainty of a potential Federal enforcement action. Legitimate product marketing encourages competition, by large and small businesses alike, on the basis of price, product quality and service. (Proposed revisions to these regulatory exceptions and related comments are examined in detail in the discussion of changes to individual sections, below.)

Commercial Bribery

Section 105(c) of the FAA Act makes it unlawful for an industry member to induce through any of the following means, any trade buyer engaged in the sale of alcoholic beverages, to purchase any such products from such person to the exclusion in whole or in part of alcoholic beverages sold or offered for sale by other persons in interstate or foreign commerce, provided one of the three jurisdictional clauses is met:

(1) By commercial bribery; or

(2) By offering or giving any bonus, premium, or compensation to any officer, or employee, or representative of the trade buyer.

Commercial bribery situations involve the receipt of money or a premium by an officer, employee, or representative of the trade buyer. Payments made directly to business entities (*i.e.*, the corporation, partnership, or individual owning the business) for the use of the business do not constitute a commercial bribe. The independence of the trade buyer is threatened in a commercial bribery situation because the officer, employee, or representative of the trade buyer is making a purchasing decision as a result of the money or premium received personally and not based on business or marketing factors which further the interests of the trade buyer itself.

Proposed section 10.52 identifies promotional conduct by an industry member that involves the payment of money or another premium to an employee or representative of a trade buyer without the knowledge of the trade buyer as practices under the Act that place trade buyer independence at risk. The *Fedway* court noted that previous case law upheld as actionable these types of payments. These payments were viewed as anti-competitive because one competitor gained a competitive advantage over another competitor by reason of a "secret and corrupt dealing with employees or agents of prospective purchasers." *See, American Distilling Co. v. Wisconsin Liquor Co.*, 104 F.2d 582 (7th Cir. 1939). Even where such practices exist, ATF would still be required to demonstrate that they affect the trade buyer's purchases in order to establish exclusion. With respect to those practices not mentioned herein, ATF would be required to demonstrate the existence of both of the elements of exclusion set forth above.

ATF also proposed adding a new section 10.53 to discuss practices which do not place trade buyer independence at risk, but proposed no specific examples.

These two sections were adopted in the final rule without any changes.

Criteria for Determining Retailer or Trade Buyer Independence

ATF proposed adding §§ 6.153, 8.54 and 10.54 to list criteria by which ATF would evaluate whether or not a particular practice places retailer or trade buyer independence at risk. Elements which have repeatedly been mentioned in court cases are degree of control exercised over trade buyers' purchasing decisions, duration of the practice, indiscriminateness and contractual or other enforceable requirements. The goal of regulating trade practices in the alcoholic beverage industry has been identified as healthy competition in order to insure the best possible price, quality and selection for the consumer and to prevent formation of a corrupt black market.

The proposed criteria are indications that a particular practice, other than those in sections 6.152 and 8.52, places retailer independence at risk. A practice need not meet all of the criteria specified in order to place retailer independence at risk. The proposed criteria are:

(a) The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase and the quantity in which to purchase them for sale to consumers.

(b) The industry member obligates the retailer to participate in the promotion to obtain the industry member's product.

(c) The retailer has a continuing obligation to purchase or otherwise promote the industry member's product.

(d) The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

(e) The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer's premises.

(f) The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

In the case of commercial bribery, the risk to the wholesale or retail trade buyer's independence is evaluated using similar criteria in section 10.54. A number of commenters expressed concern that ATF's application of these criteria to wholesaler trade buyers was overly broad and could disrupt legitimate franchise arrangements or "promotional partnerships" between industry members and their wholesaler trade buyers. In response, ATF wishes to emphasize that the only "practices" being evaluated in section 10.54 are commercial bribery or the offering or giving of a bonus, premium, or compensation *to any individual officer, or employee, or representative* of the trade buyer. Transactions with the trade buyer entity are not in question here, unless circumstances indicate the trade buyer entity is merely a conduit between the industry member and the individual.

In their comment, DISCUS proposed an alternative to these criteria, which they called "guidelines for evaluating exclusion." To some extent, these guidelines paraphrased the general principles enunciated in proposed §§ 6.152, 8.52 and 10.52, but stated them in terms that narrow their application to specific factual situations. The final rule retains the general principles in its criteria rather than the more limited guidelines proposed in the DISCUS comment, since the industry is provided clearer guidance by the use of principles of general application rather than more narrow factual characterizations.

The FTC staff also addressed the criteria ATF will apply in evaluating a promotional practice not otherwise covered in another regulation. In general, the FTC staff criticized the criteria since they feel that each one of the criteria could be a feature of a normal commercial relationship under the right circumstances. Rather than recommend different criteria, the FTC staff again returns to their view that the factor of market share or "market power" is the proper approach.

For the reasons discussed under "Exclusion, in general" above, a market share or "market power" approach is not consistent with the statutory language of the FAA Act or Congress' intent in enacting the unfair trade practice provisions. Rather, ATF has developed these criteria based on the factors stressed by the various Federal courts that have addressed violations of the unfair trade practice provisions. No one factor is determinative. To the extent that applying a particular factor in a particular case will result in restricting a pro-competitive practice, the factor will not be applied in evaluating that practice. This is clearly a case-by-case determination. However, the FTC staff suggestion that a criterion does not in all cases demonstrate a tie or link that threatens retailer independence does not render the factor irrelevant in those cases where it is evidence of such a tie or link.

After reviewing the FTC staff comments, ATF determined, for reasons of clarity, that criterion (a) in §§ 6.153, 8.54 and 10.54 should read "which products or what quantity" (the proposed rule read "which products and what quantity"). ATF has changed the final rule accordingly.

Slotting Fees

In Notice No. 794, ATF proposed adding slotting fees to two areas of the regulations: first, as an example of a practice which has the potential to threaten a retailer's independence (proposed section 6.152), and second, as "other than a bona fide sale" (proposed section 11.24). Slotting fees were described in Notice No. 794 as fees paid to a retailer in order to obtain premium shelf space. ATF sought comments on whether slotting fees should be addressed in tied-house and/or consignment sale regulations. In the notice, ATF requested data and information on the effect of such fees, rather than solely statements of preference by a particular commenter.

Slotting fees, also referred to as slotting allowances, are not specifically addressed in the current FAA Act regulations. In the past, ATF interpreted such fees as "things of value" given to retailers or as "paying or crediting the retailer for any advertising, display or distribution service" and investigated slotting fee arrangements as potential violations of the tied-house provisions of the FAA Act, 27 U.S.C. 205(b)(3) or 205(b)(4).

ATF received 1,347 letters of comment on Notice No. 794, containing a total of 1,593 signatures; of these, 1,309 letters (1,554 signatures), expressed support for ATF's stated position on slotting fees. Several trade associations who supported ATF's proposed treatment of slotting allowances enclosed substantive and detailed analyses on the subject by authorities outside the alcoholic beverage industry in addition to their own comments. The Wine Institute submitted a statement prepared by Paul N. Bloom, Professor of Marketing at the University of North Carolina at Chapel Hill ("Bloom"). The Beer Institute submitted statements prepared by David P. Kaplan, President of Capital Economics, a Washington, D.C., economic research and consulting firm ("Kaplan") and Robert Goodale, Deputy Secretary of Commerce for the State of North Carolina ("Goodale"). The Brewers Association of America submitted a statement by Gregory T. Gundlach, of the College of Business Administration , University of Notre Dame ("Gundlach"). Most other commenters who supported the ATF proposal commented with conclusory statements that slotting fees are anti-competitive, but submitted no accompanying data in support of these conclusions.

The commenters supporting the proposed rule did so from a number of different perspectives. Approximately 1,130 of the letters written in support of ATF's proposed rules on slotting addressed only that issue. Most of these letters came from beer wholesalers, and many stated simply that slotting fees should continue to be considered a potential violation in both the tied-house and consignment sales regulations. The reasons given included the statements that slotting fees will hurt competition, reduce consumer choice, discriminate against small businesses and raise costs in an already tight market. However, no supporting evidence was furnished in most of these letters. A few of these commenters went on to describe likely costs in terms of money, lost jobs, or product failures from their experience with soft drinks or snacks.

Of the commenters who wrote only about slotting, 71 requested that ATF expand its definition of slotting to encompass "purchasing, renting or maintaining display and storage space as well as shelf space."

ATF also received four comments from individual consumers who expressed concern that slotting allowances may have the effect of dampening innovation, especially in the fledgling domestic craft brewing industry, by making the cost of introducing a new product prohibitively high.

In identical letters, six commenters identifying themselves as small retailers expressed concern that "slotting fees would give giant retailers more money to drive me out of business."

Five commenters argued in favor of a change in ATF's proposed treatment of slotting fees. These commenters were the National Association of Convenience Stores (NACS), the Minnesota Licensed Beverage Association, Inc. (MLBA), The Kansas Retail Liquor Dealers Association, Inc., the Circle K Corporation, which owns and operates convenience stores, and The Chapter House, a brewpub. NACS

VOL
60
ISS
80
AP
26
1995
UMI

and the Circle K corporation both argued that slotting fees are simply reimbursement for the expenses incurred by a retailer when it stocks a new product or moves a product already in stock to a more prominent location, including rearranging warehouses, changing accounting and inventory control systems, and planning new displays and shelf arrangements. No specific examples or data were submitted. NACS cited the high number of new products introduced each year and argued that slotting fees enable the products to be available to consumers at the retail premises. However, no marketing data or studies were submitted in support of this purported effect. MLBA and the Chapter House both noted that consumers, by their purchases, ultimately control the retailer's purchasing decisions, whether or not slotting fees are paid.

Evaluation of Comments on Slotting Fees

In examining slotting allowances or fees, also called "display fees," "introductory allowances," "pay-to-stay fees," "stocking allowances," "annual renewal fees," "up front fees," "maintenance fees," "push money," and "failure fees," ATF has relied heavily upon the aforementioned statements by Bloom, Kaplan, Goodale and Gundlach, since so little objective data was submitted with the other comments. Where material from these statements is cited, ATF will include a reference to the author and page number.

In his statement, Bloom (page 15) notes that slotting fees "have become entrenched, with both grocery manufacturers and retailers expecting these fees to be a part of every transaction involving a new product." Since these fees have become so commonplace in other industries and are not being treated as illegal in those industries, it is appropriate to review ATF's reasons for believing they should continue to be prohibited in the alcoholic beverage industry.

Fedway directed ATF to consider the benefits of legitimate competitive practices in evaluating whether a practice is exclusionary. Several of the statements addressed this aspect of slotting fees. One expected benefit of fair competition is that it will result in better quality, selection or prices for consumers. Goodale (page 8) says slotting allowances "do not benefit consumers. Retailers do not pass on the proceeds from slotting allowances in the form of lower prices for the favored products. Moreover, competition by slotting allowances may actually tend to displace competition in other forms more likely to be passed on to consumers, such as lower prices to retailers, special promotions, or coupons. To the extent that they reduce the availability or visibility of competing products, slotting allowances also reduce consumer choice."

Many commenters expressed concern that allocation of shelf space to products under slotting fee agreements is not based on perceived consumer demand, but on money factors. These concerns appear to be borne out by the expert statements and the published material attached to them. Several made the distinction between "pull" marketing, in which the supplier uses advertising, coupons, and other means to create consumer demand, and "push" marketing, in which the supplier essentially pays the retailer to "push" the product by guaranteeing its availability and prominence at retail outlets. Slotting fees, sometimes called "push money" fall into this latter category. In *Fedway*, the court acknowledged the "general belief that cheap and plentiful alcohol is not an unmitigated social good (as opposed, say, to cheap and plentiful home heating oil or shoes) suggest[s] that the alcohol industry requires special oversight and regulation." There is at least a perceived danger in allowing slotting fees in the alcoholic beverage industry that heavily promoted products would be overrepresented or "pushed" at the retail level.

Bloom (pages 4 through 6 and page 23) points out that "the channels of distribution through which an industry member may market its beverages are far more limited than those faced by a manufacturer of other beverages or of other unregulated consumer products." Availability of retail outlets for alcoholic beverages is "restricted in number and location, by state licensing requirements" and "manufacturers in this industry may not sell their goods through mail order in many states." Bloom states the argument that there are alternative retail outlets (that is, that a supplier barred from selling to one customer may sell to others) does not apply in the alcoholic beverage industry because of these factors.

One of ATF's proposed criteria for determining retailer independence, that is, whether the practice has a discriminatory aspect, also has a bearing on the evaluation of the impact of this rulemaking on small businesses under the Regulatory Flexibility Act. Bloom (page 11) states that "some argue that slotting fees may be beneficial to small business, by offering the opportunity for an untested product to 'buy' its way into a retailer. I consider this view somewhat naive, since, even if such an opportunity exists in theory, it is not a realistic or practical one for most small or start-up businesses. These are precisely the companies that cannot win the bidding war for retail space because they do not have the funding to pay hundreds of thousands of dollars in up-front fees. It is highly relevant that small food manufacturers have been among the most vocal opponents of slotting fees." Bloom further notes "since slotting fees usually bear little relation to the costs of a retailer or wholesaler, often causing manufacturers to pay different amounts to different resellers to stock the same item, such fees can adversely affect small *retailers* as well." (page 25—emphasis in original.) Goodale (page 6) makes a similar observation: "Individual stores and smaller chains have considerably less or no leverage and consequently receive disproportionately less in 'slotting allowances,' if any at all."

Kaplan (pages 18 and 19) discusses competition and performance in the beer and wine industries. "By any standard, both industries have exhibited healthy competition and excellent performance under a regulatory regime in which slotting allowances were clearly prohibited. The healthy level of industry performance strongly suggests that material alterations to the regulatory treatment of slotting allowances and other long-prohibited trade practices should be approached cautiously." Bloom (pages 5 and 6) also notes, despite "the vigor of competition in the industry, however, the * * * regulatory structure, by directing competition and creating entry barriers, can sometimes make it more difficult to market products in the alcoholic beverage industry than in others. Accordingly, marketing practices which may be benign in other industries may have severe adverse consequences in this one."

Kaplan (pages 4 and 5) performs a comparison between ATF's criteria to determine whether a practice places retailer independence at risk and the characteristics of slotting allowances. Kaplan states, "[i]n my opinion, the payment of a slotting allowance by a supplier restricts or hampers the retailer's choice of which products to purchase (during the time period in which the shelf space has been purchased or rented), represents a continuing obligation on behalf of the retailer to purchase and stock the supplier's product, represents a commitment by the retailer not to terminate its relationship with the supplier with respect to purchase of the supplier's products, reduces the amount

of shelf space available for competing products, and generally results in a reduction in the sales of the displaced products." Goodale (pages 6 and 7) performs a similar analysis, with similar findings. He adds that "[s]lotting allowances involve manufacturers in the day-to-day decisions of the retailer regarding what products the retailer will purchase and how products will be displayed in the store. Payment of slotting allowances is almost always discriminatory among retailers in any given area."

With particular reference to the continuing character of the obligation, and the danger of a tie or link between the industry member and the retailer, Bloom (page 7) states that "manufacturers often make continuing payments to retailers and wholesalers either to keep a product on the shelves or in the warehouse when the product does not sell in the volume expected by the retailers, or to obtain preferential display space. In other words, manufacturers may be required to make ongoing payments even after they have paid the entry fee and even if the product sells well. These are referred to as 'pay-to-stay' fees.

"Goodale (page 6) noted "Manufacturers pay slotting allowances only with the agreement of retailers to provide their products some benefit or favorable treatment. A slotting allowance is part of a mutually binding contract between manufacturer and retailer. Thus, a retailer that accepts a slotting allowance is obligated to fulfill the terms of its agreement with the paying manufacturer. Moreover, retailers do not treat this obligation lightly. A retailer that did not fulfill its part of a slotting allowance agreement would quickly acquire a reputation as a 'welcher' that would damage its ability to collect slotting allowances in the future. Thus, retailers have a strong incentive to honor their commitment to favor the paying manufacturer's product." Bearing out this notion of an incentive to favor a supplier who pays slotting fees, Bloom attached an article from *Journal of Public Policy and Marketing* by Joseph P. Cannon and Paul N. Bloom, called "Are Slotting Allowances Legal Under the Antitrust Laws?" The article noted:

> Whether slotting allowances have served as anticompetitive weapons or insurance fees, grocery chains have benefited from their existence. Historically, profits rarely exceeded 1 percent of sales, but the last several years have seen profits in the 2 percent range [Sullivan 1989].

Although the article noted there were other contributing factors in this striking increase in profitability, a retailer would be reluctant to give up any practice which contributes to such an increase. Goodale (page 6), stated that, for large retailers, "slotting allowances are a major source of revenue, accounting for perhaps more than 10% of after-tax profits." This underscores the potential for a retailer to become dependent on a slotting fee arrangement, thus creating the tie or link which is an element of exclusion.

Nature and Effect of Slotting Fees

The proposed description of slotting fees in § 6.152(b), read, in part, "purchasing or renting specific shelf space * * * where such purchase reduces the availability of other shelf space for the distilled spirits, wine or malt beverages of another industry member."

As noted earlier in the discussion of the comments on slotting, a number of commenters requested that this definition be expanded because slotting fees cover more than just the purchase of specific shelf space.

Goodale (pages 8 and 9) states "in my view, the slotting allowance provision in § 6.152(b) of the NPR is too narrow. The reference to 'purchasing or renting specific shelf space' would not include many of the slotting allowance arrangements discussed above that have the same adverse effect on retailer independence. The draft regulation should be modified to make clear that all forms of slotting allowance arrangements will be treated as putting retailer independence at risk, as in fact they most certainly do." The slotting practices listed by Goodale (pages 2 through 4) were:

> Payments made by manufacturers to retailers and wholesalers to set up a new item in their store or warehouse.
>
> Payments made by manufacturers to retailers in return for an obligation to, for some agreed-upon period of time:
>
> Allocate a specified quantity of shelf or refrigerator space to the manufacturer's product;
>
> Allocate a favorable shelf or display position to the manufacturer's product (aisle end or eye level, for instance);
>
> Feature the manufacturer's products in advertising and displays during times of peak demand, such as holidays;
>
> Set aside warehouse or backroom space on the retail premises for storage of the manufacturer's product, to reduce the number of deliveries and facilitate restocking of the store shelves;
>
> In some product categories (greeting cards and light bulbs, for example) the retailer may carry one manufacturer's product exclusively.

Based upon the evidence noted, ATF believes that slotting fees put retailer independence at risk, and proposed § 6.152(b) is adopted in this final rule, with two changes. In the final rule, ATF has expanded the description of slotting fees to more accurately reflect the variety of practices which come under this category. ATF also dropped the condition that the purchase of shelf space reduce the availability of space for competitors' products from § 6.152(b), since that factor must always be shown within the framework discussed in § 6.151(a)(2).

Slotting Fees as Consignment Sales

In Notice No. 794, ATF proposed to classify payment of slotting allowances as "not a bona fide sale" in the consignment sale regulations in Part 11. This classification grows out of the description of consignment sales in 27 U.S.C. 205(d), "to sell * * * on consignment or under conditional sale or with the privilege of return or on any basis otherwise than a bona fide sale." ATF argued the practical effect of "slotting allowances" is to refund, in whole or in part, the purchase price of a product that has not been sold, in proportion to the period of time that it remains unsold.

At a minimum, payment of "slotting allowances" may reimburse the trade buyer for the cost of shelf space occupied by the industry member's products. In addition, it may also compensate the trade buyer for the lost opportunity cost of having capital tied up in inventory acquired from the industry member. Ultimately, the amount refunded by this mechanism can, over any specified period of time, be the economic equivalent of simply buying back a product at the end of that period of time.

ATF believes that its regulations should address all arrangements that clearly embody the substance of the "consignment sale" practice proscribed by Congress, and not merely particular forms of that practice. Therefore, ATF proposed to amend its regulations to specify payment of "slotting allowances" from an industry member to a trade buyer is a form of consignment sale.

NACS, in its comment, stated that slotting allowances cannot be equated with consignment sales. They argue that it is unlikely that, even over time, the slotting allowances would be the equivalent of the wholesale price, and that ATF cannot presume "that slotting allowances would have this effect in all circumstances."

Other commenters offered contrasting views on this subject. E. & J. Gallo Winery cited remarks by FTC Commissioner Deborah K. Owen on the subject of slotting fees. She called them

VOL 60 ISS 80 AP 26 1995 UMI

a "form of insurance for the retailer * * * [which] reduce, and perhaps eliminate his risk—or at least transfer some of it to the producer—by charging a fee that, essentially, provides indemnification from the loss of profits that would arise if the new product fails to sell well." Statements submitted by retailers opposing ATF's proposals on slotting fees corroborated that slotting fees do serve the function of shifting the risk of loss back to the supplier/wholesaler.

Kaplan (page 13) describes "failure fees." "These fees are being paid if a 'new product does not meet sales expectations.'" Kaplan's example described a grocery chain which reportedly asks its suppliers to agree, under contract, to cover the retail cost of merchandise remaining unsold after a 120-day introductory period if the product has not met its weekly volume target. The supplier "has the option" of removing the remaining inventory.

Bloom (page 17) said "a manufacturer which performs poorly is often able to 'pay to stay,' and make up for the shortfall in profits contributed." Bloom went on to describe slotting fees in the grocery industry as "a form of 'insurance' for retailers. It is well-recognized that retailers have reduced the risk of carrying new products by charging slotting fees. Indeed, several [interviewees] suggested that many supermarkets may not be in the risky grocery business anymore. Instead, they see some supermarket chains as essentially being in the real estate business, selling and leasing shelf space to manufacturers."

In view of these comments, ATF believes the purported use and purpose of slotting fees clearly demonstrate that a sale which involves a slotting fee is "not a bona fide sale." Proposed § 11.24 is retained in the final rule, but amended to reflect the broader description of slotting fees adopted in § 6.152(b).

Slotting Fees as Commercial Bribery or Exclusive Outlet

Although there was no formal request for inclusion of slotting fees under the commercial bribery part of the regulations, a number of commenters characterized slotting fees as bribery or "payola." As discussed earlier, the FAA prohibition of commercial bribery relates to the offering or giving of a bribe, bonus, premium or compensation to any individual officer, employee or representative of a trade buyer, and not to the trade buyer entity. As slotting fees have been described in the comments, they appear to be transactions with the entity, and not with an individual. If an investigation disclosed payments to an individual for influencing the display or stocking of a product, ATF would pursue that as a case of commercial bribery, if the other necessary criteria were met.

Coors Brewing Company suggested adding a new section to Part 8—Exclusive Outlets, to prohibit slotting allowances, saying a slotting allowance "necessarily involves a requirement imposed upon a retailer by a voluntary agreement." ATF disagrees; slotting allowance agreements appear to be limited to manner of display or stocking of product, not to exclusivity of purchase, which is the focus of the exclusive outlet rules. Certainly, if ATF found an industry member was requiring a retailer to purchase its products to the exclusion of similar products sold or offered for sale by other industry members as part of a slotting fee arrangement, ATF would also pursue the exclusive outlet aspect of the case.

Other Proposed Changes

ATF proposed to revise or add regulations in 27 CFR Parts 6, 8, 10, and 11, in areas suggested by the industry petition and in areas identified by ATF as appropriate for rulemaking. The proposed revisions and additions are discussed below.

In 1988, ATF designated an agency task force to review the trade practice regulations and ATF's enforcement experience, since 1980, and determine whether revisions were needed. ATF determined that certain regulations could be modified or clarified to provide guidance to the industry on ATF's interpretations of the trade practice statute. Such guidance has been provided by rulings and industry circulars. Notice No. 794 proposed incorporating these rulings and industry circulars into the regulations.

In addition to changes identified in the Bureau's own review, this notice responded to changes suggested in a February, 1992, petition filed by representatives of the Distilled Spirits Council of the United States, Inc. (DISCUS), the National Association of Beverage Importers, Inc. (NABI), Wine and Spirits Wholesalers of America, Inc. (WSWA), the National Licensed Beverage Association (NLBA), and the National Liquor Stores Association, Inc. (NLSA). This petition superseded an earlier petition filed by DISCUS and NABI with ATF. ATF suggested that DISCUS and NABI work with all segments of the alcohol beverage industry to reach a consensus concerning the various proposals to revise the trade practice regulations. The 1992 petition reflects a culmination of that effort by the supplier, wholesaler, and retailer organizations noted above.

Scope of Parts 6, 8, 10 and 11

ATF proposed to revise §§ 6.1, 8.1, 10.1 and 11.1 to reflect the recodification of the Federal Alcohol Administration Act which included renumbering the trade practice section from section 5 to section 105 and to better reflect the function of the proposed regulations. No commenters objected to these changes, and they are adopted as proposed. DISCUS suggested removing the sentence "This part does not attempt to enumerate all of the practices which may be a violation * * *" from each of these sections, but gave no reason for this suggestion. This sentence was retained in each part because it is an accurate statement; each part does not list all of the practices which can result in a violation. The deletion of this sentence would mislead a person into believing that each part constitutes a complete or exhaustive list of every practice within the trade practice proscriptions.

Sections 6.3 and 8.3, Application

Although ATF had proposed no change to § 6.3(b) or § 8.3(b), the National Alcohol Beverage Control Association (NABCA) renewed its request (originally aired during the last trade practice rulemaking in 1980) that all control states be categorized as wholesalers, even if they meet the definition of retailer contained in sections 6.11 and 8.11. NABCA states in the comment submitted on its behalf by Tendler, Goldgerg, Biggins & Geltzer, that this simplification is needed because Control State arrangements vary widely from State to State and create a confusing "patchwork" of rules. ATF maintains its 1980 position that there is no statutory authority for such a change. Therefore, no change is made in these sections in the final rule.

Administrative Provisions in Parts 6, 8, 10 and 11

Section 102(c) of the FAA Act (27 U.S.C. 202(c)) incorporates by reference the provisions of sections 49 and 50 of Title 15, U.S.C. of the Federal Trade Commission Act which vests in ATF investigative subpoena authority and the right to examine and copy relevant data subject to an FAA Act investigation. In addition, section 102(d) provides authority to require such reports as are necessary to effectuate the purposes of the statute. ATF proposed adding new regulations at 27 CFR 6.5, 8.5, 10.5 and 11.5 delegating these

authorities to specific officials. There were numerous comments on these two proposals, and they will be addressed separately below:

Examination and Subpoena

Pursuant to 15 U.S.C. 49 and 50 as made applicable by section 102(c), ATF may examine, at all reasonable times, any documentary evidence which is necessary to determine whether the person, partnership, or corporation being investigated or proceeded against violated the FAA Act. The right to examine includes the right to copy any such documentary evidence. In addition, section 49 authorizes the issuance of a subpoena for any person, partnership, or corporation to produce records or give testimony relevant to an investigation of a violation of the FAA Act. ATF proposed to delegate the authority to examine and copy records to the Director or any ATF officer, and to delegate the authority to issue subpoenas to the Director. Sixty two commenters (many using similar language, as if following a sample letter) questioned the need for this provision and ATF's interpretation of the statute. Other commenters requested that ATF explain the reasons for its authority for using the subpoena power in investigations.

Many of the commenters cited *Serr* v. *Sullivan* 270 F. Supp. 544 (E.D. Pa. 1967), aff'd 390 F. 2d 619 (3d Cir. 1968) (*Serr*), for the proposition that ATF does not have the authority to use subpoenas in connection with any type of investigation prior to the issuance of an order to show cause against a basic permit.

Subsequent to the *Serr* decision, in consultation with the Department of Justice, ATF concluded that it would not follow the decision outside the 3rd circuit and planned to litigate the issue in another circuit. ATF has continued to use its subpoena power in other circuits and has not been challenged.

In *Serr*, the court narrowly interpreted the incorporation by reference in 27 U.S.C. 202(c) of the investigatory subpoena authorized under the Federal Trade Commission Act. The *Serr* decision held that Congress provided no express investigation power to the agency administering the FAA Act and, therefore, the subpoena authority could only be used in an administrative proceeding against a basic permit pursuant to 27 U.S.C. 204. The court based this conclusion on the fact that other Federal statutes containing similar incorporations of the Federal Trade Commission Act subpoena power contained express provisions authorizing investigations and, additionally, Congress had expressly rejected an investigation provision in the FAA Act.

A review of other Federal statutes cited by the court reveals that the power to conduct investigations into possible violations is granted either in conjunction with the broader power to call for general fact finding investigations, or supplemental to a third party complaint system of enforcement, or both. The court's summary conclusions about these investigation powers did not entail an analysis of the types of "investigations" contemplated by these other provisions. ATF does not conduct these types of general fact finding investigations or use a third party complaint system. Instead, ATF traditionally conducts investigations into specific violations by specific industry members.

Likewise, the investigation provision rejected by Congress authorized the agency to make investigations and studies with reports to the President and Congress on the production, distribution and consumption of alcoholic beverages. The provision did not address the power of the agency to conduct specific investigations into whether an industry member violated a specific provision of the FAA Act. Therefore, the failure of Congress to enact this provision indicates nothing about Congress' intent on whether the administrating agency could conduct an investigation to determine whether the industry member violated the statute. It is fair to conclude that Congress intended that the administering agency have routine investigatory authority as an inherent part of the given "duties and powers" to administer and enforce the unfair trade practice provisions when there is reason to believe that an industry member violated the FAA Act.

Finally, the court's conclusion that suspension or revocation of basic permits is sufficient for effective enforcement of the Act fails to recognize that the FAA Act contains other enforcement mechanisms such as injunctions, consent decrees, and offers in compromise which are used outside of an administrative proceeding against a basic permit, as well as ignores the fact that brewers do not hold basic permits. Such reasoning also fails to recognize that an investigation is a pre-requisite to developing adequate facts to support issuing an order to show cause that alleges a specific violation. For all of these reasons, it is illogical to conclude that Congress, on the one hand, gave the administering agency these other traditional enforcement mechanisms and authorized the use of other Government agencies and the submission of reports under 27 U.S.C. 202(b) and (d) and, on the other hand, denied the same agency the inherent authority to conduct traditional investigations into whether an industry member has violated a specific trade practice provision. Accordingly, ATF has retained the proposed examination and subpoena provisions in Parts 6, 8, 10 and 11 of the final rule.

One change was made in these provisions in the final rule because ATF noted some industry concern that these powers will be used for "fishing," rather than as part of a specific investigation. ATF has added language to require a showing that the requested evidence may reasonably be expected to yield information relevant to a violation of the statute by a particular industry member being investigated under the Act.

Report of Promotional Activities

In addition, pursuant to section 102(d) of the FAA Act, new regulations were proposed in §§ 6.5, 8.5, and 10.5, authorizing the regional director (compliance) to require a letter report from industry members regarding information on sponsorships, advertisements, promotions, and other activities conducted by, or on behalf of, or benefiting the industry member. The reporting requirement would be used on a case-by-case basis, rather than as a recurrent and periodic reporting requirement such as a monthly report of activities applying to all industry members. ATF did not propose adding a reporting requirement in Part 11, Consignment Sales.

Most of the 66 comments on this section described the subject reports as "advertising reports" and noted that ATF already had "abundant" authority to regulate advertising. The remainder of the comments on this report addressed three main areas: The perjury statement requirement, the delegation to the regional director (compliance) and the absence of limits or safeguards.

The proposed rule required that the letter report be "executed under the penalties of perjury." Commenters were critical of this requirement because, they pointed out, perjury carries a criminal penalty, whereas most practices which are under investigation, if found to be violations, would be handled administratively. ATF is retaining this requirement in the final rule for consistency with requirements for other documents filed under the FAA Act regulations, such as applications for basic permits and certificates of label approval. Further, even if the perjury statement were not required, giving a false statement in a document presented to a government

VOL 60 ISS 80 AP 26 1995 UMI

official and relied on by that official is still a criminal offense under 18 U.S.C. 1001.

In the proposed rule, ATF delegated authority for requiring this report to the regional director (compliance). Several commenters expressed concern that these reports could be required at any time, without any justification, and that the policy for requiring such reports might vary from region to region. ATF addressed these concerns by revising the final rule to authorize the Deputy Associate Director (Regulatory Enforcement Programs) to require these reports, and by adding language to the section specifying that the reports would only be required as part of an investigation. Further, the final rule also provides that the report shall cover a period of no more than three years.

Several commenters expressed the opinion that ATF had understated the time needed to comply with this requirement, but since no alternative time burden estimate was offered, ATF is retaining the one hour estimated burden in the final rule. Comments on this estimate may be submitted to the address shown in the Paperwork Reduction Act section of the supporting data.

Meaning of Terms Revisions in Parts 6, 8, 10 and 11

ATF proposed to add the terms "ATF officer" and "Director" to the definitions in 27 CFR 6.11, 8.11, 10.11, and 11.11 to correspond to the terms in the proposed administrative provisions in §§ 6.5, 8.5, 10.5, and 11.5, discussed above. ATF also proposed adding the term "Regional director (compliance)" to the definitions in 27 CFR 6.11, 8.11 and 10.11 to correspond to the term in the proposed administrative provisions. In view of the change in this delegation in the final rule, a definition for "Deputy Associate Director (Regulatory Enforcement Programs)" has been substituted.

ATF proposed to define the term "brand" in 27 CFR 6.11, since a number of dollar limitations on things of value which may lawfully be given to retailers is on a "per brand" basis. The definition proposed was drawn from ATF Ruling 81–1, Q.B. 1981–2, page 27, excluding changes in the color or design of the label. Commenters on this issue were divided.

While most commenters supported narrowing the definition of the word "brand" as proposed, Hinman & Carmichael, attorneys, noted in their comment that label color is sometimes used to distinguish "different quality designations of similar products produced by the same manufacturer," and suggested adding "different quality standard or grade" to the list of examples of different brands. ATF believes the items listed in the proposed definition, such as age and alcohol content, should address most such differences.

NBWA and the President's Forum of the Beverage Alcohol Industry both commented that the proposed increase in the dollar limits in Part 6, Subpart D, combined with such a broad definition of the term "brand," would have an anticompetitive effect by allowing industry members with diverse brand portfolios to give a large number of valuable items to retailers. As discussed later in the supplementary information, a number of commenters expressed concern about the large proposed increase in the dollar limitations, but did not comment on the proposed definition of brand. Since ATF has decided to address these concerns by raising the dollar limitations less than originally proposed, it will not be necessary to further narrow the proposed definition of "brand."

NBWA expressed concern that beverage varieties "have proliferated at an unprecedented rate" and that "even the most subtle variation in the product line would be construed to create another 'brand'" under our proposed definition. NBWA further stated in their comment that the "whole matter of what constitutes a brand is at the center of controversy and litigation across the country." They suggested airing this issue in a separate rulemaking and, if a definition is adopted at all, specifying that the definition is only intended to apply to Part 6. In view of this comment, ATF has decided to adopt the definition of brand as proposed, with the addition of a note in the definition that it only applies to the administration of the exceptions in Part 6.

Although the petitioners suggested revising the definition of "retailer" in 27 CFR Parts 6 and 8, ATF proposed no changes in this definition. The petitioners suggested removing the language which specifies that a wholesaler who makes incidental retail sales *representing less than 5 percent of its sales during the preceding two months* shall not be considered a retailer. The petitioners state that a supplier cannot know whether the wholesaler's retail sales are within the 5 percent limitation and suggest eliminating that standard. The petitioners also believe that the definition of "retailer" should be clarified in order to ensure that this definition is consistent with § 6.2 which defines the territorial extent of Part 6 of the regulations.

ATF believes that removal of the 5 percent limitation would make the definition too broad. For example, without the percent limitations, a wholesaler who makes a single sale to a consumer is deemed to be a retailer. Also, the petitioners' proposed definition would exclude, as a retailer, someone within the United States who makes sales for consumption *outside* of the United States; i.e., a duty free shop. The FAA Act itself does not allow this type of exception to the territorial coverage of the law. Therefore, ATF did not agree with this proposal, and proposed no change to the definition of "retailer." DISCUS, in their comment on the proposed rules, reiterated the request for these revisions, but presented no new arguments. No other comments addressed the definition of the word "retailer." For the same reasons, ATF did not propose conforming amendments to the definition of "retailer establishment." ATF holds to its comments as expressed in Notice No. 794, and made no changes to these definitions in the final rule.

ATF proposed to change the term "retailer establishment" in 27 CFR 6.11 to "retail establishment", since that is the term used in 27 CFR Part 6 regulations. The term "retail establishment" in 27 CFR 8.11 will be removed because the term is not used in 27 CFR Part 8 regulations. No commenters objected to these proposals, and they were adopted in the final rule. Since the term "retailer" is being added to Part 11, ATF has added a definition for that term in section 11.11 which conforms to the definition in 6.11.

Discussion of Changes to Individual Sections

Sections 6.25 through 6.33, Interest in Retail Licensee

The petitioners stated that these sections of the regulations provide identical treatment concerning an interest of an industry member in a license with respect to a retailer's premises (Sections 6.25–6.27) and in real or personal property owned, occupied, or used by the retailer in the conduct of the business (Sections 6.31–6.33). The petitioners proposed combining the provisions which they believe parallel each other (Sections 6.25 and 6.31; 6.26 and 6.32; and 6.27 and 6.33).

ATF does not believe that the provisions of §§ 6.25 through 6.33 should be combined in the various ways proposed by the petitioners. From a structural point of view, merging §§ 6.25 through 6.33 fundamentally alters the organization of Subpart C of Part 6.

Subpart C is divided into topics (with titles) which parallel sections 105(b)(1) through (7) of the FAA Act. The proposed merger of the corresponding sections will mean that the regulations applicable to an interest in retail property under section 105(b)(2) will be contained in a group of the regulations categorized under an interest in a retail license under section 105(b)(1). ATF believes that it may be confusing for a person or industry representative relying on the Part 6 regulations to look under the regulations on a retail license for a regulation relating to an interest in retail property. ATF proposed no change with respect to this request, received no additional requests for such a merger, and makes no such change in the final rule.

Further, the petitioners recommended clarifying changes to existing regulations to ensure that there is no misunderstanding that a violation of the FAA Act does not occur merely upon a finding of the existence of the means to induce. The petitioners believe that the wording of several existing regulations describing various means to induce results in industry confusion since such sections are written in terms describing "prohibited means to induce."

The petitioners believe that the term "prohibited" should be deleted from such sections in order to avoid any contention or confusion that this provision, read separately from section 6.21, allows for finding a violation of the FAA Act without also establishing that the means to induce results in exclusion. While the petitioners recognize that these sections are subject to the general application provisions of section 6.21, which states that these means to induce are unlawful only if they result in exclusion, they believe such a change will help reduce the possibility of industry confusion on this issue. The same request was made concerning §§ 6.31, 6.41, 6.51, 6.61, 6.65 and 6.71, which all contain similar language.

ATF proposed to amend §§ 6.25, 6.27, 6.31, 6.33, 6.41, 6.51, 6.61, 6.65 and 6.71 by replacing the word "prohibited," with the phrase, "a means to induce," in order to correspond with the wording of the FAA Act. No objections to this change were received, and it is adopted in the final rule.

Section 6.42, Third Party Arrangements

ATF's review of its regulations disclosed that some confusion exists over the breadth of the proscription on indirect means to induce. Some industry members incorrectly view the two examples in § 6.42 as exclusive of the situations covered by the regulation. Additionally, ATF believes some industry members interpret the examples as meaning the third party receiving the means to induce must be an agent of an individual retailer.

By enacting the phrase "directly or indirectly or through an affiliate," Congress intended the broadest possible application of the proscriptions of the FAA Act. The term "indirectly" encompasses more than simply trade practice activities with agents of retailers. It covers such activities with any representative of a retailer or industry member, whether or not such representative is technically an agent of the retailer or industry member. Thus, an industry member providing the means to induce to any third party who will pass the means on to the retailer, or use them in a manner to benefit the retailer, is indirectly providing the means to induce to the retailer.

Accordingly, ATF proposed adding a sentence to § 6.42 to clarify that the examples are simply illustrative and not exclusive of the situations resulting in indirect inducements. ATF also proposed to revise the final sentence for clarity.

Several commenters expressed concern that ATF appeared to hold industry members responsible for any inducement provided to a retailer by a third party, whether or not the industry member knew or intended that it would be provided. In response to these comments, ATF revised the section to clarify that an inducement will not arise where the thing of value was furnished to a retailer by a third party without the knowledge or intent of the industry member, or the industry member did not reasonably foresee that the thing of value would be furnished to a retailer. In evaluating the second point of this exception, ATF will determine if the item given was of such a nature or character that the industry member could reasonably foresee that it would be furnished to a retailer.

Section 6.43, Sale of Equipment

The petitioners recommended deleting the last sentence of § 6.43, which states that negotiation by an industry member of a special price to a retailer for equipment from an equipment company is a thing of value. They argued that this negotiation should not be considered a thing of value unless the industry member subsidizes the special price. ATF disagreed since the thing of value is not the special price, but the *service* provided by the industry member in negotiating with the equipment company, or using its influence on behalf of the retailer. In the past, ATF has experienced cases in which a retailer, believing that it received special price consideration, altered its buying patterns resulting in exclusion of a competitor's products. ATF did not propose deleting this language, but did propose a conforming change to the cross-reference.

In its comment, DISCUS reiterated the petitioners' request for deletion of the last sentence, but did not present any new information. ATF maintains its position that the last sentence of § 6.43 describes a service which is a thing of value (that is, a means to induce a retailers' purchases) and should not be deleted. No comments were received objecting to the change in cross reference, so that change is adopted in the final rule.

Section 6.46, Outside Signs

ATF proposed to repeal this section and add a new § 6.102 to allow industry members to furnish outside signs to retailers as an exception in subpart D. As discussed under § 6.102, ATF received mixed comments on this proposal and has made some changes to § 6.102 as it appears in the final rule. Accordingly, § 6.46 is deleted by the final rule.

Section 6.47, Items Intended for Consumers

The petitioners recommended deleting this section because they believe that it is redundant and unnecessary in light of § 6.93 and their proposed revisions to § 6.87.

ATF proposed to remove this section since the general prohibition in § 6.41 covers things of value not specifically excepted in Subpart D. ATF proposed to allow certain items listed in § 6.47 by listing them in the proposed revision of § 6.84, Point of sale advertising and consumer advertising specialties. No negative comments were received on this proposal, and the section is removed in the final rule.

Section 6.51, General

ATF proposed revising this section to replace the word "prohibited" with the phrase "means to induce." No adverse public comments on this proposal were received, but a commenter within ATF pointed out that the regulation should be further clarified. A review of the history of the section shows that it is intended to cover two situations, reimbursements to a retailer for advertising or display services directly provided by the retailer, and reimbursements for such services if purchased by the retailer from a third party. The final rule is revised accordingly.

VOL 60 ISS 80 AP 26 1995 UMI

Section 6.52, Cooperative Advertising

ATF proposed deleting the phrase "placed by the retailer" from this section and cross-referencing § 6.52 to § 6.98, Advertising Service. DISCUS, in its comment, requested that the section be retained in its present form.

Upon review, ATF concurs. The phrase "placed by the retailer" should be retained in § 6.52, since the section is based on 27 U.S.C. 205(b)(4), and advertisements placed by the industry member would be evaluated as "things of value" under 27 U.S.C. 205(b)(3). Further, it is not appropriate to cross-reference § 6.52 to § 6.98, which is an exception under 205(b)(3). ATF withdraws its proposal; no change is made to this section in the final rule.

Section 6.67, Sales to a Retailer Whose Account is in Arrears

ATF's current position is contained in Revenue Ruling 54–162, 1954–1 C.B. 340. On August 1, 1979, ATF proposed a regulation (Notice No. 327, 44 FR 45298) on credit arrears which would have provided that a supplier could continue to sell to a retailer, with unpaid purchases existing in excess of 30 days, without violating the extension of credit provision if the retailer either made payments in accordance with Revenue Ruling 54–162 or the amount of arrears did not exceed an average purchase by the retailer from the supplier over the preceding 4 month period.

Commenters at the time objected to the proposal stating that it would require extensive bookkeeping checks or it might force repayment of large outstanding debts in order to keep dealing with a wholesaler. Several commenters recommended that ATF simply adhere to the credit requirements imposed by State law. ATF withdrew the proposal (T.D. ATF–74, 45 FR 63242, September 23, 1980) from further consideration. In Notice No. 794, ATF again proposed to adopt in the regulations the position stated in Revenue Ruling 54–162. However, comments on other possible approaches were solicited.

Several commenters endorsed the proposed change as set forth in Notice No. 794 and some opposed allowing industry members to extend credit to retailers at all. Other commenters again suggested that State law be the guideline on extension of credit. E. & J. Gallo Winery, in its comment, suggested that ATF allow industry members to accept cash on delivery instead of cash with the order, to be more consistent with most State credit laws. After reviewing the comments, ATF believes it is appropriate to incorporate its longstanding policy as stated in Revenue Ruling 54–162 into the regulations.

ATF has adopted the proposed rule, but modified it to show that a sale to a retailer who is in arrears is not a means to induce "so long as the retailer pays in advance or on delivery" for that current order and to show that it applies only to products as defined in § 6.11. Where State rules are more restrictive than the Federal rules, retailers and industry members must still comply with State law.

Section 6.71, Quota Sales and Section 6.72, Tie-In Sales

In addition to the language change to § 6.71 discussed under § 6.41, the petitioners proposed to eliminate the tie-in prohibition in § 6.72 and consolidate the remaining provisions into § 6.71. The petitioners recommended deleting the first two sentences of § 6.72 because they believed that there is no statutory basis for this regulation under the FAA Act. The petitioners stated that the classic "tying relationship" prohibited by the antitrust laws is not addressed by section 105 of the FAA Act notwithstanding that subsection 105(b) of the FAA Act bears the heading "Tied-House." The petitioners further stated that prohibitions against tie-in agreements are covered adequately by the Federal antitrust laws.

The tie-in sale described in the regulations is a form of quota sale covered by the Act. Moreover, ATF feels that § 6.71 and § 6.72 are distinct from one another and should be kept separate to insure clarity and foster understanding of the regulations. The fact that another Federal law may also apply to such a practice is not relevant to whether such a practice is covered by the FAA Act. In enacting the FAA Act, Congress expressly decided that reliance on the more general antitrust laws was inadequate in this field. Finally, ATF proposed revising § 6.72 to cover expressly a particular type of transaction as a tie-in sale.

DISCUS reiterated the requests from the petition in its comment. ATF sees no reason to change its position on these sections. DISCUS, E. & J. Gallo Winery, and Hinman and Carmichael all asked that ATF clarify § 6.72 to show that it does not cover combination packaging allowed in § 6.93. The combination packaging addressed in § 6.93 involves combinations of alcoholic beverages with nonalcoholic products, whereas § 6.72 addresses combinations of alcoholic beverages only since this section deals only with "products" as defined in section 6.11. A cross reference to § 6.93 was added for clarification.

Subpart D—Exceptions

Many changes discussed in the first section of the Supplementary Information on Exclusion affect this subpart. The discussion which follows is limited to specific requests by the industry or findings of ATF's own internal review which were not discussed in that earlier section.

Section 6.81, General

The petitioners proposed amending § 6.81(a) by deleting the second sentence which prohibits an industry member from conditioning the providing of items or services allowed under Subpart D on the purchase of distilled spirits, wine, or malt beverages. ATF agreed this prohibition is not necessary for most items, and proposed to remove the prohibition from the general section and place it in the specific sections where such conditioning has been a concern, for instance, § 6.83 on product displays. No one commented specifically on this proposal. While ATF agrees to delete the general prohibition, industry members should be aware that abusive conditioning will be evaluated as a quota sale under 27 U.S.C. 205(b)(7).

Section 6.81(b), Recordkeeping requirements, requires industry members to maintain certain records which can be used to substantiate claims that items provided to retailers are within the Subpart D exceptions to the tied-house prohibitions. The petitioners proposed deleting § 6.81(b) in its entirety, thereby eliminating all recordkeeping requirements. The petitioners stated that "(t)his change should be adopted because the FAA Act neither provides nor suggests that any such requirements can be imposed."

The petitioners further stated that if it is decided not to delete § 6.81(b) in its entirety, they recommend the addition of language to this paragraph to make it clear that no separate violation of the FAA Act shall arise from the failure of an industry member to maintain records in accordance with the requirements of § 6.81(b). The petitioners believe that the FAA Act neither creates nor supports the existence of any such violation of the FAA Act.

In Notice No. 794, ATF did not propose to eliminate the requirement to keep records which substantiate industry members' claims that items provided retailers are within the exceptions of Subpart D. Such a change would negate ATF's capability to verify compliance with the dollar limitations and any other requirements of Subpart D. The limitations in each exception section of the regulations would be unenforceable if ATF had no way to verify compliance with the requirements of such exceptions. ATF did propose to add a sentence to § 6.81(b) to state that, where an industry member fails to keep the required records, such industry member is not eligible for the regulatory exception in that particular transaction. No separate recordkeeping violation would be charged.

In its comment, DISCUS continued to request elimination of § 6.81(b) in its entirety, but said if § 6.81(b) is retained, ATF should amend it to allow industry members to use unspecified other means to show compliance. ATF disagrees, since the recordkeeping requirement as written gives considerable flexibility to the industry member. No specific form or record has been prescribed, as long as the industry member can provide information an ATF officer would need to verify that a promotion is within the scope of Subpart D. ATF is adopting § 6.81 as proposed, except for some minor editing changes suggested by the **Federal Register**.

Section 6.82, Cost Adjustment Factor

While the petitioners did not request a specific change to this section, they requested that ATF explore alternate methods which would be cost effective for ATF to convey this information in a manner that continues to ensure that all permittees are apprised of the annual dollar adjustments. Instead, ATF proposed to delete this section, increase the dollar limitations and periodically review the amounts if necessary.

Although a few commenters supported the proposal, most objected to the size of the proposed increase in the dollar limitations. For instance, on product displays, ATF had proposed to increase the limitation from $160 (1994 adjusted rate) to $500. Many commenters who characterized themselves as small or medium size businesses said they simply could not afford to compete with large industry members if their competitors were providing displays worth $500 per brand.

After a thorough review of the comments, ATF concurs that such a large increase could create the sort of tie or link identified by *Fedway*. ATF has determined that making a smaller increase in the dollar amounts is appropriate. The final rule deletes this section as proposed in Notice No. 794.

Section 6.83, Product Displays

The petitioners recommended amending the definition of product display to substitute "* * * and similar items the primary function of which is to hold, display or shelve consumer products" for "* * * and the like," which appears in the current regulation. ATF proposed this change, but used the phrase "hold and display" for clarity.

The petitioners also requested that ATF amend the dollar limitation in the regulation to reflect the current adjusted rate of $160. Instead, ATF proposed changing the dollar limit to $500 per brand at any one time per retail establishment, from the current $100 (as adjusted) per brand at any one time per retail establishment.

Although the general prohibition against an industry member imposing conditions on receipt of items allowed in Subpart D has been removed from § 6.81, ATF proposed adding a statement to § 6.83 that giving or selling product displays may be conditioned upon the purchase of the distilled spirits, wine or malt beverage product advertised thereon in a quantity only necessary for the initial completion of the product display. From the mid-1960s to the 1980 recodification of the trade practice regulations, conditioning was allowed for window or other interior displays. Industry members have long argued that they should be allowed to condition receipt of product displays on the purchase of a limited quantity of the product advertised. ATF also proposed to delete the language which allows lending or renting of product displays in the current regulation. Such a continuing tie would not be consistent with the intent of the Act. In making these proposals, ATF believed the dollar limit of $500 per brand, coupled with the requirements for permanently inscribed advertising and transfer of ownership of product displays to the retailer minimizes the inducement value to the retailer. The combination of these factors would allow product displays to be excepted from the regulations of Part 6, and would be the basis for allowing the industry member to condition receipt of such materials as described above.

Commenters requested a number of amendments to this proposed section. First, E. & J. Gallo Winery noted that in the preamble, ATF had said § 6.83 would allow conditioning product displays upon the purchase of the product advertised thereon in a quantity only necessary for the initial completion of the product display, and yet the regulatory text omitted the word "initial." This omission is corrected in the final rule.

In the proposed amendment to § 6.83, ATF eliminated the words "furnish, loan or rent." DISCUS requested reinstatement of these options, but ATF maintains its position that allowing lending or renting of product displays creates a tie or link which is inconsistent with the goals of the FAA Act. As a result of the *Fedway* decision, any element of a promotion which indicates a continuing character is subject to greater scrutiny.

Several other commenters, among them the American Brandy Association, expressed concern that the higher dollar limit would allow a large industry member to "install a new $500 display every week in a specific store." For the reasons discussed here and under § 6.82, the dollar limit has been set at $300. That dollar limit and the aforementioned amendment to allow only outright giving or selling of displays should also prevent the sort of monopolization of retail premises feared by these commenters.

Finally, several commenters requested substitution of the word "securely" for the word "permanently" in describing how the advertising material would be inscribed or affixed to the product display. They argued that, when they give or sell a product display, they cannot control the actions of a retailer, who may choose to remove such advertising material. ATF will use the phrase "permanently inscribed or securely affixed" in this section and in § 6.84. However, ATF will revisit this subject in later rulemaking if abuses are found.

Section 6.84, Point of Sale Advertising and Consumer Advertising Specialties

Promotions and practices currently allowed under the regulatory exceptions to the tied-house provisions are safe harbors. Notice No. 794 proposed a revision to those exceptions which would combine several of the current exceptions into one general regulatory section. The approach of having a single general section addressing all of the similar activities gives greater flexibility to the industry.

The proposed regulations combine the exceptions listed in §§ 6.84, 6.85, 6.86 and 6.87 (inside signs, retailer advertising specialties, wine lists and consumer advertising specialties), into a revised § 6.84, Point of sale advertising and consumer advertising specialties. Items intended for consumers currently identified in section 6.47 are also included in the proposed listing of exceptions. The petitioners requested that ATF amend the dollar limitation to

VOL
60
ISS
80
AP
26
1995
UMI

reflect the adjusted rates, but instead, under ATF's proposed revision there will be no limit to the dollar value of the specified point of sale (POS) materials furnished by an industry member to a retail establishment.

The petitioners also requested that the term "wine lists" be expanded to include all alcoholic beverages. Instead, the proposed 6.84 permits all lists or menus, subject to the conditions in paragraph (c) of the section.

Several commenters on these proposals requested that ATF limit lists or menus to alcoholic beverage lists or menus. On review, ATF concurs that there is more of a continuing character and more potential for industry member involvement in day to day operations at a retailer if full menus are allowed, and has revised this portion of the final rule accordingly.

DISCUS requested that "mechanical devices," which had been permitted under "inside signs" in the current regulations but had been omitted from the proposed rule, be reinstated, and that the rule be further expanded to include "electronic devices." After considering this and related comments, ATF has revised the definition of "point of sale advertising materials" to eliminate the distinctions (inside signs and retailer advertising specialties) within that definition and simply list examples. In that context, ATF has added "inside signs (electric, mechanical or otherwise)" to the listing of point of sale advertising materials in the final rule. The restriction of electronic devices to signs is consistent with the current regulatory approach and prevents abuses which could occur if all electronic devices were allowed (since the point of sale section contains no dollar limitations).

In their comment, E. & J. Gallo Winery suggested that the condition in § 6.84(c)(2) need not be limited to retailer and consumer advertising specialties, and ATF concurs. In the final rule, the condition applies to all point of sale materials and consumer advertising specialties.

The Forum and the American Brandy Association suggested an annual dollar limit per retail location. In the past, some of the items listed in this section had a limitation and others did not. ATF does not believe, given the nature of the items described and the requirement for substantial advertising material, that furnishing such items would create a tie or link between the industry member and the retailer. In the final rule, ATF imposes no dollar limit, but will revisit this subject if abuses are found.

Section 6.85, Temporary Retailers

ATF proposed adding a new section which will allow furnishing things of value to a temporary retailer. The proposed regulations recognize that certain retail activities of a temporary nature, such as weekend events and community festivals, are so minor in the retail marketplace so as not to justify Federal intervention; rather, State agencies can regulate these situations to prevent abuses. There were numerous comments concerning this section.

DISCUS suggested extending the provisions to cover things of value given to a retailer for a "temporary event." ATF disagrees; the reason for excepting *temporary* retailers was that their short-term existence as a retailer did not justify Federal intervention. However, since a permanent retailer can operate at a "temporary event," it is proper to apply the trade practice provisions to the industry member's dealings with those retailers. A number of commenters opposed allowing any special privileges to temporary retail dealers. ATF believes that the impact of giving things of value to temporary retailers, within the limitations of the proposed rule, would not be disruptive to the retail marketplace. However, the issue will be revisited if substantial abuses are found. NABCA suggested there may be conflicts between ATF's definition of a temporary retailer and any definition in State rules. After considering the comments, ATF has amended the section to show that the definition of temporary retailers applies only for purposes of administration of the tied-house rules.

Section 6.88, Glassware—Section 6.89, Tapping Accessories—Section 6.90, Supplies—Section 6.97, Coil Cleaning Service

The petitioners recommended that these four sections be combined in a new § 6.88, under the title "Equipment and supplies," because they deal with similar types of merchandise and impose similar conditions. As with other Subpart D exceptions which combine similar types of merchandise, (viz., §§ 6.83, 6.87 and 6.89), the petitioners felt that combining these items in one section will enhance the simplicity and clarity of the rules.

The petitioners also recommended several other revisions to this consolidated section:

Extend coil cleaning service from "a retailer of wine or malt beverages" to "a retailer" to provide equal treatment for wine, malt beverages and distilled spirits;

Substitute the term "dispensing accessories" in § 6.88 for "tapping accessories" because the former term more accurately describes the modern type of accessories falling within this category and reflects present marketplace practices where, for example, wine also is served by dispensing equipment;

Add cold plates to the list of examples of "dispensing accessories" and,

Allow carbon dioxide gas or ice to be sold at a price not less than the cost to the industry member who initially purchased it.

While the petitioners' proposal to combine various sections into one all inclusive section covering equipment and supplies is structurally logical and the terminology change from tapping equipment to dispensing equipment has merit, some of the items listed in the petition have not in the past been recognized as exceptions by ATF.

ATF proposed consolidating these sections with the following additional changes. ATF proposed to revise the definition of glassware to include similar containers made of materials other than glass. The proposed regulation also specifies that the industry member must pass on the cost of initial installation of equipment to the retailer.

The proposed regulation expanded the original coil cleaning service exception currently in § 6.97 to cover distilled spirits, as well as wine and malt beverages. Keeping the coils clean and free of contamination is clearly in the interest of public health. Therefore, it is in the public interest to allow such services without a dollar limit.

The current regulation allows industry members to sell carbon dioxide gas to retailers. The regulation does not provide for the sale of other gases, such as nitrogen, which are used in various existing alcoholic beverage dispensing systems. ATF proposed modifying this regulatory section to allow industry members to sell any gas to a retailer provided it is used in a beverage dispensing system. This proposal should not be viewed as sanctioning treatment which would change still wine to sparkling wine.

Comments on these proposals were generally favorable, and the regulation is adopted as proposed. Forum members, in their comment, stated the extension of coil cleaning service to distilled spirits is unnecessary, since spirits have a longer shelf life and a higher alcohol content. The provision was retained, to be used at the option of the industry member. DISCUS asked that ATF amend the definition of equipment and supplies by changing the word "means" to the phrase "includes, but is not limited to." The use of the proposed phrase would add an element of uncertainty and indefiniteness to the scope of the exception. Therefore, ATF retained the more limited wording of the proposed rule, to emphasize that the exception is limited to these items.

Section 6.91, Samples

The current section allows an industry member to furnish or give samples of distilled spirits, wine or malt beverages to a retailer. The petitioners recommended amending this section to provide that industry members may furnish a maximum of 750 milliliters (mls.) of distilled spirits samples to qualifying retailers, rather than the obsolete 500 milliliter (ml.) container cited in the regulation. They further requested that the third sentence of this section, which limits the size of a sample of spirits given to a State or a subdivision of a State to 2 liters, should be eliminated in its entirety.

ATF agreed with the petitioners that the reference to the obsolete 500 ml size be replaced, but proposed a maximum of 3 liters for distilled spirits. ATF also proposed amending the current regulation by limiting the number of commonly owned retail establishments (not to exceed four per retailer) which can be given samples. This amendment would allow for a control State or chain retailer to receive sufficient samples to determine whether to purchase a product.

Comments on these proposed changes were mixed. The American Brandy Association opposed any revision to this section. DISCUS supported the change to a spirits sample size of 3 liters and WSWA favored a sample size of 750 ml, since that is the most common commercial package size. ATF has decided to retain its proposal to allow a sample size of 3 liters for spirits.

The proposal to limit the number of samples which may be given to a "chain" of retail outlets met with a number of adverse comments. NABCA, Hinman & Carmichael, DISCUS and Wine Institute all noted that first, individual outlets within a chain may have the ability to request that certain items be purchased, even though the order is placed centrally; and second, that samples are also provided to retailers so their personnel can be sufficiently familiar with a brand to recommend or use it. Limiting samples to four outlets per chain would restrict an industry member's ability to promote its products. In light of these comments, ATF is removing the proposed limitation in the number of samples which may be given to a chain from the final rule.

Several commenters also addressed an area which had not been changed in the proposed amendment. E. & J. Gallo Winery and Hinman & Carmichael both noted that, in an industry as dynamic as the alcoholic beverage industry, it is not practical to limit samples to retailers who have not previously purchased a brand from an industry member. They suggested a time limit of six months or a year. The final rule has been changed to allow samples to be given to a retailer who has not purchased the brand from the industry member within the last 12 months.

Section 6.92, Newspaper Cuts

In Notice No. 794, ATF proposed to change the word "loaned" to the word "lent" in this section. However, in view of the change to § 6.84, which eliminates the options of renting or lending product displays, ATF has determined that for consistency, this section should permit only permanent transfers. Therefore, the words "furnished," "loaned" and "rented" have been removed from this section.

Section 6.93, Combination Packages

In general, section 6.93 addresses combination packages where an industry member packages a non-alcoholic item with distilled spirits, wine, or malt beverages and, in particular, paragraph (c) requires that the cost of the combination package be passed on to the retailer. The petitioners recommend deleting paragraph (c) of section 6.93 because they feel the condition imposed by the paragraph is really a pricing decision outside of ATF's regulation under the FAA Act.

ATF proposed removing all the conditions currently imposed on combination packages. Some commenters supported this proposal, but NABCA expressed concern that, as written, the exception could be used as a subterfuge to deliver non-alcohol items to the retailer with no intention that they be passed along to consumers. Accordingly, ATF has amended this section in the final rule to clarify that the combination packages must be intended for sale to consumers.

Section 6.94, Educational Seminars

ATF proposed to clarify the final sentence, "This does not authorize an industry member to pay a retailer's expenses in conjunction with an educational seminar." by adding the explanatory phrase "(such as travel, lodging, and meals)."

Many commenters objected to excluding meals and, upon consideration of the comments, ATF has decided to adopt a revised final rule which will permit an industry member to provide nominal hospitality in conjunction with an educational seminar.

Section 6.96, Consumer Promotions

ATF proposed revising the text of section 6.96(a), Coupons, to make the language consistent with the other sections and to simplify the conditions. Hinman & Carmichael noted that the restriction in paragraph (a)(1) of the proposed rule, that redemption of the coupons may not be limited to a particular retailer or group of retailers, could be read as preventing promotions by small producers who have a limited area of distribution, or regional promotions by larger producers. This restriction, which is also in the curren § 6.96(a), was intended to prevent the benefit of a promotion from going to specific, named retailers. ATF modified the provision in the final rule to require that all retailers within the market where the offer is made may redeem such coupons.

Section 6.98, Advertising Service

The petitioners recommended adding the clause "except where the exclusive retailer in the state is a state agency" to paragraph (a) to read as follows:

"(a) The advertisement does not also contain the retail price of the product, except where the exclusive retailer in the state is a state agency, and * * *"

The petitioners argue that the objectives of section 105(b) of the FAA Act are not served by prohibiting industry members from advertising control States' prices. The petitioners' proposed revision would permit an industry member to advertise a control State's state-wide retail prices as determined by that State for product sold within the State. The petitioners feel that in such circumstances, there is no possibility of any "inducement" or "exclusion" that would contravene the intent or purpose of the FAA Act.

ATF proposed amending the current regulation in accordance with the industry request, modified to reflect situations in which the sole retailer in a jurisdiction is a State or local agency. ATF also proposed to delete the condition that an advertisement placed by an industry member may not mention events or promotions at a retail establishment.

In response to several comments, ATF is modifying the final rule to specify "State or political subdivision of a State," for consistency with the language in other sections of the regulations. DISCUS suggested using the term "unaffiliated" rather than "two or more" retailers, to make it clear that an advertisement can not list outlets of a single chain, and that change was adopted. NABCA additionally requested that the final rule show that prices may

VOL 60 ISS 80 AP 26 1995 UMI

be listed for "a private retailer acting as an agent" for a State or local agency. ATF is not adopting this suggestion at this time. The trend toward privatization of State agency sales is an evolving area. States which are privatizing are doing so in various ways. Therefore, it is not possible to set a single rule which will cover these changes.

Section 6.99, Stocking, Rotation, and Pricing Service

The petitioners recommended revising this section to allow industry members to "recommend shelf plans." The petitioners stated that this revision would permit an industry member to provide services to a retailer consistent with present day marketplace realities. ATF proposed to amend this section in line with the petitioners' proposal.

Most commenters approved of this proposal, and it is adopted as proposed. However, serious concerns were raised by Kendall-Jackson Winery and American Vintners' Association about the potential for abuse of shelf plans or schematics, through biased analysis of retailer needs or by an industry member supplying additional services which are not hereby authorized. ATF will revisit this subject if it appears the new exception is being abused or creating a situation in which a retailer becomes dependent on a single industry member's purchasing advice.

Section 6.100, Participation in Retailer Association Activities

Section 6.100 permits industry members to participate in retailer association activities under certain circumstances. Paragraphs (b) and (d) permit rental of display booth space and purchase of tickets or payment of registration fees, respectively. Each of these paragraphs contains the phrase "if * * * not excessive and * * * the same as paid by all exhibitors." ATF proposed amending the section to delete "not excessive" and specifying the fees must be the same as the fees paid by all exhibitors "at that event." ATF also proposed raising the limitation for payments for advertisements in programs or brochures authorized by paragraph (e) from $100 (as adjusted) to $500.

Several commenters objected to the large increase in the dollar limitation, as discussed earlier. ATF is revising the dollar limit to $300 in the final rule. NABCA pointed out that at some retailer activities, there are no exhibitors, so the term "exhibitors" may not always be appropriate in paragraph (d). ATF concurs, and has substituted the phrase, "attendees, participants or exhibitors" in the final rule.

Section 6.101, Merchandise

Paragraph (a) currently provides that an industry member who also is engaged in business as a bona fide vendor of other merchandise may sell such merchandise to a retailer if three conditions are met, the first of which is that the merchandise is "sold at its fair market value." The petitioners recommended changing this condition to state that the merchandise is "furnished, distributed, or sold according to the custom and practice of that business." The petitioners also recommended eliminating paragraph (b) regarding things of value covered in other sections of Part 6 since they believe it is redundant and unnecessary in light of other sections of Subpart D.

ATF did not propose either of these changes. Section 6.101 excepts sales transactions by industry members who are engaged in the business as bona fide vendors of other merchandise in addition to alcoholic beverages. This section sanctions sales of other merchandise to retailers in addition to alcoholic beverages if the merchandise is sold at its fair market value, not in combination with distilled spirits, wines, or malt beverages, and the merchandise is itemized separately on the industry member's invoices and other records. The records are necessary so that ATF can determine the real cost of the merchandise to the industry member and whether the industry member is reselling the merchandise to retailers at its fair market value. Likewise, ATF needs these records to determine whether the industry member is a bona fide vendor of the merchandise or whether it is using the merchandise as a means to induce.

Accordingly, ATF proposed to revise the records requirement of the regulation to state that, first, acquisition costs must appear on the industry member's purchase invoices (available upon request to ATF) and, second, the merchandise and the distilled spirits, wines, or malt beverages sold to the retailer in a single sales transaction must be itemized separately on the same invoice.

DISCUS, in its comment reiterated the petitioners' original requests for changes, and noted ATF's proposal to require alcoholic beverages and other merchandise to be shown on the same invoice was not practical. WSWA commented further:

> * * * [W]e support the objective of assuring an audit trail when other items are offered for sale in conjunction with alcoholic beverages. We view as impractical and unnecessarily burdensome the proposal to require that "merchandise and distilled spirits, wines or malt beverages sold in a single transaction" be "itemized separately on the same invoice covering the sales transaction."
>
> Inventory systems commonly print invoices that sequence items sold by their warehouse location. Alcohol beverages are routinely stored separately from other items. It is not unusual for delivery of non-alcoholic items to be made on separate days or by a separate, but affiliated company having its own invoicing system. Furthermore, some states forbid using the same invoice for alcohol beverages and other items.
>
> It should be sufficient to require that invoices for sales of other items with alcohol beverages to a retailer be maintained in a manner similar to invoices for alcohol beverages.

In response to these comments, ATF is removing the requirement for showing alcoholic beverages and other merchandise on the same invoice. Instead, the final rule will require that the sale price of each commodity be on the records covering the transaction. ATF still believes the change requested by DISCUS, from "sold at its fair market value" to "furnished, distributed or sold according to the custom and practice of that business" is not appropriate. The requested language appears to sanction giving things of value (other merchandise) to retailers, in direct conflict with the statute. Additionally, the phrase "custom and practice" is vague and does not provide clarity to the industry member relying on the regulations. Paragraph (b), which DISCUS advocates removing, is also retained in the final rule.

Hinman & Carmichael expressed a different concern in their comment on the proposed revision to § 6.101:

> Section 6.72 allows certain combination sales of alcoholic brands or products, but § 6.101 seems to take this away if the producer is also a producer (as opposed to a vendor) of nonalcoholic beverage products. A fairly common marketing situation in California is the packaging of gift packs of wine and olive oil, or wine and another commodity produced by the winery. In this situation, there is no acquisition cost to report.

ATF has modified the wording of the section to make it clear that the exception applies to industry members who are bona fide producers or vendors of other merchandise, if the conditions are met. As stated earlier, § 6.72 only applies to "products" that are distilled spirits, wine or malt beverages. In addition, in response to this comment and a request by DISCUS, a cross reference to the exception for combination packaging under § 6.93 has been added.

Section 6.102, Outside Signs

ATF proposed a new section allowing outside signs in certain circumstances and with a $500 limit. A few commenters opposed any change in ATF's treatment of outside signs, while others, while not opposing the proposal, expressed concern that the proposed rule did not contain adequate safeguards against abuse. These commenters recommended including various conditions and limitations in proposed § 6.102, among them:

> Requiring that the product or the industry member's name appear on the sign for consistency with other exceptions under Subpart D;
>
> Lowering the dollar limitation, though no specific amount was proposed;
>
> Clarifying whether the word "furnished" includes leasing;
>
> Specifying frequency with which signs may be provided;
>
> Stating whether industry members may pool this allowance to provide a sign worth more than the dollar limitation and limiting the number of brands which may appear on a sign;
>
> Limiting the location of the sign to the wall or roof of a building adjacent to or occupied by a retailer, or stating whether retail premises include roofs and parking lots; and
>
> Specifying whether the industry member may pay for installation, repair and maintenance of the sign.

After a careful review of the comments, ATF has decided to adopt a modified version of § 6.102 which permits signs to be given or sold on the following conditions:

(a) The sign must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed,

(b) The retailer is not compensated, directly or indirectly such as through a sign company, for displaying the signs, and

(c) The cost of the signs may not exceed $400.

These changes were made to take into account the concerns expressed by the commenters and to make this section more consistent with the rest of Subpart D. Interested parties may petition ATF in the future to reconsider the conditions under which outside signs may be provided to retailers.

27 CFR Part 8, Exclusive Outlet

New administrative provisions and definition changes were discussed previously.

Section 8.23, Third Party Arrangements

The current regulation can be interpreted to mean that a violation of the section could occur if a third party requires the retailer to use an industry member's product without the knowledge of the industry member. ATF proposed clarifying that the industry member's requirement, by agreement or otherwise, with a third party is necessary to violate this section. However, the requirement need not originate with the industry member. If the industry member knows or is aware that the third party controlling the retailer extends such a requirement with respect to the products of the industry member making payments under the arrangement, and the industry member avails itself of such requirement, then the requirement within the proscription of the FAA Act is present.

As discussed in relation to the comments on § 6.42, ATF concurs that the industry member must know or be able to expect that the retailer will be controlled by the third party, in other words, that the industry member will have "the benefit of the deal." This is not a new position; ATF published Industry Circular 75–16 to discuss this interpretation of the exclusive outlet rules. The proposed language is adopted in the final rule.

27 CFR Part 10, Commercial Bribery

New administrative provisions and definition changes were discussed previously.

Section 10.4, Jurisdictional Limits

ATF proposed amending this section to correct the wording of paragraph (a)(1), which appeared in error in ATF TD–74 on September 3, 1980 (45 FR 63242). There were no objections, and this proposal is adopted in the final rule.

Section 10.23, Gifts or Payments to Wholesalers

While no specific change was proposed to this section, ATF asked for comments as to whether the purpose of the section should be clarified. ATF gave an example of a sales representative incentive program which it views as an instance of commercial bribery since it involves the furnishing of a premium or bonus to an employee of a trade buyer: An industry member and a trade buyer meet to discuss, among other things, upcoming programs to promote a particular product or products. They agree that specific promotions will be run over a period of time. Some of these agreed upon promotions include sales incentive programs in which sales representatives can win money and/or prizes. At the conclusion of the meeting, the parties agree or understand, or it is implied, that all or part of the funding for these sales representative incentive programs will come from monies that have been or will be provided by the industry member, usually under the guise of unrestricted funds.

Several commenters addressed this issue, and cited ATF Ruling 77–17 as allowing the sort of promotion described in the example above. ATF disagrees with this interpretation of ATF Ruling 77–17, and notes that ATF Ruling 77–17 became obsolete when the regulations in 27 CFR Part 10 were originally issued in 1980 (T.D. ATF–74 45 *FR* 63251). In situations where the industry member and the trade buyer have agreed upon the promotions benefiting employees and other representatives and such promotions are funded by the industry member, it cannot be said that the money is being furnished to the entity in any context other than as a conduit for the employee or representative. No change was made to the language of § 10.23 in the final rule.

27 CFR Part 11, Consignment Sales

New administrative provisions and definition changes were discussed previously.

Section 11.24, Other than Bona Fide Sale

Section 105(d) of the Act addresses "consignment sales." Section 105(d) describes consignment sales to include conditional sales (i.e., where an industry member is not paid for products until they are sold by a trade buyer); sales with a privilege of return (i.e., where an industry member agrees to repurchase products that remain unsold by the trade buyer at the end of a specified period of time); and other sales on any basis otherwise than a bona fide sale.

Consignment sales are essentially arrangements pursuant to which the risk, or cost, of non-sale of a product is retained by an industry member, or transferred from a trade buyer back to an industry member at the expiration of a specified time period. ATF proposed adding a new § 11.24 to the consignment sale regulations to specify certain other arrangements, in addition to conditional sales and sales with a privilege of return, in which the risk of non-sale is transferred from the trade buyer back to the industry member and which therefore do not constitute bona fide sales. The only example proposed was the payment of "slotting allowances," which were discussed at length earlier in this supplemental information.

After a review of the comments, ATF has decided the proposed language should be modified to include purchase

VOL 60 ISS 80 AP 26 1995 UMI

or rental of display, storage, floor or warehouse space at premises owned or controlled by a retailer. ATF substituted the term "retailer" for "trade buyer" in this provision to clarify its application.

Section 11.32, Defective Products

The current regulation specifically allows products which are unmarketable for specific reasons to be exchanged for an equal quantity of identical products, but is silent as to whether such products may be returned for cash or credit. Industry Circular 81–11 states that a return of such products for cash or credit is not precluded by § 11.32. ATF proposed changing this regulation to incorporate the provisions of Industry Circular 81–11 into the section. The proposed revision also deleted references to mutilated and missing strip stamps since they are no longer a requirement. No objection to these changes was received, however, DISCUS pointed out that allowing returns for mutilated or missing tamper evident closures would "clearly serve the public interest." ATF concurs and has incorporated that language in the final rule.

Section 11.34, Products Which May No Longer Be Lawfully Sold

ATF proposed revising the current regulation to allow the return of a product if, due to a change in law or regulation over which the trade buyer has no control, a particular size or brand is no longer permitted to be sold. The addition of the phrase "over which the trade buyer has no control" was intended to address situations in which the trade buyer is a State agency with the authority to delist a particular product.

The Forum comment said this section, as proposed, and the preamble discussion were confusing. ATF intended to make it clear that by administratively delisting a particular product, a State or a political subdivision of a State acting as a trade buyer could not gain a right of return that would not be available to a commercial trade buyer. On review, ATF notes that a State legislature may have other, legitimate, reasons for prohibiting sale of a particular product, so the wording of the section has been changed from "law or regulation" to "regulation or administrative procedure."

Section 11.35, Termination of Business

ATF is revising this section to cite § 11.39 instead of the incorrect § 11.40 citation.

Obsolete Rulings and Circulars

The following revenue ruling, ATF rulings and industry circulars are incorporated into the regulations or superseded by amended regulations; they will become obsolete on the effective date of these regulations: Revenue Ruling 54–162, 1954–1 C.B. 340; ATF Ruling 81–1, 1981–2 ATF Q.B. 27 and ATF Ruling 81–6, 1981–4 ATF Q.B. 23; Industry Circulars 81–7, 81–11 and 86–16. ATF Ruling 77–17 was made obsolete by T.D. ATF–74 (45 FR 63242), effective November 24, 1980, but a number of commenters cited it in this rulemaking.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Regulatory Flexibility Act

It is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. In Notice No. 794, we specifically asked for comments as to whether small businesses would be significantly affected by our proposals. Wine Institute, the one commenter who addressed this issue, stated that the rules, as proposed, would not have a significant impact on a substantial number of small entities. A majority of the commenters who wrote in support of our proposals concerning slotting fees said that any change in our policy would have a significant adverse impact on their small businesses. The final rule adopts the proposals in this area, so there should be no adverse impact.

A final area of concern to commenters was ATF's proposal to raise dollar limits on things of value which may be given to retailers under Subpart D of Part 6. ATF proposed raising the limit on certain promotional items from $160 to $500, and a number of commenters noted this large an increase would place small and medium size businesses at a competitive disadvantage. In view of these comments, ATF is adopting a limit of $300, a more moderate increase over the existing dollar limit.

Paperwork Reduction Act

The collection of information contained in this final rule has been approved by the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to: Reports Management Officer, Information Programs Branch, Room 3450, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226.

The collection of information in this regulation is in 27 CFR Parts 6, 8, and 10. This information is required by ATF to protect the public interest and ensure fair trade competition in the alcoholic beverage industry. The information will be used to analyze promotional activities as part of an investigation. The likely respondents are industry members.

The authority to require reports which is stated in this final rule is to be used on a case-by-case basis only, and does not apply to industry members in general. The estimated number of respondents in any given year is 20, with one report being required from each respondent. The estimated average annual burden associated with this collection of information is 1 hour per respondent.

Drafting Information

The principal author of this document is Marjorie Ruhf, Wine, Beer, Spirits and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document.

List of Subjects

27 CFR Part 6

Advertising, Alcohol and alcoholic beverages, Antitrust, Credit and trade practices.

27 CFR Part 8

Alcohol and alcoholic beverages, Antitrust, and Trade practices.

27 CFR Part 10

Alcohol and alcoholic beverages, Antitrust, and Trade practices.

27 CFR Part 11

Alcohol and alcoholic beverages, Antitrust, and Trade practices.

Issuance

Title 27, Chapter I, is amended as follows:

PART 6—"TIED-HOUSE"

Paragraph 1. The authority citation for part 6 is revised to read as follows:

Authority: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205; 44 U.S.C. 3504(h).

Par. 2. Section 6.1 is revised to read as follows:

§ 6.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify practices that are means to induce under section 105(b) of the Act, criteria for determining whether a practice is a violation of section 105(b) of the Act, and exceptions to section 105(b) of the Act. This part does not attempt to enumerate all of the practices that may result in a violation of section 105(b) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

§ 6.4 [Amended]

Par. 3. Section 6.4 is amended by removing the reference to "section 5(b) of the Federal Alcohol Administration Act" where it appears in paragraph (b) and replacing it with a reference to "section 105(b) of the Federal Alcohol Administration Act".

Par. 4. Section 6.5 is added to subpart A to read as follows:

§ 6.5 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Director under this Act, and to any person (whether or not a corporation) subject to the provisions of law administered by the Director under this Act. The Act also provides that the Director is authorized to require, in such manner and such form as he or she shall prescribe, such reports as are necessary to carry out the powers and duties under this chapter.

(b) *Examination and Subpoena.* The Director or any authorized ATF officers shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against. The Director shall also have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing that the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

(c) *Reports required by the Deputy Associate Director (Regulatory Enforcement Programs).*

(1) *General.* The Deputy Associate Director (Regulatory Enforcement Programs) may, as part of a trade practice investigation of an industry member, require such industry member to submit a written report containing information on sponsorships, advertisements, promotions, and other activities pertaining to its business subject to the Act conducted by, or on behalf of, or benefiting the industry member.

(2) *Preparation.* The report will be prepared by the industry member in letter form, executed under the penalties of perjury, and will contain the information specified by the Deputy Associate Director (Regulatory Enforcement Programs). The period covered by the report will not exceed three years.

(3) *Filing.* The report will be filed in accordance with the instructions of the Deputy Associate Director (Regulatory Enforcement Programs).

(Approved by the Office of Management and Budget under control number 1512–0392)

Par. 5. Section 6.11 is amended by adding the definitions for "ATF officer," "brand," "Deputy Associate Director (Regulatory Enforcement Programs)" and "Director" and by removing the term "retailer establishment" and adding in its place "retail establishment" and placing it in appropriate alphabetical order.

§ 6.11 Meaning of terms.

* * * * *

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part *Brand.* For purposes of administering this part, the term "brand" refers to differences in the brand name of a product or in the nature of a product. Examples of different brands are products having a different brand name or class, type, or kind designation; appellation of origin (wine); vintage date (wine); age (distilled spirits); or percentage of alcohol. Differences in packaging such as difference in label design or color, or a different style, type or size of container are not considered different brands.

Deputy Associate Director (Regulatory Enforcement Programs). The principal ATF headquarters official responsible for administering regulations in this part. *Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

* * * * *

Par. 6. Section 6.25 is revised to read as follows:

§ 6.25 General.

The act by an industry member of acquiring or holding any interest in any license (State, county or municipal) with respect to the premises of a retailer constitutes a means to induce within the meaning of the Act.

Par. 7. Section 6.27 is amended by revising paragraph (a) to read as follows:

§ 6.27 Proprietary interest.

(a) Complete ownership. Outright ownership of a retail business by an industry member is not an interest which may result in a violation of section 105(b)(1) of the Act.

* * * * *

Par. 8. Section 6.31 is revised to read as follows:

§ 6.31 General.

The act by an industry member of acquiring an interest in real or personal property owned, occupied, or used by the retailer in the conduct of business constitutes a means to induce within the meaning of the Act.

Par. 9. Section 6.33 is amended by revising paragraph (a) to read as follows:

§ 6.33 Proprietary interest.

(a) Complete ownership. Outright ownership of a retail business by an industry member is not an interest that may result in a violation of section 105(b)(2) of the Act.

* * * * *

Par. 10. Section 6.41 is revised to read as follows:

§ 6.41 General.

Subject to the exceptions listed in Subpart D, the act by an industry member of furnishing, giving, renting, lending, or selling any equipment, fixtures, signs, supplies, money, services, or other things of value to a retailer constitutes a means to induce within the meaning of the Act.

Par. 11. Section 6.42 is revised to read as follows:

§ 6.42 Indirect inducement through third party arrangements.

(a) *General.* The furnishing, giving, renting, lending, or selling of equipment, fixtures, signs, supplies, money, services, or other thing of value by an industry member to a third party, where the benefits resulting from such things of value flow to individual retailers, is the indirect furnishing of a thing of value within the meaning of the Act. Indirect furnishing of a thing of value includes, but is not limited to, making payments for advertising to a retailer association or a display

VOL 60 ISS 80 AP 26 1995 UMI

company where the resulting benefits flow to individual retailers.

(b) *Exceptions.* An indirect inducement will not arise where the thing of value was furnished to a retailer by the third party without the knowledge or intent of the industry member, or the industry member did not reasonably foresee that the thing of value would have been furnished to a retailer. Things which may lawfully be furnished, given, rented, lent, or sold by industry members to retailers under subpart D may also be furnished directly by a third party to a retailer.

§ 6.43 [Amended]

Par. 12. Section 6.43 is amended by removing the reference "§§ 6.88 and 6.89," where it appears in the first sentence and replacing it with "§ 6.88,".

§§ 6.46 and 6.47 [Removed and reserved]

Par. 13. Sections 6.46 and 6.47 are removed and reserved.

Par. 14. Section 6.51 is revised to read as follows:

§ 6.51 General.

The act by an industry member of paying or crediting a retailer for any advertising, display, or distribution service constitutes a means to induce within the meaning of the Act, whether or not the advertising, display, or distribution service received by the industry member in these instances is commensurate with the amount paid therefor. This includes payments or credits to retailers that are merely reimbursements, in full or in part, for such services purchased by a retailer from a third party.

Par. 15. Section 6.61 is revised to read as follows:

§ 6.61 Guaranteeing loans.

The act by an industry member of guaranteeing any loan or the repayment of any financial obligation of a retailer constitutes a means to induce within the meaning of the Act.

Par. 16. Section 6.65 is revised to read as follows:

§ 6.65 General.

Extension of credit by an industry member to a retailer for a period of time in excess of 30 days from the date of delivery constitutes a means to induce within the meaning of the Act.

Par. 17. The text of § 6.67 is added to read as follows:

§ 6.67 Sales to retailer whose account is in arrears.

An extension of credit (for product purchases) by an industry member to a retailer whose account is in arrears does not constitute a means to induce within the meaning of the Act so long as such retailer pays in advance or on delivery an amount equal to or greater than the value of each order, regardless of the manner in which the industry member applies the payment in its records.

Par. 18. Section 6.71 is revised to read as follows:

§ 6.71 Quota sales.

The act by an industry member of requiring a retailer to take and dispose of any quota of distilled spirits, wine, or malt beverages constitutes a means to induce within the meaning of the Act.

Par. 19. Section 6.72 is revised to read as follows:

§ 6.72 "Tie-in" sales.

The act by an industry member of requiring that a retailer purchase one product (as defined in § 6.11) in order to obtain another constitutes a means to induce within the meaning of the Act. This includes the requirement to take a minimum quantity of a product in standard packaging in order to obtain the same product in some type of premium package, i.e., a distinctive decanter, or wooden or tin box. This also includes combination sales if one or more products may be purchased only in combination with other products and not individually. However, an industry member is not precluded from selling two or more kinds or brands of products to a retailer at a special combination price, provided the retailer has the option of purchasing either product at the usual price, and the retailer is not required to purchase any product it does not want. See § 6.93 for combination packaging of products plus non-alcoholic items.

Par. 20. Section 6.81 is revised to read as follows:

§ 6.81 General.

(a) *Application.* Section 105(b)(3) of the Act enumerates means to induce that may be unlawful under the subsection, subject to such exceptions as are prescribed in regulations, having due regard for public health, the quantity and value of articles involved, established trade customs not contrary to the public interest, and the purposes of that section. This subpart implements section 105(b)(3) of the Act and identifies the practices that are exceptions to section 105(b)(3) of the Act. An industry member may furnish a retailer equipment, inside signs, supplies, services, or other things of value, under the conditions and within the limitations prescribed in this subpart.

(b) *Recordkeeping Requirements.*

(1) Industry members shall keep and maintain records on the permit or brewery premises, for a three year period, of all items furnished to retailers under §§ 6.83, 6.88, 6.91, 6.96(a), and 6.100 and the commercial records required under § 6.101. Commercial records or invoices may be used to satisfy this recordkeeping requirement if all required information is shown. These records shall show:

(i) The name and address of the retailer receiving the item;

(ii) The date furnished;

(iii) The item furnished;

(iv) The industry member's cost of the item furnished (determined by the manufacturer's invoice price); and

(v) Charges to the retailer for any item.

(2) Although no separate recordkeeping violation results, an industry member who fails to keep such records is not eligible for the exception claimed.

(Approved by the Office of Management and Budget under control number 1512–0392)

§ 6.82 [Removed and Reserved]

Par. 21. Section 6.82 is removed and reserved.

Par. 22. Section 6.83 is revised to read as follows:

§ 6.83 Product displays.

(a) *General.* The act by an industry member of giving or selling product displays to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that the conditions prescribed in paragraph (c) of this section are met.

(b) *Definition.* "Product display" means any wine racks, bins, barrels, casks, shelving, or similar items the primary function of which is to hold and display consumer products.

(c) *Conditions and limitations.*

(1) The total value of all product displays given or sold by an industry member under paragraph (a) of this section may not exceed $300 per brand at any one time in any one retail establishment. Industry members may not pool or combine dollar limitations in order to provide a retailer a product display valued in excess of $300 per brand. The value of a product display is the actual cost to the industry member who initially purchased it. Transportation and installation costs are excluded.

(2) All product displays must bear conspicuous and substantial advertising matter on the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the product displays.

(3) The giving or selling of such product displays may be conditioned upon the purchase of the distilled spirits, wine, or malt beverages advertised on those displays in a quantity necessary for the initial completion of such display. No other condition can be imposed by the industry member on the retailer in order for the retailer to receive or obtain the product display.

Par. 23. Section 6.84 is revised to read as follows:

§ 6.84 Point of sale advertising materials and consumer advertising specialties.

(a) *General.* The act by an industry member of giving or selling point of sale advertising materials and consumer advertising specialties to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that the conditions prescribed in paragraph (c) of this section are met.

(b) *Definitions.*

(1) *Point of sale advertising materials* are items designed to be used within a retail establishment to attract consumer attention to the products of the industry member. Such materials include, but are not limited to: posters, placards, designs, inside signs (electric, mechanical or otherwise), window decorations, trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, back bar mats, thermometers, clocks, calendars, and alcoholic beverage lists or menus.

(2) *Consumer advertising specialties* are items that are designed to be carried away by the consumer, such as trading stamps, nonalcoholic mixers, pouring racks, ash trays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

(c) *Conditions and limitations.*

(1) All point of sale advertising materials and consumer advertising specialties must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed. The name and address of the retailer may appear on the point of sale advertising materials.

(2) The industry member may not directly or indirectly pay or credit the retailer for using or distributing these materials or for any expense incidental to their use.

Par. 24. Section 6.85 is revised to read as follows:

§ 6.85 Temporary retailers.

(a) *General.* The furnishing of things of value to a temporary retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

(b) *Definition.* For purposes of administering this part, a temporary retailer is a dealer who is not engaged in business as a retailer for more than four consecutive days per event, and for not more than five events in a calendar year.

§§ 6.86 and 6.87 [Removed and reserved]

Par. 25. Sections 6.86 and 6.87 are removed and reserved.

Par. 26. Section 6.88 is revised to read as follows:

§ 6.88 Equipment and supplies.

(a) *General.* The act by an industry member of selling equipment or supplies to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act if the equipment or supplies are sold at a price not less than the cost to the industry member who initially purchased them, and if the price is collected within 30 days of the date of the sale. The act by an industry member of installing dispensing accessories at the retailer's establishment does not constitute a means to induce within the meaning of the Act as long as the retailer bears the cost of initial installation. The act by an industry member of furnishing, giving, or selling coil cleaning service to a retailer of distilled spirits, wine, or malt beverages does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

(b) *Definition.* "Equipment and supplies" means glassware (or similar containers made of other material), dispensing accessories, carbon dioxide (and other gasses used in dispensing equipment) or ice. "Dispensing accessories" include items such as standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, and check valves.

§§ 6.89 and 6.90 [Removed and reserved]

Par. 27. Sections 6.89 and 6.90 are removed and reserved.

Par. 28. Section 6.91 is revised to read as follows:

§ 6.91 Samples.

The act by an industry member of furnishing or giving a sample of distilled spirits, wine, or malt beverages to a retailer who has not purchased the brand from that industry member within the last 12 months does not constitute a means to induce within the meaning of section 105(b)(3) of the Act. For each retail establishment the industry member may give not more than 3 gallons of any brand of malt beverage, not more than 3 liters of any brand of wine, and not more than 3 liters of distilled spirits. If a particular product is not available in a size within the quantity limitations of this section, an industry member may furnish to a retailer the next larger size.

Par. 29. Section 6.92 is revised to read as follows:

§ 6.92 Newspaper cuts.

Newspaper cuts, mats, or engraved blocks for use in retailers' advertisements may be given or sold by an industry member to a retailer selling the industry member's products.

Par. 30. Section 6.93 is revised to read as follows:

§ 6.93 Combination packaging.

The act by an industry member of packaging and distributing distilled spirits, wine, or malt beverages in combination with other (non-alcoholic) items for sale to consumers does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

Par. 31. Section 6.94 is amended by adding the phrase "(such as travel and lodging)" before the period in the final sentence of the section, and by adding a new sentence at the end of the section to read as follows:

§ 6.94 Educational seminars.

* * * This does not preclude providing nominal hospitality during the event.

* * * * * *

Par. 32. Section 6.96 is amended by revising paragraph (a) to read as follows:

§ 6.96 Consumer promotions.

(a) *Coupons.* The act by an industry member of furnishing to consumers coupons which are redeemable at a retail establishment does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided the following conditions are met:

(1) All retailers within the market where the coupon offer is made may redeem such coupons; and

(2) An industry member may not reimburse a retailer for more than the face value of all coupons redeemed, plus a usual and customary handling fee for the redemption of coupons.

* * * * * *

§ 6.97 [Removed and reserved]

Par. 33. Section 6.97 is removed and reserved.

Par. 34. Section 6.98 is revised to read as follows:

§ 6.98 Advertising service.

The listing of the names and addresses of two or more unaffiliated retailers selling the products of an industry member in an advertisement of that industry member does not

VOL 60 ISS 80 AP 26 1995 UMI

constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided:

(a) The advertisement does not also contain the retail price of the product (except where the exclusive retailer in the jurisdiction is a State or a political subdivision of a State), and

(b) The listing is the only reference to the retailers in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole, and

(c) The advertisement does not refer only to one retailer or only to retail establishments controlled directly or indirectly by the same retailer, except where the retailer is an agency of a State or a political subdivision of a State.

Par. 35. Section 6.99 is revised to read as follows:

§ 6.99 Stocking, rotation, and pricing service.

(a) *General.* Industry members may, at a retail establishment, stock, rotate and affix the price to distilled spirits, wine, or malt beverages which they sell, provided products of other industry members are not altered or disturbed. The rearranging or resetting of all or part of a store or liquor department is not hereby authorized.

(b) *Shelf plan and shelf schematics.* The act by an industry member of providing a recommended shelf plan or shelf schematic for distilled spirits, wine, or malt beverages does not constitute a means to induce within the meaning of section 105(b)(3) of the Act.

Par. 36. Section 6.100 is revised to read as follows:

§ 6.100 Participation in retailer association activities.

The following acts by an industry member participating in retailer association activities do not constitute a means to induce within the meaning of section 105(b)(3) of the Act:

(a) Displaying its products at a convention or trade show;

(b) Renting display booth space if the rental fee is the same as paid by all exhibitors at the event;

(c) Providing its own hospitality which is independent from association sponsored activities;

(d) Purchasing tickets to functions and paying registration fees if the payments or fees are the same as paid by all attendees, participants or exhibitors at the event; and

(e) Making payments for advertisements in programs or brochures issued by retailer associations at a convention or trade show if the total payments made by an industry member for all such advertisements do not exceed $300 per year for any retailer association.

Par. 37. Section 6.101 is revised to read as follows:

§ 6.101 Merchandise.

(a) *General.* The act by an industry member, who is also in business as a bona fide producer or vendor of other merchandise (for example, groceries or pharmaceuticals), of selling that merchandise to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act, provided:

(1) The merchandise is sold at its fair market value;

(2) The merchandise is not sold in combination with distilled spirits, wines, or malt beverages (except as provided in § 6.93);

(3) The industry member's acquisition or production costs of the merchandise appears on the industry member's purchase invoices or other records; and

(4) The individual selling prices of merchandise and distilled spirits, wines, or malt beverages sold in a single transaction can be determined from commercial documents covering the sales transaction.

(b) *Things of value covered in other sections of this part.* The act by an industry member of providing equipment, fixtures, signs, glassware, supplies, services, and advertising specialties to retailers does not constitute a means to induce within the meaning of section 105(b)(3) of the Act only as provided in other sections within this part.

Par. 37a. Section 6.102 is added to read as follows:

§ 6.102 Outside signs.

The act by an industry member of giving or selling outside signs to a retailer does not constitute a means to induce within the meaning of section 105(b)(3) of the Act provided that:

(a) The sign must bear conspicuous and substantial advertising matter about the product or the industry member which is permanently inscribed or securely affixed;

(b) The retailer is not compensated, directly or indirectly such as through a sign company, for displaying the signs; and

(c) The cost of the signs may not exceed $400.

Par. 38. Part 6 is amended by adding a new subpart E to read as follows:

Subpart E—Exclusion

Sec.

6.151 Exclusion, in general.
6.152 Practices which put retailer independence at risk.
6.153 Criteria for determining retailer independence.

Subpart E—Exclusion

§ 6.151 Exclusion, in general.

(a) Exclusion, in whole or in part occurs:

(1) When a practice by an industry member, whether direct, indirect, or through an affiliate, places (or has the potential to place) retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry member control over the retailer; and

(2) Such practice results in the retailer purchasing less than it would have of a competitor's product.

(b) Section 6.152 lists practices that create a tie or link that places retailer independence at risk. Section 6.153 lists the criteria used for determining whether other practices can put retailer independence at risk.

§ 6.152 Practices which put retailer independence at risk.

The practices specified in this section put retailer independence at risk. The practices specified here are examples and do not constitute a complete list of those practices that put retailer independence at risk.

(a) The act by an industry member of resetting stock on a retailer's premises (other than stock offered for sale by the industry member).

(b) The act by an industry member of purchasing or renting display, shelf, storage or warehouse space (*i.e.* slotting allowance).

(c) Ownership by an industry member of less than a 100 percent interest in a retailer, where such ownership is used to influence the purchases of the retailer.

(d) The act by an industry member of requiring a retailer to purchase one alcoholic beverage product in order to be allowed to purchase another alcoholic beverage product at the same time.

§ 6.153 Criteria for determining retailer independence.

The criteria specified in this section are indications that a particular practice, other than those in § 6.152, places retailer independence at risk. A practice need not meet all of the criteria specified in this section in order to place retailer independence at risk.

(a) The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase or the quantity in which to purchase them for sale to consumers.

(b) The industry member obligates the retailer to participate in the promotion to obtain the industry member's product.

(c) The retailer has a continuing obligation to purchase or otherwise promote the industry member's product.

(d) The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

(e) The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer's premises.

(f) The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

PART 8—EXCLUSIVE OUTLETS

Par. 39. The authority citation for part 8 is revised to read as follows:

Authority: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205; 44 U.S.C. 3504(h).

Par. 40. Section 8.1 is revised to read as follows:

§ 8.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify arrangements which are exclusive outlets under section 105(a) of the Act and criteria for determining whether a practice is a violation of section 105(a) of the Act. This part does not attempt to enumerate all of the practices prohibited by section 105(a) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

Par. 41. Section 8.5 is added to subpart A to read as follows:

§ 8.5 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Director under this Act, and to any person (whether or not a corporation) subject to the provisions of law administered by the Director under this Act. The Act also provides that the Director is authorized to require, in such manner and such form as he or she shall prescribe, such reports as are necessary to carry out the powers and duties under this chapter.

(b) *Examination and Subpoena.* The Director or any authorized ATF officers shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against. The Director shall also have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing that the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

(c) *Reports required by the Deputy Associate Director (Regulatory Enforcement Programs).*

(1) *General.* The Deputy Associate Director (Regulatory Enforcement Programs) may, as part of a trade practice investigation of an industry member, require such industry member to submit a written report containing information on sponsorships, advertisements, promotions, and other activities pertaining to its business subject to the Act conducted by, or on behalf of, or benefiting the industry member.

(2) *Preparation.* The report will be prepared by the industry member in letter form, executed under the penalties of perjury, and will contain the information specified by the Deputy Associate Director (Regulatory Enforcement Programs). The period covered by the report will not exceed three years.

(3) *Filing.* The report will be filed in accordance with the instructions of the Deputy Associate Director (Regulatory Enforcement Programs).

(Approved by the Office of Management and Budget under control number 1512–0392)

Par. 42. Section 8.11 is amended by removing the definition for the term "retail establishment" and by adding definitions for "ATF officer," "Deputy Associate Director (Regulatory Enforcement Programs)" and "Director" as follows:

§ 8.11 Meaning of terms.

* * * * *

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Deputy Associate Director (Regulatory Enforcement Programs). The principal ATF headquarters official responsible for administering regulations in this part.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

* * * * *

Par. 43. Section 8.23 is revised to read as follows:

§ 8.23 Third party arrangements.

Industry member requirements, by agreement or otherwise, with non-retailers which result in a retailer being required to purchase the industry member's products are within the exclusive outlet provisions. These industry member requirements are covered whether the agreement or other arrangement originates with the industry member or the third party. For example, a supplier enters into a contractual agreement or other arrangement with a third party. This agreement or arrangement contains an industry member requirement as described above. The third party, a ballclub, or municipal or private corporation, not acting as a retailer, leases the concession rights and is able to control the purchasing decisions of the retailer. The third party, as a result of the requirement, by agreement or otherwise, with the industry member, requires the retailer to purchase the industry member's products to the exclusion, in whole or in part, of products sold or offered for sale by other persons in interstate or foreign commerce. The business arrangements entered into by the industry member and the third party may consist of such things as sponsoring radio or television broadcasting, paying for advertising, or providing other services or things of value.

Par. 44. Part 8 is amended by adding a new subpart D to read as follows:

Subpart D—Exclusion

Sec.

8.51 Exclusion, in general.
8.52 Practices which result in exclusion.
8.53 Practice not resulting in exclusion.
8.54 Criteria for determining retailer independence.

Subpart D—Exclusion

§ 8.51 Exclusion, in general.

(a) Exclusion, in whole or in part occurs:

(1) When a practice by an industry member, whether direct, indirect, or through an affiliate, places (or has the potential to place) retailer independence at risk by means of a tie or link between the industry member and retailer or by any other means of industry member control over the retailer, and

(2) Such practice results in the retailer purchasing less than it would have of a competitor's product.

(b) Section 8.52 lists practices that result in exclusion. Section 8.53 lists practices not resulting in exclusion. Section 8.54 lists the criteria used for

VOL
60
ISS
80
AP
26
1995
UMI

determining whether other practices can put retailer independence at risk.

§ 8.52 Practices which result in exclusion.

The practices specified in this section result in exclusion under section 105(a) of the Act. The practices specified here are examples and do not constitute a complete list of such practices:

(a) Purchases of distilled spirits, wine or malt beverages by a retailer as a result, directly or indirectly, of a threat or act of physical or economic harm by the selling industry member.

(b) Contracts between an industry member and a retailer which require the retailer to purchase distilled spirits, wine, or malt beverages from that industry member and expressly restrict the retailer from purchasing, in whole or in part, such products from another industry member.

§ 8.53 Practice not resulting in exclusion.

The practice specified in this section is deemed not to result in exclusion under section 105(a) of the Act: a supply contract for one year or less between the industry member and retailer under which the industry member agrees to sell distilled spirits, wine, or malt beverages to the retailer on an "as needed" basis provided that the retailer is not required to purchase any minimum quantity of such product.

§ 8.54 Criteria for determining retailer independence.

The criteria specified in this section are indications that a particular practice, other than those in §§ 8.52 and 8.53, places retailer independence at risk. A practice need not meet all of the criteria specified in this section in order to place retailer independence at risk.

(a) The practice restricts or hampers the free economic choice of a retailer to decide which products to purchase or the quantity in which to purchase them for sale to consumers.

(b) The industry member obligates the retailer to participate in the promotion to obtain the industry member's product.

(c) The retailer has a continuing obligation to purchase or otherwise promote the industry member's product.

(d) The retailer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

(e) The practice involves the industry member in the day-to-day operations of the retailer. For example, the industry member controls the retailer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the retailer's premises.

(f) The practice is discriminatory in that it is not offered to all retailers in the local market on the same terms without business reasons present to justify the difference in treatment.

PART 10—COMMERCIAL BRIBERY

Par. 45. The authority citation for part 10 is revised to read as follows:

Authority: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205; 44 U.S.C. 3504(h).

Par. 46. Section 10.1 is revised to read as follows:

§ 10.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify practices which may result in violations of section 105(c) of the Act and criteria for determining whether a practice is a violation of section 105(c) of the Act. This part does not attempt to enumerate all of the practices prohibited by section 105(c) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

Par. 52. Section 10.4 is amended by revising paragraph (a)(1) to read as follows:

§ 10.4 Jurisdictional limits.

(a) *General.* * * *

(1) The industry member induces a trade buyer to purchase distilled spirits, wine, or malt beverages from such industry member to the exclusion, in whole or in part, of products sold or offered for sale by other persons in interstate or foreign commerce; and

Par. 47. Section 10.5 is added to subpart A to read as follows:

§ 10.5 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Director under this Act, and to any person (whether or not a corporation) subject to the provisions of law administered by the Director under this Act. The Act also provides that the Director is authorized to require, in such manner and such form as he or she shall prescribe, such reports as are necessary to carry out the powers and duties under this chapter.

(b) *Examination and subpoena.* The Director or any authorized ATF officers shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against. The Director shall also have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing that the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

(c) *Reports required by the Deputy Associate Director (Regulatory Enforcement Programs).*

(1) *General.* The Deputy Associate Director (Regulatory Enforcement Programs) may, as part of a trade practice investigation of an industry member, require such industry member to submit a written report containing information on sponsorships, advertisements, promotions, and other activities pertaining to its business subject to the Act conducted by, or on behalf of, or benefiting the industry member.

(2) *Preparation.* The report will be prepared by the industry member in letter form, executed under the penalties of perjury, and will contain the information specified by the Deputy Associate Director (Regulatory Enforcement Programs). The period covered by the report will not exceed three years.

(3) *Filing.* The report will be filed in accordance with the instructions of the Deputy Associate Director (Regulatory Enforcement Programs).

(Approved by the Office of Management and Budget under control number 1512–0392)

Par. 48. Section 10.11 is amended by adding definitions for "ATF officer," "Deputy Associate Director (Regulatory Enforcement Programs)," and "Director" as follows:

§ 10.11 Meaning of terms.

* * * * *

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Deputy Associate Director (Regulatory Enforcement Programs). The principal ATF headquarters official responsible for administering regulations in this part.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

* * * * *

Par. 49. Part 10 is amended by adding a new subpart D to read as follows:

Subpart D—Exclusion

Sec.
10.51 Exclusion, in general.
10.52 Practice which puts trade buyer independence at risk.
10.53 Practices not resulting in exclusion. [Reserved]
10.54 Criteria for determining trade buyer independence.

Subpart D—Exclusion

§ 10.51 Exclusion, in general.

(a) Exclusion, in whole or in part occurs:

(1) When a practice by an industry member, whether direct, indirect, or through an affiliate, places (or has the potential to place) trade buyer independence at risk by means of a tie or link between the industry member and trade buyer or by any other means of industry member control over the trade buyer, and

(2) Such practice results in the trade buyer purchasing less than it would have of a competitor's product.

(b) Section 10.52 lists practices that create a tie or link that places trade buyer independence at risk. Section 10.53 is reserved and will list practices not resulting in exclusion. Section 10.54 lists the criteria used for determining whether other practices can put trade buyer independence at risk.

§ 10.52 Practice which puts trade buyer independence at risk.

The practice specified in this section is deemed to place trade buyer independence at risk within the description of exclusion in § 10.51: Industry member payments of money to the employee(s) of a trade buyer without the knowledge or consent of the trade buyer-employer in return for the employee agreeing to order distilled spirits, wine, or malt beverages from the industry member. The practice enumerated here is an example and does not constitute a complete list of those situations which result in such control.

§ 10.53 Practices not resulting in exclusion. [Reserved]

§ 10.54 Criteria for determining trade buyer independence.

The criteria specified in this section are indications that a particular practice between an industry member and an officer, employee, or representative of a trade buyer, other than those in § 10.52, places trade buyer independence at risk. A practice need not meet all of the criteria specified in this section in order to place trade buyer independence at risk.

(a) The practice restricts or hampers the free economic choice of a trade buyer to decide which products to purchase or the quantity in which to purchase them for sale to retailers and consumers.

(b) The industry member obligates the trade buyer to participate in the promotion to obtain the industry member's product.

(c) The trade buyer has a continuing obligation to purchase or otherwise promote the industry member's product.

(d) The trade buyer has a commitment not to terminate its relationship with the industry member with respect to purchase of the industry member's products.

(e) The practice involves the industry member in the day-to-day operations of the trade buyer. For example, the industry member controls the trade buyer's decisions on which brand of products to purchase, the pricing of products, or the manner in which the products will be displayed on the trade buyer's premises.

(f) The practice is discriminatory in that it is not offered to all trade buyers in the local market on the same terms without business reasons present to justify the difference in treatment.

PART 11—CONSIGNMENT SALES

Par. 50. The authority citation for 27 CFR Part 11 is revised to read as follows:

Authority: 15 U.S.C. 49–50; 27 U.S.C. 202 and 205.

Par. 51. Section 11.1 is revised to read as follows:

§ 11.1 General.

The regulations in this part, issued pursuant to section 105 of the Federal Alcohol Administration Act (27 U.S.C. 205), specify arrangements which are consignment sales under section 105(d) of the Act and contain guidelines concerning return of distilled spirits, wine and malt beverages from a trade buyer. This part does not attempt to enumerate all of the practices prohibited by section 105(d) of the Act. Nothing in this part shall operate to exempt any person from the requirements of any State law or regulation.

Par. 52. Section 11.5 is added to subpart A to read as follows:

§ 11.5 Administrative provisions.

(a) *General.* The Act makes applicable the provisions including penalties of sections 49 and 50 of Title 15, United States Code, to the jurisdiction, powers and duties of the Director under this Act, and to any person (whether or not a corporation) subject to the provisions of law administered by the Director under this Act.

(b) *Examination and subpoena.* The Director or any authorized ATF officers shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against; and the Director shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation, upon a satisfactory showing that the requested evidence may reasonably be expected to yield information relevant to any matter being investigated under the Act.

Par. 53. Section 11.11 is amended by adding definitions for "ATF officer," "Director" and "Retailer" as follows:

§ 11.11 Meaning of terms.

* * * * *

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

* * * * *

Retailer. Any person engaged in the sale of distilled spirits, wine or malt beverages to consumers. A wholesaler who makes incidental retail sales representing less than five percent of the wholesaler's total sales volume for the preceding two-month period shall not be considered a retailer with respect to such incidental sales.

* * * * *

Par. 54. A new § 11.24 is added to subpart C to read as follows:

§ 11.24 Other than a bona fide sale.

"Other than a bona fide sale" includes, but is not limited to, sales in connection with which the industry member purchases or rents the display, shelf, storage or warehouse space to be occupied by such products at premises owned or controlled by the retailer.

Par. 55. Section 11.32 is revised to read as follows:

§ 11.32 Defective products.

Products which are unmarketable because of product deterioration, leaking containers, damaged labels or missing or mutilated tamper evident closures may be exchanged for an equal quantity of identical products or may be returned for cash or credit against outstanding indebtedness.

Par. 56. Section 11.34 is revised to read as follows:

VOL 60 ISS 80 AP 26 1995 UMI

§ 11.34 Products which may no longer be lawfully sold.

Products which may no longer be lawfully sold may be returned for cash or credit against outstanding indebtedness. This would include situations where, due to a change in regulation or administrative procedure over which the trade buyer or an affiliate of the trade buyer has no control, a particular size or brand is no longer permitted to be sold.

Par. 57. Section 11.35 is revised to read as follows:

§ 11.35 Termination of business.

Products on hand at the time a trade buyer terminates operations may be returned for cash or credit against outstanding indebtedness. This does not include a temporary seasonal shutdown (see § 11.39).

Signed: January 4, 1995.

Daniel R. Black,

Acting Director.

Approved: March 30, 1995.

John P. Simpson,

Deputy Assistant Secretary, (Tariff and Trade Enforcement).

[FR Doc. 95–10116 Filed 4–24–95; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGDO5–94–076]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Scotts Hill, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the operation of the Figure Eight Island swingbridge across the Atlantic Intracoastal Waterway, mile 278.1, located in Scotts Hill, North Carolina, by restricting recreational vessels to bridge openings every half hour. This is intended to reduce the amount of bridge openings to relieve the increased volume of vehicular traffic crossing this bridge, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This rule is effective on May 26, 1995.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, (804) 398–6222.

SUPPLEMENTARY INFORMATION:

Draft Information

The principal persons involved in drafting this document are Bill H. Brazier, Project Officer, and LCDR C.A. Abel, Project Attorney, Fifth Coast Guard District.

Regulatory History

On November 8, 1994, the Coast Guard published a Notice of Proposed Rulemaking entitled Atlantic Intracoastal Waterway, Scotts Hill, North Carolina, in the **Federal Register** (59 FR 55601). The commend period ended January 9, 1995. The Coast Guard did not receive any comments on the Notice of Proposed Rulemaking. On January 13, 1995, the Coast Guard issued Public Notice 5–845 requesting comments on the Notice of Proposed Rulemaking. The comment period ended February 13, 1995. No comments were received. A public hearing was not requested and one was not held.

Background and Purpose

The Figure Eight Beach Homeowners Association, Inc. has requested that openings of the Figure Eight swingbridge mile 278, Atlantic Intracoastal Waterway, be restricted for recreational vessels to every half hour due to the increase in vehicular traffic across the bridge. Currently, this bridge opens on signal at all times. The Coast Guard has decided to reduce the required bridge openings for recreational vessels from "on demand" to openings on the hour and half hour, as needed. The bridge will continue to open on signal at all other times for all other vessels. The Coast Guard believes that recreational vessels will not be unduly restricted in passage through the bridge, since they can plan their vessel transits around the hour and half opening restriction.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this final rule, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this final rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612, and has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and checklist has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard is amending part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05.1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.821, paragraphs (b) (4) and (5) are redesignated as (b) (5) and (6) respectively, and new paragraph (b)(4) is added to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach.

* * * * *

(b) * * *

(4) Figure Eight Swing Bridge, mile 278.1, at Scotts Hill, NC, must open, if signaled, on the hour and half hour.

* * * * *

Dated: April 14, 1995.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 95–10232 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–95–004]

RIN 2115–AA97

Safety Zone: Annual South Street Seaport Memorial Day Fireworks, East River, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual South Street Seaport Memorial Day Fireworks display located in the East River, New York. The safety zone will be in effect annually on the Sunday before Memorial Day from 8 p.m. until 10 p.m., unless extended or terminated sooner by the Captain of the Port, New York. The safety zone will close all waters of the East River south of the Brooklyn Bridge and north of a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn.

EFFECTIVE DATE: This rule is effective May 26, 1995.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 16, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 14243). Interested persons were requested to submit comments on or before April 17, 1995. No comments were received. A public hearing was not requested and one was not held. The Coast Guard is promulgating this final rule as proposed.

Background and Purpose

For the last several years, South Street Seaport, Inc. has submitted an Application for Approval of Marine Event for a Memorial Day fireworks program in the waters of the East River. This regulation establishes a safety zone in the waters of the East River on the Sunday before Memorial Day from 8 p.m. until 10 p.m., unless extended or terminated sooner by the Captain of the Port, New York. This safety zone precludes all vessels from transiting south of the Brooklyn Bridge and north of a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn. It is needed to protect mariners from the hazards associated with fireworks exploding in the area. The effective period of the safety zone will be announced annually via Safety Marine Information Broadcasts and by locally issued notices.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a portion of the East River to all vessel traffic annually on the Sunday before Memorial Day between 8 p.m. and 10 p.m., unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation will not be significant for several reasons. Due to the limited duration of the event; the late hour of the event; the extensive, advance advisories that will be made; that pleasure craft and some commercial vessels can take an alternate route via the Hudson and Harlem Rivers; and that this event has been held annually for the past several years without incident or complaint, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of this fireworks program under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process each year.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

VOL
60
ISS
80
AP
26
1995
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2. Section 165.175 is added to read as follows:

§ 165.175 Safety Zone; Annual South Street Seaport Memorial Day Fireworks Display, East River, New York.

(a) *Location.* All waters of the East River south of the Brooklyn Bridge and north of a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn.

(b) *Effective period.* This safety zone is in effect annually on the Sunday before Memorial Day from 8 p.m. until 10 p.m., unless extended or terminated sooner by the Captain of the Port, New York. The effective period will be announced annually via Safety Marine Information Broadcasts and locally issued notices.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 18, 1995.

J. Rutkovsky,

Acting Commander, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 95–10233 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD01–95–013]

RIN 2115–AA97

Safety Zone: Annual North Hempstead Memorial Day Fireworks Display, Hempstead Harbor, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual North Hempstead Memorial Day fireworks display located in Hempstead Harbor, New York. The safety zone will be in effect annually on the Friday before Memorial Day from 8 p.m. until 10 p.m., with a rain date on the following Saturday during the same times, unless extended or terminated sooner by the Captain of the Port New York. The safety zone closes all waters of Hempstead Harbor within a 300 yard radius of the fireworks platform located approximately 300 yards north of Bar Beach, North Hempstead, New York.

EFFECTIVE DATE: This rule is effective May 26, 1995.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668-7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 16, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 14245). Interested persons were requested to submit comments on or before April 17, 1995. No comments were received. A public hearing was not requested and one was not held. The Coast Guard is promulgating this final rule as proposed.

Background and Purpose

For the last several years, the Town of North Hempstead has submitted an Application for Approval of Marine Event for a fireworks program in the waters of Hempstead Harbor. This regulation establishes an annual safety zone in the waters of Hempstead Harbor on the Friday before Memorial Day from 8 p.m. until 10 p.m., with a rain date on the following Saturday during the same times, unless extended or terminated sooner by the Captain of the Port New York. This safety zone precludes all vessels from transiting within a 300 yard radius of the fireworks platform located approximately 300 yards north of Bar Beach, North Hempstead, New York. It is needed to protect mariners from the hazards associated with fireworks exploding in the area. The effective period of the safety zone will be announced annually via Safety Marine Information Broadcasts and by locally issued notices.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a portion of Hempstead Harbor to all vessel traffic annually on the Friday before Memorial Day from 8 p.m. until 10 p.m., with a rain date on the following Saturday at the same times, unless extended or terminated sooner by the Captain of the Port New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation will not be significant for several reasons. Due to the limited duration of the event; the late hour of the event; the extensive, advance advisories that will be made; that the amount of traffic in this area is minimal; and that this event has been held annually for the past several years without incident or complaint, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process each year.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.178 is added to read as follows:

§ 165.178 Safety Zone; Annual North Hempstead Memorial Day Fireworks Display, Hempstead Harbor, New York.

(a) *Location.* All waters of Hempstead Harbor within a 300 yard radius of a fireworks platform located approximately 300 yards north of Bar Beach, North Hempstead, New York.

(b) *Effective period.* This safety zone is in effect annually on the Friday before Memorial Day from 8 p.m. until 10 p.m., unless extended or terminated sooner by the Captain of the Port New York. If the fireworks is canceled because of bad weather, this section is in effect on the following Saturday at the time unless extended or terminated sooner by the Captain of the Port New York. The effective period will be announced annually via Safety Marine Information Broadcasts and locally issued notices.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 18, 1995.

J. Rutkovsky,

Acting Commander, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 95–10234 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–102–4–6905; FRL–5184–9]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on February 2, 1995 and February 10, 1995. The revisions concern rules from the Bay Area Air Quality Management District (BAAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from light and medium duty motor vehicle assembly plants, from the surface coating of large appliances and metal furniture, from the coating of wood products, from the surface coating of marine vessels, components, and structures intended for exposure to a marine environment, and from air stripping and soil vapor extraction operations. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on May 26, 1995.

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, 2020 "L" Street, Sacramento, CA 95814.

Bay Area Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Nikole Reaksecker, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Telephone: (415) 744–1187.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1995 in 60 FR 6467, EPA proposed to approve BAAQMD's Regulation 8, Rule 43 (Rule 8–43), Surface Coating of Marine Vessels, into the California SIP. On February 10, 1995 in 60 FR 7931, EPA proposed to approve the following rules into the California SIP: BAAQMD's Regulation 8, Rule 13 (Rule 8–13), Light and Medium Duty Motor Vehicle Assembly Plants; Regulation 8, Rule 14 (Rule 8–14), Surface Coating of Large Appliances and Metal Furniture; Regulation 8, Rule 23 (Rule 8–23), Coating of Flat Wood Paneling and Wood Flat Stock; and Regulation 8, Rule 47 (Rule 8–47), Air Stripping and Soil Vapor Extraction Operations. Rules 8–14 and 8–43 were adopted by BAAQMD on June 1, 1994, and Rules 8–13, 8–23, and 8–47 were adopted by BAAQMD on June 15, 1994. These rules were submitted by the CARB to EPA on September 28, 1994 in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPRMs cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRMs cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 60 FR 6467 and 60 FR 7931 and in technical support documents

VOL 60 ISS 80 AP 26 1995 UMI

(TSDs) available at EPA's Region IX office.

Response to Public Comments

The 30-day public comment periods were provided in 60 FR 6467 and 60 FR 7931. No comments were received.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 1109(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

The OMB has exempt this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 29, 1995.

David P. Howekamp,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(199)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(199) * * *

(i) * * *

(A) * * *

(*2*) Regulation 8, Rules 14 and 43 adopted on June 1, 1994, and regulation 8, Rules 13, 23, 47 adopted on June 15, 1994.

* * * * * *

[FR Doc. 95–10250 Filed 4–25–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 2E4071/R2117; FRL–4941–8]

RIN 2070–AB78

Methyl Anthranilate; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of the biochemical methyl anthranilate in or on the raw agricultural commodities blueberry, cherry, and grape when the pesticide is used in accordance with good agricultural practices. The Interregional Research Project No. 4 (IR-4) requested this exemption in a petition submitted to EPA.

EFFECTIVE DATE: This regulation becomes effective April 26, 1995.

ADDRESSES: Written objections, identified by the document control number, [PP 2E4017/R2117], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Westfield Building North, 6th Fl., 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8783; e-mail: Jamerson.Hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 1995 (60 FR 9816), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 2E4071 to EPA on behalf of the Agricultural Experiment Station of Washington. Pesticide petition 2E4071 requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), establish exemptions from the requirement of a tolerance for residues of the biochemical methyl anthranilate in or on the raw agricultural commodities blueberry, cherry, and grape. Methyl anthranilate will be applied as a dilute foliar spray to these crops to repel birds and reduce bird depredation. Methyl anthranilate is a natural constituent of food that can be found in grape and citrus. Methyl anthranilate is also synthetically produced and used in the purified form (not less than 99 percent pure) as a flavoring agent in beverages, ice cream, candy, baked goods, gelatins, puddings, and chewing gum. The synthetic product mimics the chemical structure and function of the natural plant constituent. Methyl anthranilate is listed by the Food and Drug Administration (FDA) as a flavoring compound under 21 CFR 182.60 and is classified generally recognized as safe (GRAS) by the Expert Panel of the Flavor and Extract Manufacturer's Association (FEMA). Registrants who produce end-use products for this active ingredient that are intended for use on blueberry, cherry, or grape will be required to use methyl anthranilate produced to meet or exceed U.S. Food Chemical Codex and U.S. Pharmacopoeia specifications.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 13, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding new § 180.1143, to read as follows:

§ 180.1143 Methyl anthranilate; exemption from the requirement of a tolerance.

Methyl anthranilate, a biochemical pesticide, is exempt from the requirement of a tolerance when used in accordance with good agricultural practices on the following raw agricultural commodities: Blueberry, cherry, and grape.

[FR Doc. 95–10251 Filed 4–25–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 6E3460/R2116; FRL–4941–5]

RIN 2070–AB78

Prometryn; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for residues of the herbicide prometryn in or on the raw agricultural commodity parsley. The Interregional Research Project No. 4 (IR-4) requested this regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity.

EFFECTIVE DATE: This regulation becomes effective April 26, 1995.

ADDRESSES: Written objections, identified by the document control number, [PP 6E3460/R2116], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: Jamerson.Hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 15, 1995 (60 FR 8615), EPA issued a proposed rule that gave notice that Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 6E3460 to EPA on behalf of the Agricultural Experiment Station of California. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.222 by establishing a tolerance for residues of the herbicide prometryn (2,4-bis(isopropylamino)-6-methylthio-*s*-triazine) in or on the raw agricultural commodity parsely at 0.1 part per million (ppm). The petitioner proposed that use of prometryn on parsley be limited to California only based on the geographical representation of the residue data submitted. Additional residue data will be reequired to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's

VOL
60
ISS
80
AP
26
1995
UMI

Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 13, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.222, paragraph (b) is amended in the table therein by adding and alphabetically inserting a new entry, to read as follows:

§ 180.222 Prometryn; tolerances for residues.

* * * * *

Commodity	Parts per million
• • • • •	
Parsley	0.1

[FR Doc. 95–10254 Filed 4–26–95; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 501

Organization and Delegation of Powers and Duties

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the organization and delegation of powers and duties within NHTSA to delegate to the Chief Counsel the authority to compromise civil penalties in an amount of $25,000 or less for violations of the former National Traffic and Motor Vehicle Safety Act and the former Motor Vehicle Information and Cost Savings Act. The Chief Counsel had previously been delegated the authority to compromise such penalties for $10,000 or less.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–5263).

SUPPLEMENTARY INFORMATION: The Administrator and Chief Counsel of NHTSA have reviewed the agency's existing policy and procedures for processing civil penalty proceedings arising out of apparent violations of 49 U.S.C. Chapter 301, "Motor Vehicle Safety" (formerly the National Traffic and Motor Vehicle Safety Act), and have decided that the delegated authority of the Chief Counsel to compromise civil penalties for $10,000 or less should be increased to $25,000. Experience has shown that it is neither necessary nor appropriate to involve the Administrator in relatively minor matters that have historically been resolved for less than $25,000.

Under 49 CFR 501.8(d)(2), the Chief Counsel has also been delegated compromise authority with respect to violations of "the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 *et seq.*)." That statute has been recodified as 49 U.S.C. Chapters 305, 321, 323, 325, 327, 329, and 331.

Accordingly, the delegation authority to the Chief Counsel is also being amended to reflect the new recodification. Amendments of other sections of 49 CFR part 501 reflecting the recodification will be made at a later date.

Effective Date

The amendments to part 501 relate solely to internal administrative procedures and have no substantive effect. Thus, they are not covered by the notice and comment or the effective date provisions of the Administrative Procedure Act. In addition, they are not covered by Executive Order 12866 or DOT's Regulatory Policies and Procedures. Notice and the opportunity for comment are, therefore, not required, and the amendments may be made effective upon publication in the **Federal Register**.

List of Subjects in 49 CFR Part 501

Administrative practice and procedure, Motor vehicles, Motor vehicle safety.

PART 501—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

In consideration of the foregoing, 49 CFR part 501 is amended as follows:

1. The authority citation for part 501 continues to read as follows:

Authority: 49 U.S.C. 105, 322; delegation of authority at 49 CFR 1.50.

2. Section 501.8 is amended by revising paragraph (d)(2) to read as follows:

§ 501.8 Delegations.

* * * * *

(d) *Chief counsel.* * * *

(2) Establish the legal sufficiency of all investigations conducted under the authority of 49 U.S.C. Chapters 301, 305, 321, 323, 325, 327, 329, and 331, and to compromise any civil penalty or monetary settlement in an amount of $25,000 or less resulting from a violation of those Chapters.

Issued on: April 20, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–10185 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–59–P

VOL 60 ISS 80 AP 26 1995 UMI

Proposed Rules

Federal Register
Vol. 60, No. 80
Wednesday, April 26, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 94–102–2]

Importation of Fruit Trees From France

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for our proposed rule to allow *Chaenomeles* spp., *Cydonia* spp., *Malus* spp., *Pyrus* spp., and certain *Prunus* spp. plants (except seeds) to be imported into the United States as restricted articles, if grown in private nurseries in France and certified by the French plant protection service to be free of various diseases. The same proposed rule also would remove Laredo, TX, from the list of ports equipped with plant inspection stations. This extension will provide interested persons with additional time in which to prepare comments on the proposed rule.

DATES: Consideration will be given only to written comments on Docket No. 94–102–1 that are received on or before May 26, 1995.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 94–102–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 94–102–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange or Mr. Peter Grosser, Operations Officers, Port Operations, PPQ, APHIS, 4700 River Road Unit 139, Riverdale, MD, 20737–1236, (301) 734–8645.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 1995, we published in the **Federal Register** (60 FR 13382–13384, Docket No. 94–102–1) a proposed rule to amend § 319.37–5(b) of the regulations to allow *Chaenomeles* spp., *Cydonia* spp., *Malus* spp., *Pyrus* spp., and certain *Prunus* spp. grown in private nurseries in France to be imported as restricted articles into the United States under the same conditions already applied to those same articles when grown in government nurseries in France. In addition, we proposed to amend § 319.37–14(b) of the regulations by removing the port of Laredo, TX, from the list of ports with plant inspection stations. Comments on the proposed rule were required to be received on or before April 12, 1995.

In response to a request, we are reopening and extending the public comment period on Docket No. 94–102–1 until 30 days after the date of publication of this notice in the **Federal Register**. During this period, other interested persons may also submit their comments for our consideration.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, and 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 20th day of April 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–10243 Filed 4–25–95; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 202

[Regulation B; Docket No. R–0876]

Equal Credit Opportunity

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is publishing for comment a proposed amendment to Regulation B (Equal Credit Opportunity). The proposed amendment would eliminate the general prohibition on collecting data relating to an applicant's race, color, sex, religion, and national origin, giving creditors the option to ask applicants to provide the information on a voluntary basis. This amendment would allow data collection only; creditors still would be prohibited from considering an applicant's race, color, sex, religion, and national origin in their credit decisions.

DATES: Comments must be received on or before June 27, 1995.

ADDRESSES: Comments should refer to Docket No. R–0876, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW. (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Jane Gell, Sheilah Goodman or Natalie Taylor, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667 or 452–2412; for the hearing impaired only, Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691, makes it unlawful for creditors to discriminate in any aspect of a credit transaction on the basis of race, color, sex, religion, national origin, marital status, age (provided the applicant has the capacity to contract), because all or part of an applicant's income derives from any public assistance, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act. The act is implemented by the Board's Regulation B (12 CFR part 202).

When first passed in 1974, the ECOA barred discrimination based on sex and marital status only. The Board's regulation, issued in 1975, prohibited creditors from noting the sex of an applicant, or inquiring about an applicant's childbearing or childrearing intentions. The regulation also limited when creditors were allowed to inquire about marital status or ask for information about a spouse or former spouse. These provisions were opposed by creditors at the time, but received strong support from women's groups and others who believed that if creditors did not have this information, they could not use it to discriminate.

The ECOA was amended in 1976 to expand its coverage to the present scope. That year, the Board proposed amendments to Regulation B which extended the general prohibition on inquiries into an applicant's sex and marital status to most of the newly covered categories: race, color, religion, and national origin. The response to the proposal was mixed. Most consumer groups and regulatory agencies opposed the prohibition because they believed that it would be extremely difficult to detect discrimination without this information, while creditors generally favored the prohibition. The Board implemented the regulation as proposed, applying the same reasoning that supported the 1975 proposal—if creditors could not collect this information they would not be able to use it to discriminate against applicants.

At the same time, several exceptions to the general prohibition on data collection were added to Regulation B. The broadest exception relates to data notation in home purchase and refinance mortgage loan transactions involving the applicant's principal dwelling. Since 1976, Regulation B has required creditors to collect "monitoring information" (age, sex, marital status, and race or national origin) for mortgage loan applicants. This requirement was added to the regulation because of the concern expressed by consumer groups and regulatory agencies regarding the need for the data to help detect mortgage lending discrimination.

The regulation also allows creditors to collect data if required by another regulation, order, or agreement of a court or enforcement agency to monitor or enforce compliance with the ECOA, Regulation B, or any other federal or state statute or regulation. This exception was included in the regulation so that lenders would not have to choose between competing regulations or statutes. For example, the Small Business Administration (SBA) requires lenders participating in its 7(a), or SBA guaranteed, loan program to collect race and sex information from each applicant. Under the regulatory exception, lenders can comply with the SBA requirements without violating Regulation B.

Similarly, creditors can collect data pursuant to the Home Mortgage Disclosure Act (HMDA) without concerns about violating Regulation B. Since 1990, HMDA has required creditors to collect race or national origin and sex data from applicants for home mortgage loans. HMDA's data collection requirement is broader than Regulation B's because it applies to most applications for home improvement loans, as well as applications for home purchase and refinance, received by lenders subject to HMDA.

For the past several years, various creditors, consumer groups, state and federal agencies, and congressional representatives have requested that the Board amend Regulation B to allow creditors to collect race and sex data, primarily in connection with small business loans but also for consumer credit, such as installment loans. These requests have increased with the current focus on credit discrimination and fair lending.

Creditors have expressed a variety of reasons for wanting to collect these data. Some say they would like to be able to better audit their lending programs to ensure that they are in compliance with fair lending laws. Others want the data so that they can respond more effectively to Community Reinvestment Act (CRA) protests. In addition, some creditors have indicated that they want to collect data so that they can better evaluate their community outreach programs and the effectiveness of their marketing programs.

Some regulatory agencies have expressed an interest in the data because they believe that it may increase their ability to detect discrimination. Community groups have expressed similar reasons for wanting the data, that is, so that they can monitor creditors' compliance with the CRA and fair lending laws. It should be noted, however, that the proposed amendment would not require creditors either to collect data or disclose the data that they collect to the public.

II. Proposed Regulatory Provisions

The proposed amendment to Regulation B would eliminate the general prohibition on collecting data relating to an applicant's race, color, sex, religion, or national origin. The Board is soliciting comment on whether creditors should be allowed to collect data concerning an applicant's religion. The Board has not received any requests to allow creditors to collect data on religion, and, as a general matter, government monitoring forms do not typically request such information. It would be unusual, however, to permit data collection for all protected characteristics except religion.

The Board believes that race, color, sex, or national origin data may be valuable to consumers and creditors alike, regardless of the product. The Board recognizes that for certain credit products the amount and quality of the data collected may be of limited use, for example with credit cards where most applications are taken by mail or telephone. Nonetheless, the Board's proposal would remove the prohibition for all credit products. The Board is concerned that removing the prohibition for only certain credit products would add needless complication to the regulation, and make compliance more burdensome for creditors. The Board is seeking comment on this approach.

The amendment would allow data collection only; consideration of an applicant's race, color, sex, religion, and national origin in a credit decision would still be prohibited. Consumers could not be required to provide this information and creditors would not be required to collect the information through visual observation. The amendment would prohibit creditors from collecting race, color, sex, religion, or national origin information by visual observation, surname, or otherwise, if the consumer chooses not to supply it. The Board is soliciting comment on this approach.

III. Form of Comment Letters

Comment letters should refer to Docket No. R–0876, and, when possible, should use a standard Courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text in machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3½ inch or 5¼ inch computer diskettes in any IBM-compatible DOS-based format.

IV. Regulatory Flexibility Analysis

Compliance with the proposed amendment is voluntary, and therefore the amendment does not of itself impose cost. For those institutions that choose to request the data, there will be some costs associated with redesigning application forms, developing or adapting software programs, training

VOL 60 ISS 80 AP 26 1995 UMI

personnel, and with developing systems to evaluate the information. Since it is unclear how many institutions will adopt these procedures, it is not possible to estimate the costs to institutions in general.

V. Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 35; 5 CFR 1320.13), there is no reporting or recordkeeping burden associated with Regulation B or this amendment.

List of Subjects in 12 CFR Part 202

Aged, Banks, Banking, Civil rights, Consumer protection, Credit, Discrimination, Federal Reserve System, Marital status discrimination, Penalties, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination.

Certain conventions have been used to highlight the proposed revisions to the part. New language is shown inside bold-faced arrows, while language that would be removed is set off with bold-faced brackets.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR part 202 as set forth below:

PART 202—EQUAL CREDIT OPPORTUNITY (REGULATION B)

1. The authority citation for part 202 continues to read as follows:

Authority: 15 U.S.C. 1691–1691f.

2. Section 202.5 is amended as follows:

a. Redesignating paragraph (b)(3) as paragraph (b)(5);

b. Adding a new paragraph (b)(3);

c. Adding a new paragraph (b)(4);

d. Revising paragraph (d)(3); and

e. Removing paragraph (d)(5).

The revisions and addition read as follows:

§ 202.5 Rules concerning taking of applications.

* * * * *

(b) * * *

(3) ►*Permitted inquiries and collection of information.* A creditor may request applicants to provide their race, color, sex, religion, and national origin as part of the application. Applicants may not be required to supply the requested information. If an applicant chooses not to supply the information, the creditor may not note or otherwise record the race, color, sex, religion, and national origin of the applicant based on visual observation, surname or other means.

(4) *Residency and immigration status.* A creditor may inquire about an applicant's permanent residency and immigration status.

(5)◄ * * *

* * * * *

(d) * * *

(3) *Sex.* [A creditor shall not inquire about the sex of an applicant.] An applicant may be requested to designate a title on an application form (such as Ms., Miss, Mr., or Mrs.) if the form discloses that the designation of a title is optional. An application form shall otherwise use only terms that are neutral as to sex.

* * * * *

[(5) *Race, color, religion, national origin.* A creditor shall not inquire about the race, color, religion, or national origin of an applicant or any other person in connection with a credit transaction. A creditor may inquire about an applicant's permanent residency and immigration status.]

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10230 Filed 4–25–95; 8:45am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 704 and 741

Corporate Credit Unions; Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The proposed rule would strengthen the capital of corporate credit unions, reduce the risk of their investments, and improve asset-liability management. It would return corporate credit unions to their primary functions of serving as liquidity centers and service providers and would protect the safety and soundness of the corporate credit union system.

DATES: Comments must be postmarked or posted on NCUA's electronic bulletin board by June 26, 1995.

ADDRESSES: Mail comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Send comments to Ms. Baker via the bulletin board by dialing 703–518–6480.

FOR FURTHER INFORMATION CONTACT: H. Allen Carver, Director, Office of Corporate Credit Unions (703) 518–6640, at the above address.

SUPPLEMENTARY INFORMATION:

A. Background

The corporate credit union system consists of 44 corporate credit unions serving the nation's 13,000 natural person credit unions, and U.S. Central Credit Union serving the corporate credit unions. Corporate credit unions provide liquidity, investment, and payment services to credit unions. Over the years, natural person and corporate credit unions have gradually evolved into quite different types of institutions. In 1977, NCUA first issued Part 704, which dealt specifically with corporate credit unions. However, it was not until 1992 that the agency broadened Part 704 to address a broad array of corporate credit union matters. *See* 57 FR 22626 (May 28, 1992). The regulation has been in effect for several years, during a time of great change in the credit union industry. The Agency has had an opportunity to see how the regulation has worked and to consider how it could be improved. Last year, the Board amended Section 704.12, governing representation issues. *See* 59 FR 59357 (Nov. 17, 1994). After consulting closely with the corporate credit union industry, credit union trade associations, and outside experts, the Board is now proposing to amend most of the remaining sections of Part 704 and to add several new sections.

Before analyzing the specific proposed changes, the Board wishes to draw the attention of interested parties to a gross inequity in the corporate credit union system. NCUA oversight and supervision of corporate credit unions has grown in complexity in the past few years, resulting in additional costs for NCUA's corporate credit union program. Although NCUA examines all of the corporate credit unions, only federally chartered corporates currently pay an operating fee to NCUA. Federally insured corporate credit unions maintain a deposit of one percent of insured shares with the NCUSIF, but corporates have minimal insured shares, and the income generated is not significant. Of course, non federally insured corporate credit unions neither pay operating fees to NCUA nor maintain deposits with the NCUSIF.

The Board is concerned that the additional monetary burden on federal credit unions puts them at a competitive disadvantage and is considering ways to level the playing field. One option is to assess all corporate credit unions an annual examination fee, to be based on the expenses associated with the NCUA corporate program. Alternatively, the Board could abolish the operating fee for federal corporate credit unions,

requiring natural person credit unions to make up the difference. Since corporate credit unions benefit natural person credit unions, it may be appropriate to ask the latter to pay for the whole system. The Board requests comment on these options.

B. Section-by-Section Analysis

Section 704.1—Scope

Part 704 applies directly to all federally insured corporate credit unions. It applies to non federally insured corporate credit unions, via Part 703 of the Rules and Regulations, if such credit unions accept shares from federally chartered credit unions. To clarify the application of Part 704, the Board is proposing to amend the Scope section so that it states both that the regulation applies to all federally insured corporate credit unions, and that non federally insured corporate credit unions must agree, by written contract, to adhere to the regulation and submit to NCUA examination as a condition of receiving funds from federally insured credit unions.

The Board considered deleting from the proposed rule Section 704.1(b), which sets forth its authority to waive a requirement of Part 704. In the few years that the provision has been in effect, NCUA has been deluged with requests for waivers. The Board is concerned that corporate credit unions may have received the impression that compliance with the rule is optional and that waivers are granted as a matter of course. The Board wishes to emphasize that corporate credit unions are expected to comply with the rule. The Board has determined to retain Section 704.1(b) in the proposed rule, however, to make clear its authority, in extraordinary circumstances, to waive provisions of the regulation.

The Board proposes to add a sentence to Section 704.1(b) regarding state-chartered credit unions. Where a state law provision is also contained in Part 704, and a state-chartered corporate wishes to request a waiver of that provision, the corporate must obtain state approval of the waiver before requesting a waiver from NCUA.

Section 704.2—Definitions

Capital

The Board is proposing to revise the definition of capital. The revised definition encompasses primary capital and secondary capital share accounts upon which notice has not been given. These terms are defined later in this Section. The current definition includes each of the balance sheet accounts that comprise primary capital. As these accounts are also listed in the definition of primary capital, it is not necessary to list them under capital.

Commitment

The Board is proposing to delete the phrase "or lease financing receivables" from the definition of "commitments," as corporate credit unions generally do not enter into lease financing arrangements.

Corporate Service Organization (CSO)

Currently, corporate credit unions can invest in and loan to credit union service organizations (CUSOs) as defined in Section 701.27 of the NCUA Rules and Regulations. Section 701.27 was written with natural person credit unions in mind and contains a broad list of permissible activities, many of which the Board believes are inappropriate for corporate CUSOs. Accordingly, the Board is proposing to create a new term and establish new rules for such organizations. They would be called "corporate service organizations (CSOs)" and would be limited to serving only the corporate credit unions that have invested in or loaned to the CSO and/or the members of such corporate credit unions. Thus, a CSO wholly owned by ABC Corporate Credit Union could serve only ABC and its member credit unions. If the CSO received a loan from DEF Corporate Credit Union, it could serve ABC and its member credit unions and DEF and its member credit unions. The Board believes that this restriction would preserve the integrity of field of membership requirements.

The Board is also proposing that a CSO's services be limited to data and item processing, wire transfers, record retention and storage, securities brokerage services, investment advisory services, and trust services. The Board is concerned that some corporate CUSOs currently are performing services that have nothing to do with the daily activities of corporate credit unions, such as shared branching services and home banking.

The Board is also proposing to require that a CSO be chartered as a corporation under state law.

Embedded Options

Embedded options are a common feature in many investment securities. Mortgage backed securities, federal agency structured notes, and many other corporate obligations have features such as maturity calls, principal prepayments, periodic and lifetime interest rate caps, and conversion factors, over which the investor has no control. The fact that these options can be exercised by the issuer (or mortgage holder) and not the investor raises concerns for the Board.

These features entail substantial risks for investors that do not properly understand and evaluate how these options impact the performance of the investment. The function of a matched book strategy is to immunize the effects that changing interest rates will have on the economic value of assets and liabilities. If the characteristics of an asset are not replicated in the corresponding source of funds, the integrity of the match is compromised. This is especially true for assets which have conditional cash flows that are linked to the level of interest rates and other market factors.

One example of an investment with conditional cash flows is mortgage backed securities. Mortgage backed securities are impacted by the behavior of the underlying mortgage holders whose loans make up the securities. If they elect to pay off or refinance their mortgages, the securities will likewise pay down. The investor has no control over this action. Prepayment risk has a substantial impact on the market value and liquidity of an instrument and the uncertainty of the cash flow behavior makes these securities especially difficult to match.

Many investors were caught by surprise during the rate upswing in 1994 because the market values of their securities were adversely impacted far more than they had anticipated. The embedded options such as prepayment extension and caps on floating rate instruments caused a serious threat to the liquidity and solvency of many credit unions. The risk associated with such securities cannot be ignored and it must be factored into the matching strategies of corporate credit unions. This is imperative because corporate credit unions must ensure that the viability of the income, liquidity and net market value of the matched book balance sheet is not jeopardized.

Identically Matched

The Board recognizes that it is not possible for corporate credit unions to perfectly match all shares and certificates to identical assets because there sometimes exists an immaterial difference in dollar amount, the accrual methods, or the precise maturity date. To be substantiated as immaterial, such minute differences cannot have the effect of causing any significant exposure to changing spread performance or the net market value of the match. The integrity of the matched book depends upon how substantially close the match is with regard to such factors as the dollar amounts, rate reset

VOL 60 ISS 80 AP 26 1995 UMI

features, final maturities, and embedded options.

Long-Term Investment; Short-Term Investment

Section 704.6 of the current regulation frequently uses the phrases "long-term (initial maturity over 1 year) investments" and "short-term (initial maturity of 1 year or less) investments." In the interests of simplifying the regulation, the proposed rule would simply define, for the purpose of investment ratings, a "long-term investment" as one having an initial or expected maturity greater than one year and a "short-term investment" as one having an initial or expected maturity of one year or less." These definitions apply only to investment ratings in Section 704.5, which sets forth corporate credit union investment authority in the proposed rule. "Long-term" and "short-term" have different meanings in the context of asset-liability management.

Market Value of Portfolio Equity (MVPE)

MVPE is designed to calculate the risk that changing interest rates will have on a corporate credit union's capital. The traditional practice of measuring interest rate risk sensitivity was the static Gap model. With the introduction in recent years of more dynamic income simulation models, a more sophisticated and precise calculation of income (and capital) at risk is possible. The evolution of asset/liability management techniques has led to a greater understanding of how changing interest rates impact not only earnings but capital as well.

The Board recognizes that, like any estimation, the validity of the MVPE is dependent upon the quality of assumptions and integrity of the data going into the calculation. If the MVPE is intended to capture true mark-to-market risk of capital, the discount rates in the net present value calculations must reflect any credit, liquidity, or option premiums that are inherent in a specific asset or liability.

The development of simulation models that calculate changes in net worth for given changes in interest rates has changed the way many risk managers regard interest rate sensitivity. The MVPE calculation is significant because it is a measure that captures risk over a more long term horizon than net interest income (NII), and as such, it serves as a better early warning detection system. Where net interest income calculations typically focus on income over the next 12–24 months, MVPE captures the long-term economic risk that is inherent in the balance sheet. It is possible for an institution's current earnings to hold steady over the near term as the mark-to-market of the balance sheet is rapidly deteriorating. If a risk manager only focuses on earnings, the risk of capital depletion may go unnoticed.

MVPE is intended to show how the economic values of both sides of the balance sheet will change in relation to one another as interest rates change. One need only look at the toll of the 1994 bear market to understand the ramifications of ignoring the risk of capital depletion. The Board is therefore compelled to ensure that all liquidity providers be cognizant of the risk exposures they take with regard to their capital and liquidity positions.

Many institutions have borrowed short-term funds to buy long-term assets. The inducement is typically a steep yield curve that provides an instant spread opportunity and quick income. The contribution of retained earnings to capital is a favorable objective but the risk of mismatched assets and liabilities can easily produce a situation where the market takes all the benefits away faster than the income was produced. The ability to withstand a liquidity crisis rests on core solvency. Maintaining core solvency, on a mark-to-market basis, in all probable interest rate environments is imperative, and MVPE is a method by which oversight authorities can police the capital at risk.

An institution that has negative capital on a mark-to-market basis cannot meet the demands or obligations of a liquidity crisis, and it is for this reason that the Board desires to expand the risk measurement techniques employed by corporate credit unions so as to detect unacceptable exposures of risk at the earliest opportunity and mandate an appropriate course of corrective action whenever necessary.

The MVPE calculation serves to inform risk takers of what the stakes are before the adverse market changes occur. By employing a "what if" scenario approach, risk managers can observe the changes in MVPE to determine the cost of entertaining certain risk exposures. It is a dynamic approach that allows the oversight authorities to know how much is at stake and to respond before problems arise.

Net Interest Income

The standard measure of risk in income simulation calculations is the variability of net interest income, from "most likely" expectations, for given changes in interest rates. The relationship between interest bearing assets and liabilities is subject to adverse change when market rates rise and fall. The ability to capture the variability of returns that results from changing rates is widely regarded as a fundamental tool for managing interest rate risk.

The policy makers at corporate credit unions need to place limitations upon the amount of income that is subject to interest rate risk. Net interest income simulation is useful for understanding what variables will impact earnings and it allows the user to subject the balance sheet to severe rate stress tests and balance sheet composition changes.

"What if" analysis is essential for anticipating the damage that will result if rates move contrary to the corporate credit union's forecast. Since credit unions cannot predict interest rates, the risk of positioning the balance sheet for a specific purpose must be measured in a variety of interest rate scenarios. A net interest income simulation provides a better means for forecasting the potential risk to income posed by changing rates. Like MVPE, it helps senior management and the board of directors to determine if the levels of potential risk are acceptable.

Overnight

The integrity of the corporate credit union system rests on its ability to repay member funds, other than PCSAs and SCSAs, upon demand and without delay. A large portion of the funds in the system is in overnight accounts, and the bulk of those funds should remain immediately available to meet all contingent member needs. Since overnight transactions might span several days when a weekend or holiday is involved, the term "overnight" is recognized to mean from one business day to the next.

Penalty for Early Withdrawal

Market-based penalties on shares, deposits and liabilities are important because they protect corporate credit unions from the replacement risk that results when an early withdrawal by a member credit union can only be replaced by a higher cost alternative. This risk is tantamount to selling an investment security on the secondary market. Corporate credit unions are financial intermediaries that should not absorb the risk caused by members seeking an early redemption.

Member credit unions will have an economic incentive to request early redemption when reinvestment prospects exceed early withdrawal penalties. Unless the penalties are assessed on a contemporaneous mark-to-market basis, the corporate will have to absorb the difference between the penalty and the replacement cost. While members may not behave in a perfect economic fashion (calculating the break-even point), the risk exposure is still significant. The incorporation of mark-to-market penalties is consistent with the principle of running a matched book.

Permanent Capital Share Account (PCSA)

The Board recognizes that it may be difficult for some corporate credit unions to reach the capital levels required under proposed Section 704.12 in the timeframes provided. The reports of the General Accounting Office and the Corporate Credit Union Study Committee both propose the use of a form of nonredeemable membership shares to assist, in the short-term, corporate credit unions to attain minimum capital goals. Accordingly, the Board is proposing to create a type of membership share that would be at risk, would not be redeemable without written concurrence of NCUA, and would pay non cumulative dividends. Because of these elements of permanency, up to 50 percent of primary capital could consist of PCSAs. The Board requests comment on the criteria NCUA should use to determine when PCSAs may be redeemed.

PCSAs would be limited to credit unions within the corporate credit union's field of membership, would not be subject to insurance by the NCUSIF or other deposit insurer, and could not be used to collateralize borrowings. PCSAs would be available to absorb losses in the event of a deficit in the corporate credit union's other primary capital accounts. In the event of liquidation of a corporate credit union, PCSAs would be payable only after satisfaction of all liabilities.

A corporate credit union would be required to adequately disclose the terms and conditions of PCSAs to each subscriber. A standard form for such disclosure is provided in the regulation.

Primary Capital

Currently, primary capital is defined as all corporate statutory and regular reserves and undivided earnings. The Board is proposing to amend the definition to have primary capital consist of statutory reserves, undivided earnings, other reserves (excluding the allowance for loan losses and accumulated gains/losses on available-for-sale securities), net income/loss, and permanent capital share accounts (PCSAs). No more than 50 percent of primary capital would be permitted to be comprised of PCSAs. The proposed regulation would provide for several benchmarks that are tied to the level of the corporate credit union's primary capital.

Rated

Section 704.6 of the current regulation frequently requires that a security be rated at a certain level "by an SEC-recognized rating agency," which is defined in § 704.2. In the interests of simplifying the regulation, the proposed rule would simply define "rated" to mean "rated by an SEC-recognized rating agency," which would then be defined.

Secondary Capital Share Account (SCSA)

The current regulation introduced the concept of membership capital share deposits (MCSDs), which are subject to certain restrictions in order to qualify as secondary capital. The Board is proposing to retain this concept in a new form called secondary capital share accounts (SCSAs). As with PCSAs, SCSAs would be limited to credit unions within the corporate credit union's field of membership, would not be subject to insurance by the NCUSIF or other deposit insurer, could not be used to collateralize borrowings, and in the event of liquidation of a corporate credit union, would be payable only after satisfaction of all liabilities.

In order for an SCSA to count as capital, it would have to have a minimum notice of withdrawal of two years. The Board weighed several options in establishing the notice period. The Board believes that the one year notice that currently exists for MCSDs is too short. If a corporate credit union experienced problems, all of its secondary capital could be depleted in 12 months. This is often not enough time to resolve problems, and a total depletion of secondary capital could threaten a corporate credit union's continued viability. The Board believes that a two year notice period would serve to preserve capital, yet allow maneuverability on the part of member credit unions. Individual corporates would be free to set longer notice periods if they wished.

The Board also proposes that SCSAs be available to absorb losses in the event of a deficit in the corporate credit union's primary capital. SCSAs could be used not only if a corporate credit union were liquidated, but also to cover any losses in a continuing corporate credit union that has depleted its level of primary capital.

The Board is concerned that all the requirements and conditions of SCSAs are adequately disclosed to each member credit union. Therefore, specific disclosure at the time of the opening of an SCSA, and annual disclosure thereafter, is provided in the regulation, along with standard forms that may be used by the corporate credit unions.

The Board notes that SCSAs are the only permitted form of secondary capital in the proposed rule. Currently, secondary capital consists of MCSDs and term subordinated debt. A review of the corporate credit unions determined that none had in fact used term subordinated debt as a way to build secondary capital. In light of this, and the Board's belief that it is more appropriate to build capital through a corporate credit union's members, the proposed rule would not include term subordinated debt in secondary capital and would delete any reference to it in the regulation. Since SCSAs would be the only component of secondary capital, the proposed rule would simply refer to SCSAs instead of secondary capital.

Undivided Earnings

The Board is proposing to revise the definition of "undivided earnings" to remove the term "corporate reserves," as that term is not used in the proposed rule.

United States Government or its Agencies; United States Government-Sponsored Corporations and Enterprises

The Board is proposing to delete the reference to Appendix C from these definitions and to delete current Appendix C. Rather than having a fixed list of agencies and enterprises, which may become erroneous as entities are created, dissolved, or changed, the Board wishes to simply present the definition of government agencies and enterprises and place the responsibility of determining an entity's status on the corporate credit union.

VOL
60
ISS
80
AP
26
1995
UMI

Adjusted Trading; Bailment for Hire Contract; Cash Forward Agreement; Collateralized Mortgage Obligation; Facility; Federal Funds Transaction; Forward Rate Agreement; Futures Contract; Immediate Family Member; Market Price; Maturity Date; Official; Option Contract; Primary Dealer; Real Estate Mortgage Investment Conduit; Repurchase Transaction; Residual Interest; Reverse Repurchase Transaction; Section 107(8) Institution; Senior Management Employee; Settlement Date; Short Sale; Standby Commitment; Stripped Mortgage Backed Security; Swap Agreement; Trade Date; Zero Coupon Bond

Currently, Part 704 incorporates by reference Part 703, which governs federal credit union investments, except where inconsistent with Part 704. To eliminate the confusion that has arisen over the applicability of certain provisions of Part 703, and because Part 703 may be amended in the future, the Board is proposing to move the relevant portions of Part 703 into Part 704. Most of these definitions are from Part 703; some have been altered slightly. A few other investment-related definitions have been added.

Capital of a Broker/Dealer; Claims; Corporate Reserves; Credit Union Service Organization; Membership Capital Share Deposit; Non Credit Union Member; Original Maturity; Other Reserves; Risk-Based Capital; Secondary Capital; Speculative Activities; Term Subordinated Debt

The Board is proposing to eliminate all of these definitions, primarily because the terms are not used in the proposed regulation. The term "claims" is used in the appendices, but the definition, "loans or other debt obligations," is deemed to be self-evident.

Section 704.3—Planning: Strategic and Business Plans

The Board is proposing to revise § 704.3 to specify that the board of directors of a corporate credit union must adopt *written* strategic and business plans. The Board is concerned that the directors of corporate credit unions might develop concepts for such plans through discussion and brainstorming sessions, but not place them in formal written format. The lack of written documentation would result in the inability of the directors to monitor their success in achieving their goals. Additionally, wording was added to require that the annual review of the plans be documented and provided to the corporate credit union's auditor and supervisory committee and to NCUA.

Section 704.4—Asset/Liability Management

Matched book requirement. The evolution of "managed" book strategies in the corporate credit union network has become a huge concern to the Board. The assumption of interest rate risk by some corporates has been demonstrably short-sighted as evidenced by the wide-spread exposure to rising interest rates taken by many corporates in recent years.

In some dramatic instances, portfolios were merely matched by repricing characteristics, and not always effectively at that, which subjected some corporate credit unions to potentially extreme depletions of capital. The mismatches that result when short duration liabilities are matched against longer duration investment assets cannot be managed if the ability to sell troubled assets is forfeited by a "hold-to-maturity" philosophy. Thus, the managed book approach has, in many cases, resulted in an unmanaged wager against changing interest rates.

The fact that most securities in corporate portfolios that can be adversely impacted by rising rates are classified as "hold-to-maturity" largely contradicts the notion that the risks associated with these managed portfolios can be managed when and if the wrong combination of circumstances prevails.

The Board is concerned about the potential problems that result when corporate credit unions that "manage" sources and uses of funds assume unreasonable levels of risk exposure with the overnight portion of member funds. The growth and complexity of the floating rate securities market has inspired many corporate credit unions to employ a "managed" risk approach in which maturity and average life are disregarded in favor of matching sources and uses of funds by interest rate reset characteristics.

This has led some corporate credit unions to assume substantial duration mismatches when they "match" their overnight funds against corresponding floating rate assets which have embedded options, long weighted average lives, or coupons linked to inappropriate indices. When such assets have interest rate dependent features that affect their market values, the liquidity and solvency of the credit union can be adversely affected. The Board believes that such risk exposures should be identified, measured, and limited to a reasonable level of primary capital. When such risks cannot be immunized in the matching process, they are unacceptable.

The Board is aware that a floating rate security can have a very short duration if it is tied to a sensitive market index, reprices frequently, has little or no embedded option risk, and has a relatively short final maturity. The Board also recognizes that a portion of overnight shares at a corporate credit union represents a core amount of funds that is essentially permanent in nature. Such core funds are required to cover clearings and other daily activities. It is not inappropriate for a corporate credit union to mismatch a conservative portion of overnight funds into longer maturity assets provided that the assets are convertible to cash without suffering a material loss.

The Board is proposing that a corporate credit union be permitted to mismatch 25 percent of funds in the overnight book. The parameters set forth on the assets permitted in this 25 percent portion are established to prevent any material adverse market value effect upon the liquidation potential of these assets if and when the need arises. The ability to mismatch a conservative portion of the overnight account allows corporate credit unions to augment their earnings potential in addition to the investment of capital.

The Board does not believe that any interest rate risk should be taken with term certificates. Any source of funds, with the exception of capital, that has a maturity of greater than one business day must be identically matched to an asset that has the same maturity and repricing characteristics. The danger of entertaining duration mismatches with member certificates is regarded to be completely inconsistent with the charge of a liquidity facility. This activity is not regarded to be a legitimate means of generating retained earnings because of the risk and complexity associated with managing a mismatched portfolio.

Portfolio pricing. It is essential for corporate credit unions to evaluate the risk inherent in their balance sheets on a regular basis. A frequent pricing of the investment portfolio is an important component of risk assessment since it provides critical information about changes in the liquidation value of the balance sheet.

Whether assets are classified as available-for-sale or hold-to-maturity, they need to be reviewed in the context of fair market value. The management of a corporate credit union should know at all times where the relative market value of its balance sheet stands in order to ensure that the core solvency of the institution is not remotely threatened by any adverse change in market rates.

Maximum unrealized loss on available-for-sale assets. The Board is proposing that the aggregate loss in the accumulated unrealized gains/losses on available-for-sale assets, net of any unrealized gains or losses on the corresponding source of funds, be limited to a conservative percentage of the corporate's primary capital. Consistent with the provision that all investment securities be priced to market on a monthly basis, the need to closely monitor the impact of changing market rates on the available-for-sale portfolio is imperative.

The Board is also proposing that sufficient early withdrawal penalties be in place to guarantee protection from replacement risk. This would allow corporates to capture the economic benefit of the liabilities that are matched against available-for-sale assets; accordingly, it is appropriate to factor in the corresponding liabilities when setting a maximum limit upon the aggregate loss in the accumulated unrealized gain/loss on "available-for-sale" assets.

Rate shock analysis. The use of scenario analysis to measure potential risk is not a new concept to many corporate credit unions. This discipline is already resident in a number of corporates. The purpose of using a rate shock calculation is to view interest rate risk from a severe but plausible perspective. The senior management and board of directors of a corporate should always be cognizant of potential interest rate risk exposures before they arise.

It is clear that a perfectly matched book does not have the same volatility that a "managed" mismatched book has. Depending upon how the overnight and capital accounts are structured, they could potentially create some exposure to changing rates. Such exposures need to be identified, measured, related to primary capital, and reported to all oversight authorities on a regular basis.

Rate shock analysis is a standard form of risk assessment that is used in many industry applications. The FFIEC High Risk Stress Test for CMOs, total return analysis, and income simulation models all feature this approach. It is a useful and conservative practice that enhances the risk management process.

Risk analysis, supervision and compliance. The Board is particularly concerned that corporate credit unions have a comprehensive risk management process in place to identify all applicable risk exposures before and after an investment is made. The process should ensure that such risk exposures are measured on a regular basis and in relation to all limitations that are in place to govern such risks.

The risk management process is a discipline that requires a large measure of vigilance on the part of management. The impact of changing market and credit conditions may be swift and severe. The risk management process must be a proactive and defensive mechanism for preserving the earnings and capital of the credit union. The more in-depth the risk analysis and the greater the frequency of review, the more accountable the board of directors can be in policing the risks that are undertaken.

The board of directors of a corporate credit union is responsible for the actions and risk exposures that the institution undertakes. In order to effectively understand and ultimately supervise risk, the board must receive a complete distillation of risk activities on a timely basis. That information must summarize the actions taken and the consequences, as stated in terms of capital at risk, that will result when applicable risk factors change.

The board of directors cannot supervise and direct the actions of the credit union at the line level. However, the board is obligated to demand that management provide all of the information necessary for board members to make fully informed decisions. Thus the reporting element of the risk management process is no less important in the scheme of managing risk. The board must have clear, concise summaries of risk activities and exposures in order to carry out its oversight responsibilities.

The Board regards risk analysis, supervision, and compliance as an essential process for all credit unions. Risk management procedures vary considerably among corporate credit unions and are a major concern. The need to standardize the discipline of the risk management process is obvious. The incorporation of a consistent framework will bolster the integrity and viability of the corporate credit union system.

Contingency funding. The role of all corporate credit unions as liquidity custodians has drawn attention to a major deficiency in the system. The disregard for contingent funding plans has been a particularly troublesome issue. Contingency funding plans guarantee the role of a corporate as an inviolable provider of liquidity, regardless of the circumstances. The fact that liquidity is most scarce when it is most required underscores the danger of not planning for unexpected needs.

The borrowing capacity of corporate credit unions is not an unlimited resource. Many corporate credit unions have suggested that liquidity will be easily obtainable through repurchase agreements and lines of credit. The reality is that many factors can impinge upon the ability of a corporate to borrow the amount of funds for the amount of time that is required.

Corporate credit unions must evaluate all viable resources of liquidity on a regular basis and understand how changes in market factors will impact those resources over time. For example, it may be unreasonable to assume that borrowing capacity is not hindered by severe economic circumstances. The corporate must know that it can provide liquidity in normal or catastrophic situations. The board of directors needs to be assured that the plan to meet liquidity needs is realistic and up-to-date.

Modeling. The Board wishes to quantify more precisely how the proposed changes to Part 704 will affect corporate credit union earnings and capital accumulation. To this end, NCUA will conduct analytical assessments of these changes through simulation modeling techniques using a sampling of corporate credit union balance sheets. Interested parties who believe the proposed changes, if implemented, would adversely affect corporate credit unions' ability to serve their members are requested to submit the results of similar assessments to support their positions.

Section 704.5—Investments

The Board is proposing to modify and move the policies section of current § 704.6 to proposed § 704.4. The remaining sections of current § 704.6 would be revised and recodified at proposed § 704.5. The Board is also proposing to include the relevant provisions of Part 703, governing federal credit union investments, in proposed Part 704, rather than simply incorporating them by reference, as is done currently. Sections 703.4 and 703.5, with some modifications, would be included in § 704.5, and § 703.2, which provides definitions, would be included in proposed § 704.2.

Proposed § 704.5(a) would replace current § 704.6(b)(2)(i), except that the reference to investments authorized by Part 703 would be deleted. This paragraph would also explain the operation of the divestiture provisions set forth in the remainder of the section. Finally, this paragraph would address investments that must be classified as available-for-sale and the limit on investments in any one issuer. While the current rule bases all investment limitations on a percentage of assets, the

VOL
60
ISS
80
AP
26
1995
UMI

proposed rule would base those limitations on a percentage of primary capital. This would encourage the building of primary capital.

The Board has determined that a corporate credit union should not be permitted to invest in any non federally insured state banks, trust companies, and mutual savings banks, so current § 704.6(b)(2)(ii) is not included in proposed § 704.5.

Proposed § 704.5(b) would replace current § 704.6(b)(i), except that it would refer to CSOs rather than CUSOs. In addition, the limit on investments in CSOs would move to new § 704.7, which would address a number of issues relating to CSOs.

Proposed § 704.5(c) would authorize corporate credit unions to invest in U.S. Central Corporate Credit Union.

Proposed § 704.5(d) would establish limits on investments in domestic banks for the first time. Proposed § 704.5(e) would replace current § 704.6(b)(2)(iii), except that it would add an entity rating requirement for foreign banks and establish limits on investments in foreign banks in any one country and in all foreign banks.

Proposed § 704.5 (f) and (g) would replace current § 704.6(b)(2) (iv) and (v) respectively. Proposed § 704.5(h) would replace current § 704.6(b)(2)(vi), except that it would revise the stress test and would require corporate credit unions test their CMOs/REMICs on a monthly basis. Corporate credit unions would have to test floating as well as fixed rate CMOs.

Proposed § 704.5 (i)–(k) would set forth the relevant authorized activities listed in § 703.4, and proposed § 704.5(l) would set forth most of the prohibitions listed in § 703.5. The Board is proposing additionally to prohibit corporate credit unions from buying or selling swap agreements, option contracts, and forward rate agreements, and making deposits in non federally insured state banks, trust companies, and mutual savings banks. While federal natural person credit unions may purchase stripped mortgage backed securities and CMO/REMIC residuals to reduce interest rate risk, the Board is proposing to prohibit corporate credit unions from purchasing such securities for any purpose. The Board is also proposing to lower the maturity date on permissible zero coupon securities from 10 years to 5.

Finally, the Board notes that § 107(15)(B) of the Federal Credit Union Act authorizes federal credit unions to invest in mortgage related securities as defined in § 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41). Until recently, that definition required that a security be backed by promissory notes secured by a first lien on real estate, upon which is located "a dwelling or mixed residential and commercial structure." Because of this, a mortgage related security did not include a security backed by purely commercial mortgages. The Riegle Community Development and Regulatory Improvement Act of 1994, enacted on September 23, 1994, amended the Exchange Act to provide that the underlying notes of a mortgage related security may be directly secured by a first lien on real estate upon which is located one or more commercial structures. Thus, federal credit unions were granted the statutory authority to invest in commercial mortgage related securities.

Under § 107(15), however, this authority is "subject to such regulations as the Board may prescribe." It is the Board's view that federal credit unions may not purchase commercial mortgage related securities until explicitly permitted to do so by regulation. The Board has not yet issued a regulation permitting federal natural person credit unions to purchase such securities but will consider the matter in its upcoming review of Part 703. The Board will also consider at that time whether commercial mortgage related securities are appropriate for corporate credit unions. In the meantime, to eliminate potential confusion, the proposed rule explicitly prohibits corporate credit unions from purchasing such securities.

Section 704.6—Capital Goals, Objectives, and Strategies

The proposed rule would substitute "CSO" for "CUSO" and would require a cost/benefit analysis and impact study when an activity might have a material effect on a corporate credit union. When an impact study must be conducted, the proposed rule would require that it be on a corporate's earnings, in addition to its capital position.

Section 704.7—Corporate Service Organizations (CSOs)

As noted in the definitions section, the Board is proposing to revise the CUSO concept for corporate credit unions. Currently, Part 704 incorporates much of § 701.27 by reference. Because of the proposed change in terminology, and the determination that some of the provisions of § 701.27 are not applicable to corporate credit union service organizations, proposed § 704.7 contains all of the necessary regulations governing CSOs. Therefore, the proposed rule does not reference § 701.27.

Proposed § 704.7(a) would incorporate most of the definitions in current § 701.27(c). Proposed § 704.7(b) would limit a corporate's aggregate investments in and loans to member and non member CSOs to 15 percent of capital at the time the investment or loan is made. The current rule allows a corporate to invest 15 percent of capital in and loan 15 percent of capital to CUSOs. The Board has determined that it is inappropriate to allow corporate credit unions to risk 30 percent of capital in such organizations. The Board has added "member or non member" to the limitation to clarify that loans to and investments in all CSOs are governed by the § 704.7, regardless of whether the CSO is a member of the corporate credit union or not.

Proposed § 704.7(b) would incorporate some of the limitations of § 701.27 (b) and (d). Proposed § 704.7(c) would incorporate the conflicts provisions of § 701.27(d)(6). Proposed § 704.7(d) would replace the accounting and information access provisions of § 701.27(d)(7).

Finally, proposed § 704.7(e) would require a corporate credit union to take steps to bring its investments and loans in line with the new regulation. Under the proposed rule, corporate credit unions would not be authorized to invest in or loan to CUSOs. If a CUSO already meets the CSO requirements, an investment in or loan to the CUSO becomes an investment in or loan to a CSO, and there is no problem. If a CUSO can meet the CSO requirements with some slight adjustments, as for example, eliminating a service that a CSO may not perform, it is expected that this be accomplished by the effective date of the regulation. If there is no way that a CUSO can meet the CSO requirements, a corporate credit union must divest itself of any investments in the CUSO by the effective date of the regulation. Any loan to such a CUSO must be terminated if permitted by contract. If not permitted, a corporate credit union may retain the loan on its books but may not renew or extend it.

Section 704.8—Lending

The Board is proposing to revise § 704.7(b)(1), which would be codified at § 704.8(b)(1), to tighten the limitation on aggregate loans to one member credit union. In the existing regulation, loans to one borrower are limited to the corporate credit union's capital or 10 percent of the corporate credit union's shares and capital, whichever is greater. Under the proposed regulation, the aggregate of loans to one member credit union would be limited to the corporate credit union's primary capital. The Board believes that the existing limitation is far too permissive and poses a potential threat to the NCUSIF. In several of the larger corporate credit unions, the current limitation could allow one member to borrow in excess of $1 billion. Limiting total loans to one borrower to the amount of a corporate credit union's primary capital would greatly reduce the exposure to the corporate credit union and the NCUSIF and, in addition, would provide an incentive to the corporate credit union to increase its level of primary capital.

The Board is proposing to eliminate § 704.7(b)(2) and (3), regarding loans to members that are not credit unions and to credit unions that are not members. Proposed § 704.8(b)(5) would explicitly prohibit a corporate from making a loan to a non member or a natural person member. Except for providing overdraft protection for a clearing account, a corporate credit union would also be prohibited from making a loan to a trade association member. Loans to CSO members would be governed by proposed § 704.7. The proposed rule would require any loan to a trade association member to be fully collateralized.

Section 704.9—Borrowing

The Board is proposing to tighten the limitations on the amount a corporate credit union may borrow. In the existing regulation, a corporate credit union is permitted to borrow up to 10 times capital or 50 percent of shares (excluding shares created by the use of member reverse repurchase agreements) and capital, whichever is greater. In the proposed regulation, the wording is changed to indicate whichever is less. The Board has determined that tying borrowing authority more closely to the level of capital would encourage capital growth. Additionally, unless extremely strong capital existed, the corporate would not be permitted to borrow up to 50 percent of shares and capital. The more well capitalized a corporate credit union, the higher borrowing capacity it would have. The Board views this as an enhancement to the safety and soundness of the corporate credit union system.

This section is also revised in the proposed regulation to restrict a corporate credit union to borrowing only to meet liquidity needs, except for issuing a minimum amount of commercial paper to maintain a market presence. As a liquidity center, a corporate credit union must have the ability to borrow funds under certain circumstances to ensure that liquidity remains available to meet member credit unions' needs. However, the Board wishes to make it clear that corporate credit unions should not be borrowing in order to fund investment transactions to enhance net income. Therefore, the proposed regulation also requires that the need for borrowing be documented, in writing, and that the documentation be provided to the corporate credit union's auditor and supervisory committee and to NCUA.

Finally, in acknowledging that there may exist extraordinary circumstances under which a corporate credit union may need to borrow in excess of the limitation set forth in this section, the regulation allows a corporate credit union to submit a request to NCUA for additional borrowing authority.

Section 704.10—Services

The Board is proposing to revise this section to eliminate the list of services a corporate credit union may provide. Currently, corporate credit unions may provide services involving investments, liquidity management, payment systems, and correspondent services. The Board believes that this authority has, on occasion, been interpreted too broadly. Accordingly, the Board is proposing simply to say that corporate credit unions may provide services to their member credit unions, intending that to mean traditional loan, deposit and payment services. A corporate credit union wishing to provide other types of services should contact NCUA to determine whether such services are permissible.

The Board is also proposing to clarify that a corporate credit union may provide services only to its members. Historically, two corporate credit unions might informally agree between themselves for one to provide services to the members of the other. These types of correspondent arrangements are permissible for natural person credit unions, but only when the agreements are formalized in writing and certain other requirements are met. The Board has determined that such arrangements, even if formalized, are inappropriate for corporate credit unions and is proposing to state that explicitly in the regulation.

Corporate credit unions have also argued that they are authorized to provide services to non member credit unions pursuant to § 701.26 of the NCUA Rules and Regulations, which provides that a federal credit union may enter into a contract with one or more credit unions or other organizations "for the purpose of sharing, utilizing, renting, leasing, purchasing, selling, and/or joint ownership of fixed assets or engaging in activities and/or services which relate to the daily operations of credit unions." NCUA never intended this provision to authorize corporate credit unions to provide services to non member credit unions. Such an interpretation would make field of membership limitations meaningless. The provision was intended to allow natural person credit unions to *jointly* contract to obtain services from a non credit union third party. In any event, the Board has the opportunity now to clarify that § 701.26 does not authorize corporate credit unions to provide services to non member credit unions.

Finally, corporate credit unions have argued that they can accept deposits from non member credit unions pursuant to Section 107(7)(G) of the Federal Credit Union Act, 12 USC 1757(7)(G), which authorizes federally chartered credit unions to invest in the shares or deposits of any central credit union. The Board has determined that corporate credit unions may only accept shares or deposits from members, pursuant to its authority, under Section 120(a) of the Federal Credit Union Act, 12 USC 1766(a), to issue regulations governing corporate credit unions.

Section 704.11—Fixed Assets

The Board is proposing to revise § 704.11(b)(1) to change the limitation on the amount a corporate credit union may invest in fixed assets without a waiver from NCUA. In the existing regulation, a corporate credit union may invest up to 15 percent of capital in fixed assets. In the proposed regulation, the limitation has been revised to 15 percent of primary capital. While all of the corporates are presently in compliance with the proposed limitation, some may wish to make large fixed asset investments in the future. The Board views the proposed limit as a further incentive for corporate credit unions to build stronger levels of primary capital.

Additionally, references to the Director, Office of Examination and Insurance have been changed to NCUA in the proposed rule. These references relate to the submission of waivers from the fixed asset limitation. For the time being, waivers should be submitted to the Director, Office of Corporate Credit Unions. Waivers may need to be submitted elsewhere in the future, however, if NCUA offices are restructured. Finally, the Board is proposing to eliminate the provision regarding a corporate credit union proceeding with its investment if it does not receive notification of the action taken on its request within 45 days. This will ensure that NCUA has adequate time to review any corporate credit union request to invest more than 15

VOL
60
ISS
80
AP
26
1995
UMI

percent of primary capital in fixed assets.

Section 704.12—Corporate Credit Union Reserves

A number of sources (including Congress, the General Accounting Office, and the Corporate Credit Union Study Committee) have expressed concern over the relativity low levels of capital in corporate credit unions. The proposed regulation provides for several very specific changes to the corporate credit union reserve structure. The existing regulation establishes specific levels of capital that corporate credit unions must maintain, based on risk-weighted assets. Currently, corporate credit unions must maintain a ratio of 4 percent of primary capital to risk-weighted assets and a ratio of 8 percent of total capital to risk-weighted assets.

Under proposed § 704.12(a), corporate credit unions would have to reach capital levels based on primary capital to average daily assets. The Board is proposing the changes to the reserve requirements in order to emphasize the need for stronger primary capital. The regulation provides for incremental increases in the minimum ratio of primary capital to average daily assets until the level of 4 percent is achieved by January 1, 1998. (The increments are 2.5 percent by January 1, 1996 and 3 percent by January 1, 1997.) The regulation does allow for a possible waiver from the requirements at the first two intervals. However, the Board is committed to building primary capital in corporate credit unions. Any waiver request from this requirement must include very specific time frames, with supporting documentation, for reaching the regulatory capital level.

Proposed § 704.12(b) would require that all corporate credit unions maintain a minimum of 10 percent capital to risk-weighted assets. Under the existing regulation, corporate credit unions are required to maintain a capital to risk-weighted assets ratio of 8 percent. Although the major focus will be on primary capital, the Board sees a continued need to provide a measure of capital compared to risk-weighted assets. Risk-weighting of assets does provide some delineation of the risk in a corporate credit union's balance sheet. The amount of capital available to cover the risks associated with the balance sheet is valuable information to corporate credit union officials as well as NCUA. Currently, all corporate credit unions with the exception of U.S. Central have capital to risk-weighted assets in excess of 10 percent.

Proposed § 704.12(i) would require that each corporate credit union develop a written projection detailing its action plan to achieve the primary capital requirements established in § 704.12(a). As part of the plan, a corporate credit union will need to make reserve transfers at levels that will ensure compliance with the minimum primary capital requirements. At a minimum, corporate credit unions that have already met the minimum 4 percent primary capital requirement, must make reserve transfers as set forth in § 704.12(j).

Section 704.12(j) establishes the required reserve transfers for corporate credit unions. The proposed rule makes certain changes to conform to the proposed definitions of primary capital and capital to risk-weighted asset ratios. There are five reserve transfer categories. All corporate credit unions would be required to maintain minimum primary capital to average daily assets of 4 percent and capital to risk-weighted assets of 10 percent. Therefore, Category 1 begins when these ratios are at 4 percent and 10 percent respectively. Once the primary capital ratio is greater than 6 percent, and the capital to risk-weighted assets ratios is greater than 20 percent, reserve transfers are no longer required. For the purposes of reserve transfers, it is proposed that PCSAs be excluded from primary capital.

The Board is proposing to eliminate the term "risk-based capital." In the current regulation, risk-based capital includes primary capital and secondary capital up to 100 percent of primary capital. Risk-based capital is used in comparison to risk-weighted assets to establish minimum risk-based capital ratios for reserving purposes. In the proposed regulation, reserve transfers are based on primary capital to average daily assets and capital to risk-weighted assets. There would no longer be any specific category of risk-based capital.

Section 704.13—Representation

As noted earlier, the Board amended the representation section of Part 704 last year. In light of the proposed changes to the definition of "member," the Board is proposing to delete certain provisions that were designed to ensure that corporate credit unions were controlled by their member credit unions. These provisions would no longer be necessary if only representatives of member credit unions are permitted to vote and stand for election. The Board is also proposing to specifically state that the provisions of § 701.14 of the Rules and Regulations, governing changes in officials and senior executive officers in credit unions that are newly chartered or in troubled condition. This provision always was intended to apply to corporate credit unions, as it is not inconsistent with any provision in Part 704. However, the provision refers to NCUA Regional Directors, and in light of the centralization of the corporate credit union program, its application to corporate credit unions may have been unclear. Accordingly, the Board is proposing to specifically include § 701.14 in Part 704, changing the reference from "Regional Director" to "NCUA." As with requests for waivers to the fixed asset limitation, notices required under § 701.14 should be filed, for the time being, with the Director, Office of Corporate Credit Unions.

Section 704.14—Audit Requirements

In the existing regulation, this section deals only with the need for an annual audit. The only change relating to the annual audit in the proposed regulation is the addition of wording to clearly specify that the annual opinion audit will include a letter of reportable conditions.

The Board is proposing to add a new § 704.14(b) to include a requirement for an internal auditor function in corporate credit unions with assets in excess of $100 million. The requirement would also apply to corporates with assets under $100 million, if so ordered by NCUA. The Board realizes that not all corporate credit unions can readily afford to hire a full-time internal auditor. Based on the asset size and complexity of the institution, the corporate could hire a part-time internal auditor or contract with an outside firm to perform the internal auditor function. The proposed regulation requires that the internal auditor report directly to the chair of the corporate credit union's supervisory committee. The regulation provides specific minimum responsibilities that the internal auditor must perform. Finally, the internal auditor's findings and reports must be documented and made available for review to the outside auditor and NCUA.

Section 704.15—Contracts/Written Agreements

The Board is not proposing any changes to this provision.

Section 704.16—State-Chartered Corporate Credit Unions

The Board is proposing to add new § 704.16(b) to put non federally insured state-chartered corporate credit unions that receive funds from federally insured credit unions on notice that they are considered "institution-affiliated parties" within Section 206(r) of the Federal Credit Union Act and subject to all of the enforcement provisions of the Act.

Section 704.17—Fidelity Bond Coverage

The Board is proposing only minor changes to this Section. Section 704.17(d) would be amended to clarify that the minimum bond coverage is based on a corporate credit union's average daily assets as of the preceding December 31. The Board notes that in current § 704.17(f), the deductibles are based on a corporate credit union's primary capital to risk asset ratio. Since the proposed regulation eliminates this ratio, another one must be used. The Board is proposing that it be the primary capital ratio and specifically requests comments on this issue.

Section 704.18—Effective Date

The Board is proposing to make any final regulation on these matters effective January 1, 1996. However, although not stated in the proposed regulation itself, the Board is also considering requiring compliance with § 704.5, governing investments, 30 days after the final rule is published in the **Federal Register**. Investments purchased before that date would be governed by the regulation in effect at the time of purchase. The Board is proposing to make the investment provisions applicable before the remainder of the regulation to deter corporate credit unions from "loading up" on investments that would no longer be permissible after January 1, 1996. All investments, regardless of when acquired, would be subject to the asset-liability provisions of proposed Section 704.4. In order to accomplish this objective, it may be necessary for the Board to issue a final rule in two separate stages with different effective dates, or to issue one rule with a 30 day effective date, but with a delayed compliance date for all sections other than §§ 704.2, Definitions, and 704.5, Investments.

Appendix A—Summary of Risk Weights and Risk Categories for Corporate Credit Unions

The major focus of the Board's proposed amendments to the risk weight schedule is the risk weighting of certain mortgage-backed securities. The current regulation weights CMOs based on their response to the interest-rate sensitivity test, and the Board has determined that this is inappropriate in a scheme designed to address credit risk. In the proposed rule, mortgage-backed securities, including pass throughs and certain CMOs (but not stripped mortgage backed securities), that are issued or guaranteed by a U.S. Government agency or U.S. Government-sponsored enterprise are assigned to the risk weight category appropriate to the issuer or guarantor. Generally, a privately-issued mortgage backed security meeting certain criteria, as set forth in the proposed regulation, is treated as essentially an indirect holding of the underlying assets, and assigned to the same risk category as the underlying assets. Privately-issued mortgage backed securities whose structures do not qualify them to be regarded as indirect holdings of the underlying assets are assigned to the 100 percent risk category.

While the risk category to which mortgage backed securities is assigned will generally be based upon the issuer or guarantor or, in the case of privately-issued mortgage backed securities, the assets underlying the security, any class of a mortgage backed security that can absorb more than its pro rata share of loss without the whole issue being in default, is assigned to the 100 percent risk category.

The specific changes being proposed are as follows. In Category 1, the Board is proposing to delete item (g), claims on or unconditionally guaranteed by sovereign central governments of "AAA" rated countries. Its inclusion in the current rule was inadvertent, as such investments are not permissible for corporate credit unions.

In Category 2, 20 percent risk weight, the Board is proposing to delete the material at the end of Category 2, addressing bank ratings. Proposed Section 704.5 sets forth the minimum ratings for deposits in banks. The Board is also proposing to delete items (j) and (k), which are certain types of repurchase transactions. Such transactions should be risk weighted according to the type of collateral involved. Item (m), CMOs/REMICs that pass the interest rate sensitivity test, would also be deleted from the regulation. As noted above, the proposed rule risk weights CMOs based on the issuer, guarantor, or assets underlying the security. Finally, the Board is proposing to change the risk weighting of claims on foreign banks from 20 percent to 50 percent.

In Category 3, 50 percent risk weight, the Board is proposing to delete item (b), CMOs that pass the interest rate sensitivity test, and replace it with privately-issued mortgage backed securities that meet certain criteria relating to credit risk. Claims on foreign banks would be added to this category.

In Category 4, 100 percent risk weight, the Board is proposing to delete investments in CUSOs from item (a), as corporate credit unions would not be permitted to hold such investments from the effective date of this regulation. The proposed rule would add item (b), loans to and investments in CSOs, and replace item (e), membership capital share deposits, with permanent and secondary capital share accounts. The Board is also proposing to delete item (d), hold-in-custody repurchase agreements, as the risk weighting of such agreements should be based on the underlying collateral. The Board is proposing to delete item (f), stripped mortgage backed securities and item (g), residual interests of CMOs/REMICs. Under the proposed rule, these investments would not be permissible for corporate credit unions. In this category, the Board is also proposing to add an item for other claims on private obligors, to make it clear that unless a claim on a private obligor is guaranteed or insured by a U.S. Government agency or enterprise, is collateralized by such a claim, or is secured or collateralized by highly liquid and reliable collateral, it is risk-weighted at 100 percent.

Appendix C—Model Forms

As noted earlier, the Board is proposing to delete the current Appendix C as unnecessary and potentially confusing. The proposed rule contains a new Appendix C, which features model disclosure forms for permanent and secondary capital share accounts. Corporate credit unions that use these forms will be deemed to be in compliance with the proposed disclosure requirements of § 704.2.

Section 741.3—Other Requirements

The Board is proposing to amend § 741.3 of the NCUA Rules and Regulations, governing requirements for insured credit unions, to prohibit federally insured credit unions from transacting business with corporate credit unions that do not comply with Part 704 and are not examined by NCUA.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the proposed rule, if made final, will not have a significant economic impact on small credit unions (those under $1 million in assets). The rule applies only to corporate credit unions, all of which have assets well in excess of $1 million. Accordingly, a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The proposed rule contains a requirement for the collection of additional information and a maintenance of documentation by a corporate credit union. The proposed rule requires that each corporate credit union develop and implement certain policies and plans and document compliance with such policies and plans. The proposed rule also requires that certain information regarding asset-liability management and investments be sent to NCUA or maintained in the records of the corporate credit union.

The paperwork requirements will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. Written comments on the paperwork requirements should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington, DC 20530. Attn: Milo Sunderhauf. NCUA will publish a notice in the **Federal Register**

VOL
60
ISS
80
AP
26
1995
UMI

once OMB action is taken on the submitted request.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope." The risk of loss to federally insured credit unions and the NCUSIF caused by actions of corporate credit unions are concerns of national scope. The proposed rule would help assure that proper safeguards are in place to ensure the safety and soundness of corporate credit unions.

The rule applies to all corporate credit unions that accept funds from federally insured credit unions. The NCUA Board believes that the protection of such credit unions, and ultimately the NCUSIF, warrants application of the proposed rule to non federally insured corporate credit unions. The NCUA Board, pursuant to Executive Order 12612, has determined that this rule may have an occasional direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, the potential risk to the NCUSIF without these changes justifies them.

List of Subjects

12 CFR Part 704

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on April 13, 1995.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to amend 12 CFR chapter VII as follows:

1. Part 704 is revised to read as follows:

PART 704—CORPORATE CREDIT UNIONS

Sec.

704.1 Scope.
704.2 Definitions.
704.3 Planning; strategic and business plans.
704.4 Asset/liability management.
704.5 Investments.
704.6 Capital goals, objectives, and strategies.
704.7 Corporate Service Organizations (CSOs).
704.8 Lending.
704.9 Borrowing.
704.10 Services.
704.11 Fixed assets.
704.12 Corporate credit union reserves.
704.13 Representation.
704.14 Audit requirements.
704.15 Contracts/written agreements.
704.16 State-chartered corporate credit unions.
704.17 Fidelity bond coverage.
704.18 Effective date.

Appendix A to Part 704—Summary of Risk Weights and Risk Categories for Corporate Credit Unions

Appendix B to Part 704—Off-Balance Sheet Credit Conversion Factors

Appendix C to Part 704—Model Forms

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

§ 704.1 Scope.

(a) This part establishes special rules for all federally insured corporate credit unions. Non-federally insured corporate credit unions must agree, by written contract, to both adhere to the requirements of this part and submit to examinations, as determined by NCUA, as a condition of receiving shares or deposits from federally insured credit unions. This part grants certain additional authorities to federal corporate credit unions. Except to the extent that they are inconsistent with this part, other provisions of NCUA's Rules and Regulations (12 CFR Parts 700–795) and the Federal Credit Union Act apply to federally chartered corporate credit unions and federally insured state-chartered corporate credit unions to the same extent that they apply to other federally chartered and federally insured state-chartered credit unions, respectively.

(b) The NCUA Board has the authority to issue orders which vary from this Part. This authority is provided under Section 120(a) of the Federal Credit Union Act, 12 U.S.C. 1766(a). Requests by state-chartered corporate credit unions for waivers to this part must be approved by the state regulator before being submitted to NCUA.

§ 704.2 Definitions.

Adjusted trading means any method or transaction used to defer a loss whereby a corporate credit union sells a security to a vendor at a price above its current market price and simultaneously purchases or commits to purchase from the vendor another security at a price above its current market price.

Asset-backed securities (ABS) means all securities supported by installment loans or leases or by revolving lines of credit. This definition excludes those securities referred to in the financial markets as mortgage-backed securities (MBS) which includes collateralized mortgage obligations (CMOs) and real estate mortgage investment conduits (REMICs).

Average daily assets means the daily average of net assets calculated on the basis of assets at the close of each day in the period.

Average life means the weighted average time to principal repayment with the amount of the principal paydowns (both scheduled and unscheduled) as the weights.

Bailment for hire contract means a contract whereby a third party, bank, or other financial institution, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers.

Capital means the total of all primary capital and secondary capital share accounts upon which notice of withdrawal has not been given.

Cash forward agreement means an agreement to purchase or sell a security with delivery and acceptance being mandatory and at a future date in excess of thirty (30) days from the trade date.

Collateralized mortgage obligation (CMO) means a multi-class bond issue collateralized by whole loan mortgages or mortgage-backed securities (MBS).

Commitment means any unconditional arrangement that obligates a corporate credit union to extend credit in the form of loans; to purchase loans, securities or other assets; or to participate in loans and leases. Commitments also include overdraft facilities, revolving credit, home equity, and mortgage lines of credit, and similar transactions. An obligation is conditional if the corporate credit union is not automatically obligated to extend funds.

Corporate credit union means an organization that:

(1) Is chartered under Federal or state law as a credit union;

(2) Receives shares from and provides loan services to credit unions;

(3) Is operated primarily for the purpose of serving other credit unions;

(4) Is designated by NCUA as a corporate credit union;

(5) Limits natural person members to the minimum required by state or federal law to charter and operate the credit union; and

(6) Does not condition the eligibility of any credit union to become a member on that credit union's membership in any other organization.

Corporate service organization (CSO) means an entity that:

(1) Serves only corporate credit unions that have made investments in or loans to the entity and/or the member credit unions of such corporate credit unions;

(2) Limits the services it provides to data and item processing, wire transfers, record retention and storage, securities brokerage services, investment advisory services, and trust services; and

(3) Is chartered as a corporation under state law.

Credit equivalent amount means the face amount of each off-balance sheet item multiplied by a credit conversion factor outlined in Appendix B of this part.

Embedded options mean characteristics of certain assets and liabilities which give the issuer of the instrument the ability to change the features such as final maturity, rate, principal amount and average life. These options include, but are not limited to, caps, floors, and prepayment options. These options are found in most mortgage-backed securities, structured notes, and some Network instruments.

Expected maturity means the date on which all remaining principal amounts of an instrument or bond are anticipated to be paid off on the basis of projected payment assumptions.

Facility means the home office of a corporate credit union or any suboffice thereof including, but not necessarily limited to, wire service, telephonic station, or mechanical teller station.

Federal funds transaction means a short-term or open-ended transfer of funds between U.S. depository institutions.

Federally issued CMO/REMIC means a CMO or REMIC which is issued by a U.S. Government agency or a U.S. Government-sponsored corporation or enterprise.

Foreign bank means an institution which is organized under the laws of a country other than the United States, which is engaged in the business of banking, and which is recognized as a bank by the banking supervisory authority of the country in which it is organized.

Forward rate agreement means an over-the-counter market instrument that allows two parties to trade interest rates on a notional principal amount for a specified time period in the future.

Futures contract means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.

Identically matched means matched, to the extent possible, by amount, repricing, behavior, and final maturity. Any embedded options, such as calls, caps, and prepayments, must be replicated in the corresponding source or use of funds.

Immediate family member means a person related by blood, marriage, or adoption.

Long-term investment means, for the purpose of issue ratings, an investment that has an initial maturity, or expected maturity, greater than one year.

Market price means the price at which a security can be bought or sold.

Market value of portfolio equity (MVPE) means the net market value of all assets and liabilities, including their embedded options. This reflects the liquidation value of the balance sheet.

Material means an amount that exceeds 5 percent of the corporate credit union's capital.

Maturity date means the date on which a security matures, and shall not mean the call date or the average life of the security.

Member reverse repurchase transaction means an integrated transaction in which a corporate credit union purchases a security from one of its member credit unions under agreement by that member credit union to repurchase the same security at a specified time in the future. The corporate credit union then sells that same security, on the same day, to a third party, under agreement to repurchase it on the same date on which the corporate credit union is obligated to return the security to its member credit union.

Net assets means total assets less Central Liquidity Facility (CLF) stock subscriptions, CLF loans guaranteed by the NCUSIF, U.S. Central CLF certificates, and member reverse repurchase transactions.

Net interest income means the difference between income earned on interest bearing assets and interest paid on interest bearing liabilities.

Official means any director or committee member.

Option contract means a right, but not an obligation, to buy or sell a security at a specified price and settlement date in the future.

Overnight means having a maturity or call date of one business day.

Penalty for early withdrawal of a share, deposit, or liability means a fee which will, at a minimum, fully compensate a corporate credit union for the difference between fair value and book value of the asset that is divested (including any accumulated unrealized losses since the asset was purchased), or the replacement cost of funds, to meet the demand for early withdrawal.

Permanent capital share account (PCSA). (1) *PCSA* means a share account that:

(i) Is restricted to credit unions within a corporate credit union's field of membership;

(ii) Is not subject to share insurance coverage by the NCUSIF or other deposit insurer;

(iii) Cannot be used by member credit unions to collateralize borrowings;

(iv) Is available to absorb losses in the event of a deficit in other primary capital accounts in the corporate credit union;

(v) In the event of liquidation of the corporate credit union, is payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF;

(vi) Is redeemable only with the written concurrence of NCUA; and

(vii) Pays noncumulative dividends.

(2) The terms and conditions of permanent capital share accounts must be disclosed at the time an account is opened. The board of directors of the member credit union must acknowledge those terms and conditions by signing a disclosure form. A copy of the disclosure form must be given to the member credit union, with the original retained by the corporate credit union.

Primary capital means statutory reserves, undivided earnings, other reserves (excluding the allowance for loan losses and accumulated unrealized gains/losses on available-for-sale securities), net income (loss), and permanent capital share accounts (PCSAs). No more than 50 percent of primary capital may be comprised of PCSAs.

Primary dealer means a bank or investment dealer authorized to buy and sell government securities in direct dealings with the Federal Reserve Bank of New York in its execution of Fed open market operations.

Privately issued CMO/REMIC means a CMO or REMIC that qualifies as a permissible investment for a federal credit union pursuant to the provisions of Section 107(15)(B) of the Federal Credit Union Act.

Rated, in the context of investments under § 704.5, means rated by an SEC-recognized rating agency. An SEC-recognized rating agency is any firm recognized by the Securities and Exchange Commission (SEC) as qualified to assign risk ratings to various investment instruments required to be registered with the SEC.

Real Estate Mortgage Investment Conduit (REMIC) means a nontaxable entity formed for the sole purpose of holding a fixed pool of mortgages

VOL 60 ISS 80 AP 26 1995 UMI

secured by an interest in real property and issuing multiple classes of interests in the underlying mortgages.

Repurchase transaction means a transaction in which a corporate credit union agrees to purchase a security from a counterpart and to resell the same or any identical security to that counterpart at a later date.

Residual interest means the remainder cash flows from a CMO or REMIC transaction after payments due bondholders and trust administrative expenses have been satisfied.

Reverse repurchase transaction means a transaction whereby a corporate credit union agrees to sell a security to a purchaser and to repurchase the same or any identical security from that purchaser at a future date and at a specified price.

Risk-weighted assets means the sum of total balance sheet assets and off-balance sheet credit equivalent amounts multiplied by their appropriate risk weights.

Secondary capital share account. (1) Secondary capital share account means a share account that:

(i) Is restricted to credit unions within a corporate credit union's field of membership;

(ii) Is not subject to share insurance coverage by the NCUSIF or other deposit insurer;

(iii) Is established, at a minimum, as a two year notice account;

(iv) Cannot be used by member credit unions to collateralize borrowings;

(v) Is available to absorb losses in the event of a deficit in primary capital in the corporate credit union; and

(vi) In the event of liquidation of the corporate credit union, is payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

(2) Notwithstanding the notice requirement, in the case of a member credit union's merger or liquidation, a corporate credit union shall return the member's secondary capital shares, less any penalty for early withdrawal, within 30 days of written notification from NCUA.

(3) The terms and conditions of secondary capital share accounts must be disclosed at the time an account is opened. The board of directors of the member credit union must acknowledge those terms and conditions by signing a disclosure form. A copy of the disclosure form must be given to the member credit union, with the original retained by the corporate credit union. A statement of the terms and conditions of a secondary capital share account must be provided to member credit unions annually. The annual disclosure statement must be signed by the chairman of the board of the corporate credit union.

Section 107(8) institution means an institution described in Section 107(8) of the Federal Credit Union Act (12 U.S.C. 1757(8)).

Senior management employee means the corporate credit union's chief executive officer, any assistant chief executive officer (e.g., any assistant president, any vice president or any assistant treasurer/manager) and the chief financial officer (controller).

Settlement date means the date originally agreed to by a corporate credit union and a counterpart for settlement of the purchase or sale of a security.

Short sale means the sale of a security not owned by the seller.

Short-term investment means, for the purpose of issue ratings, an investment that has an initial maturity, or expected maturity, of one year or less.

Standby commitment means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is the party receiving payment for assuming the risk associated with committing either to purchase a security in the future at a predetermined price, or to sell a security in the future at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case at the option of the buyer of the commitment.

Stripped mortgage-backed security (SMBS) means a security that represents either the principal or interest only portion of the cash flows of an underlying pool of mortgages.

Swap agreement means a contract to exchange interest payments that are based upon a specified dollar amount (the "notional") at specified dates in the future.

Trade association means an association of organizations or persons formed to promote their common interests. The term includes entities owned or controlled directly or indirectly by such an association but does not include credit unions.

Trade date means the date a corporate credit union originally agrees, whether orally or in writing, to enter into the purchase or sale of a security.

Undivided earnings means all forms of retained earnings, except:

(1) Regular or statutory reserves; and

(2) Valuation allowances established to meet the full and fair disclosure requirements of § 702.3 of this chapter.

United States depository institutions means offices or branches (foreign and domestic) of federally insured banks and depository institutions chartered and headquartered in the United States, Puerto Rico, and U.S. territories and possessions. This includes banks, mutual or stock savings banks, savings or building and loan associations, cooperative banks, credit unions, international banking facilities of domestic depository institutions, and U.S. chartered depository institutions owned by entities outside of the United States.

United States Government or its agencies means the United States Government or instrumentalities of the United States whose debt obligations are fully and explicitly guaranteed as to the timely payment of principal and interest by the full faith and credit of the United States Government.

United States Government-sponsored corporations and enterprises means agencies originally established or chartered to serve public purposes specified by Congress, but whose obligations are not explicitly guaranteed by the full faith and credit of the United States Government.

Wholesale corporate credit union means a corporate credit union that serves other corporate credit unions.

Zero coupon bond means a debt obligation that makes no periodic interest payments but instead is sold at a discount from its face value. The holder of a zero coupon bond realizes the rate of return through the gradual appreciation of the security, which is redeemed at face value on a specified maturity date.

§ 704.3 Planning; strategic and business plans.

(a) The board of directors of a corporate credit union shall adopt a written strategic plan with appropriate objectives and goals. This plan will be reviewed periodically during the year to determine that the goals are being accomplished. At least annually, the strategic plan will be reviewed and updated. These reviews will be documented in writing and provided upon request to the auditor, supervisory committee, and NCUA.

(b) A written business plan will be prepared for any material expenditure in fixed assets, new products and services, or investments in a CSO and/or for any planned field of membership expansion. Such plans shall be provided upon request to the auditor, supervisory committee, and NCUA.

§ 704.4 Asset/liability management.

(a) *Matching.* All shares and deposits, exclusive of permanent capital share accounts and secondary capital share accounts, whether fixed or variable rate, must be identically matched to a corresponding asset. An identical match means that any factor which impacts the cash flows of an asset must be identically replicated in the corresponding liability. The corporate's capital is exempt from the matching requirement. The overnight shares of a corporate credit union are subject to the matching requirement with the following exception: Up to, but no more than, 25 percent of a corporate credit union's overnight shares and deposits (based on the average daily overnight balance for the preceding calendar year) can be matched against variable rate securities with a final maturity of three years or less provided that the following provisions are met: the security coupon reprices at least monthly, the coupon formula is tied to an appropriate market index (such as LIBOR, PRIME, Fed funds and Treasury Bills) not a lagging indicator (such as COFI); the change in coupon formula is not inverse to or a multiple of the change in the market index, and, if the asset is a marketable security, is classified as "available for sale".

(b) *Unmatched embedded option limitation.* A corporate credit union is limited to an aggregate amount of instruments that possess unmatched embedded options of no more than capital.

(c) *Penalty for early withdrawal.* All shares and deposits must either be non redeemable or include a fair value penalty for early withdrawal as defined in § 704.2.

(d) *Portfolio pricing.* The fair value of all investment securities, regardless of classification, must be calculated and documented on a monthly basis using reliable market price indicators. Such documentation shall be provided upon request to the auditor, supervisory committee, and NCUA.

(e) *Maximum unrealized loss on "available-for-sale" assets.* The aggregate loss in the accumulated unrealized gains/losses on "available-for-sale" assets, net of any unrealized gains/losses on the corresponding source of funds, may not exceed 15 percent of primary capital excluding accumulated unrealized gains/losses on available for sale securities. Any violation of this limit must be addressed with a corrective action that reduces the loss below the maximum allowed within 10 days.

(f) *Rate shock analysis.* A corporate credit union must perform a monthly "shock test" calculation to show the impact upon its net interest income and market value of portfolio equity (MVPE) for an immediate and sustained tandem shift in interest rates of plus and minus 300 basis points. The MVPE cannot change by more than plus or minus 25 percent for a plus or minus 300 basis point rate shock. The documentation for these calculations must include the balance sheet categories, interest rates, and other assumptions used. This information must be presented to a senior committee that includes board membership and provided upon request to the auditor, supervisory committee and NCUA.

(g) *Risk analysis.* A corporate credit union must identify and list all risks associated with an asset or source of funds prior to purchase or issuance. Where applicable, the risk analysis must include, at a minimum, liquidity, market, credit, legal, systems/operations, sovereign, exchange, and management risks. The risk analysis shall be maintained with other supporting documentation in a permanent record, which shall be provided upon request to the auditor, supervisory committee, and NCUA.

(h) Risk supervision. A corporate credit union must identify, measure, and document the risks associated with all assets. The measure of risk exposure and a comparison of such exposure to board policy limits must be reported in writing on a quarterly basis. Such reports shall be provided upon request to the auditor, supervisory committee, and NCUA.

(i) *Risk compliance.* A corporate credit union must review all investment assets on a monthly basis for compliance with NCUA Rules and Regulations and board of director policies to determine whether any such assets require divestiture. The results and analysis shall be provided upon request to the auditor, supervisory committee, and NCUA.

(j) *Contingency funding.* A corporate credit union must develop a contingency funding plan that ranks, in order of priority, all sources of liquidity, by category and amount, that are available to service an immediate outflow of member funds. The plan must analyze the impact that potential changes in fair value will have on the disposition of assets in a variety of interest rate scenarios and be reviewed by a committee of the board no less frequently than annually or as market and business conditions dictate. The plan and annual review shall be provided upon request to the auditor, supervisory committee, and NCUA.

(k) *Policies.* Corporate credit unions must develop and implement comprehensive written policies, which shall be reviewed annually and provided upon request to the auditor, supervisory committee, and NCUA. The policies must address, at a minimum, the following:

(1) Diversification of assets by issuer, type and risk;

(2) Approved issuers, instruments, and broker-dealers;

(3) Liabilities, including pricing strategies, diversification and penalties for early withdrawal;

(4) Limits on the maximum permitted change in net interest income as calculated for a plus and minus 300 basis point rate shock;

(5) Acceptable credit risk;

(6) Authorization of and limitations on persons/committees involved with asset/liability management.

§ 704.5 Investments.

(a) A corporate credit union may invest in those securities, deposits, and obligations set forth in Sections 107(7), 107(8), and 107(15)(B) of the Federal Credit Union Act (12 U.S.C. 1757(7), 1757(8), and 1757(15)(B)), except as provided in this section. Any asset that has the potential to be divested must be classified as available-for-sale. An asset downgraded by the same rating agency used when the investment was purchased must be divested within 10 business days of the downgrade. Other than investments in wholesale corporate credit unions, CSOs, and repurchase transactions, the aggregate of a corporate credit union's investments in any one institution, issuer, or trust is limited to 25 percent of the corporate credit union's primary capital at the time of purchase.

(b) A corporate credit union may invest in CSOs, as defined in § 704.2 and subject to the limitations of § 704.7.

(c) A corporate credit union may invest in deposits in, the sale of Federal Funds to, and debt obligations of wholesale corporate credit unions.

(d)(1) A corporate credit union may invest in deposits in, the sale of Federal Funds to, and debt obligations of Section 107(8) institutions subject to the following requirements:

(i) The institution must have assets of at least US $5 billion and an entity rating no lower than B (or equivalent);

(ii) The investment must be rated no lower than A–1 (or equivalent) for short-term investments and no lower than AA (or equivalent) for long-term investments; and

(iii) The investment must be denominated in United States dollars.

(2) A written evaluation of lines of exposure to all Section 107(8)

VOL 60 ISS 80 AP 26 1995 UMI

institutions must be prepared quarterly by qualified staff and approved by an appropriate committee of the board so that changes in credit quality can be detected at the earliest opportunity. This approval must be documented in the minutes of the committee and be provided upon request to the auditor, supervisory committee, and NCUA.

(e)(1) A corporate credit union may invest in deposits in, the sale of Federal Funds to, and debt obligations of foreign banks, subject to the following requirements:

(i) The bank must have assets of at least US $20 billion and an entity rating no lower than A/B (or equivalent);

(ii) The investment must be rated no lower than A–1 (or equivalent) for short-term investments and no lower than AA (or equivalent) for long-term investments;

(iii) The investment must be denominated in United States dollars;

(iv) The country in which the issuing bank is organized must be rated AAA (or equivalent) for political and economic stability;

(v) Aggregate investments in banks in any single foreign country are limited to 50 percent of the corporate credit union's primary capital at the time of purchase; and

(vi) Aggregate investments in all foreign banks are limited to 300 percent of the corporate credit union's primary capital at the time of purchase.

(2) A written evaluation of lines of exposure to all foreign banks must be prepared quarterly by qualified staff and approved by an appropriate committee of the board so that changes in credit quality can be detected at the earliest opportunity. This approval must be documented in the minutes of the committee and be provided upon request to the auditor, supervisory committee, and NCUA.

(f) A corporate credit union may invest in marketable debt obligations of corporations chartered in the United States, provided that the obligations are rated not lower than A–1 (or equivalent) for short-term investments and not lower than AA- (or equivalent) for long-term investments. A marketable obligation is one that may be sold with reasonable promptness at a price which corresponds reasonably to its fair value. This authority does not apply to debt obligations that are convertible into the stock of the corporation.

(g) A corporate credit union may invest in asset-backed securities subject to the following requirements:

(1) Rated not lower than AAA (or equivalent); and

(2) Having an average life at the time of purchase not to exceed 5 years.

(h) A corporate credit union may invest in federally and privately issued CMOs/REMICs, subject to the following limitations:

(1) All investments in fixed rate CMOs/REMICs must meet the following NCUA-modified FFIEC High Risk Security Test requirements:

(i) The weighted average life of the security may not exceed 5 years at the time of purchase;

(ii) The weighted average life may not extend by more than 2 years nor contract by more than 3 years for an instantaneous shift in market rates of plus or minus 300 basis points;

(iii) The investment's price may not decline by more than 10 percent for an instantaneous shift in market rates of plus or minus 300 basis points.

(2) All investments in floating rate CMOs/REMICs must meet the following NCUA-modified FFIEC High Risk Security Test requirements:

(i) The weighted average life of the security may not exceed 5 years at the time of purchase;

(ii) The weighted average life may not extend by more than 2 years nor contract by more than 3 years for an instantaneous shift in market rates of plus or minus 300 basis points;

(iii) The investment's price may not decline by more than 5 percent for an instantaneous shift in market rates of plus or minus 300 basis points.

(3) The prepayment assumption for the underlying mortgages shall be based on an industry standard median prepayment estimate or the median estimate of no fewer than five independent brokerage firms, at least one of which must be a primary dealer. When estimates from specific dealers are used, those dealers must be approved by an appropriate committee and listed along with monthly test results. The same industry standard or selection of dealers must be used for all CMO/REMIC securities each time the tests are performed. In computing the average life of a CMO/REMIC investment, it must be assumed that the anticipated rate of prepayment remains constant over the remaining life of the mortgage collateral.

(4) Any CMO/REMIC security that fails the average life standard or the price sensitivity test shall be divested within 10 business days.

(5) Results of monthly CMO/REMIC tests must be documented and reviewed by an appropriate committee and maintained in a permanent record. Such results shall be provided upon request to the auditor, supervisory committee, and NCUA.

(i) A corporate credit union may enter into a cash forward agreement to purchase or sell a security, provided that:

(1) The period from the trade date to the settlement date does not exceed one hundred and twenty (120) days;

(2) If the credit union is the purchaser, it has written cash flow projections evidencing its ability to purchase the security;

(3) If the credit union is the seller, it owns the security on the trade date; and

(4) The cash forward agreement is settled on a cash basis at the settlement date.

(j) A corporate credit union may enter into a repurchase or reverse repurchase transaction provided that the collateral securities are permissible investments for corporate credit unions and the transaction is priced to reflect accrued interest, the risk of the securities, and the term of the trade. A corporate credit union purchasing a security in a repurchase transaction must take physical possession of the security, receive written confirmation of the purchase and a safekeeping receipt from a third party under a written bailment for hire contract, or be recorded as the owner of the security through the Federal Reserve Book-Entry System. A corporate credit union obtaining funds from a reverse repurchase transaction may not invest those funds for a term greater than the maturity date of the reverse repurchase transaction. A repurchase transaction shall be considered to have a credit exposure of 5 percent of the principal and accrued interest outstanding on the transaction for the purpose of the limitation on investments in a single institution, issuer, or trust set forth in paragraph (a) of this section.

(k) A corporate credit union may invest in a mutual fund if the investments and investment transactions of the fund are legally permissible for corporate credit unions.

(l) A corporate credit union is prohibited from:

(1) Purchasing or selling a standby commitment, except as provided in § 701.21(l) of this Chapter;

(2) Buying or selling a futures contract, forward rate agreement, swap agreement, or option contract;

(3) Engaging in adjusted trading;

(4) Engaging in a short sale;

(5) Purchasing a stripped mortgage-backed security or residual interest in a CMO/REMIC;

(6) Purchasing a zero coupon security with a maturity date that is more than 5 years from the settlement date for purchase of the security, except for funds matched against primary capital;

(7) Making deposits in nonfederally insured state banks, trust companies, and mutual savings banks; and

(8) Purchasing commercial mortgage-related securities.

(m) A corporate credit union's officials, senior management employees, and immediate family members of such individuals, may not receive pecuniary consideration in connection with the making of an investment or deposit by the corporate credit union. The prohibition contained in this subsection also applies to any employee not otherwise covered if the employee is directly involved in investments or deposits. All transactions not specifically prohibited by this paragraph must be conducted at arm's length and in the interest of the credit union.

§ 704.6 Capital goals, objectives and strategies.

(a) *General.* Corporate credit unions shall adopt formal, written goals (both long-term and short-term), objectives and strategies, including a budgetary process, for the building of capital.

(b) *Impact study.* Where a proposed new service or program, purchase or lease of a fixed asset, or investment in or loan to a CSO may have a material effect on a corporate credit union, the corporate credit union shall perform a cost/benefit analysis of the activity and a study of its impact on the earnings and capital position of the corporate credit union.

(c) *Monitoring.* Management will establish monitoring standards and procedures to periodically review and reassess the capital position of the corporate credit union and will document these reviews.

§ 704.7 Corporate service organizations (CSOs).

(a) The aggregate of all investments in and loans to member and non member CSOs shall not exceed 15 percent of a corporate credit union's capital at the time the investment or loan is made. A corporate credit union may not use this authority to acquire control, directly or indirectly, of another financial institution, or to invest in shares, stocks or obligation of another financial institution, insurance company, trade association, liquidity facility, or similar organization. A CSO must be operated as an entity separate from any credit union. A corporate credit union investing in or lending to a CSO must take those steps necessary to ensure that it will not be held liable for the obligations of the CSO.

(b) An official or senior management employee of a corporate credit union which has invested in or loaned to a CSO, and immediate family members of such an individual, may not receive, either directly or indirectly, any salary, commission, investment income, or other income or compensation, from the CSO. This prohibition extends to any other corporate credit union employee if such employee deals directly with the CSO.

(c) Prior to making an investment in or loan to a CSO, a corporate credit union must obtain a written agreement that the CSO will:

(1) Follow GAAP;

(2) Provide financial statements to the corporate credit union at least quarterly;

(3) Obtain an annual CPA audit and provide a copy to the corporate credit union; and

(4) Allow the auditor, supervisory committee, and NCUA complete access to its books, records, and any other pertinent documentation.

(d) A corporate credit union with an investment in, or a loan to, a credit union service organization (CUSO) as defined in § 701.27 of this chapter must, by January 1, 1996, divest of the investment, terminate the loan if contractually possible, or ensure that the organization meets the requirements of this section and § 704.2. If the loan cannot legally be terminated by January 1, 1996 it cannot be renewed or extended upon its next renewal or extension date.

§ 704.8 Lending.

(a) *Policies.* A corporate credit union shall develop, implement, and adhere to written loan policies which address, at a minimum:

(1) Loan types and limits;

(2) Documentation for each loan and line of credit;

(3) Security;

(4) Analysis of financial and operational data;

(5) Monitoring standards; and

(6) Review and reassessment of the credit quality of the member credit union.

(b) *General.* Each loan or line of credit limit will be determined after analyzing the financial and operational soundness of the member credit union and the ability of the member credit union to repay the loan. Loans are limited as follows:

(1) *Loans to member credit unions.* The maximum aggregated amount in loans and approved lines of credit to any one member credit union, excluding pass-through and guaranteed loans from the CLF and the NCUSIF and repurchase transactions, shall not exceed the corporate credit union's primary capital.

(2) *Loans to CSOs.* A corporate credit union may make loans and issue lines of credit to CSOs, as defined in § 704.2 and subject to the limitations of § 704.7

(3) *Participation loans with other corporate credit unions.* A corporate credit union is permitted to participate in a loan with another corporate credit union and must retain an interest of at least 5 percent of the face amount of the loan. The participation agreement may be executed at any time prior to, during, or after disbursement. A participating corporate credit union must exercise the same due diligence as if it were the originating corporate credit union.

(4) *Prepayment penalties.* If provided for in the loan contract, a corporate credit union is authorized to assess prepayment penalties on loans made to member credit unions.

(5) *Prohibitions.* A corporate credit union may not make loans, issue lines of credit, or otherwise provide loan services to non members or natural person members. Except for providing overdraft protection for clearing accounts, a corporate credit union may not provide loan services to member trade associations. A loan or line of credit provided to a member trade association for the purpose of overdraft protection must be fully collateralized by any security which is permissible under § 704.5.

§ 704.9 Borrowing.

A corporate credit union may borrow up to 10 times capital or 50 percent of shares (excluding shares created by the use of member reverse repurchase agreements) and capital, whichever is less. Other that the issuance of the minimum amount of commercial paper to maintain a market presence, a corporate credit union may borrow only to meet liquidity needs. The need must be documented in writing and provided upon request to the auditor, supervisory committee, and NCUA. CLF borrowings, as agent member for natural person credit unions, and borrowed funds created by the use of repurchase agreements are excluded from this limit. In the event of extreme liquidity demands from its member credit unions, a corporate credit union may submit a request to NCUA for additional borrowing authority.

§ 704.10 Services.

A corporate credit union may provide services only to its members, subject to the limitations of this Part. A corporate credit union may not provide services to non members through the correspondent credit union authority or pursuant to § 701.26 of this chapter.

VOL 60 ISS 80 AP 26 1995 UMI

§ 704.11 Fixed assets.

(a) *General.* A corporate credit union's ownership in fixed assets shall be limited as described in § 701.36 of this chapter, except that in lieu of § 701.36 (c)(1) through (4), paragraph (b) of this section applies.

(b) *Investment in fixed assets.* (1) A corporate credit union may, invest in fixed assets where the aggregate of all such investments does not exceed 15 percent of primary capital.

(2) A corporate credit union shall submit requests to exceed the limitation of paragraph (b)(1) of this section to NCUA. Requests shall be supplemented by such statements and reports as NCUA may require. If NCUA determines that the proposal will not adversely affect the corporate credit union, it will respond in writing and an aggregate dollar amount or percentage of primary capital will be approved for investment in fixed assets.

§ 704.12 Corporate Credit Union Reserves.

(a) *Minimum Primary Capital Ratio.* The primary capital ratio is computed by dividing primary capital by average daily assets for the month. Each corporate credit union shall maintain a minimum primary capital ratio as follows:

(1) By January 1, 1996, primary capital shall be at least 2.5 percent of average daily assets. If this level of primary capital is not achieved, the corporate must submit a request for a waiver of this requirement to NCUA. The waiver request must provide an acceptable plan for meeting the requirement. This waiver request must be submitted to NCUA no later than 90 days prior to the effective date of this requirement.

(2) By January 1, 1997, primary capital shall be at least 3.0 percent of average daily assets. If this level of primary capital is not achieved, the corporate must submit a request for a waiver of this requirement to NCUA. The waiver request must provide an acceptable plan for meeting the requirement. This waiver request must be submitted to NCUA no later than 90 days prior to the effective date of this requirement.

(3) By January 1, 1998, primary capital must be at least 4.0 percent of average daily assets. Thereafter, each corporate credit union will be required to maintain a minimum primary capital to average daily assets ratio of 4.0 percent. Any corporate credit union that does not meet this provision will be considered to be inadequately capitalized and must submit to NCUA a plan of action to achieve this capital level within an acceptable period of time. This plan must be submitted to NCUA within 30 calendar days of the month-end in which minimum primary capital fell below 4.0 percent.

(b) *Capital to risk-weighted assets ratio.* The capital to risk-weighted assets ratio is computed by dividing capital by total risk-weighted assets at month end. Each corporate credit unions shall maintain capital of at least 10.0 percent of risk-weighted assets. Any corporate credit union that does not meet this provision will be considered to be inadequately capitalized and must submit to NCUA a plan of action to achieve this capital level within an acceptable period of time. This plan must be submitted to NCUA within 30 calendar days of the month-end in which capital fell below 10.0 percent of risk-weighted assets.

(c) *Failure to comply with minimum capital requirements.* NCUA will review each plan of action to achieve stated levels of capital as put forth in paragraphs (a) and (b) of this section. NCUA will make a determination as to the viability of the plan of action, and analyze the impact of the capital level on the corporate credit union and its member credit unions. If it is determined that a plan of action is not viable, the corporate credit union's board of directors will be required to merge or accept other corrective action as set forth by NCUA.

(d) *Procedures.* Balance sheet assets and credit equivalent amounts for off-balance sheet items are assigned to a risk-weight category. The total dollar amount in each category shall be multiplied by the risk-weight assigned to that category. The sum of the categories comprises risk-weighted assets.

(e) *Frequency.* Each corporate credit union shall calculate and document the ratio of primary capital to average daily assets and capital to risk-weighted assets each month. Documentation of such calculations shall be maintained and provided upon request to the auditor, supervisory committee, and NCUA.

(f) *Risk weights for balance sheet assets.* Each balance sheet asset shall be assigned a risk weight of 0 percent, 20 percent, 50 percent, and 100 percent as indicated in Appendix A of this part.

(g) *Other considerations.* (1) An investment in the shares of a mutual fund is assigned to the risk category appropriate to the highest risk-weighted asset that the fund is permitted to hold.

(2) Accruals will be assigned the risk-weighting of the underlying asset that they represent.

(h) *Credit conversion factors for off-balance sheet items.* Off-balance sheet items will be risk-weighted each month using credit conversion factors as indicated in Appendix B of this part.

(i) *Interim reserve accumulation.* Corporate credit unions will be required to accumulate sufficient amounts of primary capital to meet the requirements of paragraph (a) of this section. Each corporate credit union must prepare a written projection, including assumptions utilized, which shows compliance with the minimum primary capital requirements each year through the accumulation of net income and reserve transfers, the issuance of PCSAs, and/or the shrinkage of the corporate credit union's assets. The written projection must be provided upon request to the auditor, supervisory committee, and NCUA. In addition, each corporate credit union must meet the reserve transfer requirements outlined in paragraph (j) of this section.

(j) *Required reserve transfers.* The amount that a corporate credit union is required to transfer or set aside in reserves is based on both the corporate credit union's primary capital and capital to risk-weighted assets ratios. For the purposes of calculating required reserve transfers, PCSAs shall be excluded from primary capital. Ranges of capital ratios have been established. These capital ratio ranges are then associated with 1 of 5 corresponding categories in determining the required reserve transfer. To qualify for a lower reserve transfer category, the capital ratio must fall in both the primary capital and capital to risk-weighted assets ratio ranges of the applicable category. The corporate credit union shall set aside an amount equal to the appropriate required reserve transfer percentage multiplied by the corporate credit union's average daily assets for the transfer period multiplied by the number of days in the transfer period divided by 365.

(1) Category 1 requires a corporate reserve transfer percentage of 20 basis points of average daily assets when either the primary capital ratio is greater than 4.0 percent and less than 4.75 percent or the capital to risk-weighted assets ratio is greater than 10.0 percent and less than 11.0 percent.

(2) Category 2 requires a corporate reserve transfer percentage of 15 basis points of average daily assets when either the primary capital ratio is greater than 4.75 percent and less than 5.25 percent or the capital to risk-weighted assets ratio is greater than 11.0 percent and less than 14.0 percent.

(3) Category 3 requires a corporate reserve transfer percentage of 10 basis points of average daily assets when either the primary capital ratio is greater than 5.25 percent and less than 5.75 percent or the capital to risk-weighted assets ratio is greater than 14.0 percent and less than 17.0 percent.

(4) Category 4 requires a corporate reserve transfer percentage of 5 basis points of average daily assets when either the primary capital ratio is greater than 5.75 percent and less than 6.0 percent or the capital to risk-weighted assets ratio percentage is greater than 17.0 percent and less than 20.0 percent.

(5) Category 5 requires a corporate reserve transfer percentage of 0 basis points when the primary capital ratio is greater than 6.0 percent and the capital to risk-weighted assets ratio percentage is greater than 20.0 percent.

(k) *Full and fair disclosure.* Corporate credit unions must provide reserves necessary for full and fair disclosure as specified in § 702.3 of this chapter.

§ 704.13 Representation.

(a) *Board representation.* The board shall be determined as stipulated in the standard corporate federal credit union bylaws governing election procedures, provided that:

(1) The chair of the board may not serve simultaneously as an officer, director, or employee of a credit union trade association;

(2) A majority of directors may not serve simultaneously as officers, directors, or employees of the same credit union trade association or its affiliates (not including chapters or other subunits of a state trade association); and

(3) For purposes of meeting the requirements of paragraphs (a)(2) and (a)(3) of this section, an individual may not serve as a director or chair of the board if that individual holds a subordinate employment relationship to another employee who serves as an officer, director, or employee of a credit union trade association.

(b) *Representatives of member credit unions.* (1) A member credit union may appoint one of its members or officials as a representative to the corporate credit union. The representative shall be empowered to attend membership meetings, to vote, and to stand for election on behalf of the member. Only a member credit union representative is eligible to vote and to stand for election. No individual may serve as the representative of more than one member credit union in the same corporate credit union.

(2) Any vacancy on the board of a corporate credit union caused by a representative being unable to complete his or her term shall be filled by the board of the corporate credit union according to its bylaws governing the filling of board vacancies.

(c) *Recusal provision.* (1) No director, committee member, officer, or employee of a corporate credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his or her pecuniary interest or the pecuniary interest of any entity (other than the corporate credit union) in which he or she is interested, except if the matter involves general policy applicable to all members, such as setting dividend or loan rates or fees for services.

(2) An individual is "interested" in an entity if he or she:

(i) Serves as a director, officer, or employee of the entity;

(ii) Has a business, ownership, or deposit relationship with the entity; or

(iii) Has a business, financial, or familial relationship with an individual whom he or she knows has a pecuniary interest in the entity.

(3) In the event of the disqualification of any directors, by operation of paragraph (c)(1) of this section, the remaining qualified directors present at the meeting, if constituting a quorum with the disqualified directors, may exercise, by majority vote, all the powers of the board with respect to the matter under consideration. Where all of the directors are disqualified, the matter must be decided by the members of the corporate credit union.

(4) In the event of the disqualification of any committee member by operation of paragraph (c)(1) of this section, the remaining qualified committee members, if constituting a quorum with the disqualified committee members, may exercise, by majority vote, all the powers of the committee with respect to the matter under consideration. Where all of the committee members are disqualified, the matter shall be decided by the board of directors.

(d) *Administration.* (1) A corporate credit union shall be under the direction and control of its board of directors. While the board may delegate the performance of administrative duties, the board is not relieved of its responsibility for their performance. The board may employ a chief executive officer who shall have such authority and such powers as delegated by the board to conduct business from day to day. Such chief executive officer must answer solely to the board of the corporate credit union, and may not be an employee of a credit union trade association.

(2) The provisions of § 701.14 of this chapter apply to corporate credit unions, except that where reference is made to "Regional Director," substitute "NCUA."

§ 704.14 Audit requirements.

(a) *Annual audit.* (1) The corporate credit union supervisory committee shall cause an annual opinion audit, which shall include a reportable conditions letter (i.e. management letter) to be made by an independent, duly licensed certified public account (CPA) and shall submit the audit report to the board of directors. A summary of the audit report shall be submitted to the membership at the next annual meeting.

(2) The CPA's audit workpapers shall be provided upon request to NCUA.

(3) A copy of the audit report and reportable conditions letter (i.e. management letter) shall be submitted to NCUA, within 30 days after receipt by the board of directors.

(b) *Internal auditor function.* (1) A corporate credit union with net assets in excess of $100 million as of the preceding December 31, or as ordered by NCUA, will be required to employ or contract the services of an internal auditor.

(2) The internal auditor will report directly to the chairperson of the corporate credit union's supervisory committee.

(3) The internal auditor's responsibilities will include, but are not limited to, the review of ongoing compliance with statutory and regulatory requirements, adherence to the corporate credit union's own policies and procedures, testing of the accuracy and completeness of recordkeeping and operation functions, ensuring adequate control measures are in place, apprising the supervisory committee of all findings, and providing appropriate recommendations to address concerns and deficiencies relating to the condition or operations of the corporate credit union.

(4) The internal auditor's reports, findings, and recommendations will be in writing. Oral presentations by the internal auditor to the supervisory committee will be documented in the supervisory committee minutes. All documentation relating to the work of the internal auditor will be provided upon request to the external auditor and NCUA.

§ 704.15 Contracts/written agreements.

Services, facilities, personnel, or equipment shared with any party shall be supported by a written contract, with the duties and responsibilities of each party specified and the allocation of service fee/expenses fully supported and documented.

VOL 60 ISS 80 AP 26 1995 UMI

§ 704.16 State-chartered corporate credit unions.

(a) This part does not expand the powers and authorities of any state-chartered corporate credit union, beyond those powers and authorities provided under the laws of the state in which it was chartered.

(b) A state-chartered corporate credit union that is not insured by the National Credit Union Share Insurance Fund, but that receives funds from federally insured credit unions, is considered an "institution-affiliated party" within the meaning of Section 206(r) of the Federal Credit Union Act, 12 U.S.C. 1786(r).

§ 704.17 Fidelity bond coverage.

(a) *Scope.* This section provides the fidelity bond requirements for employees and officials in corporate credit unions.

(b) *Review of coverage.* The board of directors of each corporate credit union shall, at least annually, carefully review the bond coverage in force to determine its adequacy in relation to risk exposure and to the minimum requirements in this section.

(c) *Minimum coverage; Approved forms.* Every corporate credit union will maintain bond coverage with a company holding a certificate of authority from the Secretary of the Treasury. All bond forms, and any riders and endorsements which limit the coverage provided by approved bond forms, must receive the prior written approval of the NCUA Board. The Corporate Credit Union Discovery Bond (NCUA 100) and Standard Form 24 with Credit Union Bond Conversion Endorsement are approved for use by corporate credit unions. Credit Union Blanket Bond Form 581 and Form 23—Extended Form, may also be utilized by corporate credit unions. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officers, and supervisory and credit committee members. Notwithstanding the foregoing, all bonds must include a provision, in a form approved by the NCUA Board, requiring written notification by surety to the Board: When the bond of a credit union is terminated in its entirety; or when bond coverage is terminated, by issuance of a written notice, on an employees, director, officer, supervisory or credit committee member. Said notification shall be sent to the Secretary of the NCUA Board or designee and shall include a brief statement of cause for termination.

(d) *Minimum; coverage amounts.* (1) The minimum amount of bond coverage will be computed based on the corporate credit union's average daily assets as of December 31 of the preceding year. The following table lists the minimum requirements:

Net assets	Minimum bond (million)
Less than $50 million	$1.0
$50—$99 million	2.0
$100—$499 million	4.0
$500—$999 million	6.0
$1.0—$1.999 billion	8.0
$2.0—$4.999 billion	10.0
$5.0—$9.999 billion	15.0
$10—$24.999 billion	20.0
$25.0 billion plus	25.0

(2) It is the duty of the board of directors of each corporate credit union to provide adequate protection to meet its unique circumstances by obtaining, when necessary, bond coverage in excess of the above minimums.

(e) *Reduced coverage; NCUA approval.* Any proposal for reduced coverage must be approved in writing by the NCUA Board at least 20 days in advance of the proposed effective date of the reduction.

(f) *Deductibles.* (1) The maximum amount of deductibles allowed are based on the corporate credit union's primary capital ratio as defined in § 704.12(a). The following table sets out the maximum deductibles:

Primary capital ratio	Maximum deductible
Less than 4.0 percent.	7.5 percent of primary capital.
4.0—7.99 percent	10.0 percent of primary capital.
8.0—11.99 percent.	12.0 percent of primary capital.
Greater than 12.0 percent.	15.0 percent of primary capital.

(2) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those showing in this section must have the written approval of the NCUA Board at least 20 days prior to the effective date of the deductibles.

(g) *Additional coverage.* The NCUA Board may require additional coverage for any corporate credit union when, in the opinion of the Board, current coverage is insufficient. The board of directors of the corporate credit union must obtain additional coverage within 30 days after the date of written notice from the NCUA Board.

§ 704.18 Effective date.

The regulations in this part are effective beginning January 1, 1996.

Appendix A to Part 704—Summary of Risk Weights and Risk Categories for Corporate Credit Unions

Category 1: Zero Percent Risk Weight.

a. Coin and currency on hand or physically in transit.

b. Balances due from and claims on Federal Reserve Banks.

c. Claims on and portions of claims that are unconditionally guaranteed by the U.S. Government or its agencies.

d. Claims collateralized by cash or eligible deposits.

e. CLF subscriptions, including U.S. Central CLF Participation Certificates, and CLF Pass-Through Loans from the CLF through U.S. Central to the corporate credit unions.

f. Asset Accounts related to Member Reverse Repurchase Agreements without indemnity obligation.

g. Accrued Interest Receivable on the above.

Category 2: 20 Percent Risk Weight.

a. Items, other than coin and currency, in process of collection.

b. Claims on or portions of claims guaranteed by U.S. Government-sponsored corporations and enterprises.

c. Claims conditionally guaranteed by the U.S. Government or its agencies or U.S. Government-sponsored corporations and enterprises.

d. Claims or portions of claims (including Repurchase Agreements) collateralized by securities issued by the U.S. Government or its agencies or U.S. Government-sponsored corporations and enterprises.

e. General obligation claims on state and local governments located in the United States.

f. Claims on U.S. depository institutions (including Federal Funds sold)

g. Claims on a corporate credit union.

h. Asset accounts related to Member Reverse Repurchase Agreements with indemnity obligation.

i. Asset-backed securities with remaining weighted average lives of 3 years or less.

j. Secured loans to credit unions.

k. Accrued Interest Receivable on the above.

Category 3: 50 Percent Risk Weight.

a. Asset-backed securities with remaining weighted average lives greater than 3 years.

b. Privately-issued mortgage-backed securities provided that: (1) The security is structured so that it is treated as an indirect holding of the underlying assets;[1] (2) If the security is backed by a pool of conventional mortgages, 1- to 4-family residential, or multifamily residential properties, each underlying mortgage must have been made in accordance with prudent underwriting standards, be performing in accordance with its original terms, and not be 90 days or more past due or carried in nonaccrual status; (3) if the security is backed by privately-issued mortgage-backed securities, each underlying security qualifies for the 50 percent risk category at the time the pool is originated; and (4) if the security is backed by a pool of multifamily residential mortgages, principal and interest payments on the security are not 30 days or more past due.

c. Accrued Interest Receivable on the above.

d. Claims on foreign banks (including Fed Funds sold).

Category 4: 100 Percent Risk Weight for All Other Assets Including, but NOT LIMITED to:

a. Loans to CUSOs outstanding as of January 1, 1996.

b. Loans to and Investments in CSOs.

c. Unsecured loans to credit unions.

d. All fixed assets, including land, buildings, furniture, fixtures, equipment, automobiles, and leasehold improvements.

e. Permanent capital share account and secondary capital share account investments in a corporate credit union.

f. Any mortgage-backed securities that do not meet the criteria for assignment to a lower risk weight (including any classes of mortgage-backed securities that can absorb more than their pro rata share of loss without the whole issue being in default).

g. Zero Coupon Securities.

h. Claims on U.S. chartered corporations and bank holding companies, including commercial paper and corporate bonds.

i. Mutual Funds that do not qualify for a lower risk weighting.

j. Prepaid Assets.

k. Accounts Receivable and other receivables.

l. NCUSIF Deposit

m. Mortgage servicing rights.

n. Intangible assets.

o. All other claims on private obligors.

p. Accrued Interest Receivable on the above.

[1] A private-issued mortgage-backed security may be treated as an indirect holding of the underlying assets provided that: (1) The underlying assets are held by an independent trustee and the trustee has a first priority, perfected security interest in the underlying assets on behalf of the holders of the security; (2) either the holder of the security has an undivided pro rata ownership interest in the underlying mortgage assets or the trust or single purpose entity (or conduit) that issues the security has no liabilities unrelated to the issued securities; (3) the security is structured such that the cash flow from the underlying assets in all cases fully meets the cash flow requirements of the security without undue reliance on any reinvestment income; and (4) there is no material reinvestment risk associated with any funds awaiting distribution to the holders of the security. In addition, if the underlying assets of a mortgage-backed security are composed of more than one type of asset, for example, U.S. Government-sponsored agency securities and privately-issued pass-through securities that qualify for the 50 percent risk category, the entire mortgage-backed security is generally assigned to the category appropriate to the highest risk-weighted asset underlying the issue. Thus, in this example, the security would receive the 50 percent risk weight appropriate to the privately-issued pass-through securities.

Appendix B to Part 704—Off-Balance Sheet Credit Conversion Factors

Zero Percent Credit Conversion Factor:

Unused portions of credit lines with original maturities of 6 months or less, or which are unconditionally cancelable.

50 Percent Credit Conversion Factor:

a. Unused portions of credit lines with original maturities exceeding 6 months.

b. Commitments to participate in a loan or loan package.

100 Percent Credit Conversion Factor:

a. Irrevocable standby letters of credit guaranteeing financial performance (including VISA letters of credit issued by corporate credit unions on behalf of their members, or standby letters of credit backing Industrial Revenue Bonds).

b. Forward Commitments to purchase an asset or perform under a lease contract.

c. Securities held in safekeeping loaned with indemnification. Other off-balance sheet items will be addressed on a case-by-case basis by NCUA.

Appendix C to Part 704—Model Forms

This appendix contains three sample forms intended for use by corporate credit unions to aid in compliance with the permanent capital share account and secondary capital share account disclosure requirements of § 704.2. Corporate credit unions that use these forms will be in compliance with those requirements.

C–1 Sample disclosure for opening of secondary capital share account.

Terms and Conditions of Secondary Capital Share Account

(1) A secondary capital share account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A member credit union may withdraw shares from its secondary capital share account only with two years' notice, except where the member credit union is merging or liquidating. If a member credit union merges, the corporate credit union will return the member's secondary capital shares, less any penalty for early withdrawal, within 30 days of written notification from NCUA.

(3) Secondary capital share accounts cannot be used by member credit unions to collateralize borrowings.

(4) Secondary capital share accounts are available to absorb losses in the event of a deficit in primary capital in the corporate credit union.

(5) Where the corporate credit union is liquidated, secondary capital share accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

I have read the above terms and conditions and I understand them. I further agree to maintain in the credit union's files the annual notice of terms and conditions of the secondary capital share account.

Signatures of Directors and Date

_____

_____

_____

_____

_____

Name of member credit union:

_____

Address of member credit union:

_____

_____

C–2 Sample annual notice of terms and conditions of secondary capital share account.

Terms and Conditions of Secondary Capital Share Account

(1) A secondary capital share account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) A member credit union may withdraw shares from its secondary capital share account only with two years' notice, except where the member credit union is merging or liquidating. If a member credit union merges, the corporate credit union will return the member's secondary capital shares, less any penalty for early withdrawal, within 30 days of written notification from NCUA.

(3) Secondary capital shares cannot be used by member credit unions to collateralize borrowings.

(4) Secondary capital share accounts are available to absorb losses in the event of a deficit in primary capital in the corporate credit union.

(5) Where the corporate credit union is liquidated, secondary capital share accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

Mailed to member _____

Month/Year.

Signature of the Chairman of the Board

C–3 Sample disclosure for opening of permanent capital share account.

Terms and Conditions of Permanent Capital Share Account

(1) A permanent capital share account is not subject to share insurance coverage by the NCUSIF or other deposit insurer.

(2) Permanent capital shares are not redeemable without the written concurrence of NCUA.

(3) Permanent capital share accounts cannot be used by member credit unions to collateralize borrowings.

(4) Permanent capital share accounts are available to absorb losses in the event of a deficit in other primary capital accounts in the corporate credit union.

(5) Where the corporate credit union is liquidated, permanent capital share accounts are payable only after satisfaction of all liabilities of the liquidation estate including uninsured obligations to shareholders and the NCUSIF.

(6) Permanent capital share account dividends are noncumulative.

I have read the above terms and conditions and I understand them.

Signatures of Directors and Date

_____

_____

_____

Name of member credit union:

_____

Address of member credit union:

_____

_____

PART 741—REQUIREMENTS FOR INSURANCE

2. The authority citation for part 741 continues to read as follows:

VOL 60 ISS 80 AP 26 1995 UMI

Authority: 12 U.S.C. 1757, 1766, and 1781–1790. Section 741.11 is also authorized by 31 U.S.C. 3717.

3. Section 741.3 is amended by revising the heading and adding new paragraph (c) to read as follows:

§ 741.3 Other requirements.

* * * * *

(c) Adhere to the requirements stated in Part 703 of this chapter concerning transacting business with corporate credit unions.

[FR Doc. 95–10149 Filed 4–25–95; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–110–AD]

Airworthiness Directives; British Aerospace Model Viscount 744, 745D, and 810 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model Viscount 744, 745D, and 810 series airplanes. This proposal would require repetitive inspections to detect discrepancies of certain fittings and the actuator beam structure of the nose landing gear, and replacement of discrepant parts. This proposal is prompted by reports of fatigue cracking of the undercarriage bracing of the nose wheel. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in the failure of the structure and fittings, and subsequent collapse of the nose landing gear.

DATES: Comments must be received by May 5, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft Ltd., Engineering Support Manager, Military Business Unit, Chadderton Works, Greengate, Middleton, Manchester M24 1SA, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–110–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model Viscount 744, 745D, and 810 airplanes. The CAA advises that reports have been received of cracking in the bracing structures of the nose wheel undercarriage on these airplanes. Investigation revealed that the cracking was fatigue related, and that deterioration of the structure also has occurred. These conditions, if not detected and corrected in a timely manner, could result in the collapse of the nose landing gear.

British Aerospace has issued Viscount Alert Preliminary Technical Leaflet (PTL) 331, VIS 1 Doc 12 (for Model 744 and 745D airplanes), and PTL 202, VIS 1 Doc. 4 (for Model 810 airplanes), both dated November 1, 1991. These PTL's describe the following procedures:

1. Procedures for repetitive non-destructive testing (NDT) inspections to detect cracking of the actuator attachment fittings of the nose landing gear.

2. Procedures for repetitive visual inspections to detect signs of structural deterioration of the central diaphragms of the actuator beam structure.

3. Procedures to detect elongation, cracking, buckling in the central diaphragms and reinforcing angles, and loosening of fasteners of the mounting bolt holes of the actuator attachment. And

4. Procedures for replacement of deteriorated or cracked parts with new parts. The CAA classified these alert PTL's as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive inspections to detect discrepancies of certain fittings and the actuator beam structure of the nose landing gear, and replacement of discrepant parts. The actions would be required to be accomplished in accordance with the alert PTL's described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 15 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $26,100, or $900 per airplane, per inspection cycle.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vickers-Armstrongs Aircraft Limited): Docket 94–NM–110–AD.

Applicability: All Model Viscount 744, 745D, and 810 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent collapse of the nose landing gear, accomplish the following:

(a) Prior to the accumulation of 2,050 landings after the effective date of this AD, or within 12 months after the effective date of this AD, whichever occurs first: Perform a visual inspection and non-destructive testing (NDT) inspection to detect discrepancies of the actuator beam structure and actuator attachment fittings of the nose landing gear, in accordance with Viscount Alert Preliminary Technical Leaflet (PTL) 331 VIS 1 Doc 12 (for Model 744 and 745D airplanes), or PTL 202, VIS 1 Doc. 4 (for Model Viscount 810 airplanes), both dated November 1, 1991, as applicable. Thereafter, repeat these inspections at intervals not to exceed 2,050 landings.

(b) If any discrepancy is found, prior to further flight, replace the discrepant part with a new part, in accordance with Viscount Alert PTL 331, VIS 1 Doc 12 (for Model 744 and 745D airplanes), or PTL 202, VIS 1 Doc. 4 (for Model 810 airplanes), both dated November 1, 1991, as applicable.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10199 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–27–AD]

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A airplanes. This proposal would require modification of the elevator control system of the flight controls. This proposal is prompted by reports of low frequency constant amplitude oscillations of the elevator control system and non-centering of the pitch control upon autopilot disconnect. The actions specified by the proposed AD are intended to prevent uncommanded descent upon autopilot disconnect and reduced controllability of the airplane

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due to low frequency constant amplitude oscillations.

DATES: Comments must be received by May 5, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–27–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AVRO International Aerospace, Inc., 22111 Pacific Blvd., Sterling, Virginia 20166. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–27–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–27–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAe 146–100A, –200A, and –300A airplanes. The CAA advises that it has received several reports of the low frequency constant amplitude oscillations of the elevator control system and non-centering of the pitch control upon autopilot disconnect. Investigation revealed that one of the causes of the oscillations may be attributed to ice accretion on the stabilizer or elevator, which can reduce the aerodynamic damping of the elevator. Investigation revealed that another cause of the oscillations may be attributed to water or ice accumulation in the elevator, which can adversely affect the elevator balance. Further investigation revealed that the cause of the non-centering of the pitch control upon autopilot disconnect may be attributed to lack of sufficient centering force to overcome increased mechanical damping added to the elevator control system by the 'G' weight damper. These conditions, if not corrected, could result in uncommanded descent and reduced controllability of the airplane.

British Aerospace has issued Service Bulletin SB.27–77–00955A&C, Revision 2, dated March 10, 1989, which describes procedures for modifying the elevator control system of the flight controls by installing two specific modifications:

1. Modification HCM00955A involves installation of a damper into the elevator primary circuit at the 'G' weight arm, and an electrical heater mat and temperature switch to maintain the damper temperature within a certain range. This modification will prevent a possible control column oscillation at 2½ Hz.

2. Modification HCM00955C involves installation of a spring strut between the column and fixed structure of the elevator control system. This modification will increase column centering force in the aft direction only.

The CAA classified the service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require modification of the elevator control system of the flight controls. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 38 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacture at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $9,120, or $240 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft Limited, Avro International Aerospace Division (Formerly British Aerospace, plc; British Aerospace Commercial Aircraft Limited): Docket 95–NM–27–AD.

Applicability: Model BAe 146–00A, –200A, and –300A airplanes, as listed in British Aerospace Service Bulletin SB.27–77–00955A&C, Revision 2, dated March 10, 1989, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded descend of the airplane and reduced controllability of the airplane, accomplish the following:

(a) Within 60 days after the effective date of this AD, modify the elevator control system of the flight controls in accordance with British Aerospace Service Bulletin SB.27–77–00955A&C, Revision 2, dated March 10, 1989.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10200 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–161–D]

Airworthiness Directives; British Aerospace BAC 1–11–200 and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace BAC 1–11–200 and –400 series airplanes. This proposal would require repetitive radiographic inspections to detect corrosion of the center torque shaft of the wing spoiler, and replacement, if necessary. This proposal is prompted by a report of the wing spoiler failing to retract fully after deployment, which caused the wing to drop significantly. Subsequent investigation revealed that the torque shaft assembly of the wing spoiler had failed, due to severe corrosion. The actions specified by the proposed AD are intended to prevent such failures, which can result in an adverse effect on controllability of the airplane.

DATES: Comments must be received by May 5, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–161–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

VOL 60 ISS 80 AP 26 1995 UMI

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model BAC 1–11–200 and –400 series airplanes. The CAA advises that it has received a report of a failure of a wing spoiler on one airplane to retract fully after deployment. This failure caused the airplane wing to drop significantly. Subsequent investigation revealed that the center torque shaft of the wing spoiler had failed due to severe corrosion present on the internal surface of the shaft assembly. Such corrosion, if not detected and corrected in a timely manner, could cause the torque shaft to fail and, consequently, cause the airplane wing to drop significantly; this would result in an adverse effect on controllability of the airplane.

British Aerospace has issued Alert Service Bulletin 27–A–PM6007, Issue 1, dated April 10, 1992, which describes procedures for accomplishing repetitive radiographic inspections for corrosion of the center torque shaft of the spoiler on the left and right wing, and replacement of the shaft assembly, if necessary. The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of repetitive radiographic inspections to detect corrosion of the center torque shaft of the wing spoiler, and replacement of the torque shaft assembly, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this requirement.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 40 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $74,400, or $2,400 per airplane, per inspection cycle.

Should an operator be required to accomplish the replacement of the torque shaft assembly, it would take approximately 40 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,950 per airplane. Based on these figures, the total cost impact of any necessary replacement action is estimated to be $5,350 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Docket 94–NM–161–AD.

Applicability: All Model BAC 1–11–200 and –400 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the center torque shaft of the spoiler on the left and right wing, accomplish the following:

(a) Perform a radiographic inspection to detect internal corrosion of the center torque shaft on the left and right wing spoilers, in accordance with the Accomplishment Instructions of British Aerospace BAC 1–11 Alert Service Bulletin 27–A–PM6007, Issue 1, dated April 10, 1992, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. If the date of installation of a center torque shaft cannot be determined, the radiographic inspection of that shaft must be accomplished within 9 months after the effective date of this AD.

(1) For the center torque shaft on the left wing spoiler: Inspect within 10 years after the date of installation of that center torque shaft, or within 9 months after the effective date of this AD, whichever occurs later.

(2) For the center torque shaft on the right wing spoiler: Inspect within 10 years after the date of installation of that center torque shaft, or within 9 months after the effective date of this AD, whichever occurs later.

(b) If no internal corrosion is detected, repeat the radiographic inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 4 years.

(c) If any internal surface corrosion is detected, prior to further flight, replace that shaft assembly with either a used serviceable assembly or a new assembly, in accordance with British Aerospace Alert Service Bulletin 27–A–PM6007, Issue 1, dated April 10, 1992. Perform the radiographic inspection in accordance with that service bulletin at the applicable time specified in paragraph (c)(1) or (c)(2) of this AD.

(1) If a new shaft assembly is installed: Perform the inspection within 10 years after installation. Thereafter, repeat the inspection at intervals not to exceed 4 years.

(2) If a used serviceable shaft is installed: Prior to installation, perform an initial radiographic inspection of that shaft in accordance with the service bulletin. Thereafter, repeat the inspection at intervals not to exceed 4 years.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10202 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–13–U

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Notice of Commission Decision Not To Proceed With Proposed Rulemaking Concerning Voting Procedures in Investigations and Related Proceedings on Unfair Practices in Import Trade

AGENCY: International Trade Commission.

ACTION: Notice that a proposed rulemaking will not proceed.

SUMMARY: The Commission will not proceed at this time with the proposed amendment of certain final rules for investigations and related proceedings under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The proposed amendments were intended to do the following: (1) Increase the number of votes required for the Commission to review an initial determination (ID) on a matter other than temporary relief or grant a request for oral argument in connection with such a review; and (2) prescribe the effect of a tie vote concerning post-review disposition of an ID on a matter other than temporary relief.

DATES: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3061. Hearing-impaired individuals can obtain information concerning the proposed rulemaking by contacting the Commission's TDD terminal at 202–205–1810.

SUPPLEMENTARY INFORMATION: On January 19, 1995, the Commission published an advance notice of proposed rulemaking for the final rules to be codified in 19 CFR part 210 concerning investigations and related proceedings under section 337 of the Tariff Act. 60 FR 3785 (Jan. 19, 1995). The notice solicited written comments on whether the Commission should do the following:

1. Amend final rule 210.43(d)(3) to provide that the Commission will review an ID on a matter other than temporary relief when at least one-half of the participating Commissioners vote in favor of a review;

2. Amend final rule 210.45(a) to provide that the Commission will grant a request for oral argument in connection with review of an ID on a matter other than temporary relief when at least one-half of the participating Commissioners vote in favor of such argument; and/or

3. Amend final rule 210.45(c), without statutory changes, to state what effect a tie-vote will have on the Commission's disposition of an ID on a matter other than temporary relief—e.g., that a tie vote on the disposition of an ID after a review will constitute an affirmance of the ID.

Comments were filed by the American Bar Association's Section of International Law and Practice, the Customs and International Trade Bar Association, and the International Trade Commission Trial Lawyers Association. For the most part, the commenters advocated alternative amendments or retention of the existing rule or practice in response to the questions of whether the Commission should amend rules 210.43(d) and 210.45(a) as described in the advance notice. The commenters that addressed final rule 210.45(c) were evenly divided on whether the Commission should amend that rule as described in the advance notice.

A majority of the Commission has determined not to proceed with the proposed amendment of final rules 210.43(d) and 210.45(a) at this time. A majority of the Commission also has determined not to proceed with the proposed amendment of final rule 210.45(c) at this time.

Dated: April 21, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–10257 Filed 4–25–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–95–036]

Special Local Regulation: Whatever Festival Hydroplanes, Kennebec River, Augusta, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent special local regulation for a racing event called the Whatever Festival Hydroplanes. The race will be held on Saturday, June 24, and Sunday, June 25, 1995, and thereafter annually on the fourth weekend in June in the waters of the Kennebec River, Augusta, ME. This regulation is needed to protect the boating public from the hazards associated with high speed hydroplane racing in confined waters.

DATES: Comments must be received on or before May 24, 1995.

ADDRESSES: Comments should be mailed to Commander(b), First Coast

VOL 60 ISS 80 AP 26 1995 UMI

Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will be come part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant(jg) B.M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–95–036), the specific section of the proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½" x 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander(b), First Coast Guard District at the address under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

The shortened comment period for this regulation was caused by a delay in receiving necessary information from the event sponsor. The Coast Guard considers this shortened comment period to be adequate because considerable promotional efforts undertaken by the sponsor have effectively publicized the event throughout the local area. The shortened comment period will allow sufficient time for the public to make substantive comments on the proposed rule.

Drafting Information

The drafters of this notice are Lieutenant(jg) B.M. Algeo, Project Manager, First Coast Guard District, and Lieutenant Commander S.R. Watkins, Project Counsel, First Coast Guard District Legal Office.

Background and Purpose

On February 3, 1995, the sponsor, Kennebec Valley Chamber of Commerce, submitted a request to hold a hydroplane race on the Kennebec River, Augusta, ME. The Coast Guard is considering establishing a permanent regulation on the Kennebec River for this event known as the "Whatever Festival Hydroplanes." The proposed regulation would establish a regulated area on the Kennebec River and would provide specific guidance to control vessel movement during the race.

This event will include up to 50 hydroplanes competing on a rectangular course at speeds approaching 70 m.p.h. Due to the inherent dangers of a race of this type, vessel traffic will be temporarily restricted to provide for the safety of the spectators and participants.

The sponsor will provide a minimum of four safety boats, two manned with divers, and an EMT rescue ambulance on shore. All sponsor resources will be identified with regatta signs or flags, in accordance with American Power Boat Association requirements, to augment the Coast Guard patrol that will be assigned to the event. The race course will be well marked and patrolled, but due to the speed and proximity of the participating vessels, it is necessary to establish a special local regulation to control spectator and commercial vessel movement within this confined area.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a special local regulation on specified waters of the Kennebec River, Augusta, Maine. The regulated area will be closed to all traffic from 10 a.m. to 4 p.m. on June 24, and from 11 a.m. to 3 p.m. on June 25, 1995, and thereafter annually on the fourth weekend in June. In emergency situations, provisions will be made to establish safe escort by Coast Guard designated vessels for mariners requiring transit through any regulated area. This regulation is needed to protect spectators and participants from the hazards that accompany a high speed powerboat race in a confined area.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the limited duration of the race, the extensive advisories that have been and will be made to the affected maritime community, and the fact that the event is taking place in an area where the only commercial interests affected are a few marinas.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard is considering the environmental impacts of both the proposed special regulations and the Whatever Festival Hydroplanes race. It is anticipated that an Environmental Assessment (EA) will be written and included in the docket concerning the potential environmental impacts resulting from this high speed hydroplane race for which the Coast Guard has received an "Application for Marine Event Permit." Comments in this regard should be forwarded to the address listed under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A permanent section, § 100.109, is added to read as follows:

§ 100.109 Whatever Festival Hydroplanes, Augusta, ME.

(a) *Regulated Area.* This regulated area provides a 100 yard minimum safety zone around the race course coordinates and includes all waters within the following points:

Latitude	Longitude
44°19.01" N	069°46.22" W
44°19.00" N	069°46.18" W
44°18.37" N	069°46.26" W
44°18.36" N	069°46.16" W

(b) *Special Local Regulations.*

(1) Commander, U.S. Coast Guard Group Portland reserves the right to delay, modify, or cancel the race as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in the regulated area during the effective period of regulation unless participating in the event or unless authorized by the Coast Guard patrol commander.

(3) Vessels desiring to transit the river may do so without Coast Guard approval as long as the vessel remains outside the regulated areas at specified times. No vessel will be allowed to transit through any portions of the regulated area during the actual race. In the event of an emergency, the Coast Guard patrol commander may authorize a vessel to transit through the regulated areas with a Coast Guard designated escort. Vessels encountering emergencies which require transit through the regulated areas should contact the Coast Guard patrol commander on VHF Channel 16.

(4) Spectator craft are authorized to watch the race from any area as long as they remain outside the designated regulated areas. There will be no movement of spectator craft during each heat of the race. Spectator craft are expected to remain outside the safety zone from 10 a.m. to 4 p.m. unless permission has been granted by the patrol commander.

(5) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Group Portland or the designated on-scene patrol commander. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately, then proceed as directed. Members of the Coast Guard Auxiliary will also be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section will be effective from 10 a.m. to 4 p.m. on Saturday, June 24, and from 11 a.m. to 3 p.m. on Sunday, June 25, 1995, and thereafter annually on the fourth weekend in June, at the same prescribed times, unless otherwise specified in the Coast Guard Local Notice to Mariners and a notice of the **Federal Register.**

Dated: April 18, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 95–10238 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[OK–001; FRN–5197–3]

Clean Air Act Interim Approval of Operating Permits Program; Oklahoma Department of Environmental Quality; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Extension of the comment period.

SUMMARY: EPA is extending the comment period for a proposed rule published March 10, 1995 (60 FR 13088). On March 10, 1995, EPA proposed source category-limited interim approval of the operating permits program submitted by the State of Oklahoma. EPA received letters from the Oklahoma Department of Environmental Quality (ODEQ), the Department of the Air Force (Tinker AFB), and Mobil Exploration & Producing US Incorporated requesting an extension of the public comment period. Therefore, EPA is extending the comment period until May 10, 1995.

DATES: Comments must be received in writing on or before May 10, 1995.

ADDRESSES: Written comments on this action should be addressed to Ms. Jole C. Luehrs, Chief, New Source Review Section, at the Environmental Protection Agency, Region 6, Air Programs Branch (6T–AN), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Wm. Nicholas Stone, New Source Review Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–7226.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 19, 1995.

A. Stanley Meiburg,

Deputy Regional Administrator (6A).

[FR Doc. 95–10246 Filed 4–25–95; 8:45 am]

BILLING CODE 6560–60–P

40 CFR Part 70

[AD–FRL–5197–2]

Clean Air Act Proposed Interim Approval of Operating Permits Program; State of Iowa

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes interim approval of the Operating Permits Program submitted by the state of Iowa for the purpose of complying with Federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by May 26, 1995.

ADDRESSES: Comments may be mailed to: Christopher D. Hess, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Copies of the Iowa submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours by contacting Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under Title V of the Clean Air Act ("the Act") as amended (1990), EPA has promulgated rules which define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating

VOL 60 ISS 80 AP 26 1995 UMI

permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993, date, or by the end of an interim program, it must establish and implement a Federal program.

II. Proposed Action and Implications

A. Analysis of Submission by State Authority

Introduction. What follows are brief explanations indicating how the submittal meets the requirements of Part 70. The reader may consult the technical support document (TSD) for a more detailed explanation of these topics.

1. Support Materials

a. Governor's Letter. The state of Iowa's submittal includes a request for approval in a cover letter by the Governor. This request also states that the entire geography of Iowa will be covered by this program. The letter further indicates that the state will not administer the program on any Indian lands. Therefore, EPA will retain jurisdiction over any Indian lands.

b. Regulations. The state of Iowa has submitted regulations which comprise the Title V program in Iowa, Administrative Code (IAC) 567–22.100–116. The regulations are analyzed in detail under various topics of the TSD.

Although some rule changes are required by the state as outlined in other portions of this notice, the submittal does not identify any provisions which restrict the operation of the program and that would, therefore, prevent proposal of interim approval of the program by the EPA. The Iowa Attorney General's opinion does note, however, some areas in which the regulations may not fully match the Title V requirements. EPA has analyzed those provisions which do not clearly match the Title V requirements, and has provided its rationale in the TSD for determining that they are not sufficient to prevent EPA from proposing interim approval of the program.

Iowa has submitted evidence, consistent with the applicable part 70 requirements, that the regulations comprising the program were properly adopted by the Environmental Protection Commission. The submittal includes a discussion of the public review and hearing process which the commission followed in adopting the rules.

c. Attorney General's Legal Opinion. The opinion of the Attorney General contains the elements required by 40 CFR 70.4(b)(3) and states there is adequate authority to meet all of the Title V and Part 70 requirements.

2. Implementation

a. Program Description. A comprehensive plan for implementing the Title V program is included in the submittal. This plan includes program authority, agency organization, and staffing. As noted elsewhere in this notice, EPA's concerns with the state's uncertainty about the exact amount of personnel and operating permit fees have resulted in a recommendation for interim approval.

In other matters related to the program description, it is noted that an implementation agreement was not included in Iowa's submittal, but the EPA and the Iowa Department of Natural Resources (IDNR) are pursuing its development in anticipation of interim approval.

Iowa intends to defer for five years sources that are not major, except for affected sources and solid waste incineration units. The state intends to use a voluntary SIP-based operating permit program that will capture some of these non-Title V sources.

The state has elected not to use the presumptive minimum for its operating permit fee. Instead, Iowa's Title V rules require a flat (without Consumer Price Index adjustment) $24 to fund the operating permit program. Thus, a fee demonstration was submitted by the state which demonstrates the adequacy of the proposed $24 fee to cover the costs of the program.

Since adoption of the rule requiring $24, the state has elected to collect only one-half of this amount and will subsequently determine if the total amount is necessary to implement the program and, if so, will collect the balance of the fee at a later time.

Finally, the state will fund two local programs (Linn County and Polk County) to prepare draft Title V permits and assist in inspections and compliance activities in their respective jurisdictions. The IDNR will fund the programs through a 28E interagency agreement.

b. Program Implementation. Iowa's submittal includes requirements for permit content, procedures for permit issuance, renewal, reopenings, revisions, and for payment of fees by sources. It further identifies two local agencies which will participate in the operating permit program, and contains a description of the annual compliance inspections.

The state describes how one-third of all permit applications will be reviewed each year for the first three years of the program. A description of the computerized permit tracking database and data management in general is also provided.

The submittal also indicates that the guidance outlined for the state concerning annual inspections, stack tests, and other compliance measures will be issued to the two local agencies in implementing the Title V program.

c. Personnel. In its original submission of November 15, 1993, Iowa provided a workload analysis projecting the need for 73 FTE in the state's air bureau, with additional Title V personnel augmenting the program from the local permitting agencies. EPA's analysis of the state's workload verified that this estimate was adequate to successfully implement the operating permit program.

However, in a supplemental letter dated December 6, 1994 (herein referenced as "supplemental letter"), the state described a decision to hire only 10 additional personnel in FY–95, 15 in FY–96, and more personnel in later years. Since the state's air bureau currently has approximately 21 personnel, the current staffing plus modified projections would result in a total of 46 personnel in contrast to the 73 originally projected.

Since modifying the original projection in its supplemental letter, the state has not officially demonstrated to the EPA that a fully adequate number of personnel will be hired to implement the program. The IDNR has presented a proposal to the Environmental Protection Commission to increase the amount of personnel to 61 FTE (instead of 46), although this has not yet been approved or officially submitted to EPA for consideration.

For EPA to propose full approval of the program when the interim period expires, the state must either hire additional personnel to fulfill its original workload analysis or demonstrate that successful implementation of the program may be accomplished with fewer personnel.

d. Data Management. Iowa specifies that the Administrator shall receive a copy of each permit application or modification application (including any attachments and compliance plan), each proposed permit, and each final permit. This information may be submitted in a computer-readable format compatible with the Administrator's national data base system.

The state's submittal describes a permit tracking data base consistent with part 70. This permit tracking system will record all Title V applications. After issuance of the final permits, the information from this tracking system will be used to update EPA's Aerometric Information Retrieval System (AIRS) database. The IDNR will maintain Title V records for a minimum of five years. Any claim of confidentiality requires the source to submit a copy of such claim directly to the Administrator.

e. Applicability Provisions. The program proposed by Iowa defers for five years sources that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act. This deferral is allowed by § 70.3(b)(1) until such time as the Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources. The Administrator is making this determination for some new section 112 standards as they are being promulgated.

In some cases, nonmajor sources subject to section 112 standards will be required to obtain Title V permits. Iowa is proposing revisions to its regulations to require sources not exempted or deferred to receive Title V permits, consistent with Part 70 requirements.

The state exempts from inclusion in the permit application emission units of a certain size, emission level, or production rate if not needed to determine the applicability of or to impose any applicable requirements. This conforms to the provisions of § 70.5(c).

The state's current regulations exempt sources subject to new source performance standards for new residential wood heaters and the national emission standard for hazardous air pollutants for asbestos demolition/renovation activities, which are located at major sources from being included in permit applications. In its supplemental letter, the state has committed to modify this rule consistent with Part 70.

f. Permit Content. Iowa's regulations require Title V permits to include Part 70 terms and conditions for all applicable requirements at the time the permit is issued. These terms include the permit duration, required monitoring, and related recordkeeping and reporting requirements, as required by § 70.6. Iowa's regulations also require the permit to contain a condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Act, as required by § 70.6(a)(4). The regulations further require that the terms and conditions of each alternative scenario meet the requirements of Part 70. Permits are also required to contain terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases at the facility.

Iowa's program provides for general permits and permit shields and meets all corresponding part 70 requirements. The program does not include provisions for temporary sources. Instead, sources will be required to obtain a separate part 70 permit for each location.

Iowa's program does allow for section 502(b)(10) changes, but requires these changes to involve an emissions trade. In its supplemental letter, the state has committed to modify this rule consistent with part 70.

Iowa's regulations do allow for permits that contain terms and conditions allowing for the trading of emissions increases and decreases in the permitted facility, solely for the purpose of complying with a Federally enforceable emissions cap.

g. Permit Applications. Iowa's regulations require sufficient information to be submitted with the application, in accordance with the requirements of § 70.5. However, the EPA has separately notified the state of needed modifications to the permit application forms. In several instances, the state's rules require information to be submitted as part of the application in accordance with 70.5, but the forms themselves do not request all of this information.

EPA is therefore proposing approval of the program in that it meets the requirement to include standardized forms, but will continue to request that the state modify these forms to fully meet all of the specified requirements.

With respect to specific permit application criteria, sources are required to submit permit applications within 12 months after becoming subject to the permit program or at an earlier date established under the state operating permit registry. Applications for permit renewals are due between six and eighteen months prior to expiration of the permit.

Source permit applications must conform to the standard Iowa application form, and must contain information sufficient to allow the IDNR to determine all applicable requirements with respect to the applicant. Iowa regulations also require that an application be deemed complete within 60 days of receipt unless the IDNR determines them to be incomplete.

The Iowa regulations further require that no Title V source may operate after the time it is required to submit a timely and complete application, except in compliance with its Title V permit. However, an application shield is applicable if a timely and complete application is submitted by the source. This allows the source to continue to operate without a permit, as long as the source has submitted any additional information requested in writing by the IDNR within the time frame allowed.

h. Permit Issuance. The state's current regulations do not require that when a part 70 permit prohibits construction or a change in operation, the owner/operator must obtain a Title V permit revision before commencing construction as required by 70.5(a)(1)(ii). However, in its supplemental letter, the state has agreed to modify this rule to meet part 70 requirements.

The Iowa regulations require that final action be taken on complete applications within 18 months of submittal of a complete application, except for initial permit applications which are subject to the three year transition plan set forth by the Clean Air Act Amendments of 1990.

The Iowa rules require submittal of a complete application, compliance with public participation procedures, compliance with notification to affected states, compliance with all applicable requirements, and allow for a 45-day period for EPA objection to a draft permit.

The Iowa regulations provide for priority on applications for construction or modification under an EPA-approved preconstruction review program. Furthermore, the Iowa rules do not affect the requirement that any source have a preconstruction permit under an EPA-approved preconstruction review program. The Iowa program also provides that permits being renewed are subject to the same procedural requirements (including those for public participation, affected state, and EPA review) that apply to initial permit issuance. The Iowa operating permit program also provides for

VOL
60
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administrative amendments, which meets part 70 requirements.

Permit modification processing procedures in the Iowa program are consistent with part 70 requirements as they provide for the same degree of permitting authority, EPA and affected state review, and public participation.

The Iowa program also meets the Federal minor permit modification procedures. The Iowa program provides for promptly sending to EPA any notice that the IDNR refuses to accept all recommendations of an affected state regarding a proposed minor permit modification. In addition, the Iowa program provides that the permitting authority may approve, but may not issue, a final permit modification until after EPA's 45-day review period or until EPA has notified the permitting authority that EPA will not object to issuance, whichever is first.

Significant modification procedures as defined in the Iowa program also parallel the Federal program. Iowa has included provisions which provide that a permit shall be reopened and revised when additional requirements become applicable to a major source with a remaining permit term of three or more years. The state also requires that such a reopening be completed within 18 months after promulgation of the applicable requirement. In addition, the Iowa program provides that proceedings to reopen a permit will follow the same procedures as apply to initial issuance, will affect only those parts of the permit for which cause to reopen exists, and will ensure reopenings are made as expeditiously as practicable.

i. Compliance Tracking and Enforcement. The requirement for a compliance tracking and enforcement program has been met by the state. Compliance tracking will be accomplished through two means. The first is monthly entry of compliance and enforcement information into AIRS. The second is an ongoing commitment in the annual section 105 grant workplans to provide EPA with copies of all enforcement documents. The enforcement program will consist of periodic "for cause" inspections, followed by any appropriate enforcement action consistent with the State/EPA Enforcement Agreement. The state has demonstrated adequate enforcement authority consistent with § 70.1 to seek injunctive relief, to assess or sue to recover civil penalties, and to seek criminal remedies, including fines. Civil and criminal penalties are recoverable in a maximum amount of not less than $10,000 per day.

j. Public Participation, EPA, and Affected States Review. Iowa's submittal ensures that all permit applications are available to the public. All requirements are included to ensure that each interested citizen will be aware of proposed and final permit actions. This includes the commitment to keep a record of proceedings that will allow citizens to object to a permit up to 60 days after the EPA review period.

Iowa has adopted rules that ensure mutual review by affected states and the EPA. The state will not issue a permit when it is objected to in accordance with Part 70.8(c).

3. Fee Demonstration

The state's rules provide for a fee of $24 per ton per year, which is required to be reviewed and adjusted as necessary by the Environmental Protection Commission annually. Thus, a detailed fee demonstration was submitted by the state since this amount is below the presumptive minimum set forth in § 70.9(b)(12). The IDNR provided a list of sources and the estimated actual and potential emissions from each source with a projected total revenue. This estimate adequately covers the program's anticipated operating costs if the $24 fee is maintained. If this fee is reduced, a revised demonstration will be required from the state.

The state is also required by § 70.9(d) to provide an initial accounting of how required fee revenues are to be used solely to cover the costs of meeting the various functions of the permitting program. IAC § 455.133B provides that any Title V fees collected shall be deposited in an air contaminant source fund. This provision further states that these fees "shall be used solely to defray the costs related to the permit, monitoring, and inspection program, including the small business stationary source technical and environmental compliance assistance program required pursuant to the Federal Clean Air Act Amendments of 1990, sections 502 and 507." The State Auditor will also audit the program according to the supplemental letter.

Section 70.4(b)(8)(v) requires the permitting authority to submit an estimate of the permit program costs for the first four years after approval, and a description of how the state plans to cover those costs. The IDNR provided an estimate that adequately satisfies the four-year projection requirement if the $24 fee is maintained. A new forecast will be required if the fee is reduced.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Acid rain. The legal requirements for approval under the Title V operating permits program for a Title IV program were cited in EPA guidance distributed on May 21, 1993, entitled "Title V—Title IV Interface Guidance for States." Iowa has met the five major criteria of this guidance which include legal authority, regulatory authority, forms, regulatory revisions, and a commitment to acid rain deadlines. Iowa developed acid rain rules based on a model state acid rain rule described in guidance issued by the EPA in May 1993.

The EPA's Acid Rain Division has identified necessary rule changes in its January 27, 1994, review of the state's program. The state has committed to make these changes in its supplemental letter.

b. Section 112. The state has demonstrated adequate authority to adopt section 112 standards and other requirements in a timely manner. The specific Title V program approval criteria with respect to section 112 provisions are enumerated in a memorandum from John Seitz, Office of Air Quality Planning and Standards, dated April 13, 1993. Iowa has met these criteria as described in the following topics:

(1) Section 112(d), (f), and (h).—EPA Emissions Standards. In accordance with Part 70, Iowa will not issue any permit (or permit revision addressing any emissions unit subject to a newly promulgated section 112 standard) unless it would ensure compliance with all applicable section 112 standards. Additionally, Part 70 permits will be reopened which have three or more years remaining before their expiration date to incorporate any newly promulgated standard (section 70.7(f)(1)(i)).

(2) Section 112(g)—The EPA has issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of 112(g) applicability. The notice postpones the effective date of 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Iowa must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing Federal regulations.

The EPA is aware that Iowa lacks a program designed specifically to implement section 112(g). However, Iowa has proposed rule 22.3(6) that gives the state authority to limit emissions of HAPs. Iowa may use this authority to establish case-by-case MACTs as needed for the review of new or modifed hazardous air pollutant sources until such time as they adopt 112(g).

(3) Section 112(i)(5)—Early Reductions. Since the state has elected not to adopt the November 29, 1992, early reduction rule by reference, the state will need to submit a delegation request and demonstration, pursuant to 40 CFR Part 63, Subpart E, in order for EPA to delegate authority to the state for implementation and enforcement of the Federal early reduction program.

(4) Section 112(j)—Case-by-case MACT Hammer. It is the agency's intent to make case-by-case MACT determinations and to issue permits to subject sources in accordance with the 112(j) requirements.

(5) Section 112(l)—State Air Toxics Programs. Requirements for approval, specified in 40 CFR § 70.4(b), encompass section 112(l)(5) approval requirements for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the state's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is proposing to grant approval under section 112(l)(5) and 40 CFR part 63.91 to Iowa for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and section 112 infrastructure programs, that are unchanged from Federal rules as promulgated. In addition, EPA is also proposing delegation of all existing standards and programs under CFR parts 61 and 63 for part 70 and non-part 70 sources.

Iowa has informed the EPA that it intends to accept delegation of section 112 standards through adoption by reference. The details of this delegation mechanism will be set forth in an implementation agreement between the state and EPA, to be implemented upon program approval.

(6) Section 112(r)—Accidental Release Plans. The agency has provided for the section 112(r) requirements in its rules. These rules specifically state that if any source is required to develop and register a risk management plan, the permit shall state the requirement for submission of the plan to the IDNR. This rule also requires that an annual certification be filed with the IDNR that the plan is being properly implemented.

Finally, for sources failing to make the required risk management plan submittal, Iowa rule 22.105(2)h(3)2 states that the permit application shall include a compliance schedule for sources that are not in compliance with all applicable requirements at the time of permit issuance.

B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant interim approval for two years to the operating permits program submitted by the state of Iowa on November 15, 1993. In order to receive full approval, the state must adopt and submit to the EPA the rule changes identified above within 18 months of receiving full approval. Specifically, the state must amend the following rules for consistency with part 70:

(1) IAC § 22.101 pertaining to nonmajor sources which are not exempted from future section 112 standards;

(2) IAC § 22.102 and § 103 pertaining to insignificant activities and exempt sources;

(3) IAC § 22.105 pertaining to permit revisions prior to commencing construction;

(4) IAC § 22.110 pertaining to section 502(b)(10) changes.

The state must also finalize its operating permit fee and submit a revised fee demonstration as necessary. And, the state must either hire the originally forecasted amount of personnel to implement the Title V program or provide a revised workload analysis that adequately describes how the program may be successfully implemented with fewer personnel.

Finally, the state must correct its acid rain regulations to be consistent with EPA's rules as discussed in the technical support document.

Requirements for approval, specified in 40 CFR § 70.4(b), encompass section 112(l)(5) approval requirements for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the Iowa program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also proposing to grant approval, under section 112(l)(5) and 40 CFR 63.91, to Iowa for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and infrastructure programs under section 112 that are unchanged from Federal rules as promulgated. In addition, EPA proposes to delegate existing standards under 40 CFR parts 61 and 63 for both part 70 and non-part 70 sources.

The scope of Iowa's part 70 program that EPA proposes to approve in this notice would apply to all part 70 sources as defined in the approved program within Iowa.

III. Administrative Requirements

A. Request for Public Comments

Copies of Iowa's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

IV. Miscellaneous

A. Proposed Rulemaking Action

List of Subjects in 40 CFR Part 70

Environmental protection, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 3, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 95–10244 Filed 4–25–95; 8:45 am]

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VOL 60 ISS 80 AP 26 1995 UMI

40 CFR Part 180

[OPP-300382; FRL-4945-5]

RIN 2070-AC18

Summer Squash; Definitions and Interpretations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.1(h) be amended to expand EPA's interpretation for the application of tolerances and exemptions from the requirement of a tolerance established for pesticide chemicals in or on the raw agricultural commodity summer squash to include chayote fruit. The proposed amendment to 40 CFR 180.1(h) is based, in part, on recommendations of the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [OPP-300382], must be received on or before May 26, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.Hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Paragraph (h) of 40 CFR 180.1 provides a listing of general commodity terms and EPA's interpretation of those terms as they apply to tolerances and exemptions from the requirement of a tolerance for pesticide chemicals under section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a. General commodities are listed in column A of 40 CFR 180.1(h), and the corresponding specific commodities, for which tolerances and exemptions from the requirement of a tolerance established for the general commodity apply, are listed in column B. The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has requested that 40 CFR 180.1(h) be amended by revising the current interpretation for the general commodity term "summer squash," which is listed in column A, by adding the specific commodity term "chayote" to column B. The revised column B would read as follows: "Fruits of the gourd (Cucurbitaceae) family that are consumed when immature, 100% of the fruit is edible either cooked or raw, once picked it cannot be stored, has a soft rind which is easily penetrated, and if seeds were harvested they would not germinate; e.g., *Cucurbita pepo* (i.e, crookneck squash, straightneck squash, scallop squash, and vegetable marrow); *Lagenaria* spp. (i.e., spaghetti squash, hyotan, cucuzza); *Luffa* spp. (i.e., hechima, Chinese okra); *Momordica* spp. (i.e., bitter melon, balsam pear, balsam apple, Chinese cucumber); *Sechium edule* (chayote); and other cultivars and/or hybrids of these."

EPA has completed an evaluation of the proposed amendment and concludes that tolerances established for the raw agricultural commodity summer squash are adequate to cover pesticide residues in or on chayote fruit. Chayote is a member of the Cucurbitaceae family which includes squash, cucumbers, pumpkins, melons, and gourds. Chayote fruit is similar to summer squash, in that they are harvested at an immature stage. Like summer squash, the outside of the chayote fruit is hard while the inside is soft and pulpy. Cultural practices and pest problems associated with chayote production are also similar to those for summer squash production.

Based on the above information, the Agency concludes that it is appropriate that the general commodity "summer squash" should be interpreted for tolerance purposes to include the corresponding specific commodity chayote fruit. Therefore, it is proposed that the changes to 40 CFR 180.1(h) be made as set forth below.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300382]. All written comments filed in response to this proposal will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Although this regulation does not establish or raise a tolerance level or establish an exemption from the requirement of a tolerance, the impact of the regulation would be the same as establishing new tolerances or exemptions from the requirement of a tolerance. Therefore, the Administrator concludes that this rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 13, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1(h) by amending the table therein by revising the entry for summer squash, to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
Summer squash	Fruits of the gourd (Cucurbitaceae) family that are consumed when immature, 100% of the fruit is edible either cooked or raw, once picked it cannot be stored, has a soft rind which is easily penetrated, and if seeds were harvested they would not germinate; e.g., *Cucurbita pepo* (i.e, crookneck squash, straightneck squash, scallop squash, and vegetable marrow); *Lagenaria*, spp. (i.e., spaghetti squash, hyotan, cucuzza); *Luffa* spp. (i.e., hechima, Chinese okra); *Momordica* spp. (i.e., bitter melon, balsam pear, balsam apple, Chinese cucumber); *Sechium edule* (chayote); and other cultivars and/or hybrids of these.

* * * * *

[FR Doc. 95-10253 Filed 4-25-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 3E4249/P613; FRL-4949-2]

RIN 2070-AC18

Fenarimol; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish a tolerance for the combined residues of the fungicide fenarimol in or on the imported raw agricultural commodity bananas at 0.5 part per million (ppm). Not more than 0.25 ppm shall be present in the pulp after the peel is removed. DowElanco petitioned for this regulation to establish a maximum permissible level for combined residues of the fungicide.

DATES: Comments, identified by the document control number [PP 3E4249/P613], must be received on or before May 26, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of the comments to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is proposing to establish an import tolerance for the combined residues of the fungicide fenarimol, [*alpha*-(2-chlorophenyl)-*alpha*-(4-chlorophenyl)-5-pyrimidinemethanol] and its metabolites [*alpha*-(2-chlorophenyl)-*alpha*-(4-chlorophenyl)-1,4-dihydro-5-pyrimidinemethanol and 5-(2-chlorophenyl)-(4-chlorophenyl)methyl]-3,4-dihydro-4-pyrimidinol measured as the total of fenarimol and 5-[(2-chlorophenyl)-(4-chlorophenyl)methyl]pyrimidine (calculated as fenarimol)], in or on the raw agricultural commodity bananas at 0.5 part per million (ppm). Not more than 0.25 ppm shall be present in the pulp after the peel is removed. The proposed regulation to establish a maximum permissible level of the fungicide pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, by amending 40 CFR 180.421 to include this commodity was requested in a pesticide petition, PP 3E4249, submitted by DowElanco, 9002 Purdue Rd., Indianapolis, IN 46268-1189. The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include the following:

1. A 1-year dog-feeding study using doses of 0, 1.25, 12.5, and 125 milligrams/kilogram (mg/kg) body weight (bwt)/day. The no-observed-effects level (NOEL) is 12.5 mg/kg bwt/day. The 125 mg/kg bwt/day dose level caused increased serum alkaline phosphatase, increased liver weights, increased *p*-nitroanisole *o*-demethylase activity, and mild hepatic bile stasis.

2. An initial 2-year chronic feeding/oncogenicity study in rats using dietary concentrations of 0, 50, 130, and 350 ppm (equivalent to doses of 0, 2.5, 6.5, and 17.5 mg/kg bwt/day). In a **Federal Register** document published in the issue of March 5, 1986 (51 FR 7567), the Agency indicated fenarimol to be oncogenic. In that document, the Agency's initial conclusion that fenarimol was oncogenic was based on a finding in the 2-year rat study of a statistically significant increase in hepatic lesions (adenomas and

VOL 60 ISS 80 AP 26 1995 UMI

hyperplastic nodules) at the highest dose tested (17.5 mg/kg bwt/day), when data for male and female rats were combined.

Since that time, the compound has been reevaluated. The Agency now considers it more appropriate to separate data for males and females and also to separate hyperplastic nodules from tumors (adenomas and carcinomas). When a reevaluation of the hepatic lesions for males and females was performed separately with the elimination of hyperplastic nodules, the data did not demonstrate a statistically significant increased incidence in adenomas and/or carcinomas in either sex. Moreover, the mouse oncogenicity study did not demonstrate oncogenic potential at dose levels up to and including a dose level of 85.7 mg/kg bwt/day (the highest dose level tested).

Because of the appearance of a low incidence of fatty change of the liver (nonneoplastic pathological lesions) in the low-dose groups in this study, it was unclear if a NOEL for fatty change of the liver was established in this study.

3. Additional 2-year chronic feeding/oncogenicity studies in rats using dietary concentrations of 0, 12.5, 25, and 50 ppm (equivalent to doses of 0, 0.63, 1.25, and 2.5 mg/kg bwt/day). The purpose of these additional studies was to assist in determining a NOEL for fatty liver changes. The first of these two studies was compromised, however, by an outbreak of chronic respiratory disease which reduced survival in all experimental groups, including controls. The study was then repeated with the same dose levels. In the second study, no fatty liver changes or oncogenic effects were observed at the doses tested under the conditions of the study. Using data from all three 2-year studies, a NOEL for fatty liver change of 6.5 mg/kg bwt/day was established.

4. A 2-year oncogenicity study in mice using dietary concentrations of 0, 50, 170, and 600 ppm (equivalent to 0, 7, 24.3, and 85.7 mg/kg bwt/day) that was negative for oncogenic effects at all doses tested under the conditions of the study. At 600 ppm, an increase in fatty change of the liver was demonstrated. The NOEL for this effect was 170 ppm (24.3 mg/kg bwt/day).

5. A rabbit teratology study that was negative for teratogenic effects at all doses tested (0, 5, 10, and 35 mg/kg).

6. A rat teratology study that demonstrated hydronephrosis at 35 mg/kg (doses tested were 0, 5, 13, and 35 mg/kg). A second study in rats (with a postpartum evaluation) again demonstrated hydronephrosis at 35 mg/kg, but also indicated that the dose level of 35 mg/kg was associated with a maternal toxic effect (decreased body weight gain during treatment). The Agency considers the NOEL for hydronephrosis and for maternal toxicity to be 13 mg/kg.

7. A multigeneration reproduction study in rats that demonstrated decreased fertility in males and delayed parturition and dystocia in females at 5 mg/kg bwt/day. The NOEL for reproductive effects in this study was 2.5 mg/kg bwt/day.

8. Multigeneration reproduction studies in guinea pigs and mice that were negative for reproductive effects at doses up to 35 mg/kg bwt/day (highest dose tested) and 20 mg/kg bwt/day, respectively.

9. An aromatase inhibition study in rats that showed fenarimol to be a moderately weak inhibitor of aromatase activity.

The adverse reproductive effects observed in the rat multigeneration reproduction study are considered to be a species-specific effect caused by aromatase inhibition. This enzyme promotes normal sexual behavior in rats and mice, but not in guinea pigs, primates, or man. A NOEL of 35 mg/kg bwt/day for reproductive effects relevant to humans was established in the multigeneration reproduction study in guinea pigs.

10. A mouse lymphoma forward mutation assay, a DNA repair synthesis study in rat liver culture systems, gene mutation assays in *Salmonella typhimurium* (Ames test) and *Escherichia coli*, a dominant-lethal assay in Wistar rats, an assay for transformation activity in the C3H/10T 1/2 embryonic mouse fibroblast, and an *in vivo* assay for chromosome aberration in the Chinese hamster. Fenarimol did not demonstrate mutagenic activity in any of these studies. Furthermore, fenarimol did not induce altered foci or neoplastic nodules in an initiation and promotion study in rat liver tissue.

Based on the above findings, the Agency concluded that fenarimol was not oncogenic in long-term studies in rats and mice under the test conditions in which the highest dose tested for both species approached a maximum-tolerated dose as evidenced by increased fatty change in the liver.

The acceptable daily intake (ADI) based on the 2-year rat chronic feeding study (NOEL of 6.5 mg/kg bwt/day) with an uncertainty factor of 100 is calculated to be 0.065 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) from previously established tolerances and the tolerance established here is 0.000431 mg/kg/day for the general population and utilizes 0.66% of the ADI. The percentage of the ADI for the most highly exposed subgroup, non-nursing infants (less than 1 year old), is 2.68%. The TMRC was calculated based on the assumption that fenarimol occurs at the maximum legal limit in all of the dietary commodities for which tolerances are proposed. Even with this probable large overestimate of exposure/risk, the TMRC is well below the ADI for the population as a whole and for each of the 22 subgroups considered. Thus, the dietary risk from exposure to fenarimol appears to be minimal.

The nature of the residues is adequately understood, and adequate analytical methodology is available for enforcement. Prior to their publication in the Pesticide Analytical Manual, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 1128C, CM 2, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703)-305-5232.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerances are established as set forth below. By way of public reminder, this notice also reiterates the registrant's responsibility under section 6(a)(2) of FIFRA, to submit additional factual information regarding adverse effects on the environment and to human health by these pesticides.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E4249/P613]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 17, 1995.

Donald E. Stubbs,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.421(b) by revising the table therein, to read as follows:

§ 180.421 Fenarimol; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million
Bananas[1]	0.5 (Not more than 0.25 ppm shall be present in the pulp after peel is removed)
Cherries	1.0.
Grapes	0.2.

[1]There are no United States registrations for bananas as of April 26, 1995.

[FR Doc. 95–10252 Filed 4–21–95; 2:56 pm]

BILLING CODE 6560–50–F

40 CFR Part 300

[FRL–5196–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Jackson Township Landfill Superfund Site from the National Priorities List; Request for Comments.

SUMMARY: The United States Environmental Protection Agency (EPA), Region II, announces its intent to delete the Jackson Township Landfill Site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR Part 300 which is the National Oil & Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the New Jersey Department of Environmental Protection (NJDEP) have determined that no further remedial action by the responsible party is appropriate under CERCLA. In addition, EPA and NJDEP have determined that remedial activities conducted to date at the site have been protective of public health, welfare, and the environment.

DATES: Comments concerning the deletion of the Jackson Township Landfill Site from the NPL may be submitted on or before May 26, 1995.

ADDRESSES: Comments should be submitted to: Joseph Gowers, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, New York 10007–1866.

Comprehensive information on the Jackson Township Landfill Site is contained in the NJDEP public docket and is available for viewing, by appointment only, at: NJDEP-Bureau of Community Relations, 401 East State Street, CN 413, Trenton, NJ 08625, Phone: (609) 984–3081, 8.30 AM to 4.30 PM—Monday through Friday (excluding holidays), Contact: Donald Kakas.

Information on the Site is also available for viewing at the Jackson Township Landfill Site Administrative Record Repositories located at:

Jackson Township Municipal Complex, RD#4, Box 1000, Jackson, NJ 08527, Monday-Friday: 9am–5pm, (908) 928–1200

Ocean County Library, 101 Washington Street, Toms River, NJ 08753, Monday-Friday: 9am–9pm, Saturday: 9am-5pm (908) 349–6200

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

EPA Region II announces its intent to delete the Jackson Township Landfill Site from the NPL and requests public comment on this deletion. The NPL is Appendix B to the NCP, which EPA promulgated pursuant to Section 105 of CERCLA, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (the Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions, if conditions at the site warrant such action.

EPA will accept comments concerning the deletion of the Jackson Township Landfill Site from the NPL for 30 days after publication of this notice in the **Federal Register** until May 26, 1995.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Jackson Township Landfill Site meets the NPL deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the

VOL 60 ISS 80 AP 26 1995 UMI

NPL. In accordance with 40 CFR 300.425 (e)(1)(i)–(iii), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with NJDEP, will consider whether any of the following criteria has been met:

(i) Responsible or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or to the environment and, therefore, taking remedial measures is not appropriate.

Deletion of a site from the NPL does not preclude eligibility for subsequent Fund-financed actions if future conditions warrant such actions. Section 300.425(e)(3) of the NCP states: "All releases deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site shall be restored to the NPL without application of the HRS [Hazard Ranking System]."

III. Deletion Procedures

The NCP provides that EPA shall not delete a site from the NPL until the State in which the release was located has concurred, and the public has been afforded an opportunity to comment on the proposed deletion. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts. The NPL is designed primarily for information purposes and to assist Agency management.

EPA Region II will accept and evaluate public comments before making a final decision to delete this site. The Agency believes that deletion procedures should focus on notice and comment at the local level. Comments from the local community may be most pertinent to deletion decisions. The following procedures were used for the intended deletion of the Jackson Township Landfill Site:

1. EPA Region II has recommended deletion and has prepared the relevant documents.

2. The NJDEP has concurred with the deletion decision.

3. Concurrent with the Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate federal, state and local officials, and other interested parties.

The comments received during the comment period will be evaluated before any final decision is made. EPA Region II will prepare a Responsiveness Summary, if necessary, which will address the comments received during the public comment period.

If, after consideration of these comments, EPA decides to proceed with the deletion, the EPA Regional Administrator will place a Notice of Deletion in the **Federal Register**. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary, if any, will be made available to local residents by EPA Region II.

IV. Basis for Intended Site Deletion

The following summary provides the Agency's rationale for recommending deletion of the Jackson Township Landfill Site, Ocean County, New Jersey, from the NPL.

The Jackson Township Landfill Site is located off Lakehurst Avenue in Jackson Township, Ocean County, New Jersey. Jackson Township purchased the 135 acre landfill, which is situated in a regional reserve known as the New Jersey Pinelands, in 1972. The property was previously owned and mined by Glidden Corporation. Approximately 20 acres of the property were used for the disposal of various wastes.

In 1977, there were multiple complaints of medical problems associated with the use of area ground water. Subsequently, the NJDEP ordered groundwater analyses to be conducted in the vicinity of the landfill. Based upon the results of these analyses, NJDEP concluded that a segment of the Cohansey aquifer and several domestic wells had been contaminated by hazardous substances disposed of at the Jackson Township Landfill. The NJDEP used Spill Fund monies to provide bottled potable water for residences impacted by the ground water contamination.

In 1978, NJDEP ordered Jackson Township to stop disposing of liquid wastes at the landfill. In 1980, a citizen lawsuit resulted in a municipal water system extension to properties affected or potentially affected by contaminants disposed of at the landfill. The landfill was closed by order of the Superior Court of New Jersey in February 1980.

Sampling of 22 monitoring wells and eight domestic wells was performed in December 1981 and February 1982. Results of this sampling indicated that contaminants were present in ground water at levels only slightly exceeding criteria established for the protection of ground water. In April and December of 1982, the NJDEP sampled seventeen shallow and deep monitoring wells at and in the vicinity of the landfill. Organic compounds were only detected above method detection limits in one well, and inorganics rarely exceeded established criteria during this sampling event. Additional ground water sampling conducted in 1985 revealed similar results.

In December 1982, the Jackson Township Landfill was included on the National Priorities List of Superfund sites.

In 1988, the NJDEP and Jackson Township reached an agreement, known as the Judicial Consent Order (JCO), which required Jackson Township to reimburse the NJDEP for Spill Compensation Fund monies spent by the NJDEP. In addition, the JCO required Jackson Township to arrange for and fund the investigation and remediation of the landfill. Throughout 1989 and 1990, a Remedial Investigation (RI) was conducted in which air, surface water, ground water and soil studies were performed.

During performance of the RI, 22 ground water monitoring wells at and around the landfill were sampled. In addition, four surface water and sediment samples were collected in the Ridgeway and Obhanan-Ridgeway Branches, which are both tributaries to the Toms River. No site-related compounds were detected in surface water samples above Federal or State Surface Water Quality Criteria. Similarly, no compounds were detected in sediments above levels of concern developed in the Risk Assessment for the site.

Nine soil borings were also installed at the Jackson Township Landfill during performance of the RI. Contaminants were only detected in soils at low levels. Results of the RI indicate that contaminant levels have continued to decrease due to natural attenuation.

A Risk Assessment was conducted based upon the results of the RI. The Risk Assessment concluded that there is no unacceptable current or potential future risk to public health and the environment associated with the landfill.

The September 27, 1994 Record of Decision (ROD) for the Jackson Township Landfill site selected the No Further Action remedy, because the Risk Assessment has shown that no further action is necessary to protect human health and the environment. Furthermore, the ROD provides for the performance of a review within five (5) years of signing the ROD to ensure that the no further action remedy continues to provide adequate protection of human health and the environment.

Having met the deletion criteria, EPA, with concurrence of the State of New Jersey, proposes to delete this site from the NPL. EPA and NJDEP have determined that the response actions conducted to date are protective of human health and the environment.

Dated: April 10, 1995.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 95–10146 Filed 4–25–95; 8:45 am]

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VOL
60
ISS
80
AP
26
1995
UMI

Notices

Federal Register
Vol. 60, No. 80
Wednesday, April 26, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Partially Closed Meeting

Committee: Malaria Vaccine Program Advisory Committee.

Date and Location: TvT Conference Room, 1601 North Kent Street, Suite 1104, Arlington, VA 22209.

1. April 27, 9 am–1 pm, (open session)
2. April 27, 1 pm–2:00 pm, (closed session)
3. April 27, 2 pm–5:00 pm, (open session)

Agenda: The committee will (1) review progress towards malaria vaccine development by USAID-funded and other invited investigators and (2) review procurement actions, both current and planned. Closed Meeting: Portions of the meeting are closed under exemption 9(B) of 5 U.S.C. 552(b) to discuss proposals, scopes of work, cost estimates, and other sensitive procurement information. Disclosures of such information would be likely to significantly frustrate implementation of current and futures procurement by USAID.

FOR FURTHER INFORMATION CONTACT: Steve Landry, Ph.D., Malaria Vaccine Development Program, USAID Office of Health and Nutrition, (SA–18 Room 1238), Washington, DC 20523–1817, (703) 875–4508. John Tomaro, Chief, Environmental Health Division, Office of Health and Nutrition, Center for Population, Health and Nutrition, Bureau for Global Programs, Field Support and Research.

Dated: April 21, 1995.

Mike Kitay,

Office of the General Counsel.

Charge to the Scientific Consultants Group

April 27, 1995.

The Scientific Consultants Group (SCG) is charged with providing USAID with advice regarding its efforts to develop vaccines against malaria. During this meeting, the SCG is requested to make comments and recommendations in the following areas:

(1) The role of the SCG
(2) The MVDP progress on:
- MAP Initiative
- MSP–1 Initiatives
- MVDP Primate Program
- Field Studies in Kenya

(3) The appropriateness of MVDP plans for new activities:
- SERA Initiative
- AMA–1 Initiative

(4) The MVDP processes for selecting and developing new antigens
(5) The coordination among USAID/TDR/CEC
(6) The projected future scope and direction of the MVDP

USAID-Malaria Vaccine Development Program, Meeting of the Scientific Consultants Group

April 27, 1995.

9:00 a.m. to 5 p.m.

- Welcome—Representative of the Office of Health and Nutrition.
- Announcements/Introductions—Dr. Steve Landry.
- Review of Agenda—Dr. Steve Landry/Dr. Robin Powell.
- Approval of Winter '94 Minutes—Dr. Robin Powell/SCG Members.
- Review of the Role of the SCG—Dr. Steve Landry/Dr. Robin Powell.
- Discussion and Comment—SCG Members.
- Charge to the SCG—John Tomaro/Dr. Robin Powell.

Coffee Break

- MVDP Update.

Current Initiatives-Overview—Dr. Steve Landry
MAP Initiative—Dr. Carter Diggs
MSP–1 Initiatives—Dr. Carter Diggs
MVDP Primate Program—Dr. Steve Landry
Field Studies in Kenya—Dr. Steve Landry
Discussion and Comment—SCG Members
New Initiatives
SERA Initiative—Dr. Carter Diggs
AMA-1 Initiative—Dr. Carter Diggs
Discussion and Comment—SCG Members

Lunch

- MVDP process for selecting developing new antigens (closed session—Drs. Landry and Diggs.
- Discussion and Comment (closed session)—SCG Members.
- MVDP/TDR/CEC Coordination—Dr. Steve Landry.
- Discussion and Comment—SCG Members.
- Future directions/priorities for the MVDP—Drs. Landry and Diggs/SCG Members.
- Discussion and Comment—SCG Members.
- Deliberations, Conclusions and Recommendations—SCG Members.
- Debriefing—SCG/David Cot.
- Plans for the next meeting.

[FR Doc. 95–10269 Filed 4–25–95; 8:45 am]

BILLING CODE 5116–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 95–031–1]

Availability of Environmental Assessment and Finding of No Significant Impact

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment and a finding of no significant impact for the issuance of a conditional veterinary biological product license. A risk analysis, which forms the basis for the environmental assessment, has led us to conclude that issuance of this conditional license will not have a significant impact on the quality of the human environment. Based on our finding of no significant impact, we have determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT.** Please refer to the docket number of this notice when requesting copies. Copies of the environmental assessment and finding of no significant impact (as well as the risk analysis with confidential business information removed) are also available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Veterinary Biologics, BBEP, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1237; telephone (301) 734–8400; fax (301) 734–8910.

SUPPLEMENTARY INFORMATION: A veterinary biological product regulated under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. The regulations in 9 CFR part 102 regarding the licensing of biological products provide that a conditional veterinary biological product license may be issued to meet an emergency situation, limited market, local situation, or other special circumstance. The special circumstance addressed here is the current raccoon rabies epizootic in the United States. The product being issued a conditional license is intended for vaccinating raccoons against rabies. No other licensed product is currently available for this purpose. The vaccination of raccoons is proposed to limit the further spread of the raccoon rabies epizootic, and to prevent the spread of rabies to domestic animals and to humans. Conditionally licensed products are required to be pure and safe, and have a reasonable expectation of efficacy.

In determining whether to issue a conditional license for the veterinary biological product referenced in this notice, the Animal and Plant Health Inspection Service (APHIS) conducted a risk analysis to assess the product's potential effects on the safety of animals, public health, and the environment. Based on that risk analysis, APHIS has prepared an environmental assessment. APHIS has concluded that issuance of a conditional veterinary biological product license for the veterinary biological product referenced in this notice will not significantly affect the quality of the human environment. Based on the finding of no significant impact, we have determined that there is no need to prepare an environmental impact statement.

An environmental assessment and a finding of no significant impact have been prepared for the issuance of a conditional veterinary biological product license for the following veterinary biological product: Rabies Vaccine, Live Vaccinia Vector; Code 1901.R0; to be issued to Rhone Merieux, Inc., Establishment License No. 298. This recombinant rabies vaccine is intended for vaccinating raccoons against rabies, and is not intended for use in pets. The conditional license restricts the use of this product to State or Federal Government agencies administering wildlife rabies control programs. The availability of the recombinant rabies vaccine for use in rabies control programs may be useful in limiting the spread of the current rabies epizootic in the United States.

A conditional license has been issued on the basis that the product has been demonstrated to be pure and safe, and to have a reasonable expectation of efficacy. The product has not met the efficacy requirements of title 9, Code of Federal Regulations, § 113.312 for rabies vaccines; however, a reasonable expectation of efficacy has been demonstrated in the studies that have been conducted to date. The efficacy of this recombinant rabies vaccine will be further evaluated during the conditional license period. The State and Federal Government agencies using the rabies vaccine will be provided with detailed instructions for safely using the recombinant vaccine. These instructions include continued use of the following mitigative procedures that have been implemented for the field tests previously conducted with this product:

1. Public education efforts, including education efforts directed at school-aged children, should be conducted prior to distributing the baits containing the recombinant rabies vaccine. Warning labels should be attached to the baits to minimize the possibility of accidental exposure of members of the local populations in the areas where the vaccine-laden baits are distributed. The warning labels should clearly identify the recombinant vaccine and list the phone number for the local public health authorities. The public education efforts should be conducted prior to distributing the baits and should include newspaper articles, local television reports, and the distribution of brochures and posters. Public information meetings may also be used. In addition, when the baits are distributed, signs should be posted at the periphery and at strategic points within the distribution area notifying visitors of the rabies control efforts and warning them not to disturb the vaccine-laden baits.

2. The local public health authorities in the areas where the recombinant rabies vaccine is used should be notified prior to the distribution of the baits. The public health authorities should be instructed to inform the authorizing State or Federal Government agency of any reported human contacts with the vaccine-laden baits. Individuals who may have been exposed to the vaccine should be examined for any adverse reactions or clinical signs of orthopoxvirus infection, and have blood samples drawn and analyzed for the presence of antibodies of rabies and/or vaccinia.

3. The personnel conducting the rabies control programs should be trained in the appropriate precautions and techniques for assembling, handling, and distributing the vaccine-laden baits. These personnel should be encouraged to be vaccinated against vaccinia, as recommended by the U.S. Public Health Service [Morbidity and Mortality Weekly Report; Recommendations and Reports; Vaccinia (Smallpox) Vaccine, Recommendations of the Immunization Practices Advisory Committee (ACIP), Vol. 40, pp. 1–10 (1991)], and also be vaccinated against rabies. All personnel should be non-pregnant adults at least 18 years of age, who are free of any known immunosuppressive conditions. Regular blood samples should be collected from the personnel and monitored for the presence of rabies and vaccinia antibodies.

4. The filling of the liquid vaccine into ampules for assembly into the baits should be conducted according to Biosafety Level-2 (BL–2) criteria [CDC–NIH Manual: Biosafety in Microbiological and Biomedical Laboratories, Third Edition (1993) pp. 18–24].

5. Any adverse reactions observed in the areas where the recombinant rabies vaccine is used should be reported to the licensed manufacturer, who will forward this information to Veterinary Biologics, APHIDS.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS NEPA Implementing Procedures (60 FR 6000–6005, February 1, 1995).

Done in Washington, DC, this 20th day of April 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–10241 Filed 4–25–95; 8:45 am]

BILLING CODE 3410–34–M

VOL
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DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-701, C-307-702]

Certain Electrical Conductor Aluminum Redraw Rod From Venezuela; Notice of Final Court Decision and Revocation of Antidumping and Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final court decision and revocation of antidumping and countervailing duty orders.

SUMMARY: On February 17, 1995, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) affirmed the International Trade Commission's (ITC) determination on remand that an industry in the United States was not threatened with material injury by reason of imports of certain electrical conductor aluminum redraw rod (EC rod). On March 1, 1995, the ITC published notice in the **Federal Register** of the final Federal Circuit decision affirming its negative remand determination (60 FR 11110). Therefore, we are revoking the antidumping and countervailing duty orders on EC rod from Venezuela.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC. 20230; telephone: (202) 482-5253.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 1988, the Department of Commerce (the Department) determined that EC rod from Venezuela was being subsidized and sold at less than fair value (53 FR 24755, 24763). On August 17, 1988, the ITC determined that a U.S. industry was threatened with material injury by reason of imports of EC rod from Venezuela (53 FR 31111). On August 22, 1988, the Department published in the **Federal Register** the antidumping and countervailing duty orders on EC rod from Venezuela (53 FR 31903, 31904).

Suramerica de Aleaciones Laminadas, C.A., a Venezuelan exporter of EC rod, and others, appealed the ITC determination in the Court of International Trade (CIT). On March 15, 1993, the CIT reversed and remanded the ITC's original determination. On June 2, 1993, the ITC determined on remand that there was no threat of material injury to a U.S. industry. This remand was affirmed by the CIT on August 4, 1993. *Suramerica de Aleaciones Laminadas, C.A.* v. *United States*, 841 F. Supp. 1220 (CIT 1993).

The ITC and petitioner Southwire, Inc., appealed the CIT's decision to the Federal Circuit. On December 30, 1994, the CIT's decision was affirmed by the Federal Circuit. *Suramerica* v. *United States*, Nos. 93-1579 and 94-1021 (Fed. Cir. Dec. 30, 1994). Southwire filed in the Federal Circuit a petition for rehearing and suggestion for rehearing *in banc*. On February 13, 1995, the Federal Circuit denied Southwire's petition for rehearing and declined the suggestion for a rehearing *in banc*. On March 1, 1995, the ITC published notice in the **Federal Register** of the final Federal Circuit decision affirming its negative remand determination.

As a result of the ITC notification that there is no threat of material injury to the U.S. industry, the Department is revoking the antidumping and countervailing duty orders on EC rod from Venezuela. On October 12, 1993 (58 FR 52744), in accordance with *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department stated that, effective August 14, 1993, it would continue the suspension of liquidation on the subject merchandise until the Federal Circuit issued a conclusive decision in this lawsuit. Therefore, revocation of these orders is effective August 14, 1993, for all unliquidated entries.

Scope of Order

Imports covered by these orders are shipments of certain electrical conductor aluminum redraw rod from Venezuela, which is wrought rod of aluminum that is electrically conductive and contains not less than 99 percent aluminum by weight. This merchandise is currently classifiable under item numbers 7604.10.3010, 7604.10.3050, 7604.29.3010, 7604.29.3050, 7605.11.0030, 7605.11.0090, 7605.19.0000, 7605.21.0030, 7605.21.0090 and 7605.29.0000 of the *Harmonized Tariff Schedule* (HTS). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Termination of Suspension of Liquidation

Pursuant to section 516(e)(2) of the Tariff Act of 1930, as amended, the Department will instruct the U.S. Customs service to terminate the suspension of liquidation of EC rod from Venezuela and proceed with liquidation of the subject merchandise, which entered the United States on or after August 14, 1993, without regard to antidumping or countervailing duties.

Dated: April 19, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95-10264 Filed 4-25-95; 8:45 am]

BILLING CODE 3510-DS-P

[C-351-029]

Final Results of Countervailing Duty Administrative Review: Certain Castor Oil Products From Brasil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Cynthia Thirumalai, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-2815 and (202) 482-4087, respectively.

Final Determination

Background

On November 7, 1994, the Department of Commerce (the Department) published in the **Federal Register** (59 FR 55443) the preliminary results of its administrative review of the countervailing duty order on certain castor oil products from Brazil (Preliminary Determination). See 41 FR 11018 (March 16, 1976). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of Review

The merchandise subject to this review is hydrogenated castor oil and 12-hydroxystearic acid. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule ("HTS") subheadings: 1516.20.90 and 1519.19.40. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

This review covers the period January 1, 1992 through December 31, 1992, six companies, and the following 12 programs: (1) Preferential Export Financing under Resolution 950/1009; (2) Income Tax Exemption for Export Earnings; (3) Preferential Export Financing Under CIC-OPCRE 6-2-6; (4) Preferential Financing for industrial Enterprises by the Bank of Brazil; (5) Reduction of Industrial Products Tax (IPI) and Import Duties Under Decreto No. 77.065 through BEFIEX; (6) Preferential Financing for National Trading Companies under Resolution 883 of the Banco Central do Brasil; (7) Accelerated Depreciation for Brazilian-Made Capital Goods; (8) Preferential Financing under Resolution 68 through FINEX; (9) Preferential Financing under Resolution 578/83 through FUNPAR; (10) Preferential Financing under Resolution 579/83 through PROEX and PROSIM; (11) Preferential Financing for the Storage of Merchandise Destined for Export under Resolution 330/Portaria 130 of the Banco Central do Brasil; and (12) Green Yellow Drawback (Portaria 68/83).

Calculation Methodology for Assessment and Cash Deposit Purposes

We calculated the total subsidy on a country-wide basis by first calculating the subsidy for each company subject to the administrative review. We then weight-averaged the rate received by each company by its share of total Brazilian exports of the subject merchandise to the United States, including all companies, even those with *de minimis* and zero rates. Using this methodology we calculated a country-wide rate of 0.03 percent, which is *de minimis*.

Analysis of Program

Income Tax Exemption for Export Earnings

Although this program was eliminated on April 12, 1990, by Decree Law 8,034, Boley was authorized to use the income tax exemption on export earnings under the terms of a contract with the Commission for the Granting of Fiscal Benefits to Special Export Programs (BEFIEX) until its contract expired. Therefore, despite the fact that the income tax exemption for export earnings was eliminated, Boley received residual benefits from the program during the review period. No other company under review used this program.

Programs Found To Be Terminated

We find the following programs to be terminated and find that the respondents did not receive any residual benefits under them during the period of review.

a. Preferential Export Financing under Resolution 950/1009 through CACEX (Carteira de Comercio Exterior) of the Bank of Brazil.

We verified that this program was terminated on August 30, 1990, by Banco Central Bank do Brasil Resolution No. 1,744. See also *Final Negative Countervailing Duty Determination: Silicon Metal from Brasil*, 56 FR 26988, 26989 (June 12, 1991).

b. Preferential Export Financing under CIC-OPCRE 6-2-6.

We verified that, on May 10, 1990, the functions of CACEX of the Bank of Brazil, which administered these export financing loans, were absorbed by the Secretariat of Foreign Trade (SECEX). SECEX was not empowered to perform banking operations and the export financing was discontinued.

c. Reduction of Industrial Products Tax (IPI) and Import Duties under Decreto No. 77.065 through BEFIEX (Comissao par a Concessao de Beneficios a Programas Especials de Exportacao) and CIEX (Comissao para Incentivos a Exportacao).

We verified, that, on April 12, 1990, Decree Law 8,032 limited this program exclusively to imports made by the federal, state, and municipal governments, territories, other political entities, and scientific institutions, thereby eliminating the benefit to commercial enterprises.

d. Preferential Financing for National Trading Companies under Resolution 883 of the Banco Central do Brasil.

We verified that Banco Central do Brasil Resolution 1,744 revoked Resolution 883 on August 30, 1990, thereby terminating this program. (*See also, Certain Round-Shaped Agricultural Tillage Tools from Brazil; Preliminary Results of Countervailing Duty Administration Review*, 57 FR 10885, 10886 (March 31, 1992).)

e. Preferential Financing under Resolution 68 through FINEX.

We verified that this program was terminated on April 5, 1990, after it failed to be reenacted within two years of April 5, 1988, the date on which Brazil's new constitution came into effect. Article 4 of the new constitution provided that all programs requiring funding from the national treasury had to be reenacted within a two-year period or cease to exist. Legislation to reenact preferential financing through FINEX was not passed and the program ceased to exist.

f. Preferential Financing under Resolution 579/83 through PROSIM and PROEX (BNDES).

We verified that preferential financing through PROSIM was terminated on February 4, 1985, by BNDES Resolution 607, and that preferential financing through PROEX (BNDES) was terminated on September 2, 1991 by BNDES Resolution 762.

g. Preferential Financing for the Storage of Merchandise Destined for Export under Resolution 330/Portaria 130 of the Banco Central do Brasil.

We verified that this program was terminated on August 21, 1984, by Central Bank Resolution 950.

Programs Found To Be Not Used

We find that respondents did not use following programs during the review period:

a. Preferential Financing for Industrial Enterprises by the Bank of Brazil
b. Preferential Financing under Resolution 578/83 through FUNPAR
c. Accelerated Depreciation for Brazilian Made Capital Goods
d. Green Yellow Drawback (Portaria 68/83)

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the net subsidy to be 0.03 percent *ad valorem* for all firms during the period January 1, 1992 through December 31, 1992. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1992 and on or before December 31, 1992.

The Department will instruct the Customs Service to continue to suspend liquidation on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. Because the net subsidy is *de minimus*, however, the cash deposit on shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** will be zero. These instructions shall remain in effect until publication of the final results of the next administrative review.

VOL 60 ISS 80 AP 26 1995 UMI

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: April 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–10265 Filed 4–25–95; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

[I.D. 041895B]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold meetings on May 8 through May 12, 1995, at the Holiday Inn Crowne Plaza, 700 North Westshore Boulevard, Tampa, FL; telephone: (813) 289–8200.

ADDRESSES: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609; telephone: (813) 228–2815.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION:

Council Meetings

The agenda is as follows:

May 10, 1995

The Council will convene at 8:30 a.m. and recess at 5:30 p.m.

8:45 a.m. to 4:00 p.m.—Receive public testimony on the king mackerel, Spanish mackerel and cobia total allowable catch (TAC) for the 1995–96 season, including recreational bag limits, size limits and commercial trip limits and quotas; and receive final public testimony on Draft Reef Fish Amendment 8 and Draft Reef Fish Amendment 11 (NOTE: Testimony cards must be turned in to staff before the start of public testimony);

4:00 p.m. to 5:30 p.m.—Receive a report of the Mackerel Management Committee and set TAC for the mackerel and cobia stocks for the 1995–96 season, including recreational bag limits, size limits and commercial trip limits and quotas.

May 11, 1995

8:30 a.m. to 5:00 p.m.—Receive a report of the Reef Fish Management Committee.

May 12, 1995

8:30 a.m. to 8:45 a.m.—Receive report of the Budget Committee;

8:45 a.m. to 9:00 a.m.—Receive report of the Shrimp Management Committee;

9:00 a.m. to 9:15 a.m.—Receive report of the Habitat Protection Committee;

9:15 a.m. to 9:30 a.m.—Receive report of the Stone Crab Management Committee;

9:30 a.m. to 10:00 a.m.—Receive report of the Administrative Policy Committee;

10:00 a.m. to 12:00 p.m.—Receive the South Atlantic Fishery Management Council Liaison Report, Bycatch Workshop Report, review Stock Assessment Protocol, Golden Crab Fishery Report, Enforcement Report, Director's Reports and Other Business.

Committee Meetings

May 8, 1995

10:00 a.m. to 12:00 p.m.—Convene meetings of the Stone Crab Management Committee, the Administrative Policy Committee, and the Mackerel Management Committee.

May 9, 1995

8:00 a.m. to 5:30 p.m.—Convene meetings of the Budget Committee, the Shrimp Management Committee, the Habitat Protection Committee, and the Reef Fish Management Committee.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the address above by May 1, 1995.

Dated: April 20, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–10266 Filed 4–25–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 041895A]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of a request to modify permit 825 (P513).

SUMMARY: Notice is hereby given that the Columbia River Inter-Tribal Fish Commission has requested a modification to permit 825 to take additional listed salmon species for the purpose of scientific research.

DATES: Written comments or requests for a public hearing on this modification request must be received on or before May 26, 1995.

ADDRESSES: The modification request, permit, and related documents are available for review upon written request or by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5424).

Written comments, or requests for a public hearing on this modification request should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: This modification to Permit 825 (P513) is requested under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227). The applicant requests authorization for non-lethal take of 1,046 listed juvenile spring/summer chinook salmon (*Oncorhynchus tshawytscha*) and two listed juvenile sockeye salmon (*Oncorhynchus nerka*), to study the occurrence of gas bubble trauma symptoms. The applicant requests a .2% mortality rate.

Those individuals requesting a hearing (see **ADDRESSES**) should set out the specific reasons why a hearing on this particular modification request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this modification request summary are those of the Applicant and do not necessarily reflect the views of NMFS.

Dated: April 20, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–10268 Filed 4–25–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 041195A]

Marine Mammals

AGENCY: National Marine Fisheries Service, (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification no. 2 to scientific research permit 770 (P66G).

SUMMARY: Notice is hereby given that a request for modification of scientific research permit no. 770 submitted by the Alaska Department of Fish and Game, P.O. Box 3–2000, Juneau, AK 99802, has been granted.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Suite 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, Federal Annex, P.O. Box 21668, Juneau, AK 99802 (907/586–7221).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On March 17, 1995, notice was published in the **Federal Register** (60 FR 14426) that a modification of permit no. 770, issued March 20, 1993 (57 FR 10649), had been requested by the above-named organization. The requested modification has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the provisions of section 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The permit was modified to allow an additional 100 harbor seals to be captured, restrained, immobilized, sampled, and flipper tagged, which brings the total number of seals to be handled to 300. Of these, up to 50 each may be muscle biopsy sampled, injected intramuscularly with 10 ml sterile deuterium oxide, and injected with 10 ml of medical grade sterile Evans Blue solution into the extradural intervertebral vein. Specimens collected from harbor seals and spotted seals may be exported to Canada, Netherlands, and on a worldwide basis as the need arises.

Dated: April 18, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–10267 Filed 4–25–95; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Central and Southern Florida Project for Flood Control and Other Purposes, Part V, Coastal Areas South of St. Lucie Canal, Design Memorandum, Canal 51—West End, Control Structure 155A, Pumping Station 319 and Stormwater Treatment Area 1 East, Palm Beach County, Florida

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, along with the South Florida Water Management District (SFWMD) intends to prepare a Draft Environmental Impact Statement (DEIS) on the feasibility of implementing under the State of Florida's Everglades Forever Act of 1994, the Canal 51—West End, Control Structure 155A, Pumping Station 319 and Stormwater Treatment Area 1 East, Palm Beach County, Florida.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and draft EIS can be answered by: William Porter, U.S. Army Engineer District, PO Box 4970, Jacksonville, Florida 32232–0019; Telephone 904–232–2259.

SUPPLEMENTARY INFORMATION: a. The scope of this study is to evaluate implementation of the C–51, West End flood control project. The West Palm Beach Canal (C–51) is a component of the Central and Southern Florida (C&SF) Flood Control Project. The C–51 basin is located in Palm Beach County and extends from the edge of Water Conservation Area (WCA–1) on the West to Lake Worth on the east near the southerly limits of the city of West Palm Beach. The C–51 project will provide flood control for the lower 21 miles of the existing West Palm Beach Canal and 145 square miles of Palm Beach County. Project works for the east end of C–51 have been completed. All engineering and design work for the west end was previously discontinued at the request of the local sponsor pending the development of a mediated plan for resolution of the Everglades litigation. The Everglades Construction Project, a product of the Technical Mediated Plan (TMP), incorporates a substantially modified version of the Federal C–51 project. The TMP consists of modifications to the water management system in the Everglades Agricultural Area (EAA) and includes construction of six large Stormwater Treatment Areas (STAs) to filter nutrients from agricultural runoff before discharges are made to the Everglades. The TMP also alters the C–51 West project to include a Stormwater Treatment Area.

The locally preferred plan to be evaluated has many of the same physical features proposed in the 1992 Detail Design Memorandum (DDM) and are described below. The project will provide 10-year flood protection for the western basin of C–51. The major physical difference between the 1992 DDM plan and the recommended plan is the replacement of the 1,600-acre detention area with the 5,350-acre "locally preferred" STA 1 East. The most significant modification will be the reduction of discharges to Lake Worth, with C–51 West Basin runoff directed instead to Water Conservation Area 1 (The Arthur R. Marshall Loxahatchee National Wildlife Refuge). Runoff from the C–51 West Basin will pass through STA 1E for water quality improvement prior to its discharge to Water Conservation Area 1. In addition to the flood damage reduction benefits provided by the 1992 plan, the modified plan will provide water quality improvement, reduction of damaging freshwater discharges to Lake Worth, and increased water supply for the Everglades and other users.

Physical Data on Project Features is as follows: (1) Stormwater Treatment Area 1 East, with an effective treatment area of 5,350 acres, will be constructed in lieu of the 1,600-acre detention area provided for in the 1992 DDM. Inflows to this area will be delivered by Pump Station 319. Treated discharges will be lifted to WCA–1 by a new outflow pumping station built as part of the Stormwater Treatment Area, (2) Pump Station 319 will be relocated to a point about 1.7 miles east of the presently planned location. The capacity of the pump station will remain about the same, however, the static head differential across the pump station will be reduced as a result of the replacement of the 1,600-acre detention area with STA 1E, (3) Structure S–155A will be constructed in C–51 with a capacity of 1,000 cubic feet per second, (4) C–51 Canal enlargements will be required over a distance of about 4.3

VOL
60
ISS
80
AP
26
1995
UMI

miles between Structure 155A and Pump Station 319.

Environmental Quality: The Technical Mediated Plan will preserve the same flood control benefits that justify the original Corps project. The recommended plan will serve other purposes as well: provide additional water supply for the Everglades (and other urban and environmental users) and provide a filtering area to remove excessive nutrients from agricultural runoff before it is discharged into the Everglades. As an incidental, but important benefit, the plan will also reduce harmful freshwater discharges into Lake Worth at the eastern terminus of C–51.

b. Scoping: The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, State, and local agencies; and other interested persons and organizations. A scoping letter will be sent to interested Federal, State, and local agencies requesting their comments and concerns regarding issues they feel should be addressed in the EIS. Interested persons and organizations wishing to participate in the scoping process should contact the Corps of Engineers at the address above. Significant issues anticipated include concern for: local groundwater recharge, water quality, water supply, recreation, wetlands, fish and wildlife, and land use. Public scoping meetings will be held in the near future, the exact location, dates, and times will be announced in public notices and local newspapers.

c. It is estimated that the DEIS will be available to the public in March 1996.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–10193 Filed 4–25–95; 8:45 am]

BILLING CODE 3710–AJ–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for San Francisco Bay to Stockton, Phase III (John F. Baldwin) Navigation Channel Deepening

AGENCY: U.S. Army Corps of Engineers.

ACTION: Notice of intent.

SUMMARY: John F. Baldwin is part of the San Francisco Bay to Stockton, California Navigation Project authorized by the River and Harbor Act of 1965 as contained in Public Law 89–298, Eighty-Ninth Congress, dated 29 October 1965. The authorization includes improving and deepening existing navigation channels from the San Francisco entrance channel to Port of Stockton. To fulfill the requirements of Section 102(2)(c) of the National Environmental Policy Act, the Corps of Engineers has determined that the proposed action may have significant effect on the quality of the human environment and therefore requires the preparation of an Environmental Impact Statement.

FOR FURTHER INFORMATION CONTACT: For further information about the project and the alternatives, contact Mr. Peter LaCivita, Chief, Environmental Planning Section, Corps of Engineers San Francisco District, 211 Main Street, Rm 918 (CESPN–PE–PP), San Francisco, CA 94105–1905. Phone number (415) 744–3342, fax number (415) 744–3312, internet address placivita@smtp.spd.usace.army.mil

ADDRESSES: Written statements should be mailed no later than June 16, 1995, to the District Engineer, USAED San Francisco, 211 Main Street, San Francisco, California 94105.

SUPPLEMENTARY INFORMATION:

Need for Action

Currently vessels with drafts greater than 35 feet arriving in San Francisco Bay are required to arrive with only a portion of their cargo hulls full, or to off-load a portion of their cargo before proceeding to their respective terminals as far as Point Edith in Suisun Bay. The proposed deepening of the channel will lessen or eliminate this need, reducing transportation costs through increasing fleet efficiency. Safety would improve and environmental risks would decrease due to the inherent reduction in ship traffic.

Summary

San Francisco Bay to Stockton, Phase III (John F. Baldwin) Ship Channel Improvement Project (JFB), starts in San Francisco Bay, extends through San Pablo Bay and Carquinez Strait and into Suisun Bay.

The project consists of dredging four reaches of the channel, three maneuvering areas, one approach area, and one turning basin. The first reach, 3 miles of the West Richmond Channel in central San Francisco Bay through the Richmond-San Rafael Bridge area, is to be deepened from −35 feet to −45 feet MLLW with a bottom width of 600 feet. The second reach to be dredged is the Pinole Shoal Channel, which extends approximately 11 miles across San Pablo Bay and connects the naturally deep waters of San Pablo Bay and Carquinez Strait. This channel will be deepened from −35 MLLW to −45 feet MLLW, and the bottom width reduced from 600 to 520 feet. The first maneuvering area to be dredged is associated with the Pinole Shoal Channel, in the area near the Unocal wharf at Oleum. This area will be dredged to −45 feet MLLW. The Carquinez Strait Channel is the third reach to be deepened as part of the JFB project. This approximately 3.5-mile long channel will be deepened from −35 feet MLLW, with a width of 600 feet to −45 feet MLLW with a width of 520 feet through the shoal areas of Upper Carquinez Strait in the Martinez-Benicia area, tapering to approximately 300 feet at the Interstate 680 (I–680) and Southern Pacific Railroad bridge. The approach area south of the main Carquinez Strait Channel at Martinez will be deepened to −45 feet MLLW and the maneuvering area will be enlarged to include the naturally deep water to the north. The final reach is Bulls Head Shoal Channel, a distance of approximately 2 miles. This reach will be dredged from the existing −35 feet to −45 feet MLLW and after passing through the narrow straits under the railroad bridge, widened from the existing 350 feet to 520 feet. This newly enlarged channel will continue into a 1500-foot trapezoidal turning basin that will be positioned at the upstream end of the reach with a depth of −35 feet MLLW outside of the channel. After leaving the turning basin the channel will revert to current project dimensions upstream of −35 feet MLLW with a width of 350 feet. The volume of material to be dredged from the project is approximately (9 million cubic yards [mcy]).

Alternatives

Alternatives associated with the JFB projects are the No-Action alternative, in which no disposal site would be used and therefore the project would not be constructed, and combinations of sites for disposal of dredged material. A total of ten sites have been identified for disposal and will be evaluated in the EIS/EIR. The sites include one ocean disposal site (EPA-designated San Francisco Deep Ocean Disposal Site [SF–DODS]), one San Francisco Bay disposal site (the Bay Farm Borrow area), and eight land sites. The SF–DODS is located approximately 50 miles west of the Golden Gate Bridge in over 8,000 feet of water. The Bay Farm Borrow Area (BFBA) is located off Bay Farm Island, Alameda County and is, on average, −31 feet MLLW, encompassing over 400 acres. The first land alternative is Leonard Ranch, located in Sonoma County, south of Highway 37, near Port Sonoma-Marin where material would be dried and used as cover material for landfills. Montezuma Wetlands (Phase I) is located in Solano County on Montezuma Slough north of the confluence of the Sacramento and San Joaquin Rivers. Dredged material would be used to restore the site to a tidal wetland. Various Department of Water Resources (DWR) Delta Island sites have been identified through the Long Term Management Strategy (LTMS) as potential land sites for material to be used in levee maintenance. Sites with the most potential for use of dredged material in levee maintenance are Twitchell, Jersey, Sherman, Bradford, and Bethel Islands and Webb Tract.

Scoping

The focus of the DEIS will be on the construction and maintenance of the JFB channel and the associated disposal sites. Interested parties are requested to express their views concerning the proposed activity by June 16, 1995. A scoping meeting for the project will be held in the Bay Room at the George Gordon Center, 500 Court Street in Martinez, Contra Costa County, California on June 1, 1995, starting at 6 p.m.

Agencies and the public are encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. To be most helpful, the scoping comments should clearly describe specific environmental topics or issues which the commentator believes the document should address. Oral and written comments receive equal consideration. Written public comment concerning scoping of the DEIS will be accepted until June 16, 1995. Please address all correspondence to the District Engineer, USAED San Francisco, 211 Main Street, San Francisco, California 94105. For additional information, please contact the person indicated above.

Topics which have already been identified as needing consideration in the DEIS are salinity intrusion, wildlife conservation, endangered species, and sediment and water quality.

The DEIS will be used as the primary information document to secure concurrence in a Federal Coastal Zone Consistency Determination. In addition, the DEIS will be used by the local sponsor to meet its responsibilities under the California Environmental Quality Act, and may also be used by the San Francisco Regional Water Quality Control Board to meet its responsibilities under the Porter-Cologne Act. Other reviews in which the DEIS will be a source of information are the Fish and Wildlife Coordination Act, Endangered Species Act, Clean Water Act, and "trustee agency" reviews by the State of California. The DEIS will be available for public review in Fall, 1995.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–10191 Filed 4–25–95; 8:45 am]

BILLING CODE 3710–19–M

Department of the Navy

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Reserve Center, Jamestown, New York

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Reserve Center, Jamestown, NY, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Real Estate Operations Division, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Helen McCabe, Realty Specialist, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Reserve Center, Jamestown, NY, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the land and facilities at this installation were on July 15, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 21, 1994, the Governor of New York submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Reserve Center, Jamestown, NY, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Reserve Center, Jamestown, NY, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of Jamestown, acting by and through Mayor Richard A. Kimball, Jr. For further information contact the Office of the Mayor, Municipal Building, 4th Floor, Jamestown, NY 14701, telephone (716) 483–7600 and facsimile (716) 483–7591.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Reserve Center, Jamestown, NY, that were declared surplus to the federal government on July 15, 1994.

Land

Approximately 2.48 acres of improved and unimproved fee simple land at the U.S. Naval Reserve Center, in the City of Jamestown, Chautauqua County, NY. In general, all areas are presently available. The station closed on July 1, 1994.

VOL 60 ISS 80 AP 26 1995 UMI

Buildings

The following is a summary of the facilities located on the above described land which are also presently available. Property numbers are available on request.

—Administration/training facility (1 structure). Comments: Approx. 36,561 square feet.

—Flammables storage facility (1 structure). Comments: Approx. 49 square feet.

—Garage facility (1 structure). Comments: Approx. 480 square feet.

—Miscellaneous facilities (5 structures). Comments: Measuring systems vary. Antenna masts, flagpoles, and fencing.

—Paved areas. Comments: Approx. 3,474 square yards. Parking area and sidewalks.

Expressions of Interest

Pursuant to paragraph 7 (C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Reserve Center, Jamestown, shall submit to the redevelopment authority (City of Jamestown) a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7 (C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Jamestown, NY, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Governor of New York elected to proceed under the new statute, i.e., December 21, 1994.

Dated: April 17, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–10186 Filed 4–25–95; 8:45 am]

BILLING CODE 3810–FF–P

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Reserve Center, Pittsfield, Massachusetts

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Reserve Center, Pittsfield, MA, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Real Estate Operations Division, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Helen McCabe, Realty Specialist, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Reserve Center, Pittsfield, MA, was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the land and facilities at this installation were on July 15, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 20, 1994, the Governor of Massachusetts submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Reserve Center, Pittsfield, MA, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Reserve Center, Pittsfield, MA, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of New Bedford, acting by and through Mayor Edward M. Reilly. For further information contact the Office of the Mayor, City of Pittsfield, 70 Allen St., Pittsfield, MA 02740, telephone (413) 499–9321, and facsimile (413) 442–8043.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Reserve Center, Pittsfield, MA, that were declared surplus to the federal government on July 15, 1994.

Land

Approximately 10.70 acres of improved and unimproved fee simple land and approximately 0.57 acre drainage easement at the U.S. Naval Reserve Center, in the City of Pittsfield, Berkshire County, MA. In general, all areas are presently available. The station closed on July 1, 1994.

Buildings

The following is a summary of the facilities located on the above described land which are also presently available. Property numbers are available on request.

—Administration/training facility (1 structure). Comments: Approx. 21,368 square feet.

—Garage facility (1 structure). Comments: Approx. 756 square feet.

—Gun mount (1 structure). Comments: Approx. 600 square feet. Training mock-up.

—Miscellaneous facilities (3 structures). Comments: Measuring systems vary. Antenna mast, flagpole, and fencing.

—Paved areas. Comments: Approx. 2,216 square yards. Parking area, roads, and sidewalks.

—Signal platform (1 structure). Comments: Approx. 400 square feet. Training mock-up.

—Small arms range (1 structure). Comments: Approx. 1,604 square feet.

—Utilities. Comments: Approx. 190 lineal feet of storm sewer.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Reserve Center, Pittsfield, shall submit to the redevelopment authority (City of Pittsfield) a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Pittsfield, MA, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Governor of Massachusetts elected to proceed under the new statute, i.e., December 20, 1994.

Dated: April 17, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–10187 Filed 4–25–95; 8:45 am]

BILLING CODE 3810–FF–P

Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Reserve Center, New Bedford, Massachusetts

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the redevelopment authority that has been established to plan the reuse of the Naval Reserve Center, New Bedford, MA, the surplus property that is located at that base closure site, and the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

FOR FURTHER INFORMATION CONTACT: John J. Kane, Director, Real Estate Operations Division, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300, telephone (703) 325–0474, or Marian E. DiGiamarino, Special Assistant for Real Estate, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762. For detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Helen McCabe, Realty Specialist, Base Closure Team, Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, Mail Stop #82, Lester, PA 19113–2090, telephone (610) 595–0762.

SUPPLEMENTARY INFORMATION: In 1993, the Naval Reserve Center, New Bedford, MA was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101–510, as amended. Pursuant to this designation, the land and facilities at this installation were on July 15, 1994, declared surplus to the federal government and available for use by (a) non-federal public agencies pursuant to various statutes which authorize conveyance of property for public projects, and (b) homeless provider groups pursuant to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended.

Election To Proceed Under New Statutory Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Public Law 103–421) was signed into law. Section 2 of this statute gives the redevelopment authority at base closure sites the option of proceeding under new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies. On December 20, 1994, the Governor of Massachusetts submitted a timely request to proceed under the new procedures. Accordingly, this notice of information regarding the redevelopment authority fulfills the **Federal Register** publication requirement of Section 2(e)(3) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

Also, pursuant to paragraph (7)(B) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the surplus property at the Naval Reserve Center, New Bedford, MA, is published in the **Federal Register**.

Redevelopment Authority

The redevelopment authority for the Naval Reserve Center, New Bedford, MA, for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the City of New Bedford, acting by and through Mayor Rosemary F. Tierney. For further information contact the Office of the Mayor, City of New Bedford, 133 William St., New Bedford, MA 02740, telephone (508) 979–1450, and facsimile (508) 991–6189.

Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Reserve Center, New Bedford, MA that were declared surplus to the federal government on July 15, 1994.

Land

Approximately 2.02 acres of improved and unimproved fee simple land at the U.S. Naval Reserve Center, in the City of New Bedford, Bristol County, MA. In general, all areas are presently available. The station closed on July 1, 1994.

Buildings

The following is a summary of the facilities located on the above described land which are also presently available. Property numbers are available on request.

—Administration/training facility (1 structure). Comments: Approx. 21,894 square feet.

VOL
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ISS
80
AP
26
1995
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—Flammable storage facility (1 structure). Comments: Approx. 100 square feet.
—Garage facility (1 structure). Comments: Approx. 462 square feet.
—Miscellaneous facilities (2 structures). Comments: Measuring systems vary. Flagpole and fencing.
—Paved areas. Comments: Approx. 4,522 square yards. Parking area, roads, and sidewalks.
—Utilities. Comments: Measuring systems vary. Sanitary sewer, water distribution line (potable), and electrical distribution line.

Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Reserve Center, New Bedford, shall submit to the redevelopment authority (City of New Bedford) a notice of interest, of such governments, representatives, and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(C) and (D) of Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in New Bedford, MA, the date by which expressions of interest must be submitted. Under Section 2(e)(6) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the deadline for submissions of expressions of interest may not be less than one (1) month nor more than six (6) months from the date the Governor of Massachusetts elected to proceed under the new statute, i.e., December 20, 1994.

Dated: April 17, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–10188 Filed 4–25–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Advisory Committee on Human Radiation Experiments; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), notice is hereby given of the following meeting: Advisory Committee on Human Radiation Experiments.

DATES AND TIMES:

May 8, 1995, 9 a.m.–5 p.m.
May 9, 1995, 9 a.m.–5 p.m.
May 10, 1995, 8 a.m.–4 p.m.

PLACE: Doubletree Hotel Park Terrace, 1515 Rhode Island Ave, NW. Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steve Klaidman, The Advisory Committee on Human Radiation Experiments, 1726 M Street, NW, Suite 600, Washington, DC 20036. Telephone: (202) 254–9795 Fax:(202) 254–9828.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Advisory Committee on Human Radiation Experiments was established by the President, Executive Order No. 12891, January 15, 1994, to provide advice and recommendations on the ethical and scientific standards applicable to human radiation experiments carried out or sponsored by the United States Government. The Advisory Committee on Human Radiation Experiments reports to the Human Radiation Interagency Working Group, the members of which include the Secretary of Energy, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Attorney General, the Administrator of the National Aeronautics and Space Administration, the Director of Central Intelligence, and the Director of the Office of Management and Budget.

Tentative Agenda

Monday, April 8, 1995

9:00 a.m. Call to Order and Opening Remarks
9:05 a.m. Approval of Minutes
9:10 a.m. Public Comment
10:30 a.m. Discussion of Report Draft and Recommendations
12:00 p.m. Lunch
1:15 p.m. Discussion of Report Draft and Recommendations (continued)
5:00 p.m. Meeting Adjourned

Tuesday, April 9, 1995

9:00 a.m. Opening Remarks
9:10 a.m. Discussion of Report Draft and Recommendations
12:00 p.m. Lunch
1:15 p.m. Discussion of Report Draft and Recommendations (continued)
5:00 p.m. Meeting Adjourned

Wednesday, May 10, 1995

8:30 a.m. Opening Remarks
8:35 a.m. Discussion of Report Draft and Recommendations
12:00 p.m. Lunch
1:15 p.m. Discussion of Report Draft and Recommendations (continued)
4:00 p.m. Meeting Adjourned

A final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. The chairperson is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make a five-minute oral statement should contact Kristin Crotty of the Advisory Committee at the address or telephone number listed above. Requests must be received at least five business days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Transcript

Available for public review and copying at the office of the Advisory Committee at the address listed above between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 21, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95–10263 Filed 4–25–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG95–42–000, et al.]

GVK Industries Limited, et al.; Electric Rate and Corporate Regulation Filings

April 18, 1995.

Take notice that the following filings have been made with the Commission:

1. GVK Industries Limited

[Docket No. EG95–42–000]

On April 13, 1995, GVK Industries Limited ("Applicant"), U.S. Office, Route 1, Box 197, Biscoe, NC 27209, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant will own an approximately 235 MW (ISO) electric generating facility located in Jegurupadu, Andhra Pradesh, India. The Facility's electricity will be sold exclusively at wholesale, with the possible exception of some retail sales in India. None of the electricity generated by the Facility will be sold to consumers in the United States.

Comment date: May 8, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Jegurupadu Operating and Maintenance Co.

[Docket No. EG95–43–000]

On April 13, 1995, Jegurupadu Operating and Maintenance Company ("Applicant"), U.S. Office, Vice President of Operations, CMS Generation, 330 Town Center Drive, Suite 1000, Dearborn, MI 48126–2712, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant will operate, as an agent of the owner, an approximately 235 MW (ISO) electric generating facility located in Jegurupadu, Andhra Pradesh, India. The facility's electricity will be sold exclusively at wholesale, with the possible exception of some retail sales in India. None of the electricity generated by the Facility will be sold to consumers in the United States.

Comment date: May 8, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. New England Power Co.

[Docket No. ER95–871–000]

Take notice that on April 6, 1995, New England Power Company, tendered for filing an addition to the Service Agreement between New England Power Company and Boston Edison Company for transmission service under NEP's FERC Electric Tariff, Original Volume No. 3.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Portland General Electric Co.

[Docket No. ER95–872–000]

Take notice that on April 6, 1995, Portland General Electric Company (PGE), tendered for filing executed Service Agreements under FERC Electric Tariff, Original Volume No. 2 (PGE–2) with Public Utility District No. 1 of Cowlitz County and the City of Azusa Light & Water Department.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93–2–002 issued July 30, 1993, PGE has requested that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement with the City of Azusa Light & Water Dept. to become effective April 5, 1995. PGE has requested that the executed Service Agreement with Public Utility District No. 1 of Cowlitz County remain effective October 9, 1994, as ordered in the Commission's November 22, 1994 letter order issued in Docket No. ER94–1543–000.

Copies of the filing have been served on the parties included in the Certificate of Service attached to the filing letter.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Electric Clearinghouse, Inc.

[Docket No. ER95–873–000]

Take notice that on April 6, 1995, Electric Clearinghouse, Inc. (ECI), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) approving ECI's application for membership in the WSPP. ECI requests that the Commission amend the WSPP Agreement to include it as a member.

ECI requests an effective date of one day after filing for the proposed amendment. Accordingly, ECI requests waiver of the Commission's notice requirements for good cause shown. (18 CFR 35.3 and 35.11.)

Copies of the filing were served upon the WSPP Executive Committee.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Illinois Power Co.

[Docket No. ER95–874–000]

Take notice that on April 6, 1995, Illinois Power Company (Illinois Power), tendered for filing Amendment No. 18, dated March 28, 1995, to the Interconnection Agreement, dated March 1, 1964, between Illinois Power and Commonwealth Edison Company (Edison). Amendment No. 18 adds a service schedule permitting Illinois Power to sell Firm Power to Edison and amends Article 7 of the Interconnection Agreement.

Illinois Power requests an effective date for its rate schedule of June 1, 1995. Accordingly, the parties request waiver of the Commission's notice requirements to the extent necessary.

Copies of this filing were served upon the Illinois Commerce Commission and Edison.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. The Washington Water Power Co.

[Docket No. ER95–875–000]

Take notice that on April 6, 1995, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, an agreement with the Bonneville Power Administration for the return of transmission losses.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. The Washington Water Power Co.

[Docket No. ER95–876–000]

Take notice that on April 6, 1995, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, an agreement with the Bonneville Power Administration for the return of transmission losses.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. The Montana Power Co.

[Docket No. ER95–877–000]

Take notice that on April 6, 1995, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 a supplement to Rate Schedule FERC No. 188 (a Transmission Agreement between The Montana Power Company and Puget Sound Power & Light Company, dated July 30, 1971). Montana requests that the Commission grant a waiver of the 60-day prior notice requirement pursuant to 18 CFR 35.11.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Audit Pro Incorporated

[Docket No. ER95–878–000]

Take notice that on April 6, 1995, Audit Pro. Incorporated (API), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective on the date of the order.

VOL 60 ISS 80 AP 26 1995 UMI

API intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where API sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. API is not in the business of generating, transmitting, or distributing electric power.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of Oklahoma Southwestern Electric Power Company

[Docket No. ER95–880–000]

Take notice that on April 3, 1995, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively the Companies), tendered for filing an executed coordination transmission service agreement between Companies and the NorAm Energy Services, Inc. (NorAm) and a revised index of purchasers to whom Companies provide service under their Coordination Transmission Service Tariff. The Companies request that the filing be accepted to become effective as of March 1, 1995.

A copy of the filing has been sent to NorAm, the Louisiana Public Service Commission, the Arkansas Public Service Commission and the Oklahoma Corporation Commission.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Atlantic City Electric Co.

[Docket No. ER95–881–000]

Take notice that on April 6, 1995, Atlantic City Electric Company (ACE), tendered for filing an Agreement for Short-Term Energy Transactions between ACE and Engelhard Power Marketing, Inc. ACE requests that the Agreement be accepted to become effective April 7, 1995.

Copies of the filing were served on the New Jersey Board of Regulatory Commissioners.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Cambridge Electric Light Co.

[Docket No. ER95–882–000]

Take notice that on April 6, 1995, Cambridge Electric Light Company (Cambridge), tendered for filing an informational report detailing the charges for non-firm transmission service derived under the formula rate provision of Cambridge's FERC Electric Tariff Original Volume No. 4, accepted by the Commission on September 30, 1987 in FERC Docket No. ER87–600–000.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10216 Filed 4–25–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER95–430–000, et al.]

Phibro Division of Salomon, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 19, 1995.

Take notice that the following filings have been made with the Commission:

1. Phibro Division of Salomon Inc.

[Docket No. ER95–430–000]

Take notice that on April 12, 1995, Phibro Division of Salomon Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Kentucky Utilities Co.

[Docket No. ER95–595–000]

Take notice that on April 10, 1995, Kentucky Utilities Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. TransCanada Northridge Power Ltd.

[Docket No. ER95–692–000]

Take notice that on April 12, 1995, TransCanada Northridge Power Ltd. tendered for filing an amendment in the above-referenced docket.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. IEP Power Marketing, L.L.C.

[Docket No. ER95–802–000]

Take notice that on April 10, 1995, IEP Power Marketing, L.L.C. tendered for filing an amendment in the above-referenced docket.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Texas-New Mexico Co.

[Docket No. ER95–829–000]

Take notice that on March 30, 1995, Texas-New Mexico Power Company (TNMP) tendered for filing (1) a certain letter agreement between TNMP and Public Service Company of New Mexico (PNM) providing for the suspension of Service Schedule G to a certain PNM-TNMP interconnection agreement and (2) Amendment No. 5 of a certain Southwest New Mexico Transmission Project Participation (SWNMT) Agreement among TNMP, PNM, and El Paso Electric Company (EPE). Such interconnection agreement and SWNMT agreement are components of TNMP's Rate Schedule No. 4.

TNMP requests waiver of the Commission's notice requirements and that the two tendered contractual documents be permitted to become effective, in accordance with their provisions, as of the first day of the month following the filing.

TNMP asserts that the filing has been served on PNM, EPE, the Texas Public Utility Commission, and the New Mexico Public Utility Commission.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. West Resources, Inc.

[Docket No. ER95–841–000]

Take notice that on March 31, 1995, Western Resources, Inc., (WRI) tendered for filing a proposed change in its Rate Schedule FERC No. 264 and to Kansas Gas and Electric's (KG&E) Rate Schedule FERC No. 183. WRI states that the change is in accordance with its Electric Power, Transmission and Service Contract with Kansas Electric Power Cooperative (KEPCo) and further that the proposed change for KG&E is in accordance with the Electric Power, Transmission and Service contract between KG&E and KEPCo. Revised Exhibits B set forth Nominated Capacities for transmission, distribution and dispatch service for the contract

years, pursuant to Article IV, Section 4.1 of Rate Schedule FERC Nos. 264 and 183. Revised Exhibits C set forth KEPCo's Nominated Capacities for the Points of Interconnection, pursuant to Article IV, Section 4.1 of Rate Schedule FERC Nos. 264 and 183. Revised Exhibits D set forth KEPCo's load forecast and KEPCo's Capacity Resources intended to provide power and energy to meet the forecast requirement for ten years into the future, pursuant to Article V, Section 5.1 of Rate Schedule FERC Nos. 264 and 183.

Copies of the filing were served upon Kansas Electric Power Cooperative, Inc. and the Kansas Corporation Commission.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Co.

[Docket No. ER95–879–000]

Take notice that on April 3, 1995, Louisville Gas and Electric Company tendered for filing a copy of a service agreement between Louisville Gas and Electric Company and Rainbow Energy Marketing Corp. under Rate GSS.

Notice is also given that the service agreement listed below and filed with the Commission by Louisville Gas and Electric Company is to be cancelled.

Date of agreement	Purchaser	Cancellation date	Cancellation effective
3/28/95	Rainbow Energy Marketing Corp.	3/28/95	3/28/95

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Arkansas Power & Light Co.

[Docket No. FA89–28–005]

Take notice that on April 10, 1995, Arkansas Power & Light Company tendered for filing its refund report in the above-referenced docket.

Comment date: May 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10217 Filed 4–25–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–311–000, et al.]

East Tennessee Natural Gas Company, et al.; Natural Gas Certificate Filings

April 18, 1995.

Take notice that the following filings have been made with the Commission:

1. East Tennessee Natural Gas Co.

[Docket No. CP95–311–000]

Take notice that on April 7, 1995, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP95–311–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to modify an existing meter station in Roane County, Tennessee under East Tennessee's blanket certificate issued in Docket No. CP82–412–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

East Tennessee proposes to replace an obsolete 6-inch orifice meter tube with a 4-inch tube at the existing Harriman meter station, #75–9032, at M.P. 3110–1+8.40 (S.V. 3110B–101) on the 3100–1 Line. This tube replacement will allow the meter station to better match actual volumes being delivered. The installation will not be extensive and will cause minimal disturbance since the replacement tube dimensionally fits the existing piping arrangement. Total capacity at the meter station will be approximately equivalent to current levels due to the reduced operating condition of the existing 6-inch tube. The meter station will still be owned, operated and maintained by East Tennessee. The estimated cost is $39,100 to be funded from the appropriate division's minor capital budget. The firm service customer at the meter station is the City of Harriman, a municipal utility company that supplies residential customers. The tube replacement won't affect any shipper's contract entitlement.

After modification, East Tennessee states there won't be an increase in the delivery quantity under the firm agreement between it and the City of Harriman; delivery of volumes through the meter station won't impact peak day and annual deliveries; the proposed activity isn't prohibited by its existing tariff, and there is sufficient capacity for deliveries without detriment or disadvantage to other customers.

Comment date: June 2, 1995, in accordance with Standard Paragraph G at the end of this notice.

2. Florida Gas Transmission Co.

[Docket No. CP95–316–000]

Take notice that on April 11, 1995, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–316–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for permission and approval to abandon a small portion of an existing lateral line. FGT makes such request, under its blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT is proposing to abandon approximately 6,500 feet of its 6-inch East Mustang Island Lateral, at an estimated cost of $117,476. Specifically, FGT is proposing to abandon a 6,400 foot segment of line in place, 4,500 foot of which is owned by a development corporation, and 1,900 foot of which is located under a road and the adjacent right-of-way; the remaining 100 foot segment which crosses a small boat channel will be removed. It is stated that the portion of line that FGT is proposing to abandon is located in the areas of East Mustang Island and Laguna Madre, Nueces County, Texas. FGT states that the abandonment is necessary due to the encroachment of a residential housing development. FGT further states that it is proposing to abandon that segment of line rather than relocating it, because the relocation of that segment of line would be costly and would disturb an environmentally sensitive area.

FGT also states that service to its two customers located downstream of the proposed abandonment, Gulfside Industries, Ltd. and Valero Industrial

VOL 60 ISS 80 AP 26 1995 UMI

Gas, will continue under FGT's SFTS Rate Schedule and ITS–1 Rate Schedule, respectively, because FGT has constructed, upstream from the proposed abandonment, a new receipt point under the automatic authorization of Section 157.208(a) pursuant to FGT's blanket certificate authorized in Docket No. CP82–553–000.

Comment date: June 2, 1995, in accordance with Standard Paragraph G at the end of this notice.

3. Columbia Gas Transmission

[Docket No. CP95–321–000]

Take notice that on April 12, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599 and Columbia Gulf Transmission Company (Columbia Gulf), of the same address, filed in Docket No. CP95–321–000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain transportation services for Brooklyn Union Gas Company (Brooklyn Union) which were authorized in Docket No. CP83–331–000, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia and Columbia Gulf propose to abandon transportation services under Rate Schedules X–117 and X–90, respectively for the account of Brooklyn Union. Columbia received, on an interruptible basis, up to 10,000 Dth of natural gas per day in Barbour, Randolph and Tucker Counties, West Virginia and made it available to Columbia Gulf for redelivery to Transcontinental Gas Pipeline Corporation in Terrebonne Parish, Louisiana for the account of Brooklyn Union. Columbia and Columbia Gulf state that the transportation agreement has been terminated and no volumes have flowed since November, 1984.

Comment date: May 9, 1995, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10215 Filed 4–25–95; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 5196–0]

Government-Owned Inventions: Available for Licensing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for licensing in the United States in accordance with 35 U.S.C. 207 and 37 CFR part 404. Pursuant to 37 CFR 404.7, the Government may grant exclusive or partially exclusive licenses on any of the inventions listed below three months after the date of this notice.

Copies of the listed patents and patent applications are available from the person indicated below. Requests for copies must include the patent number or patent application serial number. An application for a license should include the information set forth in 37 CFR 404.8, including the applicant's plan for development or marketing the invention.

DATES: Exclusive licenses may be granted for the inventions listed below after July 26, 1995.

FOR FURTHER INFORMATION CONTACT: Alan Ehrlich, Patent Attorney, Office of General Counsel (2379), U.S. Environmental Protection Agency, Washington, D.C. 20460, Telephone (202) 260–7510.

Patents

U.S. Patent No. 5,101,670: Automated Proportional Integrated Sampling System; issued April 7, 1992.

U.S. Patent No. 5,221,230: Paint Spraying Booth with Split-Flow Ventilation; issued June 22, 1993.

U.S. Patent No. 5,294,553: An Improved Method for the Gravimetric Determination of Oil and Grease; issued March 15, 1994.

U.S. Patent No. 5,318,937: Ruthenium-Containing Perovskite Materials, Catalysts and Methods; issued June 7, 1994.

U.S. Patent No. 5,322,052: Fireplace with Destruction of Products of Incomplete Combustion Enhanced by a Gaseous-Fueled Pilot Burner; issued June 21, 1994.

U.S. Patent No. 5,333,511: Portable Controlled Air Sampler; issued August 2, 1994.

U.S. Patent No. 5,396,744: Electrically Induced Radon Barriers; issued March 14, 1995.

U.S. Patent No. 5,411,707: Vacuum Extractor Incorporating a Condenser Column; issuing May 2, 1995.

Patent Applications

U.S. Patent Application No. 07/793,881: Membrane Filter Agar Medium for Detection of Total Coliforms and E. Coli; filed November 18, 1991.

U.S. Patent Application No. 08/023,093: Method for Destruction of Halogenated Organics in Contaminated Media; filed February 26, 1993.

U.S. Patent Application No. 08/057,748: Virtual Impactor for Removing Particles from an Airstream and Method for Using Same; filed May 5, 1993.

U.S. Patent Application No. 08/084,985: Use of Immobilized Film Bioreactor; filed July 2, 1993.

U.S. Patent Application No. 08/148,725: Method for In-Situ Immobilization of Lead in Contaminated Soils, Wastes, and Sediments Using Solid Calcium Phosphate Materials; filed November 8, 1993.

U.S. Patent Application No. 08/150,996: Tandem Refrigeration System; filed November 12, 1993.

U.S. Patent Application No. 08/241,113: Landfill Gas Treatment System; filed May 10, 1994.

U.S. Patent Application No. 08/269,518: Removal of Hydrogen Sulfide from Anaerobic Digester Gas; filed July 1, 1994.

U.S. Patent Application No. 08/296,110: Low Temperature Destruction of Toxics in Pollutant Airstreams; filed August 24, 1994.

Canadian Patent Application No. 2082376: Single Chamber Woodstove Including Gaseous Hydrocarbon Supply; filed November 7, 1992.

Mexican Patent Application No. 92 06436: Hornillo Para Madera De Camara Unica Que Incluye Suministro De Hidrocarburo Gaseoso (Single Chamber Woodstove Including Gaseous Hydrocarbon Supply); filed November 7, 1992.

Dated: April 14, 1995.

Jean C. Nelson,

General Counsel.

[FR Doc. 95–10248 Filed 4–25–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5197–4]

Science Advisory Board; Notification of Public Advisory Committee Meeting(s) Open Meeting(s)

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB office. These meetings are open to the public, but seating is limited and available on a first come basis.

(1) Clean Air Act Compliance Analysis Council (CAACAC) Physical Effects Review Subcommittee (CAACACPERS) Meeting—May 18, 1995

The Clean Air Act Compliance Analysis Council (CAACAC) Physical Effects Review Subcommittee (CAACACPERS) of the Science Advisory Board (SAB) will conduct a one-day meeting on Thursday, May 18, 1995 from 9:00 a.m. to 5:00 p.m. eastern time. The meeting will take place at the Courtyard Marriott Hotel, 2899 Jefferson Davis Highway, Arlington, VA 22202 (tel. 703–549–3434). In this meeting, the CAACACPERS intends to complete edits to its draft report under preparation (it is entitled "Review of Clean Air Act Section 812 Physical Effects Draft Documents"), which critiques six draft documents which have been prepared for review as required by Section 812 of the Clean Air Act (CAA). The CAACACPERS will also have a discussion with Agency staff on additional staff papers and supporting documentation regarding the overall Physical Effects review process (See below for details).

In the meeting, the CAACACPERS will be discussing its draft report edits resulting from a public meeting held on November 15 and 16, 1994 (See **Federal Register**, Vol. 59, No. 191, Tuesday, October 4, 1994, pp.50599–50601), and a public teleconference meeting held April 12, 1995 (See **Federal Register**, Vol. 60, No. 58, Monday, March 27, 1995, pp. 15761–15763) relating to review drafts of the Physical Effects Documents pertaining Section 812 of the Clean Air Act (CAA), namely (1) Ozone, (2) Sulphur Oxides, (3) Particulate Matter, (4) Carbon Monoxide, (5) Nitrogen Oxides, and (6) Lead, and a draft methodology document, which outlines the overall strategy of this effort. The proposed charge to the CAACACPERS relating to this review is listed in the October 4, 1994 **Federal Register** notice.pollutant?,

Additional draft documents, such as the methodology used to aggregate the effect of hazardous air pollutants, up-to-date assessments of the significance of recent research, and select methodology papers will be reviewed as necessary and appropriate. Additional draft documents may be made available by the Agency prior to the review. The following draft documents have been provided to the CAACACPERS in April for the April 12, 1995 teleconference and the May 18, 1995 CAACACPERS review meeting:

(1) A May 11, 1994 memorandum on non-cancer health benefits,

(2) A methodology for analysis of indirect exposure to hazardous air pollutants,

(3) A March 22, 1993 memorandum which provides a draft summary of methodology used for cancer risk from stationary sources,

(4) A September 30, 1992 memorandum on the retrospective analysis for Section 812(a) benefits study,

(5) A March 5, 1993 memorandum on cancer risk estimates from stationary sources,

(6) A November 11, 1994 draft on direct inhalation incidence benefits,

(7) Drafts on the effects of: air pollutants on agriculture; criteria air pollutants on forests; criteria air pollutants on ecosystems; air pollutants on wetland ecosystems; air pollutants on visibility; and air pollutants on materials—a summary of science, and

(8) A January 19, 1995 draft document entitled "The impact of the Clean Air Act on lead pollution: emissions reductions, health effects, and economic benefits from 1970 to 1990."

For copies of the Agency's draft Section 812 CAA draft documents, including all the above listed drafts, please contact Ms. Eileen Pritchard, Secretary, U.S. Environmental Protection Agency, Office of Policy Planning and Evaluation (OPPE), Economic Analysis and Innovation Division (Mail Code 2127), 401 M Street, S.W., Washington, D.C. 20460. Tel. (202) 260–3354, and FAX (202) 260–5732. For a discussion of technical aspects of the Agency draft documents, please contact Mr. James DeMocker of EPA's Office of Policy Analysis and Review (OPAR) at (202) 260–8980, or Mr. Tom Gillis of EPA's Office of Policy, Planning and Evaluation (OPPE) at (202) 260–4181.

Members of the public who wish to make a brief oral presentation at this meeting should contact Mrs. Diana L. Pozun, Staff Secretary, RCSS, (tel. 202–260–6552; FAX 202–260–7118) no later than May 15, 1995, in order to have time reserved on the agenda. For a copy of the proposed agenda, please contact Ms. Pozun at the numbers given above or via the INTERNET: POZUN.DIANA @EPAMAIL.EPA.GOV. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone (202) 260–2560, FAX (202) 260–7118, or via the INTERNET: KOOYOOMJIAN.JACK@EPAMAIL.EPA.GOV.

(2) Radionuclide Cleanup Standards Subcommittee (RCSS) of the Radiation Advisory Committee (RAC) Meeting—May 23 & 24, 1995

The Radionuclide Cleanup Standards Subcommittee (RCSS) of the Science Advisory Board's (SAB's) Radiation Advisory Committee (RAC), will continue its review of the technical basis of the Agency's Cleanup Standards for Radionuclides with a public meeting on Tuesday, May 23 and Wednesday, May 24, 1995. The meeting will take place at the Courtyard Marriott Hotel, 2899 Jefferson Davis Highway, Arlington, VA 22202 (tel. 703–549–3434). The meeting will begin at 9:00 a.m. on Tuesday, May 23 and end no later than 5:00 p.m. Wednesday, May 24, 1995. In addition, the members of the RAC who are not part of the RCSS are being invited to join the RCSS on Wednesday, May 24, 1995 to conduct a closure review on this topic. The RCSS formally began this review at its first public meeting on the topic on October 27 and 28, 1994 (See **Federal Register** Vol. 59, No. 191, Tuesday, October 4, 1994, pages 50600–50601), and had a follow-up review meeting on January 26 and 27, 1995 (See **Federal Register** Vol. 60, No. 5, January 9, 1995, pp. 2386–2387), and a teleconference meeting on March 27, 1995 (See **Federal Register**, Vol. 60, No. 42, March 3, 1995). This meeting is open to the public, but seating is limited and available on a first come basis. Additional instructions about how to participate in the meeting can be obtained by calling Ms. Diana L. Pozun at

VOL 60 ISS 80 APR 26 1995 UMI

(202) 260–6552 or FAX (202) 260–7118 no later than May 17, 1995.

The draft documents that are the subject of this review are available from the originating EPA office (see below) and are not available from the SAB Office. These draft documents are: (1) Radiation Site Cleanup Regulations: Technical Support Document for the Development of Radionuclide Cleanup Levels for Soil, Review Draft, September 1994. and (2) Radiation Site Cleanup Regulations: Technical Support Document for the Development of Radionuclide Cleanup Levels for Soil, Appendices, September 1994.

To discuss technical aspects of the draft documents, please contact Dr. Anthony B. Wolbarst, Chief, Remedial Guidance Section, Office of Radiation and Indoor Air (ORIA) (6603J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, tel. (202) 233–9392. To simply obtain copies of the draft documents, please contact Ms. Virginia Stradford, Secretary, at (202) 233–9350, FAX (202) 233–9650. The background documents that support this review, as well as the draft documents listed above are available in the Agency's Air and Radiation Docket. Please address written inquiries as follows: USEPA, Attn: Air and Radiation Docket, Mail Stop 6102, Air Docket No. A–93–27, Room M1500, First Floor, Waterside Mall, 401 M Street, SW, Washington, DC 20460. The docket may be inspected from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays, in Room M1500. A reasonable fee may be charged for copies of docket materials. Inquiries regarding access to the public information docket should be directed to Ms. Lynn Johnson, ORIA Staff at (202) 233–9383.

Members of the public who wish to make a brief oral presentation at this meeting should contact Mrs. Diana L. Pozun, Staff Secretary, RCSS, (tel. 202–260–6552; FAX 202–260–7118) no later than May 17, 1995, in order to have time reserved on the agenda. For a copy of the proposed agenda, please contact Ms. Pozun at the numbers given above or via the INTERNET: POZUN.DIANA @EPAMAIL.EPA.GOV. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone (202) 260–2560, FAX (202) 260–7118, or via the INTERNET: KOOYOOMJIAN.JACK@EPAMAIL.EPA.GOV.

(3) Radiation Advisory Committee (RAC) Meeting—May 25, 1995

The Radiation Advisory Committee (RAC) of the Science Advisory Board (SAB) is meeting on Thursday, May 25, 1995 from 9:00 a.m. to no later than 4:00 p.m. to conduct a planning, coordination and review meeting. The meeting will take place at the Courtyard Marriott Hotel, 2899 Jefferson Davis Highway, Arlington, VA 22202 (tel. 703–549–3434). Expected topics include the following: a brief closure discussion on the Cleanup Standards review conducted May 23 and 24, 1995; an update by the Office of Research and Development (ORD), Office of Health and Environmental Assessment (OHEA) staff on the status of development of a draft document for a future review on electromagnetic fields (EMF) and carcinogenicity; a briefing by the Office of Radiation and Indoor Air (ORIA) staff on the Biological Effects of Ionizing Radiation (BIER) VI; a preliminary discussion on an upcoming advisory review of the Environmental Radiation Ambient Monitoring System (ERAMS) [the SAB/RAC plans an advisory review of the ERAMS system at the EPA's Montgomery, Alabama Laboratory on July 13 and 14, 1995]. Other topics will be reviewed as time permits.

Members of the public who wish to make a brief oral presentation at this meeting should contact Mrs. Diana L. Pozun, Staff Secretary, RCSS, (tel. 202–260–6552; FAX 202–260–7118) no later than May 17, 1995, in order to have time reserved on the agenda. For a copy of the proposed agenda, please contact Ms. Pozun at the numbers given above or via the INTERNET: POZUN.DIANA @EPAMAIL.EPA.GOV. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone (202) 260–2560, FAX (202) 260–7118, or via the INTERNET: KOOYOOMJIAN.JACK@EPAMAIL.EPA.GOV.

(4) Clean Air Act Compliance Analysis Council (CAACAC) Meeting—June 12 and 13, 1995

The Clean Air Act Compliance Analysis Council (CAACAC) is meeting on Monday, June 12, 1995 and Tuesday, June 13, 1995 to continue its review of the Clean Air Act (CAA) Section 812 retrospective cost-benefit study. The CAACAC last met in June, 1993. The meeting will take place at the Courtyard Marriott Hotel, 2899 Jefferson Davis Highway, Arlington, VA 22202 (tel. 703–549–3434). The CAACAC will be receiving draft documents on emission modeling results (graphs and charts, and possibly some narrative), air quality modeling results (a draft document on particulate matter; a draft document on sulfur oxides, nitrogen oxides, and carbon monoxide; and sample model outputs on rural ozone, urban ozone and visibility), and a revised air toxics analysis. The CAACAC had already been provided with a series of valuation reports in 1994. The valuation reports included the following:

(1) Revised proposal on value of life methodology,

(2) Review of morbidity avoidance estimates,

(3) Comparison of morbidity, visibility, and forest valuation to the Contingent Valuation (CV) guidelines,

(4) Analysis of visibility valuation issues,

(5) Review of valuation of carbon sequestration services, and

(6) Review of various externality valuation models.

In addition to review of the above items, the CAACAC will be conducting a review of a draft report prepared by its Physical Effects Review Subcommittee (PERS), entitled "Review of Clean Air Act Section 812 Physical Effects Draft Documents." The CAACACPERS is meeting on May 18, 1995 (See Item #1, above for details on this meeting.) to conduct a closure review on this report, as well as to review a number of draft document and other materials provided by the Agency.

For copies of the Agency's draft Section 812 CAA draft documents, or for any other documents pertaining to this review by the CAACAC, please contact Ms. Eileen Pritchard, Secretary, U. S. Environmental Protection Agency, Office of Policy Planning and Evaluation (OPPE), Economic Analysis and Innovation Division (Mail Code 2127), 401 M Street, S.W., Washington, D.C. 20460. Tel. (202) 260–3354, and FAX (202) 260–5732. For a discussion of technical aspects of the Agency draft documents, please contact Mr. James DeMocker of EPA's Office of Policy Analysis and Review (OPAR) at (202) 260–8980, or Mr. Tom Gillis of EPA's Office of Policy, Planning and Evaluation (OPPE) at (202) 260–4181.

Members of the public who wish to make a brief oral presentation at this meeting should contact Mrs. Diana L. Pozun, Staff Secretary, RCSS, (tel. 202–260–6552; FAX 202–260–7118) no later than June 7, 1995, in order to have time reserved on the agenda. For a copy of the proposed agenda, please contact Ms. Pozun at the numbers given above or via the INTERNET: POZUN.DIANA @EPAMAIL.EPA.GOV. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400F), US EPA, 401 M Street, SW, Washington DC 20460, by telephone (202) 260–2560, FAX (202) 260–7118, or via the INTERNET: KOOYOOMJIAN.JACK@EPAMAIL.EPA.GOV.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for meetings, opportunities for oral comment will usually be limited to no more than five minutes per speaker and no more than thirty minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week prior to a meeting), may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: April 19, 1995.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 95–10245 Filed 4–25–95; 8:45 am]

BILLING CODE 6560–50–P

[OPP–180959; FRL–4949–5]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to the 11 States listed below and to the United States Department of the Interior, Fish and Wildlife Service. There were also six crisis exemptions initiated by various States. These exemptions, issued during the months of January and February 1995, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. EPA has denied a specific exemption request from the Louisiana Department of Agriculture and Forestry. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8417; e-mail: beard.andrea@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of norflurazon on Bermuda grass to control annual grassy weeds; February 2, 1995, to June 15, 1995. (Libby Pemberton)

2. California Environmental Protection Agency for the use of bifenthrin on cucurbits to control whiteflies; February 6, 1995, to February 6, 1996. A notice of receipt published in the **Federal Register** of January 12, 1995 (60 FR 2962). The exemption was issued because the situation was determined to be urgent and nonroutine, and significant economic losses were expected for the affected acreage. (Andrea Beard)

3. California Environmental Protection Agency for the use of imidacloprid on cucurbits to control whiteflies; February 6, 1995, to February 6, 1996. (Andrea Beard)

4. Delaware Department of Agriculture for the use of metolachlor on spinach to control annual weeds; January 25, 1995, to January 24, 1996. (Margarita Collantes)

5. Georgia Department of Agriculture for the use of norflurazon on Bermuda grass to control annual grassy weeds; February 2, 1995, to July 1, 1995. (Libby Pemberton)

6. Hawaii Department of Agriculture for the use of imidacloprid on tomatoes to control the sweet potato whitefly; February 2, 1995, to December 31, 1995. Hawaii had initiated a crisis exemption for this use. (David Deegan)

7. North Carolina Department of Fertilizer and Pesticide Control, Clemson University, for the use of imidacloprid and fenpropathrin on tomatoes to control the sweet potato whitefly; February 23, 1995, to February 23, 1996. (David Deegan)

8. Oregon Department of Agriculture for the use of fenoxycarb on pears to control pear psylla; February 14, 1995, to May 1, 1995. (Andrea Beard)

9. South Carolina Division of Regulatory and Public Service Programs for the use of tralomethrin on tomatoes (fresh market) to control stinkbugs; February 27, 1995, to December 31, 1995. (Margarita Collantes)

10. Tennessee Department of Agriculture for the use of cypermethrin on mustard greens to control various insects; February 14, 1995, to November 15, 1995. (Libby Pemberton)

11. Texas Department of Agriculture for the use of norflurazon on Bermuda grass to control annual grassy weeds; February 2, 1995, to July 1, 1995. (Libby Pemberton)

12. Texas Department of Agriculture for the use of bifenthrin on cucurbits to control whiteflies; January 24, 1995, to January 12, 1996. A notice of receipt published in the **Federal Register** of January 12, 1995 (60 FR 2962). The exemption was issued because the situation was determined to be urgent and nonroutine, and significant economic losses were expected for the affected acreage. (Andrea Beard)

13. Texas Department of Agriculture for the use of imidacloprid on cucurbits to control whiteflies; January 24, 1995, to January 24, 1996. (Andrea Beard)

14. Texas Department of Agriculture for the use of imidacloprid and fenpropathrin on tomatoes to control the sweet potato whitefly; February 23, 1995, to February 23, 1996. (David Deegan)

15. Washington Department of Agriculture for the use of fenoxycarb on pears to control pear psylla; February 14, 1995, to May 1, 1995. (Andrea Beard)

16. United States Department of the Interior, Fish and Wildlife Service, for the use of brodifacoum and bromethalin on the Maritime National Wildlife Refuge to control Norway rats in the Aleutian Chain and Pribilof Islands. January 6, 1995, to January 5, 1996. (Larry Fried)

Crisis exemptions were initiated by the:

1. Alabama Department of Agriculture and Industries on January 25, 1995, for the use of hydrogen cyanamide on peaches to stimulate uniform bud-break. This program has ended. (Rick Keigwin)

2. California Department of Pesticide Regulation on February 21, 1995, for the use of fenamiphos on broccoli and cauliflower to control nematodes. This program is expected to last until February 20, 1996. (Libby Pemberton)

3. Georgia Department of Agriculture on January 19, 1995, for the use of hydrogen cyanamide on peaches to stimulate uniform bud-break. This program has ended. (Rick Keigwin)

4. Louisiana Department of Agriculture and Forestry on February 13, 1995, for the use of norflurazon on Bermuda grass to control annual grassy weeds. This program has ended. (Libby Pemberton)

5. Texas Department of Agriculture on February 8, 1995, for the use of hydrogen cyanamide on blueberries to allow uniform bloom. This program has ended. (Rick Keigwin)

6. Texas Department of Agriculture on January 30, 1995, for the use of hydrogen cyanamide on peach trees to stimulate uniform bud-break. This program has ended. (Rick Keigwin)

EPA has denied a specific exemption request from the Louisiana Department of Agriculture and Forestry for the use of metolachlor on spinach to control annual weeds. This specific exemption was denied because an emergency situation does not exist. This situation is not about avoiding economic losses if metolachlor is not granted due to the cancellation of diethatyl-ethyl, but rather about future marketing opportunity of earning profits due to a new enterprise of growing processed spinach which was not generally grown in central Louisiana. This new acreage did not previously use diethatyl-ethyl; therefore, it could not be lost as a weed control tool in spinach production. Use of metolachlor would allow growers entry into a profitable market of a new crop rather than prevent losses from a crop already established for market. No significant economic loss would be attributed to this pest problem. (Margarita Collantes)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

VOL 60 ISS 80 AP 26 1995 UMI

Dated: April 13, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–10255 Filed 4–25–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2067]

Petition for Reconsideration of Actions in Rulemaking Proceedings

April 24, 1995.

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed May 11, 1995. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Review of the Pioneer's Preference Rules. (ET Docket No. 93–266)

Number of Petition Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–10211 Filed 4–25–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Petition No. P2–95]

Household Goods Forwarders Association of America, Inc.; Petition for Exemption From Tariff and Bonding Requirements in Regard to Household Goods and Personal Effects for the Account of the General Services Administration; Notice of Filing

Notice is hereby given that the Household Goods Forwarders Association of America, Inc. ("Petitioner") has petitioned for an exemption pursuant to Section 16 of the Shipping Act of 1984 [46 U.S.C. app. 1715] and Section 35 of the Shipping Act, 1916 [46 U.S.C. app. 833a]. Petitioner seeks an exemption for non-vessel operating common carriers by water from the tariff filing requirements of Part 514 and the bonding requirement of Part 583 of Title 46 CFR, to the extent they engage in the transportation of used household goods and personal effects of personnel of federal civilian executive agencies in the domestic and foreign commerce of the United States, pursuant to a solicitation issued and administered by the General Services Administration of the United States.

In order for the Commission to make a thorough evaluation of the petition for exemption, and the proposed CFR amendments suggested therein, interested persons are requested to submit views or arguments in reply to the petition no later than May 25, 1995. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001 in an original and 15 copies.

Replies shall also be served on Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street NW., Washington, DC 20006.

Copies of the petition are available for examination at the Washington, DC office of the Commission, 800 N. Capitol St NW., Room 1046.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10173 Filed 4–25–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Dalrymple Family Limited Partnership, L.P., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 10, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Dalrymple Family Limited Partnership, L.P. and 2105 South Broadway Associates, L.P.*, both of Elmira, New York; each to acquire 4.92 percent of the voting shares of Chemung Financial Corporation, Elmira, New York, and thereby indirectly acquire Chemung Canal Trust Company, Elmira, New York.

Board of Governors of the Federal Reserve System, April 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10228 Filed 4–25–95; 8:45 am]

BILLING CODE 6210–01–F

Republic Security Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than May 19, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Republic Security Financial Corporation*, West Palm Beach, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Republic Security Bank, West Palm Beach, Florida.

Board of Governors of the Federal Reserve System, April 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10229 Filed 4–25–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 533]

National Institute for Occupational Safety and Health; Cooperative Agreement for Model Program for Occupational Respiratory Disease Evaluation and Rehabilitation

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program for Occupational Respiratory Disease Evaluation and Rehabilitation through the National Institute for Occupational Safety and Health (NIOSH). The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering Healthy People 2000 see the Section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized under Sections 20(a) and 21(a) of the Occupational Safety and Health Act of 1970 and Section 501(a) of the Federal Mine Safety and Health Act (29 U.S.C. 669(a) and 670(a); 30 U.S.C. 951(a)).

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, non-profit and for-profit organizations, and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local health departments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $275,000 will be available in FY 1995 to fund one to two awards. The award(s) is expected to begin on or about September 30, 1995, for a 12-month budget period within a project period of three to five years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this occupational respiratory disease cooperative agreement is to assist in the development, implementation, and maintenance of a model program for the diagnosis, evaluation, and rehabilitation of individuals with occupational respiratory disease. This program may build on existing expertise of an institution or provide assistance in initiating a new program. This program will report and disseminate findings, as well as relevant health and safety education and training information, to State health officials, health-care providers, workers, managers, unions, and employers. This program will include an evaluation of current standard and innovative interventions for early identification of occupational respiratory diseases which results in recommendations for, or a plan for the development of, new methods and techniques to improve the early recognition, rehabilitation and therapy of these diseases. The evaluation component built into each project should include carefully developed, realistic and appropriate evaluation tools. The evaluation results will be used to modify and improve ongoing program plans.

The objectives of the occupational respiratory disease evaluation and rehabilitation program are as follows:

1. To assist an institution in the development or refinement of a program for evaluation and rehabilitation of occupational respiratory disease.
2. To provide the opportunity for an institution to evaluate the effectiveness of a model program for evaluation and rehabilitation of occupational respiratory disease.
3. To provide a collaborative focus for occupational health expertise in occupational respiratory disease.
4. Contribute to a better understanding of occupational respiratory diseases.
5. Ultimately reduce the morbidity, mortality, and social and economic burden of occupational respiratory diseases in the United States.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. (Recipient Activities) below, and CDC/NIOSH will be responsible for conducting activities under B. (CDC/NIOSH Activities) below:

A. Recipient Activities

1. Identify a director for the program (or each program component).
2. Develop a targeted list of occupational respiratory diseases to be evaluated such as (but not limited to) silicosis, coal workers' pneumoconiosis, asbestosis, occupational asthma, hypersensitivity pneumonitis, organic dust diseases, and acute toxic respiratory injuries
3. Develop and conduct a model program for the early recognition, evaluation, diagnosis, rehabilitation, and therapy of occupational respiratory diseases.
4. Report and disseminate information on the organization, activities, and findings of the model program, as well as relevant health and safety education and training information to State and Federal health officials, health-care providers, workers, managers, unions, and employers.
5. Work with State and Federal disability compensation programs to identify and enroll workers who could be offered diagnosis, evaluation and rehabilitation of occupational respiratory diseases.
6. Develop a protocol(s) for the evaluation and rehabilitation of occupational respiratory diseases. Obtain peer review of the protocol(s); revise and finalize, as required, for final approval; evaluate the effectiveness of the protocol(s). Disseminate the results of these efforts to other health-care institutions evaluating, diagnosing, and rehabilitating workers with occupational respiratory diseases.
7. Develop new methods and techniques that improve the early recognition and rehabilitation of workers with occupational respiratory diseases.

B. CDC/NIOSH Activities

1. Provide technical assistance through site visits and correspondence for the development and implementation of the model program.
2. Provide scientific collaboration for the model program.
3. Provide limited professional assistance during the conduct of the program including, but not limited to, physicians, nurses, epidemiologists, statisticians, industrial hygienists and laboratory scientists.

VOL
60
ISS
80
AP
26
1995
UMI

4. Participate in peer review of the project protocol(s).

5. Provide technical assistance in all phases of development, implementation, and maintenance of the cooperative agreement and collaborative project activities.

6. Assist in reporting and disseminating findings as well as relevant health and safety education and training information to state health officials, health-care providers, workers, managers, unions, and employers.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. The applicant's understanding of the objectives of the proposed initiative. (5%)
2. Proposed schedule for initiating and accomplishing the activities of the cooperative agreement. (10%)
3. Responsiveness of the proposal to the scope and objectives described in the Announcement. (25%)
4. Technical merit and originality of the program proposal. (30%)
5. Training and experience of the proposed Program Director(s) and staff. The Program Director(s) must be a recognized scientist and technical expert, and must assume and provide assurances of major time commitment to the program. (10%)
6. Suitability of the facilities to conduct the program. (15%)
7. Evidence of plans for creative collaboration and coordination with local resources which could facilitate identification, evaluation or rehabilitation of workers with occupational respiratory diseases, including establishment of working relationships with State and Federal disability programs. (5%)
8. Extent to which the budget is reasonable, clearly justified, and consistent with the use of funds. (Not Scored)

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. Indian tribes are strongly encouraged to request tribal government review of the proposed application. A current list of SPOCs is included in the application kit.

If SPOCs or tribal governments have any State process recommendations on applications submitted to CDC, they should send them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305, no later than 60 days after the application deadline date. The Program Announcement number and Program Title should be referenced on the document. The granting agency does not guarantee to "accommodate or explain" State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Number for this program is 93.262.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by this cooperative agreement will be subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

This program involves research on human subjects; therefore, all applicants must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided which demonstrates the project or activity will be subject to initial and continuing review by an appropriate institutional review committee.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

The applicant will be responsible for providing assurances in accordance with the appropriate guidelines and forms provided in the application kit.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305, on or before June 22, 1995.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailings.)

2. Late Applications: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, telephone number and will need to refer to Announcement 533.

You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6546. Programmatic technical assistance may be obtained from John E. Parker, M.D., National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1095 Willowdale Road, Morgantown, WV 26505–2888, telephone (304) 285–5724.

Please refer to Announcement Number 533 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: April 20, 1995.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–10197 Filed 4–25–95; 8:45 am]

BILLING CODE 4163–19–P

National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee: Meeting

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: NCVHS Executive Subcommittee.

Time and Date: 8:30 a.m.–5 p.m., May 24, 1995.

Place: Suite 200 East, Conference Room 002–003, 1100 New York Avenue, NW., Washington, DC 20005.

Status: Open.

Purpose: The purpose of this meeting is for the Executive Subcommittee to review accomplishments, logistics, needs and work plans of NCVHS and individual subcommittees.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: April 20, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–10198 Filed 4–25–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95N–0013]

Benton County Ag Center, Inc.; Proposal to Withdraw Approval of Applications for Medicated Animal Feeds; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Center for Veterinary Medicine (CVM), Food and Drug Administration (FDA), is providing an opportunity for a hearing on a proposal to withdraw approval of certain medicated feed applications (MFA's) held by Benton County Ag Center, Inc., for animal feeds bearing or containing new animal drugs (NAD's). This action is based on new information showing the firm's methods and controls used for manufacturing, processing, and packing of the medicated feeds are inadequate to assure and preserve the identity, strength, quality, and purity of the NAD's therein, and they were not made adequate within a reasonable time after receipt of written notice from FDA.

DATES: Requests for a hearing and data and information in support of the hearing request are due by May 26, 1995.

ADDRESSES: Requests for a hearing in response to this notice should be identified with Docket No. 95N–0013 and sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Karen A. Kandra, Center for Veterinary Medicine (HFV–246), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1765.

SUPPLEMENTARY INFORMATION: CVM is providing an opportunity for a hearing on a proposal to withdraw approval of 11 MFA's held by the firm doing business as Benton County Ag Center, Inc., 312 Railroad St., P.O. Box 308, Keystone, IA 52249–0308, for the manufacture of animal feeds bearing or containing Category II NAD's. Benton County Ag Center, Inc., is a feed mill that manufactures both medicated and nonmedicated animal feeds. The 11 MFA's, held by Benton County Ag Center, Inc., were approved under section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(m)) and are identified as follows:

MFA Number	Drug/Combination	Species
1. F 93–642.	Carbadox	Swine
2. F 127–333.	Tylosin/Sulfamethazine.	Swine
3. F 131–878.	Carbadox	Swine
4. F 139–280.	Levamisole Hydrochloride.	Cattle and swine
5. F 141–603.	Carbadox/Pyrantel tartrate.	Swine
6. F 141–604.	Pyrantel tartrate	Swine
7. F 141–757.	Lincomycin/Pyrantel tartrate.	Swine
8. F 144–054.	Sulfamethazine/Chlortetracycline (CTC)/Penicillin.	Swine
9. F 147–607.	Sulfamethazine/CTC.	Cattle
10. F 147–617.	Arsanilic acid	Chickens, turkeys, and swine
11. F 147–641.	Oxytetracycline/Neomycin.	Chickens, turkeys, swine, cattle, and mink

To manufacture a Type B or C animal feed bearing or containing a Category II NAD (i.e., Type A medicated article) a firm must file an MFA (Form FDA 1900) with FDA and obtain its approval. FDA does not approve such an application unless, among other things, the firm agrees to comply with the agency's regulations for current good manufacturing practice (CGMP) for medicated feeds (21 CFR part 225), which are intended to help assure that feed bearing or containing an NAD meets the requirements of the act pertaining to identity, strength, quality, and purity. The agency determines whether the firm's manufacture of medicated feed is in compliance with the CGMP regulations by inspecting the facilities and controls used for, and the methods used in, the manufacture, processing, and packing of the feed by the firm.

On December 22, 1992, the Iowa Department of Agriculture (Medicated Feed Bureau), under contract with FDA pursuant to section 702(a) of the act (21 U.S.C. 372(a)), inspected Benton County Ag Center, Inc. The inspection revealed significant deviations from the CGMP's for medicated feeds. The investigator noted the deviations on an inspectional observations form (Form FDA 483) (Ref. 1), issued a copy to the firm's General Manager, and discussed in detail the deviations with him. The deviations included the following:

1. Production records did not show when flushing of equipment was performed or the final disposition of flush materials, as required by 21 CFR 225.102(b)(4).

2. Production records did not show the actual quantity of medicated feed produced, as required by 21 CFR 225.102(b)(2)(iv).

3. Production records were not checked by a responsible person to determine if all required production steps had been performed, as required by 21 CFR 225.102(b)(4).

VOL 60 ISS 80 AP 26 1995 UMI

4. Only two of the three required assays were performed on medicated feeds containing monensin and melengestrol acetate, as required by 21 CFR 225.58(b)(1).

5. Proper labeling for medicated feed manufactured containing 300 grams per ton chlortetracycline was not available, as required by 21 CFR 225.80.

6. The drug scale, ingredient scale, and the bagger scale had not been tested for accuracy within the last year, as required by 21 CFR 225.30(b)(4).

7. No written procedures for flushing and sequencing were available, as required by 21 CFR 225.65(b).

8. Incoming labels were not proofread, dated, or initialed by a responsible person, as required by 21 CFR 225.80(b)(2).

9. No investigation or corrective action was taken after receipt of failed assay result for medicated feed, as required by 21 CFR 225.58(d) and (e).

10. No drug receipt records or daily drug inventory were maintained for Category I, Type A medicated articles, as required by 21 CFR 225.42(b)(5) and (b)(6).

As a result of the failed CGMP inspection, FDA sent a letter dated March 12, 1993 (Ref. 2), (with a copy of the Form FDA 483 enclosed) to the firm's president. The letter discussed potential regulatory consequences that could result due to facility personnel deviating from CGMP requirements. It urged that the firm's president "* * * ensure complete and lasting [emphasis added] correction of all regulatory deficiencies." The letter also informed the firm's president that FDA would not approve additional MFA's until the violations were corrected and verified. Finally, the letter closed by stating that if the violations were not corrected, FDA might issue a notice of opportunity for a hearing on a proposal to withdraw approval of the firm's MFA's.

In response to the FDA letter, the firm's president sent a letter dated April 7, 1993 (Ref. 3), to FDA listing the actions that had been taken to correct all violations listed on the Form FDA 483.

The firm was inspected again on May 3, 4, 10, and 11, 1994. That inspection revealed continued violations of CGMP regulations for the manufacture of medicated animal feeds including the following:

1. Failed assay results had not been investigated, and the required corrective actions had not been instituted, as required by 21 CFR 225.58(d) and (e).

2. The three drug potency assays required per calendar year were not performed on medicated feeds containing Aureo S 700 (chlortetracycline and sulfamethazine), as required by 21 CFR 225.58(b)(1).

3. Master Record Files did not always indicate the amount of drug source material to be used in a batch of medicated feed, as required by 21 CFR 225.102(b)(1).

4. Liquid meters to measure molasses and white grease had not been tested for accuracy within the last year, as required by 21 CFR 225.30(b)(4).

5. A container (bearing expiration date 10/92) with 10 pounds of tiamulin indicated inadequate drug control, as required by 21 CFR 225.42(a).

A Form FDA 483 (Ref. 4) containing the observed violations was presented to and discussed with the firm's president.

Consequently, FDA sent a certified letter dated August 23, 1994 (Ref. 5), to the president of Benton County Ag Center, Inc., notifying him of FDA's intention to withdraw approval of the 11 MFA's currently held by his firm. The firm has not submitted a formal response to the letter.

Accordingly, FDA is now proposing to withdraw approval of the MFA's held by Benton County Ag Center, Inc., as identified above, under section 512(m)(4)(B)(ii) of the act and 21 CFR 514.115(c)(2).

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Form FDA 483, inspection of December 22, 1992.

2. Letter, FDA to Benton County Ag Center, Inc., dated March 12, 1993.

3. Letter, Benton County Ag Center, Inc., to FDA, dated April 7, 1993.

4. Form FDA 483, inspection of May 3, 4, 10, and 11, 1994.

5. Letter, FDA to Benton County Ag Center, Inc., dated August 23, 1994.

Therefore, notice is given to Benton County Ag Center, Inc., and to any other interested persons who may be adversely affected, that CVM proposes to issue an order under section 512(m)(4)(B)(ii) of the act and 21 CFR 514.115(c)(2) withdrawing approval of MFA's F 93–642, F 127–333, F 131–878, F 139–280, F 141–603, F 141–604, F 141–757, F 144–054, F 147–607, F 147–617, F 147–641, and all amendments and supplements thereto, on the grounds that new information, evaluated together with the evidence available when the applications were approved, shows that the methods used in, or the facilities and controls used for, the manufacturing, processing, and packing of such animal feeds are: (1) Inadequate to ensure and preserve the identity, strength, quality, and purity of the NAD's therein, and (2) were not made adequate within a reasonable time after receipt of written notice from FDA specifying the inadequacies.

In accordance with provisions of section 512 of the act and regulations promulgated for the efficient enforcement of it (21 CFR part 514), and under authority delegated to the Director, Center for Veterinary Medicine (21 CFR 5.84), CVM hereby provides an opportunity for a hearing to show why approval of the MFA's identified in this notice, and all amendments and supplements to the applications, should not be withdrawn under section 512(m)(4)(B)(ii) of the act and 21 CFR 514.115(c)(2). Any hearing would be subject to the provisions of 21 CFR part 12.

An applicant who decides to seek a hearing shall file on or before May 26, 1995, a written notice of appearance, request for a hearing, and the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 514.200.

Procedures and requirements governing this notice of opportunity for a hearing, a notice of appearance and request for a hearing, submission of information and analysis to justify a hearing, other comments, and a grant or denial of a hearing, are contained in 21 CFR 514.200.

The failure of a sponsor to file a timely, written appearance and request for a hearing as required by 21 CFR 514.200 shall be construed as an election not to avail himself of the opportunity for a hearing. In such case, the Director, Center for Veterinary Medicine, under the authority delegated to him in 21 CFR 5.84(a)(2), without further notice will enter a final order withdrawing approval of the applications.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it clearly appears from the face of the documentation and analysis in the request for a hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the MFA's, or that the request for a hearing is not made in the required format or with the required analysis, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing. If a hearing is requested and is justified by the sponsor's response to this notice, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practicable.

All submissions under this notice shall be filed in four copies and, except as provided in 21 CFR 10.20(j), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512 (21 U.S.C. 360b)) and under authority delegated to the Director, Center For Veterinary Medicine (21 CFR 5.84).

Dated: April 19, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–10274 Filed 4–25–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0101]

Warren Teed Pharmaceuticals, Inc., et al.; Withdrawal of Approval of 107 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 107 abbreviated new drug applications (ANDA's). The holders of the ANDA's notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: May 26, 1995.

FOR FURTHER INFORMATION CONTACT: Carolyn C. Harris, Center for Drug Evaluation and Research (HFD–360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

ANDA No.	Drug	Applicant
83–076	Sulfasalazine, 500 milligrams (mg)	Warren Teed Pharmaceuticals, Inc., Columbus, OH 43215.
83–078	Chlorpheniramine Maleate Tablets, 4 mg	Anabolic, Inc., P.O. Box C–19508, Irvine, CA 92713.
83–135	Lidocaine Hydrochloride Injection, U.S.P., 1% and 2%	G. D. Searle and Co., P.O. Box 5110, Chicago, IL 60680.
83–168	Hydrocortisone Liquid, 1% and 2 1/2%	Dermik Laboratories, Inc., 500 Arcola Rd., P.O. Box 1200, Collegeville, PA 19426–0107.
83–169	Hydrocortisone Gel, 1% and 2 1/2%	Do.
83–184	Propoxyphene Hydrochloride Capsules, 65 mg	Smith, Kline & French, One Franklin Plaza, P.O. Box 7929, Philadelphia, PA 19101.
83–275	Diphenhydramine Hydrochloride Capsules, U.S.P., 50 mg	Anabolic, Inc.
83–301	Pentobarbital Sodium Capsules, 100 mg	Purepac Pharmaceutical, Co., 200 Elmora Ave., Elizabeth, NJ 07207.
83–313	Triamcinolone Acetonide Ointments, 0.025%, 0.1%, and 0.5%.	Dermik Laboratories, Inc.
83–314	Triamcinolone Acetonide Creams, 0.025%, 0.1%, and 0.5%.	Do.
83–363	Metaraminol Bitartrate Injection, U.S.P., 10 mg/milliliters (mL).	Elkins-Sinn, Inc., Two Esterbrook Lane, Cherry Hill, NJ 08003–4099.
83–554	Hydrochlorothiazide Tablets, 50 mg	Smith, Kline & French.
83–567	Diphenhydramine Hydrochloride Capsules, 50 mg	West-Ward Pharmaceutical Corp., 465 Industrial Way, West, Eatontown, NJ 07724.
83–625	Tripelennamine Hydrochloride Tablets, U.S.P., 25 mg	Warner-Lambert, 201 Tabor Rd., Morris Plains, NJ 07950.
83–626	Tripelennamine Hydrochloride Tablets, U.S.P., 50 mg	Do.
84–125	Dextroamphetamine Sulfate Tablets, 5 mg and 10 mg	Purepac Pharmaceutical, Co.
84–239	Hydrocortisone Tablets, 10 mg	Warner-Lambert.
84–240	Prednisone Tablets, 5 mg	Do.
84–242	Prednisolone Tablets, 5 mg	Do.
84–530	Aminophylline Tablets, 200 mg	The Vale Chemical Co., Inc., Allentown, PA 18102.
84–531	Aminophylline Tablets, 100 mg	Do.
84–601	Chlordiazepoxide Hydrochloride Capsules, 10 mg	Mylan Pharmaceuticals, Inc., P.O. Box 4310, 781 Chestnut Ridge Rd., Morgantown, WV 26505–4310.
84–699	Aminophylline Tablets, 100 mg	Purepac Pharmaceutical, Co.
84–739	Theophylline Elixir, 80 mg/15 mL	Roxane Laboratories, Inc., 1809 Wilson Rd., Columbus, OH 43228.
84–880	Hydrochlorothiazide Tablets, 25 mg and 50 mg	Mylan Pharmaceuticals, Inc.
85–112	Hydrochlorothiazide Tablets, 50 mg	Do.
85–195	Meclizine Hydrochloride Tablets, 12.5 mg	Circa Pharmaceuticals, 15 Grand Park Blvd., Athens, OH 45701.
85–375	Acetaminophen Capsules, 500 mg Oxycodone Hydrochloride Capsules, 4.5 mg Oxycodone Terephthalate Capsules, 0.38 mg.	McNeil Pharmaceutical, Welsh and Mckeon Rds., Spring House, PA 19477–0776.
85–534	Sulfisoxazole Tablets, 500 mg	Chelsea Laboratories, Inc., 896 Orlando Ave., West Hempstead, NY 11552.
85–564	Aminophylline Tablets, 200 mg	Do.
85–567	Aminophylline Tablets, 100 mg	Do.

VOL 60 ISS 80 AP 26 1995 UMI

ANDA No.	Drug	Applicant
86–667	Hydrocodone Bitartrate Tablets, 5 mg Acetaminophen Tablets, 500 mg.	Knoll Pharmaceutical, 30 North Jefferson Rd., Whippany, NJ 07981.
85–867	Secobarbital Sodium Capsules, U.S.P., 100 mg	Purepac Pharmaceutical, Co.
85–892	Dextroamphetamine Sulfate Tablets, 10 mg	Phoenix Pharmaceutical, Inc., 111 Leuning St., South Hackensack, NJ 07606.
86–044	Isosorbide Dinitrate Tablets, 10 mg	Circa Pharmaceuticals.
86–049	Brompheniramine Maleate Tablets, 4 mg	Purepac Pharmaceutical Co.
86–170	Hydrocortisone Cream,1%	Stiefel Laboratories, Inc., 2801 Ponce De Leon Blvd., Coral Gables, FL 33134.
86–202	Procaine Hydrochloride Injection, 1% and 2%	G. D. Searle and Co.
86–205	Ammonium Chloride Injection, 3 milliquivalent (meq)/mL	Do.
86–219	Potassium Chloride Injection, U.S.P., 10 meq/10 mL, 20 meq/10 mL, 30 meq/mL, and 40 meq/10 mL.	Do.
86–220	Potassium Chloride Injection	G. D. Searle and Co.
86–302	Isosorbide Dinitrate Tablets, 10 mg	Purepac Pharmaceutical, Co.
86–304	Isosorbide Dinitrate Tablets, 5 mg	Do.
86–369	Hydrochlorothiazide Tablets, 25 mg	Smith, Kline & French.
86–418	Metaraminol Bitartrate Injection, U.S.P.	McGaw Inc., P.O. Box 19791, Irvine, CA 92713–9791.
86–824	Hydrocortisone Lotion, 0.5%	Pharmaceutical Associates, Inc., P.O. Box 128, Conestee, SC 29636.
86–858	Isosorbide Dinitrate Tablets, U.S.P., 5 mg	Lederle Labs, One Cyanamid Co., Wayne, NJ 07470–8426.
86–862	Isosorbide Dinitrate Tablets, U.S.P., 10 mg	Do.
86–961	Dipyridamole Tablets, Coated, 25 mg	Circa Pharmaceuticals.
87–085	Hydralazine Hydrochloride Tablets, 25 mg Hydrochlorothiazide Tablets, 15 mg Reserpine Tablets, 0.1 mg.	Mylan Pharmaceuticals, Inc.
87–163	Isosorbide Dinitrate Chewable Tablets, 5 mg	D. M. Graham Laboratories, Inc., Hobart, NY 13788.
87–415	Isosorbide Dinitrate Capsules T.R., 40 mg, Green & Clear	Eon Labs Manufacturing, Inc., 227–15 North Conduit Ave., Laurelton, NY 11413.
87–474	Isosorbide Dinitrate Oral Tablets, 5 mg	Ascot Hospital Pharmaceuticals, Inc., 6055 North Ridgeway Ave., Skokie, IL 60076.
87–475	Isosorbide Dinitrate Oral Tablets, 10 mg	Do.
87–476	Isosorbide Dinitrate Oral Tablets, 20 mg	Do.
87–478	Isosorbide Dinitrate Sublingual Tablets, 5 mg	Do.
87–484	Nitroglycerine TD Capsules, 2.5 mg	Do.
87–485	Nitroglycerine TD Capsules, 6.5 mg	Do.
87–486	Isosorbide Dinitrate SR Capsules, 40 mg	Do.
87–512	Chlordiazepoxide Hydrochloride Capsules, 25 mg	Do.
87–514	Triprolidine Hydrochloride Syrup, 1.25 mg/5 mL	Pharmaceutical Associates, Inc.
87–517	Brompheniramine Maleate Elixir, 2 mg/5 mL	Do.
87–518	Promethazine Hydrochloride Syrup, 6.25 mg/5 mL	Do.
87–520	Chlorpheniramine Maleate Syrup, 2 mg/5 mL	Do.
87–522	Aminophylline Tablets, 100 mg	Ascot Hospital Pharmaceuticals, Inc.
87–523	Aminophylline Tablets,200 mg	Do.
87–524	Chlordiazepoxide Hydrochloride Capsules, 10 mg	Do.
87–525	Chlordiazepoxide Hydrochloride Capsules, 5 mg	Do.
87–539	Hydrochlorothiazide Tablets, 25 mg	Do.
87–540	Hydrochlorothiazide Tablets, 50 mg	Do.
87–541	Tolbutamide Tablets, 500 mg	Do.
87–542	Procainamide Hydrochloride Capsules, 250 mg	Do.
87–543	Procainamide Hydrochloride Capsules, 500 mg	Do.
87–621	Aminophylline Injection, 25 mg/mL	G. D. Searle and Co.
87–660	Methocarbamol Tablets, 500 mg	Ascot Hospital Pharmaceuticals, Inc.
87–661	Methocarbamol Tablets,750 mg	Do.
87–662	Sulfamethoxazole Tablets, 500 mg	Do.
87–663	Propantheline Bromide Tablets, 15 mg	Do.
87–685	Cyproheptadine Hydrochloride Tablets, 4 mg	Do.
87–686	Acetazolamide Tablets, 250 mg	Do.
87–687	Spironolactone Tablets,25 mg	Do.
87–697	Procainamide Hydrochloride Capsules, 375 mg	Do.
87–698	Chlorthalidone Tablets, 25 mg	Do.
87–699	Chlorthalidone Tablets, 50 mg	Do.
87–734	Nitroglycerin Oral Transmucosal Long Acting Tablets, 1 mg.	Merrell Dow Pharmaceuticals, Inc., 2110 East Galbraith Rd., P.O. Box 156300, Cincinnati, OH 45215–6300.
87–778	Dimenhydrinate Tablets, 50 mg	Republic Drug Co., Inc., 175 Great Arrow Ave., Buffalo, NY 14207.
87–934	Diphenoxylate Hydrochloride Tablets, 2.5 mg Atropine Sulfate Tablets, 0.025 mg.	Ascot Hospital Pharmaceuticals, Inc.
88–005	Isosorbide Dinitrate Sublingual Tablets, 5 mg	Unit Dose Laboratories, 1718 Northrock Court, Rockford, IL 61103.
88–006	Isosorbide Dinitrate Tablets, Oral, 10 mg	Do.
88–025	Spironolactone with Hydrochlorothiazide Tablets, 25 mg/25 mg.	Ascot Hospital Pharmaceuticals, Inc.

ANDA No.	Drug	Applicant
88–067	Orphenadrine Citrate S. R. Tablets, 100 mg	Do.
88–117	Triprolidine Hydrochloride Tablets, 2.5 mg Pseudoephedrine Hydrochloride Tablets, 60 mg.	West-Ward Pharmaceutical Corp.
88–199	Folic Acid Tablets, 1 mg	Unit Dose Laboratories.
88–256	Meclizine Hydrochloride Tablets, 12.5 mg	Do.
88–257	Meclizine Hydrochloride Tablets, 25 mg	Do.
88–288	Bethanechol Chloride Tablets, 10 mg	Ascot Hospital Pharmaceuticals, Inc.
88–289	Bethanechol Chloride Tablets, 25 mg	Do.
88–307	Thioridazine Hydrochloride Oral Concentrate, 30 mg/milliliters (mL).	Geneva Pharmaceuticals, Inc., 2555 West Midway Blvd., Broomfield, CO 80038–0446.
88–308	Thioridazine Hydrochloride Oral Concentrate, 100 mg/mL	Do.
88–318	Triprolidine Hydrochloride Tablets, 2.5 mg Pseudoephedrine Hydrochloride Tablets, 60 mg.	Circa Pharmaceuticals.
88–332	Thioridazine Hydrochloride Tablets; 10 mg	Mylan Pharmaceuticals, Inc.
88–333	Thioridazine Hydrochloride Tablets, 25 mg	Do.
88–334	Thioridazine Hydrochloride Tablets, 50 mg	Do.
88–335	Thioridazine Hydrochloride Tablets, 100 mg	Do.
88–582	Quinidine Gluconate Sustained Release Tablets, 324 mg	Ascot Hospital Pharmaceuticals, Inc.
88–646	Methocarbamol Tablets, 500 mg	Roxane Laboratories, Inc.
89–079	Nitroglycerin Controlled Release Capsules, 9 mg	Ascot Hospital Pharmaceuticals, Inc.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective on May 26, 1995.

Dated: April 10, 1995.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 95–10272 Filed 4–25–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Request for Nominations for Voting Members

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill three vacancies on the Advisory Commission on Childhood Vaccines (ACCV). The ACCV was established by title XXI of the Public Health Service Act (the Act), as enacted by Public Law (Pub. L.) 99–660 and as subsequently amended, and advises the Secretary of Health and Human Services (the Secretary) on issues related to implementation of the National Vaccine Injury Compensation Program (VICP).

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Anderson, Principal Staff Liaison, Policy and Commission Branch, Division of Vaccine Injury Compensation, at (301) 443–1533.

DATES: Nominations are to be submitted by May 26, 1995.

ADDRESSES: All nominations are to be submitted to the Director, Division of Vaccine Injury Compensation, Bureau of Health Professions, HRSA, Parklawn Building, Room 8A–35, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION: Under the authorities that established the ACCV, viz., the Federal Advisory Committee Act of October 6, 1972 (P.L. 92–463) and section 2119 of the Act, 42 U.S.C. 300aa–19, as added by P.L. 99–660 and amended, HRSA is requesting nominations for three voting members of the ACCV.

The ACCV advises the Secretary on the implementation of the VICP; on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table; advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions; surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b); advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines; and recommends to the Director, National Vaccine Program, Office of the Assistant Secretary for Health, research related to vaccine injuries which should be conducted to carry out the VICP.

The ACCV consists of nine members appointed by the Secretary as follows: Three health professionals, of whom at least two are pediatricians, who are not employees of the United States, who have expertise in the health care of children, the epidemiology, etiology and prevention of childhood diseases, and the adverse reactions associated with vaccines; three members from the general public, of whom at least two are legal representatives of children who have suffered a vaccine-related injury or death; and three attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death and one shall be an attorney whose specialty includes representation of vaccine manufacturers. In addition, the Director of the National Institutes of Health, the Assistant Secretary for Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of the Food and Drug Administration (or the designees of such officials) serve as nonvoting ex officio members.

Specifically, HRSA is requesting nominations for three voting members of the ACCV representing: (1) A health professional with special experience in childhood diseases; (2) a member from the general public who is a legal representative of a child who has suffered a vaccine-related injury or death; and (3) an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death. Nominees will be invited to serve 3-year terms beginning January 1, 1996, and ending December 31, 1998.

Interested persons may nominate one or more qualified persons for

VOL 60 ISS 80 AP 26 1995 UMI

membership on the ACCV. Nominations shall state that the nominee is willing to serve as a member of the ACCV and appears to have no conflict of interest that would preclude the ACCV membership. Potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflicts of interest. A curriculum vitae should be submitted with the nomination.

The Department of Health and Human Services has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates.

Dated: April 19, 1995.

Ciro V. Sumaya,

Administrator.

[FR Doc. 95–10175 Filed 4–25–95; 8:45 am]

BILLING CODE 4160–15–P

Substance Abuse and Mental Health Services Administration

Office for Women's Services; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a teleconference meeting of the Advisory Committee for Women's Services in May 1995.

The meeting will be held by telephone conference call. The meeting agenda of the Advisory Committee for Women's Services will include a discussion of women's substance abuse and mental health service needs within the context of the SAMHSA Strategic Plan, the proposed SAMHSA Performance Partnership grants, and proposed Policy Demonstration grants.

A summary of this meeting and/or a roster of committee members may be obtained from: Jennifer B. Fiedelholtz, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date: May 22, 1995.

Place: Room 12–94, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open: 2:00 p.m. to adjournment.

Contact: Jennifer B. Fiedelholtz, Room 13–99, Parklawn Building, Telephone (301) 443–5184.

Dated: April 20, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–10204 Filed 4–25–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement (DEIS) for the Yellowstone Pipeline Rights-of-Way Renewal Across Trust and Allotted Lands of the Flathead Indian Reservation, Montana

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of DEIS and public hearing dates.

SUMMARY: The Draft Environmental Impact Statement (DEIS) is for the proposed renewal of rights-of-way for an existing petroleum products pipeline. Constructed in 1954, this pipeline transports gasoline, diesel fuel, and jet fuel from refineries in Billings, Montana, 588 miles west to Spokane and Moses Lake, Washington. A portion of the pipeline crosses both tribal and allotted trust lands on the Flathead Indian Reservation in northwestern Montana.

The Yellowstone Pipe Line Company (YPL) and the Confederated Salish and Kootenai Tribes of the Flathead Nation (CSKT) executed a lease agreement for these trust lands for the period April 21, 1975, through April 21, 1995. It was approved by the Bureau of Indian Affairs (BIA), which serves as the federal trustee for the lands. The YPL requested a renewal of its lease from the CSKT in order to continue operating the pipeline through the year 2016.

A third party consultant, L.W. Reed Consultants, Inc. of Fort Collins, Colorado, is preparing the EIS for the BIA. They signed vouchers saying that they have no interest in the final decision of the BIA and have no conflict of interests involving YPL. The BIA required that YPL fund the EIS.

This notice is published pursuant to Sec. 1503.1 of the Council on Environmental Quality Regulations (40 CFR, Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.), Department of Interior Manual (516 DM 1–6) and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

DATES: Public hearings on the DEIS will be held on the following dates: Thursday, May 11; Monday, May 15; Tuesday, May 16; Wednesday, May 17; and Thursday, May 18. Written comments must arrive on or before June 26, 1995, at the address given below. We will consider all comments received during this period in preparing the Final EIS.

ADDRESSES: Written comments may be submitted at the public meetings, or sent to: Mr. Ernest Moran, Superintendent, Flathead Agency, Box A, Pablo, MT 59855.

Public hearings on the DEIS will be held at the following locations and times: Cavanaugh's River Inn, Spokane, WA, Thursday May 11, 7 p.m.; Ruby's Reserve Street Inn, Missoula, MT, Monday May 15, 7 p.m.; St. Ignatius Community Center, St. Ignatius, MT, Tuesday May 16, 4 p.m.; CSKT Tribal Complex, Pablo, MT, Wednesday May 17, 11 a.m.; Tribal Senior Citizens Center, Hot Springs, MT, Thursday May 18, 4 p.m.

If you would like a copy of this DEIS, please contact Mr. Lanny Reed, Lanny Reed Consultants Inc., 516 Spring Canyon Court, Fort Collins, Colorado 80525, or call toll-free at (800) 695–9305. We have sent copies of the DEIS to all agencies and individuals who previously requested them.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Beyer, Flathead Agency Box A, Pablo, Montana 59855, telephone (406) 675–7200 ext. 260, or you may call toll-free at (800) 695–9305.

SUPPLEMENTARY INFORMATION: The Department of the Interior classifies the renewal of an existing right-of-way "where there would be essentially no change in use and continuation would not lead to environmental degradation" as a Categorical Exclusion under NEPA. In this case, two large spills and five smaller ones on the Reservation during the life of the pipeline indicated that continuation might lead to significant environmental degradation. Therefore, the Superintendent of the Flathead Agency, BIA, in consultation with the CSKT, decided that an EIS would be required prior to any federal decision concerning lease renewal.

The Proposed Action consists of the YPL's request to renew existing rights-of-way across trust lands, with added pipeline safety improvements. The action is needed in order to continue: (1) Operation of the pipeline to serve the needs of the public; (2) transportation of refined petroleum products to consumers in the greater Spokane area; and (3) transportation of military jet fuel to Fairchild Air Force Base in Spokane. The pipeline now supplies approximately 34 percent of all consumer gasoline and diesel fuel to the Spokane market, 100 percent of the military jet fuel to the Fairchild Air Force Base, and 100 percent of the commercial jet fuel to the Grant County Airport, which supports the Boeing Aircraft and the Japan Air Lines pilot test programs.

The Proposed Action would allow continued use of the existing rights-of-way, with additional safety improvements designed to improve the maintenance of the pipe, the detection of leaks and ruptures, should they occur, and the containment of any product spills. These safety improvements include: (1) Hydrostatic pressure testing every 10 years to identify weak place in the pipeline; (2) instrumented "smart pig" testing every 10 years to detect areas of corrosion that might lead to leakage or rupture; (3) monthly "shut-in" testing to detect low volume leakage; (4) close interval survey of cathodic protection every 10 years; and (5) better, all-weather, spill contingency planning.

The No Action alternative would deny renewal of the rights-of-way. Petroleum products would thus have to reach the Spokane area markets through alternate modes of transportation.

Because the response to market vacuum resulting from this alternative would be market-driven, it is difficult to predict. Most likely, for the first six months following cessation of pipeline service from Missoula, Montana, product would be supplied by truck from Missoula and from Pasco, Washington; by rail car from Seattle, Washington, or Portland, Oregon; and by a slight increase in flow in the Chevron pipeline from Pasco to Spokane. In the six month to four year period, it is likely that flow in the Chevron pipeline would increase and that shipment by barge would replace shipment by rail, thus increasing traffic on the Columbia River from Portland to Pasco.

A Modified Existing Route Alternative would use the safety improvements identified in the proposed action. It would also re-route the pipeline around five identified sensitive areas in order to reduce (1) the chance of rupture due to stream scour and/or ground movement during earthquakes and (2) the exposure of people, cultural and aquatic resources, and other sensitive receptors in those areas to the adverse effects of petroleum products. This alternative would add four remote control block valves and two new check valves, designed to reduce the volume of product spilled by drain-down in the event of rupture.

Dated: April 21, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–10220 Filed 4–25–95; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

[MT–930–1430–01; MTM 82124]

Conveyance of Public Lands, Beaverhead, Madison, and Yellowstone Counties; Montana

Correction

In notice document 95–6496 appearing on page 14298 in the issue of Thursday, March 16, 1995, make the following corrections:

1. In the description listed under Gabel Construction Inc., "T. N." should read "T. 2 N.".

2. In the description listed under Elmer F. Link "lot 5.2." should read "lot 5."

Dated: April 14, 1995.

Dee L. Baxter,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 95–10189 Filed 4–25–95; 8:45 am]

BILLING CODE 4310–DN–P

[NV–050–1430–01; N–59112]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Pahrump, Nye County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The South Valley Baptist Church proposes to use the land for church facility.

Mount Diablo Meridian, Nevada

T. 21S., R. 53 E.,
Sec. 24: Government Lot 1.
(more accurately described as the E½NE¼NE¼ NE¼ of Section 24)
Containing 5.00 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planing for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a church facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a church facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60

VOL
60
ISS
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days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: April 14, 1995.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 95–10192 Filed 4–25–95; 8:45 am]

BILLING CODE 4310–HC–M

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–801598

Applicant: Robert Engesser, Trenton, FL.

The applicant requests a permit to export/reexport and import/reimport captive-born tigers (*Panthera tigris*), leopards (*Panthera pardus*), and ring-tailed lemurs (*Lemur catta*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from Canada to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–801603

Applicant: Thomas R. Pritchett, Edmonds, WA.

The applicant requests a permit to import two pairs of captive-hatched Cabot's tragopan (*Tragopan caboti*) from Glen Howe, Aylmer, Ontario, Canada for the purpose of enhancement of the species through captive breeding.

PRT–799514

Applicant: Charles Eder, Jr., Oroville, WA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. A. G. Spaeth, "Doornboom", Bedford, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–801705

Applicant: David P. Roberts, Madison, WI.

The applicant requests a permit to import two pair of captive-hatched Cabot's tragopan (*Tragopan caboti*) from Glen Howe, Aylmer, Ontario, Canada for the purpose of enhancement of the species through captive breeding.

PRT–801709

Applicant: Arne Lassen, Greensboro, NC.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by A. Austin, "Spitzkop", Grahamstown, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–792842

Applicant: David Owens, Biology Department, Texas A & M University, College Station, TX.

The applicant requests to amend his permit to import additional blood and salvaged tissue samples from Kemp's ridley (*Lepidochelys kempi*), leatherback (*Dermochelys coriacea*) and green sea turtles (*Chelonia mydas*) from Mexico, Trinidad, Suriname, St. Croix, and Indonesia for the purpose of scientific research to benefit the species in the wild.

PRT–726400

Applicant: National Museum of Natural History, Washington, D.C.

The applicant requests renewal of their permit authorizing import of salvaged specimens of endangered and threatened amphibians and reptiles collected worldwide. These specimens will be accessioned into the museum collection and will be available for scientific research.

PRT–801648

Applicant: Brigitte Porella, Petaluma, CA.

The applicant requests a permit to export two captive-bred Nene(Hawaiian Geese) (*Branta sandvicensis*) to Costa Rica, for the purpose of enhancement of the survival of the species through propagation.

PRT–797861

Applicant: University of Wisconsin, Department of Biochemistry, Madison, WI.

The applicant requests a permit to import small blood serum samples from up to 10 individuals each of captive-held golden-headed lion tamarin (*Leontopithecus chrysomelas*) and buff-headed marmoset (*Callithrix flavicepes*) for the purpose of enhancement of the survival of the species through scientific research.

PRT–687932, 763638 and 799990

Applicant: Adriatic Animal Attractions, Inc., Deland, FL.

The applicant requests permits to export/reexport and import/reimport captive-bred tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 21, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–10275 Filed 4–25–95; 8:45 am]

BILLING CODE 4310–55–P

Minerals Management Service

De Minimis Amount for Recoupments on Federal Offshore Mineral Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of amount.

SUMMARY: This notice establishes the amounts below which a royalty payor is not required to follow the statutory recoupment procedures. The Minerals Management Service (MMS) recently issued regulations governing recoupment of overpayments on Federal offshore mineral leases. Those regulations provide that MMS will publish a notice establishing de minimis amounts where it is not cost effective to process the recoupment request.

FOR FURTHER INFORMATION CONTACT: Paul A. Knueven, Financial Compliance Branch, Compliance Verification Division, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS–3670, Denver, Colorado, 80225–3165, telephone number (303) 231–3316, fax number (303) 231–3760.

SUPPLEMENTARY INFORMATION: The Royalty Management Program of the Minerals Management Service (MMS) established regulations at 30 CFR part 230 (59 FR 38365, July 28, 1994, effective August 29, 1994) implementing Section 10 of the Outer Continental Shelf Lands Act, 43 U.S.C. 1339.

Section 10 requires that requests for refunds or credits of excess payments on Federal offshore leases be authorized only if (1) a request for refund or credit is filed within 2 years after the making of the payment, and (2) 30 days expire after both Houses of Congress are notified of the refund request.

In the regulations, MMS identified certain transactions not subject to Section 10. Under one of those exceptions, the regulations at 30 CFR 230.461(h) permit payors to file credit adjustments for de minimis amounts without filing requests for refunds with MMS. Those rules provide that MMS periodically will publish in the **Federal Register** what the de minimis threshold is. Based on the cost experience for fiscal year 1994, MMS is establishing $250 as this amount. MMS will re-calculate the amount whenever costs to process a Section 10 refund request change significantly.

Under these procedures, payors may make credit adjustments for $250 or less for each OCS lease and report month without filing a request with MMS. A credit adjustment for a lease within a unit may exceed $250 of credits during one report month, provided the net credit adjustment for that month considering all positive and negative adjustments for leases in the unit is less than $250. For example, if leases A and B are part of a unit, a payor may submit a credit adjustment of $10,000 for lease A and a payment of $9,800 for lease B within the same report month. Since the two leases within the unit net to a credit of $200, the payor is within the de minimis amount. As provided by the regulations, the overpayment recoupments must be made within 2 years of the date MMS received the payment.

Dated: April 20, 1995.

Connie G. Bartram,

Acting Associate Director for Royalty Management.

[FR Doc. 95–10196 Filed 4–25–95; 8:45 am]

BILLING CODE 4310–MR–P

National Park Service

National Capital Region; National Capital Memorial Commission; Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Commission will be held on Tuesday, May 9, 1995, at 1 p.m., at the National Building Museum, Room 312, 5th and F Streets NW.

The Commission was established by Public Law 99–652, the Commemorative Works Act, for the purpose of preparing and recommending to the Secretary of the Interior, Administrator, General Services Administration, and Members of Congress broad criteria, guidelines, and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary and Administrator, and to serve as information focal point for those persons seeking to erect memorials on Federal land in the National Capital Region.

The members of the Commission are as follows:

Director, National Park Service
Chairman, National Capital Planning Commission
The Architect of the Capitol
Chairman, American Battle Monuments Commission
Chairman, Commission of Fine Arts
Mayor of the District of Columbia
Administrator, General Services Administration
Secretary of Defense

The purpose of the meeting will be to consider:

I. Old Business
II. Site Selection
  (a) Japanese American Patriots Memorial
  (b) World War II Memorial
III. S. 426 and H.J. Res. 70, bills to establish a memorial to Martin Luther King, Jr., in the District of Columbia or its environs.
IV. Other Business.

The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact the Commission at 202–619–7097. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Office of Land Use Coordination, National Capital Region, 1100 Ohio Drive SW., Room 201, Washington, D.C., 20242.

Dated: April 19, 1995.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 95–10177 Filed 4–25–95; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503, telephone 202–395–7340.

Title: Customer Service Survey (Evaluation Questionnaire)

OMB Approval Number: Not yet assigned

Abstract: Executive Order 12862 requires agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The information supplied by this survey will determine customer satisfaction with OSM services and to identify areas needing improvement.

Bureau form number: None

Frequency: Annually

Description of respondents: Coal-field residents; environmental, citizen and industry groups; coal operators; and regulatory authorities

Estimated Completion Time: 10 minutes

Annual Responses: 1,500

Annual Burden Hours: 250

Bureau Clearance Officer: John A. Trelease, 202–343–1475.

Dated: February 2, 1995.

Andrew F. DeVito,

Chief, Branch of Environmental and Economic Analysis.

[FR Doc. 95–10261 Filed 4–25–95; 8:45 am]

BILLING CODE 4310–05–M

VOL 60 ISS 80 AP 26 1995 UMI

INTERNATIONAL TRADE COMMISSION

[No. TA–201–64 (Provisional Relief Phase)]

Report to the President on Investigation Fresh Winter Tomatoes [1]

Determinations [2]

On the basis of the statute and available information developed to date in the subject investigation—

Chairman Watson and Commissioners Crawford and Bragg find two full-year, national industries producing tomatoes for (1) fresh-market use and (2) processing.

Chairman Watson and Commissioner Crawford further determine that fresh winter tomatoes are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing a like or directly competitive perishable product.

Commissioner Bragg finds that the available information in this investigation, while somewhat incomplete, suggests that fresh winter tomatoes are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing a like or directly competitive perishable product; however, she makes a negative determination in this investigation based on a negative finding with respect to whether—

(I) serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

Commissioners Rohr and Newquist make a negative determination in this investigation based on a negative finding with respect to whether—

(I) serious injury or threat of serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

(II) the serious injury or threat of serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

[1] Specifically, fresh or chilled tomatoes, excluding cherry tomatoes, if entered during the period from January 1 through April 30 inclusive, provided for in subheadings 0702.00.20 and 0702.00.60 of the Harmonized Tariff Schedules of the United States.

[2] Vice Chairman Nuzum not participating.

Background

Following receipt of a petition filed on March 29, 1995, on behalf of the Florida Tomato Exchange, Orlando, FL, and the constituent members thereof, the Commission instituted investigation No. TA–201–64 under section 202(b) of the Trade Act of 1974 to determine whether fresh winter tomatoes are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. In addition, the petitioner sought provisional relief under section 202(d) of the Act.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection with the provisional relief phase of the investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 3, 1995 (60 FR 16883). The conference was held in Washington, DC, on April 10, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in this investigation to the President on April 19, 1995. The views of the Commission are contained in USITC Publication 2881 (April 1995), entitled "Fresh Winter Tomatoes: Investigation No. TA–201–64 (Provisional Relief Phase)."

Issued: April 21, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–10256 Filed 4–25–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 505X)]

CSX Transportation, Inc.—Abandonment Exemption—In Lee County, NC

CSX Transportation, Inc. (CSXT), has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 0.46 miles of rail line extending between milepost AE–245.06 and milepost AE–244.6 in Sanford, Lee County, NC.

CSXT has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 26, 1995 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file offers of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by May 8, 1995.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 16, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

[1] A stay will be issued routinely where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use statements so long as it retains jurisdiction.

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 1, 1995. Interested persons may obtain a copy of the EA by writing to SEA at (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 19, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10209 Filed 4–25–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

DNA Advisory Board Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given that the DNA Advisory Board (DAB) will meet on May 12, 1995, from 11:00 am until 5:00 pm, at the General Services Administration Regional Office Building, Room 1909, Seventh and D Streets Southwest, Washington, D. C. 20407. Entrance to the meeting is through the 9th and D Street entrance. All attendees will be admitted only after displaying personal identification which bears a photograph of the attendee.

The DAB's objectives and scope are: To develop, and if appropriate, periodically revise, recommended standards for quality assurance to the Director of the FBI, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA; To recommend standards to the Director of the FBI which specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories; and, To make recommendations to the Director of the FBI for a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

The topics discussed at this meeting include a review of Federal ethics and conflict of interest laws and the role of DAB members as special government employees, the review administrative procedures and to establish by-laws and rules of order for the conduct of DAB meetings, and to review the history of forensic DNA testing and the development of quality assurance standards now in place.

The meeting is open to the public on a first-come, first seated basis. Anyone wishing to address the DAB must notify the Designated Federal Employee (DFE) in writing at least twenty-four hours before the DAB meets. The notification must include the requestor's name, organizational affiliation, a short statement describing the topic to be addressed, and the amount of time requested. Oral statements to the DAB will be limited to five minutes and limited to subject matter directly related to the DAB's agenda, unless otherwise permitted by the Chairman.

Any member of the public may file a written statement for the record concerning the DAB and its work before or after the meeting. Written statements for the record will be furnished to each DAB member for their consideration and will be included in the official minutes of a DAB meeting. Written statements must be type written on 8 xerographic weight paper, one side only, and bound only by a paper clip (not stapled). All pages must be numbered. Statements should include the Name, Organizational Affiliation, Address, and Telephone number of the author(s). Written statements for the record will be included in minutes of the meeting immediately following the receipt of the written statement, unless the statement is received within three weeks of the meeting. Under this circumstance, the written statement will be included with the minutes of the following meeting. Written statements for the record should be submitted to the DFE.

Inquiries may be addressed to the DFE, Mr. Milton E. Ahlerich, Assistant Director, Laboratory Division, Tenth Street Northwest, Washington, DC 20535, (202) 324–4410.

Dated: April 20, 1995.

Milton E. Ahlerich.

Assistant Director, Federal Bureau of Investigation.

[FR Doc. 95–10240 Filed 4–25–95; 8:45 am]

BILLING CODE 4410–02–P

Immigration and Naturalization Service

[INS No. 1715–95]

RIN 1115–AE12

Naturalization Pilot Project; Availability of Funds; Solicitation for Proposals

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of availability of funds and solicitation for applications for a cooperative agreement.

SUMMARY: The Immigration and Naturalization Service (INS) announces the availability of up to $500,000 for a cooperative agreement to conduct a naturalization pilot project pursuant to the funding provisions of the President's Immigration Initiative, Public Law 103–317 enacted August 26, 1994. *See* H.R. Conf. Rep. 103–708, 103d Cong., 2d Sess. (1994) at 23,26.

The Office of Justice Programs will award a cooperative agreement on behalf of INS to an organization demonstrating a capacity to design and successfully implement a program enhancing public awareness of naturalization in urban and rural areas of Southern California.

The INS will accept proposals from organizations with the experience, expertise and resources to prepare and disseminate information, assist in the preparation of naturalization applications, conduct or coordinate citizenship education programs and fully assist INS in the naturalization process. The INS welcomes proposals from nonprofit organizations (501(c)(3) status), such as national and local voluntary agencies, community-based organizations as well as ethnic, civic, patriotic, educational and other immigrant interest organizations.

APPLICATION DUE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: E.B. Duarte, Jr., Director, Examinations Operations Facilitation Program, Immigration and Naturalization Service, 425 I Street, NW.; room 3214, Washington, DC 20536; telephone 202/307–3587.

SUPPLEMENTARY INFORMATION: The INS announces the availability of funds to conduct a naturalization pilot project in urban and rural areas of southern California. A cooperative agreement will be awarded to one organization which may function by itself or as a principal organization responsible for directing and coordinating a consortium of affiliated entities. The organization may conduct the pilot project in any one, two or all of the following INS jurisdictions: The district offices of Los

VOL 60 ISS 80 AP 26 1995 UMI

Angeles and San Diego and the suboffice of Fresno.

Background

Enhancing the naturalization process for all eligible immigrants is an INS priority. The goal is to focus on lawful permanent residents who gained their status in the 1980s through the legalization program and are now becoming eligible to apply for naturalization, as well as those permanent residents who have not yet chosen to become United States citizens. The best public awareness program is the speedy, efficient delivery of a quality product. The INS will implement an enhanced program to process the additional filings resulting from awareness activities and permanent residents motivated recently to seek citizenship. A key element of the program is the naturalization pilot project.

A cooperative agreement will be awarded to a nonprofit, voluntary organization which, depending on the scope of its program, will work closely with either or both district directors at Los Angeles and San Diego and/or the officer-in-charge at Fresno and their appropriate staffs. In cooperation and consultation with the INS field offices, the organization will develop creative approaches to reach out to potential naturalization applicants from a wide range of various ethnic groups individually or en masse to complete and file their naturalization applications.

The organization will also help applicants meet their English language and civics requirements, assist the INS in the naturalization process and provide follow-up educational programs on citizenship responsibilities.

An objective of the cooperative agreement is to ensure the provision of appropriate information and assistance to eligible naturalization applicants.

Purpose

The INS intends to empower local community groups to develop a viable programmatic relationship with INS field offices to provide naturalization applicants from diverse groups with general information, technical assistance and educational opportunities to complete their applications and prepare for their naturalization interviews. To do so, the INS seeks proposals from organizations that have experience in developing creative and innovative approaches (utilizing various multi-media packages and state-of-the-art information system technologies) of screening and assisting eligible applicants in the immigration application process, and can demonstrate accessible, credible educational programs for required English and civics proficiencies.

Program Description

The pilot project is designed to develop and implement a program enhancing public awareness of naturalization in urban and rural areas of southern California. Organizations shall propose to conduct programmatic activities in the following INS jurisdictions: only the Los Angeles district, only the San Diego district, only the Fresno suboffice, or any combination of two or all three of these jurisdictions. Proposals should specify in which jurisdiction(s) the organizations will conduct the pilot project and the strategies they will pursue, and describe the level of effort they will exert in each jurisdiction. Additionally, proposals should address the following critical elements:

Part I: Targeted Population

Outreach efforts emphasizing naturalization under the cooperative agreement shall be directed to a wide-range of ethnic groups or particular classes of immigrants in urban and rural areas of the INS jurisdictions stated above in which the organization will conduct pilot project activities. Classes would include, for example: Those lawful permanent residents who obtained status through the legislation or special agricultural programs during the 1980s and are now becoming eligible to apply for citizenship; lawful permanent residents from particular ethnic groups who have not been fully motivated to apply for naturalization; and elderly applicants from diverse ethnic groups who may require special educational programs tailored to their needs. Proposals should emphasize how the organization can develop effective systems enabling applicants to electronically file their naturalization applications with the INS field office(s), and may include a discussion of how certified educational entities, if approved by the INS, would test naturalization applicants on the English and civics requirements, especially the ability to speak English words and phrases in ordinary usage.

Proposals should define the characteristics of the targeted ethnic groups or particular classes as well as the organization's qualifications to reach large segments in a credible manner through educational and public informational activities.

Part II: Pilot Project Strategies

Proposers are encouraged to develop creative approaches for providing a comprehensive program that will assist the widest possible targeted audiences. Proposals should discuss how the organization, either functioning by itself or directing and coordinating a consortium of entities, will develop strategies to implement the following activities:

A. Make eligible persons from a wide-range of ethnic groups aware of the naturalization process through general outreach projects such as the production and distribution of brochures, flyers, posters, public service and other media announcements/productions, public forums, media events, and similar activities.

1. In consultation and cooperation with the INS, the organization shall produce and disseminate the multi-media informational items to the public.

2. Any media or multi-media promotional, educational or instructional materials developed by the organization must be reviewed and approved by the INS for technical accuracy and proper emphasis prior to production.

3. All informational items disseminated shall mention INS as a source for assistance, information and action, and shall include the correct addresses of local INS office(s).

4. Upon request, the organization shall provide the INS with all print mechanicals and master tapes of video/audio media items produced under this agreement in a timely manner.

B. Assist persons individually or in groups to prepare and file complete, fully-documented, naturalization applications with local INS offices.

1. Screen applicants carefully to determine eligibility for naturalization and reduce INS adjudication time.

2. Develop creative ways of assisting applicants in group processing programs and assist INS, when necessary, in making arrangements and performing other tasks related to group processing.

3. Develop innovative ways of filing naturalization applications, making use to the fullest extent possible of state-of-the-art electronic systems, in cooperation with local INS offices.

4. Develop and maintain records of individual naturalization applicants, including those assisted to prepare and file their applications at INS offices.

C. Assure that applicants meet the English, and United States history and government knowledge requirements of the naturalization law.

1. Screen applicants to determine if they can speak, read and write English in ordinary usage, have a general knowledge of United States history and government, or meet the statutory exemptions to these requirements.

2. Conduct English and civics classes for applicants and offer the standardized citizenship test, or refer the applicants to educational or community organizations that offer these services.

3. Encourage universities, colleges, high schools and adult education programs to offer English, United States history and government courses which could be recognized by the INS.

4. Develop and maintain accurate records tracking individual applicant's progress through the educational programs.

D. Cooperate and coordinate with INS offices in the submission of naturalization applications according to local procedures.

1. Assist, as needed, in the coordination of INS sponsored public forums, off-site adjudication of naturalization applications, and other activities related to both judicial and administrative oath ceremonies, including leasing of appropriate facilities to conduct these activities.

2. Ensure that arrangements made for oath ceremonies enhance the patriotism and dignity of such ceremonies.

E. Provide follow-up education to newly naturalized Americans on citizenship responsibilities, such as voter registration, serving on juries, community and school involvement, anticrime efforts, neighborhood improvements, and similar activities.

Proposals shall discuss how the various components of the pilot project strategies will be implemented in the INS jurisdiction(s) based on the organization's experience, expertise and resources. Discussions of campaign strategies and supporting rationale should be clear and concise, reflecting sound evidence and reasoning.

Part III: Conditions

Organizations should be aware of the following conditions affecting the pilot project strategies:

A. Representation

In order to ensure competent assistance for naturalization applicants, the organization, whether functioning alone or as a consortium of affiliated entities assisting naturalization applicants to prepare and file their applications, shall have attorneys or accredited representatives on staff or as *pro bono* volunteers who are responsible for directing, supervising or coordinating the organization's counseling and representation activities in the preparation of such applications in accordance with title 8, Code of Federal Regulations, § 292.2.

B. Prohibition on Assessing or Requesting Fees or Donations

The organization and its affiliated entities shall not request, accept, or receive any fees or donations for any activities or services described in this solicitation, and provided under the cooperative agreement, such as, but not limited to, assisting applicants to prepare and file naturalization applications, ancillary assistance such as fingerprints and photographs, and rendering educational courses.

C. Progress and Other Reports

1. The organization shall submit progress reports to the INS on a quarterly basis. Each report shall be typewritten as a narrative not exceeding ten (10) pages, and shall describe pilot project strategies developed and implemented in the INS jurisdiction(s) noted in the cooperative agreement. The narrative shall summarize the following, highlighting accomplishments, results and innovative approaches:

a. Specific outreach activities and events.

b. Statistics detailing the number of persons assisted to prepare and file their naturalization applications, particularly in group sessions; the number of persons who made an initial contact but did not apply; the numbers by category of persons whose applications were approved, denied, rescheduled, withdrawn or are pending; and the number of persons sworn in as new citizens.

c. The use of innovative application filing procedures, such as electronic systems.

d. Educational programs assisting applicants to meet the English and civics requirements; various approaches and methodologies used; and statistics by category of the number of applicants currently enrolled in programs, and of those who were previously enrolled and whether they passed, failed, or dropped out.

e. Special outreach and programmatic activities conducted with INS offices.

f. Follow-up citizenship education programs.

2. Other reasonable work-flow reports as requested.

D. The organization will provide all staff, materials, supplies, space, and equipment to provide naturalization applicants with general information, technical assistance, and educational services to complete and file their naturalization applications, prepare for their INS interviews, and learn the scope of citizenship responsibilities.

E. The INS directly and through its official representatives will monitor program activities of the organization and provide technical assistance and INS forms to the organization and its affiliated entities.

F. The INS recognizes that the organization may be engaged in a wide range of other immigration related activities, such as general immigration counseling, refugee resettlement, social services, etc. The cooperative agreement does not in any way limit the organization's performance of these services for the receipt of fees or donations. No provision of the agreement shall be construed as a prohibition against the performance of such other normal services, or other activities not directly related to the agreement. Nonetheless, the organization shall use any monies disbursed by INS under the agreement exclusively for activities and services designated as part of the naturalization pilot project.

Part IV: Program Management and Coordination

In order to insure effective implementation of the pilot project activities, proposals shall describe how the organization plans to manage and coordinate the pilot project strategies according to the following guidance:

The organization, whether functioning alone or directing and coordinating a consortium of entities, shall be primarily and exclusively responsible for the performance of all pilot project activities, including those implementing by its affiliated entities.

A. Appoint a Project Manager

1. Subject to the approval of INS, the organization shall appoint a project manager with the authority and ability to carry out the pilot project activities, and an alternate to act in the manager's absence. The organization shall notify the INS in writing at least ten (10) days in advance of any proposed changes in the persons designated for these positions.

2. The project manager shall insure that adequate numbers of trained staff are available to provide information and assist applicants in completing the naturalization process and other related activities without excessive delay.

3. The project manager and staff shall communicate regularly with local INS officials to coordinate and facilitate the naturalization process and other project activities.

4. The project manager shall respond to inquiries from the INS on matters related to the cooperative agreement

VOL 60 ISS 80 AP 26 1995 UMI

requiring immediate, follow-up or other relevant action in a timely manner.

B. Coordination of Consortium of Affiliated Entities

If functioning as a consortium, the organization, through its project manager, will coordinate and be responsible for all pilot project activities performed by its affiliated entities.

C. Establishment, Operation and Closing of Affiliated Entities

1. For the purpose of program coordination, the project manager shall provide all INS offices in the jurisdictions served with the complete names, addresses, and telephone numbers, of the persons in charge of each affiliated entity participating in the consortium, as well as the tasks to be performed by each entity in the respective jurisdiction(s).

2. The project manager shall also perform the following administrative responsibilities related to the consortium:

a. Consult with and provide the INS notification and written justification three weeks prior to the recommended phasing-in or removal of any affiliated entities. Obtain written approval from the INS prior to their inclusion in the consortium. No unilateral phase-ins will be permitted. The relationship of all affiliates will be approved by the INS. Those affiliated entities approved in the application process will have met this requirement.

b. Develop and submit for INS approval, written agreements with all affiliated entities that incorporate all applicable programmatic and budgetary provisions relating to the pilot project activities.

c. Monitor the activities of the affiliated entities and provide required assistance to assure continued efficient operation of each entity.

Part V. Financial Reporting and Records Retention

A. Financial Reporting

The organization awarded the cooperative agreement is required to submit a financial status report reflecting financial information related to Federal obligations and outlays. This report is required for each active quarter on a calendar-quarterly basis. The report is due 45 days after the end of each calendar quarter. The final financial status report is due 90 days after the end of the cooperative agreement period or any extension thereof.

B. Records Retention

All financial records, supporting documents, statistical records, and all other records pertinent to the aware shall be retained for at least three years from the closed audit report date for purposes of Federal examination. The retention requirement extends to books of original entry, source documents, supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records.

Part VI. Evaluation of Pilot Project Strategies

The central goal of this program is to determine which pilot program strategies are most effective, and should therefore be included in future INS naturalization outreach efforts. Therefore, it is crucial that the methods of evaluating the strategies are accurately and objectively described. The organization shall submit a full evaluation of the project's effectiveness within 60 days of the conclusion of the program.

Selection Criteria

The final selection for award of the cooperative agreement will be made by the Executive Associate Commissioner, Programs, Immigration and Naturalization Service.

Proposals will be submitted to a review panel. The INS anticipates seeking assistance from sources with specialized knowledge in naturalization and other immigration laws, and evaluating proposals, including the Community Relations Service, Office of Special Counsel for Immigration Related Unfair Employment Practices, Commission on Immigration Reform, Office of Refugee Resettlement, and Commission on Civil Rights. Each panelist will evaluate proposals for effectiveness and efficiency, emphasizing the factors enumerated below. The panel's results are advisory in nature and not binding on the INS. Letters of support, endorsement or recommendation will not be accepted.

Organizations should be aware that the State of California is planning to fund some educational programs focusing on naturalization applicants. Unnecessary duplication of specific efforts under those programs should be avoided.

To determine which organization should be awarded the cooperative agreement, the INS will consider the following (based on a 200 point scale):

A. Program Design (40 points)

Sound program design and cost effective strategies utilized to increase awareness of naturalization are imperative. In developing their proposals, organizations should demonstrate evidence of in-depth knowledge of the goals and objectives of the project; identify INS jurisdictions in which activities will be performed, and the organization's qualifications to accomplish these goals effectively; discuss a cost effective strategy to enhance public awareness of naturalization, justifying planned programmatic strategies; and outline the evaluation methods that will be used to measure the effectiveness of the pilot project, and describe their precision in indicating to what degree the program is successful.

Consequently, areas that will be closely examined in the program design include the following elements:

1. Creative and innovative outreach approaches to make eligible applicants aware of naturalization benefits. (5 points)

2. Experience and expertise in the areas necessary to screen and assist eligible persons to prepare and file fully completed naturalization applications, particularly in prompting, organizing and conducting group processing sessions. (10 points)

3. Ability to assist diverse groups of naturalization applicants in meeting the English and civics requirements through structured and special educational programs, standardized citizenship testing, or other innovative and measurable programs. (10 points)

4. Ability to cooperate with INS field office(s) in the submission of naturalization applications; and on an as needed basis, test the feasibility of filing applications electronically; assist in the coordination of INS sponsored public forums, and off-site processing of naturalization applicants, and implement various activities related to both judicial and administrative oath ceremonies. (10 points)

5. Ability to provide follow-up education to recently naturalized citizens on citizenship responsibilities, such as community and school involvement, voter registration, serving on juries, anti-crime efforts and similar civic activities. (5 points)

B. Administrative Capability (20 points)

Proposals will be rated in terms of capability of the organization to implement the programmatic activities and evaluation components.

1. Evidence of proven ability to provide high quality results. (10 points)

2. Evidence that the organization can implement the campaign, and complete the evaluation component within the time lines provided. (10 points)

C. Staff Capability (20 points)

Proposals will be evaluated in terms of the degree to which:

1. The duties outlined for cooperative agreement positions appear appropriate to the work that will be conducted under the award. (10 points)

2. The qualifications of the cooperative agreement-funded positions appear to match the requirements of these positions. (10 points)

D. Previous Experience (20 points)

The proposals will be evaluated on the degree to which the organization demonstrates that it has successfully carried out programs or work similar to the overall pilot project strategies described in this notice.

E. Jurisdictional Involvement (100 points)

During evaluation the panel will closely examine the proposals that guarantee maximum exposure and implementation of the pilot project strategies in the INS jurisdiction(s). Thus, a program designed to reach a very large proportion of potential naturalization applicants in the INS district of Los Angeles would take precedence over a program in only the INS district of San Diego, or only the jurisdiction of the Fresno suboffice. In keeping with the purpose of the pilot project to reach naturalization applicants in urban and rural areas in southern California, points will be awarded to those organizations that best describe overall programmatic strategies and administrative capabilities applicable to the following jurisdictions:

1. Los Angeles INS District which has the largest number of potential applicants from diverse groups. (50 points)

2. Fresno INS Suboffice which has a significantly large rural area and a large population of permanent residents who gained this status through the Special Agricultural Worker (SAW) program during legalization. (30 points)

3. San Diego INS district with significant urban and rural constituencies. (20 points)

Eligible Organizations

This competition is open to nonprofit voluntary organizations (501(c)(3) status) that customarily provide assistance with respect to immigration benefits, including naturalization.

Period and Award Amount

An award of up to $500,000 will be made to one organization.

Publication of this announcement does not require that an organization should be funded, or that the entire amount of funds available, or any part thereof, be obligated for funding. The period of performance will be from the date of the award until September 30, 1996, unless extended by mutual agreement between the awardee and the INS.

Proposal Deadline

All proposals must be received by 5 p.m. EDT, June 5, 1995, at the Naturalization Special Projects Branch, Adjudications Unit, room 3214, Immigration and Naturalization Service, Washington, DC 20536. Proposals submitted via facsimile machine will not be accepted or considered.

Proposal Requirements

Organizations should submit an original and two (2) copies of their completed proposal by the deadline established above. All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424) and Budget Information (Standard Form 424A).

2. Department of Justice, Office of Justice Programs, Form 4061/6 (Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Work place requirements).

3. An abstract of the full proposal, not to exceed one page.

4. A program narrative of not more than twenty-five (25) double-spaced typed pages which includes the following:

a. A clear statement describing the approaches and strategies to be utilized to complete the tasks identified in the program description;

b. A clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and time-tables for completion;

c. Description of how the project will be evaluated.

5. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, equipment, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the applicant and the Federal Cognizant Agency must accompany the budget.

6. Copies of resumes for the professional staff proposed in the budget.

7. Detailed technical materials that support or supplement the description of the proposed effort should be included in an appendix.

In order to facilitate handling, please do not use covers, binders or tabs.

Proposal application forms may be obtained by writing or telephoning: Examinations Operations Facilitation Program, Adjudications Unit, Immigration and Naturalization Service, 425 I Street, NW., room 3214, Washington, DC 20536, telephone 202/307-3587.

Dated: April 12, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95-10270 Filed 4-25-95; 8:45 am]

BILLING CODE 4410-18-M

LIBRARY OF CONGRESS

American Folklife Center; Board of Trustees Meeting

AGENCY: Library of Congress.

ACTION: Notice of Meeting.

SUMMARY: This notice announces a meeting of the Board of Trustees of the American Folklife Center. This notice also describes the functions of the Center. Notice of this meeting is required in accordance with Public Law 94-463.

DATES: Friday, May 12, 1995; 9:00 a.m. to 1:00 p.m.

ADDRESSES: West Dining Room, James Madison Building, Library of Congress, Washington, D.C. 20540.

FOR FURTHER INFORMATION CONTACT: Alan Jabbour, Director American Folklife Center, Washington, D.C. 20540-8100.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. It is suggested that persons planning to attend this meeting as observers contact Doris M. Craig at (202) 707-6590.

The American Folklife Center was created by the U.S. Congress with passage of Public Law 94-201, the American Folklife Preservation Act, in 1976. The Center is directed to "preserve and present American folklife" through programs of research, documentation, archival preservation, live presentation, exhibition, publications, dissemination, training, and other activities involving the many folk cultural traditions of the United States. The Center is under the general guidance of a Board of Trustees composed of members from Federal agencies and private life widely recognized for their interest in American folk traditions and arts.

The Center is structured with a small core group of versatile professionals who both carry out programs themselves

VOL
60
ISS
80
AP
26
1995
UMI

and oversee projects done by contract by others. In the brief period of the Center's operation it has energetically carried out its mandate with programs that provide coordination, assistance, and model projects for the field of American folklife.

Dated: April 10, 1995.

Alan Jabbour,

Director American Folklife Center.

[FR Doc. 95–10212 Filed 4–25–95; 8:45 am]

BILLING CODE 1410–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cooperative Agreement for Administrative Assistance

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts requests proposals leading to the award of a Cooperative Agreement to assist its Local Arts Agencies Program in the fiscal control and administration of payments to evaluators for telephone evaluations of grant applicants. Total payments are not expected to exceed $5,000. Responsibilities will entail administering approximately 30 payments to the evaluators, and preparing a financial report for the Local Arts Agencies Program. Those interested in receiving the Solicitation should reference Program Solicitation PS 95–05 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 95–05 is scheduled for release approximately May 15, 1995 with proposals due on June 15, 1995.

ADDRESSES: Requests for the Solicitation should be addressed to National Endowment for the Arts, Contracts Division, Room 217, 1100 Pennsylvania Ave., N.W. Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Ave., N.W., Washington, D.C. 20506 (202/682–5482).

William I. Hummel,

Director, Contracts and Procurement Division

[FR Doc. 95–10190 Filed 4–25–95; 8:45 am]

BILLING CODE 7537–01–M

National Council on the Humanities; Meeting

April 17, 1995.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, D.C. on May 11–12, 1995.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, N.W., Washington, D.C. A portion of the morning and afternoon sessions on May 11–12, 1995, will not be open to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the sessions on May 11, 1995, will be as follows:

8:30–9:00 a.m. Coffee for Council Members—Room 527

Committee Meetings (Open to the Public)

Policy Discussion

9:00–10:00 a.m.—Education Programs—Room M–14
Public Programs—Room 415
Research Programs—Room M07
Preservation and Access & Challenge Grants—Room 315
Federal-State Partnership—Room 507

10:00 a.m. until Adjourned (Closed to the Public) Discussion of specific grant applications before the Council

The morning session on May 12, 1995, will convene at 9:00 a.m., in the 1st Floor Council Room, M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

(Coffee for Staff and Council members will be served from 8:30–9:00 a.m.)

Minutes of the Previous Meeting
Reports
A. Introductory Remarks
B. Introduction of New Staff
C. Contracts Awarded in the Previous Quarter
D. Budget Reports
E. Legislative Report/Reauthorization
F. Committee Reports on Policy and General Matters
G. 1. Overview
2. Education Programs
3. Research Programs
4. Preservation and Access & Challenge Grants
5. Public Programs
6. Federal-State Partnership
7. Jefferson Lecture

(The meeting will be closed to the public at this point.)

The remainder of the proposed meeting will be given to the consideration of specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. David C. Fisher, Advisory Committee Management Officer, Washington, D.C. 20506, or call area code (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

David C. Fisher,

Advisory Committee Management Officer.

[FR Doc. 95–10210 Filed 4–25–95; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Cross Disciplinary Activities; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Cross-Disciplinary Activities (#1193).

Date and Time: May 12, 1995; 8:30 am–4 pm.

Place: National Science Foundation, Room 1160, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Caroline E. Wardle, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Phone : (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE Research Infrastructure proposals as part of the selection process.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 21, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10271 Filed 4–25–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–244]

Rochester Gas and Electric Corporation; Ginna Nuclear Power Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. DPR–18, issued to Rochester Gas and Electric Corporation (RG&E), (the licensee), for operation of the Ginna Nuclear Power Plant, located in Wayne County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant a one-time exemption from performing Type C tests for certain containment isolation valves (CIVs) during the 1995 refueling outage and extend the schedule required by 10 CFR Part 50, Appendix J, Section III.D.3, up to 1-month of the 2-year interval.

The proposed action is in accordance with the licensee's application for the exemption dated March 15, 1995.

The Need for the Proposed Action

The proposed action is requested on a one-time basis only to support the current refueling outage schedule. Requiring a plant shutdown before the next scheduled refueling outage in April 1996, soley to perform surveillance tests would cause an unnecessary thermal transient on the plant and could result in unnecessary exposure to personnel. The performance of the CIVs and the plant's overall containment integrity have been good. RG&E proposes to limit the exemption to exclude those valves: (1) On which maintenance has been performed; and (2) on those valves that have not demonstrated acceptable leakage rate testing during the past two leakage tests.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed exemption would allow RG&E to conduct the local leak rate tests during the next refueling outage, an extension of up to 1 month. There will be no changes to the facility or the environment as a result of the exemption.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the NRC staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Ginna Nuclear Power Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on April 11, 1995, the staff consulted with the New York State official, Donna Ross, Acting State Liaison Officer of the New York Energy, Research, and Development Authority, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 15, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Rochester Public Library, 115 South Avenue, Rochester, New York.

Dated at Rockville, Maryland, this 19th day of April 1995.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

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Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 31, 1995, through April 14, 1995. The last biweekly notice was published on Wednesday, April 12, 1995 (60 FR 18621).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

VOL
60
ISS
80
AP
26
1995
UMI

margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 26, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 20, 1995.

Description of amendment request: The licensee proposes a revision to Technical Specification (TS) 2.2.1, Reactor Trip System Instrumentation Setpoints, and to relocate cycle specific Overpower and Overtemperature Delta T trip setpoint parameters to the Core Operating Limits Report (COLR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change of relocating Overtemperature Delta T * * * and the Overpower Delta T * * * trip setpoint parameters to the COLR has no influence or impact to the probability or consequences of an accident. The revised TS will continue to implement the Reactor Trip System Instrumentation (Overtemperature Delta T) and (Overpower Delta T) setpoint limits through reference to the parameters in the COLR. In addition, the COLR is subject to the existing controls of TS 6.9.1.6, including the establishment of the parameter values using an NRC approved methodology. Given that this change administratively relocates the selected trip setpoint parameter values to another TS-controlled document, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No safety-related equipment, safety function, or plant operation will be altered as a result of this proposed change. The limits are simply being relocated to another TS-controlled document. The TS will continue to require operation within the required limits as established per NRC approved methodologies. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

Relocation of the Reactor Trip System Instrumentation (Overtemperature Delta T) and (Overpower Delta T) setpoint limits to the TS-controlled COLR has no effect on the trip system setpoints currently in force in TS 2.2.1. Future revisions to the trip setpoint parameters are governed by TS 6.9.1.6. TS 6.9.1.6 lists each TS that references values in the COLR and the NRC approved methodologies utilized in developing those values. Since this change is only an administrative relocation of the selected trip setpoint parameter values to another TS controlled document, the proposed changes do not involve a significant reduction in a margin of safety

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: David B. Matthews.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 30, 1995.

Description of amendment request: The licensee proposes to revise the Emergency Diesel Generator (EDG) surveillance requirements contained in Technical Specification (TS) 4.8.1.1.2 to be consistent with NUREG–1431, Standard Technical Specifications for Westinghouse Plants, and to eliminate the need for duplicate EDG testing that has already been implemented to satisfy the requirements of the Station Blackout Rule and the Maintenance Rule.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This change does not involve a significant hazards consideration for the following reasons:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

A failure of the Emergency Diesel Generator (EDG) is not an initiator for any previously evaluated FSAR Chapter 15 accident scenario. By committing to and implementing an EDG reliability program that satisfies the requirements of the Station Blackout Rule and the Maintenance Rule, the Shearon Harris Nuclear Power Plant (SHNPP) will continue to ensure that target EDG reliability and availability is being achieved by conducting appropriate monitoring, testing, and maintenance activities. This program will be developed and controlled as a Plant Operating Manual procedure and will incorporate industry, vendor, and TDI Owners Group recommendations. Therefore, with commensurate levels of testing and inspection in place to provide assurance that the EDGs will perform their intended safety function in the event of an accident, the proposed changes will have no effect on the probability or consequences of such an accident.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

A failure of the EDG is not an initiator for any previously evaluated FSAR Chapter 15 accident scenario nor would the proposed changes to the EDG surveillance requirements result in the possibility of a new or different kind of accident from any accident previously evaluated. By committing to and implementing an EDG reliability program that satisfies the requirements of the Station Blackout Rule and the Maintenance Rule, SHNPP will continue to ensure that target EDG reliability and availability is being achieved by conducting appropriate monitoring, testing, and maintenance activities. This program will be developed and controlled as a Plant Operating Manual procedure and will incorporate industry, vendor, and TransAmerica Delaval Inc. Owners Group recommendations. Therefore, with commensurate levels of testing and inspection in place to provide assurance that the EDGs will perform their intended safety function in the event of an accident, the proposed changes would not increase the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes will not affect any parameters which relate to the margin of safety as defined in the Technical Specifications or the FSAR. Testing, inspection and maintenance necessary to verify the EDGs' ability to perform their intended safety function will continue to be

VOL
60
ISS
80
AP
26
1995
UMI

performed. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: David B. Matthews.

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of amendment request: March 24, 1995.

Description of amendment request: The proposed amendments would acknowledge the acceptability of performing containment leakage rate testing in accordance with 10 CFR Part 50, Appendix J, and all approved exemptions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability of occurrence or consequences of any accident previously evaluated.

The proposed changes to Technical Specifications to add an allowance to test in accordance with approved exemptions to 10 CFR 50 Appendix J are administrative in nature and will not affect any accident initiators or precursors. 10 CFR 50 Appendix J provides the requirements to periodically test the primary reactor containment. The objective of these requirements is to ensure that leakage from the primary reactor containment structure and systems and components that penetrate the containment is maintained below the limits established for containment leakage. The performance of periodic integrated leakage rate testing (Type A) and local penetration testing (Type B and C) during containment life provides a current assessment of potential leakage from containment during accident conditions.

10 CFR 50.12 allows the Commission to grant specific exemptions to the requirements of 10 CFR 50 Appendix J when those exemptions are authorized by law, will not present undue risk to the public, and are consistent with the common defense and security. In addition, special circumstances must exist as described in Section 50.12. Since all exemptions to 10 CFR 50 Appendix J receive NRC review and approval prior to being implemented, all containment leakage rate testing will continue to be performed in accordance with NRC approved methodologies when relying upon the allowance that is added to the Technical Specifications by the proposed amendment. The proposed changes are consistent with the requirements provided in NUREG–1431, "Standardized Technical Specifications, Westinghouse Plants" which has been approved by the NRC.

The proposed changes will not affect any accident initiators or precursors and will not change or alter the design assumptions for the systems used to mitigate the consequences of an accident. The proposed changes do not involve the addition of any new or different type of equipment, nor do they involve the operation of equipment required for safe operation of the facility in a manner different from those addressed in the UFSAR. There are no changes to parameters governing plant operation as a result of the proposed changes. The results and conclusions in the Zion Updated Final Safety Analysis Report (UFSAR) are unaffected by this proposed License Amendment.

Based on the previous discussion, the proposed changes do not involve a significant increase in the probability of occurrence or consequences of any accident previously evaluated

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to Technical Specifications to add an allowance to perform containment leakage rate testing in accordance with approved exemptions to 10 CFR 50 Appendix J are administrative in nature and do not involve the addition of any new or different types of safety related equipment, nor does it involve the operation of equipment required for safe operation of the facility in a manner different from those addressed in the safety analyses. The proposed changes may only affect the methods used to perform containment leakage rate testing while in a shutdown condition. No safety related equipment or function will be altered as a result of the proposed changes. Also, the procedures governing normal plant operation and recovery from an accident are not changed by the proposed Technical Specification changes. Since no new failure modes or mechanisms are added by the proposed changes, the possibility of a new or different kind of accident is not created.

3. The proposed changes do not involve a significant reduction in a margin of safety

Given the proposed changes to Technical Specifications, testing would be allowed in accordance with approved exemptions to Appendix J. Exemptions are allowed by the Commission in accordance with 10 CFR 50.12 when it is shown that the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. In addition, special circumstances must exist.

The proposed changes will not impact any margin of safety and testing in accordance with approved exemptions will not involve a significant reduction in a level of safety since containment leakage testing is performed while in a shutdown condition. In addition, it is likely that any test methodology that significantly reduces a margin of safety would not be approved by the NRC.

The ability to safely shut down the operating unit and mitigate the consequences of all accidents previously evaluated will be maintained. Therefore, the margin of safety is not significantly affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

NRC Project Director: Robert A. Capra.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: December 15, 1994.

Description of amendment request: The proposed amendment would revise Technical Specification 11.3.1.5 *ACTION* a. to eliminate the need to demonstrate that the actuation circuitry of the unaffected reactor depressurization system channels is operable. In addition, an editorial change correcting a typographical error is also proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change will eliminate the probability of a subsystem failure caused by additional testing (which unnecessarily introduces the potential for human and equipment problems), therefore eliminating the probability that the facility would have to be challenged and brought to the SHUTDOWN condition within 12 hours and to the COLD SHUTDOWN condition within the following 24 hours.

2. Will the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not alter the plant configuration, systems, components, or operation; and does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change is expected to eliminate unnecessary challenges to a safety system that has already been determined to be operable by routine surveillance testing; therefore contributing to the overall safe operation of the facility.

3. Will the proposed change involve a significant reduction in the margin of safety?

The RDS [Reactor Depressurization System] provides for both manual and automatic depressurization of the primary system to allow injection of the core spray following a small-to-intermediate size break in the primary system. This will allow core cooling with the objective of preventing excessive fuel clad temperatures. The design of the system is based on the specified initiation set points described in the Technical Specifications. Transient analysis demonstrated that these conditions result in adequate safety margins for both the fuel and the system pressure. The proposed change does not affect these setpoints, therefore the margin of safety is not changed.

In addition, the proposed editorial change to correct a typographical error is administrative in nature and, therefore, would have no effect on the three standards of 10 CFR 50.92 discussed above.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Cynthia A. Carpenter, Acting.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: January 26, 1995, as supplemented March 9, 1995.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) to increase the allowable nominal fuel enrichment from 4.2 to 5.0 weight percent for reload fuel assemblies. TS impose a limit on fuel enrichment of stored fuel assemblies to prevent inadvertent criticality. Presently, the Crystal River Unit 3 (CR3) TS specify a maximum enrichment of 4.5 weight percent for storage pool A and dry fuel (new fuel) storage racks, and 4.2 weight percent for fuel pool B. The licensee proposed to revise TS 3.7.15, 4.2, and 4.3, and associated TS bases to allow increasing the enrichment limits from 4.2 to 5.0 weight percent for the dry fuel storage racks and for A and B fuel pools. Additionally, a typographical error in TS 4.3.1.2.b will also be corrected.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. This amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

An increase in fuel enrichment will not by itself affect the mixture of fission product nuclides. A change in fuel cycle design which makes use of an increased enrichment may result in fuel burnup consisting of a somewhat different mixture of nuclides. The effect in this instance is insignificant because:

a. The isotopic mixture of the irradiated assembly is relatively insensitive to the assembly's initial enrichment.

b. Most accident doses are such a small fraction of 10 CFR 100 limits, a large margin exists before any change becomes significant.

c. The change in Pu content which would result from an increase in burnup would produce more of some fission product nuclides and less of other nuclides. Small increases in some doses are offset by reductions in other doses. The radiological consequences of accidents are not significantly changed.

2. This amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

An unplanned criticality event will not occur as K_{eff} (effective neutron multiplication factor) will not exceed 0.95 with the maximum allowable enriched fuel in Pool A and Pool B, when flooded with unborated water, and K_{eff} will not exceed 0.98 in the new fuel storage racks assuming conditions of optimum hypothetical low density moderation. The new fuel storage racks have two rows of storage cells physically blocked to ensure reactivity limits are not exceeded. Administrative controls assure fuel is stored in configurations which meet the requirements of the safety analysis.

3. This amendment will not involve a significant reduction in a margin of safety.

While the increased enrichment in Pool A, Pool B, and the dry storage racks may lessen the margin to criticality, this reduction is not significant because the overall safety margin is within NRC criteria of K_{eff} [less than or equal to] 0.95 (NRC Standard Review Plan, Section 9.1.2.)

Therefore, this amendment request satisfies the criteria specified in 10 CFR 50.92 for amendments which do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Attorney for licensee: A. H. Stephens, General Counsel, Florida Power Corporation, MAC–A5D, P. O. Box 14042, St. Petersburg, Florida 33733.

NRC Project Director: David B. Matthews.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 16, 1995.

Description of amendment request: The proposed amendment would revise Technical Specification 4.6.1.2, regarding the overall integrated containment leakage rate tests, so that it would reference 10 CFR Part 50, Appendix J directly, rather than paraphrase the regulation, and allow approved exemptions to the test frequency requirements. In addition, there is an associated proposed exemption, from the requirements of 10 CFR Part 50, Appendix J, to provide a one-time interval extension for the Unit 2 Type A test (containment integrated leak rate test) from the current scheduled 48 months to approximately 66 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change specific to Unit 2 will provide a onetime exemption from the 10 CFR 50, Appendix J Section III.D.1.(a) leak rate test schedule requirement. This change will allow for a one-time test interval for Type A Integrated Leak Rate Tests of approximately 66 months.

Leak rate testing is not an initiating event in any accident; therefore, this proposed

VOL 60 ISS 80 AP 26 1995 UMI

change does not involve a significant increase in the probability of a previously evaluated accident.

Type A tests are capable of detecting both local leak paths and gross containment failure paths. Experience at South Texas Project Unit 2 demonstrates that excessive containment leakage paths are local leakage detected by Type B and C Local Leak Rate Tests.

Administrative controls govern maintenance and testing of containment penetrations such that the probability of excessive penetration leakage due to improper maintenance or valve misalignment is very low. Following maintenance on any containment penetration, a Local Leak Rate Test is performed to ensure acceptable leakage levels. Following a Local Leak Rate Test on a containment isolation valve, an independant valve alignment check is performed. Therefore, Type A testing is not necessary to ensure acceptable leakage rates through containment penetrations.

While Type A testing is not necessary to ensure acceptable leakage rates through containment penetrations, Type A testing is necessary to demonstrate that there are no gross containment failures. Structural failure of the containment is considered to be a very unlikely event, and in fact, since South Texas Project Unit 2 has been in operation, it has successfully passed each Type A Integrated Leak Rate Test. Therefore, a one-time exemption increasing the interval for performing an Integrated Leak Rate Test results (sic) in a significant decrease in the confidence in the leak tightness of the containment structure. Therefore, this change does not involve a significant increase in the consequences of an accident previously evaluated.

The proposed amendment revised Technical Specification 4.6.1.2 to reference the testing frequency requirements of 10 CFR 50, Appendix J, and to state that Nuclear Regulatory Commission approved exemptions to the applicable regulatory requirements are permitted. This portion of the proposed change is applicable to Unit 1 and Unit 2. The current language of Technical Specification 4.6.1.2 paraphrases the requirements of Section III.D.I.(a) (sic) of Appendix J. The proposed administrative revision simply deletes the paraphrased language and directly references Appendix J. No new requirements are added, nor are any existing requirements deleted. Any specific changes to the requirements of Section III.D.I.(a) will require a submittal from Houston Lighting & Power under 10 CFR 50.12 and subsequent review and approval by the Nuclear Regulatory Commission prior to implementation.

The proposed amendment, in itself, does not affect reactor operations or accident analysis and has no radiological consequences. The change provides clarification so that future Technical Specification changes will not be necessary to correspond to applicable Nuclear Regulatory Commission-approved exemptions from the requirements of Appendix J.

Therefore, this proposed amendment does *not* involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed Unit 2 exemption request does not affect normal plant operations or configuration, nor does it affect leak rate test methods. The proposed change allows a one-time test interval of approximately 66 months for the Integrated Leak Rate Test. Because the test history of South Texas Project Unit 2 demonstrates no Type A test failures during plant lifetime, the relaxation in schedule should not significantly decrease the confidence in the leak tightness of the containment.

The proposed Technical Specification amendment for Units 1 and 2 provides clarification to a specification that paraphrases a codified requirement.

Since the proposed change and amendment would not change the design, configuration or method of operation of the plant, they would *not* create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—Does Not Involve a Significant Reduction in the Margin of Safety

The purpose of the existing schedule for Integrated Leak Rate Tests is to ensure that release of radioactive materials will be restricted to those leak paths and leak rates assumed in accident analyses. The relaxed schedule for Integrated Leak Rate Tests does not allow for relaxation of Type B and C Local Leak Rate Tests. Therefore, methods for detecting local containment leak paths and leak rates are unaffected by this proposed change. A one-time increase of the South Texas Project Unit 2 test interval does not leak to a significant probability of creating a new leakage path or increased leakage rates because the test history for Integrated Leak Rate Tests shows no failure during plant life. The margin of safety inherent in existing accident analyses is maintained.

The proposed Technical Specification amendment for Units 1 and 2 is administrative and clarifies the relationship between the requirements of Technical Specification 4.6.1.2, Appendix J, and any approved exemptions to Appendix J. It does not, in itself, change a safety limit, a Limiting Condition of Operation, or a surveillance requirement on equipment required to operate the plant. Nuclear Regulatory Commission approval of any proposed change or exemption to III.D.1.(a) of Appendix J will be required prior to implementation.

Therefore, this change and amendment do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges, Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: William D. Beckner.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: March 10, 1995.

Description of amendment request: The proposed amendment would remove redundant Limiting Conditions of Operation and Surveillance Requirements for the containment hydrogen and oxygen monitors in the Technical Specifications (TS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. No physical changes will result from this amendment. This change deletes requirements that are redundant and unduly restrictive. The annual surveillance deleted by this amendment is redundant to the semi-annual surveillance required in Table 4.2–H. The Limiting Conditions for Operation are not changed by the proposed amendment.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. No physical changes will result from this amendment. Functional tests are performed on the hydrogen and oxygen analyzers semiannually as required in TS Table 4.2–H. Deleting the annual requirement for a functional test of the same equipment will not reduce the amount of testing performed or increase the possibility of degraded equipment being undetected.

3. The proposed amendment does not involve a significant reduction in a margin of safety. No physical changes will result from this amendment. The existing requirement for a semi-annual test of the hydrogen and oxygen analyzer in Table 4.2–H exceeds the requirements to be deleted in Section 3.7/4.7–H. The frequency of testing of the hydrogen and oxygen analyzers will not be reduced as a result of this amendment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Kathleen H. Shea, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Project Director: Gail H. Marcus.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: March 28, 1995.

Description of amendment request: The proposed amendment would revise and clarify Technical Specification Table 3.2–A that lists allowable out-of-service times and surveillance test intervals for instrumentation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes to TS Table 3.2–A will not significantly increase the probability or consequences of an accident previously evaluated. The changes do not alter the physical design or operation of the plant and serve to describe more accurately and clearly the actual logic configurations. The existing logic designs are in conformance with the Architect/Engineer's design documentation since plant startup. These changes will assure that the information in the tables is clearer and more consistent with the column headings of the table. The proposed changes do not affect assumptions contained in the plant safety analysis.

The Bases changes provide additional information about the logic arrangements as appropriate to identify unique or different logic configurations. Changes to the Allowed Outage Time (AOT) descriptions for the MSL Flow—High and MSL Tunnel Temperature—High provide clarification regarding application of the AOT to these logic arrangements, since multiple instrument channels provide input into multiple logic channels. This application conforms to the single failure criterion of the design basis (NEDO–10139, Compliance of Protection Systems to Industry Criteria: General Electric BWR Nuclear Steam Supply System, dated June 1970) and to the analytical basis for the TS (NEDC–31677P–A, Technical Specification Improvement Analysis for BWR Isolation Actuation Instrumentation, dated July 1990).

2. The proposed changes to Table 3.2–A will not introduce a new or different kind of accident from any accident previously evaluated. The changes do not alter the physical design of the plant or affect any modes of operation. The proposed changes serve to clarify the existing information to better assure that the trip instrumentation will be maintained as assumed in the accident analyses contained in the Updated Final Safety Analysis Report.

3. The proposed changes do not involve a significant reduction in a margin of safety. Clarification of the logic arrangements in both Table 3.2–A and the TS Bases and how the AOT is applied does not affect the ability of the isolation logic to perform its intended function. No physical changes to the plant are being made as part of this amendment.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Attorney for licensee: Jack Newman, Kathleen H. Shea, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Project Director: Gail H. Marcus.

Indiana Michigan Power Company, Docket No. 50–315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of amendment request: March 17, 1995.

Description of amendment request: The proposed amendment would defer performance of the Type A containment integrated leakage rate test until the next refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Per 10 CFR 50.92, a proposed change does not involve a significant hazards consideration if the change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated,

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. Involve a significant reduction in a margin of safety.

Criterion 1

The Cook Nuclear Plant Type A test history provides substantial justification for the proposed test schedule. Three Type A tests were performed over a seven year period with successful results. The tests indicate that the Cook Nuclear Plant has a low leakage containment. In addition, there are no adverse trends in the results from the previous Types A, B, and C tests or visual inspections that indicate a gradual degradation of the containment boundary. Further, there are no structural modifications planned which would adversely affect the structural capability of the containment and that would be a factor in deferring the Type A test one refueling outage. Containment leak rate testing is not an initiator of any accident. The proposed interval extension does not affect reactor operations or the accident analysis and has no radiological consequences, except for the dose savings associated with not performing the test. There will be no changes to 10 CFR 100 dose limits or the control room dose limits. Extending the test interval will not increase the probability of a malfunction of equipment important to safety. Based on these considerations, it is concluded that the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed change does not involve physical changes to the plant or changes in plant operating configuration. The proposed change only relaxes the schedular requirements for conducting one Type A test from the T/Se and defers performance of the test one cycle. The purpose of the test is to provide periodic verification of the leak-tight integrity of the primary reactor containment, and systems and components which penetrate containment. The tests assure that leakage through containment and systems and components penetrating containment will not exceed the allowable leak rate values established in 10 CFR 50, Appendix J. Thus, it is concluded that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The proposed change to the schedule for performing the Type A test does not reduce the margin of safety assumed in the accident analysis for any release of radioactive materials or reduce any margin of safety preserved by the technical specifications. The methodology, acceptance criteria, and the technical specification leak rate limits for the performance of the Type A test will not change. Type A tests will continue to be performed in accordance with 10 CFR 50, Appendix J and the applicable Cook Nuclear Plant Technical Specifications beginning in 1997. In addition, there are no adverse trends in the results from the previous Type A, B, and C tests or visual inspections that indicate a gradual degradation of the containment boundary. Based on these considerations, it is concluded that the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and

VOL
60
ISS
80
AP
26
1995
UMI

Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter, Acting.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: March 31, 1995.

Description of amendment requests: The proposed amendments would modify the Containment Ventilation System Technical Specifications (and associated Bases) to allow limited containment purge operation in Modes 1, 2, 3, and 4 for pressure control, ALARA [as low as is reasonably achievable], and respirable air quality considerations.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

The purpose of this amendment is to allow flexibility in the use of the containment purge system during MODES 1, 2, 3, and 4. The use of this system during these modes of operation has previously been approved (Amendment No. 66). Therefore, this amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed change to the T/Ss does not affect the assumptions, parameters, or results of any UFSAR [Updated Final Safety Analysis Report] accident analysis. Based on the existing system design and demonstrated closure capability it is concluded that the proposed changes do not modify the response of the containment during a design basis accident. The proposed amendment does not add or modify any existing equipment. Based on these considerations, it is concluded that the changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed change does not involve physical changes to the plant or changes in the plant operating configuration. Thus, it is concluded that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The margin for safety presently provided is not reduced by the proposed change. As discussed previously, the containment purge valves have been designed and demonstrated capable of closure against the dynamic forces resulting from a loss of coolant accident. The proposed amendment does not impact the ability of the purge valves to perform their intended function (i.e. achieve closure) in the event of an accident. Based on these considerations, it is concluded that the changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter, Acting.

Northeast Nuclear Energy Company (NNECO), Docket No. 50–245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: March 31, 1995.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to increase the as-found setpoint tolerance of the safety/relief valves (SRVs) from plus or minus 1% to plus or minus 3%. In addition, the proposed amendment (1) would allow the as-found condition of one SRV to be inoperable, (2) clarifies the 1325 psig safety limit wording, (3) increases the number of SRVs to be tested during each refueling outage, (4) makes editorial changes to reflect the TS changes, and (5) revises the bases for the applicable sections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed changes in accordance with 10 CFR 50.92 and concluded that the changes do not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not compromised. The proposed changes do not involve an SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The safety function of the SRVs is to mitigate the effects of a RPV [reactor pressure vessel] overpressurization, therefore a failure to open until the upper setpoint limit (+3%) is reached cannot affect the probability of an accident. The lowest allowable limit (−3%) is still above normal operating pressure and therefore does not significantly increase the probability of an inadvertent opening.

Should the SRVs open in response to an RCS [reactor coolant system] overpressure event, opening of the SRVs below the nominal setpoints does not adversely affect the consequences of an accident. The fuel reload analysis demonstrates that actuation of five valves at or below 103% of nominal provides sufficient pressure reduction to maintain peak RCS pressure below the safety limit of 1375 psig and to maintain vessel steam space pressure below 1325 psig. The hydrodynamic loads on the SRV discharge pipe (i.e., tail pipe) and the torus remain within the design limits.

The performance of the high pressure systems; FWCI [feedwater coolant injection], SLC [standby liquid control] and IC [isolation condenser] remain acceptable. There is also no adverse impact on the operability of the APR [automatic pressure relief] system.

The SRV setpoints will continue to be required to be within [plus or minus] 1% prior to plant startup from a refueling outage. This ensures that the SRVs are restored to the optimal conditions at the start of each fuel cycle.

Therefore, increasing the "as-found" tolerance from [plus or minus] 1% to [plus or minus] 3% does not result in a significant increase in the probability or consequences of a previously analyzed accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

Revising the acceptable as-found setpoint tolerance from [plus or minus] 1% to [plus or minus] 3% does not change the type of action that these valves are expected to perform, nor does it change the initial "as-left" requirements for the valves. Plant operating parameters have not changed. Therefore, this change cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The margin of safety established and stated in the Millstone Unit No. 1 Technical Specifications, is a peak RCS pressure of 1375 psig and a peak vessel steam space pressure of 1325 psig. While allowing the SRV setpoint tolerance to increase to [plus or minus] 3% would allow peak pressures from an MSIV [main steam isolation valve] closure event to approach that safety limit, the safety limit will not be exceeded. Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 10, 1995.

Description of amendment request: The proposed changes provide for the correction of administrative errors made in the past during the processing of technical specification changes related to control room ventilation filter surveillance testing.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes are purely administrative and do not involve any physical changes to plant SSC [systems, structures, or components]. Therefore, these changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the changes will not alter the plant or the manner in which the plant is operated. The changes do not allow plant operation in any mode that is not already evaluated in the safety analysis. The changes will not alter assumptions made in the safety analysis and licensing bases. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety because they are purely administrative and have no impact on any safety analysis assumptions.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: March 15, 1994.

Description of amendment request: This amendment would reflect an exemption from 10 CFR Part 50, Appendix J, Section II.H.4, concerning the scope of Type 'C' testing on specified emergency core cooling system and reactor core isolation cooling containment isolation valves by revising Technical Specification Table 3.6.3–1, Primary Containment Isolation Valves. The subject valves on systems which terminate below the minimum water level of the suppression pool and are associated with closed systems would be tested using requirements of the American Society of Mechanical Engineers' Section XI Code.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to the scope of Type 'C' testing for the subject valves does not affect the probability of the design basis accidents. The valves will continue to be maintained in an operable state, and in their current design configuration. There is no correlation between the scope of the Type 'C' testing and accident probability.

PP&L reviewed the postulated consequences of design basis events on primary containment isolation under the proposed change. GDC 50 design conformance states that the primary containment structure, including access openings, penetrations and the containment heat removal system, is designed so that the containment structure and its internal compartments can withstand, without exceeding the design leakage rate (1.0% per day), the peak accident pressure and temperature that could occur during any postulated LOCA.

For the purposes of considering the consequences of LOCAs under the proposed change, a single active failure of a CIV or a passive failure of the closed system were reviewed, within the limits of the existing licensing basis. Under the existing licensing basis, a pipe rupture of seismically qualified ECCS piping does not have to be assumed concurrent with the LOCA, except if it is a consequence of the LOCA. Consequential failures can be eliminated, since a LOCA inside containment is separated from the ECCS piping by the containment structure. Consequential failures of the ECCS piping from LOCA's outside containment are outside the Appendix J design considerations, although they are adequately addressed through the redundancy and separation of the ECCS design. A single active failure of the CIV, under the LOCA condition, can be accommodated since the closed and filled system piping remains as the leakage barrier. The ECCS passive failure criterion does require consideration of system leaks, but not pipe breaks, beyond the initiating LOCA. Pipe leakage, equivalent to the leakage from a valve or pump seal failure, should be considered at 24 hours or greater post-LOCA. The capability to make-up inventory to the suppression pool is adequate to ensure that postulated seat leakage and pipe leakage does not result in a condition that jeopardizes pool level. Make-up capability exists to the suppression pool via the Condensate Storage Tank and Spray Pond. Actions to make-up to the suppression pool are delineated in Emergency Operating Procedures.

Therefore, the proposal to eliminate the subject Type 'C' tests does not involve a significant increase in the probability or consequences of an accident previously evaluated.

II. This proposal does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The acceptability of the proposed change to the scope of Type 'C' testing for the subject valves is based on maintaining the existing barriers to primary containment leakage, and ensuring that the suppression pool level is assured for 30 days during all design basis, post-accident modes of operation. By meeting these dual objectives, the plant response to the design basis events will be unchanged, and no new accident scenarios will be encountered. These two objectives are related, in that, the suppression pool inventory creates a passive barrier to primary containment atmospheric leakage for penetrations which are located below the minimum water level of the pool. The subject valve lines terminate below the minimum suppression pool water level.

The subject valves are all single isolation valves associated with lines that penetrate the primary containment, but are not connected directly to the primary containment atmosphere or the reactor coolant pressure boundary. The redundant isolation boundary for each of the affected valves is the closed system associated with the valve. This configuration is described in General Design Criteria (GDC) 57. The proposed exemption, and Technical Specification change, does not alter the configuration of these systems. The valves will continue to be tested and maintained to ensure their operability. The closed system

VOL 60 ISS 80 APR 26 1995 UMI

piping meets PP&L's design conformance to GDC 56 and is verified via a 10CFR50 Appendix J Type 'A' test. The integrity of the closed systems is also monitored and controlled via Technical Specification 6.8.4.a.

The subject valves may be open, or change state, postaccident to support the design function of their associated ECCS systems (HPCI, Core Spray, RHR) or RCIC. The subject valves function as system valves during the periods when they are open or in an intermediate state, not as containment isolation valves. Reliance is placed on the suppression pool seal and the closed system piping to maintain the barrier between primary and secondary containment atmospheres.

Therefore, with the valve and closed system configuration unaffected by the proposed change, the existing barriers to primary containment atmospheric leakage are maintained, so long as the suppression pool level is ensured.

The suppression pool is designed and operated so that it is filled with water in accordance with Technical Specifications 3/4.5.3, "Suppression Chamber," 3/4.6.2, "Depressurization Systems—Suppression Chamber," and the associated Bases. The supply of water in the suppression pool is assured for 30 days during all design basis, post-accident modes of operation. Type 'C' leak rate testing has historically been performed on valves associated with lines that connect to the suppression pool. The acceptance criteria for combined leakage from these penetrations is 3.3 gpm. This leakage rate is at a level which ensures the 30 day post-accident suppression pool level. However, for the valves discussed in this change, seat leakage past the CIV is into a closed and filled system. Thus "leakage" from the suppression pool, past the CIV, is a function of closed system leakage.

As mentioned above, the integrity of the closed system piping is verified via a 10CFR50 Appendix J Type 'A' test and is monitored and controlled via Technical Specification 6.8.4.a. TS 6.8.4.a establishes a program to monitor and control leakage from systems located outside containment that could contain highly radioactive fluids during a serious transient or accident. This program applies to the ECCS systems and RCIC affected by the proposed change and ensures that leakage into secondary containment via packing, flanges, seals, etc., is controlled. Leakage from these systems, plus the Scram Discharge Volume, Reactor Water Clean-up, and PASS, has been found to be very low, and well below the 5 gpm limit established for these systems. Current leakage for Unit 1 is 0.14 gpm and for Unit 2, 0.043 gpm. The proposed change is not expected to contribute to higher levels of system leakage. Any leakage from these systems is processed via Standby Gas Treatment and the radwaste system to maintain ALARA and comply with regulatory guidance. The closed systems are maintained filled, so that a supply of water exists on both sides of the isolation valves.

While suppression pool leakage is a function of closed system leakage for the subject penetrations, a review of Type 'C' test data for the subject CIVs showed that the valves have had low leakage rates during previous tests. This leakage is on the order of 0.6 gpm, per unit. Proposed testing of the valves under Section XI and the current requirements of the Generic Letter 89-10 program will ensure valve operability.

Therefore, leakage past the CIV and out of the closed system is expected to be low and in keeping with the design basis for the suppression pool. However, the capability does exist to make-up water to the suppression pool from the Condensate Storage Tank or Spray Pond if necessary. Existing Emergency Operating Procedures require actions if suppression pool level is less than 22 feet or greater than 24 feet. Thus, the level of the suppression pool is ensured, independent of the current CIV Type 'C' testing requirement.

The proposed change to the scope of Type 'C' testing for the subject valves maintains the existing barriers to primary containment leakage, and ensures that the suppression pool level is assured for 30 days during all design basis, post-accident modes of operation. Therefore, the plant response to the design basis events is unchanged, and the proposal does not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. This change does not involve a significant reduction in a margin of safety.

As discussed in questions I and II, the proposed change does not alter the plant response to existing accident scenarios, and does not introduce new or different scenarios. So the margin of safety from a design basis accident standpoint is maintained.

Historically, the leakage rate through the subject valves has been determined under the Type 'C' testing program. This leakage rate has been found to be very low, and is currently on the order of 0.6 gpm. Quantifying leakage past the CIVs has been used to ensure that the suppression pool level is assured for 30 days post-accident. Under the proposed change, this leakage rate will not be quantified. This is acceptable since leakage from the suppression pool is in reality a function of closed system leakage, not solely CIV leakage. Closed system leakage is monitored and controlled by an existing Technical Specification program. Closed system leakage has been found to be very low on both units, and is currently a small fraction of a gallon per minute compared with a 5 gpm allowable. Therefore, leakage past the CIV and out of the closed system is expected to be low and in keeping with the design basis for the suppression pool. However, the capability does exist, and is proceduralized, to make-up water to the suppression pool from the Condensate Storage Tank or Spray Pond if necessary. Thus the current capability to maintain adequate suppression pool level for 30 days postaccident is assured under the proposed change.

Therefore the proposed change to the scope of Type 'C' testing for the subject valves does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: March 31, 1995.

Description of amendment request: These amendments would modify the surveillance requirement for reactor coolant system pH analysis in section 4.4.4 of the Technical Specifications (TS) for each unit. Also, they would clarify in the TS that the pH analysis would be taken at least every 72 hours whenever reactor coolant conductivity exceeds 1.0 μmho/cm.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The pH limits on reactor coolant are not affected by this change. The pH will be measured whenever it is theoretically possible for it to be outside the Tech Spec [Technical Specifications] limits of <5.6 or >8.6 (i.e., whenever the conductivity is greater than 1.0 μmho/cm). Because of the theoretical relationship between pH and conductivity as shown in Attachment A [see application dated March 31, 1995, for this reference], it is possible to establish pH limits on the reactor coolant by limiting the conductivity. As shown in this figure, the pH must be >5.6 and <8.6 if the conductivity is less than or equal to 1.0 μmho/cm. Attachment A was taken from Regulatory Guide 1.56 Revision 1, July 1978 "Maintenance of Water Purity in Boiling Water Reactors". As noted in both FSAR final safety analysis report and Technical Specification Bases, the pH and conductivity limits for OPERATIONAL CONDITION 1 are consistent with this theoretical relationship. The Bases for Section 3/4.4.4 of the Tech Specs [Technical Specifications] contains [contain] the following statement: "When the conductivity is within limits, the pH, chlorides and other impurities affecting conductivity must also be within their acceptable limits[".]

Since the conductivity is measured by grab sampling at least every 72 hours to verify that it is within limits, this will also verify that pH is within limits every 72 hours. If the conductivity should exceed 1.0 μmho/cm, pH measurements will be made to determine if the Tech Spec [Technical Specifications] pH limits have been exceeded. It should also be noted that inline conductivity instrumentation is very stable and reliable and is used to continuously monitor the reactor coolant per Tech Spec [Technical Specifications] requirements, with instrumentation connected to redundant sources (reactor water cleanup influent and reactor recirculation loop). Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

II. Create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the pH limits on reactor coolant are not affected by this change. Since the conductivity is monitored continuously, to verify that it is within limits, this will also verify that pH is within limits. If the conductivity should exceed 1.0 μmho/cm, pH measurements will be made to determine if the Tech Spec [Technical Specifications] pH limits have been exceeded. Therefore, the incorporation of this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. Involve a significant reduction in a margin of safety.

The in-line conductivity instrumentation has been determined to be very stable and reliable in its use to continuously monitor the reactor coolant per Tech Spec [Technical Specifications] requirements. To maintain this reliability, this instrumentation is connected to redundant sources (reactor water cleanup influent and reactor recirculation loop). Based on this continuous monitoring of reactor coolant conductivity, as provided by this instrumentation, the incorporation of this change will have no impact on current safety margins, nor will it involve a significant reduction in the margin [of] safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: March 31, 1995.

Description of amendment request: These amendments would delete from the Technical Specifications of each unit, the operational condition restriction in Surveillance Requirement 4.8.1.1.2.d.7 which requires that 24-hour emergency diesel generator testing be performed with at least one unit in operational condition 4 or 5 (cold shutdown or refueling).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below: The proposed changes do not:

I. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to permit the 24 hour testing of the emergency diesel generators during power operation does not increase the chances for a previously analyzed accident to occur. The function of the EDGs [emergency diesel generators] is to supply emergency power in the event of a loss of offsite power. As stated above [,] the diesel generator being tested has been determined to remain operable and available to supply the emergency loads within the required times. In addition, the three remaining EDGs will be operable during this test. Operations [Operation] of an EDGs [EDG] is not a precursor to any accident. If, however, an offsite disturbance were to occur that affected the operability of the DG [emergency diesel generator] being tested, the remaining EDGs are capable of feeding the loads necessary for safe shutdown of the plant. In summary, the proposed change does not adversely affect the performance or the ability of the diesel generators to perform their intended safety function. Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

II. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the 24 hour surveillance requirement will not affect the operation of any safety system or alter its response to any previously evaluated accident. The diesel generator will automatically transfer from test mode if necessary to supply emergency loads in the required time. The test mode is used for the monthly surveillances of these diesel generators, resulting in no new plant operating modes being introduced. In the event the EDG fails the functional test[,] it will be declared inoperable and the actions required for an inoperable diesel will be performed. The remaining three EDGs will be operable and are capable of feeding the loads necessary for safe shutdown of the plant. Therefore, the incorporation of this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. Involve a significant reduction in a margin of safety.

Changing the EDG test timing results is no reduction in the safety margin as defined in the design basis. Because loss of an EDG is not expected as a result of LOOP (loss of offsite power) or LOCA/LOOP (loss-of-coolant accident with a loss of offsite power) during the 24 hour test, SSES (Susquehanna Steam Electric Station) remains within its design basis. In fact, because the test EDG loads the ESS (engineered safety system) bus 8.5 seconds earlier than the non-test EDGs during LOCA with LOOP, plant response is actually improved. Risk of operation during the 24 hour EDG test is certainly less than during the current 84 hour allowed outage time (AOT) because both the impact of the initiating events evaluated (EDG in test is not actually failed) and the frequency of the limiting plant condition (loss of two EDGs) are less. No increase in frequency or impact of design basis events, and no reduction in the safety margin occurs during the 24 hour EDG test. Therefore, the incorporation of this change will have no impact on current safety margins, nor will it involve a significant reduction in the margin to [of] safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: March 31, 1995.

Description of amendment request: This amendment would change Susquehanna Unit 2 Technical Specifications (TS) by incorporating the General Electric (GE) NRC approved methodology for GE-12 type lead use fuel assemblies (NEDE-24011-P-A-10) into the list of references in Section 6.9.3.2. The licensee plans to insert four of these fuel assemblies into the Unit 2 core during the fall of 1995. The addition of the reference to the TS would allow the use of the GE methodology to document that all

VOL 60 ISS 80 AP 26 1995 UMI

applicable requirements of the safety analysis are met by the assemblies.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not:

I. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Incorporation of this proposed change of adding reference NEDE–24011–P–A–10, "General Electric Standard Application for Reactor Fuel" to the list of references in (the) Unit 2 Technical Specifications will allow the use of the GE methodology to calculate the operating limits for the four GE Lead Use Assemblies which are of a different mechanical design than the Siemens 9X9 fuel (currently installed in the reactor core). This NRC approved methodology will be referenced as the approved methodology in showing that all applicable safety limits of the safety analysis are met by the four GE–12 LUAs. Results of incorporating this change will not significantly increase the probability or the consequences of an accident previously evaluated.

II. Create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the incorporation of this change will allow the use of the GE methodology to be referenced as the approved methodology to show that all applicable limits of the safety analysis are met by the four GE–12 LUAs. Therefore, the incorporation of this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. Involve a significant reduction in a margin of safety.

The use of the GE methodology will not result in a change in safety margin, but will ensure that the safety margin is maintained with the insertion of the four GE LUAs of the GE–12 type in Unit 2 Cycle 8. Therefore, the incorporation of these changes will have no impact on current safety margins, nor will they involve a significant reduction in the margin to (of) safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: December 2, 1994.

Description of amendment request: The proposed change to Limerick Generating Station, Units 1 and 2, Technical Specifications (TS) relocates the TS Fire Protection Requirements to Licensee controlled documents consistent with NRC Generic Letter (GL) 86–10 "Implementation of Fire Protection Requirements," and GL 88–12, "Removal of Fire Protection Requirements from Technical Specifications."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes are administrative in nature and are consistent with NRC GL 86–10 and GL 88–12. Removal of Fire Protection Program (FPP) requirements does not affect any fire protection equipment nor plant equipment important to safety, or involve any physical modifications to plant structures, systems or components, and therefore is not associated with an accident initiator or accident mitigator and can not affect the probability of occurrence of an accident or increase the consequences of an accident. The licensee controlled Technical Requirements Manual (TRM) containing the relocated requirements will be maintained in accordance with TS Section 6.0. "Administrative Controls" and subject to review in accordance with 10 CFR 50.59. Since future changes to the FPP (i.e., Updated Final Safety Analysis Report and the TRM) will be evaluated per 10 CFR 50.59, no increase (significant or insignificant) in the probability or consequences of an accident previously evaluated will be allowed. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes will not alter the plant configuration (no new or different type of equipment will be installed) or create changes in methods governing normal plant operation that will introduce new failure modes. These changes will not impose different requirements and proper control of information will be maintained. These changes will not alter assumptions made in the safety analysis and licensing basis. Therefore, these changes do not create the possibility of a new or different kind of accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature and are consistent with NRC GL 86–10 and GL 88–12. The changes will not reduce the margin of safety since they have no impact on any safety analysis assumptions or sequence of events used in any accident analysis. In addition, any future changes to the FPP will be evaluated per the requirements of 10 CFR 50.59. Therefore, the changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Project Director: John F. Stolz.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: January 27, 1995.

Description of amendment request: The proposed change to Limerick Generating Station (LGS) Units 1 and 2 Technical Specifications (TS) will eliminate the TS active safety function designation of eight (i.e., four per unit) Drywell Chilled Water System (DCWS) valves.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will eliminate the TS active safety function designation of eight (i.e., four per unit) DCWS valves. The DCWS motor operated valves (MOVs) are designated in TS as Primary Containment Isolation Valves (PCIVs), during operational conditions (OPCONS) 1, 2, and 3, which mitigate the consequences of design basis accidents. The proposed changes will prohibit the subject DCWS valves from opening during OPCONs 1, 2, and 3, thereby eliminating the active safety function, and maintaining a passive safety function. The postulated accidents which require the Primary Containment to act as a barrier in order to mitigate the release of radioactivity described in the LGS Updated Final Safety Analysis Review (Report) (UFSAR) Section 15, are not affected by these changes. Therefore, the previously evaluated postulated on-site and off-site radiological effects of these accidents will not change.

The DCWS valves will be prohibited from opening during OPCONs 1, 2, and 3 by physical changes made to the electrical control circuitry and administrative controls. Therefore, the probability of the valves to fail in the open position will diminish, and the required Primary Containment isolation safety function will be maintained.

Therefore, these proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes remove the affected automatic isolation relays from the DCWS MOVs' circuitry. These changes eliminate any postulated relay failure effects on the associated control circuits and electrical power supplies. The proposed changes do not introduce any new accident initiators or any new valve failure modes not previously evaluated.

Therefore, these changes will not create the possibility of a new or different kind of accident from any accidents previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed changes will prohibit the opening of the DCWS valves which provide backup cooling from RECW (reactor enclosure cooling water) during OPCONs 1, 2, and 3. The RECW System is not the normal DCWS cooling alignment, is not required as a backup safety related drywell cooling system, and this backup alignment is not an automatic function. The proposed changes do not affect the function or operation of DCWS, and since the proposed changes and administrative controls ensure the valves will remain closed during OPCONs 1, 2, and 3, the capability for Primary Containment isolation is not affected. Therefore, the changes will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Project Director: John F. Stolz.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: February 22, 1995.

Description of amendment request: The proposed change to Limerick Generating Station (LGS) Units 1 and 2 Technical Specifications (TS) revises various TS Surveillance Requirements to clarify the Emergency Diesel Generator acceptable steady state voltage range.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Emergency Diesel Generator steady state voltage range of 4280 (plus or minus) 120 volts provides voltages through the 4160V and 460V distribution systems which are within the operating range of the connected equipment and power system components. Therefore, the reduced steady state voltage range will not cause the malfunction of any equipment or affect the operation of any equipment in a manner which would increase the probability of occurrence of an accident previously evaluated in the (Safety Analysis Report) SAR.

Reducing the Emergency Diesel Generator steady state voltage range in the Technical Specifications maintains the capability of the Emergency Diesel Generator to start and attain rated voltage and frequency within 10 seconds and to accept the engineered safeguard loads in the required time in order to mitigate the consequences of an accident. The Emergency Diesel Generator automatic voltage regulator setting is calibrated to within a range of 4266.5 volts to 4308.5 volts. A review of results from recent monthly Emergency Diesel Generator Surveillance Tests has confirmed that the voltage regulators currently maintain the Emergency Diesel Generator steady state voltage within the 4280 (plus or minus) 120 volt range to be included in the Technical Specifications. Establishing, via Technical Specification surveillance requirements and administrative limits within Station Surveillance Test Procedures, that the Emergency Diesel Generator voltage regulator is maintaining the steady state voltage within a narrower range (within the existing range) provides increased assurance that connected equipment required to mitigate the consequences of an accident will operate as required.

Therefore, the proposed TS changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Reducing the Emergency Diesel Generator steady state voltage range in the Technical Specifications to a range of 4280 (plus or minus) 120 volts does not create any new accident initiators or affect any existing accident initiators such that a different type of accident than previously evaluated could result. The function and operation of the Emergency Diesel Generators and their connected loads are not changed in a manner which would create the possibility of an accident of a different type than any previously evaluated.

Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

Reducing the Emergency Diesel Generator steady state voltage range in the Technical Specifications to a range of 4280 (plus or minus) 120 volts does not reduce the margin of safety. The reduced range provides increased assurance that the equipment powered by the Emergency Diesel Generators will start and operate as designed in order to perform their design basis functions.

Therefore, the proposed TS changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Project Director: John F. Stolz.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: March 1, 1995.

Description of amendment request: The proposed changes will clarify the concentrations of calibration gas required to calibrate the Hydrogen and Oxygen Analyzers, and support the requirements of Limerick Generating Station (LGS) Transient Response Implementation Plant (TRIP) T–102, "Primary Containment Control Bases."

Basis for proposed no significant hazards consideration determination:

VOL 60 ISS 80 AP 26 1995 UMI

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS [Technical Specification] changes remove calibration of the H2/O2 Analyzers using zero volume percent hydrogen (H2) and 100% bottled Nitrogen (N2). A calibration gas containing zero volume percent H2 and 100% bottled N2 is not required for calibration of the analyzers to the required accuracy. Calibration of the H2/O2 Analyzers is done in accordance with the manufacturer's instructions. The proposed TS changes also revise the span gas concentration from 5% to 7% to support the requirements of TRIP T–120. The H2/O2 Analyzers provide indication of the concentrations of combustible gases in the primary containment and provide annunciation when combustible gas concentrations reach unacceptable levels. Failure of the analyzers is not an accident initiator. The analyzers do not connect to the reactor coolant pressure boundary; therefore, they do not increase the probability of a LOCA [loss-of-coolant accident]. The proposed TS changes do not involve any design changes to analyzers. Therefore, these TS changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The H2/O2 Analyzers provide indication and alarms for H2 and O2 concentrations in containment. No physical or design changes to the analyzers are being made by these TS changes. During normal operations, the potential for an explosive atmosphere is negligible due to the absence of H2 sources. For Post-LOCA, conditions the levels of H2 and O2 in containment have already been evaluated in LGS UFSAR [Updated Final Safety Analysis Report] Section 6.2.5. No physical or design changes which could introduce a new analyzer failure mode are being made. The failure modes of the analyzers are evaluated in UFSAR Table 6.2–21. Therefore, these TS changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

These TS changes will clarify statements in the LGS UFSAR and TS concerning calibrated ranges of the analyzers. The change of the span gas from 5% to 7% falls within conditions previously analyzed. The Bases for TS 3/4.3.7.5 and 3/4.6.6 require operable H2/O2 Analyzers to ensure the analyzers will be available for monitoring, assessing and controlling H2 and O2 in containment following a LOCA. These TS changes do not adversely affect operability of the analyzers or their availability for use during Post-LOCA conditions; therefore, the margin of safety is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: December 15, 1994.

Description of amendment request: In accordance with 10CFR50.90, PSE&G proposes to remove Technical Specification Surveillance Requirement 4.8.1.1.2.h.1, and utilize plant-controlled programs to govern diesel generator maintenance. To ensure procedural consistency and reduce the impact of this change on Hope Creek procedures, the remaining Surveillance Requirements of Technical Specification 4.8.1.1.2.h are not renumbered.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is consistent with the improved Standard Technical Specifications (NUREG–1433) and does not result in any changes to the existing plant design. The Hope Creek preventative maintenance program will utilize diesel generator performance history, engineering analyses and manufacturer's recommendations as appropriate for determining diesel generator inspection requirements. Since the changes do not impact the ability of the diesel generators and the AC electrical power sources to perform their function, the changes do not result in a significant increase in the consequences of any accident previously evaluated. The diesel generators will continue to function as designed. Therefore, the proposed change will not impact the probability of occurrence of any accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This request does not result in any change to the plant design nor does it involve a significant change in current plant operation The diesel generators will be inspected utilizing diesel generator operating history, engineering analyses and manufacturer's recommendations as appropriate, and the remaining surveillance requirements will not be changed. As a result, no new failure modes will be introduced, and the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety. The proposed request does not adversely impact the reliability of the diesel generators. As stated above, the diesel generator operating history, engineering analyses and the manufacturer's recommendations will be utilized as appropriate to perform the diesel generator inspections. In addition, the diesel generators will continue to perform their design functions. This request does not involve an adverse impact on diesel generator operation or reliability. Since the diesel generator function is not affected by the proposed changes, this request does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Tennessee Valley Authority, Docket No. 50–327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 95–09).

Description of amendment request: The proposed change would revise Operating Condition 2.C.(25) to extend the ice condenser Surveillance 4.6.5.1.d to October 1, 1995, to coincide with the Unit 1 Cycle 7 refueling outage

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change is temporary and allows a one-time extension of the ice condenser Surveillance Requirement 4.6.5.1.d for Cycle 7 to allow surveillance testing to coincide with the seventh refueling outage. The proposed surveillance interval extension will not cause a significant reduction in system reliability nor affect the ability of the system to perform the design function. Current monitoring of plant conditions and continuation of the surveillance testing required during normal plant operation will continue to be performed to ensure conformance with TS operability requirements. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

Extending the surveillance interval for the performance of ice condenser testing will not create the possibility of a new or different kind of accident. No change is required to any system configuration, plant equipment, or analyses.

3. Involve a significant reduction in a margin of safety.

The safety limits assumed in the accident analyses and the design function of the equipment required to mitigate the consequences of postulated accidents will not be changed significantly. Existing analysis indicates that the potential reduction in ice weight resulting from the proposed extension will continue to maintain the maximum containment accident pressure below 12 pounds per square inch gauge. The ice condenser will continue to support accident mitigation functions although some Row 1 baskets could drop slightly below the required 993-pound analysis limit. Therefore, the plant will be maintained with acceptable ice weights for accident mitigation and the proposed extension will not significantly reduce the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 95–11).

Description of amendment request: The proposed change would relocate the constant numerical value found in the overtemperature delta temperature and overpower delta temperature equations of Technical Specifications Table 2.2–1 and place them in the Core Operating Limits Report (COLR). This would be accomplished by revising notes 1 and 2 in Table 2.2–1 to state that the values are located in the COLR. The values of the constants, however, would not be changed. Also, the "Overtemperature and Overpower Delta Temperature Setpoint Parameter Values for Specification 2.2.1" would be added to the list of core operating limits specified in Section 6.9.1.14 that are required to be included in the COLR. In addition, a reference to WCAP–8745–P–A, "Design Bases for the Thermal Overpower delta-T and Thermal Overtemperature delta-T Trip Functions," would be added to Section 6.9.1.14.a.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will allow changes to the constant numerical values for the overtemperature delta temperature (OT[delta-]T) and overpower delta temperature (OP[delta-]T) equations in accordance with the 10 CFR 50.59 requirements. This revision does not revise these constants, but relocates them to the core operating limits report (COLR) that is governed by the 10 CFR 50.59 requirements. The addition of the lag compensator functions for measured [delta-]T and average temperature in these equations does not alter the setpoint because this lag function has a value of unity. Therefore, the proposed revision does not alter plant functions or setpoints, but does allow for a more timely revision process for parameters that may require changes due to specific fuel cycle requirements or updated plant analyses. The use of the lag functions and revisions to the constant numerical values will be maintained within the safety analysis for the plant by the 10 CFR 50.59 process requirements. The probability of an accident is not increased because the plant functions are not altered by the proposed revision and future changes will be in accordance with 10 CFR 50.59. Additionally, the consequences of an accident are not increased because the mitigation functions of the OT[delta-]T and OP[delta-]T functions are not changed and revisions to the equations that derive the setpoints will be processed under the requirements of the 10 CFR 50.59 program.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed revision will not change plant functions and future revisions will continue to be controlled in accordance with the 10 CFR 50.59 requirements. The addition of the lag functions does not create a new accident potential because these functions have already been considered in the analysis as shown in NUREG 1431. Therefore, the possibility of a new or different kind of accident is not created by the proposed revision.

3. Involve a significant reduction in a margin of safety.

Plant parameters are not altered by the proposed revision and the OT[delta-]T and OP[delta-]T functions will not reflect a change in setpoint generation or value. The proposed change will allow revision of the constant numerical values and use of the lag compensator functions in accordance with the 10 CFR 50.59 provisions to ensure the design basis of the plant is maintained. This revision does not result in changes that reduce the margin of safety because the OT[delta-]T and OP[delta-]T functions remain unchanged and future revisions to these functions will be performed in accordance with 10 CFR 50.59.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 94–15).

Description of amendment request: The proposed change would modify the Technical Specifications associated with the Post Accident Sampling (PAS) system by deleting License Condition 2.C.(23)F for Unit 1 and 2.C.(16)g for Unit 2 that require operation of the PAS system in accordance with referenced letters no later than startup from the second refueling outage. The submittal also includes a revised description of operation of the PAS system for insertion into the Updated Final Safety

VOL 60 ISS 80 AP 26 1995 UMI

Analysis Report for staff approval. This information supersedes the information contained in the letters referenced in the License Conditions listed above and would be maintained in accordance with the 10 CFR 50.59 process.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves the deletion of license conditions that authorized TVA to operate SQN's postaccident sampling (PAS) system. TVA proposed change establishes programmatic control of SQN's PAS system under SQN TS 6.8.4.e and the SQN Final Safety Analysis Report. Any future changes to SQN's PAS Program would be governed by the 10 CFR 50.59 process. PAS and analysis will continue at SQN through grab sample acquisition and laboratory analysis and will continue to meet the PAS objectives in NUREG–0737, Item II.B.3 and Regulatory Guide 1.97, Revisions 2. Accordingly, the proposed change does not affect the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change involves improvements in the operational reliability of SQN's PAS system by using more reliable laboratory analysis methods, reducing sampling personnel radiation dose, and incorporating practical methods for sample acquisition and analysis. Because the proposed change involves license conditions and sampling methods that are utilized for postaccident recovery, the potential for an unanalyzed accident is not created. Consequently, no new failure modes are introduced.

3. Involve a significant reduction in a margin of safety.

Plant safety margins are established through limiting conditions of operation, limiting safety system settings, and safety limits specified in the TSs. As a result of the proposed amendment, there will be no change to either the physical design of the plant or to any of these settings and limits. The proposed changes do not affect the safe operation of SQN. Therefore, there are no changes to any of the margins of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 94–18).

Description of amendment request: The proposed change would revise Surveillance Requirement (SR) 4.0.5 by replacing the current inservice inspection program requirements with the requirements stated in the Standard Technical Specifications (NUREG–1431). As a result, SR 4.0.5 would more clearly specify the inservice inspection (ISI) program requirements and the inservice testing (IST) program requirements of the American Society of Mechanical Engineers (ASME) Code Class 1, 2, and 3 components. The licensee also proposed deletion of Technical Specification 3/4.4.10, "Structural Integrity ASME Code Class 1, 2 and 3 Components," and its related Bases information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Operation of the facility in accordance with the proposed amendment would not involve any increase in the probability of occurrence or consequences of an accident previously evaluated. The Inservice Inspection and Testing Programs, pursuant to 10 CFR 50.55a are described in the TSs. The proposed amendment, in accordance with NUREG–1431 and draft NUREG–1482 permits relief from an American Society of Mechanical Engineers (ASME) code requirement in the interim between the time of submittal of a relief request and NRC approval of the relief. The changes being proposed do not affect assumptions contained in plant safety analyses or change the physical design and/or operation of the plant, nor do they affect TSs that preserve safety analysis assumptions. Any relief from the approved ASME Section XI code requirements that is implemented prior to NRC review and approval will require evaluation under the 10 CFR 50.59 process to determine that no TS changes or unreviewed safety questions exist. This evaluation process will ensure that the impact of any code relief is thoroughly evaluated and that the structures, systems, and components remain in conformance with assumptions made in the safety analysis. The proposed change to delete SQN TS 3/4.4.10, Structural Integrity, does not affect plant safety analyses or change the physical design or operation of the plant. The proposed amendment relocates the structural integrity requirements under the existing TS Surveillance Requirement (SR) 4.0.5 to allow these requirements to be governed and controlled within the inservice inspection (ISI) program. Therefore, operation of the facility in accordance with the proposed amendment would not affect the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. The Inservice Inspection and Testing Programs, pursuant to 10 CFR 50.55a are described in the TSs. The proposed amendment, in accordance with NUREG–1433 and draft NUREG–1482, permits relief from an ASME code requirement in the interim between the time of submittal of a relief request and NRC approval of the relief. The changes being proposed will not change the physical plant or the modes of operation defined in the Facility License. The changes do not involve the addition or modification of equipment nor do they alter the design or operation of plant systems. Any relief from the approved ASME Section XI code requirements that is implemented prior to NRC review and approval will require evaluation under the 10 CFR 50.59 process to determine that no TS changes or unreviewed safety questions exist. This evaluation process will ensure that the impact of the code relief is thoroughly evaluated and that the structures, systems, and components remain in conformance with assumptions made in the safety analysis. The proposed change to delete SQN TS 3/4.4.10 does not affect plant safety analyses or change the physical design or operation of the plant. The proposed amendment relocates the structural integrity requirements under the existing TS SR 4.0.5 to allow these requirements to be governed and controlled within the ISI program. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

Operation of the facility in accordance with the proposed amendment would not involve any reduction in a margin of safety.

The Inservice Inspection and Testing Programs, pursuant to 10 CFR 50.55a, are required by the SQN TSs. The proposed amendment, in accordance with NUREG–1431 and draft NUREG–1482 permits relief from an ASME code requirement in the interim between the time of submittal of a relief request and NRC approval of the relief. Any relief from the ASME Section XI code is required to be evaluated under the 10 CFR 50.59 process to determine that no TS changes or unreviewed safety questions exist. This evaluation process will ensure that code relief does not affect the ability of structures, systems, or components to perform their design function, affect compliance with any TS requirements or reduce the margin of safety. The proposed change to delete SQN TS 3/4.4.10 does not affect plant safety analyses or change the physical design or operation of the plant. The proposed amendment relocates the structural integrity requirements under the existing TS SR 4.0.5 to allow these requirements to be governed and controlled within SQN's ISI program. Therefore, operation of the facility in accordance with the proposed amendment would not involve a reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 95–06).

Description of amendment request: The proposed change would delete the technical specification requirement that limits and controls loads traveling over the spent fuel pool (Specification 3.9.7), the graph that relates the Load Carried Over the Shield to the Allowable Height Above the Shield Surface (Figure 3.9–1), the crane interlocks and physical stops surveillance requirements (Specifications 4.9.7.1 and 4.9.7.2), and the related Bases information. These requirements would be relocated to administratively controlled procedures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change involves the relocation of a requirement that does not pertain to limitations or conditions of reactor operation or to equipment to mitigate design basis accidents or transients. SQN is proposing to relocate this TS based on NRC's final policy statement on TS improvement (58 FR 39132, dated July 22, 1993). Based on this criteria, the spent fuel pit (SFP) crane travel is not important to operational safety and may be relocated to administratively controlled procedures. By placing the crane travel requirements in administratively controlled procedures, adequate controls will remain in place to prevent heavy loads from traveling over fuel assemblies in the SFP. The administratively controlled procedure that controls the by-passing of the interlocks and physical stops is subject to the requirements of TS 6.5.1A. Therefore, the relocation of this TS will not involve an increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change involves relocating TS requirements to another administratively controlled document. No modifications to the plant are involved. Additionally, there are no changes to the operation of the plant or equipment proposed. Based on this, the relocation of this TS will not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in a margin of safety.

The proposed change involves the relocation of TS requirements to administratively controlled procedures. The relocation of this requirement is based on the criteria endorsed in the Commission's Policy Statement on TS improvements as it pertains to 10 CFR 50.36. Additionally, this change does not alter the basic design and safety analysis requirements, as discussed in the Updated Final Safety Analysis Report. Therefore, the deletion of this TS will not involve a reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 94–19).

Description of amendment request: The proposed change would revise the Action statement for Technical Specification 3.8.1.1 by inserting a new Action a, relabeling and modifying existing Action a to become Action b, adding a footnote referenced to Action b, renumbering the subsequent action statements, and adding information to the Bases that amplifies the action statements. The proposed new Action a would no longer address required actions for diesel generator testing. It would require that, should one of the AC electrical power sources listed be inoperable, then operability of the remaining offsite AC circuit be demonstrated by performing Surveillance Requirement 4.8.1.1.1.a within 1 hour and at least once per 8 hours thereafter. If two offsite circuits cannot be restored within 72 hours, the unit must be placed in hot standby within the next 6 hours and in cold shutdown within the following 30 hours.

The proposed change to Action b would address the testing requirements should a diesel generator become inoperable. It would require testing of operable diesel generators if the inoperability of the affected diesel generator has the potential to be the result of a common cause failure. A footnote would clarify that the common cause determination must be completed regardless of how long the diesel generator inoperability persists or Surveillance 4.8.1.1.2.a.4 must be completed to verify diesel generator operability. The proposed change to the Bases would provide clear guidance on the use of common cause failure determinations to eliminate unnecessary diesel generator testing and would define when testing is required to verify diesel generator operability.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined

VOL 60 ISS 80 AP 26 1995 UMI

that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revisions do not alter the plant features or operating practices. This revision will reduce unnecessary starts of the diesel generators (D/Gs) when a common cause failure is not involved or for an inoperable offsite circuit. This change will not affect the accident mitigation capabilities of the D/Gs, but should improve the reliability by reducing the wear and tear associated with starting the D/Gs. The D/Gs are not the source of a postulated accident and because this change does not alter plant functions or operating practices the probability of an accident is not increased. The D/G's operability will continue to be verified for conditions that indicate a potential common-cause failure to ensure accident mitigation capabilities are not affected. Therefore, this revision will continue to provide actions that will support alternating-current (ac) electrical power source safety functions without unnecessary degradation of the D/Gs and will not increase the consequences of an accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The D/Gs are not the source of accidents and the proposed revision will not alter plant functions or actions by more appropriately limiting the conditions when a D/G must be verified operable. Therefore, the possibility of a new or different accident is not created

3. Involve a significant reduction in a margin of safety.

This revision does not alter plant functions that provide the margin of safety. The reduction of D/G testing will only be allowed for situations where the operable D/Gs are not affected by the conditions resulting in the ac power source inoperability. This reduced testing should improve D/G reliability for accident mitigation functions and further ensure the margin of safety provided by the D/Gs. Therefore, the margin of safety is not reduced by the proposed revision to limit unnecessary D/G starts.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 95–02).

Description of amendment request: The proposed change would add Limiting Condition for Operation 3.0.6 to allow equipment that has been removed from service or declared inoperable to be returned to service under administrative control in order to perform testing required to demonstrate operability. It would be applicable for operability testing of the inoperable equipment or other equipment that requires the operability feature to be in service in order to perform the test. A related change to the Bases would provide amplifying explanation on the use of this new provision. In addition, a proposed change to Action 18 of Table 3.3–3, "Engineered Safety Feature Actuation System Instrumentation," would clarify the time interval that an instrument channel may be in the bypass condition. For those instruments that reference Action 18, the change would allow the bypass for 6 hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of the exception to TSs 3.0.1 and 3.0.2 and the definition for the time to place a channel in bypass will not change plant equipment or the operating practices at SQN. The exception will allow testing to be performed with inoperable equipment returned to service under administrative controls, but will not change functions. The function will be available from other redundant channels during the brief durations that the new provision would be utilized. The specified time interval to achieve a bypass condition will clarify the implementation of the action requirement with the affected functions remaining available through the redundant operable channels. This clarification does not change the intent of the action but does set the previously undefined time interval.

The proposed change affects actions associated with the actuation of functions to mitigate accidents and are not the source of an accident. Therefore, the probability of an accident is not increased. The affected functions provide accident mitigation functions and the proposed revisions serve to ensure equipment can be maintained in required conditions within acceptable time intervals and administrative controls. The brief periods utilized for the TSs 3.0.1 and 3.0.2 exception will not significantly affect the accident mitigation capabilities because of the availability of redundant equipment. In addition, the benefit of performing operability testing to return equipment permanently to service or to maintain the operability of other equipment outweighs the slight reduction in safety function actuation redundancy. Therefore, the proposed change will not significantly increase the consequences of an accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes affect functions utilized to mitigate an accident and are not the source of an accident. The exception provides reasonable flexibility to maintain equipment operability and the bypass time interval reduces the potential for damage to safety related equipment. Because plant functions are not changed as a result of this request the possibility of a new or different kind of accident is not created.

3. Involve a significant reduction in a margin of safety.

The proposed change does not alter setpoints or operating considerations that maintain the margin of safety for SQN. These changes provide needed flexibility to perform TS required testing and clarifications for implementing action requirements. These changes will slightly affect the redundancy of the affected safety functions but provide greater benefit for maintaining equipment in an operable condition. Therefore, the margin of safety provided by the affected equipment has not changed and the proposed change will not result in a reduction.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 94–04).

Description of amendment request: The proposed amendment would change the power range neutron flux channel calibration frequency

surveillance requirement from monthly to every 31 effective full power days and delay the requirement to perform the surveillance for 96 hours after reaching 15 percent power. A proposed change to the Bases would provide amplifying information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The likelihood that an accident will occur is neither increased or decreased by this TS change, which only affects when the first surveillance is performed following an outage and changes the frequency of performance of the surveillance. Before start-up following refueling outage, the power range high trip setpoint is set below 85 percent power, typically 60 percent, for conservatism. The power range low trip setpoint is set at 22 percent power, TS requires the setpoint to be less than or equal to 25 percent power. These settings are in addition to the conservatism built into start-up following a refueling outage. Therefore, delaying the first performance for 96 hours will not impact on the operation of the plant since the setpoints are set conservatively. Also, the change of the frequency to every 31 effective full power days (EFPD) only delays the surveillance when the plant is operated at reduced power. During operation at reduced power changes in the neutron flux are also reduced. Therefore, changing the frequency from monthly to every 31 EFPD allows slow changes in neutron flux during the fuel cycle to be more accurately detected and evaluated.

This TS change will not impact the function or method of operation of plant equipment. Thus, there is not a significant increase in the probability of a previously analyzed accident due to this change. No systems, equipment, or components are affected by the proposed change. Thus, the consequences of a malfunction of equipment important to safety previously evaluated in the Updated Final Safety Analysis Report are not increased by this change.

The proposed changes provide TS improvements that ensure the system operates within the bounds of SQN's accident analysis as contained in the Final Safety Analysis Report (FSAR) and only affects when a surveillance is performed This change has no impact on accident initiators and does not involve a physical modification to the plant. Accordingly, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

This revision will not change any plant equipment, system configurations, or accident assumptions. This change will more accurately monitor changes in the condition of the core.

Fuel burn-up is necessary to change the relationship between the incore axial power and the excore detectors response. At reduced levels the effectiveness of the monitoring activity is reduced. Therefore, changing the frequency to 31 EFPD allows slow changes in neutron flux during the fuel cycle to be more accurately detected and evaluated. Delaying the first performance of the surveillance requirement, until 96 hours after reaching 15 percent rated thermal power, will allow the unit to be in a more stable condition. Therefore, this change will not affect the safety function of any components and will create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety.

The proposed changes provide TS improvements for SQN's power range monitoring system that ensure the system operates within the bounds of SQN's accident analysis as contained in the FSAR since only the time interval between performances of the surveillance is being extended. This change does not involve a physical modification to SQN's power range monitoring system. Accordingly, the margin of safety has not been reduced.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: April 6, 1995 (TS 95–08).

Description of amendment request: The proposed change would (1) change the core alteration definition to limit the term to reactor vessel internal activities that could have an effect on core reactivity, (2) change the quadrant power tilt ratio definition to eliminate the conflict in the definition of the term and its use in Surveillance Requirement 4.2.4.2, and (3) revise the Unit 1 Operational Modes parameters in Table 1.1 to be consistent with the description in Table 1.1 for Unit 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes provide TS improvements that ensure the plant operates within the bounds of SQN's accident analysis as contained in the Final Safety Analysis Report (FSAR) and only affects the definitions and does not have any affect on any work performed. The change to core alteration is to clarify those components that may result in reactivity changes. The change will not effect movement of fuel or components that effect reactivity, therefore, a fuel handling accident will not be effected. The change in the definition of quadrant power tilt ratio (QPTR) allows the alternate method of determining QPTR to be utilized. The current TS surveillance requirement (SR) and bases allow alternate means for determining QPTR, therefore, revising the definition will have no effect on any accident. The revision to the mode parameters is administrative in nature, therefore it will have no effect on any accident. This change has no impact on accident initiators and does not involve a physical modification to the plant. Accordingly, the proposed changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

This revision will not change any plant equipment, system configurations, or accident assumptions. This change will better define the associated parameters and will eliminate potential ambiguity and confusion. The change in the definition of core alteration allows components that do not affect reactivity to be moved within the reactor vessel. The change in the definition will not effect the monitoring of QPTR with one channel inoperable. The core will be monitored in accordance with the SRs. Therefore, this change will not affect the safety function of any components and will not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety.

The proposed changes provide improvements for SQN's TS. This change does not involve a physical modification to the plant nor change the methods of monitoring plant parameters. Accordingly, the margin of safety has not been reduced.

VOL 60 ISS 80 AP 26 1995 UMI

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: March 24, 1995.

Description of amendment request: This amendment request proposes to revise Technical Specification (TS) 1.7, "Containment Integrity," TS 3/4.6.1, "Containment Integrity," TS 3/4.6.3, "Containment Isolation Valves," and the associated Bases. These proposed changes will relocate TS Table 3.6–1, "Containment Isolation Valves," to Wolf Creek Generating Station procedures. This proposed change is in accordance with the guidance provided in Generic Letter 91–08, "Removal of Component Lists from Technical Specifications," dated May 6, 1991.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes simplify the technical specifications, meet the regulatory requirements for control of containment isolation, and are consistent with the guidelines of GL 91–08. The procedural details of Technical Specification Table 3.6–1 have not been changed, but only relocated to a different controlling document. The proposed changes are administrative in nature, should result in improved administrative practices, and do not affect plant operations.

The probability of occurrence of a previously evaluated accident is not increased because this change does not introduce any new potential accident initiating conditions. The consequences of an accident previously evaluated is not increased because the ability of [the] containment to restrict the release of any fission product radioactivity to the environment will not be degraded by this change.

(2) The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes are administrative in nature, do not result in physical alterations or changes to the operation of the plant, and cause no change in the method by which any safety-related system performs its function. Therefore, this proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

(3) The proposed change does not involve a significant reduction in the margin of safety.

The administrative change to relocate Technical Specification Table 3.6–1 to appropriate plant procedures does not alter the basic regulatory requirements for containment isolation and will not adversely affect containment isolation capability for credible accident scenarios. Adequate control of the content of the table is assured by existing plant procedures.

The proposed relocation of Technical Specification Table 3.6–1 does not alter the requirements for containment isolation valve operability currently in the technical specifications. The LCO [limiting condition for operation] and Surveillance Requirements would be retained in the revised technical specifications. Therefore, the proposed change will not affect the meaning, application, and function of the current technical specification requirements for the valves in Table 3.6–1.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: William H. Bateman.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: April 4, 1995, as supplemented by letter dated April 5, 1995.

Description of amendment request: The proposed amendment would change the technical specifications on moderator temperature coefficient. The proposed change constitutes a one time deviation not to perform the two-thirds end-of-cycle moderator temperature coefficient test for Cycle 7.

Date of individual notice in the **Federal Register**: April 11, 1995 (60 FR 18432).

Expiration date of individual notice: May 11, 1995.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: February 24, 1995.

Brief description of amendment: The amendment revises Technical Specification Section 4.6.1.2.a, Primary Containment/Containment Leakage, to reference 10 CFR Part 50, Appendix J, as modified by approved exemptions.

Date of issuance: April 10, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 163.

Facility Operating License No. DPR–69: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 8, 1995 (60 FR 12789).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Carolina Power & Light Company, et al., Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of application for amendments: September 30, 1994, as supplemented on March 24, 1995.

Brief Description of amendments: The proposed change will revise Technical Specification requirements to eliminate the reactor scram and isolation functions of the Main Steam Line Radiation Monitors. The March 24, 1995, supplement provided clarifying information only and did not affect the NRC's determination of no significant hazards considerations.

Date of issuance: March 31, 1995.

Effective date: March 31, 1995.

Amendment No.: 160.

Facility Operating License Nos. DPR–71 and DPR–62. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 9, 1994 (59 FR 55867). The March 24, 1995, submittal provided clarifying information only and did not affect the no significant hazards consideration as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 31, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403–3297.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: July 22, 1994, as supplemented March 6, 1995.

Brief description of amendment: The amendments change the Technical Specifications to implement a performance based assessment program, including corresponding organizational and functional changes. Specifically, the changes affect the independent assessment of plant activity and the independent review function, the independent assessment of plant activity and the Independent Safety Engineering Group. These functions will be performed by the Nuclear Assessment Section (NAS). The NAS's fundamental role will be to: (1) Assist plant management in the early identification of issues that may prevent the plant from achieving quality, and (2) ensure effective correction of deficiencies.

Date of issuance: March 31, 1995.

Effective date: March 31, 1995.

Amendment No.: 160.

Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: August 31, 1994 (59 FR 45017). The March 6, 1995, submittal added Radiation Protection to the list of assessments in TS 6.5.5.2 and reworded Section 6.5.4.4, but did not change the no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: August 23, 1994, as supplemented March 2, 1995.

Brief description of amendment: The amendment increases the trip voltage settings of the degraded grid voltage relays which are shown in TS Table 3.5–1, Engineering Safety Feature System Initiation Instrument Setting Limits, Item 6b.

Date of issuance: April 14, 1995.

Effective date: April 14, 1995.

Amendment No.: 161.

Facility Operating License No. DPR–23. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: March 2, 1995 (60 FR 11692). The licensee's March 2, 1995, submittal provided clarifying information that did not affect the no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: June 9, 1994.

Brief description of amendments: The amendments implement a partial application of the Generic Electric ARTS (Average Power Range Monitor (APRM)/Rod Block Monitor (RBM)/ Technical Specification) Improvement Program. Four new ARTS thermal limits replace the existing flow-referenced APRM trip setpoint setdown requirements and the Minimum Critical Power Ratio (MCPR) K_f factor.

Date of issuance: April 13, 1995.

Effective date: Immediately to be implemented within 60 days.

Amendment Nos.: 103 and 88.

Facility Operating License Nos. NPF–11 and NPF–18. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 3, 1994 (59 FR 39582).

VOL 60 ISS 80 AP 26 1995 UMI

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 13, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Detroit Edison Company, Docket No. 50–341, Fermi–2, Monroe County, Michigan

Date of application for amendment: July 29, 1993, as supplemented October 8, 1993.

Brief description of amendment: The amendment revises the Technical Specification ACTION STATEMENTS related to operability of the control room emergency filtration system. A portion of the amendment request was denied. A separate Notice of Denial of Amendment has been sent to the Federal Register for publication.

Date of issuance: March 31, 1995.

Effective date: March 31, 1995, with full implementation within 45 days.

Amendment No.: 103.

Facility Operating License No. NPF–43. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: August 18, 1993 (58 FR 43925). The October 8, 1993, letter provided clarifying information within the scope of the original submittal and did not change the staff's initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 18, 1995.

Brief description of amendments: The amendments revise TS Table 4.3–3 to allow the analog channel operational test interval for radiation monitoring instrumentation to be increased from monthly to quarterly, and are consistent with the guidance in Generic Letter 93–05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operation."

Date of issuance: April 3, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 154 and 136.

Facility Operating License Nos. NPF–9 and NPF–17. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 1, 1995 (60 FR 11132).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: July 22, 1993.

Brief description of amendment: The amendment revised operability requirements for the Reactor Protection System and the Engineered Safety Features Acturation System.

Date of issuance: April 3, 1995.

Effective date: April 3, 1995.

Amendment No.: 159.

Facility Operating License No. NPF–6. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 1, 1993 (58 FR 46229).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Dade County, Florida

Date of application for amendments: July 19, 1994, resubmitted October 20, 1994, and supplemented February 20, 1995.

Brief description of amendments: These amendments relate to the maximum allowable reactor thermal power operation with inoperable main steam safety valves.

Date of issuance: April 11, 1995.

Effective date: April 11, 1995.

Amendment Nos.: 172 and 166.

Facility Operating Licenses Nos. DPR–31 and DPR–41. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 23, 1994 (59 FR 60380).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 11, 1995. The February 20, 1995 submittal provided additional information that did not change the staff's proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street SE., Cedar Rapids, Iowa 52401.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: December 6, 1994, as supplemented on February 27, and April 4, 1995.

Brief description of amendment: The amendment revises the Technical Specifications to allow the use of the Combustion Engineering sleeving process for repairing steam generator tubes. (The current requirement specifies that degraded steam generator tubes be repaired by plugging.)

Date of issuance: April 14, 1995.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 149.

Facility Operating License No. DPR–36. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 18, 1995 (60 FR 3673). The February 27, and April 4, 1995, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1995.

No significant hazards consideration comments received: Yes.

Comments were provided by letter dated February 17, 1995, from the Maine State Nuclear Safety Inspector, Office of Nuclear Safety, Division of Health Engineering, Department of Human Services. The NRC staff responded to his comments in its letter dated March 15, 1995.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: September 30, 1994, as supplemented February 13, 1995.

Brief description of amendment: The amendment revises the Technical Specifications to (1) clarify the definition of core alterations, (2) change the verbiage in the Limiting Condition For Operation (LCO) addressing the refueling operations, (3) make changes of surveillance requirements involving source range instrumentation, and (4) change the LCO regarding the Residual Heat Removal and coolant circulation water levels to be consistent with the guidance provided in NUREG–1431, Standard Technical Specifications for Westinghouse plants.

Date of issuance: April 12, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 107.

Facility Operating License No. NPF–49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 9, 1994 (59 FR 55877). The February 13, 1995, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 12, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Learning Resources Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: January 26, 1993, as supplemented August 4, 1993.

Brief description of amendment: The amendment changes the Technical Specifications governing electrical power systems, AC and DC power sources, and onsite power distribution for shutdown conditions (modes 5 and 6).

Date of issuance: April 12, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 108.

Facility Operating License No. NPF–49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 12, 1993 (58 FR 28058). The August 4, 1993, submittal provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 12, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: April 23, 1993.

Description of amendment request: The amendment revises the Appendix A Technical Specifications to allow longer surveillance test intervals and allowed outage times for the reactor protection system and the engineered safety features actuation system. Also, the amendment removes the requirement to perform the reactor trip system analog channel operational test on a staggered basis.

Date of issuance: April 10, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 36.

Facility Operating License No. NPF–86. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 4, 1993 (58 FR 41507)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1995

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, NH 03833.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 16, 1994 (Reference LAR 94–03)

Brief description of amendments: The amendments revise TS 4.6.1.2, "Containment Integrity," to allow a more flexible schedule for testing the primary containment integrated leakage rate.

Date of issuance: April 11, 1995.

Effective date: April 11, 1995, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 1—Amendment No. 99; Unit 2—Amendment No. 98

Facility Operating License Nos. DPR–80 and DPR–82. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 30, 1994 (59 FR 14893)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 11, 1995

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library Government Documents and Maps Department, San Luis Obispo, California 93407.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos 1 and 2, San Luis Obispo County, California

Date of application for amendments August 17, 1994.

Brief description of amendments The amendments revise the combined technical specifications (TS) to change TS 3/4.4.9.1, "Reactor Coolant System—Pressure/Temperature Limits," Figures 3.4–2, "Reactor Coolant System Heatup Limitations—Applicable Up to 8 EFPY " and 3.4–3, "Reactor Coolant System Cooldown Limitations—Applicable Up to 8 EFPY," to extend the applicability up to 12 effective full-power years (EFPYs). TS 3/4/4/9/3, "Overpressure Protection Systems," is revised to

VOL 60 ISS 80 AP 26 1995 UMI

specify a new low-temperature overprotection (LTOP) system actuation pressure setpoint. The associated Bases were also appropriately revised. Additionally, TS 3/4.1.2.2, "Flow Paths—Operating;" TS 3/4.1.2.4, "Charging Pumps—Operating;" TS 3/4.4.1.3, "Hot Shutdown;" TS 3/4.4.1.4.1, "Cold Shutdown—Loops Filled;" TS 3/4.4.9.3, "Overpressure Protection Systems;" and TS 3/4.5.3, "ECCS Subsystems—T_{avg} Less than 350 Degrees F," are revised to specify a new LTOP system enable temperature.

Date of issuance: Aprfl 13, 1995.
Effective date: April 13, 1995.
Amendment Nos.: Unit 1—Amendment No. 100; Unit 2—Amendment No. 99.
Facility Operating License Nos. DPR–80 and DPR–82. The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register**: October 12, 1994 (59 FR 51622).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 13, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: June 13, 1994.
Brief description of amendment: The amendment removes License Condition 2.E from the Facility Operating License. License Condition 2.E incorporated the requirements of U.S. Department of Interior publication "Environmental Criteria for Electric Transmission Systems"—1970, which applies to the construction cleanup, restoration, and maintenance of transmission lines. The NRC staff has determined that removing this condition from the Facility Operating License has no bearing on plant safety or the health and safety of the public, and is therefore acceptable.
Date of issuance: March 31, 1995.
Effective date: As of the date of issuance to be implemented within 30 days.
Amendment No.: 224.
Facility Operating License No. DPR–59. Amendment revised the Facility Operating License.
Date of initial notice in **Federal Register** March 1, 1995 (60 FR 11140).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: June 10, 1995.
Brief Description of amendments: The amendments allow modifications to be made for both units to relocate the lower level steam generator water level taps during the upcoming refueling outages. These modifications affect the Technical Specifications associated with the reactor trip system and engineered safety feature actuation system setpoints.
Date of issuance: April 7, 1995.
Effective date: As of the date of issuance to be implemented within 30 days
Amendment Nos.: 114 and 105.
Facility Operating License Nos. NPF–2 and NPF–8. Amendments revise the Technical Specifications.
Date of initial notice in **Federal Register**: March 6, 1995 (60 FR 12253).
Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Southern Nuclear Operating Company, Inc., Joseph M. Farley Nuclear Plant, Unit 2, Houston County, Alabama

Date of application for amendment: December 7, 1994, as supplemented February 14 and March 20, 1995.
Brief description of amendment: The December 7, 1994, submittal requested a permanent change to the Technical Specifications for both units related to steam generator tube support plate voltage-based repair criteria in accordance with the draft Generic Letter on this issue.
Date of issuance: April 7, 1995.
Effective date: As of the date of issuance to be implemented within 30 days.
Amendment No.: 106.
Facility Operating License No. NPF–8. Amendment revises the Technical Specifications.
Date of initial notice in **Federal Register**: February 15, 1995 (60 FR 8754). The February 14 and March 20, 1995, letters provided clarifying information that did not change the scope of the original December 7, 1994, application and the initial proposed no significant hazards consideration determination.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 16, 1994; supplemented February 10, 1995 (TS 94–07).
Brief description of amendments: The amendments revise the technical specifications to reduce the high reactor power level setpoints when one or more main steam safety valves are inoperable and incorporate related changes.
Date of issuance: April 4, 1995.
Effective date: April 4, 1995.
Amendment Nos.: 196 and 187.
Facility Operating License Nos. DPR–77 and DPR–79. Amendments revise the technical specifications.
Date of initial notice in **Federal Register**: March 1, 1995 (60 FR 11140).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 1995.
No significant hazards consideration comments received: None.
Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: February 14, 1994 (Reference LAR 94–002, TXX–94008), as supplemented by letters dated May 17, 1994 (Reference TXX–94142), and April 3, 1995 (TXX–95098).
Brief description of amendments: The amendments revised Technical Specification (TS) 3/4.2.4, "Quadrant Power Tilt Ratio," by replacing the existing TS and associated Bases concerning the quadrant power tilt ratio with a TS consistent with the improved Standard Technical Specifications (NUREG-1431).

Date of issuance: April 4, 1995.
Effective date: April 4, 1995.
Amendment Nos.: Unit 1—Amendment No. 38; Unit 2—Amendment No. 22.
Facility Operating License Nos. NPF–87 and NPF–89. The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register**: July 20, 1994 (59 FR 37087).
The additional information contained in the supplemental letter dated April 3, 1995, was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 4, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: February 28, 1995 (Reference LAR 95–01).
Brief description of amendments: These amendments replace Surveillance Requirement (SR) 4.6.2.1b of Technical Specification (TS) 3/4.6.2, "Depressurization and Cooling Systems—Containment Spray System," with the corresponding SR from NUREG–1431. Bases Section 3/4.6.2.1 "Containment Spray System" has also been revised to expand the detail consistent with the corresponding Bases from NUREG–1431. The SR, and its associated Bases, for confirming the performance of the containment spray pumps are changed by replacing the specific pump head and flow values with the general requirement that the pumps provide the required head at the flow test point while the specific required values are moved to the Comanche Peak Steam Electric Station Technical Requirements Manual.
Date of issuance: April 6, 1995.
Effective date: April 6, 1995.
Amendment Nos.: Unit 1—Amendment No. 37; Unit 2—Amendment No. 23.
Facility Operating License Nos. NPF–87 and NPF–89. The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register**: March 6, 1995 (60 FR 12255).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 6, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: April 22, 1994 (LAR 94–011, TXX–94116).
Brief description of amendments: These amendments changed Surveillance Requirement 4.7.1.2 of Technical Specification 3/4.7.1.2 "Auxiliary Feedwater System," for the operational test frequency of the motor driven and turbine driven pumps from "at least once per 31 days on a STAGGERED TEST BASIS" to "at least once per 92 days on a STAGGERED TEST BASIS." This change is consistent with ASME Section XI requirements and Generic Letter 93–05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operations."
Date of issuance: April 7, 1995.
Effective date: April 7, 1995.
Amendment Nos.: Unit 1—Amendment No. 38; Unit 2—Amendment No. 24.
Facility Operating License Nos. NPF–87 and NPF–89. The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 3, 1994 (59 FR 39598).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: December 9, 1994, as supplemented on January 27, 1995.
Brief description of amendment: The amendment revises the Technical Specification Surveillance Requirement 4.6.1.2.a and its associated Bases. The change defers the requirement to perform the Type A Containment Integrated Leak Rate Test until Refuel 8 (October 1996), in conjunction with the exemption to 10 CFR Part 50, Appendix J.
Date of issuance: April 5, 1995.
Effective date: April 5, 1995.
Amendment No.: 98.
Facility Operating License No. NPF–30. Amendment revises the Technical Specifications.
Date of initial notice in **Federal Register:** March 1, 1995 (60 FR 11141).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 5, 1995
No significant hazards consideration comments received: No.
Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 12, 1994.
Brief description of amendment: The amendment clarifies the surveillance requirements for verifying the correct required position for the valves in the auxiliary feedwater system.
Date of issuance: April 3, 1995.
Effective date: April 3, 1995, to be implemented within 30 days of issuance.
Amendment No.: 85.
Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** January 18, 1995 (60 FR 3677).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1995.
No significant hazards consideration comments received: No.
Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment. April 11, 1994, as supplemented on November 30, and December 22, 1994, and March 3, 1995.
Brief description of amendment: The amendment revises Kewaunee Nuclear Power Plant (KNPP) Technical Specification (TS) 3.1.f, "Minimum Conditions for Criticality," and its associated basis, by specifying that the moderator temperature coefficient (MTC) shall be no greater than 5.0 pcm/°F when at or below 60% rated thermal power and shall be zero or negative when above 60% rated thermal power Additionally, the MTC shall be no less

VOL
60
ISS
80
AP
26
1995
UMI

negative than −8 pcm/°F for 95% of the cycle time at full power. The amendment also incorporates required actions to be implemented, if the MTC specification is not met.

Date of issuance: April 3, 1995.

Effective date: April 3, 1995.

Amendment No.: 117.

Facility Operating License No. DPR–43. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 28, 1994 (59 FR 49442).

The November 30, and December 22, 1994, and March 3, 1995, submittals, provided clarifying information and expanded the basis portion of the TS, but did not change the initial no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 26, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene.

Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units 1 and 2, Lake County, Illinois

Date of application for amendments: March 29, 1995.

Brief description of amendments: The amendments change the Technical Specifications by revising the periodicity of the channel functional test of the turbine driven auxiliary feedwater pump from quarterly to each refueling outage.

Date of issuance: April 14, 1995.

Effective date: April 14, 1995.

Amendment Nos.: 161 and 149.

Facility Operating License Nos. DPR–39 and DPR–48. The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 14, 1995.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

NRC Project Director: Robert A. Capra.

Dated at Rockville, Maryland, this 19th day of April 1995.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10127 Filed 4–25–95; 8:45 am]

BILLING CODE 7590–01–P

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 3 of Regulatory Guide 1.118, "Periodic Testing of Electric Power and Protection Systems," describes a method acceptable to the NRC staff for complying with the Commission's regulations with respect to the periodic testing of the electric power and protection systems.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC. Copies of issued guides may be purchased from the Government Printing Office at the current GPO price. Information on current GPO prices may be obtained by contracting the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082, telephone (202) 512–2249. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 12th day of April 1995.

VOL
60
ISS
80
AP
26
1995
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For the Nuclear Regulatory Commission.
Eric S. Beckjord,
Director, Office of Nuclear Regulatory Research.
[FR Doc. 95–10208 Filed 4–25–95; 8:45 am]
BILLING CODE 7590–01–M

[Docket Nos. 50–16 and 50–341]

Detroit Edison Co.; Enrico Fermi Nuclear Plant, Unit Nos. 1 and 2

Notice is hereby given that the United States Nuclear Regulatory Commission (the Commission) is considering approval under 10 CFR 50.80 and 10 CFR 30.34 of the proposed corporate restructuring of Detroit Edison Company (DECo), the licensee for Fermi 1, and Fermi 2, and seven byproduct licenses. By letter dated March 27, 1995, DECo informed the Commission that a corporate restructuring of DECo has been proposed that will result in the creation of a holding company under the name DTE Holdings, Inc. ("Holding Company") of which DECo would become a wholly-owned subsidiary. DECo will remain holder of its licenses for Fermi 1, Fermi 2, and the seven byproduct licenses. Under the restructuring, the holders of DECo common stock will become the holders of common stock of the Holding Company on a share-by-share basis. After the restructuring, DECo will continue to be a public utility providing the same utility services as it did immediately prior to the reorganization. According to the proposed plan, there will be no significant change in ownership, management, or sources of funds for operation, maintenance, or decommissioning of the Fermi power station due to the corporate restructuring.

Pursuant to 10 CFR 50.80 and 10 CFR 30.34, the Commission may approve the transfer of control of a license after notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to have control of the license and that the transfer of such control is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the licensee's letter dated March 27, 1995, with the following attachments: DECo's proposed notice; letter dated February 10, 1995, from Robert S. Waters, Counsel for the licensee, containing the February 10, 1995, DECo application before the Federal Energy Regulatory Commission; and the March 9, 1995, Form S–4 registration statement for DTE Holding, Inc., filed before the Securities and Exchange Commission. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, DC, and at the local public document room located at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 17th day of April 1995.
Timothy G. Colburn, Sr.
Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.
[FR Doc. 95–10205 Filed 4–25–95; 8:45 am]
BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Reclearance of Form RI 20–80

AGENCY: Office of Personnel Management.
ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of an information collection. Form RI 20–80, Alternative Annuity Election, is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Approximately 500 RI 20–80 forms are completed annually. The form requires approximately 20 minutes to complete. The annual burden is 167 hours.

For copies of this proposal, contact Doris R. Benz on (703) 908–8564.

DATES: Comments on this proposal should be received on or before May 26, 1995.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., 3349, Washington, DC 20415
and
Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–4025.

Office of Personnel Management.
Lorraine A. Green,
Deputy Director.
[FR Doc. 95–10227 Filed 4–25–95; 8:45 am]
BILLING CODE 6325–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Columbia River Basin Fish and Wildlife Program; Power Plan Amendments

April 18, 1995.

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Comments on proposed amendments to the Columbia River Basin Fish and Wildlife Program.

SUMMARY: Pursant to the Pacific Northwest Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, *et seq.*) the Pacific Northwest Electric Power and Conservation Planning Council (Council) invites comments on proposed amendments to the resident fish and wildlife measures in the Columbia River Basin Fish and Wildlife Program (program).

BACKGROUND: The proposed amendments are based on recommendations that were submitted to the Council by fish and wildlife agencies, Indian tribes and others earlier this year. Copies of the recommendations were distributed to interested parties earlier in this process, and are available on request (document 95–1). These recommendations provide the basis and purpose for the proposed amendments. The Council will hold public hearings on the proposed amendments in Idaho, Montana, Oregon and Washington, on a schedule to be announced. After June 15, the Council may initiate consultations with interested parties through July 7, 1995, to discuss issues raised in comments or in the Council's analysis. The Council expects to make final decisions on the proposed amendments, beginning on July 10. At the end of this process, the Council will make findings required by the Northwest Power Act regarding any recommendations the Council rejects. The Council wishes to emphasize that it may adopt or reject any of these recommendations after it has received public comment, and comment may be directed to any of them.

REQUEST FOR COMMENTS: You are invited to comment on proposed amendments by 5 p.m. on June 15, 1995. Please label comments "Resident Fish and Wildlife Amendments" and submit them to Steve Crow, Director of Public Affairs at 851 S.W. 6th Avenue, Suite 1100, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: For a full copy of the proposed amendments or for further information, please contact the Council's Public Affairs Division 851 S.W. Sixth Avenue, Suite 1100, Portland, Oregon 97204 or (503) 222–5161, toll free 1–800–222–3355. Copies of amendment recommendations previously submitted to the Council (document 95–1) are available on request. Please specify if you are interested in a particular recommendation(s), as the recommendations are in several volumes and we may be able to send you a particular volume instead of the entire set. The Council has also prepared a paper (document 95–3) that discusses the amendment recommendations on which the proposed amendments are based, and issues raised by the recommendations. The paper is available on request.

Edward W. Sheets,
Executive Director.
[FR Doc. 95–10213 Filed 4–25–95; 8:45 am]
BILLING CODE 0000–00–M

FOR FURTHER INFORMATION CONTACT: David A. Sirignano, Committee Staff Director, at 202–942–2870; Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10a, notice is hereby given that the Committee will meet on May 8, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 2:00 p.m. The meeting will be open to the public.

The Committee was formed in February 1995, and its responsibilities include advising the Commission regarding the informational needs of investors and the regulatory costs imposed on the U.S. securities markets.

The purpose of this meeting will be to discuss the progress of the Committee's work, hear presentations on the need for reform of the capital formation and regulatory processes, as well as possible alternative approaches, and general organizational matters.

Dated: April 20, 1995.
Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 95–10225 Filed 4–25–95; 8:45 am]
BILLING CODE 8010–01–M

[Release Nos. 33–7163; 34–35632; File No. 265–20]

Advisory Committee on the Capital Formation and Regulatory Processes

AGENCY: Securities and Exchange Commission.
ACTION: Notice of meeting.

SUMMARY: This is to give notice that the Securities and Exchange Commission Advisory Committee on the Capital Formation and Regulatory Processes will meet on May 8, 1995 in room 1C30 at the Commission's main offices, 450 Fifth Street, N.W., Washington, D.C., beginning at 2:00 p.m. The meeting will be open to the public, and the public is invited to submit written comments to the Committee.

ADDRESSES: Written comments should be submitted in triplicate and should refer to File No. 265–20. Comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

[Release No. 34–35630; File No. SR–BSE–95–06]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Clarification of Its Fee Schedule

April 19, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1995, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 17, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend certain provisions of its fee schedule. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

Transaction Fees

Trade Recording and Comparison Charges

**BSE executions* [Trades] up to and including 2,000 shares: No Charge
[(all trades accumulate for volume discounts)]
**All other executions* [Trades above 2,000 shares]
First 2,500 trades per month: $.29 per 100 shares
Next 2,500 trades per month: $.25 per 100 shares
Next 2,500 trades per month: $.15 per 100 shares
Over 7,500 trades per month: $.05 per 100 shares
Maximum charge per side (non-cross): $50.00
Maximum charge per side (cross): $25.00
(all trades accumulate for volume discounts)
*Beacon subscriber Credits: $.25 per trade
All non-self-directed, electronically routed trades (credit is limited to total monthly layoff transaction fees)

Value Charges

*BSE executions up to and including 2,000 shares: $.20 per 100 shares
[(contract value accumulates for volume discounts)]
*All other execution (*BSE* [includes] trades over 2,000 shares and ITS trades)
First $10 million per month: $.16 per $1,000 contract value
Next $40 million per month: $.13 per $1,000 contract value
Next $50 million per month: $.10 per $1,000 contract value
Next $100 million per month: $.08 per $1,000 contract value
Next $300 million per month: $.05 per $1,000 contract value
$500.1 + million per month: $.01 per $1,000 contract value

[1] See letter from Karen Aluise, Assistant Vice President, BSE, to Jennnifer Choi, Attorney, SEC, dated April 12, 1995. In Amendment No. 1, the Exchange explains that certain language regarding trade recording and comparison charges that had been changed previously was inadvertently included in the last several fee filings submitted to the Commission. The Exchange explains that this rule filing is intended to cleanup the language of the rule to reflect accurately the current trade recording and comparison charges. In addition, Amendment No. 1 proposes non-substantive, stylistic changes to the language describing value charges.

VOL 60 ISS 80 AP 26 1995 UMI

Maximum charge per side (non-cross): $100.00

Maximum charge per side (cross): $75.00

(contract value accumulates for volume discounts)

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

It its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1 Purpose

The purpose of the proposed rule change is to clarify certain provisions of the fee schedule. The trade recording and comparison charges are being amended to reflect that all trades up to and including 2,000 shares executed on the Exchange will not be charged, and that all other executions will be charged under the current scale applicable to trades over 2,000 shares.[2] The value charges are being amended to add explanatory language that the contract value of trades will accumulate for the volume discounts and to clarify that all other executions pertain to BSE trades over 2,000 shares and ITS trades.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it furthers the objectives to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

[2] The scale also applies to all ITS trades.

B. Self-Regulatory Organization's Statement on Burden on Competition

The fee change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the fee change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file No. SR–BSE–95–06 and should be submitted by May 17, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10224 Filed 4–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35629; File No. SR–CBOE–94–44]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments to a Proposed Rule Change Relating to Market Maker Appointments

April 19, 1995.

I. Introduction

On November 14, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposal to amend CBOE Rule 8.3(c) concerning the number of trading stations at which a single market maker's appointed classes of options are traded. The proposed rule change was published for comment and appeared in the **Federal Register** on January 12, 1995.[3] on February 21, 1995, the CBOE filed Amendment No. 1 to its proposal,[4] on February 24, 1995, the CBOE filed Amendment No. 2 to its proposal,[5] and on April 11, 1995, the CBOE filed Amendment No. 3 to its

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See Securities Exchange Act Release No. 35192 (January 4, 1995), 60 FR 3012.

[4] In Amendment No. 1, the CBOE provides information comparing its method of assigning classes of options to that of the American Stock Exchange ("Amex"), describes the effect of increasing the number of trading stations to which a market maker's appointment may relate from five to ten, provides further rationale for this increase; and states that future changes respecting the number of applicable trading stations would be made pursuant to a filing under Section 19(b)(3)(A) under the Act, 15 U.S.C. 78s(b)(3)(A) (1988). See letter from Michael L. Meyer, Schiff, Hardin & Waite, to Francois Mazur, Attorney, Division of Market Regulation ("Division"), Commission, dated February 17, 1995. The reference in Amendment No. 1 regarding the means by which future changes will be effected is superseded by Amendment Nos. 2 and 3, *infra* notes 5 and 6, respectively.

[5] Amendment No. 2 states that the CBOE will discuss with Commission staff the appropriate manner in which to file future changes in the maximum number of designated trading stations prior to making any such filing with the Commission. See letter from Mary L. Bender, Senior Vice President, Division of Regulatory Services, CBOE to Francois Mazur, Attorney, Division, Commission, dated February 23, 1995.

proposal.[6] No comments were received regarding the proposal. This order approves the proposal, as amended.

II. Description of the Proposal

The CBOE proposes to increase from five trading stations to ten the maximum number of trading stations at which a market maker's appointed classes of options may be traded pursuant to CBOE Rule 8.3(c).[7] In addition, the MPC maintains its authority to provide exemptions to the trading station limitation. The CBOE's proposal also will have the effect of allowing market makers to rely on the market maker exemption to the NASD's short sale rule for hedging a greater number of options classes, provided that the requirements of the exemption are met.[8]

III. Discussion

The Commission finds the proposed rule change consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act because the proposal is designed to remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

The Commission believes that increasing the number of trading stations which may be included in a market maker's appointment from five stations to ten stations is a reasonable measure designed by the Exchange to help ensure adequate market maker participation in each class of options traded on the Exchange. The Exchange has stated that the effect of increasing the trading station maximum will be to increase the maximum number of options classes in which a market maker may hold an appointment. Accordingly, out of a total of 644 classes of options at the CBOE, the change can result in increases from 137 to 241 in appointed classes, representing an increase from 21% to 37% of the total number of classes traded on the Exchange.[9]

The Commission believes that the CBOE's proposal will benefit the market and investors by increasing the potential number of options classes to which the obligations of a market maker will apply.[10] Although the Commission recognizes that the proposal can result in increasing a market maker's appointed classes by over 100 classes, we believe adequate market making capabilities and obligations will continue to exist in such classes. In this regard, the Commission expects CBOE to assess whether market makers have adequate capital to fulfill their continual market making obligations under CBOE Rule 8.7 in all their appointed classes. Further, the in-person and general trading requirements applicable to market makers under CBOE Rule 8.7, Interpretation and Policy .03 [11] should continue to ensure that market making is adequate in all appointed classes.[12] Finally, in light of the growth of the number of options traded on the Exchange in recent years, the increase from 21% to 37% of the classes traded on the CBOE is reasonable.[13]

The Commission finds good cause for approving Amendment No. 1, as modified by, and together with, Amendment Nos. 2 and 3, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 provides additional information regarding the number of options classes affected by the Exchange's proposal, as well as general information regarding the structure of its trading floor. Amendment No. 2 modifies Amendment No. 1 by stating that the CBOE will consult with Commission staff regarding the manner in which to file any future changes to the maximum number of trading stations at which market makers may hold appointments. Amendment No. 3 effects changes to Proposed Rule 8.3(c), but does not change the effect of the Exchange's proposal.

The Commission believes that these changes do not affect the substance of the Exchange's proposal because they merely serve to provide additional data regarding the proposal, describe guidelines for seeking Commission approval of future changes by the MPC in trading station appointments, and fashion minor textual changes to the proposed language of Rule 8.3(c). Accordingly, the Commission believes the Amendments raise no new or unique regulatory issues. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act [14] to approve Amendment Nos. 1, 2, and 3 to the proposal on an accelerated basis.

[6] Amendment No. 3 amends the original proposed changes to Rule 8.3(c) by removing reference to the Market Performance Committee ("MPC") designating the maximum number of trading stations, and by removing Proposed Interpretation and Policy .02 which stated that the MPC had designated such maximum number to be ten. Proposed Rule 8.3(c) now replaces five with ten as the maximum number of trading stations at which a market maker may hold an appointment. Amendment No. 3 also discusses the alternative means by which future proposed changes to Rule 8.3(c) may be filed, and states that the MPC, when assigning station appointments to market makers, considers, among other matters, the physical location of stations to be assigned to a market maker. See letter from Mary L. Bender, Senior Vice President, Division of Regulatory Services, CBOE, to Michael Walinskas, Branch Chief, Division, Commission, dated April 10, 1995.

[7] See Amendment No. 3, *supra* note 6.

[8] The NASD short sale rule prohibits broker-dealers from effecting short sales for themselves or their customers at or below the "bid" when the current "inside" or best price is below the previous inside bid. See NASD Rules of Fair Practice, Art. III, section 48. The CBOE's market maker exemption to the short sale rule allows options market makers to hedge options positions in their appointed classes of options by buying or selling (including selling short) shares of underlying stocks or underlying component stocks contained in stock indexes. Such an "exempt hedge transaction" is defined by the Exchange as a short sale effected to hedge, and which in fact serves to hedge, an existing offsetting options position or an offsetting options position that was created in one or more transactions contemporaneous with the short sale. See CBOE Rule 15.10.

[9] See Amendment No. 1, *supra* note 4. In comparison, the CBOE notes that a registered options trader on the Amex may be assigned to 300 classes of options or more representing 70% of the 430 classes of options traded on the Amex. *Id.*

[10] For example, CBOE Rule 8.7 requires generally that a market maker's transactions constitute a course of dealing reasonably calculated to contribute to the maintenance of a fair and orderly market. Specific requirements include a market maker's continuous obligation to deal for his or her own account when there is a lack of price continuity; or when there is a disparity between supply and demand for a particular option contract, or between options contracts of the same class. In fulfilling these requirements, market maker must, among other things, compete with other market makers to improve markets, make markets, and update market quotations in response to changed market conditions.

The Commission notes that increasing the number of trading stations at which a market maker may hold an appointment does not in any way lessen a market maker's obligation to make a market. The CBOE has stated that the MPC, when assigning station appointments to market makers, considers, among other matters, the physical location of the stations to be assigned to a market maker. See amendment No. 3, *supra* note 6.

[11] CBOE Rule 8.7, Interpretation .03 generally requires that at least 25% of a market maker's transactions be executed in person, and not through the use of orders. Moreover, at least 75% of a market maker's total contract volume must be in option classes to which the market maker has been appointed.

[12] The Commission notes that any further increases may warrant the development of additional standards to ensure adequate market making performance.

[13] The CBOE has indicated in its proposal that, in the future, it will consult with Commission staff in order to determine the appropriate rule filing method for proposing any further increases to the maximum trading stations at which a market maker may hold an appointment. The alternatives would include: (1) filing a proposal pursuant to Section 19(b)(2) of the Act, which requires that the Commission publish notice of the proposal and provide an opportunity for public comment; or (2) filing a proposal pursuant to Section 19(b)(3)(A) of the Act, including either a filing that would be effective immediately upon filing, or operative 30 days after the filing date, if filed as a non-controversial rule proposal. See Amendment Nos. 2 and 3, *supra* notes 5 and 6, respectively.

[14] 15 U.S.C. 78f(b)(5) and 78s(b)(2) (1988).

VOL 60 ISS 80 APR 26 1995 UMI

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments Nos. 1, 2, and 3. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–94–44 and should be submitted by May 17, 1995.

V. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act, and, in particular, Section 6 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (File No. SR–CBOE–94–44), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10222 Filed 4–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35631; International Series Release No. 805; File No. SR–Phlx–95–06]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to British Pound Strike Price Intervals

April 20, 1995.

I. Introduction

On January 30, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to revise its strike price policy respecting foreign currency options on the British pound by changing from: a $.025 interval to a $.01 interval in the nearest three expiration months; a $.025 interval to a $.02 interval in the next three nearest expiration months; and a $.05 interval to a $.04 interval for long-term British pound options, which have 12 to 36 months until expiration.

Notice of the proposal was published for comment and appeared in the **Federal Register** on March 3, 1995.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of the Proposal

The Phlx has proposed to revise its strike price policy respecting foreign currency options on the British pound pursuant to Phlx Rule 1012—Series of Options Open for Trading by adopting shorter strike price intervals than currently used. Currently, British pound options are listed at 2½ cent intervals; long-term options are listed at 5 cent intervals. Pursuant to Phlx Rule 1012, six expiration months are currently listed in regular foreign currency options, with one, two, three, six, nine, and twelve months until expiration. Additionally, two long-term options are currently listed (in June and December) with 18 and 24 months until expiration. Fluctuations in the spot price of the British pound currently result in additional listings at 2½ cent intervals.[4]

The Exchange proposes to revise its strike price policy respecting foreign currency options on the British pound by changing from a $.025 interval to a $.01 interval in the nearest three expiration months and from a $.025 interval to a $.02 in the next three nearest expiration months. In addition to reducing the strike price interval from 2½ cents to 1 and 2 cents, respectively, the Exchange also proposes to reduce the strike price interval for long-term British pound options, which have 12 to 36 months until expiration, from $.05 to $.04.

The Exchange states that the purpose of the proposed rule change is to address certain market needs that have arisen as a result of recent lower volatility respecting the British pound (in relation to the U.S. dollar), which has created a customer need for narrower strike price intervals.[5] The Exchange represents that the lower volatility of the British pound has resulted in a narrower trading range for the currency option, sometimes limiting the availability of sufficient near- or at-the-money series.

Additionally, the Exchange believes the proposal is necessary to ensure that the British pound foreign currency option contract remains competitive and consistent with the contract terms applicable to British pound foreign currency futures (and futures options) traded on the Chicago Mercantile Exchange ("CME"). Recently, the CME determined to list certain options on British pound futures (the three near months) as $.01 intervals.

The Phlx asserts that the proposed rule change will initially create 496 new strike prices.[6] Additionally, both the Phlx and the Options Price Reporting Authority ("OPRA") represent that the predicted increase in the number of British pound options series will not adversely affect their respective computer processing capacities to accommodate the additional strike prices.[7]

The Exchange further states that its general policy with respect to the delisting of inactive options series, subject to the assigned option specialist's approval, is to delist series in which there is no open interest beginning with the highest or lowest strike for that month. The Exchange, however, may not delist a series if such delisting would create a gap in consecutive strikes.[8]

The Exchange believes that the proposed reduction in the strike price interval should provide investors and traders of British pound foreign currency options with the ability to more closely tailor investment and hedging strategies to British pound trading levels and movement. The Exchange further believes that the proposed rule change is designed to promote just and equitable principles of trade by enabling more effective management of foreign currency risk respecting the British pound.

III. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[9] Specifically the Commission finds that the Exchange's proposal to revise its strike price policy respecting foreign currency options on the British pound by changing from a $.025 interval to a $.01 interval in the nearest three months; from $.025 interval to $.02 interval in the next three nearest expiration months; and from $.05 to $.04 interval for long-term British pound options, which have 12 to 36 months until expiration, is a reasonable attempt to perfect the mechanism of a free and open market and a national market system.

The Commission recognizes that any narrowing of strike price intervals increases the fleedbility accorded market participants and allows options positions to be more finely tailored to achieve intended investment objectives. At the same time, however, narrower strike price intervals create the possibility of dispersing trading interest to the degree that there is an excessive dilution of liquidity in open options series.

Accordingly, an evaluation of the appropriate strike price interval for an option contract requires a balancing of the need to accommodate market participants by providing a wide array of investment opportunities and the need to avoid causing excessive proliferation of illiquid options series. The Commission believes that the Phlx proposal strikes such a reasonable balance. Although the proposal makes available a significant number of new options series, the Commission notes that Phlx generally seeks to delist options series (including British pound foreign currency options) with no open interest.[10] Therefore, the Phlx should be able to eliminate any illiquid series that might result from the implementation of the new strike price proposal. Accordingly, the Commission expects the Phlx to monitor British pound foreign currency options activity closely in order to detect any proliferation of illiquid series possibly resulting from the narrower strike price intervals and to act promptly to remedy this situation should it occur.

In addition, based on representations from the Phlx[11] and OPRA,[12] the Commission believes that the predicted increase in the number of British pound options series should not adversely affect the computer processing capacity to accommodate the additional strike prices. More specifically, both the Phlx and OPRA have represented that their respective systems can adequately handle the additional options transaction-related traffic generated by the projected new series. Nevertheless, the Commission requests that the Exchange monitor the volume of additional options series listed as a result of this rule change and continue to ensure that these additional series will not adversely impact processing system capacity.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–Phlx–95–06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10182 Filed 4–25–95; 8:45 am]

BILLING CODE 8010–01–M

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[1] 15 U.S.C. 78s(b)(2) (1988).

[2] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 35420 (February 27, 1995), 60 FR 11999 (March 3, 1995).

[4] Currently, the addition of strike prices, which is governed by Phlx Rules 1012 and 1101A, is determined by the movement of the underlying stock, index, or foreign currency, such that strike prices reasonably close to the value of the underlying security are listed for trading. When the Exchange plans to add a new strike price, a memorandum is distributed to the trading floor as well as over electronic systems notifying the membership and their customers of the new strike. See Securities Exchange Act Release No. 34349 (July 11, 1994), 59 FR 36469 (July 18, 1994).

[5] The Commission has previously approved certain Phlx proposals that shortened foreign currency option strike price intervals. See e.g., Securities Exchange Act Release Nos. 25685 (May 10, 1988), 53 FR 17524 (May 17, 1988) (French franc from $.05 to $.025 strike price intervals) (File No. SR–Phlx–88–14), and 24103 (February 13, 1987), 52 FR 5605 (February 25, 1987) (British Pound from $.05 to $.025 strike price intervals) (File No. SR–Phlx–86–14).

[6] The total number of new strikes includes both puts and calls for American and European style options on the British pound. See Letter from Gerald O'Connell, First Vice President, Phlx, to Michael Walinskas, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated April 10, 1995 ("O'Connell Letter No. 1").

[7] See Letter from William H. Morgan, Vice President, Phlx, to Michael Walinskas, OMS, Division, Commission, dated April 12, 1995 ("Morgan Letter"). See also Letter from Joseph P. Corrigan, Executive Director, OPRA, to William Terrell, Vice President, Phlx, dated April 6, 1995 ("OPRA Letter").

[8] See Letter from Gerald O'Connell, First Vice President, Phlx, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated April 12, 1995 ("O'Connell Letter No. 2").

[9] 15 U.S.C. 78f(b)(5).

[10] See O'Connell Letter No. 2, supra note 8.

[11] See Morgan Letter, supra note 7. See also O'Connell Letter No. 1, supra note 6.

[12] See OPRA Letter, supra note 7.

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

[Rel. No. IC–21034; 812–8524]

Equity Income Fund, Select Ten Portfolio

April 20, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Equity Income Fund, Select Ten Portfolio.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from section 12(d)(3) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order on behalf of its series (the "Series") and the Series' component trusts (the "Trusts") to permit each Trust to invest up to ten percent of its total assets in securities of issuers that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATE: The application was filed on March 14, 1995 and amended on April 20, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, c/o Merrill Lynch, Pierce Fenner & Smith Incorporated, P.O. Box 9051, Princeton, N.J. 08543–9051.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Each Series will be a series of Equity Income Fund, Select Ten Portfolio, a unit investment trust registered under the Act, composed of one or more separate Trusts. Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), Prudential Securities Incorporated, PaineWebber Incorporated, Smith Barney Inc., and Dean Witter Reynolds

VOL 60 ISS 80 AP 26 1995 UMI

Inc. are applicant's depositors (collectively, the "Sponsors").

2. Each Trust will invest approximately 10%, but in no event more than 10.5%,[1] of the value of its total assets in each of the ten common stocks in the Financial Times Index or the Hang Seng Index with the highest dividend yields as of its initial date of deposit, and hold those stocks over the life of the Trust (presently anticipated to be approximately one year).

3. The Financial Times Index comprises 30 common stocks chosen by the editors of The Financial Times (London) as representative of British industry and commerce. The companies are major factors in their industries and their stocks are widely held by individuals and institutional investors. The Hang Seng Index comprises 33 of the stocks listed on the Hong Kong Stock Exchange and includes companies intended to represent four major market sectors: commerce and industry, finance, properties, and utilities. The Hang Seng Index is a recognized indicator of stock market performance in Hong Kong.

4. The portfolio securities deposited in each Trust will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsors. The Sponsors will have no discretion as to which securities are purchased. Securities deposited in a Trust may include securities of issuers that derived more than fifteen percent of their gross revenues in their most recent fiscal year from securities related activities.

5. During the 90-day period following the initial date of deposit, the Sponsors may deposit additional securities while maintaining to the extent practicable the original proportionate relationship among the number of shares of each stock in the portfolio. Deposits made after this 90-day period generally must replicate exactly the proportionate relationship among the face amounts of the securities comprising the portfolio at the end of the initial 90-day period, whether or not a stock continues to be among the ten highest dividend yielding stocks.

6. A Trust's portfolio will not be actively managed. Sales of portfolio securities will be made in connection with redemptions of units issued by a Trust and at termination of the Trust. The Sponsors have no discretion as to when securities will be sold except that it is authorized to sell securities in extremely limited circumstances, namely, upon failure of the issuer of a security in a Trust to pay amounts due on any of the securities, institution of certain legal proceedings, default under certain documents materially and adversely affecting future declaration or payment of amounts due, or the occurrence of other market or credit factors that in the opinion of the Sponsors would make the retention of such securities in a Trust detrimental to the interests of the unitholders. The adverse financial condition of an issuer will not necessarily require the sale of its securities from a Trust's portfolio.[2]

[1] The Sponsors will attempt to purchase equal values of each of the ten common stocks in a Trust's portfolio and may choose to purchase the securities in odd lots in order to achieve this goal. However, it is more efficient if securities are purchased in 100 share lots and board lots. A board lot is comprised of a fixed number of shares determined by the issuer. Most fees associated with trading, settling, and transferring of Hong Kong securities are charged on a per board lot basis. As a result, the Sponsors may choose to purchase securities of a securities related issuer which represent over 10%, but in no event more than 10.5% percent, of a Trust's assets on the initial date of deposit to the extent necessary to enable the Sponsors to meet their purchase requirements and to obtain the best price for the securities.

[2] In the master agreement among underwriters, the other Sponsors have appointed Merrill Lynch as agent for the Sponsors. In that capacity, Merrill Lynch is authorized to determine the date of deposit, to purchase securities for deposit in the Series and to supervise each Series' portfolio.

Applicant's Legal Analysis

1. Section 12(d)(3) of the Act, with limited exceptions, prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act exempts the purchase of securities of an issuer that derived more than fifteen percent of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than five percent of the value of its total assets in securities of the issuer.

2. Section 6(c) of the Act provides that the SEC may exempt a person from any provision of the Act or any rule thereunder, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicant requests an exemption under section 6(c) from section 12(d)(3) to permit any Trust to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in securities of an issuer that derives more than fifteen percent of its revenues from securities related activities. Applicant and each Trust will comply with all provisions of rule 12d3–1, except for the five percent limitation in paragraph (b)(3) of the rule.

4. Section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses, to prevent potential conflicts of interest, and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicant believes that this concern does not arise in connection with its application because neither applicant nor the Sponsors have discretion in choosing the portfolio securities or percentage amount purchased. The security must first be included in the Financial Times Index or the Hang Seng Index, which indexes are unaffiliated with the Sponsors and applicant, and must also qualify as one of the ten highest dividend yielding securities.

5. Applicant also believes that the effect of a Trust's purchase on the stock of parents of broker-dealers would be *de minimis*. Applicant asserts that the common stocks of securities related issuers represented in the Financial Times Index or the Hang Seng Index are widely held, have active markets, and that potential purchases by any Trust would represent an insignificant amount of the outstanding common stock and the trading volume of any of these issues. Accordingly, applicant believes that it is highly unlikely that Trust purchases of these securities would have any significant impact on the securities' market value.

6. Another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicant and each Series agree, as a condition of this application, that no company held in the portfolio of a Trust nor any affiliate thereof will act as a broker for any Trust in the purchase or sale of any security for its portfolio. In light of the above, applicant believes that its proposal meets the section 6(c) standards.

Applicant's Condition

Applicant and each Series agree that any order granted under this application may be conditioned upon no company held in a Trust's portfolio nor any affiliate thereof acting as broker for any Trust in the purchase or sale of any security for a Trust's portfolio.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10223 Filed 4–25–95; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Semtech Corporation, Common Stock, $.01 Par Value) File No. 1–8395

April 20, 1995.

The Semtech Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on March 2, 1995 to withdraw the Security from listing on the Amex and, instead, list the Security on the Nasdaq/NMS. The decision of the Board followed a lengthy study of the matter, and was based upon the belief that listing of the Security on the Nasdaq/NMS will be more beneficial to its stockholders than the present listing on the Amex because:

(a) The support of Market Makers on the Nasdaq (as compared to the activities of the AMEX specialist) and the potential for research coverage and other financial services will be advantageous;

(b) The greater visibility of the Nasdaq with various media coverage will be advantageous;

(c) The potential for the Company to be promoted as a growth-oriented, diversified company is enhanced on the Nasdaq, given the Nasdaq's history;

(d) There is potentially more capital support for the Company in the Nasdaq given the Market Maker's responsibilities; and

(e) The services the Nasdaq offers that have been reviewed are more likely to assist the Company in communicating with shareholders and understanding the market.

Any interested person may, on or before May 11, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–10239 Filed 4–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21022/812–9550]

Smith Barney Muni Funds, et al.; Notice of Application

April 19, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Smith Barney Muni Funds (the "Trust"), Smith Barney Income Trust (the "Income Trust"), Smith Barney Mutual Funds Management Inc. ("SBMFM") and Smith Barney Inc. ("Smith Barney").

RELEVANT ACT SECTIONS: Order requested under section 17(b) for an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicants request an order to allow Smith Barney Intermediate Maturity California Municipals Fund (the "Intermediate Maturity Fund"), a series of the Income Trust, to acquire substantially all of the assets of the California Limited Term Portfolio (the "Limited Term Portfolio"), a series of the Trust. Because of certain affiliations, the two series may not rely on rule 17a–8 under the Act.

FILING DATE: The application was filed on March 24, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 388 Greenwich Street, 22nd Floor, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Limited Term Portfolio is a series of the Trust and the Intermediate Maturity Fund is a series of the Income Trust. The Trust and the Income Trust each are registered under the Act as open-end management investment companies and are organized as Massachusetts business trusts. The Limited Term Portfolio and the Intermediate Maturity Fund are referred to herein as the "Funds."

2. SBMFM serves as investment adviser to the Intermediate Maturity Fund and the Limited Term Portfolio. Smith Barney is the Funds' distributor and, as of February 13, 1995, owned 12.22% of the outstanding shares of the Limited Term Portfolio. SBMFM and Smith Barney are each a wholly-owned subsidiary of Smith Barney Holdings, Inc. ("Holdings").

3. Each Fund offers three classes of shares, Class A, Class C and Class Y shares. Class A shares of each Fund are sold with an initial sales charge of 2.00% of the net asset value of the shares. Class C shares of each Fund are sold without an initial sales charge but are subject to a contingent deferred sales charge ("CDSC") of 1.00% payable upon certain redemptions. Class Y shares of each Fund are sold without an initial sales charge or CDSC and are available only to investors investing a minimum of $5.0 million. Class A and Class C shares of each Fund are sold subject to substantially similar 12b–1 distribution plans.

VOL 60 ISS 80 AP 26 1995 UMI

4. The investment objectives, policies and restrictions of the Limited Term Portfolio and the Intermediate Maturity Fund are substantially similar. The Limited Term Portfolio seeks to pay its shareholders as high a level of income exempt from federal taxes and California personal income taxes by investing primarily in obligations issued by the State of California and its political subdivisions, agencies and instrumentalities. The Intermediate Maturity Fund seeks to provide its shareholders with as high a level of income exempt from federal income taxes and California personal income taxes by investing an investment-grade obligations issued by the State of California and its political subdivisions, agencies and public authorities.

5. The Intermediate Maturity Fund proposes to acquire all or substantially all of the assets and certain liabilities of the Limited Term Portfolio in exchange for shares of the Intermediate Maturity Fund pursuant to an agreement and plan of reorganization ("Reorganization Agreement"). Under the Reorganization Agreement, the number of shares of each class of the Intermediate Maturity Fund to be issued to the Limited Term Portfolio will be determined on the basis of the Funds' relative net asset values per their respective classes of shares. The Limited Term Portfolio then will liquidate and distribute such shares of the Intermediate Maturity Fund *pro rata* to its shareholders. Class A, Class C and Class Y shareholders of the Limited Term Portfolio would receive Class A, Class C and Class Y shares, respectively, of the Intermediate Maturity Fund.

6. The proposed reorganization was unanimously approved by the boards of trustees of the Trust and the Income Trust, including a majority of the trustees who are not interested persons, on December 1, 1994 and December 20, 1994, respectively. In approving the proposed reorganization, each board found that participation in the reorganization is in the best interests of the relevant Fund and that the interest of existing Fund shareholders will not be diluted as a result of the reorganization. Each board based its decision to approve the reorganization on a number of factors, including: (a) The terms and conditions of the reorganization; (b) the fact that the reorganization will be effected as a tax-free reorganization; (c) the costs of the reorganization to the Funds; (d) the compatibility of the objectives, policies and restrictions of the two Funds; (e) the savings in expenses borne by shareholders expected to be realized by the reorganization; and (f) the potential benefits to the Funds' affiliates, including SBMFM, Smith Barney and Holdings.

7. Applicants contemplate that the Reorganization Agreement will be submitted for approval by the shareholders of the Limited Term Portfolio at a meeting scheduled to be held on or about June 23, 1995, and that a prospectus/proxy statement will be sent to shareholders of the Limited Term Portfolio in May 1995. Assuming that the required shareholder vote is obtained at the shareholders' meeting, the closing date is expected to be held shortly thereafter.

8. Smith Barney will bear any expenses incurred in connection with the reorganization, except that each Fund will be liable for any fees and expenses of its own custodian and transfer agent incurred in connection with the reorganization and the Limited Term Portfolio will be liable for all fees and expenses incurred relating to its liquidation and termination.

Applicants' Legal Analysis

1. Section 17(a), in pertinent part, prohibits an affiliated person of a registered investment company, acting as principal, from selling to or purchasing from such registered company, any security or other property. Section 17(b) provides that the SEC may exempt a transaction from section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

2. Rule 17a–8 under the Act exempts from section 17(a) mergers, consolidations, or purchases or sales of substantially all the assets involving registered investment companies that may be affiliated persons solely by reason of having a common investment adviser, common directors/trustees and/or common officers provided that certain conditions are satisfied. SBMFM is the investment adviser to both the Intermediate Maturity Fund and the Limited Term Portfolio, and Smith Barney is the distributor to both of the Funds. However, Smith Barney also is an "affiliated person" of the Limited Term Portfolio because it beneficially owns 5% or more of the shares of the Limited Term Portfolio; therefore, applicants may not rely on rule 17a–8.

3. Applicants believe that the terms of the proposed reorganization satisfy the standards set forth in section 17(b). The boards of the Trust and the Income Trust have reviewed the terms of the reorganization as set forth in the Reorganization Agreement, including the consideration to be paid or received, and have found that participation in the reorganization is in the best interests of each Fund and that the interests of the existing shareholders of each Fund will not be diluted as a result of the reorganization. The investment objectives of the Funds, moreover, are essentially the same. Accordingly, the proposed reorganization will be consistent with the policies of each Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10183 Filed 4–25–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21023; 811–3529]

Smith Barney Shearson Municipal Money Market Fund Inc.; Notice of Application

April 20, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Smith Barney Shearson Municipal Money Market Fund Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on February 22, 1995 and amended on April 5, 1995 and April 20, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 15, 1995, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549.

Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company that was organized as a corporation under the laws of Maryland. On July 29, 1982, applicant registered under the Act as an investment company, and filed a registration statement to register its shares under the Securities Act of 1933. The registration statement was declared effective on October 12, 1982, and the initial public offering commenced shortly thereafter.

2. On April 27, 1994 and May 25, 1994, applicant's board of trustees approved an agreement and plan of reorganization (the "Plan") between applicant and Smith Barney Tax-Free Money Market Fund (the "Acquiring Fund")—a registered open-end management investment company. In addition, the board of trustees made the findings required by rule 17a–8 under the Act.[1]

3. On July 29, 1994, applicant mailed proxy materials to its shareholders. On November 11, 1994, applicant's shareholders approved the reorganization at a special meeting of shareholders.

4. Pursuant to the Plan, on November 18, 1994, applicant transferred all of its assets to the Acquiring Fund in exchange for shares of the Acquiring Fund and the assumption by the Acquiring Fund of certain liabilities of applicant. Immediately thereafter, applicant liquidated and distributed *pro rata* to its shareholders the shares it received from the Acquiring Fund in the reorganization. On November 18, 1994, applicant had 3,476,800,171 shares outstanding, having an aggregate net asset value of $3,475,385,704 and a per share net asset value of $1.00.[2]

5. Expenses incurred in connection with the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $281,807. One half of the expenses were borne by the Fund's sponsor, Smith Barney Inc., and the remainder were divided between applicant and the Acquiring Fund based on relative net assets.

6. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no debts or other liabilities that remain outstanding. Applicant is not a party to any litigation or administrative proceeding.

7. Applicant intents to file the appropriate notice of termination with Maryland authorities.

8. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10184 Filed 4–25–95; 8:45 am]

BILLING CODE 8010–01–M

[1] Section 17(a) of the Act generally prohibits sales or purchase of securities between registered investment companies and any affiliated person of that company. Rule 17a–8 provides an exemption from section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. Applicant and the Acquiring Fund were "affiliated persons" as defined in the Act solely by reason of having a common investment adviser.

[2] Dividing the number of outstanding shares by the total net assets does not yield a precise figure of $1.00 per share. This results from both the effect on the total net assets of realized gains and losses resulting from the sale of portfolio securities prior to their stated maturity and the effect of penny rounding.

SMALL BUSINESS ADMINISTRATION

Little Rock District Advisory Council; Public Meeting

The U.S. Small Business Little Rock District Advisory Council, will hold a public meeting from 9:00 a.m. to 11:30 a.m., on Monday, May 1, 1995, at the U.S. Small Business Administration Little Rock District Office, located at 2120 Riverfront Drive, Suite 100, Little Rock, Arkansas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Valerie J. Coleman, Business Opportunity Specialist, U.S. Small Business Administration, at the above address, Tele: 501/324–5871, ext. 236.

Dated: April 20, 1995.

Dorothy A. Overal,

Director, Office of Advisory Councils.

[FR Doc. 95–10180 Filed 4–25–95; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

[Social Security Ruling SSR 95–1p]

Titles II and XVI: Finding Good Cause for Missing the Deadline To Request Administrative Review Due to Statements in the Notice of Initial or Reconsideration Determination Concerning the Right To Request Review and the Option to File a New Application

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 95–1p. This Policy Interpretation Ruling clarifies the Social Security Administration's policy on establishing good cause for late filing of a request for administrative review where the claimant received a notice of an initial or reconsideration determination made prior to July 1, 1991, which did not explain that filing a new application instead of a request for review could result in the loss of benefits. Notices of determinations made on or after July 1, 1991, are covered under Section 205(b) of the Social Security Act, as amended by Public Law 101–508.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

VOL 60 ISS 80 AP 26 1995 UMI

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 93.802, Social Security—Disability Insurance; 93.803, Social Security—Retirement Insurance; 93.805, Social Security—Survivors Insurance; 93.806, Special Benefits for Disabled Coal Miners; 93.807, Supplemental Security Income.)

Dated: April 18, 1995.

Shirley S. Chater,

Commissioner of Social Security.

Policy Interpretation Ruling

Title II and Title XVI: Finding Good Cause for Missing the Deadline to Request Administrative Review due to Statements in the Notice of Initial or Reconsideration Determination Concerning the Right to Request Administrative Review and the Option to File a New Application

Purpose

To reflect the Social Security Administration's (SSA) policy on establishing good cause for late filing of a request for administrative review as it applies to a claimant who received an initial or reconsideration determination notice dated prior to July 1, 1991, which did not state that filing a new application instead of a request for administrative review could result in the loss of benefits.

Citations (Authority)

Sections 205(b) and 1631(c)(1) of the Social Security Act (the Act); Regulation No. 4, sections 404.903(j), 404.909, 404.911, 404.933, 404.957(c)(3); and Regulation No. 16, sections 416.1403(a)(8), 416.1409, 416.1411, 416.1433, 416.1457(c)(3).

Pertinent History

Our rules in 20 CFR sections 404.909(a), 404.933(b), 416.1409(a), and 416.1433(b) provide that a request for reconsideration and a request for hearing before an administrative law judge (ALJ) must be filed within 60 days after the date of receipt by the claimant of the notice of the determination being appealed. However, the regulations also provide that a claimant can request that the 60-day time period for filing a request for review be extended if the claimant can show good cause for missing the deadline. The request for an extension of time must be in writing and must give the reason why the request for review was not filed timely.

When the claimant fails to timely request reconsideration or an ALJ hearing, the Agency applies the criteria in section 404.911 or section 416.1411, as appropriate, in determining whether good cause for missing the deadline exists.

Section 404.911(a) states:

In determining whether you have shown that you had good cause for missing a deadline to request review we consider—

(1) What circumstances kept you from making the request on time;

(2) Whether our action misled you;

(3) Whether you did not understand the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions; and

(4) Whether you had any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which prevented you from filing a timely request or from understanding or knowing about the need to file a timely request for review.

Section 416.1411(a) sets out essentially the same criteria.

If the Agency determines that good cause for the claimant missing the deadline to request review exists, we process the request for review in accordance with established procedures and the prior administrative action is not final or binding for purposes of applying the rules on either *res judicata* or administrative finality.

Many SSA initial and reconsideration determination notices denying claims for Social Security benefits based on disability issued from September 1, 1977, through February 28, 1990, stated that, if the claimant did not seek administrative review within the 60-day time period, he or she still had the right to file another application at any time. The notices did not further state that filing a new application instead of a request for administrative review could result in the loss of benefits. Some claimants have alleged that they have failed to file a timely request for administrative review as a result of these notices.

In 1984, SSA began making revisions to its notices to explain more clearly the difference between seeking administrative review and filing a new application. Language was added to the initial determination notice stating that a new application is not the same as an appeal of the determination. In 1989 SSA began adding this language to the reconsideration determination notice along with an explanation on both notices to specifically advise the claimant that failing to seek administrative review could result in a loss of benefits. SSA completed implementation of this revision to the notices in February 1990.

SSA has further revised its notices as a result of section 5107 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508. This section amended the Act to provide that a failure to timely request administrative review of an initial or reconsideration determination made on or after July 1, 1991, may not be used to deny or dismiss a subsequent claim for benefits on the basis of *res judicata* if the claimant demonstrates that he or she failed to request administrative review of the determination acting in good faith reliance upon incorrect, incomplete or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of the determination and the information was provided by an officer or employee of SSA or a State agency making disability determinations under section 221 of the Act.

Policy Interpretation

SSA will make a finding of good cause for late filing of a request for administrative review for a title II, title XVI, or concurrent title II/title XVI claim if a claimant received a notice covered by this Ruling and demonstrates that, as a result of the notice, he or she did not timely request such review. The mere receipt of a notice covered by this Ruling will not, by itself, establish good cause.

A. Notices Covered by This Ruling

A notice is covered by this Ruling if it advised the claimant that if he or she did not request administrative review, he or she still had the right to file a new application at any time without further explaining that filing a new application instead of a request for administrative review could result in the loss of benefits. The following are notices covered by this Ruling, if the notice did not state that filing a new application instead of a request for review could result in the loss of benefits.

1. *Initial Determination Notice Containing The Following Sentence:*

"If you do not request reconsideration of your case within the prescribed time period, you still have the right to file another application at any time."

2. *Reconsideration Determination Notice Containing The Following Sentence:*

"If you do not request a hearing of your case within the prescribed time period, you still have the right to file another application at any time."

A notice described above is not excluded from the Ruling simply because it contained the following additional sentence:

"A new application is not the same as an appeal of this determination."

However, the fact that a notice contained this additional statement is a factor to be considered along with all of the pertinent facts in each case in determining whether good cause for failure to file a timely request for administrative review exists. The presence of this additional statement will make it more difficult for a claimant to show that he or she did not make a timely request for administrative review as a result of the notice. In making the good cause determination when the notice contained this additional statement, the adjudicator may consider whether the claimant should reasonably have been expected to make additional inquiries, whether such inquiries were made, and the results thereof.

B. Proof of Receipt of a Notice Covered by This Ruling

Absent evidence to the contrary, SSA will presume that any notice of an initial or reconsideration determination denying a claim for title II disability benefits is covered by this Ruling if it was dated after August 31, 1977, and prior to March 1, 1990.

In all other situations (e.g., notices in title II nondisability claims, title XVI disability notices and any notice dated prior to September 1, 1977, or after February 28, 1990), the claimant must furnish a copy of the notice covered by this Ruling, or SSA's records must show that a notice covered by this Ruling was issued to the claimant.

C. Failure To Request Administrative Review as a Result of a Notice Covered by this Ruling

Under this Ruling, the Agency will find that a claimant has demonstrated that the failure to file a timely request for administrative review was the result of a notice covered by this Ruling if he or she provides an acceptable explanation, based on all the pertinent facts in a particular case, linking his or her failure to file a timely request for administrative review to the absence in the notice of a statement that filing a new application instead of a request for administrative review could result in the loss of benefits.

In making this determination, factors which an adjudicator may consider include, but are not limited to, the following:

—The claimant's explanation of what he or she thought the notice meant and how that understanding influenced his or her actions;

—The claimant's mental condition;[1]

—The claimant's educational level;

—The claimant's ability to speak and understand the English language;

—How much time elapsed before the claimant filed a subsequent claim or sought administrative review of the prior determination; and

—Whether the claimant was represented by a non-attorney. Normally, representation by an attorney at the time of receipt of the notice bars a claimant from relief under this Ruling.

D. Good Cause Found

If the adjudicator determines that good cause exists, he or she will extend the time for requesting administrative review and take the action which would have been appropriate had the claimant filed a timely request for administrative review. A finding of good cause will result either in a new determination or decision that is subject to further administrative or judicial review of the claim, or a dismissal (for a reason other than late filing) of the request for review, as appropriate.

E. Good Cause Not Found

If the adjudicator determines that good cause does not exist, he or she will deny the request to extend the time for filing and dismiss the request. The dismissal will state the adjudicator's rationale for not finding good cause and advise the claimant that he or she can file a new application.

FOR FURTHER INFORMATION CONTACT: This Ruling does not supersede or modify any instructions issued in connection with Acquiescence Ruling (AR) 92–7(9). Claimants in the Ninth Circuit are eligible for relief under the conditions set forth in this Ruling and/or under the AR as applicable. SSA will not apply this Ruling where the administrative determination at issue has been reopened previously or where a decision finding good cause to extend the time for review of that determination has been made previously under SSA policies and procedures or under court order.

EFFECTIVE DATE: This Ruling is effective April 26, 1995.

CROSS-REFERENCES: Program Operations Manual System, Part 2, Chapter 031, Subchapters 01 and 09; Part 4, Chapter 275, Subchapter 16; Acquiescence Ruling 92–7(9); Social Security Ruling 91–5p.

[1] In cases in which the claimant's capacity to understand the administrative appeal process is questionable, Social Security Ruling 91–5p and for Fourth Circuit residents, Acquiescence Ruling 90–4(4) should be applied prior to consideration under this Ruling.

[FR Doc. 95–10208 Filed 4–25–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD13–95–015]

Notice of National Environmental Policy Act Activity

AGENCY: Coast Guard, DOT.

ACTION: Notice; Intent to prepare environmental assessment of Seattle Seafair Unlimited Hydroplane Races and Airshow, Lake Washington, Seattle, WA.

SUMMARY: The Coast Guard is preparing an Environmental Assessment (EA) to consider the environmental effects of granting a marine event permit to Seafair, Inc. for the Seattle Seafair Unlimited Hydroplane Races and Airshow. The Coast Guard is seeking public comment in order to assist in determining the relevant issues, possible environmental effects, and proper scope of this EA. This notice provides information about the event and explains how members of the public can submit their comments to the Coast Guard.

DATES: Persons wishing to submit written comments regarding the scope of the EA, including alternatives and environmental effects to be addressed, should do so on or before May 26, 1995.

ADDRESSES: Comments may be mailed to U.S. Coast Guard Group Seattle, 1519 Alaskan Way So., Seattle, WA 98134. The comments and other materials referenced in this notice will be available for inspection and copying at the above address in Building One, Room 130, Operations Division. Normal office hours are between 7 a.m. and 4 p.m. Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: LTJG Ben White, U.S. Coast Guard Group Seattle, (206) 217–6138.

SUPPLEMENTARY INFORMATION:

Proposed Action

The Seattle Seafair Unlimited Hydroplane Race and Airshow is scheduled to be held on August 4, 5, and 6, 1995. Pursuant to the requirements of 33 CFR part 100, the sponsor of the event, Seafair, Inc., has applied for a Marine Event Permit from the U.S. Coast Guard. In accordance

VOL
60
ISS
80
AP
26
1995
UMI

with the National Environmental Policy Act (NEPA) and Commandant Instruction M16475.1B, the U.S. Coast Guard must conduct an Environmental Assessment (EA) before a Marine Event Permit can be issued. An EA is a brief report that provides sufficient evidence and analysis of the potential environmental effects of a proposed action and its alternatives. An EA is the document used for determining whether to prepare an Environmental Impact Statement (EIS) or a Finding of No Significant Impact (FONSI).

Background and Discussion

The Seattle Seafair Unlimited Hydroplane Race and Airshow is an annual event held on the waters of Lake Washington in an area west of Mercer Island, south of the I–90 floating bridge, and north of Bailey Peninsula.

Waterborne activities during the event will include two days of hydroplane time-trials and one day (Sunday, August 6, 1995) of hydroplane races. A log boom will separate the race course and the boaters' viewing area. Spectator craft will congregate in the area east of the log boom and will be present, in increasing numbers, on all three days. The number of spectator boats on Sunday, August 6, 1995, is estimated to be between 1700 and 2000.

On the shores of Jefferson Park along the west side of the race course, vendors, spectators, race officials, and boat crews will conduct shoreside activities. First aid stations will also be set up close to the pit area and on Mercer Island. Increased traffic, both vehicular and pedestrian, is expected during the event. This may result in temporary road closures in residential areas to keep traffic on arterial streets.

During the three day event, airshows will periodically be performed over Lake Washington. All flight demonstrations will be done over the hydroplane race track in a designated "airbox." Acrobatic maneuvers and aerial stunts will be confined to the airbox and will be performed only when the area below the airbox is clear of waterborne craft. In addition to the marine event permit issued by the Coast Guard, the sponsors of this event must obtain a separate permit from the Federal Aviation Administration for the airshow.

Drafting Information

The principal persons involved in drafting this notice are LTJG Ben White, U.S. Coast Guard Group Seattle, WA, Project Officer, and LCDR John C. Odell, Project Attorney, Thirteenth Coast Guard District Legal Office, Seattle, WA.

Request for Comments

In accordance with the National Environmental Policy Act and the Coast Guard's policy encouraging all interested and effected parties to participate in the early consultation process, the Coast Guard requests scoping comments from the public. The Coast Guard is interested in receiving comments about possible environmental effects, alternative proposals, and other relevant issues related to the scope of its Environmental Assessment of this marine event.

Persons submitting comments should include their names and addresses, identify this notice (CGD13–95–015) and the specific section of this notice to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and filing. Persons wanting acknowledgment of receipt of their comments should enclose stamped, self-addressed postcards or envelopes.

Dated: April 18, 1995.

G.O. Kinney,

Commander, U.S. Coast Guard, Commander, Coast Guard Group Seattle.

[FR Doc. 95–10235 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–14–M

[GGD 95–036]

National Boating Safety Advisory Council Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) will meet to discuss various issues related to recreational boating safety. Agenda items include: Boating education, boat occupant protection, multiple use waterways, inflatable personal flotation devices, nighttime boating, search and rescue, and Recreational Boating Safety Program direction. The meeting will be open to the public.

DATES: The meeting will be held on May 22 and 23, 1995, from 8:30 a.m. to 5 p.m. daily. Written material should be submitted not later than May 10, 1995.

ADDRESSES: The meeting will be held at the Amway Grand Plaza Hotel, 187 Monroe, NW, Grand Rapids, Michigan 49503. Written material should be submitted to Mr. Albert J. Marmo, Executive Director, Commandant (G–NAB), U.S. Coast Guard, 2100 Second Street SW, Washington, DC 20593–0001, telephone (202) 267–1077.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2, Section 1 et seq. The agenda will include discussion of the following topics:

1. Review of action taken at the 54th meeting of the Council.
2. Executive Director's Report.
3. Boat Occupant Protection Subcommittee Report.
4. Multiple Use Waterways Subcommittee Report.
5. Mandatory Education Subcommittee Report.
6. Report on Boating Safety Education in California.
7. Report on the Oil Pollution Act of 1990 Subcommittee.
8. Report on Recreational Boating Safety Program Direction.
9. Presentation on Inflatable Personal Flotation Device Rulemaking.
10. Report on Nighttime Boating Study.
11. Report on the Search and Rescue Program.
12. Presentation on Streamlining and Other Issues.
13. Chairman's Session.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director listed above under **ADDRESSES**, no later than the day before the meeting. Written material may be submitted at any time for presentation to the Council. However, to ensure advance distribution to each Council member, persons submitting written material are asked to provide 25 copies to the Executive Director no later than May 10, 1995.

Dated: April 19, 1995.

G. A. Pennington,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–10236 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–14–M

[GGD95–035]

National Boating Safety Advisory Council Subcommittee Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council's Subcommittees on Boat Occupant Protection, Mandatory Education, and Multiple Use Waterways will meet to discuss various issues related to these topics. The meetings will be open to the public.

DATES: The meetings will be held on May 20 and 21, 1995, from 1:00 p.m. to 5 p.m. on May 20, and from 8:30 a.m. to 11:00 a.m. on May 21, 1995. Written material should be submitted not later than May 10, 1995.

ADDRESSES: The meetings will be held at the Amway Grand Plaza Hotel, 187 Monroe, N.W., Grand Rapids, Michigan 49503. Written material should be submitted to Mr. Albert J. Marmo, Executive Director, Commandant (G–NAB), U.S. Coast Guard, 2100 Second Street S.W., Washington, DC 20593–0001, telephone (202) 267–1077.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2, Section 1 et seq. The agenda for the meetings will be to discuss various issues related to the topics listed in the **SUMMARY**.

Attendance is open to the interested public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director listed above under **ADDRESSES**, no later than the day before the meeting. Written material may be submitted at any time for presentation to the Committee. However, to ensure advance distribution to each Committee member, persons submitting written material are asked to provide 25 copies to the Executive Director no later than May 10, 1995.

Dated: April 19, 1995.

G. A. Pennington,

Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–10237 Filed 4–25–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 810]

Commerce in Explosives; List of Explosive Materials

Pursuant to the provisions of Section 841(d) of Title 18, United States Code, and 27 CFR 55.23, the Director, Bureau of Alcohol, Tobacco and Firearms, must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This chapter covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in section 841(c) of Title 18, United States Code. Accordingly, the following is the 1995 List of Explosive Materials subject to regulation under 18 U.S.C. Chapter 40, which includes both the list of explosives (including detonators) required to be published in the **Federal Register** and blasting agents. The list is intended to also include any and all mixtures containing any of the materials in the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in section 841 of Title 18, United States Code. Explosive materials are listed alphabetically by their common names followed by chemical names and synonyms in brackets. This revised list supersedes the List of Explosive Materials dated January 7, 1994, (59 FR 1056) and will be effective as of the date of publication in the **Federal Register**.

List of Explosive Materials

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non cap sensitive).
Aromatic nitro-compound explosive mixtures.
Ammonium perchlorate explosive mixtures.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].

B

Baratol.
Baronol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
*Blasting agents, nitro-carbo-nitrates, including non cap sensitive slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
Bulk salutes.
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1, 2, 4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclotrimethylenetrinitramine [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclonite [RDX].
Cyclotol.

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM.
Dipicryl sulfone.
Dipicrylamine.
Display fireworks.
DNDP [dinitropentano nitrile].
DNPA [2,2-dinitropropyl acrylate].
Dynamite.

E

EDDN [ethylene diamine dinitrate].
EDNA.
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
EGDN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitroform).
Explosive nitro compounds of aromatic hydrocarbons.

VOL 60 ISS 80 AP 26 1995 UMI

Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders.

F

Flash powder.
Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen (RDX).
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
MEAN [monoethanolamine nitrate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Metriol trinitrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
MMAN [monomethylamine nitrate]; methylamine nitrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol (ethylene glycol dinitrate, EGDN)
Nitroguanidine explosives.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [RDX and plasticizer].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
PYX (2,6-bis(picrylamino))-3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,- trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salutes, (bulk).
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Special fireworks.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TEGDN [triethylene glycol dinitrate].
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbazole.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN (trimethylolethane trinitrate).
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate]
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthamonas hydrophilic colloid explosive mixture.

For Further Information Contact: Linda Deel, Specialist, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW, Washington, DC 20226 (202–927–8310).

Approved: April 19, 1995.

John W. Magaw,

Director.

[FR Doc. 95–10221 Filed 4–25–95; 8:45 am]

BILLING CODE 4810–31–P

Office of the Comptroller of the Currency

Information Collection Submitted to OMB for Review

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Office of the Comptroller of the Currency (OCC) hereby gives notice that it has sent to the Office of Management and Budget (OMB) a Paperwork Reduction Act Submission regarding an information collection titled Fiduciary Interview.

DATES: Comments on this information collection are welcome and should be submitted by May 1, 1995.

ADDRESSES: A copy of the submission may be obtained by calling or writing the OCC contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the OCC has sent to the OMB a Paperwork Reduction Act Submission regarding the following information collection:

Type of Review: Expedited.
Title: Fiduciary Interview.
Description: The OCC will seek the views of a cross-section of fiduciary bankers, primarily senior trust officers of large, medium, and small institutions. The OCC will use this information as a factor in designing and scheduling examiner training to adequately address focus areas, to make staffing decisions, and to redesign its fiduciary examination procedures.
Form Number: None.
OMB Number: None.
Respondents: Businesses or other for-profit.
Number of Respondents: 100.
Total Annual Responses: 100.
Average Hours Per Response: 1 hour.
Total Annual Burden Hours: 100.
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Paperwork Reduction Project 1557, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.
OCC Contact: John Ference or Jessie Gates, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.
Comments: Comments regarding the submission should be addressed to both the OMB reviewer and the OCC contact listed above.

Dated: April 11, 1995.

Brenda Curry,

Assistant Director, Legislative and Regulatory Activities.

[FR Doc. 95–9445 Filed 4–25–95; 8:45 am]

BILLING CODE 4810–33–P

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Sunshine Act Meetings

Federal Register
Vol. 60, No. 80
Wednesday, April 26, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 1, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed acquisition of currency processing equipment within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10300 Filed 4-24-95; 9:45 am]

BILLING CODE 6210-01-P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-95-013]

TIME AND DATE: May 19, 1995 at 10:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731-TA-731 (Preliminary) (Bicycles from the People's Republic of China)—briefing and vote.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: April 24, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95-10430 Filed 4-24-95; 3:46 pm]

BILLING CODE 7020-02-P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-95-011]

TIME AND DATE: May 2, 1995 at 10:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731-TA-699 (Final) (Stainless Steel Angle from Japan)—briefing and vote.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 24, 1995.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 95-10431 Filed 4-24-95; 3:51 pm]

BILLING CODE 7020-02-P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-95-012]

TIME AND DATE: May 15, 1995 at 10:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS:

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731-TA-730 (Preliminary) (Certain Light-Walled Rectangular Pipe and Tube from Mexico)—briefing and vote.
5. Outstanding action jackets:
   1. GC-95-025, Annual Federal Register notice on administrative protective order violations.
   2. ID-95-014, Institution of section 332 investigation on U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy on Such Flows.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 24, 1995.

By order of the Commission:

Donna R. Koehnke,

Secretary.

[FR Doc. 95-10432 Filed 4-24-95; 3:52 pm]

BILLING CODE 7020-02-P

federal register

Wednesday
April 26, 1995

Part II

Department of the Treasury

Customs Service

Pharmaceutical Tables 1 and 3 of the HTSUS; Notice

VOL 60 ISS 80 APR 26 1995 UMI

DEPARMENT OF THE TREASURY

Customs Service

[T.D. 95–33]

Pharmaceutical Tables 1 and 3 of the HTSUS

AGENCY: Customs Service, Department of the Treasury.

ACTION: Listing of the products found in Table 1 and Table 3 of the Pharmaceutical Appendix to the Harmonized Tariff Schedule of the United States of America in Chemical Abstracts Service Number ("CAS Number") order.

SUMMARY: By act of Congress, the U.S. Customs Service implemented the Pharmaceutical Agreement of the General Agreements on Tariff and Trade (GATT) on January 1, 1995. A critical portion of the implementing legislation includes listings of the pharmaceuticals and pharmaceuticals intermediates covered by the treaty. These listings, Tables 1 and 3 of the Pharmaceutical Appendix of the Tariff Schedule, consist of an alphabetical listing of pharmaceuticals and pharmaceutical intermediates with corresponding CAS numbers. U.S. Customs and other agencies have been receiving comments from the public indicating that because of the large number of products listed in the tables and the fact that the products may be properly identified by several different names, it is difficult to apply the Pharmaceutical Appendix in a significant number of instances. In general, the public has indicated that products covered by the treaty are more easily identified by their CAS numbers and that use of the Tariff Schedule would be greatly facilitated if a listing of the products in Tables 1 and 3 is made available in CAS number numerical order.

Accordingly, listed below are the products found in Table 1 and Table 3 of the Pharmaceutical Appendix of the Harmonized Tariff Schedule which have been arranged in CAS number order. This listing is neither intended to change the legal intent of the Pharmaceuticals Appendix as stated in the Tariff Schedule, nor is it intended to define or change U.S. Customs policy in enforcing the statute. Rather, the listing is intended to assist users of the Tariff Schedule to more quickly identify products which are covered by the statute.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief, Technical Branch, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue NW, Washington, D.C. 20229 at (202) 927–1060.

Dated: April 14, 1995.

A. W. Tennant,

Director, Office of Laboratories and Scientific Services.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS

CAS No.	Pharmaceutical
N/A	ACTAGARDIN.
N/A	ARDACIN.
N/A	BICYROMAB.
N/A	CELUCLORAL.
N/A	CORTICORELIN.
N/A	DORLIMOMAB ARITOX.
N/A	FIBRINOGEN (125 I).
N/A	INSULIN DEFALAN.
N/A	MACROGOL ESTER.
N/A	POLYSORBATE.
N/A	SEVIRUMAB.
N/A	SOMETRIBOVE.
N/A	SOMETRIPOR.
N/A	TENDAMISTAT.
N/A	THYMODISTIMULIN.
N/A	TUVIRUMAB.
N/A	UROFOLLITROPIN.
50–02–2	DEXAMETHASONE.
50–06–6	PHENOBARBITAL.
50–07–7	MITOMYCIN.
50–10–2	OXYPHENONIUM BROMIDE.
50–11–3	METHARBITAL.
50–12–4	MEPHENYTOIN.
50–14–6	ERGOCALCIFEROL.
50–18–0	CYCLOPHOSPHAMIDE.
50–19–1	OXYFENAMATE.
50–23–7	HYDROCORTISONE.
50–24–8	PREDNISOLONE.
50–28–2	ESTRADIOL.
50–29–3	CLOFENOTANE.
50–33–9	PHENYLBUTAZONE.
50–34–0	PROPANTHELINE BROMIDE.
50–35–1	THALIDOMIDE.
50–37–3	LYSERGIDE.
50–39–5	PROTHEOBROMINE.
50–44–2	MERCAPTOPURINE.
50–47–5	DESIPRAMINE.
50–48–6	AMITRIPTYLINE.
50–49–7	IMIPRAMINE.
50–50–0	ESTRADIOL BENZOATE.
50–52–2	THIORIDAZINE.
50–53–3	CHLORIPROMAZINE.
50–55–5	RESERPINE.
50–56–6	OXYTOCIN.
50–57–7	LYPRESSIN.
50–59–9	CEFALORIDINE.
50–60–2	PHENTOLAMINE.
50–65–7	NICLOSAMIDE.
50–76–0	DACTINOMYCIN.
50–81–7	ASCORBIC ACID.
50–91–9	FLOXURIDINE.
51–06–9	PROCAINAMIDE.
51–12–7	NIALAMIDE.
51–18–3	TRETAMINE.
51–21–8	FLUOROURACIL.
51–24–1	TIRATRICOL.
51–26–3	THYROPROPIC ACID.
51–31–0	LEVISOPRENALINE.
51–41–2	NOREPINEPHRINE.
51–43–4	EPINEPHRINE.
51–52–5	PROPYLTHIOURACIL.
51–61–6	DOPAMINE.
51–64–9	DEXAMFETAMINE.
51–68–3	MECLOFENOXATE.
51–71–8	PHENELZINE.
51–75–2	CHLORMETHINE.
51–77–4	GEFARNATE.
51–79–6	URETHANE.
51–83–2	CARBACHOL.
52–01–7	SPIRONOLACTONE.
52–24–4	THIOTEPA.
52–31–3	CYCLOBARBITAL.
52–39–1	ALDOSTERONE.
52–43–7	ALLOBARBITAL.
52–51–7	BRONOPOL.
52–53–9	VERAPAMIL.
52–62–0	PENTOLONIUM TARTRATE.
52–67–5	PENICILLAMINE.
52–68–6	METRIFONATE.
52–78–6	LYNESTRENOL.
52–78–8	NORETHANDROLONE.
52–86–8	HALOPERIDOL.
52–88–0	ATROPINE METHONITRATE.
52–90–4	CYSTEINE.
53–03–2	PREDNISONE.
53–06–5	CORTISONE.
53–10–1	HYDROXYDIONE SODIUM SUCCINATE.
53–16–7	ESTRONE.
53–18–9	BIETASERPINE.
53–19–0	MITOTANE.
53–31–6	MEDIBAZINE.
53–33–8	PARAMETHASONE.
53–34–9	FLUPREDNISOLONE.
53–39–4	OXANDROLONE.
53–43–0	PRASTERONE.
53–46–3	METHANTHELINIUM BROMIDE.
53–73–6	ANGIOTENSINAMIDE.
53–79–2	PUROMYCIN.
53–84–9	NADIDE.
53–86–1	INDOMETACIN.
53–89–4	BENZPIPERYLONE.
54–03–6	HEXOBENDINE.
54–05–7	CHLOROQUINE.
54–30–8	CAMYLOFIN.
54–31–9	FUROSEMIDE.
54–32–0	MOXISYLYTE.
54–36–4	METYRAPONE.
54–42–2	IDOXURIDINE.
54–48–8	METARAMINOL.
54–64–8	THIOMERSAL.
54–80–8	PRONETALOL.
54–86–3	ISONIAZID.
54–91–1	PIPOBROMAN.
54–92–2	IPRONIAZID.
54–95–5	PENTETRAZOL.
55–03–8	LEVOTHYROXINE SODIUM.
55–52–7	PHENPRAZINE.
55–56–1	CHLORHEXIDINE.
55–65–2	GUANETHIDINE.
55–73–2	BETANIDINE.
55–97–0	HEXAMETHONIUM BROMIDE.
55–98–1	BUSULFAN.
56–04–2	METHYLTHIOURACIL.
56–28–0	TRICLODAZOL.
56–29–1	HEXOBARBITAL.
56–40–0	GLYCINE.
56–41–7	ALANINE.
56–45–1	SERINE.
56–53–1	DIETHYLSTILBESTROL.
56–59–7	FELYPRESSIN.
56–72–4	COUMAFOS.
56–75–7	CHLORAMPHENICOL.
56–84–8	ASPARTIC ACID.
56–85–9	LEVOGLUTAMIDE.
56–86–0	GLUTAMIC ACID.
56–87–1	LYSINE.
56–94–0	DEMECARIUM BROMIDE.
56–97–3	TRIMEDOXIME BROMIDE.
57–08–9	ACEXAMIC ACID.
57–09–0	CETRIMONIUM BROMIDE.
57–15–8	CHLOROBUTANOL.
57–22–7	VINCRISTINE.
57–30–7	PHENOBARBITAL SODIUM.
57–41–0	PHENYTOIN.
57–42–1	PETHIDINE.
57–43–2	AMOBARBITAL.
57–44–3	BARBITAL.
57–53–4	MEPROBAMATE.
57–57–8	PROPIOLACTONE.
57–62–5	CHLORTETRACYCLINE.
57–63–6	ETHINYLESTRADIOL.
57–66–9	PROBENECID.
57–67–0	SULFAGUANIDINE.
57–68–1	SULFADIMIDINE.
57–83–0	PROGESTERONE.
57–92–1	STREPTOMYCIN.
57–94–3	TUBOCURARINE CHLORIDE.
57–95–4	SULFINPYRAZONE.
58–14–0	PYRIMETHAMINE.
58–15–1	AMINOPHENAZONE.
58–18–4	METHYLTESTOSTERONE.
58–19–5	DROSTANOLONE.
58–22–0	TESTOSTERONE.
58–25–3	CHLORDIAZEPOXIDE.
58–32–0	DIPYRIDAMOLE.
58–34–4	THIAZINAMIUM METILSULFATE.
58–37–7	AMINOPROMAZINE.
58–38–8	PROCHLORPERAZINE.
58–39–9	PERPHENAZINE.
58–40–2	PROMAZINE.
58–46–8	TETRABENAZINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
58–54–8	ETACRYNIC ACID.
58–63–9	INOSINE.
58–73–1	DIPHENHYDRAMINE.
58–85–5	BIOTIN.
58–89–9	LINDANE.
58–93–5	HYDROCHLOROTHIAZIDE.
58–94–6	CHLOROTHIAZIDE.
59–01–8	KANAMYCIN.
59–05–2	METHOTREXATE.
59–14–3	BROXURIDINE.
59–26–7	MIRETHAMIDE.
59–30–3	FOLIC ACID.
59–32–5	CHLOROPYRAMINE.
59–39–2	PIPEROXAN.
59–40–5	SULFAQUINOXALINE.
59–42–7	PHENYLEPHRINE.
59–43–8	THIAMINE.
59–46–1	PROCAINE.
59–47–2	MEPHENESIN.
59–50–7	CHLOROCRESOL.
59–52–9	DIMERCAPROL.
59–58–5	PROSULTIAMINE.
59–63–2	ISOCARBOXAZID.
59–65–5	ACETAZOLAMIDE.
59–67–6	NICOTINIC ACID.
59–87–0	NITROFURAL.
59–92–7	LEVODOPA.
59–96–1	PHENOXYBENZAMINE.
59–98–3	YOHIMBINE.
60–00–4	EDETIC ACID.
60–18–4	TYROSINE.
60–23–1	MERCAPTAMINE.
60–31–1	ACETYLCHOLINE CHLORIDE.
60–32–2	AMINOCAPROIC ACID.
60–40–2	MECAMYLAMINE.
60–45–7	FENIMIDE.
60–46–8	DIMEVAMIDE.
60–54–8	TETRACYCLINE.
60–56–0	THIAMAZOLE.
60–57–1	DIELDRIN.
60–79–7	ERGOMETRINE.
60–80–0	PHENAZONE.
60–87–7	PROMETHAZINE.
60–89–9	PECAZINE.
60–91–3	DIETHAZINE.
60–99–1	LEVOMEPROMAZINE.
61–00–7	ACEPROMAZINE.
61–01–8	METHOPROMAZINE.
61–19–8	ADENOSINE PHOSPHATE.
61–32–5	METICILLIN.
61–33–6	BENZYLPENICILLIN.
61–56–3	SULTIAME.
61–57–4	NIRIDAZOLE.
61–68–7	MEFENAMIC ACID.
61–72–3	CLOXACILLIN.
61–73–4	METHYLTHIONINIUM CHLORIDE.
61–74–5	DOMOXIN.
61–75–6	BRETYLIUM TOSILATE.
61–80–3	ZOXAZOLAMINE.
61–90–5	LEUCINE.
62–33–9	SODIUM CALCIUM EDETATE.
62–37–3	CHLORMERODRIN.
62–44–2	PHENACETIN.
62–51–1	METHACHOLINE CHLORIDE.
62–67–9	MALORPHINE.
62–73–7	DICHLORVOS.
62–97–5	DIPHEMANIL METILSULFATE.
63–12–7	BENZOYLMAMIDE.
63–25–2	CARBARIL.
63–68–3	METHIONINE.
63–74–1	SULFANILAMIDE.
63–89–8	COLFOSCERIL PALMITATE.
63–91–2	PHENYLALANINE.
63–98–9	PHENACEMIDE.
64–39–1	TRIMEPERIDINE.
64–55–1	METBUTAMATE.
64–65–3	REMEGRIDE.
64–77–7	TOLBUTAMIDE.
64–85–7	DESOXYCORTONE.
64–95–9	ADIPHENINE.
65–23–6	PYRIDOXINE.
65–29–2	GALLAMINE TRIETHIODIDE.
65–45–2	SALICYLAMIDE.
65–54–5	MEBANAZINE.
65–86–1	OROTIC ACID.
66–75–1	URAMUSTINE.
66–76–2	DICOUMAROL.
66–79–5	CRACILLIN.
66–81–9	CICLOHEXIMIDE.
67–20–9	NITROFURANTOIN.
67–28–7	NIHYDRAZONE.
67–42–5	EGTAZIC ACID.
67–43–6	PENTETIC ACID.
67–45–8	FURAZOLIDONE.
67–48–1	CHOLINE CHLORIDE.
67–68–5	DIMETHYL SULFOXIDE.
67–73–2	FLUOCINOLONE ACETONIDE.
67–81–2	PENMESTEROL.
67–95–6	QUINGESTRONE.
67–96–9	DIHYDROTACHYSTEROL.
67–97–0	COLECALCIFEROL.
68–19–9	CYANOCOBALAMIN.
68–22–4	NORETHISTERONE.
68–23–5	NORETYNODREL.
68–26–8	RETINOL.
68–35–9	SULFADIAZINE.
68–41–7	CYCLOSERINE.
68–75–8	TRIAZIQUONE.
68–88–2	HYDROXYZINE.
68–89–3	METAMIZOLE SODIUM.
68–90–6	BENZIODARONE.
68–91–7	TRIMETAPHAN CAMSILATE.
68–96–2	HYDROXYPROGESTERONE.
69–23–8	FLUPHENAZINE.
69–25–0	ELEDOISIN.
69–27–2	CHLORISONDAMINE CHLORIDE.
69–53–4	AMPICILLIN.
69–81–8	CARBAZOCHROME.
70–00–8	TRIFLURIDINE.
70–07–5	MEPHENOXALONE.
70–10–0	TICLATONE.
70–26–8	ORNITHINE.
70–30–4	HEXACHLOROPHENE.
70–51–9	DEFEROXAMINE.
70–70–2	PAROXYPROPIONE.
71–00–1	HISTIDINE.
71–27–2	SUXAMETHONIUM CHLORIDE.
71–63–6	DIGITOXIN.
71–73–8	THIOPENTAL SODIUM.
71–81–8	ISOPROPAMIDE IODIDE.
71–91–0	TETRYLAMMONIUM BROMIDE.
72–14–0	SULFATHIAZOLE.
72–18–4	VALINE.
72–19–5	THREONINE.
72–33–3	MESTRANOL.
72–44–6	METHAQUALONE.
72–63–9	METANDIENONE.
72–69–5	NORTRIPTYLINE.
72–80–0	CHLORQUINALDOL.
73–07–4	PRAZEPINE.
73–09–6	ETOZOLIN.
73–22–3	TRYPTOPHAN.
73–32–5	ISOLEUCINE.
73–48–3	BENDROFLUMETHIAZIDE.
73–49–4	QUINETHAZONE.
74–55–5	ETHAMBUTOL.
74–79–3	ARGININE.
75–19–4	CYCLOPROPANE.
76–14–2	CRYOFLUORANE.
76–23–3	TETRABARBITAL.
76–38–0	METHOXYFLURANE.
76–41–5	OXYMORPHONE.
76–42–6	OXYCODONE.
76–43–7	FLUOXYMESTERONE.
76–47–1	HYDROCORTAMATE.
76–65–3	AMOLANONE.
76–73–3	SECOBARBITAL.
76–74–4	PENTOBARBITAL.
76–90–4	MEPENZOLATE BROMIDE.
76–99–3	METHADONE.
77–01–0	FENPIPRAMIDE.
77–02–1	APROBARBITAL.
77–04–3	PYRITHYLDIONE.
77–07–6	LEVORPHANOL.
77–09–8	PHENOLPHTHALEIN.
77–10–1	PHENCYCLIDINE.
77–12–3	PENTAGYNIUM CHLORIDE.
77–14–5	PRONEPTAZINE.
77–15–6	ETHOHEPTAZINE.
77–19–0	DICYCLOVERINE.
77–20–3	ALPHAPRODINE.
77–21–4	GLUTETHIMIDE.
77–22–5	CARAMIPHEN.
77–23–6	PENTOXYVERINE.
77–26–9	BUTALBITAL.
77–36–1	CHLORTALIDONE.
77–37–2	PROCYCLIDINE.
77–38–3	CHLORPHENOXAMINE.
77–39–4	CYCRIMINE.
77–41–8	MESUXIMIDE.
77–46–3	ACEDAPSONE.
77–51–0	ISOAMINILE.
77–65–6	CARBROMAL.
77–66–7	ACECARBROMAL.
77–67–8	ETHOSUXIMIDE.
77–75–8	METHYLPENTYNOL.
77–86–1	TROMETAMOL.
78–11–5	PENTAERITHRITYL TETRANITRATE.
78–12–6	PETRICHLORAL.
78–28–4	EMYLCAMATE.
78–34–2	DIOXATION.
78–41–1	TRIPARAMOL.
78–44–4	CARISOPRODOL.
79–01–6	TRICHLOROETHYLENE.
79–17–4	PRIMAGEDINE.
79–55–0	PEMPIDINE.
79–57–2	OXYTETRACYCLINE.
79–64–1	DIMETHISTERONE.
79–90–3	TRICLOBISONIUM CHLORIDE.
79–93–6	PHENAGLYCODOL.
80–08–0	DAPSONE.
80–13–7	HALAZONE.
80–32–0	SULFACHLORPYRIDAZINE.
80–34–2	GLYPROTHIAZOL.
80–35–3	SULFAMETHOXYPYRIDAZINE.
80–49–9	HOMATROPINE METHYLBROMIDE.
80–50–2	OCTATROPINE METHYLBROMIDE.
80–77–3	CHLORMEZANONE.
81–13–0	DEXPANTHENOL.
81–23–2	DEHYDROCHOLIC ACID.
81–81–2	WARFARIN.
82–02–0	KHELLIN.
82–66–6	DIPHENADIONE.
82–88–2	PHENINDAMINE.
82–92–8	CYCLIZINE.
82–93–9	CHLORCYCLIZINE.
82–95–1	BUCLIZINE.
82–99–4	PIPERIDOLATE.
82–99–5	TFENAMIN.
83–12–5	PHENINDIONE.
83–40–9	HYDROXYTOLUIC ACID.
83–43–2	METHYLPREDNISOLONE.
83–73–8	DIIODOHYDROXYQUINOLINE.
83–86–3	FYTIC ACID.
83–88–5	RIBOFLAVIN.
83–89–6	MEPACRINE.
83–98–7	DIPHENADRINE.
84–01–5	CHLORPROETHAZINE.
84–04–8	PIPAMAZINE.
84–06–0	THIOPROPAZATE.
84–08–2	PARATHIAZINE.
84–12–8	PHANQUINONE.
84–17–3	DIENESTROL.
84–22–0	TETRYZOLINE.
84–36–6	SYROSINGOPINE.
84–55–9	VIOQUIN.
84–80–0	PHYTOMENADIONE.
84–96–8	ALIMEMAZINE.
85–73–4	PHTHALYLSULFATHIAZOLE.
85–79–0	CINCHOCAINE.
85–90–5	METHYLCHROMONE.
85–95–0	BENZESTROL.
86–12–4	THENALIDINE.
86–13–5	BENZATROPINE.
86–14–6	DIETHYLTHIAMBUTENE.
86–21–6	PHENIRAMINE.
86–22–6	BROMPHENIRAMINE.
86–34–0	PHENSUXIMIDE.
86–35–1	ETHOTOIN.
86–42–0	AMODIAQUINE.
86–43–1	PROPOXYCAINE.
86–54–4	HYDRALAZINE.
86–75–9	BENZOXIQUINE.
86–78–2	PENTAQUINE.
86–80–6	QUINISOCAINE.
87–08–1	PHENOXYMETHYLPENICILLIN.
87–09–2	ALMECILLIN.
87–10–5	TRIBROMSALAN.
87–12–7	DIBROMSALAN.
87–21–8	PIPROCAINE.
87–33–2	ISOSORBIDE DINITRATE.
87–90–1	SYMCLOSENE.
88–04–0	CHLOROXYLENOL.
89–57–6	MESALAZINE.
90–33–5	HYMECROMONE.
90–34–6	PRIMAQUINE.
90–39–1	SPARTEINE.
90–45–9	AMINOACRIDINE.
90–49–3	PHENETURIDE.
90–54–0	ETAFENONE.
90–69–7	LOBELINE.
90–81–3	RACEPHEDRINE.
90–82–4	PSEUDOEPHEDRINE.
90–84–6	AMFEPRAMONE.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
90-86-8	DIMAMEORINE.
90-89-1	DIETHYLCARBAMAZINE.
91-33-8	BENZTHIAZIDE.
91-75-8	ANTAZOLINE.
91-79-2	THENYLDIAMINE.
91-80-5	METHAPYRILENE.
91-81-6	TRIPELENNAMINE.
91-84-9	MEPYRAMINE.
91-85-0	THONZYLAMINE.
92-12-6	PHENYLTOLOXAMINE.
92-23-9	LEUCINOCAINE.
92-31-9	TOLONIUM CHLORIDE.
92-62-6	PROFLAVINE.
92-84-2	PHENOTHIAZINE.
93-14-1	GUAIFENESIN.
93-30-1	METHOXYPHENAMINE.
93-47-0	VERAZIDE.
93-88-9	PHENPROMETHAMINE.
94-09-7	BENZOCAINE.
94-10-0	ETOXAZENE.
94-12-2	RISOCAINE.
94-14-4	ISOBUTAMBEN.
94-19-9	SULFAETHIDOLE.
94-20-2	CHLORPROPAMIDE.
94-23-5	PARETHOXYCAINE.
94-24-6	TETRACAINE.
94-35-9	STYRAMATE.
94-63-3	PRALIDOXIME IODIDE.
94-78-0	PHENAZOPYRIDINE.
95-04-5	ECTYLUREA.
95-05-6	SULFIRAM.
95-25-0	CHLORZOXAZONE.
95-27-2	DIMAZOLE.
95-50-4	AMINOTHIAZOLE.
95-62-6	DINSED.
95-83-3	IOPANOIC ACID.
95-84-4	IOPHENOIC ACID.
97-18-7	BITHIONOL.
97-23-4	DICHLOROPHEN.
97-24-5	FENTICLOR.
97-27-8	CHLORBETAMIDE.
97-44-9	ACETARSOL.
97-57-4	TOLPRONINE.
97-77-8	DISULFIRAM.
98-50-0	ARSANILIC ACID.
98-72-6	NITARSONE.
98-75-9	PROPAZOLAMIDE.
98-78-3	PIDOLIC ACID.
98-92-0	NICOTINAMIDE.
98-96-4	PYRAZINAMIDE.
99-15-0	ACETYLLEUCINE.
99-43-4	OXYBUPROCAINE.
99-45-6	ADRENALONE.
99-66-1	VALPROIC ACID.
99-79-6	IOFENDYLATE.
100-33-4	PENTAMIDINE.
100-51-6	BENZYL ALCOHOL.
100-91-4	EUCATROPINE.
100-92-5	MEPHENTERMINE.
100-95-8	METALKONIUM CHLORIDE.
100-97-0	METHENAMINE.
101-08-6	DIPETRODON.
101-20-2	TRICLOCARBAN.
101-26-8	PYRIDOSTIGMINE BROMIDE.
101-71-3	DIPHENAN.
101-83-9	PHENACAINE.
102-05-6	DIBEMETHINE.
102-45-4	CYCLOPENTAMINE.
102-60-3	EDETOL.
102-65-8	SULFACLOZINE.
102-76-1	TRIACETIN.
103-03-7	PHENICARBAZIDE.
103-16-2	MONOBENZONE.
104-08-3	THIOACETAZONE.
104-14-3	OCTOPAMINE.
104-22-3	BENZYLSULFAMIDE.
104-28-9	CINOXATE.
104-29-0	CHLORPHENESIN.
104-31-4	BENZONATATE.
104-32-5	PROPAMIDINE
105-20-4	BETAZOLE.
107-35-7	TAURINE.
108-02-1	CAPTAMINE.
108-67-9	ALLYLTHIOUREA.
111-30-8	GLUTARAL.
111-46-6	THIODIGLYCOL.
112-24-3	TRIENTINE.
113-15-5	ERGOTAMINE.
113-18-8	ETHCHLORVYNOL.
113-42-8	METHYLERGOMETRINE.
113-45-1	METHYLPHENIDATE.
113-53-1	DOSULEPIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
113-59-7	CHLORPROTHIXENE.
113-73-5	GRAMICIDIN S.
113-78-0	DEMOXYTOCIN.
113-79-1	ARGIPRESSIN.
113-80-4	ARGIPRESTOCIN.
114-07-8	ERYTHROMYCIN.
114-43-2	DESASPIDIN.
114-80-7	NEOSTIGMINE BROMIDE.
114-86-3	PHENFORMIN.
114-90-9	OBIDOXIME CHLORIDE.
114-91-0	METYRIDINE.
115-02-6	AZASERINE.
115-38-8	METHYLPHENOBARBITAL.
115-44-6	TALBUTAL.
115-46-8	AZACYCLONOL.
115-55-9	PHENYTHILONE.
115-63-9	HEXOCYCLIUM METILSULFATE.
115-67-3	PARAMETHADIONE.
115-68-4	SULFADICRAMIDE.
115-79-7	AMBENONIUM CHLORIDE.
116-38-1	EDROPHONIUM CHLORIDE.
116-42-7	SULFAPROXYLINE.
116-43-8	SUCCINYLSULFATHIAZOLE.
116-48-4	GLYCOBIARSOL.
116-52-9	DICLORALUREA.
117-10-2	DANTRON.
117-30-6	DIPIPROVERINE.
117-37-3	ANISINDIONE.
117-89-5	TRIFLUOPERAZINE.
118-23-0	BROMAZINE.
118-42-3	HYDROXYCHLOROQUINE.
118-56-9	HOMOSALATE.
118-57-0	ACETAMINOSALOL.
119-04-0	FRAMYCETIN.
119-29-9	AMBUCAINE.
119-41-6	EFLOXATE.
119-85-7	VANYLDISULFAMIDE.
119-99-0	ARSTHINOL.
120-32-1	CLORDIFENE.
120-97-8	DICLOFENAMIDE.
121-19-7	ROXARSONE.
121-25-5	AMPROLIUM.
121-54-0	BENZETHONIUM CHLORIDE.
121-55-1	SUBATHIZONE.
121-59-5	CARBARSONE.
121-64-2	SULOCARBILATE.
122-09-8	PHENTERMINE.
122-11-2	SULFADIMETHOXINE.
122-16-7	SULFANITRAN.
122-18-9	CETALKONIUM CHLORIDE.
122-99-4	MESULFAMIDE.
123-03-5	CETYLPYRIDINIUM CHLORIDE.
123-47-7	PROLONIUM IODIDE.
123-82-0	TUAMINOHEPTANE.
123-99-9	AZELAIC ACID.
124-07-2	OCTANOIC ACID.
124-20-7	DIMANTINE.
124-72-1	TEFLURANE.
124-88-9	DIMETHIODAL SODIUM.
124-94-7	TRIAMCINOLONE.
125-13-3	OXYPHENISATINE.
125-28-0	DIHYDROCODEINE.
125-29-1	HYDROCODONE.
125-33-7	PRIMIDONE.
125-40-6	SECBUTABARBITAL.
125-42-8	VINBARBITAL.
125-45-1	AZATEPA.
125-51-9	PIPENZOLATE BROMIDE.
125-53-1	OXYPHENCYCLIMINE.
125-58-6	LEVOMETHADONE.
125-60-0	FENPIVERINIUM BROMIDE.
125-64-4	METHYPRYLON.
125-65-5	PLEUROMULIN.
125-70-2	LEVOMETHORPHAN.
125-71-3	DEXTROMETHORPHAN.
125-73-5	DEXTRORPHAN.
125-84-8	AMINOGLUTETHIMIDE.
125-99-5	TRIDIHEXETHYL IODIDE.
126-07-8	GRISEOFULVIN.
126-22-7	BUTONATE.
126-27-2	OXETACAINE.
126-31-8	METHIODAL SODIUM.
126-52-3	ETHIMIMATE.
126-92-1	SODIUM ETASULFATE.
126-93-2	OXANAMIDE.
127-07-1	HYDROXYCARBAMIDE.
127-31-1	FLUDROCORTISONE.
127-33-3	DEMECLOCYCLINE.
127-35-5	PHENAZOCINE.
127-48-0	TRIMETHADONE.
127-58-2	SULFAMERAZINE SODIUM.
127-60-6	ACEDIASULFONE SODIUM.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
127-65-1	TOSYLCHLORAMIDE SODIUM.
127-69-5	SULFAFURAZOLE.
127-71-9	SULFABENZAMIDE.
127-77-5	SULFABENZ.
127-79-7	SULFAMERAZINE.
128-12-1	SULFADIASULFONE SODIUM.
128-13-2	URSODEOXYCHOLIC ACID.
128-20-1	ELTANOLONE.
128-62-1	HOSCAPINE.
129-03-3	CYPROHEPTADINE.
129-16-8	MERBROMIN.
129-20-4	OXYPHENBUTAZONE.
129-46-4	SURAMIN SODIUM.
129-67-7	SODIUM DIPROTRIZOATE.
129-83-6	SODIUM ACETRIZOATE.
129-83-9	PHENAMPROMIDE.
130-16-5	CLOXIQUINE.
130-26-7	CLIOQUINOL.
130-37-0	MENADIONE SODIUM BISULFITE.
130-73-4	METHESTROL.
130-81-4	QUINDONIUM BROMIDE.
131-01-1	DESERPIDINE.
131-48-6	ACENEURAMIC ACID.
131-53-3	DIOXYBENZONE.
131-57-7	OXYBENZONE.
131-67-9	FTALOFYNE.
132-21-8	DEXBROMPHENIRAMINE.
132-22-9	CHLORPHENAMINE.
132-60-5	CINCHOPHEN.
132-69-8	CHLORTHENOXAZINE.
133-11-9	FENAMISAL.
133-16-4	CHLOROPROCAINE.
133-53-9	DICHLOROXYLENOL.
133-65-3	SOLASULFONE.
133-67-5	TRICHLORMETHIAZIDE.
134-03-2	SODIUM ASCORBATE.
134-37-2	AMPHENIDONE.
134-49-6	PHENMETRAZINE.
134-66-3	DIETHYLTOLUAMIDE.
135-07-9	METHYCLOTHIAZIDE.
135-09-1	HYDROFLUMETHIAZIDE.
135-43-3	LAUROGUADINE.
135-58-0	MESULFEN.
136-44-7	LISADIMATE.
136-70-9	PROTORYLOL.
136-82-3	PIPEROCAINE.
137-05-3	MECRILATE.
137-08-6	CALCIUM PANTOTHENATE.
137-26-8	THIRAM.
137-63-1	DEXTROTHYROXINE SODIUM.
137-58-6	LIDOCAINE.
137-76-8	CETOTIAMINE.
137-86-0	OCTOTIAMINE.
138-38-6	MAFENIDE.
138-41-0	CARZENIDE.
138-56-7	TRIMETHOBENZAMIDE.
139-05-9	SODIUM CYCLAMATE.
139-07-1	BENZODODECINIUM CHLORIDE.
139-08-2	MIRISTALKONIUM CHLORIDE.
139-56-0	SALAZOSULFAMIDE.
139-62-8	CYCLOMETHYCAINE.
139-66-2	SODIUM TETRADECYL SULFATE.
139-91-3	FURALTADONE.
140-40-9	AMINITROZOLE.
140-59-0	STILBAMIDINE ISETIONATE.
140-65-8	PRAMOCAINE.
140-67-4	CYACETACIDE.
141-94-6	HEXETIDINE.
143-52-2	METOPON.
143-82-8	PROBARBITAL SODIUM.
143-92-0	TROPENZOLINE BROMIDE.
144-02-6	BARBITAL SODIUM.
144-11-6	TRIHEXYPHENIDYL.
144-12-7	TIEMONIUM IODIDE.
144-14-9	ANILERIDINE.
144-45-8	SPIROPITAM.
144-75-2	ALDESULFONE SODIUM.
144-80-9	SULFACETAMIDE.
144-82-1	SULFAMETHIZOLE.
144-83-2	SULFAPYRIDINE.
145-12-0	OXYMESTERONE.
145-13-1	PREGNENOLONE.
145-41-5	SODIUM DEHYDROCHOLATE.
145-64-0	PROPYROMAZINE BROMIDE.
145-94-8	CLORINDANOL.
146-22-5	NITRAZEPAM.
146-37-2	LAUROLINIUM ACETATE.
146-54-3	TRIFLUPROMAZINE.
147-20-6	DIPHENYLPYRALINE.
147-27-3	DIMOXYLINE.
147-52-4	NAFCILLIN.
147-55-7	PHENETICILLIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
147-85-3	PROLINE.
147-94-4	CYTARABINE.
148-01-6	DINITOLMIDE.
148-07-2	BENZMALECENE.
148-18-5	DITIOCARB SODIUM.
148-56-1	FLUMETHIAZIDE.
148-65-2	CHLOROPYRILENE.
148-79-8	TIABENDAZOLE.
148-82-3	MELPHALAN.
149-16-6	BUTACAINE.
149-17-7	FTIVAZIDE.
150-59-4	ALVERINE.
150-76-5	MEQUINOL.
151-67-7	HALOTHANE.
151-83-7	METHOHEXITAL.
152-02-3	LEVALLORPHAN.
152-43-2	QUINESTROL.
152-47-6	SULFALENE.
152-58-9	CORTODOXONE.
152-62-5	DYDROGESTERONE.
152-72-7	ACENOCOUMAROL.
152-97-6	FLUOCORTOLONE.
153-00-4	METENOLONE.
153-18-4	RUTOSIDE.
153-43-5	CLORINDANIC ACID.
153-61-7	CEFALOTIN.
153-87-7	OXYPERTINE.
154-21-2	LINCOMYCIN.
154-23-4	CIAMIDANOL.
154-42-7	TIOGUANINE.
154-73-4	GUANISOQUINE.
154-82-5	SIMETRIDE.
154-87-0	COCARBOXYLASE.
154-93-8	CARMUSTINE.
155-09-9	TRANYLCYPROMINE.
156-08-1	BENZFETAMINE.
156-34-3	LEVAMFETAMINE.
156-62-7	CALCIUM CARBIMIDE.
297-90-5	RACEMORPHAN.
298-46-4	CARBAMAZEPINE.
298-55-5	CLODIMAZINE.
298-57-7	CINNARIZINE.
299-48-9	PIPERAMIDE.
299-61-6	GANGLEFENE.
299-75-2	TIROSULFAN.
299-84-3	FENCLOFOS.
299-86-5	CRUFOMATE.
299-88-7	BENTIAMINE.
299-89-8	ACETIAMINE.
300-22-1	MEDAZOMIDE
300-37-8	DIODONE.
300-62-9	AMFETAMINE.
302-33-0	PROADIFEN.
302-40-9	BENACTYZINE
302-41-0	PIRITRAMIDE.
302-49-8	URIDEPA.
302-79-4	TRETINOIN.
303-49-1	CLOMIPRAMINE.
303-53-7	CYCLODIENZAPRINE.
303-54-8	DEPRAMINE.
303-69-5	PROTHIPENDYL.
303-81-1	NOVOBIOCIN.
303-98-0	UBIDECARENONE.
304-55-2	SUCCIMER.
304-84-7	ETAMIVAN.
305-03-3	CHLORAMBUCIL.
305-97-5	ANTHOLIMINE.
306-12-7	OXOPHENARSINE.
306-20-7	FENACLON.
306-41-2	HEXICARBACHOLINE BROMIDE.
306-52-5	TRICLOFOS.
306-53-6	AZAMETHONIUM BROMIDE.
306-94-5	PERFLUNAFENE.
309-29-5	DOXAPRAM.
313-05-3	AZACOSTEROL.
314-03-4	PIMETHIXENE.
314-35-2	ETAMPHYLLIN.
315-30-0	ALLOPURINOL.
315-72-0	OPIPRAMOL.
316-15-4	BUCRICAINE.
316-81-4	THIOPROPERAZINE.
317-34-0	AMINOPHYLLINE.
317-52-2	METAFLURONIUM BROMIDE.
318-23-0	IMOLAMINE.
319-89-1	TETROQUINONE.
320-67-2	AZACITIDINE.
321-55-1	HALOXONE.
321-64-2	TACRINE.
322-35-0	BENSERAZIDE.
322-79-2	TRIFLUSAL.
329-65-7	RACEPINEFRINE.
332-69-4	BROMMIDE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
333-36-8	FLUROTYL.
333-41-5	DIMPYLATE.
337-03-1	FLUGESTONE.
338-83-0	PERFLUAMINE.
338-95-4	ISOFLUPREDONE.
339-43-5	CARBUTAMIDE.
339-72-0	LEVCYCLOSERINE.
340-57-8	NEOLODOXALONE.
341-00-4	ETIFELMINE.
346-18-9	POLYTHIAZIDE.
350-12-9	SULBENTINE.
356-12-7	FLUOCINOMIDE.
357-56-2	DEXTROMORAMIDE.
357-66-4	SPIRILENE.
357-67-5	PHETHARBITAL.
357-70-0	GALANTAMINE.
358-52-1	HEXAPROPYMATE.
359-83-1	PENTAZOCINE.
361-37-5	METHYSERGIDE.
362-29-6	PROPIOMAZINE.
362-74-3	BUCLADESINE.
363-13-3	BENMEPAZONE.
363-24-6	DINOPROSTONE.
364-62-5	METOCLOPRAMIDE.
364-98-7	DIAZOXIDE.
365-26-4	OXILOFRINE.
369-77-7	HALOCARBAN.
370-14-9	PHOLEDRINE.
372-66-7	HEPTAMINOL.
378-44-9	BETAMETHASONE.
382-67-2	DESOXIMETASONE.
382-82-1	DICOUMAROL IODIDE.
388-51-2	METOFENAZATE.
389-08-2	HALOBETIC ACID.
390-28-3	METHOXAMINE.
390-64-7	PRENYLAMINE.
391-70-8	TROXONIUM TOSILATE.
395-28-8	ISOXSUPRINE.
396-01-0	TRIAMTERENE.
405-22-1	NIDROXYZONE.
406-90-6	FLUROXENE.
407-41-0	DEXFOSFOSERINE.
423-55-2	PERFLUBRON.
426-13-1	FLUOROMETHOLONE.
427-00-9	DESOMORPHINE.
428-07-9	ATROMEPINE.
428-37-5	PROFADOL.
432-60-0	ALLYLESTRENOL.
434-03-7	ETHISTERONE.
434-07-1	OXYMETHOLONE.
434-22-0	NANDROLONE.
434-43-5	PENTOREX.
435-97-2	PHENPROCOUMON.
436-40-8	INPROQUONE.
437-38-7	FENTANYL.
437-74-1	XANTINOL NICOTINATE.
438-60-8	PROTRIPTYLINE.
439-14-5	DIAZEPAM.
440-58-4	IODAMIDE.
441-61-2	ETHYLMETHYLTHIAMBUTENE.
442-03-5	ANISOPIROL.
442-16-0	ETHACRIDINE.
442-52-4	CLEMIZOLE.
443-48-1	METRONIDAZOLE
444-27-9	TIMONACIC.
446-86-6	AZATHIOPRINE.
447-41-6	BUPHENINE.
448-34-0	AZAPROCIN.
451-71-8	GLYHEXAMIDE.
451-77-4	HOMARYLAMINE.
455-83-4	DICHLOROPHENARSINE.
456-59-7	CYCLANDELATE.
457-60-3	NEOARSPHENAMINE.
457-87-4	ETHAMFETAMINE.
458-24-2	FENFLURAMINE
459-86-9	MITOQUAZONE.
461-06-3	CARNITINE.
461-78-9	CHLORPHENTERMINE.
465-39-4	BUFOGENIN.
465-53-2	CYCLOPREGNOL.
465-65-6	NALOXONE.
466-06-8	PROSCILLARIDIN.
466-14-8	IBROTAMIDE.
466-40-0	ISOMETHADONE.
466-90-0	THEBACON.
466-97-7	NORMORPHINE.
466-99-9	HYDROMORPHONE.
467-15-2	NORCODEINE.
467-18-5	MYROPHINE.
467-36-7	THIALBARBITAL.
467-38-9	THIOTETRABARBITAL.
467-43-6	METHITURAL.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
467-60-7	PIPRADROL.
467-83-4	DIPIPANONE.
467-84-5	PHENADOXONE.
467-85-6	NORMETHADONE.
467-86-7	DIOXAPHETYL BUTYRATE
467-90-3	ETHYPICONE.
468-07-5	PHENOMORPHAN
468-50-8	BETAMEPRODINE
468-51-9	ALPHAMEPRODINE.
468-56-4	HYDROXYPETHIDINE.
468-59-7	BETAPRODINE.
468-61-1	OXELADIN.
469-21-6	DOXYLAMINE.
469-62-5	DEXTROPROPOXYPHENE
469-78-3	METHEPTAZINE.
469-79-4	KETOBEMIDONE.
469-80-7	PHENERIDINE.
469-81-8	MORPHERIDINE.
469-82-9	ETOXERIDINE.
470-43-9	PROMOXOLANE.
470-90-6	CLOFENVINFOS.
471-53-4	EMOROLONE.
473-30-3	THIAZOSULFONE.
473-32-5	CHAULMOSULFONE.
473-42-7	NITROSULFATHIAZOLE.
474-25-9	CHENODEOXYCHOLIC ACID.
474-58-8	SITOGLUSIDE.
476-66-4	ELLAGIC ACID.
477-30-5	DEMECOLCINE.
477-32-7	VISNADINE.
477-80-5	CINNOFURADIONE.
477-93-0	DIMETHOXANATE.
479-18-5	DIPROPHYLLINE.
479-50-5	LUCANTHONE.
479-68-5	BROPARESTROL.
479-81-2	BIETAMIVERINE.
479-92-5	PROPYPHENAZONE
480-17-1	LEUCOCIANIDOL.
480-22-8	DITHRANOL.
480-49-9	FILIPIN.
482-15-5	ISOTHIPENDYL.
483-63-6	CROTAMITON.
484-23-1	DIHYDRALAZINE.
485-24-5	PHTHALYLSULFAMETHIZOLE.
485-34-7	NEOCINCHOPHEN.
485-41-6	SULFACHRYSOIDINE.
485-89-2	DIXYCINCHOPHEN.
486-12-4	TRIPROLIDINE.
486-16-8	CARBINOXAMINE
486-17-9	CAPTODIAME.
486-47-5	ETHAVERINE.
486-56-6	DOTIMINE.
486-79-3	DIPYRIDETYL.
487-48-9	SALACETAMIDE.
487-53-6	HYDROXYPROCAINE.
487-79-8	KAMAC ACID.
488-41-5	METOPROTOL.
490-55-1	AMPHENAZOLE.
490-79-9	GENTISIC ACID.
490-98-2	HYDROXYTETRACAINE.
492-18-2	MERSALYL.
492-39-7	CATHINE.
492-85-3	NICOPHOLINE.
493-75-4	BIALAMICOL.
493-76-5	PROPANOCAINE.
493-78-7	METHAPHENILENE.
493-80-1	HISTAPYRRODINE.
#30-82-5	PROUNTAINE.
494-03-1	CHLORPHAZINE.
494-14-4	CHLORDIAZOPINE.
494-79-1	MELARSOPROL.
495-70-5	MEPRYLCAINE.
495-83-0	TIGLOIDINE.
495-84-1	SALINAZID.
495-99-8	HYDROXYSTILBAMIDINE.
496-00-4	DIBROMPROPAMIDINE.
496-38-6	MIDAMALINE.
496-67-3	BROMISOVAL.
497-75-6	DIOXETHEDRIN.
498-73-7	MERCUROBUTOL
498-78-2	STEARYLSULFAMIDE.
499-67-2	PROXYMETACAINE.
500-08-3	FORMINITRAZOLE.
500-42-5	CHLORAZANIL.
500-89-0	THIAMBUTOSINE.
500-92-5	PROGUANIL.
501-62-2	PHENAMAZOLINE
501-68-8	BECLAMIDE.
502-55-6	DIXANTHOGEN.
502-59-0	OCTAMYLAMINE.
502-98-7	CHLORAZODIN.
503-01-5	ISOMETHEPTENE.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
503-48-1	MEGLUTOL.
504-03-0	NANOFIN.
505-08-2	CETRIMIDE.
506-26-3	GAMOLENIC ACID.
507-30-2	CHOLINE GLUCONATE.
509-56-8	METHYLDIHYDROMORPHINE.
509-67-1	PHOLCODINE.
509-74-0	ACETYLMETHADOL.
509-78-4	DIMENOXADOL.
509-84-2	METETHOHEPTAZINE.
509-86-4	HEPTABARB.
510-53-2	RACEMETHORPHAN.
510-74-7	SPIRAMIDE.
510-80-7	BUTHALITAL SODIUM.
511-12-6	DIHYDROERGOTAMINE.
511-41-1	DIPHOXAZIDE.
511-46-6	PRIDINOL.
511-48-8	CLOFENETAMINE.
511-56-7	XENYTROPIUM BROMIDE.
512-15-2	CYCLOPENTOLATE.
512-18-3	CYCLOBUTYROL.
512-48-1	VALDETAMIDE.
513-10-0	ECOTHIOPATE IODIDE.
514-50-1	ACEBROCHOL.
514-65-8	BIPERIDEN.
514-66-1	ESTRIOL SUCCINATE.
514-73-8	DITHIAZANINE IODIDE.
515-49-1	SULFATHIOUREA.
515-57-1	MALEYLSULFATHIAZOLE.
515-58-2	SALAZOSULFATHIAZOLE.
515-64-0	SULFISOMIDINE.
517-18-0	METHALLENESTRIL.
518-61-6	DACEMAZINE.
519-30-2	DIMETHAZAN.
519-37-9	ETOFYLLINE.
519-88-0	AMBUCETAMIDE.
519-95-9	FLORANTYRONE.
520-27-4	DIOSMIN.
520-52-5	PSILOCYBINE.
520-85-4	MEDROXYPROGESTERONE.
521-10-8	METHANDRIOL.
521-11-9	MESTANOLONE.
521-18-6	ANDROSTANOLONE.
521-35-7	CANNABINOL.
521-74-4	BROXYQUINOLINE.
522-00-9	PROFENAMINE.
522-18-9	CHLORBENZOXAMINE.
522-24-7	FENETHAZINE.
522-40-7	FOSFESTROL.
522-51-0	DEQUALINIUM CHLORIDE.
522-67-2	YOHIMBIC ACID.
523-54-6	ETYMEMAZINE.
523-87-5	DIMENHYDRINATE.
524-81-2	MEBHYDROLIN.
524-83-4	ETYBENZATROPINE.
524-84-5	DIMETHYLTHIAMBUTENE.
524-99-2	MEDRYLAMINE.
525-30-4	MERCUDERAMIDE.
525-61-1	QUINOCIDE.
525-66-6	PROPRANOLOL.
525-94-0	ADICILLIN.
526-08-9	SULFAPHENAZOLE.
526-18-1	OSALMID.
526-35-2	ALLOMETHADIONE.
526-36-3	XYLOMETAZOLINE.
527-75-3	BERYTHROMYCIN.
528-96-1	CALCIUM BENZAMIDOSALICYLATE.
530-08-5	ISOETARINE.
530-54-1	METHOXYPHEDRINE.
530-78-9	FLUFENAMIC ACID.
531-76-0	SARCOLYSIN.
532-03-6	METHOCARBAMOL.
532-40-1	MONOPHOSPHOTHIAMINE.
532-77-4	HEXYLCAINE.
533-09-4	TROPIGLINE.
533-45-9	CLOMETHIAZOLE.
534-84-9	PIMECLONE.
535-51-3	PHENARSONE SULFOXYLATE.
535-65-9	GLYBUTHIAZOL.
536-21-0	NORFENEFRINE.
536-33-4	ETHIONAMIDE.
536-71-0	DIMINAZENE.
537-17-7	AMANOZINE.
537-21-3	CHLORPROGUANIL.
537-46-2	METAMFETAMINE.
538-71-6	DOMIPHEN BROMIDE.
539-21-9	AMBAZONE.
541-15-1	LEVOCARNITINE.
541-20-8	PENTAMETHONIUM BROMIDE.
541-22-0	DECAMETHONIUM BROMIDE.
541-64-0	FURTRETHONIUM IODIDE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
541-66-2	OXAPROPANIUM IODIDE.
541-79-7	CARBOCLORAL.
543-82-8	OCTODRINE.
544-31-0	PALMIDROL.
544-62-7	BATILOL.
545-89-5	RACEMORAMIDE.
546-80-2	FOLDINE METILSULFATE.
546-80-4	DIMEPHEPTANOL.
546-96-6	CONESINE.
546-32-7	OXIPHENPYRINE.
546-96-3	ACETOHYDROXAMIC ACID.
547-17-1	XANTOFYL PALMITATE.
547-44-4	SULFACARBAMIDE.
547-81-9	EPIESTRIOL.
548-00-5	ETHYL BISCOUMACETATE.
548-62-9	METHYLROSANILINIUM CHLORIDE.
548-73-2	DROPERIDOL.
548-84-5	PYRVINIUM CHLORIDE.
549-40-6	FUROSTILBESTROL.
549-66-8	OCTAVERINE.
550-26-7	AMISOMETRADINE.
550-81-2	AMOPYROQUINE.
551-11-1	DINOPROST.
551-27-9	PROPICILLIN.
551-82-8	DIMETRIDAZOLE.
552-25-0	DIAMPROMIDE.
552-62-1	TOLOCONIUM METILSULFATE.
552-94-3	SALSALATE.
553-08-2	TONZONIUM BROMIDE.
553-13-8	ZOLAMINE.
553-65-1	AMOXECAINE.
553-69-5	FENYRAMIDOL.
554-18-7	GLUCOSULFONE.
554-34-5	PHENOBUTICOIL.
554-57-4	METHAZOLAMIDE.
55 1-72-3	TRYPARSAMIDE.
555-30-6	METHYLDOPA.
555-44-2	TRIPALMITIN.
555-57-7	PARGYLINE.
555-65-7	BROCRESINE.
555-77-1	TRICHLORIMETHINE.
555-84-0	NIFURADENE.
555-90-6	NICOTHIAZONE.
556-06-1	ACEDOBEN.
556-12-7	FURALAZINE.
561-43-3	OXYPYRRONIUM BROMIDE.
561-48-8	NORPIPANONE.
561-76-2	PROPERIDINE.
561-77-3	DIHEXYVERINE.
561-83-1	MEALBARBITAL.
561-86-4	BRALLOBARBITAL.
562-26-6	PHENDIPERIDINE.
564-25-0	DOXYCYCLINE.
565-33-3	METAHEXAMIDE.
565-69-1	RENAROLONE.
566-48-3	FORMESTANE.
569-57-3	CHLOROTRIANISENE.
569-65-3	MECLOZINE.
574-77-6	PAPAVEROLINE.
575-74-6	BUCLOSAMIDE.
576-66-1	MANNOMUSTINE.
577-11-7	DOCUSATE SODIUM.
578-69-2	PIMETREMIDE.
579-23-7	CYCLOVALONE.
579-38-4	DILOXANIDE.
579-94-2	MENGLYTATE.
580-74-5	XANTOCILLIN.
583-03-9	FENIPENTOL.
584-69-0	DITOPHAL.
585-14-8	POSKINE.
585-86-4	LACTITOL.
586-06-1	ORCIPRENALINE.
586-60-7	DYCLONINE.
586-96-1	PICONOL.
587-46-2	BENZPYRINIUM BROMIDE.
587-49-5	SALFLUVERINE.
587-61-1	PROPYLIDODINE.
595-52-8	DESCINOLONE.
595-77-7	ALGESTONE.
596-51-0	GLYCOPYRRONIUM BROMIDE.
599-33-7	PREDNYLIDENE.
599-79-1	SULFASALAZINE.
599-86-2	SULFAPERIN.
602-40-4	CYHEPTROPINE.
602-41-5	THIOCOLCHICOSIDE.
603-00-9	PROXYPHYLLINE.
603-50-9	BISACODYL.
604-51-3	DEPTROPINE.
604-74-0	BUFENADRINE.
604-75-1	DIAZEPAM.
606-17-7	ADIPIODONE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
606-60-6	PIPRINHYDRINATE.
606-78-6	CYCLOGUANIL EMBONATE.
611-63-0	IBACITABINE.
616-68-2	TRIMECAINE.
616-91-1	ACETYLCYSTEINE.
618-82-6	SULFARSPHENAMINE.
620-30-4	RACEMETIROSINE.
621-42-1	METACETAMOL.
621-72-7	BENDAZOL.
630-56-8	HYDROXYPROGESTERONE CAPROATE.
631-27-6	GLYCLOPYRAMIDE.
632-00-6	SULFASOMIZOLE.
633-47-6	CROPROPAMIDE.
633-60-9	CIFOSTODINE.
634-03-7	PHENDIMETRAZINE.
634-08-2	LEVOFACETOPERANE.
635-05-2	PAMAQUINE.
635-41-6	TRIMETOZINE.
636-47-5	STALLIMYCIN.
636-54-4	CLOPAMIDE.
637-07-0	CLOFIBRATE.
638-23-3	CARBOCISTEINE.
639-04-9	DESONIDE.
639-48-5	NICOMORPHINE.
642-44-4	AMINOMETRADINE.
642-72-6	BENZYDAMINE.
642-83-1	ACEGLATONE.
644-62-2	MECLOFENAMIC ACID.
645-05-6	ALTRETAMINE.
646-02-6	AMINOETHYL NITRATE.
651-06-9	SULFAMETOXYDIAZINE.
652-67-5	ISOSORBIDE.
653-03-2	BUTAPERAZINE.
655-05-0	TOZALINONE.
657-24-9	METFORMIN.
664-95-9	GLYCYCLAMIDE.
671-16-9	PROCARBAZINE.
671-88-5	DISULFAMIDE.
671-95-4	CLOFENAMIDE.
672-87-7	METIROSINE.
673-31-4	PHENPROBAMATE.
679-90-3	ROFLURANE.
692-13-7	BUFORMIN.
695-53-4	DIMETHADIONE.
702-54-5	DIETHADIONE.
709-55-7	ETILEFRINE.
720-76-3	FLUMINOREX.
721-18-7	METHASTYRIDONE.
721-50-6	PRILOCAINE.
723-42-2	DITOLAMIDE.
723-46-6	SULFAMETHOXAZOLE.
725-86-1	TOLPERISONE.
729-99-7	SULFAMOXOLE.
730-07-4	PROPETAMIDE.
735-52-4	CETOFENICOL.
735-64-8	FENAMIFURIL.
737-31-5	SODIUM AMIDOTRIZOATE.
738-70-5	TRIMETHOPRIM.
738-71-9	TRIMPRAMINE.
742-20-1	CYCLOPENTHIAZIDE.
744-80-9	BENZODARBITAL.
745-65-3	ALPROSTADIL.
747-30-8	AMINOPHENAZONE CYCLAMATE.
748-44-7	ACODAZINE.
749-02-0	SPIPERONE.
749-13-3	TRIFLUPERIDOL.
751-84-8	BENETHAMINE PENICILLIN.
751-97-3	ROLITETRACYCLINE.
768-94-5	AMANTADINE.
777-11-7	HALOPROGIN.
786-19-6	CARBOFENOTION.
787-93-9	AMELTOLIDE.
790-69-2	LOFLUCARBAN.
791-35-5	CLOFEDANOL.
796-29-2	KETIMIPRAMINE.
797-58-0	NORBOLETONE.
797-63-7	LEVONORGESTREL.
800-22-6	CHLORACYZINE.
801-52-5	PORFIROMYCIN.
804-10-4	CARBOCROMEN.
804-30-8	FURSULTIAMINE.
807-31-8	ACEPERONE.
808-24-2	MICODICODINE.
808-26-4	SANGVILINE.
809-01-8	EDOGESTRONE.
811-97-2	NORFLURANE.
827-61-2	ACEGLUDINE.
829-74-3	CORBADRINE.
830-89-7	ALBUTOIN.
835-31-4	NAPHAZOLINE.
841-73-6	BUCOLOME.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
844-26-8	BITHIONOLOXIDE.
846-48-0	BOLDENONE.
846-49-1	LORAZEPAM.
846-50-4	TEMAZEPAM.
847-20-1	FLUBAMILATE.
847-25-6	RACEFENICOL.
848-21-5	NORGESTRIENONE.
848-53-3	HOMOCHLORCYCLIZINE.
848-75-9	LORMETAZEPAM.
850-52-2	ALTRENOGEST.
852-19-7	SULFAPYRAZOLE.
852-42-6	GUAIAPATE.
853-34-9	KEBUZONE.
859-07-4	CEFALORAM.
863-61-6	MEMATETRENONE.
865-04-3	METHOSERPIDINE.
865-21-4	VINBLASTINE.
865-24-7	VINGLYCINATE.
881-17-4	SODIUM IODOHIPPURATE (131 I).
882-09-7	CLOFIBRIC ACID.
885-09-8	NORLETIMOL.
892-01-3	HEXACYPRONE.
893-01-6	TENYLIDONE.
895-71-9	TIQUESTO.
910-86-1	TIOCARLIDE.
911-45-5	CLOMIFENE.
911-65-9	ETONITAZENE.
914-00-1	METACYCLINE.
915-30-0	DIPHENOXYLATE.
926-93-2	METALLIBURE.
936-73-8	ETHENZAMIDE.
952-54-5	MORINAMIDE.
957-56-2	FLUINDIONE.
959-10-4	XENBUCIN.
959-14-8	OXOLAMINE.
960-06-4	CARBUBARB.
962-02-7	NITRODAN.
963-36-3	DEMOXEPAM.
964-82-9	XENYHEXENIC ACID.
965-52-6	NIFUROXAZIDE.
965-90-2	ETHYLESTRENOL.
965-93-5	METRIBOLONE.
968-53-6	BUTINOLINE.
968-81-0	ACETOHEXAMIDE.
968-93-4	TESTOLACTONE.
972-02-1	DIFENIDOL.
976-71-6	CANRENONE.
977-79-7	MEDROGESTONE.
979-32-8	ESTRADIOL VALERATE.
982-24-1	CLOPENTHIXOL.
986-85-7	PENAMECILLIN.
987-02-0	DEMECYCLINE.
987-78-0	CITICOLINE.
992-21-2	LYMECYCLINE.
1008-65-7	FENADIAZOLE.
1018-34-4	TREPIRIUM IODIDE.
1018-71-9	PYRROLNITRIN.
1027-67-8	TOLPENTAMIDE.
1028-33-7	PENTIFYLLINE.
1034-62-6	HEPTOLAMIDE.
1038-59-1	GLYOCTAMIDE.
1042-42-8	CARCAINIUM CHLORIDE.
1043-21-6	PIRENOXINE.
1048-17-9	DIBUPYRONE.
1050-48-2	BENZOLONIUM BROMIDE.
1050-79-9	MOPERONE.
1054-68-2	SPIROXATRINE.
1068-17-7	COLISTIN.
1069-65-2	BUCRILATE.
1077-93-6	TERNIDAZOLE.
1082-56-0	TEFAZOLINE.
1082-57-1	TRAMAZOLINE.
1083-57-4	BUCETIN.
1084-65-7	METIOFRANE.
1085-91-2	NARCAPROIC ACID.
1088-11-5	NORDAZEPAM.
1088-80-6	METAMELFALAN.
1088-82-2	NIFURTOINOL.
1092-46-2	KETOCAINE.
1093-58-9	CLOSTEBOL.
1095-72-6	NEFZONINE.
1098-97-1	PYRITINOL.
1110-40-3	COSTIVAZOL.
1110-60-1	PIPACYCLINE.
1111-39-3	ACETYLDIGITOXIN.
1113-10-6	GUANICDINE.
1119-97-7	TETRADONIUM BROMIDE.
1131-64-2	DEBRISOQUINE.
1134-47-0	BACLOFEN.
1146-98-1	BROMINDIONE.
1146-99-2	CLORINDIONE.
1150-20-5	AZABON.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
1156-05-4	PHENGLUTARIMIDE.
1156-19-0	TOLAZAMIDE.
1157-87-5	ETOLOXAMINE.
1159-93-9	CLORENZEPAM.
1161-88-2	SULFATOLAMIDE.
1165-48-6	DIMEFLINE.
1166-34-3	CINANSERIN.
1169-79-5	QUINESTRADOL.
1174-11-4	XENAZOIC ACID.
1178-28-6	METOSERIPATE.
1181-54-0	CLOMIDCYCLINE.
1187-58-0	SELENOMETHIONINE (75 SE).
1195-16-0	CITIOLONE.
1197-18-8	TRANEXAMIC ACID.
1199-18-4	OXIDOPAMINE.
1209-98-9	FENCAMFAMIN.
1212-03-9	METIPRENALINE.
1213-06-5	ETEBENECID.
1219-35-8	PRIMAPERONE.
1219-77-8	BENSULDAZIC ACID.
1220-83-3	SULFAMONOMETHOXINE.
1221-56-3	SODIUM IOPODATE.
1222-57-7	ZOLIMIDINE.
1223-36-5	CLOFEXAMIDE.
1227-61-8	MEFEXAMIDE.
1228-19-9	OLYPRINAMIDE.
1231-93-2	ETYNODIOL.
1232-85-5	ELANTRINE.
1233-53-0	BUNAMIODYL.
1233-70-1	DIARBARONE.
1234-30-6	ETOCARLIDE.
1234-71-5	NAMOXYRATE.
1239-29-8	FURAZABOL.
1239-45-8	NOMIDIUM BROMIDE.
1242-89-9	DECITROPINE.
1243-33-0	MEFECLORAZINE.
1247-42-3	MEPREDNISONE.
1253-28-7	DIESTONORONE CAPROATE.
1254-35-9	OXABOLONE CIPIONATE.
1300-84-3	AMYLMETACRESOL.
1301-42-4	EUPROCIN.
1317-25-5	ALCLOXA.
1317-30-2	POTASSIUM GLUCALDRATE.
1321-14-8	SULFOGUAIACOL.
1330-44-5	ALGELDRATE.
1336-80-7	FERROCHOLINATE.
1338-39-2	SORBITAN LAURATE.
1338-41-6	SORBITAN STEARATE.
1338-43-8	SORBITAN OLEATE.
1344-34-9	STIBAMINE GLUCOSIDE.
1391-41-9	ENDOMYCIN.
1392-21-8	KITASAMYCIN.
1393-25-5	SECRETIN.
1393-87-9	FUSAFUNGINE.
1394-01-1	NACHIMYCIN.
1397-89-3	AMPHOTERICIN B.
1400-61-9	NYSTATIN.
1401-69-0	TYLOSIN.
1402-61-9	AMBOMYCIN.
1402-62-0	AMFOMYCIN.
1402-84-2	ANTELMYCIN.
1403-17-4	CANDICIDIN.
1403-47-0	DUAZOMYCIN.
1403-66-3	GENTAMICIN.
1403-73-0	HAMYCIN.
1403-89-2	MITOGILLIN.
1404-04-2	NEOMYCIN.
1404-26-6	NEUTRAMYCIN.
1404-15-5	NOGALAMYCIN.
1404-20-2	PELIOMYCIN.
1404-26-8	POLYMYXIN B.
1404-48-4	RIELDMYCIN.
1404-55-3	RISTOCETIN.
1404-59-7	RUTAMYCIN.
1404-64-4	SPARSOMYCIN.
1404-74-6	STREPTOVARYCIN.
1404-86-2	TYROTHRICIN.
1404-90-8	VANCOMYCIN.
1405-00-1	VIRIDOFULVIN.
1405-52-3	BULFOMYXIN.
1405-76-1	GITALIN, AMORPHOUS.
1405-87-4	BACITRACIN.
1405-97-6	GRAMICIDIN.
1407-05-2	METHOCIDIN.
1420-55-9	THIETHYLPERAZINE.
1421-14-3	PROPANOIDO.
1421-68-7	AMIDEFRINE MESILATE.
1424-00-6	MESTEROLONE.
1456-52-8	IOPROCEMIC ACID.
1461-15-0	DFTASCEINE.
1463-28-1	GUANACLINE.
1469-07-4	DAMOTEPINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
1470-35-5	ISOBROMINDIONE.
1477-19-6	BENZARONE.
1477-39-0	NORACYMETHADOL.
1480-19-9	FLUANISONE.
1491-41-4	NAFTALOFOS.
1491-59-4	OXYMETAZOLINE.
1491-81-2	BOLMANTALATE.
1492-02-0	GLYBUZOLE.
1492-18-8	CALCIUM FOLINATE.
1505-95-9	NAFTYPRAMIDE.
1508-45-8	MITOPODOZIDE.
1508-75-4	TROPICAMIDE.
1518-86-1	HYDROXYAMFETAMINE.
1524-88-5	FLUDROXYCORTIDE.
1531-12-0	NORLEVORPHANOL.
1538-09-6	BENZATHINE BENZYLPENICILLIN.
1539-39-5	GAPICOMINE.
1563-60-2	IBUFENAC.
1580-71-8	AMPERONE.
1580-83-2	PARAFLUTIZIDE.
1596-63-0	QUINACILLIN.
1600-19-7	XYLOXEMINE.
1605-89-6	BOLASTERONE.
1607-17-5	PENTRINITROL.
1612-30-2	MENADIOL SODIUM SULFATE.
1614-20-6	NIFURPRAZINE.
1617-90-9	VINCAMINE.
1622-61-3	CLONAZEPAM.
1622-62-4	FLUNITRAZEPAM.
1641-17-4	MEXEMONE.
1649-18-9	AZAPERONE.
1661-29-6	METUREDEPA.
1665-48-1	METAXALONE.
1668-19-5	DOXEPIN.
1673-06-8	AMPHOTALIDE.
1679-75-0	CINNAMAVERINE.
1679-76-1	DROFENINE.
1688-89-0	NITROXINIL.
1693-37-4	PARAPROPAMOL.
1695-77-8	SPECTINOMYCIN.
1698-95-9	PROQUINOLATE.
1703-48-6	DIMABEFYLLINE.
1707-15-9	METAZIDE.
1715-40-9	BROMOCYCLEN.
1729-61-9	RENYTOLINE.
1740-22-3	PYRINDUNE.
1744-22-6	RILUZOLE.
1748-43-2	TRETHINIUM TOSILATE.
1759-08-7	LEVOMETIOMEPRAZINE.
1764-85-9	EPITIZIDE.
1766-91-2	PENFLUTIZIDE.
1767-98-5	DESMETHYLMORAMIDE.
1776-83-6	QUINTIOFOS.
1812-30-2	BROMAZEPAM.
1824-52-8	BEMETIZIDE.
1826-56-4	ETHAZIDE.
1830-32-6	AZINTAMIDE.
1841-19-6	FLUSPIRILENE.
1843-05-6	OCTABENZONE.
1845-11-0	NAFOXIDINE.
1856-34-4	CLOTIXIDINE.
1866-43-9	ROLODINE.
1879-77-2	DOXIBETASOL.
1882-26-4	PYRICARBATE.
1884-24-8	CYNARINE.
1893-33-0	PIPAMPERONE.
1897-89-8	PIRQUALONE.
1900-13-6	NIFURVIDINE.
1910-68-5	METISAZONE.
1926-48-3	FENBENICILLIN.
1926-49-4	CLOMETOCILLIN.
1951-25-3	AMIODARONE.
1953-02-2	TIOPRONIN.
1954-28-5	ETOGLUCID.
1954-79-6	MECLORALUREA.
1961-77-9	CHLORMADINONE.
1972-08-3	DRONABINOL.
1977-10-2	LOKAPINE.
1977-11-3	PERLAPINE.
1980-45-6	BENZODEPA.
1980-49-0	FELIPYRINE.
1982-37-2	METHDILAZINE.
1984-15-2	MEDRONIC ACID.
1984-94-7	SULFASYMAZINE.
2001-81-2	DIPORNIUM BROMIDE
2011-67-8	NIMETAZEPAM.
2013-58-3	MECLOCYCLINE.
2016-36-6	CHOLINE SALICYLATE.
2016-63-9	BAMIFYLLINE.
2022-85-7	FLUCYTOSINE.
2030-63-9	CLOFAZIMINE.
2037-95-8	CARSALAM.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
2043-38-1	BUTIZIDE.
2056-44-9	PERISOXAL.
2056-56-6	CINNOPENTAZONE.
2058-52-8	CLOTIAPINE.
2062-78-4	PINOZIDE.
2062-84-2	BENPERIDOL.
2086-89-9	FABINIAZID.
2078-54-8	PROPOFOL.
2098-66-0	CYPROTERONE.
2104-96-3	BROMOFOS.
2127-01-7	CLOREXOLONE.
2135-17-3	FLUMETASONE.
2139-47-1	NIFENAZONE.
2152-34-3	REMOLINE.
2154-02-1	METOFOLINE.
2156-27-6	BENPROPERINE.
2165-19-7	GUANOXAN.
2167-85-3	PIPAZETATE.
2169-64-4	AZAPERINE.
2174-64-3	FLAMENOL.
2179-37-5	BENCYCLANE.
2180-92-9	BUPIVACAINE.
2181-04-5	POTASSIUM CANRENOATE.
2183-56-4	HYDROMORPHINOL.
2183-67-5	FLUPREDNIDENE.
2201-15-2	ETICYCLIDINE.
2201-39-0	ROLICYCLIDINE.
2205-73-4	TIOMESTERONE.
2207-50-3	AMINOREX.
2208-51-7	PELANSERIN.
2209-86-1	LOPRODIOL.
2210-63-1	MOFEBUTAZONE.
2210-77-7	PYTROCAINE.
2216-77-5	DIBUPROL.
2217-44-9	IODOPHTHALEIN SODIUM.
2218-66-0	CLORAL BETAINE.
2226-11-1	BORNELONE.
2235-90-7	ETRYPTAMINE.
2240-21-3	THIOFURADENE.
2244-21-5	TROCLOSENE POTASSIUM.
2259-96-3	CYCLOTHIAZIDE.
2260-08-4	ACETROMATE.
2261-94-1	FLUCARBRIL.
2272-11-9	MONOETHANOLAMINE OLEATE.
2276-90-6	IOTALAMIC ACID.
2277-92-1	OXYCLOZANIDE.
2295-58-1	FLOPROPIONE.
2315-08-4	SALAZOSULFADIMIDINE.
2320-86-7	ENESTEBOL.
2338-37-6	LEVOPROPOXYPHENE.
2353-33-5	DECITABINE.
2355-59-1	DROCINOMIDE.
2363-58-8	EPITIOSTANOL.
2385-81-1	FURETHIDINE.
2398-81-4	OXINIACIC ACID.
2398-95-0	FOSCOLIC ACID.
2398-98-1	TOLNAFTATE.
2401-58-1	DEDITONIUM BROMIDE.
2409-26-9	PRAZITONE.
2423-66-7	QUINDOXIN.
2424-71-7	METOCINIUM IODIDE.
2430-27-5	VALPROMIDE.
2430-46-8	TOLBOXANE.
2430-49-1	VINYLBITAL.
2438-72-4	BUFEXAMAC.
2440-22-4	DROMETRIZOLE.
2444-46-4	NONIVAMIDE.
2447-57-6	SULFADOXINE.
2454-11-7	FORMEBOLONE.
2455-84-7	AMBENOXAN.
2455-92-7	SULCLAMIDE.
2465-59-0	OXIPURINOL.
2486-62-3	MECYSTEINE.
2487-63-0	QUINBOLONE.
2490-97-3	ACEGLUTAMIDE.
2507-91-7	GLOXAZONE.
2521-01-9	ENCYPRATE.
2522-81-8	PIBECARB.
2531-04-6	PIPERYLONE.
2537-29-3	PROXIBARBAL.
2545-24-6	MICEVERINE.
2545-39-3	CLAMOXYQUINE.
2557-49-5	DIFLORASONE.
2577-72-2	METABROMSALAN.
2588-47-1	PRAJMALIUM BITARTRATE.
2607-06-9	DIFLUCORTOLONE.
2608-24-4	PIPOSULFAN.
2609-46-3	AMILORIDE.
2612-33-1	CLONITRATE.
2618-25-9	IOGLYCAMIC ACID.
2622-24-4	PROTHIDENE.
2622-26-6	PERICIAZINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
2622-30-2	CARFENAZINE.
2622-37-9	TRIFLUOMEPRAZINE.
2623-33-8	DIACETAMATE.
2624-43-3	CYCLOFENIL.
2624-44-4	ETAMETYLATE.
2627-69-3	ACADESINE.
2667-69-2	[illegible]AMINE.
2668-66-6	MEDRYSONE.
2673-23-6	XENYGLOXAL.
2709-56-0	FLUPENTIXOL.
2740-62-6	AMAGESTONE.
2748-88-1	MIRIPIRIUM CHLORIDE.
2750-78-7	RIFAMIDE.
2751-09-9	TROLEANDOMYCIN.
2751-66-0	ACETOPHENAZINE.
2768-90-3	QUINALDINE BLUE.
2779-65-7	OPIMAZIDE.
2804-00-4	ROXOPERONE.
2809-21-4	ETIDRONIC ACID.
2825-80-7	FORMOCORTAL.
2829-19-9	ROLICYPRINE.
2856-74-9	MODALINE.
2856-81-7	AZABUPERONE.
2864-67-0	DELORAZEPAM.
2867-63-8	ALOMIMID.
2898-12-6	MEDAZEPAM.
2898-13-7	SULAZEPAM.
2901-75-9	AFALAMINE.
2908-75-0	ESCULAMINE.
2921-92-8	PROPATYLNITRATE.
2922-20-6	BUTAXAMINE.
2924-67-6	FLUDROSONE.
2933-94-0	TOLIPROLOL.
2948-95-3	TOLADIL.
2955-38-6	PRAZEPAM.
2971-90-6	CLOPIDOL.
2998-57-4	ESTRAMUSTINE.
3005-18-8	MECETRONIUM ETILSULFATE.
3011-89-0	AKLOMIDE.
3030-53-3	CLOFENOXYDE.
3031-48-9	ACETERGAMINE.
3056-17-5	STAVUDINE.
3064-81-7	SODIUM STIBOCAPTATE.
3074-35-9	GLIDAZAMIDE.
3093-35-4	HALCINONIDE.
3094-09-5	DOXIFLURIDINE.
3099-52-3	MICAMETATE.
3102-00-9	FEBUPROL.
3105-97-3	HYCANTHONE.
3106-85-2	IBOSPAGLUMIC ACID.
3115-05-7	IOBENZAMIC ACID.
3116-76-5	DICLOXACILLIN.
3124-83-4	ETHYNERONE.
3130-96-9	ZIATHYRIDINE.
3147-75-9	OCTRIZOLE.
3151-59-5	METAFLUR.
3166-62-9	METHYLBENACTYZIUM BROMIDE.
3176-03-2	DROTEBANOL.
3184-59-6	ALIPAMIDE.
3207-50-9	CLINOLAMIDE.
3215-70-1	HEXOPRENALINE.
3239-44-9	DEXFENFLURAMINE.
3240-20-8	CARBENIZIDE.
3253-60-9	LAUDEXIUM METILSULFATE.
3254-63-1	DOXENITOIN.
3258-61-3	VALOFANE.
3261-53-8	ORTALDOIN.
3270-71-1	NIFURALDEZONE.
3277-59-6	MIMBANE.
3286-46-2	SULBUTIAMINE.
3313-26-6	TIOTIXENE.
3342-61-8	DEAMIOL ACEGLUMATE.
3362-45-6	HOXIPTILINE.
3363-58-4	NIFURFOLINE.
3366-95-8	SECNIDAZOLE.
3378-93-6	CLOCIGUANIL.
3380-34-5	TRICLOSAN.
3383-96-8	TEMEFOS.
3385-03-3	FLUMEXOLIDE.
3397-23-7	CIPRIPROSSAN.
3416-24-8	GLUCOSAMINE.
3416-26-0	LIDOFLAZINE.
3425-97-6	DIMEDOLONIUM IODIDE.
3426-09-2	PROZAPINE.
3436-11-1	DELFANTRINE.
3440-28-6	METAMPRON.
3447-95-8	BENFURODIL HEMISUCCINATE.
3456-20-0	OLYMIDINE SODIUM.
3460-98-8	AMBCARBALIDE.
3478-15-7	ETIPIRIUM IODIDE.
3486-14-1	DICLACILLIN.
3486-82-9	CUDINIUM BROMIDE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
3506-31-8	DETERENOL.
3511-16-8	METACILLIN.
3538-57-6	HALOPROGESTERONE.
3540-95-2	FENIPRIME.
3544-35-2	IPROCLOZIDE.
3546-03-0	CYAMEMAZINE.
3551-18-6	ACETRYPTINE.
3562-55-8	PIPROCURARIUM IODIDE.
3562-63-8	MEGESTROL.
3562-84-3	BENZBROMARONE.
3562-99-0	MENBUTONE.
3563-01-7	APROFENE.
3563-14-2	SULFASUCCINAMIDE.
3563-49-3	PYROVALERONE.
3563-58-4	CHLORALODOL.
3563-92-6	ZYLOFURAMINE.
3565-03-5	FIMETINE.
3565-72-6	ENBRAMINE.
3567-09-6	GLYCOBUZOLE.
3567-35-2	CARFIMATE.
3567-40-6	DIOXAMATE.
3568-00-1	MEBUTIZIDE.
3569-26-4	INDOPINE.
3569-58-2	OXYSONIUM IODIDE.
3569-59-3	HEXASONIUM IODIDE.
3569-77-5	AMIDAPSONE.
3570-07-8	DIMECAMINE.
3570-10-3	BENORTERONE.
3570-75-0	NIFURTHIAZOLE.
3571-53-7	ESTRADIOL UNDECYLATE.
3571-71-9	METATEROL.
3572-43-8	BROMHEXINE.
3572-52-9	KEMYSALATE.
3572-74-6	MOXASTINE.
3572-80-3	CYCLAZOCINE.
3575-80-2	MELPERONE.
3576-84-6	CLEFAMIDE.
3577-01-3	CEFALDOLYCIN.
3579-62-2	DENAVERINE.
3583-64-0	BUMADIZONE.
3590-16-7	FECLEMINE.
3595-11-7	PROPYLHEXEDRINE.
3601-19-2	ROPIZINE.
3605-01-4	PIRBEDIL.
3607-18-9	CIDOXEPIN.
3607-24-7	CLORIDAROL.
3612-96-4	TROXYPYRROLIUM TOSILATE.
3614-30-0	EMEPRONIUM BROMIDE.
3614-47-9	HYDRACARBAZINE.
3615-24-5	RAMIFENAZONE.
3615-74-5	PROMOLATE.
3625-06-7	MEBEVERINE.
3625-07-8	MEBOLAZINE.
3626-47-3	HEXADILINE.
3638-82-2	PROPETANDROL.
3639-19-8	DIFETARSONE.
3643-00-3	CIXOBESTONE.
3658-25-1	GUANOCTINE.
3670-68-6	PROPIPOCAINE.
3671-05-4	FENOCINOL.
3684-46-6	BROXALDINE.
3686-58-6	TOLYCAINE.
3686-78-0	DIETIPEN.
3686-86-2	NICOCODINE.
3686-85-5	TIANEIDE.
3689-50-7	CROMEMAZINE.
3689-76-7	CHLORMIDAZOLE.
3690-58-2	FUBROGONIUM IODIDE.
3690-61-7	PRODECONIUM BROMIDE.
3691-78-9	BENZETHIDINE.
3692-44-2	THIOHEXAMIDE.
3693-36-6	FLUCLOROLOME ACETONIDE.
3696-28-4	DIPYRITHIONE.
3703-76-2	CLOPERASTINE.
3703-79-5	BAMETHAN.
3704-08-4	MIBOLERONE.
3731-62-0	PICOLAMINE.
3731-68-7	MOROXYDINE.
3733-63-9	DECLOXIZINE.
3733-81-1	DISOSFAMIDE.
3734-12-1	HEXOPYRRONIUM BROMIDE.
3734-17-6	PRODILIDINE.
3734-33-6	DENATONIUM BENZOATE.
3734-52-9	METAZOCINE.
3735-45-3	VETRABUTINE.
3735-66-7	BUTYNAMINE.
3735-85-1	MEFEBERPINE.
3736-60-6	FENCARBAMIDE.
3736-08-1	FENETYLLINE.
3736-12-7	LEVOPROPICILLIN.
3737-09-6	DISOPYRAMIDE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
3748-77-4	BUNAMIDINE.
3754-19-6	AMBUSIDE.
3764-87-2	TRESTOLONE.
3771-19-5	NAFENOPIN.
3772-76-7	SULFAMETOMIDINE.
3776-93-0	FURFENOREX.
3778-73-2	IFOSFAMIDE.
3780-72-1	MORSUXIMIDE.
3781-26-0	PROPYPERONE.
3784-80-2	PHENACTROPHIUM CHLORIDE.
3784-99-4	STILBAZIUM IODIDE.
3785-21-5	BUTANILICAINE.
3788-16-7	CIMEMOXIN.
3795-88-8	LEVOFURALTADONE.
3810-35-3	TENONITROZOLE.
3811-25-4	CLORPRENALINE.
3811-53-8	PROPINETIDINE.
3811-56-1	AMINOQUINURIDE.
3811-75-4	HEXAMIDINE.
3818-37-9	FENOXYPROPAZINE.
3818-50-6	BEPHENIUM HYDROXYNAPHTHOATE.
3818-62-0	BETOXYCAINE.
3818-88-0	TRICYCLAMOL CHLORIDE.
3819-00-9	PIPERACETAZINE.
3820-67-5	GLAFENINE.
3833-98-6	HOMOFENAZINE.
3841-11-0	FLUPEROLONE.
3861-73-2	ANAZOLENE SODIUM.
3861-78-5	CLONITAZENE.
3876-10-8	CLOMINOREX.
3896-11-5	BUMETRIZOLE.
3900-31-0	FLUDIAZEPAM.
3902-71-4	TRIOXYSALEN.
3922-90-5	OLEANDOMYCIN.
3924-70-7	AMIDINAFAL.
3930-19-6	RUFOCROMOMYCIN.
3930-20-9	SOTALOL.
3954-61-6	AZATADINE.
4004-94-8	ZOLERTINE.
4008-48-4	NITROXOLINE.
4015-18-3	SULFACLOMIDE.
4015-32-1	QUAZODINE.
4023-00-1	PRAXADINE.
4042-30-2	PARVAQUONE.
4044-65-9	BITOSCANATE.
4047-34-1	TRANTELIMIUM BROMIDE.
4052-13-6	CLOPERIDONE.
4065-45-6	SULISOBENZONE.
4075-86-1	DIXIFENTOREX.
4093-35-0	BROMOPRIDE.
4117-65-1	ASPARTOCIN.
4138-96-9	CAMRENOIC ACID.
4140-20-9	ESTRAPRONICATE.
4148-16-7	RITROSULFAN.
4171-13-5	VALNOCTAMIDE.
4177-58-6	CLOTIXAMIDE.
4201-22-3	TOLONIDINE.
4205-90-7	CLONIDINE.
4210-67-3	TIFORMIN.
4248-51-8	BROMACRYLIDE.
4214-72-6	ISAXONINE.
4255-23-6	ALFETAMINE.
4267-05-4	TECLOTHIAZIDE.
4287-81-6	BOLAZINE.
4288-36-4	TYSAMATE.
4291-63-8	CLADRIBINE.
4295-55-0	CLOFENAMIC ACID.
4295-63-0	MEPROTIXOL.
4298-15-1	CLETOQUINE.
4304-01-2	TRUXICURIUM IODIDE.
4304-40-9	THENIUM CLOSILATE.
4310-99-8	HEDAQUINIUM CHLORIDE.
4317-14-0	AMITRIPTYLINOXIDE.
4342-03-4	DACARBAZINE.
4350-09-8	OXITRIPTAN.
4354-45-4	OXYCLIPINE.
4366-18-1	COUMETAROL.
4378-36-3	FENBUTRAZATE.
4385-35-0	MERALEIN SODIUM.
4388-82-3	BARBEXACLONE.
4394-00-7	NIFLUMIC ACID.
4394-04-1	METANDIXIN.
4394-05-2	NIDXYLIC ACID.
4397-91-6	NICOFURATE.
4408-22-8	CYPRENORPHINE.
4419-39-0	BECLOMETASONE.
4434-05-3	COUMAMYCIN.
4439-22-6	ATROPINE OXIDE.
4439-67-2	AMIKHELLINE.
4442-60-8	BUTAMOXANE.
4444-23-9	PERSILIC ACID.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
4448-96-8	SOLYPERTINE.
4474-91-3	ANGIOTENSIN II.
4480-58-4	STREPTONIAZID.
4498-32-2	DIBENZEPIN.
4499-40-5	CHOLINE THEOPHYLLINATE.
4533-39-5	NITRACRINE.
4546-39-8	PIPETHANATE.
4548-15-6	FLUNIDAZOLE.
4551-59-1	FENALAMIDE.
4564-87-8	CARBOMYCIN.
4575-34-2	MYFADOL.
4582-18-7	ENDOMIDE.
4589-60-4	PENIMEPICYCLINE.
4618-18-2	LACTULOSE.
4630-95-9	PRIFINIUM BROMIDE.
4662-17-3	FURIDARONE.
4663-83-5	BURAMATE.
4665-04-7	FENACETINOL.
4684-87-1	OCTAMOXIN.
4696-76-8	BEKANAMYCIN.
4697-36-3	CARBENICILLIN.
4730-07-8	PENTAMOXANE.
4732-48-3	MECLORISONE.
4741-41-7	DEXOXADROL.
4755-59-3	CLODAZON.
4757-49-7	MONOMETACRINE.
4757-55-5	DIMETACRINE.
4759-48-2	ISOTRETINOIN.
4774-24-7	QUIPAZINE.
4774-53-2	BOTIACRINE.
4778-06-1	FLUSALAN.
4780-24-9	ISOPROPICILLIN.
4792-18-1	LEVOXADROL.
4803-27-4	ANTRAMYCIN.
4828-27-7	CLOCORTOLONE.
4846-91-7	FENOXAZOLINE.
4858-60-0	MEFENIDRAMIUM METILSULFATE.
4876-45-3	CAMPHOTAMIDE.
4880-98-0	VINBURNINE.
4880-92-6	APOVINCAMINE.
4904-00-1	CYPROLIDOL.
4910-46-7	SPAGLUMIC ACID.
4914-30-1	DEHYDROEMETINE.
4936-47-4	NIFURATEL.
4938-00-5	DANOSTEINE.
4940-39-0	CHROMOCARB.
4945-47-5	BAMIPINE.
4955-90-2	SODIUM GENTISATE.
4960-10-6	PERASTINE.
4969-02-2	METIXENE.
4989-94-9	TRIAMCINOLONE FURETONIDE.
4991-65-6	TIOXOLONE.
5001-32-1	GUANOCLOR.
5003-48-5	BENORILATE.
5005-72-1	LEPTACLINE.
5011-34-7	TRIMETAZIDINE.
5029-05-0	ANTIENITE.
5034-76-4	INDOXOLE.
5036-02-2	TETRAMISOLE.
5036-03-3	MIFURDAZIL.
5051-22-9	DEXPROPRANOLOL.
5051-62-7	GUANABENZ.
5053-06-5	FENSPIRIDE.
5055-20-9	NIFUROXIMAZOL.
5055-42-5	SILANDRONE.
5060-55-9	PREDNISOLONE STEAGLATE.
5061-22-3	NAFIVERINE.
5104-49-4	FLURBIPROFEN.
5107-49-3	FLUALAMIDE.
5118-17-2	FURAZOLIUM CHLORIDE.
5118-29-6	MELITRACEN.
5118-30-9	LITRACEN.
5129-14-6	AMISACRIL.
5169-78-8	TIPERIDINE.
5182-84-7	TRENGESTONE.
5197-58-0	STENBOLONE.
5205-82-3	BEVONIUM METILSULFATE.
5214-29-9	AMPYZINE.
5220-68-8	CLOQUINOZINE.
5221-49-8	PYRIMITATE.
5232-99-5	ETOCRILENE.
5234-86-6	AZAQUINZOLE.
5250-39-5	FLUCLOXACILLIN.
5251-34-3	CLOPREDNOL.
5267-46-7	PREMISTEINE.
5310-55-4	CLOMACRAN.
5322-53-2	OXIPERAMIDE.
5334-25-6	TISOFURINE.
5355-16-8	DIAVERIDINE.
5367-94-0	CLONIMGESTONE.
5370-41-2	PRIDEFINE.
5377-20-8	METOMIDATE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
5467-78-7	FENAMOLE.
5486-03-3	BUQUINOLATE.
5486-77-1	ALLOCLAMIDE.
5522-39-4	DIFLUANAZINE.
5534-05-4	BETAMETHASONE ACIBUTATE.
5534-95-2	PENTAGASTRIN.
5536-17-4	VIDARABINE.
5541-67-3	TILIQUINOL.
5560-89-0	ETHYL DIBUNATE.
5560-72-5	IPRINDOLE.
5560-77-0	ROTOXAMINE.
5560-78-1	TECLOZAN.
5571-84-6	POTASSIUM NITRAZEPATE.
5571-97-1	DICHLORMEZANONE.
5575-21-3	CEFALONIUM.
5578-73-4	SANGUINARIUM CHLORIDE.
5579-05-5	PAXAMATE.
5579-06-6	PENTALAMIDE.
5579-08-8	PROPYL DOCETRIZOATE.
5579-13-5	CAPURIDE.
5579-27-1	SIMTRAZENE.
5579-81-7	ALDIOXA.
5579-85-1	BROMCHLORENONE.
5579-89-5	NIFURSEMIZONE.
5579-92-0	IOPYDOL.
5579-93-1	IOPYDONE.
5579-94-2	MERISOPROL (197 HG).
5579-95-3	NIFURPERONE.
5580-22-3	DIXONAZINE.
5580-25-6	NIFURETHAZONE.
5580-32-5	ORTETAMINE.
5581-35-1	AMFECLORAL.
5581-40-8	DIMEFADANE.
5581-46-4	MOLINAZONE.
5581-52-2	TIAMPRINE.
5585-59-1	NITROCYCLINE.
5585-64-8	AMINOXYTRIPHENE.
5585-93-3	OXYPENDYL.
5587-93-9	AMPYRIMINE.
5588-16-9	ALTIZIDE.
5588-20-6	CLOQUANTOIN.
5588-21-6	CINTRAMIDE.
5588-29-4	FENMETRAMIDE.
5588-33-0	MESORIDAZINE.
5588-38-5	TOLPYRRAMIDE.
5591-27-5	CLOMETERONE.
5591-33-3	IOSEFAMIC ACID.
5591-47-9	CYCLOMENOL.
5591-49-1	ANILAMATE.
5598-52-7	FOSPIRATE.
5610-40-2	SECURININE.
5611-51-8	TRIAMCINOLONE HEXACETONIDE.
5617-26-5	DIFENCLOXAZINE.
5626-25-5	CLODACAINE.
5626-34-6	PREDNISOLAMATE.
5626-36-8	NONAPYRIMINE.
5627-46-3	CLOBENZTROPINE.
5630-53-6	TIBOLONE.
5632-44-0	TOLPROPAMINE.
5632-52-0	CLOFENCICLAN.
5633-16-9	LEIOPYRROLE.
5633-18-1	MELENGESTROL.
5633-20-5	OXYBUTYNIN.
5634-37-7	CLORETATE.
5634-38-8	GUAIFYLLINE.
5634-41-3	PARAPENZOLATE BROMIDE.
5634-42-4	TOCAMPHYL.
5635-50-7	HEXESTROL.
5636-83-9	DIMETINDENE.
5636-92-0	PICLOXYDINE.
5638-76-6	BETAHISTINE.
5657-61-4	NICOXAMAT.
5666-11-5	LEVOMORAMIDE.
5667-70-9	PENTABAMATE.
5668-05-4	MEGLOXAMINE.
5684-90-2	PENTHIRCHLORAL.
5696-06-0	METETOIN.
5696-09-3	PROXAZOLE.
5696-17-3	EPIPROPIDINE.
5697-56-3	CARBENOXOLONE.
5711-40-0	BROMEBRIC ACID.
5714-08-9	DETROTHYRONINE.
5714-09-0	ETHYL CARTRIZOATE.
5714-75-0	PRIDNAZATE.
5714-78-1	QUINETALATE.
5714-82-9	TRICLOFENOL PIPERAZINE.
5728-52-9	FELBAMAC.
5741-22-0	MOPROLOL.
5749-67-7	CARBASALATE CALCIUM.
5779-54-4	CYCLARBAMATE.
5779-59-9	ALAZAMINE TRICLOFENATE.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
5786-21-0	CLOZAPINE.
5786-71-0	FOSFOCREATININE.
5786-72-0	TRIMETAMIDE.
5788-64-4	PROPISERGIDE.
5793-88-4	CALCIUM SACCHARATE.
5800-19-1	METAPYRINE.
5835-72-9	DIPROFENE.
5845-26-1	TIAZESIM.
5854-93-6	ALANOSINE.
5868-05-3	NICERITROL.
5868-08-4	FENTONIUM BROMIDE.
5874-86-3	AMICYCLINE.
5874-98-6	TESTOSTERONE KETOLAURATE.
5879-67-4	OLETIMOL.
5934-14-5	SUCCISULFONE.
5941-38-6	ESTRAZINOL.
5942-86-0	CARFIPRAMINE.
5959-10-4	STIBOSAMINE.
5964-24-9	SODIUM TIMERFONATE.
5964-42-5	DIATHYMOSULFONE.
5965-40-2	ALLOCUPREIDE SODIUM.
5968-41-6	DISOPROMINE.
5977-10-6	FENCIBUTIROL.
5980-31-4	HEXEDINE.
5984-83-8	FENABUTENE.
5984-97-4	IODOTHIOURACIL.
5989-22-7	PHYTONADIOLSODIUM DIPHOSPHATE.
6011-38-8	CLEMIZOLE PENICILLIN.
6043-01-2	DOMAZOLINE.
6065-48-7	TOLOXYCHLORINOL.
6084-93-1	FOSFOSAL.
6092-19-8	CYCOTHIAMINE.
6166-78-9	CROTETAMIDE.
6170-68-0	CLAMIDOXIC ACID.
6184-06-1	SORBINICATE.
6187-80-4	TOLQUIDAZOLE.
6192-67-6	LEVOPROPYLHEXEDRINE.
6196-08-3	ELANIZEPINE.
6197-30-4	OCTOCRILENE.
6217-54-5	DOCONEXENT.
6223-36-4	SODIUM GUALENATE.
6236-06-1	NIFUROXIME.
6272-74-8	LAPIRIUM CHLORIDE.
6281-26-1	FURMETHOXADONE.
6284-40-8	MEGLUMINE.
6306-71-4	LOBENDAZOLE.
6319-06-8	NOREXIMIDE.
6340-67-0	TRICLACETAMOL.
6363-02-6	NITRAMISOLE.
6378-26-7	SALVERINE.
6386-58-6	SODIUM BITIONOLATE.
6443-40-9	XYLAMIDINE TOSILATE.
6452-71-7	OXPRENOLOL.
6469-38-9	CLOPROTHIAZOLE.
6469-87-0	METAMPICILLIN.
6493-06-6	PENTOXIFYLLINE.
6495-48-1	DIOXADROL.
6503-95-3	TRIAMPYZINE.
6508-37-2	NIMORAZOLE.
6533-00-2	NORGESTREL.
6535-03-1	STEVALADIL.
6536-18-1	MORAZONE.
6538-22-3	DIMEPROZAN.
6556-11-2	INOSITOL NICOTINATE.
6577-41-9	OXAPIUM IODIDE.
6606-65-1	EMBUCRILATE.
6620-60-6	PROGLUMIDE.
6621-47-2	PERNEXILINE.
6673-35-4	PRACTOLOL.
6673-67-8	SPIROXASONE.
6693-90-9	PREDIAZOLINE.
6701-17-3	DORIDATE.
6723-40-6	FLUMIDAROL.
6740-88-1	KETAMINE.
6796-60-4	NORVINISTERONE.
6804-07-6	CARBADOX.
6808-52-5	TEPRENONE.
6818-37-7	OLAFLUR.
6829-98-7	IMIPRAMINOXIDE.
6893-02-3	LIOTHYRONINE.
6903-79-3	CREATINOLPOSFATE.
6915-57-7	BISMOCAITHOL.
6951-46-2	IDROCILAMIDE.
6964-20-1	TIADENOL.
6968-72-6	MEPIROXOL.
6971-15-6	CIPRALFOPRIM.
6980-06-3	FUSIDIC ACID.
6988-60-3	RIFAMYCIN.
7001-56-1	PEMTAGESTRONE.
7002-95-6	OXIDETANE.
7004-66-0	EPIMESTROL.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
7007-76-9	GLUCOSULFAMIDE.
7007-81-0	TRETHOCANIC ACID.
7007-88-7	BUTADIAZAMIDE.
7007-92-3	CETOMEXAZINE.
7007-95-7	CROTOMAZIDE.
7008-00-6	DIMETHOLIZINE.
7008-02-8	IODETRYL.
7008-13-1	HALOPENRUM CHLORIDE.
7008-14-2	HYDROXIDIASATE.
7008-15-3	HYDROXIDIASOL.
7008-17-5	HYDROXYPYRIDINE TARTRATE.
7008-18-6	IMINOPHENMIDE.
7008-24-4	CHLOROSERPIDINE.
7008-26-6	DICHLORISONE.
7008-43-6	ACRIDINE.
7008-43-0	METHOMEPRAZINE.
7008-45-8	SODIUM HEXACYCLONATE.
7008-49-2	PERTUBERIDE.
7008-60-1	PHENIODOL SODIUM.
7008-65-6	PRAMPINE.
7008-68-9	PYRDIAMINE.
7008-69-0	PYRDIPHENDANE.
7008-76-9	TRICLAZATE.
7008-79-2	XENTHORATE.
7008-82-7	TRIMETHONIUM METHOSULFATE.
7008-86-3	PHENYRACILLIN.
7008-91-8	NITRICHOLINE PERCHLORATE.
7036-04-3	PYRIDARONE.
7036-58-0	PROPOXATE.
7077-30-7	BUTOPYRAMMONIUM IODIDE.
7077-33-0	FEBUVERINE.
7077-34-1	TROLNITRATE.
7085-55-4	TROXERUTIN.
7114-11-6	NAPHTHONONE.
7125-67-9	METOQUIZINE.
7125-71-5	TOQUIZINE.
7125-73-7	FLUMETRAMIDE.
7125-76-0	CODOKIME.
7162-37-0	PARIDOCAINE.
7168-18-5	CHLORPHENOCTIUM AMSONATE.
7174-23-4	DIXYDIPENTONIUM CHLORIDE.
7175-09-9	TILBROQUINOL.
7182-51-4	TALOPRAM.
7195-27-9	MEFRUSIDE.
7199-29-3	CYHEPTAMIDE.
7219-91-2	THIHEXINOL METHYLBROMIDE.
7220-56-6	FLUTIAZIN.
7224-08-0	IMICLOPAZINE.
7225-61-8	SODIUM METRIZOATE.
7232-51-1	PARAROSANILINE EMBONATE.
7235-40-7	BETACAROTENE.
7237-81-2	NEPRONICATE.
7242-04-8	PENGITOXIN.
7246-21-1	SODIUM TYROPANOATE.
7247-57-6	HETERONIUM BROMIDE.
7248-21-7	PIRAZIDCHRONE.
7261-67-4	DANTROLENE.
7262-75-1	LEFETAMINE.
7270-12-4	CLOQUINATE.
7273-99-6	GAMFEXINE.
7297-25-8	ERITRITYL TETRANITRATE.
7303-78-8	IMIDOLINE.
7332-27-6	AMCINAFIDE.
7361-61-7	KYLAZINE.
7395-80-6	INDRILINE.
7413-36-7	MIFENALOL.
7416-34-4	MOLIMIDONE.
7424-00-2	FENCLONINE.
7432-25-9	ETAQUALONE.
7433-10-6	BUTIORINE.
7456-24-8	DIMETOTIAZINE.
7473-70-3	GUANOXABENZ.
7481-89-2	ZALCITABINE.
7483-09-2	MESABOLONE.
7488-92-8	KETOCAMIOL.
7489-66-9	TIPINDOLE.
7491-74-9	PIRACETAM.
7518-35-6	MANNOSULFAN.
7527-91-5	ACRIBORCIN.
7528-13-4	CARPERIDINE.
7541-30-2	MESUPHINE.
7542-37-2	PAROMOMYCIN.
7554-65-6	FOMEPIZOL.
7565-39-9	BETADEX.
7617-74-5	LAURBUAMINE.
7644-67-9	AZOTOMYCIN.
7654-03-7	BISMUDOXIN.
7681-76-7	RONIDAZOLE.
7681-78-9	MERBROMIN IODIDE.
7681-79-0	ETAFEDRINE.
7681-80-3	PENTAPIPERIUM METHYLSULFATE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
7681-93-8	NATAMYCIN.
7683-59-2	ISOPRENALINE.
7686-00-6	MITOTENAMINE.
7686-12-0	TETRAMETHRIN.
7695-91-7	FENESTREL.
7705-67-4	DIMECROTIC ACID.
7712-60-7	MYRTECAINE.
7716-80-1	ETISAZOLE.
7724-76-7	RIBOPRINE.
7761-75-8	FURTERENE.
7790-28-3	SODIUM IODIDE (131 I).
8001-54-5	BENZALKONIUM CHLORIDE.
8002-80-2	CHINOFON.
8007-43-0	SORBITAN SESQUIOLEATE.
8012-34-8	MERCUROPHYLLINE.
8016-07-7	ETHIODIZED OIL (131 I).
8017-89-7	PHENYLMERCURIC BORATE.
8025-81-8	SPIRAMYCIN.
8028-10-6	COMPOUND SOLUTION OF SODIUM CHLORIDE.
8028-79-7	COMPOUND SOLUTION OF SODIUM LACTATE.
8027-36-0	SODIUM PHOSPHATE (32 P).
8031-09-2	SODIUM MORRHUATE.
8049-55-6	CORTICOTROPIN-ZINC HYDROXIDE.
8049-62-6	COMPOUND INSULIN ZINC SUSPENSION.
8049-62-6	INSULIN ZINC SUSPENSION (AMORPHOUS).
8049-62-6	INSULIN ZINC SUSPENSION (CRYSTALLINE).
8062-16-2	CACTINOMYCIN.
8052-74-2	ISOPHANE INSULIN.
8063-24-9	ACRIFLAVINIUM CHLORIDE.
8063-26-1	DEXTRIFERRON.
8063-28-3	RIBAMINOL.
8063-29-4	BIPHASIC INSULIN INJECTION.
8063-80-7	POLISAPONIN.
8063-82-9	HYPROMELLOSE.
8069-64-5	MERALLURIDE.
9000-11-7	CARMELLOSE.
9000-11-7	CROSCARMELLOSE.
9000-99-1	BRINASE.
9001-00-7	BROMELAINS.
9001-01-6	KALLIDINOGENASE.
9001-09-6	CHYMOPAPAIN.
9001-54-1	HYALURONIDASE.
9001-62-1	RIZOLIPASE.
9001-74-5	PENICILLINASE.
9002-01-1	STREPTOKINASE.
9002-04-4	THROMBIN, BOVINE.
9002-60-2	CORTICOTROPIN.
9002-61-3	CHORIONIC GONADOTROPHIN.
9002-70-4	SERUM GONADOTROPHIN.
9002-71-5	THYROTROPHIN.
9002-79-3	INTERMEDINE.
9002-84-0	POLITEF.
9002-92-0	LAUROMACROGOL 400.
9002-93-1	OCTOXINOL.
9002-98-4	TOCOFERSOLAN.
9003-11-6	POLOXALENE.
9003-11-8	POLOXAMER.
9003-23-0	POLYETADENE.
9003-39-6	POLYVIDONE.
9003-97-8	POLYCARBOPHIL.
9004-04-0	APROTININ.
9004-07-3	CHYMOTRYPSIN.
9004-09-5	FIBRINOLYSIN (HUMAN).
9004-10-8	NEUTRAL INSULIN INJECTION.
9004-12-0	DALANATED INSULIN.
9004-17-5	PROTAMINE ZINC INSULIN INJECTION.
9004-21-1	GLOBIN ZINC INSULIN INJECTION.
9004-36-8	CELLABURATE.
9004-38-0	CELLACEFATE.
9004-54-0	DEXTRAN.
9004-67-5	METHYLCELLULOSE.
9004-70-0	PYROXYLIN.
9004-95-9	CETOMACROGOL 1000.
9005-48-6	HEPARIN SODIUM.
9006-86-9	DIMETICONE.
9007-12-9	CALCITONIN.
9010-34-8	THYROGLOBULIN.
9011-04-5	HEXADIMETHRINE BROMIDE.
9011-05-6	POLYHOXYLIN.
9015-75-4	POLOBUSAM.
9014-02-2	ZINCOSTATIN.
9014-67-9	ALOXIPRIN.
9016-56-9	POLYGELINE.
9015-73-0	COLEXTRAN.
9016-01-7	ORGOTEIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
9016-45-9	NONOXINOL.
9031-11-2	TILACTASE.
9039-53-6	UROKINASE.
9039-61-6	BATROXOBIN.
9041-08-1	ARDEPARIN SODIUM.
9041-08-1	DALTEPARIN SODIUM.
9041-08-1	ENOXAPARIN SODIUM.
9046-58-4	ANCROD.
9048-49-1	IODINATED (125 I) HUMAN SERUM ALBUMIN.
9048-49-1	IODINATED (131 I) HUMAN SERUM ALBUMIN.
9050-67-3	SIZOFIRAN.
9074-07-1	PROMELASE.
10001-13-5	PEXANTEL.
10001-43-1	PIMEFYLLINE.
10004-67-8	AMANTOCILLIN.
10016-20-3	ALFADEX.
10023-54-8	AMINOQUINOL.
10039-53-9	SODIUM CHROMATE (51 CR).
10040-45-6	SODIUM PICOSULFATE.
10043-49-9	GOLD (198 AU), COLLOIDAL.
10061-32-2	LEVOPHENACYLMORPHAN.
10072-48-7	ACEFLURTIAMINE.
10078-45-3	ROLETAMIDE.
10087-89-5	ENPROMATE.
10116-22-0	DEMEGESTONE.
10118-65-1	LIDIMYCIN.
10118-90-8	MINOCYCLINE.
10161-33-8	TRENBOLONE.
10171-69-4	CLAZOLAM.
10176-39-3	GITOFORMATE.
10188-64-3	BEPIASTINE.
10202-40-1	FLUTIZENOL.
10206-21-0	CEFACETRILE.
10210-36-3	SODIUM AUROTIOSULFATE.
10226-54-7	LOMIFYLLINE.
10238-21-8	GLIBENCLAMIDE.
10262-69-8	MAPROTILINE.
10310-32-4	TRIBENOSIDE.
10318-26-0	MITOLACTOL.
10321-12-7	PROPIZEPINE.
10322-73-3	ESTROFURATE.
10329-60-9	DIOXIFEDRINE.
10331-57-4	NICLOFOLAN.
10351-60-5	LENIQUINSIN.
10355-14-3	BOXIDINE.
10375-56-1	CHLORMERODRIN (197 HG).
10379-11-0	NORTETRAZEPAM.
10379-14-3	TETRAZEPAM.
10389-73-8	CLORTERMINE.
10397-75-6	IOCARMIC ACID.
10402-90-1	EPRAZINONE.
10403-51-7	MITINDOMIDE.
10405-02-4	TROSPIUM CHLORIDE.
10417-94-4	ICOSAPENT.
10418-03-8	STANOZOLOL.
10423-37-7	CITENAMIDE.
10433-71-3	TIAMETONIUM IODIDE.
10447-39-9	QUIFENADINE.
10448-84-7	NITROMIFENE.
10448-95-1	ALMESTRONE.
10457-65-6	GEROQUINOL.
10457-90-6	BROMPERIDOL.
10457-91-7	CLOFLUPEROL.
10469-23-3	TIOCTILATE.
10539-19-2	MOXAVERINE.
10540-29-1	TAMOXIFEN.
10571-59-2	NICOCLONATE.
10572-34-6	CICLIOMENOL.
10592-66-1	QUINGESTANOL.
10596-23-3	CLOORONIC ACID.
11000-17-2	VASOPRESSIN INJECTION.
11003-38-6	CAPREOMYCIN.
11006-70-6	OLIVOMYCIN.
11006-75-1	MIKAMYCIN.
11006-75-1	OSTREOGRYCIN.
11006-76-1	PRISTINAMYCIN.
11006-76-1	VIRGINIAMYCIN.
11011-72-6	BLUENSOMYCIN.
11014-70-3	LEVOFRIN.
11015-37-5	BAMBERMYCIN.
11029-70-2	HELIOMYCIN.
11033-34-4	STEFFIMYCIN.
11041-12-6	COLESTYRAMINE.
11043-98-6	MITOMALCIN.
11048-13-8	NEBRAMYCIN.
11048-15-0	KALAFUNGIN.
11051-71-1	AVILAMYCIN.
11056-06-7	BLEOMYCIN.
11056-09-0	RANIMYCIN.
11056-11-4	SINRAMYCIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
11056-12-5	CIROLEMYCIN.
11056-14-7	MITOCARCIN.
11056-15-8	MITOSPER.
11056-16-9	NIFUNGIN.
11061-68-0	INSULIN (HUMAN).
11096-49-4	PARTRICIN.
11115-82-5	ENRAMYCIN.
11118-25-5	CALCITONIN, RAT.
11121-32-7	MEPARTRICIN.
12002-30-1	PIPERAZINE CALCIUM EDETATE.
12040-73-2	SUCRALOX.
12111-24-9	CALCIUM TRISODIUM PENTETATE.
12182-48-8	GLUCALOX.
12211-28-8	SUTILAINS.
12214-50-5	SODIUM GLUCASPALDRATE.
12244-57-4	SODIUM AUROTHIOMALATE.
12279-41-3	SERACTIDE.
12304-65-3	HYDROTALCITE.
12321-44-7	CALCITONIN, PORCINE.
12408-47-8	SIMALDRATE.
12569-38-9	CALCIUM GLUBIONATE.
12629-01-5	SOMATROPIN.
12650-69-0	MUPIROCIN.
12772-35-9	BUTIROSIN.
13007-93-7	CUPROXOLINE.
13010-47-4	LOMUSTINE.
13021-53-9	TERBUPROL.
13042-18-7	FENDILINE.
13050-83-4	GUANOXYFEN.
13051-01-9	CARBAZOCHROME SALICYLATE.
13058-67-8	LUCIMYCIN.
13074-00-5	AZASTENE.
13085-08-0	MAZIPREDONE.
13093-88-4	PERIMETAZINE.
13115-03-2	CYANOCOBALAMIN (57 CO).
13157-60-9	BENZOLEPICIN.
13221-27-7	TRIBUZONE.
13237-70-2	FOSMENIC ACID.
13246-02-1	FEBARBAMATE.
13254-33-6	CARIPRONIUM CHLORIDE.
13292-46-1	RIFAMPICIN.
13311-84-7	FLUTAMIDE.
13355-00-5	MELARSONYL POTASSIUM.
13364-32-4	CLOBENZOREX.
13369-07-8	SULFATROZOLE.
13392-18-2	FENOTEROL.
13392-28-4	RIMANTADINE.
13402-51-2	TIBENZATE.
13409-53-5	PODILFEN.
13410-86-1	ACOXAZIDE.
13411-16-0	NIFURPIRINOL.
13422-16-7	TRIFLOCIN.
13422-51-0	HYDROXOCOBALAMIN.
13422-53-2	CYANOCOBALAMIN (60 CO).
13422-55-4	MECOBALAMIN.
13425-92-8	AMIQUINSIN.
13425-98-4	IMPROSULFAN.
13445-12-0	IOBUTOIC ACID.
13445-63-1	ITRAMIN TOSILATE.
13447-95-5	METHANIAZIDE.
13448-22-1	CLOROTEPINE.
13456-08-1	BITIPAZONE.
13460-98-5	THEODRENALINE.
13461-01-3	ACEPROMETAZINE.
13463-41-7	PYRITHIONE ZINC.
13471-78-8	BECLOTIAMINE.
13479-13-5	PARGEVERINE.
13495-09-5	PIMINODINE.
13523-86-9	PINDOLOL.
13539-59-8	AZAPROPAZONE.
13551-67-6	MISONIDAZOLE.
13583-60-5	NORGESTERONE.
13583-21-6	NORCLOSTEBOL.
13642-52-9	SOTERENOL.
13647-35-3	TRILOSTANE.
13665-52-2	ALPRENOLOL.
13665-88-8	MOPIDAMOL.
13699-70-0	NEFOPAM.
13698-15-6	BENZOPYRRONIUM BROMIDE.
13710-19-5	TOLFENAMIC ACID.
13739-02-1	DIACEREIN.
13741-18-9	XIBORNOL.
13752-33-5	PANIDAZOLE.
13757-97-6	QUINPRENALINE.
13798-03-6	PROTIZINIC ACID.
13838-08-9	AZIDAMFENICOL.
13838-16-9	ENFLURANE.
13862-07-2	DIFEMETOREX.
13870-90-1	COBAMAMIDE.
13877-89-1	MINEPENTATE.
13985-31-9	ORESTRATE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
13909-09-6	SEMUSTINE.
13912-77-1	OCTACAINE.
13912-80-6	NICOBOXIL.
13930-34-2	CLOFIMECAINE.
13931-64-1	PROCYMATE.
13946-02-6	IPROHEPTINE.
13957-36-3	MELADRAZINE.
13957-38-5	HYDROBENTIZIDE.
13958-40-2	OXIFAMIDE.
13977-33-6	DEMELVERINE.
13980-94-4	METAGLYCODOL.
13993-65-2	METHAZINIC ACID.
13997-19-8	MEGLINATE.
14007-64-8	BUTETAMATE.
14008-44-7	METOPIMAZINE.
14008-60-7	CRESOTAMIDE.
14008-66-3	PINOXEPIN.
14008-71-0	XANTHIOL.
14009-24-6	DROTAVERINE.
14028-44-5	AMOXAPINE.
14058-90-3	METAZAMIDE.
14088-71-2	PROCLONOL.
14089-84-0	PROXIBUTENE.
14107-37-0	ALFADOLONE.
14144-06-0	DISOGLUSIDE.
14166-26-8	TAGLUTIMIDE.
14176-10-4	CETIEDIL.
14176-49-9	TILETAMINE.
14222-46-9	PYRITIDIUM BROMIDE.
14222-60-7	PROTIONAMIDE.
14235-86-0	HYDRARGAPHEN.
14255-87-9	PARBENDAZOLE.
14261-75-7	CLOFOREX.
14269-25-9	DIPROLEANDOMYCIN.
14293-44-8	XIPAMIDE.
14334-40-8	PRAMIVERINE.
14340-01-3	GESTADIENOL.
14357-79-9	DIPRENORPHINE.
14368-24-2	TROCIMINE.
14376-16-0	SULFALOXIC ACID.
14417-88-0	MELINAMIDE.
14433-82-0	THIACETARSAMIDE SODIUM.
14437-41-3	CLIOXAMIDE.
14461-91-7	CYCLAZODONE.
14484-47-0	DEFLAZACORT.
14504-73-5	TRITOQUALINE.
14521-96-1	ETORPHINE.
14556-46-8	BUPRANOLOL.
14561-42-3	MENOCTONE.
14587-50-9	DIFETEROL.
14611-51-9	SELEGILINE.
14613-30-0	MAGNESIUM CLOFIBRATE.
14636-12-5	TERLIPRESSIN.
14679-73-3	TOORALAZINE.
14698-29-4	OXOLINIC ACID.
14728-33-7	TEROXALENE.
14745-50-7	MELETIMIDE.
14759-04-7	OXYRIDAZINE.
14759-06-9	SULFORIDAZINE.
14769-73-4	LEVAMISOLE.
14769-74-5	DEXAMISOLE.
14785-50-3	TIAPIRINOL.
14796-24-8	CINPERENE.
14796-29-2	CLODANOLENE.
14816-18-3	PHCXIM.
14817-09-5	DECIMEMIDE.
14838-15-4	PHENYLPROPANOLAMINE.
14860-49-2	CLOBUTINOL.
14885-29-1	IPRONIDAZOLE.
14929-11-4	SIMFIBRATE.
14932-42-4	XENON (133 XE).
14992-59-7	SODIUM DIBUNATE.
15037-44-2	ETONAM.
15130-91-3	SULTROPONIUM.
15145-14-9	CICLACTATE.
15176-29-1	EDOXUDINE.
15179-96-1	NIFURMIDE.
15180-02-6	AMFONELIC ACID.
15180-03-7	ALCURONIUM CHLORIDE.
15221-81-5	FLUDOREX.
15228-71-4	VINROSIDINE.
15250-13-2	ARAPROFEN.
15251-14-6	ROSE BENGAL (131 I) SODIUM.
15256-58-3	BELOXAMIDE.
15262-77-8	DELMADINONE.
15301-40-3	ACTINOQUINOL.
15301-45-8	ANTAFENITE.
15301-48-1	BEZITRAMIDE.
15301-50-5	CLOPONONE.
15301-52-7	CYCLEXANONE.
15301-54-9	CYPENAMINE.
15301-67-4	FENENITROL.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
15301-68-5	FENHARMANE.
15301-69-6	FLAVOXATE.
15301-80-1	OXAMARIN.
15301-82-3	PECOCYCLINE.
15301-88-9	PYTAMINE.
15301-89-0	QUILLIFOLINE.
15301-93-6	TOFENACIN.
15301-96-9	TYROMEDAN.
15301-97-0	XYLOCOUMAROL.
15302-05-3	BUTOXYLATE.
15302-10-0	CLIBUCAINE.
15302-12-2	DIMELAZINE.
15302-15-5	ETOSALAMIDE.
15302-16-6	FENOZOLONE.
15302-18-8	FORMETOREX.
15307-86-5	DICLOFENAC.
15311-77-0	CLOXYPENDYL.
15318-45-3	THIAMPHENICOL.
15339-50-1	FERROTRENINE.
15350-99-9	AMOXYDRAMINE CAMSILATE.
15351-04-9	BEGANTONE.
15351-05-0	BUZEPIDE METIODIDE.
15351-09-4	METAMFEPRAMONE.
15351-13-0	NICOFURANOSE.
15356-70-4	RACEMENTHOL.
15378-99-1	ANAZOCINE
15387-10-7	NIPROFAZONE.
15387-18-5	FEZATIONE.
15421-84-8	TRAPIDIL.
15468-10-7	OXIDRONIC ACID.
15500-66-0	PANCURONIUM BROMIDE.
15518-76-0	CIPROXIMIDE.
15518-82-8	METESCUFYLLINE.
15518-84-0	MOBECARB.
15518-87-3	MYRALACT.
15534-05-1	PIPRATECOL.
15534-92-6	TERBUFICIN.
15574-49-9	MECARBINATE.
15574-96-6	PIZOTIFEN.
15585-70-3	BIBENZONIUM BROMIDE.
15586-71-4	BROMETENAMINE.
15585-86-1	CYPRODENATE.
15585-88-3	DICARFEN.
15590-00-8	ETAMOCYCLINE.
15599-22-1	CYCLOPYRRONIUM BROMIDE.
15599-26-5	DROXYPROPINE.
15599-27-6	ETAMINILE.
15599-36-7	HALETAZOLE.
15599-37-8	HEXAPRADOL.
15599-39-0	NOXYTIOLIN.
15599-44-7	SPIRAZINE.
15599-45-8	SYMETINE.
15599-51-6	APICYCLINE.
15599-52-7	BROQUINALDOL.
15639-50-6	SAFINGOL.
15663-27-1	CISPLATIN.
15676-16-1	SULPIRIDE.
15686-23-4	TRIMOXAMINE.
15686-27-8	AMFEPENTOREX.
15686-33-6	BICLOTYMOL.
15686-38-1	CARBAZOCINE.
15686-51-8	CLEMASTINE.
15686-60-9	FLAVAMINE.
15686-61-0	FENPROPOREX.
15686-63-2	ETABENZARONE.
15686-68-7	VOLAZOCINE.
15686-71-2	CEFALEXIN.
15686-72-3	TIENIFAN.
15686-76-7	BENSALAN.
15686-77-8	FURSALAN.
15686-78-9	TIOSALAN.
15686-81-4	NORBUDRINE.
15686-83-6	PYRANTEL.
15686-87-0	PIFENATE.
15686-91-6	PROPIRAM.
15686-97-2	PYRROLIFENE.
15687-05-5	CLORACETADOL.
15687-07-7	CYPRAZEPAM.
15687-08-8	DEXTROFEMINE.
15687-09-9	DIFEBARBAMATE.
15687-13-5	DODECLONIUM BROMIDE.
15687-14-6	EMBUTRAMIDE.
15687-16-8	CARBIFENE.
15687-18-0	FENPENTADIOL.
15687-21-5	FLUMEDROXONE.
15687-22-6	FOLESCUTOL.
15687-23-7	GUAIACTAMINE.
15687-33-9	METINDIZATE.
15687-37-3	NAFTAZONE.
15687-40-8	OCTAFONIUM CHLORIDE.
15687-41-9	OXYFEDRINE.
15690-55-8	ZUCLOMIFENE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
15690-57-0	ENCLOMIFENE.
15690-63-8	CESIUM (131 CS) CHLORIDE.
15706-41-5	SODIUM FEREDETATE.
15722-48-2	OLSALAZINE.
15756-94-6	THEOPHYLLINE EPHEDRINE.
15790-02-0	TROPODIFENE.
15793-38-1	DUNAZOSIN.
15793-40-5	TERODILINE.
15825-70-4	MANNITOL HEXANITRATE.
15845-98-4	SODIUM IOTALAMATE (131 I).
15876-67-2	DISTIGMINE BROMIDE.
15879-93-3	CHLORALOSE.
15949-72-1	PRAZOCILLIN.
15992-13-9	INTRAZOLE
15997-76-9	NONAPERONE
16008-36-9	METHYLDESORPHINE.
16024-67-2	IOTRIZOIC ACID.
16034-77-8	IOCETAMIC ACID.
16037-81-5	SODIUM STIBOGLUCONATE.
16051-77-7	ISOSORBIDE MONONITRATE.
16110-51-3	CROMOGLICIC ACID.
16112-96-2	INDANOREX.
16186-61-7	TALASTINE.
16208-51-8	DIMESNA.
16231-75-7	ATOLIDE.
16250-34-0	PENIMOCYCLINE.
16320-04-0	GESTRINONE.
16378-21-5	PIROHEPTINE.
16401-80-2	DELMETACIN.
16426-83-8	NIOMETACIN.
16469-74-2	HYDROMADINONE.
16486-05-5	OXADIMEDINE.
16485-10-2	PANTHENOL.
16498-21-8	OXAFLUMAZINE.
16506-27-7	BENDAMUSTINE.
16509-11-6	OTIMERATE SODIUM.
16509-23-2	ETHOMOXANE.
16543-10-5	FOSENAZIDE.
16545-11-2	GUAMECYCLINE.
16549-56-7	HOMAPRENORPHINE.
16562-96-4	CLANTIFEN.
16571-59-8	BENZINDOPYRINE.
16590-41-3	NALTREXONE.
16662-47-8	GALLOPAMIL.
16676-26-9	NALMEXONE.
16679-58-6	DESMOPRESSIN.
16759-59-4	BENOXAFOS.
16773-42-5	ORNIDAZOLE.
16781-39-8	ETASULINE.
16846-24-5	JOSAMYCIN.
16852-81-6	BENZOCLIDINE.
16870-37-4	AMOGASTRIN.
16915-70-1	NIFURSOL.
16915-71-2	CINGESTOL.
16915-78-9	BOLENOL.
16915-79-0	MEQUIDOX.
16925-51-2	AUROTHIOGLYCANIDE.
16941-32-5	GLUCAGON.
16960-16-0	TETRACOSACTIDE.
16965-03-8	NONABINE.
17021-26-0	CALUSTERONE.
17033-82-8	IOMETIN (125 I).
17033-83-9	IOMETIN (131 I).
17088-72-1	PENOCTONIUM BROMIDE.
17090-79-8	MOMENSIN.
17127-48-9	GLAZIOVINE.
17140-60-2	CALCIUM GLUCOHEPTONATE.
17178-17-9	ADEMETIONINE.
17196-68-2	VINCOFOS.
17199-54-1	ALPHAMETHADOL.
17199-55-2	BETAMETHADOL.
17199-58-5	ALPHACETYLMETHADOL.
17199-59-6	BETACETYLMETHADOL.
17226-75-4	KHELLOSIDE.
17230-85-2	AMOURNATE.
17230-88-5	DANAZOL.
17230-89-6	NIMAZONE
17243-33-3	FEPENTOLIC ACID.
17243-38-8	AZIDOCILLIN.
17243-39-9	BENZOCTAMINE.
17243-49-1	DICLOMETIDE.
17243-56-1	VISNAFYLLINE.
17243-57-1	MEFENOREX.
17243-64-0	PIPROZOLIN.
17243-65-1	PIRRALKONIUM BROMIDE.
17243-68-4	TALOXIMINE.
17243-70-8	TRICLOFYLLINE.
17250-75-5	OXIDRALAZINE.
17279-39-9	DIMETAMFETAMINE.
17289-49-5	TETRIDAMINE.
17316-67-5	BUTAFOSFAN.
17332-61-5	ISOPREDNIDENE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
17366-01-4	ETIROXATE.
17411-19-7	DICARBINE.
17560-51-9	METOLAZONE.
17575-22-3	LANATOSIDE C.
17590-01-1	AMFETAMINIL.
17598-65-1	DESLANOSIDE.
17617-23-1	FLURAZEPAM.
17650-98-5	CERULETIDE.
17692-20-5	CYCLOBUTOIC ACID.
17692-22-7	METIZOLINE.
17692-23-8	BENTIPIMINE.
17692-24-9	BISOKATIN.
17692-26-1	CICLOFENAZINE.
17692-28-3	CLONAZOLINE.
17692-30-7	DIMEPROFYLLINE.
17692-31-8	DROPROPIZINE.
17692-34-1	ETODROXIZINE.
17692-35-2	ETOFURADINE.
17692-37-4	FANTRIDONE.
17692-38-5	FLUPROFEN.
17692-39-6	FOMOCAINE.
17692-43-2	PICODRALAZINE.
17692-45-4	QUATACAINE.
17692-51-2	METERGOLINE.
17692-54-5	MITOCLOMINE.
17692-56-7	NOXICOUMONE.
17692-62-5	NORLEUCTIDE.
17692-63-6	QUITEFORMIN BROMIDE.
17692-71-6	VANITOLIDE.
17692-74-9	SODIUM IOTALAMATE (125 I).
17693-51-6	PROMETHAZINE TEOCLATE.
17716-89-1	PRANOSAL.
17737-45-4	CLONIXIN.
17737-58-7	DICLONIXIN.
17780-72-2	CLORGILINE.
17784-12-2	SULFACITINE.
17854-59-0	MEPIXANOX.
17902-23-7	TEGAFUR.
17989-20-9	FENCLOZIC ACID.
17989-45-8	BROFEZIL.
18016-80-3	LISURIDE.
18046-21-4	FENTIAZAC.
18053-31-1	FOMINOBEN.
18109-80-3	BUTAMIRATE.
18118-80-4	OXISOPRED.
18195-32-9	CYANOCOBALAMIN (58 CO).
18296-44-1	VALTRATE.
18296-45-2	DIDROVALTRATE.
18323-44-9	CLINDAMYCIN.
18356-28-0	ROLZIRACETAM.
18378-89-7	PLICAMYCIN.
18428-53-2	ACEFYLLINE PIPERAZINE.
18429-69-1	MEMOTINE.
18429-78-2	FAMOTINE.
18464-39-6	CAROXAZONE.
18467-77-1	DIPROGULIC ACID.
18471-20-0	DITAZOLE.
18493-30-6	METOCHALCONE.
18507-89-6	DEOCOUNATE.
18559-94-9	SALBUTAMOL.
18679-90-8	HOPANTENIC ACID.
18683-91-5	AMBROXOL.
18694-40-1	EPIROZOLE.
18699-02-0	ACTARIT.
18719-76-1	KERACYANIN.
18725-37-6	DACISTEINE.
18840-47-6	GEPEFRINE.
18841-58-2	PIPOCTANONE.
18857-59-5	NIFURMAZOLE.
18866-78-9	COLTEROL.
18883-66-4	STREPTOZOCIN.
18910-65-1	SALMEFAMOL.
18965-97-4	BERLAFENONE.
18966-32-0	CLOCAMFAMIDE.
19026-26-5	TOLIODIUM CHLORIDE.
19056-26-9	QUINDECAMINE.
19120-01-5	HYDROXYSTENOZOLE.
19179-79-3	XIPRANOLOL.
19216-56-9	PRAZOSIN.
19281-29-9	APTOCAINE.
19291-69-1	GESTACLONE.
19356-17-3	CALCIFEDIOL.
19366-18-4	FTAXILIDE.
19379-90-9	BENZOXONIUM CHLORIDE.
19387-91-8	TINIDAZOLE.
19388-87-5	TAUROLIDINE.
19395-58-5	MOQUIZONE.
19410-02-7	TROPIRINE.
19485-06-8	CIPROQUINATE.
19485-61-4	LAURALKONIUM CHLORIDE.
19504-77-9	PECILOCIN.
19581-70-7	NIFURATRONE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
19582-30-2	PIROMIDIC ACID.
19705-61-4	DICORTOLIDE.
19767-45-4	MESNA.
19793-20-5	BOLANDIOL.
19794-93-5	TRAZODONE.
19863-06-0	IOXOTRIZOIC ACID.
19877-69-5	VINCANOL.
19881-18-6	NITROSCANATE.
19885-51-9	ARANOTIN.
19888-56-3	FLUAZACORT.
19889-45-3	GUABENXAN.
19982-08-2	MEMANTINE.
19992-80-4	BUTIDRATE.
20047-75-0	CLOGESTONE.
20123-80-2	CALCIUM DOBESILATE.
20168-69-4	CINMETACIN.
20170-20-1	DIFENAMIZOLE.
20187-55-7	BENDAZAC.
20223-84-1	MERCAPTOMERIN.
20229-27-7	RUVAZONE.
20229-30-6	METITEPINE.
20282-69-0	TRICOSACTIDE.
20287-37-0	FENDUZONE.
20326-12-9	MEPIPRAZOLE.
20326-13-0	TOLPIPRAZOLE.
20360-58-9	TILIDINE.
20406-80-4	MIPIMAZOLE.
20423-09-8	DEPRODONE.
20448-88-6	BORNAPINE.
20537-88-6	AMBOSTINE.
20559-55-1	OXIBENDAZOLE.
20574-50-9	MORVANTEL.
20584-83-6	NALBUPHINE.
20799-07-2	RESORANTEL.
20830-75-5	DIGOXIN.
20830-81-3	DAUNORUBICIN.
20977-50-6	CARPERONE.
21132-09-2	PAZOXIDE.
21187-98-4	GLICLAZIDE.
21208-26-4	DIMEPREGNEN.
21215-62-3	CALCITONIN, HUMAN.
21221-18-1	FLAZALONE.
21228-13-7	DORASTINE.
21245-01-2	RADIMATE.
21256-18-8	OXAPROZIN.
21362-69-6	MEPTIOSTANE.
21363-19-9	VIMINOL.
21365-49-1	TRALONIDE.
21416-87-5	RAZOXANE.
21434-91-3	CAPOBENIC ACID.
21440-97-1	BROFOXINE.
21455-07-9	BROMOFENOFOS.
21459-20-3	TALSUPRAM.
21500-98-1	TENOCYCLIDINE.
21512-15-2	CITENAZONE.
21560-58-7	PIQUIZIL.
21560-59-8	HOQUIZIL.
21560-91-0	OMIDOLINE.
21590-92-1	ETOMIDOLINE.
21593-23-7	CIEFAPIRIN.
21626-88-1	DIFTALONE.
21662-79-3	SULFACECOLE.
21679-14-1	FLUDARABINE.
21686-10-2	FLUPRANONE.
21702-93-2	CLODUANAMIL.
21715-46-8	ETIFOXINE.
21721-92-6	NITREFAZOLE.
21730-16-5	METAPRAMINE.
21738-42-1	OXAMNIQUINE.
21755-86-8	PICOPERINE.
21766-53-0	IOLIDONIC ACID.
21817-73-2	BIDIMAZIUM IODIDE.
21820-92-6	FENIPALONE.
21829-22-1	CLONIXERIL.
21829-25-4	NIFEDIPINE.
21888-95-2	DEXETIMIDE.
21925-86-2	TESICAM.
22012-72-2	ZILANTEL.
22013-23-6	METOXEPIN.
22071-15-4	KETOPROFEN.
22089-22-1	TROFOSFAMIDE.
22103-14-6	BUFENIODE.
22131-35-7	BUTALAMINE.
22131-79-9	ALCLOFENAC.
22136-26-1	AMEDALIN.
22136-27-2	DALEDALIN.
22150-26-3	IPRAGRATINE.
22164-94-9	SUNICILLIN.
22204-53-1	NAPROXEN.
22204-91-7	LIFIBRATE.
22232-54-8	CARBIMAZOLE.
22232-57-1	RACEFEMINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
22232-71-6	MAZINDOL.
22254-24-6	IPRATROPIUM BROMIDE.
22292-91-7	NARANOL.
22293-47-6	FEPROSIDNINE.
22316-47-8	CLOBAZAM.
22336-84-1	METERGOTAMINE.
22345-47-7	TRIFLUBAZAM.
22365-40-8	BISOBRIN.
22407-74-5	HEPINALONE.
22443-11-4	BENFOTIAMINE.
22457-89-2	BENAPRIZINE.
22457-42-9	FLUFENISAL.
22494-27-5	DIFLUNISAL.
22494-42-4	CLOBUZARIT.
22494-47-9	FOPIRTOLINE.
22514-23-4	CODACTIDE.
22572-04-9	ALEXIDINE.
22573-93-9	NILUDIPINE.
22603-73-0	TIOCLOMAROL.
22619-35-8	BUPICOMIDE.
22632-05-0	AMOFROXAN.
22653-43-3	RAFOXANIDE.
22664-55-7	METIPRANOLOL.
22668-01-5	ETAMIDAZOLE.
22693-65-8	OLMIDINE.
22730-66-5	IOLIXANIC ACID.
22733-60-4	SICCAMIN.
22736-05-2	DIFLUMIDONE.
22760-18-5	PROQUAZONE.
22790-84-7	CARBANTEL.
22801-44-1	MEPIVACAINE.
22839-47-0	ASPARTAME.
22855-57-8	BROSUXIMIDE.
22861-35-2	FAMPROFAZONE.
22898-70-6	SULBININ.
22916-47-8	MICONAZOLE.
22933-72-8	BALAZODINE.
22950-29-4	DIMETOFRINE.
22994-85-0	BENZINDAZOLE.
23023-91-8	FLUCRILATE.
23031-25-6	TERBUTALINE.
23047-25-8	LOFEPRAMINE.
23048-93-6	ENFENAMIC ACID.
23088-26-1	LEVOMENOL.
23092-17-3	HALAZEPAM.
23110-15-8	FUMAGILLIN.
23111-34-4	FECLOBUZONE.
23155-02-4	FOSFOMYCIN.
23163-42-0	METYNODIOL.
23205-04-1	IOSULAMIDE.
23210-56-2	IFENPRODIL.
23214-92-8	DOXORUBICIN.
23233-88-7	BROTIAMIDE.
23249-97-0	PROCODAZOLE.
23256-23-7	SULFATROXAZOLE.
23256-30-6	NIFURTIMOX.
23271-83-8	AMICIBONE.
23271-74-1	FEDRILATE.
23286-49-5	PROBUCOL.
23360-92-1	VINLEUROSINE.
23465-76-1	CAROVERINE.
23476-83-7	PROSPIDIUM CHLORIDE.
23477-98-7	SEDECAMYCIN.
23492-69-5	SOPITAZINE.
23573-66-2	DETANOSAL.
23580-33-8	FURACRINIC ACID.
23593-75-1	CLOTRIMAZOLE.
23602-78-0	BENFLUOREX.
23651-95-8	DROXIDOPA.
23672-07-3	LEVOSULPIRIDE.
23674-86-4	DIFLUPREDNATE.
23694-61-7	MEPINDOLOL.
23696-28-8	OLAQUINDOX.
23707-33-7	METRIFUDIL.
23744-24-3	PIPOXOLAN.
23757-42-8	MIDAFLUR.
23758-80-7	ALLETORPHINE.
23779-99-9	FLOCTAFENINE.
23790-08-1	MOXIPRAQUINE.
23869-24-1	MONOXERUTIN.
23873-86-0	PROLIGESTONE.
23887-41-4	CINEPAZET.
23887-46-9	CINEPAZIDE.
23887-47-0	CINPROPAZIDE.
23891-60-3	MEPIRAMIDIL.
23910-07-8	MEBOUINE.
23915-73-3	TREBENZOMINE.
23930-19-0	ALFAXALONE.
23964-56-1	ARTICAINE.
23980-14-5	ETHYL DIRAZEPATE.
24143-17-7	OXAZOLAM.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
24166-13-0	CLOXIAZOLAM.
24219-97-4	MIANSERIN.
24237-54-5	TINORIDINE.
24243-80-8	TRIFLUMIDATE.
24279-91-2	CARBOQUONE.
24280-93-1	MYCOPHENOLIC ACID.
24305-27-9	PROTIRELIN.
24320-27-2	HALOCORTOLONE.
24340-35-0	PIRIDOXILATE.
24353-45-5	DIBUSADOL.
24353-89-6	LORBAMATE.
24358-78-7	NIVACORTOL.
24358-84-7	DEXIVACAINE.
24359-64-6	SODIUM IODIDE (125 I).
24360-55-2	MILIPERTINE.
24403-04-1	DEBROPOL.
24455-58-1	GLICETANILE.
24477-37-0	GLISOLAMIDE.
24528-64-6	NOMIFENSINE.
24527-27-3	SPICLOMAZINE.
24584-09-9	DEXRAZOXANE.
24622-72-9	AMIXETRINE.
24632-47-1	NIFURPIPONE.
24646-20-3	HEXAPROFEN.
24671-26-9	BENRIXATE.
24678-13-5	LENPERONE.
24701-51-7	DEMEXIPTILINE.
24815-24-5	RESCINNAMINE.
24818-79-9	ALUMINIUM CLOFIBRATE.
24840-59-3	PRETAMAZIUM IODIDE.
24870-04-0	GIRACTIDE.
24886-52-0	PIPOFEZINE.
25038-54-4	POLICAPRAM.
25039-59-9	PEGOTERATE.
25046-79-1	GLISOXEPIDE.
25053-27-4	SODIUM APIOLATE.
25092-07-3	DIMESOME.
25092-41-5	NORGESTOMET.
25122-41-2	CLOBETASOL.
25126-32-3	SINCALIDE.
25155-18-4	METHYLBENZETHONIUM CHLORIDE.
25161-41-5	ACEVALTRATE.
25229-42-8	CICROTOIC ACID.
25269-04-9	NISOBAMATE.
25287-60-9	ETOFAMIDE.
25301-02-4	TYLOXAPOL.
25314-87-8	ELUCAINE.
25322-68-3	MACROGOL.
25333-77-1	ACETORPHINE.
25384-17-2	ALLYLPRODINE.
25392-50-1	OXAZORONE.
25394-78-9	CETOXIME.
25422-75-7	ANTAZONITE.
25451-15-4	FELBAMATE.
25508-07-3	CLOROQUALONE.
25523-97-1	DEXCHLORPHENIRAMINE.
25626-93-6	ALOVUDINE.
25545-65-0	RIBOSTAMYCIN.
25573-43-7	ESERIDINE.
25614-03-3	BROMOCRIPTINE.
25683-71-0	TERIZIDONE.
25717-80-0	MOLSIDOMINE.
25771-23-7	DUOMETACIN.
25803-14-9	CLOMETACIN.
25812-30-0	GEMFIBROZIL.
25827-12-7	SULOXIFEN.
25827-76-3	IOMEGLAMIC ACID.
25858-76-1	GLIBUTIMINE.
25875-51-8	ROBENIDINE.
25905-77-5	MINAPRINE.
25953-19-9	CEFAZOLIN.
25967-29-7	FLUTOPRAZEPAM.
25999-31-9	LASALOCID.
26002-80-2	PHENOTHRIN.
26009-03-0	POLYGLYCOLIC ACID.
26020-55-3	OXETDRONE.
26058-50-4	DOTEFONIUM BROMIDE.
26070-23-5	TRAZITILINE.
26070-78-0	UBISINDRINE.
26095-59-0	OTILONIUM BROMIDE.
26097-80-3	CAMBENDAZOLE.
26112-29-8	CALCITONIN, BOVINE.
26130-02-9	FRENTIZOLE.
26159-36-4	NAPROXOL.
26171-23-3	TOLMETIN.
26225-59-2	MECINARONE.
26242-33-1	VINTIAMOL.
26266-57-9	SORBITAN PALMITATE.
26266-58-0	SORBITAN TRIOLEATE.
26281-69-6	EXIPROBEN.
26304-61-0	AZEPINDOLE.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
26305-03-3	PEPSTATIN.
26308-28-1	RIPAZEPAM.
26328-53-0	AMOSCANATE.
26350-39-0	NIFURIZONE.
26481-51-6	TIPRENOLOL.
26513-79-1	PARAXAZONE.
26513-90-6	LETIMIDE.
26538-44-3	ZERANOL.
26552-51-2	TIFENCILLIN.
26615-21-4	ZOTEPINE.
26629-87-8	OXAFLOZANE.
26631-80-3	BROMBACTAM.
26652-09-5	RITODRINE.
26658-19-5	SORBITAN TRISTEARATE.
26675-46-7	ISOFLURANE.
26717-47-5	CLOFIBRIDE.
26718-25-2	HALOFENATE.
26750-81-2	ALIBENDOL.
26774-90-3	EPICILLIN.
26787-78-0	AMOXICILLIN.
26807-65-8	INDAPAMIDE.
26839-75-8	TIMOLOL.
26844-12-2	INDORAMIN.
26849-57-0	TRICLONIDE.
26864-56-2	PENFLURIDOL.
26887-04-7	ICOTRIAMIC ACID.
26921-72-2	MELIZAME.
26944-48-9	GLIBORNURIDE.
26973-24-0	CEFTEZOLE.
26976-72-7	ACEBURIC ACID.
27025-41-8	OXIGLUTATIONE.
27025-49-6	CARFECILLIN.
27031-08-9	SULFAGUANOLE.
27035-30-9	OXAMETACIN.
27050-41-5	CLENPIRIN.
27060-91-9	FLUTAZOLAM.
27076-45-6	ALPERTINE.
27112-37-4	DIAMOCAINE.
27115-85-2	DACURONIUM BROMIDE.
27199-40-2	PIFEXOLE.
27203-92-5	TRAMADOL.
27220-47-9	ECONAZOLE.
27223-35-4	KETAZOLAM.
27302-90-5	OXISURAN.
27314-77-8	DRAZIDOX.
27314-97-2	TIRAPAZAMINE.
27315-91-9	PIPEBUZONE.
27318-86-1	FLOVERINE.
27325-36-6	PROCINOLOL.
27367-90-4	NIAPRAZINE.
27432-00-4	MEZEPINE.
27450-21-1	OSMADIZONE.
27466-27-9	INTRIPTYLINE.
27469-53-0	ALMITRINE.
27470-51-5	SUXIBUZONE.
27511-99-5	ETEROBARB.
27523-40-6	ISOCONAZOLE.
27574-24-9	TROPATEPINE.
27581-02-8	IDROPRANOLOL.
27589-33-9	AZOSEMIDE.
27591-01-1	BUMOLOL.
27591-42-0	OXAZIDONE.
27591-97-5	TILORONE.
27661-27-4	BENAXIBINE.
27685-84-6	MASOPROCOL.
27736-80-7	FENAFTIC ACID.
27737-38-8	MIXIDINE.
27762-78-3	KETOXAL.
27826-45-5	LIBECILLIDE.
27848-84-6	NICERGOLINE.
27877-51-6	TOLINDATE.
27885-92-3	IMIDOCARB.
27959-26-8	NICOMOL.
28014-45-2	POLYESTRADIOL PHOSPHATE.
28022-11-9	MEGALOMICIN.
28038-04-2	SALCOLEX.
28069-65-0	CUPRIMYXIN.
28125-87-3	FLUTONIDINE.
28168-10-7	TETRIPROFEN.
28179-44-4	IOXITALAMIC ACID.
28189-85-7	ETOXADROL.
28197-69-5	DIACETOLOL.
28240-18-8	PINOLCAINE.
28319-77-9	CHOLINE ALFOSCERATE.
28395-03-1	BUMETANIDE.
28434-01-7	BIORESMETHRIN.
28523-86-6	SEVOFLURANE.
28532-30-3	FUROMAZINE.
28548-58-9	ULDAZEPAM.
28598-08-5	CINOCTRAMIDE.
28610-84-8	RIMAZOLIUM METILSULFATE.
28657-80-9	CINOXACIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
28721-07-5	OXCARBAZEPINE.
28781-64-8	MENITRAZEPAM.
28782-42-5	DIFENOXIN.
28797-61-7	PIRENZEPINE.
28810-23-3	ZEPASTINE.
28820-28-2	NAFTOXATE.
28841-62-5	ATRIMOSITOL.
28860-95-9	CARBIDOPA.
28911-01-5	TRIAZOLAM.
28971-58-6	ACROCINONIDE.
28981-97-7	ALPRAZOLAM.
29025-14-7	BUTROPIUM BROMIDE.
29041-71-2	FERRIC FRUCTOSE.
29050-11-1	SECLAZONE.
29053-27-6	MESECLAZONE.
29089-24-7	PREDNIMUSTINE.
29094-61-9	GLIPIZIDE.
29098-15-5	TEROFENAMATE.
29110-47-2	GUANFACINE.
29122-68-7	ATENOLOL.
29125-56-2	DROCLIDINIUM BROMIDE.
29176-29-2	LOFENDAZAM.
29177-84-2	ETHYL LOFLAZEPATE.
29216-28-2	MEDUTAZATE.
29218-27-7	TOLOXATONE.
29334-07-4	SULMARIN.
29342-02-7	METIPIROX.
29342-05-0	CICLOPIROX.
29442-58-8	MOTRAZEPAM.
29462-18-8	BENTAZEPAM.
29474-12-2	CIMEPANOL.
29535-27-1	MALETAMER.
29541-85-3	OXITRIPTYLINE.
29546-59-6	CICLONIUM BROMIDE.
29619-86-1	MOCTAMIDE.
29767-20-2	TENIPOSIDE.
29782-68-1	SULDAMIN.
29859-95-4	CLORENOSIDE.
29906-79-6	MOFOXIME.
29952-13-4	PERATIZOLE.
29975-16-4	ESTAZOLAM.
30033-10-4	STERCURONIUM IODIDE.
30097-08-4	TIDIACIC.
30103-44-7	BUMECAINE.
30223-48-4	FLUACIZINE.
30271-85-3	RAZINODIL.
30279-49-3	SUCLOFENIDE.
30286-75-0	OXITROPIUM BROMIDE.
30299-05-2	CLINOFIBRATE.
30387-39-4	COLISTIMETHATE SODIUM.
30392-40-6	BITOLTEROL.
30418-38-3	TRETOQUINOL.
30516-87-1	ZIDOVUDINE.
30529-16-9	STIRIMAZOLE.
30531-86-3	COLFENAMATE.
30533-89-2	FLUARITEL.
30544-47-9	ETOFENAMATE.
30544-61-7	CLANOBUTIN.
30578-37-1	AMEZINIUM METILSULFATE.
30652-11-0	DEFERIPRONE.
30653-83-9	PARSALMIDE.
30685-43-9	METILDIGOXIN.
30709-69-4	TIZOPROLIC ACID.
30716-01-9	EMILIUM TOSILATE.
30748-29-9	FEPRAZONE.
30751-05-4	TROXIPIDE.
30781-27-2	AMADINONE.
30817-43-7	FENCLEXONIUM METILSULFATE.
30840-27-8	PRETIADIL.
30951-76-4	ETHOXAZOROTOSIDE.
30966-30-5	PIRAZOFURIN.
30910-27-1	TRELOXINATE.
30914-89-7	FLUMEXADOL.
30924-31-3	CAFAMINOL.
31002-79-6	TRIAMCINOLONE BENETONIDE.
31036-80-3	LOFEXIDINE.
31101-25-4	MIRINCAMYCIN.
31112-62-6	METRIZAMIDE.
31127-82-9	IODOXAMIC ACID.
31221-85-9	IBUVERINE.
31224-92-7	PIFOXIME.
31232-26-5	DANITRACEN.
31314-38-2	PRODIPINE.
31329-57-4	NAFTIDROFURYL.
31342-36-6	CLORAMFENICOL PANTOTENATE COMPLEX.
31352-82-6	ZOLAZEPAM.
31386-24-0	AMINDOCATE.
31386-25-1	INDOCATE.
31428-61-2	TIAMENIDINE.
31430-15-6	FLUBENDAZOLE.
31430-18-9	NOCODAZOLE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
31431-39-7	MEBENDAZOLE.
31431-43-3	CICLOBENDAZOLE.
31478-45-2	BAMNIDAZOLE.
31581-02-9	CINOXOLONE.
31598-67-9	IOZOMIC ACID.
31637-97-6	ETOFIBRATE.
31698-14-3	ANCITABINE.
31721-17-2	DUNAPRAMINE.
31729-24-5	EMPROPAZOLE.
31770-79-3	MEGLUCYCLINE.
31793-07-4	PIRPROFEN.
31828-71-4	MEXILETINE.
31842-01-0	INDOPROFEN.
31848-01-8	MORCLOFONE.
31868-18-5	MEXAZOLAM.
31879-05-7	FENOPROFEN.
31883-05-3	MORACIZINE.
31932-09-9	TICARBODINE.
31980-29-7	NICOFIBRATE.
32059-27-1	SUMETIZIDE.
32195-33-8	BISBENDAZOLE.
32211-97-6	CICLINDOLE.
32222-06-3	CALCITROL.
32269-58-0	POLIHEXANIDE.
32295-18-4	TOSIFEN.
32359-34-6	MEDIFOXAMINE.
32385-11-8	SISOMICIN.
32421-46-8	BUNAFTINE.
32447-90-8	DEXTILIDINE.
32449-92-6	GLUCUROLACTONE.
32462-30-9	OXFENICINE.
32527-55-2	TIARAMIDE.
32665-36-4	EPROZINOL.
32710-91-1	TRIFEZOLAC.
32795-44-1	ACECAINIDE.
32797-62-5	GLIPENTIDE.
32808-51-8	BUCLOXIC ACID.
32836-26-9	BUTOCTAMIDE.
32886-97-8	PIVMECILLINAM.
32887-01-7	MECILLINAM.
32909-92-5	SULFAMETROLE.
32953-89-2	RIMITEROL.
32954-43-1	PENDECAMAINE.
32986-56-4	TOBRAMYCIN.
32988-50-4	VIOMYCIN.
33005-95-7	TIAPROFENIC ACID.
33069-62-4	PACLITAXEL.
33069-61-3	AMITRAZ.
33103-22-9	ENVIOMYCIN.
33122-60-0	NORDINONE.
33124-50-4	FLUOCORTIN.
33125-97-2	ETOMIDATE.
33144-79-5	BROPERAMOLE.
33156-28-4	RAMNODIGIN.
33159-27-2	ECABET.
33178-86-8	ALIMIDINE.
33204-76-1	QUADROSILAN.
33336-58-9	DIMETHYLTUBOCURARINIUM CHLORIDE.
33342-05-1	GLIQUIDONE.
33369-31-2	ZOMEPIRAC.
33396-37-1	MEPROSCILLARIN.
33414-30-1	FTORMETAZINE.
33414-36-7	FTORPROPAZINE.
33419-42-0	ETOPOSIDE.
33453-23-5	CIPROQUAZONE.
33459-27-7	XANOXIC ACID.
33515-09-2	GONADORELIN.
33545-56-1	CICLOPRAMINE.
33588-20-4	CLIDAFIDINE.
33605-67-3	CAROLITOCIN.
33605-94-6	PIRSUDANOL.
33665-90-6	ACESULFAME.
33671-46-4	CLOTIAZEPAM.
33743-96-3	PRORIXAN.
33765-68-3	OXENDOLONE.
33779-37-2	SALPROTOSIDE.
33813-84-2	DEPRODTIL.
33817-20-8	PIVAMPICILLIN.
33876-97-0	LINSIDOMINE.
33889-69-9	SILICRISTIN.
33996-33-7	OXACEPROL.
33996-58-6	ETIRACETAM.
34024-41-4	DEBOXAMET.
34031-32-8	AURANOFIN.
34042-85-8	SUDOXICAM.
34051-33-1	TACLAMINE.
34106-48-4	FENIODIUM CHLORIDE.
34148-01-1	CLIDANAC.
34150-62-4	CALCIUM SODIUM FERRICLATE.
34161-24-5	FIPEXIDE.
34184-77-5	PROMEGESTONE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
34262-84-5	MESOCARB.
34273-10-4	SARALASIN.
34297-34-2	AMIDOXIME.
34301-55-8	ISOMETAMIDIUM CHLORIDE.
34368-04-2	DOBUTAMINE.
34427-79-7	PROXIFEZONE.
34433-65-4	LEVACETYLMETHADOL.
34444-01-4	CEFAMANDOLE.
34482-99-0	FLETAZEPAM.
34493-98-6	DIBEKACIN.
34499-95-2	TEMODOX.
34552-84-6	ISOXICAM.
34580-13-7	KETOTIFEN.
34616-39-2	FENALCOMINE.
34633-34-8	BIFLURANOL.
34645-84-6	FENCLOFENAC.
34661-75-1	URAPIDIL.
34662-67-4	COTRIPTYLINE.
34675-84-8	CETRAXATE.
34703-49-9	DROPEMPINE.
34740-13-1	PROFEXALONE.
34753-46-9	CINEPTOLANE.
34758-83-3	ZIPEPROL.
34765-98-3	ALSACTIDE.
34784-64-0	TERTATOLOL.
34787-01-4	TICARCILLIN.
34816-55-2	MOXESTROL.
34839-70-8	METIAMIDE.
34868-47-2	CARBUTEROL.
34887-52-0	FENBSOREX.
34911-55-2	AMFEBUTAMONE.
34914-39-1	RITIOMETAN.
34915-68-9	BUNITROLOL.
34919-68-7	CETAMOLOL.
34950-30-3	AZASPIRIUM CHLORIDE.
34988-41-1	CARTAZOLATE.
34976-39-1	TIOXACIN.
35035-05-3	TIMEPIDIUM BROMIDE.
35067-47-1	DROXACIN.
35100-44-8	ENDRISONE.
35115-80-7	TEPROTIDE.
35121-78-9	EPOPROSTENOL.
35135-01-4	BENAFENTRINE.
35135-68-3	CORMETASONE.
35142-66-8	HOMOPIPRAMOL.
35189-28-7	NORGESTIMATE.
35212-22-7	IPRIFLAVONE.
35265-50-0	PERAQUINSIN.
35273-86-2	GLIFLUMIDE.
35301-24-7	CEDEFINGOL.
35319-70-1	TIAZURIL.
35322-07-7	FOSAZEPAM.
35423-09-7	TESIMIDE.
35423-51-9	TISOCROMIDE.
35449-36-6	GEMCADIOL.
35452-73-4	CIPRAFAMIDE.
35457-80-8	MIDECAMYCIN.
35515-77-8	TRIXIPICURIUM IODIDE.
35523-45-6	FLUDALANINE.
35531-86-5	CARINDACILLIN.
35578-20-2	OXARBAZOLE.
35607-20-6	AVRIDINE.
35607-66-0	CEFOXITIN.
35619-65-9	TRITIOZINE.
35620-67-8	PIRDONIUM BROMIDE.
35700-23-3	CARBOPROST.
35703-32-3	CINAMETIC ACID.
35710-67-7	TRIZOXIME.
35727-72-1	ONTIANIL.
35784-73-9	FLUOTRACEN.
35775-82-7	MARIDOMYCIN.
35796-16-5	TRIMAZOSIN.
35834-26-5	ROSARAMICIN.
35838-63-2	CLOCOUMAROL.
35843-07-3	MOROCROMEN.
35846-53-8	MAITANSINE.
35898-67-4	DILAZEP.
35941-65-2	BUTRIPTYLINE.
35943-35-2	TRICRIBINE.
36067-73-9	AZEPEXOLE.
36083-47-7	SALANTEL.
36104-80-0	CAMAZEPAM.
36121-13-8	BURODILINE.
36141-82-9	DIAMFENETIDE.
36148-38-6	BESUMIDE.
36175-05-0	SODIUM PICOFOSFATE.
36199-78-7	GUAFECAINOL.
36292-69-0	KETAZOCINE.
36308-01-0	DIMEMORFAN.
36322-90-4	PIROXICAM.
36330-86-6	FENBUFEN.
36364-49-6	IMIDAZOLE SALICYLATE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
36441-41-6	LIVIDOMYCIN.
36471-39-3	NUCLOTIXENE.
36499-85-7	DICOBALT EDETATE.
36504-84-0	NICTINDOLE.
36505-82-5	PRODOLIC ACID.
36505-83-6	DECTAFLUR.
36505-84-7	BUSPIRONE.
36518-02-2	DIPROQUALONE.
36531-26-7	OXANTEL.
36590-19-9	AMOCARZINE.
36616-52-1	FENCLORAC.
36637-18-0	ETIDOCAINE.
36735-22-5	QUAZEPAM.
36740-73-5	FLUMIZOLE.
36791-04-5	RIBAVIRIN.
36798-79-6	BUDRALAZINE.
36889-15-3	BETAMICIN.
36894-69-6	LABETALOL.
36920-69-6	CEFOXAZOLE.
36921-54-7	XANTIFIBRATE.
36945-03-6	LERGOTRILE.
36950-98-6	CICLOPROFEN.
36980-34-4	GLICARAMIDE.
36983-69-4	ACTODIGIN.
37000-20-7	ZINTEROL.
37025-55-1	CARBETOCIN.
37065-29-5	MILOXACIN.
37087-04-8	TIBRIC ACID.
37091-66-0	AZLOCILLIN.
37106-97-1	BENTIROMIDE.
37115-32-5	ADINAZOLAM.
37132-72-2	FOTRETAMINE.
37148-27-9	CLEMBUTEROL.
37209-31-7	DETRALFATE.
37305-75-2	ACTAPLANIN.
37312-62-2	SERRAPEPTASE.
37321-09-8	APRAMYCIN.
37326-33-3	HYALOSIDASE.
37332-99-3	AVOPARCIN.
37340-82-2	STREPTODORNASE.
37350-58-6	METOPROLOL.
37388-31-5	DILMEFONE.
37456-21-6	TERBUCROMIL.
37470-13-8	FLAVODIC ACID.
37517-28-5	AMIKACIN.
37517-30-9	ACEBUTOLOL.
37517-33-2	ESPROQUINE.
37529-08-1	MEXOPROFEN.
37554-40-8	FLUQUAZONE.
37561-27-6	FENOVERINE.
37577-24-5	LEVOFENFLURAMINE.
37598-94-0	GLIPALAMIDE.
37612-13-6	ENCAINIDE.
37640-71-4	APRINDINE.
37669-57-1	ARFENDAZAM.
37681-00-8	COLIMAZOLINE.
37686-84-3	TERGURIDE.
37693-01-9	CLOFOCTOL.
37717-21-8	FLUROCITABINE.
37723-78-7	IOPRONIC ACID.
37750-83-7	RIMOPROGIN.
37751-39-6	CICLAZINDOL.
37753-10-9	SUFOSFAMIDE.
37782-06-4	ZAPRINAST.
37855-80-4	IPROCROLOL.
37855-92-8	AZANATOR.
37863-70-0	IOSUMETIC ACID.
37957-99-6	TIENOPRAMINE.
38070-41-8	TIODONIUM CHLORIDE.
38081-67-3	CARMANTADINE.
38083-17-9	CLIMBAZOLE.
38103-61-6	TOLAMOLOL.
38129-37-2	BICOZAMYCIN.
38194-50-2	SULINDAC.
38234-21-8	FERTIRELIN.
38274-54-3	BENURESTAT.
38304-91-5	MINOXIDIL.
38321-02-7	DEXVERAPAMIL.
38349-38-1	METRAFAZOLINE.
38363-40-5	PENBUTOLOL.
38373-63-0	ROMIDEPONE.
38452-29-8	TOLMESOXIDE.
38647-79-9	UREFIBRATE.
38668-01-8	TAURULTAM.
38677-81-5	PIRBUTEROL.
38677-85-9	FLUMEDIN.
38821-53-3	CEFRADINE.
38821-80-6	RODOCAINE.
38873-55-1	FUROBUFEN.
38916-34-6	SOMATOSTATIN.
38955-22-6	PINADOLINE.
38957-41-4	EMORFAZONE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
39087-48-4	CALCIUM CLOFIBRATE.
39099-98-4	CINAMOLOL.
39123-11-0	PITUXATE.
39133-31-8	TRIMEBUTINE.
39178-37-6	IMICARDINE.
39186-49-7	PIROLAZAMIDE.
39219-28-8	PROMESTRIENE.
39224-48-1	NITROCLOFENE.
39492-01-6	GABEXATE.
39516-21-7	TIOPROPAMINE.
39537-99-0	MICINICATE.
39544-74-6	BENZOTRIPT.
39552-01-7	BEFUNOLOL.
39562-70-4	NITRENDIPINE.
39563-28-5	CLORANOLOL.
39567-20-9	OLPIMEDONE.
39577-19-0	PICUMAST.
39633-62-0	ACLANTATE.
39640-15-8	PIBERALINE.
39685-31-9	CEFURACETIME.
39715-02-1	ENDRALAZINE.
39718-89-3	ALMINOPROFEN.
39731-05-0	CARPINDOLOL.
39754-64-8	TIPEMOXONE.
39791-20-3	NILESTROL.
39809-25-1	PENCICLOVIR.
39825-23-5	BISORCIC.
39832-48-9	TAZOLOL.
39860-99-6	PIPOTIAZINE.
39862-58-3	STRINOLINE.
39907-68-1	DOPAMANTINE.
39951-85-0	LOMETRALINE.
39978-42-2	NIFURZIDE.
40034-42-2	ROSOXACIN.
40054-69-1	ETIZOLAM.
40173-75-9	TOFETRIDINE.
40180-04-9	TIENILIC ACID.
40198-53-6	TIOXAPROFEN.
40256-09-3	FLUCETOREX.
40391-99-9	PAMIDRONIC ACID.
40507-23-1	FLUPROQUAZONE.
40507-78-6	INDANAZOLINE.
40516-48-1	TRETINOIN TOCOFERIL.
40580-59-4	GUANADREL.
40594-09-0	FLUCINDOLE.
40595-69-8	METHOPRENE.
40665-92-7	CLOPROSTENOL.
40666-16-8	FLUPROSTENOL.
40680-87-3	PIPROFUROL.
40691-50-7	TIXANOX.
40692-37-3	TISOQUONE.
40759-33-9	NOLINIUM BROMIDE.
40762-15-0	DOXEFAZEPAM.
40798-97-2	BEMESETRON.
40828-44-2	CLAZOLIMINE.
40828-45-3	AZOLIMINE.
40828-46-4	SUPROFEN.
40912-73-0	BROSOTAMIDE.
40966-79-8	SARPICILLIN.
41020-79-5	DICIRENONE.
41078-02-6	EMPROFYLLINE.
41094-89-6	TRACAZOLATE.
41113-86-4	BROMOXANIDE.
41152-17-4	MORFOREX.
41183-64-6	GALLIUM (67 GA) CITRATE.
41294-56-8	ALFACALCIDOL.
41340-25-4	ETODOLAC.
41340-39-0	IMPACARZINE.
41343-54-5	CARBALDRATE.
41385-14-2	LEUCKLUMER.
41387-02-4	LEXOFENAC.
41473-09-0	FENMETOZOLE.
41510-23-0	BIRIPERONE.
41570-61-0	TULOBUTEROL.
41575-94-4	CARBOPLATIN.
41706-61-4	POLIGLECAPRONE.
41708-72-9	TOCAINIDE.
41717-30-0	BEFURALINE.
41729-52-6	DEZAGUANINE.
41744-40-5	SULBENICILLIN.
41791-49-5	LONAPROFEN.
41826-92-0	TRERIBUTONE.
41959-67-0	BEZAFIBRATE.
41962-52-7	CEFCANEL.
41964-07-2	TOLIMIDONE.
41992-23-6	SPIROGERMANIUM.
42024-98-6	MAZATICOL.
42050-23-7	NAFETOLOL.
42061-52-9	PUMITEPA.
42110-58-7	METIOXATE.
42116-76-7	CARINDAZOLE.
42200-33-9	NADOLOL.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
42220-21-3	IODOCHOLESTEROL (131 I).
42228-92-2	ACIVICIN.
42239-60-1	TILOZEPINE.
42281-59-4	OXILORPHAN.
42293-72-1	BENCISTEINE.
42399-41-7	DILTIAZEM.
42409-79-7	PIRANDAMINE.
42408-80-0	TANDAMINE.
42408-82-2	BUTORPHANOL.
42422-68-4	TALERANOL.
42438-73-3	DENPIDAZONE.
42461-79-0	SULFONTEROL.
42465-20-3	ACEQUINOLINE.
42471-28-3	NIMUSTINE.
42583-55-1	CARMETIZIDE.
42597-57-9	RONIFIBRATE.
42779-82-8	CLOPIRAC.
42792-28-7	ISOSULPRIDE.
42794-76-3	MIDODRINE.
42835-25-6	FLUMEQUINE.
42863-81-0	LOPIRAZEPAM.
42879-47-0	PRANOLIUM CHLORIDE.
42924-53-8	NABILMETONE.
42971-09-5	VINPOCETINE.
43169-54-6	MEXRENOATE POTASSIUM.
43200-80-2	ZOPICLONE.
43210-67-9	FENBENDAZOLE.
45066-03-1	ETOFORMIN.
46263-35-8	NAFOMINE.
46464-11-3	MECBENTINE.
46803-61-0	SALETAMIDE.
46817-91-8	VILOXAZINE.
47029-84-5	DAZADROL.
47062-97-3	PARGOLOL.
47128-12-1	CYCLURAMINE.
47136-86-6	CLOSIRAMINE.
47141-42-4	LEVOBUNOLOL.
47166-67-6	OCTRIPTYLINE.
47206-15-5	ENPRAZEPINE.
47254-05-7	SPIROXEPIN.
47419-52-3	DEXPROXIBUTENE.
47420-26-0	TRIXOLANE.
47487-22-9	ACRIDOREX.
47543-85-7	PRENOXDIAZINE.
47562-09-3	LORAJMINE.
47662-15-7	SUXEMERID.
47682-41-7	FLUPIMAZINE.
47739-98-0	CLOCAPRAMINE.
47747-56-8	TALAMPICILLIN.
47806-92-6	DIFENOXIMIDE.
47917-41-9	PRIMYCIN.
47931-60-6	TOSACTIDE.
47931-85-1	CALCITONIN, SALMON.
48561-02-4	NIVIMEDONE.
48562-28-9	FENOFIBRATE.
48564-55-9	FAZADINIUM BROMIDE.
48897-36-3	RIMEXOLONE.
49745-00-8	AMIDANTEL.
49755-67-1	IOGLICIC ACID.
49763-96-4	STIRIPENTOL.
49785-74-2	SUPIDIMIDE.
49847-97-4	PRODENDATE POTASSIUM.
49864-70-2	AZACLORZINE.
50264-69-2	LONIDAMINE.
50264-78-3	XINIDAMINE.
50270-32-1	BUFEZOLAC.
50270-33-2	ISOFEZOLAC.
50336-55-2	MEZILAMINE.
50366-32-0	FLUNAMINE.
50370-12-2	CEFADROXIL.
50432-78-5	PEMERID.
50435-25-1	NIMIDANE.
50454-68-7	TOLNIDAMINE.
50465-39-9	TOCOFIBRATE.
50516-43-3	NOFECAINIDE.
50526-07-7	XILOBAM.
50583-06-7	HALONAMINE.
50589-47-1	AMAFOLONE.
50629-82-8	HALOMETASONE.
50650-76-5	PIROCTONE.
50673-97-7	COLESTOLONE.
50679-08-8	TERFENADINE.
50700-72-6	VECURONIUM BROMIDE.
50708-95-7	TINABINOL.
50801-44-0	CORTISUZOL.
50838-36-3	TOLCICLATE.
50846-45-2	BACMECILLINAM.
50847-11-5	IBUDILAST.
50892-23-4	PIRINIXIC ACID.
50924-49-7	MIZORIBINE.
50925-79-6	COLESTIPOL.
50935-04-1	CARUBICIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
50935-71-2	MOCIMYCIN.
50972-17-3	BACAMPICILLIN.
51012-32-9	TIAPRIDE.
51022-69-6	AMICINONIDE.
51022-71-0	NABILONE.
51022-74-3	IOTROXIC ACID.
51022-75-4	CLIPROFEN.
51022-76-5	SULINDAZOLE.
51022-77-6	ETAZOLATE.
51025-85-5	ARBEKACIN.
51037-30-0	ACIPIMOX.
51037-88-8	TUCLAZEPAM.
51047-24-6	DIMETIPIRIUM BROMIDE.
51146-56-6	DEXIBUPROFEN.
51152-91-1	BUTACLAMOL.
51154-48-4	FIBRACILLIN.
51213-99-1	CLAMFENUR.
51234-26-7	BENOXAPROFEN.
51284-14-3	AMSACRINE.
51321-79-0	SPARFOSIC ACID.
51322-75-9	TIZANIDINE.
51333-22-3	BUDESONIDE.
51354-32-6	NISTERIME.
51395-42-7	BUTEDRONIC ACID.
51411-04-2	ALRESTATIN.
51460-26-5	CARBAZOCHROME SODIUM SULPHONATE.
51481-61-9	CIMETIDINE.
51481-62-0	BUCAINIDE.
51481-65-3	MEZLOCILLIN.
51493-19-7	CINPRAZOLE.
51497-09-7	TENAMFETAMINE.
51527-19-6	TIANAFAC.
51543-39-6	ESFLURBIPROFEN.
51579-82-9	AMFENAC.
51598-60-8	CIMETROPIUM BROMIDE.
51627-14-6	CEFATRIZINE.
51627-20-4	CEFAPAROLE.
51782-05-1	CEFROXADINE.
51781-06-7	CARTEOLOL.
51803-78-2	MIMESULIDE.
51832-67-2	PICOSENZIDE.
51878-98-3	GLIAMILIDE.
51878-99-4	IOSERIC ACID.
51899-01-5	OCRASE.
51934-76-0	IOMORINIC ACID.
51940-44-4	PIPEMIDIC ACID.
51940-78-4	ZETIDOLINE.
51953-95-8	DOXAPROST.
51987-65-6	DESGLUGASTRIN.
52042-01-0	ELFAZEPAM.
52042-24-7	DIPROXADOL.
52061-73-1	VALDIPROMIDE.
52080-67-6	CHLOROPREDNISONE.
52093-21-7	MICRONOMICIN.
52128-35-6	TRIMETREXATE.
52157-83-2	MINDOPERONE.
52157-91-2	GALOSEMIDE.
52196-22-2	KETOTREXATE.
52212-02-9	PIPECURONIUM BROMIDE.
52214-84-3	CIPROFIBRATE.
52231-20-6	CEFROTIL.
52232-67-4	TERIPARATIDE.
52247-68-6	CICLOXOLONE.
52279-58-0	METOGEST.
52279-59-1	MOXNIDAZOLE.
52304-85-5	LOTUCAINE.
52340-25-7	DEXCLAMOL.
52365-63-6	DIPIVEFRINE.
52391-89-6	FLUTEMAZEPAM.
52396-99-0	BELARZINE.
52403-19-7	IPROXAMINE.
52406-01-6	UREDOPOS.
52430-65-6	GLUSALURIDE.
52443-21-7	GLUCAMETACIN.
52463-83-9	PINAZEPAM.
52466-60-7	FLUNARIZINE.
52479-85-3	EXIFONE.
52485-79-7	BUPRENORPHINE.
52549-17-4	PRANOPROFEN.
52618-67-4	TIOPERIDONE.
52645-53-1	PERMETHRIN.
52658-53-4	BENFOSFORMIN.
52742-40-2	ALIMADOL.
52758-02-8	BENZAPRINOXIDE.
52795-02-5	TAMETRALINE.
52814-39-8	METESCULETOL.
52829-30-8	PROFLAZEPAM.
52832-91-4	XIMOMLINE.
52867-74-0	ZOLOPERONE.
52867-77-3	FLUZOPERINE.
52934-83-6	NANAFROCIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
52942-31-1	ETOPERIDONE.
52994-25-9	GLICONDAMIDE.
53003-10-4	SALINOMYCIN.
53003-81-9	IVARMIDD.
53034-85-6	IBUTEROL.
53066-26-5	LEXITHROMYCIN.
53076-26-9	MOXAPRINDINE.
53078-44-7	CAPROXAMINE.
53066-13-6	DEXINDOPROFEN.
53123-88-9	SIROLIMUS.
53131-74-1	CIAPILOME.
53164-05-9	ACEMETACIN.
53179-07-0	NISOXETINE.
53179-10-5	FLUPERAMIDE.
53179-11-6	LOPERAMIDE.
53179-12-7	CLOPIMOZIDE.
53179-13-8	PIRPENDONE.
53228-00-5	CETOCYCLINE.
53230-10-7	MEFLOQUINE.
53251-94-8	PINAVERIUM BROMIDE.
53267-01-9	CIBENZOLINE.
53341-49-4	PONFIBRATE.
53370-90-4	EXALAMIDE.
53394-92-6	DRINIDENE.
53400-67-2	TIOURNAMIDE.
53403-97-7	PYRIDOFYLLINE.
53415-46-6	FEPTRIZOL.
53449-58-4	CICLONICATE.
53583-79-2	SULTOPRIDE.
53597-27-6	FENDOSAL.
53597-28-7	FLUDAZONIUM CHLORIDE.
53609-96-1	CLOXITESTOSTERONE.
53643-48-4	VINDESINE.
53648-05-8	IBUPROXAM.
53648-55-8	DEZOCINE.
53657-16-2	DIMEPRANOL.
53684-49-4	BUPETOLOL.
53714-56-0	LEUPRORELIN.
53716-44-2	ROCIVERINE.
53716-46-4	AMILOPAM.
53716-48-6	MEXERONINE.
53716-49-7	CARPROFEN.
53716-50-0	OXFENDAZOLE.
53731-36-5	FLOREDIL.
53736-61-9	CROMITRILE.
53772-83-1	ZUCLOPENTHIXOL.
53783-83-8	TROMANTADINE.
53806-85-9	RITROPIRRONIUM BROMIDE.
53808-87-0	TETROXOPRIM.
53808-88-1	LONAZOLAC.
53813-83-6	SURICLONE.
53861-02-2	OXETACILLIN.
53862-80-9	ROXOLONIUM METILSULFATE.
53862-81-0	DETAJMIUM BITARTRATE.
53862-12-5	LODOXAMIDE.
53902-12-8	TRANILAST.
53910-25-1	PENTOSTATIN.
53943-85-7	LETOSTEINE.
53956-34-0	FLOXACRINE.
53973-98-1	POLIGEENAN.
53983-00-9	NIBROXANE.
53983-67-2	TIFLOREX.
53994-73-3	CEFACLOR.
54017-73-1	MURODERMIN.
54022-49-0	VINFORMIDE.
54024-22-5	DESOGESTREL.
54029-12-8	ALBENDAZOLE OXIDE.
54048-10-1	ETONOGESTREL.
54053-23-9	CINEPAZIC ACID.
54053-24-0	AMIFLOVERINE.
54053-25-1	AMITEROL.
54053-26-2	AZAPTOZINE.
54053-27-3	BICLOFIBRATE.
54053-28-4	CAMIVERINE.
54053-29-5	CICARPERONE.
54053-30-8	CILTOPRAZINE.
54053-31-9	CISMADINONE.
54053-32-0	CLOBETASONE.
54053-33-1	CLOXESTRADIOL.
54053-34-2	COFISATIN.
54053-35-3	DOFAMIUM CHLORIDE.
54053-36-4	ETOLOREX.
54053-37-5	ETOPRINDOLE.
54053-38-6	FENAPERONE.
54053-39-7	FENETRADIL.
54053-40-0	FENOXEDIL.
54053-41-1	FEPROMIDE.
54053-42-2	FERRIC (59 FE) CITRATE INJECTION.
54053-44-4	FERROPOLIMALER.
54053-45-5	FETOXILATE.
54053-46-6	FEXICAINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
54083-47-7	GEMAZOCINE.
54083-48-8	HEPTAVERINE.
54083-49-9	METAMFAZONE.
54083-50-2	MOFLOVERINE.
54083-51-3	NADOXOLOL.
54083-52-4	PITOFENONE.
54083-53-5	PROPAFENONE.
54083-54-6	REPROTEROL.
54083-55-7	SULFACLORAZOLE.
54083-56-8	SULOCTIDIL.
54083-57-9	SUXETHONIUM CHLORIDE.
54083-58-0	TOPRILIDINE.
54083-22-6	ZORUBICIN.
54110-25-7	PIROZADIL.
54120-61-5	PROSTALENE.
54141-67-6	CINFENINE.
54143-54-3	SEPAZONIUM CHLORIDE.
54143-55-4	FLECAINIDE.
54147-26-3	TEBATIZOLE.
54182-57-9	CARBOMER.
54182-58-0	SUCRALFATE.
54182-59-1	SULGLICOTIDE.
54182-60-4	TOLPOVIDONE (131 I).
54182-61-5	VISTATOLON.
54182-62-6	POLACRILIN.
54182-63-7	MACROSALB (131 I).
54182-65-9	AZALOMYCIN.
54187-04-1	RILMENIDINE.
54188-38-4	METRALINDOLE.
54230-37-1	CIMATEROL.
54277-47-3	MACROSALB (99M TC).
54340-56-8	MEPTAZINOL.
54340-59-9	QUINCARBATE.
54340-61-3	BROVANEXINE.
54340-62-4	BUFURALOL.
54340-63-5	CLOFEVERINE.
54340-64-6	FLUCIPRAZINE.
54340-65-7	FURSULCILLIN.
54340-66-8	SUBENDAZOLE.
54341-02-5	PIFLUTIXOL.
54360-48-0	ETRETINATE.
54376-01-9	TIPETROPIUM BROMIDE.
54400-59-8	BUTAMISOLE.
54419-31-7	FENIROFIBRATE.
54504-70-0	ETOFYLLINE CLOFIBRATE.
54510-20-2	IODOCETILIC ACID (123 I).
54531-52-1	POLYBENZARSOL.
54533-85-6	NIZOFENONE.
54582-27-7	DIVABUTEROL.
54657-96-4	NIFURALIDE.
54657-98-6	SERFIBRATE.
54663-47-7	TIBEZONIUM IODIDE.
54739-18-3	FLUVOXAMINE.
54739-19-4	CLOVOXAMINE.
54785-02-3	ADAMEXINE.
54816-11-0	CEFSUMIDE.
54824-17-8	MITONAFIDE.
54824-20-3	PINAFIDE.
54867-56-0	BUFROLIN.
54870-27-8	FOSFONET SODIUM.
54870-28-9	MEGLITINIDE.
54910-89-3	FLUOXETINE.
54935-03-4	SULISATIN.
54965-21-9	ALBENDAZOLE.
54965-22-9	FLUSPIPERONE.
55028-70-1	ARBAPROSTIL.
55077-30-0	ACLATONIUM NAPADISILATE.
55079-83-9	ACITRETIN.
55096-26-9	NALMEFENE.
55102-44-8	BOFUMUSTINE.
55134-19-9	NARASIN.
55142-85-3	TICLOPIDINE.
55149-05-8	PIROLATE.
55150-67-9	CLIMIQUALINE.
55165-22-5	BUTOCROLOL.
55242-55-2	PROPENTOFYLLINE.
55242-77-8	TRIAFUNGIN.
55248-23-2	NEBIDRAZINE.
55268-74-1	PRAZIQUANTEL.
55268-75-2	CEFUROXIME.
55273-05-7	IMPROMIDINE.
55285-35-3	BUTANIXIN.
55285-45-5	PIRIFIBRATE.
55289-58-1	DOXANINOL.
55294-15-0	MUZOLIMINE.
55297-96-5	TIAMULIN.
55299-10-0	PIVOXAZEPAM.
55299-11-1	IQUINDAMINE.
55300-29-3	ANTRAFENINE.
55313-67-2	PIPRAMADOL.
55432-15-0	PIRINIDAZOLE.
55453-87-7	ISOXEPAC.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
55477-19-6	IPROZILAMINE.
55482-89-8	GUACETISAL.
55485-20-6	ACAPRAZINE.
55530-41-1	ROTAMICILLIN.
55689-65-1	OXEPINAC.
55694-83-2	PENTIZIDONE.
55694-98-0	CICLAFRINE.
55721-11-4	SECALCIFEROL.
55726-47-1	ENOCITABINE.
55769-65-8	BUTOBENDINE.
55779-08-1	ASTROMICIN.
55779-18-6	ARPRINOCID.
55837-13-3	PICLOPASTINE.
55837-14-4	BUTAVERINE.
55837-15-5	BUTOPRPRINE.
55837-16-6	ENTSUFON.
55837-17-7	BRINDOXIME.
55837-18-8	BUTIBUFEN.
55837-19-9	EXAPRIOLOL.
55837-20-2	HALOFUGINONE.
55837-21-3	PIPOXIZINE.
55837-22-4	PRIBECAINE.
55837-23-5	TEFLUTIXOL.
55837-24-6	BISFENAZONE.
55837-25-7	BUFLOMEDIL.
55837-26-8	FENPERATE.
55837-27-0	PIRETANIDE.
55837-28-0	TIAFIBRATE.
55837-29-1	TIROPRAMIDE.
55843-86-2	MIROPROFEN.
55845-78-8	XENPENTONE.
55870-64-9	PENTISOMICIN.
55902-02-8	ISAMFAZONE.
55902-03-7	MEBENOSIDE.
55902-04-8	SITOFIBRATE.
55905-53-8	CLEBOPRIDE.
55926-23-3	GUANCLOFINE.
55937-99-0	BECLOBRATE.
55975-02-3	PIRBENICILLIN.
55981-09-4	NITAZOXANIDE.
55985-32-5	MICARDIPINE.
55986-43-1	CETABEN.
56030-50-3	TREPIPAM.
56030-54-7	SUFENTANIL.
56066-19-4	ADITEREN.
56066-63-8	ADITOPRIME.
56079-81-3	ROPITOIN.
56087-11-7	DEXTRANOMER.
56097-80-4	VALCONAZOLE.
56119-09-1	FURODAZOLE.
56180-94-0	ACARBOSE.
56187-47-4	CEFAZEDONE.
56187-89-4	XIMOPROFEN.
56208-01-6	PIFARNINE.
56211-40-6	TORASEMIDE.
56211-43-9	TAMETICILLIN.
56219-57-9	ARILDONE.
56227-35-5	POLIDEXIDE SULFATE.
56281-36-6	MOTRETINIDE.
56283-74-0	LAIDLOMYCIN.
56287-74-2	AFLOQUALONE.
56290-94-9	MEDROXALOL.
56302-13-7	SATRANIDAZOLE.
56341-06-3	MABUTEROL.
56355-17-0	ZOLIPROFEN.
56377-79-8	NOSHEPTIDE.
56383-05-2	ZINDOTRINE.
56391-65-0	OCTAZAMIDE.
56391-66-1	METILMICIN.
56420-45-2	EPIRUBICIN.
56430-99-0	FLUMECINOL.
56433-44-4	OXAPROTULINE.
56463-68-4	ISOPRAZONE.
56481-43-7	BETAZINDOL.
56488-58-5	TIZOLEMIDE.
56488-59-6	TERBUFIBROL.
56488-60-9	GLUTAURINE.
56488-61-0	FLUBEPRIDE.
56518-41-3	BRODIMOPRIM.
56562-79-9	IOGLUNIDE.
56592-32-6	EFROTOMYCIN.
56605-16-4	SPIROMUSTINE.
56611-65-5	OXAGRELATE.
56699-41-9	ALUFLURANE.
56699-42-0	REPROMICIN.
56699-43-1	CANBISOL.
56993-13-1	MOCIPRAZINE.
56993-15-3	TERCIPRAZINE.
56995-65-9	ROSAPROSTOL.
56717-18-1	ISOTIQUIMIDE.
56736-21-0	NITRAQUAZONE.
56741-95-8	BROPIRIMINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
56775-88-3	ZIMELDINE.
56784-39-5	OZOLINONE.
56795-20-4	CEFMETAZOLE.
56824-20-5	AMIPRILOSE.
56917-29-4	FLURETOFEN.
56959-18-3	GLUSOFERRON.
56969-22-3	OXAPADOL.
56980-93-9	CELIPROLOL.
56983-13-2	FUROFENAC.
56995-20-1	FLUPIRTINE.
57009-15-1	ISOCROMIL.
57010-31-8	TIAPAMIL.
57014-02-5	CALCITONIN, EEL.
57021-61-1	ISONIXIN.
57041-67-5	DESFLURANE.
57067-46-9	ISAMOXOLE.
57076-71-8	DENBUFYLLINE.
57083-89-3	PERALOPRIDE.
57109-80-7	DIPOTASSIUM CLORAZEPATE.
57132-53-3	PROGLUMETACIN.
57144-56-6	ISOPROFEN.
57149-07-2	NAFTOPIDIL.
57227-17-5	SEVOPRAMIDE.
57237-67-5	TIMOPRAZOLE.
57262-94-9	SETIPTILINE.
57296-63-6	INDAGRINONE.
57333-96-7	TACALCITOL.
57381-26-7	IRSOGLADINE.
57435-85-6	PIMETAZEPAM.
57459-72-0	SULEPAROID SODIUM.
57460-41-0	TALINOLOL.
57474-29-0	NIFURDOXINE.
57475-17-9	BROVINCAMINE.
57479-68-6	SULMEPRIDE.
57526-81-5	PRENALTEROL.
57548-79-5	PICAFIBRATE.
57558-44-8	SECOVERINE.
57574-09-1	AMINEPTINE.
57576-44-0	ACLARUBICIN.
57645-05-3	SERMETACIN.
57647-79-7	BENCLONIDINE.
57648-21-2	TIMPERONE.
57653-26-6	FENCIBAM.
57653-27-7	DROPRENILAMINE.
57653-28-8	IBAZOCINE.
57653-29-9	COGAZOCINE.
57680-55-4	GLEPTOFERRON.
57680-56-5	SUCROSOFATE.
57694-27-6	VINPOLINE.
57726-65-5	NUFENOXOLE.
57734-69-7	SEQUIFENADINE.
57773-63-4	TRIPTORELIN.
57773-65-6	DESLORELIN.
57775-26-5	SULTOSILIC ACID.
57775-28-7	PREFENAMATE.
57775-29-8	CARAZOLOL.
57781-15-4	HALOPRIEDONE.
57801-81-7	BROTIZOLAM.
57808-63-6	CICLOXILIC ACID.
57808-64-7	TOLIMIFOS.
57808-65-8	CLOSANTEL.
57808-66-9	DOMPERIDONE.
57821-32-6	MENFEGOL.
57847-66-5	CEFEDROLOR.
57916-70-8	ICLAZEPAM.
57925-54-1	NAPRODOXIME.
57935-49-6	TIOMERGINE.
57982-77-1	BUSERELIN.
57982-78-2	BUDIPINE.
57998-68-2	DIAZIQUONE.
58001-44-8	CLAVULANIC ACID.
58012-63-9	FURCLOPROFEN.
58019-65-1	NABAZENIL.
58066-85-6	MILTEFOSINE.
58095-31-1	SULBENOX.
58152-03-7	ISEPAMICINE.
58158-77-3	AMANTANIUM BROMIDE.
58166-83-9	CAFEDRINE.
58182-63-1	ITANOXONE.
58186-27-9	IDEBENONE.
58239-89-7	MOXAZOCINE.
58261-91-0	MEFENIDIL.
58298-92-3	COLIMECYCLINE.
58306-30-2	FEBANTEL.
58313-74-8	TREPTILAMINE.
58337-35-2	ELLIPTINIUM ACETATE.
58338-59-3	DINALIN.
58409-59-9	BUCUMOLOL.
58416-00-5	PROTIOFATE.
58433-11-7	TILOMISOLE.
58473-73-7	DROBUNLINE.
58473-74-8	CINROMIDE.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
58462-49-5	OLVANIL.
58497-00-0	PROCINONIDE.
58503-82-5	AZIPRAMINE.
58503-83-6	PENIROLOL.
58524-83-7	CIPROCINONIDE.
58546-54-6	BESIGOMSIN.
58581-89-8	AZELASTINE.
58602-66-7	AMINOPTERIN SODIUM.
58662-84-3	MECLONAZEPAM.
58665-96-6	CEFAZAFLUR.
58691-89-6	NOMEGESTROL.
58703-77-8	SULPROSAL.
58703-78-9	CETHEXONIUM CHLORIDE.
58712-09-9	TRAXANOX.
58757-61-2	TRIMEXILINE.
58761-87-8	SUDEXANOX.
58765-21-2	CICLOTIZOLAM.
58805-38-2	AMINCROMIL.
58832-68-1	CLOXIMATE.
58857-02-6	AMISPUTICIN.
58892-17-0	ROXADIMATE.
58944-73-3	SINEFUNGIN.
58957-92-9	IDARUBICIN.
58970-76-6	UBENIMEX.
58994-96-0	RANIMUSTINE.
59009-93-7	CARBURAZEPAM.
59010-44-5	PRIZIDILOL.
59017-64-0	IOXAGLIC ACID.
59032-40-5	DISULERGINE.
59040-30-1	NAFAZATROM.
59091-65-5	DELERGOTRILE.
59110-35-9	PAMATOLOL.
59122-46-2	MISOPROSTOL.
59126-97-1	HALOXAZOLAM.
59160-29-1	LIDOFENIN.
59170-23-9	BEVANTOLOL.
59179-95-2	LORZAFONE.
59184-78-0	BUQUINERAN.
59209-97-1	ZAFULEPTINE.
59227-89-3	LAUROCAPRAM.
59252-58-4	GUANAZODINE.
59277-89-3	ACICLOVIR.
59338-93-1	ALIZAPRIDE.
59429-50-4	TAMITINOL.
59467-70-8	MIDAZOLAM.
59467-77-5	CLIMAZOLAM.
59497-39-1	NAFLOCORT.
59519-81-7	ETIPROSTON.
59843-91-3	IMEXON.
59853-74-6	TEROXIRONE.
59708-52-0	CARFENTANIL.
59721-29-7	CAMOSTAT.
59729-31-6	LORCAINIDE.
59729-33-8	CITALOPRAM.
59729-37-2	FEXINIDAZOLE.
59733-66-7	BUTINAZIN.
59753-23-7	BENDERIZINE.
59755-92-7	ENOLICAM.
59767-12-3	OCTASTINE.
59776-90-8	DUPRACETAM.
59794-18-2	PAULOMYCIN.
59795-73-1	ENILOSPIRONE.
59803-98-4	BRIMONIDINE.
59804-37-4	TENOXICAM.
59831-63-9	DOCONAZOLE.
59831-64-0	MILENPERONE.
59831-65-1	HALOPEMIDE.
59840-71-0	PITENODIL.
59859-58-4	FENOXETINE.
59865-13-3	CICLOSPORIN.
59869-36-0	CIPREFADOL.
59937-28-9	MALOTILATE.
59939-16-1	CIRAZOLINE.
60019-19-4	IOTETRIC ACID.
60019-20-7	BRAZERGOLINE.
60023-92-9	ROXIBOLONE.
60070-14-6	MARIPTILINE.
60084-10-8	TIAZOFURINE.
60085-78-1	CLOPIPAZAN.
60104-29-2	CLOFEZONE.
60104-30-5	ORAZAMIDE.
60135-06-0	MERCUMATILIN SODIUM.
60135-22-0	FLUMIZOXONIDE.
60136-25-6	EPERVUDINE.
60142-96-3	GABAPENTIN.
60173-73-1	ARFALASIN.
60175-95-3	OMONASTEINE.
60200-06-8	CLORSULON.
60207-31-0	AZACONAZOLE.
60239-56-9	ALMADRATE SULFATE.
60245-23-9	FUPRAZOLE.
60282-87-3	GESTODENE.
60324-60-6	NOMELIDINE.
60325-46-4	SULPROSTONE.
60400-62-2	PROXICROMIL.
60560-33-0	PIVACIDIL.
60569-19-8	PROPIVERINE.
60575-32-8	AMEZEPINE.
60576-13-8	PIKETOPROFEN.
60607-34-3	OXATOMIDE.
60607-35-4	TOPTERONE.
60607-68-3	INDENOLOL.
60628-96-6	BIFONAZOLE.
60628-98-0	LOMBAZOLE.
60643-86-9	VIGABATRIN.
60653-25-0	ORPANOXIN.
60662-16-0	BINEDALINE.
60662-18-2	ENICLOBRATE.
60662-19-3	NILPRAZOLE.
60668-24-8	ALAFOSFALIN.
60719-82-6	ALAPROCLATE.
60719-84-8	AMRINONE.
60719-86-0	IMAFEN.
60719-87-1	DEXIMAFEN.
60731-46-6	ELCATONIN.
60734-67-4	NISBUTEROL.
60762-57-4	PIRLINDOLE.
60763-49-7	CINNARIZINE CLOFIBRATE.
60784-46-6	ELMUSTINE.
60812-35-3	DECOMINOL.
60925-61-3	CEFORANIDE.
60929-23-9	INDELOXAZINE.
60940-34-3	EBSELEN.
60999-89-2	CLOFURAC.
61036-62-2	TEICOPLANIN.
61115-26-4	ALUSULF.
61197-73-7	LOPRAZOLAM.
61220-09-7	TIOPINAC.
61263-35-2	METENEPROST.
61270-58-4	CEFONICID.
61318-90-9	SULCONAZOLE.
61325-80-2	FLUMEZAPINE.
61337-67-5	MIRTAZAPINE.
61343-44-0	TOCOFENOXATE.
61379-65-5	RIFAPENTINE.
61380-40-3	LOFENTANIL.
61400-69-7	PARCONAZOLE.
61413-54-5	ROLIPRAM.
61422-45-5	CARMOFUR.
61477-95-0	MONALAZONE DISODIUM.
61477-96-1	PIPERACILLIN.
61477-97-2	DAZOLICINE.
61484-38-6	PAREPTIDE.
61557-12-8	PENPROSTENE.
61563-18-6	SOQUINOLOL.
61570-80-9	TIOXIDAZOLE.
61622-34-2	CEFOTIAM.
61681-08-1	LEVODOBUTAMINE.
61764-81-2	CLOROPERONE.
61822-36-4	DIPROBUTINE.
61825-94-3	OXALIPLATIN.
61864-30-0	BENOLIZIME.
61869-07-6	DOMIODOL.
61869-08-7	PAROXETINE.
61887-16-9	DULOFIBRATE.
61914-43-0	GLUCURONAMIDE.
61951-89-3	TIXOCORTOL.
61980-92-9	BEMPENOLISIN.
62013-04-1	DIRITHROMYCIN.
62030-89-0	DUOPERONE.
62052-97-5	BUMEPIDIL.
62087-72-3	PENTIGETIDE.
62087-98-1	TRILETIDE.
62107-94-2	PLAURACIN.
62226-20-0	BUTOPROZINE.
62265-68-3	QUINFAMIDE.
62305-86-6	OROTIRELIN.
62380-23-8	CINECROMEN.
62435-42-1	PERFOSFAMIDE.
62473-79-4	TENILOXAZINE.
62510-56-9	PICILOREX.
62524-99-6	DELPROSTENATE.
62559-74-4	FROXIPROST.
62571-86-2	CAPTOPRIL.
62571-87-3	MINAXOLONE.
62587-73-9	CEFSULODIN.
62613-82-5	OXIRACETAM.
62625-18-7	PIROGLURIDE.
62658-63-3	BOPINDOLOL.
62658-88-2	MESUDIPINE.
62666-20-0	PROGABIDE.
62816-98-2	ORMAPLATIN.
62851-43-8	ZIDOMETACIN.
62882-99-9	TINAZOLINE.
62883-00-5	IOPAMIDOL.
62893-19-0	CEFOPERAZONE.
62894-89-7	TIFLAMIZOLE.
62904-71-5	DOXPICOMINE.
62928-11-4	IPROPLATIN.
62973-76-6	AZANIDAZOLE.
62989-33-7	SAPROPTERIN.
62992-61-4	ETERSALATE.
63014-98-0	DELANTERONE.
63075-47-8	FEPRADINOL.
63119-27-7	ANITRAZAFEN.
63245-28-3	ETIFEMIN.
63269-31-8	CIRAMADOL.
63329-53-3	LOBENZARIT.
63358-49-6	ASPOXICILLIN.
63388-37-4	DECLENPERONE.
63394-05-8	PLAFIBRIDE.
63469-19-2	APALCILLIN.
63472-04-8	METBUFEN.
63516-07-4	FLUTROPIUM BROMIDE.
63521-85-7	ESORUBICIN.
63527-52-6	CEFOTAXIME.
63547-13-7	ADRAFINIL.
63551-77-9	SFERICASE.
63585-09-1	FOSCARNET SODIUM.
63590-64-7	TERAZOSIN.
63610-08-2	INDOBUFEN.
63612-50-0	NILUTAMIDE.
63619-84-1	TROXIFENE.
63638-91-5	BROFAROMINE.
63659-12-1	CICLOPROLOL.
63659-18-7	BETAXIOLOL.
63667-16-3	DRIBENDAZOLE.
63675-72-9	NISOLDIPINE.
63758-79-2	INDALPINE.
63824-12-4	ALICONAZOLE.
63834-83-3	GUAIETOLIN.
63927-85-7	BENTEMAZOLE.
63941-73-1	IOGLUCOL.
63941-74-2	IOGLUCOMIDE.
63958-80-7	NONATHYMULIN.
63969-64-9	ARTEMISININ.
63998-94-8	TIBALOSIN.
64000-73-3	PILDRALAZINE.
64019-03-0	DOQUALAST.
64039-89-8	NICAFENINE.
64057-48-3	CIXIFUNGIN.
64063-57-6	PICOTRIN.
64098-32-4	ZAPIZOLAM.
64099-44-1	QUISULTAZINE.
64118-85-1	AZIMEXON.
64179-54-0	TIMOPIBRATE.
64204-55-3	ESAPRAZOLE.
64211-45-6	CIXICONAZOLE.
64212-22-2	NAFIMIDONE.
64218-02-6	PLAUNOTOL.
64221-86-9	IMIPENEM.
64224-21-1	OLTIPRAZ.
64228-81-5	ATRACURIUM BESILATE.
64241-34-6	CADRALAZINE.
64294-94-6	TROPABAZATE.
64294-95-7	SETASTINE.
64314-52-9	MEDORUBICIN.
64318-79-2	GEMEPROST.
64379-93-7	CINFLUMIDE.
64398-09-4	TERFLURANOL.
64420-40-2	ETIBENDAZOLE.
64440-87-6	CIDEFERRON.
64498-66-9	ILALAFIBRATE.
64508-49-6	SOFALCONE.
64552-16-5	ECIPRAMIDIL.
64552-17-6	BUTOFILOLOL.
64557-97-7	CINOQUIDOX.
64603-91-4	GABOXADOL.
64638-07-9	BROMAFETAMINE.
64708-54-3	BEPRIDIL.
64743-08-4	DICLOFURIME.
64743-09-5	NITRAFUDAM.
64748-79-4	AZUMOLENE.
64755-06-2	QUINOLIUM BROMIDE.
64779-98-2	IROLAPRIDE.
64795-23-9	ETISULERGINE.
64795-35-3	MESULERGINE.
64840-90-0	EPERISONE.
64860-67-9	VALPERINOL.
64862-96-0	AMETANTRONE.
64872-76-0	BUTOCONAZOLE.
64952-97-2	LATAMOXEF.
65002-17-7	BUCILLAMINE.
65008-93-7	BOMETOLOL.
65052-63-3	CEFETAMET.
65057-90-1	TALISOMYCIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
65085-01-0	CEFMENOXIME.
65089-17-0	PIRINOXIL.
65141-46-0	NICORANDIL.
65184-10-3	TEOPROLOL.
65195-55-3	ABAMECTIN.
65222-35-7	PAZELLIPTINE.
65236-29-6	PRENOVERINE.
65271-80-9	MITOXANTRONE.
65277-42-1	KETOCONAZOLE.
65286-58-7	VINCANTRIL.
65307-12-2	CEFETRIZOLE.
65329-79-5	MOBENZOXAMINE.
65350-86-9	MECIADANOL.
65400-85-3	ETHYL CARFLUZEPATE.
65415-41-0	NICOCORTONIDE.
65415-42-1	OXABREXINE.
65429-87-0	SPIRENDOLOL.
65472-88-0	NAFTIFINE.
65509-24-2	MAROXEPIN.
65509-66-2	CITATEPINE.
65511-41-3	NANTRADOL.
65517-27-3	METACLAZEPAM.
65569-29-1	CLOXACEPRIDE.
65571-69-8	LOFEMIZOLE.
65606-61-3	DICIFERRON.
65617-86-9	AVIZAFONE.
65634-39-1	PENTAFLURANOL.
65646-68-6	FENRETINIDE.
65655-59-6	PACRINOLOL.
65708-37-4	FLUFOSAL.
65717-97-7	DISOFENIN.
65761-24-2	SULFAMAZONE.
65776-67-2	AFUROLOL.
65807-02-5	GOSERELIN.
65847-85-0	MORNIFLUMATE.
65864-46-0	CIADOX.
65886-71-7	FAZARABINE.
65896-16-4	ROMIFIDINE.
65899-72-1	ALOZAFONE.
65899-73-2	TIOCONAZOLE.
65928-58-7	DIENOGEST.
65950-99-4	PIRQUINOZOL.
66085-59-4	NIMODIPINE.
66093-35-4	TALMETOPRIM.
66104-22-1	PERGOLIDE.
66108-95-0	ICHEXOL.
66112-59-2	TEMURITIDE.
66148-78-5	TEMOCILLIN.
66172-75-6	VEROFYLLINE.
66195-31-1	IBOPAMINE.
66203-00-7	CAROCAINIDE.
66203-94-9	MUROCAINIDE.
66208-11-5	IFOXETINE.
66211-92-5	DETORUBICIN.
66215-27-8	CYROMAZINE.
66264-77-5	SULFINALOL.
66292-62-2	BUTILFENIN.
66304-03-8	EPICAINIDE.
66327-51-3	PUZLOCILLIN.
66357-35-5	RANITIDINE.
66364-73-6	EMPIROLINE.
66376-36-1	ALENDRONIC ACID.
66451-08-7	BORNAPROLOL.
66474-36-0	CERIVITRIL.
66508-53-0	FOSMIDOMYCIN.
66516-09-4	MERTIATIDE.
66529-17-7	MIDAGLIZOLE.
66532-85-2	PROPACETAMOL.
66535-86-2	LOTRIFEN.
66556-74-9	NABITAN.
66564-14-5	CINTAPRIDE.
66564-15-6	ALEPRIDE.
66564-16-7	CICLOSIDOMINE.
66575-29-9	COLFORSIN.
66608-04-6	ROLGAMIDINE.
66608-32-0	IMCARBOFOS.
66635-85-6	AMIROLAC.
66644-81-3	VERAPIRIDE.
66711-21-5	APRACLONIDINE.
66722-44-9	BISOPROLOL.
66734-12-1	BUTOPAMINE.
66759-48-6	DESOCRIPTINE.
66778-37-8	ORCONAZOLE.
66785-41-5	TINOFEDRINE.
66813-51-2	ALEXITOL SODIUM.
66827-12-1	ALMAGATE.
66834-24-0	CIANOPRAMINE.
66866-63-5	LUTRELIN.
66871-58-5	LIDAMIDINE.
66877-67-6	DOMOPREDNATE.
66887-96-5	PROPIKACIN.
66898-60-0	TALOSALATE.
66898-62-2	TALNIFLUMATE.
66934-18-7	FLUNOXAPROFEN.
66960-34-7	METKEFAMIDE.
66969-81-1	TIODAZOSIN.
66981-73-5	TIANEPTINE.
66984-59-6	CINFENOAC.
67037-37-0	EFLORNITHINE.
67040-53-3	TIPROSTANIDE.
67102-87-8	PENTOMONE.
67110-79-6	LUPROSTIOL.
67121-78-0	FLUPERLAPINE.
67165-56-4	DICLOFENSINE.
67199-66-0	DANIQUIDONE.
67227-55-8	PRIMIDOLOL.
67227-56-9	FENOLDOPAM.
67254-61-3	PERADOXIME.
67268-43-3	GIPARMEN.
67330-25-0	UFENAMATE.
67337-44-4	SARMOXILLIN.
67392-67-4	DROSPIRENONE.
67452-97-5	ALCLOMETASONE.
67469-69-6	VANOXERINE.
67489-39-8	TALMETACIN.
67542-41-0	IMURACETAM.
67577-23-5	PIVENFRINE.
67579-24-2	BROMADOLINE.
67696-82-6	ACRIHELLIN.
67699-40-5	VINZOLIDINE.
67700-30-5	FURAPROFEN.
67765-04-2	ENEFEXINE.
67793-71-9	DRAQUINOLOL.
67915-31-5	TERCONAZOLE.
68020-77-9	CARPRAZIDIL.
68170-69-4	VINEPIDINE.
68170-97-8	PALMOXIRIC ACID.
68206-94-0	CLORICROMEN.
68247-85-9	PEPLOMYCIN.
68252-19-7	PIRMENOL.
68284-69-5	DISOBUTAMIDE.
68289-14-5	METRAZIFONE.
68291-97-4	ZONISAMIDE.
68298-00-0	PIFINABIN.
68302-57-8	AMLEXANOX.
68318-20-7	VERILOPAM.
68367-52-2	SORBINIL.
68373-14-6	SULBACTAM.
68377-82-4	AROTINOLOL.
68379-03-3	CLOFILIUM PHOSPHATE.
68401-81-0	CEFTIZOXIME.
68475-40-1	CIPROPRIDE.
68475-42-3	ANAGRELIDE.
68497-62-1	PRAMIRACETAM.
68548-99-2	OXINDANAC.
68550-75-4	CILOSTAMIDE.
68556-59-2	PIROSULPRIDE.
68562-41-4	MECASERMIN.
68567-30-6	SOLPECAINOL.
68576-86-3	ENCIPRAZINE.
68616-83-1	PENTAMORPHONE.
68635-50-7	DELOXOLONE.
68677-06-5	LORAPRIDE.
68693-11-8	MODAFINIL.
68741-18-4	BUTERIZINE.
68767-14-6	LOXOPROFEN.
68786-66-3	TRICLABENDAZOLE.
68788-56-7	ETACEPRIDE.
68797-29-5	PIPRADIMADOL.
68844-77-9	ASTEMIZOLE.
68859-20-1	INSULIN ARGINE.
68876-74-4	ZOCAINONE.
68903-57-6	METIOPRIM.
68959-20-6	DISIQUONIUM CHLORIDE.
69004-03-1	TOLTRAZURIL.
69014-14-8	TIOTIDINE.
69017-99-6	IPEXIDINE.
69047-39-8	BINFIBRATE.
69049-73-6	NEDOCROMIL.
69118-25-8	CINEPAXADIL.
69123-90-6	FIACITABINE.
69123-98-4	FIALURIDINE.
69175-77-5	LOBENDOLE.
69217-67-0	SUMACETAMOL.
69304-47-8	BRIVUDINE.
69365-65-7	FENOCTIMINE.
69372-19-6	PEMIROLAST.
69373-95-1	DIPROTEVERINE.
69381-94-8	FENPROSTALENE.
69387-87-7	TINSULPRIDE.
69408-81-7	AMONAFIDE.
69414-41-1	PIRDICILLIN.
69425-13-4	PRIFELONE.
69429-84-1	CILOBAMINE.
69479-26-1	PIREPOLOL.
69539-53-3	ETINTIDINE.
69542-93-4	PIVAGABINE.
69558-55-0	THYMOPENTIN.
69624-60-8	NELEZAPRINE.
69635-63-8	AMIPIZONE.
69648-38-0	BUTAPROST.
69648-40-4	OXOPROSTOL.
69655-05-6	DIDIANOSINE.
69712-56-7	CEFOTETAN.
69739-16-6	CEFODIZIME.
69756-53-2	HALOFANTRINE.
69815-38-9	PROXORIPHAN.
69900-72-7	TRIMOPROSTIL.
69907-17-1	INDOPANOLOL.
69915-82-4	LOXANAST.
69975-86-6	DOXOFYLLINE.
70009-66-4	OXALINAST.
70018-51-8	QUAZINONE.
70132-50-2	PIMONIDAZOLE.
70161-09-0	DEMOCONAZOLE.
70181-03-2	DAZOPRIDE.
70260-53-6	MINODIDILOL.
70288-86-7	IVERMECTIN.
70312-00-4	TOLNAPERSINE.
70356-09-1	AVOBENZONE.
70374-39-9	LORNOXICAM.
70458-92-3	PEFLOXACIN.
70458-96-7	NORFLOXACIN.
70529-35-0	ITAZIGREL.
70541-17-2	OXAZAFONE.
70590-58-8	ETRABAMINE.
70639-48-4	ETISOMICIN.
70641-51-9	EDELFOSINE.
70667-26-4	ORNOPROSTIL.
70696-66-1	NAPIRIMUS.
70704-03-9	VINCONATE.
70724-25-3	CARBAZERAN.
70774-25-3	LEURUBICIN.
70788-27-1	ACEFYLLINE CLOFIBROL.
70788-28-2	FLUROFAMIDE.
70788-29-3	TOLFAMIDE.
70797-11-4	CEFPIRAMIDE.
70801-02-4	FLUTROLIME.
70833-07-7	PRIFUROLINE.
70895-45-3	TIPROPIDIL.
70976-76-0	BIFEPRAMIDE.
70977-46-7	EFLUMAST.
71002-09-0	PIRAZOLAC.
71010-45-2	GLISINDAMIDE.
71027-13-9	ECLANAMINE.
71031-15-7	CATHINONE.
71048-67-6	LEVONANTRADOL.
71048-68-9	CEFTIOXIDE.
71079-19-1	TIMEGADINE.
71097-23-9	ZOFICONAZOLE.
71097-63-1	NILEPROST.
71116-82-0	TIAPROST.
71119-10-3	LOTIFAZOLE.
71119-11-4	BUCINDOLOL.
71119-12-5	DINAZAFONE.
71125-38-7	MELOXICAM.
71136-71-1	OCTAPINOL.
71195-56-7	BROCLEPRIDE.
71195-57-8	BICIFADINE.
71195-58-9	ALFENTANIL.
71205-22-6	ALMASILATE.
71251-02-0	OCTENIDINE.
71251-04-2	SURFOMER.
71276-43-2	QUADAZOCINE.
71316-84-2	FLURADOLINE.
71320-77-9	MOCLOBEMIDE.
71461-18-2	TONAZOCINE.
71475-35-9	LOZILUREA.
71486-22-1	VINORELBINE.
71576-40-4	APTAZAPINE.
71620-89-8	REBOXETINE.
71628-96-1	MENOGARIL.
71653-63-9	RIODIPINE.
71675-85-9	AMISULPRIDE.
71680-63-2	DAMETRALAST.
71731-58-3	TIQUIZIUM BROMIDE.
71767-13-0	IOTASUL.
71771-80-9	DENOPAMINE.
71827-56-0	CLEMEPROL.
71923-29-0	FLUDOXOPONE.
71923-34-7	CLODOXOPONE.
71963-77-4	ARTEMETHER.
71980-00-6	BREMAZOCINE.
72005-59-4	VADOCAINE.
72080-05-0	CONORFONE.
72131-33-0	SULOTROBAN.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
72141–57–2	LOSULAZINE.
72238–02–9	RETELLIPTINE.
72301–78–1	VIROXIME
72301–78–1	ZINVIROXIME.
72301–79–2	ENVIROXIME.
72324–18–6	STEPRONIN.
72332–33–3	PROCATEROL.
72420–38–3	ACIFRAN.
72432–03–2	MIGLITOL.
72432–10–1	ANIRACETAM.
72444–62–3	PERAFENSINE.
72444–63–4	LODIPERONE.
72467–44–8	PICLONIDINE.
72479–26–6	FENTICONAZOLE.
72481–99–3	BROCRINAT.
72492–12–7	SPIZOFURONE.
72496–41–4	PIRARUBICIN.
72522–13–5	EPTAZOCINE.
72558–82–8	CEFTAZIDIME.
72559–06–9	RIFABUTIN.
72573–82–1	GADOTERIC ACID.
72619–34–2	BERMOPROFEN.
72702–95–5	PONALRESTAT.
72714–74–0	VIQUALINE.
72714–75–1	IVOQUALINE.
72732–56–0	PIRITREXIM.
72803–02–2	DARODIPINE.
72808–81–2	TEPIRINDOLE.
72822–12–9	DAPIPRAZOLE.
72822–56–1	AZALOXAN.
72830–39–8	OXMETIDINE.
72895–88–6	ELTENAC.
72956–09–3	CARVEDILOL.
72973–11–6	FORFENIMEX.
73080–51–0	REPIRINAST.
73090–70–7	EPIROPRIM.
73105–03–0	NEPTAMUSTINE.
73121–56–9	ENPROSTIL.
73278–54–3	LAMTIDINE.
73334–07–3	IOPROMIDE.
73384–59–5	CEFTRIAXONE.
73384–60–8	SULMAZOLE.
73445–46–2	FENFLUMIZOL.
73514–87–1	FOSARILATE.
73573–42–9	RESCIMETOL.
73573–87–2	FORMOTEROL.
73573–88–3	MEVASTATIN.
73590–58–6	OMEPRAZOLE.
73590–85–9	UFIPRAZOLE.
73647–73–1	VIPROSTOL.
73684–69–2	MIROSAMICIN.
73725–85–6	LIDANSERIN.
73747–20–3	SULVERAPRIDE.
73758–06–2	INDORENATE.
73771–04–7	PREDNICARBATE.
73790–28–0	ENILCONAZOLE.
73803–48–2	TRIPAMIDE.
73815–11–9	CIMOXATONE.
73865–18–6	NARDETEROL.
73873–87–7	ILOPROST.
73931–96–1	DENZIMOL.
73963–72–1	CILOSTAZOL.
74011–58–8	ENOXACIN.
74014–51–0	ROKITAMYCIN.
74050–20–7	HYDROCORTISONE ACEPONATE.
74050–96–9	KETANSERIN.
74103–06–3	KETOROLAC.
74129–03–6	TEBUQUINE.
74131–77–4	TICABESONE.
74150–27–9	PIMOBENDAN.
74168–08–4	LOSMIPROFEN.
74176–31–1	ALFAPROSTOL.
74191–85–8	DOXAZOSIN.
74220–07–8	SPIROFENONE.
74258–86–9	ALACEPRIL.
74512–12–2	OMDCONAZOLE.
74513–62–9	TRIMEGESTONE.
74517–42–3	DITERCALINIUM CHLORIDE.
74517–78–6	INDECAINIDE.
74531–98–7	TIOXAMAST.
74604–76–3	ENOXAMAST.
74627–35–3	CIANERGOLINE.
74639–40–0	DOCARPAMINE.
74709–54–9	VINDEBURNOL.
74738–24–2	RECAINAM.
74772–77–3	CIGLITAZONE.
74790–08–2	SPIROPLATIN.
74817–61–1	MURABUTIDE.
74863–84–6	ARGATROBAN.
74912–19–9	NABOCTATE.
74978–16–8	MAGALDRATE.
75018–71–2	TAUROSELCHOLIC ACID.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
75078–91–0	TEMAROTENE.
75139–06–9	TETRONASIN.
75176–37–3	ZOFENOPRILAT.
75184–94–0	FENPRINAST.
75219–46–4	ATRIMUSTINE.
75330–75–5	LOVASTATIN.
75345–27–6	PEGALDESLEUKIN.
75345–27–6	POLIDRONIUM CHLORIDE.
75358–37–1	LINOGLIRIDE.
75437–14–8	MILVERINE
75438–57–2	MOXONIDINE.
75444–64–3	FLUMERIDONE.
75444–65–4	PIRENPERONE.
75458–65–0	TIENOCARBINE.
75464–11–8	BUTANTRONE.
75481–73–1	CEFMINOX.
75522–73–5	DAZIDAMINE.
75530–68–6	NILVADIPINE.
75558–90–6	AMPEROZIDE.
75616–02–3	OLOZAFONE.
75616–03–4	CIPRAZAFONE.
75626–99–2	TOBUTEROL.
75659–07–3	DILEVALOL.
75689–93–9	IMANEXIL.
75695–93–1	ISRADIPINE.
75696–02–5	CINOLAZEPAM.
75706–12–6	LEFLUNOMIDE.
75748–50–4	ANCAROLOL.
75755–07–6	PIRIDRONIC ACID.
75820–08–5	ZIDAPAMIDE.
75841–82–6	MOPIDRALAZINE.
75847–73–3	ENALAPRIL.
75859–04–0	RIMCAZOLE.
75867–00–4	FENFLUTHRIN.
75889–62–2	FOSTEDIL.
75917–92–9	IOFETAMINE (123 I).
75949–60–9	ISOXAPROLOL.
75949–61–0	PAFENOLOL.
75963–52–9	NUCLOMEDONE.
75985–31–8	CIAMEXON.
75991–50–3	DAZEPINIL.
75992–53–9	MOXADOLEN.
76002–75–0	DAZOQUINAST.
76053–16–2	RECLAZEPAM.
76145–76–1	TOMOXIPROLE.
76166–82–6	RAMOPLANIN.
76252–06–7	NICAINOPROL.
76263–13–3	FLUZINAMIDE.
76301–19–4	TIMEFURONE.
76330–71–7	ALTANSERIN.
76352–13–1	TROPAPRIDE.
76420–72–9	ENALAPRILAT.
76448–31–2	PROPENIDAZOLE.
76470–66–1	LORACARBEF.
76496–68–9	LEVOPROTILINE.
76497–13–7	SULTAMICILLIN.
76530–44–4	AZAMULIN.
76536–74–6	BUQUITERINE.
76541–72–5	MIFOBATE.
76547–98–3	LISINOPRIL.
76568–02–0	FLOSEQUINAN.
76584–70–8	VALPROATE SEMISODIUM.
76596–57–1	BRIDIATEROL.
76600–30–1	NOJIRITINE.
76610–84–9	CEFBUPERAZONE.
76612–20–9	LORTALAMINE.
76631–45–3	NAPACTADINE.
76631–46–4	DETOMIDINE.
76639–94–6	FLORFENICOL.
76676–34–1	OXPRENOATE POTASSIUM.
76696–97–4	ROFELODINE.
76712–82–8	HISTRELIN.
76716–80–4	FLUPRAZINE.
76732–75–7	PICARTAMIDE.
76743–10–7	LUCARTAMIDE.
76812–98–1	TRIGEVOLOL.
76824–35–6	FAMOTIDINE.
76894–77–4	DAZMEGREL.
76932–56–4	NAFARELIN.
76953–65–6	DRAMEDOLOL.
76956–02–0	LAVOLTIDINE.
76963–41–2	NIZATIDINE.
76990–56–2	MILACEMIDE.
77005–28–8	TEXACROMIL.
77016–85–4	PLOMESTANE.
77086–21–6	DIZOCILPINE.
77164–20–6	LEVOMOPROLOL.
77175–51–0	CROCONAZOLE.
77181–69–2	SORIVUDINE.
77191–36–7	NEFIRACETAM.
77197–49–9	QUINEZAMIDE.
77257–42–2	STILONIUM IODIDE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
77267–05–9	RIOPROSTIL.
77267–89–9	XORPHANOL.
77337–76–9	ACAMPROSATE.
77342–26–8	TEFENPERATE.
77360–52–2	CEFTIOLENE.
77372–61–3	VALPROATE PIVOXIL.
77400–65–8	ASOCAINOL.
77416–65–0	EXEPANOL.
77472–98–1	PIPEQUALINE.
77502–27–3	TOLPADOL.
77518–07–1	AMIFLAMINE.
77519–25–6	DEXETOZOLINE.
77526–67–7	MANOZODIL.
77590–92–2	SUPROCLONE.
77590–96–6	FLORDIPINE.
77599–17–8	PANCAMFENE.
77639–66–8	PRIMAMIDE.
77650–95–4	PROTERGURIDE.
77658–97–0	ANAXIRONE.
77671–31–9	ENOXIMONE.
77679–27–7	IOBENGUANE (131 I).
77695–52–4	ECASTOLOL.
77727–10–7	NACARTOCIN.
77858–21–0	VELARESOL.
77862–92–1	FALIPAMIL.
77989–60–7	METIBRIDE.
78088–46–7	TABILAUTIDE.
78090–11–6	PICOPRAZOLE.
78092–65–6	RISTIANOL.
78110–38–0	AZTREONAM.
78113–36–7	ROMURTIDE.
78166–92–0	FILENADOL.
78186–33–1	FUMOXICILLIN.
78186–34–2	BISANTRENE.
78208–13–6	ZOLENZEPINE.
78218–09–4	DAZOXIBEN.
78266–06–5	MEBROFENIN.
78273–80–0	ROXATIDINE.
78299–53–3	TIACRILAST.
78370–13–6	EMOPAMIL.
78371–66–1	BUCROMARIONE.
78372–27–7	STIROCAMIDE.
78410–57–8	OCILTIDE.
78415–72–2	MILRINONE.
78421–12–2	DROXICAINIDE.
78459–19–5	ADIMOLOL.
78466–70–3	ZOMEBAZAM.
78466–98–5	RAZOBAZAM.
78467–68–2	LOCICORTOLONE DICIBATE.
78490–14–5	DICRESULENE.
78512–63–7	PIMELAUTIDE.
78541–97–6	PIQUINDONE.
78613–35–1	AMOROLFINE.
78628–80–5	TERBINAFINE.
78649–41–9	IOMEPROL.
78664–73–0	POSATIRELIN.
78718–52–2	BENEXATE.
78755–81–4	FLUMAZENIL.
78756–61–3	ALIFEDRINE.
78771–13–8	SARMAZENIL.
78967–07–4	MOFEZOLAC.
78994–24–9	ERMELOXIFENE.
78997–40–7	PIRSOTINOL.
79089–94–6	FANETIZOLE.
79071–15–1	TAZASUBRATE.
79094–20–5	DALTROBAN.
79130–64–6	ANSOXETINE.
79152–85–5	ACODAZOLE.
79201–80–2	VERADOLINE.
79201–85–7	PICENADOL.
79211–10–2	IOSIMIDE.
79211–34–0	IOTRISIDE.
79243–67–7	ROSTEROLONE.
79253–92–2	TAZIPRINONE.
79262–46–7	SAVOXEPIN.
79282–39–6	RILOZAPONE.
79296–77–4	ESAFLOXACIN.
79313–75–0	SOPROMIDINE.
79350–37–1	CEFIXIME.
79380–43–3	NOCLOPROST.
79404–91–4	CILOFUNGIN.
79449–96–2	CABASTINE.
79449–99–3	ICOSPIRAMIDE.
79455–30–4	NICARAVEN.
79457–19–9	SINTROPIUM BROMIDE.
79457–22–4	BIPENAMOL.
79457–23–5	MIOFLAZINE.
79516–59–0	LEVOCABASTINE.
79549–73–5	PIRLIMYCIN.
79594–24–4	SOMANTADINE.
79617–96–2	SERTRALINE.
79619–31–1	FLAVODILOL.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
79844–90–9	VEBUPLOXACIN.
79860–72–3	FLEROXACIN.
79572–88–1	PIRIPROST.
79700–61–1	DOPROPIDIL.
79700–63–3	FRONEPIDIL.
79712–55–3	TAZIFYLLINE.
79770–24–4	IOTROLAN.
79778–41–9	MERIDRONIC ACID.
79781–96–6	RILAPINE.
79784–22–8	BARUCAMIDE.
79794–75–5	LORATADINE.
79798–39–3	KETORFANOL.
79855–88–2	TREQUINSIN.
79874–76–3	DELMOPINOL.
79902–63–9	SIMVASTATIN.
79944–58–4	IDAZOXAN.
79982–71–6	PIMETACIN.
80012–43–7	EPINASTINE.
80018–06–0	FENGABINE.
80108–27–9	CILADOPA.
80125–14–0	REMOXIPRIDE.
80195–36–4	CEFDALOXIME.
80210–62–4	CEFPODOXIME.
80214–83–1	ROXITHROMYCIN.
80225–28–1	TILSUPROST.
80263–73–6	ECLAZOLAST.
80266–49–9	FURAFYLLINE.
80294–25–3	MEXAFYLLINE.
80343–63–1	SUFOTIDINE.
80349–58–2	PANURAMINE.
80370–57–6	CEFTIOFUR.
80387–98–8	DIFEMERINE.
80410–36–2	FEZOLAMINE.
80428–29–1	MAFOPRAZINE.
80433–71–2	CALCIUM LEVOFOLINATE.
80471–63–2	EPOSTANE.
80529–93–7	GADOPENTETIC ACID.
80573–03–1	IPSALAZIDE.
80573–04–2	BALSALAZIDE.
80576–83–6	EDATREXATE.
80595–73–9	ACEFLURANOL.
80614–21–7	NICOGRELATE.
80614–27–3	MIDAZOGREL.
80621–81–4	RIFAXIMIN.
80680–05–3	TIVANIDAZOLE.
80680–06–4	TEFLUDAZINE.
80743–06–4	DIOXADILOL.
80755–51–7	BUNAZOSIN.
80763–86–6	GLUNICATE.
80809–81–0	DOCEBENONE.
80830–42–8	RENTIAPRIL.
80844–07–1	ETOFENPROX.
80876–01–3	INDOLAPRIL.
80879–63–4	EMIGLITATE.
80880–90–6	TELENZEPINE.
80883–55–2	ENVIRADENE.
80937–31–1	FLOSULIDE.
81026–63–3	ENISOPROST.
81043–56–3	METRENPERONE.
81045–33–2	IODECIMOL.
81045–50–3	PIVOPRIL.
81093–37–0	PRAVASTATIN.
81098–60–4	CISAPRIDE.
81103–11–9	CLARITHROMYCIN.
81167–19–0	IMILOXAN.
81329–71–7	MODECAINIDE.
81377–02–8	SEGLITIDE.
81382–51–6	PENTIAPINE.
81403–80–7	ALFUZOSIN.
81409–90–7	CABERGOLINE.
81424–67–1	CARACEMIDE.
81428–04–8	TALTRIMIDE.
81447–78–1	LEVLOFEXIDINE.
81447–79–2	DEXLOFEXIDINE.
81447–80–5	DIPRAFENONE.
81478–25–3	LOMEVACTONE.
81486–22–8	NIPRADILOL.
81523–49–1	VANEPRIM.
81525–10–2	NAFAMOSTAT.
81528–80–5	DALBRAMINOL.
81571–28–0	VINLEUCINOL.
81584–08–7	XIBENOLOL.
81600–06–8	VINTRIPTOL.
81656–30–6	TIFLUADOM.
81689–57–0	AMISTREPLASE.
81674–79–5	QUAIMESAL.
81703–42–6	BENDACALOL.
81732–65–2	BAMBUTEROL.
81792–35–0	TEOPRANITOL.
81801–12–9	KAMOTEROL.
81840–15–5	VESNARINONE.
81845–44–5	CIPROSTENE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
81872–10–8	ZOFENOPRIL.
81907–78–0	BATEBULAST.
81988–16–3	MERGOCRIPTINE.
81982–32–3	ALPIROPRIDE.
82089–34–5	CILASTATIN.
82090–67–3	SOMATIREM.
82101–10–8	FLEROBUTEROL.
82114–19–0	AMFLUTIZOLE.
82117–51–9	CINUPERONE.
82140–22–5	ETOLOTIFEN.
82159–09–9	EPALRESTAT.
82168–26–1	ADAFENOXATE.
82190–91–8	FLUFYLLINE.
82190–92–9	FLOTREMIZINE.
82190–93–0	ITREMIZINE.
82209–39–0	PIRAXELATE.
82219–78–1	CEFUZONAM.
82227–39–2	PIBAXIZINE.
82230–03–3	CARBETIMER.
82230–53–3	GIRISOPAM.
82230–52–9	MOXIRAPRINE.
82279–57–0	ZINC ACETATE, BASIC.
82410–32–0	GANCICLOVIR.
82413–20–5	DROLOXIFENE.
82509–56–6	PIROXICILLIN.
82547–58–9	CEFTERAM.
82571–53–7	OZAGREL.
82580–22–2	DITIOMUSTINE.
82626–01–5	ALPIDEM.
82626–48–0	ZOLPIDEM.
82650–83–7	TENILAPINE.
82664–20–8	FLURITHROMYCIN.
82666–82–4	SULOSEMIDE.
82821–47–4	MABUPROFEN.
82834–16–0	PERINDOPRIL.
82924–03–6	PENTOPRIL.
82964–04–3	TOLRESTAT.
82969–25–1	TAZANOLAST.
83015–26–3	TOMOXETINE.
83059–56–7	ZABICIPRIL.
83150–76–9	GICTREOTIDE.
83153–39–3	TIPRINAST.
83166–17–0	TAMPRAMINE.
83184–43–4	MIFENTIDINE.
83200–08–2	EPROXINDINE.
83200–09–3	DEMBREXINE.
83200–10–6	AMIPAMIL.
83275–56–3	TIRACIZINE.
83366–66–9	NEFAZODONE.
83380–47–6	OFLOXACIN.
83395–21–6	RIDAZOLOL.
83435–66–9	DELAPRIL.
83455–48–5	BROMERGURIDE.
83471–41–4	PINCAMIDE.
83480–29–9	VOGLIBOSE.
83482–77–3	VIMMEGALLATE.
83519–04–4	ILMOFOSINE.
83573–53–9	TIZABRIN.
83602–05–5	SPIRAPRILAT.
83625–35–6	AMEBUCORT.
83646–97–3	INOCOTERONE.
83647–97–6	SPIVAPRIL.
83656–38–6	IPRAMIDIL.
83669–23–0	MOLFARNATE.
83712–60–1	DERBROTIDE.
83784–21–8	MENABITAN.
83805–11–2	FLOCALCITRIOL.
83863–79–0	FLORIFENINE.
83880–70–0	DEXAMETHASONE ACEFURATE.
83881–51–0	CETIRIZINE.
83903–06–4	LUPITIDINE.
83905–01–5	AZITHROMYCIN.
83928–76–1	GEPIRONE.
83930–13–6	SOMATORELIN.
83991–25–7	AMBASILIDE.
83997–19–7	ATAPROST.
84057–84–1	LAMOTRIGINE.
84057–95–4	ROPIVACAINE.
84057–96–5	FLUSOXOLOL.
84071–15–8	RAMIXOTIDINE.
84086–42–6	ROQUINIMEX.
84145–89–1	ALMOXATONE.
84145–90–4	NAPOXADOL.
84203–09–8	TRIFENAGREL.
84225–95–6	RACLOPRIDE.
84226–12–0	ETICLOPRIDE.
84233–61–4	NEBOSTEINE.
84243–58–3	IMAZODAN.
84252–03–9	ERYTHROMYCIN STINOPRATE.
84290–27–7	TUCARESOL.
84371–65–3	MIFEPRISTONE.
84379–13–6	BRETAZENIL.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
84386–11–8	BAXITOZINE.
84392–17–6	XENALIPIN.
84408–37–7	DESCICLOVIR.
84449–90–1	RALOXIFENE.
84490–12–0	PIROXIMONE.
84611–23–4	ERDOSTEINE.
84625–59–2	DOTAREZINE.
84625–61–6	ITRACONAZOLE.
84629–61–8	DARENZEPINE.
84697–21–2	ZINDOLMAZOLE.
84697–22–3	TUBULOZOLE.
84845–57–6	RITIPENEM.
84845–75–0	NIPEROTIDINE.
84878–61–5	MADURAMICIN.
84880–03–5	CEFPIMIZOLE.
84901–45–1	DOURACETAM.
84957–29–9	CEFPIROME.
84957–30–2	CEFQUINOME.
84982–75–4	FLUTOMIDATE.
85053–46–9	SURICAINIDE.
85076–06–8	AXAMOZIDE.
85118–42–9	LUFURADOM.
85118–43–0	FLUPROPYLLINE.
85118–44–1	MINOCROMIL.
85125–49–1	BICLODIL.
85136–71–6	TILISOLOL.
85166–20–7	CICLOTROPIUM BROMIDE.
85175–67–3	ZATEBRADINE.
85181–40–4	TROPANSERIN.
85197–77–9	TIPREDANE.
85247–76–3	DAGAPAMIL.
85247–77–4	RONIPAMIL.
85320–67–6	ERICOLOL.
85320–68–9	AMOSULALOL.
85392–79–6	INDANIDINE.
85419–85–5	SUNAGREL.
85441–60–7	QUINAPRILAT.
85441–61–8	QUINAPRIL.
85443–48–7	BENCIANOL.
85465–82–3	THYMOTRINAN.
85466–18–8	THYMOCARTIN.
85505–64–2	VAPIPROST.
85604–00–8	ZALTIDINE.
85622–93–1	TEMOZOLOMIDE.
85622–95–3	MITOZOLOMIDE.
85656–24–6	FUREGRELATE.
85673–87–6	REVENAST.
85691–74–3	PIRMAGREL.
85702–89–2	TAZEPROFEN.
85721–33–1	CIPROFLOXACIN.
85750–38–5	EROCAINIDE.
85750–39–6	ETILEFRINE PIVALATE.
85754–59–2	AMBAMUSTINE.
85760–74–3	QUIMPIROLE.
85856–54–6	MOVELTIPRIL.
85866–89–8	PRECLAMOL.
85989–07–9	BUDOTITANE.
85977–49–7	TAUROMUSTINE.
86024–64–8	QUINACAINOL.
86042–50–4	CISTINEXINE.
86048–40–0	QUAZOLAST.
86111–26–4	ZINDOXIFENE.
86140–10–5	NERAMINOL.
86168–78–7	SERMORELIN.
86181–42–2	TEMELASTINE.
86189–69–7	FELODIPINE.
86197–47–9	DOPEXAMINE.
86215–41–3	BROXITALAMIC ACID.
86273–15–9	LENAMPICILLIN.
86273–92–9	TOLUFAZEPAM.
86304–28–1	BUCICLOVIR.
86315–52–8	ISOMAZOLE
86347–14–0	MIEDETOMIDINE.
86348–96–3	FLUNOPROST.
86365–92–6	TRAZOLOPRIDE.
86386–73–4	FLUCONAZOLE.
86393–37–5	AMIFLOXACIN.
86401–95–8	METHYLPREDNISOLONE ACEPONATE.
86433–40–1	TERFLAVOXATE.
86434–57–3	BEPERIDIUM IODIDE.
86487–54–1	SETOPERONE.
86541–75–6	BENAZEPRIL.
86541–78–6	BENAZEPRILAT.
86627–15–8	ARONEXIL.
86627–50–1	LODINEXIL.
86636–93–3	NEFLUMOZIDE.
86641–76–1	DIBROSPIDIUM CHLORIDE.
86662–54–6	BIMIZOLAST.
86696–86–8	TENILSETAM.
86695–87–9	AGANODINE.
86696–88–0	FRABUPROFEN.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
86780-90-7	ARANIDIPINE.
86811-09-8	LITOXETINE.
86811-58-7	FLUAZUFION.
86860-51-5	EPANOLOL.
86914-11-8	TOLGABIDE.
86939-10-9	INDATRALINE.
87034-87-5	BAMALUZOLE.
87051-13-6	TOSULUR.
87051-43-2	RITANSERIN.
87051-46-5	BUTANSERIN.
87056-78-8	QUINAGOLIDE.
87071-16-7	ARGLOFEHIN.
87116-72-1	TIMOBESONE.
87129-71-3	APMOLOL.
87151-85-7	SPIRADOLINE.
87178-42-5	DOSERGIOSIDE.
87233-61-2	EMEDASTINE.
87269-59-8	NAXAPROSTENE.
87269-97-4	RAMIPRILAT.
87333-19-5	RAMIPRIL.
87344-06-7	AMTOLMETIN GUACIL.
87495-31-6	DISOXARIL.
87549-36-8	PARCETASAL.
87556-66-9	CLOTICASONE.
87611-28-7	MELQUINAST.
87626-56-9	MITOFLAXONE.
87638-04-8	CARUMONAM.
87646-53-1	LODAZECAR.
87679-37-8	TRANDOLAPRIL.
87679-71-8	TRANDOLAPRILAT.
87691-91-6	TIOSPIRONE.
87719-32-2	ETARDTENE.
87721-62-8	FLESTOLOL.
87726-17-8	PANIPENEM.
87729-89-3	SEGANSERIN.
87760-53-0	TANDOSPIRONE.
87771-40-2	IOVERSOL.
87784-12-1	OFORNINE.
87806-31-3	POFIMERI SODIUM.
87810-58-8	FOSTRECIN.
87848-99-5	ACRIVASTINE.
87936-75-2	TAZADOLENE.
87940-60-1	EPROBEMIDE.
87952-98-5	MESPIRENONE.
88040-23-7	CEFEPIME.
88041-40-1	LEMIDOSUL.
88053-05-8	CINOXOPAZIDE.
88058-88-2	NAXAGOLIDE.
88069-67-4	PILSICAINIDE.
88107-10-2	TOMELUKAST.
88124-26-9	ADOSOPINE.
88124-27-0	ETAZEPINE.
88133-11-3	BEMITRADINE.
88150-42-9	AMLODIPINE.
88199-75-1	SEVITROPIUM MESILATE.
88255-01-0	NETOBIMIN.
88296-61-1	MEDORINONE.
88296-62-2	TRANSCAINIDE.
88303-60-0	LOSOXANTHONE.
88321-09-9	ALOXISTATIN.
88426-32-8	URSULCHOLIC ACID.
88426-33-9	BUPARVAQUONE.
88430-50-6	BERAPROST.
88431-47-4	CLOMOXIR.
88495-63-0	ARTESUNATE.
88578-07-6	IMOXITEROL.
88579-39-9	TASULDINE.
88660-47-3	EPICRIPTINE.
88669-04-9	TROSPECTOMYCIN.
88678-31-3	LIRANAFTATE.
88768-40-5	CILAZAPRIL.
88852-12-4	LIMAPROST.
88859-04-5	MAFOSFAMIDE.
88931-51-5	CLINPROST.
88939-40-6	SEMORIPHONE.
88980-20-6	MEXIPROSTIL.
89163-44-0	CINAPROXEN.
89194-77-4	BISARAMIL.
89197-32-0	EFAROXAN.
89213-87-6	CARPEHTIDE.
89303-63-9	ATIPROSIN.
89366-50-4	SALMETEROL.
89371-37-9	IMIDAPRIL.
89383-13-1	SOMIDOBOVE.
89391-50-4	IMRESTAT.
89419-40-9	MOSAPRAMINE.
89482-00-8	ZALTOPROFEN.
89565-68-4	TROPISETRON.
89613-77-4	MEZACOPRIDE.
89622-90-2	BRINAZARONE.
89651-00-3	VOXERGOLIDE.
89662-30-6	DETIRELIX.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
89667-40-3	ISBOGREL.
89672-11-7	CIOTERONEL.
89767-59-9	SALMISTEINE.
89778-26-7	TOREMIFENE.
89781-55-5	ROLAFAGREL.
89786-04-9	TAZOBACTAM.
89796-99-6	ACECLOFENAC.
89797-00-2	IOPENTOL.
89838-96-0	OCTIMIBATE.
89875-86-5	TIFLUCARBINE.
89943-82-8	CICLETANINE.
89987-06-4	TILUDRONIC ACID.
90055-97-3	TIENOXOLOL.
90101-16-9	DROXICAM.
90103-92-7	ZABICIPRILAT.
90104-48-6	DOREPTIDE.
90139-06-3	CILAZAPRILAT.
90162-60-0	ISBUFYLLINE.
90182-92-6	ZACOPRIDE.
90207-12-8	SULIGRINAT.
90237-04-0	DEXSECOVERINE.
90243-66-6	MONTIRELIN.
90243-97-3	SPICLAMINE.
90243-98-4	DIMOXAPROST.
90293-01-9	BIFEMELANE.
90326-85-5	NESAPIDIL.
90350-40-6	METHYLPREDNISOLONE SULEPTANATE.
90402-40-7	ABANOQUIL.
90409-78-2	POLIFEPROSAN.
90509-02-7	LUXABENDAZOLE.
90566-53-3	FLUTICASONE.
90581-63-8	FALINTOLOL.
90693-76-8	EPTALOPROST.
90697-56-6	ZIMIDOBEN.
90697-57-7	MOTAPIZONE.
90729-41-2	OXODIPINE.
90729-42-3	CAREBASTINE.
90729-43-4	EBASTINE.
90733-40-7	EDIFOLONE.
90749-32-9	LAPRAFYLLINE.
90779-69-4	ATOSIBAN.
90808-12-1	DIVAPLON.
90826-99-2	ITROCAINIDE.
90845-56-0	TRECADRINE.
90850-05-8	GLOXIMONAM.
90895-85-5	RONACTOLOL.
90898-90-1	OXIMONAM.
90961-53-8	TEDISAMIL.
90992-25-9	BEBULPAMIDE.
91017-58-2	ABUNIDAZOLE.
91077-32-6	DEZINAMIDE.
91257-14-6	TUVATIDINE.
91374-21-9	ROPINIROLE.
91406-11-0	ESUPRONE.
91431-42-4	LONAPALENE.
91441-23-5	PIRIXANTRONE.
91441-48-4	TELOXANTRONE.
91524-14-0	NAPAMEZOLE.
91524-15-1	IRLOXACIN.
91587-01-8	PELRETIN.
91618-36-9	IBAFLOXACIN.
91714-94-2	BROMFENAC.
91753-07-0	MITOQUIDONE.
91832-40-5	CEFDINIR.
91833-77-1	ROCASTINE.
91935-26-1	TORIPRISTONE.
92071-51-7	ROTRAXATE.
92118-27-9	FOTEMUSTINE.
92210-43-0	BEMARINONE.
92257-40-4	DIZATRIFONE.
92268-40-1	PERFOMEDIL.
92302-55-1	DEVAPAMIL.
92338-11-2	IODOXANOL.
92569-85-8	APRIKALIM.
92615-20-8	NAFENODONE.
92623-83-1	PRAVADOLINE.
92623-86-3	MILNACIPRAN.
92629-87-3	DEXNAFENODONE.
92665-29-7	CEFPROZIL.
92812-82-3	FLUORODOPA 18F.
93047-39-3	ETANTEROL.
93047-40-6	NAMINTEROL.
93064-63-2	VENRITIDINE.
93105-81-6	LODELABEN.
93106-60-6	ENROFLOXACIN.
93181-81-8	LODAXAPRINE.
93181-85-2	ENDIXAPRINE.
93221-48-6	LEVOBETAXOLOL.
93277-96-4	ALTAPIZONE.
93390-81-8	FOSPHENYTOIN.
93413-69-5	VENLAFAXINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
93479-95-0	ALTECONAZOLE.
93479-97-1	GLIMEPIRIDE.
93564-94-9	NEMONAPRIDE.
93738-40-0	RALITOLINE.
93821-75-1	BUTINAZOCINE.
93957-54-1	FLUVASTATIN.
94011-82-2	BAZINAPRINE.
94056-76-2	SUPLATAST TOSILATE.
94149-41-4	MIDESTEINE.
94168-98-8	RIFAMETANE.
94192-59-3	LIXAZINONE.
94396-95-9	PELRINONE.
94470-67-4	CROMAKALIM.
94535-50-9	LEVCROMAKALIM.
94554-99-1	PALDIMYCIN.
94746-75-9	MOURACETAM.
95056-70-1	NICTIAZEM.
95056-81-4	GEMCITABINE.
95104-27-1	TETRAZOLAST.
95106-77-4	SORNIDIPINE.
95153-31-4	PERINDOPRILAT.
95232-68-1	TENOSAL.
95233-18-4	ATOVAQUONE.
96356-10-9	DOMIPIZONE.
96374-52-0	PRIDEPERONE.
96399-71-6	FOSINOPRILAT.
96520-81-3	ELZIVERINE.
96588-06-2	TIPENTOSIN.
96634-82-5	BATELAPINE.
96635-55-6	RANOLAZINE.
96668-38-5	IDRALFIDINE.
96722-07-9	CICAPROST.
96729-65-0	AZETIRELIN.
96734-82-0	NEDAPLATIN.
96847-70-4	IPSAPIRONE.
96847-87-3	REVOSPIRONE.
96896-06-6	ANARITIDE.
96936-03-2	MEROPENEM.
96125-53-0	CLENTIAZEM.
96128-89-1	ERYTHROMYCIN ACISTRATE.
96153-56-9	SISFENTIDINE.
96164-19-1	PERACLOPONE.
96187-53-0	BREQUINAR.
96191-65-0	IOXABROLIC ACID.
96258-13-8	TRIBENDILOL.
96301-34-7	ATAMESTANE.
96306-34-2	TIMELOTEM.
96346-61-1	ONAPRISTONE.
96353-48-9	SOMAGREBOVE.
96389-66-3	CRISMATOL.
96392-26-0	DEXORMAPLATIN.
96427-12-2	LACTALFATE.
96448-05-7	RISPENZEPINE.
96478-43-2	IRINDALONE.
96487-37-5	NUVENZEPINE.
96497-67-5	RODORUBICIN.
96513-83-5	PENTISOMIDE.
96515-73-0	PALONIDIPINE.
96566-25-5	ABLUKAST.
96609-16-4	LIFIBROL.
96645-87-3	ERIZEPINE.
96743-96-3	RAMOCLANE.
96829-58-2	ORLISTAT.
96914-39-5	ACTISOMIDE.
96922-80-4	PANTENICATE.
97068-30-9	ELSAMITRUCIN.
97110-59-3	TRAZIUM ESILATE.
97240-79-4	TOPIRAMATE.
97275-40-6	CEFCANEL DALOXATE.
97322-87-7	TROGLITAZONE.
97466-90-5	QUINELORANE.
97483-17-5	TIFURAC.
97519-39-6	CEFTIBUTEN.
97546-74-2	TROXOLAMIDE.
97642-74-5	CLOMIFENOXIDE.
97682-44-5	IRINOTECAN.
97702-82-4	IOSARCOL.
97747-98-1	LILOPRISTONE.
97825-25-7	RACTOPAMINE.
97952-72-7	TIBENELAST.
97978-35-6	LIBENZAPRIL.
97901-21-6	NAFAGREL.
97954-54-0	TOMOGLUMIDE.
97964-56-2	LORGLUMIDE.
98048-07-6	FOMIDACILLIN.
98048-97-6	FOSINOPRIL.
98079-51-7	LOMEFLOXACIN.
98106-99-8	SARAFLOXACIN.
98106-17-3	DIFLOXACIN.
98116-53-1	SULUKAST.
98123-83-2	EPSIPRANTEL.
98204-48-9	SPIROFYLLINE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
98205-35-1	FLESINOXAN.
98207-12-6	LOBUPROFEN.
98224-03-4	ELTOPRAZINE.
98319-26-7	FINASTERIDE.
98323-83-2	CARMOXIROLE.
98330-05-3	AMPIRTOLINE.
98374-54-0	SILTENZEFINE.
98383-15-7	ECOMUSTINE.
98410-35-7	PALATRIGINE.
98631-35-9	SOBUZOXANE.
98651-85-2	ULOBETASOL.
98815-38-4	CASOKEFAMIDE.
99011-02-6	IMIQUIMOD.
99107-52-5	BUNAPROLAST.
99149-95-8	SARUPLASE.
99156-35-8	BARMASTINE.
99200-09-6	NEBIVOLOL.
99248-32-5	DONETIDINE.
99258-85-7	OXAMBOLE.
99293-10-0	MOLGRAMOSTIM.
99297-30-6	EQUALEN.
99391-25-5	LEVODROPROPIZINE.
99323-21-4	IMAPERISONE.
99453-84-8	NELTENEXINE.
99464-54-9	AMPIROXICAM.
99469-40-5	DISUPRAZOLE.
99500-54-5	EFETOZOLE.
99518-29-3	DERPANICATE.
99522-79-9	PRANIDIPINE.
99591-83-0	SIGUAZODAN.
99592-32-2	SERTACONAZOLE.
99593-28-6	RILMAZAFONE.
99595-00-6	FLOMOXEF.
99759-19-0	TIQUESIDE.
99803-73-2	NEPIBACADOL.
99821-44-0	NASARUPLASE.
100016-62-4	CALCITONIN, CHICKEN.
100035-75-4	EVANDAMINE.
100158-38-1	OTENZEPAD.
100345-64-0	SIAGOSIDE.
100417-09-2	TIMIRIDINE.
100427-26-7	LERCANIDIPINE.
100510-33-6	ADIBENDAN.
100597-62-8	NORIFLOXACIN SUCCINIL.
100643-96-7	INDOLIDAN.
100927-13-7	IDAVERINE.
100927-14-8	BEPIPERIDE.
100991-43-9	EBROTIDINE.
100996-85-4	LEVOFLOXACIN.
101193-40-2	QUINOTOLAST.
101197-99-3	ACITEMATE.
101238-51-1	LEVEMOPAMIL.
101245-68-8	EPTASTIGMINE.
101335-93-3	EPROVAFEN.
101343-98-5	OCFENTANIL.
101345-71-5	BRIFENTANIL.
101363-10-4	RUFLOXACIN.
101395-42-3	MEQUITAMIUM IODIDE.
101418-09-2	POLICRESULEN.
101477-55-8	LOMERIZINE.
101479-70-3	ADAPRIOLOL.
101505-83-5	NAMIROTENE.
101526-83-4	SEMATILIDE.
101530-10-3	LANOCONAZOLE.
101626-70-4	TALIPEXOLE.
101828-21-1	BUTENAFINE.
101831-36-1	CLAZURIL.
101831-37-2	DICLAZURIL.
101975-10-4	ZARDAVERINE.
102130-64-7	NEMADECTIN.
102144-78-5	TANERIDONE.
102260-35-5	BAQUILOPRIM.
102507-71-1	TIGEMONAM.
102525-70-7	PANTOPRAZOLE.
102669-89-6	SATERINONE.
102670-46-2	BATANOPRIDE.
102676-47-1	FADROZOLE.
102767-28-2	LEVETIRACETAM.
102771-12-0	NERISOPAM.
102791-47-6	NANTERINONE.
102908-59-8	BINOSPIRONE.
103055-07-6	LUFENURON.
103080-53-3	DAPTOMYCIN.
103177-37-3	PRANLUKAST.
103181-72-2	GUANSTERNE.
103222-11-3	VAPREOTIDE.
103238-66-6	PARODILOL.
103238-67-9	CEFEMPIDONE.
103336-05-6	DITEIGREN.
103337-74-2	LETRAZURIL.
103420-77-5	DEVAZEPIDE.
103451-84-9	AVICATONIN.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
103475-41-8	TEPOXALIN.
103486-79-9	BELFOSDIL.
103577-45-3	LANSOPRAZOLE.
103598-03-4	ESMOLOL.
103624-69-5	TRABOXOPINE.
103628-46-2	SUMATRIPTAN.
103725-47-9	BETIATIDE.
103745-39-7	FASUDIL.
103775-10-6	MOEXIPRIL.
103775-14-0	MOEXIPRILAT.
103775-75-3	MIBOPLATIN.
103831-41-0	SODIUM BOROCAPTATE (10 B).
103844-77-5	NECOPIDEM.
103844-85-5	SARIPIDEM.
103878-84-8	LAZABEMIDE.
103878-95-2	FOSOPAMINE.
103890-78-4	LACIDIPINE.
103923-27-9	PIRTENIDINE.
103926-64-3	SEPIMOSTAT.
103946-15-2	ELNADIPINE.
103990-45-6	METOSTILENOL.
103997-59-7	SELPRAZINE.
104051-20-9	BREPONALOL.
104054-27-5	ATIPAMEZOLE.
104145-95-1	CEFDITOREN.
104153-37-9	RILOPIROX.
104153-38-0	SABELUZOLE.
104227-87-4	FAMCICLOVIR.
104317-84-2	GLISPERIMUS.
104340-66-5	LEMINOPRAZOLE.
104486-79-3	CISCONAZOLE.
104486-01-0	TRAPENCAINE.
104561-36-6	DORETINEL.
104582-26-0	PRAMIPEXOLE.
104675-35-6	SUFONACRINE.
104713-75-9	BARNIDIPINE.
104716-22-5	TECHNETIUM (99M TC) TEBOROXIME.
104719-71-3	LORCINADOL.
104775-36-2	ECABAPIDE.
104777-03-9	ASOBAMAST.
104902-08-1	CILUTAZOLINE.
104987-11-3	TACROLIMUS.
105051-87-4	MINAMESTANE.
105102-20-3	LIROLDINE.
105102-21-4	TORBAFYLLINE.
105102-22-5	MOMETASONE.
105118-13-6	IPROTIAZEM.
105118-14-7	DATELLIPTIUM CHLORIDE.
105149-04-0	OSATERONE.
105182-45-4	FLUPAROXAN.
105219-56-5	APAFANT.
105239-91-6	CEFCLIDIN.
105250-86-0	EBIRATIDE.
105292-70-4	ALONACIC.
105431-72-9	LINOPIRDINE.
105482-24-6	RISEDRONIC ACID.
105523-37-3	TIPROTIMOD.
105667-83-7	BEREFRINE.
105813-48-7	EXAMETAZIME.
105818-02-6	GALAMUSTINE.
105885-11-8	BATOPRAZINE.
105887-93-2	SUMIROTENE.
105851-17-0	FLUDEOXYGLUCOSE (18 F).
105857-23-6	ALTEPLASE.
105920-77-2	CAMONAGREL.
105953-59-1	DUMORELIN.
105956-97-6	CLINAFLOXACIN.
105979-17-7	BENIDIPINE.
106033-96-9	ITROCINONIDE.
106073-01-2	TANIPLON.
106100-65-6	FASIPLON.
106133-20-4	TAMSULOSIN.
106286-06-2	RISPERIDONE.
106282-96-6	SOMALAPOR.
106400-81-1	LOMETREXOL.
106417-26-1	TECHNETIUM (99M TC) SIDOROXIME.
106496-99-1	VINTOPEROL.
106516-24-9	SERTINDOLE.
106560-14-9	FROPENEM.
106560-96-0	SIBUTRAMINE.
106669-71-0	ARPROMIDINE.
106685-40-9	ADAPALENE.
106685-40-2	GAPROMIDINE.
106707-61-1	DOBUPRIDE.
106719-74-9	GALTIFENIN.
106819-53-8	DOXACURIUM CHLORIDE.
106954-46-0	ARGIMESNA.
106981-44-3	MIVACURIUM CHLORIDE.
106900-12-3	LOPERAMIDE OXIDE.
106972-33-2	DEMIPRIDE.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
107000-34-0	ZANOTERONE.
107052-58-2	ROMERGOLINE.
107097-80-3	LOXIGLUMIDE.
107266-06-8	GEVOTROLINE.
107266-08-0	CARVOTROLINE.
107320-86-5	ISOMOLPAN.
107361-33-1	ENAZADREM.
107429-83-0	LINTOPRIDE.
107452-79-9	CEFMEPIDIUM CHLORIDE.
107469-37-2	THYMOCTONAN.
107567-60-7	POLAPREZINC.
107736-98-1	UMESPIRONE.
107767-55-5	ALBIFYLLINE.
107793-72-6	IOXILAN.
107868-30-4	EXEMESTANE.
108001-60-1	TROQUIDAZOLE.
108050-54-0	TILMICOSIN.
108138-45-1	TOSUFLOXACIN.
108210-73-7	BIFEPROFEN.
108258-99-5	SULAZURIL.
108310-20-9	PIRODOMAST.
108319-06-8	TEMAFLOXACIN.
108319-07-9	PIRAZMONAM.
108391-08-4	OPSULUTOPRIL.
108436-80-2	ROCICLOVIR.
108437-28-1	BINFLOXACIN.
108612-45-9	MIZOLASTINE.
108674-86-8	SERGOLEXOLE.
108674-96-0	IDENAST.
108687-08-7	TELUDIPINE.
108736-35-2	LANREOTIDE.
108785-89-9	LORPIPRAZOLE.
108894-39-9	SITALIDONE.
108894-40-2	BROLACONAZOLE.
108894-41-3	FAMIRAPRINIUM CHLORIDE.
108945-35-3	TAPROSTENE.
109229-58-5	ENGLITAZONE.
109525-44-2	CLIROPAMINE.
109543-76-2	ROMAZARIT.
109581-73-9	TECHNETIUM (99M TC) SESTAMIBI.
109623-97-4	GEDOCARNIL.
109683-61-5	UTIBAPRIL.
109683-79-5	UTIBAPRILAT.
109713-79-3	NELDAZOSIN.
109826-26-8	ZALDARIDE.
109859-60-9	CILOBRADINE.
109859-09-0	GRANISETRON.
110013-21-3	MERAFLOXACIN.
110042-95-0	ACEMANNAN.
110101-66-1	TIRILAZAD.
110140-89-1	RIDOGREL.
110172-45-7	SEBRIPLATIN.
110267-81-7	AMRUBICIN.
110294-56-8	SUDISMASE.
110311-27-8	SULOFENUR.
110314-48-2	ADOZELESIN.
110347-85-8	SELFOTEL.
110390-84-6	PERBUFYLLINE.
110589-56-2	EXANETAZIME.
110589-57-3	SAPERCONAZOLE.
110605-64-6	ISAGLIDOLE.
110623-33-1	SURITOZOLE.
110629-41-9	ELBANIZINE.
110680-43-2	EMITEFUR.
110703-94-1	ZOPOLRESTAT.
110845-89-1	REMPROSTOL.
110871-86-8	SPARFLOXACIN.
110883-48-0	GIRACODAZOLE.
111011-53-3	EFONIDIPINE.
111025-46-8	PIOGLITAZONE.
111212-85-2	ERSOFERMIN.
111223-26-8	CLEOCHAPRIL.
111393-84-1	AMITIVIR.
111406-87-2	ZILEUTON.
111490-36-9	ZENIPLATIN.
111523-41-2	ENLOPLATIN.
111753-73-2	SATIGREL.
111786-07-3	PRINOKODAN.
111841-85-1	ABECARNIL.
111902-57-9	TEMOCAPRIL.
111911-87-6	REBAMIPIDE.
111974-60-8	RITOLUKAST.
112018-00-5	TEBUFELONE.
112018-01-6	BEMORADAN.
112182-04-8	ROXINDOLE.
112362-50-2	DALFOPRISTIN.
112398-08-0	DANOFLOXACIN.
112573-73-6	ECADOTRIL.
112727-80-7	RENZAPRIDE.
112733-06-9	ZENARESTAT.
112828-00-9	CALCIPOTRIOL.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
112856–44–7	LOSIGAMONE.
112885–41–3	MOSAPRIDE.
112891–97–1	ALENTEMOL.
112893–26–2	BECLICONAZOLE.
112922–55–1	CERICLAMINE.
112964–98–4	VELNACRINE.
113079–82–6	TERBEQUINIL.
113082–98–7	ENALKIREN.
113102–19–6	RIFAMEXIL.
113165–32–5	NIGULDIPINE.
113167–61–6	TERIDECAMYCIN.
113359–04–9	CEFOZOPRAN.
113378–31–7	SEMDURAMICIN.
113507–06–5	MOXIDECTIN.
113593–34–3	FLOSATIDIL.
113617–63–3	ORBIFLOXACIN.
113662–23–0	GADOBENIC ACID.
113665–84–2	CLOPIDOGREL.
113759–60–5	CRONIDIPINE.
113775–47–6	DEXMEDETOMIDINE.
113932–41–5	TEMATROPIUM METILSULFATE.
113957–09–9	CEBARACETAM.
114298–18–9	ZALOSPIRONE.
114432–13–2	FANTOFARONE.
114451–30–6	GANEFROMYCIN.
114485–92–6	PIDOLACETAMOL.
114517–02–1	FOSQUIDONE.
114568–26–2	PATAMOSTAT.
114716–16–4	PEMEDOLAC.
114776–35–2	BEPAFANT.
114798–26–4	LOSARTAN.
114977–28–5	DOCETAXEL.
115103–54–3	TIAGABINE.
115256–11–6	DOFETILIDE.
115309–89–0	TALLIMUSTINE.
115313–22–9	SERAZAPINE.
115436–72–2	IFAZILIDE.
115550–35–1	MARBOFLOXACIN.
115574–30–6	IRTEMAZOLE.
115575–11–6	LIARozole.
115911–28–9	SAMPIRTINE.
115956–12–2	DOLASETRON.
115972–78–6	OLRADIPINE.
116002–70–1	ONDANSETRON.
116041–13–5	NEBRACETAM.
116057–75–1	IDOXIFENE.
116078–65–0	BIDISOMIDE.
116289–53–3	TULOPAFANT.
116313–94–1	NITECAPONE.
116476–13–2	SEMOTIADIL.
116539–59–4	DULOXETINE.
116763–35–1	NESTIFYLLINE.
116795–97–2	LEDAZEROL.
116818–99–6	ISALSTEINE.
116981–00–6	ISAMOLTAN.
117211–03–7	CEFETECOL.
117305–33–6	TELIMOMAB ARITOX.
117523–47–4	MIRFENTANIL.
117545–11–6	BIMAKALIM.
117704–25–3	DORAMECTIN.
117819–25–7	BAKEPROFEN.
117827–79–9	ZILPATEROL.
117827–80–2	GADOPENAMIDE.
117827–81–3	DELFAPRAZINE.
117857–45–1	LORECLEZOLE.
117976–89–3	RABEPRAZOLE.
118012–09–4	ULARITIDE.
119006–77–6	FLUTRIMAZOLE.
119189–79–7	EPRISTERIDE.
119302–91–8	ROCURONIUM BROMIDE.
119322–27–8	MERIBENDAN.
119356–77–3	DAPOXETINE.
119386–95–6	MOFEGILINE.
119391–55–6	BENZETIMIDE.
119413–55–7	ELGODIPINE.
119431–25–3	ELIPRODIL.
119514–66–6	LIFARIZINE.
119610–26–3	ALORACETAM.
119825–78–4	TERLAKIREN.
119837–67–1	MOGUISTEINE.
119863–74–2	SOMENOPOR.
119719–11–8	ILATREOTIDE.
119813–10–4	CARZELESIN.
119817–92–2	DEXLOXIGLUMIDE.
119914–60–2	GREPAFLOXACIN.
120054–95–6	DEXNIGULDIPINE.
120068–54–8	GADOTERIDOL.
120092–89–4	MANIDIPINE.
120138–50–3	QUINUPRISTIN.
120210–48–2	TEMIDAP.
120279–96–1	DORZOLAMIDE.
120287–85–6	CETRORELIX.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
120373–35–6	UNOPROSTONE.
120410–24–4	SIAPENEM.
120443–16–5	VERLUKAST.
120444–71–5	DERAMCICLANE.
120551–69–9	CRILVASTATIN.
120608–46–0	DUTEPLASE.
120635–74–7	CILANSETRON.
120656–74–8	TREFENTANIL.
120689–05–6	RISOTILIDE.
120770–34–5	DRAFLAZINE.
120788–07–0	SULOPENEM.
120815–74–9	BUTIXOCORT.
120819–70–7	NAROPARCIL.
120824–08–0	LINOTROBAN.
121029–11–6	ALTOQUALINE.
121181–53–1	FILGRASTIM.
121281–41–2	TECHNETIUM (99M TC) BICISATE.
121288–39–9	LOXORIBINE.
121547–04–4	MIRIMOSTIM.
121588–75–6	AMESERGIDE.
121617–11–6	SAVIPRAZOLE.
121650–80–4	PANCOPRIDE.
121679–13–8	NARATRIPTAN.
121808–62–6	PIDOTIMOD.
121840–95–7	ROGLETIMIDE.
121929–20–2	ZONICLEZOLE.
122173–74–4	MIDEPLANIN.
122312–55–4	DOSMALFATE.
122431–98–3	ZILASCORB (2 H).
122575–28–4	NAGLIVAN.
122647–31–8	IBUTILIDE.
122795–43–1	GADODIAMIDE.
122830–14–2	DERIGLIDOLE.
122852–42–0	ALOSETRON.
122858–47–3	ITOPRIDE.
122946–42–3	SPIRAPROSTIL.
122946–43–4	TELMESTEINE.
122955–18–4	SIBOPIRDINE.
122957–06–6	MODIPAFANT.
123040–69–7	AZASETRON.
123072–45–7	APROSULATE SODIUM.
123122–54–3	CANDOXATRILAT.
123122–55–4	CANDOXATRIL.
123205–52–7	TRELNARIZINE.
123212–08–8	SOMATOSALM.
123258–84–4	ITASETRON.
123286–00–0	VINFOSILTINE.
123308–23–5	SEZOLAMIDE.
123482–22–4	ZATOSETRON.
123524–52–7	AZELNIDIPINE.
123615–00–8	FEDOTOZINE.
123774–72–1	SARGRAMOSTIM.
123948–87–8	TOPOTECAN.
123955–10–2	ALMOKALANT.
124012–42–8	DALCOTIDINE.
124086–33–7	TAUROSTEINE.
124083–20–1	ETOMIDOIR.
124316–02–5	ALPRAFENONE.
124378–77–4	ENADOLINE.
124423–84–3	PAMADIPLON.
124436–59–5	PIRODAVIR.
124832–26–4	VALACICLOVIR.
124858–35–1	NADIFLOXACIN.
124904–93–4	GANIRELIX.
124937–51–5	TOLTERODINE.
125363–87–3	CARSATRIN.
125372–33–0	DACOPAFANT.
125472–02–8	MIVAZEROL.
125729–28–5	LEMILDIPINE.
125926–17–2	SARPOGRELATE.
125974–72–3	INTOPLICINE.
126100–97–8	DIMFIACETAM.
126132–63–0	IMCIROMAB.
126222–34–2	REMIKIREN.
126294–30–2	BAGANDIPINE.
126544–47–6	CICLESONIDE.
126752–39–4	SOMAVUBOVE.
126825–36–3	BERTOSAMIL.
126924–38–7	SEPROXETINE.
127035–60–3	ENOFELAST.
127214–23–7	CAMOLIBOSE.
127304–25–3	LINAROTIDE.
127309–62–1	ZAMIFENACIN.
127396–36–5	IOMAZENIL (123 I).
127420–24–0	IDRAPRIL.
127502–08–1	TETROFOSMIN.
127625–29–0	FAMANSERIN.
127757–91–9	REGRAMOSTIM.
127757–92–0	MASLIMOMAB.
127779–20–8	SAQUINAVIR.
127932–90–5	RAMORELIX.
128075–79–6	LUFIRONIL.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
128229–52–7	TAMOLARIZINE.
128232–14–4	RAXOFELAST.
128298–28–2	REMACEMIDE.
128326–80–7	NICORACETAM.
128326–81–8	CALDIAMIDE.
128326–82–9	EBERCONAZOLE.
128470–15–5	MELAROSOMINE.
128470–16–6	ARBUTAMINE.
128486–54–4	LUROSETRON.
128620–82–6	LIMAZOCIC.
129029–23–8	OCAPERIDONE.
129280–79–3	LOTEPREDNOL.
129336–61–8	TENOSIPROL.
129566–95–6	SOMFASEPOR.
129618–40–2	NEVIRAPINE.
129655–21–6	BIZELESIN.
129729–66–4	EMAKALIM.
129731–10–6	VOROZOLE.
129731–11–9	TIBEGUSENE.
130120–57–9	PREZATIDE COPPER ACETATE.
130167–69–0	PEGASPARGASE.
130209–82–4	LATANOPROST.
130308–48–4	ICATIBANT.
130610–93–4	NIRAVOLINE.
130841–36–0	PICUMETEROL.
130841–38–2	BIMDARIT.
130726–68–0	NETICONAZOLE.
130759–56–7	NEMAZOLINE.
130782–54–6	BECIPARCIL.
130929–57–6	ENTACAPONE.
131081–40–6	SILTEPLASE.
131129–98–1	MIPRAGOSIDE.
131635–06–6	SIFAPRAZINE.
131741–08–7	SIMENDAN.
131796–83–9	ODAPIPAM.
132014–21–2	RILMAKALIM.
132019–54–6	MONATEPIL.
132100–55–1	DALVASTATIN.
132203–70–4	CILNIDIPINE.
132338–79–5	TERIKALANT.
132373–81–0	VAMICAMIDE.
132449–45–8	LESOPITRON.
132539–06–1	OLANZAPINE.
132553–86–7	GLEMANSERIN.
132640–22–3	ANDOLAST.
132722–73–7	CALTERIDOL.
132722–74–8	PIRSIDOMINE.
132829–83–5	ESPATROPATE.
132875–61–7	REMIFENTANIL.
133267–19–3	ARTILIDE.
133454–47–4	ILOPERIDONE.
133652–38–7	RETEPLASE.
133716–29–3	REVIZINONE.
134088–74–7	NARTOGRASTIM.
134309–13–7	TOLCAPONE.
134377–05–6	SAFIRONIL.
134564–82–2	BEFLOXATONE.
134678–17–4	LAMIVUDINE.
135082–02–1	REPAGLINIDE.
135381–77–0	FLEZELASTINE.
135558–11–1	LOBAPLATIN.
135899–00–8	CEFCAPENE.
135968–09–1	LENOGRASTIM.
136033–49–3	NIEXOPAMIL.
136816–75–8	ATEVIRDINE.
136949–58–1	IOBITRIDOL.
137099–09–3	TUROSTERIDE.
137214–73–3	ILIPARCIL.
137460–88–9	ODALPROFEN.
137487–62–8	ALVIRCEPT SUDOTOX.
137963–53–4	VALSARITAN.
138071–82–6	GADOBUTROL.
138508–45–3	PIDOBENZONE.
138511–81–6	ICODULINE.
138651–01–5	NEBACUMAB.
138661–02–6	PENTETREOTIDE.
138661–03–7	FURNIDIPINE.
138708–32–4	FERPIFOSATE SODIUM.
138778–26–6	SIRATIAZEM.
139402–18–9	ALESTRAMUSTINE.
139404–48–1	TIOTROPIUM BROMIDE.
140680–73–3	IGMESINE.
141200–24–0	DARGLITAZONE.
141374–61–4	TARAZEPIDE.
141410–99–2	EDOBACOMAB.
141483–72–9	ZOLIMOMAB ARITOX.
141505–33–1	LEVOSIMENDAN.
141680–63–1	IOFRATOL.
141725–86–4	CETEFLOXACIN.
143003–45–7	ALGLUCERASE.
143257–97–0	SAMERIDINE.
143257–96–1	LERISETRON.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
143631–82–3	CIPROKIREN.
144058–40–2	SATUMOMAB.

TABLE 1.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical
144916–42–7	SONERMIN.
156586–92–4	ALTUMOMAB.

TABLE 3.—PHARMACEUTICAL APPENDIX TO THE HTSUS

CAS No.	Pharmaceutical/Pharmaceutical intermediate
N/A	Potassium clavulanate-microcrystalline cellulose (1:1).
N/A	(4S,5S)-5-Benzyl-2-oxo-1,3-oxazolidin-4-ylmethyl-4-nitrobenzenesulfonate.
N/A	Ethyl-2-(2-chloro-4,5-difluorobenzoyl)-3-(2,4-difluoroanilino)acrylate.
N/A	Potassium clavulanate-sucrose (1:1).
N/A	O-(6-Fluoro-2-methylinden-3-yl)-p-tolyl methyl sulfide, in the form of a solution in toluene.
N/A	Potassium clavulanate-silicon dioxide (1:1).
N/A	4-(4-Fluorobenzoyl)pyridinium p-toluenesulfonate.
N/A	Magnesium bis(4-nitrobenzyl malonate) dihydrate.
50–69–1	D-Ribose.
55–91–4	Diisopropyl phosphorofluoridate.
56–12–2	4-Aminobutyric acid.
79–50–5	DL-O-Hydroxy-β,β-dimethyl-r-butyrolactone.
81–27–6	Sennoside A.
84–19–5	Dienestrol di(acetate).
87–13–8	Diethyl ethoxymethylenemalonate.
92–39–7	2-Chlorophenothiazine.
94–05–3	Ethyl 2-cyano-3-ethoxyacrylate.
96–82–2	4-O-β-D-Galactopyranosyl-D-gluconic acid.
100–75–5	Quinuclidine.
103–67–3	Benzyl(methyl)amine.
120–30–7	3,4-Dimethoxyphenethylamine.
121–17–5	4-Chloro-O,O,O-trifluoro-3-nitrotoluene.
121–30–2	4-Amino-6-chlorobenzene-1,3-disulfonamide.
121–80–6	N-Acetylsulfanilyl chloride.
128–57–4	Sennoside B.
130–80–3	Diethylstilbestrol dipropionate.
256–96–2	5H-Dibenz[b,f]azepine.
298–81–7	9-Methoxyfuro(3,2-g)chromen-7-one.
482–44–0	9-(β-Methylbut-2-enyloxy)-7H-furo[3,2-g]chromen-7-one.
494–19–9	10,11-Dihydro-5H-dibenz[b,f]azepine.
505–32–8	3,7,11,15-Tetramethylhexadec-1-en-3-ol.
533–67–5	2-Deoxy-D-erythropentose.
561–16–8	5-Aminovaleric acid.
583–91–5	2-Hydroxy-4-(methylthio)butyric acid.
590–63–6	2-Carbamoyloxypropyltrimethylammonium chloride.
599–04–2	O-Hydroxy-β,β-dimethyl-r-butyrolactone.
611–71–2	D-Mandelic acid.
620–20–2	O,3-Dichlorotoluene.
645–13–6	4-Methylvalerophenone.
671–89–6	4-Amino-6-chlorobenzene-1,3-di(sulfonyl chloride).
696–23–1	2-Methyl-4-nitroimidazole.
822–36–6	4-Methylimidazole.
941–77–0	1-Benzhydrylpiperazine.
875–74–1	β-O-Phenylglycine.
885–74–8	Chlorphenesin carbamate.
910–99–5	17-O-Hydroxy-16-α-16-α-methyl-3,20-dioxopregne-1,4,9(11)-trien-21-acetate.
920–66–1	1,1,1,3,3,3-Hexafluoropropan-2-ol.
957–68–6	7-Aminocephalosporanic acid.
981–34–0	9-β-11-β-Epoxy-17-O,21-dihydroxy-16-α-methylene-pregne-1,4-diene-3,20-dione.
1132–95–2	1,1-Diisopropoxycyclohexane.
1210–35–1	10,11-Dihydro-5H-dibenzo[a,d]cycloheptan-5-one.
1458–15–0	Methyl 3-amino-5,6-dichloropyrazine-2-carboxylate.
1570–95–2	2-Phenylpropane-1,3-diol.
1608–68–1	N-Phenyl-N-(4-piperidyl)propionamide.
16[illegible]–57–9	3-(5H-Dibenzo[a,d]cycloheptan-5-ylpropyl) dimethylammonium chl.
1699–27–1	2-Methyl-N-(O,O,O-trifluoro-m-tolyl) propionamide.
2011–66–7	2-Amino-2'-chloro-5-nitrobenzophenone.
2147–63–3	1-(1,2,3,6-Tetrahydro-4-pyridyl)-1H-benzimidazol-2(3H)-one.
2222–33–5	5H-Dibenzo[a,d]cycloheptan-5-one.
2942–59–8	2-Chloronicotinic acid.
3158–91–6	2-Chlorodibenz[b,f][1,4]oxazepin-11(10H)-one.
3312–04–7	1-Chloro-4,4-bis(4-fluorophenyl)butene.
3453–33–6	6-Methoxy-2-naphthaldehyde.
3588–63–4	N-Benzyloxycarbonyl-DL-valine.
3735–62–3	1,2-Diphenyl-4-(2-phenylthioethyl) pyrazolidine-3,5-dione.
3874–54–2	4-Chloro-4'-fluorobutyrophenone.
3978–65–2	Methyl (R)-3-hydroxybutyrate.
4093–31–6	Methyl 4-acetamido-5-chloro-o-anisate.
4252–78–2	2,2',4'-Trichloroacetophenone.
4295–85–2	2-Chloro-9-(3-dimethylaminopropyl)-9H-thioxanthen-9-ol.
4320–30–3	Arginine l-glutamate.
4462–55–9	3-(2,6-Dichlorophenyl)-5-methyl-1,2-oxazole-4-carbonyl chlori.
4965–33–7	7-Chloro-2-methylquinoline.
5018–45–1	5,6-Dimethoxypyrimidin-4-ylamine.
5081–87–8	3-(2-Chloroethyl)quinazoline-2,4(1H,3H)-dione.
5111–65–9	6-Bromo-2-naphthyl methyl ether.
5271–67–0	Thiophene-2-carbonyl chloride.
5422–34–4	N-(2-Hydroxyethyl)acetamide.
5511–98–8	Acetyldigoxin.
5521–55–1	5-Methylpyrazine-2-carboxylic acid.
5794–13–8	L-Asparagine monohydrate.
6631–94–3	2-Acetylphenothiazine.
6928–85–4	4-Methylpiperazin-1-ylamine.
7206–70–4	4-Amino-5-chloro-2-methoxybenzoic acid.

VOL 60 ISS 80 AP 26 1995 UMI

TABLE 3.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical/Pharmaceutical intermediate
7597–60–6	6-Amino-5-formamido-1,3-dimethyluracil.
8024–48–4	Casanthranol.
9055–80–9	Fibrinuclease, powder.
9001–63–2	Lysozyme chloride.
9003–98–9	Deoxyribonuclease.
10108–41–9	17-Hydroxy-16-O-methyl-3,20-dioxopregna-1,4,9(11)-trien-21-yl acetate.
10191–60–3	Dimethyl cyanocarbonimidodithioate.
10508–37–3	O-2-Naphthyl chlorothioformate.
11116–97–5	Calcium gluconate lactate.
12062–59–4	4-Morpholin-2-ylpyrocatechol hydrochloride.
13183–79–4	1-Methyltetrazole-5-thiol.
13255–50–0	4-Formyl-N-isopropylbenzamide.
13291–06–8	Sodium (R)-N-(3-methoxy-1-methyl-3-oxoprop-1-enyl)-2-phenylglycinate.
13292–22–3	3-Formylrifamycin.
13338–63–1	3,4,5-Trimethoxyphenylacetonitrile.
13485–59–1	L-Alanyl-L-proline.
13931–75–4	Pharmatrazine lactate.
14205–39–1	Methyl 3-aminocrotonate.
14487–05–9	Rifamycin O.
14815–98–5	L-N-(1-Cyano-1-vanillylethyl)acetamide.
15362–40–0	1-(2,6-Dichlorophenyl)indolin-2-one.
16390–07–1	4-Chloro-1'-(4-methoxyphenyl)benzohydrazide.
16673–34–0	N-(2-(4-Sulfamoyl)phenyl)ethyl-5-chloro-2-methoxybenzamide.
16883–16–2	5-Methyl-3-phenyl-1,2-oxazole-4-carbonyl chloride.
17630–75–0	5-Chloroindolin-2-one.
18416–35–8	Enoxolone dihydrogen phosphate.
18095–41–6	2-Phenyl-2-(2-pperidyl)acetic acid.
20096–03–1	3,3-Diethyl-5-(hydroxymethyl)pyridine-2,4(1H,3H)-dione.
20627–73–0	2-Nitrobenzaldehyde dimethyl acetal
20662–53–7	1-(4-Piperidyl)-1H-benzimidazol-2(3H)-one.
20783–30–8	2-Cyclohexa-1,4-dienylglycine.
20850–49–1	3-Methyl-2-(3,4-dimethoxyphenyl)butyronitrile.
21080–92–2	3-Thienylmalonic acid.
21601–78–6	Phenyl hydrogen phenylmalonate.
21732–17–2	Tetrazol-1-ylacetic acid.
22252–43–3	7-Amino-3-methyl-3-cepham-4-carboxylic acid.
22663–37–2	1-(4-Chlorobenzenesulfonyl)urea.
22720–75–8	2-Acetylbenzo[b]thiophene.
22818–40–2	D-2-(4-Hydroxyphenyl)glycine.
22982–75–1	1,2,3,4-Tetrahydro-2-isopropylaminomethyl-6-methyl-7-nitroquinoline methanesulfo.
23323–37–7	1-Deoxy-1-(octylamino)-D-glucitol.
23680–84–4	4-Amino-2-chloro-6,7-dimethoxyquinazoline.
24085–03–8	2-(Benzyl(tert-butyl)amino)-1-(O,4-dihydroxy-m-tolyl)ethanol.
24085–08–3	Benzyl(tert-butyl)(4-hydroxy-3-hydroxymethyl-4-oxophenethyl)ammonium chloride.
24155–42–8	1-(2,4-Dichlorophenyl)-2-imidazol-1-ylethanol.
24209–38–9	7-Amino-3-(1-methyltetrazol-5-ylthiomethyl)-3-cepham-4-carboxyacid.
24510–54–1	17-O-Hydroxy-16-O-methyl-3,20-dioxopregna-1, 4-dien-21-yl acet.
24510–55–2	17-O-Hydroxy-16-α-methyl-3,20-dioxopregna-1, 4-dien-21-yl acet.
24553–26–9	Ethyl 4-hydroxy-2-methyl-2H-1, 2-benzothiazine-3-carboxylate 1,1 dioxide.
24701–69–7	7-Amino-3-methoxymethyl-3-cepham-4-carboxylic acid.
25629–50–9	3-(2-Chlorophenyl)-5-methyl-1,2-oxazole-4-carbonyl chloride.
26116–12–1	1-Ethylpyrrolidin-2-ylmethylamine.
26787–84–8	Sodium (R)-2-(4-hydroxyphenyl)-N-(3-methoxy-1-methyl-3-oxoprop-1-enyl)glycinate.
27305–72–9	2-(Dimethylamino)ethoxyacetamide hydrochloride.
27387–31–1	1,2,3,4-Tetrahydro-9-methylcarbazol-4-one.
27469–80–9	1-(4,4'-Difluorobenzhydryl)piperazine.
28092–82–8	(3aS,6aR)-1,3-Dibenzyl-2,3,3a,4,6,6a-hexahydro-1H-furo[3,4-d]imid azole-2,4-dione.
28416–82–2	(6-α,11-β,16-α,17-α)-6,9-Difluoro-11, 17-dihydroxy-16-methyl-3-oxoandrosta-1,4-di 7-carboxylic acid.
28657–79–6	1-Ethyl-1,4-dihydro-4-oxo-1,3-dioxolo [4,5-g]cinnoline-3-carbonitrile.
28888–44–0	6,7-Dimethoxyquinazoline-2,4(1H,3H)-dione.
29169–84–0	(R)-O-(Chlorocarbonyl)benzyl formate.
29420–19–5	5-Methyl-1,3,4-thiadiazole-2-thiol.
29707–62–8	4-Nitrobenzyl 6-(2-phenoxyacetamido)penicillanate 1-oxide.
29754–58–3	Methyl 5-glycoxyloylsalicylate monohydrate.
29976–53–2	Ethyl 4-oxopperidine-1-carboxylate.
30131–16–9	4-(4-Phenylbutoxy)benzoic acid.
30249–33–4	(7R)-7-Amino-3[(5-methyl-1,3,4-thiadiazole-2-yl)thiomethyl]-3-cepham-4-carboxylic acid.
30566–92–5	5-(N,N-Dibenzylglycyl)salicylamide.
31264–51–4	3-Chloropropyl 2,5-xylyl ether.
32336–15–1	Phenothiazin-2-ylamine.
32652–95–2	2-(3-Phenoxyphenyl)propiononitrile.
33659–28–8	Calcium bis(4-O-(-D-galactopyranosyl)-D-gluconate)—calcium bromide (1:1).
34582–65–5	Potassium (R)-N-(3-methoxy-1-methyl-3-oxoprop-1-enyl)-2-phenylglycinate.
35000–36–5	tert-Butyl triphenylphosphoranylideneacetate.
36622–33–0	3-Methyl-2-(3,4,5-trimethoxyphenyl) butyronitrile.
36657–18–3	Hexestrol dibutyrate.
37052–78–1	5-Methoxybenzimidazole-2-thiol.
37742–98–6	4-Bromo-2,2-diphenylbutyric acid.
37743–18–3	3,3-Diphenyltetrahydrofuran-2-ylidene (dimethyl)ammonium bromide.
38345–85–3	(2S,3R)-4-Dimethylamino-3-methyl-1,2-diphenylbutan-2-ol.
38949–09–1	3-(9,10-Dihydro-9,10-ethanoanthracen-9-yl)acrylaldehyde.
39098–97–0	2-Thienylacetyl chloride.
39512–49–7	4-(4-Chlorophenyl)piperidin-4-ol.
39754–02–4	7-[(R)-Amino(phenyl)acetamido]-3-methyl-3-cepham-4-carboxylic acid- -dimethylformamide (2:1).
40172–95–0	1-(2-Furoyl)piperazine.
40691–65–6	2,3,4,6-Tetra-O-acetyl- -D-glucopyranosyl carbamimidothioate hydrobromide.
41078–70–0	3-(2-Chloroethyl)-2-methyl-4H-pyrido [1,2-a]pyrimidin-4-one.
43076–30–8	1-(4-tert-Butylphenyl)-4-[4-(O-hydroxybenz hydryl)piperidino]butan-1-one.
43076–61–5	4'-tert-Butyl-4-chlorobutyrophenone.
49627–27–2	(Z)-5-Fluoro-2-methyl-1-(4-methylthio benzylidene)-1H-inden-3-ylacetic acid.
51458–28–7	(1R,2R)-2-Amino-1-(4-methylsulfonyl phenyl)propane-1,3-diol.
51718–70–8	2,3-Epoxypropyl 4-(2-methoxyethyl)phenyl ether.
51818–85–0	7-[(D)-Mandelamido]cephalosporanic acid.

TABLE 3.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical/Pharmaceutical intermediate
51856–79–2	Methyl 1-methylpyrrol-2-ylacetate.
52099–72–6	1-Isopropenyl-1H-benzimidazol-2(3H)-one.
52730–36–7	Sennoside A, calcium salt.
52730–37–7	Sennoside B, calcium salt.
53786–28–0	5-Chloro-1-(4-piperidyl)-1H-benzimidazol-2(3H)-one.
53786–45–1	Ethyl 4-(2-amino-4-chloroanilino)piperidine-1-carboxylate.
53786–46–2	Ethyl 4-(5-chloro-2,3-dihydro-2-oxo-1H-benzimidazol-2-yl)piperidine-1-carboxylate.
53994–83–5	4-Nitrobenzyl 7-amino-3-chloro-3-cephem-4-carboxylate.
54322–20–2	Sodium 4-chloro-1-hydroxybutane-1-sulfonate.
54396–44–0	O',O',O'-Trifluoro-2,3-xylidine.
55174–61–3	3,4-Dimethoxy-β-methylphenethylamine.
55408–10–1	Ethyl tetrazole-5-carboxylate.
56326–98–8	1-(4-Fluorophenyl)-4-oxocyclohexane carbonitrile.
56724–21–1	(1R,2R)-2-Amino-1-(4-methylsulfonyl phenyl)propane-1,3-diol hydrochloride.
57988–56–6	4-(4-Bromophenyl)piperidin-4-ol.
59386–02–6	Hexestrol dipropionate.
59468–44–9	8-Chloro-6-(2-fluorophenyl)-1-methyl-4H-imidazo [1,5-a][1,4]benzodiazepine-3-carb carboxylic acid.
61380–02–7	1-Benzyl-4-(methoxymethyl)-N-phenyl-4-piperidylamine.
61516–73–2	Ethyl 2-oxopyrrolidin-2-ylacetate.
61832–41–5	Methyl (1-methylthio-2-nitrovinyl)amine.
63074–07–7	1-(Tetrahydro-2-furoyl)piperazine.
63427–57–6	4-Nitrobenzyl 3-methylene-7-(phenoxyacetamido) cepham-4-carbox-5-oxide.
63484–12–8	Methyl 2-methoxy-5-methylsulfonylbenzoate.
64485–82–1	Ethyl 2-(2-amino-1,3-thiazol-4-yl)-2-hydroxyiminoacetate.
64838–55–7	(2S)-1-(3-Acetylthio-2-methyl-1-oxopropyl)-L-proline.
64920–29–2	Ethyl 2-oxo-4-phenylbutyrate.
64967–03–7	Ethyl (2-formamido-1,3-thiazol-4-yl)glyoxylate.
64967–06–0	(2-Formamido-1,3-thiazol-4-yl)glyoxylic acid.
65872–43–7	2-(2-Formamido-1,3-thiazol-4-yl)-2-methoxyiminoacetic acid.
66242–82–8	Disodium 2,5-dihydro-5-thioxo-1H-tetrazol-1-ylmethanesulfone.
66356–53–4	5-(2–Aminoethylthiomethyl) furfuryldimethylamine.
67305–72–0	N-(2-Mercaptoethyl) propionamide.
67914–60–7	4-(4-Acetylpiperazin-4-yl)phenol.
67914–85–6	cis-2-(2,4-Dichlorophenyl)-2-(1H-1,2,4-triazol-1-ylmethyl)-1,3-dioxolan-4-ylmeth.
67914–97–0	4-(4-Isopropylpiperazin-1-yl)phenol.
68077–26–9	7-Chloro-1-ethyl-6-fluoro-1,4-dihydro-4-oxoquinoline-3-carboxylic acid.
68045–96–2	1-Ethyl-1,2-dihydro-5H-tetrazol-5-one.
69399–79–7	3-(2-Chloro-6-fluorophenyl)-5-methyl-1,2-oxazole-4-carbonyl chloride.
69416–61–1	Potassium (R)-2-(4-hydroxyphenyl)-N-(3-methoxy-1-methyl-3-oxoprop-1-enyl)glycinate.
70918–74–0	1-(2,3-Dihydro-1,4-benzodioxin-2-ylcarbonyl)piperazine hydrochloride.
71107–19–2	2-Oxo-5-vinylpyrrolidine-3-carboxamide.
74203–62–2	Carbenoxolone, dicholine salt.
74283–25–3	Ethchlorvynol carbamate.
74345–73–6	D-(-)-3-Acetylthio-2-methylpropionyl chloride.
74684–03–2	Diethylaldbasirol dibutyrate.
75685–58–4	2,2-Dimethylcyclopropanecarboxamide.
75970–99–9	[1-(4-Fluorobenzyl)-1H-benzimidazol-2-yl](4-piperidyl)amine.
76247–39–7	Iodomethyl penicillanate 1,1-dioxide.
76497–39–7	D-(-)-3-Acetylthio-2-methylpropionic acid.
76955–69–1	(3S,4R)-4-Acetoxy-3-[(R)-1-(tert-butyl dimethylsilyloxy)ethyl]azetidin-2-one.
77497–67–3	(S)-3-Benzyloxycarbonyl-1,2,3,4-tetra hydroisoquinolinium p-toluenesulfon-ate.
77550–67–5	Ammonium (3R,5R)-7-((1S,2S,6R,8S,8aR) -1,2,6,7,8,8a-hexahydro-2,6-dimethyl-8-[(2S)-2-methyrloxy]-1-naphthyl)-3,5-dihydroxyheptanoate.
78441–62–0	4-(2-Aminoethylthiomethyl)-1,3-thiazol-2-ylmethyl(dimethyl)am in the form of a solution in toluene.
79617–96–6	trans-(+-)-4-(3,4-Dichlorophenyl)-1,2,3,4 -tetrahydro-1-naphthyl(methyl) ammonium chloride.
79814–47–4	Methyl hydrogen (2S,3R)-3-amino-2[(S)-(1-hydroxyethyl)]glute.
79836–44–5	4-(3,4-Dichlorophenyl)-3,4-dihydronaphthalen-1(2H)-one.
81660–96–8	N-(4-Hydrazinobenzyl)methanesulfonamide hydrochloride.
82671–06–5	2,5-Dichloro-5-fluoronicotinic acid.
82717–96–2	(S,S)-N-(1-Ethoxycarbonyl-3-phenyl propyl)alanine.
83556–85–8	1-(3-Chloropropyl)-2,6-dimethylpiperidinium chloride.
83682–27–3	Sodium 2-hydroxy-1-(4-hydroxy-3-methoxyphenyl)propane-2-sulfo.
83783–69–1	4-Fluorobenzyl-1H-benzimidazol-2-ylamine.
83857–96–9	2-Butyl-5-chloro-1H-imidazole-4-carbaldehyde.
84196–16–7	N-[4-(Methoxymethyl)-4-piperidyl]-N-phenylpropionamide hydrochloride.
84501–68–8	Ethyl 4-[1-(4-fluorobenzyl)-1H-benzimidazol -2-ylamino]piperidine-1-carboxylate.
84682–23–5	2-(2,4-Dichlorophenyl)-2-(1H-imidazol-1-ylmethyl)-1,3-dioxolan-4-yl methanol.
84793–24–8	Ethyl (S)-2-[(S)-4-methyl-2,5-dioxo-1,3 -oxazolidin-3-yl]-4-phenylbutyrate.
84803–46–3	4-(4-Chlorophenyl)piperidine-2,6-dione.
85700–75–0	11-α,17,21-Trihydroxy-16-β-methylpregna-1,4-diene-3,20-dione.
86386–75–6	2,4'-Difluoro-2-(1H-1,2,4-triazol-1-yl) acetophenone hydrochloride.
86604–78–6	4-Methoxy-3,5-dimethyl-2-pyridylmethanol.
87480–09–1	Benzyl hydroxy(4-phenylbutyl) phosphinoylacetate.
87932–78–3	(6R,7R)-3-Acetoxymethyl-7-[(R)-2-formyloxy-2-phenylacetamido]-8-oxo-5-thia-1-aza bicyclo[4.2.0]oct-2-ene-2-carboxylic acid.
88918–84–7	4-Aminobenzyl-N-methylmethanesulfonamide hydrochloride.
88919–22–6	3-(2-Aminoethyl)-N-methyl-1H-indol-5-ylmethanesulfonamide.
89788–91–6	1-Carboxy-1-methylethoxyammonium chloride.
90005–55–3	3'-Amino-2'-hydroxyacetophenone hydrochloride.
90657–55–9	trans-4-Cyclohexyl-2-proline hydrochloride.
93076–03–0	3-(2-Chloroethyl)-6,7,8,9-tetrahydro-2-methyl-4H-pyrido[1,2-a]pyrimidin-4-one hydrochloride.
93107–30–3	1-Cyclopropyl-6,7-difluoro-1,4-dihydro-4-oxoquinoline-3-carboxylic acid.
94021–22–4	2-Piperazin-1-ylpyrimidine dihydrochloride.
94158–44–8	1,1-Dimethoxy-2-(2-methoxyethoxy)ethane.
97845–80–8	2-(Acetoxymethyl)-4-(2-amino-6-chloropurin-9-yl)butyl acetate.
98105–79–4	7-Chloro-6-fluoro-1-(4-fluorophenyl)-1,4-dihydro-4-oxoquinoline-3-carboxylic acid.
99614–02–5	1,2,3,4-Tetrahydro-9-methyl-3-(2-methyl-1H-imidazol-1-ylmethyl)carbazol-4-one.
100491–29–0	Ethyl 7-chloro-1-(2,4-difluorophenyl)-6-fluoro-1,4-dihydro-4-oxonaphthyridine-3-carbox.
100501–62–0	Ethyl 1-ethyl-6,7,8-trifluoro-1,4-dihydro-4-oxoquinoline-3-carboxylate.
101904–56–7	4-(5H-Dibenzo[a,d]cycloheptan-5-yl) piperidine.
103094–30–0	3-Ethyl 5-methyl (+-)-4-(2-Chlorophenyl)1,4 dihydro-2-[2-(1,3-dioxoisoindolin-2-yl) ethoxymethyl]p ne-3,5-dicarboxylate.
103300–89–6	N6-Trifluoroacetyl-L-lysyl-L-proline.
103300–91–0	1-(N2-[(S)-1-Ethoxycarbonyl-3-phenylpropyl]- N6-trifluoroacetyllysyl)proline.
103335–41–7	Methyl 3-oxo-4-aza-5-O-androst-1-ene-17-β-carboxylate.
103335–54–2	3-Oxo-4-azaandrost-5-ene-17-β-carboxyic acid.

VOL
60
ISS
80
AP
26
1995
UMI

TABLE 3.—PHARMACEUTICAL APPENDIX TO THE HTSUS—Continued

CAS No.	Pharmaceutical/Pharmaceutical intermediate
103335-55-3	3-Oxo-4-aza-5-α-androstane-17-β-carboxylic acid.
103831-11-4	Pyrrolidin-3-ylamine dihydrochloride.
103995-01-3	1-(2,4-Difluorophenyl)-6,7-difluoro-1, hydro-4-oxoquinoline-3-carboxylic acid.
104146-10-3	4-Methoxybenzyl 3-chloromethyl-7-(2-phenylacetamido)-3-cepham-4-carboxylate.
104860-26-6	cis-1-[3-(4-Fluorophenoxy)propyl]-3-methoxy-4-piperidylamine.
104860-73-3	4-Amino-5-chloro-N-(1-[3-(4-fluorophenoxy) propyl]-3-methoxy-4-piperidyl)-2-methoxamide.
104872-06-2	(3S,4S)-3-Hexyl-4-[(R)-2-(hydroxytridecyl)] oxetan-2-one.
105641-23-4	N6-Trifluoroacetyl-L-lysyl-L-proline p-toluenesulfonate.
105951-31-3	5,6-Dihydro-4-oxo-4H-thieno[2,3-b]thiine-2-sulfonamide.
105951-35-7	5,6-Dihydro-4-oxo-4H-thieno[2,3-b]thiine-2-sulfonamide 7,7-di.
106447-44-3	7-Amino-3-[(Z)-prop-1-enyl]-3-cephem-4-carboxylic acid.
106481-41-0	2-sec-Butyl-4-,4-[4-(4-hydroxyphenyl) piperazin-1-yl]phenyl)-2H-1,2,4-triazol-3(4e).
110638-68-1	Calcium bis(4-O-(β-D-galactopyranosyl)-D-gluconate) dihydrate.
110877-64-0	2-Chloro-4,5-difluorobenzoic acid.
111008-10-1	Isobutyl 3,4-epoxybutyrate.
113403-10-4	Dexibuprofen lysine (INNM).
114772-53-1	4'-Methylbiphenyl-2-carbonitrile.
114873-37-9	1,4,7,10-Tetraazacyclododecane-1,4,7-triyltriacetic acid.
119154-86-8	(Z)-2-(2-Amino-1,3-thiazol-4-yl)-2-methoxyiminoacetyl chloride hydrochloride.
121873-00-5	Ethyl 3-(2-chloro-4,5-difluorophenyl)-3-hydroxyacrylate.
123599-78-0	[(2-Methyl-1-propionyloxypropoxy) (4-phenylbutyl)phosphinoyl]acet acid.
123599-79-1	[(2-Methyl-1-propionyloxypropoxy) (4-phenylbutyl)phosphinoyl]acet acid—cinchonidine (1:1).
123631-92-5	2-(2,4-Difluorophenyl)-1,3-bis (1H-1,2,4-triazol-1-yl)propan-2.
124492-04-2	(S)-1,4-Dithia-7-azaspiro[4.4] nonane-8-carboxylic acid.
124750-53-4	5-(4'-Methylbiphenyl-2-yl)-1-trityl-1H-tetrazole.
125224-62-6	(1S)-2-Methyl-2,5-diazabicyclo[2.2.1]heptane dihydrobromide.
125495-24-4	(S)-3-Formamido-2-formyloxypropionic acid.
127047-77-2	2-(Acetoxymethyl)-4-iodobutyl acetate.
128948-01-6	[R-(R*,S*)]-[2-Methyl-1-(1-oxopropoxy) propoxy](4-phenylbutyl)phosphinoylacetic a.
130804-35-2	1-[5-(4,5-Diphenylimidazol-2-ylthio) pentyl]-1-heptyl-3-(2,4-difluorophenyl)ures.
131266-10-9	2-(Acetoxymethyl)-4-(benzyloxy)butyl acetate.
132659-89-3	3-Dimethylaminomethyl-1,2,3,4-tetrahydro-9-methylcarbazol-4-o.
132981-05-8	Z)-3-(2-[4-(2,4-Difluoro-O-hydroxyiminobenzyl) (piperidinoJethyl)-6,7,8,9-tetrahy-methyl-4H-pyrido(1,2-a)pyrimidin-4-one.
133909-99-6	2-Butyl-4-chloro-1-[2'(2-trityl-2H-tetrazol-5-yl)biphenyl-4-ylmethyl]-1H-imidazolmethanol.
136450-06-1	3'-Acetyl-2'-hydroxy-4-(4-phenylbutoxy) benzanilide.
136465-81-1	(3S,4aS,8aR)-N-tert-Butyldecahydro isoquinoline-3-carboxamide.
136465-99-1	N-(2-Quinoctylcarbonyloxy)succinimide.
136696-42-3	Sodium 3-(5-tert-butylthio-1-(4-chlorobenzyl)-5-(2-quinolylmethoxy-1H-indol-2-yl]-2,2-d ylpropionate.
139781-09-2	5,5-Bis(4-pyridylmethyl)-5H-cyclopenta [2,1-b:3,4-b']dipyridin monohydrate.
139893-43-9	Ammonium (3R,5R)-7-[(1S,2S,6R,8S,8aR)-8-(2,2-dimethylbutyryloxy)-1,2,6,7,8a-hexahydro-2,6 thyl-1-naphthyl]-3,5-dihydroxyheptanoate.
141862-47-7	5-Glyoxyloylsalicylamide monohydrate.
142522-81-4	Sodium (R)-1-(1-(3-[(E)-2-(7-chloro-2-quinolyl)vinyl]phenyl)-3-[2-(1-hydroxy-1-methylethenyl)propylthiomethyl]cyclopropylacetate.
149182-72-9	(S)-N-tert-Butyl-1,2,3,4-tetrahydro isoquinoline-3-carboxamide.
150097-92-0	Methyl 5-pentafluoroethyl-2-propylimidazole-4-carboxylate.
151338-11-3	N-tert-Butyl-diene-17-carboxamide.

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Part III

Federal Communications Commission

47 CFR Part 73
Broadcast Services; Children's Television; Proposed Rule

VOL
60
ISS
80
AP
26
1995
UMI

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-48; FCC 95-143]

Broadcast Services; Children's Television

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This Notice proposes a number of changes to the Commission's rules regarding the broadcast of television programming that serves the educational and information needs of children, in order to implement the Children's Television Act of 1990 (CTA) more effectively. First, the Commission proposes to require broadcasters to identify, on the air and in materials provided to publishers of broadcast schedules, programming "specifically designed" to educate and inform children. The Commission also seeks comment on ways to improve the quality of, and public access to, the information broadcasters make available regarding their efforts in providing children's educational and informational programming. Second, the Commission proposes to clarify its definition of "educational and informational programming" by adopting a definition of "core" programming. The Commission also seeks comment on which of three alternative options for further action should be implemented:

Commission monitoring of the amount of educational and informational programming on the air during a specified period following adoption of measures to improve the flow of programming information to the public and a clarified definition; adoption of a safe harbor processing guideline specifying an amount of core programming that would satisfy the CTA; and adoption of a programming standard requiring that every station be responsible for the airing of a minimum amount of core programming in its market. The Commission also invites comment on possible new license renewal procedures and program sponsorship rules allowing licensees the option of meeting their programming obligation under the CTA in part by sponsoring core programming on other stations in their market. This action is taken to ensure that the educational and informational needs of children are satisfied and thus that broadcasters comply with the CTA.

DATES: Comments are due by June 16, 1995, and reply comments are due by July 17, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Diane Conley, Mass Media Bureau, (202) 776-1653.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making (NPRM) in MM Docket No. 93-48, FCC 95-143, adopted April 5, 1995, and released April 7, 1995. The complete text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rule Making

1. Through this NPRM, the Commission seeks comment on several proposals aimed at providing licensees with clear, simple, and fair guidance regarding their children's programming obligation, to facilitate compliance with the Children's Television Act of 1990 (CTA or Act). The CTA was enacted to "increase the amount of educational and informational broadcast television programming for children." [1] In response to this mandate, the Commission earlier adopted a Report and Order in MM Dockets 90-570 and 83-670 (56 FR 19611, April 29, 1991) and a Memorandum Opinion and Order in the same proceeding (56 FR 42707, August 29, 1991), establishing rules which implemented the CTA.

2. The CTA imposes an affirmative obligation on broadcast television stations to serve the educational and informational needs of children through not only their "overall programming," but also programming "specifically designed" to serve children's needs. The Act requires the Commission, in evaluating its licensees' license renewal applications, to determine whether stations have met this obligation. The CTA also authorizes the Commission, as part of its license renewal review process, to consider any special nonbroadcast efforts by the licensee that enhance the educational and information value of programming to children, and any special efforts by the licensee to produce or support programming specifically designed to serve the educational and informational needs of children that is broadcast by another station in the licensee's market. Our current rules generally incorporate the language of the statute and also define educational and informational programming as "programming that furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs." [2] In addition, we require broadcasters to air some amount of standard-length educational and informational programming specifically designed for children 16 years of age and under. The Commission has adopted no other guidelines regarding the types of programming that may contribute to satisfying a station's renewal review requirement, and our rules contain no requirement as to the number of hours of educational and informational programming that stations must broadcast or the time of day during which such programming may be aired.

3. After developing some experience with the CTA, including the review of more than 320 television license renewals, the Commission issued a Notice of Inquiry (NOI) initiating this proceeding (58 FR 14367, March 17, 1993) to examine whether its children's television rules should be revised. After careful consideration of the studies, comments, and other information regarding the availability of educational broadcast programming provided in response to the NOI and in connection with the FCC's *en banc* hearing on children's television held on June 28, 1994 (59 FR 22814, May 3, 1994), the Commission finds that this evidence is insufficient to support a conclusion as to whether or not the educational and informational needs of children are being met, including whether the CTA and our existing regulations have precipitated a significant increase in the amount of children's educational and informational programming carried by commercial broadcasters. In particular, none of the studies submitted enables us to determine accurately what amount of programming specifically designed to educate and inform children is currently being aired by commercial stations.

4. Even if the Commission accepts the conclusion drawn by some parties that the amount of educational programming on the air has increased since implementation of our rules, the degree of that increase appears to be quite modest at best. Thus, the Commission is not convinced that the current rules are prompting an adequate response to the CTA. Accordingly, the Commission feels that it would be desirable to precipitate a more substantial and significant increase in the amount of children's educational and informational programming—in particular, programming specifically designed to educate and inform children—in the future.

5. In developing the rule revisions it proposes, the Commission has followed three principles. The first principle is that judgments of the quality of a licensee's programming, educational or otherwise, are best made by the audience, not by the federal government. It should not be necessary for the Commission to make such judgments if the public has sufficient programming information to play an active role in ensuring that the goals of the CTA are met. The provision of better programing information to the public should give parents and others the opportunity to influence broadcasters to air more educational programming—by, for example, encouraging children to watch educational programming and thereby increasing the ratings for such programming—and should also facilitate enforcement of the CTA.

6. To improve the flow of information to the public, the Commission proposes to require broadcasters to identify programs as educational at the time they are aired and in materials provided to publishers of television schedules. Such identifications need not take up large amounts of air time or print and could be as simple as an icon. Commenters are asked not only to discuss this specific proposal, but also to propose any additional methods for informing the public of upcoming children's programming. Comment is also sought on how to improve the quality of, and public access to, the information provided by stations regarding their efforts to provide programming specifically designed to serve the educational and informational needs of children. The Commission seeks comment on revising our existing rule requiring broadcasters to place in their public inspection files annual or quarterly reports about the children's programming they air. One suggested change is to require broadcasters to include in these reports the name of and method for contacting the person at the station responsible for collecting comments on the station's compliance with the CTA. The Commission further seeks comment on ways of rendering the required information in an easily understandable yet comprehensive form, and whether these reports should be required annually or quarterly or whether stations should continue to be allowed to choose between the two options.

7. The second principle the Commission has followed is that our rules and processes should be as clear, simple, and fair as possible. To this end, the Commission proposes to revise our definition of "educational and informational" programming. The current definition—"programming that furthers the positive development of children 16 years of age and under in any respect, including the child's intellectual/cognitive or social/emotional needs"—is ambiguous and fails to give licensees clear guidance. Indeed, some licensees have interpreted this definition to include general audience news and game shows. Moreover, the Commission has never defined what constitutes programming "specifically designed" to serve children's educational and informational needs, even though the CTA expressly requires each licensee to provide such programming. The Commission is concerned that this lack of clarity has led to less than optimal compliance with the goals of the CTA and that, unless greater specificity is provided, noneducational programming could drive educational programming off the air. The Commission therefore proposes to adopt a definition of programming specifically designed to serve children's educational and informational needs, *i.e.*, "core" programming.

8. The Commission tentatively concludes that we should define "core" educational programming as those programs that meet the following requirements: (1) The program is specifically designed to meet the educational and informational needs of children ages 16 and under (*i.e.*, has education as a significant purpose); (2) the educational objective of the program and the target child audience are specified in writing in the children's programming report described above; (3) the program is aired between the hours of 6:00 a.m. and 11:00 p.m.; (4) the program is regularly scheduled; (5) the program is of a substantial length (*e.g.*, 15 or 30 minutes); and (6) the program is identified as educational children's programming at the time it is aired, and instructions for listing it as educational programming are provided by the licensee to program guides. The Commission seeks comment on this definition.

9. The Commission's third principle is that broadcasters should be guided by market forces, to the greatest extent possible, in determining whether they meet their programming obligation by airing shows themselves, or by sponsoring programming aired on other stations. The program sponsorship concept, most relevant to the options discussed below of adopting processing guidelines or programming standards, would permit a broadcaster to better utilize other stations' children's programming expertise, would allow some stations to develop audience identification and programming schedules that build child audiences, and could stimulate growth in the production of educational and informational programming, all while reducing disincentives to airing such programming.

10. While the Commission believes that the proposals to ensure that the public has greater access to information and to clarify the definition of educational and informational programming are important steps toward promoting the goals of the CTA more effectively, the Commission is concerned that these efforts may not suffice to serve the educational and informational needs of children, and to bring about the kind of measurable increase in such programming contemplated by Congress. Accordingly, the Commission also proposes to take one of the following three types of action.

11. The first option available to the Commission would be to monitor the amount of broadcasted programming specifically designed to serve the educational and informational needs of children for a specified period of time (*e.g.*, three years) to determine whether the Commission's efforts to increase the flow of information to the public and clarify our rules have caused a significant increase in such programming. Stations would be required to submit annual descriptions of their educational and informational programming. At the end of the specified period, the Commission would assess the need for further regulatory action.

12. A second option would be to establish a safe harbor quantitative processing guideline. Such a guideline would specify an amount of core programming that would represent one means of satisfying the CTA's programming obligation and permit staff approval of the children's programming portion of a license renewal application. Under this option, if a licensee aired the prescribed amount of programming, its license renewal application would not be reviewed further for CTA programming compliance. The only challenges to a licensee's children's

[1] Children's Television Act of 1989, Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 227, 101st Cong., 1st Sess. 1, 9 (1989) ("Senate Report").

The other provisions of the CTA, those intended to protect children from over commercialization of programming, are not at issue in this proceeding.

[2] 47 C.F.R. 73.671 Note.

VOL 60 ISS 80 AP 26 1995 UMI

programming performance that would be entertained would be those questioning the *bona fides* of a licensee's claim to have met the processing guideline. A licensee that did not meet the processing guideline would have its application referred to the Commission for consideration and would have the opportunity to demonstrate that it had complied with the CTA in other ways. The Commission would then evaluate such a licensee's performance based on its overall efforts and other circumstances. Failure to meet the guideline would thus result in greater review of the application, but would not constitute a *de facto* violation of the Commission's rules.

13. Given the results of the studies submitted in the record thus far, and allowing for the possibility that these studies may be somewhat flawed, the Commission is currently inclined to think that, if a processing guideline is adopted, it should be set at 3 hours per week of core programming, at least initially. The Commission seeks comment on this suggestion and on whether, if a processing guideline is adopted, it should be increased in stages over time. If the Commission adopts a phased-in processing guideline, what should the ultimate level of the guideline be, and over what period of time should it be phased in? One possibility would be to increase the guideline by increments of the half hour each year until reaching a level of 5 hours of core programming per week.

14. A third option would be to establish a standard requiring that every station be responsible for the airing of a minimum amount of core programming in its market. Stations meeting this requirement would qualify for staff approval of the children's programming portion of their license renewal application. Those not meeting the standard would have their applications referred to the Commission for determination of the appropriate remedy. Notwithstanding failure to meet the standard, the Commission could hold that the licensee had in fact complied with the CTA's requirements. However, a licensee failing to meet a standard would have a much heavier burden to show that it complied with the CTA than would be the case if it did not meet a processing guideline. Thus, a licensee failing to meet a standard would have to make a compelling showing that the qualifying programming it did air, along with any of its other programming-related activities in its market, served the educational and informational needs of children in that market as well as or better than an additional amount of programming specifically designed to serve the educational and informational needs of children. Again, the Commission believes that, given the current level of programming documented by the data submitted, the appropriate level of a programming requirement would be 3 hours of core programming per week, at least initially. The Commission seeks comment on this suggestion and, as with the option of a processing guideline, interested parties are invited to comment on whether it would be appropriate to increase the requirement by, for example, one half hour each year until a requirement of 5 hours of core programming per week is established. A programming standard, or rule, may be easier to administer and would give the Commission a broader range of sanctions than a processing guideline. The Commission solicits comment on these and other factors differentiating a processing guideline from a standard.

15. There are a number of questions on which the Commission seeks comment that are raised by both the option of a safe harbor processing guideline and that of a programming standard. First, comment is sought on the Commission's suggestion of a weekly processing guideline or programming standard averaged over a specified period, and the Commission asks for ideas as to the period of time over which a guideline or standard should be averaged. The Commission also seeks comment on the extent to which repeats during a weekly schedule and later reruns of programs should be counted toward fulfillment of any processing guideline or programming requirement that might be adopted. Second, the Commission seeks comment as to whether a processing guideline or programming requirement should be the same for all stations regardless of station type or market size. Third, it has been publicly suggested that to give stations an incentive to air high-quality programming, a programming requirement should be based entirely on a certain amount of rating points. The Commission invites comment on this suggestion and on whether it would be appropriate for either a processing guideline or a programming standard.

16. Finally, interested parties are asked to provide the Commission with further data and related information. The Commission requests in particular detailed information regarding any potential opportunity costs (*i.e.*, the difference in profits from children's educational programming and from other programming that might be aired instead) for broadcasters that would be created by the implementation of a processing guideline or programming requiring set at various levels. More specifically, the Commission requests that commenters provide us with one or more studies that quantify any such costs for stations in different sized markets, as well as for the broadcasting industry as a whole. The Commission urges commenters to ensure that the sample data used to develop estimates of any opportunity costs that stations might face are representative and that the methodology used to develop the estimates is clearly explained. The Commission also reiterates to all interested parties the importance of providing information and studies, in addition to those already on record, documenting changes in the nature and amount of children's educational programming on the air, especially recently. In providing such studies, commenters should bear in mind that the utility of the material already presented to us in this inquiry is limited. For example, the results of certain station surveys accept at face value station claims as to the educational consent of their programming, and our experience with such claims suggests that the figures produced by these studies may be inflated. The Commission notes that if data were submitted that show that the educational and informational needs of children are being met consistent with the goals of the CTA, we would reassess the need for further action.

17. In weighing alternatives for further Commission action, the Commission must consider any limitations imposed by the First Amendment of the Constitution. Even assuming that the Commission's proposals were found to be content-based restrictions on speech, some restrictions on content have been judged permissible when applied to broadcasting because of the scarcity of frequencies and broadcasters' concomitant duty to provide public service. To be consistent with the First Amendment, content-based restrictions on speech in the broadcasting context must be narrowly tailored to further a substantial government interest. The Commission tentatively concludes, and the case law suggests, that the government has a substantial interest in furthering the education and welfare of children through implementation of the CTA. The courts have held that there is a compelling government interest in "safeguarding the physical and psychological well being of a minor." [3]

[3] *Action for Children's Television* v. *FCC*, 852 F.2d 1332, 1343 n. 18 (D.C. Cir. 1988) and Supreme Court Cases cited therein.

The legislative history of the CTA states that "[i]t is difficult to think of an interest more substantial than the promotion of the welfare of children who watch so much television and rely upon it for so much of the information they receive." [4] The Commission seeks comment on whether each of the proposed alternatives for improving implementation of the CTA is narrowly tailored to further the CTA's interest in furthering the education and welfare of children and on its analysis of First Amendment issues as discussed in paragraphs 66 through 73 in the full text of this NPRM.

18. The Commission also seeks comment on possible revisions to our license renewal procedures that might encourage the public to take a more active role in urging stations to comply with the CTA and reduce the government's role in reviewing such compliance. Thus, the Commission seeks comment on whether it should require any party filing a petition to deny to show that he or she had first attempted to resolve the alleged problem with the station in question, and whether, if we implement a safe harbor processing guideline or a programming standard licensees should be permitted to certify whether they have aired the prescribed amount of core programming.

19. Finally, the Commission solicits comment on a number of general and specific issues regarding "program sponsorship" rules. If the Commission adopts either a safe harbor processing guideline or a programming standard, such rules would give licensees the option of either themselves airing the entire prescribed amount of children's educational programming, or airing a portion of the prescribed amount themselves and taking responsibility for the remainder by providing financial or other "in-kind" support for programming aired on other stations in their market. The station sponsoring educational programs shown elsewhere would take credit for these programs at license renewal time. We conclude that the CTA precludes allowing a licensee to meet either a processing guideline or programming standard entirely by sponsoring programming on other stations in the same market. The Commission thus suggests that under either option each station be required to air at least 1 hour of core educational and informational programming itself and that each be allowed to fulfill the remaining hours by sponsoring core programming on other stations. The Commission also seeks comment on the tentative views expressed in the full text of the NPRM regarding how a program sponsorship system should work. The CTA and the Commission's rules already permit stations to receive credit at license renewal time for supporting educational programming on another station in their market, and the Commission has held that if one station produces or buys children's programs broadcast on another station, so as to qualify under 47 U.S.C. 303b(b)(2), both stations may rely on such programming in their license renewal applications. The Commission now seeks comment on whether that holding was correct, or whether it undermines the CTA by permitting "double counting." It appears that, at least for the purpose of meeting a processing guideline or programming requirement, stations that air sponsored programming ("host" stations) should not be permitted to claim credit for such programming.

20. It is also the Commission's view that a station should be allowed to sponsor programs for the purpose of meeting a processing guideline or programming requirement only on host stations that serve largely the same potential viewers. On the other hand, the Commission does not believe that we should require sponsor and host stations to serve exactly the same area because such a requirement would unduly limit the program sponsorship options available in many markets. Taking into account these competing considerations, it would seem sensible to require that, when any portion of a station's programming that is claimed to satisfy a processing guideline or programming requirement consists of programming shown on another station, the signal of the host station cover 80 percent of either the community of license or the area encompassed within the grade A or grade B contour of the sponsor station. The Commission seeks comment on these ideas and on other issues relevant to program sponsorship. For example, the Commission asks for comment on what types of information about sponsored programs should be provided to the public, and whether antitrust law would limit the extent to which stations in a market may cooperate through program sponsorship efforts.

21. If the Commission adopts either a processing guideline or a programming standard, we would intend that the resulting regulatory changes would be made on a provisional or experimental basis, rather than as permanent changes. It is the Commission's hope that any such guideline or standard, together with the other changes we propose, will effectuate a significant improvement in television broadcasters' service to children, and also will enable parents to monitor the performance of stations in their communities and ensure through their actions that the CTA's objectives are met. In accordance with these expectations, and to ensure periodic review of the necessity and efficacy of a guideline or standard, the Commission invites comment on whether to sunset any regulatory changes related to the possible implementation of either of these two options, absent additional Commission action, on December 31, 2004, unless affirmatively extended by the Commission. This date is one year after the close of the renewal cycle for the last group of stations to come up for renewal after rules would be adopted in this proceeding, and would allow the Commission, prior to the sunset, the opportunity to evaluate fully the effects of any rules adopted here. Thus, it would be our intention to undertake a review prior to the sunset date.

22. In conclusion, with this proceeding, the Commission intends to enhance the public's ability to monitor station compliance with the CTA, to clarify its rules and policies governing educational programming for children to provide licensees with greater certainty as to the scope of their children's programming obligation, and to ensure that the amount of educational and informational programming provided by television broadcasters comports with the goals of the CTA. The Commission believes that these objectives can be achieved by increasing the flow of information to the public about the children's programming that stations are broadcasting, and by adopting a definition of programming "specifically designed" to serve children's educational and informational needs. In addition, we intend to take further action—in the form of instituting monitoring procedures, processing guidelines or a programming standard—in order to ensure that all children have access, as Congress intended, to an adequate supply of educational and informational programming specifically designed for them. The Commission seeks comment on all aspects of our proposals, and welcomes other ideas commenters may have to achieve the objectives outlined herein.

V. Administrative Matters

23. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 16, 1995, and reply comments on or before July 17, 1995. To file formally in this

[4] Senate Report at 17; see also House Report at 11.

VOL
60
ISS
80
AP
26
1995
UMI

proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554.

24. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission Rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

Initial Regulatory Flexibility Act Statement

I. Reason for the Action

This proceeding was initiated to explore ways to implement the Children's Television Act of 1990 more effectively.

II. Objective of This Action

The actions proposed in this *NPRM* are intended to give licensees clear, simple, and fair guidance regarding their children's programming obligation; to increase the flow of programming information to the public to facilitate enforcement of the Children's Television Act of 1990; and to allow the marketplace to determine to the fullest extent possible the means that licensees use to meet their programming obligation. Other objectives are to increase the amount of available television broadcast programming that meets the educational and informational needs of children and to promote efficiency in the production and distribution of such programming.

III. Legal Basis

Authority for the actions proposed in this NPRM may be found in Sections 1 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 303; and Section 103 of the Children's Television Act of 1990, 47 U.S.C. 303b.

IV. Number and Type of Small Entities Affected by the Proposed Rules

Approximately 1,200 existing commercial television broadcasters of all sizes may be affected by the proposals contained in this NPRM.

V. Reporting, Record-keeping, and Other Compliance Requirements Inherent in the Proposed Rule

The NPRM seeks comment on modifying current record-keeping and reporting requirements to include a requirement that licensees demonstrate compliance with proposed rule changes in their children's programming report, and seeks comment on requiring licensees to make programming information more accessible to the public. The NPRM seeks comment on whether stations should be required to separate their children's programming reports from other material in the public inspection file and broadcast announcements to alert the public of the existence of such reports. It also seeks comment on a certification requirement that would replace the current requirement for submission of detailed documentation to the Commission for those stations able to certify that they have met a safe harbor processing guideline or programming standard.

VI. Federal Rules Which Overlap, Duplicate, or Conflict With the Proposed Rule

None.

VII. Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives of the Action

The proposals contained in this NPRM are designed to encourage television broadcast programming that satisfies the requirements of the Children's Television Act of 1990, while minimizing the impact on small entities.

25. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of this NPRM, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq* (1981).

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

[FR Doc. 95–10176 Filed 4–25–95; 8:45 am]
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Wednesday
April 26, 1995

Part IV

Department of Transportation

Maritime Administration

46 CFR Part 298

Obligation Guarantees: Program Administration; Proposed Rule

VOL
60
ISS
80
AP
26
1995
UMI

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 298

[Docket No. R–154]

RIN 2133–AB14

Obligation Guarantees: Program Administration

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Maritime Administration ("MARAD") is issuing this notice of proposed rulemaking which proposes modifications to certain provisions of the existing regulations implementing Title XI of the Merchant Marine Act, 1936, as amended ("Act"), in order to improve administration of the Title XI program. MARAD administers financial assistance under Title XI of the Act in the form of obligation guarantees for all types of vessel construction and shipyard modernization and improvement, except for fishing vessels. On March 31, 1994, MARAD published in the **Federal Register** an interim final rule which amended its regulations implementing Title XI in order to carry out the provisions of Subtitle D of Public Law 103–160, expanding the authorization for obligation guarantees to finance the construction, reconstruction, and reconditioning of eligible export vessels and shipyard modernization and improvement. A final rule was published on September 16, 1994. The final rule stated that MARAD would publish at a later date a separate notice of proposed rulemaking to improve administration of the entire Title XI program. That is the subject of this rulemaking.

MARAD initiated a review of the administration of its Title XI obligation guarantees program regulations with the objective of implementing President Clinton's ongoing regulatory reform initiative and to reaffirm and implement the principles of Executive Order 12866—Regulatory Planning and Review (September 30, 1993). This rulemaking would significantly shorten the time for processing applications for guarantees and reduce the economic burden on applicants in complying with MARAD requirements for the submission of information. Accordingly, it is expected to encourage the construction of vessels in United States shipyards.

DATES: Written comments are requested and must be received on or before May 26, 1995. A 30 day comment period has been chosen in order to improve the efficiency of the administration of the Title XI program.

ADDRESSES: Comments may be mailed or otherwise delivered to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a stamped self-addressed envelope or postcard.

FOR FURTHER INFORMATION CONTACT: David A. Lippold, Examiner, Division of Capital Assets Management, Office of Ship Financing, Maritime Administration, Room 8122, 400 Seventh Street SW., Washington, D.C. 20590. Telephone 202–366–1907.

SUPPLEMENTARY INFORMATION: Title XI of the Act, 46 App. U.S.C. 1271 *et seq.*, authorizes the Secretary of Transportation (Secretary) to provide guarantees of debt ("obligation guarantees") issued for the purpose of financing or refinancing the construction, reconstruction or reconditioning of vessels built in United States shipyards. On November 30, 1993, Public Law 103–160, cited as the "National Defense Authorization Act for Fiscal Year 1994" ("Authorization Act"), was enacted. Subtitle D of Title XIII of the Authorization Act, cited as the "National Shipbuilding and Shipyard Conversion Act of 1993" ("Shipbuilding Act"), expanded the Title XI program by authorizing the Secretary to guarantee obligations issued to finance the construction, reconstruction, or reconditioning of eligible export vessels and for shipyard modernization and improvement. The Shipbuilding Act establishes "a National Shipbuilding Initiative (NSI) program to be carried out to support the industrial base for national security objectives by assisting in the reestablishment of the United States shipbuilding industry as a self-sufficient internationally competitive industry."

Applications for obligation guarantees are made to MARAD acting under authority delegated by the Secretary to the Maritime Administrator ("Administrator"). Prior to execution of a guarantee, MARAD must, among other things, make determinations of economic soundness of the project, and the financial and operating capability of the applicant. Prior to amendment by Public Law 103–160, guarantees could be issued only for debt issued by United States citizens.

The Title XI program enables applicants to obtain long-term financing on terms and conditions and at interest rates comparable to those available to large corporations. Funds secured by the obligation guarantees are borrowed in the private sector.

As noted, the provisions of the Shipbuilding Act that required changes in MARAD's regulations became effective on November 30, 1993. MARAD concluded that it was imperative to publish amendments to its Title XI regulations, as an interim final rule. The interim final rule became effective on publication in the **Federal Register** on March 31, 1994 (59 FR 15123), in order to permit implementation of the NSI program without delay.

That interim final rule stated that MARAD would publish, at a later date, a separate notice of proposed rulemaking which would propose modifications to the Title XI regulations to improve administration of the overall Title XI program. Such modifications were not addressed in the interim rule because they were not required to implement the Shipbuilding Act. This notice of proposed rulemaking solicits public comments on a number of proposals to improve the current Title XI program.

In addition to soliciting comments on the amendments to the Title XI regulations set forth in this notice of proposed rulemaking, MARAD is hereby soliciting industry and other public comments on three additional areas. The first issue on which MARAD is soliciting public comments deals with the retention in section 298.13 of the waiver requirement specifically granted for foreign components and services to be included in Actual Cost. MARAD is concerned about the potential adverse effect on the U.S. supplier base, which we recognize as critical to the national defense and economy. We are attempting to create an environment where both the shipbuilding and ship supply industries have the opportunity to be competitive based on fair pricing, quality, and timeliness.

The second issue on which MARAD is soliciting public comments deals with construction period financing. The Title XI regulations currently provide authority for MARAD to do construction period financing. As the Secretary may approve Guarantees with respect to obligations to be issued to finance the construction, reconstruction, or reconditioning of vessels or construction of advanced or modern shipbuilding technology during the applicable period of construction, reconstruction, or reconditioning, we

are inviting comments on available forms of security, in addition to surety bonds, that could protect MARAD's interests as a lender, how progress should be monitored, what new procedures/methodologies should be developed to improve the previously utilized progress payment system, and if payment of interest on the obligations should be made on a more frequent basis (i.e., weekly, monthly or quarterly) than that outlined in § 298.22, *Amortization of Obligations*, of this Part 298. In addition, in § 298.21 MARAD has proposed the use of an approved agent as an alternative for appropriate certification of the Actual Cost of a project. However, comments are solicited on how the Title XI applicant will verify/certify to MARAD that certain costs have been paid prior to disbursement of Title XI funds from the escrow account, for example, the use of an agent on MARAD's behalf to verify that certain costs have been paid.

Comments are also requested concerning the standard application Form MA 163 referenced in § 298.3, *Applications*, of this title and the required documentation outlined in Subpart D of this part 298. Please comment also on the current standard application Form MA 163 and any proposed amendments to the form and standard documentation, particularly with regard to export vessels and shipyard modernization. Specific changes to the existing standard application form could, for example, include a requirement to list any requests which have been made of other U.S. and/or foreign institutions regarding the project for which the Title XI financing is requested and if so, a statement of the nature of this assistance, including any rating of foreign financial institutions by other U.S. government agencies. Other changes could involve modifications to the standard form of the Title XI Reserve Fund and Financial Agreement. In addition, comments are invited for any proposed modifications to the existing regulatory requirements covering the Title XI program.

Whenever reference is made in these regulations to forms prescribed by MARAD for applications or other filing requirements, the format of such forms in effect prior to the effective date of these regulations may be used pending revision and issuance of new forms, which must be approved by The Office of Management and Budget. To the extent necessary to reflect statutory requirements, any form submitted may be modified or supplemented to facilitate processing, but until new forms have been approved, these regulations do not require more extensive paperwork or reporting requirements than exist under the present Title XI regulations.

Discussion of Rulemaking Text

MARAD is proposing to amend its Obligation Guarantees regulations at 46 CFR Part 298, the proposed amendments summarized as follows:

References to the Terms "Affiliate" and "Affiliated"

All references to the existing defined terms "Affiliate" and "Affiliated" would be replaced by the defined term "Related Party". This change reflects a terminology change in generally accepted accounting principles (GAAP), as promulgated by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants, and conforms to changes made in Part 232, Uniform Financial Reporting Requirements, on November 24, 1993, effective December 27, 1993. Accordingly, the definition of Affiliate or Affiliated in section 298.2 (c) is proposed to be removed, a new definition of Related Party added, and the paragraph designations for the definitions are redesignated herein accordingly. In addition, it is proposed that paragraphs 298.13(a)(2)(iv), 298.13 (b)(2)(i)(B) and (b)(3), 298.35(b)(1)(ii), 298.35(b)(2)(ii), 298.35(c)(1)(ii), 298.35(c)(2)(ii), and 298.37 be amended to reflect the "Related Party" preferred terminology which conforms to changes made in Part 232 on November 24, 1993.

Subpart A—Introduction

Section 298.2 Definitions

Section 298.2 is intended to provide convenient reference to the meaning of significant terminology used in Part 298, based principally on statutory derivation, reflecting with the letter designation of the paragraphs respectively, contained in the final rule published on September 16, 1994 (based on the interim final rule designations and redesignations), or as proposed to be redesignated in this rulemaking. As proposed:

Paragraph (a), "Act" remains unchanged.

Paragraph (b), "Actual Cost" remains unchanged.

Paragraph (c), "Advanced Shipbuilding Technology" remains unchanged.

Paragraph (d), "Affiliate or Affiliated" is removed.

Redesignated paragraph (d), "Closing" remains unchanged.

Redesignated paragraph (e), "Depository" remains unchanged.

Redesignated paragraph (f), "Depreciated Actual Cost" remains unchanged.

Redesignated paragraph (g), "Documentation" remains unchanged.

Redesignated paragraph (h), "Eligible Export Vessel" remains unchanged.

Redesignated paragraph (i), "Eligible Shipyard" remains unchanged.

Redesignated paragraph (j), "General Shipyard Facility" remains unchanged.

Redesignated paragraph (k), "Guarantee" remains unchanged.

Redesignated paragraph (l), "Guarantee Fee" remains unchanged.

Redesignated paragraph (m), "Indenture Trustee" is changed to require that a qualified bank or trust company must, among other things, be located in and organized and doing business under the laws of the United States, a State or territory thereof, the District of Columbia or the Commonwealth of Puerto Rico.

Redesignated paragraph (n), "Letter Commitment" remains unchanged.

New paragraph (o), "Letter of Interest" is added as an attempt to enhance a company's or shipyard's marketing effort and, in the long run, expedite the decision-making process on Title XI applications. It may be issued by the Secretary upon receipt of a request for Guarantees and is not a financial offer but rather an indication of what terms may be considered by the Secretary if a Letter Commitment is issued at a later date. This definition parallels very closely the Export-Import Bank of the United States' definition for a letter of interest.

Paragraph (p), "Maritime Administration" remains unchanged.

Paragraph (q), "Modern Shipbuilding Technology" remains unchanged.

Paragraph (r), "Mortgage" remains unchanged.

Paragraph (s), "Obligation" remains unchanged.

Paragraph (t), "Obligee" remains unchanged.

Paragraph (u), "Obligor" remains unchanged.

Paragraph (v), "Paying Agent" remains unchanged.

Paragraph (w), "Person" remains unchanged.

Paragraph (x), "Preferred Mortgage" remains unchanged.

New paragraph (y), "Related Party" is added, defined as is "Affiliate" or "Affiliated" in existing paragraph (d).

Redesignated paragraph (z), "Secretary" remains unchanged.

Redesignated paragraph (aa), "Secretary's Note" remains unchanged.

Redesignated paragraph (bb), "Security Agreement" remains unchanged.

VOL 60 ISS 80 AP 26 1995 UMI

Redesignated paragraph (cc), "Vessel" remains unchanged. Although the definition of Vessel has not been modified, one continued area of interest has been the expansion of Title XI financing to promote a U.S.-flag cruise industry and to expand opportunities for U.S. shipyards in the passenger vessel market, including ferries, "cruises to nowhere" and gaming vessels. Some organizations have requested that passenger vessels engaged in commercial common carriage on a scheduled service be determined to be eligible for Title XI even if they do not have overnight accommodations or specific point-to-point service. In the past, MARAD policy has excluded such vessels from Title XI coverage. Although no regulatory change is necessary, MARAD is taking the opportunity at this time to announce a change in policy expressly to include passenger vessels engaged in commercial common carriage as eligible for the Title XI program. Commercial common carriage vessels must operate on a scheduled service and offer passage to the public at large.

Section 298.3 Applications

Section 298.3 is self-explanatory. Paragraphs (a), (c), and (d) remain unchanged. Paragraph (b)(1) is amended to shorten the period between the filing of the application and the anticipated date by which a Letter Commitment is required from six months to four months. In addition, it shortens the period of time for the Secretary to perform a preliminary review of the application for adequacy of completeness from 30 days to 15 days and reduces the amount of time the applicant has to correct deficiencies from nine months to 15 days for each request for additional information. If the requested information is not received within this 15 day period, then the Secretary may terminate the processing of the application without prejudice. Once the Title XI application is considered complete by the Secretary, the Secretary will act on the application within a period of 60 calendar days. Finally, the revised paragraph states that, unless otherwise extended by the Secretary, if an application is not completed by the applicant and acted upon by the Secretary within four months from the submission date, the processing of the application is terminated without prejudice and the applicant may reapply. This shortened period of time is much less than the one year period currently provided for in the existing Title XI regulations.

In order to insure that a Title XI applicant is serious in applying for federal assistance and in view of the increasing complexity of export and shipyard modernization projects and the increased interest in the Title XI program, the filing fee referenced in paragraph (c) and submitted with a formal Title XI application shall be adjusted from a fixed fee of $1,000 to a fee based on the requested amount of the Title XI financing. Each Title XI application must be accompanied by a filing fee in the amount of one quarter of the investigation fee amount calculated pursuant to the investigation fee formula outlined in § 298.15. Although the total investigation fee formula for each project shall not change, requiring that one quarter of the investigation fee be submitted with the receipt of a formal Title XI application will result in the Government recovering the administrative cost of processing the application in a more expeditious manner. Notwithstanding the above, in no event will the filing fee be less than $1,000. The filing fee will continue to be non-refundable and will be used as a credit against the investigation fee.

Finally, a new paragraph (f) is added in order to expedite the review of Title XI proposals and lessen the burden on the applicant, which provides for the preliminary review of a request by an applicant, rather than a complete application, and the issuance by the Secretary within ten days of a Letter of Interest. There shall be no filing fee payable in respect of a request for the issuance of such a letter. Letters of interest address the general eligibility of a project and are not binding commitments of the Government.

Section 298.10 Citizenship

In section 298.10, paragraphs (b) through (e) remain unchanged. Paragraph (a) of this section is deleted in its entirety and replaced with a new paragraph which incorporates changes conforming it to the citizenship standards in Part 221.

Section 298.11 Vessel Requirements

In § 298.11, paragraphs (b) and (d) remain unchanged. Paragraph (a) of this section is revised to be divided into three categories. This change will provide greater flexibility to ship owners and shipyards and will be squarely in line with the standards enunciated by the U.S. Coast Guard.

The first category defines a vessel financed by Obligation Guarantees to be considered to be of U.S. construction and qualified for coastwise trade provided that all components of the hull and superstructure are fabricated in the United States, and that the Vessel is assembled entirely in the United States; however, the Vessel may have foreign source machinery, equipment, or hull and superstructure material which has been manufactured in a foreign facility to the extent allowed by the U.S. Coast Guard. The second category defines a Vessel financed by Obligation Guarantees to be considered to be of U.S. construction if the Vessel is assembled entirely in the United States, but not qualified for the coastwise trade because it has material which has been manufactured in a foreign facility. The third category states that with respect to Eligible Export Vessels financed by Obligation Guarantees, the Vessel must be assembled in a U.S. shipyard.

Paragraph (c) is amended to permit Quality Systems Certificate Scheme issued by qualified International Association of Classification Societies (IACS) members who have been recognized by the Secretary as meeting acceptable standards for such a society to participate in the Eligible Export Vessel program. That recognition shall include, at a minimum, recognition that the society meets the requirements of IMO Resolution A.139(18) and delegation by the United States Coast Guard of inspection/certification authority.

Finally, paragraph (e) would be added to this section to indicate that the preferred system of measurement and weights for Vessels and advanced and modern shipbuilding technology is the metric system.

Section 298.12 Applicant and Operator's Qualifications

Section 298.12 is modified to eliminate the submission of certain information in paragraph (b) about the identity and ownership of the applicant which is not required. In addition, the paragraph is modified by requesting that the applicant furnish its international identification number, if any. Paragraph (c)(3) of this section is modified to cover insolvency or reorganization proceedings of the applicant under either domestic or foreign statutes in the case of Eligible Export Vessels. Finally, paragraph (f) of this section is modified to limit the information required to be submitted regarding the management and shore management personnel concerned with the physical operation of the vessel(s) owned by the applicant or proposed for construction or individuals concerned with the physical operation of the shipyard.

Section 298.13 Financial Requirements

Paragraph (a)(2) is revised to clarify that foreign components of the hull and superstructure may not be included in Actual Cost. The fourth sentence is amended to clarify that, although excluded from Actual Cost, foreign components of the hull and superstructure can be regarded as owner-furnished equipment that may be used in satisfying the applicant's equity requirements imposed by paragraph (a)(3) of this section. An illustration is provided to demonstrate how the cost of foreign components of the hull and superstructure may satisfy an applicant's equity requirements. New paragraph (a)(3) provides that the ability of co-financiers to exercise their rights against collateral shared with MARAD, if an applicant utilizes co-financing (i.e., consisting of a blend of Title XI and private financing for the debt portion of the project), shall be subject to the approval of the Secretary. Finally, paragraphs (a)(4), (b)(2), (b)(3) and (b)(4) are amended to be consistent with 46 CFR Part 232 with respect to the use of the defined term Related Party.

Section 298.14 Economic Soundness

In section 298.14 the existing paragraph (a)(2)(i)(F) is amended to recognize the potential for purchasing existing equipment of a reasonable condition and age from sources other than existing Title XI holders.

Section 298.16 Substitution of Participants

Section 298.16 is amended by removing existing paragraph (a) which requires a mortgagee applying for permission to assign an insured mortgage to another entity to pay a fee of $1,500. It is very unlikely that any of the few remaining insured Mortgages will be assigned prior to their maturity within the next several years and, if so, MARAD's approval of such a request is routine.

Section 298.17 Evaluation of Applications

Section 298.17 is amended by removing in Subpart B, Appendix A-Selected Cash Flow Impacts. Appendix A should have been removed when the responsibility for the computation of the internal rate of return was shifted from the Title XI applicant to MARAD in 1992.

Section 298.21 Limits

Section 298.21 modifies paragraph (b) to include in the Actual Cost determination Guarantee Fees determined in accordance with the provisions of section 1104(e) of the Act. Finally, paragraph (d) is amended to include applicability to Advanced Shipbuilding Technology and Modern Shipbuilding Technology and to provide the alternative for appropriate certification of the Actual Cost of a project by an agent approved by the Secretary.

Section 298.23 Refinancing

The penultimate sentence in Section 298.23 is modified to provide that an applicant shall satisfy all of the eligibility requirements set forth in Subpart B of Part 298, including economic soundness, as may be necessary.

Section 298.25 Financing Repayment of Construction-Differential Subsidy

Section 298.25 is removed due to the fact that the construction-differential subsidy program has not been funded since 1981.

Section 298.28 Advances

Section 298.28 is amended by shortening and simplifying the description of the criteria that will be applied in exercising the Secretary's discretion to make an advance or payment of funds.

Section 298.32 Required Provisions in Documentation

Section 298.32 is amended to conform to the three categories of Vessels identified in § 298.11 (a) regarding Vessel requirements, addressed earlier. In addition, paragraph (b)(6) is amended by adding the applicability of the appropriate insurance on Eligible Export Vessels.

Section 298.36 Annual Guarantee Fee

Section 298.36 is amended by deleting paragraphs (f), (g), and (i) in their entirety and amending paragraph (e) to reflect the requirement that the obligor make a lump sum payment of the Guarantee Fee at the closing of the loan Guarantee, without any right of reimbursement in the event of prepayment of the Obligation. The proposed amendment ensures that the government will retain the full benefit of the Guarantee Fee and will create an incentive for applicants to enhance the financial structure of their transactions in order to merit eligibility for the lowest possible Guarantee Fee rate. It is proposed that the project's entire Guarantee Fee payment shall be made by the Obligor to the Secretary in an amount equal to the sum of the present value of the separate products obtained by applying the Guarantee Fee rate to the projected amount of the guaranteed Obligations outstanding for each year of the stated maturity of the guaranteed Obligation. In calculating the present value used in determining the amount of the Guarantee Fee to be paid, MARAD will use a discount rate based on information contained in the Department of Commerce's Economic Bulletin Board quarterly rates. Under no circumstances could the Secretary refund the Guarantee Fee to the Obligor. As provided in § 298.21(b), a Guarantee Fee paid pursuant to this section would be included in Actual Cost and would be eligible to be financed.

Section 298.42 Report Requirements—Financial Statements

Section 298.42 is amended by making certain technical corrections relating to requirements for independent audits by clarifying that the financial statements of a company are audited.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review)

This rulemaking has been reviewed under Executive Order 12866, and it has been determined that this is not an economically significant regulatory action as the rule is not likely to result in an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. However, since this rule would further the implementation of the National Shipbuilding Initiative program established under Subtitle D of Title XIII, Public Law 103–160, to support the industrial base and national security objectives by assisting in the reestablishment of a United States shipbuilding industry as a self-sufficient internationally competitive industry, and is of great interest to the U.S. maritime industry, it has been determined to be a significant rule under the Department's Regulatory Policies and Procedures. Accordingly, it is considered to be a significant regulatory action under E.O. 12866. Because the economic impact should be minimal, further regulatory evaluation is not necessary. These amendments are intended only to simplify and clarify the procedural requirements for obtaining Guarantees, principally to expedite the process for MARAD's review of applications. Its purpose is to encourage the construction of ships in U.S. shipyards both for the domestic and the Eligible Export Vessel programs.

MARAD is publishing these amendments as a notice of proposed rulemaking, as necessary to carry out the Secretary's responsibilities under

VOL
60
ISS
80
AP
26
1995
UMI

Title XI and to improve program administration.

This rulemaking document has been reviewed by the Office of Management and Budget under Executive Order 12866, "Regulatory Planning and Review."

Federalism

MARAD has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

MARAD certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

MARAD has considered the environmental impact of this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains reporting requirements that have previously been approved by the Office of Management and Budget (Approval No. 2133–0018). Use of the present Maritime Administration Title XI Obligation Guarantees form will be continued pending revision and issuance of new forms, which must be approved by The Office of Management and Budget.

List of Subjects in 46 CFR Part 298

Loan programs—transportation, Maritime carriers, and Mortgages.

Accordingly, 46 CFR Part 298 is proposed to be amended as follows:

1. The authority citation for part 298 continues to read as follows:

Authority: 46 App. U.S.C. 1114 (b), 1271 et seq, 49 CFR 1.66.

§ 298.13, 298.35, 298.37 [Amended]

2. Remove all references in §§ 298.13 (a)(2)(iv), (b)(2)(i)(B) and (b)(3); 298.35 (b)(1)(ii), (b)(2)(ii), (c)(1)(ii), and (c)(2)(ii); and 298.37 to the terms "Affiliate(s)" and "affiliates", and substitute the term "Related Party".

3. Section 298.2 is amended as follows:

a. By removing paragraph (d), *Affiliate or Affiliated.*

b. By amending paragraph (n), *Indenture Trustee,* to add the following words, "which is located in and organized and doing business under the laws of the United States, any State or territory thereof, the District of Columbia or the Commonwealth of Puerto Rico," after the amount "$3,000,000."

c. By redesignating paragraphs (e) through (o) as paragraphs (d) through (n); redesignating paragraphs (y) through (bb) as paragraphs (z) through (cc); and by adding new paragraphs (o) and (y) to read as follows:

§ 298.2 Definitions.

* * * * *

(o) *Letter of Interest* means a letter issued by the Secretary upon receipt of a request for Guarantees. A Letter of Interest is not a financial offer but rather an indication of what terms may be considered by the Secretary if a Letter Commitment is issued at a later date. Proposed terms set forth in Letters of Interest shall remain valid for six months.

* * * * *

(y) *Related Party* means any Person directly or indirectly controlling, controlled by or under common control with another Person.

* * * * *

4. Section 298.3 is amended as follows:

By revising paragraphs (b)(1) and (c), and adding a new paragraph (f), to read as follows:

§ 298.3 Applications.

* * * * *

(b)(1) *Time requirements for application.* Each application shall be submitted to the Secretary at least four months prior to the anticipated date by which the applicant requires a Letter Commitment. The Secretary may consider applications with less notice prior to the anticipated date by which the applicant requires a Letter Commitment, upon written documentation that extenuating circumstances exist. During the first 15 calendar day period after submission, the Secretary will perform a preliminary review of the application for adequacy and completeness. If the application is found to be incomplete, or if additional data is required, the Secretary will notify the applicant promptly in writing and the applicant will have 15 calendar days to correct deficiencies from the date of each request for additional information. If the applicant has not corrected the deficiencies, or made substantial progress toward correcting them, within this 15 calendar day period, then the Secretary may terminate the processing of the application without prejudice. Once the Title XI application is considered complete by the Secretary, the Secretary will act on the application within a period of 60 calendar days. If an application is not completed by the applicant and acted upon by the Secretary within four months from the submission date, unless such time period is extended by the Secretary, the Secretary will notify the applicant in writing that processing of the application is terminated and that the applicant may reapply at a later date.

* * * * *

(c) *Filing Fee.* Each application must be accompanied by a filing fee in the amount of one quarter of the investigation fee amount calculated pursuant to the investigation fee formula outlined in § 298.15. in no event will the filing fee be less than $1,000.

The filing fee will be non-refundable, irrespective of whether the Secretary subsequently issues a Letter Commitment or whether the applicant subsequently reduces the amount of the requested guarantee and will be used as a credit against the investigation fee.

* * * * *

(f) *Preliminary review.* (1) Upon receipt of a request for a Letter of Interest, the Secretary may perform a preliminary review of the application. After preliminarily evaluating the technical, financial, and economic viability of the proposed Title XI project (e.g., the existence of a long term Vessel charter commitment or the technical ability of the yard to construct a Vessel), the Secretary may issue, within 10 days of receipt of that request, the Letter of Interest. A request for a Letter of Interest shall contain the following information:

(i) Type of vessel or Advanced or Modern Shipbuilding Technology to be financed;

(ii) Approximate total cost of the vessel or Advanced or Modern Shipbuilding Technology and amount to be guaranteed;

(iii) Recent financial information on the prospective shipowner, bareboat charterer, and shipyard, if available;

(iv) Information bearing on the economic soundness of the proposed project; and

(v) Proposed term of financing.

(2) There shall be no filing fee payable in respect of a request for the issuance of such a Letter of Interest. Letters of Interest address the general eligibility of a project and are not binding commitments of the Government.

5. Section 298.10 is amended by revising paragraph (a) to read as follows:

§ 298.10 Citizenship.

(a) *Applicability.* Prior to acquiring a legal or beneficial interest in a Vessel financed under Title XI of the Act,

except as provided in paragraph (e) of this section, the applicant and any other Person (including, but not limited to shipowners and, if applicable, owner trustees, equity participants and bareboat charterers) shall establish their United States citizenship within the meaning of Section 2 of the Shipping Act, 1916, as amended ("1916 Act") (46 App. U.S.C. 802) and MARAD's regulation at 46 CFR 221.3(c). All persons holding a Preferred Mortgage on the Vessel who do not qualify as citizens of the United States shall submit on the date of the closing evidence that they qualify for the MARAD approval granted pursuant to 46 CFR 221.23, or that they have received approval pursuant to 46 CFR 221.25. The Secretary will not approve an application providing for ownership of such Vessel by, or bareboat chartering of such Vessel to, a non-U.S. citizen. Citizenship may also be required of any Person who is deemed by the Secretary to be an operator of the Vessel or who has authority to direct the operation of the Vessel on behalf of the shipowner. Certain chartering arrangements, including time chartering and contracts of affreightment, have been given general approval by the Secretary pursuant to Sections 9, 37, and 41 of the 1916 Act. See Part 221 of Title 46 for more details on these approvals and other approvals granted concerning chartering and mortgaging of U.S. documented vessels.

* * * * *

6. Section 298.11 is amended as follows:

a. By amending paragraph (c) by adding in the first sentence after the word "registered", before the parenthesis, the words "or otherwise recognized by the Secretary as meeting acceptable classification standards for such a society, which shall include recognition that the society meets the requirements of IMO Resolution A.739(18) and delegation by the United States Coast Guard of inspection/certification authority".

b. By revising paragraph (a) and adding a new paragraph (e) to read as follows:

§ 298.11 Vessel requirements.

* * * * *

(a) *United States Construction.*

(1) *Coastwise Trade, U.S.-Flag Vessels.* A vessel financed by Obligation Guarantees is considered to be of United States construction and qualified for use in coastwise trade operation (46 App. U.S.C. 883) if:

(i) All components of the hull and superstructure are fabricated in the United States; and

(ii) The Vessel is assembled entirely in the United States and has U.S. or foreign source machinery, equipment or hull and superstructure material which has been manufactured in a foreign facility, to the extent permitted by the U.S. Coast Guard.

(2) *Non-Coastwise Trade, U.S.-Flag Vessels.* A Vessel financed by Obligation Guarantees is considered to be of United States construction if the vessel is assembled entirely in the United States but not qualified for use in the coastwise trade because it has foreign material which has been manufactured in a foreign facility.

(3) *Eligible Export Vessels.* With respect to Eligible Export Vessels, the Vessel is considered to be of U.S. construction if assembled in a United States shipyard.

* * * * *

(e) *Metric Usage.* The preferred system of measurement and weights for Vessels and Advanced and Modern Shipbuilding Technology shall be the metric system.

7. Section 298.12 is amended by revising paragraphs (b)(1)(i) and (b)(2)(i) to read as follows:

§ 298.12 Applicant and operator's qualifications.

* * * * *

(b) *Identity and ownership of applicant.* * * *

(1) *Incorporated companies.* * * *

(i) Exact name of applicant and tax identification number of a U.S. corporation, or if appropriate, international identification number of the applicant.

* * * * *

(2) *Partnerships, joint-ventures, associations, unincorporated companies.* * * *

(i) Name of partnership, association, or unincorporated company, and tax identification number, or if appropriate, international identification number of applicant.

* * * * *

§ 298.12 [Amended]

7a. Section 298.12 is further amended by:

a. By removing paragraphs (b)(1)(iv) through (b)(1)(vii), (b)(2)(v) through (b)(2)(vii), (b)(2)(ix), and (b)(3), and redesignating paragraph (b)(2)(viii) as (b)(2)(v) and paragraph (b)(4) as paragraph (b)(3).

b. By amending paragraph (c)(3) by adding after the word "proceedings", the first time it occurs, before the comma, the words "under either domestic or foreign statutes".

c. By amending paragraph (f)(1) by removing the words "by all", each time they appear, and inserting in their place the words "by all senior supervisory personnel".

8. Section 298.13 is amended as follows:

a. By adding the following sentence to the end of paragraph (a)(3), *Financing:* "If the applicant uses co-financing (involving a blend of Title XI and private financing for the debt portion of the project), the ability of the co-financiers to exercise their rights against collateral shared with the Secretary for any transaction shall be subject to the approval of the Secretary."

b. By removing paragraph (b)(7), *Deferred Lease Hire.*

c. By revising paragraphs (a)(2)(i), (a)(4), (b)(2), (b)(3), (b)(4) and (e)(2)(i) to read as follows:

§ 298.13 Financial requirements.

(a) * * *

(2) *Cost of the project.* * * *

(i) In the case of an applicant for Vessel Financing Guarantees, a detailed statement of the estimated Actual Cost of construction, reconstruction or reconditioning of the Vessel(s) including those items which would normally be capitalized as Vessel construction costs. Net interest during construction is the total estimated construction period interest on non-equity funds less estimated earnings from the escrow fund, if such fund is to be established prior to Vessel(s) delivery. Each item of foreign components and services shall be excluded from Actual Cost, unless a waiver is specifically granted for the item, which waiver shall not be granted for foreign components of the hull and superstructure. Although excluded from Actual Cost, foreign components of the hull and superstructure can be regarded as owner-furnished equipment that may be used in satisfying the applicant's equity requirements imposed by paragraph (a)(3) of this section. An illustration of how the cost of foreign components of the hull and superstructure may be used to satisfy an applicant's equity requirements is outlined in this paragraph. If any of the costs have been incurred by written contracts such as the shipyard contract, management or operating agreement, signed copies should be forwarded with the application. The applicant may be required to have the contracting shipyard submit back-up cost details and technical data. This information shall be submitted in the format as prescribed by the Title XI application procedures.

VOL
60
ISS
80
AP
26
1995
UMI

Illustration—Cost of Foreign Components Satisfying Equity Requirements

Assuming that the total project cost is $100 million, of which the cost of foreign components in the hull and superstructure total $20 million, and that the Title XI applicant has requested financing for 87½ percent of the cost of the project, the following is a demonstration of how the value of the foreign components in the hull and superstructure may be used in meeting the equity requirements of § 298.13(a)(3):

Cost of Foreign Components Excluded from Actual Cost

Cost of Project	$100.0 million
Cost of Foreign Components in Hull and Superstructure	$20.0 million
Total Actual Cost of Project	$80.0 million
Required Equity (12½ percent)	$10.0 million
Total Project Cost Financed w/ Title XI (87½ percent)	$70.0 million

The $10 million in required equity may be satisfied by the owner's contribution of the foreign components of hull and superstructure to the project.

* * * * *

(4) *Financial Information.* The applicant shall submit the following additional financial statements with respect to both the proposed Title XI project and the overall operations of the applicant, prepared in accordance with 46 CFR part 232 and including notes to explain the basis used for arriving at the figures:

(i) The three most recent audited financial statements of the applicant, its parent, if any, and other significant participants. If the applicant is a new entity or is to be funded from or guaranteed by external source(s), it shall provide the audited financial statements of the funding source(s);

(ii) A pro forma balance sheet of the applicant as of the estimated date of execution of the Guarantees reflecting the assumption of the Title XI Obligations;

(iii) A schedule of amortization of all existing debt (Title XI or otherwise) of the applicant for the period in which the Guarantees are to be outstanding; and

(iv) A Sources and Uses Statement for the first full year of operations and the following five years, including a clear source of funding for the payment of all debt when due.

(b) *Financial Definitions.* * * *

(2) *Working Capital* means the difference between current assets and current liabilities, adjusted as follows:

(i) Current assets shall exclude:

(A) Amounts in or required to be set aside in any Title XI Reserve Fund, pursuant to § 298.35(e) or Capital Construction Fund Security Amount prescribed by § 298.35(f), (excluding that portion of such fund which is available for the payment of current liabilities) that is being maintained pursuant to an agreement covering a Vessel owned or leased by the company, or in another similar fund required under any other mortgage, indenture or other agreement to which the company is a party; and

(B) Any receivables from a Related Party or from any stockholder, director, officer or employee (or their family) of the company or of a Related Party other than current receivables arising out of the ordinary course of business and not outstanding for more than 60 days.

(ii) Current liabilities shall include the current portion of charter hire and other lease obligations not already included as a current liability.

(3) *Equity (net worth)* shall be exclusive of:

(i) Any receivables from a Related Party or from any stockholder, director, officer or employee (or their family) of the company or of a Related Party other than current receivables arising out of the ordinary course of business and not outstanding for more than 60 days, and

(ii) Any increment resulting from the reappraisal of assets.

(4) *Long Term Debt* shall exclude the balance of Escrow Fund deposits attributable to the principal of Obligations sold, where deposits are required in accordance with § 298.33. However, there shall be included any guarantee or other liability for the debt of any other Person.

* * * * *

(e) *Special financial requirements at closing.* * * *

(2) *Lessee or charterer as operator.* * * *

(i) *Working Capital.* The Company shall have Working Capital in an amount determined in accordance with the provisions of paragraph (e)(1)(i) of this section, applicable as if the owner were the operator.

* * * * *

9. Section 298.14, is amended by revising paragraph (a)(2)(i)(F) introductory text to read as follows:

§ 298.14 Economic soundness.

(a) *Economic Evaluation.* * * *

(2) *Project Feasibility.* * * *

(i) *Relevant market.* * * *

(F) The potential for purchasing existing equipment of a reasonable condition and age from another source, including information regarding—

* * * * *

§ 298.16 [Amended]

10. Section 298.16, Substitution of participants, is amended by removing paragraph (a) and redesignating the introductory text as paragraph (a); by revising in the last sentence of newly designated paragraph (a) the phrase "is applicable, as follows:" to read "is applicable."; and by removing the paragraph (b) heading *Mortage assumption* and revising the phrase "Payment of $3,000 fee" to read "A $3,000 fee".

Appendix A to Subpart B [Removed]

11. Appendix A to Subpart B—Selected Cash Flow Impacts—is removed.

§ 298.21 [Amended]

12. Section 298.21, *Limits,* is amended as follows:

a. By inserting in paragraph (b), before the third sentence, an additional sentence, reading as follows: "In addition, Guarantee Fees determined in accordance with the provisions of section 1104(e) of the Act shall be included in the items of Actual Cost."

b. By inserting in paragraph (d), *Substantiation of Actual Cost,* after the word "Vessel" each time it appears, the words "or Advanced Shipbuilding Technology or Modern Shipbuilding Technology", and by inserting at the end of the first sentence the words "or, alternatively, appropriate certification of such costs by an agent approved by the Secretary".

c. By removing paragraph (c)(9) and redesignating paragraphs (c)(10) through (c)(16) as paragraphs (c)(9) through (c)(15).

§ 298.23 [Amended]

13. Section 298.23, *Refinancing,* is amended in the penultimate sentence by adding after the word "part" and before the period, a comme followed by the words "including economic soundness, as may be necessary.".

§ 298.25 [Removed and reserved]

14. Section 298.25, Financing repayment of construction-differential subsidy, is removed and reserved.

§ 298.28 [Amended]

15. Section 298.28, *Advances,* is amended by removing paragraphs (a)(1) through (a)(3) and (b), redesignating paragraph (c) as paragraph (b) and by removing the third sentence in paragraph (a), *In general,* and inserting, in its place, two new sentences reading as follows: "The applicant making the request for an advance shall demonstrate (with market and cash flow analysis and other projections) that its problems are of a short term duration (less than two years); with the help of an advance(s), the applicant would be assisted over its temporary difficulties; and there is adequate collateral for the advance. The advance will be repaid in a manner satisfactory to the Secretary and the advance will be subject to such other terms and conditions as required by the Secretary."

16. Section 298.32 is amended as follows:

a. By inserting in paragraph (b)(6), after the word "Vessel", each time it appears, the words "or Eligible Export Vessel".

b. By revising paragraph (a)(6) to read as follows:

§ 298.32 Required provisions in documentation.

(a) *Performance under shipyard and related contracts.* * * *

(6) Requiring that for:

(i) Coastwise Trade, U.S.-Flag 48 Vessels, that all components of the hull and superstructure are fabricated in the United States and the Vessel is assembled entirely in the United States with either U.S. or foreign source machinery, equipment or hull and superstructure material which has been fabricated in a foreign facility, to the extent allowed by U.S. Coast Guard regulations;

(ii) Non-Coastwise Trade, U.S.-Flag Vessels, that the Vessel is assembled entirely in the United States and may have material which has been fabricated in a foreign facility, to the extent allowed by U.S. Coast Guard regulations; and

(iii) Eligible Export Vessels, that the Vessel is assembled in a United States shipyard. If Obligations will not be issued during the period of construction of a Vessel, shipyard related contracts shall generally include the provisions specified in paragraphs (a)(2) and (a)(3) and applicable provision(s) of this paragraph (a)(6).

17. Section 298.36, Annual Guarantee Fee, is amended as follows:

a. By removing the third sentence in paragraph (b), *Rate calculation.*

b. By removing paragraphs (f), *Adjustment of Guarantee Fee,* (g), *Increase in Guarantee Fee due to Security Default,* and (i), *Interest on late payment of Guarantee Fees,* and redesignating paragraph (h) as paragraph (f).

c. By revising paragraph (e) to read as follows:

§ 298.36 Annual Guarantee Fee.

* * * * *

(e) *Payment of Guarantee Fee.* The Guarantee Fee covering the full period of the stated maturity of the Obligations commencing with the date of the Security Agreement shall be paid to the Secretary concurrently with the execution and delivery of said Agreement. The project's entire Guarantee Fee payment shall be made by the Obligor to the Secretary in an amount equal to the sum of the present value of the separate products obtained by applying the Guarantee Fee rate to the projected amount of the Obligations Outstanding for each year of the stated maturity of the Obligations. In calculating the present value used in determining the amount of the Guarantee Fee to be paid, MARAD will use a discount rate based on information contained in the Department of Commerce's Economic Bulletin Board quarterly rates. Under no circumstances will the Secretary refund the Guarantee Fee to the Obligor. A Guarantee Fee paid pursuant to this section may be included in Actual Cost and is eligible to be financed.

§ 298.42 [Amended]

18. Section 298.42, Reporting requirements—financial statements, is amended as follows:

a. In the introductory paragraph, by removing the word "accounts" in the first sentence and inserting in its place the term "financial statements".

b. By revising the seventh and eighth sentences of paragraph (a), *Reports of Company and other Persons,* to read as follows: "The annual report shall be accompanied by the public accountant's report based on an audit of the company's financial statements. An audit by the public accountants of the financial statements contained in the company's semiannual report may be required by the Secretary."

Dated: April 19, 1995.

By Order of the Maritime Administrator.

Joel C. Richard

Secretary, Maritime Administration.

[FR Doc. 95–10195 Filed 4–25–95; 8:45 am]

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VOL
60

ISS
80

AP
26

1995

UMI

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Part V

National Institute for Literacy

Grants and Cooperative Agreements: State Literacy Resource Centers National Electronic Information and Communication Network Applications; Notice

VOL
60
ISS
80
AP
26
1995
UMI

NATIONAL INSTITUTE FOR LITERACY

[CFDA NO. 84-257F]

Application for Technology Grant Awards to Governor's State Literacy Resource Centers To Build a National Electronic Information and Communication Network for Literacy by Establishing Regional Hubs on the Internet in Each of the Four Regions Designated by the Department of Education's Office of Vocational and Adult Education

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all the information, application forms, regulations, and instructions needed to apply for a grant under this competition.

AGENCY: The National Institute for Literacy.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Jaleh Behroozi, NIFL, 800 Connecticut Avenue, NW., Suite 200, Washington, DC 20006. Telephone: 202–632–1506. FAX: 202–632–1515. e-mail: jaleh literacy.nifl.gov.

Information about the Institute's funding opportunities, including the application notices can be viewed on the LINCS WWW server (under Current Events, under grants). LINCS URL: http://novel.nifl.gov.

SUPPLEMENTARY INFORMATION:

Definitions: For purposes of this announcement the following definitions apply:

"Literacy" An individual's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals and develop one's knowledge and potential (as stated in the National Literacy Act of 1991).

"State Literacy Resources Centers (SLRCs)" State or regional organizations supported through any combination of federal, state, or private funds that has the purpose of coordinating the delivery and improvement of literacy services across agencies and organizations in the state or region, enhancing the capability of state and local organizations to provide literacy services, building a database of literacy related information, and working closely with the National Institute for Literacy and other national literacy organizations to enhance the national literacy infrastruture.

"Literacy Community" individuals and groups at all levels nationwide that are actively involved with adult literacy and basic skills instruction, including individuals such as researchers, practitioners, policymakers, adult learners, and administrators, and groups such as state and local departments of education, human services, and labor; libraries; community-based organizations; businesses and labor unions; and volunteer and civic groups.

"OVAE regions" the four regions of the United States designated by the U.S. Department of Education's Office of Vocational and Adult Education (OVAE):

Area I: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands

Area II: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia

Area III: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin

Area IV: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Federal States of Micronesia, Guam, Marshall Island, No. Mariana Islands

"Regional Hub" an Internet-based electronic information retrieval and communication site, operating through an SLRC, that acts as the focal point for LINCS activity, including training and technical assistance, for a particular OVAE region.

Background: The National Institute for Literacy (NIFL), as authorized by the National Literacy Act of 1991, has the legislative mandate to develop a national literacy data base. The intent of this mandate was to consolidate scattered and inaccessible information resources for literacy.

As a first step toward carrying out this charge, and in keeping with the Administration's "information superhighway" initiative, NIFL conducted a study in 1992 of the literacy community's information needs by type of users, quality and format of existing literacy sources and data bases. Following up on the results of this survey in 1993, NIFL formed eight work groups of representatives from the literacy community to develop a vision and work plan for establishing its information and communications system, which is now called LINCS (the Literacy Information aNd Communication System). The work groups used a consensus-building process to produce a framework, standards, and guidelines for LINCS, which are presented in NIFL's "Starting Point" manual.

In order to implement the work groups' vision and plans, NIFL developed the LINCS on-line prototype to examine and demonstrate the potential and capabilities of an Internet-based national literacy information and communication network.

The LINCS prototype has been developed as a World Wide Web system on the Internet, accessible by Mosaic and Lynx. It is designed to access literacy data available in multiple locations, and features searchable literacy holdings (including SLRC holdings) and other literacy resources. It also provides access to the databases of ERIC , OTAN (Outreach and Technical Assistance Network), TTRC (Training Technology Resource Center) NCAL (National Center on Adult Literacy), the National Adult Literacy and Learning Disability Center, and the Library of Congress. In addition, the prototype includes E-mail, an event calendar, funding announcements, and information on legislation.

NIFL's plan for the next two years is to establish the LINCS prototype as the foundation for a national electronic literacy network by upgrading the technological capabilities of the field. Major components of the plan are:

(1) To broaden the literacy community's access to literacy resources.

(2) To develop politics and procedures for information sharing throughout the literacy community.

(3) To enhance awareness throughout the literacy community about the potential of a state-of-the-art information and communications technology for the field of adult education.

(4) To ensure that LINCS keeps pace with the state-of-the-art technology and becomes increasingly more capable of enriching literacy services through the provision of comprehensive information resources to the literacy community.

Overview of the technology project: In order to build an infrastructure that can support electronic communications and information exchange for literacy, NIFL proposes to support SLRCs in establishing regional information and communication hubs for literacy. These hubs will create a base for expansion of LINCS into a national network. Using state-of-the art technology, the regional hubs will facilitate access to information and resource sharing within and among the regional literacy communities and will encourage the collection of information that will increase the literacy knowledge base.

The NIFL will award up to four grants to SLRCs for the creation of these regional hubs. The grants will be used as seed money to attract ongoing support from other sources. Only one grant will be made within each of the four OVAE regions.

Purpose: The purpose of the technology grant program is to create regional electronic information and communication hubs for literacy that will—

1. build the technological capacity for electronic information exchange among SLRCs within each OVAE region through consortia of states that cooperate in sharing resources and expertise.

2. enable individual SLRCs to share data with the literacy community and with major national adult literacy holdings by linking them with each other and the LINCS prototype.

3. demonstrate the use of the LINCS prototype by other state agencies and local adult literacy service providers in efforts to improve program and professional development.

4. increase the literacy field's knowledge base by using the "Starting Point" manual standards to develop a systematic procedure for collecting new literacy information, resources, especially unpublished materials.

NIFL intends the value of this technology project to extend beyond the SLRCs to the literacy community as a whole. The larger goals of LINCS are to bring the community together—literacy researchers, practitioners, administrators, students, and policymakers—and to close the gap between information "haves" and "have nots." These goals can only be met by expanding the network to increasingly greater numbers of individuals and groups in the literacy field.

Eligible Applicants: All State Literacy Resource Centers (SLRC's) are eligible to apply for an award under this program.

Deadline for Transmittal of Applications: June 26, 1995.

Available Funds: In Fiscal Year 1995, $600,000 is available for two year technology cooperative agreement awards. Year 2 funding is subject to program authorization and availability of appropriations, and contingent upon satisfactory completion of the first year plan of action.

Estimated Number of Awards: Up to 4, with no more than 1 award made within each of the four OVAE regions.

Estimated Amount of Each Award: $150,000.

Project Period: Up to 24 months.

Selection criteria: (a)(1) In evaluating applications for a grant under this competition, the Director uses the following selection criteria.

(2) The maximum score for all of the criteria in this section is 100 points.

(3) The maximum score for each criterion is indicated in parentheses with the criterion.

(b) The Criteria—(1) Mission and Strategy. (10 points) The Director reviews each application to determine how well the applicant has related the mission and strategy of the project to NIFL's overall goals and priorities, including:

(i) The degree to which the plan for creating a regional hub reflects an understanding of the major tasks necessary to achieve NIFL's goals for building regional capacity;

(ii) The quality of the plans for developing an appropriate, coherent, and effective program to achieve the project's goals;

(iii) The effectiveness of proposed strategies for providing regional leadership to consortium members and other partners; and

(iv) The quality of plans to establish effective working relationships with other organizations in the region as required for effective development of the project.

(2) Institutional Capability (15 points) The Director reviews each application to determine the capabilities of the organization to sustain a long-term, high-quality, and coherent program, including:

(i) The applicant's experience in establishing and carrying out collaborative working relationships with other states, other state agencies, and other public and private groups;

(ii) The applicant's experience in developing materials and methods for training and technical assistance to adult literacy providers.

(iii) The ability of the applicant to carry on the project when NIFL funding has ended.

(3) Plan of Operation. (30 points) The Director reviews each application to determine the quality of the plan of operation for the project, including:

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the LINCS;

(iv) The extent to which the applicant provides for effective collaboration between SLRCs and other agencies;

(v) The quality of the applicant's plan to use its resources and personnel to achieve each objective; and

(vi) The extent to which the applicant's plan for year 1 provides for achieving the minimum project outcomes listed under *Program Narrative.*

(4) Technical Soundness. (20 points) The Director reviews each application to determine the technical soundness of the proposed project, including:

(i) The extent to which the applicant demonstrates a thorough knowledge of literacy data collections, dissemination and applying the required Institute's guidelines and standards.

(ii) The extent to which the applicant demonstrates knowledge of current databases, telecommunications practices, equipment configurations and maintenance.

(iii) Evidence of the commitment of the applicant to provide technical support and equipment to the members of consortium;

(iv) Evidence that the applicant will consider the perspectives of a variety of service providers in carrying out the work of the consortium;

(v) The extent to which the training content is comprehensive and at an appropriate level; and

(vi) The extent to which training methods are likely to be effective.

(5) Budget and cost effectiveness. (10 points) The Director reviews each application to determine the extent to which:

(i) The budget is adequate to support consortium activities;

(ii) Costs are reasonable in relation to the objectives of the consortium;

(iii) The budgets for any subcontracts are detailed and appropriate; and

(iv) The budget details resources, cash and in-kind, that the applicant and others, particularly other consortium members, will provide to the project in addition to grant funds.

(6) Evaluation Plan. (10 points) The Director reviews each application to determine the quality of the evaluation plan for the consortium, including the adequacy of:

(i) The methods and mechanism which will be used to document the consortium's progress in relation to its mission and goals; and

(ii) The methods which will be used to document the impact of the consortium's program on its target audiences.

Applications should describe and justify the methods used to ensure that the consortium's work is of high quality as evaluated by the above procedures.

(7) Quality of Key Personnel. (5 points) The Director reviews each

VOL 60 ISS 80 AP 26 1995 UMI

application to determine the quality of key personnel for the project, including:

(i) The qualifications of the project director for each project activity;

(ii) The qualifications of key personnel in each consortium member state for each project activity;

(iii) The extent to which key personnel have experience and training in fields related to the objectives of the project; and

(iv) The applicant's policy, as part of its nondiscriminatory employment practices, to ensure that its personnel are selected for employment without regard to race, color, national origin, religion, gender, age, or disability.

Application Requirements

Project Narrative

The project narrative is critical and must thoroughly reflect the capabilities of the applicant, as well as the degree and level of cooperation with other SLRCs in the region, related to implementing this technology project.

The narrative should not exceed twenty (20) single-spaced pages, or forty (40) double-spaced pages. The narrative may be amplified by material in attachments and appendices, but the body should stand alone to give a complete picture of the project. Proposals which exceed 20 single-spaced pages or 40 double-spaced pages will not be reviewed.

The narrative must encompass the full two years of project activities and must cover the following areas:

1. Mission and Strategy

a. State the goals and objectives of the two-year project. Explain how they relate to overall NIFL goals and contribute to the development of LINCS.

b. Describe how the project will build regional technological capacity.

c. Describe the services that will be provided to other SLRCs in the region.

d. Explain how the project will serve the broader literacy community.

e. State the overall expected project achievements for the end of the two-year grant period.

2. Institutional Capabilities

a. State the applicant's qualifications to act as lead site of a regional consortium of all other SLRCs in the region. Describe the applicant's ability to carry out the proposed project and to deliver the proposed services.

b. Describe the applicant's staff and organizational capacity to play a leadership role in mobilizing a consortium of the region's SLRCs to carry out the work of this grant, including the applicant's willingness and ability to—

(1) Serve as the lead resource for sharing literacy data collections among states and for developing its own and other states' collections on a local, statewide and regional basis. The applicant should have its own sizeable literacy collection (or a clear plan for acquiring such a collection), especially unpublished material, and the capacity to make it electronically available to other SLRCs and state agencies.

(2) Organize its information holdings and those of other SLRCs by applying NIFL standards and guidelines as presented in the "Starting Point" manual, as well as the literacy thesaurus being developed by the NIFL work group.

(3) Provide the necessary technical support and expertise, especially in telecommunications, to less technologically advanced SLRCs. This includes: ensuring continuing on-line access among members, coordinating the installation of equipment and software, and providing technical assistance and training as appropriate.

(4) Provide the necessary support and expertise, as described in b(3) above, to other state agencies and selected local literacy service providers.

(5) Develop a plan for continuing the project after the end of the two-year project period, including prospective sources of support.

(6) Collaborate with NIFL throughout the process of creating the regional hub in order to assure the uniform presentation of information across the LINCS.

(7) Share project experience with other regions' SLRCs and the NIFL through quarterly performance reports.

c. Describe the applicant's ability to secure support from other agencies and groups in sustaining the project at the end of the two-year grant.

3. Plan of Operation

The applicant must develop a two-year plan that is both ambitious and realistic. While aiming high, the applicant must demonstrate an awareness of the constraints inherent in each particular situation. The plan must address both the immediate needs and the future vision and direction of the regional technology project.

The Director is particularly interested in applicants whose plans include provisions for—

- Forming a consortium with all other SLRCs in the region and securing the explicit commitment of each to participate in the project through the development of formal agreements delineating the roles and responsibilities of all members and a regional plan of action with timelines of tasks achieved, including input from interested public and private organizations;
- Increasing adult literacy holdings and access of the literacy community to these holdings as LINCS expands;
- Developing partnerships with other state agencies and public and private entities, including business and industry, that can further project objectives and provide ongoing support to the project after the grant has ended;
- Collaborating with other related electronic information exchange efforts, such as those run through libraries and universities, to widen usage of LINCS in the field; and
- Expanding LINCS more broadly at the state agency and local service provider level.

Accordingly, the applicant's plan must address the following:

a. Regional Hub: Describe how the applicant will establish a regional hub on the Internet that will provide a seamless interface between SLRCs in the region and LINCS, including:

(1) How the applicant will establish and maintain a regional hub that mirrors the LINCS's information structure and the system architecture, as described in Technical Soundness, sections a and b.

(2) What hardware, software, and networking system will be used to develop the hub and why they were chosen.

(3) How the equipment meets NIFL requirements.

(4) How the applicant will develop a collection of unpublished literacy materials.

(5) How the applicant will collect and organize program data.

(6) How the applicant will ensure adoption of "Starting Point" standards and work with other SLRCs in the areas of collection of data, organization and information dissemination.

(7) How and to what extent the applicant will involve other agencies and organizations, especially state departments of education, human services, and labor, in the design and implementation of the regional hub.

(8) How the applicant will achieve, at a minimum, the following outcomes in year 1:

(a) The establishment of a regional hub for LINCS on the Internet

(b) An on-line database of unpublished materials using "Starting Point" standards

(c) An on-line directory of the regional consortium's literacy programs using "Starting Point" standards

(d) A bulletin board function

(e) Link-up with at least to major educational/workforce or legislative databases in the region

b. Connectivity: Describe the level at which consortium members will be connected to the regional hub and to each other, including how the applicant will achieve, at a minimum, the following outcome in year 1: All consortium members will be linked up with the regional hub and able to:

(1) Retrieve information provided by the hub,

(2) Transfer files,

(3) Engage in on-line discussion groups, and

(4) Access the LINCS prototype.

c. Organization and Management: Describe the ways in which the applicant will ensure appropriate organization and management of project activities, including:

(1) How the applicant will involve an advisory group including representatives from all regional consortium member states in overseeing project implementation and evaluating progress.

(2) How the applicant will provide for developing a formal agreement with all consortium member SLRCs that clearly identifies the rights, roles, and responsibilities of each state with regard to spending plan, technical assistance, training, timeline, evaluation and design of the hub.

(3) How the applicant will provide for the management of any other partnership, consultant or subcontract arrangement with the rights and responsibilities of each party set forth clearly.

(4) The identification of key staff members, their specific roles, and the number of hours required to carry out their tasks.

(5) A description of any cost-sharing, cooperative funding, or other special financial arrangements.

d. Access: Describe how the applicant will extend access to LINCS to other state agencies and local literacy service providers, including:

(1) How the applicant will promote widespread access to and use of the regional hub.

(2) How the applicant will work with regional consortium members to select local sites to participate in the project.

(3) How the applicant will support LINCS use by other agencies and at the local level, including—

(a) The kind of hardware and software to be used

(b) The training and technical assistance to be provided

(c) The focus to be taken by an agency or local site in using LINCS (i.e., a site could focus on using the system in information retrieval, or exploring on-line communication between practitioners and adult learners, or exchanging teaching tools and curricula)

(4) How the applicant will solicit and use feedback from other agencies and local providers in assessing the network's potential and refining the work of the regional hub.

(5) How the applicant will achieve, at a minimum, the following outcome in year 1: At least two local literacy service providers in one or more of the member states will have the capability to use the services of the regional hub.

e. Collaboration: Describe how the applicant will assure collaboration with other related agencies, organizations, and projects in the region, including how the applicant will work with other regional consortium member states to—

(1) Secure the active cooperation and partnership of appropriate state agencies, including education, labor, and human services.

(2) Identify and connect with other projects in the region that use technology in the areas of telecommunications, on-line services, networking and multi-media.

4. Technical Soundness

a. Describe how the applicant will install an electronic system for the regional hub that mirrors the LINCS structure, which consists of the following: a UNIX-based work station, connected to the Internet via the NIFL LAN, with information maintained in both HTML documents and WAIS databases. This work station is the World Wide Web (WWW) server, and also provides access to the Lynx WWW client for those users unable to use graphical clients, such as Mosaic. The software developed for the NIFL home page by the Logistics Management Institute is freely available for re-use.

b. Describe how the applicant will create a home page design that is similar to the LINCS home page, so that the same "look and feel" can be achieved throughout the network. (For example, a proposal for a World Wide Web server providing Mosaic- and Lynx-based access to a region's literacy resources and linkage to the NIFL home page would receive greater consideration than a proposal for information maintained on one or multiple WAIS database servers.)

Describe how the applicant will, at a minimum—

(1) Acquire a 56kbps or faster direct Internet connection.

(2) Develop a WAIS database server or servers on the Internet.

(3) Populate the WAIS database(s) with literacy collections and program data, using "Starting Point" record structures and standards.

(4) Provide technical assistance, funding and resources to assure that all consortium members are connected to the Internet and are contributing and sharing adult literacy data.

c. Describe the applicant's provisions for equipment, including—

(1) What equipment will be used to establish the regional literacy hub or hubs.

(2) How the applicant will assess the equipment needs of each consortium member.

(3) What equipment will be used to link each consortium member to the regional hub and to LINCS.

(4) The reason for purchasing or upgrading equipment, as well as software and networking systems, for each member.

(5) How the equipment funded by this grant will be maintained.

(6) How issues of changing technology and obsolescence will be addressed.

(7) How the applicant will achieve, at a *minimum*, the following outcome for year 1: The lead site and consortium members will all have the equipment necessary to perform functions described in the plan of operation.

d. Describe the applicant's provisions for training and technical assistance, including—

(1) How the applicant will assess the relevant skills and knowledge of each consortium member SLRC and pool this expertise for the benefit of all consortium members.

(2) How the applicant will assist all consortium member SLRCs in selection and installation of hardware and software within the proposed timeline.

(3) A commitment to regional training and staff development for consortium members.

(4) How provisions will be made for well-organized and ongoing training that addresses a full range of needs.

(5) How administrators in each consortium member SLRC and local site will learn about the potential of LINCS and the regional hub, the pros and cons of various applications, how to connect to the system and benefit from it, and how to help their own clients tap into the national bank of resources available through LINCS.

(6) How the applicant will teach specific skills as well as an understanding of the power of the new technology and a desire for acquiring it and making it accessible to local literacy practitioners throughout the region, and ways of exploring the impact that it will have on teaching and learning methods.

(7) How the applicant will determine the type and the level of the training, and designate adequate funding.

VOL
60
ISS
80
AP
26
1995
UMI

(8) How the applicant will select training models (such as training trainers or workshops supplemented by peer coaching or modeling) that meet the needs of geographically dispersed staff at various levels of knowledge and skills, especially given rapid changes in technology.

(9) How the applicant will achieve, at a minimum, the following outcomes in year 1:

(a) Consortium member SLRCs' hardware and software are installed and functional.

(b) A measurable training plan, which includes training staff of consortium member states, local sites, and other involved agencies in the use of the Regional hub, will be developed and implemented.

5. Efficiency and Economy

a. Cost Effectiveness: The applicant must demonstrate how it will ensure—

(1) The most efficient and cost-effective use of the funding.

(2) Continuation of the project at end of the grant through securing additional funds to continue and expand the project.

b. Time Line: The applicant's plan must contain a table or diagram with major tasks or milestones, including estimates of funds, time, training schedules, personnel, facilities and equipment allocated to each program area. The timing of progress and other reports, meetings, and similar events should be included.

6. Monitoring and Evaluation

The applicant must provide a monitoring and evaluation plan that will demonstrate the effectiveness of the project in achieving the objectives of the grant, including—.

a. A process for ongoing evaluation and acquiring on-line and off-line input from users.

b. How the applicant will measure and evaluate the impact of the project on—

(1) The members of the consortium (their connectivity, access, data collection and organization),

(2) The broader literacy community, especially other state agencies and local literacy service providers;

c. How results of the evaluation will be confirmed and reported.

Other Application Requirements

The application shall include the following:

Project Summary: The proposal must contain a 200-word summary of the proposed project suitable for publication. It should not be an abstract of the proposal, but rather a self-contained description of the activities that would explain the proposal. The summary should be free of jargon and technical terminology, and should be understandable by an intelligent but non-specialist reader.

Budget Proposal: ED Form 524 must be completed and submitted with each application. The form consists of Sections A, B, and C. On the back of the form are general instructions for completion of the budget. All applicants must complete Sections A and C. If Section B is completed, include the nature and source of non-federal funds. Attach as Section C a detailed explanation and amplification of each budget category. Included in the explanation should be a complete justification of costs in each category. Additional instructions include:

- Prepare a separate itemization and narrative for each of the SLRCs in the region in addition to submitting an itemized budget narrative for the project as a whole.
- Personnel items should include names (titles or position) of key staff, number of hours proposed and applicable hourly rates.
- Include the cost, purpose, and justification for travel, equipment, supplies, contractual and other. Training stipends are not authorized under this program.
- Clearly identify in all instances contributed costs and support from other sources, if any.
- Show budget detail for financial aspects of any cost-sharing, joint or cooperative funding.

Disclosure of Prior Institute Support: If any consortium member state has received Institute funding in the past 2 years, the following information on the prior awards is required:

- Institute award number, amount and period of support;
- A summary of the results of the completed work; and
- A brief description of available materials and other related research products not described elsewhere.

If the applicant has received a prior award, the reviewers will be asked to comment on the quality of the prior work described in this section of the proposal.

Current and Pending Support: All current project support from whatever source (such as Federal, State, or local government agencies, private foundations, commercial organizations) must be listed. The list must include the proposed project and all other projects requiring a portion of time of the Project Director and other project personnel, even if they receive no salary support from the project(s). The number of person-months or percentage of effort to be devoted to the projects must be stated, regardless of source of support. Similar information must be provided for all proposals that are being considered by or will be submitted soon to other sponsors.

If the project now being submitted has been funded previously by another source, the information requested in the paragraph above should be furnished for the immediately preceding funding period. If the proposal is being submitted to other possible sponsors, all of them must be listed. Concurrent submission of a proposal to other organizations will not prejudice its review by the Institute.

Any fee proposed to be paid to a collaborating or "partner" for-profit entity should be indicated. (Fees will be negotiated by the Grants Officer.) Any copy-right, patent or royalty agreements (proposed or in effect) must be described in detail, so that the rights and responsibilities of each party are made clear. If any part of the project is to be subcontracted, a budget and work plan prepared and duly signed by the subcontractor must be submitted as part of the overall proposal and addressed in the narrative.

Instructions for Transmittal of Applications

(a) To apply for a cooperative agreement—

(1) Mail the original and ten (10) copies of the application on or before the deadline date of (60 days from publication), to: National Institute for Literacy, 800 Connecticut Avenue, NW., Suite 200, Washington, DC 20006, Attention: (CFDA #84.257F).

(2) Hand deliver the application by 4:30 p.m. (Washington, DC time) on the deadline date to the address above.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(c) If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

(2) The NIFL will mail a Grant Applicant Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the NIFL at (202) 632–1500.

(3) The applicant must indicate on the envelope and in Item 10 of the application for Federal Assistance (Standard Form 424) the CFDA number of the competition under which the application is being submitted.

Application Forms: The appendix to this announcement is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form 524) and instructions.

Part III: Application Narrative.

Additional Materials:

Estiamted Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying; Debarment, Suspension, and other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of recipients and should not be transmitted to the NIFL.

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances and the certifications. However, the application form, the assurances, and certifications must each have an original signature. No award can be made unless a complete application has been received.

Applicable Regulations: The National Institute for Literacy is subject to the rulemaking requirements of the Administrative Procedures Act (APA). Under the APA, as now codified in Title 5 of the United States Code, section 553, matters relating to public property, loans, grants, benefits, or contracts are not subject to the rulemaking requirement of that section. The National Institute for Literacy is now in the initial stages of establishing a new program recently authorized by Congress and must obligate funds under this authority by September 30, 1995. The NIFL considered waiving this exemption to rulemaking requirements but determined that there was too little time to propose rules and offer applicants a reasonable amount of time to prepare applications for the award announced in this notice. Therefore, the National Institute for Literacy has adopted the following rules for the conduct of this competition and the resulting award.

The following regulations of the Department of Education apply:

34 CFR part 74, Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations. The following provisions of 34 CFR part 75: §§ 75.50, 75.51, 75.102–75.104, 75.109, 75.117, 75.109–75.192, 75.200, 75.201, 75.215.

34 CFR part 77, Definitions.

34 CFR part 80, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

34 CFR part 82, New Restrictions on Lobbying.

34 CFR 85, Government wide Debarment and Suspension (Non-procurement) and Government wide Requirements for Drug-Free Workplace (Grants).

The selection criteria used for this competition are set out in this Notice. While the criteria are patterned on those used generally by the Department of Education, they have been adapted by the NIFL to meet the needs of this program.

While the National Institute for Literacy is associated with the Departments of Education, Labor, and Health and Human Services, the policies and procedures regarding rulemaking and administration of grants are not adopted by the NIFL except as expressly stated in this Notice.

Selection of Applications: The Director uses 34 CFR 75.217 in selecting an application for award.

Grant Administration: The administration of the grant to the consortium is governed by the conditions of the award letter. The Education Department General Administration Regulations, (EDGAR) 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85 and 86 (July 1, 1993), set forth administrative and other requirements. This document is available through your public library and the NIFL. It is recommended that appropriate administrative officials become familiar with the policies and procedures in the EDGAR which are applicable to this award. If a proposal is recommended for an award, the Grants official will request certain organizational, management, and financial information.

The following information on grant administration dealing with questions such as General Requirement, Prior Approval Requirements, Transfer of Project Director, and Suspension or Termination of Award, are available in EDGAR.

Reporting: In addition to working closely with the Institute, the applicant will be required to submit an annual report of activities. This annual report will be presented to the Institute staff, the National Institute Advisory Board and Interagency Group. Detailed specifications for the annual report will be provided to the consortium within 3 months after the award. For planning purposes, the applicant may assume that the following information will be provided:

- Project(s) Title
- Project Abstract

A concise narrative describing in layman's language the subject purposes, methods, expected outcomes (including products), and significance of the project.

- Significant Products

A list of significant holdings available for access associated with the consortium.

- Significant Accomplishments

A past-tense abstract that describes the consortium's accomplishments, known uses of the holdings and evidence of positive impact.

The grantee must also submit the following reports:

- Quarterly Performance

A brief 2–3 page report of progress—

Due: Within 20 days of the end of each quarter.

- For the fourth quarter, no quarterly report is necessary.

An annual report will suffice.

- Final Report

Due: 90 days after the expiration of or termination of support.

Acknowledgment of Support and Disclaimer: An acknowledgment of Institute support and a disclaimer must appear in publications of any material, whether copyrighted or not, based on or developed under Institute-supported projects:

This material is based upon work supported by the National Institute for Literacy under Grant No. (grantee should enter Institute grant number).

Except for articles or papers published in professional journals, the following disclaimer should be included:

VOL
60
ISS
80
AP
26
1995
UMI

Any opinion, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the NIFL.

Instructions for Estimated Public Reporting Burden: Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing the Act, the National Institute for Literacy invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and disseminating the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the National Institute for Literacy, and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

(Information collection approved under OMB control number 3200 0029, Expiration date: October 1995).

Program Authority: 20 U.S.C. 1213C.

Andrew J. Hartman,

Director, NIFL.

BILLING CODE 6055-01-M

Application Forms and Instructions

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: | Organizational Unit:

Address (give city, county, state, and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State; B. County; C. Municipal; D. Township; E. Interstate; F. Intermunicipal; G. Special District; H. Independent School Dist.; I. State Controlled Institution of Higher Learning; J. Private University; K. Indian Tribe; L. Individual; M. Public Organization; N. Other (Specify) _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award; B. Decrease Award; C. Increase Duration; D. Decrease Duration; Other (specify): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal	$ .00	a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____
b. Applicant	$ .00	b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
c. State	$ .00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
d. Local	$ .00	
e. Other	$ .00	
f. Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No
g. TOTAL	$ .00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 6055-01-C

VOL 60 ISS 80 AP 26 1995 UMI

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate letter in the space provided.

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. Federal preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. I both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.

BILLING CODE 6056-01-M

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/95

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

Name of Institution/Organization

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

Name of Institution/Organization

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

BILLING CODE 8055-01-C

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and the Office of Management and Budget, Paperwork Reduction Project 1875–0102, Washington, D.C. 20503.

Instructions for ED Form No. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-funding request. Pay attention to applicable program specific instructions, if attached.

Section A—Budget Summary—U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1–11.

Lines 1–11, columns (a)–(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)–(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this spare blank.

Section B—Budget Summary—Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1–11 of Section B.

Lines 1–11, columns (a)–(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)–(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C—Other Budget Information—Pay Attention to Applicable Program Specific Instructions, If Attached

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c)

VOL
60
ISS
80
AP
26
1995
UMI

of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. Drug-Free Workplace (Grantees Other Than Individuals)

As required by the Drug-Free Workplace Act 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers or convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code).

Check ☐ if there are workplaces on file that are not identified here.

Drug-Free Workplace (Grantees Who Are Individuals)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202–4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Name of Applicant

PR/Award Number and/or Project Name

Printed Name and Title of Authorized Representative

Signature

Date

BILLING CODE 6025–01–M

VOL 60 ISS 80 AP 26 1995 UMI

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name of Applicant

PR/Award Number and /or Project Name

Printed Name and Title of Authorized Representative

Signature

Date

[FR Doc. 95–9829 Filed 4–25–95; 8:45 am]

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VOL
60

ISS
80

AP
26

1995

UMI

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Wednesday
April 26, 1995

Part VI

The President

Memorandum of April 21, 1995—
Regulatory Reform—Waiver of Penalties
and Reduction of Reports

VOL
60
ISS
80
AP
26
1995
UMI

Federal Register
Vol. 60, No. 80
Wednesday, April 26, 1995

Presidential Documents

Title 3—

The President

Memorandum of April 21, 1995

Regulatory Reform—Waiver of Penalties and Reduction of Reports

Memorandum for
The Secretary of State
The Secretary of the Treasury
The Secretary of Defense
The Attorney General
The Secretary of the Interior
The Secretary of Agriculture
The Secretary of Commerce
The Secretary of Labor
The Secretary of Health and Human Services
The Secretary of Housing and Urban Development
The Secretary of Transportation
The Secretary of Energy
The Secretary of Education
The Secretary of Veterans Affairs
The Administrator, Environmental Protection Agency
The Administrator, Small Business Administration
The Secretary of the Army
The Secretary of the Navy
The Secretary of the Air Force
The Director, Federal Emergency Management Agency
The Administrator, National Aeronautics and Space Administration
The Director, National Science Foundation
The Acting Archivist of the United States
The Administrator of General Services
The Chair, Railroad Retirement Board
The Chairperson, Architectural and Transportation Barriers Compliance Board
The Executive Director, Pension Benefit Guaranty Corporation

On March 16, I announced that the Administration would implement new policies to give compliance officials more flexibility in dealing with small business and to cut back on paperwork. These Governmentwide policies, as well as the specific agency actions I announced, are part of this Administration's continuing commitment to sensible regulatory reform. With your help and cooperation, we hope to move the Government toward a more flexible, effective, and user friendly approach to regulation.

A. *Actions*: This memorandum directs the designated department and agency heads to implement the policies set forth below.

1. *Authority to Waive Penalties.* (a) To the extent permitted by law, each agency shall use its discretion to modify the penalties for small businesses in the following situations. Agencies shall exercise their enforcement discretion to waive the imposition of all or a portion of a penalty when the violation is corrected within a time period appropriate to the violation in question. For those violations that may take longer to correct than the period set by the agency, the agency shall use its enforcement discretion to waive up to 100 percent of the financial penalties if the amounts waived

VOL
60
ISS
80
AP
26
1995
UMI

are used to bring the entity into compliance. The provisions in paragraph 1(a) of this memorandum shall apply only where there has been a good faith effort to comply with applicable regulations and the violation does not involve criminal wrongdoing or significant threat to health, safety, or the environment.

(b) Each agency shall, by June 15, 1995, submit a plan to the Director of the Office of Management and Budget ("Director") describing the actions it will take to implement the policies in paragraph 1(a) of this memorandum. The plan shall provide that the agency will implement the policies described in paragraph 1(a) of this memorandum on or before July 14, 1995. Plans should include information on how notification will be given to frontline workers and small businesses.

2. *Cutting Frequency of Reports.* (a) Each agency shall reduce by one-half the frequency of the regularly scheduled reports that the public is required, by rule or by policy, to provide to the Government (from quarterly to semiannually, from semiannually to annually, etc.), unless the department or agency head determines that such action is not legally permissible; would not adequately protect health, safety, or the environment; would be inconsistent with achieving regulatory flexibility or reducing regulatory burdens; or would impede the effective administration of the agency's program. The duty to make such determinations shall be nondelegable.

(b) Each agency shall, by June 15, 1995, submit a plan to the Director describing the actions it will take to implement the policies in paragraph 2(a), including a copy of any determination that certain reports are excluded.

B. *Application and Scope*: 1. The Director may issue further guidance as necessary to carry out the purposes of this memorandum.

2. This memorandum does not apply to matters related to law enforcement, national security, or foreign affairs, the importation or exportation of prohibited or restricted items, Government taxes, duties, fees, revenues, or receipts; nor does it apply to agencies (or components thereof) whose principal purpose is the collection, analysis, and dissemination of statistical information.

3. This memorandum is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.

4. The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, April 21, 1995

[FR Doc. 95–10433
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Reader Aids

Federal Register
Vol. 60, No. 80
Wednesday, April 26, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3	18949–19152	14
16979–17190	4	19153–19342	17
17191–17432	5	19343–19484	18
17433–17624	6	19485–19664	19
17625–17980	7	19665–19844	20
17981–18342	10	19845–19998	21
18343–18538	11	19999–20170	24
18539–18726	12	20171–20390	25
18727–18948	13	20391–20622	26

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

6781	17979
6782	17981
6783	18537
6784	18707
6785	18725
6786	19999
6787	20001
6788	20003
6789	20387
6790	20389

Executive Orders:

April 17, 1926 (Revoked in part by PLO 7134)	19525
12356 (Revoked by EO 12958)	19825
12958	19825

Administrative Orders:

Memorandums:

April 4, 1995	19153
April 14, 1995	19485
April 21, 1995	20621

5 CFR

Ch. LII	17625
581	18949
1620	19990
3201	20171

Proposed Rules:

316	17655

7 CFR

Ch. II	19487
58	20178
97	17188
201	16979
272	17628, 20178
273	17628
274	20178
301	18727
354	17631
457	16765
918	17633
925	16765
927	17983
932	18539
946	17433
979	16767
982	16768
985	16770, 17434, 18950
1001	18952
1002	18952
1004	18952
1005	18952
1006	18952
1007	18952
1011	18952
1012	18952
1013	18952
1030	18952
1032	18952
1033	18952
1036	18952
1040	18952
1044	18952
1046	18952
1049	18952
1050	18343, 18952
1064	18952
1065	18952
1068	18952
1075	18952
1076	18952
1079	18952
1093	18952
1094	18952
1096	18952
1106	18952
1108	18952
1124	18952
1126	17191, 18952
1131	17192, 18952
1134	18952
1135	18952
1137	18952
1138	18952
1139	18952
1413	17984
1427	17984
1464	19665
Ch. XVIII	20005
3016	19638, 19641

Proposed Rules:

55	20054
59	20054
250	18781
319	20436
335	18374
905	19543
906	20059
920	20062
929	20064
944	20059
946	19382
956	17274
981	17466
1944	19168

8 CFR

Proposed Rules:

212	19001

9 CFR

77	18728
92	17634
318	19491
327	18540
381	19491
391	19491

Proposed Rules:

308	19543
310	19543

VOL 60 ISS 80 AP 26 1995 UMI

318.....19543
320.....19543
325.....19543
326.....19543
327.....19543
381.....19543, 19686
391.....18551

10 CFR

2.....18344
20.....20183
436.....18326, 19343
600.....17985, 19638, 19641
710.....20366

Proposed Rules:

50.....19002, 19170, 19686
70.....18035, 19170
52.....17902, 17924, 17947
170.....18882
171.....18882
430.....18782
490.....19544

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

3.....17986
207.....20005
208.....17436
215.....17635
220.....20005
221.....20005
224.....20005
225.....20186
226.....16771
336.....20171
400.....17625
614.....20008
615.....20008
618.....20008
620.....20011

Proposed Rules:

202.....20436
215.....19689
701.....19690
704.....20438
741.....20438
792.....18036

13 CFR

107.....17438
108.....20391, 20392
121.....18981
143.....19638, 19641

14 CFR

25.....17194
39.....16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492, 20013, 20016, 20017, 20019, 20189, 20394
71.....17196, 17442, 18346, 20021
97.....17198, 17199, 19160, 19162
187.....19628

Proposed Rules:

39.....16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693, 20458, 20459, 20461
71.....17284, 18038, 18552, 19190, 19553
91.....18700
119.....19007
121.....19007
125.....19007
127.....19007
135.....18700, 19007

15 CFR

24.....19638, 19642
771.....18731
779.....18731

16 CFR

305.....19845
1700.....17992

Proposed Rules:

248.....17032
409.....17491
436.....17656
460.....17492
1700.....17660

17 CFR

30.....19493
200.....17201
211.....20022
400.....18733
403.....18733
404.....20396
405.....18733, 20396
449.....18733, 18734

Proposed Rules:

239.....17172
270.....17172
274.....17172
404.....20065
405.....20065

18 CFR

343.....19494
385.....19494
284.....16979

Proposed Rules:

35.....17662
141.....17726
388.....17726

19 CFR

7.....18347
10.....18542, 18983
11.....18347
12.....18347
18.....18347
19.....18347
24.....18347
54.....18347
101.....18347, 18983
102.....18347
111.....18347, 18983
114.....18347
123.....18347, 18983
128.....18347, 18983
132.....18347
134.....18347
141.....18347, 18983
143.....18983
145.....18347, 18983
146.....18347
148.....18347, 18983
151.....18347
152.....18347
159.....18983
177.....18347
178.....18983
181.....18347
191.....18347

Proposed Rules:

Ch. I.....18783
210.....20463

20 CFR

Ch. III.....18991
404.....20023
416.....20023
423.....18991
638.....18993
404.....17443, 19163

Proposed Rules:

Ch. III.....17731
404.....19008
416.....19008

21 CFR

20.....16962
73.....18736
101.....17202
176.....18349
178.....18349, 18352, 18739
206.....19846
310.....17611, 20162
520.....20402
558.....18740
876.....17208
1310.....17636, 19509
1403.....19638, 19642

Proposed Rules:

146.....19866
310.....19650
876.....17611

22 CFR

135.....19638, 19642
514.....16785

Proposed Rules:

502.....19385

23 CFR

655.....18520

24 CFR

85.....19638, 19642
215.....17388, 20356
235.....20356
236.....17388, 20356
280.....20356
570.....17445
813.....17388, 20356
905.....17388, 18174
913.....17388, 20356
950.....18174, 20356
3500.....16985

Proposed Rules:

29.....17968
120.....19191
811.....19695

25 CFR

Proposed Rules:

Ch. I.....20250
900.....19387

26 CFR

1.....17216, 18741, 18742
602.....18742

Proposed Rules:

1.....17286, 17731, 18377, 18378, 19387, 19868

27 CFR

6.....20402
8.....20402
10.....20402
11.....20402
55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:

Ch. I.....18783
53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

0.....17456
2.....18353
31.....19847
66.....19638, 19642
90.....19474

Proposed Rules:

2.....18378, 18379
16.....18784, 19871

29 CFR

15.....19658
97.....19638, 19643
570.....19336
580.....17221
1470.....19638, 19643
1952.....20191
1960.....18993
2610.....18994
2619.....18996
2622.....18994
2644.....18998
2676.....18996

Proposed Rules:

1910.....19192
1915.....19192
1926.....19192

30 CFR

756.....20193
903.....18710
914.....16985, 17637, 19668, 19669
915.....17458
934.....18744
938.....16786

Proposed Rules:

Ch. I.....18044
901.....18044, 20250
902.....17495
904.....17498
906.....17501
913.....17734, 19697
914.....17736
915.....17504
916.....17504
917.....17739, 19193
918.....17498
920.....18046
924.....18044, 20250
925.....17504
926.....17495, 20251
931.....17501
934.....17495
935.....17741, 18380, 19194

936.....17498
938.....18046
943.....17498
944.....17501
948.....17743
948.....18381
950.....17495

32 CFR

33.....19638, 19643
83.....20029
84.....20029
290.....18005
298.....20032
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:

63.....17507
247.....18049

33 CFR

3.....17222
117.....18006, 19351, 20428
154.....17134
155.....17134
162.....16793, 19352
165.....16793, 18008, 19354, 20033, 20429, 20430
187.....20310
222.....19851
334.....18543

Proposed Rules:

Ch. I.....17287
100.....18785, 20065, 20463
117.....18061
164.....19699
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR

80.....19638, 19643
350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR

7.....17639
13.....18532
1207.....19638, 19643

Proposed Rules:

13.....19011, 20374
215.....18886
217.....18886
219.....18886

37 CFR

1.....16920, 20195
3.....20195

38 CFR

2.....18354
3.....18354
4.....19851
21.....20035
43.....19638, 19644

39 CFR

20.....18009
111.....19355
265.....17224

Proposed Rules:

232.....17287

40 CFR

9.....17100, 18009, 20232
31.....19638, 19644
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522, 19673, 20233, 20431
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
76.....18751
77.....17100
78.....17100
80.....20232
81.....16996, 20237
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547, 19523, 20432, 20433
185.....18547
186.....18547
258.....17649
260.....17001
261.....19165
271.....18356, 18358, 18360, 20238
300.....16808, 17004, 19525, 20330
302.....19165
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:

Ch. I.....17288
51.....17509
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554, 20066
55.....17748, 18787, 19701
58.....17509
63.....16829, 16920, 18071, 18078, 19556
70.....17750, 18790, 20465
72.....18472
76.....18792
81.....17034, 17756, 19197
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562, 19556, 20470, 20471
185.....18562
186.....18560, 18562
228.....19872
300.....18565, 19203, 20473
372.....16830, 19702
761.....17510
799.....18079

41 CFR

101–20.....17653
101–26.....19674
105–71.....19638, 19644

42 CFR

440.....19856
441.....19856
493.....20035

43 CFR

12.....17237, 19638, 19644

Proposed Rules:

426.....16922, 20068
427.....16922, 20068
3100.....18081

Public Land Orders:

2546 (Revoked by PLO 7135).....19526
7131.....18030
7132.....18777
7133.....18777
7134.....19525
7135.....19526
7136.....20240
7137.....18778

44 CFR

13.....19638, 19644
64.....17005
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

65.....17758
67.....17035, 17042

45 CFR

92.....19638, 19645
212.....19862
602.....19638, 19645
1157.....19638, 19645
1174.....19638, 19645
1183.....19638, 19645
2541.....19638, 19646

Proposed Rules:

1336.....19994
2544.....17761

46 CFR

12.....17134
13.....17134
15.....17134
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:

Ch. I.....17287
Ch. II.....17763
67.....17290
90.....18793
97.....18793
148.....18793
298.....20592
382.....19559
383.....20069

47 CFR

2.....18778, 18999
61.....19526, 20051
69.....19528
73.....17023, 17253, 19000, 19359, 19531, 20052
74.....20241
90.....18999, 20247

Proposed Rules:

1.....17294
63.....17763
73.....17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566, 19878, 20586

48 CFR

225.....19531
252.....19531
538.....19360
552.....19360, 19362
570.....19362
915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023
9904.....20248

Proposed Rules:

Ch. V.....17764
6.....17295
12.....17184
16.....17295
32.....18794
52.....17184, 17295, 18794
501.....19708
503.....19708
505.....19708
506.....19708
507.....19708
5552.....19708
570.....19708
9903.....20252

49 CFR

18.....19638, 19646
40.....19535, 19675
173.....17398
178.....17398
180.....17398
219.....19538
501.....20434
552.....17254
554.....17254
571.....19681
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:

Ch. I.....17049
Ch. II.....18390
190.....17295
191.....17295
192.....17295
193.....17295
194.....17295
195.....17295
196.....17295
197.....17295
198.....17295
199.....17295
234.....17770, 19012
571.....18566, 19716

VOL
60
ISS
80
AP
26
1995
UMI

50 CFR

17.....18940
227.....19342
641.....19363
646.....19364, 19683
650.....17272
651.....19364
655.....17464
663.....16811
672.....17465, 20248
675.....17028, 17653, 19864, 20248
676.....20248

Proposed Rules:

Ch. VI.....17770
17.....16836, 17296, 19013, 19567, 20072
36.....20380
625.....18795
641.....17511
642.....18391
655.....18391
675.....17512, 20253
677.....20253

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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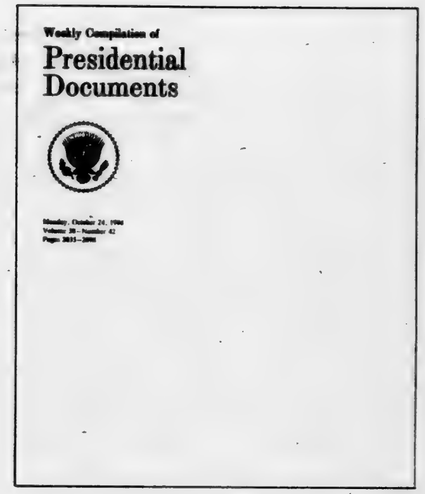

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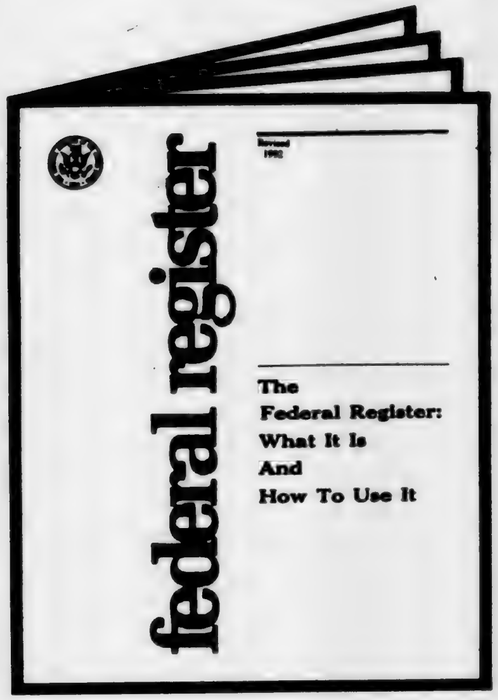

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Pages 20623–20878

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Thursday
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VOL
60
ISS
81
AP
27
1995
UMI

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Contents

Federal Register
Vol. 60, No. 81
Thursday, April 27, 1995

Administrative Conference of the United States
NOTICES
Meetings:
Rulemaking Committee, 20669

Agriculture Department
NOTICES
Agency information collection activities under OMB review, 20669

Air Force Department
NOTICES
Privacy Act:
Systems of records, 20674–20675

Antitrust Division
NOTICES
National cooperative research notifications:
Open Software Foundation, Inc., 20749–20750
Petroleum Environmental Research Forum, 20750, 20751
Southwest Research Institute, 20751
Westinghouse Electric Corp. et al., 20750
X Consortium, Inc., 20750
XXsys Technologies, Inc., et al., 20751

Assassination Records Review Board
NOTICES
Meetings; Sunshine Act, 20801

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Runaway and homeless youth program, 20684–20719

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Mississippi, 20669

Coast Guard
RULES
Merchant marine officers and seamen:
Pilot licensing and manning of vessels by pilots, 20651–20654

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Travel and Tourism Administration

Customs Service
RULES
Foreign trade zones:
Petroleum refineries, 20628–20642

Defense Department
See Air Force Department
See Navy Department
NOTICES
Agency information collection activities under OMB review, 20675–20676
Meetings:
Defense Policy Board Advisory Committee, 20676
Science Board task forces, 20676–20677
Organization, functions, and authority delegations:
Defense Mapping Agency name, initials, or seal; unauthorized use prohibition, 20677

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Johnson Matthey, Inc., 20751–20752
Lonza Riverside, 20752

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Bilingual education and minority languages affairs—Foreign language assistance program, 20678, 20878

Employment and Training Administration
NOTICES
Adjustment assistance:
ARCO Oil & Gas Co., 20760
Contract Manufacturing, 20762
Elbit Ft. Worth, Inc., 20762
IMC Magnetics Corp. et al., 20760–20761
Industrial Ceramics Inc. et al., 20761–20762
Pennzoil Products Co., 20761
Pennzoil Products Co.; correction, 20762
Phillips Petroleum Co., 20760
Adjustment assistance and NAFTA transitional adjustment assistance:
Pennzoil Products Co. et al., 20763–20765
NAFTA transitional adjustment assistance:
Footwear Management Co., 20763
H. Grabell & Sons, Inc., 20762–20763
IMC Magnetics Corp. et al., 20762

Energy Department
See Federal Energy Regulatory Commission
PROPOSED RULES
Acquisition regulations:
Management and operating contracts—Purchasing systems; requirement modification, 20663–20668
NOTICES
Meetings:
DOE Nuclear Safety External Regulation Advisory Committee, 20678–20679
National Coal Council, 20679

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Michigan, 20644–20649
Wisconsin; correction, 20643–20644
PROPOSED RULES
Clean Air Act:
Federal operating permits program, 20804–20855

Executive Office of the President
See Trade Representative, Office of United States

VOL 60 ISS 81 AP 27 1995 UMI

Federal Aviation Administration
RULES
Air carrier certification and operations:
Pilot operating and experience requirements, 20858–20871
Class E airspace, 20623
Restricted areas, 20625–20626
Standard instrument approach procedures, 20623–20628
PROPOSED RULES
Airworthiness directives:
British Aerospace, 20661–20663
Lockheed, 20659–20660
NOTICES
Exemption petitions; summary and disposition, 20792–20793
Passenger facility charges; applications, etc.:
Ford Airport, MI, 20793–20794
Spencer Municipal Airport, IA, 20794

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 20801

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
North Dakota et al., 20649–20651
NOTICES
Disaster and emergency areas:
California, 20682

Federal Energy Regulatory Commission
NOTICES
Environmental compliance training courses, 20681–20682
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 20680
Kern River Gas Transmission Co., 20680
Northwest Pipeline Corp., 20680–20681
Transwestern Pipeline Co., 20679–20680

Federal Maritime Commission
NOTICES
Casualty and nonperformance certificates:
Crystal Cruises, Inc., et al., 20682–20683
Royal Caribbean Cruises Ltd., 20682
Royal Caribbean Cruises Ltd. et al., 20682
Freight forwarder licenses:
SCR International Freight Forwarding, Inc., et al., 20683

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 20801

Federal Railroad Administration
RULES
Track safety standards:
Railroad bridges safety; policy statement, 20654–20657

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Affiliated Community Bancorp, Inc., et al., 20683
Country Bank Shares, Inc., et al., 20683–20684
Mercantile Bancorporation, Inc., 20684

Fish and Wildlife Service
NOTICES
Apex Houston oil spill restoration plan; availability, 20739–20749

General Services Administration
NOTICES
Interagency Committee for Medical Records:
Medical record-interstitial/intercavity therapy (SF 526); form stocking change and revision, 20684
Medical record-pediatric nursing notes (SF 536); form stocking change and revision, 20684

Health and Human Services Department
See Children and Families Administration
See National Institutes of Health
See Public Health Service

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service

Internal Revenue Service
NOTICES
Taxable substances, imported:
Toluenediamine, 20794–20795

International Trade Administration
NOTICES
Antidumping:
Brass sheet and strip from—
Canada, 20670–20671
Countervailing duties:
Antifriction bearings (other than tapered roller bearings) and parts from—
Singapore, 20671–20673

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
CSX Transportation, Inc., 20749

Justice Department
See Antitrust Division
See Drug Enforcement Administration
NOTICES
Agency information collection activities under OMB review, 20752–20759
Pollution control; consent judgments:
Hercules et al., 20760

Labor Department
See Employment and Training Administration
See Labor Statistics Bureau
See Pension and Welfare Benefits Administration

Labor Statistics Bureau
NOTICES
Meetings:
Labor Research Advisory Council, 20765–20766

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Tohono O'odham Nation, Papago Indian Reservation, AZ; Cyprus Tohono Corp. mine expansion, 20737–20738
Oil and gas leases:
Colorado, 20738
Recreation management restrictions, etc.:
Blackwell Island et al., ID; overnight camping prohibition, 20738–20739

Survey plat filings:
New Mexico, 20739
Withdrawal and reservation of lands:
Arizona, 20739

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 20801–20802

Minerals Management Service
PROPOSED RULES
Federal regulatory review; request for comments, 20663

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Institutes of Health
NOTICES
Meetings:
Human Genome Research National Advisory Council, 20720–20721
National Cancer Institute, 20724–20725
National Center for Research Resources, 20719, 20720
National Heart, Lung, and Blood Institute, 20719
National Institute on Aging, 20719, 20721, 20725
National Institute on Drug Abuse, 20726
National Library of Medicine, 20720, 20726
Research Grants Division initial review groups, 20721–20724
Research Grants Division special emphasis panels, 20721, 20725–20726
Recombinant DNA molecules research:
Actions under guidelines, 20726–20737

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 20658
Gulf of Alaska groundfish, 20658
NOTICES
Coastal zone management programs and estuarine sanctuaries:
Consistency appeals—
Vieques Marine Laboratories, Inc., 20673
Permits:
Endangered and threatened species, 20673–20674

National Park Service
NOTICES
Environmental statements; availability, etc.:
Olympic National Park, WA, 20749

National Science Foundation
NOTICES
Meetings:
Astronomical Sciences Special Emphasis Panel, 20778
Bioengineering and Environmental Systems Special Emphasis Panel, 20777
Design, Manufacture, and Industrial Innovation Special Emphasis Panel, 20778
Electrical and Communications Systems Special Emphasis Panel, 20778
Geosciences Advisory Committee, 20778–20779
Geosciences Special Emphasis Panel, 20779
Information, Robotics, and Intelligent Systems Special Emphasis Panel, 20777
Materials Research Special Emphasis Panel, 20777
Mathematical and Physical Sciences Advisory Committee, 20778

Navy Department
NOTICES
Meetings:
Chief of Naval Operations Executive Panel task forces, 20677–20678

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Northeast Nuclear Energy Co., 20779
Virginia Electric & Power Co., 20779

Office of United States Trade Representative
See Trade Representative, Office of United States

Pension and Welfare Benefits Administration
RULES
Employee Retirement Income Security Act:
Delinquent filer voluntary compliance program; implementation, 20874–20876
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Bank South, N.A., et al., 20773–20777
Toyota Motor Sales, U.S.A., Inc., et al., 20766–20773

Public Health Service
See National Institutes of Health
NOTICES
Meetings:
National Institutes of Health investment in research on gene therapy, panel to assess, 20737

Railroad Retirement Board
NOTICES
Agency information collection activities under OMB review, 20779–20780
Meetings:
CSX Intermodal; evidence relating to company status; hearing, 20780

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 20780–20781
National Association of Securities Dealers, Inc., 20782–20787
Pacific Stock Exchange, Inc., 20781–20782, 20787–20790

State Department
NOTICES
Meetings:
Shipping Coordinating Committee, 20790–20792

Trade Representative, Office of United States
NOTICES
China and U.S.; agreement regarding international trade in commercial space launch services; implementation guidelines, 20796–20800

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Railroad Administration

Travel and Tourism Administration
NOTICES
Meetings:
Travel and Tourism Advisory Board, 20674

VOL
60
ISS
81
AP
27
1995
UMI

Treasury Department
See Customs Service
See Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 20795

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Designs in Miniature: The Story of Mosaic Glass, 20796

Veterans Affairs Department
RULES
Adjudication; pensions, compensation, dependency, etc.:
Restored entitlement program for survivors; special allowance payable, 20642–20643

Separate Parts in This Issue

Part II
Environmental Protection Agency, 20804–20855

Part III
Department of Transportation, Federal Aviation Administration, 20858–20871

Part IV
Department of Labor, Pension and Welfare Benefits Administration, 20874–20876

Part V
Department of Education, 20878

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

14 CFR
71 20623
73 20625
97 (2 documents) 20623, 20626
121 20858
Proposed Rules:
39 (2 documents) 20659, 20661

19 CFR
146 20628

29 CFR
2560 20874
2570 20874

30 CFR
Proposed Rules:
Ch. II 20663

38 CFR
3 20642

40 CFR
52 (2 documents) 20643, 20644
Proposed Rules:
55 20804
71 20804

44 CFR
64 20649

48 CFR
15 20651

48 CFR
Proposed Rules:
970 20663

49 CFR
213 20654

50 CFR
672 20658
675 20658

VOL
60
ISS
81
AP
27
1995
UMI

Rules and Regulations

Federal Register
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Thursday, April 27, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ASO–4]

Amendment to Class E Airspace; Smithfield, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class E airspace at Smithfield, NC. A LOC/DME RWY 3 Standard Instrument Approach Procedure (SIAP) has been developed for Johnston County Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Steve McDuffee, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

On February 3, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying Class E airspace at Smithfield, NC (60 FR 6686). This action would provide adequate Class E airspace for IFR operations at Johnston County Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Smithfield, NC, to accommodate a LOC/DME RWY 3 SIAP and for IFR operations at Johnston County Airport.

FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follow:

Paragraph 6005 Class E airspace areas extending upward from 700 feet above the surface of the earth.

* * * * * *

ASO NC E5 Smithfield, NC [Amended]

Johnston County Airport, NC
(Lat. 35°32'27" N, long. 78°23'25" W)
Jnall NDB
(Lat. 35°26'25" N, long. 78°21'16" W)

That airspace extending upward from the surface within a 7.5-mile radius of Johnston County Airport and within 2.4 miles each side of the 024° bearing from the Jnall NDB, extending from the 7.5-mile radius to 7 miles northeast of the NDB.

* * * * * *

Issued in College Park, Georgia, on April 14, 1995.

Stephen W. McDuffee,
Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–10390 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28199; Amdt. No. 1660]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

VOL
60
ISS
81
AP
27
1995
UMI

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:
1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 21, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective May 25, 1995*

Fayetteville, AR, Drake Field, MLS RWY 34, Orig.
Tell City, IN, Perry County Muni, VOR or GPS RWY 31, Amdt 5
Venice, LA, Tiger Pass, NDB–A, Amdt 1, Canceled
North Platte, NE, North Platte Regional, NDB OR GPS RWY 30L, Amdt 9A, Canceled
New York, NY, La Guardia, LDA–A, Amdt 2
Mt. Airy, NC, Mt. Airy—Surry County, NDB RWY 36, Orig
Gallipolis, OH, Gallia—Meigs Regional, VOR–B, Amdt 1
Youngstown, OH, Lansdowne, NDB or GPS–B, Amdt 8
Phillips, WI, Price County, NDB or GPS RWY 6, Amdt 1
Phillips, WI, Price County, NDB or GPS RWY 24, Amdt 3
Pulaski, WI, Carter, VOR or GPS–A, Amdt 4
Sheridan, WY, Sheridan County, ILS/DME RWY 31, Amdt 5, Canceled

** * * Effective June 22, 1995*

Birmingham, AL, Birmingham Intl, ILS RWY 5, Amdt 41
Pensacola, FL, Pensacola Regional, VOR OR GPS RWY 8, Amdt 3
Atlanta, GA, Dekalb-Peachtree, RADAR–1, Amdt 2, Canceled
Atlanta, GA, The William B. Hartsfield Atlanta Intl, RADAR–1, Amdt 31, Canceled
Portland, TN, Portland Muni, VOR/DME OR GPS RWY 19, Amdt 3
Winchester, TN, Winchester Muni, NDB OR GPS RWY 18, Amdt 5
Amarillo, TX, Amarillo Intl, VOR RWY 22, Orig.
Amarillo, TX, Amarillo Intl, VOR OR GPS RWY 22, Amdt 26, Canceled
Dalhart, TX, Dalhart Muni, VOR OR GPS RWY 17, Amdt 12
Dalhart, TX, Dalhart Muni, VOR/DME OR GPS RWY 35, Amdt 2

** * * Effective July 20, 1995*

Arcata/Eureka, CA, Arcata, ILS/DME RWY 32, Amdt 1
Arcata/Eureka, CA, Arcata, ILS RWY 32, Amdt 29
Bishop, CA, Bishop, VOR/DME or GPS–B, Amdt 4
Jackson, CA, Westover Field Amador County, VOR/DME RWY 1, Amdt 1
Modesto, CA, Modesto City—County Airport-Harry Sham Field, ILS RWY 28R, Amdt 12
Santa Ana, CA, John Wayne Airport—Orange County, NDB RWY 19R, Amdt 1
Groton/New London, CT, Grotton—New London, VOR OR GPS RWY 5, Amdt 6
Groton/New London, CT, Grotton—New London, VOR OR GPS RWY 23, Amdt 8
Groton/New London, CT, Grotton—New London, ILS RWY 5, Amdt 10
Windsor Locks, CT, Bradley Intl, ILS RWY 6, Amdt 32
Windsor Locks, CT, Bradley Intl, COPTER ILS 058, Orig.
Owensboro, KY, Owensboro—Daviess County, VOR or GPS RWY 18, Amdt 8
Owensboro, KY, Owensboro—Daviess County, VOR RWY 36, Amdt 16
Owensboro, KY, Owensboro—Daviess County, LOC BC RWY 18 Orig
Owensboro, KY, Owensboro—Daviess County, NDB or GPS RWY 36, Amdt 8
Owensboro, KY, Owensboro—Daviess County, ILS RWY 36, Amdt 10
Marthas Vineyard, MA, Marthas Vineyard, VOR OR GPS RWY 6, Amdt 5, Canceled
Marthas Vineyard, MA, Marthas Vineyard, VOR OR GPS RWY 24, Amdt 12, Canceled
Marthas Vineyard, MA, Marthas Vineyard, ILS RWY 24, Amdt 8, Canceled
Vineyard Haven, MA, Marthas Vineyard, VOR OR GPS RWY 6, Orig.
Vineyard Haven, MA, Marthas Vineyard, VOR OR GPS RWY 24, Orig.
Vineyard Haven, MA, Marthas Vineyard, ILS RWY 24, Orig.
Loris, SC, Twin City, VOR/DME–A, Amdt 2
North Myrtle Beach, SC, Grand Strand, VOR or GPS RWY 5, Amdt 20
North Myrtle Beach, SC, Grand Strand, VOR or GPS RWY 23, Amdt 19
Houston, TX, West Houston, VOR OR GPS–B, Amdt 2
Houston, TX, West Houston, NDB RWY 15, Amdt 1
Houston, TX, West Houston, NDB RWY 33, Amdt 2

** * * Effective upon Publication*

Kansas City, MO, Kansas City Intl, ILS RWY 1R, Amdt 1

[FR Doc. 95–10386 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 94–AWP–17]

Realignment of Restricted Areas R–4807A, Tonopah and R–4808N, Las Vegas, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns the common boundary between Restricted Areas R–4807A, Tonopah, NV, and R–4808N, Las Vegas, NV, located within the Nellis Air Force Base (AFB) Range Complex. R–4807A is increased by 128 square miles on its eastern boundary and R–4808N is correspondingly reduced by the same amount. There are no changes to the designated altitudes for either R–4807A or R–4808N. Because R–4807A is a joint-use restricted area, this action will increase the airspace available for civil use when the area is released to the controlling agency. Additionally, the time of designation for R–4807A is being reduced from "Continuous" to "Continuous from 0600 Monday to 1900 Friday; other times by NOTAM." R–4808N is a non-joint-use restricted area and is active on a continuous basis.

EFFECTIVE DATE: 0901 UTC, July 20, 1995.

FOR FURTHER INFORMATION CONTACT: Jim Robinson, Military Operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 493–4050.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to part 73 of the Federal Aviation Regulations realigns the common boundary between Restricted Areas R–4807A and R–4808N within the Nellis AFB. This amendment increases the area of R–4807A by 128 square miles on the eastern side and reduces R–4808N by the same amount. The purpose of this action is to enhance airspace utilization and allow better use of existing electronic warfare threat simulators in the area of R–4807A known as EC South (ECS). The expansion of R–4807A will support the same type of missions currently flown in the existing ECS airpace. Additionally, the time of designation for R–4807A is being reduced from "Countinous" to "Continuous from 0600 Monday to 1900 Friday; other times by NOTAM." These actions will increase the airspace available for civil aviation use when R–4807A is released to the controlling agency. R–4808N is a non-joint-use restricted area and is active on a continuous basis. This amendment realigns the common boundary between two existing restricted areas, reduces the time of designation for R–4807A, and does not establish any new restricted airspace. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public is not particularly interested. Section 73.48 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8B dated March 9, 1994.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

An environmental assessment was conducted in accordance with United States Air Force (USAF) regulations and resulted in a categorical exclusion (CATEX) determination by the USAF. This action is a minor adjustment to the internal boundaries of adjacent restricted areas, without changing the outer limits of the restricted airspace complex as a whole, and a reduction in the time of use for R–4807A. This action is not subject to environmental assessments and procedures under FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

VOL 60 ISS 81 AP 27 1995 UMI

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510, 1522; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.48 [Amended]

2. Section 73.48 is amended as follows:

R–4807A Tonopah, NV [Amended]

By removing the existing boundaries and time of designation and substituting the following:

Boundaries. Beginning at lat. 36°51′00″N., long. 116°33′33″W.; to lat. 37°26′30″N., long. 117°04′33″W.; to lat. 37°33′00″N., long. 117°05′41″W.; to lat. 37°53′00″N., long. 117°05′41″W.; to lat. 37°53′00″N., long. 116°55′03″W.; to lat. 37°47′00″N., long. 116°55′03″W.; to lat. 37°33′00″N., long. 116°43′03″W.; to lat. 37°33′00″N., long. 116°26′03″W.; to lat. 37°53′00″N., long. 116°26′03″W.; to lat. 37°53′00″N., long. 116°11′03″W.; to lat. 37°42′00″N., long. 116°11′03″W.; to lat. 37°42′00″N., long. 115°53′03″W.; to lat. 37°33′00″N., long. 115°53′03″W.; to lat. 37°33′00″N., long. 115°48′03″W.; to lat. 37°28′00″N., long. 115°48′03″W.; to lat. 37°28′00″N., long. 116°00′03″W.; to lat. 37°16′00″N., long. 116°00′03″W.; to lat. 37°16′00″N., long. 116°11′03″W.; to lat. 37°20′00″N., long. 116°11′03″W.; to lat. 37°23′00″N., long. 116°17′03″W.; to lat. 37°23′00″N., long. 116°22′03″W.; to lat. 37°21′00″N., long. 116°27′03″W.; to lat. 37°21′00″N., long. 116°34′03″W.; to lat. 37°16′00″N., long. 116°31′03″W.; to lat. 37°08′00″N., long. 116°27′03″W.; to lat. 36°55′00″N., long. 116°27′03″W.; to lat. 36°55′00″N., long. 116°33′33″W.; to the point of beginning.

Time of designation: Continuous from 0600 Monday to 1900 Friday; other times by NOTAM.

R–4808N Vas Vegas, NV [Amended]

By removing the existing boundaries and substituting the following:

Boundaries. Beginning at lat. 36°41′00″N., long. 115°56′03″W.; to lat. 36°41′00″N., long. 116°14′48″W.; to lat. 36°46′00″N., long. 116°26′33″W.; to lat. 36°51′00″N., long. 116°26′33″W.; to lat. 36°51′00″N., long. 116°33′33″W.; to lat. 36°55′00″N., long. 116°33′33″W.; to lat. 36°55′00″N., long. 116°27′03″W.; to lat. 37°08′00″N., long. 116°27′03″W.; to lat. 37°16′00″N., long. 116°31′03″W.; to lat. 37°16′00″N., long. 116°00′03″W.; to lat. 37°28′00″N., long. 116°00′03″W.; to lat. 37°28′00″N., long. 115°35′03″W.; to lat. 37°06′00″N., long. 115°35′03″W.; to lat. 37°06′00″N., long. 115°56′03″W.; to the point of beginning.

Issued in Washington, DC, on April 14, 1995.

Nancy B. Kalinowski,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–10388 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28200; Amdt. No. 1661]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 21, 1995.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 9735 COPTER SIAPs, identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
04/05/95	GA	Cartersville	Cartersville	FDC 5/1453	LOC RWY 19 AMDT 1A...
04/05/95	GA	Cartersville	Cartersville	FDC 5/1454	NDB or GPS RWY 19 AMDT 3A...
04/07/95	AL	Troy	Troy Muni	FDC 5/1487	RADAR–1 RWY 7 AMDT 6A...
04/09/95	FM	Weno Island	Chuuk Intl	FDC 5/1525	NDB/DME RWY 4 ORIG...
04/09/95	FM	Weno Island	Chuuk Intl	FDC 5/1526	NDB–A ORIG...
04/09/95	FM	Weno Island	Chuuk Intl	FDC 5/1527	NDB–B AMDT 4...
04/11/95	GA	Brunswick	Malcom McKinnon	FDC 5/1547	VOR or GPS RWY 4, AMDT 14A...
04/12/95	MI	Hancock	Houghton County Memorial	FDC 5/1578	NDB or GPS RWY 31 AMDT 11...

Troy

Troy Muni
Alabama
RADAR–1 RWY 7 AMDT 6A...
FDC Date: 04/07/95

FDC 5/1487/TOI/ FI/P Troy Muni, Troy, AL. RADAR–1 RWY 7 AMDT 6A...Missed approach... Climb to 1200, then climbing right turn to 2100 direct blood LOM and hold West, LT, 070 inbound, or when directed by ATC, climb to 3000 ft via heading 070 and MGM R–126 to Banbi Int. This becomes RADAR–1 RWY 7 AMDT 6B.

Weno Island

Chuuk Intl
FM.
NDB/DME RWY 4 ORIG...
FDC Date: 04/09/95

FDC 5/1525/TKK/ FI/P Chuuk Intl, Weno Island, FM. NDB/DME RWY 4 ORIG...Alternate MNMS... 800–3. This becomes NDB/DME RWY 4 ORIG–A.

Weno Island

Chuuk Intl
FM.
NDB–A ORIG...
FDC Date: 04/09/95

FDC 5/1526/TKK/ FI/P Chuuk Intl, Weno Island, FM. NDB–A ORIG...Add note... DME required. Alternate MNMS... 800–3. This becomes NDB–A ORIG–A.

Weno Island

Chuck Intl
FM.
NDB–B AMDT 4...
FDC Date: 04/09/95

FDC 5/1527/TKK/ FI/P Chuuk Intl, Weno Island, FM. NDB–B AMDT 4...Add note...DME required. Alternate MNMS... 800–3. This becomes NDB–B AMDT 4A.

Cartersville

Cartersville
Georgia
LOC RWY 19 AMDT 1A...
FDC Date: 04/05/95

FDC 5/1453/VPC/ FI/P Cartersville, Cartersville, GA. LOC RWY 19 AMDT 1A... Terminal route RMG VORTAC to EVZ NDB minimum altitude 3200. Procedure turn R side of course 005 outbound 3200 ft within 10 miles of EVZ NDB (IAF). This becomes LOC RWY 19 AMDT 1B.

Cartersville

Cartersville
Georgia
NDB OR GPS RWY 19 AMDT 3A...
FDC Date: 04/05/95

FDC 5/1454/VPC/ FI/P Cartersville, Cartersville, GA. NDB or GPS RWY 19 AMDT 3A... Terminal route RMG VORTAC to EVZ NDB minimum altitude 3200. Procedure turn R side of course 005 outbound 3200 ft within 10 miles of EVZ NDB (IAF). This becomes NDB or GPS RWY 19 AMDT 3B.

Brunswick

Malcom McKinnon
Georgia
VOR OR GPS RWY 4, AMDT 14A...
FDC Date: 04/11/95

VOL
60
ISS
81
AP
27
1995
UMI

FDC 5/1547/SSI/ FI/P Malcom McKinnon, Brunswick, GA. VOR or GPS RWY 4, AMDT 14A...S–4 MDA 460/ HAT 444 all cats. vis 1½ cat D. This becomes VOR or GPS RWY 4 AMDT 14B.

Hancock

Houghton County Memorial
Michigan
NDB OR GPS RWY 31 AMDT 11...
FDC Date: 04/12/95

FDC 5/1578/CMX/ FI/P Houghton County Memorial, Hancock, MI. NDB or GPS RWY 31 AMDT 11...MSA from CM LOM 090–270 3400, 270–090 2700. This is NDB or GPS RWY 31 AMDT 11A.

[FR Doc. 95–10385 Filed 4–2–95; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 146

[T.D. 95–35]

RIN 1515–AB20

Petroleum Refineries in Foreign Trade Subzones

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding special procedures and requirements governing the operations of crude petroleum refineries approved as foreign trade subzones, in implementation of section 9002 of the Technical and Miscellaneous Revenue Act of 1988, which amended the Foreign Trade Zones Act to make specific provision for petroleum refinery subzones.

EFFECTIVE DATE: These regulations are effective October 24, 1995.

FOR FURTHER INFORMATION CONTACT: For Legal aspects: Bill Rosoff, Chief, Entry Rulings Branch (202)482–7040. For Operational aspects: Louis Hryniw, Regulatory Audit (202)927–1100.

SUPPLEMENTARY INFORMATION:

Background

On August 10, 1992 (57 FR 35530), Customs published a document in the **Federal Register** proposing to amend the Customs Regulations to add special procedures and requirements governing the operations of crude petroleum refineries approved as foreign trade subzones, in implementation of section 9002 of the Technical and Miscellaneous Revenue Act of 1988 which amended the Foreign Trade Zones Act, 19 U.S.C. 81c(d), to make specific provision for petroleum refinery subzones.

Briefly, as stated in the August 10, 1992, notice of proposed rulemaking, the statutory amendment obviates the need to determine exactly when and where in the manufacturing process crude and other feedstocks become other products. In so doing, it permits refiners as well as Customs to assess the relative value of such multiple products at the end of the manufacturing period during which such products were produced, when the actual quantities of these products resulting from the refining process can be measured with certainty. Also, the amendment permits the products refined in a subzone during a manufacturing period to be attributed to a given crude or other feedstocks introduced into production during the period, to the extent that such products were producible (could have been produced) therefrom in the quantities removed from the subzone.

As a result of extensive and varied input received from the oil refinery and foreign trade zone communities, as well as from other interested parties, in response to the initial notice of proposed rulemaking, Customs published a significantly revised notice on March 4, 1994 (59 FR 10342) and solicited additional public comment on the revised proposed rule.

The following discussion includes a summary of the various comments received in response to the March 4, 1994, notice of proposed rulemaking, together with an explanation and analysis regarding the sections to be added, eliminated or further revised. The final rule as revised is thereafter set forth.

Discussion of Comments

Comment: Two commenters suggested deletion of proposed § 146.92(a)(1), (2) and (3) because it is already covered in proposed § 146.93.

Customs Response: Customs agrees and, therefore, these three subsections have been deleted.

Comment: Three commenters suggested that the definition in proposed § 146.92(b) be expanded to include products from natural gas production and blendstocks and, additionally, that the definition state that Customs may add other merchandise to this definition by way of a ruling.

Two commenters suggested the inclusion of "other hydrocarbon feedstocks, light olefins, and other aromatics and their derivatives" in this definition.

Customs Response: Regarding the suggestion that this definition may be modified by a ruling, Customs regulations may not be modified or changed by way of a ruling. Any changes to the regulations would have to follow regulatory procedures. It is not clear to Customs how natural gas production and blendstocks apply to producibility. Any change to T.D. 66–16 to include feedstocks or products not listed must include supporting records and a technical explanation of the change. Therefore, this suggestion has not been adopted.

Comment: One commenter suggested that the word "means" in proposed § 146.92(c) be changed to "is based on". Another commenter suggested deletion of "utilizing T.D. 66–16 (see § 146.92(h)), and" and insertion of "volumetric" between "any" and "loss".

Customs Response: The suggested change has been adopted with respect to addition of the word "volumetric" and § 146.92(c) has been reworded. Customs disagrees that the phrase "utilizing T.D. 66–16" should be deleted. The word "means" should be retained since this section defines terms for use in this subpart.

Comment: The suggestion was made that proposed § 146.92(d) be re-worded to read as follows:

Final product means any product that is produced in a petroleum refinery subzone from feedstock processed therein, and thereafter removed therefrom or consumed within the zone.

Two commenters suggested that the phrase "and or hydrocarbon product" be inserted after "product" and before "that". Another commenter suggested that the phrase "lost or destroyed in the subzone as provided in § 146.53(c)(1)(iv)" be inserted after "therefrom".

Customs Response: The first suggestion regarding the rewording of § 146.92(d) has been adopted. The use of attribution by records requires that the amounts removed or consumed actually be measured; such method is not acceptable to account for unmeasured losses. This suggestion has not been adopted. It is Customs position that 19 U.S.C. 81c(d) applies only to crude petroleum products and not to hydrocarbons in general. Therefore, this suggestion was not adopted.

Comment: Two commenters suggested that the words "or manufacturer" be inserted after "refiner" and that the words "production facility" be inserted after "refinery" in proposed § 146.92(e). One commenter suggested deletion of the phrase "for which * * * subzone" because attribution is addressed elsewhere in the regulations. Another commenter recommended that the word "for" after "month" be deleted and replaced with "within".

Customs Response: Regarding the first suggestion, the purpose of these regulations is to implement 19 U.S.C. 81c(d). That statutory provision only applies to crude petroleum refineries in foreign trade zones. Therefore, there is no basis to extend these regulations to "production facilities." The suggestion to remove the reference to final products consumed or removed from the subzone has not been adopted since the statute provides an attribution formula to be used at specific subzones. The word "for" is shorter than "within" and there is no change in substance.

Comment: One commenter proposed addition of a definition of "Petroleum" to read as follows:

Petroleum means a feedstock listed on the top line of the tables set forth in T.D. 66–16 and includes any hydrocarbon feedstock produced from natural gas liquids or comprised of natural gas liquids.

Customs Response: Customs disagrees that such a definition is necessary and, therefore, has not included this definition in the final rule.

Comment: Two commenters recommended that the phrase "listed on the top line of the tables set forth in T.D. 66–16" be replaced with "as defined herein into final products as defined herein". One commenter suggested that the following phrase be added at the end of proposed § 146.92(f):

* * * and includes any facility that processes a hydrocarbon feedstock utilizing one or more of the units in the definition of a refinery operating unit.

Two other commenters advocated re-naming this definition "Petroleum refinery or production facility" and then adding the following:

Production facility means a facility that primarily converts hydrocarbon feedstocks, light olefins, aromatics and their derivatives into primarily light olefin products such as ethylene or propylene or other products such as toluene, benzene, or derivatives of olefins and aromatic products such as cyclohexane, acrylates, alcohols, caprolactam, or other petrochemical products.

Customs Response: As previously stated, there is no authority to extend the application of 19 U.S.C. 81c(d) beyond a crude petroleum refinery.

Comment: Two commenters proposed deletion of "market" and "each month" from the definition in proposed § 146.92(g).

Customs Response: Customs disagrees with this suggestion. A refiner has the option to use the market value of each product or a published standard value such as Platts.

Comment: Two commenters suggested addition of the phrase "is an inventory control" before the word "method" in proposed § 146.92(h) and replacement of the phrase "set forth in T.D. 66–16" with "as verified and adopted by the Secretary of the Treasury".

Customs Response: The suggested changes have not been adopted. Producibility is not an inventory control because it does not reflect actual feedstocks in inventory at any given time. It is a statutory method to account for import duties owed on privileged foreign feedstocks. The Industry Standards of Potential Production are set forth in T.D. 66–16 and, even if that Treasury Decision is modified in the future, the reference will always be to "T.D. 66–16 as modified by T.D.——".

Comment: Four commenters suggested replacement of the definition in proposed § 146.92(i) with the following language:

Relative value means a factor assigned to each final product attributed to the separation from a privileged foreign feedstock equal to the ratio of its "price of product" to the average "price of product" for all final products at the time of separation.

Customs Response: Customs disagrees with this suggestion because "relative value" is a dollar value assigned to products and not a factor. Therefore, the definition remains as proposed.

Comment: Two commenters suggested addition of "or production operating unit" to the title of § 146.92 and insertion of the following language in the definition:

Production operating unit means a unit in a production facility in which feedstock is processed such as a thermal cracking furnace or distillation tower.

Four commenters suggested deletion of proposed § 146.92(j) (definition of "Refinery operating unit") in its entirety. Alternatively, one commenter suggested the definition should read as "a facility within a refinery wherein feedstocks lose their unique physical identity or may undergo changes in physical characteristics". Another commenter agreed with the proposed definition but also suggested adding the words, "including, but not limited to, API gravity, distillation traits, chemical characteristics, etc." Yet another commenter proposed deletion of any reference to "operating unit" in this section and in proposed §§ 146.93(a) (1) and (4), 146.93(b), 146.94(a), and 146.96(a)(1).

Customs Response: Customs agrees with the position asserted by the commenters that the manufacture and manipulation of feedstocks begins on admission to a refinery subzone because a refiner deliberately mixes various feedstocks on admission to achieve optimum characteristics for processing. For that reason, proposed § 146.92(j) is unnecessary and has been deleted. Based on the assertion by refiners that the mixing occurs on admission, the admission of feedstock in nonprivileged status will be binding and a post-admission request for privileged status will be denied unless the refiner establishes that the feedstock was not manipulated or manufactured to effect a change in tariff classification. A new § 146.93(e) has been added to reflect this position.

Comment: Two commenters suggested revising proposed § 146.92(k) to read as follows:

Time of separation in the case of privileged foreign feedstock means the manufacturing period in which such feedstock is deemed to have been separated into two or more final feedstocks.

Customs Response: Customs disagrees with this suggestion since it merely adds words without changing the substance of the definition.

Comment: Three commenters proposed inclusion of the following language in proposed § 146.93(a) immediately following "Attribution" and before "(1) Producibility":

(a) *Attribution.* All final products removed from or consumed within a petroleum refinery zone must be attributed to feedstock processed within said petroleum refinery zone in the current or prior manufacturing period. Attribution must be based on records maintained by the operator. Attribution may be made by applying one of the authorized inventory control methods set forth in this section. Records may be maintained on a weight or volume basis.

Two commenters suggested that the phrase "have been introduced into a refinery operating unit" in proposed § 146.93(a)(1) be replaced with "are eligible for attribution, as set forth in paragraph (b), of this section * * *". Another commenter proposed replacement of the same phrase with "are eligible for attribution, as set forth in paragraph (a)(4) of this section * * *". A third commenter recommended replacement of the same phrase with the words "are eligible for attribution * * *".

Two other commenters suggested the inclusion of the phrase "or production operating unit" after "refinery operating unit".

Customs Response: Because Customs accepts the assertions of refiners that

VOL 60 ISS 81 AP 27 1995 UMI

they begin to manipulate all feedstocks on admission to achieve an optimum set of characteristics for processing, Customs has modified § 146.93(a)(1) accordingly.

Comment: Two commenters recommended that "[i]n addition, an operator may use such other inventory control method(s) as approved by the Secretary of the Treasury that protects the revenue" be added at the end of proposed § 146.93(a)(3).

Customs Response: Customs disagrees. The provision for additional methods is covered by § 146.96.

Comment: Two commenters suggested re-designating proposed § 146.93(a)(4) as (b). The commenters propose the section should read as follows:

(b) *Feedstock eligible for attribution.* Feedstock admitted into the refinery zone or subzone is eligible for attribution to any final product in accordance with the operator's inventory control method.

One commenter suggested the entire proposed section be deleted and replaced with:

(4) *Feedstock eligible for attribution.* Feedstock admitted into the refinery zone or subzone is eligible for attribution to the extent that such feedstock is not remaining in tank inventory at the end of the manufacturing period as determined in accordance with the operator's zone procedure. For a given manufacturing period, the quantity of feedstock eligible for attribution may be computed as beginning inventory, plus receipts less shipments of feedstock out of the zone, minus ending inventory.

Customs Response: Customs has incorporated some of the suggested language and, therefore, § 146.93(a)(4) (redesignated as § 146.93(b)) has been reworded.

Comment: Four commenters suggested redesignating proposed § 146.93(b) as (c) and replacing the phrase "introduced into a refinery operating unit" with "eligible for attribution under § 146.93(b) * * *".

Customs Response: Customs agrees and has so modified the wording of this section (redesignated as § 146.93(d)).

Comment: Four commenters suggested redesignating proposed § 146.93(c) as (d), and deletion of the sentence "(a)d valorem * * * relative value calculation" because duties are not relevant to the relative value calculation.

Customs Response: Customs disagrees and this language has been retained.

Comment: One commenter recommended deletion of proposed § 146.94(a) in its entirety. Another commenter suggested that a refiner should only be required to maintain appropriate inventory records to substantiate feedstocks processed and remaining in ending inventory. Two other commenters suggested that the section should read as follows:

(a) *Feedstock processed.* The operator must maintain appropriate inventory records during the manufacturing period to substantiate the feedstock eligible for attribution under § 146.93(a)(4) and in accordance with the operator's selected inventory control method.

Another variation was offered by a commenter who suggested the section should read as follows:

(a) *Feedstock processed.* The operator shall maintain appropriate inventory records to establish the quantity of feedstock eligible for attribution under § 146.93(a)(4) during each manufacturing period.

Customs Response: Customs disagrees that this subsection should be deleted in its entirety. However, Customs does agree with the suggested changes and § 146.94(a) has been reworded to reflect the refiners' assertion that feedstocks are manipulated or manufactured on admission.

Comment: Two commenters proposed replacement of the language in proposed § 146.94(b) with the following:

The operator shall maintain records to establish the quantity of products consumed in or removed from the zone or subzone during the entry period.

Another commenter suggested replacing this proposed section with:

(b) *Final product removed, consumed, lost or destroyed.* The operator shall maintain appropriate inventory records to establish the quantity of final products removed from, consumed in, lost, or destroyed in the subzone during the manufacturing period.

Customs Response: Customs disagrees with the suggested changes for the reasons noted in the Customs Response with respect to § 146.92(d).

Comment: Three commenters suggested deletion of any references to "week" in proposed § 146.94(c) and insertion of "approved entry period" instead.

Customs Response: As was explained in the March 4, 1994, **Federal Register** notice, while a manufacturing or accounting period may be greater than a week, there is no authority to permit a consumption entry covering products removed from a zone to exceed one week. Thus, the language of § 146.94(c) remains in substance as originally proposed.

Comment: Two commenters suggested deletion of the phrase "* * * is dutiable if entered for consumption unless otherwise exempt from duty" in proposed § 146.94(d) and that it be replaced with "shall be treated as foreign merchandise when entered for consumption".

Customs Response: The relevancy of this suggested change is not understood and, therefore, the suggestion has not been adopted. All merchandise, except for domestic status merchandise, when entered for consumption is foreign merchandise.

Comment: One commenter suggested that the title to proposed § 146.94(e) should read "Attributing gain or loss; acceptable methods" instead of the proposed title. Another commenter remarked that the regulations should specify that determination of gain or loss may be done either at time of separation (production) or at time of removal from or consumption in the zone.

Customs Response: Neither of these suggested changes have been adopted since they merely add words without changing the substance.

Comment: One commenter suggested that the word "account" in proposed § 146.94(e)(1) be replaced with "attribute".

Customs Response: Customs disagrees. Attribution refers to matching actual measured amounts of privileged foreign feedstock consumed in, or removed from, the subzone refinery in the form of final products against the limits imposed by T.D. 66–16 or other approved method.

Comment: One commenter proposed insertion of the phrase "or loss" after "volume gain" in proposed § 146.94(e)(2) and insertion of the following at the end of the section:

The operator may determine the feedstock factor using values associated with the total removals from and consumption in the zone or subzone for the period in lieu of using such values for production during the period.

Customs Response: Customs agrees with respect to the first suggestion. Regarding the second suggestion, it is not clear which "period" the commenter is referring to. Customs has agreed with prior comments that the manufacturing period will be up to a calendar month. Therefore, this change was not adopted.

Comment: One commenter suggested insertion of the following language at the end of proposed § 146.94(e)(3):

* * * at either:

(A) The time of separation, or

(B) The time of removal from or consumption in the zone or subzone.

Customs Response: Customs disagrees. As noted above, prior commentors had requested that the manufacturing period not exceed a calendar month and Customs revised the regulations accordingly.

Comment: A commenter suggested that deviations from T.D. 66–16 be provided for.

Customs Response: Customs agrees and has amended § 146.95(a)(3) to permit deviations from T.D. 66–16 with approval from Customs. It requires that any such deviation not be inconsistent with any related claim for drawback under 19 U.S.C. 1313.

Comment: Two commenters advocated incorporation of the entire proposed § 146.95 into proposed § 146.96.

Customs Response: Customs agrees. Therefore, proposed § 146.96 is now redesignated as § 146.95.

Comment: Three commenters suggested that any references to "listed in" in proposed § 146.95(b) should be replaced with "provided for".

Customs Response: Customs agrees with this suggestion and has so changed § 146.95(b) (redesignated as § 146.95(a)(2)).

Comment: One commenter suggested the following: replacement of the words "using the * * * in T.D. 66–16" in proposed § 146.96(a)(1) with the provisions of § 146.95—to be denominated as new subparagraphs (2) and (3); replacement of the words "not listed" with the words "not provided for"; and replacement of the reference to "T.D. 66–16" with the words "industry standards of potential production on a practical operating basis".

One commenter noted that proposed § 146.96(a)(1) should not be limited to feedstocks introduced into the refinery operating unit. Another commenter suggested replacing the phrase "introduced into a refinery operating unit" with "eligible for attribution".

A commenter proposed deletion of the sentence "The operator is * * * prior period." and the phrase "* * * using the * * * T.D. 66–16".

Customs Response: Customs does not agree that references to T.D. 66–16 should be deleted from these regulations. Attribution uses the industry standards of potential production on a practical operating basis as set forth in T.D. 66–16. End products which are admitted into the zone and subsequently entered for consumption without any further processing are eligible for attribution, and the text has been modified to reflect this. The definition of a refinery in § 146.92(f) refers to feedstocks and products listed in T.D. 66–16. Thus, to avoid confusion the same terminology is used here.

Comment: Two commenters suggested deletion of proposed § 146.96(a)(2) in its entirety. Other commenters suggested moving the example in this proposed section to the Appendix.

Customs Response: Customs disagrees that § 146.96(a)(2) (redesignated at § 146.95(b)) should be deleted. However, the example has been moved to the appendix.

Comment: All of the comments received suggested that the appendix include some introductory language to the effect that where there is any inconsistency between an example and the regulation, the regulation prevails.

Customs Response: Customs agrees and has incorporated this change.

Comment: Four of the comments received suggested that any references to "actual production records" and "recordation" in proposed § 146.96(b) be changed to "refinery accounting records" and "accounting principles", respectively. The suggestion was also made that the example be included in the appendix.

Customs Response: Customs disagrees regarding the rewording of § 146.96(b) (redesignated as § 146.95(c)). Accounting records could mean records that summarize net activity over a period. Customs needs to verify actual amounts admitted into, removed from, or consumed in a refinery subzone. Customs also needs to know if any adjustment was made to those amounts recorded rather than a period-end summary which nets the amount without disclosing the existence of any adjustment. The example is more appropriately placed within the section because it illustrates the precise principle applied.

Comment: One commenter proposed including introductory language in proposed § 146.97(a) as follows:

An operator may use the FIFO method of inventory accounting. The use of this method is illustrated in the appendix to this subpart.

Customs Response: Customs disagrees because § 146.93(a)(3) already provides that FIFO may be used as an inventory method.

Comment: Most commenters suggested addition of a new § 146.97(d) to provide as follows:

(d) *Appeal to the Commissioner.* In the event that the Director, Office of Regulatory Audit fails to approve a request under paragraph (c) of this section, an operator may file an appeal with the Commissioner of Customs for further review. Denial by the Commissioner of Customs may be appealed to the Court of International Trade under 28 U.S.C. 1581(i).

Customs Response: Customs disagrees with this suggestion. The proposal would change the statutory scope of jurisdiction of the Court which is beyond this rulemaking.

Comment: One commenter noted that the proposed regulations do not address zone-to-zone transfers and accounting for non-privileged foreign goods.

Customs Response: It is Customs position that these regulations are not the appropriate vehicle for addressing the issue of accounting for non-privileged status merchandise. Additionally, these regulations do not authorize the use of zone-to-zone transfers where the start of a manufacturing period in one zone refinery would be carried over to another zone refinery. Customs would consider promulgating regulations to handle such transfers but only if interested parties submitted detailed mathematical examples, with dates, showing how such transfers would be recorded by both the first and subsequent refineries, together with how the end products that are removed from the last zone would be entered for consumption, consumed in the zone, or withdrawn for exportation as defined in §§ 146.92 (e), (g), (i), and (j). Such a proposal must discuss the responsibilities of each refiner in the transfer chain with respect to recordkeeping and duty liability if there was a failure to maintain these records by one or more of the transferors.

Comment: A commenter noted that privileged foreign merchandise "liquidations" are not liquidations within the meaning of 19 U.S.C. 1500. Customs has the right to correct the classification and appraisement until the bulletin notice of liquidation is posted and the protest period begins. Prior to such final notice, the importer has the right and obligation to change classification when conditions warrant. Such change of classification does not affect zone status.

Customs Response: Customs basically agrees and has made modified § 146.65 to clarify this point.

Conclusion

Based on the above, Customs believes that the proposed regulatory amendments should be adopted as a final rule with the following changes: § 146.65 is revised to reflect Customs authority under 19 U.S.C. 1500 to fix the final classification of merchandise classified as privileged merchandise; § 146.91 is revised to eliminate unnecessary references to eligible feedstock (the second sentence) and to include a new third sentence to clarify that these regulations do not address

VOL
60
ISS
81
AP
27
1995
UMI

zone-to-zone transfers; in § 146.92, one definition is deleted (§ 146.92(j)) and one definition is added (§ 146.92(k)); § 146.93 is expanded to include privileged status after admission (paragraph (e)) and new paragraph (b) is added to clarify feedstock eligible for attribution; in § 146.94, paragraph (a) is revised to clarify recordkeeping requirements applicable to feedstocks admitted into the subzone; and in § 146.95, language is added to subparagraphs (a)(3) (i) and (ii) regarding attribution to product or feedstock not listed in T.D. 66–16, and to subparagraphs (b) regarding Customs use of refinery operating records. Other changes to the proposed regulations involve the renumbering of two provisions caused by the incorporation of proposed § 146.95 into the text of proposed § 146.96, which is redesignated as § 146.95; a corresponding renumbering changes occur in proposed § 146.97, which is now redesignated as § 146.96. Also, the example contained in proposed § 146.96(a)(2) is moved to the appendix, which contains expanded examples.

The Regulatory Flexibility Act and Executive Order 12866

Based on the supplementary information set forth above, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information requirements contained in these final regulations have been reviewed and approved by the Office of Management and Budget (OMB) in accordance with Paperwork Reduction Act of 1980 (44 U.S.C. 3507) under control number 1515–0189. The estimated average annual burden associated with this collection is 18,824 hours, or 2,353 hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229, or the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Drafting Information

The principal author of this document was Russell Berger, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 146

Customs duties and inspection, Entry, Exports, Foreign-trade zones, Imports, Penalties, Petroleum, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated above, the proposed amendments to part 146 of the Customs Regulations (19 CFR part 146), which were published at 59 FR 10342 on March 1, 1994, are adopted as a final rule as set forth below.

PART 146—FOREIGN-TRADE ZONES

1. The general authority citation for part 146 is revised to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

* * * * *

2. In § 146.65, paragraph (a)(1) is amended by adding a sentence at the end to read as follows:

§ 146.65 Classification, valuation, and liquidation.

(a) *Classification.*—(1) * * * Notwithstanding the grant of privileged status, Customs may correct any misclassification of any such entered merchandise when it posts the bulletin notice of liquidation under § 159.9 of this chapter.

* * * * *

3. Part 146 is amended by adding a new subpart H and appendix to read as follows:

Subpart H—Petroleum Refineries in Foreign-Trade Subzones

Sec.

146.91 Applicability.
146.92 Definitions.
146.93 Inventory control and recordkeeping system.
146.94 Records concerning establishment of manufacturing period.
146.95 Methods of attribution.
146.96 Approval of other recordkeeping systems.

Appendix to Part 146—Guidelines for Determining Producibility and Relative Values for Oil Refinery Zones

Subpart H—Petroleum Refineries in Foreign-Trade Subzones

§ 146.91 Applicability.

This subpart applies only to a petroleum refinery (as defined herein) engaged in refining petroleum in a foreign-trade zone or subzone. Further, the provisions relating to zones generally, which are set forth elsewhere in this part, including documentation and document retention requirements, and entry procedures, such as weekly entry, shall apply as well to a refinery subzone, insofar as applicable to and not inconsistent with the specific provisions of this subpart. It does not cover zone-to-zone transfers in which the fact of removal from one zone is ignored.

§ 146.92 Definitions.

(a) *Attribution.* "Attribution" means the association of a final product with its source material.

(b) *Feedstocks.* "Feedstocks" means crude petroleum or intermediate product that is used in a petroleum refinery to make a final product.

(c) *Feedstock factor.* "Feedstock factor" means the relative value of final products utilizing T.D. 66–16 (see § 146.92(h)), and which takes into account any volumetric loss or gain.

(d) *Final product.* "Final product" means any petroleum product that is produced in a refinery subzone and thereafter removed therefrom or consumed within the zone.

(e) *Manufacturing period.* "Manufacturing period" means a period selected by the refiner which must be no more than a calendar month basis, for which attribution to a source feedstock must be made for every final product made, consumed in, or removed from the refinery subzone.

(f) *Petroleum refinery.* "Petroleum refinery" means a facility that refines a feedstock listed on the top line of the tables set forth in T.D. 66–16 into a product listed in the left column of the tables set forth in T.D. 66–16.

(g) *Price of product.* "Price of product" means the average per unit market value of each final product for a given manufacturing period or the published standard product value if updated each month.

(h) *Producibility.* "Producibility" is a method of attributing products to feedstocks for petroleum manufacturing in accordance with the Industry Standards of Potential Production set forth in T.D. 66–16.

(i) *Relative value.* "Relative value" means a value assigned to each final product attributed to the separation from a privileged foreign feedstock based on the ratio of the final product's value compared to the privileged foreign feedstock's duty.

(j) *Time of Separation.* "Time of separation" means the manufacturing period in which a privileged foreign status feedstock is deemed to have been separated into two or more final products.

(k) *Weighted Average.* "Weighted average" means the relative value of merchandise, which is determined by dividing the total value of shipments in a given period by the total quantity shipped in the same given period. See example in section VI of the appendix to this part.

§ 146.93 Inventory control and recordkeeping system.

(a) *Attribution.* All final products removed from or consumed within a petroleum refinery subzone must be attributed to feedstock admitted into said petroleum refinery subzone in the current or prior manufacturing period. Attribution must be based on records maintained by the operator. Attribution may be made by applying one of the authorized methods set forth in this section. Records must be maintained on a weight or volume basis.

(1) *Producibility.* The producibility method of attribution requires that records be kept to attribute final products to feedstocks which are eligible for attribution as set forth in this section during the current or prior manufacturing period.

(2) *Actual production records.* An operator may use its actual production records as provided for under § 146.95(b) of this subpart.

(3) *Other inventory method.* An operator may use the FIFO (first-in, first-out) method of accounting (see § 191.22(c) of this chapter). The use of this method is illustrated in the appendix to this part.

(b) *Feedstock eligible for attribution.* Only a feedstock that has been admitted into the refinery subzone is eligible for attribution. For a given manufacturing period, the quantity of feedstock eligible for attribution may be computed as beginning inventory, plus receipts less shipments of feedstock out of the subzone, and less ending inventory.

(c) *Consumption or removal of final product.* Each final product that is consumed in or removed from a refinery subzone must be attributed to a feedstock eligible for attribution during the current or a prior manufacturing period. Each final product attributed as being produced from the separation of a privileged foreign status feedstock must be assigned the proper relative value as set forth in paragraph (d) of this section.

(d) *Relative value.* A relative value calculation is required when two or more final products are produced as the result of the separation of privileged foreign status feedstock. Ad valorem and compound rates of duty must be converted to specific rates of duty in order to make a relative value calculation.

(e) *Privileged status after admission.* Nonprivileged status feedstock is eligible for privileged status only if the request shows to the satisfaction of the Customs Service that there was no manipulation or manufacture of the feedstock to change its tariff classification before the request is granted. The absence of such manipulation or manufacture can be shown by demonstrating that the feedstock was placed in an empty tank, in a tank that contained only feedstock with the same nominal specifications or providing a sample which shows there was no change in tariff status. The existence of negligible amounts of other feedstocks may be disregarded only in accordance with § 146.95(b). A request for after-admission privileged foreign status shall be denied unless the feedstock's tank records from admission to the time that the request is made accompany the request. A refiner who makes such a request shall not put any other feedstock having different nominal specifications into the tank until the request for privileged status is granted. The Customs Service will deny or revoke a post-admission request if a refiner fails to retain the integrity of the feedstock in the tank.

(f) *Consistent use required.* The operator must use the selected method, measurement (weight or volume), and the price of product consistently (see § 146.92(g) of this subpart and paragraph (a) of this section).

§ 146.94 Records concerning establishment of manufacturing period.

(a) *Feedstock admitted into the refinery subzone.* The operator must maintain appropriate inventory records during the manufacturing period to substantiate the feedstock(s) eligible for attribution under § 146.93(b) and in accordance with the operator's selected attribution method.

(b) *Final product consumed in or removed from subzone.* The operator must record the date and amount of each final product consumed in, or removed from the subzone.

(c) *Consumption or removal.* The consumption or removal of a final product during a week may be considered to have occurred on the last day of that week for purposes of attribution and relative value calculation instead of the actual day on which the removal or consumption occurred, unless the refiner elects to attribute using the FIFO method (see section II of the appendix to this part).

(d) *Gain or loss.* A gain or loss that occurs during a manufacturing period must be taken into account in determining the attribution of a final product to a feedstock and the relative value calculation of privileged foreign feedstocks. Any gain in a final product attributed to a non-privileged foreign status feedstock is dutiable if entered for consumption unless otherwise exempt from duty.

(e) *Determining gain or loss; acceptable methods.*—(1) *Converting volume to weight.* Volume measurements may be converted to weight measurements using American Petroleum Institute conversion factors to account for gain or loss.

(2) *Calculating feedstock factor to account for volume gain or loss.* A feedstock factor may be calculated by dividing the value per barrel of production per product category by the quotient of the total value of production divided by all feedstock consumed. This factor would be applied to a finished product that has been attributed to a feedstock to account for volume gain.

(3) *Calculating volume difference.* Volume difference may be determined by comparing the amount of feedstocks introduced for a given period with the amount of final products produced during the period, and then assigning the volume change to each final product proportionately.

§ 146.95 Methods of attribution.

(a) *Producibility.*—(1) *General.* A subzone operator must attribute the source of each final product. The operator is limited in this regard to feedstocks which were eligible for attribution during the current or prior manufacturing period. Attribution of final products is allowable to the extent that the quantity of such products could have been produced from such feedstocks, using the industry standards of potential production on a practical operating basis, as published in T.D. 66–16. Once attribution is made for a particular product, that attribution is binding. Subsequent attributions of feedstock to product must take prior attributions into account. Each refiner shall keep records showing each attribution.

(2) *Industry standards of potential production.* The industry standards of potential production on a practical operating basis necessary for the producibility attribution method are contained in tables published in T.D. 66–16. With these tables, a subzone operator may attribute final products consumed in, or removed from, the subzone to feedstocks during the current or a prior manufacturing period.

(3) *Attribution to product or feedstock not listed in T.D. 66–16.* (i) For purposes

VOL 60 ISS 81 AP 27 1995 UMI

of attribution, where a final product or a feedstock is not listed in T.D. 66–16, the operator must submit a proposed attribution schedule, supported by a technical memorandum, to the appropriate district director. The district director shall refer the request to the Director, Office of Regulatory Audit ("ORA"), who will verify the refiner's records and will coordinate with the Director, Office of Laboratories and Scientific Services ("OLSS"). The Director, ORA, shall either approve or deny the request. If the request is approved, the Director, ORA, shall publish a modification of T.D. 66–16. If an operator elects to show attribution on a producibility basis, but fails to keep records on that basis, the operator shall use its actual operating records to determine attribution and any necessary relative value calculation upon the Customs Service demand and subject to verification.

(ii) An operator may attribute a final product to a feedstock in excess of the amount allowed under T.D. 66–16, when authorized by Customs, without losing the ability to attribute under T.D. 66–16 for all other feedstock-final product combinations. The operator must use its actual production records for the requested feedstock-final product combination. The operator must agree in writing that it will not, and it will not enable any other person, to file a drawback claim under 19 U.S.C. 1313 inconsistent with those actual production records for that feedstock-final product combination. The operator shall file its request in accordance with paragraph (a)(3) of this section. The Director, ORA, and the Director, OLSS, must determine whether T.D. 66–16 needs to be modified and shall publish in the Customs Bulletin each approval granted under this paragraph and request public comments with each such approval.

(4) *Attribution to privileged foreign feedstock; relative value.* If a final product is attributed to the separation of a privileged foreign feedstock a relative value must be assigned (see section IV of the appendix to this part).

(b) *Refinery operating records.* An operator may use the actual refinery operating records to attribute the feedstocks used to the removed or consumed products. Customs shall accept the operator's operating conventions to the extent that the operator demonstrates that it actually uses these conventions in its refinery operations. Whatever conventions are elected by the operator, they must be used consistently in order to be acceptable to Customs. Additionally, Customs may use these records to test the validity of admissions into the subzone, consumption within and removals from the subzone.

Example. If the operator mixes three equal quantities of material in a day tank and treats that product as a three-part mixture in its production unit, Customs will accept the resulting product as composed of the three materials. If, in the alternative, the operator assumes that the three products do not mix and treats the first product as being composed of the first material put into the day tank, the second product as composed of the second material put into the day tank, and the third product as being composed of the third material put into the day tank, Customs will accept that convention also.

§ 148.96 Approval of other recordkeeping systems.

(a) *Approval procedure.* An operator must seek prior approval of another recordkeeping procedure by submitting the following to the Director, Office of Regulatory Audit:

(1) An explanation of the method describing how attribution will be made when a finished product is removed from or consumed in the subzone, and how and when the feedstocks will be decremented;

(2) A mathematical example covering at least two months which shows the amounts attributed, all necessary relative value calculations, the dates of consumption and removal, and the amounts and dates that the transactions are reported to Customs.

(b) *Failure to comply.* Requests received that fail to comply with paragraph (a) of this section will be returned to the requester with the defects noted by the Director, Office of Regulatory Audit.

(c) *Determination by Director.* When the Director, Office of Regulatory Audit, determines that the recordkeeping procedures provide an acceptable basis for verifying the admissions and removals from or consumption in a refinery subzone, the Director will issue a written approval to the applicant.

Appendix to Part 148—Guidelines for Determining Producibility and Relative Values for Oil Refinery Zones

Where an example is set out in this appendix, the example is for purposes of illustrating the application of a provision, and where there is any inconsistency between the example and the provision, the provision prevails to the extent of the inconsistency. Alternative formats are also acceptable so long as they are consistent with the provisions of this part.

I. Attribution Using Producibility Showing Manufacturing Periods From Admission to Removal Within a Calender Month.

Volume losses and gains accounted for by weight.

Day 1

Receipt into the refinery subzone during a 30-day month:
50,000 pounds privileged foreign (PF) class II crude oil.
50,000 pounds PF class III crude oil.
50,000 pounds domestic status class III crude oil.

Day 10

Removal from the refinery subzone for exportation of 50,000 pounds of aviation gasoline.

The period of manufacture for the aviation gasoline is Day 1 to Day 10. The refiner must first attribute the designated source of the aviation gasoline.

In order to maximize the duty benefit conferred by the zone operation, the refiner chooses to attribute the exported aviation gasoline to the privileged foreign status crude oil. Under the tables for potential production (T.V. 66–16), class II crude has a 30% potential, and class III has a 40% potential. The maximum aviation gasoline producible from the class II crude oil is 15,000 pounds (50,000 × .30). The maximum aviation gasoline producible from the privileged foreign status class III crude oil is 20,000 pounds (50,000 × .40). The domestic class III crude would also make 20,000 pounds of aviation gasoline.

The refiner could attribute 15,000 pounds of the privileged foreign class II crude oil, 20,000 pounds of the privileged foreign class III crude oil, and 15,000 pounds of the domestic class III crude oil as the source of the 50,000 pounds of the aviation gasoline that was exported; 35,000 pounds of class II crude oil would be available for further production for other than aviation gasoline, 30,000 pounds of privileged foreign class III crude oil would be available for further production for other than aviation gasoline, and 35,000 pounds of domestic status class III crude oil would be available for further production, of which up to 5,000 pounds could be attributed to aviation gasoline.

Day 21

Receipt in the refinery subzone:
50,000 pounds PF status class I crude oil.
50,000 pounds PF status class IV crude oil.

Day 30

Removal from the refinery subzone:
30,000 pounds of motor gasoline for consumption.
10,000 pounds of jet fuel sold to the US Air Force for use in military aircraft.
10,000 pounds of aviation gasoline sold to a U.S. commuter airline for domestic flights.
10,000 pounds of kerosene for exportation.

To the extent that the crude oils that entered production on Day 1 are attributed as the designated sources for the products removed on Day 30, the period of manufacture is Day 1 to Day 30. If the refiner chooses to attribute the crude oils that were admitted on Day 21 as the designated sources of the products removed on Day 30 using the production standards published in T.D. 66–16, the manufacturing period is Day 21 to Day 30. This choice will be important if a relative value calculation on the privileged foreign status crude oil is required, because the law requires the value used for computing the relative value to be the average per unit value of each product for the manufacturing period. Relative value must be calculated if a source feedstock is separated into two or more products that are removed from the subzone refinery. If the average per unit value for each product differs between the manufacturing period from Day 1 to Day 30 and the manufacturing period from Day 21 to Day 30, the correct period must be used in the calculation.

In order to minimize duty liability, the refiner would try to attribute the production of the exported kerosene and the sale of the jet fuel to the US Air Force to the privileged foreign crude oils. For the same reason, the refiner would try to attribute the removed motor gasoline and the aviation gasoline for the commuter airline to the domestic crude oil.

Accordingly, the refiner chooses to attribute up to 5,000 pounds of the domestic status class III crude as the source of the 10,000 pounds of aviation gasoline removed from the subzone refinery for the commuter airline. Since no other aviation gasoline could have been produced from the crude oils that were admitted into the refinery subzone Day 1, the refiner must attribute the remainder to the crude oils that entered production on Day 21. Again, using the production standards from T.D. 66–16, the class I crude could produce aviation gasoline in an amount up to 10,000 pounds (50,000 × .20). Likewise, the class IV crude oil could produce aviation gasoline in an amount up to 8,500 pounds (50,000 × .17).

The refiner selects use of the class I crude as the source of the aviation gasoline. The refiner could attribute up to 27,300 pounds (35,000 − 5,000 × .91) of the domestic class III crude oil as the source of the motor gasoline. This would leave 2,700 pounds of domestic class III crude available for further production for other than aviation gasoline or motor gasoline. The remaining motor gasoline removed (also 2,700 pounds) must be attributed to a privileged foreign crude oil. The refiner selects the privileged foreign class II crude oil that entered production on Day 1 as the source for the remaining 2,700 pounds of motor gasoline.

This would leave 32,300 pounds of privileged foreign class II crude oil available for further production, of which no more than 27,400 pounds could be designated as the source of motor gasoline. The refiner attributes the jet fuel that is removed from the refinery subzone for the US Air Force for use in military aircraft to the privileged foreign class II crude oil. The refiner could attribute up to 20,995 pounds of jet fuel from that class II crude oil (32,300 × .65). Designating that class II crude oil as the source of the 10,000 pounds of jet fuel leaves 22,300 pounds of privileged foreign class II crude oil available for further production, of which up to 10,995 pounds could be attributed as the source of the jet fuel. Because the motor gasoline and the jet fuel, under the foregoing attribution, would be considered to have been separated from the privileged foreign class II crude oil, a relative value calculation would be required.

The jet fuel is eligible for removal from the subzone free of duty by virtue of 19 U.S.C. 1309(a)(1)(A). The refiner could attribute the privileged foreign class II crude oil as being the source of the 10,000 pounds of jet fuel (22,300 × .65). The refiner chooses to attribute the privileged foreign class III crude oil as the source of the jet fuel. The refiner could attribute to that class III crude oil up to 15,000 pounds of kerosene (30,000 × .50).

II. Attribution on a FIFO Basis

(Accounting for volume losses or gains by the weight method)

Day 1–5

Transfer, into the Refinery Subzone, from one or more storage tanks into process 150 barrels of Privileged Foreign (PF) Class II crude oil, equivalent to 50,000 pounds.

Day 6

Removal from the refinery subzone 119 barrels of residual oils to customs territory, equivalent to 40,000 pounds.

Since the operator uses the FIFO method of attribution, as the product is removed from the subzone, or consumed or lost within the subzone, attribution must be to the oldest feedstock available for attribution. Accordingly, the 40,000 pounds of residual oils will be attributed to 40,000 pounds of the PF Class II crude oil from Day 1–5.

Day 10

Transfer, into the refinery subzone, from one or more storage tanks 4 barrels of domestic motor gasoline blend stock, equivalent to 1,000 pounds to motor gasoline blending tank.

Day 6–15

Transfer, into the refinery subzone, from one or more storage tanks into process 320 barrels of Domestic Class III crude oil, equivalent to 100,000 pounds.

Day 16

Removal from the refinery subzone 14 barrels of asphalt to customs territory, equivalent to 5,000 pounds.

The 5,000 pounds of asphalt will be attributed to 5,000 pounds of PF Class II crude oil from Day 1–5.

Day 17

Removal from the refinery subzone, 324 barrels of motor gasoline to customs territory, equivalent to 81,000 pounds.

The 81,000 pounds of motor gasoline will be attributed to 1,000 pounds of domestic motor gasoline blend stock from Day 10, to the remaining 5,000 pounds of PF Class II crude oil from Day 1–5 and 75,000 pounds of domestic Class III crude oil from Day 6–15.

Day 16–20

Transfer, into the refinery subzone, from one or more storage tanks into process 169 barrels of Privileged Foreign (PF) Class III crude oil, equivalent to 50,000 pounds.

Day 22

Removal from the refinery subzone, 214 barrels of jet fuel for exportation, equivalent to 60,000 pounds.

The 60,000 pounds of jet fuel will be attributed to the remaining 25,000 pounds of domestic Class III crude oil from Day 6–15 and 35,000 pounds of PF Class III crude oil from Day 16–20.

Day 21–25

Transfer, into the refinery subzone from one or more storage tanks into process, 143 barrels of domestic Class I crude oil, equivalent to 50,000 pounds.

Day 30 (End of the Manufacturing Period)

It is determined that during the manufacturing period just ended, that 34 barrels of fuel, equivalent to 10,000 pounds was consumed, and 5 barrels of oil, equivalent to 1,500 pounds was lost in the refining production process within the refinery subzone.

The 10,000 pounds of fuel consumed will be attributed 10,000 pounds of PF Class III crude oil from Day 16–20. The 1,500 pounds of oil lost in the refining production process will be attributed to 1,500 pounds of PF Class III crude oil from Day 16–20. The remaining 3,500 pounds of PF Class III crude oil from Day 16–20 will be the first to be attributed during the next manufacturing period.

III. Relative Value Calculation

Because privileged foreign feedstocks transferred into process during Day 1–5 and Day 16–20 have two or more products attributed to them, each feedstock will require a relative value calculation.

Relative value calculation for UIN Day 1–5, 50,000 pounds, equivalent to 150 barrels.

	A Lbs	B BBLS	C $/BBL	D Product value	E R.V. Factor	F R.V. BBL	G Dutiable BBL
Residual oil	40,000	119	15.00	1,785	.9047	108	108
Asphalt	5,000	14	13.00	182	.7840	11	11
Motor gasoline	5,000	20	26.00	520	1.5682	31	31
Totals	50,000	153		2,487		150	150

A=Pounds Attributed.
B=Equivalent Barrels.

VOL 60 ISS 81 AP 27 1995 UMI

C=Price of Product.
D=B×C.
E=C/(Total of Column D/Attributed Crude BBLS).
Residual Oil RV Factor=15.00/(2,487/150)=.9047.
F=B×E.
G=Dutiable Barrels.

Since all products attributed to the 50,000 pounds (150 BBLS) of PF Class II crude entered customs territory duty equals $7.88 (150×.0525).

Feedstock factor calculation for UIN Day 16–20, 46,500 pounds equivalent to 157 barrels.

	Lbs	BBLS	$/BBL	Product value	Feedstock factor	R.V. BBL	Dutiable BBL
Jet Fuel	35,000	125	27.00	3,375	1.1030	138	0
Fuel	10,000	34	12.00	408	0.4902	17	0
Consumed Process Loss	1,500	5	12.00	60	0.4902	2	0
Totals	46,500	164		3,843		157	0

Since jet fuel was exported, no duty is applicable. Fuel consumed for refinery process was consumed within the subzone premises and did not enter customs territory, thus no duty is applicable (assume refinery not barred by duty-free consumption restriction). Likewise, the process loss occurred entirely within the subzone. Therefore, no duty is applicable.

IV. Attribution to Privileged Foreign Feedstock; Relative Value; Monthly Manufacturing Period, Weekly Entries, Attribution to a Prior Period; Volume Loss or Gain Shown by Volume Differences.

An operator who elects to attribute on a monthly basis files the following estimated removal of final products for the first week in September:

Jet Fuel (deemed exported on international flights)	20,000
Gasoline—Domestic Consumption	15,000
Duty-free certified as emergency war material	10,000
Petroleum coke exportations	10,000
Distillate for consumption	5,000
Petrochemicals exported	10,000
Total removals	70,000

Because it does not elect to make attributions for feedstocks that were charged to operating units during the same week, the operator attributes the estimated removals to final products made during August from the following feedstocks:

Class II PF (privileged foreign) crude	20,000
Class III PF crude	35,000
Class III D (domestic) crude	20,000
Class III NPF (nonprivileged foreign crude	20,000
	95,000

During August the operator produced from those feedstocks:

Jet	35,000
Gasoline	40,000
Petroleum Coke	10,000
Distillate	5,000
Petrochemicals	15,000
	105,000

There is a gain of 105,000 − 95,000=10,000

Using the tables in T.D. 66–16, the following choices are available for attribution:

	Charged	Jet	Gasoline	Petroleum coke	Distillate	Petro-chemical
Class II PF Crude	20,000	13,000	17,200	4,400	17,200	5,000
Class III PF Crude	35,000	24,500	31,850	14,000	31,150	10,150
Class III D Crude	20,000	14,000	18,200	8,000	17,800	5,800
Class III NPF Crude	20,000	14,000	18,200	8,000	17,800	5,800

Feedstock factors are calculated:

	Barrels	Value barrels	Value	Feedstock factors
Gasoline	40,000	$25	$1,000,000	.9117
Jet Fuel	35,000	23	805,000	.8388
Distillate	5,000	20	100,000	.7294
Petroleum Coke	10,000	10	100,000	.3647
Petrochemicals	15,000	40	600,000	1.4587

	Barrels	Value barrels	Value	Feedstock factors
	105,000		2,605,000	
Gain	−10,000	$2,605,000		
Total	[1]95,000	=$27.42 average value p/bbl		

Using the feedstock factor the refiner makes the following attributions:

Jet Fuel	24,192	(20,291 feedstock attributed to Class III PF Crude).
	10,808	Class III NPF Crude (attribution of 9066 solely for purpose of accounting for the amount of NPF used).
	35,000	
Gasoline	5,000	(4,559 feedstock attributed to Class III PF Crude).
	5,000	Class III NPF Crude (attribution of 4599 solely for purpose of accounting for the amount of NPF used).
	15,000	(13,676 feedstock attributed to Class III D Crude).
Petroleum Coke	8,418	(3,070 feedstock attributed to Class II PF Crude).
	1,582	Class III NPF Crude (attribution of 577 solely for purposes of accounting for the amount of NPF used).
	10,000	
Distillate	5,000	(3,647 feedstock attributed to Class III Domestic).
Petrochemicals	3,975	(5,800 feedstock attributed to Class III NPF Crude).
	6,025	(8,789 feedstock attributed to Class III PF Crude).
	10,000	

V. Weekly Entry, Weekly Manufacturing Period, and Relative Values Calculated on the Actual Weighted Average Values at the End of the Week.

On the weekly estimated production CF 3461, the refiner is required to provide a pro forma invoice or schedule showing the number of units of each type of merchandise to be removed during the week and their zone and dutiable values. For example, on CF 3461 the refiner estimates the following shipments and relative values for the next week and files this on the preceding Friday.

Product week 1	PF shipments (MBBLS)	Value/barrel (platts)	Total value
Motor Gasoline	20,000	$35	$700,000
Total Alkylate	25,000	35	875,000
Heavy Reformate	60,000	35	2,100,000
Reformer Feed	110,000	35	3,850,000
Raffinates	200,000	35	7,000,000
Jet Fuel	200,000	35	7,000,000
Total	615,000		$21,525,000

Attributed Feedstock—Class III Crude: 615,000@ $105=$64,575 (estimated duties)

During that week the refiner actually removes the following products and reports those on the CF 7501 filed within 10 business days after the CF 3461 is filed. Column 3 is the actual "weighted average" value for the manufacturing period, therefore, no reconciliation is necessary.

1 Product	2 PF Shipments (mbbls)	3 Value/ barrel (wt. avg.)	4 Total value (2)×(3)	5 Relative value factor (3)/(8)	6 Feedstock distribu. (5)×(2)	7 Liq. duties (6)×(10) (9)
Week 1:						
Motor Gasoline	19,977	$35.70	$713,179	1.104545	22,065	$2,317
Total Alkylate	22,907	42.50	973,548	1.314935	30,121	3,163
Heavy Reformate	58,164	31.42	1,827,513	.972123	56,542	5,937
Reformer Feed	100,279	31.42	3,150,766	.972123	97,484	10,235
Raffinates	170,293	29.55	5,032,158	.914266	155,693	16,348
Jet Fuel	168,433	30.04	5,059,727	.929426	156,546	16,437
Total	540,053		16,756,891		518,451 (9)	54,437 (10)

Class III Crude Consumed 518,451×$.105 = $54,437
Volumetric Gain 21,602
Avg. Value/Barrel Crude Consumed=$16,756,891÷518,451=$32.321 (8)

This example shows volumetric gain of 21,602 mbbls. However, in that PF was requested, liquidated duties are only on actual feedstock (class III crude) used in the refining process. (518,451 @ $.105=$54,437).

VOL 60 ISS 81 AP 27 1995 UMI

VI. Weekly Entry, Monthly Manufacturing Period, and Relative Values Calculated on the Actual Weighted Average Values at the End of the Month.

For example, on the CF 3461 the refiner estimates the following shipments and relative values for the next week and files this on the preceding Friday.

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (platts)	4 Total value
Week 1:			
Motor Gasoline	20,000	$35	$700,000.
Total Alkylate	25,000	35	875,000
Heavy Reformate	60,000	35	2,100,000
Reformer Feed	110,000	35	3,850,000
Raffinates	200,000	35	7,000,000
Jet Fuel	200,000	35	7,000,000
Total	615,000		21,525,000

Attributed Feedstock—Class III Crude: 615,000 @ $.105=$64,575 (estimated duties)

During the week the refiner actually removes the following products and reports those on the CF 7501 filed within 10 business days after the CF 3461 is filed. The reported relative values may be an estimate based on Platts, prior period actual prices, or the refiner's transfer prices. For this example, the estimates are based on the refiner's actual transfer prices. Listed below are the data to be shown on the weekly CF 7501s with actual quantities shipped and estimated values for weeks 1–5.

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimates)	4 Total value (2)×(3)	5 Relative value factor (3)/(8)	6 Feedstock distrib. (5)×(2)	7 Liq. duties (6)×(10) (9)
Week 1:						
Motor Gasoline	19,977	$35.70	$713,179	1.104545	22,065	$2,317
Total Alkylate	22,907	42.50	973,548	1.314935	30,121	3,163
Heavy Reformate	58,164	31.42	1,827,513	.972123	56,542	5,937
Reformer Feed	100,279	31.42	3,150,766	.972123	97,484	10,235
Raffinates	170,293	29.55	5,032,158	.914266	155,693	16,348
Jet Fuel	168,433	30.04	5,059,727	.929426	156,546	16,437
Total	540,053		16,756,891		518,451 (9)	$54,437 (10)

Class III Crude Consumed 518,451×$.105=$54,437
Volumetric Gain 21,602
Avg. Value/Barrel Crude Consumed=$16,756,891÷518,451=$32.321 (8)

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 2:						
Motor Gasoline	20,651	$36.90	$762,022	1.145429	23,654	$2,484
Total Alkylate	23,435	44.25	1,036,999	1.373584	32,190	3,380
Heavy Reformate	59,819	30.35	1,815,507	.942108	56,358	5,918
Reformer Feed	101,167	30.10	3,045,127	.934347	94,526	9,925
Raffinates	172,317	29.30	5,048,868	.909514	156,726	16,456
Jet fuel	165,291	30.70	5,074,434	.952972	157,519	16,539
Total	542,680		$16,782,977		520,973	$54,702

Class III Crude Consumed 520,973×$.105 = $54,702
Volumetric Gain 21,707
Avg. Value/Barrel Crude Consumed = $32.215

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 3:						
Motor Gasoline	18,689	$34.90	$652,246	1.091819	20,405	$2,142
Total Alkylate	21,511	40.25	865,818	1.259190	27,087	2,844
Heavy Reformate	57,371	30.90	1,772,764	.966682	55,460	5,823
Reformer Feed	99,707	30.90	3,080,946	.966682	96,386	10,121
Raffinates	168,112	29.65	4,984,521	.927577	155,938	16,374

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Jet Fuel	172,092	29.85	5,136,946	.933834	160,707	16,874
Total	537,482		$16,493,241		515,983	$54,178

Class III Crude Consumed 515,983×$.105=$54,178
Volumetric Gain 21,499
Avg. Value/Barrel Crude Consumed=$31.965

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 4:						
Motor Gasoline	21,905	$32.85	$719,579	1.027237	22,502	$2,363
Total Alkylate	22,552	38.75	873,890	1.211733	27,327	2,869
Heavy Reformate	58,116	29.60	1,720,234	0.925607	53,791	5,648
Reformer Feed	101,058	29.40	2,971,105	0.919353	92,908	9,755
Raffinates	169,823	30.15	5,120,163	0.942805	160,110	16,812
Jet Fuel	171,493	31.05	5,324,858	0.970949	166,511	17,484
Total	544,947		$16,729,829		523,149	$54,931

Class III Crude Consumed 523,149×$.105=$54,931
Gain 21,798
Avg. Value/Barrel Crude Consumed=$31.979

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (estimated)	4 Total value	5 Relative value factor	6 Feedstock distrib.	7 Liq. duties
Week 5:						
Motor Gasoline	8,990	$37.25	$334,878	1.136260	10,215	$1,073
Total Alkylate	9,984	45.10	450,278	1.375713	13,735	1,442
Heavy Reformate	25,351	31.50	798,557	0.960864	24,360	2,558
Reformer Feed	43,492	31.35	1,363,474	0.956288	41,592	4,367
Raffinates	75,172	29.95	2,251,401	0.913583	68,677	7,211
Jet fuel	75,795	30.56	2,316,295	0.932190	70,654	7,418
Total	238,784		$7,514,883		229,233	$24,069

Class III Crude Consumed 229,233×$.105=$24,069
Gain 9,551
Avg. Value/Barrel Crude Consumed=$32.783

As provided in the regulations, the refiner files an amended CF 7501 for each week based on the refiner's actual weighted average values for the month, as shown below.

Product	Value/ barrel (MBBLS)
Month End:	
Motor Gasoline	$35.27
Total Alkylate	41.84
Heavy Reformate	30.66
Reformer Feed	30.54
Raffinates	29.69
Jet Fuel	30.42

RECONCILIATION OF WEEK 1 USING MONTH'S END ACTUAL WEIGHTED AVERAGE VALUES

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (wt. avg.) actual	4 Total value (2)×(3)	5 Relative value factor (3)/(8)	6 Feedstock distri. (5)×(2)	7 Amended wt. avg. duties (6)×(10) (9)
Motor Gasoline	19,977	$35.27	$704,589	1.095716	21,889	$2,298
Total Alkylate	22,907	41.84	958,429	1.299823	29,775	3,126
Heavy Reformate	58,164	30.66	1,783,308	.952499	55,401	5,817
Reformer Feed	100,279	30.54	3,062,521	.948771	95,141	9,990
Raffinates	170,293	29.69	5,055,999	.922365	157,072	16,493

VOL 60 ISS 81 AP 27 1995 UMI

RECONCILIATION OF WEEK 1 USING MONTH'S END ACTUAL WEIGHTED AVERAGE VALUES—Continued

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (wt. avg.) actual	4 Total value (2)×(3)	5 Relative value factor (3)/(8)	6 Feedstock distri. (5)×(2)	7 Amended wt. avg. duties (6)×(10) (9)
Jet Fuel	168,433	30.42	5,123,732	.945043	159,176	16,713
Total	540,053		$16,688,578		518,454 (9)	54,437 (10)

Class III Crude Consumed = 518,454 × $.105 = $54,437
Volumetric Gain 21,599
Avg.Value/Bbl Crude Consumed = $16,688,578 ÷ 518,454 = $32.189 (8)

Note: No change in amended total duties, because duty is computed on total quantity of class III crude used. The difference is amongst the various products, i.e., estimated weekly CF 7501 duties paid for Motor Gasoline was $2,317, while the reconciled amount as shown above is $2,298. Additional duties owed or refunds due would depend on the reconciliation of the weekly entry as an entirety.

VII. Weekly entry, monthly manufacturing period, relative values calculated on prior manufacturing period's actual weighted average values. The prior period (PP) values are set forth below:

Product	Value/Barrel (wt. avg.)
Motor Gasoline	$35.28
Total Alkylate	41.90
Heavy Reformate	31.78
Reformer Feed	30.02
Raffinates	31.10
Jet Fuel	28.80

Thereafter, the information provided or both the CF 3461 and CF 7501 filed for each weekly entry with respect to relative values would remain the same. The only estimated amount would be the quantity to be removed on the CF 3461 as shown below. On the CF 3461 the refiner estimates the following shipments and uses a prior manufacturing period's actual weighted average values.

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value
Week 1			
Motor Gasoline	20,000	$35.28	$705,600
Total Alkylate	25,000	41.90	1,047,500
Heavy Reformate	60,000	31.78	1,906,800
Reformer Feed	110,000	30.02	3,302,200
Raffinates	200,000	31.10	6,220,000
Jet Fuel	200,000	28.80	5,760,000
Total	615,000		18,942,100

Attributed Feedstock—Class III Crude: 615,000 @ $.105 = $64,575 (estimated duties)

On the CF 7501, the refiner reports the following shipments and uses a prior manufacturing period's actual average values.

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value (2)×(3)	5 Relative value factor (3)/(8)	6 Feedstock distri. (5)×(2)	7 Liq. duties (6)×(10) (9)
Week 1:						
Motor Gasoline	19,977	$35.28	$704,789	1.097219	21,919	$2,902
Total Alkylate	22,907	41.90	959,803	1.303104	29,850	3,134
Heavy Reformate	58,164	31.78	1,848,452	.988368	57,486	6,036
Reformer Feed	100,279	30.02	3,010,376	.933632	93,623	9,830
Raffinates	170,293	31.10	5,296,112	.967220	164,710	17,295
Jet Fuel	168,433	28.80	4,850,870	.895689	150,863	15,840
Total	540,053		$16,670,402		518,451 (9)	$54,437 (10)

Class III Crude Used 518,451 × $.105 = $54,437
Volumetric Gain 21,602
Avg. Value/Barrel Crude Used = $16,670,402 ÷ 518,451 = $32.154 (8)

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distri.	7 Liq. duties
Week 2:						
Motor Gasoline	20,651	$35.28	$728,567	1.096128	22,636	$2,377
Total Alkylate	23,435	41.90	981,926	1.301808	30,508	3,203
Heavy Reformate	59,819	31.78	1,901,048	.987386	59,064	6,202
Reformer Feed	101,167	30.02	3,037,033	.932704	94,359	9,908
Raffinates	172,317	31.10	5,359,059	.966259	166,503	17,483
Jet Fuel	165,291	28.80	4,760,381	.894799	147,903	15,529
Total	542,680		16,768,014		520,973	54,702

Class III Crude Used 520,973×$.105=$54,702
Volumetric Gain 21,707
Avg. Value/Barrel Crude Used=$32.186

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distri.	7 Liq. duties
Week 3:						
Motor Gasoline	18,689	$35.28	$659,348	1.099168	20,542	$2,157
Total Alkylate	21,511	41.90	901,311	1.305418	28,081	2,948
Heavy Reformate	57,371	31.78	1,823,250	.990124	56,803	5,964
Reformer Feed	99,707	30.02	2,993,204	.935290	93,254	9,792
Raffinates	168,112	31.10	5,228,283	.968938	162,889	17,103
Jet Fuel	172,092	28.80	4,956,250	.897280	154,414	16,214
Total	537,482		16,561,646		515,983	54,178

Class III Crude Used 515,983×$.105=$54,178
Volumetric Gain 21,499
Avg. Value/Barrel Crude Used=$32.097

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distri.	7 Liq. duties
Week 4:						
Motor Gasoline	21,905	$35.28	$772,808	1.097390	24,038	$2,524
Total Alkylate	22,552	41.90	944,929	1.303306	29,391	3,086
Heavy Reformate	58,116	31.78	1,846,926	.988522	57,447	6,032
Reformer Feed	101,058	30.02	3,033,761	.933777	94,365	9,908
Raffinates	169,823	31.10	5,281,495	.967371	164,281	17,250
Jet Fuel	171,493	28.80	4,938,998	.895829	153,627	16,131
Total	544,947		16,818,917		523,149	54,931

Class III Crude Used 523,149×$.105=$54,931
Volumetric Gain 21,798
Avg. Value/Barrel Crude Used=$32.149

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value	5 Relative value factor	6 Feedstock distri.	7 Liq. duties
Week 5:						
Motor Gasoline	8,990	$35.28	$317,167	1.097698	9,868	$1,036
Total Alkylate	9,984	41.90	418,330	1.303671	13,016	1,367
Heavy Reformate	25,351	31.78	805,655	.988799	25,067	2,632
Reformer Feed	43,492	30.02	1,305,630	.934039	40,623	4,265
Raffinates	75,172	31.10	2,337,849	.967642	72,740	7,638
Jet Fuel	75,795	28.80	2,182,896	.896080	67,919	7,131
Total	238,784		7,367,527		229,233	24,069

Class III Crude Used 229,233×$.105=$24,069
Volumetric Gain 9,551
Avg. Value/Barrel Crude Used=$32.14

At the end of the month, the refiner must calculate its actual weighted average values for use in the subsequent period.

VOL 60 ISS 81 AP 27 1995 UMI

RECONCILIATION OF RELATIVE VALUE FOR THE SUBSEQUENT PERIOD

1 Product	2 PF shipments (mbbls)	3 Value/ barrel (PP) (wt. avg.)	4 Total value (2×3)	5 Relative value factor (3)/(8)	6 Feedstock distri. (5×2)	7 Liq. duties (6×(10) (9)
Month End:						
Motor Gasoline	90,212	$35.27	$3,181,777	1.095682	98,844	$10,379
Total Alkylate	100,389	41.84	4,200,276	1.299783	130,484	13,701
Heavy Reformate	258,821	30.66	7,935,452	.952470	246,519	25,885
Reformer Feed	445,703	30.54	13,611,770	.948742	422,857	44,400
Raffinates	755,717	29.69	22,437,238	.922336	697,025	73,188
Jet Fuel	753,104	30.42	22,909,424	.945014	711,694	74,726
Total	2,403,946		74,275,937		2,307,423 (9)	242,279 (10)

Class III Crude Used 2,307,423×$.105=$242,279
Volumetric Gain 96,523
Avg. Value/Barrel Crude Used=$74,275,937÷2,307,423=$32.19 (8)

Note: Actual monthly reconciliation data could result in attributions on a product basis that are less than or greater than weekly distributions. This is due to the "weighing" of the data i.e., motor gasoline on a weekly basis was $10,996 as compared to $10,379 as above. No additional duties are due to the averaging.

Michael H. Lane,
Acting Commissioner of Customs.

Approved: April 5, 1995.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–10226 Filed 4–26–95; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AH37

Time Limit for Filing a Claim for REPS Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning the special allowance known as REPS (Restored Entitlement Program for Survivors). This amendment is necessary to conform the regulations to a decision of the United States Court of Appeals for the Federal Circuit which upheld a decision of the United States Court of Veterans Appeals invalidating the VA regulation establishing a time limit for filing a claim for REPS benefits. The purpose of the amendment is to remove the time limit.

EFFECTIVE DATE: This amendment is effective April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 amended title 42, United States Code, to terminate or reduce payment of the Social Security child's insurance benefit and to terminate the mother's benefit at the point at which the youngest child reached age 16. Previously, the mother's benefit had terminated when the youngest child reached age 18. Section 156 of Pub. L. 97–377, which established a program known as the Restored Entitlement Program for Survivors or REPS, in effect, restored such terminated or reduced benefits for surviving spouses and children of veterans who died on active duty prior to August 13, 1981, or died as a result of service-connected disability incurred or aggravated prior to that date.

Under the authority granted in section 156, VA issued regulations, codified at 38 CFR 3.812, which implemented the statute. Paragraph (f) of § 3.812 provided that benefits could be paid from the first day of the month during which the claimant first became eligible, if application was filed within 11 months following that month. This paragraph was amended on June 28, 1993, to require that the application be filed within 6 months of the month during which the claimant first became eligible in order for benefits to be payable from the first day of the month in which eligibility arose.

The United States Court of Veterans Appeals struck down subsections (2) and (3) of 38 CFR 3.812(f), which specified the time limits for filing an application for REPS benefits, in the case of *Cole* v. *Derwinski*, 2 Vet. App. 400 (1992), *aff'd*, 35 F.3d 551 (Fed. Cir. 1994), involving a claim for the REPS mother's benefit. The court relied on its *Cole* decision in *Skinner* v. *Brown*, 4 Vet. App. 141 (1993), *aff'd*, 27 F.3d 1571 (Fed. Cir. 1994), a case involving a claim for the REPS child's benefit.

In affirming the Court of Veterans Appeals decision, the United States Court of Appeals for the Federal Circuit held that the VA regulation denying retroactive payment to claimants who failed to file a REPS claim within 6 months of the month entitlement arose was contrary to the plain meaning of the REPS statute, which imposes no time restrictions on filing, and was therefore invalid. Paragraph (f) of 38 CFR 3.812 is therefore amended to show that there is no time limit for filing a claim for REPS benefits. The only restriction on payment to an otherwise eligible claimant is that no payment can be made for any period prior to January 1, 1983, the effective date set by the REPS statute.

This final rule constitutes an interpretive rule. Accordingly, it is made effective upon publication.

The Secretary of Veterans Affairs certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This amendment will directly affect VA beneficiaries but will not directly affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There are no affected Catalog of Federal Domestic Assistance Program numbers.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: April 7, 1995.

Jesse Brown,
Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.812 is amended by revising paragraph (f) and the authority citation following the paragraph to read as follows:

§ 3.812 Special allowance payable under section 156 of Pub. L. 97–377.

* * * * *

(f) *Retroactivity and effective dates.* There is no time limit for filing a claim for this special allowance. Upon the filing of a claim, benefits shall be payable for all periods of eligibility beginning on or after the first day of the month in which the claimant first became eligible for this special allowance, except that no payment may be made for any period prior to January 1, 1983.

(Authority: Sec. 156, Pub. L. 97–377, 96 Stat. 1830, 1920 (1982))

[FR Doc. 95–10315 Filed 4–26–95; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI39–03–6674; FRL–5197–5]

Approval and Promulgation of Implementation Plan; Wisconsin; Correction

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Technical Amendment.

SUMMARY: This document contains corrections to a final rule which was published Monday, August 15, 1994 (59 FR 41711). The final rule approved volatile organic compound (VOC) regulations which were incorporated by reference into the Wisconsin State Implementation Plan (SIP).

EFFECTIVE DATE: This action is effective April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino at (312) 886–1767.

SUPPLEMENTARY INFORMATION:

Background

On August 15, 1994 (59 FR 41709), the United States Environmental Protection Agency (USEPA) approved a revision to the Wisconsin SIP which replaced the 154 series stationary source VOC regulations previously contained in Wisconsin's ozone SIP with 400 series regulations which are consistent with the Wisconsin Administrative Code. However, when these regulations were incorporated by reference into the Wisconsin SIP, USEPA failed to include the effective dates of the regulations.

Need for Correction

As published, it is unclear which version of the State's regulations are being incorporated by reference.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 31, 1995.

Valdas V. Adamkus,
Regional Administrator.

Correction of Publication

Accordingly, the publication on August 15, 1994, of the codification of the final regulations, which were the subject of FR Doc. 94–19842, is corrected by making the following technical amendments:

40 CFR Subpart YY—Wisconsin

Paragraph 52.2570(c)(73) is revised to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(73) Revisions to the ozone State Implementation Plan (SIP) were submitted by the Wisconsin Department of Natural Resources on September 22, 1993, and January 14, 1994. These rules replace the 154 series stationary source VOC regulations previously contained in Wisconsin's ozone SIP with 400 series regulations which are consistent with the current Wisconsin Administrative Code. These rules are only being approved as they apply to the ozone SIP.

(i) Incorporation by reference. The following chapters of the Wisconsin Administrative Code are incorporated by reference.

(A) Chapter NR 400: AIR POLLUTION CONTROL DEFINITIONS. NR 400.01 as published in the (Wisconsin) Register, February, 1990, No. 410, effective March 1, 1990. NR 400.02 as published in the (Wisconsin) Register, June, 1993, No. 450, effective July 1, 1993.

(B) Chapter NR 419: CONTROL OF ORGANIC COMPOUND EMISSIONS, except for NR 419.07. NR 419.01, 419.02, 419.03, 419.04 and 419.06 as published in the (Wisconsin) Register, February, 1990, No. 410, effective March 1, 1990. NR 419.05 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994.

(C) Chapter NR 420: CONTROL OF ORGANIC COMPOUND EMISSIONS FROM PETROLEUM AND GASOLINE SOURCES. NR 420.01 as published in the (Wisconsin) Register, February, 1990, No. 410, effective March, 1, 1990. NR 420.02 and 420.045 as published in the (Wisconsin) Register, January, 1993, No. 445, effective February 1, 1993. NR 420.03 and 420.04 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994. NR 420.05 as published in the (Wisconsin) Register, May, 1992, No. 437, effective June 1, 1992.

(D) Chapter NR 421: CONTROL OF ORGANIC COMPOUND EMISSIONS FROM CHEMICAL, COATINGS AND RUBBER PRODUCTS MANUFACTURING. NR 421.01 as published in the (Wisconsin) Register, February, 1990, No. 410, Effective March 1, 1990. NR 421.02, 421.03, 421.05 and 421.06 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994. NR 421.04 as published in the (Wisconsin)

VOL
60
ISS
81
AP
27
1995
UMI

Register, May, 1992, No. 437, effective June 1, 1992.

(E) Chapter NR 422: CONTROL OF ORGANIC COMPOUND EMISSIONS FROM SURFACE COATING, PRINTING AND ASPHALT SURFACING OPERATIONS. NR 422.01, 422.05, 422.06, 422.07, 422.08, 422.085, 422.09, 422.10, 422.11, 422.12, 422.13, 422.155 and 422.16 as published in the (Wisconsin) Register, February, 1990, No. 410, effective March 1, 1990. NR 422.02, 422.03, 422.04, 422.14 and 422.15 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994.

(F) Chapter NR 423: CONTROL OF ORGANIC COMPOUND EMISSIONS FROM SOLVENT CLEANING OPERATIONS. NR 423.01 as published in the (Wisconsin) Register, February, 1990, No. 410, effective March 1, 1990. NR 423.02 as published in the (Wisconsin) Register, January, 1987, No. 385, effective February 1, 1988. NR 423.03, 423.04, and 423.05 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994.

(G) Chapter NR 424: CONTROL OF ORGANIC COMPOUND EMISSIONS FROM PROCESS LINES. NR 424.01 and 424.03 as published in the (Wisconsin) Register, February, 1990, No. 410, effective March 1, 1990. NR 424.02 as published in the (Wisconsin) Register, April, 1988, No. 388, effective May 1, 1988. NR 424.04 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994.

(H) Chapter NR 425: COMPLIANCE SCHEDULES, EXCEPTIONS, REGISTRATION AND DEFERRALS FOR ORGANIC COMPOUND EMISSION SOURCES IN CHS. NR 419 TO 424. NR 425.01 and 425.02 as published in the (Wisconsin) Register, February, 1990, No. 410, effective March 1, 1990. NR 425.03 425.04 and 425.05 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994. NR 425.035 as published in the (Wisconsin) Register, January, 1993, No. 445, effective February 1, 1993.

(I) Chapter NR 439: REPORTING, RECORDKEEPING, TESTING, INSPECTION AND DETERMINATION OF COMPLIANCE REQUIREMENTS. NR 439.01 and 439.085 as published in the (Wisconsin) Register, May, 1992, No. 437, effective June 1, 1992. NR 439.02, 439.03, 439.04, 439.05, 439.055, 439.06, 439.07, 439.075, 439.09, 439.095 and 439.11 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994. NR 439.08 as published in the (Wisconsin) Register, September, 1987, No. 381, effective October 1, 1987.

(J) Chapter NR 484: INCORPORATION BY REFERENCE. NR 484.01 as published in the (Wisconsin) Register, May, 1992, No. 437, effective June 1, 1992. NR 484.02 as published in the (Wisconsin) Register, September, 1986, No. 369, effective October 1, 1986. NR 484.03 as published in the (Wisconsin) Register, May, 1993, No. 449, effective June 1, 1993. NR 484.04, 484.05 and 484.06 as published in the (Wisconsin) Register, December, 1993, No. 456, effective January 1, 1994. NR 484.08 and 484.09 as published in the (Wisconsin) Register, October, 1992, No. 442, effective November 1, 1992.

[FR Doc. 95-10249 Filed 4-26-95; 8:45 am]
BILLING CODE 6560-50-P

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40 CFR Part 52

[MI34-05-6892, MI35-03-6893; FRL-5197-6]

Approval and Promulgation of Implementation Plan; Michigan, East Lansing and Genesee County NO_x Exemptions

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting exemptions to the East Lansing and Genesee County ozone nonattainment areas, both of which are classified as transitional, from applicable oxides of nitrogen (NO_x) requirements found in the Clean Air Act (Act). For transitional areas the NO_x requirements which apply are conformity, both general and transportation, and nonattainment new source review. Approval of these exemption requests would relieve these areas from adopting and implementing all of the aforementioned NO_x requirements. The State of Michigan submitted NO_x exemption requests for the East Lansing and Genesee County areas on July 1, 1994 and July 8, 1994, respectively. These requests are based on the fact that ozone monitoring in these areas indicate that the average number of exceedances of the National Ambient Air Quality Standard for ozone during the most recent 3-year period, 1991 to 1993, is fewer than one per year. Given this monitoring data, Michigan petitioned for exemptions from the NO_x requirements based on a demonstration that additional reductions of NO_x would not contribute to attainment of the ozone standard in these areas.

DATES: This final rule will be effective May 30, 1995.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

Copies of the request and the EPA's analysis are available for inspection at the following address: U.S. EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. (Please telephone Douglas Aburano at (312) 353-6960 before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Douglas Aburano, Air Toxics and Radiation Branch (AT-18J), EPA, Region 5, Chicago, Illinois 60604, (312) 353-6960.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1994 and July 8, 1994 the State of Michigan submitted petitions to the EPA requesting that the East Lansing and Genesee County ozone nonattainment areas be exempted from the requirement to implement NO_x controls pursuant to section 182(f) of the Act. The exemption request is based upon monitoring data which demonstrate that the average number of exceedances of the ozone standard in these areas during the most recent 3-year period, 1991 through 1993, is fewer than one per year.

On December 28, 1994, EPA published a rulemaking proposing approval of the NO_x exemption petitions. During the 30 day public comment period, EPA received joint adverse comments from the Natural Resources Defense Council, Sierra Club Legal Defense Fund, and the Environmental Defense Fund and also from a private party.

II. Public Comment/EPA Response

The following evaluation summarizes each comment received and EPA's response to the comment. A more detailed discussion of the State submittal and the rationale for the EPA's action based on the Act and cited references appear in EPA's technical support documents dated August 9, 1994 and March 10, 1995.

NRDC Comments

Following is a summary of comments received from the NRDC in a letter dated August 24, 1994. After each comment is EPA's response.

NRDC Comment 1

Certain commenters argued that NO_x exemptions are provided for in two separate parts of the Act, section 182(b)(1) and section 182(f). Because the NO_x exemption tests in subsections 182(b)(1) and 182(f)(1) include language indicating that action on such requests should take place "when [EPA] approves a plan or plan revision," these commenters conclude that all NO_x exemption determinations by the EPA, including exemption actions taken under the petition process established by subsection 182(f)(3), must occur during consideration of an approvable attainment or maintenance plan, unless the area has been redesignated as attainment. These commenters also argue that even if the petition procedures of subsection 182(f)(3) may be used to relieve areas of certain NO_x requirements, exemptions from the NO_x conformity requirements must follow the process provided in subsection 182(b)(1), since this is the only provision explicitly referenced by section 176(c), the Act's conformity provisions.

EPA Response

Section 182(f) contains very few details regarding the administrative procedure for acting on NO_x exemption requests. The absence of specific guidelines by Congress leaves EPA with discretion to establish reasonable procedures, consistent with the requirements of the Administrative Procedure Act (APA).

The EPA disagrees with the commenters regarding the process for considering exemption requests under section 182(f), and instead believes that subsections 182(f)(1) and 182(f)(3) provide independent procedures by which the EPA may act on NO_x exemption requests. The language in subsection 182(f)(1), which indicates that the EPA should act on NO_x exemptions in conjunction with action on a plan or plan revision, does not appear in subsection 182(f)(3). And, while subsection 182(f)(3) references subsection 182(f)(1), the EPA believes that this reference encompasses only the substantive tests in paragraph (1) [and, by extension, paragraph (2)], not the procedural requirement that the EPA act on exemptions only when acting on SIPs. Additionally, paragraph (3) provides that "person[s]" (which section 302(e) of the Act defines to include States) may petition for NO_x exemptions "at any time," and requires the EPA to make its determination within 6 months of the petition's submission. These key differences lead EPA to believe that Congress intended the exemption petition process of paragraph (3) to be distinct and more expeditious than the longer plan revision process intended under paragraph (1).

Section 182(f)(1) appears to contemplate that exemption requests submitted under these paragraphs are limited to States, since States are the entities authorized under the Act to submit plans or plan revisions. By contrast, section 182(f)(3) provides that "person[s]"[1] may petition for a NO_x determination "at any time" after the ozone precursor study required under section 185B of the Act is finalized,[2] and gives EPA a limit of 6 months after filing to grant or deny such petitions. Since individuals may submit petitions under paragraph (3) "at any time" this must include times when there is no plan revision from the State pending at EPA. The specific timeframe for EPA action established in paragraph (3) is substantially shorter than the timeframe usually required for States to develop and for EPA to take action on revisions to a SIP. These differences strongly suggest that Congress intended the process for acting on personal petitions to be distinct—and more expeditious—from the plan-revision process intended under paragraph (1).

With respect to major stationary sources, section 182(f) requires States to adopt NO_x NSR and RACT rules, unless exempted. These rules were generally due to be submitted to EPA by November 15, 1992. Thus, in order to avoid the Act sanctions, the States would have had to submit their requests for NO_x exemptions for EPA review and rulemaking action several months before November 15, 1992. In contrast, the Act specifies that the attainment demonstrations are not due until November 1993 or 1994 (and EPA may take 12-18 months to approve or disapprove the demonstration). For marginal ozone nonattainment areas (subject to NO_x NSR), no attainment demonstration is called for in the Act. For maintenance plans, the Act does not specify a deadline for submittal of maintenance demonstrations. Clearly, the Act envisions the submittal of and EPA action on exemption requests, in some cases, prior to submittal of attainment or maintenance demonstrations.

The Act requires conformity with regard to federally-supported NO_x generating activities in relevant nonattainment and maintenance areas. However, EPA's conformity rules explicitly provide that these NO_x requirements would not apply if EPA grants an exemption under section 182(f). In response to the comment that section 182(b)(1) should be the appropriate vehicle for dealing with exemptions from the NO_x requirements of the conformity rule, EPA notes that this issue has previously been raised in a formal petition for reconsideration of EPA's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. The issue, thus, is under consideration within EPA, but at this time remains unresolved. Additionally, subsection 182(f)(3) requires that NO_x exemption petition determinations be made by the EPA within six months. The EPA has stated in previous guidance that it intends to meet this statutory deadline as long as doing so is consistent with the Administrative Procedures Act. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in EPA's final conformity regulations, and EPA remains bound by their existing terms.

NRDC Comment 2

Some commenters stated that the modeling required by EPA is insufficient to establish that NO_x reductions would not contribute to attainment since only one level of NO_x control, i.e., "substantial" reductions, is required to be analyzed. They further explained that an area must submit an approvable attainment plan before EPA can know whether NO_x reductions will aid or undermine attainment.

EPA Response

This comment is directed towards exemption approvals based on photochemical grid modeling. This comment does not apply in the case of East Lansing or Genesee County because this exemption request is based on monitoring.

NRDC Comment 3

Three years of "clean" data fail to demonstrate that NO_x reductions would not contribute to attainment. EPA's policy erroneously equates the absence of a violation for one 3-year period with "attainment."

EPA Response

The EPA has separate criteria for determining if an area should be redesignated to attainment under section 107 of the Act. The section 107 criteria are more comprehensive than the Act requires with respect to NO_x exemptions under section 182(f).

[1] Section 302(e) of the Act defines the term "person" to include States.

[2] The final section 185B report was issued July 30, 1993.

VOL 60 ISS 81 AP 27 1995 UMI

Under section 182(f)(1)(A), an exemption from the NO_X requirements may be granted for nonattainment areas outside an ozone transport region if EPA determines that "additional reductions of [NO_X] would not contribute to attainment" of the ozone NAAQS in those areas. In some cases, an ozone nonattainment area might attain the ozone standard, as demonstrated by 3 years of adequate monitoring data, without having implemented the section 182(f) NO_X provisions over that 3-year period. The EPA believes that, in cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data without having implemented the section 182(f) NO_X provisions, it is clear that the section 182(f) test is met since "additional reductions of [NO_X] would not contribute to attainment" of the NAAQS in that area. The EPA's approval of the exemption, if warranted, would be granted on a contingent basis (i.e., the exemption would last for only as long as the area's monitoring data continue to demonstrate attainment).

NRDC Comment 4

A waiver of NO_X controls is unlawful if such waiver will impede attainment and maintenance of the ozone standard in separated downwind areas.

EPA Response

As a result of the comments, EPA reevaluated its position on this issue and has revised the previously issued guidance. See Memorandum, "Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria" dated February 8, 1995, for John Seitz's signature. As described in this memorandum, EPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that NO_X emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State. This action would be independent of any action taken by EPA on a NO_X exemption request for stationary sources under section 182(f). That is, EPA action to grant or deny a NO_X exemption request under section 182(f) would not shield that area from EPA action to require NO_X emission reductions, if necessary, under section 110(a)(2)(D).

Modeling analyses are underway in many areas for the purpose of demonstrating attainment in the 1994 SIP revisions. Recent modeling data suggest that certain ozone nonattainment areas may benefit from reductions in NO_X emissions far upwind of the nonattainment area. For example, the northeast corridor and the Lake Michigan areas are considering attainment strategies which rely in part on NO_X emission reductions hundreds of kilometers upwind. The EPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. As the studies progress, EPA will continue to work with the States and other organizations to develop mutually acceptable attainment strategies.

At the same time as these large scale modeling analyses are being conducted, the States have requested exemptions from NO_X requirements under section 182(f) for certain nonattainment areas in the modeling domain. Some of these areas may be upwind of and impact upon downwind nonattainment areas. EPA intends to address the transport issue through section 110(a)(2)(D) based on a domain-wide modeling analysis.

Under section 182(f) of the Act, an exemption from the NO_X requirements may be granted for nonattainment areas outside an ozone transport region if EPA determines that "additional reductions of [NO_X] would not contribute to attainment of the national ambient air quality standard for ozone in the area." [3] As described in section 4.3 of the Guidelines for Determining the Applicability of Nitrogen Oxides Requirements under Section 182(f), December 16, 1993 ("guidance") document, EPA believes that the term "area" means the "nonattainment area" and that EPA's determination is limited to consideration of the effects in a single nonattainment area due to NO_X emissions reductions from sources in the same nonattainment area.

Section 4.3 of the guidance goes on to encourage, but not require, States/petitioners to include consideration of the entire modeling domain, since the effects of an attainment strategy may extend beyond the designated nonattainment area. Specifically, the guidance encourages States to "consider imposition of the NO_X requirements if needed to avoid adverse impacts in downwind areas, either intra- or inter-State. States need to consider such impacts since they are ultimately responsible for achieving attainment in all portions of their State (see generally section 110) and for ensuring that emissions originating in their State do not contribute significantly to nonattainment in, or interfere with maintenance by, any other State [see section 110(a)(2)(D)(i)(I)]."

In contrast, § 4.4 of the guidance states that the section 182(f) demonstration *would not be approved* if there is evidence, such as photochemical grid modeling, showing that the NO_X exemption would interfere with attainment or maintenance in downwind areas. The guidance goes on to explain that section 110(a)(2)(D) [not section 182(f)] prohibits such impacts. Consistent with the guidance in section 4.3, EPA believes that the section 110(a)(2)(D) and 182(f) provisions must be considered independently, and hence, is withdrawing the guidance presently contained in § 4.4. Thus, if there is evidence that NO_X emissions in an upwind area would interfere with attainment or maintenance in a downwind area, that action should be separately addressed by the State(s) or, if necessary, by EPA in a section 110(a)(2)(D) action. In addition, a section 182(f) exemption request should be independently considered by EPA. In some cases, then, EPA may grant an exemption from across-the-board NO_X RACT controls under section 182(f) and, in a separate action, require NO_X controls from stationary and/or mobile sources under section 110(a)(2)(D). It should be noted that the controls required under section 110(a)(2)(D) may be more or less stringent than RACT, depending upon the circumstances.

NRDC Comment 5

Comments were received regarding exemption of areas from the NO_X requirements of the conformity rules. They argue that such exemptions waive only the requirements of section 182(b)(1) to contribute to specific annual reductions, not the requirement that conformity SIPs contain information showing the maximum amount of motor vehicle NO_X emissions allowed under the transportation conformity rules and, similarly, the maximum allowable amounts of any such NO_X emissions under the general conformity rules. The commenters admit that, in prior guidance, EPA has acknowledged the need to amend a drafting error in the existing transportation conformity rules to ensure consistency with motor vehicle emissions budgets for NO_X, but want EPA in actions on NO_X exemptions to explicitly affirm this obligation and to also avoid granting waivers until a budget controlling future NO_X increases is in place.

EPA Response

With respect to conformity, EPA's conformity rules [4 5] provide a NO_X waiver if an area receives a section 182(f) exemption. In its "Conformity; General Preamble for Exemption From Nitrogen Oxides Provisions," 59 FR 31238, 31241 (June 17, 1994), EPA reiterated its view that in order to conform, nonattainment and maintenance areas must demonstrate that the transportation plan and TIP are consistent with the motor vehicle emissions budget for NO_X even where a conformity NO_X waiver has been granted. Due to a drafting error, that view is not reflected in the current transportation conformity rules. As the commenters correctly note, EPA states in the June 17th notice that it intends to remedy the problem by amending the conformity rule. Although that notice specifically mentions only requiring consistency with the approved maintenance plan's NO_X motor vehicle emissions budget, EPA also intends to require consistency with the attainment demonstration's NO_X motor vehicle emissions budget. However, the exemptions were submitted pursuant to section 182(f)(3), and EPA does not believe it is appropriate to delay the statutory deadline for acting on these petitions until the conformity rule is amended. As noted earlier in response to a previous issue raised by these commenters, this issue has also been raised in a formal petition for reconsideration of the Agency's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. This issue, thus, is under consideration within the Agency, but at this time remains unresolved. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in the Agency's final conformity regulations, and the Agency remains bound by their existing terms.

NRDC Comment 6

The Act does not authorize any waiver of the NO_X reduction requirements until conclusive evidence exists that such reductions are counter-productive.

EPA Response

EPA does not agree with this comment since it ignores Congressional intent as evidenced by the plain language of section 182(f), the structure of the Title I ozone subpart as a whole, and relevant legislative history. By contrast, in developing and implementing its NO_X exemption policies, EPA has sought an approach that reasonably accords with that intent. Section 182(f), in addition to imposing control requirements on major stationary sources of NO_X similar to those that apply for such sources of VOC, also provides for an exemption (or limitation) from application of these requirements if, under one of several tests, EPA determines that in certain areas NO_X reductions would generally not be beneficial. In subsection 182(f)(1), Congress explicitly conditioned action on NO_X exemptions on the results of an ozone precursor study required under section 185B. Because of the possibility that reducing NO_X in a particular area may either not contribute to ozone attainment or may cause the ozone problem to worsen, Congress included attenuating language, not just in section 182(f), but throughout the Title I ozone subpart, to avoid requiring NO_X reductions where it would be nonbeneficial or counterproductive. In describing these various ozone provisions (including section 182(f), the House Conference Committee Report states in pertinent part: "[T]he Committee included a separate NO_X/VOC study provision in section [185B] to serve as the basis for the various findings contemplated in the NO_X provisions. The Committee does not intend NO_X reduction for reduction's sake, but rather as a measure scaled to the value of NO_X reductions for achieving attainment in the particular ozone nonattainment area." H.R. Rep. No. 490, 101st Cong., 2d Sess. 257–258 (1990). As noted in response to an earlier comment by these same commenters, the command in subsection 182(f)(1) that EPA "shall consider" the 185B report taken together with the timeframe the Act provides both for completion of the report and for acting on NO_X exemption petitions clearly demonstrate that Congress believed the information in the completed section 185B report would provide a sufficient basis for EPA to act on NO_X exemption requests, even absent the additional information that would be included in affected areas' attainment or maintenance demonstrations. However, while there is no specific requirement in the Act that EPA actions granting NO_X exemption requests must await "conclusive evidence", as the commenters argue, there is also nothing in the Act to prevent EPA from revisiting an approved NO_X exemption if warranted due to better ambient information.

In addition, the EPA believes (as described in EPA's December 1993 guidance) that section 182(f)(1) of the Act provides that the new NO_X requirements shall not apply (or may by limited to the extent necessary to avoid excess reductions) if the Administrator determines that *any one* of the following tests is met:

(1) in any area, the net air quality benefits are greater in the absence of NO_X reductions from the sources concerned;

(2) in nonattainment areas not within an ozone transport region, additional NO_X reductions would not contribute to ozone attainment in the area; or

(3) in nonattainment areas within an ozone transport region, additional NO_X reductions would not produce net ozone air quality benefits in the transport region.

Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption.

Only the first test listed above is based on a showing that NO_X reductions are "counter-productive." If one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.

Private Citizen Comment 1

The Rose Lake [monitoring] site is in a very rural area surrounded by vegetation that would preclude any accurate readings from the site, plus it is an extensive distance from a highway with a significant volume of vehicles that would generate measurable ozone levels. I also note this site is in the wrong direction by at least 45 degrees to pick up any ozone levels from the East Lansing-Lansing urbanized area.

The 220 North Pennsylvania [monitoring] site is even more protected [than the Rose Lake monitoring site], being in the heart of a residential area, with a low volume highway adjacent. It

[3] There are 3 NO_X exemption tests specified in section 182(f). Of these, 2 are applicable for areas outside an ozone transport region: the "contribute to attainment" test described above, and the "net air quality benefits" test. EPA must determine, under the latter test, that the net benefits to air quality in an area "are greater in the absence of NO_X reductions" from relevant sources. Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption. Consequently, as stated in § 1.4 of the December 16, 1993 EPA guidance, "[w]here any one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply."

[4] Criteria and Procedures for Determining Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Funded or Approved under Title 23 U.S.C. of the Federal Transit Act," November 24, 1993 (58 FR 62188).

[5] Determining Conformity of General Federal Actions to State or Federal Implementation Plans; Final Rule," November 30, 1993 (58 FR 63214).

VOL 60 ISS 81 AP 27 1995 UMI

is protected from the west and central part of the Lansing area, the prevailing wind source is from the west, and it is also located north of any industrial ozone that could be generated by several automotive plants.

EPA Response

As part of the State of Michigan's ozone monitoring networks, both the Rose Lake monitoring site and the 220 North Pennsylvania monitoring site have met the criteria established in the Code of Federal Regulations (CFR) for probe siting, as well as other EPA guidance at the time they were established. A follow-up review conducted on March 2, 1995 indicates they are still in compliance. These requirements can be found in 40 CFR part 58 Appendix E.

A review of wind speed and direction data for the summer months indicates that the Rose Lake monitor is within the area likely to be downwind of East Lansing. Furthermore, additional monitors in Genesee County are located in the area likely to see the maximum impact from the formation of ozone from emissions in the East Lansing area. In other words, the NO_X emissions from sources located in the East Lansing area will probably not generate ozone until they have reached the Genesee County area where there is an acceptable monitoring network.

Private Citizen Comment 2

Provisions of the Act and the provisions of the Intermodal Surface Transportation Efficiency Act (ISTEA) should be jointly examined by EPA and the Federal Highway Administration (FHWA) to determine the effect of not exempting the East Lansing area as has been proposed. For example, could this exemption be granted if these monitors were placed in areas of high traffic volume?

EPA Response

The hypothetical question raised can only be answered if monitors were actually placed in areas of high traffic volume. Placing a monitor in an area of high traffic volume, where high NO_X concentrations could be expected, would most likely give erroneously low ozone readings because of the fact that high NO_X concentrations have the effect of "scavenging" ozone. Therefore, there is no reason to place a monitor in an area of high traffic volume. In addition to this, as has already been mentioned in the previous response, the State of Michigan already has an approved monitoring network for this area and establishing further monitors has not been demonstrated to be warranted.

When the EPA is presented with a NO_X exemption petition, it is faced with the task of approving or disapproving such a request solely on the Clean Air Act provisions and guidance which is developed under the Clean Air Act. ISTEA does not play a role in the decision making process for NO_X exemptions.

III. Final Action

The comments received were found to warrant no changes from proposed to final action on this NO_X exemption request. Therefore, EPA is granting the East Lansing and Genesee County areas section 182(f) NO_X exemptions based upon the evidence provided by the State and the State's compliance with the requirements outlined in the Act and in EPA guidance. However, it should be noted that this exemption is being granted on a contingent basis; i.e., the exemption will last for only as long as the area's ambient monitoring data continue to demonstrate attainment of the ozone NAAQS.

Both of these areas are classified as transitional. With a classification of transitional, an area which has not been granted a NO_X exemption would be subject to general conformity, transportation conformity, and nonattainment new source review NO_X requirements. Since these petitions for exemption are applicable areawide, as opposed to source-specific, in addition to exempting these areas from the nonattainment new source review requirements for NO_X, this action also exempts these areas from the NO_X conformity requirements of the Act (see G. T. Helms, January 12, 1995 "Scope of Nitrogen Oxides (NO_X) Exemptions" memorandum).

If, subsequent to the NO_X waiver being granted, EPA determines that either area has violated the standard, the section 182(f) exemption for that area, as of the date of the determination, would no longer apply. EPA would notify the State that the exemption no longer applies, and would also provide notice to the public in the **Federal Register**. If an exemption is revoked, the State must thereafter comply with any applicable NO_X requirements set forth in the Act, such as those for NO_X NSR and conformity. The air quality data relied on for the above determinations must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in EPA's Aerometric Information Retrieval System. Additionally, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area.

This action will become effective on May 30, 1995.

IV. Miscellaneous

A. Applicability to Future SIP Decisions

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

B. Executive Order 12866

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

C. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

EPA's final action will relieve requirements otherwise imposed under the Clean Air Act and, hence does not impose any federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act. This action also will not impose a mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 26, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Oxides of nitrogen, Incorporation by reference, Intergovernmental relations, Ozone.

Dated: April 13, 1995.

Valdas V. Adamkus,

Regional Administrator.

40 CFR part 52 is amended as follows.

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671(q).

Subpart X—Michigan

2. Section 52.1174 is amended by adding paragraph (e) and (f) to read as follows:

§ 52.1174 Control strategy: Ozone

* * * * *

(e) Approval—On July 1, 1994, the Michigan Department of Natural Resources submitted a petition for exemption from the oxides of nitrogen requirements of the Clean Air Act for the East Lansing ozone nonattainment area. The submittal pertained to the exemption from the oxides of nitrogen requirements for conformity and new source review. Theses are required by sections 176(c) and 182(f) of the 1990 amended Clean Air Act, respectively. If a violation of the ozone standard occurs in the East Lansing ozone nonattainment area, the exemption shall no longer apply.

(f) Approval—On July 8, 1994, the Michigan Department of Natural Resources submitted a petition for exemption from the oxides of nitrogen requirements of the Clean Air Act for the Genesee County ozone nonattainment area. The submittal pertained to the exemption from the oxides of nitrogen requirements for conformity and new source review. These are required by sections 176(c) and 182(f) of the 1990 amended Clean Air Act, respectively. If a violation of the ozone standard occurs in the Genesee County ozone nonattainment area, the exemption shall no longer apply.

[FR Doc. 95–10247 Filed 4–26–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7615]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

VOL 60 ISS 81 AP 27 1995 UMI

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
North Dakota: Nelson County, unincorporated areas	380683	March 3, 1995	
Georgia: Worth County, unincorporated areas	130196	March 10, 1995	June 2, 1978.
Tennessee:			
Hancock County, unincorporated areas	470226	March 15, 1995	July 14, 1978.
Clay County, unincorporated areas	470382	March 17, 1995	March 30, 1979.
Arkansas: Hempstead County, unincorporated areas	050436	March 28, 1995	June 3, 1977.
New Eligibles—Regular Program			
Missouri:			
Dardenne Prairie, town of, St. Charles County	290899	March 13, 1995	December 15, 1992.
Park Hills, city of, St. Francois County [1]	290920	March 22, 1995	
Florida: Palm Shores, town of, Brevard County	120612	March 27, 1995	August 18, 1992.
Colorado: Severance, town of, Weld County [2]	080317	March 28, 1995	September 28, 1982.
Reinstatements			
Indiana: Lewisville, town of, Henry County	180091	October 26, 1976, Emerg.; September 4, 1987, Reg.; September 4, 1987, Susp.; March 10, 1995, Rein.	September 4, 1987.
Virginia: Quantico, town of, Prince William County	510232	March 19, 1975, Emerg.; August 15, 1978, Reg.; January 5, 1995; Susp.; March 29, 1995, Rein.	January 5, 1995.
Regular Program Conversions			
Region I:			
Connecticut:			
Darien, town of, Fairfield County	090005	March 2, 1995, suspension withdrawn.	March 2, 1995.
Ellington, town of, Tolland County	090158	....do	Do.
Killingly, town of, Windham County	090135	....do	Do.
New Britain, city of, Hartford County	090032	....do	Do.
Suffield, town of, Hartford County	090038	....do	Do.
Region VI:			
Louisiana:			
Grand Isle, city of, Jefferson Parish	225197	March 23, 1995, suspension withdrawn.	March 23, 1995.
Gretna, city of, Jefferson Parish	225198	....do	Do.
Harahan, city of, Jefferson Parish	225200	....do	Do.
Jean Lafitte, town of, Jefferson Parish	220371	....do	Do.
Jefferson Parish, unincorporated areas	225199	....do	Do.
Kenner, city of, Jefferson Parish	225201	....do	Do.
Westwego, city of, Jefferson Parish	220094	....do	Do.

[1] Effective January 1, 1994, the Cities of Flat River (CID 295264), Esther (CID 290730), and Elvins (CID 290322) and the Village of Rivermines (CID 290544) consolidated into one governmental jurisdiction (city) named the "City of Park Hills." The City of Park Hills has adopted the Flood Insurance Study for the City of Flat River with accompanying Flood Insurance Rate Map (FIRM) dated 4–20–73 and revision dated 9–5–75, and has also adopted the Flood Hazard Boundary Maps (FHBMs) for the Cities of Elvins and Esther dated 8–1–87 and 2–21–75, respectively, for flood insurance and floodplain management purposes.

[2] The Town of Severance has adopted the Weld County (CID 080266) Flood Insurance Rate Map, Panel Number 080266 0475 C, dated September 28, 1982.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: April 20, 1995.

Frank H. Thomas,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–10352 Filed 4–26–95; 8:45 am]

BILLING CODE 6718–21–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 15

[CGD 84–060]

RIN 2115–AB67

Licensing of Pilots; Manning of Vessels by Pilots

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations concerning the licensing of pilots and the manning of vessels by pilots. This final rule: defines "coastwise seagoing vessel" for pilotage purposes; describes first class pilotage areas where local pilotage expertise is warranted; allows licensed individuals to serve as pilots in areas not identified as first class pilotage areas on vessels that they are otherwise qualified to control; requires a Federal pilot for vessels in excess of 1,600 gross tons, propelled by machinery and subject to inspection under 46 U.S.C. Chapter 33, that are not authorized by their Certificate of Inspection to proceed beyond the Boundary Line; and provides quick reference tables for Federal pilotage requirements. These changes are necessary to eliminate confusion over where and on what vessels pilotage expertise is required.

EFFECTIVE DATE: May 30, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council(G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. John R. Bennett, Merchant Vessel Personnel Division (G–MVP/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593–0001, telephone (202) 267–6102.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are: Mr. John R. Bennett, Project Manager, Merchant Vessel Personnel Division, Office of Marine Safety, Security and Environmental Protection, and, Mr. Nicholas Grasselli, Project Counsel, Office of Chief Counsel.

Regulatory History

A notice of proposed rulemaking (NPRM) was published June 24, 1985 (50 FR 26117), addressing unresolved pilotage issues. The comment period was originally scheduled to end on September 23, 1985, however, a notice of extension of comment period (50 FR 38557), published in the **Federal Register** on September 23, 1985, extended the comment period to December 22, 1985. In response to that notice, the Coast Guard received 172 written comments, and held two public meetings. One public meeting was held in New York, hosted by the Maritime Association of New York, on November 12, 1985. The second was a meeting of the Towing Safety Advisory Committee Subcommittee on Personnel Manning and Licensing, which was held at Coast Guard Headquarters in Washington, D.C., on December 12, 1985. On June 6, 1988, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) (53 FR 20654) addressing the comments received in response to the NPRM and public meetings. The comment period for the SNPRM ended September 6, 1988. Sixteen written comments were received regarding the 1988 SNPRM. Those comments included several recommendations by the Towing Safety Advisory Committee (TSAC).

On February 2, 1994, the Coast Guard published an interim final rule entitled Licensing of Pilots; Manning of Vessels by Pilots in the **Federal Register** (59 FR 4839). The Coast Guard received six letters commenting on the interim final rule. No public hearing was requested, and none was held.

Background and Purpose

Normally, foreign vessels and U.S. vessels operating on a registry endorsement are under State pilotage authority, and U.S. vessels operating on a coastwise endorsement are under Federal pilotage authority. The regulations addressed in this rule deal only with Federal pilotage.

Discussion of Comments and Changes

Six letters commenting on the interim final rule were received. Some of the comments addressed in these letters raised issues that were not the subject of this rulemaking. The Coast Guard is responding only to those comments relating to this rulemaking.

One comment suggested that there should be only "designated" pilotage areas because otherwise the Coast Guard would be reducing pilotage requirements for tank barges. The Coast Guard is not reducing pilotage requirements for tank barges or any other vessels in this rulemaking.

Another comment stated that "the local pilotage rules are excessive with regard to the round trip required in non-designated areas." This rule places a Federal pilotage requirement on inland route self-propelled vessels greater than 1,600 gross tons. The only other change required by this rule is to require the master, mate or operator of a coastwise seagoing vessel to have made one round trip in the non-designated areas of pilotage waters within the past five years in order to satisfy the pilotage requirement for that area. The Coast Guard does not believe these additional pilotage requirements are excessive.

Several members of the small passenger vessel industry indicated that they are opposed to the rule because it places a new pilotage requirement on their vessels. The interim final rule does not establish a new pilotage requirement for small passenger vessels. Existing pilotage regulatory requirements for these vessels were established in the 1985 Final Rule (50 FR 26106) and in earlier rules. A vessel has a Federal pilotage requirement if it is a coastwise seagoing vessel, not sailing on register, and underway, not on the high seas. This rule does not create a pilotage requirement for certain small passenger vessels, the requirement already exists.

Another comment stated that while it is clear in the quick reference table that a coastwise seagoing tank barge requires a pilot, the text of the regulation does not specifically indicate that it is a "coastwise seagoing" tank barge that requires a pilot, and suggested that the text of the regulation be modified to agree with the quick reference table. The Coast Guard agrees, and the words "coastwise seagoing" are being added to the text of the regulation in § 15.812(a)(1).

The same comment also suggested that the "designated" areas be compiled and published in the Code of Federal Regulations. The Coast Guard does not agree. This information can be readily obtained from the local Coast Guard Captain of the Port (COTP).

The Coast Guard is adopting the interim final rule as published with some minor technical changes. First, the

VOL 60 ISS 81 AP 27 1995 UMI

Coast Guard is defining the term "pilotage waters" in the definition section as opposed to a footnote in the reference tables.

Second, the **Federal Register** inadvertently omitted five asterisks in the amendatory language in the interim final rule. As a result, paragraphs (f) and (g) from 46 CFR 15.812 were deleted in error. This clerical error has been corrected in the final rule. Third, the Coast Guard is revising the headings to the quick reference tables to clarify that designated and non-designated areas are pilotage waters. Lastly, the Coast Guard has inserted the words "coastwise seagoing" in 15.812(a)(1) before the term "tank barges" to clarify that the rule applies only to coastwise seagoing tank barges.

Assessment

This rule is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget under that order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that order. It is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). This rule is significant because it clarifies when a vessel is required to use the services of a Federally licensed pilot, and at one time was controversial.

The Coast Guard expects the economic impact of this rule to be minimal. This rule defines "coastwise seagoing vessel" for pilotage purposes, describes first class pilotage areas where local pilotage expertise is warranted, and provides quick reference tables for pilotage requirements. Additionally, this rule clarifies that a Federal pilot is required for vessels in excess of 1,600 gross tons, propelled by machinery and subject to inspection under 46 U.S.C. Chapter 33, that are not authorized by their Certificate of Inspection to proceed beyond the Boundary Line.

This rule codifies current practices, and there are no expected increases in costs. Therefore, no additional assessment is necessary. The Coast Guard anticipates that the rule will not increase crew size or require increased use of pilots since, for the most part, vessels affected by this rule are presently required by their Certificate of Inspection to use a Federal pilot.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The small entities that could be affected by this final rule are primarily independent operators of tank barges and self-propelled vessels. Since this rule, for the most part, adopts current practices, the Coast Guard believes that there will be no significant economic impact on "small entities." Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule does not affect existing State pilotage requirements, but instead clarifies the Federal pilotage requirements for those vessels which, under 46 U.S.C. 8502, are exclusively subject to Federal pilotage.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. The rule, which clarifies Federal pilotage requirements, is administrative in nature since, by codifying existing practices, it permits vessels to continue to operate according to current industry practice. Therefore, this is included in the categorical exclusion in subsection 2.B.2.1, "Administrative actions or procedural regulations and policies which clearly do not have any environmental impact." A Categorical Exclusion Determination has been placed in the docket.

List of Subjects in 46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons set out in the preamble, the Coast Guard is adopting the interim final rule published at 59 FR 4839 on February 22, 1994, as final with the following changes:

PART 15—MANNING REQUIREMENTS

1. The authority citation for part 15 continues to read as follows:

Authority: 46 U.S.C. 2103, 3703, 8101, 8502, 8901, 8902, 8903, 8904, 9102; 50 U.S.C. 198, and 49 CFR 1.46.

1a. In § 15.301(a), the definition for designated areas is revised and a definition for pilotage waters is added in alphabetical order to read as follows:

§ 15.301 Definition of terms used in this part.

* * * * *

Designated areas means those areas within pilotage waters for which first class pilot's licenses or endorsements are issued under part 10, subpart G, of this Chapter, by the Officer in Charge, Marine Inspection (OCMI). The areas for which first class pilot's licenses or endorsements are issued within a particular Marine Inspection Zone and the specific requirements to obtain them may be obtained from the OCMI concerned.

* * * * *

Pilotage waters means the navigable waters of the United States, including all inland waters and offshore waters to a distance of three nautical miles from the baseline from which the Territorial Sea is measured.

* * * * *

2. Section 15.812(a)(1) is revised to read as follows:

§ 15.812 Pilots.

(a) * * *

(1) Coastwise seagoing vessels propelled by machinery and subject to inspection under 46 U.S.C. Chapter 33, and coastwise seagoing tank barges subject to inspection under 46 U.S.C. Chapter 37;

* * * * *

3. Section 15.812(e) is revised to read as follows:

§ 15.812 Pilots.

(e) Federal pilotage requirements contained in paragraphs (a) through (d) of this section are summarized in two quick reference tables.

(1) Table 15 812(e)(1) provides a guide to the pilotage requirements for inspected, self-propelled vessels.

TABLE 15.812(e)(1).—QUICK REFERENCE TABLE FOR FEDERAL PILOTAGE REQUIREMENTS FOR U.S. INSPECTED SELF-PROPELLED VESSELS, NOT SAILING ON REGISTER

	Designated areas of pilotage waters (routes for which First Class Pilot's licenses are issued)	Nondesignated areas of pilotage waters (between the three mile line and the start of traditional pilotage routes)
Inspected self-propelled vessels greater than 1,600 GT, authorized by their Certificate of Inspection (COI) to proceed beyond the Boundary Line, or operating on the Great Lakes.	First Class Pilot	Master or Mate may serve as pilot if the individual: 1. Is at least 21 years old. 2. Has an annual physical exam. 3. Maintains current knowledge of the waters to be navigated.[1]
Inspected self-propelled vessels not more than 1,600 GT, authorized by their Certificate of Inspection to proceed beyond the Boundary Line, or operating on the Great Lakes.	First Class Pilot, *or* Master or Mate may serve as pilot if the individual: 1. Is at least 21 years old. 2. Maintains current knowledge of the waters to be navigated.[1] 3. Has 4 round trips over the route.[2]	Master or Mate may serve as pilot if the individual: 1. Is at least 21 years old. 2. Maintains current knowledge of the waters to be navigated.[1]
Inspected self-propelled vessels greater than 1,600 GT, not authorized by their COI to proceed beyond the Boundary Line (Inland route vessels); other than vessels operating on the Great Lakes.	First Class Pilot	Master or Mate may serve as pilot if the individual: 1. Is at least 21 years old. 2. Has an annual physical exam. 3. Maintains current knowledge of the waters to be navigated.[1]
Inspected self-propelled vessels not more than 1,600 GT, not authorized by their COI to proceed beyond the Boundary Line (Inland route vessels); other than vessels operating on the Great Lakes.	No pilotage requirement	No pilotage requirement.

[1] One round trip within the past 60 months.
[2] If the route is to be traversed during darkness, 1 of the 4 round trips must be made during darkness.

(2) Table 15.812(e)(2) provides a guide to the pilotage requirements for tank barges.

TABLE 15.812(e)(2).—QUICK REFERENCE TABLE FOR FEDERAL PILOTAGE REQUIREMENTS FOR U.S. INSPECTED TANK BARGES, NOT SAILING ON REGISTER

	Designated areas of pilotage waters (routes for which First Class Pilot's licenses are issued)	Nondesignated areas of pilotage waters (between the three mile line and the start of traditional pilotage routes)
Tank Barges greater than 10,000 GT, authorized by their Certificate of Inspection to proceed beyond the Boundary Line, or operating on the Great Lakes.	First Class Pilot	Master, Mate, or Operator may serve as pilot if the individual: 1. Is at least 21 years old. 2. Has an annual physical exam.[1] 3. Maintains current knowledge of the waters to be navigated.[2] 4. Has at least 6 months' service in the deck department on towing vessels engaged in towing.
Tank Barges 10,000 GT or less, authorized by their Certificate of Inspection to proceed beyond the Boundary Line, or operating on the Great Lakes.	First Class Pilot, *or* Master, Mate, or Operator may serve as pilot if the individual: 1. Is at least 21 years old 2. Has an annual physical exam.[1] 3. Maintains current knowledge of the waters to be navigated.[2] 4. Has at least 6 months' service in the deck department on towing vessels engaged in towing operations. 5. Has 12 round trips over the route.[3]	Master, Mate, or Operator may serve as pilot if the individual: 1. Is at least 21 years old. 2. Has an annual physical exam.[1] 3. Maintains current knowledge of the waters to be navigated.[2] 4. Has at least 6 months' service in the deck department on towing vessels engaged in towing operations.
Tank Barges authorized by their Certificate of Inspection for Inland routes only (Lakes, Bays, and Sounds/Rivers); other than vessels operating on the Great Lakes.	No pilotage requirement	No pilotage requirement.

[1] Annual physical exam does not apply to an individual who will serve as a pilot of a Tank Barge of less than 1,600 gross tons.
[2] One round trip within the past 60 months.
[3] If the route is to be traversed during darkness, 3 of the 12 round trips must be made during darkness.

4. Section 15.812(f) is added to read as follows:

(f) In Prince William Sound, Alaska, coastwise seagoing vessels over 1,600 gross tons and propelled by machinery and subject to inspection under 46 U.S.C. Chapter 37 must:

(1) When operating from 60°49' North latitude to the Port of Valdez be under the direction and control of a federally licensed pilot who:

VOL
60
ISS
81
AP
27
1995
UMI

(i) Is operating under the Federal license;

(ii) Holds a license issued by the State of Alaska; and

(iii) Is not a member of the crew of the vessel.

(2) Navigate with either two licensed deck officers on the bridge or a federally licensed pilot when operating South of 60°49′ North latitude and in the approaches through Hinchinbrook Entrance and in the area bounded:

(i) On the West by a line one mile west of the western boundary of the Traffic Separation Scheme;

(ii) On the East by 146°00′ West longitude;

(iii) On the North by 60°49′ North latitude; and

(iv) On the South by that area of Hinchinbrook Entrance within the territorial sea bounded by 60° 07′ North latitude and 146°31.5′ West longitude.

Dated: March 17, 1995.

Robert E. Kramek,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 95–10231 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–14–P

Federal Railroad Administration

49 CFR Part 213

[Docket No. RST–94–3, Notice No. 1]

Policy on the Safety of Railroad Bridges

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Interim statement of policy.

SUMMARY: FRA issues an interim statement of policy for the safety of railroad bridges. FRA establishes suggested criteria for railroads to use to ensure the structural integrity of bridges that carry railroad tracks. FRA will subsequently make the interim statement of policy part of the final rule amending 49 CFR part 213 (See 57 FR 54038, November 16, 1992). This final rule will reflect any changes that appear necessary following public comment on the interim statement of policy.

DATES: *Effective Date:* The interim statement of policy is effective May 30, 1995. Written comments must be received no later than June 26, 1995. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

ADDRESSES: Written comments on this policy should be submitted to the Docket Clerk (RCC–30), Office of Chief Counsel, FRA, 400 Seventh Street, SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received by FRA should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date the comments were received and return the postcard to the addressee. Written comments will be available for examination, both before and after the closing date for comments, during regular business hours in Room 8201 of the Nassif Building at the above address.

FOR FURTHER INFORMATION CONTACT: Gordon A. Davids, P.E., Bridge Engineer, Office of Safety Enforcement, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, (Telephone: 202–366–0507), or Nancy Lummen Lewis, Trial Attorney, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590, (Telephone 202–366–0635).

SUPPLEMENTARY INFORMATION: Beginning in 1991, FRA conducted a review of the safety of railroad bridges. The review was prompted by the agency's perception that the bridge population was aging, traffic density and loads were increasing on many routes, and the consequences of a bridge failure could be catastrophic.

I. Bridge Safety Survey

FRA counted the approximate number of bridges that carry railroad track in the United States, and then surveyed the safety of those bridges. The count revealed that

a. Approximately 100,700 bridges carried railroad tracks in 1991,

b. Approximately 10 bridges exist for every 14 miles of railroad, and

c. Approximately 120 feet of track per mile is located on a bridge.

The safety survey accomplished several objectives. It determined whether the condition of railroad bridges posed a significant hazard to the safety of the public. It documented the methods used by the railroad industry for the inspection, management and assurance of safety of those bridges. It provided information with which FRA could evaluate the need for federal action to improve the safety of railroad bridges.

The survey assessed the policies and practices used by 80 railroads to ensure the integrity of their bridges. The railroads surveyed included 21 major railroads (including 14 class I railroads and seven major passenger or commuter railroads), 20 class II regional railroads, and 39 class III shortline railroads. The 21 class I and passenger railroads are termed "major railroads" because they own most of the railroad bridges and handle the majority of freight and passenger traffic. In the course of the survey, FRA inspectors observed railroad inspections of more than 8,000 bridges.

The survey showed that all of the 21 major railroads have conducted comprehensive, effective bridge inspection programs for several decades. The survey demonstrated that these railroads are acting to safeguard the integrity of their bridges. The railroad managers know the condition of their bridges, and they are taking appropriate action to prevent structural failure. The findings for the 20 regional railroads were similar to those of the major railroads.

The survey showed the major and regional railroads use a variety of methods to inspect and manage their bridges. The degree to which inspectors are supervised, the levels at which certain decisions are made, and the methods used to record and report inspections vary considerably among railroads. Nevertheless, these programs share certain basic principles that characterize effective bridge management practices.

The consistency of findings among the Class I and II railroads, passenger operators, and many smaller railroads indicates that railroads are following a course of action that corresponds with the public interest in prevention of bridge failures. The railroads' actions are driven by a need to prevent the significant economic harm that result from the loss of a valuable bridge and the cost of associated casualties.

On shortline railroads, however, FRA found considerable variation in the quality of bridge management programs and bridge conditions. Many shortlines have exemplary programs, well-suited to their size and the nature of their structures and traffic. A few, however, did not address all of their responsibilities for the safety of their bridges.

These smaller railroads with minimal bridge management programs typically move low levels of traffic over a small number of bridges. Nevertheless, the consequences of a bridge failure on one of these railroads could be as severe as a failure occurring anywhere. The risk of human casualty or environmental damage would be the same for each, and the cost of the failure could be ruinous to a railroad with limited resources. This finding indicates a situation that FRA must address.

II. The Safety Record of Railroad Bridges

During the past five decades, not one fatality has been caused by the structural failure of a railroad bridge. Train accidents caused by the structural failure of railroad bridges have been extremely rare.

Although the average construction date of railroad bridges predates most highway bridges by several decades, the older railroad bridges were designed to carry heavy steam locomotives. Design factors were generally conservative, and the bridges' functional designs permit repairs and reinforcements when necessary to maintain their viability.

Railroad bridges are most often privately, rather than publicly, owned. Their owners seem to recognize the economic consequences of neglecting important maintenance. Private ownership enables the railroads to control the loads that operate over their bridges. Cars and locomotives exceeding the nominal capacity of a bridge are not operated without permission from the responsible bridge engineers, and then only under restrictions and conditions that protect the integrity of the bridge.

Many railroad bridges display superficial signs of deterioration but still retain the capacity to safely carry their loads. Corrosion on a bridge is not a safety issue unless a critical area sees significant loss of material. Routine inspections are prescribed to detect this condition, but determination of its effect requires a detailed inspection and analysis of the bridge. In general, timber bridges continue to function safely, and masonry structures built as early as the 1830's remain functional and safe for their traffic.

Of the few train accidents that involved bridges, most have not been caused by structural failure. FRA accident records for 1982 through 1993 show 15 train accidents that were caused by bridge structural failures, including three that involved improper repair procedures. These accidents caused no reportable injuries and a reported $856,046 damage to railroad facilities, cars and locomotives.

During the same period, 29 train accidents on or near bridges were caused by track conditions on the bridge or its approaches. These accidents caused no reportable injuries, and a reported $4,596,733 damage to railroad facilities, cars and locomotives.

The same time period saw 19 train accidents on bridges caused by external damage to the bridge, including three fires, 11 floods or washouts, four bridges struck by motor vehicles, and one bridge struck by a marine vessel. The accident at Mobile, Alabama on September 22, 1993 alone caused 47 fatalities, 102 non-fatal injuries, and over $10,000,000 in property damage. The losses from these 19 accidents totaled 47 fatalities, 124 non-fatal injuries, and $22,150,865 damage to railroad facilities, cars and locomotives.

IV. Bridge Safety Policy

The severity of a train accident is usually compounded when a bridge is involved, regardless of the cause of the accident. FRA must retain its capability to deal effectively with any safety problems involving the structural integrity of railroad bridges. At the same time, FRA must assure that private and public resources are not diverted unnecessarily from other programs that are also critical to railroad safety.

At one extreme, FRA could respond to bridge issues only when accidents occur or when someone contacts the agency about particular concerns. However, such a reactive policy would inhibit FRA's ability to detect impending problems with railroad bridges. At the other extreme, FRA could regulate all aspects of railroad bridge management, including inspection, rating, construction and maintenance. The expense to the railroad industry of such a policy is not justified by the findings of the safety survey.

Because the industry has no apparent systemic bridge safety problem, FRA chooses to adopt a policy, rather than issue regulations, to carry out its responsibility of protecting bridge safety. The policy includes non-regulatory guidelines to inform railroad managers and all concerned about current good practices related to bridge inspection and management. The guidelines accommodate a wide variety of effective bridge inspection and management methods.

Even without specific bridge safety regulations, FRA maintains authority under 49 U.S.C. 20101 *et seq.* (formerly the Federal Railroad Safety Act of 1970) to inspect any railroad facility that affects safety and, if necessary, to remove it from service. The guidelines represent the general criteria against which FRA will evaluate each railroad's bridge inspection and management program.

FRA does not expect that its policy will unnecessarily divert resources away from the functional work of bridge management by forcing railroads to change effective bridge management programs. Likewise, the policy should not require FRA to divert public resources to employ a large staff of bridge specialists.

FRA will revise the guidelines as necessary to accomplish the objectives of the bridge safety program. To that end, FRA will continue to monitor and evaluate the railroads' bridge inspection and management programs to guarantee that those responsible for the safety of bridges continue to meet their responsibilities. FRA will make its findings available to the public upon request, excluding any proprietary information received and identified as such. Should FRA find through its monitoring that widespread bridge structural problems have developed, it may use the information it has gathered to commence a rulemaking proceeding.

Effect of This Interim Statement of Policy

The purpose of this notice is to issue an interim statement of policy containing guidelines for the proper maintenance of bridge structures. It is meant to be advisory in nature; it does not have the force of regulations under which FRA ordinarily issues violations and assesses civil penalties.

However, FRA maintains emergency authority to issue emergency, compliance, and disqualification orders, as well as authority to seek injunctive relief in federal district court, under 49 U.S.C. 20104 (formerly known as the Federal Rail Safety Act of 1970) and 49 CFR part 209. FRA will exercise this authority when an unsafe condition or improper maintenance of a railroad bridge creates an imminent hazard of death or injury to persons. Furthermore, should FRA, in the future, find the need to address bridge integrity in a regulatory proceeding, it will do so.

Following the comment period, FRA will issue any necessary changes to the interim statement of policy. The notice of changes will appear simultaneously with the Notice of Final Rule for the proceeding amending the track safety standards in 49 CFR part 213, begun in November, 1992. (See 57 FR 54038, November 16, 1992.) Except as modified in response to the comments, this interim statement of policy will become a final statement of policy at that time.

Public Participation

Because the interim statement of policy is advisory in nature, notice and public participation are not required. However, the public is invited to submit comments within 30 days following its publication.

FRA would appreciate comments about its plan to issue a statement of policy rather than regulations governing railroad bridge maintenance. FRA would also welcome comments about the value of permanently placing the

VOL 60 ISS 81 AP 27 1995 UMI

statement of policy in a new appendix to 49 CFR part 213. Finally, FRA would like comments about the guidelines themselves and their value as criteria in deciding whether stronger enforcement action on particular railroad bridges is warranted.

Comments received after the 30-day deadline will be considered if it is possible to do so without incurring additional delay or expense.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies

This interim statement of policy has been evaluated in accordance with existing regulatory policies. The regulatory document is considered to be a nonsignificant regulatory action under E.O. 12866 and is a nonsignificant rule under section 5(a)(4) of DOT Regulatory Policies and Procedures (44 FR. 11034, February 26, 1979) because it is advisory only and does not carry with it the force of law or regulation. For nonsignificant rules, the DOT Regulatory Policies and Procedures ordinarily require an economic evaluation to be placed in the public docket. This evaluation should include an analysis of the economic consequences of the rule, including (if possible) an estimation of the cost and benefits of the rule to the private sector, consumers, and all levels of government. However, such an evaluation is not required if the expected impact of a rule is deemed minimal. Because this interim statement of policy offers only guidelines to be followed and does not mandate any actions or establish any recordkeeping requirements, the need for a regulatory evaluation is not indicated.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities. In reviewing the economic impact of this interim statement of policy, FRA concluded that it will not have any measurable impact on small entities. There are no direct or indirect economic impacts for small units of government, businesses, or other organizations. Therefore, it is certified that this rule will not have a significant economic impact on a very substantial number of small entities under the provisions of the Regulatory Flexibility Act.

Paperwork Reduction Act

There are no information collection requirements contained in this interim statement of policy.

Environmental Impact

FRA has evaluated this interim statement of policy in accordance with its procedures for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act and related directives. This notice meets the criteria that establish this as a non-major action for environmental purposes.

Federalism Implications

Implementation of this interim statement of policy could result in a judicial determination that it constitutes FRA's occupation of the field of railroad bridge safety regulation. Under 49 U.S.C. 20106, a state may enforce its own statute or regulation related to railroad safety until the Secretary of Transportation issues an order or regulation "covering the subject matter" of the state's law. A state may adopt or enforce a more stringent law relevant to the subject matter as long as it "(1) is necessary to eliminate or reduce a local safety hazard; (2) is not incompatible with a law, regulation, or order of the United States Government; and (3) does not unreasonably burden interstate commerce."

At this time, FRA is aware of only one state that could be affected by a court's determination that the Secretary of Transportation, through FRA, has covered the subject matter of railroad bridge safety by issuing this policy statement. FRA has prepared a Federalism Assessment, pursuant to Executive Order 12612 and placed it in the docket reserved for this proceeding, to address the federalism implications this interim policy could have on that state or any other state seeking to regulate railroad bridge safety.

List of Subjects in 49 CFR Part 213

Penalties, Railroad safety, Railroads.

Therefore, in consideration of the foregoing, the Federal Railroad Administration issues the following:

Interim Statement of Agency Policy on the Structural Integrity of Railroad Bridges

The structural integrity of bridges that carry railroad tracks is important to the safety of railroad employees and that the public. The responsibility for the safety of railroad bridges rests with the owner of the track carried by the bridge, together with any other party to whom that responsibility has been assigned by the track owner.

The capacity of a bridge to safely support its traffic can only be determined by intelligent application of engineering principles and the laws of physics. Bridge owners should use, as FRA will, those principles to assess the integrity of railroad bridges.

The long term ability of a structure to perform its function is an economic issue beyond the intent of this policy. In assessing a bridge's structural condition, FRA will focus on the present safety of the structure, rather than its appearance or long term usefulness.

FRA inspectors will conduct regular evaluations of railroad bridge inspection and management practices. The objective of these evaluations will be to document the practices of the evaluated railroad and to disclose any program weaknesses that could affect the safety of the public. Should problems be disclosed, FRA will seek a cooperative resolution. If public safety is jeopardized by failure to resolve a problem, or by the incompetence or dishonorable intentions of any bridge owner, FRA will use available legal means, including issuance of emergency orders, to protect the safety of railroad employees and the public.

This policy statement addresses the integrity of bridges that carry railroad tracks. It does not address the integrity of other types of structures on railroad property, *i.e.*, tunnels, or bridges carrying highways or other features over railroads, except to the extent that position and condition of these structures affects the safe passage of trains. Likewise, this policy statement extends its reach beyond the narrow issue of bridges carrying railroad tracks only where it is necessary to do so for the protection of highway users, pedestrians and others lawfully occupying the space under a railroad bridge.

The guidelines published in this statement are advisory, rather than regulatory, in nature. They indicate those elements FRA deems essential to successful bridge management programs. FRA will use the guidelines when evaluating bridge inspection and management practices.

Guidelines

1. *Responsibility for safety of bridges.*

(a) *Track owner.* The owner of the track carried by a bridge is responsible for ensuring that the bridge will safely support the trains which operate over it and the loads imposed upon it.

(b) *Operating railroad.* The operating railroad that authorizes train movements over a bridge should take whatever steps are necessary to verify that the maintenance responsibility for the bridge is being fulfilled so as to safeguard trains operated under its authority.

(c) *Assignment of responsibility.* The owner of the track carried by a bridge may assign responsibility for maintenance of the bridge to another party as long as the assignment ensures that responsibility for the safety of the bridge is not diminished.

2. *Capacity of bridges.*

(a) *Determination.* The safe capacity of bridges should be determined by competent engineers using accepted principles of structural design and analysis.

(b) *Analysis.* Proper analysis of a bridge requires knowledge of the actual dimensions, materials and properties of the structural members of the bridge, their condition, and the stresses imposed in those members by the service loads.

(c) *Rating.* The factors which were used for the design of a bridge can generally be used to determine and rate the load capacity of a bridge provided:

(i) The condition of the bridge has not changed significantly, and

(ii) The stresses resulting from the service loads can be correlated to the stresses for which the bridge was designed or rated.

3. *Bridge loads.*

(a) *Control of loads.* The operating instructions for each railroad operating over bridges should include provisions to restrict the movement of cars and locomotives whose weight or configuration exceed the nominal capacity of the bridges.

(b) *Authority for exceptions.* Equipment exceeding the nominal weight restriction on a bridge should be operated only under conditions determined by a competent engineer who has properly analyzed the stresses resulting from the proposed loads.

(c) *Operating conditions.* Operating conditions for exceptional loads may include speed restrictions, restriction of traffic from adjacent multiple tracks, and weight limitations on adjacent cars in the same train.

4. *Bridge records.*

(a) The organization responsible for the safety of a bridge should keep design, construction, maintenance and repair records readily accessible to permit the determination of safe loads. Having design or rating drawings and calculations that conform to the actual structure greatly simplifies the process of making accurate determinations of safe bridge loads.

(b) Organizations acquiring railroad property should obtain original or usable copies of all bridge records and drawings, and protect or maintain knowledge of the location of the original records.

5. *Specifications for design and rating.*

(a) The recommended specifications for the design and rating of bridges are those found in the "Manual for Railway Engineering" published by the American Railway Engineering Association (AREA). These specifications incorporate recognized principles of structural design and analysis. They are continually reviewed and revised by committees of competent engineers. Other specifications for design and rating, however, have been successfully used by some railroads and may also be suitable now.

(b) A bridge can be rated for capacity according to current specifications regardless of the specification to which it was originally designed.

6. *Periodic inspections.*

(a) Periodic bridge inspections by competent inspectors are necessary to determine whether a structure conforms to its design or rating condition and, if not, or the degree of nonconformity.

(b) The prevailing practice throughout the railroad industry is to inspect railroad bridges at least annually. Inspections at more frequent intervals may be indicated by the nature or condition of a structure or intensive traffic levels.

7. *Underwater inspections.*

(a) Inspections of bridges should include measuring and recording the condition of substructure support at locations subject to erosion from moving water.

(b) Stream beds are often not visible to the inspector. Indirect measurements by sounding, probing, or any other appropriate means are necessary in those cases. A series of records of those readings will provide the best information should unexpected changes suddenly occur. Where such indirect measurements do not provide the necessary assurance of foundation integrity, diving inspections should be performed as prescribed by a competent engineer.

8. *Special inspections.*

(a) A special bridge inspection should be performed after an occurrence that might have reduced the capacity of the bridge, such as a flood, a derailment, or an unusual impact.

(b) When a railroad learns that a bridge might have suffered damage through an unusual occurrence, it should restrict train operation over the bridge until the bridge can be inspected and evaluated.

9. *Inspection records.*

(a) Bridge inspections should be recorded. Records should identify the structure inspected, the date of the inspection, the name of the inspector, the components inspected, and their condition.

(b) Information from bridge inspection reports should be incorporated into a bridge management program to ensure that exceptions on the reports are corrected or accounted for. A series of inspection reports over time should be maintained so as to provide a valuable record of trends and rates of degradation of bridge components. The reports should be structured to promote comprehensive inspections and effective communication between an inspector and an engineer who performs an analysis of a bridge.

(c) An inspection report should be comprehensible to a competent person without interpretation by the reporting inspector.

10. *Bridge inspectors and engineers.*

(a) Bridge inspections should be performed by technicians whose training and experience enable them to detect and record indications of distress on a bridge. Inspectors must provide accurate measurements and other information about the condition of the bridge in enough detail for an engineer to make a proper evaluation of the safety of the bridge.

(b) Accurate information about the condition of a bridge should be evaluated by an engineer who is competent to determine the capacity of the bridge. The inspector and the evaluator are often not the same individual. The quality of the bridge evaluation depends on the quality of the communication between them.

11. *Scheduling inspections.*

(a) A bridge management program should include a means to ensure that each bridge under the program is inspected at the frequency prescribed for that bridge by a competent engineer.

(b) Bridge inspections should be scheduled from an accurate bridge inventory list that includes the due date of the next inspection.

12. *Special considerations for railroad bridges.*

Railroad bridges differ from other types of bridges in the types of loads they carry, in their modes of failure and indications of distress, and in their construction details and components. Proper inspection and analysis of railroad bridges requires familiarity with the loads, details and indications of distress that are unique to this class of structure.

Issued at Washington, DC., on April 21, 1995.

Jolene M. Molitoris,

Administrator.

[FR Doc. 95–10323 Filed 4–26–95; 8:45 am]

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VOL 60 ISS 81 AP 27 1995 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 042195A]

Groundfish of the Gulf of Alaska; Trawl Fishery for Deep-water Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), April 22, 1995, until 12 noon, A.l.t., July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(f)(1)(i) the deep-water species fishery, which is defined at § 672.20(f)(1)(i)(B)(*2*) was apportioned 300 metric tons of Pacific halibut prohibited species catch for the second season, the period April 1, 1995, through June 30, 1995 (60 FR 8470, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(f)(3)(i), that vessels participating in the trawl deep-water species fishery in the GOA have caught the second seasonal bycatch allowance of Pacific halibut apportioned to that fishery. Therefore, NMFS is prohibiting directed fishing for each species and species group that comprise the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: All rockfish of the genera *Sebastes* and *Sebastolobus*, Greenland turbot, Dover sole, Rex sole, arrowtooth flounder, and sablefish.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–10299 Filed 4–24–95; 9:16 am]

BILLING CODE 3510–23–F

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 042195C]

Groundfish of the Bering Sea and Aleutian Islands Area; Trawl Pacific Cod Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal apportionment of the 1995 prohibited species bycatch mortality allowance of Pacific halibut specified for the trawl Pacific cod fishery in the BSAI.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), April 24, 1995, until 12 noon, A.l.t., October 25, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The first seasonal bycatch mortality allowance of Pacific halibut for the BSAI trawl Pacific cod fishery, which is defined at § 675.21(b)(1)(iii)(E), was established as 1,450 metric tons by the final 1995 specifications of groundfish (60 FR 8479, February 14, 1995).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iii), that the first seasonal apportionment of the Pacific halibut bycatch mortality allowance for the trawl Pacific cod fishery has been caught. Therefore, NMFS is prohibiting directed fishing for Pacific cod by vessels using trawl gear in the BSAI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–10298 Filed 4–24–95; 9:16 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register

Vol. 60, No. 81

Thursday, April 27, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–30–AD]

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Lockheed Model L–1011–385 series airplanes. This proposal would require an inspection to detect evidence of sealant around the lug bushing flanges of certain actuator attach pin assemblies of the main landing gear (MLG), and replacement of the pin assembly with a serviceable unit if no sealant is present. This proposal is prompted by reports of cracks emanating from corrosion pits of the lug bores on the actuator attach pin assemblies of two MLG's. The actions specified by the proposed AD are intended to prevent failure of the actuator attach pins as a result of corrosion and subsequent cracking of the lug bores. Such failure could result in the MLG failing to extend completely or rapidly free-falling during extension and causing additional damage to the landing gear.

DATES: Comments must be received by May 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–30–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7367; fax (404) 305–7348.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–30–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–30–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA received reports indicating that cracked lugs were found on the actuator attach pin assemblies of two main landing gears (MLG) installed on Lockheed Model L–1011–385 series airplanes. The actuator attach pins connect the piston end of the retract actuator of the MLG to the gear strut. Results of an examination of one pin assembly revealed that cracks emanated from corrosion pits beneath the bushing surface on the lug bores. The corrosion may have been caused by the intrusion of moisture between the lug surface and the bushing flange. The lug bores on the pin assemblies lacked a proper protective finish. In addition, the bushings were sealed insufficiently to prevent the intrusion of moisture and resultant corrosion. Corrosion and subsequent cracking of the lug bores, if not corrected, could result in failure of the attach pins. This condition, if not corrected, could result in the MLG failing to extend completely or rapidly free-falling during extension and causing additional damage to the landing gear.

The FAA has reviewed and approved Lockheed Service Bulletin 093–32–256, dated November 11, 1994, which describes procedures for a one-time inspection to detect evidence of sealant around the lug bushing flanges of certain actuator attach pin assemblies of the MLG. If sealant is not present, the service bulletin recommends replacement of the pin assembly with a serviceable unit.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection to detect evidence of sealant around the lug bushing flanges of certain actuator attach pin assemblies of the MLG and, if no sealant is present, replacement of the pin assembly. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Operators should note that, although the service bulletin recommends that the inspection be performed within 6 months, the FAA is proposing a compliance time of 90 days for accomplishment of the inspection. In developing this proposed compliance

VOL
60
ISS
81
AP
27
1995
UMI

time, the FAA considered the safety implications, availability of required replacement parts, and normal maintenance schedules for timely accomplishment of the proposed actions. The FAA has determined that accomplishment of the proposed inspection requires no special access. Further, the proposed inspection requires only one work hour to perform, which is sufficiently short to easily allow the inspection to be accomplished outside normal maintenance facilities. In consideration of these factors, the FAA has determined that a compliance time of 90 days represents an appropriate interval in which the inspection of the pin assemblies can be accomplished in a timely manner within the fleet and still maintain an adequate level of safety.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 236 Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 117 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $7,020, or $60 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Lockheed Aeronautical Systems Company: Docket 95–NM–30–AD.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the actuator attach pins as a result of corrosion and subsequent cracking of the lug bores, which could result in the main landing gear (MLG) failing to extend completely or rapidly free-falling during extension and causing additional damage to the landing gear, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a one-time inspection to detect evidence of sealant around the lug bushing flanges of the actuator attach pin assembly, part number 1642699–101, of the MLG, in accordance with Lockheed Service Bulletin 093–32–256, dated November 11, 1994.

(1) If the inspection reveals that sealant is present, no further action is required by this AD.

(2) If the inspection reveals that no evidence of sealant is present, within 6 months after accomplishing the inspection, replace the actuator attach pin assembly with a serviceable unit in accordance with Lockheed Service Bulletin 093–32–256, dated November 11, 1994.

(b) As of the effective date of this AD, no actuator attach pin assembly, part number 1642699–101, shall be installed on the MLG of any airplane unless that assembly has been inspected in accordance with the requirements of paragraph (a) of this AD and evidence of sealant has been found; or unless that assembly has been reworked and reidentified with the letter "A" etched at the end of the serial number, in accordance with Lockheed Service Bulletin 093–32–256, dated November 11, 1994.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 21, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10318 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–186–AD]

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1–11 200 and 400 airplanes, that currently requires incorporation of certain structural modifications. That AD was prompted by reports of fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. The actions specified by that AD are intended to prevent reduced structural integrity of the airplane. This action would require incorporation of additional structural modifications.

DATES: Comments must be received by May 6, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–186–D, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–1148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–186–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–186–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On October 24, 1990, the FAA issued AD 90–23–09, amendment 39–6795 (55 FR 46502, November 5, 1990), applicable to certain British Aerospace Model BAC 1–11 200 and 400 airplanes, to require incorporation of certain structural modifications. That action was prompted by reports of fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. The requirements of that AD are intended to prevent reduced structural integrity of the airplane.

Since the issuance of that AD, British Aerospace has issued Alert Service Bulletin 5–A–PM5995, Issue 3, dated March 19, 1993, which references terminating modifications described in 16 service bulletins, and recommends that they be installed in the applicable British Aerospace Model BAC 1–11 airplanes. The modifications described in the service bulletins consist of:

—1 modification of the landing gear,

—5 modifications of the doors,

—5 modifications of the fuselage structure,

—3 modifications of the stabilizer, and

—2 modifications of the wings.

Additionally, Issue 3 of this alert service bulletin adds one new modification (fuselage structure) and revises the item numbers in Table 1 of several modifications that were previously addressed by AD 90–23–09.

Accomplishment of these modifications would terminate the repetitive inspections required by the following AD's:

AD No.	Amendment No.	Federal Register citation	Date of publication
67–30–02	39–0507	32 FR 15421	November 4, 1967.
87–21–06	39–5744	52 FR 38396	October 16, 1987.
82–01–02 R1	39–4824	49 FR 9412	March 13, 1984.
83–20–02	39–4735	48 FR 44462	September 29, 1983.
88–11–09	39–5891	53 FR 17918	May 19, 1988.
72–06–01	39–1406	37 FR 4900	March 7, 1972.
71–25–02	39–1349	36 FR 22363	November 25, 1971.

Implementation of these modifications will positively address the unsafe condition identified as reduced structural integrity of the airplane. The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, classified this alert service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA,

VOL 60 ISS 81 AP 27 1995 UMI

reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 90–23–09 to require incorporation of additional structural modifications. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Operators should note that the actions specified as Items 6, 11, 13, and 14 in Table 1 of British Aerospace Alert Service Bulletin 5–A–PM5995, Issue 3, are not included in the proposed requirements of this AD due to the following reasons:

Item	Reason
6	Currently required by AD 91–06–16, amendment 39–6935.
11	Will be addressed in a separate rule-making action.
13	Currently required by AD 67–15–01, amendment 39–401.
14	Currently required by AD 67–14–04, amendment 39–397.

The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 387 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour.

Required parts would cost approximately $10,315 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,039,585, or $33,535 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6795 (55 FR 46502, November 5, 1990), and by adding a new airworthiness directive (AD), to read as follows:

British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Docket 94–NM–186–AD. Supersedes AD 90–23–09, Amendment 39–6795.

Applicability: Model BAC 1–11 200 and 400 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the airplane, accomplish the following:

(a) Prior to reaching the "Not Exceed Time" interval specified in Table 1 of British Aerospace Alert Service Bulletin 5–A–PM5995, Issue 3, dated March 19, 1993; or within 15 months after the effective date of this AD; whichever occurs later: Install the structural modification listed in each Item in Table 1 of the alert service bulletin, except for Items 6, 11, 13, and 14. The modifications shall be done in accordance with the appropriate service bulletin specified for each Item in Table 1, listed under "Service Bulletin No."

Note 2: Items 6, 11, 13, and 14 in Table 1 of British Aerospace Alert Service Bulletin 5–A–PM5995, Issue 3, are not included in the requirements of this AD since those items are addressed by separate rulemaking actions.

(b) Accomplishment of the modifications required by paragraph (a) of this AD constitutes terminating action for the repetitive inspections required by the following AD's:

AD No.	Amendment No.	Federal Register citation	Date of publication
67–30–02	39–0507	32 FR 15421	November 4, 1967.
87–21–06	39–5744	52 FR 38396	October 16, 1987.
82–01–02 R1	39–4824	49 FR 9412	March 13, 1984.
83–20–02	39–4735	48 FR 44462	September 29, 1983.
88–11–09	39–5891	53 FR 17918	May 19, 1988.
72–06–01	39–1406	37 FR 4900	March 7, 1972.
71–25–02	39–1349	36 FR 22363	November 25, 1971.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–13, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 21, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10320 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Chapter II

Review of Existing Regulations

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: This document extends, by 30 days, the comment period of a document published by the Minerals Management Service (MMS) in the **Federal Register** on March 28, 1995 (60 FR 15888) which requested comments on a review of existing MMS regulations under Executive Order 12866. The extension was requested by the American Petroleum Institute.

DATES: The comment period is extended to May 27, 1995. Comments should be received or postmarked by that date.

ADDRESSES: Mail written comments to Department of the Interior; Minerals Management Service; Mail Stop 4013; 1849 C Street NW.; Washington, DC 20240; Attention: Bettine Montgomery, MMS Regulatory Coordinator, Policy and Management Improvement.

FOR FURTHER INFORMATION CONTACT:

Bettine Montgomery, Policy and Management Improvement, telephone (202) 208–3976; Fax (202) 208–4891.

Dated: April 21, 1995.

Lucy R. Querques,

Associate Director for Policy and Management Improvement.

[FR Doc. 95–10329 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF ENERGY

48 CFR Part 970

[Regulation Identifier Number 1991–AB20]

Acquisition Regulation; Department of Energy Management and Operating Contracts

AGENCY: Department of Energy.

ACTION: Amendment of a notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) today amends its March 2, 1995, notice of proposed rulemaking (60 FR 11646) which proposed amendments to the DOE Acquisition Regulation (DEAR) provisions applicable to subcontracting by management and operating contractors. Today's amendments do not affect the principal provisions of the proposal which are: Substitution of more commercial-like subcontracting objectives, expectations, and standards for the so-called "Federal norm" that, in effect, requires DOE's management and operating contractors to follow certain Federal-oriented prescribed procedures in their award of subcontracts; and elimination of the reference concerning General Accounting Office protest jurisdiction over such subcontract awards. Rather, this amendment of the earlier notice deals with administrative matters, mostly technical, that DOE reserved for further analysis and action during the public comment period. DOE today amends its notice of proposed rulemaking to redesignate most of the requirements of DEAR 970.7104 to two other subsections of the DEAR and to eliminate certain of them. The amendment also moves two paragraphs previously set forth in DEAR 970.7104 to another existing subsection.

DATES: Written comments on this amended notice of proposed rulemaking must be received on or before May 30, 1995. Comments on today's amendment should be submitted separately from those related to the March 2, 1995, notice of proposed rulemaking. This is necessary as the Department may elect to finalize those portions of the March 2 rule, which are unaffected by today's amendment, in more than one stage.

ADDRESSES: Comments on the proposed rulemaking should be sent to the following address: U.S. Department of Energy, Office of Contractor Management and Administration (HR–55), Attention: James J. Cavanagh, 1000 Independence Avenue SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

James J. Cavanagh, Office of Contractor Management and Administration (HR–55), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585; telephone 202–586–8257.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background.
II. Section-by-Section Analysis.
III. Public Comments.
IV. Procedural Requirements.

I. Background

On March 2, 1995, DOE published in the **Federal Register** (60 FR 11646) a notice of proposed rulemaking. That notice proposed to amend the DEAR to modify requirements for management and operating contractor purchasing systems. Principally, DEAR subpart 970.71 is being amended to identify certain purchasing system objectives and standards, eliminate the application of the "Federal norm," place greater reliance on commercial practices, and remove the provisions concerning General Accounting Office protest jurisdiction over management and operating contractor subcontract awards.

Today's notice does not alter any of the above-described principal provisions of the proposed amendments. The main focus of this notice is an administrative matter discussed in the Supplementary Information section of the March 2 notice and reserved for further analysis and action during the comment period. That issue is whether to eliminate DEAR § 970.7104.

The March 2 proposed rulemaking stated:

Section 970.7104, Conditions of purchasing by management and operating contractors, is removed. DOE believes it is not necessary to retain this section since many of the requirements comply with provisions of statutes and are already reflected in contract clauses. These requirements, will therefore, continue to be applicable as contractual requirements. Some of the requirements, however, are not specifically prescribed in other parts of the DEAR. The Department will review such requirements prior to finalization of this proposed rule and may redesignate appropriate paragraphs, in the final rule, to other parts of the DEAR, if necessary. If such requirements are identified, the Department will publish a **Federal Register** notice, prior to issuing a final rule, listing the paragraphs being considered for redesignation.

VOL 60 ISS 81 AP 27 1995 UMI

DOE's analysis showed that, except for seven items proposed for deletion as discussed below, most of the provisions of § 970.7104 should be retained either in the preaward process or in the subcontract document itself. Moreover, DOE has reconsidered the desirability of proposing to eliminate the convenient listing of these subjects and the clarity that comes with such a listing. Further, removing the section could be interpreted incorrectly as proposing to eliminate the underlying substantive requirements identified elsewhere. Therefore, DOE has chosen instead to propose elimination of seven subparagraphs of that section and relocation of most of the subjects from § 970.7104 to two contract clauses, thereby removing the content of § 970.7104 in its entirety. The amendment proposes no new policy and adds no new requirements for a contractor. For the most part, the regulatory treatment of each subject has been simplified and shortened. For details, see the section-by-section analysis below.

II. Section-by-Section Analysis

A. In accordance with Section II, paragraph 6 of the notice of proposed rulemaking published on March 2, 1995, the Department of Energy has performed a detailed review of the subjects covered by DEAR 970.7104 to determine which requirements should be redesignated in the other parts of the DEAR. This amendment to the notice of proposed rulemaking reflects the proposed disposition of the provisions of DEAR 970.7104–1 through 970.7104–47. The redesignation table set forth below will graphically reflect this proposed disposition.

B. The Department has decided that the subjects of 970.7104 which are to continue to play a part in the award of subcontracts under DOE management and operating contracts fall generally into two categories. The first category consists of processes that lead to the award of prospective subcontracts, and the second category consists of those clauses that should be included in appropriate subcontracts and provisions that guide the administration of certain of those clauses. As a result of this recognition, this amendment proposes to deal with the first category as additions to an existing clause. A new clause is proposed to deal with the subjects that comprise the second category.

C. This amendment proposes to add subjects in the first category to the clause currently set forth at 970.5204–22, "Contractor Purchasing System." The March 2, 1995, notice of proposed rulemaking proposed to change paragraph (a) of 970.5204–22. Today's amendment proposes to further amend paragraph (a) to insert the phrase "this clause, DEAR 970.5204–XX, and" in the first sentence. It would also expand the content of that clause to cover requirements that directly relate to the management and operating contractor's purchasing system and methods in the award of subcontracts.

D. This amendment also proposes to identify subjects in the second category in paragraph (b) of a new clause at 970.5204–XX. The purpose of that clause would be to continue to provide a convenient listing of clauses and related requirements that management and operating contractors would be required to include in, or apply to, prospective subcontracts. That new clause in its paragraph (a) would contain a general instruction directing the inclusion of the listed clauses and, where appropriate, the application of attendant regulations governing the subject matter of the cited clause. Paragraph (a) would recognize that certain of the listed clauses flow down pursuant to the management and operating contractor's prime contract with the Department (e.g., Employment of the Handicapped). Certain other clauses that would be included in appropriate subcontracts either are not included in the prime contract (e.g., Service Contract Act) or, if included, do not contain a flowdown instruction. For these latter two types of clauses, paragraph (a) would instruct the contractor to apply requirements to subcontracts in the same manner as the Department does for the award of a DOE prime contract which is not a management and operating contract.

E. For certain subjects, such as termination and indemnification, there would be coverage of different aspects of the same subject in both of the clauses at 970.5204–22 and at 970.5204–XX.

F. The following table identifies the new location of each item in 970.7104 and indicates whether the original requirement for the subject provision is based on an Executive Order, Department policy, Federal regulation or statute.

Old citation 970.–	Subject	New citation 970.5204–
7104–1	Contingent Fees (P)	Deleted.
7104–2	Record Retention (S)	XX(b)(20).
7104–3	Utility Services (P)	22(b).
7104–4	Leasing Property, Plant or Equipment (P)	22(q).
7104–5	Leasing of Motor Vehicles (P)	22(m).
7104–6	Strategic and Critical Materials (P)	22(t).
7104–7	Purchases of Special Items (S/R/P)	22(p).
7104–8	Purchasing Alternative Determinations (P)	22(q).
7104–9	Qualification Requirements (P)	Deleted.
7104–10	Organization Conflicts of Interest (S)	XX(b)(16).
7104–11	Cost or Pricing Data (S)	XX(b)(5).
7104–12	Small Business and Small Disadvantaged Business Concerns (S)	XX(b)(23) and 970.1901.
7104–13	Labor Surplus Concerns (P)	Deleted.
7104–14	Convict Labor (P)	Deleted.
7104–15	Contract Work Hours and Safety Standards Act (S)	XX(b)(4).
7104–16	Davis-Bacon Labor Standards for Construction (S)	XX(b)(8).
7104–17	Walsh-Healey (P)	Deleted.
7104–18	Equal Employment Opportunity (E)	XX(b)(11).
7104–19	Service Contract Act (S)	XX(b)(22).
7104–20	Vietnam Vets (S)	XX(b)(24).
7104–21	Environmental & Occupational Safety & Health (S/P)	XX(b)(10).
7104–22	Buy American (S)	22(g).
7104–23	Patents, Data and Copyrights (S/P)	XX(b)(17).
7104–24	Bonds & Insurance (S/P)	22(f).
7104–25	Indemnification (S/P)	22(f) and XX(b)(14).
7104–26	Taxes (P)	XX(b)(25).
7104–27	Audit of Subcontractors (S/R/P)	22(e).
7104–28	Construction & A–E conflict-of-interest (P)	22(h).
7104–29	Quality Assurance (P)	22(r).
7104–30	Termination (P)	22(v) and XX(b)(26).
7104–31	Authorization of Subcontractors' Use of Government Supply Sources (P)	Deleted.
7104–32	Safeguarding Classified Information (S)	XX(b)(21).
7104–33	Cost Accounting Standards (S)	XX(b)(7).
7104–34	Clean Air & Water (S/R)	XX(b)(3).
7104–35	Air Transportation by U.S. Flag Carriers (S)	XX(b)(1).
7104–36	Acquisition of Real Property (S/P)	22(c).
7104–37	Management, Acquisition and use of Information Resources (P)	22(n).
7104–38	Privacy Act (R)	XX(b)(19).
7104–39	Officials Not To Benefit (P)	Deleted.
7104–40	Subcontractors' Reporting Systems (P)	XX(b)(6).
7104–41	Employment of the Handicapped (S)	XX(b)(9).
7104–42	Unclassified Controlled Nuclear Information (R)	22(w).
7104–43	Government Property (S/R)	22(k).
7104–44	Foreign Travel (P)	XX(b)(13).
7104–45	Anti-Kickback (S)	XX(b)(2).
7104–46	Setoff of Assigned Subcontractor Proceeds (P)	22(s).
7104–47	Additional Flowdown and Extension Provisions	
	—Exam. of records by Comptroller General (S)	XX(b)(12).
	—Accts Records and Inspection (S/P)	XX(b)(20).
	—Printing (P)	XX(b)(18).
	—Priorities (S/R)	22(o).

(E)=Executive Order.
(P)=Policy.
(R)=Regulation.
(S)=Statute.

G. The substance of the material related to Small Business and Small Disadvantaged Business Concerns cited in DEAR Subpart 970.7104–12, paragraphs (a), (b), (c) and (d) have been relocated in DEAR Part 970.1901, paragraphs (c) and (d).

H. From DEAR 970.7104, it is proposed to delete seven subsections as identified and for the reasons set forth in the following table:

Old citation 970.–	Subject	Reason for deletion
7104–1	Contingent Fees	These subject matters have been incorporated into appropriate subcontracts of management and operating (M&O) contracts as a matter of DOE policy. Because it has been decided that these subject matters should be handled in the same manner as for subcontracts under non-M&O cost-reimbursement contracts, flowdown is no longer required.
7104–9	Qualification Requirements	
7104–14	Convict Labor	
7104–17	Walsh-Healy Public Contracts Act	
7104–39	Officials Not to Benefit	
7104–13	Labor Surplus Area Concerns	The preference of the Federal procurement system that this subsection reflected has been substantially altered by section 7101 of the Federal Acquisition Streamlining Act of 1994.
7104–31	Authorization for Subcontractors' Use of Government Supply Sources.	The authority for contracting officers to allow management and operating contractor subcontract level access to Government supply sources exists at DEAR 970.51.

I. This amendment to the March 2, 1995, notice of proposed rulemaking will also redesignate the substance of 970.7103, paragraph (c)(7) to 970.5204–22(e)(4) to make clear that the contractor is required to determine the allowability of subcontractor reimbursable costs in accordance with 48 CFR (FAR) part 31.

J. Conforming amendments will be made to 970.5204–21, –5204–24, –5204–45, and –5204–50 to remove references to text proposed to be deleted.

III. Public Comments

DOE invites interested persons to participate by submitting data, views, or arguments with respect to the DEAR amendments set forth in this rule. Three copies of written comments should be submitted to the address indicated in the **ADDRESSES** section of this rule. All comments received will be available for public inspection during normal work hours. All written comments received by the date indicated in the **DATES** section of this notice will be carefully assessed and fully considered prior to the effective date of these amendments as a final rule. Any information considered to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to

VOL
60
ISS
81
AP
27
1995
UMI

determine the confidential status of the information and to treat it according to its determination in accordance with 10 CFR 1004.11.

IV. Procedural Requirements

The procedural requirements discussed in section IV of the Supplementary Information of the March 2, 1995, notice of proposed rulemaking (60 FR 11646) apply as well to this amendment of proposed rulemaking.

List of Subjects in 48 CFR Parts 933 and 970

Government procurement.

Issued in Washington, D.C. on April 20, 1995.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set forth in the preamble, chapter 9 of title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254), sec 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99–145 (42 U.S.C. 7256a), as amended.

2. At 970.1901 add paragraphs (c) and (d) as follows:

970.1901 General.

* * * * *

(c) Contractors may provide in their purchasing systems and methods for the setting aside of requirements for small disadvantaged businesses, provided there are sufficient qualified entities available to assure effective competition, and provided that the cost or price of the successful offer is found by the contractor to be fair and reasonable.

(d) In pursuit of the objective of contractor purchasing of a fair proportion of supplies and services from small business concerns, small disadvantaged business concerns and woman-owned business concerns, the HCA may authorize the use of innovative means after receipt of proper approval by the Procurement Executive and the DOE Office of Small and Disadvantaged Business Utilization.

970.5204–21 Property.

3. At 970.5204–21, Property, remove the phrase "As prescribed in 970.7104–43," from the introductory text.

4. At 970.5204–22, the clause "Contractor Purchasing System" is revised to read as follows:

970.5204–22 Contractor purchasing system.

* * * * *

Contractor Purchasing System (month year TBE)

(a) *General.* The contractor shall develop, implement, and maintain formal policies, practices, and procedures to be used in the award of subcontracts consistent with this clause, 48 CFR (DEAR) 970.5204–XX, and 48 CFR (DEAR) 970.71. The contractor's purchasing system and methods shall be fully documented, consistently applied, and acceptable to DOE in accordance with 48 CFR (DEAR) 970.7102. The contractor's purchasing performance will be evaluated against agreed-upon criteria in accordance with the performance criteria and measures clause(s) set forth elsewhere in this contract. DOE reserves the right at any time to require that the contractor submit for approval any or all purchases under this contract. The contractor shall not purchase any item or service the purchase of which is expressly prohibited by the written direction of DOE and shall use such special and directed sources as may be expressly required by the DOE contracting officer.

(b) *Acquisition of Utility Services.* Utility services shall be acquired in accordance with the requirements of 48 CFR (DEAR) 970.0603.

(c) *Acquisition of Real Property.* The contractor shall contract for real property in accordance with 48 CFR (DEAR) Subpart 917.74.

(d) *Advance Notice of Proposed Subcontract Awards.* The contractor shall provide advance notice of proposed subcontract awards in accordance with 48 CFR (DEAR) 970.7109; shall document purchases in writing; and shall establish and maintain subcontract files which present an accurate and adequate record of all purchasing transactions.

(e) *Audit of Subcontractors.*

(1) The contractor shall assure that its purchasing systems and methods provide for: (i) periodic post-award audit of cost-reimbursement subcontractors at all tiers, and (ii) audits, where necessary, to provide a valid basis for pre-award or cost or price analysis.

(2) Responsibility for determining the costs allowable under each cost-reimbursement subcontract remains with the contractor or next higher-tier subcontractor. Contractors' purchasing systems and methods shall provide, in appropriate cases, for the timely involvement of the contractor and the DOE contracting officer in resolution of subcontract cost allowability.

(3) Where audits of subcontractors of any tier are required, arrangements may be made to have the cognizant Federal agency perform the audit of the subcontract. These arrangements shall be made administratively between DOE and the other agency involved and shall provide for the cognizant agency to audit in an appropriate manner in light of the magnitude and nature of the subcontract.

(4) Allowable costs for cost reimbursable subcontracts are to be determined in accordance with the cost principles of 48 CFR (FAR) part 31, appropriate for the type of organization to which the subcontract is to be awarded, as supplemented by 48 CFR (DEAR) part 931. Allowable costs in the purchase or transfer from contractor-affiliated sources shall be determined in accordance with 48 CFR (DEAR) 970.7105 and 48 CFR (DEAR) 970.3102–15(b). In no case, however, shall these arrangements preclude determination by the DOE contracting officer of the allowability or unallowability of subcontractor costs claimed for reimbursement by the contractor.

(f) *Bonds and Insurance.*

(1) The contractor shall obtain from a subcontractor a payment bond on Standard Form 25A, modified to name the contractor as well as the United States of America as obligees, for all fixed price, unit-price and cost-reimbursement construction subcontractors in excess of $25,000. The penal amounts shall be determined as set forth in 48 CFR (FAR) 28.102–2(b).

(2) The contractor may accept more than one corporate surety upon recognizance, stipulation, bond, or undertaking in both construction and other contracts, provided that in no case will the liability of any co-surety exceed the maximum penal sum for which it is qualified for any one obligation. For subcontracts other than construction, a co-surety may reinsure amounts in excess of its capacity with a corporate surety having the required underwriting capacity that appears on the acceptable list of corporate sureties. No such reinsurance is acceptable in connection with construction subcontracts. Corporate co-sureties may individually obligate themselves for a definite sum less than the full amount of the bond; however, all such obligations must total the entire amount of the bond and each co-surety must bind itself "jointly and severally" for the purpose of allowing a joint action or actions against any or all of the corporate sureties.

(g) *Buy American.* The contractor shall comply with the provisions of the Buy American Act as reflected in 48 CFR (FAR) 52.225–3, as amended by 48 CFR (DEAR) 970.5203–3.

(h) *Construction and Architect-Engineer Contracts.*

(1) *Independent Estimates.* A detailed, independent estimate of costs shall be prepared for all construction work to be subcontracted.

(2) *Specifications.* Specifications for construction shall be prepared in accordance with the DOE publication entitled "General Design Criteria Manual."

(3) *Prevention of Conflict of Interest.*

(i) The contractor shall not award a contract for construction to the architect-engineer firm or an affiliate that prepared the design. This prohibition does not preclude the award of a "turnkey" contract so long as the subcontractor assumes all liability for defects in design and construction and consequential damages.

(ii) The contractor shall not award both a cost-reimbursement contract and a fixed-price contract for construction or architect-engineer services or any combination thereof to the same firm where those contracts will be performed at the same site.

(iii) The contractor shall not employ the construction subcontractor or an affiliate to inspect the firm's work. The contractor shall assure that the working relationships of the construction subcontractor and the subcontractor inspecting its work and the authority of the inspector are clearly defined.

(i) *Contractor-Affiliated Sources.* Purchase or transfer of equipment, materials, supplies, or services from a contractor-affiliated source shall be treated in accordance with 48 CFR (DEAR) 970.7105.

(j) *Contractor-Subcontractor Relationship.* The obligations of the contractor under paragraph (a) of this clause, including the development of the purchasing system and methods, and purchases made pursuant thereto, shall not relieve the contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors). Subcontracts shall be in the name of the contractor, and shall not bind or purport to bind the Government.

(k) *Government Property.* The contractor's purchasing system and methods for the identification, inspection, maintenance, protection, and disposition of Government property shall conform with the policies and principles of 48 CFR (FAR) part 45, 48 CFR (DEAR) part 945, the Federal Property Management Regulations, the DOE Property Management Regulations, and their contracts.

(l) *Indemnification.* No subcontractor may be otherwise indemnified except with the prior approval of the Procurement Executive.

(m) *Leasing of Motor Vehicles.* Contractors shall abide by 48 CFR (FAR) 8.11 and 48 CFR (DEAR) 908.11.

(n) *Management, Acquisition and Use of Information Resources.* The contractor shall provide in its purchasing system and methods, with regard to the purchase of automatic data processing resources and telecommunications facilities, services, and equipment, for review and approval of requirements in ways that conform to the procedures contained in applicable DOE Directives (Orders and Notices).

(o) *Priorities, Allocations and Allotments.* The contractor shall provide in its purchasing system and methods for the extension to appropriate subcontracts of priorities, allocations and allotments in accordance with the clause or clauses of this contract dealing with priorities and allocations.

(p) *Purchase of Special Items.* Purchase of the following items shall be in accordance with the following provisions of 48 CFR (DEAR) subpart 908.71 and the Federal Property Management Regulations, as shown:

(1) Motor vehicles	908.7101
(2) Aircraft	908.7102
(3) Security Cabinets	908.7106
(4) Alcohol	908.7107
(5) Helium	908.7106
(6) Fuels and packaged petroleum products	908.7109
(7) Coal	908.7110
(8) Arms and Ammunition	908.7111
(9) Heavy Water	908.7121(a)
(10) Precious Metals	908.7121(b)
(11) Lithium	908.7121(c)
(12) Products and services of the blind and severely handicapped	FPMR 41 CFR 101–26.701
(13) Products made in Federal penal and correctional institutions	FPMR 41 CFR 101–26.702

(q) *Purchase vs. Lease Determinations.* The contractor shall provide for a system to determine whether required equipment and property should be purchased or leased. The system shall establish appropriate thresholds for application of lease vs. purchase determinations and shall be used in making such determinations: (1) at time of original acquisition; (2) when lease renewals are being considered; and (3) at other times as circumstances warrant.

(r) *Quality Assurance.* The contractor shall provide no less protection for the Government in its subcontracts than is provided in the prime contract.

(s) *Setoff of Assigned Subcontractor Proceeds.* The contractor shall provide that in cases in which a subcontractor has been permitted to assign payments to a financial institution, the assignment shall treat any right of setoff in accordance with 48 CFR (DEAR) 932.803.

(t) *Strategic and Critical Materials.* The contractor may use strategic and critical materials and shall fulfill its requirements in accordance with 48 CFR (FAR) 8.002.

(u) *Suspended, Debarred or Ineligible Contractors.* Proposed awards to firms or individuals on the GSA Consolidated List of Debarred, Suspended and Ineligible Contractors shall be forwarded to DOE for approval notwithstanding any prior purchasing system acceptance.

(v) *Termination.* When subcontracts are terminated as a result of the termination of all or a portion of this contract, the contractor shall settle with subcontractors in conformity with the policies and principles relating to settlement of prime contracts in 48 CFR (FAR) subparts 49.1, 49.2 and 49.3. When subcontracts are terminated for reasons other than termination of this contract, the contractor shall settle such subcontracts in general conformity with the policies and principles in 48 CFR (FAR) subparts 49.1, 49.2, 49.3 and 49.4. Each such termination shall be documented and consistent with the terms of this contract. Terminations which require approval by the Government shall be supported by accounting data and other information as may be directed by the contracting officer.

(w) *Unclassified Controlled Nuclear Information.* In its purchasing system and methods, the contractor shall provide for the treatment of unclassified uncontrolled nuclear information to be handled in accordance with 10 CFR part 1017.

970.5204–24 Subcontractor cost or pricing data.

5. At 970.5204–24, *Subcontractor cost or pricing data,* remove the phrase "As prescribed in 970.7104–11," from the introductory text.

970.5204–45 Termination.

6. At 970.5204–45, *Termination,* remove the phrase "As prescribed in 970.7104–30," from the introductory text.

970.5204–50 Cost and schedule control systems.

7. At 970.5204–50, *Cost and schedule control systems,* remove the phrase "As prescribed in 970.7104–40," from the introductory text.

8. Add new subsection 970.5204–XX, *Flowdown of contract requirements to subcontracts,* to read as set forth below:

970.5204–XX Flowdown of contract requirements to subcontracts.

Insert the following clause.

Flowdown of Contract Requirements to Subcontracts (month year TBE).

(a) The contractor shall include the clauses in paragraph (b) of this clause in appropriate subcontracts.

(1) To the extent that the clause is included in this prime contract, the contractor shall comply with that portion of the clause that directs application to subcontracts.

(2) To the extent that the clause is not included in this prime contract, or where it is included, but there is no instruction for treatment in subcontracts, the contractor shall include the clause in accordance with applicable regulatory guidance which would apply if the subcontract were a prime contract with the Federal government.

(3) In all cases, where a regulation is cited, the contractor shall comply with the regulation in administration of the related clause.

(b) Clauses and related regulations.

(1) *Air transportation by U.S.-flag carriers.* Clause at 48 CFR (FAR) 52.247–63.

(2) *Anti-Kickback Act of 1986.* Clause at 48 CFR (FAR) 52.203–7.

(3) *Clean Air and Water.* Clause at 48 CFR (FAR) 52.223–2, and follow the requirements of 48 CFR (FAR) 23.1.

(4) *Contract Work Hours and Safety Standards Act.* Clause at 48 CFR (FAR) 52.222–4, and follow the requirements of 48 CFR (FAR) 22.3.

(5) *Cost or Pricing Data.* Clause at 48 CFR (DEAR) 970.5204–24.

(6) *Cost and Schedule Control Systems.* Clause at 48 CFR (DEAR) 970.5204–50.

(7) *Cost Accounting Standards.* Clause at 48 CFR (FAR) 52.230–2, as prescribed in 48 CFR (DEAR) 970.30.

(8) *Davis-Bacon Act.* Clauses as directed at 48 CFR (FAR) 22.407, and follow the requirements of 48 CFR (FAR) 22.4 to the same extent that they would apply if the subcontract had been directly awarded by DOE. 48 CFR (DEAR) Subpart 922.4 and 48 CFR (DEAR) 970.2273 provide guidance to assist in determining the applicability of these regulations.

(9) *Employment of the Handicapped.* Clause at 48 CFR (FAR) 52.222–36, and follow the requirements of 48 CFR (FAR) 22.14.

(10) *Environmental and Occupational Safety and Health.* Clauses as prescribed in 48 CFR (DEAR) 970.2303–2.

VOL
60
ISS
81
AP
27
1995
UMI

(11) *Equal Employment Opportunity.* Clauses as prescribed in 48 CFR (FAR) 22.810, as applicable, and follow the requirements of 48 CFR (FAR) 22.8, 48 CFR (DEAR) 922.8, E.O. 11246 and 40 CFR part 60.

(12) *Examination of Records by Comptroller General.* Clause at 48 CFR (FAR) 52.215–1.

(13) *Foreign Travel.* Clause at 48 CFR (DEAR) 970.5204–52.

(14) *Nuclear Hazards Indemnity.* Clause at 48 CFR (DEAR) 970.2870.

(15) *Officials Not To Benefit.* Clause at 48 CFR (FAR) 52.203–1.

(16) *Organizational Conflicts of Interest.* Clause at 48 CFR (DEAR) 952.209–72.

(17) *Patent, Data and Copyrights.* Appropriate clauses as required by 48 CFR (DEAR) parts 927 and 970.

(18) *Printing.* Clause at 48 CFR (DEAR) 970.5204–19.

(19) *Privacy Act.* Clauses at 48 CFR (FAR) 52.224–1 and 48 CFR (FAR) 52.224–2, and follow the requirements of 48 CFR (FAR) 24.1.

(20) *Record Retention.* Clause at 48 CFR (DEAR) 970.5204–9.

(21) *Safeguarding Classified Information.* Appropriate clauses as prescribed at 48 CFR (DEAR) 970.0404.

(22) *Service Contract Act.* Clauses at 48 CFR (FAR) 52.222–40 and 48 CFR (FAR) 52.222–41.

(23) *Small Business and Small Disadvantaged Business Concerns.* Clause at 48 CFR (FAR) 52.219–9.

(24) *Special Disabled and Vietnam Era Veterans.* Clause at 48 CFR (FAR) 52.222–35, and follow the requirements of 48 CFR (FAR) Subpart 22.13.

(25) *Taxes.* Clause at 48 CFR (DEAR) 970.5204–23.

(26) *Termination.* Appropriate clause or clauses as set forth at 48 CFR (FAR) 52.249–1 through 52.249–14.

(c) *Other.* Errors in or omissions from the above DOE-compiled listing of contract requirements requiring flowdown to appropriate subcontracts shall not be construed as waiving a requirement for the contractor to comply with a requirement for subcontracts appearing elsewhere in this contract or a requirement for subcontracts as required by law. Such errors or omissions shall not form the basis for a defense by the contractor in a legal or administrative proceeding.

[FR Doc. 95–10262 Filed 4–26–95; 8:45 am]

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Notices

Federal Register

Vol. 60, No. 81

Thursday, April 27, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States.

DATES: Tuesday, May 2, 1995, at 2:00 p.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nancy Miller, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Committee on Rulemaking will continue its discussion of a proposed recommendation on the review of existing agency rules.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of the committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: April 24, 1995.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 95–10434 Filed 4–26–95; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 21, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 690–2118

Revision

• Foreign Agricultural Service Request for Vessel Approval/Request for Vessel Approval (Cotton) CCC–105, C–105 (Cotton), Business or other for-profit; 161 responses; 81 hours, Connie B. Delaplane (202) 720–3664.

• Agricultural Marketing Service, Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon—Marketing Order No. 956 FV–112, FV–113, FV–113A, FV–114, and FV–115 Business or other for-profit; Farms; 26 responses; 8 hours, Teresa L. Hutchinson (503) 326–2724.

Extension

• Animal & Plant Health Inspection, 9 CFR 85 Pseudorabies, VS Form 7–1, Farms; Federal Government; State, Local or Tribal Government; 80,200 responses; 1,688 hours, Arnold C. Taft (301) 734–4916.

New Collection

• Forest Service, Attitudes & Values of Southern Appalachian Residents Toward Natural Environmental Issues, Individuals or households; 1,200 responses; 300 hours, Dr. Michael Tarrant (706) 542–4332.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 95–10288 Filed 4–26–95; 8:45 am]

BILLING CODE 3410–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Mississippi Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Mississippi Advisory Committee will convene from 9:00 a.m. and adjourn at 8:30 p.m. Wednesday and Thursday, May 24–25, 1995, at the Old Supreme Court Chamber, 400 High Street, Jackson, Mississippi 39202. The purpose of the factfinding meeting is to collect information on police-community relations in the city of Jackson.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 816–426–5253 (TTY 816–426–5009). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 19, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–10304 Filed 4–26–95; 8:45 am]

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VOL
60
ISS
81
AP
27
1995
UMI

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-601]

Brass Sheet and Strip From Canada; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on brass sheet and strip From Canada. The review covers one manufacturer/exporter of this merchandise to the United States and the period January 1, 1992 through December 31, 1992. The review indicates the existence of dumping margins for this period.

We have preliminarily determined that U.S. sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs to assess antidumping duties equal to the difference between the United States price (USP) and the FMV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Sally Hastings, Chip Hayes, or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4366, 482-5047, or 482-0649.

SUPPLEMENTARY INFORMATION:

Background

On January 12, 1987, the Department published in the **Federal Register** (52 FR 1217) the antidumping duty order on brass sheet and strip from Canada. Based on timely requests for review, on March 8, 1993, in accordance with 19 CFR 353.22(c), we initiated an administrative review of Wolverine Tube (Canada) Inc. (Wolverine), for the period January 1, 1992 through December 31, 1992 (58 FR 12931). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are brass sheet and strip, other than leaded and tin brass sheet and strip. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000. Products whose chemical composition is defined by other C.D.A. or U.N.S. series are not covered by this order.

The physical dimensions of the products covered by this review are brass sheet and strip of solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thicknesses or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included.

During the review period such merchandise was classifiable under Harmonized Tariff Schedule (HTS) subheadings 7409.21.00 and 7409.29.00. Although the HTS subheadings are provided for convenience and for Customs purposes, the written description of the scope of this order remains dispositive. This review covers one Canadian manufacturer/exporter, Wolverine, and the period January 1, 1992 through December 31, 1992.

USP

We based USP on purchase price, in accordance with section 772 of the Tariff Act. We calculated purchase price based on delivered, duty-paid prices. In accordance with section 772(d)(2) of the Tariff Act, we made deductions for movement expenses and customs duty. Movement expenses included fees for brokerage and handling, and U.S. and foreign inland freight.

When comparisons were made to home market sales, we adjusted USP for taxes in accordance with our practice as outlined in *Silicomanganese from Venezuela, Preliminary Determination of Sales at Less Than Fair Value*, 59 FR 31204, June 17, 1994 (*Silicomanganese*).

No other adjustments were claimed or allowed.

FMV

The Department used home market price to calculate FMV, as defined in section 773 of the Tariff Act. Because the home market was viable, we compared U.S. sales with sales of such merchandise in the home market.

FMV was based on packed, delivered prices to unrelated home market purchasers. We made adjustments, where applicable, for home market credit, post-sale inland freight, U.S. credit costs, GST, and U.S. packing costs.

We calculated FMV using monthly weighted-average prices of brass sheet and strip having the same characteristics as to alloy, product code, width group, and gauge group (as was done in earlier proceedings).

We also adjusted the amount of the home market GST included in FMV in accordance with our methodology in *Silicomanganese*.

No other adjustments were claimed or allowed.

Cost Test

Since the information supporting petitioners' allegation provided reasonable grounds to believe or suspect home market sales below cost, we investigated whether Wolverine sold such merchandise in the home market at prices below the cost of production (COP), in accordance with section 773(b) of the Tariff Act. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made in substantial quantities over an extended period of time, and whether such sales were made at prices which permitted recovery of all costs within a reasonable period of time in the normal course of trade.

We requested COP information on an alloy-specific basis because we have determined that alloy is a primary component and a major differentiating factor of brass sheet and strip products. The Court of International Trade (CIT) upheld the Department's use of alloy-specific information in *Hussey Copper, Ltd., et al.* v. *United States*, Slip Op. 94-81 (May 16, 1994). In response to our request, Wolverine reported COP as the sum of costs for materials, labor, factory overhead, selling, general and administrative (SG&A) expenses, and packing for each product code. Wolverine's product code, however, is a general categorization which does not distinguish between various alloys, gauges, and widths. Moreover, Wolverine did not suggest any allocation methodology that would result in alloy-specific data for the fabrication and packing costs for the class or kind of subject merchandise. As a result, we used, as partial best information available, in accordance with section 776(c) of the Tariff Act, the fabrication and packing cost portions of petitioners' data which were submitted in the sales-below-cost allegation. Since metal costs were maintained on an alloy-specific basis, we did use respondent's submitted metal prices from its daily metal price list for this element and its company data to compute SG&A expenses.

When less than 10 percent of the home market sales of a model were at prices below the COP, we did not disregard any sales of that model. When 10 percent or more, but not more than 90 percent, of the home market sales of a particular model were determined to be below cost, we excluded the below-cost home market sales from our calculation of FMV, provided that these below-cost home market sales were made over an extended period of time. When more than 90 percent of the home market sales of a particular model were made below cost over an extended period of time, we disregarded all home market sales of that model in our calculation of FMV.

To determine whether sales below cost had been made over an extended period of time, we compared the number of months in which sales below cost occurred for a particular model to the number of months in which that model was sold. If the model was sold in fewer than three months, we did not disregard below-cost sales unless there were below-cost sales of that model in each month sold. If a model was sold in three or more months, we did not disregard below-cost sales unless there were sales below cost in at least three of the months in which the model was sold. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review* (56 FR 31693, July 11, 1991).

Wolverine has not submitted information indicating that any of its sales below cost were made at prices which would have permitted "recovery of all costs within a reasonable period of time in the normal course of trade," as required by section 773(b)(2) of the Tariff Act. Therefore, we have no basis for concluding that the costs of production of such sales have been recovered within a reasonable period of time. As a result of our investigation, we disregarded Wolverine's below-cost sales made over an extended period of time.

In accordance with section 773(a)(2), we used constructed value (CV) as FMV for those U.S. sales for which there were insufficient sales of the comparison home market model at or above the COP. We calculated CV in accordance with section 773(e) of the Tariff Act. CV includes the cost of materials and fabrication for the exported merchandise, plus SG&A expenses, profit, and packing. Because the respondent did not provide alloy-specific information on, nor any allocation of, fabrication and packing costs, we used the data supplied by petitioners for these cost factors in their submission of August 29, 1993. In our calculation of the SG&A expenses, we computed the actual percentage of costs using figures supplied by the respondent in its COP response. We multiplied that actual figure by the cost of manufacturing (COM). The COM is the sum of the cost of materials, which was supplied by the respondent, and the fabrication costs, which were supplied by the petitioners. We used the computed SG&A expenses since they were greater than the statutory minimum of 10 percent. Because the respondent's reported profit was less than eight percent of the COM plus general expenses, for profit we used the statutory minimum of eight percent.

For those models that had sufficient above-cost sales, we calculated FMV using home market prices to unrelated purchasers as described above.

Preliminary Results of Review

As a result of our comparison of USP to FMV, we preliminarily determine that the following margin exists for the period January 1, 1992 through December 31, 1992:

Manufacturer/exporter	Margin (percent)
Wolverine	24.52

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed no later than 37 days after the date of publication of this notice. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 8.10 percent, the all others rate established in the LTFV investigation (51 FR 44319).

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95-10413 Filed 4-26-95; 8:45 am]

BILLING CODE 3510-DS-M

[C-559-802]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore; Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Reviews, Consideration of Revocation and Intent to Revoke Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation and Preliminary Results of Changed Circumstances Countervailing Duty Administrative Reviews, Consideration

VOL
60
ISS
81
AP
27
1995
UMI

of Revocation and Intent to Revoke Countervailing Duty Orders.

SUMMARY: We preliminarily determine that domestic parties are no longer interested in the countervailing duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore. We therefore intend to revoke the orders. The revocation will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995. We invite interested parties to comment on these preliminary results and our intent to revoke the orders.

EFFECTIVE DATE: April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Melanie Brown or Brian Albright, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1995, the Torrington Company (Torrington), the petitioner, submitted a letter to the Department of Commerce (the Department) stating that it has no further interest in the countervailing duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore for entries after December 31, 1994. Accordingly, Torrington requested revocation of the orders based on changed circumstances in accordance with 19 CFR 355.25(d)(1994).

These changed circumstances administrative reviews cover all producers and/or exporters of the subject merchandise and all shipments of this merchandise to the United States entered, or withdrawn from warehouse, for consumption on or after January 1, 1995.

Scope of the Reviews

Imports covered by these reviews are antifriction bearings (other than tapered roller bearings) and parts thereof. The subject merchandise covers five separate classes or kinds of merchandise and is described in detail in Appendix A to this notice. The Harmonized Tariff Schedule (HTS) item numbers listed in Appendix A are provided for convenience and Customs purposes. The written description remains dispositive.

Preliminary Results of Changed Circumstances Administrative Reviews and Intent to Revoke Countervailing Duty Orders

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (1995) (the Act), and §§ 355.22(h) and 355.25(d)(1994) of the Department's regulations, the Department may revoke a countervailing duty order if it concludes that "changed circumstances" have arisen such that the order is no longer of interest to interested parties (19 CFR 355.25(d)(1)(i)(1994)). We preliminarily determine that the petitioner's affirmative statement of no further interest in these proceedings, not opposed by statements of interest by other domestic interested parties, constitutes changed circumstances sufficient to warrant revocation of these countervailing duty orders. Therefore, we preliminarily determine to revoke the countervailing duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Singapore.

We are hereby notifying the public of our preliminary determination to revoke these countervailing duty orders. If this preliminary determination to revoke these orders is made final, the revocation will apply to all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995.

Therefore, we intend to instruct the U.S. Customs Service to terminate the suspension of liquidation and liquidate all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1995, without regard to countervailing duties. We intend to instruct the U.S. Customs Service to refund with interest any estimated countervailing duties collected with respect to those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of these changed circumstances administrative reviews.

Interested parties may request a hearing within 10 days of the date of publication of this notice. Case briefs or other written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing case briefs. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with § 355.38(e) of the Department's regulations (1994).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c)(1994), are due. The Department will publish the final results of these changed circumstances administrative reviews and its decision on revocation of these countervailing duty orders, as well as the results of its analysis of issues raised in any case or rebuttal brief.

This notice of changed circumstances administrative reviews and intent to revoke are in accordance with sections 751(d)(1) and (3) of the Act (19 U.S.C. 1675 (d)(1) and (3)(1995)) and 19 CFR 355.22(h) and 355.25(d)(1994).

Dated: April 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

Appendix A—Scope of the Reviews

The products covered by these reviews, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof, constitute the following separate "classes or kinds" of merchandise as outlined below.

(1) Ball Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ balls as the rolling element. Such merchandise is classifiable under the following Harmonized Tariff Schedule (HTS) item numbers: 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.10, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.55, 8708.99.58, 8708.99.61, 8708.99.64, 8708.99.67, 8708.99.70, 8708.99.73, and 8708.99.80.

(2) Spherical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ spherical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.30.00, 8482.80.00, 8482.91.00, 8482.99.50, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.70, 8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

(3) Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ cylindrical rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.35, 8482.99.70, 8483.20.40, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.70, 8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

(4) Needle Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all antifriction bearings which employ needle rollers as the rolling element. Such merchandise is classifiable under the following HTS item numbers: 8482.40.00, 8482.80.00, 8482.91.00, 8482.99.35, 8482.99.70, 8483.20.40, 8483.20.80, 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.99.52, 8708.99.70, 8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

(5) Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof: These products include all spherical plain bearings which do not employ rolling elements and include spherical plain rod ends. Such merchandise is classifiable under the following HTS item numbers: 8483.30.40, 8483.30.80, 8483.90.20, 8483.90.30, 8483.90.70, 8708.99.52, 8708.99.70, 8708.99.73, and 8708.99.8055, 8708.99.70, 8708.99.73, and 8708.99.8058, 8708.99.70, 8708.99.73, and 8708.99.8061, 8708.99.70, 8708.99.73, and 8708.99.8064, 8708.99.70, 8708.99.73, and 8708.99.8067, 8708.99.70, 8708.99.73, and 8708.99.80.

These reviews cover all of the subject bearings and parts thereof outlined above with certain limitations. With regard to finished parts (inner race, outer race, cage, rollers, balls, seals, shields, etc.), all such parts are included in the scope of this review. For unfinished parts (inner race, outer race, rollers, balls, etc.), such parts are included if (1) they have been heat treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by this review are those where the part will be subject to heat treatment after importation.

[FR Doc. 95–10406 Filed 4–26–95; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Vieques Marine Laboratories From an Objection by the Commonwealth of Puerto Rico

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal and request for comments.

Mr. Charles R. Connelly, on behalf of the Vieques Marine Laboratories, Inc. (Appellant), filed with the Secretary of Commerce (Secretary) a notice of appeal pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. 1451 *et seq.*, and the Department of Commerce's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the Puerto Rico Planning Board (PRPB) to the Appellant's proposal to develop a mariculture shrimp farm in Puerto Ferro, Vieques, Puerto Rico. The proposed project site is located in one of the critical coastal wildlife areas of Puerto Rico. The Appellant has certified that the project, for which a U.S. Army Corps of Engineers permit must be obtained, is consistent with Puerto Rico's coastal management program (CMP).

The CZMA provides that a timely objection by a state, (including Puerto Rico), precludes any federal agency from issuing licenses or permits for the activity unless the Secretary finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3)(A). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 930.122.

The Appellant requests that the Secretary override the PRPB's consistency objections based on Grounds I and II. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that: (1) The proposed activity furthers one or more of the national objectives or purposes contained in section 302 or section 303 of the CZMA, (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act, and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with Puerto Rico's CMP. 15 CFR 930.121. To make the determination that the proposed activity is "necessary in the interest of national security" the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity is not permitted to go forward as proposed. 15 CFR 930.122.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within 30 days of the publication of this notice and should be sent to Ms. Pamela B. Lawrence, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910. Copies of comments will also be forwarded to the Appellant and the PRPB.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the PRPB and the Office of the Assistant General Counsel for Ocean Services.

FOR ADDITIONAL INFORMATION CONTACT: Ms. Pamela B. Lawrence, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 713–2967.

Dated: April 20, 1995.

Terry D. Garcia,

General Counsel.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

[FR Doc. 95–10335 Filed 4–26–95; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 042095C]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for modification 5 to scientific research and enhancement Permit 747 (P45H) and notice of withdrawal of an application for a scientific research permit (P578).

SUMMARY: Notice is hereby given that the U.S. Fish and Wildlife Service (FWS) has applied in due form for Modification 5 to scientific research and enhancement Permit 747 (P45H) and that the California Department of Water Resources (DWR) withdrew their scientific research permit application (P578) to take endangered Sacramento River winter-run chinook salmon.

DATES: Written comments or requests for a public hearing on the FWS permit modification request must be received on or before May 30, 1995.

VOL
60
ISS
81
AP
27
1995
UMI

ADDRESSES: The FWS permit modification application and related documents are available for review or by appointment in the following offices:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Hwy., Room 13307, Silver Spring, MD 20910–3226 (301–713–1401); and

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (310–980–4016).

Written comments, or requests for a public hearing on this modification application should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: FWS (P45H) requests Modification 5 to scientific research and enhancement Permit 747 under the authority of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227). The applicant requests authorization for an increased annual take of juvenile, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) to increase the understanding of juvenile salmonid rearing and outmigration and to assist with the evaluation of juvenile salmonid abundance and outmigration timing in the vicinity of the Red Bluff Research Pumping Facility. Modification 5 would be valid for the duration of the permit. Permit 747 expires on December 31, 1995.

On December 22, 1994, notice was published (59 FR 66006) that an application had been filed by DWR for a scientific research permit (P578) to take juvenile and adult, endangered, Sacramento River winter-run chinook salmon (*Oncorhynchus tshawytscha*) as authorized by the above laws and regulations. On January 30, 1995, DWR withdrew their scientific research permit application. DWR is now proposing to direct their research in 1995 at non-listed fish by beginning the project in the spring after the juveniles of this listed species outmigrate to the ocean.

Those individuals requesting a hearing on FWS's modification application (see **ADDRESSES**) should set out the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in this application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: April 21, 1995.

Russell J. Ballmer,

Chief, Endangered Species Division, National Marine Fisheries Service.

[FR Doc. 95–10316 Filed 4–26–95; 8:45 am]

BILLING CODE 3510–22–F

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on July 13–14, 1995, at The Phoenician in Phoenix, Arizona. On July 13, the Advisory Board meeting will start at 2 pm and end at 5:30 pm. On July 14, the Board will reconvene at 9:00 am and the meeting will end at 12:00 noon.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the International Travel Act, as amended, and provide guidance to the Under Secretary for Travel and Tourism.

Agenda Items Are as Follows

I. Call to Order
II. Roll Call
III. Administrative Details
IV. Current Legislative Issues
V. White House Conference on Travel & Tourism
VI. Miscellaneous
VII. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the public forum and meeting. To the extent time is available, the presentation of oral statements will be allowed.

Jay E. Stewart, Committee Control Officer, United States Travel and Tourism Administration, Room 1513, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202–501–6985) will respond to public requests for information about the meeting.

Greg Farmer,

Under Secretary for Travel and Tourism.

[FR Doc. 95–10337 Filed 4–26–95; 8:45 am]

BILLING CODE 3510–11–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; Notice to Add a System of Records.

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Air Force proposes to add a system of records to its inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The action will be effective without further notice on May 25, 1995, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Assistant Air Force Access Programs Officer, SAF/AAIA, 1610 Air Force Pentagon, Washington, DC 20330–1610.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Gibson at (703) 697–3491.

SUPPLEMENTARY INFORMATION: The complete inventory of Department of Air Force record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on April 7, 1995, to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (ORB) pursuant to paragraph 4c of Appendix I to ORB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated July 25, 1994 (59 FR 37906, July 25, 1994).

Dated: April 20, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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SYSTEM NAME:

Cable Affairs Personnel/Agency Records.

SYSTEM LOCATION:

Intercontinental Ballistic Missile Cable Affairs Offices at missile bases reporting to Headquarters Air Force Space Command. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Non-United States Air Force personnel/agencies who cross or could cross, inundate, or otherwise affect the Hardened Intersite Cable System (HICS) and/or its right-of-ways (ROW). The personnel/agencies include landowners, tenants, highway/road departments, public and private utility companies, contractors, farm agencies (federal, state, and local), municipal offices, and railroads.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records reflecting information on personnel/agencies who affect or are affected by the HICS and its ROW and/or actions on the HICS and its ROW.

Landowners and/or tenants information will include name, home address and home telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Used to track and monitor all agency activities that affect the HICS and its ROW (such as highway crossings, utility crossings, construction, earth moving, etc.) and could impair HICS hardness integrity.

Also used to maintain contact with personnel/agencies to coordinate HICS or HICS ROW maintenance/construction actions performed by the United States Air Force (USAF) or USAF contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records, or information contained therein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The Department of the Air Force 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, in computers and computer output products.

RETRIEVABILITY:

Records may be retrieved by name, address, phone number, ROW track number, ROW legal description, ZIP code, and missile flight areas.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until no longer needed for reference. Paper records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting, or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Maintenance, Deputy Chief of Staff/Logistics, Headquarters United States Air Force, 1030 Air Force Pentagon, Washington, DC 20330–1030, and

Chief, Systems Management Division, Headquarters AFSPC, 150 Vandenberg Street, Suite 1105, Peterson Air Force Base, CO 80914–4400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Director of Maintenance, Deputy Chief of Staff/Logistics, Headquarters United States Air Force, 1030 Air Force Pentagon, Washington, DC 20330–1030, or to the

Chief, Systems Management Division, Headquarters AFSPC, 150 Vandenberg Street, Suite 1105, Peterson Air Force Base, CO 80914–4400.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director of Maintenance, Deputy Chief of Staff/Logistics, Headquarters United States Air Force, 1030 Air Force Pentagon, Washington, DC 20330–1030, or to the

Chief, Systems Management Division, Headquarters AFSPC, 150 Vandenberg Street, Suite 1105, Peterson Air Force Base, CO 80914–4400.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Survey information obtained through replies from personnel/agencies as defined in *Categories of individuals* above. The surveys are sent to these personnel/agencies (usually via mail) at least every two years.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 95–10276 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–F

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title; Applicable Form; and OMB Control Number: Export Controlled DoD Technical Data Agreement; DD Form 2345; OMB Control Number 0704–0207.

Type of Request: Reinstatement.

Number of Respondents: 6,000.

Responses Per Respondent: 1.

Annual Responses: 6,000.

Average Burden Per Response: 20 minutes.

Annual Burden Hours: 2,000.

Needs and Uses: The information collected hereby, is used to determine and certify the eligibility of U.S. and Canadian defense contractors to obtain export-controlled data with military or space application, while preserving the requirements of the U.S. for export licenses where appropriate. Department of Defense Directive 5230.25, "Withholding of Unclassified Technical Data from Public Disclosure," requires

VOL 60 ISS 81 AP 27 1995 UMI

submission of DD Form 2345, "Militarily Critical Technical Data Agreement," for approval. This form also provides evidence to the U.S. and Canadian Defense Agencies that the contractor has in fact been certified to receive such critical technical data.

Affected Public: Businesses or other for-profit; Non-profit institutions; and Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10278 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title; Applicable Form; and OMB Control Number: Individual MCJROTC Instructor Evaluation Summary; NAVMC 10942; OMB Control Number 0703–0016.

Type of Request: Reinstatement.

Number of Respondents: 240.

Responses Per Respondent: 1.

Annual Responses: 240.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 120.

Needs And Uses: The information collected hereby, provides an evaluation, as well as a written record of, the overall effectiveness and performance of Marine instructors who are significantly responsible for implementing the Marine Corps Junior Reserve Officers' Training Corps (MCJROTC) program.

Affected Public: Individuals of households; Businesses or other for-profit.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: April 20, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10279 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Number: Academic Certification for Marine Corps Officer Candidate Program, NAVMC 10469, OMB No. 0703–0011.

Type of Request: Reinstatement.

Average Burden Per Response: 15 minutes.

Responses Per Respondent: 1.

Number of Respondents: 3,500.

Annual Burden Hours: 875.

Annual Responses: 3,500.

Needs and Uses: This form is used by the Marine Corps as a standardized method of determining the academic eligibility of applicants for all Reserve officer candidate programs.

Affected Public; Individuals or households, businesses or other for profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, D.C. 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: April 20, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10280 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Defense Policy Board Advisory Committee; Notice of Advisory Committee Meeting

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session on 5–6 June 1995 from 0800 until 1700 in the Pentagon, Washington, DC.

The mission of the Defense Policy Board is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning major matters of defense policy. At this meeting the Board will hold classified discussions on national security matters.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this Defense Policy Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: April 20, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10283 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Integration Group; Notice of Meeting

SUMMARY: The Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Integration Group will meet in closed session on May 19, June 23, and July 14, 1995 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will focus on those R&D investments that must be made now so as to assure a technology base in the year 2000 capable of providing U.S. military superiority in the 21st century.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: April 20, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10284 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Unique Surveillance Technologies; Notice of Meetings

SUMMARY: The Defense Science Board Task Force on Unique Surveillance Technologies will meet in closed session on May 4–5, 1995, at the Pentagon, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review and evaluate Have Gaze and related surveillance technologies and to assess overall technological maturity, technical and operational issues, potential military utility, and appropriate technology investment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 19, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10285 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–M

Prohibition Against Unauthorized Use of Defense Mapping Agency Name, Initials or Seal

AGENCY: Department of Defense, Defense Mapping Agency.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public that the unauthorized use of the name, "Defense Mapping Agency", the initials, "DMA", or the official Defense Mapping Agency Seal, is now prohibited by law.

No person may use the Defense Mapping Agency name, initials or seal, or any colorable imitation of them, in connection with any merchandise, retail product, impersonation, solicitation, or commercial or related activity in a manner calculated or intended to give the impression that the use is approved or endorsed by the Secretary of Defense, without first obtaining written approval first the Secretary of Defense.

Authority to grant written approval for the use of the Defense Mapping Agency name, initials or seal has been delegated to the Director, Defense Mapping Agency. Anyone intending to use the Defense Mapping Agency name, seal or initials, or any colorable imitation of them, in connection with merchandise, retail products, impersonation, solicitation, or any commercial or related activity must obtain prior written approval by writing to the Defense Mapping Agency, Office of General Counsel, 8613 Lee Highway St–A–7, Fairfax, Virginia 22031–2137. Anyone now using the Defense Mapping Agency name, seal or initials, or any colorable imitation of them, in connection with merchandise, retail products, impersonation, solicitation, or any commercial or related activity without the written approval from the Secretary of Defense or the Director, Defense Mapping Agency should cease doing so immediately. The Attorney General is authorized to initiate civil proceedings in the district courts of the United States to enjoin persons who engage or who are about to engage in acts or practices which constitute or would constitute unauthorized use(s) of the Defense Mapping Agency name, initials or seal.

EFFECTIVE DATE: October 5, 1994.

ADDRESSES: Defense Mapping Agency, Associate General Counsel for Information and Privacy, 8613 Lee Highway, St–A–7, Fairfax, Virginia 22031–2137.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Sharetts-Sullivan, Associate General Counsel, Information & Privacy, (703) 285–9315.

SUPPLEMENTARY INFORMATION: The prohibition against the use of the Defense Mapping Agency name, initials or seal, or any colorable imitation of them can be found in Section 1074 of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. § 2797). In civil proceedings initiated by the Attorney General to enjoin unauthorized usage of the Defense Mapping Agency name, initials or seal, the Court may issue restraining orders or prohibitions, or take such other actions as are warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought, pending the outcome of the civil proceeding.

Dated: April 20, 1995.

L.M. Bynum,

Alternate OSD Federal Register Officer, Department of Defense.

[FR Doc. 95–10281 Filed 4–26–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Navy

CNO Executive Panel Task Force on Naval Surface Warship Design; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel will meet May 9-10, 1995, from 9:00 a.m. to 4:00 p.m., on each day at 4401 Ford Avenue, Room 531, Alexandria, Virginia. These sessions will be closed to the public.

The purpose of this meeting is to conduct executive level discussions about the task force final report. The matters being discussed constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

VOL 60 ISS 81 AP 27 1995 UMI

For further information concerning this meeting, contact: Timothy J. Galpin, Assistant for CNO Executive Panel Management, 4401 Ford Avenue, Suite 601, Alexandria, VA 22302-0268, Phone: (703) 756-1205.

Dated: April 18, 1995

L. R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95-10342 Filed 4-26-95; 8:45 am]

BILLING CODE 3810-FF-F

DEPARTMENT OF EDUCATION

[CFDA No.: 84.293A]

Foreign Language Assistance Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Purpose of Program: The purpose of this program is to provide grants to pay for the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

Eligible Applicants: State educational agencies and local educational agencies.

Deadline for Transmittal of Applications: June 5, 1995.

Deadline for Intergovernmental Review: August 4, 1995.

Applications Available: April 27, 1995.

Available Funds: $7,900,000.

Estimated Range of Awards: $150,000–$200,000.

Estimated Average Size of Awards: $175,000.

Estimated Number of Awards: 45.

Note: The Department is not bound by any estimates in this notice.

Project Period: 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, and 85.

SUPPLEMENTARY INFORMATION:

Part B of Title VII of the Elementary and Secondary Education Act of 1965, as amended (the Act) authorizes two grant programs, the Foreign Language Assistance Grants program and the Elementary School Incentive Grants program. Appropriations for these two programs are authorized by section 7206 of the Act. Section 7203(c)(3) of the Act provides that at least 75 percent of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in elementary grades. The Secretary, therefore, in selecting applicants under this program and the Elementary School Incentive Grants program will ensure that the requirement in section 7203(c)(3) on the use of funds appropriated under section 7206 is met. The Secretary does not fund projects that propose Native American languages.

Priority

The competitive priority in the notice of final priority for this program, as published elsewhere in this issue of the **Federal Register**, applies to this competition. This competitive priority relates to projects that focus on less commonly taught languages.

Selection Criteria

In evaluating applications for grants under this program, the Secretary uses the selection criteria in 34 CFR 75.210.

The regulations in 34 CFR 75.210 provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 15 points. For this competition, the Secretary distributes the 15 points as follows:

Meeting the purpose of the authorizing statute (34 CFR 210 (b)(1)). Seven points are added to this criterion for a possible total of 37 points.

Plan of operation (34 CFR 75.210(b)(3)). Five points are added to this criterion for a possible total of 20 points.

Evaluation plan (34 CFR 75.210(b)(6)). Three points are added to this criterion for a possible total of 8 points.

For Applications or Information Contact: Ursula Lord, U.S. Department of Education, 600 Independence Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Ursula Lord (202) 205–5709. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7512–7514.

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95-10322 Filed 4-26-95; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Advisory Committee on External Regulation of Department of Energy Nuclear Safety

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the third meeting of the Advisory Committee on External Regulation of Department of Energy Nuclear Safety.

DATES AND TIMES: The committee session will begin at 8:00 am Monday May 15, 1995 with the public comment session to begin at 7:00 pm. The Tuesday, May 16, 1995, session will begin at 7:30 am and adjourn at 9:30 am at which time the Committee will tour select Department of Energy Hanford facilities.

ADDRESSES: Red Lion Inn/Hanford House, 802 George Washington Way, Richland, WA 99352.

FOR FURTHER INFORMATION CONTACT: Tom Isaacs, Executive Director, Advisory Committee on External Regulation of Department of Energy Nuclear Safety, 1726 M Street, NW, Suite 401, Washington, DC 20036, (202) 254–3826.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to provide the Secretary of Energy, the White House Council on Environmental Quality, and the Office of Management and Budget with advice, information, and recommendations on how new and existing Department of Energy (DOE) facilities and operations, except those operations covered under Executive Order 12344 (Naval Propulsion Program), might best be regulated with regard to nuclear safety. The Department currently self-regulates many aspects of nuclear safety, pursuant to the Atomic Energy Act of 1954, as amended. The Committee consists of 25 members drawn from Federal and State government and the private sector, and is co-chaired by John F. Ahearne, Executive Director of Sigma Xi and Gerard F. Scannell, President of the National Safety Council. Members were chosen with environment, safety, and health backgrounds, balanced to represent different public, Federal, state, Tribal, regulatory, and industry interests and experience.

Purpose of the Meeting

This is the third meeting of the Committee. The Committee will receive presentations by representatives of relevant regulatory and oversight organizations and by DOE, industry and stakeholder organizations associated with the Hanford site. The Committee will also hold a public comment period to receive input from the public and tour appropriate facilities at Hanford.

Tentative Agenda

In addition to conducting deliberations related to its charge, the Advisory Committee will receive a presentation on the Nuclear Regulatory Commission's perspective on regulation of safety at DOE's nuclear facilities by the Chairman of the Nuclear Regulatory Commission. Other speakers will address the current processes for internal and external oversight of nuclear safety at DOE and the implementation and oversight of the regulatory framework at the Hanford site by DOE, the State, EPA, and others. The agenda will provide opportunities for public comment at 7:00 pm at the Red Lion Inn/Hanford House in the Columbia Meeting Room. A final agenda will be available at the meeting.

Public Participation

The meeting is open to the public. Members of the public are welcome to make oral statements during the public comment period. Those who wish to do so should contact Catherine Volk at the address or telephone number listed above. Individuals may also register on May 15, 1995 at the meeting site. Every effort will be made to hear all those wishing to speak. Written comments are welcomed, and should be mailed to Catherine Volk, 1726 M St. NW, Suite 401, Washington, DC 20036. The Committee Co-Chairs are empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts and Minutes

A meeting transcript and minutes will be available for public review and copying four to six weeks after the meeting at the DOE Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. The transcript will also be made available at the Department's Field Office Reading Room locations.

Issued at Washington, DC, on April 24, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95-10407 Filed 4-26-95; 8:45 am]

BILLING CODE 6450-01-P

Office of Fossil Energy

National Coal Council; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Coal Council.

Date and Time: Wednesday, May 17, 1995, 9:00 AM.

Place: Ritz-Carlton Washington Hotel, 2100 Massachusetts Avenue, N.W., Washington, D.C. 20008.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–5), Washington, D.C. 20585, Telephone: 202/586–3867.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

—Call to order and opening remarks by Joseph Craft III, Chairman of the National Coal Council.
—Presentation of the Council's study on coal utilization to the membership for approval.
—Remarks and presentation of awards to long-time members by the Honorable Hazel R. O'Leary, Secretary of Energy (Invited).
—Industry salute to the Council on the occasion of its tenth anniversary by: Richard Lawson, President of the National Mining Association; Thomas Kuhn, President of the Edison Electric Institute; and Edwin Harper, President of the Association of American Railroads.
—Discussion of any other business properly brought before the Council.
—Remarks by Patricia Fry Godley, Assistant Secretary for Fossil Energy (invited).
—Public comment—10-minute rule.
—Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 9:00 AM and 4:00 PM, Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 24, 1995.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 95-10408 Filed 4-26-95; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP95–327–000]

Transwestern Pipeline Co.; Notice of Application

April 21, 1995.

Take notice that on April 17, 1995, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–327–000, an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(a) of the Regulations (18 CFR 157.7(a)), for a certificate of public convenience and necessity authorizing Transwestern to construct approximately 3,200 feet of 30-inch pipeline under the Rio Grande River in Valencia County, New Mexico, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transwestern explains that on August 20, 1994, an explosion ruptured one of its two 30-inch pipelines which cross the Rio Grande River on a steel structure pipeline bridge. Transwestern says it replaced that pipeline and repaired the structural damage to the bridge under section 2.55(b) of the Commission's Regulations. The second pipeline was not replaced at that time.

Transwestern proposes to replace the second 30-inch pipeline by constructing 3,200 feet of 30-inch pipeline under the Rio Grande River at a cost of $1,675,000. Transwestern states that it will be reimbursed the cost by its insurance carrier. Transwestern asserts that with the addition of this second line it will be able to bring its pipeline capability up to its presently certificated capacity.

Transwestern requests certificate authorization by June 30, 1995, so that construction can take place between July 15 through September 30 and the facility can be put in service in 1995. Transwestern submits that this construction time period would have minimal effect on such things as the Silvery Minnow, because of the low water flow, and would avoid disturbing two whooping cranes who overwinter in the area.

VOL
60
ISS
81
AP
27
1995
UMI

Any person desiring to be heard or to make any protest with reference to said application should on or before May 12, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate for the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transwestern to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–10289 Filed 4–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–236–000]

Kern River Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

April 21, 1995.

Take notice that on April 17, 1995, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective on June 1, 1995:

First Revised Sheet No. 104
Second Revised Sheet No. 114
First Revised Sheet No. 115
First Revised Sheet No. 121
First Revised Sheet No. 122
First Revised Sheet No. 415

Kern River states that the revised tariff sheets make certain minor changes to Kern River's capacity release program which will allow that program to operate more efficiently and increase its value and usefulness to shippers. Specifically, the revised tariff sheets will:

1. Shorten the minimum time periods for a release that involves a Prearranged Bidder, to permit such a release request to be initiated closer to the proposed commencement date of the release;

2. Define release proposals that may take advantage of shorter deadlines and processing periods as releases of "three months or less," rather than the current definition of "90 days or less," so that proposed releases that include months of 31 days can take advantage of the shorter deadlines and time periods;

3. Eliminate the requirement for the Releasing Shipper with a Prearranged Bidder to warrant that the Prearranged Bidder has entered into a Released Transportation Service Agreement with Kern river that incorporates all terms and conditions of the Release Request. Prearranged Bidders will still be required to prequalify with Kern River by entering into a Released Transportation Service Agreement after demonstrating sufficient creditworthiness.

Kern River states that the revised tariff sheets also update the telephone number of Kern River's Transportation Services Department.

Kern River states that copies of the filing were served upon Kern River Gas Transmission Company's jurisdictional customers all affected State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–10290 Filed 4–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–182–001]

ANR Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

April 21, 1995.

Take notice that on April 17, 1995, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, proposed to be effective April 1, 1995:

Substitute Original Sheet No. 75C
Substitute Second Revised Sheet No. 155
Substitute Third Revised Sheet No. 161

ANR states that the above-referenced tariff sheets are being filed in compliance with the Commission's March 31, 1995, "Order Accepting Tariff Sheets Subject To Conditions And Establishing Technical Conference," to be effective April 1, 1995.

ANR states that all of its FERC Gas Tariff, Second Revised Volume No. 1 customers and interested State Commissions have been mailed a copy of this filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426 in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before April 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–10291 Filed 4–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–220–006, RP95–187–002 and TM95–2–37–002]

Northwest Pipeline Corp.; Notice of Proposed Changes in FERC Gas Tariff

April 21, 1995.

Take notice that on April 17, 1995, Northwest Pipeline Corporation (Northwest), tendered for filing as part of its FERC Gas Tariff the following tariff sheets with a proposed effective date of April 1, 1995 to comply with the Commission's March 31, 1995 Order in Docket Nos. RP95–187–000 and TM95–2–37–000:

Third Revised Volume No. 1

Sixth Revised Sheet No. 5
Fifth Revised Sheet No. 5–A
Fifth Revised Sheet No. 8

Original Volume No. 2

Twentieth Revised Sheet No. 2
Fifteenth Revised Sheet No. 2.1
Nineteenth Revised Sheet No. 2–A

On March 1, 1995 in Docket No. RP95–187–000, Northwest filed primary and alternate proposed tariff sheets to implement new fuel use requirements factors with an effective date of April 1, 1995. On March 31, 1995, the Commission accepted Northwest's primary tariff sheets subject to refund and conditions, and subject to the outcome of a technical conference. The Commission's March 31, 1995 Order was conditioned on Northwest filing certain workpapers by April 17, 1995 and filing revised tariff sheets.

Northwest states that the purpose of this filing is to submit the revised tariff sheets. Northwest states that the revised tariff sheets reflect the removal of certain costs related to lost and unaccounted-for gas from Northwest's current base tariff rates in Docket No. RP94–220. Northwest further states that the aforementioned workpapers are being filed concurrently in Docket No. RP95–187.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers, upon all intervenors in Docket Nos. RP94–220, RP95–187 and TM95–2–37, and upon relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before April 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–10292 Filed 4–26–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–187–001; TM95–2–37–001]

Northwest Pipeline Corp.; Notice of Compliance Filing

April 21, 1995.

Take notice that on April 17, 1995, Northwest Pipeline Corporation (Northwest), tendered for filing with the Federal Energy Regulatory Commission (Commission) workpapers to comply with the Commission's March 31, 1995 Order in Docket Nos. RP95–187–000 and TM95–2–37–000. On March 1, 1995 in Docket No. RP95–187–000, Northwest filed primary and alternate proposed tariff sheets to implement new fuel use requirements factors with an effective date of April 1, 1995. On March 31, 1995, the Commission accepted Northwest's primary tariff sheets subject to refund and conditions, and subject to the outcome of a technical conference. The Commission's March 31, 1995 Order was conditioned on Northwest filing certain workpapers by April 17, 1995 and filing revised tariff sheets.

Northwest states that the purpose of this filing is to file the aforementioned workpapers. Revised tariff sheets reflecting the removal of certain costs related to lost and unaccounted-for gas from Northwest's current base tariff rates in Docket No. RP94–220.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers, upon all intervenors in Docket Nos. RP95–187–000 and TM95–2–37–000, and upon interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before April 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–10293 Filed 4–26–95; 8:45 am]

BILLING CODE 6717–01–M

Notice of Environmental Compliance Training Course

April 21, 1995.

The Office of Pipeline Regulation (OPR) staff will convene another session of its environmental compliance training course. This is a result of the positive response to the sessions held in 1992 through 1994. We are holding this course so that additional members of the regulated pipeline industry and interested individuals and organizations can gain an understanding of the requirements and objectives of the Commission in ensuring compliance with all environmental certificate conditions and meeting its responsibilities under the National Environmental Policy Act and other laws and regulations.

We encourage interested organizations and the public to take advantage of this course.

It will include the following topics:

- Postcertificate clearance filings;
- Environmental inspection as it relates to:
  - Right-of-way preparation;
  - Temporary erosion control;
  - Cultural resources/Paleontology;
  - Waterbody crossings;
  - Wetland construction;
  - Residential area construction;
  - Right-of-way restoration; and
  - Techniques for environmental compliance.

The two-day training course will be held May 23 and 24, 1995, at the Fairmont Hotel, 123 Baronne Street, New Orleans, Louisiana, 70140. Attendees must call (800) 527–4727 by May 8, 1995 and identify themselves as FERC Seminar attendees to receive the discounted group rate.

The OPR staff and Foster Wheeler Environmental Corporation, the Commission's environmental support contractor for natural gas projects, will conduct the training. There is no fee for the course, but you must pre-register because space is limited.

If you would like to attend the May 23, 1995 session, please call the telephone number listed below to obtain a registration form.[1] Because space is limited, please mail or fax the registration form within 15 days of publication of this notice to: Ms. Donna Connor, Foster Wheeler Environmental Corporation, 470 Atlantic Avenue, Boston, MA 02210, Telephone: (617) 542–8805, FAX: (617) 695–1587.

You will receive confirmation of pre-registration and additional information before the training course.

[1] The registration form referenced in this notice is not being printed in the **Federal Register**. Copies of the form were sent to those receiving this notice in the mail.

VOL 60 ISS 81 AP 27 1995 UMI

Additional training will be offered in August and September of 1995, in Salt Lake City and Detroit, respectively. Please indicate on the registration form whether you would like this course to be offered again, or if you are interested in any other courses with different topics or audiences. Please indicate your preferences for location and time of year. Suggestions on format are welcome.

When the Salt Lake City and Detroit locations and dates are decided, information will be published in the **Federal Register** and sent to you. If other sessions or courses are planned, information will be published in the **Federal Register** and sent to you announcing the dates and locations.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–10294 Filed 4–26–95; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1046–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–1046–DR), dated March 12, 1995, and related determinations.

EFFECTIVE DATE: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 19, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–10350 Filed 4–26–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1008–DR]

California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–1008–DR), dated January 17, 1994, and related determinations.

EFFECTIVE DATE: April 18, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Laurence Zensinger of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of William C. Tidball as Federal Coordinating Officer for this disaster.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–10351 Filed 4–26–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Royal Caribbean Cruises Ltd. and G.I.E. Cruise Vision Two, 1050 Caribbean Way, Miami, Florida 33132–2096

Vessel: SPLENDOUR OF THE SEAS

Dated: April 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10301 Filed 4–26–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended.

Royal Caribbean Cruises Ltd., 1050 Caribbean Way, Miami, Florida 33132–2096

Vessels: LEGEND OF THE SEAS AND SPLENDOUR OF THE SEAS.

Dated: April 21, 1995.

Joseph C. Polking,

Secretary.

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended.

Royal Caribbean Cruises Ltd. and G.I.E. Cruise Vision One, 1050 Caribbean Way, Miami, Florida 33132–2096

Vessel: LEGEND OF THE SEAS

Dated: April 21, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10303 Filed 4–26–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Crystal Cruises, Inc. and Crystal Ship (Bahamas) Limited, 2121 Avenue of the Stars, Suite 200, Los Angeles, California 90067

Vessel: CRYSTAL SYMPHONY

Dated: April 24, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10414 Filed 4–26–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

SCR International Freight Forwarding, Inc., 130 Monorca Ave., Coral Gables, FL 33134. Officers: Alvaro G. Smith, President, Jose E. Smith, Treasurer

AIS Gator Exports, Inc., 201 Springsong Road, Lithia, FL 33547, Officers: Henry S. Conrad, Jr., President, Anita P. Conrad, Vice President

Sisto International Shipping, 560 Lee Drive, Miami Springs, FL 33166, Manuel Sisto and Tracy Sisto, Partnership

By the Federal Maritime Commission.

Dated: April 24, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10415 Filed 4–26–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Affiliated Community Bancorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1995.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Affiliated Community Bancorp, Inc., Waltham, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Lexington Savings Bank, Lexington, Massachusetts.

In connection with this application, Applicant also has applied to acquire Main Street Community Bancorp, Inc., Waltham, Massachusetts, and thereby indirectly acquire Federal Savings Bank, Waltham, Massachusetts, and thereby engage in owning, controlling, and operating a savings association that engages only in deposit-taking activities and lending and other activities pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. CENIT Bancorp, Inc., Norfolk, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Princess Anne Bank, Virginia Beach, Virginia.

In connection with this application, Applicant also has applied to acquire CENIT Bank, F.S.B., Norfolk, Virginia, and thereby engage in operating a federal savings bank, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10324 Filed 4–26–95; 8:45 am]

BILLING CODE 6210–01–F

Country Bank Shares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 22, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Country Bank Shares, Inc., Milford, Nebraska; to acquire 100 percent of the voting shares of The Bank of Wilber, Wilber, Nebraska.

VOL
60
ISS
81
AP
27
1995
UMI

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. California Bancshares, Inc., San Ramon, California; to acquire 100 percent of the voting shares of First Community Bankshares, Inc., Castro Valley, California, and thereby indirectly acquire Centennial Bank, Castro Valley, California.

Board of Governors of the Federal Reserve System, April 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10325 Filed 4–26–95; 8:45 am]

BILLING CODE 6210–01–F

Mercantile Bancorporation, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Mercantile Bancorporation Inc., St. Louis, Missouri; to acquire Southwest Insurance Agency, Hermitage, Missouri, an operating division of Southwest Bancshares, Inc., Bolivar, Missouri, and thereby engage in general insurance activities in a town with a population not exceeding 5,000, pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y. The geographic scope for these activities is the town of Hermitage, Missouri.

Board of Governors of the Federal Reserve System, April 21, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10326 Filed 4–26–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR) Stocking Change and Revision of SF 526, Medical Record—Interstitial/Intercavitary Therapy

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR is changing the stocking requirement of SF 526, Medical Record—Interstitial/Intercavitary Therapy. This form is now authorized for local reproduction. You can request camera copy of SF 526 from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

This form also is revised to:

To delete "grade" and "date" from "PATIENT'S IDENTIFICATION" item and replace with "ID No. (SSN or other);".

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective upon publication in the **Federal Register.**

Dated: April 19, 1995.

Theodore D. Freed,

Chief, Forms Management Branch.

[FR Doc. 95–10306 Filed 4–26–95; 8:45 am]

BILLING CODE 6820–34–M

Interagency Committee for Medical Records (ICMR) Stocking Change and Revision of SF 536, Medical Record—Pediatric Nursing Notes

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/ICMR is changing the stocking requirement of SF 536, Medical Record—Pediatric Nursing Notes. This form is now authorized for local reproduction. You can request camera copy of SF 536 from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

This form also is revised to:

To delete "grade" and "date" from "PATIENT'S IDENTIFICATION" item and replace with "ID No. (SSN or other);".

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

DATES: Effective upon publication in the **Federal Register.**

Dated: April 19, 1995.

Theodore D. Freed,

Chief, Forms Management Branch.

[FR Doc. 95–10306 Filed 4–26–95; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/RHYP 95–1]

Runaway and Homeless Youth Program (RHYP): Fiscal Year (FY) 1995 Final Program Priorities, Availability of Financial Assistance for Fiscal Year 1995, and Request for Applications

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of Fiscal Year 1995 Final Runaway and Homeless Youth (RHY) Program Priorities, announcement of availability of financial assistance, and request for applications for the Basic Center Program for Runaway and Homeless Youth (BCP) and the Drug Abuse Education and Prevention Program for Runaway and Homeless Youth (DAPP).

SUMMARY: The Family and Youth Services Bureau of the Administration on Children, Youth and Families is publishing final program priorities and announcing the availability of funds for:

1. The Basic Center Program for Runaway and Homeless Youth (BCP). The purpose of the BCP is to provide financial assistance to establish or strengthen locally-controlled centers that address the immediate needs (outreach, temporary shelter, food, clothing, counseling, aftercare, and related services) of runaway and homeless youth and their families.

2. The Drug Abuse Education and Prevention Program for Runaway and Homeless Youth (DAPP). The purpose of the DAPP is to improve and expand drug abuse prevention, education and information services to runaway and homeless youth and their families.

This single announcement for the two programs has been developed in order to save the field and the Federal government significant resources. Also, the single announcement provides the field with the application due dates for both programs, providing interested agencies the means to forecast the workload and resources needed to apply for these grants. Potential applicants should note that separate applications must be submitted for each program applied for.

This announcement contains all the necessary information and application materials to apply for funds under these grant programs. The estimated funds available for new starts and the approximate number of new grants that have been or are to be awarded under this program announcement are as follows:

Program	Fiscal year	New start funds available (million)	Number of new grants
BCP	1995	$14.6	115
DAPP	1995	$4.5	45
TLP*	1995	$6.3	36

*There will be no FY 1995 requests for applications for the Transitional Living Program for Homeless Youth (TLP). FY 1995 funds for new TLP programs have already been awarded based on an FY 1994 competition.

In addition to the competitive, new start grants, the Administration on Children, Youth and Families anticipates providing FY 1995 non-competitive, continuation funds to current grantees, including Demonstration Projects (DEMOS), as follows:

Program	Continuation funds available (million)	Number of continuation grants
BCP	$21.8	227
DAPP	$6.6	72
TLP	$6.6	36
DEMOS (rural)	$1.3	8

Grantees eligible for these continuation grants will receive letters to that effect from the appropriate regional grants management offices and should not submit their continuation applications in response to this announcement. Only applications for new grants are solicited through this announcement.

DATES: The deadlines or closing dates for RECEIPT by HHS of applications for new grants under this announcement are as follows:

Programs	Closing dates
BCP	June 16, 1995.
DAPP	June 30, 1995.

Applications will be considered as meeting the deadline if they are received on or before the RECEIPT date at the address below. *Please note that this is a departure from the traditional approach of using postmarks instead of receipt dates to determine eligibility of applications for review.*

ADDRESSES: Application receipt point: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Aerospace Building, 6th Floor, Washington, DC 20447. Attn: Maiso Bryant, ACF–95–ACYF/RHYP.

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at:

Administration for Children and Families, Division of Discretionary Grants, 6th Floor, ACF Guard Station, 901 D Street, SW., Washington, DC 20047

Envelopes containing applications must clearly indicate the specific program that the application is addressing: Basic Center Program (BCP) or Drug Abuse Prevention Program (DAPP).

FOR FURTHER INFORMATION CONTACT: Administration on Children, Youth and Families, Family and Youth Services Bureau, PO Box 1182, Washington, DC 20013; Telephone: 1–800–351–2293.

SUPPLEMENTARY INFORMATION: This program announcement consists of six parts. Part I provides general information for potential applicants who wish to apply to operate programs serving runaway and homeless youth. Part II contains the evaluation criteria against which all applications will be competitively reviewed, evaluated and rated. Part III contains specific information necessary to apply for funds under each of the two programs. Part IV describes the application process. Part V provides instructions on the assembly and submission of applications. Part VI contains appendices to be consulted in preparation of applications. All forms needed to prepare applications for the two programs are found in Part VI, Appendix I, of this announcement.

The following outline is provided to assist in the review of this **Federal Register** announcement:

Part I: General Information

A. Background on Runaway and Homeless Youth
B. Legislative Authority
C. Purpose, Goals and Objectives of the Federal Runaway and Homeless Youth Grant Programs
  1. Basic Center Program for Runaway and Homeless Youth
  2. Drug Abuse Education and Prevention Program for Runaway and Homeless Youth
D. Definitions
E. Final Priorities
  1. Public Comments in Response to the Proposed Priorities
  2. Final Program Priorities for Fiscal Year 1995
  a. Basic Center Program Grants
  b. Transitional Living Program Grants
  c. National Communications System
  d. Support Services for Runaway and Homeless Youth Programs
  (1) Training and Technical Assistance
  (2) National Clearinghouse on Runaway and Homeless Youth
  (3) Runaway and Homeless Youth Management Information System (RHYMIS)
  (4) Monitoring Support for FYSB Programs
  e. Research and Demonstration Initiatives
  (1) Services for Youth in Rural Areas
  (2) Analysis, Synthesis, and Interpretation of New Information Concerning Runaway and Homeless Youth
  f. Priority for a Comprehensive Youth Development Approach
  g. Priorities for Administrative Changes
F. Eligible Applicants
G. Availability of Competitive New Start Funds
  1. Basic Center Program for Runaway and Homeless Youth
  2. Drug Abuse Education and Prevention Program for Runaway and Homeless Youth
H. Duration of Projects
I. Maximum Federal Award and Grantee Share of the Projects

VOL
60
ISS
81
AP
27
1995
UMI

Part II: Evaluation Criteria

Part III: Program Areas

A. Basic Center Program for Runaway and Homeless Youth
B. Drug Abuse Education and Prevention Program for Runaway and Homeless Youth (DAPP)

Part IV: Application Process

A. Assistance to Prospective Grantees
B. Application Requirements
C. Paperwork Reduction Act of 1980
D. Notification Under Executive Order 12372
E. Availability of Forms and Other Materials
F. Application Consideration

Part V: Application Content, Instructions, Assembly and Submission

Part VI: Appendices

A. Basic Center Program Performance Standards
B. National Runaway Switchboard
C. National Clearinghouse on Runaway and Homeless Youth
D. Runaway and Homeless Youth Continuation Grantees
1. Basic Center Program for Runaway and Homeless Youth
2. Drug Abuse Prevention Program for Runaway and Homeless Youth
E. Administration for Children and Families Regional Office Youth Contacts
F. Training and Technical Assistance Providers
G. State Single Points of Contact
H. Basic Center Program Allocations by State
I. Forms and Instructions

Part I. General Information

A. Background on Runaway and Homeless Youth

The Family and Youth Services Bureau (FYSB), within the Administration on Children, Youth and Families (ACYF), administers programs that support services to an adolescent population of approximately 500,000 runaway and homeless youth. Many of these youth have left home to escape abusive situations, or because their parents could not supply their basic needs of food, shelter and a safe supportive environment. Many live on the streets.

While living on the streets or away from home without parental supervision, these youth are highly vulnerable. They may become victims of street violence, or may be exploited by dealers of illegal drugs. Usually lacking marketable skills, they may be drawn into shoplifting, prostitution, or dealing drugs in order to earn money for food, clothing, and other daily expenses. Without a fixed address or regular place to sleep, they often drop out of school, forfeiting their opportunities to learn and to become independent, self-sufficient, contributing members of society. As street people, they may try to survive with little or no contact with medical professionals, the result being that their health problems may go untreated and may worsen. Without the support of family, schools, and other community institutions, they may not acquire the personal values and work skills that will enable them to enter or advance in the world of work at other than the most minimal levels. Finally, as street people, they may create substantial law enforcement problems, endangering both themselves and the communities in which they are located. All these problems, real and potential, call for a comprehensive, nationwide, community-based program to address the needs of runaway and homeless youth.

B. Legislative Authority

Grants for the Basic Center Program for Runaway and Homeless Youth are authorized by Part A of the Runaway and Homeless Youth Act (RHY Act), 42 U.S.C. 5701 *et seq.* The RHY Act was enacted as Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415), and amended by the Juvenile Justice Amendments of 1977 (Pub. L. 95–115), the Juvenile Justice Amendments of 1980 (Pub. L. 96–509), the Juvenile Justice Amendments of 1984 (Pub. L. 98–473), the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690), and the Juvenile Justice and Delinquency Prevention Act Amendments of 1992 (Pub. L. 102–586). Grants for coordinating, training and technical assistance, research, demonstration, evaluation and service projects are authorized under Part D of the RHY Act.

Grants for the Drug Abuse Education and Prevention Program for Runaway and Homeless Youth are authorized under section 3511 of Public Law 100–690, the Anti-Drug Abuse Act of 1988 (Anti-Drug Abuse Act), which established the Drug Abuse Education and Prevention Program for Runaway and Homeless Youth, as amended by Public Law 102–132.

C. Purpose, Goals and Objectives of the Federal Runaway and Homeless Youth Grant Programs

1. Basic Center Program for Runaway and Homeless Youth

The overall purpose of the BCP is to provide financial assistance to establish or strengthen community-based centers that address the immediate needs (outreach, temporary shelter, food, clothing, counseling, aftercare, and related services) of runaway and homeless youth and their families. Services supported by this program are to be outside the law enforcement, the child welfare, the mental health, and the juvenile justice systems. The program goals and objectives of Part A of the RHY Act are to:

a. Alleviate problems of runaway and homeless youth,

b. Reunite youth with their families and encourage the resolution of intrafamily problems through counseling and other services,

c. Strengthen family relationships and encourage stable living conditions for youth, and

d. Help youth decide upon constructive courses of action.

2. Drug Abuse Education and Prevention Program for Runaway and Homeless Youth

The overall purpose of the DAPP is to help communities address the problem of drug abuse among runaway and homeless youth through the prevention, early intervention, and reduction of drug dependency. The specific goals and objectives of the program, as set forth in Section 3511 of the Anti-Drug Abuse Act, are to:

a. Provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth;

b. Develop and support peer counseling programs related to the illicit use of drugs by runaway and homeless youth;

c. Develop and support community education activities related to the illicit use of drugs by runaway and homeless youth, including outreach to individual youth;

d. Provide runaway and homeless youth in rural areas with assistance (including the development of community support groups) related to the illicit use of drugs;

e. Provide information and training regarding issues related to the illicit use of drugs by runaway and homeless youth to individuals providing services to these youth;

f. Support research on illicit drug use by runaway and homeless youth, the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide; and

g. Improve the availability and coordination of local services related to drug abuse for runaway and homeless youth.

Specifics regarding grant awards in each of these two programs are found in Part III, Sections A and B, of this announcement.

D. Definitions

1. Under Part A of the RHY Act, which authorizes the BCP, the term *homeless youth* means a person under 18 years of age who is in need of services and without a place of shelter where he or she receives supervision and care. This definition applies to all Basic Center projects and can be found in 45 CFR 1351.1(f).

2. The term *public agency* means any State, unit of local government, combination of such States or units, or any agency, department, or instrumentality of any of the foregoing. This definition applies to all runaway and homeless youth programs and can be found in section 3601(8) of the Anti-Drug Abuse Act, incorporating by reference section 103(11) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

3. The term *runaway youth* means a person under 18 years of age who absents himself or herself from home or place of legal residence without the permission of parents or legal guardian. This definition applies to all Basic Center programs and can be found in 45 CFR 1351.1(k).

4. The term *shelter* includes host homes, group homes and supervised apartments. This definition applies to all BCP programs and is referenced in section 322(1) of the RHY Act. As currently understood in the field:

Host homes are facilities providing shelter, usually in the home of a family, under contract to accept runaway and/or homeless youth assigned by the BCP service provider, and are licensed according to State or local laws.

Group homes are single-site residential facilities designed to house BCP clients who may be new to the program or may require a higher level of supervision. These dwellings operate in accordance with State or local housing codes and licensure.

5. The term *State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas. This definition applies to all runaway and homeless youth programs and can be found in section 3601(10) of the Anti-Drug Abuse Act, incorporating by reference section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

6. The term *temporary shelter* means the provision of short-term (maximum of 15 days) room and board and core crisis intervention services on a 24 hour basis. This definition applies to all Basic Center Program grantees and can be found in 45 CFR 1351.1(o).

E. Final Priorities

Section 364 of the Runaway and Homeless Youth Act (RHY Act) requires the Department to publish annually for public comment a proposed plan specifying priorities the Department will follow in awarding grants and contracts under the RHY Act. The proposed plan for FY 1995 was published in the **Federal Register** on Thursday, January 5, 1995, and requested comments and recommendations from the field.

1. Public Comments in Response to the Proposed Priorities

The Family and Youth Services Bureau (FYSB) received 14 written responses from a number of sources, principally Runaway and Homeless Youth Program grantees, in nine different States. The responses were generally supportive and the following summarizes the major issues raised:

a. A number of respondents suggested that the change in the proposal due date from the "mailing receipt date" of FY 1994 to the "actual receipt date" of FY 1995 would be unfair to potential grantees from distant or insular areas. The FYSB appreciates these concerns.

The "mailing receipt date" of FY 1994 was the date by which proposals had to be delivered to the U.S. Postal Service and given a date stamp. In FY 1994, agencies had only 34 days in which to prepare and submit their proposals. That is, only 34 days intervened between the publication date of the **Federal Register** solicitation and the "mailing receipt date" for the proposals. The FYSB considered this a minimal time for proposal preparation and submission. Those proposals that were delivered to the U.S. Postal Service on the mailing receipt date itself typically arrived in Washington, DC., for review only several days and in some cases several weeks later. These late arrivals occasioned some disruptions in the review process.

In FY 1995, approximately 60 days will intervene between the publication date of the solicitation and the actual receipt date of the proposals by HHS in Washington, DC. The FYSB considers 60 days to be fully adequate for proposal preparation, mailing, and delivery.

b. A number of respondents supported the proposal to establish a minimum grant level of $75,000 per year, while a somewhat larger number suggested that runaway and homeless youth in rural States, such as in Region VIII, might be deprived of services if all or almost all of a State's allocation went to just one site, leaving youth in distant sections of the State completely unserved. The FYSB will adopt the goal of increasing funding to individual sites now receiving very small awards when possible, but will not establish a minimum at this time.

c. Most respondents agreed with the proposal to establish consolidated youth services demonstration programs that combined the services of the three traditional programs: the BCP, the DAPP, and the TLP. However, the proposal in the Administration's FY 1996 budget to consolidate all of the RHY programs into a single program, along with a variety of different proposals by the Congress, suggests to FYSB that it would be preferable to postpone implementation of this demonstration effort.

To the extent feasible, ACYF addressed these and all other public comments in preparing the final priorities. The final program priorities below reflect the changes made in the proposed priorities in light of the comments received.

2. Final Program Priorities for Fiscal Year 1995

The final priorities are similar to those of earlier years in that the Department will award 90 percent or more of the funds appropriated under the BCP and approximately 90 percent of the funds appropriated under the DAPP and the TLP to grantees providing direct services to runaway and homeless youth.

The final priorities are further similar to those of earlier years in that the Department will award continuation funding to the National Communications System, to the ten Regional Training and Technical Assistance providers, and to a number of related program support activities.

The Final Program Priorities differ from those of earlier years in two major ways:

- The Family and Youth Services Bureau is adopting an approach to youth services that emphasizes comprehensive youth development over attempts to correct discrete dysfunctional behaviors of youth and their families, and
- The FYSB is adopting administrative changes designed for more efficient delivery of services and more stability among service providers.

a. Basic Center Program Grants

Approximately 340 Basic Center grants, of which about one-third will be competitive new starts and two-thirds will be non-competitive continuations, will be funded in FY 1995.

Eligible applicants for the new starts are current grantees with project periods

VOL
60
ISS
81
AP
27
1995
UMI

ending in FY 1995 and otherwise eligible applicants not holding current grants. The applications will be reviewed by State, and awards will be made during the last quarter of FY 1995 (July - September 1995).

Section 385(a)(2) of the Act requires that 90 percent of the funds appropriated under Part A (The Runaway and Homeless Youth Grant Program) be used to establish and strengthen runaway and homeless youth Basic Centers. Total funding under Part A of the Act for FY 1995 is approximately $40.5 million. This sum, which is an increase over the FY 1994 level, triggers the provision in the Act calling for a minimum award of $100,000 to each State, the District of Columbia, and Puerto Rico, and a minimum award of $45,000 to each of the four insular areas: the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas.

b. Transitional Living Program Grants

Part B, section 321 of the Runaway and Homeless Youth Act, as amended, authorizes grants to establish and operate transitional living projects for homeless youth. This program is structured to help older, homeless youth achieve self-sufficiency and avoid long-term dependency on social services. Transitional living projects provide shelter, skills training, and support services to homeless youth ages 16 through 21 for a continuous period not exceeding 18 months.

In FY 1995, approximately $12.9 million is available for TLP direct service grants. Approximately $6.3 million has already been awarded as new start FY 1995 funding to applicants that were successful in the competition conducted at the end of FY 1994, and the remaining $6.6 million will be awarded as continuation funding to TLP grants awarded in FY 1994. Further, it is projected that all potential FY 1996 TLP funds will be awarded in the form of continuation grants. In consequence, no applications for new start Transitional Living Program grants will be solicited in FY 1995 for use of FY 1996 funds.

c. National Communications System

Part C, section 331 of the Runaway and Homeless Youth Act, as amended, mandates support for a National Communications System to assist runaway and homeless youth in communicating with their families and with service providers. In FY 1994, a five-year grant was awarded to the National Runaway Switchboard, Inc., in Chicago, Illinois, to operate the system. Non-competitive continuation funding will be awarded to the grantee in FY 1995.

d. Support Services for Runaway and Homeless Youth Programs

(1) Training and Technical Assistance

Part D, section 342 of the Act authorizes the Department to make grants to statewide and regional nonprofit organizations to provide training and technical assistance (T&TA) to organizations that are eligible to receive service grants under the Act. Eligible organizations include the Basic Centers authorized under Part A of the Act (The Runaway and Homeless Youth Grant Program) and the service grantees authorized under Part B of the Act (The Transitional Living Grant Program). Section 3511 of the Anti-Drug Abuse Act of 1988, which authorizes the Drug Abuse Prevention Program for Runaway and Homeless Youth (DAPP), also authorizes support for T&TA to runaway and homeless youth service providers. The purpose of this T&TA is to strengthen the programs and to enhance the knowledge and skills of youth service workers.

In FY 1994, the Family and Youth Services Bureau made ten Cooperative Agreement Awards, one in each of the ten Federal Regions, to provide T&TA to agencies funded under the three Federal programs for runaway and homeless youth (the BCP, the TLP, and the DAPP). Each Cooperative Agreement is unique, being based on the characteristics and different T&TA needs in the respective Regions. Each has a five-year project period that will expire in FY 1999.

Non-competitive continuation funding will be awarded to the ten T&TA grantees in FY 1995.

(2) National Clearinghouse on Runaway and Homeless Youth

In June 1992, a five-year contract was awarded by the Department to establish and operate the National Clearinghouse on Runaway and Homeless Youth. The purpose of the Clearinghouse is to serve as a central information point for professionals and agencies involved in the development and implementation of services to runaway and homeless youth. To this end, the Clearinghouse:

- Collects, evaluates and maintains reports, materials and other products regarding service provision to runaway and homeless youth;
- Develops and disseminates reports and bibliographies useful to the field;
- Identifies areas in which new or additional reports, materials and products are needed; and
- Carries out other activities designed to provide the field with the information needed to improve services to runaway and homeless youth.

Non-competitive continuation funding will be awarded to sustain the Clearinghouse in FY 1995.

(3) Runaway and Homeless Youth Management Information System (RHYMIS)

In FY 1992, a three-year contract was awarded to implement the Runaway and Homeless Youth Management Information System (RHYMIS) across three FYSB programs: The BCP, the TLP, and the DAPP. In FY 1993, using an existing computer-based, information gathering protocol, the contractor began providing training and technical assistance to these grantees in the use of the RHYMIS. The data generated by the system are used to produce reports and information regarding the programs, including information for the required reports to Congress on each of the three programs. The RHYMIS also serves as a management tool for FYSB and for the individual programs.

Non-competitive continuation funding for the RHYMIS will be an option in FY 1995.

(4) Monitoring Support for FYSB Programs

In FY 1992, FYSB began developing a comprehensive monitoring instrument and set of site visit protocols, including a peer-review component for the BCP, the TLP, and the DAPP. Pilot implementation of the instrument and related protocols began in FY 1993. Also in FY 1993 a new contract to provide logistical support for the peer review monitoring process was awarded, including nationwide distribution of the new materials. Use of the new instrument and peer review process during the first full year of operation has resulted in identification of a number of strengths and weaknesses among individual grantees. These findings have been used by the Regional T&TA providers as a basis for their activities.

Non-competitive continuation funding for the logistical contractor will be provided in FY 1995, and a new contract for the effort may be solicited in FY 1996.

e. Research and Demonstration Initiatives

Section 315 of the Act authorizes the Department to make grants to States, localities, and private entities to carry out research, demonstration, and service projects designed to increase knowledge concerning and to improve services for runaway and homeless youth. These activities are important in order to identify emerging issues and to develop and test models which address such issues.

(1) Services for Youth in Rural Areas

Because of geographic distances, population density and, in some cases, cultural differences, it is difficult to provide effective services to runaway and homeless youth in rural areas. In many such areas, scarcity of funds and other resources precludes funding of separate, autonomous Basic Center programs. The need exists for innovative and effective models for the provision of runaway and homeless youth services in rural areas, including Indian reservations. The new models should make services accessible to youth without setting up inordinately expensive service agencies in low populated areas. In FY 1993, first-year funding was awarded to eight grants to develop such models. Non-competitive continuation funding was provided in FY 1994 and will be provided in FY 1995.

(2) Analysis, Synthesis, and Interpretation of New Information Concerning Runaway and Homeless Youth Programs

Over the past few years, considerable new knowledge and information has been developed concerning the runaway and homeless youth programs administered by FYSB, and concerning the youth and families served. The main sources of this new information are the Runaway and Homeless Youth Management Information System (RHYMIS), the results of RHY monitoring visits, and a number of evaluation studies underway or recently completed. The RHYMIS, monitoring reports, and the evaluation studies contain descriptions of FYSB's grantee agencies, along with detailed data on the youth and families served, such as demographic profiles, presenting problems, services provided, and service outcomes. There is need for analysis, synthesis, and interpretation of this new information that will be useful in development of RHY plans and policies for the Family and Youth Services Bureau.

A contract will be awarded in FY 1995 to analyze, synthesize, and develop the program and policy implications of the new information now becoming available. The study will be developed within a context of the most significant, current comprehensive theories of youth development. Proposals to conduct the study will be solicited from the eight Master Contractors for the "Policy and Program Studies" consortium recently established by the Administration on Children, Youth and Families.

f. Priority for a Comprehensive Youth Development Approach.

Over the past several decades, the Federal government has established many programs designed to alleviate discrete problems identified among American youth. Examples are programs for school dropout prevention, juvenile delinquency prevention, abuse and neglect prevention, adolescent pregnancy prevention, youth gang prevention, drug abuse prevention, and compensatory programs to improve the performance of minority and non-English-speaking youth in the public schools. Among these many programs are the BCP, the DAPP, and the TLP.

A shared feature of all these programs is their emphasis on undesirable behavior, with a number of negative consequences. Youth "problems" are commonly used to define and blame, even to punish, the youth. Further, the labeling of a youth as a drug abuser or a delinquent may lead to interventions too narrow to take into account the full array of causes leading to the abuse or delinquency, such as parental neglect, school failure, or poverty. Practicing youth workers are well aware that "single-problem" youth are rare, and that interventions from many different perspectives, and supports, including funding, from many different sources, are required to effectively help troubled youth.

The disjointed services that often follow from this Federal pattern of categorical funding to correct undesirable behavior (funding that targets a single problem behavior of the youth) may be avoided if interventions are viewed from a "developmental" perspective. A developmental perspective views adolescence and youth as the passage from the almost total dependence of the child into the independence and self-sufficiency of the young adult. The various changes, stages, and growth spurts of the passage may be considered as the youth's natural, healthy responses to the challenges and opportunities provided by functional families, peers, neighborhoods, schools and churches. The tasks of youth services providers are seen, thus, not as correcting the "pathologies" of troubled youth, but rather as providing for the successive "needs" of maturing individuals: The psychological need to develop a clear self-identity; the sociological need to resolve disagreements through talking and not through flight or fighting; the economic need to prepare for and enter into a career; and the familial needs for sharing, for trusting, for giving love and receiving love, for commitment, and for all that establishing a family entails.

This developmental approach will become central to all FYSB activities and programs over the next two years.

g. Priorities for Administrative Changes

To support the increased emphasis on youth development, a number of management or administrative changes will be implemented over the coming years:

- The Regional Offices have and will continue to play a significant role in the assessment of grant applications. This role includes Regional staff involvement (1) as chairpersons for peer review panels and (2) in conduct of administrative reviews of new start applications that take into account knowledge about the applicants' experience, effectiveness, and potential and of the geographic distribution of the grantees in their respective States and Regions. Final funding decisions will remain the responsibility of the Commissioner of the Administration on Children, Youth and Families.
- The Administration on Children and Families (ACF) will change the deadline for receipt of a Runaway and Homeless Youth grant application from the postal date of the application to the actual receipt date of the application by ACF. Applicants should carefully examine receipt dates in this announcement to assure that they meet deadlines in the manner prescribed.
- Efforts will be continued to avoid the problems of gaps in financial support between the expiration of one grant and the beginning of a new grant for current grantees that are successful in competition.
- Where possible, FYSB will attempt to increase minimum grant funding levels to amounts sufficient to support the required youth services. However, no minimum levels will be established at this time and the recommendations of Regional staff will be considered in this matter. We suggest that all applicants examine carefully the program announcements to ensure that they request sufficient funds.

F. Eligible Applicants

The various legislative Acts authorizing the runaway and homeless youth programs addressed in this **Federal Register** announcement identify "eligible applicants" differently. Accordingly, the definition appropriate to each individual program is found in Part III of this announcement as a part of each program area description.

VOL 60 ISS 81 AP 27 1995 UMI

Basic Center Program grantees with one or two years remaining on their current awards and the expectation of continuation funding in FY 1995 may not apply for new Basic Center grants. Drug Abuse Prevention Program grantees with one or two years remaining on their current awards and the expectation of continuation funding in FY 1995 may not apply for new Drug Abuse Prevention Program grants. All remaining eligible applicants may apply for new grants for either or both of these two programs.

Applicants may refer to Part VI, Appendix D, for a listing of current grantees that are ineligible to apply under the respective grant programs.

Any non-profit organization submitting an application must submit proof of its non-profit status with its application. Proof can include a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code, or a copy of the currently valid IRS tax-exemption certificate, or a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

G. Availability of Competitive New-Start Funds

The Administration on Children, Youth and Families expects to award approximately 540 new and continuation grants to serve runaway and homeless youth in FY 1995. Dollar amounts to be awarded by fiscal year and program are as follows:

1. Basic Center Program for Runaway and Homeless Youth

The Administration on Children, Youth and Families expects to award approximately $36.4 million in Basic Center Program grants in FY 1995. Of this total, approximately $21.8 million will be awarded in the form of non-competitive continuations to current grantees, and the remaining approximately $14.6 million will be available for competitive, new-start awards. In accordance with the RHY Act, the funds will be divided among the States in proportion to their respective populations under the age of 18. The FY 1995 funding level, which is an increase over the FY 1994 level, triggers the provision in the Act calling for a minimum award of $100,000 to each State, the District of Columbia, and Puerto Rico, and a minimum award of $45,000 to each of the four insular areas: the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas.

The funds available for both continuations and new starts in each of the States and insular areas are listed in the Table of Allocations by State (Part VI, Appendix H). In this Table, the amounts shown in the column labeled "New Starts" are the amounts available for competition in the respective States.

Current Basic Center Program grantees having one or two years remaining in their project periods will receive instructions from their respective ACF Regional Offices on the procedures for applying for these continuation grants and should not respond to this announcement. These grantees are listed in Part VI, Appendix D.1, have project expiration dates in FY 1996 or 1997, and are not eligible to apply for new Basic Center grants.

Current Basic Center Program grantees with project periods ending by September 30, 1995, and all other eligible applicants not currently receiving Basic Center funds may apply for the new competitive grants under this announcement.

The number of new awards made within each State will depend upon the funds available (i.e., the State's total allotment less the amount required for non-competing continuations), as well as on the number of acceptable applications. Therefore, where the amount required for non-competing continuations in any State equals the State's total allotment, no new awards will be made.

All applicants under this announcement will compete with other applicants in the State in which their services would be provided. In the event that an insufficient number of acceptable applications is approved for funding from any State or jurisdiction, the Commissioner, ACYF, will reallocate the unused funds.

Further information on the BCP application requirements is presented in Part III, Section A, and in Part IV.

2. Drug Abuse Education and Prevention Program for Runaway and Homeless Youth

In FY 1995, the Administration on Children, Youth and Families expects to award approximately $4.5 million in new competitive Drug Abuse Prevention Program grants and $6.6 million in non-competing continuation DAPP awards.

Further information on the DAPP application requirements is presented in Part III, Section B, and in Part IV.

H. Duration of Projects

This announcement solicits applications for projects of up to three years duration (36-month project periods) for the BCP and the DAPP. Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantees, and determination that continued funding would be in the best interest of the government.

I. Maximum Federal Award and Grantee Share of the Project

The maximum amount of Federal funds for which an applicant can apply is specified in the program descriptions found in Part III of this announcement.

The legislation authorizing runaway and homeless youth programs requires that grantees provide a non-Federal match for Federal funds. In some cases, this non-Federal share is a percent of the total cost of the project and, in some cases, it is a percent of the Federal share. Specific non-Federal share requirements for each Priority Area are found in Part III of this announcement.

The non-Federal share may be met by cash or in-kind contributions. Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants. Applicants which do not provide the required percentage of non-Federal share will not be funded. For-profit applicants for Basic Center Program grants are reminded that no grant funds may be paid as profit to any recipient of a grant or sub-grant (45 CFR 74.705).

Part II. Evaluation Criteria

The five criteria that follow will be used to review and evaluate each application under the BCP and the DAPP and should be used in developing the program narratives. The point values following each criterion heading indicate the numerical weight each criterion will be accorded in the review process. Note that the highest possible value BCP and DAPP applications can receive is 105 points. See Criterion 4 for more specific information.

Criterion 1. Objectives and Need for Assistance (15 Points)

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution. Demonstrate the need for the assistance and state the goals or service objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Give a precise location of the project

site(s) and area(s) to be served by the proposed project. Maps or other graphic aids may be attached. (The applicant should refer to Part I, Section C, of this announcement for a description of each program's purpose.)

Criterion 2. Results or Benefits Expected (20 Points)

Identify the results and benefits to be derived from the project. State the numbers of runaway and homeless youth and their families to be served, and describe the types and quantities of services to be provided. Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project.

Criterion 3. Approach (35 Points)

Outline a plan of action pertaining to the scope of the project and detail how the proposed work will be accomplished. Describe any unusual features of the project, such as extraordinary social and community involvements, and how the project will be maintained after termination of Federal support. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved.

Criterion 4. Staff Background and Organizational Experience (20 Points)

List the organizations, cooperators, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Summarize the background and experience of the project director and key project staff and the history of the organization. Demonstrate the ability to effectively manage the project and to coordinate activities with other agencies. Applicants are encouraged to discuss staff and organizational experience in working with runaway and homeless youth populations and may include information regarding their past performance under RHYP grants. Applicants may refer to the staff resumes and to the Organizational Capability Statement included in the submission.

Legislation authorizing each of the Federal Runaway and Homeless Youth Programs requires that priority for funding be given to agencies with experience in providing direct services to runaway and homeless youth. In line with this requirement, BCP and DAPP applicants having three (3) or more years of continuous effort serving runaway and homeless youth in one or more areas set forth in section 312 of the Act are eligible to receive an additional five (5) points on this criterion.

Criterion 5. Budget Appropriateness (10 Points)

Demonstrate that the project's costs (overall costs, average cost per youth served, costs for different services) are reasonable in view of the anticipated results and benefits. (Applicants may refer (1) to the budget information presented in Standard Forms 424 and 424A and in the associated budget justification, and (2) to the results or benefits expected as identified under Criterion 2.)

The Program Narrative information provided by the applicant in response to the priority area description identified in Part III of this announcement should be organized and presented according to these five evaluation criteria.

Part III. Program Areas

A. Basic Center Program for Runaway and Homeless Youth

Eligible Applicants: Any State, unit of local government, combination of units of local government, public or private agency, organization, institution, or other non-profit entity is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply for Basic Center grants. Non-Federally recognized Indian Tribes and urban Indian organizations are also eligible to apply for grants as private, non-profit agencies.

Grantees (including subgrantees) with current Basic Center grants who are eligible to apply for non-competitive continuation funding in FY 1995 may not apply for competitive new Basic Center grants under this announcement. Applicants may refer to Part VI, Appendix D.1 for a listing of current grantees which are ineligible for grants under this priority area.

As required by runaway and homeless youth legislation, priority for funding will be given to agencies with demonstrated experience establishing and operating centers that provide direct services to runaway and homeless youth in a manner that is outside the law enforcement system, the child welfare system, the mental health system and the juvenile justice system. Demonstrated experience providing direct services means three (3) or more years of continuous effort serving runaway and homeless youth in one or more areas set forth in section 312 of the Act. Applications claiming credit for this preference must include a statement of no more than one page documenting the relevant experience.

Program Purpose, Goals, and Objectives: The Administration on Children, Youth and Families will award approximately 115 new service grants to establish or strengthen existing or proposed runaway and homeless youth Basic Centers. These programs must be locally controlled efforts that provide temporary shelter, counseling and related services to juveniles who have left home without permission of their parents or guardians or to other homeless juveniles.

Applications are solicited under this program area to provide direct services that fulfill the program purposes, goals and objectives set forth in the legislation and as specified in Part I, section C.1 of this announcement.

Background: The Runaway Youth and Homeless Youth Act of 1974 was a response to widespread concern regarding the alarming number of youth who were leaving home without parental permission, crossing State lines, and who, while away from home, were exposed to exploitation and other dangers of street life.

Each Basic Center funded under the authorizing legislation is required to provide outreach to runaway and homeless youth; temporary shelter for up to fifteen days; food; clothing; individual, group, and family counseling; and related services. Many Basic Centers provide their services in residential settings with a capacity for no more than 20 youth. Some centers also provide some or all of their shelter services through host homes (usually private homes under contract to the centers), with counseling and referrals being provided from a central location.

Currently, approximately 60,000 youth annually receive shelter for an average of 12 nights and other ongoing services through ACYF-funded Basic Centers. The primary presenting problems of these youth include conflict with parents or other adults, including physical and sexual abuse; other family crises such as divorce, death, or sudden loss of income; and personal problems such as drug use, or problems with peers, school attendance and truancy, bad grades, inability to get along with teachers, and learning disabilities.

Low self-esteem is a major problem among this population. Half have a poor self image; somewhat less than half are depressed; and 10 percent are possibly suicidal.

After receiving ongoing services from shelter programs, approximately one half of the youth return to their families. One-third are provided alternative, but safe, long-term living arrangements. Five percent return to the streets, and 10

VOL 60 ISS 81 AP 27 1995 UMI

percent leave the centers with no known destination.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

Objectives and Need for Assistance

1. Applicant must specify the goals and objectives of the project and how implementation will fulfill the purposes of the legislation identified in Part I, section C.1. of this announcement.

2. Applicant must describe the conditions of youth and families in the area to be served, with an emphasis on the incidence and characteristics of runaway and homeless youth and their families. The discussion must consider matters of family functioning, along with the health, education, employment, and social conditions of the youth, including at-risk conditions or behaviors such as drug use, school failure, and delinquency.

3. Applicant must discuss the existing support systems for at-risk youth and families in the area, with specific references to law enforcement, health and mental health care, social services, school systems, and child welfare. In addition, other agencies providing shelter and services to runaway and homeless youth in the area must be identified.

4. Within the context of the existing support systems, applicant must demonstrate the need for the center and indicate the objectives that the program would work toward fulfilling.

5. Applicant must describe the area to be served by the proposed center, and must demonstrate that the center is or will be located in an area which is frequented by and/or easily accessible by runaway and homeless youth.

Results and Benefits Expected

1. Applicant must specify the numbers of runaway and homeless youth and their families to be served, the number of beds available for runaway and homeless youth and the types and quantities of services to be provided.

2. Applicant must describe the anticipated changes in attitudes, values and behavior, and improvements in individual and family functioning that will occur as a consequence of the services provided by the center.

3. Applicant must discuss the expected impact of the project on the availability of services to runaway and homeless youth in the local community and indicate how the project will enhance the organization's capacity to provide services that address the needs of runaway and homeless youth in the community.

Approach

1. Applicant must describe how the center's youth development approach or philosophy underlies and integrates all proposed activities, including provision of services to runaway and homeless youth and involvement of the youth's parents or legal guardians.

2. Applicant must describe how runaway and homeless youth and their families will be reached, and how services will be provided in compliance with the Program Performance Standards listed in Part VI, Appendix A.

3. Applicant must include detailed plans for implementing direct services based upon a youth development approach and upon identified goals and objectives. Applicant must identify the strategies that will be employed and the activities that will be implemented, including innovative approaches to securing appropriate center services for the runaway and homeless youth to be served, for involving family members as an integral part of the services provided, for periodic review and assessment of individual cases, and for encouraging awareness of and sensitivity to the diverse needs of runaway and homeless youth who represent particular ethnic and racial backgrounds, sexual orientations, or are street youth.

4. Applicant must describe the center's plans for conducting an outreach program that, where applicable, will attract members of ethnic and racial minorities and/or persons with limited ability to speak English.

5. Applicant must describe the center's plans and procedures for intake and assessment of the youth upon arrival at the center.

6. Applicant must describe the center's plans for contacting the parents or other relatives of the youth they serve, for ensuring the safe return of the youth to their parents, relatives or legal guardians if it is in their best interests, for contacting local governments pursuant to formal or informal arrangements established with such officials, and for providing alternative living arrangements when it is not safe or appropriate for the youth to return home.

7. Applicant must describe the type of shelter that will be available, the shelter capacity of the center and the system of staff supervision to be implemented in the shelter.

8. Applicant must describe the center's plans for ensuring proper coordination with law enforcement personnel, health and mental health care personnel, social service personnel, and welfare personnel.

9. Applicant must describe the center's plans for ensuring coordination with the schools to which runaway and homeless youth will return, and for assisting the youth to stay current with the curricula of these schools.

10. Applicant must describe the center's procedures for dealing with youth who have run from foster care placements.

11. Applicant must describe procedures for dealing with youth who have run from correctional institutions, and must show that procedures are in accordance with Federal, State and local laws.

12. Applicant must describe the center's plans and procedures for providing aftercare services and for ensuring, whenever possible, that aftercare services will also be provided to those youth who are returned beyond the State in which the center is located.

13. Applicant must agree to gather and submit program and client data required by FYSB's Runaway and Homeless Youth Management Information System (RHYMIS). If applicant is a current recipient of a BCP or DAPP grant (expiring in FY 1995), applicant must describe the extent to which he or she now gathers and submits required data to the RHYMIS.

While the computer software and training for the implementation of the RHYMIS will be provided by FYSB to grantees, applicant should include a request for funds in its budget for any computer equipment needed for implementation of the RHYMIS. To determine whether an agency's current computer equipment is adequate, or whether purchase of an upgrade or of new equipment is necessary, potential applicants are invited to contact the RHYMIS Technical Support Group at Information Technology Incorporated, Bethesda, MD, telephone: 1–800–392–2395.

14. Applicant must agree to cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families.

15. Applicant must describe how the activities implemented under this project will be continued by the agency once Federal funding for the project has ended. The applicant must describe specific plans for accomplishing program phase-out for the last two quarters of the 36-month project period in the event the applicant does not receive a new award.

Staff Background and Organizational Experience

1. As priority for funding will be given to agencies and organizations that have documented experience in establishing and operating centers that provide direct services to runaway and homeless youth, applicant must include a brief description of the organization and its experience in providing services to this client population.

2. Applicant must include a description of current and proposed staff skills and knowledge regarding runaway and homeless youth and indicate how staff will be utilized in achieving the goals and objectives of the program. Information on proposed staff training and brief resumes or job descriptions may be included.

3. Applicant must describe procedures for maintaining confidentiality of records on the youth and families served. Procedures must insure that no information on the youth and families is disclosed without the consent of the individual youth, parent or legal guardian. Disclosures without consent can be made to another agency compiling statistical records if individual identities are not provided or to a government agency involved in the disposition of criminal charges against an individual runaway or homeless youth.

4. Applicant must describe how the project has established or will establish formal service linkages with other social service, law enforcement, educational, housing, vocational, welfare, legal service, drug treatment and health care agencies in order to ensure appropriate referrals for the project clients when needed.

5. Applicant must describe how community and other support will be secured to continue the project at the conclusion of the Federal grant period.

Budget Appropriateness

1. Applicant must discuss and justify the costs of the proposed project in terms of numbers of youth and families to be served, types and quantities of services to be provided, and the anticipated outcomes for the youth and families.

2. The applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program announcement.

Duration of Project: This announcement solicits applications for Basic Center projects of up to three years duration (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee, and determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Priority will be given to applicants which apply for less than $200,000 per year. The maximum Federal share for a 3-year project period is $600,000.

Applicant Share of Project Costs: Basic Center grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project requesting $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 (=$10,000 per budget period).

B. Drug Abuse Education and Prevention Program for Runaway and Homeless Youth (DAPP)

Eligible Applicants: Any State, unit of local government (or combination of units of local government), public or non-profit private agency, organization, institution, or other non-profit entity is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply for DAPP grants. Non-Federally recognized Indian Tribes and urban Indian organizations are also eligible to apply for grants as private, non-profit agencies.

Grantees (including subgrantees) with current DAPP grants with 12 or more months remaining in their project periods may not apply for new DAPP grants under this announcement. Applicants may refer to Part VI, Appendix D.2. for a listing of current grantees which are ineligible to apply for grants under this priority area. No more than one grant per legal entity (organization) will be awarded under this priority area. Organizations submitting more than one application for DAPP funds must understand that only one application will be considered for funding.

Legislation authorizing each of the Federal Runaway and Homeless Youth Programs requires that priority for funding be given to agencies with experience in providing direct services to runaway and homeless youth. In line with this requirement, applicants which have three (3) or more years of continuous effort serving runaway and homeless youth in one or more areas set forth in Section 312 of the Act are eligible to receive an additional five (5) points in this criterion. Applications claiming credit for this preference must include a statement of no more than one page documenting the relevant experience. Empirical or applied research experience is not considered direct service.

Program Purpose, Goals and Objectives: The Administration on Children, Youth and Families will award approximately 45 new grants to support services within a community to maintain, improve and/or expand drug abuse prevention, early intervention, and reduction of drug dependency services to runaway and homeless youth and their families. Applications are solicited under this priority area to carry out direct service projects designed to address the issue of drug abuse among runaway and homeless youth in the applicant's community as required by the goals and objectives set forth in the legislation and specified in Part I, section C.2. of this announcement.

Activities that may be maintained, improved and/or expanded through a DAPP grant include but are not necessarily limited to:

1. Improving networking and service coordination to increase the availability of services to runaway and homeless youth;

2. Expanding outreach activities, particularly street-based outreach programs;

3. Providing individual, family, group, and/or peer prevention and intervention counseling related to alcohol and other drug use;

4. Strengthening intake and assessment procedures for substance abuse at runaway and homeless youth shelters;

5. Coordinating services with drug treatment facilities and making referrals to treatment that are geared to the runaway and homeless youth population;

6. Providing aftercare and follow-up services to runaway and homeless youth with substance abuse problems who have received shelter and/or non-residential services;

7. Increasing staff knowledge and skills related to working with runaway and homeless youth with substance abuse problems by improving or accessing training opportunities;

8. Improving programming to address the unique cultural needs and concerns of minority runaway and homeless youth;

VOL
60
ISS
81
AP
27
1995
UMI

9. Involving and educating parents, siblings and peers of runaway and homeless youth receiving drug abuse prevention services;

10. Developing and implementing programs designed to reduce drug involvement among the target population by improving coping skills and reducing stress factors arising from such problems as homelessness, family dysfunction, and peer pressure; and

11. Establishing linkages with community mental health programs that will provide comprehensive substance abuse counseling and/or treatment to runaway and homeless youth.

Efforts that will not be funded under this priority area include research and demonstration projects on illicit drug use by runaway and homeless youth, and the direct provision of drug treatment services such as those services provided in a medical setting or by medical personnel.

This priority area is specifically targeted to runaway and homeless youth. Potential applicants interested in providing drug abuse prevention services to high-risk youth other than those who are runaways or homeless are encouraged to contact the Center for Substance Abuse Prevention (CSAP). For information on CSAP grant programs and other drug abuse prevention resources, applicants should contact the National Clearinghouse for Alcohol and Drug Information, P.O. Box 2345, Rockville, Maryland 20847–2345; telephone: 1–800–729–6686.

Background: Abuse of drugs has had an increasingly severe effect on runaway and homeless youth. In 1994, approximately 20 percent of youth entering the Basic Centers identified alcohol and other illicit drugs as a personal problem. Approximately the same percentage identified substance abuse by household members as a problem.

The Drug Abuse Education and Prevention Program (DAPP) provides Federal Assistance to comprehensively address the problem of drug involvement among runaway and homeless youth. Since the program's inception in 1989, ACYF has awarded approximately $90 million in discretionary grants to approximately 475 agencies and organizations located throughout the United States, including Puerto Rico and the Virgin Islands.

While varying degrees of success have been reported by DAPP grantees, many of the most promising programs have implemented one or more of the following components:

1. Candid discussions between youth and street-wise peer counselors and/or recovering youth substance abusers who can discuss addiction and recovery from their personal experience;

2. Sessions in which youth obtain accurate facts on any and all aspects of substance abuse and treatment;

3. Presentation of decision-making and self-assertiveness skills and techniques that assist youth in making independent choices and avoiding drug-involved friends and environments;

4. Counseling and/or other strategies for helping youth to understand both the underlying causes of drug use and the effect of drugs on them, their families, their peers and their communities;

5. Educational information that portrays the consequences of overdosing, the effects of drug withdrawal, and the increased chances of contracting the HIV virus and AIDS; and

6. The provision of specific and realistic information on various treatment options that are available, assistance in enrolling in such programs, and appropriate follow-up by the service provider.

Minimum Requirements for Project Design: As a part of addressing the evaluation criteria outlined in Part II of this announcement, applicants must address the following items in the program narrative sections of their applications.

Objectives and Need for Assistance

1. Applicant must specify the goals and objectives of the program and how implementation will fulfill the requirements of the legislation identified in Part I, Section C.2., of this announcement.

2. Applicant must discuss the rates of illicit drug use by juveniles, specifically addressing the incidence related to runaway and homeless youth in the community(ies) to be served and the availability (or lack) of services for runaway and homeless youth in those communities.

3. Applicant must identify the extent to which the proposed projects or activities will provide services in geographic areas where similar services are unavailable or in short supply.

4. Applicant must demonstrate an understanding of the issues related to alcohol and other drug abuse among runaway and homeless youth and the provision of services to that population.

Results and Benefits Expected

1. Applicant must identify the number of runaway and homeless youth and their families to be served, the types and quantities of services to be provided and how units of service will be defined and measured.

2. Applicant must discuss how the project will enhance or increase the capacity of the applicant to provide services to address the illicit use of alcohol and other drugs by runaway and homeless youth.

3. Applicant must describe the extent to which the project will maintain, increase or improve the community's level of services and/or the coordination of services for runaway and homeless youth.

4. Applicant must discuss the expected impact of the project on the availability of services to homeless youth in the local community and indicate how the project will enhance the organization's capacity to provide services to address youth homelessness in the community.

Approach

1. Applicant must describe how the project's youth development approach or philosophy underlies and integrates all proposed activities, including provision of services to runaway and homeless youth and involvement of the youth's parents or legal guardians.

2. Applicant must describe how the program will maintain, improve, and/or expand direct alcohol and other drug abuse prevention, intervention and reduction services in their community.

3. Applicant must include detailed plans for implementing direct services based upon identified goals and objectives. Applicant must identify the strategies that will be employed and the activities that will be implemented. These should include innovative approaches to securing appropriate drug treatment services for the runaway and homeless youth to be served, for involving family members as an integral part of services provided, and for encouraging awareness of and sensitivity to the diverse needs of runaway and homeless youth who represent particular ethnic and racial backgrounds, sexual orientations, or who are street youth.

4. Applicant must identify, when appropriate, the short-term prevention and intervention strategies to be used with runaway and homeless youth in temporary emergency shelters and explain the follow-up efforts to be implemented with the youth once they leave the shelters.

5. Applicant must discuss how the proposed project will be integrated with other services to runaway and homeless youth that are provided by the applicant or that are available in the community. In addition, applicant is encouraged to show evidence of collaboration with other agencies in the development of a comprehensive approach to service delivery for runaway and homeless youth. Applicant must identify the organizations with which it will work and describe the contributions of these organizations to the project. A letter of commitment that indicates the level of responsibility and involvement must be included for each participating agency.

6. Applicant must identify and explain how the program will provide alcohol and other drug abuse prevention services to address the particular needs of runaway and homeless youth who are members of ethnic and racial minority groups, persons with limited ability to speak English and/or who are street youth.

7. Applicant must discuss the extent, if any, to which the project will incorporate new or innovative techniques.

8. Applicant must discuss plans for evaluating the project, including assessing the outcomes and accomplishments of the program and the service delivery models being implemented.

9. Applicant must describe how the activities implemented under this project will be continued by the agency once Federal funding for the project has ended. The applicant must describe specific plans for accomplishing program phase-out for the last two quarters of the program project period in the event the applicant does not receive a new award.

10. Applicant must agree to gather and submit program and client data required by FYSB's Runaway and Homeless Youth Management Information System (RHYMIS). If applicant is a current recipient of a BCP or DAPP grant (expiring in FY 1995), applicant must describe the extent to which he or she now gathers and submits required data to the RHYMIS.

While the computer software and training for the implementation of the RHYMIS will be provided by FYSB to grantees, applicant should include a request for funds in its budget for any computer equipment needed for implementation of the RHYMIS. To determine whether an agency's current computer equipment is adequate, or whether purchase of an upgrade or of new equipment is necessary, potential applicants are invited to contact the RHYMIS Technical Support Group at Information Technology Incorporated, Bethesda, MD, telephone: 1–800–392–2395.

11. Applicant must agree to cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families.

Staff Background and Organizational Experience

1. As priority for funding will be given to agencies and organizations that have documented experience in providing direct services to runaway and homeless youth, applicant must include a brief description of the organization and its experience in providing services to this client population.

2. Applicant must include a brief description of current and proposed staff skills and knowledge regarding developmental needs of runaway and homeless youth, and indicate how staff will be utilized in achieving the goals and objectives of the program. Information on proposed staff training and brief resumes or job descriptions may be included.

3. Applicant must describe procedures for maintaining confidentiality of records on the youth and families served. Procedures must insure that no information on the youth and families is disclosed without the consent of the individual youth, parent or legal guardian. (Disclosures without consent can be made to another agency compiling statistical records if individual identities are not provided or to a government agency involved in the disposition of criminal charges against an individual runaway or homeless youth.)

Budget Appropriateness

1. Applicant must discuss and justify the costs of the proposed project in terms of numbers of youth and families to be served, types and quantities of services to be provided, and the anticipated outcomes for the youth and families.

2. The applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program announcement.

Duration of Project: This announcement solicits applications for Drug Abuse Prevention Projects of up to three years duration (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Up to $100,000 per year, which equals a maximum Federal share of $300,000 for a 3-year project period.

Applicant Share of Project Costs: Drug Abuse Prevention Program grantees must provide at least 25 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $300,000 in Federal funds over a three-year project period (based on an award of $100,000 per 12-month budget period) must include a match of at least $100,000 (= 25 percent of $400,000, the total approved cost of the project).

Part IV. Application Process

A. Assistance to Prospective Grantees

Potential grantees can receive informational assistance in developing applications from the appropriate ACF Regional Youth Contacts listed in Part VI, Appendix E, or from the Administration on Children, Youth and Families in Washington, D.C. (see address at the beginning of this announcement). Organizations may also receive information and technical assistance in preparing applications from the appropriate Training and Technical Assistance Provider grantee listed in Part VI, Appendix F.

B. Application Requirements

To be considered for a grant, each application must be submitted on the forms provided at the end of this announcement (see Part VI, section I of this announcement) and in accordance with the guidance provided below. The application must be signed by an individual authorized both to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

If more than one agency is involved in submitting a single application, one entity must be identified as the applicant organization which will have legal responsibility for the grant.

C. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record-keeping requirements in regulations, including

VOL
60
ISS
81
AP
27
1995
UMI

program announcements. This program announcement does not contain information collection requirements beyond those approved for grant applications under OMB Control Number 0348–0043.

D. Notification Under Executive Order 12372

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these 19 jurisdictions need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants must contact their SPOCs as soon as possible to alert them to the prospective application and receive any necessary instructions. Applicants must submit any required material to the SPOCs as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCS are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they must be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Part VI, Appendix G, of this announcement.

Availability of Forms and Other Materials

A copy of the forms required to be submitted as part of each application for a runaway and homeless youth grant, and instructions for completing the application, are provided in Part VI, Appendix I. The Basic Center Program Performance Standards as well as descriptions of the National Runaway Switchboard and the National Clearinghouse on Runaway and Homeless Youth are presented in Part VI, Appendices A, B and C. Addresses of the State Single Points of Contact (SPOCs) to which applicants must submit review copies of their proposals are listed in Part VI, Appendix G.

Legislation referenced in Part I, section B, of this announcement may be found in major public libraries and at the ACF Regional Offices listed in Part VI, Appendix E, at the end of this announcement.

Additional copies of this announcement may be obtained from the ACF Regional Offices or by calling the telephone number listed at the beginning of this announcement. Further general information may be obtained from the Training and Technical Assistance Providers listed in Part VI, Appendix F.

F. Application Consideration

All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation process against the specific criteria outlined in Part II of this announcement and the specific Minimum Requirements for Project Design contained in Part III of this announcement. This review will be conducted in Washington, DC, by teams of non-Federal experts knowledgeable in the areas of youth development and human service programs. Applications for Basic Center Program grants will be reviewed competitively only with other applications from the same State. Applications for Drug Abuse Prevention Program grants will be reviewed as part of a national competition.

Non-Federal experts will review the applications based on the Evaluation Criteria listed in Part II of this announcement and the specific Minimum Requirements for Project Design contained in Part III of this announcement, and will assign a score to each application. Both Central and Regional office staff will conduct administrative reviews of the applications and the results of the competitive reviews and will select those applications to be recommended for funding to the Commissioner, ACYF.

The Commissioner will make the final selection of the applicants to be funded. As required by runaway and homeless youth legislation, priority for funding will be given to agencies with demonstrated experience in providing direct services to runaway and homeless youth. However, current grantees ending three-year funding periods, and applying as new applicants for funds under this program announcement, are reminded that when the current project periods end so does the funding agency's obligation for future awards. Criterion 3, Approach, requires applicants to specifically discuss how their projects will be maintained after termination of Federal support.

In addition to scores assigned by non-Federal reviewers and Regional Office Reviewers, consideration will be given to adequate geographic distribution of services, and the Commissioner may show preference for applications proposing services in areas that would not otherwise be served. The Commissioner also may elect to consider applicants' past performance in providing services to runaway and homeless youth and also may elect not to fund any applicants having known management, fiscal, reporting (as under the RHYMIS), or other problems which make it unlikely that they would be able to provide effective services

Grant awards for Basic Center Program and Drug Abuse Prevention Program Grants will be made by September 30, 1995. Successful applicants will be notified through the issuance of a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated. Organizations whose applications will not be funded will be notified of that decision in writing by the Commissioner of the Administration on Children, Youth and Families. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made, including grantees whose three-year project periods end in FY 1995.

Applicants applying for more than one runaway and homeless youth grant (Basic Center Program (BCP), Drug Abuse Prevention Program (DAPP)) must submit separate and complete applications for each program. BCP and DAPP applications that combine the two programs in a single proposal will not be reviewed.

Part V. Application Content, Instructions, Assembly, and Submission

A. Content, Instructions, and Assembly of Applications

Each application must contain the following items in the order listed:

1. Application for Federal Assistance (Standard Form 424, REV 4–88) (page i). Follow the instructions in Part VI, Appendix I. In Item 8 of Form 424, check "New." In Item 10 of the 424, clearly identify the Catalog of Federal Domestic Assistance Program Number and Title for the program for which funds are being requested (93.623, Basic Center Program for Runaway and Homeless Youth; 93.657, Drug Abuse Education and Prevention Program for Runaway and Homeless Youth). In Item 11 of the 424, identify the Program Area (IIIA or IIIB) and the program name [(Basic Center Program (BCP) or Drug Abuse Prevention Program (DAPP))] which the application is addressing.

2. Budget Information (Standard Form 424A, REV 4–88) (pages ii–iii). Follow the instructions in Part VI, Appendix I.

3. Budget Justification (Type on standard size plain white paper) (pages iv–v). Provide breakdowns for major budget categories and justify significant costs. List amounts and sources of all funds, both Federal and non-Federal, that will be used for this project.

4. Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88) (pages vi–vii). Certification Regarding Drug-Free and Smoke-Free Workplace, Certification Regarding Debarment, Certification Regarding Lobbying, and Certification Regarding Environmental Tobacco Smoke. Of these forms, only the Standard Form 424B and the Certification Regarding Lobbying need to be signed and returned with the application. By signing and submitting its application each applicant is certifying its compliance with the Drug-Free and Smoke-Free Workplace and Debarment certification requirements included in this announcement.

5. Program Narrative Statement (pages 1 and following; 40 pages maximum, double-spaced). Use the Evaluation Criteria in Part II as a way to organize the Narrative. Be sure to address all the specifics contained in the appropriate Program Area Description in Part III, especially the information described under Minimum Requirements for Project Design.

The pages of the narrative statement must be numbered and are limited to 40 typed pages, double spaced, printed on only one side, with at least ½ inch margins. Applications which contain a program narrative statement longer than 40 double-spaced pages will not be reviewed or considered for funding. In addition, please note that previous attempts by applicants to circumvent space limitations or to exceed page limits by using small print have resulted in negative responses from reviewers because of the difficulty in reviewing the application. It is in the best interest of the applicants to ensure that the narrative statements are easy to read, logically developed in accordance with evaluation criteria, and adhere to page limitations.

6. Organizational Capability Statement (pages OCS–1 and following; 3 pages maximum). Applicants must provide a description (no more than three pages, double-spaced) of how the applicant agency is organized and the types, quantities and costs of services it provides, including services to clients other than runaway and homeless youth. For the prior year, list all contracts with or funds received from juvenile justice, probation and/or welfare agencies. Provide an organizational chart showing any superordinate, parallel, or subordinate agencies to the specific agency that will provide direct services to runaway and homeless youth, and summarize the purposes, clients and overall budgets of these other agencies. If the agency has multiple sites, list these sites, including addresses, phone numbers and staff contact names, if different than those on the SF 424. If the agency is a recipient of funds from the Administration on Children, Youth and Families for services to runaway and homeless youth for programs other than that applied for in this application, show how the services supported by these funds are or will be integrated with the existing services.

7. Supporting Documents (pages SD–1 and following). The maximum for supporting documentation is 10 pages, double spaced, exclusive of letters of support or agreement. These documents might include résumés, photocopies of newsclippings, evidence of the program's efforts to coordinate youth services at the local level, etc. Documentation over the ten page limit will not be reviewed. Applicants may include as many letters of support or agreement as are appropriate.

B. Application Submission

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all attachments, to the application receipt point specified below. The original copy of the application must have original signatures, signed in *black* ink. Each copy must be stapled (back and front) in the upper left corner. All copies of a single application must be submitted in a single package.

Because each application will be duplicated by the government, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate subsections of the application, including supporting documentation.

The closing dates for receipt of applications for the grant programs contained in this announcement are:

Program and Closing Date

BCP, June 16, 1995
DAPP, June 30, 1995

Applications should be submitted to the following address: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Aerospace Building, 6th Floor, Washington, DC 20447. Attn: Maiso Bryant, ACF–95–ACYF/RHYP. (Hand delivered applications will be accepted during the normal working hours of 9 a.m. to 5:30 p.m., Monday through Friday.)

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at:

Administration for Children and Families, Division of Discretionary Grants, 6th Floor, ACF Guard Station, 901 D Street, SW., Washington, DC 20047

Envelopes containing applications must clearly indicate the specific program that the application is addressing: Basic Center Program (BCP); Drug Abuse Prevention Program (DAPP).

Deadline. Applications will be considered as meeting the deadline if they are received on or before the RECEIPT date at the above address. *Please note that this is a departure from the traditional approach of using postmarks instead of actual receipt dates to determine eligibility of applications for review.*

Late Applications. Applications which do not meet the criteria stated above and are not received by the RECEIPT date are considered late

VOL 60 ISS 81 AP 27 1995 UMI

applications. The Administration for Children and Families (ACF) will notify each late applicant that its application will not be considered in the current competition.

Extension of Deadline. The ACF may extend the deadline for all applicants because of acts of God such as earthquakes, floods or hurricanes, etc., or when there is a widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

(*Catalog of Federal Domestic Assistance.* Number 93.623, Basic Center Program for Runaway and Homeless Youth; Number 93.657, Drug Abuse Education and Prevention Program for Runaway and Homeless Youth)

Dated: April 13, 1995.

Joseph A. Mottola,

Deputy Commissioner, Administration on Children, Youth and Families.

Part VI. Appendices

Appendix A. Basic Center Program Performance Standards

Program Performance Standards

I. Purpose

The Program Performance Standards established by the Bureau for its funded centers relate to the basic program components enumerated in section 317 of the Runaway and Homeless Youth Act and as further detailed in the Regulations and Program Guidance governing the implementation of the Act. They address the methods and processes by which the needs of runaway and homeless youth and their families are being met, as opposed to the outcome of the services provided on the clients served.

The terms "program performance standard," "criterion," and "indicators" are used throughout both the instrument and the instructions. These terms are defined as follows:

Program Performance Standard: The general principle against which a judgment can be made to determine whether a service or an administrative component has achieved a particular level of attainment.

Criterion: A specific dimension or aspect of a program performance standard which helps to define that standard and which is amenable to direct observation or measurement.

Indicator: The specific documentation which demonstrates whether a criterion (or an aspect of a criterion) is being met and thereby the extent to which a specific aspect of a standard is being met.

Fourteen program performance standards, with related criteria, are established by the Bureau for the projects funded under the Runaway and Homeless Youth Act. Nine of these standards relate to service components (outreach, individual intake process, temporary shelter, individual and group counseling, family counseling, service linkages, aftercare services, recreational programs, and case disposition), and five to administrative functions or activities (staffing and staff development, youth participation, individual client files, ongoing project planning, and board of directors/advisory body).

Although fiscal management is not included as a program performance standard, it is viewed by FYSB as being an essential element in the operation of its funded projects. Therefore, as validation visits are made, the Regional ACF specialist and/or staff from the Office of Fiscal Operations will also review the project's financial management activities.

FYSB views these program performance standards as constituting the minimum standards to which its funded projects should conform. The primary assumption underlying the program performance standards is that the service and administrative components which are encompassed within these standards are integral (but not sufficient in themselves) to a program of services which effectively addresses the crisis and long-term needs of runaway and homeless youth and their families.

The program performance standards are designed to serve as a developmental tool, and are to be employed by both the project staff and the Regional ACF staff specialists in identifying those service and administrative components and activities of individual projects which require strengthening and/or development either through internal action on the part of staff or through the provision of external technical assistance.

II. Program Performance Standards and Criteria

The following constitute the program performance standards and criteria established by the Bureau for its funded centers. Each standard is numbered, and each criterion is listed after a lower case letter.

1. Outreach

The project shall conduct outreach efforts directed towards community agencies, youth and parents.

2. Individual Intake Process

The project shall conduct an individual intake process with each youth seeking services from the project. The individual intake process shall provide for:

a. Direct access to project services on a 24-hour basis.

b. The identification of the emergency service needs of each youth and the provision of the appropriate services either directly or through referrals to community agencies and individuals.

c. An explanation of the services which are available and the requirements for participation, and the securing of a voluntary commitment from each youth to participate in project services prior to admitting the youth into the project.

d. The recording of basic background information on each youth admitted into the project.

e. The assignment of primary responsibility to one staff member for coordinating the services provided to each youth.

f. The contact of the parent(s) or legal guardian of each youth provided temporary shelter within the timeframe established by State law or, in the absence of State requirements, preferably within 24 but within no more than 72 hours following the youth's admission into the project.

3. Temporary Shelter

The project shall provide temporary shelter and food to each youth admitted into the project and requesting such services.

a. Each facility in which temporary shelter is provided shall be in compliance with State and local licensing requirements.

b. Each facility in which temporary shelter is provided shall accommodate no more than 20 youth at any given time.

c. Temporary shelter shall normally not be provided for a period exceeding two weeks during a given stay at the project.

d. Each facility in which temporary shelter is provided shall make at least two meals per day available to youth served on a temporary shelter basis.

e. At least one adult shall be on the premises whenever youth are using the temporary shelter facility.

4. Individual and Group Counseling

The project shall provide individual and/or group counseling to each youth admitted into the project.

a. Individual and/or group counseling shall be available daily to each youth admitted into the project on a temporary shelter basis and requesting such counseling.

b. Individual and/or group counseling shall be available to each youth admitted into the project on a non-residential basis and requesting such counseling.

c. The individual and/or group counseling shall be provided by qualified staff.

5. Family Counseling

The project shall make family counseling available to each parent or legal guardian and youth admitted into the project.

a. Family counseling shall be provided to each parent or legal guardian and youth admitted into the project and requesting such services.

b. The family counseling shall be provided by qualified staff.

6. Service Linkages

The project shall establish and maintain linkages with community agencies and individuals for the provision of those services which are required by youth and/or their families but which are not provided directly by the centers.

a. Arrangements shall be made with community agencies and individuals for the provision of alternative living arrangements, medical services, psychological and/or psychiatric services, and the other assistance required by youth admitted into the project and/or by their families which are not provided directly by the project.

b. Specific efforts shall be conducted by the project directed toward establishing working relationships with law enforcement and other juvenile justice system personnel.

7. Aftercare Services

The project shall provide a continuity of services to all youth served on a temporary shelter basis and/or their families following the termination of such temporary shelter both directly and through referrals to other agencies and individuals.

8. Recreational Program

The project shall provide a recreational-leisure time schedule of activities for youth admitted to the project for residential care.

9. Case Disposition

The project shall determine, on an individual case basis, the disposition of each youth provided temporary shelter, and shall assure the safe arrival of each youth home or to an alternative living arrangement.

a. To the extent feasible, the project shall provide for the active involvement of the youth, the parent(s) or legal guardian, and the staff in determining what living arrangement constitutes the best interest of each youth.

b. The project shall assure the safe arrival of each youth home or to an alternative living arrangement, following the termination of the crisis services provided by the project, by arranging for the transportation of the youth if he/she will be residing within the area served by the project; or by arranging for the meeting and local transportation of the youth at his/her destination if he/she will be residing beyond the area served by the project.

c. The project shall verify the arrival of each youth who is not accompanied home or to an alternative living arrangement by the parent(s) or legal guardian, project staff or other agency staff within 12 hours after his/her scheduled arrival at his/her destination.

10. Staffing and Staff Development

Each center is required to develop and maintain a plan for staffing and staff development.

a. The project shall operate under an affirmative action plan.

b. The project shall maintain a written staffing plan which indicates the number of paid and volunteer staff in each job category.

c. The project shall maintain a written job description for each paid and volunteer staff function which describes both the major tasks to be performed and the qualifications required.

d. The project shall provide training to all paid and volunteer staff (including youth) in both the procedures employed by the project and in specific skill areas as determined by the project.

e. The project shall evaluate the performance of each paid and volunteer staff member on a regular basis.

f. Case supervision sessions, involving relevant project staff, shall be conducted at least weekly to review current cases and the types of counseling and other services which are being provided.

11. Youth Participation

The center shall actively involve youth in the design and delivery of the services provided by the project.

a. Youth shall be involved in the ongoing planning efforts conducted by the project.

b. Youth shall be involved in the delivery of the services provided by the project.

12. Individual Client Files

The project shall maintain an individual file on each youth admitted into the project.

a. The client file maintained on each youth should, at a minimum, include an intake form which minimally contains the basic background information needed by FYSB; counseling notations; information on the services provided both directly and through referrals to community agencies and individuals; disposition data; and, as applicable, any follow-up and evaluation data which are compiled by the center.

b. The file on each client shall be maintained by the project in a secure place and shall not be disclosed without the written permission of the client and his/her parent(s) or legal guardian except to project staff, to the funding agency(ies) and its(their) contractor(s), and to a court involved in the disposition of criminal charges against the youth.

13. Ongoing Center Planning

The center shall develop a written plan at least annually.

a. At least annually, the project shall review the crisis counseling, temporary shelter, and aftercare needs of the youth in the area served by the center and the existing services which are available to meet these needs.

b. The project shall conduct an ongoing evaluation of the impact of its services on the youth and families it serves.

c. At least annually, the project shall review and revise, as appropriate, its goals, objectives, and activities based upon the data generated through both the review of youth needs and existing services (13a) and the follow-up evaluations (13b).

d. The project's planning process shall be open to all paid and volunteer staff, youth, and members of the Board of Directors and/or Advisory Body.

14. Board of Directors/Advisory Body (Optional)

It is strongly recommended that the centers have a Board of Directors or Advisory Body.

a. The membership of the project's Board of Directors or Advisory Body shall be composed of a representative cross-section of the community, including youth, parents, and agency representatives.

b. Training shall be provided to the Board of Directors or Advisory Body designed to orient the members to the goals, objectives, and activities of the project.

c. The Board of Directors or Advisory Body shall review and approve the overall goals, objectives, and activities of the project, including the written plan developed under standard 13.

VOL 60 ISS 81 AP 27 1995 UMI

Appendix B. National Runaway Switchboard

The National Runaway Switchboard:

- Facilitates communication among youth, their families and youth and community-based resources through conference calling services.
- Provides crisis intervention counseling and message delivery services to at-risk youth and their families.
- Provides information and referral services to at-risk youth and their families on youth serving agencies using a computerized national resource directory.
- Conducts an annual conference for local switchboard service providers.

The Switchboard distributes information brochures, posters, a newsletter, and public service announcements. For more information, contact the National Runaway Switchboard, 3080 North Lincoln, Chicago, IL 60657.

Appendix C. National Clearinghouse on Runaway and Homeless Youth

The Family and Youth Services Bureau (FYSB) established NCRHY in June 1992 in response to the need for a central source of information on runaway and homeless youth and the provision of services to that client population. As a national resource for youth service professionals, policymakers and the general public, NCRHY offers the following specific services:

Through its information line, bibliographic and FYSB program databases and special mailings, NCRHY distributes information about successful program approaches, available resources and current activities relevant to runaway and homeless youth organizations.

NCRHY develops semi-annual briefing packages to inform the field about new developments, ideas and issues related to services to runaway and homeless youth. It also produces informational packets on FYSB programs and reports on critical issues, best practices and model programs.

NCRHY facilitates FYSB-sponsored forums, bringing together experts in the field to discuss critical issues and develop strategies for addressing the causes and consequences of runaway episodes and homelessness.

NCRHY will assist FYSB in collaborating with national, State and local organizations on youth-related policy and program initiatives.

For more information, please contact the National Clearinghouse on Runaway and Homeless Youth, P.O. Box 13505, Silver Spring, Maryland 20911–3505, telephone (301) 608–8098.

Appendix D. Runaway and Homeless Youth Continuation Grantees

The following grantees are expected to receive continuation grants in FY 1995 and are NOT eligible to apply for funds under this announcement.

D.1: Basic Center Programs for Runaway and Homeless Youth Grantees Ineligible for New FY 1995 Funding

Region I

Connecticut

The Bridge Family Center, Inc., 90 North Main Street, West Hartford, CT 06107, David Johnson, (203) 521–8035
The Youth Shelter, One Salem Street, Cos Cob, CT 06830, Shari Shapiro, (203) 661–2599
Youth Continuum (Douglas House Shelter), P.O. Box 2033, New Haven, CT 06521, David Sorensen, (203) 562–3396

Maine

New Beginnings, 436 Main Street, Lewiston, ME 04240, Robert Rowe, (207) 795–4077

Massachusetts

Life Resources, 199 State St., 5th Flr., Boston, MA 02104, David Kaufer, (508) 584–0500
Concord-Assabet Family and Adolescent Services, Inc., 56 Winthrop Street, Concord, MA 01742, Stephen A. Joffe, (508) 371–3006
L.U.K. Crisis Center, Inc., 99 Day Street, Fitchburg, MA 01420, Ernest M. Pletan-Cross, (508) 345–0658
The Bridge Over Troubled Waters, 47 West Street, Boston, MA 02111, Sister Barbara Whelan, (617) 423–9575
Brookline Community Mental Health Center, 43 Garrison Road, Brookline, MA 02146, Cynthia Price, (617) 277–8107
ServiceNet, Inc., 17 New South Street, Northampton, MA 01060, James Reis, (413) 586–8680

New Hampshire

Community Youth Advocates, 88 Pleasant Street, Claremont, NH 03743, Rodney Minckler, (603) 543–0427

Rhode Island

Stopover Services of Newport County, 2538 East Main Road, Portsmouth, RI 02871, Peter Marshall, (401) 683–1824

Region II

New Jersey

Atlantic County Department of Social Services, 101 So. Shore Road, Northfield, NJ 08225, Don Leeds, (609) 645–5862
Somerset Youth Shelter, 49 Brahma Avenue, Bridgewater, NJ 08807, Jeffrey Fetzko, (201) 526–6605
Together, 7 State Street, Glassboro, NJ 08028, Susan Sasser, (609) 881–6100
Tri-County Youth Services (Project Youth Haven), 435 Main Street, Paterson, NJ 07501, Gail Manning, (201) 881–0280
Ocean's Harbor House, 2445 Windsor Avenue, Toms River, NJ 08754, Lynn Hahm, (201) 929–0660
Youth Coordinating Council, Kennedy Memorial Hospital, 2201 Chapel Avenue West, Cherry Hill, NJ 08002, Ruth Hoskins, (609) 667–6525

New York

Family and Community Services, 41 West Main Street, Cobleskill, NY 12043, Tom Meyer, (518) 234–3581
Oneida County Community Action Agency, 303 West Liberty Street, Rome, NY 13440, Treva Wood, (315) 339–5640
Cortland County Community Action Program (Time Out Program), 23 Main Street, Cortland, NY 13045, Lenn Ann Underwood, (607) 753–6781
The Salvation Army, 749 S. Warren Street, Syracuse, NY 13202, Roberta Schofield, (315) 479–1323
Westchester County Youth Bureau, 150 Grand Street, 6th Flr., White Plains, NY 10601, Toni Collarini, (914) 285–2745
County of Nassau, One West Street, Mineola, NY 11501, Ann M. Irvin, (516) 571–5893
Dutchess County YMCA, Eastman Park, Poughkeepsie, NY 12601, Karen Pietrasanta, (914) 485–1001
Center for Youth Services, 258 Alexander Street, Rochester, NY 14607, Frank Petrus, (716) 473–2464
Hillside Children's Center, 1183 Monroe Avenue, Rochester, NY 14620, James Cotter, (716) 473–5150
Catholic Charities of Ogdensburg, 380 Arlington Street, Watertown, NY 13601, Ann Boulter-Davis, (315) 788–4330
Society for Seamen's Children (Center for Youth and Families), 25 Hyatt Street, Staten Island, NY 10301, Ann Deinhardt, (718) 447–7740
Putnam County Youth Bureau, 110 Old Route Six Center, Carmel, NY 10512, Robert Bondi, (914) 225–6316
Family and Children's Service of Niagara, 826 Chilton Avenue, Niagara Falls, NY 14301, Gerald Kozak, (716) 693–9961

Puerto Rico

Centros Sor Isolina Ferre, Box 213, Playa Station, Ponce, PR 00734, Sister Rosita Bauza, (809) 843–1910
Centro De Servicios A La Juventud, Box 9368 Cotto Station, Arecibo, PR 00613, Nidna Torres-Martinez, (809) 878–6776
The Salvation Army, 1327 Americo Miranda Avenue, Caparra Terrace, Rio Piedras, PR 00921, Nestor Nuesch, (809) 781–6883

Region III

Delaware

Aid in Dover, 838 Walker Rd., Suite 2B–1, Dover, DE 19901, Beverly Williams, (302) 734–7610

District of Columbia

Sasha Bruce Youthwork, 1022 Maryland Avenue, N.E., Washington, DC 20002, Deborah Shore, (202) 675–9340

Maryland

Walden/Sierra, Inc., St. Andrews Church Road, P.O. Box 1238, California, MD 20619, Carl Loffler, (301) 475–4464
Southern Area Youth Services, 4305 St. Barnabas Road, Temple Hills, MD 20748, Robert Jones, (301) 702–9731
Youth Resources Center, (Second Mile House), 4307 Jefferson Street, Hyattsville, MD 20781, Holger Kjeldsen, (301) 864–9735
Fellowship of Lights, Inc., 1300 North Calvert Street, Baltimore, MD 21202, Ross Pologe, (301) 837–8155
Boys & Girls Home of Maryland, Inc., 9601 Colesville Road, Silver Spring, MD 20901, Quanah Parker, (301) 589–8444

Pennsylvania

Council of Three Rivers American Indian Center, 200 Charles Street, Pittsburgh, PA 15238, Russell Simms, (412) 782–4457
Youth Services of Bucks County, Neshaminy Manor Center, Almshouse Building, Doylestown, PA 18901, Roger Dawson, (215) 257–2945
Centre County Youth Service, 410 South Fraser Street, State College, PA 16801, Norma Keller, (814) 237–5731
Valley Youth House Committee, 827–829 Linden Street, Allentown, PA 18101, David Gilgoff, (215) 691–1200
Whale's Tale, 250 Shady Avenue, Pittsburgh, PA 15206, Christopher Smith, (412) 661–1800
Family and Children's Services, 2022 Broad Avenue, Altoona, PA 16601, Jackie Sutton, (814) 944–3583
Youth Services, Inc., 410 N. 34th Street, Philadelphia, PA 19104, Laurien D. Ward, (215) 222–3262

Virginia

Seton House, Inc., 642 North Lynnhaven Road, Virginia Beach, VA 23452, Kathy Jeffries, (804) 498–4673
Children, Youth and Family Services, 116 West Jefferson Street, Charlottesville, VA 22902, Cathy Bodkin, (804) 296–4118
Family and Children's Services, 1518 Willow Lawn Drive, Richmond, VA 23230, Richard J. Lung, (804) 282–4255
Loudoun County Youth Shelter, 16450 Meadowview Court, Leesburg, VA 22075, Jerry Tracy, (703) 771–5300
Alternative House, 2136–G Gallows Road, Dunn Loring, VA 22027, Jim Warwick, (703) 698–7062
The Campagna Center (This Way House), 418 South Washington Street, Alexandria, VA 22314, Katherine L. Morrison, (703) 549–0111

Region IV

Alabama

Group Homes, Inc., 1426 S. Court Street, Montgomery, AL 36104, George Hoyt/Martha Nachman, (334) 262–2953
Family Connection, Inc., P.O. Box 1261, Alabaster, AL 35007, Susan Johnston, (205) 663–6301
Marshall County Attention Home, P.O. Box 952, Guntersville, AL 35976, Ramona Collins, (205) 582–0377

Florida

Crosswinds Youth Services, P.O. Box 540625, Merritt Island, FL 32954–0625, Jan Lokay, (305) 452–8988
Family Resources, Inc. (Youth & Family Connection), P.O. Box 13087, St. Petersburg, FL 33733, Jane Harper, (813) 893–1150
Lutheran Ministries (Gulf Coast Youth and, Family Services), 4610 W. Fairfield Drive, Pensacola, FL 32506, Neil Pape, (904) 453–2772
Switchboard of Miami (Family P.A.C.T.), 75 SW. 8th Street, Miami, FL 33130, Shirley Aron, (305) 358–1640
Corner Drugstore (Interface), 1300 Northwest 6th Street, Gainesville, FL 32601, Karen Crapo, (904) 334–3800
Miami Bridge, Inc., 2810 NW. South River Drive, Miami, FL 33125, Chilton Harper, (305) 635–8953
Lutheran Ministries (Lippman Family Center), 221 Northwest 43rd Court, Oakland Park, FL 33309, Donald Carey, (305) 568–2801
YMCA Youth and Family Services, 41 N. School Avenue, Sarasota, FL 34237, Jack Greer, (813) 955–5596
Anchorage Children's Home (Hidle House), 707 MLK, Jr. Blvd., Panama City, FL 32401, Barbara Cloud, (904) 763–7102
Orange County Department of Human Services, 1718 East Michigan Avenue, Orlando, FL 32806, Mike Robenson, (407) 836–7675
Lutheran Ministries (Gulf Coast/Currie House), 3507 Frontage Road, Tampa, FL 33607–1776, Richard Eissfeldt, (813) 288–9550

Georgia

The Alcove, 507 East Church Street, Monroe, GA 30655, Gail Bayes, (404) 267–9156
Tri-County Protective Agency, P.O. Box 1937, Hinesville, GA 31313, Rita Campbell, (912) 368–9200
Safe Harbor Children's Shelter, P.O. Box 1313, Brunswick, GA 31521, Kate Minnock, (912) 267–6000
Open Arms (The Bridge), P.O. Box 71562, Albany, GA 31708, April Lott, (912) 432–3378
Children's Emergency Shelter, 127 West Church Street, Cartersville, GA 30120, Teresa Ramey, (404) 387–1143
Greenbriar Children's Center, 3709 Hopkins Street, Savannah, GA 31405, Yvette Johnson-Hagins, (912) 234–3431

Kentucky

YMCA Center for Youth Alternatives, 1410 South First Street, Louisville, KY 40208, Kevin Connelly, (502) 635–5233
Lexington-Fayette Urban County Government, 200 East Main Street, Lexington, KY 40507, Pam Miller, (606) 252–3126

Mississippi

Catholic Charities, P.O. Box 2248, Jackson, MS 39225–2248, Linda Raff, (601) 355–8634
Mississippi Children's Home Society, P.O. Box 1078, Jackson, MS 39215, Christopher Cherney, (601) 352–7784
Mississippi Children's Home Society, (Warren County Children's Shelter), P.O. Box 1078, Jackson, MS 39215, Christopher Cherney, (601) 352–7784

North Carolina

Youth Focus, Inc., 301 E. Washington St., Ste. 202, Greensboro, NC 27401, Charles Hodierne, (910) 333–6858
Lee County Youth Services, P.O. Box 57, Sanford, NC 27331–0057, Todd Edwards, (919) 774–9515
Haven House, 401 E. Whitaker Mill Road, Raleigh, NC 27608, Michael Rieder, (919) 856–6368
Catholic Social Services, P.O. Box 10962, Winston Salem, NC 27108, David Harold, (910) 727–0705
Buncombe Shelter, Inc. (Trinity Place), 12 Ravenscroft Drive, Asheville, NC 28801, Dean Vick, (704) 253–7233

South Carolina

Dept. of Youth Services (Crossroads), 4360 Headquarters Road, N. Charleston, SC 29405, Greg Leighton, (803) 744–3381
Dept. of Youth Services (Hope House), 1940 Shivers Road, Columbia, SC

VOL 60 ISS 81 AP 27 1995 UMI

29210, Marilyn McEachern, (803) 731–1694
Dept. of Youth Services (Greenhouse), 529 N. Wise Drive, Sumter, SC 29150, Howard McFadden, (803) 775–3311

Tennessee

Child and Family Services, 114 Dameron Avenue, Knoxville, TN 37917, Charlie Gentry, (615) 524–7483
Gardner House, 317 Oak Street, Chattanooga, TN 37403, Tom Edwards, (615) 755–2725
The Family Link, P.O. Box 40437, Memphis, TN 38174–0437, Marian Carruth, (901) 725–7270

Region V

Illinois

Youth Outreach Services, 6417 W. Irving Park Road, Chicago, IL 60634, William Southwick, (312) 777–7112
Teen Living Programs (Foundation House), 3179 N. Broadway, Chicago, IL 60657, Deborah Hinde, (312) 883–0025
The Harbour, 1480 Renaissance Drive, Park Ridge, IL 60068, Mary Eichling, (708) 297–8540
LaSalle County Youth Service Bureau, 424 West Madison Street, Ottowa, IL 61350, Dave McClure, (815) 433–3953
Project OZ, 502 South Morris Avenue, Bloomington, IL 61701, Peter Rankaitis, (309) 827–0377
Aunt Martha's, 4343 Lincoln Highway, Matteson, IL 60443, Daniel Strick, (708) 747–2701
Travelers and Immigrants Aid, 208 S. LaSelle, Suite 1818, Chicago, IL 60604, Sid Mohn, (312) 528–7767

Indiana

Youth Service Bureau of St. Joseph County, 2222 Lincoln Way West, South Bend, IN 46628, Bonnie Strycker, (219) 235–9231
Stopover, Inc., 2236 E. 10th Street, Indianapolis, IN 46201–2099, Elizabeth Malone, (317) 635–9301
Clark County Youth Shelter, 118 East Chestnut Street, P.O. Box 886, Jeffersonville, IN 47131, Candice Chaney, (812) 284–5229
Monroe County Youth Service Bureau, 1310 East Atwater Avenue, Bloomington, IN 47401, Tim Tilton, (812) 333–3506
Crisis Center, Inc. (Alternative House), 101 N. Montgomery Street, Gary, IN 46403, Shirley Caylor, (219) 938–7070

Michigan

Comprehensive Youth Services (The Harbor), 3061 Commerce Drive, Suite 2, Port Huron, MI 48060, Sally Currie, (313) 385–7010
Cory Place, 1218 Washington Avenue, Bay City, MI 48708, Raul Gonzales, (517) 895–5563
Saginaw County Youth Council, P.O. Box 3191, Saginaw, MI 48605, Ronald Spess, (517) 752–5175
Northeast Michigan Community, Service Agency, 2373 Gordon Road, Alpena, MI 49707, John Swise, (517) 356–3474
League of Catholic Women (Off The Streets), 10612 E. Jefferson, Detroit, MI 48201, David Suttner, (313) 831–1000
Advisory Centers (The Bridge), 1115 Ball Avenue, NE., Grand Rapids, MI 49505, Nancy Ayers, (616) 451–3001
Ozone House, 608 N. Main Street, Ann Arbor, MI 48104, Paul Wood, (313) 662–2265
Every Woman's Place, 425 W. Western Avenue, Muskegon, MI 49440, Mary MacDonald, (616) 726–4493
Bethany Christian Services, 6995 W. 48th Street, Fremont, MI 49412, Dale A Painter, (616) 924–3390
Catholic Family Services, 1819 Gull Road, Kalamazoo, MI 49001, Frances Denny, (616) 381–9800
The Sanctuary, 132 Franklin Boulevard, Pontiac, MI 48341, Meri Pohutsky, (313) 547–2260
Genesee County Youth Corporation, 914 Church Street, Flint, MI 48502, Jo Davis, (313) 233–8700
Gateway Community Services (Higher Ground), 910 Abbott Road, Suite 100, East Lansing, MI 48823, Donna Spence, (517) 351–4000

Minnesota

Evergreen House, 622 Mississippi Avenue, Bemidji, MN 56601, Cheryl Byers, (218) 751–4332
Ain Dah Yung Shelter (Our Home), 1089 Portland Avenue, St. Paul, MN 55104, John Whitecloud, (612) 227–4184
Lutheran Social Services (Bethany Crisis Center), 9239 Odaho Street, Duluth, MN 55808, John Moline, (218) 626–2726
Minneapolis Youth Diversion Program (Project Offstreets), 1905 Third Avenue South, Minneapolis, MN 55404, Jeremy Lane, (614) 871–3613
Mountain Plains Youth Services (Youthworks), 715 11th Street North, Moorhead, MN 56560, Doug Herzog, (218) 233–7990

Ohio

Children's and Family Service, 535 Marmion Avenue, Youngstown, OH 44502, Gerald Janosik, (216) 782–5664
Council on Rural Service Programs, 116 E. Third Street, Greenville, OH 45331, Shirley Hathaway, (513) 548–8002
Center for Children and Youth Services, 42707 North Ridge Road, Elyria, OH 44035, John Ollerton, (216) 323–3400
Daybreak, Inc., 50 Theobald Court, Dayton, OH 45410, Kipra Heermann, (513) 461–1000
Free Medical Clinic of Greater Cleveland (Safe Space Station), 12201 Euclid Avenue, Cleveland, OH 44106, W. Martin Hiller, (216) 721–4010
Lighthouse Youth Services, 1527 Madison Road, Cincinnati, OH 45206, Robert Mecum, (513) 221–3350
Lutheran Metropolitan Ministries, Inc., 1468 West 25th Street, Cleveland, OH 44113, Thomas Sutton, (216) 241–4791
Specialized Alternatives for Families and Youth, 10100 Elida Road, Delphos, OH 45833, Bruce Maag, (419) 695–8010
Connecting Point, 525 Hamil Road, #302B, Toledo, OH 43602, Juania Price, (419) 243–6326

Wisconsin

Innovative Youth Services, 1030 Washington Avenue, Racine, WI 53403, Burt Kintzler, (414) 632–0424
Wisconsin Association for Runaway Services, 2318 E. Dayton Street, Madison, Wisconsin 53704, Patricia Balke, (608) 241–2649
Walker's Point Youth and Family Center, 2030 W. National Avenue, Milwaukee, WI 53204, Andre Olton, (414) 672–5300

Region VI

Arkansas

Centers for Youth and Families (Stepping Stone), 6501 W. 12th Street, Little Rock, AR 72204, Richard Hill/Janie Isom, (501) 666–9066
Consolidated Youth Services, 4220 Stadium Boulevard, Jonesboro, AR 72401, Cecil Province, Jr./Bonnie Smith, (501) 972–1110

Louisiana

Tangipahoa Youth Service Bureau, 1826 River Road, Hammond, LA 70401, Jeanne Voorhees, (504) 345–1171
ETC Harbour House, P.O. Box 864, Lake Charles, LA 70602, Martha Parnell, (318) 433–1062
Father Flanagan's Boys' Home, New Orleans, LA 68010, Fr. Val J. Peter, (402) 498–1000
Our House, Inc., P.O. Box 7496, Monroe, LA 71211, Carol Christopher, (318) 387–2186

New Mexico

Youth Development, 1710 Centro Familiar SW., Albuquerque, NM 87105, Augustine C. Baca, (505) 873–1504
Youth Shelters and Family Services, P.O. Box 8135, Santa Fe, NM 87504, Vic Vandegriff/Cynthia Gonzales, (505) 983–0586

Oklahoma

Youth Services of Oklahoma County, 201 NE. 50th Street, Oklahoma City, OK 73105, Ken Young, (405) 235–7537
Payne County Youth Services, 2224 W. 12th, Stillwater, OK 74076, John Bracken, (405) 377–3380
Northwest Family Services, Inc., 628 Flynn, Alva, OK 73717, John R. Jones, (405) 327–2900

Texas

El Paso Center for Children, 3700 Altura, El Paso, TX 79930, Sandy Rioux, (915) 565–8361
YMCA of Dallas, 601 N. Akard Street, Dallas, TX 75201, Kathy Rod, (214) 954–0655
The Bridge Association, 115 West Broadway, Fort Worth, TX 76104, Cindy Honey, (817) 332–8317
Central Texas Youth Services Bureau, 703 Parmer Street, P.O. Box 185, Killeen, TX 76540, Keith Wallace, (817) 634–2085
The Children's Center, 2127 Avenue M, Galveston, TX 77550, Terry Keel, (409) 765–5212
Harris County Children's Protective Services (Chimney Rock Center), 6425 Chimney Rock Road, Houston, TX 77081, Ann Hibbert, (713) 664–5701
Promise House, 236 W. Page Street, Dallas, TX 75208, Lynn Stallings, (214) 941–8578
Grayson County Juvenile Alternatives, P.O. Box 1625, Sherman, TX 75091, Pam Johnson, (903) 893–4717
Father Flanagan's Boys' Home, San Antonio, TX 78204, Marcel Lue, (210) 271–3131
Middle Earth Youth Options, 3816 S. First Street, Austin, TX 78704, Mitch Weynand, (512) 447–5639
Sand Dollar, 527 Spring Drive, Pasadena, TX 77504, Happy Spillar, (713) 946–3030
Montgomery County Youth Services, P.O. Box 1316, Conroe, TX 77305, Gretchen Faulkner, (409) 756–8682
Collin Intervention to Youth, 902 - 16th Street, Plano, TX 75074, Julianne Bulau, (214) 423–7057
Sabine Valley MHMR Center, P.O. Box 6800, Longview, TX 75608, Mark Blackwell, (903) 753–9744
Catholic Family Services, P.O. Box 15127, Amarillo, TX 79105, Al Bednorz, (806) 376–7731

Region VII

Iowa

United Action for Youth, 410 Iowa Avenue, Iowa City, IA 52240, Jim Swaim, (319) 338–7518
Foundation II, 1540 Second Avenue, Cedar Rapids, IA 52403, Steve Meyer, (319) 362–1170
Youth Emergency Services, 921 Pleasant Street, Des Moines, IA 50309, Susan Gehring-Liker, (515) 243–7825
Christian Home Association, North 6th Street & Avenue E, P.O. Box 8–C, Council Bluffs, IA 51502, Richard Christie, (712) 322–3700

Kansas

United Methodist Youthville, 900 W. Broadway, Newton, KS 67114, Stacy Pfeiffer, (316) 823–5529
Temporary Lodging for Children, 333 E. Poplar, Olathe, KS 66061, Sherrie Love, (913) 764–2887
Wichita Children's Home, 810 N. Holyoke, Wichita, KS 67208, Sarah Robinson, (316) 684–6581

Missouri

Synergy House, P.O. Box 12181, Parkville, MO 64152, Carol Kuhns, (816) 741–1477
Youth in Need, 516 Jefferson, St. Charles, MO 63301, Leo Tigue, (314) 946–0101
Youth Emergency Service, P.O. Box 24260, St. Louis, MO 63130, Edith Tate, (314) 862–1334
reStart, Inc., 918 East 9th Street, Kansas City, MO 64106, Olivia Dorsey, (314) 874–8686

Nebraska

Youth Emergency Services, 3001 Douglas Twin Towers, Omaha, NE 68131, Robert Sparby, (402) 345–5187
Panhandle Community Services, 3350 North 10th Street, Gering, NE 69341, Ruth Vance, (308) 635–3089
Father Flanagan's Boys' Home, 14100 Crawford Street, Boys Town, NE 68010, Father Val J. Peter, (402) 498–3323

Region VIII

Colorado

Urban Peak, 1577 Clarkson Street, Denver, CO 80218, Jon Schwartz, (303) 863–7325
Pueblo Youth Service Bureau, 425 West Third Street, Pueblo, CO 81003, Molly Melendez, (719) 542–5161
CHINS UP Youth and Family Services, 17 North Farragut Avenue, Colorado Springs, CO 80909, Gerar H. Veneman, (719) 475–0562
Volunteers of America, 1865 Larimer Street, Denver, CO 80202, Linda Sinton, (303) 297–0408
Attention, Inc., P.O. Box 907, Boulder, CO 80306, Pat Whirl-Lasarte, (303) 447–1206
Family Tree, Inc., (Gemini House), 3805 Marshall Street, Wheatridge, CO 80033, Tracy Kraft-Tharp, (303) 235–0630
Garfield Youth Services, 902 Taughenbaugh Blvd., Rifle, CO 81650, Dennis Steffan, (303) 625–3141
Comitis Crisis Center, P.O. Box 913, Aurora, CO 80010, Richard Barnhill, (303) 341–9160

South Dakota

Rosebud Sioux Tribe, P.O. Box 430, Rosebud, SD 57570, Rose Chasing Hawk, (605) 747–2258
Crow Creek Sioux Tribe (Red Horse Lodge), P.O. Box 49, Ft. Thompson, SD 57339, Durine Chase, (605) 245–2410

Utah

Department of Human Services, 150 W. North Temple, Box 45550, Salt Lake City, UT 84103, Joe Leiker, (801) 538–4090

Region IX

Arizona

Children's Village of Yuma, 257 South Third Avenue, Yuma, AZ 85364, Judy Smith, (602) 783–2427
Center for Youth Resources (Tumbleweed), 915 N. Fifth Street, Phoenix, AZ 85004, Janet Garcia, (602) 271–9904
Colorado River Region Youth Service, P.O. Box 7176, Mohave Valley, AZ 86440, Richard Steinberg, (602) 768–1500
Open-Inn, 4810 E. Broadway, Tucson, AZ 85711, Darlene Dankowski, (602) 323–0200

California

Center for Human Services, 1700 McHenry Village Way, Modesto, CA 95350, Linda Kovacs, (209) 526–1440
Community Human Services, P.O. Box 3076, Monterey, CA 93942, Allison Olsen, (408) 373–3641
Youth and Family Assistance, 609 Price Avenue, #205, Redwood City, CA 94063, Richard Gordon, (415) 366–8401
Klein Bottle, 401 N. Milpas, Santa Barbara, CA 93103, David Edelman, (805) 564–7830
1736 Family Crisis Center, 103 W. Torrance Boulevard, Redondo Beach, CA 90277, Carol A. Adelkoff, (310) 372–4674
Butte County Department of Mental Health, 584 Rio Lindo Avenue, Chico, CA 95926, Ron Erickson, (916) 891–2850
Fred Finch Youth Center, 3800 Coolidge Avenue, Oakland, CA 94602, John F. Steinfirst, (510) 482–2244
Youth Advocates (Huckleberry House), 3310 Geary Boulevard, San Francisco, CA 94118, Bruce Fisher, (415) 668–2622
Los Angeles Youth Network, 1550 Gower Street, Los Angeles, CA 90028, Elizabeth Gomez, (213) 957–7340
The Salvation Army, 900 West 9th Street, Los Angeles, CA 90015, George Church, (213) 627–0725
Catholic Charities/Angel's Flight, 1400 W. 9th Street, P.O. Box 15095, Los

VOL 60 ISS 81 AP 27 1995 UMI

Angeles, CA 90015, Rev. Gregory Cox, (213) 413–2311
Santa Clara Social Advocates for Youth, 1072 Saratoga-Sunnyvale Rd., San Jose, CA 95129, Kathleen Lynch, (408) 253–3540
Klein Bottle, 412 East Tunnel Street, Santa Maria, CA 93454, David Edelman, (805) 922–0468
Social Advocates for Youth (Individuals Now), 1303 College Avenue, Santa Rosa, CA 95404, Ed Patterson, (707) 544–3299
San Diego Youth and Community Services, 3255 Wing Street, Ste. 550, San Diego, CA 92110, Liz Shear, (619) 221–8600
Yolo Community Care Continuum, (Runaway Alternatives Program), 523 G Street, Davis, CA 95616, Henry Kloczkowski, (916) 758–2160
Operation Safehouse, Inc., 9685 Hayes Street, Riverside, CA 92503, Kathy McAdara, (909) 242–1518
Fresno County Economic Opportunities Commission, 1920 Mariposa Mall, Fresno, CA 93721, Roger Palomino, (209) 263–1012
Center for Human Rights and Constitutional Law, 256 S. Occidental Boulevard, Los Angeles, CA 90057, Peter Schey, (213) 388–8693
Options House of Hollywood, 1754 Taft Avenue, Hollywood, CA 90028, Leslie Forbes, (213) 467–1932
Redwood Community Action Agency, 904 G Street, Eureka, CA 95501, Lloyd Throne, (707) 443–8322
Community Service Programs, 16842 Von Karman Avenue, Irvine, CA 92714, Margot Carlson, (714) 250–0488

Hawaii

Hawaii Youth Services Network, 2146 Damon Street, Honolulu, HI 96822, Sam Cox, (808) 946–3635

Nevada

WestCare, 401 S. Martin Luther King, Las Vegas, NV 89106, Richard Steinberg, (702) 385–2020

Guam

Sanctuary, P.O. Box 21030, Guam Main Facility, Guam, CM 96921, Tony Champaco, (671) 734–2661

CNMI

Commonwealth of the Marianas, Department of Community, Cultural Affairs, Saipan, CM 96950, Margarita Olopai-Taitano, (670) 322–9366
American Samoa, Dept. of Human Resources, Social Services Division, Pago Pago, American Samoa, Faimafilioalii Taamu, (684) 633–2696

Palau

Palau Community Action Agency, P.O. Box 3000 Koror, Republic of Palau 96940, Doroteo Nagata, Phone: 4882–469 (Operator Assistance Needed)

Region X

Alaska

Juneau Youth Services, P.O. Box 32839, Juneau, AK 99803, Betty Jo Engelman, (907) 789–7610

Oregon

Northwest Human Services, 681 Center, N.E., Salem, OR 97301, Sandy Alexander, (503) 588–5825
J Bar J Ranch, 62895 Hamby Road, Bend, OR 97701, Craig Christiansen, (503) 389–1409
Janus Youth Programs, 738 NE Davis Street, Portland, OR 97232, Dennis Morrow, (503) 233–6090
Looking Glass, 72–B Centennial Loop, Eugene, OR 97401, James Forbes, (503) 689–2688

Washington

Youth Help Association, W. 522 Riverside, Spokane, WA 99201, Bernadine Spalla, (509) 455–5226
Community Youth Services, 824 Fifth Avenue, SE., Olympia, WA 98501, Charles Shelan, (206) 943–0780
Auburn Youth Resources, 816 F Street, SE., Auburn, WA 98002, Richard Brugger, (206) 939–2202
Friends of Youth, 16225 NE 87th Street, Redmond, WA 98052, Howard Finck, (206) 869–6490
Northwest Youth Services, P.O. Box 5447, Bellingham, WA 98227, Michael Tyers, (206) 734–9862
Washington State Migrant Council, 301 North 1st Street, Sunnyside, WA 98944, Carlos Diaz, (509) 839–9762
United Indians of All Tribes, P.O. Box 99100, Seattle, WA 98199, Bernie Whitebear, (206) 285–4425

D.2: Drug Abuse Prevention Programs for Runaway and Homeless Youth

Grantees Ineligible for New FY 1995 Funding

Region I

Connecticut

Youth Continuum (Douglas House Shelter), P.O. Box 2033, New Haven, CT 06521, David Sorensen, (203) 562–3396

Massachusetts

Brookline Community Mental Health Center, 43 Garrison Road, Brookline, MA 02146, Cynthia Price, (617) 277–8107
Franklin County DIAL/ SELF, Inc., 196 Federal Street, Greenfield, MA 01301, Ryan Murphy, (413) 774–7054

New Hampshire

Child and Family Services, 99 Hanover Street, Manchester, NH 03105, Gail Starr, (603) 558–1920

Rhode Island

Stopover Services of Newport County, 2538 East Main Road, Portsmouth, RI 02871, Peter Marshall, (401) 683–1824

Vermont

Washington County Youth Service Bureau, PO. Box 627, Montpelier, VT 05753, Tom Howard, (802) 229–9151

Region II

New Jersey

Anchor House, 482 Centre Street, Trenton, NJ 08611, Judith Donohoe, (609) 396–8329
Crossroads, 770 Woodlane Road, Suite 57, Mt. Holly, NJ 08060, Delores G. Martell, (609) 261–5400
Somerset Youth Shelter, 49 Brahma Avenue, Bridgewater, NJ 08807, Jeffrey Fetzko, (201) 526–6605
Together, 7 State Street, Glassboro, NJ 08028, Susan Sasser, (609) 881–6100

New York

Equinox, 306 Central Avenue, Albany, NY 12206, Mary Seeley, (518)434–4502
The Salvation Army, 749 S. Warren Street, Syracuse, NY 13202, Roberta Schofield, (315) 479–1323
Metropolitan Assistance (Streetwork Project), 2 Lafayette Street, New York, NY 10007, Helene Lauffer, (212) 577–3806
Greenwich Village Youth Council, 37 Carmine Street, Box 208, New York, NY 10014, John Pettinato, (212) 242–3887

Puerto Rico

Centro De Servicios A La Juventud, Box 9368 Cotto Station, Arecibo, PR 00613, Nidna Torres-Martinez, (809) 878–6776

Region III

District of Columbia

Sasha Bruce Youthwork, 1022 Maryland Avenue, N.E., Washington, DC 20002, Deborah Shore, (202) 675–9340

Pennsylvania

Catholic Social Services, 33 E. Northhampton, Wilkes-Barre, PA 18701, Thomas Cherry, (717) 824–5766
Three Rivers Youth, 2039 Termon Avenue, Pittsburgh, PA 15212, David Droppa, (412) 766–2215
Valley Youth House Committee, 827–829 Linden Street, Allentown, PA 18101, David Gilgoff, (215) 691–1200

Virginia

Alternative House, 2136–G Gallows Road, Dunn Loring, VA 22027, Jim Warwick, (703) 698–7062

Region IV

Florida

Youth Crisis Center, 7007 Beach Boulevard, Jacksonville, FL 32216, Tom Patania, (904) 720–0002
Switchboard of Miami (Family P.A.C.T.), 75 SW. 8th Street, Miami, FL 33130, Shirley Aron, (305) 358–1640

Georgia

The Alcove, 507 East Church Street, Monroe, GA 30655, Gail Bayes, (404) 267–9156
The Bridge, 1559 Johnson Road, NW., Atlanta, GA 30318, Ann Starr, (404) 792–0070

Kentucky

Brighton Center, Inc., P.O. Box 325, Newport, KY 41072, Robert Brewster, (606) 491–8303

Tennessee

The Family Link, P.O. Box 40437, Memphis, TN 38174–0437, Marian Carruth, (901) 725–7270

Region V

Illinois

Teen Living Programs (Foundation House), 3179 N. Broadway, Chicago, IL 60657, Deborah Hinde, (312) 883–0025

Indiana

Park Center, Inc. (Daybreak), 2722 Fairfield Avenue, Fort Wayne, IN 46807, Kim Butcher, (219) 481–2700

Michigan

Link Crisis Intervention Center, 2002 South State Street, St. Joseph, MI 49085, Nancy Berendsen, (616) 983–6351
The Sanctuary, 132 Franklin Boulevard, Pontiac, MI 48341, Meri Pohutsky, (313) 547–2260
Juvenile Diversion Program, 301 Francis Street, Jackson, MI 49201, Barbara Turan, (517) 788–4240

Minnesota

Evergreen House, 622 Mississippi Avenue, Bemidji, MN 56601, Cheryl Byers, (218) 751–4332

Ohio

Daybreak, Inc., 50 Theobald Court, Dayton, OH 45410, Kipra Heermann, (513) 461–1000
Free Medical Clinic of Greater Cleveland (Safe Space Station), 12201 Euclid Avenue, Cleveland, OH 44106, W. Martin Hiller, (216) 721–4010
Lighthouse Youth Services, 1527 Madison Road, Cincinnati, OH 45206, Robert Mecum, (513) 221–3350

Wisconsin

Briarpatch, 512 E. Washington Avenue, Madison, WI 53703, Steve Sperling, (608) 251–6211
Counseling Center of Milwaukee (Pathfinders), 2038 N. Bartlett, Milwaukee, WI 53202, Ted Seaver, (414) 271–2565
Innovative Youth Services, 1030 Washington Avenue, Racine, WI 53403, Burt Kintzler, (414) 632–0424
Wisconsin Association for Runaway Services, 2318 E. Dayton Street, Madison, Wisconsin 53704, Patricia Balke, (608) 241–2649

Region VI

Louisiana

ETC Harbour House, P.O. Box 864, Lake Charles, LA 70602, Martha Parnell, (318) 433–1062

New Mexico

A New Day, 2720–A Carlisle N.E., Albuquerque, NM 87110, Jeffrey Burrows, (505) 881–5228

Oklahoma

Youth Services of Tulsa, 302 South Cheyenne, Room 114, Tulsa, OK 74103, Sharon Terry, (918) 582–0061
Youth and Family Services of North Oklahoma, 2925 North Midway, Enid, OK 73701, Jan Webber, (405) 233–7220

Texas

Institute for Child and Family Services, 100 Sandman, Houston, TX 77007, Jane Harding, (713) 863–7850
The Bridge Association, 115 West Broadway, Fort Worth, TX 76104, Cindy Honey, (817) 332–8317
Promise House, 236 W. Page Street, Dallas, TX 75208, Lynn Stallings, (214) 941–8578
Middle Earth Youth Options, 3816 S. First Street, Austin, TX 78704, Mitch Weynand, (512) 447–5639

Region VII

Iowa

United Action for Youth, 410 Iowa Avenue, Iowa City, IA 52240, Jim Swaim, (319) 338–7518
Foundation II, 1540 Second Avenue, Cedar Rapids, IA 52403, Steve Meyer, (319) 362–1170

Kansas

Kaw Valley Center, 4300 Brenner Drive, Kansas City, KS 66104, Wayne Sims, (913) 334–0294

Missouri

Youth in Need, 516 Jefferson, St. Charles, MO 63301, Leo Tigue, (314) 946–0101

Nebraska

Youth Service System, 770 N. Cotner Blvd., #410, Lincoln, NE 68505, James Blue, (402) 466–6181

Region VIII

Colorado

Pueblo Youth Service Bureau, 425 West Third Street, Pueblo, CO 81003, Molly Melendez, (719) 542–5161

South Dakota

Mountain Plains Youth Services (Turning Point), P.O. Box 89306, Sioux Falls, SD 57105, Linda Wood, (605) 334–1414

Region IX

Arizona

Center for Youth Resources (Tumbleweed), 915 N. Fifth Street, Phoenix, AZ 85004, Janet Garcia, (602) 271–9904

California

Bill Wilson Counseling Center, 1000 Market Street, Santa Clara, CA 95050, Sparky Harlan, (408) 984–5955
Mendocino County Youth Project, 202 S. State Street, Ukiah, CA 95482, Arlene Rose, (707) 463–4915
Center for Human Services, 1700 McHenry Village Way, Modesto, CA 95350, Linda Kovacs, (209) 526–1440
Klein Bottle, 401 N. Milpas, Santa Barbara, CA 93103, David Edelman, (805) 564–7830
Youth Advocates (Huckleberry House), 3310 Geary Boulevard, San Francisco, CA 94118, Bruce Fisher, (415) 668–2622
Los Angeles Youth Network, 1550 Gower Street, Los Angeles, CA 90028, Elizabeth Gomez, (213) 957–7340
Santa Clara Social Advocates for Youth, 1072 Saratoga-Sunnyvale Rd., San Jose, CA 95129, Kathleen Lynch, (408) 253–3540
San Diego Youth and Community Services, 3255 Wing Street, Ste. 550, San Diego, CA 92110, Liz Shear, (619) 221–8600
Redwood Community Action Agency, 904 G Street, Eureka, CA 95501, Lloyd Throne, (707) 443–8322
Community Service Programs, 16842 Von Karman Avenue, Irvine, CA 92714, Margot Carlson, (714) 250–0488
Los Angeles Free Clinic, 8405 Beverly Boulevard, Los Angeles, CA 90049, Mary Rainwater, (213) 653–8622

VOL 60 ISS 81 AP 27 1995 UMI

Nevada

WestCare, 401 S. Martin Luther King, Las Vegas, NV 89106, Richard Steinberg, (702) 385–2020

Region X

Alaska

Alaska Youth and Parent Foundation, 3745 Community Park Loop, Anchorage, AK 99508, Sheila Gaddis, (907) 274–6541

Fairbanks Native Association, 310 First Avenue, Fairbanks, AK 99701, Banarsi Lal, (907) 452–6201

Washington

United Indians of All Tribes, P.O. Box 99100, Seattle, WA 98199, Bernie Whitebear, (206) 285–4425

Tacoma Housing Authority, 1728 East 44th Street, Tacoma, WA 98404, Patricia Harrington, (206) 473–2331

Appendix E. Administration for Children and Families Regional Office Youth Contacts

Region I: Paul Kelley, Administration for Children and Families, John F. Kennedy Federal Building, Room 2011, Boston, Massachusetts 02203 (CT, MA, ME, NH, RI, VT), (617) 565–1138

Region II: Estelle Haferling, Administration for Children and Families, 26 Federal Plaza, Room 4149, New York, NY 10278 (NJ, NY, PR, VI), (212) 264–1329

Region III: Dave Lyon, Administration for Children and Families, 3535 Market Street, P.O. Box 13714, Philadelphia, PA 19101 (DC, DE, MD, PA, VA, WV), (215) 596–4139

Region IV: Viola Brown, Administration for Children and Families, 101 Marietta Tower, Suite 903, Atlanta, GA 30323 (AL, FL, GA, KY, MS, NC, SC, TN), (404) 331–7210

Region V: Katie Williams, Administration for Children and Families, 105 West Adams, 23rd Floor, Chicago, IL 60603 (IL, IN, MI, MN, OH, WI), (312) 353–4241

Region VI: Ralph Rogers, Administration for Children and Families, 1200 Main Tower, 20th Floor, Dallas, TX 75202 (AR, LA, NM, OK, TX), (214) 767–8850

Region VII: Lynda Bitner, Administration for Children and Families, Federal Office Building, Room 384, 601 East 12th Street, Kansas City, MO 64106 (IA, KS, MO, NE), (816) 426–5401

Region VIII: Vicki Wright, Administration for Children and Families, Federal Office Building, 1961 Stout Street, 9th Floor, Denver, CO 80294 (CO, MT, ND, SD, UT, WY), (303) 844–3100, Ext. 361

Region IX: Al Brown, Administration for Children and Families, 50 United Nations Plaza, San Francisco, CA 94102 (AZ, CA, HI, NV, American Samoa, Guam, Northern Mariana Islands, Marshall Islands, Federated States of Micronesia, Palau), (415) 556–6153

Region X: Steve Ice, Administration for Children and Families, 2201 Sixth Avenue, RX 32, Seattle, WA 98121 (AK, ID, OR, WA), (206) 615–2558, Ext. 3075

Appendix F. Training and Technical Assistance Providers

FYSB funds ten regionally based organizations to provide training and technical assistance to programs funded under the Basic Center, Transitional Living and Drug Abuse Prevention Programs, and to other agencies serving runaway and homeless youth.

Each of the training and technical assistance providers offers on-site consultations; regional, State and local conferences; information sharing and skill-based training.

For more information, contact the training and technical assistance provider in your region.

New England Consortium for Families and Youth, 25 Stow Road, Boxborough, MA 01719, (508) 266–1998, Contact: Nancy Jackson

Empire State Coalition, 121 Avenue of the Americas, New York, NY 10013, (212) 966–6477, Contact: Margo Hirsch

Mid-Atlantic Network of Youth and Family Services, Inc., 9400 McKnight Road, Pittsburgh, PA 15237, (412) 366–6562, Contact: Nancy Johnson

Southeastern Network of Youth and Family Services, 337 South Milledge Avenue, Athens, GA 30605, (706) 354–4588, Contact: Gail Kurtz,

Youth Network Council, 506 S. Wabash, Chicago, IL 60605, (312) 427–2710, Contact: Denis Murstein

Southwest Network of Youth Services, 2525 Wallingwood Drive, Austin, TX 78746, (512) 328–6860, Contact: Theresa Andreas-Tod

M.I.N.K., A Network of Runaway and Youth Serving Agencies, c/o Youth in Need, 516 Jefferson Street, St. Charles, MO 633014152, (314) 946–0101, Contact: Laura Harrison

Mountain Plains Youth Services, 221 West Rosser, Bismarck, ND 58501, (701) 255–7229, Contact: Linda Wood

Western States Youth Services Network, 1306 Ross Street, Suite B, Petaluma, CA 94954, (707) 763–2213, Contact: Nancy Fastenau

Northwest Network of Runaway and Youth Services, 603 Steward Street, Seattle, WA 98101, (206) 628–3760, Contact: Carmen Ray

Appendix G. Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, ATTN: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix Arizona 85012, Telephone (602) 280–1315

Arkansas

Ms. Tracie L. Copeland Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Mrs. Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Mr. Rodney T. Hallman, State Single Point of Contact, Office of Grants Mgmt and Development, 717 14th Street, NW., Suite 500, Washington, DC 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8114

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, SW., Room 534A, Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Mr. Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Ms. Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Mr. Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (410) 225–4490

Massachusetts

Ms. Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Mr. Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 949–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, ATTN: Mr. Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Mr. Gregory W. Adkins, Acting Director, Division of Community Resources, New Jersey Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

Mr. George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Sante Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Mr. Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Ms. Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114 Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research and Coordination, Pavilion Office Building, 109 State Street, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations Office, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Milwaukee, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Ms. Sheryl Jeffries, State Single Point of Contact, Herachler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose E. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

VOL 60 ISS 81 AP 27 1995 UMI

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802
Please direct correspondence to: Ms. Linda Clarke, Telephone (809) 774–0750.

Appendix H—Basic Center Program for Runaway and Homeless Youth

TABLE OF ALLOCATIONS BY STATE, FISCAL YEAR 1995

Regions and States	Continuations plus Gap Funding	New starts	Total
Region I:			
Connecticut	$232,385	$177,082	$409,467
Maine	56,918	105,284	162,202
Massachusetts	586,883	149,101	735,984
New Hampshire	35,113	114,408	149,521
Rhode Island	112,123	12,038	124,161
Vermont	6,250	93,750	100,000
Region II:			
New Jersey	665,146	336,595	1,001,741
New York	1,291,982	1,068,661	2,360,643
Puerto Rico	441,544	168,165	609,709
Virgin Islands	0	45,000	45,000
Region III:			
Delaware	37,857	62,143	100,000
District of Columbia	46,200	53,800	100,000
Maryland	518,336	137,339	655,675
Pennsylvania	881,901	635,504	1,517,405
Virginia	560,835	278,176	839,011
West Virginia	34,513	194,788	229,301
Region IV:			
Alabama	372,050	196,977	569,027
Florida	934,325	739,999	1,674,324
Georgia	565,308	407,374	972,682
Kentucky	322,904	190,118	513,022
Mississippi	366,105	34,380	400,485
North Carolina	544,167	356,132	900,299
South Carolina	362,187	140,797	502,984
Tennessee	357,591	312,878	670,469
Region V:			
Illinois	703,233	917,728	1,620,961
Indiana	503,830	272,308	776,138
Michigan	897,778	426,253	1,324,031
Minnesota	343,916	304,891	648,807
Ohio	968,787	541,750	1,510,537
Wisconsin	379,654	329,384	709,038
Region VI:			
Arkansas	188,369	147,130	335,499
Louisiana	503,341	153,391	656,732
New Mexico	165,983	88,151	254,134
Oklahoma	176,016	283,115	459,131
Texas	1,638,809	1,099,600	2,738,409
Region VII:			
Iowa	286,866	100,939	387,805
Kansas	200,325	161,063	361,388
Missouri	532,473	187,660	720,133
Nebraska	153,836	78,107	231,943
Region VIII:			
Colorado	352,034	143,553	495,587
Montana	14,022	108,554	122,576
North Dakota	13,663	86,337	100,000
South Dakota	47,753	62,143	109,896
Utah	304,690	46,659	351,349
Wyoming	12,500	87,500	100,000
Region IX:			
American Samoa	30,000	15,000	45,000
Arizona	405,687	159,642	565,329
California	2,391,482	2,149,110	4,540,592
Guam	30,000	15,000	45,000
Hawaii	140,885	17,090	157,975
Northern Marianas	30,000	15,000	45,000
Nevada	156,972	29,005	185,977
Palau	30,000	15,000	45,000
Region X:			
Alaska	37,394	62,606	100,000
Idaho	0	175,939	175,939
Oregon	305,496	107,669	413,165
Washington	515,189	220,795	735,984
National totals	21,793,606	14,618,562	36,412,168

TABLE OF ALLOCATIONS BY STATE, FISCAL YEAR 1995—Continued

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VOL
60
ISS
81
AP
27
1995
UMI

Appendix I

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M. Profit Organization
G. Special District N. Other (Specify) _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐☐☐☐
TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.):

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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BILLING CODE 4184-01-C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
—"New" means a new assistance award.
—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

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UMI 1995 APR 27 ISS 81 VOL 60

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years) (b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION
(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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VOL 60 ISS 81 AP 27 1995 UMI

Instructions for the SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B,C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain obligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the incoming period. The amount(s) in Column (g) should be the sum of amounts in columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Line 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of authorized certifying official

Title

Applicant organization

Date submitted

U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

VOL
60
ISS
81
AP
27
1995
UMI

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point of the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

Check ____ if there are workplaces on file that are not identified here.

Sections 76.630 (c) and (d)(2) and 76.635 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions." without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If the funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature _____

Title _____

Organization _____

Date _____

BILLING CODE 4184-01-P

VOL 60 ISS 81 AP 27 1995 UMI

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by O
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: Congressional District, *if known*:	Congressional District, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, *if necessary*)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only: [redacted]

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184-01-C

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

[FR Doc. 95–10089 Filed 4–26–95; 8:45 am]
BILLING CODE 4184–01–P

National Institutes of Health

National Institute on Aging; Workshop on Pre-Application Guidance for SBIR/STTR Proposals

Notice is hereby given of the National Institute on Aging's workshop on pre-application guidance for proposals submitted by small business concerns under the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs for proposals related to technologies and approaches relevant to problems and needs of older people. The one-day workshop, beginning at 8:00 a.m., will be held on Monday, June 19, 1995, in the Natcher Building Auditorium on the campus of the NIH in Bethesda, Maryland. The workshop is open to ALL interested small business concerns and individuals; there is no registration fee. Presentations will be made by NIH staff involved in review process of SBIR and STTR applications as well as those involved in establishing the funding priorities within the awarding components. Representatives from other awarding components with complementary interests relevant to the aging population also will be present. In addition, the experience of some successful grantee small business concerns will be shared. Opportunities will be available for questions and discussions with the presenters and other NIH staff. Further information may be obtained from: Andrew A. Monjan, Ph.D., M.P.H., Chief, Neurobiology of Aging Branch, Neuroscience and Neuropsychology of Aging Program, National Institute on Aging, Gateway Building, Suite 3C307, 7201 Wisconsin Avenue MSC 9205, Bethesda, Maryland 20892–9205, Telephone: 301–496–9350, Fax: 301–496–1494, E-mail address: am39m@nih.gov.

Dated: April 14, 1995.

Richard Hodes,

Director, NIA.

[FR Doc. 95–10383 Filed 4–26–95; 8:45 am]
BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Meeting of the National Heart, Lung, and Blood Advisory Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, June 1–2, 1995, National Institute of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892.

The Council meeting will be open to the public on June 1 from 8:30 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., section 10(d) of Public Law 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. to recess on June 1 and from 8:30 a.m. to adjournment on June 2 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meetings and a roster of the Council members.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. Ronald G. Geller, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Rockledge Building (RKL2), Room 7100, National Institutes of Health, Bethesda, Maryland 20892, (301) 435–0260, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10367 Filed 4–26–95; 8:45 am]
BILLING CODE 4140–01–M

National Center for Research Resources; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: General Clinical Research Centers Committee.

Dates of Meeting: June 20–21, 1995.

Time: 8:00 a.m.—until adjournment.

Place of Meeting: Holiday Inn, Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Scientific Review Administrator: Dr. Richard Nahin, National Institutes of Health, 1 Rockledge Center, Room 6114, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0809.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.333, Clinical Research, National Institutes of Health, HHS)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10368 Filed 4–26–95; 8:45 am]
BILLING CODE 4140–01–M

VOL 60 ISS 81 AP 27 1995 UMI

National Library of Medicine; Notice of Meeting of the Literature Selection Technical Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on June 1–2, 1995, convening at 9 a.m. on June 1 and at 8:30 a.m. on June 2 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 1 will be open to the public from 9 a.m. to approximately 10:30 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Lois Ann Colaianni at 301–496–6921 two weeks before the meeting.

In accordance with provisions set forth in sec. 552b(c)(9)(B), Title 5, U.S.C., Public Law 92–463, the meeting will be closed on June 1 from 10:30 a.m. to approximately 5 p.m. and on June 2 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Scientific Review Administrator of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10369 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

National Center for Research Resources; Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the National Center for Research Resources (NCRR) for June 1995. These meetings will be open to the public as indicated below, to discuss program planning; program accomplishments; administrative matters such as previous meeting minutes; the report of the Director, NCRR; review of budget and legislative updates; and special reports or other issues relating to committee business. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Maureen Mylander, Public Affairs Officer, NCRR, National Institutes of Health, 1 Rockledge Center, Room 5146, 6705 Rockledge Drive, MSC 7965, Bethesda, Maryland 20892–7965, (301) 435–0888, will provide summaries of meetings and rosters of committee members. Other information pertaining to the meetings can be obtained from the Executive Secretary or the Scientific Review Administrator indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary or the Scientific Review Administrator listed below, in advance of the meeting.

Name of Committee: The Subcommittee on Planning of the National Advisory Research Resources Council.

Executive Secretary: Louise Ramm, Ph.D., Deputy Director, National Center for Research Resources, Room 4011, Building 12A, Bethesda, MD 20892, Telephone: (301) 496–6023.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room 3B41, Building 31B, Bethesda, MD 20892.

Open: June 15, 7:30 a.m.–8:45 a.m.

Name of Committee: National Advisory Research Resources Council.

Dates of Meeting: June 15–16, 1995.

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, MD 20892.

Open: June 15, 9 a.m. until recess.

Closed: June 16, 8 a.m. until 9:15 a.m.

Open: June 16, 9:15 a.m. until adjournment.

Name of Committee: Comparative Medicine Review Committee.

Scientific Review Administrator: Dr. Raymond O'Neill, National Institutes of Health, 1 Rockledge Center, Room 6110, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0814.

Date of Meeting: June 11–13, 1995.

Place of Meeting: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Closed: June 11, 6:30 p.m.–recess.

Open: June 12, 8:30 a.m.–10 a.m.

Closed: June 12, 10 a.m. until adjournment.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities.

Scientific Review Administrator: Dr. Jill Carrington, National Institutes of Health, 1 Rockledge Center, Room 6104, 6705 Rockledge Drive, MSC 7965, Bethesda, MD 20892–7965, Telephone: (301) 435–0812.

Dates of Meeting: June 13–14, 1995.

Place of Meeting: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Open: June 13, 8 a.m.–9 a.m.

Closed: June 13, 9 a.m. until adjournment.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Laboratory Animal Sciences and Primate Research; 93.333, Clinical Research; 93.371, Biomedical Research Technology; 93.389, Research Centers in Minority Institutions; 93.198, Biological Models and Materials Research; 93.167, Research Facilities Improvement Program; 93.214 Extramural Research Facilities Construction Projects, National Institutes of Health.)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10370 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

Notice of Meeting of the National Advisory Council for Human Genome Research

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council for Human Genome Research, National Center for Human Genome Research, May 22 and 23, 1995, Embassy Suites Chevy Chase Pavilion, Chevy Chase I and II, 4300 Military Road, N.W., Washington, D.C.

This meeting will be open to the public on Monday, May 22, from 8:30 a.m. to 11:30 a.m. to discuss administrative details or other issues relating to committee activities. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on May 22 at 11:30 a.m. to recess and on May 23 from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Elke Jordan, Deputy Director, National Center for Human Genome Research, National Institutes of Health, Building 38A, Room 605, Bethesda, Maryland 20892, (301) 496–0844, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jane Ades, (301) 402–2205, two weeks in advance of the meeting.

(Catalogue of Federal Domestic Assistance Program No. 93.172, Human Genome Research.)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10372 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Meeting of the Advisory Panel on Alzheimer's Disease

Pursuant to Pub. L. 92–463, notice is hereby given of the Advisory Panel on Alzheimer's Disease meeting to be held at the National Institutes of Health, Building 31, Conference Room 8, Bethesda, Maryland, from 10 a.m. to 5 p.m. on June 13 and again on June 14 from 9 a.m. to 2 p.m.

The meeting will be open to the public for discussion of draft material for the Panel's annual report and other business before the Panel. Attendance by the public will be limited to space available.

Ms. June McCann, Committee Management Officer for the National Institute on Aging, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, Maryland 20892 (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. McCann at (301) 496–9322, in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10373 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meeting:

Study section/contact person	May–July 1995 meetings	Time	Location
AIDS and Related Research Initial Review Group			
AIDS & Related Research 1, Dr. Sami Mayyasi, 301–594–7073.	July 10–11	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 2, Dr. Gilbert Meier, 301–594–7118.	July 21	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 3, Dr. Marcel Pons, 301–594–7210.	June 26–28	8:00 a.m.	Holiday Inn, Gaithersburg, Md.
AIDS & Related Research 4, Dr. Mohindar Poonian, 301–594–7112.	July 11–12	8:30 a.m.	Hyatt Regency Hotel, Bethesda, MD.
AIDS & Related Research 5, Dr. Mohindar Poonian, 301–594–7112.	July 13	8:00 a.m.	Hyatt Regency Hotel, Bethesda, MD.
AIDS & Related Research 6, Dr. Gilbert Meier, 301–594–7118.	July 7	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
AIDS & Related Research 7, Dr. Gilbert Meier, 301–594–7118.	July 14	9:00 a.m.	Holiday Inn, Chevy Chase, MD.
Biobehavioral and Social Sciences Initial Review Group			
Behavioral Medicine, Ms. Carol Campbell, 301–594–7165	June 14–15	8:30 a.m.	St. James Hotel, Washington, DC.
Bio-Psychology, Dr. A. Keith Murray, 301–594–7145	May 30–June 1	9:00 a.m.	The Georgetown Inn, Washington, DC.
Human Development & Aging–1, Dr. Teresa Levitin, 301–594–7141.	June 22–23	9:00 a.m.	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Human Development & Aging–2, Dr. Peggy McCardle, 301–594–7293.	June 12–13	8:30 a.m.	Hyatt Regency Hotel, Bethesda, MD.

Division of Research Grants; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings that are being held to review grant applications:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Multidisciplinary Sciences.

Date: June 13, 1995.

Time: 8:00 a.m.

Place: Bethesda Marriott Hotel, Bethesda, MD.

Contact Person: Dr. Nabeeh Mourad, Scientific Review Admin., 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, (301) 594–7213.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10380 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

VOL 60 ISS 81 AP 27 1995 UMI

Study section/contact person	May–July 1995 meetings	Time	Location
Human Development & Aging–3, Dr. Anita Miller Sostek, 301–594–7358.	June 22–23	9:00 a.m.	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Social Sciences & Population, Dr. Robert Weller, 301–594–7340.	June 15–16	8:00 a.m.	Radisson Barcelo Hotel, Washington, DC.
Biochemical Sciences Initial Review Group			
Biochemistry, Dr. Chhanda Ganguly, 301–594–7263	June 21–23	8:30 a.m.	Days Inn Hotel, Washington, DC.
Medical Biochemistry, Dr. Alexander Liacouras, 301–594–7264.	June 14–16	8:00 a.m.	Days Inn Hotel, Washington, DC.
Pathobiochemistry, Dr. Zakir Bengali, 301–594–7317	June 5–6	8:30 a.m.	Holiday Inn, Georgetown, DC.
Physiological Chemistry, Dr. Jerry Critz, 301–594–7322	June 15–17	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Biophysical and Chemical Sciences Initial Review Group			
Bio-Organic & Natural Products Chemistry, Dr. Harold Radtke, 301–594–7212.	June 15–16	9:00 a.m.	Holiday Inn, Chevy Chase, MD.
Biophysical Chemistry, Dr. John Beisler, 301–594–7149	June 15–17	8:30 a.m.	Holiday Inn, Bethesda, MD.
Medicinal Chemistry, Dr. Ronald Dubois, 301–594–7163	June 7–9	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Metallobiochemistry, Dr. Edward Zapolski, 301–594–7302	June 22–24	8:30 a.m.	The Georgetown Inn, Washington, DC.
Molecular & Cellular Biophysics, Dr. Nancy Lamontagne, 301–594–7147.	June 8–10	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Physical Biochemistry, Dr. Gopa Rakhit, 301–594–7166	June 19–21	8:30 a.m.	Holiday Inn Crowne Plaza, Rockville, MD.
Cardiovascular Sciences Initial Review Group			
Cardiovascular, Dr. Gordon Johnson, 301–594–7216	June 14–16	8:00 a.m.	Holiday Inn Crowne Plaza, Rockville, MD.
Cardiovascular & Renal, Dr. Anthony Chung, 301–594–7338.	June 19–21	8:30 a.m.	Marriott Hotel, Pooks Hill, Bethesda, MD.
Experimental Cardiovascular Sciences, Dr. Anshumali Chaudhari, 301–594–7344.	June 7–9	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
Hematology–1, Dr. Clark Lum, 301–594–7260	June 1–3	8:00 a.m.	Hyatt Regency Hotel, Bethesda, MD.
Hematology–2, Dr. Jerrold Fried, 301–594–7261	June 21–23	8:30 a.m.	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Pharmacology, Dr. Joseph Kaiser, 301–594–7241	June 21–23	8:30 a.m.	American Inn, Bethesda, MD.
Cell Development and Function Initial Review Group			
Biological Sciences–2, Dr. Camilla Day, 301–594–7389	June 28–30	8:30 a.m.	Holiday Inn, Alexandria, VA.
Cellular Biology and Physiology–1, Dr. Gerald Greenhouse, 301–594–7385.	May 31–June 1	8:00 a.m.	Sheraton Reston Hotel, Reston, VA.
Cellular Biology and Physiology–2, Dr. Gerhard Ehrenspeck, 301–594–7387.	June 5–7	8:30 a.m.	Holiday Inn, Bethesda, MD.
Human Embryology & Development–2, Dr. Sherry Dupere, 301–594–7097.	June 12–13	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
International & Cooperative Projects, Dr. G.B. Warren, 301–594–7289.	July 20–21	8:00 a.m.	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Molecular Biology, Dr. Robert Su, 301–594–7320	June 22–24	8:30 a.m.	Holiday Inn, Bethesda, MD.
Molecular Cytology, Dr. Ramesh Nayak, 301–594–7169	June 1–2	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
Endocrinology and Reproductive Sciences Initial Review Group			
Biochemical Endocrinology, Dr. Michael Knecht, 301–594–7247.	June 11–13	8:30 a.m.	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Endocrinology, Dr. Syed Amir, 301–594–7229	June 17–19	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Human Embryology & Development–1, Dr. Michael Knecht, 301–594–7247.	June 22–23	8:00 a.m.	Holiday Inn Crowne Plaza, Rockville, MD.
Reproductive Biology, Dr. Dennis Leszczynski, 301–594–7218.	June 12–13	8:00 a.m.	Holiday Inn, Bethesda, MD.
Reproductive Endocrinology, Dr. Abubakar Shaikh, 301–594–7368.	June 12–14	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
Genetic Sciences Initial Review Group			
Biological Sciences–1, Dr. Nancy Pearson, 301–594–0505	June 28–30	8:30 a.m.	Wyndham Bristol Hotel, Washington, DC.
Genetics, Dr. David Remondini, 301–594–7202	June 8–10	9:00 a.m.	Holiday Inn, Bethesda, MD.
Genome, Dr. Cheryl Corsaro, 301–594–7336	June 21–23	9:00 a.m.	Holiday Inn, Georgetown, DC.
Mammalian Genetics, Dr. Jerry Roberts, 301–594–7051	June 7–9	8:30 a.m.	The Georgetown Inn, Washington, DC.

Study section/contact person	May–July 1995 meetings	Time	Location
Health Promotion and Disease Prevention Initial Review Group			
Epidemiology & Disease Control–1, Dr. Scott Osborne, 301–594–7060.	June 14–16	8:30 a.m.	Holiday Inn Crowne Plaza, Rockville, MD.
Epidemiology & Disease Control–2, Dr. H.M. Stiles, 301–594–7194.	June 19–21	8:30 a.m.	Embassy Suites Hotel, Alexandria, VA.
Nursing Research, Dr. Gertrude McFarland, 301–594–7080.	June 7–9	8:30 a.m.	Ramada Inn, Rockville, MD.
Safety & Occupational Health, Dr. Gopal Sharma, 301–594–7130.	June 14–16	8:00 a.m.	Holiday Inn, Bethesda, MD.
Toxicology–1, Dr. Alfred Marozzi, 301–594–7278	June 14–16	8:00 a.m.	American Inn, Bethesda, MD.
Toxicology–2, Dr. Alfred Marozzi, 301–594–7278	June 28–30	9:00 a.m.	American Inn, Bethesda, MD.
Immunological Sciences Initial Review Group			
Allergy & Immunology, Mr. Howard Berman, 301–594–7234.	June 19–21	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Experimental Immunology, Dr. Calbert Laing, 301–594–7190.	June 7–9	8:30 a.m.	Savoy Suites Hotel, Washington, DC.
Immunobiology, Dr. Betty Hayden, 301–594–7310	June 14–16	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
Immunological Sciences, Dr. Anita Corman Weinblatt, 301–594–7175.	June 21–23	8:30 a.m.	Holiday Inn, Georgetown, DC.
Immunology, Virology & Pathology, Dr. Lynwood Jones, 301–594–7262.	June 21–23	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Infectious Diseases and Microbiology Initial Review Group			
Bacteriology & Mycology–1, Dr. Timothy Henry, 301–594–7228.	June 19–20	8:30 a.m.	Sheraton Suites Hotel, Alexandria, VA.
Bacteriology & Mycology–2, Dr. William Branche, Jr., 301–594–7297.	June 7–9	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Experimental Virology, Dr. Garrett Keefer, 301–594–7099	June 26–27	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Microbial Physiology & Genetics–1, Dr. Martin Slater, 301–594–7176.	June 14–16	8:30 a.m.	One Washington Circle Hotel, Washington, DC.
Microbial Physiology & Genetics–2, Dr. Gerald Liddel, 301–594–7167.	June 21–23	8:30 a.m.	Holiday Inn Crowne Plaza, Rockville, MD.
Tropical Medicine & Parasitology, Dr. Jean Hickman, 301–594–7078.	June 8–9	8:00 a.m.	Holiday Inn, Bethesda, MD.
Virology, Dr. Rita Anand, 301–594–7108	June 14–16	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Musculoskeletal and Dental Sciences Initial Review Group			
General Medicine A–1, Dr. Harold Davidson, 301–594–7313.	June 11–13	7:30 p.m.	Marriott Hotel, Pooks Hill, Bethesda, MD.
General Medicine B, Dr. Daniel McDonald, 301–594–7301	June 5–8	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
Oral Biology & Medicine–1, Dr. Priscilla Chen, 301–594–7287.	June 14–16	7:00 p.m.	Ramada Inn, Alexandria, VA.
Oral Biology & Medicine–2, Dr. Priscilla Chen, 301–594–7287.	June 21–23	8:30 a.m.	Holiday Inn Old Town, Alexandria, VA.
Orthopedics & Musculoskeletal, Dr. Daniel McDonald, 301–594–7301.	June 21–23	8:30 a.m.	Holiday Inn, Bethesda, MD.
Neurological Sciences Initial Review Group			
Neurological Sciences–1, Dr. Carl Banner, 301–594–7206	June 7–9	8:30 a.m.	Omni Shoreham Hotel, Washington, DC.
Neurological Sciences–2, Dr. Stephen Gobel, 301–594–7356.	June 14–16	8:00 a.m.	Holiday Inn, Chevy Chase, MD.
Neurology A, Dr. Joe Marwah, 301–594–7158	June 21–23	8:30 a.m.	Wyndham Bristol Hotel, Washington, DC.
Neurology B–1, Dr. Lillian Pubols, 301–594–7325	June 6–8	8:30 a.m.	Holiday Inn, Georgetown, DC.
Neurology B–2, Dr. Herman Teitelbaum, 301–594–7245	June 19–21	8:30 a.m.	Holiday Inn, Chevy Chase, MD.
Neurology C, Dr. Kenneth Newrock, 301–594–7123	June 28–July 1	8:30 a.m.	Radisson Barcelo Hotel, Washington, DC.
Nutritional and Metabolic Sciences Initial Review Group			
General Medicine A–2, Dr. Mushtaq Khan, 301–594–7168	June 12–14	8:30 a.m.	River Inn Hotel, Washington, DC.
Metabolism, Dr. Krish Krishnan, 301–594–7156	June 28–30	8:00 a.m.	Holiday Inn, Georgetown, DC.
Nutrition, Dr. Sooja Kim, 301–594–7174	June 14–16	8:30 a.m.	Holiday Inn Crowne Plaza, Rockville, MD.
Oncological Sciences Initial Review Group			
Chemical Pathology, Dr. Edmund Copeland, 301–594–7154.	June 26–28	8:30 a.m.	River Inn Hotel, Washington, DC.

VOL 60 ISS 81 AP 27 1995 UMI

Study section/contact person	May–July 1995 meetings	Time	Location
Experimental Therapeutics-1, Dr. Philip Perkins, 301–594–7324.	June 14–16	8:30 a.m.	Hyatt Hotel, Arlington, VA.
Experimental Therapeutics–2, Dr. Marcia Litwack, 301–594–7366.	June 28–30	8:30 a.m	Holiday Inn Crowne Plaza, Rockville, MD.
Metabolic Pathology, Dr. Marcelina Powers, 301–594–7120.	June 27–29	8:30 a.m	Holiday Inn, Chevy Chase, MD.
Pathology A, Dr. Larry Pinkus, 301–594–7315	June 6–8	7:00 p.m	Quality Hotel Capitol Hill, Washington, DC.
Pathology B, Dr. Martin Padarathsingh, 301–594–7192	June 7–9	8:00 a.m	Holiday Inn, Georgetown, DC.
Radiation, Dr. Paul Strudler, 301–594–7152	June 5–7	8:30 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Pathophysiological Sciences Initial Review Group			
Lung Biology & Pathology, Dr. Anne Clark, 301–594–7115	June 14–16	8:00 a.m	Holiday Inn, Chevy Chase, MD.
Physiology, Dr. Michael Lang, 301–594–7332	June 14–16	8:30 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.
Respiratory & Applied Physiology, Dr. Everett Sinnett, 301–594–7220.	June 7–9	8:30 a.m	One Washington Circle Hotel, Washington, DC.
Sensory Sciences Initial Review Group			
Hearing Research, Dr. Joseph Kimm, 301–594–7257	June 12–14	8:30 a.m	Radisson Barcelo Hotel, Washington, DC.
Sensory Disorders & Language, Dr. Jane Hu, 301–594–7269.	June 14–16	8:30 a.m	Holiday Inn, Capitol Hill, Washington, DC.
Visual Sciences A, Dr. Luigi Giacometti, 301–594–7132	June 14–16	8:30 a.m	Holiday Inn Crowne Plaza, Rockville, MD.
Visual Sciences B, Dr. Leonard Jakubczak, 301–594–7198.	June 7–9	8:30 a.m	The Latham Hotel, Washington, DC.
Visual Sciences C, Dr. Carole Jelsema, 301–594–7311	June 14–16	8:00 a.m	The Georgetown Inn, Washington, DC.
Surgery, Radiology and Bioengineering Initial Review Group			
Diagnostic Radiology, Dr. Catharine Wingate, 301–594–7295.	June 5–7	8:30 a.m	Hotel Washington, Washington, DC.
Surgery & Bioengineering, Dr. Paul Parakkal, 301–594–7258.	June 8–9	8:00 a.m.	The Georgetown Inn, Washington, DC.
Surgery, Anesthesiology & Trauma, Dr. Richard Panniers, 301–594–7348.	June 21–23	2:00 p.m	Holiday Inn, Bethesda, MD.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10371 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meetings of the National Cancer Advisory Board and its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, and its Subcommittees on May 15–17, 1995. Except as noted below, the meetings of the Board and its Subcommittees will be open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

A portion of the Board meeting will be closed to the public in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications and for discussion of issues pertaining to programmatic areas and/or NCI personnel. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning the individuals associated with the applications or programs, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Office, National Cancer Institute, National Institutes of Health, Executive Plaza North, Room 630, 9000 Rockville Pike, Bethesda, Maryland 20892 (301/496–5708), will provide summaries of the meetings and rosters of the Board members, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Carole Frank, Committee Management Specialist, at 301/496–5708 in advance of the meeting.

Name of Committee: Subcommittee on Cancer Centers.

Contact Person: Dr. Brian Kimes, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Room 3000, 6130 Executive Blvd., Bethesda, MD 20892–7094; (301) 496–8537.

Date of Meeting: May 15, 1995.

Place of Meeting: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD.

Open: 5 pm to 7 pm.

Agenda: To discuss the cancer centers.

Name of Committee: Subcommittee on Information and Cancer Control.

Contact Person: Mr. Paul Van Nevel, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 10A31, 9000 Rockville Pike, Bethesda, MD 20892; (301) 496–6831.

Date of Meeting: May 15, 1995.

Place of Meeting: Bethesda Marriot, 5151 Pooks Hill Road, Bethesda, MD 20814.

Open: 7 pm to 8:30 pm.

Agenda: To discuss cancer control issues.

Name of Committee: National Cancer Advisory Board.

Contact Person: Dr. Marvin R. Kalt, Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Room 600A, 6130 Executive Blvd., Bethesda, MD 20892–7405; (301) 496–5147.

Dates of Meeting: May 16–17, 1995.

Place of Meeting: Conference Room 10, C Wing Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: May 16—8 am to approximately 5 pm.

Agenda: Report on activities of the President's Cancer Panel; the Acting Director's Report on the National Cancer Institute; Effects of Third Party Payment on Clinical Research; Cancer Centers; and the NCAB AD HOC Working Group on the NCI Intramural Programs.

Closed: May 17—8 am to approximately 9:45 am.

Agenda: For review and discussion of individual grant applications and extramural/intramural programmatic and personnel policies.

Open: May 17—9:45 am to adjournment.

Agenda: Subcommittee Reports and Continuing New Business.

Name of Committee: Subcommittee on Basic and Environmental Sciences.

Contact Person: Dr. Susan Sieber, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 11A03, 9000 Rockville Pike, Bethesda, MD 20892; (301) 496–5946.

Date of Meeting: May 16, 1995.

Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Open: 12:30 pm to 1:15 pm.

Agenda: To discuss basic and environmental sciences issues.

Name of Committee: Subcommittee for Special Priorities.

Contact Person: Ms. Irish Schneider, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 11A48, Bethesda, MD 20892; (301) 496–5534.

Date of Meeting: May 16, 1995.

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Open: 12:30 pm to 1:45 pm.

Agenda: To discuss issues related to special priorities.

Name of Committee: Subcommittee on Planning and Budget.

Contact Person: Ms. Cherie Nichols, Executive Secretary, National Cancer Institute, NIH, Building 31, Room 11A19, Bethesda, MD 20892; (301) 496–5515.

Date of Meeting: May 16, 1995.

Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Open: Immediately following adjournment of full Board meeting.

Agenda: To discuss the NCI budget and various planning issues.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research, 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10374 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Aging; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, May 22–23, 1995, to be held at the Gerontology Research Center, Baltimore, Maryland. The meeting will be open to the public from 9:30 a.m. to 12:30 p.m. and from 1:30 to 5:30 p.m. on Monday, May 22; and from 9:30 a.m. to 12:30 p.m. and from 1:30 to 3:30 p.m. on Tuesday, May 23. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 22 from 8:30 to 9:30 a.m.; 12:30 to 1:30 p.m.; and from 5:30 to 6:30 p.m.; and on May 23 from 8:30 to 9:30 a.m.; from 12:30 to 1:30 p.m.; and from 3:30 p.m. to adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute on Aging, NIH, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Gateway Building, Room 2C218, National Institutes of Health, Bethesda, Maryland 20892, (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Dr. Edward Lakatta, Acting Scientific Director, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, Maryland 21224, will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Scientific Director in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10375 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Acrylonitrile Study Advisory Panel, National Cancer Institute, May 3, 1995, 6130 Executive Boulevard, Room 418, Rockville, Maryland, which was published in the **Federal Register** on March 17 (60 FR 14439).

The meeting is being canceled because current pending issues were resolved at the March meeting of this Panel and it was decided an additional meeting at this time is not necessary.

Dated: April 20, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10376 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: May 12, 1995.

Time: 2 p.m.

Place: NIH, Westwood Building, Room 325C, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Admin., 5333 Westbard Ave., Room 325C, Bethesda, MD 20892, (301) 594–7198.

Name of SEP: Clinical Sciences.

Date: June 16, 1995.

Time: 8:30 a.m.

Place: American Inn, Bethesda, MD.

Contact Person: Dr. Joseph Kaiser, Scientific Review Admin., 6701 Rockledge

VOL 60 ISS 81 AP 27 1995 UMI

Drive, Room 4132, Bethesda, MD 20892, (301) 594–7241.

Name of SEP: Microbiological and Immunological Sciences.

Date: June 23, 1995.

Time: 8 a.m.

Place: Holiday Inn, Bethesda, MD.

Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, MD 20892, (301) 594–7078.

Name of SEP: Behavioral and Neurosciences.

Date: June 28, 1995.

Time: 1 p.m.

Place: NIH, Rockledge II, Room 5196, Telephone Conference.

Contact Person: Dr. Peggy McCardle, Scientific Review Admin., 6701 Rockledge Drive, Room 5196, Bethesda, MD 20892, (301) 435–1258.

Name of SEP: Behavioral and Neurosciences.

Date: July 6, 1995.

Time: 12 noon.

Place: NIH, Rockledge II, Room 5196, Telephone Conference.

Contact Person: Dr. Peggy McCardle, Scientific Review Admin., 6701 Rockledge Drive, Room 5196, Bethesda, MD 20892, (301) 435–1258.

Purpose/Agenda: To review Small Business Innovation Research Program grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: July 10, 1995.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Peggy McCardle, Scientific Review Admin., 6701 Rockledge Drive, Room 5196, Bethesda, MD 20892, (301) 435–1258.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10377 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council on Drug Abuse, National Institute on Drug Abuse on May 16–17, 1995.

On May 16, from 9 a.m. to 5 p.m., the meeting will be held at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland 20892. This portion of the meeting will be open to the public for announcements and reports of administrative, legislative, and program developments in the drug abuse field. Attendance by the public will be limited to space available.

On May 17, from 9 a.m. to 1 p.m., the meeting will be held at the Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, MD 20857. In accordance with provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, this portion of the meeting will be closed to the public for the review, discussion, and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857 (301/443–2755).

Substantive program information may be obtained from Ms. Eleanor C. Friedenberg, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301/443–2755).

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs.)

Dated: April 24, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10378 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Notice of Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on June 14–15, 1995, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 14 will be open to the public from 8:30 a.m. to approximately 11 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Roger W. Dahlen at 301–496–4221 two weeks before the meeting.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting on June 14 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 11 a.m. to approximately 5 p.m., and on June 15 from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: April 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–10379 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Research: Actions Under the Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496 and 59 FR 40170).

SUMMARY: This notice sets forth an action to be taken by the Director, National Institutes of Health (NIH), under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496 and 59 FR 40170).

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities (ORDA), Office of Science Policy and Technology Transfer, National Institutes of Health, Suite 323, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, (301) 496–9838.

SUPPLEMENTARY INFORMATION: Today's action is being promulgated under the NIH Guidelines for Research Involving Recombinant DNA Molecules. This proposed action was published for comment in the **Federal Register** of February 8, 1995 (60 FR 7630), and reviewed and recommended for approval by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on March 6–7, 1995.

I. Background Information and Decisions on Actions Under the NIH Guidelines

A. Amendments to Sections I, III, IV, V, and Appendices C, F, G, I, and M of the NIH Guidelines Regarding Consolidated Review of Human Gene Transfer Protocols

On July 18–19, 1994, the National Task Force on AIDS Drug Development held an open meeting for the purpose of identifying barriers to AIDS Drug Discovery that included a proposal to streamline the dual review process for human gene transfer experiments. Members of the Task Force recommended a consolidated review process to enhance interactions between the NIH and the Food and Drug Administration (FDA). As a result of the Task Force's deliberations, recommendations were adopted in order to eliminate any unnecessary overlap between the NIH and FDA review of human gene transfer proposals. Both Drs. Varmus and Kessler noted that their respective agencies would cooperate fully to effect the changes necessary to implement these recommendations.

The NIH and FDA proposed that the RAC become advisory to both the NIH Director and the FDA Commissioner with regard to the review of human gene transfer protocols. In the interest of maximizing the resources of both agencies and simplifying the method and period of review for research protocols involving human gene transfer, the NIH and FDA should institute an interagency consolidated review process that incorporates the following principal elements:

(1) All human gene transfer protocols shall be submitted directly to the FDA. Submission will be in the format required by the FDA and the same format will be used by the RAC when public review is deemed necessary.

(2) Upon receipt, FDA review will proceed. The NIH/ORDA staff will simultaneously evaluate the protocol for possible RAC review.

(3) Factors which may contribute to the need for RAC review include: (a) New vectors/new gene delivery systems, (b) new diseases, (c) unique applications of gene transfer, and (d) other issues that require further public review.

(4) If either the NIH/ORDA or FDA decides that a proposal should be reviewed by the RAC, the proposal will be forwarded to the RAC primary reviewers immediately. Whenever possible, Principal Investigators will be notified within 15 working days following receipt of the submission whether RAC review will be required. (RAC reviewed applications will be distributed to RAC members approximately four weeks prior to the next quarterly RAC meeting.)

(5) Semiannual data reporting procedures will remain the responsibility of NIH (ORDA). Semiannual data reports will be reviewed by the RAC in a public forum.

In a letter dated August 2, 1994, Dr. Nelson A. Wivel, Director, ORDA, NIH, provided the RAC with background information regarding the National Task Force on AIDS Drug Development meeting, and proposed amendments to Sections I, III, IV, V, and Appendices C, F, G, I, and M of the NIH Guidelines, to reflect the proposed consolidated review process. The revised review process was proposed as follows:

(1) Investigators will be required to submit all human gene transfer proposals directly to the FDA in the format required by the FDA; therefore, investigators will no longer be required to provide a separate submission to NIH/ORDA for RAC review. The FDA Division of Cellular and Gene Therapies will forward a copy of each submission to NIH/ORDA. Both the FDA Division of Cellular and Gene Therapies and NIH/ORDA will simultaneously evaluate each proposal for the necessity for RAC review. Whenever possible, the investigators will be notified within 15 working days following receipt of the submission regarding the necessity for RAC review.

(2) If either the NIH/ORDA or FDA decides that a proposal should undergo RAC review, the proposal will be forwarded to the RAC primary reviewers immediately. Any protocol submitted less than 8 weeks before a RAC meeting will be reviewed at the following quarterly RAC meeting.

(3) The RAC will make recommendations regarding approval/disapproval of protocols, including any relevant stipulations, to the NIH Director. The NIH Director will review, approve, and transmit the RAC's recommendations/stipulations to the FDA Commissioner.

(4) The FDA will consider such recommendations/stipulations and will be responsible for completion of review. The RAC and NIH/ORDA will no longer have the responsibility for reviewing material submitted for Accelerated Review or for the review of minor modifications to human gene transfer protocols.

These proposed actions were discussed during the September 12–13, 1994, RAC meeting (published for public comments in the **Federal Register**, August 23, 1994 (59 FR 43426)). Dr. Philip Noguchi, Director, Division of Cellular and Gene Therapies, Center for Biologics Evaluation and Research, FDA, provided additional suggestions regarding the proposed review process including FDA adoption of the Appendix M, Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into the Genome of One or More Human Subjects (Points to Consider), of the NIH Guidelines. The FDA will require investigators to submit the Points to Consider with their proposed experiments. A lengthy discussion ensued involving RAC members' concerns and suggestions regarding the consolidated review process.

Dr. Noguchi submitted the following compromise proposal regarding the NIH/FDA consolidated review of human gene transfer experiments:

(1) Appendix M, Points to Consider, will not be deleted from the NIH Guidelines. The NIH Guidelines will be modified to provide for submission of Appendix M, Points to Consider, directly to the FDA prior to IND submission. The FDA will update their guidance documents in a similar manner. When necessary, the RAC will continue to be responsible for modifying Appendix M, Points to Consider.

(2) The RAC, NIH/ORDA, and FDA will decide on the necessity for full RAC review. The submitted Appendix M, Points to Consider, will be publicly available for all human gene transfer

VOL
60
ISS
81
AP
27
1995
UMI

submissions even if RAC review is not required.

(3) The RAC and FDA will broaden their scope of review for human gene transfer proposals to jointly and prospectively address global issues on a regular basis, e.g., ethical consideration in the implementation of gene therapy patient registry, access for "orphan" genetic disease patients to therapies, criteria for prenatal gene therapy, and transgenic technology for xenotransplantation.

(4) The RAC, NIH/ORDA, and FDA will establish a working group to enhance data monitoring efforts.

(5) A RAC, NIH/ORDA, and FDA working group will be established to propose long-term consolidation. The working group will have input from public, academic, and corporate sources.

The RAC approved a motion to (1) accept the FDA proposal submitted by Dr. Noguchi; (2) adopt the Categories for Accelerated Review that were approved by the RAC at its March 3–4, 1994, meeting as guidelines for proposals that will not require RAC review; (3) establish a working group to examine the review process for human gene transfer protocols (in response to Dr. Varmus' request to establish such a group); (4) the RAC prefers that any stipulation requirements should be satisfactorily met prior to forwarding its recommendation for approval to the NIH Director; and (5) accept the proposed amendments to the NIH Guidelines to reflect this revised consolidated review process (including acceptance of a revised Appendix M and incorporation of minor editorial changes). The motion was approved by a vote of 15 in favor, 0 opposed, and 1 abstention.

On October 26, 1994, NIH/ORDA forwarded the revised actions to the NIH Director for approval and the FDA Commissioner for concurrence. FDA legal counsel expressed concern that implementation of these actions would require amendment to the FDA Investigational New Drug Application Regulations (21 CFR Part 312) to accommodate the release of proprietary information. To resolve this concern, a waiver for release of information from the FDA to the NIH was proposed. While the NIH Guidelines could require such a waiver for NIH-funded investigators, it would be voluntary for others submitting proposed human gene transfer experiments to the FDA. The NIH expressed concern that failure to comply with voluntary waiver procedures may result in the loss of critical information necessary to maintain: (1) The human gene therapy database, (2) "real-time" reporting of serious adverse events, and (3) comprehensive overview (by category) by the RAC in a public forum. Public review and access to submission, review, and follow-up information is critical to the safe and focused advancement of human gene therapy research. As a result of these concerns, the NIH and FDA agreed on a compromise proposal that would accommodate the single submission format proposed at the July 18–19, 1994, meeting of the National Task Force on AIDS Drug Development, yet maintain public access to critical information and "real-time" reporting of adverse events. The compromise proposal involves simultaneous submission of human gene transfer protocols to both NIH and the FDA in a single submission format. This format includes (but is not limited to) the documentation described in Appendices M-I through M-V, of the NIH Guidelines. NIH/ORDA and the FDA will simultaneously evaluate the proposal regarding the necessity for RAC review.

These revisions to the consolidated review process were discussed during the March 6–7, 1995, RAC meeting (published for public comments in the **Federal Register**, February 8, 1995 (60 FR 7630)). The following motions were made in response to the February 24, 1995, comments submitted by Ms. Sheryl Osborne of Viagene, Inc., San Diego, California: (1) A motion to retain the current requirement for obtaining Institutional Review Board (IRB) approval prior to RAC submission. A friendly amendment was made and accepted that ORDA should notify the Director of the Office for Protection from Research Risks regarding the necessity for IRB adherence to the detailed questions contained in Appendices M-II through M-V of the NIH Guidelines (Informed Consent issues). The amended motion was approved by a vote of 17 in favor, 0 opposed, and 1 abstention. (2) A motion was made that the RAC should continue to review and approve Phase I follow-up studies, i.e., Phase II and Phase III trials. Such studies may be submitted through the Accelerated Review process; however, the RAC retains the option to require full RAC review. The motion passed by a vote of 18 in favor, 0 opposed, and no abstentions.

The RAC approved a motion to approve the proposed amendments to Sections I, III, IV, V, and Appendices C, F, G, I, and M of the NIH Guidelines regarding NIH and FDA consolidated review of human gene transfer protocols, by a vote of 18 in favor, 0 opposed, and no abstentions.

The actions are detailed in Section II—Summary of Actions. I accept these recommendations, and the NIH Guidelines will be amended accordingly.

II. Summary of Actions

A. Amendments to Section I, Scope of the NIH Guidelines

The amended version of Section I–A, Purpose, reads:

Section I–A. Purpose

The purpose of the NIH Guidelines is to specify practices for constructing and handling: (i) Recombinant deoxyribonucleic acid (DNA) molecules, and (ii) organisms and viruses containing recombinant DNA molecules.

Section I–A–1. Any recombinant DNA experiment, which according to the NIH Guidelines requires approval by the NIH, must be submitted to the NIH or to another Federal agency that has jurisdiction for review and approval. Once approvals, or other applicable clearances, have been obtained from a Federal agency other than the NIH (whether the experiment is referred to that agency by the NIH or sent directly there by the submitter), the experiment may proceed without the necessity for NIH review or approval (see exception in Section I–A–1–a).

Section I–A–1–a. In the interest of maximizing the resources of both the NIH and the Food and Drug Administration (FDA) and simplifying the method and period for review, research proposals involving the deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (human gene transfer) will be considered through a consolidated review process involving both the NIH and the FDA. Submission of human gene transfer proposals will be in the format described in Appendices M–I through M–V of the Points to Consider. Investigators must simultaneously submit their human gene transfer proposal to both the NIH and the FDA in a single submission format. This format includes (but is not limited to) the documentation described in Appendices M–I through M–V, of the Points to Consider. NIH/ORDA and the FDA will simultaneously evaluate the proposal regarding the necessity for RAC review.

B. Amendments to Section III, Experiments Covered by the NIH Guidelines

The amended version of Section III beginning paragraphs reads:

This section describes five categories of experiments involving recombinant DNA: (i) Those that require Institutional Biosafety Committee (IBC) approval, RAC review, and NIH Director approval before initiation (see Section III–A), (ii) those that require NIH/ORDA and Institutional Biosafety Committee approval before initiation (see Section III–B), (iii) those that require Institutional Biosafety Committee approval before initiation (see Section III–C), (iv) those that require Institutional Biosafety Committee notification simultaneous with initiation (see Section III–D), and (v) those that are exempt from the NIH Guidelines (see Section III–E).

Note: If an experiment falls into either Section III–A or Section III–B and one of the other categories, the rules pertaining to Section III–A or Section III–B shall be followed. If an experiment falls into Section III–E and into either Sections III–C or III–D categories as well, the experiment is considered exempt from the NIH Guidelines.

Any change in containment level, which is different from those specified in the NIH Guidelines, may not be initiated without the express approval of NIH/ORDA (see Minor Actions, Section IV–C–1–b–(2) and its subsections).

The amended version of Section III–A reads:

Section III–A. Experiments that Require Institutional Biosafety Committee Approval, RAC Review, and NIH Director Approval Before Initiation (see Section IV–C–1–b–(1)).

Section III–A–1. Major Actions Under the NIH Guidelines

Experiments considered as Major Actions under the NIH Guidelines cannot be initiated without submission of relevant information on the proposed experiment to the Office of Recombinant DNA Activities, National Institutes of Health, Suite 323, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, (301) 496–9838, the publication of the proposal in the **Federal Register** for 15 days of comment, review by the RAC, and specific approval by the NIH (see Appendix M for submission requirements on human gene transfer experiments). The containment conditions or stipulation requirements for such experiments will be recommended by the RAC and set by the NIH at the time of approval. Such experiments require Institutional Biosafety Committee approval before initiation. Specific experiments already approved are included in Appendix D which may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Suite 323, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, (301) 496–9838.

Section III–A–1–a. The deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire the trait naturally (see Section V–B), if such acquisition could compromise the use of the drug to control disease agents in humans, veterinary medicine, or agriculture, will be reviewed by the RAC.

Section III–A–2. Human Gene Transfer Experiments

Investigators must simultaneously submit their human gene transfer proposal to both the NIH and the FDA in a single submission format. This format includes (but is not limited to) the documentation described in Appendices M–I through M–V, of the Points to Consider. The NIH/ORDA and the FDA will simultaneously evaluate the proposal regarding the necessity for RAC review.

Factors that may contribute to the necessity for RAC review include: (i) New vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Among the experiments that may be considered exempt from RAC review are those determined by the NIH/ORDA and FDA not to represent possible risk to human health or the environment (see Appendix M–VII, Categories of Human Gene Transfer Experiments that May Be Exempt from RAC Review). Whenever possible, investigators will be notified within 15 working days following receipt of the submission whether RAC review will be required. In the event that NIH/ORDA or the FDA require RAC review of the submitted proposal, the documentation described in Appendices M–I through M–V of the Points to Consider, will be forwarded to the RAC primary reviewers for evaluation. RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed. The RAC and FDA prefer that information provided in response to Appendix M contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public. The RAC will recommend approval or disapproval of the reviewed proposal to the NIH Director. In the event that a proposal is contingently approved by the RAC, the RAC prefers that the conditions be satisfactorily met before the RAC's recommendation for approval is submitted to the NIH Director. The NIH Director's decision on the submitted proposal will be transmitted to the FDA Commissioner and considered as a Major Action by the NIH Director.

The amended version of Section III–B reads:

Section III–B. Experiments That Require NIH/ORDA and Institutional Biosafety Committee Approval Before Initiation

Section III–B–1. Experiments Involving the Cloning of Toxin Molecules with LD_{50} of Less than 100 Nanograms per Kilogram Body Weight

Deliberate formation of recombinant DNA containing genes for the biosynthesis of toxin molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, and Shigella dysenteriae neurotoxin). Specific approval has been given for the cloning in Escherichia coli K–12 of DNA containing genes coding for the biosynthesis of toxic molecules which are lethal to vertebrates at 100 nanograms to 100 micrograms per kilogram body weight. Specific experiments already approved under this section may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Suite 323, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, (301) 496–9838.

Section III–B–1–(a). Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH/ORDA. The containment conditions for such experiments will be determined by NIH/ORDA in consultation with ad hoc experts. Such experiments require Institutional Biosafety Committee approval before initiation (see Section IV–B–2–b–(1)).

The following section, Section III–C–7, is deleted:

Section III–C–7. Human Gene Transfer Experiments Not Covered by Sections III–A–2, III–B–2, III–B–3, and Not Considered Exempt under Section V–U

Certain experiments involving the transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into one or more human subjects that are not covered by Sections III–A–2, III–B–2, III–B–3, and that are not considered exempt under Section V–U must be registered with NIH/ORDA. The relevant Institutional Biosafety Committee and Institutional Review Board must review and approve all experiments in this category prior to their initiation.

VOL 60 ISS 81 AP 27 1995 UMI

C. Amendments to Section IV, Roles and Responsibilities

In Section IV–B–4–b, Submissions by the Principal Investigator to the NIH/ORDA, the following sections are amended to read:

Section IV–B–4–b–(3). Petition NIH/ORDA, with concurrence of the Institutional Biosafety Committee, for approval to conduct experiments specified in Sections III–A–1 and III–B of the NIH Guidelines;

In Section IV–B–4–e, Responsibilities of the Principal Investigator During the Conduct of the Research, the following section is added:

Section IV–B–4–e–(5). Comply with semiannual data reporting and adverse event reporting requirements for NIH and FDA-approved human gene transfer experiments (see Appendix M–VIII, Reporting Requirements—Human Gene Transfer Protocols).

In Section IV–C–b–(1), Major Actions, the first paragraph is amended to read:

To execute Major Actions, the NIH Director shall seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the Notice of Meeting and Proposed Actions shall be published in the **Federal Register** at least 15 days before the RAC meeting. The NIH Director's decision/recommendation (at his/her discretion) may be published in the **Federal Register** for 15 days of comment before final action is taken. The NIH Director's final decision/recommendation, along with responses to public comments, shall be published in the **Federal Register**. The RAC and Institutional Biosafety Committee Chairs shall be notified of the following decisions:

Section IV–C–1–B–(1)–(e) is amended to read:

Section IV–C–1–b–(1)–(e). Recommendations made by the NIH Director to the FDA Commissioner regarding RAC-reviewed human gene transfer experiments (see Appendix M–VI–E, RAC Recommendations to the NIH Director);

Except for renumbering, the rest of the Section IV–C–1–B–(1) remains unchanged.

In Section IV–C–1–b–(2), Minor Actions, the following sections are deleted:

Section IV–C–1–b–(2)–(a). Reviewing and approving certain experiments involving the deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into one or more human subjects that qualify for the Accelerated Review process (see Section III–B–2);

Section IV–C–1–b–(2)–(b). Reviewing and approving minor changes to human gene transfer protocols under Section III–A–2 and III–B–2;

The rest of the section has been renumbered.

Section IV–C–3, Office of Recombinant DNA Activities (ORDA), will be amended to read:

Section IV–C–3. Office of Recombinant DNA Activities (ORDA)

ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH including institutions, Biological Safety Officers, Principal Investigators, Federal agencies, state and local governments, and institutions in the private sector. ORDA shall carry out such other functions as may be delegated to it by the NIH Director. ORDA's responsibilities include (but are not limited to) the following:

Section IV–C–3–a. Evaluating human gene transfer protocols for the necessity for RAC review (see Appendix M–VI–A);

Section IV–C–3–b. Serving as the focal point for data management of NIH and FDA approved human gene transfer protocols (see Appendix M–VIII, Reporting Requirements—Human Gene Transfer Protocols);

Section IV–C–3–c. Administering the semiannual data reporting requirements (and subsequent review) for human gene transfer experiments, including experiments that are reviewed solely by the FDA (see Appendix M–VI, Categories of Human Gene Transfer Experiments that May Be Exempt from RAC Review);

Section IV–C–3–d. Maintaining an inventory of NIH and FDA–approved human gene transfer experiments (including subsequent modifications);

Section IV–C–3–e. Reviewing and approving experiments in conjunction with ad hoc experts involving the cloning of genes encoding for toxin molecules that are lethal for vertebrates at an LD_{50} of less than or equal to 100 nanograms per kilogram body weight in organisms other than Escherichia coli K–12 (see Section III–B–1 and Appendices F–I and F–II);

Section IV–C–3–f. Serving as the executive secretary of the RAC;

Section IV–C–3–g. Publishing in the **Federal Register**:

Section IV–C–3–g–(1). Announcements of RAC meetings and agendas at least 15 days in advance (NOTE—If the agenda for a RAC meeting is modified, ORDA shall make the revised agenda available to anyone upon request in advance of the meeting);

Section IV–C–3–g–(2). Proposed Major Actions (see Section IV–C–1–b–(1)) at least 15 days prior to the RAC meeting; and

Section IV–C–3–h. Reviewing and approving the membership of an institution's Institutional Biosafety Committee, and where it finds the Institutional Biosafety Committee meets the requirements set forth in Section IV–B–2 will give its approval to the Institutional Biosafety Committee membership;

D. Amendments to Section V, Footnotes and References of Section I through IV

The following sections are deleted:

Section V–U. Human studies in which the induction or enhancement of an immune response to a vector–encoded microbial immunogen is the major goal, such an immune response has been demonstrated in model systems, and the persistence of the vector–encoded immunogen is not expected, are not covered under Sections III–A–2, III–B–2, or III–B–3. Such studies may be initiated without RAC review and NIH approval if approved by another Federal agency.

Section V–V. For recombinant DNA experiments in which the intent is to modify stably the genome of cells of one or more human subjects (see Sections III–A–2, III–B–2, and III–B–3).

Section V–W has been renumbered to Section V–U:

Section V–U. In accordance with accepted scientific and regulatory practices of the discipline of plant pathology, an exotic plant pathogen (e.g., virus, bacteria, or fungus) is one that is unknown to occur within the U.S. (see Section V–R). Determination of whether a pathogen has a potential for serious detrimental impact on managed (agricultural, forest, grassland) or natural ecosystems should be made by the Principal Investigator and the Institutional Biosafety Committee, in consultation with scientists knowledgeable of plant diseases, crops, and ecosystems in the geographic area of the research.

E. Amendments to Appendix C, Exemptions under Section III–E–6

The following sections are amended to read:

Appendix C–I–A. Exceptions

The following categories are not exempt from the NIH Guidelines: (i) experiments described in Section III–A which require Institutional Biosafety Committee approval, RAC review, and NIH Director approval before initiation.

Appendix C–II–A. Exceptions

The following categories are not exempt from the NIH Guidelines: (i) experiments described in Section III–A which require Institutional Biosafety Committee approval, RAC review, and NIH Director approval before initiation.

Appendix C–III–A. Exceptions

The following categories are not exempt from the NIH Guidelines: (i) experiments described in Section III–A which require Institutional Biosafety Committee approval, RAC review, and NIH Director approval before initiation.

Appendix C–IV–A. Exceptions

The following categories are not exempt from the NIH Guidelines: (i) experiments described in Section III–A which require Institutional Biosafety Committee approval, RAC review, and NIH Director approval before initiation.

Appendix C–V–A. Exceptions

The following categories are not exempt from the NIH Guidelines: (i) experiments described in Section III–A which require Institutional Biosafety Committee approval, RAC review, and NIH Director approval before initiation.

Appendix C–VI–A–1. The NIH Director, with advice of the RAC, may revise the classification for the purposes of these NIH Guidelines (see Section IV–C–1–b–(2)–(b)).

E. Amendments to Appendix F, Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates

The following sections are amended, due to reference changes, to read:

Appendix F–I. General Information

. . . The results of such tests shall be forwarded to NIH/ORDA, which will consult with ad hoc experts, prior to inclusion of the molecules on the list (see Section IV–C–1–b–(2)–(c)).

Appendix F–III. Cloning of Toxic Molecule Genes in Organisms Other Than Escherichia coli K–12

Requests involving the cloning of genes coding for toxin molecules for vertebrates at an LD_{50} of <100 nanograms per kilogram body weight in host-vector systems other than Escherichia coli K–12 will be evaluated by NIH/ORDA in consultation with ad hoc toxin experts (see Sections III–B–1 and IV–C–1–b–(2)–(c)).

F. Amendments to Appendix G, Physical Containment

The following sections are amended, due to reference changes, to read:

Appendix G–II. Physical Containment Levels.

. . . Consideration will be given by the NIH Director, with the advice of the RAC, to other combinations which achieve an equivalent level of containment (see Section IV–C–1–b–(2)–(a)).

G. Amendments to Appendix I, Biological Containment

The following sections are amended, due to reference changes, to read:

Appendix I–II–A. Responsibility

. . . Proposed host-vector systems will be reviewed by the RAC (see Section IV–C–1–b–(1)–(f)). . . . Minor modifications to existing host-vector systems (i.e., those that are of minimal or no consequence to the properties relevant to containment) may be certified by the NIH Director without prior RAC review (see Section IV–C–1–b–(2)–(f)). . . . The NIH Director may rescind the certification of a host-vector system (see Section IV–C–1–b–(2)–(g)).

H. Amendments to Appendix M, The Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into the Genome of One or More Human Subjects (Points to Consider)

Appendix M is amended to read:

Appendix M. The Points to Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules into the Genome of One or More Human Subjects (Points to Consider)

Appendix M applies to research conducted at or sponsored by an institution that receives any support for recombinant DNA research from the NIH. Researchers not covered by the NIH Guidelines are encouraged to use Appendix M.

The acceptability of human somatic cell gene therapy has been addressed in several public documents as well as in numerous academic studies. In November 1982, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research published a report, Splicing Life, which resulted from a two-year process of public deliberation and hearings. Upon release of that report, a U.S. House of Representatives subcommittee held three days of public hearings with witnesses from a wide range of fields from the biomedical and social sciences to theology, philosophy, and law. In December 1984, the Office of Technology Assessment released a background paper, Human Gene Therapy, which concluded: civic, religious, scientific, and medical groups have all accepted, in principle, the appropriateness of gene therapy of somatic cells in humans for specific genetic diseases. Somatic cell gene therapy is seen as an extension of present methods of therapy that might be preferable to other technologies. In light of this public support, the Recombinant DNA Advisory Committee (RAC) is prepared to consider proposals for somatic cell gene transfer.

The RAC will not at present entertain proposals for germ line alterations but will consider proposals involving somatic cell gene transfer. The purpose of somatic cell gene therapy is to treat an individual patient, e.g., by inserting a properly functioning gene into the subject's somatic cells. Germ line alteration involves a specific attempt to introduce genetic changes into the germ (reproductive) cells of an individual, with the aim of changing the set of genes passed on to the individual's offspring.

In the interest of maximizing the resources of both the NIH and the Food and Drug Administration (FDA) and simplifying the method and period for review, research proposals involving the deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (human gene transfer) will be considered through a consolidated review process involving both the NIH and the FDA. Submission of human gene transfer proposals will be in the format described in Appendices M–I through M–V of the Points to Consider. Investigators must simultaneously submit their human gene transfer proposal to both the NIH and the FDA in a single submission format. This format includes (but is not limited to) the documentation described in Appendices M–I through M–V of the Points to Consider. NIH/ORDA and the FDA will simultaneously evaluate the proposal regarding the necessity for RAC review.

Factors that may contribute to the necessity for RAC review include: (i) New vectors/new gene delivery systems, (ii) New diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Among the experiments that may be considered exempt from RAC review are those determined by the NIH/ORDA and FDA not to represent possible risk to human health or the environment (see Appendix M–VII, Categories of Human Gene Transfer Experiments that May Be Exempt from RAC Review). Whenever possible, investigators will be notified within 15 working days following

VOL
60
ISS
81
AP
27
1995
UMI

receipt of the submission whether RAC review will be required. In the event that NIH/ORDA and the FDA require RAC review of the submitted proposal, the documentation described in Appendices M–I through M–V of the Points to Consider, will be forwarded to the RAC primary reviewers for evaluation. RAC meetings will be open to the public except where trade secrets and proprietary information are reviewed. The RAC and FDA prefer that information provided in response to Appendix M contain no proprietary data or trade secrets, enabling all aspects of the review to be open to the public. The RAC will recommend approval or disapproval of the reviewed proposal to the NIH Director. In the event that a proposal is contingently approved by the RAC, the RAC prefers that the conditions be satisfactorily met before the RAC's recommendation for approval is submitted to the NIH Director. The NIH Director's decision on the submitted proposal will be transmitted to the FDA Commissioner and considered as a Major Action by the NIH Director.

Public review of human gene transfer proposals will serve to inform the public about the technical aspects of the proposals as well as the meaning and significance of the research.

In its evaluation of human gene transfer proposals, the RAC, NIH/ORDA, and the FDA will consider whether the design of such experiments offers adequate assurance that their consequences will not go beyond their purpose, which is the same as the traditional purpose of clinical investigation, namely, to protect the health and well being of human subjects being treated while at the same time gathering generalizable knowledge. Two possible undesirable consequences of the transfer of recombinant DNA would be unintentional: (i) Vertical transmission of genetic changes from an individual to his/her offspring, or (ii) horizontal transmission of viral infection to other persons with whom the individual comes in contact. Accordingly, Appendices M–I through M–V requests information that will enable the RAC, NIH/ORDA, and the FDA, to assess the possibility that the proposed experiment(s) will inadvertently affect reproductive cells or lead to infection of other people (e.g., medical personnel or relatives).

In recognition of the social concern that surrounds the subject of human gene transfer, the RAC, NIH/ORDA, and the FDA, will cooperate with other groups in assessing the possible long-term consequences of the proposal and related laboratory and animal experiments in order to define appropriate human applications of this emerging technology.

Appendix M will be considered for revisions as experience in evaluating proposals accumulates and as new scientific developments occur. This review will be carried out periodically as needed.

Appendix M–I. Submission Requirements—Human Gene Transfer Proposals

Investigators must simultaneously submit the following material to both: (1) The Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Suite 323, 6006 Executive Boulevard, MSC 7052, Bethesda, Maryland 20892–7052, (301) 496–9838 (see exemption in Appendix M–IX–A); and (2) the Division of Congressional and Public Affairs, Document Control Center, HFM–99, Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, Maryland 20852–1448. Proposals will be submitted in the following order: (1) Scientific abstract—1 page; (2) non-technical abstract—1 page; (3) Institutional Biosafety Committee and Institutional Review Board approvals and their deliberations pertaining to your protocol (the IBC and IRB may, at their discretion, condition their approval on further specific deliberation by the RAC); (4) Responses to Appendix M–II, *Description of the Proposal*—5 pages; (5) protocol (as approved by the local Institutional Biosafety Committee and Institutional Review Board)—20 pages; (6) Informed Consent document—approved by the Institutional Review Board (see Appendix M–III); (7) appendices (including tables, figures, and manuscripts); (8) curricula vitae—2 pages for each key professional person in biographical sketch format; and (9) three 3½ inch diskettes with the complete vector nucleotide sequence in ASCII format.

Appendix M–II. Description of the Proposal

Responses to this appendix should be provided in the form of either written answers or references to specific sections of the protocol or its appendices. Investigators should indicate the points that are not applicable with a brief explanation. Investigators submitting proposals that employ the same vector systems may refer to preceding documents relating to the vector sequence without having to rewrite such material.

Appendix M–II–A. Objectives and Rationale of the Proposed Research

State concisely the overall objectives and rationale of the proposed study. Provide information on the specific points that relate to whichever type of research is being proposed.

Appendix M–II–A–1. Use of Recombinant DNA for Therapeutic Purposes

For research in which recombinant DNA is transferred in order to treat a disease or disorder (e.g., genetic diseases, cancer, and metabolic diseases), the following questions should be addressed:

Appendix M–II–A–1–a. Why is the disease selected for treatment by means of gene therapy a good candidate for such treatment?

Appendix M–II–A–1–b. Describe the natural history and range of expression of the disease selected for treatment. What objective and/or quantitative measures of disease activity are available? In your view, are the usual effects of the disease predictable enough to allow for meaningful assessment of the results of gene therapy?

Appendix M–II–A–1–c. Is the protocol designed to prevent all manifestations of the disease, to halt the progression of the disease after symptoms have begun to appear, or to reverse manifestations of the disease in seriously ill victims?

Appendix M–II–A–1–d. What alternative therapies exist? In what groups of patients are these therapies effective? What are their relative advantages and disadvantages as compared with the proposed gene therapy?

Appendix M–II–A–2. Transfer of DNA for Other Purposes

Appendix M–II–A–2–a. Into what cells will the recombinant DNA be transferred? Why is the transfer of recombinant DNA necessary for the proposed research? What questions can be answered by using recombinant DNA?

Appendix M–II–A–2–b. What alternative methodologies exist? What are their relative advantages and disadvantages as compared to the use of recombinant DNA?

Appendix M–II–B. Research Design, Anticipated Risks and Benefits

Appendix M–II–B–1. Structure and Characteristics of the Biological System

Provide a full description of the methods and reagents to be employed for gene delivery and the rationale for their use. The following are specific points to be addressed:

Appendix M–II–B–1–a. What is the structure of the cloned DNA that will be used?

Appendix M–II–B–1–a–(1). Describe the gene (genomic or cDNA), the bacterial plasmid or phage vector, and the delivery vector (if any). Provide complete nucleotide sequence analysis or a detailed restriction enzyme map of the total construct.

Appendix M–II–B–1–a–(2). What regulatory elements does the construct contain (e.g., promoters, enhancers, polyadenylation sites, replication origins, etc.)? From what source are these elements derived? Summarize what is currently known about the regulatory character of each element.

Appendix M–II–B–1–a–(3). Describe the steps used to derive the DNA construct.

Appendix M–II–B–1–b. What is the structure of the material that will be administered to the patient?

Appendix M–II–B–1–b–(1). Describe the preparation, structure, and composition of the materials that will be given to the patient or used to treat the patient's cells: (i) If DNA, what is the purity (both in terms of being a single DNA species and in terms of other contaminants)? What tests have been used and what is the sensitivity of the tests? (ii) If a virus, how is it prepared from the DNA construct? In what cell is the virus grown (any special features)? What medium and serum are used? How is the virus purified? What is its structure and purity? What steps are being taken (and assays used with their sensitivity) to detect and eliminate any contaminating materials (for example, VL30 RNA, other nucleic acids, or proteins) or contaminating viruses (both replication-competent or replication-defective) or other organisms in the cells or serum used for preparation of the virus stock including any contaminants that may have biological effects? (iii) If co-cultivation is employed, what kinds of cells are being used for co-cultivation? What steps are being taken (and assays used with their sensitivity) to detect and eliminate any contaminating materials? Specifically, what tests are being conducted to assess the material to be returned to the patient for the presence of live or killed donor cells or other non-vector materials (for example, VL30 sequences) originating from those cells? (iv) If methods other than those covered by Appendices M–II–B–1 through M–II–B–3 are used to introduce new genetic information into target cells, what steps are being taken to detect and eliminate any contaminating materials? What are possible sources of contamination? What is the sensitivity of tests used to monitor contamination?

Appendix M–II–B–1–b–(2). Describe any other material to be used in preparation of the material to be administered to the patient. For example, if a viral vector is proposed, what is the nature of the helper virus or cell line? If carrier particles are to be used, what is the nature of these?

Appendix M–II–B–2. Preclinical Studies, Including Risk-Assessment Studies

Provide results that demonstrate the safety, efficacy, and feasibility of the proposed procedures using animal and/or cell culture model systems, and explain why the model(s) chosen is/are most appropriate.

Appendix M–II–B–2–a. Delivery System

Appendix M–II–B–2–a–(1). What cells are the intended target cells of recombinant DNA? What target cells are to be treated ex vivo and returned to the patient, how will the cells be characterized before and after treatment? What is the theoretical and practical basis for assuming that only the target cells will incorporate the DNA?

Appendix M–II–B–2–a–(2). Is the delivery system efficient? What percentage of the target cells contain the added DNA?

Appendix M–II–B–2–a–(3). How is the structure of the added DNA sequences monitored and what is the sensitivity of the analysis? Is the added DNA extrachromosomal or integrated? Is the added DNA unrearranged?

Appendix M–II–B–2–a–(4). How many copies are present per cell? How stable is the added DNA both in terms of its continued presence and its structural stability?

Appendix M–II–B–2–b. Gene Transfer and Expression

Appendix M–II–B–2–b–(1). What animal and cultured cell models were used in laboratory studies to assess the in vivo and in vitro efficacy of the gene transfer system? In what ways are these models similar to and different from the proposed human treatment?

Appendix M–II–B–2–b–(2). What is the minimal level of gene transfer and/or expression that is estimated to be necessary for the gene transfer protocol to be successful in humans? How was this level determined?

Appendix M–II–B–2–b–(3). Explain in detail all results from animal and cultured cell model experiments which assess the effectiveness of the delivery system in achieving the minimally required level of gene transfer and expression.

Appendix M–II–B–2–b–(4). To what extent is expression only from the desired gene (and not from the surrounding DNA)? To what extent does the insertion modify the expression of other genes?

Appendix M–II–B–2–b–(5). In what percentage of cells does expression from the added DNA occur? Is the product biologically active? What percentage of normal activity results from the inserted gene?

Appendix M–II–B–2–b–(6). Is the gene expressed in cells other than the target cells? If so, to what extent?

Appendix M–II–B–2–c. Retrovirus Delivery Systems

Appendix M–II–B–2–c–(1). What cell types have been infected with the retroviral vector preparation? Which cells, if any, produce infectious particles?

Appendix M–II–B–2–c–(2). How stable are the retroviral vector and the resulting provirus against loss, rearrangement, recombination, or mutation? What information is available on how much rearrangement or recombination with endogenous or other viral sequences is likely to occur in the patient's cells? What steps have been taken in designing the vector to minimize instability or variation? What laboratory studies have been performed to check for stability, and what is the sensitivity of the analyses?

Appendix M–II–B–2–c–(3). What laboratory evidence is available concerning potential harmful effects of the transfer (e.g., development of neoplasia, harmful mutations, regeneration of infectious particles, or immune responses)? What steps will be taken in designing the vector to minimize pathogenicity? What laboratory studies have been performed to check for pathogenicity, and what is the sensitivity of the analyses?

Appendix M–II–B–2–c–(4). Is there evidence from animal studies that vector DNA has entered untreated cells, particularly germ-line cells? What is the sensitivity of these analyses?

Appendix M–II–B–2–c–(5). Has a protocol similar to the one proposed for a clinical trial being conducted in non-human primates and/or other animals? What were the results? Specifically, is there any evidence that the retroviral vector has recombined with any endogenous or other viral sequences in the animals?

VOL
60
ISS
81
AP
27
1995
UMI

Appendix M–II–B–2–d. Non-Retrovirus Delivery/Expression Systems

If a non-retroviral delivery system is used, what animal studies have been conducted to determine if there are pathological or other undesirable consequences of the protocol (including insertion of DNA into cells other than those treated, particularly germ-line cells)? How long have the animals been studied after treatment? What safety studies have been conducted? (Include data about the level of sensitivity of such assays.)

Appendix M–II–B–3. Clinical Procedures, Including Patient Monitoring

Describe the treatment that will be administered to patients and the diagnostic methods that will be used to monitor the success or failure of the treatment. If previous clinical studies using similar methods have been performed by yourself or others, indicate their relevance to the proposed study. Specifically:

Appendix M–II–B–3–a. Will cells (e.g., bone marrow cells) be removed from patients and treated *ex vivo*? If so, describe the type, number, and intervals at which these cells will be removed.

Appendix M–II–B–3–b. Will patients be treated to eliminate or reduce the number of cells containing malfunctioning genes (e.g., through radiation or chemotherapy)?

Appendix M–II–B–3–c. What treated cells (or vector/DNA combination) will be given to patients? How will the treated cells be administered? What volume of cells will be used? Will there be single or multiple treatments? If so, over what period of time?

Appendix M–II–B–3–d. How will it be determined that new gene sequences have been inserted into the patient's cells and if these sequences are being expressed? Are these cells limited to the intended target cell populations? How sensitive are these analyses?

Appendix M–II–B–3–e. What studies will be conducted to assess the presence and effects of the contaminants?

Appendix M–II–B–3–f. What are the clinical endpoints of the study? Are there objectives and quantitative measurements to assess the natural history of the disease? Will such measurements be used in patient follow-up? How will patients be monitored to assess specific effects of the treatment on the disease? What is the sensitivity of the analyses? How frequently will follow-up studies be conducted? How long will patient follow-up continue?

Appendix M–II–B–3–g. What are the major beneficial and adverse effects of treatment that you anticipate? What measures will be taken in an attempt to control or reverse these adverse effects if they occur? Compare the probability and magnitude of deleterious consequences from the disease if recombinant DNA transfer is not used.

Appendix M–II–B–3–h. If a treated patient dies, what special post-mortem studies will be performed?

Appendix M–II–B–4. Public Health Considerations

Describe any potential benefits and hazards of the proposed therapy to persons other than the patients being treated. Specifically:

Appendix M–II–B–4–a. On what basis are potential public health benefits or hazards postulated?

Appendix M–II–B–4–b. Is there a significant possibility that the added DNA will spread from the patient to other persons or to the environment?

Appendix M–II–B–4–c. What precautions will be taken against such spread (e.g., patients sharing a room, health-care workers, or family members)?

Appendix M–II–B–4–d. What measures will be undertaken to mitigate the risks, if any, to public health?

Appendix M–II–B–4–e. In light of possible risks to offspring, including vertical transmission, will birth control measures be recommended to patients? Are such concerns applicable to health care personnel?

Appendix M–II–B–5. Qualifications of Investigators and Adequacy of Laboratory and Clinical Facilities

Indicate the relevant training and experience of the personnel who will be involved in the preclinical studies and clinical administration of recombinant DNA. Describe the laboratory and clinical facilities where the proposed study will be performed. Specifically:

Appendix M–II–B–5–a. What professional personnel (medical and nonmedical) will be involved in the proposed study and what is their relevant expertise? Provide a two-page curriculum vitae for each key professional person in biographical sketch format (see Appendix M–I, *Submission Requirements*).

Appendix M–II–B–5–b. At what hospital or clinic will the treatment be given? Which facilities of the hospital or clinic will be especially important for the proposed study? Will patients occupy regular hospital beds or clinical research center beds? Where will patients reside during the followup period? What special arrangements will be made for the comfort and consideration of the patients. Will the research institution designate an ombudsman, patient care representative, or other individual to help protect the rights and welfare of the patient?

Appendix M–II–C. Selection of the Patients

Estimate the number of patients to be involved in the proposed study. Describe recruitment procedures and patient eligibility requirements, paying particular attention to whether these procedures and requirements are fair and equitable. Specifically:

Appendix M–II–C–1. How many patients do you plan to involve in the proposed study?

Appendix M–II–C–2. How many eligible patients do you anticipate being able to identify each year?

Appendix M–II–C–3. What recruitment procedures do you plan to use?

Appendix M–II–C–4. What selection criteria do you plan to employ? What are the exclusion and inclusion criteria for the study?

Appendix M–II–C–5. How will patients be selected if it is not possible to include all who desire to participate?

Appendix M–III. Informed Consent

In accordance with the Protection of Human Subjects (45 CFR Part 46), investigators should indicate how subjects will be informed about the proposed study and the manner in which their consent will be solicited. They should indicate how the Informed Consent document makes clear the special requirements of gene transfer research. If a proposal involves children, special attention should be paid to the Protection of Human Subjects (45 CFR Part 46), Subpart D, Additional Protections for Children Involved as Subjects in Research.

Appendix M–III–A. Communication About the Study to Potential Participants

Appendix M–III–A–1. Which members of the research group and/or institution will be responsible for contacting potential participants and for describing the study to them? What procedures will be used to avoid possible conflicts of interest if the investigator is also providing medical care to potential subjects?

Appendix M–III–A–2. How will the major points covered in Appendix M–II, *Description of Proposal*, be disclosed to potential participants and/or their parents or guardians in language that is understandable to them?

Appendix M–III–A–3. What is the length of time that potential participants will have to make a decision about their participation in the study?

Appendix M–III–A–4. If the study involves pediatric or mentally handicapped subjects, how will the assent of each person be obtained?

Appendix M–III–B. Informed Consent Document

Investigators submitting human gene transfer proposals must include the Informed Consent document as approved by the local Institutional Review Board. A separate Informed Consent document should be used for the gene transfer portion of a research project when gene transfer is used as an adjunct in the study of another technique, e.g., when a gene is used as a "marker" or to enhance the power of immunotherapy for cancer.

Because of the relative novelty of the procedures that are used, the potentially irreversible consequences of the procedures performed, and the fact that many of the potential risks remain undefined, the Informed Consent document should include the following specific information in addition to any requirements of the DHHS regulations for the Protection of Human Subjects (45 CFR 46). Indicate if each of the specified items appears in the Informed Consent document or, if not included in the Informed Consent document, how those items will be presented to potential subjects. Include an explanation if any of the following items are omitted from the consent process or the Informed Consent document.

Appendix M–III–B–1. General Requirements of Human Subjects Research

Appendix M–III–B–1–a. Description/ Purpose of the Study

The subjects should be provided with a detailed explanation in nontechnical language of the purpose of the study and the procedures associated with the conduct of the proposed study, including a description of the gene transfer component.

Appendix M–IIIB–1–b. Alternatives

The Informed Consent document should indicate the availability of therapies and the possibility of other investigational interventions and approaches.

Appendix M–III–B–1–c. Voluntary Participation

The subjects should be informed that participation in the study is voluntary and that failure to participate in the study or withdrawal of consent will not result in any penalty or loss of benefits to which the subjects are otherwise entitled.

Appendix M–III–B–1–d. Benefits

The subjects should be provided with an accurate description of the possible benefits, if any, of participating in the proposed study. For studies that are not reasonably expected to provide a therapeutic benefit to subjects, the Informed Consent document should clearly state that no direct clinical benefit to subjects is expected to occur as a result of participation in the study, although knowledge may be gained that may benefit others.

Appendix M–III–B–1–e. Possible Risks, Discomforts, and Side Effects

There should be clear itemization in the Informed Consent document of types of adverse experiences, their relative severity, and their expected frequencies. For consistency, the following definitions are suggested: side effects that are listed as mild should be ones which do not require a therapeutic intervention; moderate side effects require an intervention; and severe side effects are potentially fatal or lifethreatening, disabling, or require prolonged hospitalization.

If verbal descriptors (e.g., "rare," "uncommon," or "frequent") are used to express quantitative information regarding risk, these terms should be explained.

The Informed Consent document should provide information regarding the approximate number of people who have previously received the genetic material under study. It is necessary to warn potential subjects that, for genetic materials previously used in relatively few or no humans, unforeseen risks are possible, including ones that could be severe.

The Informed Consent document should indicate any possible adverse medical consequences that may occur if the subjects withdraw from the study once the study has started.

Appendix M–III–B–1–f. Costs

The subjects should be provided with specific information about any financial costs associated with their participation in the protocol and in the longterm followup to the protocol that are not covered by the investigators or the institution involved.

Subjects should be provided an explanation about the extent to which they will be responsible for any costs for medical treatment required as a result of researchrelated injury.

Appendix M–III–B–2. Specific Requirements of Gene Transfer Research

Appendix M–III–B–2–a. Reproductive Considerations

To avoid the possibility that any of the reagents employed in the gene transfer research could cause harm to a fetus/child, subjects should be given information concerning possible risks and the need for contraception by males and females during the active phase of the study. The period of time for the use of contraception should be specified.

The inclusion of pregnant or lactating women should be addressed.

Appendix M–III–B–2–b. Long-Term Follow-Up

To permit evaluation of long-term safety and efficacy of gene transfer, the prospective subjects should be informed that they are expected to cooperate in long-term follow-up that extends beyond the active phase of the study. The Informed Consent document should include a list of persons who can be contacted in the event that questions arise during the follow-up period. The investigator should request that subjects continue to provide a current address and telephone number.

The subjects should be informed that any significant findings resulting from the study will be made known in a timely manner to them and/or their parent or guardian including new information about the experimental procedure, the harms and benefits experienced by other individuals involved in the study, and any long-term effects that have been observed.

Appendix M–III–B–2–c. Request for Autopsy

To obtain vital information about the safety and efficacy of gene transfer, subjects should be informed that at the time of death, no matter what the cause, permission for an autopsy will be requested of their families. Subjects should be asked to advise their families of the request and of its scientific and medical importance.

Appendix M–III–B–2–d. Interest of the Media and Others in the Research

To alert subjects that others may have an interest in the innovative character of the protocol and in the status of the treated subjects, the subjects should be informed of the following: (i) That the institution and investigators will make efforts to provide protection from the media in an effort to protect the participants' privacy, and (ii) that representatives of applicable Federal agencies (e.g., the National Institutes of Health and the Food and Drug

VOL 60 ISS 81 AP 27 1995 UMI

Administration), representatives of collaborating institutions, vector suppliers, etc., will have access to the subjects' medical records.

Appendix M–IV. Privacy and Confidentiality

Indicate what measures will be taken to protect the privacy of patients and their families as well as to maintain the confidentiality of research data.

Appendix M–IV–A. What provisions will be made to honor the wishes of individual patients (and the parents or guardians of pediatric or mentally handicapped patients) as to whether, when, or how the identity of patients is publicly disclosed?

Appendix M–IV–B. What provisions will be made to maintain the confidentiality of research data, at least in cases where data could be linked to individual patients?

Appendix M–V. Special Issues

Although the following issues are beyond the normal purview of local Institutional Review Boards, investigators should respond to the following questions:

Appendix M–V–A. What steps will be taken, consistent with Appendix M–IV, Privacy and Confidentiality, to ensure that accurate and appropriate information is made available to the public with respect to such public concerns as may arise from the proposed study?

Appendix M–V–B. Do you or your funding sources intend to protect under patent or trade secret laws either the products or the procedures developed in the proposed study? If so, what steps will be taken to permit as full communication as possible among investigators and clinicians concerning research methods and results?

Appendix M–VI. RAC Review—Human Gene Transfer Protocols

Appendix M–VI–A. Categories of Human Gene Transfer Experiments That Require RAC Review

Factors that may contribute to the necessity for RAC review include, but are not limited to: (i) New vectors/new gene delivery systems, (ii) new diseases, (iii) unique applications of gene transfer, and (iv) other issues considered to require further public discussion. Whenever possible, investigators will be notified within 15 working days following receipt of the submission whether RAC review will be required. In the event that RAC review is deemed necessary by the NIH and FDA, the proposal will be forwarded to the RAC primary reviewers for evaluation. In order to maintain public access to information regarding human gene transfer protocols, NIH/ORDA will maintain the documentation described in Appendices M–I through M–V (including protocols that are not reviewed by the RAC).

Appendix M–VI–B. RAC Primary Reviewers' Written Comments

In the event that NIH/ORDA or the FDA recommend RAC review of the submitted proposal, the documentation described in Appendices M–I through M–V will be forwarded to the RAC primary reviewers for evaluation.

The RAC primary reviewers shall provide written comments on the proposal to NIH/ORDA. The RAC primary reviewers' comments should include the following:

Appendix M–VI–B–1. Emphasize the issues related to gene marking, gene transfer, or gene therapy.

Appendix M–VI–B–2. State explicitly whether Appendices M–I through M–V have been addressed satisfactorily.

Appendix M–VI–B–3. Examine the scientific rationale, scientific context (relative to other proposals reviewed by the RAC), whether the preliminary in vitro and in vivo data were obtained in appropriate models and are sufficient, and whether questions related to safety, efficacy, and social/ethical context have been resolved.

Appendix M–VI–B–4. Whenever possible, criticisms of Informed Consent documents should include written alternatives for suggested revisions for the RAC to consider.

Appendix M–VI–B–5. Primary reviews should state whether the proposal is: (i) acceptable as written, (ii) expected to be acceptable with specific revisions or after satisfactory responses to specific questions raised on review, or (iii) unacceptable in its present form.

Appendix M–VI–C. Investigator's Written Responses to RAC Primary Reviewers

Appendix M–VI–C–1. Written responses (including critical data in response to RAC primary reviewers' written comments) shall be submitted to NIH/ORDA greater than or equal to 2 weeks following receipt of the review.

Appendix M–VI–D. Oral Responses to the RAC

Investigators shall limit their oral responses to the RAC only to those questions that are raised during the meeting. Investigators are strongly discouraged from presenting critical data during their oral presentations that was not submitted greater than or equal to 2 weeks in advance of the RAC meeting at which it is reviewed.

Appendix M–VI–E. RAC Recommendations to the NIH Director

The RAC will recommend approval or disapproval of the reviewed proposal to the NIH Director. In the event that a proposal is contingently approved by the RAC, the RAC prefers that the conditions be satisfactorily met before the RAC's recommendation for approval is submitted to the NIH Director. The NIH Director's decision on the submitted proposal will be transmitted to the FDA Commissioner and considered as a *Major Action* by the NIH Director.

Appendix M–VII. Categories of Human Gene Transfer Experiments That May Be Exempt From RAC Review

A proposal submitted under one of the following categories may be considered exempt from RAC review unless otherwise determined by NIH/ORDA and the FDA on a case-by-case basis (see Appendix M–VI–A, Categories of Human Gene Transfer Experiments That Require RAC Review).

Note: In the event that the submitted proposal is determined to be exempt from RAC review, the documentation described in Appendices M–I through M–V will be maintained by NIH/ORDA for compliance with semiannual data reporting and adverse event reporting requirements (see Appendix M–VIII, Reporting Requirements—Human Gene Transfer Protocols). Any subsequent modifications to proposals that were not reviewed by the RAC must be submitted to NIH/ORDA in order to facilitate data reporting requirements.

Appendix M–VII–A. Vaccines

This category includes recombinant DNA vaccines not otherwise exempt from RAC review (see Appendix M–IX–A for exempt vaccines).

Appendix M–VII–B. Lethally Irradiated Tumor Cells/No Replication-Competent Virus

This category includes experiments involving lethally irradiated tumor cells and: (1) vector constructs that have previously been approved by the RAC (or with the incorporation of minor modifications), or (2) a different tumor cell target.

Appendix M–VII–C. New Site/Original Investigator

This category includes the following: (1) initiation of a protocol at an additional site other than the site that was originally approved by the RAC, and (2) the investigator at the new site is the same as the investigator approved for the original study.

Appendix M–VII–D. New Site/New Investigator

This category includes the following: (1) initiation of a protocol at an additional site other than the site that was originally approved by the RAC, and (2) the investigator at the new site is different than the investigator approved for the original site.

Appendix M–VII–E. "Umbrella" Protocols

This category includes initiation of a RAC-approved protocol at more than one additional site (the Principal Investigator may be the same or different than the Principal Investigator approved for the original site).

Appendix M–VII–F. Modifications Related to Gene Transfer

This category includes experiments involving a modification to the clinical protocol that is not related to the gene transfer portion of study.

Appendix M–VII–G. Gene Marking Protocols

This category includes human gene marking experiments involving vector constructs that have previously been approved by the RAC and: (1) minor modifications to the vector constructs, or (2) a different tumor cell target.

Appendix M–VIII. Reporting Requirements—Human Gene Transfer Protocols

Appendix M–VIII–A. Semiannual Data Reporting

Investigators who have received approval from the FDA to initiate a human gene transfer protocol (whether or not it has been reviewed by the RAC) shall be required to comply with the semiannual data reporting requirements. Semi-annual Data Report forms will be forwarded by NIH/ORDA to investigators. Data submitted in these reports will be evaluated by the RAC, NIH/ORDA, and the FDA and reviewed by the RAC at its next regularly scheduled meeting.

Appendix M–VIII–B. Adverse Event Reporting

Investigators who have received approval from the FDA to initiate a human gene transfer protocol (whether or not it has been reviewed by the RAC) must report any serious adverse event immediately to the local IRB, IBC, NIH Office for Protection from Research Risks, NIH/ORDA, and FDA, followed by the submission of a written report filed with each group. Reports submitted to NIH/ORDA shall be sent to the Office of Recombinant DNA Activities, National Institutes of Health, 6006 Executive Boulevard, Suite 323, Bethesda, Maryland 20892–7052, (301) 496–9838.

Appendix M–IX. Footnotes of Appendix M

Appendix M–IX–A. Human studies in which the induction or enhancement of an immune response to a vector-encoded microbial immunogen is the major goal, such an immune response has been demonstrated in model systems, and the persistence of the vector-encoded immunogen is not expected, may be initiated without RAC review if approved by another Federal agency.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally, NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Effective Date: April 17, 1995.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 95–10381 Filed 4–26–95; 8:45 am]

BILLING CODE 4140–01–P

Public Health Service

National Institutes of Health; Notice of Meeting of the Panel to Assess the NIH Investment in Research on Gene Therapy

Notice is hereby given that the Panel to Assess the NIH Investment in Research on Gene Therapy, a fact-finding group reporting to the Advisory Committee to the Director (ACD), National Institutes of Health (NIH), will meet in public session at the William H. Natcher Building (Building 45) Conference Center, Board Room, National Institutes of Health, Bethesda, Maryland 20892, on May 15–16, 1995. The meeting will begin at approximately 9:00 a.m. to recess on May 15, and from approximately 9:00 a.m. to 1:00 p.m. on May 16.

The goal of the Panel is to make recommendations to the ACD about the scientific areas that NIH should emphasize and the funding mechanisms that should be employed in order best to advance the development of gene therapy. The purpose of the meeting is to provide the Panel with an opportunity to hear presentations regarding the current and anticipated research activities relevant to gene therapy that are supported by the various components of NIH, and to discuss how to proceed with its assessment of NIH's investment in gene therapy.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other special accommodations, should contact the person named below in advance of the hearing.

Attendance may be limited to seat availability. If you plan to attend the meeting as an observer or if you wish additional information, please contact Ms. Janice Ramsden, National Institutes of Health, Shannon Building, Room 235, 1 Center Drive MSC 0159, Bethesda, Maryland 20892–0159, telephone (301) 496–0959, fax (301) 496–7451, by May 10.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 95–10382 Filed 4–26–95; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–05–1330–00]

Notice of Availability of the Cyprus Tohono Corporation Proposed Mine Expansion Final Environmental Impact Statement, Phoenix District, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Final environmental impact statement.

SUMMARY: In compliance with the Federal Land Policy and Management Act of 1976, section 102(2)(c) of the National Environmental Policy Act of

VOL 60 ISS 81 AP 27 1995 UMI

1969, and The United States Department of the Interior Secretarial Order No. 3087, Section 5, Amendment No. 1, The Bureau of Land Management (BLM) has prepared an Environmental Impact Statement (EIS) for the Cyprus Tohono Corporation's (Cyprus) proposed mine expansion on the Tohono O'odham Nation (Nation), Papago Indian Reservation. The proposed action (Alternate B) consists of the conversion from in situ to open pit mining operations at Cyprus, the creation of a new overburden storage site, and a new copper oxide ore heap leach pad. Cyprus proposes production of approximately one billion pounds of copper during the thirteen year life of the proposal. A description of existing facilities and a detailed proposed plan of operations is presented in the Mine Plan of Operations for Expanded Open Pit and Heap Leach Operation (Cyprus Tohono Corporation, March 1995). The project was developed in response to three underlying needs: Mining lease compliance, continued industrial economic support for the Nation, and copper production.

Implementation of Alternative B would result in the disturbance of a total of approximately 1,850 acres, or approximately 0.06 percent of total Nation lands. Alternative B Mine Plan of Operations involves the development, operation, performance and maintenance of the following major project components: Open pit mine expansion, overburden disposal area, heap leach pads and ponds, stormwater collection and recycling, processing facilities, access and service roads, support facilities, utilities, spill prevention, control health and safety plans, reclamation and closure. There would be increases in royalties and employment. Scholarships would be established. Each of the major project components are described in the main body of the EIS. Alternative B Mine Plan of Operations was developed to minimize potential impacts to biological and visual resources. Alternative B Mine Plan of Operations moved some of proposed mine components south of an existing access road. Movement of the proposed project elements south of the existing mine access road serves to limit disturbance of natural drainages, reduce potential disturbance to bat colonies north of the site, and to provide a visual screen of existing mine plant site structures.

DATES: Appeals must be filed within 30 days of the Notice of Filing by the United States Environmental Protection Agency in the **Federal Register**. These procedures can be found in the Code of Federal Regulations (43 CFR 1610.5–2).

SUPPLEMENTARY INFORMATION: A limited number of copies of the Final EIS are available upon request to the: District Manager, Phoenix District Office, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027. There are also copies available for review at the above location.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Attn: Moon Hom, 2015 West Deer Valley Road, Phoenix, Arizona 85027; (602) 780–8090.

Dated: April 19, 1995.

David J. Miller,

Associate District Manager.

[FR Doc. 95–10341 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–32–P

[CO–934–95–4110–03; COC54300]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease COC 54300, Moffat County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from November 1, 1994, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

Having met all the requirements for reinstatement of the lease as set out in section 31(d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188(d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective November 1, 1994, subject to the original terms and condition of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Milada Krasilinec of the Colorado State Office (303) 239–3767.

Dated: March 24, 1995.

Milada Krasilinec,

Land Law Examiner, Oil and Gas Lease Management Team.

[FR Doc. 95–10345 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–98–M

[ID–060–1220–00–60016]

Restriction Order for Public Land at Blackwell Island, Cougar Bay and Ross Point

AGENCY: Bureau of Land Management, Coeur d'Alene Office, Idaho.

ACTION: Notice of Restriction Order for Public Land at Blackwell Island, Cougar Bay and Ross Point, Order No. ID060–13.

SUMMARY: By order, the following closure applies to Blackwell Island, described as all public land in Section 11: lot 23 (portion), Section 14: lots 3–6 (portion) and Section 15: lot 5 (portion), T.50N., R.4W., B.M.; Cougar Bay, described as all public land in Section 15, S1/2SW¼ (portion), and Section 22, N½ NW¼ (portion), T.50N., R.4W., B.M.; and Ross Point, described as all public land in Section 7: lot 5 (portion) and Section 8: lot 1 (portion) T.50N., R.4W., B.M.:

Overnight camping is prohibited.

Maps depicting the restricted area are available for public inspection at the BLM, Coeur d'Alene Office, 1808 North Third St., Coeur d'Alene, Idaho.

The authority for establishing this restriction is Title 43, Code of Federal Regulations, 8364.1.

This restriction becomes effective immediately and shall remain in effect until revoked and/or replaced with supplemental rules.

This restriction does not apply to:

(1) Any Federal, State, or local official or member of an organized rescue or fire fighting force while in the performance of an official duty.

(2) Any Bureau of Land Management employee, agent, contractor, or cooperator while in the performance of an official duty.

This restriction is necessary because the three sites do not have facilities which can accommodate overnight camping and the activities associated with long-term occupancy. In addition, due to the small acreage of these sites, the general urban surroundings and the sensitive combination of resources that are being protected, overnight camping is not a compatible recreation use.

Violation of this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Eric Thomson, Area Manager, Bureau of Land Management, 1808 North Third St., Coeur d'Alene, ID 83814.

Signed at Coeur d'Alene, Idaho this 20th day of April, 1995.

Dated: April 20, 1995.

Jenifer Arnold,

Acting Ecosystem Manager.

[FR Doc. 95–10346 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–GG–M

[NM–950–05–1420–00]

Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on May 15, 1994.

New Mexico Principal Meridian, New Mexico:

T. 16 N., R. 9 E., Accepted November 15, 1994, for Group 826 NM.

Supplementals:

T. 30 N., R. 14 W., Accepted March 10, 1995

T. 18 N., R. 5 W., Accepted March 10, 1995

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, a notice that they wish to protest prior to the proposed official filing date given above.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within (30) days after the protest is filed.

The above-listed plats represent dependent resurveys, survey and subdivision.

These plats will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115. Copies may be obtained from this office upon payment of $2.50 per sheet.

Dated: April 19, 1995.

John P. Bennett,

Team Leader, Branch of Cadastral Survey/ Geo Science.

[FR Doc. 95–10343 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–930–1430–01, AR–035844]

Application Cancellation, Mohave and Yuma Counties, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: By decision dated July 20, 1994, the Department of the Army, Corps of Engineers' application number AR–035844 to withdraw an additional 3,488.62 acres of public land for the Alamo Lake Flood Control Project was denied. The decision was based on the finding that there was not sufficient need or justification to withdraw additional lands for project purposes and that any future needs could be otherwise authorized.

Additionally, under Title I of Pub. L. 101–628, (Arizona Desert Wilderness Act), approximately 1,120.00 acres of the Arrastra Mountain and Rawhide Mountains Wilderness Areas overlapped the applied for land. Designation of the Arrastra Mountain and Rawhide Mountains Wilderness Areas satisfied the withdrawal need on the subject land and therefore negated the need for an additional withdrawal.

The segregative effect resulting with the filing of withdrawal application AR–035844 terminated by statute on October 20, 1991. Based upon the State Director's recommendation and decision and upon publication in the **Federal Register**, application AR–035844 is cancelled and closed on the Bureau of Land Management records.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 650–0518.

Dated: April 17, 1995.

Herman L. Kast,

Deputy State Director, Resource Planning, Use & Protection Division.

[FR Doc. 95–10344 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–32–P

Fish and Wildlife Service

Notice of Availability, Final Apex Houston Oil Spill Restoration Plan

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) herein releases the final Apex Houston Oil Spill Restoration Plan (Final Plan). The Final Plan describes the techniques, schedule, and budget for a project to restore natural resources injured as a result of an oil spill that killed approximately 9,000 seabirds along the coast of central California in 1986. The Final Plan also includes responses to comments about the Draft Plan (**Federal Register**/Vol. 59/ No. 213/55282) that were received during a 45-day public comment period that ended on December 19, 1994. Money to carry out this project was obtained via a Consent Decree that ended litigation on the case in August 1994. The Service will begin implementation of the Final Plan in 1995 and will conclude the project in approximately 2004. A Natural Resources Trustee Council containing representatives of the Service, the National Oceanic and Atmospheric Administration, and the California Department of Fish and Game will oversee the project.

DATES: Written comments on the Final Plan must be submitted on or before June 26, 1995.

ADDRESSES: Written comments or materials regarding the Final Plan should be sent to the following address. Comments or requests for copies of the Final Plan can also be sent via FAX to (916) 979–2128. Daniel Welsh, Chief, Branch of Natural Resource Damage Assessment, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1803, Sacramento, CA 95825, (916) 979–2110.

FOR FURTHER INFORMATION CONTACT: Requests for further information or additional copies of the Final Plan may be made to: Daniel Welsh, Chief, Branch of Natural Resource Damage Assessment, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1803, Sacramento, CA 95825, (916) 979–2110.

Restoration of Nearshore Breeding Seabird Colonies on the Central California Coast: Final Plan

I. Executive Summary

Between January 28 and February 4, 1986, the transportation barge APEX HOUSTON discharged an undetermined amount of San Joaquin Valley crude oil while in transit from San Francisco Bay to the Long Beach Harbor. The oil spill caused damage to State of California and Federal resources from San Francisco to the Big Sur coast. Approximately 9,000 seabirds were killed, including 6,000 common murres (*Uria aalge*), in addition to other aquatic life in and around the coastal waters of central California. Both the State and Federal governments responded to the spill and began assessing damages as a result of the spill.

The State and Federal natural resource trustees commenced litigation in this matter against potentially

VOL 60 ISS 81 AP 27 1995 UMI

responsible parties in January 1989. The complaints alleged claims for natural resource damages, costs, and penalties pursuant to the Clean Water Act, 33 U.S.C. 1251 *et seq.*, Title III of the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.* (formerly the National Marine Protection, Research and Sanctuaries Act, "MPRSA"), the California Harbors & Navigation Code 293 and 294, and other State Law.

In August 1994 the parties settled this matter in a Consent Decree entered by the Federal District Court for the Northern District of California for a total of $6,400,000. As part of the natural resources damage settlement, $4,916,430 has been allocated for the restoration of common murres in central California. The common murre restoration project is the subject of this Final Plan. An additional $500,000 has been allocated for the acquisition of habitat for the marbled murrelet (*Brachyramphus marmoratus*), a species that is listed under the Federal and State Endangered Species Acts and was impacted by the spill. The murrelet project is being carried out under State lead and is included, but not described in detail, in this Final Plan. The remainder of the $6,400,000 collected in the settlement was for penalties and costs incurred as a result of the spill.

A Trustee Council, comprised of representatives of each Trustee (California Department of Fish and Game, National Oceanic and Atmospheric Administration, and U.S. Fish and Wildlife Service) was established to review and select restoration actions for natural resources injured by the spill. This Council will meet regularly during the duration of the project to review progress and make necessary changes. The Trustee Council has approved this Final Plan for restoration of common murres.

The goal of the common murre restoration project is to recolonize common murres at historic breeding colonies in the areas where colonies were extirpated or severely depleted by the APEX HOUSTON oil spill. Social attractants (decoys and recorded vocalizations of common murres) will be used to attract common murres to nest at historic nearshore colonies in the vicinity of San Francisco and Monterey. Common murres will be monitored at these sites and at reference sites in the vicinity of Point Reyes and the Farallon Islands in order to evaluate and refine the recolonization project. Parameters to be monitored include colony size, reproductive success, behavior, and phenology of common murres. In addition, anthropogenic factors (e.g., boat disturbance, aircraft overflights, oiling) and natural factors (e.g., predation, diet) that may affect the success of recolonization efforts will be monitored. This project may take a minimum of 10 years to achieve success because common murres have inherently low reproductive rates and do not breed until they are several years old.

II. Introduction

Nearshore breeding colonies of common murres (*Uria aalge*) throughout central coastal California (Point Arena to Big Sur) decreased by 60.1 percent between 1980 and 1986 (Takekawa et al. 1990). This population decline was attributed to high mortality from gill-net fishing, oil spills (including the Apex Houston spill), and a severe El Nino-Southern Oscillation event in 1982–1983 (Takekawa et al. 1990, Swartzman and Carter 1991, Carter et al. 1992). The APEX HOUSTON oil spill, which occurred principally between San Francisco and the Monterey Peninsula, killed nearly 9,000 seabirds in February 1986 (Siskin et al. 1993). This mortality included approximately 1,293 rhinoceros auklets (*Cerorhinca monocerata*), 180 small alcids, 12 marbled murrelets (*Brachyramphus marmoratus*), and 1,206 other birds (including loons, grebes, scoters, cormorants, shorebirds, and gulls) (Siskin et al. 1993). In addition, approximately 6,000 common murres were killed (Siskin et al. 1993). The common murre colony at Devil's Slide Rock was found to be abandoned, subcolonies at Castle Rocks disappeared, and other central coastal breeding sites (e.g., Hurricane Point Rocks, Point Reyes) were greatly reduced after the spill (Takekawa et al. 1990, Swartzman and Carter 1991, Carter et al. 1992) (Figure 1).

In the early 1900's, common murres bred at Prince Island in southern California (Carter et al. 1992). However, the central California population currently represents the southernmost range for breeding common murres in the Pacific. Future oil spills and other catastrophic events (e.g., disease, predation, climate change) could result in the extirpation of this population as well as a reduction in the species' geographic range. The restoration of former common murre colonies would aid in securing the central coastal California common murre population and would spread the risk of future disasters among colony sites over a wider range of the California coast.

The goal of this project is to restore common murres at historic breeding colonies in areas where colonies were extirpated or severely depleted by the APEX HOUSTON oil spill. The project will be conducted over approximately 10 years. A total of $4,916,430 was obtained for this project via the court settlement.

III. Purpose

The restoration funds were recovered under the Federal Clean Water Act and National Marine Sanctuaries Act, the California Harbors and Navigation Code §§ 293 and 294, and other State Law. A Trustee Council, comprised of representatives of each Trustee, was established to review and select restoration actions. As part of the settlement in the APEX HOUSTON litigation, $4,916,430 has been allocated for the restoration of common murre colonies that suffered damage from the APEX HOUSTON oil spill. This project should aid in restoring the central California common murre population at historic breeding colonies in areas where colonies were extirpated or severely depleted by the APEX HOUSTON oil spill. Restoring this population to a larger part of its historic range will aid in spreading the risk of future catastrophic events (e.g. oil spills, disease, storms) between more colony sites and over a broader section of the California coast.

IV. Restoration Alternatives Considered and Selected

(A) Alternatives Considered

The Federal Clean Water Act and other Federal law states that natural resources damages "shall be used to restore, rehabilitate, or acquire the equivalent of" natural resources damaged or destroyed as a result of a discharge of oil (Clean Water Act § 311(f)(5), 33 U.S.C. § 1321(f)(5)). In addition, the Service's Natural Resource Damage Assessment program in Region 1 has found the following criteria helpful in setting priorities when evaluating options for restoration of natural resources damaged due to releases of oil or hazardous substances (Wickham et al. 1993):

(1) On-site and in-kind, in which restored resources occur at the injured site and are physically and biologically the same as those lost;

(2) Off-site and in-kind, in which restored resources occur at a site other than that injured, but similar physical and biological resources are restored;

(3) On-site and out-of-kind, in which restored resources at the impact site are physically and biologically different from those lost;

(4) Off-site and out-of-kind, in which restored resources are at a site other than the impact site and are physically and biologically different from those lost; and,

(5) In special cases, acquisition of equivalent existing resources/services under private ownership, which does not replace lost resources, but reduces potential future loss by placing acquired resources under public management and protection (e.g., the marbled murrelet habitat acquisition project).

Therefore, the Trustees concentrated their damage assessment and restoration efforts on the recovery of central California seabird populations, especially alcids, since these birds incurred the greatest losses due to the APEX HOUSTON oil spill (Siskin et al. 1993).

Alternatives considered for seabird restoration included active recolonization/restoration projects and habitat acquisition projects. Alternatives were compared based on the criteria described above, as well as the technical feasibility of the project, importance to the public interest, and monetary costs. Two projects have been selected for immediate implementation. These are the acquisition of marbled murrelet breeding habitat and the recolonization of common murres using social attraction techniques. The Trustee Council will reevaluate these two projects and consider additional restoration projects and/or supplemental methodology at least annually. The Trustee Council will reappropriate and reauthorize funds as needed.

Recolonization/restoration efforts were considered for common murres and rhinoceros auklets, two seabird species that suffered high mortality as a result of the spill. The rhinoceros auklet project involved use of artificial nest sites to enhance breeding populations along the central California coast. This project was not chosen for immediate implementation for several reasons. A large increase in the California rhinoceros auklet population occurs during the winter months and far exceeds the summer estimated breeding population (Briggs et al. 1987). It is believed that this large increase is due to migrants moving into the area from more northern colonies (Briggs et al. 1987). In addition, the rhinoceros auklet population within the area of the spill (i.e. the local population) had been increasing since the early 1980's and continued to increase after the APEX HOUSTON spill (Ainley and Boekelheide 1990, Carter et al. 1992). This suggests that many of the 1,293 rhinoceros auklets estimated to have been killed by the APEX HOUSTON spill (Siskin et al. 1993) were probably wintering birds from outside the local breeding population. As a result, restoration of rhinoceros auklets received a lower priority.

The common murre recolonization project (describe herein) was given higher priority than rhinoceros auklet restoration because its potential benefits were linked more closely to the injuries caused by the spill. The extirpation of the Devil's Slide Rock colony and a severe reduction at the Castle and Hurricane rocks colonies were attributed to the common murre mortalities that resulted from the APEX HOUSTON oil spill (Swartzman and Carter 1991). As a result, damage to the local breeding population was demonstrated (Swartzman and Carter 1991).

An additional site (Bodega Rock in Sonoma County) for common murre recolonization was suggested during the public comment period. Bodega Rock is an active seabird colony and in 1989 it contained 558 Brandt's cormorant (*Phalacrocorax penicillatus*) nests and 12 western gull (*Larus occidentalis*) nests (Carter et al. 1992). This location was not selected for implementation of murre recolonization techniques because there are no known records of common murres breeding on this rock.

A third restoration project involving construction of a seabird breeding and rehabilitation facility was rejected because its cost was prohibitive relative to funds available, and because the California Department of Fish and Game's Office of Oil Spill Prevention and Response is already implementing a statewide oiled wildlife care network.

Four habitat acquisition projects were considered: purchase of Cape Vizcaino in northern Mendocino County to protect nesting seabirds, purchase of coastal land near Castle Rock to protect a mainland colony of common murres, purchase of lands within San Francisco Bay, and purchase of marbled murrelet nesting habitat along the central California coast. The first three projects were given lower priorities because they were outside of the area impacted by the spill (Cape Vizcaino), were too costly (mainland site near Castle Rock), or were beneficial primarily to species that were not affected by the spill (sites in San Francisco Bay). The purchase of marbled murrelet nesting habitat along the central California coast was selected for immediate implementation with settlement funds allocated specifically for that project.

(B) Alternatives Selected

1. Acquisition of Marbled Murrelet Nesting Habitat. The acquisition of marbled murrelet nesting habitat along the central California coast was selected because acquisition would occur within the area impacted by the spill and damage to the local population could be demonstrated. In addition, this project has great importance to the public because it will provide long-term protection of a species listed under the Federal and State Endangered Species Acts. The Trustee Council believes that the $500,000 allocated to this project will be sufficient to obtain suitable habitat to compensate for the murrelets injured in the spill, provided that it is leveraged with other resources. The Trustees regard augmentation of the budget for the marbled murrelet project as the highest priority for any funds that may become available from the murre recolonization project.

2. Recolonization of Impacted Common Murre Colonies. The second project the Trustees have selected for immediate implementation is the recolonization of common murre colonies at Devil's Slide and San Pedro rocks in San Mateo County and Castle and Hurricane Point rocks in Monterey County.

a. Devil's Slide and San Pedro Rocks Common Murre Recolonization:

Recolonize common murres at Devil's Slide and San Pedro rocks (San Mateo County, California) using social attraction methods (decoys and recorded vocalizations) and develop reference information needed to evaluate and refine restoration efforts.

Location(s): Devil's Slide and San Pedro rocks, San Mateo County, California; Point Reyes area (Point Reyes, Point Resistance, Double Point, and Miller Point rocks), Marin County, California; Farallon Islands, San Francisco County, California.

Justification: Common murres are an extremely important and visible part of the California seabird community (Carter et al. 1992). Common murres are the most abundant nesting species and have the greatest biomass of all breeding seabirds in the state (Sowls et al. 1980, Ainley and Boekelheide 1990). In addition, common murres comprise 40 percent of the breeding seabirds found in central California (Carter et al. 1992). This population sustained severe losses from commercial and subsistence egging in the 1800's and early 1900's, from chronic oil pollution and spills in the early to mid 1900's, and from chronic oil pollution and gillnetting in the 1980's and 1990's (Ainley and Lewis 1974, Takekawa et al. 1990, Carter et al. 1992).

Common murres were last recorded breeding at San Pedro Rock in 1908, when the colony was in the process of being extirpated by egg collectors (Ray 1909). During the 1980's common

VOL
60
ISS
81
AP
27
1995
UMI

murres in central California declined dramatically due to mortality from gill nets, oil spills (including the 1984 PUERTO RICAN and 1986 APEX HOUSTON), as well as the severe 1982–83 El Nino event (Ainley and Boekelheide 1990, Takekawa et al. 1990, Carter et al. 1992). The APEX HOUSTON spill in 1986 contributed significantly to the loss of the Devil's Slide Rock colony near San Francisco (Swartzman and Carter 1991). The San Pedro and Devil's Slide rocks colonies are in close proximity and constitute the only common murre colonies between San Francisco and Monterey. This is a large portion of the range of the central California common murre population. The recolonization of abandoned common murre colonies in central California will contribute to the restoration of this seabirds' historic geographic range.

Given the current depleted condition of the central California common murre population (Ainley and Boekelheide 1990, Takekawa et al. 1990, Swartzman and Carter 1991, Carter et al. 1992, Ainley et al. 1994), extirpated colonies are not likely to be reestablished in the foreseeable future without human assistance. The San Pedro Rock colony has not recolonized over the past 85 years and the Devil's Slide Rock colony has not been recolonized in the 8 years following the APEX HOUSTON spill (Carter et al. 1992, Carter and Takekawa, unpubl. data). Similarly, the Prince Island colony in southern California has not been recolonized since extirpation in the early 1900's (Carter et al. 1992). Furthermore, all six nearshore colonies in central California have remained severely depleted since the mid-1980's (Carter et al. 1992). The reductions of the geographic range and small numbers of breeding common murres along the central California coastline increase the risk that future catastrophic events will result in extinction of the central California population.

Studies of seabird colony formation in Maine demonstrated that recolonization can be achieved using social attractants (Kress 1978, Kress and Nettleship 1988, Kress et al. 1992). The use of decoys and tape recordings has attracted prospecting seabirds, which have then bred, once a threshold group size has been reached. These techniques have assisted in the recolonization of several colonial nesting seabird species (Podolsky 1985; Podolsky and Kress 1989, 1992). These techniques have been utilized in an effort to recolonize common murres in Maine. The common murre recolonization project began when 15 life-size common murre decoys were deployed on Matinicus Rock in summer 1992 (National Audubon Society, unpubl. data). The closest common murre nesting colony to Matinicus Rock is located approximately 75 miles east on Murre Ledge, a small Canadian island. Common murres began landing among the decoys within 2 days of starting the vocalization tapes (National Audubon Society, unpubl. data). As many as four common murres were sighted at one time among the decoys and at least two birds were present throughout May and June 1992 courting and copulating among the decoys (National Audubon Society unpubl. data). This effort has included the use of various combinations of social attractant techniques to determine the most effective combination, e.g., decoys with and without sound, sound only, decoys with sound and with and without egg decoys, and sound variations (Schubel 1993). Results indicate that a combination of visual and sound stimuli are essential to attract common murres. The highest common murre numbers and activity were observed where egg and murre decoys were accompanied by sound, and decoys were most densely arranged. The recolonization project has continued during 1993 and 1994 with promising results. Common murres continue to exhibit pre-breeding behavior (such as courtship displays, copulation, and passing of fish between potential mates), and the number of common murres attracted to the decoys has increased to approximately 25 birds (National Audubon Society, unpubl. data). However, social attraction techniques must be applied for many years before breeding begins and a self-sustaining breeding colony can be attained (Kress and Carter 1991).

In order to refine recolonization methods and evaluate their success, reference information will be needed on the reproductive biology, behavior, and phenology of common murres at an unmanipulated nearshore site in the local area. However, little information is available from nearshore colonies in central California. Monitoring attendance patterns, arrival dates, reproductive success, and behavior of breeding and nonbreeding common murres at accessible colonies in the Point Reyes area will provide a comparison to evaluate recolonization of Devil's Slide and San Pedro rocks. The Point Reyes colonies (i.e., Point Reyes, Point Resistance, Double Point, and Miller Point rocks) are the closest to the recolonization sites and should provide a reference for what would normally be expected in a nearshore common murre colony as well as a good comparison with the recolonization site. The monitoring conducted at these unmanipulated colonies will be used to assess recolonization responses and common murre activity patterns at recolonization sites, as well as aid in supporting refinement of recolonization methods.

In addition, unique information will be needed from the common murre colony at the South Farallon Islands at Farallon National Wildlife Refuge in order to evaluate recolonization responses and refine techniques. Common murre reproductive success, diet, and breeding biology have been studied for over 20 years at the South Farallon Islands as part of long-term monitoring of seabird populations required for the Farallon National Wildlife Refuge and other research conducted by the Point Reyes Bird Observatory (Ainley and Boekelheide 1990, Ainley et al. 1994). As a result of these studies, a small number of individually marked birds of known age and sex exist at the Farallon Islands. Limited information is available concerning the attendance of breeding and nonbreeding common murres at breeding sites, especially during winter. Information obtained on individually-marked birds, where age and sex are known, would give a better understanding of expected time-in-attendance and behavior at breeding sites for adult and subadult common murres during the breeding and nonbreeding seasons. Detailed information on common murre attendance and prospecting in the winter will make it possible to evaluate the significance of winter attendance at the recolonization sites. If winter attendance is crucial to successful breeding, social attraction methods may have to be deployed for a longer period. In addition, all accessible subcolonies of common murres at the South Farallon Islands would be examined for more general attendance patterns throughout the year.

Attendance, breeding biology, and behavior will be monitored during the breeding season in marked and unmarked birds in plots at the South Farallon Islands so that recolonization responses at recolonization sites can be more effectively evaluated. Certain colonies with potential for future intensive monitoring efforts may be examined in greater detail, including reproductive success. This information will be important in evaluating and modifying the social attraction methods used at the restoration sites. Information that is only available at this larger, more accessible, and closely monitored common murre colony, including

information on known-aged common murres, will be used to refine and assess recolonization efforts. All research conducted on the Farallon National Wildlife Refuge must be approved by the U.S. Fish and Wildlife Service, San Francisco Bay National Wildlife Refuge Complex. All research conducted is evaluated by Refuge staff to ensure that the activities associated with the research are compatible with the purposes for which the refuge was established.

Proposed Actions: Social attraction techniques will be used to recolonize common murres at Devil's Slide and San Pedro rocks. The use of social attraction techniques, similar to those used elsewhere to encourage recolonization by several seabird species, will be employed (Kress 1983, Podolsky 1985, Podolsky and Kress 1989). It is possible that small numbers of common murres are still alive that originally bred at Devil's Slide Rock. Therefore, it is important to begin the recolonization project as soon as possible in order to attract any remaining common murres that have a history of attachment to this colony. Preliminary work will consist of selecting observation points to view recolonization sites, constructing and installing observation blinds, obtaining access permits, and purchasing needed equipment. Aerial surveys of central California breeding seabird colonies and periodic observations of breeding colonies from mainland vantage points will be conducted in spring and summer 1995. Additional aerial reconnaissance of Devil's Slide and San Pedro rocks will be conducted to obtain photographs for mapping the restoration sites. Reconnaissance trips to Devil's Slide and San Pedro rocks will take place to determine equipment and procedures needed to deploy social attraction equipment. Ladders may be installed to allow safe access onto the colonies for project personnel.

Decoys and audio equipment will be placed on the rocks in fall 1995 before common murres begin to frequent nesting islands. Recordings of common murre breeding vocalizations will be made at the Farallon NWR. Between 100 and 200 life-size common murre decoys will be positioned on suitable nesting habitat on Devil's Slide and San Pedro rocks. The decoys will be secured to the rock in a fashion that simulates occupied common murre colonies. Densities and locations of decoys will be based on past aerial photos of the active Devil's Slide Rock colony (taken in 1982) and observations of common murres at existing reference sites from mainland vantage points and aerial photos. Several omnidirectional weather resistant loudspeakers will be positioned at the recolonization sites. Compact disks of California common murre vocalizations will be played prior to and throughout the breeding season from December to August. Daily observations of the recolonization sites will begin once decoys have been deployed and will continue through July. Devil's Slide Rock will be observed from the mainland using a portable blind and telescope. San Pedro Rock observations will occur from a blind located on the rock, from a boat, and/or from the mainland.

Data collected will include common murre arrival date, number of common murres present, behavior of common murres, interaction with other species (e.g., Brandt's Cormorants), location on rock, attendance patterns, diet or feeding behavior, and presence of predators. Prospecting common murres will be plotted by location on maps of the recolonization site. One or more aerial photographic censuses of the central California common murre colonies will be conducted annually between May and June. The censuses will be used to calculate annual breeding population sizes at the recolonization sites and nearby reference colonies in central California, compare trends between years, and assist in determining numbers of common murres not visible from the mainland or boats. Social attractants will be displayed through the breeding season until after common murres normally leave the breeding sites, usually in July. The decoys and audio equipment will be collected after all bird breeding on the rock has been completed. Equipment will be checked, cleaned, and replaced as necessary. The equipment will be redeployed during the following fall before common murres begin to frequent nesting islands. Monitoring of recolonization sites will continue annually after the first social attractants are deployed. The Trustee Council will reevaluate the recolonization efforts annually and revise as necessary. In addition, the use of techniques such as time-lapse photography and radiotelemetry to assist in monitoring birds will be investigated and used if technically and economically feasible. However, the placement and retrieval of such equipment in a way that does not cause undue disturbance to common murres or other seabirds and is secure from human vandalism or theft may be a problem.

The breeding behavior and colony attendance of common murres will be monitored at four nearby colonies in the Point Reyes National Seashore and/or the Gulf of the Farallones National Marine Sanctuary: Point Reyes, Point Resistance, Double Point Rocks, and Miller Point Rocks. These sites will serve as reference sites for the recolonization sites. Several variables will be monitored to allow comparison to recolonization sites, including population size and status, attendance patterns, timing, breeding phenology and success, behavior, interaction with other species, diet or feeding behavior, impacts of predators, human perturbations, and other disturbances. The population size and status would be determined using methods similar to those employed by Birkhead and Nettleship (1980), Gaston et al. (1983), Mudge (1988), and Hatch and Hatch (1989). Only subcolonies that can be viewed from a safe location will be selected. Reconnaissance work and preliminary observations and logistics would begin in spring/summer 1995. This work would consist of obtaining access permits to conduct work, selecting subcolonies to be studied, selecting plots within subcolonies, and conducting aerial surveys of the colonies. The monitoring period would parallel that followed at Devil's Slide and San Pedro rocks.

Winter and summer attendance, selected aspects of breeding biology of banded and unbanded common murres, and many of the same parameters measured at recolonization and nearshore reference sites will also be monitored at breeding sites at the South Farallon Islands. Established and new study plots, individually-banded birds, blinds, and other facilities will allow for the study of summer and winter attendance in more detail than at nearshore locations. Monitoring would include determining arrival dates, winter attendance patterns (breeding versus nonbreeding common murres), winter behavior of nonbreeding and breeding common murres, site fidelity of breeding common murres, reproductive success, population size, and impacts of predation. Monitoring at the South Farallon Islands will continue for 2 years and may be continued if needed to support refinement of recolonization methods or to facilitate interpretation of data at other colonies.

This restoration project will provide unique opportunities to enhance public knowledge concerning seabirds, seabird conservation, and the marine environment. Every attempt will be made to educate the public through presentations, news coverage, and other appropriate venues. Emphasis will be placed on greater awareness of seabird resources in the area, the problems

VOL
60
ISS
81
AP
27
1995
UMI

caused by oil pollution and oil spills, gill nets, and other anthropogenic factors as well as the restoration efforts conducted by the cooperating agencies, environmental organizations, and biologists. In addition, the location of the recolonization sites near San Francisco along scenic Highway 1 provides excellent viewing opportunities for the public and attracts large numbers of visitors each year. Therefore, opportunities for public outreach will be explored at this site.

Schedule

Spring-summer 1995: Begin preliminary work, including contracting, planning, logistics, and permits. Conduct aerial surveys of seabird colonies in central California in May or June to obtain baseline data, conduct aerial flights of Devil's Slide and San Pedro rocks to obtain aerial photos for mapping purpose, and record breeding common murre vocalizations at the Farallon NWR for use in the recolonization project. Select colonies and study plots to be monitored in the Point Reyes area. Conduct safety training for personnel as required.

Fall and winter 1995–1996: In fall 1995, conduct reconnaissance trips to recolonization sites in preparation for deployment of social attractants. Before December 1995, deploy social attractants and initiate daily observations of recolonization sites. Initiate daily observations of study plots in December 1995. Complete field season in August when common murres generally leave breeding colonies. Observations of study plots will continue from December through August for a minimum of 5 years to 10 years in order to provide necessary information to adequately evaluate the recolonization project. Work at the South Farallon Islands will begin the winter of 1995–1996 and will continue for a minimum of 2 years. Regular progress reports and an annual report will be submitted to the Trustee Council by the persons conducting work with funding from the APEX HOUSTON Trustee Council.

Spring 1996-winter 2004: Continue recolonization and monitoring efforts as necessary to accomplish project goals.

b. Castle and Hurricane Point Rocks Restoration: Restore common murres at Castle and Hurricane Point rocks using social attraction methods (decoys and recorded vocalizations).

Location: Castle and Hurricane Point rocks, Monterey County, California.

Justification: As described above, the recolonization of historic common murre colonies in central California will contribute to the reversal of the dramatic reduction of this seabird's historic geographic range. The 1986 APEX HOUSTON spill negatively impacted the breeding colonies that make up the southern half of the central California breeding range (Swartzman and Carter 1991). The Castle and Hurricane Point rocks colonies were severely impacted by the APEX HOUSTON spill based on locations of APEX HOUSTON oil slicks, depleted size of the Monterey colonies and subcolonies after the spill, and locations of recovery of oiled common murres during the spill (Swartzman and Carter 1991, Siskin et. al 1993). Adult common murres are known to attend breeding colonies during winter months at the Southeast Farallon Island in central California (Ainley and Boekelheide 1990, Sydeman 1993). Also, common murres have been observed attending the Castle and Hurricane Point rocks colonies during the winter (Carter, unpubl. data). Castle and Hurricane Point rocks were in the direct path of oil slicks occurring from the APEX HOUSTON spill (Swartzman and Carter 1991). In addition, approximately 1,600 common murres were recovered in Monterey Bay near these 2 colonies. As a result, the APEX HOUSTON spill was responsible for a severe reduction in numbers observed at these two colonies following the spill.

Currently, common murres occur on five rocks and the mainland at Castle Rocks and two rocks at Hurricane Point Rocks. Aerial surveys conducted during the 1994 breeding season indicate that common murre numbers at subcolonies have remained low since the APEX HOUSTON oil spill (Carter and Takekawa, unpubl. data). Each subcolony is comprised of less than a hundred to several hundred common murres, and the breeding status of these subcolonies is unknown (Carter and Takekawa, unpubl. data). Given the low numbers of common murres that occur at these subcolonies, it is possible that breeding success is limited. Due to the small size of the subcolonies and other factors (e.g., gill net fishing in Monterey Bay, El Nino events, future oil spills, and other human disturbances) the colonies at Castle and Hurricane Point rocks continue to be in danger of extirpation. These colonies are particularly important because they are at the current southern end of the range of the central California population as well as the southern extreme of the species' range in the Pacific Ocean. These colonies are in close proximity to each other and constitute the only active common murre colonies south of San Francisco, representing a large portion of the range of the central California common murre population. Given the current fragile condition of the overall central California common murre population and the lack of recovery over time (Ainley and Boekelheide 1990, Takekawa *et. al.* 1990, Swartzman and Carter 1991, Carter *et. al.* 1992, Ainley *et. al.* 1994), colonies once lost are not likely to be reestablished in the foreseeable future without human assistance. Based on established principles of conservation biology, if the colonies at Castle and Hurricane Point rocks are lost, the resulting reductions in the geographical range, numbers, breeding locations, and productivity of common murres further increase the risk of extinction of the entire central California population.

Proposed Action: The common murre colonies at the Castle and Hurricane Point rock complexes will be evaluated to determine the best means of employing social attractants at these locations. A minimum of 2 years would be required to determine appropriate methods. Both of these colonies are composed of several subcolonies on different rocks. Subcolonies will be examined to obtain a comprehensive understanding of colony dynamics in a severely depleted condition. Breeding population levels, reproductive success, attendance patterns, behavioral observations, and nesting locations will be determined at as many subcolonies as possible. Particular attention will be paid to prospecting birds within established subcolonies and at unoccupied rocks. In addition, all unoccupied rocks and potential mainland breeding habitats will be assessed for the use of social attractants to encourage common murre breeding. Habitat will be assessed for suitability to support a common murre subcolony, including such factors as slope, size, protection from human and other disturbance, surf conditions, and predation threats. The unoccupied rocks will be regularly monitored to detect prospecting common murres.

A phased approach to employing social attractants will be used to refine the use of social attractants on the colony. Criteria to be used to determine the use of social attractants include: loss of subcolonies or colonies, below normal reproductive success, lack of colony growth, limited availability of breeding sites in existing subcolonies, high numbers of prospecting common murres in existing subcolonies, presence of prospecting common murres in areas with no breeding, and population status at each colony. The use of social attractants would be employed at sites where it was deemed necessary to encourage common murres to recolonize lost subcolonies or prospect and nest on unoccupied rocks. The goal would be to prevent colony loss without negatively impacting existing subcolonies. If, for any reason, social attractants are not deemed advisable after 2 years, the colonies at these sites will be evaluated for 3 more years. This monitoring will occur to ensure adequate reproductive success, colony survival, and recovery and, if necessary, to develop alternative restoration techniques.

This restoration project will provide unique opportunities to enhance public knowledge concerning seabirds, seabird conservation, and the marine environment. Every attempt will be made to educate the public through presentations, news coverage, and other appropriate venues. Emphasis will be placed on greater awareness of seabird resources in the area, the problems caused by oil pollution and oil spills, gill nets, and other anthropogenic factors as well as the restoration efforts conducted by the cooperating agencies, environmental organizations, and biologists. In addition, the location of the recolonization sites near Monterey along scenic Highway 1 provides excellent viewing opportunities for the public and attracts large numbers of visitors each year. As a result, informal public outreach will be conducted at the recolonization sites.

Schedule

Spring and Summer 1995: Preliminary work will begin, including selection of observation points, obtaining access permits, planning, and purchasing. Aerial surveys of breeding common murre colonies will be conducted in May or June to obtain baseline data. These surveys will be conducted in conjunction with aerial common murre surveys for central California. Observations of breeding colonies will continue each year from December 1995 until August 1997, at a minimum. In August 1997, the use of social attractants will be assessed to restore these common murre colonies. In fall 1997, social attractants will be deployed where suitable. These efforts will continue until at least 2004, unless success is achieved, or failure declared, prior to that date.

V. Common Murre Project Goals

The APEX HOUSTON oil spill killed an estimated 6,000 common murres, was a major factor in the eradication of the Devil's Slide Rock colony, and damaged colonies at Castle and Hurricane Point rocks. If the latter 2 colonies are lost, over 75 percent of the recent range of the central California common murre population will have been lost. The Trustees have selected restoration alternatives designed to restore common murres to colonies in the areas most severely affected by the spill. Both short-term and long-term goals have been established for this restoration project.

The short-term goal of this project is to restore common murres at historic breeding colonies in areas where colonies were extirpated or severely depleted by the APEX HOUSTON oil spill. The timeframe needed for common murres to become established at extirpated colonies is unknown but is suspected to be several years. Therefore, the Trustees will consider the short-term goal achieved if significant progress is made toward the establishment of 100 breeding pairs of common murres at the Devil's Slide Rock and San Pedro Rock colonies. The Trustees believe this goal can be achieved within 10 years if oceanic conditions are favorable for murre breeding during most of the years of the project.

The long-term goal is to restore the colonies to pre-spill population levels. Ultimately, this restoration project should aid in restoring the portion of the central California common murre population most affected by the APEX HOUSTON spill to its historic range, colony sizes, and reproductive potential. However, the timeframe needed for common murres to reach pre-spill population levels is unknown and is suspected to take several generations (i.e., more than 10 years). Thus, the accomplishment of the long-term goal of restoring the central California common murre population to its historic range and colony sizes is likely to occur only after the conclusion of the recolonization project. The Trustees believe that this is appropriate because the social facilitation that results from the presence and activity of the birds that were attracted to breed at the recolonization sites will take the place of the artificial stimuli provided by the decoys and recorded vocalizations, enabling long-term goals to be achieved without continued human intervention.

The Trustees plan to review the common murre restoration project at least annually at which time the effectiveness of the project and possible improvements will be considered. In addition, public comments will be taken and considered by the Trustee Council throughout the project. The annual review process may result in revisions to the plan.

VI. Common Murre Project Implementation

The U.S. Fish and Wildlife Service (Service) has been designated as Lead Trustee for the common murre recolonization project and will utilize staff and facilities of the San Francisco Bay National Wildlife Refuge Complex and the Sacramento Ecological Services Field Office to implement the project. The National Biological Service's Dixon Field Office will be asked to provide the Service with technical expertise and field support to assist in the implementation of this project through an inter-agency agreement. The Service will obtain additional assistance from one or more experts in seabird recolonization/restoration via contracts or cooperative agreements. Reference site work conducted at the South Farallon Islands may be accomplished through an existing cooperative agreement between the San Francisco Bay NWR Complex and the Point Reyes Bird Observatory. Other contracts or agreements may be developed as necessary to achieve project goals over the anticipated 10-year duration of this project.

VII. Environmental Compliance

The Service has determined that the project is categorically excluded from the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq, according to the Department of Interior's Departmental Manual, 516 DM 6, Appendix I, 516 DM 2, Appendix I. Resource management activities such as the type described for this project, which include research, reintroduction of established species into their historic range, and small structures or improvements, are categorically excluded from NEPA. The U.S. Fish and Wildlife Service has prepared an Environmental Action Memorandum setting forth the basis for the categorical exclusion of this project.

The California Department of Fish and Game has also determined that the project is categorically exempt from the California Environmental Quality Act (CEQA), Cal. Pub. Resources Code 21000 et seq., and has filed a Notice of Exemption with the State Clearinghouse.

The California Coastal Commission staff has concurred with the Trustees negative determination made pursuant to 15 CFR 930.35(d) of the National Oceanic and Atmospheric Administration implementing regulations relative to the Coastal Zone Management Act.

VOL
60
ISS
81
AP
27
1995
UMI

VIII. Common Murre Restoration Project Budget

As part of the settlement, $4,916,430 has been allocated for common murre restoration. This amount, plus any interest earned, is available to fund the recolonization project for 10 years. A budget has been developed that lists the range of annual and cumulative costs anticipated for each major budgetary category (Table 1). Availability of sufficient money to fund the project through years 9 and 10 may depend on interest earnings, because the upper end of the range of anticipated project costs exceeds the amount of the settlement. A more detailed budget will be available following the completion of contracting procedures.

Major budget categories include equipment (boats, motors, decoys, photo and audio equipment, decoys, vehicles, etc.); operating costs (gas, aerial survey flights, travel, administrative support, etc.); salaries (salaries for agency personnel conducting recolonization project); contracts/agreements (seabird recolonization consultant, cooperative agreement for Farallon Islands work); public education/outreach (public meetings, press releases, press conferences, presentations, publications in popular and technical literature, etc.).

TABLE 1.—ESTIMATED MURRE PROJECT BUDGET

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Equipment	155,000 210,000	50,000– 70,000	75,000– 105,000	50,000– 70,000	55,000– 75,000	50,000– 70,000	50,000– 70,000	55,000– 70,000	50,000– 70,000	50,000– 70,000
Operating Costs	130,000 175,000	125,000– 170,000	120,000– 160,000	120,000– 160,000	120,000– 160,000	120,000– 160,000	120,000– 160,000	120,000– 160,000	120,000– 160,000	120,000– 160,000
Salaries	70,000 95,000	195,000– 260,000	205,000– 275,000	215,000– 290,000	225,000– 305,000	225,000– 305,000	235,000– 320,000	250,000– 335,000	260,000– 350,000	275,000– 370,000
Contracts/Agreements	20,000 25,000	80,000– 110,000	80,000– 110,000	30,000– 45,000	35,000– 45,000	25,000– 30,000	25,000– 35,000	25,000– 35,000	30,000– 35,000	30,000– 40,000
Public Education/ Outreach	5,000– 10,000	5,000– 10,000	5,000– 10,000	5,000– 10,000	5,000– 10,000	5,000– 10,000	5,000– 10,000	5,000– 10,000	5,000– 10,000	5,000– 10,000
Annual Total	380,000 515,000	455,000– 620,000	485,000– 660,000	420,000– 575,000	440,000– 595,000	425,000– 575,000	435,000– 595,000	455,000– 610,000	465,000– 625,000	480,000– 650,000
Cumulative Project Total	380,000 515,000	835,000– 1,135,000	1,320,000 1,795,000	1,740,000 2,370,000	2,180,000 2,965,000	2,605,000 3,540,000	3,040,000 4,135,000	3,495,000 4,745,000	3,960,000 5,370,000	4,440,000 6,020,000

IX. Responses to Comments

The Service received numerous oral and written comments at a public meeting held on November 17, 1994, in Sausalito, California, and during the public comment period that began with the November 4, 1994, **Federal Register** notice (**Federal Register**/Vol. 59, No. 213/55282). The Service appreciates the time and effort expended by the respondents.

A. General Comments Concerning This Plan

1. Length of the Public Comment Period. Comment: Several respondents stated that the initial 30-day public comment period was not sufficient to allow detailed review of the draft Plan.

Response: The Service extended the public comment period to 45 days.

2. Value of the Project. Comment: Many respondents expressed their belief that this project was an appropriate use of the settlement money and would help restore the bird species that was most impacted by the spill.

Response: The Service appreciates the support the public has shown for this project.

Comment: Several respondents said that the project was a waste of money and should not be implemented.

Response: In their legal complaints against the parties allegedly responsible for this oil spill, the State and Federal plaintiffs sought recovery for injuries to the natural resources under the trusteeship of the United States and the State of California. During the pendency of this action, the United States and the State, through their designated Natural Resource Trustees, proposed certain projects to restore natural resources injured as a direct result of the spill. These projects included the common murre recolonization project that is the subject of this Final Plan, as well as the marbled murrelet habitat acquisition project. The plaintiffs and defendants agreed, and the court by entering a Consent Decree found, that the proposed projects were reasonable and appropriate measures to restore the affected natural resources.

The Consent Decree states that the Trustees may make other use of the proceeds of the settlement if they "determine that either of the proposed restoration projects are not feasible, practicable, or in the public interest." However, the Trustees have not obtained any convincing information through the public comment process, or through their own continued review of the project, to indicate that either of the proposed projects is not feasible, not practicable, or not in the public interest. On the contrary, nearly all of the public comments supported the project in concept and focused on technical details that could be improved or clarified. Therefore, the Trustee Council has authorized the Service to proceed with this project as described in this Final Plan.

3. Compliance With Environmental Regulations. Comment: Several respondents asked for clarification on how the Service will comply with the National Environmental Policy Act (NEPA) and other legislation designed to prevent adverse impacts of Federal projects on the environment.

Response: Preparation of an Environmental Impact Report or Environmental Assessment under NEPA is not required for this project because the restoration of species to their native range is an activity that is categorically exempt from NEPA and from its State equivalent, the California Environmental Quality Act. The Service has prepared and filed appropriate documentation of these exemptions. In addition, the Service has asked for and received a negative consistency determination from the California Coastal Commission, as required by the Coastal Zone Management Act.

The installation of decoys, tape recorders, cameras, and ladders at breeding colonies will take place during the non-breeding season to avoid disturbance of murres, cormorants, gulls, and other species protected by the Migratory Bird Treaty Act. Control of gulls and other predators is not currently a component of this project. The Service will obtain all necessary Federal, State, and local permits, and access permission from private landowners, before initiating field work.

B. Comments Regarding Alternative Projects

Comment: Several respondents suggested that the murre recolonization project should be implemented as a pilot study at a reduced level of funding, and that the savings should be used to fund other projects, including: Rhinoceros auklet restoration, additional habitat acquisition for marbled murrelets, acquisition of property containing a common murre colony at Cape Vizcaino in Mendocino County, a fisheries task force to reduce mortality of seabirds in gill nets of the central California fishing industry, efforts to reduce impacts of chronic oil pollution on seabirds, gull control and other projects on the Farallon Islands, and genetic studies of Pacific coast murres.

Response: The draft Plan was revised and more detail has been provided in the Restoration Alternatives Considered and Selected section of the Final plan. The Service intends to approach this project in phases. The initial phase focuses on direct restoration activities at Devil's Slide and San Pedro rocks, and monitoring at other sites. The project will be scaled up to include implementation of recolonization techniques at Hurricane Rock and Castle Rock after several years of monitoring, if appropriate. This phased approach was implicit in the Draft Plan and has been further clarified in the Final Plan. A reduced level of effort will not provide sufficient information to evaluate whether the project is working, and diversion of money to other projects may not allow implementation of the project over the entire ten year period that may be necessary to achieve the project's goals. Consequently, the Service does not feel it would be acting in the public interest to shift large sums of money from the murre recolonization project to other projects at this time.

This decision does not mean that the Service or the Trustees reject the argument that some of the alternative projects that were suggested would be beneficial to natural resources injured by the Apex Houston Oil Spill. On the contrary, many of these projects, including rhinoceros auklet restoration and acquisition of the murre colony at Cape Vizcaino, were considered during settlement negotiations. Other suggested projects, including projects to reduce seabird mortality from gill nets and chronic oiling, are already underway with funding from other sources within the Trustee agencies. The murre recolonization project and the murrelet habitat acquisition project were given priority because the Trustees feel that these two projects best address restoration needs of local populations of the species that were most seriously impacted by the spill. The Alternatives Considered section of the Final Plan has been expanded to better address these concerns.

The Service intends to carefully manage project expenditures to stay within the proposed budget, and will attempt to realize savings wherever possible. In addition, the settlement money will be invested in an interest-bearing account within the Department of the Interior's Natural Resource Damage Assessment and Restoration fund. In general, the priority for use of any savings realized through this strategy will be continuation of murre restoration efforts beyond 10 years and acquisition of marbled murrelet nesting habitat, as per the Consent Decree. Other alternatives that are cost effective and have clear benefits to injured resources will receive future consideration from the Trustee Council on a case-by-case basis if their implementation will not compromise the objectives of the two main projects.

C. Comments Regarding Details of the Plan

1. Project Duration and Goals. Comment: Several respondents expressed concern that 10 years may not be long enough to achieve the goals of this project because murres have inherently low reproductive rates, usually do not breed until they are several years old, and may not breed in years when oceanic conditions are not favorable.

Response: The Service agrees that 10 years may be the minimum amount of time necessary to achieve the goal of recolonizing common murres at sites from which they have been extirpated. The long-term goal of restoring these colonies and the central California population to pre-spill numbers will almost certainly require more than 10 years. The Goals section was revised in the Final Plan to clarify the Service's short and long-term goals. The Service believes that the goals of the project can best be achieved through immediate implementation of recolonization efforts, and through continued efforts via other State and Federal programs to protect central California murres from human disturbance, chronic oiling, and entanglement in gill nets while the recolonization efforts are underway.

2. Disturbance of Murres and Other Nesting Seabirds. Comment: Several respondents cautioned the Service to either forego or proceed carefully with implementation of restoration efforts at Hurricane Rock and Castle Rock to avoid disturbing the remaining murres nesting at these sites.

Response: The Service agrees that unnecessary disturbance of the remaining murres nesting at these sites should be avoided. This concern was expressed in the Draft Plan and has been clarified in the Final Plan. Efforts at these sites will be limited to monitoring of behavior and reproductive success for the first 2 years of the project. After 2 years, the Service may deploy social attractants at these sites, but only where it is deemed necessary to encourage murres to recolonize lost subcolonies or suitable, unoccupied rocks.

Comment: Several respondents cautioned the Service to minimize disturbance of Brandt's cormorants and western gulls that nest at Devil's Slide Rock and other sites where recolonization is proposed.

Response: The Service agrees that disturbance of other nesting seabirds should be minimized during this project. Human disturbance will be minimized by deploying social attractants during the non-breeding season, conducting aerial surveys at appropriate heights to be determined in consultation with the Gulf of the Farallones National Marine Sanctuary and other agencies, and by making behavioral observations through telescopes located in blinds, on boats, or on the mainland, rather than in the middle of colonies.

In the few instances where formation of new murre colonies has been observed in central California, these new colonies were established within existing Brandt's cormorant colonies, possibly because these locations provided greater protection from gull predation (Ainley and Boekelheide 1990). Common murres and Brandt's cormorants also nest together at several colonies along the coasts of California and Oregon (Carter et al. 1992, Carter and Takekawa unpubl. data, R. Lowe pers. comm.). Because common murres can sometimes supplant cormorants and gulls from nesting areas, the potential exists for cormorant reproductive success to be reduced at recolonization sites (Ainley and Boekelheide 1990). However, the Service believes this problem can be minimized by deploying social attractants in such a way that murres obtain the benefits of proximity to nesting cormorants without usurping cormorant nest sites. Behavior and reproductive success of cormorants and gulls nesting on recolonization sites will be monitored to help determine the effect of murre recolonization on local seabird communities.

VOL 60 ISS 81 AP 27 1995 UMI

3. Farallon Islands Component of the Project. *Comment:* Several respondents asked for expansion or clarification of the scope of the Farallon Islands component of the project and pointed out that an understanding of the status and phenology of the large colony at Southeast Farallon Island is critical to restoration efforts at the smaller, nearshore colonies. Also, some respondents suggested that experiments with decoys be conducted at the Farallon Islands in order to refine and validate social attraction methodologies and protocols.

Response: The Service agrees that Farallon Islands are an important component to the conservation and understanding of the central California common murre population. Monitoring of common murres at the Farallon Islands, especially individually banded murres, will be important for evaluating the success of the recolonization efforts at the nearshore colonies and has been included in the Final Plan. The Service believes that the efforts described in the Final Plan are appropriate for the Farallon Islands, given National Wildlife Refuge management objectives and protocols. The Service does not believe that the colonies on the Farallon Islands merit greater emphasis in restoration than the nearshore colonies. The murre colonies on the Farallon Islands were impacted by the spill, but may still contain sufficient birds to accomplish any necessary social facilitation of breeding without human intervention.

Research on decoy placement and on effectiveness of combinations of auditory and visual attractants has been underway in Maine for several years (Schubel 1993). This research provides empirical data on numbers and densities of decoys sufficient to attract murres when combined with auditory stimuli. The Service believes that the information from Maine is sufficient to guide initiation of the Final Plan. Therefore, the Service believes it is not essential, at this time, to conduct methods-oriented research and experimental validation of common murre recolonization techniques at the Farallon Islands for the recolonization project to be successful. However, the Trustees will reevaluate the restoration projects and consider additional projects at least annually.

4. Additional Sites for Murre Recolonization. *Comment:* One respondent suggested that the Service could do more to expand the range of common murres in central California by using social attraction techniques to start a new colony at Bodega Rock in Sonoma County.

Response: The Service did not consider this site for murre recolonization because, as far as the Service is aware, it has no prior history of use for nesting by murres. Lack of prior use suggests that this may not be a suitable location for a murre colony.

5. Prey Resources for Common Murres. *Comment:* Some respondents questioned whether ecological resources, such as prey, might be insufficient to support growing murre populations and thereby could limit the success of the project.

Response: The Service is aware of this theory and would welcome any additional information for consideration on this subject at any time. Currently, the Service believes that insufficient information exists to conclude that prey resource limitations would preclude the success of this project. In addition, Pacific Sardines (*Sardinops sagax*) are beginning to recover in central California (Wolf 1992). Sardines had disappeared north of Point Conception by 1951, probably due to a combination of overfishing and an extended period of cold water (described in Ainley and Lewis 1974). Their recovery may strengthen food resources in the vicinity of the recolonization sites; for example, the once abundant sardines were believed to be an important food to larger seabirds, including cormorants and puffins (Ainley and Lewis 1974). In addition, more detail was added to the plan to clarify that common murre diet and feeding information would be collected at recolonization and reference sites where feasible, in order to gain more information on prey resources.

6. Public Outreach and Education. *Comment:* Several respondents emphasized the importance of making public outreach and education an integral part of the project.

Response: The Service agrees that public outreach and education should be an integral part of this project, and has allocated up to $10,000 annually for this purpose. Relevant public outreach and education opportunities will be sought throughout the project, and will be funded to the extent possible without compromising project goals.

7. Budget. *Comment:* Several respondents requested a more detailed budget.

Response: A more detailed budget has been included in the Final Plan. This budget contains anticipated ranges of annual costs for major budgetary categories for the duration of the project. Actual costs for cooperators and contractors will be known when negotiations are completed, and/or when contracts have been advertised and bids received.

8. Coordination With Other Trustee Councils. *Comment:* One respondent recommended that the Apex Houston Trustee Council coordinate its activities with the Trustee Councils that are guiding restoration projects for seabirds injured in other oil spills along the Pacific Coast.

Response: The Apex Houston Trustee Council will coordinate and communicate with other Trustee Councils.

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Dated: April 19, 1995.

Thomas Dwyer,

Acting Regional Director, Region 1, Fish and Wildlife Service.

[FR Doc. 95–10277 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–55–P

National Park Service

Draft Environmental Impact Statement for Mountain Goat Management, Olympic National Park, WA

AGENCY: National Park Service, Interior.

ACTION: Notice of extension of public review period.

SUMMARY: The comment period as specified in the official Notice of Availability (**Federal Register**, Vol. 60, No. 62, March 31, 1995, p. 16647) was to end May 31, 1995. This present Notice announces that the comment period has been extended until July 17, 1995.

DATES: Comments on the draft Environmental Impact Statement must be received by July 17, 1995.

ADDRESSES: Written comments should be submitted to the Superintendent, Olympic National Park, 600 E. Park Ave., Port Angeles, WA 98362.

FOR FURTHER INFORMATION CONTACT: Superintendent, Olympic National Park, at the above address or at telephone number (360) 452–4501.

Dated: April 18, 1995.

Rick L. Wagner,

Acting Associate Regional Director, Pacific Northwest Regional Office, National Park Service.

[FR Doc. 95–10347 Filed 4–26–95; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 498X)]

CSX Transportation, Inc.—Abandonment Exemption—In Henrico County and the City of Richmond, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by CSX Transportation, Inc., of approximately 3.1 miles of rail line extending between milepost CA–88.25 at Ruffin in Henrico County, VA, and milepost CA–85.15 at Brown and 17th Streets in the City of Richmond, VA, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 27, 1995. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by May 8, 1995; petitions to stay must be filed by May 12, 1995; requests for a public use condition must be filed by May 17, 1995; and petitions to reopen must be filed by May 22, 1995.

ADDRESSES: Send pleadings referring to Docket No. AB–55 (Sub-No. 498X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423, and (2) Charles M. Rosenberger, Counsel for CSXT, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. (TDD for hearing impaired: (202) 927–5721.)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, NW, Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

Decided: April 13, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10332 Filed 4–26–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Software Foundation, Inc.

Notice is hereby given that, on January 26, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open Software Foundation, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

VOL
60
ISS
81
AP
27
1995
UMI

notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new, non-voting members of OSF are as follows: NTT Data Communications Systems Corporation, Tokyo, JAPAN; and Toshiba Corporation, Tokyo, JAPAN.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OSF intends to file additional written notifications disclosing all changes in membership.

On May 11, 1994, OSF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 31, 1994 (59 FR 45009).

The last notification was filed with the Department on November 7, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 16, 1995 (60 FR 9052).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–10307 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—X Consortium, Inc.

Notice is hereby given that, on March 7, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), X Consortium, Inc. (the "Corporation") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have become members of the Corporation: Frame Technology Corp., San Jose, CA; and Shiman Associates, Inc., Brookline, MA. The following are no longer members of the Corporation: Congruent Corp., New York, NY; IXI Ltd., Cambridge, ENGLAND; Korean Advanced Institute of Science and Technology, Seoul, REPUBLIC OF KOREA; Kubota Corp., Santa Clara, CA; Labtam Australia, Braeside, AUSTRALIA; Nippon Telegraph and Telephone Corp., Tokyo, JAPAN; User Interface Technologies Ltd., Cambridge, ENGLAND; VisionWare Ltd., Leeds, ENGLAND; and Visix Software, Inc., Reston, VA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Corporation intends to file additional written notifications disclosing all changes in membership.

On September 15, 1993, the Corporation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 1993 (58 FR 59737).

The last notification was filed with the Department on December 8, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 15, 1995 (FR 14004).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–10309 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—U.S. Department of Commerce Advanced Technology Program (ATP)/National Institute of Standards and Technology (NIST) Project No. 94–02–0048 "Manufacturing Composite Structures for the Offshore Oil Industry"

Notice is hereby given that, on March 17, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Westinghouse Electric Corporation, acting on behalf of the participants in the ATP/NIST Project No. 94–02–0048, has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objective of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the project are: ABB Vetco Gray Inc., Houston, TX; Hercules Inc., Wilmington, DE; Reading & Bates Development Company, Houston, TX; Texaco, Inc., Belaire, TX; The Texas Engineering Experiment Station, College Station, TX; and Westinghouse Electric Corporation, Sunnyvale, CA.

The nature and objective of the research program performed in accordance with the ATP/NIST Project No. 94–02–0048 is to develop advanced composite technology which will lead to the commercialization of affordable high quality advanced tubular structures for the Offshore Oil Industry.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–10310 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum Project No. 94–06

Notice is hereby given that, on March 20, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301, *et seq.* ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 94–06 have filed written notifications simultaneously with the Attorney General and with the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties and the general area of planned activity are: Exxon Research and Engineering Company, Florham Park, NJ; British Petroleum Oil Company, Cleveland, OH; Conoco Inc., Ponca City, OK; Shell Development Company, Houston, TX; Texaco Inc., Beacon, NY; Chevron Research and Technology Company, Richmond, CA; Amoco Corporation, Naperville, IL.

The nature and objective of the research program performed in accordance with PERF Project 94–06 is to work on the development of approaches, data, and technologies that lead to cost effective use of bioremediation as a site remediation technology as applied to petroleum, petrochemical and chemical industry facilities.

Information about participation in Project 94–06 may be obtained by contacting Paul Becker, Exxon Research and Engineering Company, Florham Park, NJ.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–10308 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Joint Research and Development Venture Agreement for Seismic Technology

Notice is hereby given that, on February 10, 1995, pursuant to the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Paul W. Pendorf, President of XXsys Technologies, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: XXsys Technologies, Inc./ Composite Retrofit Corp., San Diego, CA; Hercules Incorporated, Wilmington, DE; and Trans-Science Corp., La Jolla, CA. The general area of planned activity is to develop and demonstrate low cost manufacturing process and design/ sensor technologies for seismic upgrading of bridge columns. An award from the Advanced Technology Program, National Institute of Standards and Technology, U.S. Department of Commerce will partially fund this joint Research and Development Activity.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 95–10312 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Pipeline Monitoring for Third-Party Damage

Notice is hereby given that, on February 21, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Tokyo Gas Company, LTD., Yokohama JAPAN; Osaka Gas Company, Ltd., Osaka, JAPAN; and Toho Gas Company, Ltd., Nagoya JAPAN. The general areas of planned activities are to determine what technologies are available for monitoring of damage to gas pipelines by conducting a literature survey concerning detection of third-party damage to pipelines, sensing systems being utilized and signal processing technologies available in order to advise the participants of such a system's detection capabilities to display the location of damage, to announce the detection of damage, and to indicate the grade or degree of damage which has occurred; by exploring related detected technologies and by evaluating the information gathered in order to recommend one or more technical approaches for further research and system development.

Membership in the program is closed and SwRI intends to file additional written notification if there are any changes in planned activities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–10314 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Petroleum Environmental Research Forum

Notice is hereby given that, on March 1, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 et seq. ("the Act"), the Petroleum Environmental Research Forum ("PERF") has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in project membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Murphy Oil USA, Inc., has terminated its membership with PERF.

No other changes have been made in either the membership or planned activities of PERF. Membership remains open, and PERF intends to file additional written notification disclosing all changes in membership.

On February 10, 1986, PERF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 14, 1986 (51 FR 8903).

The last notification was filed with the Department on January 10, 1995. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 1, 1995 (60 FR 11115).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 95–10311 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 24, 1995, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396).	I.
Difenoxin (9168)	I.
Methylphenidate (1724)	II.
Codeine (9050)	II.
Oxycodone (9143)	II.
Hydromorphone (9150)	II.
Diphenoxylate (9170)	II.
Hydrocodone (9193)	II.
Levorphanol (9220)	II.
Meperidine (9230)	II.
Meperidine intermediate-A (9232)	II.
Meperidine intermediate-B (9233)	II.
Meperidine intermediate-C (9234)	II.
Methadone (9250)	II.
Methadone intermediate (9254)	II.
Morphine (9300)	II.
Oxymorphone (9652)	II.
Alfentanil (9737)	II.
Sufentanil (9740)	II.
Carfentanil (9743)	II.
Fentanyl (9801)	II.

The firm plans to manufacture the listed control substances in bulk supply final dosage form for manufacturers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than May 30, 1995.

VOL
60
ISS
81
AP
27
1995
UMI

Dated: April 14, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–10286 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated February 17, 1995, and published in the **Federal Register** on March 1, 1995, (60 FR 11116), Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application to the Drug Enforcement Administration to be registered as an importer of Phenylacetone (8501), as basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: April 10, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95–10287 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–09–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Revision of a Currently Approved Collection

(1) Employment Authorization Document.

(2) Form I–765. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary = Individuals or households. Others = None. The information collected on this form will be used solely by the Immigration and Naturalization Service to determine eligibility for evidence of an employment authorization document pursuant to regulatory authority under 8 CFR 274 a. 12.

(4) 1,000,000 annual respondents at 3.416 hours per response.

(5) 3,416,000 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 18, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

Impact Statement

These revised instructions are being published to alert the applicant of modifications to current filing procedures for the INS Form I–765. In the past, many aliens were required to be physically present in an INS office for production of the employment authorization document. At that time an immigration official would take the necessary photographs, obtain the applicant's signature, and physically look at other documents to ensure eligibility for employment authorization.

Under this new filing procedure 75% (percent) of applicants will now be able to mail in their applications, and photographs along with copies of relating documents in support of the request for employment authorization into an INS central location for processing.

This process should improve efficiency of the I–765 process, improve the delivery of services to the applicant (public), maximize resources, tighten inventory control, and ensure increased security and the integrity of EAD production.

We believe that these new guidelines provide clear directions to applicants concerning who can file, how to file, where to file and when to file their applications for employment authorization documents.

BILLING CODE 4410–10–M

INSTRUCTIONS FOR APPLICATION FOR EMPLOYMENT AUTHORIZATION Form I-765

The Immigration and Naturalization Service (INS) recommends that you retain a copy of your completed application for your records.

INDEX

Parts	Page No.
1. General	01
2. Eligibility Categories	01
3. Required Documentation With Each Application	04
4. Fee	04
5. Where To File	05
6. Processing Information	05
7. Other Information	06

PART 1. GENERAL.

Purpose of the Application. Certain aliens who are temporarily in the United States may file a Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD). Other aliens who are authorized to work in the United States without restrictions should also use this form to apply to the INS for a document evidencing such authorization. Please review Part 2 ELIGIBILITY CATEGORIES to determine whether you should use this form.

If you are a Lawful Permanent Resident, a Conditional Resident, or a nonimmigrant authorized to be employed with a specific employer under 8 CFR 274a.12(b), please do NOT use this form.

DEFINITIONS.

Employment Authorization Document (EAD): Form I-688; Form I-688A; Form I-688B; or any successor document issued by the INS as evidence that the holder is authorized to work in the United States.

Renewal EAD: an EAD issued to an eligible applicant at or after the expiration of a previous EAD issued under the same category.

Replacement EAD: an EAD issued to an eligible applicant when the previously issued EAD has been lost, stolen, mutilated, or the previously issued card contains erroneous information, such as a misspelled name.

Interim EAD: an EAD issued to an eligible applicant when the INS has failed to adjudicate an application within 90 days of receipt of a properly filed EAD application or within 30 days of a properly filed initial EAD application based on an asylum application filed on or after January 4, 1995. The interim EAD will be granted for a period not to exceed 240 days and is subject to the conditions noted on the document.

PART 2. ELIGIBILITY CATEGORIES.

The INS adjudicates a request for employment authorization by determining whether an applicant has submitted the required information and documentation, and whether the applicant is eligible. In order to determine your eligibility, you must identify the category in which you are eligible and fill in that category in question 16 on the Form I-765. Enter only one of the following category numbers on the application form.

NOTE: **Category (c)(13) is no longer available.** You may not renew or replace your EAD based on (c)(13). If you have an EAD based on that category, please review the categories below to determine if you are eligible under another category.

APPLICATIONS TO BE FILED AT SERVICE CENTERS.

Asylee, (granted asylum)–(a)(5). File your EAD application with a copy of the INS letter granting you asylum. It is not necessary to apply for an EAD as an asylee until 90 days before the expiration of your current EAD.

Refugee–(a)(3). File your EAD application with either a copy of your Form I-590, Registration for Classification as Refugee, approval letter or a copy of a Form I-730, Refugee/Asylee Relative Petition, approval notice.

Paroled as a Refugee–(a)(4). File your EAD application with a copy of your Form I-94, Departure Record.

Asylum Applicant (with a pending asylum application) who Filed for Asylum on or after January 4, 1995–(c)(8). If you filed a Form I-589, Request for Asylum and for Withholding of Deportation, on or after January 4, 1995, you must wait at least 150 days before you are eligible to apply for an EAD. If you file your EAD application early, it will be denied and you will have to file a new application. File your EAD application with:

- A copy of the INS acknowledgement mailer which was mailed to you; or
- Other evidence that your Form I-589 was filed with the INS; or
- Evidence that your Form I-589 was filed with an Immigration Judge at the Executive Office for Immigration Review (EOIR); or
- Evidence that your asylum application remains under administrative or judicial review.

VOL 60 ISS 81 APR 27 1995 UMI

Asylum Applicant (with a pending asylum application) who Filed for Asylum and Withholding of Deportation Prior to January 4, 1995 and is *NOT* in Exclusion or Deportation Proceedings–(c)(8). You may file your EAD application at any time; however, it will only be granted if the INS finds that your asylum application is not frivolous. File your EAD application with:

- A complete copy of your previously filed Form I-589; and
- A copy of your INS receipt notice; or
- A copy of the INS acknowledgement mailer; or
- Evidence that your Form I-589 was filed with EOIR; or
- Evidence that your asylum application remains under administrative or judicial review; or
- Other evidence that you filed an asylum application.

Asylum Applicant (with a pending asylum application) who Filed an Initial Request for Asylum Prior to January 4, 1995, and *IS IN* Exclusion or Deportation Proceedings–(c)(8). If you filed your Request for Asylum and Withholding of Deportation (Form I-589) prior to January 4, 1995 and you ARE IN exclusion or deportation proceedings, file your EAD application with:

- A date-stamped copy of your previously filed Form I-589; or
- A copy of Form I-221, Order to Show Cause and Notice of Hearing, or Form I-122, Notice to Applicant for Admission Detained for Hearing Before Immigration Judge; or
- A copy of EOIR-26, Notice of Appeal, date stamped by the Office of the Immigration Judge; or
- A date-stamped copy of a petition for judicial review or for *habeas corpus* issued to the asylum applicant; or
- Other evidence that you filed an asylum application with EOIR.

Asylum Applicant under the ABC Settlement Agreement–(c)(8). If you are an El Salvadoran or Guatemalan national eligible for benefits under the ABC settlement agreement, American Baptist Churches v. Thornburgh, 760 F. Supp. 796 (N.D. Cal. 1991), there are special instructions applicable to filing your Form I-765 which supplement these instructions. These instructions and the application can be obtained by asking for an "ABC packet" at your local INS office or by calling 1-800-755-0777.

Deferred Enforced Departure (DED)/Extended Voluntary Departure–(a)(11). File your EAD application with evidence of your identity and nationality.

F-1 Student Seeking Optional Practical Training in an Occupation Directly Related to Studies–(c)(3)(i). File your EAD application with a Certificate of Eligibility of Nonimmigrant (F-1) Student Status (Form I-20 A-B/I-20 ID) endorsed by a designated school official within the past 30 days.

F-1 Student Offered Off-Campus Employment under the Sponsorship of a Qualifying International Organization–(c)(3)(ii). File your EAD application with the international organization's letter of certification that the proposed employment is within the scope of its sponsorship and a Certificate of Eligibility of Nonimmigrant (F-1) Student Status–For Academic and Language Students (Form I-20 A-B/I-20 ID) endorsed by the designated school official within the past 30 days.

F-1 Student Seeking Off-Campus Employment Due to Severe Economic Hardship–(c)(3)(iii). File your EAD application with Form I-20 A-B/I-20 ID, Certificate of Eligibility of Nonimmigrant (F-1) Student Status–For Academic and Language Students; Form I-538, Certification by Designated School Official, and any evidence you wish to submit, such as affidavits, which detail the unforeseen economic circumstances that cause your request, and evidence you have tried to find off-campus employment with an employer who has filed a labor and wage attestation.

J-2 Spouse or Minor Child of an Exchange Visitor–(c)(5). File your EAD application with a copy of your J-1's (principal alien's) Certificate of Eligibility for Exchange Visitor (J-1) Status (Form IAP-66). You must submit a written statement, with any supporting evidence showing, that your employment is not necessary to support the J-1 but is for other purposes.

M-1 Student Seeking Practical Training after Completing Studies–(c)(6). File your EAD application with a completed Form I-538, Application by Nonimmigrant Student for Extension of Stay, School Transfer, or Permission to Accept or Continue Employment, Form I-20 M-N, Certificate of Eligibility for Nonimmigrant (M-1) Student Status–For Vocational Students endorsed by the designated school official within the past 30 days.

Dependent of CCNAA E-1 Nonimmigrant–(c)(2). File your EAD application with the required certification from the American Institute in Taiwan if you are the spouse, or unmarried child, of an E-1 employee of the Coordination Council for North American Affairs.

Dependent of NATO Personnel–(c)(7). File your EAD application with a letter from the Department of Defense or NATO/SACLANT verifying your principal alien's status, your status, and your relationship to your principal alien.

N-8 or N-9 Nonimmigrant–(a)(7). File your EAD application with the required evidence listed in Part 3.

Family Unity Program–(a)(13). File your EAD application with a copy of the approval notice, if you have been granted status under this program. You may choose to file your EAD application concurrently with your Form I-817, Application for Voluntary Departure under the Family Unity Program. The INS may take up to 90 days from the date upon which you are granted status under the Family Unity Program to adjudicate your EAD application. If you were denied Family Unity status solely because your legalized spouse or parent first applied under the Legalization/SAW programs after May 5, 1988, file your EAD application with a new Form I-817 application and a copy of the original denial. However, if your EAD application is based on continuing eligibility under (c)(12), please refer to **Deportable Alien Granted Voluntary Departure.**

K-1 Nonimmigrant Fiance(e) of U.S. Citizen or K-2 Dependent–(a)(6). File your EAD application if you are filing within 90 days from the date of entry. This EAD cannot be renewed. Any EAD application other than for a replacement must be based on your pending application for adjustment under (c)(9).

Citizen of Micronesia or the Marshall Islands or Palau–(a)(8). File your EAD application if you were admitted to the United States as a citizen of the Federated States of Micronesia (CFA/FSM) or of the Marshall Islands (CFA/MIS) pursuant to agreements between the United States and the former trust territories.

B-1 Nonimmigrant who is the personal or domestic servant of a nonimmigrant employer–(c)(17)(i). File your EAD application with:

- Evidence from your employer that he or she is a B, E, F, H, I, J, L, M, O, P_s R or TN nonimmigrant and you were employed for at least one year by the employer before the employer entered the United States or your employer regularly employs personal and domestic servants and has done so for a period of years before coming to the United States; and
- Evidence that you have either worked for this employer as a personal or domestic servant for at least one year or, evidence that you have at least one year's experience as a personal or domestic servant; and
- Evidence establishing that you have a residence abroad which you have no intention of abandoning.

B-1 Nonimmigrant Domestic Servant of a U.S. Citizen–(c)(17)(ii). File your EAD application with:

- Evidence from your employer that he or she is a U.S. Citizen; and
- Evidence that your employer has a permanent home abroad or is stationed outside the United States and is temporarily visiting the United States or the citizen's current assignment in the United States will not be longer than four (4) years; and
- Evidence that he or she has employed you as a domestic servant abroad for at least six (6) months prior to your admission to the United States.

B-1 Nonimmigrant Employed by a Foreign Airline–(c)(17)(iii). File your EAD application with a letter, from the airline, fully describing your duties and indicating that your position would entitle you to E nonimmigrant status except for the fact that you are not a national of the same country as the airline or because there is no treaty of commerce and navigation in effect between the United States and that country.

APPLICATIONS TO BE FILED AT LOCAL INS OFFICES.

Temporary Protected Status (TPS)–(a)(12). File your EAD application with Form I-821, Application for Temporary Protected Status.

- Initial TPS-based application only, include evidence of identity and nationality as required by the Form I-821 instructions.
- Extension of TPS status, include a copy (front and back) of your last available TPS document: EAD, Form I-94 or approval notice.
- Registration for TPS only without employment authorization, file the Form I-765, Form I-821, and a letter indicating that this form is for registration purposes only. No fee is required for the Form I-765 filed as part of TPS registration. (Form I-821 has separate fee requirements.)

Applying for Temporary Protected Status (TPS)/Temporary Treatment Benefits–(c)(19). ***File your EAD application with your TPS application, Form I-821.*** If you are using this application to register for TPS and do not want to work in the United States, you must submit a letter indicating this application is for registration purposes only. No fee is required to register.

Granted Withholding of Deportation–(a)(10). File your EAD application with a copy of the Immigration Judge's order. It is not necessary to apply for a new EAD until 90 days before the expiration of your current EAD.

Dependent of A-1 or A-2 Foreign Government Officials–(c)(1). File your EAD application with a Form I-566, Application for Employment by Spouse or Unmarried Dependent Son or Daughter of A-1 or A-2 Official or Employee of Diplomatic or Consular Establishment or G-4 Officer or Employee of International Organization, with the Department of State endorsement.

Dependent of G-1, G-3 or G-4 Nonimmigrant–(c)(4). File your EAD application with a Form I-566, Application for Employment by Spouse or Unmarried Dependent Son or Daughter of A-1 or A-2 Official or Employee of Diplomatic or Consular Establishment or G-4 Officer or Employee of International Organization, with the Department of State endorsement if you are the dependent of a qualifying G-1, G-3 or G-4 officer of, representative to, or employee of an international organization and you hold a valid nonimmigrant status.

VOL 60 ISS 81 AP 27 1995 UMI

Adjustment Applicant–(c)(9). File your EAD application with a copy of the receipt notice or other evidence that your Form I-485, Application for Permanent Residence, is pending. You may file Form I-765 together with your Form I-485.

Applicant for Suspension of Deportation–(c)(10). File your EAD application with evidence that your Form I-256A, Application for Suspension of Deportation, is pending.

Paroled in the Public Interest–(c)(11). File your EAD application if you were paroled into the United States for emergent reasons or reasons strictly in the public interest.

Deportable Alien Granted Voluntary Departure–(c)(12). File your EAD application with a copy of the order or notice granting voluntary departure, and evidence establishing your economic need to work.

Deferred Action–(c)(14). File your EAD application with a copy of the order, notice or document placing you in deferred action and evidence establishing economic necessity for an EAD.

Adjustment Applicant Based on Continuous Residence Since January 1, 1972–(c)(16). File your EAD application with your Form I-485, Application for Permanent Residence; a copy of your receipt notice; or other evidence that the Form I-485 is pending.

Final Order of Deportation–(c)(18). File your EAD application with a copy of the order of supervision and a request for employment authorization which may be based on, but not limited to the following:

- Existence of economic necessity to be employed;
- Existence of a dependent spouse and/or children in the United States who rely on you for support; and
- Anticipated length of time before you can be removed from the United States.

PART 3. REQUIRED DOCUMENTATION WITH EACH APPLICATION.

All applications must be filed with the documents required below, in addition to the evidence required for the category listed in Part 2 ELIGIBILITY CATEGORIES, with fee, if required.

If you are required to show economic necessity for your category (See Part 2), submit a list of your assets, income and expenses.

Please assemble the documents in the following order:

Your application with the filing fee. See Part 4 FEE for details.

If you are mailing your application to the INS, you must also submit:

- Form I-765 Signature Card. If one is not enclosed with your application, ask your local INS office for one. Sign the card in the blue box marked "signature". Your signature must fit within the blue box. DO NOT fold this card when you mail your application.
- A copy of Form I-94 Departure Record (front and back), if available.
- A copy of your last EAD (front and back).
- 2 photos with a white background taken no earlier than 30 days before submission to the INS. They should be unmounted; printed on thin paper; glossy; and unretouched. The photos should show a three-quarter front profile of the right side of your face, with your right ear visible. Your head should be bare unless you are wearing a headdress as required by a religious order to which you belong. The photo should not be larger than 1 ¼ X 1 ¼ inches, with the distance from the top of the head to just below the chin about 1¼ inches. Lightly print your name and your A#, if known, on the back of each photo with a pencil.

PART 4. FEE.

Applicants must pay a fee of $70 to file this form unless noted below. If a fee is required, it will not be refunded. Pay in the exact amount. Checks and money orders must be payable in U.S. currency. Make check or money order payable to "Immigration and Naturalization Service." If you live in Guam make your check or money order payable to "Treasurer, Guam." If you live in the U.S. Virgin Islands make your check or money order payable to "Commissioner of Finance of the Virgin Islands." There will be an additional charge if your check is not honored.

Please do not send cash in the mail.

Initial EAD: If this is your initial application and you are applying under one of the following categories, a filing fee is not required:

- (a)(3) Refugee;
- (a)(4) Paroled as Refugee;
- (a)(5) Asylee;
- (a)(7) N-8 or N-9 nonimmigrant;
- (a)(8) Citizen of Micronesia, Marshall Islands or Palau.
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure;
- (c)(1) or (c)(4) Dependent of certain foreign government or international organization personnel; or
- (c)(8) Applicant for asylum [an applicant filing under the special ABC procedures must pay the fee].

Renewal EAD: If this is a renewal application and you are applying under one of the following categories, a filing fee is not required:

- (a)(8) Citizen of Micronesia, Marshall Islands, or Palau.
- (a)(10) Granted Withholding of Deportation;
- (a)(11) Deferred Enforced Departure; or
- (c)(1) or (c)(4) Dependent of certain foreign government or international organization personnel.

Replacement EAD: If this is your replacement application and you are applying under one of the following categories, a filing fee is not required:

- (c)(1) or (c)(4) Dependent of certain foreign government or international organization personnel.

You may be eligible for a fee waiver under 8 CFR 103.7(c).

The INS will use The Community Service Administration Income Poverty Guidelines ("Poverty Guidelines") found at 45 CFR 1060.2 as the basic criteria in determining the applicant's eligibility when economic necessity is identified as a factor.

The Poverty Guidelines will be used as a guide, but not as a conclusive standard, in adjudicating fee waiver requests for employment authorization applications requiring a fee.

PART 5. WHERE TO FILE.

If your response to question 16 is:
(a)(3), (a)(4), (a)(5), (a)(7), or (a)(8)
mail your application to:

INS Service Center
P.O. Box 87765
Lincoln, NE 68501-7765

If your response to question 16 is:
(a)(6), (a)(11), (a)(13), (c)(2), (c)(3)(i), (c)(3)(ii), (c)(3)(iii), (c)(5), (c)(6), (c)(7), (c)(8), (c)(17)(i), (c)(17)(ii), or (c)(17)(iii)

mail your application based on your address to the appropriate Service Center:

If you live in: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, West Virginia or the U.S. Virgin Islands, mail your application to:

INS Service Center
P.O. Box 9765
St. Albans, VT 05479-9765

If you live in: Arizona, California, Guam, Hawaii or Nevada, mail your application to:

INS Service Center
P.O. Box 10765
Laguna Niguel, CA 92607-0765

If you live in: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, N. Carolina, Oklahoma, S. Carolina, Tennessee or Texas, mail your application to:

INS Service Center
P.O. Box 152122, Department A
Irving, TX 75015-2122

If you live elsewhere in the U.S., mail your application to:

INS Service Center
P.O. Box 87765
Lincoln, NE 68501-7765

If your response to question 16 is:
(a)(10), (a)(12), (c)(1), (c)(4), (c)(10), (c)(11), (c)(12), (c)(14), (c)(16), (c)(18), or (c)(19)
apply at the local INS office having jurisdiction over your place of residence.

If your response to question 16 is **(c)(9)**, file your application at the same local INS office or Service Center where you submitted your adjustment application.

If your response to question 16 is **(c)(8)** under the special ABC filing instructions and you are filing your asylum and EAD applications together, mail your application to the office where you are filing your asylum application.

PART 6. PROCESSING INFORMATION.

Acceptance. An application filed without the required fee, evidence, signature or photographs (if required) will be returned to you as incomplete. You may correct the deficiency and resubmit the application; however, an application is not considered properly filed until the INS accepts it. If your application is complete and filed at an INS Service Center, you will be mailed a Form I-797 receipt notice.

Decision on your application.

- **Approval.** If approved, your EAD will either be mailed to you or you may be required to appear at your local INS office to pick it up.
- **Request for evidence.** If additional information or documentation is required, a written request will be sent to you specifying the information or advising you of an interview.
- **Denial.** If your application cannot be granted, you will receive a written notice explaining the basis of your denial.

VOL 60 ISS 81 AP 27 1995 UMI

PART 7. OTHER INFORMATION.

Penalties for Perjury. All statements contained in response to questions in this application are declared to be true and correct under penalty of perjury. Title 18, United States Code, Section 1546, provides in part:

> . . . Whoever knowingly makes under oath, or as permitted under penalty of perjury under 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement - shall be fined in accordance with this title or imprisoned not more than five years, or both.

The knowing placement of false information on this application may subject you and/or the preparer of this application to criminal penalties under Title 18 of the United States Code. The knowing placement of false information on this application may also subject you and/or the preparer to civil penalties under Section 274C of the Immigration and Nationality Act (INA), 8 U.S.C. 1324c. Under 8 U.S.C. 1324c, a person subject to a final order for civil document fraud is deportable from the United States and may be subject to fines.

Authority for Collecting this Information. The authority to require you to file Form I-765, Application for Employment Authorization, when applying for employment authorization is found at 8 U.S.C. 274A(b)(1)(C)(iii). Information you provide on your Form I-765 is used to determine whether you are eligible for employment authorization and for the preparation of your Employment Authorization Document if you are found eligible. Failure to provide all information as requested may result in the denial or rejection of this application. The information you provide may also be disclosed to other federal, state, local and foreign law enforcement and regulatory agencies during the course of the INS investigations.

Paperwork Reduction Act. The Immigration and Naturalization Service (INS) tries to create forms and instructions which are accurate and easily understood. Often this is difficult because immigration law can be very complex. The public reporting burden for this form is estimated to average three (3) hours and twenty-five (25) minutes per response, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The INS welcomes your comments regarding this burden estimate or any other aspect of this form, including suggestions for reducing this burden, to: U.S. Department of Justice, Immigration and Naturalization Service, 425 Eye Street, Room 5307, Washington, D.C. 20536; and to the Office of Management and Budget, Paperwork Reduction Project: OMB No. 1115-0163, Washington, D.C. 20503.

U. S. Department of Justice
Immigration and Naturalization Service

OMB # 1115-0163

Application for Employment Authorization

Do Not Write In This Block — **Please Complete Both Sides of Form**

Remarks	Action Stamp	Fee Stamp
A#		
Applicant is filing under 274a.12 _____		

☐ Application Approved. Employment Authorized / Extended (Circle One) _____ (Date).
until _____ (Date).
Subject to the following conditions: _____
☐ Application Denied.
☐ Failed to establish eligibility under 8 CFR 274a.12 (a) or (c).
☐ Failed to establish economic necessity as required in 8 CFR 274a.12(c) (14), (18) and 8 CFR 214.2(f)

I am applying for: ☐ Permission to accept employment
☐ Replacement (of lost employment authorization document).
☐ Renewal of my permission to accept employment (attach previous employment authorization document).

1. Name (Family Name in CAPS) (First) (Middle)
2. Other Names Used (Include Maiden Name)
3. Address in the United States (Number and Street) (Apt. Number)
(Town or City) (State/Country) (ZIP Code)
4. Country of Citizenship/Nationality
5. Place of Birth (Town or City) (State/Province) (Country)
6. Date of Birth (Month/Day/Year) 7. Sex ☐ Male ☐ Female
8. Marital Status ☐ Married ☐ Single ☐ Widowed ☐ Divorced
9. Social Security Number (Include all Numbers you have ever used)
10. Alien Registration Number (A-Number) or I-94 Number (if any)

11. Have you ever before applied for employment authorization from INS? ☐ Yes (If yes, complete below) ☐ No
Which INS Office? Date(s)
Results (Granted or Denied - attach all documentation)
12. Date of Last Entry into the U.S. (Month/Day/Year)
13. Place of Last Entry into the U.S.
14. Manner of Last Entry (Visitor, Student, etc.)
15. Current Immigration Status (Visitor, Student, etc.)
16. Go to Part 2 of the instructions, Eligibility Categories. In the space below, place the letter and number of the category you selected from the instructions (For example, (a)(8), (c)(17)(iii), etc.).
Eligibility under 8 CFR 274a.12
( ) ( ) ( )

Complete the reverse of this form before signature.

Your Certification: I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking. I have read the reverse of this form and have checked the appropriate block, which is identified in item #16, above.

Signature Telephone Number Date

Signature of Person Preparing Form If Other Than Above: I declare that this document was prepared by me at the request of the applicant and is based on all information of which I have any knowledge.

Print Name Address *Signature* Date

Initial Receipt	Resubmitted	Relocated		Completed		
		Rec'd	Sent	Approved	Denied	Returned

[FR Doc. 95–9993 Filed 4–26–95; 8:45 am]
BILLING CODE 4410–10–C

VOL 60 ISS 81 AP 27 1995 UMI

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. § 9622(d)(2), notice is hereby given that on April 17, 1995, a Consent Decree in *United States* v. *Hercules, et al.*, Civil Action No. 89–562–SLR, was lodged with the United States District Court for the District of Delaware and the United States Bankruptcy Court for the District of Delaware.

The United States, on behalf of the U.S. Environmental Protection Agency, filed a third amended complaint against the thirty-one defendants who are signatories to the Consent Decree under Section 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606 and 9607, with respect to the Delaware Sand & Gravel Superfund Site ("DS&G Site") located in New Castle County, Delaware. Under the Consent Decree, Defendants have agreed to perform the remedy selected by EPA under CERCLA for the Site, as defined in the Consent Decree, which involves soil vapor extraction/ bioremediation of contaminated soils at the DS&G Site. Defendants have also agreed to reimburse DPA for past response costs in the amount of $4,328,335.35 and the state of Delaware in the amount of $196,644.45, and reimburse the United States for various future response costs, including the costs of oversight of the remedial action to be performed under the Consent Decree and all costs of enforcement by the Department of Justice after April 1988.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Hercules, et al.*, Civil Action No. 89–562–SLR, Ref. No. 90–11–2–298. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Delaware, Chemical Bank Plaza, 1201 Market Street, Suite 100, Wilmington, Delaware 19899. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892) and the offices of the Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. When requesting a copy of the settlement agreement by mail, please enclose a check in the amount of $33.00 (twenty-five cents per page reproduction costs) payable to the "Consent Decree Library."

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–10313 Filed 4–26–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–30,793]

Phillips Petroleum Company, Odessa, Texas; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Phillips Petroleum Company, Odessa, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–30,793; Phillips Petroleum Company
Odessa, Texas (April 14, 1995)

Signed at Washington, DC, this 19th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10362 Filed 4–26–95; 8:45 am]

BILLING CODE 4510–30–M

Arco Oil and Gas Co.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: TA–W–29,431A ARCO NATURAL GAS MARKETING, DALLAS, TX; TA–W–29,431B ARCO NATURAL GAS MARKETING, HOUSTON, TX, A/K/A VASTAR GAS MARKETING, INC.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 13, 1994. The notice was published in the **Federal Register** on May 11, 1994 (59 FR 24483).

The certification was subsequently amended June 20, 1994, and again on August 22, 1994. The amended notices were published in the **Federal Register** June 30, 1994 (59 FR 33778) and September 2, 1994 (59 FR 45709), respectively.

The Department is again amending the certification. The Department has been notified by the company that ARCO Natural Gas Marketing has changed its corporate name to Vastar Gas Marketing, Inc.

The intent of the Department's certification is to include all workers of Arco Oil and Gas who were affected by increased imports of crude oil and natural gas. The amended notice applicable to TA–W–29,431A and TA–W–29,431B is hereby issued as follows:

"All workers of ARCO Natural Gas Marketing, a/k/a Vastar Gas Marketing, Inc., Dallas and Houston, Texas (TA–W–29,431A and TA–W–29,431B) who became totally or partially separated from employment on or after February 21, 1994, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 14th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10354 Filed 4–26–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30, 433; 30, 433A]

IMC Magnetics Corp., Eastern Division, Hauppauge, NY and New England Alloys, Inc., Lawrence, MA; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 13, 1994, applicable to all workers of the subject firm. The certification notice was published in the Federal Register on January 3, 1995 (60 FR 149).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The findings show that New England Alloys, Inc., Lawrence, Massachusetts is a subsidiary of IMC Magnetics Corporation and ceased operations on March 31, 1995 because of a reduced demand for its components by IMC Magnetics.

Accordingly, the Department is amending the certification to include all workers of New England Alloys, Inc., in Lawrence, Massachusetts.

The amended notice applicable to TA–W–30, 433 is hereby issued as follows:

"All workers of IMC Magnetics Corporation, Eastern Division, Hauppauge, New York and New England Alloys, Inc., in Lawrence, Massachusetts who became totally or partially separated from employment on or after October 12, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, D.C., this 14th day of April 1995.

Victor J. Trunzo,

Program Director, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10356 Filed 4–26–95; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–30,792]

Pennzoil Products Company (Oil & Gas Segment) Bradford, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 10, 1995, applicable to all workers of the subject firm.

The certification notice will soon be published in the **Federal Register**.

The Department, on its own motion, reviewed the certification for workers of the subject firm. The findings show that the earliest possible impact date could be February 2, 1994. Accordingly, the Department is amending the certification by inserting a new impact date of February 2, 1994.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports.

The amended notice applicable to TA–W–30,792 is hereby issued as follows:

"All workers of Pennzoil Products Company (Oil & Gas Segment), Bradford District, Bradford, Pennsylvania who became totally or partially separated from employment on or after February 2, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, DC, this 18th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10359 Filed 4–26–95; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 8, 1995.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 8, 1995.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, DC, this 17th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Industrial Ceramics Inc (UE)	Derry, PA	04/17/95	03/27/95	30,916	Electrical Porcelain Insulators.
Brunswick Defense (Co)	Costa Mesa, CA	04/17/95	04/02/95	30,917	Naval Aircraft Decoys.
Charland Sportswear, Faymore Mfg (ILGWU).	Confluence, PA	04/17/95	03/28/95	30,918	Ladies Sportswear.
Charland Sportswear, Charland Mfg (ILGWU).	Charleroi, PA	04/17/95	03/28/95	30,919	Ladies Sportswear.
Weatherford U.S. Inc. (Wkrs)	Williston, ND	04/17/95	03/23/95	30,920	Oilfield Rental Equipment.
Forbo Industries, Inc. (Wkrs)	Hazleton, PA	04/17/95	03/31/95	30,921	Wallcoverings.
Boskovich Farms Inc. (Wkrs)	Oxnard CA	04/17/95	04/07/95	30,922	Green Onions.
Angel Knitwear, Inc. (ILGWU)	So. Hackensack, NJ	04/17/95	04/06/95	30,923	Ladies' Knitwear.
Astronautics Corp of America (Wkrs)	Milwaukee, WI	04/17/95	03/21/95	30,924	Aircraft Instruments.
Collegeville Imagineering (Wkrs)	Zionsville, PA	04/17/95	04/03/95	30,925	Holloween Costumes.
Douglas Furniture (Co.)	Bedford Park, IL	04/17/95	04/06/95	30,926	Dinette Sets.
Midessa Drilling Co (Co)	Midland, TX	04/17/95	04/04/95	30,927	Oil and Gas Drilling.
Marty Sculpture, Inc. (Co)	Milton, VT	04/17/95	04/06/95	30,928	Figurenes.
National Micronetics, Inc. (Wkrs)	Kingston, NY	04/17/95	04/06/95	30,929	Magnetic Recording Heads for Disk Drive.
Sun Apparel, Inc. (Wkrs)	El Paso, TX	04/17/95	04/03/95	30,930	Men's and Womens' Jeans.
Waymart Knitting Co., Inc (Wkrs)	Waymart, PA	04/17/95	04/07/95	30,931	Children's Polo Shirts.
Thomas & Betts (Co)	Elizabeth, NJ	04/17/95	04/12/95	30,932	Electrical Conduit Fittings.

VOL
60
ISS
81
AP
27
1995
UMI

[FR Doc. 95–10360 Filed 4–26–95; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–30,792]

Pennzoil Products Company, Bradford, Pennsylvania; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice for petition TA–W–30,792 which was published in the **Federal Register** on March 17, 1995 (60 FR 14453) in FR Document 95–6659.

This revises the date received and the date of petition on the tenth line of the third and fourth columns in the appendix table on page 14453. The date received should read "February 6, 1995" and the date of petition should read "February 2, 1995" in the third and fourth columns on the tenth line of the appendix table.

Signed in Washington, D.C., this 18th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10364 Filed 4–26–95; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–30,709]

Contract Manufacturing Monroe, Louisiana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 16, 1995, applicable to all workers of Contract Manufacturing and Monroe Manufacturing in Monroe, Louisiana. The Notice was published in the **Federal Register** on March 27, 1995 (60 FR 15791).

The Company requested that the Department review its certification for workers of the subject firm. New information from the company shows that only the workers at Contract Manufacturing producing baby bottles were adversely affected by imports. Workers at Monroe Manufacturing do not produce baby bottles. Accordingly, the Department is limiting its certification to only those workers at Contract Manufacturing in Monroe, Louisiana and revoking the certification for workers at Monroe Manufacturing in Monroe, Louisiana.

The intent of the Department's certification is to include only those workers of Contract Manufacturing who were affected by increased imports of baby bottles.

The amended notice applicable to TA–W–30,709 is hereby issued as follows:

"All workers of Contract Manufacturing, Monroe, Louisiana engaged in employment related to the production of baby bottles who became totally or partially separated from employment on or after January 23, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C., this 14th day of April 1995.

Dated: April 14, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10365 Filed 4–26–95; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–30,851]

Elbit Ft. Worth, Inc. (EFW, Inc.) Fort Worth, Texas; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administration reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Elbit Ft. Worth, Inc. (EFW, Inc.) Fort Worth, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–30,651; Elbit Ft. Worth, Inc. (EFW, Inc.)
Fort Worth, Texas (April 12, 1995)

Signed at Washington, D.C. this 19th day of April, 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10363 Filed 4–26–95; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA—00260; 00260A]

IMC Magnetics Corp., Eastern Division, Hauppeuge, NY and New England Alloys, Inc., Lawrence, MA; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on November 29, 1994, applicable to all workers of the Eastern Division of IMC Magnetics in Hauppauge, New York. The notice was published in the **Federal Register** on December 16, 1994 (59 FR 65078).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that New England Alloys, Inc., is a subsidiary of IMC Magnetics and has closed its operation on March 31, 1995 as a result of a reduced demand for its components by IMC Magnetics. Accordingly, the Department is amending the certification to include all workers of New England Alloys, Inc., in Lawrence, Massachusetts.

The intent of the Department's certification is to include all workers who were adversely affected by increased imports of electrical motors.

The amended notice applicable to NAFTA—00260 is hereby issued as follows:

"All workers of the Eastern Division of IMC Magnetics Corporation in Hauppauge, New York and New England Alloys, Inc., in Lawrence, Massachusetts who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, DC, this 14th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10355 Filed 4–26–95; 8:45 am]
BILLING CODE 4510–30–M

[NAFTA–00307, 00307A]

H. Grabell & Sons, Inc., Paterson, NJ and Commerce, CA; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on December 29, 1994, applicable to all workers of the subject firm.

The Department, at the request of the company, reviewed the certification for workers of the subject firm. New findings show decreasing production of lamp shades and employment of H. Grabell & Sons, Inc., in Commerce, California in 1994. The findings show that the subject firm increased its reliance on imported lamp shades while discontinuing lamp shade production at Commerce, California.

Accordingly, the Department is amending the Paterson, New Jersey certification to include workers at Commerce, California.

The amended notice applicable to NAFTA—00307 is hereby issued as follows:

"All workers and former workers of H. Grabell & Sons, Inc., Paterson, New Jersey and Commerce, California who became totally or partially separated from employment on or after December 8, 1993 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974."

Signed at Washington, DC, this 10th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10357 Filed 4–26–95; 8:45 am]
BILLING CODE 4510–37–M

Footwear Management Co.; Amended Certification Regarding Eligibility To Apply for NAFTA Transitional Adjustment Assistance

In the matter of: NAFTA–00252 Tony Lama Division, El Paso, Texas, a/k/a Justin Management Company, El Paso, Texas, NAFTA–00252A Justin Boot Company, Fort Worth, Texas, NAFTA–00252B Justin Boot Company, Cassville, Missouri, NAFTA–00252C Nocona Boot Company, Nocona, Texas, NAFTA–00252D Justin Boot Company, Sarcoxie, Missouri and NAFTA–00252E Justin Boot Company, Carthage, Missouri.

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued an Amended Certification for NAFTA Transitional Adjustment Assistance on February 6, 1995, applicable to all workers at the subject firm. The amended notice was published in the **Federal Register** on February 17, 1995 (60 FR 9409).

The certification was subsequently amended April 6, 1995. The notice will soon be published in the **Federal Register**. The NAFTA reference numbers in the amendment were incorrect.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to NAFTA—00252 is hereby issued as follows:

"All workers of Footwear Management Company in the following divisions: Tony Lama Division, El Paso, Texas, a/k/a Justin Management Company, El Paso, Texas; Justin Boot Company, Fort Worth, Texas; Cassville, Missouri; Sarcoxie, Missouri; and Carthage, Missouri and the Nocona Boot Company in Nocona, Texas who became totally or partially separated from employment on or after November 29, 1993 are eligible to apply for NAFTA–TAA Section 250 of the Trade Act of 1974."

Signed at Washington, DC this 18th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of April 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations to the firm.

TA–W–30,690; Pennzoil Products Co., Roosevelt Utah Refinery, Roosevelt, UT

TA–W–30,688; Union Camp Corp., Retail Packaging of the Flexible Packaging Div., Savannah, GA

TA–W–30,703; Dauman Display, Inc., New York, NY

TA–W–30,813; Unisys, Government Systems Group, Great Neck, NY

TA–W–30,756; CMS Gilbreth Packing Systems, Kingston, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–30,833; Simon Petroleum Technology Corp., Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–30,801; Gregory Rig Sales & Service, Inc., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–30,893; General Motors Corp., Service Parts Operations, Reno Parts Distribution Center, Sparks, NV

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–30,739; Control Power, Inc., Ardmore, OK

A company decision to close the Ardmore plant and transfer production to another domestic plant in Midland, TX. Sales had been increasing prior to this transfer of production.

TA–W–30,843; Print and Peel, Paterson, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,840; General Mills, Inc., South Chicago, IL

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–30,835; United Defense, L.P. (FMC/BMY), Aberdeen, SD

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,714; Endicott Forgings & Manufacturing Co., Inc., Endicott, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,828; Greenville Industries, Inc., Greenville, TN

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,887; Texaco Refining & Marketing, Inc., Bellaire, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–30,780; Rhone Paulenc Silicones VSI, Troy, NY

Increased imports did not contribute importantly to worker separations at the firm.

VOL
60
ISS
81
AP
27
1995
UMI

Affirmative Determinations for Worker Adjustment Assistance

TA-W-30,751; Fashion Button, New York, NY

A certification was issued covering all workers separated on or after February 10, 1994.

TA-W-30,743, TA-W-30,761; Transport Manufacturing Corp., Rosell, NM, Motor Coach Industries, Int'l, Rosewell, NM

A certification was issued covering all workers separated on or after February 3, 1994.

TA-W-30,930; Sun Apparel Inc., Concepcion Plant, El Paso, TX

A certification was issued covering all workers separated on or after April 3, 1994.

TA-W-30,871; Exxon Production Research Co., Houston, TX

A certification was issued covering all workers separated on or after March 20, 1994.

TA-W-30,825, A & B; Red Eagle Resource Corp., Oklahoma City, OK, Cimarron Operating Co., Fairview, OK, Talon Trucking Co., Fairview, OK

A certification was issued covering all workers separated on or after June 12, 1994.

TA-W-30,790; C.H. Todd, Inc., Wichita, KS

A certification was issued covering all workers separated on or after February 6, 1994.

TA-W-30,818; Philips Technology—Airpax, Inc., Cambridge, MD

A certification was issued covering all workers separated on or after February 18, 1995.

TA-W-30,841; Highland Yarn Mills, Inc., High Point, NC

A certification was issued covering all workers separated on or after February 21, 1994.

TA-W-30,711; Avenue West Sportsear, Hammonton, NJ

A certification was issued covering all workers separated on or after January 9, 1994.

TA-W-30,750; Berkeley Belt, Inc., New York, NY

A certification was issued covering all workers separated on or after February 10, 1994.

TA-W-30,855; Brown Shoe Co., Fredericktown, MO

A certification was issued covering all workers separated on or after March 13, 1994.

TA-W-30,768; Kelley Oil Corp., Houston, TX & Operating at Various Locations in the Following States: A; NY, B; LA

A certification was issued covering all workers separated on or after February 7, 1994.

TA-W-30,888; Rogge Affiliates, Inc., Bandon, OR

TA-W-30,888A; Douglas Pacific Veneer, Inc., Bandon, OR

TA-W-30,888B; Rogge Forest Products, Inc., Bandon, OR

TA-W-30, 888C; Rogge Wood Products, Inc., Wallowa, OR

A certification was issued covering all workers separated on or after March 16, 1994.

TA-W-30,895; Lar Sportswear Co., Palmerton, PA

A certification was issued covering all workers separated on or after March 25, 1994.

TA-W-30,741; Boeing of Portland, Portland, OR

A certification was issued covering all workers separated on or after February 2, 1994.

TA-W-30,718; "Q-T" Foundations Co., Inc., Bergenfield, NJ

A certification was issued covering all workers separated on or after February 16, 1995.

TA-W-30,752; Visador Co., Tacoma, WA

A certification was issued covering all workers separated on or after February 7, 1994.

TA-W-30,706; Xerox Corp., Document Production Systems Div., Rochester, NY

A certification was issued covering all workers separated on or after January 18, 1994.

TA-W-30,765 & TA-W-30,766; Dexter Shoe Co., Dexter, ME and Newport, ME

A certification was issued covering all workers separated on or after February 10, 1994.

TA-W-30,726; Goldex, Inc., Goldsboro, NC

A certification was issued covering all workers separated on or after January 30, 1994.

TA-W-30,773; Blanche, Inc., dba GBS Corp., Blue Ball, PA

A certification was issued covering all workers separated on or after February 14, 1994.

TA-W-30,849; Voyager Emblems, Inc., Sanforn, NY

A certification was issued covering all workers separated on or after March 6, 1994.

TA-W-30,782; Perry Manufacturing Co., Elk Creek, VA

A certification was issued covering all workers separated on or after February 27, 1994.

TA-W-30,728 & A; Waco Oil and Gas Co., Glenville, WV & Operating at Various Locations in the State of West Virginia

A certification was issued covering all workers separated on or after February 3, 1994.

TA-W-30,796; TTC, Inc., Kankakee, IL

A certification was issued covering all workers separated on or after February 8, 1994.

TA-W-30,875; Val Mode Lingerie, Inc., Bridgeton, NJ

A certification was issued covering all workers separated on or after March 17, 1994.

TA-W-30,789; Schweiger Industries, Inc., Jefferson, WI

A certification was issued covering all workers separated on or after February 17, 1994.

TA-W-30,800; Penn-Union Corp (Formerly Teledyne Penn-Union), Edinboro, NJ

A certification was issued covering all workers separated on or after February 22, 1994.

TA-W-30,792; Pennzoil Products Co (Oil and Gas Segment) Bradford District, Bradford, PA

A certification was issued covering all workers separated on or after February 2, 1994.

TA-W-30,781; Names, Inc., Allentown, PA

A certification was issued covering all workers of Names, Inc., Allentown, PA separated on or after January 16, 1994.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103-182) concerning transitional adjustment assistance hereinafter called (NAFTA-TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA-TAA issued during the months of April, 1995.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA-TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased,

(C) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA-TAA

NAFTA-TAA-00374; Boeing of Portland, Portland, OR

The investigation revealed that criteria (3) and (4) were not met. There was no shift of production from Boeing of Portland to Mexico or Canada during the period under investigation, neither did Boeing of Portland import from Mexico or Canada any articles like or directly competitive with aircraft parts manufactured at the Portland facility.

NAFTA-TAA-00375; Schweiger Industries, Inc., Jefferson Furniture Manufacturing Facility, Jefferson, WI

The investigation revealed that criteria (3) and (4) were not met. Surveys conducted with customers revealed an increase in purchases from domestic firms and that they do not import a significant proportion of upholstered furniture from Canada or Mexico.

NAFTA-TAA-00377; DLCI USA, Van Buren, ME

The investigation revealed that criteria (3) and (4) were not met. The investigation findings revealed that DLCI USA has not shifted production of bicycle frames and parts from the Van Buren, ME facility to Canada or Mexico. Also disclosed was that all the plant's production was shipped to the parent company located in France. Lost export sales cannot be used as the basis for certification under the Trade Act of 1974.

Affirmative Determinations NAFTA-TAA

NAFTA-TAA-00397; Plastmo, Inc., Creswell, OR

A certification was issued covering all workers at Plastmo, Inc., Creswell, OR separated on or after March 2, 1994.

NAFTA-TAA-00378; AMSCO International, Inc., Wilson, NY

A certification was issued covering all workers at AMSCO International, Inc., Wilson, NY separated on or after February 24, 1994.

NAFTA-TAA-00395; Paul-son Gaming Supplies, Inc., Las Vegas, NV

A certification was issued covering all workers at Paul-son Gaming Supplies, Inc., Las Vegas, NV separated on or after March 13, 1994.

NAFTA-TAA-00394; Modoc Lumber Co., Klamath Falls, OR

A certification was issued covering all workers of Modoc Lumber Co., Klamath Falls, OR separated on or after March 6, 1994.

NAFTA-TAA-00379 & A; I. Appel Corp, Forfit Rogers, McMinnville, TN and Lafayette, TN

A certification was issued covering all workers of I. Appel Corp., Formit Rogers facilities in McMinnville and Lafayette, TN separated on or after February 27, 1994.

I hereby certify that the aforementioned determinations were issued during the months of April, 1995. Copies of these determinations are available for inspection in Room C-4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: April 19, 1995.

Victor J. Trunzo

Program Manager, Policy & Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95-10361 Filed 4-26-95; 8:45 am]

BILLING CODE 4510-30-M

Bureau of Labor Statistics

Labor Research Advisory Council; Notice of Meetings and Agenda

The Spring meetings of committees of the Labor Research Advisory Council will be held on May 16, 17 and 18. All of the meetings will be held in the Conference Center of the Postal Square Building (PSB), 2 Massachusetts Avenue, N.E., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members. The schedule and agenda of the meetings are as follows:

Tuesday, May 16, 1995

9:30 a.m.—Committee on Employment and Unemployment Statistics—Meeting Room 2

1. Status reports
   a. BLS Budget
   b. Contingent Worker Survey
   c. Revision of the Standard Industrial Classification
   d. Revision of the Standard Occupational Classification
2. Discussion:
   a. Development of a National Wage Record Database
   b. Restart of the Mass Layoff Statistics Program
   c. American Statistical Association recommendations for improvement of the CES and 202 programs
   d. Labor Market Information report
   e. Current Population Survey—lessons learned
3. Presentation: understanding recent trends in labor force participation

1:30 p.m.—Committee on Prices and Living Conditions—Meeting Room 2

1. Current Consumer Price Index (CPI) issues and plans
2. Other business

Wednesday, May 17, 1995

9:30-3:00 p.m.—Committee on Occupational Safety and Health Statistics—Meeting Room 2

1. 1992 and 1993 Bulletins for the Survey of Occupational Injuries and Illnesses
2. User access to data from the Survey of Occupational Injuries and Illnesses
3. The demographics of injured/ill workers and the circumstances of their injuries and illnesses as reported in the 1993 Survey
4. Survey of Employer-Provided Training
5. Occupational Safety and Health Administration (OSHA) recordkeeping plans
6. Budget/Appropriations

1:30 p.m.—Committee on Wages and Industrial Relations—Meeting Rooms 9 and 10

1. An initiative to redesign compensation statistics
2. Current and future changes to the Occupational Compensation Survey Program (OCSP) job list
3. The recent Employee Benefits Survey bulletin: a general overview
4. Surveys of Employer-Provided Training: An update
5. Other business

Thursday, May 18, 1995

1:00 p.m.—Committee on Foreign Labor Statistics—Meeting Room 2

1. Review of recent development in the Office of Productivity and Technology
2. Chartbook on international labor statistics comparisons

Committee on Productivity, Technology and Growth—Meeting Room 2

1. New index number method for industry labor productivity data
2. New index number method for major sector labor productivity data
3. Other business

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on (Area Code 202) 606-5970.

VOL
60
ISS
81
AP
27
1995
UMI

Signed at Washington, D.C. this 21st day of April 1995.

Katharine G. Abraham,

Commissioner.

[FR Doc. 95–10366 Filed 4–26–95; 8:45 am]

BILLING CODE 4510–24–M

Pension and Welfare Benefits Administration

[Application No. D–09675, et al.]

Proposed Exemptions; Toyota Motor Sales, U.S.A., Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Toyota Motor Sales, U.S.A., Inc. Money Purchase Pension Plan for Bargaining Unit Employees (the Plan), located in Torrance, CA

[Application No. D–09675]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan (the Sale), of group annuity contract No. GA–4564 (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit), located in Newark, New Jersey, to Toyota Motor Sales, U.S.A., Inc., a California corporation, (the Employer), a party in interest with respect to the Plan; provided that (1) the Sale is a one-time transaction for cash; (2) the Plan experiences no loss nor incurs any expense from the Sale; and (3) the Plan receives as consideration from the Sale the greater of either the fair market value of the GAC as determined by the trustee of the Plan on the date of the Sale, or an amount that is equal to the total funds expended by the Plan in acquiring and holding the GAC, plus the amount of interest earned and accrued by the Plan on the GAC to the date of the Sale,[1] less all withdrawals from the Plan to the date of the Sale, and less all advances made to the Plan by the Employer to the date of the Sale.

Summary of Facts and Representations

1. The Employer is a California corporation with its corporate headquarters in Torrance, California and other facilities located throughout the United States, including port facilities, regional sales offices, and parts distribution centers. The Employer is primarily engaged in the wholesale distribution of automobiles, light trucks, industrial equipment and accessories throughout the United States (excluding Hawaii). In addition, the Employer exports automobiles and related replacement parts and accessories to Europe, Asia, and the U.S. Territories. Also the Employer manufactures certain automobiles and trucks though its subsidiaries in the United States.

2. The Plan is a defined contribution plan that is intended to qualify under the provisions of section 401(a) of the Code as a money purchase pension plan with individual accounts for its participants. The sponsor of the Plan and its principal funding source is the Employer; however, eligible employees who are participants of the plan may elect to make additional, voluntary funding contributions. The Plan is maintained pursuant to various collective bargaining agreements between the Employer and the unions representing the employees. As of September 30, 1994, the Plan had 548 active participants and total assets of $4,468,556.

From April 4, 1986, to October 1, 1987, the named fiduciary of the Plan was Toyota Body, Inc., and from October 1, 1987, to August 19, 1994, the named fiduciary was the Employer. Since August 19, 1994, the named fiduciary for the Plan is the Toyota Employee Benefit Committee (the Benefit Committee), which consists of 4 or more individuals who are appointed by the president of the Employer. The Benefit Committee has full authority to control and manage the assets and administration of the Plan. The powers of the Benefit Committee includes, among other things, the authority to appoint legal counsel and other agents for the Plan.

On September 15, 1994, the Eagle Trust Company (the Trustee), a trust company incorporated under the Pennsylvania Bankruptcy Code, was selected by the Benefit Committee to serve as the trustee of the assets of the Plan. The applicant represents the Trustee to be independent and not affiliated with the Employer in any other capacity.

From July 16, 1984, when the Plan acquired the GAC from Mutual Benefit until July 16, 1991, the GAC served as the exclusive investment vehicle for the Plan.[2] Until July 16, 1991, Mutual Benefit would periodically make a determination of the interest rate used to compute the earnings paid to the Plan by the GAC. This involved the establishment of a separate subfund by Mutual Benefit for each annual deposit period of contributions during the life of the GAC, and the applicable interest rate for such subfund thereafter was reset on an annual basis. From the issuance of the GAC through December 31, 1991, the GAC was earning various interest rates, ranging from 8.35 percent to 14.05 percent. The applicant represents that the GAC had no stated maturity date. The GAC can be discontinued unilaterally by either the Employer or Mutual Benefit, or if certain stipulated conditions arise.

3. On July 16, 1991, Mutual Benefit was placed into rehabilitation proceedings by the New Jersey Commissioner of Insurance.[3] As a result of these proceedings the assets of the Plan invested in the GAC were frozen. Following cessation of payments by Mutual Benefit with respect to the GAC, the Employer decided to make periodic advances of funds (the Advances) to the Plan to enable the payment of distributions to terminating and retiring participants and the payment of certain in-service withdrawals to current participants.[4] The applicant represents that at the same time the Advances commenced, the Employer committed itself to enhance the rate of return the individual accounts of the participants would earn and accrue after December 31, 1991, by guaranteeing a 6 percent per annum return for the calendar year 1992 and a 5 percent per annum return for the subsequent calendar years. The applicant further represents that the periodic Advances made by the Employer to the Plan, as of September 30, 1994, totaled $460,668.

The applicant represents that it desires to enter into the proposed transaction in order to protect the participants of the Plan from the risks of investment loss associated with the GAC. Further, the applicant represents that the Plan needs to sell its interest in the GAC in order to give the participants of the Plan more investment flexibility to direct the investments of their respective account balances to other investments. The applicant also represents that the Plan will not incur any expense with respect to the proposed transaction.

4. In order to protect the interests of the participants and beneficiaries of the Plan, the Employer proposes to purchase the GAC from the Plan for cash. The proposed purchase price for the GAC is to be the greater of the fair market value of the GAC as determined by the Trustee on the date of the Sale or an amount that is equal to the total funds expended by the Plan in acquiring and holding the GAC, plus the amount of interest earned and accrued by the Plan on the GAC to the date of the Sale,[5] less all withdrawals from the Plan to the date of the Sale, and less all advances to the Plan made by the Employer to the date of the Sale. As of September 30, 1994, the GAC had a fair market value of $2,349,840.

The Trustee has reviewed the proposed transaction as an independent fiduciary on behalf of the Plan and its participants and beneficiaries. The Trustee represents that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries.

5. In summary, the applicant represents that the proposed transaction will satisfy the criteria for an exemption under section 408(a) of the Act because (a) the Plan will receive, from the Employer in a one-time transaction, cash in an amount that is the greater of either (1) the fair market value of the GAC; or (2) the total funds expended by the Plan in acquiring and holding the GAC plus the amount of interest earned or accrued by the Plan to the date of the Sale, less withdrawals and less prior advances of funds to the Plan made by the Employer; (b) the proposed transaction will enable the Plan and its participants and beneficiaries to avoid any risk associated with continued holding of the GAC; (c) the Plan will not incur any loss or expense from the proposed transaction; and (d) the Trustee of the Plan has determined that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries, and that the proposed price for the GAC is not less than its fair market value.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Masik Tool and Die Corporation Profit Sharing Plan (the Plan), located in Cudahy, WI

[Exemption Application No. D–09899]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The past leasing (the Lease) of a lathe (the Lathe) owned by the Plan and certain individually-directed accounts in the Plan (the Accounts) to Masik Tool and Die Corporation (Masik), a party in interest with respect to the Plan; and (2) the proposed cash sale (the Sale) of the Lathe by the Accounts to Masik.

This proposed exemption is conditioned on the following requirements:

(1) With respect to the past Lease—

(a) the terms and conditions of the Lease have been at least as favorable to the Plan and the Accounts as those obtainable in an arm's length transaction with an unrelated party; (b) the value of the Lathe did not exceed

[1] This takes into account the rate of interest guaranteed after December 31, 1991, to the Plan by the Employer.

[2] The Department notes that the investment in the GAC is governed by the provisions of Part 4, Subtitle B, of Title I of the Act. In this regard, the Department is not proposing herein relief for any violations of Part 4 which may have arisen as a result of not diversifying the investments of the Plan.

[3] The Department notes that the decision to acquire and hold the GAC are governed by the fiduciary responsibility provisions of Part 4, Subtitle B, of the Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GAC by the Plan.

[4] The applicant represents that the terms of the periodic advances to the Plan satisfied the conditions of the class exemption PTE 80–26 (45 FR 28545, April 29, 1980). The Department express no opinion herein as to whether the periodic advances to the plan satisfied the terms and conditions of PTE 80–26.

[5] This takes into account the rate of interest guaranteed after December 31, 1991, to the Plan by the Employer.

VOL 60 ISS 81 AP 27 1995 UMI

twenty-five percent of the assets of the Plan or of any of the Accounts at any time during the duration of the Lease; (c) an independent, qualified fiduciary approved of the Lease on behalf of the Plan and the Accounts and has monitored the Lease throughout its entirety; (d) the rental amount received by the Plan and the Accounts was based upon the fair market rental value of the Lathe; and (e) within ninety days of the publication in the **Federal Register** of the grant of this exemption, Masik files Forms 5330 with the Internal Revenue Service and pay all applicable excise taxes that are due by reason of the past prohibited transactions, which are not subject to this exemption.

(2) With respect to the prospective Sale—

(a) the terms and conditions of the Sale are at least as favorable to the Accounts as those obtainable in an arm's length transaction with an unrelated party; (b) the Sale is a one-time cash transaction; (c) the Accounts are not required to pay any commissions, costs or other expenses in connection with the Sale; (d) the Sale price for the Lathe is based upon its fair market value on the date of the Sale as determined by an independent, qualified appraiser; and (e) within ninety days of the publication in the **Federal Register** of the grant of this exemption, Masik files Forms 5330 with the Internal Revenue Service and pay all applicable excise taxes that are due by reason of the past prohibited transactions, which are not subject to this exemption.

EFFECTIVE DATE: This exemption, if granted, will be effective as of June 1, 1988 with respect to the Lease. The proposed exemption will be effective as of the date of the grant of the exemption with respect to the Sale.

Summary of Facts and Representations

1. The Plan is a profit sharing plan sponsored by Masik, a closely-held Wisconsin corporation engaged in the business of manufacturing, rebuilding, and repairing tools and dies for industrial manufacturers in Southeastern Wisconsin. Joseph Masik, Jr. and his wife, Patricia Masik, hold 100 percent of Masik's stock and are its only directors. Mr. Masik, Mrs. Masik and David Zirkelbach serve, respectively, as President, Secretary/Treasurer and Vice President of Masik. In addition to being officers of Masik, Mr. Masik, Mrs. Masik and Mr. Zirkelbach have been the trustees for the Plan (the Trustees) from the inception of the Lease until the present time.

On May 31, 1990, the Trustees amended the Plan to provide for participant directed investment. As of May 30, 1992, the Plan had twenty-one participants and $322,693 in assets. Such assets are primarily invested in life insurance annuity contracts and certificates of deposit.

2. Among the assets of the Plan is the Lathe, which is a seventy-six inch, used Bullard-Dynatrol Vertical Turret Lathe, serial number 31820. The Lathe weighs 130,000 pounds and measures twenty feet in height. Within six months of the Plan's purchase of the Lathe, Masik mounted the Lathe in the concrete floor of Masik's plant and attached a $20,000 "tracer unit" to the Lathe at no cost to the Plan. As of August 15, 1994, the Lathe remained mounted in the concrete floor.

3. The Trustees acquired the Lathe, on behalf of the Plan, in January of 1987 from the George Meyer Manufacturing Company, an unrelated party, for a purchase price of $33,250.[6] The Trustees represent that they purchased the Lathe because, based upon their experience in the industry, they believed that the purchase price of the Lathe was less than one-half of its fair market value.[7]

4. The Trustees represent that the exact date that the Lathe was first placed into the service of Masik is unknown. However upon a review of the Plan's records, partial installation of the Lathe occurred sometime prior to February 4, 1987. Masik formally commenced leasing the Lathe from the Plan under a written lease (the Lease) executed June 2, 1988 with an initial five-year term expiring May 31, 1993. Masik represents that it compensated the Plan for its use of the Lathe which occurred prior to June 2, 1988. As of June 1, 1987, the Plan had in excess of $200,000 in assets thereby involving sixteen percent of the Plan's assets in the Lathe. Masik represents that from June 2, 1988 until the termination of the Lease on May 31, 1993, the Plan and the Accounts received $105,540, which represents an annualized rate of return of sixty-three percent.

5. In March of 1989, Masik applied to the Department for exemptive relief with respect to the Lease but withdrew that application in June of 1989. The Trustees represent that the reason for the withdrawal was the mistaken belief that amending the Plan to allow for participant directed investments (see Representation #1) would result in correction of the past prohibited transaction and would ensure that no future prohibited transactions would occur. Masik represents that in response to this Plan amendment, all of the eligible participants chose to direct their account balances (the Accounts) on September 20, 1990 towards the purchase of the Lathe and the leasing arrangements. Masik and the Trustees amended the Lease to reflect these participant investment elections. The Trustees represent that no participant directed more than twenty-five percent of his or her account balance to the Lease.

6. Roger McManus represents that he served as an independent, qualified fiduciary on behalf of the Plan and the Accounts with respect to the Lease beginning in June of 1988. Mr. McManus' qualifications include twenty-five years of experience practicing law, primarily in the area of small business. Mr. McManus represents that he was unrelated to, and independent of, Masik. Mr. McManus states that he understood and acknowledged his duties, responsibilities, and liabilities in acting as a fiduciary with respect to the Plan based upon his familiarity with the fiduciary responsibility provisions of the Act.

Mr. McManus states that, in 1988, he reviewed the investment portfolio of the Plan and considered the diversification of the Plan's assets as well as its liquidity needs. Mr. McManus represents that the Lease did not represent more than twenty-five percent of the assets of any of the Accounts. Mr. McManus believed that the Lease would be in the best interests of the Plan and its participants and beneficiaries as an investment for the Plan's portfolio based on the Lease's rate of return, the stability of the lessee, the character and diversification of the Plan's other assets, and the projected liquidity needs of the Plan.

Mr. McManus states that, based upon his previous representation of other businesses and involvement in numerous leasing transactions, he believed that the Lease provisions were quite favorable to the Plan participants and were at least comparable to an arm's length transaction. In addition, Mr. McManus represents that he evaluated the term of the Lease to assure that the Lease satisfied the established standards for commercial reasonableness. Mr. McManus represents that the monthly Lease payments were established at $1,759 based upon calculations which utilized mortgage-type amortization schedules and the fair market and salvage values of the Lathe, which were determined by the Plan's accountant, Tom Harmann.

Mr. McManus represents that he monitored the Lease from its inception through April 10, 1992. Mr. McManus further represents that from the inception of the Lease in 1988 until April 10, 1992, Masik has abided by all of the terms of the Lease, the Lathe has been kept in good working order and all rental due the Plan has been timely paid.

Jeffrey R. Brodek represents that, as of April 10, 1992, he assumed Mr. McManus' role as the independent, qualified fiduciary on behalf of the Plan and the Accounts with respect to the Lease. Mr. Brodek's qualifications include ten years of experience practicing employee benefits law. Mr. Brodek represents that he is unrelated to, and independent of, Masik. Mr. Brodek states that he understood and acknowledged his duties, responsibilities, and liabilities in acting as a fiduciary with respect to the Plan based upon his familiarity with the fiduciary responsibility provisions of the Act.

Mr. Brodek represents he assumed the same duties that Mr. McManus had previously undertaken which included enforcing the terms of the Lease, making sure that the Lathe was kept in good working order and making sure that payments due under the Lease were timely paid to the Plan. Mr. Brodek represents Masik has abided by all of the terms of the Lease, the Lathe has been kept in good working order and all rentals due the Plan were timely paid through May 31, 1993, the expiration of the original five-year term of the Lease. At this time, the Trustees suspended any future Lease payments pending resolution of the prohibited transaction issues. However, Masik represents that it utilized the Lathe in the course of its operations after the cessation of the Lease payments. Masik represents that it will make payments pursuant to the rental rate specified by the Lease to the Plan for every month between June of 1993 through the present time, plus a reasonable rate of interest.

7. Because of the party in interest relationship and the past leasing arrangement between the Plan and Masik, the Trustees along with Masik (the Applicants) are aware of the fact that prohibited transactions have occurred in violation of the Act as of the date of Masik's first use of the Lathe. The Applicants have requested retroactive exemptive relief with respect to the Lease as well as prospective exemptive relief for the Sale. In this regard, the Department is not proposing exemptive relief for the prohibited transactions described in this proposed exemption for the periods: (1) Prior to June 1, 1988, the date that Masik began leasing the Lathe from the Plan pursuant to a written lease; and (2) after May 31, 1993, the cessation of the Lease payments. Accordingly, Masik represents that within ninety days of the publication in the **Federal Register** of the grant of this exemption, it will file Forms 5330 with the Internal Revenue Service and pay all applicable excise taxes that are due by reason of the past prohibited transactions, which are not subject to this exemption.

8. Masik represents that the participants whose accounts are invested in the Lathe desire to sell the Lathe so that an alternative investment can be made by the Accounts. The Trustees represent that because the Lathe is presently mounted in the concrete floor of Masik's plant, sale to an unrelated party at fair market value is unlikely due to the cost of removing the Lathe. Therefore, Masik proposes to purchase the Lathe for its fair market value on the date of the Sale. The Plan will not be required to pay any commissions, costs or other expenses in connection with these transactions.

9. The Trustees retained Richard Levo, a sales engineer for L.L. Richards Machinery Co, Inc. to appraise the Lathe. Mr. Levo has dealt in new and used chipmaking and fabricating machine tools for forty-three years. His appraisal, dated June 6, 1994, places the fair market value of the Lathe at $29,500 based on its age, condition and location. Mr. Levo states that the Lathe has declined in value since its acquisition in 1987 due to recent innovations in technology which have left the Lathe obsolete. The appraisal for the Lathe will be reviewed and updated prior to the Sale pursuant to this exemption. Mr. Levo represents that both he and L.L. Richards Machinery Co, Inc. are independent of and unrelated to Masik.

10. In summary, the Applicants represent that the Lease and the Sale will satisfy the statutory criteria for an exemption under 408(a) of the Act because:

(a) With respect to the past Lease—

(1) the terms and conditions of the Lease have been at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party; (2) the Lathe did not exceed twenty-five percent of the assets of the Plan or of any individually-directed accounts within the Plan at any time during the duration of the leasing arrangements; (3) Roger McManus, acting as the Plan's independent, qualified fiduciary, approved of the Lease; (4) Mr. McManus and subsequently, Jeffrey Brodek, acting as the Plan's independent, qualified fiduciary during different periods, monitored the Lease; (5) the rental charged by the Plan was based upon the fair market rental value of the Lathe; and (6) within ninety days of the publication in the **Federal Register** of the grant of this exemption, Masik will file Forms 5330 with the Internal Revenue Service and pay all applicable excise taxes that are due by reason of the past prohibited transactions, which are not subject to this exemption.

(b) With respect to the prospective Sale—

(1) the Sale will be a one-time cash transaction; (2) the Plan will not be required to pay any commissions, costs or other expenses in connection with this transaction; (3) the Lathe will be appraised by Richard Levo, an independent, qualified appraiser; (4) the sales price for the Lathe will reflect its fair market value on the date of the Sale; and (5) within ninety days of the publication in the **Federal Register** of the grant of this exemption, Masik will file Forms 5330 with the Internal Revenue Service and pay all applicable excise taxes that are due by reason of the past prohibited transactions, which are not subject to this exemption.

FOR FURTHER INFORMATION CONTACT: Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Simplex Time Recorder Co., Employee Savings Plan (the Plan), located in Gardner, Massachusetts

[Application No. D–09935]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the proposed extension of credit (the Loan) to the Plan by Simplex Time Recorder Co. (the Employer), a party in interest with respect to the Plan, with regard to a

[6] The Department is expressing no opinion in this proposed exemption on whether the acquisition and holding of the Lathe by the Plan violated any of the fiduciary responsibility provisions of Part 4 of Title I of the Act.

[7] Subsequently, Russ Bottoni (Mr. Bottoni), the owner of Russco Sales, Inc., a company specializing in used equipment, appraised the Lathe. Based upon comparable sales, Mr. Bottoni placed the fair market value of the Lathe as of February 22, 1989 at $79,500.

VOL
60
ISS
81
AP
27
1995
UMI

group annuity contract (the GAC) issued by Executive Life Insurance Company of California (ELIC), and (2) the Plan's potential repayment of the Loan (the Repayment); provided the following conditions are satisfied:

(A) No interest or expenses are paid by the Plan in connection with the proposed transaction;

(B) The Loan will be repaid only out of amounts paid to the Plan by ELIC, its successors, or any other responsible third party making payment with respect to ELIC's obligations under the GAC (the GAC Proceeds); and

(C) Repayment of the Loan is waived with respect to the amount by which the Loan exceed GAC proceeds.

Summary of Facts and Representations

1. The Employer is a Massachusetts corporation with its principal place of business located in Gardner, Massachusetts. The Plan is a defined contribution plan with approximately 3,500 participants and total assets of approximately $82.3 million as of December 31, 1994. The Plan provides for individual participant accounts (the Accounts) and participant-directed investment of the Accounts.

2. The terms of the Plan provide that its participants may invest the Accounts among any of several investment funds (the Funds) managed by the Plan's trustee, State Street Bank and Trust Company (the Trustee), including a fixed income fund (the F.I. Fund). The F.I. Fund invests in part in insurance company group annuity contracts under which the issuer guarantees repayment of principal and payment of interest at a fixed annual rate through the date of maturity specified in the contract. Among the contracts held by the Plan in the F.I. Fund is the GAC, identified as follows: Contract number CG0124803A, issued to the Trustee on January 13, 1988 for an initial principal deposit of $678,987.69, with a principal deposit limit of $4,440,000. The GAC provides for compound annual interest at the rate of 10 percent (the Contract Rate), and its terms enable withdrawals to fund distributions, participant loans, in-service withdrawals, and participant-directed transfers of Account balances from the F.I. Fund to the other Funds (the Withdrawal Events). The GAC features a maturity date of June 30, 1993, at which time the Plan was due a payment (the Maturity Payment) in the amount of the total principal deposits during the term of the GAC plus interest thereon at the Contract Rate through maturity less previous withdrawals.

3. On April 11, 1991, ELIC was placed into conservatorship (the Conservatorship) by the Insurance Commissioner of the State of California. The Employer represents that ELIC ceased to honor requests for withdrawals from the GAC upon commencement of the Conservatorship. The effect of the Conservatorship has been to freeze all assets invested in the GAC. This freeze has prevented the Plan from making withdrawals from the GAC to fund Withdrawal Events with respect to Accounts invested in the GAC.[8]

In response to the Conservatorship, the Employer and the Trustee provided for the GAC to be segregated from the other assets in the F.I. Fund and placed in a special fund (the Segregated Fund) on April 30, 1991, in order to confine the risks associated with the GAC to those Accounts which were invested in the F.I. Fund as of the commencement of the Conservatorship. Each Account with an interest in the F.I. Fund as of the date of the Conservatorship obtained a pro-rata interest in the Segregated Fund, from which withdrawals are prohibited for all purposes. As of April 30, 1991, the accumulated book value of the GAC was $4,173,231, representing total principal deposits plus interest at the Contract Rate less previous withdrawals. This value constituted approximately 10 percent of the assets in the F.I. Fund and approximately 7.6 percent of the Plan's total assets. Upon the maturity of the GAC on June 30, 1993, the Maturity Payment then due was not made. Approximately 2,100 Plan participants have portions of their Accounts invested in the Segregated Fund.

4. A rehabilitation plan for ELIC (the Rehab Plan) was approved in late 1993, which offered to the Plan, as a holder of an ELIC GAC, two options: The Plan could "opt in" to the Rehab Plan by continuing to hold the GAC with modified terms, or the Plan could "opt out" by agreeing to a cancellation of the GAC in exchange for payments (Rehab Payments) over a period of approximately five years. In 1994, the Trustee made the opt-out election on behalf of the Plan. The Trustee represents that under the opt-out election, the exact amount of the Rehab Payments is not determinable. However, the Trustee and the Employer expect a total opt-out recovery of approximately $3.7 million in Rehab Payments with respect to the GAC. Approximately 65 percent of this total, i.e., $2.4 million, was received by the Plan shortly after the opt-out election was processed. An additional $485,000 was received by the Plan in March 1995. The Trustee and the Employer expect approximately $815,000 more in Rehab Payments over a remaining three-year period.

5. Shortly after the Conservatorship commenced, in order to provide some immediate relief to the Plan with respect to the funding of Withdrawal Events, the Employer structured a loan arrangement (the Initial Agreement) which was intended to utilize Prohibited Transaction Class Exemption 80–26 (PTCE 80–26, 45 FR 35040, May 23, 1980), relating to interest-free loans for, among other things, the funding of plan benefits. In accordance with the terms of the Initial Agreement, the Employer commenced the making of interest-free loans (the Initial Loans) to the Plan solely to fund the cash payment of benefits by the Plan to participants with Account balances in the Segregated Fund, in lieu of the amounts which otherwise would have been withdrawn from the GAC for such payments. The Employer represents that the Initial Loans are exempt from the prohibited transaction provisions of the Act because they satisfy the requirements of PTCE 80–26.[9] As of December 31, 1994, a total of $639,967 had been loaned to the Plan by the Employer pursuant to the Initial Agreement.

6. Although the Initial Agreement has enabled former employees to receive full distribution of their Account balances, including portions invested in the Segregated Fund, the Employer represents that the Initial Arrangement is not satisfactory with respect to the participants of the Plan who remain current employees of the Employer. Participants who are current employees remain unable to effect participant loans, in-service withdrawals and transfers with respect to Account balances in the Segregated Fund. Accordingly, the Employer seeks to provide the Plan with the ability to effect the full range of Withdrawal Events with respect to Accounts invested in the Segregated Fund, by lending the Plan an amount of cash equal to the remaining balance of the Segregated Fund. The Employer requests an exemption for such a loan (the Loan), as well as its potential repayment, under the terms and conditions described herein.

[8] The Department notes that the decisions to acquire and hold the GAC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GAC issued by Executive Life.

[9] The Department expresses no opinion as to whether the loans made pursuant to the Initial Agreement satisfy the requirements of PTCE 80–26, or whether such loans were exempt from the prohibitions of section 406 of the Act.

7. The terms of the Loan and its repayment (the Repayments) will be set forth in a written agreement between the Trustee and the Employer (the New Agreement). Under the New Agreement, the Employer proposes to make the Loan in the amount remaining in the Segregated Fund as of the date of the Loan. The amount remaining in the Segregated Fund as of the date of the Loan will represent the GAC's accumulated book value as of the date of the Conservatorship, i.e., $4,173,231, reduced by the sum of the total Rehab Payments and Initial Loans made as of the Loan date. Accordingly, the Employer estimates that the Loan will be in the amount of approximately $600,000. The Employer represents that after the exemption proposed herein is final, if granted, and the New Agreement has been approved by the Internal Revenue Service [10], the Employer will make the Loan to the Plan and will then exercise its powers under the Plan to close the Segregated Fund. Upon closing the Segregated Fund, all Accounts which remained invested in that Fund will be transferred back to the F.I. Fund, and the Employer will announce to Plan participants the availability of the Loan funds to effect all Withdrawal Events with respect to amounts previously frozen in the Segregated Fund. The Employer and the Trustee represent that the Plan's participants will benefit from the proposed Loan because it will ensure that the participants receive 100% of the Conservatorship-date value of their Accounts invested in the GAC and such amounts will be available as soon as approval is received from the Internal Revenue Service and the Department.[11]

8. The New Agreement provides for repayment of the Loan (the Repayment), but no interest will be paid on the principal amount of the Loan. Under the New Agreement, Repayment is limited to amounts, if any, paid to the Plan by or on behalf of ELIC, or its successor, or any other responsible third parties making payment with respect to ELIC's obligations under the GAC (the GAC Proceeds). No other assets of the Plan will be available for repayment of the Loan. If the GAC Proceeds are not sufficient to fully repay the Loan, the New Agreement provides that the Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount. To the extent the Plan receives GAC proceeds in excess of the total amount of the Loan, such additional amounts will be retained by the Trust and allocated among the accounts of the Plans' participants.

9. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The transaction will restore the Plan's ability to fund Withdrawal Events with respect to Accounts invested in the GAC; (2) The Plan will not incur any expenses or pay any interest with respect to the transaction; (3) Repayment of the Loan will be made only from GAC Proceeds paid to the Plan; (4) If the GAC Proceeds are not sufficient to fully repay the Loan, the Employer will have no recourse against the Plan, or against any participants or beneficiaries of the Plan, for the unpaid amount; and (5) Repayment of the Loan will be waived with respect to the amount by which the Loan exceeds the GAC Proceeds.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Employees' Thrift Plan of Columbia Gas System (the Plan), Located in Wilmington, DE

[Application No. D–09959]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to (1) the proposed loan of funds (the Loan) to the Plan by The Columbia Gas System, Inc. (the Employer), the sponsor of the Plan, and its wholly-owned subsidiary, Columbia Gas Transmission Corporation (the Subsidiary), with respect to the Guaranteed Investment Contract No. 61969 (the GIC) issued by Confederation Life Insurance Company of Canada (Confederation); and (2) the potential repayment by the Plan of the Loan upon the receipt by the Plan of payments under the GIC; provided the following conditions are satisfied: (a) No interest and/or expenses are paid by the Plan in connection with the Loan; (b) all the terms and conditions of the proposed Loan are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party; (c) the Loan will be no less than the accumulated book value of the GIC as of August 12, 1994; (d) the repayment of the Loan will not exceed the total amount of the Loan; (e) the repayment of the Loan by the Plan will be restricted to funds paid to the Plan under the GIC by Confederation, or State Guaranty Funds, or other third-party sources; (f) the repayment of the Loan is waived to the extent the Loan exceeds the proceeds the Plan receives from the GIC; and (g) any proceeds or future interest credited under the GIC after August 12, 1994, in accordance with the Rehabilitation Plan by the State of Michigan, will be allocated and disbursed to the affected participants of the Plan.

Summary of Facts and Representations

1. The Employer is a Delaware corporation with its principal offices located in Wilmington, Delaware. It is a public utility holding company with 15 subsidiaries primarily engaged in the distribution, transmission, and production of natural gas in the Midwest, Southeast, and Mid-Atlantic sections of the country and with production facilities in Texas and West Virginia.

The Employer is also a publicly held corporation with its securities traded on the New York Stock Exchange. For the fiscal year ending September 30, 1994, it had revenues of approximately $3.1 billion.

The Employer and all its subsidiaries are participating employers in the Plan.

2. The Plan is a defined contribution plan with an employer-matching funding feature. There are provisions in the Plan for individual accounts and participant-directed investments of assets. The Plan has been qualified pursuant to the requirements of sections 401(a) and 401(k) of the Code. There are approximately 9,200 participants in the Plan and $341.9 million in total assets, as of December 31, 1994.

On October 1, 1989, Bankers Trust Company of New York, New York became trustee of all of the assets of the Plan. On October 17, 1991, the Fidelity Bank, N.A., located in Philadelphia, Pennsylvania became trustee of Plan assets that are invested in common stock issued by the Employer and held in the Columbia Gas System Stock Fund (the Stock Fund) of the Plan. As of December 31, 1994, the Stock Fund had an aggregate fair market value of $155.4 million and represented approximately

[10] Internal Revenue Procedure 92–16 provides for a temporary closing agreement program to settle certain tax liabilities that arise out of transactions between an employee-sponsor and the trust of a qualified defined contribution plan.

[11] The Department notes that the exemption, if granted, will not affect the rights of any participant or beneficiary with respect to any civil action against Plan fiduciaries for breaches of section 404 of ERISA in connection with any aspect of the GAC transactions.

VOL
60
ISS
81
AP
27
1995
UMI

45.5 percent of the total assets of the Plan.

On April 1, 1992, the Fidelity Management Trust Company, a Massachusetts trust company, located in Boston, Massachusetts (the Trustee) became trustee of all the other assets in the Plan and Bankers Trust Company ceased to be a trustee of any Plan assets.

3. The Board of Directors of the Employer establishes the general investment policy for the Plan and has sole authority to appoint and remove any Trustee and any member of the Thrift Plan Committee (the Committee).

The Committee is the named fiduciary of the Plan and consists of officers and directors of the Employer and its subsidiaries. The duties of the Committee include, *inter alia*, the selection of the various investment options offered to the participants by the Plan; and the appointment and removal of investment managers, agents, assistants, legal counsel, and clericals. The Committee also has the duty to interpret the terms and conditions provided in the Plan and to adopt rules and restrictions to implement and administer the Plan and its general investment policy.

The Trustee is the custodian of the assets of the Plan and is responsible for the establishment and maintenance of the investment and disbursement accounts of the Plan. In addition, the Trustee invests Plan assets as directed by the participants into 14 various investment options offered by the Plan. These investment options include 13 diversified mutual funds offered by the Trustee. Initially, all the matching contributions to the Plan by the Employer are invested in the Stock Fund for the respective participants until the participants attain the age of 55 years; and then, the participants may direct the matching contributions by the Employer into any of the 14 investment options offered by the Plan.

4. The Plan acquired the GIC on January 2, 1990, for the consideration of $6,500,000. The GIC provides for annual guaranteed interest payments of 8.8 percent with a maturity date of January 1, 1995. Since the GIC was acquired by the Plan, there have been withdrawals totalling $2,272,377, which represents annual interest payments received through January 2, 1994. Interest payments are due January 2 each year. All interest payments through January 2, 1994 have been made. As of August 11, 1994, the GIC had a balance of $6,838,983.56, including $338,983.56 in accrued interest.

When the Plan requested payment of the value of the GIC on its maturity date, Confederation was unable to grant the request because, on August 12, 1994, the Ingham County Circuit Court in Lansing, Michigan had placed Confederation in Conservatorship and Rehabilitation, causing Confederation to suspend payments on all of its contracts including the GIC.[12] At this time, August 12, 1994, a segregated subaccount (the Segregated Account) was established within the Money Market/Investment Contract Fund (MMIC) offered by the Trustee to hold the assets of the Plan represented by the GIC. The Segregated Account represents approximately 17 percent of the funds in the MMIC.

The applicant represents that the Segregated Account, which holds the GIC that is subject to suspension of payments, has prevented participants of the Plan from exercising their rights under the Plan to receive distributions of benefits, withdrawals, and investment transfers with respect to the funds invested in the GIC. The applicant further represents that it is not known whether, when, or under what circumstances Confederation will resume payments on its contracts, including the interest and principal amount of the GIC. Approximately 26 percent of the Plan participants (2,423 individuals) are affected by these restrictions.

5. The Employer proposes to make the Loan to the Plan in order to permit the participants to exercise their rights under the Plan and avoid the administrative problems arising from the restrictions on investment transfers and distributions for terminated, retired, and disabled participants as imposed by the rehabilitation of Confederation. The Loan will be made pursuant to two written agreements by the Employer and the Subsidiary, respectively, with the Plan. The notes issued pursuant to the agreements will be interest-free and unsecured. The amount of the Loan will be no less than the accumulated book value of the GIC (the principal amount, plus interest at the contract rate, and minus withdrawals) as of August 12, 1994.[13] Any future interest received in accordance with the rehabilitation plan of the Circuit Court will be allocated and disbursed by the Trustee to the accounts of the participants of the Plan that are affected by the GIC. The purpose of the Loan, as represented by the applicant, is to facilitate distributions and investment transfers from the Plan by the participants and their beneficiaries. The applicant represents that repayments of the Loan by the Plan will be limited to proceeds received from Confederation, or from State Guaranty Funds, or other third-party sources. The repayment of the Loan will be waived to the extent the Loan exceeds the proceeds from the GIC and in no event will the repayment exceed the Loan.

The Trustee in its independent capacity under the Trust Agreement with the Employer of April 1, 1992, represents that it has determined that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries. Furthermore, the Trustee represents that it will determine that the Loan when consummated will be as described herein.

6. In summary, the applicant represents that the proposed transaction will satisfy the criteria for an exemption under section 408(a) of the Act because (a) the proposed transaction will permit investment transfers as well as distributions for terminated, retired, and disabled participants in the Plan; (b) the Plan will not incur interest charges or other expenses with respect to the proposed transaction; (c) the Loan will be no less than the accumulated book value of the GIC as of August 12, 1994; (d) the source of the repayment of the Loan is restricted to the proceeds under the GIC from Confederation, or a State Guaranty Fund, or other third-party sources; (e) the repayment will not exceed the total amount of the Loan; and (f) the repayment of the Loan will be waived to the extent the Loan exceeds the proceeds from the GIC.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

[12] The Department notes that the decisions to acquire and hold the GIC are governed by the fiduciary responsibility provisions of Part 4, Subtitle B, of Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GIC by the Plan.

[13] The Department notes that this exemption, if granted, will not affect the rights of any participant or beneficiary with respect to claims under section 404 of the Act in connection with any aspect of the GIC transactions.

Signed at Washington, DC, this 24th day of April, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–10404 Filed 4–26–95; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 95–33; Exemption Application No. D–09626, et al.]

Grant of Individual Exemptions; Bank South, N.A. et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bank South, N.A. (the Bank) Located in Atlanta, GA

[Prohibited Transaction Exemption 95–33; Application No. D–09626]

Section I—Exemption for In-kind Transfer of Assets

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (F) of the Code, shall not apply as of February 11, 1994, to the in-kind transfer of assets of plans for which the Bank serves as a fiduciary (the Client Plans), other than plans established and maintained by the Bank, that are held in certain collective investment funds maintained by the Bank (the CIFs), in exchange for shares of the Peachtree Funds (the Funds), an open-end investment company registered under the Investment Company Act of 1940 (the 1940 Act) for which the Bank acts as investment adviser, in connection with the termination of such CIFs, provided that the following conditions and the general conditions of Section III below are met:

(a) No sales commissions or other fees are paid by the Client Plans in connection with the purchase of Fund shares through the in-kind transfer of CIF assets and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the Funds.

(b) Each Client Plan receives shares of a Fund which have a total net asset value that is equal to the value of the Client Plan's pro rata share of the assets of the CIF on the date of the transfer, based on the current market value of the CIF's assets, as determined in a single valuation performed in the same manner at the close of the same business day using independent sources in accordance with Rule 17a–7(b) of the Securities and Exchange Commission under the 1940 Act and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers, determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of the Bank.

(c) A second fiduciary who is independent of and unrelated to the Bank (the Independent Fiduciary) receives advance written notice of the in-kind transfer of assets of the CIFs and full written disclosure of information concerning the Funds (including a current prospectus for each of the Funds and a statement describing the fee structure) and, on the basis of such information, authorizes in writing the in-kind transfer of the Client Plan's CIF assets to a corresponding Fund in exchange for shares of the Fund.

(d) For all transfers of CIF assets to a Fund following the publication of the proposed exemption in the **Federal Register** (i.e. January 30, 1995), the Bank sends by regular mail to each affected Client Plan the following information:

VOL
60
ISS
81
AP
27
1995
UMI

(1) Within 30 days after completion of the transaction, a written confirmation containing:

(i) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(ii) The price of each such security involved in the transaction;

(iii) The identity of each pricing service or market maker consulted in determining the value of such securities; and

(2) Within 90 days after completion of each transfer, a written confirmation that contains:

(i) The number of CIF units held by the Client Plan immediately before the transfer, the related per unit value, and the total dollar amount of such CIF units; and

(ii) The number of shares in the Funds that are held by the Client Plan following the transfer, the related per share net asset value, and the total dollar amount of such shares.

(e) The conditions set forth in paragraphs (e), (f), and (m) of Section II below are satisfied.

Section II—Exemption for Receipt of Fees

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply as of February 11, 1994, to the receipt of fees by the Bank from the Funds for acting as investment adviser to the Funds in connection with the investment in the Funds by Client Plans for which the Bank acts as a fiduciary, including any Client Plan invested in a CIF which transfers its assets to a Fund, provided that the following conditions and the general conditions of Section III are met:

(a) No sales commissions, loads, charges or similar fees are paid by the Client Plans for the purchase or sale of shares of the Funds and no redemption fees are paid for the sale of shares by the Client Plans to the Funds.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share at the time of the transaction, as defined in Section IV(e), and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither the Bank nor an affiliate, including any officer or director of the Bank, purchases or sells shares of the Funds from or to any Client Plan.

(d) The Client Plans do not pay any plan-level investment management fees, investment advisory fees, or similar fees to the Bank with respect to any of the assets of such Client Plans which are invested in shares of any of the Funds. This condition does not preclude the payment of investment advisory fees or similar fees by the Funds to the Bank under the terms of an investment advisory agreement adopted in accordance with section 15 of the 1940 Act or any other agreement between the Bank and the Funds which is in compliance with the 1940 Act.

(e) The combined total of all fees received by the Bank for the provision of services to a Client Plan, and in connection with the provision of services to the Funds in which the Client Plan may invest, are not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(f) The Bank does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(g) The Client Plans are not employee benefit plans sponsored or maintained by the Bank.

(h) The Independent Fiduciary receives, in advance of any investment by the Client Plan in a Fund, full and detailed written disclosure of information concerning the Funds, including, but not limited to:

(1) A current prospectus for each Fund in which a Client Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, as well as all other fees to be charged to or paid by the Client Plan and by the Funds, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why the Bank may consider such investment to be appropriate for the Client Plan;

(4) A statement describing whether there are any limitations applicable to the Bank with respect to which assets of a Client Plan may be invested in the Funds, and if so, the nature of such limitations; and

(5) Upon request of the Independent Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, once such documents become available.

(i) On the basis of the information described above in paragraph (h) of this Section II, the Independent Fiduciary authorizes in writing the investment of assets of the Client Plan in each Fund, and the fees to be paid by such Funds to the Bank.

(j) All authorizations made by an Independent Fiduciary regarding investments in a Fund and the fees paid to the Bank are subject to an annual reauthorization wherein any such prior authorization referred to in paragraph (i) of Section II shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by the Bank of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) of Section II above (the Termination Form) with instructions on the use of the form must be supplied to the Independent Fiduciary no less than annually. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Plan, upon receipt by the Bank of written notice from the Independent Fiduciary; and

(2) Failure to return the Termination Form will constitute continued authorization of the Bank to engage in the transactions described in paragraph (i) of Section II on behalf of the Client Plan.

(k) In the event of an increase in the rate of any fees paid by the Funds to the Bank regarding any investment management services, investment advisory services, or fees for similar services that the Bank provides to the Funds over an existing rate for such services that had been authorized by an Independent Fiduciary, in accordance with paragraph (i) of this Section II, the Bank will, at least thirty (30) days in advance of the implementation of such increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Independent Fiduciary of each of the Client Plans invested in a Fund which is increasing such fees. Such notice shall be accompanied by a Termination Form. However, if the Termination Form has been provided to the Independent Fiduciary pursuant to this paragraph, then the Termination Form need not be provided again for an annual reauthorization pursuant to paragraph (j) above unless at least six months has elapsed since the form was provided in connection with the fee increase.

(l) On an annual basis, the Bank provides the Independent Fiduciary of a Client Plan investing in the Funds with:

(1) A copy of the current prospectus for the Funds and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Funds which contains a description of all fees paid by the Funds to the Bank; and

(2) upon the request of such Independent Fiduciary, a report or statement (which may take the form of the most recent financial report, the current Statement of Additional Information for the Fund, or some other written statement) that contains a description of all fees paid by the Fund to the Bank.

(m) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Client Plans than dealings with other shareholders of the Funds.

Section III—General Conditions

(a) The Bank maintains for a period of six years the records necessary to enable the persons described below in paragraph (b) of Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control the Bank, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than the Bank shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b) (1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of Section III are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Client Plans who has authority to acquire or dispose of shares of the Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1)(ii) and (iii) shall be authorized to examine trade secrets of the Bank, or commercial or financial information which is privileged or confidential.

Section IV—Definitions

For purposes of this exemption:

(a) The term "Bank" means the Bank South, N.A. and any affiliate thereof as defined below in paragraph (b) of this Section IV.

(b) An "affiliate" of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "Fund" or "Funds" shall include the Peachtree Funds, Inc., or any other diversified open-end investment company registered under the 1940 Act for which the Bank serves as an investment adviser.

(e) The term "net asset value" means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(f) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term "Independent Fiduciary" means a fiduciary of a Client Plan who is independent of and unrelated to the Bank. For purposes of this exemption, the Independent Fiduciary will not be deemed to be independent of and unrelated to the Bank if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner, employee or affiliate of the Bank (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, affiliate or employee of the Bank (or relative of such persons), is a director of such Independent Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the Funds, and (iii) the approval of any change in fees charged to or paid by the Client Plan in connection with any of the transactions described in Sections I and II above, then paragraph (g)(2) of this Section IV shall not apply.

(h) The term "Termination Form" means the form supplied to the Independent Fiduciary which expressly provides an election to the Independent Fiduciary to terminate on behalf of a Client Plan the authorization described in paragraph (j) of Section II. The Termination Form shall be used at will by the Independent Fiduciary to terminate an authorization without penalty to the Client Plan and to notify the Bank in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by the Bank of the form; provided that if, due to circumstances beyond the control of the Bank, the sale cannot be executed within one business day, the Bank shall have one additional business day to complete such sale.

EFFECTIVE DATE: The exemption is effective as of February 11, 1994.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on January 30, 1995, at 60 FR 5713.

WRITTEN COMMENTS: The applicant submitted the following comments regarding the notice of proposed exemption (the Proposal).

With respect to the description of the fee structure, the applicant states that the Bank is using the fee offset mechanism described in Section II(d) of the Proposal for Client Plans that first invested in the Funds after the conversion date (i.e. February 14, 1994). As described in the Summary of Facts and Representations in the Proposal (the Summary), Client Plans invested in the CIFs prior to the conversion transaction (described in Section I of the Proposal) currently utilize the credit mechanism under which Plan-level trustee fees are reduced by the investment advisory fees charged at the Fund-level pursuant to Section II(c) of Prohibited Transaction Exemption (PTE) 77–4, 42 FR 18732, April 8, 1977.[1] The Bank anticipates

[1] PTE 77–4, in pertinent part, permits the purchase and sale by an employee benefit plan of shares of a registered, open-end investment company when a fiduciary with respect to the plan is also the investment adviser for the investment company, provided that, among other things, the plan does not pay an investment management.

Continued

VOL
60
ISS
81
AP
27
1995
UMI

that the offset mechanism described in Section II(d) of the Proposal will be implemented for all Client Plans as soon as practicable during the current year. Thus, it is the Bank's understanding that the exemption provided by Section II will be applicable upon implementation of the fee offset mechanism. The Department concurs with the applicant's clarification.

In addition, Sections I(c) and II(h) of the Proposal and Paragraph 8 of the Summary state that each Independent Fiduciary received from the Bank a written statement giving full disclosure of the fee structure prior to investment in the Funds. The Bank would like to clarify that the written statement received by Client Plans that participated in the conversion transaction described the PTE 77–4 credit mechanism rather than the fee offset mechanism described in Section II(d) of the Proposal. The applicant states that prior to implementation of the fee offset mechanism for Client Plans that participated in the conversion, each Independent Fiduciary will receive a written statement giving full disclosure of the fee structure described in Section II(d) of the Proposal, and the Bank will receive written authorization from the Independent Fiduciary approving the new fee structure. The Department concurs with the applicant's clarification.

With respect to fees payable under Rule 12b–1, Section II(f) of the Proposal provides that the Bank may not receive any fees payable pursuant to such Rule in connection with the investment of Plan assets in the Funds. The applicant notes that this condition is consistent with the representations made by the Bank. However, the applicant states that Paragraph 4 of the Summary overstates the representations made by the Bank with regard to 12b–1 fees and requires minor clarification. The third sentence of Paragraph 4 states that "* * * In addition, the Bank does not and will not receive fees payable pursuant to Rule 12b–1 in connection with transactions involving any shares of the Funds." The Bank represents that this statement is true with respect to trust accounts, but should be clarified to limit it to transactions described under the exemption. The Bank otherwise may receive 12b–1 fees for sales of Fund shares to investors other than the Client Plans. The Department concurs with the applicant's clarification.

With respect to the responsibility for distributing updated prospectuses, Paragraph 8 of the Summary states that "* * * Client Plan fiduciaries will also receive from Federated [Investors], the Fund's Distributor, an updated prospectus and periodic reports for each Fund." The applicant states that while it is true that Federated will prepare the updated prospectuses and periodic reports, these items will be distributed to Client Plans by the Bank, as trustee. The Department concurs with the applicant's clarification.

With respect to purchases and sales of Fund shares, Section II(c) of the Proposal states that neither the Bank nor any affiliate, including any officer or director of the Bank, may purchase or sell shares of the Funds to any Client Plan. In this regard, the applicant notes that the Fund's distributor will execute all purchases or redemptions of Fund shares by Client Plans. However, the applicant states that the Client Plans will place purchase and redemption orders through the Plan's account representative at the Bank. The Bank wishes to clarify that Section II(c) of the Proposal does not apply to a Client Plan's placement of a purchase or redemption order through its account representative at the Bank where the Fund's distributor executes the purchase or redemption order. The Department concurs with the applicant's clarification.

With respect to carrying out termination instructions, Section IV(h) of the Proposal and Paragraph 8 of the Summary provide that, upon receipt of an executed Termination Form, the Bank will effect the sale of Fund shares within one business day following receipt of the form; provided that if, due to circumstances beyond the Bank's control, the Bank may have one additional business day to complete the sale. In this regard, the applicant states that Fund shares may not be able to be redeemed in the event of extraordinary circumstances that result in market closure and/or other restrictions on trading mutual fund shares—e.g. natural disaster, war, etc. The Bank would like the Department to clarify that, in such event, the conditions of the exemption are satisfied provided the Bank redeems Fund shares within one business day after the market re-opens and/or Funds are able to be traded. The Department concurs with the applicant's clarification.

Accordingly, after consideration of the entire record, the Department has determined to grant the exemption.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Delaware Trust Capital Management, Inc. (DTCM), Located in Wilmington, DE

[Prohibited Transaction Exemption 95–34, Exemption Application No. D–09853]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by certain rollover individual retirement accounts (the IRAs) of their interests in certain securities (the Securities) to DTCM, a disqualified person with respect to the IRAs, provided the following conditions are satisfied: 1) the sale is a one-time transaction for cash; 2) no commissions or other expenses are paid by the IRAs in connection with the sale; 3) the IRAs receive the greater of: a) the fair market value of the Securities as of June 30, 1994, plus accrued interest, less principal repayments received, or b) the fair market value of the Securities as of the time of the sale as determined by a qualified, independent expert.[2]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on March 20, 1995 at 60 FR 14793.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Shippers Paper Products Co., 401(k) Plan (the Plan), Located in Glenview, IL

[Prohibited Transaction Exemption 95–35; Application No. D–09866]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by the Plan of Group Annuity Contract, No GA–4725 (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) to Illinois Tool Works Inc., a party in interest with respect to the Plan; provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan receives no less than the fair market value of the GAC at the time of the sale; (3) the Plan's trustee, acting as independent fiduciary for the Plan, has determined that the proposed sale price is not less than the current fair market value of the GAC; and (4) the Plan's trustee has determined that the proposed transaction is appropriate for and in the best interests of the Plan and its participants and beneficiaries.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on February 10, 1995 at 60 FR 8089.

For Further Information Contact: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 24th day of April 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–10405 Filed 4–26–95; 8:45 am]

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investment advisory or similar fee with respect to the plan assets invested in such shares for the entire period of such investment. Section II(c) of PTE 77–4 states that this condition does not preclude the payment of investment advisory fees by the investment company under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940. Section II(c) states further that this condition does not preclude payment of an investment advisory fee by the plan based on total plan assets from which a credit has been subtracted representing the plan's pro rata share of investment advisory fees paid by the investment company.

[2] Pursuant to 29 CFR 2510 3–2(d), the IRAs are not within the jurisdiction of Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (#1189).

Date and Time: May 18, 1995; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Room 1120, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Fred G. Heineken, Program Director, Biochemical Engineering and Biotechnology, Room 565, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Phone: (703) 306–1319.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Biotechnology Group Proposals.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10392 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR).

Dates and Times: May 17, 1995—8:00 am–5:00 pm; May 19, 1995—8:00 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 380 and 390 (May 17); Rooms 310, 340 and 390 (May 19), Arlington, VA 22230.

Type of Meetings: Closed.

Contact Person: Dr. Lorretta J. Inglehart, Program Director, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230, Telephone (703) 306–1817.

Purpose of Meetings: To provide advice and recommendations concerning support for Academic Research Infrastructure Instrumentation proposals.

Agenda: Evaluation of proposals.

Reason for Closing: The proposals being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10393 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Information Robotics and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information, Robotics and Intelligent Systems (1200).

Date and Time: May 16–18, 1995, 8:30 a.m. to 5:00 p.m.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037

Type of Meeting: Closed.

Contact Person: Dr. Howard Moraff, Acting Deputy Division Director, Robotics and Intelligence, Room 1115, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1028.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Database and Expert Systems Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10394 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

VOL 60 ISS 81 AP 27 1995 UMI

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Electrical and Communications Systems (#1196).

Date and Time: May 19, 1995: 8:30 am to 5:00 pm.

Place: Room 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1340.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate enter specific area of review proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10395 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Mathematical and Physical Sciences; Committee of Visitors of the Division of Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Mathematical and Physical Sciences; Committee of Visitors of the Division of Mathematical Sciences (66).

Date and Time: May 15–16, 1995 8:30 a.m. til 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 375, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Bernard R. McDonald, Acting Division Director, Division of Mathematical Sciences, National Science Foundation, 4201 Wilson Boulevard, Room 1025, Arlington, VA 22230. Telephone: (703) 306–1872.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Programs in the Division of Mathematical Sciences.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–10396 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Astronomical Sciences.

Date and Time: May 16, 1995, 9:30 AM–5:00 PM.

Place: Room 1020, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Kurt W. Weiler, Adjunct Program Director, Division of Astronomical Sciences, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/306–0035 x 7185.

Purpose of Meeting: To provide advice and recommendations on proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Academic Research Infrastructure (ARI) Program Proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10398 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation (#1194).

Date and Time: May 18, 1995 8:30 a.m.–5:00 p.m.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. George Hazelrigg, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1330.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Academic Research Infrastructure (ARI) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer

[FR Doc. 95–10399 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Geosciences; Notice of Meeting, Committee of Visitors

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Geosciences (Committee of Visitors) #1755.

Date and Time: May 17, 18 and 19, 1995; 8:30 a.m.–5:00 p.m.

Place: Conference Room #770, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Jarvis L. Moyers, Section Head, Lower Atmospheric Research Section, Division of Atmospheric Sciences, Room 775, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1523.

Purpose of Meeting: To evaluate the administration of the research grants programs in the Lower Atmospheric Research Section of the Division of Atmospheric Sciences.

Agenda: Review and evaluate the decisions and actions of the Lower Atmospheric Research Section.

Reason for Closing: The materials being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; personal information concerning individuals associated with the proposals handled by the NSF programs and proposal reviewers. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10400 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences.

Date and Time: May 16-18, 1995 8:00 am-5:00 pm.

Place: Rooms 310, 320, 330 and 340, Stafford Place., 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Ocean Sciences Research Section (OSRS) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 24, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10397 Filed 4–26–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Virginia Electric and Power Company (the licensee) to withdraw its May 16, 1990, application for proposed amendment to Facility Operating License Nos. DPR–32 and DPR–37 for the Surry Power Station, Unit No. 1 and Unit No. 2, located in Surry County, Virginia.

The proposed amendment would have referenced an analysis of the main steam line break scenarios in the Operating Licenses.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 5, 1991 (56 FR 30778). However, by letter dated April 6, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 16, 1990, and the licensee's letter dated April 6, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 20th day of April 1995.

For the Nuclear Regulatory Commission.

Bart C. Buckley,

Project Manager, Project Directorate II-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10401 Filed 4–26–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–245]

Northeast Nuclear Energy Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Northeast Nuclear Power Company (the licensee) to withdraw its May 27, 1994, application for proposed amendment to Facility Operating License No. DPR–21 for Millstone Nuclear Power Station, Unit 1, located in New London County, Connecticut.

The proposed amendment would have added a new section to Technical Specification Section 6.17 which would have required that procedures be in place to provide for monitoring and sampling of emergency service water (ESW) discharge flow during accident conditions when a positive differential pressure cannot be maintained between ESW and low pressure coolant injection (LPCI) in the LPCI heat exchangers.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on June 7, 1994, (59 FR 29448). However, by letter dated April 18, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 27, 1994, and the licensee's letter dated April 18, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington DC, and at the local public document room located at the Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Dated at Rockville, Maryland, this 20th day of April 1995.

For the Nuclear Regulatory Commission.

James W. Andersen,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10402 Filed 4–26–95; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Supplement to Claim of Person Outside the United States.
(2) *Form(s) submitted:* G–45.
(3) *OMB Number:* 3220–0155.
(4) *Expiration date of current OMB clearance:* June 30, 1995.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 100.
(8) *Total annual responses:* 100.
(9) *Total annual reporting hours:* 17
(10) *Collection description:* Under Public Law 98–21 Railroad Retirement beneficiaries' Tier I or overall minimum portion of an annuity and Medicare benefits payable under the Railroad Retirement Act may be withheld effective January 1, 1985. The collection obtains the information

VOL
60
ISS
81
AP
27
1995
UMI

needed by the Railroad Retirement Board to implement the benefit withholding provisions of Pub. L. 98–21

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer

[FR Doc. 95–10336 Filed 4–26–95; 8:45 am]

BILLING CODE 7905–01–M

Public Hearing

Notice is hereby given that the Railroad Retirement Board, acting through its designated Hearings Examiner, will hold a hearing on May 22, 1995, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The hearing will be held at the request of the CSX Intermodal for the purpose of taking evidence relating to status of their company under the Railroad Retirement and Railroad Unemployment Insurance Acts.

The entire hearing will be open to the public. The person to contact for more information is Thomas W. Sadler, Assistant General Counsel (312) 751–4513, TDD (312) 751–4701

Dated: April 21, 1995.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95–10317 Filed 4–26–95; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35635; File No. SR–Amex–95–11]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Amendments to Rule 170 Pertaining to Specialists' Liquidating Transactions

April 21, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex requests a three-month extension of a pilot program that amended Exchange Rule 170 to permit a specialist to effect a liquidating transaction on a zero minus tick, in the case of a "long" position, or a zero plus tick, when covering a "short" position, without Floor Official approval. The pilot program also amended Rule 170 to set forth the affirmative action that specialists are required to take subsequent to effecting various types of liquidating transactions.[1]

The Exchange requests accelerated approval of the proposed rule change to enable the pilot, which would otherwise expire on April 22, 1995, to continue on an uninterrupted basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 22, 1994, the Commission approved, on a one-year pilot basis, amendments to Exchange Rule 170 to permit a specialist to effect a liquidating transaction on a zero minus tick, in the case of a "long" position, or a zero plus tick, when covering a "short" position, without Floor Official approval.[2] The amendments also set forth the affirmative action that specialists are required to take subsequent to effecting various types of liquidating transactions.

During the course of the pilot program, the Exchange has monitored compliance with the requirements of the Rule and is in the process of preparing a report summarizing the results of its surveillance. In order to permit the pilot program to continue without interruption while the Exchange completes its report, it is proposing that the pilot program be extended for three months.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, protect investors and the public interest. The proposed rule change also is consistent with Section 11(b) of the Act which allows exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–95–11 and should be submitted by May 18, 1995.

[1] The Commission approved the pilot program in Securities Exchange Act Release No. 33987 (April 22, 1994), 59 FR 22188 (April 29, 1994) ("1994 Approval Order").

[2] *See* 1994 Approval Order, *supra* note 1

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with sections 6(b)(5) and 11 of the Act.[3] The Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and, in general, protect investors and the public interest. The Commission also believes that the proposal is consistent with section 11(b) of the Act and Rule 11b–1 thereunder,[4] which allow exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets.[5]

Under the current pilot program, a specialist may liquidate a position by selling stock on a direct minus tick or by purchasing stock on a direct plus tick only if such transactions are reasonably necessary for the maintenance of a fair and orderly market and only if the specialist has obtained the prior approval of a Floor Official. Liquidations on a zero minus or a zero plus tick, which previously required Floor Official approval, can be effected under the pilot procedures without a Floor Official's approval, but continue to be subject to the restriction that they be effected only when reasonably necessary to maintain a fair and orderly market. In addition, the specialist must maintain a fair and orderly market during the liquidation.

After the liquidation, a specialist is required to re-enter the market on the opposite side of the market from the liquidating transaction to offset any imbalances between supply and demand. During any period of volatile or unusual market conditions resulting in a significant price movement in a specialist's specialty stock, the specialist's re-entry into the market must reflect, at a minimum, his or her usual level of dealer participation in the specialty stock. In addition, during such periods of volatile market conditions or unusual price movements, re-entry into the market following a series of transactions must reflect a significant level of dealer participation.

In our 1994 Approval Order,[6] the Commission asked the Amex to submit a report setting forth the criteria developed by the Exchange to determine whether liquidating transactions effected by specialists pursuant to the pilot were necessary and appropriate in connection with fair and orderly markets. The Commission also asked the Amex to provide information regarding the Exchange's monitoring of liquidating transactions effected by specialists on any destabilizing tick. In addition, the Commission asked the Amex to provide the following information in its report: (1) A review of all liquidating transactions effected by specialists on any destabilizing ticks; (2) a review of liquidating transactions by specialists to determine that the required Floor Official approval was obtained where necessary; and (3) a review of liquidating transactions in light of dealer participation levels and re-entry into the market in terms of timing and support.[7]

During the three month extension of the pilot, the Amex will prepare the report discussed above and submit the data to the Commission for its consideration of whether the pilot program should be granted permanent approval. The Commission expects the Amex to continue to monitor compliance with the pilot program procedures during the three month extension and report any non-compliance with the rule and the action the Amex has taken as a result of such non-compliance.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the Exchange proposes to continue using the identical procedures contained in the pilot program. The rule change that implemented the pilot program was published in the Federal Register for the full comment period,[8] and no comments were received. Furthermore, the Commission approved a similar rule change for the NYSE also without receiving comments on the proposal.[9]

It Therefore is Ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change is approved for a three month period ending on July 21, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10331 Filed 4–26–95; 8:45 am]

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[Release No. 34–35636; File No. SR–PSE–95–03]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Establish New Listing Fees Applicable to Small Corporate Offering Registration ("SCOR") Securities

April 21, 1995.

On February 13, 1995, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish new fees applicable to Small Corporate Offering Registration ("SCOR") securities.

The proposed rule change was published for comment in Securities Exchange Act Release No. 35395 (February 17, 1995), 60 FR 10626 (February 27, 1995). No comments were received on the proposal.

The Commission has approved the PSE's proposal to create a separate listing tier for SCOR securities on a three year pilot basis.[3] The Exchange is adopting the following fee schedule for listing securities pursuant to the SCOR program:

[3] 15 U.S.C. 78f and 78k (1988).

[4] 17 CFR 240.11b–1 (1994).

[5] See 1994 Approval Order, *supra* note 1, for a description of Amex Rule 170 procedures and the Commission's rationale for approving these procedures on a pilot basis. The discussion in the aforementioned order is incorporated by reference into this order.

[6] *See supra* note 1.

[7] In the 1994 Approval Order, *supra* note 1, the Commission requested that the Amex submit the report in January 1995. Pursuant to the three-month extension of the pilot being approved herein, the Commission now requests that the Amex submit the report in May 1995.

[8] See Securities Exchange Act Release No. (August 25, 1993), 58 FR 45926 (August 31, 1993).

[9] See Securities Exchange Act Release No. 31797 (January 29, 1993), 58 FR 7277 (February 5, 1993).

[10] 15 U.S.C. 78s(b)(2) (1988).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 35628 (April 19, 1995).

VOL
60
ISS
81
AP
27
1995
UMI

SCOR Marketplace—Listing Fee Schedule

Original Listings

The Original Listing fees are fixed fees and issues are not charged by the number of shares being listed.
Common Stock: $5,000.00
Preferred Stock: 5,000.00

Processing Fee

*Per Original Listing Application: $500.00
Name change: 250.00
Change in Par Value: 250.00
*This is a fixed charge for the review of potential listings and is non-refundable. Issues approved for listing may have this charge credited toward the original listing fee.

Substitution of Original Listing

Per Application: Fixed charge of $750.00
Substitution may occur as a result of a change in state of incorporation, reincorporation under laws of same state, a reverse stock split, recapitalizations, or similar events.

Listing of Additional shares

Per Application: $.0025 per share
Minimum charge of $500.00
Maximum charge of $2,500.00
Maximum charge of $5,000.00 per annum

Annual Maintenance Fee

For one issue: $1,000.00
For each additional issue: 500.00
Payable January of each year following listing.

Conversion Fee

Conversion from the SCOR Market place to Tiers I or II.
Common Stock $15,000.00

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b).[4] In particular, the Commission believes the proposal is consistent with the Section 6(b)(4) requirements that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using the Exchange's facilities.[5] The Commission believes that the fee schedule for the initial and continued listing of SCOR securities is equitable because the fees should not result in an excessive allocation of PSE fees on its issuers as opposed to members and other persons using its facilities.

The Commission notes that, except for the SCOR original listing fees, the fee schedule for SCOR securities is consistent with the Exchange's fee schedule for Tier I and Tier II securities.[6] The Commission believes that it is reasonable for the Exchange to impose a lesser initial listing fee for common stock SCOR listings because these issuers will be smaller companies listing single classes of securities. The Commission also believes that it is reasonable for the Exchange to apply the original listing fee for SCOR preferred stock and common stock because it is likely that the costs incurred by the Exchange in processing the listing applications for common and preferred stock will be the same. Additionally, the Commission believes that the conversion fee for common stock that moves from the SCOR list to the Tier I or Tier II lists is reasonable because, when added to the SCOR original listing fee, SCOR issuers will have paid the same amount for listing as those that listed common stock on the PSE directly under Tier I or Tier II.[7]

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PSE–95–03) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10330 Filed 4–26–95; 8:45 am]

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[4] 15 U.S.C. 78f(b) (1988).
[5] 15 U.S.C. 78f(b)(4) (1988).
[6] The PSE's listing fees for Tier I and Tier II securities were last amended in Securities Exchange Act Release No. 34276 (June 29, 1994), 59 FR 34802 (July 7, 1994). The original listing fee for Tier I and Tier II securities is $20,000. The original listing fee for Tier I and Tier II preferred stock (secondary issuers) is $2,500.
[7] There is no conversion fee for preferred stock because the original listing fee for Tier I and Tier II preferred stock is lower than the original SCOR listing fee for preferred stock.
[8] 15 U.S.C. 78s(b)(2) (1988).
[9] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35634; File No. SR–NASD–94–54]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval and Notice of Filing and Order Granting Accelerated Approval of Amendments No. 1 and 2 of Proposed Rule Change Relating to Position and Exercise Limits for Equity Options Overlying Equity Securities Not Subject to Standardized Options Trading

April 20, 1995.

I. Introduction

On October 12, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or " Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] On March 3 and 22, 1995, and NASD submitted amendments to the proposal.[3] The NASD proposes to amend its Rules of Fair Practice to allow, under certain circumstances, members to increase the applicable position and exercise limits[4] for conventional options[5] overlying those equity securities that are not subject to standardized options trading.[6]

[1] 15 U.S.C. 78s(b)(1) (1988).
[2] 17 CFR 240.19b–4 (1994).
[3] Letters from Joan Conley, Corporate Secretary, NASD, to Mark Barracca, Branch Chief, SEC (Mar. 3, 1995) and Thomas R. Gira, Assistant General Counsel, Nasdaq, to Mark Barracca, Branch Chief, SEC (Mar. 22, 1995). The NASD amended its filing to provide, most significantly that: (1) To be eligible to qualify for a higher position limit, the underlying security must satisfy the initial listing standards for standardized options trading; (2) to continue to be eligible to qualify for a higher position limit, the underlying security must satisfy the maintenance criteria for standardized options trading; and (3) if the position limit is lowered, members will not be required to liquidate their position but will be prohibited from increasing it if it is above the new limit.
[4] Under NASD rules, exercise limits placed on options trading equal the limits imposed for options positions. *NASD Manual*, Rules of Fair Practice, Art. III, Sec. 33(b)(3)(A), (CCH) ¶2183.
[5] A conventional option is any option contract not issued, or subject to issuance, by The Options Clearing Corporation. *NASD Manual*, Rules of Fair Practice, Art. III, Sec. 33(b)(1)(GG), (CCH) ¶2183.
[6] Position limits impose a ceiling on the number of option contracts in each class on the same side of the market (*i.e.*, aggregating long calls and short puts and long puts and short calls) that can be held or written by an investor or group of investors acting in concert. Exercise limits restrict the number of options contracts which an investor or group of investors acting in concert can exercise within five consecutive business days. Under NASD Rules, exercise limits correspond to position limits, such that investors in options classes on the same side of the market are allowed to exercise, during any five consecutive business days, only the number of options contracts set forth as the applicable position limit for these options classes. *See NASD Manual*, Rules of Fair Practice, Art. III, Sec. 33(b) (3) & (4), (CCH) ¶2183.

Notice of the proposed rule change appeared in the **Federal Register** on January 9, 1995.[7] The Commission did not receive any comments on the proposal. For the reasons discussed below, this order approves the proposed change, as amended.

II. Description of the Proposed Rule

A. Background and Purpose

As indicated above, the NASD proposes to allow members to increase the applicable position and exercise limits for conventional options overlying those equity securities that are not subject to standardized options trading if certain conditions are satisfied. For conventional equity options traded by any NASD member, if the underlying security is subject to standardized options trading, the NASD's position limit for conventional options on that security is the same position limit imposed by the options exchange(s) trading the option. Specifically under NASD rules, position and exercise limits for exchange-listed options traded by access firms[8] or their customers are determined according to a "three-tiered" system, where, depending upon the float and trading volume of the underlying security, the position limit for options on that security is 4,500, 7,500, or 10,500 contracts.[9] However, if the security underlying the option is not subject to standardized options trading, the applicable position limit for conventional options on the security is the lowest tier, *i.e.*, 4,500 contracts.

In some instances, however, a security could be eligible for standardized options trading and qualify for an options exchange position limit of 7,500 or 10,500 contracts but, for purposes of NASD position limits, it is subject to a position and exercise limit of 4,500 contracts because it does not underlie an exchange-listed standardized option. Given that these securities could qualify for higher position limits but are not eligible for them solely because there is no standardized option traded on them in the U.S., the NASD believes its option position limit rule may be unduly restrictive for these securities and unnecessarily constrain members' legitimate hedging activity. Accordingly, the NASD proposes to amend Section 33 to provide that the position limit for options on a security shall be determined by the position limit tier the security falls under, regardless of whether the security is subject to standardized options trading, as long as the security meets the initial and maintenance standards for standardized options trading.

The NASD believes its proposal is warranted for the following reasons. First, if a security has sufficient trading volume and public float to satisfy the standards for a position limit of 7,500 contracts or 10,500 contracts, the NASD does not believe that raising the position and exercise limits for conventional options on the security will adversely affect the cash market for that security. In the NASD's view, if the cash market for a security is large enough to qualify for an options position limit of 7,500 contracts or 10,500 contracts, it is irrelevant whether that security is only subject to conventional options trading and not standardized options trading. The NASD believes the primary consideration governing the appropriate position limit level for options on a security should be the characteristics and size of the underlying cash market for that security, not whether the options overlying the security are standardized or conventional. Second, the NASD does not believe its members' activities in the conventional options market should be linked to or constrained by decisions of the options exchanges concerning whether or not to trade options on particular securities.

Moreover, the NASD believes that its proposal will not compromise the stability of the securities markets underlying the conventional options eligible for the higher position limits. In this regard, for those securities that will be eligible for higher position limits under the proposal, there will only be a slight increase in the percentage of their capitalization that an investor or group of investors acting in concert can control under the new position limits.

B. New Proposal

The NASD proposes to permit position and exercise limits of up to either 7,500 or 10,500 contracts, whichever is applicable, for conventional options, if the equity security satisfies the initial criteria and other listing standards for standardized options trading and otherwise qualifies for a higher position and exercise limits of 7,500 or 10,500 contracts.[10] Prior to establishing such a higher position, the member first must demonstrate to the NASD's Market Surveillance Department that the underlying equity security satisfies the initial listing criteria for standardized options trading *and* qualifies for a higher position and exercise limit of 7,500 or 10,500 contracts. The initial listing criteria for standardized options trading are uniform among the five U.S. options exchanges (collectively referred to as the "options exchanges").[11] Likewise, the criteria for qualifying for a higher position and exercise limit of 7,500 or 10,500 contracts is uniform among the options exchanges.[12]

After a member has demonstrated that an equity security meets the criteria for increased position and exercise limits, the increased limit will remain in effect for all other conventional options positions established by the same or other NASD members on that equity

[7] Securities Exchange Act Release No. 35160 (Dec. 30, 1994), 60 FR 2413 (Jan. 9, 1995).
[8] "Access" firms are NASD members which conduct a business in exchange-listed options but which are not members of any of the options exchanges upon which the options are listed and traded.
[9] In this connection, the NASD's rules do not specifically govern how a specific equity option falls within one of the three position limit tiers. Rather, the NASD's position limit rule provides that the position limit established by an options exchange(s) for a particular equity option is the applicable position limit for purposes of the NASD's rule. Under the rules of each of the options exchanges, if the security underlying a standardized option has trading volume of 40,000,000 shares over the most recent six-month period or trading volume of 30,000,000 shares over the most recent six-month period and float of 120,000,000, it is subject to a position limit of 10,500 contracts; if the security underlying a standardized option has trading volume of 20,000,000 shares over the most recent six-month period or trading volume of 15,000,000 shares over the most recent six-month period and float of 40,000,000, it is subject to a position limit of 7,500 contracts; and, if the underlying security is ineligible for a 10,500 or 7,500 contract position limit, it is subject to a 4,500-contract position limit. The rules of each options exchange are uniform in regard to the above. *See, e.g.*, Commentary .07 to American Stock Exchange Rule 904 and Interpretation and Policy .02 to Chicago Board Options Exchange Rule 4.11.
[10] For foreign securities, before an option is eligible for standardized options trading, market surveillance sharing arrangements must be satisfied. For the NASD to satisfy these requirements under its proposal, prior to allowing higher (7,500 or 10,500) position and exercise limits for options overlying a foreign security, the NASD will need to ensure that: (1) It has in place a comprehensive surveillance sharing agreement with the primary exchange in the home country where the foreign security is primarily traded; or (2) the combined trading volume of the foreign security (and other related securities) occurring in the U.S. markets represents at least 50% of the combined worldwide trading volume in the underlying security (including other related securities). *See* Securities Exchange Act Release No. 35554 (Jan. 31, 1994), 59 FR 5622 (Feb. 7, 1994).
[11] The five options exchanges are: Chicago Board Options Exchange ("CBOE"); American Stock Exchange ("Amex"); New York Stock Exchange ("NYSE"); Philadelphia Stock Exchange ("Phlx"); and Pacific Stock Exchange ("PSE"). *See CBOE Rules*, Rule 5.3, (CCH) ¶2113; *Amex Rules*, Rule 915, (CCH) ¶9715; *NYSE Rules*, Rule 715, (CCH) ¶2715; *Phlx Rules*, Rule 1009, (CCH) ¶3009; *PSE Rules*, Rule 3.6, (CCH) ¶3591.
[12] *See CBOE Rules*, Rules 4.11 & 4.12, (CCH) ¶2091 & 2092; *Amex Rules*, Rules 904 & 905, (CCH) ¶9704 & 9705; *NYSE Rules*, Rules 704 & 705, (CCH) ¶2704 & 2705; *Phlx Rules*, Rules 1001 & 1002, (CCH) ¶3001 & 3002; *PSE Rules*, Rules 6.8 & 6.9 (CCH) ¶4769 & 4775.

VOL 60 ISS 81 AP 27 1995 UMI

security, subject to a review to be conducted by the NASD on the Monday following the third Friday of the next January or July, whichever occurs first, and each successive January and July. The NASD's periodic reviews will be conducted to determine whether: (a) The underlying equity security continues to satisfy the options exchanges' maintenance criteria for listing standardized options upon such security;[13] and (b) the equity security continues to satisfy the criteria for higher position and exercise limits. If either test is not satisfied, the position and exercise limit will be lowered to the applicable level,[14] effective on the Monday following the third Friday of January or July.[15] If position and exercise limits are lowered, a member will not be required to reduce its position to meet the new position limit level; however, a member will not be permitted to increase its existing position if such position is greater than the new limit.[16]

Finally, the NASD recognizes that its proposal allows for the possibility that a NASD member complying with the new position limit standards might nonetheless be deemed in violation of options exchange position limit standards. Specifically, if an NASD member is also a member of one or more of the options exchanges, the member could be in violation of the respective option exchange's position and exercise limits if standardized options trading commences covering an underlying equity security for which the NASD previously granted a higher (7,500 or 10,500 contracts) limit. The potential risk arises if the options exchange position and exercise limits are lower than the NASD's limits and the member exceeds the exchange's limit.[17] While the member would not violate the NASD's rule,[18] the NASD cannot exempt its members from the options exchanges' rules. To address this potential issue, the NASD has committed to notifying its members[19] that they could be in violation of the options exchanges' rules if the options exchanges do not grant an exemption under the above described circumstances.[20]

[13] *See CBOE Rules*, Rule 5.4, (CCH) ¶2114; *Amex Rules*, Rule 916, (CCH) ¶9716; *NYSE Rules*, Rule 716, (CCH) ¶2716; *Phlx Rules*, Rule 1010, (CCH) ¶3010; *PSE Rules*, Rule 3.7, (CCH) ¶3597

[14] If the maintenance criteria is not satisfied, the security would not be eligible for standardized option listing and, therefore, the position and exercise limits would return to 4,500 contracts, regardless of whether the volume and float data of the security continue to meet the criteria for a higher position and exercise limit.

[15] If, however, subsequent to the six-month review, the security becomes eligible for a higher limit prior to the next review, the NASD may increase immediately the position and exercise limit to the applicable level

[16] Letters from Joan Conley, Corporate Secretary, NASD, to Mark Barracca, Branch Chief, SEC (Mar 3, 1995) and Thomas R. Gira, Assistant General Counsel, Nasdaq, to Mark Barracca, Branch Chief, SEC (Mar 22, 1995).

[17] This could occur if from the time the NASD granted a higher position and exercise limit and the time the standardized option was introduced the trading characteristics of the security changed so that the standardized option was introduced at a lower position limit.

[18] If a position limit is lowered, the NASD will not require liquidation to the new limit, but will prohibit increasing further the position. Letter from Joan Conley, Corporate Secretary, NASD, to Mark Barracca, Branch Chief, SEC (Mar. 22, 1995).

[19] The NASD will provide this notification in its Notice to Members announcing the Commission's approval of this proposal. Letter from Thomas R. Gira, Assistant General Counsel, Nasdaq, to Mark Barracca, Branch Chief, SEC (Mar. 22, 1995).

[20] NASD rules provide that, for purposes of assessing whether a member is complying with limits on options positions, standardized and conventional options positions must be aggregated. *NASD manual*, Rules of Fair Practice, Rule 33(b)(3)(A), (CCH) ¶ 2183.

[21] 15 U.S.C. 78o–3(b)(6).

The Commission believes it is appropriate for the NASD to increase, as proposed, its applicable equity option position and exercise limits to allow its members that establish positions in conventional options the benefit of those higher limits where the underlying security fully qualifies[22] to be eligible for standardized options trading and the trading volume and/or shares outstanding for the underlying equity security warrant such increase. Moreover, the NASD has essentially agreed to review and apply the equity option maintenance standards used by the options exchanges, as well as the position and exercise limit standards, using procedures that basically mirror those that have been instituted by the options exchanges. The monitoring standards outlined above will provide that position and exercise limits are maintained at appropriate levels. Accordingly, this substitute review will allow the NASD to address those instances where the options exchange could list and trade equity options, subject to the 7,500 or 10,500 position and exercise limit tier but, for business or other non-regulatory reasons, have decided not to list such options.

Moreover, the Commission believes that the NASD proposal should not adversely affect the cash market for the underlying security. The options overlying these securities will continue to have position limits determined based on established standards.[23] In addition, NASD members will be required to aggregate with other conventional options as well as standardized options if they are subsequently listed. Accordingly, the Commission believes that this rule change will not undermine the objective of preventing the establishment of large option positions that can be used to manipulate or disrupt the underlying market to the benefit of the option position.

III. Discussion

The Commission believes that the rule change is consistent with the requirements of Section 15A of the Act of the rules and regulations thereunder applicable to the NASD, and therefore, has determined to approve the proposal. Section 15A requires that the rules of the NASD, among other things, be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.[21]

Currently, NASD members trading conventional equity options for which there is no standardized options trading covering the underlying equity security are limited to a position of 4,500 contracts. Nonetheless, some of the equity securities underlying these conventional options meet the standards for standardized options trading but, for business or other reasons, none of the options exchanges have decided to list standardized options upon them. Moreover, some of these equity securities satisfy the criteria to qualify for options position and exercise limits of 7,500 or 10,500 contracts. However, because there are no standardized options traded upon them, the position and exercise limits remain at 4,500 contracts.

[22] The Commission notes that, with regard to options overlying foreign securities, the surveillance related requirements that apply to standardized options trading on foreign securities must also be met by the NASD before it allows increased conventional option position and exercise limits. *See supra* note 10.

[23] *See NASD Notice to Members 94–64*, NASD Reminds Members of Their Obligations When Trading Options (June 1994).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendments No. 1 and 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number SR–NASD–94–54 and should be submitted by May 18, 1995.

V. Conclusion

For the reasons stated above, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder applicable to the NASD, in particular, Section 15A(b)(6). In addition, pursuant to Section 19(b)(2) of the Act,[24] the Commission finds good cause for approving the proposed rule change, as amended, prior to the 30th day after publication of Amendments No. 1 and 2 in the **Federal Register**. These amendments provide that the NASD will apply initial listing and maintenance criteria consistent with the application of these criteria by the options exchanges for determining whether a security qualifies for standardized options trading. The Commission finds that no new regulatory issues are raised by these amendments and notes that prior to them, the proposed rule change was published in the **Federal Register** for the full statutory period and no comments were received.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–94–54 be, and hereby is, approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10295 Filed 4–26–95; 8:45 am]

BILLING CODE 8010–01–M

[24] 15 U.S.C. 78s(b)(2)

[25] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35825; International Series Release No. 804; File No. SR–NASD–94–55]

Self-Regulatory Organizations; National Association of Securities Dealers; Order Approving a Proposed Rule Change Relating to the Access of West Canada Clearing Corporation and Its Members to the Automated Confirmation Transaction Service

April 19, 1995.

On October 12, 1994, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NASD–94–55) under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to allow access by West Canada Clearing Corporation ("West Canada") and its members to the NASD's automated confirmation transaction service ("ACT"). Notice of the proposal was published in the **Federal Register** on January 27, 1995.[2] Sixteen comment letters were received that supported the proposal.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35257 (January 20, 1995), 60 FR 5446.

[3] Letters from M. Dryhurst, Cage Manager, Levesque Beaubien Geoffrion Inc., to Secretary, Commission (February 8, 1995); Charles J. Dunlap, C.G.A., Chief Financial Officer, Haywood Securities Inc., to Secretary, Commission (February 7, 1995); Donna M. Kenny, Back Office Manager, Global Securities, to Secretary, Commission (February 9, 1995); D. Foreman, Manager, Clearing, Odlum Brown, to Secretary, Commission (February 9, 1995); B.D. Harwood, Vice Chairman, Canaccord, to Secretary, Commission (February 16, 1995); Gerald H. Powers, Senior Vice President, Cantella & Co., Inc., to Secretary, Commission (February 16, 1995); David R. Smith, Chief Financial Officer, McDermid St. Lawrence Chisholm Ltd., to Secretary, Commission (February 14, 1995); Phyllis Stevenson, Manager, Operations, Meridian Securities International Ltd., to Secretary Commission (February 10, 1995); Steve McKee, Registered Representative, Golden Capital Securities Ltd., to Secretary, Commission (February 14, 1995); Tony Chan, Vice President, Golden Capital Securities Ltd., to Secretary, Commission (February 14, 1995); Jeff Rutledge, Registered Representative, Golden Capital Securities Ltd., to Secretary, Commission (February 14, 1995); Gus Wahlroth, Registered Representative, Golden Capital Securities Ltd., to Secretary, Commission (February 14, 1995); Jack Finkelstein, Registered Representative, Golden Capital Securities Ltd., to Secretary Commission (February 14, 1995); Randy Shaw, Registered Representative, Golden Capital Securities Ltd., to Secretary, Commission (February 14, 1995); Rita Gatto, Registered Representative, Golden Capital Securities Ltd., to Secretary, Commission (February 14, 1995); Marie Martin, Vice President and Operations Manager, Midland Walwyn Capital Inc., to Secretary, Commission (February 22, 1995). The comment letters are discussed in Section B below

I. Description of the Proposal

A. Description

The NASD is amending its rule regarding ACT to allow West Canada, a nonmember of the NASD, and members of West Canada who are not members of the NASD to access this service. The NASD also is amending the ACT rule to reflect that NASD members functioning as market makers in over-the-counter equity securities are also classified as ACT participants.

The NASD created and implemented the ACT system in response to problems experienced in the wake of the October 1987 market break and at the urging of the Commission to consider accelerating efforts to generate same day compared trades.[4] ACT has three primary features: (1) Trade match processing (*i.e.*, the comparison of trade information and the submission of locked-in trades for regular way settlement to clearing agencies on a trade date or next day ["T+1"] basis);[5] (2) trade reporting for transactions in securities that are subject to real time trade reporting requirements; and (3) risk management features that provide firms with a centralized, automated environment for assessing market exposure during and after the trading day and that permit clearing firms to monitor and respond to the ongoing trading activities of their correspondents.[6]

[4] For a description of ACT, refer to Securities Exchange Act Release Nos. 27229 (September 8, 1989), 54 FR 38484 [File No. SR–NASD–89–25] (order partially approving proposed rule change to permit ACT to be used by self-clearing firms) and 28583 (October 26, 1990), 55 FR 46120 (File No. SR–NASD–89–25) (order approving remainder of File SR–NASD–89–25 to permit ACT to be used by introducing and correspondent broker-dealers).

[5] ACT uses three methods to lock-in trades: (1) Trade-by-trade match, whereby both sides of the trade are reported to ACT and matched; (2) trade acceptance, whereby one side of the trade is reported to ACT and accepted by the contra-side; and (3) aggregate volume match, whereby ACT performs a batch-type comparison at the end of each day that aggregates previously unmatched trade reports to effect a match. (For example, two identical trade reports for 300 and 400 shares of the same security may be matched with a 700 share trade report.)

[6] Among others, ACT has the following risk management capabilities. First, ACT can compute the dollar value of each trade report entered thereby allowing member firms to assess their market exposure during the trading day. Second, clearing firms can establish daily gross dollar thresholds for each correspondent's trading activity. If a correspondent reaches or exceeds the threshold, the clearing firm is so notified. Third, ACT alerts clearing firms when a correspondent reaches 70% or 100% of its daily gross dollar threshold. Fourth, ACT has a single trade limit that provides clearing firms with a 15 minute review period prior to becoming obligated to clear a trade of $1,000,000 or more executed by one of its correspondents. Fifth, ACT has a super cap limit set at two times the gross dollar thresholds for purchases and sales but in no

(Continued)

VOL 60 ISS 81 AP 27 1995 UMI

Since its implementation, ACT has functioned as an effective and efficient vehicle to compress the trade comparison cycle thereby facilitating the prompt and accurate clearance and settlement of securities transactions and enabling NASD members to know their positions and market exposure before trading commences the next day. As a facility of the Nasdaq Stock Market operated by the Nasdaq Stock Market, Inc. ("NSMI") subsidiary of the NASD, access to the ACT system is limited to NASD members.

Providing West Canada access to ACT has been structured so that the primary parties to the arrangement are West Canada and NSMI, the NASD subsidiary that owns and operates ACT. Rather than negotiating separate contracts with each individual organization, the NASD believes that it is more efficient for NSMI to negotiate with the exchange, market, or clearing entity to which the non-NASD member belongs, in this case West Canada. Accordingly, under the rule change, West Canada operates as a service bureau to input information into ACT on behalf of West Canada members. Individual West Canada members will not be able to obtain access to ACT unless there is first an overriding, umbrella-type agreement reached between NSMI and West Canada. Thus, whenever NASD members transact with West Canada members in ACT eligible securities, they will be able to use ACT just as they do now for comparing regular-way trades with other NASD members.

Under the rule change a nonmember clearing organization will not be given access to ACT unless it: (1) Is a clearing agency registered under the Act; (2) maintains membership in a registered clearing agency; or (3) maintains an effective clearing arrangement with a registered clearing agency. West Canada has an effective clearing arrangement with the Midwest Clearing Corporation ("MCC") and thus satisfies this requirement.[7] New section (b)(5)(B) of the ACT Rules provides that West Canada must execute a Non-member - Clearing Organization ACT Participant Application Agreement. This agreement requires West Canada to abide by the ACT rules and regulations and will ensure that West Canada members' trades processed through ACT will be accepted for clearance and settlement by West Canada. The agreement also addresses NSMI concerns over nonpayment of service charges, the financial exposure and liabilities of the parties, and methods of redress should West Canada or a West Canada member fail to comply with the relevant NASD rules and regulations. In addition, new Section (b)(5)(B)(6) of the ACT Rules provides that West Canada will not be able to input information into ACT on behalf of a West Canada member unless such member also enters into a Non-Member ACT Access Participant Application Agreement with NSMI. In the case of a clearing broker, this agreement provides that the member will accept and will settle each trade that ACT identifies as having been effected by such member of any of its correspondents on the regularly scheduled settlement date. In the case of an order entry firm, the firm must agree to accept and settle each trade that it has effected or, if settlement is to be made through a clearing member, guarantee the acceptance and settlement of each ACT-identified trade by the clearing member on the regularly scheduled settlement date.

Separately, the proposal also amends the ACT Rules to expand the term "Participant" to include NASD member firms that function as market makers in over-the-counter ("OTC") equity securities that are eligible for clearing via the National Securities Clearing Corporation's ("NSCC") facilities.[8] The instant modification will clarify that ACT participant status encompasses NASD members that function as market makers in such securities via the OTC Bulletin Board service or another interdealer quotation system.[9]

B. Comments

The Commission received sixteen comment letters supporting approval of the filing.[10] The commenters believe that allowing West Canada and its participants to submit trade input to ACT for comparison will improve the timeliness of trade confirmation which is essential to meeting the June 7, 1995 three business day settlement cycle.[11]

II. Discussion

The rule change stems from a request from West Canada to NASD for access to ACT for trade comparison purposes only.[12] Prior to this rule change, when an NASD member effected a transaction with a West Canada member, the transaction typically was compared, cleared, and settled in the following manner. The NASD member entered the trade into ACT with the West Canada member designated as the contra-party. Because the West Canada member was not an ACT participant, ACT responded to the NASD member "contra-side not ready." ACT then reported the trade for trade reporting purposes and transmitted the trade to NSCC as a one-side trade for trade comparison. The West Canada member submitted the trade information to West Canada that in turn sent the trade to MCC. MCC then transmitted the trade report to NSCC by 2:00 a.m. on T+1 for comparison. NSCC then compared the trade reports, and assuming there was a match, NSCC submitted the West Canada member's side of the transaction to MCC for clearance and settlement; the NASD member's side of the transaction was retained by NSCC for clearance and settlement. If there was a discrepancy concerning the terms of the transaction, the trade reconciliation process involved the two clearing corporations and the two parties to the transaction and might last until three days following the trade date. Although the NASD believes that the facilities of NSCC and MCC have been used to compare trades between NASD and West Canada members adequately, the NASD believes the trade comparison procedure for these trades would be streamlined and made more efficient through the use of ACT.

The NASD does not believe that granting West Canada and West Canada members access to ACT will jeopardize the integrity of ACT or any other market facility operated by NSMI. In this regard, before West Canada or any of its members are granted access to ACT, these entities must agree to be bound by the terms of the revised ACT Participant Application Agreements, which establish the terms and conditions under which West Canada and its members will receive access to ACT. The revised Agreements will provide an adequate and sufficient surrogate for NASD membership which otherwise would provide the jurisdictional nexus to ensure compliance with applicable NASD rules and regulations. Initial and continuing access to ACT by nonmembers will be specifically conditioned upon adherence to the terms and conditions of these agreements. West Canada and West Canada members also will be required to maintain the physical security of the equipment used to input trades into ACT. Based on these factors, the NASD believes that granting West Canada and West Canada members access to ACT will not compromise the integrity or operation of Act.

The Commission believes that the proposed rule change is consistent with Section 15A(b)(6)[13] of the Act which requires that the rules of a national securities association be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes the proposal fosters cooperation and coordination with persons engaged in clearing and settling securities transactions by helping to eliminate the inefficiencies inherent in the practice of submitting two-sided transaction reports to two separate clearing corporations. The proposal should help streamline and improve the process by which trades between NASD and West Canada members are compared. In addition, by compressing the time-period in which open trades are left uncompared, market participants will be better able to access and evaluate their market exposure thereby contributing to fair and orderly markets and the protection of investors and the public interest. Moreover, ACT generally achieves locked-in trades within minutes of an execution thus resulting in faster and more efficient trade reconciliation, confirmation and increased efficiency of back office operations which the Commission believes is necessary for compliance with Rule 15c6–1 mandating settlement on T+3.[14]

III. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the Act and particularly with Section 15A(b)(6) of the Act and the rules and regulations thereunder.

It is therefore ordered, purusant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NASD–94–55) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary

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event less than $1 million that provides clearing firms with a 15 minute review period prior to becoming obligated to clear a trade of $200,000 or more executed by one of its correspondents once the limit is surpassed.

[7] In January 1983, MCC, Midwest Securities Trust Company ("MSTC"), the Vancouver Stock Exchange, and the Vancouver Stock Exchange Service Corporation ("VSESC"), (now known as West Canada Clearing Corporation ("WCCC")) ("VSESC/WCCC") created the American and Canadian Connection for Efficient Securities Settlements ("ACCESS"). Through ACCESS, over-the-counter securities transactions between the U.S. and Canadian broker-dealers in both U.S. and Canadian securities are compared, cleared, and settled. Trades between U.S. and Canadian broker-dealers involving securities listed on U.S. securities exchanges, Canadian securities exchanges, or the National Association of Securities Dealers Automated Quotation ("NASDAQ") System are eligible for clearance and settlement through ACCESS. To establish ACCESS, VSESC/WCCC became an MCC/MSTC participant, and opened separate sponsored MCC/MSTC accounts for Canadian broker-dealers that were participants of VSESC. As an MCC/MSTC member, VSESC/WCCC is liable as principal (*i.e.*, guarantee) all trades that it submits including all trades in its sponsored accounts. Some safeguards on ACCESS activity include, contributions by VSESC/WCCC to MCC/MSTC's participant fund based on VSESC/WCCC's total activity, and a cash reserve of over 250,000 Canadian dollars maintained by VSESC/WCCC to be used to satisfy the obligations of any VSESC/WCCC participant that may become insolvent. In addition, VSE guarantees all VSESC/WCCC liabilities to MCC/MSTC. Letter from Jonathan Kallman, Assistant Director, Division of Market Regulation, Commission, to Michael Wise, Associate Counsel, MCC/MSTC (September 12, 1985).

[8] Securities Exchange Act Release No. 30415 (February 26, 1992), 57 FR 7629 (File No. SR–NASD–92–5) (order approving OTC Equity Securities as ACT eligible securities).

[9] Under Schedule D to the NASD By-Laws, Part XII, Section 1(d) defines "OTC Market Maker" to mean any NASD member that holds itself out as being a market maker in any OTC Equity Security by entering proprietary quotations or indications of interest in an inter-dealer quotation system.

[10] *Supra* note 3.

[11] On October 6, 1993, the Commission adopted Rule 15c6–1 under the Act, which establishes three business days after the trade date instead of five business days as the standard settlement time frame for most broker-dealer transactions. Securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891 (release adopting Rule 15c6–1). On November 16, 1994, the Commission changed the effective date of Rule 15c6–1 from June 1, 1995, to June 7, 1995. Securities Exchange Act Release No. 34952 (November 9, 1994), 59 FR 59137

[12] The present filing solely addresses the access of West Canada to ACT. Other proposals concerning nonmember access to ACT, if any, will be raised in separate rule filings submitted pursuant to Section 19 of this Act.

[13] 15 U.S.C. 78o–3(b)(6) (1988).

[14] *Supra* note 11

[15] 17 CFR 200.30–3(a)(12) (1994).

of 1934 ("Act")[1] and rule 19b–4 thereunder,[2] a proposed rule change to permit the Exchange to list and trade Small Corporate Offering Registration ("SCOR") securities. On April 12, 1995, the Exchange submitted Amendment No. 1 to the proposal.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 35140 (December 22, 1994), 60 FR 159 (January 3, 1995). No comments were received on the proposal.[4] This order approves the PSE's SCOR listing on a three year pilot basis.[5]

II. Description

The SCOR listing would be a new tier of listed securities that would not qualify for listing on the PSE under either its Tier I or Tier II listing criteria.[6] Under the SCOR designation, issuers may list any single class of common or preferred stock[7] that was issued pursuant to either Regulation A or Rule 504 under the Securities Act of 1933 ("Securities Act").[8] The listing of

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See letter from Michael Pierson, PSE, to Katherine Simmons, SEC, dated April 12, 1995 ("PSE Letter"). The Amendment clarified certain aspects of the SCOR program, *see infra* notes 12, 16 and 26, and made non-substantive changes to the SCOR Rules. Notice of the Amendment was therefore unnecessary

[4] The PSE originally proposed to list and trade SCOR securities in 1992. That proposal was published for public comment in Securities Exchange Act Release No. 32514 (June 25, 1993), 58 FR 35496 (July 1, 1993) (File No. SR–PSE–92–42). The Commission received several comment letters regarding the proposal, and subsequently published amendments to the proposal for public comment in Securities Exchange Act Release No. 34328 (July 7 1994), 59 FR 35776 (July 13, 1994). The Exchange withdrew File No. SR–PSE–92–42 on November 22, 1994, and submitted the instant filing that includes modifications to the proposal in response to comments from the public and from Commission staff.

[5] The PSE will evaluate the SCOR listing program at least on an annual basis to determine whether this new marketplace has achieved its policy objectives, which the Exchange states are to facilitate capital formation for small businesses and to provide public market liquidity for the securities of these small businesses.

[6] The Commission approved the PSE's two-tiered listing criteria for its regular listings in Securities Exchange Act Release No. 34429 (July 22, 1994), 59 FR 50950 (August 1, 1994).

[7] Once a class of SCOR securities has been accepted for listing on the Exchange, all securities of that class will be listed and traded on the Exchange as SCOR securities, except those securities of the class that are subject to restrictions that make them ineligible for trading on the Exchange.

[8] Under Regulation A, public offerings of up to $5 million in a twelve-month period are exempt from registration under the Securities Act. See 17 CFR 230.251 to 230.263 (1994). Rule 504 of Regulation D provides an exemption from registration for limited offerings and sales of securities not exceeding $1,000,000. See 17 CFR 230.504 (1994)

[Release No. 34–35828; File No. SR–PSE–94–31]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 to Proposed Rule Change Relating to the Listing and Trading of Small Corporate Offering Registration ("SCOR") Securities on the Exchange

April 19, 1995.

I. Introduction

On December 15, 1994, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act

VOL 60 ISS 81 AP 27 1995 UMI

securities under the SCOR designation will not provide issuers with the exemption from state securities registration requirements accorded to exchange-listed securities by most states.[9] Furthermore, SCOR securities will not be eligible for marginability and must be paid for in full.[10]

A. Initial Listing Standards

The qualification process for SCOR applicants will be the same as the process in place for other PSE-listed equity issuers. Applications for listing will be reviewed by the Exchange's Listing Department, which works directly with the Equity Listing Committee. The Equity Listing Committee is comprised of floor members, "upstairs" members, and member firm representatives.

The initial listing requirements for common and preferred stock [11] must be met at the time an issuer applies for listing.[12] The Exchange may accept applications to list a SCOR offering if the securities have been registered at the state level,[13] and if there are at least 150,000 publicly held shares and at least 250 public beneficial holders of the class of securities. In addition, issuers must have total net tangible assets of at least $500,000 and total net worth of at least $750,000. The last offering price in the class of security for which the issuer is applying must have been at least $5 per share.[14]

In addition to the quantitative listing requirements, when reviewing an application for listing, the Exchange will consider other factors such as (1) a company's management plan outlining the development of its business for a period of at least 24 months,[15] (2) the background and past conduct of officers, directors, principal shareholders, and key employees of the company, (3) the adequacy of the company's resources to conduct its business,[16] and (4) any material changes in the financial condition of the company or other events that could have an impact upon the value of the security to be listed. In addition, the Exchange will consider all other available information that may be relevant to its review of listing eligibility.[17]

SCOR issuers will be required to comply with the corporate governance requirements and disclosure policies applicable to all securities listed on the Exchange.[18] The corporate governance provisions include rules concerning conflicts of interest, quorum, shareholder approval, annual meetings, and solicitation of proxies and consents. The corporate disclosure policies provide guidance to companies in making appropriate public disclosure and include information regarding consultation with the PSE Listings Department, internal handling of confidential corporate matters, and relationships between company officials and others.[19]

B. Maintenance Standards

The SCOR maintenance standards require that there are at least 100,000 publicly held shares with a market value of at least $500,000, at least 200 public beneficial holders, and a last sale price of at least $1 per share. In addition, the issuer must maintain total net tangible assets for at least $250,000 and total net worth of at least $500,000. A company with a deficiency in either market value of public float or market price will be subject to delistings procedures should the deficiency exist either for a majority of business days of any three-month period, or for any period of ten consecutive business days.[20] If there is a deficiency in any other quantitative standard, the Exchange will immediately suspend dealings in the security and subject the company to delisting proceedings.

SCOR securities also will be subject to suspension and/or withdrawal from listing and registration as a listed issue if the Exchange finds that the listed company fails to comply with the Exchange's listing policies or agreements.[21] Furthermore, an issuer of SCOR securities must take appropriate steps to ensure that no such securities are sold on its behalf in reliance upon the exemption from state securities registration that is otherwise available to companies listed on the Exchange. If an issuer fails to take such steps, the Exchange will immediately suspend

[9] The PSE Rule states that SCOR securities "shall not be considered to be 'listed' or 'approved for listing upon notice of issuance' for purposes of any exemption from filing for issuer or non-issuer transactions under the securities laws or regulations of any state or other jurisdiction of the United States." *See* PSE Rule 3.2(t), Commentary .03.

[10] The rule change amends the PSE's Maintenance Margin Rule to prove that:

Rule 2.16(b). The margin which must be maintained in margin accounts of customers, whether members, allied members, member firms or non-members, shall be as follows:

• • •

(5) In the case of securities listed pursuant to Rule 3.2(t) [SCOR securities], 100% of the market value, in cash, of each security held "long" in the account.

[11] In formulating the listing requirements for SCOR securities, the Exchange consulted with the Small Business Capital Formation and Small Business Sales Practices Committees of the North American Securities Administrators Association ("NASAA"), the California Department of Corporations, and leaders from the small business community.

[12] The Exchange will not grant "conditional" approvals, i.e., approvals conditioned on the satisfaction of the listing criteria sometime in the future. *See* PSE Letter, *supra* note 3.

[13] Issuers must register the securities to be listed at the state level using either the state Form U–7 (or the equivalent registration form to which a regulatory review is applied), or a coordinated state filing with the federal Form 1–A offering statement. Once an issuer's class of common or preferred stock has been approved for SCOR listing, the securities must be registered under Section 12(b) of the Act.

[14] The Exchange will consider the offering price of individual separate SCOR offerings in a class of securities to help determine whether the value of the SCOR securities to be listed is at least $5 per share. The Exchange will consider the circumstances of SCOR offerings so that issuers will not be able to effect "token" offerings in order to satisfy the $5 requirement. See also PSE Rule 3.2(t)(6)(iv) (stating that the exchange will consider whether there have been material changes in the financial condition of the company or other events that could have a significant adverse impact upon the value of the SCOR securities to be listed).

[15] The management plan must demonstrate that the product, service, or technology is sufficiently developed and that there is a reasonable expectation of future earnings from its business. The listing of companies that have done blank check offerings will not be permitted.

[16] The PSE will not list any company with an outstanding "going concern" opinion from its independent auditor. *See* PSE Letter, *supra* note 3. See also PSE Rule 3.5(a) (Exchange considers delisting a security upon the issuance of an independent public accountant's disclaimer opinion on financial statements).

[17] The Exchange generally will not list a company if the business in which it is engaged is not anticipated to produce profits within a reasonable period of time, if the business operations depend upon the development of a product or system that will not be completed prior to listing, or if preliminary objectives upon which the profit-making ability of the business depends have not been achieved.

[18] See PSE Rule 3.3. SCOR securities are subject to all of the corporate governance requirements contained in PSE Rule 3.3 except the independent directors/audit committee requirement of Rule 3.3(b).

[19] The PSE's proposed fee schedule for SCOR securities was published in Securities Exchange Act Release No. 35395 (February 17 1995), 60 FR 10626 (February 27, 1995).

[20] In each instance, for purposes of the maintenance standards, the market price and the market value of public float will be calculated by using the last sale of the trading day. Should no transactions be effected in the security on a given trading day, the prevailing closing bid price will be used in determining the market value of public float and the last sale price of a security. In the event that there is not a bid price readily available, the Exchange will rely on other recognized established securities markets in which the issue is traded to determine the market value of public float and the last share price.

[21] Other factors the Exchange will consider include, among others, the issuance of an independent public accountant's disclaimer opinion on financial statements required to be certified and losses which are so substantial that, in the opinion of the Exchange, it appears questionable as to whether a company will be able to continue operations. In addition, the Exchange would examine a company that has depleted, sold or otherwise disposed of its principal operating assets, or substantially discontinued the business that it conducted at the time it was listed, or that has been authorized to liquidate its assets. *See* PSE Rule 3.5(a).

dealings in the security and subject the company to delisting proceedings. Whenever the Exchange staff determines that a security should be removed from the list, the issuer will be given an opportunity to present to the Equity Listing Committee any reasons why the security should not be delisted. A decision by the Equity Listing Committee to delist a security may be appealed to a Board committee or a committee appointed by the Board of Governors for such purpose.[22]

C. Trading and Transaction Reporting

The Exchange will allocate SCOR securities to Exchange specialists for auction market trading. All transactions in SCOR securities will be reported on a real-time basis, and will be identified by a ".SC" suffix to the ticker symbol. All of the PSE's rules and equity surveillance procedures will be applicable to transactions in SCOR securities.

III. Discussion

A. Introduction

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Sections 6 and 11A.[23] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to perfect the mechanism of a free and open market and a national market system and to protect investors and the public interest. Section 11A generally promotes the development of a national market system for securities to assure economically efficient execution of securities transaction; fair competition among brokers and dealers, among exchange markets and markets other than exchange markets; the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities; the practicability of brokers executing investors' orders in the best market; and an opportunity for investors' orders to be executed without the participation of a dealer.

B. SCOR Marketplace

In general, the Commission believes the PSE's SCOR listing program should provide benefits to investors as well as small companies listed under the program. The SCOR listing standards will provide small companies who would not otherwise be eligible for exchange trading with an opportunity to list securities on a national securities exchange for the first time. The Commission believes that the availability of an exchange listing as an alternative to solely over-the-counter ("OTC") trading will provide an additional trading mechanism that could increase capital committed to trading SCOR securities. In addition, the availability of the SCOR listing on the PSE will enhance SCOR issuer access to the U.S. capital markets.

The Commission believes investors in small companies also will benefit from exchange trading of SCOR securities. Each SCOR security traded on the PSE will be handled by an Exchange specialist who is required to commit capital to maintain fair and orderly markets. Furthermore, trading of SCOR securities on the Exchange will be subject to the PSE's trading and surveillance rules. The Commission believes exchange trading with appropriate market surveillance should improve the quality of market making in SCOR securities. In addition, transactions in SCOR securities will be broadcast over the Consolidated Tape System ("CTS") and the Consolidated Quote System ("CQS") Network B as local issues.[24] The Commission believes this real-time reporting and wide dissemination of quotations and transactions in SCOR securities should result in more efficient and fair markets for the securities. Finally, because exchange-trading of SCOR securities requires the companies to register under Section 12(b) of the Act and to comply with the disclosure requirements of the federal securities laws, listing may provide investors with greater access to information about SCOR issuers.

The Commission recognizes, however, that the listing standards for SCOR issuers are significantly lower than those for regular PSE-listed issuers and that the markets for SCOR securities normally may not be as liquid and deep as those for regular PSE-listed securities. The Commission therefore has considered carefully the PSE's proposal, and for the reasons stated below, believes the SCOR proposal satisfies the requirements of the Act.

C. SCOR Listing Standards

In general, the Commission believes the development and enforcement of adequate standards governing the initial and continued listing of securities on an exchange is necessary to ensure that only *bona fide* companies with sufficient public float, investor base, and trading interest to support a fair and orderly auction market will be listed. Adequate standards are especially important given the expectations of investors regarding exchange trading and the imprimatur of listing on a particular market.[25] Once a security has been approved for initial listing, maintenance criteria allow an exchange to monitor the status and trading characteristics of that issue to ensure that it continues to meet the exchange's standards for market depth and liquidity. For the reasons set forth below, the Commission believes that the proposed rule change will provide the PSE with appropriate standards to determine which securities warrant listing under the Exchange's new SCOR designation.

The Commission believes that the initial and maintenance criteria for SCOR issuers, as described above, are consistent with Sections 6(b)(5) and 11A of the Act in that these criteria should help to ensure the maintenance of fair and orderly markets for SCOR securities, as well as enhance benefits and protections for investors who trade in these securities. Specifically, the numerical listing and maintenance criteria include minimum requirements for public float and outstanding shares. While these are lower than the regular PSE listing standards, they are high enough to ensure that some minimum level of public interest and liquidity will be available in SCOR securities. Although these lower standards might not be sufficient for regular listings, they are acceptable for SCOR securities given the benefits noted above that the listing of such securities would produce (in particular, the increased information disclosure).

The Commission believes the quantitative SCOR listing standards are adequate to ensure that fair and orderly markets can be maintained. This conclusion is reinforced by the PSE's decision not to accept applications from issuers until they meet the minimum numerical listing criteria.[26] The

[22] If a security is delisted, the Exchange must submit an application to the Commission to strike the security from listing and registration. A copy of such application will be provided to the issuer in accordance with Section 12 of the Act. See 15 U.S.C. 78*l*(d) (1988).

[23] 15 U.S.C. §§ 78f and 78k–1 (1988).

[24] SCOR securities will be identified by a ".SC" suffix to the ticker symbol so that members, public investors, and others can distinguish SCOR securities from other securities traded on the Exchange.

[25] See, e.g., In re Silver Shield Mining and Milling Company, Securities Exchange Act Release No. 6214 (March 18, 1960) ("use of the facilities of a national securities exchange is a privilege involving important responsibilities under the Exchange Act"); In re Consolidated Virginia Mining Co., Securities Exchange Act Release No. 6192 (February 26, 1960) (same).

[26] In addition, a SCOR-listed issuer that becomes eligible for trading on the Exchange under its Tier I or Tier II criteria may "graduate" to the main lists.

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VOL 60 ISS 81 AP 27 1995 UMI

Commission believes that making satisfaction of the numerical listing criteria mandatory before the Exchange considers whether an issuer is appropriate for exchange trading should help safeguard the integrity of the exchange market and the securities listed thereon.

In addition to the quantitative standards, the Exchange considers other qualitative factors such as an issuer's management plan, the background of officers and directors, and the adequacy of the company's resources. The Commission believes that these factors, combined with other Exchange rules regarding corporate governance and disclosure policies, will help to ensure that only companies with sufficient business plans and resources will have access to the PSE's public market.

The Commission believes that the PSE's proposal for SCOR listings will provide it with the necessary flexibility to determine whether a SCOR issuer is appropriate for exchange trading,[27] irrespective of whether it meets the minimum quantitative listing criteria. Thus, the Commission believes that the new listing and maintenance standards strike the appropriate balance between protecting investors and providing a marketplace for small issuers satisfying the disclosure requirements under the federal securities laws.

D. Margin

As discussed above, the PSE is amending Exchange Rule 2.16 to require that SCOR-listed securities be subject to a 100% maintenance margin requirement. The Commission agrees with the maintenance margin approach proposed by the PSE. The SCOR program is intended to be a new marketplace that attracts issuers that might otherwise trade OTC. It is logical that the maintenance margin treatment for OTC securities would apply to SCOR issuers, rather than the treatment accorded regular PSE companies.[28]

E. State Law Concerns

The Commission believes that the safeguards the PSE has established should make clear to PSE members and SCOR issuers listed under the new program that the offer and sale of SCOR securities are subject to state registration and rules. The PSE proposal would prohibit SCOR issuers from using the exemption from registration requirements that the securities laws of some states currently make available to other PSE-listed companies. To accomplish this, the PSE included in its rules that SCOR issuers would not be able to take advantage of existing exemptions in state securities registration requirements accorded to regular PSE-listed securities. In addition, the SCOR rules state that the Exchange will delist any company that fails to take appropriate steps to ensure that no SCOR-listed securities are sold on its behalf in reliance upon the exemption from state securities registration that is otherwise available to companies listed on the Exchange.

F. Review Procedures

The Commission believes the Exchange has proposed adequate procedures to screen applications for SCOR listing. The Exchange's Listing Department staff initially will review applications to confirm that all quantitative listing criteria have been met and evaluate issuers according to the qualitative standards discussed above. The staff will reject applications that fail to meet the quantitative standards. The staff also has discretion to reject applications that have qualitative deficiencies. Applications not rejected by the staff are submitted to the Equity Listing Committee for evaluation. The Equity Listing Committee must approve all applications before new SCOR listings may be accepted by the Exchange.

G. Pilot

Finally, the Commission believes it is appropriate to approve the SCOR program on a three-year pilot basis. This pilot will provide the Exchange, SCOR issuers, and investors with sufficient time to gain experience with the program. In addition, during the pilot, the PSE should monitor and evaluate the SCOR program so that the Commission can assess the benefits of the SCOR listing. The PSE should file a report with the Commission if they determine to request an extension of the pilot or seek permanent approval. The report should contain information on the number of SCOR listing applications accepted and rejected, the SCOR securities that have been delisted and the reasons therefore, the number of SCOR securities that have moved to the PSE's regular market or another market, and quantitative data on the trading history of SCOR securities (including average price per share and trading volume).

IV. Conclusion

For the reasons stated above, the Commission believes the rule change is consistent with the Act and, therefore, has determined to approve it on a three-year pilot basis. The rule change establishes quantitative and qualitative listing criteria for SCOR securities that provide for the protection of investors and the public interest. Furthermore, the SCOR listing program should provide benefits to investors and small companies by providing for the exchange-trading of SCOR securities, which should result in added liquidity, price discovery, and regulatory oversight.

The Commission does not believe that the rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[29] that the proposed rule change (SR–PSE–94–31) is approved on a pilot basis through April 19, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[30]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10297 Filed 4–26–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2193]

Shipping Coordinating Committee; Subcommittee for the Prevention of Marine Pollution; Meeting

The Subcommittee for the Prevention of Marine Pollution (SPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on May 19, 1994, from 9:30 am to 12 noon in Room 6103 of U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC.

The purpose of this meeting is to seek input from the public to assist development of the U.S. position regarding the application of the precautionary approach to the International Maritime Organization's (IMO) work.

At the 35th Session of the Marine Environmental Protection Committee (MEPC) of IMO in March, 1994, a Correspondence Group was established with the following terms of reference: "To develop guidelines on the application of the precautionary approach as set out in Principle 15 of the Rio Declaration, as well as paragraphs 17.21 and 17.22 of the United Nations Conference on Environment and Development, Agenda 21, in the context of specific IMO activities, and to report to the MEPC at its thirty-seventh session".

Work was carried out intersessionally to identify a working method to internalize the application of the precautionary approach. This work was carried into the 36th Session of the MEPC in November, 1994 where a drafting group developed draft "Guidelines on the Application of the Precautionary Approach in the Context of Specific IMO Activities". In this draft, the precautionary approach is further elaborated for the purpose of IMO. Additionally, the drafting group developed a draft "Framework for Implementation of the Precautionary Approach within the Programs and Activities of IMO" which provides a working method to be used by IMO Committees, Sub-Committees, Working Groups and other IMO bodies to internalize the precautionary approach into the process of policymaking and management.

The draft Guidelines and Framework are the subject of further consideration by the intersessional correspondence group, working toward tabling these documents at the 37th Session of the MEPC.

Input or comments from the public meeting will be considered by members of the U.S. correspondence group in finalizing the U.S. position on these documents. For further information or copies of the drafts, contact the project officer, Commander Mike Farley, U.S. Coast Guard Headquarters (G–MEP–3), 2100 Second Street SW., Washington, DC 20593–0001, Telephone: (202) 267–2850.

Dated: April 18, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–10338 Filed 4–26–95; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 2194]

Shipping Coordinating Committee; Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping (STCW); Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 am on Tuesday, June 13, 1995, in Room 2415 of the United States Coast Guard Headquarters Building, 2100 2nd Street SW., Washington, DC 20593–0001. The primary purpose of the meeting is to prepare for the Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Conference). Preparations for the International Conference on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW–F Conference) will also be discussed. These Conferences are being convened by the International Maritime Organization (IMO), in London, from June 26 to July 7, 1995.

The STCW Conference is being held to consider adoption of amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention). The United States became a party to this convention in 1991; and 107 countries are now parties.

The proposed amendments to the STCW Convention were prepared by the IMO Sub-Committee on Standards of Training and Watchkeeping and were approved for circulation by the sixty-fourth session of the IMO Maritime Safety Committee.

Items of particular interest include—

—The role of IMO in overseeing compliance with convention requirements;
—Basic safety and familiarization training for all shipboard personnel;
—Standards of competence based on demonstration of skills;
—Use of simulation in training and assessment;
—Quality assurance in training, assessment and certification;
—Alternative, function-based certification systems;
—Principles to be observing in keeping a watch;
—Prevention of fatigue; and
—Port State control.

The STCW–F Conference is being held to consider adoption of a new convention which would apply to fishing vessel personnel. Fishing vessels are excluded from the scope of application of the STCW Convention.

Items of particular interest include—

—Certification requirements for skippers, deck watch officers and engineers on seagoing fishing vessels of 24 meters or more in length; and
—Prospects of U.S. ratification of this new instrument.

Members of the public may attend the meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Christopher Young, U.S. Coast Guard (G–MVP–4), Room 1210, 2100 Second Street SW., Washington, DC 20593–0001 or by calling: (202) 267–0229.

Dated: April 19, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–10339 Filed 4–26–95; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 2192]

Shipping Coordinating Committee; International Maritime Organization (IMO) Legal Committee; Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10 a.m., on Thursday, May 18, 1995, in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The purpose of this meeting is to report on the 72nd Session of the International Maritime Organization (IMO) Legal Committee held April 3–7, 1995, and to begin preparations for the 73rd Session to be held October 9–13, 1995.

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first subject addressed will be the draft International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention). The second major subject, which will be considered at approximately 11:30 a.m., will be possible revisions to the 1976 Convention on Limitation of Liability for Maritime Claims ('76 LLMC).

The current draft of the HNS Convention imposes strict liability upon the shipowner with an additional international fund (second-tier fund) modeled after the International Oil Pollution Compensation Fund. The draft HNS Convention provides compensation for environmental damage as well as personal injury, death, and property damage from a broad range of substances. At the 72nd Session, the Legal Committee finalized decisions on several major issues regarding the draft HNS Convention. Other issues will remain open for the diplomatic conference, which is tentatively scheduled for Spring 1996. The 72nd Session was the last session of the Legal Committee to discuss the HNS Convention before the diplomatic conference. The views of the public are requested.

The Legal Committee resumed deliberations on the '76 LLMC at the 72nd Session. Discussion centered on a draft protocol which provides for raising

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However, companies on the Exchange's main lists may not move down to the SCOR listing program. *See* PSE Letter, *supra* note 3.

[27] PSE Rule 3.2(i)(6) states: "Notwithstanding that a company meets the prescribed listing requirements, the Exchange retains the discretion to refuse listing to a company where it believes it is in the public interest to do so."

[28] Non-MNS OTC securities are not marginable unless they are included in the Federal Reserve Board's OTC Margin List. The PSE will require 100% margin on SCOR securities whether or not they are included on the Federal Reserve Board's OTC Margin List.

[29] 15 U.S.C. 78s(b)(2) (1988).

[30] 17 CFR 200.30–3(a)(12) (1994)

VOL 60 ISS 81 AP 27 1995 UMI

the limits of liability and a streamlined tacit amendment procedure, and several key decisions were made regarding limits for passenger claims. The protocol to the '76 LLMC will also be the subject of the Spring 1996 diplomatic conference, on an equal priority with the HNS Convention. Therefore, the 72nd session was also the last session of the Legal Committee to discuss substantive revisions to the '76 LLMC. Although the United States has not ratified the '76 LLMC, interests within the United States—such as owners of foreign flag vessels and passengers on foreign flag vessels—may be affected by changes to the Convention. The views of the public are requested.

At the 73rd Session of the Legal Committee, preliminary negotiations will take place regarding an international convention on offshore mobile craft and an international convention on wreck removal. The eighth session of the Joint Intergovernmental Group of Experts on Maritime Liens and Mortgages will meet October 9–10, the first two days of the 73rd Session of the Legal Committee, to finalize a draft international convention on the arrest of ships.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information or to submit views concerning the subjects of discussion, contact either Captain David J. Kantor or Lieutenant Commander Steve D. Poulin, U.S. Coast Guard (G–LMI), 2100 Second Street SW., Washington, DC 20593, telephone (202) 267–1527, telefax (202) 267–4496.

Dated: April 19, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–10340 Filed 4–26–95; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–95–19]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 17, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 21, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 124CE
Petitioner: Air Tractor, Inc.
Sections of the FAR Affected: 14 CFR 23.562(d)
Description of Relief Sought: To permit certification of the AT–602, which will have a stall speed (Vso) greater than the 61-knot requirement.

Docket No.: 27824
Petitioner: Aaron C. Bornstein, M.D.
Sections of the FAR Affected: 14 CFR 61.113(a)(2) and/or 61.131(a)(2)
Description of Relief Sought: To permit Dr. Bornstein to take the written and practical tests to add a private rotorcraft category rating to his commercial pilot certificate without having logged the required solo flight time, or to add a commercial pilot rotorcraft rating to his certificate without the required pilot-in-command flight time.

Docket No.: 28068
Petitioner: Bombardier, Inc.
Sections of the FAR Affected: 14 CFR 91.211(b)(1)(ii)
Description of Relief Sought: To permit operation of Canadier Global Express aircraft at altitudes above 41,000 feet mean sea level without requiring that at least one pilot at the controls of the airplane wear an oxygen mask.

Docket No.: 28080
Petitioner: Mr. Joseph J. Hass
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Hass to act as a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28082
Petitioner: Mr. William H. Poarch
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Poarch to act as a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28088
Petitioner: Mark Air, Inc.
Sections of the FAR Affected: 14 CFR 121.481 and 121.483
Description of Relief Sought: To allow Mark Air, Inc., to conduct all of its operations under the flight time limitations and rest requirements for domestic air carriers instead of the flight time limitations and rest requirements for a combination of flag and domestic air carriers.

Docket No.: 28169
Petitioner: Aviation Technologies, Inc
Sections of the FAR Affected: 14 CFR 141.35(b)(3) and (d)(3)
Description of Relief Sought: To permit Aviation Technologies, Inc., to designate Mr. Richard A. Fischer to serve as chief flight instructor without meeting certain experience requirements for such a designation.

Disposition of Petitions

Docket No.: 24187
Petitioner: Florida Department of Law Enforcement
Sections of the FAR Affected: 14 CFR 91.159(a) and 91.209(a) Description of Relief Sought/Disposition: To extend Exemption No. 3596, as amended, which allows the Florida Department of Law Enforcement relief from the pertinent provisions of part 91 of the FAR in order to conduct drug law enforcement air support.
Grant, March 30, 1995, Exemption No. 3596E

Docket No.: 26599
Petitioner: Regional Airline Association
Sections of the FAR Affected: 14 CFR 91.203
Description of Relief Sought/ Disposition: To extend Exemption No. 5515, as amended, which permits temporary operation of Regional Airline Association's U.S.-registered aircraft in domestic airline operations without the certificate of airworthiness or registration, or both, on board the aircraft.
Grant, April 7, 1995, Exemption No. 5515B

Docket No.: 27142
Petitioner: Horizon Helicopters
Sections of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To extend Exemption No. 5714, which permits Horizon Helicopters to operate certain aircraft, under the provisions of part 135 of the FAR, without a TSO–C112 (Mode S) transponder.
Grant, April 7, 1995, Exemption No. 5714A

Docket No.: 27220
Petitioner: Mountain Rotors, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c)(2)
Description of Relief Sought/ Disposition: To extend Exemption No. 5724, which permits Mountain Rotors, Inc., to operate certain aircraft, under the provisions of part 135 of the FAR, without a TSO–C112 (Mode S) transponder.
Grant, April 7, 1995, Exemption No. 5724A

Docket No.: 27418
Petitioner: National Business Aircraft Association, Inc.
Sections of the FAR Affected: 14 CFR 135.299
Description of Relief Sought/ Disposition: To permit pilots in command (PIC), employed by National Business Aircraft Association, Inc., members, to complete PIC route and airport checks in flight simulator rather than in an aircraft.
Denial, April 4, 1995, Exemption No. 6054

Docket No.: 27909
Petitioner: Professional Airline Training, Inc.
Sections of the FAR Affected: 14 CFR 121.411(a)(2) and (3) and (b)(2); 121.413(b) and (c); and appendix H of part 121
Description of Relief Sought/ Disposition: To permit Professional Airline Training, Inc. (PAT), without holding an air carrier operating certificate, to train the certificate holder's pilots in initial, upgrade, and recurrent training. The training would be conducted in approved simulators without PAT's instructor pilots meeting all applicable training requirements of subpart N and the employment requirements of appendix H of part 121.
Grant, April 4, 1995, Exemption No. 6050

Docket No.: 27945
Petitioner: United Airlines
Sections of the FAR Affected: 14 CFR 121.133(c)
Description of Relief Sought/ Disposition: To allow United Airlines to utilize electronic digital imaging and storage technology to prepare certain maintenance manual information and instructions for aircraft operated by United Airlines, in lieu of printed page form or microfilm.
Grant, March 24, 1995, Exemption No. 6042

Docket No.: 27990
Petitioner: Eastern Air Charter, Inc.
Sections of the FAR Affected: 14 CFR 91.511(a) and 135.165(b)(5), (6), and (7)
Description of Relief Sought/ Disposition: To permit Eastern Air Charter, Inc., to operate its Cessna Citation CE–550 in extended overwater operations with only one operative long-range navigational system (LRNS) and one operative high frequency communication system (HF).
Grant, March 31, 1995, Exemption No. 6053

Docket No.: 28039
Petitioner: Grand Air Express, Inc.
Sections of the FAR Affected: 14 CFR 91.511(a)(2) and 135.165(a)(1) and (6) and (b)(6) and (7)
Description of Relief Sought/ Disposition: To permit Grand Air Express, Inc., to operate its turbojet airplanes equipped with on high frequency communication system (HF) and one long-range navigation system (LRNS).
Grant, March 31, 1995, Exemption No. 6051

Docket No.: 28044
Petitioner: CIN–Air, L.P.
Sections of the FAR Affected: 14 CFR 91.511(a) and 135.165(b)(5), (6), and (7)
Description of Relief Sought/ Disposition: To permit CIN to operate its Cessna Citation 500/550/560 aircraft in extended overwater operations with only one operative long-range navigational system (LRNS) and one operative high-frequency communication system (HF).
Grant, April 6, 1995, Exemption No. 6055

Docket No.: 28049
Petitioner: Merlin Express
Sections of the FAR Affected: 14 CFR 135.165(b)(6) and (7)
Description of Relief Sought/ Disposition: To permit Merlin Express to operate turbojet aircraft equipped with one high frequency communication system (HF) in extended overwater operations.
Grant, March 31, 1995, Exemption No. 6052

Docket No.: 28117
Petitioner: Executive Airlines
Sections of the FAR Affected: 14 CFR 135.165(b)(6) and (7)
Description of Relief Sought/ Disposition: To permit Executive Airlines to operate turbojet aircraft equipped with one high-frequency (HF) communication system in extended overwater operations.
Grant, April 4, 1995, Exemption No. 6049

[FR Doc. 95–10387 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Ford Airport, Iron Mountain, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Ford Airport, Iron Mountain, Michigan, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 30, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must

VOL 60 ISS 81 APR 27 1995 UMI

be mailed or delivered to Mr. William H. Marchetti, Airport Manager, of the Dickinson County Board of Commissioners at the following address: County Courthouse 701 Stevenson Ave., P.O. Box 609, Iron Mountain, Michigan 49801.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Dickinson County Board of Commissioners under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon B. Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487–7281. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Ford Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 7, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Dickinson County Board of Commissioners was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 25, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: June 1, 1995
Proposed charge expiration date: May 31, 2001
Total estimated PFC revenue: $215,820.00
Brief description of proposed projects:
Projects to Impose and Use:
Rehabilitate Taxiways "C", "D", and "E", Extend Runway 31 safety area; Acquire Airport Rescue and Fire Fighting (ARFF) vehicle.
Impose Only Projects: Install sanitary sewer; Rehabilitate Runway 1/19 including lighting and signage; Install PAPIs and REILs (Runway 19); Construct and light Taxiway "H", general aviation apron, and general aviation access road.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Not applicable.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Dickinson County Board of Commissioners, Michigan.

Issued in Des Plaines, Illinois, on April 19, 1995.

Benito DeLeon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 95–10391 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Spencer Municipal Airport, Spencer, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Spencer Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 30, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dan Payne, City Manager, Spencer, Iowa, at the following address: City Hall, 418 2nd Ave. W., Spencer, Iowa 51301.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Spencer Municipal Airport, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ellie Anderson, PFC Coordinator, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4728. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Spencer Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 12, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Spencer Municipal Airport, Spencer, Iowa, was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 20, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: June 1, 1995
Proposed charge expiration date: June 1 2005
Total estimated PFC revenue: $240,000
Brief description of proposed project(s):
Expand auto parking and install PAPI's and REIL's; Overlay Taxiways A & B; install airport guidance signs; and expand and renovate terminal building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Spencer Municipal Airport.

Issued in Kansas City, Missouri on April 21, 1995.

James W. Brunskill,

Acting Manager, Airports Division, Central Region.

[FR Doc. 95–10389 Filed 4–26–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Tax on Certain Imported Substances (Toluenediamine); Filing of Petition

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 CB 717, of a petition requesting that toluenediamine be added to the list of taxable substances in section 4672(a)(3). Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Submissions must be received by June 26, 1995. Any modification of the list of taxable substances based upon this petition would be effective October 1, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (Petition), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (Petition), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petition was received on October 12, 1994. The petitioner is Air Products and Chemicals, Inc., a manufacturer and exporter of this substance. The following is a summary of the information contained in the petition. The complete petition is available in the Internal Revenue Service Freedom of Information Reading Room.

HTS number: 2921.51.10
CAS number: 95–80–7, 823–40–5, 2687–25–4, and 496–72–0

This substance is derived from the taxable chemicals toluene, methane, and ammonia. Toluenediamine is a solid produced predominantly by a two-step process. The first step is mixed-acid nitration of toluene to produce dinitrotoluene. The second step is the catalytic reaction of hydrogen and dinitrotoluene to produce toluenediamine.

The stoichiometric material consumption formula for this substance is:

C_7H_8 (toluene) + 1.5 CH_4 (methane) + 2 NH_3 (ammonia) + 4 O_2 (oxygen) ——> $CH_3C_6H_3(NH_2)_2$ (toluenediamine) + 5 H_2O (water) + 1.5 CO_2 (carbon dioxide)

According to the petition, taxable chemicals constitute 53.95 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.59 per ton. This is based upon a conversion factor for toluene of 0.78, a conversion factor for methane of 0.26, and a conversion factor for ammonia of 0.34.

Comments and Requests for a Public Hearing

Before a determination is made, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 95–10411 Filed 4–26–95; 8:45 am]

BILLING CODE 4830–01–U

Public Information Collection Requirements Submitted to OMB for Review

April 18, 1995.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0687
Form Number: IRS Form 990–T
Type of Review: Revision
Title: Exempt Organization Business Income Tax Return
Description: Form 990–T is needed to compute the section 511 tax on unrelated business income of a charitable organization. IRS uses the information to enforce the tax.
Respondents: Not-for-profit institutions
Estimated Number of Respondents/Recordkeepers: 37,103
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—65 hr., 19 min.
Learning about the law or the form—22 hr., 2 min.
Preparing the form—37 hr., 7 min.
Copying, assembling, and sending the form to the IRS—3 hr., 45 min.
Frequency of Response: Annually
Estimated Total Reporting/Recordkeeping Burden: 4,756,234 hours

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–10348 Filed 4–26–95; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

April 21, 1995.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0183
Form Number: IRS Form 4789
Type of Review: Resubmission
Title: Currency Transaction Report
Description: Financial institutions are required to file Form 4789 within 15 days of any transaction of more than $10,000. The information is used to check tax compliance.
Respondents: Business or other for-profit
Estimated Number of Respondents: 788,871
Estimated Burden Hours Per Respondent: 19 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1,762,705 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 95–10349 Filed 4–26–95; 8:45 am]

BILLING CODE 4830–01–M

VOL 60 ISS 81 AP 27 1995 UMI

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Designs in Miniature: The Story of Mosaic Glass." (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Corning Museum of Glass, Corning, New York from on or about June 3, 1995 through October 22, 1995 is in the national interest. Public Notice of this determination is ordered to be published in the Federal Register.

Dated: April 22, 1995.

Les Jin,

General Counsel.

[FR Doc. 95–10409 Filed 4–26–95; 8:45 am]

BILLING CODE 8230–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

International Trade in Commercial Space Launch Services; Guidelines for Implementation of the Memorandum of Agreement With the People's Republic of China

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of guidelines for U.S. implementation of the renewed Memorandum of Agreement Between the United States of America and the Government of the People's Republic of China Regarding International Trade in Commercial Launch Services (the Agreement).

SUMMARY: On March 13, 1995, the United States and the People's Republic of China (PRC) Signed a Memorandum of Agreement regarding international trade in commercial launch services for the period from January 1, 1995 to December 31, 2001. The Agreement renews the first U.S.–PRC Memorandum of Agreement which was signed on January 26, 1989 and expired on December 31, 1994. In order to assist in the successful operation of the Agreement, the U.S. Government has established certain guidelines it intends to follow in implementing the Agreement. This notice sets out these guidelines.

DATES: The Agreement is effective as of January 1, 1995. These guidelines on implementation are effective on April 27, 1995.

FOR FURTHER INFORMATION CONTACT: Donald W. Eiss, Deputy Assistant U.S. Trade Representative for Industry, (202) 395–5656; Michael A. Spangler, Director of Commercial Space Policy, (202) 395–9602; or Vanessa P. Sciarra, Assistant General Counsel, (202) 395–7305; of the Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506.

SUPPLEMENTARY INFORMATION: The current Memorandum of Agreement between the U.S. and the PRC regarding international trade in commercial launch services governs relevant trade in this type of service for the period January 1, 1995 to December 31, 2001. The Agreement renews the first U.S.–PRC Memorandum of Agreement which was signed on January 26, 1989 and expired on December 31, 1994. In order to assist in the successful operation of the Agreement, the U.S. Government has established certain guidelines it intends to follow in implementing the Agreement.

Copies of the Agreement are available for public inspection in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506. An appointment to review the Agreement may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

I. Designation of Responsibility

Subject to the direction of the Trade Policy Staff Committee (TPSC), the TPSC Subcommittee on Commercial Launch Services (the Subcommittee) will be responsible for overall implementation of the Agreement.

II. Subcommittee Organization

For purposes of carrying out its responsibilities with respect to overall implementation of the Agreement, the Subcommittee will be chaired by USTR and will be composed of TPSC member agencies as may be invited by the Chairman to participate. A Working Group on Information (the Working Group) has been established to assemble such information as may be necessary to enable the Subcommittee to carry out its responsibilities. The Working Group is chaired by the Department of Transportation and includes the Department of Commerce, the Department of State, and such other departments or agencies as are designated by the Chairman of the Subcommittee.

III. Subcommittee Functions and Procedures

1. Data Collection and Monitoring of the Agreement

Subcommittee Functions. The Subcommittee performs two key functions with respect to the Agreement: (1) Ongoing assessment of the operation of the agreement relative to U.S. goals and objectives for the Agreement; and (2) monitoring PRC compliance with its specific obligations under the Agreement.

With respect to the first function, those goals and objectives include, *inter alia:* (i) Continuing the integration of PRC launch services providers into the international market on a non-disruptive basis; (ii) providing a stable international environment within which U.S. space launch companies can compete on a fair basis as PRC launch service providers continue their transition to absorbing the disciplines of the marketplace (costs, prices, profits) fully; (iii) ensuring that administration of the Agreement responds to changing conditions so as to support the continued success in the international commercial marketplace of all segments of the U.S. space industry, i.e., space launch companies, satellite manufacturers, and systems operators; and (iv) avoiding shortages of space launch capability that would prevent the development of new uses of space.

As the market evaluates an ever-growing number of new and untested proposals for the uses of commercial space, the U.S. Government fully intends to permit the market, not this Agreement, to determine which of these proposals are commercially successful. It is not the U.S. Government's intention that the Agreement's disciplines should favor the development of systems in one orbit as opposed to another (e.g., geostationary earth orbit (GEO) or low-earth orbit (LEO). The Subcommittee will monitor the Agreement carefully so as to ensure that the Agreement does not create an artificial advantage for business proposals simply by virtue of the orbit of the satellites that will provide the service.

In addition, some commercial proposals are distinguishable by the number of satellites that would be required to deliver the proposed range and coverage of services. It is possible that some projects under consideration could fundamentally change the dynamics of demand and supply in the international space launch market. The Subcommittee will closely monitor such developments with respect to the Agreement and, in particular, their implications for the quantitative limitations of the Agreement.

With respect to the Subcommittee's second function, particular attention will be given to assessing information relevant to PRC obligations under the Agreement concerning the number of launches committed and carried out by the PRC to GEO; PRC participation in the market for launches to LEO, including in the deployment of individual communications satellite constellations; prices, terms and conditions of all PRC launches; and use of government supports, inducements, or unfair business practices.

Working Group Functions. The Working Group will develop information and analyses necessary for the Subcommittee to discharge its responsibilities in each of the two functions. In order to facilitate the Subcommittee's overall monitoring of the Agreement, the Working Group will produce information and analyses of conditions in the international commercial launch services market, general pricing trends, market performance and forecasts (aggregate, by orbit), launch commitments, launch services supply and demand relationships, and progress in the process of economic transition by PRC launch services providers. In particular, the Working Group will generate information on the number of commercial launches (including launch failures) covered by the Agreement for 1995, 1996, 1997 and 1998. This information will enable the Subcommittee to determine whether the number of average annual launches is twenty or more in either the first three or four years of the Agreement as provided for in Article IV(4) of the Agreement. The Agreement provides for certain automatic increases in the quantitative limit on launches to GEO if those circumstances are found to exist.

This information will be provided to the Subcommittee as needed, but in any event, the relevant information will be provided not later than 30 days prior to the semiannual reviews of the development of the market for commercial space launch services to GEO and 90 days prior to annual consultations.

In order to ensure PRC compliance with the provisions of the Agreement, the Working Group will collect information and conduct necessary comparisons with respect to individual launch competitions in which a PRC launch services provider is a participant, and when a concern arises regarding compliance by the PRC launch services provider with the provisions of the Agreement. These comparisons and related analyses will be provided to the Subcommittee as required in individual circumstances and 90 days prior to annual consultations.

Information Exchange. In addition, the Subcommittee will review and determine which information will be provided to the PRC in compliance with U.S. obligations under the Agreement. In making that determination, particular attention will be given to U.S. obligations under the Agreement with respect to the provision of publicly releasable information to the PRC on prices, terms and conditions prevailing in the international market for commercial launch services, including insurance arrangements relating to such services; U.S. views regarding prevailing international market conditions and likely future developments; U.S. and other government supports or inducements; and the number of commitments U.S. launch service providers have undertaken for international customers.

2. Consultations

In preparing for the consultations discussed below, the Subcommittee and the Working Group, as appropriate, will seek input from the U.S. space industry, including the U.S. satellite industry. Information will be sought sufficiently in advance to permit timely input from the U.S. private sector. The soliciting of additional input will be sought as needed in the course of such reviews.

Annual Consultations. The Subcommittee will meet at least 75 days in advance of the annual consultations required by Article IV(1) of the Agreement to begin preparations for such consultations. The Subcommittee will seek to hold annual consultations beginning in April 1996 and during each subsequent April over the life of the Agreement and to exchange information with the PRC at least thirty days in advance of such consultations.

The annual consultations provide the opportunity for the two parties to review the operation of the Agreement relative to its goals and objectives as well as the performance of each party in implementing the specific obligations of the Agreement over the preceding year (in particular, the PRC's adherence to its commitments regarding its participation in the market for launches to GEO and LEO). In addition, the annual consultations will provide opportunities for the United States to assess overall market trends as well as to identify the emergence of a commercially viable project that fundamentally changes demand in the overall launch services market. Prior to engaging in annual consultations on such a development, the Subcommittee will consider the implications of such a development for the disciplines contained in this Agreement, taking into account the results of input from the U.S. private sector on the matter.

One of the important new elements in the Agreement is Annex II, which enumerates a list of comparability factors that will be used in evaluating PRC compliance with its "par pricing" obligations on its launches to GEO. The Annex contains a brief description of each factor and an average range of values representing the impact that the factor could have on the ultimate price to the customer when applied in a procurement. During the annual consultations, these average values will be reviewed and updated to ensure that they remain relevant to actual conditions in the market.

Semiannual Consultations. The Agreement provides for a semiannual review of the limitations on the total number of satellites that may be launched to GEO by PRC providers of commercial launch services for international customers and, if appropriate, adjustment to such limitations.

In preparation for U.S. participation in that review, the Subcommittee will assess whether: (i) International demand for GEO launches is significantly greater than the estimated average of 12–15 commercial launches per year upon which the GEO quantitative restriction is based over the life of the Agreement and (ii) the development of a commercially viable project for satellite services has fundamentally changed demand for launch services. The Working Group will develop information on launch pricing, demand/supply projections and launch availability and commitments, which it will provide to the Subcommittee to permit these assessments. The Subcommittee will seek to hold this review as provided for in Article IV(3) of the Agreement during April and October of each year and to exchange information with the PRC at least thirty

[1] A copy of this list may be obtained by contacting Mrs. Carol B. Epstein, Assistant General Counsel, at 619–6981, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547–0001.

VOL 60 ISS 81 AP 27 1995 UMI

days after the Subcommittee's assessment has been completed.

Special Consultations. The United States and the PRC have also undertaken to consult within thirty (30) days of a request by either party regarding any matter of particular concern relating to the operation of the Agreement. The Agreement contemplates three particular circumstances that would be the basis for such special consultations.

First, the United States may believe that the PRC has not upheld its commitment to price "on a par" with Western launch service providers in either the GEO or LEO markets. With respect to pricing in competitions for launches to GEO, a request for special consultations could be made in those instances in which the differential between the PRC price and Western price is greater than 15 percent and after preliminary analysis takes into account the pricing comparability factors set out in Annex II of the agreement (see discussion of "Price Compliance" below.)

Second, the United States may believe that there is an absence of launch availability from a Western supplier for a satellite to GEO. The purpose for this provision is to avoid a situation in which the Agreement would deny to a satellite manufacturer/user the alternative of a PRC launch vehicle and service for a launch to GEO even though no Western alternative exists. Without the flexibility to respond to this situation in a timely manner, the balance in the Agreement for all segments of U.S. industry involved in space could be disrupted.

The third circumstance explicitly provided for in the Agreement involves PRC participation in providing services for launches to LEO. In the Agreement, the PRC has committed that its participation in the LEO market will be consistent with the overall provisions of the Agreement (*inter alia*, with respect to pricing, government inducements, subsidies and nondiscrimination) and with significant U.S. participation in the development of the LEO market, and the PRC has agreed to take steps to ensure that such participation will be proportionate and non-disruptive. The U.S. may request special consultations if it believes that the PRC is participating, or may participate, in the LEO market in a manner inconsistent with these commitments.

Comprehensive Review. The Subcommittee will meet at least six months in advance of the comprehensive review required by Article VII of the Agreement to begin preparations for the review. Among its key tasks, the Subcommittee will carefully monitor the implementation of the Agreement to ensure that it contributes to, rather than detracts from, the balanced development of the GEO and LEO market segments and other segments of the market. In this regard, the Subcommittee will consider adjustments to the quantitative and bunching restrictions in Articles II(B)(ii) and II(B)(vi) to avoid distortive effects on various market segments in light of the development of a commercially viable project for satellite services that fundamentally changes demand for launch services or the emergence of higher than anticipated demand for GEO launches as provided for in Article IV(3)(a). The U.S. Government will seek to conclude the comprehensive review with the PRC in October 1998 to coincide with the semi-annual review to be held at that time.

3. Lack of Western Launch Availability

Article IV(2) of the Agreement provides that the United States may increase the quantitative limitation established under Article II(b)(ii) or relax the bunching provision set out in Article II(b)(vi): (i) If the United States is satisfied that there is an absence of Western launch availability due to full manifests or launch failures during the required launch period (generally within three months before and after the preferred launch date), and (ii) if the PRC has reached the limitation set out in Article II(b)(ii), or if the bunching provisions established in Article II(b)(vi) would apply to prevent the launch of a satellite.

In administering Article IV(2), the Subcommittee will follow the procedures described in Sections A and B below.

(A) In support of a request that the United States increase the quantitative limitation established under Article II(b)(ii) or relax the bunching provision set out in Article II(b)(vi) due to the lack of Western launch availability, a U.S. satellite manufacturer or U.S. international customer (either of which constitutes a "certifying entity") shall provide a properly executed written certification to USTR. The written certification must contain the following elements:

(1) A statement by the certifying entity that, in the course of negotiating with a prospective international customer for the sale of a commercial satellite or with a launch provider for the launch of a satellite, the certifying entity or an international customer of the certifying entity has contacted all launch service providers with a technically compatible vehicle, including all such domestic launch service providers;

(2) A statement that the certifying entity or an international customer of the certifying entity has contacted a launch vehicle provider in the PRC regarding the availability of launch services by a PRC provider and that space for the proposed satellite is available on the PRC launch service provider's launch manifest;

(3) A statement that the PRC launch service provider is the only launch service provider that is available during the required launch period as defined in Article IV(2); and

(4) A statement that the certifying official is an official of the certifying entity and is familiar with and responsible for the negotiations regarding the proposed launch based upon information and belief.

The above certification must be signed and dated by the certifying official of the certifying entity. It must be accompanied by supporting documents, including copies of the written requests made to each launch service provider and a copy of the written response, if any was received, from each provider regarding its unavailability to provide the launch in the required launch period as defined in Article IV(2). If no written response from a particular provider was received, the certification should indicate the nature of the response.

USTR will exempt from public disclosure confidential business information contained in any supporting documents in accordance with the Freedom of Information Act, 5 U.S.C. § 552, and any other applicable law. Confidential business information submitted to USTR must be clearly marked "Business Confidential" at the top of each cover page or letter and each succeeding page containing such information.

Upon receipt of a certification, USTR will review the certification to ensure that it was executed properly and will review the supporting documents to ensure that they provide satisfactory evidence of the facts alleged in the certification.

(B) Within ten working days of the date of receipt of the certification and supporting documents, USTR will indicate to the certifying entity whether additional information will be required to satisfy USTR that the facts as described in the certification are correct. As soon as such information has been received which provides such assurance, USTR will, within an additional ten working days, determine that one of the conditions listed in Article IV(5) of the Agreement has been met and will notify the PRC that the United States is exercising its unilateral authority under Article IV(5) of the Agreement to raise the quota set out in Article II(b)(ii) or relax the bunching provision described in Article II(b)(vi) in order to permit the launch by a PRC launch service provider.

If, at the end of the ten-day period described above, USTR had not indicated to the certifying entity that additional information is required to satisfy USTR that the facts as described in the certification are correct, then USTR will, within an additional ten working days, determine that one of the conditions listed in Article IV(5) of the Agreement has been met and will notify the PRC that the United States is exercising its unilateral authority under Article IV(5) of the Agreement to raise the quota set out in Article II(b)(ii) or relax the bunching provision described in Article II(b)(vi) in order to permit the launch by a PRC launch service provider

4. Price Compliance

The Agreement allows the PRC to offer launch services at prices "on a par with those prices, terms and conditions prevailing in the international market for comparable commercial launch services" as stipulated in Article II(B)(iv).

The Agreement further describes the following mechanism that will be utilized in applying the "par-pricing" requirement for launches to GEO. Article II(B)(iv)(a) states that an unadjusted PRC price falling within 15 percent of the lowest Western price will be assumed to be in compliance with the Agreement. That assumption will only be reviewed if clear evidence to the contrary is presented to the Subcommittee. In those instances in which the price differential is greater than 15 percent, PRC compliance with the "par pricing" obligation will be evaluated in light of the comparability factors and values contained in Annex II of the Agreement. The U.S. intends to make a preliminary evaluation prior to any decision to request special consultations.

Its is important to note that the 15 percent price differential is only applicable to the difference between Western and PRC offer prices. If a PRC offer price is more than 15 percent less than the lowest Western price, the relevant comparability adjustments described in Annex II will be made to the unadjusted PRC or Western offer prices, as appropriate. Comparison will then be made of the PRC and Western prices adjusted only for the relevant comparability factors, and not for the 15 percent price differential as well.

5. Low Earth Orbit (LEO) Provisions

In light of the emergence of the remote-sensing and weather-tracking market for launches to LEO since 1989 and commercial plans for the deployment of telecommunications satellite constellations into LEO beginning in 1997, the Agreement contains specific disciplines and guidelines regarding Chinese launches to LEO in Article II(B)(iii).

Pursuant to that Article, legitimate behavior in the international market for commercial launch services is governed by the following norms of behavior previously developed for the GEO market: (i) Market principles including avoidance of below-cost pricing, government inducements and unfair business practices; (ii) the use of government supports in a manner consistent with practices prevailing in the international market; (iii) the need to "price on a par" with the prices offered by commercial launch service providers from market economy countries including the United States; (iv) the need to act in a manner consistent with prevailing practices in international markets with respect to insurance or reflight guarantees; and (v) avoidance of unfair discrimination against any international customer or supplier. PRC participation will be consistent with significant U.S. participation in the development of the LEO market and such participation by the PRC will be proportionate and non-disruptive.

In evaluating Chinese compliance with the above provisions as they pertain to LEO communications satellite constellations, the U.S. will be guided first with respect to the initial deployment of such constellations by the level of participation of providers from countries with whom the U.S. has bilateral space launch agreements. Accordingly, the Subcommittee will review proposals for the initial deployment of a LEO communications satellite constellation in order to determine if, in such proposals, the overall level of participation by launch service providers in countries with whom the U.S. has concluded a bilateral launch services agreement is more than 50 percent of the participation of market economy launch service providers (as measured according to the distribution of payloads).

In deciding whether a situation in which more than 50 percent of the initial deployment has been granted to countries with whom the U.S. has concluded bilateral space launch agreements raises concerns regarding PRC compliance with its LEO commitments, the Subcommittee may take into account certain other factors including: (i) The extent of PRC and U.S. participation in the deployment; (ii) launch scheduling requirements and the need to optimize launch vehicle selection to meet deployment or operational requirements; (iii) the availability of competitively-priced market economy launches to meet these requirements; (iv) opportunities made available to the parties for participation in the replacement market; (v) reasonable considerations by the proposed system operator regarding commercial risk sharing ("commercial risk sharing" is defined to include equity participation arrangements); and (vi) customers' requirements.

The U.S. Government understands that the scope and complexity of these LEO satellite communications constellations makes these potential ventures particularly sensitive to delays. Consistent with the commitment to ensure a balance among all segments of the U.S. private sector participating in space, the Subcommittee intends to conduct reviews of LEO satellite communications constellations expeditiously so as to avoid unnecessary uncertainty in the market place.

6. Discussions With Other International Parties

At least annually, the Subcommittee will consider whether discussions with other international parties could be beneficial. If the Subcommittee determines that discussions could be beneficial, it will recommend to the TPSC and to the U.S. Trade Representative that such discussions be initiated.

IV. Consultations With Domestic Interests

The Subcommittee and the Working Group will, in carrying out the functions and procedures set forth in Section III above, consult with and seek the advice of representatives of U.S. commercial launch service providers, launch vehicle manufacturers and satellite manufacturers and operators, and, as appropriate, interested Congressional committees, the user community, and other interested parties, including the relevant private sector advisory committees. Such contacts will be made in conjunction with the information and assessments referred to in Section III(1) above and U.S. preparation for, and follow-up on, the results of consultations with the PRC held under the Agreement. The Subcommittee will

VOL
60
ISS
81
AP
27
1995
UMI

also, as appropriate, inform such interests of significant requests or notifications made by the PRC under the Agreement, or significant developments under the Agreement.

V. Information Sharing

In the course of consulting with domestic interests, in particular prior to annual consultations under the Agreement, the Subcommittee may provide such information provided by the PRC as is allowed by the Agreement subject to business confidentiality.

VI. Treatment of Business Confidential Information

The Department of Transportation (DOT), as Chair of the Working Group, will have primary responsibility for soliciting and receiving, and will maintain information to be collected and reviewed by the Working Group for purposes of this Agreement.

Members of the U.S. industry, and other interested members of the public, are invited to submit written comments on issues related to the Agreement and its operation. Comments must be provided in twenty copies to the DOT Office of Commercial Space Transportation, Attention: Working Group on Information for PRC Space Launch Services, 400 7th Street, SW., Room 5408, Washington, DC 20590–0001

Submissions from the public will be placed in a file open to public inspection at the above address pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked "Business Confidential" at the top of the cover page or letter and each succeeding page, and must be accompanied by a nonconfidential summary of the confidential information.

VII. Enforcement

If, as a result of information obtained in any consultation or the comprehensive review required under Article VII of the Agreement or, on the basis of information presented to it by the Working Group, the Subcommittee is of the view that the PRC is not in compliance with the terms of the Agreement, the Subcommittee will notify the TPSC and recommend consultations with the PRC if appropriate. If consultations proceed and satisfactory resolution is not achieved with the PRC or, if consultations are deemed to be inappropriate in the circumstances based on recommendations of the TPSC, the section 301 Committee may consider whether the USTR should initiate an investigation pursuant to the authority set forth in Section 301 of the Trade Act of 1974, as amended.

The USTR will, from time to time, advise the Secretary of State and the Secretary of Commerce of the status of the implementation of the Agreement in order that this information may be available to the Secretaries with respect to the State Department export license responsibilities under the Arms Export Control Act and its implementing regulations, the International Traffic in Arms Regulations (see 22 CFR parts 120–130), and the Commerce Department export license responsibilities under the Export Administration Act.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–10334 Filed 4–26–95; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 81
Thursday April 27 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

ASSASSINATION RECORD REVIEW BOARD

TIME AND DATE: 1:00 p.m., May 3, 1995.

PLACE: 600 E Street, NW, Room 206, Washington, D.C. 20530.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Update by a representative of the National Archives and Records Administration (NARA) on the President John F. Kennedy Assassination Records Collection at NARA.

2. Discussion of and vote upon final interpretive regulations, based on proposed interpretive regulations published for notice and comment on February 8, 1995 (60 FR 7506–7508).

CONTACT PERSON FOR MORE INFORMATION: Thomas Samoluk, Press and Public Affairs Officer, 600 E Street, NW, Second Floor, Washington, D.C. 20530 Telephone: (202) 724–0088; Fax: (202) 724–0457

David G. Marwell,

Executive Director

[FR Doc. 95–10495 Filed 4–25–95; 2:03 pm]

BILLING CODE 6820–01–TD

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:47 a.m. on Monday, April 24, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Reports of the Office of Inspector General.

Matters relating to the probable failure of an insured depository institution.

Matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Tigert Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street NW., Washington DC.

Dated: April 24, 1995

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary

[FR Doc. 95–10476 Filed 4–25–95; 11:42 am]

BILLING CODE 6714–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, April 26, 1995.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Joy Technologies*, Docket No. WEST 93–129. (Continuation of discussion of issues that include whether a vendor of mining equipment may be cited as an independent contractor operator based on the actions of its service representative.)

No earlier announcement of the meeting was possible. Any person attending the open portion of this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Dated: April 21, 1995.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 95–10456 Filed 4–25–95; 11:41 am]

BILLING CODE 6735–01–M

LEGAL SERVICES CORPORATION

Board of Directors Meeting

TIME AND DATE: The Legal Services Corporation Board of Directors has scheduled a meeting by telephone on Friday, April 28, 1995. The meeting will commence at 11 a.m. Members of the public wishing to participate may do so via telecommunications equipment at the location noted below.

PLACE: Legal Services Corporation, 750 First Street, N.E., 11th Floor, Washington, D.C. 20002, (202) 366–8800.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed should a majority of the Board of Directors vote at the meeting to hold an executive session. In accordance with the aforementioned vote, at the closed session, the Board may discuss specific items that were the subject of a closed session of a meeting of the Board and/or its committees held during November 1993 through February 1995. In executive session, the Board also may discuss with counsel pending litigation. The closing is authorized by section 552b(c)(10) of the Government in the Sunshine Act and 45 C.F.R. Section 1622.5(h) of the corresponding regulation of the Legal Services Corporation and those portions of the Act (5 U.S.C. Section 552b) and the corresponding regulation (45 C.F.R. Part 1622) cited in the notices of the November 1993 through February 1995 meetings at which the items were discussed. The closing has been certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification is posted for public inspection at the Corporation's headquarters, located at 750 First Street, N.E., Washington, D.C. 20002, in its eleventh floor reception area, and will be otherwise available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of Agenda.
2. Vote as to Whether Corporation Business Requires Meeting on Fewer than Seven Days Notice.
3. Consider and Act on Corporation's Policy Regarding Release of Transcripts of those Portions of Meetings of the Board and/or its Committees held in Executive Session.
4. Consider and Act on the Request of April 24, 1995, for Specific Executive Session Transcripts.
5. Consider and Act on Other Business.
6. Vote as to Whether Board Should Close a Portion of the Meeting.

Closed Session

VOL
60
ISS
81
AP
27
1995
UMI

7. Discussion of Specific Items Held in Executive Sessions of the Board and/or its Committees during November 1993 through February 1995.

8. Discussion with Counsel of the Recent Decision in *Wilkinson v. LSC*, and Determination as to how to Proceed in the Litigation.

CONTACT PERSON FOR INFORMATION:
Victor M. Fortuno, (202) 336–8810.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Melody Haley, at (202) 336–8810.

Date issued: April 25, 1995.

Victor M. Fortuno,

General Counsel.

[FR Doc. 95–10572 Filed 4–25–95; 3:58 pm]

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federal register

Thursday
April 27, 1995

Part II

Environmental Protection Agency

40 CFR Parts 55 and 71
Federal Operating Permits Program; Proposed Rule

VOL
60
ISS
81
AP
27
1995
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 55 and 71

[FRL 5183–1]

RIN 2060–AD68

Federal Operating Permits Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of opportunity for public hearing.

SUMMARY: The EPA is proposing a new subpart containing regulations setting forth the procedures and terms under which the Administrator will administer programs for issuing operating permits to covered stationary sources, pursuant to title V of the Clean Air Act as amended in 1990 (the Act). Although the primary responsibility for issuing operating permits to such sources rests with State, local, and Tribal air agencies, EPA will remedy gaps in air quality protection by administering a Federal operating permits program in areas lacking an EPA-approved or adequately administered operating permits program. Federally issued permits will clarify which requirements apply to sources and will enhance understanding of and compliance with air quality regulations.

DATES: *Comments.* Comments on the proposed regulations must be received by EPA's Air Docket on or before June 26, 1995.

Public Hearing. A public hearing is scheduled for 10:00 a.m., on May 30, 1995, at the address listed below. Requests to present oral testimony must be received by May 12, 1995, and the hearing may be canceled if no speakers have requested time to present their comments by that date. Written comments in lieu of, or in addition to, testimony are encouraged.

ADDRESSES: Comments should be mailed (in duplicate if possible) to: EPA Air Docket (Mail Code 6102), Attn: Docket No. A–93–51, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC 20460. The public hearing will be held in the Waterside Mall auditorium at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Docket. Supporting information used in developing the proposed rules is contained in Docket No. A–93–51. Supporting information used in developing 40 CFR part 70 is contained in Dockets No. A–90–33 and No. A–93–50. These dockets are available for public inspection and copying between 8:30 a.m. and 3:30 p.m. Monday through Friday, at EPA's Air Docket, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Candace Carraway (telephone 919/541–3189) or Kirt Cox (telephone 919/541–5399), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Information Transfer and Program Integration Division, Mail Drop 12, Research Triangle Park, North Carolina 27711. Persons interested in attending the hearing or wishing to present oral testimony should contact Ms. Susan Curtis in writing at the U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Information Transfer and Program Integration Division, Mail Drop 12, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Comments

The EPA is unlikely to be able to extend the public comment period. Two paper copies of each set of comments are requested. If possible, comments should be sent in both paper and computerized form. Comments generated on computer should be sent on an IBM-compatible diskette and clearly labeled. Computer files created with the WordPerfect 5.1 software package should be sent as is. Files created on other software packages should be saved in an "unformatted" mode for easy retrieval into WordPerfect. Comments should refer to specific page numbers of today's proposal whenever possible.

Outline

The contents of today's preamble are listed in the following outline:

I. Background and Purpose
II. Proposal Summary
III. Detailed Discussion of Key Aspects of the Proposed Regulations
A. Section 71.2—Definitions
B. Section 71.3—Sources Subject to Permitting Requirements
C. Section 71.4—Program Implementation
D. Section 71.5—Permit Applications
E. Section 71.6—Permit Content
F. Section 71.7—Permit Review, Issuance, Renewal, Reopenings, and Revisions
G. Section 71.8—Affected State Review
H. Section 71.9—Permit Fees
I. Section 71.10—Delegation of Part 71 Program
J. Section 71.11—Administrative Record, Public Participation, and Administrative Review
K. Section 71.12—Prohibited Acts
IV. Administrative Requirements
A. Reference Documents
B. Office of Management and Budget (OMB) Review
C. Regulatory Flexibility Act Compliance
D. Paperwork Reduction Act

I. Background and Purpose

Title V of the Act as amended in 1990 (42 U.S.C. 7661 *et seq.*) imposes on States the duty to develop, administer, and enforce operating permits programs that comply with the requirements of title V (section 502(d)(1)). The EPA has 1 year to approve or disapprove a submitted program (section 502(d)(1)). Once EPA has approved a State program, the covered sources within that program's scope have 1 year to submit permit applications to the permitting authority (section 503(c)) unless the permitting authority establishes an earlier date. Within the first 3 years of the program, the permitting authority must act on all applications submitted in the first year of the program (section 503(c)), and EPA must have an opportunity to object to the proposed permit if it does not comply with the Act's requirements (section 505(b)). Once the permitting authority issues a source its permit, the source may not violate any requirement of its permit or operate except in compliance with it (section 502(a)).

Title V also requires that EPA stand ready to issue Federal operating permits when States default in their duty to develop and administer part 70 programs. Section 502(b) of the Act requires that EPA promulgate regulations setting forth provisions under which States will develop operating permits programs and submit them to EPA for approval. Pursuant to this section, EPA promulgated 40 CFR part 70 on July 21, 1992 (57 FR 32250), which specifies the minimum elements of State operating permits programs.

The operating permits program's potential consequences for air pollution control and for sources' ability to meet changing market demands have made the process of developing and implementing the program complex and controversial. Indeed, nearly 20 entities, including State and local governments, environmental groups, and industry associations, petitioned for judicial review of the part 70 regulations. Subsequently, EPA decided to propose revisions to part 70. See 59 FR 44460 (Aug. 29, 1994). In light of ongoing discussions with petitioners, EPA may propose additional revisions to part 70 in the future that may also necessitate supplementing the part 71 provisions proposed today.

The EPA intends that proposed part 71 generally follow the approach taken in 40 CFR part 70, including the

recently proposed revisions to part 70. Differences between part 70 and part 71 are noted in the discussion of each section of the proposed rule. Where possible and appropriate, provisions of part 71 are consistent with part 70. Some of the differences between the provisions of part 71 and part 70 reflect the fact that part 71 programs are expected to be of limited duration. The EPA expects that States (and many Tribes) will revise their programs so that they become approvable, and responsibility for the permits program will be transferred back to the State or Tribe.

The Agency is aware that many parties have already submitted comments expressing both their concerns about and their support for the proposed revisions and that these parties are interested in the final Agency decisions on many of the issues raised in the part 70 rulemaking. This proposal for part 71 is not intended in any way to prejudge the Agency's decisions in the part 70 rulemaking, but rather simply parallels the proposed part 70 revisions in order to be consistent with that proposal.

The primary purpose of the proposed rule is to provide the mechanism by which EPA can assume responsibility to issue permits in situations where the State, local, or Tribal agency has not developed, administered, or enforced an acceptable permits program or has not issued permits that comply with the applicable requirements of the Act. Secondarily, the proposed rule provides for delegation of certain duties that may provide for a smoother program transition when State programs are approved. For both of these reasons, the proposed rule should strengthen implementation of the Act and enhance air quality planning and control.

Additional benefits of the proposed rule are much the same as those of the part 70 State operating permits rule. For example, permits issued under part 71 will clarify which requirements apply to a source. This clarification should enhance compliance with the requirements of the Act. The part 71 program will enable the sources, EPA, and the public to better understand the requirements to which the source is subject and whether the source is meeting those requirements. Part 71 permits also provide the vehicle for implementing air toxics programs under section 112.

The comment period for the proposed revisions to part 70 will end prior to the comment period for today's rulemaking proposal. It would therefore be of limited value for commenters to suggest in response to today's rulemaking proposal their concerns with those aspects of the part 70 proposed revisions on which proposed part 71 is based. Rather, EPA solicits comments on whether there are any provisions in proposed part 71 for which EPA has inappropriately proposed consistency with part 70 or its proposed revisions or has inappropriately departed from part 70 or its proposed revisions.

The rationale for today's proposal and many of the issues addressed in this proposal are discussed in greater detail in a document entitled "Supplementary Information for Proposed Federal Operating Permits Rule" (Supplementary Information Document) which is contained in the docket for this proposal (Docket No. A–93–51).

This preamble makes frequent use of the term "State," usually meaning the State air pollution control agency that would be the permitting authority for a part 70 permit program. The reader should assume that use of "State" may also include reference to a local air pollution agency. In some cases, the term "permitting authority" is used and can refer to State, local, and Tribal agencies. The term may also apply to EPA, where the Agency is the permitting authority of record.

II. Proposal Summary

Sections 502(d)(3) and 502(i)(4) of the Act require EPA to promulgate a Federal operating permits program when a State has defaulted on its obligation to submit an approvable program within the timeframe set by title V or on its obligation to adequately administer and enforce an approved program. The rule proposed in this action would establish a national template for a Federal operating permits program that EPA may administer and enforce in a State. In addition, the proposed rule would establish the procedures for issuing Federal permits to sources for which States do not have jurisdiction (i.e., OCS sources outside of State jurisdictions and sources located in Tribal areas). Finally, the proposed rule would establish the procedures used when EPA must take action on a permit that has been proposed or issued by a State or local agency or Indian Tribe having an approved part 70 program and that EPA determines is not in compliance with the applicable requirements of the Act.

Like part 70, part 71 requires: (1) The use of a standard permit application form; (2) that sources subject to permitting requirements pay permit fees that assure adequate program resources and funding; and (3) permit issuance, appeal, and renewal procedures that ensure that each regulated source can obtain a permit that will assure compliance with all of its applicable requirements under the Act. Part 71 sources must obtain an operating permit addressing all applicable pollution control obligations under the State implementation plan (SIP), Federal implementation plan (FIP), or Tribal implementation plan (TIP); the acid rain program; the air toxics program under section 112; and other applicable provisions of the Act. Sources must also submit periodic reports to EPA concerning the extent of their compliance with permit obligations.

When EPA implements a part 71 program, it will cover only the geographic area that is not covered by an approved State, local, or Tribal program. For example, if a local agency within a State has an approved program but the entire State is not covered by an approved program, EPA's implementation of a part 71 program for the State would not affect the area subject to the approved local program.

In appropriate circumstances, EPA may delegate to a State, local, or Tribal permitting authority some or all of its authority to administer a part 71 program. The responsibilities of EPA and the delegate agency will be set forth in a Delegation of Authority Agreement.

The EPA will generally cease implementation of a part 71 program subsequent to approval of a State operating permits program.

III. Detailed Discussion of Key Aspects of the Proposed Regulations

A. Section 71.2—Definitions

Generally, the proposed definitions in part 71 would follow the definitions in currently promulgated part 70 and its proposed revisions, as appropriate. However, some of the definitions used in 40 CFR part 70 would be modified for use in this part. The key part 71 definitions (including some which would be defined differently than in part 70) are discussed in this section. Others are discussed in the preamble sections describing the program areas where they are primarily used. Still others are defined in other titles of the Act and the regulations promulgated thereunder.

1. Affected State

The definition of "affected State" for purposes of proposed § 71.8 would include lands within the exterior boundaries of an Indian reservation or other areas over which an Indian Tribe has jurisdiction (hereafter "Tribal area"). If EPA administers a part 71 program for such an area, EPA would consider the Indian Tribe to be an

VOL
60
ISS
81
AP
27
1995
UMI

affected State and would provide the Tribe notice of draft permits, permit renewals, permit reopenings, and permit revisions. Such notice would also be provided when a part 71 program is implemented outside of a Tribal area and an applicant source is within 50 miles of the Tribal area, or is in an area that is contiguous to the Tribal area and may affect the air quality in that area, provided the Indian Tribe meets the eligibility criteria for being treated in the same manner as a State for programs under the Act. See 59 FR 43956 (Aug. 25, 1994).

The definition of "affected State" for purposes of proposed § 71.8 would also include the State or Tribal area and the area within the jurisdiction of the air pollution control agency in which the part 71 permit, permit revision, or permit renewal is being proposed. EPA believes this provision is necessary for part 71, while not for part 70. In some cases under a part 71 program, the title V permitting authority (EPA) would not be the same as the governmental body with general jurisdiction over the area (i.e., the State, Tribe, or local air pollution control agency). When EPA is the permitting authority, EPA believes it is necessary to notify the States, Tribal authorities, and local agencies with jurisdiction over the areas in which EPA's action is proposed. Otherwise, these authorities would be less apprised of EPA's actions than the neighboring areas that do not have jurisdiction over these areas and are less likely to be impacted by EPA's actions. The EPA solicits comment on this expansion of the term "affected State," and on whether other mechanisms might adequately serve to apprise "host" jurisdictions of EPA part 71 actions.

2. Applicable Requirements

An "applicable requirement" is any standard or other requirement that applies to a source. This includes any relevant requirement in an approved SIP or preconstruction permit. It also includes any pertinent standard or other requirement imposed pursuant to any title of the Act, such as sections 111, 112, 114(a)(3), 129, 183(e), 183(f), 328, 504(b), 504(e), 608, or 609. However, EPA does not believe that the provisions of sections 604 through 606 and 610 through 612 of title VI of the Act must be considered as applicable requirements for title V and included in title V permits. The rationale for this determination can be found in the preamble to the proposed revision of the part 70 regulations, at IV.A.1(b). See 59 FR 44460 (Aug. 29, 1994).

For purposes of part 71, EPA today incorporates that rationale by reference. The EPA also incorporates by reference that notice's rationale for adding to the list of applicable requirements any requirements that create offsets or limit emissions for the purpose of complying with, or avoiding applicable requirements. The proposed addition to the part 70 list and today's proposal for part 71 would add as an applicable requirement any emissions-limiting requirement that is enforceable by citizens or EPA under the Act and that is placed on a source for purposes of creating an offset credit or avoiding the applicability of applicable requirements.

3. Tribal Areas

The EPA has published a proposed rule, pursuant to section 301(d)(2), specifying the provisions of the Act for which EPA believes it is appropriate to treat Indian Tribes in the same manner as States. See 59 FR 43956 (Aug. 25, 1994) ("Indian Tribes: Air Quality Planning and Management," hereafter "proposed Tribal rule"). The proposed Tribal rule also addresses the criteria a Tribe must meet in order to be eligible for treatment in the same manner as a State for the specified provisions of the Act.

For a Tribe to be eligible for treatment in the same manner as a State, it must be Federally recognized (section 302(r)) and must meet the three criteria set forth in section 301(d)(2)(A)–(C). Briefly, these criteria consist of the following: (1) The Tribe must have a governing body carrying out substantial governmental duties and powers; (2) the functions to be exercised by the Tribe must pertain to the management and protection of air resources within the exterior boundaries of the reservation or other areas within the Tribe's jurisdiction; and (3) the Tribe must be capable of carrying out the functions to be exercised consistent with the terms and purposes of the Act and applicable regulations. These criteria and EPA's streamlined process for determining compliance with these criteria are described in detail in the Tribal rule (59 FR 43961–43964).

In the Tribal rule, EPA proposes to interpret the Act as granting, to Tribes approved by EPA to administer programs under the Act in the same manner as States, authority over all air resources within the exterior boundaries of an Indian reservation. This would enable Tribal-approved programs under the Act to address conduct on all lands, including non-Indian owned fee lands, within the exterior boundaries of a reservation. The proposed Tribal rule would also authorize an eligible Tribe to develop and implement programs under the Act for off-reservation lands that are determined to be within a Tribe's inherent sovereign authority to regulate. The rationale for this proposed interpretation of Tribal jurisdiction under programs under the Act is set out in detail in the proposed Tribal rule, and is incorporated here by reference. See 59 FR 43958–43961.

EPA's final interpretation of Tribal jurisdiction under this Act may affect the scope of a part 71 program administered by EPA for Tribes. When, pursuant to Federal implementation authority, EPA is acting in the place of a State or Tribe under the Act, all of the rights and duties that would otherwise fall to the State or Tribe accrue instead to EPA. See *Central Arizona Water Conservation Dist.* v. *EPA*, 990 F.2d 1531, 1541 (9th Cir. 1993), *cert. denied*, 114 S.Ct. 94 (1993). Therefore, the scope of Tribal authority under the Act may inform EPA's authority in administering a part 71 program for Tribes.

More specifically, EPA would have authority to implement a Tribal part 71 program for any lands within the exterior boundaries of a reservation and any off-reservation land over which a Tribe has inherent sovereign authority. Tribes determined eligible to be treated in the same manner as a State under the Act would be given notice under proposed §§ 71.8 and 71.10 of certain permit actions. All land within the exterior boundaries of a reservation and any other lands over which a Tribe has demonstrated inherent authority would be considered in providing notice to a Tribe. Further, the proposed part 71 rules provide that, in all instances, the Tribe for the area in which a part 71 permit program is being administered will receive notice.

The EPA's proposed Tribal rule is subject to public comment and may be modified before it is issued in final form. The EPA may need to make conforming changes to the part 71 rules proposed today to reflect any relevant revisions made to the Tribal rule.

4. Major Source

The EPA is proposing to utilize the same approaches to defining "major source" as were used for 40 CFR parts 63 and 70, except that today's proposal, like the recently proposed revisions to part 70, would change the definition of major source to conform to the definition in section 112(a) of the Act and to implementing regulations governing hazardous air pollutants (HAP) sources recently promulgated in 40 CFR part 63. Section 501(2) of the Act provides, in relevant part, that the term "major source" means "any stationary source (or any group of stationary sources located within a

contiguous area and under common control)" that would be a major source under section 112 or a major stationary source under section 302 or part D of title I of the Act. Other conditions and requirements relevant to the major source definition are:

a. *Section 302 and Part D Sources.* Except for sources qualifying as support facilities (see paragraph (c) of this section), stationary sources can only be aggregated to determine whether they constitute a major stationary source subject to section 302 or part D of the Act if they are in the same industrial grouping, as determined by their 2-digit code. These codes can be found in the Standard Industrial Classification Manual, 1987.

b. *Section 112 Sources.* Stationary sources of HAP must be aggregated for the purpose of determining whether they are major sources subject to section 112 without regard to their industrial grouping.

c. *Support Facilities.* The EPA proposes to include in the definition of a major source pursuant to section 302 or part D of title I of the Act, any facility or emission unit used to support the main activity of the source, regardless of its 2-digit code. A support facility must be located on the same property as the source it supports, or on adjacent property, and be under the control of the same entity. Also, at least 50 percent of the support facility's output must be dedicated to the source.

d. *Emission Requirements.* To be major, a stationary source must have the potential to emit pollutants in amounts at or above the major source threshold, which is determined by the type of pollutant emitted and by the attainment status of the area in which the source is located. Thus, the term "major source" encompasses the following:

(1) Air toxics sources with the potential to emit 10 tons per year (tpy) or more of any HAP listed pursuant to section 112(b); 25 tpy or more of any combination of HAP listed pursuant to section 112(b); or a lesser quantity of a given pollutant, if the Administrator so specifies. And, once the Administrator promulgates a definition of major source for radionuclides, a source would be major if it emits, or has the potential to emit, major amounts of radionuclides.

(2) Sources of air pollutants, as defined in section 302 of the Act with the potential to emit 100 tpy or more of any pollutant.

(3) Except as noted in paragraph (d)(4) of this section, sources subject to the nonattainment area provisions of title I, part D, with the potential to emit pollutants in the following, or greater, amounts:

(a) 50 tpy VOC or NO_X in serious ozone nonattainment areas;

(b) 25 tpy VOC or NO_X in severe ozone nonattainment areas;

(c) 10 tpy VOC or NO_X in extreme ozone nonattainment areas;

(d) 50 tpy VOC in ozone transport regions established pursuant to section 189 of the Act;

(e) 50 tpy carbon monoxide (CO) in serious CO nonattainment areas; and

(f) 70 tpy particulate matter (PM–10) in serious particulate matter nonattainment areas.

(4) The NO_X thresholds in paragraph (d)(3) of this section do not apply in nonattainment areas qualifying for an exemption under section 182(f) of the Act. This exemption applies in the case where reducing NO_X emissions would not reduce ozone formation. In those areas, a stationary source of NO_X is not considered a major source under part D of title I of the Act unless its potential to emit is 100 tpy or more. In areas not qualifying for this exemption, NO_X sources are subject to the lower thresholds defined in part D and listed in paragraph (d)(3) of this section. Whatever its location, any 100 tpy source would be considered a major source under section 302 of the Act. Also, the major source threshold for VOC in ozone transport regions in paragraph (d)(3) of this section does not apply for NO_X. This threshold was created by section 184(b) of the Act. Because section 182(f) of the Act (which requires NO_X sources to meet the same thresholds as VOC sources) does not refer to section 184(b) of the Act, the lower threshold for VOC sources in ozone transport regions does not apply to NO_X sources.

e. *Fugitive Emissions.* The fugitive emissions from a stationary source shall be considered in making the determination as to whether it is a major source when:

(1) The source belongs to one of the source categories listed in the definition of "major stationary source" at 40 CFR parts 51 and 52 which includes source categories regulated by a section 111 or section 112 standard as of August 7, 1980. Thus, proposed part 71 would follow the proposed revisions to part 70 in that sources in categories subject to standards set after August 7, 1980, if not otherwise listed, would be exempted from the requirement to include fugitive emissions when making their major source determination until such time as EPA conducts section 302(j) rulemaking to require that fugitive emissions from those sources be included.

(2) The air pollutants emitted are HAP or radionuclides. The EPA believes the Act requires that fugitive emissions of HAP or radionuclides, to the extent quantifiable, be counted. Section 112(a)(1) of the Act uses the term "major source," rather than "major stationary source," and legislative history indicates an intent by Congress to treat this definition differently than the section 302(j) "major stationary source" definition. Moreover, section 112 of the Act establishes a new program with a relatively narrow focus; it applies only for specific HAP at source categories to be determined by EPA. All this suggests that the section 302(j) rulemaking requirement does not apply in the context of section 112, and that fugitive emissions must therefore be included for the purpose of determining whether a source is major under section 112(a)(1).

4. New Source Review

The definitions for major and minor NSR have been included so they can be used to describe the proposed permit revision procedures. In some cases, the action to revise a permit will depend on whether the change was subjected to major or minor NSR before being processed as a part 71 revision.

5. Potential To Emit

In the proposed definition of "potential to emit," limitations on a source's potential to emit would be federally enforceable only if they are enforceable by the Administrator and citizens under the Act. This differs from the definition currently in part 70 of this chapter, in that the part 70 definition only requires that the limitations be enforceable by the Administrator. This proposal would follow the definition in the proposed revisions to part 70. See 59 FR 44460 (Aug. 29, 1994).

6. Responsible Official

The proposed definition of "responsible official" would follow the definition in the recently proposed revisions to part 70.

7. Title I Modification

The proposed rule would adopt the definition of "title I modification" or "modification under any provision of title I of the Act" that is used in part 70. The proposed definition parallels a proposed revision to the regulations at part 70 of this chapter, on which EPA solicited comment, and the rationale for the definition in the preamble to the proposed revision to part 70 is incorporated herein by reference. See 59 CFR 44460 (Aug. 29, 1994).

VOL 60 ISS 81 AP 27 1995 UMI

B. Section 71.3—Sources Subject to Permitting Requirements

Section 502(a) of the Act subjects all affected sources (as provided in title IV), major sources, sources (including area sources) subject to standards or regulations under sections 111 or 112, sources required to have permits under parts C or D of title I, and any other source in a category designated by EPA, to the permitting requirements of title V. Section 502(a) also provides the Administrator the discretion to exempt one or more source categories (in whole or in part) from the requirement to obtain a permit "if the Administrator finds that compliance with such requirements is impracticable, infeasible or unnecessarily burdensome on such categories." The Act specifies that major sources may not be exempted from these requirements. This requirement applies both to sources that are major for criteria pollutants and those that are major emitters of the HAP listed at section 112(b). However, section 112(r)(7)(F) of the Act also provides that sources that are subject solely to regulations or requirements under section 112(r) of the Act are not required to obtain a permit under this part.

1. Temporary Exemptions for Nonmajor Sources

Section 70.3(b)(1) of this chapter deferred the applicability of part 70 to nonmajor sources (except for affected sources and solid waste incineration sources) that would otherwise be subject because they are in a source category that is subject to part 70, such as one regulated by a section 111 or 112 standard. In the final part 70 rule, EPA stated its intent to propose rulemaking to resolve the exception status of these nonmajor sources within 5 years following the first full or partial approval of a State program with a deferral.

The EPA proposes to follow the same approach to deferrals for purposes of part 71.

2. Permanently Exempted Source Categories

The EPA proposes to exempt permanently two source categories from the requirement to obtain a part 71 permit:

(1) All sources that would be required to obtain a permit solely because they are subject to regulation under the demolition and renovation provisions of the NESHAP for asbestos (40 CFR 61.145); and

(2) All sources that would be required to obtain a permit solely because they are subject to regulation under the NSPS for residential wood heaters (40 CFR 60.530).

These source categories were exempted from permitting requirements under part 70 because the Administrator determined that permitting such sources would be impracticable, infeasible, and unnecessarily burdensome. This exemption is proposed to be continued for part 71. A more detailed rationale for this exemption is provided in the preamble to the part 70 regulations at 57 FR 32263–32264 (July 21, 1992), which EPA today incorporates by reference for purposes of part 71.

3. Major Section 112 (HAP) Sources

Like the proposed revisions to part 70 of this chapter, today's proposal would ensure that the definition of major source in this part matches the definition in section 112(a) of the Act and in the regulations governing HAP sources recently promulgated in 40 CFR part 63. Under 40 CFR Part 63, EPA definition of a major source of HAP is more inclusive than the definition originally promulgated in part 70. Unlike part 70, the part 63 definition of major source does not reference standard industrial classification (SIC) codes. As defined in part 63, an entire contiguous or adjacent plant site is considered a single source, rather than being subdivided according to industrial classification. See 59 FR 12412 (March 16, 1994). This definition does not limit the sources (or emission units) that can be included in a stationary source to those having the same 2-digit code. One result of this more inclusive definition is that there will likely be some HAP sources that are major under part 63 but are not major under part 70, as originally promulgated. The EPA believes it is necessary to expand the major source definition in part 70 and part 71 to include all sources that are major for part 63. Otherwise, those sources subject to a section 112 standard or other requirement will not have to apply for and obtain a part 71 permit until required to do so by a specific section 112 standard. Today's proposal, and the proposed revisions to part 70 of this chapter, reflect the more inclusive part 63 definition and ensure that HAP sources are treated consistently under rules promulgated pursuant to section 112 and title V of the Act.

4. Section 112(r) Pollutants

Section 70.3(a)(3) of this chapter, as originally promulgated, requires any source subject to a standard or other requirement under section 112 of the Act to obtain a part 70 permit unless it would be subject to part 70 solely because it is subject to regulations or requirements under section 112(r). Section 112(r)(3) requires EPA to promulgate a list of regulated substances and thresholds for the prevention of accidental releases. Section 112(r)(4) establishes criteria for the development of a list of regulated substances, focusing on acute effects that result in serious off-site consequences, rather than chronic effects. As a result, many of the substances listed in § 68.130 of this chapter pursuant to section 112(r)(3) (59 FR 4478 (January 31, 1994)) are not regulated elsewhere under the Act.

Questions have been raised as to whether § 70.3(a)(1) of this chapter, which provides that "any major source" is subject to the permit rule, requires that sources that have major source levels of section 112(r) pollutants must be permitted. Setting aside the issues of whether and how major source status is to be determined for section 112(r) purposes, section 112(r)(7)(F) exempts from title V permitting requirements any source that would be subject to title V only as result of being subject to section 112(r) requirements. That section provides that "(n)otwithstanding the provisions of title V or this section, no stationary source shall be required to apply for, or operate pursuant to, a permit issued under such title solely because such source is subject to regulations or requirements under this subsection." Thus, it is clear that even if a source could be considered a "major source" for section 112(r) purposes, it would not be subject to title V permitting on that basis alone. The EPA's proposed revisions to 40 CFR part 70 would revise § 70.3(a) of this chapter to clarify this point. Similarly, proposed § 71.3(a) reflects this approach

C. Section 71.4—Program Implementation

Proposed section 71.4(a) describes the circumstances in which EPA would establish a full or partial Federal operating permits program for a State, excluding Tribal areas. Section 502(d)(3) of the Act requires EPA to promulgate, administer, and enforce a program for a State if an operating permits program for the State has not been approved in whole by November 15, 1995. However the requirement that EPA establish a Federal program by November 15, 1995 for States lacking a fully approved program is suspended if a State program is granted interim approval. The duty to implement a Federal program then reapplies upon expiration of an interim approval, if the State has not received full approval by that time.

As provided in proposed § 71.4(a)(3) EPA would have the authority to establish a partial part 71 program in limited geographical areas of a State if EPA has approved a part 70 program (or combination of part 70 programs) for the remaining areas of the State. This should avoid unnecessary disruption of partial programs that have been approved within a State and avoid intruding into the State's administration of its air program where only certain jurisdictions have failed to implement an approvable part 70 program.

The proposed rule also provides for EPA implementation of part 71 programs to ensure coverage of Tribal areas. The proposed Tribal rule generally describes EPA's authority for implementing programs under the Act to protect Tribal air quality. 59 FR 43960–43961. That discussion is incorporated here by reference.

In broad overview, the Act authorizes EPA to protect air quality on lands over which Indian Tribes have jurisdiction. The overarching purpose of the Act is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." section 101(b)(1). The members of the public residing on lands over which Tribes have jurisdiction are equally entitled to air quality protection as those residing elsewhere.

Several provisions of the Act evince Congressional intent to authorize EPA to directly implement programs under the Act where there are voids in program coverage (e.g., sections 110(c)(1), 301 (d)(4) and 502 (d)(3), (i)(4)). Federal implementation of Clean Air Act programs on Indian lands is particularly appropriate where Federal action will prevent a "vacuum of authority" in air quality protection. See *Phillips Petroleum Co. v. EPA*, 803 F.2d 545, 555–56 (10 Cir. 1986) (affirming EPA's authority to directly implement Safe Drinking Water Act Underground Injection Control program on Indian lands where concluding otherwise would contradict the meaning and purpose of the Act by creating "a vacuum of authority over underground injections on Indian lands, leaving vast areas of the nation devoid of protection from groundwater contamination"). Based on the proposed interpretation of Tribal jurisdiction under the Act in EPA's Tribal rule, discussed previously, EPA would have authority under today's proposed rules to implement part 71 programs for all areas within the exterior boundaries of an Indian reservation and other areas over which an Indian Tribe has jurisdiction.

If finalized as proposed, the Tribal rule will authorize Tribes to develop and submit title V operating permit programs to EPA for approval. The EPA's principal objective would be to assist Tribes in developing and administering their own title V operating permit programs, similar to the manner in which EPA has assisted States. The EPA recognizes that ultimately Tribes are best situated to provide primary protection of Tribal air resources. To these ends, EPA's proposed Tribal rule provides the following:

It is EPA's policy to assist Tribes in developing comprehensive and effective air quality management programs to insure that Tribal air quality management programs will be implemented to the extent necessary on Indian reservations. EPA will do this by, among other things, providing technical advice and assistance to Indian Tribes on air quality issues. EPA intends to consult with Tribes to identify their particular needs for air program development assistance and to provide on-going assistance as necessary.

59 FR 43961.

However, EPA also intends to be prepared to implement title V programs in the event Tribes do not. To avoid gaps in title V permits program coverage, the rules proposed today authorize EPA to implement a title V operating permits program for Tribes that do not develop their own programs.

The more difficult issue is when EPA should implement title V programs for Tribes. EPA believes it is reasonable to give Tribes some opportunity to develop their own title V programs, assuming EPA's final Tribal rule authorizes them to do so, before EPA directly implements title V programs.

The part 71 rules propose to authorize EPA to implement the title V permit program for Tribes if a Tribal program has not been fully approved by November 15, 1997. Within the first two years of the program, the permitting authority would be required to take action on all applications submitted in the first year of the program. Nothing in today's proposal would prevent EPA from implementing a part 71 program for a Tribal area subsequent to November 15, 1995 but prior to November 15, 1997. It may be appropriate, particularly where the absence of an operating permits program would create a gap in coverage, for EPA to implement part 71 programs in advance of the effective date set by the rule. The EPA would discuss early implementation with the affected Tribe before adopting an earlier effective date. In such a case, the program would become effective when the Administrator provides written notice to the Tribal chairperson or analogous Tribal leader.

The EPA considered several factors in addressing this issue including: The opportunity for the development of Tribal programs that would render Federal implementation unnecessary; the importance of title V coverage, whether Tribal or Federal, in protecting Tribal air quality; and, the need to treat the potentially affected regulated community fairly and to facilitate certainty in business planning. The EPA solicits comments on whether the EPA's proposed approach to the effective date of the program is appropriate and whether the two-year deadline for taking action on permit applications is appropriate and feasible.

The proposed Tribal rule describes an administrative procedure by which EPA would resolve jurisdictional issues affecting Tribes. See 59 FR 43962–43963 (Aug. 25, 1994). That discussion is incorporated here by reference. Generally, EPA expects these issues to involve the precise boundary of the reservation in question and, less frequently, competing claims of jurisdiction over land which is outside of the exterior boundaries of a reservation.

Briefly summarized, the proposed Tribal rule would require EPA to notify the appropriate governmental entities regarding the Tribe's assertion of jurisdiction.[1] Those entities would have fifteen days following receipt of EPA's notification to provide formal comments to EPA regarding any dispute they might have with the Tribe's assertion of jurisdiction. Where the dispute concerns jurisdiction over off-reservation lands, appropriate governmental entities may request a one-time fifteen-day extension to the comment period. In all cases, comments from appropriate governmental entities would have to be offered in a timely manner and be limited to the Tribe's jurisdictional assertion. Where no timely comments are presented, EPA would conclude there is no objection to the Tribe's assertion. To raise a competing or conflicting claim, a commenter would be required to clearly explain the substance, basis, and extent of its objections. Finally, where EPA receives timely notification of a dispute, it could obtain such additional information and documentation as it believes appropriate and, at its option, consult with the Department of the Interior.

For purposes of identifying the Tribal area for which a part 71 program is

[1] For purposes of this rule, EPA is proposing to adopt the same definition of "governmental entities" as the Agency did in its December 1991 Water Quality Standards regulation. See 56 FR 64876 at 64884 (Dec. 12, 1991).

VOL
60
ISS
81
AP
27
1995
UMI

implemented, EPA proposes to follow the approach to resolving jurisdictional issues taken in the Tribal air rule. If the Tribal rule is finalized as proposed, EPA would notify appropriate governmental entities of the boundary of the Tribal area for a part 71 program at least 90 days prior to the effective date of the program. Those entities would then have an opportunity to provide formal comments prior to the program's effective date, as discussed above. Where no timely comments are presented, EPA would make a determination that the boundary for the part 71 program would be as proposed in the notice. Subsequently, EPA would publish a notice in the **Federal Register** which describes the precise boundaries of the part 71 program.

Where EPA identifies a jurisdictional dispute, it may obtain additional information and documentation and consult with the Department of the Interior prior to making a determination. The EPA would subsequently publish a notice in the **Federal Register** which describes the precise boundaries of the part 71 program. If the dispute cannot be resolved promptly, EPA would retain the option of implementing the part 71 program in the areas that are clearly shown to be part of the reservation (or are otherwise within the Tribe's jurisdiction). This will allow EPA to implement a part 71 program that covers all undisputed areas, while withholding action on the portion that addresses areas where a jurisdictional issue has not been satisfactorily resolved.

As proposed in § 71.4(c), EPA would promulgate a part 71 program for a permitting authority (including an eligible Tribe) if EPA determines that an approved program is not adequately administered or enforced and the permitting authority fails to correct the deficiencies that precipitated EPA's finding.[2] Where the acid rain portion of an operating permits program is not adequately administered, EPA could withdraw either the entire program or just the acid rain portion of the program. If EPA finds that the nonacid rain portion of the operating permits program is being adequately administered, EPA would generally withdraw only the acid rain portion. In such a case, EPA would issue the acid rain portion of the source's permit using the procedures set forth in 40 CFR part 72, and the State would continue to issue the remaining portion of the operating permits and would issue all permits to sources other than acid rain sources.

When EPA determines that a State is not adequately administering its program, EPA would provide notice to the State as required by 40 CFR 70.10(b)(1). The State would then have 90 days in which to take significant action to assure adequate administration and enforcement of the program. Where EPA determines that the State has not taken such significant action within the specified time, EPA could begin implementing a Federal program immediately. Otherwise, if the State had not fully corrected the deficiency that prompted EPA's determination of failure to administer or enforce within 18 months of the determination, EPA would begin implementing a Federal program 2 years after the date of the determination. This framework is identical to that which EPA promulgated in part 70 at 40 CFR 70.10(b) (2) and (4).

The EPA acknowledges that its intent to retain the option of withdrawing only the acid rain portion of a program in appropriate situations is a change of position from EPA's statement in the preamble to the final part 70 rule (see 57 FR 32260) that should a State fail to adequately administer phase II of the acid rain program, EPA will take back the entire operating permits program. There, EPA stated that in such a situation EPA would implement part 71, as supplemented by Federal acid rain permit issuance procedures, and would issue permits to acid rain sources within the State. The EPA notes that this discussion was not reflected in regulatory language in the finally promulgated part 70 rule, which instead provided EPA discretion to withdraw program approval in whole or in part. See 40 CFR 70.10(c)(1). Moreover, EPA explained in a May 21, 1993 guidance document entitled "Title IV–Title V Interface Guidance for States," that if EPA finds that a part 70 program is not being properly administered or enforced for title IV purposes, EPA will publish a notice in the **Federal Register** making this announcement and noting where permit applications are to be delivered. When publishing such a **Federal Register** notice, EPA may elect to withdraw approval for an entire part 70 program submittal or only the acid rain portion of it and may apply appropriate sanctions under section 179(b) of the Act

Under part 71, EPA would retain the option of withdrawing only the acid rain portion of the program and issuing a phase II acid rain permit, rather than withdrawing the entire part 70 program and issuing a comprehensive part 71 operating permit. The EPA believes that it is reasonable and appropriate to depart from the policy stated in the preamble to the final part 70 rule regarding withdrawal of phase II acid rain authority because EPA believes that deficiencies with respect to the acid rain portion of a State program would generally not adversely affect the remaining portions of the State program. By withdrawing approval of just the acid rain portion, EPA would minimize disruption of otherwise adequate State air programs. It should be noted that the acid rain portion of a source's operating permit contains discreet requirements that are not intertwined with the remaining provisions of the permit. For example, phase II acid rain permits generally contain a requirement that a source hold sufficient allowances to cover emissions, specify requirements for NO_x emissions and provide for continuous emissions monitoring in accordance with 40 CFR part 75. Amendments and revisions to such provisions are subject to a different set of procedures as specified in 40 CFR part 72. Thus, separate Federal administration of the acid rain permitting program in a State that fails to adequately administer the acid rain portion of its operating permits program would be a logical step where the remainder of the part 70 program was being adequately administered by the State.

The EPA solicits comment on this approach, and on whether this approach is consistent with the requirements of title V. The EPA stresses that section 502(i)(1) of the Act allows EPA to determine that only a portion of an approved State program is not being adequately administered and enforced. While section 502(i)(1) does not explicitly provide that where a State fails to correct an identified deficiency in a finding under section 502(i)(4), EPA may promulgate, administer, and enforce only the relevant portion of the program, EPA believes that Congress could not have intended for EPA to be compelled to withdraw and take over entire part 70 programs where only discrete portions of the program are deficient. Such a result would be unnecessarily disruptive of State air programs and would require much greater Federal intrusion into the State's air program than may be necessary to correct the faulty portion.

[2] Although this preamble section addresses withdrawing approval of State operating permit programs, note that eligible Tribes would be treated in the same manner as States for purposes of withdrawal of program approval, assuming the Tribal rule is finalized as proposed. In that case, the provisions of 40 CFR 70.10(b)(1), which address State failure to administer or enforce an approved part 70 program, and 40 CFR 70.10(c), which addresses criteria for withdrawal of State programs, would apply equally to Tribal programs.

Section 71.4(d) addresses the circumstances in which EPA proposes to issue permits to OCS sources (sources located in offshore waters of the United States) pursuant to the requirements of section 328(a) of the Act. Section 328 of the Act transferred from the Department of the Interior to EPA the authority to regulate air pollution from sources located on the OCS off of the Atlantic, Arctic, and Pacific coasts and in the Gulf of Mexico east of 87.5 degrees longitude. In today's notice, which proposes revisions to 40 CFR part 55 in addition to the proposed Federal operating permit rules, EPA is proposing to require an OCS source to comply with the requirements of part 71 if the source is located beyond 25 miles of States' seaward boundaries or if the source is located within 25 miles of a State's seaward boundary and the requirements of part 71 are in effect in the corresponding onshore area (COA). Section 328 requires that EPA establish requirements for sources located within 25 miles of a State's seaward boundary that are the same as would be applicable if the source were located in the COA.

Part 71 permits would be issued to OCS sources by the Administrator or a State or local agency that has been delegated the OCS program in accordance with part 55 of this chapter As OCS sources beyond 25 miles of States' seaward boundaries would become subject to part 71 immediately upon the effective date of part 71, they would be required to submit part 71 permit applications within 1 year of becoming subject to this part.

Proposed § 71.4(e) describes how EPA would take action on objectionable permits that have already been proposed or issued by a permitting authority. Section 505(b) of the Act and 40 CFR 70.8 (c) and (d) require EPA to object to the issuance of any permit that EPA determines is not in compliance with the applicable requirements of the Act. If the permitting authority does not take appropriate action in response to EPA's objection, EPA shall revise, terminate, or revoke the permit if it has been issued and shall correct and issue the permit if it has not been issued.

As provided in 40 CFR 70.7(g) (§ 70.7(j) in the proposed revisions to part 70), if EPA finds that a State-issued permit must be reopened to correct an error or add newly applicable requirements, EPA will notify the permitting authority. If the permitting authority does not take appropriate action, EPA will revise and reissue the permit under part 71.

As provided at 40 CFR 70.8(c)(1), EPA will object to the issuance of any proposed permit that EPA determines is not in compliance with the applicable requirements of the Act or the requirements of part 70. If EPA objects within 45 days of receipt of a copy of the proposed permit, the permitting authority may not issue the proposed permit to the source. The EPA's objection, as required by 40 CFR 70.8(c)(2), shall include a statement of EPA's reasons for objecting and a description of the permit terms that the permit must include to respond to the objection. Moreover, under 40 CFR 70.8(c)(3), failure of the permitting authority to: (1) Comply with requirements in 40 CFR 70.8 (a) and (b) to notify EPA and affected States, (2) submit to EPA any information necessary to adequately review the proposed permit, or (3) process the permit under procedures approved to meet the public participation requirements of part 70 would also constitute grounds for EPA objection to a proposed permit.

Under 40 CFR 70.8(c)(4), if the permitting authority fails within 90 days after EPA's objection to revise and submit to EPA a new proposed permit responding to the objection, EPA will issue or deny the permit. Proposed § 71.4(e)(1) would establish the authority for EPA's permit issuance or denial in these situations.

Likewise, proposed § 71.4(e)(1) would establish the authority for EPA to revise, terminate, or revoke a permit in response to a citizen petition filed under 40 CFR 70.8(d). The EPA's action to revise, terminate or revoke a permit would then occur consistent with 40 CFR 70.7(g)(4) or (5)(i) and (ii) (§§ 70.7(j)(4) or (5)(i) and (ii) of the proposed revisions to part 70), except in unusual circumstances, such as where there is a substantial and imminent threat to the public health and safety resulting from the deficiencies in the permit. Usually, the permitting authority would have 90 days from receipt of EPA's objection in response to a citizen petition to resolve the objection and terminate, revise, or revoke and reissue the permit in accordance with EPA's objection. See 40 CFR 70.7(g)(4), § 70.7(j)(4) of the proposed revisions to part 70. If the permitting authority failed to resolve the objection, EPA would terminate, revise, or revoke and reissue the permit, after providing at least 30 days notice to the permittee in writing of the reasons for such action (which may be given at any time during the time period after EPA objects to the permit) and providing the permittee an opportunity for comment on EPA's proposed actions and an opportunity for a hearing. See 40 CFR 70.7(g)(5)(i) and (ii) and §§ 70.7(j)(5)(i) and (ii) of the proposed revisions to part 70. Proposed § 71.4(e)(2) would provide the authority for EPA to take such action.

Section 71.4(f) of the proposed rule would authorize EPA to use part 71 in its entirety or any portion of the regulations, as needed. For example, EPA could use the provisions for permitting OCS sources without permitting any other types of sources. Similarly, EPA could use only portions of the regulations to correct and issue a State permit without, for example, requiring an entirely new application. Proposed § 71.4(f) would also authorize EPA to exercise its discretion in designing a part 71 program. The EPA would be able to, through rulemaking, modify the national template by adopting appropriate portions of a State's program as part of the Federal program for that State, provided the resulting program is consistent with the requirements of title V.

The EPA believes it is reasonable and appropriate to provide this flexibility in implementing a part 71 program. First, such flexibility would enable EPA to intervene in the administration and enforcement of an operating permits program only to the extent necessary to correct deficiencies. Second, it would provide EPA, after notice and comment rulemaking, the ability to appropriately tailor part 71 to the State in which it would be implemented, thus resulting in less disruption of the State air program and the daily operations of covered sources than might otherwise occur. While EPA believes that part 71 as proposed today should not result in unnecessary disruption, the Agency recognizes that further State-specific tailoring may be appropriate.

Proposed § 71.4(g) clarifies that EPA would publish a notice of the effective dates of part 71 programs. The EPA would publish such notice in the **Federal Register** and would, to the extent practicable, publish notice in a newspaper of general circulation in the area affected by the part 71 program. The EPA would also publish such notice for delegations of part 71 programs. Finally, in addition to notices in the **Federal Register** and newspapers of general circulation, EPA would send a letter to the Governor (or his or her designee) or the Tribal governing body for the affected area informing him or her of when the part 71 program or its delegation would become effective.

Section 71.4(h) proposes that EPA would be authorized to promulgate and administer a part 71 program in its entirety even if only limited deficiencies exist in a State or Tribal program. The EPA believes that such authority is

VOL
60
ISS
81
AP
27
1995
UMI

necessary because limited deficiencies could have wide-ranging impacts within a program. For example, if a State program failed to provide adequate opportunities for public or affected State participation in permitting actions, the integrity of permit content could become suspect, the public and affected States would be excluded from administrative and judicial review of permit actions, and EPA oversight of such actions could suffer, as a result of citizens not having standing to petition EPA to object to permits.

Section 71.4(i) of the proposed rule describes how EPA would take action on the initial part 71 permits in the event that a full or partial part 71 program becomes effective in a State or Tribal area prior to the permitting authority issuing part 70 permits to all subject sources. The EPA proposes to utilize a 3-year transition plan similar to that required of States under § 70.4(b)(11)(ii) of this chapter. Under proposed § 71.4(i)(1), any remaining sources that had not yet received part 70 permits from the permitting authority would be required to submit applications to EPA for part 71 permits within 1 year of becoming subject to the part 71 program. The sources that had already received part 70 permits, if any, would continue to operate under those permits, unless EPA had withdrawn part 70 approval due to the inadequacy of the part 70 permits, in which case those sources would be required to obtain part 71 permits. After receiving part 71 permit applications, EPA would act on one-third of those applications each year for the first 3 years of the part 71 program. As previously issued part 70 permits needed to be revised or renewed, sources would apply to EPA for such revisions or renewals under part 71.

As provided in proposed § 71.4(j), EPA would have the discretion to delegate some or all of its authority to administer a part 71 program to a State or eligible Tribe. The delegation process is described further in the discussion of proposed § 71.10.

Section 71.(4)(k) of the proposed rule would authorize EPA to administer and enforce part 70 permits issued by a permitting authority under a previously-approved part 70 program after EPA has withdrawn approval of such program until they are replaced by part 71 permits issued by EPA.

Proposed § 71.4(l) describes what would happen after EPA approves a part 70 program for an area in which a part 71 program has been effective and how the Administrator, or the new part 70 permitting authority, will administer and enforce the part 71 permits until they are replaced by part 70 permits. For a State that submits a late part 70 submittal to EPA such that EPA has not approved or disapproved the submittal by November 15, 1995, part 71 becomes automatically effective until the State's part 70 program is approved by EPA. However, sources are not obligated to submit applications to EPA until 12 months after they have become subject to an effective part 71 program (unless an earlier submittal date is set by EPA). Therefore, if the State's part 70 program is approved shortly after part 71 is effective, it is highly likely that sources will submit applications to the permitting authority rather than to EPA. Upon approval of the part 70 program, EPA will suspend further action on applications for part 71 permits. Where appropriate, applications received by EPA prior to approval of the part 70 program will be forwarded to the permitting authority after approval of the part 70 program.

Finally, proposed § 71.4(m) provides how EPA would implement the provision of section 325 of the Act if the Governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands petitions the Administrator to exempt any source or class of sources from the requirements of title V of the Act.

D. Section 71.5—Permit Applications

Much of proposed § 71.5 is modeled on the provisions currently promulgated at 40 CFR 70.5, and on the proposed revisions to that section. See 59 FR 44460 (Aug. 29, 1994). In this notice, EPA incorporates by reference the rationale provided for these provisions, to the extent such rationale apply to a Federal operating permit program as well as to State permit programs. Copies of the part 70 rule as promulgated in July 1992 and of the notice proposing revisions to part 70 have been included in the docket for this rulemaking. The Supplementary Information Document contains a general discussion and explanation of the proposed rule's application requirements. Where proposed part 71 differs from promulgated part 70 or the proposed revisions to part 70 the discussion goes into greater detail describing the part 71 proposal. Where proposed part 71 follows part 70 precedent, shorter general descriptions of the part 71 proposal are supplied. It should be noted that the formatting of proposed § 71.5 does not correspond to that of 40 CFR 70.5. In developing proposed part 71, EPA determined that the formatting of 40 CFR 70.5 could be improved so that it is easier to follow. The EPA requests comment on this proposed formatting difference.

1. Insignificant Activities and Emission Levels

Proposed § 71.5(g) would allow insignificant activities or emission levels to be exempt from the application content requirements of proposed § 71.5(f). These exemptions would reduce the administrative burden on sources by eliminating the requirement that a source include in its application an extensive analysis of insignificant activities (or emissions units) and quantities of emissions. This proposal is based on the part 70 provisions regarding insignificant activities and emissions levels, and is supported by the *Alabama Power* decision, where the court found that emissions from certain small modifications and emissions of certain pollutants at new sources could be exempted from some or all PSD review requirements on the grounds that such emissions would be de minimis. See *Alabama Power* v. *Costle*, 636 F.2d 323, 360 (D.C. Cir., 1979). In other words, EPA may determine levels below which there is no practical value in conducting an extensive review. In general, an agency can create this exemption where the application of a regulation across all classes will yield a gain of trivial or no value. A determination of when a matter can be classified as de minimis turns on the assessment of particular circumstances of the individual case. For EPA to establish that an emissions threshold is trivial and of no consequence, EPA must consider the size of the particular emissions threshold relative to the major source threshold applicable in the various areas where a regulation will be in effect.

In the rulemaking establishing requirements for State operating permits programs under part 70, many commenters suggested that EPA create a de minimis exemption level for regulated air pollutants, and that emissions information not be required for pollutants below this de minimis level. In the final part 70 rule, EPA gave States discretion to develop lists of insignificant activities and to set insignificant emission levels if certain criteria were met and subject to EPA review and approval. In the proposed part 71 rule, EPA has fashioned provisions for insignificant activities or emission levels that meet the minimum requirements for States under the part 70 rulemaking, while taking a unique Federal approach, based on the Agency's experience in reviewing State provisions for insignificant activities and emission levels in the course of part 70 operating permits program reviews. The EPA notes, however, that the part 70 provisions on insignificant activities and emissions levels are the subject of ongoing litigation settlement discussions, and that a possible result of these discussions could be a modification of the part 70 provisions on this issue. To the extent any future proposed revisions to the part 70 insignificant activities and emissions level criteria are more stringent than the provisions proposed for part 71, EPA may have to supplement this proposal to make the two rules consistent.

In this rulemaking, EPA proposes to exempt all information required by proposed § 71.5(f) concerning insignificant activities inclusion in the permit application, while for insignificant emission levels, application information completeness requirements would vary from proposed § 71.5(f). To ensure that all significant information is included in the permit application, the proposed rule includes a provision stating that no activities or emission levels shall be exempt from proposed § 71.5(g) if the information omitted from the application is needed to determine or impose any applicable requirement, to determine whether a source is major, to determine whether a source is subject to the requirement to obtain a part 71 permit, or to calculate the fee amount required under the fee schedule established pursuant to proposed § 71.9. The proposed prohibition against omitting information from the application that is relevant to the determination or imposition of applicable requirements means that an activity (or emissions unit) that has applicable requirements could not be considered as an insignificant activity or to have insignificant emission levels. Applicable requirements in this context include any standard or requirement as defined in proposed § 71.2. The proposed provision that the exemption not interfere with the requirement to obtain a part 71 permit is necessary to insure that all the requirements of the Act are met, because the requirements of title V of the Act are not included in the proposed definition of applicable requirements. An activity or emission level could not be insignificant if it constitutes a major source. An activity or emission level could not be insignificant if omitting the emissions from the application would prevent the aggregate source emissions from exceeding the major source threshold or a threshold that would trigger an applicable requirement, such as a modification under section 112(g). This proposal would further prohibit these exemptions from being used by applicants when information needed to calculate the fee amount required under the fee schedule would be omitted from the application. Although the fee schedule provided in proposed § 71.9(c)(1) would exclude insignificant emissions from being counted for fee purposes, this provision would be retained for instances where the Administrator promulgates a different fee schedule for a particular state pursuant to proposed § 71.9(c)(7). Under such a fee schedule, information concerning insignificant activities or emissions may be needed to calculate the fee amount.

a. *Insignificant Activities.* To meet the requirements of part 70, States submitted rules incorporating a wide variety of approaches for implementing these provisions. Many State part 70 program submittals included extensive lists of insignificant activities. Some of the listed activities were so broadly defined that it was difficult to determine if they would interfere with the determination or imposition of applicable requirements or affect major source status, seemingly inviting the omission of significant information. Some were so narrowly defined that industry would be invited to propose an endless number of additional listings for inclusion in the rules in future years, creating an administrative burden on the States. In the course of EPA's review of part 70 permit program submittals, it was also clear that there were very few insignificant activities that are common among the States. The EPA proposes to include a short list of broadly-defined insignificant activities that are frequently included in State part 70 program submittals. These activities commonly occur in residential settings, are not subject to applicable requirements (with the possible exception of certain SIP-based requirements for residential heating sources that are not commonly adopted on a nation-wide basis), and normally have small quantities of emissions. Emission units at a source that are on the list of insignificant activities in proposed § 71.5(g)(1) could not be treated as insignificant (1) when the activities are subject to an applicable requirement, including an applicable requirement of a Federal or Tribal implementation plan, (2) if information concerning the activities would interfere with any applicability determination, (3) if the insignificant activities constitute a major source, (4) if not counting the emissions from insignificant activities in the total source emissions would prevent the source from being determined to be a major source, or (5) if any information that would otherwise be left off of the permit application would be needed to calculate the fee amount required under the fee schedule established under proposed § 71.9.

b. *Insignificant Emission Levels.* The proposal would further allow emission units or activities with small emissions to be included in the application in a streamlined manner, as long as the application did not exclude information needed to (1) determine or impose applicable requirements, (2) determine the requirement to obtain a permit, (3) determine whether the source is a major source, or (4) calculate the fee amount, and provided the emissions caps of proposed § 71.5(g)(2) were not exceeded. The EPA believes that this would ensure that enough information will be provided that the permitting authority can make a quick assessment of whether the emissions are insignificant. Nevertheless, to ensure that the rule is being applied properly by the applicant, the permitting authority could request additional information if needed. Note that to qualify as insignificant emissions, the emissions could not count toward or trigger a unit-based de minimis permit revision under proposed § 71.7(f). The only emissions units that would have emissions levels qualifying as insignificant under proposed § 71.5(g) would be units that would not be included in the part 71 permit anyway because they could not be subject to applicable requirements, contribute to the triggering of an applicable requirement, or affect a major status determination. Therefore, for existing units with insignificant emissions there would not be any permit terms or conditions to revise and for new units with insignificant emissions there would not be any permit terms or conditions to add to the part 71 permit.

The emissions caps of proposed § 71.5(g)(2) are expressed in terms of potential to emit, not actual emissions. The use of potential to emit is consistent with how major source thresholds (which were used in developing the proposed caps) are defined. Furthermore, EPA believes that basing the caps on potential to emit provides greater assurance that only truly insignificant levels of emissions would be eligible for streamlined treatment on the permit application form.

In commenting on the necessity of de minimis levels to be established in the part 70 rulemaking, one commenter suggested the level be set at 5 tpy or 20 percent of the applicable major source threshold. An examination of these

VOL
60
ISS
81
AP
27
1995
UMI

levels in terms of major source thresholds is necessary to determine if they are trivial. For example, a 5-ton emission is 20 percent of the major source threshold for serious and severe ozone nonattainment areas, but 50 percent of the major source threshold in extreme ozone nonattainment areas. A level set at 20 percent of the applicable threshold would equal 2 tons in extreme ozone nonattainment areas, but would be 20 tons in moderate nonattainment areas. It is not clear that emissions of this size could be characterized as trivial in all areas for all air pollutants, especially because emissions at these levels may trigger State major new source review (NSR), thus triggering applicable requirements.

Therefore, EPA is proposing and soliciting comment on setting the threshold for insignificant emission levels at 1 tpy for regulated air pollutants, except HAP, in all areas except extreme ozone nonattainment areas, where the threshold is proposed to be 1,000 pounds (lb) per year. These levels would be 1 percent of the major source threshold in moderate nonattainment areas, 2 percent in serious ozone nonattainment areas, 4 percent in severe ozone nonattainment areas, and 5 percent of the threshold in extreme ozone nonattainment areas. The EPA believes that these levels are trivial and would not prevent EPA from collecting any information of a consequential or significant nature. The lower threshold for extreme ozone nonattainment areas is necessary due to the increased concern that permitting authorities would have in such areas. Permitting authorities in these areas have collected information pertaining to permitted sources with relatively small emissions. This level of concern has been necessary in order to achieve emission reductions sufficient to make progress towards meeting the NAAQS

The EPA proposes and solicits comment on setting the exemption threshold for HAP for any single emissions unit to be the lesser of 1,000 lb per year or the de minimis levels established under section 112(g) of the Act. In the part 70 rulemaking, EPA recommended that the emissions levels for HAP established for the purpose of setting insignificant emission levels not be less stringent than the levels established for modifications under section 112(g) of the Act. Although this was only a recommendation, many States structured their emissions levels for HAP using these levels as upper bounds. Note that the provisions of proposed § 71.5(g) would prevent a part 71 emissions unit from having insignificant emissions levels if the unit was subject to applicable requirements of section 112(g). The EPA also proposes that the level for HAP should never be higher than 1,000 pounds per year. This is necessary because the major source threshold is 10 tpy for a single HAP, thus ensuring that insignificant emissions of HAP will never exceed 5 percent of the major source threshold. The EPA believes that these levels are trivial and would not prevent EPA from collecting any information of a consequential or significant nature.

The EPA proposes and solicits comment on setting the threshold for insignificant emissions for the aggregate emissions of any regulated air pollutant, excluding HAP, from all emission units located at a facility to not exceed a potential to emit of 10 tpy, except in extreme ozone nonattainment areas, where potential to emit may not exceed 5 tpy. The EPA further proposes and solicits comment on setting the threshold for insignificant emissions levels for the aggregate emissions of all HAP from all emission units located at a facility to not exceed a potential to emit of 5 tpy or the section 112(g) de minimis levels, whichever is less. These provisions would provide more certainty to the permitting authority because no emissions values in terms of potential or actual emissions would be required to be included in the application for emissions qualifying as insignificant, and it is conceivable that large quantities of emissions could be hidden from scrutiny without such aggregate emission thresholds. In addition, these provisions would clarify for applicants that large numbers of similar sources, such as valves or flanges, that might be exempt on an individual basis, would have to be described in detail in the application if the aggregate emissions from all the units are relevant to the applicability of the Act's requirements or the determination of major source status.

Minimal information concerning emissions units with insignificant emissions would have to be provided in a list in the application. This list would have to describe the emission units in sufficient detail to identify the source of emissions and demonstrate that the exemption applies. For example, the description "space heaters" on a list may not provide sufficient information because there could be an unlimited number of units with potentially significant emissions, but the description, "two propane-fired space heaters," places a limit on any estimate of emissions and would provide enough information. Descriptions may need to specify not only the number of units meeting the description, when more than one unit is included under a single description, but in many cases capacity throughput, material being processed, combusted, or stored, or other pertinent information may need to be provided. For example, "storage tank" would be insufficient, but "250-gallon underground storage tank storing unleaded gasoline, annual throughput less than 2,000 gallons," would be sufficient for quick assessment, because this level of information is sufficient to demonstrate whether any applicable requirements apply and that the 1 tpy emissions cap would most likely not be exceeded.

Emissions units (or activities) with insignificant emissions that might be logically grouped together on the list that would be required by proposed § 71.5(g)(2) but that have dissimilar descriptions, including dissimilar capacities or sizes, would be required to be listed separately in the application. This is necessary to prevent large numbers of emissions units from being grouped together on the list in such a way that the description would be too broad to provide sufficient information to identify the emissions units and provide an indication of whether or not the exemption applies. On the other hand, in certain cases, large numbers of certain activities could be grouped together on the list. For example, a complex facility may have hundreds of valves and flanges where the aggregate potential to emit of all the valves and flanges does not exceed the aggregate emissions cap and there are no applicable requirements that apply to the valves and flanges. In this case, it would most likely be appropriate to list all the valves and flanges together as one listed item, including the number of units meeting the exemption.

The EPA solicits comment on the approach regarding insignificant activities and emission levels proposed in this notice, particularly on whether this approach provides greater clarity than that discussed in promulgated part 70, and whether the approach proposed in this notice would be compatible with the approaches developed by States to date. The EPA also solicits comment regarding whether the approach proposed today provides adequate safeguards to insure that part 71 permit applications do not exclude significant information, especially all information necessary to determine applicability of Act requirements and major source status.

2. Cross Referencing Information in the Application

The permitting authority could allow the application to cross-reference

relevant materials where they are current and clear with respect to information required in the permit application. Such might be the case where a source is seeking to update its title V permit based on the same information used to obtain a NSR permit or where a source is seeking renewal of its title V permit and no change in source operation or in the applicable requirements has occurred. Any cross-referenced documents would have to be included in the title V application that is sent to the permitting authority and that is made available as part of the public docket on the permit action.

3. Application Completeness Determinations

As provided by proposed § 71.5(c), a complete application would be one that the permitting authority has determined contains all the information needed to begin processing. The preamble to the proposed revisions to part 70 discusses two options for providing flexibility when determining application completeness. The first option addresses applications for sources with future-effective compliance dates, and the second option addresses the submittal of less detailed applications for sources that are scheduled to be permitted in the second and third years of the initial phase-in of a part 70 program. See 59 FR 44460 (Aug. 29, 1994).

Although the regulatory language concerning completeness determinations in the part 71 proposal is consistent with the regulatory language in the proposed part 70 revisions, EPA is not anticipating revising the proposed part 71 regulatory language to specifically implement either of the flexibility options discussed in the preamble to the proposed revisions to part 70. As EPA is not as familiar with sources as State and local permitting authorities, EPA is not in a position to adequately quality assure applications that apply such flexibility options. Thus, the use of such flexibility options in determining application completeness could increase the risk of inappropriate completeness determinations by EPA, as well as increase EPA's administrative burden. As a result of this concern, EPA is not proposing to provide for the flexibility options described in the preamble to the revisions to part 70, but solicited comment on this position in the part 71 proposal.

E. Section 71.6—Permit Content

Many of the proposed provisions of § 71.6 follow the provisions of 40 CFR 70.6, which were described and discussed at length in the proposed and final preambles to 40 CFR part 70, and in the recently proposed revisions to part 70. This notice incorporates the rationale provided in the part 70 notices by reference, as appropriate. This discussion focuses on those provisions that are affected by the legal challenges to the part 70 rule and those issues for which the approach proposed to be taken in part 71 differs from that taken in part 70 or the proposed revisions thereto.

The provisions of proposed § 71.6 have been formatted differently than those in 40 CFR 70.6 to consolidate the provisions related to compliance and to make the section easier to follow. The EPA solicits comment on the proposed formatting change.

1. Prompt Reporting of Deviations

Like part 70, proposed part 71 would require that each permit contain provisions for prompt notification of deviations. In both cases, the definition of "deviation" is consistent with the definition of deviation in the proposed enhanced monitoring rule. However, part 71 proposes to define "promptly" for purposes of reporting deviations from federally-issued permits.

Under this proposal and the proposed enhanced monitoring rule, deviation means any of the following conditions: Where emissions exceed an emission limitation or standard; where process or control device parameter values demonstrate that an emission limitation or standard has not been met; or where observations or data collected demonstrates noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit. These conditions (except in cases where provisions that exempt such conditions from being federally enforceable violations have been promulgated or approved by the Administrator) would be deemed deviations from part 71 permit requirements and would require prompt reporting to the permitting authority.

Part 71 sources would be required to promptly notify the permitting authority of any deviations. Under part 71, promptly has more than one meaning. This follows the model established in part 70. Where the underlying applicable requirement contains a definition of prompt or otherwise specifies a time frame for reporting deviations, that definition or time frame shall govern. Where the underlying applicable requirement fails to address the time frame for reporting deviations, prompt is defined differently depending on the type of pollutant emitted. For deviations concerning a HAP or toxic air pollutant that exceed a permit requirement for at least a one hour duration, prompt reporting would be defined as within 24 hours. Sources emitting other regulated air pollutants at levels that exceed permit requirements for at least two hours would be required to report the deviation within 48 hours.

The EPA recognizes that there are other notification requirements that have been established under other statutes that require sources to provide immediate notification of releases of specific chemicals in reportable quantities to agencies other than EPA and State permitting authorities. Generally these notifications apply to a potential emergency situation such as those requirements in CERCLA and SARA title III. In addition, pursuant to section 112(r), the Chemical Safety and Hazards Investigation Board has the authority to develop regulations for reporting accidental releases of section 112(r) substances. If a reporting regulation is established, it would become an applicable requirement on the source. The EPA stresses that sources must comply with such notice requirements even if they have provided notice to the permitting authority pursuant to proposed § 71.6(f)(3). Failure to provide notices required by these other statutes and their implementing regulations may result in enforcement actions and penalties.

Because the emissions from sources could cover a very large spectrum with a wide range of health effects, the permitting authority may also define in the permit the concentration and time duration of a deviation that must be reported promptly and the schedule for such reporting.

Sources may notify the permitting authority of a deviation by telephone or facsimile within their required time schedule, and must then submit certified written notice within ten working days. All deviations would still have to be included in monitoring reports which would be required to be submitted at least every 6 months or more frequently if required by another applicable requirement (e.g., NSPS or enhanced monitoring).

2. General Permits

Proposed § 71.6(l) would implement section 504(d), which authorizes the permitting authority to issue a "general permit covering numerous similar sources." The approach proposed for part 71 would follow that of part 70 and the recently proposed revisions thereto.

In response to the concerns raised in the legal challenges to the part 70 rule, EPA has reevaluated its approach to

VOL
60
ISS
81
AP
27
1995
UMI

providing for public participation for general permits.

In the most recent part 70 proposal, the following items concerning general permits were proposed: (1) authorization to operate under a general permit is a final action subject to judicial review; and (2) the permitting authority is required to notify the public of sources who have been authorized to operate under a general permit. The latter action could be done as a monthly summary. Proposed § 71.6 follows the approach of the recent part 70 proposal for general permits.

3. Emergency Defense

As provided in proposed § 71.6(o), part 71 permits could contain permit terms that provide that a source can establish an affirmative defense to an enforcement action based on noncompliance due to an emergency. The affirmative defense would not apply to permit terms other than technology-based emission limitations (e.g., MACT standards) and would not apply unless the source provides appropriate documentation as specified in proposed § 71.6(o)(3). The emergency defense would be independent of any emergency or upset provision contained in an applicable requirement.

Although part 71 permits could contain provisions for an emergency defense, EPA notes that sources that produce, process, handle or store a listed substance under section 112(r) or any other extremely hazardous substance nonetheless have a general duty in the same manner and to the same extent as section 654, title 29 of the United States Code, to identify hazards assessment techniques, to design and maintain a safe facility, and to minimize the consequences of accidental releases.

The EPA is reevaluating the provisions in parts 70 and 71 relating to the emergency defense in light of concerns identified in legal challenges to the part 70 rule. The EPA may propose revisions to the part 70 and part 71 sections providing for the emergency defense before EPA would include such defense in any part 71 permits. In the interim, to ensure consistency with currently promulgated part 70, EPA would include in part 71 provisions allowing permit terms to establish an emergency defense.

4. Operational Flexibility

Section 502(b)(10) of the Act requires that the minimum elements of an approvable permit program include provisions to allow changes within a permitted facility without requiring a permit revision. In the current part 70 rule, EPA included three different methods for implementing this mandate. However, in response to concerns raised by petitioners and State permitting authorities charged with implementing part 70, EPA recently proposed to revise part 70 to eliminate one of those methods and clarify the operation of the others. Today's part 71 proposal adopts the same approach to operational flexibility as discussed in the proposed revision to part 70. The rationale for EPA's position on operational flexibility is set out in the proposed revisions to part 70 (59 FR 44460 (Aug. 29, 1994)), which today's notice incorporates by reference.

5. Referencing of Requirements

Petitioners in the part 70 litigation have asked EPA for clarification on the subject of data that may be referenced but not included in the permit.

In the recently proposed revisions to part 70, EPA has indicated that some referencing might be appropriate, and has requested comment on whether referencing should be allowed for: (1) test methods, (2) definitions, (3) startup, shutdown, or malfunction requirements or plans, and (4) detailed emission calculation protocols. The EPA solicits comments on referencing for part 71 permits.

F. Section 71.7—Permit Review, Issuance, Renewal, Reopenings, and Revisions

This section of the preamble describes EPA's proposed regulations governing permit issuance, renewal, reopening, and revision procedures under part 71. Generally, under a part 71 program such procedures would follow the procedures in the currently promulgated part 70 rule, as recently proposed to be revised. See 40 CFR 70.7 and 59 FR 44460 (Aug. 29, 1994). To the extent part 71 would follow the procedures in existing part 70 and the proposed revisions thereto, this notice incorporates the rationale for those procedures by reference. Where possible, EPA believes it is appropriate to model part 71 procedures on those required by part 70, in order to promote national consistency between the title V permit programs that will be administered throughout the country. National consistency will ensure that sources are not faced with substantially different programs when EPA, as opposed to State agencies, is the permitting authority. Moreover, as most part 71 programs are likely to be of limited duration, consistency with part 70 will enable smooth transition between Federal and State programs, encourage States to take delegation of administration of part 71 programs, help States that have been unable to obtain part 70 approval to phase into the title V program, promote uniformity in public and affected State participation, and provide a level playing field for sources.

In certain respects, the procedures under proposed part 71 would vary from the procedures in part 70. This is usually due to the fact that EPA, as a Federal permitting authority, will not be implementing State air programs in general when it assumes title V responsibilities. Consequently, certain opportunities under part 70, such as new source review merged with title V permit revision procedures, would not be available where EPA is the permitting authority. However, where a State takes delegation of the administration of a part 71 program, some of these opportunities would be available. These variations are discussed in the relevant sections of the discussion below. In other cases, where part 70 and the proposed revisions thereto provide States with flexibility to decide among alternative approaches or define specific elements of permit program procedures in developing their State programs, part 71 would decide these issues in the regulation itself, rather than rely upon further program development. Moreover, in today's notice EPA proposes detailed procedures for permitting actions, similar to those found at 40 CFR part 124 governing other permit programs administered by EPA.

1. Permit Issuance and Renewal

Part 71 would generally follow the currently promulgated part 70, as proposed to be revised in the August 29, 1994, Federal Register notice, in establishing procedures for permit issuance and renewal. These procedures are set forth in proposed § 71.7(a)–(c) and are discussed in greater detail in section 3–F–1 of the Supplementary Information Document.

In certain respects, part 71 would differ from part 70 and the proposed revisions thereto. For example, part 71 permitting authorities would be required to provide EPA with statements describing the legal and factual basis for draft permit terms only where the part 71 program has been delegated to a State or Tribal agency for administration. Also, only in cases where EPA has delegated part 71 administration to a State or Tribal agency would EPA would reserve the right to terminate or revoke and reissue a permit when the delegate permitting authority is not taking appropriate action to expeditiously process a permit renewal application.

2. Permit Revisions

Proposed §§ 71.7(d)–(h) would govern how permits are revised under part 71 programs. These procedures would generally follow the 4-track system contained in the recently proposed revisions to part 70. However, certain aspects of the 4-track system would not be available unless EPA had delegated administration of a part 71 program to a State or eligible Tribal agency. Moreover, where the proposed revisions to part 70 would leave it to State discretion to decide certain issues on a program-by-program basis, part 71 would contain specific provisions. Where the permit revision procedures under part 71 would differ from those under proposed part 70, the rationale for those differences is provided in detail. Where the procedures under part 71 would be the same as those under the proposed part 70 4-track system, this notice incorporates by reference the rationale for those provisions contained in the notice for the proposed revisions to part 70. See 59 FR 44460 (Aug. 29, 1994). The part 71 permit revision procedures are discussed in greater detail in section 3–F–2 of the Supplementary Information Document.

The EPA wishes to stress that in first describing this permit revision structure in the proposed revisions to part 70, the Agency solicited comments on ways to simplify what is admittedly a complex system. In light of the extensive comments received concerning the complexity of the proposal, EPA will publish a supplemental proposal covering part 70 permit revision procedures that differs from the August 29, 1994 proposal. The supplemental proposal is expected to be published within a few months of the publication of today's part 71 proposal and has not been developed in time to be incorporated into today's proposal. After the new part 70 procedures are proposed, EPA will most likely need to publish a supplemental proposal for part 71 pertaining to permit revision procedures. If so, EPA would finalize other portions of the rule first in order to be able to administer part 71 programs by November 15, 1995. The EPA expects to promulgate the part 70 permit revisions procedure in time to adjust corresponding sections of proposed part 71, as appropriate, before EPA would receive any applications for permit revisions under a part 71 program.

a. *Administrative Amendments.* The provisions governing administrative amendments to part 71 permits would be located at proposed § 71.7(e). Today's proposal would follow existing part 70 in allowing changes that are generally clerical in nature to be made pursuant to administrative amendment procedures. Also, like the proposed revisions to part 70, part 71 would allow increases in the frequency of required testing, monitoring, recordkeeping and reporting to be incorporated through the administrative amendment process. While part 70 provides a subsequent opportunity for identifying other changes similar to those just described for processing as administrative amendments in the program approval stage, part 71 would not, simply because after promulgation of this rule there would be no further stage of part 71 program development.

Where EPA has delegated administration of a part 71 program to a State or eligible Tribe, part 71 would follow the recent proposed revisions to part 70 by allowing changes that undergo "merged" part 71/NSR or part 71/section 112(g) process to be incorporated into the part 71 permit as administrative amendments. For purposes of part 71, this opportunity to follow proposed part 70 would exist only where States or eligible Tribes take delegation of the part 71 program. When administering a part 71 program for a State, EPA would not also be implementing the State's preconstruction program, so EPA would not be able to upgrade the State's preconstruction program to part 71 process. While this eliminates a significant opportunity for streamlined permit revision where EPA is acting as the permitting authority, EPA believes that it is infeasible for EPA to merge preconstruction review and part 71 review unless the same permitting authority processes both actions. Moreover, to the extent States take delegation of part 71 programs, this opportunity for flexibility will be present. The EPA solicits comment on the proposed limited availability of merged processing under part 71 and suggestions for ways in which this merged processing could be more feasibly provided.

In delegation agreements, EPA and delegate agencies could agree that delegate agencies could conduct merged processing on a case-by-case basis. That is, delegate agencies could be authorized to provide merged process for all or some of their preconstruction determinations or to allow sources to elect merged process for only individual changes. Delegate agencies that provided merged process on only a case-specific basis would have to state when they are doing so in the initial notification of the permit action sent to EPA. A delegate agency that wished to provide for merged NSR changes would have to set out the eligibility criteria and process for merged NSR changes in its application for delegation to EPA. Depending on existing State statutory or regulatory provisions, no changes would be required to existing NSR programs.

While under the proposed revisions to part 70 EPA would require States to submit eligibility criteria for merged processing in their part 70 programs that EPA would review in the context of program approval, EPA believes that the process in part 71 for applying for delegation and entering into delegation agreements provides an adequate forum for evaluating a delegate agency's ability to provide merged processing. Similarly, EPA believes that delegation agreements are adequate vehicles for establishing a delegate agency's authority to merge preconstruction and part 71 actions on a case-by-case basis. The delegation process requires the State to submit evidence of adequate statutory and regulatory authority to carry out part 71 responsibilities, and EPA would publish delegation agreements in the Federal Register, giving notice of the delegate agency's authorization to provide for merged processing.

Consistent with the proposed revisions to part 70, part 71 would allow administrative amendment procedures to be used to incorporate standards promulgated after permit issuance pursuant to section 112 of the Act.

For all changes that qualify as administrative amendments, the part 71 permitting authority would use specific procedures to incorporate those changes into the permit. Generally, these procedures would follow those contained in the August 29, 1994, proposed revisions to part 70, but would differ in certain respects. For example, the part 71 permitting authority would be required to provide EPA with a copy of the effective permit addendum reflecting the change only where EPA has delegated a part 71 program to a State or eligible Tribe.

b. *De Minimis Permit Revisions.* Following the proposed revisions to part 70, EPA is proposing at § 71.7(f) a de minimis permit revision track in part 71 for changes that do not undergo merged program administrative amendment procedures but that have only a small emissions impact. Under this track, a source would be able to operate the change as early as the day it submits its permit revision application. Public and affected State review of the change would then follow. See the more detailed discussion in section 3–F–2–b of the Supplementary Information Document, as well as the Agency's preamble for the proposed revisions to

VOL
60
ISS
81
AP
27
1995
UMI

part 70 (59 FR 44460, Aug. 29, 1994) regarding the types of changes that would be eligible for this process, the details of the process itself, and the rationale for the creation of this revision track.

In certain respects, the de minimis track in part 71 would differ from that in proposed part 70. For example, a person who was unsuccessful in persuading the part 71 permitting authority to disapprove a source's requested de minimis change could not petition EPA to object to the permit. This is because both when EPA is the permitting authority and when EPA has delegated that responsibility, citizens will already have the opportunity to directly appeal the final de minimis permit revision to the Environmental Appeals Board. Thus, requiring an intermediate step of requesting EPA to object to its own permitting action would both be redundant and delay citizen access to administrative, and ultimately judicial, review of the change. The Agency solicits comment on this approach. While the proposed revisions to part 70 would leave States discretion in developing their part 70 programs in determining whether the source, versus the State permitting authority, would have the responsibility to provide public notice of de minimis changes, under part 71, sources would have that duty. This specificity is due to the fact that EPA, unlike States, will not be conducting further program development for part 71 programs beyond promulgating part 71, so it is necessary for EPA to establish in this rule whether the public notification duty will fall on sources or the permitting authority. The EPA proposes to place the public notice responsibility on sources because the Agency believes that sources will be in a better position to provide timely notice of their de minimis changes than EPA regional offices would be and will have more ready access to area newspapers for providing such notice. Consequently, requiring sources to provide notice should ensure that de minimis changes are expeditiously processed. Moreover, EPA believes that under the proposed revisions to part 70, revised State programs could commonly require sources to provide such notice, and consistency in implementation of de minimis permit revision procedures will aid program transition when States obtain part 70 approval or when EPA assumes permitting responsibilities.

As under the proposed revisions to part 70, the scope of de minimis changes would be defined in two ways. Any change at a small emissions unit ("unit-based" de minimis) would qualify, as would a small change at a large unit ("increment-based" de minimis), provided certain conditions designed to ensure the enforceability of the resulting permit limit were met. Unlike the proposed revisions to part 70, for part 71 EPA is not proposing that permitting authorities, whether they are EPA or delegate States or eligible Tribes, could establish alternative de minimis emissions thresholds based on a demonstration submitted subsequent to final promulgation of part 71. This is because, again, after promulgation of part 71, EPA will not be further developing part 71 programs, so there will not be an opportunity to consider alternative de minimis thresholds. Moreover, EPA does not believe that EPA delegation of part 71 administration to States or eligible Tribes provides an adequate forum for evaluating alternative thresholds developed by States or eligible Tribes, since there will be no formal approval action in those delegations and the public will not have an opportunity to comment upon them before they are effective.

Procedurally, part 71 would also provide more specificity than would the proposed revisions to part 70. For example, the source could operate the requested de minimis change 7 days after the permitting authority received the application or, with the permitting authority's permission, as early as the day its application is submitted. The proposed revisions to part 70 provide that States in developing their part 70 programs would have discretion to allow changes to be made 7 days following receipt of the application, and such authorization would be included in their program submittals for EPA approval; as discussed above, since promulgation of part 71 will represent the final stage of part 71 program development, proposed part 71 specifies that sources could make de minimis implement changes after 7 days.

Also, under part 71, sources would be required to provide public notice of de minimis changes on a monthly, batched basis, publishing one notice listing all changes at the source for which applications for de minimis permit revisions had been sent to the permitting authority in the preceding month. The EPA solicits comment on this approach, particularly regarding the extent to which States intend to impose the public notification duty on sources under the proposed revisions to part 70. While the proposed revisions to part 70 specified neither who has the responsibility for providing public notice nor the manner in which public notice should be given, part 71 would be specific on these points, for the reasons discussed above. The EPA solicits comment, however, on the method or methods sources could use to provide such notice. For example, sources could be required to publish notice of de minimis changes in a newspaper of general circulation within the area where the source is located or in State or local governmental publications, to send actual notice to interested persons on a list developed by the source or the permitting authority, or both. At minimum, the final rule will provide a mechanism to ensure that public notice reaches all interested citizens.

c. *Minor Permit Revisions.* Under today's proposal, most changes ineligible for administrative amendment or de minimis permit revision procedures would be eligible for the minor permit revision process. Taking the current part 70 rule's minor permit modification process as a starting point and following the proposed revisions to part 70, proposed part 71 would add expedited procedures for providing public notice and a 21-day comment period, allow the source to operate the requested change at the end of the 21-day comment period when no objections are received, and provide for permitting authority final action to be taken on applications within 60 days of their receipt. The description of and the rationale for EPA's proposed minor permit revision process for part 70 is contained in the preamble to the proposed revisions to part 70 (see 59 FR 44460, Aug. 29, 1994). To the extent applicable to part 71, EPA incorporates that rationale for this notice. However, where elements of the minor permit revision track differ in proposed part 71 from those in part 70, this notice describes those differences. A more detailed discussion of the part 71 minor permit revision process is contained in section 3–F–2–c of the Supplementary Information Document.

For part 71 minor permit revisions, as for de minimis changes and merged program administrative amendments, notice to EPA, and EPA's 45-day review period and opportunity to veto would occur only where EPA had delegated its role as the permitting authority to a State or eligible Tribe. While this is a departure from the proposed revisions to part 70, as discussed previously, EPA does not believe there is any utility, when EPA is the permitting authority, in requiring EPA review of EPA permitting action, since sources, affected States and public citizens that object to EPA permitting actions will be able to directly appeal those decisions to the Environmental Appeals Board.

Consequently, providing for an additional step of EPA review and opportunity to object would unnecessarily slow down this expedited revision track and would also delay access of interested parties to administrative and judicial review.

Moreover, in cases of objections to minor permit modifications filed by affected States, only where EPA had delegated part 71 administration to a State or eligible Tribe would the part 71 permitting authority have to forward to EPA a written response to any of these objections that were not accepted.

Another difference under the part 71 program would be that if the permitting authority failed to act on a public objection, the commenter could file suit in Federal court, rather than State court, to force the permitting authority to take action on the written comment. In addition, commenters would be able to bring suit in Federal court to seek an injunction against the source implementing or continuing to implement requested changes before they are approved. Injunctive relief would be available in accordance with applicable standards for obtaining such relief under Federal law.

Also, only where EPA had delegated a part 71 program to a State or eligible Tribe, would the part 71 permitting authority be required to wait until the date after EPA's 45-day review period had expired, provided EPA had not objected, before issuing the final minor permit revision. The delegate agency would be required to take final action by day 60, or 15 days after the close of EPA's review period, whichever is later. In addition, under part 71 programs, commenters may not petition EPA to object to minor permit revisions for the reasons discussed above with respect to de minimis permit revisions.

d. *Significant Permit Revisions.* Following the proposed revisions to part 70, under proposed part 71 the significant permit revision process would essentially follow that of the significant permit modification track in existing part 70. See the description of this process in the Agency's proposed revisions to part 70 (59 FR 44460, Aug. 29, 1994) for the rationale for this approach, which EPA incorporates by reference for purposes of part 71. See also the more detailed description of the part 71 significant permit revision process contained in section 3–F–2d of the Supplementary Information Document.

Proposed part 71 would require the permitting authority to take final action on applications for significant permit revisions within 18 months of receipt of the application. However, because prompt action on permit revisions is of critical importance to industry, the EPA intends to complete such revisions within 12 months and expects that only the most complex revisions would require more than a year to complete.

e. *Alternative Option for Monitoring Changes.* Following the proposed revisions to part 70, EPA also proposes as an option in part 71 alternative provisions governing changes involving monitoring requirements. While this option essentially adheres to the 4-track system discussed above, certain provisions of the system would need to be modified to incorporate the alternative option for monitoring changes. The rationale for this alternative option is discussed in detail in the preamble to the proposed revisions to part 70 (see 59 FR 44460, Aug. 29, 1994), and this notice incorporates that rationale by reference, to the extent it is applicable to part 71. As appropriate, EPA intends to match in the final part 71 rule the final part 70 provisions regarding this option. For a more detailed discussion of this option under part 71, see section 3–F–2–e of the Supplementary Information Document.

Under part 71, the source, rather than the permitting authority, would have the responsibility to provide monthly batch public notice of monitoring changes processed under this option's de minimis permit revision track. Moreover, for monitoring changes processed under this option's significant permit revision track, part 71 permitting authorities would be required to send demonstrations and their evaluations to EPA only where EPA has delegated part 71 program administration. Again, EPA believes that expeditious process of de minimis permit revisions is better served by sources providing notice, and that the non-permitting authority EPA review and veto role adds value to the permitting process only where there is a separate entity such as a delegated State functioning as the part 71 permitting authority.

3. Incorporation of New Standards

The process by which EPA proposes to incorporate into permits new MACT standards promulgated under section 112 would follow that contained and discussed in detail in the proposed revisions to part 70 (see 59 FR 44460, Aug. 29, 1994). This notice incorporates by reference the rationale for this process contained in the preamble to the proposed revisions to part 70. To the extent appropriate, EPA intends the final part 71 rule to be consistent with the part 70 rule as it is finally promulgated. For a more detailed discussion of this process for purposes of part 71, see section 3–F–3 of the Supplementary Information Document.

Note that under a delegated part 71 program, if EPA receives the initial notification because the MACT standard has not yet been delegated to the State, local or Tribal agency, EPA will send this notice to the delegate part 71 permitting authority, and upon receipt of this notice the permitting authority could begin processing the administrative amendment. Also, under delegated part 71 programs, where the NSR programs have been enhanced to meet part 71 requirements, minor and major NSR actions would be acceptable for addressing and establishing part 71 permit conditions needed to assure compliance with MACT standards. Thus, the merged preconstruction review process applying to NSR permits could also be used to revise the part 71 permit to incorporate the MACT requirements applicable to the source. If the NSR action were not merged (as would be the case if EPA had not delegated part 71 administration to a State or eligible Tribe), the part 71 revision would be eligible under the minor permit revision track, or, if it met the criteria, the de minimis permit revision track.

4. Permit Reopenings

Under proposed § 71.7(i), part 71 would follow the currently promulgated part 70 in providing when and how permits would be reopened. For a more detailed discussion of the part 71 permit reopening procedures, see section 3–F–4 of the Supplementary Information Document. Where EPA has delegated a part 71 program to a State or eligible Tribe, special provisions for EPA notification to the delegate agency that cause exists to reopen would apply. These procedures follow those in existing part 70 for notification to approved part 70 permitting authorities. Briefly, if EPA finds that cause exists to reopen a permit, it would notify the delegate agency and the source. The delegate agency would have 90 days after receipt of this notice to forward to EPA a proposed determination of termination, revision, or revocation and reissuance of the permit. The EPA could extend the 90-day period for an additional 90 days if a new application or additional information is necessary. The EPA could then review the proposed determination for 90 days. If the delegate agency fails to submit a determination or if EPA objects to the determination, EPA may terminate, revise, or revoke and reissue the permit after providing the source at least 30 days written notice and an opportunity

VOL 60 ISS 81 APR 27 1995 UMI

for comment and a hearing on EPA's proposed action.

G. Section 71.8—Affected State Review

Following the proposed revisions to part 70, proposed § 71.8 would implement section 505(a)(2) of the Act and require that the permitting authority provide notice to all affected States (as defined in proposed § 71.2) of each draft permit and addenda to permits that incorporate de minimis permit revisions. Under the proposed procedures for minor permit revisions, sources, rather than permitting authorities, would have the responsibility to provide notice to affected States for such changes. Affected States are those States whose air quality may be affected, and that are contiguous to, the State in which a part 71 permit, permit revision, or permit renewal is being proposed, or those within 50 miles of the source. Tribal areas or areas under the jurisdiction of a local air pollution control area may be considered affected States in some cases.

Affected States that receive notice pursuant to proposed § 71.8 could submit written recommendations and comments to the permitting authority. If the permitting authority refuses to accept the recommendations, the reasons for the refusal would have to be provided in writing to the affected State(s) that provided the recommendations or comments during the public or affected State review period.

H. Section 71.9—Permit Fees

1. Authority to Impose Fees

The EPA believes that title V provides EPA the authority to charge sources fees whenever EPA is required to administer a part 71 program. Section 502(b)(3)(C)(i) of the Act provides that if EPA determines that the fee provisions of a State's part 70 program do not meet the requirements of title V, or if EPA determines that a permitting authority is not adequately administering or enforcing its approved fee program, EPA may, in addition to taking any other action authorized under title V, collect reasonable fees from the sources that should be paying adequate fees pursuant to an approved part 70 fee program. Thus, EPA has the discretion to charge fees whenever a State fails to establish an approvable fee program or fails to implement its approved fee program, even if there are no other deficiencies in the State's operating permits program. Section 502(b)(3)(C)(i) also provides that fees charged by EPA shall be designed solely to cover EPA's costs of administering the provisions of the permits program promulgated by EPA.

2. Fee Calculation and Assessment

The fee schedule proposed in § 71.9 would establish a dollar per ton charge on actual emissions of each regulated pollutant (for fee calculation) that is emitted from a source.

Under the fee schedule in this proposal, the date of the initial fee submittal would be contingent upon several factors. If EPA withdraws approval of a part 70 program, initial part 71 fees would be due in accordance with a schedule based upon a source's primary SIC Code, as provided in proposed § 71.9(f)(1).

If EPA implements a part 71 program in an area that did not have a part 70 program in place, initial fee calculation work sheets and fees would be due at the same time the initial permit application is due, in accordance with the requirements of proposed § 71.5(b)(1).

Regardless of whether a part 70 program preceded a part 71 program, sources that become subject to the part 71 program after the part 71 program's effective date would be required to submit initial fee calculation work sheets and fees at the same time the initial permit application would be due, in accordance with the requirements of proposed § 71.5(b)(1).

Sources would be allowed to pay their initial annual fee in two installments. The first payment equalling one-third of the annual fee would have to be submitted along with the initial fee calculation worksheet. The balance would be due four months later, but in no event later than a year after the program's effective date.

As provided in proposed § 71.9(g), for sources that receive a part 71 permit as a result of an EPA veto of the State's proposed part 70 permit (as provided in proposed § 71.4(e)), the initial fee calculation work sheet and fees would be due 3 months after the date the part 71 permit is issued. Delaying the source's fee payment in this manner would provide the State an opportunity to issue a permit that satisfies EPA's objection, thereby relieving sources of the burden of paying both State and Federal permit fees. However, such sources would not be permitted to pay fees in installments because their obligation to pay fees arises after EPA has completed the permit issuance process.

For sources that commenced operation during the calendar year preceding the date on which a source's initial application is due, the initial fee calculation would be based on an estimate of the current calendar year's actual emissions. This estimated fee would be adjusted in the first annual emission report. In addition, sources that would be required to submit initial fee calculation work sheets and fees between January 1 and March 31, as required by either proposed § 71.9(f)(1) or § 71.9(g), would have the option of basing their initial fee calculation on an estimate of the preceding calendar year's actual emissions. This provision would provide sources with a means for meeting the initial fee submittal requirements if their initial fee submittal date does not provide for sufficient time to calculate the previous calendar year's actual emissions. This estimation would also have to be reconciled in the first annual emission report.

For purposes of subsequent annual emissions reporting and fee assessments, the date (month and day) on which the initial part 71 fee calculation work sheet and fees were due would be considered the "anniversary date" for that source. Each source would be required to submit an annual report of its actual emissions for the preceding calendar year by its anniversary date. However, to allow sources with anniversary dates between January 1 and March 31 the time needed to analyze the preceding calendar year's emissions data, the anniversary date for these sources would be April 1. The annual report would have to include a fee calculation work sheet and full payment.

As discussed above, sources that commenced operation during the preceding calendar year would base their initial fee calculation on an estimate of the current calendar year's actual emissions. When the permitting authority receives the first annual emissions report, the permitting authority would compare the estimate to the emissions report and would adjust the initial fee to reflect the annual emissions listed in the report. If an additional fee is required, payment would be due with the submittal of the annual emissions report. If the source has overpaid, the permitting authority would credit the source's account. Regardless of this adjustment procedure, the source would be required to pay its current emissions fee based on the actual emissions listed in the first annual emissions report.

Sources subject to proposed § 71.9(f)(1) or § 71.9(g) that have initial application and fee calculation work sheets due between January 1 and March 31 could opt to base their initial fee on an estimate of the past year's actual emissions. The first annual emissions report for such sources would have to reconcile the emissions fee from the initial fee calculation. In addition to calculating the current emissions fee, the report would be required to include actual emissions data from the estimated year, and the source's account would have to be revised accordingly.

Section 502(b)(3)(C)(ii) requires that sources that fail to pay fees in a timely fashion shall be assessed interest at a rate equal to the sum of the Federal short-term rate determined by the Secretary of the Treasury in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986, plus 3 percentage points and shall pay a penalty charge of 50 percent of the fee amount. Proposed § 71.9(l) would implement section 502(b)(3)(C)(ii) by providing that the penalty charge shall be due if the fee is not paid within 30 days of the payment due date or if sources that compute fees based on estimated annual emissions substantially underestimate these emissions.

Fee payments would be required to be in United States currency in the form of a money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the order of the U. S. Environmental Protection Agency. The EPA intends to develop additional guidance regarding remittance procedures as the Federal operating permits program is implemented.

3. Principles for Developing Fee Structure

The following principles were used to develop the proposed fee requirements:

a. *Fees Based on Average Annual Costs.* By means of the fee structure proposed in this rule, EPA intends to recover both direct and indirect costs for the various activities conducted to administer part 71 programs. Direct costs would include personnel benefits and salaries, travel, equipment costs, and contractor expenses. Indirect costs would be those resources, outside of direct program costs, used to manage, oversee and provide counsel to program offices. These would include costs such as those incurred by EPA's management, administrative, and policy staff. Indirect costs would also include overhead costs, such as utilities and rents.

The methodology proposed to be used for setting fees is to estimate the cost of implementing the part 71 program nationwide and to divide that cost by the estimated emissions that would be subject to the fee. The result is a fee expressed in dollars per ton/yr of pollutants emitted. A detailed discussion of the assumptions and calculations involved in determining fees is found in "Federal Operating Permits Program Costs and Fee Analysis" (Fee Analysis), which is contained in the docket for this rulemaking.

The cost estimates presented in the Fee Analysis are based on operating a part 71 program for two years. The EPA believes this is a reasonable average program duration, given the expected transitory nature of the program.

For purposes of the cost analysis, the hourly personnel costs were assumed to be the same for EPA and for delegate agencies. Therefore, the total personnel costs for an EPA administered program and one which is delegated in whole or in part would be identical except for the cost of additional EPA oversight (which would be covered by a $3 per ton/yr surcharge discussed below).

Because part 71 programs will generally be transitional programs, EPA may in some cases decide to staff the program primarily through contractor assistance. The emissions fee for a particular part 71 program would vary depending on the extent to which EPA relies on contractor support and the cost of contractor assistance. If the program is administered by EPA without contractor assistance, the proposed fee would be $45 per ton/yr. If the program were staffed through contractor assistance (except for those functions for which the use of contractors is not appropriate such as final permit issuance determinations), EPA would establish a fee based on the contractor costs for a particular program.

As provided in proposed § 71.9(c)(3), the fee for a contractor assisted program is the sum of the permitting authority's costs associated with activities that it undertakes, the cost of paying a contractor to undertake other activities, and a surcharge that covers EPA's oversight costs. The formula for determining the cost of contractor assistance is as follows:

C=[B+T+N] divided by 12,300,000

Where B represents the base cost (contractor costs), where T represents travel costs, and where N represents non-personnel data management and tracking costs.

B, T and N, when summed, are divided by the total tonnage of national emissions that would be subject to fees (12.3 million tons) to convert the cost into a per ton fee rate.

The Fee Analysis discusses the methodology used in computing the base cost of the part 71 program, trave. costs and non-personnel data management and tracking costs. Travel costs and non-personnel data management and tracking costs would be the costs ($14,488,000 and $13,400,000 respectively) indicated in Table A–3 of that document.

As indicated above, the base cost would vary depending on the hourly rate paid for contractor assistance. Table A–3 presents the base cost for a program in which contractor assistance (costing $62 per hour) was used to the maximum extent possible. This $62 figure reflects the average hourly cost of several large contracts awarded by EPA for projects relating to air quality control. Using that hourly rate, the resulting per ton fee would be $77. The base cost was computed by summing the costs of contractor assistance for years 1 and 2 for the activities listed in Table A–1 of the Fee Analysis (except those activities which EPA should undertake, i.e., presiding over hearings, transition planning, guidance, contract management, and training) and then computing an annualized cost. To determine the fee for a particular part 71 program, EPA would substitute a different hourly rate (based on the actual rate charged by the contractor) into the computation.

Each time a part 71 program is implemented, EPA would determine the percentage of personnel time allocated to contractors by considering who could best perform each type of permitting activity (e.g., technical review and processing of permit applications and compliance plans, preparation for public hearings, compliance inspections). This flexibility would allow EPA to develop a staffing pattern that meets the unique needs of the part 71 program being administered. By using the formula specified in proposed § 71.9(c)(3), EPA would arrive at the basic emissions fee. If the program is delegated or staffed largely by contractors, there would be additional costs due to the oversight that EPA must provide to the program. These additional costs of EPA's review of permit applications, compliance plans, draft permits, permit revisions and reopenings would increase the emissions fee by $3 per ton/yr.

The EPA currently uses contractors for permits related work pursuant to competitively bid contracts which compensate contractors on a level of effort basis, using set hourly fees. These contracts, which provide for a certain number of hours of services at a fixed hourly rate, were used in projecting the costs of using contractors to implement part 71 programs and could be used by EPA for part 71 programs when contractor assistance is needed. It has been suggested that for part 71 programs

VOL
60
ISS
81
AP
27
1995
UMI

it may be more cost effective if contracts for part 71 programs were independently bid. Therefore, EPA solicits comments on whether fees for part 71 programs should be based on contractor costs established by a new competitive bid process. While not wanting to dismiss this alternative, the EPA is concerned about the costs involved with preparing the documentation required for the competitive bid process and that the length of time required to undertake this process (usually 12–18 months) would make this alternative impractical in light of the program's effective date. In particular, EPA solicits comments on whether this approach would result in cost savings.

The EPA considered several other options for setting fees. For example, EPA considered the possibility of basing fees for each part 71 program on the fee structure submitted by a State or local government as part of its part 70 submittal. This approach, however, has limited utility in that it is not appropriate where the submittal contains an inadequate fee program or where no submittal is made. Furthermore, the administrative burden (and the delay in program implementation) involved with completing individual rulemakings for each part 71 program made this option infeasible.

Given that it is not practical to craft a fee schedule that fits each State, and given that EPA is unable to foresee with certainty when and where it may be necessary to implement part 71 programs, EPA proposes to base its fees on the average cost of implementing a part 71 program.

The EPA considered whether the average cost of the part 71 program would be recovered by charging a fee of $25 per ton/yr (1989 baseline with CPI adjustments), which is the amount of fee revenue that EPA would presume is adequate for purposes of funding State operating permits programs under part 70. For fiscal year 1995, this fee would equal $30.18. However, EPA believes that there would be some differences in costs between the Federal program and State programs which made use of the presumptive fee inappropriate.

Using the approach outlined above, EPA has developed a proposed fee structure that will reflect the cost of the Federal operating permits program, though not necessarily the cost of implementing the program in any particular State. The proposed fee is expected to be adequate for nearly all part 71 programs and should, on average, collect sufficient revenue to fund permitting under this part. However, if EPA determines that the fee structure provided in proposed § 71.9(c)(1)–(4) does not adequately reflect the program costs for a particular area, such as a Tribal area, then EPA may by separate rulemaking establish a different fee for a part 71 program.

b. *Minimizing Administrative Burdens.* Although EPA could design a fee system that imposes different fees based on such factors as source categories, the particular pollutants emitted, or the type of permitting action requested, EPA proposes a straight forward emissions-based fee system. For sources, the fee computation would be simple. Similarly, EPA's administrative burden related to assessing fees and monitoring compliance with fee requirements would be minimized.

c. *Fees Calculated Based on Existing Information.* The EPA would provide sources with fee calculation work sheets. Using these work sheets, sources would compute their actual emissions of the appropriate pollutants and multiply by the appropriate per ton/yr rate. Sources would submit fees within the first 12 months of the effective date of the program, and annually thereafter. Many sources are already subject to annual emissions reporting requirements. Thus, except for new sources, there would generally be no requirement that sources develop any information for the work sheets that would not already be required on the application form or as an emission reporting requirement.

d. *Fees Imposed In Advance of EPA's Rendering Services.* Under the proposal, all part 71 sources would remit fees within 12 months of the effective date of the permit program, even if the source is not issued a part 71 permit within that time. Those fees will provide a stable source of revenue from which to fund the initial start-up costs of the program, the costs of issuing permits within the first year of the program, as well as cover ongoing activities such as inspections, reviewing monitoring reports, and other compliance and enforcement activities.

This procedure would comply with Federal policy for user fees established in OMB Circular A–25 (July 8, 1993), which provides that fees are to be collected before services are administered or goods provided to ensure that fees are actually paid for the services provided, that the Treasury receives funds in a timely manner, and that additional administrative burdens and costs for collecting fees are avoided.

4. Revision of Fee Structure

To reflect changes in operating costs, fees would be adjusted automatically every year (after 1997) by the same percentage as the percent change in the CPI. Also, the fee schedule would be revisited every two years as required by section 902(a)(8) of the Chief Financial Officer's Act of 1990. (31 U.S.C. 501 *et seq.*)

I. Section 71.10—Delegation of Part 71 Program

1. Delegation Process

Section 301(a)(1) of the Act provides that the Administrator is authorized to prescribe such regulations as are necessary to carry out his or her functions under the Act. Pursuant to this authority, proposed § 71.10 provides that a part 71 program may be delegated in whole or in part, with or without signature authority (i.e., the authority to issue permits) to any State or local agency or eligible Tribe that is found to have the requisite legal authority to administer such a program. For purposes of the rule, an eligible Indian Tribe would be a Tribe that EPA has determined meets the criteria for being treated in the same manner as a State, pursuant to regulations implementing section 301(d)(2) of the Act.

The EPA recognizes that in some cases States could fail to receive part 70 program approval due to program flaws that are not related to the permitting authority's practicable ability to implement a title V program. For example, the submitted part 70 program may contain elements in it enabling legislation or its regulations that prevent EPA from granting program approval, even though EPA may be confident that the State permitting authority could adequately administer and enforce a title V program that meets the requirements of the Act. While title V requires EPA to promulgate Federal title V programs for States that fail to receive part 70 program approval, EPA believes that in situations where State permitting authorities appear capable of implementing programs that meet the requirements of title V, it would be consistent with the general policies of the Act to involve States in implementing required Federal permits programs, rather than exclude State permitting authorities.

The Act has long provided that air pollution control is the primary responsibility of States and local governments. (See, e.g., section 101(a)(3) of the Act, 42 U.S.C. 7401(a)(3).) Moreover, while title V requires States to submit permit programs for approval by EPA, the Act does not provide that program approval is the sole mechanism available for State air pollution control agencies to become permitting authorities under title V. Section 501(4) of the Act defines "permitting authority" to mean both the Administrator or the air pollution control agency "authorized" by the Administrator to carry out a permit program under title V. Section 302(b) of the Act defines "air pollution control agency" to include State and local government agencies. The EPA believes the word "authorized" as used in section 501(4) may reasonably be interpreted to apply not only to instances in which EPA approves a submitted part 70 program, but also to instances in which EPA determines that a State or local air pollution control agency demonstrates that it is capable of carrying out a title V permit program even where the State has not submitted a part 70 program that has received EPA approval.

The EPA could exercise its discretion to delegate authority to administer some portion or all of a part 71 program where, for example, it makes sense to take advantage of existing expertise of the delegate agency or where it seems probable that the delegate agency's submitted part 70 program will be approved within a short time by EPA, provided in both cases that the delegate agency has the authority to administer the portion of the program that would be delegated.

Any agency that seeks to obtain delegation of a part 71 program would be required to submit a formal request for delegation, in accordance with the provisions of proposed § 71.10, and such other documentation as is necessary for review and consideration by the Administrator to make a determination that the agency or eligible Tribe has adequate legal authority and procedures to administer and enforce a part 71 program.

The EPA would adopt a flexible approach in evaluating delegation requests. The EPA would not demand that each delegate agency administer a part 71 program in precisely the same way because each delegate agency would have to comply with its own procedures, administrative codes, regulations, and laws as well as the requirements of this part.

The Governor or designee for a State, a local agency, or the Tribal governing body for an eligible Tribe, would be required to submit to EPA a written request for delegation of authority on behalf of the State or local agency or eligible Tribe pursuant to proposed § 71.10. The request would have to include a legal opinion that certifies that the State or local agency or eligible Tribe has the requisite legal authority to implement and administer the program. The request would also have to identify the officers or agencies responsible for carrying out the State, local, or Tribal procedures, regulations, and laws.

The EPA would respond in writing to each delegation request and shall state to what extent the request has been accepted or rejected. If the request is accepted in whole or in part, the Administrator would delegate to the Governor or designee, the local agency, or Tribal governing body, the authority to carry out the accepted portions of the delegation. If the request is rejected in whole or in part, the notification shall specify the reasons for such rejection.

The terms and conditions of the delegation would be set forth in a "delegation of authority agreement" that specifies the effective date for the agreement. The delegation of authority agreement would be published in the **Federal Register** by EPA and would identify the delegate State, local, or Tribal procedures to be used for implementing and administering the program by reference to the request and to any additional submission by the Governor or designee, or Tribal governing body supplementing or modifying the State, local or Tribal procedures.

2. Full and Partial Delegation

Although EPA encourages delegate agencies to accept full delegation of all aspects of the administration of part 71 programs, there are situations where a delegate agency may be unable or unwilling to assume all responsibility for administering these programs. Where appropriate, EPA could choose to grant partial delegations as follows:

(1) Delegation of authority may be granted for only a portion of the State or regulatory area;

(2) Delegation of authority may be restricted to certain source categories or parts thereof; or

(3) Authority may be delegated for selected parts of the procedural responsibility in implementing a part 71 program with EPA acting as a partner in completing the remaining actions (e.g., delegation of authority may be granted with regard to the administrative and/or technical portion of implementing the part 71 program, with EPA providing enforcement should such action become necessary);

(4) Authority may be delegated for only the acid rain portion of a title V program, or for other parts of the title V program, not including the acid rain portion.

3. Procedural Requirements for Delegation

The delegate agency would be required to provide notice to the Administrator of all applications for any permit, permit renewal, or permit revision, including any compliance plan, or any portion thereof that the Administrator determines to be necessary to review the application and permit effectively, each proposed permit, and each final permit as provided in proposed § 71.10(d). The delegate agency would also have to provide notice of each draft permit to affected States on or before the time that the delegate agency provides this notice to the public under proposed §§ 71.7 (e)(4), (h), or (i) or § 71.11(d) and would be required to provide any affected State a copy of the addendum for a de minimis permit revision within 7 days of the date on which the addendum takes effect.

Affected States that receive notice pursuant to proposed § 71.8(a) could submit written recommendations and comments on the permit to the delegate agency. If the delegate agency refuses to accept the recommendations, the reasons for the refusal would have to be provided in writing to the State(s) providing the recommendations.

The EPA could waive its own and affected States' review of permits for any category of sources, except major sources, by nationwide regulation for a category of sources. The EPA could also waive its own right to review, but maintain the requirement for a delegate agency to notify affected States. During Phase II of the acid rain program, the Agency does not intend to waive its own right to review permits for affected sources under the acid rain program.

When a part 71 program has been delegated with signature authority in accordance with the provisions of this section, the Administrator could object, in writing, to a part 71 permit if the delegate agency fails to properly submit, process, or provide notice as would be required by this part or if the part 71 permit does not assure compliance with applicable requirements of the Act. If the delegate agency fails to revise the proposed permit in response to the objection, the Administrator could deny the permit or issue a permit in accordance with the part 71 program.

4. Delegation of Authority Agreement.

A delegation of authority agreement would specify the terms and conditions of the delegation and would be required to include, but not be limited to:

(1) A provision that the delegation is made in accordance with proposed § 71.10;

VOL
60
ISS
81
AP
27
1995
UMI

(2) A provision that describes the source categories, geographic areas, and the administrative and enforcement activities governed by the delegation;

(3) A provision that requires the delegate agency to comply with the public notice requirements of proposed §§ 71.7 and 71.11;

(4) A provision that requires the delegate agency to provide a copy, through the appropriate Regional Office, of each permit application, proposed permit, and final permit to the Administrator as required in proposed § 71.10(d);

(5) A provision that any permit issued by a delegate agency contain a statement identifying the permit as a title V, part 71 permit;

(6) A provision that requires EPA's concurrence on any applicability determination or policy statement regarding title V or parts 70 or 71 not covered by determinations or guidance provided to the delegate agency;

(7) A provision that requires immediate notification to be provided to EPA if the delegate agency is unable or unwilling to administer or enforce a provision of the delegated part 71 program with respect to any source; and

(8) A provision that the delegate agency may not grant any waiver to a permit requirement or issue any order that violates an effective provision or requirement of part 71 or the Act.

J. Section 71.11—Administrative Record, Public Participation, and Administrative Review

Section 71.11 of the proposal establishes procedures by which the part 71 permitting authority would act on permit applications, issue draft permits, provide opportunities for public comment, and issue final permits. The emphasis in proposed §§ 71.11(a)–(j) is on a description of the notice and public participation procedures for initial permit issuance, permit renewals, permit reopenings, and significant permit revisions. The notice and public participation procedures for administrative amendments, de minimis permit revisions, and minor permit revisions are described in proposed § 71.7.

Proposed §§ 71.11(k)–(m) describe the administrative record for permits, the procedure for appeal of permits, and the determination of the beginning and ending days for any scheduled time period. Unlike proposed §§ 71.11(a)–(j), provisions in proposed §§ 71.11(k)–(m) would apply to all permit actions, including administrative amendments, de minimis permit revisions, minor permit revisions and significant permit revisions.

The EPA considered two alternative methods of establishing the public participation and administrative review procedural requirements. The first alternative would be to amend the existing procedures in 40 CFR part 124, which establishes specific decision making procedures for RCRA, Underground Injection Control (UIC), PSD, and NPDES permits, so that the procedures would be compatible with the part 71 program. The EPA would then incorporate those provisions by reference into the part 71 permit rule. The second alternative was to establish public participation and administrative appeal procedures as a separate section of this rule. This alternative has the advantage of allowing these procedures to focus specifically on the needs of the part 71 program as well as appear in close proximity to the permit program requirements in the Code of Federal Regulations.

Today's proposal follows the second alternative. The proposed public participation and administrative appeals procedures are set out at § 71.11 and are based closely on selected provisions of part 124, subpart A. The EPA does not believe the choice of one format over the other will have a substantial impact on the implementation of this rule.

Once a permit application is complete, including an application to revise an existing permit, the permitting authority would tentatively decide whether to prepare a draft permit. Such draft permits would contain permit conditions specified in proposed § 71.6, public notice of the draft permit would be issued and the draft would be made available for comment. Administrative amendments of permits would not be subject to draft permit or public notice requirements. Public notice of de minimis permit revisions would be on a post hoc basis, and draft permits for minor permit revisions would be publicly noticed by the applicant source. All draft permits issued by the permitting authority would be accompanied by a statement that briefly describes the derivation of the conditions of the draft permit and the reasons for them.

Proposed § 71.11(d) would establish public notice and comment procedures for part 71 permit actions not addressed elsewhere in the proposal, including application denials, draft permit preparation, scheduling of public hearings, reopening of the public comment period, and granting of appeals. Where other provisions of this proposal establish permitting procedures for specific types of actions, such as in the provisions on administrative amendments, de minimis permit revisions, and minor permit revisions, those provisions would govern. Notice of draft permits under proposed § 71.11(d) (including permit revisions) would provide at least 30 days for public comment, and notices of hearings would be issued at least 30 days before hearings are held. Notice would be provided by mail to interested persons, by publication, or by other reasonable means and would include information on the permittee, contact persons, and general procedures on submitting comments and requesting to speak at hearings. In addition, notices of hearings would provide information on dates, times, and places of hearings, as well as applicable rules and procedures. The permitting authority could hold hearings either upon the basis of requests or on its own initiative.

Proposed § 71.11(e) would establish requirements for consideration of comments on a draft permit. It would require that a request for a public hearing be in writing and include a statement of the nature of the issues proposed to be raised at the hearing. It would also stipulate that all comments be considered in making the final decision on the draft permit, and that a publicly available record be kept of commenters and issues raised.

Proposed § 71.11(f) on public hearings would require that a public hearing be held if there was a significant degree of interest in a draft permit. The permitting authority would designate a Presiding Officer who would be responsible for conducting the hearing. This proposed procedure would allow statements from any person, with reasonable limits on time allowed for oral statements. A tape recording or written transcript would be required to be made available to the public.

Proposed § 71.11(g) would require that all reasonably ascertainable issues and all reasonably ascertainable arguments be raised or submitted by the close of the public comment period. It would require that supporting materials be submitted in full, rather than incorporated by reference. In order to comply with this proposed requirement, the comment period could be longer than 30 days, at the discretion of the permitting authority.

Proposed § 71.11(h) would allow the permitting authority to reopen the public comment period if any person believed that a condition of the draft permit is inappropriate, or that the permitting authority's decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate. If information submitted during the public comment period appeared to raise substantial new questions, the permitting authority would have the flexibility to prepare a new draft permit, or prepare a revised statement of basis and reopen or extend the comment period.

Proposed § 71.11(i) would require the permitting authority to issue a final permit decision once the public comment period had closed. The final decision, which becomes effective immediately upon issuance of the decision or a later date specified in the decision, would be a decision to issue, deny, revise, revoke and reissue, renew, or terminate a permit.

Proposed § 71.11(j) would require the permitting authority to issue a response to comments. The response would specify what provisions, if any, of the draft permit were changed in the final permit decision, and why. It would also require a description and response to all significant comments, and require inclusion of any cited documents in the administrative record. If an affected State recommended changes to the draft permit that were not accepted by the permitting authority, proposed § 71.11(j) would require written notification to the affected State.

Final permit decisions would be based on the administrative record defined in proposed § 71.11(k), including comments received, hearing transcripts, the response to comments, the final permit, the permit application, and the draft permit and its statement of basis.

Proposed § 71.11(l) grants a right of appeal of all final permit decisions, including those taken under provisions establishing procedures for administrative amendments, de minimis permit revisions, and minor permit revisions, and establishes procedures for such appeals. Within 30 days of a final permit decision, interested persons could petition the Environmental Appeals Board to review the final permit decision. Petitions for review would be required to include a statement of the reasons supporting review and could address only issues raised during the public comment period, unless it was impracticable to raise the relevant objections during such period or the grounds for objection arose after the period closed. An example of a situation in which it is impracticable to raise an objection during the comment period would be when a significant change is made from a draft to final permit without providing an opportunity for public comment. Moreover, while persons who participated in the comment or hearing processes could petition the Board to review any condition of the final permit decision, persons who failed to file comments or participate in hearings could petition the Board only with respect to changes from the draft to final permit decision. When a part 71 permit is appealed, it would nevertheless remain fully effective and enforceable against the permitted source.

The EPA seeks comment on its method of establishing procedures for public participation and administrative review, and on the appropriateness of the specific procedures proposed. The EPA particularly seeks comment on the issues of the statement of basis accompanying draft permits, the proposed public notice and comment requirements, and appeals of permits.

Pursuant to sections 114 and 503(e) of the Act, EPA, by this proposed rule solicits comments on the appropriateness of, and the means for, making available to the public information that a source would be required by this rule to collect. Such information might include, for example, the data resulting from use of required monitoring methods. Specifically, EPA is requesting comment on what types and amount of information required under this rule should be made available to the public, what limits, if any, to place on a requirement to make available such information, and appropriate methods for making such information publicly available (e.g., electronic reporting to a publicly accessible data base, direct access by the public to information held by sources, or reliance on EPA and/or delegated States to assist the public in obtaining the information). The EPA also solicits comment on appropriate language for a rule or policy guidance document to effectuate public availability of information required under this rule and solicits comments on whether a rule or a policy guidance document is more appropriate.

Under both delegated and nondelegated part 71 programs, interested persons (including permitees) would be authorized to petition the Administrator to reopen an already issued permit for cause as provided in proposed § 71.11(n). Petitions would be required to be in writing and to contain facts or reasons supporting the request. If the Administrator determined that cause exists to reopen the permit, he or she would revise, revoke and reissue, or terminate the permit consistent with the requirements and procedures in proposed § 71.7.

Under part 70, citizens can petition EPA to object to State issued permits and can appeal EPA's failure to object to a proposed permit. However, for both delegated and nondelegated part 71 programs, the EPA feels this type of petition process is unnecessary because the final permit can be appealed directly to the Environmental Appeals Board (EAB) and because citizens can use the petition process provided by proposed § 71.11(n) in cases where the deadline for appeal to the EAB has passed. The EPA believes that this approach provides an adequate opportunity for EPA oversight of part 71 programs, and that consequently there is little value in providing the opportunity for citizens to petition the Administrator to object to a proposed permit, which could result in two separate and simultaneous routes to appeal EPA's permitting actions. Moreover, the approach proposed today would be more consistent with that taken in the Agency's recently promulgated rule (to be codified at 40 CFR 71.21 *et seq*), which governs how title V specialty permits would be issued to sources seeking alternative hazardous air pollution emissions limits under section 112(i)(5) of the Act. See 59 FR 59921 (Nov. 21, 1994) ("Federal Operating Permit Programs; Permits for Early Reductions Sources"). The Agency solicits comment on this approach.

K. Section 71.12—Prohibited Acts

It is important to note that it is unnecessary to include an enforcement authority section in the part 71 Federal program regulations that specifically corresponds to the enforcement authority section in the part 70 State program regulations. Rather, because the program under part 71 is a Federal program, it will be enforced through the full Federal enforcement authorities in the Act.

Examples of the Federal enforcement authorities available under the Act for violations of title V and the regulations thereunder include, but are not limited to, the authority to: (1) Restrain or enjoin immediately and effectively any person by order or by suit in court from engaging in any activity in violation of the Act that is presenting an imminent and substantial endangerment to the public health or welfare, or the environment; (2) seek injunctive relief in court to enjoin any violation of the Act; (3) issue an administrative order against any person assessing a civil administrative penalty of up to $25,000 per day for each violation of the Act; and (4) assess and recover a civil penalty of not more than $25,000 per day for each violation of the Act. Another example of enforcement authority available under the Act is the authority to assess criminal fines pursuant to title 18 of the United States Code or imprisonment for not to exceed 5 years, or both, against any person who knowingly violates title V and the

VOL 60 ISS 81 AP 27 1995 UMI

regulations thereunder. The above list is not an exhaustive description of the Federal enforcement authority available under the Act for violations of title V and the regulations thereunder. Accordingly, nothing in this discussion shall be construed to limit the Federal enforcement authorities available under the Act for violations of title V and the regulations thereunder.

The Federal enforcement authority available under the Act for violations of title V and the regulations thereunder provides broader enforcement authority than the States are required to have under the part 70 regulations. For example, 40 CFR 70.11 requires that States have authority to recover civil penalties for a maximum amount of not less than $10,000 per day per violation. The Federal enforcement authority imposes a maximum penalty of up to $25,000 per day per violation.

VI. Administrative Requirements

A. Reference Documents

All the documents referenced in this preamble fall into one of two categories. They are either reference materials that are considered to be generally available to the public, or they are memoranda and reports prepared specifically for this rulemaking. Both types of documents can be found in Docket No. A–93–51.

B. Office of Management and Budget (OMB) Review

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore, subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan program or the rights and obligations of recipients thereof;

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant" regulatory action. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

The estimated annualized cost of implementing the part 71 program is $137.5 million to the Federal government and $79.8 million to respondents, for a total of $217.3 million which reflects industry's total expected costs of complying with the program. Since any costs incurred by the Agency in administering a program would be recaptured through fees imposed on sources, the true cost to the Federal government is zero. The requirements for the costs result from section 502(d) of title V which mandates that EPA develop a Federal operating permits program. The proposed program is designed to improve air quality by: indirectly improving the quality of State-administered operating permits programs; encouraging the adoption of lower cost control strategies based on economic incentive approaches; improving the effectiveness of enforcement and oversight of source compliance; facilitating the implementation of other titles of the Act, such as title I; and improving the quality of emissions data and other source-related data.

C. Regulatory Flexibility Act Compliance

Under the Regulatory Flexibility Act, whenever an Agency publishes any proposed or final rule in the **Federal Register**, it must prepare a Regulatory Flexibility Analysis (RFA) that describes the impact of the rule on small entities (i.e., small businesses, organizations, and governmental jurisdictions). The EPA has established guidelines which require an RFA if the proposed rule will have any economic impact, however small, on any small entities that are subject to the rule, even though the Agency may not be legally required to develop such an analysis.

The original part 70 rule and the recently proposed revisions to part 70 were determined to not have a significant and disproportionate adverse impact on small entities. Similarly, a regulatory flexibility screening analysis of the impacts of the proposed part 71 rule revealed that the proposed rule would not have a significant and disproportionate adverse impact on small entities; few small entities would be subject to part 71 permitting requirements because the proposed rule defers permitting requirements for nonmajor sources. Consequently, the Administrator certifies that the proposed part 71 regulations will not have a significant and disproportionate impact on small entities. The EPA, however, solicits any information or data which might affect this proposed certification. The EPA will reexamine this issue and perform any subsequent analysis deemed necessary. Any subsequent analysis will be available in the docket and taken into account before promulgation.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M St., Washington, D.C. 20460, (202) 382–2706.

As compared to the burden imposed by 40 CFR part 70, the average additional annual burden on sources for the collection of information is approximately 3.3 million hours, or on average approximately 96 hours per respondent and none for State and local agencies. The total annualized cost for collection is estimated to be approximately $79.8 million for sources. There is no burden for State and local agencies. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Chief, Information Policy Branch (PM–223) U.S. Environmental Agency, 401 M St. SW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, marked, "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Unfunded Mandates Reform Act

As shown in the Information Collection Request Document (ICR), today's action imposes no costs on State, local and tribal governments. The EPA estimates that the direct cost to the private sector would be no more than $96.6 million in any one year, and above costs industry would have incurred by complying with State permits programs mandated by the Act, for which part 71 programs are substitutes. For EPA's estimates of the cost to industry and permitting agencies for State permits programs, see 57 FR 32293 (July 21, 1992) and 59 FR 44525 (August 29, 1994). As shown in the ICR for proposed part 71, the part 71 program would impose on industry a marginal cost (i.e., a cost above what industry would incur to comply with State requirements) of $31.9 million for collecting information (e.g., completing permit applications). Additionally, EPA has calculated the marginal cost to industry of the part 71 fee structure to be $64.7 million. As shown in the ICR, part 71 programs would generate $137.5 million in fees, using an average fee of nearly $60 per ton of certain regulated pollutants. On the other hand, most States are expected to charge approximately $31 per ton (or $25 per ton as adjusted for inflation using a baseline year of 1989) which is the fee amount which title V of the Act suggests would be adequate to fund a State permit program. The difference between fees generated under part 71 and under the otherwise applicable State fee requirements (based on $31 per ton) would be $64.7 million. In addition, it is important to note that the estimates used in these projections (and the ICR) are based on the assumption that EPA would administer 10 part 71 programs for a full year. The EPA believes that it is very unlikely that it would administer that many programs for such an extended time period. For these reasons, EPA believes that the total marginal costs to industry under today's proposal would not exceed $100 million in any one year. Therefore, the Agency concludes that it is not required by Section 202 of the Unfunded Mandates Reform Act of 1995 to provide a written statement to accompany this proposed regulatory action because promulgation of the rule would not result in the expenditure by State, local, and tribal governments, in the aggregate or by the private sector, of $100,000,000 or more in any one year.

List of Subjects

40 CFR Part 55

Air pollution control, Outer Continental Shelf, operating permits.

40 CFR Part 71

Air pollution control, Prevention of significant deterioration, New source review, Fugitive emissions, Particulate matter, Volatile organic compounds, Nitrogen dioxide, Carbon monoxide, Hydrocarbons, Lead, Operating permits, Indian Tribes, Air pollution control—Tribal authority.

Dated: March 28, 1995.

Carol Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as set forth below.

(Note: Material enclosed by brackets and designated as "Option" set forth an alternative proposal regarding revision of permit terms that prescribe monitoring or recordkeeping procedures. Material enclosed by brackets and designated as "alternatives" set for an alternative proposal regarding processing changes under the administrative amendment procedures and de minimis permit revision procedures.)

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

2. Section 55.6 is proposed to be amended by adding paragraph (c)(3) to read as follows:

§ 55.6 Permit requirements.

* * * * *

(c) * * *

(3) If the COA does not have an operating permits program approved pursuant to 40 CFR part 70 or if EPA has determined that the COA is not adequately implementing an approved program, the applicable requirements of 40 CFR part 71, the Federal operating permits program, shall apply to the OCS sources. The applicable requirements of 40 CFR part 71 will be implemented and enforced by the Administrator. The Administrator may delegate the authority to implement and enforce all or part of a Federal operating permits program to a State pursuant to § 55.11.

* * * * *

3. Section 55.10 is proposed to be amended by revising paragraph (a)(1) and by adding paragraph (b) to read as follows:

§ 55.10 Fees.

(a) * * *

(1) EPA will calculate and collect operating permit fees from OCS sources in accordance with the requirements of 40 CFR part 71.

* * * * *

(b) OCS sources located beyond 25 miles of States' seaward boundaries. EPA will calculate and collect operating permit fees from OCS sources in accordance with the requirements of 40 CFR part 71.

4. Section 55.13 is proposed to be amended by adding paragraph (f) to read as follows:

§ 55.13 Federal requirements that apply to OCS sources.

* * * * *

(f) 40 CFR part 71 shall apply to OCS sources:

(1) Located within 25 miles of States' seaward boundaries if the requirements of 40 CFR part 71 are in effect in the COA.

(2) Located beyond 25 miles of States' seaward boundaries.

(3) When an operating permits program approved pursuant to 40 CFR part 70 is in effect in the COA and a Federal operating permit is issued to satisfy an EPA objection pursuant to 40 CFR 71.4(e).

* * * * *

PART 71—[AMENDED]

5. The authority citation for part 71 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

6. Part 71 is proposed to be amended by adding subpart A to read as follows:

Subpart A—Operating Permits

Sec.

71.1 Program overview.
71.2 Definitions.
71.3 Sources subject to permitting requirements.
71.4 Program implementation.
71.5 Permit applications.
71.6 Permit content.
71.7 Permit review, issuance, renewal, reopenings, and revisions.
71.8 Affected State review.
71.9 Permit fees.
71.10 Delegation of part 71 program.
71.11 Administrative record, public participation, and administrative review.
71.12 Prohibited acts.

Subpart A—Operating Permits

§ 71.1 Program overview.

(a) This part sets forth the comprehensive Federal air quality operating permits permitting program consistent with the requirements of title V of the Clean Air Act (Act) (42 U.S.C. 7401 *et seq.*) and defines the requirements and the corresponding standards and procedures by which the Administrator will issue operating permits. This permitting program is designed to promote timely and efficient implementation of goals and requirements of the Act.

(b) All sources subject to the operating permit requirements of title V of the Act and this part shall have a permit to operate that assures compliance by the source with all applicable requirements.

(c) The requirements of this part, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the acid rain program, except as provided herein or as modified by title IV of the Act and 40 CFR parts 72 through 78.

(d) Issuance of permits under this part may be coordinated with issuance of permits under the Resource

VOL 60 ISS 81 AP 27 1995 UMI

Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*) and under the Clean Water Act (33 U.S.C. 1251 *et seq.*), whether issued by the State, the U.S. Environmental Protection Agency (EPA), or the U.S. Army Corps of Engineers.

(e) Nothing in this part shall prevent a State from administering an operating permits program and establishing more stringent requirements not inconsistent with the Act.

§ 71.2 Definitions.

The following definitions apply to part 71. Except as specifically provided in this section, terms used in this part retain the meaning accorded them under the applicable requirements of the Act.

Act means the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*

Administrator or *EPA* means the Administrator of the U.S. Environmental Protection Agency (EPA) or his or her designee.

Affected source shall have the meaning given to it in 40 CFR 72.2.

Affected States are:

(1) All States and Tribal areas whose air quality may be affected and that are contiguous to the State or Tribal area in which the permit, permit revision or permit renewal is being proposed; or that are within 50 miles of the permitted source. A Tribe and any associated Tribal area shall be treated as a State under this paragraph (1) only if EPA has determined that the Tribe is eligible to be treated in the same manner as a State.

(2) The State or Tribal area in which a part 71 permit, permit revision, or permit renewal is being proposed.

(3) Those areas within the jurisdiction of the air pollution control agency for the area in which a part 71 permit, permit revision, or permit renewal is being proposed.

(4) Except as provided in paragraph (3) of this definition, the term "affected State" does not include any local agency, district, or interstate program.

Affected unit shall have the meaning given to it in 40 CFR 72.2.

Applicable requirement means all of the following as they apply to emissions units in a part 71 source (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future compliance dates):

(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in part 52 of this chapter;

(2) Any requirement enforceable by the Administrator and by citizens under the Act that limits emissions for the purposes of creating offset credits or for complying with or avoiding the applicability of applicable requirements;

(3) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under title I, including parts C or D, of the Act;

(4) Any standard or other requirement under section 111 of the Act, including section 111(d);

(5) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;

(6) Any standard or other requirement of the acid rain program under title IV of the Act or 40 CFR parts 72 through 78;

(7) Any requirements established pursuant to section 114(a)(3) or 504(b) of the Act;

(8) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(9) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(10) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(11) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(12) Any standard or other requirement of the regulations promulgated at 40 CFR part 82, subpart B and subpart F to protect stratospheric ozone under sections 608 or 609 of title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a permit issued under title V of the Act, and any standard or other requirement under any other section(s) of title VI of the Act that the Administrator determines should be contained in a permit issued under title V of the Act; and

(13) Any national ambient air quality standard or increment or visibility requirement under part C of title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.

Delegate agency means the State air pollution control agency, local agency, other State agency, Tribal agency, or other agency authorized by the Administrator pursuant to § 71.10 to carry out all or part of a permit program under part 71.

Designated representative shall have the meaning given to it in 40 CFR 72.2.

Draft permit means the version of a permit for which the permitting authority offers public participation under § 71.7 or § 71.11 and affected State review under § 71.8.

Eligible Indian tribe or *Eligible tribe* means a tribe that has been determined by EPA to meet the criteria for being treated in the same manner as a State, pursuant to the regulations implementing section 301(d)(2) of the Act.[1]

Emissions allowable under the permit means a federally enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of title IV of the Act.

Federal Indian reservation, Indian reservation or *reservation* means all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

Final action or *final permit action* means the issuance or denial of a part 71 permit, permit renewal, or permit revision by the permitting authority, which has completed all review procedures required by §§ 71.7, 71.8, and 71.11, and is subject to administrative appeal and judicial review.

Fugitive emissions are those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.

General permit means a part 71 permit that meets the requirements of § 71.6(d).

Indian tribe or *tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Insignificant activity or emissions means those activities, operations, and

[1] Proposed rule entitled "Indian Tribes: Air Quality Planning and Management", 59 FR 43956 (August 25, 1994).

emissions levels which meet the criteria listed in § 71.5(g) for exemption from the documentation and reporting requirements of § 71.5(f).

Major new source review (major NSR) means a title I program contained in an EPA-approved or promulgated implementation plan for the preconstruction review of changes which are subject to review as new major stationary sources or major modifications under EPA regulations implementing parts C or D of title I of the Act. (40 CFR 51.165 through 51.166, 40 CFR part 51, subpart P, 40 CFR 52.21 through 52.29).

Major source means any stationary source or group of stationary sources as described in paragraph (1), (2), or (3) of this definition. For purposes of paragraphs (2) and (3) of this definition, major stationary source includes any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control) belonging to a single major industrial grouping. For the purposes of defining "major source" in paragraph (2) or (3) of this definition, a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987. In addition, for purposes of paragraphs (2) and (3) of this definition, any facility that supports a source, where both are under the control of the same person (or persons under common control) and on contiguous or adjacent properties, shall be considered a support facility and part of the same source, regardless of the 2-digit code of that facility. A stationary source (or group of stationary sources) is considered a support facility to a source if at least 50 percent of the output of the support facility is dedicated to the source.

(1) A major source under section 112 of the Act, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant (HAP) (including any fugitive emissions of such pollutant) which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such HAP (including any fugitive emissions of such pollutants), or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(2) A major stationary source of air pollutants or any group of stationary sources as defined in section 302 of the Act, that directly emits, or has the potential to emit, 100 tpy or more of any air pollutant (including any fugitive emissions of any such pollutant, as determined by rule by the Administrator). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act or for the purposes of paragraph (3) of this definition, unless the source belongs to one of the following categories of stationary source:

(i) Coal cleaning plants (with thermal dryers);

(ii) Kraft pulp mills;

(iii) Portland cement plants;

(iv) Primary zinc smelters;

(v) Iron and steel mills;

(vi) Primary aluminum ore reduction plants;

(vii) Primary copper smelters;

(viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) Hydrofluoric, sulfuric, or nitric acid plants;

(x) Petroleum refineries;

(xi) Lime plants;

(xii) Phosphate rock processing plants;

(xiii) Coke oven batteries;

(xiv) Sulfur recovery plants;

(xv) Carbon black plants (furnace process);

(xvi) Primary lead smelters;

(xvii) Fuel conversion plants;

(xviii) Sintering plants;

(xix) Secondary metal production plants;

(xx) Chemical process plants;

(xxi) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) Taconite ore processing plants;

(xxiv) Glass fiber processing plants;

(xxv) Charcoal production plants;

(xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or

(xxvii) All other stationary source categories regulated by a standard promulgated as of August 7, 1980, under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category;

(3) A major stationary source as defined in part D of title I of the Act, including:

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme;" except that the references in this paragraph (3)(i) to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182 (f)(1) or (f)(2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of volatile organic compounds;

(iii) For carbon monoxide nonattainment areas: That are classified as "serious," and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide; and

(iv) For particulate matter (PM–10) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM–10 or, where applicable, a PM–10 precursor.

Minor new source review (minor NSR) means a title I program approved by EPA into a State's implementation plan under EPA regulations implementing section 110(a)(2) of title I of the Act for the preconstruction review of changes which are subject to review as new or modified sources (40 CFR 51.160 through 51.164) and which do not qualify as new major stationary sources or major modifications under EPA regulations implementing part C or D of title I of the Act (40 CFR 51.165 through 51.166, 40 CFR part 51, subpart P, 40 CFR 52.21 through 52.29).

Part 70 permit means any permit or group of permits covering a part 70 source that has been issued, renewed, amended or revised pursuant to 40 CFR part 70.

VOL 60 ISS 81 APR 27 1995 UMI

Part 70 program or *State program* means an operating permits program approved by the Administrator under 40 CFR part 70.

Part 70 source means any source subject to the permitting requirements of 40 CFR part 70.

Part 71 permit or *permit* (unless the context suggests otherwise) means any permit or group of permits covering a part 71 source that has been issued, renewed, amended or revised pursuant to this part.

Part 71 program means a Federal operating permits program under this part.

Part 71 source means any source subject to the permitting requirements of this part, as provided in § 71.3(a) and § 71.3(b).

Permit program costs means all reasonable (direct and indirect) costs required to administer an operating permits program, as set forth in § 71.9(b) of this part.

Permit revision means any administrative permit amendment, de minimis permit revision, minor permit revision, or significant permit revision.

Permitting authority means one of the following:

(1) The Administrator, in the case of EPA-implemented programs;

(2) A delegate agency authorized by the Administrator to carry out a Federal permit program under this part; or

(3) The State air pollution control agency, local agency, other State agency, Indian Tribe, or other agency with a part 70 program.

Potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the Administrator and by citizens under the Act. This term does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in title IV of the Act or 40 CFR parts 72 through 78.

Proposed permit means the version of a permit that the delegate agency proposes to issue and forwards to the Administrator for review in compliance with § 71.10(d).

Regulated air pollutant means the following:

(1) Nitrogen oxides or any volatile organic compounds;

(2) Any pollutant for which a national ambient air quality standard has been promulgated;

(3) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(4) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(5) Any pollutant subject to a standard promulgated under section 112 of the Act or other requirements established under section 112 of the Act, including sections 112 (g), (j), and (r) of the Act, including the following:

(i) Any pollutant subject to requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and

(ii) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement.

Regulated pollutant (for fee calculation), which is used only for purposes of § 71.9(c), means any regulated air pollutant except the following:

(1) Carbon monoxide;

(2) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by title VI of the Act; or

(3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the Act.

Renewal means the process by which a permit is reissued at the end of its term.

Responsible official means one of the following: (1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars); or

(ii) The delegation of authority to such representative is approved in advance by the permitting authority;

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;

(3) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or

(4) For affected sources:

(i) The designated representative for all actions, standards, requirements, or prohibitions under title IV of the Act or 40 CFR parts 72 through 78; or

(ii) The designated representative or a person meeting the provisions of paragraph (1), (2), or (3) of this definition for any other purposes under part 71.

State means any non-Federal permitting authority, including any local agency, interstate association, or statewide program. The term "State" also includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marianas Islands. Where such meaning is clear from the context, "State" shall have its conventional meaning. For purposes of the acid rain program, the term "State" shall be limited to authorities within the 48 contiguous States and the District of Columbia as provided in section 402(14) of the Act.

Stationary source means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

Title I modification or *modification under any provision of title I of the Act* means any modification under part C or part D of title I or sections 110(a)(2), 111(a)(4), 112(a)(5), or 112(g) of the Act; under regulations codified in this chapter to implement sections 112(a)(5) and 112(g) of the Act or in 40 CFR 51.160 through 51.164, 40 CFR part 60, or in 40 CFR 61.07; or under State regulations approved by EPA to meet such requirements.

Tribal area means, for the purposes of the regulations under this part, those lands over which an Indian Tribe has authority under the Clean Air Act to regulate air quality. These lands include all areas within the exterior boundaries of an Indian reservation and any other areas outside reservation boundaries that EPA determines to be within a Tribe's inherent authority.

§ 71.3 Sources subject to permitting requirements.

(a) *Part 71 sources.* The following sources are subject to the permitting requirements under this part:

(1) Any major source, except that a source is not required to obtain a permit if it would be classified as a major source solely because it has the potential to emit major amounts of a pollutant listed pursuant to section 112(r)(3) of the Act and is not otherwise required to obtain a permit under this part;

(2) Any source, including an area source (i.e., a nonmajor source), subject to a standard, limitation, or other requirement under section 111 of the Act;

(3) Any source, including an area source (i.e., a nonmajor source), subject to a standard or other requirement under section 112 of the Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the Act;

(4) Any source required to have a permit under part C or D of title I of the Act;

(5) Any affected source; and

(6) Any source in a source category designated by the Administrator pursuant to this section.

(b) *Source category exemptions.*

(1) All sources listed in paragraph (a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act are exempted from the obligation to obtain a part 71 permit until such time as the Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources and the appropriateness of any permanent exemptions in addition to those provided for in paragraph (b)(4) of this section.

(2) Nonmajor sources subject to a standard or other requirement under either section 111 or 112 of the Act after July 21, 1992 shall be exempted from the obligation to obtain a part 71 permit if the Administrator exempts such sources from the requirement to obtain a part 70 or part 71 permit at the time that the new standard is promulgated.

(3) Any source listed in paragraph (a) of this section that is exempt from the requirement to obtain a permit under this section may opt to apply for a permit under a part 71 program.

(4) The following source categories are exempted from the obligation to obtain a part 71 permit:

(i) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 60, Subpart AAA—Standards of Performance for New Residential Wood Heaters; and

(ii) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 61, Subpart M—National Emission Standard for Hazardous Air Pollutants for Asbestos, § 61.145, Standard for Demolition and Renovation.

§ 71.4 Program implementation.

(a) *Part 71 programs for States.* The Administrator will administer and enforce a full or partial operating permits program for a State (excluding Tribal areas) in the following situations:

(1) A program for a State meeting the requirements of part 70 of this chapter has not been granted full approval under § 70.4 of this chapter by the Administrator by November 15, 1995, and the State's part 70 program has not been granted interim approval under § 70.4(d) of this chapter for a period extending beyond November 15, 1995. The effective date of such a part 71 program is November 15, 1995.

(2) An operating permits program for a State which was granted interim approval under § 70.4(d) of this chapter has not been granted full approval by the Administrator by the expiration of the interim approval period or November 15, 1995, whichever is later. Such a part 71 program shall be effective upon expiration of the interim approval or November 15, 1995, whichever is later.

(3) Any partial part 71 program will be effective only in those portions of a State that are not covered by a partial part 70 program that has been granted full or interim approval by the Administrator pursuant to § 70.4(c) of this chapter.

(b) *Part 71 programs for Tribal areas.* The Administrator may administer and enforce an operating permits program for a Tribal area, as defined in § 71.2, when an operating permits program for the area which meets the requirements of part 70 of this chapter has not been granted full or interim approval by the Administrator by November 15, 1995.

(1) Determining the boundaries of a Tribal area. At least 90 days prior to the effective date of a part 71 program for a Tribal area, the Administrator shall notify all appropriate governmental entities of the proposed geographic boundaries of the program.

(i) For programs solely addressing air resources within the exterior boundaries of the Reservation, EPA's notification of other governmental entities shall specify the geographic boundaries of the Reservation. For programs also addressing off-reservation areas, EPA's notification of other governmental entities shall include the substance and bases of the Tribe's assertions of jurisdiction over such off-reservation area(s), including:

(A) A map or legal description of the off-reservation area(s) over which the Tribe asserts jurisdiction.

(B) A statement by the Tribe's legal counsel (or equivalent official) which describes the basis for the Tribe's assertion of jurisdiction which may include a copy of documents such as Tribal constitutions, by-laws, charters, executive orders, codes, ordinances, and/or resolutions which support the Tribe's assertion of jurisdiction over the off-reservation area(s).

(ii) The appropriate governmental entities shall have 15 days to provide written comments to the Administrator regarding any dispute concerning the boundary of the Reservation. Where a Tribe has asserted jurisdiction over off-reservation areas, appropriate governmental entities may request a single 15-day extension to the general 15-day comment period.

(iii) In all cases, comments must be timely, limited to the scope of the Tribe's jurisdictional assertion, and clearly explain the substance, bases and extent of any objections. If a Tribe's assertion is subject to a conflicting claim, the EPA may request additional information and may consult with the Department of the Interior.

(iv) The Administrator shall promptly decide the scope of the Tribe's jurisdiction. If a conflicting claim cannot be promptly resolved, the Administrator shall implement a part 71 program encompassing all undisputed areas.

(v) The part 71 program will extend to all areas within the exterior boundaries of the Tribe's reservation, as determined by the Administrator, and any other areas the Administrator has determined to be within the Tribe's jurisdiction.

(vi) The Administrator's determination of the scope of the Tribe's jurisdiction shall be published in the **Federal Register** at least 30 days prior to the effective date of the part 71 program.

(2) The effective date of a part 71 program for a Tribal area shall be November 15, 1997.

(3) Notwithstanding paragraph (b)(2) of this section, the Administrator, in consultation with the governing body of the Tribal area, may adopt an earlier effective date.

(4) Notwithstanding paragraph (i)(2) of this section, within two years of the

VOL 60 ISS 81 AP 27 1995 UMI

effective date of the part 71 program for the Tribal area, the Administrator shall take final action on permit applications from part 71 sources that are submitted within the first full year after the effective date of the part 71 program.

(c) *Part 71 programs imposed due to inadequate implementation.*

(1) The Administrator will administer and enforce an operating permits program for a permitting authority if the Administrator has notified the permitting authority, in accordance with § 70.10(b)(1) of this chapter, of the Administrator's determination that a permitting authority is not adequately administering or enforcing its approved operating permits program, or any portion thereof, and the permitting authority fails to do either of the following:

(i) Correct the deficiencies within 18 months after the Administrator issues the notice; or

(ii) Take significant action to assure adequate administration and enforcement of the program within 90 days of the Administrator's notice.

(2) The effective date of a part 71 program promulgated in accordance with this paragraph (c) shall be:

(i) Two years after the Administrator's notice if the permitting authority has not corrected the deficiency within 18 months after the date of the Administrator's notice; or

(ii) Such earlier time as the Administrator determines appropriate if the permitting authority fails, within 90 days of the Administrator's notice, to take significant action to assure adequate administration and enforcement of the program.

(d) *Part 71 programs for OCS sources.*

(1) Using the procedures of this part, the Administrator will issue permits to any source which is an outer continental shelf (OCS) source, as defined under § 55.2 of this chapter, is subject to the requirements of part 55 of this chapter and section 328(a) of the Act, is subject to the requirement to obtain a permit under title V of the Act, and is either:

(i) Located beyond 25 miles of States' seaward boundaries; or

(ii) Located within 25 miles of States' seaward boundaries and a part 71 program is being administered and enforced by the Administrator for the corresponding onshore area, as defined in § 55.2 of this chapter, for that source.

(2) The requirements of § 71.4(d)(1)(i) shall apply on [Effective date of the final regulations].

(3) The requirements of § 71.4(d)(1)(ii) apply upon the effective date of a part 71 program for the corresponding onshore area.

(e) *Part 71 program for permits issued to satisfy an EPA objection.* Using the procedures of this part and 40 CFR 70.8 (c) or (d), or 40 CFR 70.7(g) (4) or (5) (i) and (ii), as appropriate, the Administrator will deny, terminate, revise, revoke or reissue a permit which has been proposed or issued by a permitting authority or will issue a part 71 permit when:

(1) A permitting authority with an approved part 70 operating permits program fails to respond to a timely objection to the issuance of a permit made by the Administrator pursuant to section 505(b) of the Act and § 70.8 (c) and (d) of this chapter;

(2) The Administrator, under § 70.7(g) of this chapter, finds that cause exists to reopen a permit and the permitting authority fails to either:

(i) Submit to the Administrator a proposed determination of termination, modification, or revocation and reissuance, as appropriate; or

(ii) Resolve any objection EPA makes to the permit which the permitting authority proposes to issue in response to EPA's finding of cause to reopen, and to terminate, revise, or revoke and reissue the permit in accordance with that objection.

(3) The requirements of this paragraph (e) shall apply on [Effective date of the final regulations].

(f) *Use of selected provisions of this part.* The Administrator may utilize any or all of the provisions of this part to administer the permitting process for individual sources or take action on individual permits, or may adopt through rulemaking portions of a State or Tribal program in combination with provisions of this part to administer a Federal program for the State or Tribal area in substitution of or addition to the Federal program otherwise required by this part.

(g) *Public notice of part 71 programs.* In taking action to administer and enforce an operating permits program under this part, the Administrator will publish a notice in the **Federal Register** informing the public of such action and the effective date of any part 71 program as set forth in § 71.4 (a), (b), (c), or (d)(1)(ii). The promulgation of this part serves as the notice for the part 71 permit programs described in § 71.4(d)(1) (i) and (e). The EPA will also publish a notice in the **Federal Register** of any delegation of a portion of the part 71 program to a State, eligible Tribe, or local agency pursuant to the provisions of § 71.10. In addition to notices published in the **Federal Register** under this paragraph (g), the Administrator will, to the extent practicable, publish notice in a newspaper of general circulation within the area subject to the part 71 program effectiveness or delegation, and will send a letter to the Tribal governing body for an Indian Tribe or the Governor (or his or her designee) of the affected area to provide notice of such effectiveness or delegation.

(h) *Effect of limited deficiencies in State or Tribal programs.* The Administrator may administer and enforce a part 71 program in a State or Tribal area even if only limited deficiencies exist either in the initial program submittal for a State or eligible Tribe under part 70 of this chapter or in an existing State or Tribal program that has been approved under part 70 of this chapter.

(i) *Transition plan for initial permit issuance.* If a full or partial part 71 program becomes effective in a State or Tribal area prior to the issuance of part 70 permits to all part 70 sources under an existing program that has been approved under part 70 of this chapter, the Administrator shall take final action on initial permit applications for all part 71 sources in accordance with the following transition plan.

(1) All part 71 sources that have not received part 70 permits shall submit permit applications under this part within 1 year after the effective date of the part 71 program.

(2) Final action shall be taken on at least one-third of such applications annually over a period not to exceed 3 years after such effective date.

(3) Any complete permit application containing an early reduction demonstration under section 112(i)(5) of the Act shall be acted on within 12 months of receipt of the complete application.

(4) Submittal of permit applications and the permitting of affected sources shall occur in accordance with the deadlines in title IV of the Act and 40 CFR parts 72 through 78.

(j) *Delegation of part 71 programs.* The Administrator may promulgate a part 71 program in a State or Tribal area and delegate part of the responsibility for administering the part 71 program to the State or eligible Tribe in accordance with the provisions of § 71.10; however, delegation of a part of a program will not constitute any type of approval of a State or Tribal operating permits program under part 70 of this chapter. Where only selected portions of a part 71 program are administered by the Administrator and the State or eligible Tribe is delegated the remaining portions of the program, the notice referred to in paragraph (g) of this section will define the respective roles of the State or eligible Tribe and the Administrator in administering and enforcing the part 71 operating permits program.

(k) *EPA administration and enforcement of part 70 permits.* When the Administrator administers and enforces a part 71 program after a determination and notice under § 70.10(b)(1) of this chapter that a State or Tribe is not adequately administering and enforcing an operating permits program approved under part 70 of this chapter, the Administrator will administer and enforce permits issued under the part 70 program until part 71 permits are issued using the procedures of part 71. Until such time as part 70 permits are replaced by part 71 permits, the Administrator will revise, reopen, revise, terminate, or revoke and reissue part 70 permits using the procedures of part 71 and will assess and collect fees in accordance with the provisions of § 71.9.

(l) *Transition to approved part 70 program.* The Administrator will suspend the issuance of part 71 permits promptly upon publication of notice of approval of a State or Tribal operating permits program that fully meets the requirements of part 70 of this chapter. The Administrator may retain jurisdiction over the part 71 permits for which the administrative or judicial review process is not complete and will address this issue in the notice of State program approval. After approval of a State or Tribal program and the suspension of issuance of part 71 permits by the Administrator:

(1) The Administrator, or the permitting authority acting as the Administrator's delegated agent, will continue to administer and enforce part 71 permits until they are replaced by permits issued under the approved part 70 program. Until such time as part 71 permits are replaced by part 70 permits, the Administrator will revise, reopen, revise, terminate, or revoke and reissue part 71 permits using the procedures of the part 71 program. However, if the Administrator has delegated authority to administer part 71 permits to a delegate agency, the delegate agency will revise, reopen, terminate, or revoke and reissue part 71 permits using the procedures of the approved part 70 program. If a part 71 permit expires prior to the issuance of a part 70 permit, all terms and conditions of the part 71 permit, including any permit shield that may be granted pursuant to § 71.6(n), shall remain in effect until the part 70 permit is issued or denied, provided that a timely and complete application for a permit renewal was submitted to the permitting authority in accordance with the requirements of the approved part 70 program.

(2) A State or local agency or Indian Tribe with an approved part 70 operating permits program may issue part 70 permits for all sources with part 71 permits in accordance with a permit issuance schedule approved as part of the approved part 70 program or may issue part 70 permits to such sources at the expiration of the part 71 permits.

(3) The Administrator shall rescind the part 71 permit for a source when it is replaced by a part 70 permit issued under the approved part 70 program.

(m) *Exemption for certain territories.* Upon petition by the Governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Marianas Islands, the Administrator may exempt any source or class of sources in such territory from the requirement to have a part 71 permit under this chapter. Such an exemption does not exempt such source or class of sources from any requirement of section 112 of the Act, including the requirements of section 112(g) or (j).

(1) Such exemption may be granted if the Administrator finds that compliance with part 71 is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as the Administrator deems significant. Any such petition shall be considered in accordance with section 307(d) of the Act, and any exemption granted under this paragraph (m) shall be considered final action by the Administrator for the purposes of section 307(b) of the Act.

(2) The Administrator shall promptly notify the Committees on Energy and Commerce and on Interior and Insular Affairs of the House of Representatives and the Committees on Environment and Public Works and on Energy and Natural Resources of the Senate upon receipt of any petition under this paragraph (m) and of the approval or rejection of such petition and the basis for such action.

(n) *Retention of records.* The records for each draft, proposed, and final permit application, renewal, or modification shall be kept by the Administrator for a period of 5 years.

§ 71.5 Permit applications.

(a) *Duty to apply.* The owner or operator of a source required to obtain a permit under § 71.3 shall submit a timely and complete permit application in accordance with this section.

(b) *Timely application.*

(1) A timely application for a source which does not have an existing operating permit issued by a State under the State's approved part 70 program and is applying for a part 71 permit for the first time is one that is submitted within 12 months or an earlier date after the source becomes subject to the part 71 program. Sources required to submit applications earlier than 12 months will be notified in advance by the permitting authority of this paragraph (b)(1) and given a reasonable time to submit their applications. In no case will this notice be given less than 120 days in advance of the submittal date.

(2) For purposes of changes eligible under § 71.6(q), a timely application is one that is submitted not later than 6 months after the notice required under § 71.6(q)(3).

(3) For purposes of permit revisions other than changes eligible under § 71.6(g), a timely application is one that is submitted by the relevant deadlines set forth in § 71.7(e), (f), (g), or (h).

(4) For purposes of permit renewal, a timely application is one that is submitted at least 6 months but no longer than 18 months prior to the date of the part 70 or part 71 permit expiration.

(5) Applications for initial phase II acid rain permits shall be submitted to the permitting authority by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides or by such other deadlines established under title IV of the Act and 40 CFR parts 72 through 78.

(c) *Complete application.* To be found complete, an application must provide all information required pursuant to paragraph (f) of this section sufficient to allow the permitting authority to begin processing the application, except that an application for a permit revision need supply such information only if it is related to the proposed change. Additionally, an initial applicant must remit payment of any fees owed pursuant to § 71.9 in order for the application to be found complete. The information supplied by the applicant pursuant to paragraph (f) of this section must be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information consistent with paragraph (i) of this section. Unless the permitting authority determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in § 71.7(a)(3). If, while processing an application that has been determined or deemed to be complete, the permitting authority determines that additional information is necessary to evaluate or take final action on that application, the

VOL 60 ISS 81 AP 27 1995 UMI

permitting authority may request such information in writing and set a reasonable deadline for a response. The source's ability to operate without a permit, as set forth in § 71.7(b), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the permitting authority.

(d) *Confidential information.* In a case where a source submits information to the permitting authority under a business confidentiality claim, the permitting authority will follow procedures found at 40 CFR part 2. Pursuant to § 2.301(e) of this chapter, information contained in the permit application regarding emissions data or a standard or limitation is not entitled to confidential treatment.

(e) *Duty to supplement or correct application.* Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.

(f) *Standard application form.* Part 71 sources shall submit the following information using application forms provided by the permitting authority (or if provided by the permitting authority, an electronic reporting method). Information as described in this paragraph (f) for each emissions unit at a part 71 source shall be included in the application. A complete part 71 permit application shall include the following elements:

(1) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone numbers and names of plant site managers/contacts.

(2) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with each alternate scenario identified by the source.

(3) The following emissions-related information:

(i) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under paragraph (g) of this section. Fugitive emissions shall be included in the permit application in the same manner as stack emissions for each emissions unit, regardless of whether the source category in question is included in the list of sources contained in the definition of major source. Moreover, information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule established pursuant to § 71.9 must be provided.

(ii) Identification and description of all points of emissions described in paragraph (f)(3)(i) of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

(iii) Emissions rates in tpy and in such additional terms as are necessary to establish compliance consistent with the applicable standard reference test method.

(iv) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.

(v) Identification and description of air pollution control equipment and compliance monitoring devices or activities, including brief descriptions of any appropriate operation and maintenance procedures and quality assurance procedures.

(vi) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the part 71 source.

(vii) Other information required by any applicable requirement (including, but not limited to, stack height limitations developed pursuant to section 123 of the Act).

(viii) Calculations on which the information in paragraphs (f)(3)(i) through (vii) of this section is based.

(4) The following air pollution control requirements:

(i) Citation and description of all applicable requirements, and

(ii) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(5) Other specific information that may be necessary to implement and enforce other applicable requirements of the Act or of this part or to determine the applicability of such requirements.

(6) An explanation of any proposed exemptions from otherwise applicable requirements.

(7) Additional information as determined to be necessary by the permitting authority to define alternative operating scenarios identified by the source pursuant to § 71.6(a)(8) or to define permit terms and conditions implementing § 71.6(a)(9) or § 71.6(p).

(8) Identification of those emissions units eligible for emissions trading under § 71.6(a)(9) and those emissions units at which changes may be processed under de minimis permit revision procedures contained in § 71.7(f).

(9) A compliance plan for all part 71 sources that contains all the following:

(i) A description of the compliance status of the source with respect to all applicable requirements.

(ii) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.

(C) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.

(iii) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.

(C) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

(iv) A schedule for submission of certified progress reports every 6 months for sources required to have a schedule of compliance to remedy a violation, unless more frequent submittals are required in the applicable requirement or by the permitting authority.

(v) For affected sources applying for part 71 permits, the compliance plan content requirements specified in this paragraph (f)(9) must be met for all applicable requirements, including the applicable requirements of title IV of the Act. For permit applications required under the acid rain program, the compliance plan content requirements of 40 CFR part 72, subpart D must be met.

(10) Requirements for compliance certification, including the following:

(i) A certification of compliance with all applicable requirements by a responsible official consistent with paragraph (i) of this section and section 114(a)(3) of the Act;

(ii) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(iii) A schedule for annual submissions of compliance certifications during the permit term, or for more frequent submissions if specified by the underlying applicable requirement or by the permitting authority; and

(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act.

(11) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by 40 CFR part 72.

(12) Temporary sources requesting a single permit for multiple sites must also provide in the permit application ambient air quality standard and increment and visibility analyses as required under part C of title I of the Act.

(g) *Insignificant activities and emissions levels.* The following types of insignificant activities and emissions levels are exempt from the requirements of paragraph (f) of this section. Notwithstanding the preceding sentence, no activity or emission levels shall be exempt from the requirements of paragraph (f) of this section if the information omitted from the application is needed to determine the applicability of or to impose any applicable requirement, to determine whether a source is major, to determine whether a source is subject to the requirement to obtain a part 71 permit, or to calculate the fee amount required under the schedule established pursuant to § 71.9.

(1) *Insignificant activities.* Information concerning the following activities need not be provided in the application:

(i) Mobile sources;

(ii) Air-conditioning units used for human comfort that do not use a class I or class II ozone depleting substance and do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;

(iii) Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;

(iv) Heating units used for human comfort that do not provide heat for any manufacturing or other industrial process;

(v) Noncommercial food preparation;

(vi) Consumer use of office equipment and products;

(vii) Janitorial services and consumer use of janitorial products; and

(viii) Internal combustion engines used for landscaping purposes.

(2) *Insignificant emissions levels.* Emissions meeting the criteria in paragraph (g)(2)(i) or (g)(2)(ii) of this section need not be included in the application consistent with paragraph (f) of this section, but must be listed with sufficient detail to identify the emission unit and indicate that the exemption applies. Similar emission units, including similar capacities or sizes, may be listed under a single description, provided the number of emission units is included in the description. No additional information is required at time of application, but the permitting authority may request additional information during application processing.

(i) *Emission criteria for regulated air pollutants, excluding hazardous air pollutants (HAP).* Potential to emit of regulated air pollutants, excluding HAP, for any single emissions unit shall not exceed 1 tpy, except in extreme ozone nonattainment areas, where potential to emit may not exceed 1,000 pounds (lb) per year. Aggregate emissions of any regulated air pollutant, excluding HAP, from all emission units shall not exceed potential to emit of 10 tpy, except in extreme ozone nonattainment areas, where potential to emit may not exceed 5 tpy.

(ii) *Emission criteria for HAP.* Potential to emit of any HAP from any single emissions unit shall not exceed 1,000 lb per year or the de minimis level established under section 112(g) of the Act, whichever is less. Aggregate emissions of all HAP from all emission units shall not exceed potential to emit of 5 tpy or the de minimis levels established under section 112(g) of the Act, whichever is less.

(h) *Application for coverage under a general permit.* Part 71 sources that qualify for a general permit must apply to the permitting authority for coverage under the terms of the general permit or must apply for a part 71 permit consistent with this section. The permitting authority may provide for applications for general permits which deviate from the requirements of this section, provided that such applications meet the requirements of Title V of the Act, and include all information necessary to determine qualification for, and assure compliance with, the general permit.

(i) *Certification by a responsible official.* Any application form, report, or compliance certification submitted pursuant to these regulations shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

§ 71.6 Permit content.

(a) *Standard permit requirements.* Each permit issued under this part shall include the following elements:

(1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.

(i) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

(ii) The permit shall state that where an applicable requirement of the Act is more stringent than an applicable requirement of 40 CFR parts 72 through 79, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.

(iii) If an applicable implementation plan allows a determination of an alternative emission limit at a part 71 source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant permit revision process, and the permitting authority elects to use such process, any

VOL 60 ISS 81 AP 27 1995 UMI

permit containing such equivalency determination shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(iv) *Emission units and part 71 sources.*

(A) For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source.

(B) For any nonmajor source subject to the part 71 program, the permitting authority shall include in the permit all applicable requirements applicable to emissions units that caused the source to be subject to the part 71 program.

(2) *Permit duration.* The permitting authority shall issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources. Notwithstanding this requirement, the permitting authority shall issue permits for solid waste incineration units combusting municipal waste subject to standards under section 129(e) of the Act for a period not to exceed 12 years and shall review such permits at least every 5 years. The permit shall state when the source's application for renewal must be submitted to the permitting authority consistent with § 71.5.

(3) For affected sources, a permit condition prohibiting any affected unit from emitting sulfur dioxide in excess of any allowances that the affected unit lawfully holds under title IV of the Act or 40 CFR parts 72 through 78.

(i) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

(ii) No limit shall be placed on the number of allowances held by the unit. The unit may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

(iii) Any such allowance shall be accounted for according to the procedures established in regulations 40 CFR parts 72 through 78.

(4) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.

(5) Provisions stating the following:

(i) The source must comply with all conditions of the part 71 permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

(ii) *Need to halt or reduce activity not a defense.* It shall not be a defense for a source in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(iii) The permit may be modified, revoked, reopened and reissued, or terminated for cause. The filing of a request by the source for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(iv) The permit does not convey any property rights of any sort, or any exclusive privilege.

(v) The permittee shall furnish to the permitting authority, within a reasonable time, any information that the permitting authority may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit or to determine compliance with the permit, including copies of records required to be kept by the permit. The source may assert a claim of confidentiality consistent with section 114(c) of the Act and 40 CFR part 2 with respect to any such requested information.

(vi) A schedule of compliance does not sanction noncompliance with the applicable requirement on which it is based.

(6) A provision to ensure that a part 71 source pays fees to the permitting authority consistent with the fee schedule in § 71.9.

(7) *Emissions trading.* A provision stating that no permit revision shall be required under any economic incentives, marketable permits, emissions trading or other similar programs or processes approved in an implementation plan or other applicable requirement authorizing such changes to be provided for in the permit and where the permit provides for such changes.

(8) Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the permitting authority. Such terms and conditions:

(i) Shall require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating. Provided that each of the alternative scenarios available for a particular unit is monitored in a way that yields objective, contemporaneous measurement and recordation of relevant emissions or parameters and that the means of measurement are sufficiently different for each of the scenarios that the contemporaneous record reveals the scenario under which the source was operating when the record was made, no further notice to the permitting authority is required. Otherwise, the permit shall require that when any change is made between alternative scenarios, the permittee at the beginning of the following week shall place in regular mail to the permitting authority notice of such change(s) between scenarios, which could consist of a copy of the relevant portion of the on-site log indicating the scenario(s) under which the source operated during the previous week;

(ii) May extend the permit shield described in paragraph (f) of this section to all terms and conditions under each such operating scenario; and

(iii) Must ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this part.

(9) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of any emissions trade. Such terms and conditions:

(i) Shall include all terms required under paragraphs (a) and (c) of this section to ensure compliance;

(ii) May extend the permit shield described in paragraph (f) of this section to all terms and conditions that allow such increases and decreases in emissions; and

(iii) Must meet all applicable requirements and the requirements of this part.

(b) *Federally-enforceable requirements.* All terms and conditions in a part 71 permit, including any provisions designed to limit a source's potential to emit, shall be enforceable by the Administrator and citizens under the Act.

(c) *Compliance requirements.* All part 71 permits shall contain testing, monitoring, reporting, recordkeeping and compliance certification requirements sufficient to assure compliance with the terms and conditions of the permit consistent with the following provisions of this section. Any document (including reports) required to be submitted by a part 71 permit shall contain a certification by a responsible official that meets the requirements of § 71.5(i).

(d) *Monitoring requirements.* Each permit shall contain the following requirements with respect to monitoring:

(1) All emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to sections 114(a)(3) or 504(b) of the Act;

(2) Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to paragraph (f) of this section. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this paragraph (d)(2); and

(3) As necessary, requirements concerning the use, maintenance, and, where appropriate, installation of monitoring equipment or methods.

(e) *Recordkeeping requirements.* Each permit shall contain the following requirements with respect to recordkeeping:

(1) All applicable recordkeeping requirements;

(2) Where applicable, a requirement to maintain records of required monitoring information that include the following:

(i) The date, place as defined in the permit, and time of sampling or measurements;

(ii) The date(s) analyses were performed;

(iii) The company or entity that performed the analyses;

(iv) The analytical techniques or methods used;

(v) The results of such analyses; and

(vi) The operating conditions as existing at the time of sampling or measurement; and

(3) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(f) *Reporting and notification requirements.* Each permit shall contain the following requirements with respect to reporting and notification:

(1) All applicable reporting requirements.

(2) Submittal of reports of any required monitoring at least every 6 months or more frequently if required by the applicable requirement or by the permitting authority. All instance of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with § 71.5(i).

(3) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. Where the underlying applicable requirement contains a definition of prompt or otherwise specifies a time frame for reporting deviations, that definition or time frame shall govern. Where the underlying applicable requirement fails to address the time frame for reporting deviations, reports of deviations shall be submitted to the permitting authority based on the following schedule:

(i) For emissions of a hazardous air pollutant or a toxic air pollutant (as identified in an applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made with 24 hours of the occurrence.

(ii) For emissions of any regulated air pollutant, excluding those listed in paragraph (f)(3)(i) of this section, that continue for more than two hours in excess of permit requirements, the report must be made within 48 hours.

(iii) A permit may contain a more stringent reporting requirement than required by paragraphs (f)(3)(i) and (ii) of this section.

(A) If any of the above conditions are met, the source must notify the permitting authority by telephone or facsimile based on the timetable listed in paragraphs (f)(3)(i) through (iii) of this section. A written notice, certified consistent with § 71.5(i), must be submitted within 10 working days of the occurrence.

(B) All deviations reported under paragraph (f)(3) of this section must also be identified in the 6 month report required under paragraph (f)(2) of this section.

(4) For purposes of paragraph (f)(3) of this section, deviation means any condition determined by observation, data from an enhanced monitoring protocol, any other monitoring protocol, or any other monitoring which is required by the permit that can be used to determine compliance, that identifies that an emission unit subject to a part 71 permit term or condition has failed to meet an applicable emission limitation or standard or that a work practice was not complied with or completed. For a condition lasting more than 24 hours which constitutes a deviation, each 24 hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:

(i) A condition where emissions exceed an emission limitation or standard;

(ii) A condition where process or control device parameter values demonstrate that an emission limitation or standard has not been met;

(iii) Any other condition in which observations or data collected demonstrates noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit.

(g) *Compliance certification requirements.* Each permit shall contain the following requirements with respect to compliance certifications with the terms and conditions contained in the permit, including emission limitations, standards, or work practices:

(1) The frequency (not less than annually or more frequently if specified in the applicable requirement or by the permitting authority) of submissions of compliance certifications;

(2) In accordance with paragraph (d) of this section, a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(3) A requirement that the compliance certification includes the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The compliance status;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with paragraph (d) of this section;

(v) Such other facts as the permitting authority may require to determine the compliance status of the source; and

(vi) A requirement that all compliance certifications be submitted to the permitting authority.

(4) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the Act.

(h) *Inspection and entry requirements.* Each permit shall contain inspection and entry requirements that require that,

VOL 60 ISS 81 APR 27 1995 UMI

upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

(1) Enter upon the permittee's premises where a part 71 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(4) As authorized by the Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(i) *Compliance schedule.* Each permit shall contain a schedule of compliance consistent with § 71.5(f)(9).

(j) *Progress reports.* Each permit shall contain a requirement that the permittee submit progress reports consistent with an applicable schedule of compliance and § 71.5(f)(9) to be submitted at least semiannually, or more frequently if required by the applicable requirement or by the permitting authority. Such progress reports shall contain the following:

(1) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and

(2) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(k) *Other provisions.* Each permit shall contain such other provisions as the permitting authority may require.

(l) *General permits.*

(1) The permitting authority may, after notice and opportunity for public participation provided under § 71.11, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other part 71 permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the permitting authority shall grant the terms and conditions of the general permit. Notwithstanding the shield provisions of paragraph (n) of this section, the source shall be subject to enforcement action for operation without a part 71 permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the acid rain program unless otherwise provided in regulations promulgated under title IV of the Act (40 CFR part 72).

(2) Without repeating the public participation procedures required under § 71.11, the permitting authority may grant a source's request for authorization to operate under a general permit, and such a grant shall be a final permit action for purposes of judicial review.

(3) The permitting authority shall provide timely notice to the public of any authorization given to a source to operate under the terms of a general permit. Such notice may be made on a monthly, summarized basis covering all sources receiving authorization since the time of the last notice.

(m) *Temporary sources.* The permitting authority may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation must be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall contain all of the terms and conditions required by this section as well as the following terms and conditions:

(1) Conditions that will assure compliance with all applicable requirements at all authorized locations;

(2) Requirements that the owner or operator notify the permitting authority at least 10 days in advance of each change in location; and

(3) Conditions that assure compliance with all other provisions of this section.

(n) *Permit shield.*

(1) Except as provided in this part, the permitting authority may expressly include in a part 71 permit a provision stating that compliance with the terms and conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

(i) Such applicable requirements are included and are specifically identified in the permit; or

(ii) The permitting authority, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.

(2) A part 71 permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

(3) Nothing in this paragraph (n) or in any part 71 permit shall alter or affect the following:

(i) The provisions of sections 112(r)(9) and 303 of the Act (emergency orders), including the authority of the Administrator under those sections;

(ii) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;

(iii) The applicable requirements of the acid rain program, consistent with section 408(a) of the Act; or

(iv) The ability of EPA to obtain information from a source pursuant to section 114 of the Act.

(o) *Emergency provision.*

(1) *Definition.* An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(2) *Effect of an emergency.* An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of paragraph (o)(3) of this section are met.

(3) The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An emergency occurred and that the permittee can identify the cause(s) of the emergency;

(ii) The permitted facility was at the time being properly operated;

(iii) During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit; and

(iv) The permittee submitted notice of the emergency to the permitting authority within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice fulfills the requirement of paragraph (f)(3) of this section. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(4) In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

(5) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

(p) *Operational flexibility.* A permitted facility may make changes without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions), provided that the facility provides the permitting authority with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days. The source and the permitting authority shall attach each such notice to their copy of the relevant permit.

(1) *Trading under permitted emissions cap.* The permitting authority shall include in a permit an emissions cap, pursuant to a request submitted by the applicant, consistent with any specific emission limits or restrictions otherwise required in the permit by any applicable requirements, and permit terms and conditions for emissions trading solely for the purposes of complying with that cap, provided that the permitting authority finds that the request contains adequate terms and conditions, including all terms required under § 71.6, to determine compliance with the cap and with any emissions trading provisions. The permit shall also contain terms and conditions to assure compliance with all applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions cap is enforceable and trades pursuant to it are quantifiable and enforceable. Any permit terms and conditions establishing such a cap or allowing such trading may be established or changed only in a full permit issuance, renewal, or significant permit revision procedures. The permitting authority shall not be required to include in the cap or emissions trading provisions any emissions unit where the permitting authority determines that the emissions are not quantifiable or where it determines that there are no replicable procedures or practical means to enforce the emissions trades.

(i) Under this paragraph (p)(1) of this section, the written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

(ii) The permit shield described in § 71.6(n) may extend to terms and conditions that allow such increases and decreases in emissions.

(2) *Trading under the implementation plan.* Permitted sources may trade increases and decreases in emissions in the permitted facility, where the applicable implementation plan provides for such emissions trades without requiring a permit revision and based on the 7-day notice prescribed in paragraph (p) of this section. This provision is available in those cases where the permit does not already provide for such emissions trading provided the permit identifies which permit terms may be replaced with the emission trading provisions in the implementation plan.

(i) Under paragraph (p)(2) of this section, the written notification required above shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum, when the proposed change will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions with which the source will comply in the applicable implementation plan and that provide for the emissions trade.

(ii) The permit shield described in § 71.6(n) shall not extend to any change made under paragraph (p) of this section. Compliance with the permit terms that the source will meet using the emissions trade shall be determined according to requirements of the applicable implementation plan authorizing the emissions trade.

(q) The permitting authority may allow permittees, without first applying for a permit revision, to make changes that do not result in the source being in violation of any permit term or condition but render the source subject to an applicable requirement to which the source was not previously subject, provided the requirements of paragraphs (q)(1) through (8) of this section are met.

(1) Each change shall:

(i) Meet all applicable requirements and shall not violate or result in the violation of any existing permit term or condition; and

(ii) Not result in a net increase in the allowable emissions of any regulated pollutant at the source.

(2) The change may not be subject to the requirements of title IV of the Act.

(3) Sources must provide contemporaneous written notice to the permitting authority of each such change. Such written notice shall describe each such change, the date of the change, any change in emissions, pollutants emitted, and the applicable requirement to which the source becomes subject as a result of the change.

(4) The change shall not be eligible for the permit shield under § 71.6(n) until such time as a permit shield may be granted in a subsequent permit revision consistent with the provisions of §§ 71.7(g) or 71.11.

(5) The permittee shall keep a record describing changes made under this paragraph (q).

(6) The permittee shall apply for a permit revision by the deadline set forth in § 71.5(b)(2), except that if the deadline would occur after the date on which a renewal application is due, the permitting authority may allow the permittee to incorporate the permit revision request in its renewal application.

(7) The permit shall be revised under the relevant procedures of § 71.7(e), (f), (g), or § 71.11 for which the change is eligible, except that, notwithstanding provisions in those sections, if the change is subsequently processed under minor permit revision or significant permit revision procedures, and the permitting authority or EPA (in the case of a program delegated pursuant to § 71.10) determines that the change was ineligible under this paragraph (q), then the source shall be liable from the date the change was made for failure to have applied for a permit revision before the change was made as required under § 71.7.

(8) If eligible for the minor permit revision procedures of § 71.7(g), the following provisions shall apply to changes made under this paragraph (q):

(i) The public notice required under § 71.7(g)(3)(ii) shall state that if no germane and non-frivolous objection is received within 21 days of application, the permitting authority may consider that the change was eligible for processing under this paragraph (q) without further opportunity for public objection. In addition to the provisions of § 71.7(g)(3)(ii) a germane objection is one that objects to the change on the grounds that the source was ineligible under this paragraph (q).

VOL 60 ISS 81 AP 27 1995 UMI

(ii) The provisions of §§ 71.7(g)(5)(i) and (ii) prohibiting the source from making the change do not apply.

(iii) Notwithstanding the provisions of § 71.7(g)(7), the source must comply with all applicable requirements from the date the change was made.

§ 71.7 Permit review, issuance, renewal, reopenings, and revisions.

(a) *Action on application.*

(1) A permit, permit revision, or renewal may be issued only if all of the following conditions have been met:

(i) The permitting authority has received a complete application for a permit, permit revision, or permit renewal, except that a complete application need not be received before issuance of a general permit under § 71.6(l);

(ii) The permitting authority has complied with the applicable requirements for public participation under this section or § 71.11, if applicable;

(iii) The permitting authority has complied with the requirements for notifying and responding to affected States under § 71.8(a);

(iv) Except as provided in paragraph (a)(6) of this section, the conditions of the permit provide for compliance with all applicable requirements and the requirements of this part; and

(v) In the case of a program delegated pursuant to § 71.10, except for revisions qualifying for de minimis permit revision procedures under paragraph (f) of this section or for administrative amendment procedures under paragraphs (e)(1)(i) through (iv) of this section, the Administrator has received a copy of the proposed permit and any notice required under § 71.10(d) and has not objected to the issuance of the permit under § 71.10(g) within the time period specified therein.

(2) Except as provided under the initial transition plan provided under § 71.4(i) or under 40 CFR part 72 or title V of the Act for the permitting of affected sources under the acid rain program, the permitting authority shall take final action on each permit application (including a request for permit revision or renewal) within 18 months after receiving a complete application. Notwithstanding the preceding sentence, the permitting authority shall take final action within 12 months after receipt of a complete application containing an early reduction demonstration under section 112(i)(5) of the Act and regulations promulgated thereunder, and within the time period specified under paragraph (g)(5)(v) of this section for a minor permit revision. Final action may be delayed where an applicant fails to provide additional information in a timely manner as requested by the permitting authority under § 71.5(c).

(3) The permitting authority shall promptly provide notice to the applicant of whether the application is complete. Unless the permitting authority requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. Notwithstanding the above, for revisions that qualify for and are processed through the procedures of paragraph (e), (f), or (g) of this section, the permitting authority need not undertake a completeness determination before commencing revision procedures.

(4) The permitting authority shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The permitting authority shall send this statement to any person who requests it, and to EPA, in the case of a program delegated pursuant to § 71.10.

(5) The submittal of a complete application shall not affect the requirement that any source have a preconstruction permit under title I of the Act.

(6) Any new applicable requirement approved or promulgated by EPA that becomes applicable to a source prior to issuance of a draft permit (whether during issuance or renewal) shall be included in the draft permit. If any new applicable requirement becomes applicable after issuance of a draft permit, and the requirement is not reflected in the draft permit, the permit may be issued without incorporating the new applicable requirement, provided that the permitting authority institutes proceedings no later than the date of permit issuance to reopen the permit consistent with paragraph (i) of this section to incorporate the new applicable requirement and that the permit contains a statement that it is being reopened for this purpose.

(b) *Requirement to apply for a permit.* Except as provided in this paragraph and paragraphs (e), (f), and (g) of this section, no part 70 or part 71 source may operate after the time that it is required to submit a timely and complete application under an approved permit program or this part, except in compliance with a permit issued under a part 70 program or this part. If a part 70 or part 71 source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a part 71 permit is not a violation of this part until the permitting authority takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to paragraph (a)(3) of this section, and as required by § 71.5(c), the applicant fails to submit by the deadline specified in writing by the permitting authority any additional information identified as being needed to process the application.

(c) *Permit renewal and expiration.*

(1) Permits being renewed are subject to the same procedural requirements that apply to initial permit issuance, including those for public participation, affected State review, and EPA review, in the case of a program delegated pursuant to § 71.10.

(2) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with paragraph (b) of this section and §§ 71.5(b) and 71.5(c).

(3) If a timely and complete application for a permit renewal is submitted by the permittee consistent with §§ 71.5(b) and 71.5(c), but the permitting authority has failed to issue or deny the renewal permit before the end of the term of the previous part 70 or part 71 permit, then all the terms and conditions of the permit, including any permit shield, shall remain in effect until the permitting authority issues or denies the renewal permit. In the case of a program delegated pursuant to § 71.10, EPA may invoke its authority under section 505(e) of the Act to terminate or revoke and reissue the permit.

(d) *Permit revisions.* Changes requiring revision of a part 70 or part 71 permit are those that could not be operated without violating an existing permit term or rendering the source subject to an applicable requirement to which the source has not been previously subject. A permit revision for purposes of the acid rain portion of the permit shall be governed by 40 CFR part 72.

(e) *Administrative permit amendments.*

(1) An "administrative permit amendment" is a permit revision that:

(i) Corrects typographical errors;

(ii) Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change;

(iii) Requires more frequent testing, monitoring, recordkeeping, or reporting;

(iv) Allows for a change in ownership or operational control of a source where the permitting authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the permitting authority;

(v) In the case of a program delegated pursuant to § 71.10, incorporates the requirements of a minor new source review (NSR) or major NSR preconstruction permit or decision or a determination under section 112(g) of the Act, provided that such permit or determination was issued in accordance with the procedural requirements of paragraph (e)(4) of this section and contains compliance requirements substantially equivalent to those required under § 71.6.

(vi) Notwithstanding the provisions of paragraph (e)(1)(v) of this section, incorporates a standard promulgated after permit issuance pursuant to section 112 of the Act.

(2) Administrative permit amendments for purposes of the acid rain portion of the permit shall be governed by 40 CFR part 72.

(3) *Administrative permit amendment procedures for changes meeting the criteria under § 71.7(e)(1)(i) through (iv).* Changes meeting the criteria set forth in paragraphs (e)(1)(i) through (iv) of this section may be made to a permit using the following procedures:

(i) The source shall submit to the permitting authority an application containing a proposed addendum to the source's part 70 or part 71 permit. The application shall demonstrate how the proposed change meets one of the criteria for administrative amendments set forth in paragraphs (e)(1)(i) through (iv) of this section, and include certification by the responsible official consistent with § 71.5(i) that the change is eligible for administrative amendment procedures. The addendum shall:

(A) Identify the terms of the existing part 70 or part 71 permit that it proposes to change;

(B) Propose new permit terms consistent with the provisions of this part applicable to the change;

(C) Designate the addendum as having been processed under the procedures of this paragraph (e)(3); and

(D) Specify that the addendum will be effective 60 days from the date of permitting authority receipt unless the permitting authority disapproves the change within such period.

(ii) The permitting authority may allow the source to implement the requested change immediately upon making all required submittals, including the proposed addendum.

(iii) The proposed addendum will become effective 60 days after the permitting authority receives the submittal, provided the permitting authority has not disapproved the request in writing before the end of the 60-day period. The permitting authority shall record the change by attaching a copy of the addendum to the existing part 70 or part 71 permit and, in the case of a program delegated pursuant to § 71.10, shall provide the Administrator with a copy of the addendum.

(iv) If the permitting authority disapproves the change, it shall notify the source of its reasons for disapproving the change in a timely manner. Upon receiving such notice, the source shall comply with the terms of the permit that it had proposed to change, and thereafter the proposed addendum shall not take effect. The permitting authority may approve a permit addendum for an administrative permit amendment that varies from the source's application without rendering the source liable for violating its existing permit if the permitting authority's revisions are not necessary to make the request eligible for administrative amendment procedures and do not change the applicant's proposed determination of which applicable requirements of the Act apply to the source as a result of the requested change and if the source demonstrates to the satisfaction of the permitting authority its compliance with the applicable requirement to which it is subject as a result of the change. However, the source would remain liable for any violations of the requirements which are applicable as a result of the change and the source's proposed permit revision.

(v) The process in paragraph (e)(3) of this section may also be used for changes initiated by the permitting authority that meet the criteria under paragraphs (e)(1)(i), (ii), and (iv) of this section. For such changes, the permitting authority shall notify the source of the proposed change and its effective date, and shall attach a copy of the change to the existing permit. On the effective date of the proposed change, the source shall comply with the provisions of the proposed change.

(vi) The permit shield under § 71.6(n) may not extend to administrative amendments processed under paragraph (e)(3) of this section.

(4) *Administrative amendment procedures for changes meeting the criteria under § 71.7(e)(1)(v).* In the case of a program delegated pursuant to § 71.10, a change meeting the criteria of paragraph (e)(1)(v) of this section may be made to a permit using the procedures in the following paragraphs (e)(4) (i) through (iv) of this section.

(i) An applicant shall submit prior to construction (including modification), a permit application to the permitting authority meeting the requirements for applications of minor NSR, major NSR, determinations under section 112(g) of the Act, and paragraph (e)(3)(i) of this section. The application must:

(A) Specify draft permit terms governing construction of any proposed new or modified emissions unit or combination thereof, including all applicable requirements;

(B) Inform the permitting authority that the source is requesting to revise the part 70 or part 71 permit using the process under this paragraph (e)(4);

(C) Include a proposed addendum to the part 70 or part 71 permit that identifies the terms of the existing part 70 or part 71 permit that will change and the draft terms and conditions which will govern operation of the new or modified unit consistent with part 71 (including compliance requirements consistent with § 71.6) and any notice requirements contained in paragraph (e)(4)(ii) of this section, and that incorporates relevant terms and conditions from the proposed minor NSR or major NSR or action under section 112(g) of the Act; and

(D) Include an affidavit signed by a responsible official stating that the source accepts all liability of making the requested change prior to final permitting authority action to revise the source's permit.

(ii) For any minor NSR or major NSR or action under section 112(g) of the Act and part 71 permit addendum proposed for approval under paragraph (e)(4) of this section, the permitting authority shall:

(A) Provide a comment period for the public and affected States prior to construction of the change of at least 30 days or, in the case of minor NSR, as many days as required by the applicable implementation plan approved as of November 15, 1993, but not less than 15 days. Where a minor NSR action includes a netting transaction involving either a single emissions increase above applicable title I modification significance levels or a sum of increases above applicable major source thresholds, a public comment period of at least 30 days must be provided for a change to qualify for processing under this paragraph (e)(4);

(B) Provide notice and a copy of the application filed pursuant to paragraph (e)(4)(i) of this section to EPA by the beginning of the public comment period;

VOL 60 ISS 81 AP 27 1995 UMI

(C) Issue a minor NSR or major NSR permit or determination or issue a determination under section 112(g) of the Act and an addendum to the part 70 or part 71 permit for the operation of the change if it determines the requirements of the applicable minor NSR, major NSR, or review program under section 112(g) of the Act and part 71 have been met; and

(D) Provide an opportunity for EPA objection consistent with the provisions of § 71.10(g), starting either upon receipt of the notice described under paragraph (e)(4)(ii)(D)(*1*) or (*2*) of this section as applicable or from the date the permitting authority made its final minor NSR, major NSR, or determination under section 112(g) of the Act, whichever is later.

(*1*) For changes approved by the permitting authority under major NSR or review under section 112(g) of the Act, the source shall provide a notice to EPA and the permitting authority which must be postmarked at least 21 days before the anticipated date of initial startup of the new or modified source. For such changes, the source may commence operation at the end of the 21-day period unless EPA objects in writing to the proposed change within the 21-day period. Upon notification of such objection, the source may not operate such a change and must comply with the terms and conditions of the permit that it sought to change.

(*2*) For changes approved by the permitting authority under minor NSR, the source shall notify EPA and the permitting authority of the anticipated date for startup of the change. The source may commence operation of such a change upon postmark of such notice.

(iii) The proposed part 71 permit addendum may become effective 45 days after EPA receives notice under paragraph (e)(4)(ii)(D) of this section or 45 days from the date the permitting authority makes its final preconstruction determination, whichever is later, provided that by the end of such period EPA has not objected to the change.

(iv) If EPA objects to the change, EPA shall notify the permitting authority and the source of its reasons for objecting to the change. Upon receiving such notice, the source shall comply with the terms of the permit that it had proposed to change, and thereafter the proposed addendum shall not take effect. If, subsequent to source implementation of the requested change, EPA objects to the change, the source shall be liable for having operated in violation of its existing permit from the time it implemented the change. Notwithstanding the preceding sentence, the permitting authority may revise a proposed addendum making an administrative permit amendment in response to an EPA objection without rendering the source liable for violating its existing permit if the permitting authority's revisions are not necessary to make the change eligible for administrative amendment procedures and do not change the applicant's proposed determination of which applicable requirements apply to the source as a result of the requested change and if the source demonstrates to the satisfaction of the permitting authority its compliance with the applicable requirement to which it is subject as a result of the change and the source's proposed permit revision. However, the source would remain liable for any violations of the requirements which are applicable as a result of the change and the source's proposed permit revision.

(v) The permitting authority may provide a permit shield consistent with the provisions of § 71.6(n).

(5) *Administrative permit amendment procedures for changes meeting the criteria under § 71.7(e)(1)(vi).* Changes meeting the criteria set forth in paragraph (e)(1)(vi) of this section may be made to a permit using the following procedures:

(i) After receipt of the initial notification required under the standard under section 112 of the Act, the permitting authority shall prepare a proposed addendum to the source's part 70 or part 71 permit. The addendum shall contain the following:

(A) A statement that the standard under section 112 of the Act is an applicable requirement for the permitted source;

(B) A schedule of compliance, consistent with § 71.5;

(C) A requirement to submit any implementation plan or report required under the standard;

(D) A requirement to apply for a minor permit revision by the deadline for the compliance statement, unless the source is exempted from this requirement by the rulemaking promulgating the applicable standard under section 112 of the Act. If the source is utilizing an alternative requiring case-by-case approval, such as emissions averaging, the source shall apply for a significant permit revision in lieu of the minor permit revision required in the preceding sentence. If the compliance statement deadline is within 6 months of the end of the permit term, the source may incorporate its application for the revisions into its application for permit renewal, in lieu of applying for revisions by the compliance statement deadline;

(E) Any other provisions required to be incorporated into the permit by the applicable standard under section 112 of the Act.

(ii) The permitting authority shall make available for public review and comment for at least 30 days a list of sources whose permits are reopened under this paragraph (e)(5). Notice of the availability of the list shall be given by such time as to assure that any additional administrative amendments for sources subject to the standard and not on the list take effect within 18 months after publication of the standard under section 112 of the Act. If after considering public comment, the permitting authority determines that permits for other sources must be reopened to incorporate standards under section 112(g) of the Act, it shall notify such sources of its intent to do so at least 30 days before reopening the permit, and may use the provisions of this paragraph (e)(5).

(iii) The proposed addendum shall become effective not later than 18 months after publication of the standard under section 112 of the Act. The permitting authority shall attach a copy of the addendum to the existing part 70 or part 71 permit and shall, in the case of a program delegated pursuant to § 71.10, provide the Administrator with a copy.

(iv) The permitting authority shall, as soon as practicable, place all information required to be submitted by the permit with respect to the standard under section 112 of the Act in a docket accessible to the public.

(v) The permit shield under § 71.6(n) may not extend to administrative amendments processed under paragraph (e)(5) of this section.

(f) *De minimis permit revisions.*

(1) A de minimis permit revision may be made by the permitting authority to a part 70 or part 71 permit provided that the permit contains a term or condition authorizing the source to make use of de minimis permit revision procedures for qualifying changes at the applicable unit and such term or condition was established during permit issuance or renewal, or under permit revision procedures contained in § 71.11, and provided the action taken meets the criteria and procedures specified in paragraph (f) of this section.

(2) *Criteria.* For the change to be considered de minimis and eligible for de minimis permit revision procedures, the conditions in paragraph (f)(2)(i) of this section and the applicable conditions and limits in paragraphs (f)(2) (ii) and (iii) of this section must be met. The limits in paragraphs (f)(2) (ii) and (iii) of this section are on a single pollutant basis except where a combination of hazardous air pollutants is indicated.

(i) *Conditions limiting de minimis changes.*

(A) The source must not be in violation of the part 70 or part 71 permit terms and conditions it seeks to change.

(B) In the case of existing units, the need for a permit revision must result from a physical or operational change. [OPTION: ADD TO END OF SENTENCE: unless the permit revision solely involves monitoring or recordkeeping requirements.]

(C) [OPTION: ADD TO BEGINNING OF SENTENCE: Except for permit revisions solely involving monitoring or recordkeeping requirements,] The change may not involve a permit term or condition established to limit emissions which is federally enforceable only as a part 70 or part 71 permit term or condition.

(D) De minimis emission threshold levels cannot be met by offsetting emission increases with emission decreases at the same source.

[OPTION: ADD NEW PARAGRAPHS (f)(2)(i) (E) and (F):

(E) The change may not involve a change to monitoring or recordkeeping requirements unless, prior to the source's submission of a de minimis permit revision application, the permitting authority affirmatively determines that the monitoring or recordkeeping change has been demonstrated by the source:

(*1*) To not affect the capability of the method to measure emission results as precisely, accurately, and timely as is provided by the existing monitoring or recordkeeping method;

(*2*) To only affect a single source or facility; and

(*3*) To not constitute a new or alternative monitoring method or represent a new operating level of the method.

(F) The criteria for all demonstrations required under paragraph (f)(2)(i)(E) of this section shall include, in addition to the requirements of paragraph (f)(3)(C) of this section, an analysis conducted in accordance with 40 CFR 64.4(b)(5) and 64.4(c) utilizing appendices A, B, C, and D of 40 CFR part 64. [END OF OPTION]

(ii) *Unit-based change limits.* For a change at any emissions unit to qualify as a unit-based de minimis permit revision, the total emissions of an entirely new unit and the total emissions at an existing unit after the change (i.e., the sum of the existing emissions before the change plus the emissions increase that results from the change) may not exceed:

[ALTERNATIVE 1 FOR paragraph (f)(2)(ii)(A):]

(A) For criteria pollutants, the following emissions over the life of the permit:

(*1*) 4 tons of CO;

(*2*) 1 ton of NO_X;

(*3*) 1.6 tons of SO_2;

(*4*) 0.6 ton of PM–10;

(*5*) 1 ton of VOC.

[ALTERNATIVE 2 to paragraph (f)(2)(ii)(A):]

(A) For criteria pollutants, 20 percent of the applicable major source threshold, or 5 tpy of VOC or NO_X, whichever is greater, but in no event more than 15 tpy PM–10 or 0.6 tpy lead.

[ALTERNATIVE 3 to paragraph (f)(2)(ii)(A):]

(A) For criteria pollutants, 5 tpy.

[ALTERNATIVE 4 to paragraph (f)(2)(ii)(A):]

(A) For criteria pollutants, 30 percent of the applicable major source threshold or 5 tpy, whichever is greater. [END OF ALTERNATIVES to paragraph (f)(2)(ii)(A)]

[ALTERNATIVE 1 to paragraph (f)(2)(ii)(B):]

(B) For HAP's, 0 tpy.

[ALTERNATIVE 2 to paragraph (f)(2)(ii)(B):]

(B) For HAP's, 20 percent of the major source thresholds established under section 112 of the Act or 50 percent of the de minimis levels established under section 112(g) of the Act, whichever is less.

[ALTERNATIVE 3 to paragraph (f)(2)(ii)(B):]

(B) For HAP's, 75 percent of de minimis levels established under section 112(g) of the Act. [END OF ALTERNATIVES to paragraph (f)(2)(ii)(B)]

(C) For other pollutants regulated only under section 111 of the Act, the significance levels in § 52.21(b)(23)(i).

(iii) *Increment-based change limits.* A change at any emissions unit not qualifying for a unit-based change may still qualify as a de minimis permit revision if the following criteria are met:

(A) *Additional conditions:*

(*1*) Any resulting emissions limit must be expressed in the same form and units of measure as the previous emissions limit;

(*2*) Any associated recalibration of continuous emissions monitors (CEM) or operational parameters must be undertaken in accordance with emission rates-to-CEM or operational parameter ratios established in the operating permit program, in the source's permit, or through permit issuance procedures providing at least as much permitting authority, EPA (in the case of a program delegated pursuant to § 71.10), and affected State review and public participation as minor permit revision procedures; [OPTION: DELETE PREVIOUS PARAGRAPH (f)(2)(iii)(A)(*2*).]

(B) *Size restrictions on individual change.* No emissions increase at any unit may exceed:

[ALTERNATIVE 1 to paragraph (f)(2)(iii)(B)(*1*):]

(*1*) For criteria pollutants, the following emissions over the life of the permit:

(*i*) 4 tons of CO;

(*ii*) 1 ton of NO_X;

(*iii*) 1.6 tons of SO_2;

(*iv*) 0.6 ton of PM–10;

(*v*) 1 ton of VOC.

[ALTERNATIVE 2 to paragraph (f)(2)(iii)(B)(*1*):]

(*1*) For criteria pollutants, 20 percent of the applicable major source threshold, 10 percent of the limit applicable to the unit undergoing the change, or 15 tpy VOC or NO_X, whichever is less but in no event less than [2–5] tpy VOC or NO_X or greater than 15 tpy PM–10 or 0.6 tpy lead.

[ALTERNATIVE 3 to paragraph (f)(2)(iii)(B)(*1*):]

(*1*) For criteria pollutants, 30 percent of applicable major source thresholds, or 15 percent of the limit applicable to the unit undergoing the change, whichever is less, but in no event less than 5 tpy for VOC or NO_X. [END OF ALTERNATIVES FOR paragraph (f)(2)(iii)(B)(*1*)]

[ALTERNATIVE 1 to paragraph (f)(2)(iii)(B)(*2*):]

(*2*) For HAP's, 0 tpy.

[ALTERNATIVE 2 to paragraph (f)(2)(iii)(B)(*2*):]

(*2*) For HAP's, 20 percent of the major source thresholds established under section 112 of the Act, 50 percent of the de minimis levels set pursuant to section 112(g) of the Act, or 10 percent of the limit applicable to the unit undergoing change, whichever is less.

[ALTERNATIVE 3 to paragraph (f)(2)(iii)(B)(*2*):]

(*2*) For HAP's, 75 percent of de minimis levels established under section 112(g) of the Act. [END OF ALTERNATIVES FOR paragraph (f)(2)(iii)(B)(*2*)]

(*3*) For other pollutants regulated only under section 111 of the Act, the significance levels in § 52.21(b)(23)(i) of this chapter.

(*3*) *De minimis permit revision procedures.*

(i) *Application.* A source may submit an application to the permitting authority requesting the use of de minimis permit revision procedures

VOL 60 ISS 81 AP 27 1995 UMI

provided that the permit contains a term or condition that authorizes the source to make use of the de minimis permit revision procedures for qualifying changes, the application meets the requirements of § 71.5(f), and the permit application includes the following:

(A) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(B) An addendum containing the terms and conditions of the source's suggested draft permit revision;

(C) A demonstration that the proposed change meets the criteria for a de minimis permit revision; and

(D) Certification by a responsible official consistent with § 71.5(i) that:

(*1*) The source is in compliance with any permit terms or conditions it seeks to revise;

(*2*) The proposed revision meets the criteria for use of de minimis permit revision procedures; and

(*3*) The source accepts all liability of making the requested change prior to final permitting authority action to revise the source's permit.

[OPTION: ADD NEW PARAGRAPH:

(E) A summary of any required demonstration performed in accordance with paragraphs (f)(2)(i)(E) and (F) of this section, and verification of such demonstration's affirmative approval by the permitting authority.]

(ii) The permitting authority may allow the source to implement the requested change 7 days after the permitting authority's receipt of the source's de minimis permit revision application. At its discretion, the permitting authority may grant a request by the source to implement the change after less than 7 days.

(iii) *Public notification.* Public notice shall be provided by the source of de minimis permit revision applications received by the permitting authority on a monthly, batched basis. At a minimum, the notice shall include: the name and address of the source where the proposed change would occur, a description of the change, the effective date of the permit revision, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs; reference to the pertinent administrative record/public docket; and the name, address and phone number of a person from whom interested persons may obtain additional information, including the permit application and supporting documentation as described in paragraph (f)(3)(i) of this section.

[OPTION: ADD TO END OF PARAGRAPH: In addition, for permit revisions involving changes to monitoring or recordkeeping requirements, the permitting authority shall also submit to the publicly available docket the complete demonstration required by paragraphs (f)(2)(i) (E) and (F) of this section, a summary of the demonstration, and an affirmative statement of the demonstration's adequacy.]

(iv) *Permit amendment.* The permit is revised by attaching the proposed addendum to the permit with the addendum specifying when the permit revision takes effect consistent with the following provisions.

(A) Where the preconstruction permitting agency affirmatively approved the change pursuant to a preconstruction review process that included at least a 21-day public comment period and the preconstruction permitting agency authorized the change to be made under the de minimis permit revision process, the addendum shall take effect upon submission to the part 71 permitting authority of a complete de minimis permit revision application.

(B) Where the preconstruction permitting agency did not affirmatively approve the change pursuant to a preconstruction review that provided for at least a 21-day public comment period, the addendum shall take effect [30–90] days after the date public notice is given under paragraph (f)(3)(iii) of this section if the part 71 permitting authority does not disapprove the request within that time period. The part 71 permitting authority shall retain the authority to disapprove such a change made through the de minimis permit revision process for a period of [30–90] days following the date public notice is given under paragraph (f)(3)(iii) of this section.

(v) *EPA and affected State notification.*

(A) In the case of a program delegated pursuant to § 71.10, the permitting authority shall send a copy of the addendum to the permit to EPA within 7 days of the date the addendum takes effect.

(B) In all cases, the permitting authority shall send a copy of the addendum to any affected State within 7 days of the date the addendum takes effect.

(vi) *Public request for disapproval.*

(A) Within [15–45] days of the date public notification is given, any person may request that the permitting authority disapprove the change if the permitting authority retained authority to disapprove the de minimis permit revision as described under paragraph (f)(3)(iv)(B) of this section.

(B) Where the permitting authority was not required to retain authority to disapprove the de minimis permit revision, the public may petition the permitting authority to revoke the permit revision allowing the change.

(4) *Source liability.* If, after a source makes the requested change, the permitting authority disapproves the change or EPA objects to the change (in the case of a program delegated pursuant to § 71.10), the source shall be liable for having operated in violation of its existing permit from the time at which the source made the change. Notwithstanding the preceding sentence, the permitting authority may issue a permit revision that varies from the source's proposed addendum without rendering the source liable for violating its existing permit if the proposed addendum includes enforcement terms sufficient to support an enforcement action and the permitting authority's revisions are not necessary to make the change eligible for de minimis permit revision procedures and do not change the applicant's determination of which requirements of the Act apply to the source as a result of the requested change. The source would remain liable for any violations of the requirements which are applicable as a result of the change and the source's proposed permit revision.

(5) The permit shield under § 71.6(n) may not extend to de minimis permit revisions.

(g) *Minor permit revision procedures.*

(1) *Criteria.*

(i) Minor permit revision procedures may be used only for those permit revisions that:

(A) Do not affect permit terms or conditions that the source is violating;

(B) Do not involve changes to existing monitoring, reporting, or recordkeeping requirements in the permit, unless such changes are necessary to implement other changes that qualify for minor permit revision procedures [OPTION: REPLACE PARAGRAPH (g)(1)(i)(B) WITH THE FOLLOWING:

(B) Involve changes to monitoring or recordkeeping requirements that are:

(*1*) Changes in the enforceable operating level of the method that, prior to the source's submission of a minor permit revision application, the permitting authority has affirmatively determined the source has demonstrated to be correlated to the source's existing or proposed compliance emissions rate, but such changes may not involve a switch to a new or alternative monitoring or recordkeeping operating parameter;

(*2*) Changes to a monitoring or recordkeeping method that affect the measurement sensitivity of the method and representativeness of the data (e.g., precision, accuracy, measurement location, or averaging time) such that there may be a measurable effect in relation to the relevant source compliance emissions rate; changes that affect the scope and intent of the existing monitoring method (e.g., modified sample conditioning system, upgraded detector, upgraded data management system); or changes that may be generally applicable to similar monitoring methods in the same or other source categories (e.g., equipment modification for interference avoidance). Such changes may not involve a switch to new or alternative monitoring methods. Prior to the source's submission of a minor permit revision application, the permitting authority shall have affirmatively determined that the monitoring or recordkeeping change has been demonstrated by the source to have a known relationship and ability to determine compliance with the applicable source compliance emissions rate; or

(*3*) In the case of a program delegated pursuant to § 71.10, changes to monitoring or recordkeeping methods that have been approved pursuant to major or minor NSR and that are demonstrated therein to have a known relationship and ability to determine compliance with the applicable source compliance emissions rate. The application for the minor permit revision must include supporting documentation from the major or minor NSR permit approval, information regarding the demonstration and approval of the requested monitoring or recordkeeping method, and information in accordance with § 71.7(g)(2) as related to the monitoring change. END OF OPTION];

(C) Do not involve or depend on netting transactions undertaken to avoid being subject to preconstruction review under part C or D of title I of the Act unless such emissions reductions:

(*1*) Have been approved pursuant to a minor NSR process for which a 30-day public comment period was provided; or

(*2*) Do not involve any single emissions increase that exceeds the applicable threshold for being a major modification under part C or D of title I of the Act, and the sum of all the contemporaneous increases does not exceed the applicable threshold for determining whether a source is major;

(D) Do not involve offsets or modifications under section 112(g) of the Act, unless the change has been approved pursuant to a review process under section 112(g) of the Act;

(E) Are not modifications subject to part C or D of title I of the Act, unless the change has been approved pursuant to major NSR and would incorporate all applicable requirements determined therein into the part 70 or part 71 permit;

(F) [OPTION: ADD TO BEGINNING OF SENTENCE: Except for permit revisions solely involving monitoring or recordkeeping requirements,] Do not seek to establish or change a permit term or condition established to limit emissions which is federally enforceable only as a part 70 or part 71 permit term or condition. Such terms and conditions include:

(*1*) A federally-enforceable emissions cap assumed in the part 70 or part 71 permit to avoid classification as a modification under any provision of title I of the Act;

(*2*) An alternative emission limit established under the provisions of § 71.6(a)(1)(iii) equivalent to a requirement contained in an applicable implementation plan;

(*3*) An alternative emissions limit established in the part 70 or part 71 permit pursuant to regulations promulgated under section 112(i)(5) of the Act;

(*4*) An emissions limit established in the part 70 or part 71 permit pursuant to regulations promulgated under section 112(j) of the Act; and

(*5*) Any other term or condition for which there is no corresponding underlying applicable requirement and the establishment of which allows the source to avoid an applicable requirement to which the source would otherwise be subject.

(ii) Notwithstanding paragraph (g)(1)(i) of this section, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.

[OPTION: ADD NEW PARAGRAPH:

(iii) Any demonstration required by paragraph (g)(1)(i)(B) of this section shall include an analysis conducted in accordance with 40 CFR 64.4(b)(5) and 64.4(c) utilizing appendices A, B, C, and D of 40 CFR part 64.]

(2) *Application.* An application requesting the use of minor permit revision procedures shall meet the requirements of § 71.5(f) and shall include the following:

(i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

(ii) An addendum containing the terms and conditions of the source's suggested draft permit revision;

(iii) A demonstration that the proposed change is eligible to be processed as a minor permit revision;

(iv) Certification by a responsible official, consistent with § 71.5(i), that:

(A) The proposed change meets the criteria for use of minor permit revision procedures;

(B) The source is in compliance with the permit terms or conditions it seeks to revise;

(C) Public notice of the proposed revision has been provided pursuant to paragraph (g)(3) of this section; and

(D) Notice to the Administrator (in the case of a program delegated pursuant to § 71.10), and affected States of the proposed revision has been provided pursuant to paragraph (g)(4) of this section; and

(v) An affidavit signed by a responsible official stating that the source accepts all legal risks of making the requested change prior to final permitting authority action to revise the source's permit.

[OPTION: ADD NEW PARAGRAPH:

(vi) For a change involving changes to monitoring or recordkeeping requirements, a summary of any demonstration required by paragraph (g)(1)(i)(B) of this section and performed in accordance with paragraph (g)(1)(iii) of this section and verification of its approval by the permitting authority. If in approving the demonstration the permitting authority determines that subsequent verification testing of the change is necessary, the permitting authority may establish a compliance schedule for performing verification testing to further demonstrate, consistent with paragraph (g)(1)(iii) of this section, the adequacy of the change. Such compliance schedule, after approval by the permitting authority, shall be attached to the addendum described in paragraph (g)(2)(ii) of this section and be processed as a permit term and shall not allow the source to begin verification testing in advance of the time when the source would be allowed to implement the minor permit revision requested change. The approved compliance schedule shall include a commitment by the source to provide the results of the verification testing to the permitting authority within 90 days of submittal of the minor permit revision application. Upon

VOL
60
ISS
81
APR
27
1995
UMI

receipt of the verification testing results, the permitting authority shall determine whether the results demonstrate the adequacy of the change consistent with paragraph (g)(1)(iii) of this section. The permitting authority shall promptly notify the source in writing of its determination, and place a copy of such notice in the public docket. The permit shield under § 71.6(n) may extend to minor permit revisions involving monitoring and recordkeeping changes only after any required further verification testing of the change has been completed.]

(3) *Public notification.*

(i) Immediately upon filing an application for a minor permit revision, the source shall provide notice to the public of the requested minor permit revision by:

(A) Publication of a notice in a newspaper of general circulation in the area where the source is located or in a State publication designed to give the general public notice; and

(B) Sending a letter to persons on a mailing list developed by the permitting authority, including those who previously participated in any public comment process provided for the source's permit and those who request to be placed on a list to receive notification of permit issuance, revision, reopening, or renewal requests.

(ii) In addition to the elements required under § 71.11(d)(4), the public notice shall describe the requested change and state that if no germane and non-frivolous objection to the requested change is received by the permitting authority within 21 days of publication of the notice, the source may implement the change without the permitting authority providing further opportunity for public participation. For purposes of this paragraph (g)(3)(ii), a germane objection is one that objects to the use of minor permit revision procedures for the requested change on the grounds that the source has failed to comply with the procedural and notification requirements of paragraphs (g)(3) and (4) of this section or that the requested change is ineligible for the use of minor permit revision procedures under paragraph (g)(1)(i) of this section. For purposes of this paragraph (g)(3)(ii), a non-frivolous objection must specify the basis for its objection and present factual or other relevant information in support of its objection.

(iii) The permitting authority shall place a copy of the minor permit revision request in a public docket. [OPTION: ADD A NEW SENTENCE: The permitting authority shall also place in the docket any complete demonstration required by § 71.7(g)(1)(i)(B), a summary of the demonstration, the permitting authority's analysis of the demonstration, and an affirmative statement of the demonstration's adequacy.]

(4) *EPA and affected State notification.*

(i) In the case of a program delegated pursuant to § 71.10, immediately upon filing an application for a minor permit revision, the source shall notify the Administrator of the requested permit revision in the same manner and subject to the same conditions required of permitting authorities under § 71.10(d). Such notification shall relieve the permitting authority of the requirement to provide notice to the Administrator of the requested minor permit revision under § 71.10(d), but shall not relieve the permitting authority of the requirement to promptly send to the Administrator any notice under § 71.8(b).

(ii) In all cases, immediately upon filing an application for a minor permit revision, the source shall notify affected States of the requested permit revision in the same manner and subject to the same conditions required of the permitting authority under § 71.8(a). Such notification shall relieve the permitting authority of the requirement to provide notice to affected States of the requested minor permit revision under § 71.8(a), but shall not relieve the permitting authority of the requirement to send any affected State any notice under § 71.8(b).

(5) *Timetable for issuance.* Upon receipt of an application for a minor permit revision, the permitting authority shall provide at least 21 days for public comment on the requested change, and shall keep a record of the commenters and the issues raised during the public comment period. Such records shall be made available to the public. The minor permit revision shall occur according to the following procedures:

(i) If the permitting authority receives no public objection to the requested change within 21 days of publication of the public notice, the source may implement the requested change on the 22nd day after publication of the public notice, provided that:

(A) The permitting authority has neither denied the minor permit revision nor determined that the requested revision does not meet the minor permit revision criteria and should be reviewed under significant permit revision procedures; and

(B) In the case of a program delegated pursuant to § 71.10, the Administrator has not objected to the proposed minor permit revision.

(ii) If the permitting authority receives a public objection to the requested change within 21 days after publication of the public notice, the permitting authority must determine within 28 days of publication of the public notice whether the objection is germane and non-frivolous, and proceed according to the following procedures:

(A) If the permitting authority within 28 days of public notification finds the public objection to be either frivolous or not germane, the permitting authority may respond to the public objection in the course of processing the minor permit revision request as a minor permit revision, and the source may implement the requested change on the 29th day after publication of the public notice or upon notification from the permitting authority that the permitting authority has determined the public objection to be frivolous or not germane, whichever is first, provided that:

(*1*) The permitting authority has neither denied the minor permit revision application nor determined that the request fails to meet the minor permit revision criteria and should be reviewed under significant permit revision procedures; and

(*2*) In the case of a program delegated pursuant to § 71.10, the Administrator has not objected to the proposed minor permit revision.

(B) If the permitting authority fails to determine within 28 days after publication of the public notice of the request for a minor permit revision whether a public objection submitted within 21 days of such notice is germane and nonfrivolous, the source may implement the requested change on the 29th day after publication of the public notice, provided that:

(*1*) The permitting authority has neither denied the minor permit revision application nor determined that the request fails to meet the minor permit revision criteria and should be reviewed under significant permit revision procedures; and

(*2*) In the case of a program delegated pursuant to § 71.10, the Administrator has not objected to the proposed minor permit revision.

(C) If the permitting authority finds the public objection to be germane and nonfrivolous, the permitting authority shall not issue a final minor permit revision for the change, and shall either deny the minor permit revision application or determine that the requested change does not meet the minor permit revision criteria and should be reviewed under significant permit revision procedures. If the permitting authority continues to process the requested change under

significant permit revision procedures, public notice of the proposed change must be provided in the manner required for significant permit revisions under § 71.11. Such notice shall provide at least 30 days for public comment on the requested change, shall identify the time and place of any hearing that may be held, and shall include a statement of procedures to request a hearing if a hearing has not already been scheduled. For purposes of this paragraph, such a hearing may be held as soon as 14 days after publication of a notice that the requested change is being processed as a significant permit revision. The source shall not implement the requested change unless and until the permitting authority approves it as a significant permit revision.

(iii) Any person who filed a public objection pursuant to this paragraph which the permitting authority within 28 days of public notification does not determine to be germane and nonfrivolous may bring suit in Federal court to compel action by the permitting authority and, in accordance with applicable standards for obtaining such relief under Federal law, seek an injunction in Federal court prohibiting the source from implementing the requested change.

(iv) In the case of a program delegated pursuant to § 71.10, where the minor permit revision has not been denied or required to be reviewed under significant permit revision procedures, the permitting authority may issue a final minor permit revision after EPA's 45-day review period has elapsed provided the Administrator has not objected to the requested change, or after EPA has notified the permitting authority after the close of the public comment period that EPA will not object to issuance of the minor permit revision, whichever is first, provided that the final minor permit revision does not differ from the draft permit except to the extent any changes to the draft permit qualify for administrative permit amendment procedures under paragraph (e) of this section.

(v) Within 60 days after the permitting authority's receipt of an application for a minor permit revision, or 15 days after the expiration of EPA's 45-day review period (in the case of a program delegated pursuant to § 71.10), whichever is later, the permitting authority shall:

(A) Issue the minor permit revision as proposed;

(B) Deny the minor permit revision application;

(C) Determine that the requested revision does not meet the minor permit revision criteria and should be reviewed under significant permit revision procedures; or

(D) Revise the draft minor permit revision and, in the case of a program delegated pursuant to § 71.10, if such revision includes any changes that do not qualify for processing as administrative permit amendments under paragraph (e) of this section, transmit to the Administrator the new proposed permit revision as required by § 71.10(d).

(vi) Any person who objected to a minor permit revision request during the public comment period shall be notified by the permitting authority upon final approval of the request. The permitting authority shall also place a copy of its final approval decision in the public docket in which it places minor permit revision requests when received or provide a substantially equivalent means of public access to its final decision.

(6) *Reopening of the public comment period.* If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the permitting authority may reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted. Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice shall define the scope of the reopening.

(7) *Issuance and effective date of permit.*

(i) After the close of the public comment period on a draft permit, the permitting authority shall issue a final permit decision. The permitting authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a permit.

(ii) A final permit decision shall become effective immediately upon issuance of the decision unless a later effective date is specified in the decision.

(8) *Source's ability to make change.* The source may make the change proposed in its minor permit revision application in accordance with paragraph (g)(5) of this section. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions specified in paragraphs (g)(5)(v)(A) through (D) of this section, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to revise. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.

(9) *Source liability.* If, after a source makes the requested change but prior to a permitting authority's final action to approve the change and revise the permit, the Administrator objects to the proposed minor permit revision (in the case of a program delegated pursuant to § 71.10), or the permitting authority either denies the minor permit revision or determines that the requested revision does not meet the minor permit revision criteria and should be reviewed under significant permit revision procedures, the source shall be liable for having operated in violation of its existing permit from the time at which it implemented the requested change. Notwithstanding the preceding sentence, the permitting authority may issue a permit revision that varies from the source's application without rendering the source liable for violating its existing permit if the permitting authority's revisions are not necessary to make the change eligible for minor permit revision procedures and do not change the applicant's proposed determination of which requirements of the Act apply to the source as a result of the requested change and if the source demonstrates to the satisfaction of the permitting authority its compliance with the applicable requirement to which it is subject as a result of the change and the source's proposed permit revision. However, the source would remain liable for any violations of the requirements of the Act applicable as a result of the change and the source's proposed permit revision. [OPTION: ADD NEW SENTENCE: If, after the permitting authority's final action to revise the permit, any verification testing of the new operating level or revised monitoring approach as required by paragraph (g)(2)(vi) of this section demonstrates that the new operating level or revised monitoring approach fails to demonstrate compliance, the source then shall comply with the monitoring and recordkeeping permit terms and conditions that applied to the source before the minor permit revision, the minor permit revision shall be null and void and cease to have effect, and the source shall be liable for operating in violation of its permit from the time it implemented the change.]

VOL 60 ISS 81 AP 27 1995 UMI

(10) *Permit shield.* The permit shield under § 71.6(n) may extend to minor permit revisions, provided that the permitting authority has taken final action to issue the minor permit revision as a permit revision.

(h) *Significant permit revision procedures.*

(1) *Criteria.* Significant permit revision procedures shall be used for applications requesting permit revisions that do not qualify as administrative amendments, de minimis permit revisions, or minor permit revisions. At a minimum, every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping permit terms or conditions shall be considered a significant change. [OPTION: DELETE PRECEDING SENTENCE] Nothing herein shall be construed to preclude the permittee from making changes consistent with this part that would render existing permit compliance terms and conditions irrelevant.

(2) Significant permit revisions shall meet all requirements, including those for applications, public participation, review by affected States, and in the case of a program delegated pursuant to § 71.10, review by EPA, as they apply to permit issuance and permit renewal. The permitting authority shall implement this review process to complete review on the majority of significant permit revisions within 9 months after receipt of a complete application.

[OPTION: ADD NEW PARAGRAPH (h)(3):

(3) Changes involving new or alternative monitoring methods that have not been approved pursuant to major or minor NSR under criteria equivalent to those contained in this paragraph (h)(3) shall be processed as significant permit revisions. Permitting authorities may approve such changes only where the new or alternative monitoring or recordkeeping method is demonstrated to have a known relationship and ability to determine compliance with the applicable standard. Such demonstration shall include an analysis conducted in accordance with 40 CFR 64.4(b)(5) and 64.4(e) utilizing appendices A, B, C, and D of 40 CFR part 64. The permitting authority shall include the demonstration and written evidence of the permitting authority's evaluation of the demonstration in the proposed permit it sends to EPA (in the case of a program delegated pursuant to § 71.10) for review as required by § 71.10.]

(i) *Reopening for cause.*

(1) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:

(i) Additional applicable requirements under the Act become applicable to a major part 70 or part 71 source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions have been extended pursuant to § 71.6 or paragraph (c)(3) of this section.

(ii) Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

(iii) The permitting authority or EPA (in the case of a program delegated pursuant to § 71.10) determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

(iv) The permitting authority or EPA (in the case of a program delegated pursuant to § 71.10) determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(2) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists, and shall be made as expeditiously as practicable. Notwithstanding the preceding sentence, proceedings to reopen for standards under section 112 of the Act may use the following procedures:

(i) Where the standard under section 112 of the Act is published after permit issuance, administrative amendment procedures under paragraph (e)(5) of this section may be used.

(ii) Where the standard under section 112 of the Act is published before permit issuance and a compliance statement required under the standard under section 112 of the Act is due after permit issuance, the source shall apply for a minor permit revision by the compliance statement deadline to incorporate requirements necessary to assure compliance with the standard, unless the source is exempted from this requirement under paragraph (i)(2)(iii) of this section or under the rulemaking promulgating the standard under section 112 of the Act. If the source is utilizing alternatives requiring case-by-case approval, such as emissions averaging, or if required under the rulemaking promulgating the standard under section 112 of the Act, the source shall apply for a significant permit revision by the compliance statement deadline, in lieu of the requirement in the preceding sentence to apply for a minor permit revision.

(iii) Sources subject to the following standards under section 112 of the Act published as of *[DATE OF PUBLICATION OF FINAL RULE]* are exempt from the requirements in paragraph (i)(2)(ii) of this section to apply for a minor permit revision: NESHAP for Industrial Process Cooling Towers, at 40 CFR part 63, subpart Q.

(3) Reopenings under paragraph (i)(1) of this section shall not be initiated before a notice of such intent is provided to the part 70 or part 71 source by the permitting authority at least 30 days in advance of the date that the permit is to be reopened, except that the permitting authority may provide a shorter time period in the case of an emergency. Where reopening for standards under section 112 of the Act requiring initial notification by the source, and where the source has provided such notification to the permitting authority by the applicable date, the permitting authority need not provide the notice required by the preceding sentence.

(j) *Reopenings for cause by EPA for delegated programs.*

(1) In the case of a program delegated pursuant to § 71.10 , if the Administrator finds that cause exists to terminate, revise, or revoke and reissue a permit pursuant to paragraph (i) of this section, the Administrator will notify the permitting authority and the permittee of such finding in writing.

(2) The permitting authority shall, within 90 days after receipt of such notification, forward to EPA a proposed determination of termination, revision, or revocation and reissuance, as appropriate. The Administrator may extend this 90-day period for an additional 90 days if he or she finds that a new or revised permit application is necessary or that the permitting authority must require the permittee to submit additional information.

(3) The Administrator will review the proposed determination from the permitting authority within 90 days of receipt.

(4) The permitting authority shall have 90 days from receipt of an EPA objection to resolve any objection that EPA makes and to terminate, revise, or revoke and reissue the permit in accordance with the Administrator's objection.

(5) If the permitting authority fails to submit a proposed determination pursuant to paragraph (j)(2) of this section or fails to resolve any objection pursuant to paragraph (j)(4) of this section, the Administrator will terminate, revise, or revoke and reissue the permit after taking the following actions:

(i) Providing at least 30 days notice to the permittee in writing of the reasons for any such action. This notice may be given during the procedures in paragraphs (j)(1) through (j)(4) of this section.

(ii) Providing the permittee an opportunity for comment on the Administrator's proposed action and an opportunity for a hearing.

§ 71.8 Affected State Review.

(a) *Notice of draft permits.* When a part 71 operating permits program becomes effective in a State or Tribal area, the permitting authority shall provide notice of each draft permit to any affected State, as defined in § 71.2, on or before the time that the permitting authority provides this notice to the public pursuant to §§ 71.7(e)(4), 71.7(h), 71.7(i) or 71.11(d) and shall provide any affected State a copy of the addendum for a de minimis permit revision within 7 days of the date on which the addendum takes effect.

(b) *Notice of refusal to accept recommendations.* Prior to issuance of the final permit, the permitting authority shall notify any affected State (and the Administrator, in the case of a program delegated pursuant to § 71.10) in writing of any refusal by the permitting authority to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the permitting authority's reasons for not accepting any such recommendation. The permitting authority is not required to accept recommendations that are not based on applicable requirements or the requirements of this part.

(c) *Waiver of notice requirements.* The Administrator may waive the requirements of paragraph (a) of this section for any category of sources (including any class, type, or size within such category) other than major sources by regulation for a category of sources nationwide.

§ 71.9 Permit Fees.

(a) *Fee requirement.* The owners or operators of part 71 sources shall pay annual fees, or the equivalent over some other period, that are sufficient to cover the permit program costs, in accordance with the procedures described in this section.

(b) *Permit program costs.* These costs include, but are not limited to, the costs of the following activities as they relate to a part 71 program:

(1) Preparing generally applicable guidance regarding the permit program or its implementation or enforcement;

(2) Reviewing and acting on any application for a permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, or permit revision or renewal;

(3) Processing permit reopenings;

(4) General administrative costs of the permit program, including transition planning, interagency coordination, contract management, training, informational services and outreach activities, assessing and collecting fees, the tracking of permit applications, compliance certifications, and related data entry;

(5) Implementing and enforcing the terms of any part 71 permit (not including any court costs or other costs associated with an enforcement action), including adequate resources to determine which sources are subject to the program;

(6) Emissions and ambient monitoring, modeling, analyses, demonstrations, preparation of inventories, and tracking emissions, provided these activities are needed in order to issue and implement part 71 permits; and

(7) Providing direct and indirect support to small business stationary sources in determining applicable requirements and in receiving permits under this part (to the extent that these services are not provided by a State Small Business Stationary Source Technical and Environmental Compliance Assistance Program).

(c) *Establishment of fee schedule.*

(1) For part 71 programs that are administered by EPA, each part 71 source shall pay an annual fee in the amount of $45 dollars per ton (as adjusted pursuant to the criteria set forth in paragraph (n)(1) of this section) times the total tons of the actual emissions of each regulated pollutant (for fee calculation) emitted from the source, including fugitive emissions.

(2) For part 71 programs that are delegated pursuant to § 71.10, the annual fee for each part 71 source shall be the amount specified in paragraph (c)(1) of this section plus a surcharge of $3 per ton per year. The surcharge will be used to defray the Agency's cost of administering program delegation.

(3) For part 71 programs that are administered by EPA with contractor assistance, the per ton fee will vary depending on the extent of contractor involvement and the cost to EPA of contractor assistance. The EPA shall establish a per ton fee that is based on the contractor costs for the specific part 71 program that is being administered, using the following formula:

Cost per ton=(E×$45)+[(1−$E$)×$C$]+$3 surcharge

Where E represents EPA's proportion of total effort (expressed as a percentage of total effort) needed to administer the part 71 program, 1−E represents the contractor's effort, and C represents the contractor assistance cost on a per ton basis. The $3 surcharge covers EPA's cost for administering contractor permit program activities. C shall be computed by using the following formula:

C=[B+T+N] divided by 12,300,000

Where B represents the base cost (contractor costs), where T represents travel costs, and where N represents non-personnel data management and tracking costs.

(4) For programs that are delegated in part and that also use contractor assistance, the fee shall be computed using the formula in paragraph (c)(3) of this section, provided that E represents the proportion of total effort (expressed as a percentage) expended by EPA and the delegate agency.

(5) The following emissions shall be excluded from the calculation of fees under paragraph (c)(1) of this section:

(i) The amount of a part 71 source's actual emissions of each regulated pollutant (for fee calculation) that the source emits in excess of four thousand (4,000) tpy;

(ii) A part 71 source's actual emissions of any regulated pollutant (for fee calculation) already included in the fee calculation; and

(iii) The insignificant quantities of actual emissions not required to be listed or calculated in a permit application pursuant to § 71.5(g).

(6) "Actual emissions" means the actual rate of emissions in tpy of any regulated pollutant (for fee calculation) emitted from a part 71 source over the preceding calendar year. Actual emissions shall be calculated using each emissions unit's actual operating hours, production rates, in-place control equipment, and types of materials processed, stored, or combusted during the preceding calendar year.

VOL
60
ISS
81
AP
27
1995
UMI

(7) Notwithstanding the above, if the Administrator determines that the fee structures provided in paragraphs (c)(1) through (c)(4) of this section do not reflect the costs of administering a part 71 program, then the Administrator shall by rule set a fee which adequately reflects permit program costs for that program.

(d) *Prohibition on fees with respect to emissions from affected units.* Notwithstanding any other provision of this section, during the years 1995 through 1999 inclusive, no fee for purposes of title V of the Act shall be required to be paid with respect to emissions from any affected unit under section 404 of the Act.

(e) *Submission of initial fee calculation work sheets and fees.*

(1) Each part 71 source shall complete and submit an initial fee calculation work sheet as provided in paragraphs (e)(2), (f), and (g) of this section and shall complete and submit fee calculation work sheets thereafter as provided in paragraph (h) of this section. Calculations of actual or estimated emissions and calculation of the fees owed by a source shall be computed by the source on fee calculation work sheets provided by EPA. Fee payment in an amount that equals one-third of the annual fees owed must accompany each initial fee calculation work sheet. The balance of the annual fees owed must be paid within four months of the due date of the initial fee or within one year of the effective date of the part 71 program, whichever is earlier.

(2) The fee calculation work sheet shall require the source to submit a report of its actual emissions for the preceding calendar year and to compute fees owed based on those emissions. For sources that have been issued part 70 or part 71 permits, actual emissions shall be computed using compliance methods required by the most recent permit. If actual emissions cannot be determined using the compliance methods in the permit, the actual emissions should be determined using federally recognized procedures. If a source commenced operation during the preceding calendar year, the source shall estimate its actual emissions for the current calendar year. In such a case, fees for the source shall be based on the total emissions estimated.

(f) *Deadlines for submission.*

(1) When EPA withdraws approval of a part 70 program and implements a part 71 program, part 71 sources shall submit initial fee calculation work sheets and fees in accordance with the following schedule:

(i) Sources having SIC codes between 0100 and 2499 inclusive shall complete and submit fee calculation work sheets and fees within 4 months of the effective date of the part 71 program;

(ii) Sources having SIC codes between 2500 and 2999 inclusive shall complete and submit fee calculation work sheets and fees within 5 months of the effective date of the part 71 program;

(iii) Sources having SIC codes between 3000 and 3999 inclusive shall complete and submit fee calculation work sheets and fees within 6 months of the effective date of the part 71 program;

(iv) Sources having SIC codes higher than 3999 shall complete and submit fee calculation work sheets and fees within 7 months of the effective date of the part 71 program.

(2) Sources that are required under either paragraph (f)(1) or (g) of this section to submit fee calculation work sheets and fees between January 1 and March 31 may estimate their emissions for the preceding calendar year in lieu of submitting actual emissions data. If the source's initial fee calculation work sheet was based on estimated emissions for the source's preceding calendar year, then the source shall reconcile the fees owed when it submits its annual emissions report, as provided in paragraph (h)(3) of this section.

(3) When EPA implements a part 71 program that does not replace an approved part 70 program, part 71 sources shall submit initial fee calculation work sheets and initial fees when submitting their permit applications in accordance with the requirements of § 71.5(b)(1).

(4) Notwithstanding the above, sources that become subject to the part 71 program after the program's effective date shall submit an initial fee calculation work sheet and initial fees when submitting their permit applications in accordance with the requirements of § 71.5(b)(1) .

(g) *Fees for sources that are issued part 71 permits following an EPA objection pursuant to § 71.4(e).* Fees for such sources shall be determined as provided in paragraph (c) of this section. However, initial fee calculation work sheets for such sources and full payment of annual fees shall be due three months after the date on which the source's part 71 permit is issued.

(h) *Annual emissions reports.*

(1) *Deadlines for submission.* Each part 71 source shall submit an annual report of its actual emissions for the preceding calendar year, a fee calculation work sheet (based on the report), and full payment of the annual fee each year on the anniversary date of its initial fee calculation work sheet, except that sources that were required to submit initial fee calculation work sheets between January 1 and March 31 inclusive shall submit subsequent annual emissions reports and fee calculation work sheets on April 1.

(2) For sources that have been issued part 70 or part 71 permits, actual emissions shall be computed using methods required by the most current permit for determining compliance.

(3) If the source's initial fee calculation work sheet was based on estimated emissions for the source's current or preceding calendar year, then the source shall reconcile the fees owed when it submits its annual emissions report. The source shall compare the estimated emissions from the initial work sheet and the actual emissions from the report and shall enter such information on the fee calculation work sheet that accompanies the annual report. The source shall recompute the initial fee accordingly and shall remit any underpayment with the report and work sheet. The EPA shall credit any overpayment to the source's account.

(i) *Recordkeeping requirements.* Part 71 sources will retain, in accordance with the provisions of § 71.6(e), all work sheets and other materials used to determine fee payments. Records shall be retained for 5 years following the year in which the emissions data is submitted.

(j) *Fee assessment errors.*

(1) If EPA determines than a source has completed the fee calculation work sheet incorrectly, the permitting authority shall bill the applicant for the corrected fee or credit overpayments to the source's account.

(2) Each source notified by the permitting authority of additional amounts due shall remit full payment within 30 days of receipt of an invoice from the permitting authority.

(3) An owner or operator of a part 71 source who thinks that the assessed fee is in error shall provide a written explanation of the alleged error to the permitting authority along with the assessed fee. The permitting authority shall, within 90 days of receipt of the correspondence, review the data to determine whether the assessed fee was in error. If an error was made, the overpayment shall be credited to the account of the part 71 source.

(k) *Remittance procedure.*

(1) Each remittance under this section shall be in United States currency and shall be paid by money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the order of the U.S. Environmental Protection Agency.

(2) Each remittance shall be sent to the Environmental Protection Agency to the address designated on the fee calculation work sheet or the invoice.

(l) *Penalty and interest assessment.*

(1) The permitting authority shall assess interest on payments which are received later than the date due. The interest rate shall be the sum of the Federal short-term rate determined by the Secretary of the Treasury in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986, plus 3 percentage points.

(2) The permitting authority shall assess a penalty charge of 50 percent of the fee amount if the fee is not paid within 30 days of the payment due date.

(3) Part 71 sources shall be assessed a penalty of 50 percent on underpayments computed under paragraph (h)(3) of this section when the underpayment is in excess of 20 percent of the initial estimated fee amount and interest as computed under paragraph (l)(1) of this section on that portion of the underpayment in excess of 20 percent of the initial fee amount.

(m) *Failure to remit fees.* The permitting authority shall not issue a final permit or permit revision until all fees, interest and penalties assessed against a source under this section are paid. The initial application of a source shall not be found complete unless the source has paid all fees owed.

(n) *Adjustments of fee schedules.*

(1) The fee schedules provided in paragraphs (c)(1) through (c)(4) of this section shall remain in effect until December 31, 1996. Thereafter, the fee schedules shall be changed annually by the percentage, if any, of any annual increase in the Consumer Price Index.

(2) Part 71 permit program costs and fees will be reviewed by the Administrator at least every two years, and changes will be made to the fee schedule as necessary to reflect permit program costs.

(3) When changes to a fee schedule are made based on periodic reviews by the Administrator, the changes will be published in the **Federal Register** as a rule.

(o) *Use of revenue.* All fees, penalties, and interest collected under this part shall be deposited in a special fund in the U.S. Treasury, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the activities required by this part.

§ 71.10 Delegation of part 71 program.

(a) *Delegation of part 71 program.* The Administrator may delegate, in whole or in part, with or without signature authority, the authority to administer a part 71 operating permits program to a State, eligible Tribe, local, or other non-State agency in accordance with the provisions of this section. In order to be delegated authority to administer a part 71 program, the delegate agency must submit a legal opinion from the Attorney General from the State, or the attorney for the State, local, interstate, or eligible Tribal agency that has independent legal counsel, stating that the laws of the State, locality, interstate compact or Indian Tribe provide adequate authority to carry out all aspects of the delegated program. A Delegation of Authority Agreement (Agreement) shall set forth the terms and conditions of the delegation, shall specify the provisions that the delegate agency shall be authorized to implement, and shall be entered into by the Administrator and the delegate agency. The Agreement shall become effective upon the date that both the Administrator and the delegate agency have signed the Agreement. Once delegation becomes effective, the delegate agency will be responsible, to the extent specified in the Agreement, for administering the part 71 program for the area subject to the Agreement.

(b) *Publication of Delegation of Authority Agreement.* The Agreement shall be published in the **Federal Register**.

(c) *Revision or revocation of Delegation of Authority Agreement.* An Agreement may be modified, amended, or revoked, in part or in whole, by the Administrator after consultation with the delegate agency.

(d) *Transmission of information to the Administrator.*

(1) When a part 71 program has been delegated in accordance with the provisions of this section, except as provided by § 71.7(a)(1)(v), the delegate agency shall provide to the Administrator a copy of each application for a permit, permit renewal, or permit revision (including any compliance plan, or any portion the Administrator determines to be necessary to review the application and permit effectively), each proposed permit, and each final part 71 permit.

(2) The applicant may be required by the delegate agency to provide a copy of the permit application (including the compliance plan) directly to the Administrator.

(3) Upon agreement with the Administrator, the delegate agency may submit to the Administrator a permit application summary form and any relevant portion of the permit application and compliance plan, in place of the complete permit application and compliance plan. To the extent practicable, the preceding information shall be provided in computer-readable format compatible with EPA's national database management system.

(e) *Retention of records.* The records for each draft, proposed, and final permit, and application for permit renewal or revision shall be kept for a period of 5 years by the delegate agency. The delegate agency shall also submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the delegate agency is implementing, administering, and enforcing the delegated part 71 program in compliance with the requirements of the Act and of this part.

(f) *Prohibition of default issuance.*

(1) For the purposes of Federal law and title V of the Act, when a part 71 program has been delegated in accordance with the provisions of this section, no part 71 permit (including a permit renewal or revision) will be issued until affected States have had an opportunity to review the draft permit as required pursuant to § 71.8(a) and EPA has had an opportunity to review the proposed permit.

(2) To receive delegation of signature authority, the legal opinion submitted by the delegate agency pursuant to paragraph (a) of this section shall certify that no applicable provision of State, local or Tribal law requires that a part 71 permit or renewal be issued after a certain time if the delegate agency has failed to take action on the application (or includes any other similar provision providing for default issuance of a permit), unless EPA has waived such review for EPA and affected States. Notwithstanding this prohibition on default permit issuance, permits may be revised on a default basis pursuant to the procedures in § 71.7 (e) and (f).

(g) *EPA objection.*

(1) No permit for which an application must be transmitted to the Administrator under paragraph (d)(1) of this section shall be issued if the Administrator objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information. When a part 71 program has been delegated in accordance with the provisions of this section, failure of the delegate agency to do any of the following shall constitute grounds for an objection by the Administrator:

(i) Comply with paragraph (d) of this section;

(ii) Submit any information necessary to review adequately the proposed permit;

(iii) Process the permit under the procedures required by §§ 71.7 and 71.11;

VOL
60
ISS
81
AP
27
1995
UMI

(iv) Propose or issue a part 71 permit that complies with applicable requirements of the Act or the requirements under this part, except as provided in § 71.7(a)(6); or

(v) Comply with the requirements of § 71.8(a).

(2) Any EPA objection under paragraph (g)(1) of this section shall include a statement of the Administrator's reason(s) for objection and a description of the terms and conditions that the permit must include to respond to the objection. The Administrator will provide the permit applicant a copy of the objection.

(3) If the delegate agency fails, within 90 days after the date of an objection under paragraph (g)(1) of this section, to revise and submit to the Administrator the proposed permit in response to the objection, the proposed permit shall not issue and thereafter the Administrator shall issue a part 71 permit to the applicant in accordance with the requirements of this part.

(h) *Public petitions.* In the case of a delegated program, any interested person may petition the Administrator to reopen a permit for cause as provided in § 71.11(n).

(i) *Appeal of permits.* When a part 71 program has been delegated with signature authority in accordance with the provisions of this section, any permit applicant and any person or affected State that submitted recommendations or comments on the draft permit, or that participated in the public hearing process may petition the Environmental Appeals Board in accordance with § 71.11(l)(1).

(j) *Non-delegable conditions.*

(1) The Administrator's authority to object to the issuance of a part 71 permit cannot be delegated to an agency not within EPA.

(2) The Administrator's authority to act upon petitions submitted pursuant to paragraph (h) of this section cannot be delegated to an agency not within EPA.

§ 71.11 Administrative record, public participation, and administrative review.

The provisions of paragraphs (a) through (j) of this section shall apply to initial permit issuance, permit renewals, permit reopenings, and significant permit revisions but not to permit revisions qualifying for minor permit revision procedures, de minimis permit revision procedures, or administrative amendments. The provisions of paragraphs (k), (l), and (m) of this section shall apply to all permit proceedings.

(a) *Draft permits.*

(1) The permitting authority shall promptly provide notice to the applicant of whether the application is complete pursuant to § 71.7(a)(3).

(2) Once an application for an initial permit, permit revision, or permit renewal is complete, the permitting authority shall decide whether to prepare a draft permit or to deny the application.

(3) If the permitting authority initially decides to deny the permit application, it shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit and follows the same procedures as any draft permit prepared under this section. If the permitting authority's final decision is that the initial decision to deny the permit application was incorrect, it shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (a)(4) of this section.

(4) If the permitting authority decides to prepare a draft permit, it shall prepare a draft permit that contains the permit conditions required under § 71.6.

(5) All draft permits prepared under this section shall be publicly noticed and made available for public comment.

(b) *Statement of basis.* The permitting authority shall prepare a statement of basis for every draft permit subject to this section. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the initial decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

(c) *Administrative record for draft permits.*

(1) The provisions of a draft permit shall be based on the administrative record defined in this section.

(2) For preparing a draft permit, the administrative record shall consist of:

(i) The application and any supporting data furnished by the applicant;

(ii) The draft permit or notice of intent to deny the application or to terminate the permit;

(iii) The statement of basis;

(iv) All documents cited in the statement of basis; and

(v) Other documents contained in the supporting file for the draft permit.

(3) Material readily available at the permitting authority or published material that is generally available, and that is included in the administrative record under paragraphs (b) and (c) of this section need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis.

(d) *Public notice of permit actions and public comment period.*

(1) *Scope.*

(i) The permitting authority shall give public notice that the following actions have occurred:

(A) A permit application has been initially denied under paragraph (a) of this section;

(B) A draft permit has been prepared under paragraph (a) of this section;

(C) A hearing has been scheduled under paragraph (f) of this section;

(D) A public comment period has been reopened under paragraph (h) of this section;

(E) An appeal has been granted under paragraph (l)(3) of this section.

(ii) No public notice is required in the case of administrative permit revisions, or when a request for permit revision, revocation and reissuance, or termination has been denied under paragraph (a)(2) of this section. Written notice of that denial shall be given to the requester and to the permittee.

(iii) Public notices may describe more than one permit or permit action.

(2) *Timing.*

(i) Public notice of the preparation of a draft permit, (including a notice of intent to deny a permit application), shall allow at least 30 days for public comment.

(ii) Except as provided under § 71.7(g)(5)(ii)(C), public notice of a public hearing shall be given at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

(iii) The permitting authority shall provide such notice and opportunity for participation to affected States on or before the time that the permitting authority provides this notice to the public.

(3) *Methods.* Public notice of activities described in paragraph (d)(1)(i) of this section shall be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under paragraph (d) of this section may waive his or her rights to receive notice for any permit):

(A) The applicant;

(B) Affected States;

(C) Air pollution control agencies of affected States, Tribal and local air pollution control agencies which have jurisdiction over the area in which the source is located, the chief executives of the city and county where the source is located, any comprehensive regional land use planning agency and any State or Federal Land Manager whose lands may be affected by emissions from the source;

(D) Any unit of local government including the local emergency planning committee, having jurisdiction over the area where the source is located and to each State agency having any authority under State law with respect to the operation of such source;

(E) Persons on a mailing list developed by:

(*1*) Including those who request in writing to be on the list;

(*2*) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

(*3*) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and, where deemed appropriate by the permitting authority, in such publications as regional and State funded newsletters, environmental bulletins, or State law journals. The permitting authority may update the mailing list from time to time by requesting written indication of continued interest from those listed. The permitting authority may delete from the list the name of any person who fails to respond to such a request.

(ii) By publication of a notice in a daily or weekly newspaper of general circulation within the area affected by the source.

(iii) By any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) *Contents.*

(i) *All public notices.* All public notices issued under this subpart shall contain the following minimum information:

(A) The name and address of the permitting authority processing the permit;

(B) The name and address of the permittee or permit applicant and, if different, of the facility regulated by the permit, except in the case of draft general permits;

(C) The activity or activities involved in the permit action;

(D) The emissions change involved in any permit revision;

(E) The name, address, and telephone number of a person whom interested persons may contact for instructions on how to obtain additional information, such as a copy of the draft permit, the statement of basis, the application, relevant supporting materials, and other materials available to the permitting authority that are relevant to the permitting decision.

(F) A brief description of the comment procedures required by paragraph (e) of this section, a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(G) The location of the administrative record, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant are available as part of the administrative record; and

(H) Any additional information considered necessary or proper.

(ii) *Public notices for hearings.* Public notice of a hearing may be combined with other notices required under paragraph (d)(1) of this section. Any public notice of a hearing under paragraph (f) of this section shall contain the following information:

(A) The information described in paragraph (d)(4)(i) of this section;

(B) Reference to the date of previous public notices relating to the permit;

(C) The date, time, and place of the hearing; and

(D) A brief description of the nature and purpose of the hearing, including the applicable rules and the comment procedures.

(5) All persons identified in paragraphs (d)(3)(i) (A), (B), (C), (D), and (E) of this section shall be mailed a copy of the public hearing notice described in paragraph (d)(4)(ii) of this section.

(e) *Public comments and requests for public hearings.* During the public comment period provided under paragraph (a) of this section, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised at the hearing. All comments shall be considered in making the final decision and shall be answered as provided in paragraph (j) of this section. The permitting authority will keep a record of the commenters and of the issues raised during the public participation process, and such records shall be available to the public.

(f) *Public hearings.*

(1) The permitting authority shall hold a hearing whenever it finds, on the basis of requests, a significant degree of public interest in a draft permit.

(2) The permitting authority may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision.

(3) Public notice of the hearing shall be given as specified in paragraph (d) of this section.

(4) Whenever a public hearing is held, the permitting authority shall designate a Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(5) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under paragraph (d) of this section shall be automatically extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(6) A tape recording or written transcript of the hearing shall be made available to the public.

(g) *Obligation to raise issues and provide information during the public comment period.* All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the permitting authority's initial decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably ascertainable arguments supporting their position by the close of the public comment period (including any public hearing). Any supporting materials that are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials. In the case of a program delegated pursuant to § 71.10, if requested by the Administrator, the permitting authority shall make supporting materials not already included in the administrative record available to EPA. The permitting authority may direct commenters to provide such materials directly to EPA. A comment period longer than 30 days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this section. Additional time shall be granted to the extent that a commenter who requests additional time demonstrates the need for such time.

(h) *Reopening of the public comment period.*

(1) The permitting authority may order the public comment period reopened if the procedures of paragraph (h) of this section could expedite the decision making process. When the public comment period is reopened under paragraph (h) of this section, all

VOL
60
ISS
81
AP
27
1995
UMI

persons, including applicants, who believe any condition of a draft permit is inappropriate or that the permitting authority's initial decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must submit all reasonably available factual grounds supporting their position, including all supporting material, by a date not less than 30 days after public notice under paragraph (h)(2) of this section, set by the permitting authority. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than 20 days after the date set for filing of the material, set by the permitting authority.

(2) Public notice of any comment period under this paragraph shall identify the issues to which the requirements of § 71.11 (h)(1) through (h)(4) shall apply.

(3) On its own motion or on the request of any person, the permitting authority may direct that the requirements of paragraph (h)(1) of this section shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of paragraph (h)(1) of this section will substantially expedite the decision making process. The notice of the draft permit shall state whenever this has been done.

(4) A comment period of longer than 30 days may be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they may be granted to the extent the permitting authority finds it necessary.

(5) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the permitting authority may take one or more of the following actions:

(i) Prepare a new draft permit, appropriately modified;

(ii) Prepare a revised statement of basis, and reopen the comment period; or

(iii) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

(6) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused the reopening. The public notice shall define the scope of the reopening.

(7) Public notice of any of the above actions shall be issued under paragraph (d) of this section.

(i) *Issuance and effective date of permit.*

(1) After the close of the public comment period on a draft permit, the permitting authority shall issue a final permit decision. The permitting authority shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a permit. For the purposes of this section, a final permit decision means a final decision to issue, deny, revise, revoke and reissue, renew, or terminate a permit.

(2) A final permit decision shall become effective immediately upon issuance of the decision unless a later effective date is specified in the decision.

(j) *Response to comments.*

(1) At the time that any final permit decision is issued, the permitting authority shall issue a response to comments. This response shall:

(i) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(ii) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

(2) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in paragraph (k) of this section. If new points are raised or new material supplied during the public comment period, the permitting authority may document its response to those matters by adding new materials to the administrative record.

(3) The response to comments shall be available to the public.

(4) The permitting authority will notify in writing any affected State of any refusal to accept recommendations for the permit that the State submitted during the public or affected State review period.

(k) *Administrative record for final permits.*

(1) The permitting authority shall base final permit decisions on the administrative record defined in paragraph (k)(2) of this section.

(2) The administrative record for any final permit shall consist of:

(i) All comments received during any public comment period, including any extension or reopening;

(ii) The tape or transcript of any hearing(s) held;

(iii) Any written material submitted at such a hearing;

(iv) The response to comments and any new materials placed in the record;

(v) Other documents contained in the supporting file for the permit;

(vi) The final permit;

(vii) The application and any supporting data furnished by the applicant;

(viii) The draft permit or notice of intent to deny the application or to terminate the permit;

(ix) The statement of basis for the draft permit;

(x) All documents cited in the statement of basis;

(xi) Other documents contained in the supporting file for the draft permit.

(3) The additional documents required under paragraph (k)(2) of this section should be added to the record as soon as possible after their receipt or publication by the permitting authority. The record shall be complete on the date the final permit is issued.

(4) Material readily available at the permitting authority, or published materials which are generally available and which are included in the administrative record under the standards of paragraph (j) of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or in the response to comments.

(l) *Appeal of permits.*

(1) Within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. Except for revisions qualifying for minor permit revision procedures, de minimis permit revision procedures, or administrative amendments, the 30-day period within which a person may request review under this section begins with the service of notice of the permitting authority's action unless a later date is specified in that notice. For revisions processed pursuant to minor permit revision procedures, the 30-day period within which a person may request review under this section begins on the date after the permitting authority notifies the source and commenters of the final permit action. For revisions processed pursuant to de minimis permit revision procedures, the 30-day period within which a person may request review under this section begins on the date after the expiration of the permitting authority's period to disapprove the revision or revoke the revision in response to a citizen petition, whichever is applicable. For revisions processed pursuant to administrative amendment procedures, the 30-day period within which a person may request review under this section begins on the date following the expiration of the 60-day period after which the administrative amendment is effective. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues raised were raised during the public comment period (including any public hearing) to the extent required by these regulations unless the petitioner demonstrates that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period, and, when appropriate, a showing that the condition in question is based on:

(i) A finding of fact or conclusion of law which is clearly erroneous; or

(ii) An exercise of discretion or an important policy consideration which the Environmental Appeals Board should, in its discretion, review.

(2) The Board may also decide on its initiative to review any condition of any permit issued under this part. The Board must act under paragraph (l) of this section within 30 days of the service date of notice of the permitting authority's action.

(3) Within a reasonable time following the filing of the petition for review, the Board shall issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. Public notice of any grant of review by the Board under paragraph (l) (1) or (2) of this section shall be given as provided in paragraph (d) of this section. Public notice shall set forth a briefing schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial of review shall be sent only to the permit applicant and to the person(s) requesting review.

(4) A petition to the Board under paragraph (l)(1) of this section is, under 42 U.S.C. 307(b), a prerequisite to seeking judicial review of the final agency action.

(5) For purposes of judicial review, final agency action occurs when a final permit is issued or denied by the permitting authority and agency review procedures are exhausted. A final permit decision shall be issued by the permitting authority:

(i) When the Board issues notice to the parties that review has been denied;

(ii) When the Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings; or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(6) Neither the filing of a petition for review of any condition of the permit or permit decision nor the granting of an appeal by the Environmental Appeals Board shall stay the effect of any contested permit or permit condition.

(m) *Computation of time.*

(1) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(2) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event, except as otherwise provided.

(3) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(4) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days shall be added to the prescribed time.

(n) *Public petitions to the Administrator.*

(1) Any interested person (including the permittee) may petition the Administrator to reopen a permit for cause, and the Administrator may commence a permit reopening on his or her own initiative. However, the Administrator shall not revise, revoke and reissue, or terminate a permit except for the reasons specified in § 71.7(i)(1) or § 71.6(a)(5)(i). All requests shall be in writing and shall contain facts or reasons supporting the request.

(2) If the Administrator decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of requests for revision, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Administrator may be informally appealed to the Environmental Appeals Board by a letter briefly setting forth the relevant facts. The Board may direct the Administrator to begin revision, revocation and reissuance, or termination proceedings under paragraph (n)(3) of this section. The appeal shall be considered denied if the Board takes no action within 60 days after receiving it. This informal appeal is, under 42 U.S.C. 307, a prerequisite to seeking judicial review of EPA action in denying a request for revision, revocation and reissuance, or termination.

(3) If the Administrator decides the request is justified and that cause exists to revise, revoke and reissue or terminate a permit, he or she shall initiate proceedings to reopen the permit pursuant to § 71.7(i) or § 71.7(j).

§ 71.12 Prohibited acts.

Violations of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to this part are violations of the Act and are subject to full Federal enforcement authorities available under the Act.

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VOL
60

ISS
81

AP
27

1995

UMI

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Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 121
Pilot Operating and Experience Requirements; Final Rule

VOL
60
ISS
81
AP
27
1995
UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 27210; Amendment No. 121–248]

RIN 2120–AD88

Pilot Operating and Experience Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Aviation Administration amends its pilot qualification requirements for air carrier and commercial operator pilots by upgrading existing operating experience requirements, establishing a new kind of operating experience requirement, and adding requirements that would reduce the potential for an inexperienced pilot in command to be scheduled to fly with an inexperienced second in command pilot. The FAA has determined that recent practices and trends necessitate revising current pilot qualification regulations in the interest of safety to upgrade minimum crew experience and to require pilots to use newly developed knowledge and skills in actual line operations within a short time after training.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Youngblut, Project Development Branch (AFS–240), Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; Telephone (202) 267–8096.

SUPPLEMENTARY INFORMATION:

Background

The FAA is amending part 121 pilot qualification requirements. The FAA published a Notice of Proposed Rulemaking (NPRM), Notice No. 93–1, on the subject (58 FR 15730, March 23, 1993). Most of these amendments are based on a joint government/industry task force committee's recommendation. Three proposals, on second in command (SIC) operating experience, FAA inspector observation of a pilot in command (PIC), and "satisfactory" completion of operating experience, are not committee recommendations but are parallel to the basic committee's recommendation. The final amendments are as follows:

1. The present requirement in § 121.434(a), which prohibits a certificate holder from using any person "as a required crewmember on an airplane unless he has completed, on that type airplane and in that crewmember position, the operating experience requirements required," is revised by inserting the work "satisfactorily" before the word "completed."

2. Operating experience requirements in § 121.434 are amended to require that a PIC completing initial or upgrade training be observed during at least one flight leg by an FAA inspector in all cases, not just when the certificate holder's training program includes simulator training.

3. Operating experience requirements in § 121.434 are amended to require that an SIC must perform SIC duties under the supervision of an appropriately qualified check pilot and to eliminate the current option allowing an SIC to observe the performance of the duties on the flight deck.

4. The hours of operating experience required in § 121.434 are increased for PICs transitioning in Group II airplanes, and reductions in hours are no longer allowed for PIC initial training in Group II airplanes or for initial or transition training for SICs in Group II airplanes.

5. Operating experience requirements for both PICs and SICs in § 121.434 are amended to include requiring four operating cycles (at least two of which must be flown by the pilot). "Operating cycle" is defined in the rule as a complete flight segment consisting of a takeoff, climb, enroute portion, descent, and a landing.

6. Operating experience requirements in § 121.434 are amended to require that each PIC and SIC acquire 100 hours of line operating experience for consolidation of knowledge and skills within 120 days after completion of an airman certification practical test or completion of a proficiency check in the new airplane. "Consolidation" is defined as the process by which a person through practice and practical experience increases proficiency in newly acquired knowledge and skills. "Line operating flight time" is defined as flight time performed in operations under part 121.

7. A new section on operating limitations, § 121.438, requires a PIC, when flying with an SIC who has fewer than 100 flight hours in the type airplane being flown, to make all takeoffs and landings during certain situations. This new section also requires that either a PIC or SIC have at least 75 hours of line operating flight time for that type airplane in order to be assigned to the same flight crew. (This is commonly called "crew pairing.")

History

The FAA determined that these amendments were necessary because of airplane accidents and incidents that had occurred at least in part because of inexperienced flight crews. An accident that occurred in Denver in 1987 involved a Continental Airlines McDonnell Douglas DC–9–14 which crashed on takeoff. The National Transportation Safety Board (NTSB) found that the PIC, though an experienced pilot, had very little total flying time in the DC–9 and was not experienced in supervising first officers. The SIC, who was flying the aircraft when it crashed, had little experience in the DC–9 and had not flown for the previous 24 days. A second accident that occurred in New York in 1989 involved a USAir B–737. The NTSB found that the PIC, though experienced as an SIC, had only 138 hours as a PIC in air transport aircraft; the SIC, who had been recently hired and had just qualified for B–737 service, was conducting his first non-supervised line takeoff in a B–737, and also his first takeoff after a 39-day non-flying period.

In response to the problem of inexperienced crews, the FAA issued Air Carrier Operations Bulletin (ACOB) 8–88–1 (January 21, 1988) and guidance to FAA field staff (July 19, 1988). The guidance to field staff requested that principal operations inspectors (POIs) review their certificate holders' policies on crew pairing and scheduling and send copies of these policies to FAA headquarters.

The NTSB recommended (November 3, 1988), based on its investigation of the Denver accident, that the FAA issue requirements that establish minimum experience levels for each PIC and each SIC that would, in effect, "prohibit the pairing on the same flight of pilots who have less than the minimum experience in their respective positions."

The FAA reviewed accident data, NTSB recommendations on crew experience, as well as past and present practices and trends in the aviation environment that are affecting crew experience levels. For example, the practice of bidding for flight crew schedules, which is used by air carriers, results in the most experienced pilots obtaining the most desirable schedules and the least experienced pilots obtaining the least desirable schedules. Often the least experienced pilots are assigned to a reserve pool and may have to wait days or weeks before they receive a flight assignment. This system often prevents newly qualified pilots from using and perfecting their new flight skills immediately after qualifying

on a new aircraft. It also increases the likelihood of pairing inexperienced pilots on the same flight.

Also, in recent years manufacturers have introduced a greater number of new aircraft containing more equipment and systems variations within type. Pilots must not only learn different aircraft handling characteristics but they must also be able to work with a variety of aircraft equipment such as automated flight control and flight management systems.

In response to these concerns about the experience level of crews, the FAA requested the Joint Government/industry Task Force on Flight Crew Performance, which was established in 1987, to form a committee to develop recommendations for establishing crew pairing requirements.[1] On September 13, 1990, the committee recommended requiring all certificate holders operating under part 121 to provide a minimum level of experience for pilot crews. Specifically, the committee recommended the consolidation requirements, operating restrictions, and crew pairing restrictions. The FAA has incorporated, with some modifications, those recommendations in this rulemaking.

Comments Discussion

The FAA received 14 comments on the proposed rule. These comments were from air carriers, pilot organizations, the NTSB, and one individual. Most of the commenters voice general support for the rule as a whole but have suggestions for changes to specific requirements. The following is a discussion of general comments and specific comments on each requirement in the rule.

General Comments

NTSB says that the proposed rule effectively responds to its safety recommendations following two accidents involving the pairing of inexperienced pilots (Safety Recommendations A–88–107 and A–90–107 and –108).

The Air Transport Association (ATA) and an individual airline say that the proposed rule is not justified because Air Carrier Operations Bulletin 8–88–1 (issued in 1988 and revised in 1991) effectively provides guidelines in the scheduling and pairing of pilots as well as recommended actions for pilots with low experience levels. ATA says that the proposed rule would add further, unjustified restrictions to this ACOB.

The Boeing Company (Boeing) generally agrees with the proposed rule but says that the changes do not address the practice whereby commercial transport manufacturers' pilots help air carriers to introduce new airplane models into revenue service. Boeing says that the proposed rule would prevent manufacturers from providing this support to air carriers and that this support is needed for safe initial line operations when air carriers do not have pilots with significant experience in airplane models new to carriers.

FAA Response

While the FAA recognizes that many air carriers have initiated crew pairing policies based on the ACOB, the guidance is not mandatory. The FAA intended the guidance as an interim action to be followed by mandatory rules. The FAA believes that the seriousness of the situation warrants rulemaking. Since most air carriers are already complying with the guidance, the FAA does not believe the rulemaking will be an excessive burden to the industry as a whole.

The FAA does not believe this rulemaking will interfere with commercial transport airplane manufacturers providing pilots to assist air carriers during the introduction of new airplane types into revenue service. The FAA believes that this can be accomplished within the rule as proposed and adopted. Sections 121.434(h)(5) and 121.438(b) provide for the Administrator to issue deviations to certificate holders from the line operating experience requirements of § 121.434(g) and the crew pairing limitations of § 121.438(b) if special circumstances warrant.

Comments on Specific Sections

Section 121.431(b)—Applicability

Currently, § 121.431(b) states that the airplane groups and definitions prescribed in § 121.400 apply to subpart O. The amended paragraph (b) adds definitions for the terms "consolidation," "line operating flight time," and "operating cycle."

Four comments were received on the definitions and applicability. One commenter says that rather than use the term "line operating flight time," the term "flight time" should be used so that all flight time (not just FAR part 121 flying) is counted towards consolidation. Two commenters say that the term "consolidation" is misleading in the NPRM because it describes a process by which proficiency is gained through practice and practical experience. Since, currently, pilots take proficiency checks prior to consolidation, commenters suggest that a different term be used.

The Air Line Pilots Association (ALPA) says that the proposed rule should apply to part 135 operations as well. According to ALPA, this would be responsive to NTSB recommendation A–88–137 which recommends minimum experience levels for PICs and SICs in part 135 operations.

FAA Response

The FAA intended that only line operating flight time, which is flight time performed in part 121 operations, be counted towards consolidation. The purpose of consolidation is to provide pilots flight experience in line operations in the airplane type that the pilot is newly qualified within a reasonable time after training in order to consolidate their skills and knowledge. Other flight time outside of a certificate holder's line operations may not provide the same experience.

As stated in the NPRM, the FAA used the term "consolidation," as recommended by the task force committee, with some reservation because the term is used in psychology books to identify a period of time that is part of the training/learning process or that occurs almost immediately after a training or teaching session. While it is true that a defined consolidation period may begin after a pilot has completed a proficiency check, proficiency is increased throughout a pilot's line operating flying experience and proficiency checks are conducted regularly throughout a pilot's career. The FAA believes that "consolidation" is an acceptable term for the concept but to avoid any confusion the definition has been revised by changing the words "becomes proficient" to "increases proficiency."

The FAA is not extending these requirements to part 135 in this rulemaking since it is beyond the scope of the notice. However, the FAA has issued a notice of proposed rulemaking proposing to require that part 135 certificate holders who conduct commuter operations with airplanes for which two pilots are required, or have a passenger seating configuration of 10 or more seats, train and qualify crewmembers in accordance with the requirements of part 121, subparts N and O. [See **Federal Register** 59 FR 64272, dated December 13, 1994.]

[1] This task force was later subsumed by the Air Transportation Personnel Training and Qualifications Advisory Committee, established by FAA Order 1110.115, May 2, 1990, which committee was subsequently subsumed under the Aviation Rulemaking Advisory Committee.

VOL 60 ISS 81 AP 27 1995 UMI

Section 121.434(c)(1)(ii)—Observation by FAA Inspector (Operating Experience)

Currently § 121.434(c)(1)(ii) requires that when a PIC is obtaining operating experience at least one flight leg that includes a takeoff and landing must be observed by an FAA inspector if the certificate holder's approved training program includes simulator training under § 121.409(c) and if a qualifying pilot in command is completing initial or upgrade training specified in § 121.424. The revised paragraph deletes the reference to simulator training in the certificate holder's approved training program. The FAA inspector observation requirement will, therefore, apply to all PICs obtaining operating experience if they are completing initial or upgrade training.

Five comments were received on this issue. Two commenters point out that the original purpose of requiring FAA inspector observation was to validate simulator training. Since the onset of the advanced simulation program (FAR Appendix H) tens of thousands of pilots have been successfully trained using advanced simulation. According to commenters, in view of the excellent experience with advanced simulation, the requirement for FAA observation should now be dropped, not expanded. Adding to this requirement would not enhance safety and would be administratively and financially burdensome. These commenters, as well as three others, say that there is a shortage of available, qualified FAA inspectors and this requirement will cause scheduling programs if personal observation of flight legs by an FAA inspector is required. The result will be costly delays in an airline's ability to use newly qualified PICs. One commenter points out that even under the current system, carriers face significant and expensive delays awaiting the availability of an FAA inspector and that the proposal would exacerbate this problem.

ATA, United, and the Regional Airline Association (RAA) recommend that this proposal be eliminated. ATA points out that if the proposal is implemented, the observation could take place on a pilot's first line trip and could be administered by an inspector who is not qualified on the aircraft being flown.

Three commenters, including American Airlines and RAA, recommend that Designated Examiners and Aircrew Program Designees be allowed to observe the flight leg when FAA inspector schedules are not compatible and completion of the operating experience would be delayed.

FAA Response

The initial observation requirement was implemented to provide an opportunity for the FAA to observe a pilot in performance of his or her duties before the pilot completes initial operating experience if the certificate holder's training program included simulator training. Since almost all certificate holder training programs under part 121 now include simulator training, deleting the reference to simulator training does not significantly affect the current practices of certificate holders or the FAA. The FAA finds that the initial purpose of the observation requirement is still valid: to provide the FAA an opportunity to observe the PIC before he or she assumes unsupervised operations in an airplane; to validate the certificate holder's training program; and to provide the FAA with a quality control mechanism for evaluating the certificate holder's designated check pilot program.

The FAA finds that allowing Designated Examiners or Aircrew Program Designees to substitute for FAA inspectors would not satisfy the purpose of this observation as described above.

Section 121.434(c)(2)—SIC Supervised Operating Experience

Current § 121.434(c)(2) requires that an SIC pilot perform the duties of an SIC under the supervision of a check pilot or observe the performance of the duties on the flight deck. The revision eliminates the option to observe. The revised rule requires that an SIC pilot acquire operating experience by performing actual SIC duties (and not simply by observing another SIC) under the supervision of a qualified check pilot.

Two comments were received on this requirement. Both commenters agree with the proposal and say that it would ensure that newly trained SICs immediately begin consolidating newly developed skills by actually performing line operations and flying the airplane. Both commenters point out that the current system of gaining credit toward operating experience by passively observing another SIC is ineffective and does not promote proficiency. In addition, NTSB says that the proposal is responsive to NTSB recommendation A–88–138 which was issued after a Continental Airlines accident in Denver in November 1987.

Section 121.434(c)(3)—Hours of Operating Experience and Operating Cycles

The current rule requires specific numbers of hours of operating experience for all pilots for initial and transition training in Group I and II airplanes as follows: (1) For initial training: 15 hours in Group I reciprocating powered airplanes, 20 hours in Group I turbopropeller airplanes, and 25 hours in Group II airplanes; (2) For transition training: 10 hours in Group I reciprocating powered airplanes, 12 hours in Group I turbopropeller powered airplanes, and 15 hours for Group II airplanes. The amended rule changes transition training hours for Group II to 25 hours for PICs; 15 hours continues to apply for SICs. The amended rule also requires that operating experience include at least 4 operating cycles (at least 2 as the pilot flying the airplane).

Three comments were received on this issue. Two of the comments overlap with reduction requirements of revised § 121.434(f)(1) and will be discussed in that section of this preamble.

ALPA supports the proposed rule's requirement that the pilot receiving the supervised operating experience be the pilot flying the aircraft in at least two operating cycles. ALPA agrees that this will ensure that qualifying pilots obtain experience in all critical phases of a flight operation (takeoff, climb, en route portion, descent, and landing) and provide safeguards against meeting supervised operating hours without completing all aspects of a cycle (as in long range flights).

Section 121.434(f)—Reduction of Operating Experience Hours

The current rule allows the hours required in § 121.434(c)(3), among other sections, to be reduced up to 50 percent for all pilots by substituting one additional takeoff and landing for each hour of flight. The amended rule continues to allow the reduction for Group I airplanes for initial and transition operating experience and for Group II airplanes for PIC transitional operating experience. The amended rule would not allow PICs meeting initial training operating experience requirements in Group II airplanes or SICs meeting either initial or transition training operating experience in Group II airplanes to reduce the number of required hours of operating experience in these type airplanes.

Two comments were received on this issue, plus two that were submitted as comments on the number of hours required but are discussed here since

they pertain to reducing the required hours. Two commenters state that since the rule requires at least 4 operating cycles (at least 2 as the pilot flying), then PICs and SICs should be allowed to reduce the operating experience time by one hour for each takeoff and landing following the two operating cycles that are required. These commenters also say that the reduction should apply to initial, upgrade, and transition categories.

United Airlines says that "hour requirements for transition training PICs should be reducible for cycles for Group II airplanes just as is proposed for Group I airplanes" and that "if transition training SICs in Group II airplanes also had a 25 hour requirement instead of 15 hours, that time should also be reducible for cycles."

RAA says that the proposed rule "appears to limit the reduction option in Group I airplanes to transition only" and that this option should also apply to initial and upgrade training.

ALPA agrees with the proposal because it would "eliminate the capability to reduce the required hours of supervised operating experience according to the number of takeoffs and landings for all pilots except those transitioning as pilot in command" and that "this will allow an additional amount of time for pilots to become comfortable in their operating seat in their operational environment while under supervision."

FAA Response

The proposed and final rule state that flight crewmembers may substitute one additional takeoff and landing for each hour of flight up to a maximum reduction of 50 percent (with the exceptions described above). The FAA intends that after completing the four required cycles, a pilot may achieve a reduction in required flight hours for each additional takeoff and landing. This is intended to ensure that pilots obtain adequate hours of line flight experience while still recognizing that short flights, with frequent takeoffs and landings, may provide experience equal to longer flights.

The change that will not allow a reduction for PICs meeting initial operating experience is necessary because of the importance of PICs gaining additional experience operating an aircraft's sophisticated automated equipment during initial operating experience. Both the increase in hours in this category and not allowing any reduction in hours reflect the need for thorough experience in operating the different equipment installed in the airplane. Likewise the reduction for SICs in Group II airplanes has been eliminated because SICs have more responsibilities in the more sophisticated aircraft that have two-person cockpits.

The reduction continues to apply to all pilots in Group I airplanes.

Although the FAA has made no substantive changes to the rule language in the NPRM, paragraph (f) has been rewritten to make the intent clearer.

Section 121.434(g)—Consolidation

This new rule requires that PICs and SICs acquire at least 100 hours of line operating flight time for consolidation of knowledge and skills within 120 days after satisfactory completion of a type rating practical test or an initial proficiency check. In the NPRM, the FAA specifically requested comments on the feasibility and adequacy of the 120-day period. The committee recommended that consolidation consist of 100 hours of line operating flight time and that if the 100 hours was not completed in 120 days, an airman must receive additional training before extending the consolidation period.

Seven comments were received on this requirement. Three commenters say that the 75-hour threshold used for crew pairing (121.438(b)) should also be used for consolidation rather than 100 hours. These commenters say that 75 hours would be sufficient as a minimum number of flight hours within the 120 days to ensure that the newly-acquired piloting skills are not lost once training and testing have ended. In addition, using 75 hours would simplify tracking and recordkeeping requirements associated with both consolidation and crew pairing. Finally, RAA comments that using a 75-hour requirement is further supported because this was the number originally used in the Task Force recommendation.

ALPA recommends that the consolidation period be reduced to 100 days or that refresher training be required. This would ensure the newly trained pilot a timely completion of consolidation with as little interruption as possible.

ALPA also responds to the FAA's projection that 10 percent of crewmembers would not be able to complete consolidation in the required time by saying that airlines should be able to allow crewmembers in consolidation to get the required flight time. ALPA states that during a pilot's consolidation period, instead of being assigned to reserve status, airlines should be able to schedule these crewmembers on a regular basis without any additional costs being incurred. Further, ALPA says that if an airline displaces a line holding pilot to let a reserve pilot fly, there should be no net cost increase because pilots assigned to reserve status are guaranteed monthly minimum pay by the airline regardless of how many hours they fly.

Two commenters, United Airlines and ATA, say that in certain short range operations, consolidation will occur long before the 100 hour requirement is met because of the cycles flown. ATA says that the experience gained by pilots involved in short haul operations from multiple departures and takeoffs should be recognized by the FAA. These commenters therefore recommend a reduction of required consolidation line operating flight time at a rate of one hour for one cycle to a maximum of 50 percent reduction in hours.

RAA says that the proposed rule does not ensure that the clock (to complete consolidation) would begin at the same time for individual pilots. RAA says that it is possible that a PIC and SIC who were checked the same day in the simulator and completed their checks the same day in the aircraft would not have the same time remaining to complete the 100 hours of experience. Thus, RAA recommends that the phrase "Any part of " be removed from § 121.434(g)(1).

Alaska Airlines says that the consolidation requirement would have a great economic impact on air carriers because senior pilots would be displaced by junior pilots needing to complete consolidation requirements. Alaska adds that labor unions might not be willing to "forgo the seniority benefits assured within their agreements without first demanding compensation for those affected by the loss of their seniority rights."

FAA Response

There is no reduction in consolidation hours allowed for the number of takeoffs and landings. While operating experience hours may be reduced in accordance with revised § 121.434(f), consolidation hours may not be reduced. As stated in the NPRM preamble, the crew pairing committee concluded and the FAA agrees that it is important for a pilot who has qualified in an airplane to have an opportunity to consolidate the newly developed piloting skills and procedural knowledge through substantial line operating experience in the airplane within a reasonably short time after completing training and satisfactorily demonstrating proficiency. Pilots who have satisfactorily completed training and demonstrated proficiency in an airplane and who do not soon thereafter consolidate the newly acquired

VOL
60
ISS
81
AP
27
1995
UMI

knowledge and skills in actual line operations may lose proficiency in the newly acquired knowledge and skills.

The FAA recognizes that the 120-day consolidation period may not start at the same time for every pilot since it either begins after the satisfactory completion of a § 121.441 proficiency check or after the satisfactory completion of any part of the flight maneuvers and procedures portion of either an airline transport pilot certificate with type rating practical test or an additional type rating practical test. The purpose in stating the rule this way with respect to a practical test is to ensure that a pilot certificate rating program will not be extended to the point that a loss of knowledge and skills would occur. By requiring the consolidation period to begin at the completion of any portion of the program, the carrier has an incentive to complete the pilot's rating program within a reasonable period.

The FAA recognizes that the consolidation requirement may affect crew scheduling. How much it will affect scheduling depends on the way carriers are now scheduling pilots who have recently acquired a type rating. The FAA recognizes that there may be some incremental increase in costs to comply with this final rule. However given that carriers have 120 days to complete the consolidation period for its pilots, and that a 30-day extension is available in certain circumstances, with careful scheduling, this consolidation can be accomplished without an excessive burden. It is in the interests of the air carrier, the pilots, and the public that these pilots obtain experience in the airplane within a reasonable time after being qualified.

In response to Alaska Airlines, the FAA notes that although senior pilots may require compensation, reserve pilots normally are paid on a fixed base salary; thus, the total cost of remuneration for both pilots should be the same.

In response to RAA, the FAA has no knowledge of a Task Force recommendation that included a 75-hour consolidation period.

A 100-day consolidation period suggested by ALPA would be beyond the scope of this rulemaking. In addition, the FAA notes that this suggestion was not part of ALPA's minority opinion filed with the Task Force recommendations.

Section 121.434(h)—Exceptions (Pilots Who Have Completed Line Operating Flight Time as an SIC on a Particular Type Airplane)

In the NPRM paragraph (h)(1) said that pilots who have qualified and served as second in command on a particular type airplane (before the effective date of the rule) are not required to complete line operating flight time for consolidation as pilot in command. Similarly, paragraph (h)(2) said that pilots who have completed line operating flight time for consolidation of knowledge and skills while serving as second in command on a particular type airplane (after the effective date) are not required to meet consolidation requirements on the same type airplane.

The one comment received on these requirements does not agree with the proposal. ALPA says that the knowledge and skills required of PICs and SICs differ, and that there may also be substantial differences between aircraft even though they have common type ratings. ALPA also comments that there could be a considerable lapse of time between flying as SIC and PIC with another aircraft flown in between. Thus, ALPA believes that all crewmembers should go through the consolidation process.

FAA Response

The exception permitted by § 121.434(h) addresses upgrade training, specifically, upgrading from SIC to PIC in the same airplane type. It does not include upgrading from flight engineer to SIC in the same type airplane. By definition, upgrade training is that training required for crewmembers who have qualified and served on a particular type airplane before they can serve in another duty position on the same type airplane. In other words, the upgrading pilot would by definition be familiar with that airplane, and the FAA believes that the operational experience requirement along with previous experience on that type airplane adequately addresses consolidation.

The FAA has determined that the language in proposed § 121.434(h)(1) unintentionally limited the grandfathering of current pilots to SICs who may upgrade to PIC at some future point. The FAA intended that all PICs and SICs who have qualified for their positions before the effective date of the final rule would not need to complete consolidation. The rule language has been changed to reflect this intent.

Section 121.434(h)(3)—Refresher Training

New paragraph (h)(3) requires a pilot who flies another airplane type before completing the required 100 hours of line operating flight time to complete refresher training in the airplane for which the pilot has newly qualified. The NPRM states that training must be conducted by a qualified check pilot.

Four comments were received on this requirement. One commenter says that the proposal is not necessary, but if it is kept, then it should also include restrictions from flying other types of aircraft including military reserve aircraft.

Alaska Airlines says that the term "refresher training" is vague and could result in inconsistent requirements that were minimal in some cases and stringent in others. Alaska points out that "re-qualification programs" are designed to provide students with training to reacquaint them with an aircraft type from which they have been absent for a specific period of time, such as extended military leaves. Alaska says that the proposed rule, in contrast, would deal with students who are current with no appreciable lapses in exposure to the equipment type they would be trained on. This commenter adds that its own re-qualification training program does not require additional flight training for those absent less than 90 days.

United Airlines and ATA say that refresher training should not require a check airman and that it should be conducted by a qualified flight instructor. Thus, the proposed rule should be modified accordingly.

FAA Response

The amount of refresher training depends on the extent of the lapse and what skills and knowledge have been lost during the lapse. As the FAA stated in the NPRM preamble, each certificate holder must develop training objectives for refresher training for each make and model airplane used in part 121 operations. Refresher training should ensure that pilots have retained, or are allowed to regain, the level or proficiency needed to serve in part 121 operations. This qualification training should focus on, among other things, procedural knowledge regarding the operation of the aircraft (e.g., programming the aircraft's flight management system) and other critical skills such as engine inoperative approaches and missed approaches. Refresher training may consist of special purpose operational training or an airplane flight training period when a flight simulator or flight training device is unavailable. Special purpose operational training is described in AC 120–35b, "Line Operational Simulations: Line-Oriented Flight Training, Special Purpose Operational Training, and Line Operational Evaluation."

The FAA agrees with the comment that refresher training could be conducted by a check pilot or qualified flight instructor and has changed this final rule accordingly.

The requirement specifies types of aircraft operated by the part 121 certificate holder; it does not include military reserve aircraft or any other aircraft not operated under part 121.

Section 121.434(h)(4)—Extension of Consolidation Period From 120 to 150 Days

New paragraph (h)(4) allows the consolidation period to be extended from 120 days to 150 days if the pilot satisfactorily completes refresher training or a check pilot determines that the pilot has retained an adequate level of proficiency after observing the pilot in a supervised line operating flight.

Four comments were received on this requirement. Alaska Airlines does not believe that any limit on the consolidation period will affect safety or proficiency. As long as a student is determined to be continually proficient through reevaluation by a qualified check pilot, there is no need to limit the length of the consolidation period. Another commenter recommends that the consolidation period be extendable to 180 days, not 150 days.

RAA recommends that carriers have the option of selecting a five-month period for consolidation, rather than 120 days, because most carriers observe a monthly cycle. If consolidation were to start at the beginning of a month, carriers would be limited in the number of flying assignments they could make to new PICs and SICs. RAA states that as many as 25 or 30 days could be lost under this circumstance and that a five-month option would give carriers a greater ability to make assignments to achieve the consolidation objective.

NTSB believes that the 120-day consolidation period is feasible under virtually all circumstances but also supports an extension to 150 days if the required 100 hours of operating flight time cannot be completed in 120 days. However, NTSB stresses that such extensions should be approved only under extenuating circumstances and in strict compliance with the additional requirements of the proposed rule as a whole. Otherwise, the intended consolidation and stabilization of a pilot's newly acquired knowledge and skills would be compromised.

FAA Response

The FAA has determined that extending the consolidation period beyond 150 days is not in the interest of consolidating a newly trained pilot's skills and knowledge. Once training and checking are completed, the pilot needs to practice recently learned skills in line operations in order to master the skills.

The FAA finds that 180 days would be too long to achieve 100 hours of consolidation.

The problem raised by RAA is a scheduling problem; requiring 100 hours of line operating flight time within a 120-day period should not present a problem that cannot be managed since the average pilot flies approximately 60–70 hours per month.

The FAA recognizes that consolidation of skills within 120 days is preferable to an extension; however, for those instances, for any reason, when a pilot has had less than 100 hours in 120 days, it does not seem reasonable to require that the pilot repeat the entire qualification program. A refresher training course should be sufficient to compensate for the lapsed time.

Section 121.434(h)(5)—Deviations From Consolidation Requirements

New paragraph (h)(5) allows the Administrator to authorize deviations from consolidation requirements when: (1) A new certificate holder does not employ any pilots who have met the consolidation requirements, or (2) a certificate holder is adding new airplanes to its fleet, or (3) a certificate holder is reassigning pilots to a new domicile where they will be operating a different aircraft type.

One comment was received on this requirement. Boeing recommends specific language changes to this paragraph so that it would apply to manufacturers as well as to certificate holders and to training programs as well as to certificate holders' operations specifications. Boeing states that without these changes the rule will "prevent manufacturers from providing the level of support for initial line operations that is required for a safe operation when an air carrier does not have pilots with a significant experience base in an airplane new to the carrier."

FAA Response

Paragraph (h)(5)(ii) provides that, as one of the circumstances for being eligible for a deviation, a certificate holder adds to its fleet a type airplane not before proven for use in its operations. If a manufacturer provides pilots for the certificate holder's operations and these pilots do not meet the requirements of paragraph (g), the certificate holder would apply for the deviation. Since manufacturers are not part 121 certificate holders, they cannot apply for the deviation.

Section 121.438(a)—Operating Limitations—Takeoffs and Landings

The new rule requires PICs (other than check airmen), when paired with SICs with less than 100 hours of line operational flight time in that type airplane, to make all takeoffs and landings at special airports or under certain conditions.

Two comments on the general nature of the requirement were received. Alaska Airlines says that takeoff and landing decisions should be made by the PIC and be based on the conditions present during the operation. In some cases, the SIC may have more hours in the type airplane than the PIC and would be more experienced in takeoffs and landings in that type airplane. The proposed rule could, therefore, compromise safety.

ALPA agrees with the intent of the proposed rule and supports PICs making takeoffs and landings in cases where SICs have minimal flight hours in the type of airplane being flown. However, ALPA believes that the PIC should have more latitude in making takeoff and landing decisions. For example, in cases of many short flights and poor weather conditions, it could become very fatiguing for the PIC to make every takeoff and landing; in cases such as these, it may be more appropriate for the SIC to make a takeoff or landing.

United Airlines and ATA believe that the proposed rule on special airports is too restrictive and that PICs should have discretion in making this decision on a case-by-case basis determined by operational considerations. United says that certain operations at some special airports are "entirely unremarkable" and that PICs should be given the ability to allow SICs to land at such airports. On a similar note, ATA says that in cases where a crew must fly several turnarounds to another special airport in a single day's flying, the PIC should be given the option of allowing the SIC to complete a takeoff and landing.

RAA and another commenter say that proposed § 121.438(a)(2)(vii) would provide an acceptable alternative to the special airports requirement; it would give PICs the prerogative to permit or deny SICs to land or takeoff at a special airport (or for any other conditions).

Alaska Airlines says that the proposed rule would restrict its operations by preventing new first officers from making landings in 30 percent of Alaska's airports and 100 percent of Russia's airports. This would also adversely affect the training process because pilots would be restricted from gaining experience at special airports while their "procedural awareness is at

VOL 60 ISS 81 AP 27 1995 UMI

its highest level." This would detract from the preparation already given the pilot and have a negative impact on safety.

Alaska Airlines states that § 121.438(a)(2)(iii) is too restrictive. Paragraph (a)(2)(iii) requires a PIC to make the takeoff and landing if the runway has water, snow, slush, or similar conditions that may adversely affect airplane performance. Alaska Airlines says that this limitation would force the airlines's PICs to make all landings during the months between September and April or May. This commenter says that proposed § 121.438(a)(2)(iv) which sets forth operating limitations based on the level of braking action on runways would adequately cover the issue of poor runway conditions. Alaska Airlines also points out that the task force originally recommended that "runway braking action of less than 'good' be the limiting factor in determining when a PIC must make the landing."

FAA Response

If the SIC has more than 100 hours in the type airplane, the restrictions do not apply. The rule will not restrict SICs from gaining experience at special airports or under certain adverse conditions after they have 100 hours of experience in the type airplane; however, the rule will restrict SICs from gaining that experience within the first 100 hours under circumstances that could compromise safety.

The FAA has determined that requiring PICs to make takeoffs and landings at special airports even though the assigned SIC may have more operational experience in the aircraft is consistent with the operational responsibilities of the PIC. The PIC, by designation, is always in control of the aircraft. If a PIC is too fatigued to make a takeoff or landing, the PIC should not be on duty.

Section 121.438(b)—75-hour Limit (Pairing Limitations)

This new rule requires that either a PIC or SIC have at least 75 hours of line operating flight time for that type airplane in order to be assigned to the same flightcrew. In the NPRM preamble the FAA specifically requested comments on whether the 75-hour limit should be increased to 100 hours as recommended by ALPA. The FAA also requested comments on how this requirement should be applied. The FAA explained in the NPRM preamble that the committee recommendation applies these crew pairing restrictions only to PICs and SICs who are qualifying for those positions for the first time in the airplane, i.e., initial PICs and SICs. The committee recommendation does not apply the restrictions if a pilot is upgrading from SIC to PIC on the same airplane type or is transitioning from one airplane type to another. Under the committee recommendation, a new PIC in a particular type airplane with only 25 hours of operating experience in that airplane could be paired with an SIC who has transitioned from another airplane type and who has only 15 hours of operating experience in the airplane type. This is in contrast to the ALPA recommendation that the restrictions also apply to transitioning pilots.

The FAA proposed in the NPRM that the 75-hour minimum crew pairing restrictions also apply to transitioning pilots.

The rule also provides for authorizing deviations (in paragraphs (b)(1) through (b)(3)) when: (1) A new certificate holder does not employ any pilots who meet the minimum requirements of this paragraph; (2) an existing certificate holder adds to its fleet a type airplane not before proven for use in its operations; or (3) an existing certificate holder establishes a new domicile to which it assigns pilots who will be required to become qualified on the airplanes operated from that domicile.

Eleven comments were received on this subject. Five of these commenters, including United, RAA, and ATA, believe that the 75-hour requirement is sufficient and that it should not be increased to 100 hours as recommended. Supporters of the proposed rule say that any additional hours would increase the burden on air carriers and complicate the crew scheduling process by extending the number of months necessary to complete the required number of hours. RAA says that any of the three components of the entire proposed rule (consolidation, operating limitations, and crew pairing) would achieve what the FAA is seeking since none of these constraints currently exist; thus, additional hourly requirements related to crew pairing are unnecessary. Finally, United, ATA, and RAA say that 75 hours may be an arbitrary number but that it will achieve the FAA's objective without being overly burdensome.

Three commenters are against the 75-hour requirement and recommend using a 100 hour-requirement. ALPA says that these hours should apply to crew position and airplane type and that the hours should begin after supervised operating experience. ALPA also states that previous time in another crew position in the same airplane type should not be counted in the 100 hours. ALPA concludes that 100 hours would more realistically allow a crewmember to become comfortable in the aircraft without concerns for the experience level of other crewmembers.

Similarly, the NTSB believes that 75 hours is insufficient for a crewmember to become comfortable and experienced enough with the airplane type to safely handle a problem if one arises. NTSB recommends that an initial PIC and initial SIC each have at least 100 hours in their respective positions on the airplane in which they have most recently qualified.

The International Federation of Air Line Pilots' Associations believes that the 75 hour requirement should be increased to at least 100 hours post-supervision time for PICs and SICs on airplane type.

Alaska Airlines Expresses concern that 75 hours seems arbitrary and asks whether lengthening the period would improve safety. This commenter further says that "the longer the period of the pairing restriction, the greater the number of reserve pilots that will be required in order to insure sufficient pilots are available to staff every possible pairing."

Horizon Air supports the 75 hour requirement but recommends that if it is issued as a final rule, the consolidation requirement in § 121.434(g) be dropped. Horizon estimates that up to 20 percent of its pilots would not complete their consolidation in the requisite time, resulting in refresher training which would be very costly.

Five commenters address the issue of including transitioning pilots in the proposed crew pairing requirement. United Airlines does not object to the requirement applying to all pilots, including transitioning and upgrading pilots although it currently applies pairing restrictions only to initial training pilots.

Similarly, the NTSB believes that crew pairing restrictions (of 100 hours) should apply to upgrading and transitioning pilots. NTSB says that including upgrading pilots would provide PICs with additional seasoning experience before being paired with an inexperienced SIC; and that including transitioning pilots would ensure that they receive the operating experience they need in the newer glass cockpit, automated airplanes before being paired with an inexperienced PIC or SIC.

RAA does not support the inclusion of transitioning pilots and says that "the event which have been used as a basis for issuing this rule have involved only crewmembers following initial training for their position." RAA adds that transition training is currently successful for hundreds of thousands of pilots and that this should be reason enough to exclude them from the proposed rule.

Alaska Airlines is against the inclusion of transitioning pilots in the proposed rule because they believe that a transitioning pilot is very experienced in an employer's routes and procedures. Because of this overall experience, transitioning to a new airplane type is not that difficult and should not be subject to any crew pairing limitations.

Two commenters address the proposed rule's deviation authority. AMR Eagle, Inc. says that deviation authority should be designed so that carriers can adjust crew pairing guidelines to the complexity of the operation while insuring schedule reliability and safety. AMR recommends that an additional condition be allowed for deviation authority: Operations during the day, VMC where no critical flight conditions are expected.

RAA says that the conditions for deviation authority presented in §§ 121.438 (b)(1) through (b)(3) are too limiting and recommends that a fourth paragraph be added which states: "The certificate holder identifies circumstances not covered in (1), (2) or (3) which are acceptable to the Administrator in granting a deviation to these requirements."

Finally, Boeing requests that the deviation applicability be extended to manufacturers.

FAA Response

The FAA believes that the increased level of safety attained in this final rule is accomplished through the combination of its requirements (i.e., strengthening initial operating experience requirements, requiring a 100-hour knowledge and skill consolidation period for both SICs upgrading to PIC and PICs transitioning to new or different types of airplanes; requiring PICs, when paired with SICs with fewer than 100 hours of pilot flight time in that aircraft type, to make all takeoffs and landings under certain conditions; and the 75-hour pilot pairing restriction) rather than any one single requirement.

Requiring 75 hours of pilot experience in the type aircraft being flown for either the PIC or the SIC provides an additional level of crew qualification experience. By including transitioning pilots in this rule the FAA establishes that the most important aspect of pilot pairing is total pilot flight experience in the airplane rather than requiring seat-specific experience. Also, rather than experience in the air carrier's procedures or route structure, the purpose of this pairing restriction is to ensure a minimum number of hours of combined pilot experience in that specific type aircraft.

The FAA believes that total pilot crew experience required to meet the 75-hour pilot pairing restriction as proposed and adopted in this rule, in combination with the other requirements contained in this rule and the various pilot training and checking requirements contained in subpart N of part 121, accomplish the FAA's objective of increased safety while not being overly burdensome on the affected certificate holders.

As stated in § 121.438(b), the Administrator may authorize, upon application by the certificate holder, deviations from the pairing requirement that would allow certificate holders to use aircraft manufacturers' pilots to assist in the introduction of new aircraft types into the certificate holder's fleet under certain conditions.

Effective Date

The FAA proposed a 30-day period after issuance of the final rule for carriers to plan and implement a system for scheduling flight crews to meet the new requirements. However, the FAA, in the NPRM, recognized that 30 days may be insufficient and invited comments on a realistic effective date.

Five comments were received on the date. Four commenters say that 30 days is inadequate and recommend a 120-day period. RAA says that the complexity of training programs and crew scheduling warrant additional time to implement changes. ATA says that revisions in crew scheduling software, personnel training, and policy manuals would require a minimum of 120 days. United Airlines recommends a 90-day period between issuance of the final rule and its effective date.

FAA Response

The FAA agrees that a 30-day effective date would not allow enough time for certificate holders to comply with the requirements of this rule. The final rule is effective 120 days after the date of publication in the **Federal Register**.

Response to Comments

Northwest Airlines states that the FAA assumed that including transitioning pilots in the NPRM added no cost to airlines. It presents data showing its costs would amount to $3.7 million for transitional pilots and $380,000 for initial pilots. Northwest's additional costs come from scheduling constraints and from union requirements to pay a previously scheduled pilot who is displaced by a pilot in training.

FAA Response

The FAA estimated the cost of not pairing two inexperienced pilots, transitional or initial, would be the expense of developing an enhanced scheduling computer program. The FAA estimated the cost of developing this program to be $92,000. The FAA contends that through more efficient scheduling via enhanced scheduling software, the industry can avoid paying for displaced pilots.

Alaska Airlines states that it would face higher costs to meet qualification requirements because of its older fleet. It argues that additional training in a simulator or in an aircraft (where modern simulation is unavailable) would require that "operators have earlier vintage visual or phase I simulators for their older aircraft types. This will automatically create higher costs to fulfill these requirements."

FAA Response

The NPRM did not require a different training level for older fleets. Obtaining the additional operating experience and consolidation time should not vary significantly from company to company. However, the FAA did not account for each airline's cost structure when costing the proposed rule. The analysis assumed an average cost. If Alaska Airlines had significantly higher training costs, it incurred these costs not as a result of the NPRM, but from other corporate business decisions.

The Airline Pilots Association (ALPA) states that the FAA did not present the assumptions it used to estimate costs. Also, ALPA believes that airlines could minimize costs through efficient scheduling.

FAA Response

The FAA included a list of assumptions it used to estimate the costs of the NPRM in an appendix in detailed regulatory evaluation. The FAA agrees with ALPA that airlines can reduce the cost of the NPRM through efficient scheduling.

Miscellaneous Comments

ATA comments that the objectives of the proposed rule are identical to those contained in FAR 121.652 (High Minimums). ATA says that this rule is obsolete and that if the proposed rule is implemented, then § 121.652 should be rescinded.

VOL 60 ISS 81 AP 27 1995 UMI

FAA Response

Rescinding § 121.652 is beyond the scope of this rulemaking. The FAA does not consider § 121.652 to be obsolete but rather finds that the requirements of that section are necessary.

Editorial Changes

In addition to the changes described above for § 121.434, two editorial changes have been made to improve the organization of the section: (1) The flush paragraph that currently appears after paragraph (b)(3) has been incorporated into new paragraph (a)(3); and (2) the flush paragraph that currently appears after paragraph (f) has been designated as paragraph (i) to appear after new paragraph (h).

In § 121.434(c)(2), a second in command pilot must perform the duties of a second in command under the supervision of an appropriately trained check pilot. In the NPRM, both in the preamble and in the rule language, the FAA used the term "pilot check airman" and should have used the term "check pilot" as it is presently stated in the rule. A check pilot is a subset of check airman; a check flight engineer is also a subset of check airman. Consequently, the more accurate and precise term for the person supervising a SIC's IOE is "check pilot." Thus, the FAA retains the terminology of "check pilot" in this final rule. The FAA considers this a minor, editorial change.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) Would generate benefits that justify its costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is significant as defined in Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Costs

The FAA estimates the net cost of the final rule over the next 10 years to be approximately $45.2 million, with a present value of $31.3 million (7 percent discount, 1993 dollars). This cost estimate includes the additional expense of a check pilot's time to supervise additional PIC transition training; the expense of consolidating an operating experience of additional flight time training for SICs and PICs; and of a computerized system to assist in pairing newly qualified pilots with experienced pilots.

Operating Experience and Operating Cycles for SIC Candidates

In the regulatory evaluation for the NPRM, the FAA estimated a present value cost of $42.5 million to certificate holders to provide a check airman to supervise the operating experience for SIC candidates, who currently are allowed to sit in the jump seat and observe the performance of SIC duties to gain initial operating experience (IOE). This cost was based on the following assumptions:

(1) The highest level of check airman (check pilot—all checks) was required to supervise the SIC candidate's IOE;

(2) This level of check airman would be paid at a much higher rate than a PIC; and

(3) A previously scheduled PIC and SIC would be displaced by the check airman and the SIC candidate, and these displaced pilots would be compensated for not flying the trip.

For the final rule, the FAA has clarified that the level of "check airman" required is not the highest designation level of check airman who can administer all checks, but is instead a lower level most commonly called "check pilot." This line check pilot, (designated as Line Check Pilot-All Seats) is also a check airman, but only to a level which at minimum will allow supervision of IOE with an SIC candidate. This level of check pilot is normally much more numerous within a carrier's pilot population than the check airman originally envisioned, and these pilots normally fly the line as PICs. They receive no additional pay for their status as check pilots, and the difference is best likened to that between a flight instructor and an FAA designated examiner in general aviation.

Since the FAA has clarified that the check pilot supervising the SIC candidate can be a line or regular PIC with the check pilot designation, the original assumptions no longer hold. The FAA has revised these assumptions as follows:

(1) Operators are only required to provide a check pilot who is designated to the minimum level necessary to supervise IOE;

(2) There is a greater availability of check pilots designated to a sufficient level to supervise IOE than the previously estimated higher level "check airmen-all checks";

(3) There is little if any difference in salary between a PIC and a PIC "check pilot"; and

(4) A previously scheduled PIC and SIC would not be displaced by the check pilot and the SIC candidate because normal scheduling can pair these two pilots without displacing other pilots.

The additional operating experience requirements for SIC candidates impose an additional constraint on how operators schedule their pilots. Some of the costs of these constraints can be alleviated by making adjustments in the pilot scheduling system. Costs related to changing the scheduling system are discussed later in this regulatory evaluation. (See the section on Developing Computer Programming.) Other potential costs that cannot be alleviated by changes in the scheduling system have not been quantified because they are difficult to estimate. However, the FAA contends that based on the above set of assumptions, those costs will be considerably smaller than the $42.5 million estimated in the regulatory evaluation for the NPRM.

Operating Experience and Operating Cycles for PIC Candidates

The final rule will increase the number of hours of observed supervised operating experience for transitioning PICs in Group II airplanes and will add operating cycle requirements for both initial and transitional PICs in both Group I and Group II airplanes. The current requirement for transitioning PICs in Group II airplanes is 15 hours of operating experience; the new requirement will increase the hours to 25. The potential cost of this requirement will be the cost to provide a check pilot to observe the PIC candidate for the additional 10 hours.

The FAA estimates that there will be 3,119 transition PICs in Group II airplanes in 1994 assuming that 10 percent of the PICs in Group II airplanes require transition training each year. The cost of this section to air carriers will be to provide a check pilot for the 10 additional hours of supervised operating experience for these transitioning PICs. Check pilots in Group II airplanes are compensated at $127 per hour. The cost of compliance in 1994, therefore, would be $4 million.

Over the years 1994–2003, the requirement that transitioning PIC candidates of Group II airplanes receive an additional 10 hours of supervised operating experience will cost $45.6 million, with a present value of $31.5 million.

Section 121.434(f) of the existing rule allows air carriers to reduce the number of hours of required PIC operating experience by 50 percent by substituting an additional takeoff and landing for each hour of flight. The hours of operating experience for PICs who meet transition training requirements may be reduced by one hour per landing. Although the final rule increases the number of hours of operating experience for transitioning PICs, the allowance for landings in this provision results in a smaller increase in the costs of the additional operating experience hours. The FAA estimates that the savings will be 10 percent of the incremental costs of additional PIC transitional operating experience requirements in Group II airplanes. Over the years 1994 to 2003, the cost savings will be $4.6 million, with a present value of $3.2 million.

The final rule will prohibit the reduction of the required number of operating experience hours for initial Group II PICs. The FAA estimates that under the current rule, the hourly requirements could be reduced by 10 percent by the allowance of one hour per landing and takeoff. Because the final rule removes this allowance, however, it will add the expense of a check pilot for those hours currently reduced. The FAA estimates that the additional cost of prohibiting a reduction of operating experience hours for initial Group II PICs in 1994 equals $99,000 (312 pilots × 25 hrs. × $127/hr. × 10%). Over the next 10 years, the total cost will be $1.1 million, with a present value of $789,000. When this cost is added to the other costs of complying with the new PIC operating experience requirements over the next 10 years, the total cost will be $42.1 (45.6 − 4.6+1.1) million, with a present value of $29 million.

Consolidation of Learning and Skills

Section 121.434(g) of the final rule will require candidate PICs and SICs to acquire 100 hours of line operating experience for consolidation of knowledge and skills within 120 days after the completion of one of the following requirements:

—An airline transport pilot certificate with type rating practical test;

—An additional type rating practical test; or

—A proficiency check for those pilots who already possess a type rating in that particular aircraft.

The final rule will also require that if a pilot who is consolidating his or her skills performs any flight time in another type of airplane operated by the certificate holder before completing the 100 hours, that pilot will have to successfully complete refresher training before returning to the new airplane type. This refresher training will have to be conducted by a qualified instructor or check pilot. If the pilot did not complete the required 100 hours of line operating flight time, the certificate holder could extend the 120-day period to 150 days. In this instance, however, the pilot could be subject to refresher training if a check pilot determined that the pilot had not retained an adequate level of proficiency in the new airplane type.

Section 121.438(a) of the final rule will prohibit SICs who have less than 100 flight hours in the airplane being flown from making takeoffs and landings, unless the PIC is a check pilot, when certain adverse weather and/or runway conditions exist or when the PIC determined that it was prudent to exercise his or her prerogative and make the takeoff or the landing. This restriction will not significantly interfere with the consolidation of learning and skills requirements for SICs, who should be able to acquire 100 hours of operating experience within the 120 days. Therefore, there are no costs associated with this restriction.

The current bidding systems that most air carriers use have resulted in some newly type-rated or proficiency-checked pilots being placed on reserve for the airplanes in which they have recently received practical tests and/or proficiency checks. Thus, these newly rated pilots may not have the opportunity to consolidate their skills.

The Joint Government/Industry Task Force on Flight Crew Performance included a consolidation requirement among their recommendations to the FAA. The FAA finds, therefore, that the current bidding systems could be modified to ensure that affected pilots could consolidate their skills within a 120-day period. To the extent that they fail to do so, there would be additional costs of compliance. The FAA estimates that with current flight times of about 75 hours per month, 90 percent of the affected pilots would consolidate their skills within the 120 days, and all of them would complete consolidation within 150 days. The costs of compliance associated with the 10 percent who could not complete consolidation within 120 days can be separated into two categories: (1) The cost of a supervised line observation flight conducted by a check pilot; or (2) the cost of refresher training.

Supervised Line Observation

A supervised line observation flight for a pilot is conducted if the pilot is going to take longer than 120 days to complete the 100 hours of operating experience. This flight is estimated to take an average of 2 hours. The cost that this requirement will impose will be the cost of providing a check pilot for those 2 hours. For SIC candidates, the check pilot can serve as PIC. Since there is little if any wage differential between PICs and check pilots, little if any additional cost will be imposed by this requirement. For PIC candidates, the check pilot will act as SIC for that supervised observation flight. This would impose an additional cost since check pilots earn more than SICs. The difference in wage between a PIC check pilot and an SIC ranges from $62/hour for Group II pilots and $15/hour for Group I pilots. The total cost of this requirement over the next 10 years is $508,200 dollars with a present value of $351,000.

Refresher Training

If a pilot who is consolidating his or her skills performs any flight time in another type of airplane operated by the certificate holder before completing the 120 hours, he or she will have to successfully complete refresher training before returning to the new airplane type. The FAA estimates that half of the PICs and SICs who do not consolidate their skills will require some refresher training. Air carriers have modules that they use to teach different aspects of a training program. The FAA expects that operators will use these modules to provide pilots the additional training in those areas that the check airmen find them to be deficient. The cost of compliance for the requirement for refresher training, therefore, would be the cost of instructors for those PICs and SICs. The FAA estimates that the refresher training will take an average of three hours and that Group II airplane instructors will be compensated at $127 per hour and Group I instructors at $55 per hour. In 1994, this cost will amount to $218,000. Over the years 1994 to 2003, the costs will total $2.5 million, with a present value of $1.7 million.

Developing Computer Programming

Section 121.438(b) states that "no person may conduct operations . . . unless, for that type airplane, either the PIC or the SIC has at least 75 hours of

VOL 60 ISS 81 AP 27 1995 UMI

line operating flight time, either as PIC or SIC." The cost of implementing crew pairing guidelines would be that of developing software for a scheduling program to pair newly-qualified pilots with experienced pilots. To estimate this cost, the FAA surveyed part 121 Principal Operations Inspectors (POIs) to learn how many carriers currently have internal crew pairing guidelines that will be in compliance with the requirement. Numbers of pilots, airplanes, and airplane types were obtained from FAPA's Pilot Directory of Employers.

Based on the make-up of the airline pilot population, the FAA contends that it should not be difficult to pair a newly qualified pilot with one that already has the required operating experience. For instance, the number of pilots that need operational experience is relatively small compared to the number of experienced pilots. The FAA estimates that approximately 13 percent of pilots employed by major airlines, 7 percent employed by national airlines, and 38 percent employed by regional airlines are currently subject to crew pairing restrictions. In addition, many airlines operate only a few different types of airplanes. Among the majors, where there are an average of 14 pilots per airplane, there are 620 pilots per type of airplane. Among the national air carriers, there are 10 pilots per airplane and an average of 45 pilots per type. Finally, among the regional air carriers, there are 7 pilots per airplane and 76 pilots per type.

The crew pairing requirement could be implemented at a minimal cost to those air carriers that currently do not have crew pairing guidelines. This is because of the large number of pilots per airplane type and because of the number of air carriers that already have established crew pairing guidelines in the absence of this regulation. The cost of implementing crew pairing restrictions would be that of developing a software program to pair newly-qualified pilots with experienced pilots. The FAA estimates that this development will take one programmer one week to modify existing software programs and write the necessary documentation at a cost of $1,300. Based on the survey of POIs, the FAA estimates that 76 air carriers will have to develop a computer program for crew pairing. Thus, the one-time cost of this requirement will be $98,800 ($1,300×76).

Benefits

The final rule will help to prevent accidents that result from the pairing of under-experienced pilots or in which in-type flight skill and knowledge are not consolidated. The FAA has identified two accidents over the past 10 years in which the NTSB determined that the inexperience of the pilots was the probable cause. Of the 145 passengers that were on board these the two airplanes, 30 (20.7 percent) were killed and 31 (21.4 percent) were seriously injured. Both airplanes were destroyed. The airplane in the New York accident also caused damage to a pier and to the approach lighting at LaGuardia Airport.

The benefits of the final rule will be, in part, the number of casualties that it will help to prevent over the next 10 years. To estimate the potential fatal and serious injuries over the next 10 years, the FAA calculated the proportion of passengers killed or seriously injured in such accidents and applied those proportions to the expected average enplacement levels over the next 10 years. The FAA estimates that from 1994 to 2003, the average air carrier airplane will have 183 seats and will carry, on average, 128 people on board—121 passengers and 7 crew members. If this "average" airplane were to be involved in an accident similar to the ones in Denver and New York, the FAA estimates the casualty rate of the "average" accident would approach that of the Denver and New York accidents. Thus, the number of fatalities would be 26 (128×.207) and the number of serious inquires would be 27 (128×.214).

The FAA uses a value of $2.6 million to estimate the benefit value of preventing a fatality and $500,000 to prevent a serious injury. Thus, the value of preventing the estimated number of fatalities and serious injuries will be $67.6 million (26×$2.6 million) and $13.5 million (27×$500,000) respectively. Added to these amounts are the average replacement value of an air carrier airplane, $11 million, and the value of a major NTSB investigation, $433,500. This brings the total value of preventing one crew-pairing related accident over the next 10 years to $92.5 million ($67.6 million + $13.5 million + $11.0 million + $433,500).

Based on the number of air carrier operations and the number of accidents that have occurred over the past 10 years, the FAA projects that over the next 10 years, in absence of this final rule, another two accidents could occur. The benefits of preventing both of those accidents is $185 million, with a present value of $130 million.

How much of these benefits can be attributed to this final rule is not certain. However, since pilot error and crew inexperience were the probable causes of the Denver and New York accidents, the FAA estimates that the final rule will prevent at least one of the future accidents. Thus, the present value benefits of this final rule will be $65 million ($130 million/2).

Benefit-Cost Comparison

The present value cost of the final rule to require several new and modified operating experience requirements for PICs and SICs will be $33.4 million over the next 10 years. The present value benefit of the final rule by preventing one accident over the next ten years will $65 million. Thus, the FAA has determined that the final rule is cost-beneficial.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires agencies to review rules which may have " a significant economic impact on a substantial number of small entities."

The FAA has adopted criteria and guidelines for rulemaking officials to apply when determining whether a proposed or existing rule has any significant economic impact on a substantial number of small entities. Based on these criteria, a small air carrier is one that owns 9 or fewer aircraft and a substantial number of carriers is one that is not less than 11 or which is more than one-third of affected small entities.

The FAA has determined that approximately 35 air carriers operating under part 121 could be considered small entities. Based on the FAA's criteria and guidelines, a significant regulatory cost impact to these air carriers ranges from $4,300 for an unscheduled carrier to $61,600 for a scheduled carrier to $110,100 for scheduled carriers whose entire fleet has a seating capacity of more than 60. These values are annualized costs and are expressed in 1993 dollars. Typically, there are about 11 pilots per aircraft for carriers operating Group II airplanes and 6 pilots per aircraft for carriers operating Group I airplanes. Approximately half of these pilots act as PICs, while the other half act as SICs.

For a small scheduled carrier having a fleet seating capacity of more than 60 seats, owning 9 group II airplanes, and employing 99 pilots, the FAA estimates that 5 PICs would need 10 hours of additional transition operating experience at a cost of $6,350 (5×10×$127/hr). Small entities will no longer be able to take advantage of reducing the required number of experience hours by exchanging one hour of supervised operating experience for one landing and takeoff. Thus, for the 5 PIC candidates, this will result in a cost of $1,600 (5×25 hours×10%×$127/hr). Two PICs would not complete their consolidation within the 120-day period and require a supervised line observation flight by a check pilot at a cost of $248 (2×2 hours×$62/hr); one pilot would require refresher training at a cost of $381 (1×3 hours×$127). The costs of compliance to these carriers will be $8,600, which is less than the $110,100 threshold cost for a significant impact under the regulatory flexibility guidelines described above. Thus, the rule will not have a significant economic impact on a substantial number of these small entities.

Using the same methodology to estimate the cost for a small entity owning 9 turboprop airplanes and employing 54 pilots, 2 PICs would need 10 hours of additional transition operating experience at a cost of $1,100 (2×10×$55/hr). These pilots would also not be able to reduce the number of hours of supervised operating experience at a cost of $275 (2×25 hours×10%×$55/hr). One pilot would not complete consolidation of their learning within 120 days and require a line observation flight at a cost of $30 (1×2 hrs×$15), and 1 pilot needing refresher training at a cost of $165 (1×3 hrs×$55). The FAA estimates that the total cost to a small turboprop-owned air carrier will be $1,570 per year, which is less than the $61,600 threshold for a scheduled air carrier operating planes with less than 60 seats. Thus, the rule will not have a significant economic impact on a substantial number of these small entities.

Finally, a small entity owning 9 reciprocating engine airplanes and employing 54 pilots, 2 PICs would need 10 hours of additional transition operating experience at a cost of $1,100 (2 × 10 × $55/hr). These pilots would also not be able to reduce the number of hours of supervised operating experience at a cost of $275 (2 × 25 hours × 10% × $55/hr). One pilot would not complete consolidation of their learning within 120 days and require a line observation flight at a cost of $30 (1 × 2 hrs × $15), and 1 pilot needing refresher training at a cost of $165 (1 × 3 hrs × $55). The FAA estimates that the total cost to a small turboprop-owned air carrier will be $1,570 per year, which is less than the $4,300 for small unscheduled carriers. Thus, the rule will not have a significant economic impact on a substantial number of these small entities.

International Trade Impact

The final rule will have little impact on international trade. U.S. air carriers operating in international markets would incur some additional costs, primarily for supervised operating experience requirements, whereas foreign air carriers operating in the same markets will not be affected by the final rule. If the cost of the final rule (i.e., $33.4 million over the next 10 years) were borne entirely by U.S. carriers serving international markets, the cost would still represent a negligible amount of the international passenger revenues compared to the $280 billion forecast to be collected between 1993 and 2002.

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. For this final rule, the FAA reviewed the SARP of Annex 6, applicable to pilot training for commercial air transportation operations. The FAA has determined that these amendments would not present any differences. The SARP are more general than the FAR, with much of the pilot training to be determined by the State of the Operator.

In reviewing the JAR, the FAA finds that regulations exist that are similar to this final rule, though they are less specific. JAR–OPS 1.945 addresses Conversion Training and Checking. Paragraph (e) of that section states "Once a conversion course has been started a crew member shall not undertake flying duties on another type or variant until the course is completed or terminated."

Federalism Implications

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This regulation is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation of the regulation, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT.

List of Subjects in 14 CFR Part 121

Air safety, Air transportation, Aviation safety, Drug abuse, Narcotics, Safety, and Transportation.

The Amendment

The Federal Aviation Administration amends part 121 of the Federal Aviation Regulations (14 CFR 121) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g).

2. Section 121.431(b) is revised to read as follows:

§ 121.431 Applicability.

* * * * *

(b) For the purpose of this subpart, the airplane groups and terms and definitions prescribed in § 121.400 and the following definitions apply:

Consolidation is the process by which a person through practice and practical experience increases proficiency in newly acquired knowledge and skills.

Line operating flight time is flight time performed in operations under this part.

Operating cycle is a complete flight segment consisting of a takeoff, climb, enroute portion, descent, and a landing.

3. Section 121.434 is amended by revising the heading; removing the flush paragraph at the end of paragraph (b); removing the words "the certificate holder's approved training program includes a course of training in an airplane simulator under § 121.409(c)

VOL
60
ISS
81
AP
27
1995
UMI

and" in paragraph (c)(1)(ii); revising the introductory text of paragraphs (a), (b), and (c); revising paragraphs (b)(2), (c)(2), (c)(3) introductory text, (c)(3)(i), (c)(3)(ii), and (f); designating the flush paragraph following paragraph (f) as paragraph (i); and adding new paragraphs (a)(3), (g) and (h) to read as follows:

§ 121.434 Operating experience, operating cycles, and consolidation of knowledge and skills.

(a) No certificate holder may use a person nor may any person serve as a required crewmember of an airplane unless the person has satisfactorily completed, on that type airplane and in that crewmember position, the operating experience, operating cycles, and the line operating flight time for consolidation of knowledge and skills, required by this section, except as follows:

* * * * *

(3) Separate operating experience, operating cycles, and line operating flight time for consolidation of knowledge and skills are not required for variations within the same type airplane.

* * * * *

(b) In acquiring the operating experience, operating cycles, and line operating flight time for consolidation of knowledge and skills, crewmembers must comply with the following:

* * * * *

(2) The operating experience, operating cycles, and line operating flight time for consolidation of knowledge and skills must be acquired after satisfactory completion of the appropriate ground and flight training for the particular airplane type and crewmember position.

* * * * *

(c) Pilot crewmembers must acquire operating experience and operating cycles as follows:

* * * * *

(2) A second in command pilot must perform the duties of a second in command under the supervision of an appropriately qualified check pilot.

(3) The hours of operating experience and operating cycles for all pilots are as follows:

(i) For initial training, 15 hours in Group I reciprocating powered airplanes, 20 hours in Group I turbopropeller powered airplanes, and 25 hours in Group II airplanes. Operating experience in both airplane groups must include at least 4 operating cycles (at least 2 as the pilot flying the airplane).

(ii) For transition training, except as provided in paragraph (c)(3)(iii) of this section, 10 hours in Group I reciprocating powered airplanes, 12 hours in Group I turbopropeller powered airplanes, 25 hours for pilots in command in Group II airplanes, and 15 hours for second in command pilots in Group II airplanes. Operating experience in both airplane groups must include at least 4 operating cycles (at least 2 as the pilot flying the airplane).

* * * * *

(f) Flight crewmembers may substitute one additional takeoff and landing for each hour of flight to meet the operating experience requirements of this section, up to a maximum reduction of 50% of flight hours, except those in Group II initial training, and second in command pilots in Group II transition training. Notwithstanding the reductions in programmed hours permitted under §§ 121.405 and 121.409, the hours of operating experience for flight crewmembers are not subject to reduction other than as provided in this paragraph and paragraph (e) of this section.

(g) Except as provided in paragraph (h) of this section, pilot in command and second in command crewmembers must each acquire at least 100 hours of line operating flight time for consolidation of knowledge and skills (including operating experience required under paragraph (c) of this section) within 120 days after the satisfactory completion of:

(1) Any part of the flight maneuvers and procedures portion of either an airline transport pilot certificate with type rating practical test or an additional type rating practical test, or

(2) A § 121.441 proficiency check.

(h) The following exceptions apply to the consolidation requirement of paragraph (g) of this section:

(1) Pilots who have qualified and served as pilot in command or second in command on a particular type airplane in operations under this part before August 25, 1995 are not required to complete line operating flight time for consolidation of knowledge and skills.

(2) Pilots who have completed the line operating flight time requirement for consolidation of knowledge and skills while serving as second in command on a particular type airplane in operations under this part after August 25, 1995 are not required to repeat the line operating flight time before serving as pilot in command on the same type airplane.

(3) If, before completing the required 100 hours of line operating flight time, a pilot serves as a pilot in another airplane type operated by the certificate holder, the pilot may not serve as a pilot in the airplane for which the pilot has newly qualified unless the pilot satifactorily completes refresher training as provided in the certificate holder's approved training program and that training is conducted by an appropriately qualified instructor or check pilot.

(4) If the required 100 hours of line operating flight time are not completed within 120 days, the certificate holder may extend the 120-day period to no more than 150 days if—

(i) The pilot continues to meet all other applicable requirements of subpart O of this part; and

(ii) On or before the 120th day the pilot satisfactorily completes refresher training conducted by an appropriately qualified instructor or check pilot as provided in the certificate holder's approved training program, or a check pilot determines that the pilot has retained an adequate level of proficiency after observing that pilot in a supervised line operating flight.

(5) The Administrator, upon application by the certificate holder, may authorize deviations from the requirements of paragraph (g) of this section, by an appropriate amendment to the operations specifications, to the extent warranted by any of the following circumstances:

(i) A newly certificated certificate holder does not employ any pilots who meet the minimum requirements of paragraph (g) of this section.

(ii) An existing certificate holder adds to its fleet an airplane type not before proven for use in its operations.

(iii) A certificate holder establishes a new domicile to which it assigns pilots who will be required to become qualified on the airplanes operated from that domicile.

* * * * *

4. Section 121.438 is added to subpart O to read as follows:

§ 121.438 Pilot operating limitations and pairing requirements.

(a) If the second in command has fewer than 100 hours of flight time as second in command in operations under this part in the type airplane being flown, and the pilot in command is not an appropriately qualified check pilot, the pilot in command must make all takeoffs and landings in the following situations:

(1) At special airports designated by the Administrator or at special airports designated by the certificate holder; and

(2) In any of the following conditions:

(i) The prevailing visibility value in the latest weather report for the airport is at or below ¾ mile.

(ii) The runway visual range for the runway to be used is at or below 4,000 feet.

(iii) The runway to be used has water, snow, slush or similar conditions that may adversely affect airplane performance.

(iv) The braking action on the runway to be used is reported to be less than "good".

(v) The crosswind component for the runway to be used is in excess of 15 knots.

(vi) Windshear is reported in the vicinity of the airport.

(vii) Any other condition in which the PIC determines it to be prudent to exercise the PIC's prerogative.

(b) No person may conduct operations under this part unless, for that type airplane, either the pilot in command or the second in command has at least 75 hours of line operating flight time, either as pilot in command or second in command. The Administrator may, upon application by the certificate holder, authorize deviations from the requirements of this paragraph (b) by an appropriate amendment to the operations specifications in any of the following circumstances:

(1) A newly certificated certificate holder does not employ any pilots who meet the minimum requirements of this paragraph.

(2) An existing certificate holder adds to its fleet a type airplane not before proven for use in its operations.

(3) An existing certificate holder establishes a new domicile to which it assigns pilots who will be required to become qualified on the airplanes operated from that domicile.

Issued in Washington, DC on April 21, 1995.

David R. Hinson,

Administrator.

[FR Doc. 95–10282 Filed 4–26–95; 8:45 am]

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VOL
60

ISS
81

AP
27

1995

UMI

federal register

Thursday
April 27, 1995

Part IV

Department of Labor

Pension and Welfare Benefits Administration

29 CFR Parts 2560 and 2570
Delinquent Filer Voluntary Compliance Program; Final Rule

VOL
60
ISS
81
AP
27
1995
UMI

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Parts 2560 and 2570

RIN 1210–AA49

Employee Retirement Income Security Act of 1974; Administration and Enforcement, Delinquent Filer Voluntary Compliance Program

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Rule related notice, reduced civil penalty.

SUMMARY: This Notice announces the implementation of a new Delinquent Filer Voluntary Compliance Program by the Department of Labor's Pension and Welfare Benefits Administration (PWBA). This Program is intended to encourage, through the assessment of reduced civil penalties, delinquent plan administrators to comply with their annual reporting obligations under Title I of the Employee Retirement Income Security Act of 1974, as amended, (ERISA).

EFFECTIVE DATE: April 27, 1995.

FOR FURTHER INFORMATION CONTACT: PWBA's Delinquent Filer Voluntary Compliance Program Hotline, (202) 219–8776 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Executive Order 12866 Statement

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Department must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, the Department has determined that this program creates a novel method for statutory compliance that will reduce paperwork and regulatory compliance burdens on businesses, including small businesses and organizations, and make better use of scarce federal resources, in accord with the mandates of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the President's priorities. Therefore, this notice is "significant" and subject to OMB review.

Regulatory Flexibility Act Statement

The Regulatory Flexibility Act of 1980 requires each Federal agency to perform a regulatory flexibility analysis for all rules that are likely to have a significant economic impact on a substantial number of small entities. Small entities include small businesses, organizations, and governmental jurisdictions.

Given the existing requirement on small businesses to file the Form 5500 Series Annual Return/Reports, we believe this delinquency program imposes no significant additional burden on small entities. First, no entity is required to file under this program. Thus, unless a plan sponsor chooses to take advantage of the relief offered by this program, this program would not impose any increased burden on small entities that sponsor pension and welfare benefit plans. Second, the additional documentation that would be required to be submitted under this program is minimal. Third, the program offers a substantial reduction in the penalties that might otherwise be imposed on the entities, including small entities, that participate in the program. A second tier of requirements, in the form of further reduced penalties, has been provided for small plans (those filing Form 5500–C).

Paperwork Reduction Act Statement

Public reporting burden for this collection of information is estimated to average 21 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this estimate or any other aspect of this information collection, including suggestions for reducing this burden, please send them to the Department of Labor, Office of IRM Policy, Room N–1301 (1210–0XXX), 200 Constitution Avenue, NW, Wash., DC 20210, and to Allison Herron Eydt, PWBA Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20507.

Section 1—Background

The Secretary of Labor has the authority, under section 502(c)(2) of ERISA, to assess civil penalties of up to $1,000 a day against plan administrators who fail or refuse to file complete and timely annual reports (Form 5500 Series Annual Return/Reports) as required under section 101(b)(4) of ERISA and the Secretary's regulations codified in 29 CFR Part 2520. Pursuant to 29 CFR 2560.502c–2 and 2570.60 *et seq.*, PWBA has maintained a program for the assessment of civil penalties for noncompliance with the annual reporting requirements. Under this program, plan administrators filing annual reports after the date on which the report was required to be filed may be assessed $50 per day for each day an annual report is filed after the date on which the annual report(s) was required to be filed, without regard to any extensions for filing. Plan administrators who fail to file an annual report may be assessed a penalty of $300 per day, up to $30,000 per year, until a complete annual report is filed. Penalties are applicable to each annual report required to be filed under Title I of ERISA. The Department may, in its discretion, waive all or part of a civil penalty assessed under section 502(c)(2) upon a showing by the administrator that there was reasonable cause for the failure to file a complete and timely annual report.

The Department has determined that the possible assessment of the above described civil penalties may deter certain delinquent filers from voluntarily complying with the annual reporting requirements under Title I of ERISA. In an effort to encourage annual reporting compliance, therefore, the Department has decided to implement the Delinquent Filer Voluntary Compliance (DFVC) Program, described herein, under which administrators otherwise subject to the assessment of higher civil penalties will be permitted to pay reduced civil penalties for voluntarily complying with the annual reporting requirements under Title I of ERISA.

Section 2—The Delinquent Filer Voluntary Compliance (DFVC) Program

.01 *General.* The DFVC Program is intended to afford eligible plan administrators (described in subsection .02 of this Section) the opportunity to avoid the assessment of civil penalties otherwise applicable to administrators who fail to file timely annual reports for plan years beginning on or after January 1, 1988. Eligible administrators may avail themselves of the DFVC Program by complying with the filing requirements and paying the civil penalties specified in Section 3 or Section 4, as appropriate, of this Notice.

.02 *Eligibility for DFVC Program.* The DFVC Program is available only to a plan administrator who complies with each of the requirements of Section 3 or Section 4, as appropriate, of this Notice prior to the date on which the administrator:

(a) is notified in writing, pursuant to 29 CFR 2560.502c–2, of the Department's intention to assess a civil penalty under section 502(c)(2) of ERISA for failure to file a timely annual report; or

(b) is otherwise notified in writing by the Department of a failure to file a timely annual report under Title I of ERISA.

.03 *Effective date.* The DFVC Program described herein shall be effective April 27, 1995. The Department of Labor intends the DFVC Program to be of indefinite duration; however, the Program may be modified from time to time or terminated in the sole discretion of the Department upon publication of notice in the **Federal Register**.

Section 3—Administrators Filing Annual Reports

.01 Plan administrators electing to file a late Form 5500 Series Annual Report under the DFVC Program shall:

(a) *File with the Internal Revenue Service.* Except as provided in Section 3.02, file a complete Form 5500 or Form 5500–C (but not the Form 5500–R), as appropriate, with all required schedules and attachments, by entering at the top center of the first page of the Form, in red, bold print "DFVC Program" and mailing the complete Form, along with all required schedules and attachments, to the Internal Revenue Service Center designated in the Form 5500 Series instructions. Do *not* send checks paying penalties under the DFVC Program to the Internal Revenue Service Center.

Note: If a joint employer-union board of trustees or committee is the administrator, at least one employer representative and one union representative must sign the Form.

Current forms and instructions can be obtained by dialing 1–800–TAX–FORM (this is a toll-free number). For prior years, obtain the most current form available. If necessary, mark through the year at the top of the first page and enter the appropriate prior year in red bold print.

(b) *File with the U.S. Department of Labor and Pay Applicable Penalty Amount.* Send a signed and dated copy of the first page of the Form 5500 Series Annual Report filed with the Internal Revenue Service and a check payable to the "U.S. Department of Labor" in the amount of the applicable penalty, as determined under Section 3.03, to: DFVC Program, Pension and Welfare Benefits Administration, P.O. Box 277025, Atlanta, GA 30384–7025.

The items that are required to be sent to the Department pursuant to this Section 3.01(b) (i.e., the completed first page of the Form 5500 Series annual report as well as the check made payable to the U.S. Department of Labor) also should contain the notation, in red, bold print "DFVC Program". The notation should be located at the top center of each item.

.02 A plan administrator who filed a complete Form 5500 Series Annual Report, including all required schedules and attachments, with appropriate Internal Revenue Service Center prior to the effective date of this DFVC Program, but after the due date for the report, shall only be required to comply with the provision of paragraph (b) of Section 3.01 and, therefore, shall not be required to refile the Form 5500 Series Annual Report with the Internal Revenue Service Center solely for purposes of the DFVC Program.

.03 For each annual report filed under this Section 3, the applicable penalty amount shall be determined as follows:

(a) In the case of an annual report which is filed on or before twelve (12) months after the date on which the annual report was due (without regard to any extensions), $50 per day for each day the annual report is filed after the date on which the annual report was due (without regard to any extensions), up to a maximum of $2,500 for From 5500 filers and $1,000 for Form 5500–C filers; or

(b) In the case of an annual report which is filed more than twelve (12) months after the date on which the annual report was due (without regard to any extensions), $5,000 for Form 5500 filers and $2,000 for Form 5500–C filers.

Note: The plan administrator is personally liable for the payment of civil penalties assessed under section 502(c)(2) of ERISA. Therefore, civil penalties, including penalties paid under this DFVC Program, may not be paid from the assets of an employee benefit plan.

.04 Annual reports that are filed with the IRS pursuant to the DFVC Program may be subject to the usual edit checks. Plan administrators will have an opportunity to correct deficiencies, in accordance with the procedures described in 29 CFR 2560.502c–2. The failure to correct deficiencies in accordance with these procedures may result in the assessment of further penalties.

PWBA has prepared a booklet, "The Trouble-Shooter's Guide To Filing ERISA Annual Reports," to assist in preparing the Form 5500 Series. The booklet explains how forms are processed and how to avoid potential filing errors. Copies are available by written request to: U.S. Department of Labor, Pension and Welfare Benefits Administration, Room N–5656, 200 Constitution Ave. N.W., Washington, D.C. 20210.

Section 4—Administrators Electing To File Statements for Apprenticeship and Training Plans or "Top Hat" Plans

.01 Administrators of apprenticeship and training plans, described in 29 CFR 2520.104–22, and administrators of pension plans for a select group of management or highly compensated employees, described in 29 CFR 2520.104–23(a) ("top hat plans"), who elect to file the applicable statement(s), described in §§ 2520.104–22, and 2520.104–23, respectively, as a condition of relief from the annual reporting requirements may, in lieu of filing any past due annual report and paying otherwise applicable civil penalties, comply with the following filing requirements:

(a) *Send Form and Pay Applicable Penalty Amount to the U.S. Department of Labor.* For purposes of this requirement, plan administrators must complete items 1a–1c, 2a–2c, 5a–5c, 6a or 6b (as applicable) of the first page of the Form 5500 Annual Report and enter at the top center of the Form, in red, bold print, either "Apprenticeship and Training Plan/DFVC Program" or "Top Hat Plan/DFVC Program", as appropriate. For purposes of completing item 5c, the plan number for all top hat plans should be 888, and the plan number for all apprenticeship and training plans should be 999. The plan administrator must sign and date the Form.

Note: If a joint employer-union board of trustees or committee is the administrator, at least one employer representative and one union representative must sign the Form.

Send the first page of the completed Form 5500 Annual Report, and a check payable to the "U.S. Department of Labor" for the applicable penalty amount, as determined under section 4.01(c), to: DFV Program, Pension and Welfare Benefits Administration, P.O. Box 277025, Atlanta, GA 30384–7025.

VOL
60
ISS
81
AP
27
1995
UMI

The check that is made payable to the U.S. Department of Labor also should contain the notation, in red, bold print "DFVC Program." The notation should be located at the top center of the check.

(b) *File Applicable Statement with the U.S. Department of Labor.* Prepare and file a statement meeting the requirements of §§ 2520.104–22, or 2520.104–23, as appropriate.

The apprenticeship and training plan statement described in § 2520.104–22 must be sent to: Apprenticeship and Training Plan Exemption, Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

The "top hat" statement described in § 2520.104–23 must be sent to: Top Hat Plan Exemption, Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Note: A plan sponsor maintaining more than one "top hat" plan is not required to file a separate statement for each such plan. See § 2520.104–23(b).

(c) *Applicable penalty amount.* For purposes of the statements filed under this Section 4, the applicable penalty amount is $2,500, without regard to the number of plans maintained by the same plan sponsor for which statements are filed pursuant to Section 4.01(b) and without regard to the number of plan participants covered under such plan or plans.

Note: The plan administrator is personally liable for the payment of civil penalties assessed under section 502(c)(2) of ERISA, therefore, civil penalties, including penalties paid under this DFVC Program, may not be paid from the assets of an employee benefit plan.

(d) *Multiple "top hat" plans.* In the case of plan sponsors maintaining more than one pension plan for a select group of management or highly compensated employees described in § 2520.104–23, the plan administrator shall, for purposes of the DFVC Program, be required to send a copy of the first page of the Form 5500, completed in accordance with Section 4.01(a), without regard to the number of such plans maintained by the plan sponsor, provided that each plan maintained by the sponsor is clearly identified on the first page of the Form 5500 or attachment thereto filed with the Department of Labor.

.02 Administrators who have complied with the requirements of this Section 4 shall be considered as having elected compliance with the exemption(s) and/or alternative method of compliance prescribed in §§ 2520.104–22, or 2520.104–23, as appropriate, for all subsequent plan years.

.03 Acceptance by the Department of a filing and penalty payment made pursuant to this Section 4 does not represent a determination by the Department of Labor as to the status of the arrangement as a plan or particular type of plan under Title I or ERISA or a determination by the Department of Labor that the provisions of §§ 2520.104–22, or 2520.104–23 have been satisfied.

Section 5—Waiver of Right to Notice and Abatement of Assessment

.01 Payment of a penalty under the terms of this DFVC Program constitutes a waiver of an administrator's right both to receive notice of assessment under 29 CFR 2560.502c–2 from the Department and to contest the Department's Assessment of the penalty amount. It should also be noted that payment of a penalty under the DFVC Program does not preclude the assessment of non-filing or late-filing penalties by other Federal agencies, including the Internal Revenue Service and the Pension Benefit Guaranty Corporation.

.02 The Internal Revenue Code (Code) and regulations thereunder require information to be filed on the Form 5500 Series Annual Return/Report and provides penalties for failing to timely file. Under the Code, these penalties apply unless it is shown that the failure to timely file is due to reasonable cause. If the late filing of a Form 5500 Series Annual Return/Report required by the Code may be due to reasonable cause, a cover letter, demonstrating that the failure to timely file was due to reasonable cause, should be attached to the completed Form 5500 Series Annual Return/Report that is filed with the IRS.

Signed at Washington, DC, this 24th day of April, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–10403 Filed 4–26–95; 8:45 am]

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federal register

Thursday
April 27, 1995

Part V

Department of Education

Foreign Language Assistance Grants; Notice

VOL
60
ISS
81
AP
27
1995
UMI

DEPARTMENT OF EDUCATION

Foreign Language Assistance Grants

AGENCY: Department of Education.

ACTION: Notice of final priority for fiscal year (FY) 1995.

SUMMARY: The Secretary announces a priority for FY 1995 under the Foreign Language Assistance Grants program authorized under part B of title VII of the Elementary and Secondary Education Act of 1965, as amended (the Act). The Secretary establishes a competitive priority to encourage programs that provide instruction in languages that are of major economic or political importance to the United States, but seldom taught in schools.

EFFECTIVE DATE: This priority takes effect on May 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ursula Lord, U.S. Department of Education, 600 Independence Ave., SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: (202) 205–5709. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Under section 7203 of the Act, the Foreign Language Assistance Grants program provides grants to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary and secondary school students.

The Senate Committee on Appropriations noted that three-fourth's of the world's population, including some major United States trading partners, speak Japanese, Chinese, Russian, Arabic, or Korean. S. REP. No. 318, 103d Cong. 2d. Sess. 187 (1994). In addition, the Committee pointed out that these languages are seldom offered in our schools and that truly effective language training must begin in the elementary grades. As a consequence, the Committee directed the Department of Education to give funding priority to projects that begin teaching foreign languages in the elementary grades, with the primary focus on the less commonly taught languages such as Japanese, Chinese, Russian, Arabic, or Korean.

The Secretary is implementing the directive of the Committee by giving an application that meets the competitive priority an additional five points.

Note: This notice of final priority does *not* solicit applications. A notice inviting applications under this competition for FY 1995 is published in a separate notice in this issue of the **Federal Register**.

Priority

Under 34 CFR 75.105(c)(2)(i) the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards 5 points to an application that meets this competitive priority in a particularly effective way. These points would be in addition to any points the application earns under the selection criteria for the program:

Projects that propose to establish, improve, or expand foreign language learning in the elementary grades and that focus on Japanese, Chinese, Russian, Arabic, and Korean.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed priorities. However, in order to make timely grant awards in FY 1995, the Secretary, in accordance with section 437(d)(1) of the General Education Provisions Act, has decided to issue this final priority, which will apply only to the FY 1995 grant competition.

Executive Order 12866

This notice of final priority has been reviewed in accordance with Executive Order 12866. Under the terms of the order, the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of final priority are those resulting from statutory requirements and those determined by the Secretary as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of final priority, the Secretary has determined that the benefits of the final priority justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Program Authority: 20 U.S.C. 7425.

(Catalog of Federal Domestic Assistance Number 84.293A Foreign Language Assistance Grants.)

Dated: April 11, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 95–10321 Filed 4–26–95; 8:45 am]

BILLING CODE 4000–01–P

Reader Aids

Federal Register

Vol. 60, No. 81

Thursday, April 27, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, APRIL

16765–16978	3
16979–17190	4
17191–17432	5
17433–17624	6
17625–17980	7
17981–18342	10
18343–18538	11
18539–18726	12
18727–18948	13
18949–19152	14
19153–19342	17
19343–19484	18
19485–19664	19
19665–19844	20
19845–19998	21
19999–20170	24
20171–20390	25
20391–20622	26
20623–20878	27

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

6781	17979
6782	17981
6783	18537
6784	18707
6785	18725
6786	19999
6787	20001
6788	20003
6789	20387
6790	20389

Executive Orders:

April 17, 1926 (Revoked in part by PLO 7134)	19525
12356 (Revoked by EO 12958)	19825
12958	19825

Administrative Orders:

Memorandums:

April 4, 1995	19153
April 14, 1995	19485
April 21, 1995	20621

5 CFR

Ch. LII	17625
581	18949
1620	19990
3201	20171

Proposed Rules:

316	17655

7 CFR

Ch. II	19487
58	20178
97	17188
201	16979
272	17628, 20178
273	17628
274	20178
301	18727
354	17631
457	16765
918	17633
925	16765
927	17983
932	18539
946	17433
979	16767
982	16768
985	16770, 17434, 18950
1001	18952
1002	18952
1004	18952
1005	18952
1006	18952
1007	18952
1011	18952
1012	18952
1013	18952
1030	18952
1032	18952
1033	18952
1036	18952
1040	18952
1044	18952
1046	18952
1049	18952
1050	18343, 18952
1064	18952
1065	18952
1068	18952
1075	18952
1076	18952
1079	18952
1093	18952
1094	18952
1096	18952
1106	18952
1108	18952
1124	18952
1126	17191, 18952
1131	17192, 18952
1134	18952
1135	18952
1137	18952
1138	18952
1139	18952
1413	17984
1427	17984
1464	19665
Ch. XVIII	20005
3016	19638, 19641

Proposed Rules:

55	20054
59	20054
250	18781
319	20436
335	18374
905	19543
906	20059
920	20062
929	20064
944	20059
946	19382
956	17274
981	17466
1944	19168

8 CFR

Proposed Rules:

212	19001

9 CFR

77	18728
92	17634
318	19491
327	18540
381	19491
391	19491

Proposed Rules:

308	19543
310	19543

VOL 60 ISS 81 AP 27 1995 UMI

318.....19543
320.....19543
325.....19543
326.....19543
327.....19543
381.....19543, 19685
391.....18551

10 CFR

2.....18344
20.....20183
436.....18326, 19343
600.....17985, 19638, 19641
710.....20366

Proposed Rules:

50.....19002, 19170, 19686
70.....18035, 19170
52.....17902, 17924, 17947
170.....18882
171.....18882
430.....18782
490.....19644

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

3.....17986
207.....20005
208.....17436
215.....17635
220.....20005
221.....20005
224.....20005
225.....20186
226.....16771
336.....20171
400.....17625
614.....20008
615.....20008
618.....20008
620.....20011

Proposed Rules:

202.....20436
215.....19689
701.....19690
704.....20438
741.....20438
792.....18036

13 CFR

107.....17438
108.....20391, 20392
121.....18981
143.....19638, 19641

14 CFR

25.....17194
39.....16780, 16782, 17436, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492, 20013, 20016, 20017, 20019, 20189, 20394
71.....17196, 17442, 18346, 20021, 20623
73.....20625
97.....17198, 17199, 19160, 19162, 20523, 20626
121.....20858
187.....19626

Proposed Rules:

39.....16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693, 20458, 20459, 20461, 20659, 20661
71.....17284, 18038, 18552, 19190, 19553
91.....18700
119.....19007
121.....19007
125.....19007
127.....19007
135.....18700, 19007

15 CFR

24.....19638, 19642
771.....18731
779.....18731

16 CFR

305.....19845
1700.....17992

Proposed Rules:

248.....17032
409.....17491
436.....17656
460.....17492
1700.....17660

17 CFR

30.....19493
200.....17201
211.....20022
400.....18733
403.....18733
404.....20396
405.....18733, 20396
449.....18733, 18734

Proposed Rules:

239.....17172
270.....17172
274.....17172
404.....20065
405.....20065

18 CFR

343.....19494
385.....19494
264.....16979

Proposed Rules:

35.....17662
141.....17726
388.....17726

19 CFR

7.....18347
10.....18542, 18983
11.....18347
12.....18347
18.....18347
19.....18347
24.....18347
54.....18347
101.....18347, 18983
102.....18347
111.....18347, 18983
114.....18347
123.....18347, 18983
128.....18347, 18983
132.....18347
134.....18347
141.....18347, 18983
143.....18983
145.....18347, 18983
146.....18347, 20628
148.....18347, 18983
151.....18347
152.....18347
159.....18983
177.....18347
178.....18983
181.....18347
191.....18347

Proposed Rules:

Ch. I.....18783
210.....20463

20 CFR

Ch. III.....18991
404.....20023
416.....20023
423.....18991
638.....18993
404.....17443, 19163

Proposed Rules:

Ch. III.....17731
404.....19008
416.....19008

21 CFR

20.....16962
73.....18736
101.....17202
176.....18349
178.....18349, 18352, 18739
206.....19846
310.....17611, 20162
520.....20402
558.....18740
876.....17208
1310.....17636, 19509
1403.....19638, 19642

Proposed Rules:

146.....19866
310.....19650
876.....17611

22 CFR

135.....19638, 19642
514.....16785

Proposed Rules:

502.....19385

23 CFR

655.....18520

24 CFR

85.....19638, 19642
215.....17388, 20356
235.....20356
236.....17388, 20356
280.....20356
570.....17445
813.....17388, 20356
905.....17388, 18174
913.....17388, 20356
950.....18174, 20356
3500.....16985

Proposed Rules:

29.....17968
120.....19191
811.....19695

25 CFR

Proposed Rules:

Ch. I.....20250
900.....19387

26 CFR

1.....17216, 18741, 18742
602.....18742

Proposed Rules:

1.....17286, 17731, 18377, 18378, 19387, 19868

27 CFR

6.....20402
8.....20402
10.....20402
11.....20402
55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:

Ch. I.....18783
53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

0.....17456
2.....18353
31.....19847
66.....19638, 19642
90.....19474

Proposed Rules:

2.....18378, 18379
16.....18784, 19871

29 CFR

15.....19658
97.....19638, 19643
570.....19336
580.....17221
1470.....19638, 19643
1952.....20191
1960.....18993
2560.....20874
2570.....20874
2610.....18994
2619.....18996
2622.....18994
2644.....18998
2676.....18996

Proposed Rules:

1910.....19192
1915.....19192
1926.....19192

30 CFR

756.....20193
903.....18710
914.....16985, 17637, 19668, 19669
915.....17458
934.....18744
938.....16788

Proposed Rules:

Ch. I.....18044
Ch. II.....20663
901.....18044, 20250
902.....17495
904.....17498
906.....17501
913.....17734, 19697
914.....17736
915.....17504
916.....17504
917.....17739, 19193
918.....17498
920.....18046
924.....18044, 20250

925.....17504
926.....17495, 20251
931.....17501
934.....17495
935.....17741, 18380, 19194
936.....17498
938.....18046
943.....17498
944.....17501
946.....17743
948.....18381
950.....17495

32 CFR

33.....19638, 19643
83.....20029
84.....20029
290.....18005
296.....20032
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:

63.....17507
247.....18049

33 CFR

3.....17222
117.....18006, 19351, 20428
154.....17134
155.....17134
162.....16793, 19352
165.....16793, 18008, 19354, 20033, 20429, 20430
187.....20310
222.....19851
334.....18543

Proposed Rules:

Ch. I.....17287
100.....18785, 20065, 20463
117.....18061
164.....19699
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR

80.....19638, 19643
350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR

7.....17639
13.....18532
1207.....19638, 19643

Proposed Rules:

13.....19011, 20374
215.....18886
217.....18886
219.....18886

37 CFR

1.....16920, 20195
3.....20195

38 CFR

2.....18354
3.....18354, 20642
4.....19851
21.....20035
43.....19638, 19644

39 CFR

20.....18009
111.....19355
265.....17224

Proposed Rules:

232.....17267

40 CFR

9.....17100, 18009, 20232
31.....19638, 19644
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522, 19673, 20233, 20431, 20643, 20644
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
76.....18751
77.....17100
78.....17100
80.....20232
81.....16996, 20237
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547, 19523, 20432, 20433
185.....18547
186.....18547
258.....17649
260.....17001
261.....19165
271.....18356, 18358, 18360, 20238
300.....16808, 17004, 19525, 20330
302.....19165
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:

Ch. I.....17268
51.....17509
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554, 20066
55.....17748, 18787, 19701, 20804
58.....17509
63.....16829, 16920, 18071, 18078, 19556
70.....17750, 18790, 20465
71.....20804
72.....18472
76.....18792
81.....17034, 17756, 19197
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562, 19556, 20470, 20471
185.....18562
186.....18560, 18562
228.....19672
300.....18565, 19203, 20473
372.....16830, 19702
761.....17510
799.....18079

41 CFR

101–20.....17653
101–26.....19674
105–71.....19638, 19644

42 CFR

440.....19856
441.....19856
493.....20035

43 CFR

12.....17237, 19638, 19644

Proposed Rules:

426.....16922, 20068
427.....16922, 20068
3100.....18081

Public Land Orders:

2546 (Revoked by PLO 7135).....19526
7131.....18030
7132.....18777
7133.....18777
7134.....19525
7135.....19526
7136.....20240
7137.....18778

44 CFR

13.....19638, 19644
64.....17005, 20649
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

65.....17758
67.....17035, 17042

45 CFR

92.....19638, 19645
212.....19862
602.....19638, 19645
1157.....19638, 19645
1174.....19638, 19645
1183.....19638, 19645
2541.....19638, 19646

Proposed Rules:

1336.....19994
2544.....17761

46 CFR

12.....17134
13.....17134
15.....17134, 20651
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:

Ch. I.....17287
Ch. II.....17763
67.....17290
90.....18793
97.....18793
148.....18793
298.....20592
382.....19559
383.....20069

47 CFR

2.....18778, 18999
61.....19526, 20051
69.....19528
73.....17023, 17253, 19000, 19359, 19531, 20052
74.....20241
90.....18999, 20247

Proposed Rules:

1.....17294
63.....17763
73.....17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566, 19878, 20586

48 CFR

225.....19531
252.....19531
538.....19360
552.....19360, 19362
570.....19362
915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023
9904.....20248

Proposed Rules:

Ch. V.....17764
6.....17295
12.....17184
16.....17295
32.....18794
52.....17184, 17295, 18794
501.....19708
503.....19708
505.....19708
506.....19708
507.....19708
5552.....19708
570.....19708
970.....20663
9903.....20252

49 CFR

18.....19638, 19646
40.....19535, 19675
173.....17398
178.....17398
180.....17398
213.....20654
219.....19538
501.....20434
552.....17254
554.....17254
571.....19681
573.....17254
576.....17254
577.....17254
1043.....16808
1084.....16808

Proposed Rules:

Ch. I.....17049
Ch. II.....18390
190.....17295

VOL
60
ISS
81
AP
27
1995
UMI

191 17295	234 ..... 17770, 19012	651 19364	17 ..... 16836, 17298, 19013, 19567, 20072
192 17295	571 ..... 18566, 19716	655 17464	36 20380
193 17295		663 16811	625 18795
194 17295	**50 CFR**	672 ..... 17465, 20248, 20658	641 17511
195 17295	17 18940	675 ..... 17028, 17653, 19864, 20248, 20658	642 18391
196 17295	227 19342	676 20248	655 18391
197 17295	641 19363	**Proposed Rules:**	675 ..... 17512, 20253
198 17295	646 ..... 19364, 19683	Ch. VI 17770	677 20253
199 17295	650 17272		

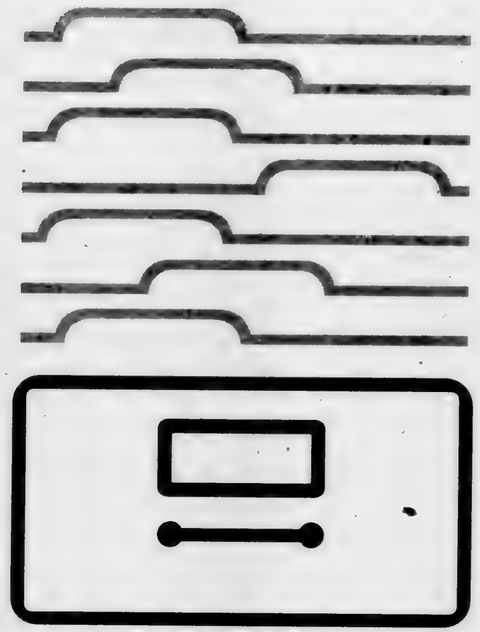

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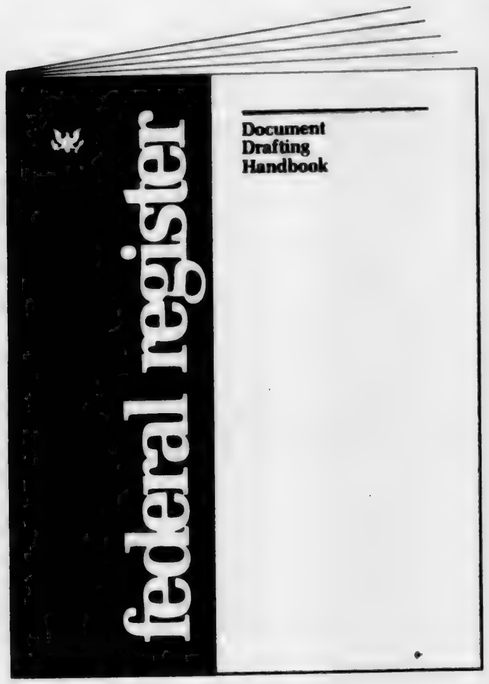

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60
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1995
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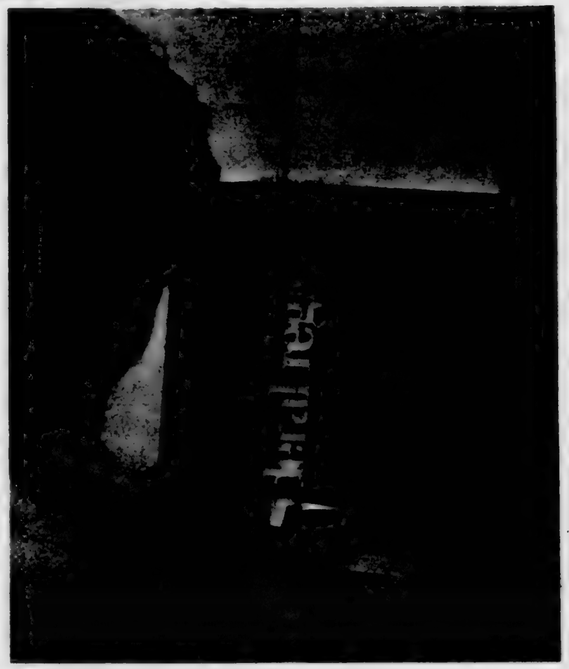

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4–28–95
Vol. 60 No. 82

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Pages 20879–21032

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VOL
60
ISS
82
AP
28
1995
UMI

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Contents

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

Administrative Conference of the United States
NOTICES
Meetings:
Special Committee to Review Government in the Sunshine Act, 20960

Agriculture Department
See Food Safety and Inspection Service
See Forest Service

Army Department
See Engineers Corps

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Construction industry; prevention center for occupational safety and health, 20994–20997

Coast Guard
RULES
Obstructive bridges; declaration and alteration procedures, 20900–20905
Ports and waterways safety:
Port of New York and New Jersey; safety zone, 20905–20908
Willamette River, OR; safety zone, 20908–20909
PROPOSED RULES
Regattas and marine parades:
Special Olympics World Games, 20930–20934

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 20961–20962

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 20970–20971

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Romania, 20969–20970
Taiwan, 20970

Commodity Futures Trading Commission
NOTICES
Meetings; Sunshine Act, 21028

Customs Service
NOTICES
Customhouse broker license cancellation, suspension, etc.:
Altman, Robert N., et al., 21023
Stanoch, Alfred J., et al., 21023
Trade name recordation applications:
California Hipermart, 21023–21024
Chengcorp, 21024
Weighpack International, B.V., 21024

Defense Department
See Engineers Corps
NOTICES
Agency information collection activities under OMB review, 20972
Civilian health and medical program of uniformed services (CHAMPUS):
National differential rates for children's hospitals; establishment, 20972–20973
Environmental statements; availability, etc.:
Ballistic Missile Defense Program (BMDO), 20973–20974
Meetings:
Defense Base Closure and Realignment Commission, 20974
Science Board task forces, 20974–20975

Defense Nuclear Facilities Safety Board
RULES
Freedom of Information Act; implementation:
Fee schedule, 20887

Education Department
NOTICES
Agency information collection activities under OMB review, 20977–20979

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 21008–21009

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Programmatic spent nuclear fuel management and Idaho National Engineering Laboratory environmental restoration and waste management programs, 20979–20984
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Batavia, IL; Fermi National Accelerator Laboratory, Casey's Pond Improvement Project, 20984
Grants and cooperative agreements; availability, etc.:
Industrial heating equipment research program, 20984–20985

Energy Information Administration
NOTICES
Agency information collection activities under OMB review, 20985
Forms; availability, etc.:
Electricity generation monthly data, 20985–20988

VOL
60
ISS
82
AP
28
1995
UMI

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Manhattan Beach Family Housing Area, Brooklyn, NY, 20976–20977
Nike Missile Battery 80, East Hanover, NJ, 20977
Playa Vista, Los Angeles County, CA; dredge and fill activities, 20975–20976

Environmental Protection Agency
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
Small Nonroad Engine Emissions Control Negotiated Rulemaking Advisory Committee; meetings, 20934
Air quality implementation plans:
Preparation, adoption, and submittal—
Motor vehicle inspection/maintenance (I/M) program requirements; amendments, 20934–20941
Clean Air Act:
State operating permits programs—
North Dakota, 20941–20946
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Lambda-cyhalothrin, 20946–20949
NOTICES
Drinking water:
Sole source aquifer determinations—
Massachusetts, 20989–20991
Environmental statements; availability, etc.:
Agency statements—
Weekly receipts, 20991–20992
Meetings:
Resource Conservation and Recovery Act; targeted legislative changes, 20992–20994

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness directives:
British Aerospace, 20887–20889
de Havilland, 20889–20891
NOTICES
Airport noise compatibility program:
General Mitchell International Airport, WI, 21020–21022
Meetings:
Aviation Rulemaking Advisory Committee, 21022

Federal Communications Commission
RULES
Frequency allocations and radio treaty matters:
Private land mobile services—
Mobile satellite services in 148-149.9 MHz frequency bands, 20909–20914
Radio stations; table of assignments:
Alabama, 20914
Arizona et al., 20914–20915
Montana, 20915
South Dakota, 20915–20916
PROPOSED RULES
Radio services, special:
Commercial mobile service providers—
Interconnection and resale obligations, 20949–20950
Television stations; table of assignments:
California, 20950
NOTICES
Agency information collection activities under OMB review, 20994

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Western Gas Resources Power Marketing, Inc., et al., 20988–20989
Applications, hearings, determinations, etc.:
Megan-Racine Associates, Inc., 20989
National Fuel Gas Supply Corp., 20989

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Federal debt collection and discount evaluation; Treasury current value of funds rate, 21024

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Arizona willow; withdrawn, 20951–20952
NOTICES
Endangered and threatened species permit applications, 21002–21003

Food and Drug Administration
RULES
Drug labeling controls; manufacturing, processing, packing, or holding; current good manufacturing practice; compliance date extension, 20897
Human drugs:
Topical otic products (OTC) for prevention of swimmer's ear, etc.; final monograph; correction, 20897–20898
NOTICES
Biological product licenses:
United Blood Services Blood Systems, Inc., 20997–20998
Color additive petitions:
GNT Gesellshaft fur Nahrungsmitteltechnologie mbH, 20997
GRAS or prior-sanctioned ingredients:
Fuji Oil Co., Ltd., 20998
Medical devices; premarket approval:
Atakr Radio Frequency Catheter Ablation System, 20999

Food Safety and Inspection Service
NOTICES
Meetings:
Animal production food safety national forum, 20961

Forest Service
NOTICES
Boundary establishment, descriptions, etc.:
Mt. St. Helens National Volcanic Monument, WA, 20960–20961
Meetings:
Olympic Provincial Interagency Executive Committee Advisory Committee, 20961

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See Public Health Service

Health Resources and Services Administration
NOTICES
Meetings; advisory committees:
May and June, 20999–21000

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 21001
Supportive housing programs—
Service coordinators for elderly and disabled residents; correction, 21001–21002

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

Internal Revenue Service
RULES
Income taxes:
Small business stock losses, 20898–20899
Procedure and administration:
Internal revenue tax and stamp payments by check or money order; financial institution unpaid tax liability, 20899–20900
PROPOSED RULES
Income taxes:
Foreign banks and securities dealers; exceptions to passive income characterization, 20922–20930
NOTICES
Taxable substances, imported:
Monoethanolamine, etc., 21025–21026

International Trade Administration
NOTICES
Antidumping:
Light-walled rectangular pipe and tube from—
Mexico, 20963–20964
Antidumping duty orders and findings:
Intent to revoke, 20962–20963
Countervailing duties:
Cut flowers from—
Ecuador, 20964
Textile mill products from—
Mexico, 20965–20966
Countervailing duty orders:
Determinations not to revoke, 20964–20965
Applications, hearings, determinations, etc.:
Lamont-Doherty Earth Observatory of Columbia University, 20966–20967
Simpson College et al., 20967
Tulane University et al., 20967–20968
University of—
California, Irvine, et al., 20968–20969

International Trade Commission
NOTICES
Import investigations:
Disposable lighters from—
Thailand, 21007

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Wisconsin Central Ltd. et al., 21007–21008

Labor Department
See Employment Standards Administration

Land Management Bureau
NOTICES
Realty actions; sales, leases, etc.:
Montana, 21003–21004
Survey plat filings:
Idaho, 21004
Withdrawal and reservation of lands:
Montana, 21004

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 20916–20917
Gulf of Alaska groundfish; and limited access management of Federal fisheries in and off of Alaska; correction, 20916
Gulf of Mexico stone crab; correction, 20916
PROPOSED RULES
Fishery conservation and management:
Alaska scallop, 20959
Limited access management of Federal fisheries in and off of Alaska
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish, 20952–20959

National Park Service
NOTICES
Environmental statements; availability, etc.:
Organ Pipe Cactus National Monument, AZ, 21004–21005
Meetings:
Gates of Arctic National Park Subsistence Resource Commission, 21005
Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission, 21006
Upper Delaware Citizens Advisory Council, 21006–21007

Nuclear Regulatory Commission
RULES
Spent nuclear fuel and high-level radioactive waste; independent storage licensing requirements:
Interim storage in independent installation; site-specific license to qualified applicant, 20879–20887
PROPOSED RULES
Rulemaking petitions:
American Mining Congress; denied, 20918–20922
NOTICES
Applications, hearings, determinations, etc.:
Commonwealth Edison Co., 21009–21011
United States Enrichment Corp., 21011–21012

Office of United States Trade Representative
See Trade Representative, Office of United States

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C positions placed or revoked—
Update, 21012–21013

Postal Rate Commission
NOTICES
Post office closings; petitions for appeal:
Cotesfield, NE, 21013–21014

VOL
60
ISS
82
AP
28
1995
UMI

Presidential Documents
PROCLAMATIONS
Special observances:
Crime Victims' Rights Week, National (Proc. 6791), 21031–21032

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
NOTICES
Agency information collection activities under OMB review, 21000–21001

Research and Special Programs Administration
NOTICES
Hazardous materials:
New plastic drum manufacture; use of post-consumer recycled plastic material; comment request, 21022–21023

Securities and Exchange Commission
RULES
Securities:
Unlisted trading privileges, 20891–20897
NOTICES
Self-regulatory organizations; proposed rule changes:
Government Securities Clearing Corp., 21014–21016
International Securities Clearing Corp., 21016–21017
Options Clearing Corp., 21017
Applications, hearings, determinations, etc.:
Integrity Life Insurance Co. et al., 21018–21020

State Department
NOTICES
Accountability Review Board; attack on consulate shuttle bus in Karachi in which two Americans were killed, 21020
Meetings:
Visa Office; government regulators and outside interested parties, 21020

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
Citizens Savings & Loan Association, 21026
First Federal Savings Bank, 21026
Hemet Federal Savings & Loan Association, 21026
Industrial Savings & Loan Association, 21026–21027

Trade Representative, Office of United States
NOTICES
North American Free Trade Agreement (NAFTA):
Accession—
Chile; negotiation, 21013

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Research and Special Programs Administration

Treasury Department
See Customs Service
See Fiscal Service
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Meetings:
Customs Service Commercial Operations Advisory Committee, 21023

Veterans Affairs Department
NOTICES
Privacy Act:
Computer matching programs, 21027

Separate Parts in This Issue

Part II
The President, 21031–21032

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6791 21031

10 CFR
2 20879
72 20879
1703 20887
Proposed Rules:
170 20918
171 20918

14 CFR
39 (2 documents) 20887, 20889

17 CFR
240 20891
249 20891

21 CFR
210 20897
211 20897
310 20897

26 CFR
1 20898
301 20899
602 20898
Proposed Rules:
1 20922

33 CFR
4 20900
116 20900
165 (3 documents) 20905, 20907, 20908
Proposed Rules:
100 20930

40 CFR
Proposed Rules:
Ch. I 20934
51 20934
70 20941
180 20946
185 20946
186 20946

47 CFR
2 20909
73 (4 documents) 20914, 20915
Proposed Rules:
Ch. I 20949
73 20950

50 CFR
611 20916
654 20916
672 20916
675 20916
676 20916
Proposed Rules:
17 20951
672 20952
673 20959
675 20952
676 20952

VOL
60
ISS
82
AP
28
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 72

RIN 3150–AE64

Interim Storage of Spent Fuel in an Independent Spent Fuel Storage Installation at a Reactor Site; Site-Specific License to a Qualified Applicant

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its procedures to permit the Director of Nuclear Material Safety and Safeguards to issue a site-specific license to a qualified applicant for the interim storage of spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site following satisfactory completion of NRC safety and environmental reviews and after any public hearing on the application. The amendment eliminates the need for express Commission authorization for each ISFSI license, but does not affect the scope of NRC review of an ISFSI license application or change the present opportunity for public hearing provided for in the NRC rules of practice.

EFFECTIVE DATE: May 30, 1995.

ADDRESSES: The documents referenced in this final rule are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Copies of NUREG–0575 and NUREG–1092 may also be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC. 20013–7028. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: C. William Reamer, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–1640.

SUPPLEMENTARY INFORMATION

I. Background
II. Summary of Proposed Rule
III. Public Comments and the Commission's Response
IV. Section-by-Section Analysis
V. Environmental Impact: Categorical Exclusion
VI. Paperwork Reduction Act Statement
VII. Regulatory Analysis
VIII. Regulatory Flexibility Act Certification
IX. Backfit Analysis

I. Background

Under 10 CFR Part 72, the NRC will issue a specific license for the interim storage of nuclear power plant spent fuel in an independent spent fuel storage installation (ISFSI) if NRC determines the application meets the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*) and the Commission's regulations. An ISFSI is a facility that is specifically designed and constructed for interim spent fuel storage, after use of the nuclear fuel as a source of energy in a nuclear power reactor, until its shipment to the U.S. Department of Energy's (DOE) planned geologic repository for disposal of radioactive waste. Part 72 applies to site-specific licenses for storage of spent fuel in an ISFSI (up to 20 years with renewal at the option of the NRC) or a monitored retrievable storage installation (MRS) (up to 40 years with renewal at the option of the NRC). Although Part 72 also applies to spent fuel storage in approved casks at an ISFSI at a reactor site pursuant to a general license (10 CFR part 72, subpart K), the general license is not covered or affected by this rulemaking.

On June 3, 1993 (58 FR 31478), the Commission proposed rulemaking to modify the Commission's procedures for the issuance of a specific ISFSI license to a qualified applicant. After considering the public comments received in response to the Commission's request, the Commission has decided to adopt the proposed rule as final with one clarification. Specifically, the final rule covers an ISFSI at a reactor site. (The proposed rule was not explicit on this point.)

II. Summary of Proposed Rule

As set forth in its notice of proposed rulemaking (58 FR 31478–81), the Commission proposed to amend the procedures that authorize the NRC Director of Nuclear Material Safety and Safeguards (or the Director's designee) to issue a site-specific license for the interim storage of spent fuel in an ISFSI under 10 CFR part 72. This type of license would be issued after the NRC completes a comprehensive, documented, public health and safety review; prepares an environmental assessment and determines that issuing the license would conform to all statutory and regulatory requirements; and after an opportunity for a public hearing has been offered and any requested hearing is complete. The amendment would end the current internal practice under which the Director obtained the Commission's express authorization for each ISFSI license, after the NRC review and determination that a license should be issued under 10 CFR part 72, but before the Director actually issued the license. However, the proposed rule would not affect, in any way, existing procedures for the NRC review or the opportunity for public hearing.

III. Public Comments and the Commission's Response

In response to publication of the proposed rule and request for public comments, including extension of the public comment period (58 FR 48004; September 14, 1993), NRC received 11 written comments. (Copies of the comment letters are available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC). In some instances, similar comments were offered by more than one commenter, and comments were therefore grouped into the categories that are set forth below, together with the Commission's response.

1. *Comment*: The proposed rule forecloses public participation in important reactor spent fuel storage decisions.

Several comments took issue with the Commission's statement in the notice of proposed rulemaking that the amendment would not affect the opportunity for a public hearing provided in NRC's rules of practice. One commenter argued the amendment

VOL 60 ISS 82 AP 28 1995 UMI

would exclude public participation given that the existing procedure (i.e., without the rule change) provides the public more opportunity for knowledge of an ISFSI license application because there is a second publication of notice and an open Commission meeting on the application. A second commenter expressed the view that the proposed rule should not be applied to its pending petition for hearings on the Calvert Cliffs ISFSI.

Another commenter criticized NRC for what the commenter called a refusal to open NRC doors to public participation on the spent fuel storage issue despite growing public opposition to spent fuel storage as a threat to the environment. That commenter cited public hearing requests from the Michigan Attorney General and citizens interested in the Palisades nuclear plant in a recent NRC storage cask approval rulemaking (58 FR 17948; April 7, 1993) and argued other facilities were also experiencing public opposition to spent fuel storage or transportation plans.

Response: Commission procedures provide a broad opportunity for public participation in ISFSI decisions. The Commission is not changing the public participation process in any manner in this rulemaking.

Rather, these rulemaking amendments mainly affect future NRC proceedings in which the public chooses not to participate. In this regard, we should highlight the limiting language in amended § 72.46(d) which begins with the words "If no request for a hearing or petition to intervene is filed * * *." If, on the other hand, an interested member of the public does want to participate in a hearing on an ISFSI license, then these rulemaking amendments will in no way limit the opportunity to do so. In addition, the amendments will not change the right of hearing participants to request Commission review before any ISFSI license is issued.

The public participation opportunities in NRC site-specific licenses for ISFSIs were detailed in the Commission's notice of proposed rulemaking, as follows:

> Under the Commission's rules of practice, after receipt of an application for a specific license for interim spent fuel storage in an ISFSI, the NRC publishes a notice of proposed action and opportunity for hearing in the **Federal Register** to potentially interested entities and persons (10 CFR 2.105, 72.46(a)). Among other things, the notice indicates that any person whose interest may be affected may file a request for a hearing or a petition for leave to intervene. Potentially affected persons and entities have a right to obtain all relevant NRC staff safety documents, as well as all technical submissions of the license applicant. They may request a hearing or provide written comments before any final NRC action on an ISFSI license application (10 CFR 2.105). If a hearing on the application is held before an Atomic Safety and Licensing Board, issuance of a specific license for an ISFSI by NRC must await completion of the hearing and the initial decision by the Board, and must be appropriately conditioned in light of the Board's findings and conclusions on the matters determined in the hearing (10 CFR 2.760). Under NRC rules of practice, hearing participants have the right to request Commission review of the Board's decision, including the right to request that the effectiveness of the Board's decision be stayed, and that the Commission undertake review before license issuance if they believe the facts warrant such a review (10 CFR 2.786, 2.788). Of course, absent a stay request, under the general rule which the Commission is now proposing to restore, the Board's decision would be immediately effective, and the Director would issue the ISFSI license within 10 days after the decision, without being required to obtain additional, express Commission authorization to do so (See 10 CFR 2.764 (a) and (b)).

The opportunity for public hearing described above, including the opportunity to request Commission review before issuance of a site-specific license for an ISFSI, will continue even with adoption of these rulemaking amendments. Accordingly, because the amendments have no effect at all on public participation, they would also have no retroactive effect on any petition regarding Calvert Cliffs.

Therefore, regarding the comment that NRC doors are closed to public participation generally on spent fuel storage issues, the Commission believes the true facts are quite different. With respect to the commenter's criticism of an unrelated 1993 NRC cask-approval final rule (58 FR 17948; April 7, 1993), involving a storage cask (i.e., VSC–24) later used at the Palisades nuclear plant, which is not a relevant matter to be addressed in this rulemaking, the final rule and public participation procedures were recently upheld by the United States Court of Appeals for the Sixth Circuit. *Kelley* v. *Selin*, No. 93–3613 (6th Cir., Jan. 11, 1995) ("* * * [P]etitioners' assertion that the NRC attempted to shut them out of meaningful participation on the question of the use of the VSC–24 casks is meritless."). The description of and rationale for that rulemaking process can be found in the 1993 final rule (e.g., 58 FR 17962–63; April 7, 1993).

The Commission has been entrusted with the responsibility to protect the public health and safety, and to provide adequate assurance for public confidence, in the safe storage of spent nuclear fuel from nuclear power plants in the United States. It is NRC's responsibility as a regulator to verify the adequate protection of the public health, safety, and the environment, and to conduct its processes in the open with opportunity for full public participation. In carrying out its responsibilities, NRC will continue to rely on, among other things, a careful, comprehensive public health and safety examination of each ISFSI application, addressing NRC requirements covering site-related parameters, facility design, systems for protection against potential accidents, quality assurance and quality control, worker training, emergency planning, and operating plans and programs to ensure protection of the public from radiation and radioactive materials. To provide further assurance, NRC will continue to rely on a broad, selectively applied program of nuclear plant inspections and compliance reviews, using resident inspectors stationed at each nuclear plant ISFSI site throughout the United States, supported by augmented, expert teams as may be necessary to judge the quality of licensee compliance with ISFSI requirements. NRC will also continue to conduct its ISFSI activities through an open regulatory process that demonstrates, at all stages, an objective and full consideration of public views and concerns.

2. *Comment:* There are growing technical problems which should lead NRC not to go forward with its ISFSI storage rulemaking proposal.

One commenter claimed that technical problems at existing ISFSIs show dry storage will not prove to be a satisfactory solution to utilities' need for additional spent fuel storage capacity. The commenter claimed that dry casks at the Surry ISFSI were operating beyond their designed thermal, radiation and pressure limits; it also claimed that casks systems at Palisades and systems proposed for use elsewhere have inadequate thermal safety margin. The commenter stated that internal NRC studies (CNWRA–93–0006, May 1993) raise other safety problems that will increase spent fuel management costs which the public ultimately must pay. The commenter argued that, given the problems, NRC should not amend its ISFSI licensing procedures as proposed.

Response: Although the comment principally relates to specific plants and therefore seeks to present broader issues independent of the narrow procedural subject matter of this rulemaking, the following information is offered to address the stated concerns.

Spent fuel has been safely stored in independent storage casks at the Surry nuclear plant site for nearly seven years without, to date, serious incidents or reports of casks operating outside specified thermal, radiation, or pressure limits. Moreover, the cask limits at Surry, which were measured at cask loading and are expected not to change significantly during normal operations, will continue to be monitored on a periodic basis. In addition, dry storage at the Palisades plant commenced about one and one-half years ago after a 1993 NRC rulemaking to approve the VSC–24 storage cask (58 FR 17948; April 7, 1993). That rulemaking exhaustively covered a number of public comments relating to Palisades and, in particular, comments questioning thermal safety margins of the storage cask. NRC responses to those public comments, particularly the response to comment 26, detail the basis for NRC acceptance of the thermal margins for the VSC–24. As set forth in the response, the basis for NRC acceptance of the VSC–24 included assurance that cask thermal margins were calculated using conservative assumptions (e.g., sustained ambient temperatures of 100 °F over several days; little heat conduction through the ends of the canister; fuel clad temperatures based on a peak heat generation rate rather than an average rate; a fuel temperature criterion derived from long-term degradation mechanisms rather than short-term mechanisms that would have led to a much higher temperature standard). Moreover, as indicated in the response, the calculated margins for the VSC–24 were significantly larger when more realistic assumptions were used in the calculations.[1] Thermal analyses and calculations have also been satisfactorily resolved with respect to another cask system, the NUHOMS dry storage system. Rulemaking was completed in January 1995 for the NUHOMS system, and the applicant and NRC staff analyses and calculations are available in the docket of that rulemaking. See Docket No. PR–72 (59 FR 28496) ("List of Approved Spent Fuel Storage Casks: Addition") (see also 59 FR 65898).

Turning to the internal NRC study referenced in the comment that is the subject of this response, it is important to fully identify that the report is actually directed not at spent fuel storage at reactors, but rather at long-term geologic disposal of high-level waste and spent fuel over thousands of years. Consequently, the report does not draw conclusions that would be directly relevant to decisions about interim storage of spent fuel in ISFSIs or, more significantly, that would be contrary to the NRC's experience with such storage to date. As discussed elsewhere (e.g., 58 FR 17948; April 7, 1993; 55 FR 29181; July 18, 1990; 54 FR 19379; May 5, 1989) and as summarized below, NRC experience to date is that spent fuel can be safely stored under dry conditions over the 20-year licensed term of an ISFSI without presenting significant public health and safety risks.

Irradiated reactor fuel has been handled under dry conditions since the mid-1940's when fuel examinations began in hot cells. Light water reactor fuel has been handled in dry cells since the early 1960's, and some fuels have been in storage under dry conditions for approximately 20 years. Experience with storage of spent fuel in dry casks is extensive, and it is growing. Six nuclear power plant sites are already using dry cask storage: Virginia Power's Surry Station (500 assemblies); Carolina Power and Light's H.B. Robinson Station (60 assemblies); Duke Power's Oconee Station (530 assemblies); Public Service of Colorado's Fort St. Vrain facility (1480 fuel elements); Consumers Power's Palisades plant (160 assemblies); and Baltimore Gas and Electric's Calvert Cliffs Station (190 assemblies). A seventh plant—Northern States Power's Prairie Island plant—will begin loading assemblies in March 1995. As a result of the growing use of dry storage technology experience, NRC has over 35 staff years of experience in licensing ISFSI storage, further supported by the knowledge and experience of an outside pool of recognized, expert scientists and engineers to perform independent safety analyses of ISFSI systems and components proposed by licensees and vendors in the field.

The successful experience to date in the dry storage of spent fuel storage and the licensing of ISFSIs in the United States, provides support for the Commission's belief there is reasonable assurance such storage and licensing can safely continue without the need for express Commission authorization of each ISFSI license at a reactor site. However, past successes provide no guarantee for the future, and the Commission therefore hastens to emphasize that the NRC staff—under the Commission's active supervision, as described in this document—will continue to bring to bear its full experience in the review, licensing, and inspection of ISFSIs.

3. *Comment:* The Commission proposal would unacceptably reduce Commission oversight of the siting of ISFSIs.

Several comments opposing the Commission proposal believe it will reduce NRC oversight of spent fuel storage, and they find that reduction unacceptable for several reasons. One comment reflecting this view stated that, because the Federal Government was unable satisfactorily to solve the high-level waste (HLW) management problem, and given the growing storage of spent fuel at reactor sites, there is increasing public concern over ISFSI storage and a consequent need for more, rather than less, Commission regulatory oversight of siting decisions. Another commenter stated that ISFSI licenses should have Commissioner review because Commission members have the responsibility to protect public health and safety and should not delegate it to the Director, NMSS, or to anyone else.

Other comments argued the rule change was inappropriate because of the likelihood that the number of ISFSI licenses will increase in the future and the Commission would therefore increasingly need to supervise the licensing process. One commenter, for example, observed that requiring the NRC staff to explain all aspects of a specific ISFSI license to the Commissioners would necessarily lead to a more careful review, and that this additional layer of review would become even more important as the number of ISFSIs grew.

Another commenter argued that the Commission seemed to view its license approval review as "marginal to safety," and disagreed with this view on the ground that spent fuel storage in an ISFSI created a significant hazard to the public in the vicinity of the storage facility.

Response: While it is true the Commission believes its express authorization of each ISFSI license—the internal procedure that is the subject of these rulemaking amendments—is an unnecessary, additional layer of agency review, and, therefore, can be eliminated without reducing public health and safety protection, the Commission's belief is based on its years of experience in supervision of the entire NRC licensing review process for ISFSIs which the Commission will continue to oversee.

The anchor point of the NRC's internal review process to protect public health and safety from the potential risks of a proposed ISFSI is the NRC staff's technical review of the license

[1] On August 1, 1994, Consumers Power Company, the Palisades licensee, reported that two small crack-like indications and a slag-like indication had been discovered in review of radiographs of a weld in a component of a VSC–24 cask at the Palisades ISFSI. After additional analyses, the licensee concluded the cask met requirements and was capable of safely storing fuel for the 20-year license term. The licensee has nonetheless decided to remove from service and replace the cask.

VOL
60
ISS
82
AP
28
1995
UMI

application. As described in the notice of proposed rulemaking, that process is as follows:

Upon receipt of an ISFSI license application, after publishing a notice of docketing in the **Federal Register**, the NRC staff reviews the license application and applicant's supporting safety analysis report (SAR) describing the proposed ISFSI. This comprehensive, technical review by the NRC staff addresses all relevant public health and safety matters including site characteristics affecting construction and operating requirements for the proposed ISFSI, criteria for and design of the proposed installation, operation systems of the facility, site-generated waste confinement and management systems, measures to ensure the protection of the public and occupational workers from radiation and radioactive materials, analyses of potential accidents that might occur at the facility, and the applicant's plans for the conduct of ISFSI operations. In its review, the NRC staff may require further submittals from the applicant as necessary to complete the ISFSI application, will thoroughly review all of the applicant's supporting technical information, and will independently verify the applicant's safety analyses and design calculations if necessary. To document its review and conclusions, the NRC staff will prepare a comprehensive safety evaluation report (SER) detailing its safety findings and conclusions, as well as an environmental assessment (EA) for the proposed specific license for interim storage of spent fuel in an ISFSI. As noted, interested members of the public may obtain copies of these documents from NRC. None of these NRC staff technical activities would, in any way, be modified by this proposed amendment. (58 FR 31479; June 3, 1993.)

After issuance of an ISFSI license, NRC regulatory responsibilities during the 20-year license term include an inspection and enforcement program, providing for an NRC resident inspector at every licensed reactor site of an ISFSI in the United States, supplemented as necessary by teams of engineers and technical specialists, performing inspections in a wide variety of engineering and scientific disciplines, and ranging from civil and structural engineering to health physics and quality assurance. By means of selective examinations, NRC's inspection program seeks to ensure that each ISFSI licensee is meeting its responsibility for safe maintenance and operation of the ISFSI, in accordance with NRC regulations. The program is preventive in nature, and is designed to anticipate and preclude potentially significant public health and safety events or problems by identifying underlying safety concerns or latent vulnerabilities for prompt licensee management attention and adequate corrective action. NRC inspections supplement, rather than supplant, the licensee's programs, so as to provide an independent check or verification of the effectiveness of those licensee programs and their strict conformance with NRC requirements.

The Commission, alone, is ultimately responsible and accountable for the successful regulation of spent fuel storage in licensed ISFSIs to protect the public health and safety. These rulemaking amendments do not change in any way the Commission's responsibility and accountability to the public and its elected representatives. Rather, in one respect, these amendments modify how the Commission will perform its responsibility (i.e., they eliminate a Commission vote before issuance of an ISFSI license at a reactor site). After the amendments become effective, however, the Commission will still have, and will still continue to fulfill, the responsibilities to supervise and direct the NRC staff's performance of the licensing, inspection, and enforcement activities described above. The NRC staff is required to keep the Commission fully and currently informed about significant proposed licensing actions. This means the Director, NMSS, must notify the Commission before issuance of any license for an ISFSI. The Director must also notify the Commission if the staff's inspection program reveals any significant public health and safety matter relating to ISFSI operations that are of regulatory concern. The NRC staff is also required to bring any significant policy issue regarding ISFSI activities to the Commission's attention for resolution. This means the Commission will continue to make any decision involving any significant new ISFSI issues that may arise in the future. In addition, any member of the public who has specific concerns about a proposed ISFSI license can bring them to the Commission for resolution in NRC's public hearing process, as described previously in this notice. In short, through these mechanisms, which are adequate and well-suited for the purpose, the Commission will continue to perform all of its health and safety responsibilities to the public, and will ensure that ISFSI regulation by NRC continues to takes place under the Commission's supervision and direction. If new information becomes available that casts doubt on the adequacy of the oversight mechanisms, the Commission can and will take action which could include reversal of these rulemaking amendments.

4. *Comment:* ISFSI licensing should be the same as licensing for new reactors, an MRS or for the disposal repository which the Commission would need to specifically approve.

Several comments, opposing the proposed rule, express the view that the Commission should apply to specific ISFSI licenses the same Commission approval process it would use to license nuclear reactors, a monitored retrievable storage installation (MRS), and HLW disposal facilities.

One commenter, for example, stated that, given that the cumulative load of discharged irradiated spent fuel in a spent fuel pool could contain more radioactivity than an operating nuclear reactor, greater care should therefore be given to ISFSI licensing than to the reactor itself because the potential for release is greater. Another comment, adopting the view that ISFSI licensing should be in the same category as licensing nuclear reactors or amending such licenses, stated the Commission should not characterize Commission approval of ISFSI licenses as a "special exception." Other commenters stated that spent fuel is highly radioactive and its quantity increasing. Therefore, in their view, the requirement for Commission approval of ISFSI licensing, in addition to NRC staff review, as in the case of licenses to operate reactors, is consistent with the NRC's longstanding regulatory philosophy of redundancy of safeguards and defense-in-depth.

Several comments also opposed the proposed rule change on the ground that it would make ISFSI licensing less stringent than the licensing review afforded to disposal of spent fuel in a repository. One commenter, for example, stated that, in the absence of a viable disposal solution, storage of spent fuel in an ISFSI cannot be labeled "temporary," and should therefore be done under procedures comparably stringent to those for "permanent" disposal facilities.

Another commenter viewed elimination of Commission review to be at odds with the history of the MRS which was authorized only through Congressional action in the Nuclear Waste Policy Act and which could be constructed in the future only after further Congressional action. In this commenter's view, the amount of spent fuel stored at the various ISFSIs under NRC license was approaching the amount that might be expected to be stored at the MRS. Another commenter, who also compared the quantity of spent fuel stored in ISFSIs to the capacity of an MRS, stated that NRC was not properly perceiving the inherent hazards in spent fuel storage operations.

Response: The Commission agrees in part with the thrust of the comments, that is, that NRC regulations as applied should achieve a comparable level of protection for the public health and safety, whether the NRC-licensed activity is operation of a nuclear power reactor, storage of spent fuel in an ISFSI or an MRS, or disposal of high-level radioactive wastes in a geologic repository. Significantly, however, the goal of comparable protection does not mean ISFSI activities must be regulated by NRC's using the same NRC requirements as for reactors or geologic repositories.

Specifically, the public health and safety risks posed by ISFSI storage, described in various publicly available NRC documents identified below, are very different from the risks posed by the safe irradiation of the fuel assemblies in a commercial nuclear reactor, which requires the adequate protection of the public factor in the conditions of high temperatures and pressures under which the reactor operates. The risks of ISFSI storage are also very different from those posed by the safe disposal of the irradiated fuel in a geologic repository, which would require isolation of the wastes from the accessible environment for thousands of years.

Nuclear fuel irradiated in a power reactor is highly radioactive and produces considerable heat. However, after the minimum 1 year of cooling that precedes its storage in an ISFSI, cooling and some shielding requirements will decrease as a result of the natural decay process over time. See Generic Environmental Impact Statement on the Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575–V–1, August 1979) at 2–2. A fuel assembly cooled for 10 years after discharge from the reactor (typically the age of spent fuel actually placed in dry storage) generates approximately 500 watts of heat, which is on the order of the amount of heat generated by the light bulb in a floodlamp. In addition, its radiation dose rate is approximately one-half the rate when it was discharged from the reactor. ISFSIs are therefore designed to adequately dissipate the remaining heat, provide sufficient shielding from the radioactivity, and safely confine any gaseous and particulate radioactive nuclides.

The potential ability of irradiated fuel to adversely affect public health and safety and the environment is largely determined by the presence of a driving force behind dispersion. Therefore, it is the absence of such a driving force, due to the absence of high temperature and pressure conditions in an ISFSI (unlike a nuclear reactor operating under such conditions that could provide a driving force), that substantially eliminates the likelihood of accidents involving a major release of radioactivity from spent fuel stored in an ISFSI.

[D]uring normal [storage] operations the conditions required for the release and dispersal of significant quantities of radioactive materials are not present. There are no high temperatures or pressures present during normal operations of under design basis accident conditions to cause the release and dispersal of radioactive materials. This is primarily due to the low heat generation rate of spent fuel with more than the one year of decay before storage in an ISFSI required by the rule and with the low inventory of volatile radioactive materials readily available for release to the environs. (45 FR 74693; November 12, 1980.)

Further, since its radioactive content is in the form of solid ceramic material (except for some gaseous fission products) encapsulated in high-integrity metal cladding, spent fuel is relatively invulnerable to sabotage and natural disruptive forces. See Environmental Assessment for 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste," at II–15 and –16 (NUREG–1092, August 1984); see also 45 FR 74693 (November 12, 1980).

Although the risks associated with ISFSIs described above differ from those of nuclear power plant operation or geologic disposal, the Commission's regulatory responsibility to ensure adequate protection remains the same. However, the manner in which it discharges those responsibilities will differ. Significantly, because of the very different risks, the Commission would not automatically apply all regulatory requirements to ISFSIs that it applies to other regulated activities. More particularly for this rulemaking, based on its experience to date, the Commission believes it can and should fulfill its public responsibilities, through the ISFSI licensing and inspection process described earlier in this notice, as supervised and directed by the Commission, but without the need for specific Commission authorization of every ISFSI license in the future.

However, as discussed in response to comment 8, the NRC licensing experience that support this rulemaking to eliminate specific Commission approval of ISFSI licenses is not sufficient to support a similar change for the MRS or for an ISFSI at other than a reactor site. Therefore, the Commission intends that NRC rules continue to require specific Commission authorization before issuance of a license for an MRS or a license for an ISFSI that is located at a site other than a reactor site.

5. *Comment:* The cost savings for the agency and utilities are not an appropriate basis for the rulemaking amendments.

Several commenters took issue with the Commission's statement in the proposed rule that the amendments could save money that would otherwise be spent on unnecessary agency reviews. One commenter characterized the prospect of financial savings for the agency and its licensees as "offensive," because it was being used to justify elimination of a "safety-related" review of ISFSIs whose failure could lead to significant adverse consequences to the public health and safety. Another commenter similarly challenged the Commission's rationale for reducing the costs of duplicative Commission review on the ground that the Commission's responsibility is to protect the public health and safety, not the nuclear industry's financial well-being or its profitability for stockholders.

Response: As the foregoing responses to comments make clear, the Commission's experience to date leads it to believe it can fully perform its public protection responsibilities without specific authorization of every license for an ISFSI at a reactor site that is now required under the Commission's current process. The extra step of express Commission authorization for each specific license is a minor, ancillary matter in protecting public health and safety. If the Commission thought the additional step was needed for safety, then it would require the review step regardless of its cost.

Therefore, one consequence of the current process (i.e., the process that includes the extra step of specific Commission authorization) is that someone is paying the bill for agency review steps that are not really needed. Because Commission funding is recovered from the nuclear industry through license fees and the like, the people who are paying the bill are normally utility ratepayers. Significantly, however, the Commission would have proposed these rulemaking amendments even if its costs were not recoverable and, in that case, the people paying the bill were the U.S. taxpayers.

The Commission has the public interest responsibility to regulate effectively without imposing unnecessary or overly burdensome regulatory costs. Where, as here, the Commission can make rulemaking amendments that will allow it to perform its public health and safety responsibilities more efficiently, but do not diminish in any way the license applicant's obligation to demonstrate to NRC (and to any member of the public

VOL 60 ISS 82 AP 28 1995 UMI

who is interested) that a proposed ISFSI is safe, then the Commission believes it should make those rulemaking amendments.

6. *Comments:* The revision is a useful simplification of existing procedures that does not create any impacts adverse to safety. Given the proven safety and reliability of ISFSIs. NRC licensing procedures should not have layers of unnecessary reviews that are not used in other NRC licensing actions.

Several comments received on the notice of proposed rulemaking favor the NRC proposed rule change. One commenter stated the amendments do not change the fact that the license applicant must still undergo a comprehensive public health and safety review, environmental assessment and an opportunity for public hearing, in order to ensure the proposed ISFSI is safe and in compliance with NRC regulations. The commenter noted the only change would be elimination of Commissioner approval.

Another comment supporting the change stated it would make ISFSI procedures more like NRC licensing procedures for other types of facilities handling nuclear materials, and justified it on the basis of the safety and reliability of spent fuel dry storage in ISFSI. The commenter also noted the rule is consistent with Congress' intent in the Nuclear Waste Policy Act (Sec. 131(a)(2)) that directs the Federal government to expedite additional spent fuel storage capacity and encourage dry storage technologies which have been proven to be safe. It further argued the change was in keeping with NRC initiatives elsewhere to reduce unnecessary regulatory burdens without reducing public health and safety protection. It also noted the only practical effect of the change was to eliminate mandatory Commission review in uncontested licensing action.

Response: The Commission generally agrees with this comment. However, the Commission notes that substantial reliance is being placed in this rulemaking on the demonstrated safety and reliability of dry storage at reactors in ISFSIs to date. In this connection, although NRC has an important regulatory role outlined elsewhere in this notice, licenses have the primary responsibility for safe ISFSI operations, to protect the public health and safety, and to abide by NRC regulations. If circumstances warrant in a particular case, or if significant new information becomes available, the Commission could require specific Commission authorization before issuance of any ISFSI license in a future case.

7. *Comment:* The rule needs to reflect that DOE continues to pursue plans for interim storage.

The U.S. Department of Energy (DOE) submitted a comment expressing concern that the notice of proposed rulemaking printed in the **Federal Register** gave the erroneous impression that DOE is not pursuing plans respecting interim storage. In recounting the history of the MRS, the DOE states the Nuclear Waste Policy Act of 1982 (NWPA) adopted a policy of spent fuel disposal in repositories and did not authorize large-scale storage facilities. DOE goes on to state that Congress amended the NWPA in 1987 to authorize an MRS subject to specific conditions, after DOE recommended a mandated MRS site-specific proposal. The DOE comment also indicates that DOE plans continue to include interim storage. DOE requests the discussion accompanying the proposed rulemaking change should be revised to accurately reflect DOE's position.

Response: The rulemaking record should be corrected to reflect the facts set forth in DOE's letter. The Commission did not intend any of its statements in the notice of proposed rulemaking to imply circumstances contrary to those described by DOE.

8. *Comment:* The Commission's proposal not to extent the rule change to the MRS, thereby continuing the need for express Commission authorization before the Director could issue an MRS license, drew opposing views.

Several comments took opposing positions on the Commission's proposal not to eliminate Commissioner authorization for issuance of a license under Part 72 for the MRS. One commenter posited that an MRS might be simple in design and operation, much like an ISFSI, and therefore ought to be licensed by the Director, NMSS, without the need for specific authorization by the Commission. The comment recognized that the proposed MRS design might be more complex than an ISFSI, in which case the MRS license could be reviewed by Commission before issuance.

Another commenter, however, agreed with the Commission's proposal not to change the requirement for express Commission authorization of an MRS license, arguing the different procedure is justified by a fundamental difference between an ISFSI and an MRS, as those facilities are defined in Part 72.

Response: As the differing comments reflect, there is, at this time, no DOE license application or DOE-proposed design for an MRS that is before the Commission. In addition, the Commission has no basis to speculate on any interim storage design that DOE might proposal for licensing, including whether it would be similar to the ISFSI facilities licensed by NRC to date. Therefore, inasmuch as the Commission cannot now determine that NRC licensing experience with ISFSIs would be directly applicable to an MRS, it has decided not to eliminate the requirement for express Commission authorization before issuance by the Director, NMSS, of any initial license for the acquisition, receipt or possession of spent fuel, high-level waste and associated radioactive material, for the purpose of storage at an MRS by DOE. In this connection, the Commission notes that the DOE letter referred to in comment 7 does not disagree with this aspect of the NRC rulemaking amendments.

Similarly, various plans have received mention recently regarding possible private ISFSIs at non-DOE sites (e.g., a new off-site ISFSI for the Prairie Island plant located within Goodhue County, Minnesota at a site not on Prairie Island). However, the Commission has no basis to speculate on these possible facilities or their designs. Therefore, since the Commission cannot determine that its ISFSI licensing experience would be directly applicable to these possible facilities, it has decided not to eliminate the requirement for express Commission authorization before issuance by the Director, NMSS, of any initial license for the acquisition, receipt or possession of spent fuel, high-level waste and associated radioactive material, for the purpose of storage at an ISFSI that is not located at a reactor site.

9. *Comment:* The Commission should not make rule changes that would result in an ISFSI being licensed by Agreement States.

One comment questions the proposed rule change on the ground that it might open ISFSI siting to licensing by Agreement States which may not be technically prepared to handle the responsibility.

Response: The proposed rule does not open ISFSIs to licensing by Agreement States. As the comment correctly notes, a number of States have agreements with the Commission or its predecessor, the Atomic Energy Commission, pursuant to section 274 of the Atomic Energy Act of 1954. These agreements typically provide for the Commission to discontinue, and the State to assume, responsibility for regulating certain nuclear materials in order to protect the public health and safety. However, under section 274 of the Act, the Commission will not discontinue regulatory responsibility for special nuclear materials in quantities sufficient to form a critical mass. Because spent nuclear fuel may contain special nuclear materials in such quantities, Agreements States therefore have no authority to license spent fuel storage in an ISFSI.

The Commission's exclusive authority to license ISFSIs is reflected in § 72.8 of NRC regulations which provides that "Agreement States may not issue licenses covering the storage of spent fuel in an ISFSI * * *." The foregoing regulation would be unchanged by this rulemaking.

IV. Section-by-Section Analysis

This portion of the notice contains a section-by-section analysis of the rulemaking amendments. A comparable analysis was provided in the notice of proposed rulemaking for these amendments (58 FR 31478; June 3, 1993). The following analysis, among other things, clarifies that the rulemaking amendments apply only to an ISFSI located at a reactor site.

A. Rules of Practice (10 CFR 2.764)

The Commission is amending 10 CFR 2.764(c) to modify the references in the section to "an independent spent fuel storage installation (ISFSI)" by adding at the end of each of the references the words "located at a site other than a reactor site." As amended, the provision continues to apply in the future to licensing of an independent spent fuel storage installation (ISFSI) located at a site other than a reactor site or licensing of a monitored retrievable storage installation (MRS) under 10 CFR part 72. The amendment eliminates the requirement of express Commission authorization before issuance by the Director of NMSS (or the Director's designee) of each initial license for interim storage of spent fuel in an ISFSI at a reactor site. The general rule applies under which the Director, NMSS, has delegated authority, when no public hearing on the application has been requested, to issue a license for an ISFSI at a reactor site under 10 CFR part 72 following satisfactory completion of NRC's environmental assessment and public health and safety review, without obtaining additional, express authorization from the Commission to do so. Further, under the amendment to 10 CFR 2.764, if the application is the subject of a public hearing, then the Director will issue the license for an ISFSI at a reactor site only after an initial decision of the Atomic Safety and Licensing Board directing issuance of the license, but without the Director being required to obtain the additional, express authorization of the Commission to do so. In this connection, 10 CFR 2.764 (a) and (b) are being clarified to explicitly incorporate "a license under 10 CFR part 72 to store spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site" to thereby cover any application for a specific ISFSI license at a reactor site that is the subject of a public hearing.

Under other provisions of the Commission's rules pertaining to the opportunity for public hearing that are not being changed, a party to the hearing could request Commission review and ask the Commission to stay the effectiveness of the Board's decision (including any direction for issuance of any ISFSI license at a reactor site) pending that review (10 CFR 2.786, 2.788). If the Commission granted a stay, then the Director would not issue the license until the terms of the stay, if any, were met or until further order of the Commission.

B. Licensing Requirements for ISFSIs (10 CFR 72.46)

The amendment of 10 CFR 72.46(d) modifies the reference to "an ISFSI" in the last sentence of paragraph (d) by adding at the end of the reference the words "located at a site other than a reactor site." As amended, the sentence continues to apply to licensing of an ISFSI located at a site other than a reactor site or licensing of the MRS. Thus, under the amendment, the Director, NMSS, will have delegated authority to issue a specific license for interim storage of spent fuel in an ISFSI at a reactor site. He/she is not required to seek the express authorization of the Commission to do so. However, the Director's authority will continue to be subject to the limitation that the Commission will be fully and currently informed and will address any significant questions of policy relating to a specific license for interim storage of spent fuel in an ISFSI at a reactor site.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1) and (3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

VI. Paperwork Reduction Act Statement

This rule does not contain a new or amended information collection requirement subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0136 and –0132.

VII. Regulatory Analysis

The Nuclear Regulatory Commission is making changes to internal procedures that are administrative in nature. The changes will not have any significant impact on the public health and safety or the U.S. economy. The amendments create no new regulatory burdens, or result in the use of resources by NRC licensees or by the staff of the NRC or an Agreement State. The Commission's current procedures require the Director, NMSS, to obtain express authorization of the Commission before issuing a license to construct and operate an ISFSI. The amendments will authorize the Director to issue a license for interim storage of spent fuel in an ISFSI at a reactor site without seeking express authorization from the Commission to do so. The costs of the amendments, in this regard, are likely to be less than the costs of the current procedure since the amendments will reduce the layers of agency review. The foregoing discussion constitutes the regulatory analysis for this final rule.

VIII. Regulatory Flexibility Act Certification

The final rule does not have a significant economic impact on a substantial number of small entities. The rule sets forth internal procedures of an administrative nature for issuance of licenses for ISFSIs at reactor sites. Owners of nuclear power reactors do not fall within the scope of the definition of "small entities" set forth in section 601(3) of the Regulatory Flexibility Act (15 U.S.C. 632) or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121. Thus, in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC hereby certifies that this final rule will not have a significant economic impact upon a substantial number of small entities.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 72.62, does not apply to this rule and that a backfit analysis is not required because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 72.62(a) (see also 10 CFR 50.109).

VOL 60 ISS 82 AP 28 1995 UMI

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Nuclear Regulatory Commission is adopting the following amendments to 10 CFR parts 2 and 72.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Sec. 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b *et seq.*).

2. In § 2.764, paragraphs (a), (b) and (c) are revised to read as follows:

§ 2.764 Immediate effectiveness of initial decision directing issuance or amendment of construction permit or operating license.

(a) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, an initial decision directing the issuance or amendment of a construction permit, a construction authorization, an operating license, or a license under 10 CFR part 72 to store spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site shall be effective immediately upon issuance unless the presiding officer finds that good cause has been shown by a party why the initial decision should not become immediately effective, subject to review thereof and further decision by the Commission upon petition for review filed by any party pursuant to § 2.786 or upon its own motion.

(b) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing or granting of a petition for review, shall issue a construction permit, a construction authorization, an operating license, or a license under 10 CFR part 72 to store spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site, or amendments thereto, authorized by an initial decision, within ten (10) days from the date of issuance of the decision.

(c) An initial decision directing the issuance of an initial license for the construction and operation of an independent spent fuel storage installation (ISFSI) located at a site other than a reactor site or a monitored retrievable storage installation (MRS) under 10 CFR part 72 shall become effective only upon order of the Commission. The Director of Nuclear Material Safety and Safeguards shall not issue an initial license for the construction and operation of an independent spent fuel storage installation (ISFSI) located at a site other than a reactor site or a monitored retrievable storage installation (MRS) under 10 CFR part 72 until expressly authorized to do so by the Commission.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

3. The authority citation for Part 72 continues to read as follows:

Authority. Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (43 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148 (c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168 (c), (d). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); section 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

4. In § 72.46, paragraph (d) is revised to read as follows:

§ 72.46 Public hearings.

* * * * *

(d) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice of proposed action and opportunity for hearing, the Director, Office of Nuclear Material Safety and Safeguards or the Director's designee may take the proposed action, and thereafter shall promptly inform the appropriate State and local officials and publish a notice in the **Federal Register** of the action taken. In accordance with § 2.764(c) of this chapter, the Director, Office of Nuclear Material Safety and Safeguards shall not issue an initial license for the construction and operation of an ISFSI located at a site other than a reactor site or an MRS until expressly authorized to do so by the Commission.

Dated at Rockville, Maryland, this 24th day of April, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–10478 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1703

FOIA Fee Schedule

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Update of FOIA fee schedule.

SUMMARY: The Defense Nuclear Facilities Safety Board is publishing its annual update to the Freedom of Information Act (FOIA) Fee Schedule pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (202) 208–6447.

SUPPLEMENTARY INFORMATION: The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(i). On March 15, 1991 the Board published for comment in the **Federal Register** its proposed FOIA Fee Schedule. 56 FR 11114. No comments were received in response to that notice and the Board issued a final Fee Schedule on May 6, 1991.

Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. Previous Fee Schedule updates were published in the **Federal Register** and went into effect, most recently, on May 1, 1994. 59 FR 21640.

Board Action

Accordingly, the Board issues the following schedule of updated fees for services performed in response to FOIA requests:

Defense Nuclear Facilities Safety Board Schedule of Fees for FOIA Service

[Implementing 10 CFR 1703.107(b)(6)]

Search or Review Charge.	$44 per hour.
Copy Charge (paper)	$.05 per page or generally available commercial rate (approximately $.10 per page).
Copy Charge (3.5" diskette).	$5.00 per diskette.
Copy Charge (audio cassette).	$3.00 per cassette.
Duplication of Video	$25.00 per video; $16.50 for each additional video
Copy Charge for large documents (e.g., maps, diagrams).	Actual commercial rate.

Dated: April 25, 1995.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 95–10462 Filed 4–27–95; 8:45 am]

BILLING CODE 3670–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–69–AD; Amendment 39–9208; AD 95–09–05]

Airworthiness Directives; British Aerospace Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain British Aerospace Model Avro 146–RJ series airplanes. This action requires a revision to the FAA-approved Airplane Flight Manual (AFM) to alert the flightcrew of the potential for significant delays in the Honeywell Standard Windshear Detection and Recovery Guidance System (WSS) detecting windshear when the flaps of the airplane are in transition. This amendment is prompted by a report of an accident during which an airplane encountered severe windshear during a missed approach. The actions specified in this AD are intended to ensure that the flightcrew is aware that there may be significant delays in the WSS detecting windshear when the flaps of the airplane are in transition.

DATES: Effective on May 15, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 27, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The information concerning this amendment may be obtained from or examined at FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5345; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Recently, the FAA received a report of an accident during which the flightcrew executed a missed approach following an instrument landing system (ILS) approach. A McDonnell Douglas Model DC–9–31 series airplane equipped with Honeywell Windshear Detection and Recovery Guidance System (WSS) was involved in this accident. Investigation into the cause of this accident revealed that the airplane encountered severe windshear during the missed approach. The FAA has determined that a design feature in the windshear computer delayed the detection of windshear when the airplane's flaps were in transition. This condition, if not corrected, could result in the flightcrew being unaware of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition.

On February 14, 1995, the FAA issued AD 95–04–01, amendment 39–9153 (60 FR 9619, February 21, 1995), applicable to various transport category airplanes equipped with a Honeywell Standard Windshear Detection and Recovery Guidance System (WSS). That AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) to alert the flightcrew of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition. The actions required by that AD are intended to prevent the flightcrew from failing to realize that the WSS does not detect windshear in a timely manner when the flaps of the airplane are in transition,

VOL 60 ISS 82 AP 28 1995 UMI

which could result in loss of control of the airplane.

Since the issuance of that AD, the FAA has identified three additional U.S.-registered airplanes that are equipped with Honeywell WSS and, therefore, subject to the same unsafe condition addressed by AD 95–04–01. The additional airplanes are all Model Avro 146–RJ series airplanes, manufactured by British Aerospace.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to ensure that the flightcrew of Model Avro 146–RJ series airplanes is aware that there may be significant delays in the WSS detecting windshear when the flaps of the airplane are in transition. This AD requires a revision to the FAA-approved AFM to alert the flightcrew of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition. This is considered to be interim action. Once a modification is developed, approved, and available, the FAA may consider additional rulemaking.

Note: The FAA's normal policy is that when an AD requires a substantive change, such as a change (expansion) in its applicability, the "old" AD is superseded by removing it from the system and a new AD is added. In the case of this AD action, the FAA normally would have superseded AD 95–04–01 to expand its applicability to include the 3 additional affected airplanes. However, in reconsideration of the entire fleet size that would be affected by a supersedure action (approximately 3,000 U.S. registered airplanes), and the consequent workload associated with revising maintenance record entries, the FAA has determined that a less burdensome approach is to issue a separate AD applicable only to these 3 additional airplanes. Operators should note that this AD does not supersede AD 95–04–01; airplanes listed in the applicability of AD 95–04–01 are required to continue to comply with the requirements of that AD. This AD is a separate AD action, and is applicable only to Model Avro 146–RJ series airplanes equipped with Honeywell WSS having part number 4048300–902.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–69–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–09–05 British Aerospace Regional Aircraft Limited, Avro International Aerospace Division (Formerly British Aerospace, plc; British Aerospace Commercial Aircraft Limited): Amendment 39–9208. Docket 95–NM–69–AD.

Applicability: Model Avro 146–RJ70A, –RJ85A, and –RJ100A airplanes; equipped with Honeywell Standard Windshear Detection and Recovery Guidance System (WSS), part number 4048300–902; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew is aware of significant delays in the Windshear Detection and Recovery Guidance System (WSS) detecting windshear when the flaps of the airplane are in transition, accomplish the following:

(a) Within 14 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

"During sustained banks of greater than 15 degrees or during flap configuration changes, the Honeywell Windshear Detection and Recovery Guidance System (WSS) is desensitized and alerts resulting from encountering windshear conditions will be delayed.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) This amendment becomes effective on May 15, 1995.

Issued in Renton, Washington, on April 21, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10319 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–127–AD; Amendment 39–9207; AD 95–09–04]

Airworthiness Directives; de Havilland Model DHC–8–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100 and –300 series airplanes, that requires an inspection to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), and correction of any discrepancy. This amendment also requires measurement of the electrical resistance of certain shield grounds, and repair, if necessary. This amendment is prompted by a report of an engine flameout after a lightning strike, due to several shields for the cable harness of the EEC not being properly grounded to the airframe. The actions specified by this AD are intended to prevent engine flameout due to insufficient protection of the EEC.

DATES: Effective May 30, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 30, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Fiesel, Aerospace Engineer, Propulsion Branch, ANE–174, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7504; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8–100 and –300 series airplanes, was published in the **Federal Register** on September 21, 1994 (59 FR 48408). That action proposed to require a visual inspection to verify the integrity of the shield grounds for the cable harness of the EEC, and correction of any discrepancy. That action also proposed to require measurement of the electrical resistance of certain shield grounds, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter requests that the proposed 45-day compliance time in paragraph (b) of the proposed AD be extended to permit operators to schedule the proposed actions according to the size of their individual fleets and, specifically, to allow up to 165 days for a fleet-wide inspection. The commenter bases this request on the following factors:

1. The commenter states that, to accomplish the proposed measurement requirement, the use of a low resistance ohm meter (micro-ohm) is necessary. The commenter has only one low resistance ohm meter to perform the measurement of all the airplanes in its fleet. With only one micro-ohm meter available, the commenter could inspect only a limited number of its fleet of airplanes during its regularly scheduled maintenance visits, and would not be able to accomplish the proposed inspections within the proposed 45-day compliance time. Further, the commenter does not believe it should have to purchase or otherwise obtain additional units to satisfy the requirements of the proposed AD.

2. The commenter states that the actions specified in the service bulletin could not be accomplished in less than 25 hours and, that based on the amount of time available for a scheduled maintenance visit, up to 4 visits may be required to complete the inspection. The commenter is concerned about these additional expenses that would be associated with this action.

The FAA does not concur with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the normal maintenance schedules for timely accomplishment of the actions required by the final rule for all affected airplanes to continue to operate without compromising safety. In consideration of these items, the FAA has determined that the 45-day compliance time represents an average maintenance interval for the affected fleet, during which time the required inspections, measurement, repair, and restoration can reasonably be accomplished and an acceptable level of safety can be maintained. However, under the provisions of paragraph (e) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

As for the commenter's concern regarding the expenses associated with accomplishing the requirements of this AD, the FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions (such as testing with special equipment) to address specific unsafe conditions as required in this rule, they appear to impose costs that would not otherwise be borne by operators. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions in a timely manner even if they were not required to do so by the AD.

One commenter requests that a certain procedure for repairing frayed or broken harnesses be referenced in the proposed rule as an acceptable means of repair. The commenter states that

VOL 60 ISS 82 AP 28 1995 UMI

accomplishment of this repair procedure may be necessary in the course of performing the required inspections. The commenter notes that this repair procedure is not included in any service bulletin or manual.

The FAA does not concur. The FAA does not consider it appropriate to include various provisions in an AD applicable to a single operator. Paragraph (e) of this AD provides for the approval of alternative methods of compliance to address these types of unique circumstances.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 141 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $135,360, or $960 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95-09-04 De Havilland, Inc.: Amendment 39-9207. Docket 94-NM-127-AD.

Applicability: Model DHC-8-102, -103, and -106 series airplanes, serial numbers 3 through 369 inclusive; and Model DHC-8-301, -311, and -314 series airplanes, serial numbers 100 through 370 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine flameout following a lightning strike, accomplish the following:

(a) Within 45 days after the effective date of this AD, perform a visual inspection of the mounting clamps and "breakout junctions" in the metal overbraid to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), in accordance with de Havilland Service Bulletin S.B. 8-73-18 (for Model DHC-8-100 series airplanes), or S.B. 8-73-19 (for Model DHC-8-300 series airplanes), both dated April 29, 1994, as applicable. If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with the applicable service bulletin.

(b) Within 45 days after the effective date of this AD, perform an electrical resistance measurement of Class A and Class B shield grounds in accordance with de Havilland Service Bulletin S.B. 8-73-18 (for Model DHC-8-100 series airplanes), or S.B. 8-73-19 (for Model DHC-8-300 series airplanes), both dated April 29, 1994, as applicable.

(1) For Class A shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 50 flight hours after performing the resistance measurement, repair in accordance with the applicable service bulletin.

(2) For Class B shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 160 days after performing the resistance measurement, repair in accordance with the applicable service bulletin.

(c) For Model DHC-8-102, -103, and -106 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 93 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8-73-18, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph 161 of the Accomplishment Instructions of that service bulletin.

(d) For Model DHC-8-301, -311, and -314 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 112 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8-73-19, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph 200 of the Accomplishment Instructions of that service bulletin.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE-170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The inspections, measurement, repair, and restoration shall be done in accordance with de Havilland Service Bulletin S.B. 8-73-18 (for Model DHC-8-100 series airplanes), or de Havilland S.B. 8-73-19 (for Model DHC-8-300 series airplanes), both dated April 29, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 30, 1995.

Issued in Renton, Washington, on April 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-10203 Filed 4-27-95; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34-35637; File No. S7-4-95]

RIN 3235-AG28

Unlisted Trading Privileges

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting new rules and amendments to existing rules concerning unlisted trading privileges ("UTP"). The rules would reduce the period that exchanges have to wait before extending UTP to any listed initial public offering, from the third trading day in the security to the second trading day in the security. The rules also would require exchanges to have rules and oversight mechanisms in place to ensure fair and orderly markets and the protection of investors with respect to UTP in any security.

EFFECTIVE DATE: April 21, 1995.

FOR FURTHER INFORMATION CONTACT: Betsy Prout, 202/942-0170, Attorney, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 5-1), 450 5th Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 2, 1995, the Securities and Exchange Commission ("Commission") proposed for comment rules [1] under Section 12(f) of the Securities Exchange Act of 1934 ("Exchange Act"),[2] as recently amended by the Unlisted Trading Privileges Act of 1994 ("UTP Act"). The proposed rules would have: (1) Required national securities exchanges ("exchanges"), for any security that is the subject of an initial public offering ("IPO") and is listed on another exchange ("listed IPO"), to wait until the listing exchange reports the first trade in the security to the Consolidated Tape before trading the security pursuant to unlisted trading privileges ("UTP"); (2) required each national securities exchange to have in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP; and (3) amended certain existing rules under Section 12(f) of the Exchange Act to conform to the recent statutory amendments effected by the UTP Act. The Commission also requested comments on alternatives to the proposed rule concerning UTP in listed IPOs from commenters who believe that either no waiting period or a longer waiting period would be appropriate. In addition, the Commission requested comment on whether any Commission action is necessary to carry out the congressional objectives of linked markets as required by Section 11A(a)(1)(D) of the Exchange Act.[3]

The Commission received nine comment letters on the proposed rules,[4] eight of which discuss the proposed rule concerning UTP in listed IPOs.[5] The Commission also received, prior to publication of the proposed rules in the **Federal Register**, a report presenting certain volume and price parameter statistics of listed IPOs.[6]

The Commission is adopting the rules as proposed, except for the rule that would have required exchanges to wait, before extending UTP to listed IPOs, until the first trade is reported by the listing exchange. Instead, that proposed rule is being replaced with a requirement that exchanges wait, before trading a listed IPO pursuant to UTP, until the opening of business on the day following the initial public offering of the security on the listing exchange.

II. Background

As stated above, the Commission is adopting rules pursuant to the UTP Act, which recently amended Section 12(f) of the Exchange Act. The UTP Act became effective on October 22, 1994. As discussed more fully in the Proposing Release and below, the UTP Act amended Section 12(f) of the Exchange Act to require the Commission to prescribe rules concerning UTP in listed IPOs. Rule 12f-2, as adopted, meets this requirement. The UTP Act also authorizes the Commission to prescribe other rules pertaining to exchange extensions of UTP, and specifically authorizes the Commission to prescribe, by rule or order, the procedures that will apply to exchanges when they apply to reinstate UTP in a security after the Commission has suspended UTP in the security on the applicant exchange.

Section 12(f) governs when an exchange may trade a security that is

[1] See Securities Exchange Act Release No. 35323 (February 2, 1995), 60 FR 7718 ("Proposing Release").

[2] 15 U.S.C. 78*l*.

[3] 15 U.S.C. 78k-1(a)(1)(D).

[4] See letters from James F. Duffy, American Stock Exchange, Inc., dated March 21, 1995 ("Amex letter"), George W. Mann, Boston Stock Exchange, Inc., dated March 6, 1995 ("BSE letter"), Lisa W. Barry, CS First Boston, dated March 14, 1995 ("CS First Boston letter"), J. Craig Long, Foley & Lardner, dated March 20, 1995 ("Chx letter"), Richard T. Chase, Lehman Brothers, dated March 10, 1995 ("Lehman letter"), James E. Buck, New York Stock Exchange, Inc., dated March 15, 1995 ("NYSE letter"), Leopold Korins, Pacific Stock Exchange, Inc., dated March 14, 1995 ("PSE letter"), John C. Katovich, Pacific Stock Exchange, Inc., dated March 29, 1995 ("PSE response"), and William Uchimoto, Philadelphia Stock Exchange, Inc., dated March 29, 1995 ("Phlx response"), to Jonathan G. Katz, Secretary, SEC.

[5] See BSE letter, Chx letter, CS First Boston letter, Lehman letter, NYSE letter, PSE letter, Phlx response, and PSE response, *id.*

[6] See letter and report from William Uchimoto, Philadelphia Stock Exchange, Inc., dated February 6, 1995 ("Phlx Study"). The Phlx Study was submitted to the Commission on behalf of the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Pacific Stock Exchange, Inc.

VOL 60 ISS 82 AP 28 1995 UMI

not listed and registered on that exchange, *i.e.* by extending UTP to the security.[7] Prior to the UTP Act, Section 12(f) required exchanges to apply to the Commission before extending UTP to a security, and required the Commission to provide notice of each application for comment and opportunity for a hearing. The Commission also was required to review each application, and if the application met certain standards, the Commission issued an order approving the exchange's request to trade the security pursuant to its grant of UTP.[8] These requirements caused significant delays before exchanges could begin UTP trading in securities already traded on the listing exchange, even though over-the-counter ("OTC") dealers were not subject to UTP limitations.[9] The delay in trading, resulting from the previous application procedures, was especially criticized by competing exchanges because, while the Commission published for comment hundreds of exchange applications for the extension of UTP each year, comments on the applications were extremely rare. Indeed, virtually no comments had been submitted to the Commission on a UTP application in over ten years.

In response to the Concept Release that initiated the Market 2000 Study,[10] resulting in the Division of Market Regulation's ("Division") report, Market 2000: An Examination of Current Equity Market Developments, some commenters noted that the regulatory process for UTP could be a potential area for reform.[11] After publication of the Concept Release, on June 22, 1994, the Telecommunications and Finance Subcommittee of the House Committee on Energy and Commerce ("Subcommittee") held a hearing on the UTP Act, ultimately adopted on October 22, 1994.[12]

The UTP Act, among other matters, removed the application, notice, and Commission approval process from Section 12(f) of the Exchange Act, except in cases of Commission suspension of UTP in a particular security on an exchange. Thus, the UTP Act generally allows an exchange to extend UTP to any security when it becomes listed and registered on another exchange or included in Nasdaq, subject to certain limitations.[13]

Specifically, the UTP Act grants exchanges the authority to trade any security via UTP immediately upon listing on another exchange, provided that the security is not a listed IPO security, as defined in the UTP Act.[14]

For listed IPO securities, the UTP Act contains a temporary provision that requires exchanges to wait, before trading any listed IPO security, until the third day of trading in the security on the listing exchange. This provision also requires the Commission to prescribe by rule or regulation, within 180 days of the enactment of the UTP Act, the mandatory delay (or, "duration of the interval"), if any, that should apply to UTP extensions to listed IPO securities.[15]

The UTP Act also provides the Commission with rulemaking authority to prescribe additional procedures or requirements for exchange extensions of UTP to any security, and allows the Commission summarily to suspend UTP in a security at any time within 60 days of the commencement of trading on the relevant exchange pursuant to UTP. Upon suspension, the exchange must cease trading pursuant to UTP in the security. An exchange seeking to reinstate UTP in the security, following a Commission suspension, must file an application with the Commission pursuant to procedures that the Commission may prescribe by rule or order for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of the Exchange Act. Public notice by the Commission of an exchange application to reinstate suspended UTP, and Commission review of the application, are also required. The amended Section 12(f) notice, review, and Commission approval provisions are substantially similar to the requirements that previously applied to an exchange's initial extension of UTP to a security under former Section 12(f).[16]

III. Extensions of UTP to Listed Securities That Are the Subject of an Initial Public Offering

A. Proposed Rule 12f–2

Proposed Rule 12f–2 would have allowed exchanges to extend UTP to a listed IPO security when at least one transaction in the security had been effected on the listing exchange and the transaction had been reported pursuant to an effective transaction reporting plan as defined in Rule 11Aa3–1 under the Exchange Act.[17] The proposed rule, therefore, would have shortened the mandatory waiting period (or "interval," as it is described in the UTP Act) for UTP in listed IPO securities from two trading days, as temporarily specified by amended Section 12(f),[18] to the time that it takes to effect and report the initial trade in the security on a listing exchange. The result of the proposed rule would have been to permit the regional exchanges to trade listed IPOs at essentially the same time as the primary listing exchange.

The Commission proposed a one-trade delay for UTP in listed IPOs because the Commission preliminarily believed that it was appropriate to minimize regulatory restraints on competition for trading listed IPO securities. In soliciting comments on proposed Rule 12f–2, however, the Commission noted a previous New York Stock Exchange ("NYSE") position that listed IPOs should be traded solely on the listing market for a "short" period of time to help ensure market efficiency immediately following the IPO.[19] The Commission also cited a report on the UTP Act by the House Committee on Energy and Commerce ("Committee"), in which the Committee directed the markets to provide the Commission with trading activity data on the effects of UTP in IPOs (including, for example, any volatility effects on the security), so that the Commission could determine whether the benefits of confining early trading in IPOs to one marketplace would be outweighed by the benefits of removing regulatory delays that inhibit competition among markets.[20]

The Commission solicited comments on these issues, specifically seeking comments on certain items that would be particularly useful to the Commission. These included identification and analysis of the potential harms and benefits that would result from either no waiting period, or from a longer waiting period than that proposed by the Commission. To the extent that commenters believed a waiting period would be appropriate, the Commission requested that they provide data to illustrate the potential negative effects on the pricing of an IPO. The Commission also suggested that commenters might provide an analysis of the effects of the two-day waiting period temporarily in effect under the UTP Act. Finally, the Commission stated that it would be interested in receiving alternative proposed rules from commenters who believe that either no waiting period or a longer waiting period would be appropriate.

In addition, the Commission sought comment on whether any Commission action would be necessary under Section 12(f), as amended, in order to carry out the congressional objectives of linked markets as required by Section 11A(a)(1)(D).[21] Specifically, the Commission requested comment on whether changes should be made to the consolidated quotation, trade reporting, and order routing systems, now that exchanges and linking facilities will have less time to prepare for multiple exchange trading in the securities. The Commission expressed particular interest in receiving comments concerning any existing procedural delays that should be corrected by Commission action to ensure that the operation of amended Section 12(f) is not impeded.

B. Comments on Proposed Rule 12f–2

The Commission received a total of eight comment letters on proposed Rule 12f–2, five of which supported the proposed rule,[22] and three of which opposed the proposal.[23] Shortly prior to the publication of the proposed rules, the Commission also received a study from the Philadelphia Stock Exchange ("Phlx"), submitted on behalf of the Boston Stock Exchange, Inc., the Chicago Stock Exchange Inc., and the Pacific Stock Exchange Inc., concerning certain volume and pricing characteristics of listed IPOs.[24]

The Phlx Study shows high volume in IPOs during the early days of trading, particularly on the first and second day of trading. Based on this data, the Phlx Study states that a restriction on UTP in IPOs creates a substantial negative effect on competition, both in relation to the listing exchange and OTC dealers.[25] The Phlx Study concludes that the Commission should adopt a rule for UTP in listed IPOs that would allow the regional exchanges to trade the securities on the first day of trading.

These competitive concerns were reiterated by the other comment letters supporting the proposed rule.[26] One regional exchange also states that it has listed IPOs simultaneously with the NYSE and has seen no adverse effect related to the dual listings.[27] This exchange argues that the NYSE has not been able to identify any adverse effects from the dual listing of IPOs. Another regional exchange states that, since the UTP Act reduced the waiting period to two days, there have been no instances of pricing disparities, inordinate volatility, or issuer complaints for securities traded by regional exchanges on the third trading day of IPOs, and no offering has been adversely affected by regional trading.[28]

The Commission received three comment letters, one from the NYSE and two from underwriters, expressing opposition to proposed Rule 12f–2.[29] These commenters believe that immediate regional exchange trading of IPOs would increase price volatility in the trading of IPO securities because the underwriters would not have sufficient time to ensure an orderly distribution of the securities. Two of the commenters argued that the temporary two-day delay should continue in place,[30] while the third commenter recommends at the very least a one-day trading delay.[31] Those proposing a two-day delay base their recommendation on data compiled by Lehman Brothers ("Lehman Study"), showing higher volatility in some Nasdaq IPOs than in selected NYSE IPOs. The two letters assert that this data demonstrates that dispersed initial trading of IPOs in the Nasdaq market is more volatile than initial centralized trading of IPOs.

The Commission received two comment letters from two regional exchanges in response to the comments opposing the proposed rule.[32] One of these commenters believes that National Market System procedures and practices are capable of providing effective

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[7] When an exchange "extends UTP" to a security, the exchange allows its members to trade the security as if it were listed on the exchange. For discussions of the history of UTP in U.S. markets and Section 12(f) of the Exchange Act, see, *e.g.*, Stephen L. Parker & Brandon Becker, Unlisted Trading Privileges, 14 Rev. Sec. Reg. 853 (1981); and Walter Werner, Adventure in Social Control of Finance: The National Market System for Securities, 75 Colum. L. Rev. 1233 (1975).

[8] Section 12(f) required the Commission to review each UTP application to ensure the maintenance of fair and orderly markets and the protection of investors with respect to the extension of UTP to the securities named in the application. Pursuant to this standard of review, the staff identified, over time, certain areas of particular concern as they related to UTP. Accordingly, these areas included ensuring that the applicant exchange had proper trading rules in place to provide a fair and orderly market in each security named and had sufficient standards for regulatory oversight of each security to provide for the protection of investors. While Commission review of the applications led to occasional discoveries of material deficiencies and errors in the applications, the overwhelming majority of applications raised no substantive issues.

[9] As a technical matter, Section 12(a) limits the trading of securities on an exchange to those securities that are listed and registered on that exchange. Section 12(f), both prior to and following this amendment, makes an exemption from this requirement for securities traded pursuant to UTP. OTC dealers are not subject to the Section 12(a) listing requirement because they do not transact business on an exchange.

[10] See Securities Exchange Act Release No. 30920 (July 14, 1992), 57 FR 32587 ("Concept Release").

[11] See letter from William G. Morton, Jr., Boston Stock Exchange; John L. Fletcher, Midwest (currently Chicago) Stock Exchange; Leopold Korins, Pacific Stock Exchange; and Nicholas A. Giordano, Philadelphia Stock Exchange, to Jonathan G. Katz, Secretary, Commission, dated December 11, 1992. See also, Division of Market Regulation, Securities and Exchange Commission, Market 2000: An Examination of Current Equity Market Developments (January 1994).

[12] A representative of the Division and representatives of several self-regulatory organizations testified at this hearing. The Unlisted Trading Privileges Act of 1994 and Review of the SEC's Market 2000 Study: Hearing Before the Subcomm. on Telecommunications and Finance of the House Comm. on Energy and Commerce, 103d Cong., 2d Sess. (1994) ("UTP Hearing").

[13] Section 12(f)(1)(E) prohibits extension of unlisted trading privileges in securities that are registered under Section 12(g) of the Exchange Act (generally, "OTC securities"), except pursuant to a rule, regulation or order of the Commission approving such extension or extensions. The Commission's order approving the on-going pilot program, including all limitations and conditions therein, is deemed such an order. See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103. Pursuant to Section 12(f)(1)(E), the Commission will consider issues involved in extensions of UTP to OTC securities as the Commission continues it on-going review of the operation of the pilot program.

[14] Section 12(f)(1)(B), read jointly with Section 12(f)(1)(A)(i), as amended, provides this exception for listed IPO securities. In defining securities that fall within the exception, new subparagraphs 12(f)(1)(G)(i) and (ii) provide:

(i) a security is the subject of an initial public offering if—

(I) the offering of the subject security is registered under the Securities Act of 1933; and

(II) the issuer of the security, immediately prior to filing the registration statement with respect to the offering, was not subject to the reporting requirements of section 13 or 15(d) of this title; and

(ii) an initial public offering of such security commences at the opening of trading on the day on which such security commences trading on the national securities exchange with which such security is registered.

15 U.S.C. 78*l*(f)(1)(G).

[15] 15 U.S.C. 78*l*(f)(1)(C). The UTP Act temporary two-day delay provision for UTP in listed IPOs expires on the earlier of the effective date of a Commission rule prescribing the appropriate interval of delay, if any, or 240 days following the enactment of the UTP Act.

[16] See Section 12(f)(2), as amended, 15 U.S.C. 78*l*(f)(2).

[17] 17 CFR 240.11Aa3–1 (1991).

[18] See supra note 15.

[19] See Proposing Release, *supra* note 1, citing prepared testimony of Edward A. Kwalwasser, Executive Vice President, Regulation, New York Stock Exchange, UTP Hearing, *supra* note 12.

[20] See Proposing Release, *supra* note 1, citing H.R. Rep. No. 626, 103d Cong., 2d Sess. (1994). The Committee also identified the experience of third market trading in listed IPOs as relevant to this inquiry.

[21] Section 11A(a)(1)(D) of the Exchange Act provides:

The linking of all markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders.

15 U.S.C. 78k–1(a)(1)(D).

[22] See BSE letter, Chx letter, PSE letter, Phlx response, and PSE response, *supra* note 4.

[23] See CS First Boston letter, Lehman letter, and NYSE letter, *supra* note 4.

[24] See Phlx Study, *supra* note 6.

[25] See *supra* note 9.

[26] See BSE letter, Chx letter, and PSE letter, *supra* note 4.

[27] See Chx letter, *supra* note 4.

[28] See PSE letter, *supra* note 4.

[29] See NYSE letter, CS First Boston letter, and Lehman letter, *supra* note 4.

[30] See NYSE letter and Lehman letter, *supra* note 4.

[31] See CS First Boston letter, *supra* note 4.

[32] PSE response and Phlx response, *supra* note 4.

VOL 60 ISS 82 AP 28 1995 UMI

pricing for IPOs, contrary to the concerns voiced by the opposing comment letters.[33] The commenter also believes that only upward price volatility risk exists for early IPO trading, particularly because underwriters may place stabilizing bids in IPOs to limit declines in the prices of the securities.

The second response letter reiterates these points, and also notes that regional exchange opening, high, low, and closing prices in IPOs that were dually-listed among one regional exchange and the NYSE were consistent with NYSE comparable prints.[34] In addition to providing its reasons for believing that price volatility in early trading of IPOs is limited to upward movements in the price of the security, the commenter also concludes that price volatility is generated by supply and demand in securities and that, as a natural by-product of a free and open market, price volatility should never be used as a reason to exclude some equally-regulated competitors from the marketplace.[35]

C. Commission Response

The Commission is adopting a revised version of Rule 12f–2. Instead of requiring exchanges to wait until the listing exchange of an IPO reports the first trade in the security to the Consolidated Tape, as originally proposed, exchanges will be required to wait, before trading the security pursuant to a grant of UTP, until the opening of business on the day following the IPO. For the reasons discussed below, the Commission believes that this "one-trading-day" delay for UTP in listed IPOs is appropriate for the maintenance of fair and orderly markets, the protection of investors, and otherwise in furtherance of the purposes of the Exchange Act, as required by the UTP Act.

As a general matter, the Commission agrees with the regional exchanges that early UTP in IPO securities would enhance the ability of multiple markets to compete with the listing exchange for the substantial volume occurring on the initial trading days of IPOs. As discussed below, however, several commenters raise the possibility that virtually immediate UTP in IPO securities could complicate the pricing and orderly distribution of IPO securities by increasing the risk of price volatility as the securities are distributed immediately to the public. In light of these concerns, and in particular those raised by the underwriters who believe that IPO pricing may be at risk if there were no opportunity for early centralized trading, the Commission is adopting a rule to provide a one-trading-day delay for UTP in IPO securities.

The Commission believes that a one-trading-day delay to precede UTP in listed IPOs is appropriate at this time primarily because the Commission is concerned that the first day of trading in an IPO on an exchange presents special circumstances, including initial pricing, an attempt to effectuate an orderly distribution of securities, high trading volume, and the resulting potential for high price volatility in the securities, that could have a significant effect on pricing and distribution of IPOs. In light of the comments regarding the possible impact of immediate UTP for the IPO process, the Commission believes, therefore, that a one-trading-day delay is warranted in order to ensure the protection of investors as required by the UTP Act, and by the Exchange Act in general.

The Phlx Study and Phlx response discuss the five IPO securities that were dually-listed on one regional exchange and the NYSE, and state that regional trades virtually always occurred within the NYSE daily trading range on the first and second trading days of the IPO. The Commission considers this limited amount of data insufficient to show that immediate UTP will not increase price volatility across the markets. In addition to the limited number of occurrences reviewed, this information only addresses listings on one exchange competing with the listing exchange, rather than the effects of five markets trading the IPO simultaneously with the listing exchange.

The Commission also believes that there is insufficient evidence on the record to warrant a longer waiting period than the first trading day to precede UTP in listed IPOs. It appears that the risk of high price volatility for listed IPOs and the resultant impact on IPO distributions decreases after the first day of trading.

In light of the concerns raised and the limited nature of the trading data available, the Commission is adopting the one-trading-day delay for UTP in listed IPOs. The Commission currently believes that this one-day restriction is necessary and appropriate for the maintenance of fair and orderly markets and the protection of investors with respect to IPOs. This conclusion is premised on the importance of the initial trading of IPOs for the offering process, the concerns raised regarding orderly IPO distribution, and the limited data responding to those concerns.

The Commission is sympathetic to concerns that a one-trading-day delay for exchange extensions of UTP will restrict regional exchange trading, while OTC dealers will continue to be free to trade the securities upon effective registration. The evidence presented in the Phlx study, however, shows that in virtually all IPOs studied, OTC market makers trade the securities only in extremely small volume, if at all, on the first day of the IPO. The Commission believes, therefore, that any competitive advantage to OTC market makers is minimal, and is outweighed by the benefit to investors and the capital formation process that should be accrued by decreasing the risk of price volatility in the IPO securities.

The Commission will continue, of course, to monitor the experience with the trading of IPOs under the amended Rule. The Commission is willing to consider revisiting the question of the appropriate waiting period for UTP in listed IPOs after experience has been gained with the amended rules.

Two commenters who urged adoption of the proposed rule also responded to the Commission's solicitation of comments on any necessary enhancements to National Market Systems to facilitate operation of the UTP Act. One commenter suggested that all ITS Participants should be permitted to participate in the opening on the first day of trading on the listing exchange via the ITS.[36] Another commenter stated that the new UTP trading regimen necessitates more reactive procedures by the ITS Participants and the Securities Industry Automation Corporation ("SIAC"), the ITS facilities manager.[37] The commenter urged SIAC to make ITS automatically available for any UTP security on the day following a regional exchange's request that the security be available for ITS use.

The Commission urges the ITS Participants to enhance their procedures for ITS eligibility of securities. The Commission notes that the ITS Pre-Opening Application and the ITS Trade-Through Rule are designed, in part, to ensure orderly pricing of securities among the various Participant market centers. Thus, the Commission believes that the ITS Participants should move forward to ensure that the ITS is available for use by all interested participant markets in time to participate in the opening trade of a listed IPO security on the second day the security trades.

[33] PSE response, *supra* note 4.

[34] See Phlx response, *supra* note 4.

[35] As discussed in Section III.C., *infra*, the Phlx response and the Chx letter suggest enhancements to certain Intermarket Trading System ("ITS") procedures in order to facilitate the extension of unlisted trading privileges pursuant to the new streamlined requirements for UTP under the UTP Act.

[36] See Chx letter, *supra* note 4.

[37] See Phlx response, *supra* note 4.

IV. Exchange Rules for Securities to Which Unlisted Trading Privileges are Extended (Rule 12f–5)

Section 12(f)(1)(D) of the Exchange Act, as amended, authorizes the Commission to prescribe, by rule or regulation, such additional procedures or requirements for extending UTP to any security as the Commission deems necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of the Exchange Act. Pursuant to this authority, the Commission proposed Rule 12f–5, which would prohibit an exchange from extending UTP to any security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP.

The Commission solicited comment on whether proposed Rule 12f–5 would help ensure that an exchange has the necessary rules in place to provide for fair and orderly markets in all securities to which the exchange extends UTP. The Commission received one response to this question.[38] This commenter supported the rule, and requested that the Commission, in this release, clarify that, prior to commencing UTP trading, an exchange should be required to have entered into appropriate information sharing agreements with foreign exchanges (or the Commission with foreign regulators), comparable to that required of the listing exchange for the particular product.[39]

The Commission is adopting Rule 12f–5, as proposed, as a means to ensure that exchanges meet their obligation under the Exchange Act to have these rules and oversight mechanisms in place on their exchanges for the relevant securities before extending UTP to the securities. As discussed in the Proposing Release, the rule is intended to preserve a benefit of Commission review of UTP applications that was required by Section 12(f) prior to the UTP Act. Previously, the Commission reviewed each UTP application to ensure that the applicant exchange had rules in place to cover the trading of the product class of the security for which the exchange applied. Now that the Commission will no longer review UTP applications, the Commission believes that the requirements set forth in Rule 12f–5 are appropriate because the rule confirms to exchanges their obligation to evaluate their extensions of UTP to determine that the exchanges are authorized to list the product class of securities before allowing their members to trade the securities. Finally, in regard to the comment that exchanges must enter into an appropriate information sharing agreement for all securities traded thereon, Rule 12f–5 will ensure that an exchange granting UTP in a security has secured previous Commission approval to trade the product class of security pursuant to Section 19(b) of the Exchange Act.[40] The Commission, in such approval process, will have determined the adequacy of information sharing arrangements for the particular exchange.

V. Amendments to Rules 12f–1 and 12f–3, and Rescission of Previous Rules 12f–2 and 12f–6

Several of the rules prescribed under former Section 12(f) concerned the application process for extensions of UTP. The Commission proposed to amend or rescind these rules to reflect statutory changes, and solicited comment on whether the proposed changes were appropriate. No comments were received on these proposals. The Commission is adopting the amendments to existing Rules 12f–1 and 12f–3, and is rescinding existing Rules 12f–2 and 12f–6, as proposed.

First, Rule 12f–1[41] is amended to limit its operation to an exchange's application to reinstate UTP after a Commission suspension. The amended rule will require essentially the same format for applications to reinstate UTP as was required by the rule under former Section 12(f) for applications to extend UTP. The Commission believes the amendment is an appropriate means to carry out the intention of the new Section 12(f)(2) requirement for exchange UTP applications in cases where exchanges seek to reinstate UTP for a security that was previously suspended by the Commission.

Second, Rule 12f–2 is rescinded and Form 27, referred to in previous Rule 12f–2, is removed.[42] This rule and form dealt with instances where an exchange might have been required to cease extending UTP, and to reapply for UTP, in a security that was "changed" (as described in the rule) immaterially for those purposes. The rule and form provide an exemption from reapplication for UTP in these cases. The Commission is rescinding these items because the application procedures, from which the rule provided an exemption, no longer exist.

Third, the Commission is rescinding the last sentence of paragraph (b) of Rule 12f–3.[43] Rule 12f–3 allows the issuer of a security that is traded pursuant to UTP, or any broker or dealer who makes a market in the security, or any other person having a bona fide interest in the question of termination or suspension of UTP in the security, to apply to the Commission for the termination or suspension of UTP in the security. The Rule also identifies the categories of information that should be provided in the application, which include the applicant's statement that it has sent a copy of the application to the exchange from which the suspension or termination is sought. Thereafter, the Rule provides that the exchange may terminate or suspend UTP in the security in accordance with its rules. The Rule also required the exchange, upon suspension or termination, promptly to file Form 28 with the Commission.

This final requirement no longer is necessary because exchanges are no longer required to apply to the Commission to extend UTP to a security. The Commission, therefore, is rescinding that last requirement from the Rule concerning Form 28 and is removing Form 28 to conform further with efforts to streamline the regulatory process concerning UTP.

Finally, the Commission is rescinding Rule 12f–6, which exempted a merged exchange from the UTP application process in certain circumstances.[44] The exemption no longer is necessary because the waiting period that restrained exchanges from extending UTP to most securities no longer exists.

VI. Effects on Competition and Regulatory Flexibility Act Considerations

Section 23(a)(2) of the Exchange Act[45] requires that the Commission, when adopting rules under the Exchange Act, consider the anticompetitive effects of those rules, if any, and balance any anticompetitive impact against the

[38] See Amex letter, *supra* note 4.

[39] The commenter also suggested that the Commission make clear that OTC transactions in exchange-listed securities must be subject to the same regulatory requirements as those imposed by the listing exchange and by other exchanges trading the security pursuant to UTP, which could be accomplished by a amendment to the rules of the National Association of Securities Dealers. The Commission believes that this recommendation is outside the scope of the present rulemaking, which deals specifically with exchange extensions of UTP.

[40] 15 U.S.C. 78s(b).

[41] 17 CFR 240.12f–1 (1991).

[42] 17 CFR 240.12f–2 (1991).

[43] 17 CFR 240.12f–3 (1991).

[44] 17 CFR 240.12f–6 (1991).

[45] 15 U.S.C. 78w(a)(2).

VOL 60 ISS 82 AP 28 1995 UMI

regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission believes that adoption of Rules 12f–2 and 12f–5, and the amendments to Rules 12f–1 and 12f–3, and the rescission of previous Rules 12f–2 (to be replaced with new Rule 12f–2) and 12f–6 will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Specifically, as discussed in more detail above, the Commission believes that the new Rule 12f–2 one-trading-day delay for UTP in IPOs provides a minimal restraint on competition among market centers which is outweighed by the benefits associated with the resulting reduction of potential price volatility risk in IPO securities. In addition, the one-trading-day delay is shorter than the current temporary two-trading day delay.

The Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA") regarding the amendments and rescissions to the rules under Section 12(f), in accordance with 5 U.S.C. 604. The FRFA notes the minimal economic effect on the minimal number of small businesses, if any, that may be generated by these amendments to and rescissions of these rules under Section 12(f) of the Exchange Act. In addition, the FRFA notes that Rule 12f–2 should reduce the risk of high price volatility, and possible associated risk of loss to investors, in listed IPOs. The Commission believes that the benefits of reducing risk to investors outweigh the potential costs, if any, that might be incurred by, for example, small specialist firms on regional exchanges.

A copy of the FRFA will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549.

VII. Effective Date

The new rules and amendments to the Commission's rules and forms shall be effective immediately, in accordance with the Administrative Procedure Act, which allows effectiveness in less than 30 days after publication for, inter alia, "a substantive rule which grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1). Moreover, the Administrative Procedures Act allows for accelerated effectiveness "as provided by the agency for good cause and published with the Rule." 5 U.S.C. 553(d)(3). Accelerated effectiveness of the rules and amendments is necessary in order to ensure compliance with the UTP Act, which requires the Commission to prescribe the duration of the waiting period, if any, for UTP in listed IPOs "[n]ot later than 180 days after the date of enactment of the Unlisted Trading Privileges Act of 1994 * * *."[46]

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission hereby amends title 17, chapter II of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.12f–1 is amended by revising the section heading and introductory text of paragraph (a), redesignating paragraphs (a)(5) and (a)(6) as paragraphs (a)(6) and (a)(7), adding paragraph (a)(5), and revising newly designated paragraph (a)(6) to read as follows:

§ 240.12f–1 Applications for permission to reinstate unlisted trading privileges.

(a) An application to reinstate unlisted trading privileges may be made to the Commission by any national securities exchange for the extension of unlisted trading privileges to any security for which such unlisted trading privileges have been suspended by the Commission, pursuant to section 12(f)(2)(A) of the Act (15 U.S.C. 78*l*(2)(A)). One copy of such application, executed by a duly authorized officer of the exchange, shall be filed and shall set forth:

(1) * * *

(5) The date of the Commission's suspension of unlisted trading privileges in the security on the exchange;

(6) Any other information which is deemed pertinent to the question of whether the reinstatement of unlisted trading privileges in such security is consistent with the maintenance of fair and orderly markets and the protection of investors; and

* * * * *

3. Section 240.12f–2 is revised to read as follows:

[46] Section 12(f)(1)(C), as amended, 15 U.S.C. 78*l*(f)(1)(C).

§ 240.12f–2 Extending unlisted trading privileges to a security that is the subject of an initial public offering.

(a) *General Provision*—A national securities exchange may extend unlisted trading privileges to a subject security on or after such national securities exchange opens for trading on the day that follows the day on which the initial public offering of such subject security commences.

(b) The extension of unlisted trading privileges pursuant to this section shall be subject to all the provisions set forth in Section 12(f) of the Act (15 U.S.C. 78*l*(f)), as amended, and any rule or regulation promulgated thereunder, or which may be promulgated thereunder while the extension is in effect.

(c) *Definitions.* For the purposes of this section:

(1) The term *subject security* shall mean a security that is the subject of an initial public offering, as that term is defined in section 12(f)(1)(G)(i) of the Act (15 U.S.C. 78l(f)(1)(G)(i)), and

(2) An *initial public offering commences* at such time as is described in section 12(f)(1)(G)(ii) of the Act (15 U.S.C. 78l(f)(1)(G)(ii)).

4. Section 240.12f–3 is amended by revising paragraph (b) to read as follows:

§ 240.12f–3. Termination or suspension of unlisted trading privileges.

* * * * *

(b) Unlisted trading privileges in any security on any national securities exchange may be suspended or terminated by such exchange in accordance with its rules.

5. Section 240.12f–5 is added to read as follows:

§ 240.12f–5 Exchange rules for securities to which unlisted trading privileges are extended.

A national securities exchange shall not extend unlisted trading privileges to any security unless the national securities exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.

6. Section 240.12f–6 is removed and reserved.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

§§ 249.27 and 249.28 [Removed]

8. Sections 249.27 and 249.28 are removed.

Dated: April 21, 1995.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10467 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 210 and 211

[Docket No. 88N–0320]

Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs; Revision of Certain Labeling Controls; Partial Extension of Compliance Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; partial extension of compliance date.

SUMMARY: The Food and Drug Administration (FDA) is announcing a continuation of the partial extension of the compliance date for a provision of the final rule, which was published in the **Federal Register** of August 3, 1993 (58 FR 41348). The document revised the current good manufacturing practice (CGMP) regulations for certain labeling control provisions. In the **Federal Register** of August 2, 1994 (59 FR 39255), FDA partially extended the compliance date for a provision of the regulation to August 3, 1995, and requested comments on the scope of this provision. The agency is further extending the compliance date to August 2, 1996. FDA is taking this action in order to adequately assess comments received on the scope of a particular provision of that rule.

DATES: The final rule published at 58 FR 41348, August 3, 1993, is effective August 3, 1994. The date for compliance with § 211.122(g) for items of labeling (other than immediate container labels) is extended to August 2, 1996. The date of compliance for all other provisions of the final rule remains August 3, 1994.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Kuchenberg, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1046, or

Paul J. Motise, Center for Drug Evaluation and Research (HFD–323), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1089.

SUPPLEMENTARY INFORMATION:

In the **Federal Register** of August 3, 1993 (58 FR 41348), FDA published a final rule that amended the CGMP regulations to require that certain special control procedures be instituted if cut labeling is used. One of these procedures requires the use of "appropriate electronic or electromechanical equipment to conduct a 100-percent examination for correct labeling during or after completion of finishing operations" (§ 211.122(g)(2)).

On May 4, 1994, FDA received a citizen petition from five trade associations requesting that the agency take a number of actions including, but not limited to, extending the August 3, 1994, effective date of this rule as it applies to labeling (other than the immediate container labels) as defined in section 201(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(m)). The petition stated that additional time was needed because of the unavailability of bar code or machine readers as well as other equipment necessary to orient the labeling codes properly, and requested that FDA reopen its administrative record to reassess the scope of a certain provision of the regulation, as discussed below in this document.

On May 6, 1994, the agency received an additional petition from a trade association that requested, among other things, a 1-year stay of the effective date; the petitioner stated that additional time was needed to locate, install, and validate scanning equipment and other necessary equipment to orient items properly for bar code scanning.

Appropriate electronic or electromechanical equipment primarily consists of systems that scan identity codes printed on labeling. If an incorrect code is detected, the defective labeling is ejected from the labeling line. FDA contacted vendors of this equipment and determined that while there was not a general shortage of system hardware, there was a possible shortage of contract engineering firms employed by some drug manufacturers to evaluate, select, purchase, install, qualify, and validate labeling verification systems.

In response to this situation, FDA extended the compliance date of § 211.122(g) as it applied to items of labeling (other than the immediate container label) to assess further the availability of equipment necessary for compliance with the final rule and to evaluate adequately other issues raised by petitioners.

The first petition also requested that the agency reopen the administrative record to receive additional comments on the application of § 211.122(g) to items of labeling (other than that of the immediate container label) as defined in section 201(m) of the act. Both citizen petitions contended that § 211.122(g) expanded the proposed scope of the provision from immediate container labels to all drug product labeling.

In response to the issues raised, FDA agreed to receive comments on this issue and to evaluate those comments in light of the existing language of § 211.122(g). The comment period ended on October 4, 1994, and since that time FDA has had a number of meetings with representatives of the labeling industry and others to determine control options available through current technology and to evaluate this information in light of comments received during the extended comment period.

In order to adequately assess this information, determine whether any possible revision of the regulation should result, and provide industry adequate time to fully comply with a final regulation, FDA is extending the compliance date of § 211.122(g) as its applies to items of labeling other than the immediate container label to August 2, 1996. Should FDA determine, after completing its assessment of the comments, that § 211.122(g) should be retained in its current state or revised, FDA will provide notice of that decision in a future issue of the **Federal Register**. The compliance date for the remainder of § 211.122, including § 211.122(g) as it applies to immediate container labels, was August 3, 1994. The agency emphasizes, however, that § 211.125 makes a waiver of labeling reconciliation conditional on a 100-percent examination for correct labeling performed in accordance with § 211.122(g)(2).

Dated: April 24, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–10461 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 310

[Docket No. 77N–334S]

RIN 0905–AA05

Topical Drug Products for Over-the-Counter Human Use; Products for the Prevention of Swimmer's Ear and for the Drying of Water-Clogged Ears; Final Rule; Correction

AGENCY: Food and Drug Administration, HHS.

VOL
60
ISS
82
AP
28
1995
UMI

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of February 15, 1995 (60 FR 8916). The document established that any over-the-counter (OTC) drug product for the prevention of swimmer's ear or for the drying of water-clogged ears is not generally recognized as safe and effective and is misbranded. The document was published with a typographical error in the codified section. This document corrects that error.

EFFECTIVE DATE: August 15, 1995.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

In FR Doc. 95–3803, appearing on page 8916, in the **Federal Register** of Wednesday, February 15, 1995, the following correction is made:

§ 310.545 [Corrected]

1. On page 8920, in the third column, under § 310.545, in paragraph (d)(1), in lines 2 and 3, "(a)(1) through (a)(2)(i), (a)(3) through (a)(4)" is corrected to read "(a)(1) through (a)(4)".

Dated: April 24, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–10542 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8594]

RIN 1545–AS97

Losses on Small Business Stock

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending regulations under section 1244 relating to losses on small business stock. The final regulations remove the requirement that a taxpayer claiming a section 1244 ordinary loss file an information statement with the taxpayer's income tax return.

DATES: These regulations are effective April 27, 1995.

For dates of applicability of these regulations, see "Effective Date" under **SUPPLEMENTARY INFORMATION** portion of preamble.

FOR FURTHER INFORMATION CONTACT: Kirsten L. Simpson, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1447. The estimated annual burden per recordkeeper varies from .10 hours to .30 hours, depending on individual circumstances, with an estimated average of .20 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On November 15, 1994, a notice of proposed rulemaking (CO–46–94), amending regulations under section 1244 of the Internal Revenue Code relating to losses on small business stock, was published in the **Federal Register** (59 FR 58800). No public hearing was requested or held.

One written comment responding to the notice was received. The comment was favorable. The regulations proposed by CO–46–94 are adopted without revision by this Treasury decision.

Explanation of Provision

Section 1.1244(e)–1(b) of the Income Tax Regulations is revised to eliminate the requirement that a taxpayer file an information statement with the taxpayer's income tax return. However, because a taxpayer who claims an ordinary loss under section 1244 still bears the burden of establishing that the deduction is proper, § 1.1244(e)–1(b) is revised to state that a person who claims an ordinary loss with respect to stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244.

Effective Date

These regulations are effective for open taxable years beginning after December 31, 1953, the effective date of Treasury Decision 6495, which prescribed regulations under section 1244.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Kirsten L. Simpson, Office of Assistant Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.1244(e)–1 also issued under 26 U.S.C. 1244(e). * * *

Par. 2. Section 1.1244(e)–1 is amended as follows:

1. The section heading is revised.
2. In paragraph (a)(1), the reference in the second sentence to "paragraph (c)(2) of § 1.1244(c)–2" is removed and "§ 1.1244(c)–2(b)(2)" is added in its place.
3. Paragraph (b) is revised.

The revisions read as follows:

§ 1.1244(e)–1 Records to be kept.

* * * * *

(b) *By the taxpayer.* A person who claims an ordinary loss with respect to stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244. See also section 6001, requiring records to be maintained.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (c) is amended by revising the entry in the table for § 1.1244(e)–1 to read as follows:

1.1244(e)–1	1545–0123 1545–1447

Margaret Milner Richardson,

Commissioner of the Internal Revenue.

Dated: March 27, 1995.

Leslie Samuels,

Assistant Secretary for the Treasury.

[FR Doc. 95–10424 Filed 4–27–95; 8:45 am]

BILLING CODE 4830–01–U

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26 CFR Part 301

[TD 8595]

RIN 1545–AI24

Payment of Internal Revenue Tax by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations regarding payments with respect to internal revenue taxes and internal revenue stamps by check or money order. Changes to the applicable tax law were made by the Tax Reform Act of 1984 (TRA). The amendments, which are intended to conform the regulations to the change in the statute, apply to persons making payments with respect to internal revenue taxes or stamps by check or money order and to financial institutions that issue or guarantee payment of checks or money orders.

EFFECTIVE DATE: August 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert A. Walker, 202–622–3640 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

These final regulations contain changes to § 301.6311–1 to reflect amendments made to section 6311 by section 448(a) of the Tax Reform Act of 1984, Pub. L. 98–369 (TRA). The IRS published a notice of proposed rulemaking in the **Federal Register** on August 22, 1994, (59 FR 43073) providing proposed rules under section 6311 of the Internal Revenue Code (Code). No public comments were received, and the final regulations are identical to the proposed regulations.

Explanation of Provisions

Section 6311(a) of the Code provides that the IRS may receive for internal revenue taxes, or in payment for internal revenue stamps, checks or money orders, to the extent and under the conditions specified in the regulations. The regulations relating to payment by check refer only to checks drawn on a domestic bank or trust company.

If money orders or certain kinds of checks tendered in payment are not duly paid, then section 6311(b)(2) provides the United States with a lien against all the assets of the drawee or issuer for the amount of the check or money order. Before its amendment, this rule applied, in the case of checks, only with respect to certified, treasurer's or cashier's checks drawn on a bank or trust company. Section 448(a) of TRA expanded section 6311(b)(2) to include guaranteed drafts drawn on financial institutions other than banks and trust companies.

The amendments to the regulations reflect the TRA change and clarify that payment may be made by check or draft drawn on any domestic financial institution. In addition, the regulations provide a definition of "financial institution." Since the Bureau of Alcohol, Tobacco, and Firearms has issued, under 27 CFR, its own separate regulations governing payment by check or money order, provisions of these regulations referring to the Bureau of Alcohol, Tobacco, and Firearms have been removed.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is Robert A. Walker, Office of Assistant Chief Counsel (General Litigation). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6311–1 is amended by:

1. Revising the first, second, and last sentences of paragraph (a)(1)(i).
2. Revising paragraph (a)(2).
3. Removing paragraph (a)(3).
4. Revising paragraph (b).
5. Adding paragraphs (d) and (e).

The additions and revisions read as follows:

§ 301.6311–1 Payment by check or money order.

(a) * * *

(1) * * *

(i) District directors, Service Center directors, and Compliance Center directors (director) may accept checks or drafts drawn on any financial institution incorporated under the laws of the United States or under the laws of any State, the District of Columbia, or any possession of the United States, or money orders in payment for internal revenue taxes, provided the checks, drafts, or money orders are collectible in United States currency at par, and subject to the further provisions contained in this section. The director may accept the checks, drafts, or money orders in payment for internal revenue stamps to the extent and under the conditions prescribed in paragraph (a)(2) of this section. * * * However, the director may refuse to accept any personal check whenever he or she has good reason to believe that such check will not be honored upon presentment.

* * * * *

VOL 60 ISS 82 AP 28 1995 UMI

(2) *Payment for internal revenue stamps.* The director may accept checks, drafts, and money orders described in paragraph (a)(1) of this section in payment for internal revenue stamps. However, the director may refuse to accept any personal check whenever he or she has good reason to believe that such check will not be honored upon presentment.

(b) *Checks or money orders not paid—*(1) *Ultimate liability.* The person who tenders any check (whether certified or uncertified, cashier's, treasurer's, or other form of check or draft) or money order in payment for taxes or stamps is not released from his or her liability until the check, draft, or money order is paid; and, if the check, draft, or money order is not duly paid, the person shall also be liable for all legal penalties and additions, to the same extent as if such check, draft, or money order had not been tendered.

(2) *Liability of financial institutions and others.* If any certified, treasurer's, or cashier's check, or other guaranteed draft, or money order, is not duly paid, the United States shall have a lien for the amount of such check or draft upon all assets of the financial institution on which drawn, or for the amount of such money order upon the assets of the issuer thereof. The unpaid amount shall be paid out of such assets in preference to any other claims against such financial institution or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution. In addition, the Government has the right to exact payment from the person required to make the payment.

* * * * *

(d) *Financial institution.* For purposes of section 6311 and this section, *financial institution* includes but is not limited to—

(1) A bank or trust company (as defined in section 581);

(2) A domestic building and loan association (as defined in section 7701(a)(19));

(3) A mutual savings bank (including but not limited to a mutual savings bank as defined in section 591(b));

(4) A credit union (including both state and federal credit unions, and including but not limited to a credit union as defined in section 501(c)(14)); and

(5) A regulated investment company (as defined in section 851(a)).

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: April 5, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 95–10410 Filed 4–27–95; 8:45 am]
BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 4 and 116

[CGD 91–063]

RIN 2115–AE15

Alteration of Obstructive Bridges

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations which set out and describe the procedures for determining whether a bridge unreasonably obstructs the free navigation of navigable waters of the United States and, if it does, the procedures for ordering its alteration under the Truman-Hobbs Act, the Bridge Act of 1906, or the Rivers and Harbors Appropriation Act of 1899. The amendments clarify and provide additional details to the description of these procedures.

DATES: This rule becomes effective on May 30, 1995.

ADDRESSES: Documents referenced in this preamble are available for inspection and copying at the office of the Executive Secretary, Marine Safety Council, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, Room 3406, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477 for more information.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Tyssens, Alterations, Drawbridges, and Systems Branch (G-NBR–1), at (202) 267–0376.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. Larry R. Tyssens, Project Manager, Office of Navigation Safety and Waterway Services, and LT Rachel Goldberg, Project Counsel, Office of the Chief Counsel.

Regulatory History

On March 22, 1994, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Alteration of Obstructive Bridges" in the **Federal Register** (59 FR 13588). Opportunity for comment on the proposal was provided until May 23, 1994.

Discussion of Comments and Changes

Four letters were received in response to the NPRM. Two of the comments were submitted by railroad trade associations, one by a private individual, and one comment was from the U.S. Department of Interior.

The Department of Interior reminded the Coast Guard that in the process of ordering the alteration of unreasonably obstructive bridges, the Coast Guard must comply with the requirements of section 4(f) of the Department of Transportation Act and section 106 of the National Historic Preservation Act. Interior also commented that the Coast Guard should take into consideration the implementation of section 147 of the Federal Aid Highway Act of 1976 (Pub. L. 94–280). Section 4(f) of the Department of Transportation Act ensures that Department of Transportation agencies, including the Coast Guard, make a special effort to preserve the natural beauty of public lands and parks. The act includes a requirement for an agency determination that every project undertaken does not adversely impact these lands unless no feasible alternative exists and that any harm which may result is minimized. The Coast Guard has procedures to ensure compliance with this requirement. Internal Coast Guard instructions, found in Chapter 2 of the *Bridge Administration Manual* (COMDTINST M16590.5A), detail the procedures to be followed by a District Commander to determine if a bridge alteration will result in any impact on 4(f) property and, if such impact is anticipated, procedures for evaluating the planned impact and consideration of alternatives.

Section 106 of the National Historic Preservation Act (16 U.S.C. 470) requires that Federal agencies identify and help preserve historic and cultural resources. To meet this requirement, internal Coast Guard instructions, also detailed in Chapter 2 of the *Bridge Administration Manual*, require a Coast Guard official to review the National Register of Historic Places to determine if any listed properties are within one-half mile of an alteration project. If there are any listed properties in the area, the Coast Guard must document any effects on such property and prepare an Environmental Impact Statement if one is warranted. In the development of any bridge project, the Coast Guard also works closely with state and national agencies with expertise in historic resources. In addition, if an alteration project will affect Indian lands, the Coast Guard will invite the governing body of the Indian tribe to be a consulting party and to concur in any decision.

In regard to Interior's suggestion as to the implementation of Section 147 of the Federal Aid Highway Act of 1976 (Pub. L. 94–280), the Coast Guard has a memorandum of understanding with the Federal Highway Administration (FHWA) concerning the preparation of environmental documents. Through this agreement, the Coast Guard and the FHWA have agreed that when a highway section requires an action by both FHWA and Coast Guard, the FHWA will normally serve as the lead agency for the preparation and processing of environmental documents.

A comment was received from a publisher of marine education textbooks who objected to proposed § 116.10 on the grounds that it is permissive in nature and fails to require the District Commander to review files, or to conduct an investigation relative to a formal complaint that a bridge unreasonably obstructs navigation. Coast Guard policy is to place requirements on its District Commanders in internal directives, such as Commandant Instructions and program manuals, and not in the Code of Federal Regulations. The procedures for the District Commander's Preliminary Review of a written complaint, including a mandatory requirement that a District Commander conduct a Preliminary Review any time a written complaint is received, are contained in Chapter 6 of the *Bridge Administration Manual*. Section 116.10 of the final rule now describes the procedures a District Commander will use to review any written complaint received about a bridge.

Two comments were also received from railroad trade associations. One of the association's member railroads operates 75 percent of the line-haul mileage, employs 89 percent of the workers, accounts for 91 percent of the freight revenue of all railroads in the United States, and operates almost all of the nation's inter-city passenger trains. The other is a national association of railroad professionals involved in the construction and maintenance of railroad bridges. Both of these comments objected to the omission in the proposed rule of language, found in the bridge statutes and the previous codification of part 116, that the Coast Guard consider the needs of rail and highway traffic, as well as the needs of navigation, in determining what alterations to a bridge must be undertaken by the bridge owner. The Coast Guard agrees with the comments. This language appears in the final rule in § 116.01(e)(1).

The comment from the trade association representing railroad professionals involved in the construction and maintenance of railroad bridges also expressed concern with the language of proposed § 116.20(b). The association raised the issue of the railroad bridge owner's responsibility to totally fund altérations if the railroad bridge does not meet the benefit/cost ratio criteria used to determine eligibility for funding under the Truman-Hobbs Act. Using a benefit/cost ratio to determine eligibility for Truman-Hobbs funding and as justification before Congress for this funding is not new. It is contained in the *Bridge Administration Manual* and is now being mentioned in 33 CFR 116.30 for purposes of clarification. Before a bridge alteration is ordered and funded under the Truman-Hobbs Act, a thorough study and analysis relevant to the unreasonableness of the bridge in question must be undertaken. The study must clearly demonstrate that the navigational benefits which would accrue as a result of the alteration would at least equal the cost of the alteration and, therefore, warrant such a public expenditure for an Order to Alter to be issued. If a bridge falling under the auspices of the Truman-Hobbs Act is statutorily declared to be an unreasonable obstruction to navigation, an Order to Alter will be issued whether the bridge meets the benefit/cost ratio criteria or not. The United States will pay a proportionate share of the cost of the alterations.

The Coast Guard is also making a number of changes in wording to the final rule as a result of its internal review and input from the bridge program's field and Headquarters personnel in response to the NPRM. These changes are not substantive. They merely clarify, reword, and provide additional details of the Coast Guard's procedures and are discussed below.

Section 116.01 has been expanded from the NPRM to provide an introduction and overview of the process the Coast Guard uses to determine whether a bridge is an unreasonable obstruction to navigation and, if it is, the process leading up to the issuance of an Order to Alter. The differences in the process between railroad or publicly owned highway bridges which are covered by the Truman-Hobbs Act (33 U.S.C. 511 *et. seq.*), and all other bridges are highlighted. Additionally, the note referring the public to chapter 6 of the *Bridge Administration Manual*, COMDTINST M16590.5A, has been deleted.

The contents of proposed § 116.05 remains the same, but the section was reworded to make it clear that the Coast Guard only has authority to alter bridges over navigable waters of the United States.

The subject matter discussed in proposed § 116.10, *Preliminary Review*, has been separated into two separate sections in the final rule, § 116.10 *Preliminary Review*, and § 116.15 *Preliminary Investigation*. Section 116.10 of the final rule now discusses in greater detail the type of information used, and procedures followed, by a District Commander during the Preliminary Review stage. Section 116.15 of the final rule now more clearly sets out the type of information which will be gathered by the District Commander during a Preliminary Investigation as well as the procedures used to decide whether the investigation goes forward.

A new § 116.20, *Detailed Investigation*, has been added to the final rule to explain this phase of a Coast Guard investigation conducted by a District Commander. This section sets out the type of information examined at the Detailed Investigation stage and procedures followed to determine if an Order to Alter should be issued. The section expands upon the more general guidance which was contained in paragraph (a) of proposed § 116.25.

Proposed § 116.15, *Public hearings*, has been expanded to provide greater detail concerning the public hearing and appears in the final rule as § 116.25. This section now clearly states that a public hearing takes place both as part of an internal Coast Guard investigation to determine if a bridge unreasonably obstructs navigation, and when there has been a Congressional determination that a bridge is unreasonably obstructive, to determine what alterations to the bridge are necessary.

A new § 116.30, *Chief, Bridge Administration Division Review and Evaluation*, has also been added to describe the information used by the Chief, Bridge Administration Division in making a final determination of whether a bridge unreasonably obstructs navigation and, if so (or in the case of a bridge declared unreasonably obstructive by Congress), what alterations will be required. Language from proposed § 116.20, discussing the navigational benefit/cost ratio prepared by the Coast Guard, has been

VOL 60 ISS 82 AP 28 1995 UMI

incorporated into this section. This benefit/cost ratio is calculated to document the economic feasibility of an alteration under the Truman-Hobbs Act. The section also includes information about the "60-Day Letter" the Coast Guard issues to provide notice and opportunity for a bridge owner to request reevaluation, prior to the issuance of an Order to Alter, of the determination that a bridge is an unreasonable obstruction to navigation or of the required alterations to the bridge.

The Order to Alter which was discussed in the NPRM in proposed § 116.25 is discussed in the final rule in § 116.35. As a result of this change, paragraphs (b) and (d) of proposed § 116.25 are in § 116.35 of the final rule. Paragraph (c) of proposed § 116.25, which discussed service of the Order to Alter has been deleted as unnecessary. No special service procedures are needed. The requirements for an equitable contribution for alterations with non-navigational effects as a prerequisite to the issuance of an Order to Alter, which in the proposed rule was in the section concerning apportionment of costs, proposed § 116.35, has been moved to paragraph (c) of § 116.35 in the final rule as well.

Minor editorial changes were made to proposed § 116.30, *Plans and specifications*, which has been renumbered as § 116.40 in the final rule; proposed § 116.35, *Apportionment of cost under the Truman-Hobbs Act*, which has been renumbered as § 116.50; and proposed § 116.40, *Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible to be altered under the Truman-Hobbs Act*, which has been renumbered as § 116.45 in the final rule. These sections have been reworded and renumbered to clarify that the procedures in these sections only apply to bridges being altered under the Truman-Hobbs Act. The order of the sections describing the apportionment of costs and submission of bids, proposed § 116.35 and § 116.40, respectively, was changed to properly reflect the order of events during a bridge alteration project.

Proposed § 116.45, *Appeals*, now appears as § 116.55 with the clarification that the decision to issue an Order to Alter can not be appealed through the administrative process. This clarification was made because issuing the Order constitutes final agency action.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significantunder the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rulemaking to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures is unnecessary. This rulemaking is intended to revise the regulations which describe the administrative process used to declare and order the alteration of unreasonably obstructive bridges. There is no new expense to the general public. On average, the Coast Guard orders one bridge to be altered under the Truman-Hobbs Act a year, and orders one alteration of a bridge under the Bridge Act of 1906 every thirty years.

Small Entities

This rulemaking is intended to clarify the circumstances under which a bridge may be declared unreasonably obstructive and the procedures taken to affect changes allowing the reasonably unimpeded passage of navigation. It imposes no special expense on small entities. Small entities may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Therefore, because it expects the economic impact of this final rule to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) that this will not have a significant economic impact on a substantial number of small entities. On average, the Coast Guard orders one bridge to be altered under the Truman-Hobbs Act a year, and orders one alteration of a bridge under the Bridge Act of 1906 every thirty years.

Collection of Information

This rule contains collection of information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), and OMB approved them. The part number is part 116, and the corresponding OMB approval number is OMB Control Number 2115–0614.

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that under section 2.B.2. of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this final rule is categorically excluded from further environmental documentation because it is a Bridge Administration Program action involving the promulgation of procedures, process, and guidance for alteration of unreasonably obstructive bridges. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 4

Coast Guard, Reporting requirements.

33 CFR Part 116

Bridges, Coast Guard.

For the reasons set out in the preamble, the Coast Guard is amending parts 4 and 116 of Title 33, Code of Federal Regulations, as follows:

PART 4—[AMENDED]

1. The authority citation for part 4 continues to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

2. The table in § 4.02 is amended by adding, in the appropriate columns, between the entries for "Part 115" and "Part 125", an entry for Part 116 to read as follows:

§ 4.02 Display.

33 CFR part or section where identified and described	Current OMB control No.
. . . . .	.
Part 116	2115–0614
. . . . .	.

3. Part 116 is revised to read as follows:

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

Sec.

116.01 General.
116.05 Complaints.
116.10 Preliminary review.

116.15 Preliminary investigation.
116.20 Detailed investigation.
116.25 Public hearings.
116.30 Chief, Bridge Administration Division review and evaluation.
116.35 Order to Alter.
116.40 Plans and specifications under the Truman-Hobbs Act.
116.45 Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible for funding under the Truman-Hobbs Act.
116.50 Apportionment of costs under the Truman-Hobbs Act.
116.55 Appeals.

Authority: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

§ 116.01 General.

(a) All bridges are obstructions to navigation and are tolerated only as long as they serve the needs of land transportation while allowing for the reasonable needs of navigation.

(b) This part describes the general procedures by which the U.S. Coast Guard determines a bridge to be an unreasonable obstruction to navigation and issues an Order to Alter under the authority of the following statutes, as appropriate: Section 18 of the Rivers and Harbors Appropriations Act of 1899, 33 U.S.C. 502; Section 4 of the Bridge Act of 1906, 33 U.S.C. 494; or the Truman-Hobbs Act of 1940, as amended, 33 U.S.C. 511–524.

(c) A bridge constructed across a navigable water of the United States shall not unreasonably obstruct the free navigation of the water over which it was constructed, either due to insufficient height or width of the navigation span, or because of difficulty in passing through the draw opening. If any bridge unreasonably obstructs navigation, the Commandant, U.S. Coast Guard, will order the alteration of that bridge. Alterations may include structural changes, replacement, or removal of the bridge.

(d) Whenever the Coast Guard has good reason to believe that a bridge across any of the navigable waters of the United States is an unreasonable obstruction to navigation, the Coast Guard will give notice to the owner of the bridge and other interested parties, and hold a public hearing at which the interested parties will have a full opportunity to be heard and to offer evidence on the question of whether alterations to the bridge are necessary and, if so, the extent of alterations needed.

(e) If the Coast Guard determines that alterations to a bridge are necessary, the Commandant, U.S. Coast Guard, will issue to the bridge owner an Order to Alter containing details of the alterations necessary to render navigation through or under the bridge reasonably free, easy, and unobstructed.

(1) In the case of a railroad or publicly owned highway bridge, an Order to Alter is issued to the bridge owner under the provisions of the Truman-Hobbs Act (33 U.S.C. 511 *et seq.*). In ordering these alterations, the Coast Guard will give due regard to the necessities of free and unobstructed navigation and of rail and highway traffic. For alterations to bridges governed by the Truman-Hobbs Act, the Coast Guard must approve general plans, specifications, and contracts for the alteration project, as well as approving the apportionment of the total cost of the alterations between the United States and the bridge owner.

(2) For all other bridges, the Order to Alter will contain the required alterations for the bridge and will prescribe a reasonable time in which to accomplish the required alterations. The bridge owner is responsible for the entire cost of the required alterations.

§ 116.05 Complaints.

Any person, company, or other entity may submit to the District Commander of the Coast Guard district in which a bridge over a navigable water of the United States is located, a complaint that a bridge unreasonably obstructs navigation. The complaint must be in writing and include specific details to support the allegation.

§ 116.10 Preliminary review.

(a) Upon receipt of a written complaint, the District Commander will review the complaint to determine if, in the District Commander's opinion, the complaint is justified and whether a Preliminary Investigation is warranted.

(1) The District Commander's opinion as to whether or not the complaint warrants a Preliminary Investigation will be formed through informal discussions with the complainant, users of the affected waterway, the owner of the bridge, and other interested parties.

(2) In forming an opinion, the District Commander may also review the district files, records of accidents, and details of any additional written complaints associated with the bridge in question.

(b) In the absence of any written complaint, the District Commander may decide, based on a bridge's accident history or other criteria, to conduct a Preliminary Investigation.

(c) The District Commander will inform the complainant and the Chief, Bridge Administration Division of the determination of any Preliminary Review. If the District Commander decides that the bridge in question is not an unreasonable obstruction to navigation, the complainant will be provided with a brief summary of the information on which the District Commander based the decision and will be informed of the appeal process described in § 116.55. There will be no further investigation, unless additional information warrants a continuance or reopening of the case.

§ 116.15 Preliminary investigation.

(a) During the Preliminary Investigation, the District Commander will prepare a written report containing all pertinent information and submit the report, together with a recommendation for or against the necessity of a Detailed Investigation, to the Chief, Bridge Administration Division.

(b) The Preliminary Investigation Report will include a description of the nature and extent of the obstruction, the alterations to the bridge believed necessary to meet the reasonable needs of existing and future navigation, the type and volume of waterway traffic, and a calculation of the benefits to navigation which would result from the proposed bridge alterations.

(c) The Chief, Bridge Administration Division will review the Preliminary Investigation Report and make a Preliminary Decision whether or not to undertake a Detailed Investigation and a Public Hearing.

(d) If after reviewing the Preliminary Investigation Report, the Chief, Bridge Administration Division decides that further investigation is not warranted, the complainant will be notified of the decision. This notification will include a brief summary of information on which the decision was based and details of the appeal process described in § 116.55.

§ 116.20 Detailed investigation.

(a) When the Chief, Bridge Administration Division determines that a Detailed Investigation should be conducted, the District Commander will initiate an investigation that addresses all of the pertinent data regarding the bridge, including information obtained at a public hearing held under § 116.25. As part of the investigation, the District Commander will develop a comprehensive report, termed the "Detailed Investigation Report", which will discuss: the obstructive character of the bridge in question; the impact of that bridge upon navigation; navigational benefits derived; whether an alteration is needed to meet the needs of navigation; and, if alteration is recommended, what type.

(b) The District Commander will forward the completed Detailed Investigation Report to the Chief, Bridge

VOL 60 ISS 82 AP 28 1995 UMI

Administration Division for review together with a recommendation of whether the bridge should be declared an unreasonable obstruction to navigation and, if so, whether an Order to Alter should be issued.

§ 116.25 Public hearings.

(a) Any time the Chief, Bridge Administration Division determines that a Detailed Investigation is warranted, or when Congress declares a bridge unreasonably obstructive, the District Commander will hold a public hearing near the location of the bridge to provide the bridge owner, waterway users, and other interested parties the opportunity to offer evidence and be heard, orally or in writing, as to whether any alterations are necessary to provide reasonably free, safe, and unobstructed passage for waterborne traffic. The District Commander will issue a public notice announcing the public hearing stating the time, date, and place of the hearing.

(b) When a bridge is statutorily determined to be an unreasonable obstruction, the scope of the hearing will be to determine what navigation clearances are needed.

(c) In all other cases, the scope of the hearing will be to address issues bearing on the question of whether the bridge is an unreasonable obstruction to navigation and, if so, what alterations are needed.

(d) The hearing will be recorded. Copies of the public hearing transcript will be available for purchase from the recording service.

§ 116.30 Chief, Bridge Administration Division Review and Evaluation.

(a) Upon receiving a Detailed Investigation Report from a District Commander, the Chief, Bridge Administration Division will review all the information and make a final determination of whether or not the bridge is an unreasonable obstruction to navigation and, if so, whether to issue an Order to Alter. This determination will be accompanied by a supporting written Decision Analysis which will include a Benefit/Cost Analysis, including calculation of a Benefit/Cost Ratio.

(b) The Benefit/Cost ratio is calculated by dividing the annualized navigation benefit of the proposed bridge alteration by the annualized government share of the cost of the alteration.

(c) Except for a bridge which is statutorily determined to be an unreasonable obstruction, an Order to Alter will not be issued under the Truman-Hobbs Act unless the ratio is at least 1:1.

(d) If a bridge is statutorily determined to unreasonably obstruct navigation, the Chief, Bridge Administration Division will prepare a Decision Analysis to document and provide details of the required vertical and horizontal clearances and the reasons alterations are necessary.

(e) If the Chief, Bridge Administration Division decides to recommend that the Commandant issue an Order to Alter, or a bridge is statutorily determined to unreasonably obstruct navigation, the Chief, Bridge Administration Division will issue a letter to the bridge owner ("The 60-Day Letter") at least 60 days before the Commandant issues an Order to Alter. This letter will contain the reasons an alteration is necessary, the proposed alteration, and, in the case of a Truman-Hobbs bridge, an estimate of the total project cost and the bridge owner's share.

(f) If the bridge owner does not agree with the terms proposed in the 60-Day Letter, the owner may request a reevaluation of the terms. The request for a reevaluation must be in writing, and identify the terms for which reevaluation is requested. The request may provide additional information not previously presented.

(g) Upon receipt of the bridge owner's response, the Chief, Bridge Administration Division will reevaluate the situation based on the additional information submitted by the bridge owner. If after the Chief, Bridge Administration Division reviews the determination, there is no change, the Commandant may issue an Order to Alter as set out in § 116.35. The Chief, Bridge Administration Division's determination based on the reevaluation will constitute final agency action.

§ 116.35 Order to Alter.

(a) If the bridge owner agrees with the contents of the 60-Day Letter, if no reply is received by 60 days after the issuance of the letter, or if after reevaluation a bridge is determined to be an unreasonable obstruction to navigation, the Commandant will issue an Order to Alter.

(1) If a bridge is eligible for funding under the Truman-Hobbs Act, the Order to Alter will specify the navigational clearances to be accomplished in order to meet the reasonable needs of navigation.

(2) An Order to Alter for a bridge that is not eligible for Truman-Hobbs funding will specify the navigational clearances that are required to meet the reasonable needs of navigation and will prescribe a reasonable time in which to accomplish them.

(b) If appropriate, the Order to Alter will be accompanied by a letter of special conditions setting forth safeguards needed to protect the environment or to provide for any special needs of navigation.

(c) If a proposed alteration to a bridge has desirable, non-navigational benefits, the Chief, Bridge Administration Division may require an equitable contribution from any interested person, firm, association, corporation, municipality, county, or state benefiting from the alteration as a prerequisite to the making of an Order to Alter for that alteration.

(d) Failure to comply with any Order to Alter issued under the provisions of this part will subject the owner or controller of the bridge to the penalties prescribed in 33 U.S.C. 495, 502, 519, or any other applicable provision.

§ 116.40 Plans and specifications under the Truman-Hobbs Act.

(a) After an Order to Alter has been issued to a bridge owner under the Truman-Hobbs Act, the Chief, Bridge Administration Division will issue a letter to the bridge owner outlining the owner's responsibilities to submit plans and specifications to the Chief, Bridge Administration Division for the alteration of the bridge. The plans and specifications, at a minimum, must provide for the clearances identified in the Order to Alter. The plans and specifications may also include any other additional alteration to the bridge that the owner considers desirable to meet the requirements of railroad or highway traffic. During the alteration process, balanced consideration shall be given to the needs of rail, highway, and marine traffic.

(b) The Chief, Bridge Administration Division will approve or reject the plans and specifications submitted by the bridge owner, in whole or in part, and may require the submission of new or additional plans and specifications.

(c) When Chief, Bridge Administration Division has approved the submitted plans and specifications, they are final and binding upon all parties, unless later changes are approved by the Chief, Bridge Administration Division. Any changes to the approved plans will be coordinated with the District Commander.

§ 116.45 Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible for funding under the Truman-Hobbs Act.

(a) Once the plans and specifications for a bridge eligible for funding under the Truman-Hobbs Act have been approved, the bridge owner must take bids for the alteration of the bridge consistent with the approved plans and specifications. Those bids must then be submitted to the Chief, Bridge Administration Division for approval.

(b) After the bridge owner submits the guaranty of cost required by 33 U.S.C. 515, the Chief, Bridge Administration Division authorizes the owner to award the contract.

(c) Partial payments of the government's costs are authorized as the work progresses to the extent that funds have been appropriated.

§ 116.50 Apportionment of costs under the Truman-Hobbs Act.

(a) In determining the apportionment of costs, the bridge owner must bear such part of the cost attributable to the direct and special benefits which will accrue to the bridge owner as a result of alteration to the bridge, including expected savings in repairs and maintenance, expected increased carrying capacity, costs attributable to the requirements of highway and railroad traffic, and actual capital costs of the used service life. The United States will bear the balance of the costs, including that part attributable to the necessities of navigation.

(b) "Direct and special benefits" ordinarily will include items desired by the owner but which have no counterpart or are of higher quality than similar items in the bridge prior to alteration. Examples include improved signal and fender systems, pro rata share of dismantling costs, and improvements included, but not required, in the interests of navigation.

(c) During the development of the Apportionment of Costs, the bridge owner will be provided with an opportunity to be heard. Proportionate shares of cost to be borne by the United States and the bridge owner are developed in substantially the following form:

Total cost of project _____ $_____
Less salvage _____ $_____
Less contribution by third party _____ $_____
Cost of alteration to be apportioned _____ $_____
Share to be borne by the bridge owner:
Direct and Special Benefits:
a. Removing old bridge _____ $_____
b. Fixed charges _____ $_____
c. Betterments _____ $_____
Expected savings in repair or maintenance costs:
a. Repair _____ $_____
b. Maintenance _____ $_____
Costs attributable to requirements of railroad and/or highway traffic _____ $_____
Expenditure for increased carrying capacity _____ $_____
Expired service life of old bridge _____ $_____
Subtotal _____ $_____
Share to be borne by the bridge owner _____ $_____
Contingencies _____ $_____
Total _____ $_____
Share to be borne by the United States _____ $_____
Contingencies _____ $_____
Total _____ $_____

(d) The Order of Apportionment of Costs will include the guaranty of costs.

§ 116.55 Appeals.

(a) Except for the decision to issue an Order to Alter, if a complainant disagrees with a recommendation regarding obstruction or eligibility made by a District Commander, or the Chief, Bridge Administration Division, the complainant may appeal that decision to the Chief, Office of Navigation Safety and Waterway Services.

(b) The appeal must be submitted in writing to the Chief, Office of Navigation Safety and Waterway Services, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, within 60 days after the District Commander's or the Chief's, Bridge Administration Division decision. The Chief, Office of Navigation Safety and Waterway Services will make a decision on the appeal within 90 days after receipt of the appeal. The Chief's, Office of Navigation Safety and Waterway Services decision of this appeal shall constitute final agency action.

(c) Any Order of Apportionment made or issued under section 6 of the Truman-Hobbs Act, 33 U.S.C. 516, may be reviewed by the Court of Appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for review is filed within 90 days after the date of issuance of the order. The review is described in section 10 of the Truman-Hobbs Act, 33 U.S.C. 520. The review proceedings do not operate as a stay of any order issued under the Truman-Hobbs Act, other than an order of apportionment, nor relieve any bridge owner of any liability or penalty under other provisions of that act.

Dated: April 20, 1995.

R.C. Houle,

Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–10538 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–P

33 CFR Part 165

[CGD01–95–014]

RIN 2115–AA97

Safety Zone: Parade of Ships, Fleet Week '95, Port of New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on May 24, 1995, for the Fleet Week '95 Parade of Ships. A moving safety zone is established 500 yards fore and aft, and 200 yards on each side of the designated column of vessels in this parade as it transits from the Verrazano Narrows Bridge to the George Washington Bridge on the Hudson River. As the vessels make their turns and proceed southbound in the Hudson River, the moving safety zone continues to encompass all waters within a 200 yard radius of each vessel until safely berthed.

EFFECTIVE DATE: This rule is effective from 9:30 a.m. until 4 p.m. on Wednesday, May 24, 1995, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group, New York, (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 16, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 14246) concerning this regulatory action. Interested persons were requested to submit comments on or before April 17, 1995. No comments were received. A public hearing was not requested and one was not held. The proposed rule stated that the vessel column would transit from the Verrazano Narrows Bridge to the waters west of the 79th Street Boat Basin, Manhattan, New York. The Coast Guard has since determined that this would not be practical due to the assigned mooring and anchoring locations of the parade vessels. While the vessel column will transit approximately 8,300 yards north of the 79th Street Boat Basin, the parameters of the moving safety zone

VOL
60
ISS
82
AP
28
1995
UMI

around this column remain the same as published in the NPRM. The proposed rule also stated that the effective period would be from 8:45 a.m. until 3 p.m. Due to a change in the arrival time of the last parade vessel, the USS AMERICA, and the increase in the length of this parade, the effective period was changed.

The effective period of the safety zone will start at 9:30 a.m. instead of 8:45 a.m. and will continue until 4 p.m. instead of 3 p.m. The net result is that the effective period is a total of 15 minutes longer in duration than originally expected. The impact of these changes are minimal. The Captain of the Port, New York is promulgating the temporary final rule as proposed with the exception of these changes. Good cause exists for making this regulation effective less than 30 days after **Federal Register** publication. Due to the NPRM comment period deemed necessary to give the public adequate notice, there was insufficient time to publish this temporary final rule 30 days prior to the event. The delay that would be encountered to allow for a 30 day publication period would cause the cancellation of this event. Cancellation of this event is contrary to the public interest.

Background and Purpose

On March 1, 1995, the Intrepid Museum Foundation submitted a request to hold a parade of U.S. Coast Guard and U.S. and foreign naval ships through the Port of New York and New Jersey on May 24, 1995. This section will be effective from 9:30 a.m. until 4 p.m. on May 24, 1995, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. This section establishes a moving safety zone within all waters 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards to each side of the designated column as it transits north from the Verrazano Narrows Bridge to the George Washington Bridge, in the Hudson River. The vessels will then proceed to their berths. This section also provides for a moving safety zone in all waters within a 200 yard radius around each vessel from the time the vessel breaks off from the parade until it is safely moored. No vessel will be permitted to enter or move within these safety zones unless authorized by the Captain of the Port, New York.

This section is needed to protect the maritime public from possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York Harbor in close proximity. These vessels have limited maneuverability and require a clear traffic lane in order to safely navigate.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons: Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time. Therefore, commercial traffic should not be significantly delayed. Additionally, recreational traffic can transit the river on either side of the safety zone. Alternate routes are also available to commercial and recreational vessel traffic that can safely transit the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established for the previous Fleet Week parades of ships with minimal or no disruption to vessel traffic or other interests in the port. In addition, extensive, advance advisories will be made to the maritime community so that they can adjust their plans accordingly. For all the above reasons, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the parade under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01–014 is added to read as follows:

§ 165.T01–014 Safety Zone; Parade of Ships, Fleet Week '95, Port of New York and New Jersey.

(a) *Location.* This moving safety zone includes all waters within 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards on each side of the designated column as it transits north from the Verrazano Narrows Bridge to the George Washington Bridge on the Hudson River. The moving safety zone continues to include 200 yards around each vessel as it breaks from the parade formation and transits southbound in the Hudson River until safely berthed.

(b) *Effective period.* This section is effective from 9:30 a.m. until 4 p.m. on May 24, 1995, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 C.F.R. 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 20, 1995.

J. Rutkovsky,

Commander, U.S. Coast Guard, Captain of the Port, New York Acting.

[FR Doc. 95–10536 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[Docket No. CGD01–95–023]

RIN 2115–AA97

Safety Zone: USS AMERICA, Fleet Week '95, Port of New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone on May 24, 1995, and May 31, 1995, for the arrival and departure of the USS AMERICA for Fleet Week '95. This moving safety zone is established 500 yards fore and aft, and 200 yards on each side of the USS AMERICA as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy "A" and its berth at Pier 88, Manhattan, on the Hudson River.

EFFECTIVE DATE: This rule is effective on May 24, 1995, from 9:15 a.m. until 3 p.m., and on May 31, 1995, from 7:30 a.m. until 1 p.m., unless extended or terminated sooner by the Captian of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group, New York, (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 16, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 14242) concerning this regulatory action. Interested persons were requested to submit comments on or before April 17, 1995. No comments were received. A public hearing was not requested and one was not held. The NPRM stated that the safety zone would be in effect while the USS AMERICA transited to and from its berth at an unknown location. This location is now known to be Pier 88, Manhattan, in the Hudson River. The Coast Guard is promulgating this final rule as proposed with the exception of this addition. Good cause exists for making this regulation effective less than 30 days after **Federal Register** publication. Due to the NPRM comment period deemed necessary to give the public adequate notice, there was insufficient time to publish this temporary final rule 30 days prior to the event. The delay that would be encountered to allow for a 30 day publication period would cause the cancellation of this event.

Cancellation of this event is contrary to the public interest.

Background and Purpose

The Intrepid Museum Foundation is sponsoring Fleet Week '95. The USS AMERICA has been designated as the Fleet Week Flagship and will be entering the Port of New York and New Jersey on May 24, 1995, to participate in the various activities associated with this celebration. USS AMERICA intends to depart the Port of New York and New Jersey following the completion of Fleet Week on May 31, 1995. This regulation is effective during the arrival and departure of the USS AMERICA on May 24, 1995, from 9:15 a.m. until 3:00 p.m., and on May 31, 1995, from 7:30 a.m. until 1:00 p.m. unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. The regulation establishes a moving safety zone within 500 yards fore and aft and 200 yards to each side of the USS AMERICA, as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy "A", at or near 40° 28.8′ N latitude, 73° 53.7′ W longitude, and its berth at Pier 88, Manhattan, on the Hudson River. No vessels are permitted to enter or move within this moving safety zone unless authorized by the Captain of the Port, New York.

This regulation is needed to protect the maritime public from possible hazards to navigation associated with a large naval vessel transiting the Port of New York and New Jersey with limited maneuverability in restricted waters, and requiring a clear traffic lane in order to safely navigate to and from its berth.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons. Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time. This safety zone prevents vessels from approaching within 500 yards fore and aft and 200 yards on either side of the aircraft carrier USS AMERICA. These distances are less than the typical safe passage distances normally required for large vessels and aircraft carriers. Additionally, recreational traffic can transit on either side of the safety zone or on other major waterways within the port. Alternate routes are also available to commercial and recreational vessel traffic that can safely transit the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established for large naval vessels with minimal or no disruption to vessel traffic or other interests in the port. In addition, extensive, advance advisories will be made to the maritime community so that they can adjust their plans accordingly. For all the above reasons, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation

VOL 60 ISS 82 AP 28 1995 UMI

will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the transit under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01–023 is added to read as follows:

§ 165.T01–023 Safety Zone; USS AMERICA, Fleet Week '95, Port of New York and New Jersey.

(a) *Location.* This moving safety zone includes all waters within 500 yards fore and aft and 200 yards to each side of the USS AMERICA, as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy "A", at or near 40°28.8' N latitude, 73°53.7' W longitude, and its berth at Pier 88, Manhattan, on the Hudson River.

(b) *Effective period.* This section is effective on May 24, 1995, from 9:15 a.m. until 3 p.m., and on May 31, 1995, from 7:30 a.m. until 1 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 20, 1995.

J. Rutkovsky,

Commander, U.S. Coast Guard, Captain of the Port, New York, Acting.

[FR Doc. 95–10535 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD13–95–014]

Safety Zone Regulations; Cinco De Mayo Fireworks Display, Willamette River, Portland OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Cinco De Mayo Fireworks Display which is scheduled to be held in Portland, Oregon, on May 5, 1995. The safety zone will be located on the Willamette River between the Morrison and Hawthorne Bridges from river mile 12.8 to river mile 13.1. This safety zone is needed to protect persons, facilities, and vessels from safety hazards associated with a fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on May 5, 1995, at 8:30 p.m (PDT) and terminates on May 5, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port. If the fireworks display is not held on May 5, 1995, because of inclement weather or otherwise, this regulation will become effective on May 6, 1995, at 8:30 p.m. (PDT) and will terminate on May 6, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LTJG C. A. Roskam, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, Oregon 97217–3992, (503) 240–9338.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, Amusement Consulting, Inc., was unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish the proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Drafting Information: The principal persons involved in drafting this document are LTJG C. A. Roskam, project officer for the Captain of the Port of Portland, OR, and LCDR J.C. Odell, project counsel, Thirteenth Coast Guard District Legal Office.

Background and Purpose

The event requiring this regulation is a fireworks display sponsored by Amusement Consulting, Inc., as part of the Cinco De Mayo celebration in the Portland, Oregon, area. The fireworks display is scheduled to begin on May 5, 1995, at 9:30 p.m. (PDT). If the fireworks display cannot be held on May 5 1995, because of inclement weather or otherwise, it will be rescheduled for May 6, 1995, at 9:30 p.m. (PDT).

During the fireworks display, spectator vessels may attempt to approach the fireworks launching barge at close range. If allowed to do so, these vessels and the persons onboard them will be exposed to potential damage, fire, and personal injury due to sparks, falling debris, and unexploded fireworks.

In order to protect the safety of life and property on the navigable waters during this event, the Coast Guard is establishing a safety zone around the fireworks launching barge on the waters of the Willamette River from river mile 12.8 to river mile 13.1 between the Morrison and Hawthorne Bridges. Entry into this zone will be prohibited unless authorized by the Captain of the Port. This safety zone will be enforced by representatives of the Captain of the Port Portland. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the entry into the safety zone will only be restricted for 3 hours on the day of the event. The entities most likely to be affected by this action are commercial tug and barge operators on the Willamette River. Most of these entities are aware of the fireworks display and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this final rule in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T13–013 is added to read as follows:

§ 165.T13–013 Safety Zone; Willamette River, Portland, OR

(a) *Location.* The following area is a safety zone: All waters on the Willamette River between the Morrison and Hawthorne Bridges from river mile 12.8 to river mile 13.1, Portland, Oregon.

(b) *Definitions.* The *designated representative of the Captain of the Port* is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective Dates.* This section is effective on May 5, 1995, at 8:30 p.m. (PDT) and terminates on May 5, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port. If the fireworks display is not held on May 5, 1995, because of inclement weather or otherwise, this section will become effective on May 6, 1995, at 8:30 p.m. (PDT) and will terminate on May 6, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port.

Dated: April 18, 1995.

C.E. Bills,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 95–10534 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 91–280; FCC 95–114]

Mobile-Satellite Service at 148–149.9 MHz

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Petition for Reconsideration.

SUMMARY: By this action, we deny a Petition for Reconsideration filed by STARSYS, Inc. (STARSYS). In its petition, STARSYS requests either that the Commission increase the permissible duty cycle from 0.25% to 1.0% per 15 minute interval for those systems in the low-Earth orbit (LEO) mobile-satellite service (MSS) operating in the 148–149.9 MHz band that use code division multiple access (CDMA) spread spectrum systems and which do not utilize a system that avoids frequencies used by other services in

VOL 60 ISS 82 AP 28 1995 UMI

this band, or in the alternative, that the Commission exempt from the duty cycle limitation CDMA systems operating below a certain power density. We are taking this action because we continue to believe that the power density and duty cycle requirements we adopted are necessary to prevent interference to incumbent government fixed and mobile operations that will share this band with LEO MSS on a co-primary basis.

EFFECTIVE DATE: May 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 739–0598.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order* in ET docket No. 91–280, adopted March 14, 1995 and released March 30, 1995. The complete text of this *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Public Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this *Memorandum Opinion and Order* also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington DC 20036, (202) 857–3800.

Summary of Memorandum Opinion and Order

1. STARSYS argued that the Commission has created redundant and excessive interference protection criteria by adopting both maximum power density and duty cycle limitations, It contends that either limitation alone is sufficient to provide protection to existing fixed and mobile government users. STARSYS requested that the Commission exempt LEO MSS systems using CDMA spread spectrum that operate with E.I.R.P. power densities below −16 dBW/4kHz from compliance with the 0.25% per 15 minute transmission duty cycle limitation. Alternatively, STARSYS requests that the Commission modify the 0.25% per 15 minute transmission time limit for CDMA systems to 1.0% per 15 minute period.

2. STARSYS stated that the duty cycle limit of 0.25% per 15 minute interval was intended to accommodate a data transmission rate of 4800 bits per second (bps) that was specified in its 1990 license application to construct and operate a system using CDMA spread spectrum. However, it now claims that unanticipated interference in the 148–149.9 MHz band may force it to use a lower data transmission rate of 1200 bps, which, with a duty cycle of 0.25% per 15 minute interval, will result in an intolerably low data throughput. It argued that with a duty cycle of 1.0% per 15 minute period, its system would achieve throughput approximately equivalent to the throughput achieved with a data rate of 4800 bps when used with a duty cycle of 0.25% per 15 minute period. Accordingly, STARSYS requested that the duty cycle be increased to 1.0% to accommodate its lowering of the transmission rate to 1200 bps.

3. NTIA, as representative of the government users of the 148–149.9 MHz band, opposed STARSYS' request for relaxation of the duty cycle requirement. NTIA submitted a report to the Commission through the Interdepartment Radio Advisory Committee. The report concludes that in cases in which multiple earth stations exist within range of specific government mobile systems, the duty cycle limitation adopted by the Commission is necessary to protect these government systems.

4. We recognize that the power and duty cycle requirements will impose limitations on satellite operations in the 148–149.9 MHz band. However, we must ensure that adequate protection is afforded to the incumbent government users of the band. The regulations adopted in the *Report and Order*, ET Docket 92–28, 8 FCC Rcd 812, 58 FR 16360 (March 26, 1993), to provide this protection were developed through lengthy negotiations between the Commission and NTIA and in consultation with potential LEO MSS users. Therefore, to the extent STARSYS is requesting a change of our rules that now impose both the power density and duty cycle limitations, we do not find an adequate basis in the petition or the comments to make such a change. Moreover, to the extent STARSYS is requesting a waiver of these rules, we find that STARSYS has failed to sustain its heavy burden for a waiver. STARSYS has not shown how exempting it from the duty cycle requirement will better serve the public interest, particularly in light of NTIA's report, with which we agree, that the duty cycle limitation is necessary to protect government users in this band.

5. We also deny STARSYS' request to modify the duty cycle limitation for CDMA systems. As we have stated above, NTIA's report indicates that the duty cycle limitation we adopted is necessary to protect government users in this band. The development and provision of LEO MSS must not result in unacceptable interference to those users. Therefore, we will not modify the duty cycle limitation for CDMA systems.

6. Accordingly, STARSYS' Petition for Reconsideration is DENIED. We are also republishing in the Amendatory Text a copy of the final rules since the original rules were not depicted accurately at the time of the *Report and Order*. This action is taken pursuant to Sections 4(i), 7(a), 303(c), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(g) and 303(r).

List of Subjects in 47 CFR Part 2

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

1. The authority citation in Part 2 continues to read:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 154(i), 302, 303, 303(r), and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations is amended as follows:

a. The entries for 137.0–138.0, 146.0–149.9, 149.9–150.05, 399.9–400.05, and 400.15–401.0 MHz are removed and new entries for 137–138.0, 146.0–148, 148–149.9, 149.9–150.05, 399.9–400.05, and 400.15–401 MHz are added in numerical order.

b. International Footnotes Nos. 599A, 599B, 608A, 608B, 608C, 609B, 647A, and 647B are added.

c. United States (US) Footnotes US318, US319, US320, US322, US323, US324, US325, and US326 are

The additions, and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-Government allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
•	•	•	•	•	•	•
137.0–137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.0–137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.0–137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.0–137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	137.0–137.025 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	SATELLITE COMMUNICATIONS (25)	
596 597 598 599 599A	596 597 598 599 599A	596 597 598 599 599A	599A	599A		
137.025–137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.025–137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.025–137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.025–137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	137.025–137.175 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	SATELLITE COMMUNICATIONS (25)	
596 597 598 599 599A	596 597 598 599 599A	596 597 598 599 599A	599A	599A		
137.175–137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.175–137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.175–137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R)	137.175–137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	137.175–137.825 SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	SATELLITE COMMUNICATIONS (25)	
596 597 598 599 599A	596 597 598 599 599A	596 597 598 599 599A	599A	599A		
137.825–138.0	137.825–138.0	137.825–138.0	137.825–138.0	137.825–138.0		

VOL 60 ISS 82 APR 28 1995 UMI

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-Government allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R) 596 597 598 599 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R) 596 597 598 599 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R) 596 597 598 599 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320 599A	SATELLITE COMMUNICATIONS (25)	
146.0–148 FIXED MOBILE except aeronautical Mobile (R) 608	146.0–148 AMATEUR	146.0–148 AMATEUR FIXED MOBILE 607	146.0–148	146.0–148 AMATEUR	AMATEUR (97)	
148–149.9 FIXED MOBILE except aeronautical mobile (R) MOBILE-SATELLITE (Earth-to-space) 599B 608 608A 608C	148–149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 599B 608 608A 608C	148–149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 599B 608 608A 608C	148–149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 599B US319 US320 US323 US325 608 608A US10 G30	148–149.9 MOBILE-SATELLITE (Earth-to-space) 599B US319 US320 US323 US325 608 608A US10	SATELLITE COMMUNICATION (25)	
149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599 609B	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599 609B.	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599 609B.	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599B US319 US322.	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599B US319 US322.		
608B 609 609A	608B 609 609A	608B 609 609A	608B 609A	608B 609A		
399.9–400.05 RADIO-NAVIGATION-SATELLITE	399.9–400.05 RADIO-NAVIGATION-SATELLITE	399.9–400.05 RADIO-NAVIGATION-SATELLITE	399.9–400.05 RADIO-NAVIGATION-SATELLITE MOBILE-SATELLITE (Earth-to-space) US319 US326	399.9–400.05 RADIO-NAVIGATION-SATELLITE MOBILE-SATELLITE (Earth-to-space) US319 US326		
609 645B	609 645B	609 645B	645B	645B		
400.15–401	400.15–401	400.15–401	400.15–401	400.15–401		

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-Government allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
METEOROLOGICAL AIDS METEORO-LOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) 647A MOBILE-SATELLITE (space-to-Earth) 599B Space-Operation (space-to-Earth) 647 647B	METEOROLOGICAL AIDS METEORO-LOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) 647A MOBILE-SATELLITE (space-to-Earth) 599B Space-Operation (space-to-Earth) 647 647B	METEOROLOGICAL AIDS METEORO-LOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) 647A MOBILE-SATELLITE (space-to-Earth) 599B Space-Operation (space-to-Earth) 647 647B	METEOROLOGICAL AIDS (radiosonde) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) 647A MOBILE-SATELLITE (space-to-Earth) 599B US319 US320 US324 Space Operation (space-to-Earth) 647 647B US70	METEOROLOGICAL AIDS (radiosonde) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) 647A MOBILE-SATELLITE (space-to-Earth) 599B US319 US320 US324 Space Operation (space-to-Earth) 647 647B US70	SATELLITE COMMUNICATION (25)	

International Footnotes

* * * * *

599A The use of the band 137–138 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). However, coordination of a space station of the mobile-satellite service with respect to terrestrial services is required only if the power flux-density produced by the station exceeds −125 dB(W/m²/4 kHz) at the Earth's surface. The above power flux-density limit shall apply until such time as a competent world administrative radio conference revises it. In making assignments to the space stations in the mobile-satellite service in the above band, administrations shall take all practicable steps to protect the radio astronomy service in the 150.05–153 MHz band from harmful interference from unwanted emissions.

599B The use of the bands 137–138 MHz, 148–149.9 MHz and 400.15–401 MHz by the mobile-satellite service and the band 149.9–150.05 MHz by the land mobile-satellite service is limited to non-geostationary-satellite systems.

* * * * *

608A The use of the band 148–149.9 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). The mobile-satellite service shall not constrain the development and use of fixed, mobile and space operation services in the band 148–149.9 MHz. Mobile earth stations in the mobile-satellite service shall not produce a power flux-density in excess of −150 dB(W/m²/4 kHz) outside national boundaries.

608B The use of the band 149.9–150.05 MHz by the land mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). The land mobile-satellite service shall not constrain the development and use of the radionavigation-satellite service in the band 149.9–150.05 MHz. Land mobile earth stations of the land mobile-satellite service shall not produce power flux-density in excess of −150 dB(W/m²/4kHz) outside national boundaries.

608C Stations of the mobile-satellite service in the band 148–149.9 MHz shall not cause harmful interference to, or claim protection from stations of the fixed or mobile services in the following countries: Algeria, the Federal Republic of Germany, Saudi Arabia, Australia, Austria, Bangladesh, Belarus, Belgium, Brunei Darussalam, Bulgaria, Cameroon, Canada, Cyprus, Colombia, Congo, Cuba, Denmark, Egypt, the United Arab Emirates, Ecuador, Spain, Ethiopia, the Russian Federation, Finland, France, Ghana, Greece, Honduras, Hungary, Iran, Ireland, Iceland, Israel, Italy, Japan, Jordan, Kenya, Libya, Liechtenstein, Luxembourg, Malaysia, Mali, Malta, Mauritania, Mozambique, Namibia, Norway, New Zealand, Oman, Pakistan, Panama, Papua New Guinea, the Netherlands, Phillippines, Poland, Portugal, Qatar, Syria, Romania, the United Kingdom, Singapore, Sri Lanka, Sweden, Switzerland, Suriname, Swaziland, Tanzania, Chad, the Czech and Slovak Federal Republic, Thailand, Tunisia, Turkey, Ukraine, Yemen and Yugoslavia that operate in accordance with the Table of Frequency Allocations.

* * * * *

609B In the band 149.9–150.05MHz, the allocation to the land mobile-satellite service shall be on a secondary basis until 1 January 1997.

* * * * *

647A The band 400.15–401 MHz is also allocated to the space research service in the space-to-space direction for communications with manned space vehicles. In this application, the space research service will not be regarded as a safety service.

647B The use of the band 400.15–401 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). However, coordination of a space station of the mobile-satellite service with respect to terrestrial services is required only if the power flux-density produced by the station exceeds −125 dB(W/m²/4kHz) at the Earth's surface. The above power flux-density limit shall apply until such time as a competent world administrative radio conference revises it. In making assignments to the space stations in the mobile-satellite service in the above band, administrations shall take all practicable steps to protect the radio astronomy service in the band 406.1–410 MHz from harmful interference from unwanted emissions.

* * * * *

United States (US) Footnotes

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US318 Until January 1, 2000, the use of the 137–138 MHz band by the mobile-satellite service will be secondary to Government satellite operations in the subbands: 137.333–137.367, 137.485–137.515, 137.605–137.635 and 137.753–137.787 MHz.

US319 In the 137–138, 148–149.9, 149.9–150.05, 399.9–400.05, and 400.15–401 MHz bands, Government stations in the mobile-satellite service shall be limited to earth stations operating with non-Government satellites.

US320 Use of the 137–138, 148–149.9, and 400.15–401 MHz bands by the mobile-satellite service is limited to non-voice, non-geostationary satellite systems and may include satellite links between land earth stations at fixed locations.

* * * * *

US322 The 149.9–150.05 MHz band is allocated to the mobile-satellite service (Earth-to-space) on a primary basis after 1 January 1997 and shall be limited to non-

VOL 60 ISS 82 AP 28 1995 UMI

voice, non-geostationary satellite systems, including satellite links between land earth stations. Before 1 January 1997 use of this band on a secondary basis for the mobile satellite service is allowed for land earth stations at fixed locations.

US323 In the 148–149.9 MHz band, no individual mobile earth station shall transmit, on the same frequency being actively used by fixed and mobile stations and shall transmit no more than 1% of the time during any 15 minute period; except, individual mobile earth stations in this band that do not avoid frequencies actively being used by the fixed and mobile services shall not exceed a power density of −16 dBW/4kHz and shall transmit no more than 0.25% of the time during any 15 minute period. Any single transmission from any individual mobile earth station operating in this band shall not exceed 450 ms in duration and consecutive transmissions from a single mobile earth station on the same frequency shall be separated by at least 15 seconds. Land earth stations in this band shall be subject to electromagnetic compatibility analysis and coordination with terrestrial fixed and mobile stations.

US324 Government and non-Government satellite systems in the 400.15–401 MHz band shall be subject to electromagnetic compatibility analysis and coordination.

US325 In the band 148–149.9 MHz fixed and mobile stations shall not claim protection from land earth stations in the mobile-satellite service that have been previously coordinated; Government fixed and mobile stations exceeding 27 dBW EIRP, or an emission bandwidth greater than 38 kHz, will be coordinated with existing mobile-satellite service space stations.

US326 The 399.9–400.05 MHz band is allocated to the mobile-satellite service (Earth-to-space) on a primary basis after January 1, 1997 and shall be limited to non-voice, non-geostationary satellite systems, including satellite links between land earth stations.

* * * * *

[FR Doc. 95–10427 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–79; RM–8493]

Radio Broadcasting Services; Pine Hill, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 244A to Pine Hill, Alabama, as that community's first local aural transmission service, in response to a petition for rule making filed by R. J. Miller. *See* 59 FR 35894, July 14, 1994. Coordinates used for Channel 244A at Pine Hill are North Latitude 32–01–38 and West Longitude 87–37–23. With this action, the proceeding is terminated.

DATES: Effective June 8, 1995. The window period for filing applications for Channel 244A at Pine Hill, Alabama, will open on June 8, 1995, and close on July 10, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 244A at Pine Hill, Alabama, should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94–79, adopted April 14, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW, Room 246, or 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments underAlabama, is amended by adding Pine Hill, Channel 244A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–10469 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

Radio Broadcasting Services; Various Communities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 54 FR 11953 (1989), and the *Amendment of the Commission's Rules to Permit FM Channel and Class Modifications [Upgrades] by Applications*, 58 FR 38534 (1993).

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, adopted April 12, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 297A and adding Channel 297C2 at Chinle; and by removing Channel 280A and adding Channel 280C3 at Coolidge; and by removing Channel 274C1 and adding Channel 274C3 at Window Rock.

3. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 228C1 and adding Channel 228C at Batesville.

4. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 277A and adding Channel 277B1 at Lindsay; and by removing Channel 239B1 and adding Channel 239A at Twentynine Palms.

5. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 249A and adding Channel 249C1 at Marathon.

6. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 267A and adding Channel 265C at Gooding.

7. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 237A and adding Channel 236A at Maquoketa.

8. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 240A and adding Channel 242C3 at Stanford.

9. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 253C and adding Channel 253C1 at New Orleans.

10. Section 73.202(b), the Table of FM Allotments under Maine, is amended by removing Channel 249A and adding Channel 249C3 at Caribou; and by removing Channel 261A and adding Channel 261C3 at Houlton.

11. Section 73.202(b), the Table of FM Allotments under Maryland, is amended by removing Channel 265A and adding Channel 263A at Hurlock.

12. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 285A and adding Channel 285C1 at Blooming Prairie; and by removing Channel 241C3 and adding Channel 242C2 at Glencoe; and by removing Channel 281C2 and adding Channel 281C3 at International Falls; and by removing Channel 261A and adding Channel 261C3 at Olivia.

13. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 261C3 and adding Channel 261A at Malta.

14. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 280C3 and adding Channel 280A at Superior.

15. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 289C and adding Channel 289C1 at Decatur.

16. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 244C3 and adding Channel 246C1 at Moab.

17. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 229C and adding Channel 229C1 at Chesapeake.

18. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 288A and adding Channel 289C3 at Chippewa Falls.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–10471 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–1; RM–8527]

Radio Broadcasting Services; Hamilton, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 251C3 to Hamilton, Montana, as that community's second FM service in response to a petition filed by Benedict Communications, Inc. *See* 60 FR 3613, January 18, 1995. Canadian concurrence has been obtained for this allotment at coordinates 46–14–36 and 114–09–30. Channel 251C3 is not site restricted. With this action, this proceeding is terminated.

DATES: Effective June 8, 1995. The window period for filing applications for Channel 251C3 at Hamilton will open on June 8, 1995, and close on July 10, 1995.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MM Docket No. 95–1, adopted April 13, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel 251C3 at Hamilton.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–10468 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 94–141; RM–8544]

Radio Broadcasting Services; Dell Rapids, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Conway Broadcasting, allots Channel 239C3 at Dell Rapids, South Dakota, as the community's first local aural transmission service. *See* 59 FR 64382, December 14, 1994. Channel 239C3 can be allotted to Dell Rapids in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.1 kilometers (1.9 miles) southwest. The coordinates for Channel 239C3 at Dell Rapids are North Latitude 43–47–57 and West Longitude 96–43–01. With this action, this proceeding is terminated.

DATES: Effective June 8, 1995. The window period for filing applications for Channel 239C3 at Dell Rapids, South Dakota, will open on June 8, 1995 and close on July 10, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94–141, adopted April 12, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

VOL
60
ISS
82
AP
28
1995
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PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Dakota , is amended by adding Dell Rapids, Channel 239C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–10467 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 676

[Docket No. 950208041–5041–01; I.D. 041395C]

Groundfish of the Gulf of Alaska; Foreign Fishing; Limited Access Management of Federal Fisheries in and Off of Alaska; Final 1995 Harvest Specifications of Groundfish; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 1995 harvest specifications of groundfish and associated management measures; correction.

SUMMARY: This document contains a correction to the final 1995 harvest specifications (I.D. 112894A), which was published Tuesday, February 14, 1995 (60 FR 8470). The rex sole species was inadvertently omitted from the list of the deep-water species complex for the trawl halibut prohibited species catch (PSC) limit allowances.

EFFECTIVE DATE: February 8, 1995, through 2400 Alaska local time, on December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION:

Under § 672.20(f), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear, and are established for pot gear. The Final 1995 Pacific Halibut PSC Limits, Allowances, and Apportionments are contained in Table 6 (page 8476) of the final 1995 harvest specifications. Regulations at § 672.20(f)(1)(i) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to the deep-water species complex and the shallow-water species complex. The final 1995 apportionment of Pacific halibut PSC trawl limits between the deep-water species complex and the shallow-water species complex is contained in Table 7 (page 8477) of the final 1995 harvest specifications. Rex sole is part of the deep-water species complex that is discussed in regulations at § 672.20(f)(1)(i)(B)(*2*). However, rex sole was inadvertently omitted from the list of the deep-water species complex contained on page 8476 of the final specifications.

Accordingly, the publication on February 14, 1995 (60 FR 8470), which was the subject of FR Doc. 95–3483, is corrected as follows:

On page 8476, in the third column, last line, and continuing to page 8477, in the first column, line one, the sentence "The deep-water species complex consists of sablefish, rockfish, deep-water flatfish, and arrowtooth flounder." is corrected to read "The deep-water species complex consists of sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder."

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 21, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–10448 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 654

[Docket No. 950203034–5034–01; I.D. 092794B]

RIN 0648–AG23

Stone Crab Fishery of the Gulf of Mexico; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This rule corrects the final rule to implement Amendment 5 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico, which was published on March 15, 1995.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: The final rule to implement Amendment 5, among other things, incorporated by reference certain sections of the Florida Administrative Code. One of the Florida citations that is in this rule, which originally appears at 60 FR 13918, March 15, 1995, was stated incorrectly.

Correction of Publication

Accordingly, the publication on March 15, 1995 (60 FR 13918) of the final regulations (I.D. 092794B), which was the subject of FR DOC. 95–6334, is corrected as follows:

§ 654.6 [Corrected]

On page 13919, in the third column of § 654.6, paragraph (a), line eight, correct the reference "Rule 2N–8.001" to read "Rule 62N–8.001".

Dated: April 24, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–10447 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 950208040–5040–01; I.D. 042495A]

Groundfish of the Bering Sea and Aleutian Islands Area; Atka Mackerel in the Central Aleutian District

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the final groundfish specification of Atka mackerel in that area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), April 25, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii) the Atka mackerel total allowable catch (TAC) for the Central Aleutian District was established by the final 1995 initial groundfish specifications (60 FR 8479, February 14, 1995) as 42,500 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Atka mackerel TAC in the Central Aleutian District soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 41,500 mt after determining that 1,000 mt will be taken as incidental catch in directed fishing for other species in the Central Aleutian District. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District. Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 24, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–10449 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–F

VOL 60 ISS 82 AP 28 1995 UMI

Proposed Rules

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[Docket No. PRM–170–4]

American Mining Congress; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission ("NRC" or "Commission") received a petition for rulemaking submitted by the American Mining Congress ("petitioner") concerning the licensing, inspection and annual fees assessed by the NRC. The petitioner requested that the NRC amend its regulations to alleviate what the petitioner claimed are inequitable impacts of NRC user and annual fees on its members, specifically for uranium recovery sites with conventional mills that have ceased operations and are awaiting NRC approval of their reclamation plans. The petitioner claimed that there is a lack of a rational relationship between fees and regulatory services. The petitioner requested that the fee be waived for any licensed facility serving solely as a cost center and not generating revenues; that licensees be given the ability to review and have input into the NRC's budget and fee development and that annual fees only be increased in proportion to normal inflation rates; that time limits be established for NRC's processing of amendment requests and cost sheets showing sample charges be provided to licensees; that more detailed information be provided to support the bills for licensing and inspection services; and that the Department of Energy (DOE) be assessed costs for NRC review of DOE sites under the Uranium Mill Tailings Radiation Control Act (UMTRCA). After careful consideration, the Commission has decided to deny the petition for rulemaking but notes that (1) the NRC will continue its current practice of providing available backup data to support Part 170 licensing and inspection billings upon request by the licensee or applicant and (2) petitioner's request that DOE be assessed fees for its UMTRCA actions was implemented in the final fee rule for FY 1994.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Glenda C. Jackson, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–415–6057.

SUPPLEMENTARY INFORMATION:

I. Background
II. Responses to Comments

I. Background

On February 4, 1993, the American Mining Congress petitioned the NRC to amend 10 CFR Parts 170 and 171 to alleviate what the petitioner claimed are inequitable NRC fees assessed its members. Because the petition involved Commission fee policy, the NRC announced receipt of and solicited public comment on the petition in its April 19, 1993 (58 FR 21116), **Federal Register** notice requesting public comment on the NRC's fee policy as required by the Energy Policy Act of 1992. The Energy Policy Act of 1992 directed the NRC to review its policy for assessment of annual fees, to solicit public comment on the need for changes to this policy, and to recommend to the Congress changes needed in existing law to prevent placing an unfair burden on NRC licensees.

The petitioner requested that the NRC take the following four actions to ensure that the fee schedule bears a reasonable relationship to the benefits provided by NRC oversight and regulation.

1. Waive the annual fee for any licensed facility in a standby status and not generating revenue from use of licensed material, i.e., those facilities in standby status which still possess licenses authorizing operation. The petitioner claimed that current NRC policy violates the principle that there must be a reasonable relationship between the cost of the NRC's regulatory program and the benefits derived from the regulatory services. The petitioner also stated that the annual fee does not reflect NRC involvement with Class I (conventional mill) uranium recovery sites, particularly those that have ceased operations and are awaiting NRC approval of reclamation plans or are in standby status. The petitioner suggested that the fee regulations should take into account the NRC's own failure to complete review as the only reason these sites are assessed annual fees and should adjust those fees accordingly.

2. Institute a system that allows NRC licensees to have some control over their fees. The petitioner suggested that a licensee review board be established to (i) review NRC fees annually; (ii) monitor NRC inspection activities to prevent regulatory abuse; and (iii) propose revisions to the fee system to eliminate inequitable treatment of licensees. The petitioner stated that its central concern with the NRC fee system is the absence of built-in safeguards to prevent overzealous imposition of fees or to ensure that the fee schedule bears a reasonable relationship to the benefits provided by NRC. The petitioner believes that the current system lacks accountability, oversight, and quality control, as well as a provision for licensees to object to unreasonable costs. The petitioner also indicated that the annual fee should be increased only in proportion to normal inflation rates and stated that NRC's hourly rate is excessive for NRC staff as compared to hourly charges of a senior consultant, principal or project manager at a nationally recognized consulting firm.

3. Develop a consistent method for applying charges by setting standards for services provided by the Commission. For example, the petitioner indicated that comparable amounts should be charged for similar types of work (i.e., amendment requests), regardless of which licensee submits the request or which particular NRC employee completes the work. NRC should develop and distribute to its licensees a cost sheet describing sample charges for different types of work, establish time limits for processing amendment requests, and distribute response times to all licensees. In addition, the 10 CFR Part 170 licensing and inspection bills should show not only hours worked and hourly charges, but also a description of the work performed, the name(s) of individual(s) who performed the work, and the dates on which the work was done.

4. Assess fees to the Department of Energy (DOE) for NRC review of DOE sites under the Uranium Mill Tailings Radiation Control Act (UMTRCA). The petitioner stated that it is inequitable and improper for DOE to receive NRC oversight and review of DOE mill tailings site reclamation activities without contributing anything to the NRC budget.

Of the 566 comments received on the fee policy review, 21 specifically addressed the AMC petition. Others who provided comments on the fee policy review addressed some of the same issues raised by the petitioner, such as inequities in the fee systems and assessment of Part 170 fees to Federal agencies because these issues were included in the overall review of NRC fee policy. Of the 21 comments, four were from fuel facility licensees, applicants, or their representatives; three were from facility licensees; one was from an Agreement State; nine were from materials licensees or medical associations; one was from two uranium recovery licensees; one was from an industry group representing fuel fabrication facilities, conversion facilities, uranium enrichment plants, material processing facilities, transporters, and other related service facilities; one was from a company holding materials, export and import, distribution, and non-power reactor licenses; and one was from the petitioner, who represents the mining and milling industry.

A majority of the commenters supported all or portions of the petition. After careful consideration of the comments, the Commission has decided to deny the petition for rulemaking for reasons stated below.

II. Responses to Comments

1. *Comment:* Although commenters did not support a full waiver of the annual fee for facilities that are not operating, several agreed that some relief should be provided in the form of reduced fees. One commenter suggested a tiered fee system that would result in full fees for operating facilities, reduced fees for facilities in shutdown or standby status, and minimal fees for licenses who have shut down and have submitted a decommissioning plan. Another commenter indicated that although the fee should not be waived, the NRC should consider the licensee's ability to pass the costs of the NRC fees to its customers—"cost passthrough"—to determine the fee level for facilities that require minimal NRC participation.

Response: The Commission acknowledges the concern raised by the petitioner regarding non-operating facilities and has carefully evaluated the comments received on this issue. The Commission has considered a range of options: (a) continuing the current policy of charging operating mills and those in standby status annual fees; (b) only charging operating mills annual fees; and (c) charging operating mills, facilities in standby status, and those with possession-only licenses annual fees. The Commission has concluded that the current policy represents the fairest option available under current legislation and therefore has denied petitioner's request. The NRC will continue to assess annual fees based on whether a licensee holds a valid license with the NRC that authorizes possession and use of radioactive material, independent of whether the facility is actively operating or in a standby status. The basic premise for this policy is that the benefit the NRC provides a licensee is the authority to use licensed material. The choice of whether or not to exercise that authority is a business decision of the licensee.

Because of the mandate that NRC recover approximately 100 percent of its budget through fees, to refrain from charging annual fees to mills in a standby status would increase the annual fees for the other licensees in the class because the number of licensees assessed annual fees would decrease. Such an approach would raise fairness concerns.

The Commission recognizes that some may perceive it to be unfair to charge a licensee an annual fee when the facility in question is not generating revenue. However, the Commission has previously considered the extent to which a licensee's economic status and ability to "pass through" its costs to its customers should be considered in establishing fees, and the Commission has declined to do so. As stated in the final rule published July 20, 1993 (58 FR 38666), the Commission concluded, after full consideration of the "cost passthrough" question, that it cannot set fees using passthrough considerations with reasonable accuracy and at reasonable costs even for classes of licensees with few members. The Commission has no new information that would cause it to change this policy. The Commission is also unable to use factors such as the revenue earned by a licensee or the licensee's profit from the use of licensed material in developing the fees because OBRA–90 requires that annual charges must, to the maximum extent practicable, have a reasonable relationship to the cost of providing regulatory services.

The Commission decided that it would not be appropriate to charge facilities who have received a POL an annual fee. While the NRC incurs generic costs relating to the decommissioning/reclamation of facilities with POLs, many POL holders were induced to relinquish their authority to operate by the Commission's policy of not charging annual fees to holders of POLs (56 FR 31485, July 10, 1991). It would be unjust at this date to change this policy with respect to these facilities. Primarily for this reason, the Commission has also decided not to implement a tiered approach recommended by some commenters, in which all licensees would pay an annual fee, including those no longer authorized to operate. In sum, the NRC will continue to waive the fee for licensees who have voluntarily relinquished the authority to operate and have ceased operations. This includes licensees who have voluntarily relinquished their authority to operate, but must continue to be licensed to possess nuclear materials, that is, possession-only licenses (POLs). In articulating our policy, we emphasize that, contrary to the petitioner's statement, reclamation or decommissioning plans do not have to be approved for the annual fee to be waived for these licensees. Therefore, petitioner's argument that some sites are charged annual fees because of the NRC's failure to complete review of reclamation plans is fallacious. The Commission's fee policy with respect to operating, standby, and POL status is consistently applied to all classes of licensees, including uranium recovery, fuel fabrication, and power reactor licensees.

2. *Comment:* A majority of the commenters supported the petitioner's request that licensees be given the ability to oversee and have input into the NRC budget and to review NRC fees annually. Commenters suggested that a review board, with at least some members representing the regulated parties, be established to review NRC activities to control costs, to ensure that maximum benefits and effectiveness are achieved, and to monitor NRC activities to prevent the appearances of regulatory abuse. One commenter stated that such a review board could benefit NRC, citing as an example that the NRC incurred higher costs by using a government laboratory than the commenter incurred using a commercial laboratory for the same type of service. Another commenter suggested that the review board propose revisions to the fee

VOL
60
ISS
82
AP
28
1995
UMI

system and methods to eliminate inequities in the treatment of licensees. Another commenter sought a greater role in the development of regulatory programs that could have a substantial impact on the economic status of licensees or result in license termination. On the other hand, one commenter disagreed with the petitioner, stating that a scheme whereby licensees would directly control the agency's activities would be inappropriate for a regulatory program. Another commenter was skeptical that the petitioner's suggestions would simplify or otherwise lead to a more equitable allocation of Commission costs.

Several commenters agreed with the petitioner that the fees charged do not reflect the benefits derived and expressed concern with the fee amounts. One commenter stated that as fees increase and more licenses are terminated, it will create a disincentive for continuing their licensed activities, which include beneficial research. This commenter suggested that the fee be proportional to the number of pieces of equipment used, the small amounts of low energy radioisotopes in use, and the status of the licensee as a business or not-for-profit organization.

Other commenters maintained that the fee increases may be due to a lack of accountability by NRC; that the frequency and details covered in inspections is unnecessary and inefficient; and that a limited number of licensees are being billed to support NRC services to Federal agencies, Agreement States, and international organizations. Some commenters suggested that NRC's management structure be reviewed to streamline activities and reduce redundancy and unnecessary paperwork, that NRC review its mechanism for calculating fees, and that either costs be borne by the organization receiving the services or these costs should be recovered through tax dollars rather than fees.

Response: The Commission addressed many of these issues and similar comments regarding the NRC budget in the final rules published July 10, 1991 (56 FR 31462), July 23, 1992 (57 FR 32696), and July 20, 1993 (58 FR 38672). As stated in these final rules, the requirement for the NRC to recover 100 percent of its budget through fees does not exempt the NRC from the normal Government budget review and decisionmaking process. The Commission monitors and controls its operating costs and is tightening its financial operations by increasing the effectiveness and efficiency of its program financing. Notably, as a result of its initial efforts, the Commission proposed, and Congress approved, a $12.7 million recision to the original appropriation for FY 1994. The NRC is committed to making its regulatory programs more efficient wherever it can do so without diminishing its ability to protect the public health and safety.

In addition to its own rigorous budget review, the NRC must submit its budget to the Office of Management and Budget for review. The NRC budget is then sent to the Congress for approval. The bases for requested NRC resources are thoroughly addressed by the Congress through hearings and written submissions. This budget process, combined with the internal NRC review process, ensures that the approved budget resources are those necessary for NRC to implement its statutory responsibilities and to carry out an effective regulatory program. The fees established by NRC must be consistent with its annual budget in order to comply with OBRA–90. As in the past, the NRC will continue to base its fees on its Congressionally approved budget authority and provide the public and licensees with detailed supporting information concerning the bases for its fees. This information will continue to be available at the activity level, the lowest level for budgeting purposes.

As a result of the very extensive review of the NRC budget, the Commission opposes the establishment of a review board to oversee the NRC budget. In 1994 testimony before Congress on the NRC's fee policy review, Chairman Selin reiterated the Commission's position that it would be inappropriate to have the regulated community make recommendations which the NRC would have to accept or rebut on how it carries out its regulatory function. The Commission also believes that there are other avenues for licensees to communicate with the NRC concerning the efficiency of the NRC's regulatory program.

Additionally, the NRC complies with legislation such as the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that require the agency to analyze the economic effects of new regulations on licensees. The NRC staff also prepares detailed cost-benefit analyses to justify any new regulatory requirements. These analyses are carefully reviewed by the Commission. The Commission has seen nothing either in the petition or comments on the petition that would lead it to change its approach in this area. The Commission would like to emphasize, however, that licensees are always welcome and expected to comment on and propose revisions to proposed rulemakings, including the accompanying cost-benefit analyses, and that such comments, along with the day-to-day interaction between licensees and the agency, in the Commission's view provide an adequate and successful method of keeping each group apprised of the other's concerns.

For the foregoing reasons, the Commission is denying the petitioner's request that a licensee review board be established to oversee and make recommendations about NRC's budget and fees.

The Commission has also carefully considered the petitioner's concerns and the comments received regarding the annual fee increases and the hourly rate, issues which have been raised by commenters in previous rulemakings. As previously stated in the Commission's response to commenters on the FY 1993 rule (58 FR 38674), the NRC is unable to use the CPI or other indices in the development of the hourly rate or fees charged under 10 CFR Part 170 and 171 because these increases may not allow the NRC to meet the statutory requirement of OBRA–90 to recover approximately 100 percent of the NRC budget authority through fees. The NRC's Congressionally-approved budget is determined on the basis of the resources needed to carry out the agency mission. The NRC professional hourly rate is established to recover approximately 100 percent of the budget authority, less the appropriation from the Nuclear Waste Fund, as required by OBRA–90. The method and budgeted costs used by NRC in the development of the hourly rate are discussed in Part IV, Section-by-Section Analysis, of 10 CFR 170.20 in each proposed and final fee rule. The NRC budgeted costs for salaries and benefits, administrative support, travel, and program support (excluding contract or other services in support of the line organization's direct program), less offsetting receipts, are allocated uniformly to the direct FTEs. The hourly rate is calculated by dividing the budget allocated to the direct FTEs by the number of direct FTEs and the number of productive hours in one year (1,744 hours) as indicated in OMB Circular A–76, "Performance of Commercial Activities." The Commission continues to believe that this cost allocation is appropriate and represents a practical and equitable way of allocating these costs to NRC licensees and applicants in order to meet the 100 percent recovery requirement of OBRA–90.

The Commission has explained in the past why it does not believe that basing

fees on factors such as number of sources, the size of the facility, and market competitive positions, as suggested by commenters, would result in a fairer allocation of the 100 percent recovery requirement. (See FY 1991 Final Rule, 56 FR 31472; July 10, 1991, and Appendix A to that Final Rule; and Limited Revision of Fee Schedules, 57 FR 13625; April 17, 1992). The Commission has seen no evidence in the petition or comments on the petition which would lead it to change its current approach of charging fees by class of license.

3. *Comment:* Most commenters supported the petitioner's request that the NRC establish standards for its activities, such as a schedule for response intervals for processing licensing actions, and provide licensees with a cost sheet indicating these schedules in order to assure licensees that services will be provided in a reasonably stated time period. However, one commenter stated that licensees should not be in a position of dictating things such as time limits for processing applications. Several commenters also supported the petitioner's request that NRC provide more detailed information with the bills. Some commenters indicated that bills should be itemized to show hours spent, a description of the work performed (specifically work performed by contractors), the name(s) of the individual(s) who completed the work, and the dates on which the work was performed.

Response: The petitioner's requests that review standards be established, that cost sheets describing sample charges be developed, and that additional information be provided on the bills pertain to NRC practices and procedures which should not be codified in a rule. The Commission cannot establish fixed costs for completing licensing actions and inspections for major fuel cycle licensees since the cost varies for such activities. License and inspection fees, established by 10 CFR Part 170 under the authority of the Independent Offices Appropriation Act (IOAA) and the Atomic Energy Act (AEA), as amended, recover the NRC's cost of providing individually identifiable services to specific applicants and licensees. The NRC's principal concern is public health and safety and thus the NRC must spend the appropriate resources to accomplish this, not a predetermined amount. While the Commission is committed to the expeditious review of each application and uses all reasonable means of keeping costs as low as feasible, its responsibility for ensuring the public health and safety and environmental protection cannot be compromised. The Commission is committed to the effective use of its increasingly limited resources and therefore cannot afford to use these resources unwisely if it is to successfully perform its mission.

In response to the request for one standard fee for the same type of action, the Commission notes that full-cost recovery fees based on the actual professional staff hour and contractual services costs expended for the review were established in 1984 for the NRC's larger licensees (reactor and major fuel cycle facilities). Previously, the IOAA fees for amendment actions and inspections of these licensees were "flat" fees based on the average number of hours to process the same type of licensing action or to conduct similar inspection. Commenters on the fee system at that time complained about the inequities of such a fee system for larger licensees. They pointed out that NRC's response time for applications filed by licensees could vary significantly, depending upon the quality and completeness of the information submitted by the applicant or licensee and the extent and complexity of the licensing action requested. The NRC agreed with the commenters and changed its method of assessing fees for larger licensees based on the fact that there were differences in the types and complexity of the applications being filed and the fact that the NRC maintained a system whereby employees processing applications and conducting inspections reported, on a periodic basis, the professional time expended to process an application or to conduct an inspection.

To ensure that applications are processed in a timely and cost-effective manner, each NRC office in the licensing process develops and works in accordance with an approved operating plan. Upon receipt of applications, schedules are established and resources allocated for each review based on the amount of time and professional staff effort determined necessary to complete the particular type of application or activity. Because the total assigned workload must be completed with limited resources, management is continuously challenged and, indeed, evaluated on its ability to balance workload and assigned resources in the most efficient and effective manner. Similarly, management is expected to adhere to established review schedules, and changes are approved only with suitable justification. The NRC staff's success in meeting schedules is monitored continuously and critically by both NRC management and the Commission to ensure that projects are completed expeditiously and efficiently.

For the foregoing reasons, the Commission is denying the petitioner's request that standards be established, that costs sheets describing sample charges be developed for different types of work, and that response times be established by NRC and distributed to all licensees.

With regard to the petitioner's request that additional details be provided on the bills, the NRC believes that sufficient information is currently provided to licensees or applicants on which to base payment of the invoice. NRC's invoices for full-cost licensing actions and inspections currently contain information detailing the type of service for which the costs are being billed, the date or date range the service was performed, the number of professional staff-hours expended in providing the service, the hourly rate, and the contractual costs incurred. Additionally, the Inspection Report number is provided on inspection fee bills, and the date of the application, NRC's completion date, and the subject of the application or the amendment number, if appropriate, are provided on bills for licensing actions.

A licensee or applicant who does not understand the charges or who feels they need more information to understand a bill may request additional information from the NRC regarding the specific bill in question. The NRC will turn over all available data used to support the bill upon request of the licensee or applicant.[1] Additionally, if requested, the NRC program staff will provide a best estimate of the hours required to complete a specific licensing action, with the caveat that the actual hours expended may differ from that estimate. However, OMB Circular A–25, which provides guidelines for Federal agencies to assess fees for Government services, provides that new cost accounting systems need not be established solely for the purpose of determining or estimating full cost. Therefore, the NRC does not plan to develop additional systems solely to provide additional information on its fee invoices at this time.

4. *Comment:* Several commenters agreed with the petitioner that all Federal agencies should be assessed fees to recover their share of NRC's costs.

The Commission agrees that, where legally permissible, Federal agencies should pay for services rendered,

[1] At the request of uranium recovery industry representatives in a meeting with the NRC staff on October 24, 1994, this additional information will be provided with all Part 170 bills issued to uranium recovery licensees and applicants.

VOL
60
ISS
82
AP
28
1995
UMI

including the Department of Energy for NRC review of DOE sites under UMTRCA. However, as stated in response to similar comments (See FY 1992 Final Rule, 57 FR 32695) NRC is currently precluded under the Independent Offices Appropriation Act (IOAA) from assessing Part 170 fees to Federal agencies for specific services rendered. The NRC currently assesses annual fees under 10 CFR Part 171 to Federal agencies if those agencies have a license or approval/certificate from the NRC; however, OBRA–90 limits annual fee assessments to NRC *licensees*. In September 1993, DOE became a general licensee of the NRC because post-reclamation closure of the Spook, Wyoming, site had been achieved. Therefore, effective with the FY 1994 final rule published July 20, 1994, DOE is being assessed for costs associated with DOE facilities under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). These costs were previously recovered from operating reactors because DOE was not an NRC licensee prior to September 1993 and therefore could not be billed under 10 CFR Part 171.

The Commission has recommended in its report submitted to Congress on February 23, 1994, that either OBRA–90 be modified to remove costs from the fee base for services to other Federal agencies or the Atomic Energy Act be modified to permit the NRC to assess application and other fees for specific services rendered to all Federal agencies.

For the reasons stated above, the NRC has denied this petition.

Dated at Rockville, Maryland, this 24th day of April, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–10477 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–0065–93]

RIN 1545–AS46

Exceptions to Passive Income Characterization for Certain Foreign Banks and Securities Dealers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document provides guidance concerning the application of the exceptions to passive income contained in section 1296(b) for foreign banks, securities dealers and brokers. This document affects persons who own direct or indirect interests in certain foreign corporations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by August 10, 1995. Outlines of oral comments to be presented at the public hearing scheduled for August 31, 1995 at 10 a.m. must be received by August 10, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (INTL–0065–93), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (INTL–0065–93), Courier's Desk, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Ramon Camacho at (202) 622–3870; concerning submissions and the hearing, Ms. Christina Vasquez, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

A passive foreign investment company (PFIC) is any foreign corporation that satisfies either the income test or asset test in section 1296(a) of the Internal Revenue Code (Code). Under the income test, a foreign corporation is a PFIC if 75 percent or more of its gross income for the year is passive income. Sec. 1296(a)(1). Alternatively, a foreign corporation is a PFIC if 50 percent or more of the average value of its assets for the taxable year produce passive income or are held for the production of passive income. Sec. 1296(a)(2). Under section 1296(b)(1), passive income is foreign personal holding company income as defined in section 954(c) of the Code, and includes dividends, interest, certain rents and royalties, and gain from certain property transactions, including gain from the sale of assets that produce passive income.

Under section 1296(b)(2)(A), income earned in the active conduct of a banking business by a foreign corporation licensed to do business as a bank in the United States and, to the extent provided in regulations, by other corporations engaged in the banking business is not passive. Notice 89–81, 1989–2 CB 399, (Notice) described rules to be incorporated into subsequent regulations that would expand this exception to certain foreign banks not licensed to do a banking business in the United States. The rules contained in § 1.1296–4 of the proposed regulations would implement section 1296(b)(2)(A) for banking activities conducted by foreign corporations.

In 1993, Congress added section 1296(b)(3)(A) to the Code, effective for taxable years beginning after September 30, 1993. See Omnibus Budget Reconciliation Act of 1993 (1993 Act), Pub. L. 103–66, section 13231(d), 107 Stat. 312, 499. The provision treats as nonpassive any income derived in the active conduct of a securities business by a controlled foreign corporation (CFC) if the CFC is a U.S. registered dealer or broker and, to the extent provided in regulations, a CFC not so registered. The rules contained in § 1.1296–6 would implement section 1296(b)(3)(A).

Section 956A, added by the 1993 Act, requires each U.S. shareholder of a CFC to include in income its pro rata share of the CFC's excess passive assets. Under section 956A(c)(2), a passive asset is any asset that produces passive income as defined in section 1296(b). An asset that generates nonpassive income under § 1.1296–4 or § 1.1296–6 of the proposed regulations will be nonpassive for purposes of section 956A.

Explanation of Provisions

I. Description of Proposed Rules for Foreign Banks

A. General Rule

Section 1.1296–4(a) of the proposed regulations provides generally that, for purposes of section 1296(a)(1), passive income does not include banking income earned by an active bank or by a qualified affiliate of such a bank. For this purpose, an active bank is either a corporation that possesses a license issued under federal or state law to do business as a bank in the United States, or a foreign corporation that meets the licensing, deposit-taking, and lending requirements of paragraphs (c), (d), and (e), respectively, of § 1.1296–4.

The proposed rules generally adopt the deposit, lending, and licensing standards contained in the Notice. These standards are consistent with the provisions of the Code that define a bank as an institution that accepts deposits from and makes loans to the public and is licensed under state or federal law to conduct banking activities. See e.g., sec. 581. The IRS and Treasury believe that Congress intended

to grant the banking exception only to corporations that conform to a traditional U.S. banking model.

However, the proposed rules liberalize the approach taken in the Notice in several ways. Most significantly, the proposed rules adopt subjective tests to measure whether the corporation meets the deposit-taking and lending requirements. The IRS and Treasury rejected reliance on objective tests such as those in the Notice after learning, through several ruling requests pursuant to the Notice, that objective standards may cause legitimate banks to be treated as nonbanks.

Because of the rigidity of the objective tests, the Notice permitted the IRS to rule in rare and unusual circumstances that a foreign corporation was an active bank even though it failed to satisfy the requirements of the Notice. The proposed regulations do not adopt this procedure because the IRS and Treasury believe that the enhanced flexibility of the proposed rules should permit all foreign corporations actively conducting a licensed banking business (whether directly or through affiliates) to qualify for the bank exception.

B. Licensing Requirement

A foreign corporation that is not licensed in the United States satisfies the licensing requirements of § 1.1296–4(c) if it is licensed or authorized to accept deposits from residents of the country in which it is chartered or incorporated, and to conduct, in such country, any of the banking activities described in the proposed regulations. However, a corporation fails this licensing test if one of the principal purposes for its obtaining a license was compliance with the requirements of this section.

The IRS and Treasury believe that being licensed as a bank by a bank regulatory authority is strong evidence that a corporation is a bank. The proposed regulations therefore adopt a licensing test to distinguish banks from investment funds.

C. Deposit-Taking Test

A foreign corporation satisfies the deposit-taking test of § 1.1296–4(d) if it regularly accepts deposits in the ordinary course of its trade or business from customers who are residents of the country in which it is licensed or authorized. In addition, the amount of deposits shown on the corporation's balance sheet must be substantial. Section 1.1296–4(d)(3) provides that whether the amount of deposits on a corporation's balance sheet is substantial depends on all the facts and circumstances, including whether the capital structure and funding of the bank as a whole are similar to that of comparable banking institutions engaged in the same types of activities and subject to regulation by the same banking authorities.

The proposed regulations adopt this deposit-taking test in part to distinguish banks from finance companies, which do not accept deposits. This distinction between finance companies and banks is required by Congress. H.R. Conf. Rep. No. 213, 103d Cong., 1st Sess. 641 (1993) (noting that the banking, insurance, and securities exemptions "do not apply to income derived in the conduct of financing and credit services businesses"). Although the IRS and Treasury believe that deposit-taking is a key attribute of all active banks, they also recognize that subjective tests will better accommodate the various types of banks that have developed as a result of different banking systems and regulatory frameworks.

The proposed regulations introduce flexibility to the deposit-taking requirements in several ways. First, the requirement that the amount of deposits be substantial is more flexible than the Notice requirement that deposits constitute at least 50 percent of the total liabilities of the bank. The IRS and Treasury recognize that a bank's funding preferences may be affected by market conditions and regulatory requirements and believes that an institution may be properly treated as an active bank even if deposits do not constitute the institution's primary source of funding.

Second, unlike the Notice, the proposed regulations do not include any special rules for interbank deposits but treat them like any other deposit, regardless of whether they are received from persons who are members of a related group as defined in § 1.1296–4(i)(4). The IRS and Treasury believe this change is appropriate because the acceptance of interbank deposits from related or unrelated persons on an arm's length basis is a banking activity normally engaged in by banks. In addition, the impact of a rule that distinguishes between interbank deposits received from related persons and those received from unrelated persons is diminished where deposit-taking activity is not measured with a bright-line test.

Finally, the proposed rules change the Notice requirement that a corporation must hold deposits from at least 1,000 persons who are bona fide residents of the country that issued the corporation's banking license because this requirement proved troublesome for certain private banks with clientele from several countries. The requirement was intended to address cases where a bank is licensed by a country but not allowed to accept deposits from its residents. In the IRS and Treasury's view, such an entity should not be treated as an active bank for purposes of section 1296 because it is not accorded full bank status by the bank authorities that issued its banking license. However, the IRS and Treasury believe that a bright-line deposit standard is not necessary to address this concern. Instead, the proposed regulations require that a corporation regularly accept deposits from residents of the country in which it is licensed.

D. Lending Test

A foreign corporation satisfies the lending test of § 1.1296–4(e) if it regularly makes loans to customers in the ordinary course of its trade or business. This is a change from the Notice's requirement that loans to unrelated persons make up more than 50 percent of the corporation's loan portfolio. The lending test is necessary to distinguish banks, which extend credit to customers, from corporations that merely invest. However, such a distinction can be drawn without relying on a bright-line standard such as that contained in the Notice.

In order to distinguish loans from investments for purposes of these rules, the proposed regulations provide that a note, bond, debenture or other evidence of indebtedness is a loan only if it is received by the corporation on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of the corporation's banking business. Debt instruments treated as securities for purposes of the corporation's financial statements generally are not loans.

E. Banking Income and Activities

Section 1.1296–4(f)(1) provides that banking income is gross income derived from the active conduct of any banking activity as defined in § 1.1296–4(f)(2). These activities include all of the activities treated as banking activities in the Notice, with no material changes, except that finance leasing is included as a banking activity.

The proposed regulations do not adopt the Notice's rule that all of the U.S. effectively connected income earned by a foreign corporation in the active conduct of a trade or business pursuant to a U.S. bank license automatically is nonpassive. One effect of this rule was that effectively connected income earned by a U.S.-licensed bank from transactions with related parties would have been banking income, while income earned by non-

VOL
60
ISS
82
AP
28
1995
UMI

U.S.-licensed banks from similar related-party transactions would not have been banking income. Because the proposed regulations generally do not differentiate between related party and non-related party transactions in the same way as the Notice, the only effect of the rule would have been to treat, in the case of U.S. licensed banks only, as banking income the income earned on transactions with related parties who are not customers and income earned from activities (such as securities activities) that are not banking activities described in § 1.1296–4(f). The IRS and Treasury believe that the standards for determining whether income is derived in the active conduct of a banking business should be the same for all corporations that are either active banks or qualified bank affiliates.

The IRS and Treasury are aware that many bank activities may also be considered securities activities. Under the proposed regulations, an entity that performs an activity that is both a banking activity and a securities activity must satisfy only the requirements of the bank rules to treat income from such activity as nonpassive. For example, an entity that derives income from dealing in foreign exchange may treat such income as nonpassive if it is an active bank (or a qualified bank affiliate) even though it is not a controlled foreign corporation.

Dealing in securities, however, is not included as both a banking activity and a securities activity. The IRS and Treasury believe that Congress intended that income from dealing in securities should be nonpassive only if it is earned by a controlled foreign corporation that actively conducts a securities business and meets the other requirements of section 1296(b)(3)(A).

The IRS and Treasury have become aware that certain developing country economies impose high deposit reserve requirements as a tool for implementing monetary policy. Because the central banks of these countries require the maintenance of such reserves as a prerequisite to conducting a banking business, the earnings on such assets, if any, should appropriately be excluded from passive income.

F. Customer Relationship

Under the proposed regulations, a bank satisfies the deposit and lending tests only if it carries on such activities with customers. Moreover, only the income from its banking activities (and those of its qualified bank affiliates) conducted with, or for, customers will produce nonpassive income. This is a change from the Notice requirement, under which activities qualified only if they were conducted with unrelated parties. Under the proposed regulations, a customer may be any person, related or unrelated, if that person has a customer relationship with the bank. Whether such a relationship exists depends on all the facts and circumstances. However, persons who are related to, or who are shareholders, officers, directors, or other employees of, the corporation will not be treated as customers of the corporation if one of the principal purposes for the corporation's transacting business with such persons was to qualify the corporation as an active bank or qualified bank affiliate.

G. Affiliates of Active Banks

The IRS and Treasury recognize that many active banks conduct one or more banking activities through separately incorporated affiliates that may not individually qualify as active banks. Accordingly, the proposed regulations provide rules under which income from banking activities may be treated as nonpassive if earned by a corporation that does not qualify as an active bank but is a member of a related group of which an active bank is also a member. However, such income is nonpassive only for purposes of determining whether any member of the related group is a passive foreign investment company or for purposes of applying the excess passive asset rules of section 956A(c)(2)(A). In addition, such income remains passive with respect to persons who own stock in the affiliate but who are not members of the related group of which the affiliate is a member.

For purposes of these rules, a related group is any group of persons related within the meaning of section 954(d)(3), substituting person for controlled foreign corporation. This definition is a departure from the affiliated group definition of the Notice because it permits noncorporate entities (such as partnerships) to count as members of the group for purposes of satisfying the groupwide gross income test.

Section 1.1296–4(i)(2) requires the bank affiliate to generate more than 60 percent of its income from banking, insurance and securities activities (but not other financial services). For purposes of this test, the look-through rules of sections 1296(c) and 1296(b)(2)(C) do not apply. This requirement ensures that a bank affiliate's eligibility for the bank exception depends upon the business activities conducted directly by the affiliate, and is not influenced by activities conducted by related persons. However, a bank affiliate may nevertheless apply sections 1296(c) and 1296(b)(2)(A) to determine whether it is a PFIC under the income or asset tests of section 1296(a).

In addition, the related group must meet two gross income tests for the exception to apply. First, under § 1.1296–4(i)(3)(i), income from banking activities derived by active banks must constitute at least 30 percent of the financial services income earned by group members. Second, under § 1.1296–4(i)(3)(ii), income earned by group members from banking activities, securities activities, and insurance activities must constitute at least 70 percent of the financial services income earned by group members that are financial services entities. The regulations adopt the definition of financial services income contained in § 1.904–4(e), which includes only income earned by financial services entities.

These affiliate rules are structurally similar to the affiliate rules contained in the Notice, but have been modified in several respects to respond to taxpayer comments. For example, the 80 percent stock ownership threshold of the Notice caused many corporations to be treated as PFICs solely because the gross income of subsidiaries in which the group owned less than an 80 percent interest was excluded for purposes of the Notice's gross income tests, even though the group had voting control of such subsidiaries. The adoption of a lower 50 percent ownership threshold for group membership in the proposed regulations recognizes that international groups are not organized to meet the 80 percent threshold required for consolidation under U.S. tax law.

In addition, the gross income tests were changed in several ways to deal with problems encountered by diversified affiliated groups. First, the denominators of the fractions now include only financial services income, which by its terms includes only income earned by financial services entities. This change prevents foreign corporations that are part of a banking group from being disqualified solely because the group is a subgroup of a larger group that does not perform solely financial services.

Second, the numerator of the fraction for the groupwide gross income test now includes gross income from securities and insurance activities in addition to banking activities. This change prevents a foreign corporation engaged in banking activities that is part of a banking subgroup from being disqualified solely because it is part of a larger group that provides a broad range of financial services.

Finally, the proposed rules drop the Notice requirement that an active bank be a group member for 5 years before its income may count towards satisfaction of the gross income tests. Since PFIC status is determined annually, the IRS and Treasury believe that whether a group is a banking group should depend only on its status during the current taxable year.

H. Income From Nonbanking Activities

As in the Notice, § 1.1296–4(j) of the proposed regulations provides that income derived from the conduct of activities other than banking activities described in § 1.1296–4(f)(2) and income from assets held for the conduct of such activities are nonpassive only to the extent provided in section 1296.

J. Effective Date

Section 1.1296–4 is proposed to be effective for all taxable years beginning after December 31, 1994. However, taxpayers may apply § 1.1296–4 to a taxable year beginning after December 31, 1986, but must consistently apply § 1.1296–4 to such taxable year and all subsequent years. While application of § 1.1296–4 to a year beginning after December 31, 1986, cannot affect the tax liability of a taxpayer for any closed taxable year, a taxpayer may apply § 1.1296–4 to a closed taxable year for the purpose of determining whether a foreign corporation is a PFIC in calculating the taxpayer's liability for an open taxable year.

II. Exception for Income Earned in a Securities Business

A. General Rule

Section 1.1296–6(a) of the proposed regulations provides generally that securities income earned by an active securities dealer, active securities broker or qualified securities affiliate is nonpassive. As required by section 1296(b)(3)(C), the rules apply only for purposes of determining whether a controlled foreign corporation (as defined in section 957(a)) is a PFIC with respect to its United States shareholders (as defined in section 951(b)), or for purposes of determining whether an asset is passive under section 956A(c)(2).

B. Active Securities Dealer and Active Securities Broker

Under § 1.1296–6(b)(1), an active dealer or broker is a dealer or broker that meets certain licensing requirements.

Section 1.1296–6(c) defines a securities dealer as a dealer in securities within the meaning of section 475(c)(1). Under § 1.1296–6(d), a securities broker is a foreign corporation that stands ready to effect transactions in securities and other financial instruments for the account of customers in the ordinary course of its trade or business during the taxable year. A securities dealer or broker is licensed under § 1.1296–6(b) if it possesses a U.S. license to do business as a securities dealer or broker in the United States or if it is licensed or authorized in the country in which it is chartered or incorporated to conduct one or more securities activities described in § 1.1296–6(e)(2) with residents of that country. The conduct of such activities must be subject to bona fide regulation, including appropriate reporting, monitoring and prudential requirements, by a securities regulatory authority that regularly enforces compliance with such standards.

C. Securities Income & Securities Activities

Section 1.1296–6(e)(1) provides generally that securities income means the gross income derived from the active conduct of any securities activity that constitutes a trade or business. The list of securities activities contained in § 1.1296–6(e)(2) generally is consistent with the legislative history to section 1296(b)(3)(A). See H.R. Rep. No. 111, 103d Cong., 1st Sess. 704 (1993).

Section 1.1296–6(e)(2)(iv) includes as an additional securities activity the maintenance of a capital deposit required under foreign law as a prerequisite to acting as a broker in that jurisdiction. Without this rule, a broker that is not also a dealer could be a PFIC under section 1296(a)(2) even though the majority of its income is commission income. This rule applies only if significant restrictions exist on the use of its capital. Thus, working capital will not qualify as a deposit for purposes of this rule.

In general, only income from transactions entered into with, or on behalf of, persons with whom the corporation has a dealer-customer relationship may be treated as nonpassive. Section 1.1296–6(g) adopts without change the definition of dealer-customer relationship contained in the bank rules.

Under § 1.1296–6(h) of the proposed regulations, income and gain from a security identified as held for investment under section 475(b)(1)(A) or which is not held for sale within the meaning of section 475(b)(1)(B) is passive. Because the identification rules of sections 475(b) and 1.475(b)–1T and 1.475(b)–2T apply, the rules governing identification of inventory securities in Notice 88–22, 1988–1 CB 489 and Notice 89–81, 1989–2 CB 399 do not apply with respect to taxable years beginning after September 30, 1993. However, the inventory identification rules of Notice 89–81 and Notice 88–22 will continue to apply for taxable years beginning before October 1, 1993.

D. Matched Book Income

Section 1.1296–6(i) of the proposed regulations provides special rules for determining a securities dealer's income from certain matched transactions. These rules are adopted in order to eliminate a potential opportunity for abuse that arises from the manner in which a matched book repo business is conducted by securities dealers.

A matched transaction is defined as a sale and repurchase agreement with respect to the same security, entered into by the controlled foreign corporation in the active conduct of its trade or business and properly treated as offsetting agreements in a matched book. In a typical repurchase agreement a taxpayer sells a security and, at the same time, agrees to repurchase an identical security from the purchaser at a price in excess of the taxpayer's sales price. In a reverse repurchase agreement, a taxpayer purchases a security and concurrently agrees to sell an identical security to the seller at a price in excess of the taxpayer's purchase price. A taxpayer who keeps a matched book generally enters into offsetting repurchase and reverse repurchase agreements involving identical securities. Such taxpayers act as intermediaries by matching persons who need cash for a short period with those who need securities for the same period.

Under the proposed regulations, securities income includes only the net (not gross) income from matched transactions. Without the proposed regulation's netting rule, related groups that are predominantly engaged in passive activities could easily meet the gross income tests contained in the qualified affiliate rules because a CFC conducting a matched book business will earn large amounts of gross income, even though net economic income from matched book activities is comparatively small.

E. Affiliates of Dealers or Brokers

Like banks, securities dealers and brokers frequently operate through separately incorporated subsidiaries that may not qualify independently as active securities dealers or brokers but which form part of an integrated securities business conducted by an active dealer or broker. Accordingly, the proposed regulations contain rules that extend the

VOL 60 ISS 82 AP 28 1995 UMI

securities dealer/broker exception to certain qualified affiliates of active securities dealers or brokers. These rules generally mirror the qualified bank affiliate rules contained in § 1.1296–4(i), except that they extend the securities dealer/broker exception only to qualified securities affiliates that are CFCs, as required by section 1296(b)(3)(A).

F. Income From Nonsecurities Activities

Section 1.1296–6(k) of the proposed regulations provides that income derived from the conduct of activities other than securities activities described in § 1.1296–6(e)(2) and income from assets held for the conduct of such activities are nonpassive only to the extent provided in section 1296.

G. Effective Date

The rules contained in § 1.1296–6 are proposed to be effective for taxable years beginning after September 30, 1993.

III. Look-Through Rules

The proposed regulations do not contain guidance regarding the look-through rules of sections 1296(c) and 1296(b)(2)(C) or the grouping rules of section 956A(d). In general, the proposed regulations also do not address whether, and to what extent, look-through principles may apply to characterize income from a partnership as nonpassive and an interest in a partnership as a nonpassive asset, except to the extent that section 475 may treat a partnership as a securities dealer. Because these issues are not unique to financial institutions, the IRS and Treasury will address them in future regulations of more general application. The IRS and Treasury solicit comments on the proper scope and application of look-through and grouping concepts to banks, securities dealers and securities brokers.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for August 31, 1995, at 10 a.m., in the Internal Revenue Service Auditorium, 7400 corridor. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by August 10, 1995.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Ramon Camacho, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for Sections 1.1291–10T, 1.1294–1T, 1.1295–1T, and 1.1297–3T and adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1291–10T also issued under 26 U.S.C. 1291(d)(2).
Section 1.1294–1T also issued under 26 U.S.C. 1294.
Section 1.1295–1T also issued under 26 U.S.C. 1295.
Section 1.1296–4 also issued under 26 U.S.C. 1296(b)(2)(A).
Section 1.1296–6 also issued under 26 U.S.C. 1296(b)(3)(A).
Section 1.1297–3T also issued under 26 U.S.C. 1297(b)(1). * * *

§ 1.1291–0T [Redesignated as § 1.1291–0]

Par. 2. Section 1.1291–0T is redesignated as § 1.1291–0.

Par. 3. Newly designated § 1.1291–0 is amended as follows:

1. The section heading for newly designated § 1.1291–0 is revised.
2. The introductory language for newly designated § 1.1291–0 is revised.
3. Entries for §§ 1.1296–4 and 1.1296–6 are added in numerical order.

The revisions and additions read as follows:

§ 1.1291–0 Passive foreign investment companies—table of contents.

This section lists headings under sections 1291, 1294, 1296 and 1297 of the Internal Revenue Code.

* * * * *

§ 1.1296–4 Characterization of certain banking income of foreign banks as nonpassive.

(a) General rule.
(b) Active bank.
(1) U.S. licensed banks.
(2) Other foreign banks.
(c) Licensing requirements.
(d) Deposit-taking requirements.
(1) General rule.
(2) Deposit.
(3) Substantiality of deposits.
(e) Lending activities test.
(f) Banking income.
(g) General rule.
(2) Banking activities.
(g) Certain restricted reserves.
(h) Customer relationship.
(i) Income earned by qualified bank affiliates.
(1) General rule.
(2) Affiliate income requirement.
(3) Group income requirements.
(4) Related group.
(j) Income from nonbank activities.
(k) Effective date.

§ 1.1296–6 Characterization of certain securities income.

(a) General rule.
(b) Active dealer or broker.
(1) General rule.
(2) U.S. licensed dealers and brokers.
(3) Other dealers and brokers.
(i) General rule.
(ii) Licensing requirements.
(c) Securities dealer.
(d) Securities broker.
(e) Securities income.
(1) General rule.
(2) Securities activities.
(f) Certain deposits of capital.
(g) Dealer-customer relationship.
(h) Investment income.

(i) Calculation of gross income from a matched book.
(j) Income earned by qualified securities affiliates.
(1) General rule.
(2) Affiliate income requirement.
(3) Group income requirements.
(4) Related group.
(5) Example.
(k) Income from nonsecurities activities.
(l) Effective date.

* * * * *

Par. 4. Section 1.1296–4 is added to read as follows:

§ 1.1296–4 Characterization of certain banking income of foreign banks as nonpassive.

(a) *General rule.* For purposes of section 1296, banking income earned by an active bank, as defined in either paragraph (b) (1) or (2) of this section, or by a qualified bank affiliate, as defined in paragraph (i) of this section, is nonpassive income.

(b) *Active bank*—(1) *U.S. licensed banks.* A corporation (whether domestic or foreign) is an active bank if it is licensed by federal or state bank regulatory authorities to do business as a bank in the United States. A foreign corporation will not satisfy the requirements of this paragraph (b)(1) if, under its federal or state license or licenses, the foreign corporation is permitted to maintain only an office, such as a representative office, that is prohibited by federal or state law from taking deposits or making loans.

(2) *Other foreign banks.* A foreign corporation is an active bank if it meets the licensing requirement of paragraph (c) of this section and it actively conducts, within the meaning of § 1.367(a)–2T(b)(3), a banking business that is a trade or business within the meaning of § 1.367(a)–2T(b)(2). In order for the business conducted by a foreign corporation to be considered a banking business, the foreign corporation must also meet the deposit-taking requirements of paragraph (d) of this section and the lending requirements of paragraph (e) of this section.

(c) *Licensing requirements.* To be an active bank under paragraph (b)(2) of this section, a foreign corporation must be licensed or authorized to accept deposits from residents of the country in which it is chartered or incorporated and to conduct, in that country, one or more of the banking activities described in paragraph (f)(2) of this section. However, in no case will a foreign corporation satisfy the requirements of this paragraph (c) if one of the principal purposes for its obtaining a license or authorization was to satisfy the requirements of this section.

(d) *Deposit-taking requirements*—(1) *General rule.* To be an active bank under paragraph (b)(2) of this section—

(i) A foreign corporation must, in the ordinary course of the corporation's trade or business, regularly accept deposits from customers who are residents of the country in which it is licensed or authorized; and

(ii) The amount of deposits shown on the corporation's balance sheet must be substantial.

(2) *Deposit.* Whether a liability constitutes a deposit for purposes of this paragraph (d) is determined by reference to the characteristics of the relevant instrument and does not depend solely on whether the instrument is designated as a deposit.

(3) *Substantiality of deposits.* Whether the amount of deposits (including interbank deposits) shown on a corporation's balance sheet is substantial depends on all the facts and circumstances, including whether the corporation's capital structure and funding sources as a whole are similar to that of banking institutions engaged in the same types of activities and subject to the jurisdiction of the same bank regulatory authorities.

(e) *Lending activities test.* To be an active bank under paragraph (b)(2) of this section, a corporation must regularly make loans to customers in the ordinary course of its trade or business. A note, bond, debenture or other evidence of indebtedness will be treated as a loan for purposes of this section only if the debt instrument is received by the corporation on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of the corporation's banking business. Such debt instruments generally will not be considered loans for purposes of this section if the instruments are not treated as loans (but are classified as securities or other investment assets, for example) for purposes of the foreign corporation's financial statements.

(f) *Banking income*—(1) *General rule.* Banking income is the gross income derived from the active conduct (within the meaning of § 1.367(a)–2T(b)(3)) of any banking activity described in paragraph (f)(2) of this section.

(2) *Banking activities.* For purposes of this section, the following are banking activities—

(i) Lending activities described in paragraph (e) of this section;

(ii) Factoring evidences of indebtedness for customers;

(iii) Purchasing, selling, discounting, or negotiating for customers notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness;

(iv) Issuing letters of credit and negotiating drafts drawn thereunder for customers;

(v) Performing trust services, including activities as a fiduciary, agent or custodian, for customers, provided such trust activities are not performed in connection with services provided by a dealer in stock, securities or similar financial instruments;

(vi) Arranging foreign exchange transactions (including any section 988 transaction within the meaning of section 988(c)(1)) for, or engaging in foreign exchange transactions with, customers;

(vii) Arranging interest rate or currency futures, forwards, options or notional principal contracts for, or entering into such transactions with, customers;

(viii) Underwriting issues of stock, debt instruments or other securities under best efforts or firm commitment agreements for customers;

(ix) Engaging in finance leases, as defined in § 1.904–4(e)(2)(i)(V);

(x) Providing charge and credit card services for customers or factoring receivables obtained in the course of providing such services;

(xi) Providing traveler's check and money order services for customers;

(xii) Providing correspondent bank services for customers;

(xiii) Providing paying agency and collection agency services for customers;

(xiv) Maintaining restricted reserves (including money or securities) as described in paragraph (g) of this section; and

(xv) Any other activity that the Commissioner determines, through a revenue ruling or other formal published guidance (see § 601.601(d)(2) of this chapter), to be a banking activity generally conducted by active banks in the ordinary course of their banking business.

(g) *Certain restricted reserves.* A deposit of assets in a reserve is, for purposes of this section, a banking activity if the deposit is maintained in a segregated account in order to satisfy a capital or reserve requirement under the laws of a jurisdiction in which the corporation actively conducts (within the meaning of § 1.367(a)–2T(b)(3)) a banking business that is a trade or business (within the meaning of § 1.367(a)–2T(b)(2)). A deposit of assets into a reserve qualifies under this paragraph (g) if and only to the extent that the assets are not available for use in connection with the corporation's banking business because of significant

VOL 60 ISS 82 AP 28 1995 UMI

regulatory restrictions on the investment of such assets. This paragraph (g) does not apply to ordinary working capital, which is available for unrestricted use.

(h) *Customer relationship.* Whether a customer relationship exists is determined by reference to all the facts and circumstances. Such a relationship does not exist with respect to transactions between members of a related group, as defined in paragraph (i)(4) of this section, or transactions with any shareholders, officers, directors or other employees of any person that would otherwise be treated as an active bank or qualified bank affiliate if one of the principal purposes for such transactions was to satisfy the requirements of this section.

(i) *Income earned by qualified bank affiliates*—(1) *General rule.* A foreign corporation that is not an active bank but which derives banking income, as defined in paragraph (f)(1) of this section, is a qualified bank affiliate for purposes of this section if such corporation meets the requirements of paragraph (i)(2) of this section and the related group of which it is a member meets the requirements of paragraph (i)(3) of this section. Banking income earned by a qualified bank affiliate is nonpassive only for purposes of determining whether any member of the related group is a passive foreign investment company or holds stock in a passive foreign investment company or for purposes of applying section 956A(c)(2)(A). However, banking income of a qualified bank affiliate remains passive with respect to persons who own stock in that affiliate but who are not members of the related group of which the affiliate is a member.

(2) *Affiliate income requirement.* To be a qualified bank affiliate, at least 60 percent of the foreign corporation's total gross income for the taxable year must be banking income, securities income, as defined in § 1.1296–6(e)(1), or gross income described in section 1296(b)(2)(B) (relating to insurance activities). For purposes of applying this paragraph (i)(2), the look-through rules of sections 1296(b)(2)(C) and 1296(c) do not apply.

(3) *Group income requirements.* The related group qualifies under this paragraph (i) if—

(i) At least 30 percent of the aggregate gross financial services income, as defined in § 1.904–4(e)(1), earned during the taxable year by members of the related group is banking income earned by active banks who are members of the related group during the current taxable year; and

(ii) At least 70 percent of the aggregate gross financial services income earned during the taxable year by members of the related group is banking income, securities income, or gross income described in section 1296(b)(2)(B)(relating to insurance activities).

(4) *Related group.* The related group is the group of persons consisting of the entity being tested under this paragraph (i) and all entities that are related within the meaning of section 954(d)(3) to such entity, substituting "person" for "controlled foreign corporation" each time the latter term appears.

(j) *Income from nonbank activities.* Income derived from the conduct of activities other than banking activities described in paragraph (f)(2) of this section and income from assets held for the conduct of such other activities are nonpassive only to the extent otherwise provided in section 1296.

(k) *Effective date.* This section is effective for taxable years beginning after December 31, 1994. However, taxpayers may apply this section to a taxable year beginning after December 31, 1986, but must consistently apply this section to such taxable year and all subsequent years.

Par. 5. Section 1.1296–6 is added to read as follows:

§ 1.1296–6 Characterization of certain securities income.

(a) *General rule.* For purposes of section 1296, securities income earned by an active dealer or active broker, as defined in paragraph (b) of this section, or a qualified securities affiliate, as defined in paragraph (j) of this section, is nonpassive income. This section applies only for purposes of determining whether a controlled foreign corporation, as defined in section 957(a), is a passive foreign investment company with respect to its United States shareholders as defined in section 951(b), or for the purpose of determining whether an asset is passive under section 956A(c)(2)(A).

(b) *Active dealer or broker*—(1) *General rule.* A securities dealer, as defined in paragraph (c) of this section, or a securities broker, as defined in paragraph (d) of this section, is an active dealer or an active broker for purposes of this section if it meets the requirements of either paragraph (b) (2) or (3) of this section.

(2) *U.S. licensed dealers and brokers.* A securities dealer or securities broker (whether foreign or domestic) is an active dealer or an active broker if it is registered as a securities dealer or broker under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities dealer or broker under section 15C(a) of such Act.

(3) *Other dealers and brokers*—(i) *General rule.* A securities dealer or a securities broker is an active dealer or an active broker if it meets the licensing requirements of paragraph (b)(3)(ii) of this section and actively conducts, within the meaning of § 1.367(a)–2T(b)(3), one or more securities activities, as defined in paragraph (e)(2) of this section, as a trade or business within the meaning of § 1.367(a)–2T(b)(2).

(ii) *Licensing requirements.* To be an active dealer or an active broker under paragraph (b)(3) of this section, a securities dealer or securities broker must be licensed or authorized in the country in which it is chartered, incorporated or organized to conduct one or more of the securities activities described in paragraph (e)(2) of this section with residents of that country. The conduct of such activities must be subject to *bona fide* regulation, including appropriate reporting, monitoring and prudential (including capital adequacy) requirements, by a securities regulatory authority in that country that regularly enforces compliance with such requirements and prudential standards.

(c) *Securities dealer.* For purposes of this section, a securities dealer is a dealer (whether foreign or domestic) in securities within the meaning of section 475(c)(1).

(d) *Securities broker.* For purposes of this section, a securities broker is a corporation (whether domestic or foreign) that, during its taxable year, stands ready, in the ordinary course of its trade or business, to effect transactions in securities and other financial instruments for the account of customers, including the arrangement of loans of securities owned by customers.

(e) *Securities income*—(1) *General rule.* Securities income means the gross income (except as provided in paragraph (i) of this section) derived from the active conduct (within the meaning of § 1.367(a)–2T(b)(3)) of any securities activity described in paragraph (e)(2) of this section.

(2) *Securities activities.* For purposes of this section, the following are securities activities—

(i) Purchasing or selling stock, debt instruments, interest rate or currency futures or other securities or derivative financial products (including notional principal contracts) from or to customers and holding stock, debt instruments and other securities as inventory for sale to customers, unless the relevant securities or derivative financial products (including notional principal contracts) are not held in a dealer capacity;

(ii) Effecting transactions in securities for customers as a securities broker;

(iii) Arranging futures, forwards, options, or notional principal contracts for, or entering into such transactions with, customers;

(iv) Arranging foreign exchange transactions (including any section 988 transaction within the meaning of section 988(c)(1)) for, or engaging in foreign exchange transactions with, customers;

(v) Underwriting issues of stocks, debt instruments, or other securities under best efforts or firm commitment agreements with customers;

(vi) Purchasing, selling, discounting, or negotiating for customers on a regular basis notes, drafts, checks, bills of exchange, acceptances or other evidences of indebtedness;

(vii) Borrowing or lending stocks or securities for customers;

(viii) Engaging in securities repurchase or reverse repurchase transactions with customers;

(ix) Engaging in hedging activities directly related to another securities activity described in this paragraph (e)(2);

(x) Repackaging mortgages and other financial assets into securities and servicing activities with respect to such financial assets (including the accrual of interest incidental to such activities);

(xi) Engaging in financing activities typically provided by an investment bank, such as—

(A) Project financing provided in connection with, for example, construction projects;

(B) Structured finance, including the extension of a loan and the sale of participations or interests in the loan to other financial institutions or investors; and

(C) Leasing activities to the extent incidental to financing activities described in this paragraph (e)(2)(xi) or to advisory services described in paragraph (e)(2)(xii) of this section;

(xii) Providing financial or investment advisory services, investment management services, fiduciary services, trust services or custodial services;

(xiii) Providing margin or any other financing for a customer secured by securities or money market instruments, including repurchase agreements, or providing financing in connection with any of the activities listed in paragraphs (e)(2)(i) through (e)(2)(xii) of this section;

(xiv) Maintaining deposits of capital (including money or securities) described in paragraph (f) of this section; and

(xv) Any other activity that the Commissioner determines, through a revenue ruling or other formal published guidance, to be a securities activity generally conducted by active dealers or active brokers in the ordinary course of their securities business.

(f) *Certain deposits of capital.* A deposit of capital is, for purposes of this section, a securities activity if the deposit is maintained in a segregated account in order to satisfy a capital requirement for registration as a securities broker or dealer under the laws of a jurisdiction in which the broker or dealer actively conducts (within the meaning of § 1.367(a)–2T(b)(3)) a trade or business (within the meaning of § 1.367(a)–2T(b)(2)) as a securities broker or dealer. A deposit of capital qualifies under this paragraph (f) if and only to the extent that the assets are not available for use in connection with the controlled foreign corporation's activities as a securities broker or dealer because of significant regulatory restrictions on the investment of such assets. This paragraph (f) does not apply to ordinary working capital, which is available for unrestricted use.

(g) *Dealer-customer relationship.* Whether a dealer-customer relationship exists is determined by reference to all the facts and circumstances. Such a relationship does not exist with respect to transactions between members of a related group, as defined in paragraph (j)(4) of this section, or transactions with any shareholders, officers, directors or other employees of any person that would otherwise be treated as an active dealer, active broker or qualified securities affiliate if one of the principal purposes for such transactions was to satisfy the requirements of this section.

(h) *Investment income.* Income earned on any securities held for investment within the meaning of section 475(b)(1)(A) or not held for sale within the meaning of section 475(b)(1)(B), is passive for purposes of sections 1296(a)(1), 1296(a)(2) and 956A(c)(2)(A).

(i) *Calculation of gross income from a matched book.* Securities income includes only the net (not gross) income from matched transactions. For purposes of this section, a matched transaction is a sale and repurchase agreement with respect to the same security properly treated as offsetting agreements in a matched book.

(j) *Income earned by qualified securities affiliates*—(1) *General rule.* A foreign corporation that is not an active dealer or an active broker but which derives securities income described in paragraph (e)(1) of this section is a qualified securities affiliate for purposes of this section if such corporation meets the requirements of paragraph (j)(2) of this section and is a member of a related group that meets the requirements of paragraph (j)(3) of this section. Securities income earned by a qualified securities affiliate is nonpassive only for purposes of determining whether any member of the related group is a passive foreign investment company or holds stock in a passive foreign investment company or for purposes of applying section 956A(c)(2)(A). However, securities income of a qualified securities affiliate remains passive with respect to persons who own stock in that affiliate but who are not members of the related group of which the affiliate is a member.

(2) *Affiliate income requirement.* To be a qualified securities affiliate, at least 60 percent of the foreign corporation's total gross income for the taxable year must be banking income, as defined in § 1.1296–4(f)(1), securities income, as defined in paragraph (e)(1) of this section, or gross income described in section 1296(b)(2)(B) (relating to insurance activities). For purposes of this paragraph (j)(2), the look-through rules of sections 1296(b)(2)(C) and 1296(c) do not apply.

(3) *Group income requirements.* The related group qualifies under this paragraph (j) if—

(i) At least 30 percent of the aggregate gross financial services income, as defined in § 1.904–4(e)(1), earned during the taxable year by members of the related group is securities income earned by active dealers or active brokers who are members of the related group during the current taxable year; and

(ii) At least 70 percent of the aggregate gross financial services income earned during the taxable year by members of the related group is banking income, securities income, or gross income described in section 1296(b)(2)(B) (relating to insurance activities).

(4) *Related group.* The related group is the group of persons consisting of the entity being tested under this paragraph (j) and all entities that are related within the meaning of section 954(d)(3) to such entity, substituting "person" for "controlled foreign corporation" each time the latter term appears.

(5) *Example.* The following example illustrates the rules of this paragraph (j).

Example. (i) Facts. SD is a country Y corporation that owns 85 percent of the stock of M, a country Z corporation. A, a U.S. person, owns the remaining 15 percent of the stock of M. B, C, and D, all unrelated U.S. persons, own 5, 15, and 36 percent, respectively, of the stock of SD. The rest of SD's stock is publicly held. SD is a securities dealer within the meaning of section

VOL
60
ISS
82
AP
28
1995
UMI

475(c)(1) and satisfies the licensing requirements of paragraph (b)(3)(ii) of this section. Because M's sole activity is conducting a matched book repo business, M is not a securities dealer within the meaning of section 475. For its taxable year ending December 31, 1994, SD earns $100 of gross income from trading profits and interest and dividends on inventory. For its taxable year ending December 31, 1994, M earns $50 of net interest income from its matched book repo business. SD and M earn no other income. All of SD and M's assets are held in connection with their securities businesses and none has been identified as having been held for investment.

(ii) *Securities income earned by SD.* SD is an active dealer under paragraph (b) of this section because it is a securities dealer under section 475 and satisfies the licensing requirements of paragraph (b)(3)(ii) of this section. Therefore, because SD is a controlled foreign corporation, SD's securities income is nonpassive under paragraph (a) of this section.

(iii) *Securities income earned by M.* (A) SD and M are financial services entities that are the only members of a related group as defined in paragraph (j)(4) of this section. The percentage of the SD–M related group's financial services income that is securities income earned by active dealers (SD), is 66.66 percent ((100/150) X 100). The percentage of the SD–M related group's financial services income that is securities income, banking income (as defined in § 1.1296–4(f)), or insurance income (as defined in section 1296(b)(2)(B)) is 100 percent ((150/150)×100). In addition, the percentage of M's income that is securities income is 100 percent ((50/50)×100).

(B) M is a qualified securities affiliate because the gross income tests of paragraphs (j)(2) and (3) of this section are satisfied. Accordingly, because M is a controlled foreign corporation, M's securities income is nonpassive for purposes of determining whether C or D own an interest in a PFIC (whether SD or M). M is thus not a PFIC with respect to C or D because it does not meet the income or asset tests of section 1296(a). SD also is not a PFIC with respect to C or D because it does not meet the income or assets tests of section 1296(a), after applying the look-through rule of section 1296(c).

(C) However, because B owns less than 10 percent of the stock of SD, and is therefore not a United States shareholder with respect to SD under section 951(b), M's interest income is passive (even though it is securities income) for purposes of determining whether B's indirect interest in M is an interest in a PFIC. Moreover, M's interest income is passive for purposes of determining whether A owns an interest in a PFIC. As a result, M meets the income and asset tests of section 1296(a) and is therefore a PFIC with respect to A and B.

(k) *Income from nonsecurities activities.* Income derived from the conduct of activities other than securities activities described in paragraph (e)(2) of this section and income from assets held for the conduct of such other activities are nonpassive only to the extent otherwise provided in section 1296.

(l) *Effective date.* This section is effective for taxable years beginning after September 30, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–10174 Filed 4–27–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–95–033]

Special Local Regulation: 1995 Special Olympics World Games, Long Island Sound, New Haven, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation for the 1995 Special Olympics World Games. Maritime activities held as a part of the Special Olympics World Games will take place in the waters of Long Island Sound approaching New Haven, Connecticut. The dates for these maritime activities are July 1–July 10, 1995. This regulation is needed to allow the Special Olympics World Games Committee to hold the various maritime activities associated with the 1995 Special Olympics World Games without interference from the boating public, and to protect boaters, spectators, and participants from the dangers associated with these events.

DATES: Comments must be received on or before May 30, 1995.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (jg) B.M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–95–033), the specific section of the proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½" × 11" unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The drafters of this notice are Lieutenant(jg) Eric Doucette, Project Manager, Captain of the Port, Long Island Sound, and Lieutenant Commander F.J. Kenney, Project Counsel, First Coast Guard District Legal Office.

Background and Purpose

The 1995 Special Olympics World Games are scheduled to be held in New Haven, Connecticut, from July 1–July 10, 1995. As part of the schedule of events, various maritime activities are planned for the participants and the public. The Special Olympics World Games Committee has submitted three marine events permits to the U.S. Coast Guard. The maritime activities for which permits have been requested are to be held in the waters of Long Island Sound approaching New Haven, Connecticut. The activities include sailboat races, a Parade of Sail, and fireworks displays. Due to the inherent dangers of fireworks displays and the need for vessel control during the various races and the Parade of Sail, vessel traffic will be temporarily restricted to provide for the safety of the spectators and participants through the establishment of a proposed regulated area in New Haven Harbor and Long Island Sound.

The Coast Guard is establishing an operational order to provide for the effective coordination of the activities

associated with the 1995 Special Olympics World Games. The specific tasking given to the various Coast Guard resources will be included in this operational order. Due to the proximity of the participating vessels and large number of expected spectator craft, it is necessary to establish a special local regulation to control spectator vessel movement within this confined area.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a special local regulation on specified waters of Long Island Sound and New Haven Harbor, New Haven, Connecticut. Because of the varied nature of the events planned during the Special Olympics World Games, and the length of time over which the events are scheduled to run, the Coast Guard believes the most effective way to meet all safety, security and vessel control objectives is to establish a one large regulated area, divided into 15 sectors. As events occur, individual sectors will open and close as the need arises. A chartlet illustrating each sector is available by writing to the address under **ADDRESSES** or by calling the telephone number in **FOR FURTHER INFORMATION CONTACT**. Provisions will be made, when possible, to allow escort by Coast Guard patrol craft for vessels desiring to transit a closed sector of the regulated area. Special anchorage and viewing areas for spectator craft have also been established. This regulation is needed to protect spectators and participants from the hazards associated with the fireworks displays, Parade of Sail, and to provide for vessel control in a confined area.

Regulatory Evaluations

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that closed sectors will remain closed for a limited amount of time, the extensive advisories that have been and will be made to the affected maritime community so that they may adjust their schedules accordingly, and the fact that the event schedule will allow commercial interests to coordinate their activities to allow minimal disruption to their enterprise.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard is considering the environmental impacts of both these Special Local Regulations and the marine events that will be part of the 1995 Special Olympics World Games. It is anticipated that one Environmental Assessment (EA) will be written for all Special Olympics World Games events for which Coast Guard Marine Event Permits will be issued. Comments in this regard should be forwarded to the address listed under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

1. The authority citation for Part 100 continues to read as follows:

PART 33—[AMENDED]

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, § 100.35T01–033, is added to read as follows:

§ 100.35T01–033 1995 Special Olympics World Games, New Haven, CT.

(a) *Regulated Area.* The regulated area will include all waters of New Haven Harbor within the following points:

Point	Latitude	Longitude	Reference
PT P	41°17'07.5" N	072°56'15.8" W	Kimberly Ave
PT E	41°14'48.0" N	072°57'54.0" W	Prospect Beach
PT K	41°12'14.9" N	073°01'13.0" W	Pond Point
PT Q	41°12'06.5" N	072°53'50.0" W	NH Channel
PT R	41°12'09.0" N	072°53'43.0" W	NH Channel
PT J	41°12'31.0" N	072°51'46.0" W	Townsend Ledge
PT A2	41°14'45.4" N	072°51'46.0" W	Bradford Cove
PT I	41°16'32.0" N	072°53'15.0" W	Grand Ave Bridge

(b) The following sectors have been designated within the Regulated Area:

(1) *Sector 1:* Sailing Area. This area encompasses the area in which the Special Olympics World Games sailing competitions will be held, and will include all waters within the following points:

PT A	41°15'35.0" N	072°56'04.0" W	Sail
PT B	41°15'01.5" N	072°54'55.2" W	Sail
PT C	41°14'23.5" N	072°55'03.0" W	Sail
PT D	41°13'43.5" N	072°57'21.0" W	Sail
PT E	41°14'48.0" N	072°57'54.0" W	Sail

(2) *Sector 2:* New Haven Entrance Channel, will include all waters within the following points:

VOL 60 ISS 82 AP 28 1995 UMI

PT Q	41°12'06.5" N	072°53'50.0" W	NH Channel
PT R	41°12'09.0" N	072°53'43.0" W	NH Channel
PT S	41°14'04.0" N	072°54'59.0" W	NH Channel
PT T	41°14'03.0" N	072°55'06.0" W	Buoy 7

(3) *Sector 3:* Lighthouse (LH) Point Reach, will include all waters within the following points:

PT S	41°14'04.0" N	072°54'59.0" W	NH Channel
PT T	41°14'03.0" N	072°55'06.0" W	Buoy 7
PT U	41°16'18.0" N	072°54'39.0" W	LH Pt Reach
PT V	41°16'19.0" N	072°54'45.0" W	Buoy 15

(4) *Sector 4:* New Haven Reach, will include all waters within the following points:

PT W	41°16'56.0" N	072°54'39.0" W	Buoy 20
PT U	41°16'18.0" N	072°54'39.0" W	LH Pt Reach
PT V	41°16'19.0" N	072°54'45.0" W	Buoy 15
PT X	41°16'45.5" N	072°54'48.0" W	Buoy 17
PT Y	41°17'49.0" N	072°54'18.0" W	NH Reach
PT Z	41°17'54.0" N	072°54'36.0" W	NH Reach

(5) *Sector 5:* New Haven Long Wharf, will include all waters within the following points:

PT L	41°17'33.0" N	072°54'54.0" W	Long Wharf
PT M	41°17'25.0" N	072°54'41.0" W	Long Wharf
PT N	41°17'29.0" N	072°54'40.0" W	Long Wharf
PT O	41°17'41.0" N	072°55'00.0" W	Long Wharf

(6) *Sector 6:* Barge Staging Operation Area, where barges carrying fireworks will loiter prior to fireworks events. This sector will include all waters within the following points:

PT F	41°13'33.0" N	072°57'23.0" W	West Break Wall
PT G	41°13'16.0" N	072°56'32.0" W	West Break Wall
PT T	41°14'03.0" N	072°55'06.0" W	Buoy 07
PT C	41°14'23.5" N	072°55'03.0" W	Sail
PT D	41°13'43.5" N	072°57'21.0" W	Sail

(7) *Sector 7:* Fireworks (Barge) Launch Area, will include all waters within the following points:

PT F5	41°16'13.0" N	072°54'21.0" W	Fireworks brg
PT F6	41°16'07.5" N	072°54'51.0" W	Fireworks brg
PT F7	41°16'52.0" N	072°54'56.0" W	Fireworks brg
PT F8	41°16'00.0" N	072°54'22.0" W	Fireworks brg

(8) *Sector 8:* Fireworks Launch (Bradley PT, West Haven CT) Area, will include all waters within the following points:

PT F1	41°15'06.0" N	072°57'41.0" W	Fireworks land
PT F2	41°14'49.0" N	072°57'30.0" W	Fireworks land
PT F3	41°14'59.0" N	072°57'02.0" W	Fireworks land
PT F4	41°15'17.0" N	072°57'14.0" W	Fireworks land

(9) *Sector 9:* Spectator Area, will include all waters within the following points:

PT Z	41°17'54.0" N	072°54'36.0" W	NH Reach
PT N	41°17'29.0" N	072°54'40.0" W	Long Wharf
PT O	41°17'41.0" N	072°55'00.0" W	Long Wharf

(10) *Sector 10:* Spectator Area, will include all waters within the following points:

PT A	41°17'54.0" N	072°54'36.0" W	NH Reach
PT B	41°17'29.0" N	072°54'40.0" W	Long Wharf
PT V	41°17'41.0" N	072°55'00.0" W	Long Wharf
PT F6	41°16'07.5" N	072°54'51.0" W	Fireworks brg
PT F7	41°16'52.0" N	072°54'56.0" W	Fireworks brg
PT F8	41°17'00.0" N	072°54'22.0" W	Fireworks brg
PT M	41°17'25.0" N	072°54'41.0" W	Long Wharf
PT L	41°17'33.0" N	072°54'54.0" W	Long Wharf

(11) *Sector 11:* Spectator Area, will include all waters within the following points:

PT H	41°14'32.0" N	072°53'40.0" W	Morgan Point
PT S	41°14'04.0" N	072°54'59.0" W	NH Channel
PT U	41°16'18.0" N	072°54'39.0" W	LH Pt Reach
PT F5	41°16'13.0" N	072°54'21.0" W	Fireworks brg

Note: Sector 11 has numerous shallow water areas within its boundaries. Spectator carft using this section should proceed with extreme caution.

(12) *Sector 12:* Spectator Area, will include all waters within the following points:

PT K	41°12'14.9" N	073°01'13.0" W	Pond Point
PT A1	41°12'14.9" N	072°57'23.0" W	37' Depth
PT F	41°13'33.0" N	072°57'23.0" W	West Break Wall
PT D	41°13'43.5" N	072°57'21.0" W	Sail
PT E	41°14'48.0" N	072°57'54.0" W	Prospect Beach

(13) *Sector 13:* Spectator Area, will include all waters within the following points:

PT F	41°13'33.0" N	072°57'23.0" W	West Break Wall
PT G	41°13'16.0" N	072°56'32.0" W	West Break Wall
PT T	41°14'03.0" N	072°55'06.0" W	Buoy 07
PT Q	41°12'06.5" N	072°53'50.0" W	NH Channel
PT A1	41°12'14.9" N	072°57'23.0" W	37' Depth

(14) *Sector 14:* Spectator Area, will include all waters within the following points:

PT H	41°14'32.0" N	072°53'40.0" W	Morgan Point
PT J	41°12'31.0" N	072°51'46.0" W	Townsend Ledge
PT R	41°12'09.0" N	072°53'43.0" W	NH Channel
PT S	41°14'04.0" N	072°54'59.0" W	NH Channel

(15) *Sector 15:* Spectator Area, will include all waters within the following points:

PT A2	41°14'45.4" N	072°51'46.0" W	Bradford Cove
PT J	41°12'31.0" N	072°51'46.0" W	Townsend Ledge
PT H	41°14'32.0" N	072°53'40.0" W	Morgan Point

(c) *Enforcement Schedule:* The Sectors in paragraph (b) will be enforced as set out in Table 100.35T01–033.

TABLE 100.35T01–033.—SECTOR ENFORCEMENT SCHEDULE

Date	Sector	Time	Status
July 1, 1995	ALL SECTORS	ALL DAY	OPEN.
July 2, 1995	1	Midnight–10:00 a.m	OPEN.
	1	10:00 a.m.–4:00 p.m	CLOSED to all traffic.
	1	4:01 p.m.–11:59 p.m	OPEN.
	2	Midnight–2:59 p.m	OPEN.
	2	3:00 p.m.–7:00 p.m	CLOSED to all traffic.
	2	7:01 p.m.–11:59 p.m	OPEN.
	3	Midnight–2:59 p.m	OPEN.
	3	3:00 p.m.–7:00 p.m	CLOSED to all traffic.
	3	7:01 p.m.–11:59 p.m	OPEN.
	4	Midnight–2:59 p.m	OPEN.
	4	3:00 p.m.–8:00 p.m	CLOSED to all traffic.
	4	8:01 p.m.–11:59 p.m	OPEN.
	5	Midnight–2:59 p.m	OPEN.
	5	3:00 p.m.–5:00 p.m	CLOSED to all traffic.
	5	5:01 p.m.–11:59 p.m	OPEN.
	6–15	ALL DAY	OPEN.
July 3, 1995	1	Midnight–11:59 a.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 4, 1995	3	Midnight–4:59 p.m	OPEN.
	3	5:00 p.m.–6:00 p.m	CLOSED to all traffic.
	3	6:01 p.m.–11:59 p.m	OPEN.
	6	Midnight–4:59 a.m	OPEN.
	6	5:00 a.m.–6:00 p.m	CLOSED to all traffic.
	6	6:01 p.m.–11:59 p.m	OPEN.
	7	Midnight–4:59 p.m	OPEN.
	7	5:00 p.m.–11:00 p.m	CLOSED to all traffic.
	7	11:01 p.m.–11:59 p.m	OPEN.
	8	Midnight–7:59 p.m	OPEN.
	8	8:00 p.m.–11:00 p.m	CLOSED to all traffic.
	8	11:01 p.m.–11:59 p.m	OPEN.
	1–2	ALL DAY	OPEN.
	4–5	ALL DAY	OPEN.
	9–15	ALL DAY	OPEN.
July 5, 1995	1	Midnight–11:50 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 6, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.

VOL 60 ISS 82 AP 28 1995 UMI

TABLE 100.35T01-033.—SECTOR ENFORCEMENT SCHEDULE—Continued

Date	Sector	Time	Status
July 7, 1995	1	Midnight–11:59 p.m.	OPEN.
	1	12:00 noon–6:00 p.m.	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m.	OPEN.
	2–15	ALL DAY	OPEN.
July 8, 1995	1	Midnight–11:59 p.m.	OPEN.
	1	12:00 noon–6:00 p.m.	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m.	OPEN.
	2–15	ALL DAY	OPEN.
July 9, 1995	1	Midnight–11:59 p.m.	OPEN.
	1	12:00 noon–6:00 p.m.	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m.	OPEN.
	2–15	ALL DAY	OPEN.
July 10, 1995	ALL SECTORS	ALL DAY	OPEN.

(d) *Special local regulations.*

(1) Commander, U.S. Coast Guard Forces Long Island Sound reserves the right to delay, modify, or cancel any marine event within the regulated area as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in a closed sector of the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander. Spectator vessels are required to remain out of all closed sectors within the regulated area, in accordance with the established enforcement schedule. Commercial towing vessels will not be allowed to operate in any closed sector unless expressly authorized by the patrol commander.

(3) Vessels awaiting passage through the regulated area will be required to wait outside established sectors when closed. A Coast Guard patrol vessel will be stationed along each boundary of the closed sectors. Vessels will not be allowed to transit, enter, cross, or remain in sectors when closed.

(4) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Forces Long Island Sound or the designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately, then proceed as directed. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section is effective from 8 a.m. Thursday, July 1, 1995, to 8 p.m. Monday, July 10, 1995, unless otherwise specified in the Coast Guard Local Notice to Mariners and a notice in the **Federal Register**.

Dated: April 18, 1995.

J. L. Linnon,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 95–10537 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–5199–3]

Notice of Open Meeting of the Negotiated Rulemaking Advisory Committee for Small Nonroad Engine Regulations

AGENCY: Environmental Protection Agency.

ACTION: FACA committee meeting—negotiated rulemaking on small nonroad engine regulations.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA is giving notice of the next meeting of the Advisory Committee to negotiate a rule to reduce air emissions from small nonroad engines. Small nonroad engines are engines which are spark ignited gasoline engines less than 25 horsepower. The meeting is open to the public without advance registration. Agenda items for the meeting include reports from the task groups and discussions of the emissions standard and standard structure.

DATES: The committee will meet on May 22, 1995 from 10:00 a.m. to 6:00 p.m., and on May 23, 1995 from 8:00 a.m. to 4:00 p.m.

ADDRESSES: The location of the meeting will be the Courtyard by Marriott, 3205 Boardwalk, Ann Arbor, MI 48108; phone: (313) 995–5900.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Lisa Snapp, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Rd., Ann Arbor, Michigan 48105, (313) 668–4200. Persons needing further information on committee procedural matters should call Deborah Dalton, Consensus and Dispute Resolution Program, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–5495, or the Committee's facilitators, Lucy Moore or John Folk-Williams, Western Network, 616 Don Gaspar, Santa Fe, New Mexico, 87501, (505) 982–9805.

Dated: April 21, 1995.

Deborah Dalton,

Designated Federal Official.

[FR Doc. 95–10511 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 51

[FRL–5196–5]

Inspection/Maintenance Flexibility Amendments

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes revisions to the motor vehicle Inspection/Maintenance (I/M) Program Requirements. EPA announced its intent to amend the I/M Program Requirements in December 1994 and held stakeholders' meetings on January 24, 1995 and January 31, 1995. This proposed action would create a second, less stringent enhanced I/M performance standard that could be used in areas that can demonstrate an ability to meet the 1990 Clean Air Act deadlines for Reasonable Further Progress and attainment while implementing an I/M program that falls below the originally promulgated enhanced I/M performance standard.

Because the new low enhanced I/M performance standard eliminates the need for the special enhanced performance standard for El Paso, Texas, this proposed action would repeal that special performance standard. This proposed action would also revise the high enhanced I/M performance standard to include a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks from model years 1968 to 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks from model years 1972 through 1983, inclusive. The low enhanced performance standard contains similar requirements, which are necessary to ensure full compliance with the Clean Air Act's requirement that all federal performance standards for enhanced I/M programs be based upon a model program that includes, at a minimum, two inspections per subject vehicle: an emission inspection and a visual inspection. This proposed action would also change the waiver cost requirements by: Extending the deadline for implementing the minimum expenditure to qualify for a waiver specified in the Clean Air Act; allowing the application of pre-inspection repairs toward meeting the waiver expenditure requirements under limited circumstances; allowing repairs of primary emission control components performed by non-technicians to apply toward the waiver cost requirement; and removing the bar against issuing hardship exemptions more than once per vehicle lifetime. This proposal also solicits public comment on whether or not EPA should include revised regulatory language in its final rulemaking which change the population cutoff for basic I/M from 50,000 persons to 200,000 persons. Lastly, this proposal would make clarifying amendments to the I/M requirements for areas undergoing redesignation.

DATES: Written comments on this proposal must be received no later than May 15, 1995. A public hearing is scheduled for May 17, 1995.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–95–08. It is requested that a duplicate copy be submitted to Eugene J. Tierney at the address in the **FOR FURTHER INFORMATION CONTACT** section below. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall S.W., Washington, DC 20460. The public hearing will be held at the National Fuel and Vehicle Emission Laboratory at 2565 Plymouth Road, Ann Arbor, Michigan, Conference Rooms C&D from 10:00 a.m. through 3:00 p.m. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. until 3:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 668–4456.

SUPPLEMENTARY INFORMATION:

I. Table of Contents
II. Summary of Proposal
III. Authority
IV. Background of the Proposed Amendments
  A. Visual Inspection
  B. Enhanced Performance Standards
  C. Waivers
  D. Redesignation
  E. Population Requirements
V. Discussion of Major Issues
  A. Emission Impact of the Proposed Amendments
  B. Impact on Existing and Future I/M Programs
VI. Economic Costs and Benefits
VII. Public Participation
  A. Comments and the Public Docket
  B. Public Hearing
VIII. Administrative Requirements
  A. Administrative Designation
  B. Reporting and Record Keeping Requirement
  C. Regulatory Flexibility Act
  D. Unfunded Mandates Act

II. Summary of Proposal

Under the Clean Air Act as amended in 1990 (the Act), 42 U.S.C. 7401 *et seq.*, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** on November 5, 1992 (40 CFR part 51) rules related to plans for Motor Vehicle Inspection and Maintenance (I/M) programs (hereafter referred to as the I/M rule, see 57 FR 52950). EPA is proposing today to revise this rule to provide greater flexibility to states required to implement I/M programs.

Section 182 of the Act was prescriptive regarding the various elements that are required as part of an enhanced I/M performance standard. It also required that EPA provide states with flexibility in meeting the requirement for enhanced or basic I/M programs. States have requested additional flexibility in two areas: the timing of the Act's mandated minimum expenditure required to qualify for a waiver and a lower performance standard for areas that do not need an enhanced I/M program as effective as the one EPA adopted in 1992 to meet the Act's Reasonable Further Progress and attainment demonstration requirements. (These two programs are hereafter referred to as low enhanced and high enhanced performance standards, respectively.)

EPA is today proposing to establish an alternate, low enhanced I/M performance standard for those areas that can meet the Act's requirements for Reasonable Further Progress and attainment of either the carbon monoxide (CO) and/or ozone ambient air quality standards without the benefits of the high enhanced I/M performance standard. This low enhanced performance standard is designed for areas that are required to implement enhanced I/M but do not have a major mobile source component to the air quality problem or can obtain adequate emission reductions from other sources to meet the 15% VOC emission reduction requirement and demonstrate attainment. With respect to states in the northeast ozone transport region (OTR), EPA believes that the low enhanced performance standard will provide needed reductions but still offers greater flexibility. Areas within the Northeast OTR are still subject to the enhanced I/M requirement and OTR states are required to submit plans for their nonattainment areas. However EPA believes that the states are in the best position to make decisions about the emphasis placed upon individual strategies within their borders as long as emission reduction opportunities needed for timely attainment are not irrevocably lost. Moreover, with respect to interstate pollution within the OTR, EPA has just oulined a phased attainment-process among states contributing to or affected by transport. See memorandum of March 2, 1995 from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled "Ozone Attainment Demonstrations" (available in the docket for this rulemaking). The desired outcome of that process is to reach consensus on the additional regionwide and national emission reductions needed to bring all areas in the OTR into attainment. EPA believes that the interstate consultative process provides the best forum for ascertaining and requiring those necessary additional emission reductions. The low enhanced performance standard meets the Act's requirement that it be based on centralized, annual testing of light duty cars and trucks, and checks for tampering and exhaust emissions. Nevertheless, this standard can be met with a comprehensive decentralized, test-and-repair program.

EPA is also proposing modifications to the requirements related to waivers. EPA is proposing to extend the deadline

VOL
60
ISS
82
AP
28
1995
UMI

for the full implementation of the minimum expenditure required to be eligible for a waiver for both basic and enhanced I/M programs until January 1998. This will allow states additional time to phase-in the higher expenditures required by the Act and the I/M rule. In the interim, a state can establish any minimum expenditure it chooses, as long as it accounts for the higher waiver rates that will occur between now and 1998 in its emission inventory forecasts in the Reasonable Further Progress plan.

EPA is proposing to allow states to include qualified repair cost expenditures that occur within 60 days of the initial test toward meeting the minimum waiver expenditure. EPA also proposes to delete language from the November 5, 1992 I/M rule barring motorists from qualifying for more than one hardship exemption during the lifetime of a vehicle.

Pursuant to the opinion of the Court of Appeals for the District of Columbia Circuit, *Natural Resource Defense Council* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994), EPA is proposing today to revise the enhanced I/M performance standard to correct the omission of a visual check on pre-1984 vehicles in the high enhanced performance standard. EPA is proposing to include in the high enhanced performance standard a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks of model year 1968 through 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks of model year 1972 through 1983, inclusive. According to EPA's current guidance for estimating emission reductions from I/M programs, this change should not significantly increase the overall emission reduction requirements that must be met by states as they design programs to meet the enhanced I/M performance standard.

EPA is also requesting comment on whether or not it should change the minimum population cutoff for basic I/M programs. Currently, for areas outside an ozone transport region, basic I/M programs are required in moderate ozone and carbon monoxide nonattainment areas with 1990 Census-defined population of 50,000 or more. EPA is considering the possibility of including revised regulatory language in the final rulemaking that would increase this minimum threshold for basic I/M programs to 200,000 or more. If adopted, this proposed change would mark a return to the policy in effect prior to the 1990 Clean Air Act Amendments on minimum population requirements for basic I/M and would provide states further flexibility in meeting their Clean Air Act goals.

At the I/M Stakeholders meetings of January 24 and 31, 1995, EPA indicated its intent to establish additional I/M credits for the use of remote sensing. These credits will be published in a guidance document, similar to the one in which credits for retest-based hybrid programs, ASM2 testing, and mechanic training and certification were published. EPA intends to base these credits on data from the California I/M Pilot Program in Sacramento, since this is the most comprehensive study on remote sensing to date. The agency is interested in obtaining all available information on remote sensing. Therefore, EPA is requesting comments from anyone with data on the effectiveness remote sensing and on ways it might be used to supplement I/M programs.

Finally, EPA is proposing to clarify the requirements for basic I/M areas that are eligible for redesignation to attainment. On January 5, 1995, EPA published a final amendment to the I/M rule to address this issue (60 FR 1738). The rule was not completely clear with regard to EPA's intent in the event that an area that has been redesignated to attainment experiences a violation of the standard. EPA does not believe that a violation automatically requires the implementation or upgrade of an I/M program. EPA believes that, in the event of a violation, a state should have the flexibility to select whichever contingency measures are best suited to correcting the problem to bring the area to attainment as quickly as possible. The rule would continue to require, however, that such an upgraded basic I/M program be among the contingency measures from which the state will choose. Changes to remove extraneous language related to the requirements for an implementation schedule are being proposed, as well.

III. Authority

Authority for the action proposed in this notice is granted to EPA by section 182 of the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*).

IV. Background of the Proposed Amendments

The features of the enhanced I/M performance standard model program are used to generate the minimum performance target that a state must meet. When programmed into the most current version of EPA's mobile source emission factor model (hereafter referred to as the MOBILE model), these features produce a target emission factor (emissions per mile of vehicle travel) which a state's proposed program must not exceed to be deemed minimally acceptable for purposes of state implementation plan (SIP) approval. This combination of features, however, does not constitute a recommended program design. For example, while the enhanced I/M performance standard, as required by the Act, includes annual vehicle inspections, EPA does not require or even recommend that state programs actually adopt annual testing. In fact, EPA has found biennial testing to be significantly less expensive while only marginally less effective at reducing fleet-wide vehicle emissions. This marginal loss in benefit can be easily accommodated by strengthening some other aspects of the program, for example, by increasing vehicle coverage, or increasing the number or stringency of the tests conducted on selected classes of vehicles. The use of the performance standard approach allows EPA to meet Congress's dual statutory requirements that the EPA develop a performance standard based on certain statutory features and that the standard provide states with maximum flexibility to design I/M programs to meet local needs.

A. Visual Inspections

During the Fall of 1992, the National Resources Defense Council (NRDC) filed three separate lawsuits against EPA in the Court of Appeals for the District of Columbia Circuit, challenging various aspects of EPA's policy on committal-based State Implementation Plans (SIP) and the I/M rule. Among other things, NRDC maintained that the enhanced I/M performance standard had been purposely weakened to justify a shift away from the statutory presumption of annual testing to EPA's preferred alternative, biennial testing. NRDC maintained that this was achieved by exempting older vehicles from the high-tech tailpipe test known as the IM240, visual inspections, and evaporative system checks. In responding to NRDC's claims, EPA maintained that it set the enhanced performance standard strict enough to net significant emission reductions while also being lenient enough to provide states with "continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer," as required by section 182(a)(2)(B)(ii) of the Act.

In its May 6, 1994 ruling, the Court of Appeals found that, "each of the parties wins some and loses some on this issue." *NRDC* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994). Agreeing with EPA, the court found that the Act did not require

EPA to set the most stringent annual performance standard possible. Nevertheless, the Court also agreed with NRDC's contention that the Act required EPA to establish an enhanced I/M performance standard that is "the product of two different kinds of testing," including a visual and an emission test. Since EPA's current enhanced I/M performance standard only includes one test, a steady-state, idle-based tailpipe test, on vehicle model years 1968 through 1983 and does not require a visual inspection of those cars, the Court found that the current standard falls short of complying with the letter of the Act for those model years.

To correct this oversight, EPA is today proposing to amend the high enhanced I/M performance standard to include a minimum of two inspections per subject vehicle. Currently, the only vehicles included in the high enhanced I/M performance standard that are not covered by both tests are light-duty vehicles and light-duty trucks from model years 1968 through 1983. EPA therefore proposes to amend the current high enhanced I/M performance standard to include a visual inspection for the PCV valve on 1968 through 1971 light-duty vehicles and light-duty trucks up to 8,500 pounds Gross Vehicle Weight Rating (GVWR) and a visual inspection of the EGR valve on model year 1972 through 1983 light-duty vehicles and light-duty trucks. Tampering surveys have shown that these emission control devices are tampered or inadequately maintained. A visual check can identify such problems and emission reductions can occur on individual cars as a result of repairs to these devices.

B. Enhanced Performance Standards

The Court of Appeals ruling on the issue of performance standard stringency also clarifies EPA's authority to establish any enhanced I/M performance standard it deems reasonable, provided it incorporates the minimally required elements set forth by Congress in the Act. By requiring enhanced I/M, Congress gave states one mechanism to meet the required 15% reduction of VOC emissions and demonstrate attainment. Today, EPA is proposing to give states greater flexibility in choosing the enhanced I/M program which will work best with the 15% VOC emission reduction plan. States may elect to implement low enhanced I/M, or any program between low and high enhanced I/M, if that is all they need to meet the 15% VOC emission reduction requirement and attainment demonstration. EPA believes it is reasonable to require lower reductions from enhanced I/M where greater reductions are not needed to reduce VOC emissions by 15% or for attainment.

EPA maintains that the Act in no way bars it from establishing more than one enhanced I/M performance standard. EPA believes that precedent exists for the adoption of multiple enhanced I/M performance standards, tailored to the unique needs of certain areas, and points to the case of El Paso, Texas, for which a separate, enhanced I/M performance standard already exists [40 CFR Part 51.351(e)], as evidence of this interpretation. Today, EPA proposes to repeal § 51.351(e) which establishes the El Paso performance standard because the new low enhanced performance standard eliminates the need for that special enhanced performance standard.

C. Waivers

EPA also believes Section 182 (3)(C) of the Act provides flexibility in its waiver requirement, by not specifying a deadline by which such limits are to be fully implemented and determinative in the granting of waivers. To get the full emission reduction potential of an I/M program element, the statutory waiver requirement must be in full effect at least one full inspection cycle prior to evaluation (so that all subject vehicles will be held to that standard and found to comply). Since compliance with the performance standard is based on a modeling demonstration comparing the state's program to the performance standard using an initial evaluation date of January 1, 2000 for ozone nonattainment areas, and January 1, 2001 for carbon monoxide (CO) nonattainment areas, EPA believes it is possible to postpone full implementation of the enhanced I/M waiver requirements at least January 1, 1998 without jeopardizing the ability of states to meet the relevant enhanced I/M performance standards. EPA requests comment on whether this or a later date would be appropriate. EPA also requests comments as to the timing of application of the CPI adjustment in relation to the phase-in of the full waiver requirements.

Adoption of a January 1, 1998 date for full implementation of the waiver requirement would provide states with the continued flexibility necessary to allow for biennial testing. Furthermore, postponing full implementation of the waiver requirement provides the short term regulatory relief states have been requesting since passage of the Act, while at the same time allowing states to meet the long-term Clean Air Act goals. As mentioned previously, EPA requests comments on the need for and implications of postponing full implementation of the waiver requirements to a date beyond January 1, 1998. EPA hopes that states will use any additional time to develop programs to assist vehicle owners in fully repairing their vehicles; for example, by subsidizing or co-funding repairs out of revenues collected in any of a number of possible ways.

Today's proposed action would also allow motorists to apply the cost of pre-inspection repair of primary emission control devices toward meeting the minimum waiver expenditure requirement provided the repairs were made within 60 days of the inspection. When repairs correct obvious emission control problems, EPA believes it is appropriate to credit repair costs toward minimum waiver expenditures, provided the repairs occur shortly prior to testing.

Today's proposed action would limit the non-technician repairs that can be applied toward waiver limits to repairs of primary emission control components only. However, today's action also removes the language limiting application of non-technician repairs toward waiver expenditure requirements to pre-1980 model year vehicles. The result is that a non-technician repair to a primary emission control component may be applied toward the waiver expenditure requirement for any model year vehicle. EPA does not believe there is reason to distinguish between model years for non-technician repairs to primary emission controls. EPA believes it is appropriate to maintain the distinction for other types of repairs since these are not easily diagnosed or performed the way a missing catalyst, for example, may be diagnosed and repaired.

Today's action proposes to remove the language from the I/M rule which limits hardship extensions to one time in the lifetime of a vehicle. EPA believes it is in the interest of fairness to remove this limitation, especially in the case of used car buyers who may otherwise be deprived of the opportunity for such an extension because this "right" was already exercised by a previous owner. Instead, the proposed action would allow a vehicle that has already received a time extension and subsequently passed the applicable test standards to be eligible for another time extension. While EPA acknowledges that there is a potential for minuscule emission reduction losses as a result of changing this limitation, EPA believes that any potential abuses will be accounted for by the existing requirements that all such extensions be tracked by the state,

VOL
60
ISS
82
AP
28
1995
UMI

that the state commit to a maximum waiver limit as part of its SIP for modeling purposes, and that the state commit to program modifications should the actual waiver rate exceed that committed to in the SIP.

D. Redesignation

Today's action proposes to clarify the requirements for basic I/M areas that are eligible for redesignation to attainment. EPA believes these changes are necessary because the amendments to the I/M rule addressing redesignation, which were published on January 5, 1995 (60 FR 1738), were not clear with regard to EPA's intent in the event that an area that has been redesignated to attainment experiences a violation of the standard. EPA does not believe that a violation of the standard automatically requires the state to implement or upgrade an I/M program. If a violation or other air quality problem occurs, EPA believes that the state should have the flexibility to select the contingency measure(s) that will most quickly correct the problem and bring the area to attainment.

Today's proposed action also clarifies the timing of SIP submissions and program implementation in areas that select I/M to correct the air quality problem. SIPs must be submitted 18 months after EPA notifies the state that a violation has occurred and programs must be implemented 24 months after the date of notification. No particular date is specified as to when a state must make a selection, but clearly the selection must be made in time to submit a plan by the 18 month point and implement by the 24 month point.

E. Population Requirements

Under current EPA regulations, basic I/M programs are required in moderate ozone and carbon monoxide nonattainment areas with a 1990 Census-defined population of 50,000 or more. Today's proposal solicits public comment on whether revised regulatory language should be included in the final rulemaking to increase the minimum population threshold for basic I/M programs to 200,000 or more. If adopted, this proposed change would mark a return to the policy in effect prior to the 1990 Clean Air Act Amendments on minimum population requirements for basic I/M. This potential revision is proposed to grant states further flexibility in designing I/M programs to meet local needs, and to allow some areas with a population of less than 200,000 and without existing I/M programs to opt-out of I/M completely. Should public comment favor, or at least not overwhelmingly oppose, such a revision, EPA hereby proposes to set the urbanized area population threshold at 200,000 or more based on the 1990 Census. Under this proposed change, any area outside an ozone transport region classified as moderate ozone or carbon monoxide nonattainment would be required to implement a basic I/M program if its 1990 Census-defined population was equal to or exceeded 200,000. EPA believes that this change is authorized by the Act because Section 182 requires implementation in all moderate ozone nonattainment areas only of the program contained in pre-1990 guidance, which limited basic I/M applicability to areas with a population of 200,000 or more. EPA requests comments on whether this proposed change would have any implications on the states continued participation in the Northeast Ozone Transport Region.

V. Discussion of Major Issues

A. Emission Impact of the Proposed Amendments

The proposed low enhanced I/M performance standard was modeled using MOBILE5a and national average values for vehicle age mix, mileage accumulation, and other area and fleet related variables. Compared to a no I/M case, the proposed low enhanced performance standard yields a VOC emission reduction of about 9.3%, and a NOx emission reduction of about 1.5%, assuming an evaluation date of January 1, 2000; assuming a January 1, 2001 evaluation date, the low enhanced performance standard produces a CO emission reduction of about 14.2% compared to the no-I/M case. The low enhanced performance standard yields a 45% greater reduction in VOC emissions than the basic performance standard. Specifically, the basic performance standard programs yields a minimum VOC reduction of 6.4% compared to the minimum 9.3% reduction from the low enhanced standard.

The proposed low enhanced I/M performance standard would allow ozone nonattainment states to adopt a biennial decentralized, test-and-repair program that included idle tailpipe testing, full visual checks, and pressure testing of the evaporative emission control system on all gasoline powered vehicles. For areas needing to meet the Act's requirements for CO, the proposed low enhanced I/M performance standard can be met using a biennial, decentralized test and repair program including two-speed tailpipe testing and full visual checks on all gasoline powered vehicles in conjunction with a comprehensive training or certification program for vehicle repair technicians. If these CO areas also have an ozone requirement, pressure testing will need to be added to the scenario. Alternatively, if test-only, IM240, purge and pressure testing are adopted, states would be able to meet the new, low enhanced standard while exempting large portions of either the oldest or newest vehicles from the test.

The changes in the waiver criteria (e.g., the lower minimum expenditure for the interim years preceding 1998) could reduce emission reduction benefits achieved by I/M programs, depending on the degree to which particular states lower the minimum expenditure in the short term. If states establish lower minimum expenditures, waiver rates will be higher than under the $450 standard. Instead of waiver rates on the order of 3% of failed vehicles in enhanced programs, waiver rates could be as high as 20% or more if states were to lower the minimum to $100-$150. Prior to 1998, the first milestone that states have to meet is the Act's 15% reduction in VOC emissions by November 15, 1996. In states that require only a lower expenditure, the higher waiver rates will lower benefits for this milestone. This loss in emission reduction needs to be accounted for in calculating 15% plan benefits. As a result, states may have to increase emission reductions from other sources, such as stationary sources, to make up for the loss.

B. Impact on Existing and Future I/M Programs

Only states that choose to utilize the proposed flexibility will be affected by today's proposal. Modifications to a state's I/M program as a result of this rule change may require a SIP revision, if a plan has already been approved. Each case is likely to be different, depending upon the magnitude of the change. It is important to note that today's proposed flexibility in no way increases the existing burden on states. States that currently comply, or are in the process of complying, with the existing I/M rule would only be affected by today's rule if they so choose. Today's proposed amendments represent opportunities for those states that can meet the criteria set forth in today's proposal; under no circumstances are these proposed opportunities to be construed as mandatory obligations.

VI. Economic Costs and Benefits

Today's proposed revisions provide states additional flexibility that lessens rather than increases the potential burden on states. Furthermore, states are under no obligation, legal or otherwise, to modify existing plans meeting the previously applicable requirements as a result of today's proposal.

VII. Public Participation

A. Comments and the Public Docket

EPA desires full public participation in arriving at final decisions in this Rulemaking action. EPA solicits comments on all aspects of this proposal from all parties. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the Air Docket, Docket No. A–95–08.

B. Public Hearing

If a hearing is requested, anyone wishing to present testimony about this proposal at the public hearing (see **DATES**) should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing to schedule those wishing to present testimony who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-serve basis following the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advanced copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This will give EPA staff adequate time to review such material before the hearing. Such advanced copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 15 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–95–08 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

VIII. Administrative Requirements

A. Administrative Designation

It has been determined that these proposed amendments to the I/M rule is a significant regulatory action under the terms of Executive Order 12866 and are therefore subject to OMB review. Any impacts associated with these revisions do not constitute additional burdens when compared to the existing I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950).

However, it does not create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. It is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues.

B. Reporting and Recordkeeping Requirement

There are no information requirements in this proposed/final rule which require the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this proposal will not have a significant economic impact on a substantial number of small entities and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. A small entity may include a small government entity or jurisdiction. A small government jurisdiction is defined as "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." This certification is based on the fact that the I/M areas impacted by the proposed rulemaking do not meet the definition of a small government jurisdiction, that is, "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000." Furthermore, the impact created by the proposed action does not increase the pre-existing burden which this proposal seeks to amend.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly impacted by the rule.

To the extent that the rules being proposed by this action would impose mandate as defined in Section 101 of the Unfunded Mandates Act upon the state, local, or tribal governments, or the private sector, as explained above, this proposed rule is not estimated to impose costs in excess of $100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers opportunities to states that would enable them to lower economic burdens from those resulting from the currently existing I/M rule.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: April 18, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 51 of title 40 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 51.351 is amended by revising paragraphs (a) and (b), by removing and reserving paragraph (e), and by adding paragraphs (f) and (g) to read as follows:

§ 51.351 Enhanced I/M performance standards.

(a) Enhanced I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm), achieved from highway mobile sources as a result of the program. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal,

VOL 60 ISS 82 AP 28 1995 UMI

of the EPA mobile source emission factor model or an alternative model approved by the Administrator, and shall meet the minimum performance standard both in operation and for SIP approval. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas subject to enhanced I/M and subject areas in the Ozone Transport Region, the performance standard must be met for both oxides of nitrogen (NO_X) and volatile organic compounds (VOCs), except as provided in paragraph (d) of this section.

(b) *On-road testing.* The performance standard shall include on-road testing of at least 0.5% of the subject vehicle population, or 20,000 vehicles whichever is less, as a supplement to the periodic inspection required in paragraphs (f) and (g) of this section. Specific requirements are listed in § 51.371 of this subpart.

* * * * *

(e) [Reserved].

* * * * *

(f) *High Enhanced Performance Standard.* Except as provided in paragraph (g) of this section, the model program elements for the enhanced I/M performance standard shall be as follows:

(1) *Network type.* Centralized testing.

(2) *Start date.* For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency.* Annual testing.

(4) *Model year coverage.* Testing of 1968 and later vehicles.

(5) *Vehicle type coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds Gross Vehicle Weight Rating (GVWR).

(6) *Exhaust emission test type.* Transient mass-emission testing on 1986 and later model year vehicles using the IM240 driving cycle, two-speed testing (as described in appendix B of this subpart S) of 1981–1985 vehicles, and idle testing (as described in appendix B of this subpart S) of pre-1981 vehicles is assumed.

(7) *Emission standards.* (i) Emission standards for 1986 through 1993 model year light duty vehicles, and 1994 and 1995 light-duty vehicles not meeting Tier 1 emission standards, of 0.80 gpm hydrocarbons (HC), 20 gpm CO, and 2.0 gpm NOx;

(ii) Emission standards for 1986 through 1993 light duty trucks less than 6000 pounds gross vehicle weight rating (GVWR), and 1994 and 1995 trucks not meeting Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NOx;

(iii) Emission standards for 1986 through 1993 light duty trucks greater than 6000 pounds GVWR, and 1994 and 1995 trucks not meeting the Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NO_X;

(iv) Emission standards for 1994 and later light duty vehicles meeting Tier 1 emission standards of 0.70 gpm, 15 gpm CO, and 1.4 gpm NO_X;

(v) Emission standards for 1994 and later light duty trucks under 6000 pounds GVWR and meeting Tier 1 emission standards of 0.70 gpm, 15 gpm CO, and 2.0 gpm NO_X;

(vi) Emission standards for 1994 and later light duty trucks greater than 6000 pounds GVWR and meeting Tier 1 emission standards of 0.80 gpm, 15 gpm CO and 2.5 gpm NO_X;

(vii) Emission standards for 1981–1985 model year vehicles of 1.2% CO, and 220 gpm HC for the idle, two-speed tests and loaded steady-state tests (as described in appendix B of this subpart S); and

(viii) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S); and

(ix) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S).

(8) *Emission control device inspections.* (i) Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.

(ii) Visual inspection of the positive crankcase ventilation valve on 1968 through 1971 model years, inclusive, and of the exhaust gas recirculation valve on 1972 through 1983 model year vehicles, inclusive.

(9) *Evaporative system function checks.* Evaporative system integrity (pressure) test on 1983 and later model year vehicles and an evaporative system transient purge test on 1986 and later model year vehicles.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate.* A 3% waiver rate, as a percentage of failed vehicles.

(12) *Compliance rate.* A 96% compliance rate.

(13) *Evaluation date.* Enhanced I/M program areas shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_X shall be the same as for ozone.

(g) *Alternate Low Enhanced I/M Performance Standard.* An area either not subject to or able to meet the requirements of the Clean Air Act Amendments of 1990 for Reasonable Further Progress in 1996 and thereafter, and the relevant deadlines for attainment of the ambient air quality standards for ozone and CO without an enhanced I/M program meeting the performance standard described in paragraph (f) of this section, may select the alternate low enhanced I/M performance standard described below in lieu of the standard described in paragraph (f). The program elements for this alternate low enhanced I/M performance standard are:

(1) *Network type.* Centralized testing.

(2) *Start date.* For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency.* Annual testing.

(4) *Model year coverage.* Testing of 1968 and newer vehicles.

(5) *Vehicle type coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds GVWR.

(6) *Exhaust emission test type.* Idle testing of all covered vehicles (as described in Appendix B of Subpart S).

(7) *Emission standards.* Those specified in 40 CFR Part 85, Subpart W.

(8) *Emission control device inspections.* Visual inspection of the positive crankcase ventilation valve on all 1968 through 1971 model year vehicles, inclusive, and of the exhaust gas recirculation valve on all 1972 and newer model year vehicles.

(9) *Evaporative system function checks.* None.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate.* A 3% waiver rate, as a percentage of failed vehicles.

(12) *Compliance rate.* A 96% compliance rate.

(13) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_X shall be the same as for ozone.

3. Section 51.360 is amended by revising the introductory text and paragraph (a)(1), *(a)(5), (a)(6), (a)(7) introductory text, (a)(7)(ii), (a)(9) and (b) to read as follows:*

§ 51.360 Waivers and compliance via diagnostic inspection.

The program may allow the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards, as long as the prescribed criteria described below are met.

(a) * * *

(1) Waivers shall be issued only after a vehicle has failed a retest performed after all qualifying repairs have been completed. Qualifying repairs include repairs of primary emission control components performed within 60 days of the test date.

* * * * *

(5) General repairs shall be performed by a recognized repair technician (i.e., one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission-related diagnosis and repair) in order to qualify for a waiver. I/M programs may allow repairs of primary emission control components performed by non-technicians (e.g., owners) *to apply toward the waiver limit.*

(6) In basic programs, a minimum of $75 for pre-81 vehicles and $200 for 1981 and newer vehicles shall be spent in order to qualify for a waiver. These model year cutoffs and the associated dollar limits must be in full effect no later than January 1, 1998. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the basic I/M performance standard.

(7) Beginning on January 1, 1998, enhanced I/M programs shall require the motorist to make an expenditure of at least $450 in repairs to qualify for a waiver. The I/M program shall provide that the $450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index of 1989. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the relevant enhanced I/M performance standard.

* * * * *

(ii) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used. The first Consumer Price Index adjustment to the minimum $450 waiver expenditure shall go into effect on January 1, 1998.

* * * * *

(9) A time extension, not to exceed the period of the inspection frequency, may be granted to obtain needed repairs on a vehicle in the case of economic hardship when waiver requirements have not been met. After having received a time extension, a vehicle must fully pass the applicable test standards before becoming eligible for another time extension. The extension for a vehicle shall be tracked and reported by the program.

(b) *Compliance via diagnostic inspection.* Vehicles subject to a transient IM240 emission test at the cutpoints established in §§ 51.351 (f)(7) and (g)(7) of this subpart may be issued a certificate of compliance without meeting the prescribed emission cutpoints, if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by the I/M agency or a contractor to the I/M agency show that no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to approval by the Administrator.

* * * * *

4. Section 51.372 is amended by revising paragraph (c) introductory text, (c)(3) and (c)(4), and paragraph (e) to read as follows:

§ 51.372. State implementation plan submissions.

* * * * *

(c) *Redesignation requests.* Any nonattainment area that EPA determines would otherwise qualify for redesignation from nonattainment to attainment shall receive full approval of a State Implementation Plan (SIP) submittal under Sections 182(a)(2)(B) or 182(b)(4) if the submittal contains the following elements:

* * * * *

(3) A contingency measure consisting of a commitment by the Governor or the Governor's designee to adopt or consider adopting regulations to implement an I/M program to correct a violation of the ozone or CO standard or other air quality problem, in accordance with the provisions of the maintenance plan.

(4) A commitment that includes an enforceable schedule for adoption and implementation of the I/M program, and appropriate milestones. The schedule shall include the date for submission of a SIP meeting all of the requirements of this subpart. Schedule milestones shall be listed in months from the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Unless the state, in accordance with the provisions of the maintenance plan, chooses not to implement I/M, it must submit a SIP revision containing an I/M program no more than 18 months after notification by EPA.

* * * * *

(e) *SIP submittals to correct violations.* SIP submissions required pursuant to a violation of the ambient ozone or CO standard (as discussed in § 51.372(c)) shall address all of the requirements of this subpart. The SIP shall demonstrate that performance standards in either § 51.351 or § 51.352 shall be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the 5-year period. All other requirements shall take effect in within 24 months of the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. The phase-in allowances of § 51.373(c) of this subpart shall not apply.

[FR Doc. 95–10505 Filed 4–27–95; 8:45 am]

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40 CFR Part 70

[ND–001; FRL–5190–8]

Clean Air Act Proposed Interim Approval, or in the Alternative Proposed Disapproval, of Operating Permits Program; State of North Dakota

AGENCY: Environmental protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the Operating Permits Program submitted by the State of North Dakota for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In the alternative, EPA proposes disapproval of the North Dakota Operating Permits Program if the corrective action necessary for final interim PROGRAM approval is not

VOL 60 ISS 82 AP 28 1995 UMI

completed and submitted to EPA prior to the statutory deadline.

DATES: Comments on this proposed action must be received in writing by May 30, 1995.

ADDRESSES: Comments should be addressed to Laura Farris at the Region 8 address. Copies of the State's submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Laura Farris, 8ART–AP, U.S. Environmental Protection Agency, Region 8, Air Programs Branch, 999 18th Street, suite 500, Denver, Colorado 80202, (303) 294–7539.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act ("the Act")), EPA has promulgated rules which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70 (part 70). Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

B. Federal Oversight and Sanctions

If EPA were to finalize this proposed interim approval, it would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, the State would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a Federal permits program for the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.

Following final interim approval, if the State failed to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If the State then failed to submit a corrective program that EPA found complete before the expiration of that 18-month period, EPA would apply sanctions as required by section 502(d)(2) of the Act, which would remain in effect until EPA determined that the State had corrected the deficiency by submitting a complete corrective program.

If, following final interim approval, EPA were to disapprove the State's complete corrective program, EPA would be required under section 502(d)(2) to apply sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State had submitted a revised program and EPA had determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if a state has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a state program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for that state upon interim approval expiration.

II. Proposed Action and Implications

A. Analysis of State Submission

1. Support Materials

The Governor of North Dakota submitted an administratively complete title V Operating Permit Program (PROGRAM) for the State of North Dakota on April 28, 1994. EPA deemed the PROGRAM administratively complete in a letter to the Governor dated June 28, 1994. The PROGRAM submittal includes a legal opinion from the Attorney General of North Dakota stating that the laws of the State provide adequate legal authority to carry out all aspects of the PROGRAM, and a description of how the State intends to implement the PROGRAM. The submittal additionally contains evidence of proper adoption of the PROGRAM regulations, permit application forms, a data management system and a fee adequacy demonstration.

2. Regulations and Program Implementation

The North Dakota PROGRAM, including the operating permit regulation (Article 33–15, Section 33–15–14–06, of the North Dakota Administrative Code—Air Pollution Control Rules (NDAC)), substantially meets the requirements of 40 CFR parts 70.2 and 70.3 with respect to applicability; parts 70.4, 70.5, and 70.6 with respect to permit content including operational flexibility; part 70.5 with respect to complete application forms and criteria which define insignificant activities; part 70.7 with respect to public participation and minor permit modifications; and part 70.11 with respect to requirements for enforcement authority.

Sub-section 33–15–14–06.4.c of the NDAC defines the emissions units or activities that sources do not have to include in their operating permit application (insignificant activities). This definition includes an emission threshold of 5 tons per year (tpy) for particulates, 10 tpy for sulfur dioxide, 2.5 tpy for hydrogen sulfide, 25 tpy for carbon monoxide, 10 tpy for nitrogen oxides, 10 tpy for ozone, 2.5 tpy for reduced sulfur compounds and 10 tpy for volatile organic compounds (see PROGRAM deficiencies below). This provision also states that the applicant may not omit information needed to determine applicable requirements or to evaluate the fee amount required. These emission thresholds do not apply to hazardous air pollutants (HAPs) listed in section 112(b) of the Act. However, in a letter from the State to EPA dated October 18, 1994, the State discussed several proposed changes to their PROGRAM submittal. One of the proposed changes would establish an insignificant activities emission threshold of 0.5 tpy for HAPs, which is an acceptable level.

Part 70 of the operating permits regulations requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B) of the Federal permitting regulation requires the permitting authority to define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define "prompt" for purposes of administrative efficiency and clarity, an acceptable alternative is to define "prompt" in each individual permit. The EPA believes that "prompt" should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given that this is a distinct reporting obligation under section 70.6(a)(3)(iii)(A) of the Federal permitting regulation. Where "prompt" is defined in the individual permit but not in the program regulations, EPA may veto permits that do not contain sufficiently prompt reporting of deviations. Sub-section 33–15–14–06.5.a(3)(c)[2] of the NDAC states that "prompt" will be defined in the permit consistent with chapter 33–15–01 of the NDAC, "General Provisions", and the applicable requirements.

North Dakota has the authority to issue a variance from air pollution control requirements imposed by State law (*See* North Dakota Century Code 23–25–03.11 and North Dakota Administrative Code 33–15–01–07.) The EPA regards these provisions as wholly external to the PROGRAM submitted for approval under part 70, and consequently is proposing to take no action on these provisions of State law. The EPA has no authority to approve provisions of State law, such as the variance provisions referred to, which are inconsistent with the Act. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. The EPA reserves the right to enforce the terms of the part 70 permit where the permitting authority purports to grant relief from the duty to comply with a part 70 permit in a manner inconsistent with part 70 procedures.

Comments noting deficiencies in the North Dakota PROGRAM were sent to the State in a letter dated December 22, 1994. The deficiencies were segregated into those that require corrective action prior to interim PROGRAM approval, and those that require corrective action prior to full PROGRAM approval. In a letter dated January 5, 1995, the State committed to finalize and submit to EPA by February 15, 1995 all corrective actions required for interim PROGRAM approval. The State submitted these corrective actions in letters dated February 22, 1995, and March 20, 1995. EPA has reviewed these corrective actions and has determined them to be adequate to allow for interim PROGRAM approval with the following exception: Section IX of the PROGRAM submittal (Implementation of other Titles of the Act), part B.4 (Implementation Schedule) does not address case-by-case MACT under section 112(j) of the Act. The PROGRAM should require permit applications from sources subject to section 112(j) of the Act within 18 months after EPA fails to promulgate a MACT standard. Prior to final interim PROGRAM approval, the State must address how it will implement section 112(j) of the Act. The State's February 22, 1995 letter stated that it is currently in the process of adopting rules for implementation of section 112(j) of the Act which were promulgated under 40 CFR part 63, subpart B. These rules, which are being adopted by reference, are expected to be finalized by June, 1995. EPA must receive the final, adopted copy of these rules and determine them to be adequate before proceeding with final interim PROGRAM approval.

Areas in which the North Dakota PROGRAM is deficient and requires corrective action prior to full PROGRAM approval are as follows: (1) EPA believes that the insignificant emission levels listed in sub-section 33–15–14–06.4.c of the NDAC for various air contaminants are too high (emission levels are set at approximately 25% of the PSD major modification significant levels). It is possible that the total emissions from such "insignificant" emissions units may indeed be greater than the major modification significance levels or even greater than the major source threshold. EPA has issued informal guidance stating that a State's emissions caps for defining insignificant activities should generally be no more than 1–2 tons per year for criteria pollutants. Prior to full PROGRAM approval, the State must revise sub-section 33–15–14–06.4.c of the NDAC to lower the insignificant emissions unit threshold for criteria pollutants to more reasonable levels. (2) Sub-section 33–15–14–06.5.a.(1)(c) of the NDAC states, "Where the state implementation plan [SIP] or this article allows a determination of an alternative emission limit at a title V source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process * * *." In order to implement this provision, the State must adopt specific provisions which detail how to determine that an alternative mission limit is equivalent to that in the SIP, and EPA must approve the provisions as part of the SIP. Until this can be accomplished, and prior to full PROGRAM approval, the State must delete the words "or this article" from the first line of sub-section 33–15–14–06.5.a.(1)(c) of the NDAC. (3) Sub-section 33–15–14–06.5.a.(11) of the NDAC does not include the requirements of 40 CFR 70.4(b)(12). Specifically, prior to full PROGRAM approval, sub-section 33–15–14–06.5.a(11) of the NDAC must be revised to state that changes in emissions are allowed by this sub-section provided that they are not modifications under title I of the Act and the changes do not exceed the emissions allowed under the permit. (4) Sub-section 33–15–14–06.5.f.(1) of the NDAC states that "* * * as of the date of permit issuance, the source is considered to be in compliance with any applicable requirements * * *." EPA's permit shield provision in 40 CFR 70.6(f) requires such considerations to be dependent on compliance with the conditions of the permit. Thus, prior to full PROGRAM approval, the State must revise sub-section 33–15–14–06.5.f.(1) of the NDAC to read "* * * the department shall include in a title V permit to operate a provision stating *that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance* * * *." (5) Subsection 33–15–14–06.5.a.(8) of the NDAC states that, "No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit and the state implementation plan or this article." Sub-sections 33–15–14–06.5.a.(10) and 33–15–14–06.6.e.(1)(a)[2] of the NDAC are related. Currently, the State does not have an economic incentives, marketable permits or generic emissions trading program approved in its SIP, and these provisions cannot be implemented by the State. Prior to full PROGRAM approval, the State must delete "or this article" from sub-section 33–15–14–06.5.a(8) of the NDAC, and "this article" from sub-sections 33–15–14–06.5.a.(10)

VOL
60
ISS
82
APR
28
1995
UMI

and 33–15–14–06.6.e.(1)(a)[2] of the NDAC to clarify that, in order to implement these provisions, the State must have an economic incentives, marketable permits or generic emissions trading program approved in its SIP. (6) Section IV of the PROGRAM submittal (Attorney General's Legal Opinion), part XX (Limitations on Judicial Review), does not cite to relevant State laws or regulations or to State case law, and, instead of discussing the provisions of North Dakota laws, largely discusses Federal regulations. The opinion should discuss and reference North Dakota law which ensures that the provisions for judicial review in North Dakota Century Code (N.D.C.C.) Chapter 28–23–14 and 15 and in NDAC Article 33–22 are the exclusive means for obtaining judicial review of the terms and conditions of permits and that petitions for judicial review must be filed within the 90-day periods discussed in 40 CFR 70.4(b)(3)(xii). Prior to full PROGRAM approval, the State must augment the Attorney General's opinion, providing discussion of and citation to case law, statutes, and regulations which address the requirements of 40 CFR 70.4(b)(3)(xii), or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xii) are met. (7) Section IV of the PROGRAM submittal (Attorney General's Legal Opinion), part XVII (Final Agency Action on Permits), indicates that under State law, "final permit action" includes the failure of the State to take final action on an application for a permit, permit renewal, or permit revision within the time specified in the regulations. It also indicates that the State's failure to take final action within 90 days of receipt of an application for a minor permit modification (or 180 days for minor modifications subject to group processing) is subject to judicial review. For support of these assertions, the opinion cites to N.D.C.C. 28–32 and NDAC Article 33–22. EPA could not determine whether these provisions support a right to judicial review in cases where the State fails to act in a timely way on a permit application. Prior to full PROGRAM approval, the State must augment the Attorney General's opinion, providing discussion of and citation to case law and/or specific statutory or regulatory provisions which provide for judicial review in cases of State inaction, consistent with the requirements of 40 CFR 70.4(b)(3)(xi), or if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xi) are met. (8) Section IV of the PROGRAM submittal (Attorney General's Legal Opinion), part XIV (Enforcement of Permits Program Requirements), states that State law provides civil and criminal enforcement authority consistent with 40 CFR 70.11. EPA was unable to determine from the opinion whether North Dakota's PROGRAM is consistent in all respects with 40 CFR 70.11, and in particular with the requirement for maximum fines of not less than $10,000 per day per violation. Prior to full PROGRAM approval, the State must augment the Attorney General's opinion, providing citation to and discussion of case law indicating that the PROGRAM meets the penalty requirements contained in 40 CFR 70.11, or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.11 are met.

Refer to the technical support document accompanying this rulemaking for a detailed explanation of each comment and the corrective actions required of the State.

3. Fee Adequacy Demonstration

The North Dakota PROGRAM includes a fee structure that collects in the aggregate fees that are below the presumptive minimum set in part 70. Therefore, it was necessary for the State to include a fee adequacy demonstration in their PROGRAM submittal to demonstrate that the State's title V fee structure would collect sufficient fees to cover the reasonable direct and indirect costs of developing and administering the PROGRAM. The fee adequacy demonstration included a four year workload analysis and a cash flow analysis. The fee structure for fiscal year 1995 includes a fee of $10 per ton with a cap of $100,000 per source. These fees are projected to increase to $14.42 per ton with a cap of $109,000 per source by fiscal year 1998. After careful review, the State has determined that these fees would support the North Dakota PROGRAM costs as required by section 70.9(a) of the Federal operating permitting regulation.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and/or Commitments for Section 112 Implementation

North Dakota has demonstrated in its PROGRAM submittal adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in North Dakota's enabling legislation and in regulatory provisions defining "applicable requirements" and stating that the permit must incorporate all applicable requirements. EPA has determined that this legal authority is sufficient to allow North Dakota to issue permits that assure compliance with all section 112 requirements, and to carry out all section 112 activities, with the exception noted in section II.A.2 above. Therefore, contingent upon the State completing the above noted corrective action, EPA will consider that the State of North Dakota's legal authority is sufficient to allow the State to issue permits that assure compliance with all section 112 requirements, and to carry out all section 112 activities. For further rationale on this interpretation, please refer to the Technical Support Document accompanying this rulemaking and the April 13, 1993 guidance memorandum titled "Title V Program Approval Criteria for Section 112 Activities," signed by John Seitz, Director of the Office of Air Quality Planning and Standards.

b. Implementation of 112(g)

On February 14, 1995 EPA published an interpretive notice (see 60 FR 8333) that postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), North Dakota must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations. EPA believes that North Dakota can utilize its construction review program to serve as a procedural vehicle for implementing section 112(g) and making these requirements Federally enforceable between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations. For this reason, EPA is proposing to approve North Dakota's construction permitting program found in section 33–15–14–02 of the State's regulations under the authority of title V and part 70 solely for the purpose of implementing section 112(g) during the transition period to meet the requirements of section 112(g). Since the approval would be for the single purpose of providing a mechanism to implement section 112(g) during the transition period, the approval would be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. Also, since the approval would be for the limited purpose of allowing the State sufficient time to adopt regulations, EPA proposes to limit the duration of the approval to 12 months following promulgation by EPA of its section 112(g) rule. North Dakota's construction permitting program allows permit requirements to be established for all air contaminants (which is defined in section 33–15–01–04 of the NDAC and includes all of the hazardous air pollutants (HAPs) listed in section 112(b) of the Act).

c. Program for Straight Delegation of Section 112 Standards

Requirements for approval, specified in 40 CFR § 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of the provisions of 40 CFR part 63, Subpart A, and section 112 standards promulgated by EPA as they apply to part 70 sources, as well as non-part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR part 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from the Federal standards as promulgated. North Dakota has informed EPA that it intends to accept delegation of section 112 standards through incorporation by reference. This program applies to both existing and future standards.

The radionuclide national emission standard for HAPs (NESHAP) is a section 112 regulation and an applicable requirement under the State PROGRAM. Currently the State of North Dakota has no part 70 sources which emit radionuclides. However, sources which are not currently part 70 sources may be defined as major and become part 70 sources under forthcoming Federal radionuclide regulations. In that event, the State will be responsible for issuing part 70 permits to those sources.

d. Program for Implementing Title IV of the Act

North Dakota's PROGRAM contains adequate authority to issue permits which reflect the requirements of title IV of the Act, and commits to adopt the rules and requirements promulgated by EPA to implement an acid rain program through the title V permit.

B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant interim approval to the operating permits program submitted by the State of North Dakota on April 28, 1994. If promulgated, the State must complete the following corrective action, as discussed above, to receive final interim PROGRAM approval: Adopt rules for implementation of section 112(j) of the Act which were promulgated under 40 CFR part 63, subpart B.

The State must complete the following corrective actions, as discussed above, to receive full PROGRAM approval: (1) The State must revise sub-section 33–15–14–06.4.c of the NDAC to lower the insignificant emissions unit threshold for criteria pollutants to more reasonable levels. (2) In order to implement sub-section 33–15–14–06.5.a.(1)(c) of the NDAC, the State must adopt specific provisions which detail how to determine that an alternative emission limit is equivalent to that in the SIP, and EPA must approve the provisions as part of the SIP. Until this can be accomplished, the State must delete the words "or this article" from the first line of sub-section 33–15–14–06.5.a(1)(c) of the NDAC. (3) Sub-section 33–15–14–06.5.a.(11) of the NDAC must be revised to state that changes in emissions are allowed by this sub-section provided that they are not modifications under title I of the Act and the changes do not exceed the emissions allowed under the permit. (4) The State must revise sub-section 33–15–14–06.5.f.(1) of the NDAC to read "* * * the department shall include in a title V permit to operate a provision stating *that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance* * * *." (5) The State must delete "or this article" from sub-section 33–15–14–06.5.a.(8) of the NDAC, and "this article" from sub-sections 33–15–14–06.5.a.(10) and 33–15–14–06.6.e.(1)(a)[2] of the NDAC to clarify that, in order to implement these provisions, the State must have an economic incentives, marketable permits or generic emissions trading program approved in its SIP. (6) The State must augment the Attorney General's opinion, providing discussion of and citation to case law, statutes, and regulations which address the requirements of 40 CFR 70.4(b)(3)(xii), or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xii) are met. (7) The State must augment the Attorney General's opinion, providing discussion of and citation to case law and/or specific statutory or regulatory provisions which provide for judicial review in cases of State inaction, consistent with the requirements of 40 CFR 70.4(b)(3)(xi), or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xi) are met. (8) The State augment the Attorney General's opinion, providing citation to and discussion of case law indicating that the PROGRAM meets the penalty requirements contained in 40 CFR 70.11, or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.11 are met.

Evidence of these corrective actions for full PROGRAM approval must be submitted to EPA within 18 months of EPA's interim approval of the North Dakota PROGRAM.

The scope of North Dakota's part 70 PROGRAM that EPA proposes to approve in this notice would apply to all part 70 sources (as defined in the PROGRAM) within the State, except the following: any sources of air pollution located in "Indian Country," as defined in 18 U.S.C. 1151, including the Fort Berthold, Fort Totten, Standing Rock, Sisseton and Turtle Mountain Indian Reservations, or any other sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." *See* section 302(r) of the CAA; *see also* 59 FR 43955, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

In proposing not to extend the scope of North Dakota's part 70 PROGRAM to sources located in "Indian Country," EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over such sources. Should the State of North Dakota choose to seek program approval within "Indian Country," it may do so without prejudice. Before EPA would approve the State's part 70 PROGRAM for any portion of "Indian Country," EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or

VOL 60 ISS 82 AP 28 1995 UMI

applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval, that such approval would constitute sound administrative practice, and that those sources are not subject to the jurisdiction of any Indian Tribe.

This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR part 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations applies to sources covered by the part 70 program, as well as non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by May 30, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, its does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–76719.

Dated: April 19, 1995.

William P. Yellowtail,

Regional Administrator.

[FR Doc. 95–10504 Filed 4–27–95; 8:45 am]

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40 CFR Parts 180, 185 and 186

[PP 1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615; FRL–4951–0]

RIN 2070–AC18

Pesticide Tolerances for Lambda-Cyhalothrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish time-limited tolerances with an expiration date of November 15, 1997, for residues of the synthetic pyrethroid lambda-cyhalothrin in or on the raw agricultural commodities (RACs) soybeans, wheat, forage, hay, straw, grain dust; sweet corn; sunflower, seeds and forage; sorghum grain and dust; corn (grain field and pop); corn fodder and forage; peanuts; meat, fat, and meat byproducts (mbyp) and eggs of poultry and increase tolerances in milk, fat, meat and mbyp of cattle, goats, hogs, horses and sheep; and in or on the processed food/feed items corn grain flour, sunflower hulls, sunflower oil, and wheat bran. Zeneca Ag Products, Inc., and Coopers Animal Health, Inc., submitted petitions to EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) proposing tolerances and regulations to establish maximum permissible levels for residues of the insecticide.

DATES: Comments, identified by the document control numbers, [PP 1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615], must be received on or before May 30, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Second Floor, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the **Federal Register** of March 18, 1987 (52 FR 8527), November 25, 1987 (52 FR 45238), November 1, 1989 (54 FR 46119), December 13, 1991 (56 FR 65080), and June 10, 1992 (57 FR 24644), which announced that Zeneca, Inc. (formerly ICI Americas, Inc.), 1800 Concord Pike, Wilmington, DE 19897, had submitted pesticide petitions 7F3488, 7F3560, 1F3992, 2F4109, 2F4114, 7H3560, and 7H5543 and that Coopers Animal Health, Inc., P.O. Box 419167, Kansas City, MO 64141-0167, had submitted PP 9F3770 to EPA requesting that the Administrator, pursuant to sections 408(d) and 409(b) of the FFDCA, 21 U.S.C. 346a(d) and 348(e), establish tolerances and food/feed additive regulations for residues of the pyrethroid lambda-cyhalothrin in or on the raw agricultural commodities (RACs) soybeans at 0.01 part per million (ppm); poultry meat, fat, and meat byproducts (mbyp) (PP 7F3488); wheat grain at 0.01 ppm, sunflower seeds at 0.03 ppm; sweet corn at 0.01 ppm; poultry meat and mbyp at 0.01 ppm (PP 7F3560); sorghum grain at 0.2 ppm; milk at 0.1 ppm; meat of cattle, goats, horses, and sheep at 0.04 ppm, fat at 2.0 ppm, liver at 0.1 ppm and kidney at 0.1 ppm (PP 1F3992); corn grain (field, pop, and seed) at 0.05 ppm, corn fodder at 3.0 ppm, corn silage at 1.0 ppm and corn grain dust at 0.1 ppm (PP 2F4109); peanut hulls and peanut nutmeats at 0.05 ppm; peanut hulls and peanut nut meats at 0.05 (PP 2F4114); cattle meat and mbyp at 0.1 ppm; cattle fat at 1.0 ppm from direct dermal treatment of cattle (PP 9F3770); sunflower hulls at 0.7 ppm; and sunflower oil at 0.05 ppm (PP 7H5543).

The tolerance expression for lambda-cyhalothrin has been revised and now includes combined residues of parent compound and its epimer. (See the **Federal Register** of March 27, 1995 (60 FR 15683).) The correct commodity expression for peanut nut meat is peanuts. Corn silage is covered under the commodities for corn fodder and forage. Based upon submitted residue data and because residues in corn grain were nondetected, EPA concluded that a tolerance in/on corn grain dust is not required. Since residues concentrate when corn grain is processed into flour, EPA concluded that a food additive tolerance of 0.15 ppm for corn grain flour is required.

At the request of Zeneca Ag products, EPA issued in the **Federal Register** of March 5, 1992 (57 FR 10353), an amendment to PP 7F3560 to increase the proposed tolerance level for the insecticide in or on wheat grain to 0.03 and proposed establishing tolerances for residues of the insecticide lambda cyhalothrin in or on the RACs wheat forage at 2.0 ppm and wheat straw at 2.0 ppm, and the document amended FAP 7H5543 by adding the processed commodity wheat bran at 0.2 ppm and wheat shorts, germ at 0.05 ppm.

After evaluation of the wheat processing study, EPA concluded that the residues in midlings, shorts, germs resulting from the product use rate are no greater than the proposed tolerance on whole wheat grain, and thus no food/feed additive tolerances are required for the processed commodities wheat, shorts and germs.

In June 29, 1994, Zeneca, Inc., requested that certain petitions be amended by increasing the proposed tolerances for the RACs corn, forage (PP 2F4109) to 6.0 ppm; corn, sweet (kernel + kernel with husk removed (k + kwhr)) (PP 7F3560) to 0.05 ppm; sorghum, grain (PP 1F3992) to 0.2 ppm; establish tolerance for sorghum, grain dust (PP 1F3992) at 1.5 ppm; corn grain flour (FAP 7H5543) at 0.15 ppm; increase tolerance for sunflower, seeds (PP 7F3560) to 0.2 ppm; establish proposed tolerance in or on wheat hay and grain dust (PP 7F3560) at 2.0 ppm; increase the tolerance for milk, fat (reflecting 0.2 ppm in whole milk) to 5.0 ppm; meat mbyp of cattle, goats, hogs, horses, and sheep to 0.2 ppm; fat of cattle, goats, hogs, horses, and sheep to 3.0 ppm; meat, fat, mbyp and eggs of poultry to 0.01 ppm, and processed food/feed items sunflower, hulls (FAP 7H5543) to 0.5 ppm and sunflower, oil (7H5543) to 0.3 ppm.

In a letter dated February 10, 1995, Zeneca Ag Products requested that a tolerance be established in or on sunflower, forage (PP 7F3560) at 0.2 ppm.

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the tolerances have been discussed in the **Federal Register** published March 29, 1995 (58 FR 15683).

The acceptable Reference Dose (RfD) based on a NOEL of 0.1 mg/kg/body weight/day from the chronic dog study and a safety factor of 100 is 0.001 mg/kg/body weight/day. A chronic dietary exposure/risk assessment has been performed for lambda-cyhalothrin using the above RfD. Available information on anticipated residues and percent crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC from established tolerances and pending action are estimated to be 0.000192 mg/kg/bwt/day and utilize 19.24 per cent of the RfD for the U.S. population. The ARC for children, aged 1 to 6 years old, and nonnursing infants (subgroups most highly exposed) utilizes 32 and 58 percent of the RfD, respectively. Generally speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

The metabolism of the chemical in plants and livestock is adequately understood for this use. Any secondary residues occurring in meat and meat by-products will be covered by the existing tolerances. There is no reasonable expectation of finite residues in poultry commodities; therefore, no tolerances are necessary at this time. An adequate analytical method (gas liquid chromatography with an electron capture detector) is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington VA 22202, (703) 305-5232.

The Agency issued a conditional registration for lambda-cyhalothrin for use on cotton with an expiration date of August 30, 1990 (see the **Federal Register** of May 24, 1988 (53 FR 18558)). The conditional registration was subsequently amended and extended to November 15, 1996 (see the **Federal Register** of February 22, 1995 (60 FR 9783)). The registrations were amended and extended to allow time for submission and evaluation of additional environmental effects data. To evaluate the effects of the synthetic pyrethroids on fish and aquatic organisms and its fate in the environment, additional data were required to be collected and submitted during the period of conditional registration. Such requirements included a sediment bioavailability and toxicity study and a small-plot runoff study that must be submitted to the Agency by July 1, 1996. Because of the conditional status of the registration, tolerances have been established for lambda-cyhalothrin on a

VOL 60 ISS 82 AP 28 1995 UMI

time-limited basis (until November 15, 1997) on cottonseed, meat, fat and meat-byproducts of hogs, horses, cattle, goats, sheep, and milk to cover residues expected to present from use during the period of conditional registration. To be consistent with the conditional registration and extension on cotton, the Agency is proposing to issue a conditional registration with an expiration date of November 15, 1996, and establishing a time-limited tolerance on field corn, peanuts, sorghum, soybeans, sweet corn, sunflowers, wheat including livestock meat, fat and milk and processed commodities with an expiration date of November 15, 1997, to cover residues expected to result from use during the period of conditional registration.

There are currently no actions pending against the continued registration of this chemical and its epimer. The pesticide is considered useful for the purposes which it is sought and capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR parts 180, 185, and 186 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control numbers, [PP 1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, and FAP 7H3560 and 7H5543/P615]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

A record has been established for this rulemaking under docket number [1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615] (including any comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:
opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects in 40 CFR Parts 180, 185, 186

Environmental Protection, Administrative practice and procedure, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 21, 1995.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that chapter I of title 40 of the Code of Federal Regulations be amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. By amending § 180.438, by revising the table therein, to read as follows:

§ 180.438 Lambda-cyhalothrin; tolerance for residues.

* * * * *

Commodity	Parts per million
Broccoli	0.4
Cabbage	0.4
Cattle, fat	3.0
Cattle, meat	0.2
Cattle, mbyp	0.2
Corn, grain (field and pop)	0.05
Corn, fodder	1.0
Corn, forage	6.0
Corn, sweet (K + kwhr)	0.05
Cottonseed	0.05
Dry bulb onion	0.1
Eggs	0.01
Garlic	0.02
Goats, fat	3.0
Goats, meat	0.2
Goats, mbyp	0.2
Hogs, fat	3.0
Hogs, meat	0.2
Hogs, mbyp	0.2
Horses, fat	3.0
Horses, meat	0.2
Horses, mbyp	0.2
Lettuce, head	2.0
Milk, fat (reflecting 0.2 ppm in whole milk)	5.0
Peanuts	0.05
Peanut, hulls	0.05
Poultry, fat	0.01
Poultry, meat	0.01
Poultry, mbyp	0.01
Sheep, fat	3.0
Sheep, meat	0.2
Sheep, mbyp	0.2
Soybeans	0.01
Sorghum, grain	0.2
Sorghum, grain dust	1.5
Sunflower, seeds	0.2
Sunflower, forage	0.20
Tomatoes	0.1
Wheat, grain	0.05
Wheat, forage	2.0
Wheat, hay	2.0
Wheat, straw	2.0
Wheat, grain dust	2.0

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. By redesignating § 185.1310 as § 185.3765, by revising the heading, and by adding new paragraph (c), to read as follows:

§ 185.3765 Lambda-cyhalothrin.

* * * * *

(c) A tolerance, to expire on November 15, 1997, is established for the combined residues of the insecticide lambda-cyhalothrin and its epimer expressed as lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer of lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate in or on the following food commodities:

Food	Parts per million
Corn, grain flour	0.15
Sunflower, oil	0.30
Wheat, bran	0.2

PART 186—[AMENDED]

3. In part 186

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By revising § 186.3765, to read as follows:

§ 186.3765 Lambda-cyhalothrin.

A tolerance, to expire on November 15, 1997, is established for the combined residues of the insecticide lambda-cyhalothrin and its epimer expressed as lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer of lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate in or on the following feed commodities:

Food	Parts per million
Sunflower, hulls	0.50
Tomato pomace (dry or wet)	6.0
Wheat, bran	0.2

[FR Doc. 95-10612 Filed 4-26-95; 3:36 pm]
BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 94-54, FCC 95-149]

Interconnection and Resale Obligations of Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Second notice of proposed rule making.

SUMMARY: This action invites comment to assist the Commission in formulating broad policy guidelines involving the common carrier obligations of commercial mobile radio service (CMRS) providers with respect to CMRS-to-CMRS interconnection. The NPRM also tentatively concludes that its policy regarding the resale obligations of cellular carriers should be extended to most CMRS providers. This NPRM was issued to continue the proceeding initiated by the Commission last year in a Notice of Inquiry regarding interconnection and resale obligations of CMS providers.

DATES: Comments must be filed on or before June 14, 1995, and reply comments on or before July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Judy Argentieri or Barbara Esbin, Wireless Telecommunications Bureau, Policy Division, (202) 418-1310.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Notice of Proposed Rule Making (Notice) in CC Docket No. 94-54, FCC 95-149, adopted April 5, 1995, and released April 20, 1995.

The complete text of this Notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), at (202) 857-3800, 1919 M Street, N.W., Room 246, Washington, D.C. 20554.

Synopsis of Notice

1. The Notice concludes that at present it would be premature for the Commission to propose or adopt rules of general applicability requiring direct interconnection arrangements between CMRS providers. The Notice also finds that present market conditions fail to indicate that it is necessary to impose a general CMRS-to-CMRS interconnection obligation at this time. The Notice seeks comment on several potential relevant product and geographic market definitions for purposes of analyzing the interconnection obligations of CMRS providers under Section 201(a) of the Communications Act of 1934, as amended (the Act). The Notice also seeks comment on criteria to consider in resolving interconnection disputes under Sections 201(a), 208, and 332 of the Act. Finally, the Notice seeks additional comment on the question of preemption of state-imposed interconnection obligations.

2. The Notice makes similar conclusions regarding the prematurity of imposing the sort of general interconnection obligations needed to support roaming services. The Notice seeks comment on several technical issues related to the provision of roaming service.

3. In addition, the Notice seeks comment on whether Section 22.901 of the Commission's Rules, 47 CFR § 22.901 requires cellular carriers to provide service to other CMRS roamers.

4. The Notice also tentatively concludes that the existing obligation

VOL 60 ISS 82 AP 28 1995 UMI

requiring cellular providers not to prohibit resale should be extended to apply to most CMRS providers.

5. Additionally, the Notice tentatively concludes that, as in the case of cellular carriers, a time limitation on the obligation to require resale of the services of one facilities-based CMRS provider to another facilities-based CMRS provider is appropriate. The Notice tentatively concludes that, as in the case of cellular service, once the newer entrant in a market is fully operational the rationale for prohibiting resale restrictions between facilities-based carriers, i.e., to offset any competitive advantage gained as a result of a service provider's "headstart", ceases to exist. The Notice seeks comment on whether, as in the case of cellular, the resale requirement should remain in effect until the termination of the fill-in period of the particular service, which the Commission previously established in its Rules, or whether some other period is appropriate.

6. Finally, the Notice tentatively concludes that the Commission should not impose a general obligation requiring CMRS providers to interconnect with resellers seeking to install their own switching equipment between the CMRS provider's network facilities and the facilities of the local exchange carrier and the interexchange carrier.

Ex Parte Rules

7. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules.[1]

Regulatory Flexibility Act

8. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* (1981), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact of the policies and rules proposed in this Notice on small entities. The IRFA is contained in Appendix B to the Notice. The Secretary shall cause a copy of this Notice, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

[1] See generally, Section 1.1206(a) of the Commission's Rules, 47 CFR § 1.1206(a).

Authority

9. This action is taken pursuant to Sections 1, 4(i), 4(j), 201, 202, 208, 332, and 403 Communications Act as amended; 47 U.S.C. 154(i), 201, 202, 208, 332, and 403.

10. Accordingly, it is ordered that notice is hereby given of the proposed regulatory changes described above, and that comment is sought on these proposals.

11. It is further ordered that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments shall be filed with William F. Caton, Acting Secretary, Federal Communications Commission, Washington, DC 20554 on or before June 14, 1995, and reply comments shall be filed with the Secretary on or before July 14, 1995. To file formally in this proceeding, parties must file an original and five copies of all comments, reply comments, and supporting comments. Parties wishing each Commissioner to receive a personal copy of their comments must file an original plus nine copies.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–10472 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 95–48, RM–8590]

Television Broadcasting Services; Weaverville, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Mark C. Allen, requesting the allotment of UHF television Channel 32 to Weaverville, California, as that community's first local television service. Weaverville is located within the prohibited co-channel minimum distance (174.5 miles) to the Sacramento-Stockton television market, one of the designated markets affected by the Commission's current freeze on allotments and applications pending the outcome of an inquiry into the use of advanced television systems in broadcasting. (*See Order, Advanced Television Systems and Their Impact on Existing Television Broadcast Service*, 52 Fed. Reg. 28346, July 29, 1987). However, Channel 32 can be allotted to Weaverville in compliance with the terms of the freeze *Order* at a restricted site. Coordinates used for Channel 32 at Weaverville are 40–54–45 and 122–52–15.

DATES: Comments must be filed on or before June 15, 1995, and reply comments on or before June 30, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mark C. Allen, 3745 McHale Way, Redding, CA 96001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–48, adopted April 14, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–10470 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB83

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule to List the Plant Salix arizonica (Arizona Willow) as Endangered With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Fish and Wildlife Service (Service) withdraws a proposal to list the plant *Salix arizonica* (Arizona willow) as an endangered species with critical habitat under the Endangered Species Act of 1973, as amended (Act). The Service finds that evidence now available, discussed below, does not justify listing of the species as proposed. Additional field surveys have provided new data indicating that the species has a wider distribution and greater abundance than previously known. A multi-agency "Arizona Willow Conservation Agreement and Strategy" (AWCAS) signed April 7, 1995, has been developed that commits several Federal and State agencies to specific actions to immediately reduce site-specific threats, to provide long-term protection and habitat improvement, and to carry out proactive conservation actions. The White Mountain Apache Tribe (Tribe) has developed the "Arizona Willow Management Plan: An Interim Approach to High-Elevation Riparian and Cienega Ecosystem Management on the Fort Apache Indian Reservation" which is consistent with, and complementary to, the strategies and intent set forth in the AWCAS. Although Arizona willow is still considered rare and potentially vulnerable, the new distribution data in combination with the management commitments in the AWCAS and the tribal plan, reduce the relative magnitude and severity of threats to the species so that listing is no longer considered warranted.

ADDRESSES: The complete file for this notice is available for public inspection by appointment, during normal business hours, at the Arizona Ecological Service's State Office, 2321 West Royal Palm Road., Suite 103, Phoenix, Arizona, 85021–4951.

FOR FURTHER INFORMATION CONTACT: Bruce K. Palmer, at the above address (602/640–2720).

SUPPLEMENTARY INFORMATION:

Background

On November 20, 1992, the Service published a proposal to list the Arizona willow as endangered with critical habitat (57 FR 54747). At that time the species was known only from high elevation streams and wet meadows in the Mount Baldy vicinity of Apache County, Arizona, located primarily on the Apache-Sitgreaves National Forests and the Fort Apache Indian Reservation (Reservation). Threats identified in the proposed rule included livestock and wildlife impacts, water impoundments and diversions, roads, recreational use, development and maintenance of ski resort facilities, disease, alteration of natural hydrologic regimes, and changes in species composition and structure of the riparian community, including invasion of nonnative vegetation (especially Kentucky bluegrass, *Poa pratensis*) brought about by historic and current livestock use.

In June 1993, following publication of the proposal, the Service was notified of a previously misidentified herbarium specimen of Arizona willow collected in 1913 from the then-named "Sevier Forest" in southern Utah. Preliminary surveys in Utah during the summer of 1993 by the Service did not locate Arizona willow. Surveys initiated by the U.S. Forest Service (FS) resulted in rediscovery of Arizona willow in Utah on June 30, 1994. Subsequent FS surveys documented Arizona willow on the Dixie and Fishlake National Forests, Cedar Breaks National Monument, and adjacent private land. The extent of some individual populations of Arizona willow plants in Utah far exceeds all populations in Arizona.

On September 6, 1994, the Regional Foresters of the Southwestern and Intermountain Regions of the FS and the Regional Director of the Service's Southwest Region made a joint decision to develop a conservation agreement for Arizona willow on Federal lands to ensure the long-term conservation of the species throughout its range. This also required the participation of several non-Federal partners (Arizona Game and Fish Department (AGFD) and Utah Division of Wildlife Resources (UDWR)). A FS policy statement, jointly issued by the Regional Foresters of the Southwestern and Intermountain Regions on December 19, 1994, initiated actions to reduce threats on the National Forests (NF), including designation of FS representation on the Arizona Willow Interagency Technical Team. The Arizona Willow Interagency Technical Team was formed to develop and implement the AWCAS.

Concurrent with the development of a conservation strategy for Arizona willow on Federal lands, the Tribe has developed a management plan that addresses the conservation of Arizona willow on the Reservation. The Tribe's "Arizona Willow Management Plan: An Interim Approach to High-Elevation Riparian and Cienega Ecosystem Management on the Fort Apache Indian Reservation" is consistent with, and complementary to, the strategies and intent set forth in the AWCAS.

Specific protection to Arizona willow from cattle herbivory is provided on NF's and Reservation lands. Arizona willow is protected through rested pastures, livestock exclusion fencing, and/or construction of protective cages. On FS lands, no livestock use of any pasture is allowed without implementation of specific actions to protect Arizona willow. Management plans for each FS allotment that includes Arizona willow habitat will be revised within the guidelines set forth in the AWCAS prior to removal of site-specific protections.

Herbivory by wildlife, especially elk in Arizona, has been identified as a threat to Arizona willow. The AGFD has implemented strategies to reduce elk herd sizes within Arizona willow habitats in Arizona, and have committed to maintain stable or continued reductions of herd sizes pending results of herbivory studies. The Tribe has also initiated actions to stabilize elk herd size. Both the AGFD and the UDWR have provided specific commitments to aggressively manage wildlife populations consistent with monitoring and research information on Arizona willow.

Arizona willow habitat is further conserved through other measures, including the application of FS Standards and Guidelines, and the White Mountain Apache Tribe Codes and Tribal Council Resolutions. These protection actions provide for buffers from timber harvest activities, road closures and off-road vehicle restrictions, relocation of recreational trails; restrictions on dispersed camping, and informational signing.

Detailed monitoring of Arizona willow and a variety of research projects and studies on its population biology and ecology are being undertaken to fully understand the implications of land management actions. Such studies are being implemented through various cooperative efforts by the Apache-Sitgreaves NFs, Dixie NF, Fishlake NF, Rocky Mountain Forest and Range Experiment Station, Cedar Breaks National Monument, White Mountain Apache Tribe, AGFD, UDWR, and the

VOL 60 ISS 82 AP 28 1995 UMI

Service. These studies will help determine appropriate management practices and identify suitable areas for expanding and augmenting depauperate populations.

The designation of special management areas, such as Botanical Areas, Research Natural Areas, and essential habitat, are being evaluated and incorporated into a review process under the National Environmental Policy Act. Special management area designation assures the priority of Arizona willow management and long-term conservation of the species within a multiple-use land management framework.

Continued implementation of the AWCAS for management of Arizona willow on the Apache-Sitgreaves NFs, Dixie NF, Fishlake NF, and Cedar Breaks National Monument, and the implementation of the "Arizona Willow Management Plan: An Interim Approach to High-Elevation Riparian and Cienega Ecosystem Management on the Fort Apache Indian Reservation" are expected to accomplish significant conservation of Arizona willow without its being listed.

The Service has determined that Arizona willow does not warrant listing under the Act and places this plant in category 3C of the plant notice of review. Category 3C species are those species for which information now in the possession of the Service indicates that the species is more abundant or widespread than previously thought and for which substantial threats do not exist. If further research or changes in habitat indicate a significant decline in the species, it may again be included in categories 1 or 2, and its listing status may be reevaluated.

Author

The primary author of this proposed rule is Bruce K. Palmer (see **ADDRESSES** section).

Authority

The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 25, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–10579 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672, 675, and 676

[Docket No. 940414104–5104–01; I.D. 110194B]

RIN 0648–AF53

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Maximum Retainable Bycatch Amounts

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revised regulations for directed fishing standards in the groundfish fisheries in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI). The proposed rule would simplify and clarify the regulations. In place of directed fishing standards, the proposed rule would specify retainable percentages from which the maximum amounts of fish that may be retained as bycatch in fisheries that are closed to directed fishing can be derived. The proposed changes are expected to promote compliance with groundfish regulations and to facilitate enforcement efforts. This action is intended to further the objectives of the fishery management plans (FMPs) for the groundfish fisheries off Alaska.

DATES: Comments must be submitted by May 30, 1995.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Individual copies of the environmental assessment/regulatory impact review prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone (EEZ) of the GOA and the BSAI are managed by NMFS in accordance with the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMPs are implemented by regulations that appear at 50 CFR parts 672, 675, and 676. General regulations that also govern the groundfish fisheries appear at 50 CFR part 620. These fishery regulations generally distinguish between fish taken in directed fishing efforts and fish of other species that are taken incidentally, sometimes referred to as "bycatch."

Typically, a fishery for a certain species is open to directed fishing until specified amounts of that species are taken or are projected to be taken, at which point the fishery is closed to directed fishing. Once a fishery for a particular species is closed to directed fishing, that species may be retained only as bycatch in fisheries for other species that remain open. The current fishery regulations specify standards for determining what constitutes directed fishing, and the proportions of retained catches that represent allowable bycatch levels. Once the catch of a species exceeds, or is projected to exceed, its total allowable catch (TAC) limit, that species may not be retained and must be discarded at sea.

Current regulations at 50 CFR 672.20(g) and 675.20(h) specify a large number of species-, area-, gear-, and management goal-specific directed fishing standards for the GOA and BSAI, respectively. The current regulations define directed fishing in terms of the proportion of the retained catch of one species in relationship to the retained catch of other species. Directed fishing standards range from 1 percent to 35 percent with a general default of 20 percent. Under current regulations arrowtooth flounder may not be used to calculate retainable amounts of other groundfish species because arrowtooth flounder was sometimes being harvested solely for the purpose of providing directed catch against which retainable bycatch quantities were calculated and accumulated.

These regulations were intended to reduce harvest rates of groundfish species when their TAC limits are being approached. At the same time, the directed fishing standards were intended to reduce waste and minimize the need to discard fish at sea by allowing retention of incidental groundfish bycatch, after closure of the directed fishery until the TAC limit is achieved.

In spite of increased specificity, directed fishing standards have often failed to prevent overharvest or underharvest of groundfish. Furthermore, the existing regulations have not eliminated undesirable fishing practices, such as covert targeting on high value species after fishery closures or wasteful discarding. Therefore, at its June 1994 meeting, the Council requested that NMFS revise the regulations defining directed fishing standards.

This proposed regulatory amendment does not use the term "directed fishing standard." Instead, the proposed rule would provide tables of retainable percentages for each bycatch species/basis species combination, from which the maximum retainable bycatch amount could be calculated. The maximum retainable bycatch amount is the amount, in round-weight equivalents, of a species or species group that a vessel may retain on board at any time during a fishing trip. Retention in excess of this amount constitutes directed fishing.

This rule would establish a single retainable percentage for each bycatch species/basis species combination, regardless of gear type or management area. Thus, the rule would establish the same retainable percentages for trawl, hook-and-line, pot, and other gear types. The same retainable percentages would be specified for the GOA and BSAI, with separate tables to reflect the differences in species groupings between the two areas.

Therefore, the proposed regulations would be simpler to apply than those currently in place.

Details of the proposed changes in this regulatory amendment follow.

Specific Changes

1. To satisfy the Council's intent for simplification and consistency, the proposed rule would add new tables to §§ 672.20 and 675.20. These tables display bycatch species as columns and species open to directed fishing (basis species) as rows. Each species open to directed fishing retained on board a vessel would become a basis species from which individual retainable bycatch amounts for the bycatch species would be measured. The individual retainable bycatch amount would be calculated by multiplying the retainable percentage in the appropriate block of the table by the round-weight equivalent of the corresponding basis species. The maximum retainable bycatch amount for a given bycatch species would be the sum of all the individual retainable bycatch amounts for the various basis species retained on board the vessel.

Directed fishing would be defined as any fishing activity that results in the retention of an amount of that species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under §§ 672.20 and 675.20.

Current regulations indicate that when a fishery is closed to directed fishing, a vessel may retain bycatch in an amount up to, but not including, the amount that is calculated using the directed fishing standards. Under the proposed rule, the maximum retainable bycatch amount could equal the calculated amount.

The maximum retainable bycatch amount for a bycatch species is calculated for a vessel in relation to the amounts of basis species that are retained on that vessel. Bycatch species are listed on the horizontal axis of the table and are identified by column headings at the top of each table. A bycatch species would be any species or species group for which a maximum retainable bycatch amount would need to be calculated when a fishery is closed to directed fishing, or under other circumstances.

Any species or species group that is open to directed fishing and that the vessel is authorized to harvest would be considered a "basis species." Basis species are listed on the vertical axis of the table and are identified as row headings on the left side of Table 2 to § 672.20 or Table 1 to § 675.20 of the proposed rule. The retainable percentages for each bycatch species/basis species combination are contained in each table block (row and column intersection of the box). These retainable percentages range from 0 to 35 percent.

To calculate the maximum retainable bycatch amount for each bycatch species, individual retainable bycatch amounts would be calculated by multiplying the retainable percentage set forth in the tables of the proposed rule (Table 2 to § 672.20 and Table 1 to § 675.20) by the amount of each basis species retained on board a vessel, in round-weight equivalents. Then the total or maximum retainable bycatch amount would be determined by adding together the individual retainable bycatch amounts calculated for each bycatch species in relation to each basis species retained on board the vessel.

For example, if a vessel in the BSAI is fishing in an area that is open to directed fishing for pollock, Pacific cod and Pacific ocean perch, but is closed to directed fishing for yellowfin sole and Greenland turbot, and all of those species are retained on board the vessel, the maximum retainable bycatch amount of yellowfin sole would be calculated as follows using Table 1 of § 675.20:

a. The individual retainable bycatch amount of yellowfin sole (on the top of the table) in relation to pollock (on the left side of the table) would be determined by multiplying the retainable percentage for bycatch of yellowfin sole in relation to the basis species of pollock—in this case 20 percent (the intersection of the yellowfin sole column and the pollock row in the table) by the amount of pollock retained, in round-weight equivalents.

b. The individual retainable bycatch amount of yellowfin sole (on the top of the table) in relation to Pacific cod (on the left side of the table) would then be determined by multiplying the retainable percentage specified for bycatch of yellowfin sole in relation to the basis species of Pacific cod—in this case 20 percent (the intersection of yellowfin sole column and the Pacific cod row in the table) by the amount of Pacific cod retained, in round-weight equivalents.

c. The same type of calculation would then be made with respect to Pacific ocean perch.

d. The three amounts (for pollock, Pacific cod, and Pacific ocean perch) would then be added together to obtain the maximum retainable bycatch amount of yellowfin sole that could be retained on board the vessel.

Similar calculations would be made to determine the maximum retainable bycatch amount of Greenland turbot, except that the retainable percentages for Greenland turbot in relation to pollock, Pacific cod, and Pacific ocean perch are 1 percent, 1 percent, and 35 percent, respectively, based on Table 1 to § 675.20. Again, the three amounts would be added together to calculate the maximum retainable bycatch amount of Greenland turbot that could be retained on board.

2. Directed fishing standards based on groupings of fisheries categories would be eliminated (except for rockfish). Retainable percentages would be established that are species specific, except for rockfish, which would use percentages applied to the aggregate grouping. Consistent with existing regulations at §§ 672.20(g)(2) and 675.20(h)(3)(iii), rockfish, except demersal shelf rockfish, would continue to be aggregated to prevent "topping off" of individual rockfish species that are closed to directed fishing. Definitions of groundfish species may be found in the final 1995 groundfish harvest specifications for the BSAI (60 FR 8479, February 14, 1995) and GOA (60 FR 8470, February 14, 1995). One retainable percentage would apply for all gear types, such as trawl, hook-and-line, pot, and jig gear. A separate table would be published at §§ 672.20(g) and

VOL 60 ISS 82 AP 28 1995 UMI

675.20(h) to accommodate distinctions between species groupings that are specific to the different management areas.

3. The separate directed fishing standard for vessels using pelagic trawl gear would be eliminated. Instead, one retainable percentage for each bycatch species/basis species combination would be specified. The existing directed fishing standard for pelagic trawl gear was intended to be effective after the directed fishery for pollock by vessels using bottom trawl gear was closed because a prohibited species bycatch allowance, specified for the pollock fishery, had been reached. The intent of the existing directed fishing standard was to encourage vessel operators using pelagic trawl gear to conduct midwater operations and avoid contact with the seabed and, therefore, avoid additional bycatch amounts of halibut and crab.

Since the directed fishing standard for pelagic trawl gear was implemented, several new regulatory measures have been implemented to monitor and enforce off-bottom trawl operations more effectively during the period when directed fishing for pollock with bottom trawl gear is closed. These measures include a revised definition of pelagic trawl gear (§§ 672.2 and 675.2, definitions of, "Authorized fishing gear") and a new performance standard for pelagic trawl gear based on the number of crab on board a vessel at any time (§§ 672.7(m) and 675.7(n)). These measures were implemented to control more effectively the type of fishing behavior that the directed fishing standard for pelagic trawl gear was intended to address. As a result of these recent measures, the current directed fishing standard for pelagic trawl gear arguably is redundant and unnecessarily complicates the issue of what constitutes directed fishing or the amount of a species that may be retained as bycatch. If information collected in the future indicates that additional performance standards are appropriate for pelagic trawl gear operations, it is likely that these standards would be developed and implemented separately from the proposed regulations governing the maximum amount of a species that may be retained as bycatch.

4. The proposed rule would eliminate closures of fisheries for species in the aggregate under § 675.21(c) and (d) when a prohibited species bycatch allowance is reached. Under current regulations, NMFS can close the fishery for an aggregate group of target species when a prohibited species bycatch allowance is attained. The default directed fishing standard of 20 percent for that aggregate group is then effective. This differs from the use of a directed fishing standard for a specific target species category to manage the harvest of species' TAC amounts.

Under the proposed rule, once a prohibited species bycatch allowance is reached, the fishery for each species in the grouping would be closed individually. A single species specific retainable percentage would then apply. This change is consistent with the objective of simplifying the standards for directing fishing.

For the following items 5 through 9, the proposed retainable percentages differ from the current directed fishing standards to represent a more accurate estimation of the observed bycatch rates and to simplify the regulations:

5. The retainable percentage for sablefish would be 15 percent with respect to each deep-water target species (deep-water flatfish, rex sole, flathead sole, Pacific ocean perch, shortraker/rougheye, other rockfish, northern rockfish, pelagic rockfish, demersal shelf rockfish in the Southeast outside area, thornyhead, Greenland turbot, other rockfish, other red rockfish in the Bering Sea, sharpchin/northern-AI, and shortraker/ rougheye-AI), and 1 percent with respect to each other target species (pollock, Pacific cod, shallow-water flatfish, Atka mackerel and "other species").

The retainable percentage for sablefish of 15 percent with respect to deep-water species would be higher than the directed fishing standard currently established for the BSAI trawl fisheries and the GOA hook-and-line fisheries. Historically, trawl vessels have not taken their TAC for sablefish and the Council believes that the current directed fishing standard is unnecessarily conservative.

Currently, a vessel using hook-and-line gear in the GOA is considered to be engaged in directed fishing for sablefish if 4 percent or more of the total amount of fish on board the vessel are sablefish. The sablefish fishery will be managed under an individual fishing quota (IFQ) system in 1995. Sablefish will most likely be taken as bycatch in the Pacific cod fishery outside of the IFQ open season; therefore, a retainable percentage of 1 percent with respect to Pacific cod, which is a shallow-water species, would be appropriate. These considerations, together with the overall intent to simplify the regulations, support the proposed retainable percentage of 15 and 1 percent.

6. The retainable percentage for Greenland turbot would be 35 percent with respect to rockfish retained on board the vessel. Similarly, the retainable percentage for Greenland turbot would be 35 percent with respect to sablefish retained on board the vessel. The retainable percentage for Greenland turbot would be 1 percent of each other target species on board the vessel.

The Council recommended that the retainable percentage for BSAI Greenland turbot be 35 percent of deep-water flatfish, flathead sole, and rex sole retained on board the vessel. The final groundfish harvest specifications for the BSAI published February 14, 1995 (60 FR 8479) established a separate TAC category for flathead sole. A technical amendment published concurrently with the BSAI specifications established the retainable percentage for flathead sole as 35 percent. However, the other two groups currently are aggregated under the "other flatfish" grouping to reflect the combined annual TAC specified for these species. To establish distinct retainable percentages for these other two species, the species must first be separated from the "other flatfish" grouping through the annual TAC specification process. Until this separation occurs, a distinct retainable percentage for these target species cannot be established.

7. The retainable percentage for aggregated rockfish would be 15 percent of deep-water target species (deep-water flatfish, rex sole, flathead sole, sablefish, rockfish, and Greenland turbot) and 5 percent of each other target species.

The assignment of 15 percent for deep-water species, such as rockfish and sablefish, against flathead sole differs from the current BSAI regulations. Current regulations allow deep-water species to be retained at 1 percent against "other flatfish", from which flathead sole was separated in 1995. This could indicate that deep-water species should be allowed at 1 percent against flathead sole since it was separated from the "other flatfish" category. However, to maintain consistency with the GOA and with the Council's intent to allow 15 percent against flathead sole, deep-water species such as rockfish and sablefish would be 15 percent against flathead sole for both the GOA and the BSAI.

8. The retainable percentage for a species taken as bycatch, other than those specifically established above, would be 20 percent of each basis species. The retainable percentage for groundfish species measured against nongroundfish basis species would also be the default of 20 percent.

9. Consistent with the Council intent to specify retainable percentages that are more representative of actual bycatch rates, the proposed rule would change the retainable percentage for arrowtooth flounder from 20 percent to 35 percent of each basis species retained on board the vessel.

Classification

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. While the proposed rule would affect a substantial number of small entities, it would slightly lessen economic burdens on them by reducing the time required to calculate amounts of retainable groundfish bycatch and maintain required records. This lessening of burdens would not be economically significant for purposes of the Regulatory Flexibility Act.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Parts 672, 675, and 676

Fisheries, Reporting and recordkeeping requirements.

Dated: April 19, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672, 675, and 676 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.2, the definition of "Directed fishing" is revised to read as follows:

§ 672.2 Definitions.

* * * * *

Directed fishing means any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under § 672.20 (g) and (h).

* * * * *

3. In § 672.20, the last sentence of paragraphs (c)(2)(i) and (c)(2)(ii), and paragraph (g) are revised, and new Table 2 is added at the end of this section to read as follows:

§ 672.20 General limitations.

* * * * *

(c) * * *

(2) * * *

(i) * * * If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (g) of this section, may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

(ii) * * * If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (g) of this section, may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

* * * * *

(g) *Maximum retainable bycatch amounts.* (1) The maximum retainable bycatch amount for a bycatch species or species group is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages in Table 2 to this section. As used in this paragraph (g), "bycatch species" means any species or species group for which a maximum retainable bycatch amount is being calculated. As used in this paragraph (g), "basis species" means any species or species group that is open to directed fishing that the vessel is authorized to harvest.

(2) If a fishery is closed to directed fishing, a vessel may not retain a bycatch species in an amount that exceeds that maximum retainable bycatch amount, as calculated under this paragraph (g), at any time during a fishing trip.

(3) To calculate the maximum retainable bycatch amount for a specific bycatch species, an individual retainable bycatch amount must be calculated with respect to each basis species that is retained on board that vessel. To obtain these individual retainable bycatch amounts, the appropriate retainable percentage for the bycatch species/basis species combination, set forth in Table 2 to this section, is multiplied by the amount of that basis species, in round-weight equivalents. The maximum retainable bycatch amount for that specific bycatch species consists of the sum of the individual retainable bycatch amounts.

* * * * *

TABLE 2 TO § 672.20.—GULF OF ALASKA RETAINABLE PERCENTAGES

Basis species [1]	Bycatch species [1]					
	Pollock	Pacific cod	Deep flatfish	Rex sole	Flathead sole	Shallow flatfish
Pollock	[2] na	20	20	20	20	20
Pacific cod	20	[2] na	20	20	20	20
Deep-water flatfish	20	20	[2] na	20	20	20
Rex sole	20	20	20	[2] na	20	20
Flathead sole	20	20	20	20	[2] na	20
Shallow-water flatfish	20	20	20	20	20	[2] na
Arrowtooth	0	0	0	0	0	0
Sablefish	20	20	20	20	20	20
Pacific Ocean perch	20	20	20	20	20	20
Shortraker/rougheye	20	20	20	20	20	20
Other rockfish	20	20	20	20	20	20
Northern rockfish	20	20	20	20	20	20
Pelagic rockfish	20	20	20	20	20	20
DSR—Southeast outside	20	20	20	20	20	20
Thornyhead	20	20	20	20	20	20
Atka mackerel	20	20	20	20	20	20
Other species	20	20	20	20	20	20

VOL 60 ISS 82 AP 28 1995 UMI

TABLE 2 TO § 672.20.—GULF OF ALASKA RETAINABLE PERCENTAGES—Continued

Basis species[1]	Bycatch species[1]					
	Pollock	Pacific cod	Deep flatfish	Rex sole	Flathead sole	Shallow flatfish
Aggregated amount non-groundfish species	20	20	20	20	20	20

[1] For definition of species see Table 1 of the Gulf of Alaska groundfish specifications.
[2] na=not applicable.

TABLE 2 to § 672.20.—GULF OF ALASKA RETAINABLE PERCENTAGES

Basis species[1]	Bycatch species[1]					
	Arrowtooth	Sablefish	Aggregated rockfish[2]	DSR southeast outside	Atka mackerel	Other species
Pollock	35	1	5	10	20	20
Pacific cod	35	1	5	10	20	20
Deep-water flatfish	35	15	15	1	20	20
Rex sole	35	15	15	1	20	20
Flathead sole	35	15	15	1	20	20
Shallow-water flatfish	35	1	5	10	20	20
Arrowtooth	[3]na	0	0	0	0	0
Sablefish	35	[3]na	15	1	20	20
Pacific Ocean perch	35	15	15	1	20	20
Shortraker/rougheye	35	15	15	1	20	20
Other rockfish	35	15	15	1	20	20
Northern rockfish	35	15	15	1	20	20
Pelagic rockfish	35	15	15	1	20	20
DSR-Southeast outside	35	15	15	[3]na	20	20
Thornyhead	35	15	15	1	20	20
Atka mackerel	35	1	5	10	[3]na	20
Other species	35	1	5	10	20	[3]na
Aggregated amount non-groundfish species	35	1	5	10	20	20

[1] For definition of species see Table 1 of the Gulf of Alaska groundfish specifications.
[2] Aggregated rockfish means rockfish of the general Sebastes and Sebastolobus except for demersal shelf rockfish.
[3] na=not applicable.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

5. In § 675.2, the definition of "Directed fishing" is revised to read as follows:

§ 675.2 Definitions.

* * * * *

Directed fishing means any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under § 675.20 (h) and (i).

* * * * *

6. In § 675.20, the last sentence of paragraph (a)(8) and paragraph (h) are revised, and new Table 1 is added at the end of the section to read as follows:

§ 675.20 General limitations.

(a) * * *

(8) * * * If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (h) of this section, may not be retained and must be treated as a prohibited species under paragraph (c) of this section.

* * * * *

(h) *Maximum retainable bycatch amounts.* (1) The maximum retainable bycatch amount for a bycatch species or species group is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages in Table 1 to this section. As used in this paragraph (h), "bycatch species" means any species or species group for which a maximum retainable bycatch amount is being calculated. As used in this paragraph (h), "basis species" means any species or species group that is open to directed fishing that the vessel is authorized to harvest.

(2) If a fishery is closed to directed fishing, a vessel may not retain a bycatch species in an amount that exceeds that maximum retainable bycatch amount, as calculated under this paragraph (h), at any time during a fishing trip.

(3) To calculate the maximum retainable bycatch amount for a specific bycatch species, an individual retainable bycatch amount must be calculated with respect to each basis species that is retained on board the vessel. To obtain these individual amounts, the appropriate retainable percentage for the bycatch species/basis species combination, set forth in Table 1 to this section, is multiplied by the amount of that basis species, in round-weight equivalents. The maximum retainable bycatch amount for that specific bycatch species consists of the sum of the individual retainable bycatch amounts.

* * * * *

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species[1]	Bycatch species[1]					
	Pollock	P. cod	Atka mack.	Arrowtooth	Yellowfin sole	Other flatfish
Pollock	[2]na	20	20	35	20	20
Pacific cod	20	[2]na	20	35	20	20
Atka mackerel	20	20	[2]na	35	20	20
Arrowtooth	0	0	0	[2]na	0	0
Yellowfin sole	20	20	20	35	[2]na	35
Other flatfish	20	20	20	35	35	[2]na
Rocksole	20	20	20	35	35	35
Flathead sole	20	20	20	35	35	35
Greenland turbot	20	20	20	35	20	20
Sablefish	20	20	20	35	20	20
Other rockfish	20	20	20	35	20	20
Other red rockfish-BS	20	20	20	35	20	20
Pacific Ocean perch	20	20	20	35	20	20
Sharpchin/Northern—AI	20	20	20	35	20	20
Shortraker/Rougheye—AI	20	20	20	35	20	20
Squid	20	20	20	35	20	20
Other species	20	20	20	35	20	20
Aggregated amount nongroundfish species	20	20	20	35	20	20

[1] For definition of species see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] na=not applicable.

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species[1]	Bycatch species[1]			
	Rocksole	Flathead sole	Grid turbot	Sablefish
Pollock	20	20	1	1
Pacific cod	20	20	1	1
Atka mackerel	20	20	1	1
Arrowtooth	0	0	0	0
Yellowfin sole	35	35	1	1
Other flatfish	35	35	1	1
Rocksole	[2]na	35	1	1
Flathead sole	35	[2]na	35	15
Greenland turbot	20	20	[2]na	15
Sablefish	20	20	35	[2]na
Other rockfish	20	20	35	15
Other red rockfish—BS	20	20	35	15
Pacific Ocean perch	20	20	35	15
Sharpchin/Northern—AI	20	20	35	15
Shortraker/Rougheye—AI	20	20	35	15
Squid	20	20	1	1
Other species	20	20	1	1
Aggregated amount non-groundfish species	20	20	1	1

[1] For definition of species see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] na=not applicable.

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species[1]	Aggregated rockfish[2]	Squid	Other species
Pollock	5	20	20
Pacific cod	5	20	20
Atka mackerel	5	20	20
Arrowtooth	0	0	0
Yellowfin sole	5	20	20
Other flatfish	5	20	20
Rocksole	5	20	20
Flathead sole	15	20	20
Greenland turbot	15	20	20
Sablefish	15	20	20
Other rockfish	15	20	20
Other red rockfish—BS	15	20	20
Pacific Ocean perch	15	20	20
Sharpchin/Northern—AI	15	20	20

VOL 60 ISS 82 APR 28 1995 UMI

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES—Continued

Basis species[1]	Aggregated rockfish[2]	Squid	Other species
Shortraker/Rougheye—AI	15	20	20
Squid	5	[3] na	20
Other species	5	20	[3] na
Aggregated amount non-groundfish species	5	20	20

[1] For definition of species see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] Aggregated rockfish means rockfish of the genera Sebastes and Sebastolobus.
[3] na=not applicable.

7. In § 675.21, paragraphs (c)(1)(i) through (c)(1)(iii) and (c)(2) introductory text, and paragraph (d) are revised to read as follows:

§ 675.21 Prohibited species catch (PSC) limitations.

* * * * *

(c) * * *

(1) * * *

(i) *Zone 1 red king crab or C. bairdi Tanner crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii) (B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of Zone 1 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(ii) *Zone 2 red king crab or C. bairdi Tanner crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii) (B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(iii) *Halibut bycatch allowance.* If, during the fishing year the Regional Director determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (b)(1)(iii) (B) through (F) of this section in the Bering Sea and Aleutian Islands management area will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the entire Bering Sea and Aleutian Islands management area to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(2) *Attainment of a trawl bycatch allowance for Pacific herring.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii) (A) through (F) of this section in the Bering Sea and Aleutian Islands management area will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the Herring Savings Area to directed fishing for each species and/or species group in that fishery category, except that:

* * * * *

(d) *Attainment of a Pacific halibut nontrawl fishery bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the nontrawl fishery categories listed in paragraphs (b)(2)(ii) (A) through (C) of this section will catch the Pacific halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the entire Bering Sea and Aleutian Islands management area to directed fishing with the relevant gear type for each species and/or species group in that fishery category.

8. In § 675.22, paragraph (g) introductory text is revised to read as follows:

§ 675.22 Time and area closures.

* * * * *

(g) Catcher vessel operational area (applicable through December 31, 1995). Processor vessels in the "offshore component," defined at § 675.2, may not catch pollock in excess of the maximum retainable bycatch amount for pollock during the second seasonal allowance of pollock, defined at § 675.20(a)(2)(ii), in the Bering Sea subarea south of 56°00′ N. lat., and between 163°00′ and 168°00′ W. long.

* * * * *

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

9. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

10. In § 676.23, paragraph (b) is revised to read as follows:

§ 676.23 IFQ fishing season.

* * * * *

(b) Directed fishing for sablefish using fixed gear in any IFQ regulatory area may be conducted in any fishing year during the period specified by the Regional Director through notification published in the **Federal Register**. The Regional Director will take into account the opening date of the Pacific halibut season when determining the opening date for sablefish for the purposes of reducing bycatch and regulatory discards between the two fisheries. Catches of sablefish by fixed gear during other periods may be retained up to and including the maximum retainable bycatch amount specified at §§ 672.20(g) and 675.20(h) of this chapter if an individual is aboard when the catch is made who has a valid IFQ card and unused IFQ in the account on which the card was issued. Catches of sablefish in excess of the maximum retainable bycatch amounts and catches made without IFQ must be treated in the same manner as prohibited species.

[FR Doc. 95–10502 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–W

50 CFR Part 673

[I.D. 042595A]

Scallop Fishery off Alaska; Closure of Federal Waters to Protect Scallop Stocks

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has requested NMFS to implement a proposed Fishery Management Plan for the Scallop Fishery off Alaska (FMP). The FMP would authorize an interim closure of Federal waters off Alaska to fishing for scallops for up to a 1-year period. The interim closure is necessary to prevent overfishing of scallop stocks during the period of time an alternative fishery management plan is developed that would allow the controlled harvest of scallops in Federal waters. This action is intended to promote the objective of the proposed FMP to prevent overfishing of the scallop resource that could otherwise result from unregulated fishing for scallops in Federal waters. Comments are requested from the public. Copies of the revised FMP amendments may be obtained from NMFS (see **ADDRESSES**).

DATES: Comments on the proposed FMP must be submitted by June 26, 1995.

ADDRESSES: Comments on the revised FMP amendments must be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the proposed amendments and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the FMP may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION:

The scallop resource off Alaska has been commercially exploited for almost 30 years. Between 1969 and 1991, about 40 percent of the annual scallop harvests came from State waters. Since 1991, however, Alaska scallop harvests increasingly have occurred in Federal waters. In 1994, only 14 percent of the 1.2 million lbs (544 metric tons (mt)) landed were harvested in State waters, with the remainder harvested in Federal waters off Alaska.

The State of Alaska has managed the scallop fishery in State and Federal waters, consistent with section 306(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*)(Magnuson Act), which allows a state to directly regulate any fishing vessel outside state waters if the vessel is registered under the laws of that state. Until 1995, all vessels participating in the Alaska scallop fishery were registered under the laws of the State of Alaska and the fishery was monitored and controlled under State jurisdiction. However, participation in the 1995 scallop fishery by at least one vessel fishing outside the jurisdiction of the State, contemplation by other vessel owners to fish in Federal waters outside State regulations governing the scallop fishery, and the likelihood that uncontrolled fishing for scallops could occur anywhere off Alaska by the highly mobile scallop processor fleet now requires that Federal regulations be implemented to control scallop fishing activity by vessels that choose not to register with the State of Alaska.

To respond to the need for Federal management of the scallop fishery, the Council adopted the proposed FMP under section 303 of the Magnuson Act. The FMP would specify a long-term optimum yield for the scallop fishery in Federal waters off Alaska as a numerical range of 0–1.1 million lbs (0–499 mt) of shucked scallop meats. The FMP also would authorize up to a 1-year closure of Federal waters to fishing for scallops. During the period of time Federal waters are closed to fishing for scallops under the FMP, the OY would be equal to zero. The intent of the FMP is to prevent an unregulated and uncontrolled fishery for scallops in Federal waters that could result in overfishing of scallop stocks during the period of time an alternative fishery management plan is developed that would authorize fishing for scallops in Federal waters under a Federal management regime.

The Secretary will consider the public comments received during the comment period in determining whether to approve the proposed FMP. The proposed regulations are scheduled to be published within 15 days of this document.

Dated: April 24, 1995.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–10435 Filed 4–25–95; 8:45 am]

BILLING CODE 3510–22–F

VOL 60 ISS 82 AP 28 1995 UMI

Notices

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee to Review the Government in the Sunshine Act; Notice of Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Special Committee to Review the Government in the Sunshine Act of the Administrative Conference of the United States.

DATES: Friday, May 12, 1995, at 2 p.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeffrey Lubbers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Special Committee to Review the Government in the Sunshine Act will meet for the first time to discuss a letter from over a dozen current and former agency commissioners requesting that the Administrative Conference review the operation of the Government in the Sunshine Act. The committee, formed by the Chairman of the Conference in response to that letter, will plan its upcoming activities for the rest of the summer, and will determine whether to have a public hearing on the issues raised by the letter. Copies of the letter are available from the Administrative Conference.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of the committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: April 21, 1995.

Jeffrey S. Lubbers,
Research Director.

[FR Doc. 95–10593 Filed 4–27–95; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mount St. Helens National Volcanic Monument Boundary Modification

AGENCY: Forest Service, USDA.

ACTION: Notice of effective date.

SUMMARY: The Act of August 26, 1982, establishing the Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, requires public and congressional notice of proposed boundary revisions for a period of 60 days prior to such revisions becoming effective. Notice of proposed revisions to the boundary in Cowlitz County, Washington, was published in the **Federal Register** on February 9, 1995 (60 FR 7748). The Forest Service hereby gives notice that the proposed boundary modifications as published are now effective.

DATES: The 60-day notice period expired April 10, 1995. The effective date of the Mount St. Helens National Volcanic Monument Boundary modification was April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Ralph Bauman, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, telephone: (202) 205–1248; or Bruce Watson, Assistant Lands Staff Officer, Gifford Pinchot National Forest, P.O. Box 8944, Vancouver, Washington 98668–8944, telephone: (206) 750–5103.

SUPPLEMENTARY INFORMATION: In accordance with section 1(b)(2) of the Act of August 26, 1982 (96 Stat. 301), establishing the Mount St. Helens National Volcanic Monument, the Secretary of Agriculture has modified the Monument boundary. A copy of the Secretary's boundary modification document which includes the legal description of the lands included within the modification appears at the end of this notice.

Dated: April 19, 1995.

Larry D. Gadt,
Acting Deputy Chief.

Boundary Modification, Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Washington

Pursuant to the Secretary of Agriculture's authority under section 1(b)(2) of the Mount St. Helens National Volcanic Monument Act of 1982 (P.L. 97–243, 96 Stat. 301), a minor boundary modification is being made to the Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Cowlitz County, Washington.

The proposed modification will delete approximately 1.93 acres to the 111,500 acre Monument. This land to be deleted is privately owned.

The current boundary of the Monument follows the east-west centerline of section 35 to the south right-of-way line of State Route 504. The proposed modification would delete a strip of land 100 feet wide containing Weyerhaeuser Company's access road to their lands north of the Monument.

The legal description of the boundary deletion is as follows: All descriptions are for the Willamette Meridian, Cowlitz County, Washington.

A strip of land 100 feet wide, 50 feet each side of the following described centerline, as surveyed and filed in Vol. 12 Page 78, Cowlitz County, Washington.

Beginning at the West ¼ corner of section 35, T. 10 N., R. 4 E., thence S 88°–41'–06" E, along the East-West centerline of section 35, a distance of 2483.41 feet to the intersection of the centerline of Weyerhaeuser road number 3500, and the true point of beginning; thence southerly with the centerline of Weyerhaeuser road number 3500, S 18°–19'–24" E a distance of 290.23 feet to the beginning of a curve concave to the West, having a radius of 247.03 feet, thence southerly 98.67 feet along said curve with a central angle of 22°–53'–04" to the end of said curve, thence S 4°–33'–40" W a distance of 114.01 feet to the beginning of a curve concave to the West, having a radius of 245.21 feet, thence southwesterly 206.80 feet along said curve with a central angle of 48°–19'–21" to the end of said curve, thence S 52°–53'–01" E a distance of 130.34 feet to the intersection with the Northerly right of way for State Highway number 504.

The private lands involved are deleted with the concurrence of the Weyerhaeuser Company, the landowner.

This modification shall become effective 60 days from the date the notice is published in the **Federal Register** and simultaneous notification is provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Agriculture and the Committee on Natural Resources of the House of Representatives.

Dated: February 2, 1995.

Adela Backiel,
Deputy Under Secretary.

[FR Doc. 95–10530 Filed 4–27–95; 8:45 am]

BILLING CODE 3410–11–M

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on May 16, 1995 at the Jamestown S'Klallam Tribe Community Center, 1033 Old Blyn Highway, Sequim, Washington. The meeting will begin at 10 a.m. and continue until 3:30 p.m. Agenda topics to be covered include: (1) Long-term vision of the Advisory Committee; (2) short-term projects: watershed analysis priorities; (3) review of non-Federal watershed activity; (4) timber salvage issue (presentation and discussion); (5) future agenda/committee topics; and (6) Open Public Forum. All Olympic Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kathy Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (360 765–2211 or Ronald R. Humphrey, Forest Supervisor, at (360) 956–2301.

Dated: April 24, 1995.

David Yates,
Land Management Planning Staff Officer.

[FR Doc. 95–10452 Filed 4–27–95; 8:45 am]

BILLING CODE 3410–11–M

Food Safety and Inspection Service

[Docket No. 95–016N]

National Forum on Animal Production Food Safety

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) will hold a forum, "National Forum on Animal Production Food Safety," on May 23–25, 1995, at the University of Maryland, The Inn and Conference Center, University College, College Park, Maryland. The forum will explore ways FSIS can refine and advance its strategy to assure the safety of meat and poultry products from farm to table as outlined in the proposal, "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems."

FOR FURTHER INFORMATION CONTACT: Ms. Margaret Webb, Communications and Public Affairs, FSIS Animal Production Food Safety Program, FSIS, USDA, (202) 690–2683.

To register to attend, call Ms. Jennifer Callahan (202) 501–7136.

SUPPLEMENTARY INFORMATION: On February 3, 1995, FSIS published a proposed rule, "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems" (60 FR 6774). In that document, the Agency proposed a number of regulatory changes applicable to Federal- and State-inspected meat and poultry establishments. The proposed changes are designed to reduce the occurrence and numbers of pathogenic microorganisms in meat and poultry products, thereby reducing the incidence of foodborne illness associated with the consumption of these products.

In the proposed rule, FSIS stated that public meetings would be held with the regulated industry and interested parties. Although the proposed regulations address product safety within an establishment environment, FSIS recognizes that food safety requires attention throughout the chain of production, processing, distribution, and sale. Therefore, FSIS is holding the forum, "National Forum on Animal Production Food Safety," to explore FSIS strategy to assure the safety of meat and poultry products from farm to table.

The forum, "National Forum on Animal Production Food Safety," will be held on May 23–25, 1995, at the University of Maryland, The Inn and Conference Center, University College, College Park, Maryland 20742 (301) 985–7445. On May 23 and 24 the forum will begin at 8:00 a.m. and end at 5:30 p.m. On May 25 the forum will begin at 8:00 a.m. and end at 12:30 p.m.

Forum Agenda

The forum will primarily focus on the preventive approach to reducing microbial pathogens from the farm to the slaughter plant. Objectives are to define the current status of food safety risks and possible risk reduction measures in animal production practices; to work toward national consensus on research priorities; to identify partnerships needed for research and education; to explore effective public/private funding processes to sustain research and build science-based prevention programs; to identify roles and responsibilities of stakeholders; and to consider the role of FSIS' Animal Production Food Safety Program.

Several speakers will address key issues relating to HACCP and international animal production food safety programs. In addition, attendees will participate in commodity workshops addressing topics relating to the forum. Producers, processors, government agencies, consumer groups, university scientists, the veterinary community, and all interested groups are invited to participate. Transcripts of the forum will be available in the FSIS Docket Clerk's Office, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Attendance and Hotel Reservations

Seating space at the forum is limited. Please call Ms. Jennifer Callahan if you wish to attend the forum (see **FOR FURTHER INFORMATION CONTACT**). People attending the forum will be responsible for making their own hotel arrangements.

Done at Washington, DC, on: April 21, 1995.

Michael R. Taylor,
Acting Under Secretary for Food Safety.

[FR Doc. 95–10428 Filed 4–27–95; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Agency Information Collections Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25).

Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Certificate of Exemption Renewal.
Form Number: Agency: None; OMB Number 0648–0078.
Type of Request: Extension of the expiration date.
Burden: 41 hours; 10 respondents; Avg. Hours Per Response ranges between 30 minutes and one hour depending on the requirement.
Needs and Uses: Under the Endangered Species Act, it is illegal to engage in

VOL 60 ISS 82 AP 28 1995 UMI

interstate or foreign commerce of products comprised of endangered fish or wildlife. Certificates of Exemption, however, were issued to those persons holding inventories of such items before the effective date of the Act. The information collection is to: (1) grant the public exemption, and (2) to provide information for enforcement purposes.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly, and every 5 years.

Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Subsequent Purchaser Report.

Form Number: Agency: None; OMB Number 0648–0079.

Type of Request: Extension of the expiration date.

Burden: 150 hours; 150 respondents filing 2 responses; Avg. Hours Per Response is 30 minutes.

Needs and Uses: Under the Endangered Species Act, it is illegal to engage in interstate or foreign commerce of products comprised of endangered fish or wildlife. Those persons holding a Certificate of Exemption are allowed to sell items that they held before the effective date of the Act. For those persons purchasing such items, they must file a report if they plan to sell the item in "intrastate" commerce. This information is used by enforcement officers to distinguish between legal and illegal items.

Affected Public: Businesses or other for-profit institutions.

Frequency: On occasion.

Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application for a Commercial Fisheries Exemption Under Section 114 of the Marine Mammal Protection Act (MMPA).

Form Number: Agency: None assigned; OMB Number 0648–0224.

Type of Request: Extension of a currently approved collection.

Burden: 3,225 hours; 13,000 respondents; Avg. Hours Per Response is 15 minutes.

Needs and Uses: The MMPA mandates the protection and conservation of marine mammals and makes the killing or serious injury of marine mammals, except under permit or exemption, a violation of the Act. Fishermen must register to obtain the exemption. Without this system, commercial fishermen incidentally killing or injuring marine mammals during their normal fishing activities are in violation of the MMPA and subject to prosecution.

Affected Public: Businesses or other for-profit institutions, individuals.

Frequency: Annually.

Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Gerald Taché, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: April 24, 1995.

Gerald Taché,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 95–10519 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty orders and findings and to terminate suspended investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of May 1995.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Argentina
Rectangular Carbon Steel Tubing
A–357–802
54 FR 22794
May 26, 1989
Contact: Sally Hastings at (202) 482–4366

Brazil
Iron Construction Castings
A–351–503
51 FR 17220
May 9, 1986
Contact: Hermes Pinilla at (202) 482–3477

Japan
Impression Fabric
A–588–066
43 FR 22344
May 25, 1978
Contact: Joe Fargo at (202) 482–5345

South Korea
Malleable Cast Iron Pipe Fittings, Other than Grooved
A–580–507
51 FR 18917
May 23, 1986
Contact: Thomas Schauer at (202) 482–4852

Taiwan
Certain Welded Carbon Steel Pipe & Tubes
A–583–008
49 FR 19369
May 7, 1984
Contact: Michael Heaney at (202) 482–4475

Taiwan
Malleable Cast Iron Pipe Fittings, Other Than Grooved
A–583–507
51 FR 18918
May 23, 1986
Contact: Wendy J. Frankel at (202) 482–0367

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity to Object

Domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of May 1995. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k)(3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–10520 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–819]

Initiation of Antidumping Duty Investigation: Light-Walled Rectangular Pipe and Tube From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Dorothy Tomaszewski or Erik Warga at (202) 482–0631 or (202) 482–0922, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

INITIATION OF INVESTIGATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Statute by the Uruguay Round Agreements Act (URAA).

The Petition

On March 31, 1995, the Department of Commerce (the Department) received a petition filed in proper form by Southwestern Pipe, Inc. (the petitioner), one of two regional producers of light-walled rectangular ("LWR") pipe and tube in Texas. A supplement to the petition was filed on April 13, 1995.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of LWR pipe and tube from Mexico are being, or are likely to be, sold in the United States in the region of Texas at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the regional industry in Texas.

Since petitioner is an interested party as defined under section 771(9)(C) of the Act, petitioner has standing to file a petition for the imposition of antidumping duties.

On April 17, 1995, a Mexican producer of subject merchandise named in the petition, Hylsa S.A. de C.V. ("HYLSA"), submitted a request that the Department poll all domestic producers of subject merchandise in the United States. According to HYLSA, the relevant industry for purposes of determining petitioner's standing should be defined as the national industry producing the subject merchandise (see following Section for details on this issue).

Determination of Industry Support for the Petition

The petition contains an adequate allegation that Texas is a regional industry for the domestic like product; this allegation includes data on both factors required by section 771(4)(C) of the Act. Under section 732(c)(4)(C), if the petitioner properly alleges that the industry is a regional industry, the Department shall determine whether the petition has been filed by or on behalf of the industry by applying the requirements set forth in the Act on the basis of the production in the region. Therefore, the Department has evaluated industry support for the petition based upon production in the region.

Section 732(c)(4)(A) of the Act requires that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets the minimum requirements if (1) domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) those domestic producers or workers expressing support account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

The petitioner, one of two known regional producers of the domestic like product, accounts for more than 50 percent of the total production of the domestic like product in the region as defined in the petition. The other known producer in the region has informed the Department that it supports this antidumping petition. Accordingly, the Department determines that this petition is supported by the regional industry in Texas.

Scope of the Investigation

The merchandise subject to this investigation is certain light-walled welded non-alloy steel pipes and tubes, of rectangular (including square) cross section, having a wall thickness of less than 4mm ("LWR"), regardless of specification (ASTM, proprietary, or other). These LWR pipes and tubes are supplied with rectangular cross sections ranging from 0.375×0.625 inch to 2×6 inches or with square sections ranging from 0.375 to 4 inches.

The LWR pipe and tube that are the subject of this petition are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) heading 7306.60.50.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Export Price and Normal Value

Export price was based on fourth quarter 1994 (1) average c.i.f. unit value of U.S. imports from Mexico, and (2) prices from a salesman's call sheets recording sales lost to Mexican competitors. The unit values based on U.S. imports from Mexico were reduced for foreign inland freight to derive ex-factory prices. The prices based on "lost" sales were reduced for the following costs: exporter's mark-up costs, broker commissions, U.S. import

VOL 60 ISS 82 APR 28 1995 UMI

duties, foreign inland freight and U.S. freight.

The home market price was based on tax-inclusive price quotations from Mexican producers to a home market customer in December 1994. The petitioner adjusted the FOB warehouse prices for Mexico's value added tax.

The petitioner based the normal value on constructed value ("CV") in accordance with section 773(a)(4) because it asserts that the Mexican home market price provided in the petition represented sales that were made below the cost of production ("COP") and, therefore, was not an appropriate basis for calculating normal value.

The components of COP are cost of manufacture ("COM") and selling, general and administrative expenses ("SG&A"). The petitioner calculated COM based on its own production experience, adjusted for known differences between costs incurred to produce LWR pipe and tube in the United States and production costs incurred for the merchandise in Mexico. To calculate SG&A expenses, including interest expense, the petitioner relied on data from the 1993 financial statement of a Mexican pipe and tube producer not named as a respondent in the petition. Petitioner maintained in its allegation that Mexican producers named as respondents in the petition did not publish financial statements and that the financial statements used to calculate SG&A expense provided the only available data for this expense.

The allegation that the Mexican producers are selling the foreign like product in their home market at prices below COP is based upon a comparison of the adjusted home market price with the calculated COP. Based on this information, we find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices below COP in accordance with section 773(b)(2)(A)(i) of the Act. Accordingly, the Department will initiate a cost of production investigation.

Therefore, for the purposes of this initiation, we are accepting the petitioner's estimate of CV, as adjusted by the Department for profit, as the appropriate basis for Mexican normal value. The petitioner based CV on its COP methodology, described above, adding an amount for profit to arrive at a total CV. Rather than use the Mexican pipe and tube producer's 1993 financial statements to compute profit, the petitioner calculated profit on the basis of public financial data for a Mexican steel producer. It did so because the Mexican pipe producer had incurred a loss in that year. Consistent with section 773(e) of the Act, the Department revised the profit figure included in the CV to be zero, the actual profit for the one Mexican company whose operations were limited to the production of the foreign-like product.

Based on comparisons of export prices to CV, the recalculated dumping margins range from 14.08 to 23.38 percent.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of LWR pipe and tube from Mexico are being, or likely to be, sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available under section 776 of the Act, we may further review the calculations.

Initiation of Investigation

We have examined the petition on LWR pipe and tube and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of material injury or threat of material injury to a regional industry in a domestic-like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of LWR pipe and tube from Mexico are being, or are likely to be, sold at less than fair value on a regional basis. Unless extended, we will make our preliminary determination by September 7, 1995.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, copies of the public version of the petition have been provided to the representatives of the government of Mexico. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition.

ITC Notification

We have notified the International Trade Commission (ITC) of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by May 15, 1995, whether there is a reasonable indication that imports of LWR pipe and tube from Mexico are causing material injury, or threaten to cause material injury to the regional industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: April 20, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–10524 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–M

[C–331–601]

Cut Flowers From Ecuador; Amendment to Notice of Determination To Revoke Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amendment to notice of determination to revoke countervailing duty order.

SUMMARY: On April 12, 1995, the Department of Commerce (the Department) published a notice of determination to revoke the countervailing duty order on cut flowers from Ecuador (60 FR 18582). That notice stated, in error, that the effective date of revocation was April 12, 1995. We are correcting that clerical error; the effective date of revocation is January 1, 1995.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202)482–2786.

SUPPLEMENTARY INFORMATION:

Clerical Error

We are correcting the following clerical error in the Department's April 12, 1995 determination to revoke the countervailing duty order on cut flowers from Ecuador:

The section which reads "**EFFECTIVE DATE:** April 12, 1995" is amended to read "**EFFECTIVE DATE:** January 1, 1995."

This notice is in accordance with 19 CFR 355.25(d)(4)(iii).

Dated: April 21, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–10521 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–P

Determination Not To Revoke Countervailing Duty Orders

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty orders listed below.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1995, the Department published in the **Federal Register** (60 FR 5901) its intent to revoke the countervailing duty orders listed below. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations), objects to revocation and no interested party requests an administrative review by the last day of the fifth anniversary month.

Within the specified time frame, we received an objection from a domestic interested party to our intent to revoke these countervailing duty orders. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke these orders.

This determination is in accordance with 19 CFR 355.25(d)(4).

Countervailing duty orders	
Peru: Cotton Sheeting and Sateen (C–331–001).	02/01/83 48 FR 4501
Thailand: Malleable Iron Pipe Fittings (C–549–803).	02/10/89 54 FR 6439

Dated: April 21, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–10522 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–405]

Certain Textile Mill Products From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On January 26, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the countervailing duty order on certain textile mill products from Mexico for the period January 1, 1992, through December 31, 1992. We have now completed this review and determine the total net subsidy to be 0.15 percent *ad valorem* for all companies during this review period. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1995, the Department published in the **Federal Register** (60 FR 5166) the preliminary results of its administrative review of the countervailing duty order on certain textile mill products from Mexico (50 FR 10824; March 18, 1985). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are certain textile mill products from Mexico. Shipments of such merchandise are classifiable under the Harmonized Tariff Schedule (HTS) item numbers listed in the Appendix to this notice.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

We determine the total net subsidy to be 0.15 percent *ad valorem* during the period January 1, 1992, through December 31, 1992. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis*.

As a result of this review, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Mexico, exported on or after January 1, 1992, and on or before December 31, 1992. Further, as provided by section 751(a)(1) of the Act, the Department will instruct Customs to collect cash deposits of estimated countervailing duties at a rate of zero percent for all shipments of the subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These instructions shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: April 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

Appendix—Certain Textile Mill Products from Mexico C–201–405 Harmonized Tariff System (HTS) Numbers

4010.10.10	5109.10.60	5109.90.60	5111.11.70	5111.19.60
5111.20.90	5111.30.90	5112.20.30	5112.30.30	5204.11.00
5204.19.00	5204.20.00	5205.11.10	5205.12.10	5205.12.20
5205.13.10	5205.13.20	5205.14.10	5205.23.00	5205.24.00
5205.25.00	5205.31.00	5205.32.00	5205.33.00	5205.34.00
5205.42.00	5205.43.00	5205.44.00	5206.11.00	5206.12.00
5206.13.00	5206.14.00	5206.15.00	5206.31.00	5206.32.00
5206.33.00	5206.34.00	5206.35.00	5206.41.00	5206.42.00
5206.43.00	5206.44.00	5206.45.00	5207.10.00	5207.90.00
5208.11.20	5208.12.40	5208.13.00	5208.19.40	5208.21.20
5208.21.40	5208.22.40	5208.22.60	5208.23.00	5208.29.40

VOL 60 ISS 82 AP 28 1995 UMI

Appendix—Certain Textile Mill Products from Mexico C–201–405 Harmonized Tariff System (HTS) Numbers—Continued

5208.29.60	5208.31.40	5208.31.60	5208.31.80	5208.32.30
5208.32.40	5208.32.50	5208.33.00	5208.39.20	5208.39.80
5208.41.40	5208.41.60	5208.41.80	5208.42.30	5208.42.40
5208.42.50	5208.43.00	5208.49.40	5208.51.40	5208.51.60
5208.51.80	5208.52.30	5208.52.40	5208.52.50	5208.53.00
5208.59.20	5208.59.80	5209.11.00	5209.19.00	5209.31.60
5209.32.00	5209.41.60	5209.43.00	5209.51.60	5209.52.00
5210.21.40	5210.21.60	5210.32.00	5210.29.40	5210.29.80
5210.32.00	5210.39.40	5210.39.60	5210.52.00	5210.59.40
5210.59.80	5211.31.00	5211.51.00	5401.10.00	5401.20.00
5402.10.30	5402.20.30	5402.31.30	5402.31.60	5402.32.30
5402.32.60	5402.33.30	5402.41.00	5402.43.00	5402.49.00
5402.51.00	5402.52.00	5402.59.00	5403.20.30	5403.20.60
5406.10.00	5406.20.00	5407.41.00	5407.42.00	5407.43.20
5407.44.00	5407.52.20	5407.53.10	5407.53.20	5407.54.00
5407.60.05	5407.60.10	5407.60.20	5407.91.05	5407.92.05
5407.93.05	5407.94.05	5408.21.00	5408.22.00	5408.23.20
5408.24.00	5408.31.05	5408.32.05	5408.33.05	5408.34.05
5508.10.00	5508.20.00	5509.12.00	5509.21.00	5509.22.00
5509.31.00	5509.32.00	5509.41.00	5509.51.30	5509.51.60
5509.53.00	5509.59.20	5509.59.40	5509.99.20	5509.99.40
5511.10.00	5511.20.00	5511.30.00	5513.11.00	5513.13.00
5513.19.00	5513.21.00	5513.23.00	5513.29.00	5513.33.00
5513.39.00	5513.41.00	5513.43.00	5513.49.00	5514.11.00
5514.19.00	5514.21.00	5514.29.00	5514.41.00	5514.49.00
5515.13.05	5516.11.00	5516.12.00	5516.13.00	5516.14.00
5516.41.00	5516.42.00	5516.43.00	5516.44.00	5516.91.00
5516.92.00	5516.93.00	5516.94.00	5601.10.20	5601.22.00
5602.10.90	5602.21.00	5602.90.60	5603.00.90	5607.41.30
5607.49.15	5607.49.25	5607.50.20	5608.11.00	5701.10.16
5701.10.20	5701.90.20	5702.10.90	5702.31.10	5702.31.20
5702.32.10	5702.32.20	5702.41.10	5702.41.20	5702.42.10
5702.42.20	5702.51.20	5702.51.40	5702.52.00	5702.91.30
5702.91.40	5702.92.00	5703.10.00	5703.20.10	5703.20.20
5703.30.00	5704.10.00	5704.90.00	5705.00.20	5801.31.00
5801.33.00	5801.34.00	5801.35.00	5801.36.00	5803.10.00
5803.90.30	5804.10.00	5804.21.00	5804.29.00	5804.30.00
5805.00.25	5808.32.10	5810.10.00	5810.91.00	5810.92.00
5902.10.00	5902.20.00	5902.90.00	5911.10.20	5911.20.10
5911.31.00	5911.32.00	6001.10.20	6001.22.00	6001.92.00
6002.10.80	6002.20.10	6002.20.60	6002.30.20	6002.43.00
6002.93.00	6301.10.00	6301.20.00	6301.30.00	6301.40.00
6301.90.00	6302.22.10	6302.22.20	6302.32.10	6302.32.20
6302.40.10	6302.40.20	6302.51.10	6302.51.20	6302.51.30
6302.51.40	6302.52.10	6302.52.20	6302.53.00	6302.59.00
6302.91.00	6302.92.00	6302.93.20	6302.99.20	6303.12.00
6303.19.00	6303.92.00	6303.99.00	6304.11.20	6304.19.05
6304.19.15	6304.19.20	6304.91.00	6304.92.00	6304.93.00
6304.99.15	6304.99.80	7019.20.10	9404.90.90	

5209.32.00 Coverage limited to fabrics, not napped, of numbers 17 to 33.

5209.52.00 Coverage limited to fabrics, not napped, of numbers 17 to 33.

5402.10.30 Coverage limited to yarns provided for in subheading 5402.10.3040.

5402.20.30 Coverage limited to yarns provided for in subheading 5402.20.3040.

5402.33.30 Coverage limited to yarns, valued not over $2.20 per kilogram.

5402.41.00 Coverage limited to yarns provided for in subheading 5402.41.0040.

5402.43.00 Coverage limited to yarns provided for in subheading 5402.42.0040.

5402.49.00 Coverage limited to yarns provided for in subheading 5402.49.0070 and 5402.49.0080.

5509.31.00 Not to include single blended yarns containing a combination of noncontinuous acrylic and continuous nylon filaments.

5509.32.00 Not to include plied blended yarns containing a combination of noncontinuous acrylic and continuous nylon filaments.

[FR Doc. 95–10523 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–F

Lamont-Doherty Earth Observatory of Columbia University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–005. *Applicant:* Lamont-Doherty Earth Observatory of Columbia University, Palisades, NY 10964-8000. *Instrument:* Mass Spectrometer, Model VG 5400. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 60 FR 9662, February 21, 1995. *Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) sensitivity equal to or greater than 2.0×10^{-4} A/torr at 800 μA trap current and an air sample of 0.4 cc will produce a ^{3}He count rate of at least 1700 cps and (2) the precision of measurement of the ^{3}He/^{4}He ratio will be ±2.0% (1σ) on ten measurements of the 0.4 cc STP air sample as defined above.

These capabilities are pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–10528 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–F

Simpson College, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–033R. *Applicant:* Simpson College, Indianola, IA 50125. *Instrument:* Rapid Kinetics Accessory, Model SFA-12. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 59 FR 16188, April 6, 1994. *Reasons:* The foreign instrument provides designed capability for use in classroom demonstration of principles of stopped flow kinetics for reactions with half-lives of .5 to 5 seconds.

Docket Number: 94–071R. *Applicant:* University of Arkansas for Medical Sciences, Little Rock, AR 72205-7122. *Instrument:* Rapid Kinetics Accessory, Model SFA-20. *Manufacturer:* Hi Tech Scientific, United Kingdom. *Intended Use:* See notice at 59 FR 31208, June 17, 1994. *Reasons:* The foreign instrument provides customized compatibility with the observation cell and a Hewlett Packard 8452A diode array spectrophotometer.

Docket Number: 94–131. *Applicant:* University of Rhode Island, Narragansett, RI 02882-1197. *Instrument:* 5-sample Anticoincidence Multicounter System, Model GM-25-5. *Manufacturer:* Riso National Laboratory, Denmark. *Intended Use:* See notice at 59 FR 60607, November 25, 1994. *Reasons:* The foreign instrument provides: (1) anti-coincidence mode detection to reduce background cosmic radiation, (2) low-level beta counting of less than 0.2 CPM, and (3) a 5-sample simultaneous measurement gas-flow multicounter unit.

Docket Number: 94–133. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* Multi-Sensor Core Logger. *Manufacturer:* GEOTEK, United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides measurements of bulk density, magnetic susceptibility, P-wave velocity and gamma ray absorption from extracted cores of sediment.

Docket Number: 94–138. *Applicant:* Texas A&M Research Foundation, College Station, TX 77843. *Instrument:* 600M Fluorometer and Accessories, Model AquatrackA MKIII. *Manufacturer:* Chelsea Instrument, United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides: (1) chlorophyll-a measurements over 5 orders of magnitude using logarithmic scaling, (2) low power consumption and (3) deployment in seawater.

The National Institutes of Health advises in its memoranda of February 16, 1995 that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–10527 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–021. *Applicant:* Tulane University, 6823 St. Charles Avenue, New Orleans, LA 70118. *Instrument:* Ultra Sensitive Steady State Fluorimeter with Accessories, Model FS900CD. *Manufacturer:* Edinburgh Instruments Ltd., United Kingdom. *Intended Use:* The instrument will be used to monitor the behavior of organic and inorganic molecules by their emissive properties. Further, the instrument will be used to develop and study red sensitive dyes, a class of molecules which have attracted attention. In addition, the instrument will be used for training graduate and undergraduate students towards their degree. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–022. *Applicant:* University of Illinois at Urbana-Champaign, Purchasing Division, 506 South Wright Street, Urbana, IL 61801. *Instrument:* Electron Microscope, Model CM200. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used by pre and post doctoral students as a research tool to examine the microscopic structure of the following specimens or compounds of interest: the brain, copolymers, inorganic compounds adrenocortical cells, the honey bee, FLAT-MAP proteins and sub-micron structures.

VOL 60 ISS 82 AP 28 1995 UMI

Application Accepted by Commissioner of Customs: March 29, 1995.

Docket Number: 95–023. *Applicant:* Department of Veterans Affairs, Medical Center, One Veterans Plaza, San Juan, PR 00927-5800. *Instrument:* Electron Microscope, Model CM100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of the morphologic changes produced by disease at the ultrastructural level in tissues. In addition, the instrument will be used for clinical teaching of residents in pathology, with emphasis in the diagnostic aspects of ultrastructural findings in relation to disease and practical use of the instrument. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–024. *Applicant:* U.S. Environmental Protection Agency, Office of Research & Development, Environmental Research Laboratory-Narragansett, 27 Tarzwell Drive, Narragansett, RI 02882. *Instrument:* Mass Spectrometer, Model VG Optima. *Manufacturer:* Fisons Instruments, Inc., United Kingdom. *Intended Use:* The instrument will be used in the following experiments and measurements: (1) determining the origins, transport and fate of organic chemicals and inorganic nutrient elements in coastal marine organisms and ecosystems, (2) characterizing the sources of carbon, nitrogen, and sulfur in coastal marine food webs, (3) developing stable isotopic component of chemical markers and toxicity identification test, (4) atmospheric research, and (5) stable isotopic tracer experiments to elucidate the biogeochemical cycles of carbon nitrogen and sulfur in coastal environments. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–025. *Applicant:* John L. McClellan Memorial Hospital, Pathology and Laboratory Medicine Service, 4300 West 7th Street, Little Rock, AR 72205. *Instrument:* Electron Microscope, Model JEM-1010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for the study of human and animal tissues representing various disease states and experimental paradigms. In addition, the instrument be used for training medical and graduate students. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–026. *Applicant:* Tulane University, 6823 St. Charles Avenue, New Orleans, LA 70118. *Instrument:* Lifetime CD Spectrometer, Model FL 900. *Manufacturer:* Edinburgh Instruments, United Kingdom. *Intended Use:* The instrument will be used to monitor the excited state lifetime of organic and inorganic molecules by their emissive properties. The research involves the study of catalytic materials such as zeolites and silica and characterizing reactant molecules absorbed to these catalysts. In addition, the instrument will be used for training the research students. *Application Accepted by Commissioner of Customs:* April 4, 1995.

Docket Number: 95–027. *Applicant:* Samuel S. Stratton Department of Veterans Affairs Medical Center, 113 Holland Avenue, Albany, NY 12208. *Instrument:* Electron Microscope, Model CM100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of both biological tissue and inorganic materials such as asbestos, silicon and calcified particles. The research projects include:

(1) environmental pathology – measuring particle burdens in human lung tissue,
(2) diffraction analysis of calcified products – identifying the composition of kidney and gall stones, and
(3) immunolabelling in tissues and cytology specimens.

In addition, the instrument will be used for medical resident training specializing in electron microscopy. *Application Accepted by Commissioner of Customs:* April 5, 1995.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–10526 Filed 4–27–95; 8:45 am]

BILLING CODE 3510-DS-F

University of California, Irvine, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–130. *Applicant:* University of California, Irvine, CA 92717-1650. *Instrument:* Positron Emission Tomography Camera System, Model GE 2048. *Manufacturer:* General Electric, Sweden. *Intended Use:* See notice at 59 FR 60607, November 25, 1994. *Reasons:* The foreign instrument provides: (1) a detector ring diameter of 51.5 cm (for head only measurements), (2) interleaved imaging of 30 simultaneous slices in a single acquisition interval and (3) stationary or operator selectable wobble (1-60 RPM) modes. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 94–132. *Applicant.* The Regents of the University of California, Riverside, CA 92521. *Instrument:* Microvolume Stopped-Flow Spectroflourimeter, Model SX-17MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides: (1) automated stop syringe operation and data acquisition via 32 bit RISC-processor workstation, (2) log time base data acquisition, (3) high reproducibility of repeat measurements and (4) dead time of 850μs. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 94–136. *Applicant:* Iowa State University of Science and Technology, Ames, Iowa-50011-4050. *Instrument:* Servo Systems Experiments, Model SRV-02. *Manufacturer:* Quanser Consulting, Canada. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides designed capability for use in academic laboratories to demonstrate principles related to equations of motion and dynamic responses in digital control system design and theory. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 94–137. *Applicant:* University of Vermont, Burlington, VT 05405. *Instrument:* Trough, Model 611M-100. *Manufacturer:* CTC Technologies, United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides preparation of lipid monolayers for structural studies including atomic force microscopy. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 95–003. *Applicant:* The Pennsylvania State University, University Park, PA 16802-4801. *Instrument:* Automatic Grinding, Mixing, Stirring and Kneading Machines. *Manufacturer:* Nitto Kagaku Co., Ltd., Japan. *Intended Use:* See notice at 60 FR 9662, February 21, 1995 *Reasons:* The foreign instrument provides automatic grinding and mixing of raw powders to high levels of uniformity and purity (99.999%) using dual crossing arms which rotate in opposite directions from a rotating mortar. *Advice Received From:* The National Institute of Standards and Technology, March 29, 1995.

The National Institutes of Health and The National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–10525 Filed 4–27–95; 8:45 am]

BILLING CODE 3510-DS-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Romania

April 24, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile and Apparel Agreement of December 20, 1994 between the Governments of the United States and Romania establishes limits for the period beginning on January 1, 1995 and extending through December 31, 1995.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 59 FR 65531, published on December 20, 1994).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hyaes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 24, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Effective on May 2, 1995, you are directed to no longer count imports of textile products in Categories 410, 414, 464, 465, 469, 611, 613–615, 617–622, 624–629, 665, 666, 669 and 670, produced or manufactured in Romania and exported during the period beginning on January 1, 1995 and extending through December 31, 1995 (see directive dated November 29, 1994).

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile and Apparel Agreement of December 20, 1994 between the Governments of the United States and Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 2, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995, in excess of the following limits:

Category	Twelve-month restraint limit [1]
Cotton Group	
200, 201, 218–220, 222–227, 229, 237, 239, 300, 301, 313–315, 317, 326, 330–342, 345, 347–354, 359–363, 369, 800, 810, 831–836, 838–840, 842–847, 850–852, 858, 859, 863, 870, 871 and 899, as a group.	54,060,737 square meters equivalent.
Sublevels in Cotton Group	
315	2,847,370 square meters.
333/833	112,772 dozen.
334	272,582 dozen.
335/835	142,845 dozen.
338/339	618,488 dozen.
340	269,092 dozen.
341/840	112,772 dozen.
347/348	481,162 dozen.
360	1,590,000 numbers.
361	1,060,000 numbers.
836	53,000 dozen.
Group III	
431–436, 438–440, 442–448, 459, 630–654 and 659, as a group.	60,367,521 square meters equivalent.
Sublevels in Group III	
433/434	7,156 dozen.
435	7,575 dozen.
442	11,110 dozen.
443	104,237 numbers.
444	40,400 numbers.
447/448	20,200 dozen.
638/639	545,150 dozen.
Level not in a group	
604	1,580,516 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

Imports charged to these category limits for the period January 1, 1994 through December 31, 1994, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (square meters equivalent/category unit)
341/840	12.1
433/434	35.2
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe

VOL 60 ISS 82 AP 28 1995 UMI

entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–10473 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

April 24, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6719. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used during 1994.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 59 FR 66297, published on December 23, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 24, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on May 2, 1995, you are directed to amend the December 19, 1994 directive to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement concerning textile products from Taiwan:

Category	Twelve-month limit [1]
Sublevels in Group II	
340	1,053,278 dozen.
633/634/635	1,629,203 dozen of which not more than 935,644 dozen shall be in Categories 633/634 and not more than 850,077 dozen shall be in Category 635.
638/639	6,473,522 dozen.
Within Group II subgroup	
351	340,166 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–10474 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List, Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity, military resale commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and a service previously furnished by such agencies.

EFFECTIVE DATE: May 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 14, December 30, 1994, January 13 and March 10, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 FR 52145, 67703, FR 60 13122 and 3196) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity, military resale commodity and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity, military resale commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity, military resale commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity, military resale commodity and services.

3. The action will result in authorizing small entities to furnish the commodity, military resale commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity, military resale commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity, military resale commodity and services are hereby added to the Procurement List:

Commodity

Pad, Fax Transmittal (OF 99)
7540–01–317–7368

Military Resale Commodity

Mop, Sponge, Block
M.R. 990

Services

Janitorial/Custodial, Federal Building and U.S. Post Office, 18th and K Streets, Merced, California
Janitorial/Custodial, U.S. Coast Guard Air Station, Clearwater, Florida
Mailroom Operation, U.S. Army Corps of Engineers, Cold Regions Research and Engineering Laboratory, Hanover, New Hampshire

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. Accordingly, the following commodities and service are hereby deleted from the Procurement List:

Commodities

Paper, Teletypewriter, Roll
7530–00–019–6674
7530–00–142–9038
7530–00–943–7076
7530–00–019–7267

Service

Janitorial/Grounds Maintenance, U.S. Coast Guard Loran Station, Malone, Florida

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–10497 Filed 4–27–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List, Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Index Sheet Set, Looseleaf Binder
7530–00–160–8477
(Remaining Government requirement)
NPA: Easter Seal Society of Allegheny County, Pittsburgh, Pennsylvania

Services

Dispatcher, Department of Veterans Affairs Medical Center, 7305 N. Military Trail, West Palm Beach, Florida
NPA: Gulfstream Goodwill Industries, Inc., West Palm Beach, Florida
Janitorial/Custodial, Department of Veterans Affairs Medical Center, Omaha, Nebraska
NPA: Vocational Development Center, Inc., Council Bluffs, Iowa
Operation of Postal Service Center, Department of the Air Force, Hurlburt Field, Florida
NPA: Lakeview Center, Inc., Pensacola, Florida
Parts Sorting, Defense Reutilization and Marketing Office, Barstow, California
NPA: BEST Opportunities, Barstow, California
Parts Sorting, Defense Reutilization and Marketing Office, Robins Air Force Base, Georgia
NPA: Epilepsy Association of Georgia, Warner Robins, Georgia
Parts Sorting, Defense Reutilization and Marketing Office, Fort Lewis, Washington
NPA: Morningside of Olympia, Olympia, Washington

Deletions

The following commodities have been proposed for deletion from the Procurement List:

Seal, Metal Band
P.S. Item #0816–A
P.S. Item #0816–B
Tape, Red
7510–00–NIB–0068
7510–00–NIB–0069
7510–00–NIB–0070

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–10498 Filed 4–27–95; 8:45 am]

BILLING CODE 6820–33–P

VOL 60 ISS 82 AP 28 1995 UMI

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Title, Applicable Form, and OMB Control Number: Defense Federal Acquisition Regulation Supplement, Part 225, Foreign Acquisition; Related Clauses at 252.225; DD Form 2139; OMB Control Number 0704–0229. (Supersedes OMB Control Numbers 0704–0339, 0704–0350, 0704–0355, and 0704–0361.)

Type of Request: Revision.

Number of Respondents: 55,182.

Responses per Respondent: 22.24.

Annual Responses: 1,227,227.

Annual Burden per Response: .11 hours.

Annual Burden Hours: 441,683 (140,783 response hours + 300,900 recordkeeping hours).

Needs and Uses: DFARS Part 225 concerns information collection requirements used to ensure contractor compliance with restrictions on the acquisition of foreign products imposed by statute or policy to protect the defense industrial base. Other information is required for compliance with our trade agreements and Memoranda of Understanding, which promote reciprocal trade with our allies.

Affected Public: Businesses or other for-profit; non-profit institutions; and small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: April 24, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10420 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Forms, and OMB Control Number: AMC Contractor Feedback Survey.

Type of Request: New collection.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 100.

Needs and Uses: In response to acquisition Reform and the demands of the defense industry, AMC has implemented many changes designed to streamline and improve the acquisition process. The survey will provide an industry assessment as to the effectiveness of these changes.

Affected public: Businesses or other for-profit, small businesses or organizations.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington,Virginia 22202–4302.

Dated: April 24, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10421 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Establishment of National Differentials for Children's Hospitals

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: The Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) is announcing the national differential rates for children's hospitals which go into effect April 1, 1995. This notice is issued as required in 32 CFR 199.14 in which OCHAMPUS announced that a notice would be published setting forth the national differential and eliminating the hospital-specific differentials.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Program Development Branch, OCHAMPUS, telephone (303) 361–1227.

SUPPLEMENTARY INFORMATION: DoD 6010.8–R (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)) was published in the **Federal Register** on July 1, 1986 (51 FR 24008). On October 1, 1987, OCHAMPUS implemented a DRG-based payment system, modeled on the Medicare Prospective Payment System. Children's Hospitals were exempted from the initial implementation until a children's hospital differential rate could be developed. This would ensure that payments to children's hospitals remained budget neutral compared to fiscal year 1988 charges. Since we included children's hospitals under the CHAMPUS diagnosis related group (DRG) payment system in 1989, we have implemented the special measures directed by Congress. When children's hospitals were included by Congress. When children's hospitals were included under the DRG-based payment systems, we implemented the pediatric-modified DRGs (PM–DRGs) for neonatal services. The PM–DRGs, which were developed by the National Association of Children's Hospitals and Related Institutions (NACHRI), replaced the six Medicare neonatal DRGs with thirty-four DRGs which account for birthweight, surgery and the presence of multiple, major and other neonatal problems.

When we implemented the PM–DRGs, we promised an early review of the weights to ensure that they were adequate. The original weights had been derived from a database provided by NACHRI which was believed to be representative of CHAMPUS. However, the case mix and the charges apparently were very different and in December 1989, we published revised relative weights based on CHAMPUS claims data. As a result, the weights, and therefore, the payments, nearly doubled on average. At that time OCHAMPUS retroactively adjusted all claims which had been processed using the previous lower weights. We have continued to refine the PM–DRG weights and classifications involving complications during subsequent annual updates.

In addition, at the time we adopted the PM–DRGs, we examined the possible application of additional DRGs to children who are older than newborns. We contracted with the RAND Corporation to investigate the use of PM–DRGs for this pediatric population. RAND's results showed that almost no difference in payments would occur, so we elected not to make any changes for the pediatric age groups.

To recognize the higher costs of pediatric patients and hospitals with more than their share of high-cost patients, CHAMPUS included a generous provision for calculating the cost outlier for children's hospitals and for neonatal services. Any discharge for services in a children's hospital or for neonatal services which has standardized costs that exceed a threshold of the greater of two times the DRG-based amount or $13,500 qualifies as a cost outlier, resulting in reimbursement of the DRG-based amount plus the differential, plus a percentage of all costs exceeding the threshold. Since the threshold is so low, a considerable number of cases receive this additional payment consideration.

As an added safeguard, CHAMPUS will continue for an interim period to exempt certain high-cost conditions from payment under the DRG-based payment system to protect acute care and children's hospitals from incurring unexpectedly high costs for care related to children under 18 years of age who are HIV seropositive, for all services related to pediatric bone marrow transplants and for all services related to pediatric cystic fibrosis.

In 1990, New York adopted some very minor classification changes to their neonatal DRGs which resulted in some reductions in payments; CHAMPUS reviewed the classification changes but elected not to make similar changes. We have continually consulted with NACHRI.

Since we have implemented all of the special measures Congress identified and since the Congressional intent was that the hospital-specific differential be used only "for a transitional period of 3 years," it is appropriate that a national differential for children's hospitals be implemented at this time. During the three-year transition, children's hospitals were held harmless via a reconciliation calculation that ensured payments that recognized hospital-specific costs for high-volume hospitals. The transition period for using the "hold harmless" hospital-specific and low-volume differentials ended March 31, 1992. Reconciliations after the "hold harmless" period will be calculated applying the national differential rate in accordance with Congressional direction. Under the national differential, eighteen hospitals will receive a higher differential, and fifteen hospitals will receive a lower differential. Although a small number of high-volume hospitals will experience a reduction in CHAMPUS payments, we remain convinced that our payments, especially in light of the differential and other special considerations outlined above, will fairly compensate children's hospitals for their services. Even with a national differential, our payments will be significantly higher for all children's hospitals than for all other hospitals subject to DRG-based payments. The national differential is expected to encourage efficiency, and comply with Congressional intent and direction in controlling future CHAMPUS costs.

CHAMPUS recognizes that on average, children's hospitals have a more costly mix of pediatric patients than nonexempt hospitals. CHAMPUS is also aware that pediatric patients in general may be more expensive than adults because of the requirement for more nursing care and specialized services. Because of these higher costs, CHAMPUS has proceeded slowly and built in safeguards to protect children's hospitals against untoward financial repercussions. We believe all of these safeguards, as well as the numerous refinements we have outlined, will result in a fair and equitable payment to the children's hospitals. We feel confident that sufficient time has been allotted to identify and implement any classification changes which were found necessary. Of course, CHAMPUS will continue to refine PM–DRGs on an ongoing basis, just as we currently do for adult DRGs.

Following are the national differentials:

Area	All hospitals
Large Urban:	
Labor	$1,945.99
Non-labor	689.42
	2,635.41
Other Urban:	
Labor	1,483.21
Non-labor	525.47
	2,008.68

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10426 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Record of Decision for the Final Programmatic Environmental Impact Statement (FPEIS) for the Ballistic Missile Defense (BMD) Program

AGENCY: Ballistic Missile Defense Organization (BMDO).

SUMMARY: On April 23, 1995, the Ballistic Missile Defense Organization (BMDO) signed the Record of Decision (ROD) on research, development, and testing of Ballistic Missile Defense (BMD) capability. The decision included in this ROD has been made in consideration of, but not limited to, the information contained in the *Ballistic Missile Defense Final Programmatic Environmental Impact Statement* (Final PEIS) filed with the U.S. Environmental Protection Agency on November 18, 1994. Other factors considered in this decision include the present and projected threat, cost, and administrative and congressional directives.

The BMD programmatic alternatives arose from existing and potential national security needs. The need for further research and development of BMD capability comes from the threat posed by the global proliferation of missile technology, and the accompanying production and development of weapons of mass destruction. This threat is compounded by improvements to missile performance and weapon design by other nations, as well as increases in the number of missile-armed nations. The ROD documents the BMDO decision between the programmatic alternatives.

The BMD program includes both National Missile Defense (NMD) and Theater Missile Defense (TMD) segments under the direction of BMDO. The NMD segment of the program considers developing ground and space-based elements, including Ground-Based Sensor (GBS), Ground-Based Interceptor (GBI), Space-Based Sensor (SBS), and Battle Management/Command, Control, and Communications (BM/C3) elements, to defend the United States against long-range missiles. The TMD segment

VOL 60 ISS 82 AP 28 1995 UMI

considers developing transportable systems to defend elements of the armed forces of the United States deployed abroad, and United States' allies, against short- and medium-range missiles. The TMD segment was analyzed separately in the TMD Programmatic EIS, due to the distinct functions and independent utility of the TMD and NMD segments.

The decision conveyed by the ROD is to continue research, development, and testing of NMD capabilities. The decision includes continuing the NMD Technology Readiness Program but does not include the procurement or acquisition of an operational NMD system. Only limited NMD research, development, and testing is to continue. The acquisition of TMD system capabilities will continue as described in the TMD ROD published in the **Federal Register** on August 11, 1994 (59 FR 41277).

The specific decision with respect to NMD is to continue a focused approach to technology development in the form of the Technology Readiness Program (the Preferred Action in the Final PEIS). The program involves the development of existing and new technologies and test systems for BM/C3, GBS, GBI, and SBS elements. Research is to be focused to ensure the capability to deploy a limited NMD system in the next decade. Basic technology efforts will continue to infuse new advances as the program proceeds. Contingency planning and options development will continue to be conducted to meet unexpected threats.

Three NMD System Acquisition Alternatives were also evaluated. These alternatives consisted of proceeding with system acquisition and design of NMD elements through the Engineering and Manufacturing Development (EMD) phase of the DoD System Acquisition Life-cycle. Activities included in the EMD phase involve development and testing of elements up to, but not including, element and/or system production and basing. The System Acquisition Alternatives evaluated were:

1. Ground- and Space-Based Sensors and Ground- and Space-Based Interceptors System Acquisition Alternative (which consists of Engineering and Manufacturing Development of GBS, SBS, GBI, SBI, and BM/C3);
2. All Ground-Based System Acquisition Alternative (which consists of Engineering and Manufacturing Development of GBS, GBI, and BM/C3); and
3. Ground- and Space-Based Sensors and Ground-Based Interceptors System Acquisition Alternative (which consists of Engineering and Manufacturing Development of GBS, SBS, GBI, and BM/C3).

The Final PEIS analyses determined that environmental impacts for the Preferred Action (No Action Alternative) or any of the three System Acquisition Alternatives would be minimal. The Final PEIS analyses found no significant and unavoidable environmental impacts for the Preferred Action or any of the three alternatives. The Preferred Action would be termed the *environmentally preferred alternative* since there would be fewer activities associated with its implementation, and therefore fewer impacts. The other alternatives would generally create greater areas of disturbance, require more resources, and create more and greater hazards than the Preferred Action although the environmental impact of all options would be minimal.

Therefore, the implementation of BMD research, development, and testing activities and associated mitigation measures will proceed with minimal adverse impact to the environment. BMDO Deputies and Program Executive Officers are tasked to monitor these activities to ensure that the required environmental standards and controls described in the Final PEIS are followed. BMDO activities will conform with all applicable Federal, state, and local statutes and regulations. Additionally, all reasonable and practical efforts and appropriate safeguards will be implemented to minimize harm to the public and the environment.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Lehner, BMDO/SRE, Washington, DC 20301–7100, (703) 695–8743.

Dated: April 25, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10459 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Base Closure and Realignment Commission Investigative Hearings

AGENCY: Defense Base Closure and Realignment Commission (a Presidentially appointed commission separate from and independent of DoD).

ACTION: Notice of a public, deliberative hearing.

SUMMARY: Pursuant to Public Law 101–510, as amended, the Defense Base Closure and Realignment Commission announces a day-long investigative hearing to be held in Washington, D.C. The purpose of this hearing is for the Commission to consider additional and or alternative bases to those recommended for closure and realignment by the Secretary of Defense on March 1, 1995.

The specific date, location, and general topics follow:

May 10 (Location: Hart Senate Office Building, Room 216)

—Chairpersons and representatives from each of the Commission staff's five review-and-analysis panels (Army, Navy, Air Force, InterAgency, and Joint-CrossService) present information concerning options for additional and/or alternative base-closure recommendations.
—Commission formally votes on additional and/or alternative bases as options for consideration.

The May 10 hearing will begin at 9 a.m. The building and room number are noted in parentheses following the date of the hearing. However, hearing location, date, and time are subject to change based upon availability of facilities.

FOR FURTHER INFORMATION CONTACT: Mr. Wade Nelson, Director of Communications, at (703) 696–0504.

SUPPLEMENTARY INFORMATION: Changes to the above schedule will be published in the Federal Register by the Commission. Please call the Commission to confirm dates, times, and locations prior to each event. Individuals needing special assistance should contact the Commission in advance of each event to facilitate their requirements.

Dated: April 24, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10419 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Combat Identification; Meeting

SUMMARY: The Defense Science Board Task Force on Combat Identification will meet in closed session on July 11–12, 1995 at the MITRE Corporation, Bedford, Massachusetts.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate the DoD long term strategy and plan for development and fielding of a comprehensive situational awareness (SA) and combat identification (CID) architecture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10422 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Defense Mapping for Future Operations; Meetings

SUMMARY: The Defense Science Board Task Force on Defense Mapping for Future Operations will meet in closed session on May 2–3, 1995 at Science Applications International Corporation, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will develop recommendations for implementing a cost-effective approach for providing geospatial information and products to Department of Defense users.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10423 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Combat Identification; Change in Date of Advisory Committee Meeting

SUMMARY: The meeting of the Defense Science Board Task Force on Combat Identification scheduled for June 13–14, 1995 as published in the **Federal Register** (Vol. 60, No. 54, Page 14932, Tuesday, March 21, 1995, FR Doc. 95–6956) will be held on June 14–15, 1995. In all other respects the original notice remains unchanged.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10425 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report for a Permit Application for Proposed Activities at Playa Vista, Los Angeles County, CA

AGENCY: U.S. Army Corps of Engineers, Los Angeles District, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is considering an application for Section 404 and Section 10 permits to (1) conduct dredge and fill activities to implement restoration of the Ballona Salt Marsh and (2) construct a marina or other saltwater boating facility and an adjacent mixed use (residential/commercial/visitor serving) community (marina).

The primary Federal concern is the dredging and discharging of materials within waters of the United States, including wetlands and potential significant impacts on the human environment. Therefore, in accordance with the National Environmental Policy Act (NEPA), the Corps is requiring the preparation of an Environmental Impact Statement (EIS) prior to consideration of any permit action. The Corps may ultimately make a determination to permit or deny either or both items (1) and (2) above, or permit or deny modified versions of items (1) and (2) above.

Pursuant to the California Environmental Quality Act (CEQA), the City of Los Angeles will serve as Lead Agency for the preparation of an Environmental Impact Report (EIR) for its consideration of development approvals within its jurisdiction. The County of Los Angeles will serve as a Responsible Agency under CEQA and will use the EIR for consideration of project approvals within its jurisdiction. The Corps and the City have agreed to jointly prepare a Draft EIS/EIR in order to optimize efficiency and avoid duplication. The Draft EIS/EIR is intended to be sufficient in scope to address both the Federal and the state and local requirements and environmental issues concerning the proposed activities and permit approvals.

ADDRESSES: U.S. Army Engineer District, Los Angeles, Regulatory Branch, ATTN: File Number 95–0212–CSC, P.O. Box 2711, Los Angeles, California 90012.

FOR FURTHER INFORMATION CONTACT: Phone message or questions will be handled at 213–485–8009.

SUPPLEMENTARY INFORMATION:

Project Site

The proposed project is located near Marina del Rey. The salt marsh restoration activities are planned for a portion of the project area known as Area B which is located within the City of Los Angeles. The marina development is planned for an adjacent portion of the project known as Area A within an unincorporated portion of the County of Los Angeles. The area proposed for salt marsh restoration is located in the remnant portions of the once extensive Ballona Salt Marsh. The proposed marina site is located within an area containing extensive fill resulting from previous Marina del Rey and flood control construction projects.

Proposed Action

The project applicant, Maguire Thomas Partners (MTP), proposes to restore a 190 acre salt marsh system within a substantially undeveloped area containing approximately 154 acres of existing degraded wetlands. Establishment of this proposed salt marsh system will include three actions: (1) Enhancement of the western portion of existing wetlands by reestablishing tidal flows to a mid-tidal regime; (2) restoration of the eastern portion of the wetlands by reestablishing tidal flow to a full tidal regime and (3) creation of new wetlands from existing uplands. The proposed project includes the construction of culverts providing access to tidal flows within the Ballona Channel. The proposed project also involves the widening of Culvert Boulevard to meet regional transportation demand.

It is further proposed that a water oriented mixed use community be constructed in Area A on 138.6 acres of substantially undeveloped property separated from the salt marsh restoration project by the Ballona Channel. This development would include a 48 acre marina, 2,576 residential units, 450 hotel rooms, 125,000 square feet of office space,

VOL
60
ISS
82
AP
28
1995
UMI

75,000 square feet of community serving uses and 75,000 square feet of visitor serving retail uses. The proposed marina would accommodate up to 700 boat ships with access to Santa Monica Bay via a new entrance channel to the main channel of Marina del Rey. This Channel would be approximately 200 feet wide and excavated to a depth of −16 feet MSL. This proposed development would result in the dredge and/or fill of 9.8 acres of degraded wetlands, 4.8 acres of which would be within the footprint of the proposed marina.

Issues

There are several potential environmental issues that will be addressed in the EIS/EIR. Additional issues may be identified during the scoping process. Issues initially identified as potentially significant include:

1. Geological issues including subsidence, seismic concerns and landform alternation.
2. Impacts to surface and groundwater hydrology and water quality.
3. Potential impacts to terrestrial, aquatic and marine biological resources.
4. Impacts to prehistoric and historic cultural resources.
5. Impacts to air quality.
6. Traffic and transportation related impacts.
7. Potential noise impacts.
8. Land use impacts.
9. Impacts to public utilities and services.
10. Socioeconomic impacts including population, housing and infrastructure costs and benefits.
11. Impact to aesthetic resources.
12. Potential impacts on public health and safety.
13. Cumulative impacts.

Alternatives

Several alternatives are being considered for restoration of the Ballona Salt Marsh as well as alternatives to the marina proposal. These alternatives will be further formulated and developed during the scoping process. In addition to the No Action Alternative (no restoration), two other alternatives for salt marsh restoration have been identified. These are a full tidal restoration for the entire restoration area and a muted tidal restoration for the entire restoration area. In addition, the EIS/EIR will consider alternatives to the Ballona Channel as a source of salt water for the restoration. The EIS/EIR will also consider alternatives to the proposed widening of Culver Boulevard.

A range of alternatives to the marina proposal will be considered in the EIS/EIR. These alternatives will include other saltwater boating facility alternatives with or without a marina feature as well as other wetland alternatives and the No Act Alternative.

Scoping Process

A public meeting will be held to receive public comment and assess public concern regarding the appropriate scope and preparation of the Draft EIS/EIR. Participation in the public meeting by federal, state and local agencies and other interested organizations and persons is encouraged.

The Corps of Engineers will also be consulting with the U.S. Fish and Wildlife Service under the Endangered Species Act and Fish and Wildlife Coordination Act, and with the State Office of Historic Preservation under the National Historic Preservation Act. Additionally, the EIS/EIR will assess the consistency of the proposed Action with the Coastal Zone Management Act, as well as executive orders on wetlands and floodplain protection.

The public scoping meeting for the Draft EIS/EIR will be held at the Airport Marina Hotel, 8601 Lincoln Boulevard, Los Angeles, California on June 7, 1995. Two sessions, one beginning at 2:00 p.m. and the other starting at 7:00 p.m. are scheduled. Written comments will be received until June 21, 1995.

Availability of the Draft EIS

The Draft EIS is expected to be published and circulated in April of 1996, and a Public Hearing will be held after its publication.

Juanita H. Maberry,

Alternate Army Federal Register Liaison Officer

[FR Doc. 95–10489 Filed 4–27–95; 8:45 am]

BILLING CODE 3710–KF–M

Corps of Engineers; Local Redevelopment Authority (LRA) for the Available Surplus Manhattan Beach Family Housing Area, Located at Quentin Street, Brooklyn, NY (Formerly New York Defense Area, Nike Batteries 48–49 Housing Area)

AGENCY: U.S. Army Corps of Engineers, New York District, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the LRA that has been established to plan the reuse of the Manhattan Beach Family Housing Area, located at Quentin Street, Brooklyn, NY, as set forth in the new procedures under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

SUPPLEMENTARY INFORMATION: In 1989 the Manhattan Beach Family Housing Area, located at Quentin Street, Brooklyn, NY (formerly New York Defense Area, Nike Batteries 48–49 Housing Area) was designated for closure pursuant to Title II Section 204 of Public Law 100–526, Defense Base Closure and Realignment Act, supplemented by paragraph 7 of section 2905(b) of the 1990 Base Closure Act, 10 U.S.C. 2687, as amended by subsection (a) of the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103–421.

Election to Proceed Under the New Statuary Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103–421) subsection (e)(1)(b) of the 1994 Act was enacted. This statute gives a redevelopment plan authority at base closure sites the option of employing new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies.

Redevelopment Authority

The Redevelopment Authority for the base for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990 as amended is the Manhattan Beach Community Group (MBCG). The following thirteen (13) people makeup the governing group of the LRA.

—Oliver Klapper, President
—Lucille Nieporent, Vice President
—Barbara Gatto, Treasurer
—Dana Borrell, Sec'y
—Eugene Friedus, member
—Martin Izaak, member
—Richard Bearak, Brooklyn Borough President's Office
—Florence Stachel, Congressman Schumer's Office
—John Nikas, Chairman, Community Board #15
—Maurice Kolodin, Former Chairmen, Community Board #15
—Barbara Simmons, President, Community School Board #2
—Louise Albenda, member
—Michael Geller, Former President, MBCG

Take Notice: Pursuant to the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, State and local governments, representatives of the homeless and other interested parties located in the communities in the vicinity of the installation may submit to the Manhattan Beach Community Group letters of interest no later than May 22, 1995, and June 25, 1995 to submit a full proposal. All submission should be forwarded to the attention of: Dr. Oliver Klapper, 174 Dover Street, Brooklyn, NY 11235, (718) 368–5115.

Surplus Property Description: The Surplus Manhattan Beach Family Housing site consists of approximately 4.74 acres of land in fee, improved with 72 family housing units, 56 two story-two family and 16 two story and basement one family, totalling nine (9) buildings.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 95–10490 Filed 4–27–95; 8:45 am]

BILLING CODE 3710–KF–M

Corps of Engineers; Local Redevelopment Authority (LRA) for the Available Surplus Nike Missile Battery 80, Family Housing Located at East Hanover, NJ

AGENCY: U.S. Army Corps of Engineers, New York District, DOD.

ACTION: Notice.

SUMMARY: This notice provides information regarding the LRA that has been established to plan the reuse of the Nike Missile Battery 80, Family Housing, East Hanover, NJ, as set forth in the new procedures under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

ADDRESSES: Comments for proposals regarding the development of the site for consideration by the Local Redevelopment Authority should be addressed to Mr. Paduch, Township Administrator, 411 Ridgedale Avenue, East Hanover, New Jersey 07936.

FOR FURTHER INFORMATION CONTACT: Mr. Paduch, Township Administrator, 411 Ridgedale Avenue, East Hanover, New Jersey 07936.

SUPPLEMENTARY INFORMATION: In 1989 the Nike Missile Battery 80, Family Housing, East Hanover, NJ, was designated for closure pursuant to Title II Section 204 of Public Law 100–526, Defense Base Closure and Realignment Act, supplemented by paragraph 7 of section 2905(b) of the 1990 Base Closure Act, 10 U.S.C. 2687, as amended by subsection (a) of the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103–421.

Election to Proceed Under the New Statuary Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1194 (Pub. L. 103–421) subsection (e)(1)(b) of the 1994 Act was enacted. This statute gives a redevelopment authority at base closure sites the option of employing new procedures with regard to the manner in which the redevelopment plan is formulated and how requests are made for future use of the property and by homeless assistance providers and non-federal public agencies.

Redevelopment Authority

The Redevelopment Authority for the base for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990 as amended is the Township Council of East Hanover Township, New Jersey. The Township Council is the governing body of East Hanover Township. It consists of the Mayor and four other members of the council. It has already conducted two public town meetings to receive comments from individuals and organizations interested in the redevelopment of the base. The Township Council is assisted by a full time Township Administrator, Mr. C. Richard Paduch.

Take Notice: Pursuant to the Base Closure and Community Redevelopment Assistance Act of 1994, the Township Council of East Hanover extends until May 26, 1995 the period in which State and local governments, representatives of the homeless and other interested parties located in the vicinity of the installation may submit notices of interest to the Township in all or part of the property and/or buildings located at the Nike Missile Battery 80.

Surplus Property Description: The Surplus Nike Missile Battery 80, Family Housing site consists of 13.97 acres of land more or less improved with 32 "Capehart" style houses, each having three bedrooms, one family room, a carport, and storage room. Capehart is the model name assigned to these houses by the builder, National Homes. The houses are wood framed, built on concrete slabs. Water lines and air conditioning ducts are embedded in the foundation slab.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 95–10488 Filed 4–27–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 9, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 am and 8 pm, Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency

VOL 60 ISS 82 AP 28 1995 UMI

of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Expedited
Title: Program for North American Cooperation in Higher Education (A Special Focus Competition of the Fund for the Improvement of Postsecondary Education)
Frequency: Annually
Affected Public: Not-for-profit institutions
Reporting Burden:
Responses: 300
Burden Hours: 6,000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The Program for North American Cooperation in Higher Education is a competitive process to award grants to groups of U.S. institutions of higher education, represented by one member of the group that will serve as lead institution for the U.S. members of the consortium, for an experimental program that will support cooperation and exchange among U.S., Mexican and Canadian institutions of higher education. Funding will be for projects lasting up to three years. Copies of the guidelines and forms for review and comment can be obtained by calling (202) 708–5750.
Additional Information: Clearance for this information collection is requested by May 9, 1995. An expedited review is requested in order to meet the schedule of this competition for this fiscal year. Without an expedited review, the funding for this competition would not be met for this fiscal year.

[FR Doc. 95–10443 Filed 4–27–95; 8:45 am]
BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 12, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract: (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited
Title: Application for Grants Under the Women's Educational Equity Act (WEEA) Program
Frequency: Annually
Affected Public: Individuals or households; not-for-profit institutions; State, Local or Tribal Governments
Reporting Burden:
Responses: 500
Burden Hours: 8,000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State Educational agencies to apply for funding under the Women's Educational Equity Act (WEEA) Program. The Department will use the information to make grant awards.
Additional Information: Clearance for this information collection is requested by May 12, 1995. An expedited review is requested in order to provide award information to clients as soon as possible.

[FR Doc. 95–10442 Filed 4–27–95; 8:45 am]
BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) was requested by April 14, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited
Title: Goals 2000—Educate America Act Title III State Grants Funding for Second Through Fifth Years
Frequency: One time
Affected Public: State, Local or Tribal Government
Reporting Burden:
Responses: 61
Burden Hours: 1,220
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: Second through fifth year Goals 2000 Title III formula state grants provide funding to states to continue to develop and implement wide ranging reform plans at the State, local district, and school level necessary to improve the education for all children in each state. The Secretary will approve applications for second through fifth year funding if: (1) The State's improvement plan has been approved by the Secretary or the State can document that it has made substantial progress toward developing its plan and (2) the State's application conforms to the requirements of law.
Additional Information: Clearance for this information collection is requested for April 14, 1995. An expedited review is requested in order to implement the program before the start of the new year.

[FR Doc. 95–10441 Filed 4–27–95; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Final Environmental Impact Statement for Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs

AGENCY: Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The Department of Energy (DOE) is giving notice of the availability of the final environmental impact statement (EIS) for Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory (INEL) Environmental Restoration and Waste Management Programs (DOE/EIS–0203). The final EIS was prepared in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations implementing NEPA, 40 CFR Parts 1500–1508; and DOE NEPA Implementing Procedures, 10 CFR Part 1021. The final EIS addresses Department-wide spent nuclear fuel (SNF) management strategies for the transportation, receipt, storage, and processing of these fuels. In addition, the final EIS addresses proposed environmental restoration and waste management activities at the INEL. The Department of the Navy was a cooperating agency in preparing this EIS.

Upon completion of general distribution of the document, DOE will file the final EIS with the Environmental Protection Agency, which will then publish a Notice of Availability in the Federal Register. The final EIS will also be available to the public in DOE reading rooms and designated information locations which are identified in this notice. DOE plans to issue a Record of Decision on the final EIS by June 1, 1995.

ADDRESSES: Requests for copies of the final EIS and for further information on the final EIS should be directed to: U.S. Department of Energy, Idaho Operations Office, Office of Communications, Attention: Brad Bugger, 850 Energy Drive, MS 1214, Idaho Falls, ID 83402. Mr. Bugger can be reached by telephone at: 208–526–0833. Addresses of DOE Public Reading Rooms, Navy Information Locations, and other locations where the final EIS will be available for public review are listed below under "Supplementary Information."

General information on the DOE NEPA process may be obtained from Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Ms. Borgstrom may be reached by telephone at: (202) 586–4600 or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

DOE issued a draft EIS for public comment and published a Notice of Availability in the Federal Register on June 24, 1994 (59 FR 32688). Thereafter, DOE held 33 public hearings in 20 cities across the nation in order to obtain public comments on the draft EIS. In addition, public comments were received by mail, a toll-free telephone line, and facsimile. More than 1,430 commentors, including a broad spectrum of private citizens, businesses, local, state and federal officials, Native American Tribes, and public interest groups, commented on the draft EIS. Comments are summarized in Volume 3 of the final EIS. DOE and Navy responses to those comments are also provided in Volume 3, as well as discussions of which comments resulted in changes to the EIS.

Public comments on the draft EIS were assessed and considered both individually and collectively by DOE and the Navy. Some comments resulted in modifications to the EIS. For other comments, DOE explained why a change to the EIS was not warranted. Most responses to such comments communicated government policy, indicated that the comment was beyond the scope of the EIS, explained the relationship of this EIS to other related NEPA documents, referred commentors to information in the EIS, answered technical questions, or further explained technical issues.

The final EIS, like the draft EIS, addresses the potential environmental impacts associated with alternatives for managing DOE spent nuclear fuel on a national level (Volume 1). The final EIS also addresses potential environmental impacts related to the management of solid, radioactive, mixed and hazardous wastes, spent nuclear fuel, and environmental restoration activities at the INEL (Volume 2). DOE conducted

VOL 60 ISS 82 AP 28 1995 UMI

these analyses as part of the decisionmaking process for: (1) Programmatic (nationwide) decisions regarding the management of DOE and Navy spent nuclear fuel; and (2) site-specific decisions regarding the future direction of the environmental restoration and waste management programs at the INEL. DOE's programmatic decisions will determine the locations for managing existing and projected quantities of spent nuclear fuel from now until the year 2035. DOE's site-specific decisions for INEL will determine how to manage environmental restoration and waste management activities and spent nuclear fuel during the next 10 years. DOE's objectives are to mitigate, through environmental restoration, the impacts of previous operations, and to treat, store, and dispose of waste at INEL in a safe and efficient manner.

Alternatives Considered

Programmatic management alternatives for spent nuclear fuel discussed in Volume 1 include: Alternative 1, No Action—perform minimum activities required for safe and secure management at or close to the generation site or current storage location; Alternative 2, Decentralization—storage and stabilization of most spent nuclear fuel at or near the generation site with limited shipments from university and non-DOE facilities; Alternative 3, the 1992/1993 Planning Basis—transport to and store newly generated spent nuclear fuel at INEL or the Savannah River Site and consolidate some existing spent nuclear fuel at INEL; Alternative 4, Regionalization—distribute existing and projected spent nuclear fuel among DOE sites based on fuel type or geographic location (an eastern regional site and a western regional site); and Alternative 5, Centralization—manage all existing and projected spent nuclear fuel at one site until ultimate disposition. Five DOE sites have been analyzed for roles in the management of DOE spent nuclear fuel: (1) the Hanford Site at Richland, Washington; (2) the Idaho National Engineering Laboratory in southeastern Idaho; (3) the Savannah River Site in Aiken, South Carolina; (4) the Oak Ridge Reservation in Oak Ridge, Tennessee; and (5) the Nevada Test Site near Mercury, Nevada. In addition, four Naval shipyards and the Kesselring site (near West Milton, New York) are being considered for management of Naval spent nuclear fuel only. The four Naval shipyards are: (1) Norfolk Naval Shipyard, Portsmouth, Virginia; (2) Portsmouth Naval Shipyard, Kittery, Maine; (3) Pearl Harbor Naval Shipyard, Honolulu, Hawaii; and (4) Puget Sound Naval Shipyard, Bremerton, Washington.

The INEL site-specific alternatives related to environmental restoration and waste management discussed in Volume 2 include: Alternative A, No Action—complete all identified near-term actions and continue to operate most existing facilities; Alternative B, the 10-Year Plan—complete all identified actions and initiate new projects to enhance cleanup, manage laboratory wastes and spent nuclear fuel; Alternative C, Minimum Treatment, Storage, and Disposal—minimize treatment, storage and disposal activities to the extent possible, conduct minimum cleanup and decontamination and decommissioning activities prescribed by regulation and transfer spent nuclear fuel and waste from environmental restoration activities to another site; and Alternative D, Maximum Treatment, Storage, and Disposal—maximize treatment, storage and disposal functions at INEL to accommodate waste and spent nuclear fuel from the DOE complex and conduct maximum cleanup and decontamination and decommissioning.

Preferred Alternatives

DOE's preferred alternatives are identified in the final EIS. The identification of the preferred alternatives for Volume 1 and Volume 2 was based on consideration of environmental impacts, regulatory compliance, DOE and Navy spent nuclear fuel programmatic missions, Idaho National Engineering Laboratory environmental restoration and waste management programs, public comments, national security and defense, and cost.

Preferred Alternative for Programmatic Spent Fuel Management (Volume 1)

The DOE's preferred alternative for programmatic spent nuclear fuel management is Regionalization-By-Fuel-Type (Alternative 4A). Under this alternative, aluminum clad fuel would be consolidated at the Savannah River Site, non-aluminum fuel (including spent nuclear fuel from the Fort Saint Vrain reactor in Colorado) would be consolidated at the Idaho National Engineering Laboratory, and defense production fuel would be retained at the Hanford Site.

The Navy would continue to conduct refueling and defueling of nuclear-powered vessels and prototypes, and to transport spent nuclear fuel to the Idaho National Engineering Laboratory for full examination at the Expended Core Facility and interim storage. Following examination, fuel would remain in storage at the Idaho National Engineering Laboratory. The DOE preferred alternative is consistent with the Navy's preferred alternative identified in the draft EIS.

Under the preferred alternative, facility upgrades, replacements, and additions would be undertaken as necessary, and research and development activities would be conducted. Spent nuclear fuel processing might also occur. Other forms of stabilization might be needed to provide for safe storage and/or transport. Site-specific spent nuclear fuel management decisions will be made after further site-specific or project-specific NEPA evaluations, as appropriate, have been prepared.

The final EIS also states that for planning purposes, DOE assumes that some or all of the SNF in its inventory that satisfies a geologic repository's acceptance criteria, could be placed in the first repository developed under the Nuclear Waste Policy Act, as amended. While sufficient quantity and quality of information are still not available to determine whether the Yucca Mountain site is a suitable candidate for geologic disposal of SNF and high-level radioactive wastes, DOE is in the early planning stages of a repository EIS which will be prepared pursuant to the directives of the Nuclear Waste Policy Act, as amended. Until the repository EIS is complete, no final decision could be made concerning what DOE SNF would be accepted in a geologic repository.

Preferred Alternative for Environmental Restoration and Waste Management Programs at the Idaho National Engineering Laboratory (Volume 2)

The DOE's preferred alternative for INEL environmental restoration and waste management programs is the Ten Year Plan (Alternative B) enhanced to include elements from other alternatives. Under the preferred alternative, ongoing spent nuclear fuel management, environmental restoration, and waste management activities would continue and be enhanced to meet current and anticipated spent nuclear fuel management and waste handling needs. These enhanced activities, related to acceptance of additional offsite-generated materials and waste, would be needed to comply with applicable regulations and agreements. Existing environmental restoration and waste management facilities and projects would continue to operate. Waste generation from onsite sources would increase, as a result of regulatory requirements and increased environmental restoration activities. In addition to existing facilities and projects, projects proposed under Alternative B for 1995 through 2005 would be implemented to meet the current Idaho National Engineering Laboratory mission, comply with negotiated agreements and commitments, and enhance cleanup.

Spent nuclear fuel, transuranic and mixed low level waste would be received from other sites. These activities may be modified following other evaluations currently underway, including proposed actions being negotiated pursuant to Federal Facility Compliance (FFC) Act site treatment plans, the Waste Management Programmatic Environmental Impact Statement and other NEPA Reviews. Generally, the transuranic and mixed low-level waste would be treated and returned to the site of origin (generator) or transported to an approved offsite disposal facility, depending on agreements to be negotiated under the FFC Act with the State of Idaho, the Environmental Protection Agency, and with other affected States. Plans would be developed for a high-level waste treatment facility that would minimize resulting high-radioactivity waste. Ongoing remediation and decommissioning and decontamination projects would continue and additional projects would be constructed.

Availability of Copies of the Final EIS

Copies of the final EIS are being distributed to Federal, State, and local officials and agencies; to organizations and individuals known to be interested in the EIS; and to persons and agencies that commented on the draft EIS. Additional copies may be obtained by contacting Mr. Bugger at the above address. Copies of the final EIS, including appendices, comment letters, public hearing transcripts, and the DOE responses to comments, will be available for public review at the locations listed below. Microfiche copies of selected reference materials will also be available in DOE Reading Rooms and Navy Information Locations listed below. Copies of the reference material may also be obtained upon request.

The final EIS, including appendices, is more than 5,100 pages in length, and is separately bound into the following portions:

Summary of the EIS

Volume I—Programmatic Spent Nuclear Fuel Management EIS (includes Appendices G through L).

Appendix A—Hanford Site Spent Nuclear Fuel Management Program.

Appendix B—Idaho National Engineering Laboratory Spent Nuclear Fuel Management Program.

Appendix C—Savannah River Site Spent Nuclear Fuel Management Program.

Appendix D—Naval Spent Nuclear Fuel Management.

Appendix E—Spent Nuclear Fuel Management at Other Sites.

Appendix F—Nevada Test Site and Oak Ridge Reservation Spent Nuclear Fuel Management.

Volume II—INEL Environmental Restoration and Waste Management Programs EIS (includes Appendices A through F).

Volume III—Response to Public Comments.

The 80-page Summary is available for review for those who do not wish to have the entire final EIS. When requesting copies of the final EIS, please indicate whether you wish to receive only the summary, or the entire final EIS and all of its associated appendices, or specific volumes or appendices, as listed above.

DOE Public Reading Rooms

U.S. Department of Energy, Oakland Operations Office, Environmental Information Center, 1301 Clay Street, Room 700 North, Oakland, CA 94612, (510) 637–1762. Monday-Friday: 8:30 a.m. to 5:00 p.m.

U.S. Department of Energy, Rocky Flats Office, Public Reading Room, Front Range Community College Library, 3645 West 112th Avenue, Level B, Center of the Building, Westminster, CO 80030, (303) 469–4435. Monday & Tuesday: 10:30 a.m. to 6:30 p.m. Wednesday: 10:00 a.m. to 4:00 p.m. Thursday: 8:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Headquarters, Freedom of Information Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 10585, (202) 586–6020. Monday-Friday: 9:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Idaho Operations Office, Public Reading Room, 1776 Science Center Drive, Idaho Falls, ID 83402, (208) 526–9162. Monday-Friday: 8:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Chicago Operations Office, Public Reading Room, University of Illinois at Chicago Library, Government Documents Section, 801 South Morgan Street, Chicago, IL 60607, (312) 996–2738. Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Albuquerque Operations Office, Public Reading Room, National Atomic Museum, 20358 Wyoming Boulevard, SE, Albuquerque, NM 87185, (505) 845–4378. Monday-Friday: 9:00 a.m. to 5:00 p.m.

U.S. DOE Community Reading Room, 1450 Central Avenue, Suite 101, MS C314, Los Alamos, NM 87544, (505) 665–2127. Monday-Friday: 8:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Nevada Operations Office, Public Reading Room, Coordination and Information Center, 3064 South Highland Drive, Las Vegas, NV 89106, (702) 295–0731. Monday-Friday: 7:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Fernald Field Office, Public Environmental Center, JANTER Building 10645, Hamilton-Cleves Highway, Harrison, OH 45030, (513) 738–0164. Monday, Thursday: 9:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday: 9:00 a.m. to 4:30 p.m. Saturday: 9:00 a.m. to 1:00 p.m.

U.S. Department of Energy, Savannah River Operations Office, Public Reading Room, Road 1A, Building 703A, D232, Aiken, SC 29802, (803) 725–1408. Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 2:00 p.m. to 11:00 p.m.

U.S. Department of Energy, Oak Ridge Operations Office, Public Reading Room, 55 Jefferson Avenue, Oak Ridge, TN 37831, (615) 576–1216. Monday-Friday: 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 5:00 p.m.

U.S. Department of Energy, Richland Operations Office, Public Reading Room, Washington State University Tri-Cities, 100 Sprout Road, Room 130W, Richland, WA 99352, (509) 376–8583. Monday-Friday: 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.

Navy Information Locations

Norfolk Naval Shipyard

Chesapeake Central Library, 298 Cedar Rd., Chesapeake, VA 23320–5512, (804) 436–8300. Monday-Thursday: 9:00 a.m to 9:00 p.m. Friday-Saturday: 9:00 a.m to 5:00 p.m. Sunday: 1:00 p.m to 5:00 p.m.

Newport News Public Library, Grissom Branch, 366 Deshazor Dr., Newport News, VA 23602, (804) 886–7896. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 6:00 p.m.

Kirn Library, 301 East City Hall Ave., Norfolk, VA 23510, (804) 441–2429. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m. to 5:30 p.m. Saturday: 9:00 a.m. to 5:00 p.m.

Hampton Public Library, 4207 Victoria Boulevard, Hampton, VA 23669, (804) 727–1154. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Portsmouth Public Library, Main Branch, 601 Court St., Portsmouth, VA 23704, (804) 393–8501. Monday-Thursday: 9:00 a.m to 9:00 p.m. Friday-Saturday: 9:00 a.m to 5:00 p.m.

Virginia Beach Central Library, 4100 Virginia Beach Blvd., Virginia Beach, VA 23452, (804) 431–3001. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday-Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m .to 5:00 p.m.

Puget Sound

Kitsap Regional Library, 1301 Sylvan Way, Bremerton, WA 98310, (206) 377–7601. Monday-Thursday: 9:30 a.m to 9:00 p.m. Friday-Saturday: 9:30 a.m to 5:30 p.m. Sunday: 12:30 p.m. to 5:30 p.m.

Kitsap Regional Library, Downtown Branch, 612 5th Ave., Bremerton, WA 98310, (206) 377–3955. Monday-Friday: 10:00 a.m. to 6:00 p.m.

VOL 60 ISS 82 AP 28 1995 UMI

Suzzallo Library, SM25, University of Washington Libraries, University of Washington, Seattle, WA 98185, (206) 543–9156. Monday-Thursday: 7:30 a.m. to 12:00 midnight. Friday: 7:30 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday 12:00 p.m. to 12:00 midnight.

Portsmouth Naval Shipyard

Rice Public Library, 8 Wentworth St., Kittery, ME 03904, (207) 439–1553. Monday-Wednesday, Friday: 10:00 a.m. to 5:00 p.m. Thursday: 10:00 a.m. to 8:00 p.m. Saturday: 10:00 a.m. to 4:00 p.m.

Portsmouth Public Library, 8 Islington St., Portsmouth, NH 03801, (804) 393–8501. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Pearl Harbor

Aiea Public Library, 99–143 Monalua Rd., Aiea, HI 96701, (808) 488–2654. Monday, Thursday: 10:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday. Saturday: 10:00 a.m. to 5:00 p.m.

Hawaii State Library, 478 S. King St., Honolulu, HI 96813, (808) 586–3535. Monday, Wednesday, Friday, Saturday: 9:00 a.m. to 5:00 p.m. Tuesday, Thursday: 9:00 a.m. to 8:00 p.m.

Pearl City Public Library, 1138 Waimano Home Rd., Pearl City, HI 96782, (808) 455–4134. Monday-Wednesday: 10:00 a.m. to 8:00 p.m. Thursday-Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Pearl Harbor Naval Base Library, Code 90L, 1614 Makalapa Dr., Pearl Harbor, HI 96860–5350, (808) 471–8238. Tuesday-Thursday: 10:00 a.m. to 7:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Kesselring Site

Albany Public Library, Reference and Adult Services, 161 Washington Ave., Albany, NY 12210, (518) 449–3380. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m.

Saratoga Springs Public Library, 320 Broadway, Saratoga Springs, NY 12866, Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Schenectady County Library, 99 Clinton St., Schenectady, NY 12305, (518) 388–4511. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Other Information Locations

Main Library, University of Arizona, Tucson, AZ 85721, (602) 621–6433. School Hours: Sunday-Thursday: 8:00 a.m. to 1:00 a.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m. Summer Hours: Monday-Thursday: 7:30 a.m. to 11:00 p.m. Friday: 7:30 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 8:00 p.m. Sunday: 12:00 noon to 11:00 p.m.

Main Library, University of California at Irvine, Government Publications Receiving Dock, Irvine, CA 92717, (714) 856–7290. School Hours: Monday-Thursday: 8:00 a.m. to 7:00 p.m. Friday: 8:00 a.m. to 5:00 p.m. Saturday-Sunday: 1:00 p.m. to 5:00 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 5:00 p.m. Saturday-Sunday: 1:00 p.m. to 5:00 p.m.

Pleasanton Public Library—Reference Desk, 400 Old Bernal Avenue, Pleasanton, CA 94566, (510) 462–3535. Monday, Tuesday: 1:00 p.m. to 8:00 p.m. Wednesday, Thursday: 10:00 a.m. to 6:00 p.m. Saturday: 2:00 p.m. to 6:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

San Diego Public Library, 820 "E" Street, San Diego, CA 92101, (619) 236–5867. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday-Saturday: 9:30 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Denver Public Library, 1357 Broadway, Denver, CO 80203, (303) 640–8845. Monday-Wednesday: 10:00 a.m. to 9:00 p.m. Thursday-Saturday: 10:00 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

George A. Smathers Libraries, Library West, University of Florida Library, Room 241, P.O. Box 117001, Gainesville, FL 32611–7001, (904) 392–0367. Monday-Thursday: 8:00 a.m. to 9:30 p.m. Friday: 8:00 a.m. to 5:00 p.m. Sunday: 2:30 p.m. to 9:30 p.m.

Atlanta Public Library, 1 Margaret Mitchell Square, Atlanta, GA 30303, (404) 730–1700. Monday: 9:00 a.m. to 6:00 p.m. Tuesday-Thursday: 9:00 a.m. to 8:00 p.m. Friday: 9:00 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m.

Reese Library, Augusta College, 2500 Walton Way, Augusta, GA 30904–2200, (706) 737–1744. School Hours: Monday-Thursday: 7:45 a.m. to 10:30 p.m. Friday: 7:45 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:30 p.m. to 9:30 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 5:00 p.m.

Chatham-Effingham-Liberty Regional Library, 2002 Bull Street, Savannah, GA 31401, (912) 234–5127. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 6:00 p.m.

Parks Library, Iowa State University, Government Publications Department, Ames, IA 50011–2140, (515) 294–3642. School Hours: Monday-Thursday: 7:30 a.m. to 12:00 midnight, Friday: 7:30 a.m. to 10:00 p.m. Saturday: 10:00 a.m. to 10:00 p.m. Sunday: 12:30 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 7:30 a.m. to 10:00 p.m. Friday: 7:30 a.m. to 5:00 p.m. Saturday: 12:30 p.m. to 5:00 p.m. Sunday: 12:30 p.m. to 10:00 p.m.

Boise Public Library, 715 South Capitol Boulevard, Boise, ID 83702, (208) 384–4023. Monday, Friday: 10:00 a.m. to 6:00 p.m. Tuesday-Thursday: 10:00 a.m. to 9:00 p.m. Saturday: 1:00 p.m. to 5:00 p.m.

Idaho Department of Health and Welfare, Idaho National Engineering Laboratory, Oversight Program Library, 1410 North Hilton, Boise, ID 83706, (208) 334–0498. Monday-Friday: 8:00 a.m. to 5:00 p.m.

Idaho State Library, 325 West State Street, Boise, ID 83702, (208) 334–2152. Monday-Friday: 9:00 a.m. to 5:00 p.m.

Shoshone-Bannock Library, Bannock and Pima Streets, HRDC Building, Fort Hall, ID 83203, (208) 238–3882. Monday-Friday: 8:00 a.m. to 4:30 p.m.

Idaho Falls Public Library, 457 Broadway, Idaho Falls, ID 83402, (208) 529–1462. Monday-Thursday: 8:00 a.m. to 7:00 p.m, Friday: 8:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 1:00 p.m.

University of Idaho Library, Rayburn Street, Moscow, ID 83844–2353, (208) 885–6344. Monday-Friday: 8:00 a.m. to 12:00 midnight. Saturday: 9:00 a.m. to 12:00 midnight. Sunday: 10:00 a.m. to 12:00 midnight.

Pocatello Public Library, 812 East Clark Street, Pocatello, ID 83201, (208) 232–1263. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday-Saturday: 10:00 a.m. to 6:00 p.m.

Twin Falls Public Library, 434 Second Street East, Twin Falls, ID 83301, (208) 733–2964. Monday-Thursday: 10:00 a.m. to 6:00 p.m. Friday: 10:00 a.m. to 5:00 p.m. Saturday: 12:00 noon to 5:00 p.m.

Main Library, Third Floor, University of Illinois, 801 South Morgan, Mail Code 234, Chicago, IL 60607, (312) 413–2594. Monday-Thursday: 7:30 a.m. to 10:00 p.m. Friday: 7:30 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 9:00 p.m.

Documents Library, 200–D, University of Illinois, 1408 W. Gregory Drive, Urbana, IL 61801, (217) 244–2060. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 8:00 a.m. to 9:00 p.m. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Engineering Library, Purdue University, West Lafayette, IN 47907, (317) 494–2871. School Hours: Monday-Friday: 8:00 a.m. to 12:00 midnight. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 12:00 noon to 12:00 midnight. Summer Hours: Monday-Friday: 8:00 a.m. to 8:00 p.m.

Manhattan Public Library, Julliette and Poyntz, Manhattan, KS 66502, (913) 776–4741. Monday-Friday: 9:00 a.m. to 9:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 6:00 p.m.

Massachusetts Institute of Technology, Science Library, 160 Memorial Drive Building 14, Cambridge, MA 02139, (617) 253–5685. Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday, Saturday: 8:00 a.m. to 8:00 p.m. Sunday: 12:00 noon to 12:00 midnight.

O'Leary Library, University of Massachusetts, 1 University Ave, Lowell, MA 01854, (508) 934–3205. School Hours: Monday-Thursday: 7:30 a.m. to 11:00 p.m. Friday: 7:30 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 6:00 p.m. Summer Hours: Monday-Friday: 8:30 a.m. to 9:00 p.m Sunday: 2:00 p.m. to 7:00 p.m.

Worcester Public Library, 3 Salem Square, Worchester, MA 01608, (508) 799–1655. Monday, Wednesday: 12:00 noon to 9:00 p.m. Tuesday: 10:00 a.m. to 9:00 p.m. Thursday-Saturday: 10:00 a.m. to 5:30 p.m.

Bethesda Public Library, 7400 Arlington Road, Bethesda, MD 20814, (301) 986–4300. Monday-Thursday: 10:00 a.m. to 8:30 p.m. Friday: 10:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Gaithersburg Regional Library, 18330 Montgomery Village Avenue, Gaithersburg, MD 20879, (301) 840–15. Monday-Thursday: 10:00 a.m. to 8:30 p.m. Friday: 10:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Hyattsville Public Library, 6530 Adelphi Road, Hyattsville, MD 20782, (301) 779–9330. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday: 10:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Ann Arbor Public Library, 343 South 5th Avenue, Ann Arbor, MI 48104, (313) 994–2333. Monday: 10:00 a.m. to 9:00 p.m. Tuesday-Friday: 9:00 a.m. to 9:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Zanhow Library, Saginaw Valley State University, 7400 Bay Road, University Center, MI 48710, (517) 790–4240. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 4:30 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 9:00 p.m. Summer Hours: Monday-Thursday: 8:00 a.m. to 10:30 p.m. Friday: 8:00 a.m. to 4:30 p.m. Saturday: 10:00 a.m. to 2:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Ellis Library, University of Missouri, Columbia, MO 65201, (314) 882–0748. School Hours: Monday-Thursday: 7:30 a.m. to 12:00 midnight. Friday: 7:30 a.m. to 11:00 p.m. Saturday: 9:00 a.m. to 9:00 p.m. Sunday: 12:00 noon 1:00 a.m. Summer Hours: Monday, Thursday: 8:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday: 8:00 a.m. to 5:00 p.m. Saturday: 12:00 noon to 5:00 p.m.

Curtis Laws Wilson Library, University of Missouri Library, Rolla, MO 65401–0249, (314) 341–4227. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 10:30 p.m. Saturday: 8:00 a.m. to 5:00 p.m. Sunday: 2:00 p.m. to 12:00 midnight. Summer Hours: Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 8:00 a.m. to 5:00 p.m. Sunday: 2:00 p.m. to 10:00 p.m.

D.H. Hill Library, North Carolina State University, P.O. Box 7111, Raleigh, NC 27695–7111, (919) 515–3364. School Hours: Monday-Thursday: 7:00 a.m. to 1:00 a.m. Friday: 7:00 a.m. to 6:00 p.m. Saturday: 9:30 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 1:00 a.m. Summer Hours: Monday-Thursday: 7:00 a.m. to 11:00 p.m. Friday: 7:00 a.m. to 6:00 p.m. Saturday: 9:30 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 11:00 p.m.

Omaha Public Library, 215 S. 15th Street, Omaha, NE 68102, (402) 444–4800. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday, Saturday: 9:00 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

General Library, University of New Mexico, Albuquerque, NM 87131–1466, (505) 277–5441. School Hours: Monday-Thursday: 8:00 a.m. to 9:00 p.m. Friday: 8:00 a.m. to 5:00 p.m. Saturday: 1:00 p.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m.

Lockwood Library, State University of New York-Buffalo, Buffalo, NY 14260–2200, (716) 645–2816. School Year: Monday-Thursday: 8:00 a.m. to 10:45 p.m. Friday: 8:00 a.m. to 9:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 10:45 p.m. Summer Hours: Monday, Wednesday, Thursday, Friday: 9:00 a.m. to 6:00 p.m. Tuesday: 9:00 a.m. to 10:00 p.m. Sunday: 1:00 p.m. to 9:00 p.m.

Engineering Library, Cornell University, Carpenter Hall, Main Floor, Ithaca, NY 14853, (607) 255–5762. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 6:00 p.m. Sunday: 12:00 p.m. to 11:00 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 6:00 p.m. Saturday: 12:00 p.m. to 6:00 p.m.

Cardinal Hayes Library, Manhattan College, 4531 Manhattan College Parkway, Riverdale, NY 10471, (718) 920–0100. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 6:30 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 11:00 p.m. Summer Hours: Monday-Friday: 8:30 a.m. to 6:30 p.m.

Brookhaven National Laboratory, 25 Brookhaven Avenue, Building 477 A, P.O. Box 5000, Upton, NY 11973–5000, (516) 282–3489. Monday-Friday 8:30 a.m. to 9:00 p.m. Saturday-Sunday: 10:00 a.m. to 6:00 p.m.

Columbus Metropolitan Library, 96 South Grant Avenue, Columbus, OH 43215, (614) 645–2710. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Kerr Library, Oregon State University, Corvallis, OR 97331–4906, (503) 737–0123. Monday-Friday: 7:45 a.m. to 2:00 a.m. Saturday-Sunday: 10:00 a.m. to 2:00 a.m. Summer Hours: Monday-Friday: 7:45 a.m. to 9:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m., Sunday: 10:00 a.m. to 9:00 p.m.

Brantford Price Millar Library, Portland State University, 934 S.W. Harrison, Portland, OR 97201, (503) 725–4617. Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 10:00 a.m. to 10:00 p.m. Sunday: 11:00 a.m. to 10:00 p.m.

Pattee Library, Pennsylvania State University, University Park, PA 16801, (814) 865–2112. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 10:00 p.m. Saturday: 8:00 a.m. to 9:00 p.m. Sunday: 1:00 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 7:45 a.m. to 10:00 p.m. Friday: 7:45 a.m. to 9:00 p.m. Saturday: 8:00 a.m. to 9:00 p.m. Sunday: 1:00 p.m. to 10:00 p.m.

Narragansett Public Library, 35 Kingston Road, Narragansett, RI 02882, (401) 789–9507. Monday: 10:00 a.m. to 9:00 p.m. Tuesday-Friday: 10:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. (Saturday hours September to May only).

Charleston County Main Library, 404 King Street, Charleston, SC 29403, (803) 723–1645. Monday-Thursday: 9:30 a.m. to 9:00 p.m. Friday-Saturday: 9:30 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 6:00 p.m.

South Caroline State Library, 1500 Senate Street, Columbia, SC 29201, (803) 734–8666. Monday-Friday: 8:15 a.m. to 5:30 p.m. Saturday: 9:00 a.m. to 1:00 p.m.

Clinton Public Library, 118 South Hicks Street, Clinton, TN 37716, (615) 457–0519. Monday, Thursday: 10:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m.

Harriman Public Library, 601 Walden Street, Harriman, TN 37748, (615) 882–3195. Monday-Thursday: 9:00 a.m. to 5:00 p.m. Friday-Saturday: 9:00 a.m. to 1:00 p.m.

Kingston Public Library, 1000 Bradford Way Building #3, Kingston, TN 37763, (615) 376–9905. Monday, Thursday: 10:00 a.m. to 7:30 p.m. Tuesday, Wednesday, Friday: 10:00 a.m. to 5:30 p.m. Saturday: 10:00 a.m. to 2:00 p.m.

Lawson McGhee Public Library, 500 West Church Avenue, Knoxville, TN 37902, (615) 544–5750. Monday-Thursday: 9:00 a.m. to 8:30 p.m. Friday: 9:00 a.m. to 5:30 p.m. Saturday-Sunday: 1:00 p.m. to 5:00 p.m.

Oak Ridge Public Library, Civic Center, Oak Ridge, TN 37830, (615) 482–8455. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday: 10:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 6:00 p.m.

Oliver Springs Public Library, 607 Easterbrook Avenue, Oliver Springs, TN 37840, (615) 435–2509. Tuesday-Thursday: 2:00 p.m. to 4:00 p.m. Saturday: 9:00 a.m. to 12:00 midnight.

Rockwood Public Library, 117 North Front Avenue, Rockwood, TN 37854, (615) 354–1281. Monday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m. Tuesday, Thursday: 10:00 a.m. to 8:00 p.m.

General Library, University of Texas, PCL 2.402X, Austin, TX 78713, (512) 495–4262. School Hours: Monday-Friday: 8:00 a.m. to 2:00 a.m. Saturday: 9:00 a.m. to 2:00 a.m. Sunday: 12:00 p.m. to 2:00 a.m. Summer Hours: Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 9:00 a.m. to 10:00 p.m. Sunday: 12:00 noon to 10:00 p.m.

Evans Library, Texas A&M University, MS 5000, College Station, TX 77843–5000, (409) 845–8850. School Hours: Monday-Thursday: 7:00 a.m. to 12:00 midnight. Friday: 7:00 a.m. to 10:00 p.m. Saturday: 9:00 a.m. to 10:00 p.m. Sunday: 12:00 noon to 10:00 p.m. Summer Hours: Monday-Thursday: 7:00 a.m. to 11:00 p.m. Friday: 7:00 a.m. to 7:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 11:00 p.m.

Marriott Library, University of Utah, Salt Lake City, UT 84112, (801) 581–8394. School Hours: Monday-Thursday: 7:00 a.m. to 11:00 p.m. Friday: 7:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 11:00 a.m. to 9:00 p.m. Summer Hours: Monday-Thursday: 7:00 a.m. to 10:00 p.m. Friday: 7:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Alderman Library, University of Virginia, Charlottesville, VA 22903–2498, (804) 924–3133. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 12:00 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 8:00 a.m. to 10:00 p.m. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 10:00 p.m.

Owen Science & Engineering Library, Washington State University, Pullman, WA 99164–3200, (509) 335–4181. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 9:00 p.m. Saturday: 12:00 noon to 9:00 p.m. Sunday: 12:00 noon to 11:00 p.m. Summer Hours: Monday, Thursday: 7:30 a.m. to 11:00 p.m. Tuesday, Wednesday, Friday: 7:30 a.m. to

VOL 60 ISS 82 AP 28 1995 UMI

6:00 p.m. Saturday-Sunday: 12:00 noon to 6:00 p.m.

Foley Center, Gonzaga University, East 502 Boone Avenue, Spokane, WA 99258, (509) 328–4220, extension 3125. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight, Friday-Saturday: 8:00 a.m. to 9:00 p.m. Sunday: 11:00 a.m. to 12:00 midnight. Summer Hours: Monday-Friday: 8:00 a.m. to 9:00 p.m., Saturday: 10:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 7:00 p.m.

Madison Public Library, 201 W. Mifflin Street, Madison, WI 53703, (608) 266–6350. Monday-Wednesday: 8:30 a.m. to 9:00 p.m. Thursday-Friday: 8:30 a.m. to 5:30 p.m. Saturday: 9:00 a.m. to 5:30 p.m.

Teton County Public Library, 320 South King Street, Jackson, WY 83001, (307) 733–2164. Monday, Wednesday, Friday: 10:00 a.m. to 5:30 p.m. Tuesday, Thursday: 10:00 a.m. to 9:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Issued in Washington, DC, on April 18, 1995.

Jill E. Lytle,

Deputy Assistant Secretary for Waste Management, Environmental Management.

[FR Doc. 95–10514 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Floodplain Involvement for Casey's Pond Improvement Project at Fermi National Accelerator Laboratory, Batavia, IL

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of floodplain involvement.

SUMMARY: DOE proposes to construct a six acre cooling pond in a floodplain located in DuPage County, Illinois. Approximately 15% of the new pond would be within the 100-year floodplain of Kress Creek on the Fermi National Accelerator Laboratory (Fermilab) site. In accordance with DOE Regulations for Compliance with Floodplains/Wetlands Environmental Review Requirements (10 CFR Part 1022), DOE will prepare a floodplain assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain.

DATES: Comments are due to the address below no later than May 15, 1995.

ADDRESSES: Comments should be addressed to Andrew E. Mravca, Area Manager, Batavia Area Office, U.S. Department of Energy, P.O. Box 2000, Batavia, Illinois 60510.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Andrew E. Mravca, Area Manager, Batavia Area Office, U.S. Department of Energy, P.O. Box 2000, Batavia, Illinois 60510, Phone: (708) 840–3281, FAX: (708) 840–3285.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Dr. W. Sedgefield White, Chicago Operations Office, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439, Phone: (708) 252–2101, FAX: (708) 252–2835.

SUPPLEMENTARY INFORMATION: The proposed action would consist of two parts. The first would be to add a six acre pond to an existing system of surface waters including ponds and ditches to provide needed additional cooling capacity. The second would be to install a transfer pipe and pumphouse to connect Casey's Pond to the existing surface water storage system to provide more efficient use of surface water storage capacity. The cooling water from the existing system is used primarily to cool heat exchangers located within the fixed target experimental complex at Fermilab. The additional cooling capacity and effective use of storage capacity is needed to avoid inefficiency and potential system shutdowns due to overheating. The added cooling would also help to avert unacceptable thermal discharges to Kress Creek. The new pond also would provide increased storage capacity for fire protection systems. Consultation with the Illinois Environmental Protection Agency and the Illinois Department of Transportation has been initiated to obtain the required permits.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a floodplain assessment for this proposed DOE action.

The assessment will be included in the Environmental Assessment (EA) prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. Should the evaluation of environmental impacts in the EA support a finding of no significant impact (FONSI), the floodplain statement of finding shall be included. In the event an environmental impact statement (EIS) is needed, the floodplain statement will be contained in the record of decision (ROD).

Issued in Argonne, Illinois, this 12th day of April 1995.

Cherri J. Langenfeld,

Manager, Chicago Operations Office.

[FR Doc. 95–10515 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Chicago Operations Office, Federal Assistance Solicitation for Cooperative Agreement Proposals

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability of a Federal assistance solicitation for cooperative agreement proposals.

SUMMARY: The U.S. Department of Energy (DOE) pursuant to the DOE Financial Assistance Rule 10 CFR 600.9, announces the availability of a solicitation, FASCAP No. DE–SC02–95CE41122. for the Industrial Heating Equipment Research Program. This notice supersedes Federal Register Publication dated February 7, 1995, (60 FR 7178).

FOR FURTHER INFORMATION CONTACT: Cynthia Anderson, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439, (708) 252–2844.

SUPPLEMENTARY INFORMATION: The U.S. Department of Enetgy (DOE) plans to issue a Federal Assistance Solicitation for Cooperative Agreement Proposals (FASCAP), April 21, 1995 for the Industrial Heating Equipment Research Program. The program has the following objectives: (1) To improve industrial energy use efficiency and productivity in heating and combustion for process heat by at least 20%; (2) to improve and increase the use of waste-source fuels; (3) to reduce the national environmental impacts of industrial wastes that results from less efficient production and delivery of process heat; and (4) to lower the industrial production costs and improve the competitive position of U.S. industry relative to foreign-based industry.

The areas of interest of the Solicitation are centered on four main targeted areas that economically conserve energy while minimizing or reducing waste materials. They are (1) optimization of heat transfer to furnace loads, (2) development of adjustable co-fired combustors/combustion chambers for converting industrial waste to process heat or electric power, (3) development of low-cost combustion controls for improving efficiency of multi-burner boilers and industrial furnaces, and (4) high temperature (Order of 2000 degrees F) particulate removal system for application to solid-fueled gas turbines. The Solicitation will apply to any or all of the DOE Industries of the Future, which are high consumers of heating fuel. These industries presently include petroleum, chemicals, pulp/paper, aluminum, glass and steel. Initial funding will favor proposals that apply to the glass industry, and to more than one of the Industries of the Future. Broader coverage, which includes glass, is most desirable. Applicants must demonstrate that the proposed technology can economically accomplish more energy efficient and environmentally acceptable production, that the proposed technology if implemented, can result in 20 percent energy efficiency, and that DOE funding is necessary for development and ultimate commercialization of the proposed technology.

Each project will consist of up to three phases: Phase I, R&D Definition; Phase II, Development; and Phase II, Demonstration Testing and Commercialization Planning. If any of the Phase I work has already been performed, the applicant may propose a project for only the uncompleted Phase I work and the remaining Phases; however, the proposal must fully document and demonstrate that the previous work has been successfully completed. The estimated DOE funding for Phase I is $725,000 (to be spent in GFYs 1995 and 1996). A minimum of 20 percent cost sharing (non-federal) is required for Phase I. Cost sharing for Phase II and Phase III will be in accordance with the Energy Policy Act (EPACT), P.L. 102–486, 42 U.S.C. 13525. The resultant agreement will be managed by the DOE, Chicago Operations Office. The period of performance may vary, depending on the project, from one to six years. Proposals will be due by June 1, 1995. If you are interested in receiving the FASCAP, contact Cynthia Anderson at the above address or (708) 252–2844. All responsible sources may submit a proposal which will be considered.

The Solicitation is subject to the Energy Policy Act, P.L. 102–486, 42 U.S.C. 13525. Section 2306 imposes eligibility requirements on companies seeking financial assistance under Titles XX through XXIII of the Act. A company shall be eligible to receive financial assistance under Titles XX through XXIII of the Act only if the Secretary finds that the company's participation in any program under such titles would be in the economic interest of the United States, as evidence by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions of employment in the United States; an agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers.

Issued in Chicago, Illinois on April 12, 1995.

Timothy S. Crawford,

Assistant Manager for Human Resources and Administration.

[FR Doc. 95–10516 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act. The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before May 30, 1995. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration
2. EIA–871A/F
3. 1905–0145
4. Commercial Buildings Energy Consumption Survey (CBECS)
5. Revision
6. Triennially
7. Voluntary
8. Business or other for-profit; State, Local, or Tribal Government
9. 7448 respondents
10. .333 responses annually
11. 1.275 hours per response
12. 3,167 hours respondent burden
13. EIA–871A/F collects data on energy consumption by commercial buildings and the characteristics of these buildings. The surveys fulfill planning, analyses and decision-making needs of DOE, other Federal agencies, State governments, and the private sector. Respondents are owners/managers of selected commercial buildings and their energy suppliers.

Statutory Authority: Sec. 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 96–511), which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. § 3506(a) and (c)(1).

Issued in Washington DC, April 24, 1995.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–10518 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Solicitation of Comments on Proposed Changes to Collection of Monthly Electricity Generation Data; Notice

SUMMARY: The Energy Information Administration (EIA) proposes to revise the scope of its monthly data collections

VOL 60 ISS 82 AP 28 1995 UMI

to conduct an integrated survey of both electric utilities and nonutility power producers. This would only affect the Form EIA–759, "Monthly Power Plant Report." EIA's objective is to publish monthly summary statistics for both utilities and nonutilities in 1996 including net generation by prime mover and fuel type, fuel consumption, and end-of-the-month fuel stocks.

EIA is currently evaluating the two proposed alternatives described in this notice for the collection of monthly generation, fuel consumption, and fuel stocks from utilities and nonutilities.

DATES: Written comments must be submitted by no later than May 30, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Howard L. Walton, Director of the Coal and Electric Data and Renewables Division (EI–52), Office of Coal, Nuclear, Electric and Alternative Fuels, 1000 Independence Avenue, S.W., Washington, DC 20585. Alternatively, Mr. Walton can be reached at HWALTON@EIA.DOE.GOV (Internet E-mail), 202–254–6234 or 5765 (fax), or 202–254–5500 (voice).

FOR FURTHER INFORMATION: Requests for additional information or copies of EIA forms and instructions should be directed to Dean A. Fennell at DFENNELL@EIA.DOE.GOV (Internet E-mail) or 202–254–5660 (voice).

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

Created by Congress in 1977 as an independent entity within the Department of Energy, the Energy Information Administration (EIA) is the principal and authoritative source of comprehensive energy data for the Congress, the Federal government, the States, and the public. With the mandate to "collect, assemble, evaluate, analyze, and disseminate data and information," EIA's mission is to:

- Maintain a comprehensive data and information program relevant to energy resources and reserves, energy production, energy demand, energy technologies, and related financial and statistical information relevant to the adequacy of energy resources to meet the Nation's demands in the near and longer term future; and
- Develop and maintain analytical tools and collection and processing systems; provide analyses that are accurate, timely, and objective; and provide information dissemination services.

The legal authority for EIA's collection of electric power data is provided by Sections 5(a), 5(b), 13(b), and 52 of the Federal Energy Administration Act of 1974 as amended, Public Law 93–275.

EIA's electric power data and analyses have been used extensively in the development and evaluation of today's Federal policies and regulations regarding the electric power industry. Continued support to the Department, the Federal Energy Regulatory Commission (FERC), the Congress, and the industry is dependent upon EIA's ability to collect and disseminate relevant information about the industry during its transition from a tightly regulated, cost-of service utility industry to an open access, competitively priced power industry.

EIA periodically reviews data requirements and survey instruments to determine if information system enhancements are necessary due to changing environments. EIA recently initiated an overall evaluation of its electric power data systems. Results of this effort will, among other things, identify improvements to survey forms, respondent mailing lists, automated data processing methodologies, publication formats, and electronic dissemination methods. As currently scheduled, revised electric power forms will be published in the Federal Register for public comments in late Spring of 1995. When approved by the Office of Management and Budget (OMB), these revised forms will be mailed to electric power respondents—utilities and nonutilities—in late 1995 and early 1996.

EIA's electric power data requirements review was started in late 1994, and consists of (1) reviewing what electric power data are currently collected by EIA and other Federal agencies, (2) identifying those data that are needed by the Department of Energy, other Federal departments, and the public to monitor the electric power industry, (3) evaluating how well current information systems satisfy identified requirements, and (4) proposing better ways of collecting and disseminating electric power data. Primary objectives of the requirements review are to ensure that data user requirements are being met to the extent practicable, ensuring that data are not being collected unless needed, and minimizing respondent burden.

As part of the requirements review, EIA has interviewed about 30 Federal offices that use EIA electric power information and made site visits to 15 utilities and nonutilities providing electric power data to EIA. EIA also conducted a workshop on November 2, 1994 at the conclusion of the first Department of Energy—National Association of Regulatory Utility Commissioners (DOE-NARUC) National Electricity Forum held in Washington, D.C. A similar workshop is scheduled for April 21, 1995 at the second DOE-NARUC Forum to be held in Providence, Rhode Island. Additionally, EIA and the North American Electric Reliability Council (NERC) have formed a data coordination task force to streamline the collection of electric power reliability data.

One of the earliest findings of the requirements review was that monthly electricity production statistics published by EIA are incomplete. Generation and fuel consumption data are currently collected from nonutility power producers only annually so that EIA monthly electric statistics systematically understate U.S. electricity production by about 10 percent. This situation is expected to grow worse in the future as the electric power industry becomes more competitive and its composition more diverse. The primary EIA publications that contain monthly electric power information are the Electric Power Monthly (EPM), the Monthly Energy Review (MER), and the Short-Term Energy Outlook (quarterly data).

The Form EIA–759 is a monthly census of all operators of electric utility power plants and is used to collect monthly data on net generation by prime mover and fuel-type combination; consumption of coal, petroleum, and natural gas; and end-of-the-month stocks of coal and petroleum for each plant. Summary statistics from the Form EIA–759 are published in EIA's Electric Power Monthly (EPM), Electric Power Annual (EPA), Monthly Energy Review (MER), and the Annual Energy Review (AER). These reports present aggregated data for electric utilities at the U.S., Census division levels and NERC levels.

Prior to 1935, the Bureau of the Census and the U.S. Geological Survey collected, compiled, and published data on the electric power industry. In 1936, the Federal Power Commission (FPC) assumed all data collection and publication responsibilities for the electric power industry and implemented the FPC Form 4, "Monthly Power Plant Report." The Federal Power Act, Sections 311 and 312, and FPC Order 141 define the legislative authority to collect power production data. The Form EIA–759 replaced the

FPC Form 4 in January 1982. EIA's collection authority for the Form EIA–759 is provided by the Federal Energy Administration Act of 1974 (Public Law 93–275), sections 5(a), 5(b), 13(b), and 52.

Prior to 1980, the FPC Form 4 collected monthly data from all U.S. electric power plants operated by utilities and about 250 industrial power plants of 10 megawatts or more. In this timeframe, nonutilities consisted primarily of industrial manufacturers that produced electricity mainly for internal consumption. Due to the decreasing importance of nonutility generation, collection of monthly generation, fuel consumption, and fuel stocks from industrial power plants was discontinued in January 1981.

The role of nonutility power producers in the Nation's electricity supply has grown significantly since 1981 and reflects the emerging competition within the wholesale electric power markets. The near monopoly of electric generation by regulated electric utilities has ended, as many new industry participants generate and sell electric power to electric utilities, thus changing long-established institutional relationships. In 1993, net generation by nonutilities was over 300 billion kilowatthours (kWh) or about 10 percent of the total 3,200 billion kWh generated in the United States. The outlook is for greater participation by nonutility power producers in wholesale power supply.

The changing roles and relationships between utilities and nonutilities in the Nation's electric power industry prompted EIA to reinstitute data collection from nonutilities in 1989. The Form EIA–867, "Annual Nonutility Power Producer Report," was implemented to collect generation, fuel consumption, and other electricity-related data from nonutility power plants with a generating capacity of 1 megawatt or more. Data reported on the mandatory Form EIA–867 are considered confidential and summary statistics published by EIA from the Form EIA–867 are aggregated in a way to protect the confidentiality of individual respondents. Data reported on the Form EIA–759 are not confidential.

II. Current Actions

To overcome the lack of monthly data from nonutilities—generation, fuel consumption, and fuel stocks—EIA is considering two data collection alternatives.

Alternative 1—Electric Control Area Reporting

The first alternative is to acquire monthly electronic data from U.S. electric control area operators. A control area is an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to: (1) Match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s); (2) maintain scheduled interchange with other Control Areas; (3) maintain the frequency of the electric power system(s) within reasonable limits; and (4) provide sufficient generating capacity to maintain operating reserves. There are about 150 electric control areas operating in the United States each with a unique computer and telecommunication system for monitoring and controlling the generators and external interconnections in its area. Typically, remote meter readings are electronically transmitted every few seconds or minutes to the electric control area computers so that system performance can be continuously assessed and controlled.

The real-time data acquired and maintained by electric control area operators represents a potential new data source for EIA's monthly electric power statistics. Instead of surveying thousands of power plants each month, this alternative envisions electric control area operators providing electronic summaries of operational data for generators and power plants each month. Under this reporting scheme, real-time data for utility and nonutility generators (or plants) would be aggregated each month and transmitted electronically to EIA. Data file transfer could be accomplished using Internet, commercial E-mail systems, or modem-to-modem communication protocols. EIA would develop one or more standard formats that electric control area operators could use for the monthly filings.

If this alternative is technically feasible and will significantly reduce monthly respondent burden, implementation could begin in 1996. EIA would continue to use the Form EIA–759 until electric control area operators are filing monthly and the data have been validated for consistency. Implementation activities would include developing standard file formats, establishing electronic communication procedures, ensuring the completeness and accuracy of data to be submitted, and working with respondents to overcome any technical challenges. EIA would consider conducting 1-day regional workshops for electric control area personnel to coordinate and facilitate the implementation of this alternative. There would be a phase-in period in which the Form EIA–759 could be used for any power plants not monitored by electric control area operators.

Alternative 2—Form EIA–759 Sample

The second alternative is to revise the coverage of the current Form EIA–759 and sample both utilities and nonutility power producers. Nonutilities would receive the Form EIA–759 by mail and be required to report monthly generation provided to the electric grid by each prime mover and fuel combination, fuel consumption by each prime mover, and end-of-month fuel stocks. Current procedures of preprinting static administrative information on the form would be continued to help respondents complete their submissions by the 10th working day of the month following the reporting month.

If monthly electric power data collection is extended to nonutility power producers, the EIA–759 survey methodology would be changed from a census of utility power plants to a statistical sample of utility and nonutility power plants. EIA has determined that a sample of approximately 1,700 power plants would provide sufficient data to accurately estimate U.S. and NERC region monthly electricity generation by fuel type, fuel consumption, and end-of-the-month fuel stocks. Implementation of this sampling methodology means that State and company-level information will no longer be available on a monthly basis. Monthly estimates of net generation aggregated by calendar year would be verified against annual electric power data collected by EIA (e.g., Forms EIA–861 and EIA–867) to ensure the accuracy of statistical estimates. There are about 5,100 power plants of 1 megawatt and greater in the United States—3,000 operated by electric utilities and 2,100 operated by nonutility power producers.

Implementation of this alternative would start with the January 1996 reporting period. Implementation activities would primarily consist of combining the utility and nonutility universes of power plants and selecting a statistical sample of about one-third of all power plants. EIA would work with all new Form EIA–759 respondents to

VOL 60 ISS 82 AP 28 1995 UMI

ensure that the forms are completed accurately and filed on time.

III. Request for Comments

Prospective respondents and other interested parties are requested to comment on the alternatives described above and to prepare modifications or refinements deemed useful. The following general questions provide a framework for the preparation of responses and will be used by EIA in its evaluation of the two alternatives.

For electric control area operators:

1. Do electric control area operators telemeter each utility and nonutility generators 10 megawatts and over? Is output from generators under 10 megawatts telemetered by individual unit or aggregated by type of unit at each power plant? Are power plants under 1 megawatt telemetered?

2. Do electric control area operators acquire monthly data (either electronic or manual) on fuel consumption by power plant or by generating unit? Is fuel consumption by nonutilities collected on any basis?

3. Do electric control area operators acquire data (either electronically or manually) on fuel stocks at power plants?

4. What format(s) would electric control area operators prefer when providing electronic data to EIA? What facilities/equipment do control area operators have to electronically send data to EIA?

5. How soon after the end of each month could electric control area operators provide electronic data to EIA? Manually prepared data?

6. What modifications to electric control area computer systems would be necessary to provide monthly electronic data on generation from all generators 10 megawatts and over? What length of time would be necessary to implement those modifications? How much would these modifications cost?

7. What modifications to systems and/or manual procedures would be necessary to provide monthly data on fuel consumption from all generators 10 megawatts and over? What length of time would be necessary to implement these modifications? How much would these modifications cost?

8. What modifications to systems and/or manual procedures would be necessary to provide monthly data on power plant fuel stocks. What length of time would be necessary to implement these modifications? How much would these modifications cost?

9. What is the estimated monthly burden in person-hours to provide electronic data on electricity output from all generators 10 megawatts and more? Fuel consumption by generating unit? Plant fuel stocks?

10. Is monthly electricity output by generator, monthly fuel consumption by generating unit, or plant fuel stocks considered confidential? Why?

For nonutility power producers:

11. Do nonutility power producers maintain monthly records on electricity output by generator, fuel consumption by generating unit, and plant fuel stocks? Are these data currently recorded in an electronic format?

12. What format(s) would nonutilities prefer when providing generation, fuel consumption, and fuel stock data to EIA? What facilities/equipment do nonutilities have to electronically send data to EIA?

13. How soon after the end of each month could nonutility power producers provide generation and fuel consumption by unit, and plant fuel stock data to EIA?

14. What modifications to systems and/or manual procedures would be necessary to provide monthly generation and fuel consumption by unit, and plant fuel stock data to EIA?

15. What is the estimated monthly burden in person-hours to provide generation and fuel consumption by unit, and plant fuel stocks data to EIA?

16. Are monthly generation, fuel consumption, or fuel stock data considered confidential? Why?

For data users:

17. Does the lack of monthly electricity output from nonutility producers adversely impact your use of EIA data? Lack of monthly fuel consumption data from nonutilities? Lack of fuel stock data from nonutilities? How?

18. What level of accuracy do you need for monthly U.S. electricity generation and fuel consumption by the electric power industry?

19. Do you need generation, fuel consumption, or fuel stock data by unit, plant, or company? What level(s) of aggregation are useful to you?

20. For what purposes do you or would you use monthly generation, fuel consumption and/or fuel stock data? Please be specific.

21. What are the weaknesses and strengths of the data collection alternatives under consideration by EIA? Please be specific as it relates to your use of the data.

22. Would a determination by EIA that generation, fuel consumption, or fuel stock data by plant are confidential affect your use of the data?

Comments submitted in response to this notice will become a matter of public record.

Statutory Authorities: Section 2(a) of the Paperwork Reduction Act of 1980 (Pub. L. No. 96–511), which amended Chapter 35 of Title 44 of the United States Code [See 44 U.S.C. § 3506(a) and (c)(1)].

Issued in Washington, DC, April 24, 1995.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–10517 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–748–000, et al.]

Western Gas Resources Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 21, 1995.

Take notice that the following filings have been made with the Commission:

1. Western Gas Resources Power Marketing, Inc.

[Docket No. ER95–748–000]

Take notice that on April 14, 1995, Western Gas Resources Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Washington Water Power Co.

[Docket No. ER95–806–000]

Take notice that on March 27, 1995, The Washington Water Power Company (WWP), tendered for filing Service Agreements previously accepted under Electric Tariff No. 4 as unsigned service agreements: Associated Power Services, Inc., Citizens Power & Light Corporation, Electric Clearinghouse, Inc., Enron Power Marketing, Inc. InterCoast Power Marketing Company, LG&E Power Marketing, Inc., National Electric Associates (L.P.) and Power Exchange Corporation.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. CNG Power Services Corporation

[Docket No. ER95–840–000, Docket No. ER95–846–000]

Take notice that on April 6, 1995, CNG Power Services Corporation filed a letter withdrawing its filings in the above-referenced dockets.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power Corp.

[Docket No. ER95–848–000]

Take notice that on March 28, 1995, Florida Power Corporation tendered for filing an amendment to its agreement with Seminole Electric Cooperative for supplemental resale service and distribution service.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. UtiliCorp United Inc.

[Docket No. ES95–29–000]

Take notice that on April 13, 1995, UtiliCorp United Inc. filed an application under § 204 of the Federal Power Act seeking authorization to issue, from time to time, unsecured notes and other obligations, including guarantees of securities issued by subsidiaries or affiliates, up to and including $400 million in the aggregate at any one time outstanding, during the period commencing July 1, 1995 and ending June 30, 1997, with a final maturity date not later than June 30, 1998.

Comment date: May 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10532 Filed 4–27–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EL95–40–000 and Docket No. QF89–58–001]

Mega-Racine Associates, Inc.; Notice of Filing

April 24, 1995

On April 21, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk) filed a petition for a declaratory order revoking the qualifying status of a topping-cycle cogeneration facility owned by Megan-Racine Associates, Inc. in Canton, New York. The facility was granted certification as a qualifying cogeneration facility in an order dated January 27, 1989. *Megan-Racine Associates, Inc.*, 46 FERC ¶ 62,074, (1989). Niagara Mohawk claims in its petition that for the years 1991, 1992, 1993, and 1994 the facility did not meet the applicable operating and efficiency standards applicable to natural gas-fired, topping-cycle qualifying cogeneration facilities under section 292.205 of the Commission's regulations. 18 CFR 292.205. Niagara Mohawk asks the Commission to declare that the facility was not a qualifying facility for the years 1991, 1992, 1993, and 1994 and asks the Commission to revoked certification for the years 1991, 1992, 1993 and 1994.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211 and 385.214 (1992)). All such motions or protests should be filed on or before May 22, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10462 Filed 4–27–95; 8:45 am]

BILLING CODE 6717–01–M

[RP95–31–000]

National Fuel Gas Supply Corp.; Notice of Informal Settlement Conference

April 24, 1995.

Take notice that an informal settlement conference will be convened in these proceedings on May 3, 1995 at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C., 20426, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the commission's Regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger (202) 208–2215 or Arnold H. Meltz (202) 208–2161.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10451 Filed 4–27–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 5196–7]

Sole Source Aquifer Designation for the Broad Brook Basin of the Barnes Aquifer

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In response to a petition from the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton, Massachusetts, notice is hereby given that the Regional Administrator of the U.S. Environmental Protection Agency—New England (EPA) has determined that the Broad Brook Basin of the Barnes Aquifer satisfies all determination criteria for designation as a sole source aquifer, pursuant to Section 1424(e) of the Safe Drinking Water Act, 42 U.S.C., section 300h–3(e). The following findings were made in accordance with the designation criteria: the Broad Brook Basin of the Barnes Aquifer supplies more than 50% of the water needs for the communities within the service area boundaries; there are no viable alternative sources of sufficient supply; the boundaries of the designated area and the project review area have been reviewed and approved by the EPA; and, if contamination were to occur, it would pose a significant public hazard and a serious financial burden to the communities within the aquifer service area. As a result of this action, the EPA may review, suggest modifications to, or withhold funding for, any federally financially assisted projects proposed for construction within the Broad Brook Basin of the Barnes Aquifer that may pose an adverse risk of ground water contamination.

DATES: This determination shall become effective May 12, 1995.

ADDRESSES: The data upon which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency—New

VOL
60
ISS
82
AP
28
1995
UMI

England, Water Management Division, One Congress Street, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healey, Chief of the Water Management and Water Supply Branch, EPA—New England, JFK Federal Building, WSB, Boston, MA 02203; (617) 565–3610.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act, 42 U.S.C., section 300h–3(e), states:

If the Administrator determines, on his own intiative or petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On December 17, 1993, the EPA received a petition from the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton, Massachusetts, requesting the designation of the Broad Brook Basin of the Barnes Aquifer as a sole source aquifer Section 1424(e) of the SDWA. The Sole Source Aquifer designation process consists of four phases, as outlined in the Sole Source Aquifer Designation Petitioner Guidance: Phase I—Petition Preparation, Phase II—Initial Petition Review/Determination of Completeness, Phase III—Detailed Review/Technical Verification, and Phase IV—Designation Determination. The Water Management Division has determined that the Barnes Aquifer Protection Advisory Committee's and the Town of Easthampton's petition fully satisfies the first three phases of the designation process.

II. Basis for Determination

Among the factors considered by the Regional Administrator as part of the detailed review and technical verification process for designating an area under Section 1424(e) were:

1. The Broad Brook Basin of the Barnes Aquifer is a high-yielding stratified drift aquifer which the service area population relies on for more than 50% of its drinking water needs.

2. There exists no viable economical alternative drinking water source or combination of sources to supply the designated service area.

3. The EPA has found that the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton have appropriately delineated the boundaries of the aquifer recharge area, project designation area and project review area.

4. While the quality of the Broad Brook Basin of the Barnes Aquifer's ground water is considered to be good, it is highly vulnerable to contamination due to its geological characteristics and possible land-use activities. The designated area is a stratified drift aquifer consisting of shallow sand and gravel deposits. The shallow nature of the aquifer allows contaminants to be rapidly introduced into the ground water with minimal assimilation. It is this high vulnerability to contamination, especially in the southern portion of the Basin, coupled with the aquifer's value as the principal source of drinking water for the residents served, that could pose a significant public health hazard.

III. Description of the Broad Brook Basin of the Barnes Aquifer Designated Area and Project Area

The Broad Brook Basin of the Barnes Aquifer is located in Hampshire and Hampden Counties, Massachusetts, approximately 100 miles west of Boston. Part of the Connecticut River watershed, the Broad Brook Basin is approximately nine square miles in area, and encompasses portions of the Towns of Easthampton, Southampton (Hampshire County), and the City of Holyoke (Hampden County).

Broad Brook begins its headwaters south of Mount Tom and flows south for approximately three miles, then north about four miles from Rock Valley to Nashawannuck Pond in Easthampton. The topography of the aquifer ranges from level ground at 150 feet above mean sea level to the summit of Mount Tom at 1,200 feet above mean sea level. Volcanic and sedimentary rocks of Triassic age underlie the basin. These formations are overlain with unconsolidated deposits of sand, gravel, silt and clay laid down by glacial ice, meltwater streams and proglacial lakes during and following the advance and retreat of the Wisconsinan (Laurentide) Ice Sheet, approximately 22,000 to 14,000 years ago. Ground water in these deposits flows predominantly south to north, and is partially confined by clay deposits in the northern portion of the area.

The aquifer includes a mixture of open space, forests and wetlands, and supports agriculture, recreation, and an increasing number of residential and commercial uses. The Easthampton Water Department operates three municipal wells that draw ground water from the Broad Brook Basin and serve approximately 15,600 people in Easthampton and bordering areas of Northampton and Southampton. The aquifer provides 64% of drinking water in the service area, making it eligible for designation as a Sole Source Aquifer. Use of alternative supplies of water outside the aquifer was found to be economically infeasible.

The quality of ground water in the Broad Brook Basin is generally excellent, but both the highly permeable nature of the aquifer material and the shallow depths to the water table reduce the capacity for pollution attention, making the aquifer vulnerable to contamination. Ground water contamination by Trichloroethylene (TCE) has forced the Town of Easthampton to take a well off-line and investigate treatment options, and has forced the City of Holyoke to close a well permanently. Local government has acted to protect the water quality of the Barnes Aquifer through formation of a multi-town Barnes Aquifer Protection Advisory Committee and adoption of an Aquifer Protection District in Easthampton. The residents of Easthampton are considering amendment of the Aquifer Protection District to comply with more recent State Drinking Water Regulations. The petitioners think that a Sole Source Aquifer Designation would augment their ground water protection efforts by providing a forum for public education and by increasing awareness about the importance and vulnerability of the aquifer which overlies the municipal boundaries of three communities.

IV. Information Utilized in Determination

The information utilized in this determination includes: the petition submitted to the EPA—New England Water Management Division by the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton, letters of support received during the public comment period, and public comments received during the public hearing. This information is available to the public and may be inspected at the address listed above.

V. Project Review

The EPA—New England office is working with the federal agencies most likely to provide financial assistance to projects in the project review area. Interagency procedures and Memoranda of Understanding have been developed through which the EPA will be notified of proposed commitments by federal agencies to projects which could contaminate the Broad Brook Basin of the Barnes Aquifer. The EPA will evaluate such projects, and where necessary, conduct an in-depth review, including soliciting public comments when appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into for that project. However, a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to ensure that it will not contaminate the aquifer. Included in the review of any federal financially assisted projects will be the coordination with state and local agencies and the project's developers. Their comments will be given full consideration and the EPA's review will attempt to complement and support state and local ground water protection measures. Although the project review process cannot be delegated, the EPA will rely to the maximum extent possible on any existing or future state and/or local control measures to protect the quality of ground water in the Broad Brook Basin Project Review Area.

VI. Summary and Discussion of Public Comments

A total of three written comments were received in support of the petition during the comment period. Four people spoke in favor of the petition at the November 15, 1994 public hearing. In addition, letters of designation endorsement were received from the Easthampton Water Department, the Towns of Easthampton, Southhampton and the City of Holyoke, Massachusetts. There were no comments opposing the petition, either in written form or at the public hearing.

Dated: April 10, 1995.

John P. DeVillars,

Regional Administrator, U.S. Environmental Protection Agency—New England.

[FR Doc. 95–10507 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4722–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075. Weekly receipt of Environmental Impact Statements Filed April 17, 1995 Through April 21, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950147, FINAL EIS, NPS, HI, Haleakala National Park General Management Plan and Conceptual Framework, Implementation, Island of Maui, Maui County, HI, Due: May 29, 1995, Contact: Donald Reeser (808) 572–9306.

EIS No. 950148, FINAL EIS, EPA, CA, Adoption—Southeast Regional Wastewater Treatment Plant and Geysers Effluent Pipeline Injection Project, Improvements, Funding, COE Section 404 Permit and NPDES Permit, City of Clearlake, Lake County, CA, Due: May 29, 1995, Contact: Elizabeth Borowiec (415) 744–1948.

The US Environmental Protection Agency (EPA) has adopted the Department of Interior's, Bureau of Land Management final EIS filed 8–18–94. EPA was not a cooperating Agency for the above final EIS. Recirculation of the document is necessary under Section 1506.3(c) of the Council on Environmental Quality Regulations.

EIS No. 950149, DRAFT EIS, IBR, AZ, Tucson Aqueduct System Reliability Investigation (TASRI), Central Arizona Project, Surface Storage Reservoir Construction, COE Section 404 Permit, Gila River, City of Tucson, Pima County, AZ, Due: June 12, 1995, Contact: Bruce D. Ellis (602) 870–6767.

EIS No. 950150, DRAFT EIS, BLM, NV, Bald Mountain Gold Mine Expansion Project, within the Horseshoe/Galaxy Mine, Plan of Operation Approval and COE Section 404 Permit, White Pine and Elko Counties, NV, Due: June 16, 1995, Contact: Dan Netcher (702) 289–1872.

EIS No. 950151, DRAFT EIS, AFS, UT, Brian Head Recovery Project, Timber Harvest, Implementation, Dixie National Forest, Cadar City Ranger District, Iron County, UT, Due: June 12, 1995, Contact: Ronald S. Wilson (801) 865–0627.

EIS No. 950152, FINAL EIS, COE, NJ, Atlantic Coast of New Jersey, Beach Erosion Control Project, Implementation, Sandy Hook to Barnegat Inlet within the Borough of Asbury Park to Manasquan, Monmouth County, NJ, Due: May 29, 1995, Contact: Mark H. Burlas (212) 264–4663.

EIS No. 950153, DRAFT EIS, FAA, NY, Syracuse Hancock International Airport, Land Acquisition and Construction of Runway 10 L–28R, Funding and Airport Layout Plan Approval, Onondaga County, NY, Due: July 26, 1995, Contact: Frank Squeglia (718) 553–0798.

EIS No. 950154, DRAFT EIS, AFS, CA, Pacific Pipeline Transportation Project, Construction/Operation, Right-of-Way Grant, Special-Use-Permit, COE Section 10 and 404 Permits, Angeles National Forest, Santa Barbara, Ventura, Los Angeles and Kern Counties, CA, Due: June 19, 1995, Contact: Richard Borden (818) 574–5255.

EIS No. 950155, LEGISLATIVE DRAFT EIS, AFS, ID, Upper Selway River Tributaries, Wild and Scenic River Study, for Fifteen Rivers, Suitability and Unsuitability, National Wild and Scenic Rivers Systems, Nez Perce National Forest, Idaho County, ID, Due: June 12, 1995, Contact: James Paradiso (208) 983–1950.

EIS No. 950156, DRAFT EIS, NPS, AZ, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan, Implementation, Portion of the Sonoran Desert, Pima County, AZ, Due: July 10, 1995, Contact: Dan Olson (415) 744–3968.

EIS No. 950157, DRAFT EIS, BLM, WY, Moxa Arch Area Natural Gas Development Project Expansion, Approvals, Right-of-Way Grants and COE Section 404 Permit(s) Issuance, Sweetwater, Lincoln and Unita Counties, WY, Due: June 12, 1995, Contact: Bill McMahan (307) 382–5350.

EIS No. 950158, DRAFT EIS, COE, UT, Kennecott Tailings Modernization Project, Tailings Impoundment Expansion, COE Section 404 Permit Issuance, Salt Lake County, UT, Due: June 27, 1995, Contact: Michael Schwinn (801) 295–8380.

EIS No. 950159, DRAFT EIS, AFS, ID, Fish Bate Timber Sale, Implementation, North Fork Clearwater River, Clearwater National Forest, North Fork Ranger District, Clearwater County, ID, Due: June 12, 1995, Contact: Jennefer Sundberg (208) 476–3775.

EIS No. 950160, DRAFT EIS, UAF, GU, Andersen Air Force Base (AFB) Solid Waste Management Facility, Construction, Island of Guam, GU, Due: June 12, 1995, Contact: Roy N. Tsutsui (671) 366–2101.

EIS No. 950161, FINAL EIS, AFS, UT, Upper Provo River Reservoirs Stabilization Project, Implementation, Wasatch-Cache National Forest, Kamas Ranger District, Summit County, UT, Due: May 29, 1995, Contact: Melissa Blackwell (801) 783–4338.

VOL 60 ISS 82 AP 28 1995 UMI

EIS No. 950162, FINAL EIS, FRC, CA, NV, OR, Tuscarora Natural Gas Pipeline Project, Construction and Operation, Right-of-Way Grant, Special-Use-Permit, NPDES Permit and COE Section 404 Permit, Lassen County, CA; Washoe and Storey Counties, NV and Klamath County, OR, Due: May 29, 1995, Contact: Alisa Lykens (202) 208–0766.

EIS No. 950163, FINAL EIS, DOE, NAT, Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs, Implementation, Due: May 29, 1995, Contact: Stan Lichtman (208) 586–4600.

Amended Notices

EIS No. 950075, DRAFT SUPPLEMENT, AFS, AK, Bohemia Mountain Timber Sale, Updated Information concerning Resolution of Three Appeal Issues Regarding Harvesting Timber, Tongass National Forest, Stikine Area, AK, Due: June 12, 1995, Contact: David E. Helmick (907) 772–3841. Published FR 03–17–95—Review period extended.

Dated: April 25, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–10533 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5199–6]

Notice of Meeting and Request for Comment on Targeted Legislative Changes to RCRA

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meetings/request for comment.

SUMMARY: As called for in the President's plan for "Reinventing Environmental Regulation", EPA is seeking to identify a package of targeted legislative improvements to the Resource Conservation and Recovery Act (RCRA). The Agency will consider the views of all stakeholders and communicate the results, findings, and recommendations to Congress by July 15, 1995. EPA is providing an opportunity for interested individuals to present their ideas and suggestions for improving the solid and hazardous waste system under RCRA. This notice provides information on the initiative, solicits input from all interested individuals, and announces a series of roundtable meetings that will be open to the public. A limited number of individuals will be invited to sit at the "roundtable" to participate in a public, facilitated dialogue on various issues. Space will be available for other members of the public to observe and comment on the dialogue as well.

DATES: EPA will accept public comments until June 15, 1995. Both written and electronic comments must be submitted on or before this date. Representatives from a cross-section of the regulated community, environmental groups, Environmental Justice groups, and states will be invited to participate in roundtable discussions. At each such meeting, there will be an opportunity for public comment. Roundtable Meetings (open to the public) will be held as follows:

May 10, 1995, 9 a.m. until 4 p.m., Lake Michigan Room, EPA Regional Office, 77 West Jackson Boulevard, Chicago, Illinois

May 25, 1995, 9 a.m. until 4 p.m., Sheraton Crown Center Hotel, 15700 J.F.K. Boulevard, Houston, Texas

June 7, 1995, 9 a.m. until 4 p.m., Hyatt Regency Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202

ADDRESSES: Commentors must send an original and two copies of their comments referencing docket number F–95–LRRA–FFFFF to: RCRA Information Center (5305), U.S. Environmental Protection Agency, 401 M. Street, S.W., Washington, DC 20460.

Comments also may be submitted electronically by sending electronic mail to RCRA-Docket@epamail.epa.gov. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on 3.5" disks in WordPerfect in 5.1 file format or ASCII file format. Electronic comments must also be identified by docket number F–95–LRRA–FFFFF. Confidential Business Information (CBI) should not be submitted through electronic mail.

Public comments and relevant documents are available for viewing in the RCRA Information Center (RIC) located in room M2616, at the EPA address listed above. The RIC is open from 9 a.m. to 4 p.m. Monday through Friday, excluding Federal holidays. To review docket materials, the public must make an appointment by calling (202) 260–9327. Materials may be copied for $0.15 per page. Charges under $25.00 are waived.

Roundtable meetings will be at the following locations. These meetings are open to the public. Call Denise Madigan of JAMS-ENDISPUTE at (202) 942–9180 if you wish to attend, as space may be limited.

FOR FURTHER INFORMATION CONTACT: For accessing information electronically, see **SUPPLEMENTARY INFORMATION** below.

For further information, contact one of the following individuals at EPA in the Office of Solid Waste, RCRA Legislative Reform Team: David Hockey at (202) 260–7596, Bob Hall at (202) 260–9355, or Judy Kertcher (202) 260–4522.

SUPPLEMENTARY INFORMATION: This **Federal Register** and other relevant materials (meeting summaries, public comments) will be available in electronic format on the Internet System through the EPA Public Access Server.

This notice is also available electronically through INDIANnet, operated by Americans for Indian Opportunity. For information and assistance with using INDIANnet, call 1–605–345–9642.

Paper copies are also available in the RCRA Docket at the address listed in the previous section.

This document and the background package for this initiative signed April 13, 1995 are also available on the EPA's Clean-up Information Bulletin Board (CLU–IN). To access CLU–IN with a modem of up to 28,800 baud, dial (301) 589–8366. First-time users will be asked to input some initial registration information. Next, select "D" (download) from the main menu. Input the file name "NOTICE.FR" to download this notice and "RCRA.REF" to download the initiative announcement and background package. Follow the on-line instructions to complete the download. More information about the download procedure is located in Bulletin 614; to read this bulletin type "B614" from the main menu. For additional help with these instructions, telephone the CLU–IN help line at (301)589–8368.

The **Federal Register** notice, minutes of the public meetings, and copies of all comments submitted also will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed paper form as they are received, and will place the paper copies in the public record which will also include all comments submitted directly in writing. The official public record is the paper record maintained at the address in **ADDRESSES** at the beginning of this notice.

Follow these instructions to access information electronically:

1. *Through Gopher:* Go to: gopher.epa.gov. From the main menu, choose "EPA Offices and Regions" Next, choose "Office of Solid Waste and Emergency Response (OSWER)". Next, choose "Office of Solid Waste". Then choose "RCRA General/Notice of Meetings".

2. *Through FTP:* Go to: ftp.epa.gov Login: Anonymous Password: Your Internet Address. Files are located in directories/pub/gopher/OSWRCRA.

3. *MOSAIC:* Go to: http://www.epa.gov Choose the EPA Public Access Gopher. From the main (Gopher) menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)". Next, choose "Office of Solid Waste". Then, choose "RCRA General/Notice of Meetings".

4. *Through dial-up access:* Dial (919)558–0335. Choose EPA Public Access Gopher. From the main (Gopher) menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)". Next, choose "Office of Solid Waste". Then choose "RCRA General/Notice of Meetings".

Background

The Resource Conservation and Recovery Act has been an enormously effective tool in achieving a dramatic transformation in the way that we manage hazardous waste. RCRA has allowed the Agency to develop a cradle-to-grave system to ensure the protection of human health and the environment when generating, transporting, storing, or disposing of hazardous waste. The Agency believes that a successful legislative process to make targeted changes to RCRA, could make the statute an even more effective tool in safely managing our solid and hazardous waste.

Eleven issue descriptions have been developed by EPA to serve as a starting point for discussions to prepare a package of targeted reforms to RCRA. Each of these issues, regarding certain statutory requirements for managing solid and hazardous waste, has been previously identified by one or more stakeholders as an area of concern in which reforms would be helpful.

EPA will consider all comments received in developing the legislative proposal. However, due to the expedited timeframe, EPA will not prepare formal responses to all comments and suggestions placed in the docket.

We caution the reader not to infer any new EPA policy statements from this list of issues. These papers are staff drafts attempting to summarize stakeholder concerns. The eleven issues proposed for discussion are:

1. RCRA Permits

For low-risk hazardous waste management facilities (e.g., storage-only facilities), the requirement to obtain an RCRA permit (and to meet associated management requirements) can in some cases lead to high administrative costs while resulting in little or no increased environmental benefit. Cumbersome permit requirements can also delay the transition from less stringent interim status standards to other, more appropriate, management standards.

2. Management Requirements

Once a waste is identified as hazardous, through a listing or by exhibiting a characteristic, all of the applicable requirements for the generator, transporter, and facility treating, storing, or disposing of the waste apply. Thus, the regulatory implications of a decision about whether a waste is hazardous are "all or nothing"; there is currently no middle ground. However, it may be possible that for certain wastes and scenarios the full hazardous waste management requirements are not needed; the application and enforcement of specific, tailored good management practices could negate the risk posed for that waste, and thus the need for a hazardous waste designation.

3. Listing Determinations

When determining whether to list a waste as hazardous, the Agency considers plausible mismanagement scenarios (e.g., management in an unlined surface impoundment) in order to be protective. However, if the waste in question is currently or can be managed under enforceable, good management practices that protect human health and the environment, then mismanagement may no longer be plausible, and full RCRA hazardous waste requirements may not be necessary.

4. Prescriptive Requirements

The RCRA requirements governing certain hazardous wastes can be prescriptive and may be impractical to implement in certain situations (e.g., radioactive waste mixed with hazardous waste). In addition, certain RCRA requirements may be economically unreasonable to implement, where they have a major impact on the regulated entity without a corresponding environmental benefit (e.g., small businesses that do not meet the technical requirements for the small quantity generator exemption from most RCRA requirements).

5. Untreated Waste Disposal

The RCRA requirements preventing the disposal of untreated waste on the land unless it can be proven that the waste will not migrate from the unit as long as the waste remains hazardous (potentially thousands of years), may prevent the safe disposal of low-risk untreated or partially treated waste in certain land based units (i.e., deep well injection).

6. Indian Tribal Program Approval

EPA has explicit statutory authority to authorize states to implement hazardous and solid waste management programs. RCRA does not explicitly mention Indian Tribes in its discussion of authorization authorities; this omission has led some to challenge EPA's authority to approve qualified Tribal programs.

7. Land Disposal Restrictions

The land disposal restrictions prevent the disposal of hazardous waste on the land until levels of treatment are met which ensure that short-term and long-term threats to human health and the environment are minimized. For some wastes, this provision could be interpreted to require the treatment of the waste's hazardous constituents to levels below those which the Agency would consider necessary to protect human health and the environment.

8. Treatment Requirements

The land disposal restrictions require the treatment of waste to specified levels or with a specified technology before the waste can be dispose on the land. However, under some circumstances, the process of treating certain wastes to meet LDR requirements may itself pose a greater risk to human health and the environment than land disposal or other alternative management practices.

9. Recycling of Hazardous Waste

Facilities treating or storing a hazardous waste need to obtain a permit and comply with all applicable management standards (e.g., land disposal restrictions, facility-wide corrective action, financial assurance). However, some facilities that recycle hazardous waste may not pose significant risks to human health and the environment or may need less than full RCRA hazardous waste regulation to ensure safe handling of waste. The need to comply with the full panoply of hazardous waste requirements may discourage the potential safe recycling of hazardous wastes. To better encourage appropriate recycling, certain of these wastes may not need to be

VOL 60 ISS 82 AP 28 1995 UMI

defined and regulated as a solid waste under RCRA.

10. Corrective Action

Under current RCRA requirements, hazardous wastes from cleanup activities (e.g., corrective action and related activities) are subject to the same permitting, treatment, disposal and other requirements as newly generated and managed hazardous waste. However, many of the requirements for as-generated hazardous wastes are inappropriate for soil and groundwater contaminated with such wastes, and EPA may lack sufficient authority to modify these requirements. The application of full RCRA hazardous waste requirements to cleanup wastes may act as a disincentive for cleanup, eliminate practical and effective remedies from consideration, deter the use of innovative technologies, and result in excessively costly cleanups.

11. Hazardous Waste Manifest

EPA may lack clear statutory authority to provide flexibility to the manifest system in order to provide significant reductions in paper work burdens.

Principles for Developing the Legislative Proposal:

In developing the package of targeted legislative reforms for RCRA, EPA will be following the principles for reinventing environmental protection outlined in the President's plan:

- Protecting public health and the environment is an important national goal, and individuals, businesses and government must take responsibility for the impact of their actions.
- Regulation must be designed to achieve environmental goals in a manner that minimizes costs to individuals, businesses, and other levels of government.
- Environmental regulations must be performance-based, providing maximum flexibility in the means of achieving our environmental goals, but requiring accountability for the results.
- Preventing pollution, not just controlling or cleaning it up, is preferred.
- Market incentives should be used to achieve environmental goals, whenever appropriate.
- Environmental regulation should be based on the best science and economics, subject to expert and public scrutiny, and grounded in values Americans share.
- Government regulations must be understandable to those who are affected by them.
- Decisionmaking should be collaborative, not adversarial, and decisionmakers must inform and involve those who must live with the decisions.
- Federal, state, tribal, and local governments must work as partners to achieve common environmental goals, with nonfederal partners taking the lead when appropriate.
- No citizen should be subjected to unjust or disproportionate environmental impacts.

Dated: April 24, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 95–10510 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 19, 1995.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Dorothy Conway, Federal Communications Commission, (202) 418–0217 or via internet at DConway@FCC.GOV. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0010.

Title: Ownership Report.

Form No.: FCC 323.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: Annually.

Estimated Annual Burden: 10,574 annual responses; 7.166 hours burden per response; 75,773 hours total annual burden.

Needs and Uses: Licensees/permitees of commercial broadcast stations are required to file ownership reports (FCC 323). The data is used by FCC personnel to determine if the licensees/permittees are abiding by FCC's multiple ownership rules and are compliance with the transfer of control provisions, the alien ownership restrictions and the CATV-TV cross-ownership prohibitions set fourth in the Communications Act.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–10417 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 528]

National Institute for Occupational Safety and Health; Cooperative Agreement Program for Prevention Center for Occupational Safety and Health in the Construction Industry

Introduction

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement to support a prevention center for occupational safety and health in the construction industry. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

Authority

This program is authorized under Section 20 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669). Applicable program regulations are found in 42 CFR Part 87—National Institute for Occupational Research and Demonstration Grants.

Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private non-profit and for-profit organizations and governments and their agencies. Thus universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- andor women-owned businesses are eligible to apply.

Applicants must have ongoing national activities related to construction workers and must have established linkages to labor unions and employers in construction as demonstrated in operating programs. The applicant organization may subcontract to address certain "Recipient Activities" under the Program Requirements section for which the applicant organization does not have expertise or resources. Collaboration in submitting a joint application is strongly encouraged among the different organizations.

Availability of Funds

Approximately $3,300,000 is available in FY 1995 to fund one award. The award is expected to begin on or about August 1, 1995 for a 12-month budget period within a project period of up to five years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

If requested, Federal personnel may be assigned to a project in lieu of a portion of the financial assistance.

Purpose

The purpose of this cooperative agreement is to support a center that demonstrates effective surveillance mechanisms and prevention processes that are efficacious and effective in preventing injuries, disabilities, and diseases associated with work in the construction industry. At least one-third to one-half of the overall effort should be directed at the prevention of work-related musculoskeletal disorders.

Program Requirements

In the area of prevention, there is specific interest in research that evaluates the effectiveness of interventions in preventing construction-related injuries and diseases or reducing their impact. This research might evaluate different approaches to implementing a specific intervention strategy. In addition, there is a need to examine intervention strategies for which evidence of effectiveness is either sparse or unknown. Interventions chosen for evaluation should have a significant potential for reduction in morbidity, mortality, disability, or cost related to construction work. Surveillance is an integral part of prevention effectiveness studies.

Also of interest is research that more accurately defines the cost of construction injuries and diseases as well as the cost or prevention effectiveness of interventions. Cost analysis should be included in the plans, where appropriate, to evaluate an intervention(s). A more complete discussion of methodologies for assessing cost analysis is presented in A Framework for Assessing the Effectiveness of Disease and Injury Prevention (CDC, Morbidity and Mortality Weekly Report, March 27, 1992, Volume 41, Number RR–3, pages 5–11). (To receive information on these reports see the section Where to Obtain Additional Information.)

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for the activities listed under B. (CDC/NIOSH Activities).

A. Recipient Activities

1. Develop surveillance programs of injuries and diseases (through analysis of medical claims data, workers' compensation data, etc.) among the building trades from which priorities for etiologic research and intervention studies can be determined. Surveillance should be applied to both health and safety status and to associated risk factors and must address unionized, non-unionized, and self-employed construction workers. Particular attention should be given to hazard identification and exposure assessment methodologies for construction workers.

2. Develop and conduct studies to determine long-term health, social and economic consequences of work-related exposures, injuries, musculoskeletal disorders, and related conditions. Prior to conducting a full study, assure that feasibility studies are critically evaluated by an independent review panel with no ties to the awardee. (Methods for these studies may include existing records systems such as case registries.) These studies may be integrated with longitudinal studies of work-related musculoskeletal disorders and should not involve more than 25 percent of the overall effort.

3. Develop and validate prevention effectiveness techniques in reducing or eliminating risk factors in the construction industry and integrating these techniques into continuous improvement and worker participation strategies within the construction process. (Evaluations of the effectiveness of interventions that have proven or obvious efficacy are encouraged.)

4. Provide innovative methods, techniques, and approaches for improving occupational safety and health in construction.

5. Develop and validate exposure assessment tools effective in evaluating exposures of construction workers to hazardous chemicals and substances.

6. Using appropriate exposure assessment methodologies, undertake projects to quantify the extent and magnitude of exposures of construction workers to potentially hazardous substances and chemicals prevalent on construction sites. High priority substances include lead, diesel fumes, particulates and dusts and other prevalent substances.

7. Develop and validate methods to enhance information dissemination of hazards, risk abatement and other health information specific to groups associated with the construction industry. Methods may include innovative training programs/ methods, educational materials, user-friendly software and computerized data, workshops and other relevant methods. Methods should be generalizable to workers in most trades.

8. Develop and validate innovative intervention programs to reduce and prevent occupational noise-induced hearing loss among construction workers. This program may include research to assess barriers to use of hearing protection; demonstration projects to enhance the use of appropriate hearing protection; collaborative studies with tool manufacturers, hearing protection manufacturers, etc.; assessments of the extent of hearing loss among the construction worker community; development/implementation of educational programs, etc.

9. Develop and validate methods to assess the overall impact of lead abatement programs on the health of construction workers.

10. Publish and disseminate findings of studies and projects listed under Program Requirements to individuals involved or interested in the construction industry including, but not limited to, construction workers, labor and management groups, architects, project and design engineers, researchers, etc.

VOL 60 ISS 82 AP 28 1995 UMI

11. Establish collaborative activities with appropriate organizations and agencies, and collaborate with CDC/NIOSH in undertaking surveillance, field, and research investigations in support of the program requirements.

12. Integrate the prevention program within the operational framework of the parent organization.

13. Review technical and scientific merits of proposed intramural projects, including their potential to achieve the stated objectives and the extent to which the plans are consistent with the purpose of the program.

14. Evaluate the extent to which the overall theme and objectives are achieved in regard to progress, efficacy, and effectiveness. Implement a plan for continuously improving the surveillance process that is used for evaluating progress. Meet at least quarterly with CDC/NIOSH to exchange information on activities and collaboration. (These meetings should include the principal investigators of each study conducted under this agreement.)

B. CDC/NIOSH Activities

1. Provide technical assistance through site visits and correspondence in the areas of program development, implementation, maintenance, and priority-setting.

2. Provide for collaborative efforts for appropriate aspects of the program as requested by the grantee.

3. Assist in the reporting of project results to the scientific, public health, labor and industrial communities via presentations, publications in peer-reviewed and technical journals and newsletters, and through other forms of communication.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Background and Need (15%)

The extent to which the applicant presents data justifying need for the program in terms of magnitude of the related injury and disease problem and identifies suitable target populations. The extent to which a description of related current and previous experiences show:

a. Performance in achieving the purpose of cooperative agreements that preceded this announcement.

b. Efficiency of resources and uniqueness of program including the efficient use of existing and proposed personnel with assurances of a major time commitment of the project director to the program and the novelty of the program approach.

c. Training and experience of the program director and staff to accomplish satisfactorily the proposed program

2. Goals and Objectives (10%)

The extent to which the applicant has included goals and objectives that are relevant to the purpose of the proposal and are achievable during the budget and project periods and the extent to which these are specific and measurable.

3. Methods (30%)

The extent to which the applicant provides a detailed description of proposed activities that are likely to achieve each objective and overall program goals. The extent to which the applicant provides a reasonable and complete schedule for implementing all activities. The extent to which roles of each unit, organization, or agency are described, and coordination and supervision of staff, organizations and agencies involved in activities are delineated.

4. Evaluation (30%)

The extent to which the proposed evaluation system is detailed and will document program process, effectiveness, impact, and outcome and, if applicable, measure surveillance system sensitivity, timeliness, representativeness, predictive value, and ability to detect the impact of specific interventions on morbidity, mortality, severity, disability, and cost of related diseases and injuries. The extent to which the applicant demonstrates potential data sources for evaluation purposes, and documents staff availability, expertise, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is described.

5. Collaboration (15%)

The extent to which relationships between the program and other organizations are described. If applicable, the extent to which collaborative efforts (if any) and roles are clear and appropriate.

6. Budget and Justification (Not Scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

Executive Order 12372 Review

This program is not subject to review by Executive Order 12372.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by this cooperative agreement will be subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicants must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

The applicants will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before June 26, 1995.

1. Deadline: Applications shall be considered as meeting the deadline if they are either: (a) Received on or before the deadline date, or (b) Sent on or before the deadline date and received in time for submission to the objective review group. (The applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applicants: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicants.

Where to Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 528. You will be receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6546. Programmatic technical assistance may be obtained from Marie Haring Sweeney, Ph.D., National Institute for Occupational Safety and Health, Division of Surveillance, Hazard Evaluation and Field Studies, Centers for Disease Control and Prevention (CDC), Mailstop R–13, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226–1049, telephone (513) 841–4207.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the INTRODUCTION through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Copies of A Framework for Assessing the Effectiveness of Disease and Injury Prevention (CDC, Morbidity and Mortality Weekly Report, March 27, 1992, Volume 41, Number RR–3, pages 5–11) may be obtained by calling (404) 488–4334.

Dated: April 21, 1995.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 95–10454 Filed 4–27–95; 8:45 am]

BILLING CODE 4163–19–P

Food and Drug Administration

[Docket No. 95C–0091]

GNT Gesellshaft für Nahrungsmitteltechnologie mbH; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that GNT Gesellshaft für Nahrungsmitteltechnologie mbH has filed a petition proposing that the color additive regulations be amended to provide for the safe use of dried fruit juice color additive, dried vegetable juice color additive, and vegetable juice color additive prepared by water infusion of the dried vegetable.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 721(b)(5) (21 U.S.C. 379e(b)(5))), notice is given that a color additive petition (CAP 5C0245) has been filed by GNT Gesellshaft für Nahrungsmitteltechnologie mbH, c/o Burditt & Radzius, Chtd., 333 West Wacker Dr., suite 2600, Chicago, IL 60606–1218. The petition proposes to amend the color additive regulations in § 73.250 *Fruit juice* (21 CFR 73.250) to provide for the safe use of dried fruit juice color additive and in § 73.260 *Vegetable juice* (21 CFR 73.260) to provide for the safe use of dried vegetable juice color additive, and vegetable juice color additive prepared by water infusion of the dried vegetable.

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 20, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–10539 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0418]

United Blood Services Blood Systems, Inc.; Revocation of U.S. License No. 0183–020

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 0183–020) and product licenses issued to United Blood Services Blood Systems, Inc. (BSI), for the manufacture of Whole Blood (ACD, CPD, CPDA–1), Red Blood Cells, Red Blood Cells Leukocytes Removed, Plasma, Fresh Frozen Plasma, Cryoprecipitated AHF, Platelets, Platelets Pheresis, and Source Leukocytes. BSI has numerous locations throughout the United States; the licenses have been revoked only at the BSI location at Texarkana, TX. In a letter to FDA dated June 28, 1993, BSI voluntarily requested the revocation of its establishment and product licenses and waived its opportunity for hearing.

DATES: The revocation of the establishment license (U.S. License No. 0183–020) and the product licenses became effective July 23, 1993.

FOR FURTHER INFORMATION CONTACT: Jean M. Olson, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is announcing the revocation of the establishment license (U.S. License No. 0183–020) and the product licenses issued to BSI, 1321 College Dr., Texarkana, TX 75503, for the manufacture of Whole Blood (ACD, CPD, CPDA–1), Red Blood Cells, Red Blood Cells Leukocytes Removed, Plasma, Fresh Frozen Plasma, Cryoprecipitated AHF, Platelets, Platelets Pheresis, and Source Leukocytes. The current mailing address is United Blood Services Blood Systems, Inc., c/o Blood Systems, Inc., 6210 East Oak St., P.O. Box 1867, Scottsdale, AZ 85252. BSI has numerous locations throughout the United States. The licenses were revoked for the Texarkana, TX, location only.

VOL 60 ISS 82 AP 28 1995 UMI

FDA conducted an inspection and concurrent investigation of BSI from March 23 through April 14, 1993. The inspection and concurrent inspection revealed serious deviations from the standards established in the applicable Federal regulations and approved license.

The concurrent investigation revealed significant deficiencies that occurred routinely in quality control recordkeeping, as well as in personnel training and supervision. BSI employees, with the knowledge of management, falsified blood storage temperature records whenever the temperature was outside the range specified in written procedures. BSI employees also routinely discarded donor registration forms of temporarily deferred donors because the staff would receive negative performance evaluations if a high number of donors were deferred.

During the inspection, FDA observed deviations that included, but were not limited to, the following: (1) Failure to determine donor suitability, in that BSI accepted donations from individuals who reported disqualifying information (21 CFR 640.3(b)); (2) failure to adequately prepare the donor's phlebotomy site by a method that gives maximum assurance of sterility, in that the site was sometimes repalpated after the arm scrub was performed, and the arm scrubs were performed for less than the 30 seconds required by BSI's standard operating procedures (21 CFR 640.4(f)); and (3) failure to assure that the personnel responsible for the collection of blood on mobile drives were adequate in number, in that it was observed that donors were rushed through medical history questions, were not provided with adequate privacy during medical history interviews, and were only allowed 1 to 2 minutes of recovery time following blood donation (21 CFR 606.20(b)).

The inspection observations and the concurrent investigation showed that BSI knowingly falsified blood storage records. Consequently, FDA determined that BSI willfully failed to comply with the standards established in the approved license and in the applicable regulations. In accordance with that determination, FDA initiated proceedings under 21 CFR 601.5(b) for license revocation without providing BSI with an opportunity to achieve or demonstrate compliance.

In a letter to BSI dated June 1, 1993, FDA delineated the observations listed above and announced its intent to offer an opportunity for a hearing on FDA's proposal to revoke U.S. License 0183–020 issued to BSI. In a letter to FDA dated June 28, 1993, BSI requested voluntary revocation of its license and waived its opportunity for a hearing under 21 CFR 601.5(a). In a letter dated July 23, 1993, FDA acknowledged voluntary revocation of the establishment license (U.S. License No. 0183–020) and the aforementioned product licenses of BSI at the Texarkana, TX, location.

FDA has placed copies of documents relevant to the license revocation on file under the docket number found in brackets in the heading of this notice with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under 21 CFR 601.5, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), the establishment license (U.S. License No. 0183–020) and product licenses for Whole Blood (ACD, CPD, CPDA–1), Red Blood Cells, Red Blood Cells Leukocytes Removed, Plasma, Fresh Frozen Plasma, Cryoprecipitated AHF, Platelets, Platelets Pheresis, and Source Leukocytes issued to BSI at the Texarcana, TX, location were revoked, effective July 23, 1993.

This notice is issued and published under 21 CFR 601.8 and the redelegation at (21 CFR 5.67).

Dated: April 8, 1995.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 95–10541 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 88G–0388]

Fuji Oil Co., Ltd.; Filing of Petition for Affirmation of GRAS Status; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a petition (GRASP 8G0348) filed by Fuji Oil Co., Ltd., proposing to affirm that cocoa butter substitutes from safflower oil and sunflower oil are generally recognized as safe (GRAS) for use as direct human food ingredients. This amendment is intended to clarify that the sunflower and safflower oils used in the manufacture of the petitioned cocoa butter substitute are the high-oleic rather than the typical high-linoleic varieties.

DATES: Comments by July 12, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nega Beru, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3097

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 26, 1989 (54 FR 3853), FDA announced that Fuji Oil Co., Ltd., 6–1, Hachiman-cho, Minami-ku, Osaka 542 Japan, had filed a petition (GRASP 8G0348) proposing to affirm that cocoa butter substitutes from safflower oil and sunflower oil are GRAS for use as direct human food ingredients. The agency recognizes that the terms "safflower oil" and "sunflower oil" normally refer to the traditional high-linoleic varieties. However, the agency has determined that the proposed starting materials for the manufacture of the petitioned cocoa butter substitutes are the high-oleic rather than the typical high-linoleic safflower or sunflower oils. Therefore, the agency is amending the filing notice to make this distinction clear.

Interested persons may, on or before July 12, 1995, submit to the Dockets Management Branch (address above) written comments with respect to the above mentioned change only. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comment are to be identified with the docket number found in brackets in the heading of this document. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 19, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–10540 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95M–0057]

Medtronic CardioRhythm; Premarket Approval of Atakr Radio Frequency Catheter Ablation System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Medtronic CardioRhythm, San Jose, CA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Atakr Radio Frequency Catheter Ablation System. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of February 9, 1995, of the approval of the application.

DATES: Petitions for administrative review by May 30, 1995.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark Massi, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609.

SUPPLEMENTARY INFORMATION: On August 26, 1993, Medtronic CardioRhythm, San Jose, CA 95134, submitted to CDRH an application for premarket approval of the Atakr Radio Frequency Catheter Ablation System. The device is a radio frequency power cardiac catheter ablation system, and it is indicated for interruption of accessory atrioventricular (AV) conduction pathways associated with tachycardia, for the treatment of AV nodal re-entrant tachycardia, and for creation of complete AV block in patients with a difficult to control ventricular response to an atrial arrhythmia.

On December 5, 1994, the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On February 9, 1995, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before (*insert date 30 days after date of publication in the* **Federal Register**), file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 3, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95–10429 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the months of May and June 1995.

Name: Advisory Commission on Childhood Vaccines (ACCV) Subcommittee on Vaccine Safety

Date and Time: May 31, 1995; 9:00 am–5:00 pm.

Place: Parklawn Building, Conference Room D, 5600 Fishers Lane, Rockville, Maryland 20857

The meeting is open to the public.

Purpose: The subcommittee will review issues relevant to vaccine safety and adverse reactions to vaccines.

Agenda: Agenda items will include, but not be limited to: establishing a charge for the Subcommittee; reviewing current vaccine safety efforts; and examining the current status of vaccine safety research.

Name: Advisory Commission on Childhood Vaccines (ACCV)

Date and Time: June 1, 1995; 9:00 am–5:00 pm.

Place: Parklawn Building, Conference Room D, 5600 Fishers Lane, Rockville, Maryland 20857

Purpose: The Commission: (1) advises the Secretary on the implementation of the Program, (2) on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table, (3) advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions, (4) surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and (5) recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: Agenda items will include, but not be limited to: a report on Acellular Pertussis Vaccine Clinical Trials; a vaccine safety update from the Centers for Disease Control and Prevention and the Food and Drug Administration; and routine Program reports.

Public comment will be permitted before the Subcommittee adjourns on May 31; and at the end of the full Commission meeting on June 1. Oral presentations will be limited to 5 minutes per public speaker

Persons interested in providing an oral presentation should submit a written request,

VOL 60 ISS 82 AP 28 1995 UMI

along with a copy of their presentation to Mr. Jerry Anderson, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–35, 5600 Fishers Lane, Rockville, MD 20852; Telephone (301) 443–6593. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Room D on May 31 and June 1. These persons will be allocated time as time permits. Anyone requiring information regarding the Commission should contact Mr. Anderson, Division of Vaccine Injury Compensation, Bureau of Health Professions, Room 8A–35, 5600 Fishers Lane, Rockville, Maryland 20852; Telephone (301) 443–6593.

Name: National Advisory Committee on Rural Health

Date and Time: June 11–14, 1995; 1:00 p.m.

Place: The Sheraton Tara Hotel, 363 Maine Mall Road, South Portland, ME 04016, (207) 775–6161.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, financing, research, development and administration of health care services in rural areas.

Agenda: The Plenary Session will begin on Sunday, June 11 with an update on legislation that affects rural health care delivery. This will be followed by a presentation on Rural Health Perspectives from the Department of Health and Human Services. Dr. Jo Ivey Boufford, Deputy Assistant Secretary for Health, has agreed to make this presentation. The Committee will devote the remainder of the plenary session to a discussion of managed care and network development in rural areas and to medicare's payment methodology for managed care risk contracts—the Adjusted Average Per Capita Costs (AAPCC) methodology.

The Committee will be making site visits to selected rural health delivery facilities all day on Monday. The meeting is open to the public; however, no transportation will be provided to the sites.

The Education and Health Services Work Group and the Health Care Finance Work Group will meet all day on Tuesday to continue developing recommendations and strategies for improving health services delivery in rural areas. The meeting will adjourn on Wednesday, June 14, at noon.

Anyone requiring information regarding the subject Committee should contact Dena S. Puskin, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0835, FAX (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Ms. Arlene Granderson, Office of Rural Health Policy, Health Resources and Services Administration, Telephone (301) 443–0835.

Agenda items are subject to change as priorities dictate.

Dated: April 25, 1995.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 95–10529 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Agency Forms Undergoing Paperwork Reduction Act Review

Each Friday the Public Health Service (PHS) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the PHS Reports Clearance Officer on 202–690–7100.

The following requests have been submitted for review since the list was last published on Friday, April 7.

1. Survey to Evaluate the Impact of the Coronary Primary Prevention Trial on Medical Practice: 1995—0925–0356 (Reinstatement with change)—The National Heart, Lung, and Blood Institute will sponsor a survey of practicing physicians to assess attitudes and behavior regarding blood cholesterol in order to evaluate the impact of the findings of the Coronary Primary Prevention Trial and the Adult Treatment Panel Guidelines On clinical practices and to discern continuing educational needs for physicians. Respondents: Business or other for-profit; Number of Respondents: 1,600; Number of Responses per Respondent: 1; Average Burden per Response: .501 hours; Estimated Annual Burden: 800 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

2. An Epidemiologic Study of the Relation Between Maternal and Parental Preconception Exposure to Ionizing Radiation and Childhood Leukemia—New—This study is designed to determine whether preconception gonadal doses from ionizing radiation are higher in the parents of children with leukemia than in parents of healthy children. The study is designed as a multicenter case-control study. Cases will be children with leukemia and controls will be children without leukemia selected at random from the same population as the cases. Respondents: Individuals or households; Number of Respondents: 911; Number of Responses per Respondent: 1; Average Burden per Response: 1.75 hours; Estimated Annual Burden: 1595 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

3. Confidentiality of Alcohol and Drug Abuse Patient Records—0930–0092 (Extension, no change)—States require Federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep patient records confidential. Information requirements are (1) written disclosures to patients, and (2) documenting "medical personnel" status of receipt of a disclosure to meet a medical emergency. Respondents: Not-for-profit institutions, Federal Government, State, Local or Tribal Government; Number of Respondents: 10,000; Number of Responses Per Respondent: 348; Average Burden per Response: .0287 hour; Estimated Burden: 100,110 Hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201.

4. Assessment of Demographic Information on Death Certificates Survey—New—Demographic characteristics of decedents collected on death certificates are a critical source of information for public health surveillance, analysis, and program planning. This information is used in the tracking and analysis of diseases and injuries occurring among different subgroups in the population, which is integral to the mission of CDC. The purpose of this survey is to ascertain the methods currently used by funeral directors. Respondents: Business or other for-profit, State, Local or Tribal Government; Number of Respondents: 100; Number of Responses Per Respondent: 1; Average Burden Per Response: 1 hour; Estimated Annual Burden: 100 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

5. Application for the National Institutes of Health AIDS and Clinical Research Loan Repayment Programs—0925–0361 (Reinstatement with change)—The information collection will be used by the PHS to determine an applicant's eligibility for participation in the NIH AIDS and Clinical Research Loan Repayment Programs. Respondents: Individuals or household. Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Building, Room 10235, Washington, DC 20503.

	No. of responses	No. of responses/ respondent	Avg. burden/ response
Applicant	70	1	11.58 hrs.—LRP. 12 hrs.—CLRP.
References	210	1	.5 hr.
State/Other Entity	10	1	.5 hr.
Lender	420	1	.33 hr.
Estimated Total Annual Burden: 1,073 hours.			

6. Breast Cancer Incidence in Occupational Cohorts Exposed to Ethylene Oxide and Polychlorinated Biphenyls—New—The primary purpose of this study is to collect information from women regarding incidence of breast cancer and critical factors (such as family history and parity) that may increase the risk of breast cancer in an occupational cohort independent of chemical exposure. Resulting data will contribute to recommendations regarding the safe exposure to the specific chemicals of interest. Respondents: Individuals or households, Business or other for-profit. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

	No. of respondents	No. of responses/ respondent	Avg. burden/response
Cohort Members	7,667	1	.5 hr.
Physicians	667	1	.5 hr
Estimated Total Annual Burden: 4,167 hours.			

7. A Case-Control Study of Attempted Suicide, Harris County, Texas—0920–0300 (Reinstatement, no change)—The Centers for Disease Control proposes continuing a case-control study of the effects of three risk factors—exposure to another's suicide or suicide attempt, migration, and patterns of alcohol use—on the occurrence of serious attempted suicide among young persons 12–34 years of age. Respondents: Individuals or households; Number of Respondents: 250; Number of Responses Per Respondent: 1; Average Burden Response: .75 hour; Estimated Annual Burden: 188 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the individual designated.

Dated: April 24, 1995.

James Scanlon,

Director, Data Policy Staff, Office of the Assistant Secretary for Health and PHS Reports, Clearance Officer.

[FR Doc. 95–10481 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–1917; FR–3778–N–34]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability four possible use to assist the homeless.

EFFECTIVE DATE: April 28, 1995.

ADDRESSES: For further information, contact David Pollack, Department of Housing and Urban Development, Room 7254, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone number are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration,* No. 88–2503–OG (D.D.C.) HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no aditional properties have been determined suitable or unsuitable this week.

Dated: April 21, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 95–10214 Filed 4–27–95; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3854; FR–3785–N–02]

NOFA for Service Coordinators for Public Housing Agencies; Correction

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year 1995; Correction.

SUMMARY: This notice extends the application deadline for applicants in the San Antonio, Texas area for the NOFA for the Service Coordinators for Public Housing Agencies program, published in the **Federal Register** on

VOL
60
ISS
82
AP
28
1995
UMI

February 27, 1995 (60 FR 10764). Due to local events in San Antonio that will cause HUD's office to close at noon on April 28, 1995, this notice establishes the application deadline for that office to be May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Bertha Jones, Office of Community Relations and Involvement, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4112, Washington, DC 20410; telephone: (202) 708–4214. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on 1–800–877–TDDY (1–800–877–8339) or (202) 708–9300. (Other than the "800" TDD number, telephone numbers are not toll-Free.).

SUPPLEMENTARY INFORMATION: The Fiscal Year (FY) 1995 Notice of Funding Availability (NOFA) for Service Coordinators for Public Housing Agencies was published in the **Federal Register** on February 27, 1995 (60 FR 10764). HUD was subsequently informed that local events in San Antonio, Texas will cause HUD's office in that city to close at noon on April 28, 1995. Therefore, this notice establishes that the application deadline for public housing agencies in the jurisdiction of HUD's San Antonio office is extended from April 28, 1995 to May 1, 1995.

Accordingly, FR Doc. 95–4743, the FY 1995 NOFA for Service Coordinators for Public Housing Agencies, published in the **Federal Register** on February 27, 1995 (60 FR 10764), is amended as follows:

1. On page 10764, column 1, the first paragraph under the heading **DATES** is amended to read as follows:

DATES: The due date for submission of applications in response to this NOFA, for all applicants except those in the jurisdiction of the San Antonio, Texas HUD Office, is April 28, 1995. For applicants in the jurisdiction of the San Antonio, Texas HUD Office, the due date for submission of applications in response to this NOFA is May 1, 1995. Applications must be postmarked by midnight, or hand-delivered to the local HUD Office by 3 p.m. on the applicable due date. A Fax copy is not acceptable. The above-stated application deadline is firm as to date, hour and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

2. On page 10766, column 1, in paragraph II.A., the first paragraph is amended to read as follows:

II. Application Process

(A) Application Deadline

The due date for submission of applications in response to this NOFA, for all applicants except those in the jurisdiction of the San Antonio, Texas HUD Office, is April 28, 1995. For applicants in the jurisdiction of the San Antonio, Texas HUD Office, the due date for submission of applications in response to this NOFA is May 1, 1995. Applications must be postmarked by midnight, or hand-delivered to the local HUD Office by 3 p.m. on the applicable due date. (See Appendix A for a listing of local HUD Offices.) A Fax copy is not acceptable. The above-stated application deadline is firm as to date, hour and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

Dated: April 24, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–10571 Filed 4–26–95; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–801621

Applicant: Environmental Services, Inc., Raleigh, North Carolina.

The applicant requests a permit to take (survey) the endangered red-cockaded woodpecker, *Picoides borealis*, on public and private lands in South Carolina. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801591

Applicant: Robert H. Mount, Ph.D., Auburn University, Auburn, Alabama.

The applicant requests a permit to take (trap, survey) the threatened flattened musk turtle *Sternotherus depressus*, throughout the species' range. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801592

Applicant: CZR, Incorporated., Wilmington, North Carolina.

The applicant requests a permit conduct live surveys of the endangered dwart wedge mussel, *Alasmidonta heterodon*, in North Carolina. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801593

Applicant: Gene W. Wood, Ph.D., Seneca, South Carolina. The applicant requests to take (survey, population census, and band nestlings) the endangered red-cockaded woodpecker, *Picoides borealis*, on public and private lands throughout the species' range. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801595

Applicant: Brian D. Moyer, Murray State University, Murray, Kentucky.

The applicant requests to take (survey, mist nest, band) the Gray bat, *Myotis grisescens*, and Indiana bat, *Myotis sodalis*, in the Land between the Lands Region of Kentucky. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801597

Applicant: Peter Vickery, Massachusetts Audubon Society, Richmond, Massachusetts.

The applicant requests to take (survey, mist nest, band) the endangered Florida grasshopper sparrow, *Ammodramus savannarum floridanus* throughout the species' range in the State of Florida. These activities are proposed for the purpose of enhancement of survival of the species.

Written data or comments on any of these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Permit Coordinator). Telephone: 404/679–7110; Fax: 404/679–7280.

Dated: April 21, 1995.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 95–10499 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–55–M

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT–801463

Applicant: Tamara Ross, Ames, Iowa

The applicant requests a permit to take (collect) Iowa. Pleistocene snails (*Discus macclintockii*) in Clayton, Dubuque, and Jackson Counties, in the State of Iowa, for biological analysis for enhancement of propagation or survival of the species.

Permit No. PRT–801465

Applicant: Robert C. Glotzhober, Columbus, Ohio.

The applicant requests a permit to take (collect) Hine's emerald dragonflies (*Somatochlora hineana*) throughout the State of Ohio for enhancement of propagation or survival of the species.

Permit No. PRT–801466

Applicant: TAMS Consultants, Inc., Chicago, Illinois.

The applicant requests a permit to take (collect) Hine's emerald dragonflies (*Somatochlora hineana*) in Will, Cook, and DuPage Counties, Illinois, for enhancement of propagation or survival of the species.

Permit No. PRT–801467

Applicant: The Nature Conservancy, Wisconsin Chapter, Madison, Wisconsin.

The applicant requests a permit to take (collect) Hine's emerald dragonflies (*Somatochlora hineana*) in Door County, Wisconsin, for enhancement of propagation or survival of the species.

Permit No. PRT–801471

Applicant: Marian E. Havlik, LaCrosse, Wisconsin.

The applicant requests a permit to take (live-capture, handle, mark, and release) Higgins' eye pearly mussel (*Lampsilis higginsi*), winged mapleleaf mussel (*Quadrula fragosa*), fat pocketbook mussel (*Potamilus capax*), pink mucket pearly mussel (*Lampsilis abrupta*), and orange-footed pimpleback pearly mussel (*Plethobasus cooperianus*), and salvage moribund or dead specimens in the Upper Mississippi River, its tributaries, and inland rivers in the States of Wisconsin, Minnesota, Iowa, Illinois, Missouri, and Indiana for enhancement of propagation or survival of the species.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536, x250); FAX: (612/725–3526).

Dated: April 24, 1995.

John A. Blankenship,

Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 95–10453 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[MT–930–1430–01; MTM 81002]

Conveyance of Public Lands in Teton County, Montana, and Order Providing for Opening of Public Land in Teton County; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order informs the public and interested state and local governmental officials of the conveyance of 175.36 acres of public lands out of Federal ownership and will open 41.58 acres of surface estate reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA), to the operation of the public land laws. The land that was acquired in the exchange provides access to other public land and recreation access to the Sun River, additional wetlands, wildlife habitat, and increased opportunity for riparian habitat improvement projects. The exchange also allows for increased management efficiency of public land in the area. No minerals were exchanged by either party. The public interest was well served through completion of this exchange.

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Dick Thompson, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2829.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of land made pursuant to Section 206 of FLPMA, the following described lands were transferred to Kelly-Moore Paint Company, Inc.:

Principal Meridian, Montana

T. 20 N., R. 3 W.,
Sec. 18, lots 1–4, inclusive;
T. 21 N., R. 3 W.,
Sec. 15, SE¼SE¼;
T. 21 N., R. 4 W.,
Sec. 20, SE¼SE¼;
T. 19 N., R. 5 W.,
Sec. 18, NW¼NE¼.

Total acreage conveyed: 175.36 acres.

2. In exchange for the above lands, the United States acquired the following described lands from Kelly-Moore Paint Company, Inc.:

Principal Meridian, Montana

Parcel A

T. 20 N., R. 3 W.,
Sec. 4, S½SW¼NE¼SW¼, S½SE¼NW¼SW¼, and W½SE¼SW¼.

VOL 60 ISS 82 AP 28 1995 UMI

Parcel B

A tract of land in SW¼NW¼SW¼, Section 4 and E½SE¼, Section 5, T. 20 N., R. 3 W., more fully described as follows: Beginning at the south ⅛₁₆ corner to sections 4 and 5; thence S. 0° 15' W., 357.3 feet along the line between sections 4 and 5 to the centerline of the Sun River; thence N. 66° 56' W., 267.5 feet; thence N. 50° 11' W., 142.8 feet to the centerline of a county road, the last two courses running upstream along the centerline of the Sun River; thence N. 37° 28' E., 439.7 feet; thence N. 17° 20' E., 488.2 feet to the north line of the SW¼NW¼SW¼ section 4, the last two courses being along the centerline of a county road; thence S. 89° 04' 30" E., 607.7 feet; thence S. 0° 15' W., 654.9 feet; thence N. 89° 04' W., 660.4 feet to the point of beginning, the last three courses being along the north, east, and south lines of the SW¼NW¼SW¼ section 4.

Containing 41.58 acres, more or less.

3. The value of the Federal public land was appraised $11,700.00 and the private land was appraised at $10,400.00. An equalization payment was made to the United States for $1,300.00.

4. At 9 a.m. on June 20, 1995, the lands described in paragraph 2 above that were conveyed to the United States will be opened only to the operation of the public land laws generally, subject to valid existing rights and requirements of applicable law. All valid applications received at or prior to 9 a.m. on June 20, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: April 20, 1995.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 95–10437 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–DN–P

[ID–942–7130–00–7660]

Filing of Plats of Survey; Idaho

The supplemental plat of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., May 31, 1995.

The supplemental plat of partially unsurveyed T. 48 N., R. 5 E., Boise Meridian, Idaho, prepared to create tracts 60–62, was accepted April 20, 1995.

The supplemental plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., April 20, 1995.

The supplemental plat of T. 49 N., R. 5 E., Boise Meridian, Idaho, prepared to amend lots in section 28 and to create a tract in sections 28 and 29, was accepted April 20, 1995.

Those supplemental plats were prepared to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 20, 1995.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–10439 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–GG–M

[MT–930–1430–01; MTM 83729]

Proposed Withdrawal and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 82.19 acres of public lands to protect recreational values along the Madison River. This notice closes the lands for up to 2 years from mining. The lands will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by July 27, 1995.

ADDRESSES: Comments and meeting requests should be sent to the Montana State Director, BLM, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, 406–255–2949.

SUPPLEMENTARY INFORMATION: On April 21, 1995, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not the mineral leasing laws, subject to valid existing rights:

Principal Meridian, Montana

Red Mountain Campground

T 3 S., R. 1 E.,
Sec. 2, lot 2.

Warm Springs Creek Boat Access Site

T 3 S., R. 1 E.,
Sec. 10, lots 2 and 4, excluding therefrom the area contained within the state highway right-of-way lines, more particularly described in Bargain and Sale Deed recorded in Book 162, Page 148, Records of Madison County, Montana.

The areas described aggregate 82.19 acres in Madison County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the Montana State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Montana State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are the currently allowed recreational activities.

Dated: April 21, 1995.

James Binando,

Acting Deputy State Director, Division of Lands and Renewal Resources.

[FR Doc. 95–10436 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–DN–M

National Park Service

General Management Plan/ Development Concept Plans Organ Pipe Cactus National Monument, Arizona; Notice of Availability, Draft Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (P. L. 91–190, as amended), the National Park Service, Department of the Interior, has prepared a draft environmental impact statement (DEIS) that describes and analyzes a proposed action and an alternative strategy for the general management of Organ Pipe Cactus National Monument. The official responsible for a decision on the proposed action is the Regional Director, Western Region, National Park Service.

COMMENTS: Comments on the DEIS must be postmarked no later than July 10, 1995. Public meetings regarding the DEIS will be held in several communities in southern Arizona and northern Sonora, Mexico, and the Tohono O'odham reservation. Written responses to the DEIS should be submitted to the Superintendent, Organ Pipe Cactus National Monument, Route 1, Box 100, Ajo, AZ 85321.

Public Meetings: Public meetings will be held May 8–11, 1995, in Sonoyta, Mexico, and Ajo, Phoenix, and Tucson, Arizona. Meetings to be held on the Tohono O'odham reservation will be scheduled before July 10, 1995. Meetings will be advertised via local media including newspapers and radio. Information can also be obtained from the superintendent of Organ Pipe Cactus National Monument, or the Planning Team Leader, Organ Pipe Cactus General Management Plan, National Park Service, Denver Service Center-TWE, P.O. Box 25287, Denver, CO 80225–0287, (303) 969–2210.

Review Copies: Copies of the DEIS will be available for review at three locations: (1) Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW, Washington, DC 20240, (202) 208–6843; (2) Western Regional Office, National Park Service, 600 Harrison St., Suite 600, San Francisco, CA 94107–1372, (415) 744–3968; (3) Headquarters, Organ Pipe Cactus National Monument, Route 1, Box 100, Ajo, AZ 85321, (520) 387–7661. A limited number of copies of the DEIS are available on request from either the superintendent or planning team leader.

SUPPLEMENTARY INFORMATION: The Draft General Management Plan/Development Concept Plans/Environmental Impact Statement presents a proposed action and an alternative strategy for the management, use, and preservation of Organ Pipe Cactus National Monument. The proposed action, designated in the DEIS as Alternative 1, The Preferred Future, recognizes the full range of scientific, wilderness, and recreational values of the Sonoran Desert. The proposal seeks to ensure the continued existence of threatened and endangered species and their habitat; reduce impacts to historic properties; provide facilities that would more adequately serve the needs of visitors and staff; establish trails that minimize impacts on natural and cultural resources; and reduce vandalism and the threat of vandalism, especially in the southern sections of the monument.

Major features of the proposal include increased regional, tri-national, and inter-agency cooperative efforts, preservation treatments for several significant cultural resources, new facilities and other improvements in the Twin Peaks, Lukeville, and Quitobaquito Springs areas, and redesignation of the monument to Sonoran Desert National Park. The National Park Service also proposes to facilitate a cooperative planning effort to make the portion of State Route 85 within the monument more compatible with the wildland setting, enhance protection of monument resources, and increase visitor safety. Major consequences of implementing the proposal would be to enhance protection, understanding, and recognition of the Sonoran Desert and further strengthen relations with local communities, the Tohono O'odham Nation and Mexico. Implementing the proposed actions could also lead to an expansion of the National Wilderness Preservation System by 2,130 acres and help perpetuate the existence of endangered and sensitive species, including the Quitobaquito desert pupfish and Quitobaquito snail.

Alternative 2, A Continuation of Existing Conditions, continues the present course of action as specified in approved documents guiding park management and development. Many actions are similar to Alternative 1, except that fewer developments and programs are proposed. In general, the consequences of this alternative are also similar, but with two major exceptions. The persistent degradation of the only known habitat for the Quitobaquito desert pupfish and Quitobaquito snail could potentially jeopardize their continued existence. Secondly, unregulated traffic along State Route 85 would continue to eliminate wildlife along this corridor. Although the National Park Service would work with the state of Arizona to reduce adverse impacts, this alternative would not result in a cooperative planning effort that addresses reductions in traffic speed and volume within the monument.

The official responsible for a decision on the proposed action is the Regional Director, Western Region, National Park Service.

Dated: April 18, 1995

Stanley T. Albright

Regional Director, Western Region.

[FR Doc. 95–10545 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–P

Gates of Arctic National Park Subsistence Resource Commission; Meetings

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order
(2) Roll call.
(3) Approval of summary of minutes.
(4) Review agenda.
(5) Superintendent's introductions and review of SRC function and purpose.
(6) Superintendent's management/ research reports.
(7) Public and Agency comments.
(8) Old business:
a. Correspondence.
b. Federal Subsistence Program update.
c. Regions 6 and 10 boundary adjustment.
d. Review existing NPS trapping regulations.
e. Hunting Plan Recommendation #11
(9) New business:
a. Harvest monitoring strategies.
b. Hunting plan work session.
c. Recommendations to Region 10 Council on vacant SRC seat.
(10) Set time and place of next SRC meeting.
(11) Adjournment.

DATES: The meeting will be held Tuesday through Thursday, May 16–18, 1995. The meeting will begin at 7:00 p.m. on Tuesday and end at approximately 11:00 a.m. on Thursday.

LOCATION: The meeting will be held at Commack's Lodge in Shungnak, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Acting Superintendent, Gates of the Arctic National Park, P.O. Box 74680, Fairbanks, Alaska 99707 Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Ralph Tingey,

Acting Regional Director

[FR Doc. 95–10546 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–M

VOL 60 ISS 82 AP 28 1995 UMI

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meeting Changes

Notice is hereby given in accordance with the Federal Advisory Committee Act that the following meetings of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be changed from the previously announced dates and places to hear presentations on issues related to management of the Golden Gate National Recreation Area and Point Reyes National Seashore. Meeting changes of the Advisory Commission are as follows:

The meeting previously scheduled for Saturday, May 6 at Point Reyes Station, California is cancelled, and instead a meeting will be scheduled for Wednesday, May 10 in San Francisco.

The meeting previously scheduled for Wednesday, June 14 in San Francisco, California is cancelled, and instead a meeting will be scheduled for Saturday, June 10 at Point Reyes Station, California.

A meeting will be scheduled for Wednesday, July 12 in San Francisco, California.

All meetings of the Advisory Commission will be held at 7:30 p.m. at GGNRA Park Headquarters, Building 201, Fort Mason, Bay and Franklin Streets, San Francisco or at 10:30 a.m. at the Dance Palace, corner of 5th and B Streets, Point Reyes Station, California, unless otherwise noticed. Information confirming the time and location of all Advisory Commission meetings can be received by calling the Office of the Staff Assistant at (415) 556–4484.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Ms. Naomi T. Gray
Dr. Howard Cogswell
Mr. Michael Alexander
Mr. Jerry Friedman
Ms. Lennie Roberts
Ms. Yvonne Lee
Ms. Sonia Bolaños
Mr. Trent Orr
Mr. Redmond Kernan
Ms. Jacqueline Young
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

Anticipated agenda items at meetings this year will include:

- Update reports on the Presidio planning process
- Presentation of the GGNRA mushroom collection staff report
- Reports on work of the Golden Gate National Park Association
- Reports on programs and projects of GGNRA "park partners"
- Status reports on the proposed Tomales Bay Protection Bill
- Reports on GGNRA education programs
- Report from the National Biological Service
- Presentation on plans for the northern waterfront at Crissy Field
- Planning for the Sutro Historical District
- Updates on issues concerning management and planning at Point Reyes NS

These meetings will also contain Superintendent's and Presidio General Manager's Reports.

Specific final agendas for these meetings will be made available to the public at least 15 days prior to each meeting and can be received by contacting the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or by calling (415) 556–4484.

These meetings are open to the public. They will be recorded for documentation and transcribed for dissemination. Minutes of the meetings will be available to the public after approval of the full Advisory Commission. A transcript will be available three weeks after each meeting. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: April 20, 1995.

Brian O'Neill,

General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 95–10543 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Scenic and Recreational River Citizens Advisory Council

AGENCY: National Park Service, Interior

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the dates of the meetings of the Upper Delaware Citizens Advisory Council for calendar year 1995.

TYPE OF FOUL WEATHER

Dates	Meeting	Date	Address
Apr. 11, 1995	Business	None	NPS Resource Management Office, River Road, Milanville, Pennsylvania.
Jun. 13, 1995	Business	None	NPS Headquarters, River Road, Beach Lake, Pennsylvania.
Sept. 12, 1995	Business	None	NPS Headquarters, River Road, Beach Lake, Pennsylvania.
Nov. 14, 1995	Business	None	Zane Grey House and Museum, Delaware Drive, Lackawaxen, Pennsylvania.

Press Releases containing specific information regarding the subject of each meeting, as well as special informational programs, will be published in the following area newspapers:

The Sullivan County Democrat
The Times Herald Record
The River Reporter
The Tri-state Gazette
The Pike County Dispatch
The Wayne Independent
The Hawley News Eagle
The Weekly Almanac

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, WJFF and WVOS.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River P.O. Box C, Narrowsburg, New York 12764–0159; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704 (f) of the National Parks and Recreation Act of 1978, Public Law 95–625, 16 USC 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region. All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 13/4 miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Dated: April 17, 1995.

Maria Rust,

Regional Director, Mid-Atlantic Region.

[FR Doc. 95–10544 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–701 (Final)]

Disposable Lighters From Thailand

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Thailand of disposable pocket lighters, provided for in subheadings 9613.10.00 and 9613.20.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective October 24, 1994, following a preliminary determination by the Department of Commerce that imports of disposable pocket lighters from Thailand were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of November 9, 1994 (59 F.R. 55853). The hearing was held in Washington, DC, on March 21, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 21, 1995. The views of the Commission are contained in USITC Publication 2876 (April 1995), entitled "Disposable Lighters from Thailand: Investigation No. 731–TA–701 (Final)."

Issued: April 24, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–10444 Filed 4–27–95; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32669]

Wisconsin Central Ltd. and Fox Valley & Western Ltd.—Joint Relocation Project Exemption—In Green Bay, WI

On March 28, 1995, Wisconsin Central Ltd. (WCL) and Fox Valley & Western Ltd. (FVW) filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate lines of railroad in Green Bay, WI. WCL and FVW stated that the transaction would be consummated no sooner than April 4, 1995.

WCL is a class II rail carrier operating approximately 2,000 miles of rail line in four upper midwestern states, and FVW is a class II rail carrier operating approximately 500 miles of rail line entirely in WI. Both WCL and FVW are commonly controlled by Wisconsin Central Transportation Corporation. Within the City of Green Bay, WCL and FVW own and operate several adjacent and parallel lines of railroad. The proposed joint relocation will reroute operations from, and allow removal of, several of these duplicative rail lines.

Under the joint relocation project, WCL and FVW propose the following transactions: (1) WCL will abandon its line of railroad between milepost 198.34 at Oneida and Hudson Streets and milepost 196.90 at State Street, a distance of approximately 1.44 miles, in Green Bay, WI; [1] (2) WCL will construct a connecting track of approximately 525 feet in length between the WCL and FVW lines of railroad in the vicinity of Oneida and Hudson Streets; (3) FVW will grant WCL trackage rights over FVW's East-West Line between milepost 1.37 at Hudson and Oneida Streets and milepost 0.26 at Maple Street, a distance of approximately 1.11 miles, and from milepost 0.26 at Maple Street to milepost -0.32 [2] on FVW's State Street Spur at the crossing of WCL's Green Bay Line (WCL milepost 196.90), a distance of approximately 0.58 mile; (4) FVW will construct a connecting track of approximately 1,260 feet in length between milepost 0.26 at Maple Street on FVW's East-West Line and milepost 242.46 at Bridge Street on FVW's North-South Line, and will grant WCL trackage rights over the connecting track; (5) WCL will construct a connecting track of approximately 550 feet in length between approximately milepost -0.32 at 5th Street on FVW's State Street Spur and a connection with WCL's Greenleaf Line at milepost 196.90 at State Street; [3] and (6) FVW will abandon its Norwood Line between milepost 0.32 at Ashland Avenue and milepost 2.26 at McDonald Street, a distance of approximately 1.94 miles.[4]

[1] As a result of track reconfiguration work in the Oakland Avenue Yard, WCL has already removed approximately 475 feet of track which is part of the Green Bay Line, between a point on the east side of Broadway Avenue (milepost 196.93) and the diamond crossover of the FVW North-South Line (milepost 197.02).

[2] Milepost -0.32 is so designated to indicate its measurement backwards from milepost 0.00 on the FVW East-West Line.

[3] In *Wisconsin Central, Ltd.—Abandonment Exemption—in Brown County, WI*, Docket No. AB–303 (Sub-No. 13X) (ICC served Oct. 31, 1994), WCL was granted an exemption to abandon approximately 13.9 miles of rail line between milepost 183.0 at Greenleaf, and milepost 196.90 at Green Bay, WI. However, WCL has an agreement with a third-party carrier which gives the carrier a right of first refusal to acquire the 13.9-mile segment, and thus the line may remain in active rail service. If the line is not acquired by the carrier and is abandoned, WCL will not construct the connecting track between the FVW State Street Spur and the WCL Greenleaf Line.

[4] Milepost 0.47 on FVW's North-South Line is coincident with milepost 2.26 on FVW's Norwood Line. A change in the milepost numbering system on FVW's North-South Line occurs at

Continued

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Rohr and Newquist dissenting.

VOL
60
ISS
82
AP
28
1995
UMI

The joint relocation project will simplify and improve rail operations in the Green Bay terminal area, permit the removal of unnecessary trackage, and relieve traffic congestion in the surrounding area.

WCL and FVW state that no shippers are located on either of the rail lines to be abandoned and that no shippers will be adversely affected by this joint relocation project or lose access to any rail service currently provided by WCL or FVW. The joint project involves the relocation of existing overhead operations onto nearby, parallel rail lines. It will not change service to shippers, expand the operations of WCL or FVW into new territory, or alter the existing competitive balance.

The Commission will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. *See City of Detroit v. Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993). The Commission has determined that line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.S-I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the embraced incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Janet H. Gilbert, Wisconsin Central Ltd. and Fox Valley & Western Ltd., 6250 North River Road, Suite 9000, Rosemont, IL 60018; and Kevin M. Sheys, 1020 Nineteenth Street, N.W., Suite 600, Washington, DC 20036.

Decided: April 24, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10491 Filed 4–27–95; 8:45 am]

BILLING CODE 7035–01–P

approximately Elmore Street, where milepost 243.0 and milepost 0.0 designate the same point.

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. TX950109 dated February 10, 1995.

Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize Wage Decision TX950001. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" are listed by Volume and State:

VOLUME V

Nebraska
NE950059 (APR.28,1995)
NE950060 (APR.28,1995)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

VOLUME I

Massachusetts
MA950001 (FEB.10,1995)
MA950002 (FEB.10,1995)
MA950003 (FEB.10,1995)
MA950009 (FEB.10,1995)
MA950017 (FEB.10,1995)
MA950019 (FEB.10,1995)
New York
NY950077 (FEB.17,1995)
Rhode Island
RI950001 (FEB.10,1995)
RI950002 (FEB.10,1995)
RI950003 (FEB.10,1995)

VOLUME II

Delaware
DE950001 (FEB.10,1995)
DE950002 (FEB.10,1995)
DE950005 (FEB.10,1995)
DE950009 (FEB.10,1995)
Pennsylvania
PA950010 (FEB.10,1995)

VOLUME III

Georgia
GA950040 (FEB.10,1995)

VOLUME IV

Michigan
MI950001 (FEB.10,1995)
MI950002 (FEB.10,1995)
MI950003 (FEB.10,1995)
MI950004 (FEB.10,1995)
MI950005 (FEB.10,1995)
MI950007 (FEB.10,1995)
MI950012 (FEB.10,1995)
MI950017 (FEB.10,1995)

VOLUME V

Iowa
IA950005 (FEB.10,1995)
Kansas
KS950006 (FEB.10,1995)
KS950008 (FEB.10,1995)
KS950012 (FEB.10,1995)
Missouri
MO950003 (FEB.10,1995)
MO950005 (FEB.10,1995)
MO950007 (FEB.10,1995)
MO950010 (FEB.10,1995)
MO950014 (FEB.10,1995)
MO950016 (FEB.10,1995)
MO950020 (FEB.10,1995)
MO950046 (FEB.10,1995)
MO950053 (FEB.10,1995)
MO950056 (FEB.10,1995)
MO950059 (FEB.10,1995)
MO950063 (FEB.10,1995)
MO950064 (FEB.10,1995)
MO950066 (FEB.10,1995)
MO950068 (FEB.10,1995)
MO950069 (FEB.10,1995)
MO950070 (FEB.10,1995)
MO950074 (FEB.10,1995)
MO950075 (FEB.10,1995)
MO950076 (FEB.10,1995)
MO950077 (FEB.10,1995)
MO950078 (FEB.10,1995)
Nebraska
NE950001 (FEB.10,1995)
NE950002 (FEB.10,1995)
NE950007 (FEB.10,1995)
Oklahoma
OK950013 (FEB.10,1995)
OK950018 (FEB.10,1995)

VOLUME VI

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 21st day of April 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–10353 Filed 4–27–95; 8:45 am]

BILLING CODE 4510–27–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Commonwealth Edison Co.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–29 and DPR–30 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois.

The proposed amendments would change the Technical Specifications by: (1) Revising the low pressure value at which the High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems can be tested to 150 psig, and (2) to test these systems against a system head corresponding to reactor vessel pressure when steam is supplied to the turbines at 920 psig to 1005 psig for high pressure testing and 150 psig to 325 psig for low pressure testing.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The proposed changes revise the testing requirements for the low pressure HPCI and RCIC systems, and as such do not affect any accident precursors or initiators. Therefore, the proposed changes do not increase the probability of any previously evaluated accident.

Similarly, the proposed changes implement testing requirements which will

VOL
60
ISS
82
AP
28
1995
UMI

reduce unnecessary strain on the HPCI and RCIC systems during testing, and provide added assurance that the HPCI and RCIC will perform their design functions throughout the entire operating pressure range of the equipment. Therefore, the proposed changes enhance the ability of the HPCI and RCIC systems and equipment to mitigate the consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes do not modify the HPCI or RCIC design or reduce the capability of the systems to perform their design function. The proposed changes will implement testing requirements which will reduce unnecessary strain on the HPCI and RCIC systems during testing, and provide added assurance that the systems are capable of performing their design functions throughout the entire operating pressure range of the equipment. As such, the proposed changes are more conservative than the current requirements. Since the design basis of the HPCI or RCIC system is not changed, there is no possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in the margin of safety because:

The proposed changes implement testing requirements which will reduce unnecessary strain on the HPCI and RCIC systems during testing, and provide added assurance that the HPCI and RCIC systems will perform their design functions throughout the entire operating pressure range of the equipment. The proposed changes will not reduce the availability and capability of the HPCI and RCIC systems to mitigate the consequences of an accident. The proposed changes do not involve a relaxation of the criteria used to establish safety limits, a relaxation of the bases for limiting safety settings, or a relaxation of the bases for limiting conditions of operation. Therefore the proposed changes do not impact the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1995, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated April 10, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois.

Dated at Rockville, Maryland, this 24th day of April 1995.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10479 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 70–7001; 70–7002]

United States Enrichment Corporation: Paducah Gaseous Plant; Portsmouth Gaseous Diffusion Plant; Notice of Receipt of Application for Certification for the Gaseous Diffusion Plants and Notice of Comment Period and Notice of Public Meetings

I. Receipt of Application and Availability of Documents

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC or the Commission) has received by letter dated April 18, 1995, an application from the United States Enrichment Corporation (USEC) for the initial certification of the gaseous diffusion plants (GDPs) located near Paducah, Kentucky and Piketon, Ohio. The Energy Policy Act of 1992 established the USEC to operate the GDPs under lease from the U.S. Department of Energy and required the NRC to establish a certification process and standards for the GDPs to assure protection of public and workers' health and safety and adequate safeguards and security.

Copies of the application for certification (except for classified and proprietary portions withheld in accordance with 10 CFR 2.790, "Availability of Public Records") are available for public inspection and copying at the Commission's Public Document Room in the Gelman Building, 2120 L Street, NW, Washington, DC 20555 and in the Local Public Document Rooms established for these facilities. A copy of the application for the Paducah plant is available at the Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003. A copy of the application for the Portsmouth plant is available at the Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662. Copies of related correspondence and staff evaluations (except for portions withheld in accordance with 10 CFR 2.790) will also be made available at these locations.

II. Notice of Comment Period

Any interested party may submit written comments on the application for certification for either the Paducah plant or the Portsmouth plant for consideration by the staff. To be certain of consideration, comments on the application must be received by June 15, 1995. Comments received after the due date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. Written comments on the application should be mailed to the Chief, Rules Review and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555 or hand delivered to 11545 Rockville Pike, Rockville, MD 20852 between 7:45 am and 4:15 pm Federal workdays. Comments should be legible and reproducible, and include the name, affiliation (if any), and address of the commenter. All comments received by the Commission will be made available for public inspection at the Commission's Public Document Room located in Washington, DC and the Local Public Documents Rooms located in Paducah, Kentucky and Portsmouth, Ohio. In accordance with 10 CFR 76.62 and 76.64, a member of the public must submit written comments or provide oral comments at the public meeting described below to petition the Commission requesting review of the Director's decision on certification.

III. Notice of Public Meeting

The NRC will hold two meetings concerning the applications for certification for the Portsmouth and Paducah gaseous diffusion plants. These meetings are being held to solicit public input on the initial certification of these facilities. The meeting on the Paducah Gaseous Diffusion Plant will be held at the *Paducah Information Age Park Resource Center*, 200 McCracken Boulevard in Paducah, Kentucky on May 23, 1995, 7 pm. The meeting on the Portsmouth Gaseous Diffusion Plant will be held at the *Vern Riffe Joint Vocational School*, 23365 State Rt. 124 in Piketon, Ohio on May 24, 1995, 7 pm.

In order to allow a maximum number of speakers, statements by the public will be limited to 5 minutes per individual. Those interested in speaking at the meetings may register in advance or may register at the meeting. Any person interested in registering in advance may do so by sending a written request to Ms. Rocio Castaneira, U.S. Nuclear Regulatory Commission,

VOL 60 ISS 82 AP 28 1995 UMI

T–8A33, Washington, DC 20555. The request should clearly state the individual's name and for which meeting the individual is registering. Written requests must be received by May 16, 1995. Speakers will be taken in the order the requests are received. After all pre-registered speakers have presented their comments, those individuals that register at the door will be taken in the order of sign-up. A record of the public meeting will be placed in the Public Document Room and the Local Public Document Rooms. Written comments will also be accepted at the meetings.

FOR FURTHER INFORMATION CONTACT: Ms. Rocio Castaneira, telephone (301) 415–8103; Mr. Carl B. Sawyer, telephone (301) 415–8174; or Ms. Merri Horn, telephone (301) 415–8126; Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 24th day of April 1995.

For the Nuclear Regulatory Commission.

John W. N. Hickey,

Chief, Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–10480 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on March 29, 1995 (60 FR 16213). Individual authorities established or revoked under Schedules A and B and established under Schedule C between March 1, 1995, and March 31, 1995, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, will also be published.

Schedule A

The following exception was revoked:

Department of Agriculture, Forest Service

Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment of work camps in remote areas. Effective March 30, 1995.

Schedule B

No Schedule B authorities were established or revoked in March 1995.

Schedule C

The following exceptions were established:

Department of Agriculture

Executive Assistant to the Administrator, Farmers Home Administration. Effective March 16, 1995.

Confidential Assistant to the Assistant Secretary for Administration. Effective March 24, 1995.

Confidential Assistant to the Administrator, Rural Development Administration. Effective March 30, 1995.

Department of Commerce

Confidential Assistant to the Director, Office of Policy Coordination and Management. Effective March 1, 1995.

Special Assistant to the Assistant Secretary for Export Administration. Effective March 3, 1995.

Confidential Assistant to the Deputy Director, Office of Public Affairs. Effective March 6, 1995.

Special Assistant to the Director, Office of External Affairs. Effective March 6, 1995.

Confidential Assistant to the Director, Office of External Affairs. Effective March 6, 1995.

Confidential Assistant to the Director, Office of Business Liaison. Effective March 13, 1995.

Confidential Assistant to the Director, Office of Public, Congressional and Intergovernmental Affairs, International Trade Administration. Effective March 13, 1995.

Confidential Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective March 24, 1995.

Special Assistant to the Assistant Secretary for Communications and Information. Effective March 30, 1995.

Department of Defense

Special Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense. Effective March 1, 1995.

Staff Assistant to the Counselor and Special Assistant to the Secretary and Deputy Secretary of Defense. Effective March 24, 1995.

Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense (Acquisition and Technology). Effective March 28, 1995.

Department of Education

Confidential Assistant to the Special Advisor to the Secretary. Effective March 24, 1995.

Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective March 24, 1995.

Confidential Assistant to the Deputy Secretary. Effective March 24, 1995.

Department of Housing and Urban Development

Special Assistant to the Deputy Assistant Secretary for Distressed and Troubled Housing. Effective March 30, 1995.

Department of Labor

Special Assistant for Reinvention to the Assistant Secretary for Occupational Safety and Health Administration. Effective March 5, 1995.

Special Assistant to the Deputy Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective March 28, 1995.

Department of State

Counselor to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor. Effective March 2, 1995.

Legislative Management Officer to the Deputy Assistant Secretary for the House. Effective March 3, 1995.

Special Assistant to the Legal Advisor, Office of the Legal Advisor. Effective March 24, 1995.

Department of Transportation

Intergovernmental Relations Officer to the Director, Intergovernmental and Consumer Affairs. Effective March 8, 1995.

Special Assistant to the Special Assistant for Scheduling and Advance. Effective March 8, 1995.

Department of the Treasury

Staff Assistant to the Director, Scheduling and Advance, Office of the Secretary. Effective March 30, 1995.

Deputy Director of Scheduling to the Director of Scheduling and Advance. Effective March 30, 1995.

Special Assistant to the Assistant Secretary for Legislative Affairs. Effective March 30, 1995.

Farm Credit Administration

Secretary to the Chairman. Effective March 2, 1995.

Office of Management and Budget

Confidential Assistant to the Associate Director for Human Resources. Effective March 1, 1995.

Writer-Editor to the Associate Director for Communications. Effective March 1, 1995.

United States Information Agency

Senior Advisor to the Director, Office of Public Liaison. Effective March 7, 1995.

Special Assistant to the Associate Director, Office of Program Coordination and Development, Bureau of Policy and Programs. Effective March 16, 1995.

United States Tax Court

Secretary to the Judge. Effective March 29, 1995.

United States Trade and Development Agency

Special Assistant for Policy and Public Affairs to the Director, Trade and Development Agency. Effective March 26, 1995.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954—1958 Comp., P. 218.

Office of Personnel Management

Lorraine A. Green,

Deputy Director.

[FR Doc. 95–10455 Filed 4–27–95; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Extension of Comment Period Concerning Negotiations Regarding Chilean Accession to the North American Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Extension of Comment Period Concerning Negotiations regarding Chile's entry into the North American Free Trade Agreement (NAFTA).

SUMMARY: By a Federal Register published March 14, 1995, (60 FR 13746) the Office of the U.S. Trade Representative (USTR) gave notice that the United States, along with the Governments of Canada and Mexico, expects to undertake negotiations with the Republic of Chile regarding its accession to (i.e., inclusion in) the NAFTA and that the Trade Policy Staff Committee (TPSC) invites public comments on the negotiations. A public hearing was held on April 25. USTR has decided to extend the deadline for the submission of written comments from April 28 to May 12, 1995.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Carolyn Frank, Executive Secretary, Trade Policy Staff Committee, Office of the USTR, (202) 395–9557. All other questions should be directed to Jane Early, Director for Chilean Affairs, (202) 395–5190, or James Southwick, Assistant General Counsel, (202) 395–7203.

SUPPLEMENTARY INFORMATION:

1. Public Comments and Testimony

In the notice of March 14, 1995, the Chairman of the TPSC, in conformity with TPSC regulations (15 CFR part 2003), invited written comments of interested persons on the desirability and economic effects of Chilean accession to the NAFTA.

Comments were particularly invited on:

(a) Economic costs and benefits to U.S. producers and consumers of removal of all tariff barriers to trade between Chile and the United States and between and among Chile and the current NAFTA parties and, in the case of articles for which immediate elimination of tariffs is not appropriate, the appropriate staging schedule for such elimination.

(b) Existing nontariff barriers to trade in goods between Chile and the United States and between and among Chile and the current NAFTA parties and the economic costs and benefits to U.S. producers and consumers of removing those barriers.

(c) Existing barriers to trade in services between Chile and the United States and between and among Chile and the current NAFTA parties, and economic costs and benefits to U.S. services firms and consumers of removing such barriers.

(d) Existing restrictions on investment flows between Chile and the United States and between and among Chile and the current NAFTA parties, and the costs and benefits to U.S. investors and consumers of eliminating such restrictions.

(e) Any other measures, policies, or practices of the Government of Chile falling within the scope of the NAFTA that should be addressed in the negotiations.

In addition, comments were invited on the possible environmental effects of Chile's accession to the NAFTA, as well as the possible effects on basic workers' rights, working conditions, and living standards.

The March 14, 1995, notice also (1) identified the range of Chilean articles (producers) for which U.S. tariffs and non-tariff measures may be reduced or eliminated as a result of the negotiations; (2) provided notice of a request by the United States Trade Representative to the International Trade Commission (Commission) for advice concerning the economic effects of Chilean accession; and (3) scheduled a public hearing for Tuesday, April 25, 1995.

2. Written Comments

Written comments, in 20 typed copies, may be submitted no later than noon, Friday, May 12, 1995, to Carolyn Frank, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 501, 600 Seventeenth Street, N.W., Washington, D.C. 20506. Comments should state clearly the position taken and should describe with particularity the evidence supporting that position. Any business confidential material must be clearly marked as such on the cover page (or later) and succeeding pages. Such submissions must be accompanied by a nonconfidential summary of the confidential information.

Nonconfidential submissions will be available for public inspection at the USTR Reading Room, Room 101, Office of the United States Trade Representative, 600 Seventeenth Street, N.W., Washington, D.C. An appointment to review the file may be made by calling Brenda Webb (202) 395–6186. The Reading Room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m. Monday through Friday.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–10531 Filed 4–27–95; 8:45 am]

BILLING CODE 3190–01–M

POSTAL RATE COMMISSION

[Docket No. A95–10]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued April 24, 1995.

In the Matter of: Cotesfield, Nebraska 68829 (Marilyn & Errol Well, Petitioners

Before Commissioners: Edward J. Gleiman, Chairman; W.H. "Trey" LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley

Docket Number: A95–10.

Name of Affected Post Office: Cotesfield, Nebrask 68829.

Name(s) of Petitioner(s): Marilyn and Errol Wells.

• *Type of Determination:* Closing.

VOL
60
ISS
82
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1995
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Date of Filing of Appeal Papers: April 17, 1995.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may fine that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission orders:

(a) The Postal Service shall file the record in this appeal by May 2, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Appendix

April 17, 1995 Filing of Appeal letter
April 24, 1995 Commission Notice and Order of Filing of Appeal
May 12, 1995 Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)]
May 22, 1995 Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)]
June 12, 1995 Postal Service's Answering Brief [see 39 CFR 3001.115(c)]
June 27, 1995 Petitioners' Relay Brief should Petitioner choose to file one [see 39 CFR § 3001.115(d)]
July 5, 1995 Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116]
August 15, 1995 Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[FR Doc. 95–10440 Filed 4–27–95; 8:45 am]
BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35840; File No. SR–GSCC 94–7]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Changes in Membership Standards

April 24, 1995.

On October 11, 1994, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change to establish minimum financial standards for two current netting system membership categories: insurance companies and registered investment companies. On December 5, 1994, GSCC filed an amendment to the proposed rule change.[2] On December 15, 1994, the Commission published notice of the proposed rule change in the **Federal Register** to solicit comment from interested persons.[3] On February 14, 1995, GSCC filed a second amendment to the proposed rule change.[4] The amendment was a technical amendment that did not require republication of notice. On April 20, 1995, GSCC filed a third amendment to the proposed rule change.[5] That amendment withdrew that portion of the proposed rule change relating to financial standards for investment companies. No comments were received. This order approves the proposal as amended.

I. Description

The proposed rule change establishes minimum financial standards for insurance company applicants for membership in GSCC's Netting System.[6]

(A) Background

GSCC Rule 2, Section 1 currently provides that insurance companies as defined by Section 2(a)(17) of the Investment Company Act of 1940 ("Investment Company Act") are eligible to become members of GSCC's Netting System if they are in good standing with their primary regulator.[7] Insurance companies are regulated primarily by the states in which they organize and operate. States generally have imposed statutory and administrative requirements for the maintenance of reserves that are intended to bear a reasonable relationship to the risks presented by the insurers' outstanding contractual obligations. These requirements appear generally to have served to ensure that insurance companies are financially responsible.

In December 1992, the National Association of Insurance Commissioners ("NAIC") adopted a model law that establishes standards for the adequacy of life and health insurance company surplus levels based upon the risk profile of their operations and investments.[8] The model law is to replace the fixed dollar minimum capital requirements under state law with an authorized control level risk-based capital ("RBC") at or below which an insurance commissioner must act and place an insurer under varying degrees of increased state control.

The RBC is an adjusted capital requirement based on four main risk categories (asset risk, insurance risk, interest rate risk, and business risk). The asset risk category provides for risk of default on investments held by insurance companies by imposing reductions in valuation ranging from .3% of the value of obligations guaranteed by the U.S. government to 30% of the value of common stock to 100% of the carrying value of foreign domiciled subsidiaries. The insurance risk category imposes capital levels with respect to an insurer's liabilities and obligations. In general, liabilities under health insurance policies require higher capital levels than liabilities under life insurance policies. The interest rate risk category is designed to cover the risk of losses from annuity and other deposit type liabilities with interest guarantees as a result of interest rate swings. Capital requirements range from .75% to 3% of reserve amounts. The business risk category is designed to account for the risk of state guaranty fund assessments and is a percentage of life and annuity premiums.

An insurance company's RBC level is calculated using the company's "total adjusted capital" (which is the sum of its statutory surplus, asset valuation reserve, voluntary investment reserves, and half of the annual dividend liability as adjusted for the capital contribution by subsidiaries) as the numerator and its RBC number as the denominator. If an insurance company's RBC level is equal to or greater than the "company action level," then no regulatory intervention is required under the Model Act. A ratio of 200 percent or more is necessary for a life or health insurance company to avoid any regulatory action.[9]

In December 1993, the NAIC adopted similar risk-based standards for property and casualty insurance companies. These standards will take effect for the 1994 annual financial reports. The RBC property and casualty insurance companies is based on asset risk, credit risk, loss reserve risk, and written premium risk. The asset risk capital represents the capital required to support the risk of potential default of invested assets. Credit risk capital represents the capital required to support the risk of default by reinsurers and other creditors. Loss reserve risk capital represents the capital required to support the risk of adverse development in excess of expected investment income from loss reserves. Written premium risk represents the capital required to support the risk of inadequate rates on business written over the coming year. As with life and health insurers, the RBC level for property and casualty insurers is calculated by dividing the insurer's surplus by its calculated RBC. The "company action level" for property and casualty insurers is 80%.[10]

There are several private organizations that rate insurance companies. A.M. Best ("Best") was the first rating agency to report on the condition of insurance companies. Standards & Poor's ("S&P"), Moody's, and Duff & Phelps ("D&P") also rate insurance companies.

(B) Membership Standards

As a result of the regulation of insurance companies by the states, no uniform regulatory financial standard exists for insurance companies. Instead, the proposed rule change relies on the analysis and rating of each insurance company provided by the rating agencies as a proxy for such a uniform standard. The proposal also establishes a "size" test that at least initially only insurance companies of substantial size can meet and requires that insurance company netting members have a satisfactory RBC level.

Specifically, the proposal establishes the following minimum financial standards for insurance company netting members to be accepted into GSCC Netting System membership:

(1) A Best's rating of "A−" or better (if the member is rated by Best),[11]

(2) A rating by at least one of the other three major rating agencies (D&P, Moody's, or S&P) of at least "A−" or "A3", as applicable (or an equivalent rating by either a nationally-recognized statistical rating organization or another rating agency acceptable to GSCC),

(3) No rating by any one of the other three major rating agencies of less than "A−" or "A3", as applicable,[12]

(4) A RBC level equal to or greater than the applicable "company action level" as set forth in the Risk-Based Capital for Insurers Model Act, and

(5) Statutory capital (consisting of adjusted policyholders' surplus plus the company's asset valuation reserve) of no less than $500 million.[13]

(C) Reporting Requirements

Each applicant for membership in GSCC's Netting System that is an insurance company will be required to provide its two most recent annual statements and three most recent quarterly financial statements filed with the NAIC, the Commission, and/or the applicant's regulatory authority in its state of domicile. In order to monitor the financial status of insurance company netting members on an ongoing basis, each such member will be required to provide GSCC with copies of its quarterly and annual financial statements and any intervening amendments and addendums thereto at the time that such statements are filed with the NAIC, the Commission, and/or the member's regulatory authority in its state of domicile.

II. Discussion

Section 17A(b)(3)(B) of the Act[14] provides that the rules of a clearing agency must provide that certain types of entities, including insurance companies, may become participants in such clearing agency. Section 17A(b)(4)(B) of the Act[15] provides that a registered clearing agency may deny participation to or condition the participation of any person if such person does not meet such standards of financial responsibility, operational capacity, experience, and competence as are prescribed by the rules of the clearing agency.

In the Commission's release adopting standards for clearing agency registration ("Standards Release"), the Commission stated that although the categories enumerated by Section 17A(b)(3)(B) are already subject to regulation by various federal and state authorities, such regulation does not necessarily qualify an applicant for participation in a clearing agency.[16] Instead, a clearing agency may impose such additional or higher standards as it deems necessary to protect the clearing agency and it participants from unreasonable risks.

In its registration application, GSCC requested an exemption from Sections 17A(b)(3)(B) and 17A(b)(4)(B) of the Act. At that time GSCC's rules did not enumerate all of the statutory categories of membership. In addition, GSCC's

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (December 1, 1994).

[3] Securities Exchange Act Release No. 35061 (December 7, 1994), 59 FR 64720.

[4] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Christine Sibille, Staff Attorney [sic], Division, Commission (February 10, 1995).

[5] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry Carpenter, Assistant Director, Division, Commission (April 20, 1995).

[6] Currently, no insurance companies are members of GSCC's Netting System.

[7] Section 2(a)(17) of the Investment Company Act provides that "'Insurance company' means a company which is organized as an insurance company, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and which is subject to supervision by the insurance commissioner or a similar official or agency of a State; or any receiver or similar official or any liquidating agent for such a company, in his capacity as such."

[8] While only twenty states have adopted the model law as of November 1994, the risk-based capital report has been included in the NAIC financial statement used by all states. As a result, all insurance companies must disclose the risk profile in their annual financial reports.

[9] If a life or health insurance company's RBC level is between 150–200%, under the Model Act regulators would require a company to file a plan to increase the capital ratio to greater than 200%. At a RBC level of 100–150%, regulators would do an examination of the company and issue corrective orders. At 70–100%, the regulators would be authorized to take control of the company. Below 70%, the regulators would be required to take control of a company.

[10] Under the Model Act, at an RBC level at 28% or less regulators would be required to take control of a company.

[11] Best's ratings are as follows:
A++ and A+=superior
A and A−=excellent
B++ and B+=very good
B and B−=good
C++ and C+=fair
C and C−=marginal
D=below minimum standards
E=under state supervision
F=in liquidation

Currently, approximately one-third of all life insurance companies rated by Best and over one-half of all property and casualty insurance companies rated by Best have a rating of A− or better.

[12] A rating of below "A−" or "A3" by one of the other three major rating agencies generally indicates some weakness.

[13] Currently, this standard encompasses roughly the twenty-five largest life insurers and the twenty-five largest property and casualty insurers.

[14] 15 U.S.C. 78q–1(b)(3)(B) (1988).

[15] 15 U.S.C. 78q–1(b)(4)(B) (1988).

[16] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

VOL 60 ISS 82 AP 28 1995 UMI

rules did not include applicant and membership financial standards as contemplated by Section 17A(b)(4)(B) of the Act. In its initial temporary registration order,[17] the Commission stated that in developing member financial and operation standards, GSCC should ensure that the standards would allow GSCC to allocate losses resulting from member defaults in order to support GSCC's netting system. The Commission believes that GSCC's experience in operating a clearing and settlement facility for government securities transactions has provided GSCC with the necessary guidance to develop applicant and continuing membership standards for insurance companies that are both fair and adequate to protect GSCC and its participants from unreasonable risk.

The proposals also limits Netting System membership to the largest insurance companies in existence. The Standards Release notes that a clearing agency may discriminate among persons in the admission to the clearing agency if such discrimination is based on standards of financial responsibility, operational capability, experience, and competence. The Division believes that, at least initially, the limitations on the basis of capital appear to be reasonable as demonstrations of greater financial responsibility, operational capacity, experience and competence.

III. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–94–07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10485 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

[17] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[Release No. 34–35838; File No. SR–ISCC–95–2]

Self-Regulatory Organizations; International Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Service Fees

April 24, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] ("Act"), notice is hereby given that on April 3, 1995, International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by ISCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISCC is filing the proposed rule change to revise its fee schedule in accord with its current service costs and to make certain technical corrections thereto.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Summaries are set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to adjust certain fees charged to ISCC participants for services to accurately reflect ISCC's current cost of providing such services. Fees for receipt of transaction instructions have been increased from $1.50 to $2.25 per item for instructions transmitted by a participant via computer platform and from $3.00 to $5.00 per item for instructions transmitted by a participant via mail, facsimile, or telex. Reporting fees for machine readable output, print image output, and hardcopy (via telex or mail) have doubled to $10.00, $20.00, and $50.00 per report, respectively, and duplicate copies of prior day reports also have doubled to $50.00 per report requested. Participants will be charged for services in accordance with the new fee structure effective April 1, 1995. In addition, ISCC is deleting all references to "PORTAL" in the fee schedule which references should have been previously removed in connection with the elimination of the PORTAL program in 1994.[2]

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among ISCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ISCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. ISCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [3] of the Act, and pursuant to Rule 19b–4(e)(2) [4] promulgated thereunder, insofar as the proposed rule change establishes or changes a due, fee, or other charge imposed by a self-regulatory organization. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34980, (November 16, 1994), 59 FR 60177 [File No. SR–ISCC–94–05].

[3] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[4] 17 CFR 240.19b–4(e)(2) (1994).

Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of ISCC. All submissions should refer to File No. SR–ISCC–95–2 and should be submitted by May 19, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10484 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35839; File No. SR–OCC–95–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Enhanced Clearing Member Interface Fees

April 24, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] ("Act"), notice is hereby given that on April 11, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC is filing the proposed rule change to revise its monthly lease fee charged to clearing members using the Enhanced Clearing Member Interface ("ECMI") configuration.

[5] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Summaries of the most significant aspects of such statements are set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to adjust the monthly lease fee charged to OCC clearing members using ECMI. ECMI consists of equipment and software designed to enhance the ability of OCC's clearing members to interface with OCC's mainframe and local area network systems.[2] The lease fees for ECMI were based on OCC's leasing and other overhead costs and were originally set at $200.00 per month. At this time, OCC's costs associated with providing ECMI to its clearing members have decreased on a per unit basis. Accordingly, as of January 1, 1995, OCC proposes to reduce to $150.00 per month its monthly lease fees charged to clearing members.[3]

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among OCC's clearing members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

[2] ECMI permits clearing members, among other things, to input post-trade transactions via OCC's Clearing Management and Control System, to retrieve clearing reports via OCC's on-line report inquiry service, and to review information memoranda and other notices via OCC's Options News Network service. Securities Exchange Act Release No. 32366 (May 25, 1993) 58 FR 31435 [File No. SR–OCC–93–11] (notice of filing and immediate effectiveness of proposed rule change).

[3] OCC will make the fee reduction retroactive to January 1, 1995, and will credit members' accounts for the reduction of the fee. Telephone conversation between Jean M. Cawley, Special Counsel, OCC, and Peter R. Geraghty, Senior Counsel, Division of Market Regulation, Commission (April 18, 1995).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. OCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [4] of the Act and pursuant to Rule 19b–4(e)(2) [5] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–95–04 and should be submitted by May 19, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10486 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[5] 17 CFR 240.19b–4(e)(2) (1994).

[6] 17 CFR 200.30–3(a)(12) (1994).

VOL 60 ISS 82 AP 28 1995 UMI

[Release No. IC–21025; 812–9198]

Integrity Life Insurance Company, et al.

April 24, 1995.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Integrity Life Insurance Company ("Integrity"), National Integrity Life insurance Company ("National Integrity") (Integrity and National Integrity shall be referred to hereinafter as the "Companies"), Integrity Life Insurance Company Separate Account III (the "Integrity Separate Account"), National Integrity Life Insurance Company Separate Account III (the "National Integrity Separate Account") (the Integrity Separate Account and the National Integrity Separate Account shall be referred to collectively hereinafter as the "Separate Accounts"), and Integrity Financial Services ("IFS").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Accounts under certain flexible premium variable annuity contracts (the "Contracts") and under any materially similar contracts offered in the future by such Separate Accounts (the "Future Contracts") or from the assets of any other separate account established by either of the Companies in the future to support variable annuity contracts which are materially similar to the Contracts, and for which any National Association of Securities Dealers, Inc. ("NASD") member broker-dealer other than IFS—which is wholly-owned by the ARM Financial Group, Inc. and registered with the Commission under the Securities Exchange Act of 1934—may in the future serve as the principal underwriter.

FILING DATES: The application was filed on August 24, 1994, and amended on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on May 19, 1995, and must be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests must state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: c/o Jorden Burt & Berenson, 1025 Thomas Jefferson Street NW., Suite 400 East, Washington, DC 20007–0805, Attention: Michael Berenson, Esq.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Integrity was organized in 1966 as an Arizona stock life insurance company and has redomesticated as an Ohio stock life insurance company. National Integrity was organized in 1968 as a New York stock life insurance company. Each of the Companies is principally engaged in offering life insurance policies and annuity contracts. National Integrity is a subsidiary of Integrity and both Companies are indirectly wholly-owned by The ARM Financial Group, Inc., an insurance holding company. The ARM Financial Group, Inc. is a holding company in the business of owning and managing life insurance companies that specialize in the design, marketing, and management of accumulation products.

2. The Integrity Separate Account is a distinct investment account of Integrity, and the National Integrity Separate Account is a distinct investment account of National Integrity. Each of the Separate Accounts acts as a funding vehicle for the Contracts.

3. Each Separate Account invests solely in the Schabacker Select Fund (the "Portfolio"), currently the only investment portfolio of United Services Insurance Funds ("USIF"), a diversified, open-end management investment company that has filed a registration statement with the SEC under the 1940 Act. The Portfolio primarily invests in a broad range of other open-end and closed-end investment companies ("underlying funds"). An investor in the Portfolio may have the option of investing directly in the underlying funds, rather than indirectly through the Portfolio which will duplicate some operating expenses. As a result of this duplication of expenses, an investor not only will bear the investor's proportionate share of the expenses of the Portfolio, including operation costs and management fees, but also will indirectly share in a portion of similar expenses of the underlying funds. The shares of the Portfolio are purchased by each Company for the Company's Separate Account at net asset value, without a sales load.

4. The board of directors of each of the Companies may, in the future, establish additional subaccounts within the same Separate Account ("Subaccounts"), which may invest in other portfolios of USIF as and when such portfolios are registered, or in other investments. Each Company may, in the future, establish other contracts which are funded by the Company's Separate Account and which are materially similar to the Contracts. In addition, each Company may, in the future, establish other separate accounts which issue contracts which are materially similar to the Contracts.

5. IFS, a wholly-owned subsidiary of The ARM Financial Group, Inc. which is registered as a broker-dealer under the Securities Exchange Act of 1934, is the distributor of the Contracts.

6. The Contracts are intended to be used in connection with retirement plans that qualify for Federal tax advantages and for plans that do not so qualify. The Contracts are flexible premium variable annuity contracts which provide for an initial contribution and allow for additional contributions at any time before the annuity payments begin, as long as the annuitant is living and subject to certain limitations.

7. No sales load is deducted from the initial contribution or any additional contributions, and there are no sales charges imposed upon withdrawals.

8. The Contracts are subject to an annual maintenance fee of $35 which will be deducted on the last business day of each Contract year. The annual maintenance fee will be waived in any year that the account value of the Contract is $50,000 or more on the last business day of the Contract year.

9. Prior to the retirement date, an administrative charge equal to 0.15% annually of the net asset value of the Separate Account of each Company is assessed daily and will be deducted from the accumulation unit value of the Contract. The administrative charge is intended to cover the Company's ongoing administrative expenses. This charge and the annual maintenance fee

will not in the aggregate exceed the cost of services to be provided over the life of the Contract defined in accordance with the applicable standards in Rule 26a–1 under the 1940 Act. The deductions for the administrative charge and annual maintenance fee represent reimbursement for the costs expected to be incurred by each Company over the life of the Contract for issuing and maintaining each Contract and the Company's Separate Account.

10. The Contract owner will pay premium taxes, where such taxes are imposed by state law, and which taxes currently range up to 3.5%. These taxes will be deducted from the account value or contributions, as incurred by each Company. Any other taxes levied by any government entity regarding the Contracts or the Separate Accounts will be paid by each of the Companies.

11. Each Company will impose a charge as compensation for bearing certain mortality and expense risks under the Contract. The annual charge is assessed daily and is based on the net asset value of each Separate Account. The annual mortality and expense risk charge will not exceed an effective annual rate of 0.50% of the net asset value of each Separate Account, where 0.40% is allocated to the mortality risk and 0.10% is allocated to the expense risk. Likewise, for Future Contracts, the annual mortality and expense risk charge will not exceed an effective annual rate of 0.50% of the net asset value of the Separate Account attributable to such contracts, where 0.40% is allocated to the mortality risk and 0.10% is allocated to the expense risk.

12. The mortality risk borne by each Company under the Contract arises from the Company's obligation to make annuity payments regardless of how long an annuitant may live. Each Company also assumes mortality risk as a result of death benefits which may be paid under the Contract and which guarantee a minimum payment in the event that the annuitant dies prior to the annuity date. The expense risk borne by each Company under the Contract is the risk that the charges for administrative expenses, which charges are guaranteed for the life of the Contract, may be insufficient to cover the actual costs of issuing and administering the Contract.

13. If the mortality and expense risk charges deducted are insufficient to cover the actual cost of the mortality and expense risk, each Company will bear the loss. Conversely, if the mortality and expense risk charges deducted exceed the costs, the excess will be added to each Company's surplus and will be used for any lawful purpose, including any shortfalls on the costs of distributing the Contracts.[1]

Applicants' Legal Analysis and Conditions

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust, and any depositor or underwriter thereof, from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and are held under arrangements which prohibit any payment to the depositor or principal underwriter except for a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

3. Applicants request an order under Section 6(e) exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account funding the Contracts and Future Contracts. Applicants also request that the order permit the deduction of a mortality and expense risk charge from the assets of any other separate account established by either of the Companies in the future to support variable annuity contracts which are materially similar to the Contracts, and for which any NASD member broker-dealer other than IFS may in the future serve as the principal underwriter. Any such future principal underwriter will be wholly-owned, directly or indirectly, by the ARM Financial Group, Inc., and be registered with the Commission under the Securities Exchange Act of 1934.

4. Applicants submit that the requested relief is appropriate in the public interest because such an order would promote competitiveness in the variable annuity contract market by eliminating the need for the Companies to file redundant exemptive applications, which reduces each Company's resources. Applicants further submit that investors would not receive any benefit or additional protection by the Company being required repeatedly to seek exemptive relief regarding the same issues addressed in this application.

5. Applicants represent that the mortality and expense risk charges under the Contracts are within the range of industry practice for comparable variable annuity contracts. Applicants base this representation on their review of publicly available information regarding the aggregate level of the mortality and expense risk charges under variable annuity contracts currently being offered in the insurance industry which are comparable to the Contracts. In this regard, Applicants have taken into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of charge-level or annuity-rate guarantees, and the markets in which the Contracts will be offered. Applicants will maintain and make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

6. Similarly, prior to making available any Future Contracts and prior to making available any materially similar contracts through other separate accounts established by either of the Companies in the future, Applicants will represent that the mortality and expense risk charges under any such contracts will be within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

7. The Contracts do not provide for a sales charge to cover the costs incurred in distributing the Contracts, and there are no sales charges imposed upon surrender or partial withdrawal of a Contract. Applicants represent that the costs related to the distribution of the Contracts will be paid from the assets of the general account of the Company, which amounts will be derived in part from gains from operations regarding the Contracts and from the mortality and expense risk charge. Each Company has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts and the Future Contracts will benefit the Company's Separate Account and the Contract owners. The Companies will maintain and make available to the Commission upon request a

[1] Applicants represent that, during the notice period, the application will be amended to reflect this representation.

VOL 60 ISS 82 AP 28 1995 UMI

memorandum setting forth the basis for this representation.

8. Applicants further represent that each Separate Account, and other separate accounts established in the future, will invest only in underlying funds which have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such funds, formulate and approve any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses.

Applicants' Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10483 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2191]

Notice Convening an Accountability Review Board for the Attack on the Consulate Shuttle Bus in Karachi in Which Two Americans Were Killed

Pursuant to section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831 *et seq.*), I have determined that the March 8, 1995, terrorist attack on the Consulate shuttle bus in Karachi, Pakistan, involved loss of life related to a U.S. mission abroad. Therefore, I am convening an Accountability Review Board, as required by that statute, to examine the facts and circumstances of the attack and report to me such findings and recommendations as it deems appropriate, in keeping with the attached mandate.

I have appointed former Ambassador jane Coon as chairperson of the board. She will be assisted by former Ambassador Peter Sebastian, former Ambassador Peter Moffat, Mr. James Higham, and Mr. George Murphy. Mr. Douglas Watson will act as Executive Secretary. The members will bring to their deliberations distinguished backgrounds in government service and private life.

I have asked the Board to submit its conclusions and recommendations to the Secretary within sixty days of its first meeting, unless the Chairperson determines a need for additional time. Appropriate action will be taken and reports submitted to Congress on any recommendations made by the board.

Anyone with information relevant to the board's examination of this incident should contact the board promptly on (202) 647–9403.

Strobe Talbott,

Deputy Secretary of State.

[FR Doc. 95–10438 Filed 4–27–95; 8:45 am]

BILLING CODE 4710–10–M

[Public Notice 2196]

Bureau of Consular Affairs; Visa Office Meeting of U.S. Government Regulators and Outside Interested Parties; Notice

SUMMARY: Pursuant to a Presidential directive, agencies of the U.S. government are convening meetings of the government regulators with representatives of groups whose activities are so regulated. The Visa Office of the State Department will hold such a meeting on May 23, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, Department of State, Washington, D.C. 20522–0113; (PHONE) (202) 663–1204; (FAX) (202) 663–3898.

DATES: Interested parties are requested to communicate with the Visa Office by letter addressed to Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, (phone) (202) 663–1204; (FAX) (202) 663–3898 to make reservations for the meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss means of establishing better communication between those performing the visa function and interested parties. Additionally, as the Visa Office is in the process of preparing regulations to revamp the immigrant visa form under section 222(a) of the Immigration and Nationality Act pursuant to section 205 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103–416, comments will be solicited from the participants in this regard. Persons interested in attending the meeting should FAX or telephone the Visa Office two weeks prior to the meeting to indicate their interest in attending. A letter confirming your interest in participating in the meeting, addressed to Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, Department of State, Washington, D.C. 20522–0113; (phone) (202) 663–1204; (FAX); (202) 663–3898, must be received two weeks prior to the meeting to make reservations for the meeting. Letters may be faxed to ensure timely receipt. The Visa Office will confirm your participation and provide the time and location of the meeting. The number of representatives per group will be determined by the number of persons responding to this notice.

Dated: April 24, 1995.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 95–10500 Filed 4–27–95; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; General Mitchell International Airport Milwaukee, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Milwaukee County under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150. These findings are made in recognition of the description of federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 23, 1994 the FAA determined that the noise exposure maps submitted by Milwaukee County under part 150 were in compliance with applicable requirements. On March 22, 1995, the Administrator approved the General Mitchell International Airport noise compatibility program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the General Mitchell International Airport noise compatibility program is March 22, 1995.

FOR FURTHER INFORMATION CONTACT: William J. Flanagan, Federal Aviation Administration, Airports District Office, room 102, 6020 28th Avenue South, Minneapolis, Minnesota 55450, (612) 725–4463. Documents reflecting this FAA action may be reviewed at this location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for General Mitchell International Airport, effective March 22, 1995.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program that sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Minneapolis-Airports District Office in Minneapolis, Minnesota.

Milwaukee County submitted to the FAA on December 2, 1993 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from September 1989 through December 1993. The General Mitchell International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 23, 1994. Notice of this determination was published in the **Federal Register** on October 13, 1994.

The General Mitchell International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2000. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on September 23, 1994 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained thirty-two (32) proposed actions for noise mitigation on and off the Airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective March 22, 1995.

Outright approval was granted for twenty-seven (27) of the specific program elements. The five (5) out of nine (9) noise abatement measures approved included new departure procedures and purchase of an engine runup noise suppresser. The fifteen (15) out of sixteen (16) land use measures approved included amendments to zoning regulations, amendments to subdivision regulations, amendments to building codes, amendments to land use plans, preparation of economic development/redevelopment plans, land acquisition, sound insulation of homes, schools, churches and a nursing home, easement acquisitions and a sales assistance program. All seven (7) of the continuing program measures were approved. They included publication of noise abatement procedures, a noise complaint response system, monitoring of aircraft activity and fleet conversion, development of a flight tracking and noise monitoring system, evaluating and updating the NCP and establishment of a noise abatement and mitigation staff.

The one (1) land use measure that was partially approved included acquisition of scattered homes within runway protection zones and DNL 70 contour. The portion removed from approval was the acquisition of vacant lots, pending demonstration at time of acquisition, the property is still within the DNL 65 and has either been or is in imminent danger of being developed incompatibly.

The four (4) noise abatement measures that were disapproved included revision of the informal runway use program and noise abatement departure procedures. The revised informal runway use program resulted in an overall net increase of persons affected by significant noise. The departure procedure encouraging continued use of engine thrust-back techniques was disapproved pending receipt of additional information on the specific proposed procedure for each runway as described in Advisory Circular 91–53A and the resulting noise benefits. The departure procedures from runway 19R using installation of a DME and VOR to define left turns at 2 DME (a point over the departure end of 19R) onto a noise abatement flight track until 4 DME was disapproved as an unsafe operation because it required a turn in close proximity to the ground.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on March 22, 1995. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the airport administrative offices of Milwaukee County.

VOL 60 ISS 82 AP 28 1995 UMI

Issued in Minneapolis, Minnesota on April 17, 1995.

Franklin D. Benson,

Manager, Minneapolis Airports District Office, FAA Great Lakes Region.

[FR Doc. 95–10513 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting to solicit information from the aviation maintenance community concerning maintenance, preventive maintenance, rebuilding and alteration, and inspection of certain aircraft. The information is requested to assist the Aviation Rulemaking Advisory Committee (ARAC) in its deliberations.

DATES: The meeting will be held on May 11, 1995, from 1 p.m. until 5 p.m.

ADDRESSES: The meeting will be held at Dr. Albert Sabin, Cincinnati Convention Center, Cincinnati, Ohio.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Leonard, Professional Aviation Maintenance Association, 1008 Russell Lane, West Chester, PA 19382; telephone (610) 399–1744.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting to solicit information from the aviation maintenance community concerning maintenance, preventive maintenance, rebuilding and alteration, and inspection of certain aircraft. The information is requested to assist the Aviation Rulemaking Advisory Committee in its deliberations with regard to a task assigned to ARAC by the Federal Aviation Administration.

Specifically, the task is as follows:

Review Title 14 Code of Federal Regulations, parts 43 and 91, and supporting policy and guidance material for the purpose of determining the course of action to be taken for rulemaking and/or policy relative to the issue of general aviation aircraft inspection and maintenance, specifically § 91.409, part 43, and Appendices A and D of part 43. In your review, consider any inspection and maintenance initiatives underway throughout the aviation industry affecting general aviation with a maximum certificated takeoff weight of 12,500 pounds or less. Also consider ongoing initiatives in the areas of: Maintenance recordkeeping; research and development; the age of the current aircraft fleet; harmonization; the true cost of inspection versus maintenance; and changes in technology.

Attendance is open to the interested public but may be limited to the space available. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the meeting coordinator listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on April 25, 1995.

Dennis H. Pietrowski,

Acting Assistant Executive Director, Air Carrier/General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–10512 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

[Notice No. 95–7]

Use of Post-Consumer Recycled Plastic Material in the Manufacture of New Plastic Drums: Request for Comments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Request for comments.

SUMMARY: RSPA is soliciting comments on a request for approval for the limited use of post-consumer recycled plastic material in the manufacture of new plastic drums. The Hazardous Materials Regulations (HMR) prohibit used plastic material, other than production residues or regrind from the same manufacturing process, in the manufacture of new plastic drums. Because of the general applicability and future effect of such an approval, RSPA is seeking comment on the merits of the request from other interested parties.

DATES: Comments are requested on or before June 30, 1995.

ADDRESSES: Request copies of this request for approval from, and address comments to, the Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590–0001. Comments should identify the notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. to 5 p.m. Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Christine Whitney, Office of Hazardous Materials Exemptions and Approvals, telephone (202) 366–4512, or Susan Murphy, Office of Hazardous Materials Technology, telephone (202) 366–4545, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: The Hazardous Materials Regulations have historically prohibited used plastic material, other than production residues or regrind from the same manufacturing process, in the manufacture of new plastic drums for hazardous materials transportation. The use of post-consumer recycled plastic in packagings for hazardous materials raises three concerns. First, the contents of a plastic packaging permeate into the plastic. Materials that have permeated into post-consumer recycled plastic could be incompatible with materials subsequently placed in a packaging made from the post-consumer recycled material. Second, in comparison with virgin polyethylene resin, post-consumer recycled plastic may have inferior strength characteristics. Third, use of post-consumer recycled plastic for the construction of hazardous materials packagings requires rigorous quality assurance control of the post-consumer recycled material. General application of such control measures to plastic packaging has not been practicable.

Due to environmental concerns, packaging manufacturers are coming under increased pressures to use recycled materials in manufacturing new packagings. The HMR, in 49 CFR 178.601(h), state that a packaging having specifications different from those in §§ 178.504–178.523 may be used if approved by the Associate Administrator for Hazardous Materials Safety. RSPA has received a request for an approval for the manufacture of plastic drums which do not meet the specifications of § 178.509, because the drums would be constructed, in part, from post-consumer recycled plastic. Use of the drums would be limited to transportation of hazardous waste for disposal.

RSPA is requesting comments in response to the following questions:

1. Should RSPA authorize the limited use of recycled (post-consumer) plastic in the manufacture of new drums?

2. What controls (e.g., cleaning, testing, etc.) are needed to ensure the recycled plastic used will consistently result in a quality drum?

3. Should the source of the recycled plastic be limited to certain types of previously used packagings or articles?

In addition to these questions, RSPA is requesting comments on any issues relevant to the approval request. In responding to this notice, commenters should provide information on the potential safety and cost impacts of recommended actions.

Issued in Washington, DC on April 24, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–10460 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time of the next meeting and the agenda for consideration by the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, May 19, 1995, at 9:00 a.m. at the World Trade Center, Number Two Canal Street, Suite 2900, New Orleans, Louisiana; Tel.: (504) 529–1601 (WTC General Information). The duration of the meeting will be approximately three hours.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania, N.W., Washington, D.C. 20220. Tel.: (202) 622–0220.

SUPPLEMENTARY INFORMATION: At the May 19 session, the regular quarterly meeting of the Advisory Committee, the Committee is expected to consider the agenda items listed below. The agenda may be modified prior to the meeting.

1. Customs reorganization with a special focus on the New Orleans Customs Management Center (CMC).

2. Customs role in a prospective Federal interagency international trade database project (National Performance Review Item IT–06).

3. Administration of the customs brokers' examination and licensing program.

4. Status of implementation of the Customs Modernization Act.

5. Committee recommendations for the Customs FY 1997 budget.

The meeting is open to the public; however participation in the Committee's deliberations is limited to Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting, should give advance notice by contacting Ms. Theresa Manning at (202) 622–0220 no later than May 11, 1995.

Dated: April 21, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 95–10416 Filed 4–27–95; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

[T.D. 95–40]

Revocation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that on March 30, 1995, the Secretary of the Treasury, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and Part 111.74 of the Customs Regulations, as amended (19 CFR 111.74), ordered the revocation of the following Customs broker licenses due to the failure of the broker to file the status report as required by 19 CFR 111.30(d). These licenses were issued in the Los Angeles District. The list of affected brokers is as follows:

Robert N. Altman	06258
Sheba Arif-Ott	10692
Martha V. Blanchette	06165
Ronald A. Caligagan	07338
Hector N. Cruz	05699
Regina M. Farnin	11771
Steven Goldstein	12782
Sharon A. Herbison	05292
Gary A. Lenthall	09785
Susan Joy Nadler	06254
Lillian A. Nevala	04238
Sharon L. Noel	06191
Brenda K. Osborne	10926
Lane Peterson	12572
Christine Ann Petri	13425
Leroy B. Powers	02742
Jan W. Richard	05120
Dwight E. Richardson, Jr.	04740
Gail Z. Rubenstein	06394
Maureen Theresa Saul	09736
Craig A. Sheppard	09800
Renee E. Stein	07160
Deborah A. Todd	12505
Nancy Ya-Ping Woo	13285

Dated: April 24, 1995.

Philip Metzger,

Director, Trade Compliance Division.

[FR Doc. 95–10445 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–39]

License Cancellations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker licenses have been cancelled due to the death of the broker. These licenses were issued in various Customs Districts.

Alfred J. Stanoch	license no. 3407
Raymond Hemerich	license no. 4752

Dated: April 24, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–10446 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–36]

Recordation of Trade Name: "California Hipermart"

SUMMARY: On Tuesday, December 20, 1994, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CALIFORNIA HIPERMART" used by California Hipermart, a Corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803 was published in the **Federal Register** (59 FR 65572). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than February 21, 1995. No responses were received in opposition to the notice.

Accordingly, as provided in Section 133.14, Customs Regulations (19 CFR 133.14), the name "CALIFORNIA HIPERMART," is recorded as the trade name used by California Hipermart, a corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803.

The application states that the trade name is used in connection with the

VOL
60
ISS
82
AP
28
1995
UMI

following merchandise descripted below:

Toys & Sporting goods: Electrical apparatus
Paper & Plastic goods: Clothing
Houseware & glass: Bicycles
Environmental control apparatus

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, D.C. 20229 (202–482–6960).

Dated: April 21, 1995.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 95–10493 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 95–37]

Recordation of Trade Name: "CHENGCORP"

SUMMARY: On Tuesday, December 20, 1994, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CHENGCORP" used by Chengcorp, a corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803 was published in the **Federal Register** (59 FR 65572). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than February 21, 1995. No responses were received in opposition to the notice.

Accordingly, as provided in Section 133.14, Customs Regulations (19 CFR 133.14), the name "CHENGCORP," is recorded as the trade name used by Chengcorp, a corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803.

The application states that the trade name is used in connection with the following merchandise descripted below:

Toys & Sporting goods: Electrical apparatus
Paper & Plastic goods: Clothing
Houseware & glass: Bicycles
Environmental control apparatus

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20229 (202–482–6960).

Dated: April 21, 1995.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 95–10494 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 95–38]

Recordation of Trade Name: "Weighpack International, B.V."

SUMMARY: On Tuesday, December 20, 1994, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "WEIGHPACK INTERNATIONAL, B.V.," used by Weighpack International, B.V., a corporation organized under the laws of The Netherlands, located at Stevinstraat 31 A, 2587 EA Den Haag, The Netherlands was published in the **Federal Register** (59 FR 65573). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than February 21, 1995. No responses were received in opposition to the notice.

Accordingly, as provided in Section 133.14, Customs Regulations (19 CFR 133.14), the name "WEIGHPACK INTERNATIONAL, B.V.," is recorded as the trade name used by Weighpack International, B.V., a corporation organized under the laws of The Netherlands, located at Stevinstraat 31 A, 2587 EA Den Haag, The Netherlands.

The application states that the trade name is used in connection with weighing, counting packaging and orienting equipment for fasteners and hardware items, including the following equipment:

automatic packaging systems
carton erectors and carton closers
labeling systems
lifting and tipping units
mechanical and magnetic orienters
high speed hardware counters
furnace feeders
pelletizing systems
soft drop systems
fibre packaging and dosage systems
conveyor and transfer systems
vibration tables
universal counters
bulk storage hoppers
form, fill and seal bagmakers
counting/weighing tables and systems

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, D.C. 20229 (202–482–6960).

Dated: April 21, 1995.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 95–10496 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–M

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of revised rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6–8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 5 percent for the second half of calendar year 1995.

DATES: The rate will be in effect for the period beginning on July 1, 1995 and ending on December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Program Compliance & Evaluation Division, Financial Management Service, Department of the Treasury, 401 14th Street, S.W., Washington, D.C. 20227 (Telephone: (202) 874–6630).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Pub. L. 95–147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on the moving basis, changes by 2 per centum. The rate in effect for the second half of calendar year 1995 reflects the average investment rates for the 12-month period ended March 31, 1995.

Dated: April 14, 1995.

Larry D. Stout,

Assistant Commissioner, Federal Finance.

[FR Doc. 95–10492 Filed 4–27–95; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

Tax on Certain Imported Substances (Monoethanolamine, et al.); Filing of Petitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 CB 717, of petitions requesting that monoethanolamine, diethanolamine, triethanolamine, monoisopropanolamine, diisopropanolamine, triisopropanolamine, toluene diisocyanate, and chlorinated polyethylene be added to the list of taxable substances in section 4672(a)(3). Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Submissions must be received by June 27, 1995. Any modification of the list of taxable substances based upon these petitions would be effective April 1, 1992.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (Petition), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (Petition), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on April 15, 1991 (monoethanolamine, diethanolamine, triethanolamine, monoisopropanolamine, diisopropanolamine, triisopropanolamine), May 2, 1991 (toluene diisocyanate), and July 1, 1991 (chlorinated polyethylene). The petitioner is Dow Chemical Company, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Monoethanolamine

HTS number: 2922.11.00.00
CAS number: 141–43–5

This substance is derived from the taxable chemicals ethylene and ammonia. Monoethanolamine is a liquid produced predominantly by reacting ethylene oxide and aqueous ammonia.

The stoichiometric material consumption formula for this substance is:

$2\ C_2H_4$ (ethylene) + $2\ NH_3$ (ammonia) + O_2 (oxygen) → $2\ C_2H_7NO$ (monoethanolamine)

According to the petition, taxable chemicals constitute 73.7 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.63 per ton. This is based upon a conversion factor for ethylene of 0.59 and a conversion factor for ammonia of 0.29.

Diethanolamine

HTS number: 2922.12.00.00
CAS number: 111–42–2

This substance is derived from the taxable chemicals ethylene and ammonia. Diethanolamine is a solid produced predominantly by reacting ethylene oxide and aqueous ammonia.

The stoichiometric material consumption formula for this substance is:

$2\ C_2H_4$ (ethylene) + NH_3 (ammonia) + O_2 (oxygen) → $C_4H_{11}NO_2$ (diethanolamine)

According to the petition, taxable chemicals constitute 69.5 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.85 per ton. This is based upon a conversion factor for ethylene of 0.70 and a conversion factor for ammonia of 0.17.

Triethanolamine

HTS number: 2922.13.00.00
CAS number: 102–71–6

This substance is derived from the taxable chemicals ethylene and ammonia. Triethanolamine is a liquid produced predominantly by reacting ethylene oxide and aqueous ammonia.

The stoichiometric material consumption formula for this substance is:

$6\ C_2H_4$ (ethylene) + $2\ NH_3$ (ammonia) + $3\ O_2$ (oxygen) → $2\ C_6H_{15}NO_3$ (triethanolamine)

According to the petition, taxable chemicals constitute 67.7 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.96 per ton. This is based upon a conversion factor for ethylene of 0.75 and a conversion factor for ammonia of 0.12.

Monoisopropanolamine

HTS number: 2922.19.60.00
CAS number: 78–96–6

This substance is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ammonia. Monoisopropanolamine is a liquid produced predominantly by the reaction of propylene oxide and ammonia.

The stoichiometric material consumption formula for this substance is:

$2\ C_3H_6$ (propylene) + $2\ Cl_2$ (chlorine) + $2\ NaOH$ (sodium hydroxide) + NH_3 (ammonia) + → C_3H_9NO (monoisopropanolamine) + $C_3H_6Cl_2$ (propylene dichloride) + $2\ NaCl$ (sodium chloride) + H_2O (water)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.66 per ton. This is based upon a conversion factor for propylene of 0.62, a conversion factor for chlorine of 1.00, a conversion factor for sodium hydroxide of 1.20, and a conversion factor for ammonia of 0.23.

Diisopropanolamine

HTS number: 2922.19.60.00
CAS number: 110–97–3

This substance is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ammonia. Diisopropanolamine is a solid produced predominantly by the reaction of propylene oxide and ammonia.

The stoichiometric material consumption formula for this substance is:

$3\ C_3H_6$ (propylene) + $2\ Cl_2$ (chlorine) + $2\ NaOH$ (sodium hydroxide) + NH_3 (ammonia) → $C_6H_{15}NO_2$ (diisopropanolamine) + $C_3H_6Cl_2$ (propylene dichloride) + $2\ NaCl$ (sodium chloride) + H_2 (hydrogen)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $7.08 per ton. This is based upon a conversion factor for propylene of 0.70, a conversion factor for chlorine of 1.10, a conversion factor for sodium hydroxide of 1.30, and a conversion factor for ammonia of 0.13.

Triisopropanolamine

HTS number: 2922.19.60.00
CAS number: 122–20–3

This substance is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ammonia. Triisopropanolamine is a solid produced predominantly by the reaction of propylene oxide and ammonia.

The stoichiometric material consumption formula for this substance is:

VOL 60 ISS 82 AP 28 1995 UMI

4 C_3H_6 (propylene) + 3 Cl_2 (chlorine) + 4 NaOH (sodium hydroxide) + NH_3 (ammonia) → $C_9H_{21}NO_3$ (triisopropanolamine) + $C_3H_6Cl_2$ (propylene dichloride) + 4 NaCl (sodium chloride) + H_2O (water) + H_2 (hydrogen)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $7.49 per ton. This is based upon a conversion factor for propylene of 0.74, a conversion factor for chlorine of 1.20, a conversion factor for sodium hydroxide of 1.40, and a conversion factor for ammonia of 0.10.

Toluene diisocyanate

HTS number: 2929.10.15.00
CAS number: 584–84–9

This substance is derived from the taxable chemicals toluene, nitric acid, and chlorine. Toluene diisocyanate is a liquid produced predominantly by the phosgenation of primary amines.

The stoichiometric material consumption formula for this substance is:

C_7H_8 (toluene) + 2 HNO_3 (nitric acid) + 2 Cl_2 (chlorine) + 2 CO (carbon monoxide) + 6 H_2 (hydrogen) → $C_9H_6N_2O_2$ (toluene diisocyanate) + 6 H_2O (water) + 4 HCl (hydrogen chloride)

According to the petition, taxable chemicals constitute 84 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.90 per ton. This is based upon a conversion factor for toluene of 0.53, a conversion factor for nitric acid of 0.7, and a conversion factor for chlorine of 0.8.

Chlorinated polyethylene

HTS number: 3901.90.50.00
CAS number: 064754–90–1

This substance is derived from the taxable chemicals ethylene and chlorine. Chlorinated polyethylene is a solid produced predominantly by chlorination of polyethylene resins.

The stoichiometric material consumption formula for this substance is:

857 C_2H_4 (ethylene) + 375 Cl_2 (chlorine) → $C_{1714}H_{3053}Cl_{375}$ (chlorinated polyethylene) + 375 HCl (hydrogen chloride)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.05 per ton. This is based upon a conversion factor for ethylene of 0.65 and a conversion factor for chlorine of 0.70.

Comments and Requests for a Public Hearing

Before a determination is made, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 95–10412 Filed 4–27–95; 8:45 am]

BILLING CODE 4830–01–U

Office of Thrift Supervision

[AC–23; OTS No. 0216]

Citizens Savings & Loan Association, Baton Rouge, Louisiana; Approval of Conversion Application

Notice is hereby given that on April 21, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Citizens Savings & Loan Association, Baton Rouge, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10463 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–25; OTS No. 3892]

First Federal Savings Bank, Huntington, Indiana; Approval of Conversion Application

Notice is hereby given that on April 21, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Savings Bank, Huntington, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10464 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–24; OTS No. 2383]

Hemet Federal Savings and Loan Association, Hemet, California; Approval of Conversion Application

Notice is hereby given that on April 21, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Hemet Federal Savings and Loan Association, Hemet, California, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the West Regional Office, Office of Thrift Supervision, 1 Montgomery Street, Suite 400, San Francisco, California 94104.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10458 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–26; OTS No. 2775]

The Industrial Savings and Loan Association, Bellevue, Ohio; Approval of Conversion Application

Notice is hereby given that on April 24, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of the Industrial Savings and Loan Association, Bellevue, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10465 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Office of Personnel Management (OPM) benefit recipient records with VA pension and parents' dependency and indemnity compensation records.

The goal of this match is to compare income status as reported to VA with benefit records maintained by OPM.

The Department of Veterans Affairs (VA) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive dependency and indemnity compensation (DIC) from VA with Office of Personnel Management benefit records maintained by OPM. The match with OPM will provide VA with data from OPM civil service benefit records. VA will use the data to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Otherwise, information about a VA beneficiary's receipt of OPM benefits is obtained from reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match is estimated to start June 1, 1995, but will start no sooner than 40 days after publication of this notice in the **Federal Register**, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: David G. Spivey (213B), (202) 273–7258.

RECORDS TO BE MATCHED: The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) published at 41 FR 9294 (03/03/76), and amended at 43 FR 3984 (01/30/78), 43 FR 15026 (04/10/78), 43 FR 23797 (06/01/78), 45 FR 57641 (08/28/80), 45 FR 77220 (11/21/80), 47 FR 367 (01/05/82), 47 FR 16132 (04/14/82), 47 FR 40742 (09/15/82), 48 FR 1384 (01/12/83), 48 FR 15994 (04/13/83), 48 FR 39197 (08/29/83), 48 FR 52798 (11/22/83), 49 FR 23974 (06/08/84), 49 FR 36046 (09/13/84), 50 FR 10886 (03/18/85), 50 FR 31453 (06/28/85), 50 FR 31453 (08/02/85), 51 FR 24781 (07/08/86), 51 FR 25141 (07/10/86), 51 FR 28289 (08/06/86), 51 FR 36894 (10/16/86), 52 FR 4078 (02/09/87), 54 FR 36933 (09/05/89), 55 FR 28508 (07/11/90), 55 FR 42540 (10/19/90), 56 FR 15667 (04/17/91), 56 FR 16354 (04/22/91), 57 FR 12374 (04/09/92), 57 FR 44007 (09/23/92), 58 FR 38164 (07/15/93), 58 FR 54643 (10/22/93).

The OPM records consist of information from the system identified as OPM Central-1 Civil Service Retirement and Insurance Records published at 58 FR 19154, April 12, 1993.

In accordance with Title 5 U.S.C. subsection 552a (o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Jesse Brown,

Secretary.

[FR Doc. 95–10450 Filed 4–27–95; 8:45 am]

BILLING CODE 8320–01–M

VOL
60
ISS
82
AP
28
1995
UMI

Sunshine Act Meetings

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 9:30 a.m., Tuesday, May 2, 1995.
PLACE: 2033 K St., NW., Washington DC, 8th Floor Hearing Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED: Enforcement Matters.
CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-254-6314.
Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95-10657 Filed 4-26-95; 3:41 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 5, 1995.
PLACE: 2033 K St., NW., Washington, DC 8th Floor Hearing Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED: Surveillance Matters.
CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-254-6314.
Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95-10658 Filed 4-26-95; 3:41 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 9, 1995.
PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED: Enforcement Matters.
CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-254-6314.
Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95-10659 Filed 4-26-95; 3:41 pm]
BILLING CODE 6351-01-M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 12, 1995.
PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED: Surveillance Matters.
CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-254-6314.
Jean A. Webb,
Secretary of the Commission.
[FR Doc. 95-10660 Filed 4-26-95; 3:41 pm]
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COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 19, 1995.
PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.
STATUS: Closed.
MATTERS TO BE CONSIDERED: Surveillance Matters.
CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202-254-6314.
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COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 26, 1995.
PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.
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Friday
April 28, 1995

Part II

The President

Proclamation 6791—National Crime Victims' Rights Week, 1995

VOL
60
ISS
82
AP
28
1995
UMI

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

Presidential Documents

Title 3—

The President

Proclamation 6791 of April 26, 1995

National Crime Victims' Rights Week, 1995

By the President of the United States of America

A Proclamation

Every year, more than 36 million people in America become the victims of crime. Offenders prey on our daughters and sons, sisters and brothers, parents, grandparents, and friends. Violent crime is creating fear and insecurity in communities across our Nation.

To ensure justice and promote healing, a grassroots crime victims' movement has worked to enact numerous initiatives in State legislatures across the country—laws that now provide crucial rights for crime victims and their families. As we mark National Crime Victims' Rights Week this year, Americans join in remembering the fallen, in celebrating criminal justice reforms, and in envisioning a future free from violence.

The Violent Crime Control and Law Enforcement Act of 1994, which I signed into law this past September, ensures that our criminal justice system recognizes the victims. Its provisions include allocution rights for victims of violent crime and sexual abuse, truth in sentencing guidelines to ensure that violent offenders serve longer sentences, and sex offender registries designed to monitor offenders more effectively. This Act will help put 100,000 more police officers on the streets of our communities. And the landmark Violence Against Women Act is the first comprehensive Federal effort to address violence against women.

But no government can be truly effective without the active involvement of its citizens. Victim advocacy—the work of the more than 8,000 organizations and the countless individuals we honor this week—can be a lifeline to emotional survival. When random bullets wound a child, when a battered woman needs shelter in the night, when a rape survivor seeks help—victim advocates are there to comfort and support. Many of our Nation's crime victims and advocates work tirelessly in schools, neighborhoods, and youth custody facilities. They give faces and names to the statistics of crime, opening young peoples' eyes to the reality of violence and helping to plant seeds of responsibility that can last a lifetime.

We nonetheless recognize that much remains to be done. But with continued partnerships between every level of government, criminal justice and victim advocacy organizations, and crime survivors and their families, America can begin to replace the nightmare of crime with a bright new day of hope.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 23 through April 29, 1995, as "National Crime Victims' Rights Week." I urge all Americans to pause and remember the victims of crime and to join in honoring those who serve crime victims and their families by working to reduce violence, to assist those harmed by crime, and to make our homes and communities safer places in which to live.

VOL
60
ISS
82
AP
28
1995
UMI

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95-10715
Filed 4-27-95; 10:33 am]
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Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

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Federal Register	
Index, finding aids & general information	202-523-5227
Public inspection announcement line	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-4534
Code of Federal Regulations	
Index, finding aids & general information	523-5227
Printing schedules	523-3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230
The United States Government Manual	
General information	523-5230
Other Services	
Data base and machine readable specifications	523-4534
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
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FEDERAL REGISTER PAGES AND DATES, APRIL

16765-16978	3	19153-19342	17
16979-17190	4	19343-19484	18
17191-17432	5	19485-19664	19
17433-17624	6	19665-19844	20
17625-17980	7	19845-19998	21
17981-18342	10	19999-20170	24
18343-18538	11	20171-20390	25
18539-18726	12	20391-20622	26
18727-18948	13	20623-20878	27
18949-19152	14	20879-21032	28

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR	
Proclamations:	
6781	17979
6782	17981
6783	18537
6784	18707
6785	13725
6786	19999
6787	20001
6788	20003
6789	20387
6790	20389
6791	21031
Executive Orders:	
April 17, 1926 (Revoked in part by PLO 7134)	19525
12356 (Revoked by EO 12958)	19825
12958	19825
Administrative Orders:	
Memorandums:	
April 4, 1995	19153
April 14, 1995	19485
April 21, 1995	20621
5 CFR	
Ch. LII	17625
581	18949
1620	19990
3201	20171
Proposed Rules:	
316	17655
7 CFR	
Ch. II	19487
58	20178
97	17188
201	16979
272	17628, 20178
273	17628
274	20178
301	18727
354	17631
457	16765
918	17633
925	16765
927	17983
932	18539
946	17433
979	16767
982	16768
985	16770, 17434, 18950
1001	18952
1002	18952
1004	18952
1005	18952
1006	18952
1007	18952
1011	18952
1012	18952
1013	18952
1030	18952
1032	18952
1033	18952
1036	18952
1040	18952
1044	18952
1046	18952
1049	18952
1050	18343, 18952
1064	18952
1065	18952
1068	18952
1075	18952
1076	18952
1079	18952
1093	18952
1094	18952
1096	18952
1106	18952
1108	18952
1124	18952
1126	17191, 18952
1131	17192, 18952
1134	18952
1135	18952
1137	18952
1138	18952
1139	18952
1413	17984
1427	17984
1464	19665
Ch. XVIII	20005
3016	19638, 19641
Proposed Rules:	
55	20054
59	20054
250	18781
319	20436
335	18374
905	19543
906	20059
920	20062
929	20064
944	20059
946	19382
956	17274
981	17466
1944	19168
8 CFR	
Proposed Rules:	
212	19001
9 CFR	
77	18728
92	17634
318	19491
327	18540
381	19491
391	19491
Proposed Rules:	
308	19543

VOL 60 ISS 82 AP 28 1995 UMI

310.....19543
318.....19543
320.....19543
325.....19543
326.....19543
327.....19543
381.....19543, 19685
391.....18551

10 CFR

2.....18344, 20879
20.....20183
72.....20879
436.....18326, 19343
600.....17985, 19638, 19641
710.....20366
1703.....20887

Proposed Rules:

50.....19002, 19170, 19686
70.....18035, 19170
52.....17902, 17924, 17947
170.....18882, 20918
171.....18882, 20918
430.....18782
490.....19544

11 CFR

100.....17193
104.....17193
113.....17193

12 CFR

3.....17986
207.....20005
208.....17436
215.....17635
220.....20005
221.....20005
224.....20005
225.....20186
226.....16771
336.....20171
400.....17625
614.....20008
615.....20008
618.....20008
620.....20011

Proposed Rules:

202.....20436
215.....19689
701.....19690
704.....20438
741.....20438
792.....18036

13 CFR

107.....17438
108.....20391, 20392
121.....18981
143.....19638, 19641

14 CFR

25.....17194
39.....16780, 16782, 17438, 17440, 17987, 17988, 17990, 17991, 18540, 18729, 18981, 19155, 19157, 19158, 19343, 19344, 19346, 19348, 19350, 19492, 20013, 20016, 20017, 20019, 20189, 20394, 20887, 20889
71.....17196, 17442, 18346, 20021, 20623
73.....20625
97.....17198, 17199, 19160, 19162, 20623, 20626
121.....20858
187.....19628

Proposed Rules:

39.....16813, 16815, 16817, 17030, 17385, 17487, 17489, 18374, 18376, 19172, 19174, 19175, 19179, 19181, 19183, 19185, 19188, 19383, 19545, 19549, 19551, 19693, 20458, 20459, 20461, 20659, 20661
71.....17284, 18038, 18552, 19190, 19553
91.....18700
119.....19007
121.....19007
125.....19007
127.....19007
135.....18700, 19007

15 CFR

24.....19638, 19642
771.....18731
779.....18731

16 CFR

305.....19845
1700.....17992

Proposed Rules:

248.....17032
409.....17491
436.....17656
460.....17492
1700.....17660

17 CFR

30.....19493
200.....17201
211.....20022
240.....20891
249.....20891
400.....18733
403.....18733
404.....20396
405.....18733, 20396
449.....18733, 18734

Proposed Rules:

239.....17172
270.....17172
274.....17172
404.....20065
405.....20065

18 CFR

343.....19494
385.....19494
284.....16979

Proposed Rules:

35.....17662
141.....17726
388.....17726

19 CFR

7.....18347
10.....18542, 18983
11.....18347
12.....18347
18.....18347
19.....18347
24.....18347
54.....18347
101.....18347, 18983
102.....18347
111.....18347, 18983
114.....18347
123.....18347, 18983
128.....18347, 18983
132.....18347
134.....18347
141.....18347, 18983
143.....18983'
145.....18347, 18983
146.....18347, 20628
148.....18347, 18983
151.....18347
152.....18347
159.....18983
177.....18347
178.....18983
181.....18347
191.....18347

Proposed Rules:

Ch. I.....18783
210.....20463

20 CFR

Ch. III.....18991
404.....20023
416.....20023
423.....18991
638.....18993
404.....17443, 19163

Proposed Rules:

Ch. III.....17731
404.....19008
416.....19008

21 CFR

20.....16962
73.....18736
101.....17202
176.....18349
178.....18349, 18352, 18739
206.....19846
210.....20897
211.....20897
310.....17611, 20162, 20897
520.....20402
558.....18740
876.....17208
1310.....17636, 19509
1403.....19638, 19642

Proposed Rules:

146.....19866
310.....19650
876.....17611

22 CFR

135.....19638, 19642
514.....16785

Proposed Rules:

502.....19385

23 CFR

655.....18520

24 CFR

85.....19638, 19642
215.....17388, 20356
235.....20356
236.....17388, 20356
280.....20356
570.....17445
813.....17388, 20356
905.....17388, 18174
913.....17388, 20356
950.....18174, 20356
3500.....16985

Proposed Rules:

29.....17968
120.....19191
811.....19695

25 CFR

Proposed Rules:

Ch. I.....20250
900.....19387

26 CFR

1.....17216, 18741, 18742, 20898
301.....20899
602.....18742, 20898

Proposed Rules:

1.....17286, 17731, 18377, 18378, 19387, 19868, 20922

27 CFR

6.....20402
8.....20402
10.....20402
11.....20402
55.....17446
72.....17446
178.....17446
179.....17446

Proposed Rules:

Ch. I.....18783
53.....18039
55.....17494
72.....17494
178.....17494
179.....17494

28 CFR

0.....17456
2.....18353
31.....19847
66.....19638, 19642
90.....19474

Proposed Rules:

2.....18378, 18379
16.....18784, 19871

29 CFR

15.....19658
97.....19638, 19643
570.....19336
580.....17221
1470.....19638, 19643
1952.....20191
1960.....18993
2560.....20874
2570.....20874
2610.....18994
2619.....18996
2622.....18994
2644.....18998
2676.....18996

Proposed Rules:

1910.....19192
1915.....19192
1926.....19192

30 CFR

756.....20193
903.....18710
914.....16985, 17637, 19668, 19669
915.....17458
934.....18744
938.....16788

Proposed Rules:

Ch. I.....18044
Ch. II.....20663
901.....18044, 20250

902.....17495
904.....17498
906.....17501
913.....17734, 19697
914.....17736
915.....17504
916.....17504
917.....17739, 19193
918.....17498
920.....18046
924.....18044, 20250
925.....17504
926.....17495, 20251
931.....17501
934.....17495
935.....17741, 18380, 19194
936.....17498
938.....18046
943.....17498
944.....17501
946.....17743
948.....18381
950.....17495

32 CFR

33.....19638, 19643
83.....20029
84.....20029
290.....18005
298.....20032
354.....18006
355.....18006
357.....18006
359.....18006
360.....18006
361.....18006
374.....18006

Proposed Rules:

63.....17507
247.....18049

33 CFR

3.....17222
4.....20900
116.....20900
117.....18006, 19351, 20428
154.....17134
155.....17134
162.....16793, 19352
165.....16793, 18008, 19354, 20033, 20429, 20430, 20905, 20907, 20908
187.....20310
222.....19851
334.....18543

Proposed Rules:

Ch. I.....17287
100.....18785, 20065, 20463, 20930
117.....18061
164.....19699
165.....16818, 16820, 16821, 18063, 18065, 18066, 18068
211.....18069
402.....18384

34 CFR

80.....19638, 19643
350.....17424
351.....17424
352.....17424
353.....17424
356.....17424

36 CFR

7.....17639
13.....18532
1207.....19638, 19643

Proposed Rules:

13.....19011, 20374
215.....18886
217.....18886
219.....18886

37 CFR

1.....16920, 20195
3.....20195

38 CFR

2.....18354
3.....18354, 20642
4.....19851
21.....20035
43.....19638, 19644

39 CFR

20.....18009
111.....19355
265.....17224

Proposed Rules:

232.....17287

40 CFR

9.....17100, 18009, 20232
31.....19638, 19644
52.....16799, 16801, 16803, 16806, 16989, 16996, 17226, 17229, 17232, 18010, 18750, 19510, 19515, 19522, 19673, 20233, 20431, 20643, 20644
63.....18020, 18026
72.....17100, 18462
73.....17100
74.....17100
75.....17100
76.....18751
77.....17100
78.....17100
80.....20232
81.....16996, 20237
122.....17950
124.....17950
136.....17160
180.....18543, 18546, 18547, 19523, 20432, 20433
185.....18547
186.....18547
258.....17649
260.....17001
261.....19165
271.....18356, 18358, 18360, 20238
300.....16808, 17004, 19525, 20330
302.....19165
372.....18361
720.....17005
721.....17005
723.....17005
763.....18364

Proposed Rules:

Ch. I.....17288, 20934
51.....17509, 20934
52.....16823, 16824, 16829, 17034, 17288, 17289, 17746, 18385, 19197, 19554, 20066
55.....17748, 18787, 19701, 20804
58.....17509
63.....16829, 16920, 18071, 18078, 19556
70.....17750, 18790, 20465, 20941
71.....20804
72.....18472
76.....18792
81.....17034, 17756, 19197
86.....17509
122.....17958
124.....17958
170.....18555
180.....18555, 18557, 18558, 18560, 18562, 19556, 20470, 20471, 20946
185.....18562, 20946
186.....18560, 18562, 20946
228.....19872
300.....18565, 19203, 20473
372.....16830, 19702
761.....17510
799.....18079

41 CFR

101–20.....17653
101–26.....19674
105–71.....19638, 19644

42 CFR

440.....19856
441.....19856
493.....20035

43 CFR

12.....17237, 19638, 19644

Proposed Rules:

426.....16922, 20068
427.....16922, 20068
3100.....18081

Public Land Orders:

2546 (Revoked by PLO 7135).....19526
7131.....18030
7132.....18777
7133.....18777
7134.....19525
7135.....19526
7136.....20240
7137.....18778

44 CFR

13.....19638, 19644
64.....17005, 20649
65.....17007, 17009, 17011, 17012
67.....17013, 17020

Proposed Rules:

65.....17758
67.....17035, 17042

45 CFR

92.....19638, 19645
212.....19862
602.....19638, 19645
1157.....19638, 19645
1174.....19638, 19645
1183.....19638, 19645
2541.....19638, 19646

Proposed Rules:

1336.....19994
2544.....17761

46 CFR

12.....17134
13.....17134
15.....17134, 20651
30.....17134
31.....17134
35.....17134
78.....17134
90.....17134
97.....17134
98.....17134
105.....17134
151.....17134
153.....17134
154.....17134
401.....18366
403.....18366
404.....18366

Proposed Rules:

Ch. I.....17287
Ch. II.....17763
67.....17290
90.....18793
97.....18793
148.....18793
298.....20592
382.....19559
383.....20069

47 CFR

2.....18778, 18999, 20909
61.....19526, 20051
69.....19528
73.....17023, 17253, 19000, 19359, 19531, 20052, 20914, 20915
74.....20241
90.....18999, 20247

Proposed Rules:

Ch. I.....20949
1.....17294
63.....17763
73.....17048, 18793, 19012, 19205, 19206, 19560, 19561, 19562, 19563, 19564, 19566, 19878, 20586, 20950

48 CFR

225.....19531
252.....19531
538.....19360
552.....19360, 19362
570.....19362
915.....18030
916.....18030
970.....18030
1802.....18032
1850.....18032
1852.....18032
6101.....17023
9904.....20248

Proposed Rules:

Ch. V.....17764
6.....17295
12.....17184
16.....17295
32.....18794
52.....17184, 17295, 18794
501.....19708
503.....19708
505.....19708
506.....19708
507.....19708
5552.....19708
570.....19708
970.....20663
9903.....20252

49 CFR

18.....19638, 19646
40.....19535, 19675
173.....17398

VOL
60
ISS
82
AP
28
1995
UMI

178 17398
180 17398
213 20654
219 19538
501 20434
552 17254
554 17254
571 19681
573 17254
576 17254
577 17254
1043 16806
1084 16806
Proposed Rules:
Ch. I 17049
Ch. II 18390
190 17295
191 17295
192 17295
193 17295
194 17295
195 17295
196 17295
197 17295
198 17295
199 17295
234 ..... 17770, 19012
571 ..... 18566, 19716
50 CFR
17 18940
227 19342
611 20916
641 19363
646 ..... 19364, 19683
650 17272
651 19364
654 20916
655 17464
663 16811
672 ..... 17465, 20248, 20658, 20916
675 ..... 17028, 17653, 19864, 20248, 20658, 20916
676 ..... 20248, 20916
Proposed Rules:
Ch. VI 17770
17 ..... 16836, 17296, 19013, 19567, 20072, 20951
36 20380
625 18795
641 17511
642 18391
655 18391
672 20952
673 20959
675 ..... 17512, 20253, 20952
676 20952
677 20253

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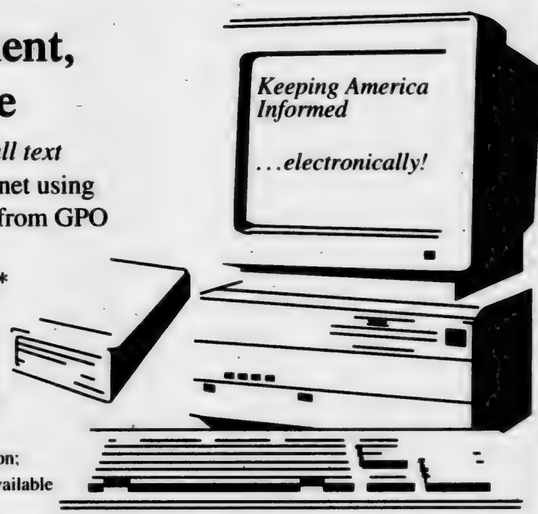

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12/94 See Page II inside any issue of the Federal Register for additional information

VOL
60
ISS
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AP
28
1995
UMI

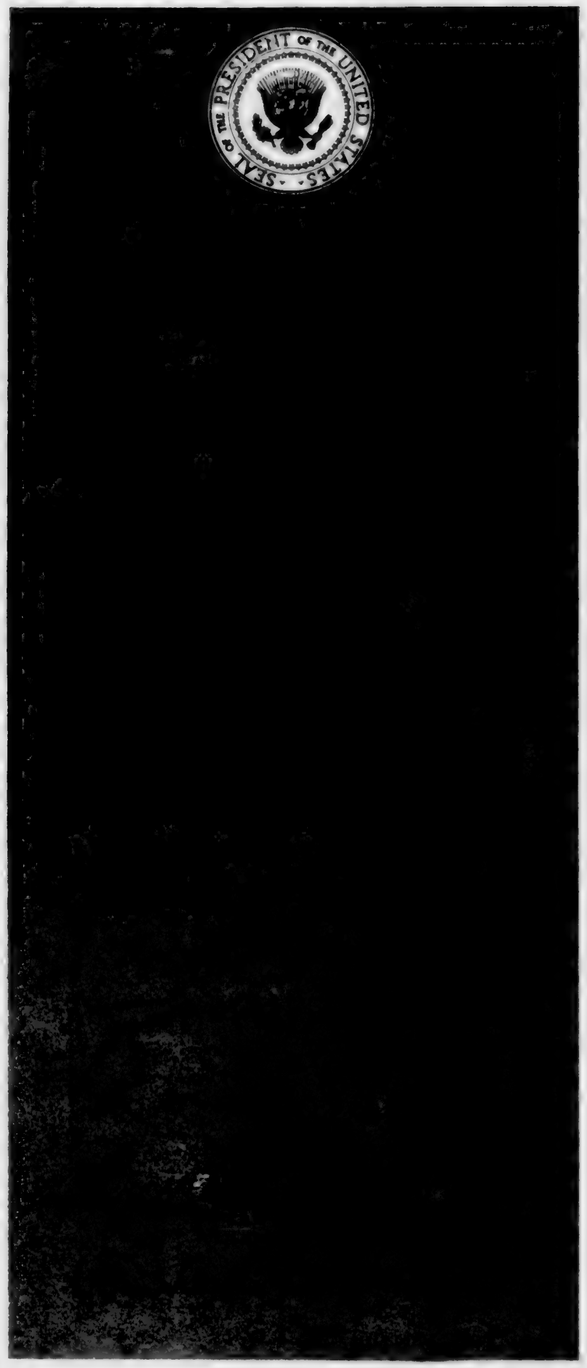

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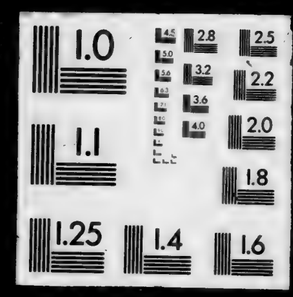

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VOL
60

ISS
83

MY
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5–1–95
Vol. 60 No. 83
Pages 21033–21424

federal register

Monday
May 1, 1995

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VOL
60
ISS
83
MY
1
1995
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Contents

Federal Register
Vol. 60, No. 83
Monday, May 1, 1995

Administrative Conference of the United States
NOTICES
Meetings:
Judicial Review Committee, 21064

Agricultural Marketing Service
RULES
Agricultural and vegetable seeds; quality inspection and certification; testing fees, 21034–21035
Cotton:
Classification services; user fees, 21033–21034

Agriculture Department
See Agricultural Marketing Service
See Commodity Credit Corporation
See Federal Crop Insurance Corporation
See Forest Service
See Rural Telephone Bank

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Oregon Dental Service, 21218–21222

Army Department
See Engineers Corps
NOTICES
Meetings:
Science Board, 21130–21131

Bonneville Power Administration
NOTICES
Transmission and wholesale power rates:
Proposed modification, 21132–21169

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Autism and pervasive developmental disorder; secondary conditions prevention, 21212–21214

Children and Families Administration
NOTICES
Organization, functions, and authority delegations:
Regional Administrator et al., 21211–21212

Commerce Department
See International Trade Administration
See Minority Business Development Agency
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
General Agreement on Tariffs and Trade (GATT):
Textile and apparel products integration; list, 21075–21130

Commodity Credit Corporation
RULES
Export programs:
Export enhancement and dairy export incentive programs; experience requirements deletion and bonus payments, 21037–21039
Loan and purchase programs:
Price support levels—
Tobacco, 21036–21037

Customs Service
RULES
Harmonized Tariff Schedule of United States (HTSUS) general notes; authority citations corrections; correction, 21043
NOTICES
Administrative rulings:
Desktop computers; country of origin; final determination, 21241
Country of origin marking:
Optical spectroscopy instrument systems, 21241–21242

Defense Department
See Army Department
See Engineers Corps
See Navy Department

Education Department
PROPOSED RULES
Elementary and secondary education:
Helping disadvantaged children meet high standards, 21400–21419
NOTICES
Grants and cooperative agreements; availability, etc.:
Dwight D. Eisenhower professional development Federal activities program, 21396–21397

Employment and Training Administration
NOTICES
Adjustment assistance:
Meridian Oil, 21222–21223
Seagull Mid-South, Inc., 21223
Shell Oil Co., 21223–21224
UNOCAL Corp., 21224

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission

Engineers Corps
PROPOSED RULES
Temporary anchors, cables, and chains for floating and semisubmersible drilling rigs; placement within shipping safety fairways; permits, 21061–21063

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 21045–21047
Solid wastes:
Products containing recovered materials; comprehensive procurement guidelines, 21370–21384

VOL
60
ISS
83
MY
1
1995
UMI

Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 21047–21048
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
California, 21063
NOTICES
Committees; establishment, renewal, termination, etc.:
Urban Wet Weather Flows Advisory Committee, 21189–21190
Meetings:
Emergency Planning and Community Right-to-Know Act; reporting requirements; expansion of industries covered and issues paper availability, 21190–21191
Municipal solid waste landfill permit programs; adequacy determinations:
Campo Band of Mission Indians, 21191–21210
Solid wastes:
Recovered materials advisory notice; availability, 21386–21394
Superfund; response and remedial actions, proposed settlements, etc.:
Tennessee Gas and Pipeline Site, TX, LA, and MS, 21210–21211

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
McDonnell Douglas, 21041–21042
PROPOSED RULES
Airworthiness directives:
AlliedSignal, 21053–21054
Boeing, 21054–21056
British Aerospace, 21056–21058

Federal Communications Commission
RULES
Frequency allocations and radio treaty matters:
Private land mobile services—
Mobile satellite services in 1610-1626.5 and 2483.5-2500 MHz frequency bands, 21048–21052

Federal Crop Insurance Corporation
RULES
Administrative regulations:
Reinsurance agreements; approval standards, 21035–21036

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
PacifiCorp et al., 21169–21170
Natural gas certificate filings:
National Fuel Gas Supply Corp. et al., 21170–21172
Natural Gas Policy Act:
Self-implementing transactions, 21173–21187
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 21172
Columbia Gas Transmission Corp., 21172–21173
Columbia Gulf Transmission Co., 21173
Paiute Pipeline Co., 21187
Riverside Pipeline Co., L.P., 21187–21188
South Georgia Natural Gas Co., 21188
Three Rivers Pipeline, 21188
Transcontinental Gas Pipe Line Corp., 21188
Virginia Electric & Power Co., 21189
Williston Basin Interstate Pipeline Co., 21189

Federal Railroad Administration
NOTICES
Exemption petitions, etc.:
American President Lines, Ltd., et al., 21233–21234
Port Authority Trans-Hudson Corp., 21234–21235

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Royal Bancshares, Inc., 21211

Food and Drug Administration
NOTICES
Food additive petitions:
E.I. du Pont de Nemours & Co., 21214
Memorandums of understanding:
National Institutes of Health; joint experiments related to drug metabolism and drug-drug interactions, 21214–21215

Forest Service
NOTICES
Environmental statements; availability, etc.:
Humboldt Nursery, CA; disease, insect, animal, and unwanted vegetation control, 21064
Pacific Southwest Region, nurseries and tree improvement center; unwanted vegetation, disease, insect, and animal control, 21064–21065
Placerville Nursery, CA; disease, insect, animal, and unwanted vegetation control, 21065

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Care Financing Administration
See Public Health Service
RULES
Grants:
Low-income home energy assistance program; block grant programs, 21322–21364

Health Care Financing Administration
RULES
Medicare:
Intermediaries and carriers; evaluation criteria and standards; CFR Correction, 21048

Housing and Urban Development Department
PROPOSED RULES
Public and Indian housing:
Vacancy Rule Negotiated Rulemaking Advisory Committee
Meetings, 21058
NOTICES
Low income housing:
Qualified census tracts and difficult development areas; statutorily designation under 1986 Internal Revenue Code section 42 for tax credit; republication, 94-26217, 21246–21320

Immigration and Naturalization Service
RULES
Immigration:
Deportation or exclusion final orders; temporary resident status automatic termination procedure, 21039–21041

Interior Department
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping:
Bicycles from—
China, 21065–21067
Solid urea from—
German Democratic Republic, 21067–21068
Countervailing duties:
Apparel from—
Peru, 21068–21070
Cotton sheeting and sateen from—
Peru, 21070–21071
Cotton yarn from—
Peru, 21071–21072
Textile mill products from—
Peru, 21072–21073

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Chicago & North Western Railway Co. et al., 21216
Union Pacific Corp. et al., 21216–21217

Justice Department
See Antitrust Division
See Immigration and Naturalization Service
See Parole Commission
NOTICES
Pollution control; consent judgments:
Metropolitan Dade County et al., 21217–21218

Labor Department
See Employment and Training Administration
See Labor Statistics Bureau

Labor Statistics Bureau
NOTICES
Meetings:
Business Research Advisory Council, 21222

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Phoenix Resource Area, AZ, 21215–21216

Minority Business Development Agency
NOTICES
Business development center program applications:
Massachusetts, 21073–21075

National Aeronautics and Space Administration
RULES
Patents and other intellectual property rights:
NASA inventions licensing; regulations removed, 21042

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 21235–21241

National Science Foundation
NOTICES
Meetings:
Cognitive, Psychological and Language Sciences Advisory Panel, 21224

Navy Department
NOTICES
Inventions, Government-owned; availability for licensing, 21131
Meetings:
Naval Research Advisory Committee, 21131
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Massachusetts Institute of Technology, 21131–21132

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
University of—
Washington, 21224–21225
Watts Bar Nuclear Power Plants (Units 1 and 2), 21225–21226
Reports; availability, etc.:
South Texas Project Allegations Review Team results, 21226
Applications, hearings, determinations, etc.:
Georgia Power Co. et al., 21226

Occupational Safety and Health Review Commission
PROPOSED RULES
Practice and procedure:
E-Z Trial pilot program implementation and simplified proceedings rules revision, 21058–21061

Parole Commission
NOTICES
Meetings; Sunshine Act, 21243

Patent and Trademark Office
RULES
Patent cases:
Affidavits or declarations submission, 21043–21045

Presidential Documents
PROCLAMATIONS
Special observances:
Law Day, U.S.A. (Proc. 6792), 21423–21424

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Minority health—
Cancer prevention, 21366–21368
International Classification of Diseases, Ninth Revision, Clinical Modification, External Cause Code (ICD–9–CM E code); revisions, 21215

Rural Telephone Bank
NOTICES
Meetings; Sunshine Act, 21243

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 21243

VOL
60
ISS
83
MY
1
1995
UMI

Self-regulatory organizations; proposed rule changes:
National Association of Securities Dealers, Inc., 21226–21227
Pacific Stock Exchange, Inc., 21227–21228
Participants Trust Co., 21228–21230
Applications, hearings, determinations, etc.:
New York Life Insurance & Annuity Corp. et al., 21230–21232

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 21232–21233

Treasury Department
See Customs Service

Separate Parts In This Issue

Part II
Department of Housing and Urban Development, 21246–21320

Part III
Department of Health and Human Services, 21322–21364

Part IV
Department of Health and Human Services, Public Health Service, 21366–21368

Part V
Environmental Protection Agency, 21370–21384

Part VI
Environmental Protection Agency, 21386–21394

Part VII
Department of Education, 21396–21397

Part VIII
Department of Education, 21400–21419

Part IX
The President, 21423–21424

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6792 21423

7 CFR
28 21033
75 21034
400 21035
1464 21036
1494 21037

8 CFR
245a 21039

14 CFR
39 21041
1245 21042
Proposed Rules:
39 (3 documents) 21053, 21054, 21056

19 CFR
7 21043
11 21043
12 21043
18 21043
19 21043
24 21043
54 21043
101 21043
102 21043
111 21043
114 21043
123 21043
128 21043
132 21043
134 21043
141 21043
145 21043
146 21043
148 21043
151 21043
152 21043
177 21043
181 21043
191 21043

24 CFR
Proposed Rules:
Ch. IX 21058

29 CFR
Proposed Rules:
2200 21058

33 CFR
Proposed Rules:
322 21061

34 CFR
Proposed Rules:
200 21400
201 21400
203 21400
205 21400
212 21400

37 CFR
1 21043

40 CFR
52 21045
247 21370
300 21047
Proposed Rules:
52 21063

42 CFR
421 21048

45 CFR
96 21322

47 CFR
2 21048

VOL
60
ISS
83
MY
1
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 83
Monday, May 1, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN–95–001]

RIN 0581–AB15

Revision of User Fees for 1995 Crop Cotton Classification Services to Growers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is reducing user fees for cotton producers for 1995 crop cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987. The 1994 user fee for this classification service was $1.80 per bale. This final rule will reduce the fee for the 1995 crop to $1.60 per bale. The reduced fee is due to increased efficiency in classing operations, and it is sufficient to recover the costs of providing classification services, including costs for administration, supervision, and development and maintenance of standards.

EFFFECTIVE DATES: July 1, 1995.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn, 202–720–2145.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the revisions was published in the **Federal Register** on February 24, 1995, (60 FR 10335). A 30-day comment period was provided for interested persons to respond to the proposed rule; no comments were received.

This final rule has been determined to be not significant for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this final rule on small entities pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be disproportionately burdened. There are about 40,000 cotton growers who voluntarily submit their cotton for the classification service. The majority of the growers are small businesses under the criteria established by the Small Business Administration. The Administrator of AMS has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the RFA because:

(1) The fee reduction reflects a decrease in the cost-per-unit currently borne by those entities utilizing the services;

(2) The cost reduction will not affect competition in the marketplace; and

(3) The use of classification services is voluntary.

In compliance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et seq.*), the information collection requirements contained in the provisions amended by this final rule have been previously approved by OMB and were assigned OMB control number 0581–0009 under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

The changes will be made effective July 1, 1995, as provided by the Cotton Statistics and Estimates Act.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for High Volume Instrument (HVI) classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.80 per bale during the 1994 harvest season as determined by using the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The fees cover salaries, cost of equipment and supplies, and other overhead costs, including costs for administration, supervision, and development and maintenance of cotton standards.

This final rule establishes the user fee charged to producers for HVI classification at $1.60 per bale during the 1995 harvest season.

Public Law 102–237 amended the formula in the Uniform Cotton Classing Fees Act of 1987 for establishing the producer's classification fee so that the producer's fee is based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 1994. Therefore, the 1995 producer's user fee for classification service is based on the 1994 base fee for HVI classification.

The fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 1994 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $1.96 per bale. A 2.3 percent, or five cents per bale increase due to the implicit price deflator of the gross domestic product added to the $1.96 results in a 1995 base fee of $2.01 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, this has been replaced by the gross domestic product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 1995 crop is estimated at 19,202,000. The 1995 base fee was decreased 15 percent based on the estimated number of bales to be classed (one percent for every 100,000 bales or portion thereof above the base of 12,500,000, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 30 cents per bale reduction and was subtracted

VOL
60
ISS
83
MY
1
1995
UMI

from the 1995 base fee of $2.01 per bale, resulting in a fee of $1.71 per bale.

Assuming a fee of $1.71 per bale, the projected operating reserve would be 30 percent. The Act specifies that the Secretary shall not establish a fee which, when combined with other sources of revenue, will result in a projected operating reserve of more than 25 percent. Accordingly, the fee of $1.71 must be reduced by 11 cents per bale, to $1.60 per bale, to provide an ending accumulated operating reserve for the fiscal year of 25 percent of the projected cost of operating the program. This establishes the 1995 season fee at $1.60 per bale.

Accordingly, § 28.909, paragraph (b) is revised to reflect the reduction in the HVI classification fees.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a five cents per bale discount will continue to be applied to voluntary centralized billing and collecting agents as specified in § 28.909 (c).

Growers or their designated agents will continue to incur no additional fees if only one method of receiving classification data is requested. The fee for each additional method of receiving classification data in § 28.910 will remain at five cents per bale, and it will be applicable even if the same method was requested. The other provisions of § 28.910 concerning the fee for an owner receiving classification data from the central database and the fee for new classification memoranda issued for the business convenience of such an owner without reclassification of the cotton will remain the same.

The fee for review classification in § 28.911 will be reduced from $1.80 per bale to $1.60 per bale.

The fee for returning samples after classification in § 28.911 will remain at 40 cents per sample.

List of Subjects in 7 CFR Part 28

Administrative practice and procedures, Cotton, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR Part 28 is amended as follows:

PART 28—[AMENDED]

1. The authority citation for Subpart D of Part 28 is revised to read as follows:

Authority: 7 U.S.C. 473a; 7 U.S.C. 473c.

2. In § 28.909, paragraph (b) is revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.60 per bale.

* * * * *

3. In § 28.911, the last sentence of paragraph (a) is revised to read as follows:

§ 28.911 Review classification.

(a) * * * The fee for review classification is $1.60 per bale.

* * * * *

Dated: April 25, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–10602 Filed 4–28–95; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 75

[Docket No. LS–94–011]

RIN 0581–AB35

Increase Seed Inspection Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the applicable fees for testing seed under the voluntary seed inspection and certification program. The fees which will be paid by the users of the service are intended to generate sufficient revenue to offset the cost of operating the program.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: James P. Triplitt, Chief, Seed Regulatory and Testing Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, Building 506, BARC–E, Beltsville, Maryland 20705, 301–504–9430.

SUPPLEMENTARY INFORMATION: This rule has been determined to be not significant for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have a retroactive effect. The rule would not preempt any state or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to judicial challenge to the provision of this rule.

This action was also reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The Administrator of AMS has determined that this action will not have a substantial economic impact on a significant number of small entities. Although some seed growers and shippers using this service may be classified as small entities, the effect of the increased fees will be minimal. Under the proposal the cost for a typical test will increase from about $57.00 to approximately $64.50. It is estimated that the total revenue generated by this increase will be approximately $15,000 annually.

Background

This rule is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.* Section 203(h) of the AMA authorizes the Secretary to inspect and certify the quality of agricultural products and collect such fees as reasonable to cover the cost of service rendered. This revision is to increase the fees to be charged for the inspection and certification of quality of agricultural and vegetable seeds to reflect the Department's cost of operating the program.

The purpose of the voluntary program is to promote efficient, orderly marketing of seeds, and assist in the development of new and expanding markets. Under the program samples of agricultural and vegetable seeds submitted are tested for factors such as purity and germination at the request of the applicant for the service. In addition, grain samples, submitted at the applicant's request, by the Grain Inspection, Packers and Stockyards Administration are examined for the presence of certain weed and crop seed. A Federal Seed Analysis Certificate is issued giving the test results. Of 1,650 samples tested in fiscal year 1994 most represented seed or grain scheduled for export. Many importing countries require a Federal Seed Analysis Certificate on United States seed.

After reviewing the current costs the department has determined that the present fee is insufficient to cover the program's cost of operation. The fee increase is necessary to offset increased salaries and fringe benefits to personnel, as well as increases in rent and other program costs. Based on the Agency's analysis of costs and revenue, AMS is proposing to increase the hourly rate for the voluntary service from $35.40 to $40.40 per hour. In addition, the cost of issuing additional duplicate original certificates will be increased from $8.85 to $10.10. Approximately one-fourth hour is required to issue additional duplicate certificates.

A proposed rule was published in the **Federal Register** on January 4, 1995 (60 FR 379). Comments on the proposed rule were invited from interested persons until February 3, 1995. No comments were received.

List of Subjects in 7 CFR Part 75

Administrative practice and procedure, Agricultural commodities, Reporting and recordkeeping requirements, Seeds, Vegetables.

For reasons set forth in the preamble, it is proposed that 7 CFR part 75 be amended as follows:

PART 75—REGULATIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS.

1. The authority citation for part 75 is revised to read as follows:

Authority: 7 U.S.C. 1622 and 1624.

§ 75.41 [Amended]

2. Section 75.41 is amended by removing "$35.40" and adding in its place "$40.40."

§ 75.47 [Amended]

3. Section 75.47 is amended by removing "$8.85" and adding in its place "$10.10."

Dated: April 25, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–10603 Filed 4–28–95; 8:45 am]

BILLING CODE 3410–02–P

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Reinsurance Agreement—Standards for Approval

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation ("FCIC") hereby amends its General Administrative Regulations, 7 CFR part 400, by revising the Disputes clause, located at section 400.169. The intended effect of this rule is to provide reinsured companies with an informal reconsideration process through an administrative officer of FCIC and the right to appeal the administrative officer's administrative determination to the Board of Contract Appeals.

DATES: This rule is effective May 1, 1995. Written comments, data, and opinions on this rule will be accepted until close of business June 30, 1995 and will be considered when the rule is to be made final.

ADDRESSES: Written comments, data, and opinion on this interim rule should be sent to Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, USDA, Washington, D.C. 20250. Hand or messenger delivery should be made to Suite 500, 2101 L Street, N.W., Washington, D.C. Written comments will be available for public inspection and copying in the Office of the Manager, 2101 L Street, N.W., 5th Floor, Washington, D.C., during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION: As a result of the Departmental reorganization mandated by the Department of Agriculture Reorganization Act of 1994, FCIC must amend its dispute provisions to provide reinsured companies with a mechanism to request reconsideration or appeal of adverse decisions determined by FCIC.

This action has been reviewed under United States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is March 31, 1999.

This rule has been determined to be "not significant" for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget ("OMB").

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Under the Regulatory Flexibility Act (5 U.S.C. 605), this regulation will not have a significant impact on a substantial number of small entities. This action does not increase the paperwork burden on the reinsured company because this action only changes the mechanism in which to submit disputed reinsurance issues. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicabie standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J and the appeal provisions promulgated by the Board of Contract Appeals, 7 CFR part 24, subtitle A, must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This interim rule provides a new avenue of appeal for reinsured companies now that FCIC no longer has hearing officers to conduct these appeals. At present, there is no body authorized to hear these appeals. Therefore, it is impractical and contrary to the public interest to publish this rule for notice and comment prior to making the rule effective. However, comments are solicited for 60 days after the date of publication in the **Federal Register** and will be considered by FCIC before this rule is made final.

Background

Prior to enactment of the Department of Agriculture Reorganization Act of 1994, reinsured companies were afforded the opportunity for an informal hearing to appeal final determinations made by FCIC. The authority to hear these appeals was delegated to FCIC hearing officers. If the reinsured company was dissatisfied with the determination of the hearing officer, its only recourse was to the courts. Since the Standard Reinsurance Agreement is not a program agreement but instead an agreement for delivery of the program, it is an action to be handled by the

VOL 60 ISS 83 MY 1 1995 UMI

Agency Board of Contract Appeals rather than a program matter within the jurisdiction of the National Appeals Division. If the reinsured company is now dissatisfied with a determination under a reinsurance agreement with FCIC it may now request the Director of Insurance Services to render a final administrative determination on the dispute. If the reinsured company is dissatisfied with a determination as a result of a compliance review finding, it may request the Director of Compliance to render a final administrative determination on the dispute. Such final administrative determination by the Director of Insurance Services or Director of Compliance will be appealable to the United States Department of Agriculture Board of Contract Appeals.

List of Subjects in 7 CFR Part 400

Crop insurance.

Final Rule

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends 7 CFR part 400, subpart L to read as follows:

PART 400—[AMENDED]

1. The authority citation for 7 CFR part 400, subpart L, is revised to read as follows:

Authority: 7 U.S.C. 1506(l).

2. Section 400.169 is revised to read as follows:

§ 400.169 Disputes.

(a) If the company believes that the Corporation has taken an action that is not in accordance with the provisions of the Standard Reinsurance Agreement or any reinsurance agreement with FCIC, except compliance issues, it may within 45 days after receipt of such determination, request, in writing, the Director of Insurance Services to make a final administrative determination addressing the disputed issue. The Director of Insurance Services will render the final administrative determination of the Corporation with respect to the applicable issues.

(b) If the company believes that the Corporation's compliance review findings are not in accordance with the applicable laws, regulations, custom or practice of the insurance industry, or FCIC approved policy and procedure, it may within 45 days after receipt of such determination, request, in writing, the Director of Compliance to make a final administrative determination addressing the disputed issue. The Director of Compliance will render the final administrative determination of the Corporation with respect to these issues.

(c) A company may also request reconsideration by the Director of Insurance Services of a decision of the Corporation rendered under any Corporation bulletin or directive which bulletin or directive does not affect, interpret, explain, or restrict the terms of the reinsurance agreement. The company, if it disputes the Corporation's determination, must request a reconsideraiton of that determination in writing, within 45 days of the receipt of the determination. The determinations of the Director will be final and binding on the company. Such determinations will not be appealable to the Board of Contract Appeals.

(d) Appealable final administrative determinations of the Corporation under § 400.169 (a) or (b) may be appealed to the Board of Contract Appeals in accordance with the provisions of part 24 of title 7, subtitle A, of the Code of Federal Regulations, 7 CFR part 24.

Done in Washington, D.C., on April 20, 1995.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 95–10466 Filed 4–28–95; 8:45 am]

BILLING CODE 3410–05–P

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AD91

Tobacco; Tobacco Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Federal Crop Insurance Reform Act of 1994 (the 1994 Act), was enacted on October 13, 1994, and amended the Federal Crop Insurance Act. The 1994 Act requires the Federal Crop Insurance Corporation (FCIC) to implement a catastrophic risk protection plan of insurance which is the basic level of coverage required to be purchased by a producer in order to be eligible for price support and other U.S. Department of Agriculture farm program benefits. The FCIC issued regulations in the form of an interim rule published in the **Federal Register** on Friday, January 6, 1995. The purpose of the immediate rule is to amend tobacco loan program regulations to reflect this new requirement. This rule amends 7 CFR part 1464. This rule requires that producers purchase crop insurance in order to be eligible for tobacco program benefits. The insurance must be acquired in accordance with FCIC rules in an amount that equals or exceeds the minimum amount set by FCIC.

DATES: *Effective Date:* May 1, 1995.

Comment Date: Comments must be received on or before May 31, 1995 in order to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Tobacco and Peanuts Division, Consolidated Farm Service Agency (CFSA), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013–2415, telephone 202–720–7413. All written comments will be available for public inspection in room 5750, South Building, USDA, 14th St. and Independence Avenue, SW., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary Wheeler, CFSA, at the address listed under **ADDRESSES**, telephone 202–720–7562.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This interim rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 USC 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V published at 48 FR 2915 (June 24, 1983).

Executive Order 12778

This interim rule has been reviewed in accordance with Executive Order 12778. The provisions of this interim rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this interim rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 1464, the administrative appeal provisions set forth at 7 CFR part 780 must be exhausted.

Paperwork Reduction Act

This interim rule does not change the CFSA information collection requirements that have been approved by OMB and assigned control number 0560–0058. The FCIC information collection requirements for 0563–0003 have been modified and approved by OMB to reflect the program requirements imposed by the Federal Crop Insurance Reform Act of 1994.

A. The Federal Crop Insurance Act of 1994

The 1994 Act was enacted on October 13, 1994, and amended the Federal Crop Insurance Act. The 1994 Act requires FCIC to implement a catastrophic risk protection plan of insurance which is the basic level of coverage required to be purchased by a producer to be eligible for price support and other U.S. Department of Agriculture farm program benefits. FCIC issued an interim rule published in the **Federal Register** on Friday, January 6, 1995 (Vol. 60, No. 4, pages 1996 through 2005) implementing this and other 1994 Act provisions.

B. Tobacco Loan Program

This rule amends 7 CFR part 1464 for the tobacco program to reflect the 1994 Act's insurance provisions. Under the rule, as under the act, beginning with the 1995 crops, tobacco producers will be ineligible for price support unless they purchase catastrophic risk protection crop insurance in accordance with FCIC rules in an amount which equals or exceeds the minimal amount set by FCIC. This requirement is statutory. For that reason, because this rule mirrors the previously published FCIC rules, and because of the onset of the growing season, it has been determined that there would be no purpose in delaying the effectiveness of this rule and that such delay would be contrary to the public interest. Therefore, it has been determined that this rule should be published as an interim rule without prior comment.

List of Subjects in 7 CFR Part 1464

Assessments, Loan program, Agriculture, Price support program, Tobacco, Warehouses.

For the reasons set out in the preamble, 7 CFR part 1464 is amended as follows:

PART 1464—TOBACCO

1. The authority citation for part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1, and 1445–2; 15 U.S.C. 714b, 714c.

2. Section 1464.7 is amended by adding a new paragraph (f) to read as follows:

§ 1464.7 Eligible producer.

* * * * *

(f) Must be in compliance with the provisions of parts 400 and 402 of this title by purchasing an amount of catastrophic insurance coverage which equals or exceeds the minimal required under those parts.

Signed at Washington, DC on April 21, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–10601 Filed 4–28–95; 8:45 am]

BILLING CODE 3410–05–M

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7 CFR Part 1494

Export Bonus Programs

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: CCC is issuing this final rule to amend its regulations to: (1) Delete the export experience requirement for qualification to participate in the Export Enhancement Program (EEP) and the Dairy Export Incentive Program (DEIP) and (2) establish the time at which new program participants would be eligible to receive bonus payments. These amendments are intended to provide the opportunity for a greater number of U.S. exporters to participate in the EEP and the DEIP. The final rule also amends several provisions of the regulations to make them clearer, easier to read, and more consistent with the regulations that apply to some of the other CCC export programs.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: L.T. McElvain, Director, CCC Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, AG Box 1035, Washington D.C., 20250–1035; Fax (202) 720–2949; Telephone (202) 720–6211. The U.S. Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs, and marital or familial status. Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 720–5881 (voice) or (202) 720–7808 (TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. It has been determined to be neither significant nor economically significant for the purposes of E.O. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Paperwork Reduction Act

The information collection requirements contained in this rule have previously been submitted to OMB for review under the Paperwork Reduction Act and were assigned OMB control numbers 0551–0028 and 0551–0029.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule will have preemptive effect with respect to any

VOL 60 ISS 83 MY 1 1995 UMI

state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule will not have retroactive effect. The regulations currently require that certain administrative remedies be exhausted before suit may be filed, and this final rule does not change this requirement.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome, and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations.

Background

CCC published a proposed rule in the Federal Register of January 18, 1995 (60 FR 3564) that would amend 7 CFR part 1494 to delete the export experience requirement for qualification to participate in the EEP and the DEIP and establish the time at which new program participants would be eligible to receive bonus payments. In addition, CCC proposed that changes be made to the regulations to require a certification from exporters seeking to qualify for program participation; to delete unnecessary or redundant language; and to inform qualified exporters in a more direct fashion that they have a duty to update information they have provided to CCC pursuant to 7 CFR 1494.301(a) to ensure that it is current and accurate. The proposed rule also contained other minor, non-substantive changes intended to make the rule clearer, easier to read, and more consistent with the regulations that apply to some of the other CCC export programs.

Comments

The deadline for submitting comments on the proposed rule was March 20, 1995. CCC received comments from six U.S. exporters, two producer associations, and one U.S. trade association. These nine parties made approximately 12 separate and significant comments regarding the proposed rule.

Five commenters expressed support for CCC's proposal to delete the export experience requirement. One commenter stated that the export experience requirement has seriously limited participation in the DEIP by certain exporters. Another commenter felt that this requirement has had the effect of creating a monopoly which reduced the competitive edge of U.S. exports. Furthermore, this respondent felt that the experience requirement has forced novice exporters to have to deal with export sales agents qualified under the EEP or DEIP. This additional layer, in the view of the commenter, decreases the efficiency of the export sale. One commenter felt that a firm that has the contacts and resources to do business overseas should be allowed the opportunity to do international business, through its participation in the programs, in the same way that it has the opportunity to do business in the domestic market.

Another commenter felt that the experience requirement has restricted the ability of many U.S. dairy product companies to export and that dispensing with this requirement will broaden the potential exporter base for U.S. dairy products. This respondent, however, was opposed to CCC's proposal to defer payment of bonuses to new program participants until they have demonstrated their ability to participate successfully in a program. This commenter expressed the opinion that this provision of the proposed rule is discriminatory because the timing of the receipt of the export bonus and the performance security requirements work to the competitive disadvantage of novice exporters and the advantage of experienced exporters.

Four commenters disagreed with the proposal to delete the export experience requirement. These commenters were concerned that removal of this requirement would, in some way, threaten the integrity of the EEP and DEIP and the image of the United States as a reliable export supplier. One commenter felt that the qualification requirements in the current DEIP regulations are not onerous and can be readily satisfied by parties who are seriously interested in developing export business. One commenter expressed the opinion that the deletion of the experience requirement could encourage export transactions by parties that lack the experience and financial standing to successfully execute such transactions. One commenter felt that removal of the experience requirement would open the programs to potential fraud. This commenter advocated that even more controls be placed on program participation.

Another respondent felt that, if the experience requirement is deleted, the market would be plagued with companies and brokers that are inexperienced and perhaps less than honest. Program participation by inexperienced companies would, in the long run, cause small domestic producers to shy away from the international market, because of bad experiences, and foreign buyers to buy solely from large companies. However, this commenter did express support for the change in the proposed rule such that an exporter would simply qualify one time to be eligible for a program and could thereafter export any eligible commodity under that program.

CCC did not receive comments on any of the other proposed changes to 7 CFR part 1494.

Discussion

After considering all of the significant comments, CCC has determined to make the changes to 7 CFR 1494.201 and 1494.301 as proposed. CCC agrees with those commenters that expressed the view that the deletion of the export experience requirement will permit additional companies to participate in the EEP and DEIP and increase competition for export business.

CCC does not agree with those commenters that felt that the additional exporters that will participate in the EEP and DEIP as a result of this change will present an increased threat to the programs as a result of abuse or fraud. CCC will continue to require performance security from exporters and take aggressive action in the face of any apparent program violations. In addition, CCC does not agree with the commenters' views that allowing inexperienced exporters to participate in the programs will adversely affect other small exporters' participation or domestic suppliers' relationships with exporters, because domestic suppliers can take steps to evaluate individual exporters and to protect themselves from nonperformance and other potential exporter problems.

The proposed timing of the bonus payments to new program participants will provide a means of allowing exporters to gain experience within the program, yet protect CCC from paying a bonus until the product arrives in the eligible country. CCC's intention, in adopting this bonus mechanism, is to address the types of concerns about potential program abuse raised by some commenters. Furthermore, while the timing of the bonus payment is different for qualified exporters and those without proven program participation, the amount of performance security required and the timing of the release of the performance security for both categories of exporters will be the same. Therefore, CCC has designed a mechanism which will impose the minimal additional burden on new program participants necessary to protect CCC's interests.

List of Subjects in 7 CFR Part 1494

Administrative practice and procedure, Agricultural commodities, Exports, Government contracts, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1494 is amended to read as follows:

PART 1494—EXPORT BONUS PROGRAMS

Subpart B—Export Enhancement Program Operations

1. The authority citation for 7 CFR part 1494, subpart B, continues to read as follows:

Authority: 7 U.S.C. 5602, 5651, 5661, 5662, 5676; 15 U.S.C. 714c.

2. Paragraph (q) of § 1494.201 is revised to read as follows:

§ 1494.201 Definitions of terms.

* * * * *

(q) *Eligible exporter.* A person that has been notified by CCC that such person is qualified to submit offers in response to Invitations.

* * * * *

3. Section 1494.301 is amended by revising the section introductory text and the paragraph (a) introductory text; by removing paragraph (a)(1) and redesignating paragraphs (a)(2) through (a)(6) as paragraphs (a)(1) through (a)(5), respectively; by adding a new paragraph (a)(6); by removing paragraph (b) and redesignating paragraphs (c) through (g) as paragraphs (b) through (f), respectively; by revising newly designated paragraphs (b), (d), (e) and (f); and by adding a new paragraph (g) to read as follows:

§ 1494.301 Information required for program participation.

Before CCC will consider an offer from an interested person, such person must qualify for participation in the program. Based upon information submitted by the interested person and available from public sources, CCC will determine whether the interested person is eligible for participation in the program.

(a) *Submission of documentation.* An interested person that wishes to qualify as an eligible exporter must furnish the following information or documentation to CCC at the address referenced in the Notice to Exporters--EEP Contacts:

* * * * *

(6) The following certification: "I certify, to the best of my knowledge and belief, that neither [name of interested person] nor any of its principals has been debarred, suspended, or proposed for debarment from contracting with or participating in programs administered by any U.S. Government agency. ["Principals," for the purpose of this certification, means officers; directors; owners of five percent or more of stock; partners; and persons having primary management or supervisory responsibility within a business entity (e.g., general manager, plant manager, head of a subsidiary division or business segment, and similar positions).] I further agree that, should any such debarment, suspension, or notice of proposed debarment occur in the future, [name of interested person] will immediately notify CCC."

(b) *Necessity to qualify.* An interested person may not submit an offer, and CCC will not consider any such offer, until CCC has notified the interested person that such person has qualified as an eligible exporter.

* * * * *

(d) *Previous performance.* CCC may request additional information with respect to the interested person's performance under any U.S. Government programs or in connection with any contracts or agreements with the U.S. Government during the past three years.

(e) *Ineligibility for program participation.* A person may be ineligible to participate in the EEP if such person:

(1) Is currently debarred, suspended or proposed for debarment from contracting with or participating in any program administered by a U.S. Government agency; or

(2) Is controlled or can be controlled, in whole or in part, by any individuals or entities currently debarred, suspended or proposed for debarment from contracting with or participating in programs administered by a U.S. Government agency.

(f) *Duty to update information provided to CCC.* An eligible exporter is under a continuing obligation to inform CCC of any changes in the information or documentation submitted to CCC pursuant to paragraph (a) of this section and to provide current and accurate information to CCC.

(g) *Payment of bonus to exporters without proven EEP participation.* An eligible exporter that has not yet demonstrated its ability to participate successfully in the EEP will be eligible to receive a bonus payment(s) only after the eligible commodity specified in an EEP Agreement has entered into the eligible country. Such an exporter must furnish performance security under "Option B" of the applicable Invitation and follow the procedure specified in § 1494.701(d) to request the payment of the bonus. An eligible exporter may demonstrate its ability to participate successfully in the EEP by entering or causing to be entered into the eligible country at least 95% of the quantity of the eligible commodity specified in any one EEP Agreement. CCC will consider that an exporter has proven its ability to participate successfully in the EEP as of the date on which CCC pays to the exporter a bonus for entry of a quantity that brings the total entered quantity for any one EEP Agreement to at least 95%. For all EEP Agreements that such exporter enters into with CCC subsequent to that date, the exporter may furnish performance security under "Option A" of the applicable Invitation and will be eligible to receive bonus payments in accordance with § 1494.701(c).

Signed this 25th day of April, 1995 at Washington, DC.

Christopher E. Goldthwait,

General Sales Manager and Vice President, Commodity Credit Corporation.

[FR Doc. 95–10600 Filed 4–28–95; 8:45am]

BILLING CODE 3410–10–F

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245a

[INS No. 1321–91; AG Order No. 1964–95]

RIN 1115–AC18

Procedure for Automatic Termination of Temporary Resident Status Upon Final Order of Deportation or Exclusion

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends existing regulations by providing, in specified circumstances, for the automatic termination of temporary resident status under provisions of the Immigration and Nationality Act, as amended (Act), upon the entry of a final order of deportation or exclusion. This amendment is necessary to avoid possible delays in, or termination of, pending deportation and exclusion proceedings that would result if the Immigration and Naturalization Service (INS) were required to follow existing procedures for the termination of temporary resident status. This amendment permits the expeditious deportation and removal of aliens who hold temporary resident status and have been convicted of an aggravated felony

VOL
60
ISS
83
MY
1
1995
UMI

or have been found to be ineligible for admission into the United States for reasons that are not waivable. This rule also prevents the release of dangerous criminal aliens into society during deportation or exclusion proceedings.

EFFECTIVE DATE: This rule is effective May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Executive Director, Executive Office for Immigration Review, Suite 2400, Skyline Tower, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone number (703) 305–0470 or David Dixon, Chief Appellate Counsel, Immigration and Naturalization Service, 425 I Street, N.W., Room 6100, Washington, DC 20536, telephone number (703) 756–6257.

SUPPLEMENTARY INFORMATION: The INS published a proposed rule on May 13, 1994 at 59 FR 24979. The proposed rule provided for automatic termination of temporary resident status under provisions of the Act upon the entry of a final order of deportation or exclusion. No comments were received and no changes have been made by the INS in preparing this final rule. This final rule will correct a procedural anomaly that has resulted in the release of aggravated felons who hold temporary resident status and which has impaired the ability of the INS to deport those who, after obtaining temporary resident status, commit deportable acts.

Matter of Medrano, Interim Decision #3138 (BIA September 10, 1990) (**Medrano**), holds that the status of a temporary resident alien must first be terminated pursuant to section 245A(b)(2) of the Act (8 U.S.C. 1255a(b)(2)) and in accordance with 8 CFR 245a.2(u) before any deportation proceedings can be commenced. That interpretation leaves the INS with conflicting mandates.

Medrano requires termination of temporary resident status before apprehension and commencement of deportation proceedings against a deportable alien, yet section 242(a)(2)(A) of the Act (8 U.S.C. 1252(a)(2)(A)) requires the INS to detain aggravated felons. Medrano and 8 CFR 245a.2(u)(2) also grant more procedural rights to temporary residents than to lawful permanent residents. Under Medrano and 8 CFR 245a.2(u)(2), the INS must terminate, as a condition precedent to the commencement of deportation proceedings, the temporary resident status of an alien who commits a deportable offense after he has acquired temporary resident status. In contrast, permanent residents may be deported upon commission of an aggravated felony without first having their status terminated. This final rule, permitting deportation proceedings prior to terminating temporary status, conforms with other regulations currently in force with respect to automatic revocation of status of Special Agricultural Workers. *See* 8 CFR 210.4(d).

Thus, in order to avoid any delay or termination of deportation or exclusion proceedings that may be caused by invoking the termination procedure prescribed in 8 CFR 245a.2(u)(2) and to permit the expeditious deportation and removal of aggravated felons as required by section 242A(d) (8 U.S.C. 1252a(d)) and 242(i) (8 U.S.C. 1252(i)) of the Act, a new paragraph (ii) has been added to section 245a.2(u)(2). The new paragraph provides for the institution of deportation or exclusion proceedings and the automatic termination of temporary resident status upon the entry of a final order of deportation or exclusion in cases where: (1) The ground for deportation arises under section 241(a)(2)(A)(iii) of the Act (8 U.S.C. 1251(a)(2)(A)(iii)) (convicted aggravated felons); (2) the ground of deportation arises after the acquisition of temporary resident status, and that ground may not be waived pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)) (relating to certain crimes, drug offenses, national security and likelihood of becoming a public charge); or (3) the alien seeks admission and the ground of inadmissibility may not be waived pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)).

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. It will affect certain individual aliens, not small entities. This is not a significant rule within the meaning of section 3(f) of Executive Order 12866, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

List of Subjects in 8 CFR Part 245a

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 245a of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT

1. The heading for part 245a is revised to read as set forth above.

2. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1255a, and 1255a note.

3. Section 245a.2(u)(2) is amended by:

a. Designating the existing text of paragraph (u)(2) as paragraph (u)(2)(i);

b. Adding a new heading and revising the first sentence of paragraph (u)(2)(i); and

c. Adding a new paragraph (u)(2)(ii), to read as follows:

§ 245a.2 Application for temporary residence.

* * * * *

(u) * * *

(2) * * *

(i) *Termination by the Service.* Except as provided in paragraph (u)(2)(ii) of this section, termination of an alien's temporary resident status under paragraph (u)(1) of this section will be made before instituting deportation proceedings against a temporary resident alien and only on notice sent to the alien by certified mail directed to his or her last known address, and to his or her representative, if any. * * *

(ii) *Termination upon entry of final order of deportation or exclusion.* (A) The Service may institute deportation or exclusion proceedings against a temporary resident alien without regard to the procedures set forth in paragraph (u)(2)(i) of this section:

(*1*) If the ground for deportation arises under section 241(a)(2)(A)(iii) of the Act (8 U.S.C. 1251(a)(2)(A)(iii));

(*2*) If the ground for deportation arises after the acquisition of temporary resident status, and the basis of such ground of deportation is not waivable pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)); or

(*3*) If the ground for exclusion arises after the acquisition of temporary resident status and is not waivable pursuant to section 245A(d)(2)(B)(ii) of the Act (8 U.S.C. 1255a(d)(2)(B)(ii)).

(B) In such cases, the entry of a final order of deportation or exclusion will automatically terminate an alien's temporary resident status acquired under section 245A(a)(1) of the Act.

* * * * *

Dated: April 21, 1995.

Janet Reno,

Attorney General.

[FR Doc. 95–10540 Filed 4–28–95; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–54–AD; Amendment 39–212; AD 95–09–09]

Airworthiness Directives; McDonnell Douglas Model DC–8–60 Series Airplanes Equipped With Engines Modified by Burbank Aeronautical Corporation II (BAC II) in Accordance With Supplemental Type Certificate (STC) SA4892NM or SA5455NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8–60 series airplanes. This action requires inspection to determine the part number of the cone bolt on the right side of the forward mount of each engine, and replacement of the bolt, if necessary. This amendment is prompted by a report of failure of a cone bolt at that location on an engine of one airplane. The actions specified in this AD are intended to prevent failure of the cone bolt on the right side of the forward mount of the engine, which may lead to separation of the engine during a critical phase of flight.

DATES: Effective May 16, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 30, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–54–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information concerning this amendment may be obtained from or examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: David Y. J. Hsu, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5323; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Recently, the FAA received a report of failure of a cone bolt on the right side of the forward mount of an engine on a McDonnell Douglas Model DC–8–60 series airplane. Investigation revealed that corrosion pitting at the base of the bolt thread caused the cone bolt to fail. Further investigation indicated that this cone bolt, BAC II part number (P/N) DC–8–21005–7, was re-manufactured from a 15-year-old bolt. This bolt had accumulated 3,526 flight hours since it had been installed on the engine, which was modified by Burbank Aeronautical Corporation II (BAC II) in accordance with Supplemental Type Certificate (STC) SA4892NM. This condition, if not corrected in a timely manner, could result in failure of the cone bolt on the right side of the forward mount of the engine, which may lead to separation of the engine during a critical phase of flight.

Since both STC's SA4892NM and SA5455NM specify the same cone bolts, the FAA has determined that the subject unsafe condition is likely to exist or develop on all Model DC–8–60 series airplanes equipped with engines modified by BAC II in accordance with either STC. The FAA finds that the differences in design and materials used to manufacture cone bolts having Barry Controls part number, P/N 96013–1, make them less susceptible to corrosion. Therefore, the FAA has determined that cone bolts having BAC II part number, DC–8–21005–7, must be replaced with cone bolts having the Barry Controls part number.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent failure of the cone bolt on the right side of the forward mount of the engine, which may lead to separation of the engine during a critical phase of flight. This AD requires a one-time inspection to determine the part number of the cone bolt on the right side of the forward mount of the engine, and replacement of certain cone bolts having BAC II part numbers with cone bolts having Barry Controls part numbers. This AD also requires that operators submit a report to the FAA of the findings of discrepant bolts.

This is considered to be interim action until such time that all cone bolts having BAC II part numbers have been removed from the fleet and the FAA has accounted for all cone bolts having BAC II part numbers. The information from the required reports from operators will enable the FAA to account for those cone bolts and to determine if additional rulemaking action is warranted.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–54–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612,

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it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95-08-09 McDonnell Douglas: Amendment 39-212. Docket 95-NM-54-AD.

Applicability: Model DC-8-61, -62, -62F, -63, and -63F airplanes equipped with an engine modified by Burbank Aeronautical Corporation II (BAC II) in accordance with Supplemental Type Certificate (STC) SA4892NM or SA5455NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the cone bolt on the right side of the forward mount of the engine, which may lead to separation of the engine during a critical phase of flight, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform an inspection to determine the part number (P/N) of the cone bolt on the right side of the forward mount of each of the four engines.

(1) If the cone bolt has Barry Controls P/N 96013-1, no further action is required by this AD.

(2) If the cone bolt does not have Barry Controls P/N 96013-1, prior to further flight, remove it and install a cone bolt having Barry Controls P/N 96013-1, in accordance with either STC SA4892NM or SA5455NM.

Note 2: Intervals for repetitive inspections and replacements of life-limited cone bolts having Barry Controls P/N 96013- are specified in STC's SA4892NM and SA5455NM.

(b) Within 10 days after replacing a cone bolt in accordance with the requirements of paragraph (a)(2) of this AD, submit a report that includes the information contained in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this AD, to the Manager, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5323; fax (310) 627-5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) Series and fuselage serial number of Model DC-8 series airplane.

(2) Total time and number of cycles on the engine since installation of the engine modified by BAC II in accordance with STC SA4892NM or SA5455NM.

(3) Number of bolts identified having BAC II P/N DC-8-21005-7.

(4) Number of bolts destroyed having BAC P/N DC-8-21005-7.

(c) As of the effective date of this AD, no person shall install, on any airplane, a cone bolt having BAC II P/N DC-8-21005-7 on right side of the forward mount of the engine.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on May 16, 1995.

Issued in Renton, Washington, on April 25, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-10586 Filed 4-28-95; 8:45 am]

BILLING CODE 4910-13-U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1245

Patents and Other Intellectual Property Rights

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 24 CFR part 1245 by removing Subpart 2, "Licensing of NASA Inventions." The Department of Commerce has issued similar regulations which prescribe the terms, conditions, and procedures upon which a federally-owned invention may be licensed. These regulations are codified at 37 CFR Part 404, "Licensing of Government-Owned Inventions." NASA began granting licenses in accordance with the Department of Commerce regulations on March 13, 1995. All licenses agreements executed prior to this date will operate under the previous regulations.

EFFECTIVE DATE: March 13, 1995.

FOR FURTHER INFORMATION CONTACT: John G. Mannix, 202-358-2424.

List of Subjects in 14 CFR Part 1245

Authority delegations (Government agencies), Inventions and patents.

Under the authority, 42 U.S.C. 2473, 14 CFR Part 1245 is amended as follows:

PART 1245—[AMENDED]

Subpart 2—[Removed and Reserved]

In 14 CFR Part 1245, Subpart 2 (consisting of SS 1245.200 through 1245.214) is removed and reserved.

Dated: April 24, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95-10583 Filed 4-28-95; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 7, 11, 12, 18, 19, 24, 54, 101, 102, 111, 114, 123, 128, 132, 134, 141, 145, 146, 148, 151, 152, 177, 181, and 191

[T.D. 95-29]

Technical Amendments to the Customs Regulations; Correction

AGENCY: Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to the document published in the **Federal Register** which made certain technical corrections to various authority citations to reflect amendments to the Harmonized Tariff Schedule of the United States made by the North American Free Trade Agreement (NAFTA) and the Uruguay Round of the General Agreement on Tariffs and Trade (GATT).

EFFECTIVE DATE: This correction is effective May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Gregory R. Vilders, Attorney, Regulations Branch, (202) 482-6930.

SUPPLEMENTARY INFORMATION:

Background

On April 11, 1995, Customs published in the **Federal Register** (60 FR 18347) T.D. 95-29 to make certain technical corrections to various statutory authority citations contained in the Customs Regulations (19 CFR Chapter 1) to reflect amendments to the Harmonized Tariff Schedule of the United States (HTSUS) made by the North American Free Trade Agreement (NAFTA) and the Uruguay Round of the General Agreement on Tariffs and Trade (GATT).

This document corrects an error contained in T.D. 95-29. The error concerns the amendment to § 141.4. Because of a recent revision to § 141.4, the references in T.D. 95-29 to paragraph (a) and General Note 4 in § 141.4 did not accurately reflect the recently revised structure and text of § 141.4.

T.D. 94-51, published in the **Federal Register** (59 FR 30289) on June 13, 1994, regarding express consignments; formal and informal entries of merchandise and administrative exemptions revised § 141.4 on an interim basis. The revision renumbered the paragraphs and updated the authority citation to the Harmonized Tariff Schedule of the United States (HTSUS) from General Note 4 to General Note 13, which was the correct citation at that time. This interim revision was finalized in T.D. 95-31, which was published in the **Federal Register** (60 FR 18983) on April 14, 1995. The technical correction amendment to § 141.4 in T.D. 95-29, inadvertently, did not take into account the revision to § 141.4 in T.D. 94-51. Accordingly, this document corrects that error.

Correction of Publication

Accordingly, the publication on April 11, 1995 of the final rule (T.D. 95-29) (60 FR 18347) is corrected as follows:

1. On page 18347, in the third column under the heading Part 141, the references to "Section 141.4(a)" and "General Note 4" are corrected to read "Section 141.4(b)(1)" and "General Note 13", respectively.

2. On page 18348, in the third column under Part 141, the second instruction is corrected to read "In § 141.4, the reference in paragraph (b)(1) to "General Note 13" is revised to read "General Note 16".

Dated: April 24, 1995.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 95-10558 Filed 4-28-95; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 950328079-5079-01]

RIN 0651-AA87

Revision of Affidavits Under 37 CFR 1.131

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is amending the rules of practice relating to submission of affidavits or declaration under 37 CFR 1.131(a) to implement the relevant provisions of the North American Free Trade Agreement Act and the Uruguay Round Agreements Act, respectively. The change will allow an inventor to show a completion of the invention in this country or a NAFTA or WTO member country before the filing of the application on which the U.S. patent issued or before the date of the foreign patent, or before the date of the printed publication.

EFFECTIVE DATE: This final rule is effective May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Hiram Bernstein by telephone at (703) 305-9285 or by mail addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231 marked to the attention of Mr. Bernstein, Office of the Deputy Assistant Commissioner for Patent Policy and Programs, or by FAX to (703) 308-6916.

SUPPLEMENTARY INFORMATION: Section 331 of Public Law 103-182, 107 Stat. 2057 (1993), the North American Free Trade Agreement Act, implementing the North American Free Trade Agreement (NAFTA), amended 35 U.S.C. 104 to provide that for the purpose of obtaining a patent, an applicant may establish a date of invention in the United States, or in a NAFTA member country (Canada and Mexico), which occurred after the date of implementation (i.e., December 8, 1993). Section 531 of Public Law No. 103-465, 108 Stat. 4809 (1994), the Uruguay Round Agreements Act, implementing the General Agreement on Tariffs and Trade (GATT), further amended 35 U.S.C. 104 to provide that for purposes of obtaining a patent, an applicant may establish a date of invention in the United States, or in a World Trade Organization (WTO) member country other than a NAFTA member country, that is no earlier than 12 months after the date of entry into force of the WTO agreement (i.e., January 1, 1996).

A notice of proposed rulemaking relating to Revision of Affidavits Under 37 CFR 1.131 was published in the **Federal Register**, 59 FR 49876 (September 30, 1994), and in the Official Gazette, 1167 Off. Gaz. Pat. Office 96 (October 25, 1994). No written comments were received in response to this notice.

The Office is amending 37 CFR 1.131(a), which is currently limited to facts showing a completion of the invention in the United States, to allow for a submission of facts in an affidavit or in a declaration that shows a completion of the invention in a NAFTA or in a WTO member country. The WTO is established under the GATT agreement to resolve disputes between signatories to the agreement. The facts presented must demonstrate a completion of the invention prior to the effective date of a reference thought to prevent the grant of a patent or overturn the patentability of a claim in a patent under reexamination.

No substantive change has been made in 37 CFR 1.131(a)(1) relating to a NAFTA or a WTO member country

After further review and consideration of the proposed rule, the following modifications are made

VOL 60 ISS 83 MY 1 1995 UMI

First, "person" recited in 37 CFR 1.131(a)(1) in regard to 37 CFR 1.42, 1.43 and 1.47 is being changed to "party" as 37 CFR 1.47(b) provides for corporate assignees to petition thereunder.

Second, reference to 35 U.S.C. 102 (a) or (e) and 35 U.S.C. 103 has been added to more clearly identify the rejections that can be overcome (35 U.S.C. 102 (a), (b), (d) and (e) are the only sections that recite the use of a domestic or foreign patent and a printed publication referred to in 37 CFR 1.131 as capable of being overcome as references—section (b) (35 U.S.C. 102(b)) is precluded by the terms of 37 CFR 1.131(a) and section (d) (35 U.S.C. 102(d) is applicant's own invention, MPEP 715).

Additionally, the Office recognizes that there is a potential conflict between existing 37 CFR 1.131(a) and 37 CFR 1.602(a). Section 1.131(a) prohibits affidavits or declarations thereunder when the same patentable invention, as defined in 37 CFR 1.601(n) (i.e., patentable indistinct inventions), is claimed. An interference under 35 U.S.C. 135(a), rather than antedating under 37 CFR 1.131(a), is generally the available remedy. However, 37 CFR 1.602(a) provides that when the applications or the application and the patent are owned by a single party, interferences are not declared or continued unless "good cause" is shown. This can result in a hardship where there is an issued patent that can no longer be amended as by filing a continuation-in-part application. Where there are two or more pending applications, the conflict can be avoided by filing a continuation-in-part application merging the conflicting inventions into a single application.

The Office proposed amending 37 CFR 1.131 to broaden its application to a single party where claimed inventions in a pending application or in a patent undergoing reexamination and a patent owned by the party are patentably indistinct but not identical. Under the proposed addition to 37 CFR 1.131, an affidavit or declaration could be filed by a party to overcome a 35 U.S.C. 103 rejection based on a 35 U.S.C. 102 (a) or (e) patent owned by that party, where the patent claimed an invention that was patentably indistinct, but not identical to an invention claimed in an application or patent undergoing reexamination.

The proposed addition to 37 CFR 1.131 would not affect the use of the issued patent in a rejection of the pending application or the patent undergoing reexamination based on double patenting. A Rule 1.131 affidavit or declaration would continue to be inappropriate where a claim in a pending application or a patent undergoing reexamination is subject to a double patenting rejection under 35 U.S.C. 101 because the pending application or the patent undergoing reexamination claims the identical invention in the issued patent. However, where patentably indistinct but not identical inventions are claimed, an obvious type double patenting rejection can be avoided by filing an appropriate terminal disclaimer. In addition, petitions under 37 CFR 1.183 would be entertained for waiver of 37 CFR 1.131 requirements in appropriate instances where two pending applications claiming patentable indistinct but not identical inventions are held by a single party.

Third, the basis for requiring under proposed 37 CFR 1.131(a)(3) common ownership of the pending application or patent undergoing reexamination and the patent at the time the later invention was made rather than simply ownership by a single party as is used in 37 CFR 1.602(a). Also it is questioned whether the proposed 37 CFR 1.131(a)(3) and existing 37 CFR 1.78 (c) and (d) were consistent or in-part duplicative.

In view of the third consideration regarding the proposed 37 CFR 1.131(a)(3) relating to the date of common ownership between a pending application or a patent undergoing reexamination and an issued patent, further study of the proposal is deemed warranted and the proposed 37 CFR 1.131(a)(3) is not being adopted at this time.

Discussion of Specific Rules

Section 1.131(a) as amended, contains paragraphs (a)(1) and (a)(2). Previous paragraph (a) is now designated as (a)(1) and amended to allow a 37 CFR 1.131 affiant or declarant to rely upon facts occurring in a NAFTA member country or a WTO member country to show completion of the invention. The term "domestic" is being changed to "U.S." References to 35 U.S.C. 102 (a) and (e) and 35 U.S.C. 103 as the rejections to be overcome by the section have been added. The paragraph is being amended from a single sentence to three sentences.

Section 1.131(a)(2) is being added, as proposed, to provide that a date of completion of the invention may not be established before December 8, 1993, in a NAFTA country, or before January 1, 1996, in a WTO Member country other than a NAFTA country.

Other Considerations

This rule change is in conformity with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Executive Order 12612, and the Paperwork Reduction Act at 1980, 44 U.S.C. 3501 *et seq.* It has been determined that the rule changes are not significant for the purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that this rule change will not have a significant economic impact on a substantial number of small entities, Regulatory Flexibility Act, 5 U.S.C. 605(b), because the rule would affect only a small number of applications and would provide a streamlined and simplified procedure, eliminating the need for requesting waiver of the rules.

The Patent and Trademark Office has also determined that this notice has no Federalism implications affecting the relationship between the National Government and the States outlined in Executive Order 12612.

This rule change will not impose any additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, since no record keeping or reporting requirements within the coverage of the Act are placed upon the public.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and record keeping requirements.

For the reasons set forth in the preamble, and pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, Part 1 of Title 37 of the Code of Federal Regulations is amended as set forth below:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1, continues to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.131 is amended by revising paragraph (a) to read as follows:

§ 1.131 Affidavit or declaration of prior invention to overcome cited patent or publication.

(a)(1) When any claim of an application or a patent under reexamination is rejected under 35 U.S.C. 102 (a) or (e), or 35 U.S.C. 103 based on a U.S. patent to another which is prior art under 35 U.S.C. 102 (a) or (e) and which substantially shows or describes but does not claim the same patentable invention, as defined in 37 CFR 1.601(n), or on reference to a foreign patent or to a printed publication, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under 37 CFR 1.42, 1.43 or 1.47, may submit an appropriate oath or declaration to overcome the patent or publication. The oath or declaration must include facts showing a completion of the invention in this country or in a NAFTA or WTO member country before the filing date of the application on which the U.S. patent issued, or before the date of the foreign patent, or before the date of the printed publication. When an appropriate oath or declaration is made, the patent or publication cited shall not bar the grant of a patent to the inventor or the confirmation of the patentability of the claims of the patent, unless the date of such patent or printed publication is more than one year prior to the date on which the inventor's or patent owner's application was filed in this country.

(2) A date of completion of the invention may not be established under this section before December 8, 1993, in a NAFTA country, or before January 1, 1996, in a WTO Member country other than a NAFTA country.

* * * * *

Dated: March 21, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 95-10501 Filed 4-28-95; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 122-1-6982a; FRL-5198-5]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Nonattainment Area, Transportation Control Measure Replacement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the California State Implementation Plan (SIP) for ozone for Santa Barbara County, which was submitted to EPA on November 14, 1994. This direct final approval action deletes a transportation control measure (TCM) from the federally-approved 1982 California ozone SIP and replaces it with a TCM from the state-adopted 1994 California ozone SIP. The intended effect of direct final approval of this SIP revision is to control emissions of ozone precursors in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or 1990 Act).

DATES: This direct final action is effective on June 30, 1995 unless adverse or critical comments are received by May 31, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State submittal and EPA's technical support document are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted SIP revision are available for inspection at the following locations:

Mobile Sources Section (A-2-1), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), ANR 443, 401 "M" Street SW., Washington, DC 20460

California Air Resources Board, 2020 "L" Street, Sacramento, CA 92123

Santa Barbara County Air Pollution Control District, 26 Castillian Drive B-23, Goleta, CA 93117

FOR FURTHER INFORMATION CONTACT: Deborah Schechter, Mobile Sources Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1227.

SUPPLEMENTARY INFORMATION:

I. Background

On March 3, 1978, Santa Barbara County was designated an ozone nonattainment area by EPA under the provisions of the Clean Air Act, as amended in 1977. 43 FR 8964, 40 CFR 81.305. On December 31, 1982 the State of California submitted the 1982 ozone SIP for Santa Barbara County.

EPA approved California's 1982 ozone SIP for Santa Barbara County and published the **Federal Register** document on December 20, 1983 (48 FR 56215). The 1982 Santa Barbara County SIP, or Air Quality Attainment Plan (AQAP), submitted in 1982 included nine TCMs. One of these was the Goleta Transit Center, a transit center with limited park-and-ride capability in downtown Goleta. No emission reduction credit was claimed for this TCM in the 1982 AQAP. According to the Santa Barbara County Association of Governments (SBCAG), the Goleta Transit Center and its ancillary park-and-ride lot were constructed in 1980 and operated until 1985. The facilities were closed and sold by the Santa Barbara Metropolitan Transit District (SBMTD) in October 1985 due to insufficient usage.

On November 15, 1990, the Clean Air Act Amendments of 1990 (1990 Act) were enacted. Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. On November 14, 1994, the California Air Resources Board (CARB) submitted the 1994 ozone SIP to EPA. The portion of this SIP for the Santa Barbara County nonattainment area, the 1994 Clean Air Plan (CAP), stated that the TCMs in the 1994 CAP superseded those in the 1982 AQAP. The 1994 CAP was adopted by the Santa Barbara County Air Pollution Control District (SBAPCD) on November 2, 1994 and later by CARB on November 14, 1994.

On January 18, 1995, the SBAPCD provided a letter to EPA requesting expedited rulemaking action to replace the Goleta Transit Center TCM in the 1982 AQAP with TCM-5, Improve Commuter Public Transit Service, in the 1994 CAP.

In a letter to the State dated March 24, 1995, EPA found the submittal of TCM-5 complete.

II. Summary and Evaluation of SIP Revision

Section 176(c) of the Clean Air Act (CAA) prohibits any metropolitan planning organization (MPO) designated under section 134 of title 23 of the United States Code, from approving any transportation project, program, or plan which does not conform to a SIP approved under section 110 of the CAA. The federal transportation conformity regulation (40 CFR part 51, subpart T) implements the transportation-related requirements of section 176(c). Section 51.418 of the regulation requires the transportation plan and program to provide for the timely implementation of transportation control measures (TCMs) from the applicable federally-approved implementation plan. A TCM is defined in section 51.392 as any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in section 108 of the CAA, or any other measure for the purpose of reducing emissions or concentration of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions.

VOL
60
ISS
83
MY
1
1995
UMI

Under the federal transportation conformity rule, before an MPO or the Department of Transportation (DOT) can approve a transportation plan or program, a conformity determination must be made which shows timely implementation of all of the TCMs in the approved SIP and demonstrates that all obstacles to TCM implementation have been removed. In the case of Santa Barbara County, the nine TCMs identified in the 1982 SIP must meet the timely implementation criterion in order for the transportation plan and program to be approved and projects to be funded. Because the Goleta Transit Center was implemented but was later discontinued, this TCM cannot be found to meet the criterion of timely implementation.

The preamble to the conformity regulation at 58 FR 62198 states that if the original project sponsor or the cooperative planning process decides not to implement the TCM or decides to replace it with another TCM, a SIP revision which removes the TCM will be necessary before plans and programs may be found in conformity. (In order to be approved by EPA, such a SIP revision must include substitute measures that achieve emissions reductions sufficient to meet all applicable requirements of the CAA, including section 110(l).)

In order to meet the requirement of the conformity regulation for timely implementation of TCMs and to enable FHWA to approve SBCAG's transportation plan and program, Santa Barbara County and the State of California have opted to revise the SIP to delete the Goleta Transit Center TCM from the SIP and replace the measure with an alternative TCM for which timely implementation can be demonstrated. On November 14, 1994, California submitted a SIP revision for Santa Barbara County which replaces the Goleta Transit Center TCM with TCM–5, Improve Commuter Public Transit Service.

The state-adopted 1994 SIP commits to implement the following levels of transit service associated with TCM–5:

1. SBMTD Isla Vista/Santa Barbara City College (SBCC) Express Service: SBMTD will continue to operate an express bus line between Isla Vista and SBCC (about 25 miles). The service was initiated in September 1993.

2. SBMTD Downtown Waterfront Shuttle Service and Expansion: SBMTD will continue to provide electric shuttle service along State Street and on the Waterfront in the City of Santa Barbara. In addition, SBMTD will purchase two additional electric-powered buses to expand this service.

3. APCD Clean Air Express and Expansion: The SBAPCD will continue to operate compressed natural gas (CNG) commuter bus service from the northern county and Ventura County into Santa Barbara. Four new buses, for a total of nine, will be added to this service.

4. Santa Maria Area Transit (SMAT) New Service Lines and Expansion: SMAT will maintain new Route 6 which was added in 1993. Another route, Route 7, will be added to this service. In addition, SMAT will purchase one new CNG bus to serve Route 7.

5. Santa Ynez Transit Expansion: A new electric bus will be purchased for expansion of fixed route service in the Santa Ynez Valley.

6. Santa Barbara Rail Service Expansion (AMTRAK): Two additional trains per day are planned between Santa Barbara and San Diego. Improvements to the existing Santa Barbara rail station have also been programmed to support the service expansion.

The SIP anticipates a reduction of 3,301 daily vehicle trips, or a total of 45,410 daily VMT in 1996 from the implementation of TCM–5. The reduction in vehicle trips and VMT is estimated to lead to emission reductions of 36.2 kg ROG/day and 73.1 kg NO_x/day in 1996. The 1982 ozone SIP took no emission reduction credit for the Goleta Transit Center. SBMTD survey data indicated that an average of seven persons per day were using the transit center and the park-and-ride lot was providing free parking for patrons of nearby businesses. Because TCM–5 is expected to result in significantly greater reductions in vehicle trips, VMT, and emissions than the Goleta Transit Center, the SIP revision does not weaken the federally-approved 1982 SIP.

III. EPA's Action

This action approves TCM–5, contained in the California ozone SIP for Santa Barbara County submitted to EPA by the State of California on November 14, 1994. The action also deletes the Goleta Transit Center from the 1982 ozone SIP. This latter TCM is no longer subject to the timely implementation criterion of the conformity regulation. EPA has evaluated the submitted TCM and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, TCM–5 in Santa Barbara's SIP revision is being approved under section 110(k)(3) of the CAA as meeting the requirements of sections 110(a) and (l) and part D. Today's action does not affect the remainder of the submitted 1994 ozone SIP revision for Santa Barbara County. EPA will take separate action on the bulk of Santa Barbara's 1994 ozone SIP revision in future rulemaking.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 30, 1995, unless, by May 31, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based a separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 30, 1995.

IV. Regulatory Process

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2). The OMB has exempted this action from review under Executive Order 12866.

V. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 182(b) of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local, or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 19, 1995.

Jeff Zelikson,

Acting Regional Administrator.

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(211) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(211) Revised Clean Air Plans for ozone for the following APCDs submitted on November 14, 1994, by the Governor's designee.

(i) Incorporation by reference.

(A) Santa Barbara Air Pollution Control District

(1) TCM–5, Improve Commuter Public Transit Service, adopted on November 2, 1994

* * * * *

[FR Doc. 95–10613 Filed 4–28–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5200–1]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Kenmark Textile Corporation site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces the deletion of the Kenmark Textile Corporation site from the National Priorities List (NPL). The NPL is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of New York have determined that all appropriate Hazardous Substance Response Trust Fund (Fund)—financed responses under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State of New York have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Doug Garbarini, Section Chief, U.S. Environmental Protection Agency, Region II 290 Broadway, 20th Floor, New York, NY 10007–1866, (212) 637–4263.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the Kenmark Textile Corporation site, Farmingdale, Suffolk County, New York. A notice of intent to delete for this site was published in the **Federal Register** (59 FR 64644) on December 15, 1994. The closing date for comments on the Notice of Intent to Delete was January 17, 1995. EPA received no verbal or written comments of the proposed deletion.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede EPA efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 10, 1995.

William J. Muszynski,

Acting Regional Administrator

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp. p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p. 193.

VOL
60
ISS
83
MY
1
1995
UMI

Appendix B—[Amended]

2. In appendix B, table 1 is amended by removing the site for Kenmark Textile Corporation, Farmingdale, New York.

[FR Doc. 95–10623 Filed 4–28–95; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 421

[BPO-083-F]

RIN 0938-AF84

Medicare Program; Revisions to Criteria and Standards for Evaluating Intermediaries and Carriers

CFR Correction

In title 42 of the Code of Federal Regulations, parts 400 to 429, revised as of October 1, 1994, on page 617, § 421.120 was inadvertently omitted. The section should have appeared as set forth below:

§ 421.120 Performance criteria.

(a) *Application of performance criteria.* As part of the intermediary evaluations authorized by section 1816(f) of the Act, HCFA periodically assesses the performance of intermediaries in their Medicare operations using performance criteria. The criteria measure and evaluate intermediary performance of functional responsibilities such as—

(1) Correct coverage and payment determinations;

(2) Responsiveness to beneficiary concerns; and

(3) Proper management of administrative funds.

(b) *Basis for criteria.* HCFA will base the performance criteria on—

(1) Nationwide intermediary experience;

(2) Changes in intermediary operations due to fiscal constraints; and

(3) HFCA's objectives in achieving better performance.

(c) *Publication of criteria.* The development and revision of criteria for evaluating intermediary performance is a continuing process. Therefore, before the beginning of each evaluation period, HCFA will publish the performance criteria as a notice in the **Federal Register**.

[48 FR 7178, Feb. 18, 1983]

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 92–28; FCC 95–70]

Mobile-Satellite Service at 1610–1626.5 and 2483.5–2500 Mhz

AGENCY: Federal Communications Commission.

ACTION: Final rule; clarification and correction of typographical errors.

SUMMARY: This *Memorandum Opinion and Order* (*MO&O*) affirms the decision in the *Report and Order* (*R&O*) in this proceeding to allocate the 1610–1626.5 MHz (1.6 GHz) and 2483.5–2500 MHz (2.4 GHz) bands for geostationary orbit (GSO) and non-geostationary orbit (low-Earth orbit or LEO) mobile-satellite service (MSS) use, and clarifies that the Commission made no finding in that decision as to whether both types of systems would be authorized. We also clarify the meaning of international footnotes RR753F and RR731E, but defer to the International Telecommunication Union (ITU) 1995 World Radiocommunications Conference (WRC–95) action on modification of these footnotes. Finally, we note that we will explore with the National Telecommunications and Information Administration (NTIA) the possibility of Government or shared Government/non-Government bands being made available to assist in satisfying MSS/radiodetermination satellite service (RDSS) feeder link requirements.

EFFECTIVE DATE: May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 739–0598.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in ET Docket No. 92–28 adopted on February 24, 1995 and released on March 20, 1995. The complete text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Public Reference Center (Room 239), 1919 M Street, NW, Washington, DC 20554. The complete text of this Memorandum Opinion and Order also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington DC 20036, (202) 857–3800.

Summary of Memorandum Opinion and Order

1. In the R&O, (*See* ET Docket No. 92–28, 9 FCC Rcd 536, 59 FR 9413 (1993)) we allocated the 1.6 and 2.4 GHz bands for LEO and GSO MSS on a primary basis. We stated that this allocation supports the growing demand for mobile communications, permits the introduction of new satellite services, and conforms to the 1992 World Administrative Radio Conference (WARC–92) spectrum allocation for these bands.

2. On March 30, 1994, Loral Qualcomm Satellite Services, Inc. (LQSS) filed a Petition for Clarification and Partial Reconsideration of the R&O requesting that the Commission (1) clarify that the R&O was intended only to allocate spectrum for MSS but did not establish eligibility requirements for MSS licensees; (2) increase the power flux density (PFD) values in RR753F and clarify that these values represent thresholds that determine when coordination with terrestrial users is required, rather than absolute limits; (3) modify RR731E to apply a −15 dBW/4 kHz EIRP limit to all MSS uplinks and eliminate the requirement for protection of aeronautical radionavigation systems; and (4) identify spectrum below 15 GHz that can be used for MSS feeder links.

3. We concur with LQSS that the R&O made no finding on the desirability of LEO versus GSO systems. In the Notice of Proposed Rule Making (NPRM) (see ET Docket 92–28, 7 FCC Rcd 6414, 57 FR 43434 (September 21, 1992)) we proposed to require MSS systems licensed in the 1.6 and 2.4 GHz bands to operate in non-geostationary orbits. The R&O did not make any determination of this issue. However, the recent *Report and Order* in the service rules proceeding decided this issue in favor of LEO satellite systems. *See* CC Docket No. 92–166, 9 FCC Rcd 5936, 59 FR 53294 (1994).

4. Further in regard to footnote RR753F, in the R&O, we concluded that the international footnotes adopted for the 1.6 and 2.4 GHz bands by WARC–92 were intended to form the basis for international notification and coordination of various satellite systems, and to ensure that new and existing systems are afforded protection from harmful interference. We therefore adopted footnote RR753F domestically. While the PFD values prescribed by RR753F may be viewed by LQSS as excessively conservative, we believe that the proper forum for modifying those values is WRC–95. However, we concur with LQSS and commenting parties that these values were not intended as absolute limits. We thus clarify that the PFD values prescribed by RR753F are coordination thresholds that may be exceeded with the consent of all affected parties.

5. Further, RR731E was one of the bases for international agreement on the use of the 1.6 GHz band for the implementation of new mobile-satellite services. We believe that the proper forum for modifying this footnote is WRC–95. However, consistent with our interpretation of RR753F, we clarify that the EIRP values may be exceeded with the consent of all affected parties.

6. In the R&O, we noted that there may be difficulties in identifying spectrum below 15 GHz for MSS LEO feeder link operations. We stated that we would be exploring all options to ensure that adequate unencumbered spectrum is available for feeder link requirements. In a recent Report to NTIA, we recommended that the shared Government/non-Government bands at 3600–3700 and 5850–5925 MHz be made available for exclusive non-Government use. We noted that the 3600–3700 MHz band was identified in our negotiated rule making regarding MSS above 1 GHz as one of the more likely candidates for MSS/RDSS feeder link spectrum. We intend to explore with NTIA the possibility of feeder link spectrum being made available from these and other existing Government or shared Government/non-Government bands that may be reallocated for exclusive non-Government use.

7. Accordingly, It is Ordered, that the Petition for Clarification and Partial Reconsideration submitted by Loral Qualcomm Satellite Services, Inc. Is Granted to the extent indicated herein, and Is Denied in all other respects. This action is taken pursuant to Sections 4(i), 303(c), (f), (g), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 303(c), (f), (g), and (r). Since there were a few typographical errors in the Table as published in the R&O, we are also placing below in Amendatory Text a corrected copy of the Table of Frequency Allocations, 47 CFR 2.106, that reflects all of the modifications to the Table that were made in the R&O.

List of Subjects 47 CFR Part 2

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 2 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS—GENERAL RULES AND REGULATIONS

1. The authority citation in Part 2 continue to read:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 154(i), 302, 303, 303(r), and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. The entries for 1610–1626.5 MHz are removed and new entries for 1610–1626.5 MHz are added in numerical order.

b. The entry for 2483.5–2500 MHz is removed and a new entry for 2483.5–2500 MHz is added in numerical order.

c. The entries for the 22.5–22.55, 22.55–23, 24.25–24.45, 24.45–24.65, and 24.65–24.75 GHz are removed and new entries for 22.5–22.55, 22.55–23, 24.25–24.45, 24.45–24.65, and 24.65–24.75 GHz are added in numerical order.

d. INTERNATIONAL FOOTNOTES Nos. 731E, 731F, 753F, 881A, 881B, 882E, 882F, and 882G are added; and Nos. 733A, 733E, 734, 753, and 753C are revised.

e. UNITED STATES (US) FOOTNOTE US319 is revised and NON-GOVERNMENT (NG) FOOTNOTE NG147 is revised.

The additions, deletions, and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
•	•	•	•	•	•	•
1610–1610.6 AERONAUTICAL RADIO-NAVIGATION MOBILE SATELLITE (Earth-to-space)	1610–1610.6 AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMINATION SATELLITE (Earth-to-space) MOBILE SATELLITE (Earth-to-space)	1610–1610.6 AERONAUTICAL RADIO-NAVIGATION MOBILE-SATELLITE (Earth-to-space) RADIO-DETERMINATION-SATELLITE (Earth-to-space)	1610–1610.6 AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMINATION-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space)	1610–1610.6 AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMINATION-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space)	AVIATION (87) SATELLITE COMMUNICATION (25)	
722 727 730 731 731E 732 733 733A 733B 733E 733F	722 731E 732 733 733A 733C 733D 733E	722 727 730 731E 732 733 733A 733B 733E	722 731E 732 733 733A 733E US208 US260 US319	722 731E 732 733 733A 733E US208 US260 US319		
1610.6–1613.8	1610.6–1613.8	1610.6–1613.8	1610.6–1613.8	1610.6–1613.8		

VOL 60 ISS 83 MY 1 1995 UMI

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
AERONAUTICAL RADIO-NAVIGATION MOBILE SAT-ELLITE (Earth-to-space) RADIO-ASTRON-OMY	AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMIN-ATION-SAT-ELLITE (Earth-to-space) MOBILE-SAT-ELLITE (Earth-to-space) RADIO-ASTRON-OMY	AERONAUTICAL RADIO-NAVIGATION MOBILE-SAT-ELLITE (Earth-to-space) RADIO-ASTRON-OMY Radiodetermin-ation-Satellite (Earth-to-space)	AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMIN-ATION-SAT-ELLITE (Earth-to-space) MOBILE-SAT-ELLITE (Earth-to-space) RADIO-ASTRON-OMY	AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMIN-ATION SAT-ELLITE (Earth-to-space) MOBILE SAT-ELLITE (Earth-to-space) RADIO-ASTRON-OMY	AVIATION (87) SATELLITE COM-MUNICATION (25)	
722 727 730 731 731E 732 733 733A 733B 733E 733F 734	722 731E 732 733 733A 733C 733D 733E 734	722 727 730 731E 732 733 733A 733B 733E 734	722 731E 732 733 733A 733E 734 US208 US260 US319	722 731E 732 733 733A 733E 734 US208 US260 US319		
1613.8–1626.5 AERONAUTICAL RADIO-NAVIGATION MOBILE SAT-ELLITE (Earth-to-space) Mobile-Satellite (space-to-Earth)	1613.8–1626.5 AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMIN-ATION-SAT-ELLITE (Earth-to-space) MOBILE-SAT-ELLITE (Earth-to-space) Mobile Satellite (space-to-Earth)	1613.8–1626.5 AERONAUTICAL RADIO-NAVIGATION MOBILE SAT-ELLITE (Earth-to-space) Radiodetermin-ation-Satellite (Earth-to-space) Mobile Satellite (space-to-Earth)	1613.8–1626.5 AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMIN-ATION-SAT-ELLITE (Earth-to-space) MOBILE-SAT-ELLITE (Earth-to-space) Mobile-Satellite (space-to-Earth)	1613.8–1626.5 AERONAUTICAL RADIO-NAVIGATION RADIO-DETERMIN-ATION SAT-ELLITE (Earth-to-space) MOBILE SAT-ELLITE (space-to-Earth) Mobile Satellite (space-to-Earth)	AVIATION (87) SATELLITE COM-MUNICATION (25)	
722 727 730 731 731E 731F 732 733 733A 733B 733E 733F	722 731E 731F 732 733 733A 732C 733D 733E	722 727 730 731E 731F 732 733 733A 733B 733E	722 731E 731F 732 733 733E US208 US260 US319	722 731E 731F 732 733 733E US208 US260 US319		
.	.	.	.	.	.	.
2483.5–2500 FIXED MOBILE MOBILE-SAT-ELLITE (space-to-Earth) Radiolocation	2483.5–2500 FIXED MOBILE RADIO-DETERMIN-ATION-SAT-ELLITE (space-to-Earth) 753A RADIOLOCATION MOBILE-SAT-ELLITE (space-to-Earth)	2483.5–2500 FIXED MOBILE RADIO-LOCA-TION MOBILE-SAT-ELLITE (space-to-Earth) Radiodetermin-ation-Satellite (space-to-Earth) 753A	2483.5–2500 RADIO-DETERMIN-ATION-SAT-ELLITE (space-to-Earth) 753A MOBILE SAT-ELLITE (space-to-Earth)	2483.5–2500 RADIO-DETERMIN-ATION-SAT-ELLITE (space-to-Earth) 753A MOBILE SAT-ELLITE (space-to-Earth)	SATELLITE COM-MUNICATION (25)	
733F 752 753 753A 753B 753C 753F	752 753D 753F	752 753C 753F	752 753F US41 US319	752 753F US41 US319 NG147		
.	.	.	.	.	.	
22.50–22.55 FIXED MOBILE	22.50–22.55 FIXED MOBILE	22.50–22.55 FIXED MOBILE	22.50–22.55 FIXED MOBILE US211	22.50–22.55 FIXED MOBILE US211	DOMESTIC PUB-LIC FIXED (21) PRIVATE OPER-ATIONAL FIXED MICRO-WAVE (94)	
22.55–23	22.55–23	22.55–23	22.55–23	22.55–23		

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
FIXED INTER-SAT-ELLITE MOBILE	FIXED INTER-SAT-ELLITE MOBILE	FIXED INTER-SAT-ELLITE MOBILE	FIXED INTER-SAT-ELLITE MOBILE	FIXED INTER-SAT-ELLITE MOBILE	DOMESTIC PUB-LIC FIXED (21) PRIVATE OPER-ATIONAL FIXED MICRO-WAVE (94) SATELLITE COM-MUNICATIONS (25).	
879	879	879	879 US278	879 US278		
.	.	.	.	.	.	.
24.25–24.45 FIXED	24.25–24.45 RADIO-NAVIGATION	24.25–24.45 RADIO-NAVIGATION FIXED MOBILE	24.25–24.45 RADIO-NAVIGATION	24.25–24.45 RADIO-NAVIGATION	AVIATION (87)	
24.45–24.65 FIXED INTER-SAT-ELLITE	24.45–24.65 RADIO-NAVIGATION INTER-SAT-ELLITE	24.45–24.65 RADIO-NAVIGATION FIXED INTER-SAT-ELLITE MOBILE	24.45–24.65 INTER-SAT-ELLITE RADIO-NAVIGATION	24.45–24.65 INTER-SAT-ELLITE RADIO-NAVIGATION	SATELLITE COM-MUNICATION (25)	
24.65–24.75 FIXED INTER-SAT-ELLITE	882E 24.65–24.75 INTER-SAT-ELLITE RADIO-LOCA-TION SAT-ELLITE (Earth-to-space)	882E 24.65–24.75 FIXED INTER-SAT-ELLITE MOBILE 882E 882F	882E 24.65–24.75 INTER-SAT-ELLITE RADIO-LOCA-TION-SAT-ELLITE (Earth-to-space)	882E 24.65–24.75 INTER-SAT-ELLITE RADIO-LOCA-TION-SAT-ELLITE (Earth-to-space)	SATELLITE COM-MUNICATION (25)	
.	.	.	.	.	.	.

International Footnotes

* * * * *

731E—The use of the band 1610–1626.5 MHz by the mobile-satellite service (Earth-to-space) and by the radiodetermination-satellite service (Earth-to-space) is subject to the application of the coordination and notification procedures set forth in Resolution 46 (WARC–92). A mobile earth station operating in either of the services in this band shall not produce an e.i.r.p. density in excess of −15 dB(W/4 kHz) in the part of the band used by systems operating in accordance with the provisions of No. 732, unless otherwise agreed by the affected administrations. In the part of the band where such systems are not operating, a value of −3 dB (W/4 kHz) is applicable. Stations of the mobile-satellite service shall not cause harmful interference to, or claim protection from, stations in the aeronautical radionavigation service, stations operating in accordance with the provisions of No. 732 and stations in the fixed service operating in accordance with the provisions of No. 730.

731F—The use of the band 1613.8–1626.5 MHz by the mobile-satellite service (space-to-Earth) is subject to the application of the coordination and notification procedures set forth in Resolution 46 (WARC–92).

* * * * *

733A—With respect to the radiodetermination-satellite and mobile-satellite services the provisions of No. 953 do not apply in the frequency band 1610–1626.5 MHz.

* * * * *

733E—Harmful interference shall not be caused to stations of the radio astronomy service using the band 1610.6–1613.8 MHz by stations of the radiodetermination-satellite and mobile-satellite services. (No. 2904 applies.)

734—In making assignments to stations of other services, administrations are urged to take all practicable steps to protect the radio astronomy service in the band 1610.6–1613.8 MHz from harmful interference. Emissions from space or air-borne stations can be particularly serious sources of interference to the radio astronomy service (see Nos. 343 and 344 and Article 36).

* * * * *

753—Different category of service: in France, the band 2450–2500 MHz is allocated on a primary basis to the radiolocation service (see No. 425). Such use is subject to agreement with administrations having service operating or planned to operate in accordance with the Table of Frequency Allocations which may be affected.

* * * * *

753C—Different category of service: in Angola, Australia, Bangladesh, Burundi, China, Côte d'Ivoire, Ethiopia, India, the Islamic Republic of Iran, Israel, Italy, Jordan, Kenya, Lebanon, Liberia, Libya, Madagascar, Mali, Pakistan, Papua New Guinea, Senegal, Sudan, Swaziland, Syria, Tanzania, Thailand, Togo, Zaire and Zambia, the allocation of the band 2483.5–2500 MHz to the radiodetermination-satellite service (space-to-Earth) is on a primary basis (see No. 425) subject to agreement obtained under the procedure of Article 14 with other countries not listed in this provision.

* * * * *

753F—The use of the band 2483.5–2500 MHz by the mobile-satellite and the radiodetermination-satellite services is subject to the application of the coordination and notification procedures set forth in Resolution 46 (WARC–92). Coordination of space stations of the mobile-satellite and radiodetermination-satellite services with respect to terrestrial services is required only if the power flux-density produced at the Earth's surface exceeds the limits in No. 2566. In respect of assignments operating in this band, the provisions of Section II, paragraph 2.2 of Resolution 46 (WARC–92) shall also be applied to geostationary

VOL
60
ISS
83
MY
1
1995
UMI

transmitting space stations with respect to terrestrial stations.

* * * * *

881A—Use of the 25.25–27.5 GHz band by the inter-satellite service is limited to space research and Earth exploration-satellite applications, and also transmissions of data originating from industrial and medical activities in space.

881B—Space services using non-geostationary satellites operating in the inter-satellite service in the band 27–27.5 GHz are exempt from the provisions of No. 2613.

* * * * *

882E—The inter-satellite service shall not claim protection from harmful interference from airport surface detection equipment stations of the radionavigation service.

882F—Additional allocation: in Japan, the band 24.65–25.25 GHz is also allocated to the radionavigation service on a primary basis until 2008.

882G—In the band 24.75–25.25 GHz, feeder links to stations of the broadcasting-satellite service shall have priority over other users in the fixed-satellite service (Earth-to-space). Such other users shall protect and shall not claim protection from existing and future operating feeder-link networks to such broadcasting satellite stations.

* * * * *

United States (US) Footnotes

* * * * *

US319—In the 137–138, 148–149.9, 149.9–150.05, 399.9–400.5, 400.15–401, 1610–1626.5, and 2483.5–2500 MHz bands, Government stations in the mobile-satellite service shall be limited to earth stations operating with non-Government space stations.

* * * * *

Non-Government (NG) Footnotes

* * * * *

NG147—Stations in the broadcast auxiliary service and private radio services licensed as of July 25, 1985, or on a subsequent date following as a result of submitting an application for license on or before July 25, 1985, may continue to operate on a primary basis with the mobile-satellite service and the radiodetermination satellite service.

* * * * *

[FR Doc. 95–10418 Filed 4–28–95; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 60, No. 83
Monday, May 1, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–21]

Airworthiness Directives; AlliedSignal Engines LTS101 Series Turboshaft Engines Installed on Eurocopter France Model AS–350D and SA–366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD), applicable to AlliedSignal Engines (formerly Textron Lycoming) LTS101 series turboshaft engines installed on Eurocopter France (formerly Aerospatiale) Model AS–350D and SA–366G1 helicopters. This proposal would require incorporation of design modifications to the power turbine (PT) rotor. This proposal is prompted by reports of PT disk failures after No. 3 bearing failures. The actions specified by the proposed AD are intended to prevent an uncontained engine failure due to a PT disk failure.

DATES: Comments must be received by June 30, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–21, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Engines, 550 Main Street, Stratford, CT 06497. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–ANE–21." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–21, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of three uncontained power turbine (PT) disk failures on AlliedSignal Engines (formerly Textron Lycoming) LTS101 series turboshaft engines. These PT disk failures were caused by No. 3 bearing failures, resulting in loss of rotor axial location, aft movement of the PT rotor, and PT shaft disengagement from the gear train drive, subsequently unloading the PT and causing rotor overspeed. The disengagement further rendered the gear train drive overspeed control inoperative; therefore, the PT overspeed progressed until disk failure. This condition, if not corrected, could result in an uncontained engine failure due to a PT disk failure.

On October 28, 1994, AlliedSignal Inc. purchased the turbine engine product line of Textron Lycoming.

The FAA has reviewed and approved the technical contents of Textron Lycoming Service Bulletin (SB) No. LTS101A–72–50–0134, Revision 1, dated June 17, 1991, and SB No. LTS101B–72–50–0128, Revision 1, dated June 17, 1991, that describe procedures for incorporation of design modifications to the PT to enhance rotor retention in the event of No. 3 bearing failure.

At the present time, this proposed airworthiness directive (AD) would require only the PT rotor retention modifications for AlliedSignal Engines Model LTS101–600A2, –600A3, and –750B2 engines. AlliedSignal Engines and several airframe manufacturers have developed electronic overspeed system (EOS) modifications for other models of the AlliedSignal Engines LTS101 series turboshaft engines. These other modifications address additional disk failures precipitated by No. 4 bearing failure, which in two cases led to power pinion gear failure and PT shaft disengagement from the power train without loss of rotor axial location, overspeed, and loss of PT overspeed protection. In separate rulemaking, the FAA will require these EOS modifications for these other models. Airworthiness directive 88–14–01, applicable to all Textron Lycoming LTS101 engines, requires repetitive inspections and monitoring of the lubrication system to prevent PT rotor disk failures due to failure of either No. 3 or No. 4 bearings. Performing the PT rotor and EOS modifications on these other models would constitute terminating action for the inspections and monitoring required by AD 88–14–

VOL
60
ISS
83
MY
1
1995
UMI

01. The FAA has requested that AlliedSignal Engines and Eurocopter France develop EOS modifications for the AlliedSignal Engines LTS101 models addressed in this proposed AD. When these modifications are available, the FAA will require these modifications in future rulemaking that would constitute terminating action to the inspection and monitoring requirements of AD 88–14–01.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require incorporation of a modified PT rotor retention system at the next shop visit after the effective date of this AD, but not later than April 30, 1996. The FAA has determined that by that date affected engines would have at least one scheduled shop visit to incorporate modifications. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 20 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per engine to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $44,400 engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $900,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AlliedSignal Engines: Docket No. 95–ANE–21.

Applicability: AlliedSignal Engines (formerly Textron Lycoming) Models LTS101–600A3 and –650A3 turboshaft engines installed on Eurocopter France (formerly Aerospatiale) Model AS–350D helicopters; and LTS101–750B2 turboshaft engines installed on Eurocopter France Model SA–366G1 helicopters.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained engine failure due to power turbine (PT) disk failure, accomplish the following:

(a) Incorporate improved PT rotor retention system modifications in accordance with Textron Lycoming Service Bulletin (SB) No. LTS101A–72–50–0134, Revision 1, dated June 17, 1991, or SB No. LTS101B–72–50–0128, Revision 1, dated June 17, 1991, as applicable, at the next shop visit after the effective date of this airworthiness directive (AD) when the PT rotor is removed, but not later than April 30, 1996.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on April 17, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–10594 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 95–NM–26–AD]

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes Equipped With Sundstrand Ram Air Turbine (RAT)/Hydraulic Pumps

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757 and 767 series airplanes. This proposal would require replacement of the hydraulic pressure transfer tube of the ram air turbine (RAT) system with a new hose assembly. This proposal is prompted by reports that, during flight tests, the hydraulic pressure transfer tube of the RAT cracked when the RAT was extended on a Model 767 series airplane. The actions specified by the proposed AD are intended to prevent such cracking, which could result in the loss of hydraulic fluid of the center system and the inability of the RAT to pressurize the center system; this situation could lead to loss of all hydraulic system power in the event that power is lost in both engines.

DATES: Comments must be received by June 26, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–26–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Kathi Ishimaru, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington, 98055–4056; telephone (206) 227–2674; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–26–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–26–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports that, during two flight tests, the pressure transfer tube of the ram air turbine (RAT) cracked when the RAT was extended on a Model 767 series airplane. Investigation revealed that the cause of such cracking has been attributed to overload due to mishandling or improper installation of the pressure transfer tubes on the strut of the RAT system. Such overloads are likely to have occurred on other tubes because it is extremely difficult to shim the tubes properly. Cracking of the hydraulic pressure transfer tube of the RAT, if not corrected, could result in the loss of hydraulic fluid of the center system and the inability of the RAT to pressurize the center hydraulic system; this situation could lead to loss of all hydraulic system power in the event that power is lost in both engines.

The subject RAT hydraulic pump and pressure transfer tube installations on Model 757 series airplanes are identical to those installed on Model 767 series airplanes. Therefore, both models may be subject to the same unsafe condition revealed on the Model 767.

The FAA has reviewed and approved Boeing Alert Service Bulletin 757–29A0046, dated October 6, 1994 (for Model 757 series airplanes), and Boeing Alert Service Bulletin 767–29A0077, dated October 6, 1994 (for Model 767 series airplanes), which describe procedures for replacement of the hydraulic pressure transfer tube of the RAT system with a new hose assembly. Accomplishment of this replacement will prevent over stressing of the pressure line during installation.

The RAT/hydraulic pumps addressed in these service bulletins are manufactured by Sundstrand. For Model 757 series airplanes, these pumps have part number 730814 series, serial numbers 0001 through 0735 inclusive. For Model 767 series airplanes, these pumps have part number 729548 series, serial numbers 0001 through 0620 inclusive.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacement of the hydraulic pressure transfer tube of the RAT system with a new hose assembly. The actions would be required to be accomplished in accordance with the alert service bulletins described previously.

There are approximately 1,215 Model 757 and 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 582 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $69,840, or $120 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

VOL 60 ISS 83 MY 1 1995 UMI

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 95–NM–28–AD.

Applicability: Model 757 series airplanes having line positions 1 through 650 inclusive, and equipped with Sundstrand ram air turbine (RAT)/hydraulic pumps having part number (P/N) 730814 series, serial numbers 0001 through 0735 inclusive; and Model 767 series airplanes having line positions 1 through 565 inclusive, and equipped with Sundstrand RAT/hydraulic pumps having P/N 729548 series, serial numbers 0001 through 0620 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously. To prevent cracking of the hydraulic pressure transfer tube of the ram air turbine (RAT), which could result in the loss of all center systems hydraulic fluid and the inability of the RAT to pressurize the center hydraulic system, accomplish the following:

(a) Within 24 months after the effective date of this AD, replace the hydraulic pressure transfer tube of the RAT system with a new hose assembly, in accordance with Boeing Alert Service Bulletin 757–29A0046, dated October 6, 1994 (for Model 757 series airplanes); or Boeing Alert Service Bulletin 767–29A0077, dated October 6, 1994 (for Model 767 series airplanes), as applicable.

Note 2: Boeing Alert Service Bulletin 757–29A0046 references Sundstrand Service Bulletin 730814–29–11, dated November 3, 1994; and Boeing Alert Service Bulletin 767–29A0077 references Sundstrand Service Bulletin 729548–29–14, dated November 3, 1994; as additional sources of service information for procedures to replace the pressure tube.

Note 3: Modification of the hydraulic pressure transfer tube of the RAT system in accordance with Sundstrand Service Bulletin 730814–29–9, Revision 1, dated November 3, 1994 (for Model 757 series airplanes); or Sundstrand Service Bulletin 729548–29–12, Revision 2, dated November 3, 1994 (for Model 767 series airplanes); is considered acceptable for compliance with the modification requirements of paragraph (a) of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 25, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10585 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–111–AD]

Airworthiness Directives; British Aerospace Model Viscount Model 744, 745D, and 810 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace Model Viscount Model 744, 745D, and 810 airplanes. This proposal would require inspections to detect cracking of certain fittings of the tailplane spar, and replacement of the fittings with serviceable parts, if necessary. This proposal is prompted by reports of fatigue cracking of certain fittings in the tailplane spar. The actions specified by the proposed AD are intended to prevent such cracking, which could result in structural degradation of the attachment of the horizontal stabilizer to the fuselage.

DATES: Comments must be received by June 12, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–111–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft Ltd., Engineering Support Manager, Military Business Unit, Chadderton Works, Greengate, Middleton, Manchester M24 1SA, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:

William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–111–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–111–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on all British Aerospace Model Viscount Model 744, 745D, and 810 airplanes. The CAA advises that it has received reports of fatigue cracking of certain attach fittings of the tailplane spar on these airplanes. The cracking was found in the top fitting of the tailplane spar at the junction of the chamfer and the innermost hole of the bolt group through the top flange. Such fatigue cracking, if not detected and corrected in a timely manner, could result in structural degradation of the attachment of the horizontal stabilizer to the fuselage.

British Aerospace has issued Alert Preliminary Technical Leaflet (PTL) 264, Issue 3, dated September 1, 1992 (for Model Viscount 744 and 745D airplanes), and Alert PTL 127, Issue 3, dated June 1, 1992 (for Model Viscount 810 airplanes). These Alert PTL's describe procedures for performing repetitive high frequency eddy current (HFEC) inspections to detect cracking of the bolt holes on the top fittings of the tailplane spar, and replacement of cracked fittings with serviceable parts. The CAA classified these Alert PTL's as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive HFEC inspections to detect cracking of certain fittings of the tailplane spar, and replacement of the fittings with serviceable parts, if necessary. The actions would be required to be accomplished in accordance with the Alert PTL's described previously.

Operators should note that the proposed compliance time for the initial inspection of the fittings on Model Viscount 810 airplanes is shorter than that proposed for the Model Viscount 744 and 745D airplanes because the fittings on Model Viscount 810 airplanes are of a different configuration. The fittings on Model Viscount 810 airplanes are loaded to higher stress levels, which makes them more susceptible to fatigue cracking than the fittings on the Model Viscount 744 and 745D airplanes.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $6,960, or $240 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft Limited (Formerly British Aerospace Commercial Aircraft Limited, Vickers-Armstrongs Aircraft Limited): Docket 94–M–111–AD.

Applicability: All Model Viscount 744, 745D, and 810 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

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To prevent structural degradation of the attachment of the horizontal stabilizer to the fuselage, accomplish the following:

(a) For Model Viscount 744 and 745D airplanes: Within 3,000 landings or 3 years after the effective date of this AD, whichever occurs first, perform a high frequency eddy current (HFEC) inspection to detect cracking of the bolt holes on the top fittings of the root joint of the tailplane spar, in accordance with British Aerospace Alert Preliminary Technical Leaflet (PTL) 264, Issue 3, dated September 1, 1992. Repeat the inspection thereafter at intervals not to exceed 3,000 landings or 3 years, whichever occurs first.

(b) For Model Viscount 810 airplanes: Within 1,000 landings or 1 year after the effective date of this AD, whichever occurs first, perform an HFEC inspection to detect cracking of the bolt holes on the top fittings of the root joint of the tailplane spar, in accordance with British Aerospace Alert PTL 127, Issue 3, dated June 1, 1992. Repeat the inspection thereafter at intervals not to exceed 3,000 landings or 3 years, whichever occurs first.

(c) If any cracking is found during the inspections required by paragraph (a) or (b) of this AD, prior to further flight, replace the cracked fitting with a serviceable part, in accordance with British Aerospace Alert PTL 264, Issue 3, dated September 1, 1992 (for Model 744 and 745D airplanes), or Alert PTL 127, Issue 3, dated June 1, 1992 (for Model 810 airplanes); as applicable.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 25, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10587 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Ch. IX

[Docket No. N–95–3858; FR–3647–N–04]

RIN 2577–AB44

Vacancy Rule: Notice of Cancellation of Third Meeting of Negotiated Rulemaking Advisory Committee

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of cancellation of meeting.

SUMMARY: The Department has established a Negotiated Rulemaking Advisory Committee to discuss and negotiate a proposed rule that would change the current method of determining the payment of operating subsidies to vacant public housing units. The Committee met in March and April 1995, after publishing notices of these meetings. This notice announces that a third meeting that had been scheduled for May 2 and 3, 1995, has been cancelled, pending a determination by the Committee of whether an additional meeting is necessary.

FOR FURTHER INFORMATION CONTACT: John T. Comerford, Director, Financial Management Division, Public and Indian Housing, Room 4212, Department of Housing and Urban Development, 431 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1872, or (202) 708–0850 (TDD). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Background

On February 24, 1995 (60 FR 10339), the Department published a notice of establishment of a Negotiated Rulemaking Advisory Committee to discuss and negotiate a proposed rule that would change the current method of determining the payment of operating subsidies to vacant public housing units. The February 24 notice also announced the first meeting of this committee, which was held on March 7–9, 1995, in Washington, DC.

On March 20, 1995 (60 FR 14707), the Department published a notice of the second and third meetings of the committee, to be held in April and May 1995. The second meeting was held on April 4 and 5, 1995, as scheduled; however, at the April meeting the committee determined that it would not meet on the dates announced for May 1995. If an additional meeting is necessary to ensure consensus by the committee, an announcement of the rescheduled meeting will be published in the **Federal Register.**

Authority: 42 U.S.C. 1437g, 3535(d).

Dated: April 26, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–10666 Filed 4–27–95; 9:26 am]

BILLING CODE 4210–33–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Review Commission proposes to revise its rules governing simplified proceedings and to institute a pilot E–Z Trial program. This program would be instituted on a limited basis for a one year trial period. After the trial period, the Commission would evaluate the results and determine whether it should continue the E–Z Trial program and, if so, what modifications should be made. As the name implies, E–Z Trial would simplify and accelerate the adjudicative process for cases that warrant a less formal, less expensive process. The most significant change to the rules would strengthen the role of Commission judges in determining whether a case is tried under simplified proceedings. The Commission has concluded that the current underutilization of simplified proceedings could be remedied through a mechanism by which the Chief Administrative Law Judge or the judge assigned to an individual case could unilaterally direct that a case be tried under simplified proceedings. Thus, under the E–Z Trial program, the Commission's Chief Judge would have the authority to determine whether a case would proceed by either conventional proceedings or the E–Z Trial program. This should result in greater use of simplified proceedings while preserving the use of conventional proceedings where needed. E–Z Trial should reduce the time and expense of litigation in such cases. However, the presiding judge may discontinue E–Z Trial proceedings and reinstate conventional procedures if the case no longer is appropriate for the simplified rules. In this way, the Commission can provide efficient, user-friendly adjudication, while assuring insofar as possible in all cases that due process is met and a hearing is conducted that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554, 556 ("APA"). At any time, any party may request that conventional rather than E–Z Trial proceedings be used. Discontinuance of E–Z Trial is at the discretion of the judge after consultation with the Chief Judge. At the conclusion of an E–Z Trial proceeding, a party may file a petition for discretionary review under § 2200.91 if they can establish that they have been materially prejudiced either by the use of E–Z Trial rather than conventional proceedings or by a lack of due process during those proceedings, provided objections to use of the E–Z Trial procedure were raised in a timely fashion to the judge.

DATES: Comments must be received by May 31, 1995.

ADDRESSES: All comments concerning these proposed rules should be addressed to Earl R. Ohman, Jr., General Counsel, One Lafayette Centre, 1120 20th St., NW.—9th Floor, Washington, DC 20036–3419.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr., General Counsel, (202) 606–5410.

SUPPLEMENTARY INFORMATION:

Development of the Proposed Rules

Adjudications by the Occupational Safety and Health Review Commission and its Administrative Law Judges are governed by the regulations published at 29 CFR part 2200—Rules of Procedure. Conventional proceedings are governed by subparts A through G of Part 2200. Simplified proceedings are governed by subpart M. Simplified proceedings differ from conventional proceedings primarily in the following ways: (1) Pleadings generally are not required in simplified proceedings; (2) discovery is generally not permitted; (3) the Federal Rules of Evidence do not apply, as they do in conventional proceedings; and (4) interlocutory appeals are not permitted.

The proposed E–Z Trial program is designed to see that certain cases of lesser magnitude before the Commission are handled in a simple way, to reduce formality and bring down the cost and time demanded of parties in pursuing a case, while protecting due process rights with an "on the record" hearing conducted in accordance with the APA. Cases would be processed promptly. The proposed project would draw in part from the Commission's current rules for simplified proceedings. As under the current simplified proceedings, required documentation would be minimized and pleadings and discovery would be eliminated completely in most cases. Cases will be reviewed for eligibility for E–Z Trial as soon as possible in order to avoid the filing of pleadings wherever practicable. Under the E–Z Trial program, informal discussions between the parties and the judge would be held to narrow areas of dispute and encourage settlement. If the case is not resolved in a pre-hearing conference, the hearing itself would be comparatively informal in nature, with the format of the hearing being prescribed by the presiding judge. Written briefs would in most cases be replaced by oral argument. Judges would issue bench decisions when appropriate and otherwise would typically issue written decisions within 45 days of the completion of the trial.

Purpose of Subpart M

Under the proposed rule, § 2200.200(b)(1), complaints and answers would not be required for the E–Z Trial process. Section 2200.200(b)(2) would note that, prior to the hearing, discussions among the parties and the judge would be required to narrow and define the issues between the parties. This should encourage case settlement, and accordingly this discussion would be scheduled as soon as possible. Section 2200.200(b)(3) would not allow discovery to be conducted except on the order of the judge. The current rule prohibiting interlocutory appeals, § 2200.211, is incorporated into the proposed rule as § 2200.200(b)(4). Section 2200.200(b)(5) would stress that the hearing is less formal.

Application

Under the proposed rule, § 2200.201 would only note that the rules in Subpart M would apply to proceedings before a judge if an E–Z Trial case is commenced under the rules proposed in § 2200.203.

Eligibility for E–Z Trial

The current eligibility rule, § 2200.202, specifically excludes cases from being tried under simplified proceedings if they involve the merits of an alleged violation of specified standards.[1] Under the proposed rule, § 2200.202 would not specifically exclude cases that involve any particular standards. The proposed rule does not detail the circumstances in which these procedural rules should be utilized. It anticipates that experience gathered through the E–Z Trial program is the best way to refine the circumstances for which the procedures are suited. Nevertheless, in order to provide some guidance in the initial application of these rule changes, the Commission suggests that cases that might be appropriate for E–Z Trial would generally include those with (1) relatively few citation items, (2) an aggregate proposed penalty not more than $7500, (3) no allegation of willfulness, (4) a hearing that is expected to take less than two days, or (5) a *pro se* respondent. These criteria are neither rigid nor exhaustive. E–Z Trial should not be selected for technically complex cases requiring discovery or extensive expert testimony.

[1] Those standards are: 29 CFR 1910.94, 1910.95, 1910.96, 1910.97, 1910.1000 through 1910.1101, 1926.52, 1926.53, 1926.54, 1926.55, 1926.57, 1926.800(c), and any occupational health standard that may be added to subpart Z of part 1910.

Procedures for Commencing E–Z Trial

The current rule for simplified proceedings, § 2200.203, allows any party to request simplified proceedings. Under the proposed rule, § 2200.203(a), the Chief Judge can assign an appropriate case for E–Z Trial at his discretion either on his own motion or at the request of a party. In addition, the proposed rule would eliminate the more complex filing requirements found under the current rule which mandates that the request for simplified proceedings be filed with the Executive Secretary and served on all of the following: (i) The employer, (ii) the Secretary of Labor, (iii) any authorized employee representatives and (iv) posted for the benefit of any unrepresented affected employees. Because E–Z Trial can be commenced by the Chief Judge on his own motion, it is not necessary to require complex filing procedures.

Procedures for Discontinuing E–Z Trial

Section 2200.204 sets forth the procedures for discontinuing simplified proceedings after the judge has ordered them implemented. The Commission purposes several changes to this section, which largely parallel the changes proposed in the rule on commencing E–Z Trial. The proposed rule, § 2200.204(a), would require that the judge assigned to the case consult with the Chief Judge prior to discontinuing E–Z Trial. Unlike the current rule, the proposed rule would not necessarily discontinue E–Z Trial even if all parties consent to discontinuance. The current rule's prohibition of interlocutory review (a limited appeal before conclusion of the trial) of simplified

VOL 60 ISS 83 MY 1 1995 UMI

proceedings is covered in proposed rule § 2200.200(b)(4)'s prohibition of interlocutory appeals for E–Z Trial proceedings.

Filing of Pleadings

E–Z Trial is intended to provide parties with a less formal adjudicative process. Once a case is designated for E–Z Trial, under the proposed rule, § 2200.205(a), the Secretary would not have to file a complaint as required under current rule § 2200.34(a), a response to a petition for modification of the abatement period under current rule § 2200.37(d)(5), or a response to an employee contest to the abatement period under current rule § 2200.38(a). In addition, under proposed rule § 2200.205(b), a motion would not be viewed favorably if the subject of the motion has not been first discussed among the parties. The Commission is not presently amending the time limits for filing pleadings. Instead, the Commission intends to process cases as promptly as practicable in order to avoid the filing of pleadings.

Pre-hearing Conference

Under the proposed rule, § 2200.206(a) requires that as early as practicable, the presiding judge would conduct a pre-hearing conference. The judge has the discretion to determine the format of the pre-hearing conference. The pre-hearing conference would be "live," and can be conducted in person or by such electronic means as telephone or video conferences. It cannot be conducted by such devices as fax machines. In addition, the current rule does not require that affirmative defenses such as "unpreventable employee misconduct," "infeasibility," and "greater hazard," be raised prior to the hearing. Proposed rule § 2200.206(b) requires that affirmative defenses would be raised at the pre-hearing conference, and that affirmative defenses cannot otherwise be raised in later proceedings except under extraordinary circumstances. The judge would issue an order setting forth any agreements reached by the parties during the pre-hearing conference.

Discovery

No substantive change is proposed to the current rule on discovery, § 2200.210. Parties may request discovery, but no discovery would be conducted except on order of the judge.

Hearing

It is expected that the E–Z Trial hearing would be conducted in the format decided by the hearing judge. Witnesses, however, would be sworn and the proceedings would be reported. The requirement for a reporter and transcript, currently found in § 2200.208, would become part of the new rule § 2200.208(d). Typically, oral argument would be presented at the close of the hearing. However, the judge has the discretion to permit the parties to file written briefs instead. If appropriate, the judge has the option of announcing his decision from the bench on the record. If not announced from the bench, a written decision would be issued within 45 days, unless an extension was granted by the Chief Judge.

Review of Judge's Decision

Unlike the current rule, this proposed rule does not require the judge to prepare a written decision, but would instead permit him to issue a decision from the bench. In that event, that portion of the transcript containing the judge's bench decision will be considered the written decision and will be included in the judge's order.

Applicability of the Commission's Conventional Rules

Included in the list of rules that do not apply to E–Z Trials is § 2200.74, which covers the filing of briefs and proposed findings of fact with the judge, as well as oral arguments at the hearing. No other substantive change is proposed to the current rule, § 2200.212.

List of Subjects in 29 CFR Part 2200

Administrative practice and procedure, Hearing and appeal procedures.

For the reasons set forth in the preamble, the Occupational Safety and Health Review Commission proposes to amend title 29, chapter XX, part 2200, subpart M of the Code of Federal Regulations as follows:

PART 2200—RULES OF PROCEDURE

1. The authority citation for part 2200 continues to read as follows:

Authority: 29 U.S.C. 661(g).

2. Subpart M is revised to read as follows:

Subpart M—E–Z Trials

Sec.

2200.200 Purpose.
2200.201 Application.
2200.202 Eligibility for E–Z Trial.
2200.203 Commencing E–Z Trial.
2200.204 Discontinuance of E–Z Trial.
2200.205 Filing of pleadings.
2200.206 Pre-hearing conference.
2200.207 Discovery.
2200.208 Hearing.
2200.209 Review of Judge's decision.
2200.210 Applicability of Subparts A through G.

Subpart M—E–Z Trials

§ 2200.200 Purpose.

(a) The purpose of the E–Z Trials subpart is to provide simplified procedures for resolving contests under the Occupational Safety and Health Act of 1970, so that parties before the Commission may reduce the time and expense of litigation while being assured due process and a hearing that meets the requirements of the Administrative Procedure Act, 5 U.S.C. 554. These procedural rules will be applied to accomplish this purpose.

(b) Procedures under this subpart are simplified in a number of ways. The major differences between these procedures and those provided in subparts A through G of the Commission's rules of procedure are as follows:

(1) Complaints and answers are not required.

(2) Pleadings generally are not required. Early discussions among the parties and the Administrative Law Judge are required to narrow and define the disputes between the parties.

(3) Discovery is generally not permitted.

(4) Interlocutory appeals are not permitted.

(5) Hearings are less formal. The Federal Rules of Evidence do not apply. Instead of briefs, the parties will argue their case orally before the Judge at the conclusion of the hearing. In many instances, the Judge will render his decision from the bench.

§ 2200.201 Application.

The rules in this subpart will govern proceedings before a Judge in a case chosen for E–Z Trial under § 2200.203.

§ 2200.202 Eligibility for E–Z Trial.

All cases with a low aggregate penalty are eligible for E–Z Trial. Those cases selected for E–Z Trial will be those that also do not involve complex issues of law or fact.

§ 2200.203 Commencing E–Z Trial.

(a) *Selection.* Upon receipt of a Notice of Contest, the Chief Administrative Law Judge may, at his or her discretion, assign an appropriate case for E–Z Trial.

(b) *Party request.* Within twenty days of the notice of docketing, any party may request the Chief Judge or the Judge assigned to the case to assign the case for E–Z Trial. The request must be in writing. For example, "I request an E–Z Trial" will suffice. The request must be sent to the Executive Secretary. Copies must be sent to each of the other parties.

(c) *Judge's ruling on request.* The Chief Judge or the Judge assigned to the case may grant a party's request and assign a case for E–Z Trial at his or her discretion. Such request shall be acted upon within fifteen days of its receipt by the Judge.

(d) *Time for filing complaint or answer under § 2200.34.* If a party has requested E–Z Trial or the Judge has assigned the case for E–Z Trial, the times for filing a complaint or answer will not run. If a request for E–Z Trial is denied, the period for filing a complaint or answer will begin to run upon issuance of the notice denying E–Z Trial.

§ 2200.204 Discontinuance of E–Z Trial.

(a) *Procedure.* If it becomes apparent at any time that a case is not appropriate for E–Z Trial, the Judge assigned to the case may, upon motion by any party or upon the Judge's own motion, discontinue E–Z Trial and order the case to continue under conventional rules. Before discontinuing E–Z Trial, the Judge will consult with the Chief Judge.

(b) *Party Motion.* At any time during the proceedings any party may request that the E–Z Trial be discontinued and that the matter continue under conventional procedures. A motion to discontinue must be in writing and explain why the case is inappropriate for E–Z Trial. All other parties will have seven days from the filing of the motion to state their agreement or disagreement and their reasons.

(c) *Ruling.* If E–Z Trial is discontinued, the Judge may issue such orders as are necessary for an orderly continuation under conventional rules.

§ 2200.205 Filing of pleadings.

(a) *Complaint and answer.* Once a case is designated for E–Z Trial, the complaint and answer requirements are suspended. If the Secretary has filed a complaint under § 2200.34(a), a response to a petition under § 2200.37(d)(5), or a response to an employee contest under § 2200.38(a), and if E–Z Trial has been ordered, no response to these documents will be required.

(b) *Motions.* A primary purpose of E–Z Trials is to eliminate, as much as possible, motions and similar documents. A motion will not be viewed favorably if the subject of the motion has not been first discussed among the parties.

§ 2200.206 Pre-hearing conference.

(a) *When held.* As early as practicable, the presiding Judge will order and conduct a pre-hearing conference. At the discretion of the Judge, the pre-hearing conference may be held in person, or by telephone or electronic means.

(b) *Content.* At the pre-hearing conference, the parties will discuss the following: settlement of the case; the narrowing of issues; an agreed statement of issues and facts; defenses; witnesses and exhibits; motions; and any other pertinent matter. Except under extraordinary circumstances, any affirmative defenses not raised at the pre-hearing conference may not be raised later. At the conclusion of the conference, the Judge will issue an order setting forth any agreements reached by the parties.

§ 2200.207 Discovery.

Discovery, including requests for admissions, will only be allowed under the conditions and time limits set by the Judge.

§ 2200.208 Hearing.

(a) *Procedures.* The Judge will hold a hearing on any issue that remains in dispute at the conclusion of the pre-hearing conference. The hearing will be in accordance with subpart E of these rules, except for §§ 2200.71, 2200.73 and 2200.74 which will not apply.

(b) *Agreements.* At the beginning of the hearing, the Judge will enter into the record all agreements reached by the parties as well as defenses raised during the pre-hearing conference. The parties and the Judge then will attempt to resolve or narrow the remaining issues. The Judge will enter into the record any further agreements reached by the parties.

(c) *Evidence.* The Judge will receive oral, physical, or documentary evidence that is not irrelevant, unduly repetitious or unreliable. Testimony will be given under oath or affirmation. The Federal Rules of Evidence do not apply.

(d) *Reporter.* A reporter will be present at the hearing. An official verbatim transcript of the hearing will be prepared and filed with the Judge. Parties may purchase copies of the transcript from the reporter.

(e) *Oral and written argument.* Each party may present oral argument at the close of the hearing. Post-hearing briefs will not be allowed except by order of the Judge.

(f) *Judge's decision.* Where possible, the Judge will render his decision from the bench. Alternatively, within 45 days of the hearing, the Judge will issue a written decision. The decision will be in accordance with § 2200.90. If additional time is needed, approval of the Chief Judge is required.

§ 2200.209 Review of Judge's decision.

Any party may petition for Commission review of the Judge's decision as provided in § 2200.91. After the issuance of the Judge's written decision or order, the parties may pursue the case following the rules in Subpart F.

§ 2200.210 Applicability of Subparts A through G.

The provisions of subpart D (except for § 2200.57) and §§ 2200.34, 2200.37(d)(5), 2200.38, 2200.71, 2200.73 and 2200.74 will not apply to E–Z Trials. All other rules contained in subparts A through G of the Commission's rules of procedure will apply when consistent with the rules in this subpart governing E–Z Trials.

Dated: April 25, 1995.

Ray H. Darling, Jr.,

Executive Secretary.

[FR Doc. 95–10604 Filed 4–28–95; 8:45 am]

BILLING CODE 7600-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 322

Permits for Structures Located Within Shipping Safety Fairways

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps seeks comments on its proposal to change its rules regarding permits for the placement of temporary anchors, cables and chains for floating or semisubmersible drilling rigs within shipping safety fairways. Shipping safety fairways and anchorages are established on the Outer Continental Shelf by the U.S. Coast Guard to provide unobstructed approaches for vessels using U.S. ports. This initiative arises as a result of requests by offshore oil companies for exemptions to the provisions of the existing rule because drilling and production technologies have greatly extended the range of deepwater drilling and the 120 day time limits placed on temporary structures allowed within fairway boundaries may no longer be reasonable.

DATES: Written comments must be received on or before May 31, 1995.

ADDRESSES: Comments should be addressed to: HQUSACE, Attn: CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph T. Eppard at (202) 761–1783.

SUPPLEMENTARY INFORMATION: Department of the Army permits are required for the construction of any structure in or over any navigable water

VOL
60
ISS
83
MY
1
1995
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of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899 (30 Stat. 1151; 33 U.S.C. 403). This authority was extended to artificial islands and fixed structures located on the Outer Continental Shelf (OCS) by section 4(f) of the Outer Continental Shelf Lands Act of 1953 (67 Stat. 463; 43 U.S.C. 1333(e)).

Background

Pursuant to the cited authorities, the Corps promulgated regulations in 33 CFR 209.135 establishing shipping safety fairways in the Gulf of Mexico to provide obstruction-free routes for vessels in approaches to United States ports. The Corps provided these obstruction-free routes by denying permits for structures within certain designated lanes. In 1978, the Ports and Waterways Safety Act (PWSA), was amended to delegate authority to the Department of Transportation and the Commandant, U.S. Coast Guard to establish vessel routing measures, including fairways and fairway anchorages. In accordance with the PWSA, the Coast Guard completed the required studies and published final rules establishing shipping safety fairways on May 13, 1982. The Corps subsequently revoked its fairway regulations in § 209.135(d) but retained paragraph (b), which contains the conditions under which the nationwide permit for oil exploration and production structures on the OCS (33 CFR 330.5(a) (8)), was issued. On November 13, 1986, the Corps fairway regulations were repromulgated in 33 CFR 322.5(l) to consolidate all permit regulations for structures in the same part.

When the regulations allowing temporary structures within fairways were promulgated by the Corps in 1981, deepwater drilling occurred in water depths of 300 to 600 feet. At that time the limitation of 120 days that temporary anchors would be allowed within fairways was considered reasonable. If the exploratory well was successful, a conventional fixed production platform would be used and there would be no further need to maintain the anchors within the fairway. Presently, according to offshore hydrocarbon exploration and production companies, technology has extended the range of deepwater drilling to water depths of 1,000 to 4,000 feet. As a result, drilling times have increased and production methods have changed. Accordingly, the limitation on the length of time (120 days), that an anchor is allowed within a fairway may not be appropriate, particularly in water depths in excess of 600 feet. The industry has available many types of production platforms, including floating production systems that are anchored in place during the productive life of the reserves and then moved to a new location. In water depths greater than 600 feet, the floating production platform becomes an important production option and in water depths greater than 1,000 feet these units are essential. In many instances, the only obstacle to using this type of system to drill and produce hydrocarbons is the location of a fairway. Current regulations require that the production system be placed at great distance from the fairway in order to keep the anchors clear of the fairway. The result is that there may be hydrocarbon bearing lease areas that cannot be effectively penetrated and produced. It should be noted that if this proposal is adopted, the requirement that the rig must be situated as necessary to insure that the minimum clearance over an anchor line within a fairway is 125 feet, will not be changed. In addition, these proposed amendments are not intended to allow drilling structures within the fairways.

On July 7, 1994, we published an advance notice of proposed rulemaking in the **Federal Register**, soliciting comments on four separate options concerning this matter. The options presented in the ANPRN were: (1) Take no action; (2) Remove the 120-day time restrictions when water depths exceed 600 feet; (3) Require an individual permit for any structure that will remain within a fairway for 120 days or longer, or (4) Require an individual permit for any structure within a fairway. We received 18 letters in response to the ANPRN and we sincerely appreciate those commenters taking the time and effort to provide their input and recommendations on this important matter. Based on our review of the original request(s) to amend the regulations and the responses to the ANPRN, we have decided to propose the amendments in option 2 that would remove the-120 day time limit when water depths at the drilling location exceed 600 feet. At this time it has not been demonstrated by facts and technical information presented that the other options would provide a greater margin of safety for vessels operating in the fairways, with or without the time limits while accommodating current production platforms. We strongly recommend that any technical data available to support a position of whether or not to make this proposed change, be included with any comments submitted. The following is the text in 33 CFR 322.5(l)(1) (*Existing*):

(l) * * * (1) *Shipping safety fairways and anchorage areas.* DA permits are required for structures located within shipping safety fairways and anchorage areas established by the U.S. Coast Guard. (1) The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit temporary anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway provided the following conditions are met:

(i) The installation of anchors to stabilize semisubmersible drilling rigs within fairways must be temporary and shall be allowed to remain only 120 days. This period may be extended by the district engineer provided reasonable cause for such extension can be shown and the extension is otherwise justified.

(ii) Drilling rigs must be at least 500 feet from any fairway boundary or whatever distance necessary to insure that minimum clearance over an anchor line within a fairway will be 125 feet.

(iii) No anchor buoys or floats or related rigging will be allowed on the surface of the water or to a depth of 125 feet from the surface, within the fairway.

(iv) Drilling rigs may not be placed closer than 2 nautical miles of any other drilling rig situated along a fairway boundary, and not closer than 3 nautical miles to any drilling rig located on the opposite side of the fairway.

(v) The permittee must notify the district engineer, Bureau of Land Management, Mineral Management Service, U.S. Coast Guard, National Oceanic and Atmospheric Administration and the U.S. Navy Hydrographic Office of the approximate dates (commencement and completion) the anchors will be in place to insure maximum notification to mariners.

(vi) Navigation aids or danger markings must be installed as required by the U.S. Coast Guard.

(2) * * *

Today, we are proposing to amend 33 CFR 322.5(l) by removing t he word "temporary", making it clear by restructuring the sentences that drilling rigs, including floating or semisubmersible drilling rigs, are not allowed within fairway boundaries and adding a sentence to paragraph (l)(1)(i) to eliminate time restrictions on temporary and permanent anchors, attendant cable and chains within fairways when water depths exceed 600 feet. Such anchors, attendant cable and chains must be for floating or semisubmersible exploratory or production drilling rigs only. In areas where water depths are less than 600 feet, the time limit of 120 days continues to apply.

Regulatory Analyses and Notices

The Corps has determined in accordance with E.O. 12866 that this proposed rule is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in costs or prices for consumers; individual industries, Federal, State or local Governments or geographic regions. It will not have a significant adverse effect on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule if finalized will not have a significant economic effect on a substantial number of small entities as the rule would remove a restriction allowing access to areas to on the Outer Continental Shelf previously unavailable.

List of Subjects in 33 CFR Part 322

Continental shelf, Electric power, Navigation, Water pollution control, Waterways.

In consideration of the above, the Corps of Engineers is proposing to amend part 322 of title 33, as follows:

PART 322—PERMITS FOR STRUCTURES OR WORK IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

1. The authority citation for part 322 continues to read as follows:

Authority: 33 U.S.C. 403.

2. Section 322.5 is amended by revising the introductory text of paragraph (l)(1), adding a new paragraph (l)(1)(i); redesignating the existing paragraphs (l)(1)(i) as (l)(1)(ii), (l)(1)(ii) as (l)(1)(iii), (l)(1)(iii) as (l)(1)(iv), (l)(1)(iv) as (l)(1)(v), (l)(1)(v) as (l)(1)(vi) and (l)(1)(vi) as (1)(vii), and revising newly redesignated (l)(1)(ii) to read as follows:

§ 322.5 Special policies.

* * * * *

(l) *Shipping safety fairways and anchorage areas.* * * *

(1) The Department of the Army will grant no permits for the erection of structures in areas designated as fairways, except that district engineers may permit anchors and attendant cables or chains for floating or semisubmersible drilling rigs to be placed within a fairway provided the following conditions are met:

(i) The purpose of such anchors and attendant cables or chains as used in this section is to stabilize floating or semisubmersible drilling rigs which are located outside the boundaries of the fairway.

(ii) In water depths of 600 feet or less, the installation of anchors and attendant cables or chains within fairways must be temporary and shall be allowed to remain only 120 days. This period may be extended by the district engineer provided reasonable cause for such extension can be shown and the extension is otherwise justified. In water depths greater than 600 feet, time restrictions on anchors and attendant cables or chains located within a fairway, whether temporary or permanent, shall not apply.

* * * * *

Dated: April 20, 1995.

Gary W. Wright,

Colonel, U.S. Army, Executive Director of Civil Works.

[FR Doc. 95–10457 Filed 4–28–95; 8:45 am]

BILLING CODE 3710–92–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 122–1–6962b; FRL–5198–6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Santa Barbara County Nonattainment Area, Transportation Control Measure Replacement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern a transportation control measure (TCM) to be implemented in the Santa Barbara County ozone nonattainment area.

The intended effect of proposing approval of this SIP revision is to control emissions of ozone precursors in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by May 31, 1995.

ADDRESSES: Written comments on this action should be addressed to: Deborah Schechter, Mobile Source Section (A–2–1), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the SIP revision and EPA's evaluation of the SIP are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted SIP revision are also available for inspection at the following locations:

California Air Resources Board, 2020 "L" Street, Sacramento, CA 92123.

Santa Barbara County Air Pollution Control District, 26 Castillian Drive B–23, Goleta, CA 93117.

FOR FURTHER INFORMATION CONTACT: Deborah Schechter, Mobile Source Section, A–2–1, Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1227).

SUPPLEMENTARY INFORMATION: This document concerns a revision to the California SIP to implement TCM–5, Improve Commuter Public Transit Service, in the Santa Barbara County ozone nonattainment area and to delete a TCM from the 1982 California ozone SIP for Santa Barbara County. Because Santa Barbara County is already implementing portions of TCM–5 and the funding and schedules for the remainder of the TCM have been programmed into the Federal Transportation Improvement Program for Santa Barbara County, and because the State submitted a fully approvable SIP revision, the EPA has decided to take direct final action approving the submittal in to the California SIP. For further information, please see the information provided in the direct final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 19, 1995.

Jeff Zelikson,

Acting Regional Administrator.

[FR Doc. 95–10614 Filed 4–28–95; 8:45 am]

BILLING CODE 6560–50–P

VOL 60 ISS 83 MY 1 1995 UMI

Notices

Federal Register
Vol. 60, No. 83
Monday, May 1, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States.

DATES: Tuesday, May 9, 1995, at 10:30 a.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street NW., Suite 500, Washington, DC (Library, 5th Floor).

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The meeting of the Committee on Judicial Review is to continue discussion of draft recommendations based on a report by Professor William Kovacic, visiting at American University, on choice of forum in government contract bid protest disputes.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of the committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: April 26, 1995.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 95–10656 Filed 4–28–95; 8:45 am]

BILLING CODE 6110–01–W

DEPARTMENT OF AGRICULTURE

Forest Service

Control of Diseases, Insects, Other Animals, and Unwanted Vegetation at the Humboldt Nursery

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for pest management at the Humboldt Nursery, McKinleyville, California. Initial public scoping is underway; a public meeting will occur during the DEIS comment period. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by June, 1995. The final EIS is expected to be filed with EPA by August, 1995.

FOR FURTHER INFORMATION CONTACT: Susan Frankel, Pathologist, Pacific Southwest Region, 630 Sansome St. San Francisco, CA 94111. Telephone (415) 705–2651.

SUPPLEMENTARY INFORMATION: In preparing the EIS, the Forest Service has identified and is considering a range of alternatives for this project. One of those is no action. Other alternatives consider a range of methods for the prevention and control of diseases, insects, other animals, and unwanted vegetation at the Homboldt Nursery. The methods under consideration include biological, chemical, manual, and mechanical techniques. The activities that require prevention and controls include cover cropping, seed pre-treatment, nursery seedbed and greenhouse preparation, sowing, seedling growth from germination to lifting, and seedling storage.

Martha Ketelle, Forest Supervisor, Six Rivers National Forest is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by June, 1995. The final EIS is expected to be filed with the EPA by August, 1995.

The comment period on the draft EIS will be 45 days from the date in the EPA's notice of availability appears in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519,553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: April 24, 1995.

Gilbert J. Espinosa,

Acting Regional Forester.

[FR Doc. 95–10655 Filed 4–28–95; 8:45 am]

BILLING CODE 3410–11–M

Control of Unwanted Vegetation, Diseases, Insects, and Animals in the Pacific Southwest Region Nurseries and Tree Improvement Center

AGENCY: Forest Service, USDA.

ACTION: Cancellation to notice of intent to prepare environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service is cancelling preparation of an environmental impact statement (EIS) for pest management at the Humboldt Nursery, McKinleyville, California; Placerville Nursery, Camino, California; and Chico Tree Improvement Center, Chico, California (**Federal Register** of September 7, 1990, 55 FR 36844, and (**Federal Register** of August 25, 1988, 53 FR 32417).

FOR FURTHER INFORMATION CONTACT: John Fiske, Program Manager, Reforestation, Pacific Southwest Region, 630 Sansome Street, San Francisco, California 94111. Telephone (415) 705–2697.

Date: April 24, 1995.

Gilbert J. Espinosa,

Acting Regional Forester.

[FR Doc. 95–10649 Filed 4–28–95; 8:45 am]

BILLING CODE 3410–11–M

Control of Diseases, Insects, Other Animals, and Unwanted Vegetation at the Placerville Nursery

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for pest management at the Placerville Nursery, Camino, California. Initial public scoping is underway; a public meeting will occur during the DEIS comment period. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by June, 1995. The final EIS is expected to be filed with EPA by August, 1995.

FOR FURTHER INFORMATION CONTACT: Susan Frankel, Pathologist, Pacific Southwest Region, 630 Sansome St., San Francisco, CA 94111. Telephone (415) 705–2651.

SUPPLEMENTARY INFORMATION: In preparing the EIS, the Forest Service has identified and is considering a range of alternatives for this project. One of those is no action. Other alternatives consider a range of methods for the prevention and control of diseases, insects, other animals, and unwanted vegetation at the Placerville Nursery. The methods under consideration include biological, chemical, manual, and mechanical techniques. The activities that require prevention and controls include cover cropping, seed pre-treatment, nursery seedbed and greenhouse preparation, sowing, seedling growth from germination to lifting, and seedling storage.

Patricia Trimble, Nursery Manager, Placerville Nursery is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and be available for public review by June, 1995. The final EIS is expected to be filed with EPA by August, 1995.

The comment period on the draft EIS will be 45 days from the date in the EPA's notice of availability appears in the **Federal Register**.

The Forest Service believes, at this early stage, it it important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: April 24, 1995.

Gilbert J. Espinosa,

Acting Regional Forester.

[FR Doc. 95–10650 Filed 4–28–95; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–843]

Initiation of Antidumping Duty Investigation: Bicycles From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Cameron Werker at (202) 482–1776 or (202) 482–3874, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Initiation of Investigation

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA).

The Petition

On April 5, 1995, the Department of Commerce (the Department) received a petition filed in proper form by Huffy Bicycle Company, Murray Ohio Manufacturing Co., and Roadmaster Corporation (the petitioners), three U.S. producers of bicycles. Supplements to the petition were filed on April 20 and 24, 1995.

In accordance with section 732(b) of the Act, the petitioners allege that imports of bicycles from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

The petitioners state that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act.

VOL
60
ISS
83
MY
1
1995
UMI

Determination of Industry Support for the Petition

Section 732(c) of the Act, as amended by the URAA, requires that the Department determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets those minimum requirements if (1) domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) those domestic producers or workers expressing support account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

A review of production data provided in the petition reveals that the petitioners, three known domestic producers of the domestic like product as defined in the petition, account for more than 25 percent of the total production of the domestic like product and for more than 50 percent of that produced by companies expressing support for, or opposition to, the petition. Accordingly, the Department determines that this petition is supported by the domestic industry.

Scope of the Investigation

The product covered by this investigation is bicycles of all types, whether assembled or unassembled, complete or incomplete, finished or unfinished, including industrial bicycles, tandems, recumbents, and folding bicycles. For purposes of this investigation, the following terms are defined as follows irrespective of any different definition that may be found in Customs rulings, U.S. Customs law, or the *Harmonized Tariff Schedule of the United States* (*HTSUS*): (1) The term "unassembled" means fully or partially unassembled or disassembled; (2) the term "incomplete" means lacking one or more parts or components with which the complete bicycle is intended to be equipped; and (3) the term "unfinished" means wholly or partially unpainted or lacking decals or other essentially aesthetic material. Specifically, this investigation is intended to cover: (1) Any assembled complete bicycle, whether finished or unfinished; (2) any unassembled complete bicycle, if shipped in a single shipment, regardless of how it is packed and whether it is finished or unfinished; and (3) any incomplete bicycle, defined for purposes of this investigation as a frame and fork set, assembled or unassembled, finished or unfinished, and imported in the same shipment with any two of the following components, whether or not assembled together with the frame and fork set: (a) The rear wheel; (b) the front wheel; (c) a rear derailleur; (d) a front derailleur; (e) any one caliper or cantilever brake; (f) an integrated brake lever and shifter, or separate brake lever and click stick lever; (g) crankset; (h) handlebars, with or without a stem; (i) chain; (j) pedals; and (k) seat (saddle), with or without seat post and seat pin.

The scope of this investigation is not intended to cover bicycle parts except to the extent that they are attached to or in the same shipment as an unassembled complete bicycle or an incomplete bicycle, as defined above.

Complete bicycles are classifiable under subheadings 8712.00.15, 8712.00.25, 8712.00.35, 8712.00.44, and 8712.00.48 of the 1995 HTSUS. Incomplete bicycles, as defined above, may be classified for tariff purposes under any of the aforementioned HTSUS subheadings covering complete bicycles or under HTSUS subheadings 8714.91.20–8714.99.80, inclusive (covering various bicycle parts). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this investigation is dispositive.

Export Price and Normal Value

Export price was based on retail prices observed in the United States in mid-1994. The petitioners adjusted the starting prices for retail gross margin, the importer's selling expenses (used as a surrogate for importer's mark-up), foreign inland freight, CIF movement charges, and U.S. customs duty.

The petitioners assert that the PRC is a non-market economy (NME) within the meaning of sections 771(18) of the Act and in accordance with section 773(c) of the Act. Accordingly, the normal value of the product should be based on the producer's factors of production, valued in a surrogate market economy country. In previous investigations, the Department has determined that the PRC is an NME, and the presumption of NME status continues for the initiation of this investigation. *See, e.g., Final Determination of Sales at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the People's Republic of China*, 60 FR 16437 (March 30, 1995).

It is our practice in NME cases to construct normal value from the factors of production of those factories that produced bicycles sold to the United States during the period of investigation.

In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters. *See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC*, 59 FR 22585 (May 2, 1994).

The petitioners based the PRC producers' factors of production (*i.e.*, raw materials, labor, and energy) for bicycles on research conducted by a private consulting firm in the PRC. The petitioners valued these factors, where possible, on a publicly available published Indonesian government survey of the bicycle manufacturing and/or bicycle component industries in Indonesia, the surrogate country selected. Indonesia was selected as the surrogate country because (1) its level of economic development is comparable to that of the PRC, and (2) it is a significant producer of bicycles.

For each of the bicycle models used in the fair value comparisons, certain components are imported from the market-economy countries where they are produced. In those instances, the petitioners valued the components in question based on the F.O.B. foreign port prices that the petitioners pay, as they state their prices are equal to or less than the prices paid by any other bicycle manufacturer in the world.

The petitioners also based factory overhead, and selling, general, and administrative expenses on data published by the Indonesian government on the bicycle manufacturing industry.

The petitioners based profit on a publicly available published study of the Indonesian bicycle industry.

Based on a comparison of the export prices to the factors of production, the average calculated dumping margin is 74.95 percent.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of bicycles from the PRC are being, or likely to be, sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available, we may review the calculations.

Initiation of Investigation

We have examined the petition on bicycles and have found that it meets the requirements of section 732 of the Act, including the requirements concerning the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of bicycles from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determination by September 12, 1995.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, copies of the public version of the petition have been provided to the representatives of the PRC.

ITC Notification

We have notified the International Trade Commission (ITC) of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by May 22, 1995, whether there is a reasonable indication that imports of bicycles from the PRC are causing material injury, or threaten to cause material injury to, a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: April 25, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–10647 Filed 4–28–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–429–601]

Solid Urea From the German Democratic Republic; Preliminary Results of Changed Circumstances Review and Initiation of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of changed circumstances review and initiation of changed circumstances antidumping duty administrative review.

SUMMARY: On February 12, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 5130) a notice of initiation of a changed circumstances review to examine the effect, if any, that the reunification of Germany (by combination of the former German Democratic Republic (GDR) and the Federal Republic of Germany (FRG)) had on the antidumping duty order covering solid urea from the former GDR (53 FR 2636). Specifically, we reviewed the order's applicability to post-unification shipments of the subject merchandise from producers located in the pre-unification territory of the FRG. The Department preliminarily determines to maintain the order on solid urea from the five German states (Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia (plus any other territory included in the former GDR)) that formerly constituted the GDR (hereinafter "the Five States") and to allow entry of shipments from the pre-unification territory of the FRG (the remaining German states) without regard to antidumping duties. We have also determined that there is good cause for conducting a second changed circumstances review to calculate a new cash deposit rate using a market economy analysis for any shipments of solid urea from the Five States occurring after October 2, 1990 and before the effective date of this notice.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Wendy Frankel, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1987, the Department published in the **Federal Register** (53 FR 2636) an antidumping duty order on solid urea from the GDR that established a cash deposit rate of 44.80 percent. On October 3, 1990, the GDR and the pre-unification territory of the FRG were unified into the single jurisdiction of the Federal Republic of Germany. On October 1, 1990, the U.S. Customs Service issued instructions that it would be appropriate to treat goods that would have been considered products from the former GDR, and were entered or withdrawn from warehouse for consumption on or after October 3, 1990, as products of the unified FRG for customs purposes. In response, on October 10, 1990, the Department instructed the U.S. Customs Service to suspend liquidation of all entries of solid urea from the unified FRG but not to collect cash deposits on solid urea from any company located in what was the pre-unification territory of the FRG. Thus, entries of solid urea from the pre-unification territory of the FRG were suspended at what was in effect a zero cash deposit rate. We further instructed U.S. Customs officials to continue collecting cash deposits from manufacturers located in what had been the GDR.

On February 12, 1992, the Department published in the **Federal Register** (57 FR 5130) the initiation of a changed circumstances review on solid urea from the former GDR (*Notice of Initiation*). At the time of initiation, companies producing solid urea in the pre-unification territory of the FRG were shipping to the United States. Accordingly, the Department initiated its review to determine whether the order on solid urea from the former GDR is applicable to shipments from producers located in the pre-unification territory of the FRG.

Scope of the Review

Imports covered by this review are those of solid urea. At the time of the publication of the antidumping duty order, such merchandise was classifiable under item 480.30 of the *Tariff Schedules of the United States Annotated* (TSUSA). This merchandise is currently classified under the *Harmonized Tariff Schedule of the United States* (HTS) item number 3102.10.00. These TSUSA and HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

Analysis

Although the Department normally administers antidumping proceedings on a country-by-country basis, neither the statute, the regulations, nor the GATT expressly require such an approach. Indeed, as the Department stated in connection with the special circumstances surrounding the breakup of the Soviet Union and its potential effect on the then-pending antidumping duty investigation concerning uranium, the focus of the law is on merchandise, not countries. *See Postponement of Preliminary Antidumping Duty Determination; Uranium from the Former Union of Soviet Socialist Republics (USSR)*, 57 FR 11064 (1992) (incorporating by reference, memorandum from F. Sailer to A. Dunn dated March 24, 1992); *see also Techsnabexport, Ltd.* v. *United States*, 802 F. Supp. 469, 471–72 (Ct. Int'l Trade 1992).

In the present case, there are special circumstances that justify maintaining the subject order on the Five States, but not on the remaining German states. The geopolitical entity that was known as

VOL
60
ISS
83
MY
1
1995
UMI

the GDR no longer exists. On October 3, 1990, the former GDR and the pre-unification territory of the FRG were unified into the single jurisdiction of the FRG. However, no less-than-fair-value (LTFV) investigation or injury test covering solid urea has been conducted for producers located in the pre-unification territory of the FRG. Thus, expansion of the order to the territory of the unified FRG would raise serious legal questions under the GATT and U.S. law—both regimes contemplate the assessment of antidumping duties only after injury and LTFV determinations that provide affected parties with certain procedural safeguards, including adequate notice and the opportunity to comment.

By maintaining the order on solid urea from the Five States, we believe we are reaching a result that is consistent with U.S. law and our international obligations. First, this result comports with the holding in the *Techsnabexport* case. Specifically, it preserves, notwithstanding the change in political borders, the original geographic scope of the order. 802 F. Supp. at 472–74. Second, as noted above, nothing in the GATT or U.S. law expressly precludes the maintenance of a region- or province-specific order where, as here, the country originally subject to the order has combined with another country. Expansion of the order to cover all shipments from the unified FRG, on the other hand, would subject producers to antidumping duties on merchandise which was never covered by injury and LTFV determinations at the International Trade Commission and the Department. Finally, revocation of the order, while avoiding the concerns raised by a country-wide order, would, as a result of a change in government or political borders, deprive the petitioners of relief they sought and obtained. As in the *Techsnabexport* case, 802 F. Supp. at 472, where the breakup of the Soviet Union did not justify the termination of the then-pending antidumping duty investigation of uranium, the change in government and political borders in this case does not provide a basis for revocation of the order.

Preliminary Results

According, due to the unique circumstances of this case, the Department preliminarily determines that the appropriate action is to maintain the order and the existing 44.80 percent cash deposit rate on solid urea from the five German states that formerly constituted the GDR (Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia (plus any other territory included in the former GDR)) and to allow entry of shipments from the pre-unification territory of the FRG without regard to antidumping duties.

Initiation of Changed Circumstances Antidumping Duty Administrative Review

Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Tariff Act) and 19 CFR 353.22(f), the Department may review a determination whenever changed circumstances are sufficient to warrant such a review. In the instant case, the current cash deposit rate is based upon the non-market economy analysis provided for in section 773(c) of the Act. However, the Department has determined that as of October 3, 1990, producers located in the five German states that formerly constituted the GDR have been operating in a market-oriented economy. *See Final Affirmative Countervailing Duty Determinations; Certain Steel Products from Germany*, 58 FR 37315, 37324 (July 9, 1993).

Therefore, the Department is initiating a second changed circumstances review pursuant to section 751(b) of the Tariff Act and 19 CFR 353.22(f). In the next review, the Department will calculate a new cash deposit rate using a market economy analysis for any shipments of solid urea from the Five States occurring after October 2, 1990 and before the effective date of this notice. *See Antidumping Duty Order and Initiation of a Changed Circumstances Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plates from Poland*, 58 FR 44166 (1993) (change from a non-market to market economy justified a changed circumstances review to calculate a new cash deposit rate).

Suspension of Liquidation

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after publication date of the final results of this changed circumstances review, as provided for by section 751(a)(1) of the Tariff Act. A cash deposit of estimated antidumping duties shall be required on shipments of the subject merchandise as follows:

(1) No cash deposit will be required for shipments of solid urea produced by firms located in the pre-unification territory of the FRG.

(2) The existing 44.80 percent cash deposit rate will remain in effect, pending the results of the second changed circumstances review, for shipments of solid urea produced by firms located in the five German states that formerly constituted the GDR (Brandenburg, Mecklenburg-Vorpommern, Saxony, Saxony-Anhalt, and Thuringia (plus any other territory included in the former GDR)).

Public Comment

Case briefs and/or written comments from interested parties on the preliminary results of this changed circumstances review (initiated Feb. 12, 1992) may be submitted no later than 25 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed no later than 32 days after the date of publication. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Interested parties may also request a hearing within ten days of the date of publication of this notice. Any hearing, if requested, will be held no later than 39 days after the date of publication of this notice. The Department will publish the final results of this changed circumstances review, including the results of its analysis of any written comments.

This administrative review and notice are in accordance with section 751(b) of the Tariff Act and 19 CFR 353.22(f).

Dated: April 21, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–10638 Filed 4–28–95; 8:45 am]

BILLING CODE 3510–DS–M

[C–333–402]

Certain Apparel from Peru; Notice of Scope Amendment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to the existing conversion of the scope of the order from the Tariff Schedules of the United States annotated to the harmonized tariff schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the *Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings* (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. On October 5, 1994, the Department published a proposed amendment to the conversion (59 FR 50727). Interested parties were invited to comment on this proposed amended conversion. The Department also requested the U.S. Customs Department to comment on the proposed amendment to the conversion. Based on our analysis of the comments received, the Department is now publishing an amended conversion of the scope of the countervailing duty order on certain apparel from Peru.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1985, the Department issued a countervailing duty order on Certain Apparel from Peru (C–333–402) (50 FR 9871; March 12, 1985). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule (for) all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). That notice also included the conversion of the scope of the countervailing duty order on certain apparel from Peru from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that it would review the HTS classifications at any time during a proceeding upon receipt of new information or additional comments.

Subsequently, as a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined (1) that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on certain apparel from Peru and, therefore, (2) that the 1989 Conversion should be amended. On October 5, 1994, the Department published a proposed amendment to the 1989 Conversion and invited interested parties to comment (59 FR 50727). The Department also requested comments on the proposed conversion from the U.S. Customs Service.

Based on our analysis of the comments received, the Department has amended the 1989 Conversion governing the countervailing duty order on certain apparel from Peru. The HTS numbers included in this order are listed in the attached Appendix.

Analysis of Comments Received

The Department received no timely comments from interested parties. We are making the following changes to the HTS-defined scope, as published on October 5, 1994 (59 FR 50727), based on comments from the U.S. Customs Service and advice from the U.S. International Trade Commission:

1. Since the original TSUSA-defined scope of this countervailing duty order did not include hand-knit alpaca apparel, we are inserting the following footnote applicable to the whole HTS-defined scope in the attached Appendix: "The order covers all products identified, other than hand-knit alpaca garments."

2. To better reflect the original TSUSA-defined scope of this countervailing duty order, cotton bags should be excluded from the HTS subheading 4202.2280. Consequently, we are inserting the expression "Coverage excludes handbags with outer surface of cotton" for this subheading.

3. To better reflect the original TSUSA-defined scope of this countervailing duty order, we are adding the footnote "Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface" to the following HTS subheadings: 6104.5100, 6104.5310, 6104.5010, 6104.6100, 6104.6315, 6104.6920, 6204.3120, 6204.3340, 6204.3920, 6204.4120, 6204.4330, 6204.4430, 6204.5100, 6204.5320, 6204.5920, 6204.6240, 6204.6325, 6204.6920.

4. An HTS subheading change, made effective on January 1, 1995, necessitates that we replace subheading 6204.6100 with 6204.6190. We are also adding the footnote "Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface" to this HTS subheading.

5. We are inserting HTS subheadings 6104.6210, 6201.1330, and 6202.1330 so that the HTS-defined scope reflects more accurately the original TSUSA-defined scope of this countervailing duty order.

6. We are also inserting HTS subheadings 6106.2010 and 6106.9010 with the footnote "Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface" so that the HTS-defined scope reflects more accurately the original TSUSA-defined scope of this countervailing duty order.

Instructions to Customs

The Department will instruct the U.S. Customs Service to liquidate without regard to countervailing duties all unliquidated entries of certain apparel from Peru not covered by the attached Appendix that were exported from Peru on or after May 18, 1992. The Department will also instruct the U.S. Customs Service to liquidate at the appropriate countervailing duty rate all unliquidated entries of the subject merchandise covered in the attached Appendix that were exported on or after May 18, 1992, and on or before December 31, 1994.

In addition, we are instructing the Customs Service to terminate the suspension of liquidation for all entries of certain apparel from Peru not covered in the attached Appendix, that are entered or withdrawn from the warehouse on or after the date of publication of this notice. The Department will also instruct the U.S. Customs Service to continue to suspend liquidation and collect the appropriate cash deposit of estimated countervailing duties for the subject merchandise listed in the attached Appendix, entered or withdrawn from the warehouse, on or after the date of publication of this notice.

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Appendix: Amended HTS List for Certain Apparel From Peru (C–333–402)▼

4202.1240	6109.1000♦
4202.2270	6110.1010
4202.2280●	6110.1020
4202.9215	6110.2020♦
4202.9260	6110.3015
6102.1000	6116.9100

VOL 60 ISS 83 MY 1 1995 UMI

Appendix: Amended HTS List for Certain Apparel From Peru (C–333–402)▼—Continued

6102.3010	6116.9364
6103.1100	6116.9374
6103.1210	6117.1010
6103.1910	6117.1020
6103.2100*	6201.1100
6103.2200*	6201.1330
6103.2300*	6201.9120
6103.2910*	6201.9325
6103.4110	6202.1100
6103.4210†	6202.1330
6103.4310	6202.9120
6103.4910‡	6202.9220
6104.1100	6202.9340
6104.1310	6204.2100*
6104.1910	6204.2230*
6104.2100*	6204.2300*
6104.2300*	6204.2920*
6104.2910*	6204.3120♦
6104.3100	6204.3340♦
6104.3310	6204.3920♦
6104.3910‡	6204.4120♦
6104.4100	6204.4230◊
6104.4310	6204.4330♦
6104.4410	6204.4430♦
6104.5100♦	6204.5100♦
6104.5310♦	6204.5320♦
6104.5910‡♦	6204.5920♦
6104.6100♦	6204.6190♦
6104.6210	6204.6240■ ♦
6104.6315♦	6204.6325♦
6104.6920‡ ♦	6204.6920♦
6105.1000♦	6205.2020□
6106.1000♦	6214.2000
6106.2010♦	6505.9030
6106.9010♦	6505.9040

▼ The order covers all products identified, other than hand-knit alpaca garments.

■ Coverage excludes handbags with outer surface of cotton.

* Coverage limited to garments that would be subject to this order if separately entered.

† Coverage limited to garments having embroidery or permanently affixed applique work on the outer surface.

‡ Coverage limited to garments of artificial fibers, containing 23 percent or more by weight of wool or fine animal hair.

♦ Coverage excludes garments having embroidery or permanently affixed applique work on the outer surface.

◊ Coverage excludes dresses of pile fabric and other dresses of fabric having yarns of different colors.

■ Coverage excludes girls' garments, women's shorts, women's trousers and breeches of pile fabric and other women's trousers and breeches of blue denim.

□ Coverage excludes shirts of pile fabric and other shirts of fabric having yarns of different colors.

[FR Doc. 95–10651 Filed 4–28–95; 8:45 am]
BILLING CODE 3510–DS–P

[C–333–001]

Cotton Sheeting and Sateen From Peru; Notice of Scope Amendment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to the existing conversion of the scope of the order from the tariff schedules of the United States annotated to the harmonized tariff schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the *Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings* (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. On October 5, 1994, the Department published a proposed amendment to the conversion (59 FR 50728). Interested parties were invited to comment on this proposed amended conversion. The Department also requested the U.S. Customs Department to comment on the proposed amendment to the conversion. Based on our analysis of the comments received, the Department is now publishing an amended conversion of the scope of the countervailing duty order on cotton sheeting and sateen from Peru.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1983, the Department issued a countervailing duty order on Cotton Sheeting and Sateen from Peru (C–333–001) (48 FR 4501; February 1, 1983). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule (for) all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). That notice also included the conversion of the scope of the countervailing duty order on cotton sheeting and sateen from Peru from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that it would review the HTS classifications at any time during a proceeding upon receipt of new information or additional comments.

Subsequently, as a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined (1) that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on cotton sheeting and sateen from Peru and, therefore, (2) that the 1989 Conversion should be amended. On October 5, 1994, the Department published a proposed amendment to the 1989 Conversion and invited interested parties to comment (59 FR 50728). The Department also requested comments on the proposed conversion from the U.S. Customs Service.

We received no comments from interested parties. Based on our analysis of comments from the U.S. Customs Service and advice from the U.S. International Trade Commission, the Department has amended the 1989 Conversion governing the countervailing duty order on cotton sheeting and sateen from Peru. The HTS numbers included in this order are listed in the attached Appendix.

Instructions to Customs

The Department will instruct the U.S. Customs Service to liquidate without regard to countervailing duties all unliquidated entries of cotton sheeting and sateen from Peru not covered by the attached Appendix that were exported from Peru on or after January 1, 1994. The Department will also instruct the U.S. Customs Service to liquidate at the appropriate countervailing duty rate all unliquidated entries of the subject merchandise covered in the attached Appendix that were exported on or after January 1, 1994, and on or before December 31, 1994.

In addition, we are instructing the Customs Service to terminate the suspension of liquidation for all entries of cotton sheeting and sateen from Peru not covered in the attached Appendix, that are entered or withdrawn from the warehouse on or after the date of publication of this notice. The Department will also instruct the U.S. Customs Service to liquidate without regard to countervailing duties all unliquidated entries of cotton sheeting and sateen from Peru not covered by the attached Appendix that were exported from Peru on or after January 1, 1994.

In addition, we are instructing the Customs Service to terminate the suspension of liquidation for all entries of cotton sheeting and sateen from Peru not covered in the attached Appendix, that are entered or withdrawn from the warehouse on or after the date of publication of this notice. The Department will also instruct the U.S. Customs Service to continue to suspend liquidation and collect the appropriate cash deposit of estimated countervailing duties for the subject merchandise listed in the attached Appendix, entered or withdrawn from the warehouse, on or after the date of publication of this notice.

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Appendix: Amended HTS List for Cotton Sheeting and Sateen From Peru (C–333–001)

5208.1120
5208.1240
5208.1920*
5208.2920*
5209.1900
5209.2900

* Coverage limited to fabric, wholly of satin weave.

[FR Doc. 95–10654 Filed 4–28–95; 8:45 am]
BILLING CODE 3510–DS–P

[C–333–002]

Cotton Yarn From Peru; Notice of Scope Amendment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to the existing conversion of the scope of the order from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the *Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings* (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. On October 5, 1994, the Department published a proposed amendment to the conversion (59 FR 50725). Interested parties were invited to comment on this proposed amended conversion. The Department also requested the U.S. Customs Department to comment on the proposed amendment to the conversion. Based on our analysis of the comments received, the Department is now publishing an amended conversion of the scope of the countervailing duty order on cotton yarn from Peru.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1983, the Department issued a countervailing duty order on Cotton Yarn from Peru (C–333–002) (48 FR 4508; February 1, 1983). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule (for) all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). That notice also included the conversion of the scope of the countervailing duty order on cotton yarn from Peru from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that it would review the HTS classifications at any time during a proceeding upon receipt of new information or additional comments.

Subsequently, as a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined (1) that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on cotton yarn from Peru and, therefore, (2) that the 1989 Conversion should be amended. On October 5, 1994, the Department published a proposed amendment to the 1989 Conversion and invited interested parties to comment (59 FR 50725). The Department also requested comments on the proposed conversion from the U.S. Customs Service. Based on our analysis of the comments received, the Department has amended the 1989 Conversion governing the countervailing duty order on cotton yarn from Peru. The HTS numbers included in this order are listed in the attached Appendix.

Analysis of Comments Received

Comment 1: The Government of Peru (GOP) contends that the original TSUSA-defined scope of the countervailing duty order on cotton yarn from Peru covered only those yarns currently classified under the HTS subcategory: "unbleached and not mercerized yarns." The GOP argues that all "other" yarns should be excluded from the HTS scope of the countervailing duty order on cotton yarn from Peru.

Department's Position: We disagree. The original TSUSA-defined scope included all yarns provided for in TSUSA item numbers 300.60 through 302.98, which cover the whole range of unbleached, mercerized, bleached, and colored yarns. Consequently, all yarns covered under HTS headings 5205 and 5206 are covered by the countervailing duty order on cotton yarn from Peru.

We received no other comments from interested parties. As a result, the scope of the countervailing duty order on cotton yarn from Peru will remain as proposed on October 5, 1994 (59 FR 50725).

Instructions to Customs

The Department will instruct the U.S. Customs Service to liquidate without regard to countervailing duties all unliquidated entries of cotton yarn from Peru not covered by the attached Appendix that were exported from Peru on or after January 1, 1994.

In addition, we are instructing the Customs Service to terminate the suspension of liquidation for all entries of cotton yarn from Peru not covered in the attached Appendix, that are entered or withdrawn from the warehouse on or after the date of publication of this notice. The Department will also instruct the U.S. Customs Service to continue to suspend liquidation and collect the appropriate cash deposit of estimated countervailing duties for the subject merchandise listed in the attached Appendix, entered or withdrawn from the warehouse, on or after the date of publication of this notice.

VOL 60 ISS 83 MY 1 1995 UMI

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Appendix: Amended HTS List for Cotton Yarn From Peru (C–333–002)

Subheadings 5205.1110 through 5206.4500, inclusive.

[FR Doc. 95–10653 Filed 4–28–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–402]

Certain Textile Mill Products From Peru; Notice of Scope Amendment

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to the existing conversion of the scope of the order from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the *Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings* (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. On October 5, 1994, the Department published a proposed amendment to the conversion (59 FR 50726). Interested parties were invited to comment on this proposed amended conversion. The Department also requested the U.S. Customs Department to comment on the proposed amendment to the conversion. Based on our analysis of the comments received, the Department is now publishing an amended conversion of the scope of the countervailing duty order on certain textile mill products from Peru.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Martina Tkadlec or Kelly Parkhill, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

In 1985, the Department issued a countervailing duty order on Certain Textile Mill Products from Peru (C–333–402) (50 FR 9871; March 12, 1985). The scope of this order was originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule (for) all * * * orders * * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989 (54 FR 993). That notice also included the conversion of the scope of the countervailing duty order on certain textile mill products from Peru from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that it would review the HTS classifications at any time during a proceeding upon receipt of new information or additional comments.

Subsequently, as a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined (1) that the 1989 Conversion did not accurately reflect the scope of the countervailing duty order on certain textile mill products from Peru and, therefore, (2) that the 1989 Conversion should be amended. On October 5, 1994, the Department published a proposed amendment to the 1989 Conversion and invited interested parties to comment (59 FR 50726). The Department also requested comments on the proposed conversion from the U.S. Customs Service.

Based on our analysis of the comments received, the Department has amended the 1989 Conversion governing the countervailing duty order on certain textile mill products from Peru. The HTS numbers included in this order are listed in the attached Appendix.

Analysis of Comments Received

Comments from the Government of Peru: The Government of Peru (GOP) contends that the HTS subheadings 5208.1260, 5208.1920, and 5208.2240 cover products that should properly be classified under the countervailing duty order on cotton sheeting and sateen (C–333–001). The GOP therefore suggests that these products should be excluded by including these HTS subheadings in the scope, but at the 10-digit level.

Department's Position: We disagree.

(1) Based on average yarn number, the sheeting under the HTS subheading 5208.1260 is not within the scope of the countervailing duty order on cotton sheeting and sateen from Peru. Therefore, the products under this subheading should be covered by the countervailing duty order on certain textile mill products from Peru.

(2) The HTS subheading 5208.1920 is listed in the scope of both the countervailing duty order on certain textile mill products from Peru and the countervailing order on cotton sheeting and sateen from Peru, but the coverage is clearly defined under both orders through footnotes. Under the countervailing duty order on certain textile mill products from Peru, the HTS subheading 5208.1920 applies to "fabric, not wholly of satin weave," while under the countervailing order on cotton sheeting and sateen from Peru, the HTS subheading 5208.1920 applies to "fabric, wholly of satin weave." Consequently, there is no overlap between the two countervailing duty orders.

(3) The HTS subheading 5208.2240 is for bleached goods only, including bleached sheeting. However, the countervailing order on cotton sheeting and sateen from Peru does not cover bleached sheeting. Therefore, goods under this HTS subheading should be covered under the countervailing duty order on certain textile mill products from Peru.

Other Comments: Based on comments from the U.S. Customs Service and advice from the U.S. International Trade Commission, we are making the following changes to the HTS-defined scope, as published on October 5, 1994 (59 FR 50726), so that it better reflects the original TSUSA-defined scope of this countervailing duty order:

1. We are inserting the following HTS-subheadings: 5111.1120, 5111.1130, 5111.1910, 5111.2005, 5111.2010, 5111.2090, 5111.3005, 5111.3010, 5111.3090, 5111.9040, 5111.9050, 5111.9090, 5112.1110, 5112.1920, 5112.2010, 5112.2020, 5112.2030, 5112.3010, 5112.3020, 5112.3030, 5112.9040, 5112.9050, 5112.9090, 5210.1140, 5210.1160, 5210.1200, 5210.1920, 5210.1940, 5210.1960, 5210.2160, 5210.2940, 5210.2960, 5211.1100, 5211.1900, 5211.2100, 5211.2900, 5513.4100, 5810.9910, 6302.5130.

2. We are deleting the footnote "Coverage limited to fabric, wholly or in part of fine animal hair" from HTS subheadings 5112.1120 and 5112.1990.

3. We are deleting HTS subheadings 5701.1016 and 5805.0025 because products covered under these HTS subheadings were excluded from the original TSUSA-defined scope of this countervailing duty order.

4. As a result of HTS subheading changes made effective on January 1, 1995, the HTS subheading 5701.1020 was replaced by 5701.1040 and 5701.1090. However, since 5701.1040 covers hand-made carpets, which were excluded from the original TSUSA-defined scope, we are replacing 5701.1020 only with 5701.1090, which covers other carpets.

5. We are inserting HTS subheadings 5407.7100, 5407.7200, 5407.7300, and 5407.7400 with the following footnote: "Coverage limited to fabric, not containing 85 percent or more by weight of polyester filaments."

6. We are inserting HTS subheadings 6302.2150 and 6302.3150 with the following footnote: "Coverage limited to pillowcases, other than bolster cases."

Instructions to Customs

The Department will instruct the U.S. Customs Service to liquidate without regard to countervailing duties all unliquidated entries of certain textile mill products from Peru not covered by the attached Appendix that were exported from Peru on or after May 18, 1992. The Department will also instruct the U.S. Customs Service to liquidate at the appropriate countervailing duty rate all unliquidated entries of the subject merchandise covered in the attached Appendix that were exported on or after May 18, 1992, and on or before December 31, 1994.

In addition, we are instructing the Customs Service to terminate the suspension of liquidation for all entries of certain textile mill products from Peru not covered in the attached Appendix, that are entered or withdrawn from the warehouse on or after the date of publication of this notice. The Department will also instruct the U.S. Customs Service to continue to suspend liquidation and collect the appropriate cash deposit of estimated countervailing duties for the subject merchandise listed in the attached Appendix, entered or withdrawn from the warehouse, on or after the date of publication of this notice.

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Appendix: Amended HTS List for Certain Textile Mill Products From Peru (C–333–402)

5106.1000*	5208.1180	5511.3000
5106.2000*	5208.1260	5513.4100
5107.1000*	5208.1280	5702.3110
5107.2000*	5208.1300	5702.3120
5108.1060*	5208.1920‡	5702.4110
5108.2060*	5208.1940	5702.4120
5109.1060	5208.1960	5702.5120
5109.9060	5208.1980	5702.5140
5111.1120	5208.2120	5702.9130
5111.1130	5208.2140	5702.9140
5111.1170	5208.2160	5703.1000
5111.1910	5208.2240	5801.1000
5111.1960	5208.2260	5801.3300
5111.2005	5208.2280	5801.3400
5111.2010	5208.2940	5801.3500
5111.2090	5208.2960	5810.9910
5111.3005	5208.2980	6002.4200
5111.3010	5209.1100	6301.2000
5111.3090	5209.1200	6302.2150▼
5111.9040	5209.2100	6302.3150▼
5111.9050	5210.1140	6302.5130
5111.9090	5210.1160	6304.9915
5112.1110	5210.1200	6306.1100
5112.1120	5210.1920	6306.2100
5112.1920	5210.1940	6306.9100
5112.1990	5210.1960	
5112.2010	5210.2160	
5112.2020	5210.2940	
5112.2030	5210.2960	
5112.3010	5211.1100	
5112.3020	5211.1900	
5112.3030	5211.2100	
5112.9040	5211.2900	
5112.9050	5406.1000	
5112.9090	5406.2000	
5204.1100	5407.7100♦	
5204.1900	5407.7200♦	
5204.2000	5407.7320♦	
5207.1000	5407.7400♦	
5207.9000	5511.1000	
5208.1140	5511.2000	

*Coverage limited to single or multiple (folded) or cabled yarn, not exceeding 22 nm per single yarn.

— Coverage limited to fabric, not wholly of satin weave.

▼ Coverage limited to fabric, not containing 85 percent or more by weight of polyester filaments.

♦ Coverage limited to pillowcases, other than bolster cases.

[FR Doc. 95–10652 Filed 4–28–95; 8:45 am]

BILLING CODE 3510–DS–P

Minority Business Development Agency

Business Development Center Applications: Boston, Massachusetts

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications to operate its Boston Minority Business Development Center (MBDC).

The purpose of the MBDC Program is to provide business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of client services to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business. The MBDC will provide service in the Boston Metropolitan Area. The award number of the MBDC will be 01–10–95001–01.

DATES: The closing date for applications is June 12, 1995. Applications must be received in MBDA Headquarters' Executive Secretariat on or before June 12, 1995. A preapplication conference will be held on May 25, 1995, from 10:00 a.m. to 4:00 p.m., at the Thomas P. O'Neill Federal Office Building, 10 Causeway Street, Room 1088, Boston Massachusetts.

ADDRESSES: Completed application packages should be submitted to the U.S. DEPARTMENT OF COMMERCE, MINORITY BUSINESS DEVELOPMENT AGENCY, EXECUTIVE SECRETARIAT, 14th and CONSTITUTION AVENUE, N.W., ROOM 5073, WASHINGTON, D.C. 20230.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE CONTACT: Heyward Davenport, Regional Director at (212) 264–3262.

SUPPLEMENTARY INFORMATION: Contingent upon the availability of Federal funds, the cost of performance for the first budget period (13 months) from October 1, 1995 to October 31, 1996, is estimated at $222,196. The total Federal amount of $188,867 and is composed of $184,260 plus the Audit Fee amount of $4,607. The application must include a minimum cost share 15% ($33,329) in non-federal (cost sharing) contributions for a total project cost of $222,196. Cost-sharing contributions may be in the form of cash, client fees, third party in-kind contributions, non-cash applicant contributions or combinations thereof.

The funding instrument for this project will be a cooperative agreement. For those applicants who are not incumbent organizations or who are incumbents that have experienced closure due to a break in service, a 30-day start-up period will be added to their first budget period, making it a 13-month award. Competition is open to

VOL
60
ISS
83
MY
1
1995
UMI

individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

Applications will be evaluated on the following criteria: the knowledge, background and/or capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (45 points), the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (25 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

The MBDC shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDC may charge client fees for services rendered. Fees may range from $10 to $60 per hour based on the gross receipts of the client's business.

Periodic reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as the MBDC's performance, the availability of funds and Agency priorities.

Anticipated processing time of this award is 120 days. Executive order 12372, "Intergovernmental Review of Federal Programs", is not applicable to this program. Federal funds for this project include audit funds for non-CPA recipients, in the event that a CPA firm wins the competition, the funds allocated for audits are not applicable. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address. The collection of information and requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006.

Pre-Award Costs

Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is, paid in full, repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury or other matters which significantly reflect on the applicant's management honesty or financial integrity.

Award Termination

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of the MBDC work requirements; and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements

A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR Part 26, § 26.105) are subject to 15 CFR Part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace

Grantees (as defined at 15 CFR Part 26, § 26.605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR Part 28, § 28.105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR Part 28, Appendix B.

Lower Tier Certifications

Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion–Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Buy American Made Equipment or Products

Applicants are hereby notified that they are encouraged, to the extent feasible, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent as set forth in the resolution contained in Public Law 103–121, Sections 606 (a) and (b).

11.800 Minority Business Development Center
(Catalog of Federal Domestic Assistance)

Dated: April 25, 1995.

Donald L. Powers,

Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–10578 Filed 4–28–95; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Final List of Products for Second, Third and Final Phase Integration of Textile and Apparel Products into GATT 1994

April 26, 1995.

AGENCY: Committee for the Implementation of Textile Agreements.

NOTICE: Announcement of the Textile and Apparel Products to be Integrated into the GATT 1994 in the Second, Third and Final Phases.

FOR FURTHER INFORMATION CONTACT: Julie Carducci, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3588.

SUPPLEMENTARY INFORMATION: The Uruguay Round Agreement on Textiles and Clothing (ATC), approved by Congress as part of the Uruguay Round Agreements Act, provides for the integration of the textiles and clothing sectors into the World Trade Organization.

The second and third phases of the integration will commence on January 1, 1998, and January 1, 2002, respectively. According to the provisions in the ATC, products in the second integration phase will account for not less than 17% of the total volume of imports in 1990 of the products in the annex to the ATC. Products in the third integration phase will account for not less than 18% of this total volume. (The first integration phase took effect on January 1, 1995 and the list of products in the first integration phase was published in the **Federal Register** on October 13, 1994 (59 FR 51942). The final phase of the integration will commence on January 1, 2005, and will include textile and apparel products in the annex to the ATC which were not integrated during the first, second or third integration phases.) Products were selected from the ATC's four required groups: clothing, fabric, made-up textile products and tops and yarn.

In determining the products to be integrated in phases two and three, CITA has proceeded in accordance with the ATC, implementing legislation and Statement of Administrative Action. CITA has followed the Administration's commitment, made in the Statement of Administrative Action, that "integration of the most sensitive products will be deferred until the end of the ten-year period". Accordingly, CITA requested comments from interested parties and received over 80 submissions from individuals, companies, trade associations, unions and foreign governments. Also, the Committee consulted and met with individuals, advisory groups, and association representatives, and held a public hearing at which testimony from 32 parties was presented. The comments received on integration reflect a broad cross-section of views on its implementation.

On January 30, 1995, CITA published in the **Federal Register** (60 FR 5625) a draft list of the second and third phases of integration and announced that a public hearing would be held in mid-March. The deadline to submit public comment on the draft integration list was February 23, 1995. The deadline for submissions of testimony for the public hearing was March 2, 1995. Due to the demand for additional time and late submissions, the Committee extended the date until March 15, 1995. The public hearing was held on March 20, 1995. CITA heard from importers, retailers, textile and apparel manufacturers, trade associations, unions and individuals who make up the soft goods chain. During the process, all public comments and testimony received from interested parties were available for viewing at the U.S. Department of Commerce, Office of Textiles and Apparel. In accordance with the U.S. Uruguay Round commitment, CITA has weighed all comments, testimonies, and other submissions to conclude the following list.

Parties interested in obtaining the final list for the second, third and final phases electronically, can access the lists through the U.S. Department of Commerce's Economic Bulletin Board, at (202) 482–1986.

FINAL INTEGRATION BY STAGE

JAN. 1, 1995	2,760,330,164 SME	16.21%
JAN. 1, 1998	2,898,573,582 SME	17.03%
JAN. 1, 2002	3,083,215,683 SME	18.11%
JAN. 1, 2005	8,283,074,387 SME	48.65%
Total Annex	17,025,193,817 SME	100.00%

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BABIES' BLOUSES & SHIRTS EX SET PTS OF COTTON, KNIT	APPAREL	6111201000	239	2	804,510	0.00
BABIES' T-SHIRT & SMLR GRMNT EX SET PT OF COT, KNIT	APPAREL	6111202000	239	2	685,950	0.00
BABIES' SWEATER & SMLR GRMNT EX SET PT OF COT, KNIT	APPAREL	6111203000	239	2	1,005,953	0.01
BABIES' DRESSES OF COTTON, KNIT	APPAREL	6111204000	239	2	243,130	0.00
BABIES' TROUSERS, SHORTS EX SET PARTS OF COT, KNIT	APPAREL	6111205000	239	2	629,055	0.00
BABIES' SUNSUITS & SIMILAR APPAREL OF COTTON, KNIT	APPAREL	6111206010	239	2	3,883,125	0.02
BABIES' GRMNTS & CLTHNG ACCESS SETS OF COTTON, KNIT.	APPAREL	6111206020	239	2	28,748,129	0.17
BABIES' GRMNT & CLTHNG ACCESS SET PT OF COT, KNIT	APPAREL	6111206030	239	2	5,115,417	0.03

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BABIES' OT GRMNTS & CLOTHING ACCESS OF COTTON, KNIT.	APPAREL	6111206040	239	2	7,565,027	0.04
BABIES' TROUSERS, SHORTS EX SET PT OF SYN FIB, KNIT	APPAREL	6111301000	239	2	489,085	0.00
BABIES' BLOUSES, SHIRTS EX SET PTS OF SYN FIB, KNIT	APPAREL	6111302000	239	2	352,454	0.00
BABIES' T-SHIRTS, ETC EX SET PARTS OF SYN FIB, KNIT	APPAREL	6111303000	239	2	108,757	0.00
BABIES' SWEATERS ETC EX SET PARTS OF SYN FIB, KNIT	APPAREL	6111304000	239	2	1,965,632	0.01
BABIES' SUNSUITS & SIMILAR APPAREL OF SYN FIB, KNIT	APPAREL	6111305010	239	2	2,164,208	0.01
BABIES' BLANKET SLEEPERS OF SYNTHETIC FIBERS, KNIT	APPAREL	6111305015	239	2	2,375,352	0.01
BABIES' GRMNT & CLTHNG ACCESS SETS OF SYN FIB, KNIT	APPAREL	6111305020	239	2	29,428,680	0.17
BABIES' GRMNT & CLTHNG ACCESS SET PT SYN FIB, KNIT	APPAREL	6111305030	239	2	2,102,600	0.01
BABIES' OT GRMNT & CLOTHING ACCESS OF SYN FIB, KNIT	APPAREL	6111305040	239	2	14,652,389	0.09
BABIES' TROUSERS, SHORTS EX SET PT OF ART FIB, KNIT	APPAREL	6111901000	239	2	252	0.00
BABIES' BLOUSES, SHIRTS EX SET PTS OF ART FIB, KNIT	APPAREL	6111902000	239	2	13	0.00
BABIES' T-SHIRTS, ETC EX SET PARTS OF ART FIB, KNIT	APPAREL	6111903000	239	2	1,537	0.00
BABIES' SWEATERS ETC EX SET PARTS OF ART FIB, KNIT	APPAREL	6111904000	239	2	8,713	0.00
BABIES' SUNSUITS & SIMILAR APPAREL OF ART FIB, KNIT	APPAREL	6111905010	239	2	2,816	0.00
BABIES' GRMNT & CLTHNG ACCESS SETS OF ART FIB, KNIT	APPAREL	6111905020	239	2	68,160	0.00
BABIES' GRMNT & CLTHNG ACCESS SET PT ART FIB, KNIT	APPAREL	6111905030	239	2	17,105	0.00
BABIES' OT GRMNT & CLOTHING ACCESS OF ART FIB, KNIT	APPAREL	6111905040	239	2	73,269	0.00
BABIES' DRESSES OF COTTON, NOT KNIT	APPAREL	6209201000	239	2	553,802	0.00
BABIES' BLOUSES & SHIRTS EX SET PTS OF COTTON, N KT	APPAREL	6209202000	239	2	240,496	0.00
BABIES' TROUSERS, SHORTS EX SET PARTS OF COT, N KT	APPAREL	6209203000	239	2	1,968,996	0.01
BABIES' SUNSUITS & SIMILAR APPAREL OF COTTON, N KT	APPAREL	6209205030	239	2	1,465,682	0.01
BABIES' GRMNTS & CLTHNG ACCESS SETS OF COTTON,	APPAREL	6209205035	239	2	5,632,817	0.03
BABIES' GRMNT & CLTHNG ACCESS SET PT OF COT, N KT	APPAREL	6209205045	239	2	9,439,158	0.06
BABIES' OT GRMNTS & CLOTHING ACCESS OF COTTON, N KT.	APPAREL	6209205050	239	2	10,766,631	0.06
BABIES' BLOUSES, SHIRTS EX SET PTS OF SYN FIB, N KT	APPAREL	6209301000	239	2	106,659	0.00
BABIES' TROUSERS, SHORTS EX SET PT OF SYN FIB, N KT	APPAREL	6209302000	239	2	186,260	0.00
BABIES' SUNSUITS & SIMILAR APPAREL OF SYN FIB, N KT	APPAREL	6209303010	239	2	1,927,756	0.01
BABIES' GRMNT & CLTHNG ACCESS SETS OF SYN FIB, N KT	APPAREL	6209303020	239	2	11,182,355	0.07
BABIES' GRMNT & CLTHNG ACCESS SET PT SYN FIB, N KT	APPAREL	6209303030	239	2	1,682,837	0.01
BABIES' OT GRMNT & CLOTHING ACCESS OF SYN FIB, N KT	APPAREL	6209303040	239	2	6,277,622	0.04
BABIES' BLOUSES, SHIRTS EX SET PTS OF ART FIB, N KT	APPAREL	6209901000	239	2	473	0.00
BABIES' TROUSERS, SHORTS EX SET PT OF ART FIB, N KT	APPAREL	6209902000	239	2	5,506	0.00
BABIES' SUNSUITS & SIMILAR APPAREL OF ART FIB, N KT	APPAREL	6209903010	239	2	42,645	0.00
BABIES' BLANKET SLEEPERS OF ART FIB, NT KT/CROCHET	APPAREL	6209903015	239	2	0	0.00
BABIES' GRMNT & CLTHNG ACCESS SETS OF ART FIB, N KT	APPAREL	6209903020	239	2	28,104	0.00
BABIES' GRMNT & CLTHNG ACCESS SET PT ART FIB, N KT	APPAREL	6209903030	239	2	32,760	0.00
BABIES' GARMENTS & CLOTHING ACCESS OF ART FIB, N KT	APPAREL	6209903040	1*239	2	553,247	0.00
HATS & OTHER HEADGEAR, KNITTED OF COTTON FOR BABIES.	APPAREL	6505901515	239	2	75,090	0.00
BABY HATS&OTH HDGEAR, NOT KNIT, COTTON&HAND-LM&FLKLR.	APPAREL	6505902030	239	2	184,905	0.00
BABY HATS&OTH HDGR MMF, KNT/CROCHET, WHOLE/PRT BRAID.	APPAREL	6505905030	239	2	596,957	0.00
BABY HATS&OTH HDGR MMF, KNT/CRCHET, NOT IN PRT BRAID.	APPAREL	6505906030	239	2	240,156	0.00
BABY HATS&OTHR HEADGR, MMF, NOT KNIT, WHOLE/PT BRAID.	APPAREL	6505907030	239	2	72,488	0.00
BABY HATS&OTH HDGR, MMF, NOT KNIT, NOT IN PART BRAID.	APPAREL	6505908045	239	2	196,963	0.00
HANDKERCHIEF HMMD, NT CONT LACE/EMBRDRY COT NT KT.	APPAREL	6213201000	330	2	2,808,389	0.02
HANDKERCHIEFS EXCEPT HEMMED, OF COTTON, NOT KNITTED.	APPAREL	6213202000	330	2	2,114,168	0.01
BRASSIERES CONT LACE, NET OR EMBROIDERY OF COTTON.	APPAREL	6212101010	349	2	95,384	0.00
BRAS NOT CONTAINING LACE NET OR EMBROIDERY COTTON.	APPAREL	6212102010	349	2	4,046,280	0.02
GIRDLES AND PANTY-GIRDLES OF COTTON	APPAREL	6212200010	349	2	6,332	0.00
CORSETS OF COTTON	APPAREL	6212300010	349	2	3,932	0.00
M/B OVERCOATS, CARCOATS ETC OF COTTON & DOWN, NT K.	APPAREL	6201121000	353	2	604,509	0.00
M/B ANORAKS SKI-JACKETS ETC OF COTTON & DOWN, NT KT.	APPAREL	6201921000	353	2	2,193,683	0.01
M/B ANORAK & SMLR ART F SKI-ST COT CONT DOWN, N KT	APPAREL	6211201010	353	2	8,936	0.00
W/G OVERCOATS, CARCOATS ETC OF COTTON & DOWN, NT KT.	APPAREL	6202121000	354	2	487,899	0.00
W/G OVERCOATS, CARCOATS ETC OF COTTON & DOWN, NT KT.	APPAREL	6202921000	354	2	1,840,713	0.01

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W/G ANORAK SMLR ART FOR SKI-ST COT CONT DWN, N KNIT.	APPAREL	6211201030	354	2	2,829	0.00
PRTS OF FTWR TEX MAT OTH LEG WARMERS OF COTTON	APPAREL	6406991550	359	2	186,031	0.00
SOCKS & OT HOSRY & FTWR W/OUT APPLD SLS WOOL, KNIT	APPAREL	6115910000	432	2	407,185	0.00
BABIES' SWEATERS AND SIMILAR ARTICLES OF WOOL, KNIT	APPAREL	6111100010	439	2	37,995	0.00
BABIES' GARMENTS AND CLTHNG ACC NESOI OF WOOL, KNIT.	APPAREL	6111100030	439	2	63,302	0.00
BABIES' GRMNT & CLTHNG ACCESSORIES WOOL, NOT KNIT	APPAREL	6209100000	439	2	40,730	0.00
BABY HATS & OTHER HDGEAR OF WOOL, KNITTED OR CROCHET.	APPAREL	6505903030	439	2	11,876	0.00
BABY HATS & OTHER HDGEAR OF WOOL, NOT KNIT OR CROCHET.	APPAREL	6505904030	439	2	762	0.00
OTH FTWEAR W UPRS TEX MAT W SLS&UPRS WOOL FELT MEN.	APPAREL	6405206030	459	2	63,000	0.00
OT FTWEAR W UPRS TEX MAT W SLS&UPRS WOOL FELT WMEN.	APPAREL	6405206060	459	2	52,599	0.00
OT FTWR W UPR TEX MAT W SL/UPRS WL FELT F OTH TNMW.	APPAREL	6405206090	459	2	56,162	0.00
LEG WARMERS OF MAN-MADE FIBERS CONT =>23% WOOL	APPAREL	6406991505	459	2	41	0.00
PRT OF FTW TX MT OTH LEG-WARMERS-OTH WOOL/FN AN HR.	APPAREL	6406991560	459	2	2,453	0.00
HANDKERCHIEFS OF MAN-MADE FIBERS, NOT KNIT/CROCHTD.	APPAREL	6213901000	630	2	2,019,108	0.01
PNTY HSE OF SYN FIB MEAS <67 DECTEX/SNGL YRN, KNIT	APPAREL	6115110020	632	2	23,714,668	0.14
WOMEN'S HOSERY MEAS <67 DCTX/YARN OF MMF, KNIT	APPAREL	6115200010	632	2	1,979,097	0.01
SOCKS, OT HOSRY, FTWR W/OUT SL SYNFIB CONT LACE, KNIT.	APPAREL	6115931000	632	2	2,439,117	0.01
SOCKS OT HOSRY, FTWR W/OUT SOLES OT SYN FIB, KNIT	APPAREL	6115932000	632	2	18,102,204	0.11
SOCKS, OT HOSRY, FTWR W/OUT SL ARTFIB CONT LACE, KNIT.	APPAREL	6115991400	632	2	53,014	0.00
SOCKS OT HOSRY, FTWR W/OUT SOLES OT ART FIB, KNIT	APPAREL	6115991800	632	2	773,137	0.00
M/B OVERCOATS & CARCOATS ETC OF MMF AND DOWN, NT KT.	APPAREL	6201131000	653	2	2,076,210	0.01
M/B ANORAKS & SKI-JACKETS OF MMF & DOWN, NOT KNIT	APPAREL	6201931000	653	2	6,435,596	0.04
M/B ANORAK SMLR ART F SKI-ST TEXMTRL CONT DWN, N KT	APPAREL	6211201020	653	2	9,212	0.00
W/G OVERCOATS, CARCOATS ETC OF MMF & DOWN, NT KNIT.	APPAREL	6202131000	654	2	1,780,338	0.01
W/G OVERCOATS, CARCOATS ETC OF MMF & DOWN, NT KT	APPAREL	6202931000	654	2	3,609,287	0.02
W/G ANORAK SMLR ART F SKI-ST TEXMTRL CONT DWN, N KT.	APPAREL	6211201040	654	2	1,518	0.00
LEG WARMERS OF MAN-MADE TEXTILE MATERIALS NESOI	APPAREL	6406991510	659	2	12,701	0.00
LEG WARMERS OF MAN-MADE TEXTILE MATERIALS NESOI	APPAREL	6406991520	659	2	413,827	0.00
PARTS OF FOOTWEAR OF TEXTILE MATERIALS-MMF OTHER	APPAREL	6406991540	659	2	1,591,229	0.01
M/B ENS ST-TYPE JCKT OT TEX MATL >=70% SILK, KNIT	APPAREL	6103292034	733	2	0	0.00
M/B SUIT-TYPE JACKET OF SILK CONT 70% SILK, KNIT	APPAREL	6103392040	733	2	5,484	0.00
M/B ENS HEADING 6203 TEX MAT CONT >=70% SILK, N KT	APPAREL	6203293026	733	2	30	0.00
M/B SUIT-TYPE JACKET CONT >70% SLK/SLK WST, NT KT	APPAREL	6203394040	733	2	1,652,774	0.01
M/B OVERCOAT ETC OF SILK 70% OR MORE SILK, KNIT	APPAREL	6101900040	734	2	104	0.00
M/B ENS OVERCOAT ETC OT TEXT MATL >=70% SILK, KNIT	APPAREL	6103292028	734	2	0	0.00
JACKET FOR TRACK STS OT TEX MAT CON 70% SILK, KNIT	APPAREL	6112192010	734	2	0	0.00
M/B OVERCOAT ETC OT TEX MAT >70% SILK, NOT KNIT	APPAREL	6201190040	734	2	93,392	0.00
M/B ANORAKS ETC SILK >=70% BY WGHT SILK, NOT KNIT	APPAREL	6201990040	734	2	291,353	0.00
M/B ENS OVERCOAT OT TEX MAT CONT >=70% SILK, N KT	APPAREL	6203293010	734	2	0	0.00
W/G OVERCOAT ETC OF SILK 70% OR MORE SILK, KNIT	APPAREL	6102900020	735	2	4,313	0.00
W/G ENS OF OVRCT ETC OF SILK CONT >=70% SILK, KNIT	APPAREL	6104292016	735	2	138	0.00
W/G SUIT-TYPE JACKET OF SILK 70% MORE SILK, KNIT	APPAREL	6104392040	735	2	22,667	0.00
PARTS COATS & JACKETS TEX MTRL >70% SILK WGHT, KNIT	APPAREL	6117900038	735	2	35	0.00
W&G OVRCTS & SMLR CTS CONT >=70% BY WT OF SLK, N KN.	APPAREL	6202190040	735	2	531,749	0.00
W/G ANORAKS & SMLR ART >=70% SILK, NT KNT/CROCHTED	APPAREL	6202990040	735	2	1,479,705	0.01
W/G ENS OF HDNG 6202 & 6204 SLK CONT >=70% SLK WOV	APPAREL	6204294016	735	2	349,140	0.00
W/G SUIT-TYPE JACKET OF SILK 70% MORE SILK, NT KT	APPAREL	6204394040	735	2	7,033,239	0.04
W/G N KT GARMENTS NESOI 70% SILK OR MORE, ANORAKS	APPAREL	*6210502020	735	2	1,214	0.00
PARTS COATS & JACKETS OT TEX MTRL ≤ 70% SILK, N KT	APPAREL	6217900040	735	2	1,415	0.00
W/G DRESSES OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104490040	736	2	119,726	0.00
WG DRESSES OF SILK CONT >=70% SLK/SLK WST, NT KNIT	APPAREL	6204490040	736	2	11,001,574	0.06
M/B ENS SHIRTS OT TEX MAT CONT 70% MORE SILK, KNIT	APPAREL	6103292052	738	2	0	0.00
M/B SHIRTS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6105903040	738	2	27,210	0.00
M/B T-SHIRTS ETC CONT 70% MORE SILK BY WEIGHT, KNIT	APPAREL	6109902010	738	2	121,485	0.00
M/B PULLOV & SMLR ART SILK CONT 70% MORE SILK, KNIT	APPAREL	6110900080	738	2	32,325	0.00
SHIRT FOR TRACK STS OT TEX MAT CONT 70% SILK, KNIT	APPAREL	6112192040	738	2	0	0.00
TOPS CONT >=70% SILK OR SILK WASTE, KNIT	APPAREL	6114900005	738	2	1,963	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/G ENS BLOUSE OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104292052	739	2	50	0.00
W/G BLOUSES OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6106902040	739	2	85,538	0.00
W/G T-SHIRTS ETC CONT 70% MORE SILK BY WEIGHT, KNIT	APPAREL	6109902020	739	2	218,038	0.00
W/G PULLOV & SMLR ART SILK CONT 70% MORE SILK, KNIT	APPAREL	6110900082	739	2	169,068	0.00
PARTS BLOUSES & SHIRTS TEX MTRL >70% SILK WGHT, KT	APPAREL	6117900028	739	2	0	0.00
M/B ENS SHIRTS OT TEX MAT CONT 70% MORE SILK, N KT	APPAREL	6203293050	740	2	0	0.00
M/B SHIRTS SILK CONT, >70% SILK, NOT KNIT	APPAREL	6205902040	740	2	4,653,994	0.03
W/G ENS BLOUSE OF SILK CONT 70% MORE SILK, NT KNIT	APPAREL	6204294052	741	2	223,197	0.00
W/G BLOUSES OF SILK CONT 70% MORE SILK, NOT KNIT	APPAREL	6206100040	741	2	23,377,043	0.14
PARTS BLOUSES/SHIRTS TEX MTRL >70% SILK, NOT KNIT	APPAREL	6217900015	741	2	206	0.00
W/G ENS OF SKIRTS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104292028	742	2	89	0.00
W/G SKIRTS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104592040	742	2	64,398	0.00
W/G ENS OF SKIRTS OF SILK CONT 70% MORE SILK, NT KT	APPAREL	6204294028	742	2	405,027	0.00
W/G SKIRTS OF SILK CONT 70% MORE SILK, NOT KNIT	APPAREL	6204594040	742	2	4,530,837	0.03
M/B SUITS OF SILK CONTAINING 70% SILK/WASTE, KNIT	APPAREL	6103194060	743	2	305	0.00
M/B SUITS CONT >=70% SILK/SILK WASTE, NT KT/CROCHD	APPAREL	6203194060	743	2	75,264	0.00
W/G SUITS OF SILK CONTAINING 70% MORE SILK, KNIT	APPAREL	6104192070	744	2	2,846	0.00
W/G SUITS OF SILK CONT >=70% SLK/SLK WST, NT KT/CR	APPAREL	6204193070	744	2	711,008	0.00
M/B ENS OF SWEATER OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6103292064	745	2	0	0.00
M/B SWEATERS OF SILK CONTAINING 70% SILK, KNIT	APPAREL	6110900016	745	2	379,364	0.00
W/G ENS SWEATERS OF SILK 70% MORE SILK, KNIT	APPAREL	6104292062	746	2	0	0.00
W/G SWEATERS OF SILK CONTAINING 70% SILK, KNIT	APPAREL	6110900032	746	2	1,717,747	0.01
PARTS OF SWEATERS OF SILK, >70 % SILK BY WEIGHT, KT	APPAREL	6117900016	746	2	1,663	0.00
M/B ENS TROUSERS OT TEX MATL >=70% SILK, KNIT	APPAREL	6103292040	747	2	0	0.00
MEN'S TROUSERS ETC OF SILK CONT 70% MORE SLK, KNIT	APPAREL	6103493016	747	2	2,771	0.00
TRSRS FOR TRACK STS OT TEX MAT CONT 70% SILK, KNIT	APPAREL	6112192070	747	2	0	0.00
M/B ENS TRSRS CONT >=70% SILK/SLK WST, NOT KN/CRC	APPAREL	6203293030	747	2	0	0.00
MB TROUSER ETC CONT >=70% SLK/SLK WST, NT KNT/CRCH	APPAREL	6203493035	747	2	460,544	0.00
MB SHORTS CONT >=70% SLK/SLK WST, NOT KT/CROCHETED.	APPAREL	6203493050	747	2	240,680	0.00
W/G ENS TROUSER OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104292040	748	2	15	0.00
W/G TROUSERS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104693028	748	2	14,840	0.00
PARTS TROUSERS SHORTS TEX MTRL >70% SILK WGHT, KNIT.	APPAREL	6117900048	748	2	0	0.00
W/G ENS TROUSER OF SLK CONT >=70% BY WT SLK, NT KT	APPAREL	6204294040	748	2	18,804	0.00
W/G TROUSER ETC SILK >70 PERCENT SILK, NOT KNIT	APPAREL	6204693040	748	2	5,478,343	0.03
W/G N KT GARMENTS NESOI 70% SILK OR MORE, TROUSERS.	APPAREL	*6210502030	748	2	15,100	0.00
PARTS TROUSERS/BREECHES TEX MTRL >70% SILK, NT KT	APPAREL	6217900065	748	2	60	0.00
M/B BATHROBES ETC OF TEX MATL CONT 70% SILK, KNIT	APPAREL	6107994010	750	2	509,070	0.00
W/G NEGLIGEES, ETC TEX MAT CONT 70% MORE SILK, KNIT	APPAREL	6108994010	750	2	2,124,206	0.01
M/B BATHROBES ETC OT TEX MAT CONT >=70% SILK, N KT	APPAREL	6207996010	750	2	211,850	0.00
W/G NEGLIGEES, ETC CONT >=70% SLK/SLK WST, N KT	APPAREL	6208996010	750	2	773,233	0.00
M/B NIGHTSHIRTS OF TEXTILE MATL CONT 70% SILK, KNIT	APPAREL	6107294010	751	2	16,617	0.00
W/G NIGHTDRESS ETC OF TEX MAT CONT 70% SILK, KNIT	APPAREL	6108392010	751	2	67,991	0.00
M/B NIGHTSHIRTS OT TEX/MAT CONT >=70% SILK N KT	APPAREL	6207290020	751	2	200,492	0.00
W/G NIGHTDRESS ETC OT TEX MAT CONT 70% SILK, N KT	APPAREL	6208290020	751	2	1,260,282	0.01
M/B UNDERPANTS OT TEX MAT CONT 70% MORE SILK, KNIT	APPAREL	6107190010	752	2	496,912	0.00
W/G SLIP & PETTICOAT OT TEX MAT CONT 70% SILK, KNIT	APPAREL	6108190020	752	2	12,355	0.00
W/G BRIEFS & PANTIES OF TEX MATL CONT 70% SILK, KT	APPAREL	6108290010	752	2	95,716	0.00
M/B UNDERPANTS & BRIEFS OT >=70% BY WGT SLK/SLK WS	APPAREL	6207190020	752	2	1,433,063	0.01
M/B SINGLETS UNDERSHIRTS OT TEXT MAT >=70% SLK, N K	APPAREL	6207996030	752	2	83,375	0.00
W/G SLIPS & PETTICOATS TEX MATL >=70% SILK, NT KT	APPAREL	6208194010	752	2	120,694	0.00
W/G BRFS PNTS SNGLTS & OT UNDSHRTS >=70% SILK, N KN	APPAREL	6208996030	752	2	1,265,402	0.01
TIES BOW TIES & CRAVATS SILK >70% WGHT SILK, KNIT	APPAREL	6117200040	758	2	73,676	0.00
TIES & CRAVATS SILK CONT >=70 PERCENT SILK, NT KT	APPAREL	6215100040	758	2	3,640,771	0.02
M/B ENS NESOI OF TEX MAT CONT 70% SILK, KNIT	APPAREL	6103292080	759	2	0	0.00
M/B OVERALLS OF SILK CONT/70% MORE SILK, KNIT	APPAREL	6103493039	759	2	0	0.00
W/G ENS NESOI OF SILK CONT 70% MORE-SILK, KNIT	APPAREL	6104292080	759	2	86	0.00
W/G OVERALLS OF SILK CONT 70% MORE SILK, KNIT	APPAREL	6104693016	759	2	49,363	0.00
M/B VESTS (EXC SWTR VEST) OF SILK >=70% SILK, KNIT	APPAREL	6110900056	759	2	2,074	0.00
W/G VESTS (EXC SWTR VEST) OF SILK >=70% SILK, KNIT	APPAREL	6110900058	759	2	212,069	0.00
JUMPERS CONT >=70% SILK OE SLK WASTE, KNIT	APPAREL	6114900015	759	2	1,541	0.00
SUNSUIT & SMLR APPL OT TEX MATL 70% SILK MORE, KNIT	APPAREL	6114900025	759	2	0	0.00
COVERALL & SMLR APPL >=70% BY WGT SLK/SLK WST, KNIT	APPAREL	6114900035	759	2	14,414	0.00
OTHER GARMENTS CONTAINING >=70% SILK/SLK WST; KNIT	APPAREL	6114900060	759	2	16,661	0.00
CLOTHING ACCESSORIES NESOI CONT >70% SILK, KNIT	APPAREL	6117800040	759	2	5,587	0.00
PARTS GARMENTS EXC SWEATER TEX MTRL >70% SLK, KNIT.	APPAREL	6117900058	759	2	1,771	0.00
M/B ENS NESOI CONT >70% BY WGT OF SLK/SLK WST N K	APPAREL	6203293070	759	2	14	0.00
MB OVERALLS CONT >=70% BY WGT OF SLK/SLK WST NT KN.	APPAREL	6203493010	759	2	101	0.00

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W/G ENS NESOI OF SILK CONT 70% MORE SILK, NT KNIT	APPAREL	6204294064	759	2	8,741	0.00
W/G OVERALLS CONT <70% SLK/SLK WST, NT KNIT/CROCHD	APPAREL	6204693060	759	2	62,582	0.00
W/G N KNIT GARMENTS NESOI 70% SILK OR MORE, OTHER	APPAREL	*6210502050	759	2	1,041	0.00
M/B SWIMWEAR CONT >70% SILK, NOT KNIT	APPAREL	6211112030	759	2	418	0.00
W/G SWIMWEAR TEX MATL CONT >70% SILK, NOT KNIT	APPAREL	6211123010	759	2	1,771	0.00
M/B GARMENT NESOI TEX MTRL CONT >=70% SILK, NOT KT	APPAREL	6211390010	759	2	555,422	0.00
W/G GARMENTS NESOI TEX MTRL CONT >70% SILK, NT KT	APPAREL	6211490010	759	2	2,874,499	0.02
ACCESSORIES OT TEX FIBERS CONT >70% SILK, NT KNIT	APPAREL	6217100040	759	2	314,150	0.00
PARTS GARMENTS NESOI OT TEX MTRL >70% SILK, NT KT	APPAREL	6217900090	759	2	87,192	0.00
HATS&OTH HDGR, KNITD/CRCHETD, >70% BY WEIGHT OF SILK.	APPAREL	6505909030	759	2	99,029	0.00
WOMEN'S HOSRY MEAS <67 DCTX/YRN CONT <70% SLK KNIT.	APPAREL	6115200030	832	2	27,003	0.00
SOCKS OT HOSRY, FTWR W/OUT SOLES CON <70% SILK KNT.	APPAREL	6115992020	832	2	15,983	0.00
BABIES' GRMNT ETC OF TEX MATL CONT <70% SILK, KNIT	APPAREL	6111906020	839	2	4,832	0.00
BABIES' GRMNT & CLTHNG ACCESS <70% SLK/SLK WS N KT	APPAREL	6209904020	839	2	70,554	0.00
M/B ENS NESOI OF OTH TEX MATERIALS, <70% SILK KNIT	APPAREL	6103292082	859	2	0	0.00
M/B OVERALLS CONT <70% BY WGT SLK/SLK WASTE KNIT	APPAREL	6103493040	859	2	0	0.00
M/B OVERALLS OF OTH TEXTILE MATERIALS NESOI, KNIT	APPAREL	6103493060	859	2	38	0.00
W/G ENS NESOI CONT <70% BY WGT SILK/SILK WST, KNIT	APPAREL	6104292082	859	2	0	0.00
W/G ENS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104292090	859	2	0	0.00
W/G OVERALLS OF SILK CONT <70% SILK, KNIT	APPAREL	6104693018	859	2	238	0.00
W/G OVERALLS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104693020	859	2	49,913	0.00
M/B VESTS (EXC SWEATER VEST) CONT <70% SILK, KNIT	APPAREL	6110900060	859	2	2,600	0.00
W/G VESTS (EXC SWEATER VEST) CONT <70% SILK, KNIT	APPAREL	6110900062	859	2	10,038	0.00
M/B VESTS (EXC SWEATER VEST) OF OTH TEX MATL, KNIT	APPAREL	6110900064	859	2	3,250	0.00
W/G VEST (EXC SWEATER VEST) OF OTH TEX MATL, KNIT	APPAREL	6110900066	859	2	20,613	0.00
SKI-SUITS OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6112202030	859	2	663	0.00
M/B SWIMWEAR OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6112390020	859	2	338	0.00
W/G SWIMWEAR OTHER THAN COTTON OR SYN FIBER, KNIT	APPAREL	6112490020	859	2	10,238	0.00
JUMPERS OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6114900020	859	2	325	0.00
SUNSUITS & SIMILAR APPRL <70% SILK/SILK WASTE, KNIT	APPAREL	6114900030	859	2	38	0.00
COVERALLS & SIML APPRL <70% WGT SLK/SLK WST, KNIT	APPAREL	6114900040	859	2	38	0.00
OTHER GARMENTS CONT <70% SILK OR SILK WASTE, KNIT	APPAREL	6114900065	859	2	325	0.00
OTH GARMENTS OF TEXTILE MATERIALS, NESOI, KNIT	APPAREL	6114900070	859	2	48,025	0.00
OTHER ACC EX SCARVES & TIES <70% BY WGT SILK, KNIT	APPAREL	6117800050	859	2	688	0.00
CLOTHING ACCESSORIES OF TEXTILE MATERIALS, NESOI, KT.	APPAREL	6117800060	859	2	15,400	0.00
PARTS OF GARMENTS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6117900060	859	2	8,200	0.00
M/B ENS NESOI OF CONT <70% WGT SLK/SLK WST NOT KNT	APPAREL	6203293080	859	2	0	0.00
MB OVERALLS CONT <70% SLK/SLK WST, NT KT/CROCHETED.	APPAREL	6203493015	859	2	502,113	0.00
W/G ENS NESOI OF SILK CONT <70% WGT SLK/SLK WST, NK	APPAREL	6204294066	859	2	38	0.00
W/G ENS OF TEXTILE MATERIALS NESOI, NOT KNIT	APPAREL	6204294068	859	2	513	0.00
W/G OVERALLS <70% BY WGT SILK/SILK WASTE, NOT KNIT	APPAREL	6204693070	859	2	379,088	0.00
W/G OVERALLS TEXTILE MATERIALS NESOI, NOT KNIT	APPAREL	6204699050	859	2	1,912,313	0.01
M/B SWIMWEAR CONT <70% BY WGT SLK/SLK WST, NOT KNT.	APPAREL	6211112040	859	2	301,050	0.00
W/G SWIMWEAR TEX MTRL <70% SLK/SLK WST NESOI, N KN	APPAREL	6211123025	859	2	6,750	0.00
M/B SKI-SUIT, NESOI, OF OTH TEXT MATER, N KT/CROCH	APPAREL	6211204060	859	2	788	0.00
W/G SKI-SUIT OF OTHER TEXTILE MATERIALS NESOI, N KT	APPAREL	6211207060	859	2	2,138	0.00
M/B COVERALL & SMLR APPAREL TEX MTRL NESOI, NT KT	APPAREL	6211390020	859	2	4,263	0.00
M/B WASHSUITS & SMLR APPAREL TEX MTRL NESOI, NT KT	APPAREL	6211390030	859	2	1,850	0.00
M/B VESTS TEXT MATER NESOI <70% SLK/SLK WST NT KNT	APPAREL	6211390070	859	2	39,188	0.00
M/B GRMNTS OT TEXT MAT NESOI <70% SLK/SLK WST N KT	APPAREL	*6211390080	859	2	3,939	0.00
W/G COVERALLS AND SMLR APPAREL TEX MTRL, NOT KNIT	APPAREL	6211490020	859	2	3,241,638	0.02
W/G WASHSUITS & SIMILAR APPAREL OT TEX MTRL, NT KT	APPAREL	6211490030	859	2	273,263	0.00
W/G JUMPERS OF OT TEX MAT <70% SLK/SLK WST NT KNIT	APPAREL	6211490070	859	2	1,144,250	0.01
W/G VESTS OF OT TEX MAT <70% SLK/SLK WST NOT KNIT	APPAREL	6211490080	859	2	500,188	0.00
W/G GARMENT NESOI OT TEX MAT <70% SLK/SLK WST, N K	APPAREL	*6211490090	859	2	372,540	0.00
HANDKERCHIEF SILK CONT <70% SILK, NOT KNIT	APPAREL	6213102000	859	2	8,225	0.00
HANDKERCHIEFS OF TEXTILE MATERIALS NESOI, NOT KNIT	APPAREL	6213902000	859	2	71,000	0.00
ACCESSORIES OTH TEX FIB NESOI, NOT KNIT OR CROCHTD	APPAREL	6217100050	859	2	257,838	0.00
PARTS OF GARMENTS OF TEX MATERIALS NESOI, NOT KNIT	APPAREL	6217900095	859	2	117,075	0.00
PRTS OF FTWR TEX MAT OTH LEG-WARMERS OTHER NESOI	APPAREL	6406991570	859	2	25	0.00
HATS & OTHER HEADGEAR, KNITTED OF FLAX OR FLAX & COTTON.	APPAREL	6505901560	859	2	28,288	0.00
NOT KNITTED COTTON HEADGEAR: NESOI	APPAREL	*6505902500	859	2	2,299,281	0.01
HATS & OTH HDGR >70% SILK &/OR NESOI, KNITTED/CRCHETD.	APPAREL	*6505909060	859	2	374,573	0.00
BABIES' GRMNT ETC OF TEX MAT CONT 70% SILK, KNIT	APPAREL	6111906010	913	2	878	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
PANTY HOSE & TIGHT CONT >=70% SLK/SLK WASTE, KNIT	APPAREL	6115190030	913	2	1,627	0.00
WOMEN'S HOSERY MEAS <67 DCTX/YRN CONT 70% SLK, KNIT.	APPAREL	6115200020	913	2	2,231	0.00
SCK, OT HSRY, FTWR W/OUT SL CONT 70% MORE SILK, KNIT	APPAREL	6115992010	913	2	24,339	0.00
GLOVES OF SILK CONTAIN >70% SILK/SILK WASTE, KNIT	APPAREL	6116998040	913	2	2,346	0.00
SHAWLS SCARVE MUFFLER MANTILLA VEILS >=70% SILK KT	APPAREL	6117104000	913	2	80,179	0.00
BABIES' GRMNT ETC OF TEX MAT CONT 70% SILK, NT KT	APPAREL	6209904010	913	2	12,082	0.00
DISPOSABLE BRIEFS DESIGNED FOR ONE TIME USE	APPAREL	6210104025	913	2	9,818	0.00
M & B CVRAL & SIMILAR APPAREL COT =>15% DOWN, NT KT	APPAREL	6211320003	913	2	640,339	0.00
M/B CVRALS & SIMILAR APPAREL MMF =>15% DOWN, NOT KNIT.	APPAREL	6211330003	913	2	125,467	0.00
W & G CVRALS & SIMILAR APPRL COT =>15% DOWN, NT KT .	APPAREL	6211420003	913	2	867	0.00
W & G CVRALS & SIM APPAREL MMF =>15% DOWN, NT KT	APPAREL	6211430003	913	2	26,885	0.00
BRAS CONT LACE NET ETC TEX MTRL >=70% SILK, NT KT	APPAREL	6212101030	913	2	7,920	0.00
BRAS NT CONT LACE NET ETC OT TEX MTRL >=70% SILK	APPAREL	6212102030	913	2	18,156	0.00
BRACES SMLR ART & PTS OT TEX MAT CONT =>70% SILK	APPAREL	6212900050	913	2	86,270	0.00
HANDKERCHIEFS SLK/SLK WST CONT >=70% SLK, NOT KNIT	APPAREL	6213101000	913	2	367,566	0.00
SHAWLS SCARVES & THE LIKE CON >=70% SLK/SLK WST NK	APPAREL	6214101000	913	2	4,936,536	0.03
PLATES, ETC, CELL, PLM VY CHLO, M-M FB PRED, NESOI	FABRIC	3921121500	229	2	845,458	0.00
PLATES, ETC, CELL, POLYURETHAN, M-M FB PRED, NESOI ...	FABRIC	3921131500	229	2	677,987	0.00
PLATES, ETC PLS, EX CEL, TEXT <=1.492KG/M2, M-M, NESOI.	FABRIC	3921901500	229	2	75,162,154	0.44
PLATES, ETC, PLAS, EX CEL, TEX >1.492KG/M2, M-M, NESOI .	FABRIC	3921902550	229	2	171,510	0.00
MADE UP FISH NET NESOI OF MAN-MADE TEXTILE MATERIAL.	FABRIC	5608110000	229	2	4,699,711	0.03
MADE UP FISH NET NESOI OF MAN-MADE TEXTILE MATERIAL.	FABRIC	5608110090	229	2	3,357,432	0.02
SALMON GILL NETTING OF NYLON OR OTHER POLYAMIDES .	FABRIC	5608191010	229	2	4,214,776	0.02
FISH NETTING NESOI OF MAN-MADE TEXTILE MATERIALS	FABRIC	5608191020	229	2	22,812,055	0.13
KNOTTED NETTING OF TWINE NESOI OF MAN-MADE TEXT MAT.	FABRIC	5608192000	229	2	4,294,839	0.03
KNOTTED NET OF TWINE CORDAGE EX HAMMOCKS; OF COT	FABRIC	5608902000	229	2	2,336,154	0.01
KNOTTED NET OF TWINE CORDAGE EX HAMMOCKS; OF COT	FABRIC	5608902090	229	2	193,011	0.00
TULLES & OTH NET FAB OF COTTON OR MAN-MADE FIBERS	FABRIC	5804100020	229	2	896,934	0.01
LACE IN PCE, STRIP, MOTIF MECHANICAL MADE MMF	FABRIC	5804210000	229	2	5,763,204	0.03
MECH MDE LACE COT LACE IN PIECE, STRIP, MOTIFS	FABRIC	5804290020	229	2	1,296,937	0.01
HAND-MADE LACE OF COTTON OR OF MAN-MADE FIBERS	FABRIC	5804300020	229	2	97,022	0.00
WOVEN PILE NARROW AND CHENILLE FABRICS: OF COTTON	FABRIC	5806101000	229	2	101,211	0.00
WOV NARROW PILE & CHENILLE FABRICS: OF MAN-MADE FIB.	FABRIC	5806102000	229	2	9,997,850	0.06
OTH NAR WOV FAB >5% ELASTOMERIC YRN/RUBBER THRD .	FABRIC	5806200000	229	2	5,425,475	0.03
NARROW WOVEN FABRICS, NESOI, OF COTTON	FABRIC	5806310000	229	2	10,369,782	0.06
RIBBONS OF NARROW WOVEN FABRICS: MAN-MADE FIBERS	FABRIC	5806321090	229	2	11,673,519	0.07
NARROW WOVEN FABRICS OF MAN-MADE FIBER, NESOI	FABRIC	5806322000	229	2	11,509,843	0.07
NARROW WOVEN FABRICS EX LABELS ETC OF METALIZED YN.	FABRIC	5806393020	229	2	271,891	0.00
BRAIDS IN PCE SUIT MKG/ORN HDWR OF COTTON OR MMF .	FABRIC	5808102010	229	2	755,684	0.00
BRAIDS IN THE PIECE, NESOI, OF COTTON; OF MMF	FABRIC	5808103010	229	2	2,768,606	0.02
ORN TRIM IN PCE, W/O EMBROID, OTH KNT OF COT/MMF	FABRIC	5808900010	229	2	4,596,882	0.03
WOVEN FABRICS OF METAL THREAD & METALIZED YARN NEC.	FABRIC	5809000000	229	2	3,452,904	0.02
EMBROID IN PCE, STRIPS, MOTIFS W/O VISABLE GROUND	FABRIC	5810100000	229	2	726,974	0.00
EMB IN PCE, STRIPS, MOTIFS COT >200G/M2 W VSB GRND ...	FABRIC	5810910010	229	2	138,924	0.00
EMB IN PCE STRIPS MOTIFS COT W VSB GRND <=200 G/M2 ..	FABRIC	5810910020	229	2	1,236,498	0.01
EMBROIDERY MMF ON A GROUND <100 G/M2 WIDTH>225 C/M.	FABRIC	5810920050	229	2	71,155	0.00
EMBRDRY OF MMF OT THAN GRD <100G/M2 & WIDTH >225CM.	FABRIC	5810920060	229	2	4,831,903	0.03
QUILT TEX PROD IN PCE 1> LAYERS TEX MAT W/PAD: CUT ...	FABRIC	5811002000	229	2	1,086,069	0.01
QUILT TEX PROD IN PCE 1> LAYERS TEX MAT W/PAD: MMF ..	FABRIC	5811003000	229	2	945,894	0.01
TEXTILE FABRICS COATED FOR BOOK COVERS, MMF	FABRIC	5901101000	229	2	891,058	0.01
TEXTILE FABRICS COATED FOR BOOK COVERS, EXCEPT MMF.	FABRIC	5901102000	229	2	202,490	0.00
TRACING CLOTH; PAINTING CANVAS ETC, MAN-MADE FIBERS.	FABRIC	5901902000	229	2	59,214	0.00
TRACING CLOTH; PAINTING CANVAS ETC, EXCEPT MMF	FABRIC	5901904000	229	2	252,389	0.00
TIRE CORD FABRIC OF HIGH TENACITY YARN, NYLON ETC ...	FABRIC	5902100000	229	2	58,876,943	0.35
TIRE CORD FABRIC OF HIGH TENACITY YARN, POLYESTERS	FABRIC	5902200000	229	2	16,747,924	0.10
TIRE CORD FABRIC OF HIGH TENACITY YARN, VISC RAYON .	FABRIC	5902900000	229	2	4,024,430	0.02
TEXTILE FABRIC NESOI PVC BOND MMF FAB, OTHER	FABRIC	5903101800	229	2	65,280	0.00
TEXTILE FABRIC NESOI PVC ETC MMF NESOI NO 70% R PL ..	FABRIC	5903102500	229	2	20,677,467	0.12
TEX FABRIC NESOI PU BOND MMF FAB OTH OV 60% PLASTC	FABRIC	5903201800	229	2	337,130	0.00

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TEXTILE FABRIC NESOI PU ETC MMF NESOI NOV 70% R PL ..	FABRIC	5903202500	229	2	23,882,212	0.14
TEX FABRIC NESOI, NO PVC PU, MM BD, OTH OV 60% PLAST	FABRIC	5903901800	229	2	579,945	0.00
TEXT FABRIC NESOI NO PVC PU, NN C OTH NOV 70% RU PLA.	FABRIC	5903902500	229	2	56,012,443	0.33
TEXTILE WALL COVERINGS NESOI	FABRIC	5905009000	229	2	550,079	0.00
RUB TEXTILE FABRIC NESOI KNIT ETC MMF NO 70% RU PL ..	FABRIC	5906912500	229	2	3,558,970	0.02
RUB TEXTILE FABRIC NESOI, NO KNIT MM NO 70% RU PLA ...	FABRIC	5906992500	229	2	12,811,581	0.08
MMF FABRICS LAMINATED OR SPEC BONDED NESOI	FABRIC	5907001000	229	2	260,100	0.00
TEX FABRICS IMPREGNATED ETC OF MAN MADE FIBERS	FABRIC	5907009090	229	2	18,079,065	0.11
TEXTILE BOLTING CLOTH NESOI, EXCEPT SILK	FABRIC	5911203000	229	2	1,677,941	0.01
OTH FAB WIDTH <30 CM OPEN-WK FAB WRP KNT <=30 CM ...	FABRIC	6002201000	229	2	761,532	0.00
OT WARP KNIT FAB (INCL GALLOON) MMF OPEN-WORK FABRC.	FABRIC	6002430010	229	2	9,617,906	0.06
SANITARY TOWELS/TAMPONS DIAPERS SMLR ART OF COTTON.	MADE-UP	5601101000	369	2	1,538,254	0.01
ARTICLES OF WADDING NESOI OF COTTON	MADE-UP	5601210090	369	2	5,813,074	0.03
TEXTILE CARPETING, MACHINE-KNOTTED PILE, COTTON	MADE-UP	5701901020	369	2	91,962	0.00
CARPETS & TEXT FLOOR COVERING KNOTTED COTTON NESOI.	MADE-UP	5701902020	369	2	10,115	0.00
TEXTILE CARPETS, WOVEN KELAM ETC COTTON N CERT	MADE-UP	5702109020	369	2	4,205,324	0.02
TEXTILE CARPETS, WOVEN COTTON PILE, NOT MADE UP	MADE-UP	5702392010	369	2	11,951	0.00
WOV TEX CRPTS, PILE, OF COT, NT MADE ON POWER LOOM	MADE-UP	5702491010	369	2	5,806,197	0.03
CARPETS & FLOOR COVERING, COT PILE NT M POWER LOOM.	MADE-UP	5702491090	369	2	2,254,362	0.01
TEXTILE CARPETS, WOV NO PILE, COTTON, NOT MADE UP ...	MADE-UP	5702591000	369	2	89,318	0.00
TEXTILE CARPETS WOV NO PILE COT H-LM MADE UP	MADE-UP	5702991010	369	2	76,883,478	0.45
TEXTILE CARPETS WOV NO PILE COT MADE UP	MADE-UP	5702991090	369	2	665,958	0.00
TEXTILE CARPETS NESOI, OF COTTON	MADE-UP	5705002020	369	2	1,240,431	0.01
UPR & PARTS FTWEARCOT >=50% OUTR SRFCE OF TEXT MAT.	MADE-UP	6406107560	369	2	13,734,385	0.08
UPR & PARTS FTWEARCOT >=50% OUTR SRFCE OF TEXT MAT.	MADE-UP	6406107700	369	2	13,921,598	0.08
TEXTILE CARPET, H-KNOT ALPACA ETC N-CERT	MADE-UP	5701101600	465	2	35,165	0.00
TEXT FLOOR COVERING, HAND-HOOKED/KNOTTED, WOOL/FAH.	MADE-UP	5701102010	465	2	1,840,793	0.01
TEXTILE CARPETING, KNOTTED, WOOL/FAH NESOI	MADE-UP	5701102090	465	2	1,532,742	0.01
TEXTILE CARPETS, WOVEN KELAM ETC WOOL N CERT	MADE-UP	5702109010	465	2	513,612	0.00
TEXTILE CARPETS, WOV WILTON ETC, WL PILE N MADE UP .	MADE-UP	5702311000	465	2	213,631	0.00
TEXTILE CARPETS, WOV WOOL PILE, NOT MADE UP NESOI ..	MADE-UP	5702312000	465	2	928,627	0.01
TEXTILE CARPETS, WOV WILTON ETC, WL PILE, MADE UP	MADE-UP	5702411000	465	2	1,966,093	0.01
TEXTILE CARPETS, WOVEN WOOL PILE NESOI, MADE UP	MADE-UP	5702412000	465	2	1,249,060	0.01
TEXTILE CARPETS, WOV NO PILE, WOOL HD LM, NOT MADE	MADE-UP	5702512000	465	2	107,949	0.00
TEXTILE CARPETS, WOV NO PILE, WOOL NESOI, NOT MADE .	MADE-UP	5702514000	465	2	40,791	0.00
TEXTILE CARPETS, WOV NO PILE, WL OTH H-LM MADE UP ...	MADE-UP	5702913000	465	2	980,731	0.01
TEXTILE CARPETS, WOV NO PILE, WOOL N H-LM, MADE UP ..	MADE-UP	5702914000	465	2	198,656	0.00
TEXTILE CARPETS, TUFTED, OF WOOL OR FAH	MADE-UP	5703100000	465	2	1,571,047	0.01
TEXTILE CARPETS NESOI, OF WOOL OR FINE ANIMAL HAIR ..	MADE-UP	5705002010	465	2	143,225	0.00
WADDING & ARTICLES OF WADDING NESOI OF WOOL	MADE-UP	5601290020	469	2	6,275	0.00
NONWOVEN FLOOR COV UNLAY WOOL OR FINE ANIMAL HAIR.	MADE-UP	5603001010	469	2	851	0.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF W/FAH ..	MADE-UP	6406108020	469	2	805,571	0.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF W/FAH ..	MADE-UP	6406109020	469	2	526,314	0.00
TEXTILE CARPETING, MACHINE-KNOTTED PILE, MMF FIBER ..	MADE-UP	5701901030	665	2	126,029	0.00
CARPETNG & TEXT FLOOR COVERINGS KNOTTED, MMF NESOI.	MADE-UP	5701902030	665	2	32,354	0.00
TEXTILE CARPETS, WOVEN KELAM ETC MMF N CERT	MADE-UP	5702109030	665	2	76,259	0.00
TEXTILE CARPETS, WOV WILTON ETC, MMF PILE, N M/UP	MADE-UP	5702321000	665	2	108,053	0.00
TEXTILE CARPETS, WOV MAN-MADE PILE, N MADE UP NESOI	MADE-UP	5702322000	665	2	67,686	0.00
TEXTILE CARPETS, WOV WILTON ETC, MMF PILE, MADE UP .	MADE-UP	5702421000	665	2	3,778,057	0.02
WOV TEX CARPET OF MMF, NOT MADE ON POW DRIVEN LOOM.	MADE-UP	5702422010	665	2	0	0.00
CARPETS & FLR CVRNG MMF PILE, MADE-UP NESOI WOVEN	MADE-UP	5702422090	665	2	900,370	0.01
TEXTILE CARPETS, WOV NO PILE, MMF, NOT MADE UP	MADE-UP	5702520000	665	2	21,319	0.00
TEXTILE CARPET WOV NO PILE MMF H-LM MADE-UP	MADE-UP	5702920010	665	2	75,899	0.00
TEXTILE CARPETS, WOV NO PILE, MMF, MADE UP	MADE-UP	5702920090	665	2	259,634	0.00
TEXTILE CARPETS, TUFTED, OF NYLON ETC, HAND-HOOKED	MADE-UP	5703201000	665	2	52,037	0.00
TX CRPT TFTD NYL ETC, <=5.25M2 IN AREA N HAND-HKD	MADE-UP	5703202010	665	2	691,352	0.00
TEXTILE CARPETS TUFTED NYLON ETC OTHER	MADE-UP	5703202090	665	2	4,891,250	0.03
TEX CRPT TUFTED, MMF MEAS <=5.25 M2 IN AREA	MADE-UP	5703300010	665	2	281,846	0.00
TEXTILE CARPETING TUFTED, MMF OTHER	MADE-UP	5703300090	665	2	4,630,186	0.03
TEX CARPET TILES FELT, NOT TUFT, SA <.3M2, NT W OR FAH.	MADE-UP	5704100000	665	2	246,016	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
TEXTILE CARPET TILES FELT, NOT TUFTED ETC, NESOI	MADE-UP	5704900000	665	2	2,292,169	0.01
TEXTILE CARPETS NESOI, OF MAN-MADE FIBER	MADE-UP	5705002030	665	2	1,919,887	0.01
SANTI TOWELS/TAMPONS DIAPERS SMLR ART TEX EX COTN	MADE-UP	5601102000	669	2	3,974,558	0.02
ARTICLES OF WADDING NESOI OF MAN-MADE FIBERS	MADE-UP	5601220090	669	2	63,882,878	0.38
CORDAGE ETC OF POYLETHYLENE/POLYPROPLENE NESOI	MADE-UP	5607493000	669	2	14,525,179	0.09
TWINE, CORDAGE, ETC OF OTH SYNTHETIC FIBERS, NESOI	MADE-UP	5607504000	669	2	17,981,467	0.11
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF MMF	MADE-UP	6406108040	669	2	4,272,422	0.03
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OF MMF	MADE-UP	6406109040	669	2	4,827,888	0.03
WADDING & ARTICLES OF WADDING OF TEXT FIBERS NESOI	MADE-UP	5601290090	899	2	9,351,239	0.05
TULLES & OTH NET FAB NT WOV, KNIT, CROCHETED NESOI	MADE-UP	5804100090	899	2	115,473	0.00
MECH MDE LACE OTH TEX MAT LCE PIECE, STRIP, MOTIFS	MADE-UP	5804290090	899	2	37,685	0.00
HAND-MADE LACE, OF OTH TEX MAT N WOV KNT OR CROC	MADE-UP	5804300090	899	2	4,496	0.00
WOVEN PILE NARROW & CHENILLE FABRIC; OF OTH TEX MT	MADE-UP	5806103090	899	2	5,572	0.00
NAR WOV FAB OTH TEX MAT VEGETABLE FIBER EXC COTTON.	MADE-UP	5806392000	899	2	3,655,041	0.02
NARROW WOVEN FABRICS EX LABEL ETC OF TEX MAT NESOI.	MADE-UP	5806393080	899	2	147,575	0.00
BRAIDS IN PCE SUIT MAKING/ORN HDWEAR ABACA/RAMIE	MADE-UP	5808101000	899	2	95,915	0.00
OTHER KNITTED OR CROCHETED FABRICS; WIDTH <30 CM	MADE-UP	6002209000	899	2	58,353	0.00
OTHER WARP KNIT FABRICS (INCLUDING GALLOON); OTHER	MADE-UP	6002490000	899	2	58,830	0.00
KNITTED OR CROCHETED FABRICS NESOI	MADE-UP	6002990090	899	2	124,831	0.00
BLANKET AND TRAVEL RUG OF FB NESOI <85% SILK OR SW	MADE-UP	6301900030	899	2	30,037	0.00
BED LINEN OF OTHER PRINT TEXTILE MATERIALS, NESOI	MADE-UP	6302290020	899	2	11,244	0.00
BED LINEN OF TEXTILE MATERIAL, NESOI	MADE-UP	6302390030	899	2	122,944	0.00
TABLE LINEN KNIT OR CROCHETED OF VEG FIB (EXC COT)	MADE-UP	6302401000	899	2	161,094	0.00
TABLECLOTHS AND NAPKINS, DAMASK, FLAX	MADE-UP	6302521010	899	2	75,991	0.00
TABLECLOTHS & NAPKINS, FLAX NOT DAMASK	MADE-UP	6302521020	899	2	1,046,741	0.01
TABLE LINEN OF FLAX; OTHER THAN TABLECLOTH/NAPKINS	MADE-UP	6302522000	899	2	538,461	0.00
TABLE LINEN OF OTHER TEXTILE MATERIALS, NESOI	MADE-UP	6302590000	899	2	3,103,671	0.02
BED, TABLE, TOILET & KITCHEN LINEN EX TOWEL, FLAX	MADE-UP	6302920020	899	2	24,276	0.00
BED, TABEL, TOILET, KIT LINEN TEXTILE MATL NESOI	MADE-UP	6302992000	899	2	28,805	0.00
CURTAIN & INTER BLINDS/BED VAL, KT TEX MAT, NESOI	MADE-UP	6303190020	899	2	77,212	0.00
CURTAIN & INT BLNDS/BED VAL NESOI, NESOI MAT NESOI	MADE-UP	6303990020	899	2	155,533	0.00
OTHER FURNISH ART EXC 9404 BEDSPD KT/CROCHET NESOI.	MADE-UP	6304113000	899	2	3,885	0.00
BEDSPREADS OF NESOI MATERIAL NOT KNITTED OR CROCHE.	MADE-UP	6304193060	899	2	94,716	0.00
OTHER FURNISHING ART NESOI KT/CROCHET NESOI, NESOI	MADE-UP	6304910070	899	2	23,077	0.00
OTHER FURN ART NESOI NT KT NESOI MAT NESOI VEG FIB	MADE-UP	6304992000	899	2	1,631,889	0.01
OTHER FURN ART NESOI NT KT NESOI MAT NESOI VEG FIB	MADE-UP	6304993500	899	2	1,063,158	0.01
OTH FURN ART N/KT NESOI MAT NESOI NESOI <85%WT SLK	MADE-UP	6304996040	899	2	204,773	0.00
SACK & BAG USED FOR PACKING GOODS NESOI TEX MAT	MADE-UP	6305900000	899	2	782,059	0.00
TARPAULIN, AWNING & SUNBLIND OTH TEX MAT, NESOI	MADE-UP	6306190020	899	2	779,975	0.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OTHER	MADE-UP	6406108060	899	2	36,297	0.00
PRT FTWR OT UPR & PRT OT STF OT TX M O CT OTHER	MADE-UP	6406109060	899	2	72,272	0.00
QUILTS, EIDERDOWNS & COMFORTRS OF OTH TEXT MAT, NESO.	MADE-UP	9404909030	899	2	29,404	0.00
QUILTS, EIDERDOWNS & COMFORTRS OF OTH TEXT MAT, NESO.	MADE-UP	9404909035	899	2	75,968	0.00
ARTICLES OF BEDDING, NESOI	MADE-UP	*9404909040	899	2	16,768	0.00
JEWELRY BOX & SIMIL CONT, RETAIL W CONTENTS, COTTON.	MADE-UP	*4202926000	914	2	2,874,425	0.02
OTHER, JEWELRY BOXES,& SIMIL CONT, RETAIL, W CONTEN	MADE-UP	*4202929020	914	2	6,901,812	0.04
OTHER, JEWELRY BOXES,& SIMIL CONT, RETAIL, W CONTEN	MADE-UP	*4202929030	914	2	4,099	0.00
HAND-CAST STRING-DRAWN MADE UP FISH NET, MMDE MAT	MADE-UP	5608110010	914	2	1,016,274	0.01
HAMMOCKS OF KNOT NETTING OF TWINE, CORDAGE; COTTON.	MADE-UP	5608902010	914	2	1,327,455	0.01
WALL HANGINGS OF JUTE NOT KNIT, EXCL HEADING 9494	MADE-UP	6304992500	914	2	359,496	0.00
SCREEN HOUSES OF SYNTHETIC FIBERS	MADE-UP	6306229010	914	2	4,533,509	0.03
CLEANING CLOTHS NESOI	MADE-UP	6307102030	914	2	10,663,080	0.06
LIFEJACKETS AND LIFEBELTS	MADE-UP	6307200000	914	2	1,802,088	0.01
PERINEAL TOWELS OF FABRIC FORMED ON BASE OF PAPER.	MADE-UP	6307906000	914	2	20,514,240	0.12
PERINEAL TOWELS OF FABRIC FORMED ON BASE OF PAPER.	MADE-UP	6307906010	914	2	14,803	0.00
OTH SURGL DRAPES OF FABRIC FORMED ON BASE OF PAPER.	MADE-UP	6307906090	914	2	74,536,114	0.44
SURGICAL DRAPES DISPOSAL & NONWOVEN MAN-MADE FIBERS.	MADE-UP	6307907010	914	2	88,280,294	0.52
SURGICAL DRAPES NESOI	MADE-UP	6307907020	914	2	631,168	0.00
NESOI TOYS FOR PETS OF TEXTILE MATERIALS	MADE-UP	6307907500	914	2	5,495,471	0.03
WALL BANNERS, OF MAN-MADE FIBERS	MADE-UP	6307908500	914	2	760,421	0.00

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NATIONAL FLAGS OF NATIONS OTHER THAN THE U.S.A.	MADE-UP	6307909035	914	2	313,851	0.00
COTTON SLEEPING BAG SHELLS	MADE-UP	*6307909050	914	2	68,220,173	0.40
NATIONAL FLAGS OF NATIONS OTHER THAN THE U.S.A.	MADE-UP	6307909535	914	2	538,424	0.00
COTTON SLEEPING BAG SHELLS	MADE-UP	*6307909550	914	2	45,488,226	0.27
COTTON SLEEPING BAG SHELLS	MADE-UP	*6307909590	914	2	146,250,278	0.86
QUILTS, EIDERDOWNS ETC, 85% OF SILK/SILK WASTE	MADE-UP	9404909025	914	2	36,308	0.00
ARTICLES OF BEDDING, NESOI	MADE-UP	*9404909040	914	2	0	0.00
SYN STP FIB NT CRD, CMB OR PRSD SPNG: NYL/ OT PLYM	YARN	5503100000	911	2	124,047,162	0.73
SYN STP FIB NT CRD, CMB OR PRSD SPNG: ACRY/MODACRY	YARN	5503300000	911	2	57,712,705	0.34
SYN STP FIB NT CRD, CMB OR PRSD SPNG: POLYPROPLENE	YARN	5503400000	911	2	5,545,196	0.03
SYN STP FIB NOT CARD, CMB OR PRSD SPNG: NESOI	YARN	5503900000	911	2	11,028,147	0.06
ARTIF STP FIB NT CRD, CMB OR PRSD SPNG: VIS RAYON	YARN	5504100000	911	2	284,591,727	1.67
ART STP FIB NOT CRD, CMB OR PRSD SPNG: OTH VIS RYN	YARN	5504900000	911	2	18,725,251	0.11
WSTE NOILS YRN WS&GARN STK MMF SYN FIB OF NYLN &OT.	YARN	5505100020	911	2	73,618,320	0.43
WASTE NOILS YRN WST & GARN STCK MMF SYN FIB PLYSTR.	YARN	5505100040	911	2	84,376,705	0.50
WASTE NOILS YARN WST & GARN STCK MMF SYN FIB NESOI	YARN	5505100060	911	2	29,687,508	0.17
WASTE NOILS, YARN WST & GARN STCK MMF ARTIF FIBER	YARN	5505200000	911	2	1,347,734	0.01
SYN STP FIB CRD CMB OR PRS SPNG NYL OR OTH PLYAMD	YARN	5506100000	911	2	1,410,370	0.01
SYN STPL FIB CRD CMB OR PRCD SPNG OF POLYESTER	YARN	5506200000	911	2	1,108,772	0.01
SYN STP FIB CRD CMB OR PRCD SPNG ACRYLIC/MDACRYLC	YARN	5506300000	911	2	3,935,098	0.02
SYNT STP FIB CARD COMB OR OTRWS PRSD SPNG NESOI	YARN	5506900000	911	2	956,886	0.01
ARTIFIC STPL FIBER CRD CMB OR OTHWS PRCD FOR SPNG	YARN	5507000000	911	2	20,633	0.00
WADDING & ARTICLES OF WADDING NESOI CONT >=85% SLK.	YARN	5601290010	911	2	3,269	0.00
TEXTILE FLOCK AND DUST AND MILL NEPS	YARN	5601300000	911	2	4,439,729	0.03
TEXTILE YARN AND STRIP, NESOI	YARN	5604900000	911	2	1,013,955	0.01
MTL CTD/LMNTD FIL/STRP UNGIMP/UNTWST OR TWST <5 MT	YARN	5605000010	911	2	483,958	0.00
TWINE CORD ROPE & CABLE OF JUTE OR OTHER TEX BAST	YARN	5607100000	911	2	21,645,897	0.13
BINDER OR BALER TWINE OF SISAL FIBERS	YARN	5607210000	911	2	519,009,758	3.05
TWINE CORD ETC EX BINDER OR BALER OF SISAL FIBERS	YARN	5607290000	911	2	47,552,642	0.28
TWINE CORD ETC OF ABACA FIB STRND CONS >=1.88CM DI	YARN	5607301000	911	2	19,707,194	0.12
TWINE, CORD, ROPE AND CABLE OF ABACA FIBERS, NESOI	YARN	5607302000	911	2	29,375,665	0.17
BINDER/BALER TWN WD NFIBRL STRP OF POLYETH/ POLYPRP.	YARN	5607411000	911	2	1,470,463	0.01
TWINE ETC POLYETHYLENE NESOI WIDE NONFIBRILLATED	YARN	5607491000	911	2	18,956,061	0.11
TWINE, CORDAGE, ROPE, CABLE, OF COIR	YARN	5607901000	911	2	540	0.00
GLVS VEG FIB KT IMPREG PLAS W/OUT 4CHETT COT RES	APPAREL	6116101520	331	3	169,380	0.00
GLVS VEG FIB KT IMPREG PLAS W/OUT 4CHETT COT RES	APPAREL	6116101820	331	3	20,155	0.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT COT RS	APPAREL	6116102520	331	3	7,250	0.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTTS SUBJ COT RES, KT	APPAREL	6116103510	331	3	175,160	0.00
GLVS >=50% COT MMF TEX MT KT IMPREG W4CHETT COTRS.	APPAREL	6116104510	331	3	1,595	0.00
GLVS >=50% COT MMF TEX MT KT IMPREG W4CHETT COTRS.	APPAREL	6116106010	331	3	6,815	0.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTT,S SUBJ COT RES, KT	APPAREL	6116107010	331	3	14,019	0.00
GLVS PRE-EXIST MACH COT LP PILE FAB W/OUT 4CHTT KT	APPAREL	6116922010	331	3	211,535	0.00
GLVS PRE-EXIST MACH COT NAP FAB W/OUT 4CHTT, KNIT	APPAREL	6116922020	331	3	13,681,771	0.08
GLVS PRE-EXIST MACH COT LSLE FAB W/OUT 4CHTT,, KNIT	APPAREL	6116922030	331	3	9,527,106	0.06
GLVS PRE-EXIST MACH COTT KNIT FAB W/OUT 4CHTT,, KNIT	APPAREL	6116922040	331	3	4,168,071	0.02
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT,, KT	APPAREL	6116922050	331	3	133,931	0.00
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT, KT	APPAREL	6116922060	331	3	329,921	0.00
GLVS PRE-EXIST MACH COTTON KNIT FAB W 4CHTTS, KNIT	APPAREL	6116922070	331	3	534,519	0.00
GLVS OF COTTON EX SKI OR PRE-EXIST MACH KNIT, KNIT	APPAREL	6116923000	331	3	2,520,199	0.01
GLVS PRE-EXIST MACH COT LP PILE FAB W/OUT 4CHTT KT	APPAREL	6116926010	331	3	27,202	0.00
GLVS PRE-EXIST MACH COT NAP FAB W/OUT 4CHTT, KNIT	APPAREL	6116926020	331	3	1,748,758	0.01
GLVS PRE-EXIST MACH COT LSLE FAB W/OUT 4CHTT, KNIT	APPAREL	6116926030	331	3	1,251,501	0.01
GLVS PRE-EXIST MACH COTT KNIT FAB W/OUT 4CHTT, KNIT	APPAREL	6116926040	331	3	500,502	0.00
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT, KT	APPAREL	6116926050	331	3	96,222	0.00
GLOVES PRE-EXIST MACH COT NAPPD FAB WITH 4CHTT, KT	APPAREL	6116926060	331	3	110	0.00
GLVS PRE-EXIST MACH COTTON KNIT FAB W 4CHTTS, KNIT	APPAREL	6116926070	331	3	20,042	0.00
GLVS OF COTTON EX SKI OR PRE-EXIST MACH KNIT, KNIT	APPAREL	6116929000	331	3	142,422	0.00
GLOVES OT TEXTILE MATERIALS SUBJ COTTON RES, KNIT	APPAREL	6116999010	331	3	2,320	0.00
MEN'S ROBES & DRESSING GOWN, COTTON, KNIT	APPAREL	*6107910010	350	3	182,294	0.00
BOYS' ROBES & DRESSING GOWN COTTON, KNIT	APPAREL	*6107910020	350	3	36,617	0.00
WOMEN'S NEGLIGEES, BATHROBES ETC OF COTTON, KNIT	APPAREL	6108910030	350	3	5,383,149	0.03
GIRLS' NEGLIGEES, BATHROBES ETC OF COTTON, KNIT	APPAREL	6108910040	350	3	80,855	0.00
M/B BATHROBES, DRESSING GOWN ETC COTTON, NOT KNIT	APPAREL	6207911000	350	3	12,971,317	0.08
WOMEN'S NEGLIGEES, BATHROBES ETC OF COTTON, NT KT	APPAREL	6208911010	350	3	26,195,890	0.15
GIRLS' NEGLIGEES, BATHROBES ETC OF COTTON, NT KT	APPAREL	6208911020	350	3	208,399	0.00
PANTY HOSE AND TIGHTS OF COTTON, KNIT	APPAREL	6115190010	359	3	16,902,522	0.10

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
SHAWLS SCARVES MUFFLERS MANTILLAS VEILS COTTON KNT.	APPAREL	6117106010	359	3	160,778	0.00
TIES, BOW TIES AND CRAVATS OF COTTON, KNIT	APPAREL	6117200010	359	3	5,508	0.00
M/B JUDO KARATE ORIENTL MARTIAL ART UNFRM COT N KT	APPAREL	6203221000	359	3	4,017,355	0.02
W/G JUDO KARATE MARTIAL ARTS UNIFORM COTTON, NT KT.	APPAREL	6204221000	359	3	1,676,753	0.01
BRACES GARTERS SMLR ART & PTS COTTN/COT & RBR/PLAS.	APPAREL	6212900010	359	3	1,111,741	0.01
SHAWLS SCARVES & THE LIKE OF COTTON NESOI, NT KNIT	APPAREL	6214900010	359	3	1,105,306	0.01
COT KT VISORS & OTH HDGR W/O COV FOR CROWN OF HEAD.	APPAREL	6505901530	359	3	1,947,401	0.01
HATS & OTH HDGEAR (EX BABIES) NOT KNT, COT & HND-LM & FLKLR.	APPAREL	6505902060	359	3	50,804,245	0.30
NKT COT VISOR & OTH HDGR W/O COV FOR CROWN OF HEAD.	APPAREL	*6505902500	359	3	1,132,482	0.01
MITTENS AND MITTS OF WOOL OR FINE ANIMAL HAIR, KNIT	APPAREL	6116910000	431	3	528,233	0.00
GLVS SYN FIBER >=23% WOOL W/OUT FOURCHETTES, KNIT	APPAREL	6116931510	431	3	37,285	0.00
GLOVES SYN FIBER >=23% WOOL WITH FOURCHETTES, KNIT.	APPAREL	6116931520	431	3	10,582	0.00
GLVS SYN FIBER >=23% WOOL W/OUT FOURCHETTES, KNIT	APPAREL	6116936010	431	3	5,290	0.00
GLOVES OT TEXTILE MATERIALS SUBJ WOOL RES, KNIT	APPAREL	6116999020	431	3	3,024	0.00
GLVS EX SKI MMF >=36% WOOL/FAH WITHOUT 4CHTTS, NK	APPAREL	6216004810	431	3	0	0.00
GLVS, MTTNS, MTS:MMF:4CHETTE, SDWLLS >=36% WL OR FAH.	APPAREL	6216004820	431	3	0	0.00
GLVS EX SKI MMF >=36% WOOL/FAH WITHOUT 4CHTTS, NK	APPAREL	6216004910	431	3	108	0.00
GLVS, MTTNS, MTS:MMF:4CHETTE, SDWLLS >=36% WL OR FAH.	APPAREL	6216004920	431	3	0	0.00
GLOVES OF WOOL OR FN ANML HAIR, NOT KNIT OR CROCHT.	APPAREL	6216005000	431	3	9,434	0.00
GLVS EX SKI MMF >=36% WOOL/FAH WITHOUT 4CHTTS, NK	APPAREL	6216005210	431	3	326	0.00
GLVS, MTTNS, MTS:MMF:4CHETTE, SDWLLS >=36% WL OR FAH.	APPAREL	6216005220	431	3	0	0.00
GLOVES OF WOOL OR FN ANML HAIR, NOT KNIT OR CROCHT.	APPAREL	6216006000	431	3	6,644	0.00
PANTY HOSE AND TIGHTS OF WOOL OR FAH, KNIT	APPAREL	6115190020	459	3	96,211	0.00
SHAWLS SCARVES MUFFLERS MANTILLAS VEILS WOOL, KNIT.	APPAREL	6117101000	459	3	322,807	0.00
SHAWLS SCARVES MUFFLERS ETC MMF =<23% WOOL, KNIT	APPAREL	6117102010	459	3	73,852	0.00
TIES, BOW TIES AND CRAVATS OF WOOL, KNIT	APPAREL	6117200020	459	3	2,150	0.00
BRACES GARTERS SMLR ART & PTS WOOL/WOOL & RBR/PLAS.	APPAREL	6212900020	459	3	1,458	0.00
SHAWLS SCARVES AND THE LIKE OF WOOL, NOT KNIT	APPAREL	6214200000	459	3	1,149,882	0.01
GLVS VEG FIB KT IMPREG PLAS W/OUT 4CHETT MMF RES	APPAREL	6116101530	631	3	51	0.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT MMF RS	APPAREL	6116102530	631	3	56,785	0.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, KT	APPAREL	6116103520	631	3	1,595,360	0.01
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT MMFRS.	APPAREL	6116104525	631	3	35,830	0.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT MMF RS	APPAREL	6116104575	631	3	4,495	0.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT MMFRS.	APPAREL	6116106025	631	3	364,359	0.00
GLVS IMPREG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, KT	APPAREL	6116107020	631	3	145,487	0.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETT MMFRS.	APPAREL	6116109025	631	3	34,951	0.00
GLVS SYNTHETIC FIB NOT <23% WOOL W/OUT 4CHTT, KNIT	APPAREL	6116932010	631	3	13,163,718	0.08
GLVS SYNTHETIC FIB NOT <23% WOOL W/OUT 4CHTT, KNIT	APPAREL	6116932011	631	3	2,824,142	0.02
GLVS SYNTHETIC FIB <23% WOOL WITH 4CHTT, KNIT	APPAREL	6116932020	631	3	3,483,352	0.02
GLVS SYNTHETIC FIB < 23% WOOL WITH 4CHTT, KNIT	APPAREL	6116932021	631	3	858,358	0.00
GLVS SYNTHETIC FIB NOT <23% WOOL W/OUT 4CHTT, KNIT	APPAREL	6116939010	631	3	817,638	0.00
GLVS SYNTHETIC FIB < 23% WOOL WITH 4CHTT, KNIT	APPAREL	6116939020	631	3	455,549	0.00
GLOVES ARTIFICIAL FIBERS W/OUT FOURCHETTES, KNIT	APPAREL	6116995020	631	3	3,640	0.00
GLOVES ARTIFICIAL FIBERS WITH FOURCHETTES, KNIT	APPAREL	6116995040	631	3	6,247	0.00
GLOVES ARTIFICIAL FIBERS W/OUT FOURCHETTES, KNIT	APPAREL	6116996020	631	3	212,750	0.00
GLOVES ARTIFICIAL FIBERS W/OUT FOURCHETTES, KNIT	APPAREL	6116996021	631	3	13,346	0.00
GLOVES ARTIFICIAL FIBERS WITH FOURCHETTES, KNIT	APPAREL	6116996040	631	3	35,334	0.00
GLOVES ARTIFICIAL FIBERS WITH FOURCHETTES, KNIT	APPAREL	6116996041	631	3	6,061	0.00
GLOVES OT TEXTILE MATERIALS SUBJECT MMF RES, KNIT	APPAREL	6116998030	631	3	104	0.00
GLOVES OT TEXTILE MATERIALS SUBJECT MMF RES, KNIT	APPAREL	6116999030	631	3	48,065	0.00
BRASSIERES CONT LACE NET/EMBROIDERY MAN-MADE FIBERS.	APPAREL	6212101020	649	3	5,884,716	0.03
BRAS NOT CONTAINING LACE NET OR EMBROIDERY MMF	APPAREL	6212102020	649	3	57,257,320	0.34
GIRDLES AND PANTY-GIRDLES OF MAN-MADE FIBERS	APPAREL	6212200020	649	3	3,629,748	0.02
CORSETS OF MAN-MADE FIBERS	APPAREL	6212300020	649	3	187,276	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
MEN'S ROBES & DRESSING GOWN, MMF, KNIT	APPAREL	*6107920010	650	3	128,631	0.00
BOYS' ROBES & DRESSING GOWN MMF, KNIT	APPAREL	*6107920020	650	3	84,812	0.00
WOMEN'S NEGLIGEE, BATHROBE, ETC OF MAN-MADE FIB, KNIT.	APPAREL	6108920030	650	3	9,137,061	0.05
GIRLS' NEGLIGEES, BATHROBE, ETC OF MAN-MADE FIB, KNIT.	APPAREL	6108920040	650	3	482,786	0.00
M/B BTHROBE DRESSNG GOWN ETC MMF <36% WL/FAH, N KT.	APPAREL	6207922020	650	3	1,334,360	0.01
WOMEN'S NEGLIGEE, BATHROBE, ETC OF MAN-MADE FIB, N KT.	APPAREL	6208920010	650	3	24,186,959	0.14
GIRLS' NEGLIGEES, BATHROBE, ETC OF MAN-MADE FIB, N KT.	APPAREL	6208920020	650	3	365,380	0.00
TIGHT OF SYN FIB MEASURE <67 DECTEX/SNGL YARN, KNIT	APPAREL	6115110010	659	3	7,481,866	0.04
PANTY HOSE & TGHT SYN FIB >=67 DCTX/SNGL YRN, KNIT	APPAREL	6115120000	659	3	3,026,995	0.02
SHAWLS SCARVES MUFFLERS ETC MAN-MADE FIB NESOI, KT.	APPAREL	6117102000	659	3	4,513,579	0.03
SHAWLS SCARVES MUFFLERS ETC MAN-MADE FIB NESOI, KT.	APPAREL	6117102030	659	3	8,012,405	0.05
TIES, BOW TIES & CRAVATS OF MAN-MADE FIBERS, KNIT	APPAREL	6117200030	659	3	46,555	0.00
BRACES GRTERS SMLR ART & PTS MMF OR MMF & RBR/PLAS.	APPAREL	6212900030	659	3	9,893,995	0.06
SHAWLS SCARVES AND THE LIKE OF SYNTHETIC FIB, N KT	APPAREL	6214300000	659	3	21,588,883	0.13
SHAWLS SCARVES AND THE LIKE ARTIFICIAL FIBER, N KT	APPAREL	6214400000	659	3	6,684,019	0.04
GLVS VEG FIB KT IMPRG PLAS W/OUT 4CHETT NESOI	APPAREL	6116101540	831	3	435	0.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT NESOI	APPAREL	6116102540	831	3	725	0.00
GLVS IMPREG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES KT	APPAREL	6116103530	831	3	0	0.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETS OTHER.	APPAREL	6116104530	831	3	0	0.00
GLVS EX VEG FIB KT IMPREG PLAS W/OUT 4CHETT NESOI	APPAREL	6116104595	831	3	23	0.00
GLVS >=50% COT MMF TEX MT KT IMPREG W 4CHETS OTHER.	APPAREL	6116106030	831	3	0	0.00
GLOVES OF SILK CONT < 70% SILK/SLK WASTE, KNIT	APPAREL	6116999050	831	3	290	0.00
GLOVES OF TEXTILE MATERIALS, NESOI, KNIT	APPAREL	6116999060	831	3	3,344	0.00
GLV VG FB IMPG PLS/RBR W/OUT 4CHTTS OT TEX MAT WOV	APPAREL	6216001540	831	3	5,823	0.00
GLV OF OTH FIB IPG PLS/RB W/OUT 4CHT NESOI NT KT	APPAREL	6216001840	831	3	99	0.00
GLV OF OTH FIB IPG PLS/RB W/OT 4CHT NESOI NT KT	APPAREL	6216002040	831	3	0	0.00
GLV IMPRG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES N KT	APPAREL	6216002530	831	3	7,520	0.00
GLV IMPRG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES N KT	APPAREL	6216002730	831	3	113,057	0.00
GLV IMPRG PLAS W/OUT 4CHTT N SUBJ COT/MMF RES N KT	APPAREL	6216002830	831	3	853	0.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003030	831	3	0	0.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003130	831	3	0	0.00
GLOVES OF OTH TEX MATERIALS NESOI, N NT OR CROCHTD.	APPAREL	6216006000	831	3	544,829	0.00
GLOVES OF OTH TEX MATERIALS NESOI, N NT OR CROCHTD.	APPAREL	6216009000	831	3	63,991	0.00
M/B ENS ST-TYPE JCKT OT TEX MATL <70% SILK, KNIT	APPAREL	6103292036	833	3	0	0.00
M/B SUIT-TYPE JCKT & BLZR <70% SLK/SLK WST, KNIT	APPAREL	6103392050	833	3	121	0.00
M/B SUIT-TYPE JACKET & BLAZER TEX MAT NESOI, KNIT	APPAREL	6103392060	833	3	33,088	0.00
M/B ENS OF HDNG 6203 CONT <70% WGT SLK/SLK WST, WV	APPAREL	6203293028	833	3	0	0.00
M/B ST-TYPE JAC/BLAZ <70% SLK/SLK WST, NT KT/CROCH	APPAREL	6203394050	833	3	138,744	0.00
M/B SUIT-TYPE JACKET & BLAZER TEX MAT NESOI, NT KT	APPAREL	6203394060	833	3	799,617	0.00
M/B OVERCOAT ETC OF SILK LESS THAN 70% SILK, KNIT	APPAREL	6101900050	834	3	621	0.00
M/B OVERCOAT ETC OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6101900060	834	3	1,760	0.00
M/B ENS OF OVRCT ETC OT TEX MATL <70% SILK, KNIT	APPAREL	6103292030	834	3	0	0.00
M/B JACKETS FOR TRACK SUITS CONT <70% SILK, KNIT	APPAREL	6112192020	834	3	0	0.00
M/B OVERCOAT ETC <70% SILK/SILK WASTE, NOT KNIT	APPAREL	6201190050	834	3	2,415	0.00
M/B OVERCOAT ETC TEXTILE MATERIAL NESOI, NOT KNIT	APPAREL	6201190060	834	3	116,403	0.00
M/B ANORAKS ETC SILK <70% BY WGHT SILK, NOT KNIT	APPAREL	6201990050	834	3	11,696	0.00
M/B ANORAKS ETC OT TEXTILE MATERIALS, NOT KNIT	APPAREL	6201990060	834	3	306,878	0.00
M/B ENS OF OVRCTS CONT <70% WGT SLK/SLK WST, NT KN	APPAREL	6203293020	834	3	0	0.00
M/B ANORAK/SMLR ART FOR SKI-ST TEX MTRL NESOI, N KT	APPAREL	6211202040	834	3	2,864	0.00
M/B TRACK SUIT EX TROUSERS TEX MATERIAL NESOI, N KT	APPAREL	6211390050	834	3	1,277	0.00
M/B JACKTS, OT TEXT MAT NESOI, <70% SLK/SLK WST N KT	APPAREL	*6211390080	834	3	198	0.00
W/G OVERCOAT ETC OF SILK LESS THAN 70% SILK, KNIT	APPAREL	6102900025	835	3	587	0.00
W/G OVERCOAT ETC OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6102900030	835	3	15,146	0.00
W/G ENS OF OVRCT ETC OF SILK CONT <70% SILK, KNIT	APPAREL	6104292018	835	3	0	0.00
W/G ENS OF OVRCT ETC OF OT TEXTILE MATERIALS, KNIT	APPAREL	6104292020	835	3	0	0.00
W/G SUIT-TYPE JACKET CONT <70% BY WEIGHT SILK, KNIT	APPAREL	6104392050	835	3	587	0.00
W/G SUIT-TYPE JACKET TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104392090	835	3	42,815	0.00
W/G JACKETS FOR TRACK SUITS CONT <70% SILK, KNIT	APPAREL	6112192030	835	3	1,829	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
PARTS COATS AND JACKETS <70% BY WGT SILK, KNIT	APPAREL	6117900040	835	3	0	0.00
W&G OVRCTS & SMLR CTS CONT <70% BY WT SILK, NT KNT	APPAREL	6202190050	835	3	17,354	0.00
W OR G OVRCTS & SMLR CTS OTH MAT NOT KNIT OR CRCH	APPAREL	6202190060	835	3	294,596	0.00
W/G ANORAK & SMLR ART <70% SILK, N KNIT/CROCHETED	APPAREL	6202990050	835	3	9,281	0.00
W/G ANORAKS & SMLR ART TEXTILE MTRLS NESOI, NT KT	APPAREL	6202990060	835	3	1,163,685	0.01
WG ENS HDNG 6202/6204 SLK CNT <70% SLK/SLK WST WOV	APPAREL	6204294015	835	3	104	0.00
W/G ENS HDNG 6202 & 6204 OF TEXT MATER NESOI WOVEN	APPAREL	6204294020	835	3	49,542	0.00
W/G SUIT-TYPE JACKET OTHER SILK, NOT KNIT	APPAREL	6204394050	835	3	267,341	0.00
W/G SUIT-TYPE JACKET TEXTILE MATERIALS NESOI, N KT	APPAREL	6204394060	835	3	5,790,618	0.03
W/G SKI-SUIT ANORAK & SMLR ART TEX MTRL NESOI, N KT	APPAREL	6211205040	835	3	11,592	0.00
W/G TRACK SUITS EXCEPT TROUSERS TEX MTRLS, NT KNIT	APPAREL	6211490050	835	3	242	0.00
W/G JACKETS, NESOI OT TEX MAT <70% SLK/SLK WST, N K	APPAREL	6211490090	835	3	15,523	0.00
PARTS COATS & JACKETS OT TEX MTRL NESOI, NOT KNIT	APPAREL	6217900045	835	3	14,387	0.00
W/G DRESSES CONT <70% BY WGT SLK/SLK WST KNIT	APPAREL	6104490050	836	3	135,151	0.00
W/G DRESSES OF OTHER TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104490060	836	3	167,291	0.00
WG DRESSES OF SLK, <70% BY WGT SLK/SLK WST NT KNIT	APPAREL	6204490050	836	3	301,495	0.00
W/G DRESSES OF TEXTILE MATERIALS NESOI, NOT KNIT	APPAREL	6204490060	836	3	7,521,634	0.04
M/B ENS OF SHIRTS OTHER TEX MATL <70% SILK, KNIT	APPAREL	6103292054	838	3	0	0.00
W/G ENS BLOUSE CONT <70% BY WEIGHT SILK, KNIT	APPAREL	6104292053	838	3	0	0.00
W/G ENS BLOUSE OF OT TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104292054	838	3	47	0.00
M/B SHIRTS OF SILK CONT <70% SILK, KNIT	APPAREL	6105903050	838	3	725	0.00
M/B SHIRTS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6105903060	838	3	7,500	0.00
W/G BLOUSES OF SILK CONT <70% SILK, KNIT	APPAREL	6106902050	838	3	5,686	0.00
W/G BLOUSES OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6106903040	838	3	177,208	0.00
M/B T-SHIRTS ETC OF OT TEX MAT,<70% BY WT SILK KNT	APPAREL	6109902015	838	3	10,811	0.00
W/G T-SHIRTS ETC OF OTH TEX MAT, CON <70% WT SIK KT	APPAREL	6109902030	838	3	173,398	0.00
M/B PULLOVERS AND SIMILAR ART CONT <70% SILK KIT	APPAREL	6110900084	838	3	749	0.00
W/G PULLOVERS AND SIMILAR ART CONT < 70% SILK KNIT	APPAREL	6110900086	838	3	5,955	0.00
M/B PULLOVERS AND SIMILAR ART OF OT TEX MAT, KNIT	APPAREL	6110900088	838	3	12,297	0.00
W/G PULLOVERS AND SIMILAR ART OF OT TEX MAT, KNIT	APPAREL	6110900090	838	3	435,345	0.00
M/B SHIRTS FOR TRACK SUITS CONT <70% SILK, KNIT	APPAREL	6112192050	838	3	12	0.00
W/G SHIRTS FOR TRACK SUITS CONT <70% SILK, KNIT	APPAREL	6112192060	838	3	0	0.00
TOPS CONT <70% BY WEIGHT SILK OR SILK WASTE, KNIT	APPAREL	6114900010	838	3	1,580	0.00
PARTS BLOUSES & SHIRTS TEX MTRL NOT >70% SILK KNIT	APPAREL	6117900030	838	3	1,229	0.00
M/B ENS OF SHIRTS CONT <70% BY WGT SLK/SLK WST N K	APPAREL	6203293060	840	3	17	0.00
WG ENS BLOUSE OF SLK <70% BY WGT SLK/SLK WST, N KT	APPAREL	6204294054	840	3	3,741	0.00
W/G ENS BLOUSE OF OT TEXTILE MATERIALS NESOI, N KT	APPAREL	6204294056	840	3	214,077	0.00
M/B SHIRTS OF SILK CONT <70% SLK/SLK WST, NOT KNIT	APPAREL	6205902050	840	3	81,062	0.00
M/B SHIRTS OF OTHER TEXTILE MATRLS NESOI, NOT KNIT	APPAREL	6205904040	840	3	1,684,980	0.01
W/G BLOUSES OF SLK CONT <70% SLK/SLK WST, NOT KNIT	APPAREL	6206100050	840	3	358,916	0.00
W/G BLOUSES OF OTHR TEXTILE MATRLS NESOI, NOT KNIT	APPAREL	6206900040	840	3	8,980,206	0.05
M/B SHIRTS TEXT MATER NESOI <70% SLK/SLK WST NT KN	APPAREL	6211390060	840	3	19,806	0.00
W/G BLSES SHRT SHRT-BLSES; <70% BY WGT SLK NT KNT	APPAREL	6211490060	840	3	349,247	0.00
PARTS BLOUSES/SHIRTS TEXTILE MATERIALS NESOI, N KT	APPAREL	6217900020	840	3	0	0.00
W/G ENS OF SKIRTS CONT <70% BY WEIGHT SILK, KNIT	APPAREL	6104292030	842	3	0	0.00
W/G ENS OF SKIRTS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104292032	842	3	4,813	0.00
W/G SKIRTS OF SILK CONT <70% SILK, KNIT	APPAREL	6104592050	842	3	116,324	0.00
W/G SKIRTS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104592090	842	3	275,367	0.00
W/G ENS OF SKIRTS NESOI COT <70% BY WGT SILK NT KT	APPAREL	6204294030	842	3	2,518	0.00
W/G ENS OF SKIRTS OF TEXTILE MATERIALS NESOI, NT KT	APPAREL	6204294032	842	3	136,126	0.00
W/G SKIRTS OF SLK; <70% BY WGT SLK/SLK WST, NOT KN	APPAREL	6204594050	842	3	94,794	0.00
W/G SKIRTS OF TEXTILE MATERIALS NESOI, NOT KNIT	APPAREL	6204594060	842	3	5,090,421	0.03
M/B SUITS OF SILK CONT <70% SILK/SILK WASTE, KNIT	APPAREL	6103194070	843	3	11	0.00
M/B SUITS OF TEXTILE MATERIALS NESOI, KNIT	APPAREL	6103194080	843	3	4,019	0.00
MEN'S OR BOYS' SUITS <70% SLK/SLK WST, N K/CROCHTD	APPAREL	6203194070	843	3	17,578	0.00
M/B SUITS OF OTHER TEXTL MATERIALS NESOI, NOT KNIT	APPAREL	6203194080	843	3	217,832	0.00
W/G SUITS CONT <70% BY WGT SILK/SILK WST KNIT	APPAREL	6104192080	844	3	105	0.00
W/G SUITS OF OTHER TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104192090	844	3	24,839	0.00
WG SUITS OF SLK CONT <70% BY WGT SLK/SLK WST, N KT	APPAREL	6204193080	844	3	85,078	0.00
W/G SUITS OF OTH TEXTILE MATERIALS NESOI, NOT KNIT	APPAREL	6204193090	844	3	5,778,548	0.03
M/B ENS TROUSERS, BREECHES OT TEX MATL <70% SLK, KT.	APPAREL	5103292042	847	3	0	0.00
M/B TROUSERS, BREECHES OF OTHER SLK, KNIT	APPAREL	5103493018	847	3	30	0.00
M/B TROUSERS, BREECHES OF OT TEX MAT, KNIT	APPAREL	5103493020	847	3	15,958	0.00
W/G ENS TROUSERS, BREECHES CONT<70% BY WGT SLK, KNT.	APPAREL	5104292042	847	3	0	0.00
W/G ENS TROUSERS, BREECHES OF TEXT MAT NESOI, KNIT	APPAREL	5104292044	847	3	0	0.00
W/G TROUSERS, BREECHES OF SILK CONT<70% SILK, KNIT	APPAREL	5104693030	847	3	5,945	0.00
W/G TROUSERS, BREECHES OF TEXT MAT NESOI, KNIT	APPAREL	5104693032	847	3	123,834	0.00
M/B TROUSERS FOR TRACK SUIT CONT <70% SILK, KNIT	APPAREL	6112192080	847	3	75	0.00
W/G TROUSERS FOR TRACK SUIT CONT <70% SILK, KNIT	APPAREL	6112192090	847	3	1,654	0.00
PARTS TROUSERS SHORTS <70% SILK/SILK WASTE, KNIT	APPAREL	6117900050	847	3	1,669	0.00

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M/B ENS OF TROUSERS, ETC CONT <70% SLK/SLK WST N K	APPAREL	6203293040	847	3	3,278	0.00
MB TROUSER ETC CONT <70% SLK/SLK WST, NT KT/CROCH	APPAREL	6203493040	847	3	91,218	0.00
M/B TROUSERS ETC OTHER TEXTILE MATERIALS, NOT KNIT	APPAREL	6203493045	847	3	4,208,490	0.02
MB SHORTS CONT <70% SLK/SLK WST, NOT KNT/CROCHETED.	APPAREL	6203493060	847	3	7,153,252	0.04
WG ENS TROUS, BREECHES OT SLK <70% BY WGT SLK, NT KNT.	APPAREL	6204294042	847	3	30	0.00
W/G ENS TROUSER, BREECHES OF TEXT MAT NESOI, NT KT	APPAREL	6204294044	847	3	74,366	0.00
W/G TROUSERS, BREECHES <70% WHT SLK/SLK WST, NT KNT.	APPAREL	6204693050	847	3	388,726	0.00
W/G TROUSERS, BREECHES OF OTH TEXT MAT NESOI, NT KNT.	APPAREL	6204699040	847	3	30,005,605	0.18
M/B SKI-SUIT TROUSERS/BREECHES TEX MTRL NESOI, N KT	APPAREL	6211203040	847	3	15	0.00
W/G SKI-SUIT TROUSERS/BREECHES TEX MTRL NESOI, N KT	APPAREL	6211206040	847	3	7,599	0.00
M/B TRACKSUIT TROUSERS TEX MATERIAL NESOI, NT KT	APPAREL	6211390040	847	3	328	0.00
W/G TRACK SUIT TROUSERS TEXTILE MATERIALS, NT KNIT	APPAREL	6211490040	847	3	1,877	0.00
PARTS TROUSERS & BREECHES TEX MTRL NESOI, NOT KNIT.	APPAREL	6217900070	847	3	28,027	0.00
M/B BATHROBES ETC OF TEX MATL CONT <70% SILK, KNIT	APPAREL	6107994020	850	3	5,623	0.00
W/G NEGLIGEES ETC OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6108994020	850	3	23,813	0.00
M/B BATHROBES ETC OT TEX MAT CONT <70% SLK, N KT	APPAREL	6207996020	850	3	1,491	0.00
W/G BATHROBES ETC SILK CONT <70% BY WGT SLK N KNT	APPAREL	6208996020	850	3	21,769	0.00
W/G NEGLIGEES ETC OF OTHER TEXTILE MATERIALS, N KT	APPAREL	6208998010	850	3	4,175	0.00
M/B NIGHTSHIRTS OF TEX MATL CONT <70% SILK, KNIT	APPAREL	6107294020	851	3	0	0.00
W/G NIGHTDRESSES & PAJAMAS OF OT TEXTILE MAT, KNIT	APPAREL	6108392020	851	3	4,002	0.00
M/B NGHTSHRTS & PJMS <70% SLK/SLK WST NT KNIT	APPAREL	6207290030	851	3	4,307	0.00
W/G NGHTDRSS & PJMS <70% BY WGT SLK/SLK WST, N KT	APPAREL	6208290030	851	3	43,718	0.00
TIES BOW TIES & CRAVATS <70% WGHT OF SLK, KNIT	APPAREL	6117200050	858	3	11,669	0.00
TIES BOW TIES AND CRAVATS OT TEXTILE MATERIAL, KNIT	APPAREL	6117200060	858	3	3,419	0.00
TIES BOW TIES AND CRAVATS SILK NESOI, NOT KNIT	APPAREL	6215100090	858	3	126,232	0.00
TIES & CRAVATS TEXTILE MATERIALS NESOI, NOT KNIT	APPAREL	6215900020	858	3	4,052	0.00
PANTY HOSE & TIGHTS CONT <70% SLK/SLK WASTE, KNIT	APPAREL	6115190040	859	3	61,938	0.00
SHAWLS SCARVES MUFFLERS ETC TEX MATL NESOI, KNIT	APPAREL	6117106020	859	3	10,975	0.00
BRAS CONT LACE NET ETC TEX MTRL <70% SILK, NT KT	APPAREL	6212101040	859	3	3,913	0.00
BRAS NT CONT LACE NET ETC OT TEX MTRL <70% SLK N K	APPAREL	6212102040	859	3	2,463	0.00
GIRDLES & PANTY-GIRDLES TEX MTRL EX COTTON/MMF	APPAREL	6212200030	859	3	6,750	0.00
CORSETS TEXTILE MATERIALS EX COTTON & MAN-MADE FIB	APPAREL	6212300030	859	3	1,438	0.00
BRACES SMLR ARTICLES & PTS OF TEXTILE MAT NESOI	APPAREL	6212900040	859	3	35,200	0.00
BRACES SMLR ARTICLES & PTS OF TEXTILE MAT NESOI	APPAREL	6212900090	859	3	11,675	0.00
SHAWLS SCARVES & THE LIKE CON 70% SLK/SLK WST NK	APPAREL	6214102000	859	3	332,325	0.00
SHAWLS SCARVES AND THE LIKE TEXTILE MTRL NESOI, NKT	APPAREL	6214900090	859	3	32,900	0.00
OTH KNT COT FAB <30 CM WD >5% ELSTMRC YRN/RUB THRD.	FABRIC	6002104000	222	3	552,860	0.00
OTH KNIT FAB <30 CM WD >5% ELSTOMERIC YRN/RUB THRD	FABRIC	6002108000	222	3	743,978	0.00
OTHER KNITTED OR CROCHET COTTON FABRIC WIDTH <30 CM.	FABRIC	6002203000	222	3	1,238,672	0.01
OTHER KNITTED OR CROCHETED MMF FABRICS WIDTH <30 CM.	FABRIC	6002206000	222	3	2,143,669	0.01
OTHER KNIT/CROCHET FABRIC; 5% OR >ELASTOMERIC YRN	FABRIC	6002302000	222	3	31,732,376	0.19
OTHER KNIT OR CROCHET FABRIC 5% OR >RUBBER THREAD.	FABRIC	6002309000	222	3	1,744,066	0.01
OTHER WARP KNIT FABRICS (INCLUDNG GALLOON) OF COTTON.	FABRIC	6002420000	222	3	4,086,638	0.02
FABRICS OF MAN-MADE FIBERS NESOI, WARP KNIT	FABRIC	6002430080	222	3	14,134,926	0.08
OTHER COT KT OR CROCHD FAB, CIR KNIT, >100 MET NUM	FABRIC	6002920000	222	3	56,303,594	0.33
OTH KNT/CROCHET FAB DBL KNIT/INTERLOCK NYLON, NESOI.	FABRIC	6002930020	222	3	2,141,627	0.01
OTH KNT/CRCHET FAB DBL KNT/INTRLCK POLYESTER, NESOI.	FABRIC	6002930040	222	3	20,240,228	0.12
OTH KNT/CROCHET FAB DBL KNT/INTRLOCK OTH MMF, NESOI.	FABRIC	6002930060	222	3	3,244,642	0.02
OTHER KNIT/CROCHET FABRIC OF MAN-MADE FIBERS, NESOI.	FABRIC	6002930080	222	3	12,508,928	0.07
WADDING IN THE PIECE OF COTTON	FABRIC	5601210010	223	3	2,683,744	0.02
WADDING IN THE PIECE OF MAN-MADE FIBERS	FABRIC	5601220010	223	3	664,594	0.00
LAM NEEDLELOOM FELTS & STICH-BONDED FIBER FABRICS	FABRIC	5602101000	223	3	177,464	0.00
NEEDLELOOM FELTS AND STITCH-BONDED FIBER FAB NESOI.	FABRIC	5602109090	223	3	30,130,156	0.18
FELT NOT IMPREG COAT COVER OR LAMIN TEX MAT NESOI	FABRIC	5602290000	223	3	1,250,704	0.01
FELT NESOI OF LAMINATED FABRICS	FABRIC	5602903000	223	3	23,688	0.00
FELT NOT LAMINATED NESOI OF MAN-MADE FIBER	FABRIC	5602906000	223	3	2,170,084	0.01

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
NONWOVEN LAM FAB OTH THAN FLOOR COVERING UNDERL AY.	FABRIC	5603003000	223	3	1,300,180	0.01
NONWOVENS IMPREG, COATED, COVERED; IMITATION SUEDE.	FABRIC	5603009010	223	3	45,871,798	0.27
NONWOVENS, THERMAL BONDED, OF STAPLE FIBERS	FABRIC	5603009030	223	3	98,652,022	0.58
NONWOVENS, OBTAIN BY MECH ENTANGLEMNT, STAPLE FIBER.	FABRIC	5603009050	223	3	12,934,334	0.08
NONWOVENS, OF FILAMENTS	FABRIC	5603009070	223	3	181,510,084	1.07
NONWOVENS, OF STAPLE FIBERS	FABRIC	5603009090	223	3	72,829,428	0.43
STITCH-BONDED GOODS OF MAN-MADE FIBERS, WARP KNIT	FABRIC	6002430020	223	3	222,488	0.00
NYL/POLYMDS UNBL/BL TYPWRTR RIB BOTH SELVAGES WOVN.	FABRIC	5407410010	621	3	0	0.00
NYLON/POLYAMDS UNBLCH/BLCH TYPEWRITER RIBON OTHER.	FABRIC	5407410020	621	3	222,955	0.00
TYPEWRITER OR SIM RIB NAR WOV FAB: OF MAN-MADE FIB	FABRIC	5806321010	621	3	2,135,290	0.01
TYPEWRITER RIBBONS WOVEN, OF MAN-MADE FIBERS	FABRIC	9612109010	621	3	5,377,838	0.03
NARROW FABRICS, WOVEN, OF GLASS FIBERS	FABRIC	7019201000	622	3	1,407,684	0.01
WOVEN FABRICS (EXC NARROW FAB), GLS FIBR NT COLORD.	FABRIC	7019202000	622	3	24,056,735	0.14
WOVEN FABRICS (EXC NARROW FAB), GLS FIBER, COLORED	FABRIC	7019205000	622	3	5,998,063	0.04
WOVEN FABRIC OF NOIL SILK: <85% SLK/SLK WST, NESOI	FABRIC	5007106090	810	3	80,454	0.00
WV FAB CONT <85% N SUB W/C/MMF REST, NESOI	FABRIC	5007906090	810	3	675,473	0.00
WOV FAB OF FLAX CON >=85 FLAX BLCH UBL WID >127CM	FABRIC	5309110010	810	3	4,578,199	0.03
WOV FAB OF FLAX CON >=85% FLAX UNBL BL WID <=127CM	FABRIC	5309110090	810	3	1,064,800	0.01
WOV FAB OF FLX CON >=85% FLAX NT BL OR UBL W>127CM	FABRIC	5309190010	810	3	1,842,051	0.01
WOV FAB FLAX >=85% FLAX N-BL/UNBL WIDTH <=127CM	FABRIC	5309190090	810	3	904,512	0.01
WOV FAB FX LESS 85 PER FX NOT SUB COT MM RES OTHR	FABRIC	5309213090	810	3	128,707	0.00
WOV FAB FX <85% FX <=17% W/FAH N-COT/MMF WD >127CM	FABRIC	5309214010	810	3	1,032,211	0.01
WOV FAB FLX <85% FX UBL OR BL,<=17% W/FAH, <=127CM	FABRIC	5309214090	810	3	1,533,884	0.01
WOV FAB FX <85% FX, CONT COT & MMF, UBL & BL, NO R	FABRIC	5309293090	810	3	1,014,040	0.01
WOV FAB FLX <85% FLX NOT BL OR UBL, WIDTH >127CM	FABRIC	5309294010	810	3	2,562,632	0.02
WOV FAB FLX<85% FLX, NOT BLCH OR BLCH WIDTH<=127CM	FABRIC	5309294090	810	3	1,543,284	0.01
WV FB VEG FB CN CT/MMF NOT SUB COT/MMF RES NESOI	FABRIC	5311003090	810	3	253,741	0.00
WOV FAB VEG FIB <=17% W/FAH N-CNT COT/MMF, NESOI	FABRIC	5311004000	810	3	6,999,826	0.04
WOV PILE & CHENILLE FIB OF VEG FIBERS, EXC COTTON	FABRIC	5801901000	810	3	46,083	0.00
WOV PILE & CHENILLE FABRIC TEX MAT, NESOI, NESOI	FABRIC	5801902090	810	3	28,679	0.00
TERRY TOWELING, NOT NARROW OTH TEX MATERIAL, OTHER.	FABRIC	5802200090	810	3	8	0.00
TUFTED TEX FAB, OT CARPET AND OT TEX FLR COVRNG OT	FABRIC	5802300090	810	3	63,563	0.00
GAUZE, NT NAR FAB OTH TEX MAT, VEG FIB, EXC COTTON	FABRIC	5803902000	810	3	43,225	0.00
GAUZE, NOT NARROW OTH TEXTILE MAT, NESOI, NESOI	FABRIC	5803904090	810	3	500	0.00
TEX FABRICS IMPREG ETC NESOI, VEG FIBER NOT COTTON	FABRIC	5907009010	810	3	9,187	0.00
TRUNKS, SUITCASES, ETC, VEG FIBER, NOT PILE, OF COTTON.	MADE-UP	4202124000	369	3	4,345,957	0.03
ATTACHE CASES, BRIEF CASES, ETC, OF COTTON	MADE-UP	4202128020	369	3	403,716	0.00
TRUNKS, SUITCASES, VANITY CASES, ETC, OF COTTON	MADE-UP	4202128060	369	3	544,663	0.00
HANDBAGS, OUTR SURF TEXT, WHOLLY/PART BRAID, COTTON.	MADE-UP	4202224020	369	3	899,394	0.01
HANDBAGS, OTR SURF TEX, NOT BRAID, NOT TUFT/PL, COTTON.	MADE-UP	4202224500	369	3	46,030,960	0.27
HANDBAG, OTR SUR TEX, EX BRAID, EX TUF/PL, VEG FBR, NES.	MADE-UP	4202228030	369	3	1,115,829	0.01
ART FOR POCKET/HANDBAG, NOT PILE OR TUFTD, OF COTTON.	MADE-UP	4202324000	369	3	4,295,331	0.03
ART FOR POCKET OR HANDBAG, OF COTTON	MADE-UP	4202329530	369	3	478,261	0.00
TRAVEL, SPORTS & SIMILAR BAGS, OUTER SURF COTTON	MADE-UP	4202921500	369	3	44,160,832	0.26
TRAVEL, SPORTS BAGS, ETC. OF COTTON	MADE-UP	4202923015	369	3	1,818,677	0.01
OTHER BAGS, OF COTTON	MADE-UP	*4202926000	369	3	3,969,444	0.02
HAND-WOVEN TAPESTRIES, NESOI: OF COTTON	MADE-UP	5805003000	369	3	355,836	0.00
WOV LABELS, SIMI ART TEX MAT, NOT EMBROID OF COTTN	MADE-UP	5807101010	369	3	34,442	0.00
KNITTED LABEL, OF TEX MAT NOT EMBROID OF COTTON	MADE-UP	5807901010	369	3	2,967	0.00
BLANKET N/ELEC & TRAVEL RUGS OF COTTON, WOVEN	MADE-UP	6301300010	369	3	15,592,961	0.09
BLANKET N/ELEC & TRAVEL RUGS OF COTTON, NESOI	MADE-UP	6301300020	369	3	1,378,760	0.01
TABLECLOTHS & NAPKINS, DAMASK, COTTON	MADE-UP	6302511000	369	3	3,395,878	0.02
TABLECLOTHS AND NAPKINS, PLAIN WOVEN, COTTON	MADE-UP	6302512000	369	3	11,855,052	0.07
TABLCLOTH & NAPKINS, COTTON, NESOI	MADE-UP	6302513000	369	3	41,035,255	0.24
TABLE LINEN OF COTTON, NESOI	MADE-UP	6302514000	369	3	24,472,656	0.14
DISH TOWELS OF TERRY TOWELING FABRIC, COTTON	MADE-UP	6302600010	369	3	10,641,609	0.06
TOILET & KIT LINEN EXCEPT TOWELS, TERRY FAB COTTET	MADE-UP	6302600030	369	3	50,016,210	0.29
COTTON DISH TOWELS OF PILED OR TUFTED CONSTRUCTION.	MADE-UP	6302910005	369	3	14,976,660	0.09
TLT & KIT LINEN OT THAN TOWELS OF COT, PLD/TFT CON	MADE-UP	6302910025	369	3	1,517,862	0.01

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COT DISH TOWELS, N-JACQ FIG, N-PILED/TUFTED CONSTR	MADE-UP	6302910045	369	3	40,799,873	0.24
COT TOWELS N-DISH TOWELS: N-JAQ FIG OR PLD/TFT CON	MADE-UP	6302910050	369	3	21,047,904	0.12
TOWELS OT THAN TOLIET & KITCHN LINEN OF COT, NESOI	MADE-UP	6302910060	369	3	2,971,770	0.02
CURTAIN (DRAPES) & INT BLNDS/BD VAL KT/CROCHET COT	MADE-UP	6303110000	369	3	987,896	0.01
CURTAIN & INTERIOR BLINDS/BED VALANCES, NESOI, COT	MADE-UP	6303910000	369	3	6,944,067	0.04
OTHER FURNISHING ART NT 9404 NESOI KT/CROCHET COT	MADE-UP	6304910020	369	3	7,117,509	0.04
OTHER FURNISH ART NT 9404 NESOI NT KT/CROCHET COT	MADE-UP	6304920000	369	3	26,716,393	0.16
SACKS & BAGS KIND USED FOR PACKING OF GOODS COTTON.	MADE-UP	6305200000	369	3	1,761,948	0.01
TARPAULINS, AWNINGS AND SUNBLINDS OF COTTON	MADE-UP	6306110000	369	3	4,726	0.00
DUSTCLOTHS, MOP CLOTHS & POLISHING CLOTHS OF COT	MADE-UP	6307101000	369	3	7,624,101	0.04
BAR MOPS OF COTTON TERRY FABRIC	MADE-UP	6307102020	369	3	74,930,696	0.44
LABELS OF COTTON	MADE-UP	6307903010	369	3	2,287	0.00
CORDS AND TASSELS OF COTTON	MADE-UP	6307904010	369	3	138,746	0.00
CORSET, FOOTWEAR OR SIMILAR LACING OF COTTON	MADE-UP	6307905010	369	3	32,734	0.00
SURGICAL TOWELS	MADE-UP	6307908710	369	3	40,516,075	0.24
SURGICAL TOWELS	MADE-UP	6307909010	369	3	12,799,861	0.08
PILLOW SHELLS, OF COTTON	MADE-UP	*6307909050	369	3	18,337,581	0.11
OTHER TOWELS OF COTTON	MADE-UP	*6307909050	369	3	1,746,436	0.01
PILLOW SHELLS, OF COTTON	MADE-UP	6307909545	369	3	375,947	0.00
OTHER TOWELS OF COTTON	MADE-UP	*6307909550	369	3	1,152,368	0.01
OTHER TOWELS OF COTTON	MADE-UP	*6307909590	369	3	3,705,007	0.02
PILLOWS, CUSHIONS AND SIMILAR FURNISHING OF COTTON	MADE-UP	9404901000	369	3	2,263,746	0.01
BEDDING ARTICLES OF COTTON NOT DECORATED NESOI	MADE-UP	*9404908000	369	3	1,292,018	0.01
MATTRESS SUPPORTS OF COTTON, NESOI	MADE-UP	*9404909040	369	3	480,671	0.00
BLANKET N/ELEC & TRAVEL RUG WOOL F/HAIR NT>3M LGTH	MADE-UP	6301200010	464	3	747,139	0.00
BEDSPREADS CONT >=85% BY WGT OF WOOL/FAH NOT KNIT.	MADE-UP	6304193040	469	3	18,478	0.00
OTHER FURNISH ART NESOI KT/CROCHET NESOI WOOL HAIR.	MADE-UP	6304910050	469	3	70,696	0.00
OTHER NT KT NESOI MAT WALL HANG WOOL HAIR NESOI	MADE-UP	6304991500	469	3	45,739	0.00
OTHER NT KT NESOI TEX MAT NESOI NESOI WOOL HAIR	MADE-UP	6304996010	469	3	251,448	0.00
NEDLECRFT SET WOV TAB & YRN/RETAIL SALE WOOL YARN	MADE-UP	6308000010	469	3	47,730	0.00
HAND-WOVEN TAPESTRIES, NESOI: NESOI, MAN-MADE FIBER.	MADE-UP	5805004010	666	3	98,309	0.00
ELECTRIC BLANKETS	MADE-UP	6301100000	666	3	229,493	0.00
BLANKET N/ELEC & TRAVEL RUGS OF SYN FIBERS, WOVEN	MADE-UP	6301400010	666	3	62,665,200	0.37
BLANKETS N/ELEC & TRAVEL RUGS OF SYN FIBERS, NESOI	MADE-UP	6301400020	666	3	9,580,594	0.06
BLANKETS AND TRAVELING RUGS OF ARTIFICIAL FIBER	MADE-UP	6301900010	666	3	541,498	0.00
TABLECLOTHS AND NAPKINS, DAMASK, MAN-MADE FIBERS	MADE-UP	6302530010	666	3	3,486,211	0.02
TABLECLOTH & NAPKIN, MAN-MADE FIBERS EXCEPT DAMASK.	MADE-UP	6302530020	666	3	13,844,131	0.08
TABLE LINEN EX TABLECLOTH/NAPKIN OF MAN-MADE FIBER	MADE-UP	6302530030	666	3	13,154,875	0.08
BED, TABLE, TOILET, KT LNEN NESOI MMF PILE/TUFT CONST	MADE-UP	6302931000	666	3	106,805	0.00
BED, TABLE, TOILET, & KITCHEN LINEN NESOI, MMF	MADE-UP	6302932000	666	3	740,477	0.00
CURTAIN (DRAPE) & INTER BLND/BD VAL KT/CRO SYN FIB	MADE-UP	6303120000	666	3	15,054,926	0.09
CURTAIN & INT BLINDS; VALANCES, KNIT ARTIFICIAL FB	MADE-UP	6303190010	666	3	49,334	0.00
CURT & INTER BLINDS/BED VALCS, SUBHEAD 5407 ETC.	MADE-UP	6303920000	666	3	47,747,534	0.28
CURTN & INT BLNDS/BED VAL NESOI, NESOI MAT ART FIB	MADE-UP	6303990010	666	3	113,328	0.00
OTHER FURNISH ART EXC 9404 BEDSPRED KT/CROCHET MMF.	MADE-UP	6304112000	666	3	4,421,333	0.03
OTHER FURNISH ART NT 9404 BEDSPRD NESOI MMF W/TRIM	MADE-UP	6304191500	666	3	3,474,878	0.02
OTHER FURNISH ART NT 9404 BEDSPRD NESOI MMF NESOI	MADE-UP	6304192000	666	3	6,039,691	0.04
OTHER FURNISHING ART NT 9404 NESOI KT/CROCHET MMF	MADE-UP	6304910040	666	3	9,748,814	0.06
OTHER FURN ART NT 9404 NESOI NT KT/CROCHET SYN FIB	MADE-UP	6304930000	666	3	42,879,730	0.25
OTHER NT KT NESOI TEX MAT NESOI NESOI ARTI FIBERS	MADE-UP	6304996020	666	3	952,906	0.01
OTHER TOWELS OF MAN-MADE FIBERS	MADE-UP	*6307909050	666	3	1,964,740	0.01
OTHER TOWELS OF MAN-MADE FIBERS	MADE-UP	*6307909550	666	3	1,394,972	0.01
OTHER TOWELS OF MAN-MADE FIBERS	MADE-UP	*6307909590	666	3	4,485,008	0.03
QUILTS, EIDERDOWNS, COMFORTR, OTR SHELL MAN-MADE FIBR.	MADE-UP	9404909020	666	3	3,501,778	0.02
MATTRESS SUPPORTS OF MAN-MADE FIBERS, NESOI	MADE-UP	*9404909040	666	3	61,481	0.00
WOVEN LABELS, SIMI ART TEX MAT, N0T EMBROID MMF	MADE-UP	5807101020	669	3	4,577,746	0.03
WOV LABEL OF TEX MAT NOT EMBROID OF MMF	MADE-UP	5807901020	669	3	423,691	0.00
EMBROIDERY WITH VISIBLE GROUND OF MMF; LABELS	MADE-UP	5810920030	669	3	50,170	0.00
SACK & BAG FOR PKG GOOD M-M MAT POLYETHYLENE >=1KG.	MADE-UP	6305310010	669	3	14,344,157	0.08
SACK & BAG FOR PKG GOOD M-M MAT POLYETHYLENE < 1KG.	MADE-UP	6305310020	669	3	145,775,707	0.86
SACK & BAG FOR PKG GOOD MAN-MADE TEXTILE MAT NESOI.	MADE-UP	6305390000	669	3	18,416,736	0.11
TARPAULIN, AWNINGS & SUNBLINDS OF SYNTHETIC FIBERS	MADE-UP	6306120000	669	3	2,071,368	0.01

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
TARPAULIN, AWNING & SUNBLIND ARTIFICAL FIBERS	MADE-UP	6306190010	669	3	130,824	0.00
TENTS, EXCEPT SCREEN HOUSES, OF SYNTHETIC FIBERS	MADE-UP	6306229000	669	3	89,570,664	0.53
TENTS, EXCEPT SCREEN HOUSES, OF SYNTHETIC FIBERS	MADE-UP	6306229030	669	3	30,375,677	0.18
LABELS OF TEXTILE MATERIALS OTHER THAN COTTON	MADE-UP	6307903020	669	3	244,555	0.00
CORDS AND TASSELS OF TEXTILE MATERIALS EX COTTON	MADE-UP	6307904020	669	3	1,083,125	0.01
CORSET, FOOTWEAR OR SIMILAR LACING, TEX MAT EX COT	MADE-UP	6307905020	669	3	2,995,661	0.02
NEDLECRFT SET WOV FAB & YRN FOR RETAIL SALE NESOI	MADE-UP	6308000020	669	3	294,034	0.00
ATTACHE CASES, BRIEF CASES, ETC, OF MAN-MADE FIBERS	MADE-UP	4202128030	670	3	10,802,054	0.06
TRUNKS, SUITCASES, VANITY CASE, ETC, OF MAN-MADE FIBER.	MADE-UP	4202128070	670	3	71,386,413	0.42
HANDBAGS, OUTR SURF TEX, WHO/PT BRAID, MAN-MADE FIBR.	MADE-UP	4202224030	670	3	355,293	0.00
HANDBAGS, OTR SURF TEX, EX BRAID, PIL/TUFT, M-M FIBER	MADE-UP	4202228050	670	3	10,610,268	0.06
ART FOR POCKET OR HANDBAG, OF MAN-MADE FIBERS	MADE-UP	4202329550	670	3	5,735,259	0.03
BACKPACKS, OF MAN-MADE FIBER	MADE-UP	4202923020	670	3	18,745,554	0.11
TRAVEL, SPORTSBAGS, ETC, NOT BACKPACKS, MAN-MADE-FIBER.	MADE-UP	4202923030	670	3	136,578,130	0.80
OTHER BAGS, OUTER SURFACE OF MAN-MADE FIBERS	MADE-UP	*4202929020	670	3	9,531,075	0.06
TRUNKS, SUITCASES, ETC, VEG FIBER, NOT PILE, NESOI	MADE-UP	4202126000	870	3	33,479,831	0.20
ATTACHE CASES, BRIEF CASES, SCHOOL SATCHEL, ETC, NESOI.	MADE-UP	4202126040	870	3	154,490	0.00
TRUNKS, SUITCASE, VANITY CASE, ETC, SURF TEXTILE, NESOI.	MADE-UP	4202128080	870	3	403,171	0.00
TRAVEL, SPORTS & SIMILAR BAGS, OUTER SURF EXC COTTON.	MADE-UP	4202922000	870	3	12,748,605	0.07
TRAVEL, SPORTS BAGS, ETC, OF TEXTILE MATERIALS, NESOI.	MADE-UP	4202923040	870	3	608,010	0.00
OTHER BAGS, OUTER SURF TEXTILE MATERIALS, NESOI	MADE-UP	*4202929030	870	3	132,527	0.00
HANDBAGS, OUTR SURF TEX, WHOLLY/PART BRAID, NESOI	MADE-UP	4202224040	871	3	197,454	0.00
HANDBAG, OTR SUR TEX, EX BRAID, EX TUF/PL, VEG FBR, NES.	MADE-UP	4202226000	871	3	2,774,086	0.02
HANDBAGS, OTR SURF TEX, EX BRAID, PIL/TUFT, NESOI	MADE-UP	4202228060	871	3	208,044	0.00
ART FOR POCKET/HANDBG, VEG FIBR, NOT PILE/TUFT, NESOI.	MADE-UP	4202328000	871	3	50,368	0.00
ART FOR POCKET OR HANDBAG, OUTER SURFACE TEXT, NESOI.	MADE-UP	4202329560	871	3	13,982	0.00
NYLON TEXTURED SINGLE YRN <= 500 DECITEX NT RETAIL	YARN	5402313000	600	3	4,375,228	0.03
NYLON TEXTURED MULTIPLE YN <= 500 DECTEX NT RETAIL	YARN	5402316000	600	3	6,167,668	0.04
NYLON TEXTURED SINGLE YARN >500 DECITEX NOT RETAIL	YARN	5402323000	600	3	80,338,928	0.47
NYLON TEXTURED MULTIPLE YARN >500 DECTEX NT RETAIL	YARN	5402326000	600	3	3,311,133	0.02
POLYESTER TEXTURED SINGLE NOT FOR RETAIL SALE	YARN	5402333000	600	3	28,676,161	0.17
POLYESTER TEXTURED MULTIPLE/CABLED NOT RETAIL	YARN	5402336000	600	3	2,494,180	0.01
SYN FIL TEX YN OF POLYETHYLENE/PROPYLENE NT RETAIL	YARN	5402393010	600	3	43,747,321	0.26
SYN FIL TEX YN EXC NYL/POLYESTER/ETHYLENE/PROPYLEN	YARN	5402393090	600	3	6,508,470	0.04
SYN FIL YN POLYETHYLENE/PROPYLENE <67 DEC MULT CAB	YARN	5402396010	600	3	9,244,294	0.05
S FL YR N SW T N RT SL I S MNF <67 DCX TX Y O M/CB	YARN	5402396090	600	3	1,086,703	0.01
ARTIFICIAL FILAMENT TEXTURED SINGLE NT RETAIL	YARN	5403203000	600	3	1,021,404	0.01
ARTIFICIAL FILAMENT TEXTURED MULTIPLE YN NT RETAIL	YARN	5403206000	600	3	52,780	0.00
NYL HIGH TENACITY MULTIFLMNT YRN NT RTL TWST >=5 M	YARN	5402103040	606	3	19,218,213	0.11
NYLON HIGH TENACITY MULTIPLE/CABLED YARN NT RETAIL	YARN	5402106000	606	3	2,211,543	0.01
POLY HGH TNCTY MULTIFLMNT YN N RTL TWST >=5 PR MTR	YARN	5402203040	606	3	12,218,750	0.07
POLYESTERS HIGH TENACITY MULTIPLE/CABLED NT RETAIL	YARN	5402206000	606	3	467,687	0.00
NYLON MULTIFLMNT YRN W TWIST >=5<=50 TRN PER MTR	YARN	5402410040	606	3	38,951,971	0.23
POLY, 75 >DECITEX >80, TWIST >=5 TRUNS PER MET	YARN	5402430040	606	3	51,263,563	0.30
SYN FIL YRN POLYETHYLENE/PROPYLENE MULT >=5<=50TM2.	YARN	5402490070	606	3	3,162,695	0.02
SYN FIL YRN OTH TEX MAT MONO<67 DC MULT >=5<=50TM2	YARN	5402490080	606	3	15,052,307	0.09
NYLON FILAMENT YN TWIST >60 TURNS/M NT RETAIL SALE	YARN	5402510000	606	3	3,261,386	0.02
POLY TWIST >50 TURNS/MET, 75<DECITEX<80	YARN	5402520000	606	3	609,151	0.00
SYN FILA YARN EXC NYLON/POLYESTER TWST >50 TURNS/M	YARN	5402590000	606	3	2,525,485	0.01
NYLON FILAMENT YARN MULTIPLE/CABLED NT RETAIL SALE	YARN	5402610000	606	3	694,194	0.00
POLYESTERS FILMT YN MULTIPLE/CABLED NT RETAIL SALE	YARN	5402620000	606	3	5,757,947	0.03
SYN FILA YN EXC NYLON/POLYESTERS MULTIPLE/CABLED	YARN	5402690000	606	3	5,782,268	0.03
VISC RYN HGH TNCTY MONO/MULTIFLMNT UNT/TW <5 TRN/M.	YARN	5403103040	606	3	20,198,329	0.12
VISCOSE RAYON HI TENCITY MULTIPLE/CABLED NT RETAIL	YARN	5403106000	606	3	331,349	0.00
VISC RYN TWST 'N'>=5<=120 TRNS PER MTR MULTIFILMNT	YARN	5403310040	606	3	63,273,956	0.37
VISCOSE RAYON TWIST >120 TURNS/M YN NT RETAIL SALE	YARN	5403320000	606	3	6,294,074	0.04
CELL ACE MULTIFLMNT YARN TWST >=5 TR/M <67 DECITEX	YARN	5403330040	606	3	46,472,607	0.27
ART FILA MULTIFILAMENT <67 DECITEX W TWST >=5 TR/M	YARN	5403390040	606	3	278,063	0.00
VISCOSE RAYON MULTIPLE/CABLED NOT FOR RETAIL SALE	YARN	5403410000	606	3	6,589,564	0.04
CELLULOSE ACETATE MULTIPLE/CABLED NOT RETAIL SALE	YARN	5403420000	606	3	557,855	0.00

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ART FILA EXP VISCOSE RAYON/ACETATE MULTIPLE/CABLED	YARN	5403490000	606	3	844,602	0.00
YRN N SWG TD SYN ST F N RT SL O PY ST F M AS F S Y	YARN	5509513000	607	3	27,703	0.00
YRN N SWG TD SYN ST F N RT SL O PY ST F M AS F MCY	YARN	5509516000	607	3	2,646	0.00
YRN N SWG THD SYN ST FB MX MNLY/SLY WL OR FN AN HR	YARN	5509520000	607	3	46,404	0.00
YRN N SWG THD SYN STP FIB MX MNLY/SLY W CT <=52NM	YARN	5509530030	607	3	2,302,645	0.01
YRN N SW TD SY ST FB N RT SL YR PL S F M C <52NM	YARN	5509530060	607	3	5,903,703	0.03
YRN N SW TD SY ST F N RTL SL OT YR POLY ST F NESOI	YARN	5509590000	607	3	430,372	0.00
YR N SWG TH SYN ST FB N RT SL O Y AC/MAC M W/FAH	YARN	5509610000	607	3	769,652	0.00
YR N SWG TH SYN ST FB N RT SL O Y AC/MAC MX COTTON	YARN	5509620000	607	3	26,117	0.00
YR N SW TH SY ST FB N RT SL O Y AC/MAC S F M AT SY	YARN	5509692000	607	3	15,191	0.00
YR N SW TH SY ST FB N RT SL O Y AC/MAC SF M AT MCY	YARN	5509694000	607	3	108,602	0.00
YRN NT SEWING THD OF SYN STPL FIB NT FOR RETL SALE	YARN	5509696000	607	3	650,884	0.00
YRN N SWG TH SYN STP FB N RTL SL OTH YRN MX WL/FAH	YARN	5509910000	607	3	129,474	0.00
YRN N SWG TH SYN STP FB N RTL SL OTH YRN MX COTTON	YARN	5509920000	607	3	71,006	0.00
YRN N SWG TH SY ST FB N RT SL OT Y OT M ART F S YN	YARN	5509992000	607	3	0	0.00
YRN OF SYN STP FIB NT FOR SALE MIXED W/ART FIB M/C	YARN	5509994000	607	3	36,290	0.00
YRN N SWG THD SYT ST FB N RTL SALE OTHER YRN NESOI	YARN	5509996000	607	3	909,597	0.01
YRN N SWG TH ART ST F N RT SL OT YR M/S WOOL OR FA	YARN	5510200000	607	3	10,862	0.00
YRN N SWG THD ART STP FB N RT SL OT YRN M/S COTTON	YARN	5510300000	607	3	65,332	0.00
YRN N SWG TH ART ST FB N RT SL OT YR M SYN FB SN Y	YARN	5510902000	607	3	16,595	0.00
YRN N SWG TH ART ST FB N RT SL OT YR M SYN F M/C F	YARN	5510904000	607	3	1,319,611	0.01
YRN NT SWG THD ART STP FIB NT RT SL OTH YRN NESOI	YARN	5510906000	607	3	17,342	0.00
YRN SPUN FR SLK WSTE NT UP FOR RETAIL SALE NESOI	YARN	5005000090	800	3	188,819	0.00
SLK YRN & YRN SPN SLK WST RTL SL; SLKWRM GUT, OTHR	YARN	5006000090	800	3	8,118	0.00
SLK YRN & YRN SPN SLK WST RTL SL; SLKWRM GUT, OTHR	YARN	5006009000	800	3	15,351	0.00
FLAX YARN, SINGLE	YARN	5306100000	800	3	4,779,661	0.03
FLAX YARN, MULTIPLE (FOLDED) OR CABLED	YARN	5306200000	800	3	230,937	0.00
YARN OF OTH VEGETABLE TEXT FIBERS; TRUE HEMP YARN	YARN	5308200000	800	3	3,358	0.00
YARN OF OTHER VEGETABLE TEXTILE FIBERS; NESOI	YARN	5308900000	800	3	989,893	0.01
VISC RYN HGH TNCTY MONO/MULTIFLMNT UNT/TW <5 TRN/M.	YARN	5403103020	911	3	1,397,654	0.01
VISC RAYON UNTWST/TWST <5 TURNS/M MONO/MULTIFILMNT.	YARN	5403310020	911	3	1,824,055	0.01
SYNTHETIC FILAMENT TOW OF NYLON OR OTHER POLYAMIDE.	YARN	5501100000	911	3	18,216,562	0.11
SYNTHETIC FILAMENT TOW OF POLYESTERS	YARN	5501200000	911	3	3,244,341	0.02
SYNTHETIC FILAMENT TOW OTHER	YARN	5501900000	911	3	1,967,845	0.01
ARTIFICIAL FILAMENT TOW	YARN	5502000000	911	3	15,559,463	0.09
BOY'S TRSRS & BRCHS IMPRT PRTS PLYSTS OF COT KNIT	APPAREL	6103421035	237	4	723,610	0.00
BOYS' SHORTS IMP PRTS OF PLYSTS OF COTTON, KNIT	APPAREL	6103421065	237	4	122,362	0.00
BOYS' OVERALLS SIZES 2-7 OF COTTON NINSULATE KNIT	APPAREL	6103422015	237	4	2,726	0.00
BOYS' TRSRS/BRCHS IMP PRTS PLYST OF SYN FIB, KNIT	APPAREL	6103431535	237	4	121,747	0.00
BOY'S SHORTS IMP PRTS OF PLYSUITS OF SYN FIB, KNIT	APPAREL	6103431565	237	4	1,882	0.00
GIRLS OVERALLS OF COTTON, NT INSULATED KNIT	APPAREL	6104621030	237	4	399,110	0.00
G TROUSERS COT IMPORTED AS PART OF PLAYSTS, KNIT	APPAREL	6104622015	237	4	1,056,192	0.01
G SHORTS COT IMPORTED AS PART OF PLAYSTS, KNIT	APPAREL	6104622050	237	4	196,685	0.00
G TROUSERS OF SYN FIB IMPAS PTS PLAYSUITS, KNIT	APPAREL	6104632015	237	4	295,622	0.00
G SHORTS OF SYN FIBERS IMP AS PTS PLAYSUITS, KNIT	APPAREL	6104632050	237	4	28,589	0.00
BOYS' SHIRTS OF COTTON IMP AS PLAYSUIT PARTS, KNIT	APPAREL	6105100020	237	4	1,912,109	0.01
BOYS' SHIRTS OF OT MMF IMP AS PLAYSUIT PARTS, KNIT	APPAREL	6105202020	237	4	475,373	0.00
GIRLS' BLOUSES OF COTTON IMP PLAYSUIT PARTS, KNIT	APPAREL	6106100020	237	4	2,309,472	0.01
GIRLS' BLOUSES OF OT MMF IMP PLAYSUIT PARTS, KNIT	APPAREL	6106202020	237	4	189,254	0.00
B/G GARMENTS IMP AS PLAYSUIT PARTS OF OT COT, KNIT	APPAREL	6110202005	237	4	5,030,611	0.03
B/G SWEATER & SMLR ART AS PLYST PT OF OT MMF, KNIT	APPAREL	6110303005	237	4	921,619	0.01
BOYS' SUNSUITS AND SIMILAR APPAREL OF COTTON, KNIT	APPAREL	6114200035	237	4	32,237	0.00
W/G SUNSUITS AND SIMILAR APPAREL OF COTTON, KNIT	APPAREL	6114200040	237	4	7,978,502	0.05
BOYS' OVERALLS & SMLR APRL OF COTTON NINSLTD, KNIT	APPAREL	6114200044	237	4	121,248	0.00
GIRLS' OVRALLS & SMLR APRL OF COTTON NINSLTD, KNIT	APPAREL	6114200046	237	4	420,922	0.00
BOYS' SUNSUITS AND SIMILAR APPAREL OF MMF, KNIT	APPAREL	6114303020	237	4	809,357	0.00
W/G SUNSUITS AND SIMILAR APPAREL OF MMF, KNIT	APPAREL	6114303030	237	4	7,236,250	0.04
B BIB & BRCE OVRL SZ 2-7 COT IMP PRT PLY N-INSL NK	APPAREL	6203422025	237	4	1,492,762	0.01
B BIB & BRCE OVRLS N-IMP PRTS OF PLYST COT NOT KNT	APPAREL	6203422050	237	4	3,962,957	0.02
BOYS' TROUSERS ETC COT CORDUROY PLAYSUIT PTS, NT KT.	APPAREL	6203424020	237	4	724,819	0.00
BOYS' TROUSER ETC COT BLUE DENIM PLAYSUIT PT, NT KT	APPAREL	6203424030	237	4	551,578	0.00
BOYS' TROUSER ETC OTHER COTTON PLAYSUIT PT, NT KT	APPAREL	6203424040	237	4	1,257,965	0.01
BOYS' SHORTS COTTON PLAYSUIT PARTS, NOT KNIT	APPAREL	6203424055	237	4	2,791,987	0.02
B OVRLS SYN FIB N-INSLTD CL W IMP PRT PLYST NT KNT	APPAREL	6203432025	237	4	175,507	0.00
B SZ 2-7 OVRLS SYN FIB N-INSLTD N-IMP PRT PLYST NK	APPAREL	6203432050	237	4	183,494	0.00
BOYS' TROUSER ETC IMPRT PLAYSUIT PT SYN FIB, NT KT	APPAREL	6203434015	237	4	202,426	0.00
BOYS' SHORTS IMPORT PLAYSUIT PTS SYN FIB, NOT KNIT	APPAREL	6203434035	237	4	386,534	0.00
BOYS' OVRALS ARTIF FIB N-INSULTD IMPRT PLYST NT KN	APPAREL	6203491025	237	4	0	0.00

VOL 60 ISS 83 MY 1 1995 UMI

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BOYS'B&B OVRALS ARTIF FB N-INSLTD N-IMPRT PLYST NK ...	APPAREL	6203491050	237	4	11,366	0.00
BOYS' TROUSERS ETC IMP PLAYSUIT PT ART FIB, NOT KT	APPAREL	6203492020	237	4	19	0.00
BOYS' SHORTS IMP PLAYSUIT PART ART FIB, NOT KNIT	APPAREL	6203492050	237	4	0	0.00
GIRLS' OVRALS OF COTTON N-INSULTD IMP PRT PLYST NK ..	APPAREL	6204622025	237	4	1,104,787	0.01
GIRLS' B&B OVRALS COT N-INSLTD N-IMP PLYST NT KNIT	APPAREL	6204622050	237	4	6,431,021	0.04
GIRLS' TROUSERS ETC COT CRDRY IMP PLYSUIT PT, N KT ...	APPAREL	6204624025	237	4	599,885	0.00
GIRLS' TROUSERS COT BLUE DENIM IMP PLYSUIT PT, N KT ..	APPAREL	6204624035	237	4	1,411,258	0.01
GIRLS' TROUSERS OTHER COTTON IMP PLAYSUIT PT, N KT .	APPAREL	6204624045	237	4	2,142,086	0.01
GIRLS' SHORTS COTTON IMP PLAYSUIT PARTS, NOT KNIT	APPAREL	6204624060	237	4	4,702,637	0.03
G B&B OVRALS SYN FIB N-INSLTD IMPORT PRTS PLYST NK ..	APPAREL	6204631525	237	4	80,218	0.00
G B&B OVRALS SYN FIB N-INSLTD N-IMP PRT PLYST NK	APPAREL	6204631550	237	4	177,485	0.00
G TROUS ETC SYN FIB <36% W/FAH IMP PLYST PTS, N KT	APPAREL	6204633525	237	4	62,189	0.00
G SHORTS SYN FIB <36% W/FAH IMP PLYST PTS, N KT/CR	APPAREL	6204633535	237	4	291,283	0.00
G B&B OVRL ART FIB N-INSL CLD PRT IMP PRT PLYST NK	APPAREL	6204691025	237	4	38	0.00
G OVRL ART FB N-INSLTD CLD WTHR N-IMP PRT PLYST NK ..	APPAREL	6204691050	237	4	96,077	0.00
GIRLS' TRSR ART FIB <36% W/FAH IMP PLYST PT, N KT	APPAREL	6204692520	237	4	38	0.00
GIRLS' SHORT ART FIB <36% W/FAH IMP PLYST PT, N KT	APPAREL	6204692550	237	4	6,182	0.00
BOYS' SHIRTS COTTON CRDRY IMP PLYSUIT PART, NT KT	APPAREL	6205202040	237	4	3,686	0.00
BOYS' SHRT COT W≤2 CLR WRP NT NP IMP PLYST PT, N KT .	APPAREL	6205202055	237	4	88,704	0.00
BOYS' SHIRTS COTTON NESOI IMP PLAYSUIT PTS, NT KT	APPAREL	6205202070	237	4	2,777,779	0.02
BOYS' SHIRT EX DRESS MMF ≤ 2 COLR WRP PLYST PT, N K .	APPAREL	6205302055	237	4	55,162	0.00
BOYS' SHIRTS EX DRESS MMF NESOI IMP PLYST PT, N KT	APPAREL	6205302075	237	4	805,037	0.00
G BLSES COT IMP PLYST PARTS; CONT <36% FLX F, N KT	APPAREL	6206303020	237	4	337,306	0.00
G BLSES COT <36% FLX FIB IMP PLYST PRTS, N KNIT/CR	APPAREL	6206303050	237	4	4,966,867	0.03
GIRLS' BLOUSES MMF WITH ≤ 2 CLR IMP PLYST PT, N KT	APPAREL	6206403020	237	4	3,322	0.00
G BLSES OF MMF <36% BY WGT FLAX FIB IMP PLY ST N K	APPAREL	6206403040	237	4	355,661	0.00
B CVRALS & SIM APPRL COT N-INSLTD SIZE 2-7 NT KNT	APPAREL	6211320015	237	4	2,392,339	0.01
BOYS' WASHSUITS & SIMILAR APPAREL COTTON, NOT KNIT .	APPAREL	6211320030	237	4	1,630,598	0.01
B CVRLS & SMLR APPAREL MMF N-INSLTD SIZE 2-7 NT KT	APPAREL	6211330015	237	4	63,859	0.00
BOYS' WASHSUITS & SIMILAR APPAREL MMF, NOT KNIT	APPAREL	6211330025	237	4	470,707	0.00
GIRLS' CVRALS & SIM APPAREL COT NT INSULATED NT KT ...	APPAREL	6211420020	237	4	4,653,197	0.03
W/G WASHSUITS & SIMILAR APPAREL OF COTTON, NT KNIT .	APPAREL	6211420025	237	4	10,088,275	0.06
GIRLS' CVRALS & SIM APPAREL M-M FIB N INSULTD N KT	APPAREL	6211430020	237	4	2,318,093	0.01
W/G WASHSUITS AND SIMILAR APPAREL MAN-MADE FIB, N KT.	APPAREL	6211430030	237	4	3,920,563	0.02
BABIES' DIAPERS OF COTTON, NOT KNIT	APPAREL	6209205040	239	4	8,145,283	0.05
GLV VEG FB IMPG PLS/RBR W/OUT CHTTS COT RES NT KT ..	APPAREL	6216001220	331	4	51,608	0.00
GLV VEG FB IMPG PLS/RBR W/OUT 4CHTTS COT RES NT KT	APPAREL	6216001520	331	4	64,859	0.00
GLV NESOI FAB IMPG PLS/RBR W/OT 4CHTTS CT RS NT KT ..	APPAREL	6216002020	331	4	39,005	0.00
GLV IMPREG PLAS/RBR W/OUT 4CHTTS SUB COT RES, N KT	APPAREL	6216002510	331	4	58,070	0.00
GLV IMPREG PLAS/RBR W/OUT 4CHTTS SUB COT RES, N KT	APPAREL	6216002710	331	4	34,800	0.00
GLV IMPREG PLAS/RBR W/OUT 4CHTTS SUB COT RES, N KT	APPAREL	6216002810	331	4	2,944	0.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003010	331	4	13,131	0.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003110	331	4	29,000	0.00
GLOVES EX SKI COTTON WOUT 4CHTTS, NOT KNIT	APPAREL	6216003810	331	4	16,465,159	0.10
GLOVES EX SKI COTTON WOUT 4CHTTS, NOT KNIT	APPAREL	6216003811	331	4	3,222,451	0.02
GLOVES EX SKI COTTON WITH FOURCHETTS, NOT KNIT	APPAREL	6216003820	331	4	1,481,978	0.01
GLOVES EX SKI COTTON WITH FOURCHETTS, NOT KNIT	APPAREL	6216003821	331	4	398,970	0.00
GLOVES EX SKI COTTON WOUT 4CHTTS, NOT KNIT	APPAREL	6216003910	331	4	1,940,657	0.01
GLOVES EX SKI COTTON WITH FOURCHETTS, NOT KNIT	APPAREL	6216003920	331	4	160,988	0.00
SOCKS, OT HOSRY, FTWR W/OUT SLS COT CONT LACE, KNIT.	APPAREL	6115921000	332	4	124,579	0.00
SOCKS & OT HOSRY & FTWR W/OUT SOLES OF OT COT, KNIT.	APPAREL	6115922000	332	4	7,466,943	0.04
M/B JACKET IMP AS PART OF SUIT OF COTTON, KNIT	APPAREL	6103192010	333	4	8,423	0.00
M/B JCKTS AS SUIT PTS OF OT TEX SUBJ COT RES, KNIT	APPAREL	6103194010	333	4	0	0.00
M/B ENSEMBLES OF SUIT-TYPE JACKETS OF COTTON, KNIT .	APPAREL	6103220020	333	4	0	0.00
M/B SUIT-TYPE JACKETS AND BLAZERS OF COTTON, KNIT	APPAREL	6103320000	333	4	34,057	0.00
M/B SUIT-TYPE JACKETS OT TEX MAT SUBJ COT RES, KNIT ..	APPAREL	6103392010	333	4	597	0.00
M/B JACKET IMP AS PART OF SUIT OF COTTON, NOT KNIT	APPAREL	6203191010	333	4	195,829	0.00
M/M JCKTS AS SUIT PTS OF OT TEX SUBJ COT RES, NT KT ..	APPAREL	6203194010	333	4	61	0.00
M/B JACKETS/BLAZERS OF HEADING 6203 OF COT NOT KNT	APPAREL	6203223015	333	4	879	0.00
M/B SUIT-TYPE JACKETS/BLAZER COTTON ≤36% FLAX, N KT	APPAREL	6203321000	333	4	22,331	0.00
M SUIT-TYPE JAC/BLAZ COT CORD <36% FLX FBR, NT KT	APPAREL	6203322010	333	4	688,416	0.00
BOYS' ST-TYP JAC/BLAZ COT CORD <36% FLX FIB, NT KT	APPAREL	6203322020	333	4	7,454	0.00
M/B ST-TYP JAC/BLAZ COT BLUE DENIM <36% FLX F, N K	APPAREL	6203322030	333	4	86,385	0.00
MEN'S ST-TYP JAC/BLAZ <36% FLX FIB NESOI, NOT KNIT	APPAREL	6203322040	333	4	1,418,798	0.01
B ST-TYP JAC/BLAZ NESOI <36% FLX FIB, NOT KNIT/CRC	APPAREL	6203322050	333	4	124,079	0.00
M/B SUIT-TYPE JACKETS OT TEX MAT SUBJ COT RES, N KT .	APPAREL	6203394010	333	4	970	0.00
MEN'S OVERCOATS, CARCOATS, ETC OF COTTON, KNIT	APPAREL	6101200010	334	4	4,892,652	0.03

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BOYS' OVERCOATS, CARCOATS, ETC OF COTTON, KNIT	APPAREL	6101200020	334	4	493,212	0.00
M/B OVERCOAT ETC OF OTH TEX MAT SUBJ COT RES, KNIT	APPAREL	6101900010	334	4	69	0.00
M/B ENSEMBLES OF OVERCOATS ETC OF COTTON, KNIT	APPAREL	6103220010	334	4	0	0.00
M/B JACKETS FOR TRACK SUITS OF COTTON, KNIT	APPAREL	6112110010	334	4	301,634	0.00
M/B COATS ETC KNIT COTTON IMPREG RESIN EX RBR/PLAS	APPAREL	6113000015	334	4	3,278	0.00
MEN'S RAINCOATS OF COTTON, NOT KNIT	APPAREL	6201122010	334	4	2,663,504	0.02
BOYS' RAINCOATS OF COTTON, NOT KNIT	APPAREL	6201122020	334	4	28,463	0.00
MEN'S OVERCOATS CARCOATS ETC OF CORDUROY, NOT KNIT.	APPAREL	6201122025	334	4	45,886	0.00
BOYS' OVERCOATS CARCOATS ETC OF CORDUROY, NOT KNIT.	APPAREL	6201122035	334	4	10,454	0.00
MEN'S OVERCOAT EX RAINCOAT COT EX CRDRY/DOWN, NT KT.	APPAREL	6201122050	334	4	3,257,663	0.02
BOYS' OVERCOAT EX RAINCOAT COT EX CRDRY/DOWN, NT KT.	APPAREL	6201122060	334	4	631,902	0.00
M/B OVERCOAT ETC OTH TEX MAT SUBJ COT RES, NOT KNIT.	APPAREL	6201190010	334	4	69	0.00
M/B GARMENTS DESIGNED FOR RAINWEAR OF COTTON, NT KT.	APPAREL	6201921500	334	4	887,720	0.01
M/B PADDED SLVLS JACKET WTH SLEEVE ATTCH COT, NT KT.	APPAREL	6201922005	334	4	13,697	0.00
M/B ANRKS, WND-BKRS, SMLR ART, N-KNIT, COTTON, CORDUROY.	APPAREL	6201922020	334	4	157,251	0.00
MEN'S ANORAKS SKI-JACKET ETC COT BLUE DENIM, NT KT .	APPAREL	6201922030	334	4	5,910,989	0.03
BOYS' ANORAKS, SKI-JACKET ETC COT BLUE DENIM, NT KT .	APPAREL	6201922040	334	4	2,901,140	0.02
MEN'S ANORAKS & SMLR ARTICLES COTTON NESOI, NT KT ..	APPAREL	6201922050	334	4	25,572,021	0.15
BOYS' ANORAKS & SMLR ARTICLES COTTON NESOI, NT KT ..	APPAREL	6201922060	334	4	6,182,297	0.04
M/B ANORAKS ETC OT TEX MTRL SUBJ COTT RES, NT KT	APPAREL	6201990010	334	4	4,830	0.00
M/B ENSEMBLES OF OVERCOATS ETC OF COTTON, NOT KNIT.	APPAREL	6203223010	334	4	6,003	0.00
M/B OVERCOATS ETC TEX FELT/NONWOVENS, N KT OR CROC.	APPAREL	6210202020	334	4	38,709	0.00
M/B ANORAKS & SMLR ART RUBBERIZED TEX MTRL, NT KT ..	APPAREL	6210402020	334	4	70,380	0.00
M/B WTR RES ANORAKS & SIM ART FOR SKISUIT COT NTKT .	APPAREL	6211201510	334	4	173	0.00
M/B ANORAKS & SMLR ARTICLE FOR SKI-ST COTTON, N KT ..	APPAREL	6211202010	334	4	14,042	0.00
M/B TRACK SUIT PARTS EXCEPT TROUSERS COTTON, NT KT	APPAREL	6211320050	334	4	146,073	0.00
WOMEN'S OVERCOATS, CARCOATS, ETC OF COTTON, KNIT .	APPAREL	6102200010	335	4	4,618,101	0.03
GIRLS' OVERCOATS, CARCOATS, ETC OF COTTON, KNIT	APPAREL	6102200020	335	4	574,287	0.00
W/G OVERCOAT ETC OF OTH TEX MAT SUBJ COT RES, KNIT	APPAREL	6102900005	335	4	1,760	0.00
W/G JACKETS IMP AS PARTS OF SUIT OF COTTON, KNIT	APPAREL	6104120010	335	4	20,079	0.00
W/G JCKT IMP PART SUIT OT TEX MAT SUB COT RES, KNIT ..	APPAREL	6104192010	335	4	0	0.00
W/G ENS OF OVERCOATS JACKETS BLAZERS OF COT, KNIT .	APPAREL	6104220010	335	4	13,214	0.00
W/G ENS OF OVRCT ETC OT TEX MATL SUBJ COT RES, KT ...	APPAREL	6104292010	335	4	0	0.00
W/G SUIT-TYPE JACKETS AND BLAZERS OF COTTON, KNIT ...	APPAREL	6104320000	335	4	2,770,005	0.02
W/G SUIT-TYPE JACKET OT TEX MAT SUBJ COT RES, KNIT ...	APPAREL	6104392010	335	4	3,278	0.00
W/G JACKETS FOR TRACK SUITS OF COTTON, KNIT	APPAREL	6112110020	335	4	37,226	0.00
W/G COATS ETC KNIT COTTON IMPREG RESIN EX RBR/PLAS	APPAREL	6113000020	335	4	8,591	0.00
PARTS OF COATS AND JACKETS OF COTTON, KNIT	APPAREL	6117900032	335	4	8,142	0.00
WOMEN'S RAINCOATS OF COTTON, NOT KNITTED OR CROCHE.	APPAREL	6202122010	335	4	3,382,070	0.02
GIRLS' RAINCOATS OF COTTON, NOT KNITTED OR CROCHET	APPAREL	6202122020	335	4	117,507	0.00
WOMEN'S OVERCOAT CARCOAT & SMLR COAT CORDUROY N KT.	APPAREL	6202122025	335	4	283,970	0.00
GIRLS' OVERCOAT CARCOAT & SMLR COAT CORDUROY NT KT.	APPAREL	6202122035	335	4	13,662	0.00
WOMEN'S OVERCOATS & SMLR COATS COTTON NESOI, NT KT.	APPAREL	6202122050	335	4	8,756,273	0.05
GIRLS' OVERCOATS & SMLR COATS COTTON NESOI, NT KT .	APPAREL	6202122060	335	4	1,599,731	0.01
W&G OVRCTS & SMLR CTS OT MAT SUB COT REST NOT KNIT.	APPAREL	6202190010	335	4	2,829	0.00
W/G GARMENTS DESIGND FOR RAINWEAR COTTON, NOT KNIT.	APPAREL	6202921500	335	4	807,542	0.00
W/G PADDED SLEEVELESS JCKT W SLEEVE ATT COT, NT KT	APPAREL	6202922010	335	4	7,176	0.00
WOMEN'S ANORAK & SMLR ARTICLE COTTON CRDUROY, NT KT.	APPAREL	6202922025	335	4	519,777	0.00
GIRLS' ANORAK & SMLR ARTICLE COTTON CORDUROY, NT KT.	APPAREL	6202922030	335	4	25,875	0.00
WOMEN'S ANORAK & SMLR ARTICLE COTTON NESOI, NT KT	APPAREL	6202922060	335	4	28,707,071	0.17
GIRLS' ANORAKS & SMLR ARTICLE COTTON NESOI, NT KT	APPAREL	6202922070	335	4	8,933,913	0.05
W/G ANORAKS & SMLR ART TEX MAT SUBJ COT REST, NT KT.	APPAREL	6202990010	335	4	4,071	0.00
W/G JACKETS IMP AS PARTS OF SUIT OF COTTON, NT KT	APPAREL	6204120010	335	4	131,756	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/G JCKT IMP PART SUIT OT TEX MAT SUB COT RES, N KT ..	APPAREL	6204193010	335	4	863	0.00
W/G ENSEMBLES OF HDNG 6202 & 6204 OF COT, NOT KNIT ..	APPAREL	6204223010	335	4	120,578	0.00
W/G ENS HDNG 6202 & 6204 OT TEX MAT SBJ COT RES WV ..	APPAREL	6204294010	335	4	932	0.00
W/G SUIT-TYPE JACKETS COTTON >36% FLAX FIBER, N KT ...	APPAREL	6204321000	335	4	124,442	0.00
WOMEN'S SUIT-TYPE JACKETS COTTON CORDUROY, NT KNIT.	APPAREL	6204322010	335	4	187,197	0.00
G SUIT-TYPE JACKETS COT CORD <36% BY WGT FLX NT KN	APPAREL	6204322020	335	4	14,697	0.00
W SUIT-TYPE JACKETS OF COT <36% BY WGT FLAX NOT KN	APPAREL	6204322030	335	4	7,806,557	0.05
G SUIT-TYPE JAC COT CONT <36% BY WGT FLAX NOT KNIT .	APPAREL	6204322040	335	4	365,942	0.00
W/G SUIT-TYPE JACKET OT TEX MAT SUBJ COT RES, NT KT .	APPAREL	6204394010	335	4	8,694	0.00
W/G OVERCT ETC TEX FLT/N/WVN N IMPREG RBR/PLAS, NKT	APPAREL	6210302020	335	4	112,539	0.00
W/G ANORAKS, ETC OF RUBBERIZED TEX MTRL EX MMF, NKT.	APPAREL	6210502020	335	4	126,215	0.00
W/G WATER RES SKI-SUIT ANORAK & SIM ART COT, NT KT ...	APPAREL	6211201540	335	4	52,958	0.00
W/G SKI-SUIT ANORAK & SIMILAR ARTICLES COTTON, N KT ..	APPAREL	6211205010	335	4	145,418	0.00
W/G TRACK SUITS EXCEPT TROUSERS OF COTTON, NT KNIT	APPAREL	6211420040	335	4	20,700	0.00
PARTS OF COATS & JACKETS OF COT, N KNIT OR CROCHTD	APPAREL	6217900025	335	4	808,646	0.00
WOMEN'S DRESSES OF COTTON, KNIT	APPAREL	6104420010	336	4	35,460,415	0.21
GIRLS' DRESSES OF COTTON, KNIT	APPAREL	6104420020	336	4	9,685,800	0.06
W/G DRESSES OF OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6104490010	336	4	455	0.00
W/G DRESSES COT CRTFD HNDLMD/FOLKLORE PROD, N KT	APPAREL	6204421000	336	4	190	0.00
W/G DRESSES COTTON >36 PERCENT FLAX FIBERS, NT KT ..	APPAREL	6204422000	336	4	11,787	0.00
W DRESSES OF COT CORD CONT >36% BY WGT FLX FB, N K	APPAREL	6204423010	336	4	780,247	0.00
G DRESSES OF COT CORD CONT >36% BY WGT FLX, NOT KN.	APPAREL	6204423020	336	4	245,516	0.00
W DRESS COT >2 COLORS WARP/FLLNG <36% FLX F, N KT ..	APPAREL	6204423030	336	4	4,565,396	0.03
G DRESS COT >2 COLORS WARP/FLLNG <36% FLX F, N KT ...	APPAREL	6204423040	336	4	1,104,444	0.01
WOM DRESS OF COT CONT <36% WGT FLAX FIB, NT K/CROC	APPAREL	6204423050	336	4	41,906,371	0.25
G DRES NESOI OF COTTON CONT <36% FLX FIB, NOT KNIT ..	APPAREL	6204423060	336	4	9,332,875	0.05
W/G DRESSES OF OT TEXTILE MAT SUBJ COT RES, NT KT	APPAREL	6204490010	336	4	7,504	0.00
M/B ENSEMBLES OF SHIRTS OF COTTON, KNIT	APPAREL	6103220050	338	4	2,406	0.00
MEN'S SHIRTS OF COTTON, KNIT	APPAREL	6105100010	338	4	30,226,854	0.18
BOYS' SHIRTS NESOI OF COTTON, KNIT	APPAREL	6105100030	338	4	4,166,922	0.02
M/B SHIRTS OF OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6105903010	338	4	234	0.00
MEN'S T-SHIRTS EXC UNDERWEAR OF COTTON, KNIT	APPAREL	6109100012	338	4	23,003,082	0.14
BOYS' T-SHIRTS EXC UNDERWEAR OF COTTON, KNIT	APPAREL	6109100014	338	4	2,970,228	0.02
MEN'S TANK TOPS & SINGLET EX UNDRWEAR OF COT, KNIT	APPAREL	6109100018	338	4	2,941,638	0.02
BOYS' TANK TOPS & SINGLET EX UNDRWEAR OF COT, KNIT	APPAREL	6109100023	338	4	1,831,332	0.01
M/B ART SIM T-SHIRTS EXC UNDERWEAR OF COTTON, KNIT	APPAREL	6109100027	338	4	1,703,904	0.01
M/B SWTSHT & SMLR ART OF COT CONT 36% FLX FIB, KNIT .	APPAREL	6110201025	338	4	26,202	0.00
M/B SWEATSHIRTS OF OTHER COTTON, KNITTED	APPAREL	6110202040	338	4	4,336,926	0.03
M/B OTHER APPAREL OF COTTON, KNIT	APPAREL	6110202065	338	4	30,825,174	0.18
M/B PULLOV & SMLR ART OT TEX MAT SUBJ COT RES, KNIT	APPAREL	6110900068	338	4	198	0.00
M/B SHIRTS FOR TRACK SUITS OF COTTON, KNIT	APPAREL	6112110030	338	4	66,090	0.00
MEN'S OR BOYS' TOPS OF COTTON, KNIT	APPAREL	6114200005	338	4	350,076	0.00
W/G ENSEMBLES OF BLOUSES SHIRTS TOPS OF COT, KNIT .	APPAREL	6104220060	339	4	324,102	0.00
W/G ENS BLOUSE OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6104292046	339	4	3,000	0.00
WOMEN'S BLOUSES AND SHIRTS OF COTTON, KNIT	APPAREL	6106100010	339	4	24,535,578	0.14
GIRLS' BLOUSES NESOI OF COTTON, KNIT	APPAREL	6106100030	339	4	1,842,528	0.01
W/G BLOUSES OF SILK SUBJECT COTTON RESTRAINTS, KNIT.	APPAREL	6106902010	339	4	372	0.00
W/G BLOUSES OF OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6106903010	339	4	2,418	0.00
WOMEN'S T-SHIRTS EXCEPT UNDERWEAR OF COTTON, KNIT.	APPAREL	6109100040	339	4	21,568,494	0.13
GIRLS' T-SHIRTS EXCEPT UNDERWEAR OF COTTON, KNIT	APPAREL	6109100045	339	4	2,463,006	0.01
WOMEN'S TANK TOPS EXCEPT UNDERWEAR OF COTTON, KNIT.	APPAREL	6109100060	339	4	14,407,410	0.08
GIRLS' TANK TOPS EXCEPT UNDERWEAR OF COTTON, KNIT	APPAREL	6109100065	339	4	1,072,452	0.01
W/G ART SIM T-SHIRTS & TANK TOPS OF COTTON, KNIT	APPAREL	6109100070	339	4	4,466,490	0.03
W/G SWTSHT & SMLR ART OF COT CONT 36% FLX FIB, KNIT	APPAREL	6110201030	339	4	111,462	0.00
W/G SWEATSHIRTS OF OTHER COTTON, KNIT	APPAREL	6110202045	339	4	1,988,532	0.01
W/G OTHER APPAREL OF COTTON, KNIT	APPAREL	6110202075	339	4	55,895,916	0.33
W/G PULLOV & SMLR ART OT TEX MAT SUBJ COT RES, KNIT	APPAREL	6110900070	339	4	1,332	0.00
W/G SHIRTS FOR TRACK SUITS OF COTTON, KNIT	APPAREL	6112110040	339	4	39,696	0.00
WOMEN'S OR GIRLS' TOPS OF COTTON, KNITTED OR CROCH.	APPAREL	6114200010	339	4	5,455,134	0.03
PARTS OF BLOUSES AND SHIRTS OF COTTON, KNIT	APPAREL	6117900022	339	4	9,078	0.00
M/B ENSEMBLES OF SHIRTS OF COTTON, NOT KNIT	APPAREL	6203223050	340	4	131,213	0.00
M/B SHIRT COTTON CRTFD HND-LMD/FLKLRE PROD, NT KT ..	APPAREL	6205201000	340	4	40	0.00
MEN'S DRESS SHIRTS OF COTTON W >2 COLORS WARP, N KT.	APPAREL	6205202015	340	4	25,603,259	0.15
BOYS' DRESS SHIRTS OF COTTON W >2 COLORS WARP, N KT.	APPAREL	6205202020	340	4	885,988	0.01

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
MEN'S DRESS SHIRTS OF COTTON; NESOI, NOT KNIT	APPAREL	6205202025	340	4	34,915,710	0.21
BOYS' DRESS SHIRTS OF COTTON; NESOI, NOT KNIT	APPAREL	6205202030	340	4	3,974,212	0.02
MEN'S SHIRTS OF COTTON CORDUROY, NOT KNIT	APPAREL	6205202035	340	4	2,001,839	0.01
BOYS' SHIRTS COTTON CODRY N IMP PLYSUIT PT, NT KT	APPAREL	6205202045	340	4	119,997	0.00
MEN'S SHIRTS COT WITH >2 COLOR WARP NAPPED NT KNIT	APPAREL	6205202046	340	4	12,323,692	0.07
MEN'S SHIRTS COT WTH >2 CLR WARP, NT NAPPD NT KNIT .	APPAREL	6205202050	340	4	63,175,808	0.37
BOYS' SHRT COT W >2 CLR WRP N/NP N/IMP PLYST PT, N K .	APPAREL	6205202060	340	4	5,671,939	0.03
MEN'S COTTON SHIRTS NESOI, NOT KNIT	APPAREL	6205202065	340	4	127,164,841	0.75
BOYS' SHIRTS COTTON NESOI NT IMP PLYSUIT PTS, N KT	APPAREL	6205202075	340	4	21,365,878	0.13
M/B SHIRTS SILK SUBJECT COTTON RESTRAINTS, NT KNIT ...	APPAREL	6205902010	340	4	543	0.00
M/B SHIRTS OF OT TEXTILE MAT SUBJ COT RES, NT KNIT	APPAREL	6205904010	340	4	14,753	0.00
M/B SHIRTS EXCL FROM HDNG 6205 OF COTTON, NOT KNIT .	APPAREL	6211320060	340	4	2,009,598	0.01
W/G ENSMBLS BLOUSES & SHIRTS COTTON >2 COLORS, N KT.	APPAREL	6204223060	341	4	495,773	0.00
W/G ENSMBLS BLOUSE & SHIRT COTTON NOT 2 COLOR, N KT.	APPAREL	6204223065	341	4	1,852,740	0.01
W/G ENS BLOUSE OT TEXTILE MAT SUBJ COT RES, NT KT	APPAREL	6204294046	341	4	0	0.00
W/G BLOUSES OF SILK SUBJECT COTTON RESTRAINTS, N KT.	APPAREL	6206100010	341	4	4,283	0.00
W/G BLOUSES COTTON CRTFD FOLKLORE PRODUCTS, NT KT.	APPAREL	6206301000	341	4	61	0.00
W/G BLOUSES COTTON CONT >=36% FLAX FIBERS, NOT KT .	APPAREL	6206302000	341	4	65,025	0.00
WOMEN'S BLOUSES COTTON WITH >=2 COLOR WARP, NT KN.	APPAREL	6206303010	341	4	22,312,146	0.13
G BLSS COT <36% W FLX FIB NT IMP PLYST PARTS, N KT	APPAREL	6206303030	341	4	715,171	0.00
WOM BLSES COT NESOI <36% BY WGT OF FLX FIB N K/CRC .	APPAREL	6206303040	341	4	93,045,249	0.55
GIRLS' BLSES NESOI COT <36% FLX FIB, N KT/CRC	APPAREL	6206303060	341	4	6,255,978	0.04
W/G BLOUSES OF OT TEXTILE MAT SUBJ COT RES, N KT	APPAREL	6206900010	341	4	17,727	0.00
W/G COT BLSES, SHRTS & SHRT-BLSES, 2>=CLRS WP, NK	APPAREL	6211420050	341	4	3,005,713	0.02
PARTS OF BLOUSES & SHIRTS OF COT, N KNIT OR CROCHT	APPAREL	6217900003	341	4	24,345	0.00
W/G SKIRTS ETC IMP AS PARTS OF SUIT OF COTTON, KNIT :.	APPAREL	6104120020	342	4	6,005	0.00
W/G SKRT IMP PART SUIT OT TEX MAT SUB COT RES, KNIT .	APPAREL	6104192020	342	4	0	0.00
W/G ENSEMBLES OF SKIRTS OF COTTON, KNIT	APPAREL	6104220030	342	4	103,212	0.00
W/G ENS OF SKIRTS OF OT TEX MAT SUBJ COT RES, KNIT ...	APPAREL	6104292022	342	4	0	0.00
WOMEN'S SKIRTS AND DIVIDED SKIRTS OF COTTON, KNIT ...	APPAREL	6104520010	342	4	11,578,283	0.07
GIRLS' SKIRTS AND DIVIDED SKIRTS OF COTTON, KNIT	APPAREL	6104520020	342	4	802,037	0.00
W/G SKIRTS OT TEXTILE MATERIAL SUBJ COT RES, KNIT	APPAREL	6104592010	342	4	4,917	0.00
W/G SKIRTS ETC IMP AS PARTS OF SUIT OF COTTON, N KT .	APPAREL	6204120020	342	4	47,322	0.00
W/G SKRT IMP PART SUIT OT TEX MAT SUB COT RES, N KT .	APPAREL	6204193020	342	4	224	0.00
W/G ENSEMBLES OF SKIRTS OF COTTON, NOT KNIT	APPAREL	6204223030	342	4	774,636	0.00
W/G ENS OF SKIRTS OF OT TEX MAT SUBJ COT RES, NT KT .	APPAREL	6204294022	342	4	149	0.00
W/G SKIRTS & DIVIDED SKIRTS COT FRKLR PROD, NT KT	APPAREL	6204521000	342	4	60	0.00
WOMEN'S SKIRTS & DIVIDED SKIRTS COT CORDUROY, N KT	APPAREL	6204522010	342	4	1,119,094	0.01
GIRLS' SKIRTS & DIVIDED SKIRTS COT CORDUROY, NT KT	APPAREL	6204522020	342	4	178,040	0.00
WOMEN'S SKIRT & DIVIDED SKIRT COT BLUE DENIM, N KT	APPAREL	6204522030	342	4	5,264,802	0.03
GIRLS' SKIRT & DIVIDED SKIRT COT BLUE DENIM, N KT	APPAREL	6204522040	342	4	2,232,780	0.01
WOMEN'S SKIRT & DIVIDED SKIRT COTTON; NESOI, NT KT	APPAREL	6204522070	342	4	26,941,733	0.16
GIRLS' SKIRTS & DIVD SKIRTS OT COTTON; NESOI, N KN	APPAREL	6204522080	342	4	2,899,689	0.02
W/G SKIRTS OT TEXTILE MATERIAL SUBJ COT RES, NT KT	APPAREL	6204594010	342	4	4,068	0.00
M/B ENSEMBLES OF SWEATERS OF COTTON, KNIT	APPAREL	6103220070	345	4	0	0.00
M/B ENS SWEATERS OF OT TEX MAT SUBJ COT RES, KNIT ...	APPAREL	6103292058	345	4	0	0.00
W/G ENSEMBLES OF SWEATERS OF COTTON, KNIT	APPAREL	6104220080	345	4	1,632	0.00
W/G ENS SWEATER OT TEXTILE MAT SUBJ COT RES, KNIT ..	APPAREL	6104292056	345	4	0	0.00
M/B SWEATERS OF COT CONT 36% MORE FLAX FIBERS, KNIT.	APPAREL	6110201010	345	4	232,294	0.00
W/G SWEATERS OF COT CONT 36% MORE FLAX FIBERS, KNIT.	APPAREL	6110201020	345	4	212,705	0.00
MEN'S SWEATERS OF OTHER COTTON, KNIT	APPAREL	6110202010	345	4	24,121,451	0.14
BOYS' SWEATERS OF OTHER COTTON, KNIT	APPAREL	6110202015	345	4	1,664,309	0.01
WOMEN'S SWEATERS OF OTHER COTTON, KNIT	APPAREL	6110202020	345	4	32,787,924	0.19
GIRLS' SWEATERS OF OTHER COTTON, KNIT	APPAREL	6110202025	345	4	1,240,747	0.01
M/B SWEATERS OF OTH TEXTILE MAT SUBJ COT RES, KNIT .	APPAREL	6110900010	345	4	3,480	0.00
W/G SWEATERS OF OTH TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6110900026	345	4	50,142	0.00
PARTS OF SWEATERS OF COTTON, KNIT	APPAREL	6117900010	345	4	862	0.00
M/B TROUSERS ETC IMP AS PT OF SUIT OF COTTON, KNIT ...	APPAREL	6103192015	347	4	879	0.00
M/B TRSRS AS SUIT PTS OF OT TEX SUBJ COT RES, KNIT	APPAREL	6103194020	347	4	0	0.00
M/B ENSEMBLES OF TROUSERS AND BREECHES OF COT, KNIT.	APPAREL	6103220030	347	4	60	0.00
M/B ENSEMBLES OF SHORTS OF COTTON, KNIT	APPAREL	6103220040	347	4	6,020	0.00
MEN'S TROUSERS AND BREECHES OF COTTON, KNIT	APPAREL	6103421020	347	4	2,538,290	0.01
BOY'S TROUSERS & BREECHES, NESOI, OF COTTON, KNIT ...	APPAREL	6103421040	347	4	1,109,201	0.01
MEN'S SHORTS OF COTTON, KNIT	APPAREL	6103421050	347	4	4,177,781	0.02

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BOYS' SHORTS, OTH THN IMPT PRTS PLYSTS, COT, KNIT	APPAREL	6103421070	347	4	1,044,803	0.01
M/B TROUSERS ETC OF OT TEX MAT SUBJ COT RES, KNIT	APPAREL	6103493010	347	4	1,550	0.00
M/B TROUSERS FOR TRACK SUITS OF COTTON, KNIT	APPAREL	6112110050	347	4	278,660	0.00
M/B TROUSERS KNIT COT IMPREG RESIN EX RBR/PLASTIC	APPAREL	6113000035	347	4	75	0.00
M/B SUITS OF OT COT TROUS BREECH & SHRTS IMP PT ST	APPAREL	6203191020	347	4	99,621	0.00
M/B TRSRS AS SUIT PTS OF OT TEX SUBJ COT RES, NT KT	APPAREL	6203194020	347	4	30	0.00
M/B ENSEMBLES OF TROUSERS AND BREECHES OF COT, N KT.	APPAREL	6203223020	347	4	8,851	0.00
M/B ENSEMBLES OF SHORTS OF COTTON, NOT KNIT	APPAREL	6203223030	347	4	100,873	0.00
MEN'S TROUSERS & BREECHES COTTON CORDUROY, NT KNIT.	APPAREL	6203424005	347	4	3,068,759	0.02
MEN'S TROUSER & BREECHES COTTON BLUE DENIM, NT KT	APPAREL	6203424010	347	4	30,421,345	0.18
MEN'S TROUSERS & BREECHES OTHER COTTON, NOT KNIT	APPAREL	6203424015	347	4	88,659,962	0.52
BOYS' TROUSER ETC COT CORDRY NT PLAYSUIT PTS, NT KT.	APPAREL	6203424025	347	4	2,286,122	0.01
BOYS' TROUSER ETC COT BLUE DNIM N PLAYSUIT PT, N KT	APPAREL	6203424035	347	4	17,607,062	0.10
BOYS' TROUSER ETC OT COTTON NT PLAYSUIT PT, NT KT	APPAREL	6203424045	347	4	23,000,534	0.14
MEN'S SHORTS OF COTTON, NOT KNIT	APPAREL	6203424050	347	4	70,219,766	0.41
BOYS' SHORTS COTTON NOT PLAYSUIT PARTS, NOT KNIT	APPAREL	6203424060	347	4	22,693,162	0.13
M/B TROUSER ETC OT TEX MTRL SUBJ COT RSTRTS, NT KT	APPAREL	6203493020	347	4	7,882	0.00
M/B TROUSERS RUBBERIZED TEX MTRL EX MMF, NOT KNIT	APPAREL	6210402030	347	4	2,608	0.00
M/B WTR RES TRSER, BREECHES IMP PRT OF SKI-S NT KNT	APPAREL	6211201520	347	4	0	0.00
M/B SKI-SUIT TROUSER & BREECHES COTTON NOT KNIT	APPAREL	6211203010	347	4	30	0.00
M/B TRACK SUIT TROUSERS OF COTTON, NOT KNIT	APPAREL	6211320040	347	4	40,141	0.00
W/G TROUSERS ETC IMP AS PART OF SUIT OF COT, KNIT	APPAREL	6104120030	348	4	8,731	0.00
W/G TRSR IMP PART SUIT OT TEX MAT SUB COT RES, KNIT	APPAREL	6104192030	348	4	0	0.00
W/G ENSEMBLES OF TROUSER & BREECHES OF COTTON, KNIT.	APPAREL	6104220040	348	4	466,430	0.00
W/G ENSEMBLES OF SHORTS OF COTTON, KNIT	APPAREL	6104220050	348	4	211,327	0.00
W/G ENS TROUSER OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6104292034	348	4	7,450	0.00
WOMEN'S TROUSERS OF COTTON, KNITTED	APPAREL	6104622010	348	4	31,569,852	0.19
G TROUSERS COT N-IMPORTED AS PART OF PLAYSTS, KNIT	APPAREL	6104622025	348	4	3,511,692	0.02
WOMEN'S SHORTS OF COTTON, KNIT	APPAREL	6104622030	348	4	11,468,873	0.07
G SHORTS COT N-IMPORTED AS PART OF PLAYSUITS, KNIT	APPAREL	6104622060	348	4	2,285,243	0.01
W/G TROUSERS OF OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6104693022	348	4	596	0.00
W/G TROUSERS FOR TRACK SUITS OF COTTON, KNIT	APPAREL	6112110060	348	4	151,578	0.00
W/G TROUSERS KNIT COT IMPREG RESIN EX RBR/PLASTIC	APPAREL	6113000040	348	4	30	0.00
PARTS OF TROUSERS BREECHES & SHORTS OF COTTON, KNIT.	APPAREL	6117900042	348	4	142,906	0.00
W/G TROUSERS ETC IMP AS PART OF SUIT OF COT, NT KT	APPAREL	6204120030	348	4	237,774	0.00
W/G TRSR IMP PART SUIT OT TEX MAT SUB COT RES, N KT	APPAREL	6204193030	348	4	0	0.00
W/G ENSEMBLES OF TROUSER & BREECHES OF COTTON, N KT.	APPAREL	6204223040	348	4	1,112,523	0.01
W/G ENSEMBLES OF SHORTS OF COTTON, NT KNTTD OR CHOC.	APPAREL	6204223050	348	4	1,084,452	0.01
W/G ENS TROUSER OT TEXTILE MAT SUBJ COT RES, NT KT	APPAREL	6204294034	348	4	268	0.00
W/G TROUSERS ETC COTTON CRTFD FOLKLORE PROD, NT KT.	APPAREL	6204623000	348	4	0	0.00
WOMEN'S TROUSERS AND BREECHES COT CORDUROY, NT KT.	APPAREL	6204624005	348	4	4,691,921	0.03
WOMEN'S TROUSERS & BREECHES COT BLUE DENIM, NT KT	APPAREL	6204624010	348	4	52,891,052	0.31
WOMEN'S TROUSERS & BREECHES OTHER COTTON, NOT KNIT.	APPAREL	6204624020	348	4	75,938,774	0.45
GIRLS' TROUSERS COT CORD NT IMP PLAYSUIT PTS, N KT	APPAREL	6204624030	348	4	2,629,910	0.02
GIRLS' TROUSER COT BLUE DNM NT IMP PLYSUIT PT, N KT	APPAREL	6204624040	348	4	10,918,646	0.06
GIRLS' TROUSER OT COTTON NOT IMP PLAYSUIT PT, N KT	APPAREL	6204624050	348	4	7,330,219	0.04
WOMEN'S SHORTS OF COTTON, NOT KNIT	APPAREL	6204624055	348	4	78,005,717	0.46
GIRLS' SHORTS COTTON IMP PLAYSUIT PARTS, NOT KNIT	APPAREL	6204624065	348	4	11,863,469	0.07
W/G TROUSER ETC SILK SUBJ COTTON RESTRAINTS, NT KT	APPAREL	6204693010	348	4	12,337	0.00
W/G TROUSERS OF OT TEXTILE NAT SUBJ COT RES, N KT	APPAREL	6204699010	348	4	25,822	0.00
W/G TROUSERS OF RUBBERIZED TEX MTRL EX MMF, NT KT	APPAREL	6210502030	348	4	16,107	0.00
W/G WTR RES SKI-SUIT TROUSERS, BREECHES COT, NT KNT.	APPAREL	6211201550	348	4	2,205	0.00
W/G SKI-SUIT TROUSERS & BREECHES COTTON, NOT KNIT	APPAREL	6211205010	348	4	75	0.00
W/G TRACK SUIT TROUSERS OF COTTON, NOT KNIT	APPAREL	6211420030	348	4	9,864	0.00
PARTS OF TROUSERS AND BREECHES OF COTTON, NOT KNIT.	APPAREL	6217900050	348	4	83,515	0.00
MEN'S NIGHTSHIRTS AND PAJAMAS OF COTTON, KNIT	APPAREL	6107210010	351	4	1,878,852	0.01
BOYS' NIGHTSHIRTS AND PAJAMAS OF COTTON, KNIT	APPAREL	6107210020	351	4	13,485	0.00
MENS OR BOYS SLEEPWEAR, OF COTTON, KNIT	APPAREL	*6107910010	351	4	1,032,999	0.01
MENS OR BOYS SLEEPWEAR, OF COTTON, KNIT	APPAREL	*6107910020	351	4	10,328	0.00
WOMEN'S NIGHTDRESSES AND PAJAMAS OF COTTON, KNIT	APPAREL	6108310010	351	4	78,679,190	0.46

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
GIRLS' NIGHTDRESSES AND PAJAMAS OF COTTON, KNIT	APPAREL	6108310020	351	4	360,224	0.00
MEN'S NIGHTSHIRTS & PJS COT WITH > 2 CLR WRP, N KT	APPAREL	6207210010	351	4	6,439,566	0.04
BOYS' NIGHTSHIRTS & PJS COT WITH > 2 CLR WRP, N KT	APPAREL	6207210020	351	4	10,266	0.00
MENS' NIGHTSHIRTS COT NT CONT > 2 CLR WRP, NT KNIT	APPAREL	6207210030	351	4	28,322,067	0.17
BOYS' NIGHTSHIRTS COT NT CONT > 2 CLR WRP, NT KNIT	APPAREL	6207210040	351	4	77,517	0.00
W/G NIGHTDRESSES ETC COTTON > 2 COLOR WARP, NOT KT.	APPAREL	6208210010	351	4	3,758,183	0.02
WOMEN'S NIGHTDRESS ETC COT NT > 2 COLOR WRP, N KT	APPAREL	6208210020	351	4	67,337,957	0.40
GIRLS' NIGHTDRESS ETC COT NT > 2 COLOR WARP, N KT	APPAREL	6208210030	351	4	64,946	0.00
MEN'S UNDERPANTS AND BRIEFS OF MAN-MADE FIBERS, KNIT.	APPAREL	6107110010	352	4	35,416,964	0.21
BOYS' UNDERPANTS AND BRIEFS OF MAN-MADE FIB, KNIT	APPAREL	6107110020	352	4	5,204,560	0.03
W/G SLIPS AND PETTICOATS OF COTTON, KNIT	APPAREL	6108190010	352	4	72,781	0.00
WOMEN'S BRIEFS AND PANTIES OF COTTON, KNIT	APPAREL	6108210010	352	4	116,018,228	0.68
GIRLS' BRIEFS AND PANTIES OF COTTON, KNIT	APPAREL	6108210020	352	4	19,642,699	0.12
WOMEN'S & GIRLS' UNDERPANTS OF COTTON, KNIT	APPAREL	6108910005	352	4	284,556	0.00
WOMEN'S UNDERWEAR EXCEPT UNDERPNTS OF COTTON, KNIT.	APPAREL	6108910015	352	4	1,333,117	0.01
GIRLS' COTTON UNDERWEAR EXCEPT UNDERPANTS, KNIT	APPAREL	6108910025	352	4	747,923	0.00
M/B T-SHIRTS, ALL WHITE UNDERWEAR OF COTTON, KNIT	APPAREL	6109100005	352	4	42,508,683	0.25
M/B SINGLETS, ALL WHITE UNDERWEAR OF COTTON, KNIT	APPAREL	6109100007	352	4	754,483	0.00
M/B ART SMLR T-SHIRTS UNDERWEAR OF COTTON, KNIT	APPAREL	6109100009	352	4	2,923,116	0.02
W/G UNDERWEAR OF COTTON, KNIT	APPAREL	6109100037	352	4	3,142,481	0.02
M/B UNDERPANTS AND BRIEFS OF COTTON, NOT KNIT	APPAREL	6207110000	352	4	10,191,815	0.06
M/B SINGLETS, OTHER UNDERSHIRTS COTTON, NOT KNT	APPAREL	6207913000	352	4	456,734	0.00
W/G SLIPS AND PETTICOATS OF COTTON, NOT KNIT	APPAREL	6208192000	352	4	79,543	0.00
WOMEN'S BRFS PNTS SGLTS & O UDRSHRTS OF COTTON N K.	APPAREL	6208913010	352	4	2,282,327	0.01
GIRLS' BRFS PNTS SNGLTS & O UDRSHRT OF COTTON, N K	APPAREL	6208913020	352	4	144,606	0.00
M/B WAISTCOATS IMP AS PART OF SUIT OF COTTON, KNIT	APPAREL	6103192030	359	4	15,207	0.00
M/B WSCTS AS SUIT PTS OF OT TEX SUBJ COT RES, KNIT	APPAREL	6103194030	359	4	0	0.00
MEN'S OR BOYS' ENSEMBLES NESOI OF COTTON, KNIT	APPAREL	6103220080	359	4	782	0.00
MEN'S OR BOYS' OVERALLS OF COTTON, INSULATED, KNIT	APPAREL	6103422010	359	4	0	0.00
MB (B OT THN SZ 2-7) OVERALLS OF COT N-INSUL KNIT	APPAREL	6103422025	359	4	14,943	0.00
M/B OVERALLS OF OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6103493034	359	4	0	0.00
W/G WAISTCOATS IMP AS PARTS OF SUIT OF COTTON, KNIT	APPAREL	6104120040	359	4	9	0.00
W/G WASTCT IMP PT SUIT OT TEX MAT SUB COT RES, KNIT	APPAREL	6104192040	359	4	0	0.00
W/G ENSEMBLES NESOI OF COTTON, KNIT	APPAREL	6104220090	359	4	9,248	0.00
W/G ENS NESOI OF OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6104292074	359	4	0	0.00
W/G OVERALLS OF COTTON, INSULATED KNIT OR CROCETED.	APPAREL	6104621010	359	4	17,978	0.00
WOMEN'S OVERALLS OF COTTON, NT INSULATED KNIT	APPAREL	6104621020	359	4	413,185	0.00
W/G OVERALLS OF OT TEXTILE MAT SUBJ COT RES, KNIT	APPAREL	6104693010	359	4	128	0.00
M/B VESTS EX SWEATER OF COT CONT 36% FLAX FIB, KNIT	APPAREL	6110201022	359	4	5,134	0.00
W/G VESTS EX SWEATER OF COT CONT 36% FLAX FIB, KNIT	APPAREL	6110201024	359	4	139,919	0.00
M/B VESTS (EXC SWEATER VEST) OF OTH COTTON, KNIT	APPAREL	6110202030	359	4	400,070	0.00
W/G VESTS (EXC SWEATER VEST) OF OTHER COTTON, KNIT	APPAREL	6110202035	359	4	843,982	0.00
M/B VESTS (EXC SWTR VEST) TEX MATL SUBJ COT RES, KT	APPAREL	6110900044	359	4	1,139	0.00
W/G VESTS (EXC SWTR VEST) TEX MATL SUBJ COT RES, KT	APPAREL	6110900046	359	4	23,018	0.00
SKI-SUITS OF COTTON, KNIT	APPAREL	6112202010	359	4	1,590	0.00
M/B SWIMWEAR OF COTTON, KNIT	APPAREL	6112390010	359	4	649,581	0.00
W/G SWIMWEAR OF COTTON, KNIT	APPAREL	6112490010	359	4	1,841,687	0.01
M/B OVERALLS KNIT COT IMPREG RESIN EX RBR/PLASTIC	APPAREL	6113000055	359	4	10,991	0.00
W/G OVERALLS KNIT COT IMPREG RESIN EX RBR/PLASTIC	APPAREL	6113000060	359	4	1,904	0.00
M/B OT GRMNT KNIT COT IMPREG RESIN EX RBR/PLASTIC	APPAREL	6113000075	359	4	0	0.00
W/G OT GRMNT KNIT COT IMPREG RESIN EX RBR/PLASTIC	APPAREL	6113000080	359	4	34	0.00
JUMPERS OF COTTON, KNIT	APPAREL	6114200015	359	4	1,214,310	0.01
BODYSUITS AND BODYSHIRTS OF COTTON, KNIT	APPAREL	6114200020	359	4	6,221,737	0.04
CVRALLS, JMPSTS & SIM APREL OF COT INSULATED KNIT	APPAREL	6114200042	359	4	9,486	0.00
M/B(OV SZ 7) OVRALLS/SMLR APRL OF COT NINSLT, KNIT	APPAREL	6114200048	359	4	57,163	0.00
WOMEN'S OVRALLS & SMLR APRL OF COT NINSLTD, KNIT	APPAREL	6114200052	359	4	4,935,262	0.03
MEN'S OR BOYS' OTHER GARMENTS OF COTTON, KNIT	APPAREL	6114200055	359	4	27,821	0.00
WOMEN'S OR GIRLS OTHER GARMENTS OF COTTON, KNIT	APPAREL	6114200060	359	4	1,646,314	0.01
OTHER GARMENTS SUBJECT TO COTTON RESTRAINTS, KNIT.	APPAREL	6114900045	359	4	680	0.00
CLOTHING ACCESSORIES NESOI OF COTTON, KNIT	APPAREL	6117800010	359	4	1,160,395	0.01
PARTS OF GARMENT EXC SWEATERS NESOI OF COTTON, KNIT.	APPAREL	6117900052	359	4	218,680	0.00
M/B PAD SLVLS JACKET W-OUT SLEEVE ATTCH COT, NT KT	APPAREL	6201922010	359	4	2,657,763	0.02
W/G PADDED SLEEVELESS JCKT W-OUT SLV ATT COT, NT KT.	APPAREL	6202922020	359	4	34,876	0.00
M/B WAISTCOATS IMP AS PART OF SUIT OF COTTON, NT KT	APPAREL	6203191030	359	4	2,091	0.00

VOL 60 ISS 83 MY 1 1995 UMI

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M/B WSCTS AS SUIT PTS OF OT TEX SUBJ COT RES, NT KT	APPAREL	6203194030	359	4	0	0.00
MEN'S OR BOYS' ENSEMBLES NESOI OF COTTON, NOT KNIT	APPAREL	6203223060	359	4	42,917	0.00
M OR B BIB AND BRACE OVRALS OF COT INSULATED NT KT	APPAREL	6203422005	359	4	135,142	0.00
MEN'S BIB AND BRACE OVERALLS OF COTTON, NOT KNITTE	APPAREL	6203422010	359	4	11,707,297	0.07
BOYS' BIB AND BRACE OVERALLS OF COTTON, NOT KNI	APPAREL	6203422090	359	4	1,577,167	0.01
W/G WAISTCOATS IMP AS PARTS OF SUIT OF COTTON, N KT	APPAREL	6204120040	359	4	4,412	0.00
W/G WASTCT IMP PT SUIT OT TEX MAT SUB COT RES, N KT	APPAREL	6204193040	359	4	672	0.00
W/G ENSEMBLES NESOI OF COTTON, NOT KNIT	APPAREL	6204223070	359	4	26,376	0.00
W/G ENS, OTH TEX MAT, N-KTD, OTH APPAREL, ST COT RES	APPAREL	6204294058	359	4	18,369	0.00
OTH BIB & BRACE OVRALS COT INSLTD CLD WTH PRT N-KN	APPAREL	6204622005	359	4	215,526	0.00
WOMEN'S BIB AND BRACE OVERALLS OF COTTON, NOT KNIT.	APPAREL	6204622010	359	4	11,069,610	0.07
M/B OVERALLS RUBBERIZED TEX MTRL EX MMF, NT KNIT	APPAREL	6210402040	359	4	37,519	0.00
M/B N-KNIT, OTH THAN MMF, OTH APPAREL, IMPREG FABRIC	APPAREL	*6210402050	359	4	2,678	0.00
W/G N-KT, OTH THN MMF OVRLLS AND CVRLLS, IMPREG FAB.	APPAREL	6210502040	359	4	5,122	0.00
W/G N-KNIT, OTH THAN MMF, OTH APPAREL, IMPREG FABRIC.	APPAREL	*6210502050	359	4	34,689	0.00
MEN'S SWIMWEAR OF COTTON, NOT KNIT	APPAREL	6211112010	359	4	29,860,619	0.18
BOYS' SWIMWEAR OF COTTON, NOT KNIT	APPAREL	6211112020	359	4	14,707,933	0.09
WOMEN'S COTTON SWIMWEAR; NOT KNITTED OR CROCHETED.	APPAREL	6211123003	359	4	193,596	0.00
GIRLS' COTTON SWIMWEAR; NOT KNITTED OR CROCHETED	APPAREL	6211123005	359	4	3,910	0.00
M & B WATER RES NESOI, COTTON, NOT KNIT/CROCHETED	APPAREL	6211201530	359	4	27,727	0.00
W/G WTR RES NESOI, OF COTTON, NOT KNIT/CROCHETED	APPAREL	6211201560	359	4	2,414	0.00
M/B SKI-SUIT, NESOI, COTTON, NOT KNIT OR CROCHETD	APPAREL	6211204015	359	4	3,723	0.00
W/G SKI-SUIT, NESOI, COTTON, NOT KNIT OR CROCHETD	APPAREL	6211207015	359	4	6,894	0.00
M/B CVRALS & SMLR APPAREL COT INSULATE NESOI NT KT	APPAREL	6211320005	359	4	5,056,735	0.03
M/B CVRALS & SMLR APPAREL COT INSULATE NESOI NT KT	APPAREL	6211320007	359	4	3,048,066	0.02
MEN'S CVRALS & SIM APPAREL COT, NT INSULATED NT KT	APPAREL	6211320010	359	4	1,184,093	0.01
B CVRALS & SIM APPAREL COT < SIZE 7 N-INSULATED NK	APPAREL	6211320025	359	4	84,626	0.00
MEN'S OR BOYS' VEST OF COTTON, NOT KNIT	APPAREL	6211320070	359	4	4,118,429	0.02
MEN'S OR BOYS' GARMENTS NESOI OF COTTON, NOT KNIT	APPAREL	6211320080	359	4	3,482,255	0.02
W/G CVRAL & SIMILAR APPRL COT INSULATE NESOI NT KT	APPAREL	6211420005	359	4	46,937	0.00
W/G CVRAL & SIMILAR APPRL COT INSULATE NESOI NT KT	APPAREL	6211420007	359	4	34,400	0.00
WOMEN'S CVRALS & SIM APPAREL COT NT INSLTED NOT KT	APPAREL	6211420010	359	4	18,815,201	0.11
WOMEN'S OR GIRLS' JUMPERS OF COTTON, NOT KNIT	APPAREL	6211420060	359	4	27,137,542	0.16
WOMEN'S OR GIRLS' VESTS OF COTTON, NOT KNIT	APPAREL	6211420070	359	4	4,031,117	0.02
W/G GARMENTS NESOI OF COTTON, NOT KNIT	APPAREL	6211420080	359	4	19,215,134	0.11
TIES, BOW TIES AND CRAVATS OF COTTON, NOT KNITTED	APPAREL	6215900015	359	4	35,870	0.00
ACCESSORIES OF COTTON, NOT KNITTED OR CROCHETED	APPAREL	6217100010	359	4	4,477,146	0.03
PARTS OF GARMENTS NESOI OF COT, NOT KNIT OR CROCHT.	APPAREL	6217900075	359	4	461,108	0.00
M/B ENSEMBLES OF SUIT-TYPE JACKETS OF WOOL, KNIT	APPAREL	6103210020	433	4	331	0.00
M/B ENS OF ST-TYPE TCKTS OF SYN FIB >=23% WL, KNIT	APPAREL	6103230007	433	4	331	0.00
M/B SUIT-TYPE JACKETS AND BLAZERS OF WOOL, KNIT	APPAREL	6103310000	433	4	19,475	0.00
M/B SUIT-TYPE JACKET OF SYN FIB CONT 23% WOOL, KNIT	APPAREL	6103331000	433	4	60	0.00
M/B SUIT-TYPE JACKET OT TEX MAT SUBJ WOOL RES, KNIT	APPAREL	6103392020	433	4	0	0.00
M/B ENSEMBLES OF HEADING 6203 OF WOOL, NOT KNIT	APPAREL	6203210015	433	4	151	0.00
M/B ENS OF HDNG 6203 OF SYN FIB 36% MORE WOOL, N KT	APPAREL	6203230015	433	4	60	0.00
M/B SUIT-TYPE JACKETS AND BLAZERS OF WOOL, NT KNIT	APPAREL	6203310000	433	4	3,215,282	0.02
MEN'S SUIT-TYPE JCKT/BLAZER SYN FIB <36% WOOL, N KT	APPAREL	6203331010	433	4	415,169	0.00
BOYS' SUIT-TYPE JCKT/BLAZER SYN FIB <36% WOOL, N KT	APPAREL	6203331020	433	4	6,502	0.00
M/B SUIT-TYPE JCKT/BLZR ART FIB <36% WOOL, NT KNIT	APPAREL	6203391000	433	4	18,331	0.00
M/B SUIT-TYPE JACKET OT TEX MAT SUBJ WOOL RES, N KT	APPAREL	6203394020	433	4	82,444	0.00
M/B OVERCOATS, CARCOATS, ETC OF WOOL/FAH, KNIT	APPAREL	6101100000	434	4	408,696	0.00
M/B OVERCOAT ETC, OF MMF CONT >=23% WOOL/FAH, KNIT	APPAREL	6101301500	434	4	1,443	0.00
M/B OVERCOAT ETC OF OTH TEX MAT SUBJ WOOL RES, KNIT.	APPAREL	6101900020	434	4	45	0.00
M/B ENSEMBLES OF OVERCOATS ETC OF WOOL/FAH, KNIT	APPAREL	6103210010	434	4	0	0.00
M/B ENS OF OVRCT ETC OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6103230005	434	4	0	0.00
MEN'S OVERCOATS CARCOATS ETC OF WOOL, N KT OR CROC.	APPAREL	6201110010	434	4	3,096,070	0.02
BOYS' OVERCOATS, CARCOATS, ETC OF WOOL, NOT KNIT	APPAREL	6201110020	434	4	76,309	0.00
MEN'S OVERCOATS ETC MMF >=36% BY WGT WOOL, NT KNT.	APPAREL	6201133010	434	4	37,478	0.00
BOYS' OVERCOATS ETC MMF >=36% BY WGT WOOL, NT KNIT.	APPAREL	6201133020	434	4	90	0.00
M/B OVERCOAT ETC OTH TEX MAT SUBJ WOOL RES, NT KNIT.	APPAREL	6201190020	434	4	36,982	0.00
MEN'S ANORAKS SKI-JACKETS ETC OF WOOL, N KT OR CRC	APPAREL	6201912010	434	4	1,393,770	0.01
BOYS' ANORAKS SKI-JACKETS ETC OF WOOL, N KT OR CRC	APPAREL	6201912020	434	4	59,532	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
MEN'S ANORAKS & SMLR ART MMF >=36% WGT WOOL, NT KT.	APPAREL	6201932510	434	4	37,613	0.00
BOYS' ANORAKS & SMLR ART MMF <36% WGHT WOOL, NT KT.	APPAREL	6201932520	434	4	0	0.00
M/B ANORAKS ETC OT TEX MTRL SUBJ WOOL RES, NT KT	APPAREL	6201990020	434	4	857	0.00
M/B ENSEMBLES OF OVERCOATS ETC OF WOOL, NOT KNIT	APPAREL	6203210010	434	4	496	0.00
M/B ENS OF OVRCT ETC OF SYN FIB 36% MORE WOOL, N KT	APPAREL	6203230010	434	4	0	0.00
M/B ANORAKS & SMLR ARTICLE FOR SKI-ST WOOL, NT KT	APPAREL	6211202020	434	4	7,847	0.00
M/B TRACK SUIT EX TROUSERS OF WOOL, N KT OT CROCHT	APPAREL	6211310020	434	4	451	0.00
W/G OVERCOATS, CARCOATS, ETC OF WOOL/FAH, KNIT	APPAREL	6102100000	435	4	856,314	0.01
W/G OVERCOATS, ETC OF MMF CONT >=23% WT W/FAH KNIT.	APPAREL	6102301000	435	4	280,838	0.00
W/G OVERCOAT ETC OF OTH TEX MAT SUBJ WOOL RES, KNIT.	APPAREL	6102900010	435	4	0	0.00
W/G ENSEM OF GRMNTS OF HDNG 6102 & 6104 OF WL KNIT	APPAREL	6104210010	435	4	677	0.00
W/G ENS OF OVRCTS JCKTS ETC SYN FIB >=23% WL, KNIT	APPAREL	6104230010	435	4	496	0.00
W/G ENS OF OVRCT ETC OT TEX MATL SUBJ WL RES, KNIT	APPAREL	6104292012	435	4	0	0.00
W/G SUIT-TYPE JACKETS AND BLAZERS OF WOOL, KNIT	APPAREL	6104310000	435	4	1,090,157	0.01
W/G SUIT-TYPE JCKT SYN FIB CONT 23% MORE WOOL, KNIT	APPAREL	6104331000	435	4	122,086	0.00
W/G SUIT-TYPE JACKET OT TEX MAT SUBJ WOOL RES, KNIT	APPAREL	6104392020	435	4	0	0.00
PARTS OF COATS AND JACKETS OF WOOL, KNIT	APPAREL	6117900034	435	4	0	0.00
WOMEN'S OVERCOATS CARCOAT & SMLR COAT WOOL, NT KNIT.	APPAREL	6202110010	435	4	4,924,289	0.03
GIRLS' OVERCOATS CARCOAT & SMLR COAT WOOL, NT KNIT.	APPAREL	6202110020	435	4	202,634	0.00
WOMEN'S OVERCOAT & SMLR COATS MMF >=36% WOOL NT KT.	APPAREL	6202133010	435	4	55,518	0.00
GIRLS' OVERCOAT & SMLR COATS MMF >=36% WOOL, NT KT	APPAREL	6202133020	435	4	1,759	0.00
W&G OVRCTS & SMLR CTS OT MAT SUB WOOL REST NOT KNT.	APPAREL	6202190020	435	4	1,579	0.00
WOMEN'S ANORAK SKI-JACKETS & SMLR ART WOOL, NT KT	APPAREL	6202912010	435	4	1,126,327	0.01
GIRLS' ANORAK SKI-JACKETS & SMLR ART WOOL, NT KNIT	APPAREL	6202912020	435	4	56,871	0.00
WOMEN'S ANORAK & SMLR ARTICLS MMF >=36% WOOL, NT KT.	APPAREL	6202934010	435	4	25,346	0.00
GIRLS' ANORAK & SMLR ARTICLS MMF >=36% WOOL, NT KT	APPAREL	6202934020	435	4	5,322	0.00
W/G ANORAKS & SMLR ART TEX MAT SUBJ WOOL RES, NT KT.	APPAREL	6202990020	435	4	45	0.00
W/G ENSEMBLES OF HDNG 6202 & 6204 OF WOOL NOT KNIT	APPAREL	6204210010	435	4	186,083	0.00
W/G ENS HDNG 6202/6204 SYN FIB >=36% WL/FAH, WOVEN	APPAREL	6204230005	435	4	1,353	0.00
W/G ENS HDNG 6202 & 6204 OT TEX MAT SUBJ WL RES WV	APPAREL	6204294012	435	4	1,939	0.00
WOMEN'S SUIT-TYPE JACKETS WOOL >=30% SILK, NT KNIT	APPAREL	6204311010	435	4	36,757	0.00
GIRLS' SUIT-TYPE JACKETS WOOL >30% SILK, NT KNIT	APPAREL	6204311020	435	4	135	0.00
WOMEN'S SUIT-TYPE JACKETS WOOL NOT >30% SILK, NT KT	APPAREL	6204312010	435	4	10,933,864	0.06
GIRLS' SUIT-TYPE JACKETS OF WOOL <30% SILK, NT KT	APPAREL	6204312020	435	4	28,909	0.00
WOMEN'S SUIT-TYPE JACKETS SYN FIB >36% WOOL, NT KT	APPAREL	6204334010	435	4	623,192	0.00
GIRLS' SUIT-TYPE JACKETS SYN FIB >36% WOOL, NT KT	APPAREL	6204334020	435	4	902	0.00
WOMEN'S SUIT-TYPE JACKETS ART FIB >36% WOOL, NT KT	APPAREL	6204392010	435	4	123,168	0.00
GIRLS' SUIT-TYPE JACKETS ART FIB >36% WOOL, NT KT	APPAREL	6204392020	435	4	90	0.00
W/G SUIT-TYPE JACKET OT TEX MAT SUBJ WOOL RES, N KT	APPAREL	6204394020	435	4	47,175	0.00
W/G SKI-SUIT ANORAK & SIMILAR ARTICLES WOOL, NT KT	APPAREL	6211205020	435	4	451	0.00
W/G TRACK SUIT EX TROUSERS OF WOOL, N KNIT OR CROC	APPAREL	6211410020	435	4	631	0.00
PARTS OF COATS & JACKETS OF WOOL, N KNIT OR CROCHT.	APPAREL	6217900030	435	4	339,513	0.00
WOMEN'S DRESSES OF WOOL, OR FINE ANIMAL HAIR, KNIT	APPAREL	6104410010	436	4	2,048,054	0.01
GIRLS' DRESSES OF WOOL OR FINE ANIMAL HAIR, KNIT	APPAREL	6104410020	436	4	2,425	0.00
WOMEN'S DRESS OF SYN FIB CONT 23% MORE WOOL, KNIT	APPAREL	6104431010	436	4	1,758,464	0.01
GIRLS' DRESSES OF SYN FIB CONT 23% MORE WOOL, KNIT	APPAREL	6104431020	436	4	32,469	0.00
W/G DRESSES ART FIB CONT 23% MORE WOOL, KNIT	APPAREL	6104441000	436	4	37,894	0.00
W/G DRESSES OF OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6104490020	436	4	370	0.00
W/G DRESSES WOOL >30 PERCENT SILK, N KNIT OR CROC	APPAREL	6204411000	436	4	8,261	0.00
WOMEN'S DRESSES WOOL NOT >30 PERCENT SILK, NT KT	APPAREL	6204412010	436	4	1,507,795	0.01
GIRLS' DRESSES WOOL NOT >30 PERCENT SILK, NT KNIT	APPAREL	6204412020	436	4	16,974	0.00
WOMEN'S DRESS OF SYN FIB CONT 36% MORE WOOL, N KT	APPAREL	6204433010	436	4	60,581	0.00
GIRLS' DRESSES OF SYN FIB CONT 36% MORE WOOL, N KT	APPAREL	6204433020	436	4	2,055	0.00
WOMEN'S DRESSES ART FIBER >36% WOOL, NOT KNIT	APPAREL	6204443010	436	4	13,810	0.00
GIRLS' DRESSES ART FIBER >36% WOOL, NOT KNIT	APPAREL	6204443020	436	4	41	0.00
W/G DRESSES OF OT TEXTILE MAT SUBJ WOOL RES, NT KT	APPAREL	6204490020	436	4	575	0.00
M/B ENSEMBLES OF SHIRTS OF WOOL, KNIT	APPAREL	6103210050	438	4	0	0.00
M/B ENS OF SHIRTS OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6103230025	438	4	0	0.00
W/G ENSEMBLES OF BLOUSES AND SHIRTS OF WOOL, KNIT	APPAREL	6104210060	438	4	1,275	0.00
W/G ENS BLOUSES & TOPS OF SYN FIB >=23% WOOL, KNIT	APPAREL	6104230020	438	4	9,438	0.00
W/G ENS BLOUSE OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6104292048	438	4	0	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
M/B SHIRTS OF MAN-MADE FIBER CONT >=23% WOOL, KNIT .	APPAREL	6105201000	438	4	11,475	0.00
M/B SHIRTS OF WOOL OR FINE ANIMAL HAIR, KNIT	APPAREL	6105901000	438	4	27,188	0.00
M/B SHIRTS OF OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6105903020	438	4	13	0.00
WOMEN'S BLOUSES OF MMF CONT 23% MORE WOOL, KNIT .	APPAREL	6106201010	438	4	337,475	0.00
GIRLS' BLOUSES OF MMF CONT 23% MORE WOOL, KNIT	APPAREL	6106201020	438	4	11,963	0.00
WOMEN'S BLOUSES OF WOOL OR FINE ANIMAL HAIR, KNIT ..	APPAREL	6106901010	438	4	588,450	0.00
GIRLS' BLOUSES OF WOOL OR FINE ANIMAL HAIR, KNIT	APPAREL	6106901020	438	4	363	0.00
W/G BLOUSES OF SILK SUBJECT WOOL RESTRAINTS, KNIT ..	APPAREL	6106902020	438	4	0	0.00
W/G BLOUSES OF OT TEXTILE MAT SUBJ WOOL RES, KNIT ...	APPAREL	6106903020	438	4	0	0.00
M/B T-SHIRTS ETC EX UNWEAR OF WOOL W LG SLVES, KNIT	APPAREL	6109901520	438	4	4,350	0.00
W/G T-SHIRTS ETC EX UNWEAR OF WOOL W LG SLVES, KNIT.	APPAREL	6109901540	438	4	6,500	0.00
W/G T-SHIRTS, OTH TEX MAT, CON <70% WT SIK KT, W/ WOOL.	APPAREL	*6109902030	438	4	1,751	0.00
M/B SWEATSHIRTS & SIM ART OF OT WOOL, KT OR CROCH .	APPAREL	6110102070	438	4	357,075	0.00
W/G SWEATSHIRTS & SIM ART OF OTH WOOL OR FAH, KNIT	APPAREL	6110102080	438	4	3,755,900	0.02
M/B SWTSHRT & SMLR ART OF MMF CONT 23% WOOL, KNIT	APPAREL	6110301550	438	4	192,213	0.00
W/G SWTSHRT & SMLR ART OF MMF CONT 23% WOOL, KNIT	APPAREL	6110301560	438	4	1,298,488	0.01
M/B PULLOV & SMLR ART TEX MAT SUBJ WOOL RES, KNIT ...	APPAREL	6110900072	438	4	0	0.00
W/G PULLOV & SMLR ART TEX MAT SUBJ WOOL RES, KNIT ..	APPAREL	6110900074	438	4	688	0.00
MEN'S OR BOYS' TOPS OF WOOL OR FAH, KNIT	APPAREL	6114100020	438	4	538	0.00
WOMEN'S OR GIRLS' TOPS OF WOOL OR FAH, KNIT	APPAREL	6114100040	438	4	7,150	0.00
PARTS OF BLOUSES & SHIRTS OF WOOL, KNIT	APPAREL	6117900024	438	4	38	0.00
MEN'S OR BOYS' ENSEMBLES OF SHIRTS OF WOOL, NOT KN	APPAREL	6203210030	440	4	0	0.00
M/B ENS OF SHIRTS OF SYN FIB 36% MORE WOOL, NT KT	APPAREL	6203230030	440	4	0	0.00
W/G ENSEMBLES OF BLOUSES AND SHIRTS OF WOOL, NT KT.	APPAREL	6204210060	440	4	7,035	0.00
W/G ENS BLOUSES OF SYN FIB 36% MORE WOOL, NOT KNIT	APPAREL	6204230020	440	4	40	0.00
W/G ENS BLOUSE OT TEXTILE MAT SUBJ WOOL RES, NT KT	APPAREL	6204294048	440	4	0	0.00
M/B SHIRTS WOOL CRTFD HND-LMD/FLKLRE PROD, NT KNIT	APPAREL	6205101000	440	4	0	0.00
MEN'S SHIRTS OF WOOL OR FINE ANIMAL HAIR, NOT KNIT ...	APPAREL	6205102010	440	4	914,811	0.01
BOYS' SHIRTS OF WOOL OR FINE ANIMAL HAIR, NOT KNIT	APPAREL	6205102020	440	4	2,492	0.00
MEN'S SHIRTS MMF CONT >=36% W/FAH, NT KT/CROCHTED .	APPAREL	6205301510	440	4	926,751	0.01
BOYS' SHIRTS MMF CONT >=36% WOOL/FAH, NT KT/CROCHT	APPAREL	6205301520	440	4	965	0.00
M/B SHIRTS SILK SUBJECT WOOL RESTRAINTS, NOT KNIT	APPAREL	6205902020	440	4	60	0.00
M/B SHIRTS OF OT TEXTILE MAT SUBJ WOOL RES, N KT	APPAREL	6205904020	440	4	0	0.00
W/G BLOUSES OF SILK SUBJECT WOOL RESTRAINTS, N KT ..	APPAREL	6206100020	440	4	603	0.00
W/G BLOUSES WOOL CRTFD FOLKLORE PRODUCTS, NOT KNIT.	APPAREL	6206201000	440	4	181	0.00
WOMEN'S BLOUSES WOOL CONT >=30% SILK, N KT OR CROC.	APPAREL	6206202010	440	4	5,367	0.00
GIRLS' BLOUSES WOOL CONT >30% SILK, N KT OR CROCH ..	APPAREL	6206202020	440	4	0	0.00
W WOOL BLOUSES <30% WGT OF W/FAH NESOI N KNIT/ CROC.	APPAREL	6206203010	440	4	91,435	0.00
GIRLS' BLOUSES OF WOOL NESOI, NOT KNIT OR CROCHETD	APPAREL	6206203020	440	4	3,899	0.00
WOMEN'S BLOUSES OF MMF CONT >=36% WL/FAH, NT KNIT	APPAREL	6206402510	440	4	16,361	0.00
GIRLS' BLOUSES OF MMF CONT >=36% WOOL/FAH, NT KNIT .	APPAREL	6206402520	440	4	1,849	0.00
W/G BLOUSES OF OT TEXTILE MAT SUBJ WOOL RES, N KT ...	APPAREL	6206900020	440	4	0	0.00
MEN'S OR BOYS' SHIRTS OF WOOL, NOT KNIT/CROCHETED .	APPAREL	6211310030	440	4	4,181	0.00
W/G BLSES, SHRTS & SHRT-BLSES OF W/FAH NT KNT	APPAREL	6211410030	440	4	3,357	0.00
PARTS OF BLOUSES & SHIRTS OF WOOL, N KT OR CROCHTD.	APPAREL	6217900005	440	4	0	0.00
W/G ENSEMBLES OF SKIRTS OF WOOL, KNIT	APPAREL	6104210030	442	4	4,965	0.00
W/G ENS SKIRTS OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6104230014	442	4	14,385	0.00
W/G ENS OF SKIRTS OF OT TEX MAT SUBJ WOOL RES, KNIT	APPAREL	6104292024	442	4	0	0.00
W/G SKIRTS AND DIVIDED SKIRTS OF WOOL, KNIT	APPAREL	6104510000	442	4	955,950	0.01
W/G SKIRTS OF SYN FIBERS CONT 23% MORE WOOL, KNIT ..	APPAREL	6104531000	442	4	366,405	0.00
W/G SKIRTS OF ARTIFICIAL FIBERS >=23% WOOL, KNIT	APPAREL	6104591005	442	4	20,655	0.00
W/G SKIRTS OT TEXTILE MATERIAL SUBJ WOOL RES, KNIT ...	APPAREL	6104592020	442	4	2,190	0.00
W/G ENSEMBLES OF SKIRTS OF WOOL, NOT KNIT	APPAREL	6204210030	442	4	45,975	0.00
W/G ENS SKIRTS OF SYN FIB 36% MORE WOOL, NOT KNIT ...	APPAREL	6204230010	442	4	540	0.00
W/G ENS OF SKIRTS OF OT TEX MAT SUBJ WOOL RES, N KT	APPAREL	6204294024	442	4	3,045	0.00
WOMEN'S SKIRTS AND DIVIDED SKIRTS OF WOOL, NT KNIT ..	APPAREL	6204510010	442	4	4,330,200	0.03
GRLS SKIRTS & DIVD SKIRTS OF W/FAH, NOT KNIT/CROCH ...	APPAREL	6204510020	442	4	8,655	0.00
WOMEN'S SKIRTS SYNTHETIC FIBER >36% WOOL, NT KNIT ...	APPAREL	6204532010	442	4	210,045	0.00
GIRLS' SKIRTS SYNTHETIC FIBER >36% WOOL, NOT KNIT	APPAREL	6204532020	442	4	4,935	0.00
WOMEN'S SKIRTS ARTIFICIAL FIBER >36% WOOL, NT KT	APPAREL	6204592010	442	4	47,430	0.00
GIRLS' SKIRTS ARTIFICIAL FIBER >36% WOOL, NT KNIT	APPAREL	6204592020	442	4	405	0.00
W/G SKIRTS OT TEXTILE MATERIAL SUBJ WOOL RES, N KT ..	APPAREL	6204594020	442	4	9,120	0.00
M/B SUITS OF WOOL/FINE ANIMAL HAIR, KNIT	APPAREL	6103110000	443	4	31,212	0.00
M/B SUITS OF SYN FIB CONT >=23% BY WGT W/FAH, KNIT	APPAREL	6103121000	443	4	13,145	0.00
M/B SUITS OF ART FIB CONT 23% OR MORE WOOL, KNIT	APPAREL	6103191000	443	4	15	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
M/B SUITS OF OTHER TEX MATERIAL SUBJ WOOL RES, KNIT	APPAREL	6103194040	443	4	0	0.00
M/B SUITS OF WOOL >=30% SILK, NOT KNIT/CROCHETED	APPAREL	6203111000	443	4	64,973	0.00
M/B SUITS OF WOOL <30% SILK, NOT KNIT/CROCHETED	APPAREL	6203112000	443	4	8,110,937	0.05
M/B SUITS SYNTHETIC FIB >=36 PERCENT WOOL, NOT KNIT .	APPAREL	6203121000	443	4	551,114	0.00
M/B SUITS ART FIB CONT >=36% WOOL, NOT KNIT/CROCH	APPAREL	6203192000	443	4	21,590	0.00
M/B SUITS OF OTHER TEX MATERIAL SUBJ WOOL RES N KT	APPAREL	6203194040	443	4	5,730	0.00
W/G SUITS OF WOOL/ FINE ANIMAL HAIR, KNIT	APPAREL	6104110000	444	4	16,431	0.00
W/G SUITS OF SYN FIBERS CONT 23% MORE WOOL, KNIT	APPAREL	6104131000	444	4	27,358	0.00
W/G SUITS OF ART FIBERS CONT 23% MORE WOOL, KNIT	APPAREL	6104191000	444	4	1,169	0.00
W/G SUITS OF OT TEX MATERIALS SUBJ WOOL RES, KNIT	APPAREL	6104192050	444	4	0	0.00
WOMEN'S OR GIRLS' SUITS OF WOOL, NOT KNIT OR CROCH	APPAREL	6204110000	444	4	2,348,143	0.01
W/G SUITS OF SYN FIBERS CONT 36% MORE WOOL, NT KT ..	APPAREL	6204131000	444	4	146,085	0.00
W/G SUITS OF ART FIBERS CONT >=36% WOOL/FAH, NT KT ..	APPAREL	6204191000	444	4	12,780	0.00
W/G SUITS OF OT TEX MATERIALS SUBJ WOOL RES, NT KT ..	APPAREL	6204193050	444	4	6,798	0.00
M/B ENSEMBLES OF SWEATERS OF WOOL, KNIT	APPAREL	6103210060	445	4	0	0.00
M/B ENS OF SWEATERS OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6103230030	445	4	0	0.00
M/B ENS SWEATERS OF OT TEX MAT SUBJ WOOL RES, KNIT	APPAREL	6103292060	445	4	0	0.00
M/B SWEATERS WHOLLY OF CASHMERE, KNIT	APPAREL	6110101010	445	4	162,229	0.00
M/B VESTS (EXC SWTR VEST) WHOLLY OF CASHMERE, KNIT	APPAREL	6110101030	445	4	14,062	0.00
M/B SWEATSHIRTS ETC WHOLLY OF CASHMERE, KNIT	APPAREL	6110101050	445	4	23,907	0.00
MEN'S SWEATERS OF OTHER WOOL OR FAH, KNIT	APPAREL	6110102010	445	4	5,046,998	0.03
BOYS' SWEATERS OF OTHER WOOL OR FAH, KNIT	APPAREL	6110102020	445	4	52,254	0.00
M/B SWEATERS OF MAN-MADE FIB CONT 23% WOOL, KNIT ...	APPAREL	6110301510	445	4	2,571,735	0.02
M/B SWEATERS OF OTH TEXTILE MAT SUBJ WOOL RES, KNIT.	APPAREL	6110900012	445	4	12,152	0.00
W/G ENSEMBLES OF SWEATERS OF WOOL, KNIT	APPAREL	6104210070	446	4	3,472	0.00
W/G ENS SWEATERS OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6104230022	446	4	459	0.00
W/G ENS SWEATER OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6104292058	446	4	0	0.00
W/G SWEATERS WHOLLY OF CASHMERE, KNIT	APPAREL	6110101020	446	4	370,252	0.00
W/G VESTS (EXC SWTR VEST) WHOLLY OF CASHMERE, KNIT	APPAREL	6110101040	446	4	707	0.00
W/G SWEATSHIRTS ETC WHOLLY OF CASHMERE, KNIT	APPAREL	6110101060	446	4	156,922	0.00
WOMEN'S SWEATERS OF OTHER WOOL OR FAH, KNIT	APPAREL	6110102030	446	4	16,008,611	0.09
GIRLS' SWEATERS OF OTHER WOOL OR FAH, KNIT	APPAREL	6110102040	446	4	95,877	0.00
W/G SWEATERS OF MAN-MADE FIBERS CONT 23% WOOL, KNIT.	APPAREL	6110301520	446	4	3,029,580	0.02
W/G SWEATERS OF OTH TEXTILE MAT SUBJ WOOL RES, KNIT.	APPAREL	6110900028	446	4	30,095	0.00
PARTS OF SWEATERS OF WOOL, KNIT	APPAREL	6117900012	446	4	87	0.00
M/B ENSEMBLES OF TROUSERS ETC OF WOOL, KNIT	APPAREL	6103210030	447	4	165	0.00
M/B ENS OF TRSRS ETC OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6103230010	447	4	165	0.00
M/B TROUSERS AND BREECHES OF WOOL, KNIT	APPAREL	6103411010	447	4	28,815	0.00
M/B SHORTS OF WOOL, KNIT	APPAREL	6103411020	447	4	45	0.00
M/B TROUSER & BREECHES SYN FIB 23% MORE WOOL, KNIT	APPAREL	6103431010	447	4	2,460	0.00
M/B SHORTS OF SYN FIBERS CONT 23% MORE WOOL, KNIT .	APPAREL	6103431020	447	4	1,110	0.00
M/B TROUSER ETC OF ART FIB CONT 23% MORE WOOL, KNIT.	APPAREL	6103491010	447	4	960	0.00
M/B TROUSERS ETC OF OT TEX MAT SUBJ WOOL RES, KNIT	APPAREL	6103493012	447	4	75	0.00
M/B ENSEMBLES OF TROUSERS ETC OF WOOL, NOT KNIT	APPAREL	6203210020	447	4	240	0.00
M/B ENS OF TRSRS ETC OF SYN FIB 36% MORE WOOL, N KT	APPAREL	6203230020	447	4	15	0.00
MEN'S TROUSERS & BREECHES OF WOOL, NOT KNIT	APPAREL	6203411010	447	4	3,169,305	0.02
BOYS' TROUSERS & BREECHES OF WOOL, N KNIT OR CROCH.	APPAREL	6203411020	447	4	1,620	0.00
MEN'S OR BOYS' SHORTS OF WOOL, NOT KNIT OR CROCHET.	APPAREL	6203411030	447	4	8,580	0.00
MEN'S TROUSER & BREECHES SYN FIB >36% WOOL, NT KT .	APPAREL	6203433010	447	4	504,270	0.00
BOYS' TROUSER & BREECHES SYN FIB >36% WOOL, NT KT ..	APPAREL	6203433020	447	4	9,855	0.00
M/B SHORTS OF SYN FIBERS CONT 36% MORE WOOL, NT KT	APPAREL	6203433030	447	4	5,355	0.00
M/B TROUSER ETC OT TEX MTRL SUBJ WOOL RSTRT, NT KT	APPAREL	6203493025	447	4	7,395	0.00
M/B SKI-SUIT TROUSERS & BREECHES WOOL, NOT KNIT	APPAREL	6211203020	447	4	0	0.00
M/B TRACK SUIT TROUSERS OF WOOL, NOT KNIT OR CROCH.	APPAREL	6211310010	447	4	45	0.00
W/G ENSEMBLES OF TROUSERS OF WOOL, KNIT	APPAREL	6104210040	448	4	435	0.00
W/G ENS TROUSERS OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6104230016	448	4	765	0.00
W/G ENS TROUSER OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6104292036	448	4	0	0.00
W/G TROUSERS AND BREECHES OF WOOL OR FAH, KNIT	APPAREL	6104610010	448	4	562,470	0.00
W/G SHORTS OF WOOL OR FINE ANIMAL HAIR, KNIT	APPAREL	6104610020	448	4	6,720	0.00
W/G TROUSERS OF SYN FIBERS CONT 23% MORE WOOL, KNIT.	APPAREL	6104631510	448	4	202,050	0.00
W/G SHORTS OF SYN FIBERS CONT 23% MORE WOOL, KNIT	APPAREL	6104631520	448	4	780	0.00
W/G TROUSERS BREECHES OF ART FIB =>23% WOOL KNIT ..	APPAREL	6104692005	448	4	4,560	0.00
W/G TROUSERS OF OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6104693024	448	4	540	0.00
PARTS OF TROUSERS BREECHES & SHORTS OF WOOL, KNIT.	APPAREL	6117900044	448	4	0	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/G ENSEMBLES OF TROUSERS OF WOOL, NOT KNIT	APPAREL	6204210040	448	4	2,265	0.00
W/G ENS TROUSER ETC SYN FIB >=36% WL/FAH, NT KNIT	APPAREL	6204230015	448	4	0	0.00
W/G ENS TROUSER OT TEXTILE MAT SUBJ WOOL RES, NT KT.	APPAREL	6204294036	448	4	1,215	0.00
WOMEN'S TROUSERS AND BREECHES OF WOOL, NOT KNIT	APPAREL	6204610010	448	4	3,733,215	0.02
GIRLS' TROUSERS & BREECHES OF WOOL, N KNIT OR CROC	APPAREL	6204610020	448	4	8,415	0.00
WOMEN'S OR GIRLS' SHORTS OF WOOL, NOT KNIT OR CROC.	APPAREL	6204610030	448	4	139,590	0.00
WOMEN'S TROUSERS ETC SYNTHETIC FIB >=36% WOOL, N KT.	APPAREL	6204632510	448	4	118,545	0.00
GIRLS' TROUSERS ETC SYNTHETIC FIB >=36% WOOL, N KT	APPAREL	6204632520	448	4	7,965	0.00
WOMEN'S TROUSERS ART FIBERS CONT >36% WOOL, N KT	APPAREL	6204692010	448	4	103,230	0.00
GIRLS' TROUSERS ART FIBERS CONT >36% WOOL, NT KT	APPAREL	6204692020	448	4	990	0.00
W/G SHORTS ARTIFICIAL FIB CONT >36% WOOL, NT KNIT	APPAREL	6204692030	448	4	20,940	0.00
W/G TROUSERS ETC SILK SUBJ WOOL RESTRAINTS, NT KT	APPAREL	6204693020	448	4	1,500	0.00
W/G TROUSERS OF OT TEXTILE MAT SUBJ WOOL RES, N KT	APPAREL	6204699020	448	4	75	0.00
W/G SKI-SUIT TROUSER & BREECHES WOOL, NOT KNIT	APPAREL	6211206020	448	4	1,320	0.00
W/G TRACK SUIT TROUSERS WOOL, NOT KNIT OR CROCHETD.	APPAREL	6211410010	448	4	675	0.00
PARTS OF TROUSERS & BREECHES OF WL, N KT OR CROCHT.	APPAREL	6217900055	448	4	0	0.00
M/B ENSEMBLES NESOI OF WOOL, KNIT	APPAREL	6103210070	459	4	0	0.00
M/B ENS NESOI OF SYN FIB 23% MORE WOOL, KNIT	APPAREL	6103230035	459	4	0	0.00
M/B BIB AND BRACE OVERALLS OF WOOL, KNIT	APPAREL	6103412000	459	4	30	0.00
M/B OVERALLS OF SYN FIB CONT 23% MORE WOOL, KNIT	APPAREL	6103432010	459	4	840	0.00
M/B OVERALLS OF OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6103493036	459	4	0	0.00
W/G ENSEMBLES NESOI OF WOOL, KNIT	APPAREL	6104210080	459	4	44	0.00
W/G ENS NESOI OF SYNTHETIC FIB 23% MORE WOOL, KNIT	APPAREL	6104230024	459	4	0	0.00
W/G ENS NESOI OF OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6104292076	459	4	0	0.00
WOMEN'S OR GIRLS' OVERALLS OF WOOL OR FAH, KNIT	APPAREL	6104610030	459	4	1,735	0.00
W/G OVERALLS OF OT TEXTILE MAT SUBJ WOOL RES, KNIT	APPAREL	6104693012	459	4	0	0.00
M/B NIGHTSHIRTS AND PAJAMAS OF WOOL OR FAH, KNIT	APPAREL	6107292000	459	4	585	0.00
M/B BATHROBES, DRESSING GOWNS ETC OF WOOL, KNIT	APPAREL	6107992000	459	4	8,640	0.00
W/G NIGHTDRESSES AND PAJAMAS OF WOOL OR FAH, KNIT	APPAREL	6108391000	459	4	825	0.00
W/G NEGLIGEES, BATHROBES ETC OF WOOL OR FAH, KNIT	APPAREL	6108992000	459	4	25,341	0.00
M/B UNDERWEAR OF WOOL, WITH LONG SLEEVES, KNIT	APPAREL	6109901510	459	4	9,276	0.00
W/G UNDERWEAR OF WOOL, WITH LONG SLEEVES, KNIT	APPAREL	6109901530	459	4	15,229	0.00
M/B VEST (EXC SWEATER VEST) OF OTH WOOL OR FAH, KT	APPAREL	6110102050	459	4	25,334	0.00
W/G VEST (EXC SWEATER VEST) OF OTH WOOL OR FAH, KT	APPAREL	6110102060	459	4	38,480	0.00
M/B VEST (EXC SWEATER VEST) OF MMF >=23% WOOL, KNIT	APPAREL	6110301530	459	4	88,593	0.00
W/G VEST (EXC SWEATER VEST) OF MMF >=23% WOOL, KNIT.	APPAREL	6110301540	459	4	2,449	0.00
M/B VEST (EXC SWTR VEST) TEX MATL SUBJ WOOL RES, KT	APPAREL	6110900048	459	4	11	0.00
W/G VEST (EXC SWTR VEST) TEX MATL SUBJ WOOL RES, KT	APPAREL	6110900050	459	4	0	0.00
SKI-SUITS OF WOOL OR FINE ANIMAL HAIR, KNIT	APPAREL	6112202020	459	4	233	0.00
JUMPERS OF WOOL OR FINE ANIMAL HAIR, KNIT	APPAREL	6114100050	459	4	34,795	0.00
MEN'S OR BOYS' OTH GARMENTS OF WOOL OR FAH, KNIT	APPAREL	6114100060	459	4	559	0.00
WOMEN'S OR GIRLS' OTH GARMENTS OF WOOL OR FAH, KNIT.	APPAREL	6114100070	459	4	117,286	0.00
BODYSUITS & BODYSHIRTS OF MMF, CON =>23% WOOL, KNIT.	APPAREL	6114302030	459	4	5,036	0.00
OTHER GARMENTS SUBJECT TO WOOL RESTRAINTS, KNIT	APPAREL	6114900050	459	4	1,406	0.00
CLOTHING ACCESSORIES NESOI OF WOOL, KNIT	APPAREL	6117800020	459	4	65,705	0.00
CLOTHING ACCESSORIES NESOI MMF >=23% WL/FAH, KNIT	APPAREL	6117800025	459	4	31,110	0.00
PARTS OF GARMENTS NESOI OF WOOL, KNIT	APPAREL	6117900054	459	4	4,311	0.00
M/B PADDED SLEEVELESS JACKETS OF WOOL, NOT KNIT	APPAREL	6201911000	459	4	2,967	0.00
W/G PADDED SLEEVELESS JACKETS OF WOOL, NOT KNIT	APPAREL	6202911000	459	4	3,045	0.00
M/B ENSEMBLES NESOI OF WOOL, NOT KNIT	APPAREL	6203210060	459	4	0	0.00
M/B ENS NESOI OF SYN FIB 36% MORE WOOL, NOT KNIT	APPAREL	6203230040	459	4	0	0.00
M/B BIB AND BRACE OVERALLS OF WOOL, NOT KNIT	APPAREL	6203412000	459	4	2,313	0.00
W/G ENSEMBLES NESOI OF WOOL, NOT KNIT	APPAREL	6204210070	459	4	300	0.00
W/G ENS NESOI OF SYNTHETIC FIB 36% MORE WOOL, N KT	APPAREL	6204230025	459	4	2,982	0.00
W/G ENS NESOI OF OT TEXTILE MAT SUBJ WOOL RES, N KT	APPAREL	6204294060	459	4	0	0.00
WOMEN'S OR GIRLS' OVERALLS OF WOOL, N KNIT OR CROC	APPAREL	6204610040	459	4	3,371	0.00
M/B NIGHTSHIRTS AND PAJAMAS OF WOOL, NOT KNIT	APPAREL	6207290010	459	4	11	0.00
M/B BATHROBES DRESSING GOWN ETC MMF >=36% WOOL, N K.	APPAREL	6207922010	459	4	59	0.00
M/B BATHROBE DRESSING GOWN ETC WOOL, NOT KNIT	APPAREL	6207992000	459	4	1,765	0.00
M/B SINGLETS & UNDERSHIRTS WOOL, NOT KNIT	APPAREL	6207994000	459	4	474	0.00
W/G NIGHTDRESSES AND PAJAMAS OF WOOL, NOT KNIT	APPAREL	6208290010	459	4	159	0.00
W/G NEGLIGEES, BATHROBES ETC OF WOOL, N KT OR CROC.	APPAREL	6208992010	459	4	5,221	0.00

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W/G BRFS PNTS SNGLTS OTH UNDSHRTS OF WOOL, NOT KNT.	APPAREL	6208992020	459	4	1,861	0.00
M/B SKI-SUIT, NESOI, OF WOOL, NOT KNIT/CROCHETED	APPAREL	6211204030	459	4	215	0.00
W/G SKI-SUIT, NESOI, OF WOOL, NOT KNIT/CROCHETED	APPAREL	6211207030	459	4	74	0.00
MEN'S OR BOYS' VESTS OF WOOL, NOT KNIT OR CROCHETD.	APPAREL	6211310040	459	4	16,102	0.00
MEN'S OR BOYS' OT GARMENTS NESOI OF WL, N KT OR CR	APPAREL	6211310050	459	4	12,758	0.00
WOMEN'S OR GIRLS' JUMPERS OF WOOL, NOT KNIT OR CRC	APPAREL	6211410040	459	4	20,542	0.00
WOMEN'S OR GIRLS' VESTS OF WOOL, NOT KNIT OR CROCH	APPAREL	6211410050	459	4	41,958	0.00
W/G GARMENTS NESOI OF W/FAH, NOT KNIT OR CROCHETED.	APPAREL	6211410060	459	4	26,477	0.00
TIES BOW TIES AND CRAVATS OF WOOL, NOT KNIT	APPAREL	6215900010	459	4	40,830	0.00
ACCESSORIES OF WOOL OR FN ANML HR, N KT OR CROCHTD.	APPAREL	6217100020	459	4	43,497	0.00
PARTS OF GARMENTS NESOI OF WOOL, NT KNIT OR CROCHT.	APPAREL	6217900080	459	4	252,743	0.00
HAT FORMS/BODIES&HOODS OF FELT; PLATEAUX & MANCHON.	APPAREL	6501009000	459	4	180,564	0.00
FELT HATS & OTHER FELT HEADGEAR (EXCLUDE FUR FELT)	APPAREL	6503009000	459	4	248,033	0.00
KT WL VISORS & OTH HDGR W/O COV FOR CROWN OF HEAD.	APPAREL	6505903060	459	4	703,755	0.00
NKT WL VISOR & OTH HDGR W/O COV FOR CROWN OF HEAD.	APPAREL	6505904060	459	4	1,419,653	0.01
HATS ETC EX BABY MMF KNT/CRCH IN PIECE NT IN BRAID	APPAREL	6505906040	459	4	48,226	0.00
HATS & OT HDGR>70% SLK&/OR NESOI, KN/CROCH; OF FAH	APPAREL	*6505909060	459	4	1,127	0.00
GLV VEG FB IMPG PLS/RBR W/OUT 4CHTTS MMF RES NT KT	APPAREL	6216001530	631	4	3,718	0.00
GLV NESOI FIB IPG PLS/RB W/OUT 4CHTS MMF RES NT KT	APPAREL	6216001830	631	4	93	0.00
GLV NESOI FIB IPG PLS/RB W/OUT 4CHTS MMF RES NT KT	APPAREL	6216002030	631	4	4,483	0.00
GLV IMPRG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, N KT	APPAREL	6216002525	631	4	115,698	0.00
GLV IMPRG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, N KT	APPAREL	6216002725	631	4	74,118	0.00
GLV IMPRG PLAS/RBR W/OUT 4CHTTS SUBJ MMF RES, N KT	APPAREL	6216002825	631	4	13,601	0.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003025	631	4	10,962	0.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003125	631	4	7,349	0.00
GLV IMPREG PLAS/RBR 4CHTTS CON >=50% COT, MMF NT KT.	APPAREL	6216003225	631	4	145	0.00
GLOVES EX SKI MMF NESOI WITHOUT FOURCHETTES, NT KT.	APPAREL	6216004835	631	4	2,586,261	0.02
GLVS EX SKI OF MMF NESOI W 4RCHETS <36% W/FAH NK	APPAREL	6216004845	631	4	508,416	0.00
GLOVES EX SKI MMF NESOI WITHOUT FOURCHETTES, NT KT.	APPAREL	6216004935	631	4	1,395,431	0.01
GLVS EX SKI OF MMF NESOI W 4RCHETS <36% W/FAH NK	APPAREL	6216004945	631	4	169,876	0.00
GLOVES EX SKI MMF NESOI WITHOUT FOURCHETTES, NT KT.	APPAREL	6216005235	631	4	324,594	0.00
GLVS EX SKI OF MMF NESOI W 4RCHETS <36% W/FAH NK	APPAREL	6216005245	631	4	98,185	0.00
M/B ENS OF JACKETS ETC OF OTHER SYN FIB, KNIT	APPAREL	6103230037	633	4	0	0.00
M/B ENS OF SUIT-TYPE JACKETS OF ARTF FIBERS, KNIT	APPAREL	6103291015	633	4	0	0.00
M/B SUIT-TYPE JACKETS & BLAZERS OF OT SYN FIB, KNIT	APPAREL	6103332000	633	4	91,021	0.00
M/B SUIT-TYPE JACKETS & BLAZERS OF ART FIB, KNIT	APPAREL	6103391000	633	4	17,332	0.00
M/B SUIT-TYPE JACKETS OT TEX MAT SUBJ MMF RES, KNIT	APPAREL	6103392030	633	4	91	0.00
M/B ENS OF HDNG 6203 OT SYN FIB <36% W/FAH, NT KN	APPAREL	6203230055	633	4	7,605	0.00
M/B ENS OF HDNG 6203 OF ARTIFICIAL FIBERS, NOT KNT	APPAREL	6203292020	633	4	182	0.00
MEN'S SUIT-TYPE JCKT/BLZR SYN FIB < 36% WOOL, N KT	APPAREL	6203332010	633	4	5,358,101	0.03
BOYS' SUIT-TYPE JCKT/BLZR SYN FIB < 36% WOOL, N KT	APPAREL	6203332020	633	4	668,327	0.00
MEN'S SUIT-TYPE JCKT/BLZR ART FIB N >36% WOOL, N KT	APPAREL	6203392010	633	4	2,606,891	0.02
BOYS' SUIT-TYPE JCKT/BLZR ART FIB N >36% WOOL, N KT	APPAREL	6203392020	633	4	132,320	0.00
M/B SUIT-TYPE JACKETS OT TEX MAT SUBJ MMF RES, N KT	APPAREL	6203394030	633	4	23,452	0.00
M/B OVERCOAT, ETC OF MMF CONT 25% MORE LTHR, KNIT	APPAREL	6101301000	634	4	35,121	0.00
MEN'S OVERCOATS ETC OF OTHER MAN-MADE FIBERS, KNIT.	APPAREL	6101302010	634	4	7,361,679	0.04
BOYS' OVERCOATS ETC OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6101302020	634	4	3,936,864	0.02
M/B OVERCOAT ETC OF OTH TEX MAT SUBJ MMF RES, KNIT	APPAREL	6101900030	634	4	138	0.00
M/B ENS OF OVERCOATS ETC OF OTHER SYN FIB, KNIT	APPAREL	6103230036	634	4	3,381	0.00
M/B ENS OF OVERCOATS ETC OF ARTIFICIAL FIBERS, KNIT	APPAREL	6103291010	634	4	0	0.00
M/B JACKETS FOR TRACK SUITS OF SYN FIB, KNIT	APPAREL	6112120010	634	4	9,181,278	0.05
M/B JACKETS FOR TRACK SUITS OF ART FIB, KNIT	APPAREL	6112191010	634	4	71,415	0.00
M/B ANORAKS ETC FOR SKI-SUITS OF MAN-MADE FIB, KNIT	APPAREL	6112201010	634	4	24,185	0.00
M/B PAD SLVLSS JCKT W SLV ATT FOR SKI-ST MMF, KNIT	APPAREL	6112201030	634	4	104	0.00
M/B COAT ETC OTH KT FAB IMPREG RESIN EXC RBR/PLAS	APPAREL	6113000025	634	4	53,648	0.00
MEN'S RAINCOATS OF MMF CON <70% WOOL/FAH, NOT KNIT	APPAREL	6201134015	634	4	791,706	0.00
BOYS' RAINCOATS OF MMF CONT <70% WOOL/FAH, NT KNIT	APPAREL	6201134020	634	4	26,738	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
MEN'S OVERCOAT EX RAINCOAT OT MMF EX DOWN, NOT KNIT.	APPAREL	6201134030	634	4	2,204,516	0.01
BOYS' OVERCOAT EX RAINCOAT OT MMF EX DOWN, NOT KNIT.	APPAREL	6201134040	634	4	636,870	0.00
M/B OVERCOAT ETC OTH TEX MAT SUBJ MMF RES, NOT KNIT.	APPAREL	6201190030	634	4	15,974	0.00
M/B PADDED SLVLS JACKET WTH SLEEVE ATTCH MMF, NT KT.	APPAREL	6201932010	634	4	85,077	0.00
M/B GARMENTS WATER RESISTANT; MMF, NOT KNIT	APPAREL	6201933000	634	4	67,872,506	0.40
MEN'S ANORAKS & SMLR ART MAN-MADE FIBER NESOI, NT KT.	APPAREL	6201933510	634	4	33,432,432	0.20
BOYS' ANORAKS & SMLR ART MAN-MADE FIBER NESOI, NT KT.	APPAREL	6201933520	634	4	6,950,232	0.04
M/B ANORAKS ETC OT TEX MTRL SUBJ MMF RES, NOT KNIT	APPAREL	6201990030	634	4	13,869	0.00
M/B ENS OF OVRCTS ETC OT SYN FIB <36% W/FAH, NT KN ...	APPAREL	6203230050	634	4	552,104	0.00
M/B ENS OF OVERCOATS ETC OF ARTIFICIAL FIBERS, N KT ..	APPAREL	6203292010	634	4	20,735	0.00
M/B OVERCOATS ETC MMF FELT/NONWOVEN N IMPREG, N KT.	APPAREL	6210201020	634	4	2,081,282	0.01
M/B ANORAKS ETC RUBBERIZED MAN-MADE FIBERS, NOT KT.	APPAREL	6210401020	634	4	8,106,948	0.05
M/B WTR RES ANORAKS/SIM ART FOR SKI-ST NESOI NT KT ..	APPAREL	6211201515	634	4	421,383	0.00
M/B ANORAKS & SMLR ARTICLE FOR SKI-ST MMF, NT KT	APPAREL	6211202030	634	4	218,351	0.00
M/B TRACK SUITS EXCEPT TROUSERS MAN-MADE FIB, NT KT.	APPAREL	6211330035	634	4	2,424,005	0.01
W/G OVERCOATS, ETC OF MMF CONT >=25% LEATHER, KNIT	APPAREL	6102300500	635	4	6,521	0.00
WOMEN'S OVERCOAT ETC OF OTHER MAN-MADE FIBERS, KNIT.	APPAREL	6102302010	635	4	25,058,385	0.15
GIRLS' OVERCOATS ETC OF OTHER MAN-MADE FIBERS, KNIT.	APPAREL	6102302020	635	4	3,225,612	0.02
W/G OVERCOAT ETC OF OTH TEX MAT SUBJ MMF RES, KNIT	APPAREL	6102900015	635	4	35	0.00
W/G ENS OF OVERCOATS JACKETS ETC OT SYN FIB, KNIT ...	APPAREL	6104230026	635	4	15,836	0.00
W/G ENS OF OVERCOATS JACKETS ETC OF ART FIB, KNIT ...	APPAREL	6104291010	635	4	4,934	0.00
W/G ENS OF OVRCT ETC OT TEX MATL SUBJ MMF RES, KT ..	APPAREL	6104292014	635	4	0	0.00
W/G SUIT-TYPE JACKETS OF SYN FIB <23% WOOL, KNIT	APPAREL	6104332000	635	4	2,019,320	0.01
W/G SUIT-TYPE JACKETS & BLAZERS OF ART FIBERS, KNIT ..	APPAREL	6104391000	635	4	137,172	0.00
W/G SUIT-TYPE JACKET OT TEX MAT SUBJ MMF RES, KNIT ...	APPAREL	6104392030	635	4	449	0.00
W/G JACKETS FOR TRACK SUITS OF SYN FIB, KNIT	APPAREL	6112120020	635	4	1,033,482	0.01
W/G JACKETS FOR TRACK SUITS OF ART FIB, KNIT	APPAREL	6112191020	635	4	128,375	0.00
W/G ANORAKS ETC FOR SKI-SUITS OF MAN-MADE FIB, KNIT .	APPAREL	6112201020	635	4	24,840	0.00
W/G PAD SLVLSS JCKT W SLV ATT FOR SKI-ST MMF, KNIT	APPAREL	6112201040	635	4	0	0.00
W/G COAT ETC OTH KT FAB IMPREG RESIN EXC RBR/PLAS ..	APPAREL	6113000030	635	4	97,463	0.00
PARTS OF COATS AND JACKETS OF MMF, KNIT	APPAREL	6117900036	635	4	17,468,661	0.10
WOMEN'S RAINCOATS OF MMF CONT <36% W/FAH, NOT KNIT.	APPAREL	6202134005	635	4	4,607,717	0.03
GIRLS' RAINCOATS OF MMF CONT <36% W/FAH, NOT KNIT	APPAREL	6202134010	635	4	109,676	0.00
WOMEN'S OVERCOATS & SMLR COATS MMF NESOI, NOT KNIT.	APPAREL	6202134020	635	4	6,707,939	0.04
GIRLS' OVERCOATS & SMLR COATS MMF NESOI, NOT KNIT ..	APPAREL	6202134030	635	4	2,149,937	0.01
W&G OVRCTS & SMLR CTS OT MAT SUB MMF REST NOT KNIT.	APPAREL	6202190030	635	4	2,381	0.00
W/G PADDED SLEEVELESS JCKT W SLEEVE ATT MMF, NT KT	APPAREL	6202932010	635	4	35	0.00
W/G GARM DESGN RNWR MMF <36% WGT W/FAH N KT OR CRC.	APPAREL	6202934500	635	4	47,837,459	0.28
W ANORAK & SMLR ART MMF <36% WL/FAH N K OR CROCHTD.	APPAREL	6202935010	635	4	32,640,568	0.19
G ANORAK & SMLR ART MMF <36% WL/FAH N K OR CROCHTD.	APPAREL	6202935020	635	4	7,000,913	0.04
W/G ANORAKS & SMLR ART TEX MAT SUBJ MMF RES, NT KT	APPAREL	6202990030	635	4	2,726	0.00
WG ENS HD 6202/6204 OF OT SYN FIB <36% W/FAH WOVEN ..	APPAREL	6204230030	635	4	553,913	0.00
W/G ENS HDNG 6202/6204 ETC OF ARTIF FIBERS, NOT KN	APPAREL	6204292010	635	4	505,494	0.00
W/G ENS HDNG 6202 & 6204 OT TEX MAT SUBJ MMF RS WV .	APPAREL	6204294014	635	4	2,243	0.00
W/G SUIT-TYPE JACKETS SYN FIB >36% SILK, NT KNIT	APPAREL	6204331000	635	4	8,004	0.00
W/G SUIT-TYPE JACKETS SYN FIB >36% SILK, NOT KNIT	APPAREL	6204332000	635	4	11,213	0.00
W ST-TYP JAC SYN FIB <36% BY WGT W/FAH, NT KT/CRCH ...	APPAREL	6204335010	635	4	9,453,863	0.06
G ST-TYP JAC OT SYN FIB CONT <36% BY WGT W/FAH, NK ...	APPAREL	6204335020	635	4	333,408	0.00
WOMEN'S SUIT-TYPE JACKET ART FIB N <36% WOOL, NT KT	APPAREL	6204393010	635	4	16,045,536	0.09
GIRLS' SUIT-TYPE JACKET ART FIB N <36% W/FAH, N KT	APPAREL	6204393020	635	4	95,876	0.00
W/G SUIT-TYPE JACKET OT TEX MAT SUBJ MMF RES, NT KT	APPAREL	6204394030	635	4	21,942	0.00
W/G OVERCOATS OF FLT OR NWOVNS OF MMF, NT KNT/CRCH.	APPAREL	6210301020	635	4	4,134,722	0.02
W/G ANORAKS OF RUBBERIZED/IMPREG MAN-MADE FIB, N KT.	APPAREL	6210501020	635	4	5,463,627	0.03

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
W/G WTR RES SKI-SUIT ANORAK & SMLR ART NESOI NT KT .	APPAREL	6211201545	635	4	345,000	0.00
W/G SKI-SUIT ANORAK & SIMILAR ARTICLES MMF, NT KT	APPAREL	6211205030	635	4	70,967	0.00
W/G TRACK SUITS EX TROUSERS MAN-MADE FIBERS, NT KT	APPAREL	6211430050	635	4	1,766,711	0.01
PARTS OF COATS & JACKETS MMF, NOT KNIT OR CROCHETD.	APPAREL	6217900035	635	4	228,494	0.00
WOMEN'S DRESSES OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6104432010	636	4	33,965,412	0.20
GIRLS' DRESSES OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6104432020	636	4	14,817,346	0.09
WOMEN'S DRESSES OF ARTIFICIAL FIB <23% WOOL, KNIT	APPAREL	6104442010	636	4	1,031,032	0.01
GIRLS' DRESSES OF ARTIFICIAL FIBER <23% WOOL, KNIT	APPAREL	6104442020	636	4	148,492	0.00
W/G DRESSES OF OT TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6104490030	636	4	417	0.00
W/G DRESSES SYN FIB CRTFD HND-LMD/FRKLRE PROD, N KT.	APPAREL	6204431000	636	4	0	0.00
W/G DRESSES SYN FIBER ≤30 PERCENT SILK, NOT KNIT	APPAREL	6204432000	636	4	16,600	0.00
WOMEN'S DRESSES SYN FIB ≤2 COLOR WARP/FILLNG, N KT	APPAREL	6204434010	636	4	1,380,545	0.01
G DRESS SYN FIB ≤2 CLR WARP/FILLNG, <36%W/FAH, N K	APPAREL	6204434020	636	4	632,892	0.00
WOMEN'S DRESSES SYN FIB <36% BY WGT OF W/FAH N KNT	APPAREL	6204434030	636	4	22,889,970	0.13
GIRLS' DRESSES SYN FIB <36% BY WGT W/FAH NOT KNIT	APPAREL	6204434040	636	4	26,137,432	0.15
W/G DRESSES ART FIB CRTFD HND-LMD/FLKLRE PROD, N KT.	APPAREL	6204442000	636	4	0	0.00
W DRESSES OF OT ART FIB <36% BY WGT OF W/FAH NT KT .	APPAREL	6204444010	636	4	30,631,879	0.18
G DRESSES NESOI ART FIB <36% BY WGT W/FAH NOT KNIT .	APPAREL	6204444020	636	4	617,656	0.00
W/G DRESSES OF OT TEXTILE MAT SUBJ MMF RES, NT KT ...	APPAREL	6204490030	636	4	6,708	0.00
M/B ENS OF SHIRTS OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6103230075	638	4	9,990	0.00
M/B ENS OF SHIRTS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6103291050	638	4	0	0.00
MEN'S SHIRTS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6105202010	638	4	33,717,585	0.20
BOYS' SHIRTS OF MAN-MADE FIBERS, NESOI, KNIT	APPAREL	6105202030	638	4	16,898,025	0.10
M/B SHIRTS OF OT TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6105903030	638	4	30	0.00
MEN'S T-SHIRTS OF MAN-MADE FIBERS, KNIT	APPAREL	6109901007	638	4	5,340,030	0.03
BOYS' T-SHIRTS OF MAN-MADE FIBERS, KNIT	APPAREL	6109901009	638	4	6,171,375	0.04
MEN'S TANK TOPS & SINGLETS OF MAN-MADE FIBERS, KNIT	APPAREL	6109901013	638	4	1,288,500	0.01
BOYS' TANK TOPS & SINGLETS OF MAN-MADE FIBERS, KNIT	APPAREL	6109901025	638	4	3,353,715	0.02
M/B ARTICLES SIMILAR TO T-SHIRTS OF MMF, KNIT	APPAREL	6109901049	638	4	1,385,025	0.01
M/B SWTSHRT & SMLR ART OF MMF CONT 25% LEATHR, KNIT.	APPAREL	6110301050	638	4	22,215	0.00
M/B SWTSHRT & SMLR ART OF MMF CONT 30% SILK, KNIT ...	APPAREL	6110302050	638	4	15,855	0.00
M/B SWEATSHIRTS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6110303040	638	4	29,402,085	0.17
M/B OTHER SWEATERS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6110303050	638	4	60,472,800	0.36
M/B PULLOV & SMLR ART OT TEX MAT SUBJ MMF RES, KNIT	APPAREL	6110900076	638	4	300	0.00
M/B SHIRTS FOR TRACK SUITS OF SYN FIBERS, KNIT	APPAREL	6112120030	638	4	1,598,265	0.01
M/B SHIRTS FOR TRACK SUITS OF ARTF FIBERS, KNIT	APPAREL	6112191030	638	4	107,955	0.00
MEN'S OR BOY'S TOPS OF MAN-MADE FIBERS, KNIT	APPAREL	6114301010	638	4	2,031,585	0.01
W/G ENS OF BLOUSES & TOPS OF OTHER SYN FIBER, KNIT .	APPAREL	6104230036	639	4	145,300	0.00
W/G ENS OF BLOUSES & TOPS OF ARTIFICIAL FIBS, KNIT	APPAREL	6104291050	639	4	249,963	0.00
W/G ENS BLOUSE OT TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6104292050	639	4	3,750	0.00
WOMEN'S BLOUSES OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6106202010	639	4	65,398,875	0.38
GIRLS' BLOUSES & SHIRTS NESOI OF OTHER MM FIB KNIT ...	APPAREL	6106202030	639	4	13,270,413	0.08
W/G BLOUSES OF SILK SUBJECT MMF RESTRAINTS, KNIT	APPAREL	6106902030	639	4	138	0.00
W/G BLOUSES OF OT TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6106903030	639	4	63	0.00
WOMEN'S T-SHIRTS OF MAN-MADE FIBERS, KNIT	APPAREL	6109901050	639	4	16,198,013	0.10
GIRLS' T-SHIRTS OF MAN-MADE FIBERS, KNIT	APPAREL	6109901060	639	4	3,483,588	0.02
WOMEN'S TANK TOPS & SINGLETS OF MAN-MADE FIBER, KNIT.	APPAREL	6109901065	639	4	4,624,613	0.03
GIRLS' TANK TOPS & SINGLETS OF MAN-MADE FIBERS, KNIT	APPAREL	6109901070	639	4	2,297,550	0.01
W/G ARTICLES SIMILAR TO T-SHIRTS, ETC OF MMF, KNIT	APPAREL	6109901090	639	4	6,363,150	0.04
W/G SWTSHRT & SMLR ART OF MMF CONT 25% LEATHR, KNIT.	APPAREL	6110301060	639	4	33,850	0.00
W/G SWTSHRT & SMLR ART OF MMF CONT 30% SILK, KNIT ...	APPAREL	6110302060	639	4	37,613	0.00
W/G SWEATSHIRTS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6110303045	639	4	21,445,488	0.13
W/G OTHER SWEATERS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6110303055	639	4	150,816,138	0.89
W/G PULLOV & SMLR ART OT TEX MAT SUBJ MMF RES, KNIT	APPAREL	6110900078	639	4	13	0.00
W/G SHIRTS FOR TRACK SUITS OF SYN FIBERS, KNIT	APPAREL	6112120040	639	4	4,009,763	0.02
W/G SHIRTS FOR TRACK SUITS OF ARTF FIBERS, KNIT	APPAREL	6112191040	639	4	2,163	0.00
WOMEN'S OR GIRLS' TOPS OF MAN-MADE FIBERS, KNIT	APPAREL	6114301020	639	4	4,234,938	0.02
PARTS OF BLOUSES & SHIRTS OF MAN-MADE FIBERS, KNIT .	APPAREL	6117900026	639	4	5,313	0.00
M/B ENS OF SHIRTS OF OTHER SYNTHETIC FIBERS, NT KT ...	APPAREL	6203230080	640	4	99,977	0.00
M/B ENS OF SHIRTS OF ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6203292050	640	4	27,979	0.00
M/B SHIRTS MMF CERTIFIED FOLKLORE PRODUCTS, NT KT ..	APPAREL	6205301000	640	4	0	0.00
MEN'S DRESS SHIRT MMF WTH ≤2 COLOR WARP, NT KNIT	APPAREL	6205302010	640	4	24,155,979	0.14
BOYS' DRESS SHIRTS MMF WITH ≤2 COLOR WARP, NT KT	APPAREL	6205302020	640	4	1,706,189	0.01
MEN'S DRESS SHIRTS MMF NESOI, <36% W/FAH, NOT KNIT ..	APPAREL	6205302030	640	4	46,111,631	0.27
BOYS' DRESS SHIRTS MMF NESOI, <36% W/FAH, NT KNIT	APPAREL	6205302040	640	4	6,056,854	0.04
MEN'S SHIRT EX DRSS MMF WITH ≤2 COLOR WARP, NT KT ...	APPAREL	6205302050	640	4	42,101,319	0.25

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BOYS' SHIRT EX DRSS MMF ≤2 CLR WRP N PLYST PT, N KT .	APPAREL	6205302060	640	4	1,278,139	0.01
MEN'S SHIRTS EX DRESS MMF NESOI; <36% W/FAH, NT KT ...	APPAREL	6205302070	640	4	73,020,506	0.43
BOYS' SHIRT EX DRSS MMF NESOI NT IMP PLYST PT, N KT ..	APPAREL	6205302080	640	4	5,195,750	0.03
M/B SHIRTS SILK SUBJECT MAN-MADE FIBER RESTRNT, N KT.	APPAREL	6205902030	640	4	3,317	0.00
M/B SHIRTS OF OT TEXTILE MAT SUBJ MMF RES, NT KNIT	APPAREL	6205904030	640	4	46,391	0.00
M/B MMF SHIRTS EXCLUDED FROM HDNG 6205; NOT KNIT	APPAREL	6211330040	640	4	3,235,497	0.02
W/G ENS BLOUSE & SHIRT SYN FIB ≤2 COLOR WARP, N KT ..	APPAREL	6204230050	641	4	9,015	0.00
W/G ENS BLOUSE & SHIRT SYN FIB <2 COLOR WARP, N KT ..	APPAREL	6204230055	641	4	490,244	0.00
W/G ENS BLOUSE & SHIRT ART FIB ≤2 COLOR WARP, N KT ...	APPAREL	6204292030	641	4	158,413	0.00
W/G ENS BLOUSE & SHIRT ART FIB <2 COLOR WARP, N KT ...	APPAREL	6204292040	641	4	2,915,906	0.02
W/G ENS BLOUSE OT TEXTILE MAT SUBJ MMF RES, NT KT ...	APPAREL	6204294050	641	4	448	0.00
W/G BLOUSES OF SILK SUBJECT MMF RESTRAINTS, N KT	APPAREL	6206100030	641	4	254	0.00
W/G BLOUSES MAN-MADE FIB CRTFD FOLKLORE PROD, N KT.	APPAREL	6206401000	641	4	0	0.00
W/G BLOUSES MAN-MADE FIB CONT >=30% SILK, NT KNIT	APPAREL	6206402000	641	4	15,319	0.00
W BLSS MMF CONT <36% WGT FL FB W≤ 2 CLR WRP, N KNT	APPAREL	6206403010	641	4	5,056,578	0.03
G BLOUSE MMF WTH >=2 CLR WRP NT IMP PLYST PT, N KT .	APPAREL	6206403025	641	4	276,074	0.00
WOMEN'S BLOUSES OF MMF <36% FLAX FIB NT KNIT	APPAREL	6206403030	641	4	115,456,639	0.68
G BLOUSES OF MMF CONT <36% BY WGT FLX FIB NOT KNIT	APPAREL	6206403050	641	4	2,853,821	0.02
W/G BLOUSES OF OT TEXTILE MAT SUBJ MMF RES, N KT	APPAREL	6206900030	641	4	18,319	0.00
W & G TOPS OT CAM BUSTIERS BANDOS ETC OF MMF NOT K.	APPAREL	6211430060	641	4	3,730,575	0.02
PARTS OF BLOUSES & SHIRTS MMF, NOT KNIT OR CROCHTD.	APPAREL	6217900010	641	4	67,990	0.00
W/G ENS OF SKIRTS OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6104230030	642	4	16,524	0.00
W/G ENS OF SKIRTS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6104291020	642	4	199,720	0.00
W/G ENS OF SKIRTS OF OT TEX MAT SUBJ MMF RES, KNIT ..	APPAREL	6104292026	642	4	0	0.00
WOMEN'S SKIRTS OF SYNTHETIC FIBER <23% WOOL, KNIT ...	APPAREL	6104532010	642	4	6,378,556	0.04
GIRLS' SKIRTS OF SYNTHETIC FIBERS <23% WOOL, KNIT	APPAREL	6104532020	642	4	2,520,708	0.01
WOMEN'S SKIRTS OF ARTIFICIAL FIBERS NESOI, KNIT	APPAREL	6104591010	642	4	266,501	0.00
GIRLS' SKIRTS OF ARTIFICIAL FIBERS NESOI, KNIT	APPAREL	6104591020	642	4	9,178	0.00
WOMEN'S SKIRTS OF ARTIFICIAL FIBERS NESOI, KNIT	APPAREL	6104591030	642	4	253,375	0.00
GIRLS' SKIRTS OF ARTIFICIAL FIBERS NESOI, KNIT	APPAREL	6104591060	642	4	14,721	0.00
W/G SKIRTS OT TEXTILE MATERIAL SUBJ MMF RES, KNIT	APPAREL	6104592030	642	4	10,534	0.00
W/G ENS OF SKRTS OF OT SYN FIB <36% W/FAH NT KT/C	APPAREL	6204230035	642	4	537,279	0.00
W/G ENS OF SKIRTS OF ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6204292015	642	4	1,961,630	0.01
W/G ENS OF SKIRTS OF OT TEX MAT SUBJ MMF RES, NT KT	APPAREL	6204294026	642	4	1,743	0.00
W/G SKIRTS SYN FIBER CRTFD FOLKLORE PRODUCTS, N KT	APPAREL	6204531000	642	4	0	0.00
W SKIRTS OF SYN FIB <36% BY WGT OF W/FAH NOT KNIT	APPAREL	6204533010	642	4	11,422,236	0.07
G SKIRTS OF SYN FIB; <36% BY WGT W/FAH, NOT KNIT	APPAREL	6204533020	642	4	513,126	0.00
W/G SKIRTS ART FIBER CRTFD FOLKLORE PRODUCTS, N KT	APPAREL	6204591000	642	4	0	0.00
WOMEN SKIRTS ART FIB <36% BY WGT OF W/FAH NOT KNIT	APPAREL	6204593010	642	4	20,769,453	0.12
GIRLS' SKIRTS ART FIB <36% BY WGT W/FAH NOT KNIT	APPAREL	6204593020	642	4	673,569	0.00
W/G SKIRTS OT TEXTILE MATERIAL SUBJ MMF RES, N KT	APPAREL	6204594030	642	4	27,595	0.00
M/B SUITS OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6103122000	643	4	155,927	0.00
M/B SUITS OF OTHER ARTIFICIAL FIBERS, KNIT	APPAREL	6103191500	643	4	906	0.00
M/B SUITS OF OTHER TEX MATERIAL SUBJ MMF RES, KNIT ..	APPAREL	6103194050	643	4	4,305	0.00
MEN'S SUITS SYNTHETIC FIB NOT 36% WOOL, NOT KNIT	APPAREL	6203122010	643	4	5,262,432	0.03
BOYS' SUITS SYNTHETIC FIB NOT 36% WOOL, NOT KNIT	APPAREL	6203122020	643	4	1,434,955	0.01
M/B SUITS ARTIFICIAL FIB NOT ≤36% WOOL, NOT KNIT	APPAREL	6203193000	643	4	218,621	0.00
M/B SUITS OF OTHER TEX MATERIAL SUBJ MMF RES, NT KT	APPAREL	6203194050	643	4	3,531	0.00
W/G SUITS OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6104132000	644	4	77,400	0.00
W/G SUITS OF OTHER ARTIFICIAL FIBERS, KNIT	APPAREL	6104191500	644	4	46,440	0.00
W/G SUITS OF OT TEX MATERIALS SUBJ MMF RES, KNIT	APPAREL	6104192060	644	4	0	0.00
WOMEN'S SUITS SYN FIB CONT <36% WOOL/FAH, N KT/CR ...	APPAREL	6204132010	644	4	5,142,518	0.03
GIRLS' SUITS SYN FIB CONT <36% WOOL/FAH, N KT/CRCH	APPAREL	6204132020	644	4	11,622	0.00
WG SUITS OF ART FIB CONT <36% BY WGT WL/FAH, NT KN ..	APPAREL	6204192000	644	4	6,595,784	0.04
W/G SUITS OF OT TEX MATERIALS SUBJ MMF RES, NT KT	APPAREL	6204193060	644	4	1,590	0.00
M/B ENS OF SWEATERS OF OTHER SYN FIBERS, KNIT	APPAREL	6103230070	645	4	6,530	0.00
M/B ENS OF SWEATERS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6103291040	645	4	0	0.00
M/B ENS SWEATERS OF OT TEX MAT SUBJ MMF RES, KNIT ..	APPAREL	6103292062	645	4	0	0.00
M/B SWEATERS OF MMF CONT 25% MORE LEATHER, KNIT ...	APPAREL	6110301010	645	4	137,953	0.00
M/B SWEATERS OF MAN-MADE FIBERS CONT 30% SILK, KNIT	APPAREL	6110302010	645	4	30,430	0.00
MEN'S SWEATERS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6110303010	645	4	66,709,166	0.39
BOY'S SWEATERS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6110303015	645	4	27,293,790	0.16
M/B SWEATERS OF OTH TEXTILE MAT SUBJ MMF RES, KNIT .	APPAREL	6110900014	645	4	178,979	0.00
W/G ENS OF SWEATERS OF OT SYNTHETIC FIBERS, KNIT	APPAREL	6104230040	646	4	13,429	0.00
W/G ENS OF SWEATERS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6104291060	646	4	339	0.00
W/G ENS SWEATER OT TEXTILE MAT SUBJ MMF RES, KNIT ..	APPAREL	6104292060	646	4	0	0.00
W/G SWEATERS OF MMF CONT 25% MORE LEATHER, KNIT ...	APPAREL	6110301020	646	4	186,309	0.00
W/G SWEATERS OF MAN-MADE FIBERS CONT 30% SILK, KNIT.	APPAREL	6110302020	646	4	124,401	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOMEN'S SWEATERS OF OTHER MAN-MADE FIBERS, KNIT ...	APPAREL	6110303020	646	4	90,896,775	0.53
GIRLS' SWEATERS OF OTHER MAN-MADE FIBERS, KNIT	APPAREL	6110303025	646	4	17,394,454	0.10
W/G SWEATERS OF OTH TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6110900030	646	4	47,062	0.00
PARTS OF SWEATERS OF MAN-MADE FIBERS, KNIT	APPAREL	6117900014	646	4	21,098	0.00
M/B ENS OF TROUSERS & BREECHES OF OT SYN FIB, KNIT ..	APPAREL	6103230040	647	4	14,617	0.00
M/B ENS OF SHORTS OF OTHER SYNTHETIC FIBERS, KNIT ...	APPAREL	6103230045	647	4	0	0.00
M/B ENS OF TROUSERS AND BREECHES OF ART FIB, KNIT ...	APPAREL	6103291020	647	4	0	0.00
M/B ENSEMBLES OF SHORTS OF ARTIFICIAL FIBERS, KNIT ...	APPAREL	6103291030	647	4	0	0.00
MEN'S TROUSERS & BREECHES OF OTH SYN FIBERS, KNIT ..	APPAREL	6103431520	647	4	6,729,421	0.04
BOYS' TROUSERS & BREECHES NESOI OF SYN FIB, KNIT	APPAREL	6103431540	647	4	14,266,035	0.08
MEN'S SHORTS OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6103431550	647	4	4,734,386	0.03
BOY'S SHORTS NESOI OF SYNTHETIC FIBERS, KNIT	APPAREL	6103431570	647	4	2,303,227	0.01
M/B TROUSERS & BREECHES OF OT ART FIBERS, KNIT	APPAREL	6103491020	647	4	251,750	0.00
M/B SHORTS OF OTHER ARTIFICIAL FIBERS, KNIT	APPAREL	6103491060	647	4	34,225	0.00
M/B TROUSERS ETC OF OT TEX MAT SUBJ MMF RES, KNIT ...	APPAREL	6103493014	647	4	2,831	0.00
M/B TROUSERS FOR TRACK SUITS OF SYN FIBER, KNIT	APPAREL	6112120050	647	4	5,605,052	0.03
M/B TROUSERS FOR TRACK SUITS OF ARTF FIBER, KNIT	APPAREL	6112191050	647	4	77,987	0.00
M/B SKI-SUIT TROUSERS AND BREECHES OF MMF, KNIT	APPAREL	6112201060	647	4	10,415	0.00
M/B TROUSER OTH KNIT FAB IMPREG RESIN EXC RBR/PLAS	APPAREL	6113000045	647	4	13,619	0.00
M/B ENS OF TRSRS & BRCHS OT SYN FIB <36% W/FAH, NK ...	APPAREL	6203230060	647	4	279,762	0.00
M/B ENS OF SHORTS OF OTHER SYNTHETIC FIBERS, NT KT .	APPAREL	6203230070	647	4	20,860	0.00
M/B ENS OF TROUSERS AND BREECHES OF ART FIB, NT KT	APPAREL	6203292030	647	4	21,262	0.00
M/B ENSEMBLES OF SHORTS OF ARTIFICIAL FIBERS, NT KT .	APPAREL	6203292035	647	4	4,545	0.00
M/B TROUSER ETC CRTFD H-LOOM PROD SYN FIB, NT KNIT .	APPAREL	6203432500	647	4	0	0.00
OTH WTR RES TROUS ETC SYN FIB <36% W/FAH NT KN/CRC	APPAREL	6203433500	647	4	2,839,344	0.02
MEN'S TROUSERS & BREECHES OF OTH SYN FIBERS, NT KT	APPAREL	6203434010	647	4	46,886,173	0.28
BOYS' TROUSER ETC OTHER SYNTHETIC FIB, NOT KNIT	APPAREL	6203434020	647	4	27,667,467	0.16
MEN'S SHORTS OF OTHER SYNTHETIC FIBERS, NOT KNIT	APPAREL	6203434030	647	4	19,325,211	0.11
BOYS' SHORTS NOT IMPORT PLAYSUIT PT SYN FIB, NT KT ...	APPAREL	6203434040	647	4	9,283,222	0.05
M/B TROUSER ETC H-LOOMD FOLKLORE PROD ART FIB, N KT.	APPAREL	6203491500	647	4	3,591	0.00
MEN'S TROUSERS & BREECHES ARTIFICIAL FIBERS, NT KT ..	APPAREL	6203492010	647	4	6,659,048	0.04
BOYS' TROUSERS ETC N IMP PLAYSUIT P[ART FIB, N KT	APPAREL	6203492030	647	4	3,635,377	0.02
MEN'S SHORTS OF ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6203492040	647	4	1,108,113	0.01
BOYS' SHORTS N IMP PLAYSUIT PART ART FIB, NT KT	APPAREL	6203492060	647	4	804,347	0.00
M/B TROUSER ETC OT TEX MTRL SUBJ MMF RSTRT, NT KT ..	APPAREL	6203493030	647	4	29,353	0.00
M/B TROUSERS RUBBERIZED MAN-MADE FIBERS, NOT KNIT .	APPAREL	6210401030	647	4	618,276	0.00
M/B WTR RES TRSRS/BRCHS IMP PTS SK-STS NESOI NT KT .	APPAREL	6211201525	647	4	61,477	0.00
M/B SKI-SUIT TROUSERS & BREECHES MMF, NOT KNIT	APPAREL	6211203030	647	4	62,982	0.00
M/B TRACK SUIT TROUSERS MAN-MADE FIBERS, NOT KNIT ..	APPAREL	6211330030	647	4	967,308	0.01
W/G ENS OF TROUSERS OF OT SYNTHETIC FIBERS, KNIT	APPAREL	6104230032	648	4	96,448	0.00
W/G ENS OF SHORTS OF OTHER SYNTHETIC FIBERS, KNIT ..	APPAREL	6104230034	648	4	80,718	0.00
W/G ENS OF TROUSERS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6104291030	648	4	72,638	0.00
W/G ENS OF SHORTS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6104291040	648	4	19,981	0.00
W/G ENS TROUSER OT TEXTILE MAT SUBJ MMF RES, KNIT ...	APPAREL	6104292038	648	4	4,470	0.00
W TROUSERS OF SYNTHETIC FIB CONT <23% WOOL, KNIT ...	APPAREL	6104632010	648	4	58,190,922	0.34
G TROUSERS OF SYN FIBERS <23% WOOL/FAH, KNIT	APPAREL	6104632025	648	4	16,678,375	0.10
W SHIRTS OF SYN FIBERS CONT <23% WOOL/FAH, KNIT	APPAREL	6104632030	648	4	9,632,865	0.06
G SHORTS OF SYN FIBERS CONT <23% WOOL/FAH, KNIT	APPAREL	6104632060	648	4	5,634,003	0.03
W/G TROUSERS & BREECHES OF ART FIBERS NESOI, KNIT ..	APPAREL	6104692010	648	4	257,144	0.00
W/G SHORTS OF ARTIFICIAL FIBERS NESOI, KNIT	APPAREL	6104692020	648	4	184,075	0.00
W/G TROUSERS & BREECHES OF ART FIBERS NESOI, KNIT ..	APPAREL	6104692030	648	4	314,330	0.00
W/G SHORTS OF ARTIFICIAL FIBERS NESOI, KNIT	APPAREL	6104692060	648	4	32,452	0.00
W/G TROUSERS OF OT TEXTILE MAT SUBJ MMF RES, KNIT ...	APPAREL	6104693026	648	4	45	0.00
W/G TROUSERS FOR TRACK SUITS OF SYN FIBER, KNIT	APPAREL	6112120060	648	4	5,377,336	0.03
W/G TROUSERS FOR TRACK SUITS OF ARTF FIBER, KNIT	APPAREL	6112191060	648	4	58,155	0.00
W/G SKI-SUIT TROUSERS AND BREECHES OF MMF, KNIT	APPAREL	6112201070	648	4	14,438	0.00
W/G TROUSER OTH KNIT FAB IMPREG RESIN EXC RBR/PLAS	APPAREL	6113000050	648	4	21,933	0.00
PARTS OF TROUSERS BREECHES & SHORTS OF MMF, KNIT .	APPAREL	6117900046	648	4	17,567	0.00
W/G ENS OF TRSRS OF OT SYN FIB <36% W/FAH, NT KT/C ...	APPAREL	6204230040	648	4	230,458	0.00
WG ENS OF SHORTS OF SYN FIB <36% BY WGT W/FAH N KN	APPAREL	6204230045	648	4	74,619	0.00
W/G ENS OF TROUSERS OF ARTIFICIAL FIBERS, NT KNIT	APPAREL	6204292020	648	4	1,126,872	0.01
W/G ENS OF SHORTS OF ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6204292025	648	4	817,191	0.00
W/G ENS TROUSER OT TEXTILE MAT SUBJ MMF RES, NT KT	APPAREL	6204294038	648	4	298	0.00
W/G TROUSER OVERALL ETC SYN FIB CRTFD FLKLR, N KT ...	APPAREL	6204632000	648	4	0	0.00
W/G W/R TROUS ETC SYN FIB <36% W/FAH, N KNT/CROCHD .	APPAREL	6204633000	648	4	2,331,686	0.01
W TROUSERS ETC SYN FIB <36% WGT W/FAH, N KNT/CROCH.	APPAREL	6204633510	648	4	34,151,292	0.20
G TROUS ETC SYN FIB <36% W/FAH N IMP PLYST PT, N K	APPAREL	6204633530	648	4	6,719,796	0.04
W SHORTS OF SYN FIB <36% W/FAH, NOT KNIT/CROCHETED	APPAREL	6204633532	648	4	27,844,479	0.16
G SHORTS SYN FIB <36% W/FAH NT IMP PLYST PT, N KT	APPAREL	6204633540	648	4	7,975,717	0.05
WOMEN'S TROUSERS ART FIB CONT <36% WOOL, N KT/CRC	APPAREL	6204692510	648	4	21,171,887	0.12

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
GRLS' TRSR ART FIB <36% W/FAH N IMP PLYST PT, N KT	APPAREL	6204692530	648	4	895,594	0.01
WOMEN'S SHORTS ART FIBER CONT <36% WOOL, NT KT/CR	APPAREL	6204692540	648	4	10,182,764	0.06
GIRLS SHORT ART FIB <36% W/FAH IMP PLYST PT, N KN	APPAREL	6204692560	648	4	259,975	0.00
W/G TROUSERS ETC SILK SUBJECT MMF RESTRAINTS, N KT	APPAREL	6204693030	648	4	3,129	0.00
W/G TROUSERS OF OT TEXTILE MAT SUBJ MMF RES, N KT	APPAREL	6204699030	648	4	44,640	0.00
W/G TROUSERS OF RUBBERIZED/IMPREG MAN-MADE FIB, N K.	APPAREL	6210501030	648	4	404,068	0.00
W/G WTR RES TRSRS/BRCHS IMP PRT-SK STS NESOI NT KT	APPAREL	6211201555	648	4	115,252	0.00
W/G SKI-SUIT TROUSERS & BREECHES MAN-MADE FIB, N KT	APPAREL	6211206030	648	4	27,774	0.00
W/G TRACK SUIT TROUSERS MAN-MADE FIBERS, NOT KNIT	APPAREL	6211430040	648	4	801,158	0.00
PARTS TROUSERS & BREECHES MMF, NOT KNIT OR CROCHTD.	APPAREL	6217900060	648	4	189,245	0.00
MEN'S NIGHTSHIRTS AND PAJAMAS OF MAN-MADE FIB, KNIT	APPAREL	6107220010	651	4	294,582	0.00
BOYS' BLANKET SLEEPERS OF MAN-MADE FIBERS, KNIT	APPAREL	6107220015	651	4	2,559,497	0.02
BOYS' NIGHTSHIRTS & PAJAMAS OF MAN-MADE FIB, KNIT	APPAREL	6107220025	651	4	24,825,363	0.15
MEN'S SLEEPWEAR OF MMF, KNIT	APPAREL	*6107920010	651	4	1,299	0.00
MEN'S SLEEPWEAR OF MMF, KNIT	APPAREL	*6107920020	651	4	857	0.00
WOMEN'S NIGHTDRESSES & PAJAMAS OF MAN-MADE FIB, KNIT.	APPAREL	6108320010	651	4	24,821,840	0.15
GIRLS' BLANKET SLEEPERS OF MMF, KNITTED/CROCHETED	APPAREL	6108320015	651	4	13,118,165	0.08
GIRLS' NIGHTDRESSES & PAJAMAS OF MAN-MADE FIB, KNIT	APPAREL	6108320025	651	4	12,010,829	0.07
M/B NIGHTSHIRTS & PAJAMAS MAN-MADE FIBERS, NT KNIT	APPAREL	6207220000	651	4	13,439,717	0.08
W/G NIGHTDRESSES & PAJAMAS MAN-MADE FIBERS, NOT KT.	APPAREL	6208220000	651	4	58,066,280	0.34
MEN'S UNDERPANTS AND BRIEFS OF MAN-MADE FIBERS, KNI.	APPAREL	6107120010	652	4	9,768,613	0.06
BOYS' UNDERPANTS AND BRIEFS OF MAN-MADE FIBERS, KNI.	APPAREL	6107120020	652	4	2,038,395	0.01
WOMEN'S SLIPS AND PETTICOATS OF MAN-MADE FIB, KNIT	APPAREL	6108110010	652	4	2,342,293	0.01
GIRLS' SLIPS AND PETTICOATS OF MAN-MADE FIBERS, KNIT	APPAREL	6108110020	652	4	70,122	0.00
WOMEN'S BRIEFS AND PANTIES OF MAN-MADE FIBERS, KNIT.	APPAREL	6108220020	652	4	140,774,142	0.83
GIRLS' BRIEFS AND PANTIES OF MAN-MADE FIBERS, KNIT	APPAREL	6108220030	652	4	7,787,946	0.05
WOMEN'S & GIRLS' UNDERPANTS OF MAN-MADE FIBER, KNIT.	APPAREL	6108920005	652	4	805,916	0.00
WOMEN'S UNDERWEAR EXC UNDERPANTS OF MMF, KNIT	APPAREL	6108920015	652	4	1,993,478	0.01
GIRLS' UNDERWEAR EXCEPT UNDERPANTS OF MMF, KNIT	APPAREL	6108920025	652	4	184,143	0.00
MEN'S OR BOYS' THERMAL UNDERSHIRTS OF MMF, KNIT	APPAREL	6109901047	652	4	439,962	0.00
WOMEN'S OR GIRLS' THERMAL UNDERSHIRTS OF MMF, KNIT	APPAREL	6109901075	652	4	356,159	0.00
M/B UNDERPANTS AND BRIEFS MAN-MADE FIBERS, NT KNIT	APPAREL	6207190010	652	4	3,705,355	0.02
M/B SINGLET & UNDERSHIRT MAN-MADE FIBER, NOT KNIT	APPAREL	6207924000	652	4	21,025	0.00
W/G SLIPS AND PETTICOATS MAN-MADE FIBERS, NOT KNIT	APPAREL	6208110000	652	4	1,143,261	0.01
WOMEN'S BRFS PNTS SNGLT OTHER UNDSHRTS MMF N KT	APPAREL	6208920030	652	4	43,906,601	0.26
GIRLS' BRFS PNTS SNGLTS OTH UNDSHRTS OF MMF N KT	APPAREL	6208920040	652	4	1,039,492	0.01
M/B ENS OF OVERALLS OF OTHER SYN FIBERS, KNIT	APPAREL	6103230055	659	4	0	0.00
M/B ENSEMBLES OF SYNTHETIC FIBERS NESOI, KNIT	APPAREL	6103230080	659	4	0	0.00
M/B ENSEMBLES NESOI OF ARTIFICIAL FIBERS, KNIT	APPAREL	6103291060	659	4	0	0.00
M/B OVERALLS OF SYN FIB <23% WOOL INSULATED, KNIT	APPAREL	6103432015	659	4	0	0.00
MEN'S OVERALLS OF SYN FIB NINSLTD <23% WOOL, KNIT	APPAREL	6103432020	659	4	11,016	0.00
BOYS' OVERALLS OF SYN FIB NINSLTD <23% WOOL, KNIT	APPAREL	6103432025	659	4	15,926	0.00
M/B OVERALLS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6103492000	659	4	432	0.00
M/B OVERALLS OF OT TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6103493038	659	4	0	0.00
W/G ENS NESOI OF OTHER SYNTHETIC FIBERS, KNIT	APPAREL	6104230042	659	4	13,982	0.00
W/G ENSEMBLES NESOI OF ARTIFICIAL FIBERS, KNIT	APPAREL	6104291070	659	4	14	0.00
W/G ENS NESOI OF OT TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6104292078	659	4	0	0.00
W/G OVERALLS OF SYNTHETIC FIBERS, INSULATED, KNIT	APPAREL	6104631010	659	4	418	0.00
W OVRALLS OF SYNTHETIC FIBERS, NT INSULATED, KNIT	APPAREL	6104631020	659	4	272,520	0.00
G OVRALLS OF SYNTHETIC FIBERS, NT INSULATED, KNIT	APPAREL	6104631030	659	4	170,683	0.00
W/G OVERALLS OF ARTIFICIAL FIBERS, KNIT	APPAREL	6104691000	659	4	103,536	0.00
W/G OVERALLS OF OT TEXTILE MAT SUBJ MMF RES, KNIT	APPAREL	6104693014	659	4	576	0.00
M/B VEST (EXC SWTR VEST) OF MMF >=25% LEATHER, KNIT	APPAREL	6110301030	659	4	778	0.00
W/G VEST (EXC SWTR VEST) OF MMF >=25% LEATHER, KNIT	APPAREL	6110301040	659	4	16,776	0.00
M/B VEST (EXC SWEATER VEST) OF MMF >=30% SILK, KNIT	APPAREL	6110302030	659	4	1,368	0.00
W/G VESTS EX SWEATERS OF MMF CONT 30% SILK, KNIT	APPAREL	6110302040	659	4	2,419	0.00
M/B VESTS (EXC SWEATER VEST) OF OTHER MMF, KNIT	APPAREL	6110303030	659	4	799,085	0.00
W/G VESTS (EXC SWEATER VESTS) OF OTHER MMF, KNIT	APPAREL	6110303035	659	4	1,102,162	0.01
M/B VESTS (EXC SWTR VEST)TEX MATL SUBJ MMF RES, KT	APPAREL	6110900052	659	4	14,918	0.00
W/G VESTS (EXC SWTR VEST) TEX MATL SUBJ MMF RES, KT	APPAREL	6110900054	659	4	3,312	0.00
PADDED SKI-SUIT SLVLSS JACKET NESOI OF MMF, KNIT	APPAREL	6112201050	659	4	0	0.00
M/B OTHER SKI-SUITS OF MAN-MADE FIBERS, KNIT	APPAREL	6112201080	659	4	105,970	0.00
W/G OTHER SKI-SUITS OF MAN-MADE FIBERS, KNIT	APPAREL	6112201090	659	4	26,798	0.00
MEN'S SWIMWEAR OF SYNTHETIC FIBERS, KNIT	APPAREL	6112310010	659	4	832,910	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BOYS' SWIMWEAR OF SYNTHETIC FIBERS, KNIT	APPAREL	6112310020	659	4	477,648	0.00
WOMEN'S SWIMWEAR OF SYN FIBER >=5% ELAS YARN, KNIT	APPAREL	6112410010	659	4	7,764,221	0.05
GIRLS' SWIMWEAR OF SYN FIBERS >=5% ELAS YARN, KNIT	APPAREL	6112410020	659	4	1,856,722	0.01
WOMEN'S SWIMWEAR OF SYN FIBER <5% ELAS YARN, KNIT	APPAREL	6112410030	659	4	2,711,275	0.02
GIRLS' SWIMWEAR OF SYN FIBER <5% ELAS YARN, KNIT	APPAREL	6112410040	659	4	4,333,968	0.03
M/B OVERALL OTH KNIT FAB IMPREG RESIN EXC RBR/PLAS	APPAREL	6113000065	659	4	1,792,224	0.01
W/G OVERALL OTH KNIT FAB IMPREG RESIN EXC RBR/PLAS	APPAREL	6113000070	659	4	1,350,936	0.01
M/B GRMNT KNIT FAB NESOI IMPREG RESIN EXC RBR/PLAS	APPAREL	6113000085	659	4	3,559,795	0.02
W/G GRMNT KNIT FAB NESOI IMPREG RESIN EXC RBR/PLAS	APPAREL	6113000090	659	4	1,974,658	0.01
BODYSUITS & BODYSHIRTS OF MMF >=5% ELAS YARN, KNIT	APPAREL	6114302010	659	4	684,994	0.00
BODYSUITS & BODYSHIRTS OF MAN-MADE FIB NESOI, KNIT	APPAREL	6114302020	659	4	1,431,706	0.01
BODYSUITS & BODYSHIRTS OF MAN-MADE FIB NESOI, KNIT	APPAREL	6114302060	659	4	1,485,605	0.01
JUMPERS OF MMF, KNIT CONT <23% WOOL OR FAH	APPAREL	6114303010	659	4	593,251	0.00
M/B COVERALLS AND SIMILAR APPAREL OF MMF, KNIT	APPAREL	6114303040	659	4	839,923	0.00
W/G COVERALLS AND SIMILAR APPAREL OF MMF, KNIT	APPAREL	6114303050	659	4	10,463,170	0.06
M/B OTHER GARMENTS OF MAN-MADE FIBERS, KNIT	APPAREL	6114303060	659	4	520,085	0.00
W/G OTHER GARMENTS OF MAN-MADE FIBERS, KNIT	APPAREL	6114303070	659	4	2,680,373	0.02
OTHER GARMENTS SUBJECT TO MMF RESTRAINTS, KNIT	APPAREL	6114900055	659	4	7,834	0.00
CLOTHING ACCESSORIES OF MAN-MADE FIBERS, NESOI, KNIT.	APPAREL	6117800035	659	4	15,653,707	0.09
PARTS OF GARMENTS EXC SWEATERS ETC MMF, KNIT	APPAREL	6117900056	659	4	1,474,445	0.01
M/B PAD SLVLS JACKET W-OUT SLEEVE ATTCH MMF, NT KT	APPAREL	6201932020	659	4	4,237,459	0.02
W/G PADDED SLEEVELESS JCKT W-OUT SLV ATT MMF, NT KT.	APPAREL	6202932020	659	4	245,333	0.00
M/B ENSEMBLES OF SYNTHETIC FIBERS NESOI, NOT KNIT	APPAREL	6203230090	659	4	126,043	0.00
M/B ENSEMBLES NESOI OF ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6203292060	659	4	14,314	0.00
WATER RESIS OVERALLS SYN FIBERS, NOT KNIT OR CROCH	APPAREL	6203431500	659	4	11,993,746	0.07
M OR B OVERALLS OF SYNTH FIBERS, INSULATED NOT KNT	APPAREL	6203432005	659	4	860,688	0.01
MEN'S OVERALLS OF SYNTHETIC FIBERS, NOT KNIT	APPAREL	6203432010	659	4	271,958	0.00
B OVRLS >SZ 7 OF SYN FB N-INSLD N-IMP PRT PLYST NK	APPAREL	6203432090	659	4	228,830	0.00
MENS B&B OVERALLS INSL CLD WTHR PRTCT ARTIF FIB NK	APPAREL	6203491005	659	4	2,318	0.00
MEN'S OVERALLS ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6203491010	659	4	27,202	0.00
BOYS' B&B OVRALS OF ARTIF FIB OTH THAN SIZE 2-7 NK	APPAREL	6203491090	659	4	1,253	0.00
WG ENS NESOI OF OT SYN FIB <36% BY WGT W/FAH NOT K	APPAREL	6204230060	659	4	58,795	0.00
W/G ENSEMBLES NESOI OF ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6204292050	659	4	60,754	0.00
W/G ENS NESOI OF OT TEXTILE MAT SUBJ MMF RES, NT KT	APPAREL	6204294062	659	4	43	0.00
WATER RESIS BIB & BRACE OVERALLS SYN FIBER, N KT	APPAREL	6204631200	659	4	8,131,838	0.05
WG B&B OVERALLS SYN FIB INSLTD COLD WEATHR PRCN NK.	APPAREL	6204631505	659	4	533,808	0.00
WOMEN'S BIB & BRACE OVERALLS SYNTHETIC FIBER, N KT	APPAREL	6204631510	659	4	336,600	0.00
WG B&B OVERLS ARTIF FIB INSLTD CLD WTHR PRTC NT KT	APPAREL	6204691005	659	4	792	0.00
WOMEN'S OVERALLS ARTIFICIAL FIBERS, NOT KNIT	APPAREL	6204691010	659	4	419,602	0.00
COVERALLS & OVERALLS GARMENTS OF FELTS OR NONWOVEN.	APPAREL	6210104015	659	4	9,643,478	0.06
GARMENTS OF FELTS OR NONWOVENS NESOI, NOT KNIT	APPAREL	*6210104025	659	4	971,974	0.01
M/B OVERALLS OF RUBBERIZED MAN-MADE FIBERS, NT KNT	APPAREL	6210401040	659	4	1,523,131	0.01
M/B GARMENTS NESOI RUBBERIZED MAN-MADE FIBERS N KT.	APPAREL	6210401050	659	4	2,506,435	0.01
W/G OVERALLS RUBBERIZED MAN-MADE FIBERS, NOT KNIT	APPAREL	6210501040	659	4	818,165	0.00
W/G GARMENTS NESOI RUBBERIZED MAN-MADE FIBER, NT K.	APPAREL	6210501050	659	4	739,181	0.00
MEN'S SWIMWEAR OF MAN-MADE FIBERS, NOT KNIT	APPAREL	6211111010	659	4	37,289,606	0.22
BOYS' SWIMWEAR OF MAN-MADE FIBERS, NOT KNIT	APPAREL	6211111020	659	4	11,473,589	0.07
WOMEN'S SWIMWEAR OF MAN-MADE FIBERS, NOT KNIT	APPAREL	6211121010	659	4	553,478	0.00
GIRLS' SWIMWEAR OF MAN-MADE FIBERS, NOT KNIT	APPAREL	6211121020	659	4	84,571	0.00
M/B WTR RES OF OTH TEX MAT NESOI NT KNT	APPAREL	6211201535	659	4	5,295,672	0.03
W/G WTR RES NESOI, OF TEX MATS NESOI NT KT/CRCHTD	APPAREL	6211201565	659	4	3,068,928	0.02
M/B SKI-SUIT, NESOI, MMF, NOT KNIT OR CROCHETED	APPAREL	6211204035	659	4	194,544	0.00
W/G SKI-SUIT, NESOI, OF MMF, NOT KNIT OR CROCHETD	APPAREL	6211207035	659	4	509,774	0.00
M & B CVRALS & SMI APPAREL MMF INSLTD NESOI, NT KT	APPAREL	6211330005	659	4	3,470,717	0.02
M & B CVRALS & SMI APPAREL MMF INSLTD NESOI, NT KT	APPAREL	6211330007	659	4	2,294,654	0.01
MEN'S CVRALS & SMI APPAREL M-M FIB NT INSLTD NT KT	APPAREL	6211330010	659	4	8,219,448	0.05
B CVRLS & SMLR APPAREL MMF N-INSLTD SIZE >7 NT KT	APPAREL	6211330017	659	4	74,405	0.00
M/B VESTS OF MMF, NOT KNIT: CONT <36% WOOL OR FAH	APPAREL	6211330050	659	4	3,792,154	0.02
M/B GARMENTS NESOI OF MAN-MADE FIBERS, NOT KNIT	APPAREL	6211330060	659	4	3,020,875	0.02
W/G CVRALS & SIM APPAREL MMF, INSLTD NESOI, NT KT	APPAREL	6211430005	659	4	525,758	0.00
W/G CVRALS & SIM APPAREL MMF, INSLTD NESOI, NT KT	APPAREL	6211430007	659	4	376,762	0.00
WMENS CVRALS & SIM APPAREL M-M FIB, NT INSLTD NT KT	APPAREL	6211430010	659	4	8,832,614	0.05
W/G MMF JUMPERS N KT CONT <36% WGT WL OR FAH	APPAREL	6211430070	659	4	4,094,006	0.02
W/G MMF VESTS N KT CONT <36% WGT WOOL OR FAH	APPAREL	6211430080	659	4	2,303,683	0.01
W/G GARMENTS NESOI OF MAN-MADE FIBERS, NOT KNIT	APPAREL	6211430090	659	4	9,757,094	0.06
TIES & CRAVATS SLK CONT>=50% WGT OTH TEX MAT NT KN	APPAREL	6215100025	659	4	1,815,365	0.01

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
TIES BOW TIES AND CRAVATS MAN-MADE FIBERS, NT KNIT .	APPAREL	6215200000	659	4	2,865,499	0.02
ACCESSORIES OF MAN-MADE FIBERS, NOT KNIT OR CROCHTD.	APPAREL	6217100030	659	4	18,501,739	0.11
PARTS OF GARMENTS NESOI MMF, NOT KNIT OR CROCHETED.	APPAREL	6217900065	659	4	1,354,147	0.01
HAT SHAPES OF MAN-MADE FIBERS, PLAIT/ASSMBLD STRIP	APPAREL	6502009030	659	4	338,746	0.00
SEWED HATS & OTHER HEADGEAR OF MAN-MADE FIBERS ...	APPAREL	6504009015	659	4	2,159,784	0.01
HATS&OTH HDGEAR, NOT SEWD;PLAIT/ASSMB MAN-MADE FIBR.	APPAREL	6504009060	659	4	516,658	0.00
KT/CROCH MMF VISR&OTH HDGR W/O COV CROWN, WH/PT BRD.	APPAREL	6505905060	659	4	59,518,714	0.35
KT/CROCH MMF VISOR&OTH HDGR W/O COV CROWN, N PT BRD.	APPAREL	6505906080	659	4	14,599,800	0.09
NKT MMF VISOR&OTH HDGR W/O COV FOR CROWN, WH/PT BRD.	APPAREL	6505907060	659	4	31,734,562	0.19
NKT MMF VISOR&OTH HDGR W/O COV FOR CROWN NT PT BRD.	APPAREL	6505908060	659	4	44,973,216	0.26
M/B ENS OF SWEATER OF OT TEX MATL ASSM H.K., KNIT	APPAREL	6103292070	845	4	0	0.00
M/B ENS OF SWEATERS OF OT TEXTILE MATERIALS, KNIT	APPAREL	6103292074	845	4	0	0.00
W/G ENS SWEATERS OF OT TEXT MATL ASSM H.K., KNIT	APPAREL	6104292070	845	4	0	0.00
W/G ENS SWEATER OT TEXTILE MATERIALS NESOI, KNIT	APPAREL	6104292072	845	4	9,856	0.00
M/B SWEATER OT TEX MAT ASSEMBLED HONG KONG, KNIT .	APPAREL	6110900022	845	4	6,380,590	0.04
M/B SWEATERS OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6110900024	845	4	14,528,606	0.09
W/G SWEATER OT TEX MAT ASSEMBLED HONG KONG, KNIT	APPAREL	6110900040	845	4	69,506,822	0.41
W/G SWEATERS OF OTHER TEXTILE MATERIALS, KNIT	APPAREL	6110900042	845	4	140,198,243	0.82
PARTS OF SWEATERS OF TEXTILE FIBERS, NESOI, KNIT	APPAREL	6117900020	845	4	924	0.00
M/B ENS OF SWEATER OF OT SILK ASSM HONG KONG, KNIT	APPAREL	6103292066	846	4	0	0.00
M/B ENS OF SWEATERS <70% SLK/SLK WST, KNIT	APPAREL	6103292068	846	4	0	0.00
W/G ENS SWEATERS OF OTHER SILK ASSM H.K., KNIT	APPAREL	6104292064	846	4	0	0.00
W/G ENS SWEATERS CONT <70% BY WEIGHT SILK, KNIT	APPAREL	6104292068	846	4	0	0.00
M/B SWEATER OF SILK <70% SILK ASSM HONG KONG, KNIT .	APPAREL	6110900018	846	4	351,397	0.00
M/B SWEATERS OF SILK <70% SILK, KNIT	APPAREL	6110900020	846	4	193,578	0.00
W/G SWEATER OF SILK <70% ASSM IN HONG KONG, KNIT	APPAREL	6110900036	846	4	4,138,442	0.02
W/G SWEATERS OF SILK <70% SILK, KNIT	APPAREL	6110900038	846	4	6,903,574	0.04
PARTS OF SWEATERS < 70% BY WGT OF SLK/SLK WASTE, KT.	APPAREL	6117900018	846	4	0	0.00
M/B UNDERPANTS OF OTHER TEXTILE MATERIAL, KNIT	APPAREL	6107190020	852	4	23,696	0.00
W/G SLIPS & PETTICOATS OTH TEX MATL <70% SILK, KNIT ...	APPAREL	6108190030	852	4	1,254	0.00
W/G BRIEFS & PANTIES OF TEX MATL CONT <70% SILK, KT ..	APPAREL	6108290020	852	4	22,770	0.00
M/B UNDERPANTS <70% SLK/SLK WST NESOI NT KT	APPAREL	6207190030	852	4	79	0.00
M/B SINGLETS ETC OT TEXT MATL <70% SLK, N KT	APPAREL	6207996040	852	4	215	0.00
W/G SLIP & PETTICT TEX MATL <70% SILK, NT KT	APPAREL	6208194020	852	4	1,514	0.00
W/G NESOI BRF PNT SNGLT OT UNDWR <70% SLK NT KNITD	APPAREL	6208996040	852	4	9,345	0.00
W/G OTH SG & OT UDSHT SL PTC BR BR DG OTHER	APPAREL	6208998020	852	4	1,051	0.00
WOV FAB NOIL SLK <85% S/S WST SUB COT/MMF RES YDC ..	FABRIC	5007106010	218	4	3,114	0.00
WV FB SLK SUB <85% COT & MMF RES OF YRN O DIF COL ...	FABRIC	5007906010	218	4	25,402	0.00
WOV FAB COT PL WV WGT <=100G/M2 YR DF CL <= #43	FABRIC	5208414000	218	4	447,681	0.00
WOV FAB COT PL WV WGT <=100G/M2 YRN DIF CLR #44-68 ..	FABRIC	5208416000	218	4	1,399,379	0.01
WOV FAB COT PL WV WGT <=100G/M2 YRN DIF CLR >= #69 ..	FABRIC	5208418000	218	4	2,240,278	0.01
WOV FAB COT PL WV WGT 100-200G/M2 YN DF CLR #<=43	FABRIC	5208423000	218	4	5,106,009	0.03
WOV FAB COT PL WV WGT 100-200G/M2 YR DF CL #43-68	FABRIC	5208424000	218	4	4,842,445	0.03
WOV FAB COT PL WV WGT 100-200G/M2 YR DF CL >= #69	FABRIC	5208425000	218	4	5,637,513	0.03
WOV FAB COT WGT <=200G/M2 3-4 THRD TWL YR DF CL	FABRIC	5208430000	218	4	9,872,477	0.06
WOV FAB COT WGT <=200G/M2 OT FAB STN/TWL WV YR D C	FABRIC	5208492000	218	4	3,730,910	0.02
WOV FAB COT WGT <=200 G/M2 < = #42 OX WV YR D CL	FABRIC	5208494010	218	4	297,147	0.00
WOV FAB COT WGT <=200G/M2 <= #43 OT JC WV YR DF CL ..	FABRIC	5208494090	218	4	648,952	0.00
WOV FAB COT WGT <=200G/M2 #44-68 JC WV WD<127CM D ..	FABRIC	5208496010	218	4	518,664	0.00
WOV FAB COT WGT <=200G/M2 #44-68 N JAC WV YR DF CL ..	FABRIC	5208496090	218	4	990,482	0.01
WOV FAB COT <=200G/M2 #>=69 N-JAC YRN DIF COLORS	FABRIC	5208498090	218	4	3,584,764	0.02
WOV FAB COT >85% COT >200G/M2 YR OF CL P W NT NP O .	FABRIC	5209416020	218	4	808,532	0.00
WOV FAB COT >85% COT >200G/M2 YR OF CL PL WV NP OT .	FABRIC	5209416040	218	4	162,713	0.00
WOV FAB COT >85% CT >200G/M2 YR OF C 3-4TWL NT NAP ..	FABRIC	5209430020	218	4	5,475,731	0.03
WOV FAB COT >85% COT >200G/M2 YR OF CL 3-4 TWL NAP ..	FABRIC	5209430040	218	4	1,366,594	0.01
WOV FAB COT >85% COT >200G/M2 YRN DIF CLR NESOI	FABRIC	5209490090	218	4	1,657,042	0.01
WOV FAB COT <85% COT MX MMF <=200G/M2 YR D CL <=42 .	FABRIC	5210414000	218	4	1,103,807	0.01
WOV FAB COT <85% COT MX MMF <=200G/M2 YR D C 43-68 ..	FABRIC	5210416000	218	4	2,331,409	0.01
WOV FAB COT <85% COT MX MMF <=200G/M2 YR D CL >=69 .	FABRIC	5210418000	218	4	6,387,199	0.04
WOV FAB COT <85% COT MX MMF <=200G/M2 YDC 3-4TH TW	FABRIC	5210420000	218	4	138,496	0.00
WOV FAB COT <85% COT MX MMF <=200G/M2 YDC ST/TW WV.	FABRIC	5210492000	218	4	260,866	0.00
WOV FAB COT <85% COT MX MMF <=200G/M2 YDC <=42 0XF	FABRIC	5210494010	218	4	165,724	0.00
WOV FAB COT <85% COT MX MMF <=200G/M2 YDC <=42 NOX	FABRIC	5210494090	218	4	218,669	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOV FB CT <85% CT MX MMF <200G/M2 YDC 43-68 OXF CL ..	FABRIC	5210496010	218	4	331,191	0.00
WV FB CT <85% CT MX MMF <=200G/M2 YDC 43-68 NT JAC ...	FABRIC	5210496090	218	4	217,009	0.00
WOV FB CT <85% CT MX MMF <200G/M2 YDC >=69 NOT JAC .	FABRIC	5210498090	218	4	907,683	0.01
WOV FB CT <85% CT MX MMF >200G/M2 YDF PL WV NT NAP	FABRIC	5211410020	218	4	175,345	0.00
WOV FAB COT <85% CT MX MMF >200G/M2 YDF PL WV NAP .	FABRIC	5211410040	218	4	55,648	0.00
WOV FB CT <85% CT MX MMF >200G/M2 3-4TWL NOT NAPPD	FABRIC	5211430020	218	4	77,165	0.00
WOV FAB CT <85% CT MX MMF >200G/M2 3-4 TWL NAPPED ..	FABRIC	5211430040	218	4	986	0.00
WOV FAB COT <85% COT MX MMF >200G/M2 OT FB NESOI ...	FABRIC	5211490090	218	4	767,665	0.00
OTH WOVEN FAB COT <= 200G/M2 YR DF CL OTH: NESOI	FABRIC	5212146090	218	4	395,509	0.00
OTH WOVEN FAB COT >200G/M2 YR DF CL OTH: NESOI	FABRIC	5212246090	218	4	184,012	0.00
WV FB SYN ST F >=85% SYN >=85% PL YR D C EX BD/J W	FABRIC	5512190005	218	4	539,222	0.00
WV FB SYN ST F >=85% SYN >=85% A/M Y D C EX BD/J W	FABRIC	5512290005	218	4	522,648	0.00
WV FB SYN S F >=85% SYN S F OTH YDC EX BL DN/JAC W ...	FABRIC	5512990005	218	4	319,649	0.00
WV FB SYN S F <85% MX CT <=170G/M2 YDF PY ST FB PW ...	FABRIC	5513310000	218	4	8,092,806	0.05
WV FB SYN S F <85% MX CT <=170G/M2 3-4TWL PLY ST F	FABRIC	5513320000	218	4	104,552	0.00
WV FB SYN S F <85% MX CT <=170G/M2 YDF OWFPSF OX C .	FABRIC	5513330010	218	4	104,393	0.00
WV FB SYN S F <85% MX CT <=170G/M2 YDF OWFPSF OTHR	FABRIC	5513330090	218	4	806,338	0.00
WOV FAB SYN S F <85% MX CT <=170G/M2 YDF OWF NESOI .	FABRIC	5513390090	218	4	1,052,916	0.01
WV FB SYN SF <85% MX CT >170G/M2 YDC PY SF PLN WV	FABRIC	5514310000	218	4	207,698	0.00
WV FB SY SF <85% M C >170G/M2 YDC 3-4T PY ST F OTH	FABRIC	5514320090	218	4	58,761	0.00
WV FB SY SF <85% M C >170G/M2 YDC OWFPSF N JAC W	FABRIC	5514330090	218	4	5,452	0.00
WV FB SY SF <85% M C >170G/M2 YDC OT WV FB NESOI	FABRIC	5514390090	218	4	40,335	0.00
OTH WOV FB SYN PLY SF M VIS RAY SF YDC EX JC/BL DN ...	FABRIC	5515110005	218	4	4,614,776	0.03
OTH WOV FB SYN PLY S FB OTHER SF YDC EX JC/BL DN	FABRIC	5515190005	218	4	1,626,793	0.01
OT WOV FAB SY AC/MA SF O YRN DIF CLR EX BL DN/JC W ...	FABRIC	5515290005	218	4	897,200	0.01
OTH WOV FAB OF SYN STP FIB OTH YR DF CL EX BD/JC W ..	FABRIC	5515990005	218	4	324,291	0.00
WOV FAB <85% ART ST FB MX M/S COT YDF OTH W >127CM	FABRIC	5516430030	218	4	165,309	0.00
WOV FAB <85% ART ST FB MX M/S COTN YDF OTHER NESOI	FABRIC	5516430090	218	4	235,822	0.00
WOVEN FABRICS OF ART STAPLE FIBERS OT YDF NESOI	FABRIC	5516930090	218	4	2,242,951	0.01
WOV FAB COT 85%> COT >200G/M2 UBLCH PLN WEAVE OTHR.	FABRIC	5209110090	219	4	19,055,152	0.11
WOV FAB COT 85%> COT >200G/M2 UBL OTH FAB: EX WEVS	FABRIC	5209190060	219	4	45,792,300	0.27
WOV FAB COT 85%> COT >200G/M2 BLCHD PLN WEAVE DUCK.	FABRIC	5209210090	219	4	150,337	0.00
WOV FAB COT 85%> COT >200G/M2 BLC OTH FAB: EXCEPTD	FABRIC	5209290060	219	4	60,736	0.00
W F CT >=85% CT >=200G/M2 DYD OTH PLAIN WEAVE DUCK	FABRIC	5209316090	219	4	3,865,258	0.02
WOV FAB COT 85%> COT >200G/M2 DYE FAB:DUCK EX P WV	FABRIC	5209390060	219	4	740,399	0.00
W F CT >=85% CT >200G/M2 PRNTED OTH PLN WV DUCK	FABRIC	5209516090	219	4	49,869	0.00
WOV FAB COT 85%> COT >200G/M2 PRT OTH FABRIC: DUCK	FABRIC	5209590060	219	4	867	0.00
WOV FAB COT <85% COT >200G/M2 UBLCH PLN WEAVE OTHR.	FABRIC	5211110090	219	4	73,742	0.00
WOV FAB COT <85% COT >200G/M2 UBL OTH FAB: DUCK	FABRIC	5211190060	219	4	3,938,346	0.02
WOV FAB COT <85% COT >200G/M2 BLECH PLN WEAVE OTHR.	FABRIC	5211210090	219	4	9,514	0.00
WOV FAB COT <85% COT >200G/M2 BLC OTH FAR: DUCK	FABRIC	5211290060	219	4	244,704	0.00
WOV FAB COT <85% COT >200G/M2 DYE PLN WEAVE OTHR .	FABRIC	5211310090	219	4	31,112	0.00
WOV FAB COT <85% COT >200G/M2 DYE OTH FAB: DUCK	FABRIC	5211390060	219	4	731,698	0.00
WOV FAB COT <85% COT >200G/M2 PRTED PLN WEAVE OTHR.	FABRIC	5211510090	219	4	0	0.00
WOV FAB COT <85% COT >200G/M2 PRT OTH FAB: DUCK	FABRIC	5211590060	219	4	0	0.00
OTH WOV FAB COT >200G/M2 UBLCH CON <36% W/FAH DUCK.	FABRIC	5212216040	219	4	7,653	0.00
OTH WOV FAB COT > 200G/M2 BLCH CON <36% W/FAH DUCK	FABRIC	5212226040	219	4	562	0.00
OTH WOV FAB COT >200G/M2 DYED CON < 36% W/FAH DUCK.	FABRIC	5212236040	219	4	6,007	0.00
OTH WOV FAB COT > 200G/M2 CON < 36% W/FAH DUCK	FABRIC	5212256040	219	4	0	0.00
WOV FAB SYN ST FB >=85% SYN >=85% PLY UBL/BL DUCK ...	FABRIC	5512110050	219	4	5,967	0.00
WOV FAB SYN ST FB >=85% SYN >=85% POLY S F OT DUCK .	FABRIC	5512190040	219	4	185,869	0.00
WOV FAB SYN ST FB >=85% SYN >=85% A/M UBL/BL DUCK	FABRIC	5512210050	219	4	65,776	0.00
WOV FAB SYN ST FB >=85% SYN >=85% OTHER AC/MA DCK .	FABRIC	5512290035	219	4	26,878	0.00
WOV FAB SYN ST FB >=85% SYN ST FB OTH UNB/BL DUCK ...	FABRIC	5512910050	219	4	1,561	0.00
WOV FAB SYN ST FB >=85% SYN ST F BER OTHER DUCK	FABRIC	5512990035	219	4	37,018	0.00
WV FB SY SF <85% MX CT >170G/M2 UB/BL OTH 1 PW DCK ...	FABRIC	5514110090	219	4	2,548	0.00
WV F SY SF <85% M CT >170G/M2 UB/BL OWFPSF DK E PW ..	FABRIC	5514130040	219	4	0	0.00
WV FB SYN SF <85% MX CT >170G/M2 UB/BL OT W F DUCK ..	FABRIC	5514190030	219	4	0	0.00
WV FB SY SF <85% MX CT >170G/M2 DYED PLN WEAV DUCK	FABRIC	5514210090	219	4	196,656	0.00
WV F SY SF <85% M CT >170G/M2 DYED OWFPSF OK E PW ..	FABRIC	5514230040	219	4	0	0.00
WV FB SYN SF <85% MX CT >170G/M2 DYED OTH W F DUCK	FABRIC	5514290030	219	4	0	0.00
WV FB SY SF <85% MX CT >170G/M2 PRNTD OTH 1 PW DCK .	FABRIC	5514410090	219	4	719	0.00
WV F SY SF <85% M CT >170G/M2 PRNTD OWFPSF DK E PW	FABRIC	5514430040	219	4	0	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRNTD OT W F DUCK	FABRIC	5514490030	219	4	0	0.00
OTH WOV FAB SYN PLY ST FB M VIS RAY ST FB DUCK	FABRIC	5515110035	219	4	24,788	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
OTH WOV FAB SYN PLY STP FIBER OTHER ST FB DUCK	FABRIC	5515190035	219	4	2,684	0.00
OTHER WOVEN FABRICS SYNTHETIC ACR/MAC ST FB O DUCK.	FABRIC	5515290035	219	4	0	0.00
OTH WOVEN FABRIC OF SYNTHETIC STAPLE FIBER O DUCK	FABRIC	5515990035	219	4	5,069	0.00
WOV FAB <85% ART STP FIB MX COT UB/BL DUCK	FABRIC	5516410050	219	4	1,362	0.00
WOV FAB <85% ART STP FIB MX COTN DYED DUCK	FABRIC	5516420050	219	4	5,202	0.00
WOV FAB <85% ART STP FIB COT PRNTD DUCK	FABRIC	5516440050	219	4	0	0.00
WOVEN FABRICS ARTIF STPL FIB OTH DUCK UNBLCHD/BLCH	FABRIC	5516910050	219	4	870	0.00
WOVEN FABRICS ARTIF STPL FIB OTH DUCK DYED	FABRIC	5516920050	219	4	3,993	0.00
WOVEN FABRICS ARTIF STPL FIB OTH DUCK PRINTED	FABRIC	5516940050	219	4	0	0.00
WOV FAB NOIL SLK <85%S/S W SUB COT/MMF RES OTH-YDC	FABRIC	5007106020	220	4	201	0.00
WV FAB SLK <85% S/S W SUB COT & MMF RES, YR SM CLR	FABRIC	5007906020	220	4	46,171	0.00
WOV FAB COT UBL <=100G/M2 >=#68 PL WV TYPWTR RIBON	FABRIC	5208116000	220	4	0	0.00
WOV COT FAB CON >85% WGT <200G/M2 UBL #<44 OT OXF	FABRIC	5208194090	220	4	4,289,291	0.03
WOV FAB COT CON >85% WGT <200G/M2 44-68 OT OXF CLT	FABRIC	5208196090	220	4	2,213,715	0.01
WOV FAB COT CON >85% WGT <200G/M2 69&> UNBL OTH OX.	FABRIC	5208198090	220	4	203,023	0.00
WOV COT FAB CON >85% WGT <200G/M2 BLC #<44 OT OXF	FABRIC	5208294090	220	4	7,859,497	0.05
WOV FAB COT CON >85% WGT <200G/M2 44-68 OT OXF CLT	FABRIC	5208296090	220	4	915,729	0.01
WOV FAB COT CON >85% WGT <200G/M2 69&> BLEACH OTHR.	FABRIC	5208298090	220	4	242,667	0.00
WOV COT FAB CON >85% WGT >100G/M2 DYE #<44 OT OXF	FABRIC	5208394090	220	4	611,483	0.00
WOV FAB COT CON >85% WGT >100G/M2 44-68 OT OXF CLT	FABRIC	5208396090	220	4	523,784	0.00
WOV FAB COT CON >85% WGT >100G/M2 69&> DYED OTHER	FABRIC	5208398090	220	4	328,350	0.00
WOV FAB COT WGT <=200 G/M2 < = #43 JAC WV YR D CL	FABRIC	5208494020	220	4	280,199	0.00
WOV FAB COT WGT <=200G/M2 #44-68JC WV WD<=127CM DC	FABRIC	5208496020	220	4	66,396	0.00
WOV FAB COT WGT <=200G/M2 #44-68 JAC WV O DIF COLR	FABRIC	5208496030	220	4	59,265	0.00
WOV FAB COT <=200G/M2 #>=69 JAC YRN OF DIF COLORS	FABRIC	5208498020	220	4	42,412	0.00
WOV COT FAB CON >85% WGT <200G/M2 PRT #<=42 OX CLO	FABRIC	5208594090	220	4	770,849	0.00
WOV FAB COT CON >85% WGT <200G/M2 43-68 OT OXF CLT	FABRIC	5208596090	220	4	439,782	0.00
WOV FAB COT CON >85% WGT <200G/M2 >=69 PRINTD OTHR	FABRIC	5208598090	220	4	100,432	0.00
WOVN FAB COT 85%> COT >200G/M2 UBL OTHR FAB NESOI	FABRIC	5209190090	220	4	35,725,631	0.21
WOVN FAB COT 85%> COT >200G/M2 BLC OTHR FAB NESOI	FABRIC	5209290090	220	4	416,578	0.00
WOV FAB COT 85%> COT >200G/M2 DYE OT FB WD>127 CM	FABRIC	5209390080	220	4	589,543	0.00
WOVN FAB COT 85%> COT >200G/M2 DYE OTHR FAB NESOI	FABRIC	5209390090	220	4	305,601	0.00
WOV FAB COT >85% CT >200G/M2 Y D C JAC WV WD>127CM	FABRIC	5209490020	220	4	1,437,517	0.01
WV FB CT >85% CT >200G/M2 YR DF CL JC WV <=127CM O	FABRIC	5209490040	220	4	66,976	0.00
WOVN FAB COT 85%> COT >200G/M2 PRT OTHR FAB NESOI	FABRIC	5209590090	220	4	280,142	0.00
WOV COT FAB CON <85% WGT<200G/M2 UBL #44OR < OT OX	FABRIC	5210194090	220	4	30,715	0.00
WOV FAB COT CON 85% WGT <200G/M2 43-68 OT OXF CLT	FABRIC	5210196090	220	4	12,843	0.00
WOV FAB COT CON <85% WGT <200G/M2 69&> UBLECH OTHR.	FABRIC	5210198090	220	4	3,079	0.00
WOV COT FAB CON <85% WGT <200G/M2 BLC <=42 OT OXFD	FABRIC	5210294090	220	4	86,106	0.00
WOV FAB COT CON <85% WGT <200G/M2 43-68 OT OXF CLT	FABRIC	5210296090	220	4	36,547	0.00
WOV FAB COT CON <85% WGT <200G/M2 >=69 BLEACH	FABRIC	5210298090	220	4	45,939	0.00
WOV COT FAB CON <85% WGT <200G/M2 DYE <=42 OT OXF	FABRIC	5210394090	220	4	381,266	0.00
WOV FAB COT CON <85% WGT <200G/M2 43-68 OT OXF CLT	FABRIC	5210396090	220	4	244,218	0.00
WOV FAB COT CON <85% WGT <200G/M2 >=69 DYED OTH	FABRIC	5210398090	220	4	332,750	0.00
WOV FAB COT <85% COT MX MMF <=200G/M2 YDC <=42 JAC	FABRIC	5210494020	220	4	186,257	0.00
WOV FB CT <85% CT MX MMF <200G/M2 YDC 43-68 JACQRD	FABRIC	5210496020	220	4	54,311	0.00
WOV FB CT <85% CT MX MMF <200G/M2 YDC >=69 JAC WOV	FABRIC	5210498020	220	4	21,136	0.00
WOV COT FAB CON <85% WGT <200G/M2 PRT <=42 OT OXFD	FABRIC	5210594090	220	4	87,898	0.00
WOV FAB COT CON <85% WGT <200G/M2 43-68 OT OXF CLT	FABRIC	5210596090	220	4	15,836	0.00
WOV FAB COT CON <85% WGT <200G/M2 69&> PRINT NESOI	FABRIC	5210598090	220	4	8,045	0.00
WOVN FAB COT <85% COT >200G/M2 UBL OTHR FAB NESOI	FABRIC	5211190090	220	4	223,478	0.00
WOVN FAB COT <85% COT >200G/M2 BLC OTHR FAB NESOI	FABRIC	5211290090	220	4	1,339,091	0.01
WOVN FAB COT < 85% COT >200G/M2 DYE OTHR FAB NESOI	FABRIC	5211390090	220	4	205,717	0.00
WOV FAB COT <85% COT MX MMF >200G/M2 OTH FAB: JAC	FABRIC	5211490020	220	4	3,281,659	0.02
WOVN FAB COT <85% COT >200G/M2 PRT OTHR FAB NESOI	FABRIC	5211590090	220	4	102,222	0.00
OTH WOV FB COT <=200G/M2 UBL MXED WITH WOOL OR FAH.	FABRIC	5212116010	220	4	6,840	0.00
OTH WOV FAB COT <= 200G/M2 UBLCH <36% W/FAH, NESOI	FABRIC	5212116090	220	4	9,799	0.00
OTH WOV FAB COT <=200G/M2 BLC CON <36% WOOL OR FAH.	FABRIC	5212126010	220	4	0	0.00
OTH WOV FAB COT <= 200G/M2 BLCH <36%W/FAH OT NESOI	FABRIC	5212126090	220	4	54,923	0.00
OTH WOV FAB COT <=200G/M2 DYE CON <36% OF WOOL/ FAH.	FABRIC	5212136010	220	4	1,355	0.00
OTH WOV FAB COT <= 200G/M2 DYED OTH: OTH - NESOI	FABRIC	5212136090	220	4	73,404	0.00
OTH WOV FAB COT <=200G/M2 YDC CON <36% OF WOOL/ FAH.	FABRIC	5212146010	220	4	72,605	0.00
OTH WOv FAB COT <=200G/M2 YDC OTH: JAC WDTH >127CM	FABRIC	5212146020	220	4	23,759	0.00
OTH WOV FB COT<=200G/M2 YDC OTH:JAC WOVEN WID<=127.	FABRIC	5212146030	220	4	13,755	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
OTH WOV FAB COT <=200G/M2 PRT CON <36% WOOL OR FAH.	FABRIC	5212156010	220	4	10,182	0.00
OTH WOV FAB COT <=200G/M2 PRTED OTH: OTH - NESOI	FABRIC	5212156090	220	4	142,660	0.00
OTH WOV FAB COT > 200G/M2 UBL CON <36% WOOL OR FAH.	FABRIC	5212216010	220	4	3,332	0.00
OTH WOV FAB COT > 200G/M2 UBLCH OTH: OTH - NESOI	FABRIC	5212216090	220	4	263,898	0.00
OTH WOV FAB COT >200G/M2 BLC CON <36% BY WGT W/ FAH.	FABRIC	5212226010	220	4	116	0.00
OTH WOV FAB COT 200G/M2 BLCH OTH: OTH - NESOI	FABRIC	5212226090	220	4	206,882	0.00
OTH WOV FAB COT > 200G/M2 DYE CON<36% BY WGT W/ FAH.	FABRIC	5212236010	220	4	50,351	0.00
OTH WOV FAB COT > 200G/M2 DYED CON < 36% WOOL/FAH	FABRIC	5212236090	220	4	80,383	0.00
OTH WOV FAB COT >200G/M2 YDC CON <36% BY WGT W/ FAH.	FABRIC	5212246010	220	4	83,991	0.00
OTH WOV FAB OF COT WGT >200G/M2 YDC JAC WOV OTH	FABRIC	5212246030	220	4	71,955	0.00
OTH WOV FAB OF COT WGT>200G/M2 YDC JAC WOV WID=127.	FABRIC	5212246040	220	4	12,345	0.00
OTH WOV FAB COT >200G/M2 PRT CONT< 36% WOOL OR FAH.	FABRIC	5212256010	220	4	945	0.00
OTH WOV FAB COT > 200G/M2 PRINT OTH: OTH - NESOI	FABRIC	5212256090	220	4	71,465	0.00
WOV FAB FLX <85% FLX, <=17% W/FAH, COT & MMF, NESOI	FABRIC	5309213020	220	4	22,817	0.00
WOV FAB FLX <85% FLX UNBL OR BL CON COT&MMF NESOI	FABRIC	5309213070	220	4	8,060	0.00
WOV FAB FLX <85% FLX, COT & MMF, COT RES NESOI	FABRIC	5309293020	220	4	42,080	0.00
WOV FAB FX <85% FX CONT COT & MMF, MMF RS NESOI	FABRIC	5309293070	220	4	28,406	0.00
WOV FAB VEG FIB SUB COT RES <=17% WGT WOOL/FAH	FABRIC	5311003020	220	4	16,278	0.00
WV FB VEG FB <=17% W/FAH CN CT/MMF MMF RES NESOI	FABRIC	5311003070	220	4	1,977	0.00
WOV FB SYN ST FIB >=85% SYN >=85% POLY UB/BL NESOI	FABRIC	5512110090	220	4	279,475	0.00
WOV FB SYN S F >=85% SYN >=85% PL ST FB OTH NESOI	FABRIC	5512190090	220	4	746,810	0.00
WOV FB SYN S F >=85% SYN >=85% AM UB/BL OTH NESOI	FABRIC	5512210090	220	4	65,581	0.00
WOV FB SYN S F >=85% SYN >=85% ACR/MACR OTH NESOI	FABRIC	5512290090	220	4	661,998	0.00
WOV FAB SYN ST FB >=85% SYN ST FB UNB/BL OT-NESOI	FABRIC	5512910090	220	4	92,673	0.00
WOV FAB SYN ST FB >=85% SYN STP FIB OTHER NESOI	FABRIC	5512990090	220	4	306,137	0.00
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL P O NESOI	FABRIC	5513130090	220	4	85,418	0.00
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL OWF NESOI	FABRIC	5513190090	220	4	31,432	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED PY O NESOI	FABRIC	5513230090	220	4	610,992	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED OWF NESOI	FABRIC	5513290090	220	4	324,960	0.00
WV FB SYN S F <85% MX CT <=170G/M2 YDC OWFPSF JC W	FABRIC	5513330020	220	4	4,643	0.00
WV FB SYN S F <85% MX CT <=170G/M2 YDF OWF JAC WOV	FABRIC	5513390010	220	4	4,614	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD P O NESOI	FABRIC	5513430090	220	4	866	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD OWF NESOI	FABRIC	5513490090	220	4	127,181	0.00
WV FB SYN SF <85% MX CT >170G/M2 UB/BL OWFPSF OTHR	FABRIC	5514130090	220	4	26,737	0.00
WV FB SYN SF <85% MX CT >170G/M2 UB/BL OWF NESOI	FABRIC	5514190090	220	4	4,033	0.00
WV FB SYN SF <85% MX CT >170G/M2 DYED OWFPSF OTHR	FABRIC	5514230090	220	4	1,091	0.00
WV FB SYN SF <85% MX CT >170G/M2 DYED OWF NESOI	FABRIC	5514290090	220	4	11,744	0.00
WV FB SY SF <85% M C >170G/M2 YDC OWFPSF JACQ WV	FABRIC	5514330010	220	4	15,625	0.00
WV FB SY SF <85% M C >170G/M2 YDC OT WV FB JAC WV	FABRIC	5514390020	220	4	90,366	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRNTD OWFPSF OTHR.	FABRIC	5514430090	220	4	1,194	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRNTD OWF NESOI	FABRIC	5514490090	220	4	56,327	0.00
OTH WOV FAB SYN PLY ST FB M VIS RAY ST FB OT-NESOI	FABRIC	5515110090	220	4	1,371,321	0.01
OTH WOV FAB SYN PLY STP FIBER OTHER ST FB OT-NESOI	FABRIC	5515190090	220	4	506,534	0.00
OTHER WOVEN FABRICS OF SYN ACR/MAC ST FB OTH-NESOI.	FABRIC	5515290090	220	4	294,072	0.00
OTH WOVEN FAB OF SYNTHETIC STAPLE FIB OTH NESOI	FABRIC	5515990090	220	4	349,329	0.00
WOV FAB <85% ART STP FIB MX COT UB/BL OTHER NESOI	FABRIC	5516410090	220	4	172,726	0.00
WOV FAB <85% ART STP FIB MX COTN DYED OTHER NESOI	FABRIC	5516420090	220	4	74,184	0.00
WOV FAB <85% ART ST FB MX M/S COT YDF JACQURD WV	FABRIC	5516430020	220	4	252,716	0.00
WOV FAB <85% ART STP FIB MX COT PRNTD OTHER NESOI	FABRIC	5516440090	220	4	45,677	0.00
WOVEN FABRICS ARTIF STAPLE FIBER OTHR NESOI UB/BL	FABRIC	5516910090	220	4	73,316	0.00
WOVEN FABRICS ARTIF STAPLE FIBER OTHR NESOI	FABRIC	5516920090	220	4	684,585	0.00
WOV FAB ARTIF STP FIB OTH YR DIF CLRS JACQUARD WV	FABRIC	5516930020	220	4	78,333	0.00
WOVEN FABRICS ARTIF STAPLE FIBER OTHR NESOI PRNTED.	FABRIC	5516940090	220	4	325,168	0.00
GAUZE; NOT NARROW FABRICS ASSMB WITH ADHSVE, COTON.	FABRIC	5803100000	220	4	69,395	0.00
GAUZE, NT NAR FAB OTH TEX MAT, OF MAN-MADE FIBER	FABRIC	5803903000	220	4	35,010	0.00
WOV PILE & CHENILLE FABRIC OF COT UNCUT WEFT PILE	FABRIC	5801210000	224	4	107,195	0.00
WOVEN PILE & CHENILLE FABRIC OF CUT CORDUROY	FABRIC	5801220000	224	4	4,390,039	0.03
WOV PILE & CHENILLE FABRIC OF CUT OTHER WELT PILE	FABRIC	5801230000	224	4	877,340	0.01
WOV PILE & CHENILLE FAB OF CUT WARP EPINGLE UNCUT	FABRIC	5801240000	224	4	44,521	0.00
WOV PILE & CHENILLE FAB WARP CUT>127 GRAM/SQ METER.	FABRIC	5801250010	224	4	999,735	0.01

VOL 60 ISS 83 MY 1 1995 UMI

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOV PILE & CHENL FAB WARP PILE FAB CUT, <=271G/M2	FABRIC	5801250020	224	4	322,651	0.00
WOV PILE CHENILLE COTTON FABRICS YRN ONE SIDE ONLY	FABRIC	5801260010	224	4	43,134	0.00
WOVEN PILE AND CHENILLE FABRICS, NESOI	FABRIC	5801260020	224	4	106,688	0.00
WOV PILE & CHENILLE FAB OF M-MADE FIBER UNCUT PILE ..	FABRIC	5801310000	224	4	489,545	0.00
WOV PILE & CHENILLE FAB OF M-MADE FIB CUT CORDUROY	FABRIC	5801320000	224	4	12,259	0.00
WOVEN PILE & CHENILLE FABRICS OTHER WELT PILE FAB ...	FABRIC	5801330000	224	4	471,306	0.00
WOV PILE & CHENILLE WARP PILE FAB EPINGLE (UNCUT)	FABRIC	5801340000	224	4	35,035	0.00
WOV PILE & CHEN WARP PILE FAB CUT >271 GRAM METER .	FABRIC	5801350010	224	4	361,427	0.00
WOV PILE & CHENLE WARP PILE FAB CUT, <=271 G/M2	FABRIC	5801350020	224	4	3,852,601	0.02
WOV PILE CHENILLE M-MADE FABRICS YRN ONE SIDE ONLY	FABRIC	5801360010	224	4	4,105	0.00
W P F & C F OT F HD 5802 & 5806 MMF C F W C Y 1 SD	FABRIC	5801360020	224	4	60,297	0.00
TERRY TOWEL & SIMILAR WOV FAB NT NARROW COT UNBLCH.	FABRIC	5802110000	224	4	143,774	0.00
TERRY TOWEL & SIMILAR WOV FAB NT NARROW COT, OTHER.	FABRIC	5802190000	224	4	745,619	0.00
TERRY TOWEL NOT NARROW OTH TEX MAT MAN-MADE FIBERS.	FABRIC	5802200020	224	4	1,021	0.00
TUFTED TEXTILE FABRICS OF COTTON OR MAN-MADE FIB ...	FABRIC	5802300030	224	4	333,279	0.00
LONG PILE FABRICS OF MAN-MADE FIBR, KNIT OR CROCHET	FABRIC	6001102000	224	4	320,826	0.00
OTHER LONG PILE FABRICS, KNITTED OR CROCHETED	FABRIC	6001106000	224	4	123,581	0.00
LOOPED PILE FABRICS OF COTTON, KNITTED OR CROCHETED.	FABRIC	6001210000	224	4	1,584,748	0.01
LOOPED PILE FABRICS MAN-MADE FIBER, KNIT OR CROCHET.	FABRIC	6001220000	224	4	3,540,853	0.02
OTH PILE FABRIC COTTON >271 G/SQ M KNIT OR CROCHET .	FABRIC	6001910010	224	4	123,575	0.00
OTH PILE FABRIC COTTON <271 G/SQ M KNIT OR CROCHET .	FABRIC	6001910020	224	4	322,424	0.00
OTH PILE FABRIC MMF VELOUR >271 G/M2 KNIT/CROCHETD	FABRIC	6001920010	224	4	291,701	0.00
OTHER PILE FABRIC MMF OTHER >271 G/M2 KNIT/CROCHET	FABRIC	6001920020	224	4	908,402	0.01
OTH PILE FABRIC MMF VELOUR <271 G/M2 KNIT/CROCHETD	FABRIC	6001920030	224	4	1,258,082	0.01
OTHER PILE FABRIC MMF OTHER <271 G/M2 KNIT/CROCHET	FABRIC	6001920040	224	4	4,037,805	0.02
WOV FAB COT >=85% COT >200 & <=360 G/M2 YR D C B	FABRIC	5209420020	225	4	13,333,541	0.08
WOV FAB COT >=85% COT >360 G/M2 YR DF CL BLUE DENIM	FABRIC	5209420040	225	4	25,879,129	0.15
WV FB CT<85% CT MX MMF >200&<=360 G/M2 YDF BLU DEN .	FABRIC	5211420020	225	4	6,289	0.00
WOV FAB COT >360M/G2 <85% CT MX MMF YDF BLUE DNM ..	FABRIC	5211420040	225	4	8,335	0.00
OTH WOV FAB COT >200G/M2 YDC CON < 36% W/FAH DENIM	FABRIC	5212246020	225	4	139,067	0.00
WV FB SYN ST F >=85% SYN >=85% PLY OTH BLUE DENIM ...	FABRIC	5512190010	225	4	1,097	0.00
WV FB SYN ST F >=85% SYN >=85% A/M OTH-BLUE DENIM ...	FABRIC	5512290010	225	4	2,508	0.00
WOV FAB SYN STAPLE FIB >=85% SYN STAPLE FIB NESOI	FABRIC	5512990010	225	4	2,970	0.00
WV FB SY SF <85% M C >170G/M2 YDC 3-4T PSF BLUE DN ...	FABRIC	5514320010	225	4	0	0.00
WV FB SY SF <85% M C >170G/M2 YDC QT WV FB BL DNM	FABRIC	5514390010	225	4	0	0.00
OTH WOV FAB SYN PLY S F M VIS RAY S F BLUE DENIM	FABRIC	5515110010	225	4	1,975	0.00
OTH WOV FAB SYN PLY ST FIB OTHER S F BLUE DENIM	FABRIC	5515190010	225	4	1,144	0.00
OTH WOV FAB SYN AC/MA ST FB OTHER BLUE DENIM	FABRIC	5515290010	225	4	0	0.00
OTH WOVEN FAB OF SYNTHETIC STAPLE FIBERS O BLUE DN.	FABRIC	5515990010	225	4	476	0.00
WOV FAB <85% ART ST FB MX M/S COT YDF BLUE DENIM	FABRIC	5516430010	225	4	287	0.00
WOV FAB ARTIF STP FIB OTH YR DIF CLRS BLUE DENIM	FABRIC	5516930010	225	4	207	0.00
WOV FAB COT >85% WT COT <=100G/M2 UNBLCH P/WV CHCL.	FABRIC	5208112090	226	4	8,816,699	0.05
WOV FAB>=85% COT BY WT UBL PL WVE <=100G/M2 #43-68 .	FABRIC	5208114090	226	4	840,567	0.00
WOV FAB COT UBL <=100G/M2 >=69 OTH TYPWR RIB NESOI .	FABRIC	5208118090	226	4	1,191,124	0.01
WV FB COT UNBL PLN WV >100<=200G/M2 OF #43-68 CHSC .	FABRIC	5208124090	226	4	23,026,437	0.14
WV FB COT UBL N >100<200G/M2 #43-68 PLN WV, CHSCLT ...	FABRIC	5208126090	226	4	354,702	0.00
WV FB COT >85% WGT COT >100 & <=200G/M2 #>=69 CHES ..	FABRIC	5208128090	226	4	1,289,436	0.01
WOV FAB COT CON >85% WGT COT <100G/M2 #43 OR < OTH	FABRIC	5208212090	226	4	1,157,353	0.01
WOV FAB COT CON >85% WGT COT <100G/M2 #44-68 OTHER.	FABRIC	5208214090	226	4	139,033	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #>68 BLC OTH	FABRIC	5208216090	226	4	41,301	0.00
WV FB CT >85% WGT COT >100 &<=200G/M2 #43 OR < OTH ...	FABRIC	5208224090	226	4	2,894,506	0.02
WV FB CT >85% WGT COT >100 & <=200G/M2 #44-68 OTHR ...	FABRIC	5208226090	226	4	7,854	0.00
WV FB CT >85% WGT COT >100 & <=200G/M2 #>68 BLC OT	FABRIC	5208228090	226	4	41,849	0.00
WV FB COT CON >=85% WGT COT <=100G/M2 #43 OR < OTH	FABRIC	5208314090	226	4	257,047	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #44-68 OTHER.	FABRIC	5208316090	226	4	1,609	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #>68 BLC OTH.	FABRIC	5208318090	226	4	190,419	0.00
WV FB CT >=85% WGT COT >100 & <=200G/M2 #<=42 CHES ...	FABRIC	5208323090	226	4	1,329,931	0.01
WV FB CT >=85% WGT COT >100 & <=200G/M2 #43-68 OTH ...	FABRIC	5208324090	226	4	8,818	0.00
WV FB CT >=85% WGT CT >100&<=200G/M2 #>=69 BLC OTH ..	FABRIC	5208325090	226	4	116,099	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #42 OR < OTH	FABRIC	5208514090	226	4	47,879	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #43-68 OTHER.	FABRIC	5208516090	226	4	15,939	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOV FAB COT CN >85% WGT COT <100G/M2 #>=69 PRI OTH .	FABRIC	5208518090	226	4	590,594	0.00
WOV FIB COT >=85% WGT COT >100 & <=200 G/M2 #<=42	FABRIC	5208523090	226	4	2,522,399	0.01
WV FB CT >=85% WGT CT >100 & <=200G/M2 #43-68 CHSC. ...	FABRIC	5208524090	226	4	5,947	0.00
WV FB CT >=85% WGT CT >100&<=200G/M2 #>=69 CHEESCL .	FABRIC	5208525090	226	4	44,434	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #<=42 CHESCL.	FABRIC	5210114090	226	4	666,930	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #43-68 OTHER.	FABRIC	5210116090	226	4	2,584	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 >68 UNBL OTH.	FABRIC	5210118090	226	4	33	0.00
WOV FAB COT CON<85% WGT COT<200G/M2 #42 OR< CHEECL.	FABRIC	5210214090	226	4	13,462	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #43-68 CHECL	FABRIC	5210216090	226	4	0	0.00
WOV FB CT CON<85% WT COT<200G/M2 >=#69 OTH THAN PB	FABRIC	5210218090	226	4	425	0.00
WOV FAB COT CON <85% WGT COT 200G/M2 #<=42 CHEECL	FABRIC	5210314090	226	4	1,935	0.00
WOV FAB COT CON<85% WGT COT<200G/M2 #43-68 CHEESCL.	FABRIC	5210316090	226	4	2,647	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 >=69 DYE OTH.	FABRIC	5210318090	226	4	37,890	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 <=#43 CHEES	FABRIC	5210514090	226	4	0	0.00
WOV FAB COT CON <85% WGT COT >200G/M2=#43-68 CHEES.	FABRIC	5210516090	226	4	2,009	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 >=69 PRT OTH	FABRIC	5210518090	226	4	3,267	0.00
OTH WOV FAB COT <=200G/M2 UBLCH OTHER CHEESE, LAWN.	FABRIC	5212116050	226	4	0	0.00
OTH WOV FAB COT <=200G/M2 BLCH CON <36%W/FAH CHEE	FABRIC	5212126050	226	4	0	0.00
OTH WOV FAB COT <=200G/M2 DYED CON <36% W/FAH CHEE.	FABRIC	5212136050	226	4	3,352	0.00
OTH WOV FAB COT <=200G/M2 PRTED <36% W/FAH CHEESE	FABRIC	5212156050	226	4	22,119	0.00
WV FB SYN ST FB >=85% SYN >=85% PLY UBL/BL CHESCLH .	FABRIC	5512110040	226	4	2,382,135	0.01
WOV FAB SYN ST FB >=85% SYN >=85% POLY CHEES, LWN, V.	FABRIC	5512190035	226	4	578,655	0.00
WOV FAB SYN ST FB >=85% SYN >=85% A/M UBL/BL CHESE .	FABRIC	5512210040	226	4	0	0.00
WOV FAB SYN ST FB >=85% ACR/MA OT BL/UBL CHSCL, ETC	FABRIC	5512290030	226	4	40,823	0.00
WOV FAB SYN ST FB >=85% SYN ST FB OTH UNB/BL CHSCL .	FABRIC	5512910040	226	4	1,550	0.00
WOV FAB SYN ST FB >=85% SYN ST FB OT BL/UBL CHSCLT ..	FABRIC	5512990030	226	4	3,902	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 UB/BL P CHESCL ..	FABRIC	5513110090	226	4	4,188,446	0.02
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL OWF CHSCL ..	FABRIC	5513190040	226	4	41,645	0.00
WOV FB SYN S F <85% MY CT <=170G/M2 DYED PY CHSCLH	FABRIC	5513210090	226	4	405,133	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED OWF CHSCLH	FABRIC	5513290040	226	4	0	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 PRNTD P PW OTH .	FABRIC	5513410090	226	4	35,941	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD OWF OX CL .	FABRIC	5513490040	226	4	0	0.00
OTH WOV FAB SYN PLY ST FB M VIS RAY ST FB CHEESECL .	FABRIC	5515110030	226	4	2,088	0.00
OTH WOV FAB SYN PLY STP FIBER OTHER ST FB CHESCLTH	FABRIC	5515190030	226	4	209,051	0.00
OTHER WOVEN FABRICS SYN ACR/MAC ST FB OTH OXF CLTH.	FABRIC	5515290030	226	4	35,173	0.00
OTH WOVEN FAB OF SYNTHETIC STAPLE FIB OT OXF CLOTH	FABRIC	5515990030	226	4	87	0.00
WOV FAB <85% ART STP FIB MX COT UB/BL OXFORD CLOTH	FABRIC	5516410040	226	4	54,581	0.00
WOV FAB <85% ART STP FIB MX COTN DYED OXFORD CLOTH.	FABRIC	5516420040	226	4	0	0.00
WOV FAB <85% ART STP FIB MX COT PRNTD OXFORD CLOTH.	FABRIC	5516440040	226	4	0	0.00
WOV FAB ART STPL FIB OTH UM/B CHESCL, LWNS, VLS ETC	FABRIC	5516910040	226	4	0	0.00
WOV FAB ART STPL FIB OTH DYED CHEESCLTH, LWNS, ETC	FABRIC	5516920040	226	4	0	0.00
WOVEN FABRICS ARTIF STPL FIB OTH PRNTD CHEESECLOTH.	FABRIC	5516940040	226	4	283	0.00
WOV FAB COT CON >85% WGT <200G/M2 UBL #<44 OXF CTH	FABRIC	5208194020	227	4	708,231	0.00
WOV COT FAB CON >85% WGT <200G/M2 UBL 44-68 OXF CL	FABRIC	5208196020	227	4	168,963	0.00
WOV FAB COT CON >85% WGT <200G/M2 69&> UNBL OX CLT	FABRIC	5208198020	227	4	12,797	0.00
WOV FAB COT CON >85% WGT <200G/M2 BLC #<44 OXF CTH	FABRIC	5208294020	227	4	20,522	0.00
WOV COT FAB CON >85% WGT <200G/M2 BLC 44-68 OXF CL	FABRIC	5208296020	227	4	111,940	0.00
WOV FAB COT CON >85% WGT <200G/M2 69&> BLC OXF CLT	FABRIC	5208298020	227	4	2,554,173	0.02
WOV FAB COT CON >85% WGT >100G/M2 DYE #<44 OXF CTH	FABRIC	5208394020	227	4	11,404	0.00
WOV COT FAB CON >85% WGT >100G/M2 DYE 44-68 OXF CL	FABRIC	5208396020	227	4	50,418	0.00
WOV FAB COT CON >85% WGT >100G/M2 69&> DYD OXF CLT	FABRIC	5208398020	227	4	862,402	0.01
WV FAB COT CON >85% WGT <=200G/M2 PRT #<=42 OX CLO	FABRIC	5208594020	227	4	13,918	0.00
WOV COT FAB >=85% WGT <=200 G/M2 PRT 43-68 OX CL	FABRIC	5208596020	227	4	20,018	0.00
WOV FAB COT CON >85% WGT <200G/M2 >=69 PRT OXF CLT	FABRIC	5208598020	227	4	1,017	0.00
WOV FAB COT CON <85% WGT <200G/M2 UBL #42 OR< OXFD	FABRIC	5210194020	227	4	0	0.00
WV COT FAB CON <85% WGT <=200G/M2 UBL 43-68 OXF CL .	FABRIC	5210196020	227	4	0	0.00
WOV FAB COT CON <85% WGT <200G/M2 69&> UBL OXF CLT	FABRIC	5210198020	227	4	0	0.00
WOV FAB COT CON <85% WGT <200G/M2 BLC <=42 OXF CTH	FABRIC	5210294020	227	4	71	0.00

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WV COT FAB CON <85% WGT <=200G/M2 BLC 43–68 OXF CL .	FABRIC	5210296020	227	4	36,691	0.00
WOV FAB COT CON <85% WGT <200G/M2 >=69 BLC OXF CLT	FABRIC	5210298020	227	4	109,981	0.00
WV FAB COT CON <85% WGT <=200G/M2 DYE <=42 OXF CTH	FABRIC	5210394020	227	4	4,448	0.00
WV COT FAB CON <85% WGT <=200G/M2 DYE 43–68 OXF CL	FABRIC	5210396020	227	4	207,604	0.00
WOV FAB COT CON <85% WGT <200G/M2 >=69 DYE OXF CLT	FABRIC	5210398020	227	4	5,266	0.00
WOV FAB COT CON <85% WGT <200G/M2 PRT <=42 OXF CTH	FABRIC	5210594020	227	4	219	0.00
WV COT FAB CON <85% WGT <=200G/M2 PRT 43–68 OXF CL .	FABRIC	5210596020	227	4	0	0.00
WOV FAB COT CON <85% WGT <200G/M2 69&> PRT OXF CLT	FABRIC	5210598020	227	4	40	0.00
OTH WOV FAB COT <=200G/M2 UNBLCH OTH OXFORD CLOTH.	FABRIC	5212116080	227	4	0	0.00
OTH WOV FAB COT <=200G/M2 BLCH OTHER OXFORD CLOTH.	FABRIC	5212126080	227	4	0	0.00
OTH WOV FAB COT <=200G/M2 DYED: OTH OXFORD CLOTH .	FABRIC	5212136080	227	4	0	0.00
OTH WOV FAB COT <=200G/M2 PRTED: OTH OXFORD CLOTH	FABRIC	5212156080	227	4	0	0.00
WOV FB SYN ST FIB >=85% SYN >=85% POLY UB/BL OX CL	FABRIC	5512110070	227	4	230	0.00
WOV FB SYN S F >=85% SYN >=85% PLY ST FB OXF CLTH	FABRIC	5512190050	227	4	4,171	0.00
WOV FB SYN S F >=85% SYN >=85% AM UB/BL OXFD CLOTH	FABRIC	5512210070	227	4	0	0.00
WOV FB SYN S F >=85% SYN >=85% ACR/MACR OTH OXF CL	FABRIC	5512290045	227	4	0	0.00
WOV FAB SYN ST FB >=85% SYN ST FB OT UNB/BL O PL W ..	FABRIC	5512910070	227	4	0	0.00
WOV FAB SYN ST FB >=85% SYN ST FB OT BL/UBL OXF CL ...	FABRIC	5512990045	227	4	338	0.00
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL P O OX CL	FABRIC	5513130040	227	4	0	0.00
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL OWF OX CL ...	FABRIC	5513190060	227	4	0	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED PY O OX CL ...	FABRIC	5513230040	227	4	6,694	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED WF O OX CL ..	FABRIC	5513290060	227	4	17,819	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD P O OX CL ...	FABRIC	5513430040	227	4	0	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD OWF O P W .	FABRIC	5513490060	227	4	0	0.00
OTH WOV FAB SYN PLY ST FB M VIS RAY ST FB OXF CLTH ..	FABRIC	5515110045	227	4	0	0.00
OTH WOV FAB SYN PLY STP FIBER OTHER ST FB OT OX CL .	FABRIC	5515190045	227	4	0	0.00
OTHER WOVEN FABRIC OF SYNTHETIC ACR/MAC ST F O P/W.	FABRIC	5515290045	227	4	6,338	0.00
OTH WOV FAB OF SYNTHETIC STAPLE FIB OT PLAIN WEAVE	FABRIC	5515990045	227	4	17,334	0.00
WOV FAB <85% ART STP FIB MX COT UB/BL OTH PLAIN WV ..	FABRIC	5516410070	227	4	74	0.00
WOV FAB <85% ART STP FIB MX COTN DYED OTH PLAIN WV	FABRIC	5516420070	227	4	140	0.00
WOV FAB <85% ART STP FIB MX COT PRNTD OTH PLAIN WV	FABRIC	5516440070	227	4	0	0.00
WOVEN FABRICS ARTIF STPL FIB OTHER UB/BLC OXFD CLH	FABRIC	5516910070	227	4	0	0.00
WOVEN FABRICS ARTIF STPL FIB OTHER DYED OXFD CLTH .	FABRIC	5516920070	227	4	0	0.00
WOVEN FABRICS ARTIF STPL FIB OTHER PRT OXFRD CLOTH	FABRIC	5516940070	227	4	10	0.00
WV FB COT>=85% WT COT <=100G/M2 UNBLC PLAIN WEAVE	FABRIC	5208112040	313	4	2,762,165	0.02
WOV FAB >=85%COT UBL <=100G/M2 #43–68 PLN WV SHEET	FABRIC	5208114040	313	4	422,658	0.00
WV FB COT UNBL PLN WV >100<=200G/M2 #<=42 SHEETING .	FABRIC	5208124040	313	4	246,614,845	1.45
WV FB CT UBL PLN WV >100<=200G/M2 OF #43–68 SHEETG ..	FABRIC	5208126040	313	4	4,333,492	0.03
WOV FAB COT CON >85% WGT COT <100G/M2 #<44 SHEETNG.	FABRIC	5208212040	313	4	57,310	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #44–68 SHEET	FABRIC	5208214040	313	4	36,254	0.00
WV FB CT >85% WGT COT >100 & <=200G/M2 #<44 SHEETG ..	FABRIC	5208224040	313	4	11,050,481	0.06
WV FB CT >85% WGT CT >100 & <=200G/M2 #44–68 SHETG ...	FABRIC	5208226040	313	4	170,130	0.00
WV FB COT CON >=85% WGT COT <=100G/M2 #<44 SHEETNG	FABRIC	5208314040	313	4	66,330	0.00
WV FB COT CON >=85% WGT COT <=100G/M2 #44–68 SHEET	FABRIC	5208316040	313	4	48,948	0.00
WV FB CT >=85% WGT COT >100 & <=200G/M2 #<44 SHEET ...	FABRIC	5208323040	313	4	5,709,164	0.03
WV FB CT >=85% WGT COT >100 & <=200G/M2 #43–68 SHT	FABRIC	5208324040	313	4	1,278,918	0.01
WOV FAB COT CON >85% WGT COT <100G/M2 #<=42 SHETNG.	FABRIC	5208514040	313	4	263,888	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #43–68 SHEET	FABRIC	5208516040	313	4	56,262	0.00
WV FB CT >=85% WGT CT >100 & <=200G/M2 #<=42 SHETG ...	FABRIC	5208523040	313	4	32,780,896	0.19
WV FB CT >=85% WGT CT >100 & <=200G/M2 #43–68 SHTG	FABRIC	5208524040	313	4	1,241,047	0.01
WOV FAB COT 85%> COT >200G/M2 UBL PL WV SHT–NT NPD	FABRIC	5209110030	313	4	17,411,626	0.10
WOV FAB COT 85%> COT >200G/M2 UBL PL WV SHT–NAPPED.	FABRIC	5209110050	313	4	1,230,285	0.01
WOV FAB COT 85%> COT >200G/M2 BLC PL WV SHT–NT NPD	FABRIC	5209210030	313	4	57,409	0.00
WOV FAB COT 85%> COT >200G/M2 BLC PL WV SHT–NAPPED.	FABRIC	5209210050	313	4	18,665	0.00
W F CT >=85% CT >200 G/M2 DYD PL WV OTH SHT N NAP	FABRIC	5209316030	313	4	1,370,333	0.01
W F CT >85% CT >=200G/M2 DYD PL WV OTH SHEETNG NAP	FABRIC	5209316050	313	4	315,085	0.00
W F CT >=85% CT >200 G/M2 PRNTED PL WV O SHET N NP ...	FABRIC	5209516030	313	4	723,937	0.00
W F CT >=85% CT >200 G/M2 PRNTED PL WV O SHET NAPD ..	FABRIC	5209516050	313	4	127,625	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #<=42 SHETNG.	FABRIC	5210114040	313	4	10,869,829	0.06
WOV FAB COT CON <85% WGT COT <=200G/M2 #43–68 SHTG	FABRIC	5210116040	313	4	2,676,992	0.02
WOV FAB COT CON <85% WGT COT <200G/M2 #42 SHEETNG	FABRIC	5210214040	313	4	865,334	0.01
WOV FAB COT CON <85% WGT COT <200G/M2 #43–68 SHEET	FABRIC	5210216040	313	4	279,473	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #<=42 SHEETI	FABRIC	5210314040	313	4	638,118	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #43–68 SHEET	FABRIC	5210316040	313	4	146,988	0.00

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WOV FAB COT CON <85% WGT COT <200G/M2 <=42 SHEETIN	FABRIC	5210514040	313	4	903,681	0.01
WOV FAB COT CON <85% WGT COT <200G/M2 #43–68 SHEET	FABRIC	5210516040	313	4	3,251,974	0.02
WOV FAB COT <85% COT >200G/M2 UBL PL WV SHT–NT NPD	FABRIC	5211110030	313	4	176,458	0.00
WOV FAB COT <85% COT >200G/M2 UBL PL WV SHT–NAPPED.	FABRIC	5211110050	313	4	1,064	0.00
WOV FAB COT <85% COT >200G/M2 BLC PL WV SHT–NT NPD	FABRIC	5211210030	313	4	705,893	0.00
WOV FAB COT <85% COT >200G/M2 BLC PL WV SHT–NAPPED.	FABRIC	5211210050	313	4	515	0.00
WOV FAB COT <85% COT >200G/M2 DYE PL WV SHT–NT NPD	FABRIC	5211310030	313	4	59,543	0.00
WOV FAB COT <85% COT >200G/M2 DYE PL WV SHT–NAPPED.	FABRIC	5211310050	313	4	81,869	0.00
WOV FAB COT <85% COT >200G/M2 PRT PL WV SHT-NT NPD	FABRIC	5211510030	313	4	59,309	0.00
WOV FAB COT <85% COT >200G/M2 PRT PL WV SHT-NAPPED	FABRIC	5211510050	313	4	754	0.00
OTH WOV FAB COT <=200G/M2 UBLCH OTHER PRINTCLOTH .	FABRIC	5212116030	313	4	83,010	0.00
OTH WOV FAB COT <=200G/M2 BLCH CON >36%W/FAH SHEET.	FABRIC	5212126030	313	4	25,356	0.00
OTH WOV FAB COT <=200G/M2 DYED CON <36% W/FAH SHE	FABRIC	5212136030	313	4	258,206	0.00
OTH WOV FAB COT <=200G/M2 PRTED <36% W/FAH SHEETI .	FABRIC	5212156030	313	4	121,184	0.00
OTH WOV FAB COT <200G/M2 UBLCH OTHER DUCK	FABRIC	5212216030	313	4	4,580	0.00
OTH WOV FAB COT >200G/M2 BLCH CON <36%W/FAH SHE	FABRIC	5212226030	313	4	0	0.00
OTH WOV FAB COT >200G/M2 DYED CON <36% W/FAH SHEET.	FABRIC	5212236030	313	4	19,335	0.00
OTH WOV FAB COT >200G/M2 PRTED CON <36% W/FAH SH ..	FABRIC	5212256030	313	4	1,353	0.00
WOV FAB FLX <85% FLX <=17% W/FAH COT MMF COT RE SH	FABRIC	5309213010	313	4	2,391	0.00
WOV FAB FLX <85% FLX, CONT COT & MMF, COT RES, SH	FABRIC	5309293010	313	4	78,365	0.00
WV FB VEG FB <=17% WGT W/FAH CON COT/MMF SUB MMF R.	FABRIC	5311003010	313	4	917	0.00
WOV FB COT CON >=85%WGT COT UNBLCH PL WEV <=#42POP/B.	FABRIC	5208112020	314	4	1,034,655	0.01
WOV FAB COT UBL <=100 G/M2 #43–68 P WV POP OR BRDC .	FABRIC	5208114020	314	4	851,427	0.01
WOV FAB COT UBL <=100G/M2 >=68 OT TYP RIB POP/BRDC ..	FABRIC	5208118020	314	4	94,891	0.00
WV FB >=85% CT UNBL PLN WV >100≤=200G/M2 #=42 P&B	FABRIC	5208124020	314	4	12,605,436	0.07
WV FB COT UBL PLN WV >100<=200G/M2 OF #43-68 POP/B	FABRIC	5208126020	314	4	16,206,511	0.10
WV FB CT >85% WGT COT >100 & <=200G/M2 #>69 POP/BR ...	FABRIC	5208128020	314	4	919,719	0.01
WOV FAB COT CON >85% WGT COT <100G/M2 #>44 POP/BRD	FABRIC	5208212020	314	4	5,006	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #>44-68 PL/BC	FABRIC	5208214020	314	4	4,011	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #>68 POP/BCL	FABRIC	5208216020	314	4	194,822	0.00
WV FB CT >85% WGT COT >100 & <=200G/M2 #>44 POP/BR ...	FABRIC	5208224020	314	4	110,721	0.00
WV FB CT >85% WGT COT >100 & <=200G/M2 #44-68 PL/B	FABRIC	5208226020	314	4	1,261,228	0.01
WV FB CT >85% WGT COT >100 & <=200G/M2 #68 POP/BC	FABRIC	5208228020	314	4	1,904,986	0.01
WV FB COT CON >=85% WGT COT <=100G/M2 #<44 POP/BRD	FABRIC	5208314020	314	4	111,314	0.00
WV FB COT CON >=85% WGT COT <=100G/M2 #44-68 PL/BC ..	FABRIC	5208316020	314	4	79,421	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #>68 POP/BCL	FABRIC	5208318020	314	4	270,313	0.00
WV FB COT >=85% WGT CT >100 & <=200G/M2 <44 POP/B	FABRIC	5208323020	314	4	705,702	0.00
WV FB CT >=85% WGT COT >=100 & <=200G/M2 #43-68 PL	FABRIC	5208324020	314	4	2,519,358	0.01
WV FB CT >=85% WGT COT >=100 & <=200G/M2 #>=69 P/B	FABRIC	5208325020	314	4	1,417,892	0.01
WOV FAB COT CON >85% WGT COT <100G/M2 #<42 POP/BRD	FABRIC	5208514020	314	4	96,748	0.00
WV FAB COT CON >85% WGT COT <=100G/M2 #43-68 PL/BC ..	FABRIC	5208516020	314	4	84,428	0.00
WV FAB COT CON >85% WGT COT <100G/M2 #>=69 POP/BCL	FABRIC	5208518020	314	4	99,108	0.00
WV FB CT >=85% WGT COT 101-200G/M2 #>=42 POP/BRD	FABRIC	5208523020	314	4	2,478,368	0.01
WV FB CT >=85% WGT CT >100 & <=200G/M2 #43-68 PL/B	FABRIC	5208524020	314	4	2,785,123	0.02
WV FB CT >=85% WGT CT >100 & =200G/M2 #>=69 POP/BC	FABRIC	5208525020	314	4	399,301	0.00
WOV FAB COT 85%> COT >200G/M2 UBLC PLN WU POP/BRDC.	FABRIC	5209110020	314	4	16,426	0.00
WOV FAB COT 85%> COT >200G/M2 BLCH PLN WV POP/BRDC.	FABRIC	5209210020	314	4	46,176	0.00
W F CT >=85% CT >200 G/M2 DYD PL WV OTH POP/BRDCL	FABRIC	5209316020	314	4	142,257	0.00
W F CT >=85% CT >200 G/M2 PRINTED PLN WV OT POP/BC ...	FABRIC	5209516020	314	4	158,694	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #<42 POP/BRD	FABRIC	5210114020	314	4	3,604,882	0.02
WOV FAB COT CON <85% WGT COT <200G/M2 #43-68 PL/BC .	FABRIC	5210116020	314	4	137,901,396	0.81
WOV FAB COT CON <85% WGT COT <200G/M2 >=68 POP/BCL	FABRIC	5210118020	314	4	640,208	0.00
WV FAB COT CON <85% WGT COT <=200G/M2 #<42 POP/BRD	FABRIC	5210214020	314	4	72,277	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #43-68 PL/BC .	FABRIC	5210216020	314	4	1,163,114	0.01
WOV FAB COT CON <85% WGT COT <200G/M2 >=69 POP/BCL	FABRIC	5210218020	314	4	373,102	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #<=42 POP/BR	FABRIC	5210314020	314	4	1,806,485	0.01
WOV FAB COT CON <85% WGT COT <200G/M2 #43-68 PL/BC .	FABRIC	5210316020	314	4	3,971,430	0.02
WV FAB COT CON <85% WGT COT <=200G/M2 >=69 POP/BCL	FABRIC	5210318020	314	4	2,676,720	0.02
WOV FAB COT CON <85% WGT COT <200G/M2 <=42 POP/BRD.	FABRIC	5210514020	314	4	177,616	0.00
WOV FAB COT CON <85% WGT COT <200G/M2 #43-68 PL/BC .	FABRIC	5210516020	314	4	2,651,384	0.02
WOV FAB COT CON <85% WGT COT <200G/M2 >=69 POP/BCL	FABRIC	5210518020	314	4	647,422	0.00
WOV FAB COT <85% COT >200G/M2 UBLC PLN WV POP/BRDC.	FABRIC	5211110020	314	4	672	0.00

VOL 60 ISS 83 MY 1 1995 UMI

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOV FAB COT <85% COT >200G/M2 BLC PLN WV POP/BRDC	FABRIC	5211210020	314	4	6,351	0.00
WOV FAB COT <85% COT >200G/M2 DYE PLN WV POP/BRDC	FABRIC	5211310020	314	4	106,735	0.00
WOV FAB COT <85% COT >200G/M2 PRTD PLN WV POP/BRDC.	FABRIC	5211510020	314	4	51,026	0.00
OTH WOV FAB COT <=200G/M2 UBLCH OTHER POPLIN/BROAD.	FABRIC	5212116020	314	4	295,842	0.00
OTH WOV FAB COT <=200G/M2 BLCH <36%W/FAH POP/BDC	FABRIC	5212126020	314	4	1,030	0.00
OTH WOV FAB COT <=200G/M2 DYED CON <36% W/FAH POP	FABRIC	5212136020	314	4	12,326	0.00
OTH WOV FAB COT <=200G/M2 PRT CON <36% W/FAH POPL	FABRIC	5212156020	314	4	4,159	0.00
OTH WOV FAB COT >200G/M2 UBLCH CON <36% W/FAH PO	FABRIC	5212216020	314	4	0	0.00
OTH WOV FAB COT >200G/M2 BLCH OTHER SHEETING	FABRIC	5212226020	314	4	0	0.00
OTH WOV FAB COT >200G/M2 DYED CON <36% W/FAH POP	FABRIC	5212236020	314	4	897	0.00
OTH WOV FAB COT >200G/M2 PRTED CIN <36% W/FAH POPL	FABRIC	5212256020	314	4	8,552	0.00
WOVEN FAB FLX <85% FLX COT MMF COT RES POP & BROAD.	FABRIC	5309213005	314	4	2,864	0.00
WOV FAB FX <85% FX, COT & MMF, COT REST, POP&BROA	FABRIC	5309293005	314	4	3,248	0.00
WOV FAB OTH VEG FIB SUB COT RES POPLIN BROADCLOTH	FABRIC	5311003005	314	4	934	0.00
WOV FAB >=85%COT UBL PLN WV <=100G/M2 #43-68 PRINTC	FABRIC	5208114060	315	4	31,024,353	0.18
WV FB COT UBL PLAIN WV >100<=200G/M2 #43-68 PRNTCL	FABRIC	5208126060	315	4	205,612,120	1.21
WOV FAB COT CON >85% WGT COT <100G/M2 #44-68 PRTCL	FABRIC	5208214060	315	4	181,748	0.00
WV FB CT >85% WGT COT >100 & <=200G/M2 #44-68 PRTC	FABRIC	5208226060	315	4	614,000	0.00
WV FB COT CON >=85% WGT COT <=100G/M2 #44-68 PRTCL	FABRIC	5208316060	315	4	23,653	0.00
WV FB CT >=85% WGT COT <100 & <=200G/M2 #43-68 PRT	FABRIC	5208324060	315	4	281,391	0.00
WOV FAB COT CON >85% WGT COT <100G/M2 #43-68 PRTCL	FABRIC	5208516060	315	4	733,360	0.00
WV FB CT >=85% WGT CT <100 & <=200G/M2 #43-68 PRTC	FABRIC	5208524060	315	4	8,451,645	0.05
WOV FAB COT CON <85% WGT COT <200G/M2 #43-68 PRTCL	FABRIC	5210116060	315	4	67,364,617	0.40
WOV FAB COT CON <85% WGT COT >200G/M2 #43-68 PRTCL	FABRIC	5210216060	315	4	5,905,755	0.03
WV FAB COT CON <85% WGT COT >=200G/M2 #43-68 PRTCL	FABRIC	5210316060	315	4	621,615	0.00
W F C <85% C M M/S MMF >=200G/M2 PT P W #43-68 PCL	FABRIC	5210516060	315	4	4,240,702	0.02
OTH WOV FAB COT <=200G/M2 UBLCH OTHER OXFORD	FABRIC	5212116040	315	4	1,138,568	0.01%
OTH WOV FAB COT <=200G/M2 BLCH CON >36%W/FAH PRNC	FABRIC	5212126040	315	4	179	0.00
OTH WOV FAB COT <=200G/M2 DYED CON <36% W/FAH PRNC.	FABRIC	5212136040	315	4	31,384	0.00
OTH WOV FAB COT >=200G/M2 PRTED >36% W/FAH PRNCLO	FABRIC	5212156040	315	4	13,667	0.00
WOV FAB FLX <85% FLX <=17% W/FAH COT MMF COT RE PR	FABRIC	5309213015	315	4	88,018	0.00
WOV FAB FLX <85% FLX, COT & MMF, COT REST, PRINTCL	FABRIC	5309293015	315	4	4,971	0.00
WV FB VEG FB <=17% W/FAH CON COT/MMF SUB CT R PRTC	FABRIC	5311003015	315	4	81	0.00
WOV FAB COT CON >85% WGT <200G/M2 3-4TWL UNBLEACHD.	FABRIC	5208130000	317	4	23,761,883	0.14
WOV <FAB COT CONT >85% WGT <200G/M2 UBL OT THAN STN.	FABRIC	5208192090	317	4	2,178,080	0.01
WOV FAB COT CON >85% WGT <200G/M2 3-4TWL BLEACHED	FABRIC	5208230000	317	4	1,729,962	0.01
WOV FAB COT CONT >85% WGT >200G/M2 BLC OT THAN STN.	FABRIC	5208292090	317	4	381,836	0.00
WOV FAB COT CON >85% WGT >100G/M2 3-4TWL DYED	FABRIC	5208330000	317	4	1,109,762	0.01
WOV FAB COT CONT >85% WGT >100G/M2 DYED O THAN STN.	FABRIC	5208392090	317	4	1,093,053	0.01
WOV FAB COT CON >85% WGT <200G/M2 3-4TWL PRINTED	FABRIC	5208530000	317	4	703,225	0.00
WOV FAB COT CONT >85% WGT <200G/M2 PRT OT THAN STN.	FABRIC	5208592090	317	4	2,806,379	0.02
WOV FAB COT 85%> COT ≤200G/M2 UBL 3-4 TH TW N NPD	FABRIC	5209120020	317	4	49,305,643	0.29
WOV FAB COT 85%> COT ≤200G/M2 UBL 3-4 THD TWL NAPD	FABRIC	5209120040	317	4	745,467	0.00
WOV FAB COT 85%> COT ≤200G/M2 UBL OT FAB TWILL WV	FABRIC	5209190040	317	4	1,697,597	0.01
WOV FAB COT 85%> COT ≤200G/M2 BLC 3-4 TH TW N NPD	FABRIC	5209220020	317	4	4,231,523	0.02
WOV FAB COT 85%> COT ≤200G/M2 BLC D3-4 THD TWL NAPD.	FABRIC	5209220040	317	4	77,112	0.00
WOV FAB COT 85%> COT ≤200G/M2 BLC OT FAB TWILL WV	FABRIC	5209290040	317	4	643,963	0.00
WOV FAB COT 85%> COT ≤200G/M2 DYE 3-4 TH TW N NPD	FABRIC	5209320020	317	4	14,692,413	0.09
WOV FAB COT 85%> COT ≤200G/M2 DYE 3-4 THD TWL NAPD	FABRIC	5209320040	317	4	1,007,522	0.01
WOV FAB COT 85%> BY WT COT >200G/M2 DYE FB TWILL WV.	FABRIC	5209390040	317	4	2,416,893	0.01
WOV FAB COT 85%> COT ≤200G/M2 PRT 3-4 TH TW N NPD	FABRIC	5209520020	317	4	230,011	0.00
WOV FAB COT 85%> COT ≤200G/M2 PRT 3-4 THD TWL NAPD	FABRIC	5209520040	317	4	13,820	0.00
WOV FAB COT 85%> COT ≤200G/M2 PRT OT FAB TWILL WV	FABRIC	5209590040	317	4	426,101	0.00
WV FAB COT CON<85% WGT >=200G/M2 3-4TWL UBLCH 3-4T	FABRIC	5210120000	317	4	17,602,819	0.10
WOV FAB COT CONT <85% WGT <200G/M2 UBL OT THAN STN.	FABRIC	5210192090	317	4	2,625,258	0.02
WOV FAB COT CON <85% WGT >200G/M2 3-4 TWL BLEACHED.	FABRIC	5210220000	317	4	7,857	0.00
WOV FAB COT CONT <85% WGT >200 G/M2 BLC OT THAN ST	FABRIC	5210292090	317	4	7,553	0.00
WOV FAB COT CON <85% WGT >200G/M2 3-4TWL DYED	FABRIC	5210320000	317	4	122,313	0.00
WOV FAB COT CONT <85% WGT >200G/M2 DYE OT THAN STN.	FABRIC	5210392090	317	4	175,989	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOV FAB COT CON <85% WGT >200G/M2 3-4TWL PRTD	FABRIC	5210520000	317	4	212,668	0.00
WOV FAB COT CONT <85% WGT >200G/M2 PRT OT THAN STN.	FABRIC	5210592090	317	4	264,014	0.00
WOV FAB COT >85% COT >200G/M2 UBL 3-4 TH TW N NPD	FABRIC	5211120020	317	4	1,418,330	0.01
WOV FAB COT >85% COT >200G/M2 UBL 3-4 THD TWL NAPD	FABRIC	5211120040	317	4	1,837	0.00
WOV FAB COT >85% COT >200G/M2 UBL OT TWILL WV FABC	FABRIC	5211190040	317	4	10,873	0.00
WOV FAB COT >85% COT >200G/M2 BLC 3-4 TH TW N NPD	FABRIC	5211220020	317	4	97,937	0.00
WOV FAB COT >85% COT >200G/M2 BLC 3-4 THD TWL NAPD	FABRIC	5211220040	317	4	1,866	0.00
WOV FAB COT >85% COT >200G/M2 BLC OT FAB TWILL WV	FABRIC	5211290040	317	4	2	0.00
WOV FAB COT >85% COT >200G/M2 DYE 3-4 TH TW N NPD	FABRIC	5211320020	317	4	491,574	0.00
WOV FAB COT >85% COT >200G/M2 DYE 3-4 THD TWL NAPD	FABRIC	5211320040	317	4	25,185	0.00
WOV FAB COT >85% COT >200G/M2 DYE OT FAB TWILL WV	FABRIC	5211390040	317	4	528,151	0.00
WOV FAB COT >85% COT >200G/M2 PRT 3-4 TH TW N NPD	FABRIC	5211520020	317	4	716	0.00
WOV FAB COT >85% COT >200G/M2 PRT 3-4 THD TWL NAPD	FABRIC	5211520040	317	4	439	0.00
WOV FAB COT >85% COT ≤200G/M2 PRT OT FAB TWILL WV	FABRIC	5211590040	317	4	22,402	0.00
OTH WOV FAB COT >=200G/M2 UBLCH OTH: OTH TWILL WV	FABRIC	5212116070	317	4	852	0.00
OTH WOV FAB COT >=200G/M2 BLH CON >36%W/FAH TW WV	FABRIC	5212126070	317	4	0	0.00
OTH WOV FAB COT >=200G/M2 DYED CON >36%W/FAH PLWV	FABRIC	5212136070	317	4	1,722	0.00
OTH WOV FAB COT >=200G/M2 PRTED >36% W/FAH TWL WV	FABRIC	5212156070	317	4	10,829	0.00
OTH WOV FAB COT >200G/M2 UBLCH CON >36%W/FAH TW WV.	FABRIC	5212216060	317	4	48,910	0.00
OTH WOV FAB COT >200G/M2 BLCH CON<36% W/FAH TW WV	FABRIC	5212226060	317	4	0	0.00
OTH WOV FB COT >200G/M2 DYED; CON <36% W/FAH TW WV.	FABRIC	5212236060	317	4	271,945	0.00
OTH WOV FAB COT >200G/M2 PRTED CON <36% W/FAH TW WV.	FABRIC	5212256060	317	4	1,485	0.00
WOV FAB COT CONT >85% WGT <200G/M2 UBLCHD SATEENS.	FABRIC	5208192020	326	4	5,084,967	0.03
WOV FAB COT CONT >85% WGT <200G/M2 BLCHED SATEENS.	FABRIC	5208292020	326	4	719,520	0.00
WOV <FAB COT CONT >85% WGT >100G/M2 DYED SATEENS	FABRIC	5208392020	326	4	1,413,342	0.01
WOV FAB COT CONT >85% WGT <200G/M2 PRNTED SATEENS.	FABRIC	5208592020	326	4	4,051,002	0.02
WOV FAB COT 85%> BY WGT COT >200G/M2 UNBLCH SATEENS.	FABRIC	5209190020	326	4	23,571,133	0.14
WOV FAB COT 85%> COT >200G/M2 BLC OT FAB SAT WEAVE	FABRIC	5209290020	326	4	94,488	0.00
WOV FAB COT 85%> COT >200G/M2 DYED FAB, SATN WEAVE	FABRIC	5209390020	326	4	931,293	0.01
WOV FAB COT 85%> COT >200G/M2 PRT OT FAB SAT WEAVE	FABRIC	5209590020	326	4	4,607,900	0.03
WOV FAB COT CONT <85% WGT <200G/M2 UBLHED SATEENS.	FABRIC	5210192020	326	4	1,776	0.00
WOV FAB COT CONT <85% WHT <200 G/M2 BLCHED SATEENS.	FABRIC	5210292020	326	4	0	0.00
WOV FAB COT CONT <85% WGT <200G/M2 BLCHED SATEENS.	FABRIC	5210392020	326	4	9,592	0.00
WOV FAB COT CONT <85% WGT <200G/M2 PRINTD SATEENS	FABRIC	5210592020	326	4	10,357	0.00
WOV FAB COT <85% COT >200G/M2 UBL OT FAB SAT WEAVE	FABRIC	5211190020	326	4	2,865,014	0.02
WOV FAB COT <85% COT >200G/M2 BLC OT FAB SAT WEAVE	FABRIC	5211290020	326	4	18	0.00
WO FAB COT <85% COT >200G/M2 DYE OT FAB SAT WEAVE	FABRIC	5211390020	326	4	235,137	0.00
WOV FAB COT <85% COT >200G/M2 PRT OT FAB SAT WEAVE	FABRIC	5211590020	326	4	1,512,740	0.01
OTH WOV FAB COT <=200G/M2 UBLCH OTH: SATEENS	FABRIC	5212116060	326	4	0	0.00
OTH WOV FAB COT <=200G/M2 BLCH CON <36%W/FAH SAT	FABRIC	5212126060	326	4	0	0.00
OTH WOV FAB COT <=200G/M2 DYED CON<36%W/FAH SATEEN.	FABRIC	5212136060	326	4	978	0.00
OTH WOV FAB COT <=200G/M2 PRTED <36%W/FAH SATEENS	FABRIC	5212156060	326	4	15,563	0.00
OTH WOV FAB COT >200G/M2 UBLCH OTH: SATEENS	FABRIC	5212216050	326	4	0	0.00
OTH WOV FAB COT >200G/M2 BLCH CON <36% W/FAH SATE	FABRIC	5212226050	326	4	40,267	0.00
OTHER WOVEN FABRIC COTTON >200 G/M2 DYED; SATEENS	FABRIC	5212236050	326	4	1,053	0.00
OTH WOVEN FABRC COTTON >200 G/M2 PRINTED: SATEENS	FABRIC	5212256050	326	4	73	0.00
WOV FAB O NOIL SLK <85% S/S WST SUB WOOL RESTRAINT	FABRIC	5007106030	410	4	68,428	0.00
NESOI FABRIC NESOI SUBJECT TO WOOL RESTRAINTS	FABRIC	5007906030	410	4	606,229	0.00
WOV FAB HAND NT<85% WOOL/HAIR NT>300G/M2 WD <76 CM.	FABRIC	5111111000	410	4	19,281	0.00
WOV FAB HAND NT<85% WOOL/HAIR NT>300G/M2 WD <76 CM.	FABRIC	5111113000	410	4	135	0.00
WOVEN FAB NOT <85% BY WT ANIMAL HAIR NOT >300G/M2	FABRIC	5111116030	410	4	282,344	0.00
WOVEN FAB CARD NOT <85% BY WT WOOL NOT >300 G/M2	FABRIC	5111116060	410	4	1,231,975	0.01
WOVEN FAB NOT <85% BY WT ANIMAL HAIR NOT >300G/M2	FABRIC	5111117030	410	4	27,285	0.00
WOVEN FAB CARD NOT <85% BY WT WOOL NOT >300 G/M2	FABRIC	5111117060	410	4	134,508	0.00
WOVEN FAB HAND WOOL/ANIMAL HAIR LOOM WIDTH >76 CM	FABRIC	5111192000	410	4	71,454	0.00
WOVEN FAB NOT <85% BY WT ANIMAL HAIR NOT >400G/M2	FABRIC	5111196020	410	4	49,842	0.00
WOVEN FAB CARD NOT <85% BY WT OF FINE ANIMAL HAIR	FABRIC	5111196040	410	4	56,941	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
NON HAND WOV FAB CRD >=85% WL/FAH >300G/M<=400G/M2.	FABRIC	5111196060	410	4	106,011	0.00
N-HND WV FB CRD WL/FAH CON >=85% W/FAH WT >400G/M2	FABRIC	5111196080	410	4	160,997	0.00
WOVEN FAB CARD MIXED MM FILAMENTS WOOL/ANIMAL HAIR.	FABRIC	5111206000	410	4	40,684	0.00
WOVEN FAB CARD MIXED MM FILAMENTS WOOL/ANIMAL HAIR.	FABRIC	5111206001	410	4	10,410	0.00
WOVEN FAB CARD MIXED MM FILAMENTS WOOL/ANIMAL HAIR.	FABRIC	5111209000	410	4	4,570	0.00
WOVEN FAB CARD MIXED MM STPLE FIB WOOL/ANIMAL HAIR.	FABRIC	5111306000	410	4	1,005,747	0.01
WOVEN FAB CARD MIXED MM STPLE FIB WOOL/ANIMAL HAIR.	FABRIC	5111306001	410	4	128,187	0.00
WOVEN FAB CARD MIXED MM STPLE FIB WOOL/ANIMAL HAIR.	FABRIC	5111309000	410	4	97,950	0.00
WOV FAB WOOL/ANIMAL HAIR NOT <30% SILK VAL >$33/KG ..	FABRIC	5111903000	410	4	262,080	0.00
WOVEN FABRICS CARDED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5111906000	410	4	36,826	0.00
WOVEN FABRICS CARDED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5111907000	410	4	802	0.00
WOVEN FABRICS CARDED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5111909000	410	4	992	0.00
WOV FAB CB NT <85% BY WT ANIMAL HAIR NOT >200G/M2 ...	FABRIC	5112110030	410	4	608,364	0.00
WV FB CM WL/CM FAH CN >=85% W/FAH WGT <=200G/2S OT	FABRIC	5112110060	410	4	5,478,707	0.03
WOV FAB CB NT <85% BY WT ANIMAL HAIR NOT >200G/M2 ...	FABRIC	5112112030	410	4	144,415	0.00
WV FB CM WL/CM FAH CN >=85% W/FAH WGT <=200G/2S OT	FABRIC	5112112060	410	4	2,456,256	0.01
WOVEN FAB NOT <85% BY WT ANIMAL HAIR <=270 G/M2	FABRIC	5112196010	410	4	553,368	0.00
WOVEN FAB NOT <85% BY WT ANIMAL HAIR <=270 G/M2	FABRIC	5112196011	410	4	49,300	0.00
WOV FAB >85% ANIMAL HAIR NT<270G/M2 BUT NT>340G/M2 .	FABRIC	5112196020	410	4	77,441	0.00
WOV FAB >85% ANIMAL HAIR NT<270G/M2 BUT NT >340G/M2	FABRIC	5112196021	410	4	4,972	0.00
WOV FABRICS COMB NT <85% BY WT OF FINE ANIMAL HAIR	FABRIC	5112196030	410	4	167,641	0.00
WOVEN FABRICS COMB NT <85% BY WT WOOL NOT >270G/M2.	FABRIC	5112196040	410	4	4,475,875	0.03
WOVEN FABRICS COMB NT <85% BY WT WOOL NOT >270G/M2.	FABRIC	5112196041	410	4	423,640	0.00
WOV FAB COMB NT <85% WOOL >270 G/M2 BUT NT >340G/M	FABRIC	5112196050	410	4	377,976	0.00
WOV FAB COMB NT <85% WOOL >270 G/M2 BUT NT >340G/M	FABRIC	5112196051	410	4	20,718	0.00
WOVEN FABRICS COMBED >=85% BY WEIGHT OTHER WOOL	FABRIC	5112196060	410	4	191,939	0.00
WOVEN FAB NOT <85% BY WT ANIMAL HAIR <=270 G/M2	FABRIC	5112199010	410	4	63,696	0.00
WOV FAB >85% ANIMAL HAIR NT<2270G/M2 BUT NT>340G/M2	FABRIC	5112199020	410	4	8,805	0.00
WOV FABRICS COMB NT <85% BY WT OF FINE ANIMAL HAIR	FABRIC	5112199030	410	4	4,301	0.00
WOVEN FABRICS COMB NT <85% BY WT WOOL NOT >270G/M2.	FABRIC	5112199040	410	4	507,346	0.00
WOV FAB COMB NT <85% WOOL >270 G/M2 BUT NT >340G/M	FABRIC	5112199050	410	4	29,731	0.00
WOVEN FABRICS COMBED >=85% BY WEIGHT OTHER WOOL	FABRIC	5112199060	410	4	7,304	0.00
WOVEN FAB COMB W/FAH MIXED M/S WITH MM FILAMENTS .	FABRIC	5112200000	410	4	341,137	0.00
WOVEN FAB COMB W/FAH MIXED M/S WITH MM FILAMENTS .	FABRIC	5112203000	410	4	15,154	0.00
WOV FAB OF COMB W/FAH MIXED M/S MM STAPLE FIBER	FABRIC	5112300000	410	4	377,594	0.00
WOV FAB OF COMB W/FAH MIXED M/S MM STAPLE FIBER	FABRIC	5112303000	410	4	234,224	0.00
WOV FAB WOOL/ANIMAL HAIR NOT <30% SILK VAL >$33/KG ..	FABRIC	5112903000	410	4	637,657	0.00
WOVEN FABRICS COMBED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5112906010	410	4	58,157	0.00
WOVEN FABRICS COMBED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5112906011	410	4	2,888	0.00
SALPHA WOVEN FABRICS COMBED WOOL/FINE AN HAR; OTHER.	FABRIC	5112906090	410	4	114,762	0.00
SALPHA WOVEN FABRICS COMBED WOOL/FINE AN HAR; OTHER.	FABRIC	5112906091	410	4	12,758	0.00
WOVEN FABRICS COMBED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5112909010	410	4	1,348	0.00
SALPHA WOVEN FABRICS COMBED WOOL/FINE AN HAR; OTHER.	FABRIC	5112909090	410	4	21,541	0.00
OTH WOV FAB F COT <=200G/M2 UBL >=36% W/FAH N COMB	FABRIC	5212111010	410	4	0	0.00
OTH WOV FAB F COT <=200G/M2 UBL >=36% W/FAH COMBED.	FABRIC	5212111020	410	4	0	0.00
OTH WOV FAB OF CT <=200G/M2 BLC >=36% W/FAH N COMB	FABRIC	5212121010	410	4	0	0.00
OTH WOV FAB OF CT <=200G/M2 BLC >=36% W/FAH COMBED.	FABRIC	5212121020	410	4	0	0.00
OTH WOV FAB OF COT <=200G/M2 DYE >=36% W/FAH N COM	FABRIC	5212131010	410	4	37	0.00
OTH WOV FAB OF COT <=200G/M2 DYE >=36% W/FAH COMBD.	FABRIC	5212131020	410	4	809	0.00
OTH WOV FAB COT <=200G/M2 YR OF CL >=36% W/FAH N C .	FABRIC	5212141010	410	4	0	0.00
OTH WOV FAB COT <=200G/M2 YR OF CL >=36% W/FAH CMB	FABRIC	5212141020	410	4	224	0.00
OTH WOV FAB OF COT <=200G/M2 PRT >=36% W/FAH N CMB	FABRIC	5212151010	410	4	0	0.00
OTH WOV FAB OF COT <=200G/M2 PRT >=36% W/FAH COMBD.	FABRIC	5212151020	410	4	0	0.00
OTH WOV FAB OF COT >200G/M2 UBL >=36% W/FAH N CMB ..	FABRIC	5212211010	410	4	277	0.00
OTH WOV FAB OF COT >200G/M2 UBL >=36% W/FAH COMBD	FABRIC	5212211020	410	4	351	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
OTH WOV FAB OF CT >200G/M2 BLC >=36% W/FAH N COMB ..	FABRIC	5212221010	410	4	0	0.00
OTH WOV FAB OF CT >200G/M2 BLC >=36% W/FAH COMBED	FABRIC	5212221020	410	4	64	0.00
OTH WOV FAB OF CT >200G/M2 DYE >=36% W/FAH N COMB .	FABRIC	5212231010	410	4	1,476	0.00
OTH WOV FAB OF CT >200G/M2 DYE >=36% W/FAH COMBED	FABRIC	5212231020	410	4	6,359	0.00
OTH WOV FAB COT >200G/M2 YR OF CL >=36% W/FAH N CB .	FABRIC	5212241010	410	4	14,071	0.00
OTH WOV FAB COT >200G/M2 YR OF CL >=36% W/FAH COMB	FABRIC	5212241020	410	4	15,930	0.00
OTH WOV FAB OF COT >200G/M2 PRT >=36% W/FAH N CMB .	FABRIC	5212251010	410	4	61	0.00
OTH WOV FAB OF COT >200G/M2 PRT >=36% W/FAH COMBD	FABRIC	5212251020	410	4	64	0.00
WOV FAB FLAX <85 FLAX >17 WOOL/FAH UNBLCH OR BLCH .	FABRIC	5309212000	410	4	1,474	0.00
WOV FAB FLAX <85% FLAX CONT >17% WOOL OR FAH	FABRIC	5309292000	410	4	13,954	0.00
WOV FAB VEG TEXT FIB CONT >=17% WGT WOOL OR FAH ...	FABRIC	5311002000	410	4	2,065	0.00
16V FAB SYN FIL YN UBL/BL CON >=36% W/FAH NT COMBD ..	FABRIC	5407910510	410	4	0	0.00
WOV FAB OF SYN FIL YN CON >=36% BY WGT W/FAH COMBD.	FABRIC	5407910520	410	4	565	0.00
WOV FAB OF SYN FIL YN CON >=36% BY WGT W/FAH NT CB	FABRIC	5407920510	410	4	513	0.00
WOV FAB OF SYN FIL YN CON >=36% BY WT W/FAH COMBED.	FABRIC	5407920520	410	4	34,001	0.00
WV FB OF SYN FIL YN OF DIF COL CON >=36% W/FAH NTCB	FABRIC	5407930510	410	4	388	0.00
WV FAB OF SYN FIL YN OF DIF COL CON >=36% W/FAH CMB	FABRIC	5407930520	410	4	62,302	0.00
WOV FAB OF SYN FIL YN CON >=36% WT W/FAH PRN NT CB	FABRIC	5407940510	410	4	2,958	0.00
WOV FAB OF SYN FIL YN CON >=36% BY WT W/FAH PRN CMB.	FABRIC	5407940520	410	4	536	0.00
WOV FAB OF ART FIL YRN CON >=36% BY WT OF WOOL/FAH	FABRIC	5408310510	410	4	158	0.00
WOV FAB OF ART FIL YN CON >=36% BY WT OF W/FAH CMB	FABRIC	5408310520	410	4	34,079	0.00
WOV FAB OF ART FIL YN CON >=36% WT W/FAH DYED NT CB.	FABRIC	5408320510	410	4	22,887	0.00
WOV FAB OF ART FIL YRN CON >=36% W/FAH DYED COMBED.	FABRIC	5408320520	410	4	8,572	0.00
WV FB OF ART FIL YN: YN DIF COL: >=36% W/FAH N CMB	FABRIC	5408330510	410	4	95	0.00
WV FB OF ART FIL YRN: YRN OF DIF COL >=36% W/FAH CB ..	FABRIC	5408330520	410	4	3,567	0.00
WOV FAB OF ART FIL YRN PRNT CON >=36% W/FAH NT CMB	FABRIC	5408340510	410	4	0	0.00
WOV FAN OF ART FIL YRN PRNT CON >=36% W/FAH COMBED.	FABRIC	5408340520	410	4	1,367	0.00
OT WOV FB SYN PLY ST FB M WFAH >=36% WL/FAH N COMB	FABRIC	5515130510	410	4	58,939	0.00
OT WOV FB SYN PLY ST FB M WFAH >=36% WL/FAH COMBED.	FABRIC	5515130520	410	4	965,067	0.01
O W F SYN ACR/MAC SF MX M/S W/FAH >=36%WFAH N COMB.	FABRIC	5515220510	410	4	6,536	0.00
O W F SYN ACR/MAC SF MX M/S W/FAH >=36%WFAH COMBED.	FABRIC	5515220520	410	4	35,694	0.00
O WV FB SYN SF O WV FB M W/FAH >=36% WGT W/FAH N C	FABRIC	5515920510	410	4	17,438	0.00
O WV FB SYN SF O WV FB M W/FAH >=36% WGT W/FAH CMB	FABRIC	5515920520	410	4	1,647	0.00
WV F <85% A SF M W/FAH UB/BL >=36% WGT W/FAH N CMB .	FABRIC	5516310510	410	4	0	0.00
WV F <85% A SF M W/FAH UB/BL >=36% WGT W/FAH COMBD	FABRIC	5516310520	410	4	785	0.00
WV FB < 85% ART SF M >=36% WGT W/FAH DYED, NOT COMB.	FABRIC	5516320510	410	4	3,694	0.00
WV FB < 85% ART SF M >=36% WGT W/FAH DYED, COMB	FABRIC	5516320520	410	4	37,375	0.00
WOV FB < 85% ART S F MIX >=36% WGT W/FAH NOT COMBED.	FABRIC	5516330510	410	4	7,640	0.00
WOV FB < 85% ART S F MIX >=36% WGT W/FAH COMBED	FABRIC	5516330520	410	4	20,085	0.00
WOV FAB < 85% ART SF M >=36% WGT W/FAH PRNTD N COMB.	FABRIC	5516340510	410	4	3,983	0.00
WOV FAB < 85% ART SF M >=36% WGT W/FAH PRNTD COMB	FABRIC	5516340520	410	4	5,321	0.00
BLANKET N/ELEC & TRAVEL RUG WOOL F/HAIR >3M LENGTH	FABRIC	6301200020	410	4	58,589	0.00
WOVEN FAB CARD NOT < 85% BY WT WOOL NOT >300 G/M2	FABRIC	5111112000	414	4	11	0.00
WOVEN TAPSTY/UPHOLSTY NT <85% WT WOOL/ANIMAL HAIR.	FABRIC	5111191000	414	4	732,847	0.00
WOV TPSTY/UPHOLTY WOOL/ANIMAL HAIR MM FIL >300G/M2	FABRIC	5111200500	414	4	161,017	0.00
WOVEN FAB CARD MIXED MM FILAMENTS WOOL/ANIMAL HAIR.	FABRIC	5111201000	414	4	524	0.00
WOV TPSTY/UPHOLTY WOOL/ANIMAL HAIR MM STP >300G/M2.	FABRIC	5111300500	414	4	319,592	0.00
WOVEN FAB CARD MIXED MM STPLE FIB WOOL/ANIMAL HAIR.	FABRIC	5111301000	414	4	0	0.00
WOVEN FABRICS CARDED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5111904000	414	4	85,019	0.00
WOVEN FABRICS CARDED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5111905000	414	4	101	0.00
WV FB CM WL/CM FAH CN >=85% W/FAH WGT <=200G/2S OT	FABRIC	5112111000	414	4	2,820	0.00
WOV TAPESTY/UPHOLSTY NOT < 85% WT WOOL/ANIMAL HAIR.	FABRIC	5112191000	414	4	1,365,437	0.01
WOV TAPESTY/UPHOLSTY NOT < 85% WT WOOL/ANIMAL HAIR.	FABRIC	5112191001	414	4	221,220	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOV TAPESTY/UPHOLSTY NOT < 85% WT WOOL/ANIMAL HAIR.	FABRIC	5112192000	414	4	140,378	0.00
WOVEN FAB COMB W/FAH MIXED M/S WITH MM FILAMENTS .	FABRIC	5112201000	414	4	3,321	0.00
WOVEN FAB COMB W/FAH MIXED M/S WITH MM FILAMENTS .	FABRIC	5112202000	414	4	736	0.00
WOV FAB OF COMB W/FAH MIXED M/S MM STAPLE FIBER	FABRIC	5112301000	414	4	2,274	0.00
WOV FAB OF COMB W/FAH MIXED M/S MM STAPLE FIBER	FABRIC	5112302000	414	4	689	0.00
WOVEN FABRICS COMBED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5112904000	414	4	7,081	0.00
WOVEN FABRICS COMBED WOOL/FINE ANIMAL HAIR: OTHER	FABRIC	5112905000	414	4	193	0.00
NEEDLELOOM FELTS & STITCH-BONDED FIB FAB OF WOOL ..	FABRIC	5602109010	414	4	251,667	0.00
FELTNOT IMPREG COAT COVER OR LAMIN OF WOOL OR FAH.	FABRIC	5602210000	414	4	788,656	0.00
FELT NOT LAMINATED NESOI	FABRIC	5602909000	414	4	110,989	0.00
WOV PILE & CHENILLE FABRICS OF WOOL/FINE ANIM HAIR ..	FABRIC	5801100000	414	4	933,800	0.01
TUFTED TEXTILE FABRICS OF WOOL OR FINE ANIMAL HAIR .	FABRIC	5802300020	414	4	5,057	0.00
GAUZE, NT NAR FAB OTH TEX MAT, OF WOOL/FNE ANML HR	FABRIC	5803901000	414	4	6,924	0.00
GAUZE, NT NAR FAB OTH TEX MAT, OF WOOL/FNE ANML HR	FABRIC	5803901100	414	4	0	0.00
GAUZE, NT NAR FAB OTH TEX MAT, OF WOOL/FNE ANML HR	FABRIC	5803901200	414	4	6,199	0.00
HAND-WOV TAPESTRIES, NESOI, WOOL/FINE HAIR, NESOI	FABRIC	5805002500	414	4	65,584	0.00
WOVEN NARROW PILE & CHENILLE FAB, WOOL/FINE HAIR	FABRIC	5806103020	414	4	283	0.00
NARROW WOVEN FABRICS OF WOOL OR FINE ANIMAL HAIR	FABRIC	5806391000	414	4	23,708	0.00
EMBROID IN PCE, STRIPS NESOI OF WOOL/FNE ANML HAIR .	FABRIC	5810990010	414	4	10,842	0.00
QUILT TEX PROD IN PCE 1>LAYER MAT WOOL ANIM HAIR	FABRIC	5811001000	414	4	168	0.00
WOOL/FINE AN HR FABRC IMPREGNATD ETC W POLYURATHNE.	FABRIC	5903203010	414	4	2,346	0.00
WOOL/FINE AN HAIR FABRIC IMPREG W PLAS EX PU/PVC	FABRIC	5903903010	414	4	8,963	0.00
LOOPED PILE FABRICS OTHER TEX MAT, KNIT OR CROCHET	FABRIC	6001290000	414	4	246	0.00
OTHER PILE FABRIC OTHER TEXTILE MATRL KNIT/CROCHET	FABRIC	6001990090	414	4	3,044	0.00
OTHER WARP KNIT FABRIC OF WOOL OR FINE ANIMAL HAIR	FABRIC	6002410000	414	4	171,864	0.00
OTH KNIT/CROCHET FABRC, WOOL/FINE ANIMAL HAIR, NESOI.	FABRIC	6002910000	414	4	129,242	0.00
WOV FAB >=85% BY WGT ART ST FB UNB/BL POPLIN/BRDCL	FABRIC	5516110010	611	4	42,406,443	0.25
WOVEN FAB >=85% BY WEIGHT ART ST F UNB/BL SHEETING	FABRIC	5516110020	611	4	775,126	0.00
WOV FAB >=85% BY WGT ARTIF STP FIB UB/BL OTH-NESOI ..	FABRIC	5516110090	611	4	2,097,236	0.01
WOV FAB >=85% BY WGT ART ST FB DYED POPLIN/BRDCL ...	FABRIC	5516120010	611	4	6,114,985	0.04
WOVEN FAB >=85% BY WEIGHT ART ST FIB DYED SHEETING	FABRIC	5516120020	611	4	1,671,593	0.01
WOV FAB >=85% BY WGT ARTIF STP FIBR DYED OTH-NESOI	FABRIC	5516120090	611	4	1,283,460	0.01
WOVEN FAB >=85% WGT ARTIF STAP FIBER YRNS DIFF CLR	FABRIC	5516130000	611	4	5,134,170	0.03
WOV FAB >=85% BY WGT ART ST FB PRNTED POPLIN/BRDCL.	FABRIC	5516140010	611	4	37,806,098	0.22
WOVEN FAB >=85% BY WEIGHT ART ST F PRNTED SHEETING.	FABRIC	5516140020	611	4	2,033,823	0.01
WOV FAB >=85% BY WGT ARTIF STP FIB PRNTD OTH-NESOI	FABRIC	5516140090	611	4	2,568,529	0.02
WOV FAB FLAX < 85 WGT FLAX SHEETG UBL OR BL SUB MMF.	FABRIC	5309213060	613	4	0	0.00
WV FB FLAX <85% WGT FLAX CON COT & MMF SUB MMF RES.	FABRIC	5309293060	613	4	0	0.00
WOV FAB OF VEG FIB SUB MAN-MADE FIB RES SHEETING	FABRIC	5311003060	613	4	1,003	0.00
WOV FAB SYN S F >=85% SYN >=85% PL S UB/BL W >254CM	FABRIC	5512110022	613	4	15,615	0.00
WOV FB SYN S F >=85% SYN >=85% PL S UB/BL W <=254CM.	FABRIC	5512110027	613	4	146,963	0.00
WOV FAB SYN S F >=85% SYN >=85% PL S F OTH W >254CM	FABRIC	5512190022	613	4	572,809	0.00
WOV FB SYN S F >=85% SYN >=85% PL S F OTH W <=254CM.	FABRIC	5512190027	613	4	414,739	0.00
WOV FAB SYN ST FIB >=85% SYN >=85% AC/MAC SHEETING	FABRIC	5512210020	613	4	363	0.00
WOV FAB SYN S F >=85% SYN >=85% ACR/MACRL SHEETING	FABRIC	5512290020	613	4	1,369,617	0.01
WOV FAB SYN STP FIB >=85% SYN ST FB OTH UNB/BL SHT ..	FABRIC	5512910020	613	4	38,120	0.00
WOV FAB SYN STP FIB >=85% SYN ST FB OTHER SHEETING	FABRIC	5512990020	613	4	29,735	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 UB/BL P PW SHT ...	FABRIC	5513110040	613	4	8,436,883	0.05
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL OWF SHEET ..	FABRIC	5513190020	613	4	7,213	0.00
WOV FB SYN S F <85% MY CT <=170G/M2 DYED PY PW SHT .	FABRIC	5513210040	613	4	586,204	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED OWF SHEET ..	FABRIC	5513290020	613	4	0	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 PRNTD P PW SHT .	FABRIC	5513410040	613	4	572,584	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD OWF SHEET	FABRIC	5513490020	613	4	490	0.00
WV FB SYN SF <85% MX C >170G/M2 UB/BL PY PW SH N N ...	FABRIC	5514110030	613	4	450	0.00
WV FB SYN SF <85% MX C >170G/M2 UB/BL PY PW SH NAP ..	FABRIC	5514110050	613	4	1,034	0.00
WV FB SYN SF <85% MX CT >170G/M2 UB/BL OT W F SHTG ...	FABRIC	5514190020	613	4	29,930	0.00
W FB SYN SF <85% MX CT >170G/M2 DYED PLY PW SH N N ..	FABRIC	5514210030	613	4	264,003	0.00
W FB SYN SF <85% MX CT >170G/M2 DYED PLY PW SH NAP .	FABRIC	5514210050	613	4	825	0.00
WV FB SYN SF <85% MX CT >170G/M2 DYED OTH W F DUCK	FABRIC	5514290020	613	4	95	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRT PY PW SH N NP ..	FABRIC	5514410030	613	4	3,110	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRT PY PW SH NAPP .	FABRIC	5514410050	613	4	0	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRNTD OT W F SHTG .	FABRIC	5514490020	613	4	38	0.00

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
OTH WOV FAB SYN PLY ST FB M VIS RAY ST FB SHEETING ..	FABRIC	5515110020	613	4	2,252,352	0.01
OTH WOV FAB SYN PLY STP FIBER OTHER ST FB SHEETING	FABRIC	5515190020	613	4	384,026	0.00
OTHER WOVEN FABRICS SYN ACR/MAC ST FB OTH SHEETING.	FABRIC	5515290020	613	4	3,490	0.00
OTH WOVEN FABRICS OF SYNTHETIC STAPLE FIB O SHEETG.	FABRIC	5515990020	613	4	9,434	0.00
WOV FAB <85% ART ST FB M COT UBL/BL SHTG WD >127CM	FABRIC	5516410022	613	4	360,324	0.00
WOV FAB <85% ART ST FB M COT UBL/BL SHEETING OTHER	FABRIC	5516410027	613	4	189	0.00
WOV FAB <85% ART ST FB M COTTON DYE SHTG WD >127CM.	FABRIC	5516420022	613	4	15,861	0.00
WOV FAB <85% ART ST FB M COTTN DYED SHEETING OTHER.	FABRIC	5516420027	613	4	28,405	0.00
WOV FAB <85% ART ST FB M COT PRNTED SHTG WD >127CM.	FABRIC	5516440022	613	4	432,997	0.00
WOV FAB <85% ART ST FB M COT PRNTED SHEETING OTHER.	FABRIC	5516440027	613	4	57,784	0.00
WOVEN FABRICS ARTIF STPL FIB OTH SHEETING UBL/BLC ...	FABRIC	5516910020	613	4	27,071	0.00
WOVEN FABRICS ARTIF STPL FIB OTH SHEETING DYED	FABRIC	5516920020	613	4	462,494	0.00
WOVEN FABRICS ARTIF STPL FIB OTH SHEETING PRNTED ...	FABRIC	5516940020	613	4	180,650	0.00
WOV FAB FLAX <85 WGT FLAX POP OR BDCL UBLC OR BLCH	FABRIC	5309213055	614	4	0	0.00
WOV FAB FLAX <85% WGT FLAX CON COT & MMF POPLIN &B.	FABRIC	5309293055	614	4	13,616	0.00
WOV FAB OTH VEG FIB SUB MMF RES POPLIN BROADCLOTH	FABRIC	5311003055	614	4	0	0.00
WOV FAB SYN ST FB >=85% SYN >=85% PLY UBL/BLC P/BC ..	FABRIC	5512110010	614	4	401,657	0.00
WOV FAB SYN ST FB >=85% SYN >=85% PLY OTH POP/BRCL	FABRIC	5512190015	614	4	51,012	0.00
WOV FAB SYN ST FB >=85% SYN >=85% A/M UBL/BLC P/BC ...	FABRIC	5512210010	614	4	2,057	0.00
WOV FAB SYN ST FB >=85% SYN >=85% ACR/MAC OT PL/BC	FABRIC	5512290015	614	4	6,700	0.00
WOV FAB SYN STP FIB >=85% SYN ST FB OTH UNB/BL O/C ...	FABRIC	5512910010	614	4	6,883	0.00
WOV FAB SYN STP FIB >=85% SYN ST FB OTH POPL/BRDCL .	FABRIC	5512990015	614	4	103,690	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 UB/BL P PW P/B	FABRIC	5513110020	614	4	29,433,114	0.17
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL OWF PL/BC ...	FABRIC	5513190010	614	4	105,630	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 DYED PY PW P/B ..	FABRIC	5513210020	614	4	5,201,633	0.03
WV FB SYN S F <85% MX CT <=170G/M2 DYED OWF PL/BC	FABRIC	5513290010	614	4	960,160	0.01
WOV FB SYN S F <85% MX CT <=170G/M2 PRNTD P PW P/B ..	FABRIC	5513410020	614	4	3,109,486	0.02
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD OWF PL/BC ..	FABRIC	5513490010	614	4	163	0.00
WV FB SYN SF <85% MX CT >170G/M2 UB/BL PY PW PL/BC ...	FABRIC	5514110020	614	4	257,444	0.00
WV FB SYN SF <85% MX CT >170G/M2 UB/BL OT W F P/BC	FABRIC	5514190010	614	4	775	0.00
WV FB SYN SF <85% MX CT >170G/M2 DYED PLY PW PL/BC ..	FABRIC	5514210020	614	4	1,415,909	0.01
WV FB SYN SF <85% MX CT >170G/M2 DYED OTH W F P/BC ..	FABRIC	5514290010	614	4	4,504	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRNTD PY PW PL/BC .	FABRIC	5514410020	614	4	729	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRNTD OT W F P/BC ..	FABRIC	5514490010	614	4	304	0.00
OTH WOV FAB SYN PLY S F M VIS RAY S F POPL/BRDCLTH ..	FABRIC	5515110015	614	4	2,971,974	0.02
OTH WOV FAB SYN PLY ST FB OTHER ST FB POPL/BRDCLTH	FABRIC	5515190015	614	4	227,837	0.00
OTH WOVEN FABRIC SYN ACR/MAC ST FB OTH POPLIN/BRCL.	FABRIC	5515290015	614	4	83,058	0.00
OTH WOV FAB OF SYN STPL FIB OTH POPLIN/BROADCLOTH	FABRIC	5515990015	614	4	33,370	0.00
WOV FAB <85% ART ST FB M COT UNBL/BLC POPLIN/BRDCL	FABRIC	5516410010	614	4	11,217	0.00
WOV FAB <85% ART ST FB M COTTON DYED POPLIN/BRDCL	FABRIC	5516420010	614	4	106,663	0.00
WOV FAB <85% ART ST FB M COTN PRINTED POPLIN/BRDCL	FABRIC	5516440010	614	4	149,976	0.00
WOVEN FABRICS ARTIF STPL FIB OTH POPL/BRDCL UB/BL ...	FABRIC	5516910010	614	4	3,198,530	0.02
WOVEN FABRICS ARTIF STPL FIB OTH POPL/BRDCL DYED	FABRIC	5516920010	614	4	834,030	0.00
WOVEN FABRICS ARTIF STPL FIB OTH POPL/BRDCL PRNTED	FABRIC	5516940010	614	4	88,911	0.00
WOV FAB FLAX <85 WGT FLAX PRINTCLOTH UBLC OR BLCH	FABRIC	5309213065	615	4	0	0.00
WOV FAB FLAX <85% WGT FLAX CON COT & MMF MMF RE PC.	FABRIC	5309293065	615	4	12,876	0.00
WV FB VEG FB <=17% W/FAH CN CT/MMF SUB MMF RES PRT	FABRIC	5311003065	615	4	0	0.00
WOV FAB SYN ST FB >=85% SYN >=85% PLY UBL/BL PRTCL .	FABRIC	5512110030	615	4	1,821,231	0.01
WOV FAB SYN ST FB >=85% SYN >=85% PLY S F OT PRTCL ..	FABRIC	5512190030	615	4	44,869	0.00
WOV FAB SYN ST FB >=85% SYN >=85% A/M UBL/BL PRTCL ..	FABRIC	5512210030	615	4	384	0.00
WOV FAB SYN ST FB >=85% SYN >=85% ACR/MAC OT PRTCL	FABRIC	5512290025	615	4	353,044	0.00
WOV FAB SYN STP FIB >=85% SYN ST FB OTH UNB/BL PRT ..	FABRIC	5512910030	615	4	144,539	0.00
WOV FAB SYN STP FIB >=85% SYN ST FB OTH PRINTCLOTH .	FABRIC	5512990025	615	4	611	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 UB/BL P PW PRT ...	FABRIC	5513110060	615	4	29,023,225	0.17
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL OWF PRTCL ..	FABRIC	5513190030	615	4	14,276	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 DYED PY PW PRT .	FABRIC	5513210060	615	4	396,209	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED OWF PRTCL ...	FABRIC	5513290030	615	4	432	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 PRNTD P PW PRT .	FABRIC	5513410060	615	4	233,694	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD OWF PRTCL	FABRIC	5513490030	615	4	56,230	0.00
OTH WOV FAB SYN PLY ST FB M VIS RAY ST FB PRNTCLTH .	FABRIC	5515110025	615	4	8,841,707	0.05
OTH WOV FAB SYN PLY STP FIBER OTHER ST FB PRNTCLTH	FABRIC	5515190025	615	4	46,823	0.00
OTHER WOVEN FABRICS SYN ACR/MAC ST FB OTH PRNTCLTH.	FABRIC	5515290025	615	4	24,934	0.00

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OTH WOV FAB SYNTHETIC STAPLE FIB OTH PRINTCLOTH	FABRIC	5515990025	615	4	3,224	0.00
WOV FAB <85% ART STP FIB MIX COT UBL/BL PRINTCLOTH ..	FABRIC	5516410030	615	4	15,419	0.00
WOV FAB <85% ART STP FIB MIX COTTN DYED PRINTCLOTH	FABRIC	5516420030	615	4	76,655	0.00
WOV FAB <85% ART STP FIB MIX COT PRNTED PRINTCLOTH	FABRIC	5516440030	615	4	564,179	0.00
WOVEN FABRICS ARTIF STPL FIB OTH PRINTCLOTH UBL/BL .	FABRIC	5516910030	615	4	64	0.00
WOVEN FABRICS ARTIF STPL FIB OTH PRINTCLOTH DYED	FABRIC	5516920030	615	4	68,132	0.00
WOVEN FABRICS ARTIF STPL FIB OTH PRINTCLOTH PRINTD	FABRIC	5516940030	615	4	79,150	0.00
WOV FB SYN S F >=85% SYN >=85% PL UB/BL ST/TWL WV	FABRIC	5512110060	617	4	293,435	0.00
WOV FB SYN S F >=85% SYN >=85% PLY ST FB ST/TWL WV ..	FABRIC	5512190045	617	4	75,550	0.00
WOV FB SYN S F >=85% SYN >=85% AM UB/BL ST/TWL WV ...	FABRIC	5512210060	617	4	911	0.00
WOV FB SYN STAP FIB >=85% ACRY/MACRY SATIN/TWIL WV	FABRIC	5512290040	617	4	4,569	0.00
WOV FAB SYN ST FB >=85% SYN ST FB OT UNB/BL S/T WV ...	FABRIC	5512910060	617	4	543	0.00
WOV FAB SYN ST FB >=85% SYN ST FB OT SATIN/TWIL WV ..	FABRIC	5512990040	617	4	106,018	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 UB/BL 3-4 T TW	FABRIC	5513120000	617	4	12,280,282	0.07
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL P ST/TW W	FABRIC	5513130020	617	4	1,524,332	0.01
WV FB SYN S F <85% MX CT <=170G/M2 UB/BL OWF S/T W	FABRIC	5513190050	617	4	147,484	0.00
WOV FB SYN F <85% MX CT <=170G/M2 DYED 3-4 T TW PL	FABRIC	5513220000	617	4	315,119	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED PY ST/TW W ..	FABRIC	5513230020	617	4	166,124	0.00
WV FB SYN S F <85% MX CT <=170G/M2 DYED OWF S/T W	FABRIC	5513290050	617	4	94	0.00
WOV FB SYN S F <85% MX CT <=170G/M2 PRNTD 3-4 T TW ..	FABRIC	5513420000	617	4	111,595	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD P ST/TW W ..	FABRIC	5513430020	617	4	0	0.00
WV FB SYN S F <85% MX CT <=170G/M2 PRNTD OWF S/T W ..	FABRIC	5513490050	617	4	2,997	0.00
W F S SF <85% M CT >170G/M2 UB/BL 3-4TD TL PSF N N	FABRIC	5514120020	617	4	2,824,028	0.02
W F S SF <85% M CT >170G/M2 UB/BL 3-4TD TL PSF NAP	FABRIC	5514120040	617	4	169,299	0.00
WV FB SY SF <85% M CT >170G/M2 UB/BL OWFPSF ST/T W ...	FABRIC	5514130020	617	4	5,027	0.00
WV FB SYN SF <85% MX CT >170G/M2 UB/BL O W F S/T W	FABRIC	5514190040	617	4	1,318	0.00
W F SY SF <85% M CT >170G/M2 DYED 3-4TD TL PSF N N	FABRIC	5514220020	617	4	249,033	0.00
W F SY SF <85% M CT >170G/M2 DYED 3-4TD TL PSF NAP	FABRIC	5514220040	617	4	106,791	0.00
WV FB SY SF <85% M CT >170G/M2 DYED OWFPSF ST/T W ...	FABRIC	5514230020	617	4	727,509	0.00
WV FB SYN SF <85% MX CT >170G/M2 DYED OT W F S/T W ...	FABRIC	5514290040	617	4	3,410	0.00
WV FB SY SF <85% M C >170G/M2 PRT 3-4TD TL PSF N N	FABRIC	5514420020	617	4	3,032	0.00
WV FB SY SF <85% M C >170G/M2 PRT 3-4TD TL PSF NAP	FABRIC	5514420040	617	4	0	0.00
WV FB SY SF <85% M CT >170G/M2 PRNTD OWFPSF ST/T W .	FABRIC	5514430020	617	4	3,066	0.00
WV FB SYN SF <85% MX CT >170G/M2 PRNTD O W F S/T W ...	FABRIC	5514490040	617	4	38	0.00
OTH WOV FAB SYN PLY ST FB M VIS RAY ST F S/T WV	FABRIC	5515110040	617	4	6,856,382	0.04
OTH WOV FAB SYN PLY STP FIBER OTHER ST F S/T WV	FABRIC	5515190040	617	4	159,761	0.00
OTH WOV FAB OF SYNTHETIC ACR/MAC ST FB OT ST/TW WV	FABRIC	5515290040	617	4	248,234	0.00
OTH WOV FABRIC OF SYNTHETIC STP FIB OT SAT/TWIL WV .	FABRIC	5515990040	617	4	142,785	0.00
WOV FAB <85% ART STP FIB MX COT UB/BL STN/TWL WV	FABRIC	5516410060	617	4	94,863	0.00
WOV FAB <85% ART STP FIB MX COTN DYED STN/TWL WV ...	FABRIC	5516420060	617	4	201,667	0.00
WOV FAB <85% ART STP FIB MX COT PRNTD STN/TWL WV ...	FABRIC	5516440060	617	4	88,316	0.00
WOVEN FABRICS ARTIF STPL FIB OTH STN/TWLL WV UB/BL .	FABRIC	5516910060	617	4	1,227,757	0.01
WOVEN FABRICS ARTIF STPL FIB OTH STN/TWLL WV DYED ..	FABRIC	5516920060	617	4	362,722	0.00
WOVEN FABRICS ARTIF STPL FIB OTH STN/TWLL WV PRNTD	FABRIC	5516940060	617	4	9,405	0.00
WOVEN FAB OF AFT FILA YN OBTAIN FROM HI VISCSE RYN .	FABRIC	5408100000	618	4	539,760	0.00
WV FB ART FIL YN >=85% FIL OR STRP UBL/BL<=170G/M2	FABRIC	5408210030	618	4	8,137,881	0.05
WV FB ART FIL YN CON>=85% ART FIL OR STRP >170G/M2 ...	FABRIC	5408210060	618	4	177,353	0.00
OTH WOV FAB ART, DYED, OF CUPRAMMONIUM RAYON	FABRIC	5408220030	618	4	2,509,376	0.01
OTH WOV FAB ART, DYED, OF CUPRAMMONIUM RAYON	FABRIC	5408220060	618	4	492,068	0.00
YRN OF DIFF COLR THD CT>69/NT>142,OF CUPRMONIM RAY	FABRIC	5408231000	618	4	80,012	0.00
WOV FAB >=85% ART FIL/STP YRN OF DIF COL, CUP RAYN ...	FABRIC	5408232030	618	4	364,248	0.00
WOV FAB >=85% ART FIL/STP YRN OF DIF COL, CUP RAYN ...	FABRIC	5408232060	618	4	221,905	0.00
WOV FAB CON >=85% ART FIL/STRIP PRINT, CUPRA RAYON .	FABRIC	5408240030	618	4	1,518,908	0.01
WOV FAB CON >=85% ART FIL/STRIP PRINT, CUPRA RAYON .	FABRIC	5408240060	618	4	60,156	0.00
WOV FABS OF ART FIL YN UBL/BL MXED M/S WTH SYN FIB ...	FABRIC	5408312010	618	4	67,206	0.00
WOV FAB OF ART FIL YRN DYED CON >=30% SILK >$33/KG ...	FABRIC	5408323000	618	4	25,665	0.00
WOV FAB OF ART FIL CON <30% SILK MIXED WTH SYN FIL ...	FABRIC	5408329010	618	4	934,017	0.01
WOV FAB OF ART FIL YN: YN DIF COL CON >=85% MM FIL	FABRIC	5408331500	618	4	46,050	0.00
WV FB ART FIL YN: YN OF DIF COL: >=30% SLK >$33/KG	FABRIC	5408333000	618	4	106,366	0.00
WV FB ART FIL YN, YN DF CL; MXD SYN FIL/METALZD YN	FABRIC	5408339010	618	4	1,129,750	0.01
WOV FAB OF ART FIL YN PRN CON>30% SLK VALU >$33/KG .	FABRIC	5408343000	618	4	4,798	0.00
WOV FAB OF ARTIF FIL YRN MIXED M/S WITH SYNTH FILA	FABRIC	5408349010	618	4	330,274	0.00
WOV FAB SYN FIL YRN HI TEN OF NYL, POLY WT<=170G/M2 .	FABRIC	5407100010	619	4	5,865,061	0.03
WOV FAB SYN FIL YN>=85% POLY UBLCH/BLC WT <=170G/M2.	FABRIC	5407510020	619	4	4,218,579	0.02
WV FB SYN FIL YN>=85% POLY UBLCH/BLCH WGT<=170G/M2	FABRIC	5407510040	619	4	3,229,679	0.02
WV FB >=85% PLY DYD THD CT >69&<=142 WRP >31<=71CM .	FABRIC	5407520500	619	4	30,543	0.00
WOV FABS CONT >=85% POLY DYED WGT <=170G/M2 FLAT F	FABRIC	5407522020	619	4	9,966,028	0.06
WOV FB SYN FIL YN CON >=85% POLY DYED WGT <=170G/M2.	FABRIC	5407522040	619	4	17,772,455	0.10
WV FB SYN FIL YN >=85% TEX PLY YR DF CL >69<=142 W	FABRIC	5407531000	619	4	483,376	0.00
WV FB SYN FL YN CON>=85% POLY YN OF DIF CL<=170G/M2	FABRIC	5407532020	619	4	237,953	0.00

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WOV FAB SYN >=85% POLY YNS OF DIF COL WT<=170 G/M2 .	FABRIC	5407532040	619	4	247,301	0.00
WOV FAB CONT >=85% POLY PRINTED WEIGHING <=170G/M2.	FABRIC	5407540020	619	4	2,866,646	0.02
WOV FAB CON>=85% POLY PRNTD <=170 G/M2 EXC FLAT FB	FABRIC	5407540040	619	4	11,076,668	0.07
WV FB >=85% PLY DYD, 75<DECITEX<80,TWST>=900 /METR ..	FABRIC	5407600500	619	4	19,233	0.00
WOV FAB CON >=85% WT NON-TEX POLY YNS OF DIF COLOR.	FABRIC	5407601000	619	4	1,842,675	0.01
POLYESTER NON-TEX UNBLCH/BLCH WT NT>170G/M2 FL FAB.	FABRIC	5407602005	619	4	3,337,274	0.02
POLYESTER NON-TEX UNBL/BLCH WT <=170 G/M2 EXC FF	FABRIC	5407602010	619	4	5,196,808	0.03
POLYESTER NON-TEX DYED WT NT >170G/M2 FLAT FABRICS	FABRIC	5407602025	619	4	16,757,426	0.10
WOV FAB CON >=85% NON-TEX POLY DYED WT <=170G/M2OT.	FABRIC	5407602030	619	4	66,106,285	0.39
POLY N-TX YNS OF DIF COL WT <=170 G/M2 FLAT FAB	FABRIC	5407602045	619	4	317,167	0.00
WOV FAB CON>=85% N-TX POLY YNS OF DIF COL<=170G/M2	FABRIC	5407602050	619	4	1,349,370	0.01
WOV FLT FAB CON>=85% NO-TEX POLY PRINT WT<=170G/M2	FABRIC	5407602065	619	4	4,404,968	0.03
WOV FAB CON>=85% NON-TEX POLY PRINT<=170G/M2 EX FL	FABRIC	5407602070	619	4	42,939,331	0.25
WOV FAB CON >=85% POLY FIL UBLCH/BLCH WT <=170G/M2	FABRIC	5407710010	619	4	577,946	0.00
WOV FAB OF YARN CONT >=85% POLY FIL DYED <=170G/M2	FABRIC	5407720010	619	4	4,610,178	0.03
WOV FAB CON >=85% POLY FIL YNS OF DIF COL<=170G/M2 ..	FABRIC	5407732010	619	4	35,628	0.00
WOV FAB CON >=85% POLY YARN PRNTED WGTNG <=170G/M2.	FABRIC	5407740010	619	4	1,086,929	0.01
WV FB HG TNCY YRN YRN OF NYL OR OT PLYAD, ≤170G/M2 .	FABRIC	5407100090	620	4	3,278,286	0.02
WOV FAB OF SYN FIL YRN OBTAINED FROM STRP/THE LIKE .	FABRIC	5407200000	620	4	29,137,525	0.17
WV FAB OF SYN FIL YR LAY PARL TX YR <=60% WGT PLAS ..	FABRIC	5407309000	620	4	383,689	0.00
WOV FABS NYLON/POLYAMIDES UNBLCH/BLCH WGT<=170G/M2.	FABRIC	5407410030	620	4	5,757,864	0.03
WOV FAB OF NYLON/POLYAMIDE UNBLCH/BLCH WGT>170G/M2.	FABRIC	5407410060	620	4	194,668	0.00
NYL/PLYADM FB >=85% FIL NYL/O P DYD WGT ≤=170 G/M2	FABRIC	5407420030	620	4	22,608,162	0.13
WOV FABS OF NYLN/POLYMDS DYED WEIGHING >170 G/M2 ..	FABRIC	5407420060	620	4	882,449	0.01
NYLON/FABRICS: YRN OF DIF CLR THD CT >69&<=142	FABRIC	5407431000	620	4	15,517	0.00
WV FB NYLON/POLYAMDS YN OF DIF COLOR WT <=170 G/M2	FABRIC	5407432030	620	4	541,632	0.00
WOV FB NYLON/POLYAMDS YN OF DIF COLOR WT >170 G/M2	FABRIC	5407432060	620	4	22,452	0.00
WOV FAB >=85% NYL/POLYAMIDS PRINT WEIGHT <=170 G/M2	FABRIC	5407440030	620	4	1,272,201	0.01
WOV FAB >=85% NYL/POLYAMIDS PRINTED WGT >170 G/M2 .	FABRIC	5407440060	620	4	1,786	0.00
W F SY F Y INC HDG 5404 >=85% TX PY F UB/B >170G/2	FABRIC	5407510060	620	4	247,267	0.00
WOV FAB SYNTH FIL YN CONT >=85% POLY DYED >170G/M2	FABRIC	5407522060	620	4	2,446,206	0.01
WV FB CONT >=85% POLY YNS OF DIF COL WGT >170 G/M2 .	FABRIC	5407532060	620	4	332,610	0.00
WOV FAB CON >=85% WTPOLY PRNTD WEIGHING >170 G/M2	FABRIC	5407540060	620	4	174,191	0.00
WOV FB CON>=85% NON-TEX POLY UBLCH/BLCH WT>170G/M2.	FABRIC	5407602015	620	4	569,207	0.00
WOV FAB CON>=85% NON-TEX POLY DYED WGHING >170G/M2.	FABRIC	5407602035	620	4	1,176,317	0.01
POLYESTER NON-TEX FAB YNS OF DIF COL WT >170 G/M2 ...	FABRIC	5407602055	620	4	191,025	0.00
WOV FAB CON>=85% NON-TEX POLY PRINT WGTING>170G/M2.	FABRIC	5407602075	620	4	56,468	0.00
WOV FAB CON <85% POL FIL UNBLCH/BLCH WT <=170G/M2 ..	FABRIC	5407710020	620	4	1,745,209	0.01
WOV FAB CON >=85% SYNTH FIL UNBLCH/BLCH WT>170G/M2.	FABRIC	5407710060	620	4	61,303	0.00
WOV FAB OF YARN CON >=85% SYNTH FIL DYED <=170G/M2	FABRIC	5407720020	620	4	325,836	0.00
OTH WOV SYNTH FAB CON >=85% DYED WEIGHING >170G/M2.	FABRIC	5407720060	620	4	88,741	0.00
WOV FAB CON >=85% SYNTH FAB YNS OF DIF COL THD CNT	FABRIC	5407731000	620	4	53,554	0.00
WOV FAB CONT <85% POLY FIL YNS DIF COLR <=170G/M2	FABRIC	5407732020	620	4	155,180	0.00
WOV FAB CON >=85% SYNTH FIL YN OF DIF COL >170G/M2 ..	FABRIC	5407732060	620	4	218,838	0.00
WOV FAB CON <85% POLY FIL FAB PRNTD WGT <=170G/M2 ..	FABRIC	5407740020	620	4	310,736	0.00
WOV FAB CON >=85% SYNTH FIL PRNTED WGTING >170G/M2	FABRIC	5407740060	620	4	30,746	0.00
WOV FABS OF SYN FILA UNBL/BL MIX M/S WITH ART FILA	FABRIC	5407912010	620	4	56,827	0.00
WOV FAB OF SYN FIL MIXED WITH ART FIL OR METLZD YN ...	FABRIC	5407922010	620	4	902,638	0.01
WOV FAB SYN FIL YN OF DIF COL CON >=85% WGT MM FIL ..	FABRIC	5407931500	620	4	56,146	0.00
WOV FAB SYN FIL YN DIF COL MIX W ART FIL/METLZD YN	FABRIC	5407932010	620	4	578,055	0.00
WOV FAB SYN FIL YN PRNT MIX W ART FILA/METALIZD YN ...	FABRIC	5407942010	620	4	92,190	0.00
WOV FAB OF SYN FIL YN CON<36% BY WGT W/FAH UNBL/BL	FABRIC	5407911000	624	4	240,544	0.00
WOV FAB OF SYN FIL YN CON <36% WOOL/FAH NOT COMBED.	FABRIC	5407921010	624	4	155,982	0.00
WOV FAB OF SYN FIL YN CON <36% WOOL/F AN HR COMBED.	FABRIC	5407921020	624	4	210,532	0.00
WOV FAB OF SYN FIL YN OF DIF COL CON <36% WT W/FAH ..	FABRIC	5407931000	624	4	233,992	0.00
WOV FAB OF SYN FIL YARN CONT <36% BY WGT OF W/FAH .	FABRIC	5407941000	624	4	36,871	0.00
WOV FAB OF ART FIL YN UNBL OR BL CON<36% WT W/FAH ..	FABRIC	5408311000	624	4	5,578	0.00
WOV FAB OF ART FIL YARN CONT <36% BY WGT WOOL/FAH	FABRIC	5408321000	624	4	94,201	0.00

VOL 60 ISS 83 MY 1 1995 UMI

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
WOV FAB OF ART FIL YRN: YRN OF DIF COL <36% W/FAH	FABRIC	5408331000	624	4	83,193	0.00
WOV FAB OF ART FILA YARN CON<36% BY WGT OF WO/FAH	FABRIC	5408341000	624	4	99,877	0.00
OTH WOV FAB POLY ST FB MX WL/FINE ANML HR NT COMBD.	FABRIC	5515131010	624	4	5,852,167	0.03
OTH WOV FAB POLY ST FB MX WOOL/FINE ANML HR, COMBD.	FABRIC	5515131020	624	4	10,681,629	0.06
OT WV FB SYN ACR/MAC SF MX M/S <36% WL/FN ANML HR	FABRIC	5515221000	624	4	3,247,897	0.02
OTH WOV FAB SYN ST FB MIXED WOOL/FN AN HAIR, NT CMB	FABRIC	5515921010	624	4	986,090	0.01
OTH WOV FAB SYN ST FB MIXED WOOL/FN AN HAIR, COMBD	FABRIC	5515921020	624	4	322,043	0.00
WV FB <85% AT ST FB MX W/FAH UB/BL OTHER	FABRIC	5515311000	624	4	22,450	0.00
WOV FAB <85% ART ST FB MX W/FAH DYED OTHER	FABRIC	5516321000	624	4	611,127	0.00
WOV FAB <85% ART ST FB MX W/FAH YR DF CLRS OTHER	FABRIC	5516331000	624	4	1,234,888	0.01
WOV FAB <85% ART ST FB MX W/FAH PRNTD OTHER	FABRIC	5516341000	624	4	529,119	0.00
WOV FAB CON <85% SYN FIL MIX M/S W COT UBL/BL POP	FABRIC	5407810010	625	4	2,770,388	0.02
WOV FAB CON <85% SYN FIL MIX WITH COT DYED POP/BR	FABRIC	5407820010	625	4	67,816	0.00
WV FB CON<85% SYN FIL MIX COT YN OF DIF COL PO/BR	FABRIC	5407830010	625	4	22,799	0.00
WOV FAB CON<85% SYN FIL MIX W/COT PRINT POP/BR CL	FABRIC	5407840010	625	4	6,127	0.00
WOV FABS OF SYN FIL YRN UNBLCH/BLCH POPLIN/BROADCL.	FABRIC	5407912020	625	4	5,847,502	0.03
WOV FABS OF SYNTH FILA YARN DYED: NESOI POP/BRDCTH	FABRIC	5407922020	625	4	306,210	0.00
WOV FAB OF SYN FIL YN:YARN OF DIF COL NESOI POP/BR	FABRIC	5407932020	625	4	16,336	0.00
WOV FAB OF SYN FIL YARN PRINTED NESOI POPLIN/BROAD	FABRIC	5407942020	625	4	44,644	0.00
OTH WOV FAB OF ART FIL YN UBL/BL NESOI POPLIN/BROD	FABRIC	5408312020	625	4	4,451,731	0.03
OTH WOV FAB ART FILA YARN DYED NESOI POP OR BROADC.	FABRIC	5408329020	625	4	5,330,190	0.03
WOV FAB OF ART FIL YRN: YRN OF DIF COL NESOI POP/B	FABRIC	5408339020	625	4	57,731	0.00
WOV FAB ART FIL YARN PRINTED NESOI POPLIN/BROADCLO	FABRIC	5408349020	625	4	10,653,162	0.06
OTH WOV FAB SYN PLY ST FB M MMF FIL POPL/BRDCLTH	FABRIC	5515120010	625	4	94,441	0.00
OTH WOV FAB SYN ACR/MAC SF MX M/S MNM FIL POP/BRDC	FABRIC	5515210010	625	4	13,957	0.00
OTH WOV FAB SYN ST FB OT WOV FAB M M/S MNM FL PP/B	FABRIC	5515910010	625	4	1,966	0.00
WOV FAB <85% WGT ART S F M MNM FIL UB/BL POPL/BRDC	FABRIC	5516210010	625	4	3,519,614	0.02
WOV FAB <85% WGT ART S F M MNM FILT DYED POPL/BRDC	FABRIC	5516220010	625	4	12,417,365	0.07
WOV FAB <85% WGT ART S F M MNM FILMT YDC POPL/BRDC.	FABRIC	5516230010	625	4	105,109	0.00
WOV FAB <85% WGT ART S F M MNM FIL PRNTD POPL/BRDC	FABRIC	5516240010	625	4	1,232,545	0.01
WOV FAB CON <85% SYN FIL MIX WTH COT UNBL/BL PRNCL	FABRIC	5407810030	626	4	3,552,301	0.02
WOV FAB CON <85% SYNT FIL MIX W COT DYED PRINTCLH	FABRIC	5407820030	626	4	0	0.00
WOV FAB CON<85% SYN FIL MIX W COT YNS DIF COL PRCL	FABRIC	5407830030	626	4	42,106	0.00
WOV FAB CON <85% SYN FIL MIX W/COT PRINTD PRINTCLH	FABRIC	5407840030	626	4	148,336	0.00
WOV FAB OF SYNTH FILA YNS UNBLCH/BLCH OT PRINTCLTH	FABRIC	5407912040	626	4	1,480,016	0.01
WOV FABRICS OF SYNTH FIL YARN DYED NESOI PRNINTCLH	FABRIC	5407922040	626	4	17,357	0.00
WOV FAB SYN FIL YN, YNS OF DIF COLOR NESOI PRINTCL	FABRIC	5407932040	626	4	126	0.00
WOV FAB OF SYNTH FILA YARN PRINTED NESOI PRINTCLTH	FABRIC	5407942040	626	4	0	0.00
OTH WOV FAB OF ART FIL YRNS UNBL/BL NESOI PRINTCLH	FABRIC	5408312040	626	4	50,355	0.00
OTH WOV FAB ARTIF FILAMENT YARN DYED NESOI PRINTCL	FABRIC	5408329040	626	4	46,658	0.00
WOV FAB ART FIL YN: YNS OF DIF COL NESOI PRINTCLTH	FABRIC	5408339040	626	4	340	0.00
WOV FAB OF ARTIF FILA YARN PRINTED NESOI PRNTCLOTH	FABRIC	5408349040	626	4	206,548	0.00
OTH WOV FAB SYN PLY ST FB M MMF FIL PRINTCLOTH	FABRIC	5515120030	626	4	135,111	0.00
OTH WOV FAB SYN ACR/MAC SF MX M/S MNM FIL PRINTCTH	FABRIC	5515210030	626	4	1,023	0.00
OTH WOV FB SYN ST FB OT WOV FAB M M/S MNM FL PRTCL	FABRIC	5515910030	626	4	0	0.00
WOV FAB <85% WGT ART S F M MNM FIL UB/BL PRNTCLTH	FABRIC	5516210030	626	4	5,285	0.00
WOV FAB <85% WGT ART S F M MNM FILT DYED PRNTCLTH	FABRIC	5516220030	626	4	77,336	0.00
WOV FAB <85% WGT ART S F M MNM FILMT YDF PRNTCLTH	FABRIC	5516230030	626	4	9,859	0.00
WOV FAB <85% WGT ART S F M MNM FIL PRNTD PRNTCLTH	FABRIC	5516240030	626	4	685,915	0.00
WOV FAB CON<85% SYN FIL MIX M/S W COT UNBL/BL SHEE	FABRIC	5407810020	627	4	101,530	0.00
WOV FAB CON<85% SYNTH FIL MIX WITH COT DYED SHEET	FABRIC	5407820020	627	4	100,088	0.00
WOV FAB CON <85% SYN FIL MIX W COT YNS DF CL SHEE	FABRIC	5407830020	627	4	383	0.00
WOV FAB CON <85% SYN FIL MIX W/COT PRINTD SHEETING	FABRIC	5407840020	627	4	952	0.00
WOV FAB SYNTH FIL YRN UNBLCHD/BLCHD OTHER, SHEETING.	FABRIC	5407912030	627	4	7,431	0.00
WOV FABRICS OF SYNTH FILA YARN DYED NESOI SHEETING	FABRIC	5407922030	627	4	245,043	0.00
WOV FAB SYN FIL YARN YNS OF DIF COLOR NESOI SHEETG	FABRIC	5407932030	627	4	25,319	0.00
WOV FAB OF SYNTH FILAMENT YN PRINTED NESOI SHEETIN	FABRIC	5407942030	627	4	1,488	0.00
OTH WOV FABS OF ART FIL YRN UNBL/BL NESOI SHEETING	FABRIC	5408312030	627	4	875	0.00
OTH WOV FAB ARTIF FILAMENT YARN DYED NESOI SHEETIN	FABRIC	5408329030	627	4	145,377	0.00
WOV FAB ART FIL YRN: YRN OF DIF COL NESOI SHEETING	FABRIC	5408339030	627	4	37,207	0.00
WOV FABS OF ARTIF FILA YARN PRINTED NESOI SHEETING	FABRIC	5408349030	627	4	182,467	0.00
OTH WOV FAB SYN PLY ST FB M MMF FIL SHT WD >254 CM	FABRIC	5515120022	627	4	3,131	0.00
OTH WOV FAB SYN PLY ST FB M MMF FIL SHT WD <=254CM	FABRIC	5515120027	627	4	115,500	0.00
OTH WOV FAB SYN ACR/MAC SF MX M/S MNM FIL SHEETING	FABRIC	5515210020	627	4	0	0.00
OTH WOV FB SYN ST FB OT WOV FAB M M/S MNM FL SHTNG	FABRIC	5515910020	627	4	1,905	0.00
WOV FAB <85% WGT ART S F M MNM FIL UB/BL SHEETING	FABRIC	5516210020	627	4	5,311	0.00

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WOV FAB <85% WGT ART S F M MNM FILT DYED SHEETING	FABRIC	5516220020	627	4	315,573	0.00
WOV FAB <85% WGT ART S F M MNM FILMT YDF SHEETING	FABRIC	5516230020	627	4	28,933	0.00
WOV FAB <85% WGT ART S F M MNM FIL PRNTD SHEETING	FABRIC	5516240020	627	4	762	0.00
WOV FAB CON <85% SYN FIL MIX W COT UNBL/BL S/T WV	FABRIC	5407810040	628	4	1,233,367	0.01
WOV FAB CON <85% SYN FIL MIX WITH COT DYED S/T WV	FABRIC	5407820040	628	4	601,195	0.00
WOV FAB CON <85% SYN FIL MX COT YNS DIF COL ST/TWL	FABRIC	5407830040	628	4	41,350	0.00
WOV FAB CON <85% SYN FIL MIX W/COT PRN SAT/TWL WVE	FABRIC	5407840040	628	4	25,010	0.00
WOV FAB OF SYNTH FILA YARN UBL/BL SATIN/TWILL WEVE	FABRIC	5407912050	628	4	1,079,679	0.01
WOV FAB SYN FIL YARN DYED NESOI SATIN OR TWILL WEV	FABRIC	5407922050	628	4	266,135	0.00
WOV FAB OF SYN FIL YARNS, YNS-DIFF COL SATIN/TW WV	FABRIC	5407932050	628	4	40,703	0.00
WOV FAB OF SYNTH FILA YARN PRNTED NESOI STN/TWL WV.	FABRIC	5407942050	628	4	239	0.00
OTH WOV FAB OF ART FIL YN UNBL/BL NESOI SAT/TWL WV	FABRIC	5408312050	628	4	14,679	0.00
OTH WOV FAB ART FIL YARN DYED NESOI SATIN/TWILL WV	FABRIC	5408329050	628	4	94,370	0.00
WOV FAB OF ART FIL YN: YN DIF COL NESOI STN/TWL WV	FABRIC	5408339050	628	4	52,482	0.00
WOV FAB OF ART FIL YARN PRINTED NESOI STN/TWLL WVE	FABRIC	5408349050	628	4	15,185	0.00
OTH WOV FAB SYN PLY ST FB M MMF FIL SATIN/TWILL WV	FABRIC	5515120040	628	4	119,003	0.00
OTH WOV FAB SYN ACR/MAC SF MX M/S MNM FIL ST/TW W	FABRIC	5515210040	628	4	22,970	0.00
OTH WOV FB SYN ST FB OT WOV FB M M/S MNM FL ST/T W	FABRIC	5515910040	628	4	721	0.00
WOV FAB <85% WGT ART S F M MNM FIL UB/BL SAT/TWL W	FABRIC	5516210040	628	4	14,221	0.00
WOV FAB <85% WGT ART S F M MNM FILT DYED SAT/TWL W	FABRIC	5516220040	628	4	268,815	0.00
WOV FAB <85% WGT ART S F M MNM FILMT YDF SAT/TWL W	FABRIC	5516230040	628	4	98,640	0.00
WOV FAB <85% WGT ART S F M MNM FIL PRNTD SAT/TWL W	FABRIC	5516240040	628	4	6,911	0.00
WOV FAB CON <85% SYNTH FIL MIX W COT UNBL/BL OTHER	FABRIC	5407810090	629	4	234,967	0.00
WOV FAB CONT <85% SYN FIL MIX WITH COT DYED OTHER	FABRIC	5407820090	629	4	239,361	0.00
WOV FAB CON<85% SYN FIL MX W/COT YNS OF DIF COL OT	FABRIC	5407830090	629	4	410,395	0.00
WOV FAB CON <85% SYN FIL MIX WITH COT PRINTD OTHER	FABRIC	5407840090	629	4	11,831	0.00
OTH WOV FAB OF SYN FIL YARN UNBLCH/BLCH OTH FABRIC FABRIC.	FABRIC	5407912090	629	4	49,767	0.00
WOV FAB SYN FIL YARN DYED NESOI OTHER TYPE FABRICS	FABRIC	5407922090	629	4	991,578	0.01
WOV FAB OF SYN FIL YARN: YNS DIF COL NESOI OTH FAB	FABRIC	5407932090	629	4	942,300	0.01
WOV FAB OF SYNTH FILA YARN PRINTED NESOI OTHER FAB	FABRIC	5407942090	629	4	234,704	0.00
OTH WOV FAB OF ART FIL YARN UBL/BL NESOI OTHER FAB	FABRIC	5408312090	629	4	440,433	0.00
OTH WOV FAB ART FIL YARN DYED NESOI OTHER TYPE FAB	FABRIC	5408329090	629	4	603,400	0.00
WOV FAB OF ART FIL YRN: YRN DIF COL NESOI: OTH FAB	FABRIC	5408339090	629	4	432,469	0.00
WOV FAB OF ART FIL YARN PRINTED NESOI OTH TYPE FAB	FABRIC	5408349090	629	4	2,653,521	0.02
OTH WOV FAB SYN POLY STP FB MIXED MMF FIL OT-NESOI	FABRIC	5515120090	629	4	1,101,703	0.01
OTH WOV FAB SYN ACR/MAC SF MX M/S MNM FIL OT-NESOI	FABRIC	5515210090	629	4	374,915	0.00
OTH WOV FB SYN ST FB O WOV FB M M/S MNM FL O NESOI	FABRIC	5515910090	629	4	80,704	0.00
WOV FAB <85% WGT ART S F M MNM FIL UB/BL OTH NESOI	FABRIC	5516210090	629	4	38,827	0.00
WOV FAB <85% WGT ART S F M MNM FILT DYED OTH NESOI	FABRIC	5516220090	629	4	1,519,027	0.01
WOV FAB <85% WGT ART S F M MNM FILMT YDF OTH NESOI	FABRIC	5516230090	629	4	5,235,511	0.03
WOV FAB <85% WGT ART S F M MNM FIL PRNTD OTH NESOI	FABRIC	5516240090	629	4	482,989	0.00
PILLOWCASES OF PRNT COT NAP WITH LACE, TRIM, ETC	MADE-UP	6302211010	360	4	238	0.00
PILLOWCASES OF PRNT COT N/NAP WITH TRIMMING, ETC	MADE-UP	6302211020	360	4	242,104	0.00
BOLSTER CASES OF PRINTED COTTON WITH TRIMMING, ETC.	MADE-UP	6302211050	360	4	97	0.00
PILLOWCASES PRINT COTTON NOT TRIMMED ETC, NAPPED	MADE-UP	6302212010	360	4	3,282,060	0.02
PILLOWCASES PRINTED COTTON NOT TRIMMED, ETC, N/NAP.	MADE-UP	6302212020	360	4	3,999,866	0.02
BOLSTER CASES PRINTED COTTON NOT TRIMMED, ETC	MADE-UP	6302212050	360	4	5,644	0.00
PILLOWCASES OF COTTON WITH TRIM , NAPPED	MADE-UP	6302311010	360	4	71,614	0.00
PILLOWCASES OF COTTON WITH TRIM NOT NAPPED	MADE-UP	6302311020	360	4	284,321	0.00
BOLSTER CASES OF COTTON WITH TRIM	MADE-UP	6302311050	360	4	5,810	0.00
OTHER BED LINEN COT NESOI PILCSE NT BOLSTR CSE NAP	MADE-UP	6302312010	360	4	1,313,617	0.01
PILLOWCASES OF COTTON, NO TRIM, NOT NAPPED	MADE-UP	6302312020	360	4	7,452,901	0.04
BOLSTER CASES OF COTTON, NOT TRIMMED	MADE-UP	6302312050	360	4	255,265	0.00
SHEETS PRINT COTTON, NAPPED, WITH TRIMMING, ETC	MADE-UP	6302211030	361	4	3,354	0.00
SHEETS OF PRINTED COTTON, NOT NAPPED, CONT TRIM	MADE-UP	6302211040	361	4	1,072,308	0.01
SHEETS PRINT COTTON NOT TRIMMED, ETC, NAPPED	MADE-UP	6302212030	361	4	28,080,380	0.16
SHEETS OF PRINT COTTON NOT TRIMMED, ETC NOT NAPPED.	MADE-UP	6302212040	361	4	22,958,978	0.13
SHEETS OF COTTON WITH TRIM, NAPPED	MADE-UP	6302311030	361	4	16,120	0.00
SHEETS OF COTTON WITH TRIM, NOT NAPPED	MADE-UP	6302311040	361	4	271,336	0.00
SHEETS OF COTTON; NOT TRIMMED, NAPPED	MADE-UP	6302312030	361	4	8,291,140	0.05
SHEETS OF COTTON, NOT TRIMMED, NOT NAPPED	MADE-UP	6302312040	361	4	46,724,444	0.27
BED LINEN, KNITTED OR CROCHETED OF COTTON	MADE-UP	6302100010	362	4	5,212,292	0.03
BED LINEN NESOI OF PRINTED COTTON CONT TRIM, ETC	MADE-UP	6302211060	362	4	469,214	0.00
BED LINEN NESOI OF PRINTED COTTON CONT TRIM, ETC	MADE-UP	6302211090	362	4	70,058	0.00
BED LINEN NESOI OF PRINT COTTON NOT TRIMMED ETC	MADE-UP	6302212060	362	4	649,327	0.00
BED LINEN NESOI OF PRINT COTTON NOT TRIMMED ETC	MADE-UP	6302212090	362	4	1,104,007	0.01
BED LINEN NESOI OF COTTON WITH TRIM	MADE-UP	6302311060	362	4	2,615,087	0.02

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
BED LINEN NESOI OF COTTON WITH TRIM	MADE-UP	6302311090	362	4	1,109,691	0.01
BED LINEN NESOI OF COTTON, NOT TRIMMED	MADE-UP	6302312060	362	4	4,429,240	0.03
BED LINEN NESOI OF COTTON, NOT TRIMMED	MADE-UP	6302312090	362	4	3,564,075	0.02
OTHER FURNISH ART EXC 9404 BEDSPRED KT/CROCHET COT.	MADE-UP	6304111000	362	4	306,176	0.00
OTHER FURNISH ART NT 9404 BEDSPRD NESOI COT W/TRIM	MADE-UP	6304190500	362	4	391,941	0.00
OTHER FURNISH ART NT 9404 BEDSPRD NESOI COT NESOI	MADE-UP	6304191000	362	4	2,861,755	0.02
SHELLS FOR QLT, EDRDWN, COMFRTR, & SMLR ART OF COT.	MADE-UP	*6307909050	362	4	18,883,343	0.11
SHELLS FOR QLT, EDRDWN, COMFRTR, & SMLR ART OF COT.	MADE-UP	*6307909560	362	4	12,615,400	0.07
SHELLS FOR QLT, EDRDWN, COMFRTR, & SMLR ART OF COT.	MADE-UP	*6307909590	362	4	40,560,077	0.24
QUILTS, EIDERDOWNS, COMFORTERS, & SIMILAR ARTICLES	MADE-UP	*9404908000	362	4	4,580,789	0.03
QUILTS, EIDERDOWNS & COMFORTRS, OUTR SHELL OF COTTON.	MADE-UP	9404909010	362	4	695,321	0.00
TOWELS EXCEPT DISH OF TERRY TOWELING FABRIC	MADE-UP	6302600020	363	4	49,618,591	0.29
TOWELS OT THAN DISH TWLS COT PILED/TUFTED CONSTRCT.	MADE-UP	6302910015	363	4	8,857,899	0.05
COTTON TOWELS JACQUARD FIGURED OT THAN PLD/TFTD CN.	MADE-UP	6302910035	363	4	1,687,520	0.01
COTTON TOWELS OF PILED OR TUFTED CONSTRUCTION	MADE-UP	6307908740	363	4	415,610	0.00
COTTON TOWELS OF PILED OR TUFTED CONSTRUCTION	MADE-UP	6307909040	363	4	16,921	0.00
PILLOWCOVERS OF PRINTED COTTON CONT TRIM, ETC	MADE-UP	6302211055	369	4	64,447	0.00
PILLOWCOVERS OF PRINT COTTON NOT TRIMMED ETC	MADE-UP	6302212055	369	4	360,783	0.00
PILLOWCOVERS OF COTTON WITH TRIM	MADE-UP	6302311055	369	4	172,635	0.00
PILLOWCOVERS OF COTTON, NOT TRIMMED	MADE-UP	6302312055	369	4	1,266,730	0.01
TABLE LINEN KNITTED OR CROCHETED OF COTTON	MADE-UP	6302402010	369	4	10,246,767	0.06
SHOP TOWELS FOR USE GARAGES FILLING STATIONS, COT	MADE-UP	6307102005	369	4	47,401,500	0.28
DISH CLOTHS OF COTTON	MADE-UP	6307102027	369	4	12,973,389	0.08
BED LINEN OF WOOL OR FINE ANIMAL HAIR	MADE-UP	6302390010	469	4	14,030	0.00
BED LINEN, KNITED OR CROCHETED FABIC, EX COTTON	MADE-UP	6302100020	666	4	159,811	0.00
PILLOWCASES PRINT MAN-MADE FIBERS WITH TRIM, NAPPED.	MADE-UP	6302221010	666	4	4,810	0.00
PILLOWCASES OF PRINT MAN-MADE FIBER, W/TRIM, N/NAP	MADE-UP	6302221020	666	4	85,450	0.00
SHEETS OF PRINT MAN-MADE FIBERS W/TRIM, NAPPED	MADE-UP	6302221030	666	4	6,653	0.00
SHEETS OF PRINT MAN-MADE FIBERS WITH TRIM, NOT NAP	MADE-UP	6302221040	666	4	26,237	0.00
BOLSTER CASES OF PRINT MAN-MADE FIBER WITH TRIM	MADE-UP	6302221050	666	4	5,990	0.00
BED LINEN NESOI OF PRINT MAN-MADE FIBER WITH TRIM	MADE-UP	6302221060	666	4	146,506	0.00
PILLOWCASES OF PRINT MAN-MADE FIBER NOT TRIMMED	MADE-UP	6302222010	666	4	4,749,019	0.03
SHEETS OF PRINT MAN-MADE FIBER NOT TRIMMED	MADE-UP	6302222020	666	4	19,764,792	0.12
BED LINEN NESOI OF PRINTED MAN-MADE FIBERS, NT TRIM	MADE-UP	6302222030	666	4	381,263	0.00
PILLOWCASES OF MAN-MADE FIBERS WITH TRIM, NAPPED	MADE-UP	6302321010	666	4	2,750	0.00
PILLOWCASES OF MAN-MADE FIBERS WITH TRIM, N/NAPPED	MADE-UP	6302321020	666	4	328,234	0.00
SHEETS OF MAN-MADE FIBERS WITH TRIM, NAPPED	MADE-UP	6302321030	666	4	2,621	0.00
SHEETS OF MAN-MADE FIBERS WITH TRIM, NOT NAPPED	MADE-UP	6302321040	666	4	393,307	0.00
BOLSTER CASES OF MAN-MADE FIBERS WITH TRIM	MADE-UP	6302321050	666	4	4,133	0.00
BED LINEN NESOI OF MAN-MADE FIBERS WITH TRIM	MADE-UP	6302321060	666	4	520,589	0.00
PILLOWCASES OF MAN-MADE FIBERS NO TRIM, NAPPED	MADE-UP	6302322010	666	4	98,626	0.00
PILLOWCASES OF MAN-MADE FIBERS, NO TRIM, NOT NAPPED.	MADE-UP	6302322020	666	4	14,635,138	0.09
SHEETS OF MAN-MADE FIBERS NO TRIM, NAPPED	MADE-UP	6302322030	666	4	1,355,602	0.01
SHEETS OF MAN-MADE FIBERS NO TRIM, NOT NAPPED	MADE-UP	6302322040	666	4	22,200,365	0.13
BOLSTER CASES OF MAN-MADE FIBERS, NO TRIM	MADE-UP	6302322050	666	4	715,666	0.00
BED LINEN NESOI OF MAN-MADE FIBER	MADE-UP	6302322060	666	4	672,912	0.00
TABLE LINEN KNIT/CROCHET, TEXTILE MATERIAL, NESOI	MADE-UP	6302402020	666	4	6,473,592	0.04
TOWELS; OF FLAX	MADE-UP	6302920010	863	4	441,673	0.00
SHOP TOWELS FOR USE IN GARAGES OTHER THAN COTTON.	MADE-UP	6307102015	863	4	2,323,581	0.01
DISH CLOTHS OF TEXTILE MATERIALS OTH THAN COTTON	MADE-UP	6307102028	863	4	5,710	0.00
NATIONAL FLAGS OF THE UNITED STATES	MADE-UP	6307909025	914	4	515,035	0.00
NATIONAL FLAGS OF THE UNITED STATES	MADE-UP	6307909525	914	4	550,763	0.00
COT SEW THRD N RETAIL 85% OF >BY WGT OF COTTON	YARN	5204110000	200	4	1,870,836	0.01
COT SEWING THRD N RETAIL 85% OR MORE WGT OF COTTON.	YARN	5204190000	200	4	44,015	0.00
COTTON SEWING THREAD, PUT UP FOR RETAIL SALE	YARN	5204200000	200	4	1,174,364	0.01
COTTON YARN (N SWG THD) RETAIL SALE 85% OR >WT CO	YARN	5207100000	200	4	3,693,195	0.02
COT YRN N SWG THD RTL SALE OTH 85% OR >WGT COTTON.	YARN	5207900000	200	4	453,611	0.00
SEWING THREAD SYNTHETIC FILAMENTS, FOR RETAIL SALE	YARN	5401100000	200	4	2,559,942	0.02
SEWING THREAD ARTIFICIAL FILAMENTS FOR RETAIL SALE	YARN	5401200000	200	4	679,457	0.00
SYNTHETIC FILAMENT YARN ACRYLIC, FOR RETAIL SALE	YARN	5406100020	200	4	1,474,579	0.01

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
SYNTHETIC FILAMENT YARN POLYESTER, FOR RETAIL SALE	YARN	5406100040	200	4	132,271	0.00
SYN FIL YRN RETAIL SALE EXC ACRYLIC AND POLYESTERS	YARN	5406100090	200	4	525,182	0.00
ARTIFICIAL FILAMENT YARN PUT UP FOR RETAIL SALE	YARN	5406200000	200	4	371,336	0.00
SEW THD MMF STPL FIB WTH NT RETAIL SALE SYN STP FB	YARN	5508100000	200	4	16,926,175	0.10
SEW THD MMF STPL FIB WTH NT RETAIL SALE ART STP FB	YARN	5508200000	200	4	65,617	0.00
YRN N SWG TD SY ST FB N RTL SL >=85% POLY MLT Z TW	YARN	5509220010	200	4	3,879,236	0.02
YRN N SWG TH MMF ST FB RT SL SYN S F >=85% AC/MAC	YARN	5511100030	200	4	3,669,032	0.02
YRN N SWG TH MMF ST F RT SL SYN S F >=85% FB-NESOI	YARN	5511100060	200	4	291,172	0.00
YRN N SWG TH MMF ST FB RT SL SYN S F <85% WGT FIB	YARN	5511200000	200	4	1,355,759	0.01
YRN NT SWG TH MMF STP FIB PT UP RT SL ART STP FIB	YARN	5511300000	200	4	192,832	0.00
RUBBER THREAD AND CORD, TEXTILE COVERED	YARN	5604100000	201	4	853,580	0.01
HIGH TENACITY YARN OF POLY NYL RAY IMPREG W RUBBER.	YARN	5604200000	201	4	202,579	0.00
OT METALIZED YRN, BEING TEX YRN COMB W METAL	YARN	5605000090	201	4	1,730,606	0.01
GIMP YRN STRP SYN/ART MONOFIL, CHEN & LOOPWALERYRN.	YARN	5606000000	201	4	6,336,896	0.04
BINDER/BALER TWINE OF POLYETHYLENE/PLOYPRP NESOI	YARN	5607413000	201	4	11,476,803	0.07
TWINE POLYETHYLENE NESOI NT BRAID <4.8MM DIA NESOI	YARN	5607491500	201	4	9,364,063	0.06
TWINE POLYETHYLENE NESOI NT BRAID/PLAITED, NESOI	YARN	5607492500	201	4	5,711,693	0.03
TWINE, CORD ETC OF OTH SYN FIBER NT BRAID OR PLAIT	YARN	5607502000	201	4	2,898,279	0.02
TWINE CORDAGE ROPE BRAIDED OF TEXTILE FIBERS NESOI	YARN	5607902000	201	4	3,273,381	0.02
GLS FBR/WOOL YARNS NT COLRD INDSTRY PCKG O LUB MAT.	YARN	7019101000	201	4	9,458,423	0.06
YARNS, OF GLASS FIBERS, COLORED	YARN	7019102000	201	4	2,203,422	0.01
COT YRN >85% WGT COT N RET SNG Y UCB <=14NM UBL NM.	YARN	5205111000	300	4	2,473,500	0.01
CT YR >=85% WGT CT N RTL SNG YN UCB <=14NM N-UB/MR	YARN	5205112000	300	4	296,200	0.00
COT YRN N SWG THRD >85% WGT COT >14NM & N >43NM U	YARN	5205121000	300	4	45,045,274	0.26
COT YRN N SWG THRD >85% WGT COT >14NM & N >43NM O	YARN	5205122000	300	4	1,818,890	0.01
COT YRN N SWG THRD >85% WGT COT >43NM & N >52NM U	YARN	5205131000	300	4	41,771,482	0.25
COT YRN N SWG THRD >85% WGT COT >43NM & N >52NM O	YARN	5205132000	300	4	219,759	0.00
COT YRN N SWG THRD >85% WGT COT >52NM & N >80NM U	YARN	5205141000	300	4	2,020,858	0.01
COT YRN N SWG THRD >=85% WGT COT >52NM & <=80NM	YARN	5205142000	300	4	26,512	0.00
COT YRN N SWG THRD >85% WGT COT >80NM UNBL, N MRC	YARN	5205151000	300	4	0	0.00
COT YRN N SWG THRD >=85% WGT CT >80NM N-MR/UBL UCB.	YARN	5205152000	300	4	4,990	0.00
COT YRN N SWG THD >=85% WGT COT MLT/CBL YRN <=14NM.	YARN	5205310000	300	4	13,347,644	0.08
CT YN N SW TO >=85% WT CT ML/CB YR >14NM & <=43NM	YARN	5205320000	300	4	51,905,531	0.30
COT YRN N SW TD >=85% WT CT ML/CB YRN >43NM <=52NM	YARN	5205330000	300	4	3,746,137	0.02
COT YRN N SW TD >=85% WT CT ML/CB YRN >52NM <=80NM	YARN	5205340000	300	4	2,957,575	0.02
COT YRN N SWG THD >=85% WT COT ML/CB YRN >80NM	YARN	5205350000	300	4	39,185	0.00
COT YR N SW TH <85% CT N RT SL SN Y UC FB <=14 NM	YARN	5206110000	300	4	27,166	0.00
CT YN N SW TH <85% CT N RT SL S Y UC F >14NM<=43NM	YARN	5206120000	300	4	1,731,977	0.01
C YR N SW TH <85% CT N RT SL SN Y UC FB >14NM <=52	YARN	5206130000	300	4	694,620	0.00
C YR N SW TH <85% CT N RT SL SN Y UC FB >52NM <=80	YARN	5206140000	300	4	11,104,035	0.07
COT YR N SW TH <85% CT N RT SL SN U UC FB >80 NM	YARN	5206150000	300	4	0	0.00
CT YR N SW TH <85% CT N RT SL M/C Y UC F <=14NM Y	YARN	5206310000	300	4	2,314,414	0.01
CT YR N SW T <85% CT N RT SL M/C Y UC F >14NM <=43	YARN	5206320000	300	4	361,650	0.00
CT YR N SW TH <85% N RT SL M/C Y UC F >43NM <=52	YARN	5206330000	300	4	17	0.00
CT Y N SW T <85% CT N RT SL M/C Y UC F >52NM<=80NM	YARN	5206340000	300	4	0	0.00
CT YR N SW T <85% CT N RT SL M/C Y UC F >80 NM S Y	YARN	5206350000	300	4	30,158	0.00
COT YRN N SWG THRD >=85% WGT COT SNGL YR CMB <14NM.	YARN	5205210000	301	4	614,984	0.00
CT YN N SWG THD >=85% WT CT SNG YN CM >14NM <=43NM	YARN	5205220000	301	4	2,282,633	0.01
CT YN N SWG TD >=85% WGT CT SNG YN CM >43NM <=52NM.	YARN	5205230000	301	4	6,077,976	0.04
CT YN N SWG THD >=85% WT CT SNG YN CM >52NM <=80NM	YARN	5205240000	301	4	12,335,447	0.07
CT YRN N SWG THD >=85% WGT COT SNG YRN CMBD >80NM.	YARN	5205250000	301	4	6,074,712	0.04
COT YRN N SWG THD >=85% WT CT ML/CB YRN CM <=14NM	YARN	5205410000	301	4	530,613	0.00
CT YN N SW TD >=85% WT CT ML/CB CMB >14NM & <=43NM	YARN	5205420000	301	4	322,584	0.00
CT YN N SW TD >=85% WT CT ML/CB CMB >43NM <=52NM Y	YARN	5205430000	301	4	10,965	0.00
CT YN N SW TD >=85% WT CT ML/CB CMB >52NM <80NM YN	YARN	5205440000	301	4	1,187,076	0.01
COT YRN N SWG THD >=85% WT CT ML/CB CMB >80NM	YARN	5205450000	301	4	320,110	0.00
COT YR N SW TH <85% CT N RT SL SN Y C FB <=14 NM	YARN	5206210000	301	4	0	0.00
CT YR N SW TH <85% CT N RT SL SN Y C FB >14NM <=43	YARN	5206220000	301	4	2,039,635	0.01
CT YR N SW TH <85% CT N RT SL SN Y C FB >43NM <=52	YARN	5206230000	301	4	13,903,739	0.08
CT YR N SW TH <85% CT N RT SL SN Y C FB >52NM <=80	YARN	5206240000	301	4	37,199,417	0.22
CT YR N SW TH <85% CT N RT SL SN Y C FB >80 NM	YARN	5206250000	301	4	31,391	0.00
CT YR N SW T <85% CT N RT SL M/C Y C F <=14 NM	YARN	5206410000	301	4	76,628	0.00
CT YR N SW TH <85% CT N RT SL M/C Y C F >14NM <=43	YARN	5206420000	301	4	211,650	0.00

VOL 60 ISS 83 MY 1 1995 UMI

1994 Product Description	Group	1990 HTS	CAT	Phase	1990 U.S. imports (SME)	Percent of total
CT YR N SW T <85% CT N RT SL M/C U C F >43NM <=52	YARN	5206430000	301	4	149,099	0.00
CT YR N SW T <85% CT N RT SL M/C Y C F >52NM <=80	YARN	5206440000	301	4	9,801	0.00
CT YR N SW TH <85% CT N RT SL M/C Y C F >80 NM	YARN	5206450000	301	4	50,779	0.00
WOOL INCLUDING COMBED WOOL IN FRAGMENT CARDED WOOL.	YARN	5105100000	400	4	7,359	0.00
WOOL TOPS AND OTHER COMBED WOOL IN FRAGMENTS	YARN	5105210000	400	4	197,262	0.00
WOOL TOPS AND OTHER COMBED WOOL: OTHER	YARN	5105290000	400	4	602,956	0.00
FINE ANIMAL HAIR, CARDED OR COMBED	YARN	5105300000	400	4	15,884	0.00
YN CARDED WL NT RTAIL SALE >85% WL FIB >34.4 MICRN	YARN	5106100010	400	4	1,127,597	0.01
YARN CARDED WL NT RTAIL SALE ≤85% BY WT WOOL NESOI	YARN	5106100090	400	4	5,090,449	0.03
YARN CARDED WOOL NOT RETAIL SALE <85% BY WT WOOL	YARN	5106200000	400	4	1,606,843	0.01
YARN COMBED WOOL NOT RETAIL SALE ≤85% BY WT WOOL	YARN	5107100000	400	4	4,505,934	0.03
YARN COMBED WOOL NOT RETAIL SALE <85% BY WT WOOL	YARN	5107200000	400	4	512,380	0.00
YARN CARDED ANGORA RABBIT HAIR NOT FOR RETAIL SALE.	YARN	5108103000	400	4	16,902	0.00
YARN CARDED OTHER FINE ANIMAL HAIR NOT RETAIL SALE	YARN	5108106000	400	4	148,884	0.00
YARN COMBED ANGORA RABBIT HAIR NOT FOR RETAIL SALE.	YARN	5108203000	400	4	1,217	0.00
YARN COMBED OTHER FINE ANIMAL HAIR NOT RETAIL SALE	YARN	5108206000	400	4	148,940	0.00
YARN WOOL NT <85% BY WT CT LEN NT>8CM RETAIL SALE	YARN	5109102000	400	4	134,292	0.00
YARN ANGORA RABBIT HAIR NT <85% BY WT FOR RET SALE	YARN	5109104000	400	4	4,725	0.00
YARN OTHER ANIMAL HAIR NOT <85 WT FOR RETAIL SALE	YARN	5109106000	400	4	1,004,639	0.01
YARN OTHER WOOL CUT LENGTH NOT >8 CM, RETAIL SALE	YARN	5109902000	400	4	6,693	0.00
YARN ANGORA RABBIT HAIR NOT <85% BY WT RETAIL SALE	YARN	5109904000	400	4	1,865	0.00
YARN OTHER ANIMAL HAIR NOT <85% BY WT RETAIL SALE	YARN	5109906000	400	4	822,924	0.00
YRN N SWG TH ART ST FB N RT SL >=85% ART S FB SN Y	YARN	5510110000	603	4	10,249,716	0.06
YRN N SWG TH ART ST F N RT SL >=85% ART S F M/C YR	YARN	5510120000	603	4	1,280,469	0.01
YRN N SWG TD SY ST FB N RTL SL >=85% ST F N/P SG Y	YARN	5509110000	604	4	3,057,579	0.02
YRN N SWG TD SY ST FB N RTL SL >=85% ST F N/P M/C Y	YARN	5509120000	604	4	1,138,191	0.01
YR N SW TH SYN ST FB N RT SL >=85% WGT PLY S F S Y	YARN	5509210000	604	4	5,023,129	0.03
YRN N SWG TD SY ST FB N RTL SL >=85% P ST F M/C YR	YARN	5509220090	604	4	2,374,392	0.01
YRN N SWG TD SY ST FB N RTL SL >=85% AC/MAC SFSY	YARN	5509310000	604	4	14,221,850	0.08
YRN N SWG TD SY ST FB N RTL SL >=85% A/MC S F M/C	YARN	5509320000	604	4	32,409,341	0.19
YRN N SW TD SY ST FB N RTLSL >=85% YRN SY SF SY PVA	YARN	5509410000	604	4	3,004,599	0.02
YRN N SW TD SY ST FB N RTSL >=85% OT SY SF M/C; PVA	YARN	5509420000	604	4	1,682,336	0.01

*HTS Numbers with asterisk
There are 21 1990 HTS numbers preceded by an asterisk. This denotes an HTS number which, since 1990, has been broken out (changed) to two or more new HTS numbers. In these cases, the new breakouts represent products which appear in bold in more than one phase in the integration. Thus, the 1990 trade for the original HTS number has been prorated using 1994 trade figures for the breakouts.
Note Categories 911, 912, 913, 914 as listed in the integration phases are notional.

See 60 FR 12204, published on March 6, 1995; 60 FR 10068, published on February 23, 1995; 59 FR 26212, published on May 19, 1994; 59 FR 29781, published on June 9, 1994; 59 FR 36428, published on July 18, 1994; and 59 FR 40874, published on August 10, 1994.

Dated: April 26, 1995.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.95–10635 Filed 4–28–95; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 25 & 26 July 1995.

Time of Meeting: 0900–1530, 25 & 26 July 1995.

Place: Ft. Monroe, VA (TRADOC).

Agenda: The Army Science Board's Ad Hoc Study on "Tank Modernization" will meet for discussions on Required Operational Capabilities (ROC) for the Future Main Battle Tank as well as doctrinal concepts for future tank/armor missions. These briefings will be provided by TACOM RDEC and the Army Research Laboratory. These meetings will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–10550 Filed 4–28–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 22 & 23 May 1995.

Time of Meeting: 0900–1650, 22 & 23 May 1995.

Place: Alexandria, VA.

Agenda: The Army Science Board (ASB) Independent Assessment Panel on "Lead-Based Paint Management" will be briefed on applicable Federal, DoD, and Army policies and regulations concerning the management of lead-based paint and lead-based paint hazards at Army installations. These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–10551 Filed 4–28–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 18 May 1995.

Time of Meeting: 1300–1600.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's (ASB) Acquisition Reform Issue Group will meet to discuss the recommendations to bring government management and control costs closer to industry management and control costs. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary information to be discussed is so inextricably intertwined so as to preclude opening any portion of this meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–10552 Filed 4–28–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 24 & 25 May 1995.

Time of Meeting: 0800–1700, 24 & 25 May 1995.

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board's Ad Hoc Study on "ASB Space and Missile Defense Organization" will have its 6th meeting at the Pentagon on 24 and 25 May 1995. There will be discussions of findings to date, finalizing recommendations, and preparing the final briefing. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matter to be discussed is so inextricably intertwined so as to preclude opening any portions of these meetings. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 95–10554 Filed 4–28–95; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Government Owned Inventions; Availability for Licensing

AGENCY: Department of the Navy, Department of Defense.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231 for $3.00 each. Requests for copies of patents must include the patent number.

Requests for copies of the patent application cited should be directed to the Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the application serial number.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Patent No. 4,867,917: METHOD FOR SYNTHESIS OF DIACETYLENIC COMPOUNDS; patented 19 September 1989;

Patent No. 4,877,501: PROCESS FOR FABRICATION OF LIPID MICROSTRUCTURES; patented 31 October 1989;

Patent No. 4,911,981; METAL CLAD LIPID MICROSTRUCTURES; patented 27 March 1990; and

Patent Application Serial No. 08/077,503: METHOD OF CONTROLLED RELEASE AND CONTROLLED RELEASE MICROSTRUCTURES; filed 17 June 1993.

Dated: April 21, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–10555 Filed 4–28–95; 8:45 am]

BILLING CODE 3810–AE–M

Naval Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Reduced Manning will meet on May 2 and 3, 1995. The meeting will be held at the Office of Naval Research, 800 North Quincy Street, Room 915, Arlington, Virginia. The first session will commence at 10:00 a.m. and terminate at 5 p.m. on May 2; and the second session will commence at 8:00 a.m. and terminate at 3 p.m. on May 3, 1995. All sessions of the meeting will be open to the public.

The purpose of the meeting is to provide the Navy with an assessment of the force structure and ship concepts which would require a minimum manning level with a goal of 25% reduction of current manning.

The meeting will include briefings and discussions relating to ship systems automation, engineering for women at sea, SC 21, and the autonomic ship.

This Notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the **Federal Register** at least 15 days before the date of the meeting.

For further information concerning this meeting contact: Ms. Diane Mason-Muir, Office of Naval Research, Ballston Center Tower One, 800 North Quincy Street, Arlington, VA, 22217-5660, Telephone Number: (703) 696-4870.

Dated: April 25, 1995.

L. R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95-10634 Filed 4-28-95; 8:45 am]

BILLING CODE 3810-FF-F

Patent Licenses; Non-Exclusive, Exclusive, or Partially Exclusive: Massachusetts Institute of Technology

AGENCY: Department of the Navy, Department of Defense.

ACTION: Intent to Grant Exclusive Patent License; Massachusetts Institute of Technology.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Massachusetts Institute of Technology, a revocable, nonassignable, exclusive license in the United States and certain foreign countries to practice the Government owned invention described in U.S. Patent Application Serial No. 08/080,418, "Thermal Insulation of Wet Shielded Metal Arc Welds," filed 18 June 1993.

VOL
60
ISS
83
MY
1
1995
UMI

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR 00CC, Ballston Tower One, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: April 21, 1995.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–10553 Filed 4–28–95; 8:45 am]

BILLING CODE 3810–AE–M

DEPARTMENT OF ENERGY

Bonneville Power Administration 1995 Wholesale Power and Transmission Rates, Variable Industrial Power Rate Extension (VI–95), and Pacific Northwest Coordination Agreement (PNCA) Rates

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Availability of proposed 1995 wholesale power and transmission rates, variable industrial rate extension (VI–95), Pacific Northwest Coordination Agreement (PNCA) Rates, and order establishing schedule.

SUMMARY: *BPA File No:* WP–95/TR–95, WP–96, TR–96, TC–96. On December 28, 1994, Bonneville Power Administration (BPA) published a Notice of Intent to Revise Transmission Rates, 59 FR 66946 (1994), and Notice of Intent to Revise Wholesale Power Rates, 59 FR 66947 (1994). Subsequently, BPA published **Federal Register** Notices of Proposed Wholesale Power Rate Adjustment, 60 FR 8496 (1995), Proposed Transmission Rate Adjustment, 60 FR 8505 (1995), and Hearing and Opportunity for Public Comment Regarding Proposed Comparable Transmission Terms and Conditions, 60 FR 8511 (1995). On March 3, 1995, BPA published a Notice of Additional Prehearing/Settlement Conference for March 15, 1995, 60 FR 11962 (1995). At that prehearing conference, the Hearing Officers were expected to act on several procedural matters and to establish a procedural schedule. The March 3, 1995, Notice also included schedules for a New Rates and Terms and Conditions Proceeding and for an Extension of Current Rates Proceeding. Notice also was given that some issues might be settled by the litigants, causing the proposed schedule to change.

At the Prehearing/Settlement Conference on March 15, 1995, the litigants reported to Hearing Officers about settlement discussions that had been taking place between BPA and its customers. The parties requested, and the Hearing Officers allowed, additional time to complete the settlement process. The Hearing Officers set an additional Scheduling Conference for March 22, 1995, at which time parties to the rate case would be asked to report on the status of the settlement and the Hearing Officers would rule on procedural matters. On March 17, 1995, most parties to the rate case signed a Settlement Agreement agreeing that BPA would propose to surcharge BPA's current rates for a 1-year period, October 1, 1995, through September 30, 1996, and to extend the Variable Industrial Power (VI) rate which was scheduled to expire on June 30, 1996, through September 30, 1996. The parties also agreed to establish a separate subsequent process to establish a 2-year rate proposal, a 5-year rate proposal, and a proposal for transmission services terms and conditions.

By this notice, BPA announces its proposed 1995 rates to be effective for 1 year beginning on October 1, 1995, and extending through September 1996, and its proposed rates for transactions under the Pacific Northwest Coordination Agreement (PNCA). BPA will publish a separate notice in the **Federal Register** to announce its proposed new power and transmission rates to be effective on October 1, 1996, including new 2- and 5-year rates, and its new transmission services terms and conditions on or around the July 10, 1995, Filing Date established for Docket Numbers WP–96, TR–96, and TC–96.

In separate orders issued March 22, 1995, the Hearing Officers: (1) adopted a service list for BPA's 1995 Wholesale Power and Transmission Rate Adjustment Proceeding, 1996 Wholesale Power and Transmission Rate Adjustment Proceeding and 1996 Transmission Terms and Conditions Proceedings; and (2) adopted other procedural rules governing these proceedings. Copies of all orders, including the Order Establishing Schedules, may be obtained by contacting: Francis (Jamie) Troy, Hearing Clerk—LQ, Bonneville Power Administration, 905 NE. 11th Ave., PO Box 12999, Portland, Oregon 97212.

Schedule for WP–95/TR–95:

May 1, 1995—BPA Files Direct Case
May 30, 1995—Parties File Direct Case
June 9, 1995—Close of Participant Comments
June 19, 1995—Litigants File Rebuttal Testimony
June 30, 1995—Cross-Examination
July 10, 1995—Initial Briefs Filed
July 31, 1995—Final Record of Decision

Schedule for WP–96/TR–96 and TC–96:

July 10, 1995—BPA Files Direct Case/ Prehearing Conference
September 8, 1995—Parties File Direct Case
October 2, 1995—Close of Participant Comments
October 25, 1995—Litigants File Rebuttal Testimony/BPA Supplemental Testimony
December 4, 1995—Litigants File Rebuttal to Supplemental Testimony
January 3–February 3, 1996—Cross-Examination
February 21, 1996—Initial Briefs Filed
February 28, 1996—Oral Argument
March 25, 1996—BPA Draft Record of Decision/Hearing Officers Recommended Decision
April 15, 1996—Briefs on Exceptions
April 30, 1996—Final Record of Decision

BPA also will be conducting public field hearings. A notice of the dates, times, and locations of the field hearings will be made later through mailings and public advertising.

ADDRESSES: Written comments by participants must be received by June 9, 1995, for WP–95/TR–95 and by October 2, 1995, for WP–96/TR–96/TC–96 to be considered in the Record of Decision (ROD). Written comments should be submitted to the Manager, Corporate Communications—CK; Bonneville Power Administration; PO Box 12999; Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Hansen, Public Involvement and Information Specialist, at the address listed immediately above, (503) 230–4328 or call toll-free 1–800–622–4519. Information also may be obtained from:

Mr. Steve Hickok; Group Vice President, Sales and Customer Service; PO Box 3621; Portland, OR 97232 (503–230–5356)

Mr. George Eskridge; Manager, SE Sales and Customer Service District; 1101 W. River, Suite 250; Boise, ID 83702 (208–334–9137)

Mr. Ken Hustad; Manager, NE Sales and Customer Service District; Crescent Court, Suite 500; 707 Main; Spokane, WA 99201 (509–353–2518)

Ms. Ruth Bennett; Manager, SW Sales and Customer Service District; 703 Broadway; Vancouver, WA 98660 (360–418–8600)

Ms. Marg Nelson; Manager, NW Sales and Customer Service District; 201 Queen Anne Ave. N., Suite 400; Seattle, WA 98109–1030 (206–216–4272).

Responsible Official: Mr. Geoff Moorman, Manager for Pricing, Marginal Cost and Ratemaking, is the official responsible for the development of BPA's rates. Mr. Dennis Metcalf, BPA Transmission Team Lead, is the official responsible for the development of BPA's transmission terms and conditions.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Background
III. Major Studies
IV. Wholesale Power Rate Schedules and General Rate Schedule Provisions
A. Introduction
B. Summary of Rate Schedules
C. Wholesale Power Rate Schedules
D. General Rate Schedule Provisions (GRSPs)
V. Transmission Rate Schedules and General Transmission Rate Schedule Provisions (GTRSPs)
A. Summary of Rate Schedules
B. Transmission Rate Schedules
C. General Transmission Rate Schedule Provisions (GTRSPs)
VI. Charges Under the Amended and Integrated Pacific Northwest Coordination Agreement

I. Introduction

Prior to the March 15, 1995, prehearing conference, BPA determined that its initial proposal should include new 2-year and 5-year rates. On February 14, 1995, BPA published a preliminary rate proposal in the **Federal Register**, 60 FR 8496. In that proposal, BPA noted that competitive forces are causing a fundamental and significant change in the Pacific Northwest wholesale power market. In light of these competitive forces, BPA determined that its initial proposal should include a 5-year rate as well as a 2-year rate. BPA anticipated that the work necessary to develop such a proposal would take until July of 1995. As part of the settlement discussions, the parties expressed a need for additional time to respond to BPA's new rate designs. BPA believes that without an adjustment to its wholesale and transmission rates for the period October 1, 1995, through September 30, 1996, BPA's ability to satisfy its statutory obligations could be impaired. The rate case schedule adopted by the Hearing Officers on March 22, 1995, meets both BPA's and the parties' needs. The schedule affords the parties a hearing process that encompasses a period of eight months for establishment of BPA new rate designs including new 2- and 5-year rates. The effective date for the establishment of new 2- and 5-year rates is October 1, 1996.

In order to have sufficient time to conduct a full rate proceeding for new 2- and 5-year rate proposals, BPA and most parties to the 1995 rate proceeding agreed that BPA would propose to extend BPA's current adjustable rates with a 4 percent surcharge for a 1-year period, October 1, 1995, through September 30, 1996. The extension of rates requires a separate expedited proceeding and procedural schedule.

After the March 22, 1995, Scheduling Conference, the Hearing Officers issued an Order (the March 22 order) that divided the proceedings previously designated as WP–95, TR–95, and TC–95 into three separate dockets as follows:

(1) The 1995 Wholesale Power and Transmission Rates Proceeding is designated WP–95/TR–95, and will be a 90-day expedited rate proceeding conducted pursuant to section 1010.10 of the Procedures Governing Bonneville Power Administration Rate Hearings, 51 FR 7611 (1986) (hereinafter Procedures). This proceeding will extend current rates with a surcharge and establish the 3rd AC, annual cost rate, and the Pacific Northwest Coordination Agreement (PNCA) rate.

(2) The March 22 Order also established a subsequent 8 month procedural schedule beginning July 10, 1995, to establish BPA's power and transmission rates for the period beginning October 1, 1996, and new transmission services terms and conditions. The 1996 Wholesale Power Proceeding is designated WP–96, and Transmission Rates Proceeding is designated TR–96 and both will be conducted pursuant to section 1010.9 of the Procedures.

(3) The 1996 Transmission Services Terms and Conditions Proceeding is designated TC–96 and will be conducted pursuant to section 1010.9 of the Procedures concurrently with WP–96/TR–96.

In the March 22 Order, the Hearing Officers ruled that after March 22, 1995, separate official records will be maintained and separate decisions will be issued for each of the three proceedings designated above. In addition, the Hearing Officers ruled that intervenors who intervened in the dockets designated WP–95/TR–95 and TC–95 on or before March 15, 1995, were admitted as parties for all proceedings noted above.

Finally, the Hearing Officers established the final rate case schedules for Docket Numbers WP–95/TR–95, WP–96/TR–96, and TC–96. The schedule established by the Hearing Officers for Docket Number WP–95/TR–95 provides an opportunity for interested persons to review BPA proposed rates, to participate in the rate hearing, and to submit oral and written comments. All comments and documents intended to become part of the Official Record in this process should contain the file number designation WP–95/TR–95. Consideration of comments may result in a final rate proposal differing from the rates proposed in this Notice.

II. Background

The Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) provides that BPA must establish and periodically review its rates so that they are adequate to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, and to recover the Federal investment in the Federal Columbia River Power System (FCRPS) and other costs incurred by BPA.

On March 9, 1995, BPA published in the **Federal Register** a notice of availability of BPA's preliminary proposed Wholesale Power and Transmission Rate schedules, 60 FR 12915. Since that time, BPA has continued to study the adequacy of its preliminary rate proposal, including its proposal to tier rates for requirements service. On March 17, 1995, BPA and most parties to the 1995 rate proceedings agreed to a settlement whereby BPA would propose that current rates be extended for 1 year and surcharged 4 percent to meet BPA revenue requirements. The Settlement Agreement was an attempt to balance a number of interests, including concerns expressed by customer representatives to BPA's Power Sale Contract renegotiations. These representatives suggested that BPA's new Power Sales Contracts and new rate structures should be coordinated to allow customers to carefully consider the new rates and contracts package in detail before making any long-term commitments.

BPA's initial proposal for the 1995 rate case proposes to surcharge by 4 percent each component of its current adjustable rates, including a Variable Industrial Power (VI) rate extended through September 30, 1996, for 1 year, from October 1, 1995, through September 30, 1996.

VOL 60 ISS 83 MY 1 1995 UMI

III. Major Studies

The studies that have been prepared to support the 1995 initial proposal will be served on all parties of record and available for examination on May 1, 1995, at BPA's Public Information Center, BPA Headquarters Building, 1st Floor; 905 NE. 11th, Portland, OR. The studies and documents are:

A. Loads and Resources Study and Documentation
B. Revenue Requirement Study and Documentation
C. Revenue Forecast Study and Documentation
D. Section 7(b)(2) Rate Test Study and Documentation

To request any of the above documents by telephone, call BPA's document request line: (503) 230–3478 or call toll-free 1–800–622–4520. Please request the document by its above-listed title. Also state whether you require the accompanying documentation (these can be quite lengthy); otherwise, the study alone will be provided. (For example, ask for the "Revenue Requirement Study and Documentation.")

A. Loads and Resources Study

BPA's forecasts of regional loads by customer group are the basis from which public utility and direct service industry (DSI) customer purchases from BPA (Federal system firm loads) are projected. BPA also projects Federal transmission losses, obligations to regional investor-owned utilities (IOUs) under their power sales contracts, and other inter- and intraregional contractual obligations.

BPA develops forecasts of regional non- and small generating public utility (NSGPU) and generating public utility (GPU) loads using standard econometric techniques. Regional NSGPU and GPU loads are forecasted as a function of average retail electricity prices, weather-related variables, and nonagricultural employment. The regional load forecasts then are adjusted to account for factors such as effects from conservation programs and utility purchases from alternative (non-BPA) power suppliers to derive a projection of NSGPU and GPU purchases from BPA. The IOU load forecast was produced by updating the economic assumptions from the 1991 joint BPA/Northwest Power Planning Council (NPPC) forecast.

Forecasts of aluminum DSI purchases from BPA are prepared by analyzing smelter production costs relative to aluminum prices, and by considering other factors affecting smelter loads, including DSI purchases from alternative (non-BPA) power suppliers. Forecasted non-aluminum DSI purchases from BPA are prepared by analyzing historical and technical plant information, forecasted market conditions, and potential purchases from alternative power suppliers.

BPA's resource acquisition plans are based on work by BPA and the NPPC staff and reflect extensive input and review by the general public and the region's utilities. The specific resource acquisitions and associated costs included in this proposal are based on BPA's 1994 Draft Strategic Business Plan. Besides emphasizing a diverse resource portfolio, including both conservation and generating resources, BPA is committed to moving toward a blend of acquisition methods, including BPA-designed, utility-designed, and developer-initiated programs. This combination of resource diversity and acquisition approaches allows BPA to better deal with varying circumstances and uncertainties.

The ratemaking load/resource balance represents BPA's projected service to firm loads during the test years under 1930 water conditions. The ratemaking load/resource balance is used in the calculation of the supply of surplus firm power in the region and on the Federal system during the test period. A related hydro regulation study incorporates the operation of thermal plants, exports and imports of power, projected resource acquisitions, and system constraints such as the Columbia River flow augmentation project and "spill." For this proposal, a 50-year hydro study was completed, which includes assumptions regarding the Columbia River flow augmentation. The hydro study starts in August 1995. The 50-year study determines expected nonfirm energy availability for the region.

B. Revenue Requirement Study

The Bonneville Project Act, the Flood Control Act of 1944, the Transmission System Act, and the Northwest Power Act require BPA to set rates that are projected to collect revenues sufficient to recover the cost of acquiring, conserving, and transmitting the electric power that BPA markets, including amortization of the Federal investment in the FCRPS over a reasonable period, and to recover BPA's other costs and expenses. The Revenue Requirement Study includes a demonstration of whether current rates will produce enough revenues to recover all BPA costs and expenses, including BPA's repayment requirements to the U.S. Treasury. Revenue requirements are a major factor in determining the overall level of BPA's proposed power and transmission rates.

The Transmission System Act and the Northwest Power Act require that transmission rates be based on an equitable allocation of the costs of the Federal transmission system between Federal and non-Federal power using the system. In compliance with a FERC order dated January 27, 1984, 26 FERC ¶61,096, the Revenue Requirement Study incorporates the results of separate repayment studies for the generation and transmission components of the FCRPS. The repayment studies for generation and transmission demonstrate the adequacy of the projected revenues at proposed rates to recover the Federal investment in the FCRPS over the allowable repayment period. Separate generation and transmission revenue requirements are developed in the Revenue Requirement Study. The adequacy of projected revenues to recover test period revenue requirements and to meet repayment period recovery of the Federal investment is tested and demonstrated separately for the generation and transmission functions.

The Revenue Requirement Study for the 1995 initial rate proposal is based on cost and revenue estimates for FY 1996. The cost estimates include an undistributed reduction of $80 million. This reflects BPA's decision to reduce revenue requirements by this amount to enable it to set rates at a level which recover its costs but also meet current market conditions, although specific program and/or organizational spending cuts have not been finalized. This study also includes planned net revenues to mitigate financial risk, to ensure that cash flows are adequate to demonstrate timely repayment of the Federal investment including irrigation assistance, and finance a portion of BPA's capital investments. BPA's Revenue Requirement Study reflects actual amortization and interest payments paid through September 30, 1994. In addition, it reflects all FCRPS obligations incurred pursuant to the Northwest Power Act, including residential exchange program costs.

Also part of the Revenue Requirement Study is a risk analysis that evaluates the impact that various economic and generation resource capability conditions could have on BPA's ability to make annual U.S. Treasury payments during the rate test period. It measures the financial risks surrounding the revenue and expense forecasts used to set rates. Results of the risk analysis are used to determine the amount of planned net revenue required for risk mitigation.

C. Revenue Forecast Study

The revenue forecast determines BPA's expected level of sales and revenue for the rate period, fiscal year 1996. Revenues are forecasted primarily by applying rates to a load forecast. In addition, because the load forecast assumes critical water, and streamflows usually are greater-than-critical, the revenue forecast reflects the effect of greater-than-critical streamflows (the product of which is secondary energy) on BPA's revenues. Secondary energy affects the revenue forecast by increasing or decreasing estimated revenues from the generating public utilities, direct-service industries, open market sales, and incidental wheeling. The revenue forecast is based on the average of 50 historical water years.

BPA prepares two types of revenue forecasts: (1) Revenues forecasted under current rates; and (2) revenues forecasted under proposed rates. The rates in effect since October 1993 are used in the calculation of forecasted revenues at current rates for the rate test period, fiscal year 1996. BPA also develops price forecasts for certain prices that are not set by the rate schedules to determine revenues under the Variable Industrial Power (VI) rate, for contractual sales of surplus firm power, for sales at the Nonfirm Energy rate, and for rates applicable to the WNP–1 and WNP–3 Exchange Agreements.

Included in the Revenue Forecast Study are the proposed wholesale power and transmission rate schedules, which are summarized below.

D. Section 7(b)(2) Rate Test Study

Section 7(b)(2) of the Northwest Power Act directs BPA to assure that the wholesale power rates effective after July 1, 1985, to be charged its public body, cooperative, and Federal agency customers (the 7(b)(2) customers) for their general requirements for the rate test period, plus the ensuing 4 years, are no higher than the costs of power to those customers would be for the same time period if specified assumptions are made. The effect of the rate test is to protect the 7(b)(2) customers' wholesale firm power rates from certain costs resulting from provisions of the Northwest Power Act. The rate test can result in a reallocation of costs from the 7(b)(2) customers to other rate classes. The section 7(b)(2) Rate Test Study describes the application and results of the section 7(b)(2) rate test implementation methodology.

The rate projections and the actual rate test itself are performed using BPA's Supply Pricing Model (SPM). The SPM simulates BPA's rate development process, using load, resource, and cost data consistent with that used in this rate proposal. The SPM calculates two sets of wholesale power rates for BPA's preference customers: (1) A set of rates for the test period and the ensuing 4 years, assuming that section 7(b)(2) is not in effect (program case rates); and (2) a set for the same period considering the five assumptions listed in section 7(b)(2) (7(b)(2) case rates). Certain costs specified in section 7(g) of the Northwest Power Act (7(g) costs) are subtracted from the program case rates.

The SPM then discounts each year's rates to the test year of the relevant rate case, averages each set of discounted rates, and compares the two resulting averages rounded to the nearest tenth of a mill. If the average of the discounted program case rates, less the 7(g) costs, is larger than the average discounted 7(b)(2) case rates, the rate test triggers. If the rate test triggers, the amount of dollars to be reallocated in the test period (7(b)(2) amount) is calculated by multiplying the difference between the discounted program case and 7(b)(2) case rates by the general requirements loads of the preference customers. The 7(b)(2) amount, if any, is used as an adjustment to the allocated costs in the rate case test period.

IV. Wholesale Power Rate Schedules and General Rate Schedule Provisions

Table of Contents

Introduction

Summary of Rate Schedules

Wholesale Power Rate Schedules

PF–95. Priority Firm Power Rate
IP–95. Industrial Firm Power Rate
VI–95. Variable Industrial Power Rate
SI–95. Special Industrial Power Rate
CE–95. Emergency Capacity Rate
NR–95. New Resource Firm Power Rate
NF–95. Nonfirm Energy Rate
SS–95. Share-the-Savings Energy Rate
PS–95. Power Shortage Rate
RP–95. Reserve Power Rate

General Rate Schedule Provisions (GRSPs)

Section I. Adoption of Revised Rate Schedules and General Rate Schedule Provisions
Section II. Types of BPA Service
Section III. Billing Factors and Billing Adjustments
Section IV. Other Definitions
Section V. Application of Rates Under Special Circumstances
Section VI. Billing Information
Section VII. Variable Industrial Rate Parameters and Adjustments

A. Introduction

The proposed wholesale power rate schedules are published as part of the Revenue Forecast Study. BPA agreed in the Settlement Agreement that its 1995 initial rate proposal would propose to apply a 4 percent surcharge to each component of its current adjustable rates, including the Variable Industrial Power (VI) rate which BPA would propose to extend through September 30, 1995. The current VI–91 rate expires June 30, 1996. BPA also agreed to propose that the surcharged rates would be effective for the period October 1, 1995, through September 30, 1996.

Consistent with the Settlement Agreement, BPA proposes to retain its current rate design, including most of the rate adjustments contained in the 1993 Wholesale Power Rate Schedules. BPA proposes to adjust each rate component contained in the Priority Firm Power (PF) rate, Industrial Firm Power (IP) rate, Variable Industrial Power (VI) rate, and New Resources (NR) rate such that the overall effective rate increase for sales under these rate schedules is 4 percent. BPA proposes to increase the demand and energy charges in these rates by 4 percent and also to increase by 4 percent the Irrigation Discount and First Quartile Discount. BPA proposes to increase the Energy Return Surcharge based on the changes in the PF demand charge.

BPA is proposing to retain the current percentages for the Low Density Discount and Availability Charge without further adjustments. Any change to these rate adjustments could result in an overall rate increase to customers different from 4 percent. In addition, BPA is proposing to maintain the Unauthorized Increase Charge at its current level. The Unauthorized Increase Charge is designed to deter customers from taking more power than they are entitled to take. The level of current Unauthorized Increase Charge achieves that purpose and as such a further increase is unnecessary.

BPA has some long-term contract rates that are tied to changes in BPA's PF rate. BPA is proposing to increase these rates by 4 percent. In addition, BPA has rates that depend on changes in BPA's Average System Cost (BASC). BPA also is proposing to increase BASC by 4 percent and consequently any rates that are based on changes in BASC also will be increased by 4 percent.

BPA also proposes to adjust the rate components contained in its Emergency Capacity (CE) rate and Nonfirm Energy rate schedules. Since the price BPA can obtain from these rates is based on market conditions, these rate schedules do not contain fixed rates but rather contain caps or ceilings. BPA proposes to increase the CE rate cap and the Intertie Charge by 4 percent. In the NF rate, BPA is proposing to increase the

VOL 60 ISS 83 MY 1 1995 UMI

average cost of nonfirm energy, which triggers the Intertie adder charge, and retain the upper limit on its Standard nonfirm energy rate by 4 percent. Given current market conditions, increasing the cap on the NF Standard rate is not expected to result in increased revenues during the rate period. BPA also is proposing to increase the Intertie Charge and the NF Contract rate by 4 percent.

BPA is proposing to extend the Reserve Power (RP) rate, the Share-the-Savings (SS) rate and the Power Shortage (PS) rate unchanged for the 1 year period. These rates normally are not adjusted to reflect changes in BPA's costs. The RP rate is based on BPA's estimate of its long-term marginal cost. This rate has not been adjusted since 1987. The SS rate is an experimental nonfirm energy rate that allows for a mutually agreed-to formula rate. The PS rate is a contractually agreed-to rate and is available for sales under the Shortage Agreement. The parties to the Shortage Agreement recently agreed to extend that agreement for another year.

Unlike its other rates, BPA's current Surplus Power (SP–93) rate does not expire on September 30, 1995. FERC has approved the SP–93 rate through September 30, 1998. 67 FERC ¶ 61351 (June 20, 1994). Therefore, since the SP rate continues to be in effect during the 1-year rate period, BPA proposes to retain its current SP–93 rate and not refile a new SP rate for the 1-year rate period agreed to in the Settlement Agreement. The current SP–93 rate contains a contract rate and a flexible rate. BPA does not expect to make any sales at the contract rate during the rate period. The flexible rate is capped at BPA's highest cost resource, which is significantly above the expected market price during the rate period. As such increasing the SP flexible rate by 4 percent would not advance the settlement's cost recovery objectives.

B. Summary of Rate Schedules

A summary of the proposed 1995 Wholesale Power Rate Schedules is provided below. Each of the rate schedules includes sections specifying the customer class and the service available under the rate schedule, the rates for the sales offered under the schedule, the billing factors, other special provisions for rate adjustments, such discounts or penalties that apply to that rate schedule, and the cost basis of the rates in the schedule (resource contribution). Because the 1995 rates will be effective for a 1-year period, BPA is not proposing an Interim Rate Adjustment for these rates.

1. Priority Firm Power rate: The proposed Priority Firm Power (PF–95) rate schedule would replace the PF–93 rate schedule. Power is available under the PF–95 rate schedule to public bodies, cooperatives, Federal agencies, and utilities participating in the residential exchange under section 5(c) of the Northwest Power Act. Priority Firm power must be used to meet firm loads within the Pacific Northwest. The PF rate consists of diurnally differentiated demand charges and seasonally differentiated energy charges. Other rate adjustments include an Irrigation Discount, a Low Density Discount, an Energy Return Surcharge, Unauthorized Increase Charge, Conservation Surcharge, Outage Credit and Power Factor Adjustment.

2. New Resource Firm Power rate: The proposed New Resource Firm Power (NR–95) rate schedule would replace the NR–93 rate schedule. The NR–95 rate schedule is available to investor-owned utilities under net requirements contracts for resale to consumers, and to publicly owned utilities for New Large Single Loads. The NR rate consists of diurnally differentiated demand charges and seasonally differentiated energy charges. Other rate adjustments include an Irrigation Discount, a Low Density Discount, an Energy Return Surcharge, Unauthorized Increase Charge, Conservation Surcharge, Outage Credit and Power Factor Adjustment.

3. Industrial Firm Power rate: The proposed Industrial Firm Power Rate (IP–95) rate would replace the IP–93 rate. The IP–95 rate schedule is available to BPA's direct-service industrial customers for firm power to be used in their industrial operations. The IP rate consists of diurnally differentiated demand charges and seasonally differentiated energy charges. Other rate adjustments include a First Quartile Discount, Curtailment Charge, Unauthorized Increase Charge, Outage Credit and Power Factor Adjustment.

4. Variable Industrial Power rate: The Variable Industrial Power (VI–95) rate schedule is available to DSIs purchasing from BPA under the 1986 Variable Rate Contract. The proposed VI–95 rate schedule is unchanged from prior years other than to update the rates and rate parameters based on the rate adjustment criteria established in 1991 and the 1995 rate case. The proposed base rate components of the VI–95 rate include the 4 percent surcharge, as do the First Quartile Discount and the Lower and Upper Rate Limits. The Lower and Upper Pivot Aluminum Prices are those that were effective July 1, 1995, pursuant to the VI–91 rate. They will be adjusted again on July 1, 1996. The VI rate is proposed to be extended three months past its expiration date, June 30, 1996, so that its term will be consistent with the other rates proposed for fiscal year 1996. The term of the proposed VI–95 rate thus would be October 1, 1995, through September 30, 1996.

5. Special Industrial Power rate: The proposed Special Industrial Power (SI–95) rate would replace the SI–93 rate. The SI rate is available to any DSI purchaser which uses a raw mineral indigenous to the region as its primary resource and which qualifies for the special rate under the procedures established in section 7(d)(2) of the Northwest Power Act. The SI rate consists of diurnally differentiated demand charges and seasonally differentiated energy charges. Other rate adjustments include a Curtailment Charge, Unauthorized Increase Charge, Outage Credit, and Power Factor Adjustment.

6. Nonfirm Energy rate: The proposed Nonfirm Energy (NF–95) rate schedule replaces the NF–93 rate. The NF–95 rate schedule is available for purchases of nonfirm energy inside and outside the Pacific Northwest for resale to consumers, direct consumption, and resale under Western Systems Power Pool agreements. The NF–95 rate schedule includes four rate components: A flexible Standard rate, a flexible Market Expansion rate, a flexible Incremental rate, and a fixed Contract rate. Other adjustments include a Guaranteed Surcharge and an Intertie Charge. The NF Rate Cap continues to apply to all sales under the NF–95 rate schedule. The NF Rate Cap defines the maximum nonfirm energy price for general application. The level of the NF Rate Cap is based on a formula tied to BPA's Average System Cost and California fuel costs.

7. The Reserve Power rate: The Reserve Power (RP–95) rate schedule replaces the RP–93 rate schedule. The RP rate is available in cases where a purchaser's power sales contract states that the rate for Reserve Power shall be applied; when BPA determines no other rate schedule is applicable; or to serve a purchaser's firm power load when BPA does not have a power sales contract in force with such a purchaser, and BPA determines that this rate should be applied. The RP rate consists of diurnally differentiated demand charges and a flat energy charge. Other rate adjustments include a Power Factor Adjustment.

8. The Power Shortage rate: The Power Shortage (PS–95) rate schedule is available for sales under the Share-the-Shortage agreement or when BPA arranges for purchased energy at the request of a Northwest customer. BPA is not obligated to make Shortage Power available or to broker power under the PS–95 rate schedule unless specified by contract. The PS rate contains two rate components: a flexible Power Rate not to exceed 100 mills/kWh and a flexible Brokering Rate not to exceed 1 mill/kWh. Other rate adjustments include a Power Factor Adjustment.

C. Wholesale Power Rate Schedules

Schedule PF–95

Priority Firm Power Rate

Section I. Availability

This schedule is available for the contract purchase of firm power or capacity to be used within the Pacific Northwest. Priority Firm Power may be purchased by public bodies, cooperatives, and Federal agencies for resale to ultimate consumers for direct consumption, construction, test and startup, and station service.

Utilities participating in the exchange under section 5(c) of the Northwest Power Act may purchase Priority Firm Power pursuant to their Residential Purchase and Sale Agreements.

In addition, BPA may make power available to those parties participating in exchange agreements which use this rate schedule as the basis for determining the amount or value of power to be exchanged.

This schedule supersedes Schedule PF–93, which went into effect on October 1, 1993. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions (GRSPs).

Section II. Rate

This rate schedule includes the Preference rate and the Exchange rate. The Preference rate is available for the general requirements of public body, cooperative and Federal agency customers. The Exchange rate is available for all purchases of residential and small farm exchange power pursuant to the Residential Purchase and Sale Agreements.

A. Preference Rate

1. Demand Charge

a. $4.307 per kilowatt of billing demand occurring during all Peak Period hours during a billing month.

b. No demand charge during Offpeak Period hours during a billing month.

2. Energy Charge

a. 23.06 mills per kilowatt-hour of billing energy for the billing months September through March.

b. 16.94 mills per kilowatt-hour of billing energy for the billing months April through August.

B. Exchange Rate

1. Demand Charge

a. $4.307 per kilowatt of billing demand occurring during all Peak Period hours during a billing month.

b. No demand charge during Offpeak Period hours during a billing month.

2. Energy Charge

a. 23.06 mills per kilowatt-hour of billing energy for the billing months September through March.

b. 16.94 mills per kilowatt-hour of billing energy for the billing months April through August.

Section III. Billing Factors

In this section, billing factors are listed for each of the following types of purchasers: computed requirements purchasers (section III.A), purchasers of residential exchange power pursuant to the Residential Purchase and Sale Agreements (section III.B), and metered requirements purchasers and those Priority Firm Power purchasers not covered by sections III.A and III.B (section III.C).

A. Computed Requirements Purchasers

Purchasers designated by BPA as computed requirements purchasers pursuant to power sales contracts shall be billed in accordance with the provisions of this subsection.

1. Billing Demand

The billing demand for actual, planned, and contracted computed requirements purchasers shall be the higher of the billing factors "a" and "b," below:

a. The lower of:

(1) The larger of the Computed Peak Requirement or the Computed Average Energy Requirement; or

(2) The Measured Demand, before adjustment for power factor.

b. The lower of:

(1) The Computed Peak Requirement; or

(2) 60 percent of the highest Computed Peak Requirement during the previous 11 billing months (Ratchet Demand).

2. Billing Energy

The billing energy for actual, planned, and contracted computed requirements purchasers shall be:

a. For the months September through March, the sum of:

(1) 76 percent of the Measured Energy (excluding unauthorized increase); and

(2) 24 percent of the Computed Energy Maximum.

b. For the months April through August, the sum of:

(1) 63 percent of the Measured Energy (excluding unauthorized increase); and

(2) 37 percent of the Computed Energy Maximum.

B. Purchasers of Residential Exchange Power

Purchasers buying Priority Firm Power under the terms of a Residential Purchase and Sale Agreement shall be billed as follows:

1. Billing Demand

The billing demand shall be the demand calculated by applying the load factor, determined as specified in the Residential Purchase and Sale Agreement, to the billing energy for each billing period.

2. Billing Energy

The billing energy shall be the energy associated with the utility's residential load for each billing period. Residential load shall be computed in accordance with the provisions of the purchaser's Residential Purchase and Sale Agreement.

C. Metered Requirements Purchasers, Other Purchasers Not Covered by Sections III.A and III.B, Above

Purchasers designated as metered requirements customers and purchasers taking or exchanging power under this rate schedule who are not otherwise covered by sections III.A and III.B shall be billed as follows:

1. Billing Demand

The billing demand shall be the Measured Demand as adjusted for power factor, unless otherwise specified in the power sales contract.

2. Billing Energy

The billing energy shall be the Measured Energy, unless otherwise specified in the power sales contract.

Section IV. Adjustments And Special Provisions

A. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the billing demand by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average

VOL
60
ISS
83
MY
1
1995
UMI

lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

B. Low Density Discount (LDD)

BPA shall apply a discount to the charges for all Priority Firm Power sold to purchasers who are eligible for an LDD. Eligibility for the LDD and the amount of the discount (3, 5, or 7 percent) shall be determined pursuant to section III.C.3 of the GRSPs.

C. Irrigation Discount

BPA shall apply an irrigation discount, equal to 4.90 mills per kilowatt-hour, to the charges for qualifying energy purchased under this rate schedule. The irrigation discount shall be applied after calculation of the LDD. The discount shall apply only to energy purchased during the billing months of April through October. Eligibility for the irrigation discount and reporting requirements shall be determined pursuant to section III.C.4 of the GRSPs.

D. Conservation Surcharge

The Northwest Power Planning Council has recommended that a conservation surcharge be imposed on those customers subject to such surcharge as determined by the Administrator in accordance with BPA's Policy to Implement the Council-Recommended Conservation Surcharge. The Conservation Surcharge shall be applied pursuant to section III.C.6 of the GRSPs and subsequent to any other rate adjustments.

E. Outage Credit

Pursuant to section 7 of the General Contract Provisions, BPA shall provide an outage credit to any purchaser for those hours for which BPA is unable to deliver the full billing demand during that billing month due to an outage on the facilities used by BPA to deliver Priority Firm Power. Such credit shall not be provided if BPA is able to serve the purchaser's load through the use of alternative facilities or if the outage is for less than 30 minutes. The amount of the credit shall be calculated according to the provisions of section III.C.2 of the GRSPs.

F. Unauthorized Increase

BPA shall apply the charge for Unauthorized Increase to any purchaser of Priority Firm Power taking demand and energy in excess of its contractual entitlement.

1. Rate for Unauthorized Increase

a. 100.00 mills per kilowatt-hour during the billing months August through March.

b. 57.40 mills per kilowatt-hour during the billing months April through July.

2. Calculation of the Amount of Unauthorized Increase

Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount that may be considered an unauthorized increase. BPA first shall determine the amount of unauthorized increase related to demand and shall treat any remaining unauthorized increase as energy-related.

a. Unauthorized Increase in Demand

That portion of any Measured Demand during Peak Period hours, before adjustment for power factor, which exceeds the demand that the purchaser is contractually entitled to take during the billing month and which cannot be assigned:

(1) To a class of power that BPA delivers on such hour pursuant to contracts between BPA and the purchaser; or

(2) To a type of power that the purchaser acquires from sources other than BPA and that BPA delivers during such hour, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract; or

(b) If such exhibit does not apply or is not a part of the purchaser's power sales contract, at the rate for Unauthorized Increase, based on the amount of energy associated with the excess demand.

b. Unauthorized Increase in Energy

The amount of Measured Energy during a billing month which exceeds the amount of energy which the purchaser is contractually entitled to take during that month and which cannot be assigned:

(1) To a class of power which BPA delivers during such month pursuant to contracts between BPA and the purchaser; or

(2) To a type of power which the purchaser acquires from sources other than BPA and which BPA delivers during such month, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract; or

(b) As unauthorized increase if such exhibit does not apply or is not a part of the purchaser's power sales contract.

G. Coincidental Billing Adjustment

Purchasers of Priority Firm Power who are billed on a coincidental basis and who have diversity charges or diversity factors specified in their power sales contracts shall have their charges for billing demand adjusted according to the provisions of section III.C.5 of the GRSPs. Computed requirements purchasers are not subject to the Coincidental Billing Adjustment for scheduled power.

H. Energy Return Surcharge

Any purchaser who preschedules in accordance with sections 2(a)(4) and 2(c)(2) of Exhibit E of the power sales contract and who returns, during a single offpeak hour, more than 60 percent of the difference between that purchaser's billing demand and computed average energy requirement for the billing month shall be subject to the following surcharge for each additional kilowatt-hour so returned:

1. 4.25 mills per kilowatt-hour for the months of April through October;

2. 1.80 mills per kilowatt-hour for the months of November through March.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the PF–95 rate is 72.2 percent FBS and 27.8 percent Exchange.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

Schedule IP–95

Industrial Firm Power Rate

Section I. Availability

This schedule is available to direct service industrial (DSI) customers for both the contract purchase of Industrial Firm Power and the purchase of Auxiliary Power if requested by the DSI customer and made available by BPA. If a DSI customer purchasing power under this rate schedule requests and BPA makes available power under another applicable wholesale rate schedule, the IP–95 rate schedule is available for that portion of power purchased not covered under the alternative rate schedule. This rate schedule supersedes Schedule IP–93, which went into effect on October 1, 1993. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions (GRSPs).

Section II. Rate

The following rates shall be applied when first quartile service is provided under this rate schedule in accordance with the terms of a purchaser's Power Sales Contract dated August 25, 1981. A separate billing adjustment for the reserves provided by the purchasers of Industrial Firm Power is not contained in this rate schedule; the value of reserves credit has been included in the determination of the demand and energy charges.

Any contractual reference to the IP Premium rate shall be deemed to refer to the demand and energy charges set forth below. Any reference to the IP Standard rate shall be deemed to refer to the same demand and energy charges minus the Discount for Quality of First Quartile Service.

A. Demand Charge

1. $5.316 per kilowatt of billing demand occurring during all Peak Period hours during a billing month.

2. No demand charge during Offpeak Period hours.

B. Energy Charge

1. 21.90 mills per kilowatt-hour of billing energy for the billing months September through March.

2. 18.02 mills per kilowatt-hour of billing energy for the billing months April through August.

Section III. Billing Factors

A. Billing Demand

The billing demand shall be the BPA Operating Level during the Peak Period as adjusted for power factor. If there is more than one BPA Operating Level during the Peak Period within a billing month, the billing demand shall be a weighted average of the BPA Operating Levels during the Peak Period for the billing month. The BPA Operating Level is defined in section III.A.10 of the GRSPs. If BPA has agreed to serve a portion of a DSI load under an alternative rate schedule, the billing demand under the IP–95 rate schedule shall be specified in the contract initiating such arrangement.

However, if BPA has agreed, pursuant to section 4 of the DSI power sales contract, to sell Industrial Firm Power on a daily demand basis (transitional service), then BPA shall bill the purchaser in accordance with the provisions of section V.C.3 of the GRSPs.

B. Billing Energy

The billing energy shall be the Measured Energy for the billing month, minus any kilowatt-hours on which BPA assesses the charge for unauthorized increase.

However, if BPA has agreed to serve only a portion of the DSI's load under the IP rate schedule, the billing energy for the power purchased under the IP rate shall be specified in the contract initiating such arrangement.

Section IV. Adjustments and Special Provisions

A. Discount for Quality of First Quartile Service

1. Application and Amount of First Quartile Discount

If a purchaser requests discounted rate service, a discount of 0.72 mills per kilowatt-hour of billing energy shall be granted. This billing credit shall be applied to the monthly billing energy under section III.B for all power purchased under this rate schedule. No credit shall be applied to those purchases subject to unauthorized increase charges under section IV.D of this rate schedule.

2. Eligibility Requirements for First Quartile Discount

To qualify for the First Quartile Discount the purchaser must request discounted rate service in writing by April 2 of each calendar year. By virtue of making such request, the Purchaser is agreeing to accept the level and quality of First Quartile service described in section 6 of the Variable Industrial rate contract. Such acceptance includes the waiver of contract rights provided in section 6.a(2)(a) of said contract.

B. Curtailments

BPA shall charge the DSI for curtailments of the lower three quartiles in accordance with the provisions of section 9 of the power sales contract. BPA shall apply the demand charge in effect at the time of the curtailment in the computation of the amount of the curtailment charge. In the event that a purchaser is found to be eligible to have a portion of their load served under an alternative rate schedule, application of the curtailment charge shall be specified in the contract instituting such arrangement.

C. Unauthorized Increase

1. Rate for Unauthorized Increase

a. 100.00 mills per kilowatt-hour during billing months August through March.

b. 57.40 mills per kilowatt-hour during billing months April through July.

2. Application of the Charge

During any billing month, BPA may assess the unauthorized increase charge on the number of kilowatt-hours associated with the DSI Measured Demand in any one 60-minute clock-hour, before adjustment for power factor, that exceed the BPA Operating Level for that clock-hour, regardless of whether such Measured Demand occurs during the Peak or Offpeak Period.

D. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the billing demand by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

E. Outage Credit

Pursuant to section 7 of the General Contract Provisions, BPA shall provide an outage credit to any DSI for those hours for which BPA is unable to deliver the full billing demand during that billing month due to an outage on the facilities used by BPA to deliver Industrial Firm Power. Such credit shall not be provided if BPA is able to serve the DSI's load through the use of alternative facilities or if the outage is for less than 30 minutes. The amount of the credit shall be calculated according to the provisions of section III.C.2 of the GRSPs.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the IP–95 rate is 85.8 percent Exchange and 14.2 percent New Resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

VOL
60
ISS
83
MY
1
1995
UMI

Schedule VI–95

Variable Industrial Power Rate

Section I. Availability

This schedule is available to DSI customers for purchases under the Power Sales Contract implementing the VI rate schedule (Variable Rate Contract) of: (1) Industrial Firm Power; and (2) Auxiliary Power if requested by the DSI customer and made available by BPA. This schedule is available only for that portion of a DSI's load used in primary aluminum reduction including associated administrative facilities, if any. By virtue of incorporation of this rate schedule and associated GRSPs in the Variable Rate Contract, DSIs electing to purchase power under this rate schedule contractually agree to the terms and conditions of this rate schedule. A DSI further agrees to waive, for that portion of their load designated to purchase power at the VI rate, all rights they might otherwise have to purchase power at the Industrial Firm Power Rate Schedule for the duration of the Variable Rate Contract. Sales under this schedule are made subject to BPA's GRSPs.

Section II. Term of the Rate

This rate schedule shall take effect on October 1, 1995, and shall terminate at midnight September 30, 1996.

Section III. Rate

A. Base Rate

The formula to be used in the calculation of the monthly power bill is contained in section IV. A separate billing adjustment for the value of the reserves provided by purchasers of Industrial Firm Power is not contained in this rate schedule; the value of reserves credit has been included in the determination of the Plateau Energy Charge.

1. Base Variable Industrial Rate

a. Demand Charge

$6.233 per kilowatt of billing demand, as adjusted, occurring during the Peak Period during a billing month. No demand charge is applied during Offpeak Period hours.

b. Plateau Energy Charge

18.83 mills per kilowatt-hour of billing energy, as adjusted.

2. First Quartile Service Discount

0.59 mills per kilowatt-hour of billing energy.

3. Lower Rate Limit

15.03 mills per kilowatt-hour of billing energy.

4. Upper Rate Limit

24.63 mills per kilowatt-hour of billing energy.

B. Base Rate Parameters Subject to Annual Adjustments

The following base rate parameters shall be used to determine power bills for DSI customers purchasing power under the Variable Rate Contract. These parameters will be adjusted July 1, 1996, in accordance with the procedures contained in section VII.B of the GRSPs.

1. Lower Pivot Aluminum Price

75.4 cents per pound.

2. Upper Pivot Aluminum Price

91.6 cents per pound.

Section IV. Formula

The Variable Industrial Power rate is a formula rate tied to the U.S. market price of aluminum. Under this rate schedule, the monthly energy charge varies in response to changes in the average price of aluminum in U.S. markets.

A. Demand Charge

1. The Demand Charge, as stated in section III.A.1.a of this rate schedule, remains constant over all aluminum prices. The demand charge is applied to billing demand occurring during all Peak Period hours for all billing months.

2. No demand charge during Offpeak Period hours.

B. Energy Charge

1. Plateau Energy Charge

When the monthly billing aluminum price (described in section VII.A of the GRSPs) is between the Lower Pivot Aluminum Price and the Upper Pivot Aluminum Price inclusive (as stated in sections III.B.1 and III.B.2 of this rate schedule), the monthly energy charge shall be the Plateau Energy Charge as stated in section III.A.1.b of this rate schedule.

2. Reductions to Plateau Energy Charge

When the monthly billing aluminum price is less than the Lower Pivot Aluminum Price, the monthly energy charge shall be the greater of:

a. The Plateau Energy Charge - (LP-MAP) * (LS)

where;

LP=the Lower Pivot Aluminum Price as stated in section III.B.1 of this rate schedule.

MAP=the monthly billing aluminum price in cents per pound determined pursuant to section VII.A of the GRSPs

LS=lower slope=1 mill per kilowatt-hour

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1 cent per pound

or

b. The Lower Rate Limit as stated in section III.A.3 of this rate schedule.

3. Increases to Plateau Energy Charge

When the monthly billing aluminum price is greater than the Upper Pivot Aluminum Price, the monthly energy charge shall be the lesser of:

a. The Plateau Energy Charge+(MAP-UP) * (US)

where:

MAP=the monthly billing aluminum price in cents per pound, as determined according to section VII.A of the GRSPs.

UP=the Upper Pivot Aluminum Price as stated in section III.B.2 of this rate schedule.

US=upper slope=0.75 mills per kilowatt-hour

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1 cent per pound

b. The Upper Rate Limit, as stated in section III.A.4 of this rate schedule.

Section V. Billing Factors

A. Billing Demand

1. Billing Demand for Customers Whose Entire BPA Load Is Served at the VI Rate

The billing demand for power purchased shall be the BPA Operating Level during the Peak Period as adjusted for power factor. If there is more than one BPA Operating Level during the Peak Period within a billing month, the billing demand shall be a weighted average of the BPA Operating Levels during the Peak Period for the billing month. The BPA Operating Level is defined in section III.A.10 of the GRSPs.

2. Billing Demand or Customers When Only a Portion of Their Total BPA Load Is Served at the Variable Rate

The Billing Demand shall be the portion of the BPA Operating Level attributable to the VI rate as determined by the method specified in the Variable Rate Contract.

3. Billing Demand During Periods of Transitional Service

If BPA has agreed, pursuant to section 4 of the DSI power sales contract, to sell Industrial Firm Power on a daily demand basis (transitional service), sections V.A.1 and V.A.2 of the rate schedule shall not apply, and BPA shall bill the purchaser in accordance with the provisions of section V.C of the GRSPs.

B. Billing Energy

The billing energy for power purchased shall be the Measured Energy for the billing month, minus any kilowatt-hours on which BPA assesses the charge for unauthorized increase.

Section VI. Other Adjustments and Special Provisions

A. Lower and Upper Pivot Aluminum Prices

Effective July 1, 1991, and every July 1 thereafter, the Lower and Upper Pivot Aluminum Prices set forth in section III.B of the rate schedule shall be adjusted following the procedures set forth in section VII.B of the GRSPs. The adjusted Lower and Upper Pivot Aluminum Prices shall supersede the Lower and Upper Pivot Aluminum Prices contained in section III.B of the rate schedule.

B. Discount for Quality of First Quartile Service

If a purchaser requests First Quartile service with other than Surplus Firm Energy Load Carrying Capability (FELCC), a discount contained in section III.A.2 of this rate schedule shall be granted. This billing credit shall be applied to the monthly billing energy under section V.B for all power purchased under this rate schedule. No credit shall be applied to those purchases subject to unauthorized increase charges under section VI.F of this rate schedule. To qualify for the First Quartile Discount, the purchaser must request discounted rate service in writing by April 2 of each calendar year. By virtue of making such request, the Purchaser is agreeing to accept the level and quality of First Quartile service described in section 6 of the Variable Rate Contract. Such acceptance includes the waiver of contract rights provided in section 6.a(2)(a) of said contract.

C. Unauthorized Increase

1. Rate for Unauthorized Increase

a. 100.00 mills per kilowatt-hour during the billing months August through March.

b. 57.40 mills per kilowatt-hour during the billing months April through July.

2. Application of the Charge

During any billing month, BPA may assess the unauthorized increase charge on the number of kilowatt-hours associated with the DSI Measured Demand in any one 60-minute clock-hour, before adjustment for power factor, that exceed the BPA Operating Level for that clock-hour, regardless of whether such Measured Demand occurs during the Peak or Offpeak Period.

D. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the BPA Operating Level by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

E. Outage Credit

Pursuant to section 7 of the General Contract Provisions, BPA shall provide an outage credit to any DSI to whom BPA is unable to deliver the full billing demand during that billing month due to an outage on the facilities used by BPA to deliver Industrial Firm Power. Such credit shall not be provided if BPA is able to serve the DSI's load through the use of alternative facilities or if the outage is for less than 30 minutes. The amount of the credit shall be calculated according to the provisions of section III.C.2 of the GRSPs.

Section VII. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the VI–95 rate is 85.8 percent Exchange and 14.2 percent New Resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

Schedule SI–95

Special Industrial Power Rate

Section I. Availability

This rate schedule is available to any DSI purchaser using raw minerals indigenous to the region as its primary resource and qualifying for this special power pursuant to the procedures established in section 7(d)(2) of the Northwest Power Act. This schedule is available for the contract purchase of this special class of industrial power and also for the purchase of Auxiliary Power if requested by the DSI and made available by BPA. Schedule SI–95 supersedes schedule SI–93, which went into effect on October 1, 1993. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions (GRSPs).

Section II. Rate

A separate billing adjustment for the value of the reserves provided by purchasers of this special class of Industrial Power is not contained in the rate schedule; the adjustment is reflected in the Special Industrial Power Rate charges.

A. Demand Charge

1. $3.827 per kilowatt of billing demand occurring during all Peak Period hours during a billing month.

2. No demand charge during Offpeak Period hours.

B. Energy Charge

1. 21.20 mills per kilowatt-hour of billing energy for the billing months September through March;

2. 15.08 mills per kilowatt-hour of billing energy for the billing months April through August.

Section III. Billing Factors

A. Billing Demand

The billing demand for power purchased under the Standard Special Industrial Power rate shall be the BPA Operating Level during the Peak Period as adjusted for power factor. If there is more than one BPA Operating Level during the Peak Period within a billing month, the billing demand shall be a weighted average of the Peak Period BPA Operating Levels for the billing month. The BPA Operating Level is defined in section III.A.10 of the GRSPs.

However, if BPA has agreed, pursuant to section 4 of the direct service industrial power sales contract, to seli Special Industrial Power on a daily demand basis (transitional service), BPA shall instead bill the purchaser in accordance with the provisions of section V.C of the GRSPs.

B. Billing Energy

The billing energy under the Special Industrial rate shall be the Measured Energy for the billing month, minus any kilowatt-hours on which BPA assesses the charge for unauthorized increase.

Section IV. Adjustments and Special Provisions

A. Curtailments

BPA shall charge the DSI for curtailments in accordance with the

VOL 60 ISS 83 MY 1 1995 UMI

provisions of the DSI's power sales contract. Any curtailment charge levied shall be computed using the Special Industrial Power rate.

B. Unauthorized Increase Charge

1. Rate for Unauthorized Increase

a. 100.00 mills per kilowatt-hour during billing months August through March.

b. 57.40 mills per kilowatt-hour during billing months April through July.

2. Application of the Charge

During any billing month, BPA may assess the unauthorized increase charge on the number of kilowatt-hours associated with the DSI Measured Demand in any one 60-minute clock-hour, before adjustment for power factor, that exceed the BPA Operating Level for that clock-hour, regardless of whether such Measured Demand occurs during the Peak or Offpeak Period.

C. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment for service under the Special Industrial Power rate, BPA shall increase the billing demand by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

D. Outage Credit

Pursuant to section 7 of the General Contract Provisions, BPA shall provide an outage credit to any purchaser for those hours for which BPA is unable to deliver the full billing demand during that billing month due to an outage on the facilities used by BPA to deliver Special Industrial Power. Such credit shall not be provided if BPA is able to serve the purchaser's load through the use of alternative facilities or if the outage is for less than 30 minutes. The amount of the credit shall be calculated according to the provisions of section III.C.2 of the GRSPs.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The SI–95 rate is not based on the cost of resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

Schedule CE–95

Emergency Capacity Rate

Section I. Availability

This schedule is available for the purchase of capacity provided the purchaser requests such capacity and BPA has determined that capacity is available for such purpose. This schedule is available when:

A. An emergency exists on the purchaser's system, or

B. The purchaser wishes to displace higher-cost firm capacity resources which are otherwise available to meet the purchaser's load.

This schedule supersedes Schedule CE–93 which went into effect on October 1, 1993. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions.

Section II. Rate

A. Demand Charge

As mutually agreed by BPA and the purchaser, up to $0.321 per kilowatt of demand per calendar day or portion thereof.

B. Intertie Charge

The demand charge specified above shall be increased by $0.044 per kilowatt per day for capacity made available at the Oregon-California or Oregon-Nevada border for delivery over the Pacific Northwest-Pacific Southwest (Southern) Intertie.

Section III. Billing Factors

The billing demand shall be the maximum amount requested by the purchaser and made available by BPA during a calendar day. If BPA is unable to meet subsequent requests by a purchaser for delivery at the demand previously established during such day, the billing demand for that day shall be the lower demand which BPA is able to supply.

Section IV. Billing Period

Bills shall be rendered monthly.

Section V. Special Provision

Energy delivered with such capacity shall be returned to BPA within 7 days of the date of delivery and shall be returned at times and rates of delivery agreed to by both the purchaser and BPA prior to delivery. BPA may agree to accept the return energy after the normal 7 day return period provided that such delay has been mutually agreed upon prior to delivery.

Section VI. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the CE–95 rate is 85.8 percent Exchange and 14.2 percent New Resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.6 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 55.7 mills per kilowatt-hour.

Schedule NR–95

New Resource Firm Power Rate

Section I. Availability

This schedule is available for the contract purchase of firm power or capacity to be used within the Pacific Northwest. New Resource Firm Power is available to investor-owned utilities (IOUs) under net requirements contracts for resale to ultimate consumers, direct consumption, or use in construction, test and start up, and station service. New Resource Firm Power also is available to any public body, cooperative, or Federal agency to the extent such power is needed to serve any New Large Single Load. In addition, BPA may make this rate available to those parties participating in exchange agreements that use this rate schedule as the basis for determining the amount or value of power to be exchanged. This schedule supersedes Schedule NR–93, which went into effect on October 1, 1993. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions (GRSPs).

Section II. Rate

A. Demand Charge

1. $5.357 per kilowatt of billing demand occurring during all Peak Period hours during a billing month.

2. No demand charge during Offpeak Period hours.

B. Energy Charge

1. 28.66 mills per kilowatt-hour of billing energy for the billing months September through March.

2. 25.10 mills per kilowatt-hour of billing energy for the billing months April through August.

Section III. Billing Factors

In this section billing factors are listed for computed requirements purchasers (section III.A), metered requirements purchasers, and those purchasers not covered by section III.A (section III.B).

A. Computed Requirements Purchasers

Purchasers designated by BPA as computed requirements purchasers pursuant to power sales contracts shall be billed in accordance with the provisions of this section.

1. Billing Demand

The billing demand for actual, planned, and contracted computed requirements purchasers shall be the higher of the billing factors "a" and "b," below:

a. The lower of:

(1) The larger of the Computed Peak Requirement or the Computed Average Energy Requirement; or

(2) The Measured Demand, before adjustment for power factor.

b. The lower of:

(1) The Computed Peak Requirement; or

(2) 60 percent of the highest Computed Peak Requirement during the previous 11 billing months (Ratchet Demand).

2. Billing Energy

The billing energy for actual, planned, and contracted computed requirements purchasers shall be:

a. For the months September through March, the sum of:

(1) 55 percent of the Measured Energy; and

(2) 45 percent of the Computed Energy Maximum.

b. For the months April through August, the sum of:

(1) 43 percent of the Measured Energy; and

(2) 57 percent of the Computed Energy Maximum.

B. Metered Requirements Purchasers and Other Purchasers Not Covered by Section III.A, Above

Purchasers designated as metered requirements customers and purchasers taking power under this rate schedule who are not otherwise covered by section III.A shall be billed as follows:

1. Billing Demand

The billing demand shall be the Measured Demand as adjusted for power factor, unless otherwise specified in the power sales contract. However, purchasers who previously used the Firm Energy rate schedule, FE–2, either in the computation of their power bills or in the determination of the value of an exchange account, shall not be charged for demand under this rate schedule.

2. Billing Energy

The billing energy shall be the Measured Energy, unless otherwise specified in the power sales contract.

Section IV. Adjustments and Special Provisions

A. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the billing demand by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

B. Irrigation Discount

BPA shall apply an irrigation discount, equal to 4.90 mills per kilowatt-hour, to the charges for qualifying energy purchased under this rate schedule. The discount shall apply only to energy purchased during the billing months of April through October. Eligibility for the irrigation discount and reporting requirements shall be determined pursuant to section III.C.4 of the GRSPs.

C. Conservation Surcharge

The Conservation Surcharge shall be applied in accordance with section III.C.6 of the GRSPs and subsequent to any other rate adjustments.

D. Unauthorized Increase

BPA shall apply the charge for Unauthorized Increase to any purchaser of New Resource Firm Power taking demand and/or energy in excess of its contractual entitlement.

1. Rate for Unauthorized Increase

a. 100.00 mills per kilowatt-hour during billing months August through March.

b. 57.40 mills per kilowatt-hour during billing months April through July.

2. Calculation of the Unauthorized Increase

Each 60-minute clock-hour integrated or scheduled demand shall be considered separately in determining the amount which may be considered an unauthorized increase. BPA shall first determine the amount of unauthorized increase related to demand and shall then treat any remaining unauthorized increase as energy-related.

a. Unauthorized Increase in Demand

That portion of any Measured Demand during Peak Period hours, before adjustment for power factor, that exceeds the demand which the purchaser is contractually entitled to take during the billing month and that cannot be assigned:

(1) To a class of power which BPA delivers on such hour pursuant to contracts between BPA and the purchaser; or

(2) To a type of power which the purchaser acquires from sources other than BPA and which BPA delivers during such hour, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract; or

(b) If such exhibit does not apply or is not a part of the purchaser's power sales contract, at the rate for Unauthorized Increase, based on the amount of energy associated with the excess demand.

b. Unauthorized Increase in Energy

The amount of Measured Energy during a billing month that exceeds the amount of energy which the purchaser is contractually entitled to take during that month and that cannot be assigned:

(1) To a class of power that BPA delivers during such month pursuant to contracts between BPA and the purchaser; or

(2) To a type of power that the purchaser acquires from sources other than BPA and that BPA delivers during such month, shall be billed:

(a) In accordance with the provisions of the "Relief from Overrun" exhibit to the power sales contract, or

(b) As unauthorized increase if such exhibit does not apply or is not a part of the purchaser's power sales contract.

E. Coincidental Billing Adjustment

Purchasers of New Resource Firm Power who are billed on a coincidental basis and who have diversity charges or diversity factors specified in their power sales contracts shall have their charges for billing demand adjusted according to the provisions of section III.C.5 of the GRSPs. Computed requirements purchasers are not subject to the Coincidental Billing Adjustment for scheduled power.

F. Outage Credit

Pursuant to section 7 of the General Contract Provisions, BPA shall provide

VOL 60 ISS 83 MY 1 1995 UMI

an outage credit to any purchaser for those hours for which BPA is unable to deliver the full billing demand during the billing month due to an outage on the facilities used by BPA to deliver New Resource Firm Power. Such credit shall not be provided if BPA is able to serve the purchaser's load through the use of alternative facilities or if the outage is for less than 30 minutes. The amount of the credit shall be calculated according to the provisions of section III.C.2 of the GRSPs.

G. Energy Return Surcharge

Any purchaser who preschedules in accordance with sections 2(a)(4) and 2(c)(2) of Exhibit E of the Power Sales contract and who returns, during a single offpeak hour, more than 60 percent of the difference between that purchaser's billing demand and estimated computed average energy requirement for the billing month shall be subject to the following surcharge for each additional kilowatt-hour so returned:

1. 4.25 mills per kilowatt-hour for the months of April through October; and
2. 1.80 mills per kilowatt-hour for the months of November through March.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the NR–95 rate is 89.7 percent Exchange and 10.3 percent New Resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

Schedule NF–95

Nonfirm Energy Rate

Section I. Availability

This schedule is available for the purchase of nonfirm energy to be used both inside and outside the United States including sales under the Western Systems Power Pool (WSPP) agreements and sales to consumers. This schedule also applies to energy delivered for emergency use under the conditions set forth in section V.A of the General Rate Schedule Provisions (GRSPs). BPA is not obligated to offer nonfirm energy to any purchaser that results in displacement of firm power purchases under BPA's Power Sales Contracts. The offer of nonfirm energy under this schedule shall be determined by BPA. Schedule NF–95 supersedes Schedule NF–93, which went into effect on October 1, 1993. Sales under this schedule are made subject to BPA's GRSPs.

Section II. Rates

The average cost of nonfirm energy is 23.31 mills per kilowatt-hour. The NF–95 rate schedule provides for upward and downward pricing flexibility from this average nonfirm energy cost. All rates and any subsequent adjustments contained in this rate schedule shall not exceed in total the NF Rate Cap defined in section IV.C of the GRSPs.

A. Standard Rate

The Standard rate is any offered rate not to exceed 27.97 mills per kilowatt-hour.

B. Market Expansion Rate

The Market Expansion rate is any offered rate below the Standard rate in effect. BPA may have one or more Market Expansion rates in effect simultaneously.

C. Incremental Rate

The Incremental rate is the Incremental Cost of energy plus 2.00 mills per kilowatt-hour, where the Incremental Cost is defined as all identifiable costs (expressed in mills per kilowatt-hour) that BPA would have avoided had it not produced or purchased the energy being sold under this rate.

D. Contract Rate

The Contract rate is 14.83 mills per kilowatt-hour of billing energy.

Section III. Adjustments to Rates

A. Guaranteed Delivery Surcharge

A surcharge of 2.00 mills per kilowatt-hour of billing energy is applied to guaranteed delivery of nonfirm energy under the Standard rate and Market Expansion rate.

B. Intertie Charge

The Intertie Charge, on rate offers under any of the rates specified above, for sales of nonfirm energy scheduled for delivery over the Pacific Northwest-Pacific Southwest Intertie shall be:

1. Inapplicable for rate offers of less than 23.31 mills per kilowatt-hour;
2. At the discretion of BPA, from zero through 3.23 mills per kilowatt-hour, for rate offers of 23.31 mills per kilowatt-hour; or
3. 3.23 mills per kilowatt-hour, for rate offers greater than 23.31 mills per kilowatt-hour.

Section IV. Billing Factors

The billing energy for nonfirm energy purchased under this rate schedule shall be the Measured Energy unless otherwise specified by contract.

Section V. Application and Eligibility

Any time that BPA has nonfirm energy for sale, the Standard rate, the Market Expansion rate, the Incremental rate, the Contract rate, or a combination of these rates may be in effect.

A. Standard Rate

The Standard rate:

1. Is available for all purchases of nonfirm energy; and
2. Applies to nonfirm energy purchased pursuant to the Relief from Overrun Exhibit to the power sales contract.

B. Market Expansion Rate

1. Application of the Market Expansion Rate

The Market Expansion rate applies when BPA determines that all markets at the Standard rate have been satisfied and BPA offers additional nonfirm energy.

2. Market Expansion Rate Qualification Criteria

In order to purchase nonfirm energy at the Market Expansion rate, a purchaser must:

a. Have a displaceable resource, displaceable purchase of electricity, or
b. Be an end-user load with a displaceable alternative fuel source.

In addition, a purchaser must demonstrate one of the following:

a. Shutdown or reduction of the output of the displaceable resource in an amount equal to the amount of Market Expansion rate energy purchased; or
b. Reduction of a displaceable purchase and the output of the resource associated with that purchase, in an amount equal to the amount of Market Expansion rate energy purchased; or
c. Shutdown or reduction of the identified output of the resource(s) indirectly in an amount equal to the amount of Market Expansion rate energy purchased (for example, the purchase may be used to run a pumped storage unit); or
d. Decrease of an end-user alternate fuel source in an amount equivalent to the amount of Market Expansion rate energy purchased.

3. Eligibility Criteria for Market Expansion Rate

a. When only one Market Expansion rate is offered:

Purchasers qualifying under section V.B.2 who purchased nonfirm energy directly from BPA are eligible to purchase power under the Market Expansion rate offered if the decremental cost of the qualifying resource, purchase, or qualifying alternative fuel source is lower than the Standard rate in effect plus 2.0 mills per kilowatt-hour.

Purchasers qualifying under section V.B.2 who purchased nonfirm energy through a third party are eligible to purchase power under the Market Expansion rate offered if the cost of the qualifying alternative fuel source is lower than the Standard rate in effect plus 4.0 mills per kilowatt-hour.

b. When more than one Market Expansion rate is offered:

Purchasers qualifying under section V.B.2 who purchase nonfirm energy directly from BPA are eligible to purchase power under the Market Expansion rate if the decremental cost of the qualifying resource, purchase, or qualifying alternative fuel source is lower than the Standard rate in effect plus 2.00 mills per kilowatt-hour. The rate applicable to a purchaser shall be the highest Market Expansion rate offered that is below the purchaser's qualifying decremental cost minus 2.00 mills per kilowatt-hour.

Purchasers qualifying under section V.B.2 who purchase nonfirm energy through a third party are eligible to purchase power under the Market Expansion rate if the decremental cost of the qualifying alternative fuel source is lower than the Standard rate plus 4.00 mills per kilowatt-hour. The rate applicable to a purchaser shall be the highest Market Expansion rate offered that is below purchaser's qualifying decremental cost minus 4.0 mills per kilowatt-hour.

C. Incremental Rate

The Incremental rate applies to sales of energy:

1. That is produced or purchased by BPA concurrently with the nonfirm energy sale;
2. That BPA may at its option not produce or purchase; and
3. That has an Incremental Cost greater than the Standard rate (plus the Intertie Charge, if applicable) less 2.00 mills per kilowatt-hour.

D. Contract Rate

The Contract rate applies to contracts (except power sales contracts offered pursuant to sections 5(b), 5(c), and 5(g) of the Northwest Power Act) that refer to the Contract rate:

1. For the sale of nonfirm energy; or
2. For determining the value of energy.

E. Western Systems Power Pool Transactions (WSPP)

BPA may make available nonfirm energy for transactions under the WSPP agreement. WSPP sales shall be subject to the terms and conditions specified in the WSPP agreement and shall be consistent with regional and public preference. The rate for transactions under the WSPP agreement is any rate within the limits specified by the Standard, Market Expansion, and Incremental rates but may not exceed the maximum rate specified in the WSPP Agreement. The rate for WSPP sales may differ from the actual rate offered for non-WSPP transactions in any hour. The rate for WSPP transactions is independent of any other rate offered concurrently under this rate schedule outside that agreement.

F. End-User Rate

BPA may agree to a rate or rate formula for nonfirm energy purchases by end-users. Such rate or rate formula shall be within the limits specified for the Standard and Market Expansion rates but may differ from the actual rates offered during any hour.

Section VI. Delivery

A. Rate of Delivery

BPA shall determine the amount of nonfirm energy to be made available for each hour. Such determination shall be made for each applicable nonfirm energy rate.

B. Guaranteed Delivery

1. Availability

BPA will determine the amount and duration of nonfirm energy to be offered on a guaranteed basis. Such daily or hourly amounts may be as small as zero or as much as all the nonfirm energy that BPA plans to offer for sale on such days.

2. Conditions

Scheduled amounts of guaranteed nonfirm energy may not be changed except:

a. When BPA and the purchaser mutually agree to increase or decrease the scheduled amounts; or
b. When BPA must reduce nonfirm energy deliveries in order to serve firm loads because of unexpected generation or transmission losses.

Section VII. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the average cost of nonfirm energy is 92.7 percent FBS and 7.3 percent New Resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

Schedule SS–95

Share-the-Savings Rate

Section I. Availability

This rate schedule is available for the contract purchase of Nonfirm Energy under an experimental rate and is limited to the term of the rate experiment. Nonfirm Energy will be made available under this rate schedule for use both inside and outside the United States for the displacement of a qualifying resource, displaceable purchase of electricity, or end-user load that can be served with alternate fuel sources. This rate schedule is only available to purchasers who execute a contract with BPA specifying use of the Share-the-Savings Rate. BPA is not obligated to offer Nonfirm Energy to any purchaser that results in displacement of firm power purchases under BPA's Power Sales Contracts. Schedule SS–95 supersedes Schedule SS–93, which went into effect on October 1, 1993. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions (GRSPs).

Section II. Rate

The rate shall be a formula rate based solely or in part on decremental cost information submitted by the purchaser. The rate formula and decremental cost, for purposes of establishing charges under this rate schedule, shall be defined in the applicable contract. The rate formula agreed upon by BPA and the purchaser shall in no event result in a rate higher than the NF Rate Cap defined in section IV.C of the GRSPs or lower than 1.00 mill per kilowatt-hour.

Section III. Billing Factor

The billing energy for Nonfirm Energy purchased under this rate schedule shall be the Measured Energy unless otherwise specified in the Share-the-Savings rate contract.

Section IV. Application and Eligibility

A. General Requirements

In order to purchase Nonfirm Energy under the Share-the-Savings Rate, the purchaser must:

1. Have executed a contract specifying application of the Share-the-Savings Rate Schedule, and
2. Have a displaceable resource, displaceable purchase of electricity, or be an end-user load with a displaceable alternate fuel source. End-user loads with alternate fuel sources may not use the Decremental Cost of a displaceable

VOL 60 ISS 83 MY 1 1995 UMI

purchase of electricity to qualify for this rate.

B. BPA Service Priority

Offers of Nonfirm Energy under this rate schedule shall be made pursuant to the terms and conditions set forth in the Share-the-Savings rate contract. BPA will sell Nonfirm Energy under this rate schedule consistent with regional and public preference.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The SS–95 rate is not based on the cost of BPA resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

Schedule PS–95

Power Shortage Rate

Section I. Availability

This schedule is available inside the Pacific Northwest for the purchase of Shortage Power to a utility when a shortage exists on its system and the utility requests Shortage Power under this rate schedule, or when Shortage Power is being delivered to a utility as the result of statewide or regionwide curtailment. This schedule is also available for sales under the Share-the-Shortage agreement, or a similar substitute agreement.

This rate schedule is also available inside the Pacific Northwest when BPA arranges for purchase energy at the request of a customer. BPA is not obligated to make Shortage Power available or broker power under this rate schedule unless specified by contract. Sales under this schedule are made subject to BPA's General Rate Schedule Provisions.

Section II. Rates

A. Power Rate

The power rate is any offered rate not to exceed 100.00 mills per kilowatt-hour. The offered rate may be specified as an energy charge only or as demand and energy charges.

B. Brokering Rate

The brokering rate may be up to 1.00 mill per kilowatt-hour for services provided when BPA arranges for energy purchases for a customer from a seller other than BPA.

Section III. Billing Factors

The billing factors shall be:

A. Power Purchases

The factors to be used in determining the billings for power purchases under this rate schedule are as follows:

1. Billing Demand

The billing demand shall be the Contract Demand as specified in the contract initiating such arrangement or as mutually agreed to by the parties. Otherwise the billing demand shall be the Measured Demand as adjusted for power factor.

2. Billing Energy

The billing energy shall be the Contract Energy as specified in the contract initiating such arrangement or as mutually agreed to by the parties. Otherwise the billing energy shall be the Measured Energy.

B. Brokering Services

When BPA arranges for energy purchases at the request of a customer, the purchaser shall be billed for such services based on the total amount of kilowatt-hours purchased.

Section IV. Adjustments and Special Provisions

A. Power Factor Adjustment

The adjustment for power factor for BPA customers that are billed for shortage power on metered amounts, when specified in this rate schedule or in the contracts, shall be made in accordance with the provisions of both this section and section III.C.1 of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the billing energy by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

B. Power Brokering

The charge for power brokering only applies to the service provided by BPA of finding purchased power for a customer from a seller other than BPA. BPA may agree to provide other services in addition to finding purchased power, but these services shall be billed separately at charges specified in the appropriate rate schedule(s) or agreement(s). Such services may include, but are not limited to, wheeling and load shaping.

C. Share-the-Shortage Transactions

In the event a Share-the-Shortage type agreement is executed, BPA may make shortage power available to participants under such agreement. Any transactions entered into by BPA pursuant to the Share-the-Shortage agreement shall be subject to the terms and conditions specified in that agreement. The PS–95 rate does not incorporate the agreement but the agreement controls if there is any conflict between the PS–95 rate and the agreement. The rate for transactions under the Share-the-Shortage agreement is any rate within the limits specified by the power rate but may not exceed the maximum rate specified in the agreement. The rate for Share-the-Shortage transactions is independent of any rate offered under this rate schedule for sales that do not fall under the agreement. The PS–95 power rate shall not be available for transactions with a party who triggers the Share-the-Shortage agreement if BPA elects to meet its required service obligations under the agreement by entering into an alternative agreement.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The approximate cost contribution of different resource categories to the PS–95 rate is based upon the BPA's highest cost resource which currently is an FBS resource.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

Schedule RP–95

Reserve Power Rate

Section I. Availability

This schedule is available for the purchase of power:

A. In cases where a purchaser's power sales contract states that the rate for Reserve Power shall be applied;

B. For which BPA determines no other rate schedule is applicable; or

C. To serve a purchaser's firm power load in circumstances where BPA does not have a power sales contract in force with such purchaser, and BPA determines that this rate should be applied.

This rate schedule may be applied to power purchased by entities outside the United States. This rate schedule supersedes Schedule RP–93, which went into effect on October 1, 1993. Sales under this schedule are made

subject to BPA's General Rate Schedule Provisions (GRSPs).

Section II. Rate

A. Demand Charge

1. $3.640 per kilowatt of billing demand occurring during all Peak Period hours during a billing month.

2. No demand charge during Offpeak Period hours.

B. Energy Charge

25.30 mills per kilowatt-hour of billing energy.

Section III. Billing Factors

The factors to be used in determining the billing for power purchased under this rate schedule are as follows:

A. Billing Demand

If applicable, the billing demand shall be the Contract Demand as specified in the power sales contract. Otherwise the billing demand shall be the Measured Demand as adjusted for power factor.

B. Billing Energy

The billing energy shall be the Contract Demand multiplied by the number of hours in the billing month, if use of the Contract Demand for determining billing energy is specified in the power sales contract. Otherwise the billing energy for such purchasers shall be the Measured Energy.

Section IV. Power Factor Adjustment

The adjustment for power factor, when specified in this rate schedule or in the power sales contract, shall be made in accordance with the provisions of both this section and section III.C.1 of the GRSPs. The adjustment shall be made if the average leading power factor or average lagging power factor at which energy is supplied during the billing month is less than 95 percent.

To make the power factor adjustment, BPA shall increase the billing demand by 1 percentage point for each percentage point or major fraction thereof (0.5 or greater) by which the average leading power factor or average lagging power factor is below 95 percent. BPA may elect to waive the adjustment for power factor in whole or in part.

Section V. Resource Cost Contribution

BPA has made the following determinations:

A. The RP–95 rate is not based on the cost of resources.

B. The forecasted average cost of resources available to BPA under average water conditions is 19.80 mills per kilowatt-hour.

C. The forecasted cost of resources to meet load growth is 60.64 mills per kilowatt-hour.

D. General Rate Schedule Provisions (GRSPs)

Table of Contents

I. Adoption of Revised Rate Schedules and General Rate Schedule Provisions
A. Approval of Rates
B. General Provisions
II. Types of BPA Service
A. Priority Firm Power
B. New Resource Firm Power
C. Industrial Firm Power
D. Special Industrial Power
E. Auxiliary Power
F. Shortage Power
G. Surplus Firm Power
H. Nonfirm Energy
I. Reserve Power
III. Billing Factors and Billing Adjustments
A. Billing Factors for Demand
B. Billing Factors for Energy
C. Billing Adjustments
D. Billing-Related Definitions
IV. Other Definitions
A. Computed Requirements Purchasers
B. Definitions Relating to Nonfirm Energy
C. NF Rate Cap
D. Determination of BPA's Average System Cost
V. Application of Rates Under Special Circumstances
A. Energy Supplied for Emergency Use
B. Construction, Test and Start-up, and Station Service
C. Application of Rates During Initial Operation Period-Transitional Service
D. Changes in a DSI's BPA Operating Level
E. Restriction of Deliveries
VI. Billing Information
A. Determination of Estimated Billing Data
B. Load Shift and Outage Reports
C. Billing for New Large Single Loads
D. Determination of Measured Demand
E. Determination of Measured Energy
F. Billing Month
G. Payment of Bills
VII. Variable Industrial Rate Parameters and Adjustments
A. Monthly Average Aluminum Price Determination
B. Annual Adjustments to the Lower and Upper Pivot Aluminum Prices

Section I. Adoption of Revised Rate Schedules and General Rate Schedule Provisions

A. Approval of Rates

These 1995 rate schedules and General Rate Schedule Provisions (GRSPs) shall become effective upon interim approval or upon final confirmation and approval by the Federal Energy Regulatory Commission (FERC). BPA will request FERC approval effective October 1, 1995. BPA proposes that the following schedules, and the GRSPs associated with these schedules, be effective for 1 year: PF–95, IP–95, VI–95, SI–95, CE–95, NR–95, SS–95, NF–95, PS–95, and RP–95.

B. General Provisions

These 1995 rate schedules, and the GRSPs associated with these rate schedules, supersede BPA's 1993 rate schedules (which became effective October 1, 1993) to the extent stated in the Availability section of each rate schedule. These schedules and GRSPs shall be applicable to all BPA contracts, including contracts executed both prior to and subsequent to enactment of the Northwest Power Act. All sales of power made under these rate schedules are subject to the following acts as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88–552), the Federal Columbia River Transmission System Act, and the Northwest Power Act.

Section II. Types of BPA Service

A. Priority Firm Power

Priority Firm Power is electric power (capacity, energy, or capacity and energy) that BPA will make continuously available for resale to ultimate consumers for direct consumption, construction, test and startup, and station service by public bodies, cooperatives, and Federal agencies. (Construction, test and start-up, and station service are defined in section V.B of these GRSPs.)

Utilities participating in the exchange under section 5(c) of the Northwest Power Act may purchase Priority Firm Power pursuant to their Residential Purchase and Sale Agreements.

In addition, BPA may make Priority Firm Power available to those parties participating in exchange agreements specifying use of the Priority Firm rate for determining the amount or value of power to be exchanged.

Power purchased under the rate schedule is to be used to meet the purchaser's actual firm load within the Pacific Northwest. Such power may be restricted in accordance with the Restriction of Deliveries section of these GRSPs (section V.E). However, BPA shall not restrict Priority Firm Power until Industrial Firm Power has been restricted in accordance with the provisions of section II.C of these GRSPs.

Priority Firm Power is not available to serve New Large Single Loads.

B. New Resource Firm Power

New Resource Firm Power is electric power (capacity, energy, or capacity and energy) that BPA will make continuously available:

1. For any New Large Single Load,

2. For firm power purchased by investor-owned utilities (IOUs) pursuant to power sales contracts with BPA, and

VOL 60 ISS 83 MY 1 1995 UMI

3. For construction, test and start-up, and station service for facilities owned or operated by IOUs.

New Resource Firm Power is to be used to meet the purchaser's actual firm load within the Pacific Northwest. Such power may be restricted in accordance with the Restriction of Deliveries section of these GRSPs (section V.E). However, BPA shall not restrict New Resource Firm Power until Industrial Firm Power has been restricted in accordance with the provisions of section II.C of these GRSPs.

C. Industrial Firm Power

Industrial Firm Power is electric power that BPA will make continuously available to a direct service industrial (DSI) purchaser pursuant to the DSI's power sales contract and subject to:

1. The restriction applicable to deliveries of all firm power pursuant to the Uncontrollable Forces and Continuity of Service provisions of the General Contract Provisions of the power sales contract, and

2. The restrictions given in the Restriction of Deliveries section of the power sales contract.

D. Special Industrial Power

Special Industrial Power is electric power which BPA will make continuously available to any DSI that qualifies for the Special Industrial Power rate pursuant to section 7(d)(2) of the Northwest Power Act. This power is similar in nature to Industrial Firm Power, but is subject to greater restriction by BPA. Special Industrial Power is made available to the qualifying DSI upon adoption of, and subject to, an amendment modifying its power sales contract.

E. Auxiliary Power

Auxiliary Power is that power which a DSI requests and which BPA agrees to make available to serve that portion of the DSI's load which is in excess of the DSI's Operating Demand for Industrial Firm Power or Special Industrial Power.

F. Shortage Power

Shortage Power is energy or energy with capacity, provided by BPA to a purchaser to serve such purchaser's regional load under circumstances where the purchaser is in danger of curtailing firm load even though the purchaser is operating all available resources and exercising all contractual rights to firm power to the maximum level feasible. In the event of a state ordered or regionwide load curtailment, a power deficiency is deemed to exist for those purchasers whose power supply condition is in part causally related to the state(s) initiated load curtailment.

G. Surplus Firm Power

Surplus Firm Power is firm energy, firm power (firm energy with capacity), and firm capacity (capacity with energy return requirements) in excess of the amount required to meet BPA's existing contractual obligations to provide firm service. Surplus Firm Power may be used either for resale or direct consumption by purchasers both inside and outside the United States. Such power, however, may be restricted pursuant to the Restriction of Deliveries section of these GRSPs (section V.E).

H. Nonfirm Energy

Nonfirm Energy is supplied or made available by BPA to a purchaser under an arrangement that does not have the guaranteed continuous availability feature of firm power. Nonfirm energy is mostly sold under the Nonfirm Energy rate schedule, NF–95. Nonfirm energy also may be supplied under the Share-the-Savings rate schedule, SS–95, which is available as an experimental rate for contract purchase.

In addition, BPA also can make nonfirm energy available under the Nonfirm Energy rate schedule to the Western Systems Power Pool (WSPP) subject to terms and conditions agreed upon by the members participating in the WSPP and in accordance with BPA policy for such arrangements.

However, Nonfirm Energy that has been purchased under a guarantee provision in the Nonfirm Energy rate schedule shall be provided to the purchaser in accordance with the provisions of that schedule and the power sales contract if applicable. BPA may make Nonfirm Energy available to purchasers both inside and outside the United States.

I. Reserve Power

Reserve Power is firm power sold to a purchaser:

1. In cases where the purchaser's power sales contract states that the rate for Reserve Power shall be applied;

2. To provide service when no other type of power is deemed applicable; or

3. To serve the purchaser's firm power loads under circumstances where BPA does not have a power sales contract in force with the purchaser.

Sales of Reserve Power are subject to the Restriction of Deliveries section of these GRSPs (section V.E).

Section III. Billing Factors and Billing Adjustments

A. Billing Factors for Demand

1. Measured Demand

The purchaser's Measured Demand shall be determined in the manner described in this section. Measured Demand shall be that portion of the metered or scheduled demand that is purchased from BPA under the applicable rate schedule. For those contracts to which BPA is a party and that provide for delivery of more than one class of electric power to the purchaser at any point of delivery, the portion of each 60-minute clock-hour integrated demand assigned to any class of power shall be determined pursuant to the power sales contract. The portion of the total Measured Demand so assigned shall constitute the Measured Demand for each such class of power.

The Measured Demand shall be determined from the metered demand or the scheduled demand, as hereinafter defined. The Measured Demand shall be determined on either a coincidental or a noncoincidental basis, as provided in the purchaser's power sales contract.

a. Metered Demand

The metered demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands, adjusted as specified in the power sales contract, at which electric energy is delivered to a purchaser:

(1) At each point of delivery for which the metered demand is the basis for determination of the Measured Demand,

(2) During each time period specified in the applicable rate schedule, and

(3) During any billing period.

Such largest integrated demand shall be determined from measurements made either in the manner specified in the power sales contract or as provided in section VI.A herein. In determining the metered demand, BPA shall exclude any abnormal integrated demands due to or resulting from:

(1) Emergencies or breakdowns on, or maintenance of, the Federal system facilities; and

(2) Emergencies on the purchaser's facilities, provided that such facilities have been adequately maintained and prudently operated, as determined by BPA.

b. Scheduled Demand

The scheduled demand in kilowatts shall be the largest of the hourly demands at which electric energy is scheduled for delivery to a purchaser:

(1) To each system for which scheduled demand is the basis for determination of the Measured Demand;

(2) During each time period specified in the applicable rate schedule; and

(3) During any billing period. Scheduled amounts are deemed delivered for the purpose of determining billing demand.

2. Ratchet Demand

The Ratchet Demand in kilowatts shall be the maximum demand established during a specified period of time either during or prior to the current billing period. The demand on which the ratchet is based is specified in the relevant rate schedule or in these GRSPs. For utilities purchasing under the PF or NR rate schedules, the Ratchet Demand is based on the highest demand during prior billing months. When the Ratchet Demand is used as a billing factor, BPA shall have specified in the appropriate schedules or GRSPs:

a. The period of time over which the ratchet shall be calculated;

b. The type of demand to be used in the calculation; and

c. The percentage (if any) of that demand which will be used to calculate the Ratchet Demand.

3. Contract Demand

The Contract Demand shall be the maximum number of kilowatts that the purchaser agrees to purchase and BPA agrees to make available, subject to any limitations included in the power sales contract. BPA may agree to make deliveries at a rate in excess of the Contract Demand at the request of the purchaser, but shall not be obligated to continue such excess deliveries. Any contractual or other reference to Contract Demand as expressed in kilowatt-hours shall be deemed, for the purpose of these GRSPs, to refer to the term "Contract Energy."

4. Computed Peak Requirement

For purchasers designated to purchase on the basis of computed requirements, the Computed Peak Requirement shall be determined as specified in the purchaser's power sales contract. That specification is provided in:

a. Sections 16, 17(c), and 17(f), as adjusted by other sections of the contract, for actual computed requirements purchasers;

b. Sections 16, 17(a), and 17(f), as adjusted by other sections of the contract, for planned computed requirements purchasers; and

c. Sections 16 and 17(b), as adjusted by other sections of the contract, for contracted computed requirements purchasers.

5. Computed Average Energy Requirement

For computed requirements purchasers, the Computed Average Energy Requirement shall be determined as specified in the purchaser's power sales contract. That specification is provided in:

a. Sections 16, 17(c), and 17(f), as adjusted by other sections of the contract, for actual computed requirements purchasers;

b. Sections 16, 17(a), and 17(f), as adjusted by other sections of the contract, for planned computed requirements purchasers; and

c. Sections 16 and 17(b), as adjusted by other sections of the contract, for contracted computed requirements purchasers.

6. Operating Demand

The Operating Demand is that demand which is established by each DSI in accordance with section 5(b) of the DSI's power sales contract. Unless the DSI has requested, and BPA has granted, an Auxiliary Demand, the Operating Demand establishes a limit with respect to:

a. The demand which the purchaser may impose on BPA; and

b. The total amount of energy during a billing month which the DSI is entitled to purchase from BPA.

7. Curtailed Demand

A Curtailed Demand is the number of kilowatts of industrial power (Industrial Firm Power or Special Industrial Power) during the billing month which results from the DSI's request for such power in amounts less than the Operating Demand therefor. Each purchaser of industrial power may curtail its demand according to the terms of its power sales contract (which permits up to three levels of Curtailed Demand each month).

8. Restricted Demand

Restricted Demand is the number of kilowatts of industrial power (either Industrial Firm Power or Special Industrial Power) that results when BPA has restricted delivery of such power for one clock-hour or more. BPA shall make such restrictions according to the terms of the DSI's power sales contract. In a given billing month, there are as many possible levels of Restricted Demand for a DSI as there are number of restrictions.

9. Auxiliary Demand

Auxiliary Demand is the number of kilowatts of Auxiliary Power that a DSI requests and that BPA agrees to make available to serve a portion of the DSI's load during the period specified in the DSI's request. The DSI may request up to three levels of Auxiliary Demand during a billing month.

If BPA agrees to a request for Auxiliary Power but later becomes unable to supply such demand, the Restricted Demand for Auxiliary Power is deemed to be the Auxiliary Demand for such period of restriction. Auxiliary Power may be curtailed by the DSI according to the provisions of section 9(a) of the DSI's power sales contract.

BPA shall make Auxiliary Power available to Industrial Firm Power purchasers under the Industrial Firm Power rate schedule at the Standard Industrial rate. Auxiliary Power sales to DSIs electing to purchase under the Variable Industrial Power rate schedule (VI–95) shall be made at the rate determined pursuant to section III of the VI–95 rate schedule. Auxiliary Power sales to DSIs purchasing under the Special Industrial rate will be made only at the Standard Special Industrial Power rate.

10. BPA Operating Level

The BPA Operating Level is, for the purpose of these rate schedules and GRSPs, an hourly amount of industrial power (Industrial Firm Power or Special Industrial Power) for a DSI that is equal to the lowest of the following demands during that hour:

a. Operating Demand plus Auxiliary Demand, if any;

b. Curtailed Demand; or

c. Restricted Demand.

The weighted average BPA Operating Level for each DSI can be determined by summing the hourly BPA Operating Levels and dividing by the number of hours in the billing month.

Each DSI must request service from BPA for each billing month in accordance with the terms of the power sales contract. The requested level of service will be the BPA Operating Level, provided BPA does not need to restrict the DSI and provided BPA agrees to supply any requested Auxiliary Demand. Each requested level of service may include a designation for both the Peak Period and the Offpeak Period. A DSI may request and BPA may agree to a level of service for the Offpeak Periods other than that in the Peak Period. If a DSI does not separately designate a requested level of service for the Peak and Offpeak Periods, the BPA Operating Level is the basis for determining if a DSI has incurred an unauthorized increase.

Any DSI whose Measured Demand, before adjustment for power factor, during any 1 hour exceeds the BPA Operating Level for that hour shall be subject to unauthorized increase charges

VOL 60 ISS 83 MY 1 1995 UMI

for each kilowatt-hour of unauthorized increase associated with each overrun.

Only the BPA Operating Level applicable during the Peak Period will be used in determining the Billing Demand for power purchased under the Industrial Firm Power rate schedule, the Variable Industrial Power rate schedule, and the Standard rate under the Special Industrial rate schedule. During the Peak Period the BPA Operating Level may be no greater than the Operating Demand for the billing month unless the customer has requested, and BPA has agreed to supply, the Auxiliary Demand.

B. Billing Factors for Energy

1. Measured Energy

Measured Energy shall be that portion of the metered or scheduled energy that is purchased from BPA under the applicable rate schedule. For those contracts to which BPA is a party and that provide for delivery of more than one class of electric power to the purchaser at any point of delivery, the portion of each 60-minute clock-hour integrated demand assigned to any class of power shall be determined pursuant to the power sales contract. The sum of the portions of the demands so assigned shall constitute the Measured Energy for each such class of power.

The Measured Energy shall be determined from the metered energy or the scheduled energy, as hereinafter defined.

a. Metered Energy

The metered energy for a purchaser shall be the number of kilowatt-hours that are recorded on the appropriate metering equipment, adjusted as specified in the power sales contract, and delivered to a purchaser:

(1) At all points of delivery for which metered energy is the basis for determination of the Measured Energy, and

(2) During any billing period.

The metered energy shall be determined from measurements made either in the manner specified in the power sales contract or as provided in section VI.A herein.

b. Scheduled Energy

The scheduled energy in kilowatt-hours shall be the sum of the hourly demands at which electric energy is scheduled for delivery to a purchaser:

(1) For each system for which scheduled energy is the basis for determination of the Measured Energy, and

(2) During any billing period.

Scheduled amounts are deemed delivered for the purpose of determining billing energy.

2. Computed Energy Maximum

The Computed Energy Maximum equals the product of the number of hours in the billing month and the Computed Average Energy Requirement.

3. Contract Energy

The Contract Energy shall be the maximum number of kilowatt-hours that the purchaser agrees to purchase and BPA agrees to make available, subject to any limitations included in the power sales contract.

C. Billing Adjustments

1. Power Factor Adjustment

The formula for determining average power factor is as follows:

$$\text{Average Power Factor} = \frac{\text{Kilowatt - hours}}{\sqrt{(\text{Kilowatt - hours})^2 + (\text{Reactive kilovoltamperehours})^2}}$$

The data used in the above formula shall be obtained from meters that are ratcheted to prevent reverse registration. These data then shall be adjusted for losses, if applicable, before determination of the average power factor.

When deliveries to a purchaser at any point of delivery either:

a. Include more than one class of power; or

b. Are provided under more than one rate schedule and it is impracticable to meter the kilowatt-hours and reactive kilovoltamperehours for each class or rate schedule separately, the average power factor of the total deliveries for the month will be used, where applicable, as the power factor for all power delivered to such point of delivery.

To maintain acceptable operating conditions on the Federal system, BPA may, unless specifically otherwise agreed, restrict deliveries of power to a purchaser with a low power factor. Such restriction may be made to a point of delivery or to a purchaser's system at any time that the average leading power factor or average lagging power factor for all classes of power delivered to such point or to such system is below 75 percent.

2. Outage Credit

To the extent that BPA is unable to provide full service to a purchaser during the billing month as a result of interruptions in service due to reasons cited in the General Contract Provisions, BPA shall adjust the charges for those hours for billing demand for such purchaser to reflect BPA's inability to provide full service, provided such adjustment is mandated by the purchaser's power sales contract. The adjustment is provided on a point of delivery basis. To compute the adjustment for noncoincidentally billed systems, BPA shall determine the monthly demand charge(s) for the point(s) of delivery where the outage(s) occurred, multiply by the number of hours of outage, and divide by the total number of hours in the billing month. For coincidentally billed points of delivery, the adjustment shall apply only to those points of delivery at which BPA was unable to provide full service. For partial outages (such as an outage on one feeder in a substation with several feeders), BPA shall determine an equivalent interruption in order to arrive at the number of hours to be used in the calculation of the credit.

3. Low Density Discount (LDD)

a. Basic LDD Principles

A predetermined discount shall be applied each billing month to the charges for all power purchased under the Priority Firm Power rate schedule by eligible purchasers as defined in section b, below. The discount shall be calculated on an annual basis and shall become effective with the first billing period in the calendar year. Retroactive billing for the LDD may be required if the data are not available by the January billing date. The level of the discount shall be determined from the following ratios:

(1) The purchaser's total electric energy requirements during the previous calendar year (the purchaser's firm sales, nonfirm sales to firm retail loads, sales for resale, and associated losses, but excluding nonfirm sales to nonfirm retail loads, such as boiler loads served under BPA's alternate fuel policy) divided by the value of the purchaser's depreciated electric plant (excluding generation plant) at the end of such year, and

(2) The average number of consumers (annual and seasonal consumers with residential, industrial, commercial, and irrigation accounts, but excluding separately billed services for water heating, electric space heating, and security lights) during the previous calendar year divided by the number of pole miles of distribution line at the end of such year. Distribution lines are defined as those that deliver electric energy from a substation or metering point, at a voltage of 34.5 kV or less, to the point of attachment to the consumer's wiring and include primary, secondary, and service facilities.

These calculations shall be based on data provided in the purchaser's annual financial and operating report. In calculating these ratios, BPA shall use data pertaining to the purchaser's entire electric utility system within the region. Results of the calculations shall not be rounded.

Customers who have not provided BPA with all four requisite pieces of annual data (see a.(1) and a.(2) above) by June 30 of each year shall be declared ineligible for the LDD effective with the June billing period for that year. BPA shall extend a customer's eligibility from the previous year through the June billing period of the following year and shall make any necessary retroactive adjustments once the new data have been processed. If no data have been received by December 31 for the previous calendar year, BPA shall assume that the utility did not qualify for an LDD for that year. LDDs issued from January 1 to June 30 shall be assumed to have been in error, and the utility shall be billed for any such discounts issued.

Revisions to the data used to calculate the amount of the LDD may be made by the purchaser for a period of up to 2 years from the first day to which the data apply. However, such revisions shall not apply to periods when the customer was ineligible for a discount due to late data submission.

b. Eligibility Criteria

To qualify for a discount, the purchaser must meet all six of the following eligibility criteria:

(1) The purchaser must serve as an electric utility offering power for resale;

(2) The purchaser must agree to pass the benefits of the discount through to the purchaser's consumers within the region served by BPA;

(3) The purchaser's average retail rate for the reporting year must exceed the average Priority Firm Power rate in effect for the qualifying period by 10 percent. For Calendar Year (CY) 1995, the average Priority Firm Power rate shall be the average of the PF–93 Preference rate for 9 months and the PF–95 Preference rate for 3 months;

(4) The purchaser's kilowatt-hour-to-investment ratio (Ratio 3.a.(1)) must be less than 100;

(5) The purchaser's consumers-per-mile ratio (Ratio 3.a.(2)) must be less than 12; and

(6) The purchaser must qualify for a discount based on the criteria in section c, below.

c. Discounts

The purchaser shall be awarded the greatest discount for which that purchaser qualifies. The discounts and the qualifying criteria for those discounts are listed below.

(1) Three percent, for any purchaser for whom:

(a) The kilowatt-hour-to-investment ratio is equal to or greater than 25 but less than 35; or

(b) The consumers-per-mile ratio is equal to or greater than 5 but less than 7.

(2) Five percent, for any purchaser for whom:

(a) The kilowatt-hour-to-investment ratio is equal to or greater than 15 but less than 25; or

(b) The consumers-per-mile ratio is equal to or greater than 3 but less than 5.

(3) Seven percent, for any purchaser for whom:

(a) The kilowatt-hour-to-investment ratio is less than 15; or

(b) The consumers-per-mile ratio is less than 3.

4. Irrigation Discount

a. Basic Irrigation Discount Principles

A discount of 4.90 mills per kilowatt-hour shall be applied to the charges for qualifying irrigation energy purchased under the Priority Firm Power and New Resource Firm Power rate schedules, during the billing months of April through October. This discount shall be applied subsequent to calculation of the LDD, if applicable. Any energy on which the irrigation discount is claimed shall be metered separately by the Purchaser, and used exclusively for agricultural irrigation or drainage pumping.

b. Qualifying Energy Purchases

The qualifying irrigation energy shall be determined as follows:

(1) All irrigation energy must be used exclusively for the purpose of irrigation and drainage pumping on agricultural land and be measured at the end-use irrigation customer's meter. The discount shall apply to the measured energy sales at the end-use.

(2) Energy subject to the discount must be purchased during the billing months of April through October.

(3) Purchasers of exchange energy under the Residential Purchase and Sale Agreement (RPSA) are eligible for the irrigation discount for the portion of their irrigation sales qualifying for the exchange under the RPSA contracts. However, if the purchaser also purchases energy from BPA for general requirements, and receives an irrigation discount on those purchases, a second irrigation discount will not be applied to that energy through the RPSA exchange. Therefore, the irrigation discount will not be applied to any portion of the purchaser's irrigation sales qualifying for the RPSA exchange that receives the discount as a general requirements purchase.

(4) General requirements customers are eligible for an irrigation discount for a portion of their irrigation sales equal to the share of their total sales served by BPA firm purchases (i.e., total irrigation and drainage pumping sales multiplied by BPA billing energy for Priority Firm or New Resources firm purchases divided by the total firm utility system requirements for the billing month).

c. Initial Reporting Requirements

Requests for the Irrigation Discount must include the following information:

(1) To receive an irrigation discount, a purchaser must file a request for the discount with its local BPA regional office by April 1 each year.

(2) In the request, the purchaser must certify that the irrigation energy is sold exclusively for use in irrigation and drainage pumping on agricultural land and that the discount is passed, in its entirety, to the irrigation consumer, regardless of whether the utility has raised its rates. BPA retains the right to verify, in a manner satisfactory to the Administrator, that the discounted energy is used for the sole benefit of the purchaser's irrigation load.

d. Annual Reporting Requirements

Purchasers shall submit an annual irrigation report to their local BPA regional office in order to receive the irrigation discount. Purchasers are required to report information related to monthly irrigation energy sales. If a utility does not read its irrigation meters monthly, the utility must estimate its monthly irrigation sales. These estimates shall be reviewed by BPA regional offices. Purchasers must read their meters within 3 working days of the beginning and ending of the irrigation discount period (April-October). In order to qualify for the discount, the purchaser must submit all

VOL 60 ISS 83 MY 1 1995 UMI

data to BPA by December 31 of the calendar year in which the sales occurred. Irrigation reports to BPA shall include the following monthly information for the reporting period:

(1) Utility name and period for which the report is being made;

(2) Total irrigation sales and total qualifying irrigation energy sales (in kilowatt-hours) by month;

(3) Total qualifying irrigation sales (in kilowatt-hours) by month under 400 horsepower, for exchanging utilities;

(4) Total utility firm system requirements for other than full requirement customers by month (in kilowatt-hours);

(5) Total energy purchased from BPA under the Priority Firm or New Resource rate by month in kilowatt-hours; and

(6) The Purchaser shall list each irrigation and drainage account number in its annual report and whether each irrigation consumer is billed monthly, bimonthly, or seasonally. If the Purchaser is an exchanging utility, the Purchaser shall also identify the size (in horsepower) of the connected load for each active account. A utility may submit monthly reports, if it chooses. In that case, the active list of accounts should be included in the last monthly report submitted.

5. Coincidental Billing

Purchasers of Priority Firm Power and New Resource Firm Power shall be billed on a noncoincidental demand basis for power purchased at each point of delivery under the applicable rate schedule(s) unless the power sales contract specifically provides for coincidental demand billing among particular points of delivery. For the purpose of these rate schedules and GRSPs, the purchaser's noncoincidental demand is the sum of the highest hourly peak demands during the billing month for each of the purchaser's points of delivery. The purchaser's coincidental demand is the highest demand for the billing month calculated by summing, for each hour of every day, the purchaser's demands for power purchased under the applicable rate schedule at all coincidentally billed points of delivery. See Special Provisions Exhibits of the Power Sales Contract, GCP E 17.

6. Conservation Surcharge

The Conservation Surcharge shall be applied monthly and shall equal 10 percent of the customer's total monthly charge for all power purchased under each rate schedule subject to the surcharge. The PF and NR rate schedules are subject to the Conservation Surcharge. If only a portion of the customer's service area is subject to the surcharge, then the amount of the surcharge shall equal 10 percent of the total charge for all power purchases multiplied by: (a) The portion of the customer's total retail load that is subject to the surcharge, divided by (b) the customer's total retail load.

D. Billing-Related Definitions

1. Peak Period

The Peak Period includes the hours from 7 a.m. through 10 p.m. on any day Monday through Saturday inclusive. There are no exceptions to this definition; that is, it does not matter whether the day is a normal working day or a holiday. Any charges based on Peak Period hours shall be computed starting with the 8 a.m. meter reading since this reading applies to the 7 o'clock hour (7 a.m. to 8 a.m.). The 10 p.m. meter reading (for the 9 p.m. to 10 p.m. period) is the last meter reading of the day applicable to the Peak Period.

2. Offpeak Period

The Offpeak Period includes all hours which do not occur during the Peak Period. Thus, the Offpeak Period consists of the hours from 10 p.m. to 7 a.m., Monday through Saturday and all hours on Sunday.

Section IV. Other Definitions

A. Computed Requirements Purchasers

1. Designation as a Computed Requirements Purchaser

A purchaser shall be designated as a computed requirements purchaser if it is so designated pursuant to the provisions of its power sales contract.

When a purchaser operates two or more separate systems, only those systems designated by BPA will be covered by this section.

2. Purpose of the Computed Requirements Designation

Use of the computed requirements designation is intended to assure that each purchaser who purchases power from BPA to supplement its own firm resources will purchase amounts of firm capacity and firm energy substantially equal to that which the purchaser would otherwise have to provide on the basis of normal and prudent operations.

The amount of capacity and energy required for normal and prudent operations shall be determined pursuant to the purchaser's power sales contract.

B. Definitions Relating to Nonfirm Energy Decremental Cost

Unless otherwise specified in a contractual arrangement, decremental cost as applied to Nonfirm Energy transactions shall be defined as:

1. All identifiable costs (expressed in mills per kilowatt-hour) associated with the use of a displaceable thermal resource or end-user load with alternate fuel source to serve a purchaser's load that the purchaser is able to avoid by purchasing power from BPA, rather than generating the power itself or using an alternate fuel source; or

2. All identifiable costs (expressed in mills per kilowatt-hour) to serve the load of a displaceable purchase of energy that the purchaser is able to avoid by choosing not to make the alternate energy purchase.

All identifiable costs as used in the above definition may be reduced to reflect costs of purchasing BPA energy such as transmission costs, losses, or loopflow constraints that are agreed to by BPA and the purchaser.

C. NF Rate Cap

1. Application of the NF Rate Cap

The NF Rate Cap defines the maximum nonfirm energy price for general application. At no time shall the total price for nonfirm energy, including any applicable service charges or rate adjustment, sold under any applicable rate schedule exceed the NF Rate Cap. The level of the NF Rate Cap is based on a formula tied to BPA's system cost and California fuel costs. The NF Rate Cap applies to all sales of nonfirm energy under any applicable rate schedule for a 12-year period beginning October 1, 1987.

2. Monthly Notification of the NF Rate Cap

Prior to the beginning of a calendar month BPA shall perform the calculations contained in section IV.C.3 of these GRSPs to determine the effective NF Rate Cap for that calendar month. BPA is obligated to provide advance notification of the NF Rate Cap level to purchasers of nonfirm energy. BPA may waive this requirement only if BPA does not intend to offer Nonfirm Energy at prices above BPA's Average System Cost (BASC) at any time during a month. The notification will be given at least 10 calendar days prior to the first day of any calendar month in which the NF Rate Cap applies. BPA shall also maintain, on file for public review, a record of the NF Rate Cap by month throughout the period the cap is in effect.

3. NF Rate Cap Formula

The NF Rate Cap shall be equal to the greater of the following:

a. BASC; or

b. BASC + .30(DEC − BASC)

Where:

BASC=BPA's average system cost, determined by dividing BPA's total system costs by BPA's total system sales. For this rate period BASC has been determined to be 29.41 mills per kilowatt-hour.

DEC=The Decremental Fuel Cost as determined in accordance with section IV.C.5 of these GRSPs.

4. Determination of BASC

For purposes of determining BASC, the following definition shall apply:

a. BPA's total system costs shall be the sum of all BPA's costs forecasted in each general rate case for the applicable rate period, including total transmission costs, Federal base system costs, new resource costs, exchange resource costs, and other costs not specifically allocated to a rate pool, such as section 7(g) costs.

b. BPA's total annual system sales shall be the sum of all BPA's system firm and nonfirm sales forecasted each general rate case for the applicable test period. BASC shall be redetermined in each subsequent general rate case according to the above formula and will be in effect for the entire rate period over which the rates are in effect.

5. Determination of Decremental Fuel Cost

The Decremental Fuel Cost shall be determined monthly by BPA. For purposes of calculating the NF Rate Cap, a weighted average of gas and petroleum prices for California will be used for approximating decremental fuel costs. The monthly decremental fuel cost shall be:

a. the sum of:

(1) The average California price for gas determined by multiplying the monthly gas use (WGU) developed pursuant to section IV.C.8.a times the monthly California gas price (MGP) determined pursuant to section IV.C.6 rounded to the nearest tenth of a mill; and

(2) The average California price for petroleum determined by multiplying the monthly petroleum use (WOU) developed pursuant to section IV.C.8.b times the monthly California petroleum price (MOP) determined pursuant to section IV.C.7 rounded to the nearest tenth of a mill.

b. Divided by the sum of the WGU and WOU developed in sections IV.C.8.a and b, respectively, rounded to the nearest tenth of a mill.

6. California Gas Price

The MGP for purposes of calculating the decremental cost component of the rate cap shall be based on the following formula:

$$MGP = \frac{AGP * HGP}{10}$$

Where:

AGP=the average gas price for California electric utility plants expressed in cents per million Btu as reported in the most recent monthly issue of *Electric Power Monthly* (EPM) published by the Energy Information Administration (EIA), U.S. Department of Energy. Prices shall be rounded to the nearest one-tenth of a cent.

HGP=the historical relationship between gas prices in the effective month of the NF Rate Cap (month t) and the month in which the gas prices are reported in EPM (month r) using the following procedures:

a. Summing all California gas prices, expressed in the nearest one-tenth of a cent per million Btu, reported in EPM for month t for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of the historical monthly California gas prices shall be divided by the number of years for which MGPs were reported and rounded to the nearest one-tenth of a cent;

b. Summing all California gas prices, expressed in the nearest one-tenth of a cent per million Btu, reported in EPM for month r for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of the historical monthly California gas prices shall be divided by the number of years for which MGPs were reported and rounded to the nearest one-tenth of a cent; and

c. Dividing the average monthly California gas price in a. above, by the average monthly California gas price in b. above, and rounding to the nearest one-tenth, or three significant places.

10=the factor for converting gas prices stated in cents per million Btu to mills per kWh. The factor assumes a heat rate of 10,000 Btu per kilowatt-hour.

7. California Petroleum Price

The MOP for purposes of calculating the decremental cost component of the rate cap shall based on the following formula:

$$MOP = \frac{AOP * HOP}{10}$$

Where:

AOP=the last available average oil price for California electric utility plants expressed in cents per million Btu reported in EPM published by the EIA, U.S. Department of Energy. Prices shall be rounded to the nearest one-tenth of a cent.

HOP=the historical relationship between petroleum prices in the effective month of the NF Rate Cap (month t) and the last month in which the petroleum prices are reported in EPM (month r) using the following procedures:

a. Summing all California petroleum prices, expressed in the nearest one-tenth of a cent per million Btu, reported in EPM for month t for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of the historical monthly California petroleum prices shall be divided by the number of years for which monthly petroleum prices were reported and rounded to the nearest one-tenth of a cent;

b. Summing all California petroleum prices, expressed in the nearest one-tenth of a cent per million Btu, reported in EPM for month r for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of the historical monthly California petroleum prices shall be divided by the number of years for which monthly petroleum prices were reported and rounded to the nearest one-tenth of a cent; and

c. Dividing the average monthly California petroleum price in a. above, by the average monthly California petroleum price in b. above, and rounding to the nearest one-tenth of a percent, or three significant places.

10=the factor for converting petroleum prices stated in cents per million Btu to mills per kWh. The factor assumes a heat rate of 10,000 Btu per kilowatt-hour.

8. Weighting Factors

For purposes of determining California fuel prices for the month, gas and petroleum prices will be weighted based on California's historical use of these two alternative fuels.

a. Historical Gas Use in California. The following formula shall be used to determine the weighting factor for gas prices (WGU):

WGU=CGU*HGU

Where:

CGU=the monthly net gas-fired generation, expressed in gigawatthours, for California in the most recent monthly issue of EPM published by the EIA, U.S. Department of Energy.

HGU=the historical relationship between gas consumptions in the

VOL
60
ISS
83
MY
1
1995
UMI

effective month of the NF Rate Cap (month t) and the month for which gas consumption is reported in EPM (month r) using the following procedures:

(1) Summing the reported net-gas fired generation for California, expressed in gigawatthours, from EPM for month t for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of California's historical monthly consumption shall be divided by the number of years for which gas consumption was reported and rounded to the nearest gigawatthour;

(2) Summing the reported net gas-fired generation for California, expressed in gigawatthours, from EPM for month r for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of California's historical monthly consumption shall be divided by the number of years for which gas consumption was reported and rounded to the nearest gigawatthour; and

(3) Dividing the average consumption of gas in California for the month t as determined in (1) above by the average consumption of gas for the month r as determined in (2) above and rounding to the nearest one-tenth, or three significant places.

b. Historical Petroleum Use in California. The following formula shall be used to determine the weighting factor for petroleum prices (WOU):

WOU=COU*HOU

Where:

COU=the monthly net petroleum-fired generation, expressed in gigawatthours, in California in the most recent monthly issue of EPM published by the EIA, U.S. Department of Energy.

HOU=the historical relationship between petroleum consumptions in the effective month of the NF Rate Cap (month t) and the month for which petroleum consumption is reported in EPM (month r) using the following procedures:

(1) Summing the reported net-petroleum generation for California, expressed in gigawatthours, from EPM for month t for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of California's historical monthly consumption shall be divided by the number of years for which petroleum consumption was reported and rounded to the nearest gigawatthour;

(2) Summing the reported net-petroleum generation for California, expressed in gigawatthours, from EPM for month r for the years beginning with calendar year 1982 up to and including the prior calendar year. The sum of California's historical monthly consumption shall be divided by the number of years for which petroleum consumption was reported and rounded to the nearest gigawatthour; and

(3) Dividing the average consumption of petroleum in California for the month t as determined in (1) above by the average consumption of petroleum for the month r or as determined in (2) above and rounding to the nearest one-tenth, or three significant places.

D. Determination of BPA's Average System Cost

For purposes of determining BASC, the following definitions shall apply:

1. BPA's total system costs shall be the sum of all BPA's costs forecasted in each general rate case for the applicable rate period, including total transmission costs, Federal base system costs, new resource costs, exchange resource costs, and other costs not specifically allocated to a rate pool, such as section 7(g) costs.

2. BPA's total annual system sales shall be the sum of all BPA's system firm and nonfirm sales forecasted in each general rate case for the applicable test period.

BASC shall be redetermined in each subsequent general rate case according to the above formula and will be in effect for the entire rate period over which the rates are in effect.

Section V. Application of Rates Under Special Circumstances

A. Energy Supplied for Emergency Use

A purchaser taking Priority Firm or New Resource Firm Power shall pay in accordance with the Nonfirm Energy rate schedule, NF–95, and Emergency Capacity rate schedule, CE–95, for any electric energy or capacity which has been supplied:

1. For use during an emergency on the purchaser's system, or

2. Following an emergency to replace energy secured from sources other than BPA during such emergency.

Mutual emergency assistance may, however, be provided and payment therefore settled under exchange agreements.

B. Construction, Test and Start-Up, and Station Service

Power for the purpose of construction, test and start-up, and station service shall be made available to eligible purchasers under the Priority Firm and New Resource Firm Power Rate Schedules. Such power must be used in the manner specified below:

1. Power sold for construction is to be used in the construction of the project.

2. Power sold for test and start-up may be used prior to commercial operation both to bring the project on line and to ensure that the project is working properly.

3. Power sold for station service may be purchased at any time following commercial operation of the project. Station service power may be used for project start-up, project shut-down, normal plant operations, and operations during a plant shut-down period.

C. Application of Rates During Initial Operation Period—Transitional Service

1. Eligibility for Transitional Service

For an initial operating period, as specified in the power sales contract, beginning with the commencement of operation of a new industrial plant, a major addition to an existing plant, or reactivation of an existing plant or important part thereof, BPA may agree to bill the purchaser in accordance with the provisions of this section. This section shall apply to both:

a. DSIs having new, additional or reactivated plant facilities, and

b. Utility purchasers serving industrial purchasers with power purchased from BPA. BPA will provide transitional service to utilities for only those industrial loads for which the demand can be separately metered by the utility and recorded on a daily basis.

2. Calculation of the Daily Demand

If the purchaser requests billing on a Daily Demand basis pursuant to its power sales contract and if BPA agrees to such billing, the billing demand for the billing month shall be the average of the Daily Demands as adjusted for power factor.

Demand for each day shall be defined as 100 percent of the Measured Demand for the day (regardless of whether such Measured Demand occurs during the Peak Period or the Offpeak Period).

3. Billing for Transitional Service

Utilities receiving transitional service shall provide BPA with Daily Demand information for the industrial consumer for whom transitional service is provided. To compute the power bill for the point of delivery which includes the load being served with transitional service, BPA shall, at its discretion, either:

a. Determine the demand for the pertinent point of delivery without the industrial load and then add the average daily demand for such industrial load; or

b. Bill the entire point of delivery on a daily demand basis.

Daily demand billing shall not affect the level of any curtailment charge or energy charge assessed by BPA.

D. Changes in a DSI's BPA Operating Level

If a DSI requests a waiver regarding the notice requirements specified in the DSI's power sales contract for a voluntary change in its BPA Operating Level, and if BPA does not grant the waiver, or if the DSI fails to give notice of such a change and does not request a waiver, the DSI shall be billed as if no notice has been provided until such time as the number of days in the notice period have passed. If, however, BPA agrees to waive the notice requirement, the power bill shall reflect the requested changes as of the requested effective date specified in the notice or, at BPA's discretion, a date of BPA's choosing within the notice period.

E. Restriction of Deliveries

Deliveries of capacity or energy to any purchaser may be restricted when operation of the facilities used by BPA to serve such purchaser is:

1. Suspended,
2. Interrupted,
3. Interfered with,
4. Curtailed, or
5. Restricted by the occurrence of any condition described in the Uncontrollable Forces or Continuity of Service sections of the General Contract Provisions of the power sales contract.

Section VI. Billing Information

A. Determination of Estimated Billing Data

If the amounts of capacity, energy, or the 60-minute integrated demands for energy purchased from BPA must be estimated from data other than metered or scheduled quantities, historical patterns, and pertinent weather data, BPA and the purchaser will agree on billing data to be used in preparing the bill. If the parties cannot agree on estimated billing quantities, derived by any method, a determination binding on both parties shall be made in accordance with the arbitration provisions of the power sales contract.

B. Load Shift and Outage Reports

Load shift and outage reports must be submitted to BPA within 4 days of the corresponding load shift or outage. Reports may be made by telephone, mail, or other electronic processes where available. If customer reports are not received in a timely manner, BPA has the option to withhold load shift or outage credit.

C. Billing for New Large Single Loads

Any BPA customer whose actual firm load includes one or more New Large Single Loads (NLSL) shall be billed for the NLSL(s) at the New Resource Firm Power Rate. The power requirements associated with the NLSL shall be established in a manner consistent with the provisions of this section.

The purchaser shall warrant to BPA that NLSLs are separately metered. The metering must include provisions for determining:

1. The NLSL demand during BPA's diurnal capacity billing periods,
2. The NLSL energy during BPA's energy billing periods, and
3. The NLSL reactive energy for the billing month.

The design for the metering equipment for the NLSL must be approved by BPA. Testing and inspections of such metering installations shall be as provided in the General Contract Provisions.

On a monthly basis, each purchaser of New Resource Firm Power shall report to BPA the quantity of power used by the NLSL during the *purchaser's* billing period. Data provided to BPA by the purchaser must be submitted to BPA within 2 normal working days of the date the purchaser reads the meters. BPA may elect to adjust the NLSL data for losses from the point of metering to the closest BPA point of delivery for the purchaser.

D. Determination of Measured Demand

1. For points of delivery with fully operational metering under the Revenue Metering System (RMS), demand shall be measured from 0000 hours on the first day of the billing period through 2400 hours on the last day of the billing period.

2. For points of delivery that do not have RMS metering, demand shall be measured from 0000 hours on the first complete (24 hour) day of the available metering data through 2400 hours on the last complete day of the available metering data. Billing demand will be determined from the period of available metering data that most closely matches the official billing period of the customer.

E. Determination of Measured Energy

1. For points of delivery with fully operational metering under RMS, energy shall be measured from 0000 hours on the first day of the billing period through 2400 hours on the last day of the billing period.

2. For points of delivery that do not have RMS metering, measured energy shall be the quantity of usage recorded on the meter between meter readings.

F. Billing Month

Meters normally will be read and bills computed at intervals of 1 month. A month is defined as the interval between scheduled meter-reading dates. The billing month will not exceed 31 days in any case. While it may be necessary to read meters on a day other than the scheduled meter-reading date, for determination of billing demand, the billing month will cease at 2400 hours on the last scheduled meter-reading date. Schedules will be predetermined. The customer must give 30 days notice to request a change to the schedule.

G. Payment of Bills

Bills for power shall be rendered monthly by BPA. Failure to receive a bill shall not release the purchaser from liability for payment. Bills for amounts due BPA of $50,000 or more must be paid by direct wire transfer; customers who expect that their average monthly bill will not exceed $50,000 and who expect special difficulties in meeting this requirement may request, and BPA may approve, an exemption from this requirement. Bills for amounts due BPA under $50,000 may be paid by direct wire transfer or mailed to the Bonneville Power Administration, P.O. Box 6040, Portland, Oregon 97228–6040, or to another location as directed by BPA. The procedures to be followed in making direct wire transfers will be provided by Financial Services and updated as necessary.

1. Computation of Bills

Demand and energy billings for power purchased under each rate schedule shall be rounded to whole dollar amounts, by eliminating any amount which is less than 50 cents and increasing any amount from 50 cents through 99 cents to the next higher dollar.

2. Estimated Bills

At its option, BPA may elect to render an estimated bill for that month to be followed at a subsequent billing date by a final bill. Such estimated bill shall have the validity of and be subject to the same payment provisions as a final bill.

3. Due Date

Bills shall be due by close of business on the 20th day after the date of the bill (due date). This requirement holds also for revised bills (see section 6 below). Should the 20th day be a Saturday, Sunday, or holiday (as celebrated by the purchaser), the due date shall be the next following business day.

VOL 60 ISS 83 MY 1 1995 UMI

4. Late Payment

Bills not paid in full on or before close of business on the due date shall be subject to a penalty charge of $25. In addition, an interest charge of one-twentieth percent (0.05 percent) shall be applied each day to the sum of the unpaid amount and the penalty charge. This interest charge shall be assessed on a daily basis until such time as the unpaid amount and penalty charge are paid in full.

Remittances received by mail will be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the due date. Whenever a power bill or a portion thereof remains unpaid subsequent to the due date and after giving 30 days' advance notice in writing, BPA may cancel the contract for service to the purchaser. However, such cancellation shall not affect the purchaser's liability for any charges accrued prior thereto under such contract.

5. Disputed Billings

In the event of a disputed billing, full payment shall be rendered to BPA and the disputed amount noted. Disputed amounts are subject to the late payment provisions specified above. BPA shall separately account for the disputed amount. If it is determined that the purchaser is entitled to the disputed amount, BPA shall refund the disputed amount with interest, as determined by BPA's financial services group.

BPA retains the right to verify, in a manner satisfactory to the Administrator, all data submitted to BPA for use in the calculation of BPA's rates and corresponding rate adjustments. BPA also retains the right to deny eligibility for any BPA rate or corresponding rate adjustment until all submitted data have been accepted by BPA as complete, accurate, and appropriate for the rate or adjustment under consideration.

6. Revised Bills

As necessary, BPA may render a revised bill.

a. If the amount of the revised bill is less than or equal to the amount of the original bill, the revised bill shall replace all previous bills issued by BPA that pertain to the specified customer for the specified billing period and the revised bill shall have the same date as the replaced bill.

b. If a revision causes an additional amount to be due BPA or the *specified customer* beyond the amount of the original bill, a revised bill will be issued for the difference and the date of the revised bill shall be its date of issue.

Section VII. Variable Industrial Rate Parameters and Adjustments

A. Monthly Average Aluminum Price Determination

1. Calculation of the Monthly Billing Aluminum Price

The monthly billing aluminum price shall be determined by BPA for each billing month. For purposes of this rate schedule, the monthly billing aluminum price shall be based on the average price of aluminum in U.S. markets during the third calendar month prior to the billing month. The average price of aluminum in U.S. markets shall be defined as the average U.S. Transaction Price reported for the month by "*Metals Week*," in cents per pound, rounded to the nearest tenth of a cent.

2. Notification of the Monthly Average Aluminum Price

BPA shall provide, 45 days prior to the billing month, written notification to purchasers under this rate schedule of the monthly billing aluminum price to be used for billing purposes. Upon written request supporting documentation shall be provided.

3. Changes in Aluminum Price Indicators

In the event that BPA determines that factors outside its control render the monthly average U.S. Transaction Price unusable as an approximation of U.S. market prices, BPA may develop and substitute another indicator for prices in U.S. markets. BPA shall notify interested parties of its intent to do so at least 120 days prior to the billing month in which the change would become effective. In this notification, BPA shall explain the reason for the substitution and specify the replacement indicator it intends to use. BPA also shall describe the methodology to determine the monthly billing aluminum price to be used for billing purposes under this rate schedule and shall provide the necessary data to be used in the calculation. Interested persons will have until close of business 3 weeks from the date of the notification to provide comments. Consideration of comments and more current information may cause the final methodology and the substitute aluminum price index to differ from those proposed. BPA shall notify all affected parties, and those parties that submitted comments, of its final determination 90 days prior to the billing month the new indicator shall be effective.

B. Annual Adjustments to the Lower and Upper Pivot Aluminum Prices

On July 1, 1991, and every July 1, thereafter, the Lower and Upper Pivot Aluminum Prices, as stated in section III.B of the rate schedule, shall be subject to change for billing purposes as herein described. The term "annual adjustment date" shall refer to July 1 of each year.

1. Implementation Procedures

Beginning in 1991 and every year thereafter, prior to April 1 of that year, BPA shall provide the purchasers under this rate schedule preliminary written estimates of proposed adjustments to the Lower and Upper Pivot Aluminum Prices. By the last working day of the month of April, BPA shall notify interested parties in writing of BPA's revised determinations concerning changes to the Lower and Upper Pivot Aluminum Prices. BPA shall describe how the adjustments were determined and provide the data used in the calculations. In addition to written notification, BPA may, but is not obligated to, hold a public comment forum to clarify its determination and solicit comments. Interested persons may submit comments on the determinations to BPA and other parties. Comments will be accepted until close of business on the last working Friday in May. Consideration of comments and more current information may result in the final adjustment differing from the proposed adjustment. By June 30 of each year, BPA shall notify all VI purchasers, those parties that submitted comments, and parties that requested notification, of the final determination.

2. Annual Adjustment Procedures

a. Annual Adjustment of the Lower Pivot Aluminum Price

Beginning with the July 1, 1991, annual adjustment date, for each year that the Variable Industrial rate is in effect, the Lower Pivot Aluminum Price as stated in section III.B.1 of the rate schedule shall be adjusted on the July 1 annual adjustment date. The Lower Pivot Aluminum Price shall be revised by multiplying 59 cents per pound by the Cost Escalation Index described in section VII.B.3.b of these GRSPs and rounded to the nearest tenth of a cent. The revised Lower Pivot Aluminum Price shall replace the Lower Pivot Aluminum Price as stated in section III.B.1 of the rate schedule and shall be used to determine the energy rate in the subsequent 12 billing months.

b. Annual Adjustment of the Upper Pivot Aluminum Price

For each year that the Variable Industrial rate is in effect, the Upper Pivot Aluminum Price as stated in section III.B.2 of the rate schedule shall be adjusted on the July 1 annual adjustment date. The Upper Pivot Aluminum Price will be adjusted such that the Average Historical Aluminum Price described in section VII.B.4 of these GRSPs is the midpoint between the adjusted Upper Pivot Aluminum Price and the Average Historical Lower Pivot Aluminum Price described in section VII.B.5 below, except as limited to the greater of 65 cents per pound or the adjusted Lower Pivot Point for the year.

The Upper Pivot Aluminum Price shall equal the greater of:

(1) (2)*(AAP)–ALP:

where

AAP=the Average Historical Aluminum Price described in section VII.B.4 of these GRSPs.

ALP=the Average Historical Lower Pivot Aluminum Price described in section VII.B.5 of these GRSPs.

(2) 65.0 cents per pound escalated to current dollars using the Cost Escalator for the Upper Pivot Aluminum Price described in section VII.B.3.c of these GRSPs.

or

(3) The adjusted Lower Pivot Aluminum Price for the year.

The revised Upper Pivot Aluminum Price shall supersede the Upper Pivot Aluminum Price as stated in section III.B.2 of the rate schedule and shall be used to determine the energy rate in the subsequent 12 months.

3. Cost Escalators

a. The cost indices described below shall be used in calculating the appropriate cost escalators. Each index shall be rounded to the nearest one-tenth of a percent, or three significant places.

(1) Electricity Cost Index

The average VI rate in mills per kilowatt-hour based on the Plateau Energy Charge and the Discount for Quality of First Quartile Service in effect on the April 1 preceding the annual adjustment date and a load factor of 98.5 percent; divided by 22.8 mills per kilowatt-hour (the average VI–86 rate assuming the plateau energy charge and the Discount for Quality of First Quartile Service in 1986).

(2) Labor Cost Index

The annual average hourly earnings for the U.S. primary aluminum industry (SIC 3334) over the previous complete calendar year, from the Employment and Earnings, published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS), divided by $14.20 per hour (the value of SIC 3334 earnings reported for 1985).

(3) Alumina Cost Index

The annual average of the monthly billing aluminum prices described in section VII.A of the GRSPs for the previous 1-year period beginning July 1 through June 30 divided by 50.8 cents per pound (the average U.S. Transaction price over the period April 1985 through March 1986).

(4) Other Costs Index

The annual average GNP Implicit Price Deflator for the previous complete calendar year, as published by the U.S. Department of Commerce, Bureau of Economic Analysis, divided by 0.944 (the value of the GNP Implicit Price Deflator for 1985 with 1987=1.000).

In the event the indices delineated above are discontinued or revised in a manner that BPA determines renders them unusable for calculating a consistent cost index, BPA will adjust or substitute another similar price index, following advance notification and opportunity for public comment as described in section VII.B.1 of these GRSPs.

b. The Cost Escalator for the Lower Pivot Aluminum Price shall be a weighted average of the four indices contained in section VII.B.3.a above. The following weights shall be assigned each index:

Electricity Cost Index .30
Labor Cost Index .20
Alumina Cost Index .20
Other Costs Index .30

c. The Cost Escalator for the Upper Pivot Aluminum Price shall be a weighted average of the Electricity Cost and Other Cost Escalators as stated in sections VII.B.3.a.(1) and VII.B.3.a.(4) above. The following weights shall be assigned each index:

Electricity Cost Index .25
Other Costs Index .75

4. Average Historical Aluminum Price

Prior to the July 1, 1991, annual adjustment date and every annual adjustment date thereafter, an average historical aluminum price shall be calculated for the period the VI rate has been in effect beginning August 1986. The average historical aluminum price shall be determined following the procedures set forth below:

a. Each monthly billing aluminum price determined pursuant to section VII.A of these GRSPs for the period August 1, 1986, through June 30 immediately preceding the annual adjustment date, shall be escalated to the current year dollars using the Price Deflator procedures described in section VII.B.6 below.

b. The sum of the escalated monthly billing aluminum prices shall be divided by the number of months in the period and rounded to the nearest tenth of a cent to obtain the Average Historical Aluminum Price.

5. Average Historical Lower Pivot Aluminum Price

Prior to the July 1, 1991, annual adjustment date and every annual adjustment date thereafter, the average of the Lower Pivot Aluminum Prices for the period the VI rate has been in effect beginning August 1986, shall be calculated following the procedures set forth below:

a. The Lower Pivot Aluminum Price in each month for the period August 1, 1986, through June 30 of the calendar year preceding the annual adjustment date, shall be escalated to the current year's dollars using the Price Deflator procedures described in section VII.B.6 below.

b. The sum of the escalated monthly Lower Pivot Aluminum Prices shall be divided by the number of months in the period, and rounded to the nearest tenth of a cent to obtain an Average Historical Lower Pivot Aluminum Price.

6. Price Deflator Procedures

For purposes of converting nominal dollars to real dollars in the calculation of the Average Historical Aluminum Price and the Average Historical Lower Pivot Aluminum Price, the following Price Deflator procedures shall be used:

a. Monthly billing aluminum prices and Lower Pivot Aluminum Prices for any calendar months July through December shall be inflated by multiplying the price by the ratio of the GNP Implicit Price Deflator for the calendar year prior to the annual adjustment date divided by the Implicit Price Deflator for the calendar year in which the price occurred.

b. Monthly billing aluminum prices and Lower Pivot Aluminum Prices for any calendar months January through June shall be inflated by multiplying the price by the ratio of the Implicit Price Deflator for the calendar year prior to the annual adjustment date divided by the Implicit Price Deflator for the calendar year prior to the year in which the price occurred. Each price shall be rounded to the nearest tenth of a cent.

VOL 60 ISS 83 MY 1 1995 UMI

V. Transmission Rate Schedules And General Transmission Rate Schedule Provisions (GTRSPs)

Table Of Contents

Summary of Rate Schedules

Transmission Rate Schedules

FPT–95.1 Formula Power Transmission
FPT–95.3 Formula Power Transmission
IR–95 Integration of Resources
IS–95 Southern Intertie Transmission
IN–95 Northern Intertie Transmission
IE–95 Eastern Intertie Transmission
ET–95 Energy Transmission
MT–95 Market Transmission
UFT–95 Use-of-Facilities Transmission
TGT–95 Townsend-Garrison Transmission
AC–95 Southern Intertie Annual Costs Rate and Billing Provisions

General Transmission Rate Schedule Provisions

Section I Adoption of Revised Transmission Rate Schedules and General Transmission Rate Schedule Provisions
Section II Billing Factor Definitions and Billing Adjustments
Section III Other Definitions
Section IV Billing Information

A. Summary of Rate Schedules

BPA is proposing to surcharge by 4 percent the following transmission rate schedules: Formula Power Transmission; Integration of Resources; Southern Intertie Transmission; Northern Intertie Transmission; Eastern Intertie Transmission; and Energy Transmission. Pursuant to the Settlement Agreement, BPA proposes to increase the components of the FPT 95.3 rate by 4 percent for the October 1, 1995–September 30, 1996 period. The increase to this rate for the 1-year period, however, does not preclude BPA from increasing the 3-year FPT rate, as necessary, in its 1996 rate case. BPA also is proposing extension of the Market Transmission (MT) rate, Use of Facilities (UFT) rate, and Townsend-Garrison Transmission (TGT) rate with no changes. The MT rate was developed for use among Western Systems Power Pool (WSPP) participants to allow for flexible hourly, daily, weekly, and monthly charges. The UFT and TGT rate schedules are formula rates. The UFT rate recovers the annual cost of identified facilities over which specific wheeling transactions occur. The TGT rate is a contract rate that recovers the cost of the Montana (Eastern) Intertie.

In addition, BPA is proposing the Southern Intertie Annual Costs (AC–95) rate to be applied to owners of Pacific Northwest (PNW) Alternating Current (AC) Intertie capacity. This rate recovers the capacity owner's pro-rata share of actual PNW AC Intertie costs: operations, maintenance, general plant, and other identified expenses, as well as capital costs of replacements and reinforcements. The proposed AC–95 rate takes the place of the AC–93 rate, which was a "bridge" rate until Capacity Ownership contracts were complete. Copies of the Ownership Agreement are available for examination at BPA's Public Information Center at the address listed at the beginning of this notice.

B. Transmission Rate Schedules

Schedule FPT–95.1

Formula Power Transmission

Section I. Availability

This schedule supersedes schedule FPT–93.1 for all firm transmission agreements which provide that rates may be adjusted not more frequently than once a year. It is available for firm transmission of electric power and energy using the Main Grid and/or Secondary System of the Federal Columbia River Transmission System (FCRTS). This schedule is for full-year and partial-year service and for either continuous or intermittent service when firm availability of service is required. For facilities at voltages lower than the Secondary System, a different rate schedule may be specified. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions (GTRSPs).

Section II. Rate

A. Full-Year Service

The monthly charge per kilowatt of billing demand shall be one-twelfth of the sum of the Main Grid Charge and the Secondary System Charge, as applicable and as specified in the Agreement.

1. Main Grid Charge

The Main Grid Charge per kilowatt of billing demand shall be the sum of one or more of the following component factors as specified in the Agreement:

a. Main Grid Distance Factor: The amount computed by multiplying the Main Grid Distance by $0.0386 per mile
b. Main Grid Interconnection Terminal Factor: $0.28
c. Main Grid Terminal Factor: $0.46
d. Main Grid Miscellaneous Facilities Factor: $1.96

2. Secondary System Charge

The Secondary System Charge per kilowatt of billing demand shall be the sum of one or more of the following component factors as specified in the Agreement:

a. Secondary System Distance Factor: The amount determined by multiplying the Secondary System Distance by $0.2895 per mile
b. Secondary System Transformation Factor: $4.26
c. Secondary System Intermediate Terminal Factor: $1.34
d. Secondary System Interconnection Terminal Factor: $0.71

B. Partial-Year Service

The monthly charge per kilowatt of billing demand shall be as specified in Section II.A. for all months of the year except for agreements with terms 5 years or less and which specify service for fewer than 12 months per year. The monthly charge shall be:

1. During months for which service is specified, the monthly charge defined in Section II.A., and
2. During other months, the monthly charge defined in Section II.A. multiplied by 0.2.

Section III. Billing Factors

Unless otherwise stated in the Agreement, the billing demand shall be the largest of:

A. The Transmission Demand;
B. The highest hourly Scheduled Demand for the month; or
C. The Ratchet Demand.

Schedule FPT–95.3

Formula Power Transmission

Section I. Availability

This schedule supersedes schedule FPT–91.3 for all firm transmission agreements which provide that rates may be adjusted not more frequently than once every 3 years. It is available for firm transmission of electric power and energy using the Main Grid and/or Secondary System of the Federal Columbia River Transmission System. This schedule is for full-year and partial-year service and for either continuous or intermittent service when firm availability of service is required. For facilities at voltages lower than the Secondary System, a different rate schedule may be specified. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions.

Section II. Rate

A. Full-Year Service

The monthly charge per kilowatt of billing demand shall be one-twelfth of the sum of the Main Grid Charge and the Secondary System Charge, as applicable and as specified in the Agreement.

1. Main Grid Charge

The Main Grid Charge per kilowatt of billing demand shall be the sum of one or more of the following component factors as specified in the Agreement:

a. Main Grid Distance Factor: The amount computed by multiplying the Main Grid Distance by $0.0292 per mile
b. Main Grid Interconnection Terminal Factor: $0.28
c. Main Grid Terminal Factor: $0.31
d. Main Grid Miscellaneous Facilities Factor: $1.36

2. Secondary System Charge

The Secondary System Charge per kilowatt of billing demand shall be the sum of one or more of the following component factors as specified in the Agreement:

a. Secondary System Distance Factor: The amount determined by multiplying the Secondary System Distance by $0.2039 per mile
b. Secondary System Transformation Factor: $2.63
c. Secondary System Intermediate Terminal Factor: $0.87
d. Secondary System Interconnection Terminal Factor: $0.46

B. Partial-Year Service

The monthly charge per kilowatt of billing demand shall be as specified in Section II.A. for all months of the year except for agreements with terms 5 years or less and which specify service for fewer than 12 months per year. The charge shall be:

1. During months for which service is specified, the monthly charge defined in Section II.A., and
2. During other months, the monthly charge defined in Section II.A. multiplied by 0.2.

Section III. Billing Factors

Unless otherwise stated in the Agreement, the billing demand shall be the largest of:

A. The Transmission Demand;
B. The highest hourly Scheduled Demand for the month; or
C. The Ratchet Demand.

Schedule IR–95

Integration of Resources

Section I. Availability

This schedule supersedes IR–93 and is available for firm transmission service for electric power and energy using the Main Grid and/or Secondary System of the Federal Columbia River Transmission System. The definitions of Main Grid and Secondary Systems are the same as for the FPT–95.1 and FPT–95.3 rate schedules and are contained in the General Transmission Rate Schedule Provisions (GTRSPs). For facilities at voltages lower than the Secondary System, a different rate schedule may be specified. Service under this schedule is subject to BPA's GTRSPs.

Section II. Rate

The monthly charge shall be the sum of A and B where:

A. Demand Charge

1. $0.441 per kilowatt of billing demand; or

2. For Points of Integration (POI) specified in the Agreement as being short distance POIs, for which Main Grid and Secondary System facilities are used for a distance of less than 75 circuit miles, the following formula applies: [0.2 + (0.8 * transmission distance/75)] * ($0.441 per kilowatt of billing demand)

Where:

the billing demand for a short distance POI is the demand level specified in the Agreement for such POI, and the transmission distance is the circuit miles between the POI for a generating resource of the customer and a designated Point of Delivery serving load of the customer. Short distance POIs are determined by BPA after considering factors in addition to transmission distance.

B. Energy Charge

1.10 mills per kilowatthour of billing energy.

Section III. Billing Factors

To the extent that the Agreement provides for the customer to be billed for transmission in excess of the Transmission Demand or Total Transmission Demand, as defined in the Agreement, at the nonfirm transmission rate (currently ET–95), such transmission service shall not contribute to either the Billing Demand or the Billing Energy for the IR rate provided that the customer requests such treatment and BPA approves in accordance with the prescribed provisions in the Agreement.

A. Billing Demand

The billing demand shall be the largest of:

1. The Transmission Demand, except under General Transmission Agreements where a Total Transmission Demand is defined;

2. The highest hourly Scheduled Demand for the month; or

3. The Ratchet Demand.

B. Billing Energy

The billing energy shall be the monthly sum of scheduled kilowatthours.

Schedule IS–95

Southern Intertie Transmission

Section I. Availability

This schedule supersedes IS–93 and is available for all transmission on the Southern Intertie. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions.

Section II. Rate

A. Nonfirm Transmission Rate

The charge for nonfirm transmission of non-BPA power shall be 3.23 mills per kilowatthour of billing energy. This charge applies for both north-to-south and south-to-north transactions.

B. Firm Transmission Rate

The charge for firm transmission service shall be $0.734 per kilowatt per month of billing demand and 1.76 mills per kilowatthour of billing energy. Firm transmission will only be made available to customers under this rate schedule who have executed a contract with BPA specifying use of the Firm Transmission rate for either north-to-south or south-to-north transactions.

Section III. Billing Factors

A. For services under Section II.A, the billing energy shall be the monthly sum of the scheduled kilowatthours, plus the monthly sum of kilowatthours allocated but not scheduled. The amount of allocated but not scheduled energy that is subject to billing may be reduced pro rata by BPA due to forced Intertie outages and other uncontrollable forces that may reduce Intertie capacity.

The amount of allocated but not scheduled energy that is subject to billing also may be reduced upon mutual agreement between BPA and the customer.

B. For services under Section II.B, the billing demand shall be the Transmission Demand as defined in the Agreement. The billing energy shall be the monthly sum of scheduled kilowatthours, unless otherwise specified in the Agreement.

Schedule IN–95

Northern Intertie Transmission

Section I. Availability

This schedule supersedes IN–93 and is available for all transmission on the Northern Intertie pursuant to an Agreement. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions.

Section II. Rate

The charge for transmission of non-BPA power on the Northern Intertie shall be 0.89 mills per kilowatthour.

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Section III. Billing Factors

Billing Energy

The billing energy shall be the monthly sum of the scheduled kilowatthours.

Schedule IE–95

Eastern Intertie Transmission

Section I. Availability

This schedule supersedes IE–93 and is available for all nonfirm transmission on the Eastern Intertie. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions.

Section II. Rate

The charge for nonfirm transmission on the Eastern Intertie shall be 2.12 mills per kilowatthour.

Section III. Billing Factors

Billing Energy

The billing energy shall be the monthly sum of the scheduled kilowatthours.

Schedule ET–95

Energy Transmission

Section I. Availability

This schedule supersedes ET–93, unless otherwise specified in the Agreement, with respect to delivery using Federal Columbia River Transmission System facilities other than the Southern Intertie, Eastern Intertie, or the Northern Intertie, and is available for firm (of not more than 1 year duration) or nonfirm transmission between points within the Pacific Northwest. BPA may interrupt nonfirm service which is provided under this rate schedule. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions.

Section II. Rate

The charge for transmission of non-BPA power shall be 2.10 mills per kilowatthour.

Section III. Billing Factors

Billing Energy

The billing energy shall be the monthly sum of scheduled kilowatthours.

Schedule MT–95

Market Transmission

Section I. Availability

This schedule supersedes MT–91 and is available for Transmission Service for transactions using Federal Columbia River Transmission System facilities pursuant to the Western Systems Power Pool (WSPP) Agreement. General Transmission Rate Schedule Provisions.

Section II. Rate

The charge shall be determined in advance by BPA. The charge shall be based on the duration of the proposed transaction and shall not exceed the following rates.

A. Hourly Rate

The maximum charge shall be 6.5 mills per kilowatthour where the total hourly revenues from a given transaction during a calendar day shall not exceed the product of the Daily rate and the maximum demand scheduled during such day..

B. Daily Rate

The maximum charge shall be $.105 per kilowattday where the total demand charge revenues in any consecutive 7-day period shall not exceed the product of the Weekly rate and the highest demand experienced on any day in the 7-day period.

C. Weekly Rate

The maximum charge shall be $.52 per kilowattweek.

D. Monthly Rate

The maximum charge shall be $2.27 per kilowattmonth.

Section III. Billing Factors

The billing factors shall be specified in advance by BPA, as to representing the Transmission Service use or reservation.

Schedule UFT–95

Use-of-Facilities Transmission

Section I. Availability

This schedule supersedes UFT–83 unless otherwise provided in the Agreement, and is available for firm transmission over specified Federal Columbia River Transmission System facilities. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions.

Section II. Rate

The monthly charge per kilowatt of Transmission Demand specified in the Agreement shall be one-twelfth of the annual cost of capacity of the specified facilities divided by the sum of Transmission Demands (in kilowatts) using such facilities. Such annual cost shall be determined in accordance with Section III.

Section III. Determination of Transmission Rate

A. From time to time, but not more often than once in each Contract Year, BPA shall determine the following data for the facilities which have been constructed or otherwise acquired by BPA and which are used to transmit electric power:

1. The annual cost of the specified FCRTS facilities, as determined from the capital cost of such facilities and annual cost ratios developed from the Federal Columbia River Power System financial statement, including interest and amortization, operation and maintenance, administrative and general, and general plant costs.

2. The yearly noncoincident peak demands of all users of such facilities or other reasonable measurement of the facilities' peak use.

B. The monthly charge per kilowatt of billing demand shall be one-twelfth of the sum of the annual cost of the FCRTS facilities used divided by the sum of Transmission Demands. The annual cost per kilowatt of Transmission Demand for a facility constructed or otherwise acquired by BPA shall be determined in accordance with the following formula:

A
D

Where:

A = The annual cost of such facility as determined in accordance with A.1. above.

D = The sum of the yearly noncoincident demands on the facility as determined in accordance with A.2. above.

The annual cost per kilowatt of facilities listed in the Agreement which are owned by another entity, and used by BPA for making deliveries to the transferee, shall be determined from the costs specified in the Agreement between BPA and such other entity.

Section IV. Determination of Billing Demand

Unless otherwise stated in the Agreement, the factor to be used in determining the kilowatts of billing demand shall be the largest of:

A. The Transmission Demand in kilowatts specified in the Agreement;

B. The highest hourly Measured or Scheduled Demand for the month, the Measured Demand being adjusted for power factor; or

C. The Ratchet Demand.

Schedule TGT–95

Townsend-Garrison Transmission

Section I. Availability

This schedule supersedes TGT–1 and shall apply to all agreements which provide for the firm transmission of electric power and energy over transmission facilities of BPA's section of the Montana (Eastern) Intertie. Service under this schedule is subject to BPA's General Transmission Rate Schedule Provisions.

Section II. Rate

The monthly charge shall be one-twelfth of the sum of the annual charges listed below, as applicable and as specified in the agreements for firm transmission. The Townsend-Garrison 500-kV lines and associated terminal, line compensation, and communication facilities are a separately identified portion of the Federal Transmission System. Annual revenues plus credits for government use should equal annual costs of the facilities, but in any given year there may be either a surplus or a deficit. Such surpluses or deficits for any year shall be accounted for in the computation of annual costs for succeeding years. Revenue requirements for firm transmission use will be decreased by any revenues received from nonfirm use and credits for all government use. The general methodology for determining the firm rate is to divide the revenue requirement by the total firm capacity requirements. Therefore, the higher the total capacity requirements, the lower will be the unit rate.

If the government provides firm transmission service in its section of the Montana (Eastern) Intertie in exchange for firm transmission service in a customer's section of the Montana Intertie, the payment by the government for such transmission services provided by such customer will be made in the form of a credit in the calculation of the Intertie Charge for such customer. During an estimated 1- to 3-year period following the commercial operation of the third generating unit at the Colstrip Thermal Generating Plant at Colstrip, Montana, the capability of the Federal Transmission System west of Garrison Substation may be different from the long-term situation. It may not be possible to complete the extension of the 500-kV portion of the Federal Transmission System to Garrison by such commercial operation date. In such event, the 500/230 kV transformer will be an essential extension of the Townsend-Garrison Intertie facilities, and the annual costs of such transformer will be included in the calculation of the Intertie Charge.

However, starting 1 month after extension to Garrison of the 500-kV portion of the Federal Transmission System, the annual costs of such transformer will no longer be included in the calculation of the Intertie Charge.

A. Nonfirm Transmission Charge:

This charge will be filed as a separate rate schedule and revenues received thereunder will reduce the amount of revenue to be collected under the Intertie Charge below.

B. Intertie Charge for Firm Transmission Service:

$$\text{Intertie Charge} = [((TAC/12) - NFR) \times \frac{(CR - EC)}{TCR}]$$

Section III. Definitions

A. TAC = Total Annual Costs of facilities associated with the Townsend-Garrison 500-kV Transmission line including terminals, and prior to extension of the 500-kV portion of the Federal Transmission System to Garrison, the 500/230 kV transformer at Garrison. Such annual costs are the total of: (1) Interest and amortization of associated Federal investment and the appropriate allocation of general plant costs; (2) operation and maintenance costs; (3) allowance for BPA's general administrative costs which are appropriately allocable to such facilities, and (4) payments made pursuant to section 7(m) of Pub. L. 96–501 with respect to these facilities. Total Annual Costs shall be adjusted to reflect reductions to unpaid total costs as a result of any amounts received, under agreements for firm transmission service over the Montana Intertie, by the government on account of any reduction in Transmission Demand, termination or partial termination of any such agreement or otherwise to compensate BPA for the unamortized investment, annual cost, removal, salvage, or other cost related to such facilities.

B. NFR = Nonfirm Revenues, which are equal to: (1) The product of the Nonfirm Transmission Charge described in II(A) above, and the total nonfirm energy transmitted over the Townsend-Garrison line segment under such charge for such month; plus (2) the product of the Nonfirm Transmission Charge and the total nonfirm energy transmitted in either direction by the Government over the Townsend-Garrison line segment for such month.

C. CR = Capacity Requirement of a customer on the Townsend-Garrison 500-kV transmission facilities as specified in its firm transmission agreement.

D. TCR = Total Capacity Requirement on the Townsend-Garrison 500-kV transmission facilities as calculated by adding (1) the sum of all Capacity Requirements (CR) specified in transmission agreements described in section I; and (2) the Government's firm capacity requirement. The Government's firm capacity requirement shall be no less than the total of the amounts, if any, specified in firm transmission agreements for use of the Montana Intertie.

E. EC = Exchange Credit for each customer which is the product of: (1) The ratio of investment in the Townsend-Broadview 500-kV transmission line to the investment in the Townsend-Garrison 500-kV transmission line; and (2) the capacity which the Government obtains in the Townsend-Broadview 500-kV transmission line through exchange with such customer. If no exchange is in effect with a customer, the value of EC for such customer shall be zero.

Schedule AC–95

Southern Intertie Annual Costs Rate and Billing Provisions

Section I. Availability

This schedule is applicable to each party (Capacity Owner) that executes a PNW AC Intertie Capacity Ownership Agreement (Agreement). Billings pursuant to this schedule are subject to the Billing Provisions in Exhibit B of the Agreement. This rate schedule shall be effective on the first day of the fiscal year following the earlier of interim or final FERC approval of this rate schedule. Unless otherwise defined in this rate schedule, capitalized terms used in this rate schedule shall have the respective definitions set forth in section 1 of this Agreement.

Section II. Rate

A. Operations

The monthly charge equals:

VOL 60 ISS 83 MY 1 1995 UMI

Operations Cost * Capacity Ownership Percentage

Months

Where

"Months" is equal to 12, or, if the Operating Plan has, during the fiscal year to which such Operating Plan pertains, been amended with respect to Operations Cost, the number of full months remaining in the fiscal year after such amended Operating Plan becomes effective for which Capacity Owners have not been billed.

"Operations Cost" means, upon and after the effective date of Exhibit B pursuant to this Agreement, for any fiscal year any Allocated Direct Costs for Bonneville's PNW AC Intertie, operations Indirect Costs for Bonneville's PNW AC Intertie, and operations Overhead Costs for Bonneville's PNW AC Intertie for such fiscal year, each being determined in accordance with section I of Exhibit I.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

The monthly charge for the Operations rate shall be calculated using the forecast Operations Cost in the Operating Plan in effect during the month for which the monthly charge is calculated; provided, however, if the Operating Plan is amended during the fiscal year to which such Operating Plan pertains, the monthly charge for Operations Cost shall be calculated using the forecast Operations Cost less the Operations Cost already billed for such fiscal year for the remaining months of the fiscal year following such amendment.

B. Maintenance

The monthly charge equals:

Maintenance Cost * Capacity Ownership Percentage

Months

Where

"Months" is equal to 12, or, if the Operating Plan has, during the fiscal year to which such Operating Plan pertains, been amended with respect to Maintenance Cost, the number of full months remaining in the fiscal year after such amended Operating Plan becomes effective for which Capacity Owners have not been billed.

"Maintenance Cost" means, upon and after the effective date of Exhibit B pursuant to this Agreement, for any fiscal year any maintenance Direct Costs for Bonneville's PNW AC Intertie, maintenance Indirect Costs for Bonneville's PNW AC Intertie, and maintenance Overhead Costs for Bonneville's PNW AC Intertie for such fiscal year, each being determined in accordance with section II of Exhibit I.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

The monthly charge for the Maintenance rate shall be calculated using the forecast Maintenance Cost in the Operating Plan in effect during the month for which the monthly charge is calculated; provided, however, if the Operating Plan is amended during the fiscal year to which such Operating Plan pertains, the monthly charge for Maintenance Cost shall be calculated using the forecast Maintenance Cost less the Maintenance Cost already billed for such fiscal year for the remaining months of the fiscal year following such amendment.

C. General Plant

The monthly charge equals:

$$MOP = \frac{AOP * HOP}{10}$$

Where

"Months" is equal to 12, or, if the Operating Plan has, during the fiscal year to which such Operating Plan pertains, been amended with respect to General Plant Cost, the number of full months remaining in the fiscal year after such amended Operating Plan becomes effective for which Capacity Owners have not been billed.

"General Plant Cost" means, upon and after the effective date of Exhibit B pursuant to this Agreement, for any fiscal year any costs (including direct costs, indirect costs, overhead costs, and AFUDC) for Bonneville's general plant investment for such fiscal year. The method for determining General Plant Cost is set forth in section IV of Exhibit I.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

The monthly charge for the General Plant rate shall be calculated using the General Plant Cost in the Operating Plan in effect during the month for which the monthly charge is calculated; provided, however, if the Operating Plan is amended during the fiscal year to which such Operating Plan pertains, the monthly charge for General Plant Cost shall be calculated using the General Plant Cost less the General Plant Cost already billed for such fiscal year for the remaining months of the fiscal year following such amendment.

D. Other Costs

The monthly charge equals:

Other Costs * Capacity Ownership Percentage

Months

Where

"Months" is equal to 12, or, if the Operating Plan has, during the fiscal year to which such Operating Plan pertains, been amended with respect to Other Cost, the number of full months remaining in the fiscal year after such amended Operating Plan becomes effective for which Capacity Owners have not been billed.

"Other Costs" means, upon and after the effective date of Exhibit B pursuant to this Agreement, Bonneville's other costs for Bonneville's PNW AC Intertie described in and determined pursuant to section V of Exhibit I.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

The monthly charge for the Other Costs rate shall be calculated using the forecast Other Costs in the Operating Plan in effect during the month for which the monthly charge is calculated; provided, however, if the Operating Plan is amended during the fiscal year to which such Operating Plan pertains, the monthly charge for Other Costs shall be calculated using the forecast Other Costs less the Other Costs already billed for such fiscal year for the remaining months of the fiscal year following such amendment.

E. Contracts and Rates

The monthly charge equals:

Contracts and Rates Costs * Capacity Ownership Percentage

Months

Where

"Months" is equal to 12, or, if the Operating Plan has, during the fiscal year to which such Operating Plan pertains, been amended with respect to Contracts and Rates Cost, the number of full months remaining in the fiscal year after such amended Operating Plan becomes effective for which Capacity Owners have not been billed.

"Contracts and Rates Costs" means, upon and after the effective date of Exhibit B pursuant to this Agreement, for any fiscal year Bonneville's total contracts and rates costs (as described in section VI of Exhibit I) for such fiscal year as functionalized and allocated in accordance with section VI of Exhibit I to determine Contracts and Rates Costs for Bonneville's PNW AC Intertie.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

Contracts and Rates Cost is determined in accordance with section VI of Exhibit I as of the Effective Date. If Exhibit I is amended pursuant to subsection 19(k) of the Agreement to provide that the Contracts and Rates Cost determined in accordance with section VI of Exhibit I (and reflected in the Operating Plan for the fiscal year to which such Operating Plan pertains) is directly assigned to the Capacity Owners pursuant to such amended Exhibit I (and reflected in the Operating Plan for the fiscal year to which such Operating Plan pertains), the Capacity Ownership Percentage in the monthly charge calculation for such fiscal year shall be replaced by the ratio of (a) each Capacity Ownership Share to (b) the sum of all Capacity Ownership Shares.

The monthly charge for the Contracts and Rates rate shall be calculated using the forecast Contracts and Rates Costs in the Operating Plan in effect during the month for which the monthly charge is calculated; provided, however, if the Operating Plan is amended during the fiscal year to which such Operating Plan pertains, the monthly charge for Contracts and Rates Cost shall be calculated using the forecast Contracts and Rates Cost less the Contracts and Rates Cost already billed for such fiscal year for the remaining months of the fiscal year following such amendment.

F. Power Scheduling

The monthly charge equals:

Power Scheduling Costs * Capacity Ownership Percentage

Months

Where

"Months" is equal to 12, or, if the Operating Plan has, during the fiscal year to which such Operating Plan pertains, been amended with respect to Power Scheduling Cost, the number of full months remaining in the fiscal year after such amended Operating Plan becomes effective for which Capacity Owners have not been billed.

"Power Scheduling Costs" means, upon and after the effective date of Exhibit B pursuant to this Agreement, Bonneville's total power scheduling costs (as described in section VII of Exhibit I) as functionalized and allocated in accordance with section VII of Exhibit I to determine Power Scheduling Costs for Bonneville's PNW AC Intertie.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

Power Scheduling Cost is determined in accordance with section VII of Exhibit I as of the Effective Date. If Exhibit I is amended pursuant to subsection 19(k) of the Agreement to provide that the Power Scheduling Cost determined in accordance with section VII of Exhibit I (and reflected in the Operating Plan for the fiscal year to which such Operating Plan pertains) is directly assigned to the Capacity Owners pursuant to such amended Exhibit I (and reflected in the Operating Plan for the fiscal year to which such Operating Plan pertains), the Capacity Ownership Percentage in the monthly charge calculation for such fiscal year shall be replaced by the ratio of (a) each Capacity Ownership Share to (b) the sum of all Capacity Ownership Shares.

The monthly charge for the Power Scheduling rate shall be calculated using the forecast Power Scheduling Costs in the Operating Plan in effect during the month for which the monthly charge is calculated; provided, however, if the Operating Plan is amended during the fiscal year to which such Operating Plan pertains, the monthly charge for Power Scheduling Cost shall be calculated using the forecast Power Scheduling Cost less the Power Scheduling Cost already billed for such fiscal year for the remaining months of the fiscal year following such amendment.

G. End of Term

The monthly charge equals:

VOL 60 ISS 83 MY 1 1995 UMI

End of Term Costs * Capacity Ownership Percentage

Months

Where

"Months" is equal to 12, or, if the Operating Plan has, during the fiscal year to which such Operating Plan pertains, been amended with respect to End of Term Costs, the number of full months remaining in the fiscal year after such amended Operating Plan becomes effective for which Capacity Owners have not been billed.

"End of Term Costs" means, upon and after the effective date of Exhibit B pursuant to this Agreement, Bonneville's costs associated with decommissioning the PNW AC Intertie determined in accordance with section VIII of Exhibit I.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

The monthly charge for the End of Term rate shall be calculated using the forecast End of Term Costs in the Operating Plan in effect during the month for which the monthly charge is calculated; provided, however, if the Operating Plan is amended during the fiscal year to which such Operating Plan pertains, the monthly charge for End of Term Costs shall be calculated using the forecast End of Term Costs less the End of Term Cost already billed for such fiscal year for the remaining months of the fiscal year following such amendment.

H. Replacements and Reinforcements

1. For each Replacement, the charge equals: Replacement Cost * Capacity Ownership Percentage.

2. For each Reinforcement, the charge equals: Reinforcement Cost * Capacity Ownership Percentage.

Where

"Replacement Cost" means, upon and after the effective date of Exhibit B pursuant to this Agreement, for any Replacement, the Direct Costs, Indirect Costs, Overhead Costs, and AFUDC for such Replacement, all capitalized to plant-in-service together with (1) simple interest on the foregoing costs accrued from the date on which Bonneville stops accruing AFUDC on the foregoing costs until the due date of the bill to Capacity Owner for the foregoing costs pursuant to subparagraph 9(b)(2)(B) and (2) the costs of removal and any salvage credit associated with removal or replacement of existing facilities. Replacement Cost does not include capitalized general plant cost. The method for determining Replacement Costs for Bonneville's PNW AC Intertie is set forth in section III of Exhibit I.

"Reinforcement Cost" means, upon and after the effective date of Exhibit B pursuant to this Agreement, for any Reinforcement, the Direct Costs, Indirect Costs, Overhead Costs, and AFUDC for such Reinforcement, all capitalized to plant-in-service together with (1) simple interest on the foregoing costs accrued from the date on which Bonneville stops accruing AFUDC on the foregoing costs until the due date of the bill to Capacity Owner for the foregoing costs pursuant to subparagraph 9(b)(2)(B) and (2) the costs of removal and any salvage credit associated with removal or replacement of existing facilities. Reinforcement Cost does not include capitalized general plant cost. The method for determining Reinforcement Costs for Bonneville's PNW AC Intertie is set forth in section III of Exhibit I.

"Capacity Ownership Percentage" is as defined in subsection 1(k) of each Capacity Owner's Agreement.

The charge for the Replacements and Reinforcements rate shall use the actual Replacement Cost and Reinforcement Cost in the Operating Plan.

Section III. Adjustments

If an amendment to the Operating Plan results in a net amount that Bonneville owes the Capacity Owners pursuant to sections II.A–G or pursuant to section II.H, Bonneville shall refund such net amount pursuant to paragraph 9(f)(4) of the Agreement.

The monthly charges assessed Capacity Owners under sections II.A–G shall be adjusted, and payment or refund made with interest, pursuant to paragraph 9(b)(2) or 9(f)(4) of the Agreement, to reflect amendments to the Operating Plan that occur after the year to which such Operating Plan pertains. A Capacity Owner's share of the adjustment shall be determined using the same Capacity Ownership Percentage used in the billings under sections II.A–G during the fiscal year that such Operating Plan is effective.

Annual Costs Rate

Billing Provisions

I. General Provisions

A. Approval of Rates

The annual costs rate shall become effective upon interim approval or upon final confirmation and approval by FERC. Bonneville will request FERC approval of such rate schedule effective on the first day of a Bonneville fiscal year.

B. Application of Billing Provisions

These Billing Provisions shall apply to bills rendered by Bonneville pursuant to the annual costs rate.

C. Definition of Terms

The meaning of terms used in the annual costs rate shall be as defined in the Agreement or, if no definition is provided by the Agreement, such terms shall be defined according to applicable Federal law.

II. Billing Information

Payment of Bills

Charges pursuant to the annual costs rate shall be included in Bonneville's monthly power bill to Capacity Owner. Failure to receive a power bill shall not release Capacity Owner from liability for payment. Power bills for amounts due of $50,000 or more must be paid by direct wire transfer. If Capacity Owner anticipates special difficulties in meeting this requirement, Capacity Owner may request and Bonneville may approve an exemption from this requirement. Power bills for amounts due Bonneville under $50,000 may be paid by direct wire transfer or mailed to the Bonneville Power Administration, P.O. Box 6040, Portland, Oregon 97228–6040, or to another location as directed by Bonneville. The procedures to be followed in making direct wire transfers will be provided by Bonneville's Financial Services Group and updated as necessary.

A. Computation of Bills

1. Bonneville shall bill Capacity Owner in accordance with the annual costs rate.

2. Capacity Owner shall provide necessary information to Bonneville for any computation required to determine proper charges pursuant to the Agreement and shall cooperate with Bonneville in the exchange of additional information which may be reasonably useful for respective operations.

3. Bills rendered pursuant to this Agreement shall be rounded to whole dollar amounts, by eliminating any amount which is less than 50 cents and increasing any amounts from 50 cents to 99 cents to the next higher whole dollar.

B. Billing Month

For charges pursuant to the annual costs rate the billing month shall be the same as for the power bill rendered by Bonneville to Capacity Owner.

C. Due Date

Charges pursuant to the annual costs rate shall be included in the power bill rendered by Bonneville to Capacity Owner and shall be due as part of the power bill when such power bill is due.

D. Late Payment

The penalties for failure to pay a bill in full on or before close of business on the due date shall be the same as those contained in the late payment provisions in Bonneville's General Rate Schedule Provisions in effect on the date of the bill; provided, however, that no other provision of any such General Rate Schedule Provisions, including, but not limited to, provisions regarding cancellation, termination, or suspension of service, shall have application with respect to the payment of any rate or charge pursuant to the annual costs rate set forth in Exhibit B. Bonneville's right to suspend service for late payment under the Agreement shall be pursuant to paragraph 9(e)(1) of this Agreement, which right shall in no way be limited by this section.

E. Disputed Bills

In the event of a disputed bill, full payment shall be rendered to Bonneville and the disputed amount noted. Disputed amounts are subject to the late payment provisions specified in section II(4) of the Billing Provisions of this Exhibit B. Bonneville shall separately account for the disputed amount. If it is determined that Capacity Owner is entitled to the disputed amount, Bonneville shall refund the disputed amount with interest, such interest to be determined by Bonneville's Financial Services Group. In the event that Bonneville and Capacity Owner do not resolve such dispute, Capacity Owner shall not be prevented by this section II(5) of the Billing Provisions of this Exhibit B from initiating arbitration pursuant to and to the extent allowed by section 15 of this Agreement.

F. Revised Bills

If Bonneville determines that it has over- or under-charged Capacity Owner due to a computational error or because of an amendment to the Operating Plan in any given billing month, Bonneville may render to Capacity Owner a revised bill.

1. If the amount of the revised bill is less than or equal to the amount of the original bill for such billing month, the revised bill shall replace the original bill issued by Bonneville. The revised bill shall have the same date as the original bill.

2. If the amount of the revised bill is greater than the amount of the original bill for such billing month, a new bill will be issued for the difference between the revised bill and the original bill. The date of the new bill shall be its date of issuance, and Capacity Owner shall make payment to Bonneville as specified in the Billing Provisions of this Exhibit B.

C. General Transmission Rate Schedule Provisions (GTRSPs)

Table of Contents

I. Adoption of Revised Transmission Rate Schedules and General Transmission Rate Schedules Provision
A. Approval of Rates
B. General Provisions
C. Interpretation
II. Billing Factor Definitions and Billing Adjustments
A. Billing Factors
B. Billing Adjustments
III. Other Definitions
A. Agreement
B. Eastern Intertie
C. Electric Power
D. Federal Columbia River Transmission System
E. Firm Transmission Service
F. Integrated Network
G. Main Grid
H. Main Grid Distance
I. Main Grid Interconnection Terminal
J. Main Grid Miscellaneous Facilities
K. Main Grid Terminal
L. Nonfirm Transmission Service
M. Northern Intertie
N. Point of Integration (POI)
O. Point of Delivery (POD)
P. Secondary System
Q. Secondary System Distance
R. Secondary System Interconnection Terminal
S. Secondary System Intermediate Terminal
T. Secondary Transformation
U. Southern Intertie
V. Transmission Service
IV. Billing Information
A. Payment of Bills
V. Charges Under the Amended and Integrated Pacific Northwest Coordination Agreement
A. Interchange Energy Imbalances
B. Interchange Energy Service Charge
C. Interchange Capacity Imbalances
D. Transfers Due to Forced Outages
E. Holding Interchange Energy Service Charge
F. Stored Energy Service Charge
G. Transfers to Avoid Spill
H. Transmission Service Charges
I. Special Storage Agreements

Section I. Adoption of Revised Transmission Rate Schedules and General Transmission Rate Schedule Provisions (GTRSPs)

A. Approval of Rates

These rate schedules and GTRSPs shall become effective upon interim approval or upon final confirmation and approval by FERC. BPA will request FERC approval effective October 1, 1995.

B. General Provisions

These 1995 Transmission Rate Schedules and associated GTRSPs supersede BPA's 1993 Transmission Rate Schedules and GTRSPs (which became effective October 1, 1993) but do not supersede prior rate schedules required by agreement to remain in force.

Transmission service provided shall be subject to the following Acts, as amended: the Bonneville Project Act, the Regional Preference Act (Pub. L. 88–552), the Federal Columbia River Transmission System Act, and the Pacific Northwest Electric Power Planning and Conservation Act, and the Energy Policy Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (1992).

The meaning of terms used in the transmission rate schedules shall be as defined in agreements or provisions which are attached to the Agreement or as in any of the above Acts.

C. Interpretation

If a provision in the executed Agreement is in conflict with a provision contained herein, the former shall prevail.

Section II. Billing Factor Definitions and Billing Adjustments

A. Billing Factors

1. Scheduled Demand

The largest of hourly amounts wheeled which are scheduled by the customer during the time period specified in the rate schedules.

2. Metered Demand

The Metered Demand in kilowatts shall be the largest of the 60-minute clock-hour integrated demands measured by meters installed at each POD during each time period specified in the applicable rate schedule. Such measurements shall be made as specified in the Agreement. BPA, in determining the Metered Demand, will exclude any abnormal readings due to or resulting from: (a) emergencies or breakdowns on, or maintenance of, the FCRTS; or (b) emergencies on the customer's facilities, provided that such

VOL 60 ISS 83 MY 1 1995 UMI

facilities have been adequately maintained and prudently operated as determined by BPA. If more than one class of power is delivered to any POD, the portion of the metered quantities assigned to any class of power shall be as agreed to by the parties. The amount so assigned shall constitute the Metered Demand for such class of power.

3. Transmission Demand

The demand as defined in the Agreement.

4. Total Transmission Demand

The sum of the transmission demands as defined in the Agreement.

5. Ratchet Demand

The maximum demand established during the previous 11 billing months. Exception: If a Transmission Demand or Total Transmission Demand has been decreased pursuant to the terms of the Agreement during the previous 11 billing months, such decrease will be reflected in determining the Ratchet Demand.

B. Billing Adjustments

Average Power Factor

The adjustment for average power factor, when specified in a transmission rate schedule or in the Agreement, shall be made in accordance with the average power factor section of the General Wheeling Provisions.

To maintain acceptable operating conditions on the Federal system, BPA may restrict deliveries of power at any time that the average leading power factor or average lagging power factor for all classes of power delivered to such point or to such system is below 85 percent.

Section III. Other Definitions

Definitions of the terms below shall be applied to these provisions and the Transmission Rate Schedules, unless otherwise defined in the Agreement.

A. Agreement

An agreement between BPA and a customer to which these rate schedules and provisions may be applied.

B. Eastern Intertie

The segment of the FCRTS for which the transmission facilities consist of the Townsend-Garrison double-circuit 500 kV transmission line segment including related terminals at Garrison.

C. Electric Power

Electric peaking capacity (kW) and/or electric energy (kWh).

D. Federal Columbia River Transmission System

The transmission facilities of the Federal Columbia River Power System, which include all transmission facilities owned by the government and operated by BPA, and other facilities over which BPA has obtained transmission rights.

E. Firm Transmission Service

Transmission service which BPA provides for any non-BPA power except for transmission service which is scheduled as nonfirm. If the firm service is provided pursuant to the Agreement, the terms of the Agreement may further define the service.

F. Integrated Network

The segment of the FCRTS for which the transmission facilities provide the bulk of transmission of electric power within the Pacific Northwest, excluding facilities not segmented to the network as shown in the Wholesale Power Rate Development Study used in BPA's rate development.

G. Main Grid

As used in the FPT and IR rate schedules, that portion of the Integrated Network with facilities rated 230 kV and higher.

H. Main Grid Distance

As used in the FPT rate schedules, the distance in airline miles on the Main Grid between the POI and the POD, multiplied by 1.15.

I. Main Grid Interconnection Terminal

As used in the FPT rate schedules, Main Grid terminal facilities that interconnect the FCRTS with non-BPA facilities.

J. Main Grid Miscellaneous Facilities

As used in the FPT rate schedules, switching, transformation, and other facilities of the Main Grid not included in other components.

K. Main Grid Terminal

As used in the FPT rate schedules, the Main Grid terminal facilities located at the sending and/or receiving end of a line exclusive of the Interconnection terminals.

L. Nonfirm Transmission Service

Interruptible transmission service which BPA may provide for non-BPA power.

M. Northern Intertie

The segment of the FCRTS for which the transmission facilities consist of two 500 kV lines between Custer Substation and the United States-Canadian border, one 500 kV line between Custer and Monroe Substations, and two 230 kV lines from Boundary Substation to the United States-Canadian border, and the associated substation facilities.

N. Point of Integration (POI)

Connection points between the FCRTS and non-BPA facilities where non-Federal power is made available to BPA for wheeling.

O. Point of Delivery (POD)

Connection points between the FCRTS and non-BPA facilities where non-Federal power is delivered to a customer by BPA.

P. Secondary System

As used in the FPT and IR rate schedules, that portion of the Integrated Network facilities with operating voltage of 115 kV or 69 kV.

Q. Secondary System Distance

As used in the FPT rate schedules, the number of circuit miles of Secondary System transmission lines between the secondary POI and the Main Grid or the secondary POD, or the Main Grid and the secondary POD.

R. Secondary System Interconnection Terminal

As used in the FPT rate schedules, the terminal facilities on the Secondary System that interconnect the FCRTS with non-BPA facilities.

S. Secondary System Intermediate Terminal

As used in the FPT rate schedules, the first and final terminal facilities in the Secondary System transmission path exclusive of the Secondary System Interconnection terminals.

T. Secondary Transformation

As used in the FPT rate schedules, transformation from Main Grid to Secondary System facilities.

U. Southern Intertie

The segment of the FCRTS for which the major transmission facilities consist of two 500 kV AC lines from John Day Substation to the Oregon-California border; a portion of the 500 kV AC line from Buckley Substation to Summer Lake Substation; when completed, the Third AC facilities, which include Captain Jack Substation and the Alvey-Meridian 500 kV AC line; one 1,000 kV DC line between the Celilo Substation and the Oregon-Nevada border; and associated substation facilities.

V. Transmission Service

As used in the MT rate schedule, Transmission Service is as defined in the Western Systems Power Pool Agreement.

Section IV. Billing Information

A. Payment of Bills

Bills for transmission service shall be rendered monthly by BPA. Failure to receive a bill shall not release the customer from liability for payment. Bills for amounts due of $50,000 or more must be paid by direct wire transfer; customers who expect that their average monthly bill will not exceed $50,000 and who expect special difficulties in meeting this requirement may request, and BPA may approve, an exemption from this requirement. Bills for amounts due BPA under $50,000 may be paid by direct wire transfer or mailed to the Bonneville Power Administration, P.O. Box 6040, Portland, Oregon 97228–6040, or to another location as directed by BPA. The procedures to be followed in making direct wire transfers will be provided by the Office of Financial Management and updated as necessary.

1. Computation of Bills

The transmission billing determinant is the electric power quantified by the method specified in the Agreement or Transmission Rate Schedule. Scheduled power or metered power will be used.

The transmission customer shall provide necessary information to BPA for any computation required to determine the proper charges for use of the FCRTS, and shall cooperate with BPA in the exchange of additional information which may be reasonably useful for respective operations.

Demand and energy billings for transmission service under each applicable rate schedule shall be rounded to whole dollar amounts, by eliminating any amount which is less than 50 cents and increasing any amounts from 50 cents through 99 cents to the next higher dollar.

2. Estimated Bills

At its option, BPA may elect to render an estimated bill to be followed at a subsequent billing date by a final bill. The estimated bill shall have the validity of and be subject to the same payment provisions as a final bill.

3. Billing Month

For charges based on scheduled quantities, the billing month is the calendar month. For charges based on metered quantities, the billing month is defined as the interval between scheduled meter-reading dates. The billing month will not exceed 31 days in any case. While it may be necessary to read meters on a day other than the scheduled meter-reading date, for determination of billing demand, the billing month will cease at 2400 hours on the last scheduled meter-reading date. Schedules will be predetermined. The customer must give 30 days notice to request a change to the schedule.

4. Due Date

Bills shall be due by close of business on the 20th day after the date of the bill (due date). Should the 20th day be a Saturday, Sunday, or holiday (as celebrated by the customer), the due date shall be the next following business day.

5. Late Payment

Bills not paid in full on or before close of business on the due date shall be subject to a penalty charge of $25. In addition, an interest charge of one-twentieth percent (0.05 percent) shall be applied each day to the sum of the unpaid amount and the penalty charge. This interest charge shall be assessed on a daily basis until such time as the unpaid amount and penalty charge are paid in full.

Remittances received by mail will be accepted without assessment of the charges referred to in the preceding paragraph provided the postmark indicates the payment was mailed on or before the due date. Whenever a power bill or a portion thereof remains unpaid subsequent to the due date and after giving 30 days' advance notice in writing, BPA may cancel the contract for service to the customer. However, such cancellation shall not affect the customer's liability for any charges accrued prior thereto under such agreement.

6. Disputed Billings

In the event of a disputed billing, full payment shall be rendered to BPA and the disputed amount noted. Disputed amounts are subject to the late payment provisions specified above. BPA shall separately account for the disputed amount. If it is determined that the customer is entitled to the disputed amount, BPA shall refund the disputed amount with interest, as determined by BPA's Office of Financial Management.

BPA retains the right to verify, in a manner satisfactory to the Administrator, all data submitted to BPA for use in the calculation of BPA's rates and corresponding rate adjustments. BPA also retains the right to deny eligibility for any BPA rate or corresponding rate adjustment until all submitted data have been accepted by BPA as complete, accurate, and appropriate for the rate or adjustment under consideration.

7. Revised Bills

As necessary, BPA may render a revised bill.

a. If the amount of the revised bill is less than or equal to the amount of the original bill, the revised bill shall replace all previous bills issued by BPA that pertain to the specified customer for the specified billing period and the revised bill shall have the same date as the replaced bill.

b. If a revision causes an additional amount to be due BPA or the specified customer beyond the amount of the original bill, a revised bill will be issued for the difference and the date of the revised bill shall be its date of issue.

V. Charges Under The Amended and Integrated Pacific Northwest Coordination Agreement

The Pacific Northwest Coordination Agreement (PNCA) is an agreement for planned operations among the utilities and other entities that operate the major electric generating facilities and systems in the Pacific Northwest. The parties jointly and cooperatively plan and coordinate their combined generation facilities so as to produce the optimum firm load carrying capability (FLCC) of the coordinated system. FLCC is the firm load that could be carried under coordinated operation with critical streamflow conditions and with the use of all reservoir storage.

In order to coordinate operations, and so that each party can meet its individual FLCC, the PNCA provides for exchanges of energy and capacity among the parties. The agreement sets up charges for each form of exchange. The parties are negotiating a successor agreement to the PNCA, and have agreed on charges to apply under the new agreement.

All terms contained herein have the meaning accorded them in the Amended and Integrated Pacific Northwest Coordination Agreement. These rates are to be effective on the date on which rates are effective under the Amended and Integrated Pacific Northwest Coordination Agreement, as provided in such Agreement. They will remain in effect until revised rates are approved.

A. Interchange Energy Imbalances

1. Initial Deliveries of Interchange Energy

VOL 60 ISS 83 MY 1 1995 UMI

$$\text{Energy Charge} = \frac{(\text{heat rate} * \text{fuel price})}{1{,}000} + \text{adder}$$

Heat rate = 10,000 BTU/kWh
Fuel price = Average mainline interruptible or spot market natural gas price at Sumas, Washington, in $/MMBTU (dollars per million BTUs), for the twelve months ending the immediately preceding June 30, as published in *Inside FERC*, or, in the event that *Inside FERC* is no longer published, a similar replacement publication.
Adder = 4.75 mills/kWh, adjusted each August 1 beginning August 1, 1997, by the change in the Consumer Price Index (for all urban consumers as published by the Bureau of Labor Statistics) for Portland, Oregon, for the twelve-month period ending the immediately preceding June 30.

2. Return of Interchange Energy

The Energy Charge for Return of Interchange Energy shall be the charge in effect for initial deliveries of Interchange Energy at the time the energy being delivered as Return of Interchange Energy was delivered as an initial delivery of Interchange Energy.

B. Interchange Energy Service Charge

1. No charge for energy returned between 7:00 a.m. and 10:00 p.m., Monday through Saturday.

2. 2.50 mills per kilowatthour of energy returned at other hours, unless such energy was supplied during such other hours, or its return during such other hours was requested, in either of which events there shall be no charge.

C. Interchange Capacity Imbalances

$2.00 per kilowatt week of demand.

D. Transfers Due to Forced Outage

1. Transfer Due to Loss of Thermal Capability

$2.00 per kilowatt week of demand plus the greater of (a) the charge for Interchange Energy Imbalances and (b) the incremental costs of operating the resource used to supply the requested energy plus an adder of 4.00 mills per kilowatthour. The adder shall be adjusted each August 1 beginning August 1, 1997 by the change in the Consumer Price Index (for all urban consumers as published by the Bureau of Labor Statistics) for Portland, Oregon, for the twelve-month period ending the immediately preceding June 30.

2. Transfer of Emergency Capacity

$2.00 per kilowatt week of demand plus the greater of (a) the charge for Interchange Energy Imbalances and (b) the incremental costs of operating the resource used to supply the requested energy. In the event that BPA requires the receiving party to return the energy associated with the transfer of emergency capacity, only the demand charge shall apply.

E. Holding Interchange Energy Service Charge

1. Basic Charge

2.00 mills per kilowatthour of Holding Interchange Energy on delivery to BPA and 1.50 mills per kilowatthour of Holding Interchange Energy on return from BPA (3.50 mills per kilowatthour total). A loss of Holding Interchange Energy because of spill will result in a refund of 2.00 mills per kilowatthour of Holding Interchange Energy that is converted to Stored Energy and spilled.

2. Reshaping Charge

2.50 mills per kilowatthour of energy. This charge shall apply, in each Light Load Hour during which the energy delivered or returned is greater than the average hourly amount of energy delivered or returned that day, to the amount of energy delivered or returned during such hour that exceeds the daily hourly average. This charge applies in addition to the basic charge.

F. Stored Energy Service Charge

For the purposes of this rate, light load hours and heavy load hours shall not include any hours designated by the reservoir party as peak load hours.

1. Charges Paid on Delivery of Energy to a Reservoir Party

a. 2.00 mills per kilowatthour of energy delivered to BPA on Light Load Hours.
b. 1.00 mill per kilowatthour of energy delivered to BPA on Heavy Load Hours.
c. No charge for energy delivered to BPA on Peak Load Hours.

2. Charges Paid on Return of Energy Stored Less Than Two Weeks

a. 1.00 mill per kilowatthour of energy returned from BPA on Light Load Hours.
b. 3.50 mills per kilowatthour for energy returned from BPA on Heavy Load Hours.
c. 5.00 mills per kilowatthour for energy returned from BPA on Peak Load Hours.

3. Charges Paid on Return of Energy Stored for Two Weeks or More

a. No charge for energy returned from BPA on Light Load Hours.
b. 2.50 mills per kilowatthour for energy returned from BPA on Heavy Load Hours.
c. 4.00 mills per kilowatthour for energy returned from BPA on Peak Load Hours.

4. Charges Paid on Return of Energy in Cases of Imminent Spill

a. No charge for energy returned from BPA on Light Load Hours.
b. 2.50 mills per kilowatthour for energy returned from BPA on Heavy Load Hours.
c. 2.50 mills per kilowatthour for energy returned from BPA on Peak Load Hours.

5. Refund of Storage Charges in Cases of Spill

In the event that stored energy is not returned to a party because of spill on BPA's system, or in the event that BPA transfers the stored energy to another Reservoir Party to avoid spill and the transferred energy is later spilled, BPA will refund the charges paid under section F.1. in an amount equal to the charges paid under such section, divided by the kilowatthours of energy delivered to BPA, multiplied by the kilowatthours of stored energy that is spilled.

G. Transfers To Avoid Spill

1. No charge for stored energy transferred by a Reservoir Party to BPA in order to avoid spill.
2. The applicable Stored Energy Service charge shall apply in the event that BPA accepts the transfer of stored energy to avoid spill and then returns the stored energy to the original delivering party.

H. Transmission Service Charges

In any energy or capacity transaction that utilizes BPA transmission facilities where BPA acts solely as a transferor the following charges shall apply to both delivery and return of the energy, if applicable:

1. 1.60 mills per kilowatthour of Interchange Energy or Generation Impact Replacement Energy paid by the receiving party.
2. 1.75 mills per kilowatthour of Holding Interchange and Storage Energy paid by the party requesting the return.
3. No charge for In Lieu Energy, except when the supplying or receiving party requires BPA, under the terms of the PNCA, to provide transmission, in which case the charge shall be 2.00 mills per kilowatthour of In Lieu Energy paid by the party requiring BPA to provide such transmission.
4. 2.00 mills per kilowatthour of Provisional Energy paid by the Reservoir Party.
5. 2.00 mills per kilowatthour of energy associated with Transfers Due to Cross-Border Flow Deviations paid by the party receiving the transfer.
6. 2.00 mills per kilowatthour of energy associated with Interchange Capacity and FOR Capacity paid by the party requesting the delivery.

I. Special Storage Arrangements

1. Suggested Rate

a. 1.00 mills per kilowatthour for energy returned during Light Load Hours.
b. 3.00 mills per kilowatthour for energy returned during other hours.

2. Flexible Rate

The charges for special storage arrangements may be specified at a higher rate as mutually agreed between the party requesting the special storage arrangement and BPA.

Issued in Portland, Oregon, on April 17, 1995.

Randall W. Hardy,

Administrator and Chief Executive Officer.

[FR Doc. 95–10065 Filed 4–28–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–727–000, et al.]

PacifiCorp, et al.; Electric Rate and Corporate Regulation Filings

April 24, 1995.

Take notice that the following filings have been made with the Commission:

1. PacifiCorp

[Docket No. ER95–727–000]

Take notice that on April 10, 1995, PacifiCorp tendered for filing an amendment in the above-referenced docket.

Copies of this filing were supplied to AES Power Inc., Engelhard Power Marketing, Inc. InterCoast Energy Marketing Company, Gulfstream Energy, LLC, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 8, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

2. PacifiCorp

[Docket No. ER95–728–000]

Take notice that on April 10, 1995, PacifiCorp tendered for filing an amendment in the above-referenced docket.

Copies of this filing were supplied to Bountiful, Rainbow, InterCoast, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 8, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

3. C.C. Pace Energy Services

[Docket No. ER94–1181–003]

Take notice that on April 5, 1995 C.C. Pace Energy Services (C.C. Pace) filed certain information as required by the Commission's July 25, 1994, letter order in Docket No. ER94–1181–000. Copies of C.C. Pace's informational filing are on file with the Commission and are available for public inspection.

4. NorAm Energy Services Inc.

[Docket No. ER94–1247–004]

Take notice that on April 14, 1995, NorAm Energy Services, Inc. tendered for filing its quarterly report in the above-referenced docket reporting the following transactions:

1. Cajun Electric purchased from NES, 50 MWh at $21.00, non-firm energy, delivered to the Cajun/Entergy interconnect.
2. Associated Electric Coop. purchased from NES, 1600 Mwh at $17.00, non-firm energy, delivered to Associated Electric/TVA interconnect.
3. Associated Electric purchased from NES, 800 Mwh at $23.00, non-firm entergy, delivered to Associated Electric/Entergy interconnect.
4. Gentral Illinois Public Service sold to NES, 54 Mwh at $16.50, non-firm energy, delivered to CIPS/TVA interconnect.
5. Louisville Gas & Electric sold to NES, 1648 Mwh at $15.50, non-firm energy, delivered to LG&E/TVA interconnect.
6. Cajun Electric Co-op sold to NES, 824 Mwh at $19.00, non-firm energy, delivered to Cajun/Entergy interconnect.

5. American Power Exchange, Inc Inc.

[Docket No. ER94–1578–002]

Take notice that on April 17, 1995, American Power Exchange, Inc. tendered for filing its quarterly report in the above-referenced docket reporting no purchases or sales of electricity in the quarter ending March 31, 1995.

6. Wickland Power Services

[Docket No. ER95–300–001]

Take notice that on April 14, 1995, Wickland Power Services, tendered for filing its quarterly report in the above-referenced docket, reporting no purchases or sales of electricity in the quarter ending March 31, 1995.

7. South Eastern Energy Resources, Inc.

[Docket No. ER95–385–001]

Take notice that on April 17, 1995, South Eastern Energy Resources, Inc. tendered for filing its quarterly report in the above-referenced docket reporting no purchases or sales of electricity in the quarter ending March 31, 1995.

8. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–509–000]

Take notice that on April 17, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing revised proposed supplements to its Rate Schedules FERC No. 96 and FERC No. 92.

The revised proposed Supplement No. 7 to Rate Schedule FERC No. 96 applicable to electric delivery service to public customers and to non-public, economic development customers of the New York Power Authority (NYPA), and the revised proposed Supplement No. 4 to Rate Schedule FERC No. 92, applicable to electric delivery service to commercial and industrial economic development customers of the County of Westchester Public Service Agency (COWPUSA) and the New York City Public Utility Service (NYCPUS), set forth the terms of a settlement agreement under which Con Edison's base rates and charges for these services will neither increase nor decrease during the 12-month period ending March 31, 1996. The settlement agreement also provides that changes in rates for these services will be implemented for the 12-month periods ending March 31, 1997 and March 31, 1998, with the possibility of additional limited changes in these rates in succeeding annual periods.

These supplements would supersede proposed Supplement No. 6 and Supplement No. 7 to Rate Schedule FERC No. 96 and proposed Supplement No. 4 to Rate Schedule FERC No. 92 which Con Edison tendered to the Commission on January 30, 1995. These supplements have never been made effective and should be deemed superseded upon grant of the relief requested in the present filing.

A copy of this filing has been served on NYPA, COWPUSA, NYCPUS, and

VOL 60 ISS 83 MY 1 1995 UMI

the New York Public Service Commission.

Comment date: May 8, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

9. New England Power Co.

[Docket No. FA91–53–003]

Take notice that on November 22, 1994, New England Power Service Company tendered for filing its refund report in the above-referenced docket.

Comment date: May 8, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10598 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–324–000, et al.]

National Fuel Gas Supply Corp., et al.; Natural Gas Certificate Filings

April 24, 1995.

Take notice that the following filings have been made with the Commission:

1. National Fuel Gas Supply Corporation

[Docket No. CP95–324–000]

Take notice that on April 13, 1995, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed an application with the Commission in Docket No. CP95–324–000 pursuant to Section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by transfer various nonjurisdictional production and gas supply facilities and delivery points in the Commonwealth of Pennsylvania to its affiliate, National Fuel Gas Distribution Corporation (Distribution), all as more fully set forth in the application which is open to the public for inspection.

National proposes to transfer 20 pipelines, 9 associated regulating and metering stations to Distribution, and to abandon 155 delivery points located along these pipelines.[1] National Fuel states that service to existing customers served off these pipeline facilities would not be affected by the proposed transfer to Distribution. National Fuel also states that the net book value of the facilities it proposes to transfer to Distribution totals $511,987. Following the transfer of facilities to Distribution, National Fuel states that the facilities would then be subject to the state commission's jurisdiction.

Also following the transfer of facilities to Distribution, National Fuel states that it would continue to own and operate four well lines connecting wells operated by Seneca Resources Corporation (Seneca), an affiliate of both National Fuel and Distribution, to the facilities proposed for transfer to Distribution. As of the date of the instant filing, National Fuel states that it has not determined whether the well lines would be sold to Seneca, or whether one or more of these lines would be abandoned after the wells are plugged. National Fuel requests whatever authorization may be necessary to transfer these well lines to another party, or to abandon the lines. National Fuel's maps indicate that these four well lines are located in Armstrong and McKean Counties, Pennsylvania.

Comment date: May 15, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

APPENDIX

Lines	Location	Delivery points
D–4	Norwich Township, McKean County, PA.	27
D–6	Norwich Township, McKean County, PA.	20
D–73	Norwich Township, McKean County, PA.	4
F–52	Winslow Township, Jefferson County, PA.	23
F-W3765	Winslow Township, Jefferson County, PA.	1

APPENDIX—Continued

Lines	Location	Delivery points
F-W3789	Winslow Township, Jefferson County, PA.	1
F-W3791	Winslow Township, Jefferson County, PA.	5
F-W3803	Winslow Township, Jefferson County, PA.	1
F-W3856	Winslow Township, Jefferson County, PA.	2
H–56	Ashland Township, Clarion County, PA.	8
K–2	Clarion Township, Clarion County, PA.	18
K–182	Barnett Township, Forest County, PA.	6
K-W3804	Eldred Township, Jefferson County, PA.	1
P–1(PGC)	Northeast Township, Erie County, PA.	2
P–2(PGC)	Greenfield & Northeast Township, Erie County, PA.	8
PXW–1(PGC)	Northeast Township, Erie County, PA.	1
P–104	Bradys Bend Township, Armstrong County, PA.	2
T–188	Monroe Township, Clarion County, PA.	16
T–W3951	Monroe Township, Clarion County, PA.	2
W–ESE8	Springfield Township, Erie County, PA.	7

Meter Station	Location	Line that feeds into station
P-No. 1356	Winslow Township, Jefferson County, PA.	F–52
P-No. 1550	Winslow Township, Jefferson County, PA.	F–52
P-No. 2011	Winslow Township, Jefferson County, PA.	F–52
P-No. 2439	Winslow Township, Jefferson County, PA.	F–52
P-No. 2570	Winslow Township, Jefferson County, PA.	F–52
P-No. 2512	Eldred Township, Jefferson County, PA.	K-W3804
MS–1214–P	Northeast Township, Erie County, PA.	P–2 (PGC)
MS–1089–P	Northeast Township, Erie County, PA.	PXW–1 (PGC)
P-No. 514	Bradys Bend Township, Armstrong County, PA.	P–104

[1] National Fuel states that it constructed only Line P–2 in Erie County, Pennsylvania, under budget authorization granted in Docket No. CP80–463–000 [14 FERC ¶ 62,068 (1981)] pursuant to Section 7 of the NGA.

2. Northern Natural Gas Company

[Docket No. CP95–326–000]

Take notice that on April 14, 1995, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed, in Docket No. CP95–326–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authority to install and operate a new delivery point, to be located in Green County, Wisconsin, to accommodate natural gas deliveries to Wisconsin Power and Light Company (WP&L) under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that service will be provided to WP&L under currently effective throughput service agreement(s). Northern asserts that WP&L has requested the proposed delivery point to serve residential and industrial customers in Green County, Wisconsin. Northern states that the proposed volumes to be delivered to WP&L at the Jordan Township TBS #1 are 60 Mcf on peak day and 13,400 Mcf on an annual basis. Northern estimates a cost of constructing the proposed delivery point of $45,000. Northern further states that WP&L will reimburse Northern for the total cost of constructing this delivery point.

Comment date: June 8, 1995, in accordance with Standard Paragraph (G) at the end of this notice.

3. Columbia Gas Transmission Corporation

CNG Transmission Corporation

[Docket No. CP95–328–000]

Take notice that on April 17, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, and CNG Transmission Corporation (CNG) 445 West Main Street, Clarksburg, West Virginia 26302–2450, filed in Docket No. CP95–328–000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon four separate exchange services which were authorized in Docket Nos. CP70–31–000, G–17544, CP80–121–000, and CP81–277–000, all as more fully set forth in the application on file with the Commission and open to public inspection.

The applicants propose to abandon the following four exchange services:

1. An exchange agreement under Columbia's Rate Schedule X–9 and CNG's Rate Schedule X–6 involving gas reserves produced in the Cooper's Creek Field in Kanawha County, West Virginia.

2. An exchange agreement under Columbia's Rate Schedule X–28 and CNG's Rate Schedule X–1 that authorized the exchange of gas during emergencies.

3. An exchange agreement under Columbia's Rate Schedule X–93 and CNG's Rate Schedule X–28 involving Columbia delivering gas to CNG in Wyoming County, New York and CNG delivering gas to Columbia in Chemung County, New York and/or Beaver County, Pennsylvania.

4. An exchange agreement under Columbia's Rate Schedule X–105 and CNG's Rate Schedule X–33 involving Columbia delivering up to 15,000 Dth of gas per day to CNG in Crawford County, Pennsylvania and CNG delivering up to 15,000 Dth of gas per day to Columbia in Clearfield and Indiana Counties, Pennsylvania. In addition, any excess quantities of gas delivered by Columbia to CNG were returned at an interconnection located in Beaver County, Pennsylvania. Also any excess quantities of gas delivered by CNG to Columbia were returned at an interconnection near Columbia's Rockport Compressor Station located in Wood County, West Virginia.

Columbia states that all the exchange agreements listed above have been terminated by written notice. In addition, Columbia mentions that there are no outstanding imbalances.

Comment date: May 15, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

VOL
60
ISS
83
MY
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1995
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Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10597 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP85–183–003]

Algonquin Gas Transmission Company; Notice of Refund Report

April 25, 1995.

Take notice that on March 31, 1995, Algonquin Gas Transmission Company (Algonquin) tendered for filing with the Federal Energy Regulatory Commission (Commission) an Order No. 94 refund report in accordance with the Commission's order issued October 16, 1985 in Docket No. RP85–183–000.

Pursuant to the Commission's October 16 Order, Algonquin was authorized to track the direct billing of Order No. 94 costs from Consolidated Gas Transmission Corporation, now CNG Transmission Corporation (CNG), and flow through the amounts to its customers on a concurrent basis. The order also required an Order No. 94 report within 30 days of Consolidated's billing to include detailed billing and allocation information.

On March 3, 1995, Algonquin received a refund payment from CNG of certain Order No. 94-related amounts that CNG received from Texas Gas Transmission Corporation. Algonquin states that it will disburse the refund of $2,812.93 to its customers through its monthly billing on April 7, 1995. Algonquin further states that the report shows that Algonquin has allocated the refund (and additional interest of $24.05, computed at the FERC interest rate, from March 3 through April 7) on the basis of each customer's commodity volumes for the period August 1, 1980 to December 31, 1984.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before May 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10562 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No RP95–240–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 25, 1995.

Take notice that on April 19, 1995, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet, effective May 19, 1995:

Second Revised Sheet No. 687

Algonquin states that the purpose of this filing is to facilitate the timely filing of Algonquin's annual fuel reimbursement quantity deferral allocation, by revising its tariff to reflect a twelve-month accumulation period commencing August 1 and extending through July 31.

Algonquin states that copies of this filing were mailed to all affected customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10565 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–237–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 25, 1995.

Take notice that on April 19, 1995, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective May 4, 1995, the effective date of Order No. 577.

First Revised Sheet No. 351
First Revised Sheet No. 352
First Revised Sheet No. 353
First Revised Sheet No. 354
First Revised Sheet No. 575
First Revised Sheet No. 585

In Order No. 577, the Commission modified its capacity release regulations to permit shippers to release firm capacity for a period of one calendar month or less without having to comply with advance posting and bidding requirements. A related change provides for a 28 (rather than 30) day hiatus during which shippers that released capacity at less than the maximum rate under the exemptions cannot re-release that capacity to the same replacement shipper at less than the maximum tariff rate.

Columbia states that the above-referenced tariff sheets are being filed to revise the capacity release and assignment provisions and forms in the tariff to reflect changes mandated by Order No. 577. In addition, Columbia is shortening the duration of minimum posting periods for capacity release transactions.

Columbia states that copies of its filing have been mailed to all firm customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10568 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–238–000]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 25, 1995.

Take notice that on April 19, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective May 4, 1995, the effective date of Order No. 577.

First Revised Sheet No. 191A
Second Revised Sheet No. 192
Second Revised Sheet No. 194
First Revised Sheet No. 388
First Revised Sheet No. 395

In Order No. 577, the Commission modified its capacity release regulations to permit shippers to release firm capacity for a period of one calendar month or less without having to comply with advance posting and bidding requirements. A related change provides for a 28 (rather than 30) day hiatus during which shippers that released capacity at less than the maximum rate under the exemptions cannot re-release that capacity to the same replacement shipper at less than the maximum tariff rate.

Columbia Gulf states that the above-referenced tariff sheets are being filed to revise the capacity release and assignment provisions and forms in the tariff to reflect changes mandated by Order No. 577. In addition, Columbia Gulf is shortening the duration of minimum posting periods for capacity release transactions.

Columbia Gulf states that copies of its filing have been mailed to all firm customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10567 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ST95–1643–000 et al.]

Northern Natural Gas Company; Notice of Self-Implementing Transactions

April 25, 1995

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations, Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and Section 7 of the NGA and Section 5 of the Outer Continental Shelf Lands Act. [1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's Regulations and § 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and § 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and § 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's Regulations and § 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G–I" indicates transportation by an intrastate pipeline company pursuant to a blanket certificate issued under § 284.227 of the Commission's Regulations.

A "G–S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to § 284.223 and a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G–LT" or "G–LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "G–HT" or "G–HS" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's Regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's Regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the Commission's Regulations.

Lois D. Cashell,

Secretary.

[1] Notice of a transaction does not constitute a proposed service will be approved or that the noticed filing is in compliance with the

VOL 60 ISS 83 MY 1 1995 UMI

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95-1643	NORTHERN NATURAL GAS CO.	TEXAS UTILITIES FUELS CO.	03-01-95	B	100,000	N	I	12-06-94	INDEF.
ST95-1644	NORTHERN NATURAL GAS CO.	EAGLE GAS MARKETING, LLC.	03-01-95	G-S	15,000	N	I	12-01-94	INDEF.
ST95-1645	NORTHERN NATURAL GAS CO.	LONE STAR GAS CO ..	03-01-95	B	25,000	N	I	09-01-94	INDEF.
ST95-1646	NORTHERN NATURAL GAS CO.	INTERLINK/ MINNEGASCO.	03-01-95	G-S	25,000	N	I	12-06-94	INDEF.
ST95-1647	NORTHERN NATURAL GAS CO.	CONAGRA ENERGY SERVICES.	03-01-95	G-S	1,000,000	N	I	10-01-94	INDEF.
ST95-1648	NORTHERN NATURAL GAS CO.	CITY OF NEW ULM	03-01-95	G-S	2,400	N	F	08-12-94	08-11-99.
ST95-1649	MISSISSIPPI RIVER TRANS. CORP.	CENERGY, INC	03-01-95	G-S	10,000	Y	I	02-01-95	INDEF.
ST95-1650	MISSISSIPPI RIVER TRANS. CORP.	KOCH GATEWAY PIPELINE CO.	03-01-95	G-S	50,000	Y	I	02-03-95	INDEF.
ST95-1651	MISSISSIPPI RIVER TRANS. CORP.	HADSON GAS SYSTEMS, INC.	03-01-95	G-S	1,157	Y	I	02-01-95	INDEF.
ST95-1652	MISSISSIPPI RIVER TRANS. CORP.	TRANSOK GAS CO	03-01-95	G-S	100,000	Y	I	02-07-95	INDEF.
ST95-1653	MISSISSIPPI RIVER TRANS. CORP.	CATEX VITOL GAS, INC.	03-01-95	G-S	10,000	Y	I	02-01-95	INDEF.
ST95-1654	PANHANDLE EASTERN PIPE LINE CO.	TYLEX, INC	03-01-95	G-S	5,200	N	F	02-01-95	03-31-95
ST95-1655	PANHANDLE EASTERN PIPE LINE CO.	SEITEL GAS & ENERGY CORP.	03-01-95	G-S	20,000	N	I	02-01-95	01-31-97
ST95-1656	PANHANDLE EASTERN PIPE LINE CO.	TEXAS-OHIO GAS, INC.	03-01-95	G-S	60,000	N	I	02-01-95	04-30-98.
ST95-1657	PANHANDLE EASTERN PIPE LINE CO.	AURORA NATURAL GAS & ASSOC. PROD..	03-01-95	G-S	5,500	N	I	02-01-95	01-31-97.
ST95-1658	ALGONQUIN GAS TRANSMISSION CO.	O&R ENERGY, INC	03-01-95	G-S	2,000	N	F	02-01-95	02-28-95.
ST95-1659	ALGONQUIN GAS TRANSMISSION CO.	CNG ENERGY SERVICES CORP.	03-01-95	G-S	1,200	N	F	02-01-95	02-28-95.
ST95-1660	ALGONQUIN GAS TRANSMISSION CO.	1 SOURCE ENERGY SERVICES.	03-01-95	G-S	5,000	N	F	02-01-95	02-28-95.
ST95-1661	LONE STAR GAS CO ..	EL PASO NATURAL GAS CO, ET AL..	03-01-95	C	50,000	N	I	02-02-95	INDEF.
ST95-1662	NORTHWEST PIPELINE CORP.	WASHINGTON NATURAL GAS CO.	03-01-95	G-S	5,400	N	F	12-23-94	INDEF.
ST95-1663	TENNESSEE GAS PIPELINE CO.	EASTEX HYDROCARBONS, INC.	03-01-95	G-S	11,728	N	F	02-11-95	INDEF.
ST95-1664	TENNESSEE GAS PIPELINE CO.	EASTEX HYDROCARBONS, INC.	03-01-95	G-S	11,728	N	F	02-01-95	INDEF.
ST95-1665	IROQUOIS GAS TRANS. SYSTEM, L.P.	RENAISSANCE ENERGY (U.S.) INC.	03-01-95	G-S	5,000	N	F	02-01-95	03-01-95.
ST95-1666	IROQUOIS GAS TRANS. SYSTEM, L.P.	SOUTHERN CONNECTICUT GAS CO.	03-01-95	G-S	6,100	N	F	02-01-95	03-01-95.
ST95-1667	IROQUOIS GAS TRANS. SYSTEM, L.P.	A-G ENERGY, ... L.P.	03-01-95	G-S	16,500	N	F	02-01-95	11-01-09.
ST95-1668	IROQUOIS GAS TRANS. SYSTEM, L.P.	CNG ENERGY SERVICES CORP.	03-01-95	G-S	5,000	N	F	02-01-95	03-01-95.
ST95-1669	IROQUOIS GAS TRANS. SYSTEM, L.P.	EQUITABLE RESOURCES MARKETING CO.	03-01-95	G-S	100,000	N	I	02-08-95	INDEF.
ST95-1670	IROQUOIS GAS TRANS. SYSTEM, L.P.	CATEX VITOL GAS INC.	03-01-95	G-S	330,098	N	I	01-26-95	INDEF.
ST95-1671	IROQUOIS GAS TRANS. SYSTEM, L.P.	ASSOCIATED NATURAL GAS, INC.	03-01-95	G-S	50,000	N	I	02-16-95	INDEF.
ST95-1672	IROQUOIS GAS TRANS. SYSTEM, L.P.	AMOCO ENERGY TRADING CORP.	03-01-95	G-S	60,000	N	I	02-08-95	INDEF.
ST95-1673	TRAILBLAZER PIPELINE CO.	ASSOCIATED GAS SERVICES, INC.	03-02-95	G-S	10,000	N	F	01-15-95	01-31-95.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95-1674	TRAILBLAZER PIPELINE CO.	ASSOCIATED GAS SERVICES, INC.	03-02-95	G-S	10,650	N	F	02-01-95	02-28-95.
ST95-1675	EL PASO NATURAL GAS CO.	CATEX VITOL GAS, INC.	03-02-95	G-S	30,900	N	I	02-01-95	INDEF.
ST95-1676	FLORIDA GAS TRANSMISSION CO.	LOUISIANA MUNICIPAL NATURAL GAS.	03-03-95	G-S	20,000	N	I	02-04-95	INDEF.
ST95-1677	FLORIDA GAS TRANSMISSION CO.	EASTEX HYDROCARBONS, INC.	03-03-95	G-S	25,000	N	I	02-03-95	INDEF.
ST95-1678	TENNESSEE GAS PIPELINE CO.	CATEX ENERGY INC ..	03-03-95	G-S	18,000	N	F	02-11-95	INDEF.
ST95-1679	OLYMPIC PIPELINE CO.	SABINE PIPE LINE CO	03-02-95	C	12,385	N	I	01-21-95	INDEF.
ST95-1680	OLYMPIC PIPELINE CO.	SABINE PIPE LINE CO	03-02-95	C	29,355	N	I	01-21-95	INDEF.
ST95-1681	GAS CO. OF NEW MEXICO.	TRANSWESTERN PIPELINE CO, ET AL.	03-02-95	G-HT	10,000	N	I	12-12-94	INDEF.
ST95-1682	GAS CO. OF NEW MEXICO.	TRANSWESTERN PIPELINE CO.	03-02-95	G-HT	40,000	N	I	07-29-94	INDEF.
ST95-1683	CAVALLO PIPELINE CO.	ENRON INDUSTRIAL NATURAL GAS CO.	03-02-95	C	25,000	N	I	02-01-95	INDEF.
ST95-1684	DELHI GAS PIPELINE CORP.	ANR PIPELINE CO, ET AL.	03-03-95	C	2,000	N	I	02-01-95	INDEF.
ST95-1685	DELHI GAS PIPELINE CORP.	ANR PIPELINE CO, ET AL..	03-03-95	C	1,000	N	I	02-01-95	INDEF.
ST95-1686	COLORADO INTERSTATE GAS CO.	CIG RESOURCES CO .	03-03-95	G-S	15,375	Y	I	02-21-95	INDEF.
ST95-1687	COLORADO INTERSTATE GAS CO.	NATIONAL GAS RESOURCES LP.	03-03-95	G-S	5,857	N	I	02-21-95	INDEF.
ST95-1688	WILLIAMS NATURAL GAS CO.	AQUILA ENERGY MARKETING CORP.	03-03-95	G-S	50,000	N	I	02-01-95	11-01-95.
ST95-1689	WILLIAMS NATURAL GAS CO.	ENOGEX SERVICES CORP.	03-03-95	G-S	45,000	N	I	02-25-95	INDEF.
ST95-1690	U-T OFFSHORE SYSTEM.	MOBIL NATURAL GAS INC.	03-03-95	K-S	10,000	N	F	02-01-95	04-30-95.
ST95-1691	U-T OFFSHORE SYSTEM.	CNG PRODUCING CO	03-03-95	K-S	5,497	N	F	02-01-95	02-28-95.
ST95-1692	U-T OFFSHORE SYSTEM.	COAST ENERGY GROUP.	03-03-95	K-S	15,000	N	F	02-01-95	04-30-95.
ST95-1693	U-T OFFSHORE SYSTEM.	VASTAR GAS MARKETING, INC.	03-03-95	K-S	15,000	N	F	02-01-95	02-28-95.
ST95-1694	HIGH ISLAND OFFSHORE SYSTEM.	ASHLAND EXPLORATION, INC.	03-03-95	K-S	• 100,000	N	I	01-01-95	INDEF.
ST95-1695	AMOCO GAS CO	FLORIDA GAS TRANSMISSION CO.	03-06-95	G-HT	60,000	N	I	12-09-94	01-01-96.
ST95-1696	FLORIDA GAS TRANSMISSION CO.	TENNECO GAS MARKETING CO.	03-06-95	G-S	50,000	N	I	02-22-95	INDEF.
ST95-1697	FLORIDA GAS TRANSMISSION CO.	FLORIDA POWER CORP.	03-06-95	G-S	10,000	N	I	02-05-95	INDEF.
ST95-1698	STINGRAY PIPELINE CO.	CENERGY, INC	03-06-95	K-S	10,000	N	I	02-01-94	INDEF.
ST95-1699	STINGRAY PIPELINE CO.	ORYX GAS MARKETING.	03-06-95	K-S	35,000	N	I	06-01-94	INDEF.
ST95-1700	STINGRAY PIPELINE CO.	OXY USA, INC	03-06-95	K-S	15,000	N	I	04-01-94	INDEF.
ST95-1701	STINGRAY PIPELINE CO.	H & N GAS LTD	03-06-95	K-S	100,000	N	I	06-01-94	INDEF.
ST95-1702	EQUITRANS, INC	GAS TRANSPORT, INC.	03-06-95	G-S	192	N	I	03-01-95	INDEF.
ST95-1703	COLUMBIA GAS TRANSMISSION CORP.	PREMIER ENTERPRISES, INC.	03-06-95	G-S	1,500	N	I	02-05-95	INDEF.
ST95-1704	COLUMBIA GAS TRANSMISSION CORP.	PHIBRO DIVISION OF SALOMON, INC.	03-06-95	G-S	200,000	N	I	02-19-95	INDEF.
ST95-1705	COLUMBIA GAS TRANSMISSION CORP.	GASLANTIC CORP	03-06-95	G-S	1,500	N	F	03-01-95	INDEF.
ST95-1706	COLUMBIA GAS TRANSMISSION CORP.	CLINTON GAS MARKETING, INC.	03-06-95	G-S	200	N	I	03-01-95	INDEF.

VOL 60 ISS 83 MY 1 1995 UMI

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95-1707	STINGRAY PIPELINE CO.	UNION OIL CO. OF CALIFORNIA.	03-07-95	K-S	25,000	N	I	02-01-94	INDEF.
ST95-1708	STINGRAY PIPELINE CO.	KING RANCH OIL & GAS, INC.	03-07-95	K-S	3,000	N	I	11-01-94	INDEF.
ST95-1709	STINGRAY PIPELINE CO.	ENRON OIL & GAS CO	03-07-95	K-S	40,000	N	I	05-01-94	INDEF.
ST95-1710	STINGRAY PIPELINE CO.	NATIONAL GAS RESOURCES LIMITED PART.	03-07-95	K-S	50,000	N	I	10-01-94	INDEF.
ST95-1711	GAS CO. OF NEW MEXICO.	TRANSWESTERN PIPELINE CO., ET AL.	03-08-95	G-HT	8,500	N	I	05-01-94	INDEF.
ST95-1712	THREE RIVERS PIPELINE CO.	PEOPLES NATURAL GAS CO.	03-08-95	C	15,200	N	I	09-16-94	INDEF.
ST95-1713	THREE RIVERS PIPELINE CO.	TEXAS EASTERN TRANSMISSION CORP.	03-08-95	C	34,707	N	I	01-28-95	INDEF.
ST95-1714	THREE RIVERS PIPELINE CO.	PEOPLES NATURAL GAS CO.	03-08-95	C	32,000	N	I	01-01-95	INDEF.
ST95-1715	QUESTAR PIPELINE CO.	NGC TRANSPORTATION, INC.	03-08-95	G-S	5,000	N	F	03-01-95	10-31-95.
ST95-1716	K N INTERSTATE GAS TRANS. CO.	INTERENERGY CORP	03-08-95	G-S	3,500	N	F	02-04-95	02-28-95.
ST95-1717	K N INTERSTATE GAS TRANS. CO.	BRING GAS SERVICES CORP.	03-08-95	G-S	50,000	N	I	02-01-95	INDEF.
ST95-1718	GREAT LAKES GAS TRANSMISSION L.P.	WESTERN GAS MARKETING INC.	03-08-95	G-S	25,000	N	F	02-07-95	02-28-95.
ST95-1719	GREAT LAKES GAS TRANSMISSION L.P.	COENERGY TRADING CO.	03-08-95	G-S	9,833	N	F	02-09-95	02-28-95.
ST95-1720	GREAT LAKES GAS TRANSMISSION L.P.	UNITED STATES GYPSUM CO.	03-08-95	G-S	10,000	N	F	02-09-95	03-31-95.
ST95-1721	GREAT LAKES GAS TRANSMISSION L.P.	WESTERN GAS MARKETING INC.	03-08-95	G-S	25,000	N	F	02-11-95	03-31-95.
ST95-1722	GREAT LAKES GAS TRANSMISSION L.P.	MICHIGAN CONSOLIDATED GAS CO.	03-08-95	G-S	30,000	N	F	02-14-95	03-31-95.
ST95-1723	GREAT LAKES GAS TRANSMISSION L.P.	AIG TRADING CORP ..	03-08-95	G-S	100,000	N	F	02-16-95	12-31-95.
ST95-1724	PACIFIC GAS TRANSMISSION CO.	ENRON CAPITAL & TRADE RES. CORP.	03-09-95	G-S	100,000	N	I	08-12-94	INDEF.
ST95-1725	PACIFIC GAS TRANSMISSION CO.	ENRON CAPITAL & TRADE RES. CORP.	03-09-95	G-S	100,000	N	I	11-02-94	INDEF.
ST95-1726	PACIFIC GAS TRANSMISSION CO.	POCO PETROLEUMS LTD.	03-09-95	G-S	100,000	N	I	07-23-94	INDEF.
ST95-1727	PACIFIC GAS TRANSMISSION CO.	CANWEST GAS SUPPLY USA INC.	03-09-95	G-S	100,000	N	I	11-16-94	INDEF.
ST95-1728	PACIFIC GAS TRANSMISSION CO.	NATIONAL GAS RESOURCES, LP.	03-09-95	G-S	50,000	N	I	12-21-94	INDEF.
ST95-1729	PACIFIC GAS TRANSMISSION CO.	PACIFIC GAS & ELECTRIC CO.	03-09-95	G-S	1,000,000	N	I	11-29-94	INDEF.
ST95-1730	PACIFIC GAS TRANSMISSION CO.	NORTH CANADIAN MARKETING.	03-09-95	G-S	60,000	N	I	05-05-94	INDEF.
ST95-1731	PACIFIC GAS TRANSMISSION CO.	WASCANA ENERGY MARKETING (US) INC.	03-09-95	G-S	200,000	N	I	11-11-94	INDEF.
ST95-1732	PACIFIC GAS TRANSMISSION CO.	KIMBALL ENERGY CORP.	03-09-95	G-S	15,000	N	I	09-27-94	INDEF.
ST95-1733	PACIFIC GAS TRANSMISSION CO.	VECTOR ENERGY INC	03-09-95	G-S	200,000	N	I	08-31-94	INDEF.
ST95-1734	PACIFIC GAS TRANSMISSION CO.	U.S. GAS TRANSPORT	03-09-95	G-S	50,000	N	I	11-11-94	INDEF.
ST95-1735	PACIFIC GAS TRANSMISSION CO.	CIBOLA CANADA ENERGY MARKETING CO.	03-09-95	G-S	20,000	N	I	12-05-94	INDEF.
ST95-1736	PACIFIC GAS TRANSMISSION CO.	WESTERN GAS MARKETING INC.	03-09-95	G-S	150,000	N	I	12-05-94	INDEF.
ST95-1737	BOSTON GAS CO	DISTRIGAS OF MASSACHUSETTS CORP.	03-09-95	G-LT	240,000	N	F	06-24-88	06-24-98.
ST95-1738	FLORIDA GAS TRANSMISSION CO.	CHESAPEAKE UTILITIES CORP.	03-09-95	G-S	8,100	N	F	03-01-95	03-01-15.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95-1739	FLORIDA GAS TRANSMISSION CO.	CITRUS WORLD, INC .	03-09-95	G-S	1,656	N	F	03-01-95	03-01-15.
ST95-1740	FLORIDA GAS TRANSMISSION CO.	CITRUS WORLD, INC .	03-09-95	G-S	1,200	N	F	03-01-95	03-01-15.
ST95-1741	FLORIDA GAS TRANSMISSION CO.	NUI CORP., CITY GAS CO. OF FL. DIV.	03-09-95	G-S	3,500	N	F	03-01-95	03-01-15.
ST95-1742	FLORIDA GAS TRANSMISSION CO.	CITRUS TRADING CORP.	03-09-95	G-S	45,000	Y	F	03-01-95	03-01-15.
ST95-1743	WILLISTON BASIN INTER. P/L CO.	MONTANA-DAKOTA UTILITIES CO.	03-09-95	G-S	50,000	A	I	02-07-95	01-31-07.
ST95-1744	TENNESSEE GAS PIPELINE CO.	WICKFORD ENERGY MARKETING, L.C.	03-09-95	G-S	5,000	N	I	02-08-95	INDEF.
ST95-1745	COLUMBIA GULF TRANSMISSION CO.	APACHE CORP	03-10-95	G-S	28,000	N	I	03-01-95	INDEF.
ST95-1746	COLUMBIA GULF TRANSMISSION CO.	PETRO SOURCE GAS VENTURES.	03-10-95	G-S	50,000	N	I	03-01-95	INDEF.
ST95-1747	TRANSCONTINENTAL GAS P/L CORP.	VOLUNTEER ENERGY CORP.	03-10-95	G-S	6,000	N	I	02-22-95	INDEF.
ST95-1748	NORTHWEST PIPELINE CORP.	WEYERHAEUSER CO	03-10-95	G-S	20,000	N	F	03-02-95	INDEF.
ST95-1749	NORAM GAS TRANSMISSION CO.	CALUMET REFINING CO.	03-10-95	G-S	4,100	N	F	02-01-95	INDEF.
ST95-1750	NORAM GAS TRANSMISSION CO.	NESCO STEEL BARREL CO.	03-10-95	G-S	4,192	N	F	02-01-95	INDEF.
ST95-1751	NORAM GAS TRANSMISSION CO.	ENRON GAS MARKETING, INC.	03-10-95	G-S	2,819	N	F	02-01-95	INDEF.
ST95-1752	NATURAL GAS ..... P/L CO. OF AMERICA	NGC TRANSPORTATION, INC.	03-10-95	G-S	20,000	N	F	02-11-95	02-12-95.
ST95-1753	TRUNKLINE GAS CO ..	NATURAL GAS CLEARINGHOUSE, INC.	03-10-95	G-S	55,000	N	F	03-01-95	INDEF.
ST95-1754	TRANSWESTERN PIPELINE CO.	GPM GAS CORP	03-10-95	G-S	100,000	N	I	08-04-94	10-25-94.
ST95-1755	TRANSWESTERN PIPELINE CO.	PHILLIPS GAS MARKETING.	03-10-95	G-S	100,000	N	F	04-28-93	04-27-94.
ST95-1756	TRANSWESTERN PIPELINE CO.	AMGAS, INC	03-10-95	G-S	100,000	N	I	12-01-94	10-31-95.
ST95-1757	TRANSWESTERN PIPELINE CO.	RICHARDSON PRODUCTS.	03-10-95	G-S	80,000	N	I	03-02-92	02-26-93
ST95-1758	TRANSWESTERN PIPELINE CO.	BRIDGE GAS USA	03-10-95	G-S	5,131	N	F	07-01-94	07-31-94.
ST95-1759	TRANSTEXAS GAS CORP.	FLORIDA GAS TRANSMISSION CO., ET AL.	03-13-95	C	20,000	N	I	09-09-93	INDEF.
ST95-1760	TEXAS-OHIO PIPELINE, INC.	ENRON CAPITAL & TRADE RESOURCES.	03-13-95	G-S	90,000	N	I	02-01-95	01-31-96.
ST95-1761	TEXAS-OHIO PIPELINE, INC.	CONNECTICUT NATURAL GAS CORP.	03-13-95	G-S	90,000	N	I	02-01-95	01-31-96.
ST95-1762	TEXAS-OHIO PIPELINE, INC.	APPALACHIAN GAS SALES, INC.	03-13-95	G-S	90,000	N	I	02-01-95	01-31-96.
ST95-1763	TEXAS-OHIO PIPELINE, INC.	AURORA NATURAL GAS.	03-13-95	G-S	20,000	N	I	02-01-95	01-31-96.
ST95-1764	TEXAS-OHIO PIPELINE, INC.	HADSON CORP	03-13-95	G-S	90,000	N	I	02-01-95	01-31-96.
ST95-1765	TEXAS-OHIO PIPELINE, INC.	TRANSCO GAS MARKETING CO.	03-13-95	G-S	90,000	N	I	02-01-95	01-31-96.
ST95-1766	TEXAS-OHIO PIPELINE, INC.	O & R ENERGY, INC ...	03-13-95	G-S	90,000	N	I	02-01-95	01-31-96.
ST95-1767	TEXAS-OHIO PIPELINE, INC.	TENNECO GAS MARKETING CO.	03-13-95	G-S	90,000	N	I	02-01-95	01-31-96.
ST95-1768	TEXAS-OHIO PIPELINE, INC.	NEW YORK STATE ELECTRIC & GAS CORP.	03-13-95	G-S	25,000	N	I	02-01-95	01-31-96.
ST95-1769	NATIONAL FUEL GAS SUPPLY CORP.	ELLISBURG-LEIDY NORTHEAST HUB CO.	03-13-95	G-S	500,000	Y	I	09-12-93	08-31-13.
ST95-1770	NATIONAL FUEL GAS SUPPLY CORP.	ELLISBURG-LEIDY NORTHEAST HUB CO.	03-13-95	G-S	500,000	Y	I	02-01-94	01-11-14.

VOL 60 ISS 83 MY 1 1995 UMI

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–1771	NATIONAL FUEL GAS SUPPLY CORP.	ELLISBURG-LEIDY NORTHEAST HUB CO.	03–13–95	G–S	500,000	Y	I	01–12–94	01–11–14.
ST95–1772	NATIONAL FUEL GAS SUPPLY CORP.	ELLISBURG-LEIDY NORTHEAST HUB CO.	03–13–95	G–S	500,000	Y	I	03–02–94	01–11–14.
ST95–1773	NORTHERN NATURAL GAS CO.	METROPOLITAN UTILITIES DISTRICT.	03–13–95	B/G–S	179,500	N	F	11–01–94	INDEF.
ST95–1774	TEXAS EASTERN TRANSMISSION CORP.	NATIONAL FUEL GAS SUPPLY CORP.	03–13–95	G–S	764	N	F	08–01–93	INDEF.
ST95–1775	TEXAS EASTERN TRANSMISSION CORP.	BRISTOL AND WARREN GAS CO.	03–13–95	G–S	764	N	F	02–01–94	INDEF.
ST95–1776	K N INTERSTATE GAS TRANS. CO.	WESTERN GAS RESOURCES, INC.	03–13–95	G–S	22	N	F	02–22–95	09–15–95.
ST95–1777	K N INTERSTATE GAS TRANS. CO.	CHEVRON U.S.A., INC	03–13–95	G–S	5,000	N	F	02–01–95	01–31–96.
ST95–1778	K N INTERSTATE GAS TRANS. CO.	AMOCO ENERGY TRADING CO.	03–13–95	G–S	5,000	N	F	02–10–95	02–28–95.
ST95–1779	K N INTERSTATE GAS TRANS. CO.	K N GAS MARKETING, INC.	03–13–95	G–S	7,000	A	F	02–11–95	02–26–95.
ST95–1780	K N INTERSTATE GAS TRANS. CO.	NORTHERN GAS CO ..	03–13–95	G–S	50,000	Y	I	07–01–94	INDEF.
ST95–1781	TEXAS EASTERN TRANSMISSION CORP.	NORTHERN UTILITIES, INC.	03–13–95	G–S	17,520	N	F	09–01–94	INDEF.
ST95–1782	TEXAS EASTERN TRANSMISSION CORP.	BAY STATE GAS CO ..	03–13–95	G–S	291,270	N	F	09–01–94	INDEF.
ST95–1783	TEXAS EASTERN TRANSMISSION CORP.	PROGAS U.S.A., INC ..	03–13–95	G–S	29,000	N	F	06–01–93	INDEF.
ST95–1784	SEA ROBIN PIPELINE CO.	CHALLENGER MINERALS, INC.	03–13–95	G–S	7,000	Y	I	03–01–95	INDEF.
ST95–1785	SEA ROBIN PIPELINE CO.	POGO PRODUCING CO.	03–13–95	G–S	50,000	Y	I	03–01–95	INDEF.
ST95–1786	SOUTHERN NATURAL GAS CO.	ENCINA GAS MARKETING, INC.	03–13–95	G–S	10,000	N	I	03–04–95	INDEF.
ST95–1787	SOUTHERN NATURAL GAS CO.	SOUTHEAST ALABAMA GAS DISTRICT.	03–13–95	G–S	37,000	N	I	02–22–95	INDEF.
ST95–1788	SOUTHERN NATURAL GAS CO.	FLORIDA GAS TRANSMISSION CO.	03–13–95	G–S	100,000	N	F	03–01–95	03–01–15.
ST95–1789	SOUTHERN NATURAL GAS CO.	ALABASTER WATER AND GAS BOARD.	03–13–95	G–S	2,054	N	F	11–23–94	03–31–95.
ST95–1790	GASDEL PIPELINE SYSTEM INC.	ENERGY DEVELOPMENT CORP.	03–13–95	G–S	1,204	N	I	01–01–95	INDEF.
ST95–1791	SABINE PIPE LINE CO	ASSOCIATED GAS SERVICES, INC.	03–14–95	G–S	75,000	N	I	02–17–95	INDEF.
ST95–1792	SABINE PIPE LINE CO	PHIBRO ENERGY DIV. OF SALOMON, INC.	03–14–95	G–S	500,000	N	I	02–14–95	INDEF.
ST95–1793	ONG TRANSMISSION CO.	NATURAL GAS PIPELINE CO. OF AMERICA.	03–14–95	C	20,000	N	I	02–14–95	INDEF.
ST95–1794	ONG TRANSMISSION CO.	PANHANDLE EASTERN PIPE LINE CO.	03–14–95	C	10,000	N	I	02–16–95	INDEF.
ST95–1795	AMOCO GAS CO	FLORIDA GAS TRANSMISSION CO.	03–14–95	G-HT	15,000	N	I	12–09–94	01–01–96.
ST95–1796	LOUISIANA RESOURCES P/L CO., L.P.	ANR PIPELINE CO., ET AL.	03–14–95	C	30,000	N	I	10–27–94	INDEF.
ST95–1797	LOUISIANA RESOURCES P/L CO., L.P.	ANR PIPELINE CO., ET AL.	03–14–95	C	45,000	N	I	11–01–94	03–31–95.
ST95–1798	LOUISIANA RESOURCES P/L CO., L.P.	ANR PIPELINE CO., ET AL.	03–14–95	C	45,000	N	I	11–01–94	03–31–95.
ST95–1799	TRANSOK, INC	ANR PIPELINE CO., ET AL.	03–14–95	C	100,000	N	I	03–01–95	INDEF.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–1800	TRANSOK, INC	ANR PIPELINE CO., ET AL.	03–14–95	C	100,000	N	I	03–01–95	INDEF.
ST95–1801	TRANSOK, INC	ANR PIPELINE CO., ET AL.	03–14–95	C	1,000	N	I	03–01–95	INDEF.
ST95–1802	TRANSOK, INC	ANR PIPELINE CO., ET AL.	03–14–95	C	25,000	N	I	02–01–95	INDEF.
ST95–1803	KOCH GATEWAY PIPELINE CO.	ENTEX, A DIV. OF NORAM ENERGY CORP.	03–14–95	G–S	12,000	N	F	02–15–95	02–15–00.
ST95–1804	KOCH GATEWAY PIPELINE CO.	KOCH GAS SERVICES CO.	03–14–95	G–S	3,000	A	F	02–15–95	04–15–95.
ST95–1805	COLUMBIA GAS TRANSMISSION CORP.	CORNERSTONE GAS RESOURCES, INC.	03–15–95	G–S	N/A	N	I	03–02–95	INDEF.
ST95–1806	TENNESSEE GAS PIPELINE CO.	O & R ENERGY INC	03–15–95	G–S	5,000	N	F	02–25–95	INDEF.
ST95–1807	TENNESSEE GAS PIPELINE CO.	CO ENERGY TRADING CO.	03–15–95	G–S	8,024	N	F	03–04–95	INDEF.
ST95–1808	TENNESSEE GAS PIPELINE CO.	ENRON GAS MARKETING INC.	03–15–95	G–S	20,000	N	F	02–22–95	INDEF.
ST95–1809	EL PASO NATURAL GAS CO.	CHEVRON U.S.A. INC .	03–16–95	G–S	206,000	N	I	02–17–95	INDEF.
ST95–1810	WILLIAMS NATURAL GAS CO.	DEVON ENERGY	03–16–95	G–S	3,000	N	I	01–19–95	INDEF.
ST95–1811	NORAM GAS TRANSMISSION CO.	KERR MCGEE CHEMICAL.	03–16–95	G–S	430	N	F	03–01–95	INDEF.
ST95–1812	NORAM GAS TRANSMISSION CO.	T & G CONSTRUCTION, INC.	03–16–95	G–S	50	N	F	03–01–95	INDEF.
ST95–1813	WILLIAMS NATURAL GAS CO.	ENERGY DEVELOPMENT CORP.	03–16–95	G–S	2,000	N	I	01–21–95	03–31–95.
ST95–1814	WILLIAMS NATURAL GAS CO.	HADSON GAS SYSTEMS, INC.	03–16–95	G–S	10,000	N	I	03–01–95	08–01–95.
ST95–1815	WILLIAMS NATURAL GAS CO.	WILLIAMS GAS MARKETING CO.	03–16–95	G–S	250,000	A	I	03–01–95	04–01–96.
ST95–1816	NORTHERN NATURAL GAS CO.	WESTERN GAS RESOURCES, INC.	03–16–95	G–S	20,000	N	I	02–01–95	INDEF.
ST95–1817	NORTHERN NATURAL GAS CO.	TENNECO GAS MARKETING CO.	03–16–95	G–S	200,000	N	I	02–01–95	INDEF.
ST95–1818	NORTHERN NATURAL GAS CO.	GPM GAS TRADING CO.	03–16–95	G–S	100,000	N	I	02–01–95	INDEF.
ST95–1819	TENNESSEE GAS PIPELINE CO.	PHIBRO DIVISION OF SALOMON, INC.	03–16–95	G–S	20,139	N	F	03–01–95	INDEF.
ST95–1820	TENNESSEE GAS PIPELINE CO.	WICKFORD ENERGY MARKETING, L.C.	03–16–95	G–S	10,000	N	F	02–24–95	INDEF.
ST95–1821	TENNESSEE GAS PIPELINE CO.	PHIBRO DIVISION OF SALOMON, INC.	03–16–95	G–S	10,450	N	F	02–17–95	INDEF.
ST95–1822	TRUNKLINE GAS CO. .	SHELL GAS TRADING CO.	03–16–95	G–S	36,225	N	I	07–01–94	INDEF.
ST95–1823	TRUNKLINE GAS CO ..	WHITING PETROLEUM CORP.	03–16–95	G–S	1,000	N	I	09–01–94	INDEF.
ST95–1824	GAS CO. OF NEW MEXICO.	EL PASO NATURAL GAS CO., ET AL.	03–17–95	G-HT	20,000	N	I	03–09–95	INDEF.
ST95–1825	GAS CO. OF NEW MEXICO.	EL PASO NATURAL GAS CO., ET AL.	03–17–95	G-HT	5,300	N	I	03–01–95	03–31–03.
ST95–1826	GAS CO. OF NEW MEXICO.	EL PASO NATURAL GAS CO., ET AL.	03–17–95	G-HT	13,900	N	I	03–01–95	03–11–03.
ST95–1827	FLORIDA GAS TRANSMISSION CO.	COCA COLA FOODS ..	03–17–95	G–S	4,415	N	F	03–01–95	03–01–15.
ST95–1828	FLORIDA GAS TRANSMISSION CO.	CORONET INDUSTRIES, INC.	03–17–95	G–S	1,853	N	F	03–01–95	03–01–16.
ST95–1829	FLORIDA GAS TRANSMISSION CO.	CITY OF LAKELAND ...	03–17–95	G–S	26,900	N	F	03–01–95	03–01–17.
ST95–1830	FLORIDA GAS TRANSMISSION CO.	FLORIDA POWER AND LIGHT CO.	03–17–95	G–S	200,000	N	F	03–01–95	02–28–30.
ST95–1831	FLORIDA GAS TRANSMISSION CO.	FELDSPAR CORP., EPK CLAY DIV.	03–17–95	G–S	400	N	F	03–01–95	03–01–15.
ST95–1832	FLORIDA GAS TRANSMISSION CO.	FLORIDA GAS UTILITY	03–20–95	G–S	48,884	N	F	03–01–95	03–01–16.
ST95–1833	FLORIDA GAS TRANSMISSION CO.	ST. JOE NATURAL GAS CO.	03–20–95	G–S	2,871	N	F	03–01–95	03–01–15.

VOL 60 ISS 83 MY 1 1995 UMI

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–1834	FLORIDA GAS TRANSMISSION CO.	RINKER MATERIALS CORP.	03–20–95	G–S	500	N	F	03–01–95	03–01–16.
ST95–1835	FLORIDA GAS TRANSMISSION CO.	U.S. AGRI-CHEMICALS CORP.	03–20–95	G–S	822	N	F	03–01–95	03–01–16.
ST95–1836	FLORIDA GAS TRANSMISSION CO.	FORT PIERCE UTILITIES AUTHORITY.	03–20–95	G–S	1,000	N	F	03–01–95	03–01–16.
ST95–1837	TRUNKLINE GAS CO ..	ENRON CAPITAL AND TRADE RESOURCES.	03–20–95	G–S	100,000	N	I	03–01–95	INDEF.
ST95–1838	TRUNKLINE GAS CO ..	TEXAS-OHIO GAS, INC.	03–20–95	G–S	31,050	N	I	03–10–95	INDEF.
ST95–1839	SOUTH GEORGIA NATURAL GAS CO.	SCANA HYDROCARBONS INC.	03–20–95	G–S	500,000	Y	I	01–01–95	INDEF.
ST95–1840	WILLIAMS NATURAL GAS CO.	UCG ENERGY CORP ..	03–20–95	G–S	10,000	N	I	02–14–95	INDEF.
ST95–1841	K N WATTENBERG TRANS. L/L CO.	PRIMA OIL & GAS CO	03–20–95	G–S	5,000	N	I	09–01–94	INDEF.
ST95–1842	NORTHERN ILLINOIS GAS.	NATURAL G/P/L CO. OF AMERICA, ET AL.	03–20–95	G–LT	7,000	N	I	01–01–95	01–11–95.
ST95–1843	KOCH GATEWAY PIPELINE CO.	ENTEX, A DIVISION OF ARKLA.	03–21–95	G–S	105,000	N	F	03–01–95	04–01–97.
ST95–1844	KOCH GATEWAY PIPELINE CO.	MISSISSIPPI VALLEY GAS CO.	03–21–95	G–S	123,750	N	F	03–01–95	04–01–99.
ST95–1845	CORPUS CHRISTI TRANSMISSION CO.	TEXACO GAS MARKETING INC.	03–20–95	C	10,000	N	I	03–01–95	06–01–96.
ST95–1846	CORPUS CHRISTI TRANSMISSION CO.	MOBIL NATURAL GAS INC.	03–20–95	C	30,000	N	I	02–01–95	01–01–96.
ST95–1847	TEXAS EASTERN TRANSMISSION CORP.	GULF COAST ENERGY INC.	03–21–95	G–S	3,500	N	I	02–20–95	INDEF.
ST95–1848	COLORADO INTERSTATE GAS CO.	PAN-ALBERTA GAS (U.S.) INC.	03–21–95	G–S	2,419	N	I	03–03–95	INDEF.
ST95–1849	COLORADO INTERSTATE GAS CO.	ASSOCIATED GAS SERVICES, INC.	03–21–95	G–S	25,000	N	F	03–01–95	10–31–95.
ST95–1850	COLORADO INTERSTATE GAS CO.	MONTANA POWER CO.	03–21–95	B	20,000	N	F	03–04–95	06–30–95.
ST95–1851	CNG TRANSMISSION CORP.	SONAT MARKETING CO., ET AL.	03–21–95	G–S	50,000	N	I	03–04–95	04–30–95.
ST95–1852	CNG TRANSMISSION CORP.	APPLIED MECHANICS CORP.	03–21–95	G–S	1,000	N	I	03–01–95	04–30–95.
ST95–1853	CNG TRANSMISSION CORP.	BNG, INC	03–21–95	G–S	30,000	N	I	02–23–95	04–30–95.
ST95–1854	CNG TRANSMISSION CORP.	AMERICAN ELECTRIC POWER.	03–21–95	G–S	117,000	N	I	03–01–95	04–30–95.
ST95–1855	TRANSCONTINENTAL GAS P/L CORP.	INTERSTATE GAS MARKETING, INC.	03–21–95	G–S	100,000	N	I	03–01–95	INDEF.
ST95–1856	TRANSCONTINENTAL GAS P/L CORP.	INTERSTATE GAS MARKETING, INC.	03–21–95	G–S	1,000	N	I	03–04–95	INDEF.
ST95–1857	TRANSCONTINENTAL GAS P/L CORP.	SARA LEE KNIT PRODUCTS.	03–21–95	G–S	4,000	N	I	03–01–95	INDEF.
ST95–1858	TRANSCONTINENTAL GAS P/L CORP.	BAY STATE GAS CO ..	03–21–95	G–S	100,000	N	I	03–01–95	INDEF.
ST95–1859	ENOGEX INC	ANR PIPELINE CO., ET AL.	03–22–95	C	50,000	N	I	02–22–95	INDEF.
ST95–1860	ACADIAN GAS PIPELINE SYSTEM.	NATURAL GAS P/L CO. OF AM., ET AL.	03–22–95	C	20,000	N	I	01–01–95	12–31–95.
ST95–1861	TENNESSEE GAS PIPELINE CO.	DIRECT GAS SUPPLY CORP.	03–22–95	G–S	5,333	N	F	02–21–95	INDEF.
ST95–1862	FLORIDA GAS TRANSMISSION CO.	CITY OF TALLAHASSEE.	03–22–95	G–S	30,000	N	F	03–01–95	03–01–15.
ST95–1863	FLORIDA GAS TRANSMISSION CO.	POLK POWER PARTNERS, L.P.	03–22–95	G–S	19,710	N	F	03–01–95	03–01–16.
ST95–1864	FLORIDA GAS TRANSMISSION CO.	ORLANDO COGEN FUEL, INC.	03–22–95	G–S	12,900	N	F	03–01–95	03–01–25.
ST95–1865	FLORIDA GAS TRANSMISSION CO.	ORLANDO UTILITIES COMMISSION.	03–22–95	G–S	25,000	N	F	03–01–95	03–01–15.
ST95–1866	FLORIDA GAS TRANSMISSION CO.	ORLANDO COGEN (11), INC.	03–22–95	G–S	10,700	N	F	03–01–95	03–01–25.
ST95–1867	ANR PIPELINE CO	MILWAUKEE METRO. SEWERAGE DIST.	03–22–95	G–S	N/A	N	I	11–01–93	03–31–98.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–1868	ANR PIPELINE CO	BASIN OPERATING CO.	03–22–95	G–S	N/A	Y	I	01–01–94	INDEF.
ST95–1869	ANR PIPELINE CO	CONOCO INC	03–22–95	G–S	N/A	N	I	01–27–94	INDEF.
ST95–1870	ANR PIPELINE CO	GASLANTIC CORP	03–22–95	G–S	N/A	N	I	01–21–94	INDEF.
ST95–1871	ANR PIPELINE CO	NATIONAL GAS RESOURCES.	03–22–95	G–S	N/A	N	I	01–11–94	INDEF.
ST95–1872	ANR PIPELINE CO	NITEX INC	03–22–95	G–S	20,000	N	F	11–01–94	03–31–95.
ST95–1873	ANR PIPELINE CO	SEMCO ENERGY SERVICES.	03–22–95	G–S	9,000	N	F	12–01–94	03–31–02.
ST95–1874	ANR PIPELINE CO	MICHIGAN CONSOLIDATED GAS CO.	03–22–95	G–S	50,000	N	F	08–12–94	12–31–95.
ST95–1875	ANR PIPELINE CO	CENTRAL ILLINOIS LIGHT CO.	03–22–95	G–S	18,000	N	F	11–01–94	03–31–97.
ST95–1876	ANR PIPELINE CO	CENERGY INC	03–22–95	G–S	2,660	N	F	07–01–94	06–30–95.
ST95–1877	ANR PIPELINE CO	FORD MOTOR CO.—ROUGE STEEL.	03–22–95	G–S	4,000	N	F	04–01–94	03–01–97.
ST95–1878	ANR PIPELINE CO	BASIC AMERICAN FOODS.	03–22–95	G–S	700	N	F	02–01–94	01–31–99.
ST95–1879	ANR PIPELINE CO	PONTCHARTRAIN NATURAL GAS.	03–22–95	G–S	4,000	N	F	04–01–94	03–31–97.
ST95–1880	ANR PIPELINE CO	GGR ENERGY	03–22–95	G–S	N/A	N	I	01–06–94	INDEF.
ST95–1881	ANR PIPELINE CO	WEST OHIO GAS CO .	03–22–95	G–S	1,000	N	F	12–05–94	10–31–96.
ST95–1882	ANR PIPELINE CO	CIG—THE MERCHANT DIVISION.	03–22–95	G–S	N/A	Y	I	01–01–94	INDEF.
ST95–1883	ANR PIPELINE CO	OHIO GAS CO	03–22–95	G–S	400	N	F	10–01–94	10–01–99.
ST95–1884	COLUMBIA GAS TRANSMISSION CORP.	WEST VIRGINIA POWER.	03–23–95	G–S	500	N	F	03–15–95	INDEF.
ST95–1885	COLUMBIA GAS TRANSMISSION CORP.	TRANSOK GAS CO	03–23–95	G–S	50,000	N	I	03–08–95	INDEF.
ST95–1886	MIDWESTERN GAS TRANSMISSION CO.	MOBIL NATURAL GAS, INC.	03–23–95	G–S	15,500	N	F	03–01–95	INDEF.
ST95–1887	TENNESSEE GAS PIPELINE CO.	CO ENERGY TRADING CO.	03–23–95	G–S	10,000	N	F	03–09–95	INDEF.
ST95–1888	ANR PIPELINE CO	MICHIGAN CONSOLIDATED GAS CO.	03–23–95	G–S	400,000	N	F	11–01–94	06–01–11.
ST95–1889	ANR PIPELINE CO	UCG ENERGY CORP ..	03–23–95	G–S	3,655	N	F	09–01–94	08–31–96.
ST95–1890	ANR PIPELINE CO	NITEX INC	03–23–95	G–S	30,000	N	F	12–29–94	03–31–95.
ST95–1891	ANR PIPELINE CO	MIDCON GAS SERVICES CORP.	03–23–95	G–S	10,000	N	F	12–17–94	03–31–95.
ST95–1892	ANR PIPELINE CO	IOWA-ILLINOIS GAS & ELECTRIC CO.	03–23–95	G–S	5,000	N	F	12–01–94	03–31–95.
ST95–1893	ANR PIPELINE CO	HOWARD ENERGY CO., INC.	03–23–95	G–S	10,000	N	F	12–01–94	03–31–95.
ST95–1894	ANR PIPELINE CO	WEST TENNESSEE PUBLIC UTILITY.	03–23–95	G–S	2,150	N	F	10–01–94	09–30–99.
ST95–1895	ANR PIPELINE CO	HOWARD ENERGY CO., INC.	03–23–95	G–S	1,000	N	F	12–01–94	03–31–95.
ST95–1896	ANR PIPELINE CO	TENNECO GAS MARKETING CO.	03–23–95	G–S	1,865	N	F	11–01–94	03–31–95.
ST95–1897	ANR PIPELINE CO	AMOCO PRODUCTION CO.	03–23–95	G–S	N/A	N	I	03–04–94	INDEF.
ST95–1898	ANR PIPELINE CO	NORCEN EXPLORER .	03–23–95	G–S	N/A	N	I	03–02–94	INDEF.
ST95–1899	ANR PIPELINE CO	HUNT PETROLEUM CORP.	03–23–95	G–S	N/A	N	I	02–05–94	INDEF.
ST95–1900	ANR PIPELINE CO	ONONDAGA COGENERATION.	03–23–95	G–S	N/A	N	I	01–01–94	INDEF.
ST95–1901	ANR PIPELINE CO	TORCH GAS LC	03–23–95	G–S	N/A	N	I	04–30–94	INDEF.

VOL 60 ISS 83 MY 1 1995 UMI

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–1902	ANR PIPELINE CO	MINNEGASCO INC	03–23–95	G–S	N/A	N	I	02–12–94	INDEF.
ST95–1903	ANR PIPELINE CO	WISCONSIN POWER & LIGHT.	03–23–95	G–S	N/A	N	I	06–03–94	INDEF.
ST95–1904	ANR PIPELINE CO	O & R ENERGY INC	03–23–95	G–S	N/A	N	F	04–14–94	INDEF.
ST95–1905	ANR PIPELINE CO	POLARIS PIPELINE CORP.	03–23–95	G–S	N/A	N	F	02–12–94	INDEF.
ST95–1906	ANR PIPELINE CO	SEMCO ENERGY SERVICES.	03–23–95	G–S	N/A	Y	F	01–05–94	INDEF.
ST95–1907	ANR PIPELINE CO	TORCH GAS LC	03–23–95	G–S	N/A	N	F	04–01–94	INDEF.
ST95–1908	ANR PIPELINE CO	ENMARK GAS CORP	03–23–95	G–S	N/A	N	F	03–01–94	INDEF.
ST95–1909	ANR PIPELINE CO	EASTEX HYDRO-CARBONS.	03–23–95	G–S	N/A	N	F	01–01–94	INDEF.
ST95–1910	ANR PIPELINE CO	AIG TRADING CORP	03–23–95	G–S	N/A	N	F	04–01–94	INDEF.
ST95–1911	FLORIDA GAS TRANSMISSION CO.	SCANA HYDRO-CARBONS, INC.	03–23–95	G–S	100,000	N	I	03–01–95	INDEF.
ST95–1912	FLORIDA GAS TRANSMISSION CO.	PEOPLES GAS SYSTEM, INC.	03–23–95	G–S	20,000	N	F	03–01–95	03–01–15.
ST95–1913	FLORIDA GAS TRANSMISSION CO.	CITRUS WORLD, INC	03–23–95	G–S	2,800	N	F	03–01–95	03–01–15.
ST95–1914	FLORIDA GAS TRANSMISSION CO.	NUI CORP, CITY GAS CO. OF FL. DIV.	03–23–95	G–S	19,500	N	F	03–01–95	03–01–15.
ST95–1915	FLORIDA GAS TRANSMISSION CO.	TEXAS-OHIO GAS, INC.	03–23–95	G–S	7,000	N	I	03–01–95	INDEF.
ST95–1916	NORTHERN NATURAL GAS CO.	ANADARKO TRADING CO.	03–23–95	G–S	100,000	N	I	02–02–95	INDEF.
ST95–1917	NORTHERN NATURAL GAS CO.	CONAGRA ENERGY SERVICES CO.	03–23–95	G–S	500,000	N	I	01–04–95	INDEF.
ST95–1918	NORTHERN NATURAL GAS CO.	HEARTLAND CORN PRODUCTS.	03–23–95	G–S	60,000	N	I	11–13–94	INDEF.
ST95–1919	NORTHERN NATURAL GAS CO.	UTILICORP UNITED INC.	03–23–95	B/G–S	11,500	N	F	03–03–95	INDEF.
ST95–1920	NORTHERN NATURAL GAS CO.	KCS ENERGY MARKETING, INC.	03–23–95	G–S	100,000	N	I	01–01–95	INDEF.
ST95–1921	NORTHERN NATURAL GAS CO.	CNG PRODUCING CO	03–23–95	G–S	100,000	N	I	01–01–95	INDEF.
ST95–1922	NORTHERN NATURAL GAS CO.	GPM GAS CORP	03–23–95	G–S	400,000	N	I	02–01–95	INDEF.
ST95–1923	NORTHERN NATURAL GAS CO.	U.S. ENERGY SERVICES.	03–23–95	G–S	1,000	N	F	03–01–95	03–31–95.
ST95–1924	TEXAS EASTERN TRANSMISSION CORP.	VALERO GAS MARKETING, L.P.	03–23–95	G–S	19,780	N	I	03–11–95	INDEF.
ST95–1925	TEXAS EASTERN TRANSMISSION CORP.	CHANNEL GAS MARKETING CO.	03–23–95	G–S	50,000	N	I	03–01–95	INDEF.
ST95–1926	TEXAS EASTERN TRANSMISSION CORP.	GULF COAST ENERGY INC.	03–23–95	G–S	3,500	N	I	02–24–95	INDEF.
ST95–1927	TEXAS EASTERN TRANSMISSION CORP.	MIDDLE TENN. NAT. GAS UTILITY DIST.	03–23–95	G–S	10,000	N	I	02–25–95	INDEF.
ST95–1928	TEXAS EASTERN TRANSMISSION CORP.	MIDDLE TENN. NAT. GAS UTILITY DIST.	03–23–95	G–S	1,000	N	F	02–01–95	INDEF.
ST95–1929	TEXAS EASTERN TRANSMISSION CORP.	AMOCO ENERGY TRADING CORP.	03–23–95	G–S	50,000	N	I	03–02–95	INDEF.
ST95–1930	TEXAS EASTERN TRANSMISSION CORP.	AMOCO ENERGY TRADING CORP.	03–23–95	G–S	50,000	N	I	03–01–95	INDEF.
ST95–1931	TEXAS EASTERN TRANSMISSION CORP.	WICKFORD ENERGY MARKETING LC.	03–23–95	G–S	15,000	N	I	03–01–95	INDEF.
ST95–1932	TEXAS EASTERN TRANSMISSION CORP.	DIRECT GAS SUPPLY CORP.	03–23–95	G–S	25,875	N	I	03–01–95	INDEF.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–1933	TEXAS EASTERN TRANSMISSION CORP.	BOSTON GAS CO	03–23–95	G–S	32,616	N	F	03–01–95	INDEF.
ST95–1934	TEXAS EASTERN TRANSMISSION CORP.	BOSTON GAS CO	03–23–95	G–S	3,177	N	F	03–01–95	INDEF.
ST95–1935	TEXAS EASTERN TRANSMISSION CORP.	BOSTON GAS CO	03–23–95	G–S	209	N	F	11–01–94	INDEF.
ST95–1936	TEXAS EASTERN TRANSMISSION CORP.	BOSTON GAS CO	03–23–95	G–S	36	N	F	11–01–94	INDEF.
ST95–1937	TEXAS EASTERN TRANSMISSION CORP.	BOSTON GAS CO	03–23–95	G–S	27	N	F	11–01–94	INDEF.
ST95–1938	TEXAS EASTERN TRANSMISSION CORP.	COLONIAL GAS CO	03–23–95	G–S	83	N	F	09–09–94	INDEF.
ST95–1939	ANR PIPELINE CO	PARIS-HENRY COUNTY PUBLIC UTILITY.	03–24–95	G–S	1,200	N	F	11–01–94	10–31–99.
ST95–1940	ANR PIPELINE CO	UTILICORP UNITED INC.	03–24–95	G–S	16,481	N	F	11–01–94	03–31–95.
ST95–1941	ANR PIPELINE CO	SEMCO ENERGY SERVICES.	03–24–95	G–S	500	N	F	12–01–94	03–31–95.
ST95–1942	ANR PIPELINE CO	KANSOK	03–24–95	B	5,000	N	F	11–04–94	10–31–95.
ST95–1943	ANR PIPELINE CO	WEST OHIO GAS CO	03–24–95	G–S	9,335	N	F	10–01–94	10–31–96.
ST95–1944	ANR PIPELINE CO	PACKERLAND ENERGY SERVICES INC.	03–24–95	G–S	N/A	N	I	04–01–94	INDEF.
ST95–1945	ANR PIPELINE CO	OXY U.S.A. INC	03–24–95	G–S	N/A	N	I	05–12–94	INDEF.
ST95–1946	ANR PIPELINE CO	GEORGE R. BROWN	03–24–95	G–S	N/A	N	I	04–01–94	INDEF.
ST95–1947	ANR PIPELINE CO	LL & E	03–24–95	G–S	N/A	N	I	08–03–94	INDEF.
ST95–1948	ANR PIPELINE CO	LL & E	03–24–95	G–S	N/A	N	I	08–03–94	INDEF.
ST95–1949	ANR PIPELINE CO	WPS ENERGY SERVICES.	03–24–95	G–S	N/A	N	I	01–01–94	INDEF.
ST95–1950	ANR PIPELINE CO	SUBURBAN NATURAL GAS CO.	03–24–95	G–S	1,020	N	F	12–01–94	03–31–95.
ST95–1951	ANR PIPELINE CO	CMS GAS MARKETING.	03–24–95	G–S	500	N	F	11–01–94	03–31–95.
ST95–1952	ANR PIPELINE CO	MIDWEST GAS	03–24–95	G–S	400	N	F	12–01–94	02–28–95.
ST95–1953	ANR PIPELINE CO	STAND ENERGY CORP.	03–24–95	G–S	1,200	N	F	11–01–94	03–31–95.
ST95–1954	ANR PIPELINE CO	SHELL GAS TRADING	03–24–95	G–S	N/A	N	I	08–01–94	INDEF.
ST95–1955	PANHANDLE EASTERN PIPE LINE CO.	CITIZENS ENERGY SERVICES CORP.	03–24–95	G–S	50,000	N	I	02–23–95	08–22–96.
ST95–1956	PANHANDLE EASTERN PIPE LINE CO.	SEITEL GAS & ENERGY CORP.	03–24–95	G–S	25,000	N	I	03–01–95	01–31–97.
ST95–1957	FLORIDA GAS TRANSMISSION CO.	HPL RESOURCES CO	03–24–95	G–S	150,000	Y	I	03–07–95	INDEF.
ST95–1958	FLORIDA GAS TRANSMISSION CO.	FLORIDA PUBLIC UTILITIES CO.	03–24–95	G–S	924	N	F	03–02–95	03–01–15.
ST95–1959	FLORIDA GAS TRANSMISSION CO.	FLORIDA PUBLIC UTILITIES CO.	03–24–95	G–S	9,640	N	F	03–02–95	03–01–15.
ST95–1960	FLORIDA GAS TRANSMISSION CO.	ALUMINUM CO. OF AMERICA.	03–24–95	G–S	289	N	F	03–15–95	03–01–15.
ST95–1961	CARNEGIE INTERSTATE PIPELINE CO.	EQUITRANS MARKETING SERVICE CO.	03–24–95	G–S	5,000	N	I	03–06–95	INDEF.
ST95–1962	GULF COAST NATURAL GAS CO.	KOCH GATEWAY PIPELINE CO.	03–24–95	C	7,000	Y	I	02–02–95	INDEF.
ST95–1963	GULF COAST NATURAL GAS CO.	TRUNKLINE GAS CO	03–24–95	C	5,000	Y	I	02–13–95	INDEF.
ST95–1964	TRANSOK, INC	ANR PIPELINE CO., ET AL.	03–24–95	C	500	N	I	03–01–94	INDEF.

VOL 60 ISS 83 MY 1 1995 UMI

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–1965	DELHI GAS PIPELINE CORP.	ANR PIPELINE CO., ET AL.	03–27–95	C	15,000	N	I	03–01–95	INDEF.
ST95–1966	PANHANDLE EASTERN PIPE LINE CO.	CHEVRON U.S.A. INC .	03–27–95	G–S	100,000	N	I	03–01–95	02–29–96.
ST95–1967	PANHANDLE EASTERN PIPE LINE CO.	LEE 8 STORAGE PARTNERSHIP.	03–27–95	B	25,000	N	I	03–02–95	02–28–97.
ST95–1968	PANHANDLE EASTERN PIPE LINE CO.	APPALACHIAN GAS SALES CORP.	03–27–95	G–S	500	N	I	03–14–95	02–28–97.
ST95–1969	PANHANDLE EASTERN PIPE LINE CO.	APACHE CORP	03–27–95	G–S	100,000	N	I	03–01–95	02–28–97.
ST95–1970	GREAT LAKES GAS TRANSMISSION L.P..	CENTRA GAS MANITOBA INC..	03–27–95	G–S	225,000	N	I	01–09–95	10–31–95.
ST95–1971	GREAT LAKES GAS TRANSMISSION L.P..	NORTHERN STATES POWER CO. (WI).	03–27–95	G–S	55,000	N	I	02–11–95	10–31–95.
ST95–1972	GREAT LAKES GAS TRANSMISSION L.P..	NORTHERN STATES POWER CO. (MN).	03–27–95	G–S	55,000	N	I	01–03–95	10–31–95.
ST95–1973	GREAT LAKES GAS TRANSMISSION L.P..	AIG TRADING CORP ..	03–27–95	G–S	20,000	N	F	03–01–95	03–31–95.
ST95–1974	ANR PIPELINE CO	DETROIT EDISON	03–27–95	G–S	N/A	N	I	06–01–94	INDEF.
ST95–1975	ANR PIPELINE CO	CONTINENTAL NATURAL GAS.	03–27–95	G–S	N/A	N	F	01–01–94	INDEF.
ST95–1976	ANR PIPELINE CO	DELHI GAS MARKETING.	03–27–95	G–S	N/A	N	F	05–01–94	INDEF.
ST95–1977	ANR PIPELINE CO	KOCH GAS SERVICES CO.	03–27–95	G–S	N/A	N	F	01–01–94	INDEF.
ST95–1978	ANR PIPELINE CO	TORCH GAS LC	03–27–95	G–S	N/A	N	F	04–01–94	INDEF.
ST95–1979	ANR PIPELINE CO	COLUMBIA ENERGY SERVICES CORP.	03–27–95	G–S	N/A	Y	I	12–01–94	INDEF.
ST95–1980	ANR PIPELINE CO	NORTH CENTRAL OIL CORP.	03–27–95	G–S	N/A	N	I	08–01–94	INDEF.
ST95–1981	ANR PIPELINE CO	NOBLE GAS MARKETING INC.	03–27–95	G–S	N/A	N	I	06–01–94	INDEF.
ST95–1982	ANR PIPELINE CO	COAST ENERGY GROUP INC.	03–27–95	G–S	N/A	N	I	06–01–94	INDEF.
ST95–1983	ANR PIPELINE CO	TRIDENT NGL INC	03–27–95	G–S	N/A	N	I	05–06–94	INDEF.
ST95–1984	ANR PIPELINE CO	MICHIGAN CONSOLIDATED GAS CO.	03–27–95	G–S	6,000	N	F	11–16–94	12–31–95.
ST95–1985	ANR PIPELINE CO	AMGAS INC	03–27–95	G–S	500	N	F	11–01–94	02–28–95.
ST95–1986	ANR PIPELINE CO	ENRON GAS MARKETING INC.	03–27–95	G–S	4,000	N	F	11–01–94	03–31–95.
ST95–1987	ANR PIPELINE CO	RENAISSANCE ENERGY.	03–27–95	G–S	8,797	Y	F	11–01–94	03–31–95.
ST95–1988	ANR PIPELINE CO	COASTAL GAS MARKETING CO.	03–27–95	G–S	25,000	Y	F	11–01–94	03–31–95.
ST95–1989	ANR PIPELINE CO	APPLETON PAPERS INC.	03–27–95	G–S	2,000	N	F	11–01–94	10–31–98.
ST95–1990	ANR PIPELINE CO	KAZTEX ENERGY MANAGEMENT.	03–27–95	G–S	8,000	Y	F	11–01–94	03–31–95.
ST95–1991	ANR PIPELINE CO	CMS GAS MARKETING.	03–27–95	G–S	930	N	F	12–01–94	03–31–95.
ST95–1992	ANR PIPELINE CO	WEST OHIO GAS CO .	03–27–95	G–S	8,000	N	F	09–11–94	03–31–04.
ST95–1993	LLANO, INC	NATURAL GAS P/L CO. OF AMERICA.	03–27–95	C	600,000	N	I	02–24–95	INDEF.
ST95–1994	EL PASO NATURAL GAS CO.	OASIS PIPE LINE CO .	03–28–95	B	103,000	N	I	03–01–95	INDEF.
ST95–1995	EL PASO NATURAL GAS CO.	AMOCO ENERGY TRADING CO.	03–28–95	G–S	150,000	N	I	03–01–95	INDEF.
ST95–1996	FLORIDA GAS TRANSMISSION CO.	ASSOCIATED NATURAL GAS, INC.	03–28–95	G–S	250,000	N	I	03–01–95	INDEF.
ST95–1997	ANR PIPELINE CO	INDUSTRIAL ENERGY APPLICATION.	03–28–95	G–S	1,325	N	F	11–01–94	10–31–95.
ST95–1998	ANR PIPELINE CO	ENRON CAPITAL & TRADE RESOURCES.	03–28–95	G–S	663	N	F	12–01–94	03–31–95.
ST95–1999	ANR PIPELINE CO	COASTAL GAS MARKETING CO.	03–28–95	G–S	836	A	F	12–01–94	03–31–95.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–2000	ANR PIPELINE CO	EAST OHIO GAS CO ..	03–28–95	G–S	13,750	N	F	12–01–94	10–31–96.
ST95–2001	ANR PIPELINE CO	MADISON GAS & ELECTRIC CO.	03–28–95	G–S	4,500	N	F	12–01–94	03–31–95.
ST95–2002	ANR PIPELINE CO	WESTCOAST GAS SERVICES USA.	03–28–95	G–S	1,000	N	F	01–06–95	03–31–95.
ST95–2003	ANR PIPELINE CO	ENERGY SOURCE INC	03–28–95	G–S	N/A	N	I	01–01–95	INDEF.
ST95–2004	ANR PIPELINE CO	CHESAPEAKE ENERGY CORP.	03–28–95	G–S	N/A	N	F	02–01–95	INDEF.
ST95–2005	ANR PIPELINE CO	AMAX GAS MARKETING.	03–28–95	G–S	N/A	N	F	01–01–94	INDEF.
ST95–2006	ANR PIPELINE CO	MURPHY EXPLORATION.	03–28–95	G–S	N/A	N	F	04–02–94	INDEF.
ST95–2007	ANR PIPELINE CO	EASTERN ENERGY MARKETING INC.	03–28–95	G–S	N/A	N	I	02–14–95	INDEF.
ST95–2008	ANR PIPELINE CO	FORCENERGY GAS EXPLORATION INC.	03–28–95	G–S	N/A	N	I	01–19–95	INDEF.
ST95–2009	ANR PIPELINE CO	TWISTER TRANSMISSION CO.	03–28–95	G–S	N/A	N	F	02–01–95	INDEF.
ST95–2010	ANR PIPELINE CO	MICHIGAN CONSOLIDATED GAS CO.	03–28–95	S	20,000	N	F	01–01–95	12–31–95.
ST95–2011	ANR PIPELINE CO	INDUSTRIAL ENERGY APPLICATION.	03–28–95	G–S	N/A	N	I	02–02–95	INDEF.
ST95–2012	ANR PIPELINE CO	UNIMARK LLC	03–28–95	G–S	N/A	N	F	02–01–94	INDEF.
ST95–2013	ANR PIPELINE CO	BROOKLYN INTERSTATE NATURAL GAS CO.	03–28–95	G–S	N/A	N	F	04–01–94	INDEF.
ST95–2014	ANR PIPELINE CO	IES UTILITIES INC	03–28–95	G–S	N/A	N	I	07–01–94	INDEF.
ST95–2015	ANR PIPELINE CO	POCO PETROLEUMS LTD.	03–28–95	G–S	N/A	N	I	01–13–95	INDEF.
ST95–2016	ANR PIPELINE CO	GREAT LAKES ENERGY CORP.	03–28–95	G–S	N/A	N	I	10–01–94	INDEF.
ST95–2017	TRANSWEST ..... ERN PIPELINE CO	GAS CO OF NEW MEXICO.	03–29–95	B	80,000	N	I	02–01–95	02–28–95.
ST95–2018	TRANSWEST ..... ERN PIPELINE CO	TRISTAR GAS MARKETING.	03–29–95	G–S	6,000	N	F	02–01–95	02–28–95.
ST95–2019	ROCKY MOUNTAIN NATURAL GAS CO.	NORTHWEST PIPELINE CORP., ET AL.	03–29–95	G-HT	25,000	N	I	01–01–95	INDEF.
ST95–2020	CHANNEL INDUSTRIES GAS CO.	BRING GAS SERVICES CORP.	03–29–95	G-I	50,000	N	I	03–01–95	INDEF.
ST95–2021	CENTANA INTRASTATE PIPELINE CO.	1 SOURCE ENERGY SERVICES CO.	03–29–95	C	120,000	N	I	08–13–94	INDEF.
ST95–2022	CENTANA INTRASTATE PIPELINE CO.	1 SOURCE ENERGY SERVICES CO.	03–29–95	C	100,000	N	F	08–13–94	INDEF.
ST95–2023	CENTANA INTRASTATE PIPELINE CO.	ASSOCIATED GAS SERVICES, INC.	03–29–95	C	30,000	N	I	09–01–94	INDEF.
ST95–2024	CENTANA INTRASTATE PIPELINE CO.	CENTANA ENERGY MARKETING CO.	03–29–95	C	100,000	N	I	06–01–94	INDEF.
ST95–2025	CENTANA INTRASTATE PIPELINE CO.	TEXACO GAS MARKETING, INC.	03–29–95	C	20,000	N	I	12–01–94	INDEF.
ST95–2026	CENTANA INTRASTATE PIPELINE CO.	TEXACO GAS MARKETING, INC.	03–29–95	C	8,000	N	I	03–01–95	02–28–96.
ST95–2027	CENTANA INTRASTATE PIPELINE CO.	CENTANA ENERGY CORP.	03–29–95	C	30,000	N	I	12–01–94	INDEF.
ST95–2028	CENTANA INTRASTATE PIPELINE CO.	CENTANA ENERGY CORP.	03–29–95	C	10,000	N	I	12–01–94	INDEF.
ST95–2029	IROQUOIS GAS TRANS. SYSTEM, L.P.	CNG ENERGY SERVICES CORP.	03–30–95	G–S	50,000	N	F	03–01–95	04–01–95.
ST95–2030	IROQUOIS GAS TRANS. SYSTEM, L.P.	AMOCO ENERGY TRADING CORP.	03–30–95	G–S	3,000	N	I	03–01–95	04–01–95.
ST95–2031	IROQUOIS GAS TRANS. SYSTEM, L.P.	PHIBRO DIVISION OF SALOMON INC.	03–30–95	G–S	5,000	N	F	03–01–95	04–01–95.
ST95–2032	IROQUOIS GAS TRANS. SYSTEM, L.P.	TRANSCO GAS MARKETING CO.	03–30–95	G–S	10,001	N	F	03–01–95	04–01–95.

VOL 60 ISS 83 MY 1 1995 UMI

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–2033	IROQUOIS GAS TRANS. SYSTEM, L.P.	KAMINE BEAVER FALLS COGEN CO, INC.	03–30–95	G–S	16,000	N	I	03–02–95	INDEF.
ST95–2034	ANR PIPELINE CO	HOWARD ENERGY CO.	04–03–95	G–S	200,000	N	F	12–01–94	INDEF.
ST95–2035	COLUMBIA GULF TRANSMISSION CO.	1564 EAST LANCASTER AVE. BUS. TRUST.	03–30–95	G–S	5,000	N	I	03–15–95	INDEF.
ST95–2036	COLUMBIA GULF TRANSMISSION CO.	EMPIRE DETROIT STEEL.	03–30–95	G–S	15,000	N	I	03–15–95	INDEF.
ST95–2037	COLUMBIA GULF TRANSMISSION CO.	HIGHLAND ENERGY CO.	03–30–95	G–S	10,000	N	I	03–01–95	INDEF.
ST95–2038	COLUMBIA GULF TRANSMISSION CO.	HIGHLAND GAS MARKETING.	03–30–95	G–S	15,000	N	I	03–15–95	INDEF.
ST95–2039	COLUMBIA GULF TRANSMISSION CO.	LIBBY GLASS, INC	03–30–95	G–S	10,000	N	I	03–15–95	INDEF.
ST95–2040	COLUMBIA GULF TRANSMISSION CO.	MIDWEST GAS SERVICES, INC.	03–30–95	G–S	15,000	N	I	03–15–95	INDEF.
ST95–2041	MISSISSIPPI RIVER TRANS. CORP.	AQUILA ENERGY MARKETING CORP.	03–30–95	G–S	15,000	Y	I	03–01–95	INDEF.
ST95–2042	NATRUAL GAS P/L CO OF AMERICA.	SHANA PETROLEUM CO.	03–30–95	G–S	750	N	I	03–01–95	INDEF.
ST95–2043	TRAILBLAZER PIPELINE CO.	MIDCON GAS SERVICES CORP.	03–30–95	G–S	25,000	Y	F	01–01–95	09–30–95.
ST95–2044	TRAILBLAZER PIPELINE CO.	UNION PACIFIC FUELS, INC.	03–30–95	G–S	15,000	N	F	03–01–95	03–31–95.
ST95–2045	TRAILBLAZER PIPELINE CO.	ENRON GAS MARKETING, INC.	03–30–95	G–S	5,000	N	F	03–01–95	03–31–95.
ST95–2046	TRAILBLAZER PIPELINE CO.	SNYDER GAS MARKETING, INC.	03–30–95	G–S	2,857	N	F	02–22–95	02–28–95.
ST95–2047	TRAILBLAZER PIPELINE CO.	SNYDER GAS MARKETING, INC.	03–30–95	G–S	4,762	N	F	03–01–95	03–31–95.
ST95–2048	NATRUAL GAS P/L CO OF AMERICA.	TORCH GAS, L.C.	03–30–95	G–S	8,665	N	F	03–01–95	03–31–95.
ST95–2049	TRUNKLINE GAS CO ..	CHEVRON U.S.A., INC	03–30–95	G–S	310,500	N	I	03–22–95	INDEF.
ST95–2050	TRAILBLAZER PIPELINE CO.	TENNECO GAS MARKETING CO.	03–31–95	G–S	6,055	N	F	03–01–95	03–31–95.
ST95–2051	MIDWESTERN GAS TRANSMISSION CO.	ALUMINUM CO OF AMERICA.	03–31–95	G–S	5,350	N	F	03–01–95	INDEF.
ST95–2052	TENNESSEE GAS PIPELINE CO.	KERR-MCGEE CORP ..	03–31–95	G–S	4,513	N	F	03–07–95	INDEF.
ST95–2053	TENNESSEE GAS PIPELINE CO.	TEXAS-OHIO GAS INC	03–31–95	G–S	5,000	N	F	03–01–95	INDEF.
ST95–2054	ALGONQUIN GAS TRANSMISSION CO.	APPALACHIAN GAS SALES.	03–31–95	G–S	1,000	N	F	03–04–95	03–31–95.
ST95–2055	ALGONQUIN GAS TRANSMISSION CO.	GLOBAL PETROLEUM CORP.	03–31–95	G–S	4,000	N	F	03–01–95	03–31–95.
ST95–2056	K N INTERSTATE GAS TRANS. CO.	K N GAS MARKETING, INC.	03–31–95	G–S	28,000	A	F	03–01–95	08–31–96.
ST95–2057	ANR PIPELINE CO	ARCADIAN OHIO L P ..	03–31–95	G–S	15,000	N	F	02–05–94	INDEF.
ST95–2058	ANR PIPELINE CO	COENERGY TRADING CO.	03–31–95	G–S	30,000	N	F	02–04–94	INDEF.
ST95–2059	ANR PIPELINE CO	INTERSTATE GAS MARKETING.	03–31–95	G–S	12,000	N	F	02–04–94	INDEF.
ST95–2060	ANR PIPELINE CO	SEMCO ENERGY SERVICES.	03–31–95	G–S	16,000	N	F	03–01–94	INDEF.
ST95–2061	ANR PIPELINE CO	UNITED CITIES GAS CO.	03–31–95	G–S	1,000	N	F	04–01–94	INDEF.
ST95–2062	ANR PIPELINE CO	COASTAL GAS MARKETING CO.	03–31–95	G–S	75,000	A	F	02–05–94	INDEF.
ST95–2063	ANR PIPELINE CO	NGC TRANSPORTATION INC.	03–31–95	G–S	50,000	Y	F	04–01–94	INDEF.
ST95–2064	ANR PIPELINE CO	TENNECO GAS MARKETING CO.	03–31–95	G–S	12,580	N	F	03–01–94	INDEF.
ST95–2065	ANR PIPELINE CO	PREMIER GAS CO	03–31–95	G–S	4,000	N	F	03–01–94	INDEF.
ST95–2066	ANR PIPELINE CO	WISCONSIN PUBLIC SERVICE CORP.	03–31–95	G–S	14,500	N	F	04–01–94	INDEF.

Docket No.[1]	Transporter/Seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity[2]	Aff. Y/A/N[3]	Rate sch.	Date commenced	Projected termination date
ST95–2067	ANR PIPELINE CO	PROCTOR & GAMBLE PAPER.	03–31–95	G–S	6,500	N	F	02–01–94	INDEF.
ST95–2068	ANR PIPELINE CO	SEMGCO ENERGY SERVICES.	03–31–95	G–S	10,000	N	F	02–01–94	INDEF.
ST95–2069	ANR PIPELINE CO	ENRON GAS MARKETING INC.	03–31–95	G–S	30,000	N	F	02–01–94	INDEF.
ST95–2070	ANR PIPELINE CO	KAZTEX ENERGY MANAGEMENT.	03–31–95	G–S	23,335	N	F	02–02–94	INDEF.
ST95–2071	ANR PIPELINE CO	NGC TRANSPORTATION INC.	03–31–95	G–S	40,000	N	F	02–02–94	INDEF.
ST95–2072	ANR PIPELINE CO	NATIONAL GAS RESOURCES.	03–31–95	G–S	5,238	N	F	02–02–94	INDEF.
ST95–2073	ANR PIPELINE CO	OHIO GAS CO	03–31–95	B	109,319	A	F	02–04–94	INDEF.
ST95–2074	ANR PIPELINE CO	ENERGY DYNAMICS INC.	03–31–95	G–S	18,000	N	F	02–03–94	INDEF.
ST95–2075	ANR PIPELINE CO	WESTCOAST GAS SERVICES USA.	03–31–95	G–S	20,000	N	F	02–04–94	INDEF.
ST95–2076	ANR PIPELINE CO	COMMUNITY NATURAL GAS.	03–31–95	G–S	500	N	F	02–01–94	INDEF.
ST95–2077	GREAT LAKES GAS TRANSMISSION L.P.	ANR PIPELINE CO	03–31–95	G	225,000	Y	I	03–01–95	10–31–95.
ST95–2078	PANHANDLE EASTERN PIPE LINE CO.	ANADARKO PETROLEUM CORP.	03–31–95	G–S	35,000	N	F	03–01–95	03–31–95.
ST95–2079	WILLISTON BASIN INTER. P/L CO.	RAINBOW GAS CO	03–31–95	G–S	1,573	A	F	03–01–95	03–31–95.

[1] NOTICE OF TRANSACTIONS DOES NOT CONSTITUTE A DETERMINATION THAT FILINGS COMPLY WITH COMMISSION REGULATIONS IN ACCORDANCE WITH ORDER NO. 436 (FINAL RULE AND NOTICE REQUESTING SUPPLEMENTAL COMMENTS, 50 FR 42,372, 10/10/85).

[2] ESTIMATED MAXIMUM DAILY VOLUMES INCLUDES VOLUMES REPORTED BY THE FILING COMPANY IN MMBTU, MCF AND DT.

[3] AFFILIATION OF REPORTING COMPANY TO ENTITIES INVOLVED IN THE TRANSACTION. A "Y" INDICATES AFFILIATION, AN "A" INDICATES MARKETING AFFILIATION, AND A "N" INDICATES NO AFFILIATION.

[FR Doc. 95–10570 Filed 4–28–95; 8:45 am]
BILLING CODE 6717–01–P

[Docket No. RP93–49–000]

Paiute Pipeline Company; Notice of Settlement Conference

April 25, 1995.

Pursuant to the Commission order which issued on January 19, 1993, and a notice of extension of time which issued on May 13, 1993, a settlement conference will be held to resolve the issues raised in the above-captioned proceeding.

The conference will be held on Tuesday, May 9, 1995, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10561 Filed 4–28–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP93–49–000]

Paiute Pipeline Company; Notice of Settlement Conference

April 25, 1995.

Pursuant to the Commission order which issued on January 19, 1993, and a notice of extension of time which issued on May 13, 1993, a settlement conference will be held to resolve the issues raised in the above-captioned proceeding.

The conference will be held on Tuesday, May 9, 1995, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10563 Filed 4–28–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP95–239–000]

Riverside Pipeline Company, L.P.; Notice of Proposed Changes in FERC Gas Tariff

April 25, 1995.

Take notice that on April 19, 1995, Riverside Pipeline Company, L.P. (Riverside), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following sheets to be effective May 31, 1995:

First Revised Sheet Nos. 1, 2, 16
Original Sheet Nos. 17–20
First Revised Sheet Nos. 80, 91, 92, 97, 98, 104, 105, 112, 115, 116, 119, 122, 124, and 159
Original Sheet Nos. 160–167
First Revised Sheet Nos. 211, 212, 213

Riverside states that it proposes to offer a new service, the Multiple Pipeline Transportation (MPT) Service, under which it would contract for capacity, as available, on certain upstream, affiliated intrastate or "Hinshaw" pipelines for new or existing shippers on its own system. The maximum and minimum rates for that service would, Riverside states, be the sum of the maximum and minimum rates of the transporting pipelines in effect at the time of the transportation.

VOL
60
ISS
83
MY
1
1995
UMI

Riverside also states that the revised tariff sheets are being served upon all its customers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before May 2, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10566 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–8–000]

South Georgia Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 25, 1995.

Take notice that on April 17, 1995, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 2, Twentieth Revised Sheet No. 76 and Twenty-First Revised Sheet No. 106.

South Georgia states that the proposed revised tariff sheets would flow through to South Georgia's two gas storage customers reduced storage transportation charges billed to South Georgia by Southern Natural Gas Company (Southern).

South Georgia states that the Commission's August 22, 1980 order in the captioned proceeding permits South Georgia to flow through to its two storage customers any changes in the amounts which the Commission authorizes Southern to charge South Georgia for storage transportation services. South Georgia further states that the Commission recently accepted for filing to be effective March 1, 1995, subject to refund and subject to the outcome of Commission action on the Stipulation in Docket No. RP89–224–011, et. al., revised tariff sheets filed by Southern which reduced Southern's storage transportation charges to South Georgia.

South Georgia requests waivers of Section 154.51 of the Commission's Regulations, and any other waivers necessary to make the revised tariff sheets effective as of March 1, 1995, the date of the decrease in Southern's charges to South Georgia.

South Georgia states that copies of this filing were served on the two jurisdictional customs affected by the filing, interested state commissions and all parties in the captioned proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before May 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10564 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. PR95–9–000]

Three Rivers Pipeline; Notice of Petition for Rate Approval

April 25, 1995.

Take notice that on April 3, 1995, Three Rivers Pipeline (Three Rivers) filed pursuant to § 284.123(b)(2) of the Commission's Regulations, a petition for rate approval, requesting the Commission approve as fair and equitable its proposed rates for transportation services under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Three Rivers proposes a maximum interruptible rate of $.2374 per MMBtu and a maximum firm commodity charge of $.1042 per MMBtu with a monthly demand charge of $4.0514 for transportation service. Three Rivers proposes a 2.5% adder for fuel use and losses. Three Rivers proposes an April 1, 1995 effective date.

Three Rivers states it is a Pennsylvania intrastate pipeline, consisting of about 121 miles of 8 inch pipe, traversing southwest Pennsylvania from Midland, Pennsylvania on the west, eastward to Altoona, Pennsylvania.

Pursuant to § 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with § 385.211 and § 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before May 16, 1995. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10560 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–197–000 and RP95–197–001]

Transcontinental Gas Pipe Line Corporation; Notice of Technical Conference

April 25, 1995.

Pursuant to the Commission's order issued on March 31, 1995,[1] a technical conference will be convened to discuss Transcontinental Gas Pipe Line Corporation's (Transco) proposed tariff revisions, Transco's proposed new services under Rate Schedule ICTS and GMS, as well as any other issues concerning Transco's terms and conditions, or system operations. The conference will be held on Wednesday, May 17, 1995, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C. 20426.

All interested persons and staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10569 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[1] Transcontinental Gas Pipe Line Corporation, 70 FERC ¶61,384 (1995).

[Project No. 2009–003]

Virginia Electric and Power Company; Public Conference

April 26, 1995.

Please take notice that on May 3, 1995, at 10:00 a.m., the Commission will convene a public conference regarding the status of the application of Virginia Electric and Power Company to amend its license in such a manner as to authorize withdrawal of certain water from the Lake Gaston reservoir of the Roanoke Rapids Project, and to construct and operate a water intake facility within the project boundary for that purpose.

Consistent with its commitments to process the application expeditiously, the Commission is timely progressing towards completion of its environmental analysis and resolution of the proceeding. The Commission has become aware that parties to the proceeding are pursuing a potential settlement. The purpose of the conference is to afford the parties an opportunity to bring to the Commission's attention any information that they believe may be pertinent to the Commission's procedural schedule for issuance of the Final Environmental Impact Statement and an order on the application. The purpose of the conference is not to address the merits of the application. The Commission specifically requests the applicant, the City of Virginia Beach, and the State of North Carolina to appear. Other parties wishing to be heard on the subject of the conference may also appear.

The conference will be held at the Commission's offices, 825 North Capitol Street, N.E., Washington, D.C., in the Commission Meeting Room, Room 9306. The conference will be recorded by a stenographer, and all statements will become part of the Commission's public record of this proceeding. Anyone wishing to receive a copy of the transcript of the conference may contact Ann Riley & Associates by calling (202) 293–3950, or writing to 1612 K Street, N.W., Suite 300, Washington, D.C. 20006.

For further information, please contact Lon R. Crow at (202) 219–2651.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10717 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–193–001]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

April 25, 1995.

Take notice that on April 14, 1995, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

Williston Basin states that the revised sheets are being filed in compliance with Ordering Paragraph (A) of the Commission's March 30, 1995 order in Docket No. RP95–193–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 285.211). All such protests should be filed on or before May 2, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10559 Filed 4–28–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5199–9]

Notification of Establishment of an Advisory Committee To Address Urban Municipal Wet Weather Issues; Announcement of the Sanitary Sewer Overflow Subcommittee May 18–19, 1995, Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established the Urban Wet Weather Flows Advisory Committee under the Federal Advisory Committee Act (FACA) to develop recommendations to coordinate the implementation of urban, municipal wet weather water pollution control programs. The charter for the Advisory Committee was approved by the Office of Management and Budget on March 10, 1995. As required by section 9(a)(2) of FACA, 5 U.S.C. App. 2, EPA is giving notice of the establishment of such committee to assist the Agency in the development of cost-effective solutions for controlling the environmental and human health impacts of urban wet weather flows with a minimum of regulatory burden. EPA believes that the Committee is necessary and in the public interest. The Committee will provide a forum for identifying and addressing issues associated with water quality impacts from these sources. Copies of the Committee's charter will be filed with the appropriate committees of Congress and the Library of Congress in accordance with section 9(c) of FACA.

To be most efficient we are planning two subcommittees under the Urban Wet Weather Flows Advisory Committee. A subcommittee addressing Sanitary Sewer Overflows (SSOs) has been formed and will hold its first formal meeting in Washington, D.C. on May 18 and 19, 1995. The purpose of this meeting is to discuss several issues related to SSOs. On May 18, the meeting will begin at approximately 8:30 AM and run until about 5:00 PM. On May 19, the meeting will begin at 8:30 AM and continue until completion.

The Advisory Committee and another subcommittee dealing with Storm Water Phase II issues will be formed in the near future. EPA is currently in the process of convening these groups.

Consistent with the requirements of FACA, the membership of both the Advisory Committee and its subcommittees is being balanced among the Agency's various outside stakeholder interests, including representatives from municipalities, industrial and commercial sectors, environmental and public interest groups, States, and Indian Tribes, and EPA. Members will be selected and appointed for the duration of the process. A Federal Official or EPA employee will serve as the Designated Federal Officer and will be present at all meetings.

DATE: The SSO Subcommittee will meet on May 18–19, 1995.

ADDRESS: The SSO Subcommittee meeting will be held at the Best Western Old Colony Inn, 625 First Street, Alexandria, VA 22314. The hotel telephone number is (703) 548–6300.

FOR FURTHER INFORMATION CONTACT: For information about substantive or technical matters that will be considered by the Advisory Committee, or information about the procedural aspects of Committee operation and the FACA process, contact: William Hall, Office of Wastewater Management, US EPA (4203), 401 M Street, SW, Washington, DC 20460, telephone: (202) 260–1458.

VOL
60
ISS
83
MY
1
1995
UMI

For information about the SSO Subcommittee, please contact: Kevin Weiss, SSO Matrix Manager, Office of Wastewater Management, US EPA (4203), 401 M Street, SW, Washington, DC 20460, telephone: (202) 260–9524.

For information about the Phase II Subcommittee, please contact: Pam Mazakas, Phase II Matrix Manager, Office of Wastewater Management, US EPA (4203), 401 M Street, SW., Washington, DC 20460, telephone: (202) 260–6599.

SUPPLEMENTARY INFORMATION:

Background

In 1972, under the authority of the Federal Water Pollution Control Act (later called the Clean Water Act (CWA)), the U.S. Environmental Protection Agency (EPA) developed the National Pollutant Discharge Elimination System (NPDES) permitting program to control pollutant discharges to the Nation's waters from industrial, commercial, and municipal point sources. These discharges created a threat not just to water quality, but to the health of millions of people. Initial efforts to control pollution from these entities were focused on "traditional" pollutant sources, such as discharges from industrial manufacturing processes and municipal wastewater treatment plants.

Since the NPDES program's inception, the Agency has undertaken efforts to address other, "non-traditional," sources of pollution, including those resulting from precipitation events, such as rainfall and snowmelt. These precipitation-related sources of pollution are referred to as "wet weather discharges." Wet weather discharges include both point sources, which are required to have an NPDES permit under the CWA, and nonpoint sources, such as those resulting from most agricultural activity. Nonpoint sources are not regulated by the NPDES permitting program.

Wet weather discharges of pollutants often occur in urban areas and include municipal and industrial storm water discharges; sanitary sewer overflows (SSOs), which occur when the volume of flows in a separate municipal sanitary sewer system exceeds its capacity due to, among other things, unintentional inflow and infiltration of storm water; and combined sewer overflows (CSOs), which occur during wet weather events in some cities which have combined sanitary and storm sewers (these are known as combined sewer systems or CSSs). EPA's National Water Quality Inventory, 1992 Report to Congress, notes that pollution from wet weather discharges is cited by States as the leading cause of water quality impairment. Based on this Report and other assessments, EPA has concluded that wet weather discharges, whether they be from point or nonpoint sources, are one of the largest remaining threats to water quality, aquatic life, and human health that exist today.

EPA believes that urban wet weather discharges, such as storm water discharges, SSOs, and CSOs, should be addressed in a coordinated and comprehensive fashion in order to reduce the threat to water quality, reduce pollution control costs, and provide State and local governments with greater flexibility to solve wet weather problems. EPA intends to build on the stakeholder involvement process that led to the development of the CSO Control Policy, published on April 19, 1994 (59 FR 18688). To this end, the Agency is establishing the Urban Wet Weather Flows Federal Advisory Committee, an SSO subcommittee, and a Storm Water Phase II subcommittee.

Announcement of SSO Subcommittee Meeting

Notice is hereby given that the Environmental Protection Agency (EPA) is convening a public meeting of the SSO subcommittee on May 18 and 19, 1995. The meeting has several purposes: (1) To discuss goals, objectives and desired outcomes for the SSO policy dialogue, such as ensuring national consistency and adequate municipal investment in collection system operation and maintenance; (2) to evaluate information needs to support consideration of the costs and benefits of selected policy options as well as identify other information needs associated with developing other products; (3) to identify and discuss the appropriateness of nonregulatory and regulatory options for addressing reporting of SSOs, collection system evaluations, sewer design, collection system operation and maintenance, and system rehabilitation; (4) to discuss incentives for proper operation and maintenance of collection systems and the development of outreach materials to clarify the benefits associated with proper operation and maintenance of collection systems; (5) to discuss issues associated with reporting of SSOs, including how data is used by EPA and authorized NPDES States, and public access to reporting information; (6) to discuss the relationship of enforcement to information voluntarily submitted to support the policy dialogue; (7) to summarize approaches to permits for discharges from sanitary sewer collection systems which are currently being used; and (8) to discuss how watershed concepts could be incorporated into SSO efforts.

The meeting, which will be held on May 18 and 19, 1995, is open to the public without need for advance registration. On May 18, the meeting will begin at approximately 8:30 AM and run until about 5:00 PM. On May 19, the meeting will begin at 8:30 AM and continue until completion. The meeting will be held at the Best Western Old Colony Inn, 625 First Street, Alexandria, VA 22314. The hotel telephone number is (703) 548–6300.

Dated: April 24, 1995.

Michael B. Cook,

Director, Office of Wastewater Management.

[FR Doc. 95–10621 Filed 4–28–95; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–400093; FRL–4952–6]

Emergency Planning and Community Right-to-Know; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a one-half day public meeting to discuss the options the Agency is considering for expanding the industries covered under the Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 reporting requirements. In connection with this meeting, the Agency has prepared an issues paper that will be available at no charge from the Emergency Planning and Community Right-to-Know Information Hotline at the address or telephone number given under FOR FURTHER INFORMATION CONTACT.

DATES: The meeting will take place on May 25, 1995, at 9 a.m. and adjourn by 12 noon.

ADDRESSES: The meeting will be held at the: Environmental Protection Agency, Auditorium, Education Center, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Tim Crawford, Toxic Release Inventory Branch at (202) 260–1715, or the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop 5101, 401 M St., SW., Washington, DC 20460, Toll Free: 1–800–535–0202, Washington, DC and Alaska (703) 920–9877, Attention: TRI Facility Expansion.

SUPPLEMENTARY INFORMATION: In 1986, Congress enacted the Emergency Planning and Community Right-to-Know Act (EPCRA). Section 313 of EPCRA requires certain businesses to submit reports each year on the amounts of toxic chemicals their facilities release into the environment or otherwise manage. The purpose of this requirement is to inform the public and government officials about chemical management practices of specified toxic chemicals.

The current reporting requirements apply to facilities in the manufacturing sector (Standard Industrial Classification codes 20–39), that have 10 or more full-time employees, and that manufacture, process, or otherwise use one or more chemicals on the section 313 list of toxic chemicals above certain reporting thresholds.

EPA has been in the process of evaluating several industries for potential addition under EPCRA section 313. EPA has developed an issues paper that presents background information on this effort, EPA's analytical approach, preliminary findings that indicate which industries may be potential candidates for addition, and several issues that will affect how these facilities might be affected if they were to be covered under EPCRA section 313. Copies of this issues paper will be available on or before May 1, 1995, from the address or telephone number cited under FOR FURTHER INFORMATION CONTACT. Oral statements will be scheduled on a first-come first-serve basis by calling the Emergency Planning and Community Right-to-Know Hotline at the number listed under FOR FURTHER INFORMATION CONTACT. All statements will be made part of the public record and will be considered in the development of any proposed rule amendment.

Dated: April 21, 1995.

Susan B. Hazen,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 95–10620 Filed 4–28–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5198–9]

Campo Band of Mission Indians; Final Determination of Adequacy of Tribal Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination of Full Program Adequacy for the Campo Band of Mission Indians Application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, requires states to develop and implement permit programs to ensure that municipal solid waste landfills which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal Municipal Solid Waste Landfill Criteria (40 CFR part 258 or Federal Criteria). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether states have adequate "permit" programs for municipal solid waste landfills (MSWLFs). EPA believes that adequate authority exists under RCRA to allow tribes to seek an adequacy determination for purposes of sections 4005 and 4010.

The Campo Band of Mission Indians (Campo Band) applied for a determination of adequacy under section 4005 of RCRA. EPA reviewed the Campo Band's application and proposed a determination that the Campo Band's MSWLF permit program is adequate to ensure compliance with the revised MSWLF Criteria. After consideration of all comments received, EPA is today issuing a final determination that the Campo Band's program is adequate.

EFFECTIVE DATE: The determination of adequacy for the Campo Band shall be effective on May 1, 1995.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105, Attn: Ms. Christiane M. Camp, Mail Code H–W–3, telephone (415) 744–2097.

SUPPLEMENTARY INFORMATION:

I. Background

On October 9, 1991, EPA promulgated revised criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984, requires states (and, as discussed below, allows Indian tribes) to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under 40 CFR part 258. Section 4005 of RCRA also requires that EPA determine the adequacy of state MSWLF permit programs to ensure that facilities comply with the revised Federal Criteria. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, state/tribal landfill permit programs. As explained below, the Agency intends to approve adequate state/tribal MSWLF permit programs as applications are submitted. These approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, states/tribes may use the draft STIR as an aid in interpreting these requirements.

EPA is extending to tribes the same opportunity to apply for permit program approval as is available to states. Providing tribes with the opportunity to apply for adequacy for purposes of adopting and implementing permit programs is consistent with the *EPA Policy for the Administration of Environmental Programs on Indian Reservations* (November 8, 1984) (EPA's Indian Policy). This Policy, formally adopted in 1984, recognizes tribes as the primary sovereign entities for regulating the reservation environment and commits the Agency to working with tribes on a "government-to-government" basis to effectuate that recognition. A major goal of EPA's Indian Policy is to eliminate all statutory and regulatory barriers to tribal assumption of federal environmental programs. Today's determination to approve a tribal MSWLF permit program represents another facet of the Agency's continuing commitment to the implementation of this long-standing policy.

EPA's interpretation of RCRA is governed by the principles of *Chevron, USA* v. *NRDC*, 467 U.S. 837 (1984). Where Congress has not directly addressed the precise question at issue or otherwise explicitly stated its intent in the statute or in legislative history, the Agency charged with implementing that statute may adopt any interpretation which, in the Agency's expert judgment, is reasonable in light of the goals and purposes of the statute as a whole. *Id.* at 844. Interpreting RCRA to allow tribes to apply for an adequacy determination satisfies the *Chevron* test.

States generally are precluded from enforcing their civil regulatory programs in Indian country, absent an explicit Congressional authorization. *California* v. *Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). Yet, under the current statutory scheme, EPA generally is precluded from enforcing the federal Criteria as well. Furthermore, Congress has not yet created an explicit role for tribes to implement the RCRA Subtitle D program, as it has done under most other major environmental statutes amended since 1986 (Safe Drinking Water Act; Comprehensive Environmental Response, Compensation and Liability Act; Clean Water Act; Clean Air Act).

To have its permit program deemed adequate by EPA, a tribe must have adequate authority over the regulated activities. Indian reservations may

VOL 60 ISS 83 MY 1 1995 UMI

include lands owned in fee by non-Indians. The extent of tribal authority to regulate activities by non-Indians on such land has been the subject of considerable recent discussion. For further explanation of this issue, see EPA's tentative determination of the adequacy of the Campo Band's solid waste program, 59 FR 24422, 24425–24427 (May 11, 1994). As explained in the tentative determination, all land within the Campo Reservation is tribal trust land; there is no fee land owned by non-Indians on the Campo Reservation. As further explained in the tentative determination, the Campo Band has established that it has adequate jurisdiction over the Campo Reservation based on general principles of tribal sovereignty, the Campo Band's status as a "federally recognized Indian Tribe", the Tribal Constitution, a map and narrative description which established the boundaries of the Reservation, and Tribal codes and regulations.

By today's action, EPA is continuing to follow its policy of approving state/tribal permit programs prior to the promulgation of STIR. As explained in the tentative determination, as well as in previous state program approvals, EPA interprets the requirements for states or tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each state/tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised Federal Criteria. Next, the state/tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The state/tribe must also provide for public participation in permit issuance and enforcement as required in section 7004(b)(1) of RCRA. Finally, EPA believes that the state/tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved program.

EPA further requests tribes to provide a statement of legal authority from the tribal Attorney General or its equivalent demonstrating that the tribe has adequate jurisdiction to regulate MSWLFs on the reservation. In addition, EPA requests tribes seeking program approval to demonstrate that they: (1) Are federally recognized; (2) have a government exercising substantial duties and powers; and (3) are capable of administering a permit program. If the tribe has already demonstrated to EPA that it meets the first two of these criteria in the context of obtaining a grant or the approval to operate another EPA program, it need not do so again. EPA also requests tribes to provide an explanation of the jurisdiction and responsibilities of all tribal program implementing agencies (including any state agency acting pursuant to an agreement with the tribe) and to designate a lead agency to facilitate communications between EPA and the tribe. If a tribe has already provided information and/or a legal statement on the tribe's jurisdiction and capability under another EPA program, EPA requests the tribe to provide only those additional materials necessary to support its application for permit program approval. These requests incorporate the criteria used in other environmental statutes to assess whether tribes may receive grants or program approval.

II. Campo Band of Mission Indians

On February 15, 1994, the Campo Band submitted an application for adequacy determination. On May 11, 1994, EPA published a tentative determination of adequacy for the Campo Band's program. Further background on the tentative determination of adequacy appears at 59 FR 24422 (May 11, 1994).

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. On June 30, 1994, at 7 p.m. EPA held a public hearing. Numerous comments were made at the hearing. EPA also received numerous written comments during the public comment period, which EPA extended until August 1, 1994. 59 FR 34812 (July 7, 1994).

III. Responses to Comments

The following are EPA's responses to the written and oral comments received during the public comment period and at the public hearing.

A. EPA's Authority to Approve Tribal Programs

Several commenters asserted that EPA does not have the authority to approve tribal solid waste programs under RCRA. These comments raised a number of legal and policy issues which are discussed below.

1. Summary of the Agency's Position

The Campo Band applied for a determination of adequacy under Subtitle D of RCRA, as amended (42 U.S.C. 6941–6949a). Section 4005(c)(1)(B) of RCRA requires states to develop and implement permit programs to ensure that MSWLFs which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal Criteria for MSWLFs, 40 CFR part 258. Section 4005(c)(1)(C) requires EPA to determine whether states have adequate "permit" programs.

EPA believes that RCRA allows tribes to seek an adequacy determination for purposes of sections 4005 and 4010 in the same manner as the states.

EPA's interpretation of RCRA is governed by the principles of Chevron, supra. Where Congress has not spoken directly to the precise question at issue or otherwise explicitly stated its intent in the statute or in legislative history, the administering Agency's interpretation of the statute is entitled to deference if it is based on a permissible construction of the statute. Chevron, 467 U.S. at 843. In step one of the Chevron test, a court looks first to whether Congress has specifically addressed the relevant issue.[1] If not, a court proceeds to step two to decide whether the interpretation offered by the administering agency is reasonable in light of the goals and purposes of the statute. See, e.g., American Mining Congress v. EPA, 965 F.2d 759 (9th Cir. 1992).

The Supreme Court stated in Chevron that the principle of deference to administrative interpretations of a statute "has been consistently followed by this Court whenever a decision as to the meaning or reach of a statute has involved reconciling conflicting policies, and a full understanding of the force of the statutory policy in the given situation has depended upon more than ordinary knowledge respecting the matters subjected to agency regulations." 467 U.S. at 844. In interpreting the meaning and reach of Subtitle D of RCRA, the Agency has undertaken to reconcile RCRA with broad federal mandates, analogous environmental statutes, EPA's longstanding Indian Policy and relevant principles of federal Indian law.

EPA's Indian Policy, formally adopted in 1984 and reaffirmed by each EPA Administrator since, recognizes tribes as the primary sovereign entities for

[1] One commenter argued that EPA has misread the Chevron test to allow EPA to fill a statutory gap when Congress has adopted a provision but failed to state its intent in doing so. See 59 FR 24422, 24423 (May 11, 1994). According to this comment, Chevron applies only when Congress has failed to adopt a specific provision. EPA notes that the exact language is whether "Congress has not directly addressed the precise question at issue." 467 U.S. at 843. This may occur either where Congress has failed to adopt a specific provision or where the provision adopted is not clear as to the specific issue. In the situation of Indian tribes and RCRA Subtitle D, both problems occur, as discussed below.

regulating the reservation environment and commits the Agency to working with tribes on a "government-to-government" basis to effectuate that recognition. A major goal of EPA's Indian Policy is to eliminate all statutory and regulatory barriers to tribal assumption of federal environmental programs. Providing tribes with the opportunity to implement permit programs represents another facet of the Agency's continuing commitment to the implementation of this long-standing policy.

In the case of other environmental statutes which initially did not have explicit provisions concerning treatment of Indian tribes in the same manner as states, such as the Clean Water Act, EPA, in accord with its Indian Policy, has worked to ensure that Congress revises them at the earliest opportunity to define explicitly the role for tribes under these programs. Congress added the provisions of the Clean Water Act that specifically allow tribes to be treated in the same manner as states in 1987. Clean Water Act section 518, 33 U.S.C. 1377.

However, EPA also has stepped in on at least two occasions to allow tribes to seek program approval despite the lack of an explicit Congressional mandate. EPA has recognized Indian tribes as the appropriate authority under the Emergency Planning and Community Right-to-Know Act (EPCRA), despite silence on the tribal role under EPCRA. 55 FR 30632 (July 26, 1990). EPA also filled a statutory gap in the Clean Air Act even before development of its Indian Policy. In 1974, EPA authorized Indian tribes to redesignate the level of air quality applicable to Indian country under the Prevention of Significant Deterioration (PSD) program in the same manner that states could redesignate for other lands. This decision was upheld in *Nance* v. *EPA*, 645 F.2d 701 (9th Cir. 1981). EPA believes the current situation to be analogous to these situations.

One commenter asserted that Nance was the only authority cited by EPA in support of the Agency's position that it has authority to approve tribal programs. This commenter listed several facts distinguishing the circumstances in the Nance case from the present determination. However, as explained more fully throughout these responses to comments, Nance is not EPA's sole support for today's action. EPA's interpretation is based on a number of authorities, including several cases—*Chevron, supra, Cabazon, supra, State of Washington, Department of Ecology* v. *U.S. EPA*, 752 F.2d 1465 (9th Cir. 1985) (discussed below), and others— as well as EPA's Indian Policy. Furthermore, EPA reiterates the fact that the Nance court held that under a federal statute silent as to jurisdiction in Indian country, EPA correctly allowed the Tribe, rather than the State, to "exercise control...over the entrance of pollutants onto the reservation". That is precisely what EPA's action today will do.

2. Applicability of Chevron

EPA received several general comments which suggest that the Chevron test does not apply to the interpretation of RCRA at issue here. The Agency disagrees with these comments.

Several facts create a gap in the implementation of RCRA. First, Congress did not directly speak to the issue of how a MSWLF regulatory program should be implemented in Indian country. In *Washington*, the Ninth Circuit upheld EPA's decision to exclude Indian country from the approved State hazardous waste program, stating that "RCRA does not directly address the problem of how to implement a hazardous waste management program on Indian reservations." 752 F.2d at 1469. Second, under the current statutory scheme as implemented, EPA is generally precluded from enforcing federal requirements on MSWLFs. Section 4005(c) of RCRA only allows EPA to enforce the 40 CFR part 258 Criteria after a finding of inadequacy of the state permit program, indicating Congress' preference for non-federal oversight of MSWLFs. Third, it is a well-settled principle of federal Indian law that states are precluded from exercising civil regulatory authority in Indian country unless Congress has expressly authorized them to do so. *Cabazon, supra; Santa Rosa Band of Indians* v. *Kings County*, 532 F.2d 655 (9th Cir. 1975), *cert. denied* 97 S.Ct. 731 (1977); *Washington*, 752 F.2d at 1469–1470. These facts leave open the question of how MSWLFs will be regulated in Indian country.

A gap in the administrative scheme of a statute indicates that Congress has delegated implicitly to the administrative Agency the authority to interpret the statute in a way that fills the gap. *Washington*, 752 F.2d at 1465. This interpretation is to be upheld if it is based on a permissible construction of the statute and reasonably promotes the goals and purposes of the statute. *Chevron*, 467 U.S. at 843. The Agency's determination that RCRA Subtitle D allows Indian tribes to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under 40 CFR part 258 is not only a permissible interpretation of RCRA, but is the most reasonable interpretation of RCRA given the strong legal and policy considerations in favor of promoting tribal sovereignty, and Congress' preference for non-federal oversight of MSWLFs.

3. Existence of a "Gap" in MSWLF Regulation

EPA also received comments that *Chevron* should not apply because there is no gap in the regulatory program for EPA to fill. According to these comments, the case of *Coalition for Clean Air* v. *EPA*, 971 F.2d 219 (9th Cir. 1992) should govern this issue. *Coalition* involved interpreting a provision of the Clean Air Act. Under the Clean Air Act, states are to submit proposals for State Implementation Plans (SIPs) allowing for attainment of National Ambient Air Quality Standards (NAAQS) by the statutory deadline. If EPA disapproves the state's proposed SIP, EPA must establish a Federal Implementation Plan (FIP) to take the place of the SIP. As noted in *Coalition*, EPA had disapproved California's proposed SIP for the South Coast and was in the process of finalizing a FIP for the South Coast when Congress passed the Clean Air Act Amendments of 1990. 971 F.2d at 222–223. The Amendments changed the criteria and timetables for NAAQS attainment. EPA argued that the changes relieved EPA of the obligation to promulgate a FIP and made it incumbent upon California to try again and submit a new SIP proposal. *Id.*

In *Coalition*, the Ninth Circuit declined to defer to EPA's interpretation for three reasons. First, the court found that the plain language of the Clean Air Act expressed Congress' intent to require EPA to promulgate a FIP. The court also found that legislative history did not support EPA's interpretation. Finally, the court held that EPA's interpretation was not entitled to deference because EPA had previously argued the opposite to Congress—that unless the statute were amended, EPA would be obligated to promulgate FIPs. The court pointed out that the change in EPA's interpretation did not reflect accumulated experience or respond to changing circumstances, nor was the change justified with reasoned analysis. Rather, the court found that EPA was merely asking the court to do what Congress would not.

The factors that lead the Ninth Circuit to reject EPA's interpretation of the Clean Air Act in *Coalition* are not present here. As discussed in more detail below, the plain language of RCRA does not express Congress' intent

VOL
60
ISS
83
MY
1
1995
UMI

with respect to regulation of solid waste in Indian country. As discussed below, the legislative history supports EPA's position that Congress did not intend to abrogate tribal sovereignty and give states jurisdiction over solid waste management in Indian country. Finally, EPA's interpretation is consistent with the Agency's long-standing Indian Policy and previous statements about the regulation of solid waste.

Finally, the commenter argued that *Chevron* deference is less appropriate when an Agency adopts a statutory interpretation that is inconsistent with past policy and the new interpretation is not triggered by a change in the law or a problem arising from the previous interpretation, or accompanied by a reasoned analysis of the need for a change. The comment cites the preamble to EPA's 1979 guidelines for development and implementation of state solid waste management plans, which provides that "states with Indian Lands should therefore address solid waste management on these lands in accord with treaties and State policy." 44 FR 45078–79 (July 31, 1979). The comment also cites the regulation itself which provides that "the State plan shall provide for coordination, where practicable, with solid waste management plans in neighboring States and with plans for Indian Reservations in the State." 40 CFR 256.50(m) (1979). EPA disagrees that these provisions render deference to the Agency's interpretation of RCRA less appropriate. EPA has not changed its position. The provisions cited do not order states to regulate Indian country, but instead recognize that states are generally precluded from exercising regulatory authority over Indian country, and support EPA's long-standing policy that tribes are the appropriate non federal sovereign to regulate the environment in Indian country. The cited provisions suggest that EPA recognized that solid waste management plans in Indian country are *separate* from the plans in effect for the surrounding state, just as are plans in other states. EPA explained in the preamble that it added § 256.50(m) "to encourage coordination with tribal solid waste management programs." 44 FR 45079 (July 31, 1979).

Under the citizen suit provisions of RCRA citizens can enforce the 40 CFR part 258 regulations. According to some of the comments, this means there would be no gap in enforcement of the MSWLF requirements in Indian country. While EPA acknowledges that the requirements of 40 CFR part 258 would be in effect in Indian country even if tribes could not obtain approval of their MSWLF permit programs, this would not achieve the same programmatic results. The ability to file a citizen suit under section 7002 of RCRA when a MSWLF fails to operate properly is not comparable to having a primary and complete system in place for solid waste management. Moreover, citizens have the right to sue regardless of the status of a state or tribal program. The existence of citizen suit enforcement of the Federal criteria is therefore irrelevant to the issue of how to fill the gap that exists in the permitting of MSWLFs in Indian country. Congress has not provided a mechanism that would be equivalent to recognizing tribal authority directly.

One commenter asserted that, through the citizen suit provision (which would subject any owner or operator of an MSWLF—including tribes and non-Indian landfill owners or operators in Indian country—to enforcement) Congress abrogated tribal sovereignty. The commenter implies that Congress intended for states to regulate solid waste management in Indian country. EPA disagrees. The fact that tribes or non-Indian operators in Indian country are subject to RCRA citizen suits does not imply Congressional intent to deprive tribes of their authority to regulate the environment within their jurisdiction. The same citizen suit provision of RCRA also subjects states and the federal government to citizen suits; the commenter's argument would imply Congressional intent to deprive states and the federal government of their authority to regulate as well. The purpose of the citizen suit provision is to provide a back-up system when the authorized government regulatory agency fails to enforce the relevant environmental standards.

One commenter also argued that EPA could instead fill the gap in permitting authority by promulgating reservation-specific MSWLF standards for interested tribes in place of the nationwide 40 CFR part 258 requirements. EPA acknowledges this may be a potential alternative. But, consistent with EPA's Indian policy and its emphasis on tribal self-government, the Agency believes that tribes should be given the opportunity to operate the program directly where the statute allows for such authority. The comment merely offers an alternative method of filling the gap, implicitly recognizing that a gap exists to be filled under *Chevron*.

One commenter argued that EPA may not fill the statutory gap in the treatment of Indian tribes under RCRA unless and until it attempts to remove existing statutory and regulatory "barriers" to treating tribes in the same manner as states. EPA disagrees that it must take other actions before adopting today's interpretation. Congress has not amended RCRA since 1984. EPA has recommended for several years that an Indian tribes provision be added to the statute, and draft provisions have appeared in bills introduced in the 101st and 102nd Congresses. A comprehensive RCRA reauthorization bill was not introduced in the 103rd Congress. So EPA has endeavored to bring this issue before Congress, but Congress has not amended the statute in any form. Nonetheless, EPA believes that no statutory or regulatory barriers exist that would prevent treatment of tribes in the same manner as states under RCRA Subtitle D. *Chevron* allows EPA to specify a role under RCRA Subtitle D for tribes to implement MSWLF permit programs in Indian country.

4. RCRA Definition of "Municipality"

One commenter argued that states have authority over Indian tribes for the purposes of RCRA because tribes are included in the definition of "municipality" rather than in the definition of "state". This commenter asserted that the Agency goes beyond "filling gaps" in its interpretation of RCRA, and "creates a program from whole cloth" that "directly conflicts with Congress' law." According to the comment, Congress has directly addressed the precise issue of how tribal solid waste programs are to interrelate with state and federal programs by including Indian tribes in the definition of "municipality", rather than "state". "State" is defined to mean:

(A)ny of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

RCRA section 1004(31).

The only mention of tribes in the statute is in section 1004(13), a part of the "definitions" section of RCRA. Section 1004(13) defines the term "municipality" to mean:

(A) city, town, borough, county, parish, district, or other public body created by or pursuant to State law, with responsibility for the planning or administration of solid waste management, or an Indian tribe or authorized tribal organization or Alaska Native village or organization(.)

RCRA does not explicitly define a role for tribes under sections 4005 and 4010 and therefore reflects an ambiguity in congressional intent. The Agency believes that the commenter has misconstrued the significance of the definitions. "Municipalities" are mentioned in sections 4003(c)(1)(C), 4008(a)(2), 4008(a)(3)(C), 4008(g)(1) and 4009(a) of RCRA, all of which reference the availability of federal funds and technical assistance for solid waste planning and management activities by municipalities. It is therefore the Agency's interpretation of these provisions that Congress intended to provide that tribes could receive federal funding and assistance for solid waste planning and management activities when available in the same manner as municipal governments, but that Congress did not otherwise intend to limit the scope of tribal regulatory authority over solid waste management in Indian country. In other words, absent an indication from Congress to the contrary, EPA believes that inclusion of Indian tribes in the definition of "municipality" was merely a definitional expedient used to avoid having to include the phrase "or an Indian tribe or authorized tribal organization or Alaska Native village or organization" wherever the term "municipality" appeared, not to change the sovereign status of tribes for RCRA purposes.

Another comment cites Sutherland on Statutory Construction § 46.01 (5th ed. 1992) for the principle that "unless the defendants can demonstrate that the natural and customary import of the statute's language is either repugnant to the general purview of the act or for some other compelling reason should be disregarded, the court must give effect to the statute's plain meaning." First, as discussed above, EPA believes that the language of RCRA contains no "plain meaning" with respect to jurisdiction over solid waste management in Indian country. Second, EPA believes that federal Indian law and EPA's Indian Policy provide a sufficiently "compelling reason" to overcome the inference that states have jurisdiction over solid waste management in Indian country that the commenter would draw from the statutory definition of "State" and "municipality".

Many references are made to "local governments" or "local authorities" in RCRA. *See, e.g.*, sections 4006(a); 4006(b); 4006(c)(2). One commenter argued that the term "municipality" should be substituted for these references, and that tribes should be treated the same as municipalities for all purposes of RCRA Subtitle D. This would result in Indian tribes being brought under state control for the purposes of section 4006, which specifies procedures for the development and implementation of state solid waste plans. EPA believes, however, that these terms were not intended to include Indian tribes. The term "municipality" could have easily been used instead of these references. By contrast, the term "municipality," which by definition includes Indian tribes, is used with reference to the availability of federal funds and technical assistance for solid waste planning and management activities. Thus, EPA believes that Congress did not intend to refer to Indian tribes and local governments interchangeably nor to affect the sovereign status of tribes in such an indirect way in RCRA.

It is a reasonable interpretation of RCRA that the use of the explicitly defined term "municipality" was limited to those areas that Congress wanted to apply to both local governments and Indian tribes, while the terms "local governments" or "local authorities" were used for those provisions that were to apply to local governments and not to Indian tribes. As discussed above, however, it is a reasonable interpretation of RCRA that Congress did not intend, simply by defining "municipality" to include tribes, to abrogate Indian sovereignty and subject all solid waste management activities in Indian country to state regulatory authority.

An examination of the legislative history of RCRA further supports EPA's position that Congress did not directly address the management of solid waste in Indian country. The first Solid Waste Disposal Act did not define "municipality." Solid Waste Disposal Act (SWDA), Pub. L. No. 89–272, Title III Sec. 203, 79 Stat. 983, 990–991 (1965). The definition of municipality was added by the Resource Recovery Act of 1970, and included "Indian tribe". Pub. L. No. 91–512, Title I Sec. 102, 84 Stat. 1227, 1228 (1970). Congress then enacted the Resource Conservation and Recovery Act of 1976, which contains the definition of "municipality" currently in the statute, adding "or authorized tribal organization or Alaska Native village or organization". Pub. L. No. 94–580, Title II, Sec. 1004, 90 Stat. 2795, 2800 (1976). There is no legislative history explaining why Congress included Indian tribes and other Indian organizations in the definition of "municipality". *See* H.R. Rep. No. 1155, 91st Cong., 2d Sess., *reprinted in* 1970 U.S.C.C.A.N. 4552; S. Rep. No. 1034, 91st Cong., 2d Sess. 27, (1970); H.R. Conf. Rep. No. 1579, 91st Cong., 2d Sess., *reprinted in* 1970 U.S.C.C.A.N. 4559; H.R. Rep. No. 1491, 94th Cong., 2d Sess., *reprinted in* 1976 U.S.C.C.A.N. 6238; S. Rep. No. 869, 94th Cong., 2d Sess. 1 (1976); S. Rep. No. 988, 94th Cong., 2d Sess. 1 (1976).

There is no further mention of the definitions or of the role of tribes in the legislative history of RCRA. There is also no indication in the legislative history that Congress ever attempted to conduct an examination of the social, legal and political ramifications that the submission of tribes to state regulatory authority in the area of hazardous waste management would occasion. The fact that Congress did not conduct such an examination or otherwise directly address the precise issue in the legislative history supports EPA's contention that Congress did not in fact have a specific intent with regard to implementation of RCRA in Indian country.

As mentioned above, principles of federal Indian law also support the Agency's interpretation of RCRA under *Chevron*. Federal Indian law mandates that a statute be construed liberally in favor of Indians. *See Montana v. Blackfeet Tribe of Indians*, 471 U.S. 759, 766–767 (1985), and *Washington*, 752 F.2d at 1469–1470. Liberally construed in favor of the *states*, the inclusion of Indian tribes in the definition of "municipality" might constitute an *implicit* argument for the limitation of Indian sovereignty, but the Agency is obligated to read RCRA in favor of tribal authority and to uphold the principles of tribal sovereignty unless Congressional directives to the contrary are clearly expressed.

The commenter seeks to read into an ambiguous statute Congressional intent to deny tribes a significant regulatory authority. This is inconsistent with federal Indian law, as discussed above. EPA cannot assume that Congress, by including Indian tribes in the definition of "municipality" in RCRA section 1004(13), intended to submit the sovereign authority of the various Indian tribes throughout the nation to that of the various states in which they reside for the purposes of RCRA. Neither the statutory text nor the legislative history of RCRA support this reading of the statute.

One commenter supported the conclusion that, as a general rule, Indian tribes that are sovereign nations are not subject to state solid waste management requirements. This commenter stated that courts will permit state requirements to extend to sovereign tribal lands only if the state interests clearly outweigh tribal and federal interests, and that the U.S. Supreme Court has rarely found such interests to exist. This is consistent with EPA's analysis of federal Indian law, discussed above.

Another commenter argued that EPA's proposal to treat Indian tribes in the

VOL 60 ISS 83 MY 1 1995 UMI

same manner as states for purposes of section 4005 is inconsistent with its decision not to waive MSWLF financial assurance requirements for Indian tribes that operate landfills, as EPA had waived for state-operated landfills. (*See* 56 FR at 51107–08 (Oct. 9, 1991); 40 CFR 258.70(a)). In this commenter's view, EPA's decision suggests that EPA considers tribes to be equivalent to municipalities for RCRA Subtitle D purposes. EPA disagrees. As is explained in detail in the preamble to the Federal Criteria rule, EPA proposed, but ultimately decided against, exempting Indian tribes from the financial assurance requirements imposed on local governments. EPA decided that Indian tribes, "for reasons similar to those" upon which the Agency based its decision not to exempt municipalities from the financial assurance requirements, "do not have the requisite financial strength to ensure funding of their closure, post-closure and corrective action obligations". 56 FR at 51108. EPA did not say anything to suggest a position that Indian tribes were subject to state regulatory control as are local governments or municipalities. Nor did EPA suggest that tribes lack the sovereign regulatory authority over MSWLF activities in Indian country necessary to administer an EPA-approved landfill permit program. Therefore, there is no inconsistency between the Agency's position in that rule and in today's notice.[2]

5. RCRA Definition of "State"

One commenter asserted that Congress could easily have included Indian tribes in the definition of "state," and that the fact that Congress did not do so indicates that Congress did not want to give tribes a sovereign role for RCRA purposes. While the scant legislative history allows for little comment on Congress' motives in not explicitly allowing Indian tribes to be treated in the same manner as states, EPA believes that, had Congress clearly intended to preclude Indian tribes from operating in the same manner as states for purposes of RCRA Subtitle D, it would have made that clear in the language or legislative history of the 1984 Amendments. This commenter also noted that the regulations in 40 CFR part 258 refer to actions taken by the "State Director", and that no officials of the Campo Band or the Campo Environmental Protection Agency (CEPA) fit EPA's definition of that term. However, EPA believes it has the authority to interpret its own regulations in a manner consistent with the statutory purpose for which those regulations were adopted. As discussed above, *Chevron* gives EPA the authority to interpret RCRA to allow for treatment of tribes in the same manner as states for purposes of program approval. EPA's use of the term "State Director" in the landfill regulations may be read to * include tribal officials serving the function of a State Director in order to effectuate EPA's permissible interpretation of RCRA.

6. The Relevance of Washington Dept. of Ecology v. EPA

Several commenters challenged EPA's reference to other environmental statutes to support its argument concerning treatment of Indian tribes under RCRA. EPA's reference to other environmental statutes to interpret state and tribal authority in the implementation of solid waste permitting programs was implicitly approved by the Ninth Circuit in *Washington:*

> Implementation of hazardous waste management programs on Indian lands raises questions of Indian policy as well as environmental policy. It is appropriate for us to defer to EPA's expertise and experience in reconciling these policies, gained through administration of similar environmental statutes on Indian lands.

One commenter stated that EPA seeks to create a "vacuum" in the implementation and enforcement of Subtitle D of RCRA by asserting that the states are generally precluded from regulating MSWLFs on tribal lands. This commenter stated that *Washington* supports the commenter's assertion that statutes are to be read in a manner that does not find a vacuum, and therefore EPA's interpretation of RCRA's administrative scheme is contrary to *Washington*. EPA disagrees that its position is inconsistent with *Washington*. The Ninth Circuit in *Washington* in fact upheld EPA's denial of the State's application to regulate hazardous waste in Indian country, because under federal Indian law states are generally precluded from exercising civil regulatory authority over Indian country. EPA denied the portion of the State of Washington's application that sought to regulate hazardous waste in Indian country because the State had failed to demonstrate adequate jurisdiction.

This commenter further argued that the holding in *Washington* that states lack authority to regulate waste activities on Indian lands should be limited to Subtitle C of RCRA because "(w)here hazardous waste is concerned, the state plays no role until the * * * EPA doles it out * * * Where solid waste is concerned, the EPA plays no role unless the state fails to give that aspect of the program proper attention." However, this argument does not reach the question of state versus tribal authority. Even if EPA does not issue permits for MSWLFs in Indian country as it does for certain Subtitle C facilities, this does not mean that Indian tribes are not allowed to implement MSWLF permitting programs in the same manner as the states. Approving tribal MSWLF permitting programs would uphold EPA's general policy of encouraging non-federal implementation and enforcement of the Federal Criteria as does states' proper implementation of MSWLF permitting programs on land within the state's jurisdiction.

Further, the argument that *Washington* should be limited to Subtitle C of RCRA ignores the fact that the definitions of section 1004(13) and the corresponding legislative history, as discussed above, are applicable to all of RCRA. The legislative history was insufficient to express Congressional intent to extend state jurisdiction over Indian country with respect to Subtitle C. It is also insufficient to extend state jurisdiction over Indian country with respect to Subtitle D of RCRA.

7. EPA May Properly Allow Tribes to Submit Applications for Approval of Their MSWLF Permit Programs at the Tribes' Discretion

One comment criticizes EPA for allowing Indian tribes to seek approval of their MSWLF permit programs in the same manner as States, but not requiring Indian tribes to submit a program as States are required under section 4005(c). As EPA explained in the proposed approval, Congress did not explicitly specify a role for tribal permit programs under Subtitle D of RCRA. EPA is therefore unwilling to ascribe to Congress the specific intent to *require* tribes to submit landfill permit programs as Congress clearly intended for States. Furthermore, even if EPA were to mandate that tribes submit such programs, the only effects of a failure to submit are: (1) EPA may determine there to be no adequate program in place and

[2] The commenter also asserted that EPA used the terms "local government" and "municipality" interchangeably in the proposed and final landfill criteria rule, and that EPA implicitly asserted that "Indian tribes" should be considered local governments for MSWLF purposes. A close examination of the language makes clear that EPA thought that Indian tribes were similar to local governments, but quite separate from them. For instance, one section of the preamble to the final rule is titled "Concerns Regarding Local Government and Indian Tribe Impacts". 56 FR at 50980; the section discussing the financial assurance issue discusses Indian tribes separately from local governments. *Id.* at 51107.

thus that it has authority to enforce the 40 CFR part 258 Criteria directly (RCRA section 4005(c)(2)), and (2) the tribe would not be eligible for grant funds to operate its landfill program (RCRA section 4007). If a State (or tribe) elects not to submit a program, it may lose out on federal assistance, but Congress specified no other penalty. In addition, unlike the situation in most States, on some reservations, all solid waste may be disposed off-reservation. Thus, EPA sees no particular benefit to imposing an explicit requirement on tribes to submit a program.

Another comment argued that EPA may not require States to demonstrate their jurisdiction over Indian lands when seeking approval of a landfill permit program, since States "must have jurisdiction in order to meet the statutory mandate." This statement merely begs the question of whether states *do* have such jurisdiction. Nonetheless, EPA believes this issue is more properly addressed in the context of an individual State application for program approval.

8. EPA May Establish Self-implementing Landfill Criteria Where an Approved Adequate State or Tribal Program is Not in Place

The State of Alaska submitted comments that the Agency's tentative determination to approve the Campo Band permit program is invalid because EPA does not have the authority under RCRA Subtitle D to promulgate self-implementing criteria for the disposal of solid waste. EPA's regulations in 40 CFR part 258 are "self-implementing" in that they apply directly to owners and operators of MSWLFs, and need not be imposed through a permit or other agency action. Alaska argued that EPA can only establish guidelines for the disposal of solid waste under RCRA section 1008(a) and that RCRA section 4004(a) only provides the Agency with the authority to provide definitions for what constitutes "open dumping" of solid waste. Alaska also argued that the Hazardous and Solid Waste Amendments of 1984, including RCRA sections 4005(c) and 4010(c), did not broaden EPA's authority with regard to the regulation of solid waste or shift the control of the disposal of such waste from the States to the Agency.

EPA first notes that this comment is not timely. Two Alaska State agencies (the Departments of Environmental Conservation and Transportation and Public Facilities) and the Alaska State legislature submitted comments on the proposed MSWLF Criteria, but none of the comments challenged the Agency's authority to promulgate self-implementing regulations under RCRA. Contrary to Alaska's assertion, EPA did raise for public comment the issue of how the Criteria would be implemented in States that do not have approved permit programs. 53 FR 33383 (Aug. 30, 1988). Many of the proposed standards were self-implementing in that they could be implemented directly by an owner or operator without State oversight. 53 FR 33382 (Aug. 30, 1988). Because it did not comment on the "self-implementing" issue or file a petition for review of the MSWLF Criteria, Alaska may not now challenge EPA's authority to promulgate self-implementing regulations under RCRA Subtitle D. *See* 42 U.S.C. 6976(a)(1); *Sierra Club* v. *EPA*, 992 F.2d 337, 342 n. 5 (D.C. Cir. 1993).

EPA also disagrees with Alaska's substantive comment that the Agency does not have the authority to promulgate self-implementing criteria under RCRA Subtitle D. While EPA agrees with Alaska that the implementation and administration of solid waste disposal is mainly a state-lead function, RCRA Subtitle D provides the Agency with the statutory authority to promulgate criteria for such disposal.

RCRA section 4004(a) authorizes EPA to promulgate regulations containing criteria that distinguish between those facilities classified as sanitary landfills and those which are open dumps. These regulations, found in 40 CFR part 257, are more than "definitional" as suggested by Alaska. They establish criteria, enforceable under RCRA section 7002(a)(1), to ensure that there is "no reasonable probability of adverse effects on health or the environment" from disposal of solid waste. 42 U.S.C. 6944(a). In enacting the Hazardous and Solid Waste Amendments of 1984, Congress made it clear that the prohibitions contained in the open dumping criteria promulgated pursuant to RCRA section 4004(a) were a "direct Federal requirement, not dependent on the approval of a state plan * * *" S. Rep. No. 248, 98th Cong., 2d Sess., at 50 (1984).

In addition, RCRA section 4010(c) requires EPA to "promulgate revisions" of the open dumping criteria for certain solid waste disposal facilities "to protect human health and the environment," and specifies certain minimum elements to be included in those criteria. 42 USC 6949a(c). By using the word "promulgate," which Webster's defines to mean "to put (a law) into action or force," (Webster's New Collegiate Dictionary, at 914 (1979)), EPA believes that Congress intended the Criteria contained in 40 CFR part 258 to have the force and effect of binding regulations. While states are to play a central role in the implementation of the Criteria by adopting permit programs under RCRA section 4005(c)(1)(B), *Sierra Club* v. *EPA*, 992 F.2d 337, 339 (D.C. Cir. 1993), such state programs must meet the statutory standard of ensuring that each facility receiving hazardous household waste or conditionally exempt small quantity generator hazardous waste will comply with the Criteria promulgated by EPA.

As fully explained by EPA at the time it promulgated the Criteria under RCRA section 4010(c), the Agency chose a self-implementing approach out of a concern that States may not have the resources available to adopt adequate permit programs within the eighteen month time period provided by the statute (RCRA section 4005(c)(1)(B)). 56 FR 50978, 50991–93 (Oct. 9, 1991). A number of states had submitted comments outlining this concern. *Id.* at 50992.

EPA was also concerned about the appropriate implementation and enforcement of the Criteria in those states that did not adopt an adequate permit program under RCRA section 4005(c)(1)(B). *Id.* at 50993. For example, EPA had proposed that new MSWLFs would need to be constructed in accordance with a design goal (which would have to fall within a risk-based performance range) established by the relevant state. 53 FR 33314, 33410 (Aug. 30, 1988). In response to a number of comments from states that argued that they did not have the resources to establish such design goals or to review design plans to determine whether they met a certain risk range performance standard, EPA decided to promulgate a design requirement that both (1) established a uniform design requirement that could be implemented by owners and operators in unapproved states and (2) allowed approved states to authorize an alternative design which met a performance standard. 56 FR 51058–60 (Oct. 9, 1991). By establishing self-implementing performance standards for design and other requirements contained in the MSWLF Criteria, EPA could ensure that there would be protective implementation of the Criteria in states or in Indian country without approved programs where state or tribal oversight of a landfill design would not be present. *Id.*

Contrary to Alaska's comment, EPA believes that adopting a self-implementing approach in the Criteria is within the statutory authority provided by RCRA Subtitle D. Clearly, by enacting RCRA section 4010(c), Congress was expressing a concern

VOL
60
ISS
83
MY
1
1995
UMI

about the risks to human health and the environment posed by solid waste disposal facilities which receive hazardous waste. H.R. Conf. Rept. 2867, 98th Cong., 2d Sess., at 117 (1984) ("environmental and health problems caused by RCRA Subtitle D facilities are becoming increasingly serious and widespread"). While Congress mandated that the EPA revise the open dumping criteria, Congress did not specify the exact scope of the revised Federal Criteria or the manner by which they would be implemented in states without approved programs. Thus, it was left to EPA's discretion to implement section 4010(c) in a manner that would effectuate the statutory goals and policies reflected in the language of RCRA, including the Hazardous and Solid Waste Amendments (HSWA).

One comment asserted that EPA may only determine the inadequacy of a state program in the context of filing its own enforcement action under section 4005(c)(2). The basis of this assertion is unclear, because section 4005(c)(1)(C) is clear that EPA is to make a determination of the adequacy of each state program, and that EPA may make such a determination in the context of approval or disapproval of a state solid waste plan—not necessarily in the context of an enforcement action. Section 4005(c)(2)(A) separately gives EPA the discretion to enforce the Criteria where EPA has determined that an adequate program is not in place. The commenter's reading would suggest that the adequacy of state programs will be determined only in enforcement actions. This reading would make any EPA determination under section 4005(c)(1)(C), and the section itself, superfluous.

The commenter further asserted that any finding of inadequacy can only be met by EPA taking an enforcement action against the owner or operator under RCRA sections 3007 or 3008. The comment implies that if EPA determines that a state program is inadequate, the Agency cannot grant solid waste management jurisdiction to a tribe within the state. However, EPA's authority to determine the adequacy of a tribal solid waste program is not predicated on determining that the state regulatory program is inadequate. As discussed above, EPA's authority to approve tribal programs is predicated on established principles of federal Indian law, the holding in *Chevron*, and EPA's Indian Policy.

It is clear that section 4005(c) of RCRA required states to develop permit programs and gave EPA the authority to evaluate state programs. Tribes are sovereign governments with civil authority over Indian country that is comparable to the civil regulatory authority of states outside of Indian country. Thus, EPA continues to believe it is a reasonable interpretation of this section and RCRA Subtitle D more generally for tribes to have the opportunity to apply for approval from EPA to run their own programs.

9. EPA Has the Authority To Approve Tribal MSWLF Programs on a Case-by-Case Basis

EPA also received comments suggesting that EPA's notice announcing its tentative determination to approve the Campo Band's application did not comply with the requirements of the Administrative Procedure Act (APA). One commenter argued that EPA cannot approve individual tribal programs until it promulgates a rule which specifies the criteria and procedures for approval. This commenter noted that other environmental statutes which provide authority for EPA to treat tribes in the same manner as states require EPA to promulgate regulations to implement the tribal program. EPA disagrees that it must promulgate regulations as a precondition of approving tribal programs. As with state MSWLF permit programs, EPA believes that Congress has provided adequate authority to approve tribal programs under section 4005(c) of RCRA based on the statutory criteria contained therein. Congress did not specifically require that EPA issue a rule specifying criteria and procedures for approval of state programs, and EPA maintains inherent authority to make such determinations on a case-by-case basis.

The commenter also argued that a rule is necessary before approving any tribal program because otherwise there would be no standards for assuring the reasonableness of treating tribes in the same manner as states for purposes of RCRA Subtitle D, as there are under other environmental statutes which specify an explicit role for tribes. Another commenter asserted that EPA lacks standards for approval of tribal or state programs, and that, if Congress were to amend RCRA to allow for treatment of tribes in the same manner as states, it would likely require EPA to promulgate regulations for such treatment. EPA disagrees that standards are lacking. RCRA section 5004(c)(1)(B) requires states to adopt and implement "a permit program or other system of prior approval and conditions to assure that each solid waste management facility will * * * comply" with the Federal Criteria in 40 CFR part 258. 42 U.S.C. 6945(c)(1)(B). RCRA section 7004(b)(1) states that "public participation in the development, revision, implementation and enforcement of any regulation * * * or program shall be provided for, encouraged, and assisted by the Administrator and the States." 42 U.S.C. 6974(b)(1). As EPA explained in the tentative determination, the Agency interprets this statutory requirement to impose the following standards on state and tribal programs: tribes and states must (1) have enforceable standards for new and existing MSWLFs that are technically comparable to the Federal Criteria in 40 CFR part 258; (2) have authority to issue a permit or other notice of prior approval to all new and existing MSWLFs within their jurisdiction; (3) provide for public participation in permit issuance and enforcement; and (4) show sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program. EPA has determined that the Campo Band's solid waste permitting program meets these requirements. 59 FR 24422, 24423 (May 11, 1994).

In addition, as explained in the tentative determination, EPA has requested tribes to demonstrate that they are federally recognized, have a government exercising substantial governmental duties and powers, have the capability to operate a program, and have adequate civil regulatory authority to do so. These are the criteria Congress incorporated into the Clean Air Act, Clean Water Act, and Safe Drinking Water Act provisions that allow EPA to treat tribes in the same manner as states. EPA has determined that the Campo Band's program meets these requirements. 59 FR 24422, 24423 (May 11, 1994). In fact, on May 11, 1992, EPA approved the Campo Band's application for treatment as a state under Clean Water Act (CWA) section 518(e) for the purposes of CWA section 106. On September 28, 1993, EPA approved the Campo Band's application for treatment as a state under Clean Water Act section 518(e) for the purposes of CWA section 319.

Alaska argued that EPA's tentative determination to approve the Campo Band program constitutes a proposed rule under the Administrative Procedures Act (APA) since, in Alaska's opinion, the preamble establishes the general standard that Alaska Native Villages are eligible to submit MSWLF permit programs for approval. Among other things, Alaska criticizes as misleading EPA's placement of such a substantive rule in the "Notices" section of the **Federal Register**, rather than the "Proposed Rules" section. Alaska also asserted that EPA has violated the Freedom of Information Act (FOIA) requirement to "separately state and currently publish * * * substantive rules" by "*de facto*" promulgation of the STIR in the same notice in which the Agency determines the adequacy of the Campo Band's program. EPA disagrees with Alaska's characterization of the tentative determination. EPA acknowledges that the preamble to the tentative determination makes reference to EPA's policy that "Alaska Native entities * * * may apply for permit program approval." 59 FR 24422, 24426 (May 11, 1994). It is clear from the context of the discussion, however, that EPA was not trying to propose a rule with respect to Alaska Natives, but merely was observing that RCRA does not expressly preclude Alaska Native Villages from applying for program approval. EPA has not proposed to approve any Native Village program and, although the tentative determination may have been ambiguous on this point, the Agency has not determined that any village would necessarily satisfy the requirements for program approval. The determination whether any Alaska Native Village will qualify to operate a MSWLF permitting program will be made when such application, if any, is submitted. Thus, the statement in EPA's tentative determination does not give rights that Alaska Natives did not previously hold, nor does it purport to divest the State of Alaska of any authority it may have to regulate MSWLFs in Native Villages. The tentative determination and today's action are intended to affect only the Campo Band. In addition, EPA does not hereby purport to adopt the STIR; discussions of tribal jurisdiction in both the tentative determination and today's action are included for the purpose of explaining EPA's determination of the adequacy of the Campo Band's program. If and when EPA proposes the STIR and/or proposes to approve a Native Village program, as discussed above, Alaska may raise its jurisdictional and other concerns at that time and EPA will give them due consideration.

One commenter stated that Congress never intended to have EPA delegate the authority to regulate municipal solid waste landfills to every or any Indian tribe in the nation, because the burden on EPA would be overwhelming. The same commenter suggested that EPA should retain authority over Indian country. Alternatively, the commenter suggested that EPA delegate this authority to states. EPA notes that EPA

permitting and enforcement of solid waste management in Indian country could result in a far greater burden on the Agency than determination of the adequacy of tribal programs. More importantly, under Subtitle D of RCRA, EPA has no authority to enforce the Federal Criteria, unless it determines that the applicable program is inadequate, in which case EPA would have discretion to take enforcement actions for violations of RCRA (RCRA section 4005(c)(2)(A)). Therefore, EPA cannot "delegate" authority to states or tribes. EPA's role, as prescribed by Congress, is limited to determining whether the solid waste programs adopted by states or tribes are adequate to assure compliance with the federal regulations (RCRA section 4005(c)(1)(C).) Finally, as discussed above, under federal law EPA does not have the power to give states jurisdiction over Indian country.

One commenter stated that the best interest of the people and environmental laws are met by consistent yet flexible regulations covering municipal solid waste landfills. This commenter expressed concern that allowing hundreds of tribes to regulate solid waste will result in inconsistency. As the comment itself noted, flexibility as well as consistency is important in protecting human health and the environment. Congress required EPA to set minimum standards for landfills, and required states to adopt and implement permit programs which would assure compliance with the federal standards. Both RCRA and the federal regulations take into account the history of local regulation of solid waste and the need to have solid waste requirements be flexible enough to accommodate local needs. EPA will not approve a state or tribal program unless it is adequate to ensure that all MSWLFs within the state's or tribe's jurisdiction will comply with the Criteria in 40 CFR part 258. Therefore, EPA believes that approval of tribal solid waste programs will not result in any inconsistency that would violate the requirements of 40 CFR part 258. It is possible, however, that owners or operators of landfills in more than one jurisdiction may have to meet different requirements in different jurisdictions. This was the case prior to the federal requirements, which merely set new national minimum standards for landfills.

One commenter questioned EPA's motives and its purpose in providing a program adequacy ruling. RCRA itself establishes EPA's role. Section 4005(c)(1)(C) provides that "[t]he Administrator shall determine whether each state has developed an adequate program". Congress mandated that EPA determine the adequacy of state programs. EPA's motive and purpose in providing a program adequacy determination for tribal solid waste programs are the same as for providing such a determination for state programs: to ensure that the appropriate government entity is ensuring the proper management of solid waste within its jurisdiction. As discussed above, EPA's approval of tribal solid waste programs is consistent with federal Indian law and EPA's Indian Policy.

One commenter stated that non-tribal regulation of the land on which a proposed landfill would be situated is critical because contaminated groundwater could migrate off the Reservation. In support of this position, the commenter quoted from the **Federal Register** notice in which EPA published its tentative approval of the Campo Band's program. In the tentative determination, EPA stated that where groundwater can migrate, "it would be practically very difficult to separate out the effects of solid waste disposal on non-Indian fee land within a reservation from those on Tribal portions". 59 FR 24422, 24425–26 (May 11, 1994). The quoted statement supports tribes' assertions of jurisdiction to regulate solid waste management on non-Indian fee land within a reservation. As discussed above, EPA does not have authority to grant states jurisdiction over Indian country; in fact, federal law limits the jurisdiction of states over Indian country. The Campo Reservation is entirely tribal trust land.

One commenter stated that none of the statutory sections cited by EPA in the tentative determination provides authority for EPA's action of approving the Campo Band's program. The comment questioned the appropriate forum for judicial challenges to EPA's action. The statutory sections—RCRA sections 2002, 4005 and 4010—authorize promulgation of regulations and provision of technical assistance and provide for review and approval of state programs. Although all three of these statutory sections support EPA's action today, EPA has the authority to approve tribal programs under RCRA section 4005 using its discretion to fill gaps pursuant to *Chevron*. The appropriate forum for such judicial challenges is ultimately a decision for a court. However, EPA currently believes that the appropriate forum may be the U.S. Court of Appeals for the District of Columbia Circuit, pursuant to RCRA section 7006(a), 42 U.S.C. 6976(a).

VOL
60
ISS
83
MY
1
1995
UMI

B. Treating the Campo Band as a State

One commenter suggested that "soliciting a waste stream from several hundred thousand non-tribal members can hardly be viewed as self-government * * *.". EPA agrees that importation of waste does not equate to self-government. However, the Campo Band does not rely on the fact that it will receive waste from off-Reservation to establish that it is self-governing. The Campo Band's application amply demonstrates that the tribe has a government exercising substantial governmental duties and powers. Nothing in RCRA, the Federal Criteria, or the draft STIR would preclude a state or tribe from implementing a municipal solid waste permitting program which includes imported waste, as long as the state or tribal program ensures that the MSWLFs within its jurisdiction will comply with the Federal Criteria in 40 CFR part 258.

One commenter asked whether the Campo Band has state status, what gives them the right to form their own EPA, and whether they are no longer California residents if they don't have to follow California law. The Campo Band is a federally recognized Indian tribe—a sovereign entity within the United States. Federal courts have affirmed the sovereign status of Indian tribes in numerous judicial decisions which have uniformly held that tribal governments retain many sovereign powers, despite the fact that Indian tribes and tribal territories have been incorporated into the United States. *See Worcester* v. *Georgia*, 31 U.S. (6 Pet.) 515 (1832); and *United States* v. *Mazurie*, 419 U.S. 544 (1975). As such, tribes may form their own governmental entities to regulate their members and activities on land within their jurisdiction. This includes the authority to form and administer their own environmental regulatory programs. Activities in Indian country are generally not subject to state law (see discussion under Category A above). Nonetheless, under the Indian Citizenship Act of 1924, 8 U.S.C. 1401(a)(2), and the 14th Amendment to the U.S. Constitution, any member of a tribe born in the United States is a citizen of the United States and of the state where he or she resides.

Two commenters asked whether the Campo Band had the constitutional authority to be treated as a state. Both the U.S. Constitution and the Campo Band's Constitution provide authority for today's decision. Under the U.S. Constitution, tribes are sovereign entities with power over their lands and members, and the U.S. Congress is delegated the power to regulate commerce with the tribes. U.S. Constitution, Article I, section 8, paragraph 3. Congress has exercised this authority by determining that EPA may treat tribes in the same manner as states for certain purposes under several environmental statutes, including, for example, the Clean Water Act section 518, 33 U.S.C. 1377. It is important to note that today's action does not make the Campo Band a state, or grant any rights to members of the Campo Band that they did not otherwise possess, or divest the State of California of any rights it might have with respect to the Campo Band. Today's action simply states that EPA has determined that, for purposes of RCRA Subtitle D, the Agency treated the Campo Band's application for solid waste program approval in the same manner as it would treat such an application from a state, and found it to be adequate.

One commenter supported EPA's position, stating that "the Federal Constitution strongly supports the conclusion that, as a general rule, Indian tribes that constitute sovereign governments are not subject to state solid waste management requirements", and that the Supreme Court "has repeatedly held that tribes are sovereign entities that 'retain attributes of sovereignty akin to those possessed by other governmental bodies; that is, power over people and territory'".

The Campo Band's Constitution establishes the Campo General Council and empowers it to govern the affairs of the Tribe. Constitution of the Campo Band of Mission Indians, Article IV. Pursuant to this power, the General Council passed several Resolutions establishing the Campo Environmental Protection Agency (Resolution 88–005), enacting the Campo Band of Mission Indians Environmental Policy Act of 1990 and the Solid Waste Management Code of 1990 (Resolution 90–0019).

C. Off-Reservation Voice in Tribal Politics, Fair Hearings

Commenters expressed concern that, despite the possibility of negative environmental impacts to them, the Campo Band's neighbors have no voice in tribal politics, cannot vote tribal officials out of office, and may not receive a fair hearing in the Campo Band's Environmental Court when actions against the landfill would negatively affect tribal income.

EPA agrees that citizens should have a voice in the regulation of the environment. Neighbors of the Campo Reservation have several avenues for voicing their concerns regarding solid waste practices on the Reservation. The Campo Band has adopted laws requiring that CEPA take specific actions in response to complaints from any person, and allowing any person adversely affected by CEPA's actions to challenge CEPA in the Campo Environmental Court. *See* V Campo Tribal Regulations (C.T.R.) 590.02, 590.10, and I C.T.R. 150.02.

The fact that off-Reservation neighbors cannot vote in tribal elections is analogous to California residents who live near a landfill in another state in which they cannot vote. EPA cannot require as a prerequisite for program approval that a state or tribe allow non-residents to vote in that state's or tribe's elections. EPA believes that the procedures adopted by the Campo Band ensure that the Tribe will consider and respond to concerns of off-Reservation neighbors. In addition, the citizen suit provision of RCRA, which authorizes lawsuits in federal District Court, is still available after EPA has approved a state or tribal program.

One commenter stated that a common requirement of state program approval includes administrative or judicial review procedures, and the commenter alleges that the Campo Band expressly disclaimed any ability by nontribal members to seek judicial review of Campo Band actions. The commenter doesn't indicate where the Campo Band made such a disclaimer. However, as discussed above, the Campo Band's program does allow nontribal members to seek judicial review of Campo Band actions. The Campo Band has explicitly waived sovereign immunity for purposes of such challenges to CEPA actions in section 302 of the Campo Environmental Policy Act.

D. Sole Source Aquifer

A number of commenters noted that the Campo/Cottonwood Creek aquifer is the sole source of drinking water available to local communities in the United States and Mexico, alternative water sources would be expensive or unavailable, and EPA has designated the Campo/Cottonwood Creek aquifer a sole source aquifer under section 1424(e) of the Safe Drinking Water Act (SDWA). Commenters suggested that because a proposed landfill will be located near a sole source aquifer, EPA should disapprove the Campo Band's regulatory program.

EPA agrees that protection of groundwater resources and sole source aquifers is of utmost importance. However, EPA cannot disapprove a state or tribal regulatory program because a sole source aquifer exists within its jurisdiction. Under provisions of section 1424(e) of the SDWA, 42 U.S.C. 300h–3(e), the EPA Regional Administrator granted a petition for designation of a Campo/Cottonwood Creek Sole Source Aquifer (SSA) on May 5, 1993. Notice of the designation was published in the **Federal Register** on May 28, 1993 (58 FR 31024). The petition was submitted for a 400-square mile area along the U.S./Mexico border in the vicinity of Campo, California.

Under section 1424(e) of the SDWA, once an area has been designated a SSA:

> No commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health* * *

"Federal financial assistance" is defined in 40 CFR 149.101(g). Examples of projects include sewage treatment plants, funded in part by federal grant monies, and housing projects receiving federal loans. Neither EPA's approval of the Campo Band's solid waste program nor the proposed landfill meet the definition of a federal financially assisted project. Thus, the SDWA would not prohibit either the proposed landfill or program approval.

In reviewing state and tribal regulatory programs, EPA determines whether the programs will ensure compliance with EPA's landfill regulations in 40 CFR part 258. EPA believes that the Campo Band's landfill regulations, including its groundwater monitoring and corrective action regulations, will ensure compliance with the exacting groundwater monitoring and corrective action requirements contained in EPA's 40 CFR part 258 regulations. EPA also believes that the Campo Band's regulations will ensure compliance with 40 CFR 258.3 which requires owners and operators to comply with all other applicable federal rules, laws, regulations, or other requirements.

One commenter was concerned that there is no proposed mitigation if the groundwater supply is contaminated. Mitigation measures for individual landfills within the jurisdiction of a state or tribal program are not required or used as a basis for program decisions by EPA. However, EPA's 40 CFR part 258 requirements and the Campo Band's regulations contain strict standards for groundwater monitoring, corrective action and financial assurance. EPA believes protection of groundwater resources is of utmost importance. It is the responsibility of the Campo Band to ensure that landfills on the Reservation comply with its regulations and permits.

One commenter asked if the Campo Band takes over operations of the proposed landfill, will they qualify for federal funding and will the landfill then fall under the definition of a federal financially assisted project. This comment would require EPA to speculate without any information about the legal or factual circumstances under which the Campo Band might apply for federal financial assistance. EPA cannot at this time make a determination as to whether the Campo Band would seek or qualify for financial assistance, whether the landfill would be a federal financially assisted project, or about the applicability of section 1424(e) of the SDWA to such potential future financial assistance.

E. United States-Mexico Border Issues

A number of commenters expressed concern about the potential environmental and economic impacts of the proposed landfill on the people and communities in Mexico. Commenters stated that the proposed landfill poses risks to the rights of the Mexican border communities to be free from threats to their health and natural resources. Specifically, commenters raised siting concerns related to EPA's responsibilities under Executive Order 12114 (E.O. 12114), entitled "Environmental Effects Abroad Of Major Federal Actions", and the Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area (La Paz Agreement).

E.O. 12114 calls for environmental assessment of major federal actions having significant effects on the environment outside the borders of the United States. EPA does not believe that approval of the Campo Band's regulatory program is a major action which will have significant environmental effects outside of the United States. As noted above, EPA's decision regarding the adequacy of the Campo Band's regulatory program is not a ruling on any landfill which might be proposed under their regulatory program. EPA notes that approval of state and tribal regulatory programs is not among the activities to which environmental review requirements apply under EPA's rules for implementing the Executive Order. 40 CFR 6.1002.

40 CFR 6.1002 states that review requirements apply to major permitting or licensing by EPA of facilities which affect the global commons or the environment of a foreign nation, including permitting under the Clean Air Act. 40 CFR 6.1004(c) provides that the information required to be submitted by the permit applicant satisfies the requirements of E.O. 12114. EPA agrees that assessment and consideration of the transboundary impacts of sites in the border zone are extremely important. EPA has maintained open communications with Mexico regarding the proposed landfill and the regulatory program approval process. In June 1992, the Hazardous Waste Work Group, established under the La Paz Agreement, formally adopted a "Consultative Mechanism for Exchange of Information Between the United States and Mexico on Facility Siting." This consultative mechanism, although it is not legally binding, sets forth the intent of the United States and Mexican governments to notify each other of waste sites proposed for construction in the border area of their respective countries. The consultative mechanism was approved by the National Coordinators of the La Paz Agreement in 1992, and forms the basis upon which EPA has continued to inform counterpart officials in Mexico of developments regarding the proposed Campo municipal solid waste landfill. EPA has made every effort to provide Mexican officials with information on the proposed site and take their concerns about this matter into consideration.

The Binational Hazardous Waste Work Group, as established under the 1983 La Paz Agreement, is the forum through which the United States continues to notify and inform the government of Mexico of waste disposal sites proposed to be constructed within the border area of the United States which are subject to U.S. environmental regulatory review, and which might have a transboundary impact in the Mexico border zone. The Work Group is also the main forum for bilateral discussions of such proposed sites. These notifications, the provision of information by the United States to Mexico, and the nature of the discussions that take place at the Work Group meetings are reported to both governments at annual meetings of the National Coordinators, as specified in the La Paz Agreement. Moreover, the government of Mexico and its citizens were encouraged to participate in the public hearing as part of EPA's review process for approval of the Campo Band's regulatory program. EPA has sent Mexico extensive information on the proposed landfill and on EPA's actions related to the proposed landfill.

In the interest of furthering our efforts to communicate fully with Mexico on this site, EPA coordinated a meeting between U.S., Mexican and Campo Band government agencies on July 1, 1994. The purpose of that meeting was to share information on the roles and

VOL
60
ISS
83
MY
1
1995
UMI

authorities of the different agencies involved in regulating and permitting the proposed landfill. EPA will keep the appropriate Mexican officials fully informed on EPA's actions concerning the Campo Band's program and the proposed landfill.

In addition, CEPA has maintained open communications with the Government of Mexico with regard to the proposed landfill. EPA has encouraged CEPA to continue to respond to the Mexican government's concerns directly in the spirit of open communication.

In sum, EPA believes that the appropriate forums for raising concerns regarding the siting of the proposed landfill are the Binational Hazardous Waste Work Group, the National Environmental Policy Act (NEPA) process and CEPA's permitting process. With respect to potential environmental and economic impacts to Mexico and the U.S., comments have been responded to in Category K below.

F. Capability of the Campo Band

A number of commenters suggested that the Campo Band and the Campo Environmental Protection Agency lack regulatory and enforcement history and ability and, in some cases, selectively enforce regulations. Commenters suggested that CEPA does not have the ability or willingness to enforce its regulations. Some commenters suggested that EPA should deny the Campo Band's program, reconsider the Campo Band's application for approval of its regulatory program after a track record has been established, and supervise the Campo Band. One commenter stated that the Campo Band has no education or experience in the solid waste arena. One commenter stated that it would be wrong to approve the program of such a small organization. EPA also received comments stating that CEPA and the Campo people are independent, capable, and concerned about protecting their environment and water. Commenters stated that the Campo Band's regulatory program is second to none.

EPA believes that the Campo Band's program meets or exceeds federal standards and that the Campo Band is capable of managing its regulatory program. The Campo Band has shown that it has jurisdiction and its staff resources are adequate to manage its solid waste permitting program. The Campo Band's application shows that CEPA devotes over three full-time positions to landfill permitting, monitoring and enforcement. The Campo Band also has contracts with firms providing personnel with legal and technical expertise.

In addition to demonstrating that its staff resources are adequate, the Campo Band's application demonstrates that it has management and technical skills. CEPA employs individuals with years of environmental regulatory experience and degrees in engineering and geology. The Campo Band application also demonstrates that the Campo Band has entities that exercise executive (Executive Committee), legislative (General Council) and judicial (Campo Environmental Court) functions. The Campo Band has also demonstrated experience in implementing public health and environmental programs. The Campo Band has adopted codes, ordinances or regulations governing land use planning, housing, gaming and solid waste. CEPA has monitored development of the proposed landfill on the Reservation and has worked closely with the State of California to ensure that solid waste activities on the Reservation will comply with California law. Finally, the Campo Band has demonstrated independence between tribal regulatory entities and regulated entities.

EPA notes that prior solid waste regulatory history is not a requirement for EPA approval of a solid waste permitting program. The fact that Congress gave states 180 days after adoption of federal landfill standards to adopt and implement programs ensuring compliance with those standards indicates that Congress anticipated that states (and tribes) may not have had such programs in place before the federal standards were promulgated. EPA believes that tribes are fundamentally able to regulate the environment in the same manner as states, and notes that states have a variety of levels of experience in environmental regulation. The ability to adopt and implement environmental laws varies widely from state to state and tribe to tribe. EPA evaluates each state and tribe individually to determine whether it has adopted, and is capable of enforcing, a solid waste program that is adequate to assure compliance with the federal regulations. Some states have not demonstrated a history of adopting or enforcing solid waste requirements prior to applying to EPA for program approval under RCRA Subtitle D. EPA is taking today's action because the Agency has determined that the Campo Band's program is adequate to assure compliance with the federal regulations. The Tribe not only has permitting authority, technical standards, public participation procedures and enforcement authority that meet or exceed the federal standards, but also the staff, resources and technical expertise available to implement and enforce the program.

Some commenters specifically stated that CEPA has not enforced its regulations in cases of auto crushing, septic systems, tire burial and litter control. EPA wishes to clarify that review and approval of the Campo Band's program is related solely to the Campo Band's landfill permitting and enforcement program. Regulation of car crushing, septic systems, tire burial and litter are not covered by this action and are not legal grounds for denial of a solid waste regulatory program. EPA suggests that commenters concerned about these activities raise their concerns with CEPA and/or other appropriate tribal or federal agencies. Further information regarding hazardous waste concerns involving car crushing is provided below.

One commenter expressed concern that no matter how good regulations are, they can't prevent pollution, it is difficult to enforce them—that most people don't have the time, energy and money to bring citizen suits—and that it is difficult to clean up contaminated groundwater.

EPA understands that regulations are only as good as the ability to enforce them. EPA's regulations are designed to minimize environmental and health impacts from landfills. Congress did not give EPA authority to oversee directly the operations of landfills. Therefore, approving adequate state and tribal programs to regulate landfills is the best way to ensure that the regulations are enforced. EPA believes that the Campo Band's program meets or exceeds federal standards and that the Tribe has demonstrated interest in appropriately regulating facilities under its jurisdiction.

Finally, if CEPA is unable, for whatever reason, to enforce the program requirements, and the proposed landfill fails to comply with the Federal Criteria, RCRA section 7002 allows any person to sue the owner or operator of the landfill. In addition, withdrawal of program approval may be initiated where it appears that a state or tribal permit program may no longer be adequate to ensure compliance with the RCRA Subtitle D Federal Criteria. Section 239.13 of the draft STIR specifies conditions and procedures which would be used by EPA as guidance for withdrawal of adequacy determinations.

G. Conflicts of Interest

Several commenters raised concerns that the Campo Band may have potential conflicts of interest in regulating a proposed landfill that will provide income for the Tribe. These issues are discussed below.

First, however, it is important to explain that nothing in Subtitle D of RCRA requires that EPA consider conflict of interest in determining the adequacy of a state or tribal solid waste permitting program. There is language in the preamble to the draft STIR that addresses conflicts of interest, but it merely encourages states and tribes to work with local agencies and provide oversight to prevent problems such as local conflicts of interest. The preamble also incorporates the criteria used in other environmental statutes to evaluate whether to treat tribes in the same manner as states. These requirements are that a tribe: (1) Be federally recognized, (2) have a government exercising substantial powers, (3) have jurisdiction over the parties and the subject matter to be regulated, and (4) be reasonably expected to be capable of managing the program. The capability requirement is not defined or discussed in the draft STIR. However, where EPA has adopted regulations addressing this "capability" requirement in other statutes, the Agency has considered whether the tribe has demonstrated "sufficient independence" of the regulated and regulatory entities of the tribe "to assure effective and fair administration of the program." 40 CFR 123.31, 58 FR 67981 (December 22, 1993). EPA believes that the Campo Band has met these standards.

The proposed Campo landfill will not be operated and regulated by the same tribal entity. The operator of the proposed landfill will not be CEPA, but a private, non-tribal company. Muht-Hei, Inc., the tribal business entity, is a separate tribal entity from CEPA. The Campo Band's regulations define Muht-Hei, Inc. as the operator of any solid waste facility on the Reservation. This situation is analogous to a privately operated landfill owned by one state agency and regulated by another.

One commenter stated that the Campo Band should have conflict of interest codes for tribal office holders and board members, similar to those in California's Government Code sections 87300, 87302 and Public Resources Code (PRC) sections 43207, 40402 and 40709.5. The comment asserted that the Campo Band could not meet the standards set by these provisions.

Although not required by RCRA, the Federal Criteria in 40 CFR Part 258 or the draft STIR, the Campo Band has adopted regulations governing conflicts of interest.[3] For example, the Campo Band has adopted a regulation governing conflicts of interest on the part of the CEPA Board of Commissioners. This regulation provides that:

> A member of the Board may not participate in decisions relating to the governance and management of CEPA if the member has a direct financial interest in the person or activity being regulated. Tribal membership does not preclude participation in decisions involving activities on or relating to property owned by the Band.

I C.T.R. 110.10. A similar provision for judges on the Campo Environmental Court is set forth in I C.T.R. 150.09(e). Campo law also prohibits bribery, threats, or other efforts "to obstruct or impede the activities of CEPA or the Board", or to "commit fraud *. * *" with the intent to evade or defeat Tribal environmental codes or regulations," III Campo Environmental Policy Act 303(a).

EPA believes that the Campo Band has taken steps to prevent conflict of interest through adoption of I C.T.R. 110.10, 150.09(e), and III Campo Environmental Policy Act 303(a), quoted above. EPA also believes that the Tribe is not "regulating itself", because the actual operator of the landfill, Mid-American Waste Systems, Inc., is not a tribal entity, and CEPA and Muht-Hei are "sufficiently independent to assure effective and fair administration of the program." 40 CFR 123.31, 58 FR 67981 (December 22, 1993). The Tribe has also adopted provisions allowing anyone (including non-members) to challenge CEPA in the Campo Environmental Court. *See* III Campo Environmental Policy Act 302, I C.T.R. 150.02.

Several commenters expressed concern that the Campo Band has a conflict of interest because it has received and will continue to receive revenues from the operator of the landfill, and would therefore not enforce costly requirements that could reduce tribal income. One commenter suggested that this conflict is particularly acute because adverse impacts of the proposed landfill may be more serious outside the Reservation. Commenters felt CEPA did not have the incentive, objectivity or willingness to enforce the solid waste requirements. One commenter asked what incentive there is for tribal authorities not to accept gifts that can influence decisions. Another commenter suggested that approving the Campo Band's program would be like "the fox guarding the chicken house", whereas states have demonstrated ability to enforce environmental regulation over many decades. One commenter suggested that the Tribal Chairman had prematurely approved the landfill permit to operate by stating that the landfill will open in June 1995. In contrast, one commenter stated that it is not true that the economic opportunity of a landfill is more important to tribal members than environmental protection of the land.

EPA disagrees that the Campo Band does not have the incentive, objectivity or willingness to enforce the solid waste requirements. The Campo Band has adopted landfill liner design and release detection regulations which are more stringent—and more costly to implement—than the federal or California requirements, and which are beyond those needed to obtain EPA approval. This indicates that the Campo Band is willing to take steps to protect human health and the environment despite the fact that such steps will cost money and potentially reduce revenues from the proposed landfill. In addition, CEPA makes decisions on applications for landfill permits in accordance with its regulations, after notice and an opportunity for public comment, regardless of statements by the Tribal Chairman.

H. Adequacy of the Campo Band's Resources

A number of commenters expressed concern that "there is a shortage of funds in the backcountry which would not provide the adequate supervision this would need" and CEPA has inadequate resources to implement or enforce a regulatory program. Commenters asserted that Mid-American Waste Systems, Inc., the proposed landfill operator, is having financial problems and asked where the Campo Band will get resources to fund its program if Mid-American Waste Systems, Inc. fails to provide adequate resources.

The Campo Band addressed resources in its narrative description of the application for program approval. EPA found the Campo Band's narrative description, including its staff resource description, adequate. EPA does not require specific resource and staffing requirements because each state or tribe

[3] Other federal statutes contain statutory provisions establishing conflict of interest requirements for state programs. *See* Clean Water Act section 304(i)(2)(D), 33 U.S.C. 1314(i)(2)(D); Clean Air Act section 110(a)(2)(E)(ii), 42 U.S.C. 7410(a)(2)(E)(ii). For example, under Clean Water Act section 304(i), state programs must have a conflict provision similar to California PRC section 40402 to obtain EPA authorization. Nothing in RCRA, the Federal Criteria in 40 CFR part 258, or the draft STIR requires such a provision. Therefore, EPA has not required that any state or tribe establish conflict of interest codes in order to demonstrate that a solid waste program is adequate to assure compliance with the Federal Criteria.

VOL 60 ISS 83 MY 1 1995 UMI

has different resource requirements and strategies for ensuring compliance. EPA asks that states and tribes list the total number of regulated facilities within the state or tribe's jurisdiction in its application. This information is useful in assessing whether available resources are adequate to ensure compliance. The Campo Band's ratio of resources to the number of regulated facilities is higher than some state regulatory programs.

In determining whether a state or tribe's program will ensure compliance with the federal landfill regulations, EPA does not require that states and tribes provide financial information on where funding for programs is generated or on how secure that funding is. As discussed above, the Campo Band and other approved states and tribes are expected to sustain the regulatory program presented in their applications. Withdrawal of program approval may be initiated where it appears that the state or tribal permit program may no longer be adequate to ensure compliance with the RCRA Subtitle D Federal Criteria.

I. CEPA's Authority to Stop Harm to Off-Reservation

One commenter requested that section 205 of the Tribal Environmental Policy Act of 1990 (Act), which provides authority to issue restraining orders and injunctions, be amended to include protection of off-Reservation residents and environments.

Section 205(a)(2)(C) of the Act, as it read on the date EPA published its tentative determination, provided that emergency restraining orders could not be issued without notice to the adverse party unless immediate and irreparable injury, loss or damage would result to the Reservation residents or environment before notice could be served. Section 205(b)(2)(C) did not clearly provide for preliminary or permanent injunctions against acts that threatened the public health or safety or the environment off-Reservation. EPA discussed the concern raised by this comment with the Campo Band. In response, on December 11, 1994, the Campo Band General Council amended section 205 of the Act. That section now clearly provides for issuance of emergency restraining orders and injunctions against acts that threaten human health, safety or welfare or the environment, without distinguishing between on-Reservation and off-Reservation threats. A copy of the amended Act is available at EPA's office in San Francisco, at the Campo Environmental Protection Agency's office and at the public library in the town of Campo.

J. Campo Band Leadership and Membership

A number of commenters expressed concern regarding alleged corruption in the Campo Band. One commenter asserted that tribal officials are on their best behavior to obtain approval from regulatory agencies, but have not always acted responsibly. Commenters also asserted that tribal members intimidate off-reservation opponents to the landfill and that the Chairman of the Campo Band had illegally received payments from landfill project proponents. One commenter also stated that non-tribal members had voted on tribal issues at tribal meetings.

EPA does not believe these allegations should be considerations in EPA's final determination regarding the adequacy of the Campo Band's regulatory program. For the reasons described above, EPA believes that the Campo Band's solid waste regulatory program will ensure compliance with the federal regulatory requirements. The Campo Band created CEPA to regulate solid waste on the Reservation. CEPA has regulatory authorities that are separate from the authority of the Chairman of the Campo Band and from the authorities of the tribal council. EPA has been informed that appropriate federal agencies have been apprised of these allegations.

K. Landfill-Specific Issues

Many commenters expressed concern regarding the potential environmental impacts of the proposed landfill and the ability of the landfill owner/operator to comply with applicable regulations. These landfill-specific concerns included potential for contamination to groundwater which flows across the United States-Mexico border, ability to monitor and clean up or mitigate groundwater in a fractured bedrock setting, location of a landfill in a seismic impact zone, compliance with financial assurance requirements, strong winds, traffic problems; and general risks to the ecosystem, economy and property values of off-reservation residents, and to Mexican communities and citizens. A number of commenters noted that groundwater monitoring in the fractured bedrock setting has not been adequately addressed. One commenter expressed concern that the landfill site should be characterized before construction of the landfill, not during or after. Commenters expressed concern regarding importation of waste to a groundwater dependent area and asked about sources and types of waste to be sent to the landfill, life expectancy of the landfill, and recycling efforts. Commenters requested that EPA oppose the proposed facility and deny program approval because of landfill-specific concerns. Other commenters suggested that the landfill will be one of the safest landfills in the country, will provide economic support and jobs for the Tribe and will benefit other communities. Another commenter stated that the plan for the Muht-Hei facility is very detailed and well thought out.

EPA understands that there is tremendous controversy surrounding the proposed landfill. However, EPA does not make solid waste permitting decisions about individual landfills under the RCRA program. EPA's action today approves the Campo Band's solid waste regulatory program. This program approval means that EPA has reviewed the Campo Band's regulatory program, and has determined that it will ensure compliance with the Federal Criteria.

Concerns regarding the proposed landfill or the ability of the landfill to comply with applicable regulations should be raised with the agency responsible for ensuring compliance with those regulations. CEPA, the U.S. EPA, the Bureau of Indian Affairs (BIA) and the California Environmental Protection Agency (Cal EPA) all have roles with respect to the proposed landfill. It should be noted, however, that the U.S. EPA's permitting role is limited to permitting under the Clean Air Act.

One commenter stated that it will be adversely impacted by flaring, dust generation, truck haul activities, training, and water and light pollution from the landfill. Potential air pollution from flaring, dust generation and truck haul activities are issues that are being addressed through U.S. EPA's permitting under the Clean Air Act. With respect to the remaining concerns, EPA's action today is a determination that the Campo Band's solid waste permitting program is adequate to assure compliance with the federal regulations at 40 CFR part 258. A landfill may be constructed and operated without EPA approval of the state or tribal program in which the landfill is located, as long as it meets these federal requirements. EPA's regulations were designed to minimize negative environmental impacts from the management of municipal solid waste. However, Congress gave EPA no authority to enforce these requirements unless it finds that the landfill is in a state or within the jurisdiction of a tribe without an adequate permitting program. Because EPA has determined that the Campo Band's program is adequate, the appropriate agency to which concerns about the actual construction and operation of the proposed landfill should be raised is the Campo Environmental Protection Agency.

One commenter stated that it is unacceptable for the Campo Band to pursue the landfill venture to the detriment of the neighboring communities. Another commenter stated that the majority of air quality and groundwater impacts from the proposed landfill will be off-Reservation, that the proposed landfill will be run by a non-Indian corporation with main offices over 1000 miles from the Reservation, and that the proposed landfill will be dependent on off-Reservation facilities such as materials recovery facilities (MRFs). At the same time, this commenter stated that the proposed project appears to be an example of "the poisoning of Indian country".

These issues do not directly affect the Agency's determination of the adequacy of the Campo Band's solid waste permitting program. Any landfill is likely to have positive and negative environmental and economic impacts on both the community in which the landfill is located and the surrounding communities. EPA's regulations were designed to minimize negative environmental impacts from landfills, and all landfills must comply with these regulations. However, landfills may be sited in Indian country regardless of whether EPA approves tribal solid waste programs. EPA's decision today is based upon the Campo Band's ability to ensure compliance with the 40 CFR part 258 regulations. EPA has determined that the Campo Band has a solid waste permitting program that is adequate to assure compliance with those regulations.

One commenter noted that U.S. EPA's comments on the environmental impact statement (EIS) for the proposed landfill identified serious concerns about ability to monitor adequately for groundwater contamination and stated that projects of this kind should not be sited over potable groundwater basins within fractured bedrock. Another commenter asked that EPA deny the lease for the proposed landfill.

BIA is required to approve any lease for land held in trust by the United States for the benefit of a tribe. BIA lease approval is subject to NEPA and BIA has determined that the Campo lease approval is a major federal action which requires the preparation of an EIS. Both the EIS and the lease for the proposed landfill were prepared and approved by the BIA. EPA's comments on the EIS reflected concerns regarding groundwater monitoring and corrective action in the fractured bedrock setting. The Secretary of the Interior signed a Record of Decision finalizing the EIS and approving the lease after consideration of comments. As stated above, the decision before EPA is the Campo Band's program adequacy; states and tribes are the lead entities responsible for landfill permitting and enforcement. The Campo Band has developed its own landfill permitting program and CEPA is the appropriate agency to consider issues relating to a particular landfill on the Campo Reservation.

One commenter asked who will be monitoring what goes on at the proposed landfill and whether Campo would have to answer to the same regulations as the landfills that the City of San Diego must meet. The landfill on the Campo Reservation will be monitored by the facility operator, with oversight by CEPA. Any landfill on the Campo Reservation must comply with the Campo Band's laws. In addition, if EPA issues a permit under the Clean Air Act, EPA will monitor compliance with that permit. A landfill on the Reservation generally would not be required to comply with any requirements imposed by the State of California or a county or city. The Campo Band has, however, worked with Cal EPA to ensure that the Campo Band's requirements are functionally equivalent to California's requirements.

L. Liability for Groundwater Contamination

Several commenters were concerned about who would be liable for any groundwater contamination caused by the proposed landfill. Both the federal regulations and the Campo Band's regulations require groundwater monitoring; the Campo Band's regulations go beyond the federal standards to require monitoring of the vadose zone (soil above the water table). If pollutants exceed specified concentrations, the owner or operator must implement a cleanup program, and provide the funds to pay for the cleanup. Campo Band regulations also require the operator to provide minimum financial assurance of $1 million per occurrence to reimburse third parties for bodily injury and property damage.

One commenter expressed concern about the vagueness of the Campo Band's regulation requiring that the landfill operator maintain minimum financial assurance of $1 million per occurrence to compensate third parties for bodily injury or property damage. The commenter expressed concern that the amount may be inadequate, alleging that the cost of cleaning up the Torres-Martinez facility is high, and that the operator of that facility has declared bankruptcy.

The regulation cited by the commenter provides for $1 million to reimburse third parties for injuries or damage, not for performing corrective actions. Federal regulations do not require financial assurance to compensate third parties. Therefore, the Campo Band's regulation is in excess of federal requirements. The federal regulations do require that landfill owners and operators establish financial assurance for corrective action after a release has occurred (40 CFR 258.73). This requirement is intended to minimize the possibility that the operator will fail to provide sufficient funds to clean up contamination. The Campo Band's regulations (V.C.T.R. 530.41, 530.93), like the federal regulations, require financial assurance in the full amount of the estimated cost of the corrective action in addition to the provision for reimbursing third parties noted above. Moreover, the Campo Band's regulations go beyond the federal regulation. The Campo Band's regulations require that operators provide financial assurance for "known or reasonably foreseeable" corrective action—before any release has occurred.

M. Purpose and Effect of Program Approval

One commenter recommended that EPA deny the Campo Band's program because the primary intent of approval is to facilitate the operation of the proposed landfill. The primary intent of EPA's approval of state and tribal programs under Subtitle D of RCRA is to ensure that solid waste permitting programs are in place which will ensure compliance with the federal regulations. EPA believes that the Campo Band's program will ensure compliance of the Federal Criteria. The fact that the federal regulations provide some flexibility to landfills in approved states and tribes and that EPA's approval of a state or tribal program may facilitate operation of some landfills is not an adequate reason to disapprove a state or tribal program. In fact, most states and several tribes are pursuing program approval in part because some of the flexibility provisions will facilitate construction and operation of landfills within their jurisdiction. EPA designed the Federal Criteria with flexibility so that state and tribal regulatory agencies could implement the Criteria taking into account local conditions, while specifically setting criteria which are protective of human health and the environment.

VOL
60
ISS
83
MY
1
1995
UMI

One commenter suggested that EPA's ultimate responsibility is to protect the environment. This commenter also stated that the CEPA regulations will not eliminate or mitigate risks such as the risks to the Sole Source Aquifer at the proposed project site. EPA disagrees with the commenter's statement that CEPA regulations will not eliminate or mitigate the risks at the proposed project site. Prior to promulgation of the Federal Criteria in 1991, a landfill could have been constructed and operated on the Campo Reservation with fewer restrictions than those contained in the 40 CFR part 258 Criteria. The federal regulations were adopted to minimize environmental and public health risks from landfills. These regulations impose strict standards for design, construction, operation, monitoring, corrective action, closure, post-closure care and financial assurance. The Campo Band's regulations set forth stringent standards that meet or exceed the federal standards. CEPA is responsible for ensuring that these standards are met. Although regulations can never completely eliminate risks from a project, the Campo Band has adopted a set of standards in addition to the federal minimum requirements which should result in the mitigation of risks associated with the proposed landfill.

One commenter gave three reasons why owners and operators complying with approved state/tribal programs should not be considered to be complying with the federal regulations. First, only certain elements of approved programs may be modified in approved programs. Second, the Campo Band is not a "state", and therefore cannot modify the requirements in 40 CFR part 258. Third, the statement in the tentative determination shows that a purpose of EPA's action is to restrict citizen suits and create defenses for entities violating the federal regulations.

EPA disagrees with all three points. First, EPA approval of a state or tribal program does not allow the approved state or tribe to modify or waive entirely the requirements in 40 CFR part 258. The regulations in 40 CFR part 258 allow alternatives to the prescribed federal requirements only when certain criteria are met. These alternatives are allowed in the federal regulations because EPA believes that when the Federal Criteria are met, the alternatives will protect human health and the environment as well as the prescribed requirements. EPA's determination that the Campo Band's program is adequate to ensure compliance with the Federal Criteria is based on the fact that any alternatives allowed by the Campo Band's laws meet the criteria required by the federal regulations. Second, as explained above, EPA has authority to treat tribes in the same manner as states for purposes of implementing RCRA Subtitle D solid waste programs. Third, EPA's action is not intended to restrict citizen suits or provide defenses for landfill owners or operators who violate the federal regulations. If a landfill owner or operator violates the Federal Criteria, it may be subject to citizen suits. EPA's statement in the tentative determination simply expressed the Agency's opinion that, where EPA has found a state or tribal requirement equivalent to the federal requirement, a court is likely to find compliance with the state or tribal requirement equivalent to compliance with the federal requirement.

One commenter raised concerns about possible increases in permitted capacity of the landfill without public review and comment. The commenter also asked if, with program approval, the Campo Band will be able to designate the Class III (solid waste) landfill a Class II (hazardous waste) landfill, bypassing public participation and claiming that enough environmental studies of the area have been done.

The Campo Band's program complies with the public participation requirements of RCRA section 7004(b)(1). In addition, EPA's draft STIR sets forth general standards for public involvement in permit determinations. EPA reviewed the Campo Band's public involvement requirements and found that they are adequate.

In general, issues regarding permitted capacity are not within the scope of program approval and should be addressed to CEPA. The proposed landfill is not authorized to accept hazardous waste. Class II and Class III are California State and Campo Band classification categories for waste disposal facilities. Program approval will not affect the Campo Band's ability to designate a facility Class II or III. Nor will program approval affect the Campo Band's public participation requirements or requirements that environmental studies be done. Program approval simply indicates that the Campo Band's municipal solid waste landfill permitting and enforcement program will ensure compliance with the Federal Criteria. EPA and Campo Band regulations prohibit disposal of regulated hazardous waste in landfills receiving municipal solid waste unless the landfill is permitted to receive hazardous waste by the U.S. EPA or an authorized state or tribe. EPA has not issued a hazardous waste permit for a facility on the Campo Reservation, and the Campo Band is not currently authorized for the RCRA hazardous waste program and, therefore, cannot issue a RCRA hazardous waste permit. For more discussion of hazardous waste issues, see the responses to comments under Category P below.

Several commenters raised the concern that the Campo Band would be able to modify and waive federal requirements. EPA does not agree with this characterization of the flexibility allowed in the federal regulations. The federal regulations contain detailed criteria that landfill owners and operators must meet. In limited cases, the regulations provide that the director of an EPA-approved program may allow alternatives if the owner or operator demonstrates that the landfill meets certain criteria. For example, 40 CFR 258.21 specifies that solid waste must be covered with six inches of earthen material at the end of each operating day. That same section provides that in an approved program the Director may approve alternative materials of alternative thickness if the owner or operator can demonstrate that such alternatives control disease vectors, fires, odors, blowing litter and scavenging without presenting a threat to human health and the environment. The Director may not approve alternative cover that can't meet the demonstration. The Director also may not decrease the frequency of applying cover. The Director may only waive daily cover requirements temporarily when the owner or operator demonstrates that extreme climatic conditions make meeting the requirements impractical. EPA has carefully reviewed the Campo Band solid waste program and determined that it does not provide for any modifications or waivers which would not be allowed under the federal regulations.

One commenter was concerned about the ability to assess "non-specified, future" alternatives to the Federal Criteria which would be allowed under an approved program. The comment essentially questions EPA's allowance of alternatives in the federal regulations. EPA explained its rationale for providing such discretion when it promulgated the federal regulations, 56 FR 50977, 50984–88 and 50992–94 (October 9, 1991). Any challenge to these regulations must have been brought within ninety days of the promulgation of these regulations, pursuant to RCRA section 7006. EPA's approval of the Campo Band's program is based on EPA's conclusion that the Campo Band's laws contain all the criteria set forth in the federal regulations for allowing alternatives to

the self-implementing federal requirements.

Several commenters stated that the Campo Band would be able to set up defensive barriers to citizen enforcement actions to correct problems at the landfill. EPA does not agree. The owners and operators of *all* landfills will be subject to citizen suits under section 7002 of RCRA. That section allows any "person" to sue any "person" who is violating any permit, standard, regulation, condition, requirement, prohibition, or order under RCRA, or who has contributed to the handling of solid waste which may present an imminent and substantial endangerment to health or the environment. Under this provision, citizens may sue landfill owners or operators for any violation of RCRA or the federal regulations. The citizen suit provision will remain in effect—and be equally available to citizens—whether EPA approves the Campo Band's solid waste permitting program or not. In addition, the Campo Band has expressly waived its sovereign immunity to allow any affected person to challenge CEPA actions in the Campo Environmental Court. *See* III Campo Environmental Policy Act 302. EPA's approval will not enable the Campo Band, CEPA or Mid-American Waste Systems, Inc. to establish any defensive barriers to citizen enforcement actions.

One commenter stated that program approval is a dangerous precedent-setting move because the proposed landfill is the largest proposed solid waste facility in the nation on an Indian reservation. EPA does not believe that approval of regulatory programs will necessarily set a landfill siting precedent for Indian country. Landfills may be sited in states or in Indian country without EPA approval of the state or tribe's regulatory program. All such landfills must meet the Federal Criteria in 40 CFR part 258. In addition, EPA encourages states and tribes to establish local regulatory structures to ensure that municipal solid waste is managed in an environmentally protective manner. The Campo Band has set standards which are more stringent than federal standards, making the proposed landfill more protective of human health and the environment—and making compliance potentially more costly—than if there were no tribal regulatory program in place. EPA recognizes that some of the 40 CFR part 258 flexibility which may be provided to municipal solid waste landfills by approved states and tribes may be important to the proposed landfill. However, EPA believes that tribes should have the same opportunities as states to establish systems of landfill permitting and enforcement. As discussed above, states generally may not regulate solid waste management in Indian country, and EPA does not generally have permitting or enforcement authority under RCRA Subtitle D. Therefore, allowing tribes to establish solid waste regulatory programs ensures oversight of solid waste practices in Indian country.

One commenter suggested that EPA should deny approval of the Campo Band program because landfills deprive present and future generations of valuable resources and encourage waste production instead of pollution prevention and waste reduction. EPA agrees that waste reduction and pollution prevention are preferable methods of managing municipal solid waste to landfilling, to the extent possible. In response to the growing national concern about solid waste management, EPA developed a national strategy for addressing municipal solid waste management problems. This strategy is set out in a document entitled, "The Solid Waste Dilemma: An Agenda for Action," which EPA issued in February 1989. The cornerstone of the strategy is "integrated waste management," in which the following solid waste reduction and management options work together to form an effective system: source reduction, recycling, and combustion and landfilling. EPA encourages waste reduction and recycling of municipal solid waste. However, EPA also recognizes the need for landfills. Congress required EPA to adopt federal regulations establishing minimum national standards for landfills. However, Congress emphasized, and EPA believes that it is preferable, for local, state and tribal governments to adopt their own solid waste permitting and enforcement programs so that landfills are regulated in a manner that is as environmentally responsible as possible. Therefore, EPA supports pollution prevention as the preferred waste management alternative while continuing to approve state and tribal regulatory programs.

One commenter suggested that the need to site a landfill on an Indian reservation is a problem that has been caused by the government of the United States. Other commenters expressed concern that they are paying the price for what happened to Indians years ago. One commenter noted that no one is protesting other problematic landfills in San Diego County that are not on Indian land. This commenter also noted that "Mexico is a disaster, but I have the Mexican people come and complaining here."

EPA acknowledges that there is a great deal of controversy surrounding the proposed landfill. The proposal to site the landfill on the Campo Reservation for the purpose of economic development has raised a great deal of interest and concern among various parties. EPA encourages open communication among these groups and will work to facilitate communication where possible.

However, EPA strongly believes that Indian tribes should have the same opportunities to regulate the environment available to them as are available to states. This is consistent with EPA's Indian Policy and with federal Indian law and environmental law, including RCRA. EPA does not believe that a state or tribal application should be evaluated in a different manner because of controversy surrounding a proposed landfill. Neighbors of proposed landfills in California, for example, have raised concerns about such landfills. These concerns do not diminish the adequacy of the state's program. Likewise, concerns regarding the proposed landfill are most appropriately handled by CEPA.

A number of commenters were concerned that the proposed landfill is being sited on an Indian reservation because the landfill and its operator, Mid-American Waste Systems, Inc., will not have to comply with Federal, State and municipal laws and cannot be monitored by the Government. As stated above, landfills in Indian country must comply with Federal regulations, including EPA's 40 CFR part 258 landfill requirements. Generally, State and local civil regulatory laws do not apply in Indian country. *Cabazon, supra*. However, the Campo Band has established a regulatory system which is as stringent as State and Federal regulatory systems. The Campo Band is not required to establish a landfill permitting and enforcement system, but has elected to do so. Therefore, the proposed landfill will have to comply with the Campo Band's standards. In addition, CEPA and the California Environmental Protection Agency (Cal EPA) have established a cooperative agreement concerning permitting and enforcement at the proposed landfill.

One commenter expressed concern that landfill proponents rather than the Campo Band launched a signature campaign in support of the proposed landfill. Although EPA recognizes that the proposed landfill itself is highly controversial, EPA's decision regarding the Campo Band's regulatory program is

VOL
60
ISS
83
MY
1
1995
UMI

not an approval or disapproval of the proposed landfill. Moreover, EPA's decision did not take into account the sources of support for or opposition to the landfill. Nor is EPA's decision based on the number of comments supporting or opposing program approval. EPA considered and responded to all comments on their merits.

N. EPA Public Participation Procedures

A number of commenters expressed concern regarding public involvement activities related to EPA's tentative program approval of the Campo Band program. Specifically, commenters felt that the question and answer session and the public hearing were held too far away from the proposed landfill site in a community that is not potentially affected and does not rely on groundwater, and that EPA should have held these events at the Mountain Empire High School. One commenter also suggested that EPA hold additional hearings closer to the sources of potential impacts. One commenter expressed thanks to EPA for conducting the hearing in the city of Alpine.

EPA considered a number of possible hearing locations in the area and found that the Alpine Elementary School was the most appropriate location taking into account the size of rooms available, the potential attendance at the hearing, and distance from local communities. The Alpine Elementary School auditorium was the only available room EPA identified which was large enough to hold the number of people EPA expected to attend the hearing. A large number of people attended the hearing and provided comments. It was unfortunate that the location was not closer to the Campo Reservation. However, EPA also provided an extended public comment period, from May 11 to August 1, 1994 for submittal of written comments.

One commenter felt that the **Federal Register** notice should have been mailed to people and organizations who submitted previous written comment or made statements at previous U.S. EPA public hearings on the proposed landfill. First, EPA would like to clarify that extensive efforts were made to make all relevant materials available to all interested parties. EPA had not held previous hearings on the proposed landfill. (EPA has a direct permitting role for the proposed landfill under the Clean Air Act. However, the Clean Air Act draft permit hearing was held after the hearing on tentative program approval. Both hearings were held in the same location.)

Second, in accordance with RCRA section 7004(b)(1), EPA published the tentative determinations in the **Federal Register** and provided an opportunity for public comment. A public hearing may be held at the discretion of the EPA Regional Administrator, in which case EPA must provide public notice of the hearing. EPA conducted a public hearing after receiving public interest in holding a hearing. EPA sent the entire **Federal Register** notice out to persons who requested the notice. EPA also published notice of the tentative decision and the hearing in local newspapers. In addition, EPA developed a fact sheet on the tentative decision which was sent to approximately 150 people prior to the public hearing. Persons receiving the fact sheet were encouraged to contact EPA to discuss questions and request more information such as the **Federal Register** notice. EPA also placed extensive information on the tentative decision, including the Campo Band's application for program approval, in two local repositories (the CEPA office and the public library in the town of Campo) and at the EPA Region 9 office in San Francisco. Information about the locations of the application and other material was noted in the fact sheet that was distributed.

One commenter also suggested that EPA's announcement failed to indicate which portions of the Campo Band's program were "as stringent" as the Federal regulations and which portions were not. The underlying premise of EPA's tentative determination of adequacy was that all portions of the Campo Band's program were as stringent as the Federal regulations. This was indicated in the fact sheets. A detailed analysis of how the Campo Band's program compared with the Federal requirements was available in the **Federal Register** notice and the information in the repositories.

One commenter was concerned that many people in Mexico could not be at the hearing and could not speak up. EPA made extensive efforts to encourage participation from Mexico. Several speakers from Mexico were present at the hearing and made comments. In order to facilitate their participation, EPA provided simultaneous translation, so that hearing participants could understand the comments made in either Spanish or English, and so that the court reporter, who recorded all comments at the hearing, could record those made in Spanish for EPA's response.

O. The Campo Band's Application for Program Approval

Two commenters raised concerns about the completeness of the Campo Band's solid waste permitting program application. This concern is related to two issues discussed in the tentative determination, 59 FR 24422, 24426–27 (May 11, 1994).

First, as EPA explained in the tentative determination, specified portions of the Campo Band's then-existing codes and regulations were not adequate to assure compliance with the federal regulations. However, at the time of the tentative determination, the Campo Band had submitted draft revisions to those portions of its codes and regulations. Those draft revisions—Addendum I to the application—were included in the information made available to the public during the public comment period. EPA explained in the tentative determination that it had reviewed these draft revisions and that they were adequate to assure compliance with the federal regulations. EPA went on to explain that, if the draft revisions were fully adopted before EPA's final determination, the Agency would approve the Campo Band's entire solid waste permitting program—including the revised portions. This gave the public an opportunity to comment on whether EPA should approve the program if the draft revisions replaced the then-existing provisions. On June 13, 1994 the Campo Band submitted the final, fully adopted regulations as Addendum II to its application. These final regulations were also made available to the public during the public comment period. The final regulations are identical to the regulations as modified by the draft revisions.

Second, several of the Campo Band's solid waste regulations in effect at the time the Campo Band submitted its application had been adopted as emergency regulations—without public participation—and would, pursuant to Campo law, expire unless affirmed as final regulations. In its tentative determination, EPA explained that these regulations must be affirmed, unaltered, prior to EPA's final determination in order for EPA to approve those portions of the Campo Band's solid waste permitting program. The Campo Band submitted the affirmed, permanent regulations to EPA on June 13, 1994. These final regulations were made available to the public during the public comment period. The final regulations are identical to the emergency regulations.

Therefore, EPA's final determination is based on provisions of the Campo Band's laws and regulations which were made available to the public during the public comment period.

One commenter suggested that EPA's comments on the Campo Band's draft application revealed a number of serious inadequacies in the Campo Band's regulations. EPA did make a number of substantial comments on the Campo Band's draft application. However, in response to EPA's comments, the Campo Band either made necessary changes to its program or the application, or explained to EPA's satisfaction how the existing program met the federal standards. EPA worked very closely with CEPA for many months in reviewing and revising its regulations. The review of regulatory programs is a lengthy and detailed process. The process is particularly complicated when EPA reviews an existing and complex regulatory program like the Campo Band's. EPA's comments on the Campo Band's draft application were the first in a series of comments on the Campo Band's program and requested clarifications of many aspects of the Campo Band's program.

P. Hazardous Waste Issues

A number of commenters expressed concern over who will ensure that hazardous wastes are not taken at the proposed landfill because the state has no enforcement power on an Indian reservation. One commenter stated that there would not be a hazardous waste problem at the landfill because people know what they can and cannot put in their trash and loads are checked for hazardous waste.

Federal requirements under 40 CFR 258.20 prohibit receipt of hazardous waste at municipal solid waste landfills. Owners and operators of landfills must comply with these requirements. The Campo Band's regulations require procedures which are as stringent as the federal standards. CEPA is responsible for ensuring that landfills comply with these standards.

Several commenters asked what has been done about allegations of possible illegal disposal of hazardous waste at a car crushing operation on the Campo Reservation. Under the RCRA hazardous waste program, EPA has direct permitting and enforcement authority. Because there was a possible hazardous waste violation, EPA inspected the site. EPA representatives visited the site on March 1, 1994. A site investigation report was completed in August, 1994. The investigation found no hazardous waste at the site and no evidence of past disposal of hazardous waste.

Q. EPA's Program Review Procedures

The San Diego Astronomy Association (SDAA) submitted comments concerning the potential impacts of the proposed landfill on the SDAA's observatory, which the SDAA stated is located approximately 1 mile downwind from the proposed landfill. The SDAA asserted that its concerns should be given special consideration, over that of residential and agricultural interests, because it is a pre-existing, government-recognized, public, educational and scientific organization. As stated earlier, today's decision is on program approval for the Campo Band, not on permitting the proposed landfill. Therefore, the specific comments on the potential impacts from the proposed landfill are not relevant to this determination.

The SDAA also asserted that EPA has stated no precedents for granting program approval under similar circumstances, and that therefore it would be "irresponsible, unprecedented, litigious, and a failure of the public trust" to approve the Campo Band's program. EPA understands the term "similar circumstances" in the comment to mean approval of a program under which a landfill could be operated within 1 mile of a facility for observing astronomical phenomena and educating the public. However, EPA is aware of no law preventing the siting or operation of a landfill near such facilities. Therefore, a landfill may be constructed and operated within 1 mile of SDAA's observatory regardless of whether EPA approves the Campo Band's solid waste permitting program.

If the term "similar circumstances" in the comment was intended to mean the physical location of the landfill which has been proposed for the Campo Reservation, EPA's responses to concerns about the landfill itself are addressed under Category K above. If the intent was to refer to approval of tribal solid waste programs, EPA's authority to approve tribal solid waste programs is discussed above under Category A. EPA therefore believes that the precedential effect of approving the Campo Band's program will be to ensure that solid waste management in Indian country is properly regulated to protect human health and the environment.

One commenter expressed concern that EPA's decision-making procedure was not sufficiently conservative in placing the burden of substantiation on the permitting requester. Congress established the standard to be met by state and tribal solid waste programs in RCRA section 4005(c)(1)(B)—they must demonstrate that landfills within their jurisdictions will comply with the Federal Criteria in 40 CFR part 258. As EPA explained in its tentative approval of the Campo Band's program, EPA interprets this standard to require, at a minimum, demonstrating that the state or tribal program's technical requirements are as stringent as the federal regulations, that the state or tribe will issue permits to all new and existing landfills, that the requirements and permits are enforceable, and that public participation in permitting and enforcement actions is provided. EPA believes that the Campo Band's program meets these standards.

EPA's procedure in reviewing applications for approval of solid waste permitting programs is very lengthy and detailed. The state or tribe seeking a program approval determination must submit an application that consists of a letter from the program director requesting program approval, a description of the program, copies of all applicable statutes, regulations and guidance, and a legal certification that the laws are fully effective and enforceable. The burden of demonstrating the adequacy of the program is on the applicant. In the case of the Campo Band's application, EPA worked closely with CEPA, carefully evaluating each provision of the Tribe's program and in many cases requiring substantial changes to the program before making the tentative determination that the program assures compliance with the federal regulations.

The SDAA requested that EPA provide the professional qualifications of the EPA staff and management involved in making the determination, in order that the SDAA can assess their professional maturity and wisdom and determine what level of astronomy background should be provided to defend the SDAA opposition to the determination. EPA believes that the question of whether the Agency has properly approved a state or tribal solid waste program should be addressed through discussion of the standards and procedures the Agency has applied. The standard and the procedures employed by EPA in evaluating the Campo Band's solid waste program, and the basis for EPA's determination that the Campo Band's program is adequate, have been fully set forth in the tentative determination, published at 59 FR 24422 (May 11, 1994), and in this response to comments and final determination.

IV. Decision

In the tentative determination, EPA proposed to approve specified parts of the Campo Band's program for which existing tribal law was adequate to ensure compliance with the Federal Criteria. At that time EPA also proposed

VOL
60
ISS
83
MY
1
1995
UMI

to approve all of the Campo Band's program if draft regulatory requirements submitted to EPA with its April 18, 1994 application addendum were adopted before EPA's final determination. In addition, EPA noted that before EPA could grant partial or full program approval, the Campo Band had to reaffirm the February 13, 1994 promulgation of emergency regulations submitted with its final application. On June 13, 1994, EPA received the final, adopted revisions to the Campo Band's MSWLF permit program. In addition, as explained under Category I above, EPA received amendments to the Tribal Environmental Policy Act of 1990 made in response to comments received by EPA during the public comment period.

After reviewing these revisions, and after thorough consideration of the public comments, I conclude that the Campo Band's application for adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the Campo Band is granted a determination of adequacy for all portions of its municipal solid waste permit program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF Criteria in 40 CFR part 258 independent of any state/tribal enforcement program. As EPA explained in the preamble to the final MSWLF Criteria, EPA expects that any owner or operator complying with provisions in a state/tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. EPA has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the Tribe's program are already in effect as a matter of tribal law. Today's action is a determination that these requirements ensure compliance with the Federal Criteria in 40 CFR part 258 and does not impose any new requirements with which the regulated community must begin to comply, nor do the Campo Band's requirements become enforceable by EPA as federal law. Consequently, it is not necessary to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that approval of the tribal MSWLF permit program will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), Pub. L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the Act EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The Act generally excludes from the definition of a "Federal intergovernmental mandate" (in sections 202, 203, and 205) duties that arise from participation in a voluntary Federal program. The Campo Band's request for approval of a MSWLF program is voluntary and imposes no Federal intergovernmental mandate within the meaning of the Act. Rather, by having its MSWLF program approved, the Tribe will be able to implement the RCRA Subtitle D program over landfills within its jurisdiction, and to exercise the flexibility allowed in the rules to conform landfill requirements to site-specific conditions.

In any event, the Agency does not believe that approval of the Tribe's program would result in estimated costs of $100 million or more to State, local, and tribal governments in the aggregate, or to the private sector, in any one year; this is due to the small size of the Tribe's program, and the additional flexibility that the Tribe can exercise. Thus, today's notice is not subject to the written statement requirements in sections 202 and 205 of the Act.

As to section 203 of the Act, the approval of the Tribal program will not significantly or uniquely affect small governments other than the applicant, the Campo Band. As to the applicant, the Tribe has received notice of the requirements of an approved program, has had meaningful and timely input into the development of the program requirements, and is fully informed as to compliance with the approved program. Thus, any applicable requirements of section 203 of the Act have been satisfied.

Authority: This notice is issued under the authority of sections 2002, 4005 and 4010(c) of the Solid Waste Disposal Act as amended; 42 U.S.C. 6912, 6945, 6949a(c).

Dated: April 12, 1995.

Felicia Marcus

Regional Administrator.

[FR Doc. 95–10508 Filed 4–28–95; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5200–2]

Tennessee Gas and Pipeline; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Protection Agency (EPA) has offered to potentially responsible parties an Administrative Order on Consent to settle claims for past and future removal actions at the Tennessee Gas and Pipeline Site along the Gulf Coast of Texas, Louisiana and Mississippi and extending along three routes to markets in the midwestern and northeastern United States. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the Agreement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404/347–5059 X6169.

Written comments may be submitted to Ms. Batchelor within 30 days of the date of publication.

Dated: April 24, 1995.

H. Kirk Lucius,

Chief, Waste Programs Branch, Waste Management Division.

[FR Doc. 95–10625 Filed 4–28–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Royal Bancshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 15, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Royal Bancshares, Inc., Elroy, Wisconsin; to engage *de novo* through its subsidiary Royal Insurance Services, Inc., Elroy, Wisconsin, in the sale of credit-related insurance and the sale of insurance in a town of less than 5,000 in population, pursuant to § 225.25(8)(i) and (iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 25, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10582 Filed 4–28–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KD, The Regional Offices of the Administration for Children and Families (58 FR 44343), as last amended, August 20, 1993. This reorganization realigns the functions in Region 2 to support their streamlining plan. This Chapter is amended as follows:

1. KD.10 Organization. Regions 1, 3 through X, are organized as follows:
   - Office of the Regional Administrator (KD1A, KD3A through KDXA)
   - Office of Financial Operations (KD1B, KD3B through KDXB)
   - Office of Family Security (KD1C, KD3C through KDXC)
   - Office of Family Supportive Services (KD1D, KD3D through KDXD)

After the end of KD.20 functions, Paragraph D, insert the following:

2. KD2.10 Organization. The ACF Region 2 Office (New York) is organized as follows:
   - Office of the Regional Administrator (KD2A)
   - Office of Management and Data Services (KD2B)
   - Office of Family Security (KD2C)
   - Office of Family Supportive Services (KD2D)

KD2.20 Functions. A. The Office of the Regional Administrator is headed by a Regional Administrator. The Office provides executive leadership and direction to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The Office takes action to approve state plans and submits its recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval. The Office contributes to the development of national policy based on regional perspectives for all ACF programs. It oversees ACF operations and the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. It represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Administrator, an administrative staff assists the Regional Administrator. The staff directs the development of regional work plans related to the overall ACF strategic plan; tracks, monitors and reports on regional progress in the attainment of ACF national goals and objectives; and manages special and sensitive projects. It serves as the focal point for public affairs and contacts with the media, public awareness activities, information dissemination and education campaigns in accordance with the ACF Office of Public Affairs and in conjunction with the HHS Regional Director; and assists the Regional Administrator in the management of cross-cutting initiatives and activities among the regional components.

B. The Office of Management and Data Services is headed by a Director who reports to the Regional Administrator. The Office provides day-to-day support for regional administrative functions, oversees the management and coordination of automated systems in the region, and provides data management and statistical analysis support to all Regional Office components. Administrative functions include budget planning and execution, facility management, employee relations, and

VOL
60
ISS
83
MY
1
1995
UMI

human resources development. Data management responsibilities include the development of automated system applications to support and enhance program, fiscal, administrative and quality control operations, and the compilation and analysis of data on demographic and service trends that assist in monitoring and oversight responsibilities. Statistical analysis functions include the review of state and federal sampling procedures. The Office is responsible for the effective and efficient management of internal ACF automation processes and for oversight of state systems projects for ACF programs. In coordination with other Regional Office components, it monitors state systems projects and is the focal point for technical assistance to states and grantees on the development and enhancement of automated systems.

The Office represents the Regional Administrator on administrative matters and on internal and State systems matters with ACF central office, states, contractors and grantees. It alerts the Regional Administrator to problems or issues that have significant implications for functional areas under its jurisdiction.

C. The Office of Family Security is headed by an Assistant Regional Administrator who reports to the Regional Administrator and consists of: Child Support Enforcement Division; AFDC/JOBS Division; and Youth and Family Services Division.

The Office is responsible for providing centralized program, financial management and technical administration of certain ACF formula, entitlement and discretionary programs, such as Aid to Families with Dependent Children (AFDC), Child Support Enforcement, Jobs Opportunities and Basic Skills Training (JOBS), Child Welfare Services, Family Preservation and Support, Foster Care and Adoption Assistance, Child Abuse and Neglect, and Runaway and Homeless Youth. It is also responsible for managing all aspects of the AFDC quality control function.

A Financial/Grants Management Officer is located in the Office of Family Security to provide expertise in business and other non-programmatic areas of grants administration and to help ensure that grantees fulfill requirements of laws, regulations, and administrative policies.

The Office establishes regional financial management priorities; reviews cost allocation plans; and makes recommendations to the Regional Administrator to 1) approve, defer or disallow claims for federal financial participation in ACF formula and entitlement programs and 2) approve or disallow costs under ACF discretionary grant programs. As applicable, it makes recommendations on the clearance and closure of audits of state and grantee programs, paying particular attention to deficiencies that decrease the efficiency and effectiveness of ACF programs and taking steps to resolve such deficiencies.

The Office represents the Regional Administrator in dealing with ACF central office, states and grantees on all program and financial management policy matters for programs under its jurisdiction. It alerts the Regional Administrator to problems or issues that have significant implications for the programs.

D. The Office of Family Supportive Services is headed by an Assistant Regional Administrator who reports to the Regional Administrator and consists of: New Jersey and Caribbean Division; and New York State Division.

The Office is responsible for providing a centralized program, financial management and technical administration of certain ACF formula, entitlement, block and discretionary programs, such as Head Start, Child Care and Development Block Grant Program, Title IV-A Child Care, and Developmental Disabilities.

A Financial/Grants Management Officer is located in the Office of Family Supportive Services to provide expertise in business and other non-programmatic areas of grants administration and to help ensure that grantees fulfill requirements of laws, regulations, and administrative policies.

The Office establishes regional financial management priorities; reviews cost allocation plans; and makes recommendations to the Regional Administrator to: (1) Approve, defer or disallow claims for federal financial participation in ACF formula and entitlement programs; and (2) approve or disallow costs under ACF discretionary grant programs. As applicable, it makes recommendations on the clearance and closure of audits of state and grantee programs, paying particular attention to deficiencies that decrease the efficiency and effectiveness of ACF programs and taking steps to resolve such deficiencies.

The Office represents the Regional Administrator in dealing with ACF central office, states and grantees on all program and financial management policy matters for programs under its jurisdiction. It alerts the Regional Administrator to problems or issues that have significant implications for the programs.

Dated: April 24, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 95–10592 Filed 4–28–95; 8:45 am]

BILLING CODE 4184–01–P

Centers for Disease Control and Prevention

[Announcement 535]

Grant for Prevention of the Secondary Conditions Related to Autism and Pervasive Developmental Disorder; Notice of Availability of Funds for Fiscal year 1995

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a grant to evaluate programs to prevent secondary conditions related to autism and pervasive developmental disorder in children.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to priority area of Diabetes and Chronic Disabling Conditions. (To order a copy of "Healthy People 2000," see WHERE TO OBTAIN ADDITIONAL INFORMATION section.)

Authority

This grant program is authorized under Section 301 and 317 (42 U.S.C. 241 and 247b) of the Public Health Service Act, as amended.

Smoke-Free Workplace

PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for profit, organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, and small, minority- and/or women-owned businesses are eligible to apply.

Applicants must have an existing program which provides services to children with autism and their families, and must be able to demonstrate a current caseload of at least 300 families through provision of data indicating the number of families currently receiving services.

Only one application from each eligible applicant will be accepted.

Availability of Funds

Approximately $300,000 is available in FY 1995 to fund 1 grant. It is expected that the award will begin on or about September 1, 1995, and will be made for a 12-month budget and project period. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this grant program is to:

A. Develop and evaluate a comprehensive program which includes parent training and addresses the critical factor of familial stress, for the prevention of secondary conditions in children with autism.

B. Disseminate the methodology and result of the program.

C. Provide guidance to other organizations implementing similar interventions.

Program Requirements

In conducting the activities to achieve the purpose of this program, the recipient shall be responsible for the activities listed below.

1. Develop and implement a comprehensive program which includes parental training and addresses the critical factor of familial stress, to prevent secondary conditions in young children with autism.
2. Develop and implement an evaluation plan to assess the effectiveness of the program.
3. Develop training materials to support the program.
4. Disseminate the findings and materials.

Evaluation Criteria

The application will be reviewed and evaluated according to the following criteria:

1. *Understanding of the Project 20%*

Responsiveness to the objectives of the grant program, including the understanding of the purpose of the grant program.

2. *Technical Approach 30%*

Strength of the application in describing: the proposed planning process, including specific planning objectives, strategies for achieving these objectives, a proposed schedule for achieving these objectives; and the population to be served.

3. *Capability and Experience 30%*

Demonstration of capability to conduct a project of this nature, including reputation in the field and ability to demonstrate a pre-eminent position as an appropriate organization to carry out this project, and successful experience in conducting and evaluating similar projects.

4. *Staffing and Management Resources 20%*

Demonstration that proposed Project Director is knowledgeable regarding autism and the prevention of its secondary conditions, as evidenced by publications, program summaries, or other materials that document prior work, and has committed significant time to the project. Demonstration that other professional staff have appropriate training and experience in the area of autism and the prevention of secondary conditions, as evidenced by publications, program summaries, or other materials that document prior work. Demonstration of ability to provide facilities and other necessary resources.

5. *Budget* (not scored)

Extent to which the project budget is reasonable, clearly justified, and consistent with the intended use of funds.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Application Submission and Deadline

The applicant must submit an original and five copies of the application PHS Form 398 (OMB Number 0925–0001) to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, on or before June 15, 1995.

Deadline:

1. Applications shall be considered as meeting a deadline if they are either:

A. Received at the above address on or before the deadline date, or

B. Sent on or before the deadline date to the above address, and received in time for the review process. Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailings.

2. Applications which do not meet the criteria above are considered late applications and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number, and will need to refer to Announcement 535. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from Lisa G. Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6796. Programmatic technical assistance may be obtained from Robert J. Delaney, Division of Birth Defects and Developmental Disabilities, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, Mailstop F–34, Atlanta, GA 30341, or by calling (404) 488–7150.

A copy of "Healthy People 2000" (Full Report, Stock No. 017–001–00474–

VOL
60
ISS
83
MY
1
1995
UMI

0) or "Healthy People 2000" (Summary Report, Stock No. 017–001–00473–1) referenced in the INTRODUCTION may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: April 24, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–10591 Filed 4–28–95; 8:45 am]

BILLING CODE 4163–18–P

Food and Drug Administration

[Docket No. 93F–0050]

E. I. du Pont de Nemours and Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to future filing, of a food additive petition (FAP 3B4360) proposing that the food additive regulations be amended to provide for the safe use of perfluoroalkylethyl acrylate copolymer, produced by the copolymerization of perfluoroalkylethyl acrylate, octadecyl methacrylate, vinylidene chloride, 2-hydroxyethyl methacrylate and polyoxyethylene methacrylate, as an oil and water repellant in paper and paperboard intended for food-contact use. Du Pont has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 11, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–10645 Filed 4–28–95; 8:45 am]

BILLING CODE 4160–01–F

[FDA–225–94–3000]

Memorandum of Understanding Between the Food and Drug Administration and the National Institutes of Health

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the National Institutes of Health (NIH). The purpose of this MOU is to establish a relationship between the Center for Drug Evaluation and Research, FDA, and the Epilepsy Branch, National Institute of Neurological Diseases and Stroke, NIH, so that joint experiments can be conducted relating to drug metabolism and drug-drug interactions.

DATES: The agreement became effective December 13, 1993.

FOR FURTHER INFORMATION CONTACT: Jerry M. Collins, Center for Drug Evaluation and Research (HFD–400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4750.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this memorandum of understanding.

Dated: April 25, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

Memorandum of Understanding Between the U.S. Department of Health and Human Services, National Institutes of Health, National Institute of Neurological Diseases and Stroke, Epilepsy Branch and the U.S. Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research

I. Purpose

The purpose of the proposed Memorandum of Understanding (MOU) is to establish a relationship between the Center for Drug Evaluation and Research (CDER), Food and Drug Administration, and the Epilepsy Branch, National Institute of Neurological Diseases and Stroke, so that joint experiments can be conducted relating to drug metabolism and drug-drug interactions.

II. Background

Drug metabolism and drug-drug interactions represent significant issues for the FDA's mission to ensure safe and effective drugs with adequate instructions for use. For both metabolism and interactions, studies in vitro can provide substantial information needed for drug development and regulation. Review and laboratory scientists in CDER have become increasingly involved in the development of the technology for testing in vitro, and its application to modern drug development and regulation.

The Antiepileptic Drug Development (ADD) Program of the National Institute of Neurological Disorders and Stroke (NINDS) was established to collaborate with the private sector and academia effective and safe drugs for the treatment of seizures in epileptic patients. The ADD Program includes preclinical pharmacodynamic and pharmacokinetic as well as clinical investigations. The Preclinical Pharmacology Section of the Epilepsy Branch is responsible for identifying potential compounds through a multistage screening program. At present, drug-drug interactions are found by chance, as new therapeutic agents proceed through the developmental process and enter clinical trials with comedicated epileptic patients. A critical need exists to establish possible drug-drug interactions prior to the initiation of clinical trials.

III. Substance of Agreement

Staff of both the FDA's Division of Clinical Pharmacology and the Preclinical Pharmacology Section, Epilepsy Branch, NINDS will collaborate in determining metabolic pathways and potential drug-drug interactions of ADD Program compounds. The basic technology for evaluating drug-drug interactions exists in the FDA's laboratory through the use of human liver slices and subcellular fractions. The division of labor for these studies are based on the expertise and equipment found in each laboratory. Analytical methods for the identification and quantification of metabolites of the experimental compounds and clinically effective antiepileptic drugs will be developed in both laboratories under a mutual agreement based on available resources. The compounds will be supplied by the Epilepsy Branch following an agreement with the pharmaceutical sponsor. All data from these studies will remain confidential as stipulated under the present NINDS ADD Program preclinical confidentiality agreement. Any information obtained or generated under this Memorandum of Understanding will not be disclosed by FDA staff to anyone outside FDA or NINDS without permission from NINDS or the pharmaceutical sponsor.

IV. Participating Parties

Epilepsy Branch, National Institute of Neurological Disorders and Stroke, National Institutes of Health, Federal Bldg, Rm. 118, Bethesda, MD 20892

Division of Clinical Pharmacology, Office of Research Resources, Center for Drug Evaluation and Research, Food and Drug Administration, 4 Research Ct., Rm. 314, Rockville, MD 20850

V. Liaison Officers

For the Epilepsy Branch: Harvey Kupferberg, Ph.D., Epilepsy Branch, NINDS, NIH, Federal Bldg, Rm. 118, (301) 496–1846 [phone], (301) 496–9916 [fax]

For the Division of Clinical Pharmacology: John M. Strong, Ph.D., Food and Drug Administration, 4 Research Ct., Rm. 314, Rockville, MD 20850, (301) 427–1065 [phone], (301) 427–1026 [fax]

VI. Period of Agreement

This agreement becomes effective upon acceptance by both parties and will continue in effect indefinitely. It may be modified by mutual written consent or terminated by either party upon a 60-day advance written notice to the other party.

Approved and Accepted for the Epilepsy Branch, NINDS

By: Harvey J. Kupferberg

Title: Chief, PPS, EB, DCDND, NINDS, NIH

Date: December 13, 1993

Approved and Accepted for the Food and Drug Administration

By: Jerry M. Collins

Title: Director, Office of Research Resources, CDER/FDA

Date: December 1, 1993

[FR Doc. 95–10644 Filed 4–28–95; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

National Center for Health Statistics; ICD–9–CM E Code Revisions

AGENCY: National Center for Health Statistics, DHHS.

ACTION: The National Center for Health Statistics has approved the following expansion to the External Cause Code in the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD–9–CM). These new codes and code revisions are being implemented in response to the recommendations from the contract (number 200–92–7031). The revisions listed below represent a partial list of recommended code changes as listed in the **Federal Register**/Vol. 59, No. 250, Friday, December 30, 1994. The other recommended code revisions will be considered for implementation next year. These ICD–9–CM E–Code revisions will become effective October 1, 1995. The official guidelines for the application of E-codes for morbidity purposes will also be published at that time. The official government version of the ICD–9–CM which will include all the revisions effective October 1, 1995 will be found on the ICD–9–CM CD–ROM which will be available through the Government Printing Office.

E854 Accidental Poisoning by Other Psychotropic Agents

New Code—E854.8 Other psychotropic agents

E880 Fall on or From Stairs or Steps

New Code—E880.1 Fall on or from sidewalk curb

Add—Excludes: fall from moving sidewalk (E885)

E884 Other Fall From one Level to Another

Revise—E884.2 Fall from chair

New Code—E884.3 Fall from wheelchair

New Code—E884.4 Fall from bed

New Code—E884.5 Fall from other furniture

New Code—E884.6 Fall from commode Toilet

E906 Other injury caused by animals

New Code—E906.5 Bite by unspecified animal, Animal bite NOS

E908 Cataclysmic storms, and floods resulting from storms

New Code—E908.0 Hurricane, Storm surge, "Tidal Wave" caused by storm action, Typhoon

New Code—E908.1 Tornado, Cyclone, Twisters

New Code—E908.2 Floods, Torrential rainfall, Flash flood

Excludes: collapse of dam or man-made structure causing flood (E909.3)

New Code—E908.3 Blizzard (snow) (ice)

New Code—E908.4 Dust storm

New Code—E908.8 Other cataclysmic storms

New Code—E908.9 Unspecified cataclysmic storms, and floods resulting from storms, Storm NOS

E909 Cataclysmic Earth Surface Movements and Eruptions

New Code—E909.0 Earthquakes

New Code—E909.1 Volcanic eruptions, Burns from lava. Ash inhalation

New Code—E909.2 Avalanche, landslide, or mudslide

New Code—E909.3 Collapse of dam or man-made structure

New Code—E909.4 Tidalwave caused by earthquake, Tidalwave NOS, Tsunami

Add—Excludes; tidalwave caused by tropical storm (E908.0)

New Code—E909.8 Other cataclysmic earth surface movements and eruptions

New Code—E909.9 Unspecified cataclysmic earth surface movements and eruptions

E920 Accidents Caused by Cutting and Piercing Instruments or Objects

New Code—E920.5 Hypodermic needle, Contaminated needle, Needle stick

E924 Accident Caused by Hot Substances or Object, Caustic or Corrosive Material, and Steam

E924.0 Hot Liquids and Vapors, Including Steam

Add—Excludes: hot (boiling) tap water (E924.2)

New Code—E924.2 Hot (boiling) tap water

E968 Assault by Other and Unspecified Means

New Code—E968.5 Transport vehicle, Colliding with other vehicle or running down pedestrian with intent to injure

Pushed in front of, thrown from, or dragged by moving vehicle with intent to injure

Sue Meads, R.R.A.,

Co-chair, ICD–9–CM Coordination and Maintenance Committee.

[FR Doc. 95–10556 Filed 4–28–95; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–024–05–1020–00]

Arizona: Phoenix Resource Management Plan Amendment and Decision Record

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the Federal Land Policy and Management Act of 1976 and Section 102(2)(c) of the National Environmental Policy Act of 1969, a Final Planning Amendment/Environmental Assessment was prepared by the Phoenix District, Arizona. A subsequent Decision Record and Finding of No Significant Impact (FONSI) is made available for public comment for thirty (30) days, after which the Decision will become final.

The Decision determines that it is appropriate to amend the plan to allow the closure of the Two Shoe grazing allotment to livestock grazing in order to promote improved recreation, watershed, wildlife and wild burro management. The plan amendment will guide future management on

VOL
60
ISS
83
MY
1
1995
UMI

approximately 15,750 acres of land bordering Lake Pleasant Regional Park north of Phoenix, Arizona.

SUPPLEMENTARY INFORMATION: Copies of the Environmental Assessment are available from the Bureau of Land Management's Phoenix District Office, 2015 West Deer Valley Road, Phoenix, AZ 85027. Public comments on the Environmental Assessment will be accepted for a period of thirty (30) days following publication of this notice.

FOR FURTHER INFORMATION CONTACT: Gail Acheson, Phoenix Resource Area Manager, 2015 West Deer Valley Road, Phoenix, AZ 85027 or telephone (602) 780–8090.

Dated: April 25, 1995.

David J. Miller,

Associate District Manager.

[FR Doc. 95–10630 Filed 4–28–95; 8:45 am]

BILLING CODE 4310–32–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32605]

Chicago & North Western Railway Co., Soo Line Railroad Co., d/b/a CP Rail System, Wisconsin & Southern Railroad Company, Wisconsin Department of Transportation—Joint Relocation Project Exemption—In Dane County, WI

On March 31, 1995, Chicago and North Western Railway Company (CNW), Soo Line Railroad Company, d/b/a CP Rail System (Soo), and Wisconsin and Southern Railroad Company (WSOR), and the Wisconsin Department of Transportation jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate a line of railroad in Madison, Dane County, WI. The proposed transaction was expected to be consummated on or after April 7, 1995.

The line relocation project is to facilitate construction of the new Monona Terrace Convention Center in Madison, WI. CNW and WSOR [1] currently operate two closely parallel rail lines in a rail corridor running at the base of a bluff under the planned convention center site. The convention design will require supporting piers for the structure to be placed on the site of the current CNW track.

The joint project involves: (1) The incidental construction of connecting tracks between existing CNW and WSOR tracks, which would involve the moving of all rail operations a distance of approximately 2,090 feet to the current WSOR line; (2) the transfer of WSOR's ownership of track within the relocation limits to CNW, which CNW will rehabilitate, and CNW will grant trackage rights over the track to WSOR and Soo; and (3) the removal of CNW's track within the relocation limits. The notice states that service to shippers will not be disrupted.

The Commission will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al,* 9 I.C.C.2d 1208 (1993). The Commission has determined that line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.—Trackage Rights,* 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Robert T. Opal, Chicago and North Western Railway Company, 165 North Canal Street, Chicago, IL 60606; Larry D. Starns, Soo Line Railroad Company, Suite 1000, Soo Line Building, Box 530, Minneapolis, MN, 55440; John D. Heffner, 1920 N Street, NW, Suite 420, Washington, DC 20036; and James S. Thiel, Wisconsin Department of Transportation, Room 115B, Hill Farms State Transportation Building, P.O. Box 7910, Madison, WI 53707.

Decided: April 24, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10595 Filed 4–28–95; 8:45 am]

BILLING CODE 7035–01–P

[1] Soo has trackage rights on the WSOR line and Soo formerly owned the WSOR line. *See Wisconsin & Southern Railroad Co.—Purchase, Lease and Operation Exemption—Canadian Pacific Rail Services,* Finance Docket No. 32546, (ICC served Aug. 16, 1994).

[Finance Docket No. 32133]

Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company—Control—Chicago and North Western Transportation Company and Chicago and North Western Railway Company

AGENCY: Interstate Commerce Commission.

ACTION: Decision No. 27; notice that the Commission has been requested to issue a finding that the terms and conditions of the proposed merger of UP Rail, Inc., into Chicago and North Western Transportation Company are just and reasonable.

SUMMARY: UP Rail, Inc. (a subsidiary of Union Pacific Corporation) is to be merged into Chicago and North Western Transportation Company (the holding company parent of Chicago and North Western Railway Company), assuming the success of a tender offer that was commenced on March 23, 1995. The merger envisions, among other things, a tender offer to stockholders of $35 per share and a "cashing out" of all non-tendering stockholders at a price of $35 per share. The Commission has been requested to issue a finding that the terms and conditions of the merger are just and reasonable.

DATES: Comments must be filed by May 31, 1995. Replies must be filed by June 15, 1995.

ADDRESSES: All pleadings should refer to Finance Docket No. 32133. Comments (an original and 10 copies) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423. Comments should also be served (one copy each) on: (1) Arvid E. Roach II, Covington & Burling, 1201 Pennsylvania Avenue, NW., P.O. Box 7566, Washington, DC 20044–7566; and (2) L. John Osborn, Suite 600, East Tower, 1301 K Street, NW., Washington, DC 20005. Replies (an original and 10 copies) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, NW., Washington, DC 20423. Replies should also be served (one copy each) on all active parties in this proceeding, counsel for the plaintiffs in the Delaware shareholder suits referenced below, and any known shareholders of Chicago and North Western Transportation Company who have not tendered their shares in the tender offer commenced March 23, 1995, by UP Rail, Inc.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In our UP/CNW Decision No. 25 (served March 7, 1995), we approved common control of UP (class I railroads Union Pacific Railroad Company and Missouri Pacific Railroad Company) and CNW (class I railroad Chicago and North Western Railway Company). Union Pacific Railroad Company (UPRR) and Missouri Pacific Railroad Company (MPRR) are indirect wholly owned subsidiaries of Union Pacific Corporation (UPC), a non-carrier holding company. CNW is a direct wholly owned subsidiary of Chicago and North Western Transportation Company (CNWT), another non-carrier holding company. UPC, UPRR, MPRR, CNWT, and CNW are referred to herein as the primary applicants. The UP/CNW common control that we approved envisioned that UP and CNW would come under common control with the conversion, from non-voting status to voting status, of the approximately 29.5% of the CNWT common stock held by non-carrier UP Rail, Inc. (UPR), another indirect wholly owned UPC subsidiary. Our UP/CNW Decision No. 25 became effective on April 6, 1995.

On March 16, 1995, UPC and CNWT entered into an Agreement and Plan of Merger (the Merger Agreement) that provides, among other things, (1) that UPR will make a tender offer for 100% of CNWT's common stock at a price of $35 per share in cash, and (2) that all non-tendering CNWT shareholders will also receive $35 per share in cash following the UPR/CNWT merger. The tender offer was commenced on March 23, 1995, and is scheduled to expire on April 24, 1995.

By petition (UP/CNW–134) filed April 4, 1995, the primary applicants have requested that we issue a determination that the terms and conditions of the proposed UPR/CNWT merger (in particular, the $35-per-share price to be paid to CNWT shareholders) are just and reasonable. The primary applicants seek this determination (1) because they believe the Commission is required by *Schwabacher* v. *United States,* 334 U.S. 182 (1948), to make such a determination to protect minority shareholders and (2) in order to immunize the UPR/CNWT merger from the otherwise applicable state law rights, particularly the otherwise applicable state law appraisal rights, of dissenting CNWT shareholders. 49 U.S.C. 11341(a). A copy of the Merger Agreement can be found in UP/CNW–134, Exhibit B, Annex I.

The primary applicants indicate that they have served a copy of their UP/CNW–134 petition on all active parties in the Finance Docket No. 32133 proceeding and on counsel for plaintiffs in certain Delaware shareholder suits challenging various aspects of the Merger Agreement. The primary applicants have also pledged to serve a copy of their petition on any known CNWT shareholders who do not tender their shares in response to the tender offer. The primary applicants urge expedited handling of their petition (in particular: that we publish notice of their petition in the **Federal Register**; that we allow interested persons 30 days to file comments; that we further allow the primary applicants an additional 15 days to file a reply; and that we proceed promptly to a decision thereafter).

Our statutory mandate, 49 U.S.C. 11344(c), requires, among other things, that we determine, in appropriate cases, that the terms and conditions of certain transactions affecting stockholders are just and reasonable. *See, e.g., Union Pacific Corp. et al.—Cont.—MO-KS-TX Co. et al.,* 4 I.C.C.2d 409, 515 (1988) ("In appraising this transaction affecting the rights of stockholders, it is incumbent upon us to see that the interests of minority stockholders are protected and that the overall proposal is just and reasonable to those stockholders. *Schwabacher* v. *United States,* 344 U.S. at 198, 201."). Because the UP/CNW–134 petition implicates our statutory mandate and involves a matter that requires expedited regulatory action, we will proceed upon the schedule urged by the primary applicants.

Accordingly, we solicit comments from all interested persons respecting whether the terms and conditions of the proposed UPR/CNWT merger are just and reasonable. Such comments must be submitted by May 31, 1995. The primary applicants may file replies to such comments by June 15, 1995.

Any interested person who has not received copies of the UP/CNW–134 petition and the primary applicants' letter dated April 17, 1995 (announcing a settlement of the Delaware litigation) may request copies, in writing or by telephone, from Arvid E. Roach II, Covington & Burling, 1201 Pennsylvania Avenue, N.W., P.O. Box 7566, Washington, D.C. 20044–7566 (telephone: 202–662–5388).

In addition to submitting an original and 10 copies of all documents filed with the Commission, the primary applicants and any commenters are encouraged to submit all pleadings and attachments as computer data contained on a 3.5-inch floppy diskette formatted for WordPerfect 5.1 (or formatted so that it can be converted by WordPerfect 5.1). The primary applicants are also encouraged to submit their UP/CNW–134 petition (including Exhibits A and B thereto), and their letter dated April 17, 1995 (including Exhibits A and B thereto), on such a diskette.

Decided: April 19, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10633 Filed 4–28–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed partial consent decree in *United States* v. *Metropolitan Dade County, et al.,* Case No. Civ–93–1109–Moreno, was lodged on April 19, 1995, with the United States District Court for the Southern District of Florida. The consent decree settles all claims for injunctive relief and civil penalties brought against Metropolitan Dade County and the Miami-Dade Water and Sewer Authority Department under Sections 301, 309 (b) and (d), and 402 of the Clean Water Act, 33 U.S.C. 1311, 1319 (b) and (d), and 1342, and sets forth remedial measures, supplemental environmental projects, and a civil penalty.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Metropolitan Dade County, et al.,* DOJ Ref. #90–5–1–1–4022.

The proposed consent decree may be examined at the office of the United States Attorney, Southern District of Florida, 99 N.E. 4th Street, Miami, Florida 33132; the Region IV Office of the United States Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G

VOL
60
ISS
83
MY
1
1995
UMI

Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $36.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–10549 Filed 4–28–95; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement

In the matter of: *United States* v. *Oregon Dental Service.*

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)–(h), that a proposed Final Judgment, Settlement Agreement, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of California in *United States of America* v. *Oregon Dental Service*, Civil Action No. C95 1211 FMS. The Complaint in this case alleges that the defendant and others engaged in a combination in unreasonable restraint of interstate trade and commerce in violation of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment enjoins the defendant for five years from maintaining, adopting, or enforcing a clause in its contracts with dentists that requires the dentist to give the defendant the lowest fees he or she offers to any person or dental plan. It also enjoins the defendant from taking any other action, directly or indirectly, to influence or attempt to influence dentists' discounting of fees or participation in other dental plans. Finally, the proposed Final Judgment enjoins the defendant from disclosing or in any way directly revealing to dentists its maximum allowable or acceptable fee for dental procedures.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period, which runs from the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Christopher S. Crook, Acting Chief, San Francisco Office, Box 36046, Antitrust Division, U.S. Department of Justice, San Francisco, California 94102 (telephone: (415) 556–6300).

Constance K. Robinson,

Director of Operations, Antitrust Division.

Barbara J. Nelson, Philip R. Malone, Carla G. Addicks, Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, Box 36046, 10th Floor, San Francisco, California 94102–3478, (415) 556–6300, Attorneys for the United States

In the United States District Court
Northern District of California

[Civil No. C95 1211 FMS]

In the matter of: *United States of America*, Plaintiff, v. *Oregon Dental Service*, Defendant.

Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable and other relief against the defendant named herein, and complains and alleges as follows:

I. Jurisdiction and Venue

1. This Complaint is filed by the United States under Section 4 of the Sherman Act; 15 U.S.C. 4, as amended, to prevent and restrain a continuing violation by the defendant of Section 1 of the Sherman Act, 15 U.S.C. 1.

2. The defendant maintains an office, transacts business, and is found within the Northern District of California, within the meaning of 15 U.S.C. 22 and 28 U.S.C. 1391(c).

II. Defendant

3. Oregon Dental Service ("ODS"), is a corporation organized and existing under the laws of the State of Oregon with its principal place of business in Portland, Oregon. ODS provides dental coverage to employees of Oregon corporations and others. Certain of those employees are located in the Northern District of California.

4. ODS is a non-profit corporation whose participating providers consist of dentists licensed to practice in Oregon and who execute participating provider agreements with ODS. At material times, dentists comprised the majority of the Board of Directors of ODS. At material times, in excess of ninety percent of dentists licensed to practice in Oregon were participating providers of ODS.

5. Various firms and individuals, not named as defendants in this Complaint, have entered into agreements with ODS in violation of the Sherman Act as alleged in this Complaint, and have performed acts and made statements in furtherance thereof.

III. Trade and Commerce

6. At material times, ODS has engaged in the business of providing dental insurance coverage. ODS contracts directly with individual dentists and groups of dentists for the provision of dental services to persons covered by ODS' dental insurance plans. Participating dentists agree to comply with the terms of the contractual agreements with ODS, and to abide by ODS' rules and policies.

7. ODS compensates participating dentists on the basis of submitted fee schedules. At material times, payments from ODS to Oregon dentists constituted a significant portion of most individual participating dentist's receipts from the provision of dental services to patients.

8. At material times, ODS' "Participating Dentist Rules and Policies" contained provisions known as "most favored nation" clauses. These provisions stated that, for example, the "lowest fee accepted by the Dentist for services to be rendered to any group shall constitute the Dentist's filed fee scheduled for payment of ODS Health Plan claims."

9. ODS' enforcement of the most favored nation clauses in its rules and policies resulted in most participating dentists' refusal to discount their fees to non-ODS patients or competing dental plans.

10. ODS' most favored nation clauses have caused significant numbers of dentists to drop out of or refuse to join competing discount dental plans. Because such a large percentage of Oregon dentists participate with ODS' plan, the ODS most favored nation clauses have resulted in many competing dental plans being unable to attract and/or retain sufficient numbers of dentists to serve their members.

11. ODS periodically determines the amount it will pay for procedures to participating dentists based upon fee filings submitted by the participating dentists. A majority of these dentists used the fee schedule they filed with ODS as their fee schedule for all other patients, including those covered by other insurance plans and uninsured patients.

12. ODS sets the maximum fee allowable for a particular procedure at the 90th percentile of all fees submitted to it by participating dentists (the level at or above the fee charged by 90% of participating dentists). If 10 or fewer of a dentist's submitted fees are above the 90th percentile, ODS notifies the dentist of the amount of the maximum allowable fee. Most participating dentists file fee schedules proposing to charge more than the maximum allowable fee for 10 or fewer procedures; when one of these dentists is advised of the exact maximum allowable fees, he or she is able to lower the fees no more than necessary to obtain approval from ODS. If the dentist agrees to charge the maximum allowable amount, the dentist signs the notification and returns it to ODS.

13. Most dentists who are participants with ODS are in independent, private practices and are in actual or potential competition with other participating dentists for the provision of dental services.

14. At material times, ODS and participating dentists have utilized interstate banking facilities and purchased not insubstantial quantities of goods and services from outside the state of Oregon, for use in providing dental insurance coverage or dental services to patients.

15. The activities of ODS that are the subject of this Complaint have been within the flow of, and have substantially affected, interstate trade and commerce.

IV. Violation Alleged

16. Beginning at a time unknown to the plaintiff and continuing through at least September 1994, ODS and others engaged in a combination in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. ODS voluntarily abandoned the combination in September, 1994, but this offense is likely to recur unless the relief hereinafter sought is granted.

17. For the purpose of forming and effectuating this combination, ODS did the following things, among others:

(a) Adopted and enforced most favored nation clauses in the contracts with dentists and in rules and policies the dentists agreed to abide by, and

(b) Received and disseminated information on the maximum allowable fees for certain procedures, and obtained signed commitments from participating dentists to charge the maximum allowable fees.

18. These agreements had the following effects, among others:

(a) Price competition among dentists for the provision of dental services has been unreasonably restrained and fees for such services have been stabilized at a level higher than they might otherwise have been;

(b) Price competition among dental insurance plans has been unreasonably restrained; and

(c) Consumers of dental services in Oregon have been deprived of the benefits of free and open competition.

V. Prayer

Wherefore, the plaintiff prays:

1. That the Court adjudge and decree that ODS engaged in an unlawful combination in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. 1, as alleged in the Complaint.

2. That ODS, its members, officers, directors, agents, employees, and successors and all other persons acting or claiming to act on its behalf be enjoined, restrained and prohibited for a period of five years from, in any manner, directly or indirectly, continuing, maintaining, or renewing the alleged agreements, or from entering into any other agreement, understanding, plan, program, or other arrangement having a similar purpose or effect as the alleged agreements.

3. That the United States have such other relief as the nature of the case may require and the Court may deem just and proper.

Dated: April 10, 1995.

Anne K. Bingaman,

Assistant Attorney General.

Mark C. Schechter,

Deputy Director of Operations.

Christopher S. Crook,

Acting Chief, San Francisco Office. Antitrust Division, U.S. Department of Justice.

Barbara J. Nelson,

Philip R. Malone,

Carla G. Addicks,

Attorneys, Antitrust Division, U.S. Department of Justice.

Barbara J. Nelson, Philip R. Malone, Carla G. Addicks, Antitrust Division, U.S. Department of Justice, 450 Golden Gate Avenue, Box 36046, 10th Floor, San Francisco, California 94102–3478, (415) 556–6300, Attorneys for the United States.

In the United States District Court
Northern District of California

[Civil No. C95 1211 FMS]

In the matter of: *United States of America*, Plaintiff, v. *Oregon Dental Service*, Defendant.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties thereto, and venue of this action is proper in the Northern District of California;

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the defendant and by filing that notice with the Court. The parties represent that they have full authority to enter into this Stipulation.

3. In the event plaintiff United States withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

4. The parties agree that the Final Judgment resolves all disputes between the parties as to the most favored nation clause and disclosure of the maximum allowable fees. Plaintiff will not institute further investigation of ODS with regard to the most favored nation clause or disclosure of maximum allowable fees so long as ODS remains in compliance with the terms of the Final Judgment, except for the purposes of determining or securing compliance with the Final Judgment.

5. ODS agrees to comply with the provisions of the Final Judgment pending entry of the Final Judgment.

Dated: March 28, 1995.

For the United States:

Barbra J. Nelson,

For the Defendant:

Timothy G. Beckler.

In the United States District Court
Northern District of California

In the matter of: United States of America, Plaintiff v. Oregon Dental Service, Defendant.

[Civil No. C95 1211]

Final Judgment

Whereas, plaintiff, United States of America through its attorney, filed its Complaint on , 1995, alleging a violation of the Sherman Act, 15 U.S.C. 1;

Whereas, the defendant denies liability with respect to all matters subject of the complaint;

Whereas, there has been no determination by the Court that a violation of law has occurred;

Whereas, the plaintiff and defendant desire to resolve their disputes without trial or adjudication of any issue of law or fact; and

Whereas, this Final Judgment shall not be evidence against or an admission by any party with respect to any issue of law or fact;

VOL
60
ISS
83
MY
1
1995
UMI

Now therefore, before the taking of any testimony and without trial or adjudication of any issue of law or fact herein, it is hereby ordered, adjudged, and decreed as follows:

I. Jurisdiction

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section I of the Sherman Act, 15 U.S.C. 1.

II. Definitions

As used herein, the term:

(A) "ODS" means Oregon Dental Service;

(B) "Most Favored Nation Clause" or "MFN" means those provisions in the defendant's participating dentist agreements that prior to September 28, 1994, required that the lowest fee accepted by the participating dentist for services rendered to any group constituted the dentist's filed fee schedule for payment of ODS claims.

III. Applicability

(A) This Final Judgment applies to ODS and to ODS' officers, employees, members acting as corporate policy makers, directors, successors, assigns, subsidiaries, divisions and any other organizational units of any kind, and to all other persons in active concert or participation with any of them. Within 60 days of entry, ODS shall provide a copy of this Final Judgment by mail or personal service to ODS' officers, directors and managerial employees. Thereafter, ODS shall distribute in a timely manner a copy of this Final Judgment to any new officer, director, or managerial employee.

(B) Nothing herein contained shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party and nothing herein shall be construed to provide any rights to any third party.

IV. Injunction

(A) ODS is enjoined and restrained from:

(1) Maintaining, adopting, or enforcing an MFN or similar provision in participating dentist agreements or by any other means or methods;

(2) Taking any other action, directly or indirectly, to influence or attempt to influence any dentist to refrain from offering discount fees to any person or dental plan or to refrain from participating in any dental plan;

(3) Disclosing or in any way directly revealing to a dentist or dentists the maximum allowable or acceptable fee for a dental procedure or procedures.

V. Retention of Jurisdiction

Jurisdiction is retained by the Court for the purpose of enabling either party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, modify it on the basis of changed circumstances, terminate any of its provisions, enforce compliance, and punish violations of its provisions.

Nothing in this provision shall give standing to any person not a party to this Final Judgment to seek any relief related to it.

VI. Access to Information

For the purposes of determining or securing compliance with the Final Judgment, from time to time:

(A) Duly authorized representatives of the United States, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to ODS, shall be permitted, subject to any legally recognized privilege, access, during office hours, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of ODS relating to any matters contained in this Final Judgment; and

(B) In the event that the plaintiff has reasonable cause to believe that ODS had not complied with the terms of this Final Judgment, then upon the written request of the Assistant Attorney General in charge of the Antitrust Division, ODS shall submit such written reports, under oath if requested, with respect to any of the matter contained in this Final Judgment.

ODS shall have the right to be represented by counsel in any such process.

Any information provided to the plaintiff under this section of the Final Judgment shall be kept confidential by the plaintiff and shall not be disclosed to third parties except as necessary to enforce the Final Judgment or as otherwise previously agreed or required by law.

Nothing in this Final Judgment prohibits the plaintiff from using any other investigatory method authorized by law.

VII. Term

This Final Judgment shall expire five years from the date of its entry.

VIII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated this _____ day of _____, 1995.

United States District Judge.

In the United States District Court
Northern District of California

In the matter of: United States of America, Plaintiff, v. Oregon Dental Service, defendant.

[Civil No. C95 1211]

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States submits this Competitive Impact Statement relating to the proposed Final Judgment (or "the Judgment") submitted for entry against and with the consent of Oregon Dental Service ("ODS" or "the defendant") in this civil proceeding.

I. Nature and Purpose of the Proceeding

On April 10, 1995, the United States filed this single-count civil antitrust suit alleging that ODS, an Oregon non-profit corporation which does business in the Northern District of California, entered into a combination in unreasonable restraint of trade consisting of agreements to restrain price competition for dental services in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. Plaintiff asked the Court to find that the defendant has violated Section 1 of the Sherman Act and further asked the Court to enjoin the continuation of the combination.

Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for any further proceedings required to interpret, enforce or modify the judgment or to punish violations of any of its provisions.

II. Practices Giving Rise to the Violation

ODS is an Oregon non-profit corporation. ODS' principal place of business is in Portland, Oregon. It was created by the Oregon Dental Association, a professional association of dentists. Dentists hold the majority of positions on ODS' Board of Directors. ODS contracts with businesses, governmental agencies, and other organizations to provide pre-paid dental care coverage to their employees. ODS contracts directly with dentists or groups of dentists to provide dental services to patients who are members of those covered groups.

ODS compensates its participating provider dentists for their services on the basis of a fee for service, determined in part through fee schedules submitted by each dentist. ODS sets its maximum allowable fee at the 90th percentile of all fees for a procedure submitted to it by participating dentists. That is, the maximum allowable fee is equal to or greater than the fees charged by 90% of participating dentists. If 10 or fewer of a dentist's filed fees are above this 90th percentile, ODS informs the dentist of the maximum amount that it will pay for the service. Most participating dentists file fee schedules proposing to charge above the maximum allowable fee for 10 or fewer procedures, so they are informed of exactly what fee they may charge and can avoid lowering their fees more than necessary to receive payment from ODS. If the dentist agrees to charge that amount, he or she signs the notification and returns it to ODS.

In excess of 90 percent of the dentists in the state of Oregon have provider contracts with ODS. For most of these dentist, payments from treatment of ODS patients are a significant part of their income. Most of these dentists are in independent, private practice and actually or potentially compete with other participating ODS dentists to provide dental service to both ODS and non-ODS patients.

ODS' participating dentists agree to abide by ODS rules and policies, which contain what is called a "most favored nation" clause ("MFN"). The MFN requires that each dentist charge ODS the lowest price that dentist charges any other group. Accordingly, if a dentist reduces fees to a competing dental plan, the MFN requires that the dentist also reduce fees to ODS. The United States alleges that the effect of the MFN has been to require participating ODS dentists to charge other dental plans and non-ODS patients fees that are as high as or higher than the fees charged to ODS.

The Complaint alleges that, beginning at a time unknown to the plaintiff and continuing through at least September 1994, ODS and others engaged in a combination in unreasonable restraint of interstate trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that the combination ended in September 1994, when ODS voluntarily terminated the MFN for business reasons.

To form and effectuate this combination, ODS adopted and enforced an MFN in its rules and policies which dentists were contractually obligated to adhere to, received and disseminated information on the maximum allowable fees for certain procedures, and obtained signed commitments from participating dentists to charge the maximum allowable fees.

Had this case proceeded to trial, the plaintiff was prepared to prove that the combination unreasonably restrained price competition among dentists and between other dental insurance plans and ODS, and stabilized prices for dental services.

ODS' adoption and enforcement of the MFN restrained price competition among Oregon dentists for the provision of dental services because it caused significant numbers of dentists to refuse to discount their fees. Before the MFN was enforced, certain Oregon dentists had reduced their fees to ODS competitors in order to participate in the competitors' managed-care plans. Others had indicated a willingness to do so.

After ODS began enforcing the MFN, however, most participating dentists refused to discount their fees to non-ODS patients or competing discount dental plans because, if they did, the MFN would require them to also lower all of their fees to ODS. Since most dentists in Oregon receive a significant portion of their income from treating ODS patients, the cost to those dentists of discounting their fees on non-ODS patients or competing dental care plans became too great to justify discounting. For the same reason, it was too costly for most dentists to drop their participation in ODS' plan in order to avoid the MFN and be able to discount their fees to competing discount dental plans. Consequently, the MFN substantially reduced discounting that was occurring and, had it continued in force, would have deterred future discounting.

The plaintiff was also prepared to prove that the combination unreasonably restrained competition between ODS and other dental insurance plans. Because of the MFN and its effect on the willingness of dentists to join discount dental plans, competing discount plans were unable to attract and keep a sufficiently large qualified, and geographically varied panel of dentists to adequately serve their members and make their plans commercially marketable to employer and other groups. Some plans left the market or had their ability to attract and serve patient groups severely restricted, leading to a substantial reduction in their ability to complete with ODS.

The combination deprived Oregon consumers of price competition among dentists who stopped discounting their fees. Consumers were also deprived of choices of competing dental insurance plans offering different combinations of dentists, services, and prices.

Moreover, the plaintiff was prepared to prove that ODS' revealing the maximum acceptable fees to those dentists with 10 or fewer procedures over the maximum prevented those fees from falling below the maximum and effectively stabilized those fees at the maximum acceptable level—a level higher than they might otherwise have been. As a result, consumers were further deprived of price competition among dentists.

III. Explanation of the Proposed Final Judgment

The plaintiff and ODS have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h). The proposed Final Judgment provides that its entry does not constitute any evidence against or admission of any party with respect to any issue of law or fact.

Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(e), the proposed Final Judgment may not be entered unless the Court finds that entry is in the public interest. Section VIII of the proposed Final Judgment sets forth such a finding.

The proposed Final Judgment is intended to ensure that ODS does not reinstate its MFN and ceases disclosing its maximum allowable fees to participating dentists. The proposed Final Judgment also prohibits ODS from taking any other action that may influence dentists' decisions regarding the discounting of fees.

A. Scope of the Proposed Final Judgment

Section III of the proposed Final Judgment provides that the Final Judgment shall apply to ODS and to ODS' officers, employees, members acting as corporate policy makers, directors, successors, assigns, subsidiaries, divisions and any other organizational units of any kind, and to all other persons in active concert or participation with any of them.

In the Stipulation to the proposed Final Judgment, ODS has agreed to be bound by the terms of the proposed Final Judgment, pending its approval by the Court.

B. Prohibitions and Obligations

Under Section IV of the proposed Final Judgment, ODS is enjoined and restrained for a period of five years from maintaining, adopting, or enforcing an MFN or similar provision in

VOL 60 ISS 83 MY 1 1995 UMI

participating dentist agreements or by any other means or methods, or by taking any other action, directly or indirectly, to influence or attempt to influence any dentist to refrain from offering discount fees to any person or dental plan or to refrain from participating in any dental plan. ODS is also enjoined and restrained for a period of five years from disclosing or in any way directly revealing to a dentist or dentists the maximum allowable or acceptable fee for a dental procedure or procedures.

The proposed Final Judgment also provides that the plaintiff will have access to information to enforce the judgment.

C. Effect of the Proposed Final Judgment on Competition

The relief required by the proposed Final Judgment will prohibit reinstatement of a substantial restraint on price competition among dentists and between ODS and other dental plans in Oregon, by ensuring that ODS will not adopt or enforce the limitations on dentists' abilities to discount created by the MFN. The proposed Final Judgment will also prohibit ODS from taking any other action which might discourage participating dentists from discounting or participating in competing discount plans. As a result, dentists will be free to discount or to join other discount plans, and discount dental plans will no longer be prevented by ODS' actions from attracting and maintaining viable panels of dentists to serve their members.

Finally, the relief required by the proposed Final Judgment will prohibit ODS' dissemination of the maximum fee amount for particular procedures. Without the information provided by ODS, dentists will have to determine independently the fees to charge for their services.

The prohibitions in the proposed Final Judgment will restore to dental consumers the benefits of free and open competition that were suppressed by ODS' adoption and enforcement of the MFN. The proposed Final Judgment prohibits ODS from reinstating the MFN during the term of the Final Judgment.

IV. Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment is a full trial on the merits of the case. Such a trial would involve substantial cost to the United States and the defendant and is not warranted because the proposed Final Judgment provides all the relief that is needed to remedy the violations of the Sherman Act alleged in the United States' complaint.

V. Remedies Available to Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist in the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the Final Judgment has no *prima facie* effect in any subsequent lawsuits that may be brought against the defendant in this matter.

VI. Procedures Available for Modification of the Proposed Final Judgment

As provided in the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may submit written comments to Christopher S Crook, Acting Chief, San Francisco Office, Department of Justice, Antitrust Division, 450 Golden Gate Avenue, San Francisco, California, 94102–3478, within the 60-day period provided by the Act. These comments, and the plaintiff's responses to them, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to the Stipulation, to withdraw its consent to the proposed Final Judgment at any time prior to its entry if The Department should determine that some modification of the judgment is necessary to the public interest. The proposed Final Judgment provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification, interpretation, or enforcement of the Judgment.

VII. Determinative Documents

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating the proposed Judgment. Consequently, none are filed herewith.

Dated: April 10, 1995.

Respectfully submitted,

Barbara J. Nelson,
Phillip R. Malone,
Carla G. Addicks,
Antitrust Division, U.S. Department of Justice.

[FR Doc. 95–10596 Filed 4–28–95; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committee on Occupational Safety and Health Statistics; Cancellation of Committee Meeting

SUMMARY: Due to the scheduling difficulties of participants, the meeting of the Business Research Advisory Council Committee, on Occupational Safety and Health Statistics has been cancelled. The meeting had been announced previously in the **Federal Register** of April 12, 1995, 60 FR 18618. The committee meeting was to have taken place on Thursday, May 4, 1995, 1:00 p.m. at the Postal Square Building.

FOR FURTHER INFORMATION CONTACT: Ms. Constance B. DiCesare, Liaison for the Business Research Advisory Council to the Bureau of Labor Statistics, 2 Massachusetts Avenue NE., Room 2850, Washington, DC 20212 (202) 606–5887.

Signed at Washington, DC, this 25th day of April, 1995.

Katharine G. Abraham,
Commissioner.

[FR Doc. 95–10632 Filed 4–28–95; 8:45 am]
BILLING CODE 4510–24–M

Employment and Training Administration

[TA–W–30,788]

Meridian Oil-Houston Region; Houston, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

With other locations in the following states, TA–W–30,788A Texas, TA–W–30,788B Alabama, TA–W–30,788C Louisiana, TA–W–30,788D Ohio, TA–W–30,788E Oklahoma, and Meridian Oil Corporate and Administrative Offices, TA–W–30,788F Houston, TX, TA–W–30,788G Fort Worth, TX.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 23, 1995, applicable to all workers of the subject firm.

The Notice was published in the **Federal Register** on April 10, 1995 (60 FR 18146).

At the request of the workers, the Department reviewed the certification for workers of the subject firm. The investigation findings show that workers at the corporate offices of Meridian Oil in Houston, Texas and in Fort Worth, Texas should be covered under the subject certification. The Houston Region accounted for a significant share of the business at the corporate and administrative offices of Meridian Oil. Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–30,788 is hereby issued as follows:

All workers of the Houston Region of Meridian Oil in Houston, Texas and in other locations in Texas, Alabama, Louisiana, Ohio and Oklahoma and in the corporate offices of Meridian Oil in Houston, Texas and in the administrative office in Forth Worth, Texas who became totally or partially separated from employment on or after February 20, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, D.C., this 20th day of April, 1995.

Victor J. Trunzo,
Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10627 Filed 4–28–95; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–30,648]

Seagull Mid-South, Inc. (Formerly Arkla Exploration Company) A/K/A Seagull Energy E & P, Inc., Shreveport, LA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of the subject firm.

The certification notice was issued on March 16, 1995 and was published in the **Federal Register** on March 27, 1995 (60 FR 15791).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show Seagull Energy purchased ARKLA Exploration Company on December 31, 1992 and the workers became Seagull Energy E & P, Inc. Accordingly, many of the workers of the subject firm had wages reported under Seagull Energy E & P, Inc., and their unemployment insurance (UI) taxes were paid under Seagull Energy E & P, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–30,648 is hereby issued as follows:

All workers of Seagull Mid South, Inc., (formerly ARKLA Exploration Company) also known as Seagull Energy E & P, Inc., Shreveport, Louisiana who became totally or partially separated from employment on or after January 6, 1994 are eligible to apply for adjustment assistance under Section 231 of Trade Act of 1974.

Signed at Washington, D.C., this 20th day of April, 1995.

Victor J. Trunzo,
Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10631 Filed 4–28–95; 8:45 am]
BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–29,173, Shell Oil Company, Administration—E&P/SET a/k/a Shell Services Company (SSO), a/k/a Shell E&P Company (SEPC), a/k/a Shell Chemical Company (SCC), a/k/a Shell Oil Products Company (SOPC), headquartered in Houston, Texas and operating at various locations in the following States:

TA–W–29,173A	Alabama
TA–W–29,173B	Alaska
TA–W–29,173C	California
TA–W–29,173D	Connecticut
TA–W–29,173E	District of Columbia
TA–W–29,173F	Florida
TA–W–29,173G	Georgia
TA–W–29,173H	Illinois
TA–W–29,173I	Indiana
TA–W–29,173J	Louisiana
TA–W–29,173K	Maryland
TA–W–29,173L	Michigan
TA–W–29,173M	Mississippi
TA–W–29,173N	Missouri
TA–W–29,173O	New Jersey
TA–W–29,173P	New Mexico
TA–W–29,173Q	New York
TA–W–29,173R	Ohio
TA–W–29,173S	Oklahoma
TA–W–29,173T	Oregon
TA–W–29,173U	Pennsylvania
TA–W–29,173V	Texas (except Houston)
TA–W–29,173W	Utah
TA–W–29,173X	Virginia
TA–W–29,173Y	Washington
TA–W–29,173Z	West Virginia.

TA–W–29,177, Shell Development Company, a/k/a Shell E&P Company (SEPC), a/k/a Shell Chemical Company (SCC), a/k/a Shell Oil Products Company (SOPC), Houston, Texas.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 23, 1993, applicable to all workers of Shell Oil Company, Administration—E&P/SET, headquartered in Houston, Texas and operating in various States, and Shell Development Company, Houston, Texas. The notice was published in the **Federal Register** on January 11, 1994 (59 FR 1566).

Company officials report that effective March 1, 1995, Shell Oil Company's Administration—E&P and Set, and Shell Development Company are being reincorporated with other parts of the company as Shell Services Company, Shell Exploration and Production Company, Shell Chemical Company, and Shell Oil Products Company.

The intent of the Department's certification is to include all workers of Shell Oil Company who were adversely affected by increased imports.

The amended notice applicable to TA–W–29,173 and TA–W–29,177 is hereby issued as follows:

All workers of Shell Oil Company Administration—E&P/SET, a/k/a Shell Services Company (SSO), a/k/a Shell E&P Company (SEPC), a/k/a Shell Chemical Company (SCC), a/k/a Shell Oil Products Company (SOPC), and Shell Development Company, a/k/a Shell E&P Company (SEPC), a/k/a Shell Chemical Company (SCC), a/k/a Shell Oil Products Company (SOPC), respectively, as cited below, engaged in employment related to the exploration and production of crude oil and natural gas who became totally or partially separated from employment on or after December 13, 1993 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–29,173, Shell Oil Company, Administration—E&P/SET, a/k/a Shell Services Company (SSO), a/k/a Shell E&P Company (SEPC), a/k/a Shell Chemical Company (SCC), a/k/a Shell Oil Products Company (SOPC), headquartered in Houston, Texas and operating at various locations in the following States:

TA–W–29,173A	Alabama
TA–W–29,173B	Alaska
TA–W–29,173C	California
TA–W–29,173D	Connecticut
TA–W–29,173E	District of Columbia
TA–W–29,173F	Florida
TA–W–29,173G	Georgia
TA–W–29,173H	Illinois
TA–W–29,173I	Indiana
TA–W–29,173J	Louisiana
TA–W–29,173K	Maryland
TA–W–29,173L	Michigan
TA–W–29,173M	Mississippi
TA–W–29,173N	Missouri
TA–W–29,173O	New Jersey
TA–W–29,173P	New Mexico
TA–W–29,173Q	New York
TA–W–29,173R	Ohio

VOL 60 ISS 83 MY 1 1995 UMI

TA–W–29,173S Oklahoma
TA–W–29,173T Oregon
TA–W–29,173U Pennsylvania
TA–W–29,173V Texas (except Houston)
TA–W–29,173W Utah
TA–W–29,173X Virginia
TA–W–29,173Y Washington
TA–W–29,173Z West Virginia.

TA–W–29,177, Shell Development Company, a/k/a Shell E&P Company (SEPC), a/k/a Shell Chemical Company (SCC), a/k/a Shell Oil Products Company (SOPC), Houston, Texas.

Signed at Washington, D.C. this 20th day of April 1995.

Vicker J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10629 Filed 4–28–95; 8:45 am]

BILLING CODE 4510–30–M

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–27, 488, Unocal Corporation, A/K/A Union Oil of California, Mid-Continent Region, headquartered in Oklahoma City, Oklahoma and operating out of the following districts and locations:

TA–W–27, 489, Rocky Mountain District, headquartered in Casper, Wyoming and operating out of the following locations:

TA–W–27, 489A Cut Bank, MT.
TA–W–27, 489B Antler, N.D.
TA–W–27, 489C Worland, WY.
TA–W–27, 489D Gillette, WY.
TA–W–27, 489E Lander WY.
TA–W–27, 489F Mills, WY.

TA–W–27, 490, Southern Mid-Continent District, headquartered in Oklahoma City, Oklahoma and operating out of the following locations:

TA–W–27, 490A Woodward, OK.
TA–W–27, 490B Sayre, OK.
TA–W–27, 490C Farnsworth, TX.
TA–W–27, 490D Hominy, OK.
TA–W–27, 490E Ardmore, OK.
TA–W–27, 490F Madill, OK.
TA–W–27, 490G Healdton, OK.
TA–W–27, 490H Nacona, TX.
TA–W–27, 490I Pauls Valley, OK.

TA–W–27, 491, Northern Mid-Continent District, Headquartered in East Lansing, Michigan and operating out of the following locations:

TA–W–27, 491A Olney, IL.
TA–W–27, 491B Clay City, IL.
TA–W–27, 491C Comfort, W.V.
TA–W–27, 491D Noble, IL.
TA–W–27, 491E West Liberty, IL.
TA–W–27, 491F Grayling, MI.
TA–W–27, 491G Breckenridge, MI.

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 28, 1992, applicable to all workers of UNOCAL Corporation, North American Oil and Gas Division, Mid-Continent Region, headquartered in Oklahoma City, Oklahoma. The certification was subsequently amended November 3, 1992.

New information received from the State Agency show that some of the workers at UNOCAL had their unemployment insurance (UI) taxes paid to Union Oil of California.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of UNOCAL Corporation who were adversely affected by increased imports.

The amended notice applicable to TA–W–27, 491 is hereby issued as follows:

All workers of UNOCAL Corporation, a/k/a Union Oil of California, North American Oil and Gas Division, Mid-Continent Region, headquartered in Oklahoma City, Oklahoma (TA–W–27,488) and the below cited operations who became totally or partially separated from employment or of after July 1, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–27, 489, Rocky Mountain District, headquartered in Casper, Wyoming and operating out of the following locations:

TA–W–27, 489A Cut Bank, MT.
TA–W–27, 489B Antler, N.D.
TA–W–27, 489C Worland, WY.
TA–W–27, 489D Gillette, WY.
TA–W–27, 489E Lander, WY.
TA–W–27, 489F Mills, WY.

TA–W–27, 490, Southern Mid Continent District, Headquartered in Oklahoma City, Oklahoma and Operating out of the following locations:

TA–W–27, 490A Woodward, OK.
TA–W–27, 490B Sayre, OK.
TA–W–27, 490C Farnsworth, TX.
TA–W–27, 490D Hominy, OK.
TA–W–27, 490E Ardmore, OK.
TA–W–27, 490F Madill, OK.
TA–W–27, 490G Healdton, OK.
TA–W–27, 490H Nacona, TX.
TA–W–27, 490I Pauls Valley, OK.

TA–W–27, 491, Northern Mid-Continent District, headquartered in East Lansing, Michigan and operating out of the following locations:

TA–W–27, 491A Olney, IL.
TA–W–27, 491B Clay City, IL.
TA–W–27, 491C Comfort, W.V.
TA–W–27, 491D Noble, IL.
TA–W–27, 491E West Liberty IL.
TA–W–27, 491F Grayling, MI.
TA–W–27, 491G Breckenridge, MI.

Signed at Washington, D.C. this 20th day of April 1995.

Victor J. Trunzo,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 95–10628 Filed 4–28–95; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cognitive, Psychological & Language Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting for the Advisory Panel for Cognitive, Psychological & Language Sciences (#1758).

Name: Advisory Panel for Cognitive, Psychological & Language Science (#1758).

Date and Time: May 19, 1995, 9 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Paul G. Chapin, Program Director for Linguistics, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1731.

Agenda: To review and evaluate the outcome of NSF-funded projects in Linguistics.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning the results and impacts of research projects funded by the NSF.

Purpose for Closing: The actions being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the actions. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 26, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–10581 Filed 4–28–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–139]

Environmental Assessment and Finding of No Significant Impact Regarding Proposed Order Authorizing Dismantling and Disposition of Component Parts University of Washington

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an order authorizing the University of Washington (UW) to dismantle their research facility located on the licensee's campus in Seattle, Washington, and to dispose of the reactor components in accordance with the application dated August 2, 1994.

Environmental Assessment

Identification of Proposed Action

By application dated August 2, 1994, UW requested authorization to decontaminate and dismantle the UW research reactor, to dispose of its component parts in accordance with the proposed decommissioning plan, and to terminate Facility License No. R–73. The UW research reactor was shut down in June 1988, and has not operated since then. The reactor fuel was removed from the facility and shipped to a Department of Energy (DOE) facility as directed by the DOE in accordance with DOE, NRC, and Department of Transportation requirements.

Opportunity for a hearing was afforded by a "Notice of Proposed Issuance of Orders Authorizing Disposition of Component Parts and Terminating Facility License" published in the **Federal Register** on September 2, 1994, (59 FR 45738). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

Need for Proposed Action

In order to prepare the property for unrestricted access and use, the dismantling and decontamination activities proposed by UW must be accomplished.

Environmental Impact of the Proposed Action

All decontamination will be performed by trained personnel in accordance with previously reviewed procedures and will be overseen by experienced health physics staff. Solid and liquid waste will be removed from the facility and managed in accordance with NRC requirements. The UW staff has calculated that the collective dose equivalent to the UW staff and public for the project will be less than 0.06 person-sievert (6.02 person-rem).

The above conclusions were based on all proposed operations being carefully planned and controlled, all contaminated components being removed, packaged, and shipped offsite, and the existence of radiological control procedures will be in place that will help to ensure that releases of radioactive wastes from the facility are within the limits of 10 CFR Part 20 and are as low as reasonably achievable (ALARA).

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the UW facility, the staff has determined that there will be no significant increase in the amounts of effluents that may be released offsite, and no significant increase in individual or cumulative occupational or population radiation exposure.

The staff has also determined that the proposed activities will not result in any significant impacts on air, water, land, or biota in the area.

Alternative Use of Resources

The only alternative to the proposed dismantling and decontamination activities is to maintain possession of the reactor. This approach would include monitoring and reporting for the duration of the safe storage period. However, UW intends to use the area for other academic purposes.

Agencies and Persons Consulted

In accordance with its stated policy, the staff consulted with the State of Washington, Division of Radiation Protection, Debra McBaugh (360/586–8945), regarding the environmental impact of the proposed actions. There was no objection to the conclusions reached in the environmental assessment.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For details with respect to the proposed action, see the licensee's letter dated August 2, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 26th day of April 1995.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10727 Filed 4–28–95; 8:45 am]

BILLING CODE 7590–01–M

Supplemental Environmental Statement; Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission has issued a Supplement (NUREG–0498, Supplement 1) to the Final Environmental Statement related to the operation of Watts Bar Nuclear Plant Units 1 and 2 (issued in December 1978). This supplement documents the NRC's latest review of the environmental issues at Watts Bar Nuclear Plant.

Single copies of the supplement will be provided to the Environmental Protection Agency, the applicant, Appropriate State, regional and local clearinghouses, and each individual or group that provided written comments on the draft supplement.

ADDRESSES: Other interested parties can obtain a copy of the supplement, for a fee, upon written request to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082 or the Office of Administration, Distribution and Mail Service Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

An individual copy is available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Scott C. Flanders, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–1172.

SUPPLEMENTARY INFORMATION:

Background

The NRC issued the Final Environmental Statement concerning the operation of the Watts Bar Nuclear Plant in 1978. The NRC reexamined the issues associated with the environmental review before issuance of an operating license in order to document the observed changes in the environment and to evaluate the potential changes in environmental impacts that may have occurred as a result of changes in the Watts Bar Nuclear plant design or proposed methods of operations since the last environmental review. The NRC evaluated a broad scope of environmental topics including regional demography, land and water use, meteorology, terrestrial and aquatic ecology, radiological and non-radiological impacts on humans and the environment, socioeconomic impacts, and environmental justice. The staff concluded that there are no significant changes in the environmental impacts expected from the operation of the Watts Bar plant when compared to the impacts previously discussed in the NRC 1978 FES–OL.

The applicant's preoperational and operational monitoring programs were reviewed and found to be appropriate for establishing baseline conditions and

VOL 60 ISS 83 MY 1 1995 UMI

ongoing assessments of environmental impacts.

The staff also conducted an analysis of plant operation with severe accident mitigation design alternatives (SAMDAs) and concluded that none of the SAMDAs, beyond three procedural changes that the applicant committed to implement, would be cost-beneficial for further mitigating environmental impacts.

Dated at Rockville, Maryland, this 21 day of April 1995.

For the Nuclear Regulatory Commission.

Scott F. Newberry,

Director, License Renewal and Environmental Review Project Directorate, Associate Director for Advanced Reactors and License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10610 Filed 4–28–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–498 and 50–499]

Houston Lighting & Power Co., City Public Service Board of San Antonio, Central Power & Light Co., City of Austin, TX, South Texas Project, Unit Nos. 1 and 2; Notice of Issuance and Availability of NUREG

The Nuclear Regulatory Commission has issued NUREG–1517, "Report of the South Texas Project Allegations Review Team." This report provides the results of the South Texas Project Allegations Review Team.

This team was formed to obtain and review allegations from individuals associated with three attorneys who had contacted congressional staff members from the Subcommittee on Oversight and Investigations of the U.S. House of Representatives' Committee on Energy and Commerce. The allegers were employed in various capacities at Houston Lighting and Power Company's, et al., South Texas Project Electric Generating Station, and therefore, the allegations are confined to this site.

Copies of the report have been placed in the NRC's Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555 and at the Local Public Document Room for the South Texas Project, Units 1 and 2, Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488. Copies of the report may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. GPO deposit account holders may charge their order by calling 202/275–2060. Copies are also available from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 25th day of April 1995.

For the Nuclear Regulatory Commission.

Lawrence E. Kokajko, Team Leader,

Project Directorate, IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10609 Filed 4–28–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–424–OLA–3 50–425–OLA–3; ASLBP No. 90–671–01–OLA–3]

In the Matter of: Georgia Power Company, et al. (Vogtle Electric Generating Plant, Units 1 and 2); Evidentiary Hearing; Atomic Safety and Licensing Board

Before Administrative Judges: Peter B. Bloch, Chair, Dr. James H. Carpenter, Thomas D. Murphy.

Pursuant to 10 CFR 2.752, the public evidentiary hearing will continue at 9 am on May 15–18, 1995, at the Hearing Room (T 3 B45), Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

The purpose of the hearing is to hear motions concerning the admissibility of evidence and to receive evidence concerning alleged misrepresentations about diesel generators at the Vogtle Nuclear Power Plant. The hearing is expected to continue at 1 pm in Augusta, Georgia on May 22 at a place to be designated. It will continue in session for several weeks, in Augusta, Georgia and in Rockville, Maryland until the hearing is completed.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chair.

[FR Doc. 95–10611 Filed 4–28–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35642; File No. SR–NASD–95–11]

Self-Regulatory Organizations; National Association of Securities Dealers Inc.; Notice of Filing of Proposed Rule Change Relating to Requiring Use of the Facilities of a Registered Clearing Agency for the Clearance of Transactions in Corporate Debt Securities

April 24, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 10, 1995, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend its Uniform Practice Code ("UPC") to add a new section 72 to require members that are participants in a registered clearing agency to use the facilities of a registered clearing agency for the clearance of securities transactions between members in corporate debt securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Summaries of the most significant aspects of such statements are set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD has observed that approximately thirty percent of all transactions in corporate bonds are being compared, cleared, and settled broker-to-broker or ex-clearing (*i.e.*, without the use of the facilities of a registered clearing agency). Clearing such transactions broker-to-broker is labor intensive, requires more time to complete, and results in more fails than transactions processed through a clearing agency. The labor intensive nature of broker-to-broker processing introduces errors into the process from keystroke errors, manual document handling errors, delivery errors, and payment errors. Because such broker-to-broker clearance is labor intensive, it also generally requires more time to complete. Finally, both of these factors increase the systemic clearance risk by

[1] 15 U.S.C. 78s(b)(1) (1988).

increasing the number of trade fails and the potential financial exposure to members.

The NASD is concerned that the problems associated with broker-to-broker clearance of corporate bond trades is creating avoidable risks and inefficiencies, as described above, in the clearance and settlement system. The NASD also is concerned that the implementation of T+3 settlement of securities transactions scheduled to occur on June 7, 1995, will exacerbate the risks and inefficiencies inherent in clearing corporate bond transactions broker-to-broker. Accordingly, in order to reduce or eliminate these risks and inefficiencies, the NASD is proposing to amend the UPC to adopt a new section 72 to require a member of its agent that participates in a registered clearing agency to use the facilities of a clearing agency to clear eligible transactions in corporate debt securities.[2]

Finally, the proposed rule change provides that the NASD may exempt any transaction or class of transactions in corporate debt securities from the provisions of the rule as may be necessary to accommodate special circumstances related to the clearance of such transactions or class of transactions. The NASD anticipates that this provision will be used only in the event special pricing and processing problems related to particular corporate debt securities make using the facilities of a registered clearing agency difficult or impossible and outweighed the benefits of using the facilities of a registered clearing agency.[3]

Because the proposed rule change may facilitate the implementation of the industry's transaction to a T+3 settlement scheduled to occur on June 7, 1995, the NASD will make the proposed rule change effective as soon after the Commission approval as it is possible to publish a Notice to Members announcing approval. The proposed rule change will be effective two weeks following publication of the Notice to Members announcing Commission approval.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act[4] in that requiring such transactions to be cleared through the facilities of a registered clearing agency will reduce the number of trade fails and reduce or eliminate risks and inefficiencies caused by broker-to-broker clearance of such transactions, thereby enhancing the functioning of the clearance and settlement system for the benefit of all securities market participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD.

All submissions should refer to the file No. SR–NASD–95–11 and should be submitted by May 22, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10607 Filed 4–28–95; 8:45 am]

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[2] The NASD also has been advised that enhancements to the National Securities Clearing Corporation's Fixed Income Transaction System to facilitate the corporate bond comparison process became effective October 21, 1994. This facility enhancement accelerates the comparison cycle to trade date which allows members to view their compared corporate bond trades on T+1. This acceleration of the comparison cycle will aid the industry's transition to T+3 settlement.

[3] For example, the NASD considered mandating the use of the facilities of a registered clearing agency for other types of securities such as unit investment trusts, private label collateralized mortgage obligations, synthetic stripped coupons, and government securities but concluded that it would be inadvisable to adopt such a mandate until the special pricing and processing requirements for these securities is fully understood and resolved. Similarly, if the NASD is asked to exempt certain issues or transactions in certain issues of corporate debt because of problems associated with clearing transactions in such issues through the facilities of a registered clearing agency, the exemptive power provided in the proposed rule change will permit the NASD to resolve such problems.

[4] 15 U.S.C. 78o–3(b)(6).

[Release No. 34–35645; File No. SR–PSE–95–02]

Self-Regulatory Organizations; Pacific Stock Exchange Inc.; Order Granting Approval to Proposed Rule Change Relating to Obligations for Regulatory Cooperation

April 25, 1995.

On February 8, 1995, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules to require regulatory cooperation by members, member organizations, and others over whom the Exchange has jurisdiction with certain investigations and proceedings that are initiated by another self-regulatory organization ("SRO") pursuant to a regulatory agreement. On March 3, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, including Amendment No. 1, was published for comment in Securities Exchange Act Release No. 35497 (Mar. 15, 1995), 60 FR 14991 (Mar. 21, 1995). No comments were received on the proposal.

The Exchange is proposing to amend Rule 10.2, relating to Exchange

[5] 17 CFR 200.30–(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] See letter from Michael D. Pierson, Senior Attorney, PSE, to Jennifer S. Choi, Attorney, Division of Market Regulation, SEC, dated March 2, 1995. Amendment No. 1 added .02 of the Commentary to the proposed rule change.

VOL
60
ISS
83
MY
1
1995
UMI

investigations to add new subsection (d) and .01 and .02 of the Commentary to require members, member organizations, persons associated with a member or member organization, and other persons or entities over whom the Exchange has jurisdiction pursuant to Rule 10.1(b) to testify before another SRO and to furnish information in connection with a regulatory inquiry, investigation, examination, or disciplinary proceeding resulting from an agreement entered into by the Exchange pursuant to Rule 14.1.[4] The proposed rule change would further require these persons and entities not to impede such a proceeding. Moreover, the proposal provides that the rule would apply regardless of whether the Exchange initiated an investigation pursuant to Rule 10.2(a) or a disciplinary proceeding pursuant to Rule 10.3.

Under the proposed rule change, the Exchange also makes explicit that persons or entities, required to furnish information or testimony pursuant to a regulatory agreement, will be afforded the same rights and procedural protections that such persons or entities would have if the Exchange had initiated the request for information or testimony.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b).[5] The Commission believes the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

This proposal, which is similar to a proposal by the Chicago Board Options Exchange, Inc. that was recently approved by the Commission,[6] grew out of a meeting of the Intermarket Surveillance Group ("ISG") to coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets.[7] The Commission believes that the proposed rule change achieves a reasonable balance between the need for regulatory cooperation and protection of the procedural rights of Exchange members and others from whom information or testimony is requested. The rule would provide the Exchange with the authority to seek cooperation by certain persons with respect to inquiries and investigations resulting from regulatory agreements between the Exchange and another SRO while explicitly providing any person or entity required to furnish information or testimony pursuant to the rule with the same procedural rights that they would have if the request was pursuant to an Exchange initiated inquiry or investigation. In furtherance of the policy to protect procedural rights, the Exchange provides in Commentary .02 to Rule 10.2 that the Exchange will always act as an intermediary between another SRO and the exchange member, member organization, or other designated person from whom information or testimony is being sought for any inquiry made pursuant to an agreement under Rule 14.1.

The Commission believes that it the proposed rule change will further the interest of the public and provide for the protection of investors by allowing the Exchange to assist other SROs conduct prompt inquiries into possible trading violations and other possible misconduct. As the marketplaces become more global and interlinked, the Commission believes that is important that the SROs coordinate their investigatory activities to prevent fraudulent and manipulative acts and practices in all marketplaces.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PSE–95–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10605 Filed 4–28–95; 8:45 am]

BILLING CODE 8010–01–M

[4] Rule 14.1 provides that the Exchange may enter into agreements with domestic and foreign self-regulatory organizations providing for the exchange of information and other forms of mutual assistance for market surveillance, investigative, enforcement, and other regulatory purposes.

[5] 15 U.S.C. 78f(b) (1988 & Supp. v. 1993).

[6] *See* Securities Exchange Act Release No. 35403 (Feb. 22, 1995), 60 FR 10884 (Feb. 28, 1995) (approving File No. SR–CBOE–94–39).

[7] The members of ISG are the American Stock Exchange, Inc., the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Incorporated, the Cincinnati Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Stock Exchange Incorporated, and the Philadelphia Stock Exchange, Inc.

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35841; File No. SR–PTC–95–03]

Self-Regulatory Organizations; Participants Trust Co.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Extending Temporary Approval of Current Margin and Pricing Methodology for Collateralized Mortgage Obligations

April 24, 1995.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 28, 1995, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–PTC–95–03) as described in Items I and II below, which Items have been prepared primarily by PTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change through April 30, 1996.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends through April 30, 1996, the temporary approval of the current margin and pricing methodology utilized by PTC for collateralized mortgage obligations ("CMO") that are eligible for deposit or that may become eligible for deposit at PTC.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Summaries of the most significant aspects of such statements are set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Margin Under PTC's Rules

Under PTC's rules, a certain percentage ("applicable percentage") of the market value of securities is included in the computation of participants' Net Free Equity.[3] Net Free Equity of zero or greater is required to be maintained by participants in each of its agency, pledgee transfer, or proprietary accounts in order for transactions to be processed.[4] Net Free Equity represents PTC's calculation of the amount of excess equity available in a participant's account which PTC may borrow against or liquidate in the event the participant's debit balance is not satisfied at the end of the day.

By including only a portion of the market value of securities in Net Free Equity, PTC attempts to limit the risk caused by fluctuations in the market value of these securities. For Government National Mortgage Association ("GNMA") single-class securities, other than construction, project, and mobile home securities, margins are set at five percent, which is a rate that exceeds their largest historic consecutive two-day downward price movement. GNMA construction, project, and mobile home securities have a higher margin to reflect their reduced liquidity.[5]

CMO Margins

CMO securities that are currently eligible for deposit at PTC are GNMA REMICs, Department of Veterans Affairs ("VA") REMICs, and certain Federal Home Loan Mortgage Corporation ("FHLMC") REMICs. Unlike GNMA single-class securities, CMO securities are structured as a series of tranches or classes, each of which represents a separate security with unique characteristics, such as differing payment schedules and price volatility.[6] PTC, therefore, uses a model which takes into account the unique characteristics of each tranche to predict its potential price movement. The parameters of the model include prepayment speeds, a yield spread, and the yield on a benchmark Treasury security. PTC subjects each CMO tranche to a stress test to determine its response to yield changes in order to assign each tranche an appropriate margin.

Currently, margins are based on a fifty basis point upward movement in the underlying Treasury securities for CMO tranches that exhibit positive effective duration (*i.e.*, rise in value with falling interest rates) or a fifty basis point downward movement in the underlying Treasury security for CMO tranches that exhibit negative effective duration (*i.e.*, decline in value with falling interest rates). CMO tranches that are not modeled by PTC's pricing vendor are margined at one hundred percent and the minimum margin for any CMO tranche is five percent.

PTC believes that the proposed rule change is consistent with section 17A(b)(3)(F) of the Act[7] and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities transactions and provides for the safeguarding of securities and funds in PTC's custody or control or for which PTC is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PTC has neither solicited nor received comments on this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

PTC's current margin and pricing methodology for CMO securities was approved by the Commission on a temporary basis through April 30, 1995,[8] in order to allow PTC further time in which to evaluate the methodology and to take steps to address any concerns which exist with respect to the methodology. During the temporary approval period, PTC has provided information to the Commission describing the steps taken by PTC to improve the margin and pricing methodology including finalizing arrangements with a second vendor for daily pricing and stress test analysis.[9]

Section 17A(b)(3)(F) of the Act[10] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. The Commission believes that extending temporary approval of the current margin and pricing methodology utilized by PTC for CMO securities should help assure the safeguarding of securities and funds in PTC's custody or control. PTC's current margin and pricing methodology helps ensure that CMO margins will be established that take into account the unique characteristics of each CMO tranche and that PTC's reliance on a daily pricing source will provide it with timely price information. The resulting margins will afford PTC protection should it be necessary for PTC to borrow against or liquidate these assets. In addition, the Commission believes that extending the temporary approval will permit PTC to make technical enhancements to its system that will enable it to use and compare data from two sources and also enable PTC to further evaluate the results of the CMO pricing and margin methodology as so enhanced.

PTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. In order to allow PTC to continue employing its current margin and pricing methodology without disruption of service, it is necessary for the Commission to approve the proposed rule change prior to the expiration of the current temporary approval of the methodology on April 30, 1995. The Commission, therefore, finds sufficient cause to accelerate approval of this proposal. In addition, the staff of the Board of Governors of the Federal Reserve System ("Board of Governors")

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34017 (May 5, 1994), 59 FR 24405 (File No. SR–PTC–92–10) (order approving through April 30, 1995, PTC's CMO margin and pricing methodology).

[3] As set forth in PTC Rules, Article II, Rule 9, Net Free Equity is calculated as the sum of (a) the cash balance in the account; (b) the market value of securities in the account less the applicable percentage; (c) the value of the optional deposits to the Participants Fund which are allocated to that account (optional deposits to the Participants Fund are deposits that exceed the minimum deposit required pursuant to PTC's rules and procedures); and (d) 20% of the mandatory deposits to the Participants Fund for the master account (mandatory deposits to the Participants Fund are minimum deposits required to be deposited into such fund pursuant to PTC's rules and procedures) minus (e) "reserve on gain." Reserve on gain means (1) the contract value credited to the cash balance of a delivering participant or limited purpose participant over the market value of securities credited to the transfer account associated with the account of the receiving participant or (2) the market value of securities credited to the transfer account associated with the account of a receiving participant over the contract value credited to the cash balance of the delivering participant or limited purpose participant.

[4] PTC Rules, Article II, Rule 13, "Transfers of Securities."

[5] Securities Exchange Act Release No. 33840 (March 31, 1994), 59 FR 16672 (File No. PTC–93–04) (order approving proposed rule change).

[6] A CMO is a multiple-class mortgage cash flow security which redirects the cash flow from an underlying standard mortgage-backed security, such as a GNMA security, and allows the CMO issuer to create classes, or tranches, with many different interest rates, average lives, prepayment sensitivities, final maturities, and payment priorities.

[7] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[8] *Supra* note 2.

[9] Letters from Michael D. Frieband, Senior Vice President and Chief Financial Officer, PTC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (August 5, 1994, November 8, 1994, February 27, 1995, and March 23, 1995).

[10] 15 U.S.C. 78q–1(b)(3)(F) (1988).

VOL
60
ISS
83
MY
1
1995
UMI

has concurred with the Commission's granting of accelerated approval.[11]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to file number SR–PTC–95–03 and should be submitted by May 22, 1995.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PTC–95–03) be and hereby is approved on an accelerated basis through April 30, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10606 Filed 4–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21026; No. 812–9296]

New York Life Insurance Annuity Corp. et al.

April 24, 1995.

AGENCY: The Securities and Exchange Commission ("Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: New York Life Insurance and Annuity Corporation ("NYLIAC"); NYLIAC Variable Annuity Separate Account I ("NVA Account I"), NYLIAC Variable Annuity Separate Account II ("NVA Account II"), NYLIAC MFA Separate Account I ("MFA Account I") and NYLIAC MFA Separate Account II ("MFA Account II") (collectively, "Separate Accounts"); and NYLIFE Distributors, Inc. ("NYLIFE Distributors").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF THE APPLICATION: Applicants seek an order permitting the deduction of mortality and expense risk charges from the assets of the Separate Accounts in connection with the offering of certain single premium or flexible premium variable annuity contracts ("Policies") and certain other variable annuity contracts that are substantially similar in all material respects to the Policies ("Other Policies"). Applicants also request that the order permit the deduction of a mortality and expense risk charge from the assets of any other separate accounts established in the future by NYLIAC in connection with the offering of the Other Policies.

FILING DATES: The Application was filed on October 21, 1994 and amended on March 29, 1995 and April 6, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m., on May 19, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, The Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o A. Thomas Smith, III, Esq., New York Life Insurance and Annuity Corporation, 51 Madison Avenue, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Assistant Special Counsel, or Wendy Friendlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. NYLIAC is a Delaware stock life insurance company that is wholly-owned by New York Life Insurance Company ("New York Life"), a New York mutual life insurance company. NYLIAC is licensed to sell life insurance policies and annuity contracts in all 50 states and the District of Columbia.

2. The Separate Accounts were established by NYLIAC as funding vehicles for the Policies. Each Separate Account has filed a registration statement under the 1940 Act and the Securities Act of 1933 ("1933 Act"). Future Accounts established by NYLIAC will be organized as unit investment trusts and will file registration statements under the 1940 Act and the 1933 Act.

3. The policies include flexible premium variable annuity contracts ("NVA Policies") offered by NVA Accounts I and II and single premium and flexible premium variable annuity contracts ("MFA Policies") offered by MFA Separate Accounts I and II. Policies funded by NVA Account II and MFA Account I are used in connection with plans qualified under sections 401(a), 403(a), 403(b), 408 or 457 of the Internal Revenue Code ("Code"). Policies funded by NVA Account I and MFA Account II are not offered in connection with such qualified plans.

4. The investment divisions of the Separate Accounts invest solely in corresponding portfolios of New York Life MFA Series Fund, Inc. ("Fund"), a diversified open-end management company registered under the 1940 Act. Additional investment divisions may be established in the future within the Separate Accounts and may invest in other portfolios of the Fund or in other investments.

5. NYLIFE Distributors will replace NYLIFE Securities, Inc. ("NYLIFE Securities")[1] as the principal underwriter of the Policies pursuant to an agreement between NYLIAC, the Separate Accounts and NYLIFE Distributors. NYLIFE Distributors also will serve as principal underwriter for the Other Policies. NYLIFE Distributors may enter into selling agreements with other broker-dealers, including NYLIFE Securities. NYLIFE Securities and NYLIFE Distributors are registered under the Securities Exchange Act of 1934 as broker-dealers and are members of the National Association of Securities Dealers, Inc. The Policies currently are, and will continue to be offered by registered representatives of NYLIFE Securities who are licensed NYLIAC insurance agents. NYLIFE Securities and NYLIFE Distributors are indirect wholly-owned subsidiaries of New York Life.

6. The Policies provide for the payment of initial premium payments and allow additional premium payments prior to the annuity commencement date. Policy owners may direct the allocation of premium payments, as well as accumulation or policy value, among the investment divisions and to the relevant NYLIAC Fixed Accounts, which are part of NYLIAC's General Account. The Policies also provide for the accumulation of values on a variable basis determined by the investment experience of the Divisions selected for the allocation of premium payments, other than that amount allocated to the relevant Fixed Account.

7. The Policies also provide for the payment of a minimum death benefit equal to the greater of: (a) Accumulation value (in the case of NVA Policies) or policy value (in the case of MFA Policies, or (b) the sum of all premium payments made less any partial withdrawals and surrender charges, less any rider premiums.

8. Various fees and charges are deducted under the Policies. During the accumulation period, NVA Policies are subject to an annual Policy fee of the lesser of $30 or 2% of the accumulation value, and outstanding flexible premium MFA Policies are subject to an annual Policy fee of the lesser of $30 or 1% of Policy Value. The annual Policy fee will be deducted on each Policy Anniversary during the accumulation period, or upon surrender of the Policies if on that date the accumulation value under NVA Policies, or policy value under MFA Policies, is less than $10,000.

9. All NVA Policies are subject to a daily charge equal, on an annual basis, to .10% of the net asset value of the NVA Accounts, which will be deducted to cover Policy administration expenses. Other Policies that are substantially similar in all material respects to the NVA Policies may have a daily charge not to exceed, on an annual basis, .15% of the net asset value of the relevant separate account to cover Policy administration expenses. All outstanding flexible premium MFA Policies are subject to a daily charge equal, on an annual basis, to .50% of the net asset value of the MFA Accounts to cover Policy administration expenses. These daily and annual fees are guaranteed for the life of the MFA Policies and will not exceed the cost of services to be provided over the life of such Policies, in accordance with the applicable provisions of Rule 26a–1 under the 1940 Act. Single Premium MFA Policies are not subject to such daily and annual administrative fees.

10. A charge for premium taxes imposed by state law may be deducted under the Policies, either: (i) When a surrender or cancellation occurs, or (ii) at the annuity commencement date or the retirement date, as applicable. Currently, these taxes range up to 3.5%. The Separate Accounts and the investment divisions may bear charges for federal income taxes, should such taxes be incurred by NYLIAC in connection with the operation of the Separate Accounts. No transfer fee currently is deducted under the NVA Policies for the first twelve transfers during any Policy Year or for transfers between the investment divisions or to the relevant Fixed Account prior to 30 days before the annuity commencement date. NYLIAC reserves the right to charge a $30 fee for each transfer in excess of twelve per Policy Year to compensate it for transfer administrative expenses. MFA Policies currently provide for unlimited transfers without charge, although NYLIAC reserves the right to limit the number of transfers among MFA Divisions to no more than four in any one Policy Year.

11. No sales charge currently is deducted from Premium Payments under the Policies. However, the Policies are subject to a maximum 7% contingent deferred sales load ("CDSL") of the amount of any surrender or partial withdrawals when made during: (a) The first three Policy Years under the NVA Policies, declining by 1% per year until reaching 0% in the tenth year; (b) the first four Policy Years under outstanding flexible premium MFA Policies, declining by 1% per year until reaching 0% in the eleventh year; and (c) the first Policy Year under single premium MFA Policies, declining by 1% per year until reaching 0% in the eighth year. For NVA Policies and single premium MFA Policies, up to 10% of the Policies' accumulation value or Policy Value, respectively, at the time of surrender can be withdrawn in any Policy Year without a CDSL charge. The total CDSL will not exceed 8.5% of the premium payments under any Policy or Future Policy.

12. The following exceptions apply to the application of the CDSL: (a) For all NVA Policies, the CDSL will only be applied to any amounts withdrawn in any Policy Year which, when aggregated with any other withdrawals during such Policy Year, exceed 10% of accumulation value at the time of surrender; and (b) for NVA Policies with accumulated Premium Payments of $100,000 or more, no CDSL charge will be applied if either (i) the total amount withdrawn in any Policy Year is 10% or less of the accumulation value at the time of surrender, or (ii) the amount withdrawn is less than or equal to the gain in the NVA Policy which is measured as the accumulation value of the Policy less accumulated Premium Payments. In addition, no CDSL will be applied if: (a) NYLIAC cancels an NVA Policy; (b) proceeds are paid on the death of the Owner or Annuitant; (c) an income payment option is selected in any Policy Year after the first Policy Year; (d) an NVA Policy's required minimum distribution option is selected; however, amounts withdrawn under this option will count against exception (a); (e) withdrawals are at age 59½ or older if the Policy is tax-qualified and if the NVA Policy was acquired as a result of a transfer or rollover of a NYLIAC tax-deferred annuity policy; and (f) withdrawals are made in accordance with the terms of the Living Needs Benefit Rider or Unemployment Benefit Rider.

13. Applicants represent that they are relying on Rule 6c–8 under the 1940 Act to deduct the CDSL. Other Policies that are substantially similar in all material respects to the MFA Policies will be subject to a maximum CDSL of 7% of the amount withdrawn or surrendered.

14. NYLIAC imposes charges as compensation for bearing certain mortality and expense risks under the Policies. A daily charge equal to an effective annual rate of 1.20% (of which 0.70% is allocable to mortality risks and 0.50% to expense risks) of the net asset value of the NVA Accounts will be imposed under the NVA Policies. A daily charge equal to an effective annual rate of 1.25% (of which .75% is attributable to mortality risks and .50% to expense risks) of the net asset value of the MFA Accounts will be imposed under the MFA Policies. The maximum mortality and expense risk charge for Other Policies that are substantially similar in all material respects to the NVA or MFA Policies will be equal, on an annual basis, to 1.25% (of which .75% would be attributable to mortality risks and .50% to expense risks) of the daily net asset value of the relevant Separate Account. This charge may be a

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[11] Telephone conversation between William R. Stanley, Board of Governors, and Ari Burstein, Division, Commission (April 11, 1995).

[12] 17 CFR 200.30–3(a)(12) (1994).

[1] The Commission previously has granted NYLIAC, the Separate Accounts and NYLIFE Securities exemptive relief to permit the deduction of mortality and expense risk charges from the assets of the Separate Accounts in connection with the Policies. Rel. Nos. IC–19197 (Order) (Dec. 30, 1992) and IC–13592 (Notice) (Dec. 2, 1992); and IC–13736 (Order) (Jan. 25, 1984) and IC–13592 (Notice) (Oct. 21, 1983). NYLIFE Distributors was not a party to such applications.

VOL
60
ISS
83
MY
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1995
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source of profit for NYLIAC which will be added to its surplus and may be used for, among other things, the payment of distribution expenses.

15. The mortality risk borne by NYLIAC arises from its obligation to make annuity payments (determined in accordance with the annuity tables and other provisions contained in the relevant Policy), where a life annuity is selected, regardless of how long an Annuitant may live. The mortality risk under the Policy is the risk that, upon selection of an annuity payment option which has life contingencies, Annuitants will live longer than NYLIAC's actuarial projections indicate, resulting in higher than expected income payments. NYLIAC is also assuming a mortality risk as a result of its promise to pay a minimum death benefit under the Policies.

16. The expense risk borne by NYLIAC under the Policy is the risk that the charges for administrative expenses, which are guaranteed for the life of the Policies, may be insufficient to cover the actual costs of issuing and administering the Policies.

Applicants' Legal Analysis

1. Applicants request an order under Section 6(c) granting exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to permit the deduction from the assets of the Separate Accounts and the Future Accounts of mortality and expense risk charges under the Policies or Other Policies, as appropriate.

2. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

4. Applicants submit that their request for an order that applies to Other Policies offered by the Separate Accounts and by Future Accounts is appropriate in the public interest because it would promote competitiveness in the variable annuity policy market by eliminating the need for NYLIAC to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. Investors would not receive any benefit or additional protection by requiring NYLIAC to repeatedly seek exemptive relief with respect to the same issues addressed in this Application.

5. Applicants represent that the mortality and expense risk charges under the NVA Policies and MFA Policies are within the range of industry practice for comparable variable annuity contracts. This representation is based upon Applicants' analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of charge levels or annuity rate guarantees and the markets in which the Policies will be offered. Applicants state that NYLIAC will maintain at its headquarters and make available to the Commission, upon request, a memorandum outlining the methodology underlying this representation.

Similarly, prior to making available any Other Policies, Applicants will represent that the mortality and expense risk charges under any such Other Policies will be within the range of industry practice for comparable variable annuity contracts. NYLIAC will maintain at its headquarters and make available to the Commission, upon request, a memorandum outlining the methodology underlying such representation.

6. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge under the Policies, all or a portion of such profit may be available to pay distribution expenses not reimbursed by the CDSC. NYLIAC has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Separate Accounts and the Policy Owners. NYLIAC will keep at its headquarters and make available to the Commission, upon request, a memorandum setting forth the basis for this representation. In addition, NYLIAC will keep at its headquarters and make available to the Commission, upon request, a memorandum setting forth the basis for the same representation with respect to Other Policies offered by the Separate Accounts and by Future Accounts.

8. Applicants represent that the Separate Account and any Future Account will invest only in underlying funds that have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such fund, as defined in the 1940 Act, formulate and approve any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Policies, or under Other Policies, offered by the Separate Account or by Future Accounts are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10608 Filed 4–28–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended April 21, 1995

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 50297

Date filed: April 18, 1995.

Parties: Members of the International Air Transport Association.

Subject: Request For Interim Approval of Amendment To The Provisions For The Conduct Of IATA Traffic Conferences.

The amendment was adopted by the IATA Executive Committee at its 159th meeting. The amendment involves Article VI, Paragraph 9 of the Provisions and reads as follows (new text underlined):

One-third of the representatives of the voting Members of a Tariff Conference, and one-fifth of the representatives of the voting Members of a Services Conference or Agency Conference *which have nominated an Accredited Representative to such Conference,* or their respective designated alternates acting in their place and stead, shall constitute the quorum at any meeting of the Traffic Conference concerned: (* * *)

(remainder of paragraph 9 unchanged)

Docket Number: 50298

Date filed: April 18, 1995.

Parties: Members of the International Air Transport Association.

Subject: TC2/TC12 Mail Vote 739, Rescission of Fare Increase from Sudan.

Proposed Effective Date: May 1, 1995.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–10573 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance

In accordance with Title 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for exemptions from or waivers of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RSOP–95–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received within 45 days of the date of publication of this notice, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

American President Lines, Limited and APL Land Transport Services, Incorporated (APL) (Waiver Petition Docket Number RSOP–95–1)

The American President Lines, Limited and APL seek a permanent waiver of compliance with certain provisions of the Railroad Operating Practices regulation (Title 49 CFR Part 218) for derail and blue signal requirements. APL is seeking relief from the requirements of § 218.29(c)(1) which states: "(c) Except as provided in paragraphs (a) and (b) of this section, when workers are on, under, or between rolling equipment on any track, other than main track: (1) A derail capable of restricting access to that portion of the track on which such equipment is located, will fulfill the requirements of a manually operated switch when positioned no less than 150 feet from the end [of] such equipment * * *"

A new container port facility and rail yard, which will be operated by an APL subsidiary, are being designed and built by the Port of Seattle. The new facility is designed to load and unload intermodal trains and is expected to be occupied by the last quarter of 1996. The yard will have the capacity to store up to 56 stack train cars with each such car being a maximum of 337 feet long. There will be 6 parallel spur tracks entering the yard from the south end with a single run-around track to the west of the working tracks. The 6 spurs are arranged in sets of 2 parallel tracks which will be serviced by gantry cranes or top-picks for loading and unloading. The 6 spurs rejoin at the north end to service a single spur which runs north to a "dead end." In the center of the yard is a 70-foot wide crossing aisle that divides each spur. On each side of the aisle, APL plans to load and unload 3 to 5 stack cars on each of the 6 tracks. The 6 tracks will each be about 3,100 feet in length, and the yard will be approximately 3,200 feet in length by about 300 feet in width. APL intends to load or unload trains on all 6 spurs simultaneously. To protect its workmen, APL plans to install blue lights and derailers 5 feet beyond the edge on both sides of the aisle. The 5-foot area between the edge of the aisle and the derailer and blue light signal will be a surface that will immediately dampen the progress of any car that is derailed, so that the car will stop moving before the face of the coupler reaches the aisle. The blue light, derail and red light will all be remotely and automatically controlled from a tower that is within 1,500 feet of the aisle and will have a continuous uninterrupted view of the yard. There will also be a blue light signal and derail across the aisle, 80 feet from the other blue light and derail, which would, APL claims, in essence provide dual protection for the workmen.

The facility will load and unload ships and intermodal unit trains. In a typical operation, a loaded train will enter the yard from the south, pulling enough cars to fill the first track. The speed limit in the yard will be 5 mph. The locomotive will pull these cars onto the first track, where a cut will be made just before the aisle, and those cars to be unloaded on the southeast side of the aisle will be set out. The locomotive will then pull the rest of the cars onto the track north of the aisle where they will be set out. The locomotive will then exit the first track, proceed south on the run-around track to the west of the yard and pickup another cut of cars to fill the second track. This will continue until the incoming train is spotted or all six tracks are filled. Excess cars can be spotted in a storage yard west of and adjacent to the main yard. During the process, once each cut of cars is set out on the appropriate track, the blue lights and derails will be set.

At that point, top lifting type container handling equipment will be used to unload the railroad cars on any given spur. Tractors will move the trailers or containers either to a storage area, or directly to ships that are berthed at the facility. These tractors will use the aisle as the means of access to and from the yard with both chassis and containers. A similar process will be followed when loading unit trains from a ship or the container storage yard.

APL requests waiver of the 150-foot requirement for the blue lights and derail devices to be used in the center aisle in the yard. Each group of workmen will be protected by blue light signals 80 feet apart across the aisle. Each group of workmen will also be protected by two derail devices. The first will be within 5 feet of the coupling face, and the other will be 80 feet from the first derail device, across the aisle. Workmen will not begin working to load or unload the cars on any given spur until the cars have come to a complete stop and are protected as set out in this waiver request. They will be protected by two blue light signals and by two derail devices.

APL states that it "is working with the Port in the process of designing the yard. One important facet of this design is that workmen be able to work in close proximity to the aisle to increase efficiency. As indicated in the Notice of Proposed Rulemaking, when certain criteria are present, a railroad may safely use different approaches to afford blue signal protection." APL states they will meet those criteria. "First, slow speeds are involved since there is a 5 mph speed limit in the yard. Next, control over the movement of the equipment will be placed in the hands of individuals directly responsible for the people who need to be protected. In

VOL 60 ISS 83 MY 1 1995 UMI

the Final Rule, FRA expressed its goal of assuring workers' safety." APL states that "the combination of very low speed, a movement dampening surface, and derails in close proximity to cars that are standing still will limit travel to not more than 5 feet after derailment which is well within FRA's goal to: assure that rolling equipment will not travel more than 50 feet after derailment."

APL states that "the waiver sought by APL will allow construction a modern and efficient rail yard as part of an intermodal facility at the Port of Seattle. By operating with a reduced distance for blue lights and derail devices, APL will be able to fit the yard to the property available. This project will substantially increase the amount of rail business at the Port and in the region. Shorter train movements in the yard will also reduce air emissions in the Port, thereby reducing harm to the environment."

Issued in Washington, D.C. on April 25, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–10580 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–06–P

Petition for Exemption or Waiver of Compliance

In accordance with title 49 CFR sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from the Port Authority Trans-Hudson Corporation (PATH) requests for waivers of compliance with requirements of Federal rail safety standards. The petitions are described below, including the regulatory provisions involved and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number LI–94–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received within 45 days of the date of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Port Authority Trans-Hudson Corporation [Waiver Petition Docket Number LI–94–1]

The Port Authority Trans-Hudson Corporation (PATH) seeks a permanent exemption from the requirement of installing and maintaining event recorders on each of its multiple unit (MU) electric cars, as required by Title 49 CFR Part 229. Section 229.135 requires that all trains operating over 30 mph be equipped with event recorders by May 5, 1995.

PATH operates a 13.8 mile rapid transit system between New Jersey and New York. Approximately one-half of the trackage is below ground level. Over 1,248 train movements per day carry approximately 199,000 passengers five days per week. Four major terminals and nine intermediate stations serve the closed system. Of PATH's total fleet of 342 cars, 260 would require event recorders. PATH has 10 different speed limits ranging from 8 to 55 mph with average speed over the system being approximately 20 mph.

In FRA Docket LI–81–9, the requirements of Title 49 CFR 229.117 were waived as they pertain to PATH. That section required that all locomotives operating over 20 mph must be equipped with a speed indicator. The requirement that each lead locomotive be equipped with a pilot, snow plow or end plate was also waived.

The petitioner cites that since they are excluded from the speed indicator requirements, then they likewise should be excluded from the event recorder requirements since speed is the most important of the recorded functions.

Port Authority Trans-Hudson Corporation [Waiver Petition Docket Number PB–94–2]

The Port Authority Trans-Hudson Corporation (PATH) seeks a permanent waiver of compliance with certain provisions of the Railroad Power Brake and Drawbars Regulation, Title 49 CFR Part 232. PATH is requesting an exemption from the requirement of conducting a rear car application and release test of the air brakes at stub end or intermediate terminals when changing operating ends on rapid transit passenger trains. Title 49 CFR Section 232.13(c)(1) states:

> At a point other than an initial terminal where a locomotive or caboose is changed, or where one or more consecutive cars are cut off from the rear end or head end of a train with the consist otherwise remaining intact, after the train brake system is charged to within 15 pounds of the feed valve setting on the locomotive, but not less than 60 pounds as indicated at the rear of a freight train and 70 pounds on a passenger train, a 20-pound brake pipe reduction must be made and it must be determined that the brakes on the rear car apply and release. As an alternative to the rear car brake application and release test, it shall be determined that brake pipe pressure of the train is being reduced as indicated by a rear car gauge or device and then that brake pipe pressure of the train is being restored as indicated by a rear car gauge or device.

PATH's MU electric cars utilize a dynamic brake through the propulsion system, an electropneumatic tread brake actuated at each wheel and a hand operated parking brake. During service braking the dynamic brake is fully effective down to 10 mph after which the friction brake is used to stop the car. An emergency brake application provides maximum braking effort by the electropneumatic system with the dynamic nullified.

PATH's present operation requires the FRA mandated initial terminal train air brake test when a train is first put in service or the consist is changed. At stub end or intermediate terminals where the engineer changes operating ends, no operation is performed that would interrupt the air lines. PATH states that should a failure occur that interrupted the flow of air on the train, the engineer, on changing ends and charging his train, would not get proper brake pipe pressure nor engineer's indication in his operating cab. This lack of indication advises the engineer that something is wrong and procedures are implemented to determine the source of the problem. PATH believes this indication circuit provides adequate and reliable protection in the event of a trainline failure, and performing a stub end or intermediate terminal air brake test is unnecessary. PATH estimates that compliance with Section 232.13(c)(1) would require 21 additional cars, 6 additional engineers and 6 additional conductors to maintain the present level of service due to the increased time required for the test.

Issued in Washington, D.C. on April 25, 1995.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 95–10599 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

[Docket No. 95–27; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1994 Volvo 945 GL Wagon Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 Volvo 945 GL Wagon passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1994 Volvo 945 GL Wagon that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 31, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9:30 am to 4 pm)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) has petitioned NHTSA to decide whether 1994 Volvo 945 GL Wagon passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1994 Volvo 940 GL Wagon. Champagne has submitted information indicating that the 1994 Volvo 940 GL Wagon was certified as conforming to all applicable Federal motor vehicle safety standards and offered for sale in the United States.

The petitioner contends that it carefully compared the 945 GL Wagon to the 940 GL Wagon, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the 1994 Volvo 945 GL Wagon, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1994 Volvo 940 GL Wagon that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1994 Volvo 945 GL Wagon is identical to the certified 1994 Volvo 940 GL Wagon with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the 1994 Volvo 945 GL Wagon complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.- model taillamp assemblies; (d) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger side rear view mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) installation of a U.S.-model

VOL 60 ISS 83 MY 1 1995 UMI

driver's side air bag and knee bolster. The petitioner states that the vehicle is also equipped in both front seating positions with combination lap and shoulder belts that adjust by means of an automatic retractor and release by means of a single push button. The petitioner further states that the vehicle is equipped at each rear outboard seating position with a lap and shoulder belt and with a lap belt at the rear center seating position.

Standard No. 214 *Side Impact Protection:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 25, 1995.

Marilynne E. Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–10575 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–005; Notice 2]

Decision That Nonconforming 1992 BMW 520i 4–Door Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1992 BMW 520i 4–Door passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 BMW 520i 4–Door passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1992 BMW 525i 4–Door), and they are capable of being readily altered to conform to the standards.

DATE: The decision is effective May 1, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California (Registered Importer R–90–007) petitioned NHTSA to decide whether 1992 BMW 520i 4–Door passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on March 1, 1995 (60 FR 11165) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 110 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1992 BMW 520i 4–Door passenger car is substantially similar to a 1992 BMW 525i 4–Door passenger car originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 25, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–10576 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–29; Notice 1]

Receipt of Petition for Decision That Nonconforming 1984 and 1985 Rolls Royce Camargue Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 1984 and 1985 Rolls Royce Camargue passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1984 and 1985 Rolls Royce Camargues that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) They are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 31, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer 90–007) has petitioned NHTSA to decide whether 1984 and 1985 Rolls Royce Camargue passenger cars are eligible for importation into the United States. The vehicles which G&K believes are substantially similar are the 1984 and 1985 Rolls Royce Camargues that were manufactured for importation into, and sale in, the United States and certified by its manufacturer, Rolls Royce Motors, Ltd., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1984 and 1985 Rolls Royce Camargues to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the non-U.S. certified 1984 and 1985 Rolls Royce Camargues, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1984 and 1985 Rolls Royce Camargues are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion, and* 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.- model headlamps and yellow illuminated sidemarkers; (b) installation of U.S.- model taillamp lenses which incorporate sidemarkers.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* Replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* Installation of a warning buzzer microswitch and a warning buzzer in the steering assembly.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 116 *Brake Fluid:* Molding the required statement into the brake fluid reservoir cap.

Standard No. 118 *Power Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* Installation of a seat belt warning buzzer. The petitioner states that Type 2 seat belts are installed in the vehicle's front and rear outboard seating positions, and that a Type 1 seat belt is installed in the vehicles rear center seating position.

Standard No. 214 *Side Impact Protection:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S. certified 1984 and 1985 Rolls Royce Camargues must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

VOL 60 ISS 83 MY 1 1995 UMI

Issued on: April 26, 1995.

Marilynne E. Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–10641 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–30; Notice 1]

Receipt of Petition for Decision That Nonconforming 1992 Mercedes-Benz 600SL Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1992 Mercedes-Benz 600SL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1992 Mercedes-Benz 600SL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) It is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 31, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Northern California Diagnostics Laboratory, Inc. of Napa, California (NCDL) (Registered Importer No. R–92–011) has petitioned NHTSA to decide whether 1992 Mercedes-Benz 600SL (Model ID 129.076) passenger cars are eligible for importation into the United States. The vehicle which NCDL believes is substantially similar is the 1992 Mercedes-Benz 500SL. NCDL has submitted information indicating that Daimler Benz A.G., the company that manufactured the 1992 Mercedes-Benz 500SL, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 1992 model 600SL to the 1992 model 500SL, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

NCDL submitted information with its petition intended to demonstrate that the 1992 model 600SL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1992 model 500SL that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1992 model 600SL is identical to the certified 1992 model 500SL with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 114 *Theft Protection*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 208 *Occupant Crash Protection*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 301 *Fuel System Integrity*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the 1992 Mercedes-Benz 600SL complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps; (b) installation of front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Modification of the driver's and passenger's side rear view mirrors.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 214 *Side Impact Protection:* Installation of reinforcing beams.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 26, 1995.

Marilynne E. Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–10642 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–32; Notice 1]

Receipt of Petition for Decision That Nonconforming 1994 Mercedes-Benz S320 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 Mercedes-Benz S320 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1994 Mercedes-Benz S320 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 31, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9:30 am to 4 pm.)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1994 Mercedes-Benz S320 (Model ID 140.033) passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1994 Mercedes-Benz S320 that was manufactured for importation into, and sale in, the United States and certified by its manufacturer, Daimler Benz A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1994 Mercedes-Benz S320 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1994 Mercedes-Benz S320, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1994 Mercedes-Benz S320 is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-U.S. certified 1994 Mercedes-Benz S320 complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps; (b) installation of front and rear sidemarker/reflector assemblies; (c) installation of U.S.- model taillamp assemblies; (d) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch and a warning buzzer in the steering lock assembly.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 206 *Door Locks and Door Retention Components:* replacement of the rear door locks and door lock buttons.

VOL
60
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83
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Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) installation of U.S.-model driver's and passenger's side airbags and knee bolsters. The petitioner states that the vehicle is equipped at its front designated seating positions with combination lap and shoulder belts that adjust by means of an automatic retractor and release by means of a single push button. The petitioner also states that the vehicle is equipped in at its rear outboard seating positions with combination lap and shoulder belts that have a single release button, and with a lap belt in the rear center seating position.

Standard No. 214 *Side Impact Protection:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141 (a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 26, 1995.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 95–10639 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 95–31; Notice 1]

Receipt of Petition for Decision That Nonconforming 1994 BMW 520i 4-Door Sedan Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1994 BMW 520i 4-Door Sedan passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1994 BMW 520i 4-Door Sedan that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 31, 1995.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. (Docket hours are from 9:30 am to 4 pm.)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) has petitioned NHTSA to decide whether 1994 BMW 520i 4-Door Sedan passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1994 BMW 525i 4-Door Sedan. Champagne has submitted information indicating that Bayerische Motoren Werke A.G., the company that manufactured the 1994 BMW 525i 4-Door Sedan, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 520i to the 525i, and found the two models to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the 1994 model 520i, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1994 model 525i that was offered for sale in the United States, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the 1994 model 520i is identical to the certified 1994 model 525i with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 Brake Fluid, 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion, and* 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the 1994 model 520i complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.- model headlamp assemblies which incorporate sealed beam headlamps; (b) installation of front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* Replacement of the passenger side rear view mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection:* Installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* Installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* Rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) installation of a U.S.-model driver's side air bag and knee bolster. The petitioner states that the vehicle is equipped at each front designated seating position with a combination lap and shoulder restraint that adjusts by means of an automatic retractor and releases by means of a single push button. The petitioner also states that combination lap and shoulder restraints that release by means of a single push button are installed at both outboard rear seating positions, and that a lap belt is installed in the center rear seating position.

Standard No. 214 *Side Impact Protection:* Installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* Installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 26, 1995.

Marilynne E. Jacobs,

Director, Office Vehicle Safety Compliance.

[FR Doc. 95–10640 Filed 4–28–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Customs Service

Notice of Issuance of Final Determination Concerning Desktop Computers

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that Customs has issued a final determination concerning the country of origin of certain desktop computers which are being offered to the United States Army Information System Selection and Acquisition Agency ("U.S. Army") in a procurement designated under U.S. Army Solicitation No. DAHC94–94–R–0007. The final determination found that based upon the facts presented, the country of origin of desktop computers is the U.S. (Scenarios 1 and 3) and the Netherlands (Scenarios 2 and 4).

DATES: The final determination was issued on April 21, 1995. Any party-at-interest, as defined at 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of (date of publication in the **Federal Register**). A copy of the nonconfidential portions of this final determination will be published in the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT: Anthony A. Tonucci, Attorney-Advisor, Office of Regulations and Rulings, (202) 482–7073.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 21, 1995, pursuant to Subpart B of Part 177, Customs Regulations (19 CFR part 177, subpart B), Customs issued a final determination concerning the country of origin of certain desktop computers which are being offered to the U.S. Army in a procurement designated under U.S. Army Solicitation No. DAHC94–94–R–0007. The U.S. Customs ruling number is HQ 735608. This final determination was issued at the request of one of the offerors under procedures set forth at 19 CFR 177 subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). The final determination concluded that based upon the facts presented, foreign case assemblies, partially completed motherboards, hard disk drives and slot boards are substantially transformed in the U.S. (Scenarios 1 and 3) and the Netherlands (Scenarios 2 and 4) as a result of being further processed and assembled with other components into desktop computers. Accordingly, the country of origin of the desktop computers is the U.S. (Scenarios 1 and 3) and the Netherlands (Scenarios 2 and 4). This document gives notice pursuant to section 177.29, Customs Regulations, (19 CFR 177.29), of that final determination. Any party-at-interest, as defined at 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of May 1, 1995.

Dated: April 21, 1995.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 95–10557 Filed 4–28–95; 8:45 am]

BILLING CODE 4820–02–P

Issuance of Final Determination Concerning Optical Spectroscopy Instrument Systems

AGENCY: U.S. Customs Service, Department of the Treasury.

VOL
60
ISS
83
MY
1
1995
UMI

ACTION: Notice of final determination.

SUMMARY: This document provides notice that Customs has issued a final determination concerning the country of origin of certain optical spectroscopy instrument systems which are being offered to the General Services Administration under GSA Solicitation No. FCGS–Z7–89–0018–2–N. The final determination found that based upon the facts presented, the country of origin of the optical spectroscopy instrument systems is the U.S.

DATES: The final determination was issued on April 10, 1995. A copy of the nonconfidential portions of this final determination will be published in "Customs Bulletin and Decisions." Any party-at-interest, as defined at 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Monika Rice, Attorney-Advisor, Office of Regulations and Rulings, (202–482–6980).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 10, 1995, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), Customs issued a final determination concerning the country of origin of certain optical spectroscopy instrument systems which are being offered to the General Services Administration in a procurement designated under GSA Solicitation No. FCGS–Z7–89–0018–2–N. This final determination was issued at the request of one of the offerors under procedures set forth at 19 CFR part 177 subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). The final determination concluded that based upon the facts presented that Australian optics module shells are substantially transformed in the U.S. as a result of being further processed and assembled with other components into optical spectroscopy instrument systems. Accordingly, the country of origin of the optical spectroscopy instrument systems is the U.S.

This document gives notice pursuant to § 177.29, Customs Regulations (19 CFR 177.29), of that final determination. Any party-at-interest, as defined at 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of May 1, 1995.

Dated: April 10, 1995.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 95–10648 Filed 4–28–95; 8:45 am]

BILLING CODE 4820–02–P

Sunshine Act Meetings

Federal Register

Vol. 60, No. 83

Monday, May 1, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

UNITED STATES DEPARTMENT OF AGRICULTURE

RURAL TELEPHONE BANK, USDA

Staff Briefing for the Board of Directors

TIME AND DATE: 2 p.m., Monday, May 8, 1995.

PLACE: Room 5066, South Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED: General discussion involving privatization planning; draft amendments to the bylaws regarding Bank Board election procedures; and update on the RUS telecommunications loan program.

ACTION: Regular Meeting of the Board of Directors.

TIME AND DATE: 10 a.m., Tuesday, May 9, 1995.

PLACE: Williamsburg Room, Administration Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to Order.
2. Swearing in new Board members.
3. Election of Board Officers: Chairperson and Vice Chairperson.
4. Approval of Minutes of the February 2, 1995, Board meeting.
5. Report on loans approved in the second quarter of FY 1995.
6. Review second quarter financial statements for FY 1995.
7. Report of ad hoc committee on privatization of the RTB.
8. Consideration of a financial advisor to assist the RTB in its preparations for privatization.
9. Consideration of a legal advisor to assist the RTB in its preparations for privatization.
10. Review and discuss draft bylaw amendments modifying the Board's election procedures.
11. Consideration of RTB's 23rd Annual Report of the Board of Directors for FY 1994.
12. Establish date and location of next regular Board meeting.
13. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Matthew P. Link, Assistant Secretary, Rural Telephone Bank (202) 720–0530.

Dated: April 26, 1995.

Wally Beyer,

Governor, Rural Telephone Bank.

[FR Doc. 95–10744 Filed 4–27–95; 2:14 pm]

BILLING CODE 3410–15–P

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant to the Government in the Sunshine Act

(Public Law 94–409) [5 U.S.C. Section 552b]

DATE AND TIME: Friday, May 12, 1995, 11:00 a.m., by telephone conference call.

PLACE: 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815.

STATUS: Open—Meeting.

MATTERS CONSIDERED: The following matters will be considered during the open meeting:

(1) The transfer of three states from the Commission's North Central Region to the Commission's Eastern Region; and

(2) Clarification of the jurisdiction of the Regional Commissioner for the Eastern Region over parole violators held at the Federal Transportation Center in Oklahoma City, Oklahoma. The proposal is to continue the jurisdiction of a Regional Commissioner until the completion of revocation proceedings, if that Commissioner, issued the warrant that commenced such proceedings.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: April 26, 1995.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 95–10791 Filed 4–27–95; 3:04 p.m.]

BILLING CODE 4410–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 1, 1995.

A closed meeting will be held on Wednesday, May 3, 1995, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and 10, permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Wednesday, May 3, 1995, at 10:00 a.m., will be:

Institution of injunctive actions.
Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Regulatory matter regarding financial institutions.
Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: April 27, 1995.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–10736 Filed 4–27–95; 12:00 pm]

BILLING CODE 8010–01–M

VOL
60

ISS
83

MY
1

1995

UMI

federal register

Monday
May 1, 1995

Part II

Department of Housing and Urban Development

Office of the Secretary

Statutorily Mandated Designation of Qualified Census Tracts and Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986; Notice Republication

VOL
60
ISS
83
MY
1
1995
UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-94-3821; FR-3795-N-01]

Statutorily Mandated Designation of Qualified Census Tracts and Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986; Republication

Editorial Note: FR Doc. 94-26217 was originally published at 59 FR 53518 in the issue of Monday, October 24, 1994. In that publication numerous errors were made. The corrected document is republished below in its entirety.

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document provides revised designations of "Qualified Census Tracts" and "Difficult Development Areas" for purposes of the Low-Income Housing Tax Credit ("LIHTC") under section 42 of the Internal Revenue Code of 1986, and provides the methodology used by the United States Department of Housing and Urban Development ("HUD"). The new Qualified Census Tract designations are based on 1990 census data. The new Difficult Development Areas are based on FY 1994 Fair Market Rents ("FMRs"), FY 1994 income limits and 1990 census population counts as explained below.

EFFECTIVE DATE: The lists of Qualified Census Tracts and Difficult Development Areas are effective for allocations of credit made after December 31, 1994. In the case of a building described in Internal Revenue Code section 42(h)(4)(B), the list is effective if the bonds are issued and the building is placed in service after December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–3260, or Kurt G. Usowski, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–0426. A telecommunications device for deaf persons (TDD) is available at (202) 708–9300. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Background

The U.S. Treasury Department and the Internal Revenue Service thereof are authorized to interpret and enforce the provisions of the Internal Revenue Code of 1986 (the "Code"), including the Low-Income Housing Tax Credit ("LIHTC") found at section 42 of the Code, as enacted by the Tax Reform Act of 1986 [Pub. L. 99–514], as amended by the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647], as amended by the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101–239], as amended by the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101–508], as amended by the Tax Extension Act of 1991 [Pub. L. 102–227], and as amended and made permanent by the Omnibus Budget Reconciliation Act of 1993 [Pub. L. 103–66]. The Secretary of HUD is required to designate Qualified Census Tracts and Difficult Development Areas by section 42(d)(5)(C) of the Code.

In order to assist in understanding HUD's mandated designation of Qualified Census Tracts and Difficult Development Areas for use in administering section 42 of the Code, a summary of section 42 is provided. The following summary does not purport to bind the Treasury or the IRS in any way, nor does it purport to bind HUD as HUD has no authority to interpret or administer the Code, except in those instances where it has a specific delegation.

Summary of Low Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (the "credit ceiling") is limited by population. Each state is allocated credit based on $1.25 per resident. Also, states may carry forward unused or returned credit for one year; if not used by then, credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low income housing building owners applying for the credit.

The credit is based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: either 20% of units must be rent-restricted and occupied by tenants with incomes no higher than 50% of the Area Median Gross Income ("AMGI"), or 40% of units must be rent restricted and occupied by tenants with incomes no higher than 60% of AMGI. The term "rent-restricted" means that gross rent, including an allowance for utilities, cannot exceed 30% of the tenant's imputed income limitation (i.e., 50% or 60% of AMGI). The rental restrictions remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low income character of the building for an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either (1) 70 percent of the "qualified basis" for new construction or substantial rehabilitation expenditures that are not federally subsidized or financed with tax-exempt bonds, or (2) 30 percent of the qualified basis for the acquisition of existing projects or projects involving federal subsidies or financing with tax-exempt bonds. The actual credit rates were fixed at 9 percent (70 percent present value) and 4 percent (30 percent present value) for 1987, and are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credit up to a deduction equivalent of $25,000. This equals $9,900 at the 39.6% maximum marginal tax rate. Individuals cannot use the credit against the alternative minimum tax. Corporations, other than S or professional service corporations, can use the credit against ordinary income tax. They cannot use the credit against the alternative minimum tax. These corporations can also use the losses from the project.

The qualified basis represents a fraction of the "eligible basis," based on the number of low income units in the building as a percentage of the total number of units, or based on the floor space of low income units as a percentage of the total floor space in the building. The eligible basis is the adjusted basis attributable to acquisition cost plus the amounts chargeable to capital account incurred prior to the end of the first taxable year in which the qualified low income building is placed in service. In the case of buildings located in designated Qualified Census Tracts or designated Difficult Development Areas, eligible basis is increased to 130% of what it would otherwise be. This means that the available credit will also be increased by 30%; if the 70% credit is available, it will effectively be increased to 91%.

Under section 42(d)(5)(C) of the Code, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50% of households have an income less than 60% of the AMGI. There is a limit on the amount of Qualified Census Tracts in any Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA") that may be designated to receive an increase in eligible basis: all of the designated census tracts within a given MSA/PMSA may not together contain more than 20% of the total population of the MSA/PMSA. For purposes of this rule, all non-metropolitan areas in a state are treated as if they constituted a single metropolitan area.

Section 42 defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. Again, limits apply. All designated Difficult Development Areas in MSAs/PMSAs may not contain more than 20% of the aggregate population of all MSAs/PMSAs, and all designated areas not in metropolitan areas may not contain more than 20% of the aggregate population of the non-metropolitan counties.

An amendment to section 42 made by section 11701(a)(2) of the Omnibus Budget Reconciliation Act of 1990 specifies that the income test for designation of Qualified Census Tracts should be based on the most recent census data. Changes in MSA/PMSA definitions made after HUD's last designation of Qualified Census Tracts and Difficult Development Areas necessitate this notice.

Explanation of HUD Designation Methodology

A. Qualified Census Tracts

In developing this revised list of LIHTC Qualified Census Tracts, HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget that applied as of June 30, 1993. Beginning with the 1990 census, tract-level data are available for the entire country. Generally, in metropolitan areas these geographic divisions are called census tracts while in most non-metropolitan areas the equivalent nomenclature is Block Numbering Area ("BNA"). BNAs are treated as census tracts for the purposes of this Notice.

The LIHTC Qualified Census Tracts were determined as follows:

1. A census tract must have 50% of its households with incomes below 60% of the AMGI to be eligible. HUD has defined 60% of AMGI income as 120% of HUD's Very Low Income Limits, that are based on 50% of area median family income, adjusted for high cost and low income areas. The 1994 income estimates were then deflated to 1989 dollars, so they would match the 1990 Census income data.

2. For each census tract, the percentage of households below the 60% income standard was determined by (a) calculating the average household size of the census tract, (b) applying the income standard after adjusting it to match the average household size, and (c) calculating the number of households with incomes below the income standard.

3. Qualified Census Tracts are those in which 50% or more of the households are income eligible and the population of all census tracts that satisfy this criterion does not exceed 20% of the total population of the respective area.

4. In areas where more than 20% of the population qualifies, census tracts are ordered from the highest percentage of eligible households to the lowest. Starting with the highest percentage, census tracts are included until the 20% limit is exceeded. If a census tract is excluded because it raises the percentage above 20%, then subsequent census tracts are considered to determine if a census tract with a smaller population could be included without exceeding the 20% limit.

B. Difficult Development Areas

In developing the list of Difficult Development Areas, HUD compared incomes with housing costs. HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget that applied as of June 30, 1993. The basis for these comparisons was the HUD income limits and Fair Market Rents ("FMRs") used for the section 8 Housing Assistance Payments Program. The procedure used in making these calculations follows:

1. For each MSA/PMSA and each non-metropolitan county, a ratio was calculated. This calculation used the FY 1994 two-bedroom FMR and the FY 1994 four-person income limit for Very Low Income households. The numerator of the ratio was the ratio of the area FMR to the FY 1994 U.S. average FMR. The denominator of the ratio was the ratio of 60% of the AMGI to 60% of the FY 1994 U.S. average of area median gross incomes.

2. The ratios of the FMR to the income limit were arrayed in descending order, separately, for MSAs/PMSAs and for non-metropolitan counties.

3. The Difficult Development Areas are those with the highest ratios cumulative to 20% of the 1990 population of all metropolitan areas and of all non-metropolitan counties.

4. The American Housing Survey data used to calculate the FMRs for New York City were adjusted by eliminating rent-controlled units. The FMRs were recalculated on the basis of the adjusted data. Because FMRs are based on recent mover rents, the FMRs generally reflect market rents rather than rent-controlled rents. In this case, the adjustment had no impact on the FMR.

C. Application of Caps to Qualified Census Tract and Difficult Development Area Determinations

In identifying Qualified Census Tracts and Difficult Development Areas, HUD applied various caps, or limitations, as noted above. For Qualified Census Tracts, section 42(d)(5)(C)(ii)(II) of the Code specifies that the population of eligible census tracts within a metropolitan area cannot exceed 20% of the population of that metropolitan area. Similarly, for census tracts/BNAs located outside metropolitan areas, the population of eligible census tracts/BNAs cannot exceed 20% of the population of the non-metropolitan counties in a State. The cumulative population of metropolitan Difficult Development Areas cannot exceed 20% of the cumulative population of all metropolitan areas and the cumulative population of non-metropolitan Difficult Development Areas cannot exceed 20% of the cumulative population of all non-metropolitan counties.

In applying these caps, HUD established procedures to deal with two issues: (1) How to proceed when the next logical choice for inclusion causes the cumulative area population to exceed the cap, and (2) how to treat small overruns of the caps. The remainder of this section explains the procedures.

1. Next choice causes cumulative population to exceed the cap. In applying the 20% cap to Qualified Census Tracts, HUD did not attempt to break a borderline census tract into smaller areas. Instead HUD looked tract-by-tract down the ranking beyond the excluded tract to see if a smaller tract could be included without exceeding the cap. The approach to Qualified Census Tracts differs from the treatment of difficult development metropolitan areas because of an important difference in how caps affect each of them. Section 42(d)(5)(C)(ii)(I) of the Code sets a simple test for eligibility for Qualified

VOL
60
ISS
83
MY
1
1995
UMI

Census Tracts. If a tract's low income population exceeds 50% of its total population, then the tract is eligible unless it becomes necessary to eliminate the tract to satisfy the cap. There are many metropolitan areas and States in which the population of eligible areas falls short of 20%. When HUD had to eliminate tracts to satisfy the 20% cap, it was choosing among tracts that were otherwise eligible. By comparison, section (42)(d)(5)(C) does not specify under what conditions an area is automatically a Difficult Development Area. HUD did not attempt to establish a threshold for eligibility. Instead HUD used the 20% cap as a limit on eligibility.

2. For both Qualified Census Tracts and Difficult Development Areas, HUD applied the caps strictly unless a strict application produced an anomalous result. Specifically, HUD stopped selecting areas when it was impossible to choose another area without exceeding the applicable cap. The only exception to this policy was when an excluded area contained either a large absolute population or a large percentage of the total population and its inclusion resulted in only a minor overrun of the cap. There were some cases where the inclusion of an area would result in a minimal overrun of the cap; but, in all of these cases, the exclusion of the area resulted in neither a large absolute loss of population nor a large short-fall below 20%. HUD believes the designation of these areas is consistent with the intent of the legislation. Some latitude is justifiable because it is impossible to really determine whether the 20% cap has been exceeded, as long as the apparent excess is small, due to measurement error. Despite the care and effort involved in a decennial census, it is recognized by the Census Bureau, and all users of the data, that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20% cap. In circumstances where a strict application of a 20% cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting small variances above the 20% limit.

Future Designations

Difficult Development Areas are designated annually as updated income and FMR data become available. Qualified Census Tracts will not be redesignated until year 2000 census data become available.

Other Matters

Environmental Review

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, that implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on Small Entities

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities. The notice involves the designation of "Difficult Development Areas" and "Qualified Census Tracts" for use by political subdivisions of the States in allocating the LIHTC, as required by section 42 of the Internal Revenue Code, as amended. This notice places no new requirements on the States, their political subdivisions, or the applicants for the credit. This notice also details the technical methodology used in making such designations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have any substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the order. The notice merely designates "Difficult Development Areas" and "Qualified Census Tracts" as required under section 42 of the Internal Revenue Code, as amended, for use by political subdivisions of the States in allocating the LIHTC. The notice also details the technical methodology used in making such designations.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being, and is not subject to review under the Order. The notice only designates "Difficult Development Areas" and "Qualified Census Tracts" as required under section 42 of the Internal Revenue Code, as amended, for use by political subdivisions of the States in allocating the LIHTC. The notice also details the technical methodology used in making such designations.

Dated: October 13, 1994.

Henry G. Cisneros,

Secretary.

BILLING CODE 1505-01-D

IRS SECTION 42(D)(5)(C) DIFFICULT DEVELOPMENT AREAS

METROPOLITAN AREAS		METROPOLITAN AREA
STATE	METROPOLITAN AREA	
AK	TUNA, AK	
CA	LOS ANGELES-LONG BEACH, CA	SALINAS, CA
	SANTA BARBARA-SANTA MARIA, CA	SANTA CRUZ-WATSONVILLE, CA
CT	BRIDGEPORT, CT	NEW HAVEN-MERIDEN, CT
FL	DAYTONA BEACH, FL	FORT LAUDERDALE, FL
	PUNTA GORDA, FL	SARASOTA-BRADENTON, FL
HI	HONOLULU, HI	
MA	BARNSTABLE-YARMOUTH, MA	BOSTON, MA-NH
ME	PORTLAND, ME	
NH	PORTSMOUTH-ROCHESTER, NH-ME	
NJ	ATLANTIC-CAPE MAY, NJ	JERSEY CITY, NJ
NY	NASSAU-SUFFOLK, NY	NEW YORK, NY
PR	AGUADILLA, PR	ARECIBO, PR
	PONCE, PR	SAN JUAN-BAYAMON, PR
TX	EL PASO, TX	LAREDO, TX

	METROPOLITAN AREA	
CA	SAN FRANCISCO, CA	SAN LUIS OBISPO-ATASCADERO
	SANTA ROSA, CA	VENTURA, CA
CT	STAMFORD-NORWALK, CT	
FL	FORT PIERCE-PORT LUCIE, FL	MIAMI, FL
	WEST PALM BEACH-BOCA RATON, FL	
MA	FITCHBURG-LEOMINSTER, MA	WORCESTER, MA-CT
NJ	MONMOUTH-OCEAN, NJ	VINELAND-MILLVILLE-BRIDGETON
PA	NEWBURGH, NY-PA	
PR	CAGUAS, PR	MAYAGUEZ, PR

IRS SECTION 42(D)(5)(C) DIFFICULT DEVELOPMENT AREAS

NONMETROPOLITAN AREAS

STATE	COUNTY	COUNTY	COUNTY	COUNTY
--	PACIFIC ISLANDS			
AK	BETHEL CENSUS AREA	DILLINGHAM CENSUS AREA	FAIRBANKS NORTH STAR BOROUGH	HAINES BOROUGH
	JUNEAU BOROUGH	KETCHIKAN GATEWAY BOROUGH	KODIAK ISLAND BOROUGH	LAKE AND PENINSULA BOROUGH
	NOME CENSUS AREA	NORTH SLOPE BOROUGH	NORTHWEST ARCTIC BOROUGH	
AL	COFFEE COUNTY	MACON COUNTY		
AR	BAXTER COUNTY	CONWAY COUNTY	GARLAND COUNTY	HOT SPRING COUNTY
	LINCOLN COUNTY	MADISON COUNTY	MISSISSIPPI COUNTY	VAN BUREN COUNTY
AZ	COCHISE COUNTY	COCONINO COUNTY	GILA COUNTY	SANTA CRUZ COUNTY
	YAVAPAI COUNTY			
CA	ALPINE COUNTY	AMADOR COUNTY	CALAVERAS COUNTY	DEL NORTE COUNTY
	HUMBOLDT COUNTY	IMPERIAL COUNTY	INYO COUNTY	KINGS COUNTY
	LAKE COUNTY	MARIPOSA COUNTY	MENDOCINO COUNTY	MONO COUNTY
	NEVADA COUNTY	PLUMAS COUNTY	SAN BENITO COUNTY	SIERRA COUNTY
	SISKIYOU COUNTY	TUOLUMNE COUNTY		
CO	EAGLE COUNTY	GARFIELD COUNTY	GILPIN COUNTY	GRAND COUNTY
	LA PLATA COUNTY	LAKE COUNTY	OURAY COUNTY	PITKIN COUNTY
	ROUTT COUNTY	SAN MIGUEL COUNTY	SUMMIT COUNTY	
CT	LITCHFIELD COUNTY	MIDDLESEX COUNTY	NEW LONDON COUNTY	WINDHAM COUNTY
DE	SUSSEX COUNTY			
FL	CITRUS COUNTY	DESOTO COUNTY	FRANKLIN COUNTY	GLADES COUNTY
	HARDEE COUNTY	HENDRY COUNTY	HIGHLANDS COUNTY	INDIAN RIVER COUNTY
	MONROE COUNTY	OKEECHOBEE COUNTY	TAYLOR COUNTY	
GA	BULLOCH COUNTY	BUTTS COUNTY	CAMDEN COUNTY	DAWSON COUNTY
	LIBERTY COUNTY	UNION COUNTY		
HI	HAWAII COUNTY	KAUAI COUNTY	MAUI COUNTY	
ID	BONNER COUNTY	KOOTENAI COUNTY		
KS	RILEY COUNTY			
KY	ADAIR COUNTY	BELL COUNTY	BRECKINRIDGE COUNTY	ESTILL COUNTY
	FLOYD COUNTY	FULTON COUNTY	JOHNSON COUNTY	LINCOLN COUNTY
	LIVINGSTON COUNTY	MORGAN COUNTY	NICHOLAS COUNTY	PERRY COUNTY
	PIKE COUNTY	PULASKI COUNTY	ROWAN COUNTY	

IRS SECTION 42(D)(5)(C) DIFFICULT DEVELOPMENT AREAS

NONMETROPOLITAN AREAS

STATE	COUNTY	COUNTY	COUNTY	COUNTY
LA	BIENVILLE PARISH	MOREHOUSE PARISH	NATCHITOCHES PARISH	SABINE PARISH
	TANGIPAHOA PARISH	VERNON PARISH	WEST FELICIANA PARISH	
MA	BARNSTABLE COUNTY	DUKES COUNTY	FRANKLIN COUNTY	HAMPDEN COUNTY
	HAMPSHIRE COUNTY	NANTUCKET COUNTY		
MD	ST. MARY'S COUNTY	WICOMICO COUNTY		
ME	ANDROSCOGGIN COUNTY	AROOSTOOK COUNTY	CUMBERLAND COUNTY	FRANKLIN COUNTY
	HANCOCK COUNTY	KENNEBEC COUNTY	KNOX COUNTY	LINCOLN COUNTY
	OXFORD COUNTY	PISCATAQUIS COUNTY	SAGADAHOC COUNTY	SOMERSET COUNTY
	WALDO COUNTY	WASHINGTON COUNTY	YORK COUNTY	
MO	CAMDEN COUNTY			
MS	ADAMS COUNTY	BOLIVAR COUNTY	CLAIBORNE COUNTY	COAHOMA COUNTY
	COPIAH COUNTY	FORREST COUNTY	GEORGE COUNTY	ISSAQUENA COUNTY
	LAFAYETTE COUNTY	LAUDERDALE COUNTY	LEFLORE COUNTY	SUNFLOWER COUNTY
	TATE COUNTY	WASHINGTON COUNTY	YAZOO COUNTY	
MT	MISSOULA COUNTY			
NC	CAMDEN COUNTY	DARE COUNTY	PASQUOTANK COUNTY	WATAUGA COUNTY
NH	BELKNAP COUNTY	CARROLL COUNTY	CHESHIRE COUNTY	GRAFTON COUNTY
	HILLSBOROUGH COUNTY	MERRIMACK COUNTY	ROCKINGHAM COUNTY	STRAFFORD COUNTY
	SULLIVAN COUNTY			
NM	CHAVES COUNTY	CURRY COUNTY	LINCOLN COUNTY	MCKINLEY COUNTY
	QUAY COUNTY	RIO ARRIBA COUNTY	SAN MIGUEL COUNTY	TAOS COUNTY
NV	CARSON CITY	CHURCHILL COUNTY	DOUGLAS COUNTY	MINERAL COUNTY
	PERSHING COUNTY			
NY	CLINTON COUNTY	COLUMBIA COUNTY	CORTLAND COUNTY	ESSEX COUNTY
	GREENE COUNTY	HAMILTON COUNTY	JEFFERSON COUNTY	SCHUYLER COUNTY
	SULLIVAN COUNTY	TOMPKINS COUNTY	ULSTER COUNTY	
OR	CLATSOP COUNTY	COOS COUNTY	CURRY COUNTY	DESCHUTES COUNTY
	GILLIAM COUNTY	HOOD RIVER COUNTY	JEFFERSON COUNTY	JOSEPHINE COUNTY
	KLAMATH COUNTY	LINCOLN COUNTY		
PA	MONROE COUNTY	NORTHUMBERLAND COUNTY	WAYNE COUNTY	
PR	ALL			
RI	NEWPORT COUNTY	WASHINGTON COUNTY		

IRS SECTION 42(D)(5)(C) DIFFICULT DEVELOPMENT AREAS

NONMETROPOLITAN AREAS

STATE	COUNTY	COUNTY	COUNTY	COUNTY
SC	BEAUFORT COUNTY	FAIRFIELD COUNTY		
SD	FAULK COUNTY	SPINK COUNTY		
TN	HAYWOOD COUNTY	TROUSDALE COUNTY		
TX	ANDERSON COUNTY	ARANSAS COUNTY	BURLESON COUNTY	CAMP COUNTY
	GILLESPIE COUNTY	HOPKINS COUNTY	HUDSPETH COUNTY	JASPER COUNTY
	KERR COUNTY	KIMBLE COUNTY	KLEBERG COUNTY	LLANO COUNTY
	NACOGDOCHES COUNTY	POLK COUNTY	RAINS COUNTY	RED RIVER COUNTY
	ROBERTSON COUNTY	TYLER COUNTY	VAL VERDE COUNTY	VAN ZANDT COUNTY
	WALKER COUNTY	WASHINGTON COUNTY		
UT	DAGGETT COUNTY	IRON COUNTY	WASHINGTON COUNTY	
VA	CAROLINE COUNTY	FREDERICK COUNTY	KING AND QUEEN COUNTY	MADISON COUNTY
	ORANGE COUNTY	WESTMORELAND COUNTY		
VI	VIRGIN ISLANDS			
VT	ADDISON COUNTY	BENNINGTON COUNTY	LAMOILLE COUNTY	ORANGE COUNTY
	RUTLAND COUNTY	WASHINGTON COUNTY	WINDHAM COUNTY	WINDSOR COUNTY
WA	CLALLAM COUNTY	DOUGLAS COUNTY	GRAYS HARBOR COUNTY	JEFFERSON COUNTY
	SAN JUAN COUNTY	SKAGIT COUNTY		
WV	GREENBRIER COUNTY	TAYLOR COUNTY	UPSHUR COUNTY	
WY	TETON COUNTY			

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Abilene, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Taylor County	0102.00	0108.00	0110.00	0111.00	0118.00	0119.00						

METROPOLITAN AREA: Akron, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Portage County	6015.00											
Summit County	5011.00	5012.00	5013.01	5013.02	5014.00	5015.00	5017.00	5018.00	5019.00	5024.00	5025.00	5031.00
	5032.00	5034.00	5038.00	5041.00	5042.00	5043.00	5044.00	5053.00	5056.00	5063.04	5065.00	5066.00
	5067.00	5068.00	5069.00	5074.00	5101.00	5103.01						

METROPOLITAN AREA: Albany, GA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dougherty County	0002.00	0008.00	0012.00	0013.00	0014.01	0014.02	0015.00	0106.01				

METROPOLITAN AREA: Albany-Schenectady-Troy, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Albany County	0002.00	0005.01	0006.00	0007.00	0008.00	0011.00	0015.00	0025.00	0128.00	0129.00	0132.00	
Montgomery County	0701.00	0702.00	0706.00	0709.00								
Rensselaer County	0404.00	0407.00										
Schenectady County	0209.00	0210.01	0210.02									

METROPOLITAN AREA: Albuquerque, NM

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bernalillo County	0006.02	0009.01	0012.00	0013.00	0014.00	0015.00	0016.00	0020.00	0028.00	0034.00	0044.01	0045.01
	0045.02	0048.00										
Sandoval County	0102.00											

METROPOLITAN AREA: Alexandria, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Rapides Parish	0111.00	0119.00	0120.00	0127.00	0129.00							

METROPOLITAN AREA: Allentown-Bethlehem-Easton, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Carbon County	0204.00											
Lehigh County	0004.00	0005.00	0009.00	0010.00	0011.00	0013.00						
Northampton County	0105.00	0110.00	0144.00									

METROPOLITAN AREA: Altoona, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Blair County	1016.00	1019.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Amarillo, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Potter County	0106.00	0111.00	0113.00	0114.00	0120.00	0121.00	0122.00	0123.00	0126.00	0129.00	0130.00	0131.00
	0140.00											

METROPOLITAN AREA: Anchorage, AK

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anchorage Borough	0003.00	0004.00	0006.00	0009.01	0011.00							

METROPOLITAN AREA: Ann Arbor, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lenawee County	0613.00	0616.00										
Washtenaw County	4001.00	4002.00	4003.00	4005.00	4007.00	4008.00	4022.00	4026.00	4106.00	4107.00	4110.00	4111.00
	4112.00											

METROPOLITAN AREA: Anniston, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Calhoun County	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00						

METROPOLITAN AREA: Appleton-Oshkosh-Neenah, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Outagamie County	0101.00											
Winnebago County	0006.00	0007.00										

METROPOLITAN AREA: Asheville, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Buncombe County	0001.00	0002.00	0009.00									
Madison County	0102.00	0103.00										

METROPOLITAN AREA: Athens, GA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clarke County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0009.00	0016.98				

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Atlanta, GA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Carroll County	9905.00											
Cherokee County	0912.98											
Clayton County	0403.01											
Cobb County	0307.00	0308.00	0309.02									
Coweta County	1706.00											
DeKalb County	0205.00	0206.00	0207.00	0208.00	0209.00	0212.04	0221.00	0224.02	0227.00	0237.00		
Fulton County	0007.00	0008.00	0010.95	0017.00	0018.00	0020.00	0021.00	0022.00	0023.00	0024.00	0025.00	0026.00
	0028.00	0029.00	0031.00	0032.00	0033.00	0035.00	0036.00	0037.00	0038.00	0039.00	0040.00	0042.95
	0043.00	0044.00	0046.95	0048.00	0052.00	0055.01	0055.02	0056.00	0057.00	0058.00	0060.00	0062.00
	0063.00	0064.00	0066.01	0066.02	0067.00	0068.02	0071.00	0072.00	0073.00	0074.00	0075.00	0076.01
	0078.04	0081.02	0082.02	0083.01	0083.02	0084.00	0085.00	0086.01	0086.02	0087.01	0087.02	0088.00
	0106.01	0109.00	0110.00	0112.01								
Newton County	1004.00	1006.00										
Spalding County	1603.00	1604.00	1607.00	1608.00	1609.00							
Walton County	1103.00	1104.00										

METROPOLITAN AREA: Atlantic-Cape May, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Atlantic County	0008.00	0011.00	0014.00	0015.00	0018.00	0019.00	0023.00	0024.00	0025.00			
Cape May County	0214.00	0215.00										

METROPOLITAN AREA: Augusta-Aiken, GA-SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
McDuffie County	9502.00											
Richmond County	0002.00	0003.00	0004.00	0006.00	0007.00	0008.00	0009.00	0014.00	0015.00	0104.00	0106.00	
Aiken County	0214.00	0218.00										

METROPOLITAN AREA: Austin-San Marcos, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bastrop County	9507.00											
Caldwell County	9602.00	9604.00	9607.00									
Hays County	0101.00	0102.00	0103.01	0103.02	0105.00							
Travis County	0003.01	0003.02	0004.02	0005.00	0006.01	0006.03	0006.04	0007.00	0008.02	0008.03	0008.04	0009.01
	0009.02	0010.00	0013.05	0013.07	0018.04	0018.05	0018.06	0018.12	0021.05	0021.09	0021.10	0021.11
	0023.04	0023.05	0023.06	0023.07	0023.10	0023.12	0024.13					
Williamson County	0210.00	0211.00	0214.02									

METROPOLITAN AREA: Bakersfield, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kern County	0004.00	0011.03	0012.00	0013.00	0014.00	0015.00	0016.00	0020.00	0021.00	0022.00	0023.02	0025.00
	0048.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Baltimore, MD

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anne Arundel County	7028.00	7411.00										
Baltimore County	4016.01	4016.02	4084.00	4210.00	4507.00	4508.01	4508.02					
Baltimore city	0301.00	0302.00	0402.00	0501.00	0603.00	0604.00	0605.00	0701.00	0702.00	0703.00	0704.00	0802.00
	0803.01	0804.00	0805.00	0806.00	0807.00	0808.00	0904.00	0908.00	0909.00	1001.00	1002.00	1004.00
	1102.00	1203.00	1204.00	1205.00	1206.00	1301.00	1302.00	1303.00	1304.00	1401.00	1402.00	1403.00
	1501.00	1502.00	1504.00	1505.00	1506.00	1508.02	1512.00	1513.00	1601.00	1602.00	1603.00	1604.00
	1606.00	1702.00	1703.00	1801.00	1802.00	1803.00	1901.00	1902.00	1903.00	2001.00	2002.00	2003.00
	2004.00	2005.00	2101.01	2102.01	2301.00	2502.03	2502.04	2502.07	2503.01	2503.02	2503.03	2505.00
	2506.00	2603.03	2604.01	2604.02	2604.98	2606.04	2717.00	2718.01	2718.02	2804.04		

METROPOLITAN AREA: Bangor, ME

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Penobscot County	0001.00	0080.02										

METROPOLITAN AREA: Barnstable-Yarmouth, MA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Barnstable County	0124.00											

METROPOLITAN AREA: Baton Rouge, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ascension Parish	0308.00	0309.00										
East Baton Rouge Parish	0001.00	0002.00	0003.00	0005.00	0006.01	0008.00	0009.00	0010.00	0011.04	0013.00	0014.00	0015.00
	0016.00	0021.00	0022.00	0024.00	0025.00	0028.00	0030.01	0030.02	0031.01	0031.02	0033.00	0040.07
West Baton Rouge Parish	0202.00											

METROPOLITAN AREA: Beaumont-Port Arthur, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	0001.03	0007.00	0008.00	0009.00	0010.00	0014.00	0015.00	0017.00	0018.00	0019.00	0022.00	0023.00
	0024.00	0051.00	0052.00	0053.00	0054.00	0057.00	0058.00	0059.00	0060.00	0061.00	0062.00	
Orange County	0202.00											

METROPOLITAN AREA: Bellingham, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Whatcom County	0006.00	0010.00										

METROPOLITAN AREA: Benton Harbor, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berrien County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0021.00	0022.00	0023.00	0205.00		

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Bergen-Passaic, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bergen County	0031.97	0280.98										
Passaic County	1251.97	1251.98	1752.00	1753.00	1754.00	1755.00	1758.00	1759.00	1804.00	1805.00	1806.00	1807.00
	1808.00	1809.00	1811.00	1813.00	1814.00	1815.00	1816.01	1816.02	1817.01	1817.02	1818.00	1820.00
	1821.00	1822.00	1823.00	1827.00	1828.00	1829.00	1830.00					

METROPOLITAN AREA: Billings, MT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yellowstone County	0001.00	0002.00	0003.00									

METROPOLITAN AREA: Biloxi-Gulfport-Pascagpula, MS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Harrison County	0001.00	0003.00	0005.00	0018.00	0023.00							
Jackson County	0423.00											

METROPOLITAN AREA: Binghamton, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Broome County	0002.00	0003.00	0005.00	0010.00	0011.00	0012.00	0013.00	0135.00				

METROPOLITAN AREA: Birmingham, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	0003.00	0005.00	0007.00	0008.00	0012.00	0014.00	0015.00	0016.00	0023.03	0023.04	0024.00	0027.00
	0029.00	0030.02	0032.00	0033.00	0039.00	0040.00	0042.00	0045.00	0051.01	0055.00	0057.01	0101.00
	0103.01	0103.02	0104.01	0106.02	0130.02	0131.00						

METROPOLITAN AREA: Bloomington, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Monroe County	0001.00	0002.02	0006.00	0016.00								

METROPOLITAN AREA: Bloomington-Normal, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
McLean County	0001.01	0002.00	0013.02	0015.00	0016.00							

METROPOLITAN AREA: Boise City, ID

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ada County	0001.00	0011.00										
Canyon County	0201.00	0202.00	0213.00	0214.00	0220.00							

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Boston, MA-NH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bristol County	6138.00											
Essex County	2043.00	2060.00	2061.00	2062.00	2068.00	2069.00	2070.00	2072.00	2108.00	2215.00		
Middlesex County	3522.00	3524.00	3527.00									
Norfolk County	4102.00	4178.02	7621.95									
Plymouth County	5071.02											
Suffolk County	0004.01	0006.02	0007.01	0007.02	0101.01	0101.02	0102.00	0103.00	0104.01	0104.02	0302.00	0402.00
	0501.00	0502.00	0503.00	0504.00	0506.00	0507.00	0607.00	0608.00	0610.00	0611.00	0613.00	0701.00
	0702.00	0704.00	0711.00	0712.00	0801.00	0802.00	0803.00	0804.00	0805.00	0806.00	0807.00	0808.00
	0810.00	0812.00	0813.00	0815.00	0816.00	0817.00	0818.00	0821.00	0902.00	0903.00	0904.00	0905.00
	0906.00	0907.00	0913.00	0915.00	0916.00	0918.00	0924.00	1001.00	1002.00	1101.01	1102.00	1205.00
	1602.00	1604.00	1605.00	1707.00								

METROPOLITAN AREA: Boulder-Longmont, CO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Boulder County	0122.02	0122.04	0122.05	0123.00	0124.01	0126.02	0126.04	0134.01				

METROPOLITAN AREA: Brazoria, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brazoria County	0628.00											

METROPOLITAN AREA: Bremerton, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kitsap County	0808.98	0810.00	0813.00									

METROPOLITAN AREA: Bridgeport, CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	0703.00	0705.00	0706.00	0708.00	0709.00	0712.00	0713.00	0714.00	0715.00	0716.00	0717.00	0736.00
	0738.00	0739.00	0740.00	0741.00	0742.00	0743.00	0744.00					

METROPOLITAN AREA: Brockton, MA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Plymouth County	5103.00	5104.00	5109.00	5112.00	5114.00							

METROPOLITAN AREA: Brownsville-Harlingen-San Benito, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cameron County	0109.00	0111.00	0126.03	0131.05	0133.02	0134.01	0138.01	0138.02	0139.01	0139.02	0140.01	0140.02
	0141.00											

METROPOLITAN AREA: Bryan-College Station, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brazos County	0005.00	0014.00	0015.00	0017.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Buffalo-Niagara Falls, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Erie County	0003.00	0004.00	0012.00	0013.01	0013.02	0014.02	0015.00	0016.00	0020.00	0025.01	0025.02	0026.00
	0027.01	0027.02	0028.00	0029.00	0031.00	0032.01	0032.02	0033.02	0034.00	0035.00	0036.00	0040.02
	0044.02	0055.00	0056.00	0060.00	0061.00	0062.02	0064.00	0069.00	0070.00	0071.01	0071.02	0072.01
	0119.01	0121.00	0122.00	0148.04								
Niagara County	0202.00	0205.00	0209.00	0211.00	0212.00	0213.00	0237.00					

METROPOLITAN AREA: Burlington, VT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chittenden County	0003.00	0004.00	0005.00	0010.00								
Franklin County	0107.00											

METROPOLITAN AREA: Canton-Massillon, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Stark County	7001.00	7015.00	7017.00	7018.00	7023.00	7101.00	7104.00	7105.00	7138.00			

METROPOLITAN AREA: Casper, WY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Natrona County	0001.00	0002.00	0013.02									

METROPOLITAN AREA: Cedar Rapids, IA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Linn County	0019.00	0020.00	0022.00	0027.00								

METROPOLITAN AREA: Champaign-Urbana, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Champaign County	0001.00	0002.00	0003.00	0004.00	0014.00	0051.00	0052.00	0059.00	0060.00			

METROPOLITAN AREA: Charleston-North Charleston, SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Charleston County	0004.00	0006.00	0007.00	0009.00	0010.00	0011.00	0012.00	0013.00	0014.00	0015.00	0033.00	0037.00
	0041.00	0043.00	0044.00	0045.00								

METROPOLITAN AREA: Charleston, WV

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kanawha County	0001.00	0007.00	0009.00	0012.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Charlotte-Gastonia-Rock Hill, NC-SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cabarrus County	0421.00											
Gaston County	0319.00	0320.00	0330.00									
Mecklenburg County	0001.00	0003.00	0004.00	0006.00	0008.00	0009.00	0023.00	0037.00	0039.01	0039.02	0045.00	0047.00
	0048.00	0050.00	0051.00	0052.00								
Rowan County	0501.00	0504.00	0508.00									
York County	0013.02	0604.02	0605.01	0616.01	0617.02							

METROPOLITAN AREA: Charlottesville, VA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Albemarle County	0115.98											
Charlottesville city	0002.01	0002.98	0004.97	0006.00								

METROPOLITAN AREA: Chattanooga, TN-GA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hamilton County	0002.00	0003.00	0004.00	0008.00	0011.00	0012.00	0014.00	0015.00	0016.00	0019.00	0020.00	0021.00
	0023.00	0025.00	0027.00	0031.00								

METROPOLITAN AREA: Cheyenne, WY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Laramie County	0001.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Chicago, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cook County	0101.00	0105.00	0303.00	0311.00	0312.00	0315.00	0316.00	0317.00	0320.00	0321.00	0514.00	0605.00
	0707.00	0708.00	0804.00	0805.00	0808.00	0819.00	1401.00	1402.00	1406.00	2005.00	2108.00	2109.00
	2205.00	2207.00	2208.00	2209.00	2210.00	2211.00	2213.00	2214.00	2215.00	2217.00	2223.00	2224.00
	2225.00	2226.00	2227.00	2228.00	2229.00	2301.00	2302.00	2303.00	2304.00	2305.00	2307.00	2309.00
	2310.00	2312.00	2315.00	2316.00	2317.00	2318.00	2401.00	2406.00	2407.00	2408.00	2409.00	2410.00
	2411.00	2413.00	2414.00	2415.00	2416.00	2417.00	2418.00	2420.00	2421.00	2422.00	2423.00	2425.00
	2426.00	2427.00	2429.00	2431.00	2432.00	2433.00	2434.00	2501.00	2509.00	2510.00	2511.00	2514.00
	2515.00	2517.00	2518.00	2519.00	2520.00	2521.00	2522.00	2601.00	2602.00	2603.00	2604.00	2605.00
	2606.00	2607.00	2608.00	2609.00	2610.00	2701.00	2702.00	2703.00	2704.00	2705.00	2706.00	2707.00
	2708.00	2709.00	2710.00	2711.00	2712.00	2713.00	2714.00	2715.00	2716.00	2717.00	2718.00	2719.00
	2803.00	2804.00	2805.00	2806.00	2807.00	2808.00	2809.00	2810.00	2811.00	2812.00	2813.00	2814.00
	2815.00	2816.00	2817.00	2818.00	2826.00	2827.00	2828.00	2831.00	2832.00	2836.00	2837.00	2838.00
	2839.00	2840.00	2841.00	2842.00	2843.00	2902.00	2903.00	2904.00	2905.00	2906.00	2908.00	2909.00
	2910.00	2911.00	2912.00	2913.00	2914.00	2915.00	2916.00	2917.00	2918.00	2919.00	2920.00	2922.00
	2923.00	2924.00	2925.00	2926.00	3001.00	3002.00	3003.00	3004.00	3005.00	3006.00	3007.00	3008.00
	3009.00	3010.00	3011.00	3012.00	3013.00	3014.00	3015.00	3016.00	3017.00	3018.00	3101.00	3102.00
	3105.00	3106.00	3107.00	3108.00	3109.00	3110.00	3111.00	3112.00	3113.00	3114.00	3204.00	3301.00
	3302.00	3303.00	3304.00	3402.00	3404.00	3405.00	3406.00	3502.00	3504.00	3506.00	3507.00	3511.00
	3512.00	3513.00	3514.00	3515.00	3601.00	3602.00	3603.00	3604.00	3605.00	3701.00	3702.00	3703.00
	3704.00	3801.00	3802.00	3803.00	3804.00	3805.00	3806.00	3807.00	3808.00	3809.00	3810.00	3811.00
	3812.00	3813.00	3814.00	3815.00	3816.00	3817.00	3818.00	3819.00	3820.00	3901.00	3902.00	3903.00
	3904.00	4001.00	4002.00	4003.00	4004.00	4005.00	4006.00	4007.00	4008.00	4102.00	4201.00	4202.00
	4203.00	4204.00	4205.00	4206.00	4207.00	4208.00	4209.00	4210.00	4211.00	4212.00	4302.00	4303.00
	4304.00	4305.00	4306.00	4308.00	4310.00	4313.00	4401.00	4501.00	4601.00	4602.00	4603.00	4607.00
	4608.00	4609.00	4610.00	4901.00	4902.00	4910.00	4913.00	4914.00	5002.00	5105.00	5201.00	5202.00
	5301.00	5401.00	5602.00	5901.00	6003.00	6007.00	6008.00	6009.00	6013.00	6101.00	6102.00	6103.00
	6104.00	6106.00	6110.00	6111.00	6112.00	6113.00	6114.00	6115.00	6116.00	6117.00	6118.00	6119.00
	6120.00	6121.00	6122.00	6301.00	6306.00	6601.00	6602.00	6603.00	6606.00	6609.00	6701.00	6702.00
	6703.00	6705.00	6706.00	6707.00	6708.00	6709.00	6710.00	6711.00	6712.00	6713.00	6715.00	6716.00
	6717.00	6801.00	6802.00	6803.00	6804.00	6805.00	6806.00	6807.00	6808.00	6809.00	6810.00	6811.00
	6812.00	6813.00	6814.00	6901.00	6902.00	6903.00	6904.00	6906.00	6908.00	6909.00	6911.00	6912.00
	6915.00	7102.00	7103.00	7107.00	7109.00	8133.00	8175.00	8215.00	8236.03	8243.00	8260.00	8269.01
	8269.02	8273.00	8274.00	8290.00	8291.00	8297.00						
DeKalb County	0010.00	0011.00	0012.00									
Kane County	8512.00	8515.00	8536.00	8537.00	8546.98							
Lake County	8623.00	8628.00										
Will County	8813.00	8819.00	8820.00	8825.00								

METROPOLITAN AREA: Chico-Paradise, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Butte County	0006.02	0028.00	0030.00									

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Cincinnati, OH-KY-IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Campbell County	0501.00	0502.00	0504.00	0505.00	0506.00	0512.00						
Kenton County	0603.00	0604.00	0605.00	0606.00	0607.00	0609.00	0620.00	0651.00				
Pendleton County	9903.00											
Brown County	9517.00											
Hamilton County	0002.00	0003.01	0003.02	0004.00	0007.00	0008.00	0009.00	0010.00	0011.00	0014.00	0015.00	0016.00
	0017.00	0021.00	0022.00	0023.00	0025.00	0026.00	0028.00	0030.00	0032.00	0033.00	0034.00	0035.00
	0036.00	0037.00	0038.00	0039.00	0043.00	0044.00	0047.02	0055.00	0066.00	0067.00	0068.00	0069.00
	0074.00	0077.00	0078.00	0080.00	0085.02	0086.01	0087.00	0089.00	0091.00	0093.00	0094.00	0103.00
	0219.00	0227.00										
Warren County	0304.00											

METROPOLITAN AREA: Clarksville-Hopkinsville, TN-KY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Montgomery County	1008.00											

METROPOLITAN AREA: Cleveland-Lorain-Elyria, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ashtabula County	0001.03	0004.00	0007.01	0007.04								
Cuyahoga County	1011.01	1012.00	1013.00	1016.00	1017.00	1018.00	1019.00	1025.00	1026.00	1027.00	1028.00	1029.00
	1031.00	1032.00	1033.00	1034.00	1035.00	1037.00	1038.00	1039.00	1041.00	1042.00	1043.00	1044.00
	1045.00	1046.00	1047.01	1047.02	1048.00	1049.00	1051.00	1053.00	1055.00	1056.01	1072.00	1073.00
	1074.00	1075.00	1077.00	1079.00	1081.00	1082.00	1083.00	1084.00	1085.00	1087.00	1088.00	1089.00
	1093.00	1096.00	1097.00	1098.00	1104.00	1105.00	1106.00	1107.00	1108.00	1111.00	1112.00	1113.00
	1114.01	1114.02	1115.00	1116.00	1117.00	1118.00	1119.02	1121.00	1122.00	1123.00	1124.00	1125.00
	1126.00	1127.00	1128.00	1129.00	1131.00	1132.00	1133.00	1134.00	1135.00	1136.00	1137.00	1138.00
	1139.00	1141.00	1142.00	1143.00	1144.00	1145.00	1146.00	1147.00	1148.00	1149.00	1151.00	1152.00
	1153.00	1154.00	1155.00	1158.00	1161.00	1162.00	1163.00	1164.00	1165.00	1166.00	1168.00	1169.00
	1172.01	1173.00	1181.00	1182.00	1183.00	1184.00	1185.00	1186.01	1186.02	1187.00	1189.00	1191.00
	1192.02	1193.00	1194.02	1195.02	1196.00	1197.02	1198.00	1199.00	1201.00	1202.00	1204.00	1205.00
	1206.00	1207.01	1208.01	1208.02	1212.00	1213.00	1214.01	1244.00	1275.00	1503.00	1504.00	1511.00
	1512.00	1513.00	1514.00	1515.00	1517.00	1518.00	1527.01	1915.00	1939.00			
Lake County	2059.96	2061.97										
Lorain County	0223.00	0228.00	0231.00	0232.00	0233.00	0238.00	0708.00	0714.00				

METROPOLITAN AREA: Colorado Springs, CO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
El Paso County	0003.02	0022.00	0023.00	0026.00	0029.00							

METROPOLITAN AREA: Columbia, MO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Boone County	0001.00	0002.00	0003.00	0004.00	0005.00	0008.00	0009.00					

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Columbia, SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lexington County	0215.97											
Richland County	0001.00	0002.00	0003.00	0005.00	0009.00	0010.00	0013.00	0014.00	0015.00	0016.00	0018.00	0019.00
	0020.01	0020.02	0028.00	0105.02	0109.00	0117.01						

METROPOLITAN AREA: Columbus, GA-AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Russell County	0301.00	0302.00	0308.00									
Muscogee County	0001.00	0005.00	0013.00	0014.00	0015.00	0016.00	0024.00	0025.00	0027.00	0028.00	0030.00	0032.00

METROPOLITAN AREA: Columbus, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	0317.00	0319.00										
Franklin County	0007.30	0009.20	0011.10	0011.20	0012.00	0013.00	0014.00	0015.00	0016.00	0017.00	0018.10	0022.00
	0023.00	0025.20	0026.00	0027.10	0028.00	0029.00	0030.00	0036.00	0037.00	0038.00	0039.00	0040.00
	0041.00	0042.00	0043.00	0044.00	0050.00	0051.00	0053.00	0054.10	0054.20	0056.10	0056.20	0060.00
	0061.00	0074.10	0075.11	0075.20	0075.34	0075.40	0078.20	0083.50	0087.30			
Licking County	7501.00	7504.00	7507.00	7525.00	7583.00							

METROPOLITAN AREA: Corpus Christi, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Nueces County	0003.00	0004.00	0005.00	0009.00	0010.00	0011.00	0012.00	0013.00	0015.00	0016.01	0056.02	
San Patricio County	0108.00	0113.00										

METROPOLITAN AREA: Cumberland, MD-WV

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allegany County	0005.00	0007.00	0009.00	0010.00								
Mineral County	0107.00											

METROPOLITAN AREA: Dallas, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Collin County	0309.00											
Dallas County	0004.01	0004.03	0004.05	0008.00	0009.00	0010.02	0014.00	0015.02	0015.03	0015.04	0016.00	0019.00
	0020.00	0022.01	0022.02	0024.00	0025.00	0027.01	0027.02	0028.00	0029.00	0031.02	0033.00	0034.00
	0035.00	0036.00	0037.00	0038.00	0039.01	0039.02	0040.00	0041.00	0043.00	0046.00	0047.00	0048.00
	0049.00	0050.00	0051.00	0055.00	0056.00	0057.00	0060.02	0067.00	0068.00	0069.00	0086.01	0086.02
	0087.01	0087.03	0087.04	0087.05	0088.02	0089.00	0093.03	0093.04	0100.00	0101.01	0101.02	0102.00
	0103.00	0104.00	0105.00	0106.00	0108.02	0111.05	0114.01	0114.02	0115.00	0116.02	0159.00	0166.05
	0188.02	0190.13	0192.09									
Denton County	0206.01	0207.00	0209.00	0210.00	0211.00	0212.00	0213.01					
Ellis County	0604.00	0605.00	0612.00	0616.00								
Henderson County	9505.00	9507.00	9510.00	9512.00	9515.98							
Hunt County	9601.00	9605.00	9606.00	9608.00	9609.00							
Kaufman County	0505.00	0510.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Danbury, CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	2101.00	2306.00										

METROPOLITAN AREA: Danville, VA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Danville city	0005.00	0006.00	0011.00	0016.98								

METROPOLITAN AREA: Davenport-Moline-Rock Island, IA-IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Henry County	9308.00											
Rock Island County	0206.00	0223.00	0224.00	0226.00	0227.00	0234.00	0236.00	0244.00				
Scott County	0105.00	0106.00	0107.00	0108.00	0109.00	0114.00						

METROPOLITAN AREA: Dayton-Springfield, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clark County	0001.00	0002.00	0003.00	0004.00	0009.01	0009.02	0012.00					
Greene County	2403.02											
Montgomery County	0003.00	0007.00	0010.00	0012.00	0013.00	0014.00	0015.00	0017.00	0018.00	0019.00	0021.00	0022.00
	0034.00	0035.00	0036.00	0037.00	0039.00	0040.00	0041.00	0042.00	0043.00	0047.00	0602.00	0603.00
	0702.01	0703.00	0805.00									

METROPOLITAN AREA: Daytona Beach, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Volusia County	0814.00	0815.00	0819.00	0820.00	0821.00	0905.00						

METROPOLITAN AREA: Decatur, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Morgan County	0005.00											

METROPOLITAN AREA: Decatur, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Macon County	0001.00	0002.00	0005.98	0006.00	0007.00	0008.00	0009.00					

METROPOLITAN AREA: Denver, CO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	0078.00	0079.00	0087.03	0089.52	0096.06							
Arapahoe County	0049.50	0055.52	0057.00	0058.89	0065.01	0073.00						
Denver County	0002.02	0004.02	0005.02	0006.00	0007.01	0007.02	0008.00	0009.01	0009.03	0010.00	0011.01	0011.02
	0015.00	0016.00	0017.01	0018.00	0019.00	0020.00	0021.00	0023.00	0024.01	0024.02	0025.00	0026.01
	0026.02	0027.01	0027.03	0028.02	0031.01	0031.02	0035.00	0036.01	0036.02	0036.03	0041.01	0041.05
	0045.01	0045.02	0054.02	0083.13								
Jefferson County	0104.05	0115.50										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Des Moines, IA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Polk County	0011.00	0017.00	0026.00	0027.00	0048.00	0049.00	0050.00	0051.00	0052.00			

METROPOLITAN AREA: Detroit, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Macomb County	2400.00	2450.00	2471.00	2638.00								
Monroe County	8318.00	8321.00										
Oakland County	1412.00	1416.00	1417.00	1418.00	1421.00	1422.00	1423.00	1424.00	1425.00	1427.00	1724.00	1725.00
St. Clair County	6200.00	6210.00	6230.00	6240.00	6250.00							
Wayne County	5004.00	5005.00	5006.00	5020.00	5034.00	5035.00	5036.00	5037.00	5039.00	5040.00	5041.00	5042.00
	5043.00	5044.00	5045.00	5046.00	5047.00	5048.00	5052.00	5053.00	5063.00	5064.00	5065.00	5070.00
	5071.00	5072.00	5073.00	5074.00	5075.00	5076.00	5077.00	5078.00	5079.00	5080.00	5102.00	5103.00
	5104.00	5105.00	5106.00	5107.00	5108.00	5109.00	5111.00	5112.00	5113.00	5114.00	5115.00	5116.00
	5117.00	5121.00	5122.00	5123.00	5124.00	5126.00	5129.00	5132.00	5134.00	5135.00	5136.00	5139.00
	5140.00	5141.00	5142.00	5143.00	5145.00	5146.00	5147.00	5148.00	5149.00	5150.00	5151.00	5152.00
	5153.00	5155.00	5156.00	5161.00	5162.00	5163.00	5164.00	5166.00	5167.00	5168.00	5169.00	5173.00
	5174.00	5175.00	5176.00	5178.00	5180.00	5181.00	5183.00	5184.00	5185.00	5186.00	5187.00	5188.00
	5201.00	5202.00	5203.00	5204.00	5205.00	5206.00	5207.00	5209.00	5211.00	5212.00	5213.00	5214.00
	5215.00	5218.00	5219.00	5220.00	5221.00	5222.00	5223.00	5224.00	5231.00	5232.00	5233.00	5234.00
	5235.00	5236.00	5237.00	5238.00	5240.00	5241.00	5242.00	5243.00	5245.00	5247.00	5248.00	5251.00
	5252.00	5253.00	5254.00	5255.00	5256.00	5257.00	5258.00	5260.00	5261.00	5262.00	5263.00	5264.00
	5265.00	5301.00	5303.00	5304.00	5307.00	5308.00	5310.00	5311.00	5313.00	5314.00	5315.00	5316.00
	5317.00	5318.00	5319.00	5322.00	5324.00	5325.00	5326.00	5327.00	5330.00	5331.00	5332.00	5333.00
	5334.00	5335.00	5336.00	5337.00	5341.00	5342.00	5343.00	5344.00	5345.00	5346.00	5350.00	5352.00
	5361.00	5363.00	5364.00	5365.00	5366.00	5367.00	5368.00	5370.00	5371.00	5372.00	5373.00	5377.00
	5378.00	5390.00	5412.00	5423.00	5435.00	5436.00	5437.00	5438.00	5439.00	5442.00	5451.00	5452.00
	5453.00	5454.00	5465.00	5469.00	5521.00	5522.00	5523.00	5524.00	5525.00	5526.00	5530.00	5531.00
	5532.00	5533.00	5534.00	5535.00	5536.00	5537.00	5685.00	5704.00	5706.00	5707.00	5708.00	5735.00
	5736.00	5791.00	5792.00	5793.00	5795.00	5796.00	5798.00	5848.00	5860.00			

METROPOLITAN AREA: Dothan, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dale County	0206.00											
Houston County	0406.00	0412.00	0413.00	0414.00								

METROPOLITAN AREA: Dubuque, IA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dubuque County	0001.00	0002.00										

METROPOLITAN AREA: Duluth-Superior, MN-WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Louis County	0016.00	0017.00	0018.00	0019.00	0025.00	0028.00	0032.00	0130.00	0137.01			
Douglas County	0201.00	0202.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Dutchess County, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dutchess County	2201.00	2202.00	2203.00	2204.00	2205.00	2206.00	6300.00	6500.00			

METROPOLITAN AREA: Eau Claire, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Eau Claire County	0011.00											

METROPOLITAN AREA: El Paso, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
El Paso County	0016.00	0017.00	0018.00	0019.00	0020.00	0021.00	0022.00	0026.00	0028.00	0029.00	0030.00	0032.00
	0039.03	0103.10	0104.01	0104.03								

METROPOLITAN AREA: Elkhart-Goshen, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Elkhart County	0027.00	0028.00										

METROPOLITAN AREA: Elmira, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chemung County	0006.00	0007.00	0008.00	0010.00								

METROPOLITAN AREA: Erie, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Erie County	0001.00	0003.00	0004.00	0007.00	0008.00	0012.00	0013.00	0014.00	0015.00	0018.00	0019.00	

METROPOLITAN AREA: Eugene-Springfield, OR

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lane County	0038.00	0039.00	0040.00	0042.00	0048.00							

METROPOLITAN AREA: Evansville-Henderson, IN-KY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Vanderburgh County	0011.00	0012.00	0014.00	0016.00	0017.00	0019.00	0020.00	0025.00	0027.00	0104.98		
Henderson County	0201.00	0202.00	0203.00	0204.00								

METROPOLITAN AREA: Fargo-Moorhead, ND-MN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clay County	0203.00	0204.00										
Cass County	0003.00	0007.00										

METROPOLITAN AREA: Fayetteville, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	0001.00	0002.00	0003.00	0013.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Fayetteville-Springdale-Rogers, AR

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washington County	0107.01	0108.00										

METROPOLITAN AREA: Fitchburg-Leominster, MA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Worcester County	7105.00	7107.00										

METROPOLITAN AREA: Flint, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Genesee County	0001.00	0002.00	0004.00	0006.00	0008.00	0010.00	0011.00	0014.00	0015.00	0017.00	0018.00	0020.00
	0021.00	0022.00	0025.00	0028.00	0029.00	0032.00	0034.00	0037.00	0038.00	0103.04	0122.02	

METROPOLITAN AREA: Florence, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Colbert County	0203.00											
Lauderdale County	0101.00	0102.00	0103.00	0107.00								

METROPOLITAN AREA: Florence, SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Florence County	0007.00	0008.00	0009.00	0022.01								

METROPOLITAN AREA: Fort Collins-Loveland, CO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Larimer County	0001.00	0005.02	0006.00	0013.03	0017.04	0020.03						

METROPOLITAN AREA: Fort Lauderdale, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Broward County	0304.00	0305.00	0306.00	0410.00	0411.00	0414.00	0415.00	0416.00	0417.00	0425.00	0805.00	0921.00
	1004.00	1005.00	1201.00									

METROPOLITAN AREA: Fort Myers-Cape Coral, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lee County	0001.00	0003.02	0005.01	0005.02								

METROPOLITAN AREA: Fort Pierce-Port Lucie, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Lucie County	0001.00	0002.00	0003.00									

METROPOLITAN AREA: Fort Smith, AR-OK

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sebastian County	0003.00	0009.01										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Fort Wayne, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allen County	0010.00	0012.00	0013.00	0014.00	0016.00	0017.00	0018.00	0019.00	0021.00	0027.00	0028.98	

METROPOLITAN AREA: Fort Worth-Arlington, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Johnson County	1308.00	1309.00										
Tarrant County	1002.01	1002.02	1003.00	1004.00	1005.01	1005.02	1008.00	1009.00	1010.00	1011.00	1012.02	1014.03
	1016.00	1017.00	1018.00	1020.00	1025.00	1029.00	1030.00	1031.00	1032.00	1033.00	1034.00	1035.00
	1036.01	1037.01	1037.02	1038.00	1039.00	1040.00	1041.00	1045.01	1045.02	1045.03	1046.01	1046.02
	1046.03	1046.04	1050.06	1053.00	1061.02	1062.02	1066.00	1218.00	1222.00	1223.00		

METROPOLITAN AREA: Fresno, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fresno County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0009.00	0010.00	0011.00	0013.00	0014.05	0024.00
	0025.00	0028.00	0042.01	0054.03	0065.00	0068.01	0071.00					
Madera County	0008.00	0009.00										

METROPOLITAN AREA: Gadsden, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Etowah County	0001.00	0003.00	0007.00	0008.00								

METROPOLITAN AREA: Gainesville, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Alachua County	0001.00	0002.00	0006.00	0007.00	0008.00	0009.00	0019.02					

METROPOLITAN AREA: Galveston-Texas City, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Galveston County	1222.00	1225.00	1226.00	1230.00	1233.00	1235.00	1236.00	1237.00	1238.00	1240.00	1241.00	1246.00
	1248.00	1249.00	1254.00									

METROPOLITAN AREA: Gary, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lake County	0104.00	0107.00	0108.00	0109.00	0110.00	0111.00	0112.00	0113.00	0114.00	0117.00	0118.00	0119.00
	0120.00	0122.00	0123.00	0125.00	0126.00	0127.00	0128.00	0129.00	0206.00	0208.00	0301.00	0302.00
	0303.00	0304.00	0310.00	0412.00	0413.01							

METROPOLITAN AREA: Glens Falls, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Warren County	0705.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Goldsboro, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Wayne County	0017.00	0018.00										

METROPOLITAN AREA: Grand Forks, ND-MN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Grand Forks County	0103.00	0105.00	0106.00									

METROPOLITAN AREA: Grand Rapids-Muskegon-Holland, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kent County	0015.00	0020.00	0021.00	0025.00	0026.00	0028.00	0030.00	0031.00	0032.00	0036.00	0038.00	0039.00
Muskegon County	0001.00	0002.00	0003.00	0005.00	0006.01	0006.02	0011.00	0012.00	0013.00	0014.01	0014.02	

METROPOLITAN AREA: Great Falls, MT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cascade County	0006.00	0007.00										

METROPOLITAN AREA: Greeley, CO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Weld County	0001.00	0002.00	0006.00	0007.01								

METROPOLITAN AREA: Green Bay, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brown County	0001.00	0008.00	0009.00	0010.00	0012.00							

METROPOLITAN AREA: Greensboro--Winston-Salem--High Point, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Alamance County	0201.01											
Davidson County	0614.00											
Forsyth County	0001.00	0002.00	0003.01	0003.02	0004.00	0005.01	0005.02	0006.00	0007.00	0008.01	0008.02	0016.02
	0019.01											
Guilford County	0101.00	0108.01	0111.01	0112.00	0114.00	0138.00	0139.00	0143.00	0144.08	0146.00		

METROPOLITAN AREA: Greenville, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pitt County	0007.00	0008.00	0019.00									

METROPOLITAN AREA: Greenville-Spartanburg-Anderson, SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anderson County	0001.00	0004.00	0006.00	0007.00								
Greenville County	0002.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0013.01	0021.05	0021.08	0023.03	0023.04
	0025.05											
Pickens County	0112.01											
Spartanburg County	0201.00	0202.00	0203.01	0204.00	0205.00	0208.00	0209.00	0210.01				

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Hagerstown, MD

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washington County	0004.00	0007.00										

METROPOLITAN AREA: Hamilton-Middletown, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Butler County	0003.00	0004.00	0005.00	0006.00	0007.01	0007.02	0008.00	0101.01	0101.04	0128.00	0129.00	0131.00
	0132.00	0138.00	0140.00									

METROPOLITAN AREA: Harrisburg-Lebanon-Carlisle, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	0122.00	0132.00										
Dauphin County	0201.00	0203.00	0207.00	0211.00	0212.00	0213.00	0214.00					
Lebanon County	0003.00											

METROPOLITAN AREA: Hartford, CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hartford County	4159.00	4161.00	4162.00	4166.00	4171.00	5001.00	5002.00	5003.00	5004.00	5005.00	5008.00	5009.00
	5010.00	5011.00	5012.00	5013.00	5014.00	5015.00	5016.00	5017.00	5018.00	5019.00	5027.00	5028.00
	5029.00	5030.00	5031.00	5032.00	5033.00	5034.00	5035.00	5038.00	5041.00	5043.00	5046.00	5049.00
Middlesex County	5416.00											
Windham County	8001.00	8003.00										

METROPOLITAN AREA: Honolulu, HI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Honolulu County	0018.01	0025.00	0036.98	0039.00	0051.00	0052.00	0053.00	0054.00	0055.00	0056.00	0057.00	0058.00
	0062.02	0063.02	0068.04	0070.00	0075.04	0081.00	0083.01	0085.00	0087.98	0090.00	0095.01	0095.03
	0097.01	0108.00										

METROPOLITAN AREA: Houma, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lafourche Parish	0204.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Houston, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fort Bend County	0707.11	0709.01	0712.00									
Harris County	0201.01	0201.02	0202.10	0203.01	0203.02	0204.00	0205.01	0205.03	0205.98	0206.01	0206.98	0207.01
	0207.02	0207.03	0207.04	0208.01	0208.02	0208.03	0209.00	0210.01	0210.02	0213.02	0214.01	0215.01
	0215.03	0216.01	0216.02	0217.01	0217.02	0218.01	0218.02	0218.03	0218.04	0219.00	0220.01	0220.02
	0221.00	0222.01	0222.02	0223.02	0224.01	0225.03	0225.04	0226.02	0233.00	0241.02	0264.00	0272.00
	0300.22	0300.23	0300.24	0301.01	0301.02	0302.00	0303.00	0304.01	0304.02	0305.01	0305.02	0306.00
	0307.01	0309.01	0309.02	0310.00	0311.00	0312.00	0313.01	0314.01	0316.01	0317.03	0317.04	0318.01
	0318.02	0318.03	0318.04	0319.01	0319.02	0320.02	0321.01	0321.02	0321.03	0328.01	0328.02	0328.03
	0329.02	0329.03	0330.02	0339.02	0339.03	0343.01	0350.01	0350.03	0356.01	0362.00	0400.26	0414.02
	0416.01	0419.06	0424.01	0430.02	0502.00	0503.01	0503.02	0504.00	0505.02	0507.02	0508.00	0509.01
	0509.02	0510.00	0514.01	0514.02	0516.02	0519.02	0520.01	0520.02	0520.03	0521.01	0521.02	0523.01
	0523.02	0523.03	0524.00	0525.03	0531.03	0533.01						
Liberty County	1001.00	1002.01	1005.00	1007.00								
Montgomery County	0906.23											
Waller County	0803.10	0805.98										

METROPOLITAN AREA: Huntington-Ashland, WV-KY-OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Boyd County	0302.00	0308.00										
Lawrence County	0503.00	0506.00										
Cabell County	0002.00	0005.00	0006.00	0007.00								
Wayne County	0209.00	0210.00										

METROPOLITAN AREA: Huntsville, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Limestone County	0210.00											
Madison County	0001.00	0008.00	0011.00	0012.00	0016.00	0021.00						

METROPOLITAN AREA: Indianapolis, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Madison County	0001.00	0003.00	0005.00	0007.00	0008.00	0009.00	0010.00	0116.00				
Marion County	3226.00	3412.00	3415.00	3416.00	3426.00	3501.00	3503.00	3508.00	3509.00	3510.00	3511.00	3512.00
	3515.00	3516.00	3517.00	3521.00	3523.00	3527.00	3528.00	3531.00	3532.00	3533.00	3535.00	3536.00
	3541.00	3542.00	3544.00	3545.00	3547.00	3549.00	3550.00	3556.00	3559.00	3564.00	3569.00	3571.00
	3572.00	3573.00	3581.00	3601.02								

METROPOLITAN AREA: Iowa City, IA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Johnson County	0004.00	0010.00	0011.00	0016.00	0106.00							

METROPOLITAN AREA: Jackson, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jackson County	0006.00	0010.00	0011.00	0012.00	0059.00							

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Jackson, MS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hinds County	0006.00	0008.00	0009.00	0010.00	0011.00	0012.00	0017.00	0018.00	0019.00	0020.00	0021.00	0025.00
	0026.00	0027.00	0031.00	0032.00	0039.00	0102.01	0106.00	0108.01				
Madison County	0305.00	0307.00	0309.00	0310.00								

METROPOLITAN AREA: Jackson, TN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Madison County	0005.00	0008.00	0009.00	0010.00	0011.00	0012.00						

METROPOLITAN AREA: Jacksonville, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clay County	0316.98											
Duval County	0002.00	0003.00	0004.00	0005.00	0010.00	0011.00	0012.00	0013.00	0014.00	0015.00	0016.00	0017.00
	0018.00	0019.00	0026.00	0028.00	0029.00	0115.00	0116.00					
St. Johns County	0204.00											

METROPOLITAN AREA: Jacksonville, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Onslow County	0020.00											

METROPOLITAN AREA: Jamestown, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chautauqua County	0303.00	0305.00										

METROPOLITAN AREA: Janesville-Beloit, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Rock County	0001.00	0015.00										

METROPOLITAN AREA: Jersey City, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hudson County	0012.02	0016.01	0017.00	0033.00	0034.00	0041.02	0046.00	0050.00	0051.00	0109.00	0145.00	0154.00
	0158.00	0190.00										

METROPOLITAN AREA: Johnson City-Kingsport-Bristol, TN-VA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sullivan County	0401.00	0402.00										
Washington County	0607.00	0609.00										
Bristol city	0203.00											

METROPOLITAN AREA: Johnstown, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cambria County	0001.00	0002.00	0003.00	0004.00	0008.00	0010.00						

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Kalamazoo-Battle Creek, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Calhoun County	0002.00	0003.00	0004.00	0033.00	0036.00							
Kalamazoo County	0001.00	0002.01	0002.02	0003.00	0004.02	0006.00	0008.01	0008.02	0009.00	0015.04	0015.07	
Van Buren County	0106.00	0107.00										

METROPOLITAN AREA: Kankakee, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kankakee County	0110.00	0114.00	0116.00	0123.00								

METROPOLITAN AREA: Kansas City, MO-KS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Leavenworth County	0701.00											
Wyandotte County	0402.00	0403.00	0404.00	0407.00	0408.00	0409.01	0409.02	0410.00	0411.01	0412.01	0412.02	0415.00
	0417.00	0418.00	0420.01	0420.02	0423.00	0424.00	0425.01	0425.02	0426.00	0427.00	0428.00	0430.00
	0439.01	0445.00	0446.02	0451.00								
Clay County	0200.00											
Jackson County	0003.00	0004.00	0010.00	0012.00	0013.00	0014.00	0015.00	0016.00	0017.00	0018.00	0019.00	0021.00
	0022.00	0023.00	0024.00	0026.00	0029.00	0030.00	0032.00	0033.00	0034.00	0035.01	0035.02	0036.01
	0036.02	0037.00	0038.00	0039.00	0040.00	0041.00	0042.00	0043.00	0047.00	0048.00	0049.00	0050.00
	0052.00	0053.00	0054.00	0055.00	0057.00	0058.01	0060.00	0061.00	0063.00	0064.00	0067.00	0068.00
	0075.00	0077.00	0079.00	0080.00	0087.00	0096.00	0109.01	0109.02	0116.00	0130.01		

METROPOLITAN AREA: Kenosha, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Kenosha County	0010.00	0011.00										

METROPOLITAN AREA: Killeen-Temple, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bell County	0207.01	0208.00	0209.00	0227.00								

METROPOLITAN AREA: Knoxville, TN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anderson County	0207.00											
Knox County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00
	0013.00	0014.00	0017.00	0020.00	0024.00	0026.00	0029.00					
Union County	0402.01											

METROPOLITAN AREA: Kokomo, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Howard County	0001.00	0004.00	0012.00									

METROPOLITAN AREA: La Crosse, WI-MN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
La Crosse County	0003.00	0004.00	0005.00									

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Lafayette, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Acadia Parish	9607.00	9610.00										
Lafayette Parish	0002.00	0004.00	0007.00	0008.00	0009.00	0011.00	0013.00					
St. Landry Parish	9601.00	9602.00	9609.00	9613.00	9614.00	9616.00	9619.00					

METROPOLITAN AREA: Lafayette, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tippecanoe County	0004.00	0006.00	0054.00	0055.00	0103.00	0104.00	0105.00					

METROPOLITAN AREA: Lake Charles, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Calcasieu Parish	0001.00	0002.00	0003.00	0004.00	0014.00	0015.00						

METROPOLITAN AREA: Lakeland-Winter Haven, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Polk County	0101.00	0102.00	0112.01	0112.02	0137.01							

METROPOLITAN AREA: Lancaster, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lancaster County	0001.00	0004.00	0008.00	0009.00	0015.00	0016.00						

METROPOLITAN AREA: Lansing-East Lansing, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ingham County	0002.00	0003.00	0006.00	0007.00	0008.00	0013.00	0014.00	0015.00	0019.00	0020.00	0041.00	0043.02
	0044.01	0044.02										

METROPOLITAN AREA: Laredo, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Webb County	0001.04	0003.00	0004.00	0008.00	0012.00	0013.00						

METROPOLITAN AREA: Las Cruces, NM

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dona Ana County	0004.01	0010.00										

METROPOLITAN AREA: Las Vegas, NV-AZ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mohave County	9501.00	9502.00	9504.00	9513.00	9523.00							
Clark County	0003.01	0003.02	0004.00	0005.04	0007.00	0008.00	0009.00	0011.00	0022.01	0035.00	0036.02	0038.00
	0039.98	0046.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Lawrence, KS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Douglas County	0003.00	0004.00										

METROPOLITAN AREA: Lawrence-Haverhill, MA-NH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Essex County	2501.00	2503.00	2504.00	2505.00	2506.00	2507.00	2509.00	2510.00	2511.00	2512.00	2513.00	2514.00
	2516.00	2524.00	2601.00	2602.00								

METROPOLITAN AREA: Lawton, OK

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Comanche County	0012.00	0016.00										

METROPOLITAN AREA: Lewiston-Auburn, ME

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Androscoggin County	0201.00	0204.00										

METROPOLITAN AREA: Lexington, KY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clark County	0202.00											
Fayette County	0001.00	0002.00	0003.00	0004.00	0008.00	0009.00	0010.00	0011.00	0014.00	0018.00	0021.00	
Madison County	0103.00	0104.00	0105.00									

METROPOLITAN AREA: Lima, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allen County	0125.00	0128.00	0135.00	0136.00	0138.00							

METROPOLITAN AREA: Lincoln, NE

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lancaster County	0004.00	0005.00	0007.00	0008.00	0017.00	0018.00	0019.00	0020.00	0032.01			

METROPOLITAN AREA: Little Rock-North Little Rock, AR

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Faulkner County	0307.00											
Pulaski County	0001.00	0002.00	0004.00	0005.00	0006.00	0007.00	0009.00	0010.00	0011.00	0013.00	0025.00	0026.00
	0028.00	0029.00	0030.00	0036.06	0040.01	0040.05						

METROPOLITAN AREA: Longview-Marshall, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Gregg County	0001.00	0012.00	0014.00	0111.98	0112.98							
Harrison County	0204.01	0204.02										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Los Angeles-Long Beach, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Los Angeles County	1047.01	1200.00	1232.01	1232.02	1838.00	1853.00	1902.00	1903.01	1904.00	1905.00	1907.00	1908.00
	1909.01	1909.02	1910.00	1911.00	1912.01	1912.02	1914.00	1915.00	1916.00	1917.00	1918.00	1925.00
	1926.00	1927.00	1957.00	1975.00	1976.00	1977.00	1990.00	1991.00	1992.01	1992.02	1994.00	1997.00
	1998.00	1999.00	2031.00	2032.00	2033.00	2034.00	2036.00	2037.00	2038.00	2039.00	2041.00	2042.00
	2043.00	2044.00	2045.00	2046.00	2047.00	2049.00	2051.00	2060.00	2062.00	2063.00	2071.00	2073.00
	2077.00	2080.00	2083.00	2084.00	2085.00	2087.00	2088.00	2089.01	2089.02	2091.01	2091.02	2092.00
	2093.00	2094.01	2094.02	2094.03	2095.00	2098.00	2100.00	2112.00	2113.00	2119.00	2121.00	2122.01
	2122.02	2123.01	2123.02	2124.00	2125.00	2126.00	2129.00	2132.01	2132.02	2133.00	2134.01	2134.02
	2184.00	2186.00	2188.00	2193.00	2198.00	2199.00	2211.00	2212.00	2213.01	2213.02	2214.00	2215.00
	2216.00	2217.00	2218.00	2219.00	2220.00	2221.00	2222.00	2225.00	2226.00	2227.00	2240.00	2242.00
	2243.00	2244.00	2246.00	2247.00	2260.00	2264.00	2267.00	2270.00	2281.00	2282.00	2283.00	2284.00
	2285.00	2286.00	2287.00	2288.00	2289.00	2291.00	2292.00	2293.00	2294.00	2311.00	2312.00	2313.00
	2314.00	2316.00	2317.00	2318.00	2319.00	2321.00	2322.00	2323.00	2324.00	2325.00	2326.00	2327.00
	2328.00	2345.00	2349.00	2361.00	2362.01	2362.02	2371.00	2372.00	2375.00	2376.00	2377.00	2383.00
	2392.00	2393.00	2395.00	2396.00	2397.00	2398.00	2400.00	2402.00	2403.00	2404.00	2405.00	2406.00
	2407.00	2408.00	2409.00	2410.00	2411.00	2414.00	2420.00	2421.00	2422.00	2423.00	2426.00	2427.00
	2430.00	2431.00	2653.02	2947.00	2948.00	2949.00	2962.00	2971.00	3022.00	4023.02	4025.01	4025.02
	4027.02	4028.00	4088.00	4334.00	4335.00	4619.00	4620.00	4622.00	4817.02	4823.02	5041.02	5305.00
	5307.00	5308.00	5309.00	5310.00	5311.00	5312.01	5312.02	5313.01	5313.02	5315.01	5315.02	5316.01
	5316.02	5317.02	5319.01	5319.02	5324.00	5326.02	5327.00	5328.00	5329.00	5330.00	5331.01	5331.02
	5332.00	5333.00	5335.00	5336.00	5337.00	5338.01	5338.02	5339.00	5340.00	5341.00	5342.00	5343.00
	5344.01	5344.02	5349.00	5350.00	5351.01	5351.02	5352.00	5353.00	5354.00	5355.00	5357.00	5358.01
	5400.00	5402.00	5404.00	5405.00	5406.00	5414.00	5415.00	5416.01	5416.02	5421.01	5421.02	5426.00
	5427.00	5429.00	5716.00	5725.00	5728.00	5732.01	5732.02	5733.00	5735.00	5752.00	5753.00	5754.00
	5755.00	5758.00	5759.00	5760.00	5762.00	5763.00	5764.00	6001.00	6002.01	6002.02	6003.01	6006.02
	6015.00	6017.00	6019.00	9101.00								

METROPOLITAN AREA: Louisville, KY-IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clark County	0502.00											
Floyd County	0705.00	0708.01	0709.02									
Scott County	9668.00											
Jefferson County	0001.00	0002.00	0006.00	0007.00	0009.00	0010.00	0014.00	0015.00	0016.00	0018.00	0020.00	0021.00
	0022.00	0023.00	0024.00	0027.00	0028.00	0030.00	0034.00	0035.00	0037.00	0043.01	0043.02	0049.00
	0050.00	0051.00	0053.00	0055.00	0056.00	0059.00	0062.00	0065.00	0066.00	0110.02		

METROPOLITAN AREA: Lowell, MA-NH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Middlesex County	3101.00	3104.00	3107.00	3108.00	3110.00	3111.00	3112.00	3118.00	3119.00	3120.00	3121.00	3124.00
	3153.00											

METROPOLITAN AREA: Lubbock, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lubbock County	0002.02	0003.01	0003.02	0006.03	0006.04	0006.05	0006.06	0007.00	0008.00	0009.00	0010.00	0011.00
	0012.00	0013.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Lynchburg, VA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lynchburg city	0005.98	0006.00	0007.00	0011.00	0013.00	0014.98	0023.95					

METROPOLITAN AREA: Macon, GA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bibb County	0101.00	0103.00	0104.00	0105.00	0106.00	0107.00	0111.00	0112.00	0113.00	0114.00	0115.00	0127.00
	0128.00	0129.00	0130.00									
Houston County	0205.00											
Peach County	0402.00	0404.00										

METROPOLITAN AREA: Madison, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dane County	0011.00	0014.01	0016.01	0016.02	0017.00	0025.98	0032.00					

METROPOLITAN AREA: Manchester, NH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hillsborough County	0005.00	0014.00	0017.00	0020.00								

METROPOLITAN AREA: Mansfield, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Richland County	0001.00	0002.00	0003.00	0007.00								

METROPOLITAN AREA: Mc Allen-Edinburg-Mission, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hidalgo County	0205.03	0206.00	0211.00	0213.01	0213.02	0213.03	0215.00	0216.00	0221.02	0226.00	0231.01	0237.00
	0242.01	0244.00	0245.00									

METROPOLITAN AREA: Medford-Ashland, OR

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jackson County	0001.00											

METROPOLITAN AREA: Melbourne-Titusville-Palm Bay, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brevard County	0607.00	0608.00	0626.00	0648.00	0649.02							

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Memphis, TN-AR-MS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Crittenden County	0304.00	0305.00	0306.10	0310.00	0311.00							
Fayette County	0601.00											
Shelby County	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0013.00	0014.00	0018.00
	0019.00	0020.00	0021.00	0022.00	0023.00	0024.00	0028.00	0036.00	0037.00	0038.00	0039.00	0040.00
	0041.00	0044.00	0045.00	0046.00	0047.00	0048.00	0049.00	0050.00	0051.00	0053.00	0054.00	0055.00
	0057.00	0058.00	0059.00	0060.00	0061.00	0062.00	0065.00	0067.00	0068.00	0073.00	0078.10	0081.10
	0084.00	0090.00	0103.00	0105.00	0222.20	0223.10	0227.98					
Tipton County	0407.00											

METROPOLITAN AREA: Merced, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Merced County	0015.00	0016.00	0301.00									

METROPOLITAN AREA: Miami, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dade County	0004.03	0005.03	0007.03	0007.04	0008.02	0009.03	0010.01	0010.03	0010.04	0013.01	0014.01	0014.02
	0015.01	0015.02	0016.01	0017.01	0017.02	0017.03	0018.01	0018.02	0018.03	0019.01	0019.03	0019.04
	0020.01	0020.03	0020.04	0022.01	0022.02	0024.01	0024.02	0025.00	0026.00	0027.02	0028.00	0029.00
	0030.01	0030.02	0031.00	0034.00	0036.01	0036.02	0037.01	0037.02	0038.01	0042.00	0043.00	0044.00
	0045.00	0049.01	0051.00	0052.01	0052.02	0053.01	0053.02	0054.01	0054.02	0063.01	0064.01	0064.02
	0064.03	0066.01	0066.02	0072.00	0075.02	0089.04	0105.00	0106.02	0113.00			

METROPOLITAN AREA: Middlesex-Somerset-Hunterdon, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Middlesex County	0039.00	0045.00	0046.00	0047.00	0048.00	0049.00	0052.00	0053.00	0054.00	0055.00	0059.00	

METROPOLITAN AREA: Milwaukee-Waukesha, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Milwaukee County	0012.00	0018.00	0021.00	0028.00	0040.00	0042.00	0044.00	0045.00	0046.00	0047.00	0062.00	0063.00
	0064.00	0065.00	0066.00	0067.00	0068.00	0069.00	0070.00	0071.00	0080.00	0081.00	0082.00	0083.00
	0084.00	0085.00	0086.00	0087.00	0088.00	0089.00	0090.00	0091.00	0096.00	0097.00	0098.00	0099.00
	0100.00	0101.00	0102.00	0103.00	0104.00	0105.00	0106.00	0107.00	0108.00	0110.00	0111.00	0112.00
	0113.00	0115.00	0116.00	0117.00	0118.00	0119.00	0120.00	0121.00	0122.00	0123.00	0132.00	0134.00
	0135.00	0136.00	0137.00	0138.00	0139.00	0140.00	0141.00	0142.00	0146.00	0147.00	0148.00	0149.00
	0150.00	0151.00	0154.00	0155.00	0156.00	0157.00	0158.00	0159.00	0163.00	0164.00	0165.00	0166.00
	0167.00	0168.00	0169.00	0174.00	0175.00	0177.00	0178.98					

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Minneapolis-St. Paul, MN-WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hennepin County	0016.00	0018.00	0021.00	0022.00	0023.00	0024.00	0025.00	0026.00	0028.00	0029.00	0031.00	0033.00
	0034.00	0037.00	0038.00	0039.00	0041.00	0042.00	0043.00	0044.00	0047.00	0048.00	0049.00	0054.00
	0056.00	0057.00	0058.00	0059.00	0060.00	0061.00	0062.00	0063.00	0064.00	0068.00	0069.00	0070.00
	0071.00	0072.00	0073.00	0074.00	0077.00	0078.00	0079.00	0082.00	0083.00	0084.00	0085.00	0094.00
	0250.00											
Ramsey County	0305.00	0309.00	0310.00	0313.00	0314.00	0315.00	0316.00	0317.00	0319.00	0324.00	0325.00	0326.00
	0327.00	0328.00	0329.00	0330.00	0331.00	0334.00	0335.00	0336.00	0337.00	0338.00	0339.00	0340.00
	0344.00	0359.00	0360.00	0361.00	0368.00	0371.00	0374.04					

METROPOLITAN AREA: Mobile, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Baldwin County	0106.00											
Mobile County	0001.00	0002.00	0003.00	0004.01	0004.02	0005.00	0006.00	0007.02	0010.01	0011.00	0012.01	0012.03
	0012.04	0013.01	0013.02	0014.00	0015.01	0015.02	0016.00	0026.00	0027.00	0036.05	0038.01	0039.01
	0039.02	0040.00	0041.00	0042.00	0043.00	0044.00	0045.00	0046.00	0047.00	0048.00	0049.00	0050.00

METROPOLITAN AREA: Modesto, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Stanislaus County	0007.00	0017.00	0018.00	0020.05	0021.00	0022.00						

METROPOLITAN AREA: Monmouth-Ocean, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Monmouth County	8047.97	8056.00	8058.01	8058.02	8070.02	8070.03	8070.04	8072.97	8073.00	8076.00	8099.03	
Ocean County	7152.00	7153.00	7154.00	7200.00	7201.00	7322.00	7312.00					

METROPOLITAN AREA: Monroe, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ouachita Parish	0003.00	0006.00	0007.00	0008.00	0009.00	0011.00	0012.00	0013.00	0014.00	0057.00	0106.01	

METROPOLITAN AREA: Montgomery, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Autauga County	0210.00											
Montgomery County	0001.00	0002.00	0003.85	0006.00	0007.00	0010.00	0011.00	0012.00	0024.00	0030.00		

METROPOLITAN AREA: Muncie, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Delaware County	0001.00	0002.00	0003.00	0004.00	0006.00	0007.00	0009.02	0012.00	0019.01			

METROPOLITAN AREA: Myrtle Beach, SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Horry County	0704.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Naples, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Collier County	0007.00	0112.03	0113.00	0114.00								

METROPOLITAN AREA: Nashua, NH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hillsborough County	0105.00	0107.00	0108.00									

METROPOLITAN AREA: Nashville, TN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Davidson County	0104.02	0114.00	0118.00	0119.00	0123.00	0124.00	0125.00	0126.00	0135.00	0136.00	0137.00	0139.00
	0140.00	0142.00	0143.00	0144.00	0145.00	0146.00	0148.00	0159.00	0160.00	0161.00	0162.00	0163.00
	0164.00	0165.00	0166.00									
Rutherford County	0416.00	0419.00										
Sumner County	0208.00											
Wilson County	0307.00											

METROPOLITAN AREA: Nassau-Suffolk, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Nassau County	4070.00	4111.00	4144.00									
Suffolk County	1224.06	1225.01	1233.02	1456.03	1473.00	1580.07	1584.06	1587.05	1591.03	1697.02	1701.01	

METROPOLITAN AREA: New Bedford, MA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bristol County	6507.00	6508.00	6509.00	6511.00	6512.00	6517.00	6518.00	6519.00	6526.00	6527.00		

METROPOLITAN AREA: New Haven-Meriden, CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Haven County	1402.00	1403.00	1405.00	1406.00	1407.00	1408.00	1413.00	1415.00	1416.00	1417.00	1421.00	1424.00
	1426.02	1701.01	1701.02	1702.01	1702.02	1710.00						

METROPOLITAN AREA: New London-Norwich, CT-RI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New London County	6901.00	6905.00	6906.00	6969.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: New Orleans, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson Parish	0207.00	0208.00	0209.00	0237.00	0246.00	0257.98	0259.00	0262.00	0265.00	0268.00	0269.00	
Orleans Parish	0002.00	0003.00	0004.00	0006.01	0006.03	0006.11	0006.13	0008.00	0009.01	0009.02	0009.03	0009.04
	0011.00	0012.00	0013.01	0013.02	0014.01	0014.02	0015.00	0016.00	0017.03	0017.06	0017.33	0017.98
	0019.00	0020.00	0022.00	0027.00	0028.00	0029.00	0030.00	0031.00	0033.05	0033.06	0034.00	0035.00
	0036.00	0039.00	0040.00	0044.01	0044.02	0045.00	0048.00	0049.00	0050.00	0059.00	0060.00	0067.00
	0068.00	0069.00	0070.00	0071.00	0072.00	0075.01	0075.02	0076.05	0080.00	0081.01	0081.02	0085.00
	0086.00	0087.00	0089.00	0091.00	0092.00	0093.01	0093.02	0094.00	0100.00	0102.00	0104.00	0111.00
	0131.00											
Plaquemines Parish	0508.00											
St. Bernard Parish	0301.01											
St. Charles Parish	0626.00											
St. James Parish	0405.00											
St. John the Baptist Parish	0709.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: New York, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bronx County	0011.00	0015.00	0017.00	0020.00	0023.00	0025.00	0027.01	0027.02	0031.00	0033.00	0035.00	0037.00
	0039.00	0041.00	0043.00	0044.00	0047.00	0048.00	0049.00	0050.00	0052.00	0056.00	0059.01	0062.00
	0065.00	0067.00	0069.00	0071.00	0073.00	0075.00	0077.00	0079.00	0081.00	0083.00	0085.00	0086.00
	0087.00	0088.00	0089.00	0099.00	0105.00	0110.00	0115.01	0115.02	0119.00	0121.01	0121.02	0123.00
	0127.01	0127.02	0129.01	0129.02	0131.00	0133.00	0135.00	0137.00	0139.00	0141.00	0143.00	0144.00
	0145.00	0147.00	0149.00	0155.00	0157.00	0161.00	0165.00	0167.00	0169.00	0173.00	0175.00	0177.00
	0179.00	0187.00	0189.00	0193.00	0195.00	0197.00	0199.00	0201.00	0205.00	0206.02	0211.00	0213.01
	0213.02	0215.01	0215.02	0217.01	0219.00	0221.00	0223.00	0227.01	0229.01	0229.02	0233.01	0233.02
	0235.01	0235.02	0237.01	0237.02	0239.00	0241.00	0243.00	0245.00	0251.00	0253.00	0255.00	0257.00
	0263.00	0265.00	0271.01	0317.00	0324.00	0334.00	0359.00	0361.00	0363.00	0365.01	0365.02	0367.00
	0369.01	0369.02	0371.00	0373.00	0375.01	0375.02	0375.03	0377.00	0379.00	0381.00	0383.00	0385.00
	0389.00	0391.00	0393.00	0397.00	0399.01	0403.01	0435.00	0458.00				
Kings County	0002.00	0011.00	0018.00	0020.00	0023.00	0025.00	0027.00	0029.01	0029.02	0055.00	0059.00	0071.00
	0085.00	0112.00	0120.00	0125.00	0127.00	0185.01	0185.02	0214.00	0217.00	0221.00	0222.00	0225.00
	0226.00	0228.00	0231.00	0233.00	0234.00	0235.00	0237.00	0238.00	0239.00	0241.00	0243.00	0251.00
	0255.00	0257.00	0259.01	0259.02	0261.00	0263.00	0281.00	0283.00	0285.01	0285.02	0287.00	0289.00
	0293.00	0299.00	0303.00	0307.00	0309.00	0326.00	0328.00	0330.00	0342.00	0347.00	0348.01	0348.02
	0351.00	0352.00	0353.00	0357.00	0359.00	0360.01	0360.02	0363.00	0365.01	0365.02	0367.00	0369.00
	0371.00	0373.00	0375.00	0379.00	0381.00	0382.00	0387.00	0389.00	0391.00	0393.00	0395.00	0405.00
	0409.00	0411.00	0413.00	0415.00	0417.00	0419.00	0421.00	0423.00	0425.00	0427.00	0429.00	0431.00
	0433.00	0435.00	0437.00	0441.00	0453.00	0465.00	0489.00	0493.00	0505.00	0507.00	0509.00	0511.00
	0513.00	0523.00	0525.00	0527.00	0529.00	0531.00	0533.00	0535.00	0537.00	0539.00	0545.00	0547.00
	0549.00	0551.00	0572.00	0610.01	0884.00	0892.00	0900.00	0906.00	0908.00	0910.00	0912.00	0916.00
	0918.00	0944.02	0982.00	1034.00	1058.00	1106.00	1110.00	1130.00	1134.00	1138.00	1140.00	1146.00
	1148.00	1150.00	1152.00	1154.00	1156.00	1158.00	1160.00	1164.00	1166.00	1168.00	1170.00	1172.01
	1192.00	1194.00	1210.00	1214.00								
New York County	0002.01	0002.02	0006.00	0008.00	0010.02	0014.02	0016.00	0018.00	0020.00	0024.00	0025.00	0026.01
	0036.01	0041.00	0062.00	0117.00	0119.00	0156.02	0162.00	0164.00	0166.00	0168.00	0172.01	0172.02
	0178.00	0180.00	0182.00	0184.00	0186.00	0188.00	0190.00	0192.00	0194.00	0196.00	0198.00	0201.02
	0202.00	0204.00	0206.00	0207.02	0208.00	0209.01	0209.02	0213.01	0213.02	0216.00	0217.01	0217.02
	0218.00	0219.97	0220.00	0222.00	0223.97	0223.98	0224.00	0226.00	0227.02	0228.00	0229.00	0230.00
	0231.02	0232.00	0234.00	0235.02	0239.00	0243.01	0243.02	0245.00	0249.00	0251.00	0261.00	0267.00
	0269.00	0277.00	0291.00	0293.00								
Queens County	0025.00	0035.00	0043.00	0044.02	0055.00	0087.00	0246.00	0252.00	0262.00	0266.00	0299.00	0442.00
	0871.00	0942.02	0952.00	0972.00	1010.00							
Richmond County	0029.00	0040.00	0133.01	0319.01								
Rockland County	0115.03											

METROPOLITAN AREA: Westchester County, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Westchester County	0001.01	0001.03	0002.01	0003.00	0004.01	0004.02	0005.00	0010.00	0011.01	0012.00	0013.02	0013.03
	0022.03	0027.00	0028.00	0029.00	0031.00	0032.00	0035.00	0036.00	0058.00	0061.00	0062.00	0063.00
	0078.00	0080.00	0093.00	0119.01	0133.01	0143.00						

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Newark, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Essex County	0002.00	0003.00	0005.00	0007.00	0009.00	0010.00	0011.00	0013.00	0014.00	0015.00	0016.00	0017.00
	0018.00	0019.00	0026.00	0027.00	0028.00	0029.00	0030.00	0031.00	0032.00	0034.00	0035.00	0037.00
	0038.00	0039.00	0040.00	0041.00	0044.00	0046.00	0048.01	0048.02	0049.00	0054.00	0055.00	0056.00
	0057.00	0058.00	0059.00	0060.00	0062.00	0063.00	0066.00	0067.00	0068.00	0069.00	0074.00	0075.01
	0075.02	0080.00	0081.00	0082.00	0083.00	0084.00	0085.00	0086.00	0087.00	0088.00	0089.00	0091.00
	0092.00	0093.00	0095.00	0096.00	0097.00	0099.00	0106.00	0107.00	0109.00	0110.00	0111.00	0112.00
	0113.00	0116.00	0131.00	0132.00	0182.00	0184.00	0186.00	0187.00				
Union County	0302.00	0303.00	0304.00	0306.00	0308.01	0310.00	0311.00	0312.00	0313.00	0314.00	0317.00	0319.02
	0390.00	0393.00										
Warren County	0309.00											

METROPOLITAN AREA: Newburgh, NY-PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Orange County	0004.00	0005.00	0006.00	0017.00	0022.00	0150.00						
Pike County	9502.00											

METROPOLITAN AREA: Norfolk-Virginia Beach-Newport News, VA-NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
York County	0505.00											
Chesapeake city	0201.00											
Hampton city	0106.02											
Newport News city	0302.00	0304.00	0305.00	0306.00	0308.00	0309.00	0310.00					
Norfolk city	0013.00	0014.00	0016.00	0025.00	0026.00	0027.00	0029.00	0034.00	0035.01	0035.02	0041.00	0042.00
	0043.00	0044.00	0046.00	0047.00	0048.00	0050.00	0051.00	0052.00	0053.00	0065.02	0067.00	
Portsmouth city	2105.00	2110.00	2111.00	2113.00	2114.00	2118.00	2119.00	2120.00	2121.00	2126.00		
Suffolk city	0651.00	0654.00	0655.00									
Virginia Beach city	0450.85											
Williamsburg city	3705.98											

METROPOLITAN AREA: Oakland, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Alameda County	4005.00	4006.00	4007.00	4008.00	4009.00	4010.00	4011.00	4013.00	4014.00	4015.00	4016.00	4017.00
	4018.00	4019.00	4021.00	4022.00	4023.00	4024.00	4025.00	4026.00	4027.00	4028.00	4029.00	4030.00
	4031.00	4033.00	4034.00	4053.00	4054.00	4055.00	4057.00	4058.00	4059.00	4060.00	4061.00	4062.00
	4063.00	4071.00	4072.00	4073.00	4074.00	4075.00	4084.00	4085.00	4086.00	4087.00	4088.00	4089.00
	4090.00	4091.00	4092.00	4093.00	4094.00	4095.00	4096.00	4097.00	4103.00	4204.00	4220.00	4227.00
	4228.00	4229.00	4232.00	4233.00	4240.00	4274.00	4275.00	4276.00	4339.00	4377.00		
Contra Costa County	3050.00	3100.00	3160.00	3280.00	3650.02	3680.00	3750.00	3760.00	3770.00	3790.00	3810.00	

METROPOLITAN AREA: Ocala, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Marion County	0017.00	0018.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Odessa-Midland, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ector County	0012.00	0014.00	0015.00	0018.00	0019.00	0020.00	0022.00					
Midland County	0014.00	0015.00	0016.00	0017.00								

METROPOLITAN AREA: Oklahoma City, OK

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Canadian County	3004.00											
Cleveland County	2001.00	2002.00	2012.01	2012.02	2012.03							
Logan County	6001.00											
Oklahoma County	1004.00	1010.00	1011.00	1013.00	1014.00	1024.00	1025.00	1026.00	1028.00	1030.00	1031.01	1033.00
	1034.00	1036.02	1038.00	1039.00	1040.00	1041.00	1043.00	1044.00	1046.00	1047.00	1048.00	1049.00
	1054.00	1055.00	1056.00	1057.00	1058.00	1059.95	1071.01	1072.16	1076.06	1079.00	1082.07	1082.08
	1088.03											
Pottawatomie County	5001.00	5002.00	5003.02									

METROPOLITAN AREA: Omaha, NE-IA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pottawattamie County	0307.00	0309.00										
Douglas County	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00	0016.00	0019.00
	0021.00	0029.00	0032.00	0038.00	0039.00	0040.00	0041.00	0051.00	0052.00	0053.00	0054.00	0059.01
	0059.02	0060.00	0063.01									
Sarpy County	0103.02											

METROPOLITAN AREA: Orange County, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Orange County	0524.04	0525.15	0626.14	0740.03	0744.03	0744.05	0744.06	0745.01	0745.02	0746.01	0746.02	0747.01
	0747.02	0748.01	0748.02	0748.05	0748.06	0749.01	0749.02	0750.01	0750.02	0751.00	0762.04	0865.02
	0873.00	0874.02	0874.03	0878.03	0891.04	0891.05	0995.09	0995.10	0998.02			

METROPOLITAN AREA: Orlando, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Orange County	0101.00	0104.00	0105.00	0106.00	0115.00	0117.01	0117.02	0119.01	0146.01	0155.02	0159.01	0176.00
Seminole County	0201.01	0201.02	0205.00	0211.00								

METROPOLITAN AREA: Owensboro, KY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Daviess County	0002.00	0003.00	0004.00	0005.00								

METROPOLITAN AREA: Panama City, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bay County	0016.00	0018.00	0020.00									

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Parkersburg-Marietta, WV-OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washington County	0205.00											
Wood County	0006.00	0007.01										

METROPOLITAN AREA: Pensacola, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Escambia County	0002.00	0003.00	0004.00	0006.00	0007.00	0015.00	0016.00	0017.00	0018.00	0019.00	0020.00	0040.00

METROPOLITAN AREA: Peoria-Pekin, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Peoria County	0001.00	0002.00	0003.00	0005.00	0007.00	0008.00	0009.00	0012.00	0013.00	0014.00	0015.00	0017.00
Tazewell County	0202.00	0209.00										

METROPOLITAN AREA: Philadelphia, PA-NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Burlington County	7021.03	7026.04										
Camden County	6001.00	6002.00	6003.00	6004.00	6005.00	6006.00	6007.00	6008.00	6009.00	6011.00	6013.00	6015.00
	6016.00	6017.00	6018.00	6019.00	6027.01	6101.00						
Gloucester County	5010.02											
Salem County	0203.00	0220.00										
Bucks County	1058.06											
Chester County	3056.00											
Delaware County	4029.00	4047.00	4048.00	4049.02	4052.00	4054.00	4055.00	4056.00	4057.00	4058.01	4058.02	4059.00
	4064.02	4097.02										
Montgomery County	2039.02	2088.01										
Philadelphia County	0002.00	0006.00	0009.00	0013.00	0014.00	0018.00	0019.00	0020.00	0021.00	0022.00	0023.00	0024.00
	0025.00	0028.00	0030.00	0031.00	0032.00	0033.00	0034.00	0036.00	0041.00	0044.00	0046.00	0052.00
	0056.00	0063.00	0066.00	0069.00	0070.00	0071.00	0072.00	0074.00	0077.00	0080.00	0083.00	0084.00
	0085.00	0086.00	0087.00	0088.00	0089.00	0091.00	0092.00	0093.00	0094.00	0095.00	0096.00	0102.00
	0103.00	0104.00	0105.00	0106.00	0107.00	0108.00	0109.00	0110.00	0111.00	0112.00	0123.00	0127.00
	0131.00	0132.00	0133.00	0137.00	0138.00	0139.00	0140.00	0141.00	0144.00	0145.00	0146.00	0147.00
	0148.00	0149.00	0151.00	0152.00	0153.00	0154.00	0155.00	0156.00	0157.00	0159.00	0161.00	0162.00
	0163.00	0164.00	0165.00	0166.00	0167.00	0168.00	0169.00	0170.00	0171.00	0172.00	0173.00	0174.00
	0175.00	0176.00	0177.00	0178.00	0179.00	0181.00	0192.00	0194.00	0195.00	0196.00	0197.00	0198.00
	0199.00	0200.00	0201.00	0202.00	0203.00	0204.00	0205.00	0239.00	0241.00	0245.00	0246.00	0253.00
	0277.00	0279.00	0280.00	0282.00	0283.00	0284.00	0286.00	0288.00	0289.00	0291.00	0293.00	0294.00
	0296.00	0297.00	0327.00	0346.00								

METROPOLITAN AREA: Phoenix-Mesa, AZ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Maricopa County	0202.00	0608.00	0609.00	0614.00	0716.00	0926.00	0929.00	1092.00	1102.00	1126.00	1127.00	1128.00
	1129.00	1130.00	1131.00	1132.00	1133.00	1135.00	1136.00	1138.00	1139.00	1140.00	1141.00	1142.00
	1143.00	1144.00	1145.00	1146.00	1147.00	1148.00	1149.00	1150.00	1151.00	1152.00	1153.00	1154.00
	1158.00	1159.00	1160.00	1161.00	1166.02	3187.00	3188.00	3191.00	3200.02	4201.02	4226.05	5229.02
	5231.02	5231.04	6232.00									
Pinal County	0001.00	0004.00	0010.00	0012.00	0015.00	0017.00	0018.00	0019.00	0020.00			

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Pine Bluff, AR

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	0005.02	0009.02	0010.00	0011.00	0012.00	0013.00						

METROPOLITAN AREA: Pittsburgh, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allegheny County	0101.00	0103.00	0305.00	0314.00	0405.00	0406.00	0411.00	0501.00	0502.00	0507.00	0509.00	0510.00
	0511.00	0602.00	0604.00	0606.00	0810.98	1016.00	1017.00	1114.00	1115.00	1203.00	1204.00	1207.00
	1208.00	1301.00	1303.00	1304.00	1305.00	1306.00	1504.00	1604.00	1606.00	1609.00	1803.00	1805.00
	2017.00	2019.00	2107.00	2204.00	2205.00	2304.00	2305.00	2306.00	2502.00	2509.00	2609.98	2614.00
	2808.00	2902.97	3101.98	3102.95	4644.00	4657.97	4824.00	4838.00	4867.00	4869.00	4923.00	4928.00
	5100.00	5129.00	5140.00	5509.00	5512.00	5519.00	5521.00	5523.00	5606.00	5612.00		
Beaver County	6003.00	6012.00	6013.00	6015.00	6028.00	6040.00	6041.98	6042.00	6043.00	6052.00	6054.00	
Butler County	9024.00											
Fayette County	2608.00	2611.00	2614.00	2617.00	2619.00	2623.00	2626.00	2632.00				
Washington County	7041.00	7543.00	7544.00	7546.00	7751.00	7831.00	7922.00					
Westmoreland County	8001.00	8007.01	8007.02	8016.00	8028.00	8041.00	8053.00	8054.00				

METROPOLITAN AREA: Pittsfield, MA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berkshire County	9001.00	9012.00										

METROPOLITAN AREA: Portland, ME

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	0004.00	0009.00	0006.00	0009.00	0010.00	0012.00	0014.00					

METROPOLITAN AREA: Portland-Vancouver, OR-WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Multnomah County	0011.01	0021.00	0022.01	0022.02	0023.01	0023.02	0033.01	0033.02	0034.01	0034.02	0040.01	0042.00
	0048.00	0049.00	0050.00	0051.00	0052.00	0053.00	0054.00	0056.00	0074.00	0083.01		
Washington County	0332.00											
Clark County	0410.05	0417.00	0418.00	0423.00	0424.00	0425.00	0427.00					

METROPOLITAN AREA: Providence-Fall River-Warwick, RI-MA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bristol County	6314.00	6402.00	6403.00	6408.00	6409.00	6410.00	6411.00	6412.00	6413.00	6414.00		
Providence County	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00	0013.00
	0014.00	0019.00	0020.00	0026.00	0027.00	0030.00	0108.00	0109.00	0110.00	0111.00	0149.00	0151.00
	0152.00	0172.00	0174.00	0180.00	0183.00							

METROPOLITAN AREA: Provo-Orem, UT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Utah County	0016.00	0018.00	0019.00	0025.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Pueblo, CO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pueblo County	0002.00	0006.00	0007.00	0012.00	0013.00	0014.00	0020.00	0021.00	0026.00	0029.01	0030.03	

METROPOLITAN AREA: Racine, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Racine County	0001.00	0003.00	0004.00	0005.00	0010.01							

METROPOLITAN AREA: Raleigh-Durham-Chapel Hill, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Durham County	0003.01	0004.02	0005.00	0008.02	0009.00	0010.01	0010.02	0011.00	0012.01	0012.02	0013.01	0013.04
	0014.00	0015.01	0015.02									
Franklin County	0602.00											
Johnston County	0403.00	0406.00	0414.00									
Orange County	0107.03	0113.00	0116.00									
Wake County	0501.00	0504.00	0506.00	0507.00	0508.00	0509.00	0510.00	0511.00	0520.01	0522.01	0542.98	

METROPOLITAN AREA: Rapid City, SD

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pennington County	0101.00											

METROPOLITAN AREA: Reading, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berks County	0001.00	0002.00	0012.00	0013.00	0019.00	0021.00	0022.00	0024.00	0025.00	0026.00		

METROPOLITAN AREA: Redding, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Shasta County	0101.00											

METROPOLITAN AREA: Reno, NV

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Washoe County	0001.00	0009.00	0018.00									

METROPOLITAN AREA: Richland-Kennewick-Pasco, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Benton County	0112.00											
Franklin County	0201.00	0202.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Richmond-Petersburg, VA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chesterfield County	1004.06											
Henrico County	2008.05											
Hopewell city	8201.00	8203.98	8207.00									
Petersburg city	8101.00	8102.00	8103.00	8104.00	8106.00	8107.00	8108.00					
Richmond city	0109.00	0110.00	0201.00	0202.00	0203.00	0204.00	0206.00	0207.00	0208.00	0209.00	0210.00	0211.00
	0301.00	0302.00	0401.00	0402.00	0403.00	0404.00	0413.00	0415.00	0601.00	0602.00	0603.00	0604.00
	0607.98	0608.98										

METROPOLITAN AREA: Riverside-San Bernardino, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Riverside County	0303.00	0304.00	0305.00	0422.02	0422.03	0428.00	0434.01	0434.02	0436.00	0440.00	0442.00	0454.00
	0455.00	0456.02	0457.01	0459.00	0462.00							
San Bernardino County	0014.00	0016.00	0042.00	0047.00	0048.00	0050.00	0054.00	0055.00	0056.00	0057.00	0058.00	0059.00
	0060.00	0064.00	0065.00	0068.00	0069.00	0075.00	0094.00	0104.05	0104.09	0105.00	0106.00	0117.00

METROPOLITAN AREA: Roanoke, VA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Roanoke city	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00	0013.00	0014.00				

METROPOLITAN AREA: Rochester, MN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Olmsted County	0001.00	0005.00										

METROPOLITAN AREA: Rochester, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Genesee County	9510.00	9515.00										
Livingston County	0305.00											
Monroe County	0002.00	0007.00	0013.00	0014.00	0015.00	0016.00	0017.00	0023.00	0027.00	0032.00	0033.00	0038.02
	0039.00	0040.00	0041.00	0043.00	0046.02	0047.01	0048.00	0049.00	0050.00	0051.00	0052.00	0053.00
	0055.00	0056.00	0057.00	0059.00	0064.00	0065.00	0066.00	0069.00	0079.00	0080.00	0090.00	0091.00
	0092.00	0093.01	0094.02	0094.03	0096.01	0096.02	0096.03	0096.04				
Ontario County	0517.00	0518.00										
Wayne County	0213.00											

METROPOLITAN AREA: Rockford, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Winnebago County	0010.00	0011.00	0021.00	0024.00	0025.00	0026.00	0027.00	0028.00	0029.00			

METROPOLITAN AREA: Rocky Mount, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Edgecombe County	0201.00	0204.00										
Nash County	0101.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Sacramento, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
El Dorado County	0301.01											
Sacramento County	0005.00	0006.00	0007.00	0010.00	0011.00	0012.00	0014.00	0018.00	0020.00	0021.00	0022.00	0027.00
	0028.00	0032.01	0037.00	0044.01	0044.02	0045.00	0050.02	0052.01	0053.00	0062.02	0064.00	0065.00
	0066.00	0067.02	0068.00	0069.00	0070.01							

METROPOLITAN AREA: Saginaw-Bay City-Midland, MI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bay County	2802.00	2803.00	2804.00	2807.00	2811.00							
Saginaw County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0013.00
	0017.00	0109.00										

METROPOLITAN AREA: St. Cloud, MN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Stearns County	0001.00											

METROPOLITAN AREA: St. Joseph, MO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Buchanan County	0010.00	0012.00	0013.00	0014.00	0020.00							

METROPOLITAN AREA: St. Louis, MO-IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Madison County	4005.00	4006.00	4007.00	4024.00	4025.00	4031.01						
St. Clair County	5004.00	5005.00	5006.00	5009.00	5010.00	5011.00	5012.00	5013.00	5021.00	5022.00	5024.01	5025.00
	5027.00	5028.00	5029.00	5030.00	5041.00	5042.01	5044.00					
St. Louis County	2128.00	2139.00	2140.00	2141.00	2169.00	2217.98						
St. Louis city	1015.00	1053.00	1054.00	1055.00	1061.00	1062.00	1063.00	1064.00	1065.00	1066.00	1067.00	1072.00
	1074.00	1075.00	1076.00	1077.00	1084.00	1085.00	1097.00	1101.00	1102.00	1103.00	1104.00	1105.00
	1111.00	1112.00	1113.00	1114.00	1115.00	1122.00	1123.00	1155.00	1156.00	1164.00	1172.00	1173.00
	1181.00	1184.00	1185.00	1186.00	1192.00	1193.00	1201.00	1202.00	1203.00	1211.00	1212.00	1213.00
	1214.00	1224.00	1231.00	1232.00	1241.00	1242.00	1246.00	1257.00	1266.00	1267.00		

METROPOLITAN AREA: Salem, OR

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Marion County	0001.00	0019.00										

METROPOLITAN AREA: Salinas, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Monterey County	0005.00	0007.00	0010.00	0013.00	0106.02	0137.00						

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VOL
60

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Salt Lake City-Ogden, UT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Davis County	1256.00	1263.00										
Salt Lake County	1001.00	1007.00	1014.00	1017.00	1019.00	1020.00	1021.00	1023.00	1024.00	1025.00	1026.00	1027.00
	1029.00	1030.00	1032.00	1115.00	1116.00	1133.05						
Weber County	2009.00	2011.00	2012.00	2018.00	2019.00							

METROPOLITAN AREA: San Angelo, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tom Green County	0005.00	0006.00	0009.00									

METROPOLITAN AREA: San Antonio, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bexar County	1101.00	1102.00	1103.00	1105.00	1106.00	1107.00	1108.00	1109.00	1110.00	1301.00	1302.00	1303.00
	1304.00	1305.00	1306.00	1307.85	1309.00	1311.00	1401.00	1501.00	1503.00	1504.00	1505.00	1507.00
	1508.00	1510.00	1519.00	1601.00	1605.00	1606.00	1609.00	1610.85	1612.00	1701.00	1702.00	1703.00
	1704.00	1707.00	1708.00	1709.00	1710.00	1711.00	1712.00	1714.00	1715.00	1901.00		
Guadalupe County	2102.00	2103.00										

METROPOLITAN AREA: San Diego, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
San Diego County	0022.00	0023.00	0024.00	0025.01	0026.00	0027.01	0027.04	0033.00	0034.02	0035.00	0036.00	0039.00
	0040.00	0041.00	0045.00	0046.00	0047.00	0048.00	0049.00	0050.00	0051.00	0052.00	0053.00	0054.00
	0056.00	0057.00	0058.00	0065.00	0066.00	0083.05	0100.08	0100.09	0114.00	0115.00	0116.00	0117.00
	0118.00	0120.00	0122.00	0123.02	0125.00	0132.01	0144.00	0157.01	0158.00	0182.00	0184.00	0186.03
	0202.98											

METROPOLITAN AREA: San Francisco, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
San Francisco County	0106.00	0107.00	0111.00	0113.00	0114.00	0115.00	0117.00	0118.00	0120.00	0121.00	0122.00	0123.00
	0124.00	0125.00	0155.00	0161.00	0162.98	0163.00	0176.98	0177.00	0178.00	0179.02	0180.00	0201.98
	0208.00	0209.00	0229.00	0231.00	0232.00	0233.00	0234.00	0605.00	0606.00			
San Mateo County	6102.00	6117.00	6120.00									

METROPOLITAN AREA: San Jose, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Clara County	5003.00	5008.00	5009.00	5010.00	5013.00	5014.00	5015.00	5016.00	5017.00	5031.01	5036.02	5037.02
	5037.03	5052.01	5116.02	5126.01								

METROPOLITAN AREA: San Luis Obispo-Atascadero-Paso Robles, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
San Luis Obispo County	0109.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Santa Barbara-Santa Maria-Lompoc, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Barbara County	0009.00	0023.04	0024.02	0024.03	0024.04	0025.00	0027.02	0027.06	0029.02	0029.03	0029.11	0029.12

METROPOLITAN AREA: Santa Cruz-Watsonville, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Cruz County	1007.00	1008.00	1010.00	1103.00	1104.98	1201.00						

METROPOLITAN AREA: Santa Fe, NM

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Santa Fe County	0003.00	0010.02	0101.01									

METROPOLITAN AREA: Santa Rosa, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sonoma County	1514.00	1519.00	1520.00									

METROPOLITAN AREA: Sarasota-Bradenton, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Manatee County	0001.03	0007.01	0015.02									
Sarasota County	0003.00											

METROPOLITAN AREA: Savannah, GA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chatham County	0001.00	0006.01	0010.00	0011.00	0012.00	0013.00	0015.00	0017.00	0018.00	0019.00	0020.00	0021.00
	0022.00	0023.00	0024.00	0025.00	0027.00	0028.00	0032.00	0044.00	0101.01	0106.04		

METROPOLITAN AREA: Scranton--Wilkes-Barre--Hazleton, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lackawanna County	1002.00	1007.00	1015.00	1029.00								
Luzerne County	2001.00	2009.00	2010.00	2125.00	2135.00	2174.00						

METROPOLITAN AREA: Seattle-Bellevue-Everett, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Island County	9702.00	9709.00										
King County	0047.00	0053.01	0053.02	0071.00	0072.00	0073.00	0074.00	0075.00	0079.00	0080.00	0081.00	0082.00
	0084.00	0085.00	0086.00	0087.00	0090.00	0091.00	0092.00	0103.00	0107.00	0109.00	0110.00	0112.00
	0259.00	0263.00	0265.00									
Snohomish County	0402.00	0404.00	0407.00									

METROPOLITAN AREA: Sharon, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mercer County	0302.00	0307.00	0308.00									

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Sheboygan, WI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sheboygan County	0005.00	0006.00										

METROPOLITAN AREA: Sherman-Denison, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Grayson County	0005.02	0016.01	0016.02									

METROPOLITAN AREA: Shreveport-Bossier City, LA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bossier Parish	0103.00	0104.00										
Caddo Parish	0202.00	0204.00	0206.00	0207.00	0208.00	0209.00	0211.00	0213.00	0217.00	0218.00	0219.00	0223.00
	0232.00	0233.00	0235.00	0236.00	0237.00	0246.00						
Webster Parish	0317.00	0319.00										

METROPOLITAN AREA: Sioux City, IA-NE

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Woodbury County	0012.00	0013.00	0015.00	0016.00								

METROPOLITAN AREA: Sioux Falls, SD

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Minnehaha County	0007.00											

METROPOLITAN AREA: South Bend, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
St. Joseph County	0006.00	0010.00	0018.00	0019.00	0020.00	0021.00	0023.00	0029.00	0030.00			

METROPOLITAN AREA: Spokane, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Spokane County	0001.00	0016.00	0020.00	0022.00	0024.00	0025.00	0027.00	0030.00	0032.00	0033.00	0034.00	0035.00
	0036.00	0140.01										

METROPOLITAN AREA: Springfield, IL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sangamon County	0008.00	0009.00	0014.00	0015.00	0016.00	0017.00	0023.00					

METROPOLITAN AREA: Springfield, MO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Greene County	0001.00	0002.00	0005.00	0006.00	0007.00	0016.00	0018.02	0020.00	0032.02	0033.00		

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Springfield, MA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hampden County	8006.00	8007.00	8008.00	8009.00	8012.00	8014.01	8015.02	8018.00	8019.00	8020.00	8114.00	8115.00
	8116.00	8117.00										
Hampshire County	8204.00											

METROPOLITAN AREA: Stamford-Norwalk, CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Fairfield County	0201.00	0214.00	0441.00	0445.00								

METROPOLITAN AREA: State College, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Centre County	0120.00	0121.00	0125.00	0126.00								

METROPOLITAN AREA: Steubenville-Weirton, OH-WV

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Jefferson County	0001.00	0002.00	0003.00	0008.00								
Brooke County	0302.00											

METROPOLITAN AREA: Stockton-Lodi, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
San Joaquin County	0001.00	0002.00	0005.00	0006.00	0007.00	0008.00	0016.00	0017.00	0022.00	0023.00	0025.00	0027.01
	0031.13	0033.04										

METROPOLITAN AREA: Sumter, SC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sumter County	0001.00	0013.00	0015.00	0016.00								

METROPOLITAN AREA: Syracuse, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cayuga County	0419.00											
Onondaga County	0005.00	0013.00	0022.00	0023.00	0030.00	0031.00	0032.00	0033.00	0034.00	0035.00	0038.00	0039.00
	0040.00	0041.00	0042.00	0043.00	0052.00	0053.00	0054.00	0056.02	0061.02			

METROPOLITAN AREA: Tacoma, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pierce County	0613.00	0614.00	0615.00	0616.01	0616.02	0617.00	0622.00	0627.00	0718.02	0720.00		

METROPOLITAN AREA: Tallahassee, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Gadsden County	0207.00											
Leon County	0001.00	0004.00	0005.00	0006.00	0010.01	0011.01	0012.00	0013.00	0014.00	0020.01	0020.02	

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60

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Tampa-St. Petersburg-Clearwater, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hillsborough County	0007.00	0012.00	0018.00	0019.00	0020.00	0026.00	0030.00	0031.00	0032.00	0033.00	0034.00	0035.00
	0037.00	0038.00	0039.00	0040.00	0041.00	0043.00	0044.00	0050.00	0051.00	0109.00	0129.00	
Pasco County	0324.00	0327.00										
Pinellas County	0205.00	0206.00	0207.00	0208.00	0209.95	0210.95	0212.00	0213.00	0214.00	0215.00	0216.95	0259.02
	0262.00											

METROPOLITAN AREA: Terre Haute, IN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Vigo County	0001.00	0003.00	0005.00	0006.00	0008.00	0019.00						

METROPOLITAN AREA: Texarkana, TX-Texarkana, AR

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Miller County	0203.00	0204.00	0206.98									
Bowie County	0102.00	0103.00	0105.00									

METROPOLITAN AREA: Toledo, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lucas County	0008.00	0012.02	0013.04	0014.00	0015.00	0017.00	0018.00	0019.00	0020.00	0021.00	0022.00	0023.00
	0025.00	0026.00	0027.00	0028.00	0029.00	0030.00	0032.00	0033.00	0034.00	0035.00	0036.00	0037.00
	0038.00	0041.00	0042.00	0043.01	0048.00	0054.00	0068.00	0073.03				
Wood County	0217.02	0218.00										

METROPOLITAN AREA: Topeka, KS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Shawnee County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0011.00					

METROPOLITAN AREA: Trenton, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Mercer County	0001.00	0008.00	0009.00	0010.00	0011.00	0014.00	0015.00	0016.00	0017.00	0019.00	0020.00	0021.00

METROPOLITAN AREA: Tucson, AZ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Pima County	0001.00	0003.00	0004.00	0005.00	0008.00	0009.00	0010.00	0012.00	0013.01	0013.02	0014.00	0015.00
	0023.00	0024.00	0026.01	0037.02	0038.00	0041.04	0042.00	0048.00	0049.00			

METROPOLITAN AREA: Tulsa, OK

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Creek County	0210.00											
Osage County	0104.00											
Tulsa County	0002.00	0005.00	0006.00	0007.00	0009.00	0010.00	0012.00	0013.00	0021.00	0023.00	0025.00	0026.00
	0030.00	0046.00	0062.00	0073.11	0076.08	0079.00	0080.01	0088.00	0091.01			

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Tuscaloosa, AL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tuscaloosa County	0104.04	0111.00	0112.00	0114.00	0117.01	0118.00	0119.00					

METROPOLITAN AREA: Tyler, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Smith County	0002.02	0004.00	0005.00	0006.00	0007.00							

METROPOLITAN AREA: Utica-Rome, NY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Herkimer County	0104.00	0111.00										
Oneida County	0202.01	0203.00	0204.00	0205.00	0206.00	0207.01	0208.01	0208.03	0209.00	0211.03	0212.01	0215.00
	0218.00											

METROPOLITAN AREA: Vallejo-Fairfield-Napa, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Napa County	2001.00											
Solano County	2509.00	2518.02										

METROPOLITAN AREA: Ventura, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ventura County	0002.00	0006.00	0023.00	0024.00	0028.02	0032.00	0034.02	0035.00	0038.00	0043.01	0045.01	0046.00
	0049.00	0050.02										

METROPOLITAN AREA: Victoria, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Victoria County	0001.00	0003.01	0003.02	0006.01								

METROPOLITAN AREA: Vineland-Millville-Bridgeton, NJ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cumberland County	0201.00	0203.00	0205.00	0401.00								

METROPOLITAN AREA: Visalia-Tulare-Portervill, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Tulare County	0003.02	0011.00	0029.01	0040.00	0041.00	0044.00						

METROPOLITAN AREA: Waco, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
McLennan County	0001.00	0002.00	0003.00	0004.00	0007.00	0010.00	0012.00	0014.00	0015.00	0019.00	0033.00	

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Washington, DC-MD-VA-WV

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
District of Columbia	0021.01	0022.02	0025.02	0028.01	0028.02	0029.00	0030.00	0031.00	0032.00	0034.00	0035.00	0036.00
	0037.00	0038.00	0043.00	0045.00	0046.00	0047.00	0048.01	0048.02	0049.01	0049.02	0050.00	0052.20
	0057.01	0058.00	0059.00	0060.20	0064.10	0071.00	0072.00	0073.02	0073.04	0074.01	0074.04	0074.06
	0074.07	0074.08	0074.09	0074.30	0075.02	0075.03	0075.04	0076.01	0077.03	0077.08	0077.09	0078.03
	0078.04	0078.07	0078.08	0078.09	0078.60	0079.01	0079.03	0084.02	0085.10	0087.01	0087.02	0088.02
	0088.03	0088.04	0089.03	0089.04	0090.01	0091.02	0092.03	0092.10	0092.40	0093.02	0096.02	0097.00
	0098.03	0098.04	0098.05	0098.06	0098.08	0098.10	0098.20	0099.03	0099.04	0099.05	0099.06	0099.07
Charles County	8502.01											
Frederick County	7501.00	7503.00	7509.00									
Montgomery County	7009.04	7019.00	7025.00									
Prince George's County	8011.01	8029.03	8034.01	8035.09	8056.00							
Arlington County	1033.00											
Culpeper County	9903.00	9904.00										
Fairfax County	4215.00	4219.85										
Prince William County	9009.03											
Warren County	0204.00	0205.00										
Fredericksburg city	0002.00	0004.98										
Berkeley County	9713.00	9715.00	9716.00	9717.00	9720.00							
Jefferson County	9724.00											

METROPOLITAN AREA: Waterbury, CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Haven County	3501.00	3502.00	3503.00	3504.00	3505.00	3506.00	3522.00					

METROPOLITAN AREA: Waterloo-Cedar Falls, IA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Black Hawk County	0001.00	0002.00	0003.00	0007.00	0008.00	0009.00	0017.01					

METROPOLITAN AREA: West Palm Beach-Boca Raton, FL

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Palm Beach County	0013.00	0014.03	0014.04	0015.00	0019.02	0021.00	0022.00	0023.00	0024.00	0025.00	0026.00	0051.00
	0052.02	0059.13	0061.00	0067.00	0068.02	0075.02	0077.12	0080.01	0080.02	0082.01	0082.02	0083.01
	0083.02											

METROPOLITAN AREA: Wheeling, WV-OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Belmont County	0116.00	0121.00										
Ohio County	0001.00	0004.00	0007.00	0008.00	0024.00							

METROPOLITAN AREA: Wichita, KS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Sedgwick County	0001.00	0004.00	0006.00	0007.00	0008.00	0009.00	0018.00	0024.00	0026.00	0027.00	0037.00	0041.00
	0042.00	0065.00	0068.00	0078.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Wichita Falls, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Wichita County	0101.00	0102.00	0103.00	0104.00	0105.00	0111.00	0112.00	0113.00	0116.00			

METROPOLITAN AREA: Williamsport, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lycoming County	0004.00	0007.00	0008.00									

METROPOLITAN AREA: Wilmington-Newark, DE-MD

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Castle County	0001.00	0006.02	0007.00	0008.00	0009.00	0017.00	0019.00	0020.00	0021.00	0022.00	0145.01	

METROPOLITAN AREA: Wilmington, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Hanover County	0101.00	0108.00	0110.00	0111.00	0113.00	0114.00						

METROPOLITAN AREA: Worcester, MA-CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Worcester County	7312.01	7312.02	7313.00	7314.00	7315.00	7317.00	7318.00	7319.00	7320.01	7328.00	7572.00	

METROPOLITAN AREA: Yakima, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yakima County	0001.00	0002.00	0006.00	0015.00								

METROPOLITAN AREA: Yolo, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yolo County	0101.01	0102.03	0105.01	0106.02	0116.98							

METROPOLITAN AREA: York, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
York County	0002.00	0005.00	0007.00	0010.00	0016.00							

METROPOLITAN AREA: Youngstown-Warren, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Columbiana County	9521.00	9522.00	9525.98									
Mahoning County	8002.00	8005.00	8006.00	8007.00	8009.00	8010.00	8017.00	8019.00	8020.00	8021.00	8022.00	8023.00
	8031.00	8032.00	8034.00	8035.00	8037.00	8040.00	8044.00	8103.00	8104.00			
Trumbull County	9201.00	9205.00	9206.00									

METROPOLITAN AREA: Yuba City, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yuba County	0405.00											

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IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Yuma, AZ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yuma County	0001.00	0105.00	0114.00	0115.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: ALABAMA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bullock County	9521.00											
Butler County	9531.00	9534.00										
Clarke County	9580.00											
Dallas County	9964.00	9965.00	9969.00	9970.00	9972.00	9973.00						
Escambia County	9702.00	9706.00										
Greene County	9743.00	9745.00	9746.00									
Hale County	9746.00	9747.00	9748.00	9749.00								
Lee County	0401.00	0402.00	0406.00	0407.00	0408.00	0415.00	0416.00					
Lowndes County	9810.00	9811.00										
Macon County	9817.00											
Marengo County	9828.00											
Monroe County	9857.00	9858.00										
Perry County	9871.00	9872.00										
Pickens County	9881.00											
Pike County	9889.00											
Sumter County	9912.00	9915.00										
Talladega County	0106.00	0118.00										
Wilcox County	9947.00	9949.00	9950.00	9951.00								

STATE: ALASKA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bethel	9513.98	9514.98										
Dillingham	9716.98											
Fairbanks North Star Borough	0001.00											
Kenai Peninsula Borough	9543.00											
Matanuska-Susitna Borough	9743.00	9744.00										
Nome	9510.00											
Valdez-Cordova	9861.00											
Wade Hampton	9712.00											
Yukon-Koyukuk	9604.00	9605.00	9606.00	9607.98								

STATE: ARIZONA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Apache County	9760.00	9771.00	9772.00	9773.00	9774.00	9775.00	9778.00					
Cochise County	0009.00											
Coconino County	0008.00	0010.00	0022.00	0024.00	0025.00							
Gila County	9850.00											
Graham County	9950.00											
La Paz County	0201.00											
Navajo County	9651.00	9652.00	9653.00	9660.00	9671.00	9672.00	9674.00	9675.00	9676.00			

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: ARKANSAS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chicot County	9802.00	9804.00										
Desha County	9503.00											
Garland County	0106.00	0107.00	0108.00	0115.00								
Lee County	9704.00											
Phillips County	9804.00	9805.00	9806.00									

STATE: CALIFORNIA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Humboldt County	0010.00											
Imperial County	0114.00	0120.00	0121.00	0124.00	0125.00							
Kings County	0011.00	0013.00										
Nevada County	0010.00	0011.00										

STATE: COLORADO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Conejos County	9746.00	9747.00	9748.00									
Costilla County	9827.00											
Delta County	9648.00											
Elbert County	9911.00											
Huerfano County	9808.00											
Las Animas County	9832.00											
Mesa County	0001.00	0002.00										
Montezuma County	9695.00											
Otero County	9880.00											

STATE: CONNECTICUT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Litchfield County	3103.00											

STATE: FLORIDA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dixie County	9803.98											
Indian River County	0503.02											
Monroe County	9701.00											
Putnam County	9508.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: GEORGIA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bulloch County	9904.00											
Burke County	9503.00	9504.00	9508.00									
Clay County	9601.00											
Colquitt County	9703.00											
Dodge County	9606.00											
Dooly County	9702.00											
Early County	9904.00											
Emanuel County	9807.00											
Floyd County	0011.00	0016.00										
Glynn County	0008.00											
Hancock County	9801.00											
Jefferson County	9604.00											
Laurens County	9509.00											
Liberty County	0106.00											
Lowndes County	0108.00	0109.00	0110.00	0113.00								
Mitchell County	9803.00											
Randolph County	9901.00											
Screven County	9701.00											
Telfair County	9503.00											
Thomas County	9601.00											
Tift County	9906.00											
Ware County	9504.00	9507.00										
Warren County	9702.00	9703.00										
Wilcox County	9903.00											

STATE: HAWAII

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hawaii County	0211.00											
Kauai County	0410.00											
Maui County	0301.00	0313.00	0317.00	0318.00								

STATE: IDAHO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bannock County	0009.00	0016.01										
Bingham County	9508.00											
Bonneville County	9701.00	9712.00										
Kootenai County	0009.00											
Latah County	0054.00											
Twin Falls County	9811.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: ILLINOIS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	0004.00	0007.00	0008.00									
Alexander County	9577.00	9579.00										
Christian County	9589.00											
Coles County	0004.00	0008.00										
Franklin County	0407.00											
Hamilton County	9731.00											
Hardin County	9709.00											
Jackson County	0109.00	0111.00	0112.00	0113.00	0114.00							
Jefferson County	0510.00											
Knox County	0008.00											
La Salle County	9633.00											
McDonough County	0104.00	0105.00	0108.00									
Pulaski County	9711.00											
Saline County	9555.00	9559.00										
Vermilion County	0001.00											

STATE: INDIANA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Henry County	9765.00											
Knox County	9553.00											
La Porte County	0402.00											
Wayne County	0002.00	0003.00										

STATE: IOWA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lee County	9908.00											
Story County	0005.00	0007.00										
Wapello County	9605.00											
Webster County	0007.00	0008.00										

STATE: KANSAS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cherokee County	9585.00											
Crawford County	9575.00											
Ellis County	9729.00											
Montgomery County	9510.00											
Riley County	0004.00	0008.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: KENTUCKY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bell County	9601.00	9602.00	9609.00									
Boyle County	9903.00											
Breathitt County	9801.00	9806.00	9807.00									
Clay County	9501.00	9504.00	9506.00									
Clinton County	9702.00											
Franklin County	0702.00											
Hardin County	0015.00											
Jackson County	9601.00	9602.00										
Knott County	9601.00											
Knox County	9901.00	9902.00	9906.00	9907.00	9908.00							
Lawrence County	9902.00	9903.00										
Lee County	9502.00											
Leslie County	9802.00											
McCracken County	0301.00	0302.00	0303.00	0304.00	0306.00							
McCreary County	9601.00	9602.00	9604.00									
Magoffin County	9701.00											
Marion County	9708.00											
Morgan County	9501.00											
Owsley County	9901.00	9902.00	9903.00									
Perry County	9701.00	9707.00										
Warren County	0101.00	0102.00	0103.00	0104.00	0105.00							
Wayne County	9803.00	9805.00	9806.00									
Whitley County	9808.00											
Wolfe County	9901.00	9903.00										

STATE: LOUISIANA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allen Parish	9503.00											
Concordia Parish	9902.00											
East Carroll Parish	9903.00											
Evangeline Parish	9505.00											
Iberia Parish	0308.00	0309.00	0310.00									
Lincoln Parish	9603.00	9608.00	9609.00									
Madison Parish	9603.00	9604.00										
Morehouse Parish	9504.00											
Natchitoches Parish	9907.00											
Pointe Coupee Parish	9520.00											
St. Mary Parish	0416.00											
Tangipahoa Parish	9533.00	9536.00	9543.00									
Tensas Parish	9803.00											
Vermilion Parish	9508.00											

STATE: MAINE

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Franklin County	9901.00											
Somerset County	9852.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: MARYLAND

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dorchester County	9705.00											
Somerset County	9806.00											
Wicomico County	0003.00											
Worcester County	9909.00											

STATE: MASSACHUSETTS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berkshire County	9211.00											
Franklin County	0413.00											

STATE: MICHIGAN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cass County	0009.00											
Clare County	9809.00	9812.00										
Houghton County	9903.00											
Iosco County	9904.00	9905.00										
Isabella County	9511.00											
Keweenaw County	9601.00											
Lake County	9604.00	9606.00	9607.00									
Marquette County	0003.00	0005.00										
Newaygo County	9702.00											
Ogemaw County	9508.00											
Roscommon County	9702.00											
St. Joseph County	0404.00											
Shiawassee County	0312.00											

STATE: MINNESOTA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aitkin County	9903.00											
Beltrami County	9508.00											
Cass County	9612.00											
Hubbard County	9706.00											
Koochiching County	9906.00											
Mahnomen County	9603.00											
Pennington County	9904.00											
Wadena County	9801.00											
Winona County	9705.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: MISSISSIPPI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	0003.00	0004.00										
Bolivar County	9501.00	9502.00	9503.00	9504.00								
Coahoma County	9501.00	9506.00	9507.00									
Forrest County	0001.00	0004.00	0005.00	0006.00	0009.00							
Holmes County	9502.00	9503.00	9504.00	9505.00								
Humphreys County	9503.00											
Jefferson County	9501.00	9502.00										
Jones County	9507.00											
Lafayette County	9503.00											
Lauderdale County	0001.00	0002.00	0004.00	0006.00	0007.00							
Leflore County	9502.00	9508.00	9509.00									
Lowndes County	0007.00	0008.00	0011.00									
Pike County	9503.00											
Sunflower County	9503.00	9505.00										
Tallahatchie County	9504.00											
Tunica County	9501.00	9502.00										
Warren County	9503.00	9504.00										
Washington County	0004.00	0005.00	0006.00	0010.00	0011.00	0018.00	0020.00					
Wilkinson County	9502.00											
Yazoo County	9505.00											

STATE: MISSOURI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adair County	9503.00	9506.00	9509.00									
Butler County	9505.00	9507.00										
Cape Girardeau County	9809.00	9810.00	9814.00	9816.00								
Cole County	0101.00											
Dent County	9603.00											
Livingston County	9805.00											
Oregon County	9801.00											
Pemiscot County	9702.00											
Phelps County	9904.00											
Ripley County	9704.00											
Scott County	9809.00											

STATE: MONTANA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Big Horn County	9642.00											
Blaine County	9725.00											
Flathead County	0010.00											
Gallatin County	9886.00											
Glacier County	9762.00											
Hill County	9737.00											
Lewis and Clark County	9789.00	9796.00										
Missoula County	0002.01	0003.00										
Rosebud County	9627.00											
Silver Bow County	0001.00											

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IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Wichita Falls, TX

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Wichita County	0101.00	0102.00	0103.00	0104.00	0105.00	0111.00	0112.00	0113.00	0116.00			

METROPOLITAN AREA: Williamsport, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lycoming County	0004.00	0007.00	0008.00									

METROPOLITAN AREA: Wilmington-Newark, DE-MD

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Castle County	0001.00	0006.02	0007.00	0008.00	0009.00	0017.00	0019.00	0020.00	0021.00	0022.00	0145.01	

METROPOLITAN AREA: Wilmington, NC

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
New Hanover County	0101.00	0108.00	0110.00	0111.00	0113.00	0114.00						

METROPOLITAN AREA: Worcester, MA-CT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Worcester County	7312.01	7312.02	7313.00	7314.00	7315.00	7317.00	7318.00	7319.00	7320.01	7325.00	7572.00	

METROPOLITAN AREA: Yakima, WA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yakima County	0001.00	0002.00	0006.00	0015.00								

METROPOLITAN AREA: Yolo, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yolo County	0101.01	0102.03	0105.01	0106.02	0116.98							

METROPOLITAN AREA: York, PA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
York County	0002.00	0005.00	0007.00	0010.00	0016.00							

METROPOLITAN AREA: Youngstown-Warren, OH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Columbiana County	9521.00	9522.00	9525.98									
Mahoning County	8002.00	8005.00	8006.00	8007.00	8009.00	8010.00	8017.00	8019.00	8020.00	8021.00	8022.00	8023.00
	8031.00	8032.00	8034.00	8035.00	8037.00	8040.00	8044.00	8103.00	8104.00			
Trumbull County	9201.00	9205.00	9206.00									

METROPOLITAN AREA: Yuba City, CA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yuba County	0405.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) METROPOLITAN AREAS

METROPOLITAN AREA: Yuma, AZ

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Yuma County	0001.00	0105.00	0114.00	0115.00								

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: ALABAMA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bullock County	9521.00											
Butler County	9531.00	9534.00										
Clarke County	9580.00											
Dallas County	9964.00	9965.00	9969.00	9970.00	9972.00	9973.00						
Escambia County	9702.00	9706.00										
Greene County	9743.00	9745.00	9746.00									
Hale County	9746.00	9747.00	9748.00	9749.00								
Lee County	0401.00	0402.00	0406.00	0407.00	0408.00	0415.00	0416.00					
Lowndes County	9810.00	9811.00										
Macon County	9817.00											
Marengo County	9828.00											
Monroe County	9857.00	9858.00										
Perry County	9871.00	9872.00										
Pickens County	9881.00											
Pike County	9889.00											
Sumter County	9912.00	9915.00										
Talladega County	0106.00	0118.00										
Wilcox County	9947.00	9949.00	9950.00	9951.00								

STATE: ALASKA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bethel	9513.98	9514.98										
Dillingham	9716.98											
Fairbanks North Star Borough	0001.00											
Kenai Peninsula Borough	9543.00											
Matanuska-Susitna Borough	9743.00	9744.00										
Nome	9510.00											
Valdez-Cordova	9861.00											
Wade Hampton	9712.00											
Yukon-Koyukuk	9604.00	9605.00	9606.00	9607.98								

STATE: ARIZONA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Apache County	9760.00	9771.00	9772.00	9773.00	9774.00	9775.00	9778.00					
Cochise County	0009.00											
Coconino County	0008.00	0010.00	0022.00	0024.00	0025.00							
Gila County	9850.00											
Graham County	9950.00											
La Paz County	0201.00											
Navajo County	9651.00	9652.00	9653.00	9660.00	9671.00	9672.00	9674.00	9675.00	9676.00			

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: ARKANSAS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chicot County	9802.00	9804.00										
Desha County	9503.00											
Garland County	0106.00	0107.00	0108.00	0115.00								
Lee County	9704.00											
Phillips County	9804.00	9805.00	9806.00									

STATE: CALIFORNIA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Humboldt County	0010.00											
Imperial County	0114.00	0120.00	0121.00	0124.00	0125.00							
Kings County	0011.00	0013.00										
Nevada County	0010.00	0011.00										

STATE: COLORADO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Conejos County	9746.00	9747.00	9748.00									
Costilla County	9827.00											
Delta County	9648.00											
Elbert County	9911.00											
Huerfano County	9808.00											
Las Animas County	9832.00											
Mesa County	0001.00	0002.00										
Montezuma County	9695.00											
Otero County	9880.00											

STATE: CONNECTICUT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Litchfield County	3103.00											

STATE: FLORIDA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dixie County	9803.98											
Indian River County	0503.02											
Monroe County	9701.00											
Putnam County	9508.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: GEORGIA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bulloch County	9904.00											
Burke County	9503.00	9504.00	9508.00									
Clay County	9601.00											
Colquitt County	9703.00											
Dodge County	9606.00											
Dooly County	9702.00											
Early County	9904.00											
Emanuel County	9807.00											
Floyd County	0011.00	0016.00										
Glynn County	0008.00											
Hancock County	9801.00											
Jefferson County	9604.00											
Laurens County	9509.00											
Liberty County	0106.00											
Lowndes County	0108.00	0109.00	0110.00	0113.00								
Mitchell County	9803.00											
Randolph County	9901.00											
Screven County	9701.00											
Telfair County	9503.00											
Thomas County	9601.00											
Tift County	9906.00											
Ware County	9504.00	9507.00										
Warren County	9702.00	9703.00										
Wilcox County	9903.00											

STATE: HAWAII

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Hawaii County	0311.00											
Kauai County	0410.00											
Maui County	0301.00	0313.00	0317.00	0318.00								

STATE: IDAHO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bannock County	0009.00	0016.01										
Bingham County	9508.00											
Bonneville County	9701.00	9712.00										
Kootenai County	0009.00											
Latah County	0054.00											
Twin Falls County	9811.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: ILLINOIS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	0004.00	0007.00	0008.00									
Alexander County	9577.00	9579.00										
Christian County	9589.00											
Coles County	0004.00	0008.00										
Franklin County	0407.00											
Hamilton County	9731.00											
Hardin County	9709.00											
Jackson County	0109.00	0111.00	0112.00	0113.00	0114.00							
Jefferson County	0510.00											
Knox County	0008.00											
La Salle County	9633.00											
McDonough County	0104.00	0105.00	0108.00									
Pulaski County	9711.00											
Saline County	9555.00	9559.00										
Vermilion County	0001.00											

STATE: INDIANA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Henry County	9765.00											
Knox County	9553.00											
La Porte County	0402.00											
Wayne County	0002.00	0003.00										

STATE: IOWA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lee County	9508.00											
Story County	0005.00	0007.00										
Wapello County	9505.00											
Webster County	0007.00	0008.00										

STATE: KANSAS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cherokee County	9585.00											
Crawford County	9575.00											
Ellis County	9729.00											
Montgomery County	9510.00											
Riley County	0004.00	0008.00										

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: KENTUCKY

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bell County	9601.00	9602.00	9609.00									
Boyle County	9903.00											
Breathitt County	9801.00	9806.00	9807.00									
Clay County	9501.00	9504.00	9506.00									
Clinton County	9702.00											
Franklin County	0702.00											
Hardin County	0015.00											
Jackson County	9601.00	9602.00										
Knott County	9601.00											
Knox County	9901.00	9902.00	9906.00	9907.00	9908.00							
Lawrence County	9902.00	9903.00										
Lee County	9502.00											
Leslie County	9802.00											
McCracken County	0301.00	0302.00	0303.00	0304.00	0306.00							
McCreary County	9601.00	9602.00	9604.00									
Magoffin County	9701.00											
Marion County	9708.00											
Morgan County	9501.00											
Owsley County	9901.00	9902.00	9903.00									
Perry County	9701.00	9707.00										
Warren County	0101.00	0102.00	0103.00	0104.00	0105.00							
Wayne County	9803.00	9805.00	9806.00									
Whitley County	9808.00											
Wolfe County	9901.00	9903.00										

STATE: LOUISIANA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Allen Parish	9503.00											
Concordia Parish	9902.00											
East Carroll Parish	9903.00											
Evangeline Parish	9505.00											
Iberia Parish	0308.00	0309.00	0310.00									
Lincoln Parish	9603.00	9608.00	9609.00									
Madison Parish	9603.00	9604.00										
Morehouse Parish	9504.00											
Natchitoches Parish	9907.00											
Pointe Coupee Parish	9520.00											
St. Mary Parish	0416.00											
Tangipahoa Parish	9533.00	9536.00	9543.00									
Tensas Parish	9803.00											
Vermilion Parish	9508.00											

STATE: MAINE

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Franklin County	9901.00											
Somerset County	9852.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: MARYLAND

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Dorchester County	9705.00											
Somerset County	9806.00											
Wicomico County	0003.00											
Worcester County	9909.00											

STATE: MASSACHUSETTS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Berkshire County	9211.00											
Franklin County	0413.00											

STATE: MICHIGAN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cass County	0009.00											
Clare County	9809.00	9812.00										
Houghton County	9903.00											
Iosco County	9904.00	9905.00										
Isabella County	9511.00											
Keweenaw County	9601.00											
Lake County	9604.00	9606.00	9607.00									
Marquette County	0003.00	0005.00										
Newaygo County	9702.00											
Ogemaw County	9508.00											
Roscommon County	9702.00											
St. Joseph County	0404.00											
Shiawassee County	0312.00											

STATE: MINNESOTA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Aitkin County	9903.00											
Beltrami County	9508.00											
Cass County	9612.00											
Hubbard County	9706.00											
Koochiching County	9906.00											
Mahnomen County	9603.00											
Pennington County	9904.00											
Wadena County	9801.00											
Winona County	9705.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: MISSISSIPPI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	0003.00	0004.00										
Bolivar County	9501.00	9502.00	9503.00	9504.00								
Coahoma County	9501.00	9506.00	9507.00									
Forrest County	0001.00	0004.00	0005.00	0006.00	0009.00							
Holmes County	9502.00	9503.00	9504.00	9505.00								
Humphreys County	9503.00											
Jefferson County	9501.00	9502.00										
Jones County	9507.00											
Lafayette County	9503.00											
Lauderdale County	0001.00	0002.00	0004.00	0006.00	0007.00							
Leflore County	9502.00	9508.00	9509.00									
Lowndes County	0007.00	0008.00	0011.00									
Pike County	9503.00											
Sunflower County	9503.00	9505.00										
Tallahatchie County	9504.00											
Tunica County	9501.00	9502.00										
Warren County	9503.00	9504.00										
Washington County	0004.00	0005.00	0006.00	0010.00	0011.00	0018.00	0020.00					
Wilkinson County	9502.00											
Yazoo County	9505.00											

STATE: MISSOURI

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adair County	9503.00	9506.00	9509.00									
Butler County	9505.00	9507.00										
Cape Girardeau County	9809.00	9810.00	9814.00	9816.00								
Cole County	0101.00											
Dent County	9603.00											
Livingston County	9805.00											
Oregon County	9801.00											
Pemiscot County	9702.00											
Phelps County	9904.00											
Ripley County	9706.00											
Scott County	9809.00											

STATE: MONTANA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Big Horn County	9642.00											
Blaine County	9725.00											
Flathead County	0010.00											
Gallatin County	9866.00											
Glacier County	9762.00											
Hill County	9737.00											
Lewis and Clark County	9789.00	9796.00										
Missoula County	0002.01	0003.00										
Rosebud County	9627.00											
Silver Bow County	0001.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: NEBRASKA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	9661.00											
Lincoln County	9601.00											

STATE: NEVADA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Elko County	9501.00	9505.00	9506.00	9515.00								
Humboldt County	9603.00											
Lyon County	9606.00											

STATE: NEW MEXICO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Chaves County	0001.00	0006.00										
Cibola County	9746.00											
Guadalupe County	9617.00	9618.00										
Lea County	0001.00	0004.00										
Lincoln County	9804.00											
Luna County	9868.00											
McKinley County	9721.00	9723.00	9725.00	9726.00	9727.00							
Mora County	9552.00											
Otero County	0001.00	0008.00										
San Juan County	0008.00	0009.00	0010.01	0010.02								
San Miguel County	9571.00	9577.00										
Socorro County	9784.00											
Taos County	9529.00											

STATE: NEW YORK

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cattaraugus County	9619.00	9620.00	9622.00									
Clinton County	1011.00											
Columbia County	9912.00											
Jefferson County	0620.00											
St. Lawrence County	9911.00	9912.00	9922.00									
Tompkins County	0001.00	0002.00	0003.00	0004.00	0010.00	0012.00						

STATE: NORTH CAROLINA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Columbus County	9909.00											
Craven County	9608.00	9609.00										
Halifax County	9908.00											
Lee County	0302.00	0303.00										
Lenoir County	0103.00	0104.00	0107.00									
Pasquotank County	9603.00											
Robeson County	9608.00											
Watauga County	9805.00											
Wilson County	0002.00	0007.00	0008.01									

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: NORTH DAKOTA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Benson County	9567.00											
McKenzie County	9626.00											
Rolette County	9517.00	9518.00										
Sioux County	9660.00											
Ward County	0101.00											

STATE: OHIO

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Adams County	9904.00	9905.00	9906.00									
Athens County	9731.00											
Coshocton County	9914.00											
Erie County	0408.00											
Jackson County	9576.00											
Marion County	0001.00	0009.00										
Meigs County	9644.00											
Muskingum County	9821.00											
Scioto County	9931.00	9932.00	9935.00	9936.00	9937.00	9939.00						

STATE: OKLAHOMA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Atoka County	9876.00											
Bryan County	9956.00	9964.00	9965.00									
Carter County	9928.00											
Choctaw County	9972.00	9973.00										
Grady County	0001.00	0002.00										
Hughes County	9848.00											
McCurtain County	9987.00											
McIntosh County	9799.00											
Muskogee County	0004.00	0005.00	0006.00									
Okfuskee County	9808.00											
Okmulgee County	0001.00											
Payne County	0104.00	0105.00	0107.00									
Pontotoc County	9891.00	9892.00										
Pushmataha County	9976.00											
Stephens County	0005.00	0006.00	0007.00									
Tillman County	9704.00	9706.00										
Washington County	0002.00											

STATE: OREGON

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Benton County	0007.00	0008.00	0011.00									
Clatsop County	9508.00											
Union County	9707.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: PENNSYLVANIA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Clinton County	9706.00											
Crawford County	1116.00											
Lawrence County	0004.00	0005.00	0006.00	0009.00	0118.98							
Northumberland County	9616.00	9617.00										
Schuylkill County	0006.00											

STATE: RHODE ISLAND

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Newport County	0405.00	0412.00										

STATE: SOUTH CAROLINA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bamberg County	9601.00											
Beaufort County	0001.00	0011.00										
Clarendon County	9608.00											
Darlington County	0107.00											
Dillon County	9704.00											
Greenwood County	9705.00											
Hampton County	9804.00											
Lancaster County	0107.00											
Lee County	9806.00											
Marlboro County	9602.00											
Orangeburg County	0112.00	0113.00										

STATE: SOUTH DAKOTA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Brown County	9515.00											
Buffalo County	9746.00											
Clay County	9656.00											
Jackson County	9912.00											
Shannon County	9936.00	9937.00										
Todd County	9927.00											
Ziebach County	9871.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: TENNESSEE

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Bradley County	0104.00	0107.00	0108.00									
Campbell County	9503.00											
Fentress County	9651.00											
Hamblen County	1003.00											
Hancock County	9601.00	9602.00	9603.00									
Haywood County	9807.00											
Henry County	9693.00											
McMinn County	9702.00											
Marshall County	9553.00											
Maury County	0105.00											
Putnam County	0008.00											

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: TEXAS

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Anderson County	9507.00											
Angelina County	0005.00											
Atascosa County	9603.00											
Brooks County	9502.00											
Brown County	9506.00	9507.00										
Cooke County	9905.00											
Dimmit County	9501.00	9502.00	9503.00									
Duval County	9503.00											
Falls County	9904.00											
Freestone County	9809.00											
Frio County	9502.00	9503.00										
Gray County	9508.00											
Hall County	9505.00											
Hill County	9609.00											
Howard County	9503.00	9505.00										
Hutchinson County	9507.00											
Jim Hogg County	9501.00	9503.00										
Jim Wells County	9506.00											
Kleberg County	0202.00											
Lamar County	0005.00	0006.00	0008.00									
La Salle County	9502.00											
Lynn County	9503.00											
McCulloch County	9503.00											
Maverick County	9502.00	9504.00	9505.00	9506.00								
Nacogdoches County	9506.00	9509.00										
Pecos County	9503.00											
Presidio County	9502.00											
Reeves County	9505.00											
Robertson County	9602.00											
Starr County	9501.00	9502.00	9504.00	9505.00	9506.00	9507.00						
Terry County	9503.00											
Val Verde County	9506.00											
Walker County	1905.00	1906.00	1907.00									
Wharton County	1403.00											
Willacy County	9502.00	9503.00	9506.00									
Zapata County	9502.00											
Zavala County	9501.00	9502.00	9503.00									

STATE: UTAH

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Cache County	0016.00											
Carbon County	9716.00											
Juab County	9732.00											
San Juan County	9783.00	9784.00										
Wasatch County	9925.00											

UMI
1995
MAY
1
ISS
83
VOL
60

IRS SECTION 42(D)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993) NONMETROPOLITAN AREAS

STATE: VERMONT

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Addison County	9622.97											

STATE: VIRGINIA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lee County	9901.00	9904.00	9905.00	9906.00								
Montgomery County	0204.00	0216.98										
Franklin city	0902.00											
Radford city	0101.00											
Staunton city	0001.00											

STATE: WASHINGTON

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Asotin County	9803.00											
Cowlitz County	0001.00	0003.00	0005.02	0010.00								
Grays Harbor County	0010.00											
Kittitas County	9756.00											
Mason County	9608.00	9614.00										
Stevens County	9510.00											
Walla Walla County	9205.00											
Whitman County	0001.00	0005.00	0006.00									

STATE: WEST VIRGINIA

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Lincoln County	9558.00											
McDowell County	9540.00	9542.00										
Marion County	0201.00	0205.00										
Monongalia County	0101.00	0102.00	0103.00									

STATE: WISCONSIN

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Ashland County	9501.00											
Fond du Lac County	0406.00											
Menominee County	9701.00											
Portage County	9610.00											
Sawyer County	9807.00											
Vilas County	9509.00											
Walworth County	0005.00											

STATE: WYOMING

COUNTY OR COUNTY EQUIVALENT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT	TRACT
Albany County	9629.00	9630.00	9633.00	9634.00								
Fremont County	9826.00	9832.00										
Hot Springs County	9876.00											
Platte County	9592.00											
Sweetwater County	9715.00											

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federal register

Monday
May 1, 1995

Part III

Department of Health and Human Services

Office of the Secretary

45 CFR Part 96
Block Grant Programs; Final Rule

VOL
60
ISS
83
MY
1
1995
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Block Grant Programs

AGENCY: Administration for Children and Families, HHS.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Department of Health and Human Services (HHS) governing the administration of block grant programs; it applies specifically to the low-income home energy assistance program (LIHEAP). The rule revises, and makes final, provisions included in an interim final rule that amended the block grant regulations and implemented certain changes to the LIHEAP statute made by the Augustus F. Hawkins Human Services Reauthorization Act of 1990. These changes involve the Department's response to complaints, reduction in the percent of LIHEAP funds that grantees may carry forward from one fiscal year to the next, waiver authority to increase the percent of LIHEAP funds that grantees may use for weatherization, a requirement for additional outreach and intake services under certain circumstances, and a leveraging incentive program. This final rule also makes several related, largely technical and conforming, amendments to the block grant regulations.

EFFECTIVE DATE: This final rule is effective beginning May 31, 1995, with the exception of section 96.87, Leveraging incentive program, which is effective beginning October 1, 1995. Section 96.87 as included in the interim final rule published in the **Federal Register** on January 16, 1992 (57 FR 1960), is effective through September 30, 1995.

FOR FURTHER INFORMATION CONTACT: Janet M. Fox, 202–401–9351, or Ann Bowker, 202–401–5308.

SUPPLEMENTARY INFORMATION: The Low-Income Home Energy Assistance Act of 1981, title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97–35), established the low-income home energy assistance program. On July 6, 1982, HHS issued final regulations for LIHEAP and the six other blocks grants it administered at that time (45 FR 29472). Since then, the statute and the block grant regulations have been amended several times.

The Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101–501) was enacted on November 3, 1990. Title VII of Public Law 101–501 contains amendments to the Low-Income Home Energy Assistance Act, including several changes effective in FY 1991 and FY 1992. These changes concern HHS's response to formal complaints, reduction in the maximum amount that grantees may carry forward from one fiscal year to the next, waiver authority to increase the statutory weatherization assistance maximum, a requirement for additional outreach and intake services in certain cases, and a leveraging incentive program.

On January 16, 1992, HHS published an interim final rule (57 FR 1960) amending the block grant regulations and implementing these statutory changes, as required under Public Law 101–501. The interim final rule allowed a 60-day comment period.

We received 25 letters commenting on the interim final rule—two from members of Congress, twelve from State LIHEAP grantees, one from a county, two from Indian tribal grantees, three from home energy suppliers, and five from others. Based on the comments we received and on our experience over the two and half years the interim rule has been in effect, we have revised the interim rule as appropriate. It is now being made final.

In addition to the statutory changes implemented by the interim final rule published January 16, 1992, Public Law 101–501 includes several changes scheduled to affect LIHEAP beginning in FY 1994. These changes concern forward funding based on a program year of July 1 through June 30—whose implementation, initially set for FY 1993, was delayed until FY 1994 by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993 (Public Law 102–394)—and the end of authority to transfer LIHEAP funds to other HHS block grants. The Department published a notice of proposed rule making (NPRM) regarding these changes, and other proposed changes involving both LIHEAP and other HHS block grants, on November 16, 1993 (58 FR 60498). The NPRM allowed a 45-day comment period. Since then, the Human Services Amendments of 1994 (Public Law 103–252), enacted May 18, 1994, changed the forward (or advance) funding program year to October 1 through September 30—the same dates as the current Federal fiscal year, but funded one year in advance. The November 16, 1993, proposed rule also included some provisions that had originally been included in a notice of proposed rulemaking issued by the Department on July 17, 1992. Based on comments received on these notices of proposed rulemaking, HHS intends to publish a separate final rule implementing appropriate provisions, except for the provisions described below, which are incorporated into the final rule published today.

The final rule published today includes several changes proposed in the November 1993 NPRM. They involve issues that were also addressed in the January 1992 interim rule. One change gives grantees the option to submit a preliminary request for a waiver to increase the statutory weatherization maximum. Other changes relate to the end of grantees' authority to transfer LIHEAP funds to other block grants after FY 1993, and reduction in the amount grantees may carry forward from one fiscal year to the next, and are included in the regulations' discussion of the time period for obligation of LIHEAP funds. These technical amendments implement provisions of Public Law 101–501. We received one comment from a State LIHEAP grantee on the weatherization waiver in the NPRM, and none on the end of transfer authority or reduction in maximum carryover.

The final rule also makes a technical amendment deleting reference to the transfer authority in the regulations' discussion of uses of leveraging incentive funds, because this authority has ended.

Finally, the final rule makes a technical amendment changing the due date of grantees' reports on their leveraging activities, in accordance with the Human Services Amendments of 1994 (Pub. L. 103–252). Title III of Public Law 103–252 contains amendments to the Low-Income Home Energy Assistance Act. We plan to address most of these statutory amendments in a proposed rule at a later date.

The provisions of the regulations, together with the comments we received and our responses, are discussed below.

Section-by-Section Analysis of Changes in the Regulations

Subpart B—General Procedures

Section 96.14 Time Period for Obligation and Expenditure of Grant Funds

Public Law 101–501 amended section 2607(b)(2) of the LIHEAP statute, reducing the maximum amount of LIHEAP funds that grantees may carry forward for obligation in the succeeding fiscal year, from 15 to 10 percent of the funds payable to the grantee and not transferred to another HHS block grant.

This change was effective beginning with FY 1991 funds carried forward to FY 1992. In addition, Public Law 101–501 amended section 2604(f)(2) of the statute, ending grantees' authority to transfer LIHEAP funds to other HHS block grants, beginning in FY 1994.

The final rule makes technical and conforming corrections to section 96.14(a)(2) of the block grant regulations, which concerns obligation and carryover of LIHEAP funds, to reflect these statutory changes. Consistent with a change to section 96.81 that was included in the interim rule, the final rule specifies the current reduced amount that grantees may carry forward to the next fiscal year. Also, it omits reference to transfer of LIHEAP funds, beginning with FY 1994 allotments.

Also, the final rule clarifies that section 96.14(a)(2) applies to regular LIHEAP block grant funds and not to LIHEAP leveraging incentive funds. (Section 96.87 of the regulations deals with leveraging incentive funds.)

These technical changes are consistent with language in the notice of proposed rulemaking published November 16, 1993, except that the final rule deletes references to funding on a program year cycle, since Congress determined in the Human Services Amendments of 1994 that LIHEAP will remain on a Federal fiscal year cycle. We received no comments on these changes in the NPRM.

Subpart E—Enforcement

Section 96.50 Complaints

Public Law 101–501 amended section 2608(a)(2) of the LIHEAP statute, effective beginning in FY 1991. Section 2608(a)(2) concerns formal complaints of a substantial or serious nature that a grantee has failed to used funds in accordance with the LIHEAP statute. The previous statutory language had required HHS to "respond in an expeditious and speedy manner to" such complaints. The amended language sets a specific time period within which HHS must respond to complaints; it requires HHS to "respond in writing in no more than 60 days to matters raised in" complaints.

As originally published in July 1982, the block grant regulations stated at 45 CFR 96.50(d):

The Department will provide a written response to complaints [concerning grantee administration of the block grants] within 180 days after receipt. If a final resolution cannot be provided at that time, the response will state the reasons why additional time is necessary.

Section 96.50(c) of the regulations provides that HHS will "promptly furnish a copy of any complaint" to the grantee against which the complaint was made and that, in responding to the complaint, HHS will consider any comments received from the grantee within 60 days, or a longer period agreed on by the grantee and HHS.

The preamble to the interim final rule published in January 1992 explained that our experience has shown that, because of the serious and generally complex nature of the formal complaints we have received, LIHEAP grantees usually require a full 60 days to respond to complaints made against them. The interim rule therefore amended section 96.50(d) by adding a new sentence stating that, within 60 days after HHS receives a complaint concerning the low-income home energy assistance program, it "will provide a written response to the complainant, stating the actions that it has taken to date and the timetable for final resolution of the complaint."

This amendment implemented the requirement in Public Law 101–501, that HHS respond within 60 days to complaints, while acknowledging the amount of time generally needed for grantees to respond to complaints, and for HHS to review and resolve these complaints. The interim rule's preamble explained that HHS will continue to provide final resolution as soon as possible, consistent with our responsibility to provide the affected grantee sufficient opportunity to respond and to provide thorough Federal review, and that we will continue to advise the complainant of the final action taken.

Public Comments, HHS Responses, and Change

We received three comments on this amendment. Two commenters said that they believed the revised schedule for HHS response to complaints was reasonable and adequate.

The third commenter said that, while HHS changed the regulation "to provide a written response to complaints under the LIHEAP statute within 60 days, rather than the previous 180 days, the response envisioned by HHS' language appears to be no more than a status report." The commenter also said that Public Law 101–501 requires HHS to "establish a procedure for reviewing and investigating any complaint regarding State program compliance with Federal statutes and regulations. . . ." The commenter asserted that "HHS does not establish 'a procedure for reviewing and investigating any complaint regarding State program compliance' " and noted that 45 CFR 96.50(c), "relating generally to block grants, states that HHS will conduct an investigation of complaints [only] 'where appropriate.' " The commenter believed that "this regulatory language is contrary to the statute" and must be amended "to establish for LIHEAP the procedure called for by this statutory change."

However, the language cited by the commenter is not the language of Public Law 101–501. Further, the block grant regulations provide a procedure under paragraphs (c), (d), and (e) of 45 CFR 96.50, for reviewing the resolving complaints, and the January 1992 interim rule modified that procedure to implement the requirement in Public Law 101–501 for a written response within 60 days to complaints involving LIHEAP.

Where section 96.50(c) states that HHS "will conduct an investigation of complaints where appropriate," "investigation" means a formal and systematic, thorough and detailed effort to learn facts, that is carried out after a review conducted in response to a complaint shows evidence of possible illegal action, such as commission of fraud or theft. An investigation typically would result in a recommendation for civil or criminal prosecution and/or administrative sanctions. (This is consistent with the use of the term by the HHS Office of Inspector General.) In most cases, complaints are resolved without conducting a formal investigation. We will conduct an investigation if our review of a complaint indicates a need to do so.

The same commenter also referred to Senate Report 101–421 accompanying H.R. 4151 (the predecessor to Public Law 101–501), that "explains this proposed change as 'designed to respond to concerns regarding the need for a more expeditious and effective response to complaints. . . .' "

Since the start of the LIHEAP block grant in FY 1982, we have tried to respond expeditiously and effectively to the formal complaints we have received. In addition, we have worked to reach expeditious and effective resolution of other concerns expressed to us about grantee LIHEAP programs. During this time, the only comments we have received on the timeliness and effectiveness of our response to complaints have been the cited sentence in the Senate Report and the comments of this commenter. Neither included any specific examples.

In response to this commenter, the final rule adds the phrase, "if the complaint has not yet been fully resolved," to the last sentence under

VOL
60
ISS
83
MY
1
1995
UMI

section 96.50(d), to indicate that we will fully resolve complaints within 60 days whenever possible. That sentence now reads,

Under the low-income home energy assistance program, within 60 days after receipt of complaints, the Department will provide a written response to the complainant, stating the actions that it has taken to date and, if the complaint has not yet been fully resolved, the timetable for final resolution of the complaint.

We will make every reasonable effort—while providing sufficient time for grantees to respond to complaints and for HHS to review the complainant's allegations and the grantee's response and to conduct an investigation as necessary—to fully resolve complaints within 60 days from the date we receive them. However, based on our experience over the past decade, we believe that it would not serve the best interests of the complainant, the grantee, or the Department to require by regulation that HHS provide final resolution of formal complaints within 60 days of their receipt.

Subpart H—Low-Income Home Energy Assistance Program

Section 96.83 Increase in Maximum Amount That May Be Sued for Weatherization And Other Energy-Related Home Repair

Public Law 101–501 amended section 2605(k) of the LIHEAP statute, beginning in FY 1991. It provides that grantees may request after March 31 of each fiscal year that HHS grant a waiver for the fiscal year that increases from 15 percent to up to 25 percent of the LIHEAP funds allotted or available to the grantee, the maximum amount of LIHEAP funds the grantee may use for low-cost residential weatherization or other energy-related home repair. Grantees that choose to apply for a waiver may request authority to use for these purposes any amount between 15 percent and 25 percent of their LIHEAP funds.

The statute provides that, after reviewing a grantee's waiver request and any public comments, HHS may grant a waiver if it determines that: (1) the number of households in the grantee's service population that will receive LIHEAP heating assistance, cooling assistance, and crisis assistance (energy crisis intervention) benefits during the fiscal year will not be fewer than the number that received such benefits in the preceding fiscal year; (2) the aggregate amount of LIHEAP benefits that will be received during the fiscal year will not be less than the aggregate amount received in the preceding fiscal year; and (3) the weatherization activities have been demonstrated to produce measurable savings in energy expenditures. The statue also provides that HHS may grant a waiver if, in accordance with regulations to be published by HHS, the grantee's waiver request demonstrates good cause for failing to satisfy the requirements in the preceding sentence.

The January 1992 interim final rule added a new section 96.83 to the block grant regulations to implement procedures concerning "standard" and "good cause" waivers of the 15 percent weatherization maximum.

The November 1993 NPRM on forward funding proposed that grantees be allowed to submit preliminary weatherization waiver requests after January 31 of the program year, to expedite review and provide more time for obligation of funds.

Public Comments, HHS Responses, and Changes

We received several comments on the provisions in the LIHEAP statute, the interim rule, and the November 1993 NPRM relating to waiver of the weatherization maximum.

Two commenters supported the statutory waiver provision allowing an increase in the percent of LIHEAP funds that can be used for weatherization. One commenter opposed the statutory waiver provision, stating that it makes LIHEAP "cash" heating/cooling/energy crisis assistance and LIHEAP weatherization "continue to compete for limited resources." One commenter said that the rule "reflects our understanding" of the statutory weatherization amendments.

Comment and Response

Another commenter believed that HHS "should have been more explicit in conveying" to grantees that Congress intended that weatherization waivers be granted only "under the most limited of circumstances." A different commenter said that the guidance in the interim rule failed to state Congress' intent, per the Senate report, that a "good cause" waiver be granted only when a grantee has demonstrated "compelling reasons."

While we did not specifically state that waivers—especially "good cause" waivers—would be granted only for compelling reasons and under very limited circumstances, we believe it is clear that grantees must demonstrate that they meet specific, stringent requirements in order to receive a waiver. To date, we have received only eight weatherization waiver requests. We approved the one request received in FY 1991 and seven requests received in FY 1994. We approved standard waivers for four of the FY 1994 requests.

Comment and Resproнse

A commenter erroneously stated that the interim rule "merely *requests* that the Grantee submit an explanation of the specific criteria under which the Grantee's weatherization activities have been shown to produce measurable savings" in energy expenditures. The commenter believed that these savings must be "substantial and long term." The commenter proposed that HHS establish "a standard methodology * * * in the regulations for normalizing annual consumption to ensure a common measure for energy savings" and set "a minimum threshold" for "measurable savings."

The interim rule—and this final rule—require at section 96.83(c)(5) that grantees include with their weatherization waiver requests "an explanation of the specific criteria under which the grantee has determined whether" all LIHEAP weatherization activities to be carried out during the fiscal year for which the waiver is requested "have been shown to produce measurable savings in energy expenditures." However, we decline to require that savings be "substantial and long term," to establish a standard methodology to measure energy savings, or to set a minimum threshold for savings. The LIHEAP statute's third criterion for a "standard" waiver specifies that the grantee's "weatherization activities have been demonstrated to produce measurable savings in energy expenditures by low-income households." The regulation uses parallel language; it does not go beyond the substance of the statutory criterion to specify a required level or duration, or a standard measure, of energy savings. We believe that it would be inconsistent with the block grant philosophy expressed by Congress and implemented by HHS to impose such additional requirements. The basic premise of the block grants is that, within the parameters set by the statute, grantees should have maximum flexibility to target resources to meet the needs of their citizens. The regulation limits the circumstances under which waivers will be granted, in accordance with the statutory language and what we understand to be the legislative intent as expressed in the legislative history.

Comment and Response

Another commenter addressed the third criterion that must be met by grantees applying for a "standard" waiver—that the weatherization activities to be carried out by the grantee in the fiscal year for which the waiver is requested have been shown to produce measurable savings in energy expenditures. The commenter erroneously believed that the criterion applies only to "weatherization" and "ignores [other] 'low-cost energy related repair.'" However, paragraph (a) of section 96.83, which describes the scope of the section, states that "low-cost residential weatherization and other energy-related home repair" is referred to (more briefly) as "weatherization."

Comment and Response

A commenter proposed that improvement in health and safety resulting from weatherization be considered acceptable to meet the third criterion. We cannot adopt this proposal, because it would violate the LIHEAP statute's requirements for this criterion—that the "weatherization activities have been demonstrated to produce measurable savings in energy expenditures by low-income households." However, the statute and regulations provide for a waiver if a grantee can demonstrate "good cause" for failing to meet one or more of the three "standard" waiver criteria.

Comment and Response

The interim rule's preamble indicated that, when determining whether to grant a "good cause" waiver, HHS would consider arguments and documentation that greater benefits will accrue to recipients for use of LIHEAP funds for weatherization than for cash assistance. A commenter asserted that neither the statute nor the legislative history supports considering this argument. However, the commenter mentions the Senate report's reference to long-term benefits resulting from weatherization improvements that reduce home energy costs. Consistent with the Senate report's prominent discussion of the expanded flexibility grantees have to provide energy conservation improvements through the weatherization waiver and the reductions in home energy costs resulting from these improvements, and with the statute's designation of HHS to determine rules for "good cause" waivers, we are not changing this policy.

Comment and Response

The commenter also believed that if the grantee operated a shorter program, reduced outreach activities, and/or "took other administrative steps which may also have led to a reduction in applications," this would be relevant in considering whether to grant a "good cause" waiver. We agree. We therefore revised section 96.83(e) to provide that a grantee requesting a "good cause" waiver must include with its request a comparison of its opening and closing dates for applications, and a description of its outreach efforts, for heating, cooling and crisis assistance, in the fiscal year for which the waiver is requested and in the preceding fiscal year. The comparison should address the actual dates and outreach efforts—or the planned dates and planned outreach for future efforts expected to take place later in the fiscal year for which the waiver is requested. If the grantee's application period was longer and/or its outreach efforts were greater in the preceding fiscal year for one or more of these program components, the grantee must include an explanation demonstrating good cause why a waiver should be granted in spite of this fact. We also revised this section to provide that if the grantee took, or will take, other actions that led, or will lead, to a reduction in the number of applications for heating, cooling, and/or crisis assistance in the fiscal year for which the waiver is requested, the grantee must include with its request a description of these actions, and an explanation demonstrating good cause why a waiver should be granted in spite of these actions.

In addition, we made minor clarifying technical amendments to section 96.83(e) describing information that must be included in grantees' requests for "good cause" waivers under a newly designated paragraph (1), and explaining the conditions under which HHS will grant a "good cause" waiver under a newly-designated paragraph (2).

Comment and Response

A commenter believed that data from local home energy vendors are most appropriate for documenting decreased home energy costs, because Department of Energy data are mostly national or regional. We agree. While we are not changing the regulation to require use of data from local vendors, we encourage grantees submitting waiver requests that document decreased home energy costs to use actual cost/price/expenditure data from the State or local area. In most cases, compiling the best available data probably would involve at least a sample of vendors in the grantee's service area.

Comment and Response

A commenter said that HHS should require grantees submitting waiver requests to include copies of public statements in full, including transcripts of comments made during public hearings, because the interim rule's requirement that grantees submit "copies and/or summaries of public comments" affords grantees "an opportunity to selectively quote and characterize concerns expressed" by the public. The commenter quoted the Senate report statement that HHS "should not necessarily be guided only by the submissions from the state" in deciding whether to grant a waiver, to support the assertion that the legislative history "clearly" intends HHS "to independently consider these comments."

We decline to require grantees seeking waivers to submit "copies of public statements in full, including transcripts of comments made during public hearings." We believe that the paperwork burden imposed would outweigh the possible advantages of such a requirement. Use of the words "not necessarily" in the Senate report indicates that HHS may decide the extent to which it will review public comments. We believe that grantees will make responsible decisions regarding submission of relatively brief public comments in full and submission of summaries of lengthy and/or numerous comments. We will independently consider the comments and summaries submitted to us. During compliance reviews, we will monitor the records/documentation of grantees that submitted summaries of public comments with waiver requests, to assure that these summaries accurately reflect the comments.

In response to this commenter's recommendations, however, we changed section 96.83(b) of the regulations to require that written public comments on a proposed waiver request be made available for public inspection upon their receipt by grantees, and that any summaries of written comments, and transcripts and/or summaries of any verbal comments made on the request at public meetings or hearings also be made available for public inspection. We also changed this section to specify that transcripts and/or summaries of any comments made on the request at public meetings or hearings must be included with waiver requests submitted to HHS. Finally, we changed this section to require that copies of actual waiver requests must be made available for public inspection upon submission of the requests to HHS, enabling the public to review the decisions made by the grantee and verify that comments were accurately conveyed. These additional requirements strengthen grantees' accountability to the public by assuring

VOL
60
ISS
83
MY
1
1995
UMI

public access and the opportunity to respond to comments, and by assuring that waiver requests submitted to HHS include verbal as well as written public input.

The final rule also changes section 96.83(b) to require grantees to make all weatherization waiver requests—including the preliminary waiver requests described below—available for public inspection and comment until at least March 15 of the fiscal year for which the waiver is requested. Several grantees said in their FY 1994 LIHEAP plans that they intended to request weatherization waivers in FY 1994. Public participation in the development of the plan—before or early in the fiscal year—took place before the severity of the winter, winter fuel prices, etc., were known. Therefore, public inspection and comment this far in advance of submission of a waiver request is not sufficient; public participation would not be meaningful if the only public notification was before the winter. There should be public notice about a proposed request, after January 1 of the fiscal year for which the waiver is to be requested.

We have tried to balance the interests of the public—the recipients of LIHEAP assistance—and the valid concerns of grantees—the primary administrators of the LIHEAP block grant. We have also tried to write regulations that are consistent with the statute and legislative history, that require grantees to address specific criteria and provide specific information (including quantified data) to justify use of additional funds for weatherization—without imposing unnecessary and burdensome paperwork requirements and without making it virtually impossible to receive a waiver. We are commented to assuring program accountability and fair treatment, meaningful access to information, and meaningful opportunity for input for the public. However, it would be inconsistent with the block grant philosophy clearly expressed by Congress and implemented by HHS to burden grantees with regulatory requirements that do not clearly serve those ends and that are not based on statutory requirements and/or legislative history.

Comments and Response

Finally, the interim rule's preamble said that we were interested in comments about whether the statutory starting date of April 1 for weatherization waiver requests would create problems for administration of grantee programs under forward funding. The forward funding program year was scheduled to begin July 1 and end June 30, leaving only three months for submission and review of waiver requests and for obligation of most of the funds for which a waiver has been granted. We received two comments in response. A State proposed that HHS ask Congress to amend the LIHEAP statute to allow submission of waiver requests after January 31 if forward funding is implemented. Another commenter said that a submission date two to four weeks before March 31 might be reasonable.

Our November 1993 NPRM on forward funding proposed that grantees be permitted to submit a preliminary waiver request after January 31 of a program year. This would provide sufficient time for HHS to review the waiver request and obtain any additional information that might be needed, and still allow the grantee to obligate its funds by June 30, which was scheduled to be the end of the forward funding program year. In a comment on the NPRM, a State proposed that weatherization waiver requests be submitted with the grantee's initial LIHEAP application for a program year, and that States not be required to submit new waiver requests each time they wanted a waiver. The commenter objected to the (statutory) requirement that HHS make decisions on waiver requests only after March 31.

Seeking earlier feedback on their FY 1994 waiver requests, this State and another submitted these requests before April 1, 1994. These grantees confirmed and completed the requests, and HHS made the decisions to approve them, after March 31.

The LIHEAP statute specifies that HHS may grant a waiver "for a fiscal year" if the grantee submits a written request to the Department "after March 31 of such fiscal year" and if HHS "determines, after reviewing such request and any public comments," that the number of households that will receive LIHEAP benefits other than weatherization, and the aggregate amount of these benefits, will be greater in the fiscal year for which it requests a waiver than they were in the preceding fiscal year, or there is good cause for not meeting these conditions. The grantee cannot know until well into each winter how many households it will (or is likely) to serve and the amount of benefits it will provide, since this often depends on weather and economic conditions that are not known before the winter.

However, the written comment on the NPRM, grantees' submission of early weatherization waiver requests and statements of intent to apply for waivers, and verbal comments indicated grantees' concern that April 1 is relatively late in the program year—and in the Federal fiscal year as well. It would be mid-April, at the earliest, before a decision was made. This would leave considerably less than three months for additional weatherization funds to be obligated under the proposed July 1 to June 30 program year. It would leave considerably less than six months under the Federal fiscal year.

As noted earlier, Congress has determined that LIHEAP will remain on the Federal fiscal year funding cycle, so there will be more time for weatherization to be implemented. But we have concluded that the option for a grantee that wants a weatherization waiver, to submit a preliminary waiver request between February 1 and March 31, is appropriate for the fiscal year cycle as well as the program year cycle. It will enable HHS to review the preliminary request and discuss any issues or concerns with the grantee as winter is ending. Once the grantee submits updated information and a confirmation of its request after March 31, HHS can more quickly decide and respond, and the grantee will have more time to carry out the weatherization.

This final rule therefore changes section 96.83(c) of the regulations to permit grantees to submit preliminary waiver requests at their option, between February 1 and March 31 of the fiscal year for which the grantee seeks a waiver. The preliminary request should contain the same information required for waiver requests submitted after March 31. Because the LIHEAP statute permits grantees to submit waiver requests for a fiscal year "after March 31 of such fiscal year," grantees that submit preliminary requests must submit formal confirmation of their request after March 31, along with information on any additional public comments received and any changes to the request. HHS will make the decisions on whether to grant waivers after March 31.

Additional Information

The preamble to the January 1992 interim final rule included additional information relating to "standard" and "good cause" waivers, public comment, submission and review of waiver requests, and the effective period for waivers. With indicated modifications and clarifications made in response to comments and our experience with weatherization waiver requests, that information is still effective and is included as the remainder of this final rule's preamble discussion of section 96.83, as follows.

"Standard" and "Good Cause" Waivers

The first criterion for a "standard" waiver requires that the number of households in the grantee's service population that will receive LIHEAP heating, cooling, and crisis assistance benefits will not be fewer than the number that received such benefits in the preceding fiscal year. This criterion applies to the total, combined, aggregate number of households receiving these types of benefits in each fiscal year. Grantees are to use their best estimates for each fiscal year of (1) the total or combined number of all households receiving each of these types of assistance (which may involve some duplication, e.g., counting a household twice if it received both regular heating assistance and heating crisis assistance); or (2) the unduplicated number of households receiving heating assistance and heating crisis assistance plus the unduplicated number of households receiving cooling assistance and cooling crisis assistance. Grantees must use the same method of calculation for both fiscal years. Numbers for the earlier fiscal year should be consistent with the numbers included in the grantee's official report of the number and income levels of households it assisted during that year (as required by 45 CFR 96.82) or with a revised report.

The second criterion requires that the aggregate amount of LIHEAP benefits in the current year will not be less than the aggregate amount of LIHEAP benefits received in the preceding fiscal year. It applies to the total, combined, aggregate amount, in dollars, of LIHEAP heating, cooling, and crisis assistance benefits in each fiscal year—not to the separate totals for each type of assistance. This final rule clarifies at section 96.83(c)(2)(ii) that the LIHEAP benefit amounts must be expressed in dollars. When items such as blankets and fans are provided as benefits, the dollar amount of LIHEAP funds used to purchase them should be included. When services such as emergency repair of furnaces are provided, the dollar amount of LIHEAP funds used to pay for the services should be included.

Grantees will need to project figures for any households to be served and funds to be obligated from the date the waiver request is submitted until the end of the fiscal year for which the waiver is requested.

This final rule clarifies that the first and second criteria apply respectively to the number of households receiving LIHEAP heating, cooling, and crisis assistance, and to the amount of LIHEAP heating, cooling, and crisis assistance, provided by the grantee's Federal LIHEAP allotment from regular and supplemental appropriations. It clarifies that assistance provided from other sources, such as the grantee's own funds, oil overcharge funds, (other) leveraged resources, and leveraging incentive funds, should not be included under these criteria.

The third criterion requires that the weatherization activities have been shown to produce measurable savings in energy expenditures. It applies to all LIHEAP weatherization activities to be carried out by the grantee during the fiscal year for which the waiver is requested, not just to activities proposed to be carried out with amounts above 15 percent of the grantee's LIHEAP funds. Grantees will not meet this criterion unless all of their LIHEAP weatherization activities for the fiscal year have been shown to produce measurable savings.

The LIHEAP statute and the HHS block grant regulations do not name specific activities which are allowable as weatherization and other energy-related home repair under the LIHEAP program. However, the statute and Federal regulations for the low-income weatherization assistance program (LIWAP) administered by the Department of Energy (DOE) do name certain weatherization measures that are allowable under that program. The statute authorizing LIWAP is the Energy Conservation in Existing Buildings Act of 1976 (title IV of the Energy Conservation and Production Act, Public Law 94–385, as amended; 42 U.S.C. 6851 et seq.). The Federal regulations implementing DOE's Weatherization Assistance for Low-Income Persons are found at 10 CFR part 440. These regulations include "Standards for Weatherization Materials" at Appendix A. In addition, DOE has allowed other activities by program notice and correspondence.

The DOE weatherization statute and regulations apply specifically to LIWAP, and the LIHEAP statute and regulations apply to LIHEAP. However, to promote consistency in their weatherization programs, LIHEAP grantees may choose to use certain DOE weatherization provisions as guidance in administering their LIHEAP weatherization programs, as long as these provisions are consistent with the LIHEAP statute and regulations.

(Public Law 103–252—the Human Services Amendments of 1994—allows HHS to permit LIHEAP grantees to use LIHEAP weatherization funds under DOE LIWAP rules that are not consistent with the LIHEAP statute. HHS plans to address this new option in a proposed rule on Public Law 103–252.)

HHS will accept the following as weatherization activities which have been shown to produce measurable savings in energy expenditures, as long as these activities also are consistent with the requirements of the LIHEAP statute and regulations: installation of the specific materials meeting the specific standards listed in Appendix A of the DOE weatherization regulations at 10 CFR part 440; installation of materials meeting the specific standards incorporated by reference in Appendix A; and weatherization activities specifically allowed by official DOE correspondence and memoranda. LIHEAP grantees requesting a waiver of the LIHEAP statutory weatherization maximum who propose to carry out these weatherization activities may cite these sources as the criteria under which they have determined that these activities have been shown to produce measurable savings.

In addition to listing requirements for a "standard" weatherization waiver for grantees that meet the three criteria discussed above, this final rule sets criteria for a "good cause" waiver for grantees that wish to use more than 15 percent of their LIHEAP funds for weatherization, but do not meet one or more of the three criteria for a "standard" waiver. As noted earlier in this preamble, the final rule includes additional requirements at section 96.83(e) for a "good cause" waiver, regarding the length of the grantee's application period and the grantee's outreach efforts, for heating, cooling, and/or crisis assistance applications, from the preceding fiscal year to the fiscal year for which the waiver is requested.

Requests for both "standard" and "good cause" waivers must include comparison of the grantee's best estimates of service and benefit totals for the year for which the waiver is requested with service and benefit totals for the preceding fiscal year. The criteria for a "good cause" waiver include the requirements that grantees explain the reasons they are not maintaining the prior year's service and/or benefit levels, as appropriate, demonstrating good cause for failing to maintain these levels and justifying use of additional funds for weatherization. Reasons for failing to maintain service levels might include reduction in need and/or fewer applications for assistance due to improvement in economic conditions and decline in unemployment, warmer than normal winter weather, and/or lower home energy costs for low-income households. As indicated earlier in this

VOL
60
ISS
83
MY
1
1995
UMI

preamble, we also will consider arguments and documentation (e.g., cost benefit analysis) that greater benefits will accrue to recipients from use of funds for weatherization than for cash assistance. Further, we will consider arguments that service or benefit levels were higher in the preceding year because of supplemental appropriations enacted in response to unusual conditions, such as abnormally cold winter weather and/or large fuel price increases.

"Good cause" waiver requests also must include a comparison of the grantee's LIHEAP heating, cooling, and crisis assistance eligibility standards (eligibility criteria), benefit levels, application periods, and outreach efforts for the fiscal year of the waiver request and for the preceding fiscal year. If the eligibility standards were less restrictive, the benefit levels were higher, the application periods were longer, and/or the outreach efforts were greater for one or more of these program components in the preceding year, the "good cause" waiver request must include an explanation demonstrating good cause why a waiver should be granted in spite of this fact. In addition, other actions that led to a reduction in the number of applications for heating, cooling, and/or crisis assistance must be addressed. We will review this information to determine whether a waiver would be consistent with congressional intent to maintain service and benefit levels.

"Good cause" documentation should cite measurable, quantified data, and the sources for these data. For example, grantees documenting reduction in need for cash benefits may provide comparison of unemployment statistics, Aid to Families with Dependent Children (AFDC) and other public assistance recipiency data, and the number of applications for LIHEAP assistance, for the current and the preceding fiscal year. Grantees documenting milder weather may cite National Weather Service data comparing heating or cooling degree days for their service area, as appropriate. Grantees documenting decreased home energy costs preferably should cite actual prices/costs in the local service area, as discussed earlier in this preamble.

Public Ispection and Comment

Consistent with the requirements and legislative history of Public Law 101–501, the final rule maintains the requirement from the interim rule that grantees provide opportunity for timely and meaningful public review of, and comment on, their proposed weatherization waiver requests. The final rule adds the requirement that proposed waiver requests, and any preliminary waiver requests, be made available until at least March 15 of the fiscal year for which the waiver will be requested. As discussed earlier in this preamble, it also adds the requirement that written public comments on the proposed waiver request must be made available for public inspection upon their receipt by grantees, as must any summaries prepared of these written comments, and transcripts and/or summaries of any verbal comments made on the request at public meetings or hearings. Consistent with House of Representatives Conference Report 101–816, this public comment procedure does not require hearings. Once grantees have submitted waiver requests to HHS, copies of the entire waiver request submission must be made available for public inspection.

For example, we expect grantees to provide notification about proposed waiver requests with enough lead time to allow interested parties a reasonable period in which to comment. We also expect grantees to specify what a LIHEAP weatherization waiver request is the (or a) topic of a meeting or request for comments, rather than simply to indicate that issues of general social services interest are involved.

The final rule requires at section 96.83(c) that grantees include with their waiver requests a description of how and when the proposed waiver request was made available for timely and meaningful public review and comment, copies or summaries of public comments received, a statement of the method for reviewing public comments, and a statement of the changes, if any, that were made in response to these comments. Also, as discussed earlier in this preamble, the final rule adds the requirement that waiver requests include transcripts and/or summaries of any comments made on the request at public meetings or hearings.

Submission and Review of Waiver Requests

Requests for waiver of the weatherization maximum must be made by the grantee's chief executive officer or designee, in writing. They should be sent to the Director, Office of Community Services, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

HHS may require additional clarification or documentation as it determines necessary to decide whether a grantee fully satisfies the appropriate waiver requirements.

We will review all requests and make a decision within a maximum of 45 days of receipt of a completed request. We expect that most requests will be handled much more quickly than this. A need for additional information from the grantee will delay the start of this time period and delay the decision.

HHS will approve all waiver requests that, in its judgment, meet all statutory and regulatory requirements for either a "standard" or a "good cause" waiver and that demonstrate adequate solicitation and consideration of public comments.

No waiver will be granted after the end of the fiscal year for which the funds are appropriated. Accordingly, waiver requests must be submitted in sufficient time before the end of the fiscal year to allow for HHS review and grantee obligation of funds that cannot be carried forward.

Effective Period

Waivers will be effective from the date of HHS's written approval until the funds are obligated in accordance with the LIHEAP statute and regulations.

A grantee that has received a waiver is not required to use the full approved amount for weatherization. If a grantee decides to use less than the approved waiver amount for weatherization, it should amend its LIHEAP plan to reflect this decision.

Funds for which a weatherization waiver is granted may be carried over to the following fiscal year, consistent with standard statutory and regulatory requirements for obligation and carryover of LIHEAP funds, and may retain their designation as funds to be used for weatherization, if the grantee so chooses. However, any carried-forward "waiver funds" that retain this designation may not be considered "funds available" or "funds allotted" for the purpose of calculating the maximum amount that may be used for weatherization in the succeeding fiscal year.

Section 96.84 Miscellaneous

The January 1992 interim final rule consolidated three brief regulatory provisions under section 96.84. They are: a provision relating to rights and responsibilities of territories, a provision concerning applicability of the LIHEAP statutory assurances, and a provision concerning prevention of waste, fraud, and abuse in grantee LIHEAP programs. We consolidated these provisions due to space limitations in the LIHEAP portion of the block grant regulations. Also, the interim rule amended the provision dealing with applicability of the assurances to indicate that the new assurance 15, discussed below, which was added to the LIHEAP statute as section 2605(b)(15) by Public Law 101–501, applies to heating, cooling, and energy crisis intervention assistance.

We received no comments on this consolidation. The final rule makes no change to section 96.84.

Section 96.86 Exemption From Requirement for Additional Outreach and Intake Services

Public Law 101–501 added a new LIHEAP statutory assurance—assurance 15—to which States must certify in their applications for LIHEAP funding. Under the new section 2605(b)(15), beginning in FY 1992, States that provide outreach and intake for heating and cooling assistance and crisis situations through State departments of public welfare at the local level also must provide outreach and intake for these types of assistance through additional State and local governmental entities or community-based organizations. Examples of community-based organizations listed in the statute are not-for-profit neighborhood-based organizations, area agencies on aging, and community action agencies. In States where such entities or organizations did not administer these functions as of September 30, 1991, preference in awarding grants or contracts for intake services is to be provided to agencies that administer the low-income weatherization or energy crisis intervention programs.

Exemption of Indian Tribes, Tribal Organizations, and Some Territories

The January 1992 interim final rule established a new section 96.86 that exempted Indian tribes and tribal organizations from this requirement. This new section also exempted territories with annual LIHEAP allotments of $200,000 or less from the requirement.

In the preamble to the interim rule, we explained the reasons for this exemption. We concluded that the provision concerning alternate outreach and intake services is not appropriate to American Indian tribal grantees because of the nature of tribal governments and their relationship to their service populations. Assurance 15 refers to outreach and intake services "offered by State Departments of Public Welfare at the local level"—that is, by entities that administer public welfare programs. The legislative history for Public Law 101–501 refers specifically to agencies that administer the Aid to Families with Dependent Children (AFDC) program. However, Indian tribes do not administer AFDC for their service populations. In accordance with Federal law and regulations, States provide AFDC assistance to eligible American Indians, including Indian people receiving LIHEAP assistance from tribes that receive direct LIHEAP funding. Indian tribes therefore do not have tribal departments or offices directly comparable to State departments of public welfare. We also noted that Indian tribes are close to their service populations. "Tribal" and "local" levels of administration generally are the same. Consequently, requiring tribes to provide for alternative outreach and intake services by additional governmental entities or community-based organizations would be inappropriate as well as inconsistent with the Federal government's policy of Indian self-determination.

We also concluded that the new provision concerning alternate outreach and intake services is not appropriate to territories with regular LIHEAP allotments of $200,000 or less annually. Experience has shown that each grantee incurs certain basic administrative costs in developing and implementing a LIHEAP program. Most territories (and tribes) receive relatively small LIHEAP allotments. We concluded that, for territorial grantees with annual LIHEAP funding of $200,000 or less, the additional resources that would be required to provide alternative outreach and intake services would increase administrative and other non-benefit costs prohibitively and would significantly reduce the heating, cooling, crisis, and/or weatherization benefits that the territory could provide. We doubted that territories with LIHEAP allotments of $200,000 or less would have the ability to provide meaningful LIHEAP benefit levels if they also were required to provide for additional outreach and intake services. The time, effort, and funds spent providing alternate outreach and intake services would be significantly out of proportion to the direct LIHEAP benefits that could be provided to eligible households.

In addition, the territories with current LIHEAP allotments of $200,000 or less that do not consolidate LIHEAP funds under other programs pursuant to Public Law 95–134, commonly referred to as the Omnibus Territories Act, administer LIHEAP entirely at the central territorial level. Because of their relatively small populations, they do not have separate local administering agencies. We concluded that a requirement for alternative local agencies would be inappropriate under these circumstances.

This means that at current LIHEAP funding levels, all territories except the Commonwealth of Puerto Rico are exempt from this provision. The allotments of the territories in FY 1994, under the regular LIHEAP appropriation of $1.437 billion, range from $14,937 to $68,887 for all territories except Puerto Rico, whose allotment is $1,708,030.

We received one comment, from a tribal organization, supporting the exemption of tribal and small territorial grantees from this requirement. We received no comments opposing the exemption.

Consistent with our previously stated rationale and with this comment, we are continuing to exempt Indian tribes and tribal organizations, and territories with annual regular LIHEAP allotments of $200,000 or less, from the requirement of section 2605(b)(15) of the LIHEAP statute, as amended.

Although these tribal and territorial grantees are exempt from this requirement for additional outreach and intake services, they are still subject to the requirements in section 2605(b)(3) of the LIHEAP statute—assurance 3—concerning outreach. Under this assurance, all grantees must "conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of" LIHEAP and similar energy-related assistance.

Other Comments and HHS Responses

The interim final rule provided guidance to States on interpretation and implementation of the requirement for additional outreach and intake services. The interim rule's preamble noted that grantees had requested such guidance and that Senate Report 101–421 said that HHS is expected to provide guidance on compliance with this requirement.

However, we did not provide detailed requirements on interpretation and implementation in the regulation itself. The preamble stated:

"As the original block grant regulations and preamble explain, consistent with statements of congressional intent, the Department's philosophy on block grants is that grantees are to be given as much flexibility as possible to implement the programs in their own jurisdictions. We will accept a grantee's interpretation of a statutory requirement unless the interpretation is clearly erroneous.

* * * * *

"We will review the grantees' compliance with the appropriate legislative and regulatory requirements in carrying out our

VOL
60
ISS
83
MY
1
1995
UMI

responsibilities to conduct LIHEAP compliance reviews, application reviews, complaint investigations, and resolution of audit findings. However, consistent with the block grant philosophy, we are not publishing Federal rules on how the requirement for additional outreach and intake services must be implemented by grantees, except to specify that it does not apply to Indian tribes and tribal organizations or to territories receiving $200,000 or less in annual LIHEAP allotments. This is also consistent with our regulatory treatment of other application assurances required by the statute."

We received nine comments on the statutory and regulatory provisions relating to the requirement for additional outreach and intake services (including the comment from a tribal organization mentioned previously).

Comments and Response

Two of the commenters were members of Congress who requested a specific rule to explicitly implement assurance 15. Another letter supported a rule that would include definitions of a number of terms relating to this assurance.

We continue to believe that it would be inconsistent with the block grant philosophy as expressed in law and legislative history to publish Federal rules mandating specific ways in which States must implement this statutory requirement. The LIHEAP statute specifies in section 2605(b), which contains the assurances: "The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection."

Another commenter believed that States might take assurance 15 "less seriously because it is not included in the regulations themselves." However, the statute is paramount. Further, the chief executive officer of each State must certify that the State agrees to these assurances. Federal regulations are not intended simply to repeat the law. It is consistent with our treatment of the LIHEAP statute's other assurances—which are as important as assurance 15—not to issue regulations mandating specific ways in which grantees must implement them.

We will continue to carry out our responsibilities to help assure that grantees comply with the statute. We review grantees' compliance with the statutory assurances when we conduct compliance reviews (including reviews for compliance purposes of funding applications), and when we resolve audit findings and complaints. Public Law 103–252 (the Human Services Amendments of 1994) amends the LIHEAP statute to require that States include in their LIHEAP applications a description of how they will carry out assurance 15; this will help us in our monitoring. We resolve grantee failure to comply with the statute through appropriate enforcement proceedings. If we find while carrying out our compliance responsibilities that several grantees have misunderstood a statutory provision, it may be appropriate for us to clarify by regulation, as we did in October 1987 regarding the applicability of assurance 9's administrative cost requirements to subgrantees and contractors as well as to grantees.

Comment and Response

One of the congressional commenters said that the final rule should contain "strong regulation" stating that alternative outreach and intake "must be performed in a professional manner, with strict contract standards for agency accountability and paid for as part of the administrative or program expenditures of the LIHEAP program."

We agree that the requirements of assurance 15 must be carried out by States and by entities and persons acting on their behalf in a competent manner, by qualified agencies with effective standards for accountability. This is the case for all of the LIHEAP statutory assurances. In applying for Federal LIHEAP funds, the State has specifically assured the Federal government that it will carry out all of these assurances. In accepting Federal LIHEAP grant funds, the State has made a commitment to follow the requirements of all applicable Federal laws and regulations.

However, we do not believe that assurance 15 requires that alternative outreach and intake be "paid for as part of * * * the LIHEAP program"—i.e., always provided as a paid LIHEAP function or activity and never provided on an unpaid, voluntary basis. The LIHEAP statute does not specify that alternative outreach and intake must be provided on a paid basis. And, as previously stated, the statute specifies that HHS "may not prescribe the manner in which the States will comply" with the assurances. Further, we believe that the legislative history assumes that alternative outreach and intake provided by appropriate entities/organizations on an unpaid, voluntary basis will meet the assurance's requirements. Conference Report 101–816 specifies that if States "are already offering alternate intake sites in some areas, this section does not require them to modify their system of program management in those areas." Senate Report 101–421 indicates that, if alternative services previously were provided voluntarily, providers should continue to maintain comparable levels of efforts voluntarily, stating that "local entities now providing such [outreach and intake] services voluntarily are expected to maintain comparable levels of effort in addition to the new activities which may be contracted to them pursuant to this provision." As we stated in the preamble to the interim rule, assurance 15 should not be used as a basis for reducing voluntary efforts.

While the law does not require that alternative outreach and intake be provided by entities or organizations "paid * * * as part of the * * * expenditures of the LIHEAP program," States should not attempt to compel local entities/organizations to provide these services on an unpaid basis. Many—if not most—such entities do not have the resources to provide LIHEAP outreach and intake without appropriate payment. While we support the use of volunteer outreach and intake when appropriate, our guidance is not intended to encourage States to require local agencies to provide these services at no cost to the State. The Senate report says that "State LIHEAP programs are expected to use LIHEAP administrative funding for any additional LIHEAP activities required by this section, rather than relying on other federal funds in local agencies." (We have found that grantees' classification of certain outreach functions—such as energy conservation education—as non-administrative is not clearly erroneous.) Also, if an alternative governmental entity or community-based organization freely—without pressure or coercion—agrees to provide additional outreach and/or intake services without charge, we believe that assurance 15 does not require the grantee to pay it for providing these services.

Comments and Response

Several commenters indicated that the discussion in the interim rule's preamble on the participation of utilities and other home energy vendors in LIHEAP outreach might imply that these vendors could be considered "community-based organizations" whose participation in LIHEAP outreach and/or intake could meet assurance 15's requirement for additional outreach and intake. These commenters said that utilities and other vendors are not community-based organizations. One letter rejected "the notion that low-income clients may be given a choice by the State of applying for LIHEAP at the AFDC office or at the office of their creditor, the utility, to whom they would be required to submit income documentation for scrutiny." Another noted that vendors' relationships with their clients "can be adversarial"—clients may need to bargain with their vendors over payment agreements, arrearage payments, etc. "They may even have to resolve disputes in a regulatory setting. * * * In these circumstances, the confusion between access to the program and contact with a creditor that could be created by vendor outreach and intake may discourage the very expansion of access that the law intends to encourage." Two commenters asserted that " community-based organizations" must be nonprofit local agencies/organizations.

We continue to encourage cooperation between grantee LIHEAP programs and home energy vendors, and use of vendors to provide LIHEAP outreach as appropriate. But upon further reflection, we agree with these commenters that outreach and/or intake provided by home energy vendors, including utility companies, does not meet assurance 15's requirement for additional outreach and intake services. We agree that the issues with respect to vendors' status as creditors are significant. In addition, "community-based organization"—historically a "term of art" used in Federal anti-poverty programs—generally refers to nonprofit entities; utilities and other home energy vendors generally are for profit. (For example, regulations for the former Community Services Administration at 45 CFR 1076.50–1(c) defined "community-based organization" as "a cooperative or private nonprofit organization at least 50 per centum of whose governing body is composed of local area residents.* * *")

Comment and Response

A commenter believed that "the statute required States to ensure that all interested organizations, including vendors, engage in outreach. * * *" The statute requires that, "in addition to" outreach and intake offered by State public welfare departments at the local level, there must be outreach and intake for heating, cooling, and crisis assistance "that is administered by additional State and local governmental entities or community-based organizations. * * *" Comparable levels of outreach and intake services should be provided for welfare and non-welfare households and, if feasible, States should use a number of different service providers. However, we do not believe that the statute requires States to ensure that "all interested organizations * * * engage in outreach."

Comments and Response

A commenter believed that intake functions were "appropriately described in the guidance." Another commenter thought that intake might be "too narrowly defined, given the legislative history." The statute does not define or otherwise indicate what "intake" includes; both the conference report and the Senate report refer to "intake or application processing." The interim rule's guidance noted functions that are "generally" included as intake (receipt of applications for assistance and the opportunity for applicants to provide any missing information for their applications). It also noted that States have "the discretion to choose whether to include" certain other functions (income determination and verification, and preliminary eligibility or benefit determination). We continue to believe that it is appropriate for grantees to have this degree of flexibility in defining the term—that they should not be required to include all application processing tasks as part of "intake."

Comments and Response

A State noted that mail-in applications can be acceptable for intake and recommended a similar accommodation for outreach. Information sent by mail about LIHEAP can be an effective part of a grantee's outreach effort. However, outreach by mail will not by itself meet the requirement for alternate outreach services. Many low-income households would not be reached, or adequately served, by outreach-by-mail. As the Senate report explains, outreach efforts should be varied and targeted to the different populations eligible for LIHEAP assistance—such as welfare households, non-welfare households, and the elderly—"to assure that these households have an effective way to learn about the program and how to apply for benefits."

The same State recommended that if "the local welfare office has an established local advisory board represented by those agencies that are listed [in assurance 15) as potential alternative sites, that the outreach requirement is met." However, assurance 15 requires more than participation in an advisory or other board by alternate agencies. It specifically requires that alternative outreach and intake functions be "administered by additional State and local governmental entities or community-based organizations," and is intended to provide information directly to low-income individuals, not just to other agencies.

The State also proposed that a phone-in intake process for households experiencing an energy crisis be considered to meet the statutory requirements for crisis assistance. In some circumstances, receiving a telephone call by a household experiencing an energy crisis would be an appropriate and effective first step as intake, although information on the crisis and the household's eligibility would need to be verified. However, some low-income households do not have a telephone or reasonable access to a telephone that they can realistically use, and section 2604(c) of the LIHEAP statute specifically requires each entity that administers LIHEAP crisis assistance to accept crisis assistance applications "at sites that are geographically accessible to all households in the area."

A commenter believed that the interim rule's preamble guidance might "inadvertently encourage" welfare departments "to conduct exclusively mail-application intake." The guidance is not intended—and should not be interpreted—as encouragement for exclusively mail-application intake.

Comments and Response

Two States objected to the requirements of assurance 15. One objected to the increased expenditures needed to provide additional outreach and intake—with reduced funds therefore available for benefits. The State said that the "effort and funds spent" to provide additional services "would be significantly out of proportion to the direct benefits that could be provided to eligible households." Another State defended its effectiveness in reaching nonwelfare households and objected "to the use of limited funding to replicate a function already being administered timely and effectively." The State believed that it would be extremely difficult to meet the requirement in section 2604(c) of the LIHEAP statute that assistance to resolve an energy crisis be provided within 48 hours of an eligible household's application for crisis assistance. This grantee requested that assurance 15 be deleted, or waived for grantees "already serving a broad based population."

Only Congress can "delete" a statutory provision, and HHS does not have authority to waive statutory requirements for States. The conference report states that the conferees "recognize the potential for significantly increased administrative expenses for some states to comply with the new alternative site requirements, and intend to monitor possible effects on the program and recipients."

Guidance Regarding Additional Services

The preamble to the January 1992 interim final rule included guidance

VOL
60
ISS
83
MY
1
1995
UMI

with respect to section 2605(b)(15) of the LIHEAP statute. With modifications and clarifications contained in the preamble to this final rule, that guidance is still effective and is included as the remainder of this final rule's preamble discussion of section 96.86 of the block grant regulations and of assurance 15.

The requirement for additional outreach and intake services applies to States (including the District of Columbia) and to any territory with a LIHEAP allotment larger than $200,000 for the fiscal year in question, when local offices of the grantee department or agency that administers AFDC or the territorial equivalent basic cash public assistance program(s) provide outreach and intake for heating, cooling, and/or crisis assistance in all or part of the State or territory. The requirement applies in these cases whether or not that department or agency is named "State Department of Public Welfare" or "Department of Public Welfare."

The requirement applies whether or not the department or agency provides some of these services outside its own offices. Section 2605(b)(15) requires that grantees "provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations.* * *." The provision does not refer to the locations where the welfare department provides services. Therefore, stationing a welfare department employee at a shopping mall, for example, will not meet the requirement of this provision.

Consistent with Conference Report 101–816, if grantees are already offering alternative services in some areas, they are not required to modify their system in these areas. Consistent with Senate Report 101–421, "a reasonable share" of outreach and intake functions is to be administered through alternative agencies, assuring that, to the extent possible, all eligible households in the grantee's service population will have viable access to alternative service sites. However, consistent with this Senate report, if the grantee finds no alternative in an area or areas after engaging in an open solicitation process, the grantee is not required to create new entities. (In such a case, the grantee would not be required to solicit for alternate agencies each succeeding year. However, periodic assessment of the situation will enable the grantee to determine when further solicitation is likely to provide an alternative and is therefore appropriate.)

Also consistent with the Senate report, if such services previously were provided voluntarily, providers should continue to maintain comparable levels of effort voluntarily. The new requirement should not be used as a basis for reducing voluntary efforts. Neither should it be used to compel or require voluntary efforts.

Consistent with the legislative history, we encourage the voluntary participation of community groups and organizations, including churches, and of utilities and other home energy vendors, in outreach activities. Such entities often have excellent knowledge of and access to low-income households who may need LIHEAP assistance. However, as explained earlier in this preamble, utilities and other home energy vendors are not "community-based organizations" for the purposes of the requirement of section 2605(b)(15) for outreach and intake services provided by "additional State and local governmental entities or community-based organizations. . . ."

In order to meet the requirement for alternative outreach and intake services, the statute specifies that the alternative service providers must be State or local governmental entities or community-based organizations. Senate Report 101–421 mentions public or nonprofit agencies including other State or local government agencies, and community-based organizations such as community action agencies and aging organizations.

The Senate report emphasizes the importance of providing sufficient access to the LIHEAP program to the non-welfare poor and the elderly, through additional outreach efforts and appropriate intake locations. Grantees should provide varied outreach efforts targeted to the different populations eligible for LIHEAP assistance. Further, grantees should consult with low-income individuals and other interested parties to determine the best ways to implement the requirement for additional outreach and intake services. As a commenter stated, the intention of assurance 15 is "to broaden the access and availability of LIHEAP services to those who are eligible but are not part of the welfare system" and "to give preference for intake functions to those agencies that provide weatherization and/or crisis assistance." Agencies with experience in successfully managing similar Federal grant programs should be used when feasible.

The term "intake" generally includes receipt of applications for assistance and the opportunity for applicants to provide any missing information that is needed to complete their applications. Each grantee has the discretion to choose whether to include income determination and verification responsibilities, and preliminary eligibility or benefit determination, as "intake." The conference report states that the "conferees believe that intake or application processing" is "best provided by experienced service providers with approved federal and state grant management systems."

If a mail-in application system administered by a welfare department is used for a grantee's heating and/or cooling assistance programs, and if it is not necessary to designate local administering agencies to carry out intake for these components, then there is no need under section 2605(b)(15) to designate other State and local governmental entities or community-based organizations to carry out intake for these components. In such a case, the grantee should assure that help is readily available to households that are unable to prepare and/or mail their applications without such assistance. Also, grantees should not change to a system of mail-in applications in order to avoid designating additional local intake agencies.

Section 2604(c) of the LIHEAP statute requires each entity that administers energy crisis assistance "to accept applications for energy crisis benefits at sites that are geographically accessible to all households in the area to be served" by the entity and to provide to physically-infirm low-income persons the means to submit applications for energy crisis benefits without leaving their residences or to provide the means to travel to the sites at which the entity accepts applications. The statute thus requires that there be energy crisis intake sites and services at the local level. Therefore, intake for crisis assistance provided solely by welfare departments will not meet the requirement in section 2605(b)(15) concerning additional intake services at the local level. Also, telephone intake can be part of a State's intake process but will not by itself meet the statutory requirements for intake services.

It is our experience that outreach normally is provided through local administering agencies, and therefore additional outreach services would be necessary if outreach currently is provided at the local level only through the welfare department.

In enacting the requirement that additional outreach and intake services be provided in certain cases, Congress has emphasized the importance of adequate and appropriate outreach and intake functions in grantee LIHEAP programs. Congress also has specifically limited the amount of Federal funds that can be used for costs of LIHEAP administration and planning to 10 percent of the funds payable to a State and not transferred to another HHS block grant program (section 2605(b)(9) of the LIHEAP statute). (The block grant regulations provide somewhat higher administrative cost limits for Indian tribes, tribal organizations, and territories.) As we stated in the preamble to the block grant regulations of July 6, 1982, "The consistent imposition of limits upon administrative expenditures under the various block grants is indicative of congressional intent that States devote a very high percentage of their block grant funds to direct payments or services" (47 FR 29477). Grantees should make every effort to provide the maximum amount of direct LIHEAP assistance to low-income households, consistent with the provision of adequate support services.

Although grantees subject to the new requirement may categorize some of their additional outreach expenses as non-administrative, many of the additional costs will be administrative. Some grantees may have difficulty providing additional outreach and intake services and remaining within the statutory limitation on use of Federal funds for costs of LIHEAP planning and administration. These grantees, in particular, may need to examine all of their LIHEAP activities and costs to determine ways to increase efficiency, to encourage voluntary efforts, and to use their own funds to supplement Federal LIHEAP funds. HHS does not have authority to waive the statutory limitation on administrative costs. The requirement for additional outreach and intake services does not relieve grantees of the need to comply with this statutory limitation.

Consistent with Conference Report 101–816, HHS used FY 1992 LIHEAP training and technical assistance funds to help thirteen States that previously had provided outreach and intake solely through their public welfare departments, to make the transition required by assurance 15.

Although this preamble modifies and clarifies some of the guidance regarding assurance 15, the final rule makes no change to section 96.86 of the block grant regulations.

Section 96.87 Leveraging Incentive Program

Public Law 101–501 added a new section 2607A to the LIHEAP statute, establishing a leveraging incentive program, and amended section 2602 of the LIHEAP statute, authorizing funds for this program. Under the leveraging incentive program, beginning in FY 1992, HHS may allocate supplementary LIHEAP funds—leveraging incentive funds—to grantees that have acquired non-Federal leveraged resources and use these non-Federal resources to expand the effect of Federal LIHEAP dollars.

The interim final rule published January 16, 1992, added a new section 96.87 to the block grant regulations to implement the leveraging incentive program. Consistent with the requirements of section 2607A, the interim final rule included requirements for countable leveraged resources and for calculation and documentation of the value of leveraged resources, submission of leveraging reports to HHS, calculation of grantee shares of leveraging incentive funds, and use of leveraging incentive funds.

Discussing the leveraging program, Senate Report 101–421 notes that, "if the LIHEAP program uses its purchasing power (or 'leverage') to acquire the full economic value of its resources, it can acquire substantial additional energy assistance resources and services for the poor from state energy market sources." This report lists the following examples of leveraged resources: "state-appropriated funds, quantifiable payments, discounts, credits, energy conservation improvements or other measurable benefits to eligible households in excess of the energy that could be purchased by the LIHEAP program at commonly available residential rates."

All LIHEAP grantees—States (including the District of Columbia), Indian tribes, tribal organizations, and territories—may participate in the leveraging incentive program. Grantees are not required to participate in the leveraging program. We encourage grantees to leverage additional resources to supplement their Federal LIHEAP funds, whether or not they choose to request leveraging incentive funds.

Leveraged resources are counted in the "base period" in which their benefits were provided to low-income households. For example, grantee funds added to the LIHEAP program are countable only when the benefits they pay for—such as heating assistance payments or weatherization services—are provided to or on behalf of low-income households.

Under the statute's terms, grantees that want to apply for leveraging incentive funds must submit a report to HHS that quantifies the grantee's leveraged resources for the preceding fiscal year (the base period), less any costs incurred by the grantee to leverage the resources and any costs imposed on federally eligible households. Leveraging incentive funds to reward these leveraging activities are awarded in the fiscal year following the fiscal year in which the leveraged resources/benefits were provided to low-income households. In other words, they are awarded later in the fiscal year in which the leveraging reports are submitted, after HHS has reviewed the reports, adjusted claimed resources and their valuation as appropriate, and calculated leveraging incentive grant amounts. The leveraging incentive program's first "base period" was FY 1991, and its first "award period" was FY 1992; leveraging activities in FY 1991 were the basis for the leveraging incentive grant awards HHS made in FY 1992. Section 2607A of the LIHEAP statute requires that grantees use leveraging incentive funds awarded to them only "for increasing or maintaining benefits to households."

As the interim rule's preamble explained, consistent with the block grant legislation and legislative history, HHS' policy generally is to provide maximum flexibility to grantees to operate their LIHEAP programs. Grantees are the primary interpreters of the LIHEAP statute and the primary administrators of the LIHEAP program. However, grantees apply "competitively" to HHS for shares of a limited amount of leveraging incentive funds. Shares are determined based on reports submitted by grantees which describe, and quantify the value of, the resources they have leveraged. It is therefore necessary that all grantees applying for leveraging inventive funds use the same rules. There must be standard criteria and methods for determining the resources that are countable under the leveraging incentive program and for quantifying the value of these resources. In the interim rule and in this final rule, we have tried to make these criteria and methods as clear and fair as possible, within the limits of the statute and legislative history.

Public Comments, HHS Responses, and Changes: Section-by-Section Discussion

Twenty-four of the 25 letters we received on the interim final rule included comments on the leveraging incentive program. Several of the commenters addressed the interim rule and its preamble in general. For example, one believed that the complex statutory instructions for the leveraging program require the implementing regulation to be "instructive yet flexible" and said that the interim rule "generally meets these sometimes

VOL
60
ISS
83
MY
1
1995
UMI

conflicting purposes in an understandable and common-sense fashion." Another appreciated HHS' philosophy of keeping the rules for the leveraging program "within the spirit of a block grant." A third supported HHS' decision to exempt grantees' use of leveraging incentive funds from some requirements that apply to regular LIHEAP funds.

Most comments concerned specific leveraging provisions. These comments, and our responses, are discussed below under the appropriate headings.

The section and subsection headings are essentially the same in the interim final rule and the final rule. While we made some substantive changes, we retained the structure and most of the content of the interim rule. We made some nonsubstantive changes for clarity and consistency, as well. The changes are based on the public comments on the interim rule and on our experience in operating the leveraging incentive program under the interim rule.

Scope and Eligible Grantees

Subsection (a) of § 96.87 of the interim final rule explained that § 96.87 concerns the leveraging incentive program authorized by section 2607A of the LIHEAP statute. We received no comments on this statement of the scope of the section, and we retained it in the final rule in a new paragraph (1) under § 96.87(a).

After the comment period on the interim rule, we received an informal comment from a tribal grantee about entities eligible to receive leveraging incentive funds. A tribal organization and its member tribes had leveraged resources while the organization received direct regular LIHEAP funding on the tribes' behalf; the tribes wanted to apply for their own direct regular funding—and the leveraging incentive funds to reward the leveraged resources—in the next fiscal year. However, the preamble to the interim rule stated that, in order to receive leveraging incentive funds, "grantees must receive regular LIHEAP block grant funding directly from HHS in both the 'base' year for which their leveraging activities are reported and the 'award' year for which leveraging incentive funds are requested" (57 FR 1965). We agree with the tribal grantee that credit for leveraging should be "portable" when a tribe enters or leaves a tribal organization when certain conditions are met—for example, a bribe or tribal organization that applies for leveraging incentive funds also must apply for and receive direct regular LIHEAP funding in the award period in order to receive incentive funds. We do not want to require tribes to continue existing administrative relationships in order to qualify for incentive funds. We modified the statement of entities eligible for leveraging incentive funds accordingly and added the revised statement in a new paragraph (2) under § 96.87(a) in the final rule itself, for clarity and because of its importance.

Under the revised statement, if a tribe leveraged resources while receiving regular LIHEAP services under a directly-funded tribal organization in the base period, and then receives direct regular LIHEAP funding on its own in the award period, the tribe is eligible to receive leveraging incentive funds to reward these resources in the award period. If a tribe leveraged resources while receiving direct LIHEAP funding in the base period and receives LIHEAP services under a tribal organization in the award period, the tribal organization is eligible to receive leveraging incentive funds on the tribe's behalf to reward these resources in the award period. If a directly-funded tribal organization leveraged resources in the base period and one or more of the tribes it had served apply for direct funding in the award period, the tribes and/or the tribal organization should inform HHS in writing about the desired fair and appropriate distribution of leveraging incentive funds in the award period. If the tribes and/or the tribal organization are unable to agree, HHS will determine the distribution of the incentive funds among eligible applicants based on the comparative role of each entity in obtaining and/or administering the resources, and/or their relative numbers of LIHEAP-eligible households.

Definitions

Section 96.87(b) of the interim final rule defined five terms used in the leveraging incentive program. We received no comments on four of the definitions—of "base period," "home energy," "low-income households," and "weatherization." These definitions remain substantively unchanged in the final rule.

We received several comments relating to the fifth definition—"countable petroleum violation escrow funds." These comments, and the changes we made in response, are discussed later in this preamble, under "Countable Leveraged Resources and Benefits" and "Leveraging Issues Relating to Tribal Grantees."

We added two definitions in the final rule—of "award period" and "countable loan fund." We defined "award period" because—like "base period," which already was defined in the interim rule—"award period" is an important and basic term whose meaning must be clear. Countable loan funds and issues related to them are discussed later in this preamble, under "Countable Leveraged Resources and Benefits" and "Resources and Benefits That Cannot Be Counted."

LIHEAP Funds Used To Identify, Develop, and Demonstrate Leveraging Programs

Section 96.87(c) of the interim final rule and of this final rule concern LIHEAP funds used to identify, develop, and demonstrate leveraging programs.

Section 2607A(c)(2) of the LIHEAP statute provided that, each fiscal year, States may spend up to the greater of $35,000 or 0.0008 percent of their funds allocated under the LIHEAP statute to identify, develop, and demonstrate leveraging programs. Consistent with § 96.87(g)(5) of the interim rule, in grantees' leveraging reports to HHS, all funds from grantees' regular LIHEAP allotments that are used under the authority of section 2607A(c)(2) to identify, develop, and demonstrate leveraging programs are to be deducted as offsetting costs in the base period in which these funds were obligated, whether or not there are any resulting leveraged benefits.

As we noted in the interim rule's preamble, 0.0008 percent of the largest FY 1991 State LIHEAP allotment was approximately $1,700; clearly $35,000 was the larger in all cases, and $35,000 would be the larger under all foreseeable LIHEAP appropriation levels. Therefore, we determined that if the language were carried out as written, the result would appear to be illogical and inconsistent with reason. We concluded that the figure 0.0008 percent resulted from a typographical error and that 0.0008 was intended to be the actual factor by which the State's allotment is multiplied, rather than the percent. (When calculating 0.08 percent of a State's allotment, one multiplies the allotment by the factor 0.0008.) In the interim final rule, we clarified that the figure is 0.08 percent. This interpretation provided a meaningful result, since 0.08 percent of the FY 1991 State LIHEAP allotments ranged from approximately $1,200 for the State with the smallest allotment to $170,000 for the State with the largest allotment; $35,000 was the larger in some cases, and 0.08 percent was the larger in other cases. We received one comment agreeing with this interpretation and none disagreeing.

Since then, the Human Services Amendments of 1994 (Public Law 103–252) confirmed our interpretation and corrected the percent in the LIHEAP statue, which now says "0.08 percent." We kept this same, corrected figure in the final rule.

Comments and Response

In the interim rule we also determined that $35,000 would be a disproportionate amount for most tribes, tribal organizations, and territories to spend annually to identify, develop, and demonstrate leveraging programs. (As the preamble noted, FY 1991 tribal allotments ranged from approximately $1,100 to $1,038,000; the allotments of 84 of the 115 tribal grantees were under $100,000. FY 1991 territorial allotments ranged from approximately $15,000 to $1,711,000; the allotments of five of the six territorial grantees were under $100,000.) The interim rule therefore limited to two percent of their annual LIHEAP allotments the amount that these grantees may spend each fiscal year for these purposes. This is approximately the same percent as the territory with the largest allotment would have spent if it had used $35,000 of its FY 1991 allotment for these purposes ($35,000 divided by $1,711,284 equals 0.0204524 or 2.04524 percent).

We received no written comments on this provision. Several tribal grantees have told us informally, however, that they believe that the two percent limit is too low.

For most tribes and territories, we believe that two percent is a realistic amount to use for these purposes. We recognize, however, that two percent of the smallest allotments will provide very little. For example, two percent of $2,500 is only $50. Therefore, in response to the concerns of small tribal grantees, the final rule provides that tribes, tribal organizations, and territories may use up to the greater of two percent, or $100, of their annual LIHEAP allotments, specifically to identify, develop, and demonstrate leveraging programs. (For tribal organizations receiving LIHEAP funds on behalf of two or more tribes, the base to which the two percent and $100 are applied is the tribal organization's total regular LIHEAP allotment, not the separate "allotments" of the individual tribes that designated the tribal organization to administer LIHEAP for them.) For grantees with allotments under $5,000, $100 is the larger and will provide a usable amount. (In FY 1992, 22 of the 120 tribal grantees, and no territorial grantees, had LIHEAP allotments under $5,000.) To allow use of more than the greater of two percent or $100 for these purposes—in addition to LIHEAP funds that can be used for planning and administration—would adversely affect the grantee's ability to provide home energy assistance with its LIHEAP funds, which is the basic purpose of the LIHEAP program. We also note that the leveraging reports covering FY 1991, FY 1992, and FY 1993 leveraging activities show that most grantees used no LIHEAP funds to identify, develop, or demonstrate leveraging. Only two tribal grantees have reported using LIHEAP funds to develop leveraging. Only seven of the 63 grantees that received leveraging incentive funds for their FY 1992 leveraging activities said they used any LIHEAP funds for this purpose; only two of the seven used the maximum amount allowed.

Related Issues

The 0.08 percent maximum for States, and the two percent/$100 maximum for tribes, tribal organizations, and territories, are based on and apply to the grantee's funds allocated under the LIHEAP statute. For the purpose of this provision, we defined this in the interim rule to mean the grantees' Federal LIHEAP allotments, including supplemental funds except leveraging incentive funds. We received no comments on this definition and have retained it in the final rule. Grantees may spend additional monies from their own funds or other sources as appropriate, to identify, develop, and demonstrate leveraging programs.

LIHEAP block grant funds that are used to identify, develop, and demonstrate leveraging programs are likely to support both planning and administrative activities and costs, and non-planning, non-administrative ("program") activities and costs. The interim rule stated that LIHEAP funds used under section 2607A(c)(2) of the LIHEAP statute to identify, develop, and demonstrate leveraging programs are not subject to the statute's limitation on the maximum percent of Federal funds that grantees may use for costs of planning and administration. As we stated in the interim rule's preamble, we believe that, if these funds were subject to the limitation, it would be a disincentive to grantees to develop leveraging programs. However, Congress established the leveraging incentive program to encourage—to provide an incentive to—grantees to leverage funds. We therefore concluded that LIHEAP funds used under section 2607A(c)(2) should be available in addition to the regular LIHEAP planning and administration limits. We received one comment supporting this decision. We have retained this provision in the final rule.

In addition to the maximum set by § 96.87(c) specifically for identifying, developing, and demonstrating leveraging programs, a grantee may find that part of the LIHEAP funds it spends for planning and administrative costs also have the effect of helping to identify, develop, and/or demonstrate leveraging programs. Since these are valid LIHEAP planning or administrative activities, paid for from the portion of a grantee's LIHEAP block grant funds that can be used for planning and administration, they are not subject to the 0.08 percent/$35,000 limit for States or the two percent/$100 limit for tribes/territories set by section 96.87(c). Thus, a grantee could, in effect, use somewhat more than the maximum 0.08 percent/$35,000 or two percent/$100 set specifically for identifying, developing, and demonstrating leveraging. This option is available to all LIHEAP grantees.

Comment and Response

A commenter said that, because these funds "are coming out of program funds" and do not count against the statutory limit on Federal funds used for LIHEAP administration and planning, HHS should request itemization of how they are spent. The commenter said that "[w]ithout this information, neither Congress nor advocates will have any sense of how these additional non-benefit, non-administrative funds will have been used." However, we have no indication that Congress wants HHS to collect and report this information, and we do not believe that we need to impose such an information collection and reporting burden on grantees in order to assure program accountability. We therefore decline to accept this suggestion. We do not require grantees to specify how they use their LIHEAP planning and administrative funds, and we are not requiring them to specify how they use their LIHEAP leveraging development funds. Consistent with the block grant philosophy and Federal paperwork reduction efforts, the only reports that LIHEAP grantees are required to submit are those that provide information necessary to meet requirements in the LIHEAP statute and the Single Audit Act. The LIHEAP leveraging report form and our voluntary LIHEAP telephone survey of States provide data on the amount—if any—that grantees spend to identify, develop, and demonstrate leveraging. We will check further on these activities when carrying out our compliance responsibilities—for example, when we conduct compliance reviews.

VOL 60 ISS 83 MY 1 1995 UMI

Basic Requirements for Leveraged Resources and Benefits

Based on the provisions of section 2607A of the LIHEAP statute, § 96.87(d) of the regulation sets basic requirements for leveraged resources and benefits.

Information and Comment on Basic Requirements, Paragraph (1)

In the interim rule, paragraph (1) of § 96.87(d) listed four criteria, all of which had to be met by countable leveraged resources/benefits.

The first two criteria under paragraph (1) implement requirements in section 2607A of the LIHEAP statute. They require that countable leveraged resources/benefits be from non-Federal sources, and be provided to the grantee's LIHEAP program or to federally qualified low-income households. We received no comments on these criteria; they remain the same in the final rule.

In accordance with the LIHEAP statute, leveraged resources that are provided to households that do not meet the Federal eligibility standards in section 2605(b)(2) of the statute cannot be counted under the leveraging incentive program. Federally qualified (federally eligible) low-income households are:

- Households with incomes that do not exceed the greater of 150 percent of the poverty level for their State, or 60 percent of State median income; and
- Households in which one or more individuals receive Aid to Families with Dependent Children, Supplemental Security income payments, food stamps, or certain need-tested veterans' and survivors' payments (payments under sections 415, 521, 541, or 542 of title 38 of the U.S. Code or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978).

If a countable leveraging program/activity provides benefits to both federally eligible households and households that do not meet Federal eligibility standards, the grantee should report only the benefits for households that are federally eligible.

The LIHEAP statute allows grantees to set eligibility standards for their LIHEAP programs that are more restrictive than these Federal maximums. The statute permits grantees to set their LIHEAP programs' income eligibility standard as low as 110 percent of the poverty level. The statute also permits grantees to decide whether to have categorical eligibility for their LIHEAP program and, if so, to decide which of the programs listed above to include. State eligible (State qualified) households are households that meet the eligibility requirements set by a State for its LIHEAP program. A grantee may claim leveraged resources provided to federally eligible households even if the grantee set lower eligibility standards for its LIHEAP program, provided the resources meet all the other statutory and regulatory requirements.

Criterion (iv) under paragraph (1) implements section 2607A(b)(1) of the LIHEAP statute. Section 2607A(b)(1) states that countable leveraged resources/benefits must "represent a net addition to the total energy resources available to State and federally qualified households in excess of the amount of such resources that could be acquired by such households through the purchase of energy at commonly available household rates." The interim rule's preamble noted that this language could be interpreted to limit countable leveraged resources to energy credits and fuels purchased at discounted prices—to mean, for example, that a grantee could not count leveraged donated funds used to pay low-income households' actual fuel costs at normal rates, because there would be no net addition to the resources these households could acquire at "commonly available household rates," or that a grantee could not count tangible non-fuel items purchased at discounted prices. We did not adopt this narrow interpretation in the interim rule. In criterion (iv) under paragraph (1) in the interim rule, we clarified the statutory language to state that countable leveraged resources and benefits must "represent a net addition to the total home energy resources available to low-income households in excess of the amount of such resources that could be acquired by these households through the purchase of home energy, or the purchase of items that help these households meet the cost of home energy, at commonly available household rates or costs, or that could be obtained with regular LIHEAP allotments provided under section 2602(b) of Public Law 97–35. . . ."

We received one comment on this regulatory provision. The commenter believed that the provision "is consistent with the overall intent" of the statutory leveraging provisions. We retained the same language in the final rule.

Changes and recommendation

Based on our experience in operating the leveraging program, we added a fifth criterion to § 96.87(d)(1) in the final rule, specifying and clarifying that countable resources/benefits must meet the requirements for leveraged resources and benefits throughout § 96.87 of these regulations and section 2607A of the LIHEAP statute. This is to assure consistent understanding and prevent confusion about the fact that the criteria in § 96.87(d) are not the only requirements for countable leveraged resources/benefits. We also added the word "basic" to the heading for this section—"Basic requirements for leveraged resources and benefits"—to underscore this point.

The third criterion under § 96.87(d)(1) states that countable resources/benefits must be measurable and quantifiable in dollars. We made no change to this criterion in the final rule. However, based on our experience in operating the leveraging program, we encourage grantees to consolidate similar resources in their leveraging reports, so that each counted resource has a gross dollar value of $200 or more as determined in accordance with § 96.87(g). Several grantees have included in their leveraging reports separate resources valued at only $10 or $20. Disproportionate amounts of time and effort are spent preparing and reviewing information on such small resources. We therefore urge grantees to consolidate similar resources in their leveraging reports, especially resources valued at under $200, into combined resources valued at $200 or more. For example, a grantee could combine in-kind donations of space heaters and blankets by different groups and/or individuals, which are separately valued at under $200, into one resource with a value of $200 or more. Consolidation of similar resources in the leveraging report is often helpful for larger resources, as well. In almost all cases, grantees will be able to consolidate very small resources into resources valued at $200 or more.

Information on Basic Requirements, Paragraph (2)

In the interim rule, paragraph (2) of section 96.87(d) listed three additional basic requirements for countable leveraged resources. Countable resources/benefits were required to meet at least one of these three requirements.

Paragraph (2) implements section 2607A(b)(2) of the LIHEAP statute. Section 2607A(b)(2) mandates that leveraged resources/benefits meet at least one of the following three criteria relating to the role of the grantee's LIHEAP program in the development or distribution of the resources/benefits: (1) They "result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive bid"; or (2) they "are appropriated or mandated by the State for distribution . . . through the State program"; or (3) they "are appropriated or mandated by the State for distribution . . . under the plan referred to in section 2605(c)(1)(A) to federally qualified low-income households and such benefits are determined by the Secretary to be integrated with the State program."

The first criterion refers to the role of the grantee's LIHEAP program in the acquisition or development of benefits obtained from energy vendors. Based on the discretion in the statute, the interim rule defined the phrase "acquisition or development by the State program" to mean that the grantee's LIHEAP program must have "substantial involvement in the acquisition or development of these benefits. The involvement of the grantee's LIHEAP program" must be "considerable, important, material, and of real value or effect."

The interim rule defined the second criterion to mean that the leveraged resources and benefits must be "provided to low-income households eligible under the grantee's standards, as a part of (through or within) the grantee's LIHEAP program, consistent with the Federal statutes and regulations applicable to the LIHEAP program."

The plan referred to in the third criterion is a part of each grantee's annual application for regular LIHEAP funds; in the plan, the grantee describes how it will carry out statutory assurances to which its chief executive officer has certified and includes other information required by statute. Based on the context in which it appears in the statute, the interim rule defined the phrase, "appropriated or mandated by the State for distribution . . . under the plan . . .", to mean that the leveraged resources and benefits must be "identified and described in the plan and distributed as indicated in the plan; however, they are not provided to low-income households as a part of (through or within) the grantee's LIHEAP program."

The third statutory criterion also requires that the leveraged benefits be "integrated with the State program." The interim rule defined this to mean that the benefits must be "coordinated with the grantee's LIHEAP program and . . . provided in cooperation and in conjunction with the LIHEAP program."

We received ten letters that commented on one or more of these three criteria.

Comment and Response

A commenter recommended "that the rules applying" to criteria (i) and (ii) "simply restate the language of the law." The commenter said that HHS implemented an "expanded interpretation" of these criteria that "is unnecessary and inconsistent with the nature of a block grant."

Much of the language of the LIHEAP statute—including section 2607A—is subject to differing interpretations. As we stated earlier in this preamble, the leveraging incentive program is different from the regular LIHEAP block grant, where different grantees may adopt different interpretations of a statutory provision, as long as the interpretations are not clearly erroneous. In the regular LIHEAP program, one grantee's statutory interpretations and program operations generally do not depend on or affect another's. In the leveraging program, however, where grantees are "competing" for shares of the same limited amount of leveraging incentive funds, we need to apply common rules to all proposed resources, and all concerned parties should have common understandings about leveraged resources that are countable, and resources that are not. This is why we do not "simply restate that language of the law" in cases where conflicting interpretations of provisions in section 2607A are likely.

Comments and Response

We received several verbal comments about the meaning of the statutory phrase, "the State program," in criterion (i). The same phrase is used in the statute with respect to criteria (ii) and (iii), where it clearly means the grantee's LIHEAP program, and not another State agency or program. We believe it is logical and appropriate to conclude that it has the same meaning in criterion (i). Through these three criteria, the statute and regulations require that the grantee's LIHEAP program have a clear, substantive role in developing, acquiring, administering, and/or coordinating with leveraged resources countable under the LIHEAP leveraging incentive program.

A commenter said that the requirement in criterion (i) that the grantee's LIHEAP program have "substantial involvement" which is "considerable, important, material, and of real value or effect" in acquisition or development of benefits "is both overly restrictive and subject to subjective interpretation." We do not believe it is overly restrictive to require that the grantee's LIHEAP program play an active role in acquiring or developing a resource under this criterion. The statute requires that, in order to meet the criterion, the benefits must "result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive bid." We do not believe that this language should be understood to require the grantee's LIHEAP program to acquire or develop the benefits entirely by itself. On the other hand, in cases where other entities also were involved in the acquisition or development, the grantee's LIHEAP program should have a substantive role. If, for example, grantee LIHEAP staff had simply attended a meeting at which other people negotiated reduced home energy rates for low-income households, that attendance alone should not count as meeting criterion (i). The interim rule therefore required that the grantee's LIHEAP program have "substantial involvement," and the final rule requires that the actions/efforts of grantee LIHEAP program staff be "substantial and significant" in obtaining a resource from a vendor.

The same commenter believed that the statutory requirement for criterion (i) is met as long as "the source of leveraged funds are (sic) energy vendors and the funds resulted from negotiation, regulation, or competitive bidding," and the benefits "go to * * * the state program." We do not believe that a resource countable under criterion (i) must "go to" (be administered through or within) the LIHEAP program. Resources leveraged under this criterion are often discounts or waivers for low-income households, not "funds" that can be administered through the LIHEAP program. We believe that reduced home energy rates and waivers of certain home energy charges that are negotiated with home energy vendors by (or with substantive participation of) LIHEAP program staff should be countable under this criterion—even though reduced rates and waivers usually are not administered through the LIHEAP program.

This commenter apparently assumed that "development by the State program" means that the State program must be involved in developing "a method of acquiring" the resources, but that "acquisition * * * by the State program" means only that the benefits must "go to" the program. However, we continue to believe that the grantee's LIHEAP program—at the central, regional, and/or local office level—should play an active, substantial role in acquiring (obtaining) or developing the resource from the home energy vendor, not simply passively "acquire" (receive)

VOL
60
ISS
83
MY
1
1995
UMI

a benefit in whose acquisition it played no part. (Such a resource could be countable under criterion (ii), if the resource is "appropriated or mandated" by the State, tribe, or territory for distribution through the LIHEAP program.) Benefits from vendors that are negotiated by or result from competitive bidding conducted by (or with substantive participation of) subrecipients (e.g., local administering entities) under a State, tribal, or territorial LIHEAP program acting in that capacity, also are countable under criterion (i) as long as all other requirements also are met.

We agree that the interim rule's requirement that the involvement of the grantee's LIHEAP program in the acquisition or development of the resource be "substantial" and "considerable, important, material, and of real value or effect" in some cases may be confusing and subject to subjective interpretation. In grantees' leveraging reports on FY 1991 and FY 1992 leveraging, most resources claimed under criterion (i) clearly met this test, and several clearly did not. However, there also were a number of claimed resources for which we had to request additional information from the grantee to substantiate "substantial" involvement, and on several of these we still had to make difficult judgments about whether to count the resource. Short of requiring that the grantee LIHEAP program acquire or develop the resource completely on its own, or saying that the grantee program need have no role at all in acquiring or developing the resource—which we do not believe to be appropriate—we see no way to write regulatory language that would totally eliminate such situations.

We also have found that several grantees were confused about whether criterion (i) applied only to resources obtained from energy vendors. The statute clearly limits this criterion to resources/benefits "that are obtained from energy vendors through negotiation, regulation, or competitive bid," not from charitable organizations, etc.

To clarify criterion (i) without materially changing its substance, we amended § 96.87(d)(2)(i) as follows in the final rule:

"The grantee's LIHEAP program had an active, substantive role in developing and/or acquiring the resource/benefits from home energy vendor(s) through negotiation, regulation, and/or competitive bid. The actions or efforts of one or more staff of the grantee's LIHEAP program—at the central and/or local level—and/or one or more staff of LIHEAP program subrecipient(s) acting in that capacity, were substantial and significant in obtaining the resource/benefits from the vendor(s)."

Comments and Response

There have been several questions about the statutory requirement that resources countable under criterion (ii) be distributed "through" the grantee's (LIHEAP) program. The interim rule and this final rule state that this means "within" and "as a part of" the grantee's LIHEAP program. Under criterion (ii), the leveraged resource/benefit is administered by the LIHEAP agency or agencies under the LIHEAP statute and regulations, consistent with the eligibility standards and benefit levels used by the grantee for its Federal LIHEAP funds; it is considered a LIHEAP benefit. Resources counted under criterion (ii) do not have to be specifically identified in the grantee's LIHEAP plan if they are clearly covered by the plan. For example, the plan would not have to say that leveraged cash resources are used to provide heating assistance, as long as the plan describes a heating assistance program that is funded with LIHEAP resources and the leveraged resources are used in accordance with this description.

Five letters addressed the statutory and regulatory requirements that resources countable under criteria (ii) and (iii) must be "appropriated or mandated" by the grantee "for distribution" through the grantee's LIHEAP program (criterion (ii)) or under the grantee's LIHEAP plan and integrated with the LIHEAP program (criterion (iii)).

Using similar language, two Congressional letters said the regulation should "make clear" that leveraging initiatives that qualify for incentive funds because they are "mandated" by State action must be created by legislation, rule, contract, binding agreement, or another specific action or identifiable "mandate" or requirement—the grantee cannot merely list voluntary charitable efforts in its LIHEAP plan in order to meet these criteria. Two other commenters said that the interim rule was not sufficiently clear regarding the requirements for "mandated" resources. One of these commenters said that "merely mentioning a program in the state's plan do not constitute a mandate"; a mandate "should be a regulation, order, or other formal agreement or expression by the state agency governing the control and the distribution of the leveraged resource."

We agree that a mere list of voluntary charitable efforts in a grantee's LIHEAP plan does not meet these two criteria. Resources/benefits that are mentioned in the plan, but are neither provided through nor integrated with the LIHEAP program, are not countable under these criteria.

We do not believe that the statute or legislative history require that resources countable under these criteria be "created" by State, tribal, or territorial "mandate," however. We therefore did not make a change in response to comments supporting such a requirement. The statute requires instead that the resource/benefits be "appropriated or mandated by the State [or tribal or territorial grantee] for distribution" through its LIHEAP program (criterion (ii)) or under its LIHEAP plan and also integrated with its LIHEAP program (criterion (iii)). For example, oil overcharge funds counted under criterion (ii) would not be created by State mandate; they would be mandated by the State for distribution through its LIHEAP program.

We believe that "by the State" means that the State, tribe, tribal organization, or territory—the grantee—must appropriate or mandate the resource/benefits for distribution. A subrecipient such as a local nonprofit agency might actually "distribute" the resource/benefits on behalf of the grantee, but the grantee must take the action that meets the requirement to appropriate or mandate the resource/benefits for distribution through its LIHEAP program or under its LIHEAP plan, etc.

The grantee's LIHEAP application—which includes the plan—is an official, formal document in which the grantee makes a binding commitment to distribute resources in certain ways. We therefore believe that it is reasonable to assume that the inclusion of the leveraged resource/benefits in the LIHEAP plan means that the grantee has "mandated" the resource for distribution as described in the plan. Inclusion of appropriate information in the plan is documentation of the mandate. Because the grantee's LIHEAP plan is a formal expression by the grantee that governs the distribution of the leveraged resource, we consider resources appropriately described in or covered by the plan to be mandated by the grantee for distribution as required by criteria (ii) and (iii).

Another commenter believed that criterion (ii) "can reasonably be read to require that some state entity (in the Executive, Legislative or Judicial branch) provide the additional resources to the State program for distribution by the program, that is, they were appropriated or mandated by the Governor or legislature or by the judiciary * * *." On the other hand, this commenter said that criterion (iii) "is somewhat of a 'catchall' for independently initiated activities, so long as they are then 'integrated with' the state program. The advantage of this approach is that the program does not have to assure that it is aware of every instance when a CAP negotiates an arrearage forgiveness or a waived fee for a LIHEAP client in time to amend its state plan to include such activity." This commenter believed that resources under this criterion "may clearly be available independently of state activity."

However, the statute requires that resources countable under both criterion (ii) and criterion (iii) be "appropriated or mandated by the State for distribution." We therefore do not believe it is appropriate to conclude that criterion (ii) requires that a State entity provide the resource for distribution by the LIHEAP program, but that under criterion (iii), the resource may be available independent of State activity. Also, criterion (iii) requires that the resource/benefits be integrated with the grantee's LIHEAP program, and we do not believe that a resource can be both integrated with the LIHEAP program and "available independently of State activity."

We agree that "independently initiated" resources/benefits that are appropriated or mandated by the grantee for distribution in a way that is integrated with the LIHEAP program can be countable under criterion (iii) as long as all other relevant statutory and regulatory requirements are met. However, we believe that, in order to be distributed under the grantee's LIHEAP plan—as required by the statute for criterion (iii)—the resource/benefits must be identified and described in the plan. Also, because the statute requires that resources countable under criterion (iii) be "appropriated or mandated by the State for distribution" under the LIHEAP plan and "integrated" with the LIHEAP program, we believe that the grantee needs to be aware of these resources. The grantee cannot legitimately claim that it appropriated or mandated a resource and the resource was integrated with the LIHEAP program—but the grantee did not know about or document the resource during the base period in which the benefits were provided to recipients. The identification and description of the resources/benefits in the plan provides formal documentation of the mandate by the grantee that the resource/benefits be distributed "under the plan" and "integrated" with the LIHEAP program. We therefore continue to require that resources to be counted under criterion (iii) must be included in the grantee's plan.

The preamble to the interim rule required (at 57 FR 1967) that the resource be included in the plan during the base period for which the resource is claimed—the period in which the resource/benefits are provided to low-income households. For clarity, we added this requirement to the final rule itself. As we stated in the interim rule's preamble, grantees that did not identify and describe all of their leveraging activities for a base period in their initial plans covering this period may amend their plans to include such resources at any time (before or) during the base period, but they may not amend their plans to include such resources retroactively, after the base period has ended. For clarity, the final rule requires that any LIHEAP plan amendments needed to cover leveraging activities counted under criteria (ii) and (iii) of section 96.87(d)(2) must be submitted before the end of the base period. Resources/benefits provided under the criterion (ii) must be distributed consistent with the grantee's LIHEAP plan and program policies that were in effect during the base period. The plan must identify and describe resources/benefits provided under criterion (iii) before the base period ends.

In addition, the final rule reiterates the requirement in the interim rule that the plan identify and describe the resources/benefits to be counted under criterion (iii), and now also requires that the plan identify and describe their sources, and the way in which they are integrated/coordinated with the grantee's LIHEAP program. We added the latter requirements because several grantees' plan "descriptions" of leveraged resources were so vague (e.g., "donations") that they were virtually meaningless. Each individual resource does not necessarily need to be separately identified; similar resources may be grouped together. For example, similar donations from a number of churches might be covered as follows in the plan: "In-kind contributions by approximately five churches, of blankets, space heaters, and fans that will be distributed by these churches to low-income households referred by the LIHEAP program because the households' LIHEAP benefits do not meet their need for these items." (Such related donations also could be combined as one resource in the grantee's LIHEAP leveraging report.)

There have been several questions and comments about the statutory requirement that resources countable under criterion (iii) must be "integrated with the State program." A commenter said that "integration" should be defined "to clearly require a higher form of relationship than merely serving the same income-class of households. An integrated program should have coordinated administrative procedures, cooperative targeting of benefits and benefit levels, and an integrated set of aims and purposes that rely on LIHEAP as the keystone to fulfilling those common purposes." Another said that "[t]here must be a direct connection [with the LIHEAP program] through a set of mutual, explicit obligations and formalized arrangements."

The statutory requirement that resources counted under criterion (iii) be "integrated" with the grantee's LIHEAP program has been difficult for HHS and grantees to implement. In the interim rule, criterion (iii) required that resources/benefits be "integrated" and "coordinated" with the grantee's LIHEAP program, and "provided in cooperation and in conjunction" with the LIHEAP program. A number of grantees were confused about what constituted integration and coordination. In practice, these terms were not sufficiently clear or measurable, and they were subject to differing understandings and interpretations. We needed a more objective way to determine whether a resource was integrated with the LIHEAP program.

We therefore added eight "conditions" ("A" through "H") in the final rule, describing specific circumstances that demonstrate that a resource is integrated with the grantee's LIHEAP program—that the resource and LIHEAP function cooperatively and in coordination with each other to provide an interrelated larger unit or whole. If a leveraged resource meets at least one of these eight conditions, we will consider it to be integrated and coordinated with the grantee's LIHEAP program.

Based on the comments we received and on our experience in the first three cycles of the leveraging program, we clarified requirements for criteria (ii) and (iii) of § 96.87(d)(2) in the final rule. We amended criterion (ii) as follows:

The grantee appropriated or mandated the resource/benefits for distribution to low-income households through (that is, within and as a part of) its LIHEAP program. The resource/benefits are provided through the grantee's LIHEAP program to low-income households eligible under the grantee's LIHEAP standards, in accordance with the LIHEAP statute and regulations and consistent with the grantee's LIHEAP plan and program policies that were in effect during the base period, as if they

VOL
60
ISS
83
MY
1
1995
UMI

were provided from the grantee's Federal LIHEAP allotment.

We amended criterion (iii) as follows: The grantee appropriated or mandated the resource/benefits for distribution to low-income households as described in its LIHEAP plan * * *. The resource/benefits are provided to low-income households as a supplement and/or alternative to the grantee's LIHEAP program, outside (that is, not through, within, or as a part of) the LIHEAP program. The resource/benefits are integrated and coordinated with the grantee's LIHEAP program. Before the end of the base period, the plan identifies and describes the resource/benefits, their source(s), and their integration/coordination with the LIHEAP program.

The Department will determine resources/benefits to be integrated and coordinated with the LIHEAP program if they meet at least one of the following eight conditions. If a resource meets at least one of conditions A through F when the grantee's LIHEAP program is operating (and meets all other applicable requirements), the resource also is countable when the LIHEAP program is not operating.

(A) For all households served by the resource, the assistance provided by the resource depends on and is determined by the assistance provided to these households by the grantee's LIHEAP program in the base period. The resource supplements LIHEAP assistance that was not sufficient to meet households' home energy needs, and the type and amount of assistance provided by the resource is directly affected by the LIHEAP assistance received by the households.

(B) Receipt of LIHEAP assistance in the base period is necessary to receive assistance from the resource. The resource serves only households that received LIHEAP assistance in the base period.

(C) Ineligibility for the grantee's LIHEAP program, or denial of LIHEAP assistance in the base period because of unavailability of LIHEAP funds, is necessary to receive assistance from the resource.

(D) For discounts and waivers: Eligibility for and/or receipt of assistance under the grantee's LIHEAP program in the base period, and/or eligibility under the Federal standards set by section 2605(b)(2) of Public Law 97–35 * * * is necessary to receive the discount or waiver.

(E) During the period when the grantee's LIHEAP program is operating, staff of the grantee's LIHEAP program and/or staff assigned to the LIHEAP program by a local LIHEAP administering agency or agencies, and staff assigned to the resource communicate orally and/or in writing about how to meet the energy needs of specific, individual households. For the duration of the LIHEAP program, this communication takes place before assistance is provided to each household to be served by the resource, unless the applicant for assistance from the resource presents documentation of LIHEAP eligibility and/or the amount of LIHEAP assistance received or to be received.

(F) A written agreement between the grantee's LIHEAP program or local LIHEAP administering agency, and the agency administering the resource, specifies the following about the resource: eligibility criteria; benefit levels; period of operation; how the LIHEAP program and the resource are integrated/coordinated; and relationship between LIHEAP eligibility and/or benefit levels, and eligibility and/or benefit levels for the resource. The agreement provides for annual or more frequent reports to be provided to the LIHEAP program by the agency administering the resource.

(G) The resource accepts referrals from the grantee's LIHEAP program, and as long as the resource has benefits available, it provides assistance to all households that are referred by the LIHEAP program and that meet the resource's eligibility requirements. Under this condition, only the benefits provided to households referred by the LIHEAP program are countable.

(H) Before the grantee's LIHEAP heating, cooling, crisis, and/or weatherization assistance component(s) open and/or after the grantee's LIHEAP heating, cooling, crisis, and/or weatherization assistance component(s) close for the season or for the fiscal year, or before the entire LIHEAP program opens and/or after the entire LIHEAP program closes for the season or for the fiscal year, the resource is made available specifically to fill the gap caused by the absence of the LIHEAP component(s) or program. The resource is not available while the LIHEAP component(s) or program is operating.

Additional Information

In order to be countable, a leveraged resource must meet the requirements under at least one of criteria (i), (ii), and (iii). A single resource cannot meet both criterion (ii) and criterion (iii), because a resource cannot be provided to low-income households both as a part of the LIHEAP program (criterion (ii)), and not as a part of, but integrated with, the LIHEAP program (criterion (iii)). A resource countable under criterion (iii) must meet all of the requirements in the first part of the criterion, and at least one of the conditions demonstrating integration/coordination in the second part of the criterion.

In criterion (iii), conditions A through F describe acceptable circumstances of integration/coordination while the grantee's LIHEAP program is operating. If a resource meets at least one of these six conditions while the grantee's LIHEAP program is operating (as well as all other applicable requirements), the resource also is countable during the base period when the LIHEAP program is not operating. The circumstances described in a condition must apply to all assistance provided by the resource, and all households assisted by the resource, except for condition G. Condition G describes certain resources that accept referrals from the grantee's LIHEAP program. It is possible that some of the households served by a resource will not be referred to it by the LIHEAP program. Under condition G, benefits provided by certain resources to households that were referred by the LIHEAP program are countable, but benefits provided to households that were not referred by the LIHEAP program are not countable. Condition H describes certain resources made available specifically because the grantee's entire LIHEAP program has not yet opened or has closed, or because one or more components of the LIHEAP program have not yet opened or have closed.

If a grantee sets its LIHEAP income eligibility standard below the LIHEAP statute's maximum (for example, at 125 percent of the poverty level), it could count leveraged benefits provided to households with incomes between the State standard and the Federal maximum standard (the greater of 150 percent of the poverty level or 60 percent of State median income) under criterion (i) or criterion (iii), as long as the benefits meet all other requirements for leveraged resources as well. These criteria allow the counting of leveraged benefits that are provided to households with incomes up to the Federal maximum and to categorically eligible households, as described in section 2605(b)(2) of the LIHEAP statute, whether or not the grantee's LIHEAP program has more restrictive eligibility standards. Under criterion (ii), leveraged benefits must be provided through the grantee's LIHEAP program, to households eligible under the grantee's standards.

Countable Leveraged Resources and Benefits

Section 96.87(e) of the interim rule and the final rule describes resources and benefits that are countable under the LIHEAP leveraging incentive program. This section describes the three types of countable resources—certain cash resources, home energy discounts and waivers, and third-party in-kind contributions—and lists examples of countable resources/benefits under each. Countable resources/benefits are not limited to the examples named. Additional resources may be countable as well, provided that they also meet all applicable requirements.

Under both the interim rule and the final rule, we do not require that leveraging activities be "new" in the base period in order to be countable. Benefits provided by ongoing leveraging activities—such as discounts in home energy bills and home energy assistance provided by fuel funds—are countable as long as they meet the requirements of the statute and these regulations, and the counted benefits are provided to federally or State eligible low-income households during the base period.

There is sometimes a distinction or difference between a resource as it was acquired, and the benefits that the resource provided to low-income households. Resources acquired in the form of cash can be used to provide benefits in the form of certain cash payments, tangible items, and/or services. However, when resources are acquired in the form of discounts/waivers and in-kind contributions, the benefits are essentially the same as the resources.

The interim rule listed the three types of countable leveraged resources as "cash resources," "home energy discounts and credits," and "third-party in-kind contributions." Because the word "credits" has more than one common meaning, we found that its use was confusing on occasion. In some cases, a "credit" refers to and means a discount. For example, a "credit" donated by a home energy vendor toward the purchase of fuel from the vendor—with no payment received for this amount—represents a discount/reduction in the price of the fuel and should be classified as a discount. In other cases, however, a "credit" to a household's home energy account results from a payment on behalf of the household and therefore refers to the benefit provided by a cash resource. For example, a grantee's own funds used to provide heating assistance benefits should be considered a cash resource. However, in its leveraging report, a grantee mistakenly categorized these funds under "discount/credit" because the benefits represented "credits" toward the recipients' accounts with their vendors. To reduce confusion, therefore, this final rule refers to "home energy discounts and waivers," rather than "home energy discounts and credits" as used in the interim rule. In cases where a grantee has difficulty determining whether to classify a "credit" as a cash resource or a discount/waiver, we will discuss the resource with the grantee to determine the correct classification.

Comment and Response

We received one comment on resources listed as countable in § 96.87(e) of the interim rule. The commenter questioned whether forgiveness of utility sales taxes for LIHEAP-eligible households should be countable.

The interim rule listed as a countable resource/benefit "partial or full forgiveness of home energy bill arrearages"; the arrearage amounts could include sales taxes and/or other extra charges, such as special energy taxes, environmental surcharges, and late payment charges. As long as such charges are included in the low-income household's home energy bill and apply to all residential customers in comparable situations, we do not believe that they should be excluded. Use of leveraged funds to pay low-income households' home energy bills, or portions of these bills, that include such charges would be countable as well. We retained this provision in the final rule.

Comments and Changes

The final rule specifies that purchase and donation of space heating and space cooling devices, equipment, and systems are countable. Purchase and donation of space heating and space cooling devices and equipment, such as furnaces, fans, and air conditioners, already were specified as countable in the interim rule. Based on our experience in operating the leveraging program, we found that the term "devices and equipment" was too limited. Therefore, we added the broader term "systems" in the final rule. For clarity, the final rule also specifies additional countable weatherization services: Replacement and repair of weatherization materials (installation of weatherization materials already was specified as countable); installation, replacement, and repair of space heating and space cooling devices, equipment, and systems (for example, installation of energy efficient furnaces and repair of leaks in heating system ducts); and installation, replacement, and repair of other tangible items that help low-income households meet the costs of home energy and that are specifically approved by HHS. Also, for clarity and in response to comments urging that they be countable, the final rule adds the following services when they are an integral part of weatherization to help low-income households meet the costs of home energy: Installation, replacement, and repair of windows, exterior doors, roofs, exterior walls, and exterior floors; pre-weatherization home energy audits of homes that were weatherized as a result of these audits; and post-weatherization inspection of homes. Also, we agree with the informal comments we received recommending that several safety-related aspects of weatherization be countable when they are integral and necessary parts of weatherization. In response to these comments, the final rule adds: Installation, replacement, and repair of smoke/fire alarms that are an integral part, and necessary for safe operation, of a home heating or cooling system installed or repaired as a weatherization activity; and asbestos removal that is an integral part of and necessary to carry out weatherization to help low-income households meet the costs of home energy. These services are countable if they are paid for with leveraged cash resources, or provided as in-kind contributions by volunteers or donated paid staff under the conditions specified in the final rule. Discounts in the cost of these items and services also are countable under the conditions specified in the final rule.

A commenter recommended that weatherization "audits" and inspections be countable, because they are essential to the success of weatherization and "ensure the net addition of energy resources to the household." We adopted this recommendation, with respect to home energy audits to determine households' weatherization needs, and inspections to assure that weatherization has been properly carried out, when these audits and inspections are integral parts of weatherization to help low-income households meet the costs of home energy. Only the home energy audits of low-income households' homes that were weatherized as a result of these audits are countable.

Because these countable services involving smoke/fire alarms, asbestos removal, pre-weatherization audits, and post-weatherization inspections must be an integral part of weatherization carried out to help specific low-income

VOL
60
ISS
83
MY
1
1995
UMI

households meet the costs of home energy, they generally should be counted in the base period in which these households' homes were weatherized. Pre-weatherization audits—which are countable as an integral part of resulting weatherization—should be counted in the base period in which the weatherization is carried out. This will prevent counting the audits of homes when the follow-up weatherization was not done. However, homes might be weatherized using leveraged funds or volunteer services in one base period and therefore counted in that base period, but the post-weatherization inspections of these homes might take place and be counted in the following base period.

Also, based on our experience in operating the leveraging incentive program, we added a clarification to the final rule at § 96.87(e)(1)(i), naming several specific examples of countable benefits provided by leveraged cash resources: Heating, cooling, and energy crisis assistance payments and cash benefits made in the base period to or on behalf of low-income households toward their home energy costs—including home energy bills, taxes on home energy sales/purchases and services, connection and reconnection fees, application fees, late payment charges, bulk fuel tank rental or purchase costs, and security deposits that are retained for six months or longer.

Also as a clarification, we added language at the beginning of paragraph (2) of § 96.87(e), which describes countable home energy discounts and waivers, stating that countable discounts/waivers must "pertain to generally applicable prices, rates, fees, charges, costs, and/or requirements." This language applies to all of the sub-paragraphs under this paragraph. We therefore deleted similar language from subparagraph (ii).

Finally, we added clarifying language specifying that the following are countable: Partial or full waivers of bulk fuel tank rental or purchase costs; and reductions in, and partial or full waivers of, non-Federal taxes on home energy sales/purchases and services (such as furnace repairs) and of other non-Federal taxes provided as tax "credits" to low-income households to offset their home energy costs, unless Federal funds or Federal tax "credits" provide payment or reimbursement of these costs.

As long as a fuel is used wholly or partly for home energy by the low-income recipient household, the full amount of leveraged heating, cooling, and crisis assistance benefits for the fuel, and the full amount of leveraged discounts and waivers (including arrearage forgiveness) relating to the fuel, are countable, even if they may exceed the home energy portion of the household's bill. It is often difficult or impossible to determine the exact portion of a household's fuel bill that covers home energy—that is, home heating and cooling rather than other residential uses. Also, it is often necessary to pay a household's entire fuel bill—not just the heating and cooling portion—to prevent service shut-off or termination.

Tangible items that are installed or repaired using leveraged services must be items that would be countable if they were leveraged, or must be specifically approved by HHS upon request by the grantee. (For example, donated services to install a washing machine would not be countable, because this appliance, even if it was purchased with non-Federal funds or donated, would not be countable.) However, these items themselves do not have to be leveraged resources. Only the leveraged resource/benefit (for example, leveraged cash used to pay for installation of non-leveraged insulation) is countable in such cases.

We deleted as separate countable resources all services involving delivery and transportation—that is, delivery of fuel, weatherization materials, and other items. We also deleted purchase, rental, donation, and loan of supplies and equipment used to deliver these things and used to install weatherization materials. Therefore, cash resources used to pay for these services and items, discounts in their cost, and in-kind contributions of these services and items are no longer countable as separate resources. (Although delivery services are no longer separately countable, delivery costs sometimes are included in the fair market price of delivered bulk fuel—such as fuel oil, propane, coal, and wood—and as part of the purchase and/or installation costs of weatherization materials and space heating and space cooling devices, equipment, and systems.)

We deleted delivery services, and supplies and equipment used for delivery and installation services, for several reasons, based on our experience with the leveraging program. These services often are not actually direct benefits to specific low-income households. Valuation was a problem. The value of equipment such as trucks that would be used for a number of years and by a number of different users might have been pro-rated for the items' expected useful life and anticipated other users. However, it would be virtually impossible to get consistent estimates of, and pro-rating for, the useful life of equipment, and accurate pro-rating for other users, even if we issued extensive regulatory instructions. If the entire value of expensive equipment that was to be used over a period of years was counted for only one base period, this would inflate the resource's effect for that base period—and still leave the question of how to account for other users. We also found that several grantees' leveraging reports tried to stretch countable delivery-related services and items beyond the letter and intent of the interim rule—for example, to count a "discount" in the cost of gasoline used in a vehicle that transported fuel oil. Finally, the amount of effort necessary to estimate and document valuation, and to review these calculations and documentation, is disproportionate for such marginal resources.

Comments and Response

Since the end of the comment period on the interim rule, questions have arisen about whether certain types of borrowed funds are countable under the leveraging incentive program. The interim rule said that borrowed funds were not countable. The interim rule's preamble indicated that borrowed funds were not countable because they must be repaid, and therefore there is no net addition to households' home energy resources. This is the case if a low-income household borrows funds, uses these funds to pay a home energy bill or weatherize its home, etc., and then repays the loan with its own funds. It is also the case if, for example, a grantee borrows funds, uses these funds to pay home energy bills or weatherize homes, etc., and then repays the loan with Federal LIHEAP funds.

In general, benefits or services paid for with borrowed funds and interest on those funds are not countable under the leveraging incentive program. We clarified in the final rule that this prohibition also applies to loans made to low-income households to help them pay their home energy costs, including weatherization, and to loans made by low-income households.

However, we now recognize that borrowed or repaid funds from certain revolving loan funds and similar loan arrangements can be countable. We revised the final rule accordingly, at §§ 96.87(b)(3) and 96.87(f)(2). The final rule defines "countable loan fund" in § 96.87(b)(3) as follows:

Countable loan fund means revolving loan funds and similar loan instruments in which:

(i) The sources of both the loaned and the repaid funds meet the requirements of this section, including the prohibitions of paragraphs (f)(1), (f)(2), and (f)(3);

(ii) Neither the loaned nor the repaid funds are Federal funds or payments from low-income households, and the loans are not made to low-income households; and

(iii) The benefits provided by the loaned funds meet the requirements of this section for countable leveraged resources and benefits.

In this definition, "payments from low-income households" do not include normal rent payments. Any interest paid on funds borrowed from a revolving loan fund would not be countable when paid to the fund, but could be countable when borrowed later and used for countable benefits.

An example of a countable loan fund is a resource in which a State used oil overcharge funds in its LIHEAP program to establish a revolving loan fund for landlords to install weatherization materials for low-income households. The funds are used by landlords to provide weatherization that helps the households reduce their home energy needs, with a requirement that the landlords repay the loans to the State. Repaid funds are then used to make loans to landlords for additional weatherization. This has the result of increasing the amount of weatherization carried out, with non-Federal funds and without putting any burden on low-income households. The resources are countable in the base period in which the weatherization takes place. When repaid funds are used again, the additional weatherization is countable in the base period in which it is provided. Such activities are countable if neither Federal funds nor payments from low-income households are used for the loans or to repay the loans, charges to the households (including rent) are neither increased nor imposed as a result, and all other statutory and regulatory requirements are met.

Also, as long as all requirements of § 96.87 for countable leveraged resources and benefits are met, if a grantee or other entity borrows funds (commercially or otherwise, consistent with all applicable laws and regulations), uses these funds to provide benefits that would otherwise be countable, and repays the loan with countable non-Federal funds in the base period in which the benefits were provided, the benefits are countable based on the countable non-Federal character of the repaid funds and the benefits' net addition to low-income households' home energy resources.

Comments and Response

We made several changes in the final rule involving countable petroleum violation escrow (PVE or oil overcharge) funds. Oil overcharge funds result from settlements of cases of overcharges which violated petroleum price controls in effect from 1973 to 1981, under the Emergency Petroleum Allocation Act of 1973. Since 1981, over $4.5 billion in oil overcharge funds have been distributed by the Department of Energy (DOE) to the 50 States, the District of Columbia, and most U.S. territories; additional oil overcharge funds are expected to be distributed in the future. LIHEAP is one of the programs under which most of these funds can be used.

Senate Report 101–421 on the 1990 LIHEAP reauthorization law states that the Senate Committee on Labor and Human Resources

> believes there are very limited circumstances under which Petroleum Violation Escrow Funds should be considered as leveraged resources. Therefore, if the Secretary chooses to count Petroleum Violation Escrow Funds as leveraged resources, he or she may only count funds that are distributed after October 1, 1990, and that were not previously required to be allocated to low-income households.

In the interim final rule, we defined "countable petroleum violation escrow funds" in section 96.87(b) as "petroleum violation escrow (oil overcharge) funds that were distributed to a State or territory after October 1, 1990, were added to and used as a part of the State or territory's LIHEAP program, and were not previously required to be allocated to low-income households." We said in the interim rule's preamble that oil overcharge funds "may be counted under the LIHEAP leveraging incentive program only by the 50 States, the District of Columbia, and the territories to which they were distributed directly * * *." Three States commented on the interim rule's treatment of oil overcharge funds.

Two of these States disagreed with the interim rule's requirement that only PVE funds distributed to States and territories after October 1, 1990, are countable. One of the two States believed that countability of PVE funds should depend on the date a State or territory added them to its LIHEAP program. The second State believed that all PVE funds added to and used as part of a State's LIHEAP program during a base period should be countable.

We do not agree with these comments. We believe that it is consistent with the Senate Report to provide that oil overcharge funds distributed to States and territories by DOE on or before October 1, 1990, cannot be counted under the leveraging program. Also, we believes that it would be unfair to count remaining oil overcharge funds that were distributed to States and territories by DOE before the LIHEAP leveraging incentive program was established—before grantees knew that they might receive leveraging incentive funds if they used oil overcharge funds in certain ways. This would unfairly penalize grantees that used these funds in a timely way, soon after receiving them—as the terms of distribution encouraged them to do. It would unfairly reward grantees that did not use these funds in a timely way. We therefore retained and clarified the requirement that only PVE funds that were distributed to a State or territory by DOE after October 1, 1990 (and used consistent with all other relevant regulatory and statutory requirements) are countable.

In correspondence relating to its leveraging report on FY 1991 leveraging activities, a third State argued that oil overcharge funds it used for home energy, but not under LIHEAP, should be countable. Under the interim final rule, these funds were not countable because they were not "added to and used as a part of" the State's LIHEAP program. However, after further reflection, we agree that PVE funds that are used under other programs to provide home energy to low-income households should be countable as long as they meet the requirements under section 96.87. Therefore, this final rule changes the definition of countable petroleum violation escrow funds in section 96.87(b)(4) to state, in part, that they must be

> * * * used to assist low-income households to meet the costs of home energy through (that is, within and as a part of) a State or territory's LIHEAP program, another Federal program, or a non-Federal program, in accordance with a submission for use of these petroleum violation escrow funds that was approved by DOE * * *.

Because the LIHEAP statute limits the percent of LIHEAP funds that can be used for weatherization, a grantee that wanted to use large amounts of PVE funds for weatherization would use them under DOE's low-income weatherization assistance program or under a non-Federal weatherization program that meets the requirements for use of PVE funds. With this change in the regulations, these PVE funds could be countable under the LIHEAP leveraging incentive program as long as they meet all applicable requirements for countable leveraged resources.

The final rule also specifies the requirements under § 96.87(d)—"Basic

VOL
60
ISS
83
MY
1
1995
UMI

requirements for leveraged resources and benefits"—that countable PVE funds must meet: all of the criteria under paragraph (d)(1), as well as criterion (ii) or criterion (iii) under paragraph (d)(2). Paragraph (d)(1) includes the requirement that countable leveraged resources meet the requirements in the leveraging incentive program section of the final rule. This clarifies that, for example, like other countable leveraged resources, countable PVE funds cannot be used as matching or cost sharing for any Federal program—such as emergency assistance under title IV of the Social Security Act—and they cannot be counted for any other Federal leveraging incentive program. This clarification is based on our experience in operating the leveraging incentive program and is intended to prevent misunderstanding.

Because the grantee's LIHEAP program does not have an active, substantive role in developing or acquiring PVE funds from home energy vendors through negotiation, regulation, or competitive bid, PVE funds cannot be counted under criterion (i) under paragraph (d)(2). Countable PVE funds added to and used as a part of the grantee's LIHEAP program would be counted under criterion (ii) of paragraph (d)(2). Countable PVE funds used under another program would be counted under criterion (iii); therefore, grantees that want to count such funds must be sure to meet the requirements of criterion (iii) for inclusion in the LIHEAP plan and integration with the LIHEAP program.

In its comments on the interim rule, a State urged HHS to allow tribes to count oil overcharge funds under some circumstances; several tribal grantees have verbally agreed with that comment. Upon further consideration, we agree that there are certain circumstances under which tribes should be able to count oil overcharge funds. We describe those circumstances later in this preamble, under "Leveraging Issues Relating to Tribal Grantees."

Finally, we changed the definition of countable petroleum violation escrow funds at § 96.87(b)(4) in the final rule to include interest earned on PVE funds distributed to a State or territory by DOE after October 1, 1990 (as long as all other applicable statutory and regulatory requirements also are met). Interest earned on PVE funds generally is treated like the PVE funds themselves; this change clarifies that this practice is acceptable in the leveraging program.

Resources and Benefits That Cannot Be Counted

Section 96.87(f) of the interim rule and the final rule describes resources and benefits that are not countable under the LIHEAP leveraging incentive program. Thirteen of the letters we received included comments on this section.

Comment and Response

A commenter proposed that low-income households' co-payments for home energy be countable as leveraged funds. Similarly, in its leveraging report on FY 1991 leveraging, a grantee proposed to count the services of a householder who installed weatherization materials in his own home. We cannot count such payments and services under the leveraging incentive program. In the first instance, the household would simply be helping to pay its own bill. In both cases, these are the households' own "contributions," not leveraged contributions, and they do not add to the households' net resources. We therefore clarified in the final rule at paragraph (1) under this section that the following are not countable: resources (or portions of resources) obtained, arranged, provided, contributed, and/or paid for, by a low-income household for its own benefit, or which a low-income household is responsible for obtaining or required to provide for its own benefit or for the benefit of others, in order to receive a benefit of some type.

We also note that the LIHEAP statute and these regulations require that any costs and charges imposed on low-income households in order to receive counted resources/benefits must be offset from the value of these resources.

Comment and Response

Another commenter disagreed with the interim rule's exclusion of leveraged resources counted under the leveraging incentive program(s) of the low-income weatherization assistance program administered by the Department of Energy, or any other Federal leveraging incentive program. However, we continue to believe that leveraged resources should be countable only once—under one Federal leveraging program only—and therefore we retained this exclusion in the final rule.

Comment and Response

A commenter said that funds used as matching for other Federal programs should not be excluded from consideration as leveraged resources, because counting such funds "constitutes increasing the total amount of funds available from all sources to assist low-income households with their home heating needs." We do not agree. As with resources counted under another Federal leveraging program, we continue to believe that "leveraged" resources should be countable only once. In addition, the matching funds are required in order to receive Federal funds under the other program, and thus nothing new has been added to help low-income households that would not otherwise have been added.

Comment and Response

Another commenter recommended that interest paid on borrowed funds, and reductions in interest paid on borrowed funds, be countable "when it can be demonstrated that they do increase the amount of heat available to households." Interest paid by a borrower to a commercial lender does not represent a net addition to the home energy resources of low-income households. On the other hand, if a late payment charge or "interest" is included in a low-income household's home energy bill and is paid with leveraged funds or is waived, the amount paid or waived could be countable. Also, as discussed earlier in this preamble, interest paid on funds borrowed from a revolving loan fund would not be countable when paid to the fund, but could be countable later when, like repaid principal, it is borrowed from the revolving loan fund and used for countable benefits. Reductions in interest paid on borrowed funds are not in themselves countable; leveraged funds that might have been used for interest but instead are used to provide countable benefits would be countable.

Comment and Response

A commenter stated that the value/costs of space, equipment, and paid staff donated by local agencies and energy suppliers should be countable because they are "crucial and an integral part of the service delivery system" and counting them would "facilitate more donations in these areas." "Donation" of office or other space, office equipment, and paid or unpaid administrative staff do not provide direct, quantifiable home energy benefits for low-income households or result in a direct, quantifiable addition to these households' home energy resources. Therefore they are not countable. As we stated in the preamble to the interim rule,

> donated materials such as office supplies and equipment do not result directly in a specific net addition to low-income households' total energy resources, as required by section 2607A(b)(1) of the LIHEAP statute. The same can be said of donations of time by volunteers or staff to perform office or administrative chores. Even though this may result in the grantee being able to free some of its funds for other uses, it would be extremely difficult to assure and to document that any savings are used for direct benefits to low-income households.

Comments and Response

Nine commenters proposed that some or all energy conservation education costs be countable. As one of these commenters stated, these "efforts can yield significant cost savings for low-income consumers, and produce tangible benefits." Another stated that energy conservation education that "employs a proven curriculum" provides "a valid energy saving measure" and should be countable. Another suggested that the value of conservation education be quantified as three percent of the recipient households' energy bills, based on the commenter's understanding that these education programs "consistently result in an average 3% reduction in energy usage."

We agree that a well designed and implemented energy conservation education program presented to receptive households should result in reduced home energy consumption and costs. However, while the cost of providing energy conservation education can be quantified, we do not know a reliable way to determine the value of education as a net addition to the total energy resources of low-income households that would apply to all grantees. The quality of the education provided, the condition of different homes, and the motivation of different households to implement conservation measures are highly variable. We believe that the education activities themselves do not provide direct, quantifiable benefits or quantifiable net additions to households' home energy resources. The final rule therefore continues to exclude energy conservation education.

One of the nine commenters claimed that if energy education/case management activities are not countable under the leveraging program, "there will not be an incentive to the CAP agencies to provide energy case management services although it has been proven to be successful." Section 2607A of the LIHEAP statute allows the counting only of limited kinds of activities and services as leveraging. There are many additional worthwhile activities and services that benefit the program and the low-income households it exists to serve. (Local administering agencies and their staff generally are paid for providing these services.) Grantees should not change successful activities that help low-income households simply to substitute activities that will count as leveraging.

Changes

Based on our experience in implementing the leveraging incentive program under the interim final rule and on comments we received on the interim rule, we retained most of the list at § 96.87(f) of resources and benefits that are not countable. For example, like the interim rule, the final rule does not allow the counting of office supplies and equipment, services for administrative activities, or any other services that do not result in a direct, net, quantifiable addition to low-income households' total energy resources, as required by section 2607A(b)(1) of the LIHEAP statute. Based on our experience in operating the leveraging program and on public comments indicating that some of the leveraging requirements in the interim rule were unclear or too loose, and to assure consistent understanding and avoid misunderstanding, we changed § 96.87(f) in the final rule by clarifying and tightening language in several places and by specifying that the following are not countable:

- Resources obtained, arranged, provided, contributed, and/or paid for, by a low-income household for its own benefit, or which a low-income household is responsible for obtaining or required to provide in order to receive some type of benefit;
- Resources provided, contributed, and/or paid for by building owners, building managers, and/or home energy vendors, if the cost of rent, home energy, or other charges to the recipient were or will be increased, or if other charges to the recipient were or will be imposed, as a result;
- Resources directly provided, contributed, and/or paid for by member(s) of the recipient household's family (parents, grandparents, great-grandparents, sons, daughters, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, first cousins, nieces, and nephews, and their spouses), regardless of whether the family member(s) lived with the household, unless the family member(s) also provided the same resource to other low-income households during the base period and did not limit the resource to members of their own family;
- Delivery, and discounts in the cost of delivery, of fuel, weatherization materials, and all other items;
- Purchase, rental, donation, and loan, and discounts in the cost of purchase and rental, or supplies and equipment used for delivery, installation, and repairs;
- Oil overcharge funds that do not meet the definition in § 96.87(b)(4) of the regulations;
- Interest earned/paid on oil overcharge funds that were distributed to a State or territory by DOE on or before October 1, 1990;
- Interest earned/paid on Federal funds (grantees should draw down Federal funds only as needed for "immediate" use);
- Interest earned/paid on customers' security deposits, utility deposits, etc., except when forfeited by the customer and used to provide countable benefits (interest is generally earned on such deposits and therefore would not be a leveraged benefit obtained for low-income households);
- Borrowed funds that do not meet the requirements in § 96.87(b)(3) of the regulations (including loans made by and/or to low-income households);
- Resources for which Federal payment or reimbursement has been or will be provided;
- Training;
- Installation, replacement, and repair of lighting fixtures and light bulbs (countable weatherization must be directly related to home energy, consistent with the definitions of "home energy" and "weatherization" in § 96.87(b) of the regulations); and
- Activities involving smoke/fire alarms and asbestos removal that are not described in the final rule as countable.

Also, in response to questions raised during the first two years of the leveraging program, we clarified the regulatory language regarding non-countable tax deductions and tax credits. The revised language specifies that tax deductions and tax credits received by donors of resources for these donations, and by vendors for providing discounts, waivers, etc., are not countable. If they meet the requirements in the LIHEAP statute and these regulations, the items and services donated and discounts/waivers provided would be countable. Counting tax deductions and tax credits received by the donors/vendors essentially would result in double counting the same benefit. In addition, tax deductions and tax credits received by donors of resources do not represent a net addition to the home energy resources available to low-income households, as required by the LIHEAP statute and these regulations. (On the other hand, as noted earlier, special non-Federal tax "credits" provided to low-income households to offset their home energy costs can be countable as discounts/waivers, and non-Federal

VOL
60
ISS
83
MY
1
1995
UMI

Federal tribal funds to purchase firewood from an individual's trust land and gives the wood to low-income households, the wood's fair market value is countable.)

Donated or paid services specifically to cut firewood, mine coal, etc., are not countable under the leveraging incentive program. However, in many cases, the value of these services would be included in the fair market value of donated or purchased firewood, coal, etc., that is obtained from non-Federal land.

Resources Obtained From National Forests and Bureau of Land Management Areas

There are some circumstances under which free firewood can be cut from National Forest land; the Department of Agriculture sometimes issues permits to cut dead or downed trees or "slash" without a charge or fee. Also, there might possibly be situations where there is no charge or fee to cut firewood on Bureau of Land Management (BLM) land. The following two paragraphs discuss the countability of home energy resources obtained for free from National Forest and/or BLM land.

Resources such as firewood that are obtained from National Forests and BLM areas in general are considered Federal resources. Therefore, in general, they are not countable as leveraged resources under the LIHEAP leveraging incentive program. Donated or paid services to obtain such resources (e.g., to cut such firewood) also would not be countable.

In some cases, an Indian tribe might have treaty rights to specified timber or firewood resources on Federal lands administered by the Forest Service or the BLM. Where they exist, such treaty provisions may confer a right to usufruct, that is, a nonpossessory right to use timber, usually for domestic purposes. HHS will recognize such rights where they have been adjudicated by a court of competent jurisdiction or are recognized by the Federal agency administering the land in question. (HHS cannot make such determinations itself.) Where the usufructuary right is so adjudicated or recognized, a resource such as firewood would be considered a tribal or Indian resource—that is, non-Federal. Therefore, a home energy resource like firewood that is obtained in such a case would be countable under the leveraging incentive program, as long as the resource met all applicable statutory and regulatory requirements for leveraged resources.

More often, firewood is cut from National Forest or BLM land for payment, rather than for free. A tribe might pay for a permit to cut firewood for domestic use, and/or it might pay for the amount of wood actually cut. If, for example, the tribe uses tribal funds to pay for this permit and/or to pay for the wood actually cut, then the tribal funds are the leveraged resource—the resource is cash; and the firewood, which is obtained in return for payment of the cash, is the benefit that is provided to low-income households. In this case, because the resource is non-Federal cash, the resource is countable, as long as all applicable statutory and regulatory requirements for leveraged resources and benefits are met. The value of the resource/benefit would be the amount that was actually paid for the permit and/or for the wood itself. If the wood is paid for with LIHEAP or other Federal funds, it would not be countable under the leveraging incentive program.

Public Law 93–638 Contract and Grant Funds

Several tribal grantees informally asked us whether contract and grant funds provided to them under Public Law 93–638, the Indian Self-Determination and Education Assistance Act, by the Bureau of Indian Affairs/Department of the Interior and the Indian Health Service/HHS are countable under the leveraging incentive program. Also, in its formal comments on the interim rule, a tribal organization requested that these funds be countable.

Contract and grant funds provided to tribes under Public Law 93–638 are considered to be Federal funds. Because they retain their character as Federal funds, they cannot be counted as leveraged resources under the LIHEAP leveraging incentive program.

Under certain circumstances, Public Law 93–638 contract and grant funds can be used as matching shares for other programs. However, the LIHEAP leveraging incentive program is not a matching (cost sharing or cost participation) program for which grantees provide matching shares. (If the Federal Public Law 93–638 funds were used as matching shares for a program other than LIHEAP, they still would not be countable under the leveraging incentive program, because Federal funds, and funds used as matching for other Federal programs, are not countable under the leveraging program.)

Resources That Might Be Claimed by Both a Tribe and a State

In some cases, a leveraged resource might be claimed by both a tribe or tribal organization and the State in which it is located. For example, countable oil overcharge funds used by a tribe as a subrecipient of a State's LIHEAP program could be claimed by both. (The tribe might count these funds under criterion (iii) of § 96.87(d)(2), and the State might count them under criterion (ii).) Also, donation of weatherization materials might be negotiated with a home energy vendor by a State LIHEAP program (criterion (i)), but then a tribe might install the weatherization materials for its service population through its LIHEAP program (criterion (ii)) or under its LIHEAP plan and integrated with its LIHEAP program (criterion (iii)).

We have concluded that households served by such resources can be counted only once. It would be unfair to other grantees applying for leveraging incentive fund to count some households twice, for both a tribe and a State. We encourage tribes and States themselves to determine which should claim such a resource—or to have one claim some of the tribal households served and the other claim the remainder. (Under the formula for allocating leveraging incentive funds, the tribe, with its smaller regular LIHEAP allotment, would receive a comparatively larger "return" for the resource than the State would. However, as explained later in this preamble, under the final rule, no grantee can receive a leveraging incentive funds award greater than the smaller of its net regular LIHEAP allotment during the base period, or twice the final net value of its countable leveraged resources for the base period.) If a tribe and State cannot resolve the issue, HHS will decide on a case-by-case basis how such a resource should be claimed, depending on the comparative role of each grantee in obtaining and/or administering the resource in question.

Valuation of Leveraged Resources

Section 96.87(g) of the interim rule and the final rule concerns valuation and documentation of leveraged resources and offsetting costs.

The benefits of countable leveraging activities must be measurable and quantifiable in dollars. Using the best data available to them, grantees applying for leveraging incentive funds must quantify the actual value in dollars of countable leveraged resources/benefits provided to low-income households during the base period. Anticipated future benefits—for example, savings expected in home energy bills as a result of weatherization—cannot be counted.

The statute requires that grantees deduct from the gross value of leveraged

payments to low-income households from tax authorities to offset their home energy costs can be countable as cash resources/benefits—as long as Federal funds are not used to pay for these "credits" and payments, and they are not generally available to other households.)

Leveraging Issues Relating to Tribal Grantees

A number of leveraging issues relate specifically to Indian tribes and tribal organizations. These issues include countability of oil overcharge funds, resources obtained from trust lands, resources obtained from National Forests and Bureau of Land Management areas, and Public Law 93–638 funds. Several grantees have commented, formally in response to the January 1992 interim final rule, or informally, and asked questions concerning these issues. While researching these issues, we consulted with the Office of the General Counsel in HHS, the Office of the Solicitor and the Bureau of Land Management in the Department of the Interior, and the Office of the General Counsel and the Forest Service in the Department of Agriculture.

In addition, questions have been raised about the possibility of both a tribe and a State claiming the same leveraged resource.

The guidance that follows addresses these issues. We advised grantees of most of this guidance in LIHEAP Information Memorandum 92–19, dated June 25, 1992.

Oil Overcharge Funds

In accordance with Federal law, court orders, and agreements, the Department of Energy distributes petroleum violation escrow—PVE or oil overcharge—funds to States and territories, but not to Indian tribes or tribal organizations. In the preamble to the January 1992 interim final rule, we stated that, because oil overcharge funds are not distributed directly to tribes or tribal organizations, tribal LIHEAP grantees cannot count them under the LIHEAP leveraging incentive program. We noted that if a tribe receives PVE funds under a State LIHEAP program, the tribe would be a subgrantee or contractor of the State's program for the administration of these funds, and the funds would be used by the tribe as part of the State's LIHEAP program. Also, we noted that if a tribe and State agree that the tribe's direct Federal LIHEAP allotment is to be increased in lieu of the tribe receiving PVE funds under the State's LIHEAP program, the increased funds received by the tribe would be regularly appropriated Federal LIHEAP funds, not PVE funds; the State would retain the actual PVE funds.

Several tribal grantees told us informally that they believe that tribes that obtain oil overcharge funds from the State(s) in which they are located and use these funds for home energy assistance should be able to count them under the leveraging incentive program, since the tribes in fact have leveraged those funds. Also, in its formal comments on the January 1992 preamble and interim rule, a State encouraged HHS "to allow tribes to offer as countable resources any oil overcharge funds [provided to them by the States in which they are located] that meet other criteria defined in the law" for countable leveraged resources.

After considering these comments, we determined that tribal LIHEAP grantees that receive oil overcharge funds from the State in which they are located (and/or interest the State earned on oil overcharge funds) and use these funds (and/or interest the tribes or tribal organizations earn on these funds) for home energy assistance (generally as subrecipients—subgrantees, contractors, or subcontractors—of the State) can count these funds under the leveraging program, as long as these funds meet all applicable statutory and regulatory requirements for countable leveraged resources, and the requirements in the following paragraphs.

If a tribe or tribal organization wants to count oil overcharge funds (and/or interest earned on oil overcharge funds) that it has used for home energy assistance as a subrecipient of the State, it must include with its leveraging report documentation or verification that (1) these particular oil overcharge funds (and/or the oil overcharge funds on which the interest was earned) were distributed by the Department of Energy to the State in which the tribal grantee is located after October 1, 1990, and (2) the State is not counting these particular funds as leveraged resources. A copy of a written statement from the State providing this information will meet this requirement. (As explained earlier in this preamble, consistent with the legislative history, the regulations require that countable PVE funds must be distributed by the Department of Energy after October 1, 1990. It is the State that knows when particular PVE distributions were made to it by DOE.)

In general, the criterion in § 96.87(d)(2) of this final rule under which a tribe would count these funds is criterion (iii), where the resource is distributed under the tribe's LIHEAP plan and integrated with its LIHEAP program. (The tribe's LIHEAP program did not develop or acquire these funds from vendors through negotiation, regulation, or competitive bid, as required under criterion (i).) Tribes should be sure to meet all of the requirements for criterion (iii) in order to claim these oil overcharge funds under this criterion. Also, for purposes of leveraging, when a tribe uses oil overcharge funds received from its State in accordance with the LIHEAP statute and regulations and the tribe's LIHEAP application, essentially as if they were regular Federal LIHEAP funds, then the tribe may count these oil overcharge funds under criterion (ii). (Because the tribe received the overcharge funds from the State, rather than from the Federal government, the tribe is accountable to the State for their use.)

On the other hand, we have determined that Federal funds added to tribal grantees' LIHEAP allotments, in lieu of overcharge funds, cannot be counted as leveraged resources, because of the statutory requirement that countable leveraged resources be from non-Federal sources. In this case, the State has retained the actual oil overcharge funds, and the increased funds awarded to the tribe by HHS are regularly appropriated Federal LIHEAP funds from the State's gross LIHEAP allotment.

Resources Obtained From Trust Land

Tribes may obtain home energy resources, such as wood used to heat low income households' homes, from tribal or individual trust land. These trust lands are not Federal lands. Therefore, resources obtained from these lands are countable under the LIHEAP leveraging incentive programs, as long as they meet all relevant statutory and regulatory requirements.

It is important to trace the source of a resource/benefit to its origin, to determine whether it is countable. For example, if a tribe cuts firewood from tribal trust land and gives that firewood to low-income households, the fair market value of the wood at the time of "donation" is countable. However, if a tribe uses Federal LIHEAP funds to purchase firewood cut from an individual's trust land at fair market value, the wood is not countable, because it was bought with Federal funds and there was no discount in its price. If a tribe uses Federal funds to purchase firewood from an individual's trust land at a discount, then the amount of the discount is countable, as long as all relevant statutory and regulatory requirements for leveraged resources are met. The amount actually paid is not countable, because Federal funds were used. (If a tribe uses non-

VOL
60
ISS
83
MY
1
1995
UMI

resources any costs the grantee incurred in leveraging the resources and any costs imposed on low-income households. These costs are discussed under "Valuation of Offsetting Costs" later in this preamble.

We received no comments regarding valuation of leveraged resources and offsetting costs.

Because the final rule adds discounts in the cost of specified services as countable resources (under § 96.87(e)(2)), we revised the valuation of countable paid services under § 96.87(g) as follows, for consistency:

> Installation, replacement, and repair of weatherization materials, and other countable services, will be valued at rates consistent with those ordinarily paid for similar work, by persons of similar skill in this work, in the grantee's or subrecipient's organization in the local area, at the time these services were provided. If the grantee or subrecipient does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work, by persons of similar skill in this work, in the same labor market, at the time these services were provided. Fringe benefits and overhead costs will not be counted.

Because the final rule deletes delivery services and rented and loaned supplies and equipment as separate countable resources, we made a conforming change to § 96.87(g) to delete valuation of these services and items.

The final rule's other requirements for valuation of leveraged resources/benefits are substantially unchanged from the interim rule. They are summarized below.

Third-party donations of fuel, weatherization materials, and other countable tangible items must be valued at their fair market value at the time of donation, according to the best data available to the grantee.

Unpaid volunteer services must be valued at rates consistent with those ordinarily paid for similar work, by persons of similar skill in this work, in the grantee's or subrecipient's organization. If the grantee or subrecipient does not have employees doing similar work, the rates must be consistent with those ordinarily paid by other employers for similar work, by persons of similar skill in this work, in the same labor market. Fringe benefits and overhead costs cannot be counted. Valuation of volunteers' services must vary according to the skill of the volunteer at the task. For example, the services of professional weatherization installers working at a volunteer weatherization project would be more highly valued than the services of unskilled weatherization volunteers.

When an employer other than a grantee or subrecipient furnishes free of charge the services of an employee in the employee's normal line of work, the services must be valued at the employee's regular rate of pay, excluding the employee's fringe-benefits and overhead costs. If the services are in a different line of work, the valuation described in the previous paragraph applies.

The benefits provided by leveraged resources other than in-kind contributions must be valued as explained in the following paragraphs.

Cash benefits for heating, cooling, and energy crisis assistance must be valued at their actual amount at the time they were provided to, or on behalf of, the recipient household. Purchased fuel, weatherization materials, and other countable tangible items must be valued at their actual fair market value at the time of purchase, according to the best data available to the grantee. The fair market value of a fuel or tangible non-fuel item is the price or cost normally charged a customer in the same customer class, in the same local area, as the recipient household. Countable services, including installation, replacement, and repair of weatherization materials, must be valued as described earlier. Home energy discounts and credits must be valued at their actual value—the actual amount of the discount, reduction, waiver, or forgiveness.

Fuel purchased with leveraged cash at a discounted price and provided without charge to low-income households would be valued at the actual fair market value of the fuel—the commonly available household rate or cost—at the time it was purchased. Fuel purchased with leveraged cash at a discounted price and provided at a discount to low-income households would be valued at the actual fair market value of the fuel—the commonly available household rate or cost—at the time it was purchased, less (minus) the amount paid by the recipients. Only the amount of the net addition to recipient households' home energy resources may be counted.

When low-income households pay discounted prices or reduced rates for home energy (such as fuel oil or electricity), only the amount of the discount or reduction is countable. When low-income households receive home energy at no cost to themselves (for example, a LIHEAP grantee which has purchased fuel oil with leveraged resources or received donated fuel oil provides the oil to a household at no cost to the household), the amount the fuel would have cost the household at "commonly available household rates" is countable.

Grantees may use leveraged funds, regularly appropriated LIHEAP funds, and leveraging incentive funds awarded to them, to purchase fuel or other approved tangible items at discounted prices. If the grantee uses leveraged funds, the gross value of the resource/benefit is the amount it would have cost the recipient households at the commonly available household rate or cost. This means that a grantee may count as leveraged resources both the leveraged funds and savings obtained through buying at a discount. For example, a grantee might use $10,000 of its own funds to purchase fuel oil at a discount, so that it obtains oil that would be worth $12,500 at commonly available household rates/costs. The grantee would have leveraged $10,000 in cash and $2,500 in discounts. If the grantee uses regular LIHEAP funds or leveraging incentive funds—that is, funds that are not countable leveraged resources—to purchase fuel or other approved tangible items at discounted prices, the gross value of the resource/benefit is the amount of the discount—the difference between the amount the item would have cost the recipient household at the commonly available household rate or cost and the reduced amount actually paid. For example, if the grantee had purchased the same fuel oil as above, at the same discounted price but with regular LIHEAP funds, it could count as leveraging only the $2,500 in discounts.

Valuation of Offsetting Costs

Section 2607A(d) of the LIHEAP statute requires that, to determine the net dollar value of grantees' leveraged resources, grantees must subtract from the gross dollar value of leveraged resources they received or acquired during the base period any costs they incurred to leverage such resources and any costs imposed on federally eligible low-income households.

Funds from grantees' regular LIHEAP allotments that are used specifically to identify, develop, and demonstrate leveraging programs under section 2607A(c)(2) of the LIHEAP statute must be deducted as offsetting costs in leveraging reports covering the base period in which these funds were obligated, whether or not there were any leveraged benefits resulting from these particular funds. However, if a grantee does not submit a leveraging report covering the base period in which these funds were obligated, they should not be offset in future reports. Also, any funds from the grantee's LIHEAP planning and administrative funds that

are used to identify, develop, and demonstrate leveraging should not be deducted as offsetting costs. Such funds are likely to serve more than one planning/administrative purpose, and exact amounts spent to identify, develop, and demonstrate leveraging are likely to be difficult to identify and isolate.

Costs incurred from grantees' own funds to identify, develop, and demonstrate leveraging programs must be deducted in the first base period in which resulting leveraged benefits are provided to low-income households. If there is no resulting leveraged benefit from the expenditure of the grantee's own funds, the grantee's expenditure should not be counted or deducted.

Any costs assessed or charged to counted low-income households on a continuing or on-going basis, year after year, specifically to participate in a counted leveraging program or to receive counted leveraged resources must be deducted in the base period these costs are paid. Any one-time costs or charges to counted low-income households specifically to participate in a counted leveraging program or to receive counted leveraged benefits must be deducted in the first base period the program or resource is counted, even if those charges were made before this base period. These costs/charges are to be subtracted from the gross value of a counted resource/benefit for low-income households whose benefits are counted, but not for any low-income or other households whose benefits are not counted. On the other hand, nonspecific costs imposed on low-income households—such as costs resulting from increases in a utility company's general rates to pay for or support benefits for households in special programs—should not be deducted.

Documentation of Resources, Benefits, and Costs

Section 96.87(g)(8) of the interim rule required that grantees

> maintain, or have readily available, records sufficient to document leveraged resources and benefits, and offsetting costs and charges, and their valuation. These records must be retained for three years after the end of the base period whose leveraged resources and benefits they document.

In addition, the preamble contained guidance regarding documentation, including a listing of the specific types of documentation that should be included in leveraging records maintained by, or readily available to, grantees.

Comment and Response

We received one comment concerning leveraging documentation. The commenter stated that grantees competing for leveraging incentive funds "have a right to expect each other to keep archives of material clearly documenting the flow of benefits claimed." The commenter agreed that HHS should require applicants to keep documentation for three years and make it available to HHS when needed. We retained these requirements in the final rule.

Guidance on Documentation

We retained—and repeat below for easy reference—most of the interim rule's preamble guidance on documentation.

Grantees should have clear, consistent, documented policies and procedures for documenting leveraged resources, benefits, and costs. Grantees are to maintain, or have readily available, records adequate to document leveraged resources and benefits, and offsetting costs and charges, and their valuation. (For example, a grantee—and/or subrecipients—should maintain records to document counted oil overcharge funds. A grantee should maintain and/or have easy access to documentation relating to counted fuel fund benefits.) These records are to consist of written and/or printed papers, etc., furnishing evidence that substantiates the claims made in the grantees' leveraging reports. These records are to be retained for three years after the end of the base period whose leveraged resources they document.

These records should include:

- Documentation of the sources of leveraged resources;
- Documentation of the negotiations, competitive bids, written agreements, legislation, regulations, and mandates through which leveraged resources were acquired or developed and under which they were provided;
- Documentation of recipient households' Federal eligibility, or eligibility for the grantee's LIHEAP program, as appropriate;
- Documentation of the type, amount, and value of leveraged benefits provided, including documentation of commonly available, local market household home energy rates or costs charged;
- Documentation of the type, amount, and value of in-kind contributions;
- Documentation of the costs incurred by the grantee to leverage resources and of the costs imposed on low-income households;
- Documentation of the calculation of the net addition to recipient households' home energy resources; and
- Documentation of the integration of leveraged resources with the grantee's LIHEAP program, as appropriate.

Recipient eligibility documentation should document each household's income or categorical eligibility. Benefit documentation should document the delivery and value of each benefit, including the amount or quantity and unit price, as appropriate.

We are requiring submission of some of this documentation with grantees' leveraging reports. We may require submission of additional documentation to clarify or support information submitted in a leveraging report.

Many of the resources submitted during the first three years of the leveraging incentive program were provided and administered at the subrecipient level. As discussed elsewhere in this preamble, such resources are countable if they meet all of the requirements for countable resources. In such cases, records likely will be kept at the local level, and information required for the leveraging report likely will be provided to State officials by local agencies. Again, this is acceptable, as long as the documentation discussed above is maintained and readily available both to State and Federal officials.

However, we emphasize that it is important for grantees to develop and institute procedures to ensure that this documentation is accurate and complete. In some cases, when we asked States for more information about particular resources administered by subrecipients, we found that the States not only had virtually no knowledge about the resources, but also were unable to obtain the necessary additional information from the local agencies.

We expect grantees to ensure that local agencies that provide and/or administer leveraged resources/benefits will receive adequate instruction or training in the requirements for countable resources and their valuation. Also, we expect grantees to institute monitoring procedures to ensure that such agencies maintain required documentation and provide accurate reports. In addition, as previously discussed in this preamble, resources counted under criteria (ii) and (iii) of § 96.87(d)(2) must be "appropriated or mandated" by the grantee—the State, tribe, tribal organization, or territory—for distribution to low-income households, either through its LIHEAP program (criterion (ii)) or as described in its LIHEAP plan and integrated and

VOL
60
ISS
83
MY
1
1995
UMI

coordinated with its LIHEAP program (criterion (iii))—not provided independently by local agencies.

Leveraging Report

Section 2607A(e) of the LIHEAP statute provides that grantees desiring leveraging incentive funds must submit a report to HHS that quantifies the grantee's leveraged resources for the base period. These reports are grantees' applications for leveraging incentive funds. Section 96.87(h) of the regulations lists requirements for these reports. In both the interim rule and this final rule, we included in the list only the information we believe we need to know in order to fulfill our responsibility to evaluate grantees' leveraged resources/benefits and to determine appropriate grantee shares of leveraging incentive funds.

HHS does not prescribe a format for grantees' annual applications for regular LIHEAP funds. However, because leveraging applications must include specific, comparable data for grantees "competing" for shares of a limited amount of leveraging incentive funds, the interim rule and this final rule specify that leveraging reports must be in a format established by HHS. The LIHEAP leveraging report form has received Office of Management and Budget clearance through May 1995 and was used by grantees applying for leveraging incentive funds in fiscal years 1992, 1993, and 1994.

Grantee leveraging reports must describe the leveraged resources/benefits provided to low-income households during the base period, and must indicate the grantee's valuation of these resources and of the costs of leveraging them. Grantees should report these amounts as whole numbers rounded to the nearest whole dollar or rounded to the nearest multiple of 10 or 100.

We received four letters commenting on § 96.87(h) of the interim final rule. This section includes the requirements that leveraging reports indicate the geographical area (for example, the cities and/or counties) in which the leveraged resources/benefits were provided to low-income households and state the month(s) and year(s) when these benefits were provided during the base period.

Comments and Response

Two States commented that grantees should not be required to include in their leveraging reports either the geographical area or the months and years in which benefits were provided. One of these comments recommended instead that grantees provide "assurance that the reported resources were provided during the required base period and in the grantee's LIHEAP service area."

However, we retained these requirements in the final rule, for the following reasons. This information helps to identify each resource. We have found it to be useful and believe that Congress and other interested parties may find it useful as well. It should not be difficult for grantees to include in their reports. Also, while reviewing reports on leveraging activities, we have found that several grantees that indicated the appropriate base period at the top of their leveraging report forms included dates in the report itself, where they were required to state the month(s) and year(s) of the base period in which benefits were provided, that showed that the benefits actually were not provided in the base period for which the report was submitted. The requirement thus serves as a check to assure that benefits were provided in the proper base period.

However, in response to commenters' concerns about reporting requirements and paperwork burden, we changed the final rule to remove the requirement that grantees explain how reported resources/benefits valued under $5,000 meet criterion (i) or criterion (iii), as appropriate, under § 96.87(d)(2). The interim rule required that grantees explain how all resources reported for these criteria meet the appropriate criterion or criteria; the final rule requires this explanation only for resources valued at $5,000 or more. It is not intended that grantees divide large resources into smaller components of less than $5,000 in order to avoid the documentation requirement. Resources valued under $5,000 are subject to verification by HHS during compliance reviews, as are larger resources.

Comment and Response

Section 2607A(f) of the LIHEAP statute provides that HHS "may request any documentation" that it "determines necessary for the verification" of grantees' applications for leveraging incentive funds. Section 96.87(h) of the interim rule required that leveraging reports state the dollar value of each resource/benefit, "indicate the source(s) of the data used, and describe how the grantee quantified the value and calculated the total amount." It also provided that HHS

may require submission of additional documentation and/or clarification as it determines necessary to verify information in a grantee's leveraging report, to determine whether a leveraged resource is countable, and/or to determine the net valuation of a resource. In such cases, the Department will set a date by which it must receive information sufficient to document countability and/or valuation.

A commenter believed that HHS should require grantees to provide with their leveraging reports an "extensive annotated listing" of their documentation, detailing the data contained in each document, "the claim to resources it supports and its physical location."

We decline to require grantees to submit routinely with their leveraging reports the additional documentation proposed by this commenter. We believe that the burden of compiling and submitting the "extensive annotated listing" on a routine basis would clearly outweigh the possible benefits. Further, the regulations require that detailed documentation be readily available and submitted to HHS upon request. In addition, we monitor grantees' leveraging records when we conduct compliance reviews.

However, to reduce the chance of misunderstanding regarding the importance of grantees' maintaining accurate records that properly document their claimed resources and submitting any additional information requested by HHS, we have added the following clarification to section 96.87(h)(3): in cases when HHS requires submission of additional documentation and/or clarification, "if the Department does not receive information that it considers sufficient to document countability and/or valuation by the date it has set, then the Department will not count the resource (or portion of resource) in question."

Submission Dates for Leveraging Reports

Section 2607A(e) of the LIHEAP statute as amended in 1990 provided that grantees must submit their leveraging reports to HHS by July 31 of each year in order to qualify for leveraging incentive funds. Public Law 102–394, which provided FY 1993 LIHEAP appropriations, anticipated that, beginning in July 1994, LIHEAP funds would be available on the basis of the "forward funding" program year of July 1 through June 30. As we explained in the interim rule's preamble, we believe it was reasonable to assume that Congress intended the July 31 date to apply only after "forward funding" began, when July 31 would be one month after the end of the program year or base period whose leveraging activities were reported. Grantees would then be able to report leveraging activities for the entire program year.

However, with LIHEAP funds available for obligation on the basis of the Federal fiscal year starting October 1, if grantees were required to submit leveraging reports by July 31, they would not be able to include leveraging activities for the last two or three months of the fiscal year. The interim rule therefore modified the reporting dates for reports to be submitted before forward funding began. The deadline for submission of reports while LIHEAP funding is provided to grantees on the basis of the Federal fiscal year of October 1 through September 30 was set as October 31 of the fiscal year for which leveraging incentive funds are requested—on month after the end of the fiscal year or base period for which leveraging activities are reported.

In a comment on the interim rule, a State recommended that HHS change the leveraging report submission deadline to two months after the end of the base period, to allow local entities at least one month to report leveraging results for the full base period to States, and to allow a "reasonable amount of time" for States to analyze the reports and include allowable resources in their leveraging reports.

The Human Services Amendments of 1994, Public Law 103–252, enacted May 18, 1994, reauthorizing LIHEAP through FY 1999, provides for forward or advance funding (that is, funding appropriated one year in advance) on the basis of the Federal fiscal year of October 1 through September 30. Thus, the July through June program year will not be implemented.

Public Law 103–252 specifies that leveraging reports are to be submitted "2 months after the close of the fiscal year" during which the grantee provided the leveraged resources to eligible households. The final rule makes this technical change to the regulations at § 96.87(h)(2), stating that "Leveraging reports must be postmarked or hand-delivered not later than November 30 of the fiscal year for which leveraging incentive funds are requested." Leveraging reports submitted later will not be considered for a share of leveraging incentive funds. The new deadline is two months after the end of the base period and two months "into" the award period, effective with the leveraging reports to be submitted on FY 1994 leveraging activities. (The report on FY 1994 leveraging activities must be submitted by November 30, 1994. Any LIHEAP plan amendments necessary to qualify FY 1994 leveraging activities under criterion (ii) or criterion (iii) of section 96.87(d)(2) must be submitted by September 30, 1994.)

Leveraging reports should be mailed or delivered to the following address: Director, Office of Community Services, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

Determination of Grantee Shares of Leveraging Incentive Funds

Section 96.87(i) of the interim final rule set the formula used to allocate leveraging incentive funds among grantees submitting leveraging reports. The formula in the interim rule was used to allocate leveraging incentive funds in fiscal years 1992, 1993, and 1994. As indicated under "Effective Date" near the beginning of this preamble, it also will be used to allocate leveraging incentive funds in FY 1995 that reward FY 1994 leveraging activities. This means that the revised formula included in this final rule and described below will be used beginning with leveraging incentive funds awarded in FY 1996 to reward FY 1995 leveraging activities.

Section 2607A of the LIHEAP statute requires HHS to develop a formula for allocating leveraging incentive funds that takes into account the size of the grantee's regular LIHEAP allotment (allocation), and the value of the grantee's leveraged resources in relation to its regular allotment amount. The legislative history also includes recommendations for the formula.

After considering ideas for possible formulas, and then three different formulas under three different scenarios, we selected the two-part formula that was in the interim rule. The formula we selected, which we called "Formula One," was intended to carry out Congress' intent to give the largest reward to the grantees that were most successful in leveraging their LIHEAP dollars. We included in the preamble to the interim rule a detailed discussion of the three formulas, with examples of how allocations would differ under each. (See pp. 1972–1976 of the **Federal Register** dated January 16, 1992; 57 FR 1972–1976.)

Under the interim rule's formula, we distributed half of the leveraging incentive funds for an award period based on the value of the leveraged resources/benefits provided by a grantee during the base period relative to its net allotment under the regular LIHEAP program during the base period, as a proportion of the total value of leveraged resources/benefits provided by all grantees in relation to their regular net allotments during the same period. We distributed the remaining half of the funds based on the value of leveraged resources/benefits that a grantee provided during the base period as a proportion of the total value of leveraged resources/benefits provided by all grantees. No grantee could receive a leveraging incentive award larger than its regular LIHEAP allotment during the base period. When the formula would have resulted in a grantee receiving an incentive award larger than its regular allotment, the "excess" funds were reallocated to the other grantees receiving leveraging incentive funds. The leveraging figures used in these calculations were based on the net value of the countable leveraged resources in grantees' leveraging reports, as approved by HHS.

We received eleven comments regarding the formula used to determine grantee shares of leveraging incentive funds. Some of the commenters supported our selection of Formula One, while others suggested using a different formula or modifying our selection in some way.

In determining what allocation formula to adopt in this final rule, we considered not only the comments we received, but also experience we have gained in the last three grant periods in using Formula One for allocations based on the actual leveraging reports submitted by grantees. We reconsidered all three of the formulas discussed in the preamble to the interim rule and calculated what leveraging grant awards would have been in FY 1994 if we had used each of them. The actual FY 1994 awards—based on Formula One—are shown below, as are the allocations that would have resulted if we had used Formula Two and Formula Three, and State and territorial allocations that would have resulted if we had distributed the funds under the regular LIHEAP block grant allocation formula, rather than using them in the leveraging incentive program.

VOL 60 ISS 83 MY 1 1995 UMI

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM—FINAL TOTALS FOR FISCAL YEAR 1994 LEVERAGING INCENTIVE GRANTS

Grantee	Fiscal year 1993 lev $	Fiscal year 1993 regular allot $	Formula one total share of $25 M for fiscal year 1994	Formula two total share of $25 M for fiscal year 1994	Formula three total share of $25 M for fiscal year 1994	Regular block grant allocation formula [1]
Alabama	$4,806,142	$11,280,337	$345,359	$701,732	$113,424	$214,720
Alaska	5,962,440	4,717,311	767,112	2,081,738	417,434	137,061
Arizona	3,734,137	4,834,769	471,567	1,272,070	159,749	103,841
Arkansas	296,071	8,655,748	24,941	56,336	561	163,842
California	62,681,576	60,489,538	2,422,358	1,706,696	3,597,770	1,151,911
Colorado	12,845,031	21,218,391	677,400	997,055	430,717	401,635
Connecticut	10,408,642	27,680,140	496,176	619,330	216,797	523,947
Delaware	302,815	3,674,006	47,354	135,748	1,382	69,544
Dist. of Col.	1,515,878	4,298,771	209,438	580,787	29,609	81,370
Florida	196,428	17,935,527	11,140	18,038	119	339,751
Idaho	776,651	8,154,122	57,966	156,872	4,097	156,665
Illinois	2,769,870	76,613,847	102,605	59,545	5,547	1,450,196
Indiana	3,045,067	34,688,598	134,922	144,579	14,806	656,608
Iowa	137,864	24,584,274	6,863	9,236	43	465,347
Kentucky	796,475	18,051,829	45,034	72,669	1,947	341,697
Louisiana	292,500	11,589,893	20,699	41,566	409	219,518
Maine	4,740,507	17,332,318	273,066	450,469	71,817	339,434
Maryland	18,267,659	21,194,333	963,820	1,419,580	872,127	401,180
Massachusetts	40,715,017	55,359,810	1,602,173	1,211,314	1,658,626	1,048,068
Michigan	27,757,124	72,601,649	1,037,432	629,687	587,809	1,376,834
Minnesota	7,119,144	52,403,709	283,485	223,750	53,571	991,931
Mississippi	493,047	9,714,872	38,673	83,589	1,386	184,089
Missouri	1,221,353	30,602,562	56,280	65,732	2,700	579,265
Montana	1,322,366	8,238,065	114,959	264,377	11,757	183,758
Nevada	839,136	2,576,577	176,024	536,396	15,138	48,771
New Hampshire	2,153,023	10,480,307	161,422	338,354	24,500	198,378
New Jersey	77,849,703	51,321,226	3,114,419	2,498,368	6,541,100	972,969
New Mexico	430,906	6,369,423	44,529	111,424	1,615	130,002
New York	136,047,801	167,660,542	4,595,541	1,336,464	6,114,853	3,176,890
North Carolina	1,894,735	24,477,911	94,445	127,488	8,124	473,453
North Dakota	508,805	9,365,661	40,808	89,477	1,531	199,616
Ohio	23,155,352	67,776,399	875,896	562,690	438,186	1,282,915
Oklahoma	1,504,870	9,678,967	118,301	256,075	12,960	197,372
Oregon	3,998,678	16,445,150	236,066	400,475	53,855	311,284
Pennsylvania	63,174,400	90,152,177	2,283,149	1,154,148	2,452,110	1,706,458
Rhode Island	1,945,150	9,076,024	159,061	352,983	23,091	172,518
South Carolina	550,490	9,009,177	45,222	100,638	1,863	170,531
South Dakota	282,427	7,292,137	26,602	63,789	506	162,123
Tennessee	422,992	18,286,116	23,779	38,098	542	346,131
Utah	1,682,970	9,693,988	132,178	285,937	16,184	186,641
Vermont	980,437	7,855,363	87,904	205,565	6,778	148,691
Virginia	1,471,001	25,817,067	71,888	93,843	4,643	488,682
Washington	15,620,693	25,953,922	761,918	991,274	520,753	512,020
Wisconsin	19,992,724	47,170,863	815,604	698,063	469,358	892,880
Wyoming	61,886	3,947,822	9,142	25,819	54	74,727
Northern Mariana	100,809	22,355	22,355	22,355	22,355	423
AK Tanana Chiefs	14,078	648,973	10,428	35,728	17	.....
AK Tlingit & Haida	17,940	384,423	22,048	76,862	46	.....
AZ Quechan Tribe	12,265	1,054	1,054	1,054	7,905	.....
CA Rincon Band	12,401	10,523	10,523	10,523	809	.....
CA San Pasqual Band	100	1,796	1,796	1,796	0	.....
ID Shoshone-Bannock	17,299	92,612	86,558	92,612	179	.....
MI Inter-Tribal Cnl	11,303	31,196	31,196	31,196	227	.....
MI Sault Ste. Marie	22,760	86,569	86,569	86,569	331	.....
MS Band of Choctaw	2,960	10,554	10,554	10,554	46	.....
MT Assin & Sioux	27,000	287,713	44,056	154,561	140	.....
MT Blackfeet Tribe	31,566	465,164	32,232	111,766	119	.....
MT C Salish Kootenai	15,967	266,686	28,068	98,609	53	.....
OK Cherokee Nation	37,000	342,717	50,867	177,813	221	.....
OK Choctaw Nation	21,750	197,057	51,505	181,787	133	.....
OK Kiowa Tribe	15,651	14,668	14,668	14,668	925	.....
OK Seneca-Cayuga Trb	2,276	2,296	2,296	2,296	125	.....
SD Sisseton-Wahpeton	45,065	116,073	116,073	116,073	969	.....
SD Yankton Sioux Trb	27,000	64,631	64,631	64,631	625	.....
WA Colville Conf Trb	44,000	239,114	86,109	239,114	448	.....
WA Kalispel Ind Comm	2,394	4,463	4,463	4,463	71	.....
WA Lummi Tribe	9,600	67,598	65,701	67,598	76	.....

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM—FINAL TOTALS FOR FISCAL YEAR 1994 LEVERAGING INCENTIVE GRANTS—Continued

Grantee	Fiscal year 1993 lev $	Fiscal year 1993 regular allot $	Formula one total share of $25 M for fiscal year 1994	Formula two total share of $25 M for fiscal year 1994	Formula three total share of $25 M for fiscal year 1994	Regular block grant allocation formula [1]
WA Muckleshoot Tribe	30,112	24,129	24,129	24,129	2,081	.....
WA Port Gamble S'KI	970	11,145	11,145	11,145	5	.....
WA Yakima Nation	15,000	267,855	26,256	92,233	47	.....
Total	567,309,248	1,229,982,602	25,000,000	25,000,000	25,000,000	23,435,689

[1] The "Regular Block Grant Allocation Formula" column does not add to $25 million because under this formula a portion is set aside for all states and territories, including those that did not apply for leveraging incentive funds. In addition, we have not calculated awards for the tribal grantees whose share of regular block grant funds comes out of their States' allotments.

We also considered several other options to determine whether we could devise a new formula that resulted in a fairer distribution of the funds, but we found that these other formulas were hard to understand and use and even harder to explain, and did not provide results that were any fairer than Formula One's. After consideration of all these results and the comments we received, we decided to continue with Formula One, with modifications as outlined below.

Comments and Response

Two of the commenters agreed with our choice of Formula One. Two others suggested the use of Formula Two from the interim rule's preamble, which would have distributed all of the funds based on the first half of Formula One (that is, based on the amount of leveraging each grantee carried out relative to the size of its regular allotment, as a proportion of the total amount of leveraging carried out by all grantees relative to their regular allotments). We seriously considered selecting Formula Two at the time we published the interim final rule, but felt then that Formula One was fairer overall. Our experience in the last three grant periods with our formula pointed out an unexpected result with the first half of Formula One, and thus with Formula Two as well. The actual FY 1994 leveraging incentive grant awards, determined using Formula One, are shown below, along with details of how the allocations were calculated. (Some numbers were affected by rounding.)

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM—FINAL TOTALS FOR FY 1994 LEVERAGING INCENTIVE GRANTS FORMULA ONE

Grantee	FY 1993 lev $	FY 1993 regular allot $	Lev $ div. by allot $	Grantee percent	Part one share	Grantee percent of lev $	Part two share	Preliminary total share of $25 M	Final total share of $25 M for FY 1994
A	B	C	D	E	F	G	H	I	J
Alabama	$4,806,142	$11,280,337	0.4261	1.11	$139,319	0.85	$105,898	$245,217	$345,359
Alaska	5,962,440	4,717,311	1.2639	3.31	413,301	1.05	131,375	544,676	767,112
Arizona	3,734,137	4,834,769	0.7724	2.02	252,552	0.66	82,277	344,829	471,567
Arkansas	296,071	8,655,748	0.0342	0.09	11,185	0.05	6,524	17,709	24,941
California	62,681,576	60,489,538	1.0362	2.71	338,841	11.05	1,381,116	1,719,957	2,422,358
Colorado	12,845,031	21,218,391	0.6055	1.58	197,952	2.26	283,025	480,977	677,400
Connecticut	10,408,642	27,680,140	0.3760	0.98	122,960	1.83	229,342	352,302	496,176
Delaware	302,815	3,674,006	0.0824	0.22	26,951	0.05	6,672	33,623	47,354
Dist. of Col.	1,515,878	4,298,771	0.3526	0.92	115,307	0.27	33,401	148,708	209,438
Florida	196,428	17,935,527	0.0110	0.03	3,582	0.03	4,328	7,910	11,140
Idaho	776,651	8,154,122	0.0952	0.25	31,145	0.14	17,113	48,258	68,966
Illinois	2,769,870	76,613,847	0.0362	0.09	11,822	0.49	61,031	72,853	102,605
Indiana	3,045,067	34,688,598	0.0878	0.23	28,704	0.54	67,095	95,799	134,922
Iowa	137,864	24,584,274	0.0056	0.01	1,835	0.02	3,038	4,873	6,863
Kentucky	796,475	18,051,829	0.0441	0.12	14,427	0.14	17,549	31,976	45,034
Louisiana	292,500	11,589,893	0.0252	0.07	8,252	0.05	6,445	14,697	20,699
Maine	4,740,507	17,332,318	0.2735	0.72	89,434	0.84	104,452	193,886	273,066
Maryland	18,267,659	21,194,333	0.8619	2.25	281,838	3.22	402,507	684,345	963,820
Massachusetts	40,715,017	55,359,810	0.7355	1.92	240,490	7.18	897,108	1,137,598	1,602,173
Michigan	27,757,124	72,601,649	0.3823	1.00	125,016	4.89	611,596	736,612	1,037,432
Minnesota	7,119,144	52,403,709	0.1359	0.36	44,422	1.25	156,862	201,284	283,485
Mississippi	493,047	9,714,872	0.0508	0.13	16,595	0.09	10,864	27,459	38,673
Missouri	1,221,353	30,602,582	0.0399	0.10	13,050	0.22	26,911	39,961	56,260
Montana	1,322,366	8,238,065	0.1605	0.42	52,488	0.23	29,137	81,625	114,959
Nevada	839,136	2,576,577	0.3257	0.85	106,494	0.15	18,489	124,983	176,024
New Hampshire	2,153,023	10,480,307	0.2054	0.54	67,176	0.38	47,439	114,615	161,422
New Jersey	77,849,703	51,321,226	1.5169	3.97	496,017	13.72	1,715,328	2,211,345	3,114,419
New Mexico	430,906	6,369,423	0.0677	0.18	22,122	0.08	9,495	31,617	44,529
New York	136,047,801	167,660,542	0.8114	2.12	265,337	23.98	2,997,655	3,262,992	4,595,541
North Carolina	1,894,735	24,477,911	0.0774	0.20	25,311	0.33	41,748	67,059	94,445
North Dakota	508,805	9,365,661	0.0543	0.14	17,764	0.09	11,211	28,975	40,808
Ohio	23,155,352	67,776,399	0.3416	0.89	111,715	4.08	510,201	621,916	875,896
Oklahoma	1,504,870	9,678,967	0.1555	0.41	50,840	0.27	33,158	83,998	118,301

VOL 60 ISS 83 MY 1 1995 UMI

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM—FINAL TOTALS FOR FY 1994 LEVERAGING INCENTIVE GRANTS FORMULA ONE—Continued

Grantee	FY 1993 lev $	FY 1993 regular allot $	Lev $ div. by allot $	Grantee percent	Part one share	Grantee percent of lev $	Part two share	Preliminary total share of $25 M	Final total share of $25 M for FY 1994
A	B	C	D	E	F	G	H	I	J
Oregon	3,998,678	16,445,150	0.2432	0.64	79,509	0.70	88,106	167,615	236,066
Pennsylvania	63,174,400	90,152,177	0.7008	1.83	229,140	11.14	1,391,974	1,621,114	2,283,149
Rhode Island	1,945,150	9,076,024	0.2143	0.56	70,080	0.34	42,859	112,939	159,061
South Carolina	550,490	9,009,177	0.0611	0.16	19,980	0.10	12,129	32,109	45,222
South Dakota	282,427	7,292,137	0.0387	0.10	12,665	0.05	6,223	18,888	26,602
Tennessee	422,992	18,286,116	0.0231	0.06	7,564	0.07	9,320	16,884	23,779
Utah	1,682,970	9,693,988	0.1736	0.45	56,769	0.30	37,082	93,851	132,178
Vermont	980,437	7,855,363	0.1248	0.33	40,812	0.17	21,603	62,415	87,904
Virginia	1,471,001	25,817,067	0.0570	0.15	18,631	0.26	32,412	51,043	71,888
Washington	15,620,693	25,953,922	0.6019	1.57	196,804	2.75	344,184	540,988	761,918
Wisconsin	19,992,724	47,170,863	0.4238	1.11	138,591	3.52	440,516	579,107	815,604
Wyoming	61,886	3,947,822	0.0157	0.04	5,127	0.01	1,364	6,491	9,142
Northern Manana	100,809	22,355	4.5094	11.80	1,474,550	0.02	2,221	1,476,771	22,355
Alaska:									
Tanana Chiefs Conf.	14,078	648,973	0.0217	0.06	7,094	0.00	310	7,404	10,428
Tlingit & Haida CC	17,940	384,423	0.0467	0.12	15,260	0.00	395	15,655	22,048
Arizona: Quechan Tribe	12,265	1,054	11.6366	30.44	3,805,080	0.00	270	3,805,350	1,054
California:									
Rincon Band	12,401	10,523	1.1785	3.08	385,345	0.00	273	385,618	10,523
San Pasqual Band	100	1,796	0.0557	0.15	18,207	0.00	3	18,210	1,796
Idaho: Shoshone-Bannock Tr.	17,299	92,612	0.1868	0.49	61,078	0.00	381	61,459	86,558
Michigan:									
Inter-Tribal Coun.	11,303	31,196	0.3623	0.95	118,476	0.00	249	118,725	31,196
Sault Ste. Marie Tr.	22,760	86,569	0.2629	0.69	85,969	0.00	501	86,470	86,569
Mississippi: MS Band of Choctaw In	2,960	10,554	0.2805	0.73	91,709	0.00	65	91,774	10,554
Montana:									
Assin & Sioux (Ft Peck)	27,000	287,713	0.0938	0.25	30,686	0.00	595	31,281	44,056
Blackfeet Tribe	31,566	465,164	0.0679	0.18	22,190	0.01	696	22,886	32,232
Con Salish Kootenai	15,967	266,686	0.0599	0.16	19,577	0.00	352	19,929	28,068
Oklahoma:									
Cherokee Nat of OK	37,000	342,717	0.1080	0.28	35,302	0.01	815	36,117	50,867
Choctaw Nat of OK	21,750	197,057	0.1104	0.29	36,091	0.00	479	36,570	51,505
Kiowa Tribe	15,651	14,668	1.0670	2.79	348,906	0.00	345	349,251	14,668
Seneca-Cayuga Tribe	2,276	2,296	0.9913	2.59	324,143	0.00	50	324,193	2,296
South Dakota:									
Sisseton-Wahpeton	45,065	116,073	0.3882	1.02	126,954	0.01	993	127,947	116,073
Yankton Sioux Tribe	27,000	64,631	0.4176	1.09	136,603	0.00	595	137,198	64,631
Washington:									
Colville Conf Tribe	44,000	239,114	0.1840	0.48	60,171	0.01	969	61,140	86,109
Kalispel Ind Comm	2,394	4,463	0.5364	1.40	175,402	0.00	53	175,455	4,463
Lumm Tribe	9,600	67,598	0.1420	0.37	46,438	0.00	212	46,650	65,701
Muckleshoot Tribe	30,112	24,129	1.2480	3.26	408,072	0.01	663	408,735	24,129
Port Gamble S'Kl Tr	970	11,145	0.0871	0.23	28,469	0.00	22	28,491	11,145
Yakima Nation	15,000	267,855	0.0560	0.15	18,312	0.00	331	18,643	26,256
Total	567,309,248	1,229,982,602	38.2273	100.00	12,500,000	100.00	12,500,000	25,000,000	25,000,000

In this table, the following information is included in the columns:

Column A is the individual grantee.

Column B is the dollar value of countable leveraged resources that the grantee provided to low-income households during the base period, after deducting offsetting costs, as approved by HHS.

Column C is the amount of the grantee's regular LIHEAP allotment during the base period, net of any set-asides for direct-grant Indian tribes and tribal organizations in the case of a State.

Column D is the amount of a grantee's net countable leveraged resources as a proportion of its regular allotment (column B divided by column C).

Column E is the amount of a grantee's net countable leveraged resources divided by its regular allotment, as a proportion of the net countable resources leveraged by all grantees relative to their regular allotments, with the resulting figure expressed as a percent (column D divided by the total for column D).

Column F is the amount of leveraging incentive funds that a grantee would receive under the first part of the formula (column E multiplied by one-half of the leveraging funds available, in this case $12,500,000).

Column G is the grantee's net countable leveraged resources as a proportion of the net countable resources leveraged by all grantees (column B divided by the total for column B).

Column H is the amount of leveraging incentive funds that a grantee would receive under the second part of the formula (column G multiplied by one-half of the leveraging funds available, in this case $12,500,000).

Column I is a preliminary calculation of the total amount of leveraging incentive funds a grantee would receive under this two-part formula, if there were no limit on the amount of funds a grantee could receive (column F plus column H).

Column J is the final calculation of the total amount of leveraging incentive funds a grantee received. Because the interim rule provided that no grantee may receive a leveraging incentive award larger than its regular LIHEAP allotment, where the amount in column I exceeds the amount in column C, the "excess" funds were distributed on a proportionate basis to the other leveraging grantees.

We were surprised that this formula resulted in some tribal grantees receiving very large grants in proportion to the amount of leveraging they carried out (and the awards would have been even larger for half of the tribal grantees in FY 1994, had it not been for the limit that no grantee could receive a leveraging incentive award larger than its regular LIHEAP allotment). Under the first part of the formula in FY 1994, each grantee received about $12,000 for each tenth of a percent (0.1 percent) that appears in column E in the chart above, no matter how large the grantee's regular allotment or the value of its approved leveraging activities. The basic determining factor in this first half of the formula is the value of the leveraging activities an individual grantee carries out in relation to the size of its regular allotment. For example, the State of Virginia leveraged $1,471,001 and had a regular allotment in FY 1993 of $25,817,067, which means it leveraged 5.7 percent of its regular grant amount, translating to 0.15 percent in column E. Based on these results, Virginia received $18,631 under the first part of the formula. By comparison, the Yakima Indian Nation of Washington State leveraged $15,000 and had a regular allotment in FY 1993 of $267,855, which means it leveraged 5.6 percent of its regular grant amount, translating to 0.15 percent in column E. Based on these results, the Yakima Nation received $18,312 under the first part of the formula. (Numbers are slightly different because of rounding.) Grantees that leveraged large dollar amounts made up for any "shortfall" under the first half of the formula by receiving large amounts under the second half of the formula, which rewards grantees based on the amount of leveraging they accomplished as a proportion of the amount leveraged by all grantees. In this case, Virginia carried out 0.26 percent of all the leveraging activities carried out by all grantees for the year and received $32,412 under the second half of the formula, while the Yakima Nation carried out 0.00264 percent of all the leveraging activities for the year (rounded to 0.00 percent in the chart above) and received $331 under the second half of the formula. (Both Virginia and the Yakima Nation received additional funds when "excess awards" for other grantees were redistributed.) Grantees that carried out more leveraged activities did even better under the second half of the formula, as can be seen in the table above.

Based on these results, we do not believe it would be fair to all grantees to distribute the leveraging incentive funds on the basis of Formula Two. We believe the second half of Formula One balances out the first half, and makes it more fair to all. In addition, the first table above shows that Formula Three would skew the leveraging allocations much too heavily in favor of larger grantees, and thus would remove or reduce the incentive for smaller grantees to leverage resources. For these reasons, we decided to retain Formula One in the final rule.

Comments and Response

Some tribal grantees expressed concern that prohibiting a grantee from receiving a leveraging incentive award that is larger than the size of its regular allotment would unfairly affect tribal grantees, which are generally in greater need than State grantees. The prohibition against receiving more in leveraging incentive funds than in regular block grant funds affected only tribal grantees in fiscal years 1992 and 1993, and tribal and territorial grantees in FY 1994. Tribes in general did very well under the interim rule's formula, in most cases receiving considerably more than the value of the leveraging activities they carried out. (The amount awarded to tribal grantees under this formula was still relatively small compared with the amount awarded to States. In FY 1992, the eight tribal grantees receiving leveraging incentive funds received 2.27 percent of the leveraging incentive funds awarded. In FY 1993, the 19 tribal leveraging fund recipients received 4.58 percent of the leveraging incentive funds awarded. In FY 1994, the 24 tribal leveraging fund recipient received 3.53 percent of the leveraging incentive funds awarded.) As noted, several of the tribes would have received more than their regular grant amount under this formula were it not for the prohibition against this (we redistributed those "excess" funds on a proportionate basis among the other grantees). In an extreme example, shown in the table above, the Port Gamble S'Klallam Tribe of Washington State leveraged $970 in FY 1993 and received a leveraged grant award in FY 1994 of $11,145, the same amount as its regular allotment in the base period of FY 1993. It would have received a grant award of $28,491 had it not been for the limit on receiving no more than the size of its regular allotment. We think the actual grant award of $11,145, based on $970 in countable leveraging activities, is disproportionate and unfair to other grantees. An award of $28,491 clearly would have been excessive. Accordingly, we considered various ways of changing the formula or its limits to make the awards for tribes and other small grantees more equitable, while still giving them an advantage to compensate for their smaller size, reduced leverage, and generally higher level of poverty, compared with States.

Therefore, this final rule changes the formula at section 96.87(i) to provide that a grantee cannot receive a leveraging incentive award that is more than the smaller of (1) its regular LIHEAP net allotment during the base period, or (2) twice the net value of its countable leveraged resources for the base period. This means that the Port Gamble S'Klallam Tribe's leveraging award in FY 1994 would have been $1,940 (twice the amount of the $970 in countable leveraging carried out in the base period of FY 1993), rather than the $11,145 the tribe received (the same amount as its regular FY 1993 allotment). We believe that this revision will be fairer to all grantees.

Comments and Response

Four commenters expressed concern that the bulk of the leveraging incentive funds should not go to one or just a few large grantees that carry out a large amount of leveraging, leaving little for others. Several other persons made similar comments informally. In general, we found that the formula as a whole tended to favor smaller grantees and to dampen the effect of large amounts of leveraging carried out by large grantees. For example, New York had countable leveraging activities in FY 1993 valued at $136 million (with a regular FY 1993 allotment of $167.7 million), which is about 24 percent of the total amount of $567.3 million in leveraging carried out by all grantees. Its incentive grant award, however, was $4.6 million, which is about 18.4 percent of the $25 million in incentive grants. By comparison, Wyoming had countable leveraging activities of $61,886 (0.01 percent of the total

VOL
60
ISS
83
MY
1
1995
UMI

amount of leveraging for all grantees) and a regular allotment of $3.9 million, and received a leveraging incentive award of $9,142, which is 0.04 percent of the $25 million.

However, we recognize the potential for just a few grantees receiving the bulk of the available leveraging incentive funds in the future. In FY 1992, the four grantees with the largest amount of leveraged resources received a total of $11,924,159, or 47.7 percent of the $25 million distributed. In FY 1993, the four grantees with the most leveraging received $11,658,428, or 47 percent of the $24.8 million distributed. In FY 1994, the four grantees with the most leveraging received $12,415,467, or 49.7 percent of the $25 million distributed.

Accordingly, we changed the formula to stipulate that no grantee can receive a leveraging award larger than 12 percent of the total amount of leveraging incentive funds available for distribution in any award period. At a funding level of $25 million for the leveraging incentive program, that means that no grantee could receive an award of more than $3 million. We believe this allows for adequate compensation to a grantee that does a large amount of leveraging, while still leaving significant incentive for other grantees. We do not expect a large number of grantees to earn this maximum grant amount. (In FY 1992, FY 1993, and FY 1994, each of two States received more than 12 percent of the available leverging funds.)

Reexamining the Formula

Public Law 103–252, enacted in May 1994, and the conference report on Public Law 103–252, do not mention the formula for distributing leveraging incentive funds. However, the Senate and House committee reports on predecessor bills do. Senate Report 103–251 states that "it would be appropriate for the Secretary to reconsider the regulations for the fund in order to give greater weight to rewarding initiatives affecting energy regulations, markets, and terms of service to LIHEAP-eligible households." House of Representatives Report 103–483 uses essentially the same language, except that it refers to "rewarding new initiatives affecting energy regulations, markets, and terms of service." We believe the public should have opportunity to comment on reconsideration of the formula based on this report language. We therefore will reexamine the formula based on this language in our forthcoming proposed rule to implement Public Law 103–252.

Uses of Leveraging Incentive Funds

Section 96.87(j) of the interim rule and the final rule concerns allowable and unallowable uses of leveraging incentive funds awarded to grantees by HHS. Regular LIHEAP funds and LIHEAP leveraging incentive funds are separately authorized in the LIHEAP statute—the former at section 2602(b), and the latter at section 2602(d). Section 2607A of the LIHEAP statute directs that leveraging incentive funds must be used to increase or maintain benefits to households—that is, they must be used for LIHEAP heating, cooling, crisis, and/or weatherization assistance, and they cannot be used for some of the purposes for which regular LIHEAP funds can be used.

Comment and Response

We received one comment on this section of the interim rule: a State agreed with the exemption of leveraging incentive funds from the weatherization maximum applied to regular LIHEAP funds, providing flexibility to grantees. We retained this provision in the final rule.

Clarifications

In accordance with the requirements of section 2607A, leveraging incentive funds cannot be used for costs of planning and administration. However, if a grantee receives more than a minimal leveraging fund award, it likely will need to use additional monies to administer these funds. We therefore said in the interim rule that leveraging incentive funds can be counted in the base for calculating the grantee's maximum planning and administrative costs. This is consistent with the treatment of oil overcharge funds under section 155 of Public Law 97–377 (the Warner Amendment) and Exxon oil overcharge funds. However, leveraging incentive funds may be obligated by the grantee either in the award period—the fiscal year in which they were awarded to the grantee—or in the following fiscal year. We believe it would not be appropriate to permit grantees to count the same leveraging incentive funds in the base for calculating administrative costs—thereby reducing the amount of regular LIHEAP grant funds used for benefits—in both years. In response to questions from grantees about the year in which to count incentive funds in the administrative cost calculation base, the final rule clarifies that leveraging incentive funds cannot be counted in the base for calculating maximum administrative and planning costs in both the award period and the following fiscal year. The entire leveraging award does not have to be counted in the base in the same year—some may be counted in the award year and the remainder in the next. (Presumably they would be counted in the base in the year in which carrying out the activities they support increases the grantee's administrative/planning costs.) While the grantee has the discretion and flexibility to choose how much to count in the base in each year, the total amount from the leveraging award that is included in the base in both years combined cannot exceed the amount of the leveraging award.

As we said in the interim rule's preamble, grantees are to include the uses of their leveraging incentive funds in their LIHEAP plans. Uses must be covered in the plan for the fiscal year in which these funds will be used—either in the plan as originally submitted to HHS or in amendment(s) to the plan. We added this requirement to the final rule at a new § 96.87(j)(2), because of its importance, and to clarify and avoid misunderstanding. If the plan covers the uses of the leveraging incentive funds, it does not have to specify that leveraging incentive funds are involved. If the original plan does not cover these uses, then these uses must be added. For example, if leveraging incentive funds are to be used along with regular LIHEAP funds for cooling assistance that is described in the plan, then the plan need not specify that some of this assistance will be provided with leveraging incentive funds. However, if the grantee does not have a regular LIHEAP cooling assistance component and leveraging incentive funds are to be used for cooling assistance, the plan must include the cooling assistance supported by the leveraging funds.

The interim rule's preamble said that grantees are to document uses of leveraging incentive funds in the same way they document uses of regular LIHEAP funds, and that leveraging incentive funds are subject to the same audit requirements as regular LIHEAP funds. Because of their importance, and to clarify and avoid misunderstanding, we added these requirements to the final rule at section § 96.87(j)(2).

Finally, consistent with Public Law 101–501, which ended grantees' authority to transfer LIHEAP funds effective in FY 1994, the final rule deletes reference to transfers in § 96.87(j).

Period of Obligation for Leveraging Incentive Funds

Section 96.87(k) of the interim rule and the final rule concerns the period of time during which grantees can use leveraging incentive funds awarded to them by HHS.

Incentive funds are awarded during the course of each award period, rather than at the beginning, since grantees' leveraging reports are to be submitted two months after each fiscal year begins, and since Federal review of these reports will follow. (Also, in fiscal years 1992 and 1993, Congress required HHS to make leveraging incentive fund awards in late September, at the end of the fiscal year/award period.) We therefore determine that leveraging incentive funds are not subject to the statutory and regulatory carryover and reallotment requirements that apply to regular LIHEAP funds. (Section 2607(b) of the LIHEAP statute provides that grantees may carry forward for use in the succeeding fiscal year no more than 10 percent of their regular LIHEAP funds payable for the prior fiscal year.) Instead, the interim rule provided that all leveraging incentive funds are available for obligation from the date they are awarded to a grantee until the end of the succeeding fiscal year. Thus, grantees could use these funds during the remainder of the fiscal year in which they were awarded, and throughout the following fiscal year.

Comments and Response

We received one written comment on this section in the interim rule: a State supported the exemption of leveraging incentive funds from the carryover limit applied to regular LIHEAP funds.

Based on informal grantee comments urging that we allow use of leveraging incentive funds to pay for appropriate activities carried out during the entire award period, this final rule changes § 96.87(k) to provide that leveraging incentive funds "are available for obligation during both the award period and the fiscal year following the award period, without regard to limitations on carryover of funds in section 2607(b)(2)(B)" of the LIHEAP statute. Grantees therefore can use leveraging incentive funds to reimburse themselves for appropriate obligations made in the award period before the leveraging award was made.

Any leveraging incentive funds not obligated for allowable purposes by the end of this obligation period must be returned to HHS. HHS will return such funds to the U.S. Treasury.

Paperwork Reduction Act of 1980

There are no new information collection requirements in this final rule which require approval under the Paperwork Reduction Act. The information collection requirements affected by this final rule have previously been approved.

Section 96.87 of this final rule contains information collection requirements relating to applications for leveraging incentive funds. Section 2607A of the Low-Income Home Energy Assistance Act requires grantees to submit these leveraging reports in order to qualify for leveraging incentive funds. These reports are the only source of the information HHS needs in order to allocate leveraging incentive funds among grantees. ACF estimates the reporting burden on applicants for leveraging incentive funds to be 40 hours per applicant. As required by the Paperwork Reduction Act, HHS submitted these information collection requirement to the Office of Management and Budget (OMB) for its review. OMB approved these requirements and the LIHEAP leveraging report form (form no. ACF–119) through May 1995 (OMB clearance no. 0970–0121).

Section 96.83 of this final rule requires grantees to submit a waiver request if they wish to obligate more than 15 percent of their LIHEAP funds allotted or funds available in any fiscal year for weatherization activities. We expect to receive less than 10 waiver requests per year, and thus this provision is not subject to the Paperwork Reduction Act. We received only one waiver request in FY 1991, and no waiver requests in FY 1992 and FY 1993. We received seven waiver requests in FY 1994.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost-effective and least burdensome while still achieving the regulatory objectives.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The primary impact of these regulations is on State, tribal, and territorial governments. Therefore, the Department of Health and Human Services certifies that this final rule will not have a significant economic impact on a substantial number of small entities because it affects payments to States, tribes, and territories. Thus, a regulatory flexibility analysis is not required.

Catalog of Federal Domestic Assistance Program Number

The Catalog of Federal Domestic Assistance program number for the low-income home energy assistance program (LIHEAP) is 93.568.

List of Subjects in 45 CFR Part 96

Energy, Grant programs-energy, Grant programs-Indians, Income assistance, Leveraging incentive program, Low and moderate income housing, Reporting and recordkeeping requirements, Weatherization.

Approved: April 4, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, part 96 of Title 45 of the Code of Federal Regulations as amended in the interim rule published in the **Federal Register** issue of January 16, 1992 (57 FR 1960) is adopted as final with the following changes and part 96 is further amended as set forth below:

PART 96—[AMENDED]

1. The authority citation for part 96 continues to read as follows:

Authority: 42 U.S.C. 300w *et seq.*; 42 U.S.C. 300x *et seq.*; 42 U.S.C. 300y *et seq.*; 42 U.S.C. 701 *et seq.*; 42 U.S.C. 8621 *et seq.*; 42 U.S.C. 9901 *et seq.*; 42 U.S.C. 1397 *et seq.*; 31 U.S.C. 1243 note.

Subpart B—General Procedures

2. Section 96.14(a)(2) is revised as follows:

§ 96.14 Time period of obligation and expenditure of grant funds.

(a) * * *

(2) *Low-income home energy assistance.* Regular LIHEAP block grant funds authorized under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) are available only in accordance with section 2607(b)(2)(B) of Public Law 97–35 (42 U.S.C. 8626(b)(2)(B)), as follows. From allotments for fiscal year 1982 through fiscal year 1984, a maximum of 25 percent may be held available for the next fiscal year. From allotments for fiscal year 1985 through fiscal year 1990, a maximum of 15 percent of the amount payable to a grantee and not transferred to another block grant according to section 2604(f) of Public Law 97–35 (42 U.S.C. 8623(f)) may be held available for the next fiscal year. From allotments for fiscal year 1991 through fiscal year 1993, a maximum of 10 percent of the amount payable to a

VOL 60 ISS 83 MY 1 1995 UMI

grantee and not transferred to another block grant according to section 2604(f) of Public Law 97–35 (42 U.S.C. 8623(f)) may be held available for the next fiscal year. Beginning with allotments for fiscal year 1994, a maximum of 10 percent of the amount payable to a grantee may be held available for the next fiscal year. No funds may be obligated after the end of the fiscal year following the fiscal year for which they were allotted.

* * * * *

Subpart E—Enforcement

3. Section 96.50 is amended by revising the last sentence of paragraph (d) as follows:

§ 96.50 Complaints.

* * * * *

(d) . . . Under the low-income home energy assistance program, within 60 days after receipt of complaints, the Department will provide a written response to the complainant, stating the actions that it has taken to date and, if the complaint has not yet been fully resolved, the timetable for final resolution of the complaint.

* * * * *

Subpart H—Low-Income Home Energy Assistance Program

4. Section 96.83 is revised as follows:

§ 96.83 Increase in maximum amount that may be used for weatherization and other energy-related home repair.

(a) *Scope.* This section concerns requests for waivers increasing from 15 percent to up to 25 percent of LIHEAP funds allotted or available to a grantee for a fiscal year, the maximum amount that grantees may use for low-cost residential weatherization and other energy-related home repair for low-income households (hereafter referred to as "weatherization"), pursuant to section 2605(k) of Public Law 97–35 (42 U.S.C. 8624(k)).

(b) *Public inspection and comment.* Before submitting waiver requests to the Department, grantees must make proposed waiver requests available for public inspection within their jurisdictions in a manner that will facilitate timely and meaningful review of, and comment upon, these requests. Written public comments on proposed waiver requests must be made available for public inspection upon their receipt by grantees, as must any summaries prepared of written comments, and transcripts and/or summaries of verbal comments made on proposed requests at public meetings or hearings. Proposed waiver requests, and any preliminary waiver requests, must be made available for public inspection and comment until at least March 15 of the fiscal year for which the waiver is to be requested. Copies of actual waiver requests must be made available for public inspection upon submission of the requests to the Department.

(c) *Waiver request.* After March 31 of each fiscal year, the chief executive officer (or his or her designee) may request a waiver of the weatherization obligation limit for this fiscal year, if the grantee meets criteria in paragraphs (c)(2)(i), (c)(2)(ii), and (c)(2)(iii) of this section, or can show "good cause" for obtaining a waiver despite a failure to meet one or more of these criteria. (If the request is made by the chief executive officer's designee and the Department does not have on file written evidence of the designation, the request also must include evidence of the appropriate delegation of authority.) Waiver requests must be in writing and must include the information specified in paragraphs (c)(1) through (c)(6) of this section. The grantee may submit a preliminary waiver request for a fiscal year, between February 1 and March 31 of the fiscal year for which the waiver is requested. If a grantee chooses to submit a preliminary waiver request, the preliminary request must include the information specified in paragraphs (c)(1) through (c)(6) of this section; in addition, after March 31 the chief executive officer (or his or her designee) must submit the information specified in paragraphs (c)(7) through (c)(10) of this section, to complete the preliminary waiver request.

(1) A statement of the total percent of its LIHEAP funds allotted or available in the fiscal year for which the waiver is requested, that the grantee desires to use for weatherization.

(2) A statement of whether the grantee has met each of the following three criteria:

(i) In the fiscal year for which the waiver is requested, the combined total (aggregate) number of households in the grantee's service population that will receive LIHEAP heating, cooling, and crisis assistance benefits that are provided from Federal LIHEAP allotments from regular and supplemental appropriations will not be fewer than the combined total (aggregate) number that received such benefits in the preceding fiscal year;

(ii) In the fiscal year for which the waiver is requested, the combined total (aggregate) amount, in dollars, of LIHEAP heating, cooling, and crisis assistance benefits received by the grantee's service population that are provided from Federal LIHEAP allotments from regular and supplemental appropriations will not be less than the combined total (aggregate) amount received in the preceding fiscal year; and

(iii) All LIHEAP weatherization activities to be carried out by the grantee in the fiscal year for which the wavier is requested have been shown to produce measurable savings in energy expenditures.

(3) With regard to criterion in paragraph (c)(2)(i) of this section, a statement of the grantee's best estimate of the appropriate household totals for the fiscal year for which the wavier is requested and for the preceding fiscal year.

(4) With regard to criterion in paragraph (c)(2)(ii) of this section, a statement of the grantee's best estimate of the appropriate benefit totals, in dollars, for the fiscal year for which the waiver is requested and for the preceding fiscal year.

(5) With regard to criterion in paragraph (c)(2)(ii) of this section, a description of the weatherization activities to be carried out by the grantee in the fiscal year for which the wavier is requested (with all LIHEAP funds proposed to be used for weatherization, not just with the amount over 15 percent), and an explanation of the specific criteria under which the grantee has determined whether these activities have been shown to produce measurable savings in energy expenditures.

(6) A description of how and when the proposed wavier request was made available for timely and meaningful public review and comment, copies and/or summaries of public comments received on the request (including transcripts and/or summaries of any comments made on the request at public meetings or hearings), a statement of the method for reviewing public comments, and a statement of the changes, if any, that were made in response to these comments.

(7) To complete a preliminary waiver request: Official confirmation that the grantee wishes approval of the waiver request.

(8) To complete a preliminary waiver request: A statement of whether any public comments were received after preparation of the preliminary waiver request and, if so, copies and/or summaries of these comments (including transcripts and/or summaries of any comments made on the request at public meetings or hearings), and a statement of the changes, if any, that were made in response to these comments.

(9) To complete a preliminary waiver request: A statement of whether any material/substantive changes of fact have occurred in information included in the preliminary waiver request since its submission, and, if so, a description of the change(s).

(10) To complete a preliminary waiver request: A description of any other changes to the preliminary request.

(d) "*Standard waiver.* If the Department determines that a grantee has meet the three criteria in paragraph (c)(2) of this section, has provided all information required by paragraph (c) of this section, has shown adequate concern for timely and meaningful public review and comment, and has proposed weatherization that meets all relevant requirements of title XXVI of Public Law 97–35 (42 U.S.C. 8621 *et seq.*) and 45 CFR part 96, the Department will approve a "standard" waiver.

(e) *"Good cause" waiver.*

(1) If a grantee does not meet one or more of the three criteria in paragraph (c)(2) of this section, then the grantee may submit documentation that demonstrates good cause why a waiver should be granted despite the grantee's failure to meet this criterion or these criteria. "Good cause" waiver requests must include the following information, in addition to the information specified in paragraph (c) of this section:

(i) For each criterion under paragraph (c)(2) of this section that the grantee does not meet, an explanation of the specific reasons demonstrating good cause why the grantee does not meet the criterion and yet proposes to use additional funds for weatherization, citing measurable, quantified data, and stating the source(s) of the data used;

(ii) A statement of the grantee's LIHEAP heating, cooling, and crisis assistance eligibility standards (eligibility criteria) and benefits levels for the fiscal year for which the waiver is requested and for the preceding fiscal year; and, if eligibility standards were less restrictive and/or benefit levels were higher in the preceding fiscal year for one or more of these program components, an explanation of the reasons demonstrating good cause why a waiver should be granted in spite of this fact;

(iii) A statement of the grantee's opening and closing dates for applications for LIHEAP heating, cooling, and crisis assistance in the fiscal year for which the waiver is requested and in the preceding fiscal year, and a description of the grantee's outreach efforts for heating, cooling, and crisis assistance in the fiscal year for which the waiver is requested and in the preceding fiscal year, and, if the grantee's application period was longer and/or outreach efforts were greater in the preceding fiscal year for one or more of these program components, an explanation of the reasons demonstrating good cause why a waiver should be granted in spite of this fact; and

(iv) If the grantee took, or will take, other actions that led, or will lead, to a reduction in the number of applications for LIHEAP heating, cooling, and/or crisis assistance, from the preceding fiscal year to the fiscal year for which the waiver is requested, a description of these actions and an explanation demonstrating good cause why a waiver should be granted in spite of these actions.

(2) If the Department determines that a grantee requesting a "good cause" waiver has demonstrated good cause why a waiver should be granted, has provided all information required by paragraphs (c) and (e)(1) of this section, has shown adequate concern for timely and meaningful public review and comment, and has proposed weatherization that meets all relevant requirements of title XXVI of Public Law 97–35 (42 U.S.C. 8621 *et seq.*) and 45 CFR part 96, the Department will approve a "good cause" waiver.

(f) *Approvals and disapprovals.* After receiving the grantee's complete waiver request, the Department will respond in writing within 45-day, informing the grantee whether the request is approved on either a "standard" or "good cause" basis. The Department may request additional information and/or clarification from the grantee. If additional information and/or clarification is requested, the 45-day period for the Department's response will start when the additional information and/or clarification is received. No waiver will be granted for a previous fiscal year.

(g) *Effective period.* Waivers will be effective from the date of the Department's written approval until the funds for which the waiver is granted are obligated in accordance with title XXVI of Public Law 97–35 (42 U.S.C. 8621 *et seq.*) and 45 CFR part 96. Funds for which a weatherization waiver was granted that are carried over to the following fiscal year and used for weatherization shall not be considered "funds allotted" or "funds available" for the purposes of calculating the maximum amount that may be used for weatherization in the succeeding fiscal year.

5. Section 96.87 is revised as follows:

§ 96.87 Leveraging incentive program.

(a) *Scope and eligible grantees.*

(1) This section concerns the leveraging incentive program authorized by section 2607A of Public Law 97–35 (42 U.S.C. 8626(a).

(2)(i) The only entities eligible to receive leveraging incentive funds from the Department are States (including the District of Columbia), Indian tribes, tribal organizations, and territories that received direct Federal LIHEAP funding under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) in both the base period for which leveraged resources are reported, and the award period for which leveraging incentive funds are sought; and tribes and tribal organizations described in paragraphs (a)(2)(ii) and (a)(2)(iii) of this section.

(ii) Indian tribes that received LIHEAP services under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) through a directly-funded tribal organization in the base period for which leveraged resources are reported, and receive direct Federal LIHEAP funding under section 2602(b) in the award period, will receive leveraging incentive funds allocable to them if they submit leveraging reports meeting all applicable requirements. If the tribal organization continues to receive direct funding under section 2602(b) in the award period, the tribal organization also will receive incentive funds allocable to it if it submits a leveraging report meeting all applicable requirements. In such cases, incentive funds will be allocated among the involved entities that submit leveraging reports, as agreed by these entities. If they cannot agree, HHS will allocate incentive funds based on the comparative role of each entity in obtaining and/or administering the leveraged resources, and/or their relative number of LIHEAP-eligible households.

(iii) If a tribe received direct Federal LIHEAP funding under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) in the base period for which resources leveraged by the tribe are reported, and the tribe receives LIHEAP services under section 2602(b) through a directly-funded tribal organization in the award period, the tribal organization will receive leveraging incentive funds on behalf of the tribe for the resources if the tribal organization submits a leveraging report meeting all applicable requirements.

(b) *Definitions.*

(1) *Award period* means the fiscal year during which leveraging incentive funds are distributed to grantees by the Department, based on the countable leveraging activities they reported to the Department for the preceding fiscal year (the base period).

VOL 60 ISS 83 MY 1 1995 UMI

(2) *Base period* means the fiscal year for which a grantee's leveraging activities are reported to the Department; grantees' countable leveraging activities during the base period or base year are the basis for the distribution of leveraging incentive funds during the succeeding fiscal year (the award period or award year). Leveraged resources are counted in the base period during which their benefits are provided to low-income households.

(3) *Countable loan fund* means revolving loan funds and similar loan instruments in which:

(i) The sources of both the loaned and the repaid funds meet the requirements of this section, including the prohibitions of paragraphs (f)(1), (f)(2), and (f)(3) of this section;

(ii) Neither the loaned nor the repaid funds are Federal funds or payments from low-income households, and the loans are not made to low-income households; and

(iii) The benefits provided by the loaned funds meet the requirements of this section for countable leveraged resources and benefits.

(4) *Countable petroleum violation escrow funds* means petroleum violation escrow (oil overcharge) funds that were distributed to a State or territory by the Department of Energy (DOE) after October 1, 1990, and interest earned in accordance with DOE policies on petroleum violation escrow funds that were distributed to a State or territory by DOE after October 1, 1990, that:

(i) Were used to assist low-income households to meet the costs of home energy through (that is, within and as a part of) a State or territory's LIHEAP program, another Federal program, or a non-Federal program, in accordance with a submission for use of these petroleum violation escrow funds that was approved by DOE;

(ii) Were not previously required to be allocated to low-income households; and

(iii) Meet the requirements of paragraph (d)(1) of this section, and of paragraph (d)(2)(ii) or (d)(2)(iii) or this section.

(5) *Home energy* means a source of heating or cooling in residential dwellings.

(6) *Low-income households* mean federally eligible (federally qualified) households meeting the standards for LIHEAP income eligibility and/or LIHEAP categorical eligibility as set by section 2605(b)(2) of Public Law 97–35 (42 U.S.C. 8624(b)(2)).

(7) *Weatherization* means low-cost residential weatherization and other energy-related home repair for low-income households. Weatherization must be directly related to home energy.

(c) *LIHEAP funds used to identify, develop, and demonstrate leveraging programs.*

(1) Each fiscal year, States (excluding Indian tribes, tribal organizations, and territories) may spend up to the greater of $35,000 or 0.06 percent of their net Federal LIHEAP allotments (funds payable) allocated under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) specifically to identify, develop, and demonstrate leveraging programs under section 2607A(c)(2) of Public Law 97–35 (42 U.S.C. 8626a(c)(2)). Each fiscal year, Indian tribes, tribal organizations, and territories may spend up to the greater of two (2.0) percent of $100 of their Federal LIHEAP allotments allocated under section 2602(b) of Public law 97–35 (42 U.S.C. 8621(b)) specifically to identify, develop, and demonstrate leveraging programs under section 2607A(c)(2) of Public Law 97–35 (42 U.S.C. 8625a(c)(2)). For the purpose of this paragraph, Federal LIHEAP allotments include funds from regular and supplemental appropriations, with the exception of leveraging incentive funds provided under section 2602(d) of Public Law 97–35 (42 U.S.C. 8621(d)).

(2) LIHEAP funds used under section 2607A(c)(2) of Public Law 97–35 (42 U.S.C. 8626a(c)(2)) specifically to identify, develop, and demonstrate leveraging programs are not subject to the limitation in section 2605(b)(9) of Public Law 97–35 (42 U.S.C. 8624(b)(9)) on the maximum percent of Federal funds that may be used for costs of planning and administration.

(d) *Basic requirements for leveraged resources and benefits.*

(1) In order to be counted under the leveraging incentive program, leveraged resources and benefits must meet all of the following five criteria:

(i) They are from non-Federal sources.

(ii) They are provided to the grantee's low-income home energy assistance program, or to federally qualified low-income households as described in section 2605(b)(2) of Public Law 97–35 (42 U.S.C. 8624(b)(2)).

(iii) They are measurable and quantifiable in dollars.

(iv) They represent a net addition to the total home energy resources available to low-income households in excess of the amount of such resources that could be acquired by these households through the purchase of home energy, or the purchase of items that help these households meet the cost of home energy, at commonly available household rates or costs, or that could be obtained with regular LIHEAP allotments provided under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)).

(v) They meet the requirements for countable leveraged resources and benefits throughout this section and section 2607A of Public Law 97–35 (42 U.S.C. 8626a).

(2) Also, in order to be counted under the leveraging incentive program, leveraged resources and benefits must meet at least one of the following three criteria:

(i) The grantee's LIHEAP program had an active, substantive role in developing and/or acquiring the resource/benefits from home energy vendor(s) through negotiation, regulation, and/or competitive bid. The actions or efforts of one or more staff of the grantee's LIHEAP program—at the central and/or local level—and/or one or more staff of LIHEAP program subrecipient(s) acting in that capacity, were substantial and significant in obtaining the resource/benefits from the vendor(s).

(ii) The grantee appropriated or mandated the resource/benefits for distribution to low-income households through (that is, within and as a part of) its LIHEAP program. The resource/benefits are provided through the grantee's LIHEAP program to low-income households eligible under the grantee's LIHEAP standards, in accordance with the LIHEAP statute and regulations and consistent with the grantee's LIHEAP plan and program policies that were in effect during the base period, as if they were provided from the grantee's Federal LIHEAP allotment.

(iii) The grantee appropriated or mandated the resource/benefits for distribution to low-income households as described in its LIHEAP plan (referred to in section 2605(c)(1)(A) of Public Law 97–35) (42 U.S.C. 8624(c)(1)(A). The resource/benefits are provided to low-income households as a supplement and/or alternative to the grantee's LIHEAP program, outside (that is, not through, within, or as a part of) the LIHEAP program. The resource/benefits are integrated and coordinated with the grantee's LIHEAP program. Before the end of the base period, the plan identifies and describes the resource/benefits, their source(s), and their integration/coordination with the LIHEAP program. The Department will determine resources/benefits to be integrated and coordinated with the LIHEAP program if they meet at least one of the following eight conditions. If a resource meets at least one of conditions A through F when the grantee's LIHEAP program is operating (and meets all other applicable requirements), the resource also is countable when the LIHEAP program is not operating.

(A) For all households served by the resource, the assistance provided by the resource depends on and is determined by the assistance provided to these households by the grantee's LIHEAP program in the base period. The resource supplements LIHEAP assistance that was not sufficient to meet households' home energy needs, and the type and amount of assistance provided by the resource is directly affected by the LIHEAP assistance received by the households.

(B) Receipt of LIHEAP assistance in the base period is necessary to receive assistance from the resource. The resource serves only households that received LIHEAP assistance in the base period.

(C) Ineligibility for the grantee's LIHEAP program, or denial of LIHEAP assistance in the base period because of unavailability of LIHEAP funds, is necessary to receive assistance from the resource.

(D) For discounts and waivers: eligibility for and/or receipt of assistance under the grantee's LIHEAP program in the base period, and/or eligibility under the Federal standards set by section 2605(b)(2) of Public Law 97–35 (42 U.S.C. 8624(b)(2)), is necessary to receive the discount or waiver.

(E) During the period when the grantee's LIHEAP program is operating, staff of the grantee's LIHEAP program and/or staff assigned to the LIHEAP program by a local LIHEAP administering agency or agencies, and staff assigned to the resource communicate orally and/or in writing about how to meet the home energy needs of specific, individual households. For the duration of the LIHEAP program, this communication takes place before assistance is provided to each household to be served by the resource, unless the applicant for assistance from the resource presents documentation of LIHEAP eligibility and/or the amount of LIHEAP assistance received or to be received.

(F) A written agreement between the grantee's LIHEAP program or local LIHEAP administering agency, and the agency administering the resource, specifies the following about the resource: eligibility criteria; benefit levels; period of operation; how the LIHEAP program and the resource are integrated/coordinated; and relationship between LIHEAP eligibility and/or benefit levels, and eligibility and/or benefit levels for the resource. The agreement provides for annual or more frequent reports to be provided to the LIHEAP program by the agency administering the resource.

(G) The resource accepts referrals from the grantee's LIHEAP program, and as long as the resource has benefits available, it provides assistance to all households that are referred by the LIHEAP program and that meet the resource's eligibility requirements. Under this condition, only the benefits provided to households referred by the LIHEAP program are countable.

(H) Before the grantee's LIHEAP heating, cooling, crisis, and/or weatherization assistance component(s) open and/or after the grantee's LIHEAP heating, cooling, crisis, and/or weatherization assistance component(s) close for the season or for the fiscal year, or before the entire LIHEAP program/ opens and/or after the entire LIHEAP program closes for the season or for the fiscal year, the resource is made available specifically to fill the gap caused by the absence of the LIHEAP component(s) or program. The resource is not available while the LIHEAP component(s) or program is operating.

(e) *Countable leveraged resources and benefits.* Resources and benefits that are countable under the leveraging incentive program include but are not limited to the following, provided that they also meet all other applicable requirements:

(1) Cash resources: State, tribal, territorial, and other public and private non-Federal funds, including countable loan funds and countable petroleum violation escrow funds as defined in paragraphs (b)(3) and (b)(4) of this section, that are used for:

(i) Heating, cooling, and energy crisis assistance payments and cash benefits made in the base period to or on behalf of low-income households toward their home energy costs (including home energy bills, taxes on home energy sales/purchases and services, connection and reconnection fees, application fees, late payment charges, bulk fuel tank rental or purchase costs, and security deposits that are retained for six months or longer);

(ii) Purchase of fuels that are provided to low-income households in the base period for home energy (such as fuel oil, liquefied petroleum gas, and wood);

(iii) Purchase of weatherization materials that are installed in recipients' homes in the base period;

(iv) Purchase of the following tangible items that are provided to low-income households and/or installed in recipients' homes in the base period: blankets, space heating devices, equipment, and systems; space cooling devices, equipment, and systems; and other tangible items that help low-income households meet the costs of home energy and are specifically approved by the Department as countable leveraged resources;

(v) Installation, replacement, and repair of the following in the base period: weatherization materials; space heating devices, equipment, and systems; space cooling devices, equipment, and systems; and other tangible items that help low-income households meet the costs of home energy and are specifically approved by the Department;

(vi) The following services, when they are an integral part of weatherization to help low-income households meet the costs of home energy in the base period: installation, replacement, and repair of windows, exterior doors, roofs, exterior walls, and exterior floors; pre-weatherization home energy audits of homes that are weatherized as a result of these audits; and post-weatherization inspection of homes; and

(vii) The following services, when they are provided (carried out) in the base period: installation, replacement, and repair of smoke fire alarms that are an integral part, and necessary for safe operation, of a home heating or cooling system installed or repaired as a weatherization activity; and asbestos removal and that is an integral part of, and necessary to carry out, weatherization to help low-income households meet the cost of home energy.

(2) Home energy discounts to waivers that are provided in the base period to low-income households and pertain to generally applicable prices, rates, fees, charges, costs and/or requirements, in the amount of the discount, reduction, waiver, or forgiveness, or that apply to certain tangible fuel and non-fuel items and to certain services, that are provided in the base period to low-income households and help these households meet the costs of home energy, in the amount of the discount or reduction.

(i) Discounts or reductions in utility and bulk fuel prices, rates, or bills;

(ii) Partial or full forgiveness of home energy bill arrearages;

(iii) Partial or full waivers of utility and other home energy connection and reconnection fees, application fees, late payment charges, bulk fuel tank rental or purchase costs, and home energy security deposits that are retained for six months or longer;

(iv) Reductions in and partial or full waivers of non-Federal taxes on home energy sales/purchases and services, and reductions in and partial or full waivers of other non-Federal taxes provided as tax "credits" to low-income

VOL
60
ISS
83
MY
1
1995
UMI

households to offset their home energy costs, except when Federal funds or Federal tax "credits" provide payment or reimbursement for these reductions/waivers;

(v) Discounts or reductions in the cost of the following tangible items that are provided to low-income households and/or installed in recipients' homes: weatherization materials; blankets; space heating devices, equipment, and systems; space cooling devices, equipment, and systems; and other tangible items that are specifically approved by the Department;

(vi) Discounts or reductions in the cost of installation, replacement, and repair of the following: weatherization materials; space heating devices, equipment, and systems; space cooling devices, equipment, and systems; and other tangible items that help low-income households meet the costs of home energy and are specifically approved by the Department;

(vii) Discounts or reductions in the cost of the following services, when the services are an integral part of weatherization to help low-income households meet the costs of home energy: installation, replacement, and repair of windows, exterior doors, roofs, exterior walls, and exterior floors; pre-weatherization home energy audits of homes that were weatherized as a result of these audits; and post-weatherization inspection of homes; and

(viii) Discounts or reductions in the cost of installation, replacement, and repair of smoke/fire alarms that are an integral part, and necessary for safe operation, of a home heating or cooling system installed or repaired as a weatherization activity; and discounts or reductions in the cost of asbestos removal that is an integral part of, and necessary to carry out, weatherization to help low-income households meet the costs of home energy.

(3) Certain third-party in-kind contributions that are provided in the base period to low-income households:

(i) Donated fuels used by recipient households for home energy (such as fuel oil, liquified petroleum gas, and wood);

(ii) Donated weatherization materials that are installed in recipients' homes;

(iii) Donated blankets; donated space heating devices, equipment, and systems; donated space cooling devices, equipment, and systems; and other donated tangible items that help low-income households meet the costs of home energy and are specifically approved by the Department as countable leveraged resources;

(iv) Unpaid volunteers' services specifically to install, replace, and repair the following: weatherization materials; space heating devices, equipment, and systems; space cooling devices, equipment, and systems; and other items that help low-income households meet the costs of home energy and are specifically approved by the Department;

(v) Unpaid volunteers' services specifically to provide (carry out) the following, when these services are an integral part of weatherization to help low-income households meet the costs of home energy: installation, replacement, and repair of windows, exterior doors, roofs, exterior walls, and exterior floors; pre-weatherization home energy audits of homes that were weatherized as a result of these audits; and post-weatherization inspection of homes;

(vi) Unpaid volunteers' services specifically to: install, replace, and repair smoke/fire alarms as an integral part, and necessary for safe operation, of a home heating or cooling system installed or repaired as a weatherization activity; and remove asbestos as an integral part of, and necessary to carry out, weatherization to help low-income households meet the costs of home energy;

(vii) Paid staff's services that are donated by the employer specifically to install, replace, and repair the following: weatherization materials; space heating devices, equipment, and systems; space cooling devices, equipment, and systems; and other items that help low-income households meet the costs of home energy and are specifically approved by the Department;

(viii) Paid staff's services that are donated by the employer specifically to provide (carry out) the following, when these services are an integral part of weatherization to help low-income households meet the costs of home energy: installation, replacement, and repair of windows, exterior doors, roofs, exterior walls, and exterior floors; pre-weatherization home energy audits of homes that were weatherized as a result of these audits; and post-weatherization inspection of homes; and

(ix) Paid staff's services that are donated by the employer specifically to: install, replace, and repair smoke/fire alarms as an integral part, and necessary for safe operation, of a home heating or cooling system installed or repaired as a weatherization activity; and remove asbestos as an integral part of, and necessary to carry out, weatherization to help low-income households meet the costs of home energy.

(f) *Resources and benefits that cannot be counted.* The following resources and benefits are not countable under the leveraging incentive program:

(1) Resources (or portions of resources) obtained, arranged, provided, contributed, and/or paid for, by a low-income household for its own benefit, or which a low-income household is responsible for obtaining or required to provide for its own benefit or for the benefit of others, in order to receive a benefit of some type;

(2) Resources (or portions of resources) provided, contributed, and/or paid for by building owners, building managers, and/or home energy vendors, if the cost of rent, home energy, or other charge(s) to the recipient were or will be imposed, as a result;

(3) Resources (or portions of resources) directly provided, contributed, and/or paid for by member(s) of the recipient household's family (parents, grandparents, great-grandparents, sons, daughters, grandchildren, great-grandchildren, brothers, sisters, aunts, uncles, first cousins, nieces, and nephews, and their spouses), regardless of whether the family member(s) lived within the household, unless the family member(s) also provided the same resource to other low-income households during the base period and did not limit the resource to members of their own family;

(4) Deferred home energy obligations;

(5) Projected future savings from weatherization;

(6) Delivery, and discounts in the cost of delivery, of fuel, weatherization materials, and all other items;

(7) Purchase, rental, donation, and loan, and discounts in the cost of purchase and rental, of: supplies and equipment used to deliver fuel, weatherization materials, and all other items; and supplies and equipment used to install and repair weatherization materials and all other items;

(8) Petroleum violation escrow (oil overcharge) funds that do not meet the definition in paragraph (b)(4) of this section;

(9) Interest earned/paid on petroleum violation escrow funds that were distributed to a State or territory by the Department of Energy on or before October 1, 1990;

(10) Interest earned/paid on Federal funds;

(11) Interest earned/paid on customers' security deposits, utility deposits, etc., except when forfeited by the customer and used to provide countable benefits;

(12) Borrowed funds that do not meet the requirements in paragraph (b)(3) above (including loans made by and/or to low-income households), interest paid on borrowed funds, and reductions in interest paid on borrowed funds;

(13) Resources (or portions of resources) for which Federal payment or reimbursement has been or will be provided/received;

(14) Tax deductions and tax credits received from any unit(s) of government by donors/contributors of resources for these donations, and by vendors for providing rate reductions, discounts, waivers, credits, and/or arrearage forgiveness to or for low-income households, etc.;

(15) Funds and other resources that have been or will be used as matching or cost sharing for any Federal program;

(16) Leveraged resources counted under any other Federal leveraging incentive program;

(17) Costs of planning and administration, space costs, and intake costs;

(18) Outreach activities, budget counseling, case management, and energy conservation education;

(19) Training;

(20) Installation, replacement, and repair of lighting fixtures and light bulbs;

(21) Installation, replacement, and repair of smoke/fire alarms that are not an integral part, and necessary for safe operation, of a home heating or cooling system installed or repaired as a weatherization activity;

(22) Asbestos removal that is not an integral part of, and necessary to carry out, weatherization to help low-income households meet the costs of home energy;

(23) Paid services where payment is not made from countable leveraged resources, unless these services are donated as a countable in-kind contribution by the employer;

(24) All in-kind contributions except those described in paragraph (e)(3) of this section; and

(25) All other resources that do not meet the requirements of this section and of section 2607A of Public Law 97–35 (42 U.S.C. 8626a).

(g) *Valuation and documentation of leveraged resources and offsetting costs.*

(1) Leveraged cash resources will be valued at the fair market value of the benefits they provided to low-income households, as follows. Payments to or on behalf of low-income households for heating, cooling, and energy crisis assistance will be valued at their actual amount or value at the time they were provided. Purchased fuel, weatherization materials, and other countable tangible items will be valued at their fair market value (the commonly available household rate or cost in the local market area) at the time they were purchased. Installation, replacement, and repair of weatherization materials, and other countable services, will be valued at rates consistent with those ordinarily paid for similar work, by persons of similar skill in this work, in the grantee's or subrecipient's organization in the local area, at the time these services were provided. If the grantee or subrecipient does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work, by persons of similar skill in this work, in the same labor market, at the time these services were provided. Fringe benefits and overhead costs will not be counted.

(2) Home energy discounts, waivers, and credits will be valued at their actual amount or value.

(3) Donated fuel, donated weatherization materials, and other countable donated tangible items will be valued at their fair market value (the commonly available household cost in the local market area) at the time of donation.

(4) Donated unpaid services, and donated third-party paid services that are not in the employee's normal line of work, will be valued at rates consistent with those ordinarily paid for similar work, by persons of similar skill in this work, in the grantee's or subrecipient's organization in the local area, at the time these services were provided. If the grantee or subrecipient does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work, by persons of similar skill in this work, in the same labor market, at the time these services were provided. Fringe benefits and overhead costs will not be counted. Donated third-party paid services of employees in their normal line of work will be valued at the employee's regular rate of pay, excluding fringe benefits and overhead costs.

(5) Offsetting costs and charges will be valued at their actual amount or value.

(i) Funds from grantees' regular LIHEAP allotments that are used specifically to identify, develop, and demonstrate leveraging programs under section 2607A(c)(2) of Public Law 97–35 (42 U.S.C. 8626a(c)(2)) will be deducted as offsetting costs in the base period in which these funds are obligated, whether or not there are any resulting leveraged benefits. Costs incurred from grantees' own funds to identify, develop, and demonstrate leveraging programs will be deducted in the first base period in which resulting leveraged benefits are provided to low-income households. If there is no resulting leveraged benefit from the expenditure of the grantee's own funds, the grantee's expenditure will not be counted or deducted.

(ii) Any costs assessed or charged to low-income households on a continuing or on-going basis, year after year, specifically to participate in a counted leveraging program or to receive counted leveraged resources/benefits will be deducted in the base period these costs are paid. Any one-time costs or charges to low-income households specifically to participate in a counted leveraging program or to receive counted leveraged resources/benefits will be deducted in the first base period the leveraging program or resource is counted. Such costs or charges will be subtracted from the gross value of a counted resource or benefit for low-income households whose benefits are counted, but not for any households whose benefits are not counted.

(6) Only the amount of the net addition to recipient low-income households' home energy resources may be counted in the valuation of a leveraged resource.

(7) Leveraged resources and benefits, and offsetting costs and charges, will be valued according to the best data available to the grantee.

(8) Grantees must maintain, or have readily available, records sufficient to document leveraged resources and benefits, and offsetting costs and charges, and their valuation. These records must be retained for three years after the end of the base period whose leveraged resources and benefits they document.

(h) *Leveraging report.*

(1) In order to qualify for leveraging incentive funds, each grantee desiring such funds must submit to the Department a report on the leveraged resources provided to low-income households during the proceedings base period. These reports must contain the following information in a format established by the Department.

(i) For each separate leveraged resource, the report must:

(A) Briefly describe the specific leveraged resource and the specific benefit(s) provided to low-income households by this resource, and state the source of the resource;

(B) State whether the resource was acquired in cash, as a discount/waiver, or as an in-kind contribution;

(C) Indicate the geographical area in which the benefit(s) were provided to recipients;

(D) State the month(s) and year(s) when the benefit(s) were provided to recipients;

VOL
60
ISS
83
MY
1
1995
UMI

(E) State the gross dollar value of the countable benefits provided by the resource as determined in accordance with paragraph (g) of this section, indicate the source(s) of the data used, and describe how the grantee quantified the value and calculated the total amount;

(F) State the number of low-income households to whom the benefit(s) were provided, and state the eligibility standard(s) for the low-income households to whom the benefit(s) were provided;

(G) Indicate the agency or agencies that administered the resource/benefit(s); and

(H) Indicate the criterion or criteria for leveraged resources in paragraph (d)(2) of this section that the resource/benefits meet, and for criteria in paragraphs (d)(2)(i) and (d)(2)(iii) of this section, explain how resources/benefits valued at $5,000 or more meet the criterion or criteria.

(ii) State the total gross dollar value of the countable leveraged resources and benefits provided to low-income households during the base period (the sum of the amounts listed pursuant to paragraph (h)(1)(i)(E) of this section).

(iii) State in dollars any costs incurred by the grantee to leverage resources, and any costs and charges imposed on low-income households to participate in a counted leveraging program or to receive counted leveraged benefits, as determined in accordance with paragraph (g)(5) of this section. Also state the amount of the grantee's regular LIHEAP allotment that the grantee used during the base period specifically to identify, develop, and demonstrate leveraging programs under section 2607A(c)(2) of Public Law 97–35 (42 U.S.C. 8626a(c)(2)).

(iv) State the net dollar value of the countable leveraged resources and benefits for the base period. (Subtract the amounts in paragraph (h)(1)(iii) of this section from the amount in paragraph (h)(1)(ii) of this section.)

(2) Leveraging reports must be postmarked or hand-delivered not later than November 30 of the fiscal year for which leveraging incentive funds are requested.

(3) The Department may require submission of additional documentation and/or clarification as it determines necessary to verify information in a grantee's leveraging report, to determine whether a leveraged resource is countable, and/or to determine the net valuation of a resource. In such cases, the Department will set a date by which it must receive information sufficient to document countability and/or valuation. In such cases, if the Department does not receive information that it considers sufficient to document countability and/or valuation by the date it has set, then the Department will not count the resource (or portion of resource) in question.

(i) *Determination of grantee shares of leveraging incentive funds.* Allocation of leveraging incentive funds to grantees will be computed according to a formula using the following factors and weights:

(1) Fifty (50) percent based on the final net value of countable leveraged resources provided to low-income households during the base period by a grantee relative to its net Federal allotment of funds allocated under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) during the base period, as a proportion of the final net value of the countable leveraged resources provided by all grantees during the base period relative to their net Federal allotment of funds allocated under that section during the base period; and

(2) Fifty (50) percent based on the final net value of countable leveraged resources provided to low-income households during the base period by a grantee as a proportion of the total final net value of the countable leveraged resources provided by all grantees during the base period; except that: No grantee may receive more than twelve (12.0) percent of the total amount of leveraging incentive funds available for distribution to grantees in any award period; and no grantee may receive more than the smaller of its net Federal allotment of funds allocated under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) during the base period, or two times (double) the final net value of its countable leveraged resources for the base period. The calculations will be based on data contained in the leveraging reports submitted by grantees under paragraph (h) of this section as approved by the Department, and allocation data developed by the Department.

(j) *Uses of leveraging incentive funds.*

(1) Funds awarded to grantees under the leveraging incentive program must be used to increase or maintain heating, cooling, energy crisis, and/or weatherization benefits through (that is, within and as a part of) the grantee's LIHEAP program. These funds can be used for weatherization without regard to the weatherization maximum in section 2605(k) of Public Law 97–35 (42 U.S.C. 8624(k)). However, they cannot be counted in the base for calculation of the weatherization maximum for regular LIHEAP funds authorized under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)). Leveraging incentive funds cannot be used for costs of planning and administration. However, in either the award period or the fiscal year following the award period, they can be counted in the base for calculation of maximum grantee planning and administrative costs under section 2605(b)(9) of Public Law 97–35 (42 U.S.C. 8624(b)(9)). They cannot be counted in the base for calculation of maximum carryover of regular LIHEAP funds authorized under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)).

(2) Grantees must include the uses of leveraging incentive funds in their LIHEAP plans (referred to in section 2605(c)(1)(A) of Public Law 97–35) (42 U.S.C. 8624(c)(1)(A)) for the fiscal year in which the grantee obligates these funds. Grantees must document uses of leveraging incentive funds in the same way they document uses of regular LIHEAP funds authorized under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)). Leveraging incentive funds are subject to the same audit requirements as regular LIHEAP funds.

(k) *Period of obligation for leveraging incentive funds.* Leveraging incentive funds are available for obligation during both the award period and the fiscal year following the award period, without regard to limitations on carryover of funds in section 2607(b)(2)(B) of Public Law 97–35 (42 U.S.C. 8626(b)(2)(B)). Any leveraging incentive funds not obligated for allowable purposes by the end of this period must be returned to the Department.

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May 1, 1995

Part IV

Department of Health and Human Services

Public Health Service

Availability of Funds for a Cooperative Agreement To Prevent Cancer in Minority Populations; Notice

VOL
60
ISS
83
MY
1
1995
UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

RIN 0905–ZA88

Availability of Funds for a Cooperative Agreement To Prevent Cancer in Minority Populations

AGENCY: Office of Minority Health, Office of the Assistant Secretary for Health.

ACTION: Notice.

Introduction

The Office of Minority Health (OMH) of the U.S. Public Health Service (PHS) announces the availability of Fiscal Year 1995 funds to support one demonstration cooperative agreement to establish a cancer prevention project in Philadelphia, Pennsylvania.

The OMH is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the health status, risk reduction and services and protection objectives for Health People objective priority area Number 16, cancer.

Authorizing Legislation

This cooperative agreement is authorized under Section 1707(d)(1) of the Public Health Service Act, as amended by Public Law 101–527.

Availability of Funds

Approximately $250,000 (direct and indirect costs) will be available in Fiscal Year 1995 to fund one cooperative agreement. Support may be requested for a project period not to exceed 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds. The funding estimate may vary and is subject to change.

Background

Since the publication of the Report of the Secretary's Task Force on Black and Minority Health, the OMH and all PHS agencies have made a commitment to reduce the excessive burden of disability and death borne by minority populations in the United States.

Congress has expressed a commitment to providing comprehensive primary health care services for urban city minorities: Asian Americans/Pacific Islanders; American Indians/Alaska Natives; Blacks; and Hispanics, with the objective of reducing the excessive burden of disability and death within these populations. Congress is concerned about the increasing rate of cancer among the nation's minority populations and has expressed particular interest about the high rates in urban areas such as North Philadelphia. For example, in 1992, of the 173 cases of buccal cavity and pharynx cancer in males in Philadelphia, Black males had 92, or 53.4% of the cases. In the same year, of the 91 cases of esophagus cancer in Philadelphia's male population, Black males had 49 of the cases, or 53.8%. Of the 4,090 all cancer sites in males in Philadelphia, Black men had 1,727, or 35.1%. For all cancer sites for women, Black women had 2,547 of the 4,702 cases or 32.9%.

The high rates of cancer mortality in Philadelphia for the non-white population, supports the need to develop and deliver cancer services to diverse minority populations in order to study ways to improve mortality rates in urban areas.

Congress has recommended that the Office of Minority Health conduct a cancer outreach and service program in an urban area, such as Philadelphia. OMH plans to fund a cancer program in North Philadelphia to address these concerns.

Applicants should possess the following capabilities:

(1) Has the ability and track record to conduct a comprehensive needs assessment of the prevalence and impact of cancer on minorities in North Philadelphia compared to other parts of the city, the county, the state and the nation.

(2) Has a developed and expanded infrastructure to provide comprehensive cancer reduction health care services for high risk minorities who reside in North Philadelphia. Furthermore, the health care services are aimed at reducing unnecessary morbidity and cancer mortality rates among targeted low income minority populations of the service area.

(3) Has a comprehensive cancer care program embracing four components of care: the medical component, which consists of some combination of surgical, chemical and/or radiation therapy; the oral health component, which identifies linkages with the dental community, particularly minority dentists; the psychological component, in which the emotional needs of cancer patients are addressed; and the prevention component, which stresses behavioral changes in smoking and dietary practices, and education and cancer awareness programs.

(4) Is a teaching hospital in North Philadelphia which focuses on serving low-income minority populations.

(5) Has developed cancer research component to enhance treatment modalities and prevention strategies to target minority populations.

(6) Has demonstrated outreach linkages with minority neighborhoods through cancer screening in the community; and by promoting cancer prevention at community health fairs, through neighborhood businesses, and religious organizations.

(7) Has trained healthcare professionals with the work experience and track record of providing culturally appropriate outreach, screening and health care to Black, Hispanic, Native American and Asian populations, including the ability to communicate in a variety of languages.

Applicant Eligibility

Eligible applicants are public and private non-profit organizations with demonstrated capability to serve the target population in North Philadelphia. Only teaching hospitals located in North Philadelphia should apply.

The community served by the applicant should have a minority population (Black American and/or Hispanic/Latino) in excess of 60 percent, an unemployment rate exceeding the national average by at least 25 percent, and a poverty rate at least twice the national average.

Program Requirements

The cooperative agreement will include substantive involvement of both the recipient and the Federal Government. At a minimum, the following expectations are anticipated:

Recipient Responsibilities

(1) The recipient shall conduct a comprehensive needs analysis of cancer prevalence in the North Philadelphia community and document cancer rates for various types of cancers, i.e., breast, cervical, prostrate, lung, skin, oral, etc., in the target area; compare prevalence to other areas of the county, state and the nation in order to justify the need, and justify the need to select specific types of cancer for the study.

(2) The recipient shall design a model for minorities in high risk, low income, urban communities which is integrated, culturally and linguistically sensitive community-based cancer outreach program. The model shall embody the four basic components of care: the medical component, which consists of some combination of surgical, chemical and/or radiation therapy; oral health component which includes linkages with the dental community; the psychological component, in which the emotional needs of cancer patients are addressed; and a prevention component which stresses behavioral changes and cancer awareness programs. The model shall provide for the treatment of cancer through early diagnosis and provide continuity of support to patients from screening through treatment. The model should include a viable coalition of community organizations, and appropriately utilize them to assist in the development of the project and accomplish the project objectives. The model should be a coordinated community approach that involves formal relations with established community organizations with high visibility and substantial ingress to the targeted population. The model shall have the potential for replication in similar communities.

(3) The recipient shall establish formal relations with a coalition or affiliation of community based organizations and professional associations to assist in the development and conduct of the project. Recipient shall also coordinate project activities with state and/or local health departments as appropriate.

(4) The recipient shall implement and conduct all facets of the model, including screening, treatment, and other necessary and desired support and follow-up activities, in the targeted minority community. All aspects of the project shall be fully operational within 10 months of the effective date of the cooperative agreement.

(5) The recipient shall evaluate the effects of the project in terms of numbers of patients screened and the provision of continuity of support to diagnosed cancer patients and submit a written evaluation report, within 1 year of the effective date of the cooperative agreement.

(6) The recipient shall prepare a manual for replicating the model in other similar communities. Consideration should be given to replication of the approach for diseases other than cancer.

(7) The recipient shall submit monthly progress reports to the Project Officer. The recipient shall meet with the Project Officer on an as-needed basis as determined by the Project Officer.

(8) The recipient shall arrange an annual meeting (for appropriate government, professional and community officials) to provide briefings regarding programmatic outcomes, evaluation plans, strategies, agreements, and to provide expertise regarding the identification of evolving areas of concern affecting the minority populations targeted in the project.

(9) The recipient shall assist OMH staff in selecting potential sites for replicating the model.

OMH Responsibilities

Substantial programmatic involvement is as follows:

(1) OMH shall arrange an initial orientation meeting to: discuss and finalize a project management plan; clarify roles and responsibilities of the recipient, collaborating community based organizations, and OMH and other Federal agency staff participating in the project; establish clear lines of communication.

(2) OMH shall introduce the project participants to other PHS and Department of Health and Human Services (DHHS) staff, in particular, staff of cancer programs at the National Cancer Institute (NCI) and the Centers for Disease Control and Prevention (CDC), for technical and programmatic consultation and assistance; and to discuss and review a workplan.

(3) OMH staff shall provide technical assistance and oversight as necessary to project staff and consultants for the overall design, implementation, conduct, and assessment of project activities.

(4) OMH staff shall provide technical assistance to the recipient in the design, development, and implementation of the evaluation plans and strategies.

(5) OMH staff shall review and approve all evaluation plans and strategies prior to implementation.

(6) OMH staff shall assist the recipient in arranging for consultation, on an as-needed basis, from other Government agencies and non-governmental organizations such as the American Cancer Society.

(7) OMH staff shall be responsible for the selection of potential sights for replicating the project.

(8) OMH staff shall facilitate the cooperation of organizations that have grant programs within the service area. These programs will include the following: Health Careers Opportunity Program (HCOP), Centers of Excellence (COE), Minority Community Health Coalition Demonstration, and Public Housing Primary Care Program. In addition to these programs, OMH staff will facilitate the cooperation of national organizations such as: National Medical Association, National Dental Association, Hispanic Dental Association and Interamerican College of Physicians and Surgeons.

(9) OMH shall be responsible for the printing and distribution of the manual for replicating the model in similar communities.

Review of Applications

Applications will be screened upon receipt. Those that are judged to be incomplete, non-responsive to the announcement or nonconforming will be returned without comment. Applications judged to be complete, conforming, and responsive, will be reviewed for technical merit in accordance with PHS policies.

Applications will be evaluated by Federal reviewers. Applicants are advised to pay close attention to program guidelines, review criteria, and the general and supplemental instructions provided in the application kit.

Contacts

Applications will be prepared on PHS Standard Form 5161–1 (approved by OMB under control number 0937–0189). Application kits and technical assistance on business and grants management information may be obtained from Ms. Carolyn A. Williams, Grants Management Officer, Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, Maryland 20852, telephone number (301) 594–0758. Completed applications are to be submitted to the same address.

For program information, contact Mr. John H. Walker, III, Project Officer, Office of Minority Health, Rockwall II Building, Suite 1000, 5515 Security Lane, Rockville, MD 20852, telephone number (301) 594–0769.

Application Deadline

To receive consideration, grant applications must be received by C.O.B. (30 days from the date of this publication). Applications will be considered as meeting the deadline if they are either: (1) Received on or before the deadline date, or (2) sent on or before the deadline date and received in time for orderly processing. Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing. Applications which do not meet the deadline will be considered late and will be returned to the applicant.

Provision of Smoke-Free Workplace and Non-Use of Tobacco Products by Recipients of PHS Grants

PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products. In

VOL
60
ISS
83
MY
1
1995
UMI

addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

State Reviews

Applications are subject to state review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. All comments from a State office must be received by the Office of Minority Health's Grants Management Officer within 60 days after the application deadline. Applicants should contact the appropriate State Single Points of Contact (SPOC) early in the application preparation process. A list of the SPOCs is enclosed with the application kit material.

Public Health System Reporting Requirements

This program is subject to Public Health Systems Reporting Requirements. Under these requirements, an applicant involving a community based nongovernmental organization must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions.

Applicants involving community-based nongovernmental organizations are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date: (a) a copy of the face page of the applications (SF 424), (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) a description of the population to be served, (2) a summary of the services to be provided, (3) a description of the coordination planned with the appropriate State or local health agencies.

There is no Catalog of Federal Domestic Assistance number for this program since it is a one-time project.

Dated: March 17, 1995.

Clay E. Simpson, Jr.,

Acting Deputy Assistant Secretary for Minority Health.

[FR Doc. 95–10577 Filed 4–28–95; 8:45 am]

BILLING CODE 4160–17–M

federal register

Monday
May 1, 1995

Part V

Environmental Protection Agency

40 CFR Part 247

Comprehensive Guideline for Procurement of Products Containing Recovered Materials; Final Rule

VOL 60 ISS 83 MY 1 1995 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 247

[FRL–5198–7]

RIN 2050–AE16

Comprehensive Guideline for Procurement of Products Containing Recovered Materials

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today, the Environmental Protection Agency (EPA) is promulgating a final regulation designating the following 19 items that are or can be made with recovered materials: Engine coolants, structural fiberboard, laminated paperboard, carpet, floor tile, patio blocks, cement and concrete containing ground granulated blast furnace slag, traffic cones, traffic barricades, playground surfaces, running tracks, hydraulic mulch, yard trimmings compost, office recycling containers, office waste receptacles, plastic desktop accessories, toner cartridges, binders, and plastic trash bags. The CPG also consolidates the designations from EPA's five earlier procurement guidelines, which were previously codified at 40 CFR parts 248, 249, 250, 252, and 253. These five items, in addition to the 19 new items designated today, will be incorporated into a new Comprehensive Procurement Guideline codified at 40 CFR part 247.

This regulation is issued under the authority of section 6002(e) of the Resource Conservation and Recovery Act (RCRA). This action will promote recycling by using government purchasing to expand markets for recovered materials. RCRA section 6002 requires EPA to designate items that are or can be produced with recovered materials and to recommend practices for the procurement of designated items by procuring agencies. Once EPA designates an item, RCRA section 6002 requires that any procuring agency, when using appropriated Federal funds to procure that item, shall purchase it with the highest percentage of recovered materials practicable.

Executive Order 12873 sets forth procedures for EPA to follow in implementing RCRA section 6002(e). Specifically, it calls for EPA to designate section 6002 items in a Comprehensive Procurement Guideline (CPG) and to provide recommended procurement practices in a related Recovered Materials Advisory Notice (RMAN).

For the items designated in today's rule, EPA is issuing a Recovered Materials Advisory Notice (RMAN), which is published in the notice section of today's **Federal Register**. This RMAN includes EPA's consolidated recommendations to procuring agencies for meeting their section 6002 obligations with respect to the new and existing designated items. In the case of most designated items, the RMAN contains recommended minimum recovered materials content levels. For other items, an alternative approach is recommended. In addition, the RMAN revises the recommended recovered materials content levels originally contained in the building insulation guideline issued in 1988. The purpose of the recommendations contained in the RMAN is to assist procuring agencies in fulfilling their obligations under RCRA section 6002 and Executive Order 12873 to purchase designated items composed of the highest percentages of recovered materials practicable.

EFFECTIVE DATE: The Comprehensive Procurement Guideline is effective on May 1, 1996.

ADDRESSES: The public record for this rulemaking (Docket Number F–95–PRMF–FFFFF) is located at the following address: U.S. Environmental Protection Agency, RCRA Information Center (RIC), Room M2616, 401 M Street SW., Washington, DC 20460.

The RIC is open from 9 a.m. to 4 p.m. Monday through Friday, except for Federal holidays. To review docket materials, the public must make an appointment by calling (202) 260–9327. Materials may be copied for $0.15 per page.

FOR FURTHER INFORMATION CONTACT: "Comprehensive Procurement Guideline—Supporting Analyses" is the primary supporting document for the final Comprehensive Procurement Guideline. Today's **Federal Register** notice and the supporting document will be available in electronic format on the Internet System through the EPA Public Access Server at gopher.epa.gov. For a paper copy of the **Federal Register** notice or "Comprehensive Procurement Guideline—Supporting Analyses," please contact the RCRA Hotline at 800–424–9346, or, in the Washington, DC metropolitan area, (703) 412–9810. Paper copies also are available in the RCRA Docket at the address listed in the previous section.

For general information, contact the RCRA Hotline. For technical information on individual item designations, contact the following EPA staff: Yard trimmings compost, Plastic pipe and fittings, Geotextiles, Carpet, Floor tile and Patio blocks, Playground surfaces and Running tracks, Temporary traffic control devices—Terry Grist, (703) 308–7257; Engine coolant—Tracy Bone, (703) 308–7259; Cement and concrete containing ground granulated blast furnace slag and Hydraulic mulch—Dana Arnold, (703) 308–7279; Structural fiberboard and Laminated paperboard, Office recycling containers and Office waste receptacles, Plastic desktop accessories, Toner cartridges, Binders, and Plastic trash bags—Beverly Goldblatt, (703) 308–7278. For all other technical information, contact Beverly Goldblatt at (703) 308–7278, or Terry Grist at (703) 308–7257.

Accessing Internet

1. Through Gopher: Go to: gopher.epa.gov

From the main menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)". Next, choose "Office of Solid Waste". Then, choose "Non-Hazardous Waste—RCRA Subtitle D". Finally, choose "Procurement/CPG".

2. Through FTP: Go to: ftp.epa.gov

Login: anonymous
Password: Your Internet Address
Files are located in directories/pub/gopher. All OSW files are in directories beginning with "OSW".

3. Through MOSAIC: Go to: http://www.epa.gov

Choose the EPA Public Access Gopher. From the main (Gopher) menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)." Next, choose "Office of Solid Waste". Then, choose "Non-Hazardous Waste—RCRA Subtitle D". Finally, choose "Procurement/CPG".

4. Through dial-up access:

Dial 919–558–0335. Choose EPA Public Access Gopher. From the main (Gopher) menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)". Next, choose "Office of Solid Waste". Then, choose "Non-Hazardous Waste—RCRA Subtitle D". Finally, choose "Procurement/CPG"

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority
II. Background
A. Purpose of the Procurement Guidelines
B. RCRA Section 6002
C. Executive Order 12873
D. Other Requirements and Policies
E. Existing Procurement Guidelines
F. Summary of Proposed Rule
III. Comment Summary and Agency's Response
A. General Comments
1. Designation of Material Specific Items
2. Purpose, Scope, and Applicability
3. Definitions
4. Affirmative Procurement Program
B. Items Proposed for Designation
1. Engine Coolants
2. Plastic Pipe and Fittings
3. Geotextiles
4. Cement and Concrete Containing Ground Granulated Blast Furnace Slag
5. Carpet
6. Floor Tiles
7. Yard Trimmings Compost
8. Office Recycling Containers and Waste Receptacles
9. Toner Cartridges
10. Binders
C. Other Items Considered for Designation
D. Public Participation in Future Updates to the CPG
IV. Availability of Designated Items
V. Economic Impact Analysis
A. Requirements of Executive Order 12866
B. Unfunded Mandates Reform Act of 1995 and Consultation with State, Local, and Tribal Governments
C. Summary of Benefits
D. Summary of Costs
E. Product Cost
F. Regulatory Flexibility Analysis
VI. Supporting Information
Appendix I

I. Authority

This guideline is promulgated under the authority of sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6962, and section 502 of Executive Order 12873 (58 FR 54911; October 22, 1993).

II. Background

RCRA section 6002 and Executive Order 12873 set forth requirements for the procurement of products containing recovered materials and the issuance of procurement guidelines. The requirements of RCRA section 6002 apply to "procuring agencies," as defined in RCRA section 1004; Executive Order requirements apply only to Federal "Executive agencies," as defined in section 202 of Executive Order 12873. Under RCRA section 1004(17), a "procuring agency" means any "Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract."

A. Purpose of the Procurement Guidelines

In RCRA, Congress acknowledged the importance of recycling in helping to manage the nation's solid waste and recognized that recycling is not merely the collection of materials, but includes the manufacture of products with these materials and the purchase of recycled content products by consumers. RCRA section 6002 established the government's buy-recycled program, which uses Federal purchasing power to stimulate the demand for products made with recovered materials. The statute does this by requiring EPA to issue guidelines to be used by government when procuring recycled products. The guidelines are used not only by Federal agencies but also by state and local agencies and their contractors. Many state and local agencies have urged EPA to designate additional items to increase markets for recovered materials. President Clinton's Executive Order 12873 further bolsters the Federal government's commitment to buy products containing recovered materials by "streamlining" the process used by EPA in fulfilling its obligation under RCRA section 6002 to designate items that are or can be made with recovered materials.

Executive Order 12873 recognizes that the nation's interest is served when the Federal government makes more efficient use of natural resources by maximizing recycling and preventing waste wherever possible. The E.O. also recognizes that the Federal government should—through cost-effective waste prevention and recycling activities—work to conserve disposal capacity, and serve as a model in this regard for private and other public institutions. For many products, the use of recovered materials in manufacturing can result in significantly lower energy and material input costs than when virgin raw materials are used. Use of recovered materials may reduce the generation and release of air and water pollutants often associated with manufacturing (including air emissions that contribute to the level of "greenhouse gases" and ozone depletion). Using recovered materials also reduces the environmental impacts of mining, harvesting, and other extraction of natural resources, while conserving non-renewable resources for future use. Recycling can also divert large amounts of materials from landfills. This reduces the need to expand existing or site new disposal facilities, allowing local officials to devote more attention to health, education, and safety issues.

Executive Order 12873 also points out that the use of recycled content products by the Federal government can spur private sector development of new technologies and use of such products, thereby creating business and employment opportunities that enhance local, regional, and national economies. Technological innovation associated with the use of recovered materials can translate into economic growth and make American industry more competitive in the global economy.

Both RCRA and the E.O. recognize the interdependence between buying recycled content products and the success of recycling. For recycling to occur, industry must use recovered materials as feedstock for the manufacture of new products. Despite the environmental and economic efficiencies that can be realized by using recovered materials as feedstock, a manufacturer's primary responsibility remains to produce items that meet the demands of the consumer. The Federal government, through its purchasing decisions as a consumer, can play a key role in influencing manufacturers' decisions on products made with recovered materials. By purchasing products containing recovered materials pursuant to the guidelines established under RCRA and Executive Order 12873, the Federal government and other procuring agencies have the opportunity to increase markets for recovered materials and to contribute to an increased level of recycling in this country.

EPA also strongly encourages the private sector to use these guidelines when making purchasing decisions. Private sector purchases of most designated items far exceed government purchases. By seeking products made with recovered materials, the private sector can further stimulate markets for recovered materials, reduce the generation of air and water pollutants associated with virgin material extraction and beneficiation, and, in some instances, contribute to reductions in our nation's energy usage.

B. RCRA Section 6002

RCRA section 6002 requires EPA to designate items that are or can be made with recovered materials and to recommend practices to assist procuring agencies in purchasing the designated items. Once an item is designated by EPA, procuring agencies are required to purchase it composed of the highest percentage of recovered materials practicable (and in the case of paper, the highest percentage of postconsumer recovered materials), taking into consideration the limitations set forth in

VOL 60 ISS 83 MY 1 1995 UMI

section 6002(c)(1) (A) through (C) (i.e., competition, price, availability, and performance). The requirement applies when the purchase price of the item exceeds $10,000 or when the total cost of such items, or of functionally equivalent items, purchased during the preceding fiscal year was $10,000 or more.

Within one year after EPA designates an item, RCRA section 6002(d)(2) requires that Federal agencies revise their specifications to require the use of recovered materials to the maximum extent possible without jeopardizing the intended end-use of the item. Section 6002(d)(1) further requires Federal agencies responsible for drafting or reviewing specifications to review all of their product specifications to eliminate both provisions prohibiting the use of recovered materials and requirements specifying the exclusive use of virgin materials. This revision process should have been completed by May 8, 1986.

Once EPA designates an item, responsibility for complying with RCRA section 6002 rests with the procuring agencies. As noted, after the date specified in the designation, each procuring agency must procure designated items with the highest recovered materials content practicable. After the effective date, contracting officers must require their vendors to certify that the recovered materials content of their product meets the required content level. Furthermore, for each item designated by EPA, RCRA section 6002(i) requires each procuring agency to develop an affirmative procurement program, which sets forth the agency's policies and procedures for implementing the requirements of RCRA section 6002. The program must assure that the agency purchases items composed of recovered materials to the maximum extent practicable and that these purchases are made consistent with applicable provisions of Federal procurement law. In accordance with RCRA section 6002(i), the affirmative procurement program must contain at least four elements:

(1) A recovered materials preference program;
(2) An agency promotion program;
(3) A program for requiring vendors to reasonably estimate, certify, and verify the recovered materials content of their products; and
(4) A program to monitor and annually review the effectiveness of the affirmative procurement program.

C. Executive Order 12873

Executive Order 12873, entitled "Federal Acquisition, Recycling, and Waste Prevention," was signed by President Clinton on October 20, 1993. The Order establishes a new, two-part process for EPA to use when developing and issuing the procurement guidelines for products containing recovered materials. The first part, the Comprehensive Procurement Guideline, contains EPA's designations of items that are or can be made with recovered materials. Because this is an activity requiring rulemaking, the CPG was developed using formal notice-and-comment rulemaking procedures and will be codified in the Code of Federal Regulations. Today's final CPG was developed under the procedures established in the Executive Order.

The second part, the Recovered Materials Advisory Notice, provides recommendations to procuring agencies on purchasing the items designated in the CPG. The Executive Order directs EPA to publish the RMAN in the **Federal Register** for public comment. The RMAN for items designated in today's CPG appears in the notice section of today's **Federal Register**.

A detailed description of the Executive Order provisions was included in the preamble to the proposed CPG (59 FR 18858; April 20, 1994).

D. Other Requirements and Policies

There are several other policies and procedures that may affect the procurement of products containing recovered materials by Federal and other government agencies. For the convenience of the reader, in Appendix I of this preamble, EPA has briefly summarized requirements and policies set forth in the Federal Acquisition Regulation, OFPP Policy Letter 92–4, and OMB Circulars A–102, A–119, and A–131.

E. Existing Procurement Guidelines

Between 1983 and 1989, EPA issued five guidelines for the procurement of products containing recovered materials. The guidelines issued prior to today's effort are listed in the following table:

TABLE 1.—EPA GUIDELINES FOR PROCUREMENT OF PRODUCTS CONTAINING RECOVERED MATERIALS

Guideline	40 CFR Part	Date (FR)
Cement and Concrete Containing Fly Ash.	249	January 28, 1983 (48 FR 4230).
Paper and Paper Products.	250	June 22, 1988 (53 FR 23546).
Re-Refined Lubricating Oils.	252	June 30, 1988 (53 FR 24699).
Retread Tires ...	253	November 17, 1988 (53 FR 46558).
Building Insulation.	248	February 17, 1989 (54 FR 7327).

F. Summary of Proposed Rule

On April 20, 1994, EPA proposed a Comprehensive Procurement Guideline that, when finalized, would designate 21 items that are or can be made with recovered materials. The items were arranged into product categories as shown below:

Vehicular Products

Reclaimed engine coolants

Construction Products

Structural fiberboard
Laminated paperboard
Plastic pipe and fittings
Geotextiles
Cement/concrete containing ground granulated blast furnace slag
Carpet
Floor tiles
Patio blocks

Transportation Products

Traffic barricades
Traffic cones

Park and Recreation Products

Playground Surfaces
Running Tracks

Landscaping Products

Hydraulic Mulch
Yard Trimmings Compost

Non-Paper Office Products

Office recycling containers
Office waste receptacles
Plastic desktop accessories
Remanufactured toner cartridges
Binders
Plastic Trash Bags

In addition to proposing to designate the 21 new items, EPA (1) identified items for potential future designation, depending on the receipt of additional information; (2) identified items deemed not appropriate for designation at this time; (3) announced the Agency's intention to establish a process for the public to suggest items that could be added to future updates to the CPG; and (4) requested comment on how EPA might be able to increase public participation in developing future updates to the CPG.

EPA also proposed to delete the outdated guidance in 40 CFR part 247, which pre-dated the 1984 amendments to the Resource Conservation and Recovery Act and to consolidate the existing five procurement guidelines and new item designations into a new part 247. The proposed new part 247 consisted of two subparts: Subpart A—General, which included the general requirements of RCRA section 6002 and definitions, and Subpart B—Item Designations (see 59 FR 18862, April 20, 1994). As explained in the preamble to the proposed CPG, EPA did not seek comment on the existing item designations for paper and paper products, re-refined lubricating oil, building insulation, cement and concrete containing fly ash, or retread tires.

The legal basis, methodology, and factual conclusions that formed the basis of the proposal were described in substantial detail in the notice of proposed rulemaking (see 59 FR 18853–18882).

Interested persons were invited to participate in the rulemaking by submitting written comments by June 20, 1994.

III. Comment Summary and Agency's Response

EPA received submittals from over 300 commenters in response to the proposed CPG. These commenters represented various interests, including Federal agencies, State agencies, local governments, product manufacturers, product users, public interest groups, waste management companies, and members of Congress. EPA has carefully considered all of these comments. A discussion of the major comments follows.

A. General Comments

1. Designation of Material Specific Items

Comment: One commenter suggested that EPA designate items in a material neutral manner. In other words, rather than designating items made of specific materials (e.g., "plastic" trash bags), EPA should simply designate the items in generic terms (e.g., trash bags).

Response: EPA believes that such an approach is not appropriate for all items. Under RCRA section 6002(c)(1), each procuring agency which procures "any items" designated by EPA is required to procure such items composed of the highest percentage of recovered materials practicable. As a result, if EPA designates a generic category of items, procuring agencies are obligated to try to purchase all items within that category containing recovered materials. For example, when EPA designated "paper and paper products" or "building insulation products," procuring agencies were obligated to purchase all types of paper products or building insulation containing recovered materials, even though EPA did not provide content recommendations for all products within these categories. In other instances, where EPA is not aware that items manufactured from other types of materials are made with or could contain recovered materials, EPA has limited its designations so as not to create an unnecessary burden on agencies to try to purchase an item that is not available. When EPA learns that the generic item is being made with additional recovered materials, EPA will evaluate the new information and consider amending the item designation accordingly.

In implementing this process for the items listed in the proposed CPG, EPA sometimes had information on the availability of a particular item made with a specific recovered material (e.g., plastic), but no information on the availability of the item made from a different recovered material or any indication that it is possible to make the item with a different recovered material. In these instances, EPA concluded that it was appropriate to include the specific material in the item designation in order to provide vital information to procuring agencies as they seek to fulfill their obligations to purchase designated items composed of the highest percentage of recovered materials practicable. This information enables the agencies to focus their efforts on products that are currently available for purchase, reducing their administrative burden. EPA also included information in the proposed CPG, as well as in the draft RMAN that accompanied the proposed CPG, that advised procuring agencies that EPA is not recommending the purchase of an item made from one particular material over a similar item made from another material. For example, EPA included the following statement in the preamble discussion for plastic desktop accessories (59 FR 18879): "This designation does not preclude a procuring agency from purchasing desktop accessories manufactured from another material, such as wood. It simply requires that a procuring agency, when purchasing plastic desktop accessories, purchase these accessories made with recovered materials * * *"

2. Purpose, Scope, and Applicability

Comment: A commenter inquired about the applicability of RCRA section 6002 to designated items that are leased rather than purchased by a procuring agency.

Response: Section 6002 applies to "any purchase or acquisition" in excess of $10,000 by a procuring agency. The Federal Acquisition Regulation (FAR) defines "acquisition" to include the acquiring of supplies or services (including construction) by means of a lease (48 CFR 2.101). Therefore, RCRA section 6002 and the procurement guidelines developed under its authority apply to a procuring agency's lease contracts for designated items. Under the definition of "procuring agency," lessor contractors are subject to the section 6002 requirements for work performed under the lease contract.

Comment: Commenters inquired when RCRA section 6002 applies to contractors.

Response: The requirements of RCRA section 6002 apply to contractors in the following circumstances. A contractor must comply with section 6002 with respect to work under the contract if the contractor is (1) contracting with a Federal agency or a State agency which is using appropriated Federal funds for a procurement and (2) purchasing or acquiring a designated item whose purchase price exceeds $10,000 or the quantity of the item purchased in the previous year was $10,000 or more.

Under both circumstances, it is immaterial for purposes of the $10,000 threshold whether the contractor purchased or acquired the designated items as a "procuring agency" (with respect to work performed under a contract with a Federal or State agency) or in its private capacity. All the purchases of a designated item should be aggregated in order to determine whether the $10,000 threshold for section 6002 applicability is met. However, the obligations of section 6002 are prospective. The contractor must determine whether the $10,000 threshold is met *only* after it is a "procuring agency." That is, purchases exceeding the $10,000 threshold in the year prior to the year in which a contractor becomes a "procuring agency" do not trigger section 6002(a) requirements. Furthermore, while the contractor is subject to section 6002 requirements once it exceeds the threshold, the RCRA requirements apply only with respect to work performed under the contract (i.e, when supplying the designated item to any State or Federal agency).

VOL 60 ISS 83 MY 1 1995 UMI

For example, in Year One, Contractor X contracts to supply $500 of hydraulic mulch to a State agency using appropriated Federal funds to purchase the hydraulic mulch. Therefore, in Year One, Contractor X is a "procuring agency." During Year One, Contractor X also purchases hydraulic mulch for its own use and to supply the requirements of its other customers, with total purchases of hydraulic mulch exceeding $10,000. In Year One, while Contractor X is a procuring agency, Contractor X is not subject to the section 6002 requirements for hydraulic mulch supplied to the State agency because the contract price does not exceed $10,000. In Year Two, Contractor X is subject to section 6002 requirements for hydraulic mulch provided to the State agency for the procurement regardless of the amount of the contracted purchase, because, while a "procuring agency" in Year One, it purchased in excess of $10,000 of hydraulic mulch.

In another example, in Year One, Contractor Y purchases $10,000 of hydraulic mulch but none was purchased on behalf of a government agency using appropriated Federal funds. In Year One, Contractor Y is not a procuring agency. In Year Two, Contractor Y contracts to supply less than $10,000 of hydraulic mulch to a State agency using appropriated Federal funds for the purchase. In Year Two, Contractor Y is a procuring agency, but is not subject to section 6002 requirements for its purchases of hydraulic mulch because it was not a procuring agency during the previous year when it acquired in excess of $10,000 of hydraulic mulch.

3. Definitions

In the proposed CPG, EPA explained that the definitions found in the five existing guidelines would be incorporated into a new part 247 (59 FR 18863, April 20, 1994). The new part 247 would include the relevant definitions found in RCRA, the definitions of items, and definitions of terms used in the companion RMAN. EPA has concluded that it will be easier for procuring agencies to use the definitions if they are limited to those terms used in the CPG. Therefore, in the final CPG, the definitions section contains only terms used in the CPG.

4. Affirmative Procurement Program

Comment: Several commenters expressed concern with the administrative requirements associated with individual item designations. In particular, many commenters objected to the requirement that procuring agencies develop affirmative procurement programs for all designated items, including items that they may not purchase or that they are unable to obtain with recovered materials content.

Response: In the proposed CPG (59 FR 18864, April 20, 1994), EPA recommended that procuring agencies develop one comprehensive affirmative procurement program with a structure that provides for the integration of new items as they are designated. EPA believes that developing a single affirmative procurement program will substantially reduce procuring agencies' administrative burdens under RCRA that result from today's item designations.

EPA also recommends that if a procuring agency does not purchase a specific designated item, it should simply include a statement in its preference program to that effect. Similarly, if a procuring agency is unable to obtain a particular item for one or more of the reasons cited in RCRA section 6002(c)(1), a similar statement should be included in the preference program along with the appropriate justification.

For example, if a state agency procures cement and concrete using appropriated Federal funds and has determined that ground granulated blast furnace slag is not available in the state due to high transportation costs, then that state agency would include the following or similar statement in its preference program:

> The State currently is unable to use ground granulated blast furnace slag in cement and concrete products due to the high transportation costs of this material. Therefore, this State has concluded that, based on RCRA section 6002(c)(1)(C), it is not required to procure this material.

EPA notes that, in accordance with RCRA section 6002(i)(2)(D), it is the procuring agency's responsibility to monitor and regularly update its affirmative procurement program. Should an item that was previously unobtainable become available, then the procuring agency should modify its affirmative procurement program accordingly.

B. Items Proposed for Designation

No commenters opposed the designations of the following items: Structural fiberboard, laminated paperboard, patio blocks, traffic barricades, traffic cones, playground surfaces, running tracks, hydraulic mulch, plastic desktop accessories, and plastic trash bags. Therefore, today, EPA is promulgating these item designations as proposed. The following subsections discuss the significant comments pertaining to the remaining proposed item designations.

1. Engine Coolants

Comment: Two commenters asked that EPA clarify that the proposed designation applies only to engine coolants used in vehicles and not to other glycol-based coolants used in other types of machinery such as generator motors.

Response: EPA believed that inclusion of engine coolants in the Vehicular Products Category clarifies that the designation is limited to vehicular engine coolants and does not apply to other non-vehicular coolants. However, to remove any ambiguity, EPA is revising the engine coolant designation to specify that it applies to vehicles only.

Comment: Two commenters urged EPA to limit the designation to ethylene-glycol based engine coolants and exclude other types of engine coolants. These two commenters stated that propylene glycol is not currently being reclaimed and that, therefore, propylene glycol-based engine coolants do not meet the statutory requirements for designation. Furthermore, one commenter noted that U.S. automobile manufacturers "currently disallow the use of propylene glycol engine coolants in their products. Products which are not ethylene glycol-based fail to meet the appropriate chemical properties requirement and are therefore not qualified for use in American Automobile Manufacturers Association members' vehicles."

Response: EPA believes that propylene glycol-based engine coolants are not currently being recovered and processed into reclaimed engine coolants. However, EPA is unaware of any technical reason that would prevent this from occurring. RCRA directs EPA to "designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of this section (Section 6002 of RCRA)." Rather than precluding procuring agencies from purchasing propylene glycol-based engine coolants and reclaiming them, EPA concludes that it is inappropriate to limit the item designation to ethylene glycol-based engine coolants only. If propylene glycol-based engine coolants do not meet a procuring agency's performance requirements, the agency need not purchase them. Thus, EPA has decided to finalize the engine coolants designation as proposed.

2. Plastic Pipe and Fittings

Comment: While one commenter supported the proposed designation of plastic pipe and fittings, EPA received numerous comments expressing concern about the possible liability and adverse effects were there to be failures of plastic pipe containing recovered materials. These commenters stated that the American Society for Testing and Materials (ASTM) and American Association of State Highway and Transportation Officials (AASHTO) are currently reviewing their material specifications that preclude the use of recovered materials in plastic pipe and fittings for possible revision to allow the use of these materials. These commenters suggested that ASTM and other reliable specifications are necessary to ensure the quality of plastic pipe containing recovered materials, and that EPA should not designate plastic pipe containing recovered materials until such specifications are in place.

Response: As described in the proposed CPG, several manufacturers have conducted performance testing on pipe made with recovered materials and demonstrated that the pipe meets applicable ASTM performance specifications. However, there currently exist ASTM and other material specifications that preclude the use of recovered materials in plastic pipe and fittings. As pointed out by commenters, there is a major effort underway to review these specifications for possible revision to allow the use of recovered materials. This effort is not yet completed. Based on the comments received, EPA has become aware that many manufacturers and users of plastic pipe do not believe that adequate testing, especially field testing, has been conducted and that designation should be delayed until such testing is conducted. For this reason, EPA has determined that it is premature to designate plastic pipe and fittings, even for non-pressure applications.

Many commenters in industry and government, particularly state transportation officials, expressed a strong interest in working with EPA to overcome the barriers to using plastic pipe made of recovered materials. At least one state transportation office currently is conducting field testing of HDPE drain pipe made of recovered materials. EPA will continue to follow developments in this area and will reconsider designating plastic pipe when these barriers have been overcome. In the meantime, EPA encourages manufacturers and users of plastic pipe made with recovered materials to keep the Agency apprised of new developments in product performance testing and revision of material specifications.

3. Geotextiles

Comment: Although many commenters supported the proposed designation of geotextiles, the majority of commenters opposed it. Those in support of the designation stated that there are non-woven geotextiles available made with postconsumer recovered polyethylene terephthalate (PET) and they are being used in a variety of applications. These commenters also stated that adequate performance testing has been conducted to justify the designation of geotextiles made with recovered materials. Commenters opposed to the proposed designation of geotextiles expressed concern that using recovered resins in geotextiles could result in catastrophic failures if used in critical applications, such as in landfills or in road construction. These commenters stated that evidence does not exist on the long-term performance of geotextiles made with recovered resin or on the chemical compatibility of geotextiles containing recovered materials when used in landfill applications. Additional commenters claimed that no manufacturers actually make geotextiles with postconsumer polypropylene, that the technology does not exist to make geotextiles with recovered polypropylene, and that high-quality postconsumer polypropylene is not available in sufficient quantities for use in making geotextiles.

Response: EPA has not yet been able to resolve the numerous technical issues raised during the comment period. To do so would have meant a delay in issuance of the final CPG and a delay in the date on which procuring agencies would be required to begin purchasing the 19 additional items that are being designated at this time. Thus, EPA determined that it would be best to issue the CPG for those items on which the Agency is ready to proceed and to defer a final decision on the designation of geotextiles until a future update of the CPG.

EPA will continue to track developments in this area, evaluate the issues raised by commenters, and maintain a dialog with manufacturers and users of geotextiles. EPA encourages manufacturers of geotextiles made with recovered materials to keep the Agency apprised of new products being manufactured with recovered materials, the availability of recovered polypropylene, and developments in product performance testing.

4. Cement and Concrete Containing Ground Granulated Blast Furnace Slag

Comment: Several commenters opposed the designation of ground granulated blast furnace (GGBF) slag because of its lack of availability.

Response: EPA has concluded that availability is not a barrier to designating GGBF slag. Data provided in comments by GGBF slag producers indicate that granulators currently are located at four steel plants, an additional five steel companies are considering the installation of granulation capacity at locations in six states, ten cement manufacturers in nine states currently grind granulated blast furnace slag, and excess capacity is available to supply granulated blast furnace slag to additional customers. Additionally, EPA's Report to Congress on special wastes from mineral processing[1] indicates that most U.S. primary iron producers are expected to modernize their blast furnaces and install slag granulation facilities, resulting in greater availability of granulated blast furnace slag for use in cement and concrete.

While GGBF slag currently is used primarily in Eastern states and states located just west of the Mississippi River, the product also has been used in states more remote from the nation's steel centers (e.g., Texas, Oklahoma, and Colorado), indicating that this item can be made available to states that are not proximate to steel mills. In light of the Agency's past experience with the positive effect of an item designation on markets, EPA concludes that designation of cement and concrete containing GGBF slag will encourage additional states to consider the use of GGBF slag, thereby creating expanded markets for this item.

If a procuring agency determines that cement or concrete containing GGBF slag is not available, it is not required to purchase this item. Section 6002 of RCRA provides that procuring agencies need not purchase a designated item if the item is not reasonably available within a reasonable period of time or the item is available only at an unreasonable price. The procuring agency must, however, take the affirmative step of inquiring whether the item is or can be made available.

Comment: The comments contained both positive and negative information about the performance of cement and concrete containing GGBF slag. Several states commented that they use GGBF

[1] "Report to Congress on Special Wastes from Mineral Processing," Volume II: Methods and Analyses, U.S. Environmental Protection Agency Office of Solid Waste, July 1990, Chapter 8.

VOL 60 ISS 83 MY 1 1995 UMI

slag in cement or concrete for its positive attributes. A federal agency also cited several positive attributes of this material. The positive attribute most often cited was GGBF slag-cement's contribution to a reduction in alkali-silica reactivity. It also adds cementitious properties.

Commenters also cited negative performance factors about the use of GGBF slag, although conflicting information was provided about almost all of these factors. For example, commenters noted that concrete containing GGBF slag has a slower set time than concrete without GGBF slag. This fact could limit the time of year in which the product is used. However, considering that 70% of concrete is used in warmer months, other commenters stated that slower set time, in an of itself, is not a barrier to using this product in most projects.

Response: EPA's detailed response to each of these comments is contained in "Comprehensive Procurement Guideline—Supporting Analyses." In many instances, the negative attributes cited by commenters were cited as positive attributes by others. For example, slower setting times are often advantageous, especially in warm weather when 70 percent of concrete is placed. With respect to other performance criteria, other commenters provided conflicting information. For example, while some commenters cited a problem with the workability of concrete containing GGBF slag, a Federal agency commented that GGBF slag will generally improve the workability of concrete. Based on a review of the information submitted by commenters, EPA agrees with one commenter that GGBF slag is suitable for some, but not all, concrete applications and, therefore, should not be blindly substituted for Portland cement without regard for its effects on the characteristics of the concrete mix.

For the following reasons, EPA concludes that cement and concrete containing GGBF slag should be designated: (1) The use of GGBF slag in cement and concrete can provide beneficial properties to users of concrete, such as reduced alkali-silica reactions, (2) the use of GGBF slag in cement and concrete can reduce the quantities of this material requiring disposal, and (3) cement and concrete containing GGBF slag is used on a widespread basis in several states. Additionally, EPA believes that the designation of this item will encourage procuring agencies to learn more about this product, which will, in turn, increase the likelihood that they will begin to purchase it where it is available and meets their performance requirements.

Under the exceptions in RCRA section 6002, in those instances where the use of GGBF slag will not meet a procuring agency's reasonable performance requirements, the agency is not required to purchase the product.

Comment: Several state agencies commented that coal fly ash is generated and used in their state. They stated that a designation of GGBF slag could result in reduced markets for coal fly ash because GGBF slag would compete with coal fly ash.

Response: EPA's designation of GGBF slag does not require procuring agencies to favor this item over coal fly ash. Because it is an expansion of the existing cement and concrete designation, the GGBF slag designation simply requires that procuring agencies use cement and concrete containing either coal fly ash or GGBF slag when it meets their price and performance objectives. Which type of cement or concrete a procuring agency purchases will depend on a number of factors, including the performance requirements for the construction project, product availability, competition, and product price.

5. Carpet

Comment: Several commenters were concerned about the proposed designation of polyester carpet, stating that this item generally does not meet the performance standards for commercial applications. Commenters stated that nylon carpeting is preferred in commercial applications because of the fiber's superior performance characteristics, while polyester carpeting is mainly suited for low-wear or residential applications. Another commenter stated that nylon fibers can be made in a loop pile construction, whereas polyester fibers are typically made in a cut-pile construction which is prone to faster wear.

Response: EPA is aware that polyester carpeting may not perform as well as nylon carpeting in high-wear and severe-wear applications. For this reason, EPA proposed to designate polyester carpet for low- and medium-wear applications only. The designation of polyester carpet applies only in those cases where procuring agencies have determined that polyester carpet has suitable performance characteristics to meet the agencies' particular applications. Where it is determined that polyester carpet is suitable, procuring agencies should purchase polyester carpet containing recovered materials.

6. Floor Tiles

Comment: No commenters opposed the proposed designation of floor tiles. However, commenters explained that floor tiles containing recovered materials are not typically used in certain applications, such as for standard office flooring. Commenters explained that their use has been limited to certain heavy-duty applications.

Response: EPA is not aware of any floor tiles containing recovered materials being used in standard office flooring applications; consistent with information submitted by commenters, their use has been limited to heavy-duty, commercial applications. For this reason, EPA is limiting the recommendations contained in the Recovered Materials Advisory Notice that accompanies today's rule to rubber and plastic floor tiles used in heavy-duty, commercial applications. If other uses, such as for standard office flooring are identified in the future, EPA will consider revising its recommendations to incorporate these applications.

7. Yard Trimmings Compost

Comment: One commenter expressed concern about the proposed designation of yard trimmings compost because there are a lack of national standards for this item.

Response: The Agency does not believe that a lack of national standards will inhibit the general use of yard trimmings compost, or that national standards are a necessary prerequisite for its designation. As noted in the preamble to the proposed rule, compost can have many different applications, each of which may require compost with differing characteristics. For instance, using compost for turf establishment would typically require a mature, cured compost, while an application for landfill cover might utilize less mature compost. As explained in EPA's draft RMAN issued concurrently with the proposed CPG, the State of Maine has developed quality standards for six different types of compost ranging from topsoil (three classes), to wetlands substrate, to mulch (two classes) (see 59 FR 18906, April 20, 1994). These standards are being used by many State agencies in purchasing compost and can serve as a guide to anyone purchasing this item.

In addition to the guidance afforded by the State of Maine's quality standards, compost suppliers can assist procuring agencies in determining the type(s) of compost needed for particular applications. The agency recommends, therefore, that when purchasing yard trimmings compost, the specific use of the compost should be described to the supplier to ensure the purchase of a product compatible with the intended use.

In the preamble to the proposed CPG, EPA also noted that the Composting Council, a diverse group of professionals engaged in promoting the beneficial use of compost, as well as a number of State agencies are developing standards and specifications for compost (see 59 FR 18878, April 20, 1994). As these standards are developed, EPA will make their availability known to procuring agencies by referencing them in a future Recovered Materials Advisory Notice.

8. Office Recycling Containers and Waste Receptacles

Comment: One commenter questioned EPA's proposed designation of steel office recycling containers and office waste receptacles, stating that the amount of steel used to manufacture such items is inconsequential when compared to the amount of steel produced in the U.S. Another commenter stated that the designation of recycling containers and waste receptacles made from multiple materials (i.e., plastic, steel, and paper) could encourage the purchase of plastic and paper containers rather than the traditional steel containers.

Response: EPA encourages the use of all recovered materials in products and does not favor one material over another. If EPA did not include steel containers in its designation, procuring agencies might assume that EPA was recommending the use of plastic or paper containers only, when this is not the case. Additionally, steel containers made from recovered materials are readily available as are containers made from plastic and paper. For these reasons, the Agency believes it is appropriate to designate containers made from steel, paper, and plastic. EPA also believes that the type of containers purchased should be the sole decision of the procuring agencies and that they can best choose the product that meets their needs.

9. Toner Cartridges

Comment: Two commenters contested EPA's designation of remanufactured toner cartridges, citing RCRA section 6002(e)(1) and Executive Order 12873 as requiring EPA to designate items made with "recovered," not "remanufactured" materials. The commenters further stated that, should EPA proceed with its designation of remanufactured toner cartridges, it should expand the designation to include new toner cartridges made from recovered materials as well.

Response: EPA believes that the designation of remanufactured toner cartridges is consistent with the directives contained in RCRA section 6002 and Executive Order 12873. EPA believes that the reuse of materials in remanufacturing operations falls within the statutory definition of "recovered materials" in that these are materials "which have been recovered or diverted from solid waste, but * * * not * * * generated from, and commonly reused within, an original manufacturing process." Additionally, in 1988, the Agency designated retread tires as a guideline item (53 FR 46558, November 17, 1988). Retread tires are also remanufactured items.

EPA now has information that toner cartridges made with recovered materials are available for purchase. Thus, EPA agrees with the commenters that it is appropriate at this time to designate toner cartridges made with recovered materials as well as remanufactured toner cartridges. Therefore, the Agency has changed its designation from "remanufactured toner cartridges" to "toner cartridges" to include new cartridges made with recovered materials.

10. Binders

Comment: Two commenters stated that EPA's proposed item designation for binders was incomplete because it did not mention binders made from pressboard.

Response: The commenters are correct. EPA inadvertently omitted reference to pressboard in the proposed CPG under the erroneous assumption that "pressboard" was included in the term "chipboard." EPA has since determined that this is not the case. For this reason, today's final item designation for binders references chipboard and pressboard, both of which are paper and paperboard products. As explained in the final Recovered Materials Advisory Notice that accompanies this final CPG, procuring agencies should rely on the guidance provided in Section II, Part A of the Recovered Materials Advisory Notice that accompanies this final CPG and in the draft Paper Products Recovered Materials Advisory Notice (60 FR 14182, March 15, 1995) when purchasing chipboard or pressboard binders.

C. Other Items Considered for Designation

In addition to the items proposed for designation, EPA listed and requested information on 23 items as potential items for future designation and 4 items that the Agency believed were inappropriate for designation at this time (59 FR 18881, April 20, 1994).

EPA received comments on most of the 23 items listed as potential items for future designation. In addition, EPA received comments on pallet stretch wrap and strapping, which, at proposal, were two of the items EPA believed to be inappropriate to designate (59 FR 18812, April 20, 1994). Three commenters provided information on pallet stretch wrap and one on strapping, indicating that these two items may be suitable for designation. The information provided in the comments will be considered when the Agency evaluates items for possible designation in a future update of the CPG.

D. Public Participation in Future Updates to the CPG

In the proposed rule, the Agency announced it would develop procedures that would allow the public to suggest items for inclusion in future updates of the CPG and to provide information on products made from recovered materials. The proposal also solicited public comment on possible options for increasing public participation in developing updates to the CPG and RMAN. EPA did not receive any comments relating to this issue.

EPA still intends to establish such a process and will issue a future **Federal Register** notice that describes this process.

IV. Availability of Designated Items

EPA has developed lists of manufacturers and vendors of the items designated in today's final CPG. These lists will be updated periodically as new sources are identified and EPA becomes aware of changes in product availability. To assist procuring agencies, the lists will be made available at no charge by calling EPA's RCRA Hotline at (800) 424–9346, or, in the Washington, DC area, at (703) 412–9810. They also will be available for review in the RCRA Information Center (RIC). For additional details about the location and operating schedule of the RIC, see the "Address" section at the beginning of this **Federal Register** notice. Procuring agencies are encouraged to contact manufacturers and vendors directly to discuss their specific needs and to obtain detailed information on the availability and price of recycled content products meeting those needs.

The U.S. General Services Administration (GSA) publishes an "Environmental Products Guide," which lists items available through its

VOL 60 ISS 83 MY 1 1995 UMI

Federal Supply Service. This Guide is updated periodically as new items become available. Copies of the GSA "Environmental Products Guide" can be obtained by contacting GSA's Centralized Mailing List Service in Fort Worth, Texas at (817) 334–5215.

In addition to the information provided by EPA and GSA, there are other publicly-available sources of information about products containing recovered materials. For example, the "Official Recycled Products Guide" (RPG) was established in March 1989 to provide a broad range of information on recycled content products. Listings include product, company name, address, contact, telephone, fax, type of company (manufacturer or distributor), and minimum recycled content. Price information is not included. The RPG is available on a subscription basis from American Recycling Market, Inc., (800) 267–0707. Private corporations that have researched recycled product availability may also be willing to make this information publicly available. For instance, as part of the McRecycle USA® program, the McDonald's Corporation established a Registry Service for manufacturers and suppliers of recycled content products. The Corporation has compiled a database of registrants and makes this information available upon request. More information on the McRecycle USA® Registry Service is available by calling (800) 220–3809.

State and local recycling programs are also a potential source of information on local distributors and availability. In addition, state and local government purchasing officials that are contracting for recycled content products may have relative price information. A list of state purchasing/procurement officials has been placed in the RIC and will be updated periodically. Also included in the public docket is a list of states with recycled content products purchasing programs, current as of April 1994. Information is also available from trade associations whose members manufacture or distribute products containing recovered materials. A list of such trade associations is also included in the RIC.

V. Economic Impact Analysis

A. Requirements of Executive Order 12866

Executive Order 12866 requires agencies to determine whether a regulatory action is "significant." The Order defines a "significant" regulatory action as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The cost of the rule is below the $100 million threshold. However, EPA believes that the rule may raise policy issues and, therefore, is considering it a significant regulatory action. To enable the Agency to evaluate the potential impact of today's action, EPA has conducted an Economic Impact Analysis (EIA), discussed below. For more information on the EIA, see "Technical Background Document for the Comprehensive Procurement Guideline."

B. Unfunded Mandates Reform Act of 1995 and Consultation With State, Local, and Tribal Governments

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), Pub. L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the Act EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in estimated annualized costs of $100 million or more to either State, local and tribal governments in the aggregate, or to the private sector. To the extent enforceable duties arise as a result of today's rule on State, local and tribal governments, they are exempt from inclusion as Federal intergovernmental mandates if such duties are conditions of Federal assistance. Even if they are not conditions of Federal assistance, such enforceable duties do not result in a significant regulatory action being imposed upon State, local and tribal governments since the estimated aggregate cost of compliance for them are not expected to exceed, at the maximum, $5.1 million annually. The cost of enforceable duties which may arise as a result of today's rule on the private sector are estimated not to exceed $130,000 annually. Thus, today's rule is not subject to the written statement requirement in sections 202 and 205 of the Act.

The newly designated items included in the CPG may give rise to additional obligations under section 6002(i) (requiring procuring agencies to adopt an affirmative procurement program and to amend their specifications) for state and local governments and tribal authorities. As noted above, the expense associated with any additional costs is not expected to exceed, at the maximum, $5.1 million annually. In compliance with E.O. 12875, which requires the involvement of State, local and tribal governments in the development of certain Federal regulatory actions, EPA conducted a wide outreach effort and actively sought the input of representatives of state, local and tribal governments in the process of developing the final designation. Thus, Agency personnel have met with their representatives in a number of different forums. For example, EPA staff involved in development of the CPG spoke and met with attendees at the annual meeting of the National Institute for Government Purchasing, Inc., which includes representatives of government purchasing offices. EPA representatives have met with government officials at trade association gatherings such as the National Recycling Coalition annual conference.

The requirements do not significantly affect small governments because they are subject to the same requirements as other entities whose duties result from today's rule. As discussed above, the expense associated with any additional costs to State, local and tribal governments, is not expected to exceed, at the maximum, $5.1 million annually. The requirements do not uniquely affect small governments because they have the same ability to purchase these designated items as other entities whose duties result from today's rule. Additionally, use of designated items affects small governments in the same manner as other such entities. Thus, any applicable requirements of section 203 have been satisfied.

C. Summary of Benefits

EPA anticipates that this rule will result in increased opportunities for recycling and waste prevention. Waste prevention can reduce the nation's reliance on natural resources by reducing the amount of materials used in making products. This results in a commensurate reduction in energy use and in the generation and release of air and water pollutants associated with manufacturing. Additionally, waste prevention leads to a reduction in the environmental impacts of mining, harvesting, and other extraction processes.

Recycling can effect the more efficient use of natural resources. For many products, the use of recovered materials in manufacturing can result in significantly lower energy and material input costs than when virgin raw materials are used; reduce the generation and release of air and water pollutants often associated with manufacturing; and reduce the environmental impacts of mining, harvesting, and other extraction of natural resources. In addition to conserving non-renewable resources, recycling can also divert large amounts of materials from landfills, conserving increasingly valuable space for the management of materials that truly require disposal. This reduces the need to expand existing or site new disposal facilities, allowing local government officials to devote more attention to health, education, and safety issues.

By purchasing products made from recovered materials, government agencies can increase opportunities for realizing these benefits. On a national and regional level, this rule can result in expanding and strengthening markets for materials diverted or recovered through public and private collection programs. Also, since many State and local governments, as well as private enterprises, reference EPA guidelines when purchasing designated items, the CPG can result in increased purchase of recycled products, locally, regionally, and nationally.

Finally, purchase and use of recycled products by government agencies can also spur private sector development of new technologies, creating business and employment opportunities that enhance local, regional, and national economies. Technological innovation associated with the use of recovered materials can translate into economic growth and make American industry more competitive in the global economy.

D. Summary of Costs

As discussed in Section III, EPA received several comments regarding the cost estimates presented in the proposed CPG. Based on these comments and actual cost information submitted by commenting Federal agencies, EPA modified its approach to estimating costs attributable to the CPG. Details on EPA's approach for estimating costs presented in this subsection are included in "Technical Background Document for the Comprehensive Procurement Guideline." This document is included in the RCRA docket for this rulemaking.

As shown in Table 2 below, EPA estimates that the annualized costs of today's rule will range from $10 to $13 million, with costs being spread across all procuring agencies (i.e., Federal agencies, State and local agencies that use appropriated Federal funds to procure designated items, and contractors to all three). These costs are annualized over a 10-year period at a three percent discount rate. Because there is considerable uncertainty regarding several of the parameters that drive the costs, EPA conducted a sensitivity analysis to identify the range of potential costs of this rule. Thus, high-end and low-end estimates are presented along with the best estimate. The primary parameters affecting the range of cost estimates are the number of products each procuring agency is assumed to procure each year and the number of contractors that will be affected by this rule.

TABLE 2.—SUMMARY OF ANNUALIZED COSTS OF CPG TO ALL PROCURING AGENCIES

Procuring agency	Total annualized costs ($1000)	Best estimate total annualized costs ($1000)
Federal agencies	$8,100–$7,500	$8,100
States	1,600–1,000	1,600
Local governments	3,500–1,800	2,800
Contractors	130–26	79
Total	13,300–10,300	12,600

RCRA section 6002(g) requires the Office of Federal Procurement Policy to report to Congress every two years on the actions taken by Federal agencies to comply with RCRA section 6002. In developing this report, OFPP requests information and data from Federal agencies regarding their affirmative procurement programs and related activities. Table 3 below presents the estimated annualized costs to Federal agencies, including (1) specification revision and affirmative procurement program modification/implementation costs, and (2) recordkeeping and reporting costs. The recordkeeping and reporting costs presented below are the likely costs that would be incurred by Federal agencies to maintain and compile information for and complete the annual OFPP information request using the existing OFPP reporting format (i.e., the format used to collect information for fiscal years 1993 and 1994).

TABLE 3.—SUMMARY OF BEST ESTIMATE ANNUALIZED COSTS OF CPG TO FEDERAL AGENCIES

Federal agency	Specification revision and APP costs ($1000)	Recordkeeping and reporting costs ($1000)	Total annualized costs ($1000)
Civilian Agencies	$1,100	1,500	$2,700
Defense Agencies	2,000	3,400	5,400
Total	3,100	5,000	8,100

VOL 60 ISS 83 MY 1 1995 UMI

Many Federal agencies have stated that the current OFPP format is overly burdensome and costly to complete. To address these concerns, the Office of the Federal Environmental Executive has formed a workgroup which includes representatives from OFPP and several Federal agencies to examine methods of streamlining the current reporting format. Based on information and data submitted by two Federal agencies, EPA estimates that if OFPP revised the current format to request data on purchases made at and above the small purchase threshold and only anecdotal information on small purchases and bankcard acquisitions, Federal recordkeeping and reporting costs could be reduced by 75 percent.

E. Product Cost

Another potential cost of today's action is the possible price differential between an item made with recovered materials and an equivalent item manufactured using virgin materials. As discussed in the proposed CPG (59 FR 18859), relative prices of recycled content products compared to prices of comparable virgin products vary. In many cases, recycled content products may be less expensive than their virgin counterparts. In other cases, virgin products may have lower prices than recycled content products. However, other factors can also affect the price of virgin products. For example, temporary fluctuations in the overall economy can create oversupplies of virgin products, leading to a decrease in prices for these items. Under RCRA section 6002(c), procuring agencies are not required to purchase a product containing recovered materials if it is only available at an unreasonable price. However, the decision to pay more or less for such a product is left to the procuring agency.

F. Regulatory Flexibility Analysis

The primary purpose of the Regulatory Flexibility Analysis is to identify if there is an adverse impact to small businesses that are directly regulated by the rule and to examine regulatory alternatives that fall within the scope of the statutory requirements that would reduce impacts to small businesses, small organizations, or small governmental jurisdictions subject to the regulation. The RCRA procurement requirements apply to procuring agencies that procure more than $10,000 of a designated product. No exemption is included in the statute for small businesses. Therefore, EPA has decided that alternative regulatory approaches for small businesses are not appropriate for this rule.

With regard to possible impacts to small businesses, there may be both positive and negative impacts to individual businesses. EPA anticipates that this rule will provide additional opportunities for small recycling businesses to begin supplying recovered materials to manufacturers and products made from recovered materials to procuring agencies. In addition, other small businesses that do not directly contract with procuring agencies may be affected positively by the increased demand for recovered materials. These include small businesses involved in materials recovery programs and materials recycling. Municipalities that run recycling programs are also expected to benefit from the increased demand for certain recovered materials.

EPA is unable to determine the number of small businesses that may be adversely impacted by this rule. It is possible that if a small business that currently supplies products to a procuring agency uses virgin materials only, the CPG may reduce its ability to compete for future contracts. However, the CPG will not affect existing purchase orders, nor will it preclude businesses from adapting their product lines to meet new specification or solicitation requirements for products containing recovered materials. Thus, many small businesses that market to procuring agencies have the option to adapt their product lines to meet specifications.

VI. Supporting Information

In addition to the documents listed in the preamble to the proposed rule (59 FR 18885–18888; April 20, 1994), EPA relied on information contained in the following documents when developing today's final Comprehensive Procurement Guideline:

—"Comprehensive Procurement Guideline—Supporting Analyses," April 1995.
—"Technical Background Document for the Comprehensive Procurement Guideline," April 1995.
—"Final Summary of Responses to the Proposed Comprehensive Guideline for Procurement of Products Containing Recovered Materials," prepared for EPA by Science Applications International Corporation, Inc., March 1995.
—"Report on Research in Response to Comments on the Comprehensive Procurement Guideline," prepared for EPA by Science Applications International Corporation, Inc., February 1995.
—"Missing the (Steel) Mark: EPA Procurement Guidelines Fail to Recognize Steel," Bill Heenan, The Recycling Magnet, Fall 1994, p. 2.
—Memoranda to the record and notes from ex parte communications with industry and other representatives.

Appendix I—Other Procedures and Policies Affecting Procurement of Products Containing Recovered Materials

A. Federal Acquisition Regulation

The Federal Acquisition Regulation (FAR) (48 CFR 1) is the primary regulation used by Executive agencies in their acquisition of supplies and services. Part 23 sets forth requirements and procedures for Federal agencies to use when procuring EPA-designated items.

B. OFPP Policy Letter 92–4

The White House Office of Federal Procurement Policy's Policy Letter 92–4, "Procurement of Environmentally-Sound and Energy-Efficient Products and Services" (57 FR 53362), establishes Executive branch policies for the acquisition and use of environmentally-sound, energy-efficient products and services. In addition to reiterating the requirements of RCRA section 6002, the Policy Letter requires Executive agencies to (1) identify and procure products and services that, all factors taken into consideration, are environmentally-sound and energy-efficient, and (2) employ life cycle cost analysis to assist in making product and service selections.

C. OMB Circular A–102

On October 14, 1994, the White House Office of Management and Budget published revisions to OMB Circular A–102, "Grants and Cooperative Agreements with State and Local Governments" (59 FR 52224). Paragraph 2(h) of the circular requires State and local government recipients of Federal assistance funding to comply with RCRA section 6002.

D. OMB Circular A–119

OMB Circular A–119, "Federal Participation in the Development and Use of Voluntary Standards" (54 FR 57645), sets forth policy for Executive agencies to follow in working with voluntary standards bodies and in adopting and using voluntary standards. Paragraph 7(a)(4) recommends that Federal agencies give preference to adopting and using standards that "foster materials, products, systems, or practices that are environmentally-sound and energy-efficient."

E. OMB Circular A–131

OMB Circular A–131, "Value Engineering" (58 FR 31056), requires Executive agencies to use value engineering as a management tool to reduce program and acquisition costs. Paragraph 8(b) requires agencies to develop guidelines for both in-house personnel and contractors to identify programs/projects with the most potential to yield savings from the application of value engineering techniques. Paragraph 3(b)(4) further requires this guidance to ensure that the application of value engineering to construction and other projects/programs includes consideration of environmentally-sound and energy-efficient results.

List of Subjects

40 CFR Part 247

Environmental protection, Carpet, Cement industry, Engine coolant, Floor tiles, Government procurement, Insulation, Landscaping industry, Office products, Paper and paper products industry, Park and recreation products, Patio blocks, Petroleum, Recycling, Tires, Traffic control devices.

40 CFR Parts 248, 249, 250, 252, and 253

Cement industry, Government procurement, Insulation, Paper and paper products industry, Petroleum, Recycling.

Dated: April 21, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations, parts 247, 248, 249, 250, 252, and 253, are amended as set forth below.

PARTS 248, 249, 250, 252, AND 253—[REMOVED]

1. Parts 248, 249, 250, 252, and 253 are removed.

2. Part 247 is revised to read as follows.

PART 247—COMPREHENSIVE PROCUREMENT GUIDELINE FOR PRODUCTS CONTAINING RECOVERED MATERIALS

Subpart A—General

Sec.
247.1 Purpose and scope.
247.2 Applicability.
247.3 Definitions.
247.4 Contracting officer requirements.
247.5 Specifications.
247.6 Affirmative procurement programs.
247.7 Effective date.

Subpart B—Item Designations

247.10 Paper and paper products.
247.11 Vehicular products.
247.12 Construction products.
247.13 Transportation products.
247.14 Park and recreation products.
247.15 Landscaping products.
247.16 Non-paper office products.
247.17 Miscellaneous products. [Reserved]

Authority: 42 U.S.C. 6912(a) and 6962; E.O. 12873, 58 FR 54911.

Subpart A—General

§ 247.1 Purpose and scope.

(a) The purpose of this guideline is to assist procuring agencies in complying with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6962, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of this part.

(b) This guideline designates items that are or can be made with recovered materials and whose procurement by procuring agencies will carry out the objectives of section 6002 of RCRA. EPA's recommended practices with respect to the procurement of specific designated items are found in the companion Recovered Materials Advisory Notice(s).

(c) EPA believes that adherence to the recommendations in the Recovered Materials Advisory Notice(s) constitutes compliance with RCRA section 6002. However, procuring agencies may adopt other types of procurement programs consistent with RCRA section 6002.

§ 247.2 Applicability.

(a)(1) This guideline applies to all procuring agencies and to all procurement actions involving items designated by EPA in this part, where the procuring agency purchases $10,000 or more worth of one of these items during the course of a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more.

(2) This guideline applies to Federal agencies, to State and local agencies using appropriated Federal funds to procure designated items, and to persons contracting with any such agencies with respect to work performed under such contracts. Federal procuring agencies should note that the requirements of RCRA section 6002 apply to them whether or not appropriated Federal funds are used for procurement of designated items.

(3) The $10,000 threshold applies to procuring agencies as a whole rather than to agency subgroups such as regional offices or subagencies of a larger department or agency.

(b) The term "procurement actions" includes:

(1) Purchases made directly by a procuring agency and purchases made directly by any person (e.g., a contractor) in support of work being performed for a procuring agency, and

(2) Any purchases of designated items made "indirectly" by a procuring agency, as in the case of procurements resulting from grants, loans, funds, and similar forms of disbursements of monies.

(c)(1) This guideline does not apply to purchases of designated items which are unrelated to or incidental to Federal funding, i.e., not the direct result of a contract or agreement with, or a grant, loan, or funds disbursement to, a procuring agency.

(2) This guideline also does not apply to purchases made by private party recipients (e.g., individuals, non-profit organizations) of Federal funds pursuant to grants, loans, cooperative agreements, and other funds disbursements.

§ 247.3 Definitions.

As used in this procurement guideline and the related Recovered Materials Advisory Notice(s):

Act or *RCRA* means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C 6901 *et seq;*

Blanket insulation means relatively flat and flexible insulation in coherent sheet form, furnished in units of substantial area. Batt insulation is included in this term;

Board insulation means semi-rigid insulation preformed into rectangular units having a degree of suppleness, particularly related to their geometrical dimensions;

Building insulation means a material, primarily designed to resist heat flow, which is installed between the conditioned volume of a building and adjacent unconditioned volumes or the outside. This term includes but is not limited to insulation products such as blanket, board, spray-in-place, and loose-fill that are used as ceiling, floor, foundation, and wall insulation;

Cellulose fiber loose-fill means a basic material of recycled wood-based cellulosic fiber made from selected paper, paperboard stock, or ground wood stock, excluding contaminated materials which may reasonably be expected to be retained in the finished product, with suitable chemicals introduced to provide properties such as flame resistance, processing and handling characteristics. The basic cellulosic material may be processed into a form suitable for installation by pneumatic or pouring methods;

Engine lubricating oils means petroleum-based oils used for reducing friction in engine parts;

Federal agency means any department, agency, or other instrumentality of the Federal government; any independent agency or

VOL
60
ISS
83
MY
1
1995
UMI

establishment of the Federal government including any government corporation; and the Government Printing Office;

Fiberglass insulation means insulation which is composed principally of glass fibers, with or without binders;

Foam-in-place insulation is rigid cellular foam produced by catalyzed chemical reactions that hardens at the site of the work. The term includes spray-applied and injected applications such as spray-in-place foam and pour-in-place;

Gear oils means petroleum-based oils used for lubricating machinery gears;

Hydraulic fluids means petroleum-based hydraulic fluids;

Hydraulic mulch means a mulch that is a cellulose-based (paper or wood) protective covering that is mixed with water and applied through mechanical spraying in order to aid the germination of seeds and to prevent soil erosion;

Hydroseeding means the process of spraying seeds mixed with water through a mechanical sprayer (hydroseeder). Hydraulic mulch, fertilizer, a tacking agent, or a wetting agent can also be added to the water/seed mix for enhanced performance;

Laminated paperboard means board made from one or more plies of kraft paper bonded together, with or without facers, that is used for decorative, structural, or insulating purposes;

Loose-fill insulation means insulation in granular, nodular, fibrous, powdery, or similar form, designed to be installed by pouring, blowing or hand placement;

Mineral fiber insulation means insulation (rock wool or fiberglass) which is composed principally of fibers manufactured from rock, slag or glass, with or without binders;

Paper means one of two broad subdivisions of paper products, the other being paperboard. Paper is generally lighter in basis weight, thinner, and more flexible than paperboard. Sheets 0.012 inch or less in thickness are generally classified as paper. Its primary uses are for printing, writing, wrapping, and sanitary purposes. However, in this guideline, the term paper is also used as a generic term that includes both paper and paperboard.

Paper product means any item manufactured from paper or paperboard. The term paper product is used in this guideline to distinguish such items as boxes, doilies, and paper towels from printing and writing papers.

Perlite composite board means insulation board composed of expanded perlite and fibers formed into rigid, flat, rectangular units with a suitable sizing material incorporated in the product. It may have on one or both surfaces a facing or coating to prevent excessive hot bitumen strike-in during roofing installation;

Person means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body;

Phenolic insulation means insulation made with phenolic plastics which are plastics based on resins made by the condensation of phenols, such as phenol or cresol, with aldehydes;

Polyisocyanurate insulation means insulation produced principally by the polymerization of polymeric polyisocyanates, usually in the presence of polyhydroxyl compounds with the addition of cell stabilizers, blowing agents, and appropriate catalyst to produce a polyisocyanurate chemical structure;

Polystyrene insulation means an organic foam composed principally of polymerized styrene resin processed to form a homogenous rigid mass of cells;

Polyurethane insulation means insulation composed principally of the catalyzed reaction product of polyisocyanates and polyhydroxyl compounds, processed usually with a blowing agent to form a rigid foam having a predominantly closed cell structure;

Postconsumer material means a material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item.

Postconsumer material is a part of the broader category of *recovered materials*.

Postconsumer recovered paper means:

(1) Paper, paperboard and fibrous wastes from retail stores, office buildings, homes and so forth, after they have passed through their end-usage as a consumer item including: Used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards and used cordage; and

(2) All paper, paperboard and fibrous wastes that enter and are collected from municipal solid waste;

Practicable means capable of being used consistent with: Performance in accordance with applicable specifications, availability at a reasonable price, availability within a reasonable period of time, and maintenance of a satisfactory level of competition;

Procurement item means any device, good, substance, material, product, or other item, whether real or personal property, which is the subject of any purchase, barter, or other exchange made to procure such item;

Procuring agency means any Federal agency, or any State agency or agency of a political subdivision of a State, which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract;

Purchasing means the act of and the function of responsibility for the acquisition of equipment, materials, supplies, and services, including: Buying, determining the need, selecting the supplier, arriving at a fair and reasonable price and terms and conditions, preparing the contract or purchase order, and follow-up;

Recovered materials means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

Recovered materials, for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term *recovered materials* includes:

(1) Postconsumer materials such as—

(i) Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: Used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and

(ii) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and

(2) Manufacturing, forest residues, and other wastes such as—

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(iii) Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;

(iv) Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and

(v) Fibers recovered from waste water which otherwise would enter the waste stream.

Re-refined oils means used oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process;

Retread tire means a worn automobile, truck, or other motor vehicle tire whose tread has been replaced;

Rock wool insulation means insulation which is composed principally from fibers manufactured from slag or natural rock, with or without binders;

Specification means a description of the technical requirements for a material, product, or service that includes the criteria for determining whether these requirements are met. In general, specifications are in the form of written commercial designations, industry standards, and other descriptive references;

Spray-in-place insulation means insulation material that is sprayed onto a surface or into cavities and includes cellulose fiber spray-on as well as plastic rigid foam products;

Spray-in-place foam is rigid cellular polyurethane or polyisocyanurate foam produced by catalyzed chemical reactions that hardens at the site of the work. The term includes spray-applied and injected applications;

State means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

Structural fiberboard means a fibrous-felted, homogenous panel made from lignocellulosic fibers (usually wood, cane, or paper) and having a density of less than 31 lbs/ft^3 but more than 10 lbs/ft^3. It is characterized by an integral bond which is produced by interfelting of the fibers, but which has not been consolidated under heat or pressure as a separate stage of manufacture;

Tire means the following types of tires: Passenger car tires, light- and heavy-duty truck tires, high-speed industrial tires, bus tires, and special service tires (including military, agricultural, off-the-road, and slow-speed industrial);

§ 247.4 Contracting officer requirements.

Within one year after the effective date of each item designation, contracting officers shall require that vendors:

(a) Certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements, and

(b) Estimate the percentage of total material utilized for the performance of the contract which is recovered materials.

§ 247.5 Specifications.

(a) RCRA section 6002(d)(1) required Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies to revise their specifications by May 8, 1986, to eliminate any exclusion of recovered materials and any requirement that items be manufactured from virgin materials.

(b) RCRA section 6002(d)(2) requires that within one year after the publication date of each item designation by the EPA, each procuring agency must assure that its specifications for these items require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of these items.

§ 247.6 Affirmative procurement programs.

RCRA section 6002(i) provides that each procuring agency which purchases items designated by EPA must establish an affirmative procurement program, containing the four elements listed below, for procuring such items containing recovered materials to the maximum extent practicable:

(a) Preference program for purchasing the designated items;

(b) Promotion program;

(c) Procedures for obtaining estimates and certifications of recovered materials content and for verifying the estimates and certifications; and

(d) Annual review and monitoring of the effectiveness of the program.

§ 247.7 Effective date.

Within one year after the date of publication of any item designation, procuring agencies which purchase that designated item must comply with the following requirements of RCRA: affirmative procurement of the designated item (6002(c)(1) and (i)), specifications revision (6002(d)(2)), vendor certification and estimation of recovered materials content of the item (6002(c)(3) and (i)(2)(C)), and verification of vendor estimates and certifications (6002(i)(2)C)).

Subpart B—Item Designations

§ 247.10 Paper and paper products.

Paper and paper products, excluding building and construction paper grades.

§ 247.11 Vehicular products.

(a) Lubricating oils containing re-refined oil, including engine lubricating oils, hydraulic fluids, and gear oils, excluding marine and aviation oils.

(b) Tires, excluding airplane tires.

(c) Reclaimed engine coolants, excluding coolants used in non-vehicular applications.

§ 247.12 Construction products.

(a) Building insulation products, including the following items:

(1) Loose-fill insulation, including but not limited to cellulose fiber, mineral fibers (fiberglass and rock wool), vermiculite, and perlite;

(2) Blanket and batt insulation, including but not limited to mineral fibers (fiberglass and rock wool);

(3) Board (sheathing, roof decking, wall panel) insulation, including but not limited to structural fiberboard and laminated paperboard products, perlite composite board, polyurethane, polyisocyanurate, polystyrene, phenolics, and composites; and

(4) Spray-in-place insulation, including but not limited to foam-in-place polyurethane and polyisocyanurate, and spray-on cellulose.

(b) Structural fiberboard and laminated paperboard products for applications other than building insulation, including building board, sheathing, shingle backer, sound deadening board, roof insulating board, insulating wallboard, acoustical and non-acoustical ceiling tile, acoustical and non-acoustical lay-in panels, floor underlayments, and roof overlay (coverboard).

(c) Cement and concrete, including concrete products such as pipe and block, containing coal fly ash or ground granulated blast furnace (GGBF) slag.

(d) Carpet made of polyester fiber for use in low- and medium-wear applications.

(e) Floor tiles and patio blocks containing recovered rubber or plastic.

§ 247.13 Transportation products.

Traffic barricades and traffic cones used in controlling or restricting vehicular traffic.

VOL
60

ISS
83

MY
1

1995

UMI

§ 247.14 Park and recreation products.

Playground surfaces and running tracks containing recovered rubber or plastic.

§ 247.15 Landscaping products.

(a) Hydraulic mulch products containing recovered paper or recovered wood used for hydroseeding and as an over-spray for straw mulch in landscaping, erosion control, and soil reclamation.

(b) Compost made from yard trimmings, leaves, and/or grass clippings for use in landscaping, seeding of grass or other plants on roadsides and embankments, as a nutritious mulch under trees and shrubs, and in erosion control and soil reclamation.

§ 247.16 Non-paper office products.

(a) Office recycling containers and office waste receptacles.

(b) Plastic desktop accessories.

(c) Toner cartridges.

(d) Binders.

(e) Plastic trash bags.

§ 247.17 Miscellaneous products. [Reserved]

[FR Doc. 95–10509 Filed 4–28–95; 8:45 am]

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May 1, 1995

Part VI

Environmental Protection Agency

Recovered Materials Advisory Notice

VOL
60
ISS
83
MY
1
1995
UMI

ENVIRONMENTAL PROTECTION AGENCY

[SWH–FRL–5198–8]

Recovered Materials Advisory Notice

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of final document.

SUMMARY: On April 20, 1994, the Environmental Protection Agency issued a notice of the availability of the draft Recovered Materials Advisory Notice (RMAN). The draft RMAN included EPA's recommendations for purchasing items that are or can be produced with recovered materials that were proposed for designation under the Federal government's recycled content products preference program (see 59 FR 18892). Today, EPA is providing notice that a final Recovered Materials Advisory Notice and supporting materials are available. This action will promote recycling by using government purchasing to expand markets for recovered materials. Section 6002 of the Resource Conservation and Recovery Act requires EPA to designate items that are or can be made with recovered materials and provide recommendations for the procurement of these items. EPA previously designated five items and combined the designations and recommendations in item-specific procurement guidelines.

Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention," directs EPA to change the process for designating items and providing recommendations. EPA now is to designate procurement items in a Comprehensive Procurement Guideline and to provide recommendations in related Recovered Materials Advisory Notices. Elsewhere in today's **Federal Register**, EPA is finalizing its first Comprehensive Procurement Guideline (CPG). The CPG designates 19 new items for which this Recovered Materials Advisory Notice provides recommended recovered materials content levels. These recommendations are organized within the following product categories: paper and paper products, vehicular products, construction products, transportation products, park and recreation products, landscaping products, and non-paper office products.

EFFECTIVE DATE: May 1, 1996.

ADDRESSES: The public docket for this notice is Docket No. F–95–PRMF–FFFFF, located in Room M2616 of the RCRA Information Center (RIC)—Mail Code 5305, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The RIC is open from 9:00 am to 4:00 pm, Monday through Friday, excluding Federal holidays. To review docket materials, the public must make an appointment by calling (202) 260–9327. Materials may be copied for $0.15 per page.

FOR FURTHER INFORMATION: "RMAN for Items Designated in the Comprehensive Procurement Guideline—Supporting Analyses" is the primary supporting document for the final Recovered Materials Advisory Notice (RMAN). Both the **Federal Register** notice and the supporting document will be available in electronic format on the Internet System through the EPA Public Access Server at gopher.epa.gov. For a paper copy of the **Federal Register** notice or "RMAN for Items Designated in the Comprehensive Procurement Guideline—Supporting Analyses," please contact the RCRA Hotline at (800) 424–9346, or, in the Washington, DC metropolitan area, (703) 412–9810. Paper copies are also available in the RCRA Docket at the address listed in the previous section.

For technical information regarding today's recommendations for the following individual items, contact the referenced EPA staff: Building insulation and engine coolant—Tracy Bone (703) 308–7259; cement and concrete containing GGBF slag and hydraulic mulch—Dana Arnold, (703) 308–7279; carpet, floor tiles and patio blocks, playground surfaces and running tracks, yard trimmings compost, and temporary traffic control devices—Terry Grist, (703) 308–7257; structural fiberboard, laminated paperboard, and non-paper office products—Beverly Goldblatt, (703) 308–7278. For all other technical information, contact Beverly Goldblatt, (703) 308–7278, or Terry Grist (703) 308–7257.

Accessing Internet

1. Through Gopher: Go to: gopher.epa.gov

From the main menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)". Next, choose "Office of Solid Waste". Then, choose "Non-Hazardous Waste—RCRA Subtitle D". Finally, choose "Procurement/RMAN".

2. Through FTP: Go to: ftp.epa.gov

Login: anonymous

Password: Your Internet Address

Files are located in directories/pub/gopher. All OSW files are in directories beginning with "OSW".

3. Through MOSAIC: Go to: http://www.epa.gov

Choose the EPA Public Access Gopher. From the main (Gopher) menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)." Next, choose "Office of Solid Waste". Then, choose "Non-Hazardous Waste—RCRA Subtitle D". Finally, choose "Procurement/RMAN".

4. Through dial-up access:

Dial 919–558–0335. Choose EPA Public Access Gopher. From the main (Gopher) menu, choose "EPA Offices and Regions". Next, choose "Office of Solid Waste and Emergency Response (OSWER)". Next, choose "Office of Solid Waste". Then, choose "Non-Hazardous Waste—RCRA Subtitle D". Finally, choose "Procurement/RMAN".

SUPPLEMENTARY INFORMATION:

I. Authority

Today's Recovered Materials Advisory Notice is published under the authority of sections 2002(a) and 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a) and 6962, and Executive Order 12873 (58 FR 54911, October 22, 1993).

II. Agency's Response to Public Comments

EPA received a number of comments on the draft RMAN published on April 20, 1994 (see 59 FR 18892–18914). The vast majority of these comments were specific to the recovered materials content levels recommended in the RMAN for each designated item. EPA carefully considered all of the comments on the draft RMAN in developing the final recommendations included in today's notice. A summary of all comments received and the Agency's response to these comments are provided in the document entitled "RMAN for Items Designated in the Comprehensive Procurement Guideline—Supporting Analyses." This document also provides discussions of any changes EPA made to the April 1994 draft recommendations.

III. Consolidation of New and Existing Recommendations

In the Comprehensive Procurement Guideline, which is found in the rules section of today's **Federal Register**, EPA is promulgating a final rule designating 19 items which are or can be made with recovered materials. The Recovered Materials Advisory Notice published here contains EPA's final recovered materials content level recommendations for purchasing these 19 items.

Prior to 1993, EPA combined item designations and related purchasing recommendations in one **Federal Register** notice and codified both the designations and recommendations in the Code of Federal Regulations. As required by Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention," (58 FR 54911, October 22, 1993), EPA is using a new procedure for designating items and for providing purchasing recommendations for those items. While the designations will be codified in the Code of Federal Regulations, the recommendations will be available in guidance documents known as Recovered Materials Advisory Notices. In the draft RMAN (59 FR 18893), EPA established a framework for consolidating the recommendations for newly-designated items with the existing recommendations for paper and paper products, re-refined lubricating oil, retread tires, building insulation products, and cement and concrete containing coal fly ash. EPA stated that the RMAN would incorporate the then-current recommendations (see 59 FR 18893, April 20, 1994). Thus, the RMAN appended to this notice contains both recommendations for the 19 new items and recommendations consolidated from the five existing procurement guidelines. These consolidated recommendations replace the recommendations in the existing guidelines.

On March 15, 1995, EPA published a **Federal Register** notice of the availability of a draft Paper Products Recovered Materials Advisory Notice (60 FR 14182). When final, the recommendations in the Paper Products RMAN will replace the recommendations found in Part II.A of today's RMAN.

Dated: April 21, 1995.

Carol M. Browner,

Administrator.

Recovered Materials Advisory Notice

The following represents EPA's recommendations to procuring agencies for purchasing the items designated in the Comprehensive Procurement Guideline (CPG) in compliance with section 6002 of the Resource Conservation and Recovery Act (RCRA).

Contents

I. General Recommendations
Part A—Definitions
Part B—Specifications
Part C—Affirmative Procurement Programs
II. Specific Recommendations for Procurement of Designated Items
Part A—Paper and Paper Products
Part B—Vehicular Products
Section B–1—Lubricating Oil.
Section B–2—Retread Tires.
Section B–3—Engine Coolants.
Part C—Construction Products
Section C–1—Building Insulation.
Section C–2—Structural Fiberboard and Laminated Paperboard.
Section C–3—Cement and Concrete.
Section C–4—Carpet.
Section C–5—Floor Tiles and Patio Blocks.
Part D—Transportation Products
Section D–1—Temporary Traffic Control Devices.
Part E—Park and Recreation Products
Section E–1—Playground Surfaces and Running Tracks.
Part F—Landscaping Products
Section F–1—Hydraulic Mulch.
Section F–2—Yard Trimmings Compost.
Part G—Non-Paper Office Products
Section G–1—Office Recycling Containers and Office Waste Receptacles.
Section G–2—Plastic Desktop Accessories.
Section G–3—Toner Cartridges.
Section G–4—Binders.
Section G–5—Plastic Trash Bags.
Part H—Miscellaneous Products [Reserved]

I. General Recommendations

Part A—Definitions

As used in this Recovered Materials Advisory Notice:

Act or *RCRA* means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C 6901 *et seq;*

Federal agency means any department, agency, or other instrumentality of the Federal government; any independent agency or establishment of the Federal government including any government corporation; and the Government Printing Office;

Person means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body;

Postconsumer material means a material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. *Postconsumer material* is a part of the broader category of *recovered materials.*

Postconsumer recovered materials, for purposes of purchasing paper and paper products, is a subset of the broader term *recovered materials*, as defined in RCRA section 6002(h), and means:

(1) Paper, paperboard and fibrous wastes from retail stores, office buildings, homes and so forth, after they have passed through their end-usage as a consumer item including: Used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards and used cordage; and

(2) All paper, paperboard and fibrous wastes that enter and are collected from municipal solid waste;

Procuring agency means any Federal agency, or any State agency or agency of a political subdivision of a State, which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract;

Recovered materials means waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process;

Part B—Specifications

EPA recommends that Federal agencies review and revise their product specifications with a view to eliminating unnecessary stringency as well as requirements which bear no relation to function in order to allow for the use of recovered materials. Specifications that bear no relation to function should be revised according to the agency's established specifications review procedures. EPA further recommends that, in reviewing an existing specification's provisions pertaining to function, Federal agencies refer to existing voluntary standards and research by organizations such as the American Society for Testing and Materials (ASTM), the American Association of State Highway and Transportation Officials (AASHTO), the Technical Association of the Pulp and Paper Industry (TAPPI), and the American Institute of Paper Chemistry.

Federal agencies that reference Commercial Item Descriptions (CIDs) or appropriate industry standards should continue to reference them when purchasing designated items. However, agencies should review or modify CIDs and industry standards, as appropriate, to be certain that the use of recovered materials is allowed.

Under RCRA section 6002, Federal agencies need not revise specifications to allow or require the use of recovered materials if it can be determined that for technical reasons, for a particular end use, a product containing such materials will not meet reasonable performance standards. EPA recommends that Federal agencies document such determinations and that the determination be based on technical performance information (including any product testing) pertaining to a specific

VOL 60 ISS 83 MY 1 1995 UMI

item or application. EPA further recommends that Federal agencies reference such documentation in the contract files for subsequent procurements of the specific item.

In most cases, for the items designated in the CPG, EPA has recovered materials content levels for specific types or grades of items or for certain applications. EPA notes, however, that the intent is not to preclude Federal agencies from procuring other types or grades of items, or from using recovered materials content items for other applications. On the contrary, if a new type or grade of a designated item becomes available containing recovered materials or if a Federal agency discovers a new application for which recovered materials content is appropriate, EPA encourages the agency to revise its specifications or develop new specifications to allow the use of recovered materials in that type or grade of item or that specific application.

Part C—Affirmative Procurement Programs

EPA recommends that the Environmental Executive within each major procuring agency take the lead in developing the agency's affirmative procurement program and in implementing the recommendations set forth in this RMAN. The basic responsibilities of an Agency Environmental Executive are described in sections 302 and 402 of Executive Order 12873, "Federal Acquisition, Recycling, and Waste Prevention," (58 FR 54911, October 22, 1993). In the absence of such an individual, EPA recommends that the head of the implementing agency appoint an individual who will be responsible for ensuring the agency's compliance with RCRA section 6002 and Executive Order 12873.

RCRA section 6002 and Executive Order 12873 require procuring agencies to establish affirmative procurement programs for each EPA-designated item. EPA recommends that each agency develop a single, comprehensive affirmative procurement program with a structure that allows for the integration of new items as they are designated. Consistent with Executive Order 12873, EPA encourages agencies to implement preference programs for non-guideline items as well, in order to maximize their purchases of recycled content products and foster markets for recovered materials.

Preference Program: In Section II of this RMAN, EPA provides specific recommendations for procuring agencies to use when purchasing the EPA-designated items. For most of these items, EPA recommends that procuring agencies establish minimum content standards based on EPA's recommended recovered materials content levels and the procuring agencies' own research. For other items, the use of minimum content standards is inappropriate, and procuring agencies should establish an alternative program, as recommended by EPA.

In addition, EPA recommends that procuring agencies review their procurement practices and eliminate those that would inhibit or preclude the use of an item containing recovered materials. Specific examples of such procurement practices are provided in the item-specific recommendations, where appropriate.

Promotion Program: EPA recommends that procuring agencies include both internal and external promotion in their affirmative procurement programs.

There are several methods that procuring agencies can use to educate their employees about their affirmative procurement programs. These methods include preparing and distributing agency affirmative procurement policies, publishing articles in agency newsletters and publications, including affirmative procurement program requirements in agency staff manuals, and conducting workshops and training sessions to educate employees about their responsibilities under agency affirmative procurement programs.

Methods for educating existing contractors and potential bidders regarding an agency's preference for purchasing products containing recovered materials include publishing articles in appropriate trade publications, participating in vendor shows and trade fairs, placing statements in solicitations, and discussing an agency's affirmative procurement program at bidders' conferences.

Monitoring: EPA recommends that procuring agencies monitor their affirmative procurement programs, in accordance with RCRA section 6002(i)(2)(D) and Executive Order 12873, to ensure that they are fulfilling their requirements to purchase items composed of recovered materials to the maximum extent practicable. EPA anticipates that the Federal Environmental Executive and the Office of Federal Procurement Policy will request information from Federal agencies on their affirmative procurement practices. Therefore, EPA recommends that Federal procuring agencies maintain adequate records of procurements that may be affected by the Executive Order and RCRA requirements.

EPA recommends that procuring agencies track their purchases of products containing recovered materials to establish benchmarks from which progress can be assessed. To maintain adequate records on procurement of products containing recovered materials, EPA recommends that procuring agencies choose to collect data on the following:

- The minimum percentages of recovered materials content in the items procured or offered;
- Comparative price information on competitive procurements;
- The quantity of each item procured over a fiscal year;
- The availability of each item with recovered materials content; and
- Performance information related to recovered materials content of an item.

EPA recognizes that a procuring agency may be unable to obtain accurate data for all designated items. However, the Agency believes that in many cases, estimated data will suffice in determining the effectiveness of the agency's affirmative procurement program.

Certification: Certification of the recovered materials content in products is an important mechanism for encouraging the use of recovered materials in finished products. Because each product will be different, EPA recommends that procuring agencies discuss certification with product vendors to ascertain the appropriate period for certifying recovered materials content. EPA recommends that, whenever feasible, the recovered materials content of a product be certified on a batch-by-batch basis or as an average over a calendar quarter or some other appropriate averaging period as determined by the procuring agencies.

II. Specific Recommendations for Procurement of Designated Items

Part A—Paper and Paper Products

Following are the preference program and specifications recommendations from the previous procurement guideline (formerly found at 40 CFR part 250) and a subsequent Procurement Guidelines Advisory issued by EPA on November 20, 1990. On March 15, 1995, EPA issued a draft Paper Products Recovered Materials Advisory Notice (RMAN) in the **Federal Register** (see 60 FR 14182) which contains draft revisions to the Agency's recommendations for paper products. When EPA issues final recommendations for paper and paper products, procuring agencies should substitute them for the recommendations found in this section of the RMAN.

Preference program. EPA recommends that procuring agencies set their minimum content levels at the highest levels that meet the statutory requirements of RCRA section 6002(c)(1), but no lower than the levels shown in Table A–1.

TABLE A–1.—EPA RECOMMENDED MINIMUM CONTENT STANDARDS OF SELECTED PAPERS AND PAPER PRODUCTS

	Minimum percentage of recovered materials	Minimum percentage of recovered postconsumer recovered materials	Minimum percentage of waste paper [1]
Newsprint		40	
High grade bleached printing and writing paper:			
Offset printing			50
Mimeo and duplicator paper			50
Writing (stationery)			50
Office paper (e.g., note pads)			50
Paper for high-speed copiers			50
Envelopes			50
Form bond including computer paper and carbonless			50
Book papers			50
Bond papers			50
Ledger			50
Cover stock			50
Cotton fiber papers	25		50
Tissue products:			
Toilet tissue		20	
Paper towels		40	
Paper napkins		30	
Facial tissue		5	
Doilies		40	
Industrial wipers		0	
Unbleached packaging:			
Corrugated boxes		35	
Fiber boxes		35	
Brown papers (e.g., bags)		5	
Recycled paperboard:			
Recycled paperboard products including folding cartons		80	
Pad backing		90	

[1] Waste paper is defined in 40 CFR 247 (old 40 CFR 250) and refers to specified postconsumer and other recovered materials.

Part B—Vehicular Products

Section B–1—Lubricating Oil

Preference Program. EPA recommends that procuring agencies set their minimum re-refined oil content standard at the highest level of re-refined oil that they determine meets the statutory requirements of RCRA section 6002(c)(1), but no lower than 25 percent re-refined oil.

EPA recommends that procuring agencies review their procurement practices and eliminate those which would inhibit or preclude procurement of lubricating oils containing re-refined oil. For example, procuring agencies should review the practices of inviting bids and issuing contracts to do the following:

(1) Supply a broad range of lubricating oil products on an "all or none" basis.

(2) Supply lubricating oils for an excessively long period of time.

(3) Deliver lubricating oils to geographic locations throughout the United States or to an excessively broad geographic area.

(4) Supply excessively large contract quantities.

Specifications. EPA recommends that procuring agencies use the following specifications when procuring lubricating oils containing re-refined oil:

(1) Engine lubricating oils.

(i) A–A–52039—Commercial Item Description, Lubricating Oil, Automotive Engine, API Service SG (replaced MIL–L–46152, Lubricating Oil, Internal Combustion Engine, Administrative Service).

(ii) API Engine Service Category SF–1980 Gasoline Engine Warranty Maintenance Service (or current category)

(iii) A–A–52306—Commercial Item Description, Lubricating Oil, Heavy-Duty Diesel Engine (for wheeled vehicles only)

(iv) API Engine Service Category CC—Diesel Engine Service (or current category)

(v) MIL–L–2104, Lubricating Oil, Internal Combustion Engine, Combat/Tactical Service

(vi) API Engine Service Category CD—Diesel Engine Service (or current category)

(vii) MIL–L–21260D (or current version)—Lubricating Oil, Internal Combustion Engine, Preservative and Break-in

(viii) MIL–L–46167B (or current version)—Lubricating Oil, Internal Combustion Engine, Arctic

(2) Hydraulic fluids.

(i) MIL–H–5606E (or current version)—Hydraulic Fluid, Petroleum Base, Aircraft, Missile, and Ordnance

(ii) MIL–H–6083E (or current version)—Hydraulic Fluid, Petroleum Base, For Preservation and Operation

(3) Gear oils.

(i) MIL–L–2105D (or current version) Lubricating Oil, Gear, Multipurpose

(b) Copies of the military specifications can be obtained from: Commanding Officer, Naval Publications and Forms Center, 5801

VOL 60 ISS 83 MY 1 1995 UMI

Tabor Avenue, Philadelphia, Pennsylvania 19120.

Preference program. EPA recommends that procuring agencies establish preference programs consisting of two components:

(1) Procurement of tire retreading services for the agencies' used tire casings. EPA recommends that procuring agencies specify that tire repair and retread services must conform to Federal Specification ZZ–T–441H (or current version); obtain retreading services from retreaders participating in the U.S. General Services Administration, Federal Tire Program's Quality Assurance Facility Inspection Program (QAFIP); and require bidders to submit a copy of their current certification under the QAFIP.

(2) Procurement of tires through competition between vendors of new tires and vendors of retread tires. EPA recommends that procuring agencies specify that retread tires must meet the requirements of Federal Specification ZZ–T–381, "Tires, Pneumatic, Vehicular (Highway) (New and Retreaded)," and be listed on Qualified Products List QPL–ZZ–T–381, issue in effect. EPA further recommends that procuring agencies require bidders to submit a copy of their current certification under the U.S. General Services Administration, Federal Tire Program's Quality Assurance Facility Inspection Program (QAFIP).

In the event that identical low bids are received in response to a solicitation, all other factors being equal, procuring agencies should provide a preference to the vendor offering to supply the greatest number of retread tires.

Preference Program: EPA recommends that procuring agencies whose vehicles are serviced by a motor pool or vehicle maintenance facility establish a program for engine coolant reclamation and reuse, consisting of either reclaiming the spent engine coolants on-site for use in the agencies' vehicles, or establishing a service contract for reclamation of the agencies' spent engine coolant for use in the agencies' vehicles.

EPA also recommends that procuring agencies request reclaimed engine coolant when having their vehicles serviced at commercial service centers. Additionally, EPA recommends that agencies purchase reclaimed engine coolant when making direct purchases of this item such as when necessary to make up for losses due to leakage or spillage.

EPA does not recommend one type of engine coolant over another. However, EPA recommends that procuring agencies purchase engine coolant containing only one base chemical, typically ethylene glycol or propylene glycol, to prevent the commingling of incompatible types of engine coolant.

Part C—Construction Products

Note: Refer to Part F—Landscaping Products for additional items that can be used in construction.

Section C–1.—Building Insulation

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table C–1, procuring agencies establish minimum content standards for use in purchasing building insulation products.

TABLE C–1.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR BUILDING INSULATION

Insulation material	Recovered materials (materials and %)
Rock Wool	Slag 75.
Fiberglass	Glass cullet 20–25.
Cellulose loose-fill and spray-on.	Postconsumer paper 75.
Perlite composite board.	Postconsumer paper 23
Plastic Rigid Foam, Polyisocyanurate/ polyurethane: Rigid foam.	Recovered material 9.
Foam-in-place	Recovered material 5.
Glass fiber reinforced	Recovered material 6.
Phenolic rigid foam	Recovered material 5.

Note: The recommended recovered materials content levels are based on the weight (not volume) of materials in the insulating core only.

Specifications: EPA recommends that procuring agencies reference ASTM standard specification D 5359, "Glass Cullet Recovered from Waste for Use in Manufacture of Glass Fiber," in Invitations for Bid and Requests for Proposal.

Section C–2—Structural Fiberboard and Laminated Paperboard

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table C–2, procuring agencies establish minimum content standards for use in purchasing structural fiberboard or laminated paperboard products for use in either insulating or structural applications.

TABLE C–2.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR STRUCTURAL FIBERBOARD AND LAMINATED PAPERBOARD

Product	Postconsumer recovered paper (%)	Total recovered materials content (%)
Structural fiberboards		80–100
Laminated paperboards	100	100

Note: The recovered materials content levels are based on the weight (not volume) of materials in the insulating core only.

Specifications: EPA recommends that procuring agencies use ASTM Standard Specification C 208 and ANSI/AHA specification A194.1. EPA further recommends that, when purchasing structural fiberboard products containing recovered paper, procuring agencies (1) reference the technical requirements of ASTM C 208, "Insulating Board (Cellulosic Fiber), Structural and Decorative," (2) permit structural fiberboard products made from recovered paper where appropriate, and (3) permit products such as floor underlayment and roof overlay containing recovered paper.

EPA further recommends that procuring agencies review their specifications for insulating products and revise them as necessary to obtain the appropriate "R"-value without unnecessarily precluding the purchase of products containing recovered materials.

Section C–3—Cement and Concrete

Preference Program: EPA recommends that procuring agencies prepare or revise their procurement programs for cement and concrete or for construction projects involving cement and concrete to allow the use of coal fly ash or ground granulated blast furnace slag (GGBF slag), as appropriate. EPA does not recommend that procuring agencies favor one recovered material over the other. Rather, EPA recommends that procuring agencies consider the use of both recovered materials and choose the one that meets their performance requirements, consistent with availability and price considerations. EPA also recommends that procuring agencies specifically include provisions in all construction contracts to allow for the use, as optional or alternate materials, of cement or concrete which contains coal fly ash or GGBF slag, where appropriate.

Due to variations in coal fly ash, GGBF slag, cement, strength

requirements, costs, and construction practices, EPA is not recommending recovered materials content levels for cement or concrete containing coal fly ash or GGBF slag. However, EPA is providing the following information about recovered materials content.

- Replacement rates of coal fly ash for cement in the production of blended cement generally do not exceed 20–30 percent, although coal fly ash blended cements may range from 0–40 percent coal fly ash by weight, according to ASTM C 595, for cement Types IP and I(PM). Fifteen percent is a more accepted rate when coal fly ash is used as a partial cement replacement as an admixture in concrete.
- According to ASTM C 595, GGBF slag may replace up to 70 percent of the Portland cement in some concrete mixtures. Most GGBF slag concrete mixtures contain between 25 and 50 percent GGBF slag by weight. EPA recommends that procuring agencies refer, at a minimum, to ASTM C 595 for the GGBF slag content appropriate for the intended use of the cement and concrete.

Specifications: The following recommendations address guide specifications, materials specifications, contract specifications, performance standards, mix design, and quality control.

- Guide specifications. EPA recommends that procuring agencies ensure that their guide specifications do not inappropriately or unfairly discriminate against the use of coal fly ash or GGBF slag in cement and concrete. EPA further recommends that procuring agencies revise their guide specifications to require that contract specifications for individual construction projects or products allow for the use of coal fly ash or GGBF slag, unless the use of these materials is technically inappropriate for a particular construction application.
- Materials specifications. EPA recommends that procuring agencies use the existing voluntary consensus specifications referenced in Table C–3 for cement and concrete containing GGBF slag.

TABLE C–3.—RECOMMENDED SPECIFICATIONS FOR CEMENT AND CONCRETE CONTAINING RECOVERED MATERIALS

Cement specifications	Concrete specifications
ASTM C 595, "Standard Specification for Blended Hydraulic Cements.".	ASTM C 618, "Standard Specification for Fly Ash and Raw or Calcined Natural Pozzolan for Use as a Mineral Admixture in Portland Cement Concrete."
ASTM C 150, "Standard Specification for Portland Cement.".	ASTM C 311, "Standard Methods of Sampling and Testing Fly Ash and Natural Pozzolans for Use as a Mineral Admixture in Portland Cement Concrete."
AASHTO M 240, "Blended Hydraulic Cements."	ASTM C 989, "Ground Granulated Blast-Furnace Slag for Use in Concrete Mortars."
	AASHTO M 302, "Ground Granulated Blast Furnace Slag for Use in Concrete and Mortars."
	American Concrete Institute Standard Practice ACI 226.R1, "Ground Granulated Blast-Furnace Slag as a Cementitious Constituent in Concrete."

- State specifications. EPA recommends that procuring agencies consult other agencies with established specifications for coal fly ash or GGBF slag to benefit from their experience. Procuring agencies can consult the Federal Highway Administration, which maintains a data base of state highway agency material specifications. The States of Alabama, Connecticut, District of Columbia, Florida, Georgia, Illinois, Indiana, Maryland, Michigan, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, Virginia, and West Virginia have adopted specifications which allow the use of GGBF slag in one or more applications. If needed, procuring agencies can obtain these specifications from the respective state transportation departments and adapt them for use in their programs for cement and concrete, as appropriate.
- Contract specifications. EPA recommends that procuring agencies which prepare or review "contract" specifications for individual construction projects revise those specifications to allow the use of cement and concrete containing coal fly ash or GGBF slag as optional or alternate materials for the project, where appropriate, consistent with the agencies' performance and price objectives.
- Performance standards. EPA recommends that procuring agencies review and, if necessary, revise performance standards relating to cement or concrete construction projects to insure that they do not arbitrarily restrict the use of coal fly ash or GGBF slag, either intentionally or inadvertently, unless the restriction is justified on a job-by-job basis: (1) To meet reasonable performance requirements for the cement or concrete or (2) because the use of coal fly ash or GGBF slag would be inappropriate for technical reasons. EPA recommends that this justification be documented based on specific technical performance information. Legitimate documentation of technical infeasibility for coal fly ash or GGBF slag can be for certain classes of applications, rather than on a job-by-job basis. Procuring agencies should reference such documentation in individual contract specifications to avoid extensive repetition of previously documented points. However, procuring agencies should be prepared to submit such documentation to analysis by interested persons, and should have a review process available in the event of disagreements.
- Mix design. In concrete mix design specifications which specify minimum cement content or maximum water, the cement ratios could potentially unfairly discriminate against the use of coal fly ash or GGBF slag. Such specifications should be changed in order to allow the partial substitution of coal fly ash or GGBF slag for cement in the concrete mixture, unless technically inappropriate. Cement ratios may be retained, as long as they reflect the cementitious characteristics which coal fly ash or GGBF slag can impart to a concrete mixture, e.g., by considering Portland cement plus coal fly ash or Portland cement plus GGBF slag as the total cementitious component.
- Quality control. Nothing in this RMAN should be construed to relieve the contractor of responsibility for providing a satisfactory product. Cement and concrete suppliers are already responsible both for the quality of the ingredients of their product and for meeting appropriate performance requirements, and will continue to be under this RMAN. Nothing in EPA's recommendations should be construed as a shift in normal industry procedures for assigning responsibility and liability for product quality.

Procuring agencies should expect suppliers of blended cement, coal fly ash or GGBF slag, and concrete to demonstrate (through reasonable testing programs or previous experience) the

VOL 60 ISS 83 MY 1 1995 UMI

performance and reliability of their product and the adequacy of their quality control programs. However, procuring agencies should not subject cement and concrete containing coal fly ash or GGBF slag to any unreasonable testing requirements.

In accordance with standard industry practice, coal fly ash and GGBF slag suppliers should be required to provide to users a statement of the key characteristics of the product supplied. These characteristics may be stated in appropriate ranges. Other characteristics should be requested as needed by the procuring agency.

Agencies desiring a testing or quality assurance program for cements, blended cements, or coal fly ash should contact the U.S. Army Engineer Waterways Experiment Station, PO Box 631, Vicksburg, Mississippi 39180.

Section C–4—Carpet

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table C–4, procuring agencies establish minimum content standards for use in purchasing polyester carpet for light- and moderate-wear applications. This recommendation does not include polyester carpet for use in heavy-wear or severe-wear applications; however, procuring agencies are encouraged to evaluate the suitability of polyester carpet in these applications. These recommendations do not preclude a procuring agency from purchasing carpet made of other materials, such as nylon, wool, or polypropylene.

TABLE C–4.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR CARPET

Product	Resin	Postconsumer Materials (%)
Polyester Carpet Face Fiber	PET	25–100

Specifications: EPA recommends that Federal procuring agencies use GSA's New Item Introductory Schedule when purchasing polyester carpet containing recovered materials. EPA also recommends that procuring agencies review their specifications and revise them to permit, where suitable, the use of polyester carpet containing recovered materials. In particular, EPA recommends that agencies currently limiting carpet materials to nylon, wool, or other materials consider adding polyester, where appropriate, to enable them to procure carpet containing recovered materials.

Section C–5—**Floor Tiles and Patio Blocks**

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table C–5, procuring agencies establish minimum content standards for use in purchasing heavy-duty/commercial type floor tiles and patio blocks made with rubber or plastic.

TABLE C–5.—RECOMMENDED RECOVERED MATERIALS LEVELS FOR FLOOR TILES AND PATIO BLOCKS

Product	Material	Postconsumer materials (%)	Total recovered materials (%)
Patio blocks	rubber or rubber blends	90–100	
	Plastic or plastic blends		90–100
Floor tiles (heavy duty/commercial use)	Rubber	90–100	
	Plastic		90–100

Note: The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents. EPA's recommendation does not preclude procuring agencies from purchasing floor tiles or patio blocks manufactured from another material. It simply recommends that procuring agencies, when purchasing floor tiles or patio blocks made from rubber or plastic, purchase these items made from recovered materials. Recommendations for floor tiles are limited to heavy-duty/commercial-type applications only.

Part D—Transportation Products

Section D–1—Temporary Traffic Control Devices

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table D–1, procuring agencies establish minimum content standards for use in traffic cones and traffic barricades.

TABLE D–1.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR TRAFFIC CONES AND TRAFFIC BARRICADES

Product	Material	Postconsumer materials (%)	Total recovered materials (%)
Traffic Cones	PVC, LDPE, Crumb Rubber		50–100
Traffic Barricades (Type I & II only)	HDPE, LDPE, PET Steel	80–100	100
	Fiberglass		100

Note: The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

Part E—Park and Recreation Products

Section E–1—Playground Surfaces and Running Tracks

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table E–1, procuring agencies establish minimum content standards for use in purchasing playground surfaces and running tracks made of rubber or plastic.

Table E–1.—Recommended Recovered Materials Content Levels for Playground Surfaces and Running Tracks

Product	Material	Postconsumer recovered materials (%)
Playground Surfaces	Rubber or Plastic	90—100
Running Tracks	Rubber or Plastic	90—100

Note: The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents. EPA's recommendation does not preclude procuring agencies from purchasing playground surfaces or running tracks manufactured from another material. It simply recommends that procuring agencies, when purchasing playground surfaces or running tracks made from rubber or plastic, purchase these items made from recovered materials.

Part F—Landscaping Products

Section F–1—Hydraulic Mulch

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table F–1, procuring agencies establish minimum content standards for paper-based and wood-based hydraulic mulch products.

TABLE F–1.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR HYDRAULIC MULCH PRODUCTS

Hydraulic mulch products	Recovered materials (materials and %)
Paper-Based Hydraulic Mulch	Postconsumer recovered paper 100.
Wood-Based Hydraulic Mulch	Recovered wood and/or paper 100.

Note: The recommended recovered materials content levels are based on the dry weight of the fiber, exclusive of any dyes, wetting agents, seeds, fertilizer, or other non-cellulose additives.

Section F–2—Yard Trimmings Compost

Preference Program: EPA recommends that procuring agencies purchase or use compost made from yard trimmings, leaves, and/or grass clippings in such applications as landscaping, seeding of grass or other plants on roadsides and embankments, as nutritious mulch under trees and shrubs, and in erosion control and soil reclamation.

EPA further recommends that those procuring agencies that have an adequate volume of yard trimmings, leaves, and/or grass clippings, as well as sufficient space for composting, should implement a composting system to produce compost from these materials to meet their landscaping and other needs.

Specifications: EPA recommends that procuring agencies ensure that there is no language in their specifications for fertilizers and soil amendments that would preclude or discourage the use of compost. For instance, if specifications address the use of straw or hay in roadside revegetation projects, procuring agencies should assess whether compost could substitute for straw or hay or be used in combination with them.

The State of Maine has developed quality standards for compost products that are used by its agencies and/or purchased with state funds. The quality standards have been set for six types of compost products, ranging from topsoil (three classes), to wetland substrate, to mulch (two classes). For each of these types of compost product, standards for maturity, odor, texture, nutrients, Ph, salt content, organic content, pathogen reduction, heavy metals, foreign matter, moisture content, and density have been established. EPA recommends that procuring agencies obtain and adapt this or another suitable specification for their use in purchasing compost products.

Part G—Non-Paper Office Products

Section G–1—Office Recycling Containers and Office Waste Receptacles

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table G–1, procuring agencies establish minimum content standards for use in purchasing office recycling containers and office waste receptacles.

TABLE G–1.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR OFFICE RECYCLING CONTAINERS AND OFFICE WASTE RECEPTACLES

Product	Recovered materials (materials and percent)
Office Recycling Containers and Office Waste Receptacles	Plastic 20–100 Postconsumer Recovered Materials. Paper Refer to the Paper Products Recommendations in Part A of RMAN. Steel 25–100 Total recovered materials.

Note: EPA's recommendation for office recycling containers and office waste receptacles containing recovered plastic, paper, or steel does not preclude procuring agencies from purchasing containers or receptacles manufactured using another material, such as wood. It simply recommends that procuring agencies, when purchasing office recycling containers or office waste receptacles manufactured from plastic, paper, or steel, seek such containers made with recovered materials.

VOL
60
ISS
83
MY
1
1995
UMI

Section G–2–Desktop Accessories

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table G–2, procuring agencies establish minimum content standards for use in purchasing plastic desktop accessories. If items are not available within the recommended range, procuring agencies should seek the items with the highest percentage of recovered materials practicable.

TABLE G–2—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR PLASTIC DESKTOP ACCESSORIES

Product	Postconsumer recovered materials (material and percent)
Plastic Desktop Accessories.	Polystyrene 25–80.

Note: EPA's recommendation does not preclude procuring agencies from purchasing a desktop accessory manufactured from another material, such as paper, wood, or steel. It simply recommends that, when purchasing plastic desktop accessories, procuring agencies purchase these items made from recovered materials.

Section G–3—Toner Cartridges

Preference Program: EPA recommends that procuring agencies establish procedures and policies that give priority to remanufacturing the agencies' expended toner cartridges. EPA recommends that, under such policies and procedures, procuring agencies procure remanufacturing services for expended cartridges and, when such services are unavailable or not practicable, obtain remanufactured toner cartridges or new toner cartridges made with recovered materials from product vendors.

Section G–4—Binders

Preference Program: EPA recommends that, based on the recovered materials content levels shown in Table G–3, procuring agencies establish minimum content standards for use in purchasing binders.

TABLE G–3.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR BINDERS

Product	Recovered materials (materials and percent)
Plastic-Covered Binders (Plastic Covering)	Plastic 25–50.
Chipboard, Paperboard, or Pressboard Binders or Binder Components	Paper Refer to Paper Products Recommendations in Part A of RMAN.

Note: The chipboard, paperboard, or pressboard binders or components of plastic-covered binders or binders covered with another material, such as cloth, are covered under the recommendation for paper and paper products (see Part A of the RMAN). EPA's recommendations do not preclude procuring agencies from purchasing binders covered with or manufactured using another material, such as cloth. It simply recommends that procuring agencies, when purchasing binder types designated in the procurement guidelines, purchase these binders containing recovered materials.

Specifications: GSA's specification for binders, A-A–2549A, covers four types of binders, including cloth bound, flexible cover; cloth bound, stiff cover; plastic bound, flexible cover; and plastic bound, stiff cover. In the specification, GSA requires its binders to contain "a minimum of 100% waste paper, including a minimum of 30% postconsumer recovered materials."

Section G–5—Plastic Trash Bags

Preference Program: EPA recommends that, based on the content levels shown in Table G–4, procuring agencies establish minimum content standards for use in purchasing plastic trash bags.

TABLE G–4.—RECOMMENDED RECOVERED MATERIALS CONTENT LEVELS FOR PLASTIC TRASH BAGS

Product	Postconsumer recovered materials (material and percent)
Plastic Trash Bags	Plastic 10–100.

Note: EPA's recommendation does not preclude procuring agencies from purchasing a trash bag manufactured using another material, such as paper. It merely recommends that procuring agencies, when purchasing plastic trash bags, purchase these items made from recovered materials.

Part H—Miscellaneous Products

[FR Doc. 95–506 Filed 4–28–95; 8:45 am]
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May 1, 1995

Part VII

Department of Education

Dwight D. Eisenhower Professional Development Federal Activities Program; Initial Teacher Professional Development Projects; Notices

VOL
60
ISS
83
MY
1
1995
UMI

DEPARTMENT OF EDUCATION

[CFDA No. 84.168E]

Dwight D. Eisenhower Professional Development Federal Activities Program: Initial Teacher Professional Development Projects. Notice Inviting Applications for New Awards for Fiscal Year 1995

Purpose of Program: To support activities that develop and implement high-quality professional development for K–2 teachers in the core academic subjects, and that are likely to generate findings of national significance and to stimulate reform in the field of teacher professional development nationally.

Eligible Applicants: The Secretary is authorized to make grants to local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions.

Deadline for Transmittal of Applications: June 23, 1995.

Deadline for Intergovernmental Review: August 23, 1995.

Applications Available: May 8, 1995.

Available Funds: $3,000,000.

Estimated Range of Awards: $300,000–$500,000 per year.

Estimated Average Size of Awards: $400,000 per year.

Estimated Number of Awards: 6–9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Budget Period: Up to 12 months.

Applicable Regulations: The Education Department General Administration Regulations (EDGAR) in 34 CFR Parts 74, 75, 76, 77, 79, 80, 81, 85, and 86.

Priority: The notice of final priority as published elsewhere in this issue of the **Federal Register** applies to this competition. Only applications that meet this priority will be considered. This program and priority support GOALS 2000, the President's strategy for moving the Nation toward achievement of the National Education Goals.

For Applications or Information, Contact: Carolyn Warren, Annora Dorsey, or Trudy Turner, U.S. Department of Education, Room 502, 555 New Jersey Avenue, NW., Washington, DC 20208–572. FAX request for application to (202) 219–106; telephone (202) 219–206. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between the hours of 8 a.m. and 8 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 6621–6622.

Dated: April 26, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–10636 Filed 4–28–95; 8:45 am]

BILLING CODE 4000–01–P

Eisenhower Professional Development Federal Activities Program—Initial Teacher Professional Development Projects

AGENCY: Department of Education.

ACTION: Notice of final priority for (FY) Fiscal Year 1995.

SUMMARY: The Secretary announces an absolute priority for a FY 1995 competition under the Dwight D. Eisenhower Professional Development Federal Activities Program to support innovative Statewide policies and practices in the broad area of initial professional development for K–12 teachers of core academic subjects.

EFFECTIVE DATE: This absolute priority takes effect May 31, 1995.

FOR FURTHER INFORMATION CONTACT: Trudy Turner or Annora Dorsey, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 500, Washington, D.C. 20208–5572. Fax: (202) 219–2106; Telephone: (202) 219–2206. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday except Federal holidays.

SUPPLEMENTARY INFORMATION: The goal of the Dwight D. Eisenhower Professional Development Program is to provide K–12 teachers with sustained and intensive high-quality professional development that will improve teaching in the core academic subjects, and that is consistent with challenging State content standards, in order to enable all children to meet challenging State student performance standards. The Secretary has supported, and will continue to support, in-service professional development of K–12 teachers. However, the Secretary believes these efforts must be integrated with additional attention to initial teacher professional development and alignment of State requirements for licensure and induction with challenging State content and student performance standards if sustained change is to occur in American education.

Funded projects should address reform of all aspects of teacher preparation, including recruitment and selection of teacher candidates, collaboration of colleges of education with colleges of arts and sciences, curriculum and instruction offered in teacher preparation programs, faculty incentives and development strategies, clinical experiences of teacher candidates, State-level licensing policies and procedures, and support for teachers in the initial years of teaching in schools.

Absolute Priority

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet this priority.

Initial Teacher Professional Development Projects

The Secretary will support projects to promote Statewide reform in the area of K–12 preservice teacher professional development, including preparation, licensing, and induction (first 1–3 years of teaching). Each project must form a consortium of the State education agency, State agency of higher education, one or more institutions of higher education, and one or more local education agencies to develop and implement a plan for aligning State policies regarding teacher licensing and induction at the State and local levels with challenging State content and student performance standards in the core academic subjects.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Department of Education to offer interested parties the opportunity to comment on proposed regulations that are not taken directly from statute. Ordinarily, this practice would have applied to the absolute priority in this notice.

However, in order to make timely grant awards in FY 1995, the Assistant Secretary, in accordance with section 437(d)(1) of the General Education Provisions Act, has decided to issue the absolute priority as final requirements that will apply only to the FY 1995 grant competition.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Program Authority: 20 U.S.C. 6621–6622. (Catalog of Federal Domestic Assistance Number 84.168, Dwight D. Eisenhower Professional Development Federal Activities Program)

Dated: April 26, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–10637 Filed 4–28–95; 8:45 am]

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VOL
60

ISS
83

MY
1

1995

UMI

federal register

Monday
May 1, 1995

Part VIII

Department of Education

34 CFR Part 200, et al.
Title I—Helping Disadvantaged Children Meet High Standards; Proposed Rule

VOL 60 ISS 83 MY 1 1995 UMI

DEPARTMENT OF EDUCATION

34 CFR Parts 200, 201, 203, 205, and 212

RIN 1810–AA73

Title I—Helping Disadvantaged Children Meet High Standards

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Secretary of Education (Secretary) proposes to issue a single set of regulations implementing the programs under Title I of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994. In order to provide maximum flexibility to grantees implementing the programs under Title I, these proposed regulations address only those few provisions for which the Secretary believes rulemaking is absolutely necessary. These proposed regulations would replace the regulations currently found at 34 CFR parts 200, 201, 203, 205 and 212.

DATES: Written comments must be received on or before May 31, 1995.

ADDRESSES: All comments for subparts A, B, and D should be addressed to Mary Jean LeTendre, Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW, Portals Building, room 4400, Washington, DC 20202–6132. The Internet address for Part A comments is: TitleI___LEA@ed.gov; Part B: Even___Start@ed.gov; and Part D: Title I___N–D@ed.gov. The fax number for programs under subparts A, B, and D is (202) 260–7764.

All comments concerning programs under subpart C should be addressed to Bayla White, Director, Migrant Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW, Portals Building, room 4100, Washington, DC 20202–6135. The Internet address for programs under subpart C is Title I—Migrant@ed.gov. The fax number for programs under subpart C is (202) 205–0089.

All comments concerning provisions under subpart E may be addressed to the addresses above for subparts A or C, depending on the nature of the comments.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: For subparts A and E, Wendy Jo New, Telephone: (202) 260–0982; for subpart B, Patricia McKee, Telephone: (202) 260–0991; for subpart D, Paul Brown, Telephone: (202) 260–0976: Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW, Portals Building, room 4400, Washington, DC 20202–6132.

For subparts C and E, James English, Office of Migrant Education, Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue, SW, Portals Building, room 4100, Washington, DC 20202–6135. Telephone: (202) 260–1394.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The 1994 reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) revised extensively Federal elementary and secondary education programs to help ensure that all children acquire the knowledge and skills they will need to succeed in the 21st century. Under the reauthorized ESEA, Federal education programs for the first time are designed to work together with, rather than separately from, one another. In addition, rather than operating apart from the broader education that children receive, the ESEA reinforces State and community reform efforts geared to challenging State standards, particularly those initiated or supported by the Goals 2000: Educate America Act. In fact, all of the major ESEA programs are redesigned to support comprehensive State and local reforms of teaching and learning and ensure that all children—whatever their background and whatever school they attend—can reap the benefit of those reforms.

As the largest by far of all ESEA programs, Title I is the centerpiece of the ESEA's efforts to help the neediest schools and students reach the same challenging standards expected of all children. Effective July 1, 1995, the four Title I programs—the basic program in local educational agencies (LEAs) (Part A), the Even Start Family Literacy program (Part B), the Migrant Education Program (Part C), and the Neglected, Delinquent, and At-Risk Youth program (Part D)—are designed to work together in support of this common purpose. Moreover, the programs embrace the same fundamental new strategies to help ensure that the intended beneficiaries are not left behind in State and local efforts to promote higher standards. These strategies include: a schoolwide focus on improving teaching and learning, strong program coordination by LEAs, flexibility at the local level combined with clear accountability for results, more focused targeting of resources on the neediest schools, and stronger partnerships between schools and communities to support higher achievement for all children.

The Secretary proposes to issue one set of regulations for all Title I programs that is consistent with the U.S. Department of Education's (Department) new principles for regulating: to regulate only where absolutely necessary and, when regulating, to promote flexible approaches to meeting the requirements of the law. Based on these principles, and in order to give States and localities maximum flexibility to implement statutory provisions, the Secretary proposes a regulatory package for Title I that would eliminate regulations for both Parts B and D of Title I, other than definitions (34 CFR parts 212 and 203 respectively), as well as for the Migrant Education Coordination Program (34 CFR part 205), and would promulgate few regulations for Parts A and C of Title I, in addition to those required as part of negotiated rulemaking.

Negotiated Rulemaking Process

Section 1601(b) of Title I contains procedural requirements that the Department must follow in developing and issuing regulations to govern the Title I programs. Under section 1601(b)(1), the Secretary was required to obtain advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with the implementation and operation of programs under Title I. In accordance with this requirement, the Department published in the **Federal Register** on October 28, 1994 (59 FR 54372–74) a request for advice and recommendations on regulatory issues under Title I and received over 200 responses. Following the review of these responses, the Secretary submitted policy options on two key issues—"standards, assessment, and accountability" and "schoolwide programs"—to a negotiated rulemaking process in accordance with section 1601(b)(3)–(4). Twenty-four individuals, representing Federal, State, and local

administrators, parents, teachers, and members of local boards of education from all geographic regions of the United States, participated in this process. The sessions were held January 11–13 and 18–19, 1995 in Washington, D.C.

The following is a brief synopsis, by topic area, of the major issues and outcomes of the five-day negotiations of the negotiated rulemaking committee ("Committee"). Under the Committee's protocols, "consensus" meant unanimous agreement on all issues within a regulatory section. As a result, the Committee reached consensus only on §§ 200.42 and 200.43 of these proposed regulations, which clarify assessment requirements of States and their subgrantees in the Migrant Education Program. However, agreement was reached on a majority of the issues, and language reflecting those agreements is reflected in §§ 200.1–200.6 concerning standards, assessment, and accountability and in § 200.8 concerning schoolwide programs of these proposed regulations.

Standards, Assessment, and Accountability

Part A of Title I aligns instruction, assessment, and accountability procedures under Title I with high-quality State content standards and challenging performance standards. Under section 1111 of Title I, each State must have developed or adopted challenging content and student performance standards to be used by the State, its LEAs, and its schools to carry out Part A. If a State has developed challenging standards for all students, for example, under the Goals 2000: Educate America Act or adopted challenging standards developed by another entity, the State must use those standards for Part A purposes. If a State has not developed or adopted content or performance standards for all students, the State must develop or adopt State content and student performance standards in at least mathematics and reading/language arts for children participating under Part A. These standards must include the same knowledge, skills, and levels of performance expected of all children.

To track the progress of schools and districts, Part A no longer mandates a separate Title I testing system; it relies instead on the State's own assessment system to determine whether students are progressing toward meeting the challenging State standards. Among other things, these assessments must be aligned with the State's content and performance standards; be used for purposes for which they are valid and reliable; be administered at some time during grades 3–5, 6–9, and 10–12; and involve multiple measures of student performance. If a State has developed its own assessment system under the Goals 2000: Educate America Act, for example, or has adopted for its own use assessments developed by another entity, the State must use those assessments for Part A purposes. If a State has not developed or adopted its own State assessment system, the State must develop or adopt a system of assessments for Part A purposes. Until a State has met the requirements concerning assessments in section 1111(b) of Title I, the State may use a transitional set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter.

Part A refocuses the review of progress from what is currently an evaluation of how individual students are performing to an evaluation of how well schools and LEAs are helping students meet the challenging standards. Each Title I school and LEA must show "adequate yearly progress" toward enabling children to meet the State's student performance standards. Adequate yearly progress must be defined by the State in a manner that results in continuous and substantial yearly improvement sufficient to achieve the goal of all participating children meeting the State's proficient and advanced levels of performance, is sufficiently rigorous to achieve that goal within an appropriate timeframe, and links progress primarily to performance on the State's assessment system.

Besides reducing the amount of testing, the changes in Title I assessments and accountability will help link Title I programs to broader State reforms. The changes will also support the efforts of high-poverty schools to raise expectations and enrich their curriculum and instruction well beyond the basic skills programs that have been their traditional focus. In drafting the regulations implementing the statutory provisions on standards, assessment, and accountability, the goals of the Secretary were to ensure that States develop the same system of high-quality standards and assessments for all students, including Title I participants; ensure that States develop effective accountability systems that promote comprehensive planning and improvement; and provide maximum flexibility during the transition period to support ongoing development of standards and assessments.

The following discussion summarizes provisions in the proposed regulations that reflect the Committee's debate on issues concerning standards, assessment, and accountability:

1. Section 200.1(b)(1)(i) requires a State plan to provide "evidence" that demonstrates the State has developed or adopted challenging content and student performance standards for all students. At the suggestion of the Committee, further specification is included in § 200.1(b)(1)(i)(B) to require that a State's procedure for setting student performance levels apply recognized professional and technical knowledge for establishing those levels.

2. Section 200.1(b)(2)(ii)(A) clarifies the timeline for a State to develop and field test its assessment system. This section also incorporates the Committee's suggestion that a State be required to describe in its State plan its "quality benchmarks, timetables, and reporting schedule" for completing the development and field testing of its assessment system.

3. Section 200.1(b)(2)(iii) requires a State to indicate in its State plan the languages other than English that are spoken by the student population participating in Title I and the languages for which required yearly student assessments are not available and are needed. The Committee added language requiring the State to include in its State plan "a timetable for progress towards the development of these assessments."

The Secretary specifically requests comment on § 200.1(b)(2)(iii), which requires a State to indicate in its State plan the languages other than English that are spoken by the student population participating in Title I and the languages for which required yearly student assessments are not available and are needed.

4. The Committee agreed to include statutory language on capacity building in § 200.1(b)(4). As a result, this provision requires each State plan to describe how the SEA will help each LEA and Title I school, as applicable, develop the capacity to implement the components of a schoolwide or targeted assistance program and meet its responsibilities with respect to school improvement. The SEA must also describe other factors it deems appropriate to provide students an opportunity to achieve the knowledge and skills embodied in the State's content standards.

5. Section 1111(b)(2)(B)(ii) of Title I requires that adequate yearly progress be linked primarily to performance on State assessments but permits progress to be established "in part through the use of other measures." At the Committee's suggestion, § 200.3(b)(3) clarifies that "other measures" may be

VOL
60
ISS
83
MY
1
1995
UMI

measures "such as dropout, retention, and attendance rates."

6. Section 200.4(b)(3)(i)(A) requires that State assessments be used for purposes for which they are valid and reliable. There was considerable debate by the Committee as to whether the proposed regulations should clarify that State assessments are not required to meet one standard definition of valid and reliable. Because some Committee members believed that language to this effect would weaken the requirement that assessments be valid and reliable, the proposed regulations do not go beyond the statutory language in section 1111(b)(3)(C) of Title I.

7. Section 200.4(b)(3)(ii) requires a State, if it uses assessment measures that are not valid and reliable, to include "sufficient" information regarding the State's efforts to validate the measures "and to report the results of those validation studies." The Committee agreed to this language.

8. Section 200.4(c)(1) makes clear that a State that has developed or adopted assessments for all students in mathematics and reading/language arts under Goals 2000 or another process must use those assessments to carry out Part A. By so stating, this provision clarifies that assessments in mathematics and reading/language arts are sufficient for accountability purposes under Title I. There was lengthy debate as to whether Title I schools should also be held accountable for other subject areas for which a State develops standards and assessments. Some members of the Committee argued that holding Title I schools accountable for all subject areas for which standards and assessments are developed, even though Title I instruction is not provided in those subject areas, would discourage States from developing standards and assessments in subjects other than mathematics and reading/language arts. Other Committee members argued that, if standards and assessments have been developed in other subjects, Title I schools should be held to the same expectations that the State places on all schools. Agreement was not reached on this issue. Even though the regulations do not require accountability for Part A purposes to be based on subjects other than mathematics and reading/language arts, § 200.4(c)(2) was added to make clear that the State must include students served under Part A in assessments in any other subjects the State has developed or adopted for all children.

The Secretary specifically invites comments on whether accountability under Title I should be based on all subject areas for which a State has developed or adopted standards and assessments for all children.

9. Section 200.4(d)(1)(ii) has been augmented through agreement by the Committee to require States that do not yet have assessments that meet the Title I requirements to develop a timetable and benchmarks, including reports of validity studies, for completing the development and field testing of those assessments.

10. Section 200.4(e)(1) requires that transitional assessments assess the performance of complex skills and challenging subject matter in at least mathematics and reading/language arts and be administered at some time during grades 3 through 5, 6 through 9, and 10 through 12. The Committee agreed with this provision. Section 200.4(e)(2) clarifies that transitional assessments do not need to meet the other requirements that apply to final assessments. After considerable debate, there was not agreement with this provision. Several members of the Committee dissented, arguing that there would be little accountability during the transition period if other requirements of final assessments, such as disaggregation of data and valid and reliable measures, were not included. On the other hand, most of the Committee members argued that transitional assessments should not be encumbered by numerous requirements in order to allow States the flexibility to develop and test their new assessment systems.

11. The Committee reached consensus on §§ 200.42 and 200.43 which clarify requirements of States and their subgrantees in the Migrant Education Program (MEP) relative to assessment and the use of assessment results for improving their MEP programs and projects. These sections clarify that, while the State assessments required under § 200.4 should be used wherever possible, MEP grantees and subgrantees have the flexibility to use other assessment procedures when conditions warrant doing so. These sections spell out those conditions. In any case, assessment results must still be examined and used for the purpose of improving services to migratory children.

Schoolwide Programs

Section 1114 of Title I authorizes a school with a high concentration of children from low-income families to use Part A funds to upgrade the entire educational program in the school. The reauthorization dramatically expanded eligibility for schoolwide programs by reducing the poverty threshold a school must meet from 75 percent poverty to 60 percent poverty for the 1995–1996 school year and to 50 percent poverty in subsequent years. The reauthorization also made a number of critical changes in the schoolwide program authority to help ensure that Part A resources are used to stimulate comprehensive reforms of the entire instructional program provided to all children in these schools. For example, section 1114 permits a schoolwide program to combine Part A funds with other State-administered, non-competitive formula grant programs (other than the Individuals with Disabilities Education Act) and certain Federal discretionary grant programs administered by the Department, as well as with State and local public education funds. In addition, section 1114 requires each schoolwide program to include a number of specific components. A schoolwide program school, for example, must conduct a comprehensive needs assessment of the entire school to determine the performance of its children in relation to the State's standards; implement schoolwide reform strategies that are based on effective means of improving the achievement of children and that address the needs of *all* children in the school, particularly the needs of children who are members of the target population of any other Federal education program that is included in the schoolwide program; use highly qualified professional staff; provide professional development for teachers, aides, and other staff; and implement strategies to increase parental involvement.

The proposed regulations for schoolwide programs are designed to support comprehensive schoolwide programs that benefit all children in schools operating these programs. They include provisions that: emphasize the importance of maximizing the resources available for schoolwide programs; ensure that Federal funds and services are integrated in a comprehensive manner to support the very nature of a schoolwide program; and strike a balance between a school's responsibility for designing and implementing schoolwide programs and an LEA's overall responsibility for providing a high quality education to all students.

The following discussion summarizes provisions in the proposed regulations that reflect the Committee's debate on issues concerning schoolwide programs:

1. Section 200.8(a)(1) states that an "eligible school, in consultation with its LEA," may use Part A funds or services, in combination with other Federal, State, and local funds it receives, to operate a schoolwide program. By emphasizing that an eligible school makes the decision to operate a schoolwide program, albeit in consultation with its LEA, this language recognizes that a schoolwide program can be successful only if the school community is fully behind that decision. One member of the Committee dissented to this language out of concern that it would abrogate an LEA's ultimate authority for operating its schools.

2. Section 200.8(b)(1) makes clear that a school may not decide to operate a schoolwide program unless the LEA has determined that the school serves a participating attendance area or is a participating school. The Committee agreed to this clarification.

3. Section 200.8(b)(2)(ii) provides LEAs with the flexibility to identify areas and schools as eligible for schoolwide program participation using a measure of poverty that is different from the poverty measure or measures the LEA uses to identify and rank school attendance areas for eligibility and participation. The Committee agreed to include this flexibility in the proposed regulations.

4. Section 200.8(c) emphasizes a school's authority to combine Part A funds with other Federal education program funds in a schoolwide program. If a school combines other Federal program funds, the school is exempt from complying with most statutory or regulatory provisions of those programs if the intent and purposes of the other programs are met. One negotiator argued that the regulations should only exempt schools from complying with specific, limited provisions; otherwise, the intent and purposes of the programs would be jeopardized. This negotiator dissented to the proposed language.

5. Section 200.8(c)(2) emphasizes that the authority to combine funds from other Federal education programs in a schoolwide program also applies to services provided to the school with those funds. This provision recognizes that, under most programs, funds may not be provided directly to schools. Rather, schools may receive services in the nature of staff or instructional equipment and materials. With the one dissent noted above, the Committee agreed to include this provision.

6. Section 200.8(c)(3)(ii)(B)(*1*) implements section 1306(b) of Title I. The proposed language requires a school that combines Part C of Title I funds in its schoolwide program to, "[i]n consultation with parents of migratory children or organizations representing those parents, first address the identified needs of migratory children that result from the effects of their migratory lifestyle or are needed to permit migratory children to participate effectively in school"; and to "[d]ocument that services to address those needs have been provided." The Committee agreed to this language.

7. Section 200.8(e)(1)(iv)(A) requires that disaggregated assessment results for a schoolwide program be reported only when a State's final assessment system is in place and only when those results are statistically sound. Several Committee members dissented to this provision, arguing that disaggregated data were essential to assessing the specific progress of the target populations included in schoolwide programs. The other Committee members countered, however, that the transition period should not be encumbered with prescriptive requirements to preserve States' flexibility to develop new forms of assessment. Moreover, these members expressed concern that inaccurate conclusions about the progress of target populations would be drawn from disaggregated data if those data were not statistically sound.

8. Section 200.8(f)(1) clarifies that a schoolwide program school is not required to identify particular children as eligible to participate, document that Federal funds benefit only the intended beneficiaries of those funds, or demonstrate that particular services supplement the services regularly provided in the school. This provision applies both to Part A funds and any other Federal education funds included in the schoolwide program. It recognizes that the central purpose of a schoolwide program is to use all available resources to upgrade the entire instructional program for the benefit of all children in the school, rather than focus on specific categorical programs with a singular purpose. One negotiator dissented to this provision out of concern that the intent and purposes of other Federal education programs combined in a schoolwide program would be jeopardized if the school did not have to meet these requirements.

Other Regulations Resulting From Reauthorization Subpart A—Improving Basic Programs Operated by Local Educational Agencies

In addition to the schoolwide program provisions and the provisions related to standards, assessment, and accountability, Subpart A also contains sections on the participation of private school children, within-State allocations, and within-district allocations.

Participation of private school children. Section 1120 of Title I continues the requirement that an LEA provide equitable services to eligible children enrolled in private schools. Because of other changes in Title I, however, some regulatory provisions are necessary to ensure that equitable services are provided. For example, section 1113(c) of Title I requires an LEA to allocate funds to participating school attendance areas or schools on the basis of the *total* number of children from low-income families in each area or school. Section 200.28 of the proposed regulations makes clear that, in calculating the total number of children from low-income families, an LEA must include children from low-income families who attend private schools. The LEA uses the same poverty data, if available, that it uses to count public school children; however, if the same data are not available, comparable data collected through alternative means such as a survey may be used.

Although funds are allocated on the basis of poor children, § 200.10(b) of the proposed regulations makes clear that, as in current practice, private school children eligible to be served are children who reside in a participating public school attendance area and who have educational needs under section 1115(b) of Title I. Section 200.11(a) of the proposed regulations implements the equal expenditure requirement in section 1120(a)(4) of Title I. Under the proposed regulations, an LEA must reserve the funds generated by poor private school children who reside in participating public school attendance areas. In consultation with appropriate private school officials, the LEA may choose one of two options. The LEA may provide services to eligible children in a private school with the funds generated by poor children who attend that school. Alternatively, the LEA may combine the funds generated by poor private school children in all participating areas to create a pool of funds. From this pool, the LEA would provide services to eligible private school children who are in the greatest educational need of those services. Under this option, the services provided to eligible children in a particular private school would not be dependent upon the amount of funds generated by poor children in the school.

Section 200.16(a)(1) of the proposed regulations makes clear that an LEA first uses funds it receives for capital expenses to cover capital expenses it is currently incurring or would incur because of an expected increase in the number of private school children to be served. If an LEA can demonstrate that

VOL
60
ISS
83
MY
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1995
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its current needs for capital expenses have been meet, the LEA may apply to use capital expense funds to reimburse itself for capital expenses it incurred in past years for which its has not been reimbursed.

Within-State Allocations

Allocation of funds to LEAs. Sections 200.20 and 200.21 of the proposed regulations outline general procedures for a State educational agency (SEA) to use in allocating basic grants, concentration grants, and targeted grants. Under Section 200.20 an SEA may: (1) Make subcounty allocations to LEAs based on county allocations determined by the Secretary (adjusted for amounts reserved by the SEA for State administration and school improvement); or (2) in the case of basic and targeted grants only, allocate funds directly to LEAs without regard to counties when a State has a large number of LEAs that overlap county boundaries. Any SEA wishing to allocate funds directly to LEAs under § 200.20(b) must apply to the Secretary for authorization and obtain approval of the data on the number of children from low-income families it will use in allocating funds. Unlike Chapter 1, however, an SEA in this situation is not limited to using the poverty criteria used in the Federal formula.

Section 200.21(a) requires an SEA to base LEA allocations on the number of children ages 5 through 17 from low-income families and children residing in local institutions for neglected children. Section 200.21(b) gives an SEA the flexibility to use the best available data on the number of children from low-income families. In selecting the best available data, an SEA may use: (1) The factors in the Federal formula, which include census poverty data, data on children in families above poverty receiving payments under the Aid to Families with Dependent Children (AFDC) program, and data on foster children; (2) alternative data that an SEA determines best reflect the distribution of poor children and are adjusted to be equivalent in proportion to the total number of formula children counted under section 1124(c) of Title I (excluding neglected or delinquent children); and (3) data that more accurately target poverty. The SEA, however, must use the same measure of poverty throughout the State for basic grants, concentration grants, and targeted grants.

Finally, § 200.20(c) implements the statutory requirement in situations where an LEA contains two or more counties in their entirety. Beginning in school year 1995–96, an SEA must treat each county as if it were a separate LEA when allocating basic, concentration, and targeted grant funds.

Basic grants. Section 200.22 of the proposed regulations outlines the procedures for allocating basic grants to LEAs. Unlike Chapter 1, the Title I statute requires for school year 1995–96 that an LEA have at least 10 "formula" children counted for allocation purposes in order to qualify. In order to qualify in school year 1996–97 and beyond, an LEA must have at least 10 formula children and the number of those children must be greater than two percent of the LEA's total population aged 5 through 17 years. Under the Chapter 1 regulations, an LEA was required only to be located in a county with 10 or more formula children in order to qualify, and the SEA could choose whether to allocate funds to LEAs with less than ten formula children.

Concentration grants. Section 200.23 (a) and (b) of the proposed regulations outlines general procedures for allocating concentration grant funds to LEAs. These procedures are similar to those provided under Chapter 1. To receive concentration grant funds, an LEA must, with certain exceptions, be located in whole or in part in a county that receives a concentration grant allocation from the Secretary. In addition, the number of "formula" children in an LEA counted for allocation purposes must exceed 6,500 or 15 percent of the LEA's total population ages 5 through 17. Unlike Chapter 1, however, eligibility for concentration grants is based on current year counts of formula children rather than prior year counts. Section 200.23(c) addresses special situations in which eligible LEAs are located in ineligible counties, eligible counties have no eligible LEAs, and States receive a minimum concentration grant. If eligible LEAs are located in ineligible counties, for example, § 200.23(c)(1) allows an SEA to reserve two percent or less of the concentration grant funds the State receives to make direct payments to such LEAs.

Targeted grants. Section 200.24 provides for how an SEA allocates targeted grant funds to LEAs. Allocations must be based on the same "formula" count of children used to allocate basic and concentration grants. To qualify, an LEA must have at least 10 children who were counted for purposes of allocating basic grants, and the number of such children must equal at least five percent of the LEA's total population ages 5 through 17 years. To determine an LEA's allocation, the SEA must compute a weighted child count using the weights outlined in the tables in § 200.24(b) (1) and (2). In weighting each LEA's formula count, the SEA must take the larger of the percent-weighted count or the number-weighted count and apply the weights in steps so that only those children above each threshold receive the higher weight.

Hold-harmless provisions. Section 200.25 outlines the statutory "hold-harmless" provisions more clearly. The hold-harmless protection limits the maximum reduction in an LEA's allocation when compared to its prior year's allocation and is applied separately for basic grants, concentration grants, and targeted grants. For school year 1995–96, each LEA is entitled to receive at least 85 percent of its prior year amount for basic grants only. For school year 1996–97, each LEA is entitled to receive 100 percent of its prior year amount for basic and concentration grants. For school year 1997–98, each LEA is entitled to receive a percent of its prior year basic and targeted grants (but not concentration grant) that varies according to the percent the LEA's number of "formula" children is of its total population ages 5 through 17. Section 200.25 also makes clear that an LEA must be eligible to receive a basic grant, concentration grant, or targeted grant in order for the respective hold-harmless provisions of this section to apply.

Within-District Allocations

Sections 200.27 and 200.28 of the proposed regulations contain procedures for within-district allocation of Part A funds in order to clarify the changes made in the new act. Unlike Chapter 1 where LEAs allocated funds to schools based on the number and needs of educationally deprived children, Title I directs LEAs to allocate funds to schools on the basis of the number of children from low-income families. Section 200.27 clarifies what funds an LEA may reserve before allocating funds to eligible schools. An LEA must, for example, reserve funds needed to provide comparable services to children in local institutions for neglected children. Where appropriate, the LEA may reserve funds to provide services to homeless children, children in local institutions for delinquent children, and neglected and delinquent children in community-day school programs. An LEA must also reserve funds as are reasonable and necessary to meet the parental involvement requirements in section 1118 of Title I, administer programs for public and private school children, including

capital expenses, and conduct other authorized activities.

Section 200.28 clarifies the requirements in section 1113(c) of Title I concerning how to allocate funds to school attendance areas and schools. Section 200.28(a) makes clear that an LEA must allocate funds to areas and schools, in rank order, on the basis of the total number of children from low-income families in each area or school. In calculating the total number of low-income children, the LEA must include children from low-income families attending private schools, using the same poverty data, if available, as it is using to count public school children. If the same poverty data are not available, however, the LEA may use comparable data collected through alternative means such as a survey.

Under § 200.28(b), an LEA that serves any school below 35 percent poverty must allocate to each participating area or school an amount for each low-income child that is at least 125 percent of the per-pupil amount of funds the LEA received for that year under subpart 2 of Part A. If an LEA serves only areas or schools above 35 percent poverty, however, it does not need to allocate this minimum per-pupil amount. Section 200.28(c) makes clear that an LEA is not required to allocate the same per-pupil amount to each school attendance area and school, provided the LEA allocates higher per-pupil amounts to areas or schools with higher concentrations of poverty than to areas or schools with lower concentrations of poverty.

Subpart B—Title I Even Start Family Literacy Program

The President expects to consolidate the Even Start Family Literacy program with other Adult Education and Family Literacy programs beginning in 1996. Statutory provisions are sufficient to govern FY 1995 awards and project operation, without specific program regulations. Therefore, the Even Start regulations found at 34 CFR Part 212 will be removed. However, in order to focus continuation awards under the Migrant Education Even Start Program (MEES), authorized under section 1202(a) of Title I, on migratory children, the Secretary has determined that it is necessary to include a definition of eligible MEES participants in § 200.30 of the proposed regulations.

Subpart C—Title I Migrant Education Program

In order to provide the maximum flexibility to the States implementing the MEP, the proposed MEP regulations contained in §§ 200.40–200.45, which would supersede those now contained in 34 CFR Part 201, only address a limited number of specific areas where the statute's lack of clarity could undermine proper program administration. These regulatory areas are as follows:

(1) *Definitions.* Under prior law, the MEP statute required the Department to maintain the same definitions relating to eligibility to be counted and served as a migratory child as have existed for nearly 20 years. However, because the new law eliminates this statutory freeze on amending the MEP eligibility definitions, the Secretary now proposes to amend the definitions in order to better ensure that those children who receive MEP services are truly migratory. Specifically, § 200.40 clarifies that, to be a migratory worker, a person must move to obtain (or try to obtain) temporary or seasonal agricultural or fishing work as a principal means of livelihood. This change is needed to focus program services on children of persons with an actual, significant dependency on migratory agricultural or fishing work—as opposed to persons who may, from time to time, move across school district lines to perform agricultural or fishing activities for a short time, but who have other occupations and so are not truly migratory workers.

(2) *Clarifications.* In a number of respects, Part C of Title I contains ambiguous or unclear requirements that these proposed regulations clarify. In this regard—

(A) Section 200.41 (*Use of program funds for unique program function costs*) clarifies that, under the new law, MEP funds can still be used to carry out functions at the State level that are unique to the MEP, and provides examples of these functions.

(B) As discussed in the negotiated rulemaking section, § 200.42 (*Responsibilities of SEAs and operating agencies for assessing the effectiveness of the MEP*) clarifies that, while MEP grantees shall, where feasible, use the same assessment measures as are required under the Title I, Part A program, they have the flexibility to use other reasonable measures to examine the effectiveness of their MEPs and projects in those situations where use of the Statewide assessment is not feasible.

(C) Section 200.43 (*Responsibilities of SEAs and operating agencies for improving services to migratory children*) clarifies that, while MEP grantees and subgrantees are not subject to the specific program improvement activities required under Title I, Part A, they still have the basic responsibility to use assessment results to improve the services they provide to migratory children.

Migrant Education Coordination Program

Section 1308 of Title I authorizes the Secretary, in consultation with the States, to make grants or enter into contracts with SEA, LEAs and other entities to improve the interstate and intrastate coordination of migrant education projects among those agencies. The Secretary proposes to delete current regulations as unnecessary at this time. Those regulations primarily contain selection criteria for awarding new grants that are overly complex for the kinds of grant competitions that the Department anticipates conducting for fiscal year 1995. The Secretary believes that selection criteria in Part 75 of the Education Department General Administrative Regulations (EDGAR), or as would be contained in proposals for specific competitions, should be used to make discretionary grants for this program.

Subpart D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out

Part D, Subpart 1 of Title I provides financial assistance to State agencies for services to neglected or delinquent children in State-supported institutions or community-day programs to help those children meet challenging State content and performance standards. Subpart 2 authorizes SEAs to retain funds generated by children residing in local institutions for delinquent children under Part A of Title I and make subgrants to LEAs with high numbers or percentages of those children. LEAs may use these funds to meet the educational needs of youth in local institutions for delinquent children and adult correctional facilities and for dropout prevention programs that serve students at educational risk. The Secretary proposes to delete the current regulations in 32 CFR Part 203 governing the State Agency Neglected or Delinquent Program and issue regulations only to define the count of eligible children and youth needed to allocate Subpart 1 funds to the States.

Subpart D specifies and defines the counts of eligible children and youth needed to allocate Title I, subpart 1 State agency neglected or delinquent (N or D) funds to the States and defines several terms used in the Title I, subpart 2 local agency program. The definitions in § 200.50 are necessary to ensure that the data used by the Secretary to allocate funds are based on common

VOL 60 ISS 83 MY 1 1995 UMI

definitions. For example, the definition of a regular program of instruction is included to ensure that the children counted are enrolled in educational programs involving classroom instruction supported by State funds. The definitions of institutions for N or D children and youth require that the average length of stay in the institution be at least 30 days. This continues current policy and is designed to ensure that the children counted for allocation purposes are in an institution for a sufficient length of time so that educational services provided by the institution can be effective. Section 200.51 further provides for when the number of N or D children is determined and how that count must be adjusted to reflect the relative length of the school year.

Subpart E—General

State administration and program improvement. Section 200.60 of the proposed regulations outlines procedures for how an SEA reserves funds for State administration and school improvement. When reserving funds for State administration and school improvement under Part A, an SEA must ensure that no LEA receives less than its hold-harmless amounts for basic grants, concentration grants, and targeted grants unless funds are insufficient to meet the hold-harmless amounts and still permit the SEA to reserve the full amount for administration and school improvement. An SEA also must reserve proportionate amounts from each of the State's basic grant, concentration grant, and targeted grant allocations. Section 200.61 indicates that those funds reserved for State administration are to be used for those general administrative activities that are necessary to carry out any of the Title I programs.

Maintenance of Effort. Section 1120A(a) of Title I allows an LEA to receive Part A funds for any fiscal year only if the SEA finds that the LEA has maintained its fiscal effort in accordance with section 14501 of the ESEA—that is, either the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year. Currently, based on the statutory definition of "current expenditures", the Chapter 1 regulations require an SEA to exclude from maintenance of effort calculations any expenditures made from funds provided under Chapter 1 and Chapter 2 of Title I of the ESEA. The Secretary proposes in § 200.64(c)(2) to change this provision to exclude any expenditures made from funds provided by the Federal Government for which an LEA is required to account to the Federal Government directly or through the SEA. As a result, an LEA would no longer be responsible for determining effort with respect to Federal education funds that may decrease from one year to the next and over which the LEA does not have control.

Supplement, not supplant. Section 1120A(b)(1)(B) of Title I allows, for the purpose of complying with the supplement, not supplant requirement, an SEA or LEA to exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or section 1115 of Title I. Section 200.63(c) clarifies under what conditions a program supported with State or local supplemental funds will be considered to meet the requirements of section 1114 or 1115. These conditions also apply to supplemental State and local funds expended under sections 1113(b)(1)(C) and 1113(c)(2)(B) of Title I.

Executive Order 12866

1. Assessment of Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order, the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential benefits associated with the proposed regulations are clear. Because the Secretary has chosen to regulate on very few statutory provisions, SEAs and LEAs have considerable flexibility in implementing the provisions of Title I to meet their particular needs and circumstances. Moreover, the potential costs associated with the proposed regulations are minimal; they result from specific statutory requirements or have been determined by the Secretary to be necessary for administering the Title I programs effectively and efficiently.

Any burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading *Paperwork Reduction Act of 1980.* The Secretary has also determined that this regulatory action does not interfere unduly with State and local governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the program.

2. Clarity of the Regulations

Executive Order 12866 requires each Federal agency to write regulations that are easy to understand.

The Secretary invites comment on how to make these regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interfere with the clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "§" and a numbered heading; for example "§ 200.1 Contents of a State plan.") (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern whether these proposed regulations are easy to understand should also be sent to Stanley Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW. (room 5121, FOB–10), Washington, DC, 20202–2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are small LEAs, institutions of higher education, and public or nonprofit private agencies receiving Federal funds under the Title I programs. The proposed regulations would not have a significant economic impact on the small entities affected because the proposed regulations would not impose excessive regulatory burden or require unnecessary Federal supervision. The proposed regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Section 1116 (a) and (d) requires LEAs and SEAs, respectively, to review the progress of Title I participating schools and LEAs to determine whether they are making adequate progress toward enabling children to meet the State's student performance standards. Sections 200.5 and 200.6 of the proposed regulations address requirements to report the disaggregation of data for school and LEA improvement and for 14,111 respondents, the estimated average annual burden is 564,440 hours.

In order to receive funds for the operation of a schoolwide program, schools must prepare schoolwide program plans, which is addressed in § 200.8(e) of the proposed regulations and section 1114(b)(2) of Title I. Preparation of a one-time plan for 24,244 respondents is estimated to total 744,760 burden hours.

To receive its allocation, a State must submit to the Secretary data on the number of children enrolled in educational programs of State-operated institutions for N or D children, community day programs for N or D children, and adult correctional institutions. It must also submit the October caseload count of children in local institutions for N or D children. Section 200.51 of the proposed regulations addresses this collection of data, which is approved under OMB Control Number 1810–0060 and estimates for 52 respondents an average annual burden of a total of 2,000 hours.

By statute, State educational agencies applying for Title I funds must submit State plans or applications. The Secretary needs and uses the information provided in these program plans and applications to facilitate the Department's oversight of the programs with regard to the grantees' administration of the programs under the statute and regulations, and to ensure financial accountability for the Federal funds. The public reporting burden for the collection of information for these programs has been submitted to OMB on the separate State plan and consolidated application packages, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The public reporting burden for the collection of information for the Migrant Education Coordination Program application will be announced when the Department publishes any notices of proposed priorities for the award of grants under section 1308 of Title I. Section 200.1 of the proposed regulations addresses what a State plan must contain, with respect to standards and assessments, for a State to receive its Part A allocation. The State plan package approved under OMB Control Number 1810–0571 estimates a one-time burden of 80 hours for each of 52 respondents.

Organizations and individuals desiring to submit comments on these information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 10235, New Executive Office Building, Washington, DC 20503; Attention: Wendy Taylor.

Intergovernmental Review

Grants to SEAs for the MEP and grants to SEAs and LEAs for the Migrant Education Coordination Program are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with this order, this document is intended to provide early notification of the Secretary's specific plans and actions for these programs.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. In particular, the Secretary invites comments on the following two provisions. The Secretary invites comments on § 200.1(b)(2)(iii), which requires a State to indicate in its State plan the languages other than English that are spoken by the student population participating in Title I and the languages for which required yearly student assessments are not available and are needed. The Secretary also invites comments on whether accountability under Title I should be based on all subject areas for which a State has developed or adopted standards and assessments for all children, rather than mathematics and reading/language arts as stated in § 200.4(c)(1).

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period, in rooms 4400 (subparts A, B, D, and E) and 4100 (subparts C and E), Portals Building, 1250 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Part 200

Administrative practice and procedure, Adult education, Children, Coordination, Education, Education of disadvantaged children, Education of individuals with disabilities, Elementary and secondary education, Eligibility, Family, Family-centered education, Grant programs—education, Indians—education, Institutions of higher education, Interstate coordination, Intrastate coordination, Juvenile delinquency, Local educational agencies, Migratory children, Migratory workers, Neglected, Nonprofit private agencies, Private schools, Public agencies, Reporting and recordkeeping requirements, State-administered programs, State educational agencies, Subgrants.

Dated: April 4, 1995.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.010, Improving Programs Operated by Local Educational Agencies; 84.011, Migrant Education Basic State Formula Grant Program; 84.013, Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out; 84.144, Migrant Education Coordination Program; 84.213, Even Start Family Literacy Program)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by removing Parts 201, 203, 205, and 212 and revising Part 200 as follows:

Part 201 [Removed]

1. Part 201 is removed.

Part 203 [Removed]

2. Part 203 is removed.

Part 205 [Removed]

3. Part 205 is removed.

Part 212 [Removed]

4. Part 212 is removed.

5. Part 200 is revised to read as follows:

PART 200—TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

Subpart A—Improving Basic Programs Operated by Local Educational Agencies

Standards, Assessment, and Accountability

Sec.

200.1 Contents of a State plan.
200.2 State responsibilities for developing challenging standards.
200.3 Requirements for adequate progress.

VOL
60
ISS
83
MY
1
1995
UMI

200.4 State responsibilities for assessment.
200.5 Requirements for school improvement.
200.6 Requirements for LEA improvement.
200.7 [Reserved]

Schoolwide Programs

200.8 Schoolwide program requirements.
200.9 [Reserved]

Participation of Eligible Children in Private Schools

200.10 Responsibilities for providing services to children in private schools.
200.11 Factors for determining equitable participation of children in private schools.
200.12 Requirements to ensure that funds do not benefit a private school.
200.13 Requirements concerning property, equipment, and supplies for the benefit of private school children.
200.14 [Reserved]

Capital Expenses

200.15 Payments to SEAs for capital expenses.
200.16 Payments to LEAs for capital expenses.
200.17 Use of LEA payments for capital expenses.
200.18–200.19 [Reserved]

Procedures for the Within-State Allocation of LEA Program Funds

200.20 Allocation of funds to LEAs.
200.21 Determination of the number of children eligible to be counted.
200.22 Allocation of basic grants.
200.23 Allocation of concentration grants.
200.24 Allocation of targeted grants.
200.25 Applicable hold-harmless provisions.
200.26 [Reserved]

Procedures for the Within-District Allocation of LEA Program Funds

200.27 Reservation of funds by an LEA.
200.28 Allocation of funds to school attendance areas and schools.
200.29 [Reserved]

Subpart B—Even Start Family Literacy Programs

200.30 Migrant Education Even Start program definition.
200.31–200.39 [Reserved]

Subpart C—Migrant Education Program

200.40 Program definitions.
200.41 Use of program funds for unique program function costs.
200.42 Responsibilities of SEAs and operating agencies for assessing the effectiveness of the MEP.
200.43 Responsibilities of SEAs and operating agencies for improving services to migratory children.
200.44 Use of MEP funds in schoolwide projects.
200.45 Responsibilities for participation of children in private schools.
200.46–200.49 [Reserved]

Subpart D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out

200.50 Program definitions.
200.51 SEA counts of eligible children.
200.52–200.59 [Reserved]

Subpart E—General Provisions

200.60 Reservation of funds for State administration and school improvement.
200.61 Use of funds reserved for State administration.
200.62 [Reserved]
200.63 Supplement, not supplant.
200.64 Maintenance of effort.
200.65 Definitions.
200.66–200.69 [Reserved]

Authority: 20 U.S.C. 6301–6514, unless otherwise noted.

Subpart A—Improving Basic Programs Operated by Local Educational Agencies

Standards, Assessment, and Accountability

§ 200.1 Contents of a State plan.

(a) (1) A State that desires to receive a grant under this subpart shall submit to the Secretary a plan that meets the requirements of this section.

(2) A State plan must be—

(i) Developed with broad-based consultation throughout the planning process with local educational agencies (LEAs), teachers, pupil services personnel, other staff, parents, and administrators, including principals;

(ii) Developed with substantial involvement of the Committee of Practitioners established under section 1603(b) of the Elementary and Secondary Education Act of 1965, as amended (Act), and continue to involve the Committee in monitoring the plan's implementation; and

(iii) Coordinated with other plans developed under the Act, the Goals 2000: Educate America Act, and other acts, as appropriate, consistent with section 14307 of the Act.

(3) In lieu of a State plan under this section, a State may include programs under this part in a consolidated State plan submitted in accordance with section 14302 of the Act.

(b) A State plan must address the following:

(1) *Challenging standards.* The State plan must include—

(i) Evidence that demonstrates that—

(A) The State has developed or adopted challenging content and student performance standards for all students in accordance with § 200.2; and

(B) The State's procedure for setting the student performance levels applies recognized professional and technical knowledge for establishing the student performance levels; or

(ii) The State's strategy and schedule for developing or adopting by the beginning of the 1997–1998 school year—

(A) Challenging content and student performance standards for all students in accordance with § 200.2(b); or

(B) Content and student performance standards for elementary and secondary school children served under this subpart in accordance with § 200.2(c), if the State will not have developed or adopted content and student performance standards for all students by the 1997–1998 school year or does not intend to develop such standards.

(iii) For subjects in which students will be served under this subpart but for which a State has no standards, the State plan must describe the State's strategy for ensuring that those students are taught the same knowledge and skills and held to the same expectations as are all children.

(2) *Assessments.* The State plan must—

(i) Demonstrate that the State has developed or adopted a set of high-quality yearly student assessments, including assessments in at least mathematics and reading/language arts, in accordance with § 200.4, that will be used as the primary means of determining the yearly performance of each school and LEA served under this subpart in enabling all children participating under this subpart to meet the State's student performance standards; or

(ii) If a State has not developed or adopted assessments in at least mathematics and reading/language arts in accordance with § 200.4—

(A) Describe the State's quality benchmarks, timetables, and reporting schedule for completing the development and field-testing of those assessments by the beginning of the 2000–2001 school year; and

(B) Describe the transitional set of yearly statewide assessments the State will use to assess students' performance in mastering complex skills and challenging subject matter; and

(iii)(A) Identify the languages other than English that are spoken by the student population participating under this subpart; and

(B) Indicate the languages for which yearly student assessments that meet the requirements of this section are not available and are needed and develop a timetable for progress towards the development of these assessments.

(3) *Adequate yearly progress.* The State plan must—

(i) Demonstrate, based on the assessments described under § 200.4, what constitutes adequate yearly progress toward enabling all children to meet the State performance standards of—

(A) Any school served under this subpart; and

(B) Any LEA that receives funds under this subpart; or

(ii) For any year in which a State uses transitional assessments under § 200.4(e), describe how the State will identify schools under § 200.5 and LEAs under § 200.6 in accordance with § 200.3.

(4) *Capacity building.* Each State plan shall describe—

(i) How the State educational agency (SEA) will help each LEA and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) of the Act that is applicable to the LEA and school; and

(ii) Other factors the State deems appropriate, which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act, to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards developed or adopted by the State.

(Authority: 20 U.S.C. 6311)

§ 200.2 State responsibilities for developing challenging standards.

(a) *Standards in general.* (1) A State shall develop or adopt challenging content and student performance standards that will be used by the State, its LEAs, and its schools to carry out this subpart.

(2) Standards under this subpart must include—

(i) Challenging content standards in academic subjects that—

(A) Specify what children are expected to know and be able to do;

(B) Contain coherent and rigorous content; and

(C) Encourage the teaching of advanced skills; and

(ii) Challenging student performance standards that—

(A) Are aligned with the State's content standards;

(B) Describe two levels of high performance—proficient and advanced—that determine how well children are mastering the material in the State's content standards; and

(C) Describe a third level of performance—partially proficient—to provide complete information to measure the progress of lower-performing children toward achieving to the proficient and advanced levels of performance.

(b) *Standards for all children.* A State that has developed or adopted content standards and student performance standards for all students under Title III of the Goals 2000: Educate America Act or under another process, or will develop or adopt such standards by the beginning of the 1997–1998 school year, shall use those standards, modified, if necessary, to conform with the requirements in paragraph (a) of this section and § 200.3, to carry out this subpart.

(c) *Standards for children served under this subpart.* (1) If a State will not have developed or adopted content and student performance standards for all students by the beginning of the 1997–1998 school year, or does not intend to develop those standards, the State shall develop content and student performance standards for elementary and secondary school children served under this subpart in subject areas as determined by the State, but including at least mathematics and reading/language arts. These standards must—

(i) Include the same knowledge, skills, and levels of performance expected of all children;

(ii) Meet the requirements in paragraph (a) of this section and § 200.3; and

(iii) Be developed by the beginning of the 1997–1998 school year.

(2) If a State has not developed content and student performance standards in mathematics and reading/language arts for elementary and secondary school children served under this subpart by the beginning of the 1997–1998 school year, the State shall then adopt a set of standards in those subjects such as the standards contained in other State plans the Secretary has approved.

(3) If and when a State develops or adopts standards for all children, the State shall use those standards to carry out this subpart.

(Authority: 20 U.S.C. 6311(b))

§ 200.3 Requirements for adequate progress.

(a) Except as provided in paragraph (c) of this section, each State shall determine, based on the State assessment system described in § 200.1, what constitutes adequate yearly progress of—

(1) Any school served under this subpart toward enabling children to meet the State's student performance standards; and

(2) Any LEA that receives funds under this subpart toward enabling children in schools served under this subpart to meet the State's student performance standards.

(b) Adequate yearly progress must be defined in a manner that—

(1) Results in continuous and substantial yearly improvement of each school and LEA sufficient to achieve the goal of all children served under this subpart, particularly economically disadvantaged and limited-English proficient children, meeting the State's proficient and advanced levels of performance;

(2) Is sufficiently rigorous to achieve that goal within an appropriate timeframe; and

(3) Links progress primarily to performance on the State's assessment system under § 200.4, while permitting progress to be established in part through the use of other measures, such as dropout, retention, and attendance rates.

(c) For any year in which a State uses transitional assessments under § 200.4(e), the State shall devise a procedure for identifying schools under § 200.5 and LEAs under § 200.6 that relies on accurate information about the continuous and substantial yearly academic progress of each school and LEA.

(Authority: 20 U.S.C. 6311(b)(2), (7)(B))

§ 200.4 State responsibilities for assessment.

(a) Each State shall develop or adopt a set of high-quality yearly student assessments, including assessments in at least mathematics and reading/language arts, that will be used as the primary means of determining the yearly performance of each school and LEA served under this subpart in enabling all children participating under this subpart to meet the State's student performance standards.

(b) Assessments under this section must meet the following requirements:

(1) Be the same assessments used to measure the performance of all children, if the State measures the performance of all children.

(2)(i) Be aligned with the State's challenging content and student performance standards; and

(ii) Provide coherent information about student attainment of the State's content and student performance standards.

(3)(i)(A) Be used for purposes for which the assessments are valid and reliable; and

(B) Be consistent with relevant, nationally recognized professional and technical standards for those assessments.

(ii) Assessment measures that do not meet these requirements may be included as one of the multiple measures if the State includes in its

VOL
60
ISS
83
MY
1
1995
UMI

State plan sufficient information regarding the State's efforts to validate the measures and to report the results of those validation studies.

(4) Measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards.

(5) Be administered at some time during—

(i) Grades 3 through 5;

(ii) Grades 6 through 9; and

(iii) Grades 10 through 12.

(6) Involve multiple approaches within an assessment system with up-to-date measures of student performance, including measures that assess complex thinking skills and understanding of challenging content.

(7) Provide for—

(i) Participation in the assessment of all students in the grades being assessed;

(ii) Reasonable adaptations and accommodations for students with diverse learning needs necessary to measure the achievement of those students relative to the State's standards; and

(iii)(A) Inclusion of limited-English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what those students know and can do to determine the students' mastery of skills in subjects other than English.

(B) To meet this requirement, the State—

(*1*) Shall make every effort to use or develop linguistically accessible assessment measures; and

(*2*) May request assistance from the Secretary if those measures are needed.

(8) Include, for determining the progress of the LEA only, students who have attended schools in the LEA for a full academic year, but who have not attended a single school in the LEA for a full academic year.

(9) Provide individual student interpretive and descriptive reports that include—

(i) Individual scores; or

(ii) Other information on the attainment of student performance standards.

(10) Enable results to be disaggregated within each State, LEA, and school by—

(i) Gender;

(ii) Each major racial and ethnic group;

(iii) English proficiency status;

(iv) Migrant status;

(v) Students with disabilities as compared to students without disabilities; and

(vi) Economically disadvantaged students as compared to students who are not economically disadvantaged.

(c)(1) If a State has developed or adopted assessments for all students in mathematics and reading/language arts under Title III of the Goals 2000: Educate America Act or under another process, the State shall use those assessments, modified, if necessary, to conform with the requirements in paragraph (b) of this section and § 200.3, to carry out this subpart.

(2) Paragraph (c)(1) of this section does not relieve the State from including students served under this subpart in assessments in any other subjects the State has developed or adopted for all children.

(d)(1) Except as provided in paragraph (d)(2) and (3) of this section, if a State has not developed or adopted assessments in at least mathematics and reading/language arts that meet the requirements in paragraph (b) of this section, the State shall—

(i) By the beginning of the 2000–2001 school year, develop those assessments and field-test them for one year; and

(ii) Develop a timetable and benchmarks, including reports of validity studies, for completing the development and field testing of those assessments.

(2) The State may request a one-year extension from the Secretary to test its new assessments if the State submits a strategy to correct problems identified in the field testing of its assessments.

(3) If a State has not developed assessments in at least mathematics and reading/language arts that meet the requirements in paragraph (b) of this section by the beginning of the 2000–2001 school year and is denied an extension, the State shall adopt a set of assessments in those subjects such as assessments contained in the plans of other States the Secretary has approved.

(e)(1) While a State is developing assessments under paragraph (d) of this section, the State may propose to use a transitional set of yearly statewide assessments that will—

(i) Assess the performance of complex skills and challenging subject matter in at least mathematics and reading/language arts; and

(ii) Be administered at some time during—

(A) Grades 3 through 5;

(B) Grades 6 through 9; and

(C) Grades 10 through 12.

(2) Transitional assessments do not need to meet the other requirements of this section.

(Authority: 20 U.S.C. 6311(b))

§ 200.5 Requirements for school improvement.

(a) *Local review.* (1)(i) Each LEA receiving funds under this subpart shall review annually the progress of each school served under this subpart to determine whether the school is meeting or making adequate progress toward enabling its students to meet the State's student performance standards described in the State plan.

(ii) An LEA may review a targeted assistance school on the progress of only those students that have been or are served under this subpart.

(2) In conducting its review, an LEA shall—

(i)(A) Use the State assessments or transitional assessments described in the State plan; and

(B) Use any additional measures or indicators described in the LEA's plan; or

(ii) If the State assessments are not conducted in a Title I school, use other appropriate measures or indicators to review the school's progress; and

(iii)(A) Disaggregate the results of the review according to the categories specified in § 200.4(b)(10);

(B) Seek to produce, in schoolwide program schools, statistically sound results for each category through the use of oversampling or other means; and

(C) Report disaggregated data to the public only when those data are statistically sound.

(3) The LEA shall—

(i) Publicize and disseminate to teachers and other staff, parents, students, the community, and administrators, including principals, the results of the annual review of all schools served under this subpart in individual school performance profiles; and

(ii) Provide the results of the annual review to schools served under this subpart so that the schools can continually refine their program of instruction to help all children participating under this subpart meet the State's student performance standards.

(Authority: 20 U.S.C. 6317(a))

§ 200.6 Requirements for LEA improvement.

(a) *State review.* (1)(i) Each SEA shall review annually the progress of each LEA served under this subpart to determine whether the schools receiving assistance under this subpart are making adequate progress toward enabling their students to meet the State's student performance standards described in the State plan.

(ii) An SEA may review the progress of the schools served by an LEA only for those students that have been or are being served under this subpart.

(2) In conducting its review, an SEA shall—

(i) Disaggregate the results of the review according to the categories specified in § 200.4(b)(10);

(ii) Consider other indicators, if applicable, in accordance with section 1112(b)(1) of the Act; and

(iii) Report disaggregated data to the public only when those data are statistically sound.

(3) The SEA shall publicize and disseminate to LEAs, teachers, and other staff, parents, students, the community, and administrators, including principals, the results of the State review.

(Authority: 20 U.S.C. 6317(d))

§ 200.7 [Reserved]

Schoolwide Programs

§ 200.8 Schoolwide program requirements.

(a) *General.* (1) An eligible school, in consultation with its LEA, may use funds or services under this subpart, in combination with other Federal, State, and local funds it receives, to upgrade the entire educational program in the school to support systemic reform in accordance with the provisions of this section.

(2)(i) Except as provided in paragraph (a)(2)(ii) of this section, a school may not start a new schoolwide program until the SEA provides written information to each LEA that the SEA has established a statewide system of support and improvement.

(ii) If a school desires to start a schoolwide program prior to the establishment of a statewide system of support and improvement, the school shall demonstrate to the LEA that the school has received high-quality technical assistance and support from other providers of assistance.

(b) *Eligibility for a schoolwide program.* A school may operate a schoolwide program if—

(1) The LEA determines that the school serves a participating attendance area or is a participating school under section 1113 of the Act; and

(2)(i) For the initial year of the schoolwide program, the school meets either of the following criteria:

(A) For the 1995–1996 school year—

(*1*) The school serves a school attendance area in which not less than 60 percent of the children are from low-income families; or

(*2*) Not less than 60 percent of the children enrolled in the school are from low-income families.

(B) For the 1996–1997 school year and subsequent years, the percentages of children from low-income families in paragraph (b)(2)(i)(A) may not be less than 50 percent.

(ii) The LEA may choose to determine the percentage of children from low-income families under paragraph (b)(2)(i) based on a measure of poverty that is different from the poverty measure or measures used by the LEA to identify and rank school attendance areas for eligibility and participation under this subpart.

(c) *Availability of other Federal funds.* (1) In addition to funds under this subpart, a school may use in its schoolwide program Federal funds under any program administered by the Secretary, except programs under the Individuals with Disabilities Education Act (IDEA), that is included on the most recent notice published by the Secretary in the **Federal Register**.

(2) For the purposes of this section, the authority to combine funds from other Federal programs also applies to services provided to a school with those funds.

(3)(i) Except as provided in paragraph (c)(3)(ii) of this section, a school that combines funds from any other Federal program administered by the Secretary in a schoolwide program—

(A) Is not required to meet the statutory or regulatory requirements of that program applicable at the school level; but

(B) Shall meet the intent and purposes of that program to ensure that the needs of the intended beneficiaries of that program are addressed.

(ii)(A) An LEA or a school that chooses to use funds from other programs shall not be relieved of statutory and regulatory requirements applicable to those programs relating to—

(*1*) Health and safety;

(*2*) Civil rights;

(*3*) Gender equity;

(*4*) Participation and involvement of parents and students;

(*5*) Private school children, teachers, and other educational personnel;

(*6*) Maintenance of effort;

(*7*) Comparability of services;

(*8*) Use of Federal funds to supplement, not supplant non-Federal funds in accordance with paragraph (f)(1)(iii) and (2) of this section; and

(*9*) Distribution of funds to SEAs and LEAs.

(B) A school operating a schoolwide program shall comply with the following requirements if it combines funds from these programs in its schoolwide program:

(*1*) *Migrant education.* A school that combines in its schoolwide program funds received under Part C of Title I of the Act shall—

(*A*) In consultation with parents of migratory children or organizations representing those parents, first address the identified needs of migratory children that result from the effects of their migratory lifestyle or are needed to permit migratory children to participate effectively in school; and

(*B*) Document that services to address those needs have been provided.

(*2*) *Indian education.* A school may combine funds received under subpart 1 of Part A of Title IX of the Act in its schoolwide program if the parent committee established by the LEA under section 9114(c)(4) of the Act approves the inclusion of those funds.

(iii) This paragraph does not relieve—

(A) An LEA from complying with all requirements that do not affect the operation of a schoolwide program; or

(B) A non-schoolwide program school from complying with all applicable requirements.

(d) *Components of a schoolwide program.* A schoolwide program must include the following components:

(1) A comprehensive needs assessment involving the parties listed in paragraph (e)(2)(ii) of this section of the entire school that is based on—

(i) Information on the performance of children in relation to the State content standards and the State student performance standards under section 1111(b)(1) of the Act; or

(ii) Until the State develops or adopts standards under section 1111(b)(1) of the Act, an analysis of available data on the achievement of students in the school.

(2) Schoolwide reform strategies that—

(i) Provide opportunities, based on best knowledge and practice, for all children in the school to meet the State's proficient and advanced levels of student performance;

(ii) Are based on effective means of improving the achievement of children, such as utilizing research-based teaching strategies;

(iii) Use effective instructional strategies that—

(A) Increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs;

(B) Provide an enriched and accelerated curriculum; and

(C) Meet the educational needs of historically underserved populations;

(iv)(A) Address the needs of all children in the school, particularly the needs of children who are members of the target population of any program that is included in the schoolwide program under paragraph (c) of this section; and

VOL
60
ISS
83
MY
1
1995
UMI

(B) Address how the school will determine if those needs have been met; and

(v) Are consistent with, and designed to implement, the State and local improvement plans, if any, approved under Title III of the Goals 2000: Educate America Act.

(3) Instruction by highly qualified professional staff.

(4)(i) Professional development, in accordance with section 1119 of the Act, for teachers and aides and, where appropriate, principals, pupil services personnel, other school staff, and parents to enable all children in the school to meet the State's student performance standards.

(ii) The school shall devote sufficient resources to effectively carry out its responsibilities for professional development, either alone or in consortia with other schools.

(5) Strategies to increase parental involvement, such as family literacy services.

(6) Strategies in an elementary school for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to the schoolwide program.

(7) Strategies to involve teachers in the decisions regarding the use of additional local, high-quality student assessments, if any, under section 1112(b)(1) of the Act to provide information on, and to improve, the performance of individual students and the overall instructional program.

(8)(i) Activities to ensure that students who experience difficulty mastering any of the standards required by section 1111(b) of the Act during the school year will be provided effective, timely additional assistance, which must include

(A) Strategies to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

(B) To the extent the school determines feasible using funds under this subpart, periodic training for teachers in how to identify those difficulties and to provide assistance to individual students; and

(C) For any student who has not met those standards, parent-teacher conferences to discuss—

(*1*) What the school will do to help the student meet the standards;

(*2*) What the parents can do to help the student improve the student's performance; and

(*3*) Additional assistance that may be available to the student at the school or elsewhere in the community.

(ii) This provision does not—

(A) Require the school or LEA to develop an individualized education program (IEP) for each student identified under paragraph (d)(8) of this section; or

(B) Relieve the school or LEA from the requirement under the IDEA to develop IEPs for students with disabilities.

(e) *Schoolwide program plan.* (1) An eligible school that desires to operate a schoolwide program shall develop, in consultation with the LEA and its school support team or other technical assistance provider, a comprehensive plan for reforming the total instructional program in the school that—

(i) Incorporates the components under paragraph (d) of this section;

(ii) Describes how the school will use resources under this subpart and from other sources to implement those components;

(iii) Includes a list of State and local programs and other Federal programs under paragraph (c) of this section that will be included in the schoolwide program; and

(iv)(A) If the State has developed or adopted a State assessment system under section 1111(b)(3) of the Act—

(*1*) Describes how the school will provide individual student assessment results, including an interpretation of those results, to the parents of each child who participates in that assessment; and

(*2*) Provides for the disaggregation of data on the assessment results of students and the reporting of those data in accordance with § 200.5(a); or

(B) If the State has not developed or adopted a State assessment system under section 1111(b)(3) of the Act, describes the data on the achievement of students in the school and effective instructional and school improvement practices on which the plan is based.

(2) The schoolwide program plan must be—

(i) Developed during a one-year period unless—

(A) The LEA, after considering the recommendation of its technical assistance providers, determines that less time is needed to develop and implement the schoolwide program; or

(B) The school is operating a schoolwide program under section 1015 of Chapter 1 of Title I of the Act during the 1994–1995 school year, in which case the school may continue its schoolwide program but shall amend its current plan or develop a new plan in accordance with this section during the first year it receives funds under this part;

(ii) Developed with the involvement of the community to be served and individuals who will carry out the plan, including—

(A) Teachers;

(B) Principals;

(C) Other school staff;

(D) Pupil services personnel, if appropriate;

(E) Parents of students in the school; and

(F) If the plan relates to a secondary school, students from the school;

(iii) Available to the LEA, parents, and the public;

(iv) Translated, to the extent feasible, into any language that a significant percentage of the parents of participating children in the school speak as their primary language; and

(v) If appropriate, developed in coordination with other programs, including those under the School-to-Work Opportunities Act of 1994, the Carl D. Perkins Vocational and Applied Technology Education Act, and the National and Community Service Act of 1990.

(3) The schoolwide program plan remains in effect for the duration of the school's participation under this section.

(4) A school operating a schoolwide program shall review and revise its plan, as necessary, to reflect changes in its schoolwide program or changes to reflect State standards established after the plan was developed.

(f) *Effect of operating a schoolwide program.* (1) No school operating a schoolwide program shall be required to—

(i) Identify particular children under this subpart and under any other Federal program included under paragraph (c) of this section as eligible to participate in the schoolwide program;

(ii) Document that funds available under this subpart and any other Federal program included under paragraph (c) of this section are used to benefit only the intended beneficiaries of the respective programs; or

(iii) Demonstrate that the particular services paid for with funds under this subpart and under any other Federal program included under paragraph (c) of this section supplement the services regularly provided in that school.

(2) A school operating a schoolwide program shall use funds available under this subpart and under any other Federal program included under paragraph (c) of this section only to supplement the total amount of funds that would, in the absence of those funds, be made available from non-Federal sources for that school, including funds needed to provide services that are required by law for

children with disabilities and children with limited-English proficiency.

(Authority: 20 U.S.C. 6314, 6396(b))

§ 200.9 [Reserved]

Participation of Eligible Children in Private Schools

§ 200.10 Responsibilities for providing services to children in private schools.

(a) An LEA shall, after timely and meaningful consultation with appropriate private school officials, provide special educational services or other benefits under this subpart, on an equitable basis, to eligible children who are enrolled in private elementary and secondary schools in accordance with the requirements in §§ 200.11 through 200.17 and section 1120 of the Act.

(b) Eligible private school children are children who—

(1) Reside in a participating school attendance area of the LEA; and

(2) Meet the criteria in section 1115(b) of the Act.

(3) Among the eligible private school children, the LEA shall select children to participate in a manner that is consistent with the provisions in § 200.11.

(Authority: 20 U.S.C. 6315(b); 6321(a))

§ 200.11 Factors for determining equitable participation of children in private schools.

(a) *Equal expenditures.* (1) Expenditures of funds made available under this subpart for services for eligible private school children in the aggregate must be equal to the amount of funds generated by private school children from low-income families under § 200.28.

(2) An LEA shall meet this requirement as follows:

(i) Before determining equal expenditures under paragraph (a)(1) of this section, the LEA shall reserve, from the LEA's whole allocation, funds needed to carry out § 200.27.

(ii) The LEA shall reserve the amounts of funds generated by private school children under § 200.28 and, in consultation with appropriate private school officials, may—

(A) Combine those amounts to create a pool of funds from which the LEA provides equitable services to eligible private school children, in the aggregate, in greatest need of those services; or

(B) Provide equitable services to eligible children in each private school with the funds generated by children from low-income families under § 200.28 who attend that private school.

(b) *Services on an equitable basis.* (1) The services that an LEA provides to eligible private school children must be equitable in comparison to the services and other benefits provided to public school children participating under this subpart.

(2) Services are equitable if the LEA—

(i) Addresses and assesses the specific needs and educational progress of eligible private school children on a comparable basis as public school children;

(ii) Meets the equal expenditure requirements under paragraph (a) of this section; and

(iii) Provides private school children with an opportunity to participate that—

(A) Is equitable to the opportunity provided to public school children; and

(B) Provides reasonable promise of those children achieving the high levels called for by the State's student performance standards.

(3) The LEA shall make the final decisions with respect to the services to be provided to eligible private school children.

(Authority: 20 U.S.C. 6321(a))

§ 200.12 Requirements to ensure that funds do not benefit a private school.

(a) An LEA shall use funds under this subpart to provide services that supplement, and in no case supplant, the level of services that would, in the absence of Title I services, be available to participating children in private schools.

(b) An LEA shall use funds under this subpart to meet the special educational needs of participating private school children, but not for—

(1) The needs of the private school; or

(2) The general needs of children in the private school.

(Authority: 20 U.S.C. 6321(a), 6322(b))

§ 200.13 Requirements concerning property, equipment, and supplies for the benefit of private school children.

(a) A public agency must keep title to and exercise continuing administrative control of all property, equipment, and supplies that the public agency acquires with funds under this subpart for the benefit of eligible private school children.

(b) The public agency may place equipment and supplies in a private school for the period of time needed for the program.

(c) The public agency shall ensure that the equipment and supplies placed in a private school—

(1) Are used only for Title I purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

(d) The public agency shall remove equipment and supplies from a private school if—

(1) The equipment and supplies are no longer needed for Title I purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment or supplies for other than Title I purposes.

(e) No funds under this subpart may be used for repairs, minor remodeling, or construction of private school facilities.

(f) For the purpose of this section, the term *public agency* includes the LEA.

(Authority: 20 U.S.C. 6321(c))

§ 200.14 [Reserved]

Capital Expenses

§ 200.15 Payments to SEAs for capital expenses.

(a) From the amount appropriated for capital expenses under section 1002(e) of the Act, the Secretary pays a State an amount that bears the same ratio to the amount appropriated as the number of private school children in the State who received services under this subpart in the most recent year for which data satisfactory to the Secretary are available bears to the total number of private school children served in that same year in all the States.

(b) The Secretary reallocates funds not used by a State for purposes of § 200.16 among other States on the basis of their respective needs.

(Authority: 20 U.S.C. 6321(e)(1))

§ 200.16 Payments to LEAs for capital expenses.

(a)(1)(i) An LEA may apply to the SEA for a payment to cover capital expenses that the LEA, in providing equitable services to eligible private school children—

(A) Is currently incurring; or

(B) Would incur because of an expected increase in the number of private school children to be served.

(ii) An LEA may apply for a payment to cover capital expenses it incurred in prior years for which it has not been reimbursed if the LEA demonstrates that its current needs for capital expenses have been met.

(2) *Capital expenses* means only expenditures for noninstructional goods and services that are incurred as a result of implementation of alternative delivery systems to comply with the requirements of *Aguilar v. Felton*. These expenditures—

(i) Include—

(A) The purchase, lease, and renovation of real and personal property (including mobile educational units, and leasing of neutral sites or space);

(B) Insurance and maintenance costs;

(C) Transportation; and

(D) Other comparable goods and services; and

VOL 60 ISS 83 MY 1 1995 UMI

(ii) Do not include the purchase of instructional equipment such as computers.

(b) An SEA shall distribute funds it receives under § 200.15 to LEAs that apply on the basis of need.

(Authority: 20 U.S.C. 6321(e))

§ 200.17 Use of LEA payments for capital expenses.

(a) Unless an LEA is authorized by the SEA to reimburse itself for capital expenses incurred in prior years, the LEA shall use payments received under § 200.16 to cover capital expenses the LEA is incurring or will incur to maintain or increase the number of private school children being served.

(b) The LEA may not take the payments received under § 200.16 into account in meeting the requirements in § 200.11(a).

(c) The LEA shall account separately for payments received under § 200.16.

(Authority: 20 U.S.C. 6321(e)(3))

§ 200.18–200.19 [Reserved]

Procedures for the Within-State Allocation of LEA Program Funds

§ 200.20 Allocation of funds to LEAs.

(a) *Subcounty allocations.* (1) Except as provided in paragraph (b) of this section, § 200.23(c) (1) and (3)(ii), and § 200.25, an SEA shall allocate the county amounts determined by the Secretary for basic grants, concentration grants, and targeted grants to each eligible LEA within the county on the basis of the number of children counted in § 200.21.

(2) If an LEA overlaps a county boundary, the SEA shall make, on a proportionate basis, a separate allocation to the LEA from the county aggregate amount for each county in which the LEA is located, provided the LEA is eligible for a grant.

(b) *Statewide allocations.* (1) In any State in which a large number of LEAs overlap county boundaries, an SEA may apply to the Secretary for authority to make allocations under basic grants or targeted grants directly to LEAs without regard to counties.

(2) In its application, the SEA shall—

(i) Identify the data in § 200.21(b) the SEA will use for LEA allocations; and

(ii) Provide assurances that—

(A) Allocations will be based on the data approved by the Secretary under this paragraph; and

(B) A procedure has been established through which an LEA dissatisfied with the determination by the SEA may appeal directly to the Secretary for a final determination.

(c) *LEAs containing two or more counties in their entirety.* If an LEA contains two or more counties in their entirety, the SEA shall allocate funds under paragraphs (a) and (b) of this section to each county as if such county were a separate LEA.

(Authority: 20 U.S.C. 6333–6335)

§ 200.21 Determination of the number of children eligible to be counted.

(a) *General.* An SEA shall count the number of children aged 5–17, inclusive, from low-income families and the number of children residing in local institutions for neglected children.

(b) *Children from low-income families.* (1) An SEA shall count the number of children from low-income families in the school districts of the LEAs using the best available data. The SEA shall use the same measure of low-income throughout the State.

(2) An SEA may use one of the following options to obtain its count of children from low-income families:

(i) The factors under section 1124(c)(1) of the Act (excluding children in local institutions for neglected or delinquent children), which include—

(A) Census data on children in families below the poverty level;

(B) Data on children in families above poverty receiving payments under the program of Aid to Families with Dependent Children; and

(C) Data on foster children.

(ii) Alternative data that an SEA determines best reflect the distribution of children from low-income families and that are adjusted to be equivalent in proportion to the total number of children counted under section 1124(c) of the Act (excluding children in local institutions for neglected or delinquent children).

(iii) Data that more accurately reflect the distribution of poverty.

(c) *Children in local institutions for neglected children.*

The SEA shall count the number of children ages 5 to 17, inclusive, in the LEA who resided in a local institution for neglected children—and were not counted under subpart 1 of Part D of Title I (programs for neglected or delinquent children operated by State agencies)—for at least 30 consecutive days, at least one day of which was in the month of October of the preceding fiscal year.

(Authority: 20 U.S.C. 6333(c))

§ 200.22 Allocation of basic grants.

(a) *Eligibility.* An LEA is eligible for a basic grant if—

(1) In school year 1995–96, there are at least 10 children counted under § 200.21 in the LEA; and

(2) Beginning in school year 1996–97—

(i) There are at least 10 children counted under § 200.21 in the LEA; and

(ii) The number of those children is greater than two percent of the LEA's total population aged 5 to 17 years, inclusive.

(b) *Amount of the LEA grant.* An SEA shall allocate basic grant funds to eligible LEAs as provided in § 200.20, except that the SEA shall apply the hold-harmless provisions described in § 200.25.

(Authority: 20 U.S.C. 6333)

§ 200.23 Allocation of concentration grants.

(a) *Eligibility.* An LEA is eligible for a concentration grant if—

(1) The LEA is eligible for a basic grant under paragraph § 200.22(a); and

(2) The number of children counted under § 200.21 in the LEA exceeds—

(i) 6,500; or

(ii) 15 percent of the LEA's total population ages 5 to 17, inclusive.

(b) *Amount of the grant.* (1) Except as provided in paragraph (c) of this section, an SEA shall allocate a county's concentration grant funds only to LEAs that—

(i) Lie, in whole or in part, within the county; and

(ii) Meet the eligibility criteria in paragraph (a) of this section.

(2) An SEA shall allocate concentration grant funds to eligible LEAs as provided in § 200.20(a), except that the SEA shall apply the hold-harmless provision described in § 200.25(a).

(c) *Exceptions.* (1) *Eligible LEAs in ineligible counties.*

(i) An SEA may reserve not more than two percent of the amount of concentration grant funds it receives to make direct allocations to eligible LEAs that are located in counties that do not receive a concentration grant allocation

(ii) If an SEA plans to reserve concentration grant funds under paragraph (c)(1)(i) of this section, the SEA, before allocating any concentration grant funds under paragraph (b) of this section, shall—

(A) Determine which LEAs located in ineligible counties are eligible to receive concentration grant funds;

(B) Determine the appropriate amount to be reserved;

(C) Proportionately reduce the amount available for concentration grants for eligible counties or LEAs to provide the reserved amount, except that for school year 1996–97 an SEA may not reduce an LEA's allocation below the hold-harmless amount determined under § 200.25(a);

(D) Rank order the LEAs eligible for concentration grant funds that are located in ineligible counties according to the number or percentage of children counted under § 200.21;

(E) Select in rank order, those LEAs that the SEA plans to provide concentration grant funds; and

(F) Distribute the reserved funds among the selected LEAs based on the number of children counted under § 200.21.

(2) *Eligible counties with no eligible LEAs.* In a county in which no LEA meets the eligibility criteria in paragraph (a) of this section, an SEA shall—

(i) Identify those LEAs in which either the number or percentage of children counted under § 200.21 exceeds the average number or percentage of those children in the county; and

(ii) Allocate concentration grant funds for the county among the LEAs identified in paragraph (c)(2)(i) of this section based on the number of children counted under § 200.21 in each LEA compared to the number of those children in all those LEAs.

(3) *States receiving minimum allocations.* In a State that receives a minimum concentration grant under section 1124A(d) of the Act, the SEA shall—

(i) Allocate concentration grant funds among LEAs in the State under paragraphs (a), (b), and (c) (1) and (2) of this section; or

(ii) Without regard to the counties in which the LEAs are located—

(A) Identify those LEAs in which either the number or percentage of children counted under § 200.21 exceeds the average number or percentage of those children in the State; and

(B) Allocate concentration grant funds among the LEAs identified in paragraph (c)(3)(ii)(A) of this section based on the number of children counted under § 200.21 in each LEA.

(Authority: 20 U.S.C. 6334)

§ 200.24 Allocation of targeted grants.

(a) *Eligibility.* An LEA is eligible for a targeted grant if—

(1) There are at least 10 children counted under § 200.21 in the LEA; and

(2) The number of those children is at least five percent of the LEA's total population ages 5 to 17 years, inclusive.

(b) *Weighted child count.* In determining an LEA's grant, the SEA shall compute a weighted child count in accordance with section 1125(c) of the Act by taking the larger of—

(1) *Percent-weighted child count.* The number of children counted under § 200.21 multiplied by the weights shown in the following table, with the weights applied in a step-wise manner so that only those children above each weighting threshold receive the higher weight:

LEA percentage of children counted under § 200.21 as a percent of total children ages 5 through 17	Weights
0 to 14.265%	1.00
More than 14.265% up to 21.553%	1.75
More than 21.553% up to 29.223%	2.50
More than 29.223% up to 36.538%	3.25
More than 36.538%	4.00

or;

(2) *Number-weighted child count.* The number of children counted under § 200.21 multiplied by the weights shown in the following table, with the weights applied in a step-wise manner so that only those children above each weighting threshold receive the higher weight:

LEA number of children counted under § 200.21	Weights
1 to 575	1.0
576 to 1,870	1.5
1,871 to 6,910	2.0
6,911 to 42,000	2.5
42,001 or more	3.0

(c) *Amount of LEA grant.* An SEA shall allocate targeted grant funds to eligible LEAs as provided in § 200.20 based on the weighted child count determined in paragraph (b) of this section, except that the SEA shall apply the hold-harmless provisions described in § 200.25.

(Authority: 20 U.S.C. 6335)

§ 200.25 Applicable hold-harmless provisions.

(a) *General.* (1) An SEA may not reduce the allocation of an eligible LEA below the hold-harmless amounts established under section 1122(c) of the Act.

(2) The hold-harmless protection limits the maximum reduction in an LEA's allocation when compared to the LEA's allocation for the preceding year.

(3) The hold-harmless shall be applied separately for basic grants, concentration grants, and targeted grants, but shall be applied for each grant formula only in those years authorized under section 1122(c) of the Act, as shown in the table contained in paragraph (a)(4) of this section.

(4) Under section 1122(c) of the Act, the hold-harmless percentage varies based on the year and, for school years 1997–98 and beyond, based on the LEA's number of children counted under § 200.21 as a percentage of the total number of children ages 5–17, inclusive, in the LEA, as shown in the following table:

School year	LEA's § 200.21 children as a percentage of children ages 5–17, inclusive	Hold-harmless percentage	Applicable grant formulas
1995–96	Not applicable	85	Basic Grants.
1996–97	Not applicable	100	Basic Grants and Concentration Grants.
1997–98 and beyond	30 or more	95	Basic Grants and Targeted Grants.
	15% or more and less than 30%	90	
	Less than 15%	85	

(5) For school year 1995–96, the SEA shall compute each LEA's hold-harmless amount without regard to the amount the LEA received for delinquent children counted under section 1005 of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965 as in effect on September 30, 1994.

(b) *Adjustment for insufficient funds.* (1) *School year 1995–96.* If the Secretary's allocation for a county is not sufficient to give an LEA 85 percent of the amount it received for school year 1994–95, without regard to the amount the LEA received for delinquent children, the SEA may use funds received under Part D, subpart 2 (local agency programs) of the Act to bring such LEA up to its hold-harmless amount.

(2) *School years 1997–98 and beyond.* If the Secretary's allocation for a county is not sufficient to meet the LEA hold-harmless requirements of paragraph (a)

VOL 60 ISS 83 MY 1 1995 UMI

of this section, the SEA shall reallocate funds proportionately from all other LEAs in the State that are receiving funds in excess of the hold-harmless amounts specified in paragraph (a) of this section.

(c) *Eligibility for hold-harmless protection.* An LEA must be eligible for basic grant, concentration grant, and targeted grant funds in order for the respective provisions in paragraphs (a) and (b) of this section to apply.

(Authority: 20 U.S.C. 6332(c))

§ 200.26 [Reserved]

Procedures for the Within-District Allocation of LEA Program Funds

§ 200.27 Reservation of funds by an LEA.

Before allocating funds in accordance with § 200.28, an LEA shall reserve funds as are reasonable and necessary to—

(a) Provide services comparable to those provided to children in participating school attendance areas and schools to serve—

(1) Children in local institutions for neglected children; and

(2) Where appropriate—

(i) Eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

(ii) Children in local institutions for delinquent children; and

(iii) Neglected and delinquent children in community-day school programs;

(b) Meet the requirements for parental involvement in section 1118(a)(3) of the Act;

(c) Administer programs for public and private school children under this part, including special capital expenses defined in § 200.16; and

(d) Conduct other authorized activities such as professional development, school improvement, and coordinated services.

(Authority: 20 U.S.C. 6313(c), 6317(c), 6319(a)(3), 6320)

§ 200.28 Allocation of funds to school attendance areas and schools.

(a) (1) An LEA shall allocate funds under this subpart to school attendance areas or schools, identified as eligible and selected to participate under section 1113 (a) or (b) of the Act, in rank order on the basis of the total number of children from low-income families in each area or school.

(2) In calculating the total number of children from low-income families, the LEA shall include children from low-income families who attend private schools, using—

(i) The same poverty data, if available, as the LEA uses to count public school children; or

(ii) If the same data are not available, comparable data collected through alternative means such as a survey.

(b) (1) Except as provided in paragraphs (b)(2) and (d) of this section, an LEA shall allocate to each participating school attendance area or school an amount for each low-income child that is at least 125 percent of the per-pupil amount of funds the LEA received for that year under subpart 2 of Part A of Title I. The LEA shall use the poverty measure selected by the LEA under section 1113(a)(5) of the Act to compute the per-pupil amount.

(2) If an LEA is serving only school attendance areas or schools in which the percentage of children from low-income families is 35 percent or more, the LEA is not required to allocate a per-pupil amount of at least 125 percent.

(c) An LEA is not required to allocate the same per-pupil amount to each participating school attendance area or school provided the LEA allocates higher per-pupil amounts to areas or schools with higher concentrations of poverty than to areas or schools with lower concentrations of poverty.

(d) An LEA may reduce the amount of funds allocated under this section to a school attendance area or school if the area or school is spending supplemental State or local funds for programs that meet the requirements in § 200.62(c).

(e) If an LEA contains two or more counties in their entirety, the LEA shall distribute to schools within each county a share of the LEA's total grant that is no less than the county's share of the child count used to calculate the LEA's grant.

(Authority: 20 U.S.C. 6313(c), 6333(c)(2))

§ 200.29 [Reserved]

Subpart B—Even Start Family Literacy Program

§ 200.30 Migrant Education Even Start Program Definition.

Eligible participants under the Migrant Education Even Start Program (MEES) are those who meet the definitions of a migratory child, a migratory agricultural worker or a migratory fisher in § 200.40.

(Authority: 20 U.S.C. 6362, 6511)

§§ 200.31–200.39 [Reserved]

Subpart C—Migrant Education Program

§ 200.40 Program definitions.

The following definitions apply to programs and projects operated under this subpart:

(a) *Agricultural activity* means—

(1) Any activity directly related to the production or processing of crops, dairy products, poultry or livestock for initial commercial sale or personal subsistence;

(2) Any activity directly related to the cultivation or harvesting of trees; or

(3) Any activity directly related to fish farms.

(b) *Fishing activity* means any activity directly related to the catching or processing of fish or shellfish for initial commercial sale or personal subsistence.

(c) *Migratory agricultural worker* means a person who, in the preceding 36 months, has moved from one school district to another, or from one administrative area to another within a State that is comprised of a single school district, in order to obtain temporary or seasonal employment in agricultural activities (including dairy work) as a principal means of livelihood.

(d) *Migratory child* means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work—

(1) Has moved from one school district to another;

(2) In a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(3) Resides in a school district of more than 15,000 square miles, and has moved a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(e) *Migratory fisher* means a person who, in the preceding 36 months, has moved from one school district to another, or from one administrative area to another within a State that is comprised of a single school district, in order to obtain temporary or seasonal employment in fishing activities as a principal means of livelihood. This definition also includes a person who resides in a school district of more than 15,000 square miles, and moves a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(f) *Principal means of livelihood* means that the agricultural or fishing activity constitutes an essential part of providing a living for the worker and his or her family.

(Authority: 20 U.S.C. 6391–6399, 6511)

§ 200.41 Use of program funds for unique program function costs.

An SEA may use the funds available from its State Migrant Education Program to carry out other administrative activities, beyond those allowable under § 200.61, that are unique to the MEP or that are the same or similar to those performed by LEAs in the State under subpart A. These activities include but are not limited to—

(a) Statewide identification and recruitment of eligible migratory children;

(b) Interstate and intrastate coordination of the State MEP and its local projects with other relevant programs and local projects in the State and in other States;

(c) Procedures for providing for educational continuity for migratory children through the timely transfer of educational and health records, beyond that required generally by State and local agencies.

(d) Collecting and using information for accurate distribution of subgrant funds; and

(e) Development and implementation of a statewide plan for needs assessment and service delivery.

(Authority: 20 U.S.C. 6392, 6511)

§ 200.42 Responsibilities of SEAs and operating agencies for assessing the effectiveness of the MEP.

(a) Each SEA and operating agency receiving funds under the MEP has the responsibility to determine the effectiveness of its program and projects in providing migratory students with the opportunity to meet the same challenging State content and performance standards, required under § 200.2, that the State has established for all children.

(b) To determine the effectiveness of its program and projects, each SEA and operating agency receiving MEP funds shall, wherever feasible, use the same high-quality yearly student assessments or transitional assessments that the State establishes for use in meeting the requirements of § 200.4.

(c) In a project where it is not feasible to use the same student assessments that are being used to meet the requirements of § 200.4 (e.g., in a summer-only project, or in a project where no migratory students are enrolled at the time the State-established assessment takes place), the SEA must ensure that the relevant operating agency carries out some other reasonable process or processes for examining the effectiveness of the project.

(Authority: 20 U.S.C. 6394)

§ 200.43 Responsibilities of SEAs and operating agencies for improving services to migratory children.

While the specific school improvement requirements of section 1116 of the statute do not apply to the MEP, SEAs and local operating agencies receiving MEP funds shall use the results of the assessments carried out under § 200.42 to improve the services provided to migratory children.

(Authority: 20 U.S.C. 6394)

§ 200.44 Use of MEP funds in schoolwide projects.

Funds available under Part C of Title I of the Act may be used in a schoolwide program subject to the requirements of § 200.8(c)(3)(ii)(B)(1).

(Authority: 20 U.S.C. 6396)

§ 200.45 Responsibilities for participation of children in private schools.

An SEA and its operating agencies shall conduct programs and projects under this subpart in a manner consistent with the basic requirements of section 1120 of the Act.

(Authority: 20 U.S.C. 6394)

§§ 200.46–200.49 [Reserved]

Subpart D—Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out

§ 200.50 Program definitions.

(a) The following definitions apply to the programs authorized in Part D, subparts 1 and 2 of Title I of the Act:

Children and youth means the same as "children" as that term is defined in § 200.65(a).

(b) The following definitions apply to the programs authorized in Part D, subpart 1 of Title I of the Act:

Institution for delinquent children and youth means, as determined by the SEA, a public or private residential facility that is operated primarily for the care of children and youth who—

(1) Have been adjudicated to be delinquent or in need of supervision; and

(2) Have had an average length of stay in the institution of at least 30 days.

Institution for neglected children and youth means, as determined by the SEA, a public or private residential facility, other than a foster home, that is operated primarily for the care of children and youth who—

(1) Have been committed to the institution or voluntarily placed in the institution under applicable State law due to abandonment, neglect, or death of their parents or guardians; and

(2) Have had an average length of stay in the institution of at least 30 days.

Regular program of instruction means an educational program (not beyond grade 12) in an institution or a community day program for neglected or delinquent children that consists of classroom instruction in basic school subjects such as reading, mathematics, and vocationally oriented subjects, and that is supported by non-Federal funds. Neither the manufacture of goods within the institution nor activities related to institutional maintenance are considered classroom instruction.

(c) The following definitions apply to the local agency program authorized in Part D, subpart 2 of Title I of the Act:

Immigrant children and youth and *Limited English Proficiency* have the same meanings as those terms are defined in section 7501 of the Act, except that the terms "individual" and "children and youth" used in those definition mean "children and youth" as defined in this section.

Locally operated correctional facility means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age. The term also includes a local public or private institution and community day program or school not operated by the State that serves delinquent children and youth.

Migrant youth means the same as "migratory child" as that term is defined in § 200.40(d).

(Authority: 20 U.S.C. 6432, 6472)

§ 200.51 SEA counts of eligible children.

To receive an allocation under Part D, subpart 1 of Title I of the Act, an SEA must provide the Secretary with a count of children and youth under the age of 21 enrolled in a regular program of instruction operated or supported by State agencies in institutions or community day programs for neglected or delinquent children and youth and adult correctional institutions as specified in paragraphs (a) and (b) of this section:

(a) *Enrollment.* (1) To be counted, a child or youth must be enrolled in a regular program of instruction for at least—

(i) 20 hours per week if in an institution or community day program for neglected or delinquent children; or

VOL
60
ISS
83
MY
1
1995
UMI

(ii) 15 hours per week if in an adult correctional institution.

(2) The State agency shall specify the date on which the enrollment of neglected or delinquent children is determined under paragraph (a)(1) of this section, except that the date specified shall be—

(i) Consistent for all institutions or community day programs operated by the State agency; and

(ii) Represent a school day in the calendar year preceding the year in which funds become available.

(b) *Adjustment of enrollment.* The SEA shall adjust the enrollment for each institution or community day program served by a State agency by—

(1) Multiplying the number determined in paragraph (a) of this section by the number of days per year the regular program of instruction operates; and

(2) Dividing the result of paragraph (b)(1) of this section by 180.

(c) *Date of submission.* The SEA must annually submit the data in paragraph (b) of this section no later than January 31.

(Authority: 20 U.S.C. 6432)

§§ 200.52–200.59 [Reserved]

Subpart E—General Provisions

§ 200.60 Reservation of funds for State administration and school improvement.

(a) *State administration.* An SEA may reserve for State administration activities authorized in section 1603 of the Act no more than—

(1) One percent from each of the amounts allocated to the State or Outlying Area under section 1002(a), (c), and (d) of the Act; or

(2) (i) $400,000 ($50,000 for the Outlying Areas), whichever is greater.

(ii) An SEA reserving $400,000 under paragraph (a)(2)(i) of this section shall reserve proportionate amounts from each of the amounts allocated to the State or Outlying Area under section 1002 (a), (c), and (d) of the Act.

(b) *School improvement.* (1) To carry out school improvement activities authorized under sections 1116 and 1117 of the Act, an SEA may reserve no more than .5 percent from each of the amounts allocated to the State or Outlying Area under section 1002(a), (c), and (d) of the Act.

(2) (i) An SEA shall have available from funds received under section 1002(f) of the Act or reserved under paragraph (b)(1) of this section no less than $200,000 ($25,000 for the Outlying Areas) to carry out school improvement activities.

(ii)(A) If funds made available for school improvement under section 1002(f) of the Act do not equal $200,000 ($25,000 for Outlying Areas), the SEA shall reserve funds in accordance with paragraph (b)(1) of this section.

(B) If the amount reserved under paragraph (b)(1) when added to funds received under section 1002(f), does not equal $200,000 ($25,000 for the Outlying Areas), the SEA shall reserve additional funds under section 1002 (a), (c), and (d) as are necessary to make $200,000 ($25,000 for the Outlying Areas) available to the SEA.

(c) *Reservation from section 1002(a) funds.* In reserving funds for State administration and school improvement under section 1002(a) of the Act, an SEA shall—

(1) Reserve proportionate amounts from each of the State's basic grant, concentration grant, and targeted grant allocations; and

(2) Ensure that from the funds remaining for basic grants, concentration grants, and targeted grants after reserving funds for State administration and school improvement, no eligible LEA receives less than the hold-harmless amounts determined under § 200.25, except when the amounts remaining are insufficient to pay all LEAs the hold-harmless amounts provided in § 200.25, the SEA shall ratably reduce each LEA's hold harmless allocation to the amount available.

(Authority: 20 U.S.C. 6303, 6513(c))

§ 200.61 Use of funds reserved for State administration.

An SEA may use any of the funds that it has reserved under § 200.60(a) to perform general administrative activities necessary to carry out, at the State level, any of the programs authorized under Title I of the Act.

(Authority: 20 U.S.C. 6513(c))

§ 200.62 [Reserved]

§ 200.63 Supplement, not supplant.

(a) Except as provided in paragraph (c) of this section, a grantee or subgrantee under subparts A, C, or D of this part may use funds available under these subparts only to supplement the amount of funds that would be made available, in the absence of funds made available under subparts A, C, and D from non-Federal sources for the education of pupils participating in programs assisted under subparts A, C, and D and in no case may funds available under these subparts be used to supplant those non-Federal funds.

(b) To meet the requirement in paragraph (a) of this section, a grantee or subgrantee under subparts A, C, or D is not required to provide services under subparts A, C, or D through the use of a particular instructional method or in a particular instructional setting.

(c) (1) For purposes of determining compliance with paragraph (a) of this section, a grantee or subgrantee under subparts A or C may exclude supplemental State and local funds spent in any eligible school attendance area or eligible school for programs that meet the requirements of section 1114 or section 1115 of the Act.

(2) A supplemental State or local program will be considered to meet the requirements of section 1114 if the program—

(i) Is implemented in a school that meets the schoolwide poverty threshold for eligibility in § 200.8(b);

(ii) Is designed to upgrade the entire educational program in the school to support students in their achievement toward meeting the State's challenging student performance standards;

(iii) Is designed to meet the educational needs of all children in the school, particularly the needs of children who are failing, or most at risk of failing, to meet the State's challenging student performance standards; and

(iv) Uses the State's system of assessment to review the effectiveness of the program.

(3) A supplemental State or local program will be considered to meet the requirements of section 1115 if the program—

(i) Serves only children who are failing, or most at risk of failing, to meet the State's challenging student performance standards;

(ii) Provides supplementary services designed to meet the special educational needs of the children who are participating to support their achievement toward meeting the State's student performance standards that all children are expected to meet; and

(iii) Uses the State's system of assessment to review the effectiveness of the program.

(4) These conditions also apply to supplemental State and local funds expended under sections 1113(b)(1)(C) and 1113(c)(2)(B) of the Act.

(Authority: 20 U.S.C. 6322(b))

§ 200.64 Maintenance of effort.

(a) *General.* An LEA receiving funds under subparts A or C may receive its full allocation of funds under subparts A and C if it finds that either the combined fiscal effort per student or the aggregate expenditures of State and local funds with respect to the provision of free public education in the LEA for the preceding fiscal year was not less than 90 percent of combined fiscal effort per student or the aggregate expenditures for the second preceding fiscal year.

(b) *Meaning of "preceding fiscal year".* For purposes of determining maintenance of effort, the "preceding fiscal year" is the Federal fiscal year or the 12-month fiscal period most commonly used in a State for official reporting purposes prior to the beginning of the Federal fiscal year in which funds are available.

Example: For funds first made available on July 1, 1995, if a State is using the Federal fiscal year, the "preceding fiscal year" is Federal fiscal year 1994 (which began on October 1, 1993) and the "second preceding fiscal year" is Federal fiscal year 1993 (which began on October 1, 1992). If a State is using a fiscal year that begins on July 1, 1995, the "preceding fiscal year" is the 12-month period ending on June 30, 1994, and the "second preceding fiscal year, is the period ending on June 30, 1993.

(c) *Expenditures.* (1) *To be considered.* In determining an LEA's compliance with the maintenance of effort requirement, the SEA shall consider the LEA's expenditures from State and local funds for free public education. These include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.

(2) *Not to be considered.* The SEA shall not consider the following expenditures in determining an LEA's compliance with the maintenance of effort requirement:

(i) Any expenditures for community services, capital outlay, and debt service; and

(ii) Any expenditures made from funds provided by the Federal Government for which the LEA is required to account to the Federal Government directly or through the SEA.

(Authority: 20 U.S.C. 6322(a))

§ 200.65 Definitions.

The following definitions apply to programs and projects operated under this part:

(a) *Children* means—

(1) Persons up through age 21 who are entitled to a free public education through grade 12; and

(2) Preschool children.

(b) *Fiscal year* means the Federal fiscal year—a period beginning on October 1 and ending on the following September 30—or another 12-month period normally used by the SEA for record-keeping.

(c) *Preschool children* means children who are—

(1) Below the age and grade level at which the agency provides free public education; and

(2) Of an age at which they can benefit from an organized instructional program provided in a school or educational setting.

(Authority: 20 U.S.C. 6315, 6511)

§§ 200.66–200.69 [Reserved]

[FR Doc. 95–10663 Filed 4–28–95; 8:45 am]
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VOL
60

ISS
83

MY
1

1995

UMI

federal register

Monday
May 1, 1995

Part IX

The President

Proclamation 6792—Law Day, U.S.A.

VOL
60
ISS
83
MY
1
1995
UMI

Federal Register
Vol. 60, No. 83
Monday, May 1, 1995

Presidential Documents

Title 3—

The President

Proclamation 6792 of April 27, 1995

Law Day, U.S.A., 1995

By the President of the United States of America

A Proclamation

Our legal system is the foundation on which this Nation was built. It enables us to realize the promises of life, liberty, and the pursuit of happiness. Law protects our homes, our families, and our communities. It secures our borders and safeguards our environment. It is the basis for free markets and our continued prosperity. And it helps guide our relationships with other lands.

When President John F. Kennedy proclaimed Law Day, U.S.A. in 1962, he reminded us that law, like freedom, demands constant vigilance. We must nurture "through education and example an appreciation of the values of our system of justice and . . . an increased respect for law and for the rights of others as basic elements of our free society." As we celebrate Law Day this year, it is more important than ever that we rededicate ourselves to reaching these goals.

Today, America's system of jurisprudence is being challenged as never before. Great technological advances are leading us to redefine and expand the ways in which laws apply to us as individuals and as a Nation. From communications to computer software, international trade to environmental protection, our legal system remains an anchor of freedom, even as it evolves to meet the demands of our rapidly changing times. If we are to further advance the causes of democracy and human dignity around the world, we must not falter in enforcing the rule of law here at home. Laws must be applied as vigorously on Main Street as on the information superhighway. The legal community must help to restore Americans' sense of security and faith in justice. Most important, our laws must continue to fulfill our Founders' ideals of fairness and equality. Working together, we must strive to ensure that tomorrow's generations inherit the truths that have long sustained us as a people and move our Nation forward.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim May 1, 1995, as "Law Day, U.S.A." I urge the people of the United States to use this occasion to reflect on our heritage of freedom, to familiarize themselves with their rights and responsibilities, and to aid others seeking to affirm their rights under law.

I call upon the legal profession, civic associations, educators, librarians, public officials, and the media to promote the observance of this day through appropriate programs and activities. I also call upon public officials to display the flag of the United States on all government buildings throughout the day.

VOL
60
ISS
83
MY
1
1995
UMI

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95-10852
Filed 4-28-95; 11:16 am]
Billing code 3195-01-P

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Federal Register
Vol. 60, No. 83
Monday, May 1, 1995

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Federal Register	
Index, finding aids & general information	202-523-5227
Public inspection announcement line	523-5215
Corrections to published documents	523-5237
Document drafting information	523-3187
Machine readable documents	523-4534
Code of Federal Regulations	
Index, finding aids & general information	523-5227
Printing schedules	523-3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230
The United States Government Manual	
General information	523-5230
Other Services	
Data base and machine readable specifications	523-4534
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

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FEDERAL REGISTER PAGES AND DATES, MAY

21033-21424.....1

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VOL
60
ISS
83
MY
1
1995
UMI

CFR CHECKLIST

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3 (1993 Compilation and Parts 100 and 101)	(869-022-00002-1)	33.00	[1] Jan. 1, 1994
4	(869-026-00003-4)	5.50	Jan. 1, 1995
5 Parts:			
1-699	(869-026-00004-2)	23.00	Jan. 1, 1995
700-1199	(869-026-00005-1)	20.00	Jan. 1, 1995
1200-End, 6 (6 Reserved)	(869-022-00006-3)	23.00	Jan. 1, 1994
7 Parts:			
0-26	(869-026-00007-7)	21.00	Jan. 1, 1995
27-45	(869-026-00008-5)	14.00	Jan. 1, 1995
46-51	(869-026-00009-3)	21.00	Jan. 1, 1995
52	(869-026-00010-7)	30.00	Jan. 1, 1995
53-209	(869-022-00011-0)	23.00	Jan. 1, 1994
210-299	(869-026-00012-3)	34.00	Jan. 1, 1995
300-399	(869-026-00013-1)	16.00	Jan. 1, 1995
400-699	(869-026-00014-0)	21.00	Jan. 1, 1995
*700-899	(869-026-00015-8)	23.00	Jan. 1, 1995
900-999	(869-022-00016-1)	34.00	Jan. 1, 1994
1000-1059	(869-026-00017-4)	23.00	Jan. 1, 1995
1060-1119	(869-026-00018-2)	15.00	Jan. 1, 1995
1120-1199	(869-026-00019-1)	12.00	Jan. 1, 1995
1200-1499	(869-026-00020-4)	32.00	Jan. 1, 1995
1500-1899	(869-026-00021-2)	35.00	Jan. 1, 1995
1900-1939	(869-026-00022-1)	16.00	Jan. 1, 1995
1940-1949	(869-026-00023-9)	30.00	Jan. 1, 1995
1950-1999	(869-026-00024-7)	40.00	Jan. 1, 1995
2000-End	(869-026-00025-5)	14.00	Jan. 1, 1995
8	(869-026-00026-3)	23.00	Jan. 1, 1995
9 Parts:			
1-199	(869-022-00027-6)	29.00	Jan. 1, 1994
200-End	(869-026-00028-0)	23.00	Jan. 1, 1995
10 Parts:			
0-50	(869-026-00029-8)	30.00	Jan. 1, 1995
51-199	(869-026-00030-1)	23.00	Jan. 1, 1995
200-399	(869-026-00031-0)	15.00	[6] Jan. 1, 1993
400-499	(869-026-00032-8)	21.00	Jan. 1, 1995
500-End	(869-026-00033-6)	39.00	Jan. 1, 1995
11	(869-026-00034-4)	14.00	Jan. 1, 1995
12 Parts:			
1-199	(869-026-00035-2)	12.00	Jan. 1, 1995
200-219	(869-026-00036-1)	16.00	Jan. 1, 1995
220-299	(869-026-00037-9)	28.00	Jan. 1, 1995
300-499	(869-022-00038-1)	22.00	Jan. 1, 1994
500-599	(869-026-00039-5)	19.00	Jan. 1, 1995
600-End	(869-026-00040-9)	35.00	Jan. 1, 1995
13	(869-026-00041-7)	32.00	Jan. 1, 1995
14 Parts:			
1-59	(869-026-00042-5)	33.00	Jan. 1, 1995
60-139	(869-026-00043-3)	27.00	Jan. 1, 1995
140-199	(869-026-00044-1)	13.00	Jan. 1, 1995
200-1199	(869-026-00045-0)	23.00	Jan. 1, 1995
1200-End	(869-026-00046-8)	16.00	Jan. 1, 1995
15 Parts:			
*0-299	(869-026-00047-6)	15.00	Jan. 1, 1995
*300-799	(869-026-00048-4)	26.00	Jan. 1, 1995
800-End	(869-026-00049-2)	21.00	Jan. 1, 1995
16 Parts:			
0-149	(869-026-00050-6)	7.00	Jan. 1, 1995
150-999	(869-022-00051-9)	18.00	Jan. 1, 1994
1000-End	(869-026-00052-2)	25.00	Jan. 1, 1995
17 Parts:			
1-199	(869-022-00054-3)	20.00	Apr. 1, 1994
200-239	(869-022-00055-1)	23.00	Apr. 1, 1994
240-End	(869-022-00056-0)	30.00	Apr. 1, 1994
18 Parts:			
1-149	(869-022-00057-8)	16.00	Apr. 1, 1994
150-279	(869-022-00058-6)	19.00	Apr. 1, 1994
280-399	(869-022-00059-4)	13.00	Apr. 1, 1994
400-End	(869-022-00060-8)	11.00	Apr. 1, 1994
19 Parts:			
1-199	(869-022-00061-6)	39.00	Apr. 1, 1994
200-End	(869-022-00062-4)	12.00	Apr. 1, 1994
20 Parts:			
1-399	(869-022-00063-2)	20.00	Apr. 1, 1994
400-499	(869-022-00064-1)	34.00	Apr. 1, 1994
500-End	(869-022-00065-9)	31.00	Apr. 1, 1994
21 Parts:			
1-99	(869-022-00066-7)	16.00	Apr. 1, 1994
100-169	(869-022-00067-5)	21.00	Apr. 1, 1994
170-199	(869-022-00068-3)	21.00	Apr. 1, 1994
200-299	(869-022-00069-1)	7.00	Apr. 1, 1994
300-499	(869-022-00070-5)	36.00	Apr. 1, 1994
500-599	(869-022-00071-3)	16.00	Apr. 1, 1994
600-799	(869-022-00072-1)	8.50	Apr. 1, 1994
800-1299	(869-022-00073-0)	22.00	Apr. 1, 1994
1300-End	(869-022-00074-8)	13.00	Apr. 1, 1994
22 Parts:			
1-299	(869-022-00075-6)	32.00	Apr. 1, 1994
300-End	(869-022-00076-4)	23.00	Apr. 1, 1994
23	(869-022-00077-2)	21.00	Apr. 1, 1994
24 Parts:			
0-199	(869-022-00078-1)	36.00	Apr. 1, 1994
200-499	(869-022-00079-9)	38.00	Apr. 1, 1994
500-699	(869-022-00080-2)	20.00	Apr. 1, 1994
700-1699	(869-022-00081-1)	39.00	Apr. 1, 1994
1700-End	(869-022-00082-9)	17.00	Apr. 1, 1994
25	(869-022-00083-7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1-1.60	(869-022-00084-5)	20.00	Apr. 1, 1994
§§ 1.61-1.169	(869-022-00085-3)	33.00	Apr. 1, 1994
§§ 1.170-1.300	(869-022-00086-1)	24.00	Apr. 1, 1994
§§ 1.301-1.400	(869-022-00087-0)	17.00	Apr. 1, 1994
§§ 1.401-1.440	(869-022-00088-8)	30.00	Apr. 1, 1994
§§ 1.441-1.500	(869-022-00089-6)	22.00	Apr. 1, 1994
§§ 1.501-1.640	(869-022-00090-0)	21.00	Apr. 1, 1994
§§ 1.641-1.850	(869-022-00091-8)	24.00	Apr. 1, 1994
§§ 1.851-1.907	(869-022-00092-6)	26.00	Apr. 1, 1994
§§ 1.908-1.1000	(869-022-00093-4)	27.00	Apr. 1, 1994
§§ 1.1001-1.1400	(869-022-00094-2)	24.00	Apr. 1, 1994
§§ 1.1401-End	(869-022-00095-1)	32.00	Apr. 1, 1994
2-29	(869-022-00096-9)	24.00	Apr. 1, 1994
30-39	(869-022-00097-7)	18.00	Apr. 1, 1994
40-49	(869-022-00098-4)	14.00	Apr. 1, 1994
50-299	(869-022-00099-3)	14.00	Apr. 1, 1994
300-499	(869-022-00100-1)	24.00	Apr. 1, 1994
500-599	(869-022-00101-9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600-End	(869-022-00102-7)	8.00	Apr. 1, 1994
27 Parts:			
1-199	(869-022-00103-5)	36.00	Apr. 1, 1994
200-End	(869-022-00104-3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869-022-00105-1)	27.00	July 1, 1994
43-end	(869-022-00106-0)	21.00	July 1, 1994
29 Parts:			
0-99	(869-022-00107-8)	21.00	July 1, 1994
100-499	(869-022-00108-6)	9.50	July 1, 1994
500-899	(869-022-00109-4)	35.00	July 1, 1994
900-1899	(869-022-00110-8)	17.00	July 1, 1994
1900-1910 (§§ 1901.1 to 1910.999)	(869-022-00111-6)	33.00	July 1, 1994
1910 (§§ 1910.1000 to end)	(869-022-00112-4)	21.00	July 1, 1994
1911-1925	(869-022-00113-2)	26.00	July 1, 1994
1926	(869-022-00114-1)	33.00	July 1, 1994
1927-End	(869-022-00115-9)	36.00	July 1, 1994
30 Parts:			
1-199	(869-022-00116-7)	27.00	July 1, 1994
200-699	(869-022-00117-5)	19.00	July 1, 1994
700-End	(869-022-00118-3)	27.00	July 1, 1994
31 Parts:			
0-199	(869-022-00119-1)	18.00	July 1, 1994
200-End	(869-022-00120-5)	30.00	July 1, 1994
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-022-00121-3)	31.00	July 1, 1994
191-399	(869-022-00122-1)	36.00	July 1, 1994
400-629	(869-022-00123-0)	26.00	July 1, 1994
630-699	(869-022-00124-8)	14.00	[5] July 1, 1991
700-799	(869-022-00125-6)	21.00	July 1, 1994
800-End	(869-022-00126-4)	22.00	July 1, 1994
33 Parts:			
1-124	(869-022-00127-2)	20.00	July 1, 1994
125-199	(869-022-00128-1)	26.00	July 1, 1994
200-End	(869-022-00129-9)	24.00	July 1, 1994
34 Parts:			
1-299	(869-022-00130-2)	28.00	July 1, 1994
300-399	(869-022-00131-1)	21.00	July 1, 1994
400-End	(869-022-00132-9)	40.00	July 1, 1994
35	(869-022-00133-7)	12.00	July 1, 1994
36 Parts:			
1-199	(869-022-00134-5)	15.00	July 1, 1994
200-End	(869-022-00135-3)	37.00	July 1, 1994
37	(869-022-00136-1)	20.00	July 1, 1994
38 Parts:			
0-17	(869-022-00137-0)	30.00	July 1, 1994
18-End	(869-022-00138-8)	29.00	July 1, 1994
39	(869-022-00139-6)	16.00	July 1, 1994
40 Parts:			
1-51	(869-022-00140-0)	39.00	July 1, 1994
52	(869-022-00141-8)	39.00	July 1, 1994
53-59	(869-022-00142-6)	11.00	July 1, 1994
60	(869-022-00143-4)	36.00	July 1, 1994
61-80	(869-022-00144-2)	41.00	July 1, 1994
81-85	(869-022-00145-1)	23.00	July 1, 1994
86-99	(869-022-00146-9)	41.00	July 1, 1994
100-149	(869-022-00147-7)	39.00	July 1, 1994
150-189	(869-022-00148-5)	24.00	July 1, 1994
190-259	(869-022-00149-3)	18.00	July 1, 1994
260-299	(869-022-00150-7)	36.00	July 1, 1994
300-399	(869-022-00151-5)	18.00	July 1, 1994
400-424	(869-022-00152-3)	27.00	July 1, 1994
425-699	(869-022-00153-1)	30.00	July 1, 1994
700-789	(869-022-00154-0)	28.00	July 1, 1994
790-End	(869-022-00155-8)	27.00	July 1, 1994
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
T8, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-022-00156-6)	9.50	July 1, 1994
101	(869-022-00157-4)	29.00	July 1, 1994
102-200	(869-022-00158-2)	15.00	July 1, 1994
201-End	(869-022-00159-1)	13.00	July 1, 1994
42 Parts:			
1-399	(869-022-00160-4)	24.00	Oct. 1, 1994
400-429	(869-022-00161-2)	26.00	Oct. 1, 1994
430-End	(869-022-00162-1)	36.00	Oct. 1, 1994
43 Parts:			
1-999	(869-022-00163-9)	23.00	Oct. 1, 1994
1000-3999	(869-022-00164-7)	31.00	Oct. 1, 1994
4000-End	(869-022-00165-5)	14.00	Oct. 1, 1994
44	(869-022-00166-3)	27.00	Oct. 1, 1994
45 Parts:			
1-199	(869-022-00167-1)	22.00	Oct. 1, 1994
200-499	(869-022-00168-0)	15.00	Oct. 1, 1994
500-1199	(869-022-00169-8)	32.00	Oct. 1, 1994
1200-End	(869-022-00170-1)	26.00	Oct. 1, 1994
46 Parts:			
1-40	(869-022-00171-0)	20.00	Oct. 1, 1994
41-69	(869-022-00172-8)	16.00	Oct. 1, 1994
70-89	(869-022-00173-6)	8.50	Oct. 1, 1994
90-139	(869-022-00174-4)	15.00	Oct. 1, 1994
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156-165	(869-022-00176-1)	17.00	[7] Oct. 1, 1993
166-199	(869-022-00177-9)	17.00	Oct. 1, 1994
200-499	(869-022-00178-7)	21.00	Oct. 1, 1994
500-End	(869-022-00179-5)	15.00	Oct. 1, 1994
47 Parts:			
0-19	(869-022-00180-9)	25.00	Oct. 1, 1994
20-39	(869-022-00181-7)	20.00	Oct. 1, 1994
40-69	(869-022-00182-5)	14.00	Oct. 1, 1994
70-79	(869-022-00183-3)	24.00	Oct. 1, 1994
80-End	(869-022-00184-1)	26.00	Oct. 1, 1994
48 Chapters:			
1 (Parts 1-51)	(869-022-00185-0)	36.00	Oct. 1, 1994
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49 Parts:			
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178-199	(869-022-00195-7)	21.00	Oct. 1, 1994
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400-999	(869-022-00197-3)	35.00	Oct. 1, 1994
1000-1199	(869-022-00198-1)	19.00	Oct. 1, 1994
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50 Parts:			
1-199	(869-022-00200-7)	25.00	Oct. 1, 1994
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60
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May 18	June 2	June 19	July 3	July 17	August 16
May 19	June 5	June 19	July 3	July 18	August 17
May 22	June 6	June 21	July 6	July 21	August 21
May 23	June 7	June 22	July 7	July 24	August 21
May 24	June 8	June 23	July 10	July 24	August 22
May 25	June 9	June 26	July 10	July 24	August 23
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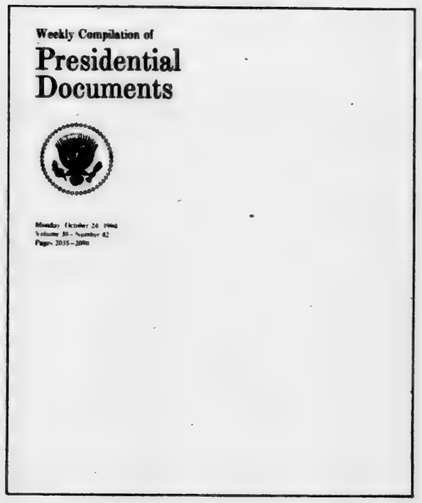
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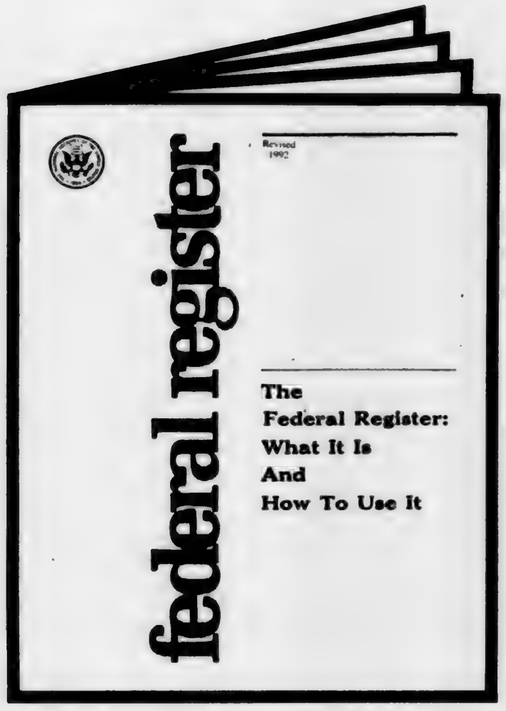

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60
ISS
84
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Contents

Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

Federal Register / Vol. 60, No. 84 / Tuesday, May 2, 1995 / Contents

Agriculture Department
See Animal and Plant Health Inspection Service
RULES
Import quotas and fees:
Dairy tariff-rate import quota licensing, 21425–21428

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Rinderpest and foot-and-mouth disease and Exotic Newcastle disease; disease status change—Switzerland, 21428–21429

Architectural and Transportation Barriers Compliance Board
NOTICES
Meetings:
Access Board, 21498

Census Bureau
NOTICES
Meetings:
American Indian and Alaska Native Populations Census Advisory Committee et al., 21498–21499

Centers for Disease Control and Prevention
NOTICES
Meetings:
Energy-Related Epidemiologic Research Advisory Committee, 21524–21525

Coast Guard
PROPOSED RULES
Vocational rehabilitation and education:
Veterans education—
Reservists education; educational assistance awards commencing dates, 21486–21487

Commerce Department
See Census Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
See Technology Administration

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
New York Cotton Exchange—
Cotton No. 2; maximum daily and minimum price fluctuation limits, 21503–21504

Defense Department
See Navy Department
PROPOSED RULES
Vocational rehabilitation and education:
Veterans education—
Reservists education; educational assistance awards commencing dates, 21486–21487

Education Department
RULES
Postsecondary education:
Federal Pell grant program—
Presidential access scholarship program; correction, 21438

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Fernald, OH—
Operable Unit 2 removal action, 21508

Environmental Protection Agency
RULES
Air programs:
Stratospheric ozone protection—
Motor vehicle air conditioners servicing, 21682–21689
Air quality implementation plans; approval and promulgation; various States:
Arizona, 21440–21442
California, 21455–21456
District of Columbia, 21453–21455
Kentucky, 21445–21447
Minnesota, 21447–21451
Mississippi, 21442–21445
Virginia, 21451–21453
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio, 21456–21464
PROPOSED RULES
Air programs:
Stratospheric ozone protection—
Significant new alternatives policy program; reconsideration, 21490–21491
Air quality implementation plans; approval and promulgation; various States:
Arizona, 21487
District of Columbia, 21489–21490
Kentucky, 21488–21489
Minnesota, 21488
Mississippi, 21487–21488
Virginia, 21489
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Ohio, 21490
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 21491
Water pollution; effluent guidelines for point source categories:
Pharmaceutical manufacturing industry; limitations and standards for discharge of pollutants, 21592–21679

VOL 60 ISS 84 MY 2 1995 UMI

NOTICES
Air programs:
Ambient air monitoring reference and equivalent methods—
Opsis Model AR 500 System, 21518–21520
Meetings:
Clean Air Act Advisory Committee, 21520
Common sense initiative—
Printing and petroleum sectors, 21521
National Drinking Water Advisory Council, 21521–21522

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness directives:
Transport category airplanes, 21429–21433
Class D and E airspace, 21433–21434
Class E airspace, 21434–21435
PROPOSED RULES
Airworthiness directives:
Airbus, 21470–21471
Twin Commander Aircraft Corp., 21471–21473
Class D and Class E airspace, 21473–21474
NOTICES
Airworthiness standards:
Small airplane directorate's research, engineering, and development initiatives; program identification (1998 FY), 21581–21582
Committees; establishment, renewal, termination, etc.:
Aviation Rulemaking Advisory Committee, 21582–21583
Passenger facility charges; applications, etc.:
Fort Collins-Loveland Municipal Airport, CO, 21583
Medford-Jackson County Airport, OR, 21583–21584

Federal Communications Commission
RULES
Television broadcasting:
Cable Television Consumer Protection and Competition Act of 1992—
Vertical ownership rules; reconsideration order, 21464–21467
NOTICES
Meetings; Sunshine Act, 21588

Federal Election Commission
NOTICES
Presidential candidates (1996); schedule of matching fund submission/resubmission and certification dates, 21522–21523

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Summit Hydropower, 21508–21509
Applications, hearings, determinations, etc.:
Equitrans, Inc., 21509
Koch Gateway Pipeline Co., 21509–21510
Lockhart Power Co., 21510
Mississippi Valley Gas Co. et al., 21510
Natural Gas Pipeline Co. of America, 21510
NorAm Gas Transmission Co., 21511
Northern Natural Gas Co., 21511
Northern States Power Co., 21511
Oconto Electric Cooperative, 21511
Overthrust Pipeline Co., 21512
PacifiCorp, 21512
Questar Pipeline Co., 21512
Southern Natural Gas Co., 21512–21513
Sturgis, MI, 21513
Williams Natural Gas Co., 21513

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Lapeer County, MI, 21584

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 21588
Applications, hearings, determinations, etc.:
Bruner, Wendell D., et al., 21523
Deutsche Bank AG; correction, 21523
First Bancorp, Inc., et al., 21523–21524
Grimes County Capital Corp., 21524

Federal Trade Commisaion
NOTICES
Meetings; Sunshine Act, 21588

Food and Drug Administration
PROPOSED RULES
Food additives:
Polymaleic acid and sodium salt, 21474–21475
Human drugs:
Drug products containing quinine for treatment and/or prevention of malaria (OTC)
Correction, 21590

General Services Administration
RULES
Acquisition regulations:
Miscellaneous amendments, 21467–21468

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
NOTICES
Scientific misconduct findings; administrative actions:
Conrad, Denise R., 21524
Coyle, Catherine, 21524

Health Care Financing Administration
NOTICES
Agency information collection activities under OMB review, 21525–21544

Hearings and Appeals Office, Energy Department
NOTICES
Decisions and orders, 21513–21518

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Public and Indian housing—
Oklahoma City service area; due date extensions and location changes for submission of applications, 21692–21693
Low income housing:
Assisted housing admission; working families preference Clarification, 21545
Privacy Act:
Computer matching programs, 21548–21551
Systems of records, 21545–21548

Interior Department
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Income taxes:
Pension and profit-sharing plans, etc.; self-employed individuals and shareholders-employees; contributions; correction, 21435
PROPOSED RULES
Income taxes:
Personal property; definition for purposes of straddle rules, 21482–21484
Publicly traded partnerships treated as corporations, 21475–21482
NOTICES
Committees; establishment, renewal, termination, etc.:
Information Reporting Program Advisory Committee, 21584–21585

International Trade Administration
NOTICES
Antidumping:
Internal-combustion industrial forklift trucks from—
Japan, 21499
Large power transformers from—
France, 21499–21501

Interstate Commerce Commission
NOTICES
Meetings; Sunshine Act, 21588
Rail carriers:
State intrastate rail rate authority—
Georgia, 21554
Railroad operation, acquisition, construction, etc.:
Consolidated Rail Corp., 21553–21554

Justice Department
NOTICES
Agency information collection activities under OMB review, 21554

Land Management Bureau
NOTICES
Alaska Native claims selection:
Old Harbor Native Corp., 21551–21552
Realty actions; sales, leases, etc.:
California, 21552

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic shark, 21468–21469
PROPOSED RULES
Fishery conservation and management:
Gulf of Mexico and South Atlantic spiny lobster, 21493–21497
Summer flounder, 21491–21493
NOTICES
Permits:
Endangered and threatened species, 21501–21503
Marine mammals, 21503

National Park Service
NOTICES
National Register of Historic Places:
Pending nominations, 21552–21553

Navy Department
NOTICES
Inventions, Government-owned; availability for licensing, 21504–21507

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Washington Public Power Supply System, 21554–21555
Meetings:
Nuclear Waste Advisory Committee, 21555–21556
Meetings; Sunshine Act, 21588–21589
Petitions; Director's decisions:
Boston Edison Co., 21556
Senior Executive Service:
Performance Review Boards; membership, 21556–21557
Applications, hearings, determinations, etc.:
Niagara Mohawk Power Corp., 21557–21558
Northeast Nuclear Energy Co., 21558–21560
Oncology Services Corp., 21560–21569
Peco Energy Co. et al., 21569–21570
Radiation Oncology Center, Marlton, NJ, 21570–21575
Rochester Gas & Electric Co., 21575

Patent and Trademark Office
RULES
Patent cases:
Patent Cooperation Treaty applications; practice rules, 21438–21440

Personnel Management Office
RULES
Health benefits, Federal employees:
Disputed claims procedures and court actions
Correction, 21590

Presidential Documents
PROCLAMATIONS
Special observances:
Small Business Week (Proc. 6793), 21697

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Depository Trust Co., 21576–21577
Midwest Securities Trust Co., 21577–21578
New York Stock Exchange, Inc., 21578–21580

State Department
NOTICES
Meetings:
International Law Advisory Committee, 21580

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Utah, 21435–21438
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
North Dakota, 21484–21485
NOTICES
Agency information collection activities under OMB review, 21553

VOL
60
ISS
84
MY
2
1995
UMI

Technology Administration
NOTICES
Meetings:
National Medal of Technology Nomination Evaluation Committee, 21503

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
NOTICES
Waivers for regional and commuter air carriers from certain service termination notice requirements, 21580–21581

Treasury Department
See Internal Revenue Service

Veterans Affairs Department
PROPOSED RULES
Vocational rehabilitation and education:
Veterans education—
Reservists education; educational assistance awards commencing dates, 21486–21487
NOTICES
Agency information collection activities under OMB review, 21586
Privacy Act:
Computer matching programs, 21586–21587

Separate Parts In This Issue

Part II
Environmental Protection Agency, 21592–21679

Part III
Environmental Protection Agency, 21682–21689

Part IV
Department of Housing and Urban Development, 21692–21693

Part V
The President, 21697

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6793 21696

5 CFR
890 21590

7 CFR
6 21425

9 CFR
94 21428

14 CFR
39 21429
71 ..... 21433, 21434
Proposed Rules:
39 (2 documents) 21470, 21471
71 21473

21 CFR
Proposed Rules:
173 21474
310 21590

28 CFR
1 21435
Proposed Rules:
1 (2 documents) 21475, 21482

30 CFR
944 21438
Proposed Rules:
934 21484

34 CFR
690 21438

37 CFR
1 21436
10 21438

38 CFR
Proposed Rules:
21 21486

40 CFR
52 (8 documents) 21440, 21442, 21445, 21447, 21451, 21453, 21455, 21456
81 21456
82 21682
Proposed Rules:
52 (7 documents) 21487, 21488, 21489, 21490
81 21490
82 21490
300 21491
439 21592

47 CFR
76 21464

48 CFR
502 21467
506 21467
513 21467
552 21467

50 CFR
678 21466
Proposed Rules:
625 21491
640 21493

VOL
60
ISS
84
MY
2
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Dairy Tariff-Rate Import Quota Licensing

AGENCY: Office of the Secretary, USDA.

ACTION: Interim rule.

SUMMARY: This rule amends Import Regulation 1, Revision 7 which governs the administration of the import licensing system for certain dairy products which will be subject to in-quota tariff rates established in the Harmonized Tariff Schedule of the United States resulting from the entry into force of certain provisions in the Uruguay Round Agreement on July 1, 1995, and with respect to the licensing for certain dairy product shipments denied entry during January 1–3, 1995.

DATES: This interim rule will be effective upon May 2, 1995. Comments should be submitted on or before June 16, 1995, to be assured of consideration.

ADDRESSES: Comments should be sent to Richard Warsack, Dairy Import Quota Manager, Import Policies and Programs Division, Room 5531–S, Foreign Agricultural Service, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Agricultural Box 1025, Washington, D.C. 20250–1025. All comments received will be available for public inspection in room 5541–S at the above address.

FOR FURTHER INFORMATION CONTACT: Diana Wanamaker, Group Leader, Import Programs Group, Import Policies and Programs Division, Room 5531–S, Foreign Agricultural Service, U.S. Department of Agriculture, 14th and Independence Avenue, S.W., Washington, D.C. 20250, or telephone (202) 720–2916.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This supplement to the interim rule is issued in conformance with Executive Order 12866. It has been determined to be significant for the purposes of E.O. 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule relating to foreign affairs since the Office of the Secretary is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Paperwork Reduction Act

This interim rule amends the existing information collection as approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), under OMB control number 0551–0001, expiring June 30, 1997.

Due to the time constraints of implementing this interim rule, the agency has requested emergency clearance of this addendum from OMB. Comments on the information collection may be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, NEOB, Washington, D.C. 20503. Attention: Desk Officer for USDA.

Executive Order 12778

This interim rule has been reviewed under Executive Order 12778. The provisions of this supplement to the interim rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The interim rule would not have retroactive effect.

Background

This interim rule amends Import Regulation 1, Revision 7 which governs the administration of the import licensing system for certain dairy products which are subject to in-quota tariff rates proclaimed in the Harmonized Tariff Schedule of the United States (HTS). Imports of certain cheese and non-cheese dairy products are subject to tariff-rate quotas proclaimed in the HTS as a result of the entry into force of the Uruguay Round Agreement.

These amendments to the Import Regulation are being published as an interim rule because the Uruguay Round commitments taking effect on July 1, 1995, were not finalized pursuant to bilateral agreements until recently and it is necessary to provide an application period as soon as possible in order to issue licenses prior to the effective date. With respect to certain dairy product shipments denied entry during January 1–3, 1995, these licenses must also be issued as soon as possible to fulfill our Uruguay Round commitments. Therefore, good cause is shown to publish this rule as interim without prior public participation.

This interim rule is issued under the authority of section 103 and 404 of the Uruguay Round Agreements Act and the notes to Chapter 4 and General Note 15 of the HTS. It completes the Uruguay Round implementation process for the 1995 quota year by establishing the import licensing system for the quantities of cheese and non-cheese dairy products subject to in-quota tariff rates in the HTS effective July 1, 1995.

The following changes made by this interim rule are intended to fulfill the Uruguay Round obligations of the United States and to facilitate the administration of the tariff-rate import quota licensing system for 1995.

1. The Import Regulation is amended to: (1) Administer Uruguay Round tariff-rate quotas for those countries whose Uruguay Round schedules of concessions will take effect on July 1, 1995; (2) establish Appendix 3 supplementary licenses for such

VOL 60 ISS 84 MY 2 1995 UMI

countries and the respective in-quota tariff-rate quota quantities of cheese, and (3) provide for an application period for such licenses.

2. The Import Regulation is amended to permit the European Community (EC) to endorse in writing eligible applicants for the increments in quantities of cheese subject to the in-quota tariff rate as provided for in the Uruguay Round Agreement.

3. The Import Regulation is also amended to ensure that the orderly marketing of trade in the United States is not disrupted for articles for which entry was attempted into the United States after January 1, 1995, without prior knowledge that an unlicensed article would be made subject to licensing as of January 1, 1995. This interim rule provides a very limited exclusion from license-size limitations for certain shipments which were denied entry into the United States by the U.S. Customs Service during a brief period the Department considers licensing to have been unanticipated. This exclusion applies only to that part of the in-quota tariff-rate quantity which had been unlicensed prior to January 1, 1995 and will be prorated among licensees as necessary.

An Advance Notice of Proposed Rulemaking (ANPR) was published in the **Federal Register** on June 2, 1994, seeking comments on methods for allocating articles that would be subject to the in-quota tariff rate proclaimed in the HTS on January 1, 1995, and suggestions on other changes intended to update and make more enforceable the provisions of the Import Regulation. A proposed rule embodying fundamental changes to the Import Regulation as envisaged in the ANPR will be published in the near future.

An interim rule was published in the **Federal Register** on January 6, 1995, which amended the Import Regulation to the extent necessary to implement the Uruguay Round commitments which became effective on January 1, 1995. The interim rule established an import licensing system for in-quota tariff-rate quota quantities of cheese and certain other non-cheese dairy products subject to in-quota tariff rates in the HTS. These quantities included both the quantities which were previously subject to absolute quotas under section 22 of the Agricultural Adjustment Act of 1933, as amended, and additional quantities of cheese and certain non-cheese dairy articles negotiated under the Uruguay Round of multilateral trade negotiations for those countries which implemented their Uruguay Round commitments on January 1, 1995. The interim rule provided for a 30-day public comment period ending on February 21, 1995. Written comments were received from seven different entities.

In addition to amending the Import Regulation to implement the changes to the HTS effective on July 1, 1995, this interim rule amends the Import Regulation in accordance with certain comments on the interim rule published on January 6, 1995, recommending changes deemed both administratively possible or necessary to implement during the remainder of the 1995 quota year. Other comments on the January 6 interim rule will be considered for inclusion in the proposed rule as envisaged in the ANPR.

The comment reflected herein requested entry for that quantity of butter substitutes being detained which was previously subject to an unlicensed global quota. The interim rule provides for a very limited and strict license size exclusion to enter certain butter substitutes. Another comment recommended clarifying the minimum license size of supplementary quota shares and certain article descriptions in Appendix 1 and Appendix 2 of the interim rule. This interim rule makes these technical corrections.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Imports, and Reporting and record keeping requirements.

Interim Rule

PART 6—[AMENDED]

Accordingly, 7 CFR Part 6, Subpart—Tariff-Rate Quotas is amended as follows:

1. Section 6.25 is revised by revising the first sentence of paragraph (c)(2) to read as follows:

§ 6.25 Eligibility.

* * * * *

(c) * * *

(2) Notwithstanding paragraph (b)(4) of this section, certification required to establish supplementary eligibility for license for articles under Appendix 3 of this subpart must be postmarked no earlier than January 30, 1995 and no later than February 20, 1995 for those licenses issued for in-quota tariff-rate quota quantities which became effective on January 1, 1995, and no earlier than May 10, 1995 and no later than May 19, 1995 for those licenses that will be issued for in-quota tariff-rate quota quantities that will become effective on July 1, 1995. * * *

* * * * *

2. Section 6.26 is amended by revising the second sentence of paragraph (c)(3)(ii), revising paragraph (d)(2), and revising paragraph (d)(3) (i) and (ii) to read as follows:

§ 6.26 Allocation of annual quota and issuance of licenses.

* * * * *

(c) * * *

(3) * * *

(ii) * * * If eligible applicants whose applications have been endorsed by the government of the supplying country as set forth in (c)(3)(i) of this section request an aggregate amount of a specific quota from a specific country (not the EC, except for those additional quantities of cheese made subject to the in-quota tariff rate in the Uruguay Round Agreement) smaller than is available for allocation, or if no endorsement is made, the Licensing Authority shall allocate remaining portions among applicants who have not been endorsed, following a procedure identical to that set forth in paragraph (c)(2) of this section for the EC, replacing, for this purpose, the words "the EC" wherever they appear with "a particular non-EC country".

* * * * *

(d) * * *

(2) The size of a supplementary quota share issued to an eligible applicant shall not exceed 57,000 kilograms, except that this maximum share provided for in (d)(ii) above shall not be applicable to that quantity of an in-quota tariff-rate quota which was not subject to licensing prior to January 1, 1995 when the import of such product was offered for entry and denied entry into the United States by U.S. Customs during January 1–3, 1995. Not later than June 1, 1995, an applicant must submit with its application, an invoice, bill of lading, and other relevant documentation to the Licensing Authority for his determination that there is sufficient documentary evidence that such import was offered for entry during January 1–3, 1995. If the Licensing Authority determines that a quantity greater than that available is requested by eligible applicants, the quantity available will be prorated among the licensees.

(3) * * *

(i) 19,000 kilograms where the total amount available for allocation is 550,000 kilograms or less;

(ii) 38,000 kilograms where the total amount available for allocation is greater than 550,000 kilograms.

3. In Appendix 1, the article description for Edam and Gouda in Group II(a) and the article description for Italian-type cheese in Group IV(a) are revised as follows:

Appendix 1—Articles Subject to the Historical and Nonhistorical Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Import Quotas for Each Quota Year

* * * * *

Group II

(a) Edam and Gouda cheese, and cheese and substitutes for cheese containing, or processed from Edam and Gouda cheese (Note 20) * * *

* * * * *

Group IV

(a) Italian-type cheese made from cow's milk (Romano made from cow's milk, Reggiano, Parmesano, Provolone, Provolette, Sbrinz, and Goya not in original loaves), and cheeses and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Note 21) * * *

* * * * *

4. In Appendix 2, the article description for Italian-type cheese in Group IV (a) is revised as follows:

Appendix 2—Articles Subject to the Historical and Nonhistorical Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Import Quotas for Each Quota Year

* * * * *

Group IV

(a) Italian-type cheese made from cow's milk (Romano made from cow's milk, Reggiano, Parmesano, Provolone, Provolette, Sbrinz, and Goya not in original loaves), and cheeses and substitutes for cheese containing, or processed from, such Italian-type cheeses, whether or not in original loaves (Note 21) * * *

* * * * *

5. Appendix 3 is revised to read as follows:

Appendix 3—Articles Subject to the Supplementary Licensing Provisions of Import Regulation 1, Revision 7, and Respective Annual Import Quotas for Each Quota Year

Article by HTS note number	Annual supplementary quota (kilograms)
Butter (Note 6)	3,656,311
Dried Skim Milk (Note 7)	441,359
Dried Whole Milk (Note 8)	368,125
Butter Substitutes Containing over 45% by weight of butterfat and butteroil (Note 14)	3,480,500
Cheese and substitutes for cheese (except cheese not containing cow's milk and soft ripened cow's milk cheese, cheese (except cottage cheese) containing 0.5 percent or less by weight of butterfat, and articles within the scope of other tariff-rate quotas provided for in this subchapter) (Note 16)	
Australia	2,978,834
Austria	291,667
Costa Rica	45,500
Czech Republic	1,000,000
EC	200,000
Poland*	150,000
Slovak Republic	300,000
Switzerland	600,000
Uruguay	41,667
Any Country	250,000
Blue-mold cheese (except Stilton produced in the United Kingdom) and cheese and substitutes for cheese containing, or processed from, blue-mold cheese (Note 17)	100,000
Chile	88,333
Czech Republic	13,333
EC	50,000
Cheddar cheese, and cheese and substitutes for cheese containing, or processed from, Cheddar cheese (Note 18)	25,000
Australia	1,308,333
EC	208,333
Chile	83,333
Czech Republic	36,667
New Zealand	50,000
Any Country	850,000
American-type cheese, including Colby, washed curd, and granular cheese (but not including cheddar) and cheese and substitutes for cheese containing or processed from such American-type cheese (Note 19)	100,000
EC	8,333
Edam and Gouda cheese, and cheese and substitutes for cheese containing, or processed from, Edam and Gouda Cheese (Note 20)	8,333
Argentina	293,333
Austria	110,000
EC	33,333
Czech Republic	50,000
Italian-Type cheeses, made from cow's milk (Romano made from cow's milk, Reggiano, Parmesan, Provolone, Provoletti, Sbrinz, and Goya not in original loaves) and cheese and substitutes for cheese containing, or processed from, such Italian-Type cheeses, whether or not in original loaves (Note 21)	100,000
Argentina	4,281,666
EC	1,890,000
Uruguay	58,333
Hungary	750,000
Poland*	400,000
Romania	1,100,000
Swiss and Emmenthaler cheese other than with eye formation Gruyere-process, and cheese and substitutes for cheese containing, or processed from such cheese (Note 22)	83,333
Austria	31,666
EC	6,666
Swiss and Emmenthaler cheese with eye formation (Note 25)	25,000
	1,043,332

VOL 60 ISS 84 MY 2 1995 UMI

Article by HTS note number	Annual supplementary quota (kilograms)
Austria	18,333
EC	58,333
Sweden	150,000
Switzerland	16,666
Czech Republic	400,000
Hungary	400,000

*Issuance of licenses and quota quantities are conditioned on completion of a bilateral memorandum of understanding between the Governments of the United States and Poland.

Signed at Washington, D.C., on April 21, 1995.

Richard E. Rominger,

Acting Secretary of Agriculture.

[FR Doc. 95-10712 Filed 4-27-95; 12:36 pm]

BILLING CODE 3410-02-P

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 94-107-2]

Switzerland; Change in Disease Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are declaring Switzerland free of rinderpest, foot-and-mouth disease, and Exotic Newcastle disease (VVND). As part of this action, we are adding Switzerland to the lists of countries that, although declared free of rinderpest, foot-and-mouth disease, and VVND, are subject to restrictions on meat and other animal products offered for importation into the United States. This rule removes the prohibition on the importation of ruminants and fresh, chilled, and frozen meat of ruminants into the United States from Switzerland, although those importations will be subject to certain restrictions. This rule also relieves certain prohibitions and restrictions on the importation, from Switzerland, of milk and milk products of ruminants and of certain poultry and poultry products.

EFFECTIVE DATE: May 17, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Kathleen Akin, Senior Staff Veterinarian, Import/Export Products, National Center for Import and Export, VS, APHIS, Suite 3B05, 4700 River Road Unit 40, Riverdale, MD 20737-1231, (301) 734-7830.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), and Exotic Newcastle disease (VVND). FMD and rinderpest are dangerous and destructive communicable diseases of ruminants and swine. VVND is a contagious, infectious, and communicable disease of poultry.

On February 2, 1995, we published in the **Federal Register** (60 FR 6454-6456, Docket No. 94-107-1) a proposal to amend the regulations by adding Switzerland to the list in § 94.1(a)(2) of countries declared free of both rinderpest and FMD and to the list in § 94.6(a)(2) of countries declared free of VVND. In that document, we also proposed to add Switzerland to the list in § 94.11(a) of countries that, although declared free of rinderpest and FMD, are subject to special restrictions on the importation of their meat and other animal products into the United States.

We solicited comments concerning our proposal for 60 days ending April 3, 1995. We did not receive any comments. The facts presented in the proposed rule still provide the basis for this final rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule removes the prohibition on the importation of ruminants and fresh, chilled, and frozen meat of ruminants into the United States from Switzerland and relieves restrictions on the importation from Switzerland of milk and milk products of ruminants and certain poultry and poultry products. We have determined that approximately 2 weeks are needed to ensure that Animal and Plant Health Inspection Service personnel at ports of entry receive official notice of this change in the regulations. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be made effective 15 days after publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This final rule amends the regulations in part 94 by adding Switzerland to the list of countries declared free of rinderpest and FMD and to the list of countries declared free of VVND. This action will remove the prohibition on the importation of ruminants and fresh, chilled, and frozen meat of ruminants into the United States from Switzerland, although those importations will be subject to certain restrictions. This revision will also relieve restrictions on the importation from Switzerland of milk and milk products of ruminants and certain poultry and poultry products. This action will not relieve certain restrictions on the importation of live swine and fresh, chilled, and frozen meat of swine from Switzerland because Switzerland is still considered to be affected with hog cholera. Similarly, this action will not relieve certain restrictions on the importation from Switzerland, of ruminant meat and edible products from ruminants because bovine spongiform encephalopathy (BSE) exists in Switzerland.

Based on available information, the Department does not anticipate a major increase in exports of ruminants and fresh, chilled, or frozen meat of ruminants or poultry from Switzerland into the United States as a result of this final rule.

The primary effects due of this change in the regulations will be limited to bovine meat and prepared products, since swine and swine products are excluded because of restrictions due to hog cholera, live cattle and breeding material are excluded due to BSE, and there is no sheep, lamb, or goat production in Switzerland (USDA, National Agricultural Statistics Service (NASS), "Agricultural Statistics," 1993). Commencement of such production is not expected due to the regulation change. The impact of increased beef imports resulting from the regulation changes will likely be minimal because the cattle industry in Switzerland is relatively small and high cost compared to the United States domestic market. Cattle inventories in Switzerland were estimated to be about 1.78 million head in 1993, while U.S. inventories were over 101 million head in 1993 (USDA, Foreign Agricultural Service, Switzerland's Annual Livestock Report, August 8, 1994, and USDA, NASS, "Agricultural Statistics," 1993).

Due to current restrictions, the United States does not import any uncooked meat or meat products from Switzerland. Total meat production in the United States in 1992 was just under 18.587 million metric tons, while Swiss meat production in 1992 reached approximately 429,000 metric tons, about 2.3 percent of the United States total (USDA, National Agricultural Statistics Service, "Agricultural Statistics," 1993). Therefore, even if Switzerland exported a significant portion of its meat production exclusively to the United States, which is unlikely, the effect of those exports on United States domestic prices or supplies would be negligible.

As with the ruminants and meat products discussed above, the Department does not anticipate a major increase in exports of milk and milk products from Switzerland into the United States as a result of this final rule. The importation into the United States of all dairy products, except for casein and other caseinates, is restricted by quotas. Although the importation of casein into the United States is not regulated by quotas, world prices of casein are competitively set. The United States does not produce casein, but does import more than half of the casein produced in the world. The regulations currently allow casein and other caseinates to be imported into the United States from countries where rinderpest or FMD exists if the importer has applied for and obtained written permission from the Administrator of the Animal and Plant Health Inspection Service. The United States did not import any casein from Switzerland in 1993 (USDA, Economic Research Service (ERS), "Foreign Agricultural Trade of the United States: Calendar Year 1993 Supplement," 1993).

Declaring Switzerland free of rinderpest and FMD, thus removing the requirement for written permission from the Administrator, is not expected to have any effect on the amount of casein imported into the United States from Switzerland because the current restrictions do not substantially impede imports.

Imports of poultry and poultry products into the United States from Switzerland in 1992 and 1993 fell into two categories: live poultry, and feathers and down. Total live poultry imports into the United States were valued at $14.4 million and $14.5 million in 1992 and 1993, respectively. United States live poultry imports from Switzerland were valued at $67 thousand and $74 thousand in 1992 and 1993, respectively, about 0.5 percent of the total imports. Total United States imports of feathers and down were valued at $84 million and $60.1 million in 1992 and 1993, respectively. United States imports of feathers and down from Switzerland were valued at $1.2 million and $0.41 million in 1992 and 1993, respectively, less than 1.5 percent of the total imports (USDA, ERS, "Foreign Agricultural Trade of the United States: Calendar Year 1993 Supplement," 1993). Also, Switzerland is dependent on imports for over 50 percent of domestic poultry consumption. Consequently, the changes in current regulations concerning VVND are not expected to result in increased exports to the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, and 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by adding "Switzerland," immediately after "Sweden,".

§ 94.6 [Amended]

3. In § 94.6, paragraph (a)(2) is amended by removing "and Sweden" and adding "Sweden, and Switzerland" in its place.

§ 94.11 [Amended]

4. In § 94.11, paragraph (a), the first sentence is amended by removing "and Sweden," and adding "Sweden, and Switzerland," in its place.

Done in Washington, DC, this 26th day of May 1995.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95-10745 Filed 5-1-95; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-44-AD; Amendment 39-9214; AD 74-08-08 R1]

Airworthiness Directives; Transport Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD) that is applicable to all transport category airplanes. The existing AD currently requires installation of placards prohibiting smoking in the lavatory and disposal of cigarettes in the

VOL 60 ISS 84 MY 2 1995 UMI

lavatory waste receptacles; establishment of a procedure to announce to airplane occupants that smoking is prohibited in the lavatories; installation of ashtrays at certain locations; and repetitive inspections to ensure that lavatory waste receptacle doors operate correctly. That action was prompted by fires occurring in lavatories, which were caused by, among other things, the improper disposal of smoking materials in lavatory waste receptacles. The actions specified by the AD are intended to prevent such fires. This amendment provides for an alternative action regarding the current requirement to install specific placards at certain locations.

EFFECTIVE DATE: June 1, 1995.

ADDRESSES: Information pertaining to this rulemaking action may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Monica Nemecek, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2773; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 74–08–09, amendment 39–1917, which is applicable to all transport category airplanes having one or more lavatories equipped with paper or linen waste receptacles, was published in the **Federal Register** on November 1, 1994 (59 FR 54535). The action proposed to provide for an alternative action regarding the current requirement to install specific placards at certain locations.

Disposition of Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposal.

The FAA responds to additional comments and requests for revision of the proposal as follows:

Request To Add Inspections of Smoke Detectors

One commenter requests that the proposal be revised to include an additional requirement for a periodic inspection and test of the lavatory smoke detector. The commenter suggests that such inspections be required either every six months or at the same time as the inspections of the trash receptacle doors are required. This commenter considers that such inspections are necessary because smoke and fire, as a result of smoking materials deposited in lavatories, continue to be a hazard. The commenter points out that, in the span of time since the AD was originally issued in 1974, there have been numerous lavatory fires reported on transport category airplanes; many of these fires were not detected by the smoke detectors, but by passengers and crew. The commenter acknowledges that it is not clear whether the fire detector failed to function in these cases of fire; however, it is clear that the detector failed to perform as intended. Since the National Fire Protection Association recommends inspection and testing of residential smoke detectors because they are subject to failure, the commenter believes that a comparable test and inspection of detectors on airplanes is also warranted.

The FAA does not concur with the commenter's suggestion to revise the proposal. The FAA has issued numerous AD's, applicable to specific aircraft models, whenever an unsafe condition has been identified relative to potential fires in the lavatories. In fact, many AD's as well as many individual operator's maintenance programs already call for repetitive inspections of the smoke detectors located in the lavatories. Notwithstanding these current AD's and practices, the FAA will continue to monitor the situation within the transport fleet and may consider the commenter's comments for possible separate rulemaking action.

Request To Revise Applicability of AD

One commenter requests that the applicability of the proposal be revised to include only those aircraft types known to be affected by the existing AD's provisions, and to exclude all aircraft that were type certificated after August 6, 1974 (the effective date of AD 74–08–09), when the FAA has confirmed that the approved type design incorporates the provisions intended by AD 74–08–09. As justification for this request, the commenter points out the following:

1. The current applicability of the AD makes it applicable to all transport category airplanes ever built, including those that were type certificated after the effective date of AD 74–08–09. It also encompasses all aircraft certificated under Federal Aviation Regulations (FAR) part 25 (14 CFR part 25) whose type design has originated during the past 20 years. The applicability of the AD appears to be a burdensome action placed on the aviation industry for only a minor FAA administrative convenience.

2. The current "open-ended" applicability of the AD places the manufacturer of airplanes type certificated after August 6, 1974, in a peculiar position: The FAA makes a finding during type certification that, in compliance with FAR 21.21(b)(2), "* * * no feature or characteristic makes it unsafe for the category in which certification is requested;" yet, at the same time, the FAA states that a newly type certificated/manufactured airplane is "unsafe" by the terms of AD 74–08–09.

The FAA does not consider that revising the applicability of this AD, as requested by the commenter, is necessary for the following reasons:

As for Item 1, above, the FAA acknowledges that almost all of the requirements of this AD are similar to other requirements of newly-certified airplanes. However, the FAA does not consider that accomplishment of the requirements of this AD constitutes any additional undue burden on operators. For the most part, operators will be required merely to enter a one-time sign-off in the airplane log to indicate compliance. (The only requirement of this AD that is not similar to any other is the requirement that calls for repetitive inspections of the waste receptacle doors. As is explained later in this preamble, service history data indicates that the 1,000-hour repetitive inspections are necessary and appropriate.) To the extent that the requirements of this AD are similar to those of other rules, their continued presence as part of this AD emphasizes their importance and makes it less likely that they will be overlooked.

Additionally, since the various requirements of this AD were adopted in certification and operating rules at different times and by different amendments to the FAR, it would make the AD unnecessarily complex to create exceptions for those airplanes and operators subject to other requirements.

As for Item 2, above, the FAA does not consider that any manufacturer would be placed in a "peculiar situation," as described by the commenter. During the certification process, the manufacturer will necessarily have to consider the requirements of this AD prior to certification of an airplane, and will eliminate the unsafe condition by complying with the AD; therefore, there will be no feature or characteristic that makes the airplane unsafe as certificated.

Request To Include Terminating Actions for Requirements of AD

This commenter also requests that the proposal be revised to provide for "terminating actions" for operators whenever the required ashtrays and placards are installed on the airplane and when the provisions for the recurring inspections are incorporated into the FAA-approved inspection program [required by FAR 91.409 (14 CFR 91.409), "Inspections"]. The commenter contends that, in requiring the continuing inspection, the FAA has "gone counter to the commitment of the Administrator," who stated in the preamble to amendments 21–3 and 39–106, "The agency * * * will not issue AD's as a substitute for enforcing maintenance rules." Revising the proposal in accordance with the commenter's request, the commenter states that the FAA would "correct its error" with respect to enforcement of maintenance rules.

The FAA does not concur with the commenter's request. First, according to § 39.1 of the FAR (14 CFR 39.1), the issuance of an AD is based on the finding that an unsafe condition exists or is likely to develop in aircraft of a particular type design. The responsibilities placed on the FAA by the Federal Aviation Act do not limit it from making any unsafe condition—whether resulting from maintenance, design defect, or otherwise—the proper subject of an AD. Therefore, regardless of the cause or the source of an unsafe condition, the FAA has the authority to issue an AD when it is found that an unsafe condition is likely to exist or develop on other products of the same type design.

Second, it is within the FAA's authority to issue AD's to require actions to address unsafe conditions that are not otherwise being addressed (or addressed adequately) by normal maintenance procedures. This AD has not been issued as a substitute for enforcement of maintenance rules. On the contrary, it establishes the maintenance rule. Currently, there is no other rule that imposes the 1,000-hour inspection of the waste receptacle doors. Based on in-service history of problems encountered, it is especially important that the requirement for these repetitive inspections continue in this AD in order to ensure that the problem addressed is not reintroduced in the fleet.

As for providing terminating action for the requirements of AD 74–08–09, the FAA has not approved any action or modification that would constitute an appropriate "terminating action." Specifically:

a. With regard to the required installation of placards and ashtrays, those are one-time actions, requiring no additional "repetitive" installations. Once they are installed, operators merely need to document the appropriate maintenance records to indicate this.

b. With regard to the required procedure for announcements to aircraft occupants, this, too, would be a one-time action. Once a procedure is established, the operator would need only document the appropriate records to indicate this; no further documentation would be required.

c. With regard to the required repetitive inspections, data currently available to the FAA indicate that the majority of U.S. operators of transport category airplanes are conducting these inspections every 1,000 hours, as specified by the AD, and some are conducting the inspections more frequently. Many operators have found discrepancies at the 1,000-hour inspection interval. There currently is no in-service data to substantiate that any action or modification exists that would preclude the need for a 1,000-hour inspection. These repetitive inspections are appropriate, since they ensure that any discrepancy will be identified and corrected in a timely manner.

Further, the FAA does not concur with the commenter's request to allow operators to incorporate the provisions for these recurring inspections into the FAA-approved inspection program as "terminating action" for the AD. Incorporating the repetitive inspection program into the operator's maintenance or inspection program would allow escalation of inspection intervals, which the FAA finds inappropriate without adequate control.

Additionally, while the vast majority of affected U.S.-registered airplanes are operated under FAA-approved maintenance/inspection programs, there are some airplanes that are not so operated, namely, certain airplanes that are excepted from the requirements of FAR part 125 by § 125.1. Because the applicability of the rule includes *all* transport airplanes, those "excepted" airplanes would still be subject to the AD's requirements; however, because they are not operated under an FAA-approved maintenance/inspection program, their operators would not be able to comply with an AD that required a revision to that program. Moreover, in accordance with existing bilateral airworthiness agreements with foreign countries, the FAA recognizes that one of the purposes of this AD action is to advise foreign authorities of the addressed unsafe condition, and to provide them with guidance as to appropriate methods for correcting it. Again, while revising the FAA-approved maintenance/inspection programs may be effective for many U.S. carriers, other countries do not regulate carriers in the same way. Specifically, foreign authorities may not have the same regulatory system of "approved maintenance programs" as in the U.S. Since the AD is formulated to address a worldwide system for preventing potential fires, the FAA considers that it would not be appropriate to change the requirement for the inspections as the commenter has requested.

Request To Permit Removal of Ashtrays

One commenter requests that the proposal be revised to allow the removal of lavatory door ashtrays, especially on air carriers that prohibit smoking, or on flights for which smoking is prohibited under the appropriate portions FAR section 252 (14 CFR 252, "Smoking aboard aircraft"). This commenter points out that the existing AD requires that ashtrays be installed, while other parts of the FAR prohibit smoking in the passenger cabin and lavatories for certain flights. This commenter, a U.S. operator, notes that it has, on occasion, experienced delays due to missing lavatory door ashtrays, even though smoking is not permitted during the flight. The commenter recommends that lavatory door ashtrays be considered "passenger convenience items" and, as such, be dispositioned under the provision of the appropriate Minimum Equipment List (MEL).

The FAA does not concur. The requirement for the presence of an ashtray on or near the lavatory door provides a convenient disposal location for cigarettes (or other smoking material), and thereby ensures that there is a place to dispose of such material in the event that the "no smoking" policy is not adhered to. Further, the installation of an ashtray on or near the lavatory door will ensure that uninformed persons who find themselves with lighted smoking materials on the airplane will have an obvious location to dispose of smoking materials before entering the lavatory. Previous experience and reports have shown that there is a high probability that these persons may deposit the lighted smoking material in the lavatory paper or linen receptacle when no safe and convenient place to dispose it exists; such actions can result in an in-flight fire aboard the airplane. Accordingly, while the "no smoking"

VOL
60
ISS
84
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2
1995
UMI

policy is a positive feature that may contribute to safety, it is not meant to be a substitute for required equipment.

Additionally, the FAA does not concur with the commenter's request to consider ashtrays as "passenger convenience items" that can be dispositioned under the MEL. As explained above, ashtrays do serve a safety function and, therefore, must be considered required equipment.

Request To Revise Estimated Cost of Compliance

One commenter requests that the FAA revise its economic impact estimate relative to the cost of compliance with the AD. This commenter states that FAA's analysis of the cost may be reasonably representative of the recurring inspections currently required, but it does not consider the cost of research and recordkeeping involved when determining whether or not an airplane is fitted with lavatories or receptacles subject to the AD. The commenter contends that research and recordkeeping needed just to confirm that an airplane is not subject to the AD results in costs approximating the 1.5 work hours that the FAA indicates is the time required to accomplish the inspections.

The FAA does not concur with the commenter's request. The applicability statement of the AD clearly limits the AD to those transport category airplanes that have one or more lavatories equipped with paper or linen waste receptacles. If an operator is not certain whether its airplane has lavatories so equipped, it may simply review the type design (drawings) of the airplane to determine this. A one-time check of a drawing to determine whether or not the AD is applicable should not create an undue burden on any operator.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Impact

Since this action only provides for an alternative method of complying with an existing rule, it does not add any new additional economic burden on affected operators. The current costs associated with this AD are reiterated below for the convenience of affected operators:

The costs associated with the currently required placard installations entail approximately 1 work hour per airplane, at an average labor rate of $60 per work hour. The cost of required parts is negligible. Based on these figures, the total cost impact of the installation requirements of the AD on U.S. operators is estimated to be $60 per airplane.

The costs associated with the currently required inspections entail approximately 1.5 work hours per airplane per inspection, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of the inspection requirements of this AD on U.S. operators is estimated to be $90 per airplane per inspection.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–1917, and by adding a new airworthiness directive (AD), amendment 39–9214, to read as follows:

74–08–09 R1 Transport Category Aircraft: Amendment 39–9214. Docket 94–NM–44–AD. Revises AD 74–08–09, Amendment 39–1917.

Applicability: All transport category airplanes, certificated in any category, that have one or more lavatories equipped with paper or linen waste receptacles.

Note: The following is a partial list of aircraft, some or all models of which are type certificated in the transport category and have lavatories equipped with paper or linen waste receptacles:

Aerospatiale Models ATR42 and ATR72 series airplanes;
Airbus Models A300, A310, A300–600, A320, A330, and A340 series airplanes;
Boeing Models 707, 720, 727, 737, 747, 757, and 767 series airplanes;
Boeing Model B–377 airplanes;
British Aircraft Models BAC 1–11 series, BAe–146 series, and ATP airplanes;
CASA Model C–212 series airplanes;
Convair Models CV–580, 600, 640, 880 and 990 series airplanes;
Convair Models 240, 340, and 440 series airplanes;
Curtiss-Wright Model CW 46;
de Havilland Models DHC–7 and DHC–8 series airplanes;
Fairchild Models F–27 and C–82 series airplanes;
Fairchild-Hiller Model FH–227 series airplanes;
Fokker Models F27 and F28 series airplanes;
Grumman Model G–159 series airplanes;
Gulfstream Model 1159 series airplanes;
Hawker Siddeley Model HS–748;
Jetstream Model 4101 series airplanes;
Lockheed Models L–1011, L–188, L–1049, and 382 series airplanes;
Martin Model M–404 airplanes;
McDonnell Douglas Models DC–3, –4, –6, –7, –8, –9, and –10 series airplanes;
Model MD–88 airplanes; and Model MD–11 series airplanes;
Nihon Model YS–11;
Saab Models SF340A and SAAB 340B series airplanes;
Short Brothers and Harlin Model SC–7 series airplanes;
Short Brothers Models SD3–30 and SD3–60 series airplanes:

Compliance: Required as indicated, unless accomplished previously.

To prevent possible fires that could result from smoking materials being dropped into lavatory paper or linen waste receptacles, accomplish the following:

(a) Within 60 days after August 6, 1974 (the effective date of amendment 39–1917, AD 74–08–09), or before the accumulation of any time in service on a new production aircraft after delivery, whichever occurs later, except that new production aircraft may be flown in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to a base where compliance may be accomplished, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD:

(1) Install a placard either on each side of each lavatory door over the door knob, or on each side of each lavatory door, or adjacent to each side of each lavatory door. The placards must either contain the legible words, "No Smoking in Lavatory" or "No Smoking;" or contain "No Smoking" symbology in lieu of words; or contain both wording and symbology; to indicate that smoking is prohibited in the lavatory. The placards must be of sufficient size and contrast and be located so as to be conspicuous to lavatory users.

(2) Install a placard on or near each lavatory paper or linen waste disposal receptacle door, containing the legible words or symbology indicating "No Cigarette Disposal."

(b) Within 30 days after August 6, 1974, establish a procedure that requires that no later than a time immediately after the "No Smoking" sign is extinguished following takeoff, an announcement be made by a crewmember to inform all aircraft occupants that smoking is prohibited in the aircraft lavatories; except that, if the aircraft is not equipped with a "No Smoking" sign, the required procedure must provide that the announcement be made prior to each takeoff.

(c) Within 180 days after August 6, 1974, or before the accumulation of any time in service on a new production aircraft, whichever occurs later, except that new production aircraft may be flown in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to a base where compliance may be accomplished, install a self-contained, removable ashtray on or near the entry side of each lavatory door. One ashtray may serve more than one lavatory door if the ashtray can be seen readily from the cabin side of each lavatory door served.

(d) Within 30 days after August 6, 1974, and thereafter at intervals not to exceed 1,000 hours time-in-service from the last inspection; accomplish the following:

(1) Inspect all lavatory paper and linen waste receptacle enclosure access doors and disposal doors for proper operation, fit, sealing, and latching for the containment of possible trash fires.

(2) Correct all defects found during the inspections required by paragraph (d)(1) of this AD.

(e) Upon the request of an operator, the FAA Principal Maintenance Inspector may adjust the 1,000 hour repetitive inspection interval specified in paragraph (d)(1) of this AD to permit compliance at an established inspection period of the operator if the request contains data to justify the requested change in the inspection interval.

(f) This amendment becomes effective on June 1, 1995.

Issued in Renton, Washington, on April 26, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10709 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–ASO–2]

Amendment of Class D and E4 Airspace, and Establishment of Class E2 Airspace; Louisville, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment modifies the Louisville Bowman Field Class D and E4 airspace areas at Louisville, KY. The VOR RWY 19 Standard Instrument Approach (SIAP) for Bowman Field has been cancelled. Therefore, a portion of the Class D and E4 airspace areas currently designated north-northeast of Bowman Field is no longer needed. Additionally, this amendment establishes Class E2 airspace for Bowman Field during the hours the tower is not in operation. The intended effect of this action is to provide adequate Class E airspace for instrument approach procedures when the tower is closed.

DATES: *Effective Date:* 0901 UTC, July 20, 1995.

Comments: Comments must be received on or before May 25, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 95–ASO–2, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Steve McDuffee, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

On February 6, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying the Class D and E4 airspace areas at Louisville, KY. (60 FR 6975). This action would reduce the size of the Class D and E4 airspace areas for Bowman Field. No comments objecting to the proposal were received. However, the proposed amendment inadvertently failed to recognize the airspace requirements for an airport without a tower, or when the tower is not in operation, and IFR service is provided by another ATC facility. Accordingly, the rule needs to provide Class E2 airspace for instrument approach procedures at Bowman Field when the tower is closed and air traffic control service is provided for IFR operations at Bowman Field by Standiford Tower. Comments are invited specifically on the establishment of Class E2 airspace for Bowman Field during the hours the Bowman tower is not in operation. This rule will become effective on the date specified in the **DATES** section. However, after the review of any comments and, if the FAA finds that further changes are appropriate, it will initiate rulemaking proceedings to extend the effective date or to amend the regulation.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and in determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the rule that might suggest the need to modify the rule.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Class D and E4 airspace areas, and establishes Class E2 airspace at Louisville, KY, for Bowman Field. The VOR RWY 19 SIAP has been cancelled. Therefore, a portion of the Class D and E4 airspace areas currently designated north-northeast of Bowman Field is no longer needed. Additionally, this amendment establishes Class E2 airspace for Bowman Field during the hours the tower is not in operation. The intended effect of this action is to provide adequate Class E Airspace for instrument approach procedures when the tower is closed. This action improves air safety for participating and non-participating traffic. Class D airspace designations, Class E airspace areas designated as a surface area for an airport, and Class E airspace areas designated as an extension to a Class D surface area are published in Paragraphs 5000, 6002 and 6004 respectively of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Under the circumstances presented, the FAA concludes that there is an immediate need to establish Class E2 airspace for Bowman Field when the tower is not in operation to ensure that participating and non-participating traffic will be able to comply with

VOL 60 ISS 84 MY 2 1995 UMI

appropriate federal regulations governing controlled airspace. Without this additional provision the rule would be incomplete and defective, and have an adverse impact on safety. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) specifically regarding the establishment of the Class E2 airspace area are impracticable and contrary to the public interest.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO KY D Louisville Bowman Field, KY [Revised]

Louisville Bowman Field, KY
(Lat. 38°13'41" N, long. 85°39'48" W.)
Louisville Standiford Field, KY
(Lat. 38°10'29" N, long. 85°44'11" W.)

That airspace extending upward from the surface to but not including 2,200 feet MSL within a 3.9-mile radius of Bowman Field, excluding that portion within the Louisville Standiford Field Class C Airspace Area, and excluding that portion south of the 081° bearing from Standiford Field, and also excluding that portion north of the Louisville Standiford Field Class C Airspace Area and west of a line drawn from lat. 38°11'28" N, long. 85°42'01" W direct thru the point where the 030° bearing from Standiford Field intersects the 5-mile radius from Standiford Field to the point of intersection with the 3.9-mile radius from Bowman field. This Class E Airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area for an Airport

* * * * *

ASO KY E2 Louisville Bowman Field, KY [Revised]

Louisville Bowman Field, KY
(Lat. 38°13'41" N, long. 85°39'48" W.)
Louisville Standiford Field, KY
(Lat. 38°10'29" N, long. 85°44'11" W.)

Within a 3.9-mile radius of Bowman Field, excluding that portion within the Louisville Standiford Field Class C Airspace Area, and excluding that portion south of the 081° bearing from Standiford Field, and also excluding that portion north of the Louisville Standiford Field Class C Airspace Area and west of a line drawn from lat. 38°11'28" N, long. 85°42'01" W direct thru the point where the 030° bearing from Standiford Field intersects the 5-mile radius from Standiford Field to the point of intersection with the 3.9-mile radius from Bowman field. This Class E Airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area

* * * * *

ASO KY E4 Louisville Bowman Field, KY [Revised]

Louisville Bowman Field, KY
(Lat. 38°13'41" N, long. 85°39'48" W.)
Bowman VOR/DME
(Lat. 38°13'49" N, long. 85°39'53" W.)

That airspace extending upward from the surface within 2.4 miles each side of the Bowman VOR/DME 067° radial, extending from the 3.9-mile radius of Bowman Field to 7 miles east of the Bowman VOR/DME. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on April 20, 1995.

Stephen W. McDuffie,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–10770 Filed 5–1–95; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 94–ACE–16]

Amendment to Class E Airspace; Monticello, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic coordinates of a final rule that was published in the **Federal Register** on December 28, 1994. (59 FR 66671), Airspace Docket No. 94–ACE–16.

EFFECTIVE DATE: Effective on May 2, 1995.

FOR FURTHER INFORMATION CONTACT:

Kathy J. Randolph, Airspace Technician, Air Traffic Operations Branch, ACE–530c, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 94–31921, Airspace Docket No. 94–ACE–16, published on December 28, 1994 (59 FR 66671), established Class E airspace at Monticello, MO. An error was discovered in the geographic coordinates for the Monticello-Lewis County Regional Airport, MO, Class E airspace area. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Class E airspace area at Monticello-Lewis County Regional Airport, MO as published in the **Federal Register** on December 28, 1994, (59 FR 66671), (Federal Register Document 94–31921; page 66672, Column 1) are corrected as follows:

§71.71 [Corrected]

* * * * *

ACE MO E5 Monticello, MO [Corrected]

By removing "(lat. 40°07'47"N., long. 91°16'44"W.)" and substituting "(lat. 40°07'45"N., long. 91°40'42"W.)

* * * * *

Herman J. Lyons, Jr.,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 95–10773 Filed 5–1–95; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7636]

Contributions to Pension, Profit-Sharing, etc., Plans on Behalf of Self-Employed Individuals and Shareholders-Employees; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the final regulations (T.D. 7636), which were published in the **Federal Register** Friday, August 10, 1979 (44 FR 47046), relating to contributions to pension, profit-sharing, etc., plans on behalf of self-employed individuals and shareholder-employees.

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Brant Goldwyn (202) 622–6090, (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction clarify the applicability of the $100,000 limitation of section 401(a)(17) to certain plans maintained by an aggregated employer group.

Need for Correction

As published, T.D. 7636 contains an error which may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§1.401(e)–5 [Corrected]

Par. 2. The first sentence of § 1.401(e)–5 (a)(1) is amended by removing the "(1)" following the paragraph heading "(a) *General rules*—(1) *General rule.*".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–10688 Filed 5–1–95; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Utah regulatory program (hereinafter referred to as the "Utah program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Utah proposed revisions to its civil penalty rules with the intent of making them consistent with recently promulgated revisions to the Utah Coal Reclamation Act of 1979.

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Thomas E. Ehmett, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981, **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Submission of Proposed Amendment

By letter dated February 10, 1995, Utah at its own initiative submitted a proposed amendment to its program (administrative record No. UT–1019) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Utah proposed to amend the Utah Coal Mining Rules at Utah Administrative Rules (Utah, Admin. R.) 645–401–120, 410, 430, 721, 810, 830, and 910, concerning civil penalties, and Utah Admin. R. 645–402–120, 420, and 422, concerning individual civil penalties. Utah did so with the intent of making them consistent with recently promulgated revisions to the Utah Coal Reclamation Act of 1979 (UCA 40–10 *et seq.*).

OSM announced receipt of the proposed amendment in the February 27, 1995, **Federal Register** (60 FR 10531; administrative record No. UT–1029) and in the same document opened the public comment period and provided an opportunity for a public hearing on the substantive adequacy of the proposed amendment. The public comment period closed on March 29, 1995. The public hearing, scheduled for March 24, 1995, was not held because no one requested an opportunity to testify.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed Utah program amendment submitted by Utah on February 10, 1995, is no less effective than the corresponding Federal regulations. Thus, the Director approves the proposed amendment.

1. Nonsubstantive Revision to Utah's Rules

Utah proposed a revision to previously-approved Utah Admin. R. 645–401–430, concerning assessment of violations and unabated violations, that is nonsubstantive in nature and consists of the addition of the acronym "UCA" prior to referenced provisions of Utah's statute.

Because the proposed revision to this previously-approved rule is nonsubstantive in nature, the Director finds that the proposed revision to Utah Admin. R. 645–401–430 is no less effective than the corresponding Federal regulation at 30 CFR 845.15(b)(2). The Director approves this proposed revision.

2. Substantive Revisions to Utah's Rules That Are Substantively Identical to the Corresponding Provisions of the Federal Regulations

Utah proposed revisions to the following rules that are substantive in nature and contain language that is substantively identical to the requirements of the corresponding Federal regulations (listed in parentheses). The rules include revisions that transfer power for assessing civil penalties from the Board of Oil, Gas, and Mining (Board) to the Division of Oil, Gas, and Mining (Division). These rule revisions

VOL 60 ISS 84 MY 2 1995 UMI

implement previously approved statutory revisions at UCA 40–10–20 (1)(a) and (3)(a) that had the same effect (see finding No. 4, 59 FR 49185, 49187, September 27, 1994).

Utah Admin. R. 645–401–120 (30 CFR 845.11), concerning information on civil penalties;

Utah Admin. R. 645–401–410 (30 CFR 845.15(a)), concerning assessments of separate violations for each day;

Utah Admin. R. 645–401–721, 645–401–723.100, and 645–401–742 (30 CFR 845.18(b)(1), 845.18(b)(3)(i), and 845.18(d)(2)), concerning procedures for informal assessment conferences;

Utah Admin. R. 645–401–810 (30 CFR 845.19(a)), concerning requests for formal hearings; and

Utah Admin. R. 645–402–420 and 645–402–422 (30 CFR 846.17(b) and 846.17(b)(2)), concerning procedures for assessment of individual civil penalties.

Because these proposed revisions of the Utah rules are substantively identical to the corresponding provisions of the Federal regulations, the Director finds that they are no less effective than the Federal regulations. The Director approves these proposed rules.

3. Utah Admin. R. 645–401–830, Formal Review of the Violation Fact or the Civil Penalty

Utah proposed to revise Utah Admin. R. 645–401–830 to specify that formal review of the violation fact or penalty will be conducted by the Board under the provisions of the "procedural rules of the Board (R641 Rules)." The "procedural rules of the Board (R641 Rules)" are entitled "Rules of Practice and Procedure of the Utah Board of Oil, Gas and Mining."

The corresponding Federal regulations at 30 CFR 845.19(a) state that the person charged with the violation may contest the fact of a violation or the proposed penalty for a violation by submitting, among other things, a petition to the Office of Hearings and Appeals. The procedural requirements that apply to these appeals are included in the Federal program at 43 CFR 4.1150 through 4.1171.

Utah's proposed reference to its "procedural rules of the Board (R641 Rules)" in proposed Utah Admin. R. 645–401–830 corresponds to the general reference in the Federal regulation at 30 CFR 845.19(a) to the Office of Hearings and Appeals. OSM previously approved, in Utah's original program, Utah's procedural requirements at Utah Admin. R. Part 641, the "Rules of Practice and Procedure of the Utah Board of Oil, Gas and Mining." (see finding No. 4(q), 46 FR 5899, 5910, January 21, 1981).

On this basis, the Director finds that the proposed revision to Utah Admin. R. 645–401–830 is no less effective than the Federal regulations at 845.19(a) and approves it.

4. Utah Admin. R. 645–401–910, Final Civil Penalty Assessment and Payment of Penalty

Utah proposed to revise Utah Admin. R. 645–401–910 to require that, if the permittee fails to request a hearing as provided in Utah Admin. R. 645–401–810, the proposed civil penalty assessment will become a final order of the Division, rather than the Board. Utah also proposed revising Utah Admin. R. 645–401–910 to require that the penalty assessed will become due and payable upon expiration of the time allowed to request a hearing and "upon the Division fulfilling its responsibilities under UCA 40–10–20(3)(e)." Utah proposed to add the quoted language as part of this amendment.

The counterpart Federal regulation at 30 CFR 845.20(a) requires that if the person to whom a notice of violation or cessation order is issued fails to request a hearing as provided for in 30 CFR 845.19, the proposed assessment shall become a final order of the Secretary and the penalty assessed shall become due and payable upon expiration of the time allowed to request a hearing.

The Federal regulation at 30 CFR 845.20(a) differs from proposed Utah Admin. R. 645–401–910 only in that (1) it addresses the final order of the Secretary of the Interior and (2) it does not reference section 518(b) of SMCRA which is substantively identical to the Utah's referenced statutory provision at UCA 40–10–20(3)(e).

Utah's referenced statutory provision at UCA 40–10–20(3)(e) provides that, if the person charged with a violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the Division after it has (1) determined that a violation did occur, (2) determined the amount of the penalty that is warranted, and (3) issued an order requiring that the penalty be paid. These provisions of Utah's statute are implemented in Utah Admin. R. 645–401–730, which states that the assessment conference officer will promptly serve the permittee with a notice of his or her action (i.e., an assessment notice) and will include a worksheet if the penalty has been lowered or raised from the original assessment.

Proposed Utah Admin. R. 645–401–910 therefore requires that, if the permittee fails to request a hearing as provided in Utah Admin. R. 645–401–810, the proposed civil penalty assessment (i.e., the assessment notice required in Utah Admin. R. 645–401–730) will become a final order of the Division.

The Director finds that proposed Utah Admin. R. 645–401–910 is no less effective than the Federal regulation at 30 CFR 845.20(a) and approves it.

5. Utah Admin. R. 645–402–120, Information on Individual Civil Penalties

Utah proposed to revise Utah Admin. R. 645–402–120 to require that a Division-appointed, rather than a Board-appointed, assessment officer will assess individual civil penalties.

Proposed Utah Admin. R. 645–402–120 has no direct counterpart in the Federal regulations. However, the generally corresponding Federal regulation at 30 CFR 846.1 establishes the scope of OSM's individual civil penalty regulations when it states that 30 CFR Part 846 covers the assessment of individual civil penalties under section 518(f) of SMCRA.

Utah's statutory provision which corresponds to, and is substantively identical to, section 518(f) of SMCRA is UCA 40–10–20(6). As discussed in finding No. 2 above, OSM previously approved Utah's statutory provisions at UCA 40–10–20 that transferred power for assessment of civil penalties from the Board to the Division. It naturally follows that Utah also has the discretion to select the same State entity to be responsible for assessments of individual civil penalties.

On this basis, the Director finds that proposed Utah Admin. R. 645–402–120 is consistent with its statute as well as the Federal regulation at 30 CFR 846.1. Therefore, the Director approves proposed Utah Admin. R. 645–402–120.

IV. Summary and Disposition of Comments

Following are summaries of all substantive comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Utah program.

The U.S. Bureau of Mines responded on March 3, 1995, by telephone conversation, that it had no comments on the proposed amendment (administrative record No. UT–1028).

The U.S. Army Corps of Engineers responded on March 14, 1995, that the changes to the Utah program were satisfactory (administrative record No. UT–1032).

The U.S. Mine Safety and Health Administration (MSHA) responded on April 3, 1995, that no conflict could be found between the amendment and current MSHA regulations (administrative record No. UT–1040).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*).

None of the revisions that Utah proposed to make in its amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (administrative record No. UT–1021). EPA responded on March 3, 1995, that it had no comments on the proposed amendment and did not believe that there would be any impacts to water quality standards promulgated under the Clean Water Act (administrative record No. UT–1031).

4. State Historic Preservation Officer (SHPO)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO (administrative record No. UT–1021). The SHPO did not respond to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Utah on February 10, 1995.

The Director approves, as discussed in: finding No. 1, Utah Admin. R. 645–401–430, concerning a nonsubstantive editorial revision; finding No. 2, Utah Admin. R. 645–401–120, Utah Admin. R. 645–401–410, Utah Admin. R. 645–401–721, 723.100, and 742, Utah Admin. R. 645–401–810, and Utah Admin. R. 645–402–420 and 422, concerning substantive revisions that are substantively identical to the corresponding Federal regulations; finding No. 3, Utah Admin. R. 645–401–830, concerning the formal review of the violation fact or the civil penalty; finding No. 4, Utah Admin. R. 645–401–910, concerning the final civil penalty assessment and payment of penalty; and finding No. 5, Utah Admin. R. 645–402–120, concerning information on individual civil penalties.

The Director approves the rules as proposed by Utah with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 944, codifying decisions concerning the Utah program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 or SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 25, 1995.

Peter A. Rutledge,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, Chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 944—UTAH

1. The authority citation for part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.15 is amended by adding paragraph (dd) to read as follows:

§ 944.15 Approval of amendments to the State regulatory program.

* * * * *

(dd) Revisions to the following Utah Administrative Rules, as submitted to OSM on February 10, 1995, are approved effective May 2, 1995.

VOL
60
ISS
84
MY
2
1995
UMI

645–401–120 ...	How Civil Penalty Assessments Are Made.
645–401–410 and 430.	Assessment of Separate Violations for Each Day.
645–401–721, 723.100, and 742.	Procedures for Informal Assessment Conferences.
645–401–810 and 830.	Request for Formal Hearings.
645–401–910 ...	Final Civil Penalty Assessment and Payment of Penalty.
645–402–120 ...	Information on Individual Civil Penalties.
645–402–420 and 422.	Procedures for Assessment of Individual Civil Penalties.

[FR Doc. 95–10777 Filed 5–1–95; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF EDUCATION

34 CFR Part 690

RIN 1840–AB73

Federal Pell Grant Program; Presidential Access Scholarship Program

AGENCY: Department of Education.

ACTION: Final regulations; correction.

SUMMARY: This document corrects an error in the final regulations published in the **Federal Register** on November 1, 1994 for the Federal Pell Grant Program (59 FR 54718). These regulations implement statutory changes in the Federal Pell Grant Program authorized by title IV of the Higher Education Act of 1965, as amended by the Higher Education Amendments of 1992, and the Higher Education Technical Amendments of 1993.

FOR FURTHER INFORMATION CONTACT: Greg Gerrans, Office of Student Financial Assistance Programs, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3045, Regional Office Building 3, Washington, D.C. 20202–5447. Telephone (202) 708–4607. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

Dated: April 24, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

§ 690.12 [Corrected]

1. The following correction is made in FR Doc. 94–26832, published on November 1, 1994 (59 FR 54718):

On page 54732, column 1, § 690.12(b)(2) "Mailing the paper application form to the Secretary." is corrected to read "Sending an approved application form to the Secretary."

[FR Doc. 95–10665 Filed 5–1–95; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 10

[Docket No. 950403096–5096–01]

RIN 0651–AA72

Revisions of Patent Cooperation Treaty Provisions

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is amending the rules of practice relating to applications filed under the Patent Cooperation Treaty (PCT) in accordance with revised regulations under the PCT. The changes will result in a procedure whereby international applications improperly filed with the United States Receiving Office (RO/US) will, for a fee, be forwarded for processing to the International Bureau as Receiving Office.

EFFECTIVE DATE: June 1, 1995.

FOR FURTHER INFORMATION CONTACT: Charles Pearson at (703) 308–6515.

SUPPLEMENTARY INFORMATION: In a Notice of Proposed Rulemaking published in the **Federal Register** at 59 FR 33707 (June 30, 1994) and in the Patent and Trademark Office Official Gazette at 1164 Off. Gaz. Pat. Office 77 (July 26, 1994), the Office proposed to amend several rules of practice in patent cases. Recent changes to the PCT Regulations include the addition of a new section (PCT Rule 19.4) which provides for transmittal of an international application to the International Bureau, acting in its capacity as Receiving Office, in certain instances. Under the regulations currently in effect, at least one applicant is required, on filing the international application in the United States, to be a resident or national of the United States.

The practice under the revised PCT Regulations permits an international application filed with the United States Receiving Office to be forwarded to the International Bureau for processing in its capacity as a Receiving Office if the international application does not name an applicant who is indicated as being a U.S. resident or national, but names an applicant who is indicated as a resident or national of another PCT Contracting State or if the indication of residence or nationality of the applicant is missing. The Receiving Office of the International Bureau will consider the international application to be received as of the date accorded by the United States Receiving Office. This practice will avoid the loss of a filing date in those instances where the United States Receiving Office is not competent to act, but where the international application is filed by an applicant who is a national or resident of a PCT Contracting State. Where questions arise regarding residence and nationality, e.g., where residence and nationality are not clearly set forth, the application will be forwarded to the International Bureau as Receiving Office. If all applicants are indicated to be residents and nationals of non-PCT Contracting States, PCT Rule 19.4 does not apply and the application is denied an international filing date.

Discussion of Specific Rules

Section 1.412(c)(6) is added to reflect that the United States Receiving Office, where it is not a competent Receiving Office under PCT Rule 19.1 or 19.2, could transmit the international application to the International Bureau for processing in its capacity as a Receiving Office.

Section 1.421(a) is amended to clarify that applications filed by applicants who are not residents or nationals of the United States, but who are residents or nationals of a PCT Contracting State or who indicate no residence or nationality, will, upon timely payment of the proper fee, be forwarded to the International Bureau for processing in its capacity as a Receiving Office.

Section 1.445(a)(5) is added to establish a fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office.

Section 10.9 is amended to add a new provision consistent with PCT Rule 90.1, clarifying that an attorney or agent having the right to practice before the International Bureau when acting as Receiving Office may represent the applicant before the U.S. International Searching Authority or the U.S. International Preliminary Examining Authority. An individual who has the right to practice before the International Bureau when acting as Receiving Office, and who is not registered under § 10.6, may not prosecute patent applications in the national stage in the Office.

Response to Comments on the Rules

The comments received in response to the notice of proposed rulemaking have been given careful consideration. The comments and responses are discussed below.

Comment: One comment was received which approved of the proposed rule changes but noted other aspects of the U.S. National Phase filing procedures that could be changed to make the PCT more user-friendly.

Response: The Office is interested in making the PCT more user friendly. Amendments to §§ 1.494 and 1.495, which were effective on May 1, 1993, removed many of the differences in practice involving the filing of a regular U.S. application under 35 U.S.C. 111 and the entry of the national stage under 35 U.S.C. 371. These regulations now provide for a notice of missing requirements, similar to a notice under § 1.53(d), where a defective oath or declaration or a defective translation is filed.

Comment: Regarding § 1.412(c), one comment suggested that the proposed rule should be made consistent with PCT Rule 19.4(b) which provides for the transmittal of international applications to the International Bureau as Receiving Office "unless prescriptions concerning national security prevent the international application from being so transmitted" by incorporating such language into the proposed rule.

Response: The Office has adopted the suggestion and modified the rule by incorporating the suggested language from PCT Rule 19.4(b) in the regulation.

Comment: One comment regarding § 1.445(a)(5) mentioned that the word "competent" should be deleted because it is not "necessary and may be inaccurate" when no applicant in an international application is a "resident or national of a PCT Contracting State."

Response: The Office has adopted the suggestion and modified the rule by deleting "competent" from § 1.445(a)(5). The second occurrence of the word "competent" has also been deleted from 37 CFR 1.412(c)(6), for the same reasons.

Comment: Regarding § 10.9(c), there were a few comments which focus on the wording. Specifically, one comment noted that the word "appointed" is confusing because it is not clear if it includes "an officer or employee of a legal-entity patent applicant" in cases where the United States of America is not designated. An example was provided which noted "if the only applicant was XYZ Company, would the president of the Company be authorized to prosecute the application before the USPTO as an International Searching and Preliminary Examining Authority? In countries permitting assignee filing it is normal for any authorized officer or employee of the company to be able to represent the company without regard as to whether he is authorized to practice as an agent or attorney before the patent office."

Response: The proposed regulation is sufficiently clear on this point. If a person has the authority to represent an applicant, either a legal entity applicant or a real person, before the International Bureau as Receiving Office, then that person has the right to represent that applicant before the United States International Searching Authority and the United States International Preliminary Examining Authority.

Comment: Another comment about Rule 10.9(c) is that the word "only" is overlimiting and should be deleted from the Rule because it excludes Article 19 amendments filed before the International Bureau. It was suggested that the Rule be changed as follows: —* * * prosecute an International Application before the United States Patent and Trademark Office acting as an International Searching or Preliminary Examining Authority, * * *

Response: The Office will not adopt the suggestion. The word "only" in the Rule signifies that such persons may not prosecute an international application in the national stage before the USPTO. The rule is not meant to control who may practice before the International Bureau. Such a person would clearly be allowed to file Article 19 amendments with the International Bureau by virtue of PCT Rule 90.1(a).

Comment: A final comment made about Rule 10.9(c) is that the last phrase added is "too broad" because it does not recite who is entitled to act before the International Bureau. It was suggested that the rule should be changed to include the phrase—* * * for a national Office of a Contracting State of which an applicant is a resident or national—at the end of the rule.

Response: The Office has adopted the suggestion to the extent that an explicit reference to PCT Rule 83.1^{bis} has been inserted in the regulation. Since PCT Rule 83.1^{bis} clearly sets forth who may practice before the International Bureau, it is not necessary to repeat that information here. Thus, the regulation clearly sets forth who may practice before the United States International Searching and Preliminary Examining Authorities.

Other Considerations

The rule changes are in conformity with the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Executive Order 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. These rule changes have been determined to be not significant for the purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule changes will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)), because the rules would affect only a small number of international applications and would provide more streamlined and simplified procedures for filing and prosecuting international applications under the PCT.

The Office has also determined that these rule changes have no federalism implications affecting the relationship between the National government and the States as outlined in Executive Order 12612.

These rule changes will not impose any additional burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The paperwork burden imposed by adherence to the PCT is currently approved by the Office of Management and Budget under control number 0651–0021.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 10

Administrative practice and procedure, Inventions and patents, Lawyers, Reporting and recordkeeping requirements, Trademarks.

For the reasons set forth in the preamble, 37 CFR parts 1 and 10 are amended to read as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.412 is amended by adding new paragraph (c)(6) to read as follows:

§ 1.412 The United States Receiving Office.

* * * * *

VOL 60 ISS 84 MY 2 1995 UMI

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(6) Reviewing and, where the United States Receiving Office is not the competent Receiving Office under § 1.421(a) and PCT Rule 19.1 or 19.2, transmitting the international application to the International Bureau for processing in its capacity as a Receiving Office unless prescriptions concerning national security prevent the application from being so transmitted (PCT Rule 19.4).

3. Section 1.421 is amended by revising paragraph (a) to read as follows:

§ 1.421 Applicant for international application.

(a) Only residents or nationals of the United States of America may file international applications in the United States Receiving Office. If an international application does not include an applicant who is indicated as being a resident or national of the United States of America, and at least one applicant:

(1) Has indicated a residence or nationality in a PCT Contracting State, or

(2) Has no residence or nationality indicated; applicant will be so notified and, if the international application includes a fee amount equivalent to that required by § 1.445(a)(5), the international application will be forwarded for processing to the International Bureau acting as a Receiving Office. (See also § 1.412(c)(6)).

* * * * *

4. Section 1.445 is amended by adding new paragraph (a)(5) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

(5) A fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office (PCT Rule 19.4).

* * * * *

5. The authority citation for 37 CFR part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

6. Section 10.9 is amended by revising paragraph (c) to read as follows:

§ 10.9 Limited recognition in patent cases.

* * * * *

(c) An individual not registered under § 10.6 may, if appointed by applicant to do so, prosecute an international application only before the U.S. International Searching Authority and the U.S. International Preliminary Examining Authority, provided: The individual has the right to practice before the national office with which the international application is filed (PCT Art. 49, Rule 90 and § 1.455) or before the International Bureau when acting as Receiving Office pursuant to PCT Rules 83.1bis and 90.1.

Dated: April 25, 1995.

Lawrence J. Goffney, Jr.,

Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks.

[FR Doc. 95-10743 Filed 5-1-95; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 42-1-6016a; FRL-5186-7]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Pinal County Air Quality Control District; and Section 112(l) Approval of Pinal County Air Quality Control District Program for the Issuance of Permits Containing Voluntarily Accepted Federally Enforceable Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action on revisions to the Arizona State Implementation Plan. The revisions concern synthetic minor permit rules from the Pinal County Air Quality Control District (Pinal or District). The intended effect of approving these synthetic minor regulations is to allow facilities to voluntarily accept federally enforceable limits on their potential emissions. This approval action will incorporate these rules into the federally approved SIP. In order to extend the federal enforceability of conditions in permits to hazardous air pollutants (HAP), EPA is also approving Pinal's synthetic minor regulations pursuant to section 112 of the Act.

DATES: This final rule is effective on July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rules and EPA's Technical Support Document for the synthetic minor program are available for public inspection at the following location:

Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the submitted rules are also available for inspection at the following location:

Pinal County Air Quality Control District, 457 South Central Avenue, Florence, Arizona 85232.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: Regina Spindler, Operating Permits Section (A-5-2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1251.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the Arizona SIP include: Pinal County Air Quality Control District (Pinal) Code of Regulations, Chapter 1, Article 3, section 1-3-140, Definitions, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123; Chapter 3, Article 1, section 3-1-081, Permit conditions, subsection (A)(8)(a); Chapter 3, Article 1, section 3-1-084, Voluntarily Accepted Federally Enforceable Emissions Limitations; Applicability; Reopening; Effective Date; and Chapter 3, Article 1, section 3-1-107, Public Notice and Participation. These rules were submitted by the Arizona Department of Environmental Quality to EPA on August 15, 1994 for approval into the State Implementation Plan. Pinal submitted these provisions for approval under section 112(l) on October 25, 1994.

Background

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits (FESOP). Permits issued pursuant to an operating permit program approved into the SIP as meeting these criteria may be considered federally enforceable. On November 3, 1993, EPA announced in a guidance document entitled, "Approaches to Creating Federally Enforceable Emissions Limits," signed by John S. Seitz, Director, Office of Air Quality Planning and Standards, that this mechanism could be extended to create federally enforceable limits for

emissions of hazardous air pollutants (HAP) if the program were approved pursuant to section 112(l) of the Act. Approval under section 112(l) is necessary because SIP approval extends only to the control of criteria pollutants, i.e., those for which primary and secondary ambient air quality standards have been established by EPA pursuant to section 109 of the Act.[1] Federally enforceable limits on criteria pollutants may have the incidental effect of limiting certain HAP listed pursuant to section 112(b).[2] As a legal matter, no additional program approval by EPA is required in order for these criteria pollutant limits to be recognized as federally enforceable. However, section 112 of the Act provides the underlying authority for controlling all HAP emissions.

EPA Evaluation and Action

The Arizona Department of Environmental Quality submitted Pinal's synthetic minor permit program on August 15, 1994 for approval into the SIP. The EPA found this submittal to be complete on September 1, 1994. Pinal submitted the program for approval under section 112(l) on October 25, 1994. Pinal's synthetic minor permit program is based on provisions (adopted August 11, 1994) that allow a source to apply voluntarily for limits on emissions, production or operation to be placed in its permit to limit the source's total potential emissions. These provisions are contained within District permitting regulations (adopted November 3, 1993) that apply to both major and nonmajor sources and that provide for the issuance of integrated construction and operating permits. These permit regulations require sources that modify or construct to first obtain a permit that contains both preconstruction and operating requirements. The regulations also require all existing sources to apply for an operating permit. Therefore, new, modifying, and existing sources are eligible to obtain voluntary limits under Pinal's synthetic minor provisions.

The voluntary limits established pursuant to Pinal's synthetic minor provisions will be specifically designated as federally enforceable in the permit. When the permit is issued pursuant to either the District's EPA-approved Title V or New Source Review program, the entire permit will be federally enforceable, except for those requirements that are enforceable only by the District and/or State and that Pinal specifically designates as not being federally enforceable. When the permit is issued to existing sources pursuant to the District's nonmajor source operating permit program, only federal applicable requirements and voluntary limits that are designated as such pursuant to section 3-1-084 will be federally enforceable since the District's nonmajor source operating permit program is not approved into the SIP by EPA. Pinal is not seeking to receive approval of its program such that all permits issued under the approved program are federally enforceable. Rather, Pinal is seeking approval of a rule that allows for federally enforceable terms and conditions, accepted voluntarily, to be placed in source construction and operating permits. The EPA interprets the June 28, 1989 **Federal Register** notice cited above to apply to approval of synthetic minor rules that provide for creating distinct federally enforceable limits in permits, as well as to approval of synthetic minor rules that provide for the issuance of permits that are federally enforceable in their entirety.

Though Pinal has submitted a number of regulations relating to the issuance of permits as a revision to its portion of the Arizona State Implementation Plan, today's action extends only to those provisions that pertain to the creation of voluntarily accepted federally enforceable emission limits. These provisions include section 3-1-084 which provides for establishing the federally enforceable emission, production, and operational limits in the source permit along with associated federally enforceable compliance requirements such as monitoring, recordkeeping, and reporting requirements. This provision also requires review of each permit by EPA as well as an opportunity for public comment pursuant to the public participation procedures in section 3-1-107. This action also extends to these public participation procedures as well as to a number of definitions in section 1-3-140 and to the requirement of section 3-1-081(A)(8)(a) that sources comply with the terms and conditions of the permit that contains the voluntarily accepted federally enforceable conditions. The EPA will take action on the remainder of the District's August 15, 1994 submittal at a future date.

The June 28, 1989 **Federal Register** notice specifies the following five approval criteria for approving FESOP programs into the SIP: (1) The program must be submitted to and approved by EPA; (2) the program must impose a legal obligation on the operating permit holders to comply with the terms and conditions of the permit, and permits that do not conform with the June 28, 1989 criteria or EPA's underlying regulations shall be deemed not federally enforceable; (3) the program must contain terms and conditions that are at least as stringent as any requirements contained in the SIP, enforceable under the SIP, or any section 112 or other CAA requirement, and may not allow for the waiver of any CAA requirement; (4) permits issued under the program must contain conditions that are permanent, quantifiable, and enforceable as a practical matter; and (5) permits that are intended to be federally enforceable must be issued subject to public participation and must be provided to EPA in proposed form on a timely basis. The June 28, 1989 notice does not address HAP because it was written prior to the 1990 amendments to section 112, not because it establishes requirements unique to criteria pollutants. Hence, EPA believes that these five criteria are also appropriate for evaluating and approving synthetic minor permit programs under section 112(l).

In addition to meeting the criteria in the June 28, 1989 notice, a synthetic minor permit program that addresses HAP must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) allows EPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standards or requirements; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA plans to codify the approval criteria for programs limiting potential to emit of HAP, such as FESOP programs, through amendments to Subpart E of Part 63, the regulations promulgated to implement section 112(l) of the Act. (See 58 FR 62262, November 26, 1993.) The EPA currently anticipates that these regulatory criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989 notice. The EPA also anticipates that since FESOP programs approved pursuant to section 112(l) prior to the planned Subpart E revisions will have been approved as meeting these criteria, further approval actions for those programs will not be necessary. The EPA believes it has authority under

[1] The following are considered criteria pollutants: oxides of nitrogen, lead, ozone precursors, sulfur dioxide, carbon monoxide, and PM-10.

[2] See "Options for Limiting the Potential to Emit of a Stationary Source Under Section 112 and Title V of the Clean Air Act," from John Seitz, dated January 25, 1995. EPA intends to issue further technical guidance on ensuring that the "effect" of limiting HAP is enforceable as a practical matter.

VOL
60
ISS
84
MY
2
1995
UMI

section 112(l) to approve programs to limit potential to emit of HAP directly under section 112(l) prior to this revision to Subpart E. The EPA is therefore approving Pinal's synthetic minor program now so that Pinal may begin to issue federally enforceable synthetic minor permits as soon as possible.

The EPA believes that Pinal's synthetic minor program meets the approval criteria specified in the June 28, 1989 **Federal Register** notice and in section 112(l)(5) of the Act. Please refer to the Technical Support Document for a thorough analysis of the June 28, 1989 criteria and the statutory criteria of section 112(l)(5) as applied to Pinal's synthetic minor program.

The EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, Pinal County Air Quality Control District Code of Regulations Chapter 1, Article 3, section 1–3–140, Definitions, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123; Chapter 3, Article 1, section 3–1–081, Permit conditions, subsection (A)(8)(a); Chapter 3, Article 1, section 3–1–084, Voluntarily Accepted Federally Enforceable Emissions Limitations; Applicability; Reopening; Effective Date; and Chapter 3, Article 1, section 3–1–107, Public Participation, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D and under section 112(l) of the CAA as meeting the requirements of section 112(l)(5).

Pinal has already begun to issue permits containing voluntarily accepted limits pursuant to the regulations listed above. If the District followed its own procedures, each of these permits was subject to public notice and prior EPA review. Therefore, EPA will consider all voluntarily accepted limits in District permits that were processed in a manner consistent with the District regulations being acted upon today and the five June 28, 1989 criteria to be federally enforceable with the promulgation of this rule provided that any such permits containing the voluntarily accepted limits that the District wishes to make federally enforceable are submitted to EPA and accompanied by documentation that the procedures approved today have been followed. The EPA will expeditiously review any individual permits so submitted to ensure their conformity to the program requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision and section 112(l) submittal should adverse or critical comments be filed. This action will be effective July 3, 1995, unless by June 1, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 3, 1995.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

Application for limits under Pinal's synthetic minor provisions is voluntary and therefore this approval under sections 110 and 112 of the Act does not create any new requirements. Therefore, because the federal SIP-approval and section 112(l) approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 28, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(71) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(71) New and amended regulations for the following agencies were submitted on August 15, 1994 by the Governor's designee.

(i) Incorporation by reference.

(A) Pinal County Air Quality Control District.

(1) Chapter 1, Article 3, section 1–3–140, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123, adopted on November 3, 1993; Chapter 3, Article 1, section 3–1–081(A)(8)(a), adopted on November 3, 1993; Chapter 3, Article 1, section 3–1–084, adopted on August 11, 1994; and Chapter 3, Article 1, section 3–1–107, adopted on November 3, 1993.

* * * * *

[FR Doc. 95–10898 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[MS–20–1–6562a; FRL–5173–6]

Approval and Promulgation of Implementation Plans; Mississippi: Approval of Revisions to Construction and Operation Permit Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Mississippi State Implementation Plan (SIP) to allow the State of Mississippi to issue Federally enforceable state operating permits (FESOP). On January 26, 1994, the State of Mississippi through the Mississippi Department of Environmental Quality (MDEQ) submitted a SIP revision fulfilling the requirements necessary for a state FESOP program to become Federally enforceable. In order to extend the Federal enforceability of Mississippi's FESOP program to hazardous air pollutants (HAP), EPA is also approving Mississippi's FESOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA) so that the State may issue FESOP for HAP.

DATES: This final rule will be effective July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to Scott Miller, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Mississippi Department of Environmental Quality, Bureau of Air Quality Control, Air Quality Division, Post Office Box 10385, Jackson, Mississippi 39285

FOR FURTHER INFORMATION CONTACT: Carla Pierce, Title V, Regional Program Manager, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–2864.

SUPPLEMENTARY INFORMATION: On January 26, 1994, the State of Mississippi through the MDEQ submitted a SIP revision designed to make certain permits issued under Mississippi's existing minor source operating permit program Federally enforceable pursuant to EPA requirements as specified in a **Federal Register** notice, "Requirements for the preparation, adoption, and submittal of implementation plans; air quality, new source review; final rules," (see 54 FR 22274, June 28, 1989). The State will continue to issue permits which are not Federally enforceable under its existing minor source operating permit rules as it has done in the past. The SIP revision which is the subject of today's rulemaking adds additional requirements to the State's current minor source operating permit program which allows the State to issue FESOP. This voluntary SIP revision allows EPA and citizens under the CAA to enforce terms and conditions of Mississippi's FESOP program. Operating permits that are issued under the State's FESOP program that is approved into the State SIP and under section 112(l) will provide federally enforceable limits to an air pollution source's potential to emit. Limiting of a source's potential to emit through federally enforceable operating permits can affect a source's applicability to federal regulations such as title V operating permits, New Source Review (NSR) preconstruction permits, Prevention of Significant Deterioration (PSD) preconstruction permits for criteria pollutants and federal air toxics requirements mandated under section 112 of the CAA.

In the aforementioned June 28, 1989, **Federal Register** notice, EPA listed five criteria necessary to make a State's minor source operating permit program Federally enforceable and, therefore, approvable into the SIP. This revision satisfies the five criteria for Federal enforceability of the State's FESOP program.

The first criteria for a state's operating permit program to become Federally enforceable is that the permit program that the state wishes to be Federally enforceable must be approved into the SIP. On January 26, 1994, the State of Mississippi submitted through MDEQ a SIP revision designed to meet the five criteria for Federal enforceability. Today's action will approve these regulations into the Mississippi SIP, thereby, meeting the first criteria for Federal enforceability.

The second criteria for a state's operating permit program to become Federally enforceable is that the regulations approved into the SIP impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits. Mississippi's regulations meet this criteria in Regulation APC–S–2, Section II of the State regulations by requiring the following:

In addition to the requirements contained herein, no permit shall be issued unless the applicant has complied with applicable requirements including * * * and additional relevant Rules and Regulations promulgated by the Commission and/or Permit Board.

Hence, the second criteria for Federal enforceability is met.

The third criteria necessary for a state's operating permit program to be Federally enforceable is that the state operating permit program require that all emissions limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise "Federally enforceable" (e.g. standards established under sections 111 and 112 of the Act). Mississippi satisfies this criteria in two regulations included in the State's SIP submittal. APC–S–2, Section II.B.5 requires that all permits to construct or operate shall specify in their application the air emission rate for each air pollutant subject to regulation under the Federal Clean Air Act that can be reasonably expected to be emitted from a facility. In addition, Regulation APC–S–2, Section VI.E.4 provides that the granting of a permit shall not relieve an air pollution source of the responsibility to comply with other applicable requirements of the permitting regulation or other applicable regulations or law. Taken together, these two regulations satisfy the third criteria for Federal enforceability.

The fourth criteria for a state's operating permit program to become Federally enforceable is that limitations, controls, and requirements in the operating permits are quantifiable, and otherwise enforceable as a practical matter. While a determination of what is practically enforceable will generally differ based on process type and emissions, the State has included several regulations designed to ensure that permit limitations are enforceable as a practical matter. APC–S–2, Section VII.B.2 requires that when performing stack tests to determine compliance with an applicable regulation that the results be expressed in units consistent with the emission standard of the applicable regulation for which the source is attempting to show compliance. In addition, this regulation requires that the stack test demonstration be reported in "units of mass per time" of the applicable regulation. Regulation APC–S–2, Section XI, provides that MDEQ may require in any permit the installation of

VOL
60
ISS
84
MY
2
1995
UMI

sampling ports with access and the installation, maintenance and use of monitoring equipment as well as be required to maintain records to show compliance with applicable emission standards. Therefore, the Mississippi FESOP program satisfies the fourth criteria for Federal enforceability.

The fifth criteria for a state's operating permit program to become Federally enforceable is to provide EPA and the public with timely notice of the proposal and issuance of such permits, and to provide EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be federally enforceable. This process also must provide for an opportunity for public comment on the permit applications prior to issuance of the final permit. Regulation APC–S–2, Section V provides a 30 day opportunity for public comment period as well as the opportunity for a public hearing on any application where MDEQ believes there is sufficient interest. Regulation APC–S–2, Section V.C provides that "the Permit Board may provide notice to the public and provide opportunity for public comment on any application for a Construction Permit or Operating Permit." EPA notes that any permit which has not gone through an opportunity for public comment and EPA review in the Mississippi FESOP program will not be Federally enforceable.

In addition to requesting approval into the SIP, Mississippi has also requested approval of its FESOP program under section 112(l) of the Act for the purpose of creating Federally enforceable limitations on the potential to emit of HAP through the issuance of FESOP. Approval under section 112(l) is necessary because the proposed SIP approval discussed above only extends to the control of criteria pollutants. Federally enforceable limits on criteria pollutants (i.e., VOC's or PM–10) may have the incidental effect of limiting certain HAP listed pursuant to section 112(b).[1] However, section 112 of the Act provides the underlying authority for controlling all HAP emissions.

EPA believes that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989, **Federal Register** notice, are also appropriate for evaluating and approving the programs under section 112(l). The June 28, 1989, notice does not address HAP because it was written prior to the 1990 amendments to section 112, not because it establishes requirements unique to criteria pollutants.

In addition to meeting the criteria in the June 28, 1989, notice, a FESOP program that addresses HAP must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) allows EPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standards or requirements; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the CAA.

EPA plans to codify the approval criteria for programs limiting potential to emit of HAP, such as FESOP programs, through amendments to Subpart E of Part 63, the regulations promulgated to implement section 112(l) of the CAA. (See 58 FR 62262, November 26, 1993.) EPA currently anticipates that these regulatory criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989, notice. The EPA currently anticipates that since FESOP programs approved pursuant to section 112(l) prior to the planned Subpart E revisions will have been approved as meeting these criteria, further approval actions for those programs will not be necessary.

EPA believes it has authority under section 112(l) to approve programs to limit potential to emit of HAP directly under section 112(l) prior to this revision to Subpart E. Section 112(l)(5) requires the EPA to disapprove programs that are inconsistent with guidance required to be issued under section 112(l)(2). This might be read to suggest that the "guidance" referred to in section 112(l)(2) was intended to be a binding rule. Even under this interpretation, EPA does not believe that section 112(l) requires this rulemaking to be comprehensive. That is, it need not address every possible instance of approval under section 112(l). EPA has already issued regulations under section 112(l) that would satisfy any section 112(l)(2) requirement for rulemaking. Given the severe timing problems posed by impending deadlines set forth in "maximum achievable control technology" (MACT) emission standards under section 112 and for submittal of title V permit applications, EPA believes it is reasonable to read section 112(l) to allow for approval of programs to limit potential to emit prior to promulgation of a rule specifically addressing this issue. EPA is therefore approving Mississippi's FESOP program so that Mississippi may begin to issue FESOP as soon as possible.

EPA believes that Mississippi's FESOP program meets the approval criteria specified in the June 28, 1989 **Federal Register** notice and in section 112(l)(5) of the CAA. As discussed previously in this notice, Mississippi's FESOP program meets the five criteria necessary for Federal enforceability.

Regarding the statutory criteria of section 112(l)(5) referred to above, EPA believes Mississippi's FESOP program contains adequate authority to assure compliance with section 112 requirements because the third criterion of the June 28, 1989, notice is met, that is, because the program does not allow for the waiver of any section 112 requirement. Sources that become minor through a permit issued pursuant to this program would still be required to meet section 112 requirements applicable to non-major sources.

Regarding the requirement for adequate resources, EPA believes Mississippi has demonstrated that it can provide for adequate resources to support the FESOP program. EPA expects that resources will continue to be adequate to administer that portion of the State's minor source operating permit program under which FESOP will be issued since Mississippi has administered a minor source operating permit program for several years. EPA will monitor Mississippi's implementation of its FESOP to ensure that adequate resources are in fact available. EPA also believes that Mississippi's FESOP program provides for an expeditious schedule for assuring compliance with section 112 requirements. This program will be used to allow a source to establish a voluntary limit on potential to emit to avoid being subject to a CAA requirement applicable on a particular date. Nothing in Mississippi's FESOP program would allow a source to avoid or delay compliance with a CAA requirement if it fails to obtain an appropriate federally enforceable limit by the relevant deadline. Finally, EPA believes it is consistent with the intent of section 112 and the CAA for states to provide a mechanism through which sources may avoid classification as a major source by obtaining a Federally enforceable limit on potential to emit.

With the addition of these provisions, Mississippi's FESOP program satisfies all the requirements listed in the June 28, 1989, **Federal Register** notice. EPA is approving this revision to the State of Mississippi's SIP thus making the State's FESOP program Federally enforceable.

[1] The EPA intends to issue guidance addressing the technical aspects of how these criteria pollutant limits may be recognized for purposes of limiting a source's potential to emit of HAP to below section 112 major source levels.

Final Action

In this action, EPA is approving the Mississippi FESOP program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 3, 1995 unless, within 30 days of its publication, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 3, 1995.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. EPA has determined that this action conforms with those requirements.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2).) The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Lead, Nitrogen dioxide, Intergovernmental relations, Particulate matter, Ozone and Sulfur oxides.

Dated: March 1, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart Z—Mississippi

2. Section 52.1270 is amended by adding paragraph (c)(25) to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

(25) Revisions to minor source operating permit rules submitted by the Mississippi Department of Environmental Quality on January 26, 1994.

(i) Incorporation by reference.

(A) Regulation APC–S–2, effective January 9, 1994.

(ii) Other material. None.

[FR Doc. 95–10700 Filed 5–1–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[KY–86–1–6932a; FRL–5189–6]

Approval and Promulgation of Implementation Plans State: Kentucky; Approval of Revisions to State Implementation Plan Regarding Emission Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet (Cabinet) for the purpose of implementing an emission statement program. The SIP was submitted by the Cabinet on January 15, 1993. As a result of EPA comments, the Cabinet submitted another SIP on December 29, 1994, to satisfy the Federal requirements for an emission statement program.

DATES: This final rule will be effective June 16, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Scott Southwick at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 316 St. Clair Mall, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Scott Southwick, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4

VOL
60
ISS
84
MY
2
1995
UMI

Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347-3555, X4207. Reference file KY-86-1-6932a.

SUPPLEMENTARY INFORMATION: A SIP revision was submitted by the Commonwealth on January 15, 1993, to satisfy section 182(a)(B) of the Clean Air Act as amended in 1990 (CAA). A second SIP revision was submitted on December 29, 1994 and replaces the first SIP submittal. The second SIP addresses deficiencies of the first SIP revision.

The January 15, 1993, SIP revision was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR part 51, appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated April 27, 1993, was sent to Mr. John Hornback, Director of the Division for Air Quality, indicating the submittal is administratively complete. The December 29, 1994, SIP revision was reviewed by EPA to determine completeness and a letter dated March 3, 1995, was sent to Mr. John Hornback, Director of the Division for Air Quality, indicating the submittal is administratively complete.

There are several key general and specific components of an acceptable emission statement program. Specifically, the state must submit a revision to its SIP and the emission statement program must meet the minimum requirements for reporting. In general, the program must include, at a minimum, provisions for applicability, compliance, and specific source requirements detailed below.

A. SIP Revision Submission

The Commonwealth of Kentucky submitted their emission statement regulation on January 15, 1993, which meets the emission statement requirement.

B. Program Elements

The Commonwealth emission statement program must, at a minimum, include provisions covering applicability of the regulations, a compliance schedule for sources covered by the regulations, and the specific reporting requirements for sources—including a certification that the information is accurate to the best knowledge of the individual certifying the statement. Kentucky included all of the above, except for certification that the information is accurate, within regulation 401 KAR 50:037 Emission fee. The Cabinet revised their emissions statement program to include a certification statement. The final revised emission statement program was submitted on December 29, 1994, within regulation 401 KAR 50:035 Permits regulation. This regulation contained all of the required program elements.

C. Applicability

Section 182(a)(3)(B) requires that states with areas designated as nonattainment for ozone require emission statement data from sources of volatile organic compounds (VOCs) or oxides of nitrogen (NO_X) in the nonattainment areas. This requirement applies to all ozone nonattainment areas, regardless of the classification (Marginal, Moderate, etc.). Kentucky's regulation applies to each air pollution source required to have a permit to operate and emits either twenty-five (25) tons per year of NO_X or VOCs.

The states may waive, with EPA approval, the requirement for emission statements for classes or categories of sources with less than 25 tons per year of actual plant-wide of both NO_X and VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP-42) or other methods acceptable to EPA. The Kentucky submittal waives the emission statement requirement for sources with less than 25 tons per year of actual plant-wide of both NO_X and VOC emissions in their 1990 Base Year Emissions Inventory.

Final Action

EPA is approving the plan revision submitted by the Commonwealth of Kentucky on December 29, 1994. This submittal meets all of the requirements of emission statements outlined in section 182(a)(3)(B).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 16, 1995 unless, by June 1, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 16, 1995.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart S—Kentucky

2. Section 52.920 is amended by adding paragraph (c)(77) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(77) Revisions to the Commonwealth of Kentucky State Implementation Plan (SIP) concerning emission statements were submitted on December 29, 1994, by the Kentucky Natural Resources and Environmental Protection Cabinet.

(i) Incorporation by reference.

(A) Regulation 401 KAR 50:035 Permits. Section 1, Section 2(1) and Section 10. Regulation became effective September 28, 1994.

(ii) None.

[FR Doc. 95-10696 Filed 5-1-95; 8:45 am]

BILLING CODE 6560-50-P

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40 CFR Part 52

[MN29-1-6203a; FRL-5174-7]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: USEPA is approving a revision to the Minnesota State Implementation Plan (SIP) to incorporate new permitting regulations. This revision consists of the State Rules in Chapter 7007, entitled "Air Emission Permits," in conjunction with other rule changes relating to the repeal of prior air permitting rules. Although these rules have been submitted previously to satisfy the requirements of Title V of the Clean Air Act, the purpose of this submittal is (1) to support federally enforceable permit conditions for limiting sources' potential to emit, (2) to allow the use of permits as vehicles for future SIP revisions, and (3) to update the procedural rules governing the issuance of air permits in Minnesota. USEPA concludes that all three purposes are satisfied.

DATES: This action will be effective July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to:

William L. MacDowell, Chief, Regulation Development Section (AE-17J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the SIP revision request and USEPA's analysis are available for inspection at the following addresses: (It is recommended that you telephone John Summerhays at (312) 886-6067, before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AE-17J), Chicago, Illinois 60604; and Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street, S.W. Washington, D.C., 20460.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Enforcement Branch, U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On November 23, 1993, the Minnesota Pollution Control Agency (MPCA) submitted revised air permitting rules for approval as part of the State Implementation Plan (SIP). These rules represent Minnesota's consolidated permitting regulations, which include provisions for operating permits for major sources pursuant to Title V of the Clean Air Act, construction permits for major new sources and major source modifications pursuant to Parts C and D of Title I, and operating and construction permits for minor sources and minor modifications pursuant to State law. Thus, this submittal complements Minnesota's submittal dated November 15, 1993, seeking USEPA approval of the same regulations as satisfying Title V requirements. Separate rulemaking is being conducted with respect to whether these regulations satisfy Title V requirements. (See the **Federal Register** of September 13, 1994, at 59 FR 46948.)

Minnesota's submittal of November 23, 1993, does not seek to satisfy any specific mandate under the Clean Air Act. As noted above, a separate submittal seeks to satisfy the requirements of Title V. A pair of submittals dated August 5, 1992, and August 26, 1993, have been found to satisfy nonattainment area major new source review requirements (see 59 FR 8578, dated February 23, 1994). The State has not sought to provide State regulations to supersede Federal regulations on attainment area new source review (prevention of significant deterioration).

Instead, the State's submittal of November 23, 1993, seeks approval of updated State permitting regulations which have superseded previously approved regulations, including several provisions to help the State implement its Title V and Title I programs. Minnesota intended with this submittal: (1) to provide a mechanism for intermediate size sources to obtain federally enforceable limitations to become "minor sources," (2) to facilitate future SIP revisions, and (3) to update the federally approved regulations to reflect the updated State permitting regulations. Each of these purposes requires evaluation under different criteria. These purposes and the associated United States Environmental Protection Agency (USEPA) criteria for approval are discussed individually in subsequent sections.

A. Federally Enforceable Limitations on Potential To Emit

The first purpose of Minnesota's submittal was to provide a mechanism for intermediate size sources to obtain federally enforceable limitations such that the sources' potential to emit would be below the size thresholds at which major source permits are required. This mechanism involves federally enforceable State operating permits (FESOPs) incorporating the relevant limitations. The State intends to write such permits both in the context of new source review and in the context of Title V permitting. As clarified in a letter from Charles Williams to Valdas Adamkus dated November 21, 1994, the State is requesting this authority with respect to hazardous air pollutants (HAPs) as well as for pollutants with air quality standards ("criteria pollutants").

Criteria for USEPA approval of FESOP programs are given in the **Federal**

VOL
60
ISS
84
MY
2
1995
UMI

Register of June 28, 1989 (54 FR 27274). FESOP programs must satisfy five principal requirements: (1) the regulations must be approved into the SIP, (2) sources must have a legal obligation to comply with permit terms and USEPA must be authorized to deem as "not federally enforceable" those permits which it finds fail to satisfy applicable requirements, (3) the program must require all limits to be at least as stringent as other applicable requirements, (4) the permit provisions must be permanent, quantifiable, and otherwise enforceable as a practical matter, and (5) the permits must have been subject to public notice and review. Use of FESOPs for limiting hazardous air pollutants is further subject to requirements in section 112(l) of the Clean Air Act, which is also discussed below. Also discussed below is a policy memorandum entitled "Guidance on Limiting Potential to Emit in New Source Permitting," dated June 13, 1989, and a policy memorandum entitled "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)," dated January 25, 1995.

The first requirement for approval of Minnesota's FESOP program is satisfied by virtue of today's approval of Minnesota's regulations into the SIP.

The second requirement contains two parts. With respect to sources' legal obligations, Minnesota's rules satisfy the requirement by requiring each permit to state that "Any [noncompliance with permit conditions] constitutes a violation of the state law and, if the provision is federally enforceable, of the [Clean Air Act, and] is grounds for enforcement action."

With respect to the authority granted to USEPA to deem permits "not federally enforceable," the technical support document provides a detailed interpretation of Minnesota's rules on this issue both for the time period during permit review and for the time period subsequent to permit issuance. For the permit review period, the State rules specify that Minnesota "shall not issue [such a permit] if the administrator objects to its issuance in writing [during the specified review period]." For the period after the permit has been issued, USEPA interprets Minnesota's rules to allow avoidance of otherwise applicable permitting requirements only if a permit condition provides a federally enforceable limit on a source's potential to emit, which USEPA would be authorized to determine. Thus, in summary, USEPA is authorized to deem permits not federally enforceable both during and after the permit review period.

With respect to the third requirement, Rule 7007.0800 ("Permit Content") explicitly requires that permits "shall include emissions limitations, operational requirements, and other provisions needed to ensure compliance with all applicable requirements * * *." No provision in the State rules authorizes any relaxation from any applicable requirement.

With respect to the fourth requirement, enforceability is mostly to be provided on a permit-by-permit basis, particularly by writing practical and quantitative enforcement procedures into each permit. USEPA will review enforceability of permits using the above cited memorandum entitled "Guidance on Limiting Potential to Emit in New Source Permitting," which describes the types of limitations that reduce potential to emit in a federally enforceable manner. Nevertheless, enforceability also requires proper permit program design. Minnesota's regulations (for example Rule 7007.0800 quoted above) provide for fully enforceable limitations. Concerning permanence, Rule 7007.0450 (2) expressly provides for permanence of "title I conditions," thereby assuring permanence of conditions relating to new source review. Pursuant to Rule 7007.0800 (15), Title I conditions in each permit will be identified as such. Other conditions have the duration provided for under Title V, i.e., they expire with permit expiration but are typically renewed with permit reissuance. Consequently, Minnesota's rules provide for the degree of permanence necessary for enforcement of the applicable provisions, and more generally provide for permit limitations to be fully enforceable.

With respect to the fifth requirement, Minnesota's rules have explicit requirements for public notice and review of proposed permitting actions. Of particular concern here are provisions that apply to permitting actions that establish limits to avoid major source permitting requirements ("synthetic minor permits"), both with respect to new source and to existing source permitting requirements. In both cases, Rule 7007.0850 provides for a 30-day public comment period. For most minor source permits, including existing source "synthetic minor permits," Rule 7007.0850 (2) allows the State to publish notice in the State Register rather than in a local newspaper. This approach is provided for in USEPA regulations for major existing source permits under Title V (i.e., the regulations published at 40 CFR 70), and so this approach is also considered acceptable for synthetic minor existing source permits. For minor source permitting that involves "title I conditions," defined in Rule 7007.0100 (25) to include major new source permit conditions, permit conditions established to help meet air quality standards, and synthetic minor permit conditions, further requirements apply. Specifically, Rule 7007.0850 (4) requires that such permit actions "comply with all other federal requirements for public participation." The Federal requirements for new source permitting include prominent advertisement of the proposed permit, i.e., newspaper publication, which would thus also be a requirement of Rule 7007.0850. Rule 7007.0850 (2)(B) also stipulates that major amendments to State permits (including "major modifications" as defined in USEPA's new source review regulations as well as "synthetic minor modifications"), have the same notice and comment requirements as State permit issuance, "if authorized or required by the administrator." USEPA clearly authorizes and requires full notice and opportunity for public comment in cases of major and synthetic minor modifications. In summary, newspaper notice is a requirement for major and synthetic minor new source permitting under Federal regulations and therefore also under Minnesota Rule 7007.0850(4). In addition, USEPA "authorizes and requires" full notice and opportunity for public comment for major and synthetic minor modifications, which is therefore also required in these cases under Minnesota Rule 7007.0850 (2)(B). Given these interpretations, Minnesota's rules require full satisfaction of relevant notice and comment requirements.

In addition to meeting the criteria in the June 28, 1989, notice, a FESOP program for HAPs must meet the statutory criteria for approval under section 112(l)(5). This section allows USEPA to approve a program only if it (1) contains adequate authority to assure compliance with any section 112 standard or requirement, (2) provides for adequate resources, (3) provides for an expeditious schedule for assuring compliance with section 112 requirements, and (4) is otherwise likely to satisfy the objectives of the Act. The memorandum cited above dated January 25, 1995, provides further discussion of these criteria and of the extent to which limits on criteria pollutants such as volatile organic compounds and particulate matter may be considered to limit sources' potential to emit HAPs.

Minnesota satisfies these additional requirements for HAPs. (1) The State has adequate authority to assure compliance with section 112 requirements since the third criterion of the June 28, 1989, notice is met, that is, the program does not allow waiving any section 112 requirement. Nonmajor sources would still be required to meet applicable section 112 requirements. (2) Minnesota has committed to provide adequate resources to implement and enforce the program, which it will obtain from fees collected under Title V. USEPA believes that this mechanism will provide sufficient resources to implement this program. USEPA will monitor the State's implementation of the program to assure that adequate resources continue to be available. (3) Minnesota's permitting program also meets the requirement for an expeditious schedule for assuring compliance. A source seeking a voluntary limit on potential to emit is probably doing so to avoid a Federal requirement applicable on a particular date. Nothing in this program would allow a source to avoid or delay compliance with the Federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline. (4) Finally, Minnesota's permitting rules are consistent with the objectives of the section 112 program since its purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under section 112. USEPA believes that this purpose is consistent with the overall intent of section 112. Accordingly, USEPA finds that Minnesota's program satisfies applicable criteria for establishing federally enforceable limitations on potential to emit both criteria and hazardous air pollutants.

Minnesota has requested that eligibility for Federal enforceability extend not only to permits issued after the effective date of this rule but also extend to permits issued under the State's current rule prior to the effective date of today's rulemaking. If the State followed its own procedures, each permit issued under this regulation to establish a Title I condition (e.g. for a source to have minor source potential to emit) was subject to public notice and prior USEPA review. Therefore, USEPA will consider all such operating permits issued which were processed in a manner consistent with both the State regulations and the five criteria to be federally enforceable with the promulgation of this rule provided that any permits that the State wishes to make federally enforceable are submitted to USEPA and accompanied by documentation that the procedures approved today have been followed. USEPA will expeditiously review any individual permits so submitted to ensure their conformity to the program requirements.

B. Use of State Permits as SIP Revisions

The second purpose of Minnesota's submittal was to facilitate future SIP revisions. For cases when a single source or a small number of sources require limitations to bring about attainment or to meet other Title I requirements, Minnesota intends that such limitations could be incorporated into the source's permit. Minnesota would then submit the permit as a SIP revision in lieu of the current practice of developing and submitting an administrative order. Minnesota's submittal does not include any such permits for USEPA rulemaking. Thus, the following discussion expresses the approach and criteria that USEPA anticipates using in the future if and when Minnesota does provide such submittals.

The first criterion for USEPA approval of this approach is that the relevant permit conditions be nonexpiring and enforceable. Minnesota's rules address this criterion by defining such permit conditions as "Title I conditions." Minnesota's Rule 7007.0100 (25) defines this term to mean (1) any conditions in a permit which are based on new source review, (2) any conditions imposed to assure attainment, or (3) any conditions established to avoid being subject to new source review (i.e., limitations on potential to emit to become "synthetic minor sources"). Rule 7007.0450 declares that title I conditions are permanent "without regard to permit expiration or reissuance * * *." USEPA will review practical enforceability of permit-based SIP submittals on a permit by permit basis. Assuming that other relevant requirements are met (e.g., any attainment demonstration requirements), USEPA anticipates that well written permits would satisfy the substantive requirements for SIP revisions.

The second criterion for USEPA approval of permits as SIP revisions is that administrative requirements for the adoption of SIP revisions be met. These requirements are specified in 40 CFR 51, particularly Subpart F (Procedural Requirements) and Appendix V (Completeness Criteria). Most notably, any SIP revision must have been subject to proper public notice and opportunity for comment. In particular, the State must have published a newspaper notice of the intended SIP revisions and have provided a 30-day opportunity for comments and opportunity for a public hearing.

Minnesota's rules have different public notice provisions depending on applicability of Title V permitting requirements, i.e., for major versus minor sources. For sources obtaining or amending a Title V permit, Rule 7007.0850 (Public Notice and Comment) subpart 2 dictates satisfaction of the SIP notice and comment requirements discussed previously. It is less clear whether Minnesota's rules mandate satisfaction of these requirements in the case of minor sources. Rule 7007.0850 subpart 4 states that Minnesota "shall also comply with all other federal requirements for public participation applicable to permits and permit amendments which include Title I conditions [including establishment of attainment-based limitations], including requirements in [40 CFR 51.102, 51.161, and 51.166(Q)]." On the other hand, Rule 7007.1500 subpart 3 indicates (seemingly inadvertently) that such amendments need not be subject to notice and comment. However, it is not necessary to determine here exactly what Minnesota's rules require. Instead, the real issue is whether each permit submitted for SIP revision purposes has been issued in accordance with the notice and comment requirements applicable to SIP revisions (as described above), irrespective of what notice and comment provisions are mandated by Minnesota rules. USEPA will conduct a submittal-by-submittal review of whether the notice and comment requirements for SIP revisions have been satisfied at the time it rulemakes on each submittal.

The above discussion addresses Minnesota's request that USEPA accept permits as the enforceable elements of future SIP revisions. Minnesota's submittal also requested that administrative orders currently in the SIP be replaced with permits. USEPA cannot grant this request now; no Title V permits have yet been issued and so none are available to replace the existing administrative orders. When such permits do become available, the substitution of a permit for an administrative order will not occur on an automatic basis, but rather will be reviewed as a SIP revision following the normal SIP review process.

C. Review of Updated New Source Review Requirements

A third purpose of Minnesota's submittal was to update the federally approved regulations to reflect the

VOL 60 ISS 84 MY 2 1995 UMI

updated State permitting regulations. In adopting a single set of air permitting regulations incorporating both construction permits and operating permits, the State updated numerous new source review provisions in conjunction with its adoption of the regulations required under Title V. These rules specify criteria for what sources must have Title V permits (namely, major sources), what sources must have State permits, and what sources do not need a permit. Further rules specify application requirements, permit content, and procedures for permit processing. Criteria are given for treating modifications as insignificant and for treating activities as insignificant. Separate requirements are established for administrative amendments, minor amendments, moderate amendments, and major amendments. Criteria for reopening of permits, criteria for Federal enforceability, criteria for coverage by a permit shield, and exemptions for emergency circumstances are defined. Additional revisions include modified permit processing provisions (e.g. specific public comment provisions), provisions which exempt certain defined modifications and activities from permitting due to insignificance, provision of raised size thresholds for State permits, and provision for trading of emissions increases and decreases at "minor" sources.

The technical support document provides a rule-by-rule review of the updated Minnesota regulations. A few rules present ambiguities requiring further interpretation. Previous discussion has described USEPA's interpretation of Minnesota's rules concerning notice and comment, concluding that USEPA authorizes and requires and therefore Rule 7007.0850 requires full opportunity for public comment and newspaper notice for synthetic minor and major new source and modification permits. Rule 7007.0750 allows construction prior to permit issuance in some cases for minor sources (provided State authorization is granted), but prohibits preissuance construction for major sources; USEPA interprets this rule to prohibit preissuance construction for prospective synthetic minor sources since such sources are major sources until the permit is issued. Rule 7007.1750 provides that conditions required under Chapter 7007 rules are federally enforceable, but is ambiguous as to whether permit conditions adopted to avoid "major source" size thresholds qualify as federally enforceable. Since such conditions may be considered a means of satisfying Title I permitting requirements, and since Federal enforceability is a prerequisite for such limits to be effective in avoiding categorization as a major source, USEPA interprets such permit conditions as federally enforceable.

Numerous provisions governing new source review in Minnesota are unaffected by the State's submittal. Minnesota's offset rules, recodified as Rules 7007.4000 through 7007.4030, continue to provide substantive requirements for major new sources and major modifications in nonattainment areas. The State has not sought approval of State regulations for prevention of significant deterioration (i.e. new source review in attainment areas) to replace the Federal regulations at 40 CFR 52.21, so the Federal regulations remain applicable.

In its action on previous Minnesota permitting regulations, published at 53 FR 17033 (May 13, 1988), USEPA disapproved the rules with respect to sources with new source performance standards but exempted by the State as being below permitting size thresholds. The rules providing these exemptions have been repealed and replaced with regulations that require a permit for any source to which new source performance standards apply. Thus the prior partial disapproval may be rescinded. USEPA further concludes that these rules satisfy applicable new source permitting requirements.

II. Rulemaking Action

Today's rulemaking addresses Minnesota's air permitting regulations as submitted November 23, 1993. USEPA approves these regulations. Furthermore, USEPA concludes that Minnesota's three purposes in submitting these regulations have been fulfilled. First, USEPA concludes that Minnesota has satisfied the criteria for issuing federally enforceable state operating permits. Second, USEPA finds that Minnesota has established a suitable mechanism for use of permits as the basis of SIP submittals. Although no such permits have yet been issued or submitted, USEPA anticipates being able to approve future permit-based SIP submittals provided that SIP-related public notice requirements and other relevant SIP requirements (e.g. any attainment demonstration criteria) have been satisfied. Third, USEPA concludes that these new permitting regulations continue to satisfy relevant new source review requirements. Finally, USEPA is rescinding the partial disapproval applicable to Minnesota's previous permitting regulations.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on July 3, 1995, unless adverse or critical comments are received by June 1, 1995. This action will authorize Minnesota to issue federally enforceable state operating permits limiting the potential to emit criteria and/or hazardous air pollutant emissions. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Most of the rules approved by this rulemaking are in Chapter 7007 of Minnesota's rules. Specifically, USEPA is approving Rules 7007.0050 through 7007.1850, including Rules 7007.0050, .0100, .0150, .0200, .0250, .0300, .0350, .0400, .0450, .0500, .0550, .0600, .0650, .0700, .0750, .0800, .0850, .0900, .0950, .1000, .1050, .1100, .1150, .1200, .1250, .1300, .1350, .1400, .1450, .1500, .1600, .1650, .1700, .1750, .1800, and .1850. In addition, USEPA is approving the repeal of previous Rules 7001.1200, 7001.1205, 7001.1210, 7001.1215, and 7001.1220, amendments to Rules 7001.0020, 7001.0050, 7001.0140, 7001.0180, 7001.0550, 7001.3050, 7002.0005, and 7002.0015 that accompany this repeal, and new definitions in Rule 7005.0100. USEPA will address Rule 7019.3000 (a portion of the State's emissions inventory rules) in separate rulemaking.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental protection, Incorporation by reference, Intergovernmental relations, Lead, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Note: Incorporation by reference of the State Implementation Plan for the State of Minnesota was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 8, 1995.

David A. Ullrich,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart Y—[Amended]

2. Section 52.1220 is amended by adding paragraph (c)(37) to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(c) * * *

(37) On November 23, 1993, the State of Minnesota submitted updated air permitting rules.

(i) Incorporation by reference.

(A) Rules 7007.0050 through 7007.1850, effective August 10, 1993.

(B) Rules 7001.0020, 7001.0050, 7001.0140, 7001.0180, 7001.0550, 7001.3050, 7002.0005, 7002.0015, and 7005.0100, effective August 10, 1993.

§ 52.1225 [Amended]

3. Section 52.1225 is amended by removing and reserving paragraphs (c) and (d).

§ 52.1233 [Added]

4. Section 52.1233 is added to read as follows:

§ 52.1233 Operating permits.

Emission limitations and related provisions which are established in Minnesota permits as federally enforceable conditions in accordance with Chapter 7007 rules shall be enforceable by USEPA. USEPA reserves the right to deem permit conditions not federally enforceable. Such a determination will be made according to appropriate procedures, and be based upon the permit, permit approval procedures or permit requirements which do not conform with the permit program requirements or the requirements of USEPA's underlying regulations.

[FR Doc. 95–10702 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[VA20–1–5996a; FRL–5178–6]

Approval and Promulgation of Air Quality Implementation Plans; for the Commonwealth of Virginia—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes and requires an emission statement program for stationary sources of volatile organics compounds (VOCs) and/or nitrogen oxides (NO_X). The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_X applicable to all ozone nonattainment areas in accordance with section 182(a)(3)(B) of the 1990 Clean Air Act Amendments (CAAA). This action is being taken under section 110 of the CAA.

DATES: This final rule will become effective July 3, 1995 unless notice is received on or before June 1, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments must be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the Commonwealth's submittal and other information are available for public inspection during normal business hours at the following location: Environmental Protection Agency, Region III, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3AT14), U.S. Environmental Protection Agency, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–8239.

SUPPLEMENTARY INFORMATION: On November 4, 1992, the Virginia Department of the Environment Quality (VDEQ) submitted a formal revision to the Commonwealth of Virginia's SIP which among other things, requires owners of stationary sources that emit VOCs and NO_X, above specified actual emission applicability thresholds, and within the ozone nonattainment areas, to submit annual statements certifying emissions. This notice only addresses those portions of the November 4, 1992 SIP submittal related to the Commonwealth of Virginia's emission statement program. The other SIP revisions included in the submittal are the subjects of separate rulemaking notices.

I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990. EPA published a "General Preamble" describing EPA's preliminary views on how the Agency intends to review SIP's and SIP revisions submitted under Title I of the

VOL
60
ISS
84
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CAA, including those State submittals for ozone transport areas within the States (see 57 FR 13498 (April 16, 1992) ["SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"], 57 FR 18070 (April 28, 1992) ["Appendices to the General Preamble"], and 57 FR 55620 (November 25, 1992) ["SIP: NO_X Supplement to the General Preamble"]).

EPA also issued a draft guidance document describing the requirements for the emission statement programs discussed in this action, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify Title 40, Part 51 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal ozone nonattainment areas, which are also made applicable by section 182 (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program for stationary sources to prepare and submit to the State each year emission statements certifying their actual emissions of VOCs and NO_X. This section of the Act provides that the States are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

If a source emits either VOC or NO_X at or above the designated minimum reporting level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_X or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA. Emissions from stationary sources that emit less than 25 tons per year of VOC and NO_X are included in Virginia's base year emission inventory and must be also included in the periodic emission inventories.

At minimum, the emission statement data should include:

—Certification of data accuracy;
—Source identification information;
—Operating schedule;
—Emissions information (to include annual and typical ozone season day emissions);
—Control equipment information; and
—Process data.

EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. EPA's Evaluation of the Commonwealth's Submittal

A. Procedural Background

The Commonwealth of Virginia held public hearings on July 22, 1992, for the purpose of soliciting public comment on proposed regulatory revisions concerning emission statements for stationary sources. The regulatory revisions were adopted on October 30, 1992, submitted to EPA on November 4, 1992 as a proposed revision to the SIP, and became effective in the Commonwealth of Virginia on January 1, 1993.

B. Components of Virginia's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP which consists of an emission statement program which meets the minimum requirements for reporting by the sources and the State. For the emission statement program to be approvable, the state's SIP must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

Virginia's revision consists of amendments to Title VR 120–01 Regulations for the Control and Abatement of Air Pollution, specifically to add paragraph B to section 120–02–31, Registration, and to add Appendix S, which cross-references document AQP–8, Procedures for Preparing and Submitting Emission Statements for Stationary Sources.

Section 120–02–31, requires that owners of stationary sources report the levels of emissions from the sources emitting VOCs and NO_X, in order to assess compliance with emission and air quality standards and to track emission reductions necessary to attain the ozone National Ambient Air Quality Standard (NAAQS). This requirement applies to existing, modified, or new stationary sources that emit 25 tons per year (TPY) or more of VOCs or NO_X, and are located in any ozone nonattainment area. The upper portion of White Top Mountain is the only area in Smyth County which is an ozone nonattainment area. Because there are no emission sources in this nonattainment area, the Commonwealth has excluded it from emission statement requirements.

Under the Commonwealth's regulation, sources' annual emission statements are due by April 15 of each year, beginning in 1993, for the emissions discharged during the previous calendar year. Section 120–02–31, Appendix S, Air Quality Program Policies and Procedures describes specifically how emission statements shall be prepared.

C. Enforceability

The Commonwealth of Virginia has a provision in its SIP which ensures that the emission statement requirements of Section 182(a)(3)(B) and Sections 184(b)(2) and 182(f) of the CAA as required by VR 120–01, section 120–02–31, are adequately enforced. Once EPA completes the rulemaking process approving the Virginia's Emission Statement program as part of the SIP, it will be federally enforceable.

EPA has determined that the submittal made by the Commonwealth of Virginia satisfies the relevant requirements of the CAA and EPA's guidance document, "Guidance on the Implementation of an Emission Statement Program" (July 1992). EPA's detailed review of Virginia's Emission Statement is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 3, 1995 unless, by June 1, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 3, 1995.

III. Final Action

EPA is approving revisions to the Commonwealth of Virginia SIP to include an Emission Statement Program. These revisions consist of amendments to Title VR 120–01 Regulations for the Control and Abatement of Air Pollution, the addition of paragraph B to section 120–02–31, Registration, and the addition of Appendix S including the document referenced therein, AQP–8.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on small entities. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410 (a)(2).

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving Virginia's Emission Statement SIP submittal requirements may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Dated: January 25, 1995.

Peter H. Kostmayer,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(103) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(103) Revisions to the Commonwealth of Virginia Regulations State Implementation Plan submitted on November 4, 1992 by the Virginia Department of Environmental Quality:

(i) Incorporation by reference.

(A) Letter of November 4, 1992 from the Virginia Department of Environmental Quality transmitting a revised regulation to require owners of stationary sources in emissions control areas to submit emission statements annually.

(B) Amendments to Title VR 120–01, addition of paragraph B to section 120–02–31 and the addition of Appendix S including referenced document AQP–8, procedures for Preparing and submitting Emission Statements for Stationary Sources. Effective on January 1, 1993.

(ii) Additional Material.

(A) Remainder of November 4, 1992 State submittal related emission statements.

[FR Doc. 95–10704 Filed 5–1–95; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[DC23–1–6790a; FRL–5181–2]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; GSA Central and West Heating Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State implementation plan (SIP) revision submitted by the District of Columbia. This revision will limit air pollution from two steam-generating facilities located in the District of Columbia. The intended effect of this action is to approve a permit-to-operate issued by the District of Columbia to General Services Administration for its Central and West Heating Plants. This action is being taken under section 110 of the Clean Air Act.

DATES: This final rule is effective July 3, 1995, unless notice is received on or before June 1, 1995, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and District of Columbia Department of Consumer and Regulatory Affairs, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: (215) 597–9781.

SUPPLEMENTARY INFORMATION: On October 24, 1994, the District of

VOL 60 ISS 84 MY 2 1995 UMI

Columbia submitted a request that EPA approve a revision to the District of Columbia SIP. The revision consists of a September 8, 1994 operating permit issued by the District of Columbia to GSA for its Central and West Heating Plants. The permit establishes general operating procedures at GSA's Central Heating Plant (CHP) and West Heating Plant (WHP), including the exclusive combustion of natural gas (with the provision for the combustion of low-sulfur oil in the event of a natural gas service interruption).

The permit also defines annual and short-term emission limitations for SO_2, particulate matter (PM–10), nitrogen oxides (NO_X), volatile organic compounds (VOCs), and carbon monoxide (CO) for both of the plants. Since this permit establishes more stringent emission limitations than the existing SIP or applicable new source performance standards (NSPS), the ambient air quality with respect to each of the criteria pollutants mentioned above shall be significantly improved.

The permit-to-operate issued to GSA promotes continued maintenance of the national ambient air quality standards (NAAQS) for SO_2, PM–10, and NO_X in the areas surrounding the CHP and WHP. The District of Columbia is currently designated as nonattainment for the NAAQS for CO. Although the emissions limits established in the permit for CO will not affect the attainment status of the District, they do provide for CO emissions reductions at these two facilities which were previously uncontrolled for CO. The permit also regulates particulate matter and VOC emissions.

In order to achieve these emission reductions, GSA is restricted by its September 8, 1994 operating permit to the combustion of natural gas. The District restricted the fuel capabilities at the two facilities primarily to minimize SO_2 emissions from the Plants. Modeling analyses performed in 1990 as part the permitting process for GSA's proposed refurbishment of various boilers at CHP and WHP indicated that elevated ambient concentrations of SO_2 were predicted for the areas immediately surrounding the two facilities when the Plants burned coal under typical winter day conditions.

Along with the restrictions on fuel usage, the permit limits the hourly and annual emissions of various pollutants from the facilities. The permit drastically reduces SO_2 emissions from the plant to the point where such emissions present negligible potential for impact on the surrounding areas. For instance, the average annual SO_2 emissions from CHP and WHP were 523 and 626 tons per year, respectively, during the period of 1980 to 1990, inclusive. The current permit-to-operate restricts annual SO_2 emissions to 4 tons per year at CHP and 5 tons per year at WHP. This is an average overall reduction of 1140 tons per year of SO_2 emissions in the vicinity of the two facilities. Annual emissions of PM–10, NO_X, CO, and VOCs from the two plants are restricted to a degree that further limits the potential for violation of the relevant annual NAAQS in the vicinity of these facilities.

The operating permit is also protective of the short-term NAAQS. For each of the pollutants discussed above, hourly emission limitations are established in the permit. These hourly emission limits are, in every instance, as stringent or more restrictive than the applicable limits in the District's existing SIP or new source performance standards (NSPS) limits.

As mentioned above, the operating permit requires the combustion of natural gas at all times at GSA's CHP and WHP. However, there is a provision for the use of No. 2 "on-road diesel" with a maximum sulfur content of five hundredths weight percent (0.05%$_{wt}$) during periods of service interruptions by the supplier. It should be noted that GSA must comply with its annual and short-term emission rates regardless of the fuel it uses. In the event of a service interruption, the permit contains explicit instructions for the notification of the District of this event and recordation of pertinent information.

The permit also requires GSA to report an extensive amount of information to ensure continuous compliance with the annual and short-term emission limits. The principal means for compliance determination is the use of continuous emissions monitoring data collected at the facilities. The District relies primarily on the procedures established in 40 CFR part 60 for monitor operation and data quality assurance. Daily emissions reports that provide hourly emission rates for SO_2, NO_X, VOCs, and CO are to be prepared by GSA. GSA must also submit a quarterly report documenting the hourly status of each boiler at CHP and WHP including; hours of service, types and quantities of fuel combusted, fuel composition and heat content, service interruptions, and total tons of SO_2, NO_X, PM–10, VOCs, and CO emitted on a monthly basis and as part of a rolling, 12-month annual average. A monthly report is to be prepared demonstrating GSA's maintenance of the NAAQS for SO_2 in the vicinity of the two facilities. Sulfur-in-fuel reports are due each month detailing specific information about the fuel oil, if any, that was burned during the month. The level of reporting detailed above provides adequate assurances that the compliance status of GSA can be quickly and accurately tracked at all times.

EPA Evaluation

EPA has evaluated the District of Columbia's SIP revision request and concluded the following: (1) The operational and emission limitations imposed on GSA's Central and West Heating Plants adequately promote continued maintenance of the NAAQS; (2) the operational and emission limitations are clearly enforceable; and (3) the applicable requirements of CFR part 51 have been met. A more detailed evaluation is provided in the Technical Support Document for this action which is available upon request from the EPA Region III office listed in the **ADDRESSES** section of this document.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 3, 1995, unless, by June 1, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 3, 1995.

Final Action

EPA is approving the District of Columbia's October 24, 1994 submittal consisting of a permit-to-operate for GSA's Central and West Heating Plants as a revision to the District of Columbia SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule to approve the permit-to-operate issued to GSA for its Central and West Heating Plants as a revision to the District of Columbia SIP does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 21, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart J—District of Columbia

2. Section 52.470 is amended by adding paragraph (c)(33) to read as follows:

§ 52.470 Identification of plan.

* * * * *

(c) * * *

(33) Permit-to-operate issued by the District of Columbia to General Services Administration for its Central and West Heating Plants submitted on October 24, 1994 by the Environmental Regulation Administration:

(i) Incorporation by reference.

(A) Letter of October 24, 1994 from the Environmental Regulation Administration transmitting a permit-to-operate issued by the District of Columbia to GSA for its Central and West Heating Plants.

(B) September 8, 1994 permit-to-operate issued by the District of Columbia to GSA for its Central and West Heating Plants requiring the combustion of natural gas and establishing annual and short-term emission limits for SO_2, NO_X, PM–10, VOCs, and CO. The permit was effective upon its issuance.

(ii) Additional material.

(A) Remainder of the District of Columbia's October 24, 1994 submittal.

[FR Doc. 95–10706 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–60–P

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40 CFR Part 52

[CA 125–1–6903; FRL–5190–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on December 9, 1994. The revisions concern rules from the San Diego County Air Pollution Control District (SDCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from the surface coating of miscellaneous metal parts and products. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on June 1, 1995.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 M Street, S.W., Washington, D.C. 20460.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

FOR FURTHER INFORMATION CONTACT: Helen Liu, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1994 in 59 FR 63724, EPA proposed to approve the following rule into the California SIP: SDCAPCD's Rule 67.3, Coating of Metal Parts and Products. Rule 67.3 was adopted by the SDCAPCD on November 1, 1994. The rule was submitted by the California Air Resources Board (CARB) to EPA on November 23, 1994. These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT)

VOL 60 ISS 84 MY 2 1995 UMI

rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for the above rule and nonattainment area is provided in the NPRM cited above.

EPA has evaluated the above rule for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rule meets the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 59 FR 63724 and in a technical support document (TSD) available at EPA's Region IX office (dated December 2, 1994).

Response to Public Comments

A 30-day public comment period was provided in 59 FR 3274. EPA received no adverse comments.

EPA Action

EPA is finalizing action to approve SDCAPCD Rule 67.3 for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 31, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(206) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(206) Amended rule for the following APCD was submitted on November 23, 1994, by the Governor's designee.

(i) Incorporation by reference.

(A) San Diego County Air Pollution Control District.

(*1*) Rule 67.3, adopted on November 1, 1994.

* * * * *

[FR Doc. 95–10695 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[OH50–1–6077a, FRL–5176–8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: State of Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: USEPA is approving, through "direct final" procedure, a redesignation request and maintenance plan for the Toledo, Ohio area (Lucas and Wood Counties) as a revision to Ohio's State Implementation Plan (SIP) for ozone. The revision is based on a request from the State of Ohio to redesignate this area from a moderate nonattainment area to an attainment area for ozone, and to approve the maintenance plan for the area. The State has met the requirements for redesignation contained in the Clean Air Act (the Act), as amended in 1990. The redesignation request is based on ambient monitoring data that show no violations of the ozone National Ambient Air Quality Standard (NAAQS) during the three-year period from 1990 through 1992. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested redesignation and SIP revision. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a final rule based on the related proposed rule which is being published in the proposed rules section of this **Federal Register**.

DATES: This action will be effective on July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the SIP revision and USEPA's analysis are available for inspection at the following address: (It is recommended that you telephone Angela Lee at (312) 353–5142 before visiting the Region 5 Office.) United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of this SIP revision is available for inspection at the following location: Office of Air and Radiation Docket and Information Center, Room M1500, United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7548.

Written comments can be mailed to: William MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Angela Lee, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5142.

SUPPLEMENTARY INFORMATION: On September 17, 1993, Ohio submitted a redesignation request and section 175A maintenance plan for Lucas and Wood Counties. The USEPA reviewed these submittals against the redesignation criteria set forth by section 107(d)(3)(E) of the Act, which are discussed in a September 4, 1992, memorandum from the Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions entitled, "Procedures for Processing Requests to Redesignate Areas to Attainment" (Calcagni Memorandum). A second memorandum dated September 17, 1993, signed by Michael Shapiro, Acting Assistant Administrator for Air and Radiation, entitled, "State Implementation Plan (SIP) Requirements for Areas Submitting

Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide NAAQS on or after November 15, 1992" was also used to evaluate Ohio's request. An analysis of these submittals is contained in a Technical Support Document (TSD), dated December 9, 1994, and an addendum to this TSD dated March 7, 1995.

I. Background

The 1977 Act required areas that were designated nonattainment to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. For Ohio, Lucas and Wood Counties were designated nonattainment for ozone, see 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978), and 40 CFR Part 81.

After enactment of the amended Act on November 15, 1990, the nonattainment designation of the Toledo area continued by operation of law according to section 107(d)(1)(C)(i) of the Act; furthermore, it was classified by operation of law as moderate for ozone pursuant to section 181(a)(1) (56 FR 56694, November 6, 1991), codified at 40 CFR 81.336.

More recently, the Toledo area has ambient monitoring data that show no violations of the ozone NAAQS, during the period from 1990 through 1992. The area, therefore, became eligible for redesignation from nonattainment to attainment consistent with the amended Act. On September 17, 1993, Ohio requested redesignation of the area to attainment with respect to the ozone NAAQS. To ensure continued attainment of the ozone standard, Ohio submitted an ozone maintenance SIP for the Toledo area with the redesignation request. On November 1, 1993, Ohio held a public hearing on the maintenance plan and redesignation request.

II. Evaluation Criteria

The 1990 Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS.
2. The area has met all applicable requirements under section 110 and part D of the Act.
3. The area has a fully approved SIP under section 110(d) of the Act.
4. The air quality improvement must be permanent and enforceable.
5. The area must have a fully approved maintenance plan pursuant to section 175A of the Act.

Each of these requirements are addressed below.

A. Section 107(d)(3)(E)(i). The Administrator determines that the area has attained the National Ambient Air Quality Standard (NAAQS). For ozone, an area is considered in attainment of the NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9, based on quality assured monitoring data for three complete, consecutive calendar years. A violation of the NAAQS occurs when the annual average number of expected exceedances is greater than 1.0 at any site in the area at issue. An exceedance occurs when the maximum hourly ozone concentration exceeds 0.124 ppm. The data should be collected and quality-assured in accordance with 40 CFR Part 58, and recorded in the Aerometric Information Retrieval System (AIRS) in order for it to be available to the public for review. The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

Ohio submitted ozone monitoring data recorded in the Lucas and Wood Counties Metropolitan Area (LWCMA) during the years 1984 through August 31, 1993. No violations were monitored for the three-year period 1990 through 1992 upon which the redesignation request was based. Furthermore, no violations have been monitored since then. Monitored exceedances (one-hour averaged) of 0.127 ppm in 1991, 0.126 ppm in 1993, and 0.142 ppm occurred at the Yondota Avenue monitor in 1994. An exceedance of 0.136 ppm occurred at the Friendship Park monitor in 1993. The USEPA used data stored in AIRS to determine the annual average expected exceedances for the years 1990, 1991, 1992, 1993, and 1994. Since the annual average expected exceedances for each monitor during these years is less than 1.0, Lucas and Wood Counties are considered to have attained the standard.

B. Section 107(d)(3)(E)(iii). The Administrator determines that the improvement in air quality is due to permanent and enforceable measures. Ohio estimated emission reductions from a nonattainment year (1988) to an attainment year (1990), and found that emission reductions from federally mandated control on fuel volatility and new automobiles reduced volatile organic compound (VOC) emissions by 25,843 lbs/day. In 1989, fuel volatility was restricted to 10.5 pounds per square inch (psi) in the Toledo area. Currently, the fuel volatility standard is 9.0 psi. This standard was established in 1992. The USEPA considers the emissions reductions from the Federal Motor Vehicle Control Program (FMVCP) and Federal volatility standards to be permanent and enforceable and to have contributed to the improvement in air quality.

Controls placed on a wastewater ditch which was used to transport wastewater from the British Petroleum (BP) refinery to a wastewater treatment system also provided VOC emissions reductions during this period. This wastewater ditch, which measured about 3600 feet in length and an average of about 10 feet in width, is referred to as the "oily ditch." Prior to 1990, this "oily ditch" was uncontrolled and was one of the largest single sources of VOCs in the LWCMA with emissions of 19,802 lbs/summer day. The USEPA reviewed the methodology used to calculate these emissions and agrees with the amount of emissions estimated from this source. A major portion of the open ditch was converted to a hard pipe to minimize VOC emissions. Ohio estimates that the enclosure of 3000 feet of the "oily ditch" which was completed on March 15, 1990, resulted in an emission reduction of 11,225 lbs/summer day of VOCs. Since the USEPA is approving the Director's Findings and Orders requiring this control into the SIP as part of the maintenance plan, the emission reductions from the enclosure of the "oily ditch" at the BP Toledo Refinery are considered permanent and enforceable and to have contributed to the improvement in air quality.

C. Section 107(d)(3)(E)(iv). The Area must have a fully approved maintenance plan meeting the requirements of Section 175A. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The Calcagni Memorandum provides further guidance on the required content of a maintenance plan.

An ozone maintenance plan should address the following five areas: the attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment and a contingency plan. The attainment emissions inventory identifies the emissions level in the area which is sufficient to attain the ozone NAAQS, and includes emissions during the time period which had no monitored violations. Maintenance is demonstrated by showing that future emissions will not exceed the level established by the attainment inventory. Provisions for continued operation of an appropriate air quality monitoring network are to be

VOL 60 ISS 84 MY 2 1995 UMI

included in the maintenance plan. The State must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include contingency measures which ensure prompt correction of any violation of the ozone standard.

1. Attainment Inventory

The State has developed an adequate attainment emission inventory for 1990 that identifies the level of emissions in the Toledo area sufficient to attain the ozone NAAQS. The 1990 attainment inventory was based on the comprehensive inventories of VOC and nitrogen oxides (NO_X) emissions from area, stationary, and mobile sources for 1990. The 1990 base year emission inventory represents 1990 average summer day actual emissions for the Toledo area and was prepared in accordance with USEPA guidance. USEPA's TSD prepared for the 1990 base year emission inventory SIP revision contains a detailed analysis of this inventory. The USEPA approved this inventory as satisfying the requirements of section 182(a)(1) for an emissions inventory on March 22, 1995 (60 FR 15053).

2. Maintenance Demonstration

To demonstrate continued attainment, Ohio projected point, area, and mobile source emissions from the year 1990 to the year 2005. These projections show that the level of emissions established by the attainment inventory will not be exceeded during the maintenance period, 1990–2005. Table 1 lists the emissions for the year 1990 and projected emissions for the year 2005. Total point, mobile, and area emissions are expected to be lower in 2005 than total emissions in the 1990 attainment inventory.

TABLE 1.—MAINTENANCE DEMONSTRATION

Source category	1990	1996	2000	2005
	VOC Emissions (pounds per day)			
Point	120,154	78,978	78,611	77,742
Mobile (on-road)	132,659	102,560	82,494	57,412
Area	74,502	74,693	75,119	75,209
Total	327,315	256,231	236,224	210,363
	NO_X Emissions (pounds per day)			
Point	147,943	146,793	80,294	81,376
Mobile (on-road)	75,630	65,128	58,126	49,374
Area	20,522	20,547	20,563	20,584
Total	244,095	232,468	158,983	151,334

3. Emission projections

Point source emissions were projected by accounting for known changes to sources for each year between 1990 and 2005, and applying a growth factor based on manufacturing employment data provided by the Bureau of Economic Analysis, United States Department of Commerce, to derive inventories for all ensuing years. The stationary source emission projections incorporate existing control measures. The known stationary source emission reductions came from the British Petroleum (BP) Refinery reductions documented in annual Reasonable Further Progress Reports, and stationary source shutdowns.

Some of the emission reductions from the BP refinery during the maintenance period result from controls included in Ohio's non-control technology guideline (non-CTG) Reasonably Available Control Technology (RACT) rules, Ohio Administrative Code 3745–21–09(UU) and 3745–21–04(c)(55). Additional VOC reductions at the BP Refinery result from the conversion of two cooling towers to non-VOC emitting processes and the removal of the Crude Vacuum blow down drum. Emission reductions from source shutdowns can be considered permanent and enforceable to the extent that those shutdowns have been reflected in the SIP and all applicable permits have been modified accordingly. Once the maintenance plan is approved into the SIP, these emission reductions will be provided for by the SIP. Consequently, resumption of operation of these sources would be treated as operation of a new source and would be subject to preconstruction review under Part C of the Prevention of Significant Deterioration (PSD) program. The net reduction in VOC emissions at the BP refinery during the maintenance period is estimated to be 40,582 lbs/day.

Stationary source emissions of nitrogen oxides (NO_X) are projected to decline from 1990 levels. This reduction is caused by shutdowns of utility units, "low-NO_X burner" requirements of Title IV of the Clean Air Act, and declining growth in stationary sources. In 1992, Toledo Edison permanently retired all units at its Acme Generating Station other than Unit 16. The operating permits for the retired units have been surrendered, making the resulting emission reductions permanent and enforceable. These shutdowns reduced 1990 levels of NO_X emission by 15,403 lbs/day. A negative growth factor of 2.3 percent based on manufacturing employment from 1990 and 2005, reduces NO_X emissions by 973 lbs/day.

Mobile source emissions were projected by forecasting vehicle miles travelled (VMT) for the year 2005. This was done by considering the future highway networks and forecasts of socio-economic data. Growth parameters for the year 2005 were developed from the travel forecasting modeling programs and VMTs from the transportation modeling growth factors and 1990 Highway Performance Modeling System data.

Area source emissions were projected using growth factors consistent with Table III.3 in USEPA's guidance document entitled "Procedures for Preparing Emissions Projections," dated July 1991.

4. Emissions Budgets

The emissions budget to be used for determining the conformity status of transportation plans and transportation improvement plans is 29.85 tons VOC/day and 24.69 tons NO_X/day. On November 28, 1994, the USEPA received a request from Ohio to add 1.142 tons VOC/day of the "safety margin" to the year 2005 VOC emissions (28.71 tons/day) for purposes of conformity. This is provided for by section 51.456(b) of the conformity rule (58 FR 62188). (The safety margin is the difference between the attainment inventory level of mobile source emissions from the projected levels of mobile source emissions in the out year (i.e. 2005) of the maintenance plan.) The USEPA is approving this submittal as part of the maintenance plan.

5. Contingency Plan

Ohio has committed to adopt and implement various contingency measures following various triggering events. The contingency plan is summarized in Table 3. If three exceedances at one monitor occur in the same year, Stage II Vapor Recovery (Stage II) would be implemented. Stage II and the vehicle inspection and maintenance (I/M) program would be implemented after a violation has been monitored. If a violation occurred after both Stage II and the I/M program have been implemented, NO_X RACT would be adopted and implemented. If an emissions inventory meeting the requirements of USEPA guidance shows that total area-wide VOC emissions exceed 95 percent of the 1990 emissions inventory, then either one or both Stage II and the I/M program would be implemented. The implementation schedules for each contingency measure are detailed in Table 4. If more violations were to occur, Ohio has committed to identify and develop the legislative authority to implement additional contingency measures.

Ohio has the legislative authority to implement the I/M program in Toledo, Ohio's Stage II rule allows for the implementation of Stage II as part of a maintenance and/or a contingency plan. The Director of the Ohio Environmental Protection Agency (OEPA) issued a Director's Findings and Orders on September 17, 1993, suspending Stage II in the Toledo area. This suspension will continue until there are three monitored exceedances of the ozone standard in one year or a violation of the ozone standard is monitored. On October 20, 1994, the USEPA partially approved and partially disapproved Ohio's SIP revision for implementation of Stage II (58 FR 52911). As stated in that rulemaking action, with the exception of paragraph 3745–21–09 (DDD)(5), USEPA considers Ohio's Stage II program to fully satisfy the criteria set forth in the USEPA guidance document for such programs entitled "Enforcement Guidance for Stage II Vehicle Refueling Control Programs." Ohio has adopted NO_X RACT rules for the Toledo area. The Director of OEPA has suspended the NO_X RACT rules in the Toledo area until a violation is monitored after the implementation of I/M and Stage II.

TABLE 3.—CONTINGENCY PLAN

Trigger	Control measure
3 exceedances of ozone standard in one year.	Stage II.
Violation	Stage II and I/M.
Violation after implementation of Stage II and I/M.	NO_X RACT.
VOC emissions greater than 95% of the 1990 level of VOC emissions.	Stage II and/or I/M.

TABLE 4.—CONTINGENCY PLAN SCHEDULE FOR ADOPTION AND IMPLEMENTATION

Activity	Completion time after triggering event
Stage II Vapor Recovery	
Identify and verify third excursion in one year or violation of ozone standard	1 month.
Initiate compliance schedules contained in Ohio Administrative Code (OAC) 3745–21–04	2 months.
Source demonstration of compliance or submittal of schedules to achieve compliance	3 months.
Achieve final compliance of non-independent facilities for which construction commenced after 11/15/90	6 months.
Achieve final compliance of non-independent facilities greater than 100,000 gallons per month	12 months.
Achieve final compliance of all other non-independent facilities	24 months.
Achieve final compliance of 33% of facilities owned by each marketer	12 months.
Achieve final compliance of 66% of facilities owned by each marketer	24 months.
Achieve final compliance of 100% of facilities owned by each marketer	36 months.
Activity	**Time after triggering event**
Vehicle Inspection and Maintenance	
Identify and verify violation of the ozone standard. Begin revisions to the Request for Proposals for centralized portion of program based on existing legislative authority.	1 month.
Begin drafting rules for contingency centralized I/M program, procedures and guidelines	1 month.
Release Request for Proposals for centralized contractor	2 months.
File draft program rules with Legislative Service Commission	3 months.
Public hearing on new program rules	4 months and 15 days.
Rules approved by Joint Committee on Agency Rule Review	4 months and 30 days.
Request for Proposal responses for centralized contract due	4 months and 30 days.
Begin evaluation of Request for Proposal responses	5 months.
Award centralized contract for each zone.	6 months and fifteen days.
Program rules become effective	6 months and 30 days.
Begin drafting Request for Proposal for Ohio Environmental Protection Agency (BAR90) approved analyzer certification, if necessary..	7 months.
Begin drafting Request for Proposal for inspector certification training in the Toledo metropolitan area	7 months.
Release Request for Proposal for analyzer certification services	8 months.
Release Request for Proposal for inspector certification training	8 months.
Proposals for analyzer certification services due	9 months and 15 days.
Proposals for inspector certification training due	9 months and 15 days.
Begin evaluation of proposals for analyzer certification services	9 months and 16 days.
Begin evaluation of proposals for inspector certification training	9 months and 16 days.
Award contract for analyzer certification services	10 months.
Award contract for inspector certification training	10 months.
Begin licensing process for reinspection stations. State will require Ohio Certified BAR90 (or better) equipment, on-line real-time systems, and ASE certified mechanics.	11 months.
New analyzer specifications issued, if necessary. Begin certifying four-gas analyzers	12 months.

VOL 60 ISS 84 MY 2 1995 UMI

Activity	Time after triggering event
Inspector certification begins	14 months.
Begin final licensing of reinspection stations	15 months.
Initiate PR program including media blitz	16 months.
Initiate motorist notification mailings	16 months and 15 days.
Begin limited voluntary inspections at centralized test stations. Allow first month motorist to receive valid test. Reinspection stations begin to perform retests.	17 months.
Begin mandatory testing at centralized test stations	18 months.

Activity	Completion time after triggering event
NO_X RACT	
Identify and verify violation following implementation of OAC 3745–21–09 and automobile inspection and maintenance.	1 month.
Source demonstration of compliance or submittal of schedule to achieve compliance	3 months.
Achieve compliance with requirements of OAC 3745–14–03 or request extension	18 months.

6. Tracking Maintenance

The State plans to track monitored levels of ozone. Emissions inventories will be prepared every 3 years beginning with the year 1993. The point source inventory will be updated annually with facility and permit data. OEPA will update emissions estimates from the BP refinery wastewater system on an annual basis. The mobile source inventory will be updated annually with new VMT estimates and revised mobile emissions models if appropriate. Area source inventories will be updated annually using new census data. The OEPA will submit annual progress reports to USEPA which will include available emissions data and a comparison of projected and actual emissions. The Toledo Division of Pollution Control has committed to continue operating and maintaining the four existing ozone monitors in a manner consistent with Federal and State monitoring guidelines.

The USEPA has determined that the maintenance plan for Lucas and Wood Counties meets the requirements set forth by the CAA.

D. Section 107(d)(3)(E)(v). The Area must have met all applicable requirements under Section 110 and Part D. Section 107(d)(3)(E) requires that, for an area to be redesignated, an area must have met all applicable requirements under section 110 and Part D. The USEPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must have met all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the Act that come due subsequently continue to be applicable to the area at those later dates (see section 175A(c)) and, if the redesignation of the area is disapproved, the State remains obligated to fulfill those requirements.

1. Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of Title I, Part A. These requirements include but are not limited to submittal of a SIP that has been adopted by the State after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C (PSD) and D (NSR) permit programs, criteria for stationary source emission control measures, monitoring, and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the Ohio SIP was reviewed to ensure that all requirements under the amended Act were satisfied. Although section 110 was amended in 1990, the Toledo area SIP meets the requirements of the amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, USEPA believes that the pre-1990 amendment SIP meets those requirements. As to those requirements that were amended in 1990, many are duplicative of other requirements in the Act and USEPA has determined that the Toledo SIP is consistent with the requirements of section 110 of the amended Act.

2. Part D Requirements

Before the Toledo area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D. Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under Table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). The Toledo area was classified as moderate (56 FR 56694). Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D.

a. Section 172(c) Requirements

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment under the amended Act. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the case of Toledo, the State has satisfied all of the section 172(c) requirements necessary for Toledo to be redesignated upon the basis of the November 8, 1993 redesignation request.

USEPA has determined that the section 172(c)(2) reasonable further progress (RFP) requirement (with parallel requirements for a moderate ozone nonattainment area under subpart 2 of part D, due November 15, 1993) was not applicable as the State of Ohio submitted this redesignation request on November 8, 1993. Also the section 172(c)(9) contingency measures and additional section 172(c)(1) non-RACT reasonable available control measures beyond what may already be required in the SIP are no longer necessary, since no earlier date was set for these measures and as RFP was not due until November 15, 1993.

The section 172(c)(3) emissions inventory requirement has been met by the submission and approval of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1) (60 FR 15053).

As for the section 172(c)(5) NSR requirement, USEPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. Memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment. The rationale for this view is described fully in that memorandum, and is based on the Agency's authority to establish *de minimis* exceptions to statutory requirements. See *Alabama Power Co.* v. *Costle*, 636 F. 2d 323, 360–61 (D.C. Cir. 1979). As discussed below, the State of Ohio has demonstrated that the Toledo area will be able to maintain the standard without part D NSR in effect and, therefore, the State need not have a fully-approved part D NSR program prior to approval of the redesignation request for Toledo. Ohio's part C PSD program will become effective in the Toledo area upon redesignation to attainment.

Finally, for purposes of redesignation, the Toledo SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, USEPA believes the SIP satisfies all of those requirements. Section 176 Conformity Plan Provisions Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that, before they are taken, Federal actions conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act (transportation conformity), as well as to all other Federal actions (general conformity). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the Act required EPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final EPA conformity regulations. When that date passed without such promulgation, USEPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date [see 57 FR 13498, 13557 (April 16, 1992)].

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under CAA section 175A. Pursuant to section 51.396 of the transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Ohio is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals did not come due prior to the date the Toledo redesignation request was submitted, however, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

b. Subpart 2 Requirements

The Toledo area is classified moderate nonattainment; therefore, part D, subpart 2, section 182(b) requirements apply. The requirements which came due prior to the submission of the request to redesignate the Toledo area must be fully approved into the SIP prior to redesignating the area to attainment. These requirements are discussed below:

(i) 1990 Base Year Emission Inventory. The 1990 base year emission inventory was due on November 15, 1992. It was submitted to the USEPA on March 15, 1994. The USEPA approved this submittal on March 22, 1995 (60 FR 15053).

(ii) Emission Statements. The emissions statement SIP was due on November 15, 1992. It was submitted to the USEPA on March 15, 1994. The USEPA approved this SIP revision through a direct final rulemaking action published on October 13, 1994 (59 FR 51863).

(iii) VOC RACT Fix-ups and Catch-ups. Sections 182(a)(2)(A) and 182(b)(2) establish VOC RACT requirements applicable to moderate ozone nonattainment areas such as Toledo. Section 182(a)(2)(A) required the submission to USEPA of all rules and corrections to existing VOC RACT rules that were required under the RACT provision of the pre-1990 CAA (referred to as RACT "fix-ups"). Section 182(b)(2) required the submission to USEPA of (1) VOC RACT rules for all VOC sources covered by a CTG issued before the date of enactment of the 1990 CAA amendments (a requirement that the State has previously met), (2) VOC RACT for each VOC source covered by a CTG issued between the enactment of the 1990 CAAA and the attainment date (which is not an applicable requirement for purposes of this redesignation since the due date for these rules is November 15, 1994, a date after the submission of the redesignation request), and (3) VOC RACT for all other major stationary sources of VOC located in the area.

On June 9, 1988, August 24, 1990, and June 7, 1993, Ohio submitted VOC RACT rules. In a final rulemaking action, the USEPA partially approved, partially disapproved and granted partial limited approval/limited disapproval to portions of Ohio's VOC RACT rules on May 9, 1994 (see 58 FR 49458). The USEPA processed draft VOC RACT rules which addressed identified deficiencies in Ohio's VOC RACT rules in parallel with the ozone redesignation request. Ohio adopted these rules and submitted them to USEPA on February 14, 1995. Ohio's VOC RACT rules submittals have now been approved in a direct final notice published on March 23, 1995 (60 FR 15235). Thus, the State has now satisfied all of the VOC RACT requirements applicable to the Toledo area. (The approval of the redesignation is contingent upon the approval of the VOC RACT rules and the 1990 Base-Year Emissions Inventory. Thus, this redesignation will not become effective until the approval of the VOC RACT rules and the 1990 Base-Year Emissions Inventory become effective. Consequently, should the direct final notice approving the VOC RACT rules or 1990 Base-Year Inventory be withdrawn as a consequence of adverse comment, this direct final notice approving the redesignation will also be withdrawn and final action will be taken on the redesignation at a later date.)

(iv) Stage II Vapor Recovery (Stage II). Section 182(b)(3) required States to submit Stage II rules to USEPA for moderate ozone nonattainment areas by November 15, 1992. Ohio submitted Stage II regulations as a SIP revision on June 7, 1993. However, as the USEPA promulgated onboard rules on April 6, 1994 (59 FR 16262), Stage II is no longer required for moderate ozone nonattainment areas (see section

VOL 60 ISS 84 MY 2 1995 UMI

202(a)(b). Thus, Stage II is not an applicable requirement for purposes of evaluating this redesignation.

(v) Vehicle Inspection and Maintenance (I/M). On January 5, 1995, the USEPA revised the I/M Program Requirements promulgated on November 5, 1992 (60 FR 1735). See 60 FR 1735. The revision allows areas subject to the basic I/M program requirements and that otherwise qualify for redesignation from nonattainment to attainment for ozone or carbon monoxide NAAQS to defer adoption and implementation of some of the otherwise applicable requirements established in the original promulgation of the I/M rule. USEPA amended Subpart S to allow such areas to be redesignated if they submit a SIP that contains the following four elements: (1) Legal authority for a basic I/M program (or an enhanced program, as defined in the Federal rule, if the state chooses to opt up), meeting all of the requirements of Subpart S such that implementing regulations can be adopted without further legislation; (2) a request to place the I/M plan or upgrades, as defined in the Federal rule, (as applicable) in the contingency measures portion of the maintenance plan upon redesignation as described in the fourth element below; (3) a contingency measure to go into effect as soon as a triggering event occurs, consisting of a commitment by the Governor or the governor's designee to adopt regulations to implement the I/M program in response to the specified triggering event; and (4) a commitment that includes an enforceable schedule for adopting and implementing the I/M program, including appropriate milestones, in the event the contingency measure is triggered (milestones shall be defined in terms of months since the triggering event). USEPA believes that for areas that otherwise qualify for redesignation, a SIP meeting these four requirements would satisfy the obligation to submit "provisions to provide" for a satisfactory I/M program, as required by the stature.

Ohio has met each of the above four requirements. Section 3704.14(B) of Ohio's Administrative Code states "* * * The Director shall implement and supervise a basic or an enhanced motor vehicle inspection and maintenance program in a county that is within an area classified as nonattainment for carbon monoxide or ozone when such a program is included in the air quality maintenance plan or contingency plan for the nonattainment area that includes the county and that is submitted to the USEPA by the Director as required under section 175A of the CAAA as part of a request for redesignation of the nonattainment area as attainment for carbon monoxide or ozone under section 107(d) of that Act, and the Director determines that the conditions requiring implementation of such a program and set forth in either such plan have been met." This provision allows the I/M program to be implemented in the Toledo area as part of a contingency plan. In addition, I/M programs in Ohio have been approved by USEPA (46 FR 31881). As noted in tables 3 and 4, Ohio has identified appropriate triggering events and submitted an enforceable implementation schedule for the I/M program. The commitment to implement I/M was contained in the letter from the Director of OEPA, the Governor's designee, requesting the redesignation of the Toledo area to attainment for ozone. This satisfies the remaining requirements of the I/M rule revision.

(vi) 1.15:1 VOC and NO_X Offsets Requirement for NSR. As explained above, USEPA has determined that areas need not comply with the part D NSR requirements of the Act in order to be redesignated provided that the area is able to demonstrate maintenance without part D NSR in effect. As maintenance has been demonstrated for the Toledo area without part D NSR being in effect, USEPA is not requiring that the area have a fully-approved part D NSR plan meeting the requirements of sections 182(a) and (b) prior to redesignation.

(vii) NO_X Requirement. Section 182(f) establishes NO_X requirements for ozone nonattainment areas. However, it provides that it does not apply to an area such as Toledo if the Administrator determines that NO_X reductions would not contribute to attainment. The Administrator has made such a determination and has approved the State of Ohio's request to exempt the Toledo area from the section 182(f) NO_X requirements (60 FR 3760). Thus, the State of Ohio need not comply with the NO_X requirements of section 182(f) for Toledo to be redesignated. If a violation is monitored in the Toledo area, Ohio has committed to adopt and implement NO_X RACT rules as a contingency measure.

E. Section 107(d)(3)(E)(ii). The Administrator has fully approved the applicable implementation plan for the area under Section 110(k). USEPA has reviewed the SIP to ensure that it contains all measures that were due under the amended 1990 Act. Based on the approval of submittals under the pre-amended CAA, and USEPA's approval of SIP revisions under the amended CAA, USEPA has determined that the Toledo area has a fully approved SIP under section 110(k), which also meets the applicable requirements of section 110 and part D as discussed above (45 FR 72122, 59 FR 51863, 60 FR 3760, 60 FR 15053, 60 FR 15235).

III. Transport of Ozone Precursors to Downwind Areas

Preliminary modeling results utilizing USEPA's regional oxidant model (ROM) indicate that ozone precursor emissions from various States west of the ozone transport region (OTR) in the northeastern United States contribute to increases in ozone concentrations in the OTR. The State of Ohio has provided documentation that VOC and NOx emissions in the Toledo area will decrease 35 percent and 38 percent, respectively, from attainment levels by the year 2005. Given this decrease in emissions, the Toledo area's impact on ozone concentrations in the OTR will correspondingly be reduced. The USEPA is currently developing policy which will address long range impacts of ozone transport. The USEPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. The USEPA intends to address the transport issue through Section 110 based on a domain-wide modeling analysis.

The USEPA notified Environment Canada of this action. The redesignation is not expected to have any adverse impact on Canada since emissions are expected to remain below levels associated with attainment conditions in the Toledo area.

IV. Final Rulemaking Action

The State of Ohio has met the requirements of the Act for revising the Ohio ozone SIP. The USEPA approves the redesignation of Lucas and Wood Counties to attainment areas for ozone. In addition, the USEPA approves the maintenance plan into the ozone SIP for these Counties. As noted earlier, this approval is contingent upon the direct final approval of Toledo's VOC RACT rules and 1990 Base-Year Emissions Inventory becoming effective.

Because USEPA considers this action to be noncontroversial and routine, USEPA is publishing this notice of approval without prior proposal. This action will become effective on July 3, 1995. However, if the USEPA receives adverse comments by June 1, 1995 on this action or by April 24, 1995, regarding the VOC RACT notice published at 60 FR 15235, or by April 21, 1995, regarding the 1990 Base-Year Emissions Inventory published at 60 FR 15053, then the USEPA will publish a notice that withdraws the action, and will address these comments in the final rule on the requested redesignation and SIP revision which has been proposed for approval in the proposed rules section of this **Federal Register**.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976).

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 14, 1995.

Valdas V. Adamkus,

Regional Administrator.

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 52.1870 is amended by adding a new paragraph (c)(105) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(105) On September 17, 1993, the Ohio Environmental Protection Agency requested the redesignation of Lucas and Wood Counties to attainment of the National Ambient Air Quality Standard for ozone. To meet the redesignation criteria set forth by section 107(d)(3)(E)(iii) and (iv), Ohio credited emissions reductions from the enclosure of the "oily ditch" at the British Petroleum Refinery in Oregon, Ohio. The USEPA is approving the Director's Finding and Order which requires the enclosure of the "oily ditch" into the SIP for Lucas and Wood Counties.

(i) Incorporation by reference.

Letter dated June 2, 1994, from Donald R. Schregardus, Director, Ohio Environmental Protection Agency, to Valdas Adamkus, Regional Administrator, USEPA, Region 5, and one enclosure which is the revised Director's Final Findings and Orders in the matter of BP Oil company, Toledo Refinery, 4001 Cedar Point Road, Oregon, Ohio, Fugitive Emissions from the Refinery Waste Water System "Oily Ditch", dated June 2, 1994.

3. Section 52.1885 is amended by adding paragraph (b) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(b) The maintenance plans for the following counties are approved:

(1)–(4) [Reserved].

(5) Lucas and Wood Counties.

* * * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.336 is amended by revising the entry in the ozone table for Toledo area to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
. . . .	.	.	.	.
Toledo Area.				
Lucas County	July 3, 1995.	Attainment		
Wood County	July 3, 1995.	Attainment		
. . . .	.	.	.	.

[1] This date is November 15, 1990, unless otherwise noted.

VOL 60 ISS 84 MY 2 1995 UMI

[FR Doc. 95–10693 Filed 5–1–95; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket 92–264; FCC 95–147]

Cable Television Act of 1992—Vertical Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Order on reconsideration.

SUMMARY: On reconsideration of the cable television vertical ownership (or channel occupancy) rules adopted in its Second Report and Order, the Federal Communications Commission (the "Commission") has adopted a Memorandum Opinion and Order on Reconsideration of the Second Report and Order ("Reconsideration Order"). The Reconsideration Order denies petitions for reconsideration filed by the Center for Media Education/Consumer Federation of America (collectively "CME") and Bell Atlantic Corporation ("Bell Atlantic"). Specifically, the Reconsideration Order: Denies CME's petition requesting that the Commission; reduce the percentage of activated channels that a cable operator may devote to video programming in which it has an attributable interest from 40% to 20%; reverse the Commission's decision to include over-the-air broadcast, public, educational, governmental ("PEG"), and leased access channels when calculating total channel capacity; reverse the Commission's decision to exempt local and regional networks from the channel occupancy limits; reverse the Commission's decision not to apply channel occupancy limits beyond a system's first 75 channels; and reverse the Commission's decision to grandfather all vertically integrated programming services being carried as of the effective date of the 1992 Cable Act. The Reconsideration Order also denies Bell Atlantic's petition asking that the Commission reconsider its decision to apply the vertical ownership limits to cable systems facing actual head-to-head competition.

EFFECTIVE DATE: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: Rick Chessen, Cable Services Bureau, (202) 416–0800.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Memorandum Opinion and Order on Reconsideration of the Second Report and Order ("Reconsideration Order") in MM Docket 92–264, adopted April 5, 1995 and released April 6, 1995. This Reconsideration Order responds to petitions for reconsideration filed in response to the Commission's Second Report and Order, 58 FR 60135 (November 15, 1993). The Second Report and Order was established pursuant to section 11(c)(2)(B) of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), Public Law 102–385, 106 Stat. 1460 (1992).

The complete text of this Reconsideration Order is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. ("ITS, Inc.") at (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of the Memorandum Opinion and Order on Reconsideration of the Second Report and Order

A. Background

Pursuant to section 11(c)(2)(B) of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), Pub. L. 102–385, 106 Stat. 1460 (1992), the Commission's Second Report and Order, 58 FR 60135 (November 15, 1993), established cable channel occupancy rules, including the following rules relevant here: (1) Cable operators generally may devote no more than 40% of their activated channels to the carriage of programing services in which they have an attributable interest; (2) all activated channels will be included in calculating channel capacity, including broadcast, PEG and leased access channels; (3) channel occupancy limits will apply only to "national" programming services (i.e., local and regional programming services are exempt); (4) channel occupancy limits will apply to a maximum of 75 channels per system; (5) all vertically integrated programming services carried as of the effective date of the 1992 Cable Act (December 4, 1992) could continue to be carried; and (6) channel occupancy limits will not be eliminated in communities where actual head-to-head competition exists.

B. Petitions for Reconsideration

The Center for Media Education and the Consumer Federation of America (collectively "CME") filed a joint Petition for Reconsideration asking the Commission to reconsider several issues decided in the Second Report and Order. Specifically, CME asked the Commission to: (1) Reduce the channel occupancy limit from 40% to 20%; (2) require that broadcast, PEG, and leased access channels be subtracted from the number of activated channels before calculating total channel capacity; (3) eliminate the exemption for local and regional networks; (4) apply channel occupancy limits beyond a system's first 75 channels; and (5) reverse the decision to grandfather all vertically integrated programming services carried as of December 4, 1992.

After consideration of the various submissions, the Commission declines to modify the 40% channel occupancy limit. In requiring the Commission to establish "reasonable" channel occupancy limits, Congress directed the Commission to balance the risks of vertical integration against benefits such as the development of diverse and high quality video programming. The Commission continues to believe that the 40% limit strikes the appropriate balance between these competing objectives.

Moreover, CME may have overstated the practical effect of must-carry, PEG and leased access requirements on unaffiliated programmers' ability to obtain carriage. In the absence of record evidence on this point, the Commission examined an unscientific sampling of 25 Tele-Communications, Inc. ("TCI") and Time Warner Entertainment Company, L.P. ("Time Warner") cable systems (those being the most vertically integrated cable operators) in order to determine whether, in fact, broadcast, PEG and leased access channels occupied all, or nearly all, of the systems' unaffiliated programming channels. Generally, the Commission found that, even after excluding broadcast, PEG and leased access channels (and even assuming the presence of two local or regional networks), all of the systems had capacity remaining for additional unaffiliated programming.

Next, CME claims that the Commission overstated the benefits of vertical integration. As proof, CME states that the Cable News Network, Inc. ("CNN"), Black Entertainment Television, Inc. ("BET"), and Nickelodeon were successful prior to their relationship with cable operators, and that "there has been no successful launch of an unaffiliated video programmer since the cable industry began the trend toward vertical integration." Whether or not CNN, BET and Nickelodeon achieved some initial independent success, there is evidence in the record that these and other programmers would have had difficulty

sustaining their success had it not been for cable operator investment (see, e.g., Comments of Turner Broadcasting System, Inc., filed February 9, 1993, at 12 (at a time when TBS's "independence was very much at stake," cable operators were willing to provide long-term equity under terms others were not); Opposition of Black Entertainment Television, Inc. to Comments of Viacom International, Inc., filed February 22, 1994, at 2 ("[C]able investment has been crucial to establishing BET as a viable and valuable programming service."). Likewise, CME's assertion that there has been no successful launch of an unaffiliated programmer since vertical integration has taken hold was disputed by TBS, citing the recent successes of ESPN2, FLIX and the SciFi Channel.

Similarly, there is no evidence in the record to substantiate CME's claim that the 40% limit will deter independent investors from investing in video programming, or that independent investors are currently deterred from investing in cable programming by the Commission's channel occupancy limits.

Finally, the Commission disagrees with CME's assertion that the Senate Report "suggested" a 20% channel occupancy limit. The Senate Report stated: "For example, the FCC may conclude that each MSO should control no more than 20 percent of the channels on any cable system * * *." Thus, the Report used the 20% figure for illustrative purposes only, while clearly acknowledging that the Commission was free to choose a different limit. This interpretation is supported by the actual wording of the statute, which simply requires the Commission to establish "reasonable" channel occupancy limits.

The Commission also denies CME's petition to reconsider the treatment of broadcast, PEG and leased access channels. CME correctly notes that the channel occupancy limits are intended to keep cable operators from filling every available channel with their own programming. But from this premise, CME draws the conclusion that channel occupancy limits must therefore be intended to give "independent commercial programmers a chance to get on the wire." The statute, however, does not distinguish between "independent" unaffiliated programmers and other types of unaffiliated programmers. Section 11 simply ensures that subscribers will have access to some kind of unaffiliated programming on a prescribed number of channels. CME does not dispute that broadcast, PEG and leased access channels are "unaffiliated" with cable operators, or that the 1992 Cable Act requires cable operators to reserve channel space for such unaffiliated programming. Thus, the Commission reaffirms its holding in the Second Report and Order that it would be unreasonable to subtract such channels before calculating the system's channel capacity, since they provide the type of diverse, unaffiliated programming contemplated by the 1992 Cable Act. Further, as the Commission noted in the Second Report and Order, it would be unfair to penalize those cable operators who carried the widest array of broadcast, PEG and leased access channels by decreasing the number of channels available for affiliated programming.

Moreover, there is no evidence in the record that "independent" commercial programmers (i.e., those with no cable ownership interests at all) are unable to obtain carriage because of the Commission's treatment of broadcast, PEG and leased access channels. To the contrary, in the Commission's sampling of 25 TCI and Time Warner cable systems described above, the Commission found that all of the systems carried some "independent" unaffiliated programmers, with most systems carrying between 7 and 11 such channels.

In addition, although the Senate Report's sample calculation excluded broadcast and access channels in calculating channel capacity, CME's reliance on it as an expression of Congressional intent is misplaced. As the Commission stated in the Second Report and Order:

> The Senate Report language (* * *) appears to be included merely as an example to illustrate how the Commission may decide to calculate channel occupancy limits and therefore does not prohibit the Commission from adopting an alternative approach if it finds such an approach to be reasonable to promote the legislative objectives. In any event, this language is not included in the statute itself.

Finally, the Commission does not believe that it is weakening Congress' statutory scheme by considering the impact of other provisions of the 1992 Cable Act in establishing channel occupancy limits. Section 11 expressly gives the Commission broad discretion to fashion "reasonable" channel occupancy limits. In the Commission's view, establishing "reasonable" limits requires it to consider all factors bearing on the dangers or benefits of vertical integration. Thus, for instance, the Commission believes that not only should it take into account the impact of broadcast, PEG and leased access channels, but also the impact of sections 12 and 19 in deterring the type of discriminatory conduct that may be caused by vertical integration. Only by considering the whole of Congress' scheme can the Commission determine the level of vertical structural limits that are "reasonable."

The Commission also denies CME's petition to reconsider the exception for local and regional programming. CME's approach overlooks Congress' direction that the Commission consider the benefits as well as the dangers of vertical integration in establishing "reasonable" channel occupancy limits. As the Commission stated in the Second Report and Order, the exception for local and regional networks was "an important means of encouraging continued MSO investment in the development of local cable programming, which is responsive to the needs and tastes of local audiences and serves Congress' objectives of promoting localism." (Second Report and Order at ¶ 78.) CME does not challenge the value of local and regional programming, or the Commission's conclusion that given the cost and limited appeal of such programming, an exception may be necessary to encourage continued MSO investment. The Commission continues to believe that consideration of these benefits of vertical integration more accurately reflects Congressional intent, and fully justifies the exception.

On reconsideration, the Commission also declines CME's invitation to eliminate the 75-channel cap. There is no evidence in the record to support CME's claim that "there is a strong likelihood that all of the newly available channels will be filled by services affiliated with the MSO." Indeed, the Commission notes that in its informal survey of 25 TCI and Time Warner cable systems, none of the systems were approaching the current 40% channel occupancy limit for affiliated programming. However, even if there were some basis for CME's prediction, the Commission still believes that the vast expansion of channel capacity may obviate the need for a rigid occupancy limit. As the Commission noted in the Second Report and Order, although information on how multichannel video distributors will use the additional capacity "is necessarily somewhat speculative," the record indicates that the capacity will likely be used to deliver targeted "niche" video programming services aimed at correspondingly smaller audience sizes, such as pay-per-view and "multiplexed" channels. (Second Report and Order at ¶¶ 83–84.) Occupancy limits in these

VOL 60 ISS 84 MY 2 1995 UMI

circumstances do not parallel occupancy limits for more restricted capacity systems where most services are distributed on discrete channels to a significant portion of a system's subscribership. Accordingly, the occupancy limits can be relaxed.

In sum, the Commission continues to believe that the introduction of advanced technologies such as signal compression and fiber optics will reduce the need for structural occupancy limits in order to ensure programming diversity and access for unaffiliated programmers. Nevertheless, as the Commission noted in the Second Report and Order, the 75-channel cap will be subject to periodic review and will be eliminated if developments warrant.

The Commission also denies CME's request to reconsider its decision to grandfather all vertically integrated programming services carried as of December 4, 1992 (the effective date of the 1992 Cable Act). The Commission still believes, as it held in the Second Report and Order, that the public interest would be disserved by requiring cable operators to delete vertically integrated programming services to comply with the channel occupancy caps. The Commission continues to believe that grandfathering existing arrangements will limit consumer confusion and the disruption of existing programming relationships, and is consistent with Congress' direction that our channel occupancy limits "take particular account of the market structure, ownership patterns, and other relationships of the cable television industry." (Communications Act, section 613(f)(2)(C).)

The Commission also rejects CME's contention that the decision to grandfather existing vertical arrangements "has rendered impotent" the intent of Congress to limit excessive vertical integration. First, the Commission reiterates that Congress directed it to establish "reasonable" channel occupancy limits based on competing interests; if Congress wished to require the divestiture of existing channels it could have done so. More importantly, the Commission did not grandfather non-compliance in perpetuity. Rather, the Second Report and Order provided that when a grandfathered cable system adds channel capacity, it cannot add an affiliated programming service until its system is in full compliance with the Commission's channel occupancy rules. Thus, the difference is more one of timing than of ultimate objectives. While CME suggests immediate divestiture of existing services to bring systems into compliance, the Commission's approach is to grandfather existing services and remedy non-compliance prospectively. The Commission continues to believe that its approach better reflects the various interests at stake, and thus better reflects Congress' intent.

Bell Atlantic filed a Petition for Limited Reconsideration requesting that the Commission reconsider its decision to apply the channel occupancy limits to cable systems that face actual head-to-head competition. On reconsideration, the Commission declines to modify its decision to enforce channel occupancy limits in systems which face actual head-to-head competition. With respect to Bell Atlantic's argument that channel occupancy limits are even less necessary in markets where competition exists and one of the competitors is a video dialtone service, the Commission cannot find, at this time, that video dialtone will completely eliminate the problems caused by vertical integration. Under video dialtone, a telephone company must provide sufficient capacity to serve multiple video programmers, and must expand capacity as demand increases to the extent technically feasible and economically reasonable. At this point, there are only eight commercially licensed video dialtone services in the country. None of these systems is yet operational; until that time, it is unclear whether a video dialtone system will fully address the concerns raised by channel occupancy limits. In addition, the practical effect of several recent court cases is that certain telephone companies may now provide their own programming to subscribers in their service areas. Thus, the Commission does not believe that video dialtone in its current state can provide sufficient justification to reconsider the decision to enforce channel occupancy limits in systems which face actual head-to-head competition.

The remaining arguments raised by Bell Atlantic's Petition have already been considered and rejected in the Second Report and Order. In the Second Report and Order, the Commission concluded that it should not eliminate channel occupancy limits in communities where effective competition exists because the Commission found that the effective competition standard was not adopted for this specific purpose and because it is not clear that the presence of effective competition for any cable system will address all of the relevant concerns that Congress expressed in enacting section 11 of the 1992 Cable Act. For example, the Commission noted that if a competing multichannel distributor is also vertically integrated, without channel occupancy limits, unaffiliated programming services may continue to be denied access from either outlet, thus frustrating the diversity and competition objectives of the 1992 Act.

Finally, the Commission also agrees that the statutory exemption from regulation for cable systems subject to effective competition is very limited: Congress explicitly stated in the statute that, in systems which faced effective competition, rate regulation would not be necessary. Thus, it is reasonable to assume that had Congress intended for all cable regulations to be eliminated where systems became subject to actual head-to-head competition, this statutory exemption would have been drafted much more broadly. Nowhere in either the language of section 11 or its legislative history does it state that the presence of actual head-to-head competition will render the channel occupancy limits unnecessary.

The Commission therefore concludes that there is insufficient evidence in the record before it to warrant elimination or modification of the channel occupancy limits in systems that face actual head-to-head competition. However, as the Commission indicated in the Second Report and Order, it remains aware that Congress has indicated that a primary objective of the 1992 Act was to rely on the marketplace to the maximum extent possible, and that the legislation was intended to protect consumer interests in the receipt of cable service where cable television systems are not subject to effective competition. Thus, as competition develops and the Commission gains more experience with the rules, the Commission will further analyze its rules and the industry as a whole to see whether vertical ownership limits should be phased out.

Administrative Matters

Regulatory Flexibility Act Analysis

Pursuant to sections 601–602 of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981), the Commission's final analysis is as follows:

Need and Purpose for Action: This action is being taken to address petitions for reconsideration of the channel occupancy rules adopted by the Commission to implement section 11(c) of the 1992 Cable Act.

Summary of Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis: There were no comments received in response to the Initial Regulatory Flexibility Analysis.

Significant Alternatives Considered: We have analyzed the comments submitted in light of our statutory directives and have, to the extent possible, minimized the regulatory burden on entities covered by the ownership provisions of the 1992 Cable Act.

Ordering Clauses

Accordingly, *it is hereby ordered* That pursuant to the authority in sections 1, 4 and 613 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, and 533, the petitions for reconsideration filed in this proceeding by the Center for Media Education/Consumer Federation of America and Bell Atlantic Corporation are denied.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–10719 Filed 5–1–95; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 502, 506, 513, and 552

[APD 2800.12A, CHGE 62]

RIN 3090–AF60

General Services Administration Acquisition Regulation; Miscellaneous Changes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to make miscellaneous changes by providing uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: May 8, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Lynch, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

The rule amends section 502.101 to revise the definitions of "Agency competition advocate," "Contracting activity competition advocate," and "Head of the contracting activity" to reflect current GSA organizational changes; to revise section 506.304 to delete reference to "concurrence by legal counsel" which is no longer required; to revise section 513.106 to make use of the GSA Form 2010, Small Purchase Tabulation Source List/Abstract optional rather than mandatory and to indicate that the form does not apply to purchases under $2,500; and to revise section 552.225–72 to insert the words "Basin country" after "Caribbean" in paragraph (a)(1) to correct an inadvertent omission of the words in GSAR Change 59.

B. Public Comments

This rule was not published in the **Federal Register** for Public comment because it is not a significant revision as defined in FAR 1.501–1.

C. Executive Order 12866

The rule was not submitted to the Office of Management and Budget because it is not a significant rule as defined in Executive Order 12866, Regulatory Planning and Review.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply because this rule is not a significant revision as defined in FAR 1.501–1.

E. Paperwork Reduction Act

This rule does not impose any information collection or recordkeeping requirements that require the approval of OMB under 44 U.S.C. 3501, et seq. Therefore, the requirements of the Paperwork Reduction Act do not apply.

List of Subjects in 48 CFR Parts 502, 506, 513 and 552

Government procurement, Reporting and recordkeeping requirements.

Accordingly, 48 CFR Parts 502, 506, 513 and 552 are amended as follows:

1. The authority citation for 48 CFR Parts 502, 506, 513 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 502—DEFINITION OF WORDS AND TERMS

2. Section 502.101 is amended by revising the definitions for "Agency competition advocate," "Contracting activity competition advocate" and "Head of the contracting activity" to read as follows:

502.101 Definitions.

Agency competition advocate means the GSA Competition Advocate located in the Office of Acquisition Policy.

* * * * *

Contracting activity competition advocate means the individual designated in writing by the head of the contracting activity. This authority may not be redelegated. The HCA must ensure that the designated competition advocate is not assigned any duty or responsibility that is inconsistent with the advocacy function. The identity of the designated official shall be communicated to procuring staff and the Senior procurement executive.

* * * * *

Head of the contracting activity means the Associate Administrator for Acquisition Policy, Commissioners of the Federal Supply Service (FSS), Information Technology Service (ITS), Public Buildings Service (PBS), or Regional Administrators. The Associate Administrator for Acquisition Policy serves as the HCA for Central Office contracting activity outside of FSS, ITS and PBS.

* * * * *

PART 506—COMPETITION REQUIREMENTS

3. Section 506.304 is amended by revising the introductory text to read as follows:

506.304 Approval of the justification.

The justification (except for contracts awarded under FAR 6.302–7) must be approved by:

* * * * *

PART 513—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

3. Section 513.106 is amended by revising paragraph (c)(2) to read as follows:

513.106 Competition and price reasonableness.

* * * * *

(c) * * *

(2) The GSA Form 2010, Small Purchases Tabulation Source List/Abstract, or an automated equivalent which provides substantially the same documentation, must be used to document written and oral quotations (except small purchases $2,500 or less).

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 552.225–72 is amended by revising paragraph (a)(1) of the clause to read as follows:

552.225–72 Eligible Products from Nondesignated Countries—Waiver.

* * * * *

(a) * * *

(1) No responsive bid or technically acceptable offer from a responsible offeror is received offering U.S. or designated country end products, Caribbean Basin country end products, Canadian or Mexican end products

VOL
60
ISS
84
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1995
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as defined in the clause entitled "Trade Agreement Act" in this solicitation; or

* * * * *

Dated: April 20, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy.

[FR Doc. 95–10547 Filed 5–1–95; 8:45 am]

BILLING CODE 6825–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[Docket No. 950414106–5106–01; I.D. 121494A]

RIN 0648–AF63

Atlantic Shark Fisheries; Semiannual Quotas for Large Coastal and Pelagic Sharks

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to establish semiannual commercial quotas for Atlantic large coastal sharks and Atlantic pelagic sharks under the framework provisions of the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP), at 1994 levels. These quotas apply to permitted vessels for 1995 and, unless adjusted, for future years. This final rule is intended to reduce the probability of overfishing, by maintaining the current semiannual quotas for the pelagic shark species group and rejecting the planned 1995 increases in the semiannual commercial quotas increase for the large coastal species group.

EFFECTIVE DATE: May 1, 1995.

ADDRESSES: Requests for copies of the environmental assessment and regulatory impact review (EA/RIR) should be sent to Richard B. Stone, Chief, Highly Migratory Species Management Division, ffice of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, 301–713–2347, FAX 301–713–0596; Michael E. Justen, 813–570–5305 or Kevin B. Foster, 508–281–9260.

SUPPLEMENTARY INFORMATION: The fishery for Atlantic sharks is managed under the FMP prepared by NMFS under authority of section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), and implemented in April 1993 through regulations found at 50 CFR part 678.

For the reasons explained below, NMFS is implementing the following semiannual quotas: Large coastal species = 1,285 metric tons dressed weight (mtdw); Pelagic species = 290 mtdw. The notice of proposed rulemaking was published on January 6, 1995 (60 FR 2071), with a request for comments. The notice of proposed rulemaking contained background information which is not repeated here.

Comments and Responses

Commercial Quotas

Comments: Written comments on the proposed commercial quotas were provided by one Fishery Management Council, three conservation organizations, one directed commercial shark fishing organization (petition with 49 entries), one incidental commercial shark fishing organization, one seafood production company, and 64 individuals whose comments addressed the proposed commercial quotas. Commenters suggested four possible options: (1) Commercial quotas should be allowed to increase as scheduled in the FMP, (2) commercial quotas should be maintained at the current level until additional data on the status of the stocks can be evaluated, (3) commercial quotas should be significantly reduced, and (4) the commercial shark fishery should be closed until there are clear signs of stock recovery.

Response: NMFS has examined the four possible commercial quota options and has determined that the total allowable catch (TAC) for 1995 should remain at the 1994 level, as recommended by the 1994 Shark Evaluation Workshop (SEW) and members of the Shark Operations Team (OT). A new stock assessment and fishery evaluation (SAFE) report is currently in preparation and will be published in 1995. If appropriate, the Assistant Administrator for Fisheries, NOAA (AA) may reexamine the quota levels and make determinations on adjustments to future quotas.

Large Coastal and Pelagic Shark Quotas

The framework provisions of the FMP allow the AA to make adjustments in the management measures in order to achieve the objectives of the FMP. NMFS has determined that the 1994 semiannual quotas of 1,285 mt, which represented for the year only a 5 percent increase over 1993, should be set as the semiannual commercial quotas for the large coastals group for 1995. This, in the opinion of NMFS, represents a reasonable compromise between alternatives, pending future scientific analyses that may suggest the need for different quotas.

The alternative of increasing the commercial quotas as planned in the FMP was rejected primarily on the basis of recommendations from the SEW and members of the OT. The SEW concluded that "the weight of evidence does not support the previous (FMP) recommendation that the 1994 or 1995 TAC should automatically increase." The OT met in July 1994, and generally agreed with this conclusion. Thus, the rebuilding plan outlined in the FMP has been determined to be inadequate to achieve the goal of rebuilding the large coastal sharks resource to a level consistent with the maximum sustainable yield (MSY). As a result, NMFS has rejected planned quota increases for 1995. Whether the selected semiannual quotas of 1,285 mt (equivalent to the 1994 semiannual quotas) will lead to rebuilding in 1995 and beyond is currently uncertain. The likelihood of stock rebuilding for this and other quota levels will be addressed in future stock assessments.

In terms of the semiannual quota increase that has already gone into effect, NMFS believes that the 5 percent reduction in quotas necessary to return to the 1993 level could have a large negative impact on the large coastal shark fishing industry, while it is unlikely to change substantially the future dynamics of the large coastal shark resource. Until recently, the fishing industry had anticipated that the scheduled increases in the FMP would take place, and had planned operations accordingly. Subsequently, the industry has had to replan and scale down projected production schedules. Further scaling down could result in greater negative consequences which, in the opinion of NMFS, may not be warranted.

In terms of benefits to the large coastal shark resource, NMFS believes that action to forestall the planned 30.3 percent increase of the 1995 semiannual quotas for the year over the 1993 quotas has far greater significance for the future viability of the various shark stocks. NMFS believes that it is not worth putting the industry at a disadvantage for the sake of a quota reduction of the order of 5 percent, which may have been within the margin of error of quota monitoring capabilities in the past.

Comments received from the Delaware Division of Fish and Wildlife through the Delaware Coastal Management Program recommended that the quota for 1995 be further reduced. Three conservation organizations and numerous individuals also requested that the quota be reduced. Large reductions in the established quota would likely cause substantial financial hardship for vessels already commercially fishing for large coastal sharks. A complete closure of the established directed shark fishery for large coastal sharks would result in severe financial hardships for vessels already participating in the fishery, and could result in the displacement of vessels and crews from the large coastal shark fishery into other fisheries, including pelagic and small coastal sharks.

The Delaware Coastal Management Program has requested additional information concerning the basis for maintaining the quota at status quo, expressing a preference that the quota be further reduced. The AA has agreed to continue discussion on quota levels with Delaware officials, and Delaware officials have agreed that the proposed quota should be established by a final rule prior to a final resolution of this issue, because otherwise the fishery would be unrestricted.

While the 1994 SEW focused on the large coastal shark species group, declining catch per unit of effort and life history characteristics indicating low productivity for pelagics and small coastals also suggest that a prudent approach is warranted for these groups. No new analyses were presented upon which to modify MSY or TAC of the pelagic and small coastal sharks. Accordingly, NMFS sets the semiannual commercial quotas for large coastal and pelagic sharks for 1995 at the 1994 levels. At present, no quota has been established for the small coastal species group. When analyses are presented, the AA may propose an appropriate quota for small coastal sharks.

NMFS also removes the specification of the year from those parts of the regulatory text referring to quotas. Thus, if a change in quota level from a previous year is not published, a change in the regulatory text will not be necessary to continue the previous level for the new year.

Classification

The AA has determined that this rule is necessary for conservation and management of shark resources in the Atlantic Ocean and is consistent with the national standards and other provisions of the Magnuson Act, and other applicable law. This final rule has been determined to be not significant for purposes of E.O. 12866. The quotas for 1995 are within the range analyzed in the Regulatory Flexibility Analysis (RFA) included in the EA/RIR prepared for the FMP and no new RFA has been prepared.

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 678 is amended as follows:

PART 678—ATLANTIC SHARKS

1. The authority citation for part 678 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 678.24, paragraph (b) is revised to read as follows:

§ 678.24 Commercial quotas.

* * * * *

(b) *Semiannual quotas.* The following commercial quotas apply:

(1) For the period January 1 through June 30:

(i) Large coastal species—1,285 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

(2) For the period July 1 through December 31:

(i) Large coastal species—1,285 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

* * * * *

[FR Doc. 95–10738 Filed 4–27–95; 1:36 pm]

BILLING CODE 3510–22–F

VOL
60
ISS
84
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Proposed Rules

Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–03–AD]

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A300–600 series airplanes. This proposal would require repetitive inspections to detect cracks in the bottom skin of the wing in the area of the cutout for the pylon rear attachment fitting, and repair, if necessary. This proposal is prompted by a report indicating that, during full-scale fatigue testing, a crack was found in the bottom skin of the wing at the cutout for the aft pylon attachment fitting due to fatigue-related stress. The actions specified by the proposed AD are intended to prevent such fatigue-related cracking, which could result in reduced structural integrity of the wing.

DATES: Comments must be received by June 12, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–03–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–03–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–03–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A300–600 series airplanes. The DGAC advises that, during full scale fatigue testing, a crack was found in the bottom skin of the wing at the cut out for the aft pylon attachment fitting after the airplane accumulated approximately 58,650 total simulated flights. Investigation revealed that such cracking was caused by fatigue-related stress. Such fatigue-related cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the wing.

Airbus has issued Service Bulletin A300–57–6028, Revision 3, dated September 13, 1994, which describes procedures for repetitive detailed visual inspections to detect cracks in the bottom skin of the wing in the area of the cut out for the pylon rear attachment fitting, and repair, if necessary. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 94–069–158(B), dated March 30, 1994, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive detailed visual inspections to detect cracks in the wing bottom skin of the wing in the area of the cut out for the pylon rear attachment fitting, and repair, if necessary. The inspection actions would be required to be accomplished in accordance with the service bulletin described previously. Any necessary repair of the wing bottom skin would be required to be accomplished in accordance with a method approved by the FAA.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long standing requirement.

The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $12,600, or $360 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 95–NM–03–AD.

Applicability: All Model A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the wing, accomplish the following:

(a) Prior to the accumulation of 24,000 total flight cycles since date of manufacture of the airplane, or within 750 flight cycles after the effective date of the AD, whichever occurs later, perform a detailed visual inspection to detect cracks in the bottom skin of the wing in the area of the cut out for the pylon rear attachment fitting, in accordance with Airbus Service Bulletin A300–57–6028, Revision 3, dated September 13, 1994. Repeat the inspection thereafter at intervals not to exceed 9,000 flight cycles. If any crack is detected, prior to further flight, repair the wing bottom skin in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–13. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 26, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10710 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–CE–20–AD]

Airworthiness Directives; Twin Commander Aircraft Corporation 680, 681, 690, and 695 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Twin Commander Aircraft Corporation (Twin Commander) 680, 681, 690, and 695 series airplanes. The proposed action would require installing a placard warning the pilot to observe turbulent air penetration speeds. Two accidents involving Model 690 airplanes where the affected airplanes encountered turbulence while descending at high speeds prompted the proposed action. The actions specified by the proposed AD are intended to prevent structural damage to the airplane caused by excessive turbulence, which could result in loss of the airplane.

DATES: Comments must be received on or before June 28, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–20–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

VOL 60 ISS 84 MY 2 1995 UMI

Service information that applies to the proposed AD may be obtained from the Twin Commander Aircraft Corporation, 19010 59th Drive, N.E., Arlington, Washington 98223. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Pasion, Aerospace Engineer, FAA, Northwest Mountain Region, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone (206) 227–2594; facsimile (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 95–CE–20–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–CE–20–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Two Twin Commander Model 690C airplanes were recently involved in accidents where the pilot encountered excessive turbulence while descending at high speeds. In both of these accidents the airplane was lost. Wind gusts associated with turbulence can result in increased loads on the wing, resulting in possible airplane structural damage and loss of the airplane.

Reducing airspeed in turbulence reduces the effect of these gust-induced loads during turbulence. Maintaining airspeed at Turbulent Air Penetration speed or Maneuvering speed provides an increase in structural margin when encountering turbulence. Operating the airplane at Maneuvering speed is the safest speed for flight in turbulence. Turbulent Air Penetration and Maneuvering speeds are both well below the red-line limits of the maximum operating limit speed (VMO/MMO).

Twin Commander has issued Service Bulletin No. 220, dated February 1, 1995, which re-emphasizes the importance of reducing airspeed before descending into known turbulence or reducing airspeed immediately upon entering unexpected turbulence on the following airplanes:

Models	Serial No.
680T and 680V	1473 through 1720.
680W	1721 through 1850.
681	6001 through 6072.
690	11001 through 11079.
690A	11100 through 11344.
690B	11350 through 11566.
690C	11600 through 11735.
690D	15001 through 15042.
695	95000 through 95084.
695A	96000 through 96100.
695B	96201 through 96208.

This service bulletin also references a placard and airplane flight manual/pilot operating handbook (AFM/POH) revisions to advise airplane operators of target speeds for operation during turbulence.

After examining the circumstances and reviewing all available information related to the accidents described above including the referenced service information, the FAA has determined that AD action should be taken to prevent structural damage to the airplane caused by excessive turbulence, which could result in loss of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other Twin Commander 680, 681, 690, and 695 series airplanes (specific models and serial numbers presented above) of the same type design, the proposed AD would require incorporating a placard and AFM/POH revisions that warn the airplane operator of the importance of observing the Turbulent Air Penetration and Maneuvering speeds. The following kits include the placard and AFM/POH revisions:

Kit No.	Model affected
SB220–1	680T.
SB220–2	680V.
SB220–3	680W.
SB220–4	681.
SB220–5	690.
SB220–6	690A.
SB220–7	690B.
SB220–8	690C.
SB220–9	690D.
SB220–10	695.
SB220–11	695A.
SB220–12	695B.

The FAA estimates that 566 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $38 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $55,468. This figure is based on the assumption that no affected airplane owner/operator has incorporated the placard and AFM/POH revisions included with the applicable SB220 kit. Twin Commander has informed the FAA that no kits have been distributed to the owners/operators of the affected airplanes.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new AD to read as follows:

Twin Commander Aircraft Corporation: Docket No. 95–CE–20–AD.

Applicability: The following airplane models and serial numbers, certificated in any category.

Models	Serial No.
680T and 680V	1473 through 1720.
680W	1721 through 1850.
681	6001 through 6072.
690	11001 through 11079.
690A	11100 through 11344.
690B	11350 through 11566.
690C	11600 through 11735.
690D	15001 through 15042.
695	95000 through 95084.
695A	96000 through 96100.
695B	96201 through 96208.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent structural damage to the airplane caused by excessive turbulence, which could result in loss of the airplane, accomplish the following:

(a) Install the placard (to the windshield centerpost) and incorporate the airplane flight manual/pilot operating handbook (AFM/POH) revisions that are included with the kits presented below. The placard and AFM/POH revisions provide warnings to the airplane operator of the importance of observing the Turbulent Air Penetration and Maneuvering speeds:

Kit No.	Model affected
SB220–1	680T.
SB220–2	680V.
SB220–3	680W.
SB220–4	681.
SB220–5	690.
SB220–6	690A.
SB220–7	690B.
SB220–8	690C.
SB220–9	690D.
SB220–10	695.
SB220–11	695A.
SB220–12	695B.

Note 2: Twin Commander Service Bulletin No. 220, dated February 1, 1995, relates to the subject of this AD, and references the SB220 service kits specified above.

(b) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055–4056. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Twin Commander Aircraft Corporation, 19010 59th Drive, NE., Arlington, Washington 98223; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 26, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10711 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 95–AGL–1]

Proposed Modification of Class D Airspace and Removal of Class E Airspace, Rockford, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class D airspace area and remove the Class E2 airspace area at Greater Rockford Airport, Rockford, IL. The Rockford Air Traffic Control Tower (ATCT) is a continuous (24 Hour a day) operation. The intent of this proposal is to amend the Class D airspace area's effective hours to coincide with the associated control tower's hours of operation, by changing the Class D airspace from part-time to full-time. The Class E2 airspace was previously needed to clarify when two-way radio communication with the ATCT was required and to provide adequate Class E airspace for instrument approach procedures when the control tower is closed. The airspace is no longer needed since the ATCT is now a continuous operation; therefore, the intent is to remove the part-time Class E2 airspace.

DATES: Comments must be received on or before June 15, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 95–AGL–1, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT:

Angeline Perri, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7571.

VOL 60 ISS 84 MY 2 1995 UMI

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 95–AGL–1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class D airspace area and remove the Class E2 airspace area at Greater Rockford Airport, Rockford, IL. The Rockford ATCT is a continuous (24 hour a day) operation. The intent of this proposal is to amend the Class D airspace area's effective hours to coincide with the associated control tower's hours of operation, by changing the Class D airspace from part-time to full-time. The Class E2 airspace was previously needed to clarify when two-way radio communication with the ATCT was required and to provide adequate Class airspace for instrument approach procedures when the control tower is closed. The airspace is no longer needed since the ATCT is now a continuous operation; therefore, the intent is to remove the part-time Class E2 airspace. Aeronautical maps and charts would reflect the defined area which would enable pilots to circumnavigate the area or otherwise comply with IFR procedures. Class D and E airspace designations are published in Paragraphs 5000 and 6002, respectively, of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[Amended]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 5000 General

* * * * *

AGL IL D Rockford, IL [Revised]

Rockford, Greater Rockford Airport, IL
(Lat. 42°11'46"N, long. 89°05'38"W)
Greater Rockford ILS Localizer
(Lat. 42°12'36"N, long 89°05'17"W)
GILMY LOM
(Lat. 42°06'52"N, long. 89°05'55"W)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.4-mile radius of the Greater Rockford Airport and within 1.8 miles each side of the Greater Rockford Runway 36 ILS localizer course, extending south from the 4.4-mile radius to the GILMY LOM.

* * * * *

Paragraph 6002 Class E Airspace Areas Designated as a Surface Area for an Airport

* * * * *

AGL IL E2 Rockford, IL [Removed]

* * * * *

Issued in Des Plaines, Illinois on April 17, 1995.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 95–10774 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 90F–0344]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Polymaleic Acid and its Sodium Salt

AGENCY: Food and Drug Administration, HHS.

ACTION: Tentative final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing its tentative decision to amend the food additive regulations to increase the permitted use level of polymaleic acid and its sodium salt to control mineral scale during the production of beet and cane sugar juice and liquor. FDA is also announcing its tentative decision to amend the specifications for the additives and to revise the analytical method for measuring those specifications. This action is in response to a petition filed by Ciba-Geigy, Inc.

DATES: Written comments by July 17, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vincent E. Zenger, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3105.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 28, 1990 (55 FR 49426), FDA announced that a food additive petition (FAP 0A4226) had been filed by Ciba-Geigy Inc., proposing that § 173.45 *Polymaleic acid and its sodium salt* (21 CFR 173.45) be amended to provide for the safe use of polymaleic acid and its sodium salt to control mineral scale during the production of beet and cane sugar juice and liquor at higher levels than the maximum currently permitted under the regulation.

The petition also contained information on a new manufacturing process for polymaleic acid and its sodium salt which results in a lower weight-average molecular weight for the additives and number-average molecular weight than those currently permitted. The molecular weight determinations were based on an improved analytical method.

FDA has evaluated data in the petition (FAP 0A4226) and other relevant material. The agency concludes that the proposed increase in the food additive use level is safe, and that the regulations should be amended as set forth below. The agency tentatively concludes that the molecular weight specifications for the additives should be amended to allow for the use of products manufactured by the new technique, and that the molecular weight determinations of the additives are to be based on the improved analytical method entitled "Determinations of Molecular Weight Distribution of Poly(Maleic)Acid" submitted by Ciba-Geigy, Inc., and dated March 17, 1992, which is incorporated by reference in amended § 173.45(a). This replaces the previous method with the same title but different date that was incorporated by reference in the current § 173.45(a).

In the filing notice for the petition, the agency gave notice of the intent to increase the permitted use levels of polymaleic acid and its sodium salt but did not anticipate amending the allowed molecular weight range for the additives or the method for determining the molecular weight. The amended specifications are not intended to place new restrictions on the currently approved products, but to allow use of products manufactured by a new method and to take into account an improved method of molecular weight determination. Therefore, because the agency did not give notice of this change, it is publishing this document as a tentative final rule to allow interested parties an opportunity to comment on the amended product specifications.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, it is proposed that 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

2. Section 173.45 is amended by revising paragraphs (a) and (c) to read as follows:

§ 173.45 Polymaleic acid and its sodium salt.

* * * * *

(a) The additives have a weight-average molecular weight in the range of 540 to 850 and a number-average molecular weight in the range of 520 to 650, calculated as the acid. Molecular weights shall be determined by a method entitled "Determination of Molecular Weight Distribution of Poly(Maleic) Acid", dated March 17, 1992, produced by Ciba-Geigy, Seven Skyline Rd., Hathorne, NY 10532–2188, which is incorporated by reference. Copies are available from the Division of Product Policy, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

* * * * *

(c) The additives are to be used so that the amount of either or both additives does not exceed 4 parts per million (calculated as the acid) by weight of the beet or cane sugar juice or liquor process stream.

Dated: April 19, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–10646 Filed 5–1–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–013–88]

RIN 1545–AL57

Certain Publicly Traded Partnerships Treated as Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the classification of certain publicly traded partnerships as corporations. These proposed regulations would provide guidance needed by taxpayers to comply with changes to the law made

VOL
60
ISS
84
MY
2
1995
UMI

by the Omnibus Budget Reconciliation Act of 1987. The regulations would affect the classification of certain partnerships for federal tax purposes.

DATES: Written comments must be received by July 31, 1995. Requests to speak (with outlines of oral comments) at a public hearing scheduled for July 31, 1995, at 10 a.m. must be received by July 31, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (PS–013–88), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (PS–013–88), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. The public hearing has been scheduled to be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Christopher T. Kelley, (202) 622–3080; concerning submissions and the hearing, Michael Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Introduction

This document proposes to add § 1.7704–1 to the Income Tax Regulations (26 CFR part 1) relating to the definition of a publicly traded partnership under section 7704(b) of the Internal Revenue Code (Code).

Background

Section 7704 was added to the Code by section 10211(a) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203), as amended by sections 2004(f)(1)–(5) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647). Section 7704(a) provides that a publicly traded partnership is treated as a corporation for federal tax purposes unless the partnership meets the 90 percent qualifying income test of section 7704(c) or qualifies as an existing partnership. The term *existing partnership* is defined in § 1.7704–2. Under section 7704(b), a partnership is a publicly traded partnership if interests in the partnership are traded on an established securities market or are readily tradable on a secondary market or the substantial equivalent thereof. Section 7704 applies to all domestic and foreign entities treated as partnerships under section 7701, including limited liability companies and other entities treated as partnerships for federal tax purposes.

No regulations have been issued regarding the circumstances under which interests in a partnership are treated as publicly traded under section 7704(b). Notice 8875, 1988–2 C.B. 386, however, provides guidance on the definition of a publicly traded partnership. Notice 88–75 provides that interests in a partnership are not treated as readily tradable on a secondary market or the substantial equivalent thereof for purposes of section 7704(b)(2) if the interests are: (1) issued in certain private placements; (2) transferred pursuant to transfers not involving trading; (3) traded in amounts that meet the requirements of a 5 percent or 2 percent safe harbor; (4) transferred through a matching service that meets certain requirements; or (5) transferred pursuant to a qualifying redemption or repurchase agreement. Notice 88–75 does not address when partnership interests are treated as traded on an established securities market for purposes of section 7704(b)(1).

Explanation of Provisions

Definitions

The proposed regulations define the terms *established securities market*, *secondary market*, and the *substantial equivalent of a secondary market* for purposes of section 7704(b). These definitions reflect congressional intent as articulated in the legislative history to section 7704. See H.R. Conf. Rep. No. 495, 100th Cong., 1st Sess. 947–50 (1987) (Conference Report).

Under the proposed regulations, an *established securities market* for purposes of section 7704(b)(1) includes: (1) A national securities exchange registered under the Securities Exchange Act of 1934; (2) a national securities exchange exempt from registration because of the limited volume of transactions; (3) a foreign securities exchange; (4) a regional or local exchange; and (5) an interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise.

Under the proposed regulations, interests in a partnership that are not traded on an *established securities market* are readily tradable on a *secondary market* or the *substantial equivalent of a secondary market* for purposes of section 7704(b)(2) if the partners are readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an *established securities market*. The proposed regulations further provide that interests in a partnership are readily tradable on a *secondary market* if: (1) Interests in the partnership are regularly quoted by any person, such as a broker or dealer, making a market in the interest, or (2) any person regularly makes available to the public (including customers or subscribers) bid or offer quotes with respect to interests in the partnership and stands ready to effect buy or sell transactions at the quoted prices for itself or on behalf of others. This provision clarifies that a secondary market exists whenever interests in the partnership are subject to firm-quote trading.

The proposed regulations also provide that, if there is no secondary market, interests in a partnership are readily tradable on the *substantial equivalent of a secondary market* if: (1) The holder of an interest in the partnership has a readily available, regular, and ongoing opportunity to sell or exchange the interest through a public means of obtaining or providing information of offers to buy, sell, or exchange interests, or (2) prospective buyers and sellers have the opportunity to buy, sell, or exchange interests in a time frame and with the regularity and continuity that the existence of a secondary market would provide.

The proposed regulations define an interest in a partnership for purposes of section 7704(b) as any interest in the capital or profits of the partnership (including any right to partnership distributions) and any financial instrument or contract the value of which is determined in whole or in part by reference to the partnership (including the amount of partnership distributions, the value of partnership assets, or the results of partnership operations). This definition is intended to prevent the avoidance of section 7704(b) through the creation and transfer of interests other than traditional partnership interests, such as the creation and transfer of derivative partnership interests. The proposed regulations also provide several exceptions to the definition of an interest in the partnership. Under these exceptions, an interest in the partnership does not include non-convertible debt or an interest in a partnership or a corporation that holds an interest in a lower-tier partnership. For example, an interest in a regulated investment company that holds an interest in a partnership is not treated as an interest in the partnership.

The proposed regulations also define a transfer of an interest in a partnership to include a transfer in any form, including a redemption by the partnership or the entering into of a financial instrument or contract described above. This provision applies only for purposes of determining when a transaction is treated as a transfer for purposes of section 7704(b) and does not apply in determining any other federal tax consequences of a transaction, including whether the transaction is a sale or exchange or whether the transferee is a partner of the partnership for any purpose other than section 7704(b).

The proposed regulations also provide that a transfer of an interest in a partnership is taken into account for purposes of section 7704(b) only if: (1) The partnership redeems the interest; (2) the transferee is admitted as a partner; or (3) the partnership otherwise recognizes any rights of the transferee, such as a right of the transferee to partnership distributions (directly or indirectly) or the right of the transferee to acquire an interest in the capital or profits of the partnership. For example, if a partner enters into a financial contract providing for a payment by the partner in an amount calculated by reference to the amount of partnership distributions, the financial contract is treated as an interest in the partnership and the entering into the contract is treated as a transfer of an interest for purposes of section 7704. The transfer is not taken into account, however, unless the partnership admits the transferee as a partner or otherwise recognizes the rights of the transferee to partnership distributions by, for example, making distributions directly to the transferee or to a third party on behalf of the transferee. This provision is intended to limit transfers for purposes of section 7704(b) to transfers that the partnership is aware of and has recognized, thereby preventing a partnership from becoming publicly traded without the knowledge or participation of the partnership.

Transfers That Do Not Create Public Trading

As discussed above, guidance issued in Notice 88–75 provided certain exclusions for purposes of section 7704(b)(2). The proposed regulations generally adopt these exclusions with certain modifications. The modifications are necessary to more appropriately implement congressional intent and to ensure that any partnership in which interests are subject to firm-quote trading is treated as a publicly traded partnership under section 7704. As in Notice 88–75, none of these exclusions apply in determining whether interests in a partnership are traded on an established securities market.

The proposed regulations adopt the exclusion in section II.A of Notice 88–75 for partnership interests issued in certain private placements with four modifications. First, the proposed regulations provide that the exclusion applies only for purposes of determining whether interests in a partnership are readily tradable on the substantial equivalent of a secondary market. Unlike Notice 88–75, this exclusion does not apply for purposes of determining whether the interests are readily tradable on a secondary market. As a result, a private placement partnership is treated as a publicly traded partnership if the interests in the partnership are readily tradable on a secondary market. This modification was made to ensure that, consistent with the purpose of section 7704(b), all partnerships, including private placement partnerships, are treated as publicly traded if interests in the partnership are subject to firm-quote trading.

Secondly, the proposed regulations provide that the private placement exclusion does not apply if the partnership has more than 50 partners at any time during its taxable year and the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in paragraph (d) of this section) exceeds 10 percent of the total interests in partnership capital or profits. This modification was made because transfers in excess of 10 percent indicate the existence of the type of market that section 7704(b) intended to treat as public trading. This modification does not apply to partnerships with 50 or fewer partners because such partnerships are unlikely to develop any public trading.

Thirdly, as in Notice 88–75, the private placement exclusion applies only if the partnership does not have more than 500 partners or the initial offering price of each unit of partnership interest is at least $20,000. The proposed regulations clarify that a partnership satisfies the 500 partner requirement only if the partnership does not have more than 500 partners at any time during the taxable year of the partnership. Finally, the proposed regulations provide that the indirect ownership rule for determining the number of partners in a partnership does not apply to persons owning interests in a partnership through a regulated investment company (as defined in section 851) or a real estate investment trust (as defined in section 865).

The proposed regulations adopt, with two additions, the exclusion contained in section II.B of Notice 88–75 for transfers not involving trading (private transfers). Under the proposed regulations, private transfers include all of the transfers described in section II.B of Notice 88–75 plus: (1) distributions from an individual retirement account, and (2) transfers by one or more partners of interests representing more than 50 percent of the total interests in partnership capital and profits in one transaction or a series of related transactions. The proposed regulations also provide that a block transfer means the transfer by a partner in one or more transactions during any 30 calendar day period of partnership interests representing in the aggregate more than 2 percent of the total interests in partnership capital or profits, rather than 5 percent as in Notice 88–75.

In lieu of the 5 percent and 2 percent safe harbors contained in section II.C of Notice 88–75, the proposed regulations provide a more limited *de minimis* trading exclusion. The percentage safe harbors in Notice 88–75 applied in determining whether interests in a partnership were readily tradable on a secondary market or the substantial equivalent thereof. The Conference Report, however, gives no indication that a *de minimis* level of trading on a secondary market should be permitted, and the IRS and Treasury do not believe that a broad-based *de minimis* rule that allows firm-quote trading on a secondary market is appropriate. Furthermore, the percentage safe harbors contained in Notice 88–75 apparently have encouraged the type of firm-quote trading that Congress intended to prohibit by enacting section 7704.

Accordingly, the proposed regulations provide that interests in a partnership are not readily tradable on a substantial equivalent of a secondary market if the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership does not exceed 2 percent of the total interests in partnership capital or profits. All transfers of an interest in a partnership (including redemptions) are taken into account for purposes of this 2 percent rule, except for: (1) Private transfers; (2) transfers pursuant to redemption and repurchase agreements meeting certain requirements as specified in the regulations; and (3) transfers pursuant to a qualified matching service, discussed below. The 2 percent rule differs from the percentage safe harbors in Notice 88–75 because the 2 percent rule applies only for purposes of determining

VOL
60
ISS
84
MY
2
1995
UMI

whether interests in a partnership are readily tradable on the substantial equivalent of a secondary market. As a result, the 2 percent rule does not apply in determining whether interests are readily tradable on a secondary market and thus does not apply to partnerships with interests subject to firm quote trading.

The proposed regulations contain a qualified matching service exclusion similar to the matching service exclusion contained in section II.D of Notice 88–75. The proposed regulations, however, contain certain modifications designed to prevent a qualified matching service from operating as a secondary market or the substantial equivalent thereof. For example, the matching service can display only nonfirm quotes or nonbinding indications of interest and cannot provide firm quotes or two-sided quotes. The selling partner cannot enter into a binding agreement to sell an interest until the 15th calendar day after the date information regarding the offering of an interest for sale is made available to potential buyers, and closing of the sale cannot occur prior to the 30th calendar day after the first day that the seller can enter into a binding agreement to sell the interest. The matching service must obtain written representations from any subscribers that the subscribers and their customers will not act as market makers for any partnership interest listed on the matching service and that the subscriber, acting on its own account or on behalf of the same investor, will not enter offers for interests in the same partnership more than once in any 15 calendar day period.

As in Notice 88–75, this matching service exclusion does not apply if more than 10 percent of the total percentage interests in partnership capital or profits is transferred during the taxable year. For purposes of this 10 percent limitation, all transfers (other than private transfers) are considered, including transfers that do not take place on the matching service and transfers that are eligible for another exclusion under the proposed regulations. For example, if 1 percent of the total partnership interests in capital or profits is transferred on a nonqualified matching service, the amount of interests that can be transferred pursuant to a qualified matching service and still qualify for the matching service exclusion is reduced to 9 percent.

The proposed regulations clarify that certain activities will not prevent a matching service from qualifying for the exclusion. Under the proposed regulations, a qualifying matching service may provide: (1) Prior pricing information, including information regarding resales of interests and actual prices paid for interests; (2) a description of the business of the partnership; and (3) financial and reporting information from the partnership's financial statements and reports. The operator of the matching service may also assist with the transfer documentation necessary to transfer the partnership interest. The operator may receive and deliver funds for completed transactions, and its fee may be a flat fee for use of the service, a fee based on completed transactions, or any combination thereof. While these activities may allow the operator of the matching service to assist in the completion of the transfer, the activities should not, by themselves, result in the type of activity that would cause the matching service to be a secondary market or the substantial equivalent thereof under section 7704(b)(2).

The proposed regulations adopt the exclusions for redemption and repurchase agreements contained in section II.E of Notice 88–75 with no significant modifications.

The IRS and Treasury request comments on the proposed regulations. In particular, comments are requested concerning: (1) Whether transitional relief is necessary for partnerships that qualified for an exclusion contained in Notice 88–75, but do not qualify for an exclusion contained in the proposed regulations and, if so, what type of relief would be appropriate; (2) whether further modifications to the private placement exclusion are necessary in light of developments in the securities laws since the issuance of Notice 88–75, including the issuance of Rule 144A (17 CFR 230.144A) and Regulation S (17 CFR 230.901); and (3) which members in a limited liability company or other entity that is treated as a partnership for federal tax purposes should be treated as general partners for purposes of determining the percentage interests in partnership capital or profits transferred during the taxable year of the partnership under paragraph (j)(1) of the proposed regulations.

Proposed Effective Date

These regulations are proposed to apply for taxable years of a partnership beginning on or after the date the final regulations are published in the **Federal Register**. The provisions of Notice 88–75 regarding the definition of readily tradable on a secondary market or the substantial equivalent thereof for purposes of section 7704(b) will continue to apply until these regulations are effective.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for July 31, 1995, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed (a signed original and eight (8) copies) by July 31, 1995.

A period of 10 minutes will be allotted for each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information: The principal author of these regulations is Christopher T. Kelley, Office of Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 1.7704–1 is added to read as follows:

§ 1.7704–1 Publicly traded partnerships.

(a) *In general*—(1) *Publicly traded partnership.* A domestic or foreign partnership is a publicly traded partnership for purposes of section 7704(b) and this section if—

(i) Interests in the partnership are traded on an established securities market; or

(ii) Interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof.

(2) *Partnership interest*—(i) *In general.* For purposes of section 7704(b) and this section, an interest in a partnership includes—

(A) Any interest in the capital or profits of the partnership (including the right to partnership distributions); and

(B) Any financial instrument or contract the value of which is determined in whole or in part by reference to the partnership (including the amount of partnership distributions, the value of partnership assets, or the results of partnership operations).

(ii) *Exception for non-convertible debt.* For purposes of section 7704(b) and this section, an interest in a partnership does not include any financial instrument or contract that—

(A) Is treated as debt for federal tax purposes; and

(B) Is not convertible into or exchangeable for an interest in the capital or profits of the partnership and does not provide for a payment of equivalent value.

(iii) *Exception for tiered entities.* For purposes of section 7704(b) and this section, an interest in a partnership or a corporation (including a regulated investment company as defined in section 851 or a real estate investment trust as defined in section 856) that holds an interest in a partnership (lower-tier partnership) is not considered an interest in the lower-tier partnership.

(3) *Definition of transfer.* For purposes of section 7704(b) and this section, a transfer of an interest in a partnership means a transfer in any form, including a redemption by the partnership or the entering into of a financial instrument or contract described in paragraph (a)(2)(i)(B) of this section.

(4) *Transfers taken into account.* For purposes of section 7704(b) and this section, a transfer of an interest in a partnership is taken into account only if—

(i) The transferee is admitted as a partner;

(ii) The partnership otherwise recognizes any rights of the transferee, such as a right of the transferee to partnership distributions (directly or indirectly) or the right of the transferee to acquire an interest in the capital or profits of the partnership; or

(iii) The partnership redeems or repurchases the interest.

(b) *Established securities market.* For purposes of section 7704(b) and this section, an established securities market includes—

(1) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);

(2) A national securities exchange exempt from registration under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) because of the limited volume of transactions;

(3) A foreign securities exchange that, under the law of the jurisdiction where it is organized, satisfies regulatory requirements that are analogous to the regulatory requirements under the Securities Exchange Act of 1934 described in paragraph (b)(1) or (2) of this section (such as the London International Financial Futures Exchange; the Marche a Terme International de France; the International Stock Exchange of the United Kingdom and the Republic of Ireland, Limited; the Frankfurt Stock Exchange; and the Tokyo Stock Exchange);

(4) A regional or local exchange; and

(5) An interdealer quotation system that regularly disseminates firm buy or sell quotations by identified brokers or dealers by electronic means or otherwise.

(c) *Readily tradable on a secondary market or the substantial equivalent thereof*—(1) *In general.* For purposes of section 7704(b) and this section, interests in a partnership that are not traded on an established securities market (within the meaning of section 7704(b) and paragraph (b) of this section) are readily tradable on a secondary market or the substantial equivalent thereof if the partners are readily able to buy, sell, or exchange their partnership interests in a manner that is comparable, economically, to trading on an established securities market.

(2) *Secondary market.* For purposes of paragraph (c)(1) of this section, interests in a partnership are readily tradable on a secondary market if-(i) Interests in the partnership are regularly quoted by any person, such as a broker or dealer, making a market in the interests; or

(ii) Any person regularly makes available to the public (including customers or subscribers) bid or offer quotes with respect to interests in the partnership and stands ready to effect buy or sell transactions at the quoted prices for itself or on behalf of others.

(3) *Substantial equivalent of a secondary market.* For purposes of paragraph (c)(1) of this section, interests that are not readily tradable on a secondary market are readily tradable on the substantial equivalent of a secondary market if—

(i) The holder of an interest in the partnership has a readily available, regular, and ongoing opportunity to sell or exchange the interest through a public means of obtaining or providing information of offers to buy, sell, or exchange interests in the partnership; or

(ii) Prospective buyers and sellers have the opportunity to buy, sell, or exchange interests in the partnership in a time frame and with the regularity and continuity that the existence of a secondary market would provide.

(d) *Transfers not involving trading*—(1) *In general.* For purposes of section 7704(b) and this section, the following transfers (*private transfers*) are disregarded in determining whether interests in a partnership are readily tradable on a secondary market or the substantial equivalent thereof—

(i) Transfers in which the basis of the partnership interest in the hands of the transferee is determined, in whole or in part, by reference to its basis in the hands of the transferor or is determined under section 732;

(ii) Transfers at death;

(iii) Transfers between members of a family (as defined in section 267(c)(4));

(iv) Transfers involving the issuance of interests by (or on behalf of) the partnership in exchange for cash, property, or services;

(v) Transfers involving distributions from a retirement plan qualified under section 401(a) or an individual retirement account;

(vi) Block transfers (as defined in paragraph (d)(2) of this section);

(vii) Transfers pursuant to a right under a redemption or repurchase agreement (as defined in paragraph (d)(3) of this section) that is exercisable only—

VOL 60 ISS 84 MY 2 1995 UMI

(A) Upon the death, disability, or mental incompetence of the partner; or

(B) Upon the retirement or termination of the performance of services of an individual who actively participated in the management of, or performed services on a full-time basis for, the partnership;

(viii) Transfers pursuant to a closed end redemption plan (as defined in paragraph (d)(4) of this section); and

(ix) Transfers by one or more partners of interests representing more than 50 percent of the total interests in partnership capital and profits in one transaction or a series of related transactions.

(2) *Block transfers.* For purposes of paragraph (d)(1)(vi) of this section, a block transfer means the transfer by a partner in one or more transactions during any 30 calendar day period of partnership interests representing in the aggregate more than 2 percent of the total interests in partnership capital or profits.

(3) *Redemption or repurchase agreement.* For purposes of section 7704(b) and this section, a redemption or repurchase agreement means a plan of redemption or repurchase maintained by a partnership whereby the partners may tender their partnership interests for purchase by the partnership, another partner, or a person related to another partner (within the meaning of section 267(b) or section 707(b)(1)).

(4) *Closed end redemption plan.* For purposes of paragraph (d)(1)(viii) of this section, a redemption or repurchase agreement (as defined in paragraph (d)(3) of this section) is a closed end redemption plan if—

(i) The partnership does not issue any interest after the initial offering (other than the issuance of additional interests prior to August 5, 1988); and

(ii) No partner or person related to any partner (within the meaning of section 267(b) or 707(b)(1)) provides contemporaneous opportunities to acquire interests in similar or related partnerships which represent substantially identical investments.

(e) *Redemption and repurchase agreements.* For purposes of section 7704(b) and this section, the transfer of an interest in a partnership pursuant to a redemption or repurchase agreement (as defined in paragraph (d)(3) of this section) that is not described in paragraph (d)(1) (vii) or (viii) of this section is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof only if—

(1) The redemption or repurchase agreement requires receipt of written notification from the transferor partner by the partnership or a partner (or an agent thereof) at least 60 calendar days before the redemption or repurchase date of such partner's intention to exercise the redemption or repurchase right;

(2) Either—

(i) The redemption or repurchase agreement requires that the redemption or repurchase price not be established until at least 60 calendar days after receipt of such notification by the partnership or the partner; or

(ii) The redemption or repurchase price is established not more than 4 times during the partnership's taxable year; and

(3) The sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in paragraph (d) of this section) does not exceed 10 percent of the total interests in partnership capital or profits.

(f) *Qualified matching services*—(1) *In general.* For purposes of section 7704(b) and this section, the transfer of an interest in a partnership through a qualified matching service is disregarded in determining whether interests in the partnership are readily tradable on a secondary market or the substantial equivalent thereof.

(2) *Requirements.* A matching service is a qualified matching service only if—

(i) The matching service consists of a computerized or printed listing system that lists customers' bid and/or ask prices in order to match partners who want to sell their interests in a partnership (the selling partner) with persons who want to buy those interests;

(ii) Matching occurs either by matching the list of interested buyers with the list of interested sellers or through a bid and ask process that allows interested buyers to bid on the listed interest;

(iii) The selling partner cannot enter into a binding agreement to sell the interest until the 15th calendar day after the date information regarding the offering of the interest for sale is made available to potential buyers and such time period is established by contemporaneous records maintained by the operator at a central location;

(iv) The closing of the sale effected by virtue of the matching service does not occur prior to the 30th calendar day after the first day that the selling partner can enter into a binding agreement to sell the interest (as specified in paragraph (f)(2)(iii) of this section) and such time period is established by contemporaneous records maintained by the operator at a central location;

(v) The matching service displays only quotes that do not commit any person to buy or sell a partnership interest (nonfirm price quotes) or quotes that express interest in a partnership interest without an accompanying price (nonbinding indications of interest) and does not display quotes at which any person is committed to buy or sell a partnership interest (firm quotes) or two-sided quotes;

(vi) The operator of the matching service (or any person related to the operator within the meaning of section 267(b) or section 707(b)(1)) does not quote prices at which the operator (or a related person) stands ready to buy or sell partnership interests for itself or on behalf of others, make such quotes available to the public (or customers or subscribers), or buy or sell interests for itself or on behalf of others;

(vii) The matching service obtains written representations from any subscribers to the service that—

(A) The subscriber and its customers will not create or facilitate a secondary market (within the meaning of paragraph (c)(2) of this section) for any partnership interest listed on the matching service; and

(B) The subscriber, acting for its own account or on behalf of the same investor, will not enter offers for interests in the same partnership more than once in any 15 calendar day period;

(viii) The selling partner's information is removed from the matching service within 120 calendar days after the date information regarding the offering of the interest for sale is made available to potential buyers and, following any removal (other than removal by reason of a sale of any part of such interest) of the selling partner's information from the matching service, no interest in the partnership is entered into the matching service by the selling partner for at least 60 calendar days; and

(ix) The sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in paragraph (d) of this section) does not exceed 10 percent of the total interests in partnership capital or profits.

(3) *Closing.* For purposes of paragraph (f)(2)(iv) of this section, the closing of a sale occurs no later than the earlier of—

(i) The passage of title to the partnership interest;

(ii) The payment of the purchase price; or

(iii) The date, if any, that the operator of the matching service (or any person related to the operator within the meaning of section 267(b) or section 707(b)(1)) loans, advances, or otherwise arranges for funds to be available to the seller in anticipation of the payment of the purchase price.

(4) *Optional features.* A qualified matching service may be sponsored or operated by a partner of the partnership (either formally or informally), the underwriter that handled the issuance of the partnership interests, or an unrelated third party. In addition, a qualified matching service may offer the following features—

(i) The matching service may provide prior pricing information, including information regarding resales of interests and actual prices paid for interests; a description of the business of the partnership; financial and reporting information from the partnership's financial statements and reports; and information regarding material events involving the partnership, including special distributions, capital distributions, and refinancings or sales of significant portions of partnership assets;

(ii) The operator may assist with the transfer documentation necessary to transfer the partnership interest;

(iii) The operator may receive and deliver funds for completed transactions; and

(iv) The operator's fee may consist of a flat fee for use of the service, a fee based on completed transactions, or any combination thereof.

(g) *Private placements*—(1) *In general.* For purposes of section 7704(b) and this section, interests in a partnership are not readily tradable on the substantial equivalent of a secondary market if—

(i) All interests in the partnership were issued in a transaction (or transactions) that was not required to be registered under the Securities Act of 1933;

(ii) Either—

(A) The partnership does not have more than 500 partners at any time during the taxable year of the partnership; or

(B) The initial offering price of each unit of partnership interest is at least $20,000 and the partnership agreement provides that no unit of partnership interest may be subdivided for resale into units smaller than a unit the initial offering price of which would have been at least $20,000; and

(iii) If the partnership has more than 50 partners at any time during the taxable year of the partnership, the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in private transfers described in paragraph (d) of this section) does not exceed 10 percent of the total interests in partnership capital or profits.

(2) *Number of partners.* For purposes of determining the number of partners under paragraph (g)(1) of this section—

(i) Each person indirectly owning an interest in the partnership through another partnership, a grantor trust, or an S corporation (but not through a regulated investment company, as defined in section 851, or a real estate investment trust, as defined in section 865) is treated as a partner; and

(ii) Partnerships are aggregated when they jointly operate one or more businesses, or the operations of the partnerships are interrelated, and a principal purpose for the use of multiple partnerships is to permit any of the partnerships to qualify for the rule provided under this paragraph (g).

(h) *Lack of actual trading*—(1) *General rule.* For purposes of section 7704(b) and this section, interests in a partnership are not readily tradable on the substantial equivalent of a secondary market if the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in transfers described in paragraph (d), (e), or (f) of this section) does not exceed 2 percent of the total interests in partnership capital or profits.

(2) *Examples.* The following examples illustrate the rules of this paragraph (h).

Example 1. Calculation of percentage interest transferred. (i) ABC, a calendar year limited partnership formed in 1995, has 9,000 units of limited partnership interests outstanding at all times during 1996, representing in the aggregate 95 percent of the total interests in capital and profits of ABC.

(ii) During 1996, the following transactions occur with respect to the units of ABC's limited partnership interests—

(A) 800 units are sold through the use of a qualified matching service that meets the requirements of paragraph (f) of this section;

(B) 50 units are sold through the use of a matching service that does not meet the requirements of paragraph (f) of this section; and

(C) 500 units are transferred as a result of private transfers described in paragraph (d) of this section.

(iii) The private transfers of 500 units and the sale of 800 units through a qualified matching service are disregarded under paragraph (h)(1) of this section for purposes of applying the 2 percent rule. As a result, the total percentage interests in partnership capital and profits transferred for purposes of the 2 percent rule is .528 percent, determined by—

(A) Dividing the number of units sold through a matching service that did not meet the requirements of paragraph (f) of this section (50) by the total number of outstanding limited partnership units (9,000); and

(B) Multiplying the result by the percentage of total interests represented by limited partnership units (95 percent) ([50/9,000] x .95 = .528 percent).

Example 2. Application of the 2 percent rule. (i) ABC operates a service consisting of computerized video display screens on which subscribers view and publish quotes that do not commit any person to buy or sell a partnership interest and quotes that express interest in a partnership interest without an accompanying price. The ABC service does not provide two-sided quotes or quotes at which any person (including the operator of the service) is committed to buy or sell a partnership interest. Subscribers are limited to broker-dealers registered with the National Association of Securities Dealers.

(ii) The ABC service is not an established securities market for purposes of section 7704(b)(1) and this section because the service does not satisfy any of the definitions of an established securities market in paragraph (b) of this section. The ABC service also is not a secondary market because the service does not provide two-sided quotes or quotes at which any person (including the operator of the service) is committed to buy or sell a partnership interest. Therefore, partnerships whose interests are listed and transferred on the ABC service are not publicly traded for purposes of section 7704(b) and this section as a result of such listing or transfers if the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership (other than in transfers described in paragraph (d), (e), or (f)) does not exceed 2 percent of the total interests in partnership capital or profits. In addition, assuming the ABC service complies with the necessary requirements, the service may qualify as a matching service described in paragraph (f) of this section.

Example 3. Effect of firm quotes. Assume the same facts as in *Example 2*, except that, in addition to operating the matching service, ABC regularly quotes prices at which it stands ready to buy interests in certain partnerships listed on the service. As a result of the regular quotes, interests in the quoted partnerships are readily tradable on a secondary market under paragraph (c)(2) of this section. The quoted partnerships are therefore publicly traded partnerships for purposes of section 7704 and this section, regardless of whether the sum of the percentage interests in partnership capital or profits transferred during the taxable year of the partnership exceeds 2 percent of the total interests in partnership capital or profits.

(i) [Reserved].

(j) *Percentage interests in partnership capital or profits*—(1) *Interests considered*—(i) *General rule.* Except as otherwise provided in this paragraph (j), for purposes of this section, the total interests in partnership capital or profits are determined by reference to all outstanding interests in the partnership.

(ii) *Exceptions*—(A) *General partner with greater than 10 percent interest.* If

VOL
60
ISS
84
MY
2
1995
UMI

the general partners and any person related to the general partners (within the meaning of section 267(b) or section 707(b)(1)) own, in the aggregate, more than 10 percent of the outstanding interests in partnership capital or profits at any one time during the taxable year of the partnership, the total interests in partnership capital or profits are determined without reference to the interests owned by such persons.

(B) *Derivative interests.* Any partnership interests described in paragraph (a)(2)(ii) of this section are taken into account for purposes of determining the total interest in partnership capital or profits only as and to the extent that the transfer of the interest is taken into account under paragraph (a)(4) of this section.

(2) *Monthly determination.* For purposes of this section, except in the case of block transfers (as defined in paragraph (d)(2) of this section), the percentage interests in partnership capital or profits represented by partnership interests that are transferred during a taxable year of the partnership is equal to the sum of the percentage interests transferred for each calendar month during the taxable year of the partnership in which a transfer of a partnership interest occurs (other than a private transfer as described in paragraph (d) of this section). The percentage interests in capital or profits of interests transferred during a calendar month is determined by reference to the partnership interests outstanding during that month.

(3) *Monthly conventions.* For purposes of paragraph (j)(2) of this section, a partnership may use any reasonable convention in determining the interests outstanding for a month, provided the convention is consistently used by the partnership from month to month during a taxable year and from year to year. Reasonable conventions include, but are not limited to, a determination by reference to the interests outstanding at the beginning of the month, on the 15th day of the month, or at the end of the month.

(4) *Block transfers.* For purposes of paragraph (d)(2) of this section (defining block transfers), the partnership must determine the percentage interests in capital or profits for each transfer of an interest during the 30 calendar day period by reference to the partnership interests outstanding immediately prior to such transfer.

(5) *Example.* The following example illustrates the rules of this paragraph (j).

Example. Conventions. (i) ABC limited partnership, a calendar year partnership formed in 1995, has 1,000 units of limited partnership interests outstanding on January 1, 1996, representing in the aggregate 95 percent of the total interests in capital and profits of ABC. The remaining 5 percent is held by the general partner.

(ii) The following transfers take place during 1996—

(A) On January 15, 10 units of limited partnership interests are sold in a transaction that is not a private transfer;

(B) On July 10, 1,000 additional units of limited partnership interests are issued by the partnership (the general partner's percentage interest is unchanged); and

(C) On July 20, 15 units of limited partnership interests are sold in a transaction that is not a private transfer.

(iii) For purposes of determining the sum of the percentage interests in partnership capital or profits transferred, ABC chooses to use the end of the month convention. The percentage interests in partnership capital and profits transferred during January is .95 percent, determined by dividing the number of transferred units (10) by the total number of limited partnership units (1,000) and multiplying the result by the percentage of total interests represented by limited partnership units ([10/1,000]×.95). The percentage interests in partnership capital and profits transferred during July is .7125 percent ([15/2,000]×.95). ABC is not required to make determinations for the other months during the year because no transfers of partnership interests occurred during such months. ABC may qualify for the 2 percent rule for its 1996 taxable year because less than 2 percent (.95 percent+.7125 percent=1.6625 percent) of its total interests in partnership capital and profits was transferred during that year.

(iv) If ABC had chosen to use the beginning of the month convention, the interests in capital or profits sold during July would have been 1.425 percent [(15/1,000]×.95) and ABC would not have satisfied the 2 percent rule for its 1996 taxable year because 2.375 percent (.95+1.425) of ABC's interests in partnership capital and profits was transferred during that year.

(k) *Effective date.* This section applies for taxable years of a partnership beginning on or after the date final regulations are published in the **Federal Register**.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–10765 Filed 5–1–95; 8:45 am]

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26 CFR Part 1

[FI–21–95]

RIN 1545–AT46

Definition of Personal Property for Purposes of the Straddle Rules

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the definition of personal property for purposes of the straddle rules. This action is necessary to reflect changes in the law made by the Tax Reform Act of 1984. The regulations provide guidance to persons who enter into straddle transactions.

DATES: Written comments must be received by July 31, 1995. Requests to appear and outlines of topics to be discussed at the public hearing scheduled for August 30, 1995, must be submitted by August 9, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (FI–21–95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (FI–21–95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. A public hearing has been scheduled for Wednesday, August 30, 1995, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Robert B. Williams, (202) 622–3960; concerning submissions and the hearing, Michael Slaughter, (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 1092(d) of the Internal Revenue Code provides definitions and special rules relating to straddles. Under section 1092(d)(3)(B)(i)(II), an ownership interest in stock, which generally is not treated as personal property subject to the straddle rules, may be personal property if it is part of a straddle at least one of the offsetting positions of which is, under regulations, a position with respect to substantially similar or related property (other than stock). On March 20, 1995, the IRS published final regulations (§ 1.1092(d)–2) under section 1092(d)(3)(B). Those regulations generally apply the rules of § 1.246–5 to determine whether an offsetting position is a position with respect to substantially similar or related property (other than stock) within the meaning of section 1092(d)(3)(B)(i)(II).

Explanation of Provisions

The proposed regulations clarify the definition of the term "personal property" under section 1092(d)(1) as it applies to stock. The proposed

regulations provide that personal property includes any stock of a type that is actively traded and that is part of a straddle at least one of the offsetting positions of which is a position with respect to substantially similar or related property (other than stock). For this purpose, a position with respect to substantially similar or related property (other than stock) does not include direct ownership of stock or a short sale of stock but includes any other position with respect to substantially similar or related property. These proposed regulations thus clarify that, for example, stock and an equity swap with respect to property that is substantially similar or related to that stock can constitute a straddle for purposes of section 1092.

The proposed regulations also address the scope of section 1092(d)(3)(B)(i), which provides that stock that is offset by an option with respect to that stock or substantially identical stock or by a position with respect to substantially similar or related property (other than stock) is treated as personal property under section 1092(d)(3)(B). Although this provision does not contain an explicit active trading requirement, the legislative history of the Tax Reform Act of 1984 indicates that Congress contemplated that the stock would be treated as personal property under this test only if it is of a type that is actively traded. H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess. 907 (1984). The regulations, therefore, include this requirement. In contrast, the regulations clarify that, for purposes of section 1092(d)(3)(B)(ii), if a corporation is formed or availed of to take positions in personal property that offset positions taken by any shareholder, stock of the corporation may be treated as personal property under section 1092(d)(3)(B) even if it is not actively traded.

The proposed regulations generally are effective for positions established on or after May 1, 1995. The IRS believes, however, that the regulations merely clarify the rule that applied once § 1.1092(d)–2 was promulgated. There is no implication that the results reached under these proposed regulations would not also be reached for positions established on or after March 17, 1995, and before May 1, 1995.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, August 30, 1995, at 10 a.m. The public hearing will be held in the IRS Auditorium, 7th Floor, 1111 Constitution Avenue, NW., Washington DC 20224. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by July 31, 1995 and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by August 9, 1995.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information: The principal author of these regulations is Robert B. Williams, Office of Assistant Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 1.1092(d)–2 is revised to read as follows:

§ 1.1092(d)–2 Personal property.

(a) *Special rules for stock.* As defined by section 1092(d)(1), *personal property* includes—

(1) Any stock if the stock is of a type that is actively traded and the stock is part of a straddle at least one of the offsetting positions of which is—

(i) An option with respect to that stock or substantially identical stock or securities; or

(ii) Under paragraphs (b) and (c) of this section, a position with respect to substantially similar or related property (other than stock); and

(2) Any stock, whether or not of a type that is actively traded, of a corporation formed or availed of to take positions in personal property as defined by section 1092(d)(1) that offset positions taken, directly or indirectly, by any shareholder.

(b) *Substantially similar or related property.* For purposes of section 1092(d)(3)(B)(i)(II) and this section, the term substantially similar or related property is defined in § 1.246–5 (other than § 1.246–5(b)(3)). The rule in § 1.246–5(c)(6) does not narrow the related party rule in section 1092(d)(4).

(c) *Position with respect to substantially similar or related property (other than stock).* For purposes of section 1092(d)(3)(B)(i)(II) and this section, *a position with respect to substantially similar or related property (other than stock)* does not include direct ownership of stock or a short sale of stock but includes any other position with respect to substantially similar or related property.

(d) *Example.* The following example illustrates the application of this section.

(1) *Facts*—(i) *The stock.* A acquired 10,000 shares of actively traded X stock during 1990. On September 29, 1995, those shares had a fair market value of $1,000,000.

(ii) *The swap.* On September 29, 1995, *A* entered into an "equity swap" contract with unrelated counterparty *C*, for a term of three years. Under the terms of that contract, on the last business day of each calendar quarter, *A* must pay to *C* an amount equal to the appreciation, if any, during the quarter on 10,000 shares of *X* stock. *A* also must pay to *C* an amount equal to the dividends, if any, that were paid during the quarter on 10,000 shares of *X* stock. On the last business day of each calendar quarter, *A* is to receive from *C* an amount equal to the depreciation, if any, during the quarter on 10,000 shares of *X* stock. *A* also is to receive from *C* an amount equal to the 3-month London Interbank Offered Rate (LIBOR), as determined at the close of the prior quarter, multiplied by the value of the *X* stock on that date.

(2) *Holdings*—(i) *The two legs as offsetting positions.* Because holding the equity swap

VOL 60 ISS 84 MY 2 1995 UMI

substantially diminishes *A*'s risk of loss from holding the *X* stock, the *X* stock and the equity swap are offsetting positions within the meaning of section 1092(c). The remaining question is whether these are positions with respect to personal property.

(ii) *The swap leg as a position with respect to personal property.* The equity swap contract is a position with respect to personal property as defined by section 1092(d)(1). Although section 1092(d)(3)(A) generally excludes stock from the definition of personal property, this exclusion does not apply to interests in stock. Therefore, stock can be personal property when testing whether an interest in the stock, other than a direct interest in, or a short sale of, the stock, is a position with respect to personal property. Because the equity swap contract is an interest in actively traded stock, the equity swap contract is a position with respect to personal property.

(iii) *The stock leg as personal property.* As described below, ownership of the *X* stock is also a position with respect to personal property.

(A) *The rule of section 1092(d)(3)(B)(i)(II).* Under section 1092(d)(3)(B)(i)(II) and paragraph (a)(1)(ii) of this section, stock is not excluded from the definition of personal property if it is part of a straddle at least one of the offsetting positions of which is a position with respect to substantially similar or related property (other than stock).

(B) *The swap as a position with respect to substantially similar or related property (other than stock) for purposes of section 1092(d)(3)(B)(i)(II).* Under paragraph (b) of this section, the equity swap contract is a position with respect to property that is substantially similar or related to the *X* stock because *A* is entitled to payments under the equity swap contract that are attributable to the decline in the value of the *X* stock. See § 1.246–5(c)(7). Under section 1092(d)(3)(B)(i)(II) and paragraph (c) of this section, the equity swap contract is a position with respect to substantially similar or related property (other than stock) because it is not direct ownership of stock or a short sale of stock.

(C) *The stock as part of a straddle for purposes of the test of section 1092(d)(3)(B)(i)(II).* In determining whether the *X* stock is part of a straddle for purposes of the test of section 1092(d)(3)(B)(i) and paragraph (a)(1) of this section, section 1092(d)(3)(C) treats the *X* stock as personal property. Because the stock is treated as personal property for this purpose, because the equity swap contract is a position with respect to personal property (see paragraph (d)(2)(ii) of this section), and because the *X* stock and the equity swap contract are offsetting positions (see paragraph (d)(2)(i) of this section), the straddle test in section 1092(d)(3)(B)(i) and paragraph (a)(1) of this section is satisfied. Accordingly, under section 1092(d)(3)(B), the stock is personal property for all purposes of section 1092.

(iv) *The two legs as a straddle.* Because ownership of the *X* stock and the equity swap contract are offsetting positions with respect to personal property, the *X* stock and the equity swap contract are a straddle to *A* within the meaning of section 1092(c)(1).

(e) *Effective dates*—(1) *In general.* Except as provided in paragraph (e)(2) of this section, this section applies to positions established on or after May 1, 1995.

(2) *Special rules for substantially similar or related property*—(i) *In general.* Paragraph (b) of this section applies to positions established on or after March 17, 1995.

(ii) *Special rule for certain straddles.* Paragraph (b) of this section applies to positions established after March 1, 1984, if the taxpayer substantially diminished its risk of loss by holding substantially similar or related property involving the following types of transactions—

(A) Holding offsetting positions consisting of stock and a convertible debenture of the same corporation where the price movements of the two positions are related; or

(B) Holding a short position in a stock index regulated futures contract (or alternatively an option on such a regulated futures contract or an option on the stock index) and stock in an investment company whose principal holdings mimic the performance of the stocks included in the stock index (or alternatively a portfolio of stocks whose performance mimics the performance of the stocks included in the stock index).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–10755 Filed 5–1–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and additions of statutory provisions pertaining to the North Dakota program's Small Operator Assistance Program and individual civil penalties. The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4:00 p.m., m.d.t., June 1, 1995. If requested, a public hearing on the proposed amendment will be held on May 30, 1995. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t., on May 17, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 E. "B" Street, Room 2128, Casper, WY 82601–1918, Telephone: (307) 261–5776

North Dakota Public Service Commission, Reclamation Division, Capitol Building, Bismarck, ND 58505–0165, Telephone: (701) 224–4092

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning the North Dakota program and program amendments can be found at 30 CFR 934.12, 934.13, 934.15, 934.16, and 934.30.

II. Proposed Amendment

By letter dated April 12, 1995, North Dakota submitted a proposed amendment to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*) (Amendment number XXII, Administrative Record No. ND–W–01). North Dakota submitted the proposed amendment in response to the required program amendment at 30 CFR 934.16(y) and in response to an

inconsistency with SMCRA that was identified in a July 22, 1994, rulemaking action (59 FR 37426). The provisions of the North Dakota Century Code (NDCC) that North Dakota proposes to revise or add are: NDCC 38–14.1–37(4) [SOAP, reimbursement of costs], and NDCC 38–12.1–08 [coal exploration, civil and criminal penalties].

Specifically, North Dakota proposes to revise NDCC 38–14.1–37(4) to require an operator who has received SOAP assistance under subsection 3 of the provision (training in the preparation of permit applications and compliance with the regulatory program) to reimburse the commission for the cost of the services under certain circumstances. North Dakota also proposes to revise NDCC 38–12.1–08(2) to allow the assessment of individual civil penalties only for willful specified violations. Finally, North Dakota proposes to add at NDCC 38–12.1–08(3) a new provision that any corporation or person who controls the activity of a corporation who violates NDCC Chapter 38–12.1 or any permit condition or rule implementing that chapter is subject to a civil penalty not to exceed five thousand dollars per day of such violation.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t., in May 17, 1995. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Service Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 26, 1995.

Peter A. Rutledge,

Acting Assistant Director, Western Support Center.

[FR Doc. 95–10776 Filed 5–1–95; 8:45 am]

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DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AF74

Reservists Education; Commencing Date of Award of Educational Assistance

AGENCY: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Educational Assistance Regulations pertaining to the commencing dates of awards of educational assistance for members of the Selected Reserve. It is proposed to change these regulations to provide that all commencing dates for awards or increased awards of educational assistance be on or reasonably close to the date of the first day of class. The intended effect of the amendments is to make uniform the regulations governing the dates of commencement of awards of educational assistance under the Montgomery GI Bill—Selected Reserve both for reservists pursuing a college degree and for those enrolled in courses not leading to a college degree.

DATES: Comments must be received on or before July 3, 1995.

ADDRESSES: Mail written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, or hand deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street, NW, Washington DC 20001. Comments should indicate that they are in response to "RIN 2900–AF74." All written comments received will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye Street, NW, Washington, DC 20001, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 273–7187.

SUPPLEMENTARY INFORMATION: In accordance with statutory authorities, VA has established an educational assistance program for certain members of the Selected Reserve of the Ready Reserve for the purpose of encouraging membership in the Selected Reserve. The regulations established for this program are set forth at 38 CFR Subpart L, referred to below as the "Educational Assistance Regulations."

The Educational Assistance Regulations set forth criteria for determining the commencing date of an award or increased award of educational assistance. The current regulations provide that, with respect to reservists enrolled in a resident course or subject leading to a college degree, the commencing date generally is the date of registration or reporting, whichever is first. It is proposed to change these regulations, as set forth in the text portion of this document, to provide that all commencing dates for awards or increased awards of educational assistance be on or reasonably close to the date of the first day of class. It is also proposed to impose such requirements for all other reservists pursuing educational programs: i.e., those taking a course offered by independent study or correspondence. This proposal is consistent with the recommendation of the Commission to Assess Veterans' Education Policy and will help ensure that educational assistance is paid only for times close to or during the period of pursuit of the reservists' program of education.

The Secretary of Veterans Affairs, the Secretary of Defense and the Commandant of the Coast Guard have certified that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), the amended regulation is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This proposed rule has been reviewed by the Office of Management and Budget pursuant to Executive Order 12866.

There is no Catalog of Federal Domestic Assistance number for the program affected by this proposed rule.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 11, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

Approved: April 21, 1995.

Wayne W. Spruell,

Acting Deputy Assistant Secretary, Reserve Affairs (Manpower and Personnel), Department of Defense.

Approved: April 24, 1995.

R.M. Larrabee,

Chief, Office of Readiness and Reserve, Coast Guard, Department of Transportation.

For the reasons set out in the preamble, 38 CFR part 21, subpart L is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L is revised to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501(a).

2. In § 21.7631, paragraphs (b) and (c) and their authority citations are revised to read as follows:

§ 21.7631 Commencing dates.

* * * * *

(b) Certification by school—the course or subject leads to a standard college degree. (1) When a student enrolls in a course offered by independent study, the commencing date of the award or increased award of educational assistance will be the date the student began pursuit of the course according to the regularly established practices of the educational institution.

(2) When a student enrolls in a resident course or subject, the commencing date of the award will be the date of reporting provided that—

(i) The published standards of the school require the student to register before reporting,

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered, and

(iii) The first scheduled class for the course or subject in which the student is enrolled begins during the calendar week when, according to the school's academic calendar, classes are generally scheduled to commence for the term.

(3) When a student enrolls in a resident course or subject whose first scheduled class begins after the calendar week when, according to the school's academic calendar, classes are scheduled to commence for the term, quarter, or semester, the commencing date of the award or increased award of educational assistance allowance will be the actual date of the first class scheduled for the particular course or subject.

(4) When a student enrolls in a resident course or subject and neither the provisions of paragraph (b)(2) nor (b)(3) of this section apply to the enrollment, the commencing date of the award or increased award of educational assistance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(Authority: 10 U.S.C. 16136(b))

(c) *Certification by educational institution or training establishment—course does not lead to a standard college degree.* (1) When a reservist enrolls in a course which does not lead to a standard college degree and which is offered in residence, the commencing date of the award of educational assistance will be as stated in paragraph (b) of this section.

(2) When a reservist enrolls in a course which is offered by correspondence, the commencing date of the award of educational assistance shall be the later of—

(i) The date the first lesson was sent, or

(ii) The date of affirmance.

(3) When a reservist enrolls in a program of apprenticeship or other on-job training, the commencing date of the award of educational assistance shall be the first date of employment in the training position.

(Authority: 10 U.S.C. 16136(b))

* * * * *

[FR Doc. 95–10690 Filed 5–1–95; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 42–1–6916b; FRL–5186–8]

Approval and Promulgation of State Implementation Plans; Arizona State Implementation Plan Revision, Pinal County Air Quality Control District; and Section 112(l) Approval of Pinal County Air Quality Control District Program for the Issuance of Permits Containing Voluntarily Accepted Federally Enforceable Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the Arizona State Implementation Plan. The revisions concern synthetic minor permit rules from the Pinal County Air Quality Control District (Pinal or District). The intended effect of approving these synthetic minor regulations is to allow facilities to voluntarily accept federally enforceable limits on their potential emissions. This approval action will incorporate these rules into the federally approved SIP. In order to extend the federal enforceability of conditions in permits to hazardous air pollutants (HAP), EPA is also proposing to approve Pinal's synthetic minor regulations pursuant to section 112 of the Act.

In the final rules section of this **Federal Register**, EPA is approving the state's SIP revision and section 112(l) submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by June 1, 1995.

ADDRESSES: Written comments on this action should be addressed to: Regina Spindler, Operating Permits Section (A–5–2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's Technical Support Document for the synthetic minor program are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Pinal County Air Quality Control District, 457 South Central Avenue, Florence, Arizona 85232

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012

FOR FURTHER INFORMATION CONTACT: Regina Spindler, Operating Permits Section (A–5–2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1251.

SUPPLEMENTARY INFORMATION: This document concerns Pinal County Air Quality Control District Code of Regulations Chapter 1, Article 3, section 1–3–140, Definitions, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123; Chapter 3, Article 1, section 3–1–081, Permit conditions, subsection (A)(8)(a); Chapter 3, Article 1, section 3–1–084, Voluntarily Accepted Federally Enforceable Emissions Limitations; Applicability; Reopening; Effective Date; and Chapter 3, Article 1, section 3–1–107, Public notice and participation, submitted to EPA on August 15, 1994 by the Arizona Department of Environmental Quality for approval into the SIP and on October 25, 1994 by the Pinal County Air Quality Control District for approval under section 112(l) of the Clean Air Act. For further information, please see the information provided in the direct final action which is located in the rules section of this **Federal Register**.

Dated: March 27, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–10699 Filed 5–1–95; 8:45 am]

BILLING CODE 6560-50-W

40 CFR Part 52

[MS–20–1–6562b; FRL–5174–1]

Approval and Promulgation of Implementation Plans Mississippi: Approval of Revisions to Construction and Operation Permit Regulations for Minor Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Mississippi for the purpose of establishing a Federally enforceable state operating permit (FESOP) program. In order to extend the Federal enforceability of Mississippi's FESOP to hazardous air pollutants (HAP), EPA is also proposing approval of Mississippi's FESOP regulations pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA). In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no

VOL 60 ISS 84 MY 2 1995 UMI

adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this notice should do so at this time.

DATES: To be considered, comments must be received by June 1, 1995.

ADDRESSES: Written comments should be addressed to: Carla Pierce, Title V Regional Program Manager, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by Mississippi may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Mississippi Department of Environmental Quality, Bureau of Air Quality Control, Air Quality Division, Post Office Box 10385, Jackson, Mississippi 39285

FOR FURTHER INFORMATION CONTACT: Carla Pierce, Title V Program Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365. The telephone number is 404/347–2864.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: March 1, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–10701 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MN29–1–6203b; FRL–5174–8]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA proposes to approve updated air permitting regulations that Minnesota submitted on November 23, 1993. USEPA further proposes to authorize Minnesota to issue federally enforceable State operating permits (FESOPs) under these regulations, and submit properly noticed permits as SIP revision requests. In addition, USEPA proposes to find that the updated regulations continue to satisfy new source review permitting requirements.

In the final rules section of this **Federal Register**, the USEPA is approving Minnesota's updated permitting regulations as a direct final rule without prior proposal, because USEPA views the action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to the proposal of that action. If USEPA receives adverse public comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this action must be received by June 1, 1995.

ADDRESSES: Written comments should be addressed to: William L. MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Air Enforcement Branch, Regulation Development Section (AE–17J), United States Environmental Protection, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION: Supplementary information is provided in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 8, 1995.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 95–10703 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[KY–86–1–6932b; FRL–5189–7]

Approval and Promulgation of Implementation Plans; State: Kentucky; Approval of Revisions to State Implementation Plan Regarding Emission Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet (Cabinet) for the purpose of implementing an emission statement program. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by June 1, 1995.

ADDRESSES: Written comments on this action should be addressed to Scott Southwick at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Environmental Protection Agency, Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365

Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 316 St. Clair Mall, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Scott Southwick, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region IV Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is 404/347–3555, X4207. Reference file KY–86–1–6932b.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: April 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–10697 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[VA20–1–5998b; FRL–5179–1]

Approval and Promulgation of Air Quality Implementation Plans for the Commonwealth of Virginia—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of establishing an emission statement program for stationary sources of volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 1, 1995.

ADDRESSES: Written comments on this action should be addressed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena (3AT14), U.S. Environmental Protection Agency, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597–8239.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: January 25, 1995.

Peter H. Kostmayer,

Regional Administrator, Region III.

[FR Doc. 95–10705 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[DC23–1–6790b; FRL–5181–3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; GSA Central And West Heating Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State implementation plan (SIP) revision submitted on October 24, 1994 by the District of Columbia consisting of a permit-to-operate issued by the District to General Services Administration for its Central and West Heating Plants. In the Final Rules section of this **Federal Register**, EPA is approving the District of Columbia's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the associated Technical Support Document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by June 1, 1995.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs (3AT00), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the District of Columbia Department of Consumer and Regulatory Affairs, 2100s Martin Luther King Ave, SE., Washington, DC 20020.

FOR FURTHER INFORMATION CONTACT: David J. Campbell, Technical Assessment Section (3AT22), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, phone: (215) 597–9781.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

VOL 60 ISS 84 MY 2 1995 UMI

Dated: March 21, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 95–10707 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[OH50–1–6077b; FRL–5183–5]

Approval And Promulgation Of Implementation Plans And Designation Of Areas For Air Quality Planning Purposes: State Of Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the redesignation request and maintenance plan for Toledo, Ohio as a revision to Ohio's State Implementation Plan (SIP) for ozone. In the final rules section of this **Federal Register**, the USEPA is approving the State's redesignation request and maintenance plan as a direct final rule without prior proposal because USEPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this notice. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this action must be received by June 1, 1995.

ADDRESSES: Written comments should be mailed to:

William MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604

Copies of the State submittal and USEPA's analysis of it are available for inspection at:

Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604

FOR FURTHER INFORMATION CONTACT: Angela Lee, (312) 353–5142, Regulation Development Section, Air Enforcement Branch (AE–17J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the final rules section of this **Federal Register**.

Dated: March 14, 1995.

Valdas V. Adamkus,

Regional Administrtor.

[FR Doc. 95–10694 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 82

[FRL–5199–5]

Reconsideration of the Significant New Alternatives Policy Rule

AGENCY: United States Environmental Protection Agency.

ACTION: Proposed stay.

SUMMARY: On December 8, 1994 EPA announced a 3-month administrative stay (59 FR 63255) based on EPA's decision to reconsider the Significant New Alternative Policy (SNAP) rule as it applies to substitutes manufactured solely for export (59 FR 13044, March 18, 1994). This action stays the effectiveness of the SNAP rule as it applies to substances produced solely for export, including the applicable compliance dates, until EPA takes final action reconsidering the SNAP rule. At that time, EPA will also take final action, as appropriate, establishing the effective date of the rule for such substances.

DATES: Comments on this proposal must be received by June 1, 1995 at the address below. A public hearing, if requested, will be held in Washington, D.C. Requests for a hearing should be submitted to Robert Waugh by June 1, 1995 at the address below. If a hearing is requested, EPA will publish notice of such hearing in the **Federal Register**.

ADDRESSES: Written comments on this proposed action should be addressed to Robert Waugh, Substitutes Analysis and Review Branch, Stratospheric Protection Division, Office of Air and Radiation, (6205–J) 401 M Street, SW, Washington, DC 20460. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

DOCKET: Pursuant to section 307(d)(1) of the CAA, 42 U.S.C. 7607(d)(1), this action is a public docket for this action, A–91–42, which is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the following address. A reasonable fee may be charged for copying. U.S. Environmental Protection Agency, Docket No. A–91–42, Air Docket (6102), Room M1500, Waterside Mall, 401 M Street SW., Washington, DC 20460 (202) 245–3639.

FOR FURTHER INFORMATION CONTACT: Robert Waugh at (202) 233–9152 or Fax (202) 233–9577.

SUPPLEMENTARY INFORMATION:

I. Background

On December 8, 1994, EPA announced that, pursuant to CAA section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), it was convening a proceeding for reconsideration of the SNAP rule as it applies to substances manufactured for export (59 FR 63255). In that notice, USEPA also announced a 3-month administrative stay of the SNAP rule as it applies to substitutes produced solely for export. However, USEPA will be unable to complete reconsideration (including any appropriate regulatory revision) of the rule within the 3-month period expressly provided by CAA section 307(d)(7)(B). Therefore, EPA is proposing to temporarily extend the stay of the SNAP rule as it applies to substitute use for export until EPA completes its reconsideration and final rulemaking action. If USEPA takes final action to impose this stay, the stay would extend until the effective date of USEPA's final action following reconsideration of the SNAP rule.

II. Authority for Stay and Reconsideration

This notice proposes, pursuant to CAA section 110(c), 301(a)(1) and 307(d)(1)(B), 42 U.S.C. 7410(c), 7601(a)(1) and 7607(d)(1)(B), to temporarily stay the elements of the rule that apply to substitutes manufactured solely for export, as well as applicable compliance dates beyond the three months expressly provided in section 307(d)(7)(B). This stay is only effective if and as long as it is necessary to complete reconsideration (including any appropriate regulatory action) of the referenced elements of the rule. Pursuant to the rulemaking procedures set forth in CAA section 307(d), 42 U.S.C. 7607(d), USEPA hereby requests public comment on this proposed temporary extension of the three-month stay.

III. Administrative Requirements

It has been determined that this notice is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735; October 4, 1993) and is therefore not subject to OMB review.

List of Subjects in 40 CFR Part 82

Environmental protection, Air pollution control.

Dated: April 24, 1995.

Carol M. Browner,

Administrator.

40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation of part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.174 is amended by adding paragraph (e) to read as follows:

§ 82.174 Prohibitions.

* * * * *

(e) *Rules Stayed for Reconsideration.* Notwithstanding any other provision of this subpart, the effectiveness of subpart G is stayed from May 2, 1995 to until the effective date of USEPA's final action following reconsideration of the SNAP rule only as applied to use of substitutes for export.

[FR Doc. 95–10624 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5200–3]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA" or "the Act"), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List ("NPL") which is appendix B to 40 CFR part 300 constitutes this list.

In this document, the Environmental Protection Agency (EPA) is withdrawing its proposal to list the Texas Eastern Kosciusko Compressor Station site on the NPL. Because of the unique circumstances surrounding this site, NPL listing has been deemed unnecessary. The rationale supporting this action are explained further in the **Supplementary Information** section below.

DATES: This withdrawal is effective May 2, 1995.

FOR FURTHER INFORMATION CONTACT: June Wiaz, Hazardous Site Evaluation Division, (703) 603–8864, Office of Emergency and Remedial Response (5204G), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, or the Superfund Hotline, phone (800) 424–9346, or (703) 412–9810 in the Washington DC, metropolitan area.

SUPPLEMENTARY INFORMATION: In this document, EPA is withdrawing its proposal to list Texas Eastern's Kosciusko, Mississippi, Compressor Station Site on the National Priorities List (NPL). EPA proposed to add the Kosciusko site to the NPL on August 23, 1994 (59 FR 43314).

Texas Eastern's comments on the proposal and other information submitted to the Agency have led EPA to withdraw it. EPA's reasons for withdrawal are multi-faceted. First, this is a site unique among those on the NPL or proposed for NPL listing. The Kosciusko site is just one of 89 along the company's pipeline (which extends from the Gulf of Mexico to New York). Second, Texas Eastern currently is addressing all of the affected sites under a federally enforceable Consent Decree negotiated with the United States pursuant to the Toxic Substances Control Act (TSCA). Texas Eastern is expected to spend approximately $750 million over the next 10 years complying with the Consent Decree.

Under the Consent Decree, dated June 1988 and amended March 1995, there is an agreed-upon schedule of characterization for the 89 sites. Texas Eastern maintains that it was their expectation, when they entered into the consent agreement, that it would shield them from inclusion on the NPL and action under CERCLA. The Agency accepts that Texas Eastern has acted in good faith to carry out the provisions of that agreement.

Texas Eastern has nominated the Kosciusko site as one of 10 of its pipeline sites scheduled for remediation in 1996. This represents an accelerated schedule for the Kosciusko site which will be fully characterized during 1995. EPA and Texas Eastern have negotiated modifications to the Consent Decree requiring that the company address all significant off-site contamination attributable to the Kosciusko Compressor Station. Texas Eastern's efforts at characterizing the site include a five-year fish study. The study which has been going on for more than two years, will help determine the nature and extent of the PCB contamination. This characterization of downstream effects will be useful in remedy selection.

Allowing the Consent Decree process to govern cleanup of the Kosciusko site stems from a desire to avoid a fragmented approach to Texas Eastern's 89 sites. The alternative—trying to address all sites under various Federal statutes with different requirements and cleanup levels—would result in inconsistent cleanups and a much slower process. In negotiating the Consent Decree, the United States and Texas Eastern sought to develop an orderly process by which response work would proceed. Listing the site on the NPL arguably violates this process.

For these reasons EPA, at this time, elects to withdraw its proposal to list the Kosciusko compressor station site on the NPL. However, should conditions change (i.e. insufficient progress toward cleanup) such that placing the site on the NPL would effect a more thorough and timely cleanup, EPA reserves the right to re-propose the site.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Environmental protection, Hazardous materials, Hazardous substances, Incorporation by reference, Intergovernmental relations, Natural resources, Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: April 24, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 95–10751 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 950421111–5111–01; I.D. 022895B]

Summer Flounder Fishery; Dealer Reporting Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

VOL
60
ISS
84
MY
2
1995
UMI

SUMMARY: NMFS proposes to amend the regulations implementing the Fishery Management Plan for the Summer Flounder Fishery (FMP), to reduce reporting requirements for federally permitted dealers, to make it easier for them to comply with remaining reporting requirements, and to improve monitoring of the commercial summer flounder quota.

DATES: Comments must be received on or before June 1, 1995.

ADDRESSES: Comments on the proposed rule or on the proposed Interactive Voice Response system should be sent to Jon Rittgers, Acting Regional Director, National Marine Fisheries Service, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Summer Flounder, Dealer Reporting." Comments on the proposed Interactive Voice Response system should also be sent to the Office of Information and Regulatory Affairs, Attention: NOAA Desk Officer, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, 508–281–9101, or Regina Spallone, 508–281–9221.

SUPPLEMENTARY INFORMATION: The FMP was developed jointly by the Atlantic States Marine Fisheries Commission and the Mid-Atlantic Fishery Management Council in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S.-Canadian border. Implementing regulations for the FMP are found at 50 CFR part 625.

The summer flounder fishery is managed under a quota system. The quota is divided among the coastal states based upon set percentages. Landings must be monitored weekly in order to determine when a state's quota has been reached.

Since 1993, federally permitted summer flounder dealers have been required to report weekly all fish purchases. While several of the species of fish purchased by these dealers are under quota management systems (summer flounder, squid, mackerel, butterfish), only the summer flounder quota requires weekly monitoring at this time. The quotas for the remaining species purchased by these dealers can be adequately monitored through monthly reports. NMFS believes that reporting purchases of all species on a weekly basis is unnecessary and burdensome. Therefore, NMFS proposes to revise the weekly reporting requirement to make it pertain to summer flounder purchases only. The comprehensive reporting of all fish purchases would be required monthly rather than weekly. This proposed change would reduce the burden associated with the reporting requirement, and, as a secondary benefit, would allow more accurate price information to be collected, since such information is often unavailable to dealers on a weekly basis.

NMFS further proposes to require that the weekly summer flounder purchase report be made via an Interactive Voice Response (IVR) system, rather than by a written report. Dealers would be provided with a toll-free number to call to report weekly purchases of summer flounder using either a touch-tone system or voice mail. An IVR system would make it easier for dealers to comply with the weekly reporting requirement and would be a more efficient method of collecting the data required for weekly monitoring of the commercial summer flounder quota.

NMFS proposes to require dealers to report the following information weekly through the IVR system: Dealer permit number, pounds of summer flounder purchased, week in which summer flounder was purchased, and state(s) of landing for summer flounder purchased. If no summer flounder were purchased during the week, the dealer would be required to make a report so stating through the IVR system. This proposed requirement is less burdensome than the current weekly report. It confines the requirement to summer flounder, and, rather than requiring the purchases to be reported by vessel, it allows dealers to report their weekly summer flounder purchases by state.

Dealers would continue to report the following information monthly on forms supplied by or approved by the Director, Northeast Region, NMFS (Regional Director): Dealer name and mailing address; dealer number; name and permit number, or name and hull number (U.S. Coast Guard Documentation Number or state registration number, as appropriate) of vessels from which fish are landed or received; dates of purchases; pounds by species (by market category if applicable); price by species (by market category if applicable) or total value by species (by market category if applicable); port landed; signature of dealer or other authorized individual; and any other information deemed necessary by the Regional Director. If no fish were purchased during the month, the dealer would be required to make a report so stating on the required form. Dealers would still have the option of submitting the required information electronically if authorized in writing by the Regional Director.

NMFS also proposes to modify three requirements pertaining to federally permitted dealers. Dealers are currently required to report the Federal permit number of the vessels from which fish are purchased. However, many of the species purchased by dealers are not subject to Federal management and are caught by vessels that hold no Federal permits. This requirement would be modified to indicate that dealers must report either the Federal permit number or the hull number (U.S. Coast Guard Documentation Number or state registration number, as appropriate) of the vessels from which fish are purchased.

The existing monthly dealer report form specifies market categories for many species. NMFS proposes to modify the regulations to clarify that dealers must report species purchased by market category, when applicable.

Dealers are currently required to report price per pound for species purchased. Many dealers have said that it is easier to report the total value of a species purchase rather than the price per pound. NMFS proposes to amend the regulations to make either manner of reporting acceptable.

NMFS also proposes to add a paragraph to the regulations concerning the collection of biological data (fish lengths) and samples (scales and/or otoliths for ageing), which are necessary to characterize the composition of landed catch. While most dealers have historically allowed access to their premises for the collection of these data, NMFS proposes to revise the regulations to make it explicit that federally permitted dealers must allow such access.

In addition, to protect against the unauthorized submission of reports, NMFS proposes to require that all monthly report forms be signed by the dealer or other authorized individual.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

This rule is subject to the Paperwork Reduction Act and clarifies or modifies requirements previously approved under OMB Control #0648–0229 (2 minutes per response). The requirement to use an Interactive Voice Response system for weekly reporting has been submitted to OMB for approval. This requirement and the other modifications to existing reporting requirements are expected to slightly reduce or not affect the burden on respondents. The rule also restates a requirement for mandatory reporting of employment data in the Annual Processed Products Report. This requirement is estimated to take 2 minutes per response and has been approved by OMB under control number 0648–0018. Any comments on the proposed Interactive Voice Response system should be sent to the address specified in **ADDRESSES**.

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: April 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 625 is proposed to be amended as follows:

PART 625—SUMMER FLOUNDER FISHERY

1. The authority citation for part 625 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 625.2, the definition for "reporting month" is added, in alphabetical order, to read as follows:

§ 625.2 Definitions.

* * * * *

Reporting month means the calendar month.

* * * * *

3. Section 625.6 is amended by redesignating paragraphs (a)(2) through (a)(6) as paragraphs (a)(3) through (a)(7); by revising paragraph (a)(1), and newly redesignated paragraphs (a)(3), (a)(6), and (a)(7); and by adding new paragraphs (a)(2) and (a)(8) to read as follows:

§ 625.6 Recordkeeping and reporting requirements.

(a) *Dealers*—(1) *Weekly report.* Dealers must submit the following information, and any other information required by the Regional Director, on a weekly basis to the Regional Director, or an official designee, via an Interactive Voice Response (IVR) system established by the Regional Director: Dealer number, pounds of summer flounder purchased, week in which summer flounder was purchased, and state(s) of landing for summer flounder purchased. Even if no summer flounder are purchased during the week, a report so stating must be submitted through the IVR system.

(2) *Monthly reports.* Dealers must send by mail to the Regional Director, or an official designee, on a monthly basis on forms supplied by or approved by the Regional Director, a report of all fish purchases. If authorized in writing by the Regional Director, dealers may submit reports electronically or through other media. The following information, and any other information required by the Regional Director, must be provided in the report: Name and mailing address of dealer; dealer number; name and permit number, or name and hull number (U.S. Coast Guard Documentation Number or state registration number, as appropriate) of the vessels from which fish were landed or received; dates of purchases; pounds by species (by market category if applicable); price by species (by market category if applicable) or value by species (by market category if applicable); and port landed. Even if no fish were purchased during the month, a report so stating must be submitted on the required form. All monthly report forms must be signed by the dealer or the dealer's authorized representative.

(3) *Annual report.* All persons required to submit reports under paragraph (a)(1) of this section are required to complete the "Employment Data" section of the Annual Processed Products Reports; completion of other sections on that form is voluntary. Required data are the number of employees handling fishery products by month. Reports for a given calendar year must be submitted to: NMFS Statistics, One Blackburn Drive, Gloucester, MA 01930–2298, and must be postmarked by February 10th of the following year.

* * * * *

(6) *Submitting reports.* Weekly reports must be made by noon each Tuesday for the previous reporting week. Monthly reports must be made within 10 days after the end of each reporting month. If monthly reports are mailed, such reports will be considered made in a timely manner if postmarked within 10 days after the end of the reporting month. Dealers will be sent, shortly after receipt of a dealer permit, forms and instructions, including a chart identifying reporting weeks, the telephone number and instructions for the IVR system for submission of weekly reports, and the address to which to submit monthly reports. If no fish are purchased during a required reporting period, a report so stating must be submitted.

(7) *At-sea activities.* All federally permitted summer flounder dealers purchasing, receiving, or processing any fish at sea for landing at any port of the United States must submit information identical to that required by paragraphs (a)(1), (2) and (3) of this section and provide those reports to the Regional Director or designee on the same frequency basis.

(8) *Additional data and sampling.* Dealers are required to allow access to their premises and to make available to an official designee of the Regional Director any fish purchased from vessels for the collection of biological data. Such data include, but are not limited to, length measurements of fish and the collection of age structures such as otoliths or scales.

* * * * *

[FR Doc. 95–10739 Filed 5–1–95; 8:45 am]

BILLING CODE 3510–22–F

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 950424112–5112–01; I.D. 032095B]

RIN 0648–AF37

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 4

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 4 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP). Amendment 4 would allow the harvest of spiny lobster year-round and establish a daily bag or possession limit of two spiny lobster per person in the exclusive economic zone (EEZ) off the southern Atlantic states, other than Florida (i.e., EEZ off North Carolina, South Carolina, and Georgia).

DATES: Written comments must be received on or before June 12, 1995.

ADDRESSES: Comments on the proposed rule must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 4, which includes a regulatory impact review and an environmental assessment, and the FMP, should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609–2486, FAX 813–225–7015, or to the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407–4699, FAX 803–769–4520.

VOL
60
ISS
84
MY
2
1995
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FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813–570–5305.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Gulf of Mexico Fishery Management Council (Gulf Council) and the South Atlantic Fishery Management Council (South Atlantic Council) and is implemented through regulations at 50 CFR part 640 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 4

The FMP currently provides for a commercial and recreational fishing season throughout the Gulf of Mexico and South Atlantic of August 6 through March 31, except for a 2-day special recreational season in July. During the August 6 through March 31 season, there are no bag or possession limits in the commercial fishery and recreational fishermen are limited to six spiny lobster per person per day. In the EEZ off the southern Atlantic states, other than Florida, Amendment 4 would (1) allow the take of spiny lobster year-round, and (2) establish a daily bag or possession limit of two spiny lobster per person in both the recreational and commercial fisheries. The purpose of Amendment 4 is to allow fishermen in the EEZ north of Florida to harvest the resource during the warm-weather months when the season currently is closed.

Commercial and recreational landings of spiny lobster outside Florida are negligible. According to the NMFS Accumulated Landings Database, no landings from spiny lobster traps have been reported from North Carolina or South Carolina since 1990. Since 1990, only 78.0 lb (35.4 kg) were reported landed from traps in Georgia. Commercial spiny lobster divers in North Carolina took an estimated 288.0 lb (130.6 kg) in 1992 and, in 1993, the only reported harvest by commercial divers north of Florida was 1,334 lb (605 kg) landed in South Carolina.

According to NMFS' 1991 Marine Recreational Fisheries Statistics Survey, no spiny lobster recreational trips were reported in South Carolina and Georgia during a survey of southeastern states other than Florida. However, another study conducted by NMFS in 1993 attempted specifically to characterize the directed and incidental take of spiny lobster by sport divers in offshore waters of the southeastern states. This study involved a telephone survey of dive shops and clubs and indicated that a small number of spiny lobster were harvested by recreational divers in North Carolina, South Carolina, and Georgia.

According to testimony of North Carolina recreational fishermen before the South Atlantic Council, the fishery takes place about 30 nautical miles (55.6 km) offshore in at least 100 ft (30.5 m) of water. A typical dive trip at these depths lasts about 30 minutes. Lobsters harvested ranged from 2 to 16 lb (0.9 to 7.3 kg). Divers believe that the spawning season off North Carolina does not begin until July, due to the colder water temperatures. They reported seeing egg-bearing lobsters as late as September and early October. Amendment 4 would not change the current prohibition on taking egg-bearing female lobsters.

The Gulf Council and the South Atlantic Council (Councils) have concluded that a year-round daily harvest limit of two spiny lobster per person north of Florida will allow recreational fishermen to catch spiny lobster during the months when the weather is favorable. There is scientific debate regarding the biological status and population dynamics of spiny lobsters in waters north of Florida, including the issue of recruitment and the fate of larvae from the adult population in this area. However, based on the best available scientific information, the Councils believe that allowing a limited year-round harvest in the subject area will have no adverse biological impacts on the lobster resource.

The Councils have concluded that the proposed action is consistent with the FMP's objective to protect long-run yields and prevent depletion of lobster stocks, because lowering the daily recreational limit from six to two and establishing a commercial harvest limit would prevent significant increases in fishing mortality. If Amendment 4 is implemented, the South Atlantic Council would monitor the level of spiny lobster harvests north of Florida and lower the daily limit, if necessary.

Additional background and rationale for the measures discussed above are contained in Amendment 4, the availability of which was announced in the **Federal Register** on March 27, 1995, (60 FR 15743).

Additional Measures Proposed by NMFS

Pursuant to the FMP's framework procedure for implementing specified gear and harvest restrictions, certain portions of Florida's management scheme were incorporated by reference into these Federal regulations on November 30, 1992 (57 FR 56516) and October 21, 1994 (59 FR 53118). A full description of the Florida measures was contained in the preamble to the proposed rule incorporating those measures (57 FR 32956, July 24, 1992). At the time these State statutes and regulations were incorporated, specific reference to the incorporation was not mentioned in the regulatory text. To ensure that the incorporation by reference meets procedural specifications for the Office of the Federal Register, NMFS adds appropriate language to sections 640.4(a)(1), 640.6(a), 640.20(c), and 640.22(b)(3), with references to the State statutes and regulations as recodified in 1994.

NMFS proposes a technical amendment to section 640.22 to correct and conform current regulations to the original FMP, which prohibited the use by divers, not by hook-and-line fishermen, of gear containing hooks. (See section 12.4.1, *Measures Proposed for Adoption*, Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic, March 1982, pages 12–20). Gear such as spears, and spear-like devices with a hook on the end, were originally prohibited because divers using such gear were unable to accurately gauge the size of lobsters prior to mortally puncturing them. Such lobsters frequently turn out to be undersized. However, the language of the prohibition in the current regulations precludes harvest or retention of a spiny lobster taken unintentionally in a hook-and-line fishery for other species.

The technical amendment will allow fishermen using hook-and-line gear to retain lobsters incidentally harvested with such gear. According to the administrative record, the occurrence of spiny lobster harvest by hook-and-line fishermen is quite rare and occurs primarily aboard headboats operating north of Florida. The record further shows that lobsters harvested in that area are much larger than the current minimum size limit. Therefore, allowing retention of spiny lobsters harvested by hook-and-line fishermen should not increase the mortality of undersized lobsters. However, to enhance enforceability of the intended prohibition, that is, the prohibition on intentional hooking of spiny lobsters with prohibited gear, a spiny lobster that is taken by hook and line could not be retained aboard a vessel that has prohibited gear aboard.

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a council within 15 days of receipt of an amendment and regulations. At this time, NMFS has not determined that Amendment 4 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The year-round daily harvest limit of two spiny lobster north of Florida would not: (1) Reduce annual gross revenues in excess of 5 percent, (2) significantly increase compliance or production costs of participants, (3) require capital investment to comply with the rule, or (4) require a current participant to cease business. All entities involved are small entities. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 640

Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: April 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 640 is proposed to be amended as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for part 640 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 640.2, definitions for "Off the Gulf states, other than Florida" and "Off the southern Atlantic states, other than Florida" are added, in alphabetical order, to read as follows:

§ 640.2 Definitions.

* * * * *

Off the Gulf states, other than Florida means the area from the coast to the outer limit of the EEZ between the Texas/Mexico border to the Alabama/Florida boundary (87°31′06″ W. long.).

Off the southern Atlantic states, other than Florida means the area from the coast to the outer limit of the EEZ between the Virginia/North Carolina boundary (36°34′55″ N. lat.) to the Georgia/Florida boundary (30°42′45.6″ N. lat.).

* * * * *

3. In § 640.4, paragraph (a)(1) is revised to read as follows:

§ 640.4 Permits and fees.

(a) * * *

(1) *Licenses, certificates, and permits.* (i) *EEZ off Florida and spiny lobster landed in Florida.* For a person to sell, trade, or barter, or attempt to sell, trade, or barter, a spiny lobster harvested or possessed in the EEZ off Florida, or harvested in the EEZ other than off Florida, and landed from a fishing vessel in Florida, or for a person to be exempt from the daily bag and possession limit specified in § 640.23(b)(1) for such spiny lobster, such person must have the licenses and certificates specified to be a "commercial harvester," as defined in Rule 46–24.002(2), Florida Administrative Code, in effect as of June 1, 1994. This incorporation by reference has been submitted to the Director of the Office of the Federal Register for approval in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904–487–0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; or the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

(ii) *EEZ other than off Florida.* For a person to sell, trade, or barter, or attempt to sell, trade, or barter, a spiny lobster harvested in the EEZ other than off Florida or for a person to be exempt from the daily bag and possession limit specified in § 640.23(b)(1) for such spiny lobster, a Federal vessel permit must be issued to the harvesting vessel and must be on board. However, see paragraph (a)(1)(i) of this section for the licenses and certificates required for a person to possess or land spiny lobster harvested in the EEZ other than off Florida and subsequently possessed in the EEZ off Florida or landed from a fishing vessel in Florida.

* * * * *

4. In § 640.6, in paragraph (c), the word "Secretary" is revised to read "Assistant Administrator" and paragraph (a) is revised to read as follows:

§ 640.6 Vessel and gear identification.

(a) *EEZ off Florida.* (1) An owner or operator of a vessel that is used to harvest spiny lobsters by traps in the EEZ off Florida must comply with the vessel and gear identification requirements applicable to the harvesting of spiny lobsters by traps in Florida's waters in Sections 370.14 and 370.142, Florida Statutes, in effect as of July 1, 1994, and in Rule 46–24.006(3), (4), and (5), Florida Administrative Code, in effect as of June 1, 1994.

(2) An owner or operator of a vessel that is used to harvest spiny lobsters by diving in the EEZ off Florida must comply with the vessel identification requirements applicable to the harvesting of spiny lobsters by diving in Florida's waters in Rule 46–24.006(6), Florida Administrative Code, in effect as of June 1, 1994.

(3) The incorporation by reference in paragraphs (a)(1) and (a)(2) of this section of Sections 370.14 and 370.142, Florida Statutes, and Rule 46–24.006(3), (4), (5), and (6), Florida Administrative Code, has been submitted to the Director of the Office of the Federal Register for approval in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904–487–0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; or the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

* * * * *

§ 640.7 [Amended]

5. In § 640.7, in paragraph (e), the reference to "§ 640.20 (c)(1) and (c)(2)" is revised to read "§ 640.20(b)(3)(i) and (b)(3)(ii)"; in paragraph (f), the reference to "§ 640.20(d)" is revised to read "§ 640.20(b)(4)"; in paragraph (p), the reference to "§ 640.23(a) or (b)" is revised to read "§ 640.23(a), (b)(1), or (b)(2)" and the reference to "§ 640.23(c) and (d)" is revised to read "§ 640.23(b)(3) and (b)(4)"; in paragraph (q), the reference to "§ 640.23(d)" is revised to read "§ 640.23(b)(4)"; in paragraph (r), the reference to "§ 640.23(g)" is revised to read "§ 640.23(d)"; and in paragraph (s), the reference to "§ 640.23(h)" is revised to read "§ 640.23(e)".

6. Section 640.20 is revised to read as follows:

§ 640.20 Seasons.

(a) *EEZ off the southern Atlantic states, other than Florida.* In the EEZ off the southern Atlantic states, other than Florida, there are no seasonal restrictions on the harvest of spiny lobster or on the possession of traps.

VOL 60 ISS 84 MY 2 1995 UMI

(b) *EEZ off Florida and off the Gulf states, other than Florida.*

(1) *Commercial and recreational fishing season.* The commercial and recreational fishing season for spiny lobster in the EEZ off Florida and the EEZ off the Gulf states, other than Florida, begins on August 6 and ends on March 31.

(2) *Special recreational fishing seasons.*

(i) *EEZ off Florida.* There is a 2-day special recreational fishing season in the EEZ off Florida on the last Wednesday and successive Thursday of July each year during which fishing for spiny lobster is limited to diving or use of a bully net or hoop net. (See § 640.22(a) for general prohibitions on gear and methods.) In the EEZ off Monroe County, Florida, no person may harvest spiny lobster by diving at night, that is, from 1 hour after official sunset to 1 hour before official sunrise, during this 2-day special recreational fishing season.

(ii) *EEZ off the Gulf states, other than Florida.* There is a 2-day special recreational fishing season in the EEZ off the Gulf states, other than Florida, during the last Saturday and successive Sunday of July each year during which fishing for spiny lobster may be conducted by authorized gear and methods other than traps. (See § 640.22(a) for general prohibitions on gear and methods.)

(3) *Possession of traps.*

(i) In the EEZ off Florida, the rules and regulations applicable to the possession of spiny lobster traps in Florida's waters in Rule 46–24.005(3), (4), and (5), Florida Administrative Code, in effect as of June 1, 1994, apply in their entirety to the possession of spiny lobster traps in the EEZ off Florida. This incorporation by reference has been submitted to the Director of the Office of the Federal Register for approval in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904–487–0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; or the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

(ii) In the EEZ off the Gulf states, other than Florida, a spiny lobster trap may be placed in the water prior to the commercial and recreational fishing season specified in paragraph (b)(1) of this section beginning on August 1 and must be removed from the water after such season not later than April 5.

(iii) A spiny lobster trap, buoy, or rope in the EEZ off Florida or the EEZ off the Gulf states, other than Florida, during periods not authorized in paragraphs (b)(3)(i) and (b)(3)(ii) of this section will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Assistant Administrator or an authorized officer. An owner of such trap, buoy, or rope remains subject to appropriate civil penalties.

(4) *Possession of spiny lobsters.* A spiny lobster or part thereof in or from the EEZ off Florida or the EEZ off the Gulf states, other than Florida, may be possessed only during the periods specified in paragraphs (b)(1) and (b)(2) of this section, unless accompanied by proof of lawful harvest in the waters of a foreign nation. A spiny lobster in a trap in the water during a time such trap is authorized to be in the EEZ off Florida or the EEZ off the Gulf states, other than Florida, under paragraph (b)(3)(i) or (b)(3)(ii) of this section will not be deemed to be possessed provided such spiny lobster is returned immediately to the water unharmed when a trap is removed from the water during such time.

(c) *Primacy of seasonal restrictions in the EEZ off Florida.* The seasonal restrictions on possession of a spiny lobster or trap in the EEZ off Florida apply to all spiny lobsters and traps, including spiny lobsters that may have been lawfully harvested from or traps that may have been lawfully used in the EEZ other than off Florida.

7. In § 640.22, a sentence is added to the end of paragraph (a)(1) and paragraph (b)(3)(i) is revised to read as follows:

§ 640.22 Gear and diving restrictions.

(a) * * *

(1) * * * Hook, as used in this paragraph (a)(1), does not include a hook in a hook-and-line fishery for species other than spiny lobster; and possession of a spiny lobster that has been speared, pierced, or punctured by such hook is not considered evidence that prohibited gear was used to take the spiny lobster, provided no prohibited gear is on board the vessel.

* * * * *

(b) * * *

(3) * * *

(i) For traps in the EEZ off Florida, by the Florida Division of Law Enforcement, Department of Environmental Protection, in accordance with the procedures in Rule 46-24.006(7), Florida Administrative Code, in effect as of June 1, 1994. This incorporation by reference has been submitted to the Director of the Office of the Federal Register for approval in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904–487–0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910; or the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

* * * * *

8. Section 640.23 is revised to read as follows:

§ 640.23 Bag/possession limits.

(a) *EEZ off the southern Atlantic states, other than Florida.* The daily bag or possession limit for spiny lobster in or from the EEZ off the southern Atlantic states, other than Florida, is two per person for commercial and recreational fishing, year-round.

(b) *EEZ off Florida and off the Gulf states, other than Florida.*

(1) *Commercial and recreational fishing season.* Except as specified in paragraphs (b)(3) and (b)(4) of this section, during the commercial and recreational fishing season specified in § 640.20(b)(1), the daily bag or possession limit of spiny lobster in or from the EEZ off Florida and off the Gulf states, other than Florida, is six per person.

(2) *Special recreational fishing seasons.* During the special recreational fishing seasons specified in § 640.20(b)(2), the daily bag or possession limit of spiny lobster—

(i) In or from the EEZ off the Gulf states, other than Florida, is six per person;

(ii) In or from the EEZ off Florida other than off Monroe County, Florida, is twelve per person; and

(iii) In or from the EEZ off Monroe County, Florida, is six per person.

(3) *Exemption from the bag/possession limit.* During the commercial and recreational fishing season specified in § 640.20(b)(1), a person is exempt from the bag and possession limit specified in paragraph (a) of this section, provided—

(i) The harvest of spiny lobsters is by diving, or by the use of a bully net, hoop net, or spiny lobster trap; and

(ii) The vessel from which the person is operating has on board the required licenses, certificates, or permits, as specified in § 640.4(a)(1).

(4) *Harvest by net or trawl.* During the commercial and recreational fishing season specified in § 640.20(b)(1), aboard a vessel with the required licenses, certificates, or permits specified in § 640.4(a)(1) that harvests spiny lobster by net or trawl or has on board a net or trawl, the possession of spiny lobster in or from the EEZ off Florida and off the Gulf states, other than Florida, may not exceed at any time 5 percent, whole weight, of the total whole weight of all fish lawfully in possession on board such vessel. If such vessel lawfully possesses a separated spiny lobster tail, the possession of spiny lobster in or from the EEZ may not exceed at any time 1.6 percent, by weight of the spiny lobster or parts thereof, of the total whole weight of all fish lawfully in possession on board such vessel. For the purposes of this paragraph (b)(4), the term "net or trawl" does not include a hand-held net, a loading or dip net, a bully net, or a hoop net.

(5) *Diving at night.* The provisions of paragraph (b)(3) of this section notwithstanding, a person who harvests spiny lobster in the EEZ by diving at night, that is, from 1 hour after official sunset to 1 hour before official sunrise, is limited to the bag limit specified in paragraph (b)(1) of this section, whether or not a Federal vessel permit specified in § 640.4(a)(1) has been issued to and is on board the vessel from which the diver is operating.

(c) *Combination of bag/possession limits.* A person who fishes for or possesses spiny lobster in or from the EEZ under a bag or possession limit specified in paragraph (a) or (b) of this section may not combine the bag or possession limits of those paragraphs or combine such bag or possession limit with a bag or possession limit applicable to state waters.

(d) *Responsibility for bag/possession limits.* The operator of a vessel that fishes for or possesses spiny lobster in or from the EEZ is responsible for the cumulative bag or possession limit specified in paragraphs (a) and (b) of this section applicable to that vessel, based on the number of persons aboard.

(e) *Transfer at sea.* A person who fishes for or possesses spiny lobster in or from the EEZ under a bag or possession limit specified in paragraph (a) or (b) of this section may not transfer a spiny lobster at sea from a fishing vessel to any other vessel, and no person may receive at sea such spiny lobster.

§ 640.24 [Amended]

9. In § 640.24, the word "Secretary" is revised to read "Assistant Administrator".

[FR Doc. 95–10737 Filed 4–27–95; 3:57 pm]

BILLING CODE 3510–22–F

VOL 60 ISS 84 MY 2 1995 UMI

Notices

Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Arlington, VA on Thursday and Friday, May 11–12, 1995 at the times and location noted below.

DATES: The schedule of events is as follows:

Thursday, May 11, 1995

9:00–12 Noon Vision Statement Work Group (closed meeting)
1:00–5:30 p.m. Rulemaking Priorities and Strategy Work Group (closed meeting)

Friday, May 12, 1995

9:00–10:30 p.m. Detectable Warnings Petitions Work Group (closed meeting)
10:30–12 Noon Planning and Budget Committee Meeting
1:30–3:30 p.m. Board Meeting

ADDRESSES: The meetings will be held at: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Oath of Office by New Board Member.
- Recognition of Outgoing Board Members.
- Approval of the Minutes of the January 18, 1995 Board Meeting.
- Executive Director's Report.
- Report on Vision Statement Work Group.
- Report on Rulemaking Priorities and Strategy Work Group.
- Report on Detectable Warnings Petitions Work Group.
- Report on Fiscal Year 1995 Budget.
- Report on Reprogramming the Fiscal Year 1995 Budget.
- Report on Fiscal Year 1996 Budget.

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,
Executive Director.

[FR Doc. 95–10760 Filed 5–1–95; 8:45 am]
BILLING CODE 8150–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee (CAC) on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, the CAC on the African American Population, and the CAC on the Hispanic Population; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a joint meeting followed by separate and jointly held (described below) meetings of the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, the CAC on the African American Population, and the CAC on the Hispanic Population. The joint meeting will convene on May 11–12, 1995 at the Bureau of the Census in the Conference Center, Room 1630, Federal Building 3, Suitland, Maryland 20233.

Each of these Committees is composed of nine members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential undercount in the 2000 census and on ways the census data can be disseminated to maximum usefulness to their communities and other users.

The Committees will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of their members to provide advice and recommendations during the research and development phase on various topics, and provide advice and recommendations during the design planning and implementation phases of the 2000 census.

The agenda for the May 11 combined meeting is: (1) Introductory remarks by the Director, Bureau of the Census; (2) reengineered 2000 census; (3) 1995 Census Test update; (4) outreach and promotion; and (5) issues on race and ethnicity.

The agendas for the four committees in their separate and jointly held meetings are as follows:

The CAC on the African American Population: (1) Outreach and promotion; (2) issues on race and ethnicity; and (3) review of responses to committee recommendations.

The CAC on the American Indian and Alaska Native Populations: (1) Outreach and promotion; (2) issues on race and ethnicity; (3) review of responses to committee recommendations; (4) plans for the 2000 census geography; (5) plans for the 1996 reservation site test; and (6) discussion of agenda items for fall meeting.

The CAC on the Asian and Pacific Islander Populations: (1) Outreach and promotion; (2) issues on race and ethnicity; and (3) review of responses to committee recommendations.

The CAC on the Hispanic Population: (1) outreach and promotion; (2) issues on race and ethnicity; and (3) review of responses to committee recommendations.

The agenda for the May 12 combined meeting is: (1) Format of advisory meeting; (2) electronic release of data and innovations in development of data products; and (3) sampling and estimation.

The agendas for the four committees in their separate and jointly held meetings are:

The CAC on the African American Population: (1) Review of plenary session topics; (2) discussion of agenda items for next meeting; and (3) development and discussion of recommendations.

The CAC on the American Indian and Alaska Native Populations: (1) Review of plenary session topics; (2) discussion of agenda items for next meeting; (3) survey of American Indian and Alaska Native government administrative records; and (4) development and discussion of recommendations.

The CAC on the Asian and Pacific Islander Populations: (1) Review of plenary session topics; (2) discussion of agenda items for next meeting; and (3) development and discussion of recommendations.

The CAC on the Hispanic Population: (1) Review of plenary session topics; (2) discussion of agenda items for next meeting; and (3) development and discussion of recommendations.

All meetings are open to the public and a brief period is set aside on May 12 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least three days before the meeting.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below.

Persons wishing additional information regarding these meetings or who wish to submit written statements may contact Ms. Diana Harley, Decennial Management Division, Bureau of the Census, Room 3587, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233–7100). Telephone: (301) 457–4047—TDD (301) 457–2540.

Dated: April 25, 1995.

Martha Farnsworth Riche,
Director, Bureau of the Census.

[FR Doc. 95–10787 Filed 5–1–95; 8:45 am]
BILLING CODE 3510–07–P

International Trade Administration

[A–588–703]

Certain Internal-Combustion Industrial Forklift Trucks From Japan; Amendment to Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final results of antidumping duty administrative review.

SUMMARY: On January 28, 1992, the Department of Commerce (the Department) published in the **Federal Register** the final results of its 1987–89 administrative review of the antidumping duty order on certain internal-combustion industrial forklift trucks from Japan. The review covered four manufacturers/exporters of this merchandise to the United States during the period November 24, 1987, through May 31, 1989. Based on the correction of a ministerial error, we are amending the final results with respect to Mitsubishi Heavy Industries, Limited (Mitsubishi).

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Davina Friedmann or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On January 28, 1992, the Department published in the **Federal Register** the final results of its 1987–89 administrative review of the antidumping duty order (June 7, 1988, 53 FR 20882) on certain internal-combustion industrial forklift trucks from Japan (57 FR 3167). The review covered four manufacturers/exporters of this merchandise to the United States during the period November 24, 1987 through May 31, 1989.

It has come to our attention that, in those final results, the Department inadvertently made a typographical error in publishing the margin, based on the best information available (BIA), as 39.15 percent for Mitsubishi. As stated in those final results, the Department intended to assign the "All Others" rate from the investigation. That "All Others" rate was 39.45 percent. The Department is now correcting Mitsubishi's margin to 39.45 percent from the incorrect figure of 39.15 percent.

The Court of International Trade in *Mitsubishi Heavy Industries* v. *United States*, Slip Op. 93–182 (September 15, 1993), affirmed the Department's application of the "All Others" rate from the investigation as BIA for Mitsubishi.

Amended Final Results of Review

As a result of our correction of a ministerial error, we have determined the following percentage weighted-average margin to exist for the period November 24, 1987 through May 31, 1989:

Manufacturer/Exporter	Margin percent
Mitsubishi	39.45

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, a cash deposit of 39.45 percent will be required for all shipments by Mitsubishi of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these amended final results of administrative review, as provided by section 751(a)(1) of the Tariff Act of 1930.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is published in accordance with section 751(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(f)) and 19 CFR 353.28(c).

Dated: April 19, 1995.

Susan G. Esserman,
Assistant Secretary for Import Administration.

[FR Doc. 95–10781 Filed 5–1–95; 8:45 am]
BILLING CODE 3510–DS–P

A–427–030

Large Power Transformers From France; Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of the antidumping duty administrative review; large power transformers from France.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty finding on large

VOL
60
ISS
84
MY
2
1995
UMI

power transformers (LPTs) from France in response to a request by respondent, Jeumont Schneider Transformateurs (JST). This review covers shipments of this merchandise to the United States during the period June 1, 1993 through May 31, 1994.

We have preliminarily determined that sales have been made below the foreign market value (FMV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the differences between the United States price (USP) and FMV. We have preliminarily found a dumping margin of 1.50 percent for JST.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Donald Little, Elisabeth Urfer, or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Treasury Department published in the **Federal Register** an antidumping finding on LPTs from France on June 14, 1972 (37 FR 11772). On June 7, 1994, we published in the **Federal Register** (59 FR 29411) a notice of opportunity to request an administrative review of the antidumping finding on LPTs from France covering the period June 1, 1993 through May 31, 1994.

In accordance with 19 CFR 353.22(a), JST requested that we conduct an administrative review of its sales. We published a notice of initiation of this antidumping duty administrative review on July 15, 1994 (59 FR 36160). The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by the review are shipments of LPTs; that is, all types of transformers rated 10,000 kVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 8504.22.00, 8504.23.60, 8504.34.33, 8504.40.00, and 8504.50.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers one manufacturer/exporter of transformers, JST, and the period June 1, 1993 through May 31, 1994.

Verification

We conducted verification of JST's questionnaire response in Lyons, France, from March 6 through March 10, 1995.

United States Price

For sales made by JST we based the USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States.

JST requested that we include in this review two purchase price sales that entered during the period of review (POR), and one purchase price sale which was sold during the POR, but which entered the United States after the POR. Due to the timing of this third shipment, we were unable to verify certain relevant data pertaining to this sale (see the proprietary memorandum to the file dated April 5, 1995). Therefore, we did not include this sale in our analysis for these preliminary results.

We calculated purchase price based on the delivered price to unrelated purchasers. We made deductions for ocean freight, foreign inland freight, U.S. inland freight, U.S. duty, ocean freight, and, where applicable, air freight.

Foreign Market Value

We preliminarily determine that there are no home market or third country sales of comparable merchandise. Therefore, in accordance with section 773(a)(2) of the Act, we used constructed value (CV) to calculate FMV for JST.

CV consists of the cost of materials, labor, fabrication, general expenses, profit, and packing. We used: (1) Actual general expenses or the statutory minimum of 10 percent of materials and fabrication, whichever was greater; (2) actual profit or the statutory minimum of 8 percent of materials and fabrication costs and general expenses, whichever was greater; and (3) packing costs for merchandise exported to the United States. We made a circumstance-of-sale adjustment by deducting from CV home market direct selling expenses, *i.e.*, warranties and commissions, and adding to CV U.S. direct selling expenses, *i.e.*, commissions, selling expenses, and credit. No other adjustments were claimed or allowed.

Preliminary Results of the Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/Exporter	Time period	Margin (percent)
Jeumont Schneider Transformateurs.	6/1/93–5/31/94	1.50

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of these administrative reviews for all shipments of LPTs from France entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 24 percent, the rate established in the first notice of final results of administrative review published by the Department (47 FR 10268, March 10, 1982).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 25, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–10782 Filed 5–1–95; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 042595C]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of modification 2 to permit 900 (P770#66), modification 1 to permit 914 (P770#67), and modification 5 to permit 795 (P503A).

SUMMARY: Notice is hereby given that NMFS has issued modifications to permits authorizing takes of listed species for the purpose of scientific research, subject to certain conditions set forth therein, to the Northwest Fisheries Science Center, NMFS (NWFSC) and the Idaho Department of Fish and Game (IDFG).

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, F/NWO3, NMFS, 525 NE Oregon Street, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: Notice was published on January 19, 1995 (60 FR 3844) that an application had been filed by NWFSC (P770#66) for modification 2 to permit 900 to take listed species as authorized by section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

NWFSC requested an increase in the take of juvenile, listed, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with Study 3, a preliminary evaluation of the new juvenile collection, bypass, and sampling facility at McNary Dam. The increased take was requested to test an automatic system for detecting and diverting run-of-the-river fish tagged with passive integrated transponders (PIT) from the population of fish moving through the collection facility. The purpose of the automatic PIT tag detector and diversion system is to facilitate the collection of scientific information on juvenile salmonid migration while minimizing adverse impacts to the fish. Modification 2 to permit 900 was issued on April 7, 1995. The increased take is valid for 1995 only. Permit 900 expires on December 31, 1998.

Notice was published on February 9, 1995 (60 FR 7752) that an application had been filed by NWFSC (P770#67) for modification 1 to permit 914 to take listed species as authorized by the above laws and regulations.

NWFSC requested an increase in the take of juvenile, listed, naturally-produced and artificially-propagated Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) and juvenile, endangered, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) to assess the incidence of gas bubble disease (GBD) in selected aquatic biota of the Columbia River Basin during episodes of high spill volumes at Ice Harbor Dam on the Snake River and Bonneville Dam on the Columbia River in the Pacific Northwest. NWFSC also requested authorization to take juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) for a new study to compare the prevalence of signs of GBD in juvenile salmonids collected from the reservoir and tailrace of Ice Harbor Dam on the Snake River and the reservoir of McNary Dam on the Columbia River with the prevalence of signs of GBD in fish examined by Fish Passage Center Smolt Monitoring Program personnel at the same two dams. Modification 1 to permit 914 was issued on April 14, 1995. The increased take is valid for 1995 only. Permit 914 expires on December 31, 1998.

Notice was published on January 19, 1995 (60 FR 3844) that an application had been filed by IDFG (P503A) for modification 5 to permit 795 to take listed species as authorized by the above laws and regulations.

Permit 795 authorizes a take of listed species associated with scientific research and enhancement activities, including a captive broodstock program, on endangered Snake River sockeye salmon (*Oncorhynchus nerka*). For modification 5, IDFG requested authorization to: (1) Release second generation progeny of anadromous sockeye salmon that returned to Redfish Lake in 1991, (2) release progeny of 1991 outmigrant sockeye females spawned in 1993 with anadromous sockeye males, (3) release broodyear 1993 progeny of anadromous sockeye females that returned to Redfish Lake in 1993, and (4) increase the annual number of outmigrant sockeye juveniles to be trapped and handled at the Redfish Lake Creek weir. Modification 5 to permit 795 was issued on April 19, 1995. Activities 1–3 are valid for 1995 only. Activity 4 is valid for the duration of the permit. Permit 795 expires on July 31, 1997.

Issuance of these modifications, as required by the ESA, was based on a finding that such modifications: (1) Were applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing listed species permits.

Dated: April 26, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, National Marine Fisheries Service.

[FR Doc. 95–10740 Filed 5–1–95; 8:45 am]

BILLING CODE 3510–22–F

VOL
60
ISS
84
MY
2
1995
UMI

[I.D. 042595B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permits 946 (P770#68), 947 (P504F), 948 (P563A), 949 (P45Q), and 950 (P45R).

SUMMARY: Notice is hereby given that NMFS has issued permits authorizing takes of listed species for the purpose of scientific research, subject to certain conditions set forth therein, to the Northwest Fisheries Science Center, NMFS (NWFSC), the Northern Wasco County People's Utility District (NWCPUD), the U.S. Army Corps of Engineers, Department of Defense (Corps), the National Biological Survey (NBS), and the Oregon Cooperative Fishery Research Unit, National Biological Survey (OCFRU).

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, F/NWO3, NMFS, 525 NE Oregon Street, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: Notice was published on January 19, 1995 (60 FR 3844) that an application had been filed by NWFSC (P770#68) for a permit to take listed species as authorized by section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

NWFSC requested a take of the following listed species while conducting six studies: Adult and juvenile Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*), juvenile Snake River fall chinook salmon (*Oncorhynchus tshawytscha*), and juvenile Snake River sockeye salmon (*Oncorhynchus nerka*). The objective of Study 1 is to compare the survival to adulthood of spring/summer chinook salmon smolts transported from either Lower Granite or Little Goose Dam on the Snake River to below Bonneville Dam on the Columbia River with the survival to adulthood of smolts migrating volitionally through six or seven dams and reservoirs under prevailing river conditions. The objective of Study 2 is to assess the migration timing and relative survival of transported and inriver juvenile chinook salmon migrating volitionally from Bonneville Dam to the mouth of the Columbia River. The objective of Studies 3–6 is to determine the effectiveness of fish guidance devices and other bypass system components being considered for installation at four Snake and Columbia River hydroelectric dams for the purpose of improving anadromous fish passage past these dams during juvenile outmigration. Permit 946 was issued to NWFSC on April 7, 1995. Study 1 will take place during 3 of the next 5 years, Study 2 will take place for a duration of 5 years, and Studies 3–6 will take place in 1995 only.

Notice was published on January 30, 1995 (60 FR 5624) that an application had been filed by the Corps (P504F) for a permit to take listed species as authorized by the above laws and regulations.

The Corps requested authorization to capture, tag, release, recapture, and re-release juvenile, listed, artificially-propagated spring/summer chinook salmon (*Oncorhynchus tshawytscha*) as part of a turbine passage survival study at Lower Granite Dam on the Snake River in Washington. The purpose of the research is to determine the immediate and delayed (48 to 120 hour) survival rates of run-of-the-river chinook salmon smolts passing through a turbine at the dam under different locations and operating conditions. This information will be used to: (1) Develop a turbine model study, which is part of a Corps project to minimize fish turbine passage mortality; (2) refine normal dam operations to minimize adverse effects to migrating juvenile fish; and (3) provide a baseline for turbine survival estimates needed under the changing conditions of a reservoir drawdown. Permit 947 was issued to the Corps on April 13, 1995. The duration of the study will be from April 15 to June 10 in 1995 only.

Notice was published on January 30, 1995 (60 FR 5624) that an application had been filed by NWCPUD (P563A) for a permit to take listed species as authorized by the above laws and regulations.

NWCPUD requested a take of the following listed species while conducting research: Juvenile, naturally produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*), juvenile Snake River fall chinook salmon (*Oncorhynchus tshawytscha*), and juvenile Snake River sockeye salmon (*Oncorhynchus nerka*). The objective of the annual study is to assess run-of-the-river juvenile anadromous fish condition after passage through the screened turbine intake channel at The Dalles Dam, located on the Columbia River. Continued observation of juvenile fish passing through the screened intake channel during the smolt migration provides specific information on possible unsuitable passage conditions below the water surface which are not directly observable. Permit 948 was issued to NWCPUD on April 11, 1995. The research will take place from April to September for the next 5 years.

Notice was published on February 9, 1995 (60 FR 7752) that an application had been filed by NBS (P45Q) for a permit to take listed species as authorized by the above laws and regulations.

NBS requested authorization for a lethal take of juvenile, listed, naturally-produced Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) as part of a study designed to compare the physiological responses of wild chinook smolts with hatchery-produced chinook smolts when subjected to the bypass and collection facility at Lower Granite Dam on the Lower Snake River in Washington. A comparison of the physiological responses of wild and hatchery-produced chinook smolts may indicate what aspects of bypass and collection for downriver transportation past hydropower projects are most stressful to wild listed fish. Permit 949 was issued to NBS on April 13, 1995. The duration of the study is April 15 to June 30 in 1995 only.

Notice was published on March 9, 1995 (60 FR 12913) that an application had been filed by OCFRU (P45R) for a permit to take listed species as authorized by the above laws and regulations.

OCFRU requested authorization to take juvenile, listed, Snake River spring/summer and fall chinook salmon (*Oncorhynchus tshawytscha*) as part of a study designed to provide information that will be used to: (1) Recommend siting of the bypass outfall to be constructed at The Dalles Dam on the Columbia River, (2) evaluate the juvenile salmonid nighttime spill pattern at The Dalles Dam, (3) assess the relationship between flow rate and juvenile salmonid outmigration velocity in The Dalles pool and elsewhere, (4) evaluate juvenile salmonid passage routes at John Day Dam on the Columbia River, (5) estimate juvenile salmonid mortality in the lower Columbia River, and (6) provide information on the vulnerability of salmonids to predation by northern squawfish (*Ptychocheilus oregonensis*). The listed fish to be used for the research will be collected with run-of-the-river fish and anesthetized at the John Day Handling Facility at John Day Dam by NMFS personnel under the authority of permit 822. The NMFS personnel will then provide OCFRU personnel with a representative sample made up of listed and non-listed fish. Once the fish are provided to OCFRU, they will be implanted with radio telemetry transmitters (radio tags), held for 36-48 hours in tanks supplied with circulating river water to determine tag retention and delayed mortality, released near the mouth of the John Day River, and tracked electronically to determine their fate. Permit 950 was issued to OCFRU on April 19, 1995. The duration of the study is from April 15 to July 15 in 1995 only.

Issuance of these permits, as required by the ESA, was based on a finding that such permits: (1) Were applied for in good faith, (2) will not operate to the disadvantage of the listed species which are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing listed species permits.

Dated: April 26, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, National Marine Fisheries Service.

[FR Doc. 95–10742 Filed 5–1–95; 8:45 am]

BILLING CODE 3510-22-F

[I.D. 042595E]

Marine Mammals and Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a scientific research permit (P771#72).

SUMMARY: Notice is hereby given that the National Marine Mammal Laboratory, has applied in due form for a permit to take the marine mammals listed below for the purpose of scientific research.

DATES: Written comments must be received on or before June 1, 1995.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau AK 99802–1668 (907/586–7221);

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, F/PR1, Office of Protected Resources, Silver Spring, MD 20910, within 30 days of the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Gary Barone, (301/713–2289).

SUPPLEMENTARY INFORMATION: Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant seeks authorization to biopsy sample 120 beluga whales (*Delphinapterus leucas*) and conduct genetic and dietary analyses on the samples over a 3-year period. In addition, the applicant seeks authorization to take by harassment up to 2,000 beluga whales incidental to the sampling. Proposed taking will be by small boat. Field work will be conducted from July, 1995 through October, 1998 in Cook Inlet, Norton Sound, Bristol Bay, Kotzebue Sound, and Beaufort Sea, on the west coast of Alaska. The results of the research will provide information on the stock boundaries.

Dated: April 20, 1995.

Ann D. Terbush,

Chief, Permits & Documentation Division, National Marine Fisheries Service.

[FR Doc. 95–10741 Filed 5–1–95; 8:45 am]

BILLING CODE 3510-22-F

Technology Administration

National Medal of Technology Nomination Evaluation Committee; Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for May 3, 1995.

The Committee was established to assist the Department in executing its responsibilities under 15 U.S.C. 3711. Under this provision, the Secretary is responsible for recommending to the President prospective recipients of the National Medal of Technology. The Committee's recommendations are made after reviewing all nominations received in response to a public solicitation. The Committee is chartered to have from six to twelve members, of which ten are now serving. Two additional Committee members are in the process of being appointed.

The meeting will be closed to discuss the relative merits of persons and companies nominated for the Medal. Public disclosure of this information would be likely to impair the National Medal of Technology program because premature publicity about candidates under consideration for the Medal who may or may not ultimately receive the award, would be likely to discourage nominations for the Medal.

Accordingly, I find and determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that the May 3, 1995, meeting may be closed to the public in accordance with Section 552b(c)(9)(B) of Title 5, United States Code because revealing information about Medal candidates would be likely to significantly frustrate implementation of a proposed agency action.

Dated: April 27, 1995.

Gloria Gutierrez,

Deputy Assistant Secretary for Administration.

Dated: April 26, 1995.

Barbara S. Fredericks,

Assistant General Counsel for Administration.

[FR Doc. 95–10783 Filed 5–1–95; 8:45 am]

BILLING CODE 3510-18-M

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange: Proposed Amendments Relating to the Maximum Daily Price Fluctuation and the Minimum Price Fluctuation Limits for the Cotton No. 2 Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Proposed Contract Rule Change.

SUMMARY: The New York Cotton Exchange ("NYCE") has submitted proposed amendments to its cotton No. 2 futures contract that will: (1) Increase to three from two cents per pound the contract's base maximum daily price fluctuation limit (base maximum limit) for all contract months listed for trading whenever the settlement price for any one contract month equals or exceeds 95 cents per pound; (2) provide that the proposed three-cent-per-pound maximum limit may be increased to

VOL 60 ISS 84 MAY 2 1995 UMI

four and one-half cents per pound under specified conditions; and (3) increase to 5/100ths from 1/100th of one cent per pound the minimum price fluctuation limit for a contract month whenever prices for that contract month equal or exceed 95 cents per pound.

In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that publication of the proposed amendments is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before May 9, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581. Reference should be made to the proposed amendments relating to changes in the maximum price and the minimum price fluctuation limits for the cotton No. 2 futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, telephone (202) 254–7303.

SUPPLEMENTARY INFORMATION: The cotton No. 2 futures contract currently specifies a base maximum limit of 2 cents per pound above or below the previous day's settlement price. The contract's existing terms also provide that, whenever the prices for 3 or more contract months increase or decrease by the base maximum limit for 3 consecutive business days, the base maximum limit is increased to 3 cents per pound for those contract months only. The current minimum price fluctuation limit is 1/100 of one cent per pound.

As noted, the proposed amendments will provide that, whenever the daily settlement price for any single futures contract month is 95 cents per pound or higher, the base maximum limit for all contract months on the next business day will be three cents per pound. The proposed amendments also will stipulate that, if three or more contract months settle at the higher three-cent-per-pound maximum limit for three consecutive business days and the price for at least one contract month is 95 cents per pound or greater, the three-cent maximum limit will be increased to four and one-half cents per pound for all contract months. The limit will remain at this level until (1) there are no individual-month settlement prices which are 95 cents per pound or higher, and (2) the settlement prices for no more than 2 months have increased or decreased by the three-cent limit.

In addition, the proposed amendments will specify that, whenever the prices for a contract month are 95.00 cents per pound or higher, the minimum price fluctuation for that contract month shall be 5/100ths of one cent per pound, except that straddle transactions may continue to be made at prices expressed in minimum values of 1/100th of one cent per pound.

The NYCE intends to apply the proposed amendments to all existing and newly listed contract months following Commission approval.

In support of the proposal to increase the base maximum limit when futures prices are trading at or above 95 cents per pound, the Exchange stated that:

> It is the view of the [NYCE's Board of Directors] that trading at * * * levels [of 95 cents per pound] is another indication of market activity warranting the ability to trade further before the market locks limit up. During discussion, it was noted that cotton futures already have the most restrictive price limits, regular limits being about two percent of current market value and expanded limits, being approximately three percent of such values.

The Commission is requesting comments on the proposals within the specified period of time in view of the cotton market's recent heightened volatility and the consequent need for timely consideration by the Commission of the proposals. In this respect, on the vast majority of the trading days during April 1995, the settlement prices for at least one of the two nearby contract months listed for this future contract have increased or decreased by the existing two-cent-per-pound base maximum limit.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by facsimile by telephone at (202) 254–6314.

The materials submitted by the NYCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on April 28, 1995.

Blake Imel,

Acting Director, Division of Economic Analysis.

[FR Doc. 95–10883 Filed 5–1–95; 8:45 am]

BILLING CODE 8351–01–M

DEPARTMENT OF DEFENSE

Department of the Navy

Government-Owned Inventions; Availability for Licensing

AGENCY: Department of the Navy, Department of Defense.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature dislcosure.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Erickson, Staff Patent Attorney, Office of Naval Research (Code OOCC), Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Patent 5,158,760: 99mTC LABELED LIPOSOMES; filed 30 May 1990; patented 27 October 1992.

Patent 5,313,266: DEMODULATORS FOR OPTICAL FIBER INTERFEROMETERS WITH (3 X 3) OUTPUTS; filed 17 August 1992; patented 17 May 1994.

Patent 5,326,425: PREPARATION OF TERTIARYBUTYLDIMETHYL-ANTIMONY AND USE THEREOF; filed 28 January 1993; patented 5 July 1994.

Patent 5,333,198: DIGITAL INTERFACE CIRCUIT; filed 7 May 1993, patented 26 July 1994.

Patent 5,339,066: ENERGY-MEASURING RESISTOR BANK; filed 30 March 1993; patented 16 August 1994.

Patent 5,339,087: WAVEFRONT SIMULATOR FOR EVALUATING RF COMMUNICATION ARRAY SIGNAL PROCESSORS; filed 23 October 1993; patented 1 August 1994.

Patent 5,339,288; UNDERWATER SOUND SOURCE WITH REMOTE CONTROLLED ACTUATOR; filed 12 July 1993, patented 16 August 1994.

Patent 5,350,953: DIGITALLY WEIGHTED NEURON FOR ARTIFICIAL NEURAL NETWORK; filed 28 May 1993; patented 27 September 1994.

Patent 5,351,553: HIGH RATE FLYWHEEL TENSILE TESTING APPARATUS FOR VISCOELASTIC MATERIALS; filed 3 May 1993; patented 4 October 1994.

Patent 5,351,623: EXPLOSIVE SIMULATOR; filed 21 June 1993; patented 4 October 1994.

Patent 5,351,889: FLOW TRIPPED INJECTOR; filed 16 October 1991; patented 4 October 1994.

Patent 5,352,429: DYNAMIC COMPACTION PROCESSING SYSTEM; filed 14 July 1992; patented 4 October 1994.

Patent 5,352,760: POLYMERIZATION OF OLIGOMERIC MULTIPLE AROMATIC ETHER-CONTAINING PHTHALONITRILES; filed 18 February 1993; patented 4 October 1994.

Patent 5,352,829: SPIRO (N,N'-DINITROE-THYLENEDIAMINO) CYCLOTRIPHOSPHAZENES; filed 2 April 1993; patented 4 October 1994.

Patent 5,353,291: LASER SYNCHROTROL SOURCE (LSS); filed 19 February 1993; patented 4 October 1994.

Patent 5,354,420: METHOD FOR LASER-ASSISTED ETCHING OF III–V AND II–VI SEMICONDUCTOR COMPOUNDS USING CHLOROFLUOROCARBON AMBIENTS; filed 10 April 1990; patented 11 October 1994.

Patent 5,354,654: LYOPHILIZED LIGAND-RECEPTOR COMPLEXES FOR ASSAYS AND SENSORS; filed 16 July 1993; patented 11 October 1994.

Patent 5,355,312: INVERSE TOMOGRAPHY BY MATCHED FIELD PROCESSING; filed 24 September 1991; patented 11 October 1994.

Patent 5,355,325: METHODS AND APPARATUS FOR CORRELATING OBJECT MEASUREMENTS WITH OBJECT MEASUREMENT ESTIMATES; filed 24 June 1992; patented 11 October 1994.

Patent 5,355,683: CRYOGENIC TEMPERATURE CONTROL AND TENSION/COMPRESSION ATTACHMENT STAGE FOR AN ELECTRON MICROSCOPE; filed 14 December 1993; patented 18 October 1994.

Patent 5,356,187: RECOVERY AND DEPLOYMENT DEVICE; filed 21 June 1993; patented 18 October 1994.

Patent 5,356,872: METHOD OF MAKING HIGH TC SUPERCONDUCTING THIN FILMS WITH FULLERENES BY EVAPORATION; filed 17 March 1994; patented 18 October 1994.

Patent 5,356,936: PROCESS FOR PRODUCING HYDROPHILIC POLYMER MEMBRANES; filed 28 September 1993; patented 18 October 1994.

Patent 5,357,484: METHOD AND APPARATUS FOR LOCATING AN ACOUSTIC SOURCE; filed 22 October 1993; patented 18 October 1994.

Patent 5,357,893: SNAP LOAD SUPPRESSION SYSTEM; filed 1 October 1993; patented 25 October 1994.

Patent 5,359,256: REGULATABLE FIELD EMITTER DEVICE AND METHOD OF PRODUCTION THEREOF; filed 30 July 1992; patented 25 October 1994.

Patent 5,359,329: JAMMER REFERENCE TARGET MEASUREMENT SYSTEM; filed 18 March 1981; patented 25 October 1994.

Patent 5,359,411: METHOD AND APPARATUS FOR EVALUATING THE OPTICAL SPATIAL RESPONSE CHARACTERISTICS OF OBJECTS; filed 8 June 1992; patented 25 October 1994.

Patent 5,359,574: ELECTROMAGNETICALLY ACTIVATED COMPLAINT WAVY-WALL; filed 27 August 1993; patented 25 October 1994.

Patent 5,359,612: HIGH REPETITION RATE, MODE LOCKED, FIGURE EIGHT LASER WITH EXTRACAVITY FEEDBACK; filed 29 September 1993; patented 25 October 1994.

Patent 5,359,663: METHOD AND SYSTEM FOR SUPPRESSING NOISE INDUCED IN A FLUID MEDIUM BY A BODY MOVING THERETHROUGH; filed 2 September 1993; patented 25 October 1994.

Patent 5,359,917: SIMPLIFIED REUSABLE SONOBUOY LAUNCHER; filed 28 July 1993; patented 1 November 1994.

Patent 5,359,951: ACTIVE TURBULENCE CONTROL USING MICROELECTRODES, PERMANENT MAGNETS IN MICROGROOVES; filed 11 February 1993; patented 1 November 1994.

Patent 5,360,235: SECRET OPTICAL MARKING; filed 14 November 1969; patented 1 November 1994.

Patent 5,360,325: GEAR PUMP WITH REDUCED FLUID-BORNE NOISE; filed 30 September 1993; patented 1 November 1994.

Patent 5,361,049: TRANSITION FROM DOUBLE-RIDGE WAVEGUIDE TO SUSPENDED SUBSTRATE; filed 19 April 1986; patented 1 November 1994.

Patent 5,361,073: DETERMINATION OF JAMMER RANGE AND AZIMUTH BY USE OF A COHERENT SIDE LOBE CANCELLER SYSTEM; filed 26 June 1975; patented 1 November 1994.

Patent 5,361,074: MAINLOBE CANCELLER SYSTEM; filed 5 May 1980; patented 1 November 1994.

Patent 5,361,130: FIBER GRATING-BASED SENSING SYSTEM WITH INTERFEROMETRIC WAVELENGTH-SHIFT DETECTION; filed 4 November 1992; patented 1 November 1994.

Patent 5,361,702: MECHANICAL SHIELDING FOR ELECTRIC PRIMER; filed 2 April 1993; patented 8 November 1994.

Patent 5,361,703: INERT THERMALLY ACTIVATED BURSTER; filed 26 May 1992; patented 8 November 1994.

Patent 5,361,710: METHOD AND APPARATUS FOR THE ACTIVE CONTROL OF A COMPACT WASTE INCINERATOR; filed 7 October 1993; patented 8 November 1994.

Patent 5,362,098: RELEASABLE UNCONSTRAINED INFLATABLE BODY PROTECTOR; filed 11 August 1993; patented 8 November 1994.

Patent 5,362,450: LASER CONTROLLED DECOMPOSITION OF CHLOROFLUOROCARBONS; filed 21 February 1991; patented 8 November 1994.

Patent 5,362,580: LIGHTWEIGHT BATTERY ELECTRODE AND METHOD OF MAKING IT; filed 7 July 1993; patented 8 November 1994.

Patent 5,362,659: METHOD FOR FABRICATING VERTICAL BIPOLAR JUNCTION TRANSISTORS IN SILICON BONDED TO AN INSULATOR; filed 25 April 1994; patented 8 November 1994.

Patent 5,363,264: VERSATILE DIGITAL RECORDING SYSTEM FOR RECORDING HIGH RESOLUTION

VOL
60
ISS
84
MY
2
1995
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VIDEO IMAGERY; filed 7 December 1992; patented 8 November 1994.
Patent 5,363,298: CONTROLLED RISK DECOMPRESSION METER; filed 29 April 1993; patented 8 November 1994.
Patent 5,363,346: CONFORMING TUNING COUPLER FOR FLEXTENSIONAL TRANSDUCERS; filed 7 January 1993; patented 8 November 1994.
Patent 5,363,650: HYDRAULIC CYLINDER ASSEMBLY FOR USE IN VARIABLE EXTERNAL PRESSURE ENVIRONMENTS; filed 12 October 1993; patented 15 November 1994.
Patent 5,363,701: MATERIAL CHARACTERIZING SYSTEM; filed 14 April 1994; patented 15 November 1994.
Patent 5,363,798: LARGE AREA SEMICONDUCTOR WAFERS; filed 29 September 1993; patented 15 November 1994.
Patent 5,364,434: PLASMA TREATMENT OF GLASS SURFACES TO REMOVE CARBON; filed 30 September 1992; patented 15 November 1994.
Patent 5,364,574: METHOD OF FORMING A CORROSION-RESISTANT EMI SHIELDING GASKET BETWEEN GRAPHITE AND METAL COMPONENTS; filed 2 April 1992; patented 15 November 1994.
Patent 5,364,816: FABRICATION METHOD FOR III–V HETEROSTRUCTURE FIELD-EFFECT TRANSISTORS; filed 29 January 1993; patented 15 November 1994.
Patent 5,364,819: ULTRAVIOLET FARADAY ROTATOR GLASS; filed 29 April 1993; patented 15 November 1994.
Patent 5,365,072: REPOSITIONABLE SUBSTRATE FOR MICROSCOPES; filed 30 August 1993; patented 15 November 1994.
Patent 5,365,171: REMOVING THE EFFECTS OF ACOUSTIC RINGING AND REDUCING TEMPERATURE EFFECTS IN THE DETECTION OF EXPLOSIVES BY NQR; filed 30 November 1992; patented 15 November 1994.
Patent 5,365,234: HIGH-RESOLUTION SIDELOBE-CANCELLER AUXILIARY ANTENNAS; filed 23 March 1977; patented 15 November 1994.
Patent 5,365,239: FIBER OPTIC FEED AND PHASED ARRAY ANTENNA; filed 6 November 1991; patented 15 November 1994.
Patent 5,365,245: HYBRID ORTHOGONAL TRANSVERSE ELECTROMAGNETIC FED REFLECTOR ANTENNA; filed 6 May 1993; patented 15 November 1994.
Patent 5,365,334: MICRO PHOTOREFLECTANCE SEMICONDUCTOR WAFER ANALYZER; filed 21 December 1990; patented 15 November 1994.
Patent 5,365,338: WAVELENGTH SENSOR FOR FIBER OPTIC GYROSCOPE; filed 20 May 1991; patented 15 November 1994.
Patent 5,365,457: IN SITU DYNAMIC MATERIAL PROPERTY MEASUREMENT SYSTEM; filed 19 October 1992; patented 15 November 1994.
Patent 5,365,472: NON-LINEAR RESISTIVE GRID KERNEL ESTIMATOR USEFUL IN SINGLE FEATURE, TWO-CLASS PATTERN CLASSIFICATION; filed 26 November 1993; patented 15 November 1994.
Patent 5,365,477: DYNAMIC RANDOM ACCESS MEMORY DEVICE; filed 16 June 1992; patented 15 November 1994.
Patent 5,365,490: METHOD AND SYSTEM FOR REDUCING DRAG ON A BODY MOVING THROUGH A FLUID MEDIUM; filed 2 September 1993; patented 15 November 1994.
Patent 5,366,198: VIBRATION ISOLATION MOUNT WITH LOCKING MEANS; filed 29 March 1993; patented 22 November 1994.
Patent 5,366,254: SMART MATERIAL JOINT BAND; filed 30 December 1993; patented 22 November 1994.
Patent 5,366,881: POLYMERIZABLE LIPIDS FOR PREPARING VESICLES THAT CONTROLLABLY RELEASE AN ENCAPSULANT; filed 23 February 1993; patented 22 November 1994.
Patent 5,367,175: METHOD OF MEASURING LIQUID LEVEL WITH A THERMAL INTERFACE DETECTION; filed 24 November 1993; patented 22 November 1994.
Patent 5,367,333: PASSIVE RANGE MEASUREMENT SYSTEM; filed 27 July 1992; patented 22 November 1994.
Patent 5,367,376: PLANAR AND LINEAR FIBER OPTIC ACOUSTIC SENSORS EMBEDDED IN AN ELASTOMER MATERIAL; filed 20 August 1992; 22 November 1994.
Patent 5,367,496: APPARATUS FOR PRODUCING IMAGES ACOUSTICALLY; filed 29 March 1993; patented 22 November 1994.
Patent 5,367,500: TRANSDUCER STRUCTURE; filed 30 September 1992; patented 22 November 1994.
Patent 5,367,501: DUAL-FREQUENCY SONAR SYSTEM; filed 8 January 1993; patented 22 November 1994.
Patent 5,367,970: CONTROLLABLE CAMBER FIN; filed 22 September 1993; patented 29 November 1994.
Patent 5,368,344: COUPLING STUD ASSEMBLY; filed 24 September 1993; patented 29 November 1994.
Patent 5,368,914: VIBRATION-DAMPING STRUCTURAL COMPONENT; filed 3 March 1993; patented 29 November 1994.
Patent 5,369,007: MICROASSAY ON A CARD; filed 26 August 1992; patented 29 November 1994.
Patent 5,369,485: FIBER OPTIC ACCELEROMETER WITH CENTRALLY SUPPORTED FLEXURAL DISK; filed 9 December 1993; patented 29 November 1993.
Patent 5,369,625: THERMOACOUSTIC SOUND GENERATOR; filed 31 May 1991; patented 29 November 1994.
Patent 5,369,663: SPATIAL COMBINER FOR A DITIGAL VLF/LF RECEIVER; filed 5 March 1991; patented 29 November 1994.
Patent 5,369,992: SEAWATER MAGNETOHYDRODYNAMIC TEST APPARATUS; filed 11 February 1993; patented 6 December 1994.
Patent 5,370,033: PRESSURE BALANCED FAST OPENING FIRING SYSTEM FOR A STORED ENERGY LAUNCHING SYSTEM; filed 30 September 1993; patented 6 December 1994.
Patent 5,370,087: LOW VIBRATION POLYMERIC COMPOSITE ENGINE; filed 28 September 1993; patented 6 December 1994.
Patent 5,371,257: PREPARATION OF DIISOPROPYL STIBINES AND USE THEREOF; filed 30 November 1993; patented 6 December 1994.
Patent 5,371,479: PRE-AMPLIFIER WITH MUTLI-STAGE FEEDBACK; filed 25 March 1994; patented 6 December 1994.
Patent 5,371,504: PHASE-CODED MONOPULSE MTI; filed 6 July 1976; patented 6 December 1994.
Patent 5,371,542: DUAL WAVEBAND SIGNAL PROCESSING SYSTEM; filed 23 June 1992; patented 6 December 1994.
Patent 5,371,720: OPTICAL FIBER PRESSURE SENSOR FOR LIQUID LEVEL MONITORING; filed 22 February 1994; patented 6 December 1994.
Patent 5,371,801: ENERGY ABSORPTION APPARATUS; filed 4 January 1993; patented 6 December 1994.
Patent 5,371,814: PASSIVE MULTI-CHANNEL FIBER OPTIC ROTARY JOINT ASSEMBLY; filed 10 November 1993; patented 6 December 1994.
Patent 5,372,069: PYRONAL TORCH; filed 9 September 1993; patented 13 December 1994.
Patent 5,372,634: SONIC APPARATUS FOR DEGASSING LIQUIDS; filed 1 June 1993; patented 13 December 1994.
Patent 5,372,930: SENSOR FOR ULTRA-LOW CONCENTRATION MOLECULAR RECOGNITION; filed 16 September 1992; patented 13 December 1994.
Patent 5,373,297: MICROWAVE REPEATER WITH BROADBAND ACTIVE AND/OR PASSIVE ISOLATION CONTROL; filed 31 December 1990; patented 13 December 1994.
Patent 5,373,318: APPARENT SIZE PASSIVE RANGE METHOD; filed 15 July 1993; patented 13 December 1994.
Patent 5,373,456: EXPERT SYSTEM FOR ASSESSING ACCURACY OF MODELS OF PHYSICAL PHENOMENA AND FOR SELECTING ALTERNATE MODELS IN THE PRESENCE OF NOISE; filed 2 November 1992; patented 13 December 1994.
Patent 5,373,773: ANTI-TORPEDO STERN DEFENSE SYSTEM; filed 6 August 1981; patented 20 December 1994.
Patent 5,374,085: LOCKING DEVICE FOR FLUID COUPLING; filed 19 February 1993; patented 20 December 1994.
Patent 5,374,347: TRIVALENT CHROMIUM SOLUTIONS FOR SEALING ANODIZED ALUMINUM; filed 1 October 1993; patented 20 December 1994.
Patent 5,374,414: SELF-SUPPORTING DIAMOND FILAMENTS; filed 6 June 1991; patented 20 December 1994.
Patent 5,374,589: PROCESS OF MAKING A BISTABLE PHOTOCONDUCTIVE COMPONENT; filed 5 April 1994; patented 20 December 1994.
Patent 5,375,502: FAST ACTING VALVE FOR PROJECTIVE LAUNCHING SYSTEMS; filed 20 December 1993; patented 27 December 1994.
Patent 5,376,594: LOW TEMPERATURE SYNTHESIS OF $YBa_2Cu_3O_8-X$ AND OTHER CRYSTALLINE OXIDES; filed 2 August 1993; patented 27 December 1994.
Patent 5,376,624: JOSEPHSON BREAK JUNCTION THIN FILM DEVICE; filed 10 October 1991; patented 27 December 1994.
Patent 5,376,859: TRANSDUCERS WITH IMPROVED SIGNAL TRANSFER; filed 25 January 1994; patented 27 December 1994.
Patent 5,376,938: METHOD AND APPARATUS FOR MAINTAINING LINEARITY AND FREQUENCY ACCURACY OF AN FM CHIRP WAVEFORM; filed 4 April 1994; patented 27 December 1994.
Patent 5,377,165: COMMUNICATION SYSTEM FOR SUBMARINES; filed 5 May 1994; patented 27 December 1994.
Patent Application 08/063,227: PROGRAMMABLE MODULAR NETWORK INTERFACE; filed 17 May 1993.
Patent Application 08/134,762: TRIVALENT CHROMIUM SOLUTIONS FOR SEALING ANODIZED ALUMINUM; filed 1 October 1993.
Patent Application 08/169,276: LATERAL FORCE DEVICE FOR UNDERWATER TOWED ARRAY; filed 20 December 1993.
Patent Application 08/194,434: OWN SHIP SENSOR SYSTEM SIMULATOR; filed 10 February 1994.
Patent Application 08/215,542: ENZYME-BASED DETECTOR FOR TRACE METALS; filed 22 March 1994.
Patent Application 08/217,511: PITCH SENSOR SYSTEM; filed 24 March 1994.
Patent Application 08/223,346: FAULT PROTECTION CIRCUIT FOR POWER DEVICE; filed 5 April 1994.
Patent Application 08/227,640: SEDIMENT CLASSIFICATION SYSTEM; filed 14 April 1994.
Patent Application 08/236,823: FIBER OPTIC COUPLER; filed 2 May 1994.
Patent Application 08/236,856: SHOCK ISOLATION METHOD AND APPARATUS; filed 2 May 1994.
Patent Application 08/238,036: EARLY COMMIT OPTIMISTIC COMPUTER DATABASE PROTOCOL; filed 28 April 1994.
Patent Application 08/238,045: EARLY COMMIT LOCKING COMPUTER DATABASE PROTOCOL; filed 28 April 1994.
Patent Application 08/246,900: FIBER OPTIC PRESSURE AND/OR VIBRATION DETECTOR; filed 18 May 1994.
Patent Application 08/247,827: COMMUNICATION WITH REENTRY VEHICLE THROUGH MODULATED PLASMA; filed 23 May 1994.
Patent Application 08/250,768: SILOXANES WITH STRONG HYDROGEN BOND DONATING FUNCTIONALITIES; filed 27 May 1994.
Patent Application 08/251, 146: BROADBAND THERMAL OPTICAL LIMITER FOR THE PROTECTION OF EYES AND SENSORS; filed 31 May 1994.
Patent Application 08/251,419: ANTIFOULING AND FOUL-RELEASE COATINGS; filed 31 May 1994.
Patent Application 08/266,758: GROWING AND RELEASING DIAMONDS; filed 23 April 1994.
Patent Application 08/266,770: POLISHING DIAMOND SURFACE; filed 23 June 1994.
Patent Application 08/268,597: TORPEDO TUBE AND SLIDE VALVE GRATES; filed 30 June 1994.
Patent Application 08/268,598: SUBMARINE HULL STRUCTURE PROVIDING ACOUSTICALLY ISOLATED HULL OPENINGS; filed 30 June 1994.
Patent Application 08/269,460: TORPEDO TUBE SLIDE VALVE; filed 30 June 1994.
Patent Application 08/274,183: COAXIAL HYBRID WIGGLER; filed 12 July 1994.
Patent Application 08/279,037: HYDROFOIL FORCE BALANCE; filed 20 July 1994.
Patent Application 08/280,975: UNDERWATER VORTEX SHEDDER; filed 27 July 1994.
Patent Application 08/286,590: STABILIZING JACKET FOR A TOWED CABLE OR ANTENNA STRUCTURE; filed 8 August 1994.
Patent Application 08/287,023: BROADBAND PRESSURE BARRIER FOR CIRCULAR WAVEGUIDE; filed 8 August 1994.
Patent Application 08/287,026: IMPROVED BROADBAND WAVEGUIDE PRESSURE WINDOW; filed 8 August 1994.
Patent Application 08/287,027: FIBER-OPTIC ROTARY JOINT WITH BUNDLE COLLIMATOR ASSEMBLIES; filed 8 August 1994.
Patent Application 08/287,028: METHOD FOR MAKING FIBER-OPTIC BUNDLE COLLIMATOR ASSEMBLY; filed 8 August 1994.
Patent Application 08/287,029: FIBER-OPTIC BUNDLE AND COLLIMATOR ASSEMBLY; filed 8 August 1994.
Patent Application 08/301,505: LONG ROD EXTENSION SYSTEM UTILIZING SHAPE MEMORY ALLOY; filed 7 September 1994.
Patent Application 08/304,334: SHUTTER DOOR ASSEMBLY; filed 12 September 1994.

Dated: April 21, 1995.

M. D. Schetzsle,

Lt, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95–10746 Filed 5–1–95; 8:45 am]
BILLING CODE 3810–AE–M

VOL
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1995
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DEPARTMENT OF ENERGY

Floodplain Statement of Findings for Operable Unit 2 Removal Action No. 30 at the Fernald Environmental Management Project

AGENCY: Department of Energy (DOE).

ACTION: Floodplain statement of findings.

SUMMARY: This is to give notice of DOE's planned actions for the Fernald Environmental Management Project (FEMP), located approximately 18 miles (29 kilometers) northwest of downtown Cincinnati, Ohio. The subject of this Floodplain Statement of Findings is Operable Unit 2 Removal Action No. 30. DOE proposes to protect human health and the environment by excavating contaminated sediments and constructing a seepage collection system to prevent leaching and infiltration of contaminated sediments into the Great Miami Aquifer. Excavation and construction activities associated with implementation of this action would involve a small portion of the floodplain along Paddys Run in Hamilton County, Ohio. In accordance with Executive Order 11988 and 10 CFR 1022, DOE prepared a floodplain assessment describing the effects, alternatives and measures designed to avoid or minimize potential harm to or within the affected floodplain. The assessment found that the proposed action would have minimal temporary or long-term impacts on the floodplain.

DATES: Written comments must be received by the DOE at the following address on or before May 17, 1995.

ADDRESSES: Mail comments and/or requests for further information, including a site map, to: Mr. Wally Quaider, Acting Associate Director, Office of Safety & Assessment, U.S. Department of Energy, Fernald Area Office, P.O. Box 538705, Cincinnati, Ohio 45253–8705, Phone: (513) 648–3137, Facsimile: (513) 648–3077.

FURTHER INFORMATION: For further information on general DOE floodplain and wetland environmental review requirements, contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, Phone: (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION: This Floodplain Statement of Findings for Operable Unit 2 Removal Action No. 30 at the FEMP has been prepared in accordance with Executive Order 11988, "Floodplain Management," and 10 CFR Part 1022, "DOE Regulations for Compliance with Floodplain/Wetland Environmental Review Requirements." A Notice of Floodplain Involvement was published in the **Federal Register** (FR) on April 13, 1995 (60 FR 18805) and a Floodplain Assessment was incorporated in the Removal Action No. 30 Work Plan. DOE is proposing to protect human health and the environment by excavating contaminated sediments (in the low area in the southeast corner of the South Field) to prevent leaching of contaminated sediments into the Great Miami Aquifer, and by constructing a seepage collection system to prevent infiltration of contaminated sediments into the Great Miami Aquifer. In order to eliminate the threat of a release to Paddy's Run, limited excavation would occur in the floodplain. Direct physical impact to the floodplain would result from the operation of heavy equipment during excavation of contaminated sediments and construction of a sump/pump station and portion of a discharge line within the floodplain. Potential indirect impacts to the 100- and 500-year floodplain, as a result of removal activities involving the Inactive Flyash Pile and South Field, include surface water runoff and sedimentation loading into the floodplain. Several alternatives were considered and evaluated in making this determination, including no-action, removal of sediment/construction of a seepage interceptor system, and sediment removal/construction of a seepage collection system (i.e., the preferred alternative). Direct and indirect impacts would occur during the implementation of any action alternative considered. However, minimal or no change in flood elevations would be expected. The proposed removal action has been designed to conform to applicable Federal and State regulations, including floodplain protection standards. Before this action begins, approval would be obtained from the Federal and State agencies having jurisdiction.

DOE has determined that there is no practicable alternative to the proposed removal action and that this action has been designed to minimize harm to the 100- and 500-year floodplain of Paddys Run. Engineering controls (e.g., silt fences, straw bales) will minimize any indirect impacts such as runoff and sediment deposition to the floodplain. Backfilling activities following the Operable Unit 2 Removal Action will eliminate any long-term adverse impacts.

Issued in Miamisburg, Ohio on April 19, 1995.

George R. Gartrell,

Acting Deputy Manager, Ohio Field Office.

[FR Doc. 95–10643 Filed 5–1–95; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project Nos. 10822–000 10823–000–CT]

Summit Hydropower [Upper and Lower Collinsville Projects]; Notice of Intention To Prepare an Environmental Assessment and Conduct Public Scoping Meetings

April 26, 1995.

The Federal Energy Regulatory Commission (Commission) has received applications for two original licenses for the construction and operation of the Upper Collinsville Project No. 10822; and the Lower Collinsville Project No. 10823. The projects are located on the Farmington River in Hartford County, Connecticut.

The Commission staff has determined that licensing these projects would not constitute a major federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental assessment (EA) on the hydroelectric projects in accordance with the National Environmental Policy Act. The staff's EA will objectively consider both site specific and cumulative environmental effects of the projects and reasonable alternatives, and will include an economic, financial and engineering analysis.

A draft EA will be issued and circulated for review by all interested parties. All comments filed on the draft EA will be analyzed by the staff and considered in a final EA. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decisions.

Scoping Meetings

The Commission staff will conduct two scoping meetings. The evening scoping meeting is primarily for public input while the day-time meeting will focus on resource agency and non-governmental organization (NGO) concerns. All interested individuals, organizations, and agencies are invited to attend and assist the staff in identifying the scope of environmental issues that should be analyzed in the EA.

To help focus discussions, a preliminary scoping document outlining

subject areas to be addressed at the meeting will be distributed by mail to interested parties on the Commission mailing list. Copies of the preliminary scoping document will also be available at the scoping meetings.

The public scoping meeting which will be conducted by staff will be held at 7:30 p.m. on May 15, 1995, at the Canton Town Hall, 3rd Floor, Canton, Connecticut. The agency meeting will be held at 9:30 a.m. on May 16, 1995, at the Connecticut Department of Environmental Protection, Holcombe Conference Room, 5th Floor, 79 Elm Street, Hartford, Connecticut.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the planned EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue, (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views, (4) determine the relative depth of analysis for issues to be addressed in the EA, and (5) identify resource issues that are not important and do not require detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the Farmington River projects under consideration. Individuals presenting statements at the meetings will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Participants wishing to make oral comments in the public meeting are asked to keep them to five minutes to allow everyone the opportunity to speak.

Persons choosing not to speak at the meetings, but who have views on the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, DC 20426. All correspondence should clearly show one or more of the following captions on the first page: Upper Collinsville Project No. 10822–000; and Lower Collinsville Project No. 10823–000.

All those that are formally recognized by the Commission as intervenors in the Collinsville Projects' proceedings are asked to refrain from engaging the staff in discussions of the merits of the projects outside of any announced meetings.

Further, parties are reminded of the Commission's Rules of Practice and Procedures, which require parties filing documents with the Commission, to serve a copy of the document on each person whose name is on the official service list, including agents of the applicant.

For further information, please contact Julie Bernt at (202) 219–2814.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10667 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP93–187–009, RP93–82–012, and CP88–546–007]

Equitrans, Inc.; Notice of Proposed Changes in FERC Gas Tariff

April 26, 1995.

Take notice that on April 21, 1995, Equitrans, Inc. (Equitrans) tendered for filing the proposed tariff sheets classified on Appendix A in the filing.

Equitrans states that its filing is made pursuant to the Commission's April 13, 1995, Order in the referenced dockets approving its rate case settlement without modification. Equitrans states that pro forma tariff sheets were included in the January 19, 1995, settlement filing. Equitrans states that this filing is intended to implement the Order and the settlement.

The settlement covers three time periods. Equitrans states the revised tariff sheets reduce base tariff rates for the period from July 1, 1993 through August 31, 1993 (Period 1), from September 1, 1993 through February 28, 1994 (Period 2), and from March 1, 1994 forward (Period 3). Changes in the rates that took place within the refund period due to periodic adjustments in ACA and GRI charges are indicated in the Appendix A tariff sheets.

In addition, Section IV of Appendix A contains miscellaneous tariff revisions which will become effective June 1, 1995 on a prospective basis. Equitrans states that June 1, 1995 was chosen as the effective date for these tariff sheets as Equitrans anticipates that this will be the first day of the month following the effective date of the settlement.

Any person desiring to protest this application should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before May 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10668 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–245–000]

Koch Gateway Pipeline Co.; Notice of Proposed Changes in FERC Gas Tariff

April 26, 1995.

Take notice that on April 21, 1995, Koch Gateway Pipeline Company (KGPC) tendered for to become part of its FERC Gas Tariff Fifth Revised Volume No. 1, the following tariff sheets, to become effective May 4, 1995:

First Revised Sheet No. 3603
First Revised Sheet No. 3605
First Revised Sheet No. 3606
First Revised Sheet No. 3607
Second Revised Sheet No. 3608
First Revised Sheet No. 3609
First Revised Sheet No. 3610
First Revised Sheet No. 3611

KGPC states that the above referenced tariff sheets reflect KGPC's compliance with the Commission's Final Rule (Order No. 577) issued March 29, 1995 at Docket No. RM95–5–000. KGPC states that these tariff sheets reflect modifications to KGPC's capacity release provisions to reflect the Commission's revision of Section 284.243(h) of its Regulations.

KGPC, pursuant to Section 154.51 of the Commission's Regulations, respectfully requests waiver of the notice requirement of Section 154.22 of said Regulations to permit the tendered tariff sheets to become effective May 4, 1995 which is the date Order No. 577 will become effective.

KGPC also states that the revised tariff sheets are being served upon all its customers, State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections

VOL 60 ISS 84 MY 2 1995 UMI

385.214 and 385.211 of the Commission's regulations. All such motions or protests should be filed on or before May 3, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a Motion to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10669 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2620 South Carolina]

Lockhart Power Co.; Notice of Intent To File an Application for a New License

April 26, 1995.

Take notice that Lockhart Power Company, the existing licensee for the Lockhart Power Project No. 2620, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 2620 was issued effective November 21, 1963, and expires March 31, 2000.

The project is located on the Broad River in Union, Chester, York and Cherokee Counties, South Carolina. The principal works of the Lockhart Project include a concrete gravity dam, 1,300 feet long and 16 feet high, with a 862-foot-long spillway; a 300 acre reservoir at elevation 397.35 feet m.s.l.; a canal 7,497 feet in length and averaging 250 feet in width; a 1.5 mile long by passed reach; a concrete and brick powerhouse with an installed capacity of 12,300 Kw; generator leads, 2.3 KV bus, and a 50 foot tie to a transformer in the switchyard; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is now available from the licensee at 1 River Street, Lockhart, South Carolina 29364.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by March 31, 1998.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10670 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–248–000]

Mississippi Valley Gas Company Complainant v. Southern Natural Gas Company Respondent; Notice of Complaint

April 26, 1995.

Take notice that on April 24, 1995, Mississippi Valley Gas Company (Mississippi Valley) filed a complaint against Southern Natural Gas Company (Southern). Mississippi Valley states that it is one of the individual Southern customers the Commission concluded in its September and December 1993, RS92–10 Restructuring Orders to be entitled to mitigation of costs unduly shifted to them due to Southern's change to Straight Fixed Variable (SFV) rate design. Mississippi Valley further states that the relationship between winter and summer maximum daily quantity (MDQ) established in Southern's Restructuring proceeding determines the effective rate paid by Mississippi Valley, and thus the rate mitigation received by Mississippi Valley.

In accordance with the terms of its firm transportation (FT) service agreement with Southern, Mississippi Valley asserts that it reduced its winter season MDQ from 42,500 to 20,000, effective November 1, 1994, and timely requested Southern's recognition of the pro rata reduction of Mississippi Valley's summer season MDQ, thereby avoiding any change in the effective rate paid for FT service.

Mississippi Valley complains that Southern has refused to permit the requested pro rata reduction of summer season MDQ. Mississippi Valley asks the Commission to confirm by order that Mississippi Valley's summer season MDQ is reduced on a monthly average level for billing purposes in the same proportion as its winter season MDQ is reduced, that is:

November 1994–March 1995: 42,500 to 20,000 Mcf/day. April–October 1994: 16,234 to an average of 7,630 Mcf/day.

Mississippi Valley states that it has served the foregoing document to the parties on the official service list compiled by the Secretary in this proceeding.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before May 17, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before May 17, 1995.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10671 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–242–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

April 26, 1995.

Take notice that on April 21, 1995, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet Nos. 204 through 208 to be effective May 21, 1995.

Natural states that the purpose of the filing is to establish procedures for the transition to new services on Natural's system to be effective December 1, 1995.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective May 21, 1995.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211. All such motions or protests should be filed on or before May 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10672 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–343–008]

NorAm Gas Transmission Co.; Notice of Filing

April 26, 1995.

Take notice that on April 21, 1995, NorAm Gas Transmission Company (NGT) tendered for filing to become part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the filing following tariff sheets, to be effective February 1, 1995:

Second Sub Original Sheet No. 9
Substitute Original Sheet No. 35
Substitute Original Sheet No. 127
Substitute Original Sheet No. 215
Sub Original Sheet No. 215A
Substitute Original Sheet No. 225
Substitute Original Sheet No. 226
Substitute Original Sheet No. 236

Pursuant to the Commission's March 30, 1995, Order Accepting Tariff Sheets, Subject to Conditions, NGT is correcting a pagination error in tariff sheets filed on March 2, 1995, and is clarifying Section 5.7(c)(ii)(3) of its General Terms and Conditions to provide that a shipper may transfer an imbalance between any two zones to the extent of the lesser opposite imbalance.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before May 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10673 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2567 Wisconsin]

Northern States Power Co.; Notice of Intent To File an Application for a New License

April 26, 1995.

Take notice that Northern States Power Company, the existing licensee for the Wissota Hydroelectric Project No. 2567, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 2567 was issued effective July 1, 1950 and expires June 30, 2000.

The project is located on the Chippewa River in Chippewa County, Wisconsin. The principal works of the Wissota Project include a dam, 6,033 feet long and 70 feet high, with five various earth sections, a concrete spillway section containing 13 automatic gates, two concrete Ambursen type sections, and a concrete intake section; a 13-mile-long reservoir with a surface area of about 7,000 acres; a concrete and brick powerhouse with an installed capacity of 36,000 Kw; a substation and transmission line connection; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is now available from the licensee at 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702–0008.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by June 30, 1998.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10676 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–161–000]

Northern Natural Gas Co.; Notice of Technical Conference

April 26, 1995.

In the Commission's order issued March 15, 1995, the Commission held that the filing in the above captioned proceeding raises issues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Wednesday, May 10, 1995, at 1:00 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington D.C. 20426. All interested parties and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10674 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–185–000]

Northern Natural Gas Co.; Notice of Technical Conference

April 26, 1995.

In the Commission's order issued March 30, 1995, the Commission held that the filing in the above captioned proceeding raises isues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Wednesday, May 10, 1995, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington D.C. 20426. All interested parties and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10675 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1981 Wisconsin]

Oconto Electric Cooperative; Notice of Intent To File an Application for a New License

April 26, 1995.

Take notice that Oconto Electric Cooperative, the existing licensee for the Stiles Hydroelectric Project No. 1981, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 1981 was issued effective March 1, 1950, and expires February 28, 2000.

The project is located on the Oconto River in Oconto County, Wisconsin. The principal works of the Stiles Project include a 1,860-foot-long north embankment and a 300-foot-long south embankment, 20 to 30 feet high with a top width from 8 to 18 feet; an integral concrete masonry powerhouse and tainter gate spillway structure; a reservoir with a surface area of about 600 acres and a volume of 2,300 acre-feet at elevation 623.6 feet NGVD; an installed powerhouse capacity of 1000–kW; connections to transmission facilities; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is not available from the licensee at 7479 REA Road, Oconto Falls, WI 54154–9573.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1998.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10677 Filed 5–1–95; 8:45 am]

BILLING CODE 6717–01–M

VOL 60 ISS 84 MY 2 1995 UMI

[Docket No. RP95-248-000]

Overthrust Pipeline Co.; Notice of Tariff Filing

April 26, 1995.

Take notice that on April 24, 1995, Overthrust Pipeline Company, tendered for filing to become part two of its FERC Gas Tariff, First Revised Volume No. 1-A, First Revised Sheet Nos. 48, 49 and 49A, to be effective May 4, 1995.

Overthrust explains that these tariff sheets revise Section 8 of the General Terms and Conditions of its tariff to conform with Order No. 577 capacity release provisions.

Overthrust states that this filing complies with Order No. 577 by revising the capacity release provisions found in Section 8 of the General Terms and Conditions of Part 1 of its tariff by (1) extending to one calendar month the exception from the advance posting and bidding requirement applicable to released capacity, (2) adding tariff language to explain that shippers under this exemption that release capacity at a rate less than the maximum rate in the tariff may not re-release that capacity to the same replacement shipper at a rate less than the maximum tariff rate until 28 days after the first release period has ended and (3) adding additional tariff language so that Overthrust's tariff will comport with Commission Regulations that address bidding for pre-arranged releases for a month or less at a rate less than the maximum rate.

Overthrust states further that a copy of this filing has been served upon its jurisdictional customers as well as the Utah and Wyoming public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10678 Filed 5-1-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-247-000]

Questar Pipeline Co; Notice of Tariff Filing

April 26, 1995.

Take notice that on April 24, 1995, Questar Pipeline Company, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet Nos. 59, 60 and 60A to be effective May 4, 1995.

Questar explains that these tariff sheets revise Section 6 of the General Terms and Conditions of Part 1 of its tariff to conform with Order No. 577 capacity release provisions.

Questar states that this filing complies with Order No. 577 by revising the capacity release provisions found in Section 6 of the General Terms and Conditions of Part 1 of its tariff by (1) extending to one calendar month the exception from the advance posting and bidding requirement applicable to released capacity, (2) adding tariff language to explain that shippers under this exemption that release capacity at a rate less than the maximum rate in the tariff may not re-release that capacity to the same replacement shipper at a rate less than the maximum tariff rate until 28 days after the first release period has ended and (3) adding additional tariff language so that Questar's tariff will comport with Commission Regulations that address bidding for pre-arranged releases for one calendar month or less at a rate less than the maximum rate.

Questar states further than a copy of this filing has been served upon its jurisdictional customers as well as the Utah and Wyoming public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10679 Filed 5-1-95; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1927-006]

PacifiCorp; Notice of Staff Attendance at Project Tour

April 26, 1995.

Staff from the Federal Energy Regulatory Commission, Office of Hydropower Licensing, Division of Project Review, will be attending a May 18, 1995, tour of the North Umpqua Hydroelectric Project. The tour will be conducted by Umpqua National Forest staff, and will begin at 9:00 am at the Umpqua National Forest Supervisor's Office in Roseburg, Oregon. Those wishing to participate in the tour should contact Jim Wieman, Umpqua National Forest, at (503) 942-5591.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10680 Filed 5-1-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-243-000]

Southern Natural Gas Co.; Notice of Proposed Changes to FERC Gas Tariff

April 26, 1995.

Take notice that on April 21, 1995, Southern Natural Gas Company (Southern) tendered for filing to become part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets, to be effective June 1, 1995, and March 1, 1995, respectively:

Effective June 1, 1995

First Revised Sheet No. 139a
First Revised Sheet No. 140

Effective March 1, 1995

Third Revised Sheet Nos. 404-407
Third Revised Sheet No. 408
Third Revised Sheet No. 410

Southern states that the purpose of this filing is to revise the calculation of the net imbalance percentage for cashing out imbalances of downstream operators who have elected to have the variance between nominations and actual deliveries at its Delivery Point (swing) allocated to its own transportation agreements. Since the allocation of the swing to the operator's agreement increases its imbalance risk, Southern has agreed to take this factor into account in the calculation of the swing operator's net imbalance percentage, as more particularly described in the filing.

Southern has requested that these sheets become effective June 1, 1995. Southern also submits updates to its Index of Purchasers and requests any waivers of the Commission's Regulations necessary to make such revised sheets effective March 1, 1995.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211 and 385.214). All such motions and protests should be filed on or before May 3, 1995. Protests will not be considered by the Commission in determining the parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10682 Filed 5-1-95; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2964, Michigan]

City of Sturgis, Michigan; Notice of Intent To File an Application for a New License

April 26, 1995.

Take notice that the City of Sturgis, Michigan, the existing licensee for the Sturgis Hydroelectric Project No. 2964, filed a timely notice of intent to file an application for a new license, pursuant to 18 CFR 16.6 of the Commission's Regulations. The original license for Project No. 2964 was issued effective April 14, 1961, and expires March 31, 2000.

The project is located on the St. Joseph River in St. Joseph County, Michigan. The principal works of the Sturgis Project include a dam with a concrete section 300 feet long and 25 feet high and an earth section 500 feet long with an average height of 12.5 feet; a reservoir with a surface area of 480 acres at elevation 825.5 feet m.s.l.; two powerhouses with a total installed capacity of 2,600 kW; a 24-kV transmission substation and a 24-kV transmission line, about 18 miles long, extending to a substation in Sturgis; and appurtenant facilities.

Pursuant to 18 CFR 16.7, the licensee is required henceforth to make available certain information to the public. This information is now available from the licensee at 130 North Nottawa, Sturgis, MI 49091.

Pursuant to 18 CFR 16.8, 16.9 and 16.10, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by March 31, 1998.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10681 Filed 5-1-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-244-000]

Williams Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 26, 1995.

Take notice that on April 21, 1995, Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 240. The proposed effective date of these tariff sheets is May 4, 1995.

WNG states that the purpose for the instant filing is to comply with the Commission's order in Docket No. RM95-5 issued March 29, 1995. Second Revised Sheet No. 240 includes revisions to Article 11 of WNG's FERC Gas Tariff to provide that releases for a period of one month or less will be considered short term releases, and releases for more than one month are long term releases. It also provides that long term pre-arranged releases at the maximum rate will be exempted from the advance posting and bidding requirements.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 3, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10683 Filed 5-1-95; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of April 3 Through April 7, 1995

During the week of April 3 through April 7, 1995 the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Personnel Security Hearing

Albuquerque Operations Office, 4/4/95, VSO-0012

An OHA Hearing Officer issued an opinion restoring the access authorization and PSAP authorization of a Respondent. The Respondent's authorizations had been suspended when it was discovered that he had once smoked marijuana. The Hearing Officer found that the Respondent's youth was a significant factor in his decision to engage in an experimental use of marijuana. In addition, the Hearing Officer found that the Respondent had shown adequate rehabilitation and growth in his sense of responsibility since the incident.

Refund Applications

Dalco Petroleum/Farmland Industries Inc., et al., 4/3/95, RF248-8 et al.

The DOE issued a Supplemental Decision and Order concerning four Applications for Refund filed by purchasers of propane from Dalco Petroleum Inc. In an earlier Decision, the applicants were granted refunds from monies collected from Dalco pursuant to the terms of a consent order with DOE. Recently, Dalco made a supplemental payment to the DOE. *Dalco Petroleum Inc./Farmland Industries Inc.*, 16 DOE ¶ 85,057 (1987). Prior to granting supplemental refunds, DOE modified the terms by which the refund proceeding is conducted by increasing the small claims injury presumption refund ceiling from $5,000 to $10,000. In addition, the DOE applied a medium-range injury presumption under which applicants could receive a refund of 40% of their maximum potential refund without presenting detailed evidence of injury, subject to $50,000 ceiling. The supplemental refunds granted in this proceeding total $672,930 ($639,224 principal plus $33,706 interest). The DOE also stated its intention to make all residual funds in the Dalco settlement fund available for indirect restitution pursuant to the Petroleum Overcharge Distribution and

VOL 60 ISS 84 MY 2 1995 UMI

Restitution Act of 1986 as of September 30, 1995.

Enron Corp./Austin Hydro Gas Co., et al., 4/5/95, RF340–189, RF340–195

The DOE issued a Decision and Order concerning refund applications that Austin Hydro Gas Company, Inc. (Austin) and General Development Utilities, Inc. (GDU) submitted in the Enron Corporation (Enron) special refund proceeding. The DOE found that those firms were retailers of Enron products who qualified for refunds under the 60% mid-range presumption of injury. However, the DOE found that both firms claimed gallonage purchased outside the refund period and that GDU had inadvertently overestimated its average monthly purchases by including a disproportionate number of winter months in its estimate. Accordingly, the DOE reduced the total gallonage estimates submitted by these firms. The DOE granted Austin and GDU a total refund of $125,396.

Texaco Inc./MAPCO, Inc., 4/5/95, RR321–152, RF321–21063

The DOE issued a Decision and Order in the Texaco Inc. special refund proceeding granting a Motion for Reconsideration filed by MAPCO, Inc. (MAPCO) and rescinding a refund granted to MAPCO previously. In the Motion, MAPCO sought a refund equal to its full allocable share based on its purchases of Texaco propane. In support of its claim of injury above the medium-range presumption level, the firm submitted information showing the status of its cumulative banked propane cost at the end of the "banking" regulation period, as well as competitive disadvantage analysis for its Texaco purchases of propane. The data submitted showed that MAPCO had accumulated sufficient banks to justify a full volumetric refund, and that the firm may have experienced a substantial competitive disadvantage as a result of its Texaco purchases. Accordingly, the Motion was granted, and MAPCO received a total refund of $766,274 ($526,685 principal and $239,589 interest). However, MAPCO had previously been granted a refund in the Texaco Inc. special refund proceeding based on the medium-range presumption of injury for its Texaco propane purchases. In its Motion MAPCO chose to abandon the medium-range presumption of injury in its efforts to show injury so as to receive its full allocable share. Therefore MAPCO's prior refund of $50,000 plus interest was rescinded.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Bowers Oil Co., Inc. et al	RF304–13611	04/07/95
Gulf Oil Corporation/James River Corporation	RF300–21352	04/07/95
Gulf Oil Corporation/Ward School Bus Manufacturing, Inc	RF300–21387	04/07/95
Monsanto Chemical Company	RF272–98770	04/05/95
Monsanto Chemical Company	RF272–98771	
Monsanto Chemical Company	RF272–98772	
Monsanto Chemical Company	RF272–98773	
Monsanto Chemical Company	RF272–98774	
Monsanto Chemical Company	RF272–98821	
Monsanto Chemical Company	RF272–98822	
Monsanto Agricultural Company	RC272–286	
Parker Brothers & Company, Inc	RF272–77544	04/07/95
Pay-N-Save, Inc	RF272–98812	04/05/95
Shell Oil Company/St. Regis Forest Prod. Div	RF315–8235	04/05/95
Texaco Inc./Bill Boyd's Texaco et al	RF321–20871	04/03/95
Texaco Inc./Glenview Texaco	RF321–19295	04/03/95
Greenbay Pit Stop Service	RF321–19296	
Holiday Texaco	RF321–19297	
Zion Pit Stop #2 Texaco	RF321–19298	
Ravinia Texaco	RF321–19299	
Countryside Texaco	RF321–19300	
Pit Stop #3 Texaco	RF321–19301	
Tower Texaco	RF321–19302	
North Chicago Pit Stop #4	RF321–19303	
Texaco Inc./Lewis & Son Texaco	RF321–21062	04/03/95
Texaco Inc./Monte's Texaco #1	RF321–11318	04/03/95
Charles William Newell	RF321–21061	
Texaco Inc./Stewart's Texaco et al	RF321–20395	04/05/95
Texaco Inc./the Waysider et al	RF321–9371	04/03/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Bamberg Texaco	RF321–8230
Better Roads Inc	RF272–90949
Bill & Bob's Texaco	RF321–19939
Bud Lord's Arco #1	RF304–14836
Bud Lord's Arco #2	RF304–14837
Burt's Texaco	RF321–12873
Central Texaco	RF321–5976
Convenience Marketing Corp	RF321–12599
Dewey County, OK	RF272–86283
Flowers Snack of Tennessee	RF272–94440
Grant's Dairy, Inc	RF272–92810
Ho Ho Kus Texaco	RF321–20811

Name	Case No.
Huntsville Utilities	RF272–78672
Lake Region Union High School	RF272–96586
Live Oak LPG	RF304–14816
Lockheed Environmental Systems & Technologies Company	VWD–0001
Mound Bayou Public Schools	RF272–88263
Redmond Sand & Gravel Co	RF272–98122
Sam Denaro's Texaco Service	RF321–20331
Santee's Arco	RF304–14809
Southside Texaco of Monroe	RF321–8134
West Park Texaco	RF321–11379
Winn-Dixie Atlanta, Inc	RF272–77493

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 21, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10756 Filed 5–1–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders During the Week of February 20 Through February 24, 1995

During the week of February 20 through February 24, 1995, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

David K. Hackett, 2/24/95, VFA–0021

David K. Hackett filed an Appeal from a determination issued by the Oak Ridge Operations Office (Oak Ridge) of the Department of Energy in response to a request from Mr. Hackett under the Freedom of Information Act (FOIA). Mr. Hackett sought a copy of the transcript of the deposition taken of him in the case of *Hackett* v. *Martin Marietta*. In denying Hackett's request, Oak Ridge stated that it did not possess the requested document. In considering the Appeal, the Office of Hearings and Appeals found that although Oak Ridge did not possess the requested transcript, it did own that document. The OHA found that since Oak Ridge owned the deposition transcript, it should have considered whether the document should have been released. Accordingly, the matter was remanded to Oak Ridge.

J/R/A Associates, 2/23/95, VFA–0022

J/R/A Associates filed an Appeal from a determination issued to it by the Associate Deputy Secretary for Field Management of the Department of Energy (DOE) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the Office of Contractor Employee Protection (OCEP) had improperly withheld the name of corporate contractors and subcontractors named in ongoing "whistleblower" investigations. OCEP had withheld this information under Exemptions 6 and 7(C), which protect personal privacy. The DOE found that corporations do not have protectable privacy interests for the purposes of these FOIA exemptions. Accordingly, the Appeal was granted in part, denied in part and remanded with instructions to either release the requested information or to issue a new determination fully explaining its reasons for continuing to withhold the information.

Refund Applications

Atlantic Richfield Co./Coast Gas, Inc., 2/23/95 RR304–63

Coast Gas, Inc. filed a Motion for Reconsideration from the dismissal of an Application for Refund that it had filed the Atlantic Richfield Company special refund proceeding. Since Coast Gas was seeking a refund in excess of $5,000, it was required to demonstrate that it was injured by ARCO's alleged overcharges on its sales of natural gas liquids. The firm submitted evidence that it maintained banks of unrecovered product costs in excess of its refund claim and that the firm's ARCO purchases placed it at a competitive disadvantage vis-a-vis other resellers of propane and butane in its marketing area. The firm was not however, at a competitive disadvantage with respect to its purchases of ARCO natural gasoline. Accordingly, the firm was granted a refund of its full allocable share with respect to its propane and butane purchases, and a refund equal to its above-market volumetric share with respect to its purchases of natural gasoline. The total refund issued to the firm was $88,339 ($49,699 in principal and $38,640 in interest).

Texaco Inc./ Cadoret Oil Company, 2/22/95 RF321–14165

The DOE issued a Decision and Order granting an Application for Refund in the Texaco Inc. special refund proceeding. Francis Cadoret filed an Application for Refund on behalf of Cadoret Oil Co., a firm he owned with his partner, Joseph Cadoret, for its purchases of Texaco petroleum products. Francis Cadoret claimed that he alone was entitled to the entire refund since he had purchased his partners share of the business. After examining the language of the relevant partnership dissolution agreement, the DOE found that the agreement had transferred Joseph Cadorets right to a refund to Francis Cadoret. Consequently, the DOE determined that Francis Cadoret was eligible to receive a refund equal to Cadoret Oil's full allocable share. Accordingly, Francis Cadoret was granted a refund of $1,166 ($805 principal plus $361 interest).

Texaco Inc./27 W. Landis Texaco, Langhorne Texaco Service Station, D'ippolito Oil Company R.A. Reiff Fuels, Inc., 2/23/95 RF321–16943, RF321–16944, RF321–16950, RF321–16951

The DOE issued a Decision and Order concerning four Applications for Refund submitted by indirect purchases of Texaco products. The DOE determined that the four applicants were affiliated through varying degrees of common ownership and considered the claims together in order to determine one combined allocable share for the four firms. Further, one of the owners of R.A. Reiff Fuels, Inc. also owns 75 percent of the shares of the corporation that supplied Texaco products to R.A. Reiff Fuels, Inc. Since that supplier has

VOL 60 ISS 84 MY 2 1995 UMI

received a refund for its direct purchases of Texaco products, R.A. Reiff Fuels, Inc.'s refund attributable to the common owner was reduced by 75 percent so that he would not receive two refunds for the same gallons of product. The total of the refunds granted to the applicants was $12,005 ($8,288 principal and $3,717 interest).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Atlantic Richfield Company/R.D.P. Corporation et al	RF304–14596	02/23/95
City of Columbus et al	RF272–83003	02/22/95
Deer Trail Truckline	RC272–277	02/23/95
Deer Trail Truckline	RR272–187	
Muckleroy Cattle Co. et al	RF272–91900	02/21/95
Prins Rental et al	RF272–90188	02/22/95
Texaco Inc./Air Comfort, Inc	RF321–21058	02/21/95
Texaco Inc./Allen Texaco et al	RF321–9086	02/22/95
Texaco Inc./Pritchard's Texaco et al	RF321–17144	02/21/95
Texaco Inc./Silva's Texaco et al	RF321–20818	02/22/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Arizona Chemical	RF321–20821
Schadow Texaco	RF321–12996

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 21, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10757 Filed 5–1–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 20 through March 24, 1995

During the week of March 20 through March 24, 1995 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

National Security Archive, 3/24/95, LFA–0297

National Security Archive filed an Appeal from a denial by the Department of Defense of a request for information that it filed under the Freedom of Information Act (FOIA). The information had been withheld by the predecessor to the DOE's Office of Declassification as classified material under Exemptions 1 and 3 of the FOIA. After considering the matter, the DOE determined that all of previously withheld material could now be released. Accordingly, the Appeal was granted.

Richard J. Levernier, 3/21/95, VFA–0025

Richard J. Levernier filed an Appeal from a determination issued by the Manager of the Department of Energy's Rocky Flats Office (DOE/RF), in response to a request for information under the Freedom of Information Act (FOIA). Levernier sought records of telephone conversations between himself and personnel of Wackenhut Services, Inc., a DOE contractor. In his Appeal, Levernier challenged the adequacy of DOE/RF's search for records. In considering the Appeal, the DOE found that, because the DOE/RF FOIA Officer consulted each of the offices at DOE/RF that were likely to possess the records, including the offices that Levernier stated had reviewed the documents, her search was reasonably calculated to uncover the records sought by the Appellant. Accordingly, the Appeal was denied.

Robert L. Hale, 3/20/95, VFA–0026

The Department of Energy issued a Decision and Order denying a Freedom of Information Act Appeal filed by Robert L. Hale. In his Appeal, Mr. Hale contested the adequacy of the search for responsive documents performed by the DOE's Oak Ridge Operations Office. After conducting its own inquiry into the scope of the search, the DOE concluded that the search was adequate. Mr. Hale's Appeal was therefore denied.

Personnel Security Hearings

Albuquerque Operations Office, 3/22/95, VSO–0011

A Hearing Officer issued an Opinion regarding the eligibility of an individual to maintain a level "Q" access authorization under the provisions of 10 CFR part 710. The individual was alleged to have an illness or mental condition of a nature that in the opinion of a board-certified psychiatrist causes, or may cause, a significant defect in her judgment or reliability. On February 15, 1995, an evidentiary hearing was conducted in which a DOE-sponsored psychiatrist and the individual's psychiatrist testified, along with other relevant witnesses. After carefully examining the record of the proceeding, the Hearing Officer determined that although the individual suffers from recurrent major depression, her psychiatric profile, type of depression, work record and efforts at rehabilitation indicate to him that she is not a risk to national security. Accordingly, the Hearing Officer found that the individual's access authorization should be reinstated.

Albuquerque Operations Office, 3/23/95, VSO–0013

An OHA Hearing Officer issued an opinion concerning the access authorization of an individual whose security clearance was suspended because he tested positive for marijuana use and also because he lied on a DOE form, stating that he had not used illegal drugs. The Hearing Officer found that the individual was rehabilitated from his drug use, but had not shown rehabilitation from the falsification. Accordingly, the Hearing Officer determined that the individual's clearance should not be restored.

Refund Application

Gulf Oil Corporation/Hilltop Auto Laundry, 3/23/95, RF300–15647

Hilltop Auto Laundry filed an Application for Refund in the Gulf Oil Corporation (Gulf) special refund proceeding. Hilltop requested an above-volumetric refund based on Gulf's alleged breach of 1972 franchise and supply agreements. The conduct cited by Hilltop was Gulf's termination of the franchise arrangement, Gulf's use of a substitute supplier, and Hilltop's receipt of less product than provided for under the 1972 contract. In considering Hilltop's Application, the DOE noted that refunds are granted based on alleged or actual regulatory violations, not alleged breaches of contractual agreements. The DOE determined that Hilltop had not demonstrated that the conduct in question violated the regulations. Accordingly, the Application was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Skilo Mfg. Inc.	RC272–285	03/22/95
Texaco Inc./Dave & Jack's Texaco Service, Inc.	RF321–20885	03/22/95
Millcrest Texaco	RF321–20914.	
White's Texaco	RF321–20931.	
Texaco Inc./Lake Street Texaco et al	RF321–572	03/24/95
Texaco Inc./Six Points Texaco	RF321–15920	03/22/95
Southside Texaco	RR321–159.	
Texaco Inc./Spiros Karamalegos et al	RF321–7550	03/24/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Agipcoal USA, Inc.	RF272–95020
Airport Limousine Service, Inc.	RF272–91666
American Western Corporation.	RF272–67861
Benzie County	RF272–86933
Clipper's Texaco	RF321–18913
Felix M. Rivera Rivera	RF315–9352
Gibson Texaco	RF321–18974
Hardy Gulf	RF300–21714
John Morrell & Co.	RF272–96573
Luis B. Cruz	RF315–9337
McConnell Texaco	RF321–10849
Nevada Operations Office	VSO–0022
Rafael Torres Diaz	RF315–9342
Stanley Cain	RF321–8985
Villa Prade Auto Service	RF315–9347

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 21, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10758 Filed 5–1–95; 8:45 am]

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Issuance of Decisions and Orders During the Week of February 13 through February 17, 1995

During the week of February 13 through February 17, 1995, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Southwest Resource Development, 2/15/95, VFA–0020

Southwest Resource Development (Southwest) filed an Appeal from a partial denial by the DOE's Office of Inspector General (IG) of a Request for Information which Southwest had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that IG properly applied Exemptions 6 and 7(C) to the information requested by Southwest. The DOE found that the information requested by Southwest might identify individuals in an IG investigation by indicating certain functions performed by them. Since the interest in the identity of the individuals did not outweigh the individuals' privacy interest, the release of identifying information would constitute an unwarranted invasion of privacy. Accordingly, the Appeal was denied.

Refund Applications

Defense Logistics Agency, 2/14/95, RF272–11

The DOE issued a Decision and Order concerning an Application for Refund filed in the Subpart V Crude Oil refund proceeding by Defense Logistics Agency (DLA), a purchasing organ for the federal government. In granting the DLA refund claim, the DOE rejected challenges to the agency's right to receive a refund in the proceeding and DLA's claimed status as a product end-user. The DOE noted that agencies of the federal government are not precluded from participation in the Crude Oil refund proceeding, and that DLA was properly classified as an end-user since its purchase of refined petroleum product ended the commercial marketing of the product which was consumed by entities of the federal government. DLA was therefore granted a refund of $34,161,149.

Holston Defense Corp., 2/13/95, RF272–91995

The DOE issued a Decision and Order denying Holston Defense Corporation's application for refund in the crude oil special refund proceeding. The applicant purchased petroleum products for work done under contract with the U.S. Department of Defense. Since the Department of Defense reimbursed Holston for all petroleum purchases, it was ineligible to receive a refund in this proceeding. Therefore, the Application for Refund was denied.

VOL 60 ISS 84 MY 2 1995 UMI

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Name	Case No.	Date
Atlantic Richfield Company/Carl Hatton Butane Company et al	RF304–13218	02/13/95
City of Elsa	RF272–83460	02/13/95
Clark Oil & Refining Corp./Draeger Oil Company	RF342–21	02/15/95
Co-Op Gas & Oil Co. et al	RF272–89412	02/13/95
Gulf Oil Corporation/Knowles Construction Company	RF300–21823	02/13/95
Gulf Oil Corporation/Zee Line Ferry, Inc	RF300–21537	02/15/95
Zee Line Ferry, Inc	RF300–21820	
Zee Line Ferry, Inc	RF300–21821	
Zee Line Ferry, Inc	RF300–21822	
McVey Trucking et al	RF272–93769	02/17/95
Texaco Inc./Etheridge Texaco et al	RF321–4190	02/17/95
Texaco Inc./First Texaco	RF321–1933	02/13/95
McComb's Auto Service	RF321–13641	
Stull's Garage	RF321–17646	
Texaco Inc./Hall's Texaco	RF321–19732	02/13/95
Texaco Inc./Phil's Texaco & Tire et al	RF321–4193	02/17/95
Texaco Inc./Steitz Service et al	RF321–20603	02/14/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Bartholomew Texaco	RF321–20794
Calaveras Cement Company.	RR272–128
Commercial Industrial Chemicals.	RF321–20688
Covington County	RF272–85265
Joe Walsh's Texaco	RF321–20567
Marenghi's Texaco	RF321–20913
Marenghi's Texaco	RF321–20912
Moore McCormack Lines, Inc.	RF321–20925
Munz Northern Airlines	RF272–89462
Orange North Supervisory Union.	RF272–96202
Southern Berkshire Auto	RF300–21409
State Street Texaco	RF321–20921

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: April 21, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10759 Filed 5–1–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–5201–1]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods; Equivalent Method Designations

Notice is hereby given that EPA, in accordance with 40 CFR part 53, has designated 3 additional equivalent methods, for the measurement of ambient concentrations of sulfur dioxide, nitrogen dioxide, and ozone. The new equivalent methods are automated methods (analyzers) that utilize a measurement principle based on differential optical absorption spectroscopy (DOAS) and measure pollutant concentrations in the ambient air over a long, open path up to 1 kilometer in length. The new designated methods are identified as follows:

EQSA–0495–101, Opsis Model AR 500 System, open path (long path) ambient air monitoring system configured for measuring SO_2, with one detector and movable grating, operated with a measurement range of 0 to 0.5 ppm, an installed monitoring path length between 20 and 500 meters (or 20 and 1000 meters with the ER 150 option), xenon lamp type B (150 watt), fiber optic cable length between 3 to 20 meters; operating within an ambient air temperature range of −50 to +50°C, an analyzer temperature range of 20 to 30°C, a measurement (integrating) time setting between 30 and 120 seconds (0 min:30 sec. to 2 min:00 sec.), and with a complete cycle time of not more than 200 seconds (3 min, 20 sec.). Under this method designation, the Model AR 500 System consists of:

AR 500 opto-analyser,
Emitter EM 110 and receiver RE 110 (together identified as ER 110),
Optic fibre cable OF 60–S,
Power supply PS 150,
OPSIS operational software, version 7.0,
Initial on-site installation, setup, and limited operator training.

Optional components that can be used in addition to or as alternative to corresponding components listed above are:

AR 503 opto-analyzer configured as Model AR 500 (only the center detector active, sequential monitoring),
Emitter/receiver ER 150 (for monitoring path lengths up to 1 kilometer),
Xenon lamp type A (higher short-wavelength UV output),
Optic fibre cable OF 60–R (low-loss for short wavelengths),
Multiplexers MX 004 and MX 024,
Dataloggers DL 010 and DL 016,
Analogue and digital input/output cards AO 008, AI 016, and DI 032,
Analogue and digital isolation cards IA 008, ID 008, AO 008, and OD 008,
Window heaters HF 110 and HF 150,
Mirror heaters HM 110 and HM 150,
Auto calibration unit CU 007,
Software packages IO 80 version 1.4 (for the analogue and digital input/output adapters), DL10 and DL16 (for data loggers), ComVision, and STAT 500;
and recommended calibration and accuracy audit components (or equivalent):
Wavelength calibration lamp CA 004,
Calibration bench CB 100,
Receiver unit RE 060 (two required),
Calibration unit CA 150, with same type lamp as used in the monitoring path emitter,
Power supply PS 150 for calibration unit CA 150,
Calibration cells CC 001–X, where X represents various cell lengths from 1 to 900 mm,
Special calibration cells CC 110 or CC 150 (for mounting directly on receiver),
Light meter LM 010.

EQNA–0495–102, Opsis Model AR 500 System, open path (long path) ambient air monitoring system configured for measuring NO_2, with one detector and movable grating, operated with a measurement range of 0 to 0.5 ppm, an installed monitoring path length between 50 and 500 meters (or 50 and 1000 meters with the ER 150 option), xenon lamp type B (150 watt), fiber optic cable length between 3 to 20 meters; operating within an ambient air temperature range of −50 to +50°C, an analyzer temperature range of 20 to 30°C, a measurement (integrating) time setting between 30 and 120 seconds (0 min:30 sec. to 2 min:00 sec.), and with a complete cycle time of not more than 200 seconds (3 min, 20 sec.). Under this method designation, the Model AR 500 System consists of:

AR 500 opto-analyser,
Emitter EM 110 and receiver RE 110 (together identified as ER 110),
Optic fibre cable OF 60–S,
Power supply PS 150,
OPSIS operational software, version 7.0,
Initial on-site installation, setup, and limited operator training.

Optional components that can be used in addition to or as alternative to corresponding components listed above are:

AR 503 opto-analyzer configured as Model AR 500 (only the center detector active, sequential monitoring),
Emitter/receiver ER 150 (for monitoring path lengths up to 1 kilometer),
Xenon lamp type A (higher short-wavelength UV output),
Optic fibre cable OF 60–R (low-loss for short wavelengths),
Multiplexers MX 004 and MX 024,
Dataloggers DL 010 and DL 016,
Analogue and digital input/output cards AO 008, AI 016, and DI 032,
Analogue and digital isolation cards IA 008, ID 008, AO 008, and OD 008,
Window heaters HF 110 and HF 150,
Mirror heaters HM 110 and HM 150,
Auto calibration unit CU 007,
Software packages IO 80 version 1.4 (for the analogue and digital input/output adapters), DL10 and DL16 (for data loggers), ComVision, and STAT 500;
and recommended calibration and accuracy audit components (or equivalent):
Wavelength calibration lamp CA 004,
Calibration bench CB 100,
Receiver unit RE 060 (two required),
Calibration unit CA 150, with same type lamp as used in the monitoring path emitter,
Power supply PS 150 for calibration unit CA 150,
Calibration cells CC 001–X, where X represents various cell lengths from 1 to 900 mm,
Special calibration cells CC 110 or CC 150 (for mounting directly on receiver),
Light meter LM 010.

EQOA–0495–103, Opsis Model AR 500 System, open path (long path) ambient air monitoring system configured for measuring O_3, with one detector and moveable grating, operated with a measurement range of 0 to 0.5 ppm, an installed monitoring path length between 20 and 500 meters (or 20 and 1000 meters with the ER 150 option), xenon lamp type B (150 watt), fiber optic cable length between 3 to 20 meters; operating within an ambient air temperature range of −50 to +50° C, an analyzer temperature range of 20 to 30° C, a measurement (integrating) time setting between 30 and 120 seconds (0 min:30 sec. to 2 min:00 sec.), and with a complete cycle time of not more than 200 seconds (3 min, 20 sec.). Under this method designation, the Model AR 500 System consists of:

AR 500 opto-analyser,
Emitter EM 110 and receiver RE 110 (together identified as ER 110),
Optic fibre cable OF 60–S,
Power supply PS 150,
OPSIS operational software, version 7.0,
Initial on-site installation, setup, and limited operator training.

Optional components that can be used in addition to or as alternative to corresponding components listed above are:

AR 503 optoanalyzer configured as Model AR 500 (only the canter detector active, sequential monitoring),
Emitter/receiver ER 150 (for monitoring path lengths up to 1 kilometer),
Optic fibre cable OF 60–R (low-loss for short wavelengths),
Multiplexers MX 004 and MX 024,
Dataloggers DL 010 and DL 016,
Analogue and digital input/output adapters AO 008, AI 016, and DI 032,
Analogue and digital isolation cards IA 008, ID 008, OA 008, and OD 008,
Window heaters HF 110 and HF 150,
Mirror heaters HM 110 and HM 150,
Auto calibration unit CU 007,
Software packages IO 80 version 1.4 (for the analogue and digital input/output adapters), DL10 and DL16 (for data loggers), ComVision, and STAT 500;
and recommended calibration and accuracy audit components (or equivalent):
Wavelength calibration lamp CA 004,
Calibration bench CB 100,
Receiver unit RE 060 (two required),
Calibration unit CA 150, with same type lamp as used in the monitoring path emitter,
Power supply PS 150 for calibration unit CA 150,
Calibration cells CC 001–X, where X represents various cell lengths from 1 to 900 mm,
Special calibration cells CC 110 or CC 150 (for mounting directly on the receiver),
Ozone generator OC 500,
Light meter LM 010.

These methods are manufactured by Opsis AB, Furulund, Sweden and are available from ABB Power Plant Controls, Division of Combustion Engineering, Inc., 2 Waterside Crossing, Windsor, CT 06095. Notices of receipt of applications for these methods appeared in the **Federal Register**, Volume 56, October 29, 1991, page 55673; Volume 56, November 20, 1991, page 58574; and Volume 57, January 29, 1992, page 3429.

A test analyzer representative of these methods has been tested by the applicant, in accordance with the test procedures specified in 40 CFR part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that these methods should be designated as equivalent methods. The information submitted by the applicant will be kept on file at EPA's Atmospheric Research and Exposure Assessment Laboratory, Research Triangle Park, North Carolina 27711, and will be available for inspection to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As designated equivalent methods, these methods are acceptable for use by States and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, each method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see descriptions of the methods above). Users should note that these methods are the first methods designated that use a long path (open path) measurement principle. Amendments to the ambient air monitoring regulations at 40 CFR

VOL 60 ISS 84 MY 2 1995 UMI

part 58 were proposed on August 18, 1994 (59 FR 42541) to address the application, siting, and operational quality assurance of open path analyzers, and supplemental quality assurance guidance is in preparation. Until these regulatory amendments are promulgated and the supplemental guidance for open path analyzers is available, monitoring agencies interested in using these methods should contact the U.S. EPA for interim guidance pertaining to network design, siting, and quality assurance issues. The EPA contact person for information on these issues is Ms. Lee Ann B. Byrd, Monitoring and Quality Assurance Group, Office of Air Quality Planning and Standards, telephone number (919) 541–5367.

Vendor modifications of a designated method used for purposes of part 58 are permitted only with prior approval of EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under section 2.8 of appendix C to 40 CFR part 58 (Modifications of Methods by Users).

In general, one of these designations will apply to any analyzer which is identical to the analyzer described in the designation. In some cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designation status at a modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading.

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in table B–1 of part 53 for at least one year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with part 53.

(5) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzers has been canceled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Atmospheric Research and Exposure Assessment Laboratory, Department E (MD–77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these equivalent methods is intended to provide assistance to the States in establishing and operating their air quality surveillance systems under part 58. Technical questions concerning the method should be directed to the distributor. Additional information concerning this action may be obtained from Frank F. McElroy, Methods Research and Development Division (MD–77), Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–2622.

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95–10752 Filed 5–1–95; 8:45 am]

BILLING CODE [illegible]

[FRL–5200–5]

Clean Air Act Advisory Committee Notice of Meeting

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990 to provide independent advice and counsel to EPA on policy issues associated with the implementation of the Clean Air Act of 1990. The Advisory Committee shall be consulted on economic, environmental, technical, scientific, and enforcement policy issues.

OPEN MEETING NOTICE: Pursuant to 5 U.S.C. App. 2 § 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Friday, June 2, 1995 from 8:30 a.m.–4:30 p.m. at the Sheraton at Woodbridge 515 Rt 1 South and Gill Lane, Iselin, New Jersey. Seating will be available on a first come, first served basis. The three subcommittees of the CAAAC (Permits/NSR/Toxics Integration, Economic Incentives and Regulatory Innovation and Linking Energy, Transportation and Air Quality Concerns) will be conducting meetings at the Sheraton at Woodbridge on Thursday, June 1, from 7:00 p.m.–10:00 p.m. Subcommittee meeting times may change at the discretion of the co-chairs.

The agenda will include a discussion of the open market trading rule, Employee Commuter Options (ECO), regulatory reform and a report from the OTC–LEV subcommittee.

INSPECTION OF COMMITTEE DOCUMENTS: The committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with the CAAAC meeting minutes will be available for public inspection in EPA Air Docket Number A–94–34 in Room 1500 of EPA Headquarters 401 M Street, S.W., Washington, D.C.

FOR FURTHER INFORMATION concerning this meeting of the CAAAC please contact Karen Smith, Office of Air and Radiation, US EPA (202) 260–6379, FAX (202) 260–5155, or by mail at US EPA, Office of Air and Radiation (Mail Code 6101), Washington, D.C. 20460. If you would like to receive an agenda for this meeting, please leave your fax number on Ms. Smith's voice mail.

Dated: April 21, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95–10747 Filed 5–1–95; 8:45 am]

BILLING CODE [illegible]

[FRL–5200–4]

Common Sense Initiative Council (CSIC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Public Advisory Open Meetings of the CSI Council, the Printing Sector Subcommittee, and the Petroleum Refining Sector Subcommittee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Council and the Printing and Petroleum Sector Subcommittees of the Common Sense Initiative Council (CSIC) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public. Seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed with the Council and two Sector Subcommittee announcements below.

(1) Printing Sector Subcommittee—May 17, 1995

The Common Sense Initiative Council, Printing Sector Subcommittee (CSIC–PSS) is convening an open meeting on May 17, 1995. The meeting will begin at approximately 10:00 a.m. EST and run until about 5:30 p.m. The meeting will be held at the U.S. Environmental Protection Agency, WIC Conference Room #3, 401 M Street, S.W., Washington, D.C. 20460.

The meeting has several purposes: (1) To discuss and approve draft work plans prepared by work groups covering substantive issues that they want to address; and (2) to plan and prepare for the presentation of the Subcommittee's work plan to the CSI Council.

Seating may be limited, therefore, advance registration is recommended. Agendas will be available May 10, 1995. Any person or organization interested in attending the meeting should contact Ms. Nancy Cichowicz, Alternate Designated Federal Official, no later than May 15, 1995, at (215) 597–2030. Limited time will be provided for persons wishing to make oral comments at the meeting. Anyone wishing to submit written comments must forward at least 35 copies to Ginger Gotliffe, Designated Federal Officer, U.S. EPA, Office of Compliance (2224A), 401 M Street S.W., Washington, D.C. 20460. Comments should be received by May 15, 1995.

For further meeting information contact Ginger Gotliffe, DFO, on (202) 564–7072, or Nancy Cichowicz, Alternate DFO, Region III, on (215) 597–2030.

(2) Petroleum Refining Sector Subcommittee—May 17 and 18, 1995

The Common Sense Initiative Council, Petroleum Refining Sector Subcommittee (CSIC–PRS) is holding an open meeting on Wednesday, May 17, 1995, from 8:00 a.m. to 5:30 p.m. and Thursday, May 18, 1995, from 8:30 a.m. to 5:00 p.m., at the Dupont Plaza Hotel, 1500 New Hampshire Avenue, N.W., Washington, D.C. 20036.

Topics to be discussed at the meeting include regulatory reform, recordkeeping and reporting, compliance and permitting, and accident prevention and non-routine actions.

Members of the public may submit written comments of any length prior to the meeting. One hour of meeting time will be set aside for oral comments. In general, each individual or group making any oral presentations will be limited to a total of three minutes. Anyone who would like further information on the meeting should contact Claudia Huntley of the CSI Program Staff, U.S. EPA, 401 M Street S.W., Washington, D.C. 20460, Mail Code 6101, Phone: (202) 260–7417.

(3) Common Sense Initiative Council—May 19, 1995

The Common Sense Initiative Council (CSIC) is convening an open meeting on Friday, May 19, 1995, from 8:30 a.m. to 5:00 p.m. at the Madison Hotel, 15th and M Streets, N.W., Washington, D.C. 20005, telephone number 1–800–424–8577.

The Council will meet to review activities and projects being undertaken by its six Sector Subcommittees: Auto Manufacturing, Computers and Electronics, Iron and Steel, Metal Finishing, Petroleum Refining, and Printing. The Council also will discuss potential cross-sector issues.

Agendas will be available May 10, 1995. Limited time will be provided for members of the public wishing to make oral comments during the meeting. In general, each individual or group making oral presentations will be limited to a total of three minutes. Seating may be limited; therefore, advance registration is recommended. Any person or organization interested in attending the meeting, or submitting written comments should contact the CSI Program Staff Office on (202) 260–7417. Written comments must be forwarded with at least 35 copies by May 15, 1995.

For further information on this meeting, please call either Prudence Goforth, Designated Federal Officer, or Vivian Daub, Interim CSI Director at EPA Headquarters, on (202) 260–7417.

FURTHER INFORMATION AND INSPECTION OF CSIC DOCUMENTS: Documents relating to the above Council and Sector Subcommittee announcements will be publicly available at the meetings. Thereafter, these documents, together with official minutes for the meetings, will be available for public inspection in room 2417 Mall of EPA Headquarters, Common Sense Initiative Program Staff, 401 M Street, S.W., Washington, D.C. 20460, phone (202) 260–7417. CSIC information can be accessed electronically through contacting Katherine Brown at: brown.katherine@epamail.epa.gov.

Dated: April 25, 1995.

Prudence Goforth,

Designated Federal Officer.

[FR Doc. 95–10749 Filed 5–1–95; 8:45 am]

BILLING CODE [illegible]

[FRL–5200–6]

National Drinking Water Advisory Council; Notice of Open Meeting

Under Section (1)(a)(2) of Public Law 92–423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (Pub. L. 99–339), will be held at 9:00 a.m. on May 18, 1995 and at 8:30 a.m. on May 19, 1995, at the Harley Hotel of Cincinnati, East Room, 8020 Montgomery Road, Cincinnati, Ohio 45236. Council Subcommittees will hold their meetings on May 15 and May 16, 1995, at the EPA Laboratory, 26 West Martin Luther King, Cincinnati, Ohio.

The purpose of the meeting will be to seek Council advice and comments on EPA's recently announced "Agenda For Action," which is designed to assess and identify priorities and improve the effectiveness of drinking water safety. Issues include: improving consumer information; identifying priority contaminants for regulation; providing technical assistance for small communities and the protecting source waters; identifying flexibilities for states, including monitoring approaches; and increasing investment in community drinking water facilities.

The meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to ten minutes. It is preferred that there be only one

VOL
60
ISS
84
MY
2
1995
UMI

presenter for each statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285. The petition should include the topic of the proposed statement, the petitioner's telephone number and should be received by the Council before May 11, 1995.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to the members before any final discussion or vote is completed. Statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water (4601), 401 M Street S.W., Washington, D.C. 20460 or at (202) 260–2285.

Dated: April 21, 1995.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 95–10748 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL ELECTION COMMISSION

[Notice 1995–7]

Schedule of Matching Fund Submission Dates and Certification Dates for 1996 Presidential Candidates

AGENCY: Federal Election Commission.

ACTION: Schedule of Matching Fund Submission/Resubmission Dates and Certification Dates for 1996 Presidential Candidates.

SUMMARY: The Federal Election Commission is publishing matching fund submission/resubmission dates and certification dates for 1996 Presidential candidates who are eligible to receive Federal matching funds. Eligible candidates may present one submission and/or one resubmission per month on the designated date. Payments will be made by the U.S. Treasury to the candidate generally within 48 hours after certification by the Commission.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond Lisi, Audit Division, 999 E Street NW., Washington, DC 20463, Telephone: (202) 219–3720; (800) 424–9530.

SUPPLEMENTARY INFORMATION: Pursuant to 11 CFR 9036.2(a), Presidential candidates eligible to receive Federal Matching Funds may present submissions and/or resubmissions to the Federal Election Commission once a month on designated submission dates. The Commission will review the submissions/resubmissions and forward a certification for payment to the Secretary of the Treasury. Since no payments can be made during 1995, all submissions received during 1995 will be certified on December 27, 1995, for payment on January 2, 1996 (11 CFR 9036.2(c)). During 1996 and 1997 certifications and payments will be made on a monthly basis. The last date a candidate may make a submission is March 3, 1997. The submission dates and processing times specified in the following list pertain to non-threshold matching fund submissions and resubmissions after the candidate establishes eligibility. The threshold submission on which that eligibility will be determined may be filed at any time, and will be processed within fifteen business days unless review of the threshold submission determines that eligibility has not been met. The Commission has published proposed rules changing the due date for submissions of statements of net outstanding campaign obligations for ineligible candidates. Under the proposed rules, the statements must be submitted prior to the certification date, on dates to be published by the Commission. Once these rules are promulgated, the due dates will be published in the **Federal Register**.

SCHEDULE OF MATCHING FUND SUBMISSION DATES AND CERTIFICATION DATES FOR THE 1996 PRESIDENTIAL CANDIDATES

Submission date	Certification to treasury
1995	
Monday—May 1, 1995	Wednesday—December 27, 1995.
Thursday—June 1, 1995	Wednesday—December 27, 1995.
Monday—July 3, 1995	Wednesday—December 27, 1995.
Tuesday—August 1, 1995	Wednesday—December 27, 1995.
Friday—September 1, 1995	Wednesday—December 27, 1995.
Monday—October 2, 1995	Wednesday—December 27, 1995.
Wednesday—November 1, 1995	Wednesday—December 27, 1995.
Friday—December 1, 1995	Wednesday—December 27, 1995.
1996	
Tuesday—January 2, 1996	Tuesday—January 30, 1996.
Thursday—February 1, 1996	Wednesday—February 28, 1996
Friday—March 1, 1996	Thursday—March 28, 1996
Monday—April 1, 1996	Monday—April 29, 1996
Wednesday—May 1, 1996	Thursday—May 30, 1996.
Monday—June 3, 1996	Thursday—June 27, 1996.
Monday—July 1, 1996	Tuesday—July 30, 1996.
Thursday—August 1, 1996	Thursday—August 29, 1996.

SCHEDULE OF MATCHING FUND SUBMISSION DATES AND CERTIFICATION DATES FOR THE 1996 PRESIDENTIAL CANDIDATES—Continued

Submission date	Certification to treasury
Tuesday—September 3, 1996	Friday—September 27, 1996.
Tuesday—October 1, 1996	Wednesday—October 30, 1996.
Friday—November 1, 1996	Wednesday—November 27, 1996.
Monday—December 2, 1996	Monday—December 30, 1996.
1997	
Thursday—January 2 ,1997	Thursday—January 30, 1997.
Monday—February 3 ,1997	Thursday—February 27, 1997.
Monday—March 3 ,1997	Friday—March 28, 1997.

Dated: April 27, 1995.

Danny L. McDonald,

Chairman, Federal Election Commission.

[FR Doc. 95–10716 Filed 5–1–95; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Wendell D. Bruner, et al.; Change In Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than May 16, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Wendell D. Bruner and Willard D. Heyne, both of Fremont, Nebraska; each to acquire an additional 6.20 percent, for a total of 26.94 percent, of the voting shares of American Banc Corporation, Fremont, Nebraska, and thereby indirectly acquire American National Bank of Fremont, Fremont, Nebraska.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Lois E. Morrison, Stillwater, Minnesota; to acquire 30.44 percent of the voting shares of Barron Investment Company, Golden Valley, Minnesota, and thereby indirectly acquire First National Bank of Barron, Barron, Wisconsin.

Board of Governors of the Federal Reserve System, April 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10720 Filed 5–1–95; 8:45 am]

BILLING CODE 6210–01–F

Deutsche Bank AG; Change In Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-8694) published on page 18103 of the issue for Monday, April 10, 1995.

Under the Federal Reserve Bank of New York heading, the entry for Deutsche Bank AG, Frankfurt (Main), Federal Republic of Germany is revised to read as follows:

1. Deutsche Bank, AG, Frankfurt (Main), Federal Republic of Germany; to retain First Call Corporation, Boston, Massachusetts, and thereby engage indirectly in providing data processing activities, pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted worldwide.

Comments on this application must be received by May 16, 1995.

Board of Governors of the Federal Reserve System, April 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10721 Filed 5–1–95; 8:45 am]

BILLING CODE 6210–01–F

First Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 26, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Bancorp, Inc., Lebanon, Virginia; to acquire 100 percent of the voting shares of First Bank and Trust of Tennessee, Johnson City, Tennessee, a *de novo* bank.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. CNB Bancshares, Inc., Evansville, Indiana; to acquire 100 percent of the voting shares of Bank of Illinois, National Association, Mount Vernon, Illinois. Applicant proposes to cause its existing federal savings bank subsidiary, King County Federal Savings Bank, Mount Vernon, Illinois, to convert to a

VOL 60 ISS 84 MY 2 1995 UMI

national banking association, under the name of Citizens Bank of Illinois.

2. Mercantile Bancorporation, Inc. St. Louis, Missouri; to acquire 100 percent of the voting shares of Amerifirst Bancorporation, Inc., Sikeston, Missouri.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Baylor Bancshares, Inc., Seymour, Texas, and Baylor/Delaware Corp., Wilmington, Delaware; to acquire 100 percent of the voting shares of Memphis State Bank, Memphis, Texas.

Board of Governors of the Federal Reserve System, April 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10722 Filed 5–1–95; 8:45 am]

BILLING CODE 6210–01–F

Grimes County Capital Corporation; Notice of Application To Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 16, 1995.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Grimes County Capital Corporation, doing business as CSB Mortgage Services, Houston, Texas; to engage *de novo* in making and servicing mortgage loans or other extensions of credit for the account of others, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y. The geographic scope for these activities is Texas.

Board of Governors of the Federal Reserve System, April 26, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10723 Filed 5–1–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Denise R. Conrad, University of Iowa: The Division of Research Investigations (DRI) of the Office of Research Integrity (ORI) reviewed an investigation conducted by the University of Iowa into possible scientific misconduct on the part of Ms. Denise R. Conrad, formerly a Research Assistant in the Department of Preventive Medicine, College of Medicine. ORI found that Ms. Conrad committed scientific misconduct by fabricating or falsifying data on questionnaires in biomedical research supported by Public Health Service grant R01 ES05653, "Residential Radon and Lung Cancer Case-Control Study." Ms. Conrad has accepted the ORI findings and agreed to a Voluntary Exclusion Agreement under which Ms. Conrad is not eligible to apply for or receive any Federal grant or contract funds for a three-year period beginning April 10, 1995. The fabricated or falsified data did not appear in any publication.

FOR FURTHER INFORMATION, CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–10762 Filed 5–1–95; 8:45 am]

BILLING CODE 4160–17–P

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Catherine Coyle, ISOLAB, Inc. An investigation conducted by the ISOLAB found that Ms. Coyle, a former laboratory technician, falsified and misreported the results of assays for fetal hemoglobin data generated for Johns Hopkins' Multicenter Study of Hydroxyurea in Sickle Cell Anemia in biomedical research supported by Public Health Service funds under a cooperative agreement. Ms. Coyle admitted that she misrepresented data submitted to the Johns Hopkins clinical hydroxyurea study. There were no publications involved. Ms. Coyle executed a Voluntary Exclusion and Settlement Agreement in which she has agreed not to apply for Federal grant or contract funds and will not serve on PHS advisory committees, boards or peer review groups for a three-year period beginning March 27, 1995.

FOR FURTHER INFORMATION, CONTACT: Director, Division of Research Investigations Office of Research Integrity, 301–443–5330.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–10763 Filed 5–1–95; 8:45 am]

BILLING CODE 4160–17–P

Centers for Disease Control and Prevention

Advisory Committee for Energy-Related Epidemiologic Research: Cancellation of Meeting

This notice announces the cancellation of a previously announced meeting.

Federal Notice Citation of Previous Announcement: 60 FR 19264, April 17, 1995.

Previously Announced Times and Dates: 9 a.m.–5 p.m., May 4, 1995, 9 a.m.–12 noon, May 5, 1995.

Change In the Meeting: This meeting has been canceled.

Contact Person for More Information: Nadine Dickerson, Program Analyst, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, Centers for Disease Control and Prevention, 4770 Buford Highway, NE, Mailstop F–35, Atlanta, Georgia 30341–3724, telephone 404/488–7040.

Dated: April 26, 1995.

John C. Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–10627 Filed 4–28–95; 10:33 am]

BILLING CODE 4163–18–M

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511).

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Intermediary Request to Skilled Nursing Facilities for Medical Information on Claims to Be Processed; *Form Nos.:* NCFA–9031; *Use:* This information is used by the fiscal intermediaries to assure that reimbursement is made only for services that are covered under Medicare Part A or Part B for skilled nursing facilities. The medical information describes the patient's condition and level of medical needs and/or services provided. The records/information are submitted with claims or as requested; *Respondents:* Business or other for profit; *Number of Respondents:* 12,536; *Total Annual Responses:* 111,925; *Total Annual Hours Requested:* 55,963.

2. *Type of Request:* Revision; *Title of Information Collection:* Clinical Laboratory Improvement Amendments Budget Expenditure Report and Clinical Laboratory Improvement Amendments Planned Workload Report; *Form No.:* HCFA–102–105; *Use:* Information collected will be used by HCFA in determining the amount of Federal reimbursement for compliance surveys. Use of the information includes program evaluation, audit, budget formulation, and budget approval; *Respondents:* State, local, or tribal government; *Number of Respondents:* 53; *Total Annual Responses:* 2,650 (HCFA–102), 1,696 (quarterly); *Total Annual Hours Requested:* 4,346.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Home Health Quality Assurance Demonstration; *Form No.:* HCFA–P–11; *Use:* The Medicare Home Health Quality Assurance Demonstration will test the feasibility of collecting patient outcome data in 50 Medicare-certified home health agencies (HHAs) nationally. Respondents will be HHA care providers and patients receiving their services; *Respondents:* Not-for-profit, businesses or other for-profit, and individuals or households; *Number of Respondents:* 27,844; *Total Annual Responses:* 111,376; *Total Annual Hours Requested:* 34,573.

4. *Type of Request:* Revision; *Title of Information Collection:* Medicare/Medicaid Health Insurance Common Claim Form and Instructions; *Form No.:* HCFA–1500; *Use:* This form will become a standardized form for use in the Medicare/Medicaid programs to apply for reimbursement for covered services. In addition, it will reduce costs and administrative burdens associated with claims since only one coding system will be used and maintained. HCFA does not require exclusive use of this form for Medicaid; *Respondents:* Not-for-profit, businesses or other for-profit, State, local or tribal government; *Number of Respondents:* 1; *Total Annual Responses:* 614,967,982; *Total Annual Hours Requested:* 52,139,385.

5. *Type of Request:* New (Expedited Review); *Title of Information Collection:* Study of the Cost of Administering Childhood Immunizations; *Form No.:* HCFA–R–175; *Use:* The proposed collection is to provide data of the resource costs for childhood immunization procedures to evaluate charge caps for physician practices participating in the recently enacted vaccines for children under the Medicaid program; *Respondents:* Business or other for profit; *Number of Respondents:* 100; *Total Annual Responses:* 100; *Total Annual Hours Requested:* 41.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 26, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

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VOL
60
ISS
84
MY
2
1995
UMI

(HCFA Letter Requesting Provider Participation)

Name
Title
Multispecialty, Pediatric Group, or Solo Pediatric Practice
Address

Dear (Name of Physician or Administrator):

The Health Care Financing Administration (HCFA) has retained the Center for Health Policy Studies, Columbia, Maryland, to conduct an Immunization Resource Costing Study. The primary objective of this study is to identify costs associated with the administration of childhood immunizations. Once these costs have been identified, results will be used to help establish limits on how much physicians may charge to administer immunizations under the Vaccines for Children (VFC) program recently enacted by Congress.

The study will involve site visits to a combination of 90 multispecialty, pediatric group, and solo pediatric practices located in metropolitan and non-metropolitan areas throughout the country. During site visits, resource use and resource cost data on childhood immunization procedures will be collected. Within each facility, data collection will include interviews with key staff, abstracts of accounting records, review of supplier invoices, and immunization observations. All information received from your facility will be held strictly confidential.

Data collection is scheduled for _____, 1995. HCFA is requesting your facility's participation in the study. Your participation provides an opportunity for you to give input with respect to resource use and resource costs associated with the administration of childhood immunizations. Your cooperation will enhance the accuracy with which payments reflect facility costs.

CHPS may contact you shortly to request participation in the study and to inform you of the site visit schedule. Although participation is strictly voluntary and there are no penalties should you decline participation, we strongly urge you to participate in this important study. Please contact Michael Henesch (410) 966-6685, of the Health Care Financing Administration, or Michael Ellrich (410) 381-4203, of the Center for Health Policy Studies, should you desire further information or have any questions regarding the study. Thank you for your interest in the study.

Sincerely,

(HCFA Representative)

(CHPS Letter Requesting Provider Participation)

Name
Title
Multispecialty, Pediatric Group, or Solo Pediatric Practice
Address

Dear (Name of Physician or Administrator):

The Center for Health Policy Studies (CHPS), a private health care consulting firm located in Columbia, Maryland, has been retained to perform a cost study for the Health Care Financing Administration (HCFA). The objective of the study is to identify costs associated with the administration of childhood immunizations. Costs derived by this study will be used to evaluate charge caps for physician practices participating in the recently enacted Vaccines for Children (VFC) program. A more detailed project description is enclosed.

We will be conducting on-site visits to 90 multispecialty, pediatric group, and solo pediatric practices located in metropolitan and non-metropolitan areas throughout the country. During site visits, resource use and resource cost data on childhood immunization procedures will be collected. At each facility, data collection will include interviews with key staff, abstracts of accounting records, review of supplier invoices, and immunization observations. A tentative site schedule has been included for your review.

As stated in the letter sent to you by HCFA (copy attached), CHPS is interested in obtaining your participation in this study. Your participation in the study is completely voluntary and there are no penalties should you decline. Data collected from your facility will be used exclusively for the purpose of this study and will be held in strict confidence.

Participation in the study will require you to provide:

- a designated contact person with whom we will coordinate our efforts
- opportunity to work within your facility to accomplish the sample site visit schedule
- access to basic financial records

We realize that these requirements appear substantial, but we have carefully considered your needs before contacting you. CHPS has identified the following points as important elements of our approach.

VOL
60
ISS
84
MY
2
1995
UMI

Data Collection Will Take Place Over a Specified Time Period. Each participating practice will be given on-site data collection instruments in advance to provide staff the opportunity to prepare information before the day of the visit. Based on data collection instrument pre-tests, it has been determined that the interview and unit cost data collection guides can each be completed in 30 minutes or less. The time required to collect resource use data will be largely dictated by the frequency with which immunizations are given at each practice. However, pre-tests have revealed that each site visit will require between two and a half and three hours for one data collector.

Our Data Collectors Include Only Experienced Staff. We have conducted many on-site studies throughout the U.S. and have found that only senior staff can work effectively, quickly and without disrupting day-to-day activities. For this reason, on-site data collection will be performed by seasoned personnel.

Our Approach Assures Participating Facilities that We will not Disrupt their Day-To-Day Activities. We will work at each facility's convenience, and will arrange with you the best time for our visit. During our visit, we will meet whatever needs facility personnel may have. The sample site visit schedule will be adjusted to maximize the convenience of the staff. When data are collected from records, our experienced staff will collect data without facility staff input unless there is interest in providing assistance. Most importantly, we are prepared to meet any constraints or limitations that participating facilities perceive to be important.

All Data will Remain Confidential. All data that we collect will remain confidential. No facility will be specifically identified in any reports. CHPS data collectors will be the only individuals with access to practice-specific information. Primary data collected will not be shared among study participants. To insure the complete anonymity of study participants, each will be assigned a numeric code prior to data base entry and analysis. Participant identity and practice specific data will not be linked or disclosed in any materials published for this study.

Your Participation in Our Study Can be of Great Value to You. Your participation provides an opportunity for you to give input with respect to resource use and resource costs associated with the administration of childhood immunizations. For your participation, you will receive a copy of the study's final report as well as a brief statistical analysis comparing your costs of administering immunizations to the costs of other facilities.

In order to facilitate your consideration of our request, we are enclosing the following materials:

- Attachment 1 - Project Description
- Attachment 2 - HCFA Summary

- Attachment 3 - CHPS Summary
- Attachment 4 - Sample Site Visit Schedule
- Attachment 5 - Participation Agreement Letter
- Attachment 6 - Sample Parent Consent Form

We will be contacting you shortly to discuss your interest in participating in the study. Should you agree to participate, we will ask you to sign and return the Agreement to Participate letter included as Attachment 5 or a similar letter by _____, 1995.

If you have any questions regarding the study, please call me or Michael Ellrich at (410) 381-4203. We look forward to your participation in this important study.

Sincerely,

Henry Miller, Ph.D.
President
Project Director

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VOL
60
ISS
84
MY
2
1995
UMI

STUDY OF THE COSTS OF ADMINISTERING CHILDHOOD IMMUNIZATIONS

Project Description

The Health Care Financing Administration (HCFA) has been charged by Congress with the responsibility of developing resource costs for the administration of childhood immunizations. Because little cost information relating to childhood immunizations is available at a national level, HCFA has retained the Center for Health Policy Studies (CHPS) to collect and measure these costs. Once costs have been measured, the results will be used to evaluate physician charge limits under the Vaccines for Children (VFC) program recently enacted by Congress.

The primary purpose of the study is to provide data on resource use and costs for a variety of childhood immunization procedures. In preparation for the study, a comprehensive list of immunizations, prescribed throughout childhood, has been identified. Resource utilization and cost data relating to these immunizations will be collected from a representative sample of multispecialty group, pediatric group and solo pediatric practices.

The study will provide HCFA with the following information:

- Direct and indirect costs associated with the administration of a prescribed set of childhood immunizations
- Differences in resource use and unit cost among practice types (multispecialty group, pediatric group, and solo practices)
- Differences in resource use and unit cost among practice settings (metropolitan, non-metropolitan)
- Direct and indirect cost variations by type of immunization and nature of visit
- Marginal costs of immunizations when two or more are performed at the same time

Facility data collection will include interviews with key staff, abstracts of accounting records, review of supplier invoices, and immunization observations. All information collected during site visits will be held strictly confidential.

It is anticipated that the study, initiated in November 1994, will be completed by _____, 1995. Further information can be obtained from Dr. Henry Miller, Project Director, Center for Health Policy Studies (410) 381-4203.

THE HEALTH CARE FINANCING ADMINISTRATION

The Health Care Financing Administration (HCFA) was established to combine health financing and quality assurance programs within a single agency. HCFA is responsible for the Medicare program, Federal participation in the Medicaid program, and a variety of other health care quality assurance programs.

The mission of the Health Care Financing Administration is to promote the timely delivery of appropriate, quality health care to its beneficiaries -- approximately 50 million of the Nation's aged, disabled, and poor. The agency must also ensure that program beneficiaries are aware of the services for which they are eligible, that those services are accessible and of high quality, and that agency policies and actions promote efficiency and quality within the total health care delivery system.

The Office of Research and Demonstrations directs more than 300 research, evaluation, and demonstration projects. A central focus is on program expenditures as they relate to payment, coverage, eligibility, and management alternatives under Medicare and Medicaid. Study activity also examines program impact on beneficiary health status, access to services, utilization, and out-of-pocket expenditures. The behavior and economics of health care providers and the overall health care industry are also topics of investigation.

These activities are carried out by three major components--the Office of Research, the Office of Demonstrations and Evaluations, and the Office of Operations Support. The Office of Research conducts and supports data collection efforts and research on health care providers, payment approaches, beneficiary behavior, and health care utilization. The Office of Demonstrations and Evaluations funds, manages, and evaluates pilot programs that test new ways of delivering and financing Medicare and Medicaid services. The Office of Operations Support provides ORD-wide administrative direction for its research, demonstration, and evaluation projects, which includes the budget and accounting operations; grants, cooperative agreements, and contracts-award process; and publications and information resources program.

VOL
60
ISS
84
MY
2
1995
UMI

CENTER FOR HEALTH POLICY STUDIES

The Center for Health Policy Studies (CHPS) was organized in 1979 to provide research and consulting services to both public and private sector clients. Our capabilities include cost analysis, provider payment system design and evaluation, data system design and implementation, policy analysis, and program design and evaluation. We have conducted projects for several Federal agencies, state governments, health insurers, foundations, employers, and professional and trade associations. Recently we have undertaken projects for hospitals and other health care providers.

The Center's multi-disciplinary staff is based in Columbia, Maryland and Albany, New York. Staff members have academic backgrounds in economics, accounting, health care administration, public health, operations research, public administration, health insurance, medical sociology, geography and information systems.

Our work with the Federal government has included a wide variety of experience using resource costing methods. In a project undertaken in 1982 for the Office of the Assistant Secretary of the Department of Health and Human Services, we developed the resource costing model that will be used in the Health Care Financing Administration's (HCFA) "Study of the Costs of Administering Childhood Immunizations." In the 1982 study, CHPS evaluated alternative measures of hospital costs in over 20 facilities and compared findings to costs reported in Medicare Cost Reports. In 1988, we repeated the study to examine the changes in hospital costs that had occurred. This study also included an analysis of resource costs in an equal number of ambulatory surgery centers. In 1992 CHPS initiated a HCFA-funded study to provide data on resource use and costs for a wide variety of surgical procedures, medical visits and diagnostic tests. Resource utilization and cost data was collected from a representative sample of hospital outpatient departments, ambulatory surgery centers, and physician offices. Data was used to test the equity and adequacy of the relative weights and payment levels to be used in an outpatient prospective payment system.

Additional experience relevant to this HCFA resource costing study includes a study conducted for the Prospective Payment Assessment Commission in which reported inpatient costs were compared to resource costs. This study required the participation of over 90 facilities. In projects conducted for New York State's Department of Health, we assisted in designing and pricing the Products of Ambulatory Care (PACs), and the Products of Ambulatory Surgery (PAS). In the PAS project, we validated resource costs used to price PAS. Similar studies conducted by CHPS have focused on methadone/primary care clinics, hospital and physician office services for mentally retarded and developmentally disabled patients, and hospital and home care services for HIV infected persons.

The Center for Health Policy Studies takes great pride in its ability to work closely with facility staff in an efficient and cooperative manner. Our extensive experience assures that data collection will be accomplished with a minimum disruption to ongoing facility operations. In addition, working with CHPS enables facilities to access comparative data not available elsewhere while being guaranteed data confidentiality.

PHYSICIAN PRACTICE SITE VISIT SCHEDULE
(multispecialty, pediatric group, solo practice)

Time	Activity Description
9:00 - 9:30	Meet with Administrator/Office Manager: 1. briefly review study's objective 2. answer questions 3. ask questions from Interview Guide
9:30 - 11:30*	Conduct Observations & Complete Resource Use Data Collection Guide (minimum five immunizations)
11:30 - 12:15	Meet with Administrator/Office Manager: 1. complete Unit Cost Data Collection Guide 2. make arrangements to obtain unavailable information 3. conduct exit interview

* Observation time frames will vary from practice to practice depending on immunization volume. The two hour time frame indicated in the schedule is based on the average time required to conduct a minimum of five observations at "test" sites.

VOL
60
ISS
84
MY
2
1995
UMI

STUDY OF THE COSTS OF ADMINISTERING CHILDHOOD IMMUNIZATIONS

AGREEMENT TO PARTICIPATE

I, _____, being authorized to do so, agree to allow _____ (name of multispecialty, pediatric group, or solo practice) to participate in a study being conducted by the Center for Health Policy Studies (CHPS) on behalf of the Health Care Financing Administration (HCFA). The purpose of the study, as it has been explained to me, is to determine the costs of administering childhood immunizations. I understand that participation in this study is strictly voluntary and that there are no penalties for declining participation.

Sincerely,

_____
(Signature)

_____
(Title)

_____
(Date)

PARENT CONSENT FORM

Cost of Administering Childhood Immunizations
On-Site Observation

The Center for Health Policy Studies (CHPS), a private health care consulting firm located in Columbia, is studying the cost of administering childhood immunizations. The study is sponsored by the Health Care Financing Administration (HCFA), the government agency responsible for Medicare and Medicaid. Once the study determines the range of costs for immunization, the results will be used to set limits on how much physicians may charge under the Vaccines for Children (VFC) program recently enacted by Congress.

CHPS is observing immunizations as they are given to better understand how differences in immunization procedures among practices can lead to differences in cost. National data collection efforts are currently underway. This medical facility has agreed to serve as one of our observation sites. However, parental consent is needed before we can observe the immunization your child is about to receive.

Your child's participation in the test study is completely voluntary and will have no effect on the treatment he or she receives. Any data collected during the observation of your child's immunization will remain completely confidential and neither you or your child will be identified. The observation will be limited to the time required to give the immunization. During that time an observer will simply watch and take notes.

By signing below, you are stating that you have read this document, understand the request that is being made of you, and are willing to allow your child's immunization to be observed for purposes of the study.

_____ _____ _____
Parent's Name Parent's Signature Date

VOL
60
ISS
84
MY
2
1995
UMI

STUDY OF THE COSTS OF ADMINISTERING CHILDHOOD IMMUNIZATIONS
PHONE SCRIPT TO SCHEDULE PRACTICE SITE VISITS

Once a practice is selected and a recruitment package is sent to the manager/administrator of the practice, the Center for Health Policy Studies will place a call to the office manager/administrator. The following describes the conversation that will take place:

"Hello, my name is _____ (person making the call). *I am with the Center for Health Policy Studies in Columbia, Maryland. We are conducting a study of the cost of administering childhood immunizations for the Health Care Financing Administration. Did you receive the information package that was sent to your office?* _____

(If yes, say:) *As is stated in the package, the purpose of the study is to determine resource costs associated with the administration of childhood immunizations. The study involves site visits to multispecialty group, pediatric group and sole practices throughout the country. The data collected will be used to evaluate physician charge limits under the Vaccines for Children (VFC) program recently enacted by Congress.* (Continue to next question)

(If no, say:) *I'd like to send you another package but let me just tell you a little bit about the study. The purpose of the study is to determine resource costs associated with the administration of childhood immunizations. The study involves site visits to multispecialty group, pediatric group and sole practices throughout the country. The data collected will be used to evaluate physician charge limits under the Vaccines for Children (VFC) program recently enacted by Congress.* (Confirm the name and address of the office manager and practice and indicate that you will send another package.)

Do you have any questions regarding the study? (If so, answer the questions)

Will your practice participate in the study? (If yes, continue. If no, thank them for their time)

Who will be the contact person? _____ (Obtain name, title and telephone number of the designated contact person)

(If the office manager is the designated contact person continue with the following paragraph. If another person is designated, call them and repeat the first paragraph of this script. Determine if they have received the package sent to the office manager and continue with the following)

The information package includes an introductory letter from HCFA, a letter from the Center for Health Policy Studies, a project description, a HCFA summary, a CHPS summary, a sample site visit schedule, a form letter of participation for a representative of your office to sign, and a sample parent consent form.

As shown on the sample site visit schedule, we need to schedule a three hour visit to your practice for one of our staff members. We will need to collect some financial data on your practice. Financial data needed includes salary information, and supply and equipment costs. An interview will also need to be scheduled with the practice manager/administrator. Immunization observation, however, will account for the majority of time required.

When will your office and the staff indicated on the site visit schedule be available for a site visit? _____ (Determine the office's preference for scheduling the site visit and indicate that you will call back to confirm the date. Check the availability of other practices to be visited in the same area of the country.)

Thank you for your time. We look forward to meeting with you and your staff.

EXHIBIT 3

INTERVIEW GUIDE

Physician Practice Name:_____ Date:_____

Physician Practice Address:_____ Interviewee:_____

_____ Position:_____

Physician Practice Telephone No:_____ Interviewer:_____

Note: Explain purpose of study before initiating discussion. Use questions listed below as a guide to gaining an understanding of how immunizations are given and any unusual attributes of practices.

1. What is the sequence and timing used by this practice in the administration of childhood vaccinations? Is it documented? _____
_____

2. Are immunizations given most frequently separately or together? Which combinations are most common? _____
_____

3. Are immunizations normally part of a visit with a different primary purpose or are they the sole purpose of a visit? What is the percentage (approximate) of visits where immunizations are the sole purpose? _____
_____
_____

4. In this practice, are immunizations given by a physician, nurse or other practitioner? What percentage of immunizations are given by each type of provider? If a practitioner other than a physician or nurse gives an immunization, what is the education and experience of the practitioner? _____
_____
_____

5. Describe the process for immunizations from the time the child arrives at the practice until the child leaves. _____
_____
_____
_____
_____
_____

CENTER FOR HEALTH POLICY STUDIES

EXHIBIT 3 (CONT.)

6. Do any circumstances exist for some children that change the normal immunization process? (e.g. sick, distraught, handicapped) Please identify these circumstances? How do they change the process? _____
_____
_____
_____

7. Practice Characteristics:

Type of Practice:
- Multispecialty Group ❑ (Staff Model HMO ❑ Other ❑)
- Pediatric Group ❑
- Solo Practice ❑

Size of Practice:
- Number of Physicians _____
- Number of Pediatricians _____
- Number of Other Practitioners (including nurses) _____
- Number of Total Employees _____
- Approximate Number of Children Immunized Annually ___

Location of Practice:
- Metropolitan ❑
- Non-metropolitan ❑

8. Please describe this practice's current process for obtaining vaccines*:
_____
_____
_____
_____
_____
_____
_____
_____

* interviewers should be aware of the fact that Connecticut and Illinois are "universal purchase states". Practices located in UP states should be specifically questioned regarding that program's affect on vaccine acquisition.

9. Comments:_____
_____
_____
_____
_____
_____

CENTER FOR HEALTH POLICY STUDIES

VOL 60 ISS 84 MY 2 1995 UMI

VOL 60 ISS 84 MY 2 1995 UMI

EXHIBIT 4

RESOURCE USE DATA COLLECTION GUIDE

Physician Practice Name:_____ Date:_____

Physician Practice Address:_____ Time:_____

_____ Data Collector:_____

Physician Practice Telephone No:_____

Note: Separate form to be completed for each patient. Refer to description of process in interview guide to determine whether modifications in data collection are required. Describe any modifications. _____

_____

1. Immunization is:
   Sole Purpose of Visit ❑ Part of Visit ❑

2. Type of immunization(s):
   DTP ❑ DTaP ❑ HEP B ❑ HIB ❑ MMR ❑ OPV ❑

3. Patient Age/Visit: _____

4. Practitioner Giving Immunization: Physician ❑ Nurse ❑ Other ❑
   If other, note job title and duties: _____

5. Times: Time of patient arrival: _____
   Time patient entered exam room: _____
   Time examination completed (if applicable): _____
   Time required to obtain parent/guardian consent: _____
   *Time for preparation of vaccine: start:_____ end:_____
   Time practitioner initiated immunization: _____
   Time immunization began: _____
   Time immunization completed: _____
   Time practitioner left: _____
   Time immunization documentation began: _____
   Time immunization documentation completed: _____
   Time patient left immunization room: _____
   Time patient left practice: _____

   *(Practitioner preparing vaccine: Physician ❑ Nurse ❑ Other ❑)

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EXHIBIT 4 (CONT.)

6. Supplies Used (#'s): Syringe: _____
   Needle: _____
   Alcohol Swab: _____
   Band-Aid: _____
   Gloves: _____
   Other (list): _____
   _____

7. Comments: _____
   _____
   _____
   _____
   _____
   _____

CENTER FOR HEALTH POLICY STUDIES

VOL 60 ISS 84 MY 2 1995 UMI

EXHIBIT 5

UNIT COST DATA COLLECTION GUIDE

Physician Practice Name:_____ Date:_____

Physician Practice Address:_____ Time:_____

_____ Data Collector:_____

Physician Practice Telephone No:_____

1. Professional Costs:

Salaries: Staff Physician _____
Nurse _____
Other A _____
B _____
C _____

Source: Payroll register - Record average hourly salary. If more than one class of nurse or if there is substantial variation in a category, record each relevant amount and describe in notes.

Fringe Benefits: Percentage of salary: _____

Source: Office manager or review of general ledger. Be certain that percentage is well documented and includes payroll taxes, health insurance, other insurance, pension and profit-sharing.

2. Supply Costs:

Supply	Gross Count	Gross Cost	Cost per Unit
Syringe			
Needle			
Alcohol Swab			
Band-Aid			
Gloves			
Cotton Balls			
VICP Materials			
Other:			
A			
B			
C			

Source: Most recent purchase invoices from medical supply companies.

CENTER FOR HEALTH POLICY STUDIES

EXHIBIT 5 (CONT.)

3. Indirect Costs (not readily available from existing data sources)

3.1 Costs of acquiring vaccines (processing and administration only)

Describe process used to acquire vaccines: _____
_____
_____

Identify staff member (by title) who completes process for acquiring vaccines:
_____

Identify costs of staff member:
Salary (per hour) _____
Fringe Benefits (percentage of salary) _____

Identify amount of time allocated per clinical employee for immunization related training (e.g. OSHA blood-borne pathogen, vaccine handling): _____
_____
_____

Identify any other resources and their costs associated with acquiring vaccines:
_____
_____
_____

3.2 Identify special equipment and/or practice overhead costs that are related to immunizations but might be overlooked by existing data sources. Describe and list each cost.

Description	Cost	Unit of Measurement	Cost per Unit
Equipment:			
A			
B			
C			
Overhead:			
A			
B			
C			

Source: Office manager, payroll register, general ledger.

CENTER FOR HEALTH POLICY STUDIES

VOL
60
ISS
84
MY
2
1995
UMI

EXHIBIT 5 (CONT.)

4. Comments:_____

CENTER FOR HEALTH POLICY STUDIES

[FR Doc. 95–10754 Filed 5–1–95; 8:45 am]
BILLING CODE 4129–63–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–95–3853; FR–3833–N–02]

Preferences for Admission to Assisted Housing; Preference for Working Families—Notice of Statutory Amendment; Clarification

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner; and Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On January 18, 1995, HUD published a notice that advised that sections 6(c)(4)(A)(ii) and (8)(d)(1)(A)(ii) of the U.S. Housing Act of 1937 were amended by the HUD Appropriations Act for Fiscal Year 1995 to provide a discretionary local preference for admission to public housing and HUD-assisted housing for "families that include one or more adult members who are employed." The amendment by the HUD Appropriations Act provides that this preference for working families "shall be effective only during fiscal year 1995."

The purpose of this notice is to clarify that preferences for admitting working families to public housing and HUD-assisted housing can continue to be used indefinitely; under the conditions described in HUD final rules published on July 18, 1994, and entitled, respectively, "Preferences for Admission to Assisted Housing" and "Section 8 Certificate and Voucher Programs Conforming Rule: Admissions."

FOR FURTHER INFORMATION CONTACT: For the public housing and Section 8 Existing Housing programs, Sherone Ivey, Occupancy Division, Office of Public Housing, (202) 708–0744 (voice); (202) 708–0850 (TDD).

For other Section 8 programs, Barbara Hunter, Planning and Procedures Division, Office of Multifamily Housing, Office of Housing (202) 708–3944 (voice); (202) 708–4594 (TDD).

None of these telephone numbers is toll-free. The individuals listed above are located at the Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

SUPPLEMENTARY INFORMATION:

I. Background

On January 18, 1995 (60 FR 3646), HUD published a notice that advised that sections 6(c)(4)(A)(ii) and (8)(d)(1)(A)(ii) of the U.S. Housing Act of 1937 (42 U.S.C. 1437d and 42 U.S.C. 1437f) were amended by the HUD Appropriations Act for Fiscal Year 1995 (Pub.L. 103–327, approved September 28, 1994, 108 Stat. 2315) to provide a discretionary local preference for admission to public housing and HUD-assisted housing for "families that include one or more adult members who are employed." The two statutory amendments cover public housing and section 8 existing housing.

In the January 18, 1995 notice, HUD noted that the preference added by the Congress is consistent with two HUD final rules, both published on July 18, 1994, and entitled, "Preferences for Admission to Assisted Housing" (59 FR 36616), and "Section 8 Certificate and Voucher Programs Conforming Rule: Admissions" (59 FR 36662). The January 18, 1995 notice also advised that the HUD Appropriations Act provides that this preference "shall be effective only during fiscal year 1995."

Since publication of the January 18, 1995 notice, HUD has received a number of inquiries concerning the HUD Appropriations Act "limitation" of the working family preference to FY 1995.

The purpose of this notice is to clarify that preferences for admitting working families to assisted housing can continue to be used indefinitely, under the conditions described in the two HUD final rules published on July 18, 1994.

The amendments made by the HUD Appropriations Act cover public housing and section 8 existing housing (including section 8 project-based assistance), but not Indian housing. However, all three programs can establish preferences for working families, according to the terms in HUD regulations, and HUD encourages the adoption and continued use of such preferences.

Dated: April 24, 1995.

Jeanne K. Engel,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

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Office of the Assistant Secretary for Administration

[Docket No. N–95–3914; FR 3896–N–01]

Privacy Act of 1974—Amended System of Records

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice; Modification of an existing system of records.

SUMMARY: Pursuant to the provision of the Privacy Act of 1974, as amended (5 U.S.C. 552a) the Assistant Secretary for Public and Indian Housing is amending the system of records titled, "Tenant Eligibility Verification Files"—HUD/PIH–1, previously published at 58 FR 37600; July 12, 1993 and amended at 59 FR 14869; March 30, 1994. This system of records contains computer matching and tenant eligibility verification records necessary to support the identification of tenants who have been or may be obtaining excessive rental housing assistance. The system of records also supports referrals of information concerning those tenants to entities that administer HUD rental assistance programs (i.e., housing agencies [which includes public housing agencies and Indian housing authorities], owners of subsidized multifamily projects, and management agents) and to law enforcement agencies for possible administrative or legal actions, as appropriate. However, HUD may not redisclose to entities that administer HUD programs information that HUD obtains from the Social Security Administration (SSA) and the Internal Revenue Service (IRS), pursuant to 26 U.S.C. 6103(l)(7)(D)(ix)—a section of the Internal Revenue Code added by section 13403 of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66.

Amendments to the system of records: (a) Expand the scope of HUD/PIH–1 to include: Tenant records for all HUD assisted housing programs; earned and unearned income records that HUD will obtain from the SSA and the IRS, respectively; Title II (social security) and Title XVI (supplemental security income) records that HUD will obtain from the SSA; records provided by other Federal agencies for matching to tenant data that may affect determinations of eligibility for, or the amount of, HUD or other Federal benefits that tenants receive, (b) cite legal authorities for the SSA and the IRS records to be included in HUD/PIH–1, (c) cite routine uses for the SSA and the IRS records, (d) delete specific reference to United States Postal Service records, (e) increase the retention period for the HUD/PIH–1 records from 6 months to 1 year, (f) incorporate the additional routine use previously published at 59 FR 14869; March 30, 1994, concerning referral to Federal employers to ensure effective implementation of the Standard of Ethical Conduct for Employees of the Executive Branch, and (g) add a routine use concerning statistical information

VOL
60
ISS
84
MY
2
1995
UMI

needed to evaluate the effectiveness of computer matching, income verification and related administrative or legal actions taken.

The exemptions of HUD/PIH–1 from certain provisions of the Privacy Act of 1994, described at 59 FR 9406; February 28, 1994, continue to apply to HUD/PIH–1, as amended.

EFFECTIVE DATE: This proposal shall become effective without further notice on June 1, 1995, unless comments are received during or before that date which would result in a contrary determination.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. An original and four copies of comments should be submitted. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Jeanette Smith, Departmental Privacy Act Officer, Telephone Number (202) 708–2374, concerning Privacy Act matters. David L. Decker, Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, Telephone Number (202) 708–0099, concerning computer matching matters. [These are not toll free numbers.]

SUPPLEMENTARY INFORMATION: The amendments to this system of records are needed to: (a) Expand and improve the effectiveness of HUD's computer matching programs by consolidating responsibilities concerning assisted housing programs into one office, (b) implement provisions of the Omnibus Budget Reconciliation Act of 1993 that permit SSA and IRS disclosure to HUD of earned and unearned income information, respectively, for tenants who receive housing assistance from HUD's programs, (c) develop more efficient and effective methods for verifying social security and supplemental security income information used in determining tenants' eligibility for, and amount of, housing assistance, and (d) permit inclusion of automated records of other Federal agencies for matching to tenant data that may affect determinations of eligibility for, or the amount of, HUD or other Federal benefits that tenants receive.

Regarding item (c) above, entities that administer HUD's assisted housing programs currently request from the SSA social security and supplemental security income information needed to determine tenants' eligibility for, and level of benefits, by submitting a mark sense card to the SSA. Then the SSA processes the card and mails the income information to the entity administering HUD assisted housing programs. The SSA has advised HUD of plans to terminate obsolete mark sense card operations, and requested that HUD work with SSA is developing an alternative process. HUD and the SSA have concluded that computer matching provides a more efficient and more effective technique for providing social security and supplemental security information to entities that administer HUD's assisted housing programs than the mark sense card operations. HUD plans to use HUD/PIH–1 records in identifying tenants who have underreported social security and supplemental security information.

Entities that administer HUD's assisted housing programs may continue to use the mark sense card processing operations, which is also known as the Third Party Query System (TPQS), until further notice. HUD plans to initiate testing of computer matching to verify social security and supplemental income information during Fiscal Year 1995. When HUD has demonstrated success in the computer matching process and is ready for large-scale implementation of the matching, HUD will, in coordination with SSA, inform entities that administer HUD assisted housing programs to discontinue use of the TPQS.

HUD will also use HUD/PIH–1 in reporting potential income disparities to tenants or the entities that administer HUD's assisted housing programs, as permitted under law. A notice of the HUD/SSA/IRS computer matching program concerning earned and unearned income, social security, and supplemental security income is published in today's **Federal Register**.

A report of HUD's intention to establish the system has been submitted to the Office of Management and Budget (OMB), the Senate Committee on Governmental Affairs, and the House Committee on Government Operations pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," July 25, 1994; 59 FR 37914.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of Housing and Urban Development Act (41 U.S.C. 3535(d)).

Issued at Washington, DC, April 20, 1995.

Marilynn A. Davis,

Assistant Secretary for Administration.

HUD/PIH–1

SYSTEM NAME:

Tenant Eligibility Verification Files.

SYSTEM LOCATION:

Headquarters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Tenants receiving housing assistance provided by programs administered by the Department of Housing and Urban Development, or information concerning those tenants obtained from other Federal or State agencies, housing agencies, owners, and management agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of: (1) Automated tenant data obtained from HUD's HUD/H–11, Tenant Housing Assistance and Contract Verification Data, published at 59 FR 6035; February 9, 1994, (two HUD automated systems—the Multifamily Tenant Certification System and the Tenant Rental Assistance Certification System—are the primary components of HUD/H–11); (2) automated tenant data provided by housing agencies, owners or management agents (generally these records are available in HUD/H–11); (3) automated earned income data that the SSA provides under 26 U.S.C. 6103(l)(7)(A); (4) automated unearned income data that the IRS provides to HUD under 26 U.S.C. 6103(l)(7)(B); (5) automated Title II (social security) and Title XVI (supplemental security income) data that the SSA provides to HUD under a routine use; (6) automated wage, salary and annuity data from State wage information collection agencies; (7) automated data from the Office of Personnel Management's General Personnel Records (OPM/GOVT–1), the Civil Service Retirement and Insurance Records System (OPM/Central–1); (8) the Department of Defense's Defense Manpower Data Center Data Base (S322.10.DMDC); (9) automated records from the SSA's Master Files of Social Security Number Holders, known as the Enumeration Verification System; (10) applications for housing assistance and other related documentation obtained from tenant case files maintained by housing agencies, owners, and management; (11) data received from employers confirming income or deductions supporting determinations of eligibility for, and the amount of, housing assistance benefits; (12) automated records provided by other Federal agencies for matching to tenant

data that may affect determinations of eligibility for, or the amount of, HUD or other Federal benefits that tenants receive; (13) automated records provided by other Federal agencies under the investigative exclusion of the Computer Matching and Privacy Protection Act of 1988; and (14) automated records provided by housing agencies, owners and management agents regarding actions taken on computer matching results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The records will be obtained to detect excessive assisted housing that tenants receive using income information as provided under sections 3003 and 13403 of the Omnibus Budget Reconciliation Act of 1993, Public Law, 103–66; and section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, Public Law 100–628.

The Omnibus Budget Reconciliation Act of 1993, Public Law 103–66, permitted HUD to request from the Commissioner of the SSA and the Secretary of the Treasury, SSA and IRS earned and unearned income information, respectively, needed to verify the incomes of tenants who receive housing assistance. However, the Act precludes HUD from redisclosing that information to entities that administer HUD programs (i.e., housing agencies, owners and management agents). But the Act allows HUD to notify those entities that disparities exist between the tenant-reported incomes and income obtained from independent income sources, i.e., the SSA, the IRS or State wage data. HUD plans to identify disparities between tenant-reported and independent income source information, to notify tenants of disparities, and to request that the tenants disclose independent income source data to entities administering HUD programs.

The McKinney Amendments of 1988 authorized HUD to request wage and claim information from State agencies responsible for the administration of State unemployment law, to permit computer matching in HUD's rental assistance programs.

Section 165 of the Housing and Community Development Act of 1987, Public Law 100–242; the National Housing Act, 12 U.S.C. 1701–1750g authorizes HUD to require applicants and participants (including all members of their household six (6) years of age and older) in HUD-administered programs involving housing assistance to disclose to HUD their social security numbers as a condition of initial or continuing eligibility for participation.

Applicable laws concerning HUD's assisted housing programs include: The United States Housing Act of 1937, 42 U.S.C. 1437–1437o; and section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. 1701s.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Records included in the system may be used in conducting computer matching to aid in the identification of tenants who have received excessive rental housing assistance.

2. Records that HUD obtains from the SSA and the IRS under the authority of 26 U.S.C. 6103(l)(7), may be disclosed only to the tenant/taxpayer, to HUD employees responsible for investigating or prosecuting such violation or enforcing or implementing a statute, rule or regulation, or as otherwise permitted under 26 U.S.C. 6103.

3. Records that indicate a potential violation of law, whether criminal, civil or regulatory in nature, except for records obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to the appropriate Federal, State or local agency charged with the responsibility for investigating or prosecuting such violation or enforcing or implementing a statute, rule or regulation.

4. Records, except for those obtained from the SSA or IRS under the authority of 26 U.S.C. 6103(l)(7), may be disclosed to a congressional office in response to an inquiry from that congressional office made at the request of the individual who is the subject of the records.

5. Records, with the exception of those obtained pursuant to 26 U.S.C. 6103(l)(7), may be disclosed to housing agencies, owners and management agents in order to assist them in determining tenants' eligibility for housing assistance, and the amount of that assistance and to facilitate recovery of money or property or other administrative actions, i.e., eviction, necessary to promote the integrity of programs.

6. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed during the course of an administrative proceeding where HUD or a housing agency, owner or management agent is a party to the litigation and disclosure is relevant and reasonably necessary to adjudicate the matter.

7. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

8. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), may be disclosed to a Federal agency to initiate Federal salary or annuity offsets as necessary to collect excessive housing assistance received by the tenant.

9. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7), concerning an individual's receipt of excessive housing assistance, including the individual's actions to repay the same, may be disclosed to the Federal agency that employs such individual, for the purpose of notifying the employer of potential violation of the Standards of Ethical Conduct for Employees of the Executive Branch.

10. Records may be used to provide statistical information for use in evaluating the effectiveness of computer matching, income verification and related administrative or legal actions taken.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored manually in tenant case files and electronically in office automation equipment. Records, except for those obtained from the SSA and the IRS under 26 U.S.C. 6103(l)(7)(A) and (B), may also be stored on mainframe computer facilities.

RETRIEVABILITY:

Records may be retrieved by manual or computer search of indices by the name, social security number, housing agency, owner or management agent.

SAFEGUARDS:

Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those persons whose official duties require access. Computer files and printed listings are maintained in locked cabinets. Computer terminals are secured in controlled areas which are locked when unoccupied. Access to automated records is limited to authorized personnel who must use a password system to gain access. HUD will safeguard the SSA and the IRS records obtained pursuant to 26 U.S.C.

VOL 60 ISS 84 MY 2 1995 UMI

6103(l)(7)(A) and (B) in accordance with 26 U.S.C. 6103(p)(4) and the IRS's "Tax Information Security Guidelines for Federal, State and Local Agencies."

RETENTION AND DISPOSAL:

Only those computer files and printouts created from the computer matching that meet predetermined criteria are maintained. These records will be destroyed as soon as they have served the matching program's purpose. All other records will be destroyed as soon as possible within 1 year. Paper listings containing personal identifiers will be shredded. Computer source files provided by other organizations will be returned to those organizations or destroyed in accordance with computer matching agreements.

Except for tax return information that HUD may not redisclose to housing agencies, owners or agents, the information may be referred to housing agencies, owners or agents for administrative actions, i.e., recoupment of excessive housing assistance. Information obtained through computer matching and tenant case file reviews will be destroyed as soon as follow-up processing of this information is completed, unless the information is required for evidentiary reasons or needed by housing agencies, owners and agents for use in program eligibility determinations. When needed for evidentiary documentation, the information will be referred to the HUD Office of Inspector General (OIG) or other appropriate Federal, State or local agencies charged with the responsibility for investigating or prosecuting such violations. When referred to the HUD OIG the information then becomes a part of the Investigative Files of the Office of Inspector General, HUD/OIG–1.

SYSTEM MANAGER AND ADDRESS:

Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Room 5156, Washington, DC. 20410.

NOTIFICATION PROCEDURES:

Records are generally exempt from Privacy Act access. However, the System Manager will give consideration to a request from an individual for notification of whether the system contains records pertaining to that individual.

RECORD ACCESS PROCEDURES:

Records are generally exempt from Privacy Act access. However, the System Manager will give consideration to a request from an individual for access to records pertaining to that individual. The procedures for requesting access to records appear in 24 CFR part 16.

CONTESTING RECORD PROCEDURES:

Records are generally exempt from Privacy Act amendment or correction. However, the System Manager will give consideration to a request from an individual for amendment or correction of records pertaining to that individual. The procedures for amendment or correction of records appear in 24 CFR part 16.

RECORD SOURCE CATEGORIES:

The Assistant Secretary for Public and Indian Housing collects information from a variety of sources, including: Housing agencies, the Assistant Secretary for Housing-Federal Housing Commissioner (tenant information provided by owners and agents), State wage information collection agencies, other Federal and State agencies, law enforcement agencies, program participants, complainants, and other nongovernmental sources.

EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

This system of records is exempt from the requirements of: subsections (c)(3), (d)(1), (d)(2) and (e)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2); and from the requirements of subsection (d)(1) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(5).

[FR Doc. 95–10684 Filed 5–1–95; 8:45 am]

BILLING CODE 4210–01–P

[Docket No. N–95–3848; FR 3795–N–01]

Privacy Act of 1974; Matching Program: Matching Tenant Data in Assisted Housing Programs

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of matching program.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, as amended, and the Office of Management and Budget's Guidance on the statute, HUD announces a revised matching program involving comparisons between income data provided by applicants or participants in HUD's assisted housing programs and independent sources of income information. The matching program will be carried out to detect excessive housing assistance under the National Housing Act, the United States Housing Act of 1937, and section 101 of the Housing and Community Development Act of 1965. The program provides for the verification of the matching results and the initiation of appropriate administrative or legal actions, primarily through public housing agencies, Indian housing authorities, and private owners/management agents for subsidized multifamily projects.

This notice provides an overview of computer matching for HUD's assisted housing programs. Specifically, this notice:

(1) Adds Social Security Administration (SSA) and Internal Revenue Service (IRS) data concerning earned and unearned income to the matching program as independent sources for computer matching;

(2) Describes verification processes for the SSA and IRS matching that differ from processes previously used;

(3) Expands the matching to cover social security and supplemental social security income data maintained by the SSA; and

(4) Recognizes the transfer of computer matching/tenant income verification functions from HUD's Office of Inspector General to offices that administer the assisted housing programs. Those offices include the Office of the Assistant Secretary for Public and Indian Housing and the Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

This notice also sets forth new starting and ending dates for the matching program.

EFFECTIVE DATES: HUD anticipates that during the third quarter of calendar year 1995 it will: (a) Request that SSA and IRS conduct the initial computer matching, and (b) compare SSA and IRS matching results to its tenant data.

During the third quarter of calendar year 1995, HUD plans to initiate the tenant income verification process for a limited number of organizations that administer HUD assisted housing programs. HUD anticipates that the tenant income verification process will be expanded in Fiscal Year 1996 to include more organizations that administer HUD assisted housing programs. The projected dates for SSA and IRS matching are effective unless comments are received that result in a contrary determination, and HUD withdraws this notice.

The computer matching described in this notice may begin after compliance with the reporting requirements cited in section 4 of Appendix I to OMB Circular No. A–130—Federal Agency Responsibilities for Maintaining Records About Individuals (59 FR 37916; July 25, 1994). That section requires that Federal agencies provide the Chair of the House Committee on Government Operations, the Chair of the Senate Committee on Government Affairs, and the Office of Management and Budget with notice of the matching program and computer matching agreements 40 days before operating the program.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: *For Privacy Act:* Jeanette Smith, Departmental Privacy Act Officer, Room 4178, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–2374. Hearing- or speech-impaired individuals may call (202) 708–1112 (Federal Information Relay Service—TDD). *For further information from recipient agency:* David L. Decker, Director, Computer Matching Activities, Office of the Public and Indian Housing Comptroller, Room 5156, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–0099, TDD—(202) 708–0850; or Barbara D. Hunter, Acting Director, Planning and Procedures Division, Office of Multifamily Housing Management, Room 6180, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–3944, TDD—(202) 708–4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: This notice supersedes a similar notice published in the **Federal Register** on December 12, 1991 (56 FR 64793).

The Computer Matching and Privacy Protection Act of 1988, as amended (5 U.S.C. 552a) (the CMPP Act), the Office of Management and Budget's (OMB's) guidance on this statute entitled "Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988" (OMB Guidance), and OMB Circular No. A–130 require publication of notices of computer matching programs. OMB's Guidance augments the "OMB Guidelines on the Administration of the Privacy Act of 1974" that were issued July 1, 1975. Appendix I to OMB's Revision of Circular No. A–130, "Transmittal 2, Management of Federal Information Resources," prescribes Federal agency responsibilities for maintaining records about individuals. In accordance with the CMPP Act and Appendix I to OMB Circular No. A–130, copies of this notice are being provided to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and OMB's Office of Information and Regulatory Affairs.

I. Authority

This matching program is being conducted pursuant to sections 3003 and 13403 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, approved August 10, 1993); section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544); section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543); the National Housing Act (12 U.S.C. 1701–1750g); the United States Housing Act of 1937 (42 U.S.C. 1437–1437o); and section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

The Omnibus Budget Reconciliation Act of 1993 (Budget Reconciliation Act) authorizes HUD to request from the Social Security Administration (SSA) and the Internal Revenue Service (IRS) return information as prescribed in section 6103(l)(7) of title 26 of the United States Code (Internal Revenue Code). The Budget Reconciliation Act limits HUD's access to tax return data and prohibits HUD's redisclosure of tax return data to public housing agencies and Indian housing authorities (collectively referred to as HAs), and private owners/management agents for subsidized multifamily projects. However, it allows HUD to disclose the fact that discrepancies exist between information provided by the tenant and other sources, and to request reverification of income in light of the tenant's uncertain eligibility for, or level of, benefits.

The Budget Reconciliation Act requires that applicants and participants in assisted housing programs sign a consent form authorizing the Secretary of HUD to request that the Commissioner of Social Security and the Secretary of the Treasury release the return information. A final rule regarding participants' consent to the release of information was published by HUD in the **Federal Register** on March 20, 1995 (60 FR 14632).

The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 authorizes HUD and HAs (but not private owners/management agents for subsidized multifamily projects) to request wage and claim information from State Wage Information Collection Agencies (SWICAs) responsible for administering State unemployment laws in order to undertake computer matching. This Act authorizes HUD to require applicants and participants to sign a consent form authorizing HUD or the HA to request wage and claim information from the SWICAs.

The Housing and Community Development Act of 1987 authorizes HUD to require applicants and participants (as well as members of their households six years of age and older) in HUD-administered programs involving rental assistance to disclose to HUD their social security numbers (SSNs) as a condition of initial or continuing eligibility for participation in the programs.

II. Objectives To Be Met by the Matching Program

HUD's primary objective in implementing the computer matching program is to increase the availability of housing assistance to individuals who meet the requirements of the housing assistance programs. Other objectives include identifying and recouping excessive housing assistance received by tenants, and deterring future abuses of assisted housing programs.

HUD's various assisted housing programs, available through HAs or subsidized multifamily project owners/management agents, require that applicants meet certain income and other criteria to be eligible for housing assistance. In addition, tenants are required to report the amount and sources of their income on at least an annual basis. The matching program will identify tenants receiving excessive housing assistance resulting from unreported or underreported family income. When the excessive housing assistance is identified, these tenants frequently move out of assisted housing units, increasing funds or units available to serve the intended beneficiaries of HUD programs. Further, program administrators may collect excessive housing assistance from those tenants. Some tenants may continue to receive housing assistance but will be required to increase their contributions toward rent, and to re-pay excessive housing assistance.

III. Program Description

In this computer matching program, tenant-provided information included

VOL
60
ISS
84
MY
2
1995
UMI

in HUD's automated files will be compared to data from the SSA and the IRS, as well as from SWICAs and the Office of Personnel Management (OPM). HUD intends the SSA and IRS matching to be a continuing program for assisted housing programs nationwide. HUD will normally request that the SSA conduct matching of earned income information, and that the IRS conduct matching of unearned income information, on an annual basis. HUD will request SSA matching of social security and supplemental social security income information monthly. Initially HUD may limit the matching or the verification process to selected HAs and private owners/management agents to test the effectiveness of the computer matching and tenant income verification processes.

HUD anticipates that it will only conduct SWICA matching in selected States. Furthermore, HUD anticipates that the extent of SWICA and OPM matching will decrease in future years, after the effectiveness of SSA and IRS matching and income verification has been demonstrated. HAs may also request SWICA matching.

HUD will disclose to the SSA, IRS, and SWICAs only tenant personal identifiers, i.e., SSNs, surnames, dates of birth, and sex. The SSA, IRS, and SWICAs will conduct the matching of the HUD-provided personal identifiers to personal identifiers included in their automated files. Those agencies will provide income data to HUD only for individuals with matching personal identifiers.

The process of income matching between HUD and the OPM varies from the above. The OPM will disclose its data to HUD, and HUD will actually conduct the computer matching to OPM data.

HUD will then compare the SSA, IRS, OPM, and SWICA income data to tenant-reported income data included in HUD's system of records known as the Tenant Housing Assistance and Contract Verification Data (HUD H–11). This comparison will identify, based on criteria established by HUD, tenants whose income(s) require further verification.

A. Income Verification

HUD will normally request that HAs or private owners/management agents verify matching results as described below. However, under certain limited circumstances HUD may verify tenant income(s) with independent income sources. For example, such circumstances may include when: (a) HUD declares an HA in breach of an annual contributions contract; or (b) the tenant fails to disclose SSA and IRS data, the tenant has committed other serious violations, and HUD's analysis of the data could support legal actions. HUD may send letters to employers to request income data, but HUD will not disclose tax return data to HAs, private owners/management agents, employers, or payors.

(1) Verification of SSA and IRS Data Referenced in Section 6103(l)(7) of the Internal Revenue Code

Since HUD cannot redisclose tax return data directly to HAs or private owners/management agents, HUD plans to notify tenants of discrepancies between the tenant-reported income and the SSA and IRS data. HUD will supply the tenant with income information taken directly from SSA and IRS data and request that the tenant provide this information to the HA or private owner/management agent. Concurrently, HUD will notify the HA or the private owner/management agent that a discrepancy exists between information provided by the tenant and other sources and will request reverification of the tenant's income. This notification will not include any tax return information.

Income information that tenants disclose to the HA or private owners/management agents will be verified directly with the income source or with the tenant. Tenants who fail to report to the HA or private owner/management agent after HUD's initial notice will receive a second notice sent by the HA or private owner/management agent. If the tenant still fails to provide the information to the HA or private owner/management agent, the HA or private owner/management agent may then terminate housing assistance, after providing the tenant an opportunity to grieve any adverse action.

The SSA and the IRS have advised HUD that the process described in the preceding paragraph is consistent with the intent of section 6103(l)(7) of the Internal Revenue Code, as the intent of the matching is to create a dialogue between the benefit recipient and the benefit provider.

(2) Verification of Social Security and Supplemental Social Security Income Data

Unlike the income return information supplied by the SSA and the IRS, HUD may disclose SSA Title 2 (social security) and Title 16 (supplemental social security income) data to HAs and private owners/management agents. Therefore, after receiving this data from the SSA and comparing it to tenant-reported income, HUD will disclose the SSA social security and supplemental social security income data to HAs and private owners/management agents. These disclosures will be limited to those instances in which a significant disparity exists between the SSA and the tenant-reported data. HAs and private owners/management agents will then notify the tenant if a disparity exists that affects the tenant's housing assistance.

(3) Verification of SWICA Data

HUD will disclose matching results for SWICA wage and unemployment claim data directly to HAs, but not to private owners/management agents. The comparison of SWICA wage information and the tenant-reported data will reveal whether income verification is necessary. The HA must then obtain wage information directly from the tenants' employer(s), including information from prior years when appropriate. The SWICA unemployment claim data must be verified with the tenant. Verification with the SWICA would only be required if the tenant disputes the SWICA claim data.

(4) Verification of OPM Data

HUD will disclose matching results for OPM data to HAs and private owners/management agents. The OPM data, when compared to the tenant-reported data, provides an indicator that income verification is necessary. The HAs and private owners/management agents may then obtain wage information directly from the employer(s), including information from prior years when appropriate.

B. Administrative or Legal Actions

Regarding all the matching described in this notice, HUD anticipates that HAs and private owners/management agents will take appropriate actions in consultation with the tenant to resolve the disparities between tenant-reported and independent income source data. If appropriate, the HAs and private owners/management agents will increase the tenant's contribution toward rent, i.e., reduce the housing assistance provided.

After verifying that the tenant had access to income that the tenant did not report, the HA or project owner/management agent will:

(1) Notify the tenant in writing of any findings;

(2) Calculate the unreported income and excessive housing assistance received by the family;

(3) Offer the tenant an opportunity to contest any findings;

(4) Provide a grievance hearing or a right to contest to the tenant, if requested; and

(5) Initiate, as appropriate, administrative or legal actions to resolve the tenant's underpayment of rent, using guidelines in HUD regulations and handbooks.

The HAs and private owners/management agents may not suspend, terminate, reduce, or make a final denial of any housing assistance to any individual as the result of information produced by this matching program until: (a) The individual has received notice from that agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and (b) either the notice period provided in applicable regulations of the program, or 30 days, whichever is later, has expired. In most cases, the discrepancy will be resolved through consultation between the tenant and the HA or private owner/management agent.

In legal actions, HAs and private owners/management agents may refer cases to local law enforcement entities or HUD's Office of Inspector General (OIG) for possible investigation and prosecution, either criminally or civilly. Referrals to the OIG should involve only egregious cases.

C. Reporting on Computer Matching/Income Verification Results

HUD plans to prescribe a methodology (probably electronic) for HAs and private owners/management agents to report computer matching/income verification results to HUD. The reporting methodology will measure the effectiveness of the computer matching program. In developing the methodology, HUD will avoid imposing any unnecessary burden on HAs and private owners/management agents. The reporting requirement will be submitted to OMB for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), and a notice of this submission will be published in the **Federal Register**.

IV. Records To Be Matched

SSA and IRS will actually conduct the matching of tenant SSNs and additional identifiers (such as surnames and dates of birth) to tenant data that HUD supplies from its system of records known as the Tenant Housing Assistance and Contract Verification Data (HUD H–11). Within HUD, this system of records includes two automated systems known as the Multifamily Tenant Characteristics System (a system for programs under the Office of the Assistant Secretary for Public and Indian Housing) and the Tenant Rental Assistance Certification System (a system for programs under the Office of the Assistant Secretary for Housing—Federal Housing Commissioner). HAs and private owners/management agents for subsidized multifamily projects provide HUD with the data included in HUD H–11.

The SSA will match the HUD H–11 records to the SSA's Earnings Recording and Self-Employment Income System (HHS/SSA/OSR, 09–60–0059) (Earnings Record); Master Beneficiary Record (HHS/SSA/OSR, 09–60–0090) (MBR); and Supplemental Security Income Record (HHS/SSA/OSR, 09–60–0103) (SSR). The IRS will match the HUD H–11 records to its Wage and Information Returns (IRP) Master File (Treas/IRS 22.061). The IRS also refers to this file as the Information Return Master File (IRMF).

HUD's Assistant Secretary for Public and Indian Housing (PIH) will place matching data into its Tenant Eligibility Verification Files (HUD/PIH–1), as provided in a notice published in today's **Federal Register**. The HUD/PIH–1 files are specifically exempt from certain provisions of the Privacy Act, as described in a notice published on February 28, 1994 (59 FR 9406) and a notice published on March 30, 1994 (59 FR 14869). HUD's Assistant Secretary for Housing—Federal Housing Commissioner will consider matching data as a component of HUD H–11.

HUD may also coordinate SWICA income computer matches for its rental assistance programs using tenants' SSNs and surnames. SWICAs will match tenant records to machine-readable files of quarterly wage data and unemployment insurance benefit data. Results from this matching will be provided to HUD or HAs, which will then determine whether tenants have unreported or underreported income. The matching will be done in accordance with a written agreement between the SWICA and HUD.

In addition, tenants' SSNs may be matched to the OPM's General Personnel Records (OPM/GOVT–1), the Civil Service Retirement and Insurance Records System (OPM/Central-1), and the Department of Defense's Defense Manpower Data Center Data Base (S322.10.DMDC). The tenant data may be matched to the SSA's Master Files of Social Security Number Holders (HHS/SSA/OSR, 09–60–0058) and Death Master Files for the purpose of validating SSNs contained in tenant records. These records will also be used to validate SSNs for all applicants, tenants, and household members who are six (6) years of age and over to identify noncompliance with program eligibility requirements. HUD will compare tenant SSNs provided by HAs or private owners/management agents to reveal duplicate SSNs and potential duplicate housing assistance.

V. Period of the Match

The computer matching program will be conducted according to agreements between HUD and the SSA, IRS, OPM, and SWICAs. The computer matching agreements for the planned matches will terminate either when the purpose of the computer matching program is accomplished, or 18 months from the date the agreement is signed, whichever comes first.

The agreement may be extended for one 12-month period, with the mutual agreement of all involved parties, if the following conditions are met:

(1) Within 3 months of the expiration date, all Data Integrity Boards review the agreement, find that the program will be conducted without change, and find a continued favorable examination of benefit/cost results; and

(2) All parties certify that the program has been conducted in compliance with the agreement.

The agreement may be terminated, prior to accomplishment of the computer matching purpose or 18 months from the date the agreement is signed (whichever comes first), by the mutual agreement of all involved parties within 30 days of written notice.

Dated: March 22, 1995.

Marilynn A. Davis,

Assistant Secretary for Administration.

[FR Doc. 95–10685 Filed 5–1–95; 8:45 am]

BILLING CODE 4210–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–6687–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Old Harbor Native Corporation for approximately 915 acres. The lands involved are in the vicinity of Kodiak National Wildlife Refuge, Alaska.

Seward Meridian, Alaska

T. 34 S., R. 23 W.,
Secs. 4, 8, 9, and 17.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily

VOL 60 ISS 84 MY 2 1995 UMI

Mirror. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until June 1, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Margaret J. McDaniel,

Acting Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95–10708 Filed 5–2–95; 8:45 am]

BILLING CODE 4310–JA–P

[CA–064–05–1430–00, CACA 33785]

Realty Action; Sale of Public Land, San Bernardino County, CA

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of realty action; sale of public land.

SUMMARY: The following described land has been examined and found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713), at not less than the appraised fair market value of $5,400. The land will not be offered for sale until 60 days after the publication of this notice.

San Bernardino Meridian

T. 1 N., R. 18 E.,

Unsurveyed lands within section 29, described as follows: commencing at Bureau of Land Management corner AP4 per Plat of the dependent resurvey approved October 29, 1974; thence northwest 0 degrees, 35 minutes, 49 seconds, 211.56 feet, thence northeast 89 degrees, 23 minutes, 54 seconds, 1,853.04 feet; thence southeast 0 degrees, 35 minutes, 49 seconds, 211.56 feet; thence southwest 89 degrees, 23 minutes, 54 seconds, 1,853.04 feet to the point of beginning.

Containing 9 acres of public lands, more or less. The land will not be sold until it is officially surveyed under the public land survey system of the United States.

This land is being offered for direct sale to the Metropolitan Water District of Southern California to resolve inadvertent solid waste disposal on the land. The sale is consistent with the California Desert Conservation Area Plan. The Metropolitan Water District has applied to acquire the mineral interests under section 209 of the Federal Land Policy and Management Act. The land contains no known mineral values, and the mineral interest will be conveyed simultaneously with the land.

SUPPLEMENTARY INFORMATION: Publication of this Notice in the **Federal Register** segregates the public land from the operation of the public land laws and the general mining laws. The segregative effect will end upon issuance of patent, or two years from the date of publication, whichever occurs first. The patent, when issued, will contain a reservation of ditches and canals to the United States. Detailed information concerning the specific conditions of the sale is available for review at the California Desert District Office, Bureau of Land Management, 6221 Box Springs, Riverside, California 92507. For a period of 45 days after publication of this notice in the **Federal Register** interested parties may submit comments to the District Manager, California Desert District, in care of the above address. Objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 18, 1995.

Lucia Kuizon,

Acting District Manager.

[FR Doc. 95–10753 Filed 5–1–95; 8:45 am]

BILLING CODE 4310–40–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 22, 1995. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by May 17, 1995.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Calhoun County

State Highway 274 Bridge (Historic Bridges of Arkansas MPS), AR 274 over Little Cypress Cr., Thornton vicinity, 95000610

Craighead County

Craighead County Road 513C Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 513C over unnamed ditch, approximately 1.5 E of Dixie, just E of jct. of Co. Rds. 513C and 669, Dixie vicinity, 95000614

Independence County

Cedar Creek Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 235 over Cedar Cr., approximately 1.5 mi. S of jct. of Co. Rd. 235 and AR 14, Rosie vicinity, 95000613

Jefferson County

West James Street Overpass (Historic Bridges of Arkansas MPS), W. James St. over Union—Pacific RR tracks, Redfield vicinity, 95000609

Phillips County

Little Cypress Creek Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 66G over Little Cypress Cr., Postelle vicinity, 95000611

Warrens Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 141 over Lambrook Levee Ditch, Lambrook vicinity, 95000612

Pulaski County

Amboy Overpass (Historic Bridges of Arkansas MPS), AR 365 over Union—Pacific RR tracks, N of jct. of AR 365 and AR 176, North Little Rock, 95000608

DISTRICT OF COLUMBIA

District of Columbia State Equivalent

George Washington Memorial Parkway (Parkways of the National Capital Region MPS), Roughly, S side of the Potomac R. from American Legion to Memorial Bridge and N side from Brickyard Rd. to Chain Bridge, Washington, 95000605

Suitland Parkway (Parkways of the National Capital Region MPS), From the Anacostia R. in the District of Columbia to Pennsylvania Ave. in Prince George's County, Maryland, Washington, 95000604

IOWA

Story County

Wood, William Kennison, House, Co. Rd. off S27, Iowa Center, 95000622

Wapello County

Big 4 Fair Art Hall, Water St., at Wapello County Regional Fair Grounds, Eldon, 95000621

KANSAS

Allen County

Schleichers Branch Stone Arch Bridge (Masonry Arch Bridges of Kansas MPS), Unnamed rd. over Slack Cr. (Schleichers Br.), E of Humboldt, Humboldt vicinity, 95000620

Johnson County

Voigts, Herman J. and Ella B., House, 2405 W. 103rd St., Leawood, 95000603

MINNESOTA

Hennepin County

Fournier, Lawrence A. and Mary, House, 3505 Sheridan Ave. N., Minneapolis, 95000618

Van Dusen, George H. and Nancy B., House, 1900 LaSalle Ave., Minneapolis, 95000607

Lac Qui Parle County

Dawson Armory and Community Building, 676 Pine St., Dawson, 95000615

Martin County

Chubb, Orville P. and Sarah, House, 209 Lake Ave., Fairmont, 95000616

Rice County

Den Svenska Evangeliska Lutherska Christdala Forsamlingen, 4695 Millersburg Rd., Forest Township, Lonsdale vicinity, 95000617

Wadena County

Wadena Memorial Auditorium, Jct. of Dayton Ave. SW., and Third St. SW., Wadena, 95000619

NEW YORK

Essex County

Central Powerhouse (Moriah MPS), Jct. of Tracy Rd. and New Bed Rd., SE corner, Town of Moriah, Witherbee, 95000591

Delaware & Hudson Railroad Depot (Moriah MPS), Park Pl., Town of Moriah, Port Henry, 95000593

Moriah Town Office Building (Moriah MPS), Cedar St., Town of Moriah, Port Henry, 95000594

Mount Moriah Presbyterian Church (Moriah MPS), Jct. of Church and S. Main Sts., NW corner, Town of Moriah, Port Henry, 95000592

Port Henry Fire Department Building (Moriah MPS), 33 Broad St., Town of Moriah, Port Henry, 95000590

Sherman Free Library (Moriah MPS), 4 Church St., Town of Moriah, Port Henry, 95000595

Ulster County

Rest Plaus Historic District, Roughly, along Old Kings Hwy., Rest Plaus Rd., and Lucas Tpk. (Co. Rt. 1), Marbletown, 95000602

PUERTO RICO

Humacao Municipality

Humacao Customs House, Marina St. at jct. with Aduana St., Humacao, 95000599

Humacao District Courthouse, Jct. of Dr. Vidal St. and Antonio Lopez St., Humacao, 95000596

Saez, Antonia, School, Font Martelo St. at jct. with Isidro St., Humacao, 95000597

SOUTH CAROLINA

Horry County

Atlantic Coast Line Railroad Depot (Conway MRA), N side of US 701, Conway, 86003839

TEXAS

Navarro County

Corsicana Commercial Historic District, Roughly bounded by 2nd Ave., the Southern Pacific RR tracks, 7th Ave. and Main St., Corsicana, 95000601

VIRGINIA

Suffolk Independent City

Holland Historic District, Jct. of US 58 with VA 189 and VA 653, Suffolk (Independent City), 95000600

[FR Doc. 95–10713 Filed 5–1–95; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0057), Washington, D.C. 20503, telephone 202–395–7340.

Title: 30 CFR Part 882—Reclamation on Private Lands

OMB Number: 1029–0057

Abstract: The information requirement is pursuant to Public Law 95–87, which mandates procedures for States and Indian Tribes to request appraisals and liens under certain circumstances on private property that has been reclaimed. These procedures are intended to ensure that States and Indian Tribes have sufficient capability to file liens so that certain landowners will not receive a windfall from the reclamation

Bureau Form Number: Not applicable

Frequency: As required

Descriptions of Respondents: States and Indian tribes

Estimated Completion Time: One hour

Annual Responses: None

Annual Reporting Burden: One

Bureau Clearance Officer: John A. Trelease (202) 343–1475

Date: March 30, 1995.

Andrew F. DeVito,

Chief, Branch of Environmental and Economic Analysis.

[FR Doc. 95–10714 Filed 5–1–95; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32670]

Consolidated Rail Corporation—Trackage Rights Exemption—Vaughan Railroad Company

Vaughan Railroad Company (Vaughan) has agreed to grant nonexclusive trackage rights to Consolidated Rail Corporation (Conrail) in Nicholas and Fayette Counties, WV, as follows: (1) Beginning at the connection between Conrail and the Vaughan Interconnect at milepost 0.00± and ending at Plus Station 672 + 82± (16′ short of milepost CAY–13.0) near Vaughan, WV; and (2) beginning at Vaughan on the Twentymile Creek Extension Track at Station 643 + 00± (milepost 12.4±) and extending 9.13 miles to the terminating point of the Twentymile Creek Extension Track at Robinson Fork of Twentymile Creek (Station 482 + 00±).[1] The proposed transaction will enable Conrail to provide nonexclusive transportation of coal by allowing it to access AMVEST Minerals Corporation or any of its corporate affiliates located on the involved trackage.

The proposed transaction is scheduled to take effect on the date the parties agree in writing, but not sooner than seven days after the filing of the notice of exemption.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Anne E. Treadway, 2001 Market St., 16A, P.O. Box 41416, Philadelphia, PA 19101–1416.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: April 25, 1995.

[1] The line segments involve "original" trackage (original trackage agreement) dated October 18, 1993, and "extension" trackage (amended agreement) dated April 10, 1995. A notice of exemption seeking approval for the original trackage was not filed with the Commission because, at the time of agreement, the line was not operable.

VOL 60 ISS 84 MY 2 1995 UMI

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10785 Filed 5–1–95; 8:45 am]

BILLING CODE 7035–01–P

[Ex Parte No. 386 (Sub-No. 5)]

Intrastate Rail Rate Authority—Georgia

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional recertification.

SUMMARY: The State of Georgia has filed an application for recertification. The Commission, under *State Intrastate Rail Rate Authority*, 5 I.C.C.2d 680, 685 (1989), provision-ally recertifies the State of Georgia to regulate intra-state rail rates, classifications, rules, and practices. After its review, the Commission will issue a recertification decision or take other appropriate action.

DATES: This provisional recertification will be effective on May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green (202) 927–5269 or Beryl Gordon (202) 927–5610 [TDD for hearing impaired: (202) 927–5721].

Decided: April 26, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10784 Filed 5–1–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collection Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Reinstatement with changes, of a previously approved collection for which approval has expired.

(1) 1995 Census of State and Federal Adult Correctional Facilities.

(2) Form CJ–43. Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(3) Primary=Federal, State, local or Tribal Government. Others=None. This 1995 Census of State and Federal Correctional Facilities will provide current information on inmate population and correctional facilities throughout the country, including inmate growth and its effects on confinement space and facility building plans. The last census was conducted in 1990. Respondents are State and Federal correctional administrators.

(4) 1,400 annual respondents at 1.0 hours per response.

(5) 1,400 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 26, 1995.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–10687 Filed 5–1–95; 8:45 am]

BILLING CODE 4410–18–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System, Nuclear Project No. 2; Notice of Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21, issued to Washington Public Power Supply System, (the licensee), for operation of the Nuclear Project No. 2, located in Benton County, Washington.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment is written in connection with the proposed core uprate for the Nuclear Project No. 2 in response to the licensee's application dated July 9, 1993, as supplemented by letters of October 9, and October 25, 1993, January 6, February 2, May 3, May 13, September 26, and October 12, 1994. The proposed action would increase the rated core power level for Nuclear Project No. 2 from the current level of 3323 Megawatts-thermal (MWt) to 3486 MWt. The Nuclear Steam Supply System (NSSS) power level would be increased accordingly. This uprate represents an authorized thermal power level increase of approximately 4.9 percent. This will require resetting of the safety relief valve setpoints to accommodate the slight operating pressure increase (less than 20 psi). Operating temperature will also increase slightly (less than 5 °F). The result of these changes will be an approximate 5 percent increase in rated steam flow. Plant instrumentation will be recalibrated to reflect the uprated power. The licensee will implement these changes during the current refueling outage, which began on April 22, 1995.

These changes will be achieved by (1) increasing the core thermal power to increase steam flow, (2) increasing reactor pressure to ensure adequate turbine control margin, (3) not increasing the current maximum core flow, and (4) operating the reactor along higher flow control lines. The increased core power will be achieved by utilizing a flatter radial power distribution while still maintaining limiting fuel bundles within their constraints.

The Need for the Proposed Action

The proposed action would increase the thermal output by 163 MWt, which corresponds to approximately 52 megawatts-electrical (MWe). This would provide additional electrical power to the grids which service the commercial and residential areas of the distribution utility.

Environmental Impacts of the Proposed Action

A slight change in the environmental impact can be expected for an increase in plant power level, but the effects were found to be minimal and did not alter the findings stated in NUREG–0812, "Final Environmental Statement Related to Operation of Nuclear Project No. 2" (FES), December 1981.

The proposed core uprating is projected to increase the rejected heat by approximately 5 percent. However, the thermal discharges from the circulating and service water systems remain bounded by the values evaluated in the FES. Thus, the 5 percent increase in rejected heat has been evaluated and determined not to significantly impact on the quality of the human environment.

The licensing basis analyses related to radiological source terms were originally performed assuming a core power of 3486 MWt which corresponds to the proposed rerate conditions. The NRC review of these calculations was documented in NUREG–0892, "Safety Evaluation Report Related to the Operation of Nuclear Project No. 2." Additional assessments by the licensee related to the rerated conditions (power level and reactor coolant temperature) and other changes related to plant operation determined there would be no significant increase in the potential radioactive releases resulting from plant operation or design basis reactor accidents. In addition, no significant increases in individual or cumulative occupational radiation exposure would result from the proposed changes in operating conditions. Also, he proposed increase in the NSSS power involves no significant change in the amount of any non-radiological effluents that may be released offsite compared to those evaluated and approved in the FES.

Therefore, the Commission concludes that there is no significant radiological or non-radiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the amendment would not significantly reduce the environmental impact of plant operation and would restrict operation of the Nuclear Project No. 2 to the currently licensed power level, thereby reducing operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Nuclear Project No. 2.

Agencies and Persons Consulted

By letter of September 26, 1994, Mr. Jason J. Zeller of the Energy Facility Site Evaluation Council of the State of Washington informed the staff that the State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 9, 1993, as supplemented by letters dated October 9, and October 25, 1993, January 6, January 6, February 2, May 3, May 13, September 26, and October 12, 1994, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 28th day of April 1995.

For the Nuclear Regulatory Commission.

William H. Bateman,

Director, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10886 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 74th meeting on May 10, 1995, in Room T–2B3 and May 11, 1995, in Room T–2B1, at 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for this meeting shall be as follows:

Wednesday, May 10, 1995—8:30 A.M. until 6:00 P.M. and Thursday, May 11, 1995—8:30 A.M. until 6:00 P.M.

During this meeting the Committee plans to consider the following:

A. *NRC staff Position on Substantially Complete Containment*—The Committee will review the NRC staff position on the meaning of substantially complete containment as used in the Commission's regulations for the disposal of high-level radioactive wastes in geologic repositories.

B. *Electronic Data Transfer*—Representatives from the U.S. Department of Energy will discuss the electronic transfer of site characterization data from the DOE to the NRC and Center for Nuclear Waste Regulatory Analyses staffs.

C. *Meeting with the Director, NRC's Division of Waste Management, Nuclear Materials Safety and Safeguards*—The Director will provide information to the Committee on current waste management issues, which may include the progress of site characterization at the proposed Yucca Mountain site and a preview of the NRC staff's review strategy for DOE seismic hazard analysis.

D. *National Performance Review Phase 2*—The Committee will hear presentations by and hold discussions with the NRC staff on initiatives to streamline the Federal government and regulatory process.

E. *Preparation of ACNW Reports*—The Committee will discuss proposed reports on the Approach to Groundwater Travel Time at Yucca Mountain and comments on a low-level waste branch technical position on performance assessment. Additional topics will be considered as time permits.

F. *Committee Activities/Future Agenda*—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will also discuss ACNW-related activities of individual members.

G. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 7, 1994 (59 FR 51219). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic

VOL 60 ISS 84 MY 2 1995 UMI

recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACNW Executive Director, Dr. John T. Larkins, as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the ACNW Executive Director prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACNW Executive Director if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the ACNW Executive Director, Dr. John T. Larkins (telephone 301/415–7360), between 7:30 a.m. and 4:15 p.m. EDT.

Dated: April 26, 1995.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 95–10724 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–293]

Boston Edison Company; Pilgrim Nuclear Power Station; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by letter dated March 10, 1995, Mary Elizabeth Lampert and 62 other persons request that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to the Pilgrim Nuclear Power Station operated by the Boston Edison Company (the licensee).

Petitioners request that during the March 25, 1995, refueling outage and In-Vessel Visual Inspection conducted by the licensee, certain technical concerns be addressed, and that before Pilgrim goes back on-line, appropriate repairs be made or corrective action be taken, and that the NRC discuss the status of such repairs and corrective actions with the public in Plymouth, Massachusetts. Petitioners also request that the NRC terminate its policy of issuing Notices of Enforcement Discretion (NOED) and commence enforcing NRC regulations again. Finally, Petitioners request that the letter be treated as a Petition pursuant to 10 CFR 2.206.

As the bases for their requests, Petitioners identify three groups of technical concerns: (1) Age-related deterioration of 25 safety related reactor internals; (2) parts and components "known to be a problem at Pilgrim," including the core shroud, water level indicators, QA for fuel pool cooling system during loss-of-coolant accident/loss-of-coolant protection, coolant protection, motor-operated valves, containment integrity, drywell liner corrosion vulnerability, station blackout vulnerability, and Rosemount transmitters; and (3) parts and components "potentially a problem at Pilgrim," including potential fuel rod corrosion and substandard and/or counterfeit parts. Additionally, Petitioners contend that allowing a reactor to operate under an NOED cannot pose less risk to the public health and safety than keeping the reactor shut down until NRC regulations are met.

The Petition is being evaluated pursuant to 10 CFR 2.206 of the Commission's regulations. The Petition has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20001.

Dated at Rockville, Maryland, this 19th day of April 1995.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10732 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

Appointments to Performance Review Boards for Senior Executive Service

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Boards for Senior Executive Service.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has announced the following appointments to the NRC Performance Review Boards.

The following individuals are appointed as members of the NRC Performance Review Board (PRB) responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives:

New Appointees:

Lawrence J. Chandler, Assistant General Counsel, Office of the General Counsel
Richard L. Bangart, Director, Office of State Programs
Leonard J. Callan, Regional Administrator, Region IV
Ronald M. Scroggins, Deputy Chief Financial Officer/Controller, Office of the Controller
Ashok Thadani, Associate Director for Technical Assessment, Office of Nuclear Reactor Regulation

In addition to the above new appointments, the following members are continuing on the PRB:

Stephen G. Burns, Associate General Counsel, Office of the General Counsel
John C. Hoyle, Secretary of the Commission, Office of the Secretary
James L. Blaha, Assistant for Operations, Office of the Executive Director for Operations
Frank J. Miraglia, Deputy Director, Office of Nuclear Reactor Regulation
Bill M. Morris, Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research
Elizabeth Q. Ten Eyck, Deputy Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards

The following individuals will continue as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

Hugh L. Thompson, Jr., Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, Office of the Executive Director for Operations
Karen D. Cyr, General Counsel, Office of the General Counsel
James L. Milhoan, Deputy Executive Director for Nuclear Reactor Operations, Regulatory Operations, and Research, Office of the Executive Director for Operations

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: James F. McDermott, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–7516.

Dated at Rockville, Maryland, this 25th day of April 1995.

For the Nuclear Regulatory Commission.

James F. McDermott,

Secretary, Executive Resources Board.

[FR Doc. 95–10728 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–410]

Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station Unit 2); Exemption

I

Niagara Mohawk Power Corporation (NMPC or the licensee) is the holder of Facility Operating License No. NPF–69, which authorizes operation of Nine Mile Point Nuclear Station Unit 2 (the facility/NMP2), at a steady-state reactor power level not in excess of 3323 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Oswego County, New York. The license provides among other things, that it is subject to all rules, regulations, and Orders of the U.S. Nuclear Regulatory Commission (the Commission or NRC) now or hereafter in effect.

II

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 requires the performance of three Type A containment integrated leakage rate tests (ILRTs), at approximately equal intervals during each 10-year service period of the primary containment. The third test of each set shall be conducted when the plant is shutdown for the 10-year inservice inspection of the primary containment.

III

By letter dated March 9, 1995, NMPC requested temporary relief for NMP2 from the requirement to perform a set of three Type A tests at approximately equal intervals during each 10-year service period of the primary containment. The requested exemption would permit a one-time interval extension of the second Type A test by approximately 18 months (from the April 1995 refueling outage, to the late 1996 refueling outage).

The licensee's request cites the special circumstances of 10 CFR 50.12, paragraph (a)(2)(ii), as the basis for the exemption. The existing Type B and C testing programs are not being modified by this request and will continue to effectively detect containment leakage caused by the degradation of active containment isolation components as well as containment penetrations. The licensee has analyzed the results of the previous Type A tests performed at NMP2. Two Type A tests (including the preoperational test) have been conducted from 1986 to date with no failures. Therefore, application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

IV

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 states that a set of three Type A leakage rate tests shall be performed at approximately equal intervals during each 10-year service period.

The licensee proposes an exemption to this section which would provide a one-time interval extension for the second Type A test by approximately 18 months. The Commission has determined, for the reasons discussed below, that pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of the requirement to perform Type A containment leak rate tests at approximately equal intervals during the 10-year service period, is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that prevents significant degradation from continuing or becoming unknown. The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee has a good record of ensuring a leak-tight containment. All Type A tests have passed with significant margin and the licensee has noted that the results of the Type A testing have been confirmatory of the Type B and C tests which will continue to be performed. The licensee stated in its submittal that a visual internal and external inspection of the mechanical and structural integrity of the containment shell is completed during every refueling outage. The NRC staff considers these inspections provide an important added level of confidence in the continued integrity of the containment boundary.

The NRC staff has also made use of the information in a draft staff report, NUREG–1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG–1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only 5 ILRT failures were found which local leakage rate testing could not detect. This is 3 percent of all failures. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks. The NMP2 experience has also been consistent with these results as previously noted.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1.0L_a$. Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the leakage was found to be approximately $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG–1493). Therefore, based on these considerations, it is unlikely that an extension of one cycle for the performance of the Appendix J, Type A test at NMP2 would result in significant degradation of the overall containment integrity. As a result, the application of the regulation in these particular circumstances is not necessary to

VOL 60 ISS 84 MY 2 1995 UMI

achieve the underlying purpose of the rule.

Based on generic and plant specific data, the NRC staff finds the basis for the licensee's proposed exemption to allow a one-time exemption to permit a scheduler extension for NMP2 of one cycle for the performance of the Appendix J, Type A test, provided that the visual containment inspection is performed, to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 17374).

This Exemption is effective upon issuance and shall expire at the completion of the late 1996 refueling outage.

Dated at Rockville, Maryland, this 24th day of April 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10729 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–336]

Northeast Nuclear Energy Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21, issued to the Northeast Nuclear Energy Company (NNECO/the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

The proposed amendment would revise the Technical Specification (TS) 3.1.2.4, "Charging Pumps—Operating," by adding a note that indicates that the provisions of TS 3.0.4 and 4.0.4 are not applicable for entry into MODE 4 from MODE 5.

Currently Millstone Unit 2 is in an extended shutdown, but is scheduled to start up in the near future. The current TS 3.1.2.3 limits Millstone Unit No. 2 to only one charging pump and one high pressure safety injection (HPSI) pump for MODES 4 and 5. TS 3.1.2.4 requires that two charging pumps be operable in MODES 1, 2, 3 and 4. The ACTION statement requires that if one charging pump is operable, that an additional charging pump must be restored to an operable status or the unit must be shut down. TS 3.0.4 prohibits entrance into an operational MODE when the limiting condition for operation (LCO) is not met and the ACTION statement requires a shutdown. Similarly, TS 4.0.4 prohibits entry into an operational MODE if the Surveillance Requirement cannot be met. The proposed change would permit Millstone Unit 2 to enter MODE 4 as planned. Exigent action is justified in order to avoid an unnecessary delay in reactor startup.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards (SHC) consideration, which is presented below:

* * * The proposed changes do not involve a SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed technical specification change will require that a second charging pump be returned to service within four hours of entering MODE 4 or prior to entering MODE 3, which ever occurs first. The addition of the footnote indicating that Technical Specifications 3.0.4 and 4.0.4 are not applicable for entry into MODE 4 from MODE 5 will allow for the testing and subsequent return to service of a charging pump that was required to be inoperable in MODE 5. The testing is necessary to restore the pump to operable status.

The need to restrict charging pump availability in MODE 5 is for LTOP protection. The restriction contained in the Technical Specification 3.1.2.4 to have a maximum of two charging pumps operable when the RCS [reactor coolant system] is less than 300°F is provided for the boron dilution analysis. Maximizing charging pump flow is desirable from shutdown risk management schemes. However, all three events, LTOP [low-temperature overpressure protection], boron dilution, and shutdown risk management must be integrated to maximize overall safety. The short (less than 4 hours) delay in verifying the operability of the second charging pump after entry into MODE 4 does not significantly affect the overall risk. The technical specification as proposed, balances all three events and will allow the plant to operate.

The addition of the proposed footnote to Technical Specification 3.1.2.4 will not significantly increase the probability or consequences of an accident previously evaluated. The charging systems safety related functions are not being impacted by the proposed change.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not alter or affect the design, function, failure MODE, or operation of the plant. The proposed change will allow NNECO to perform the required operability tests to support the restoration of a charging pump to an operable status.

3. Involve a significant reduction in a margin of safety.

The proposed modification will allow for the restoration of a second charging pump to support plant operation in MODES 1, 2, 3, and 4. Testing of the charging pump is necessary to verify operability of the pump. Sufficient flow is provided by the remaining available pumps to address shutdown risk issues. This proposed change will not negatively impact the LTOP evaluation or boron dilution analysis.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 1, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room located at the Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Phillip F. McKee, Director, Project Directorate I–3: Petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ms. L.M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141–0270 for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 24, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room, located at the Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Dated at Rockville, Maryland, this 26th day of April 1995.

VOL 60 ISS 84 MY 2 1995 UMI

For the Nuclear Regulatory Commission.

Guy S. Vissing,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10726 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–31765, License No. 37–28540–01, EA 94–006]

Oncology Services Corp., Harrisburg, PA; Order Imposing Civil Monetary Penalties

I

Oncology Services Corporation (Licensee) was the holder of Byproduct Materials License No. 37–28540–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) on August 3, 1990. The License authorized the Licensee to possess and use certain byproduct materials in accordance with the conditions specified therein at six facilities in Pennsylvania. The License was due to expire on August 31, 1995. However, on December 13, 1993, the Licensee requested termination of the License, with the License to be replaced by individual licenses issued to the facilities named as locations of use on the License. On August 24, 1994, License No. 37–28540–01 was terminated, and the NRC subsequently issued separate licenses for the following facilities previously named as locations of use under License No. 37–28540–01: Greater Pittsburgh Cancer Center (License No. 37–30163–01); Mahoning Valley Cancer Center (License No. 37–30086–01); Stoneboro Oncology Associates, P.C. (License No. 37–30092–01); Greater Harrisburg Cancer Center (License No. 37–30084–01); Indiana Regional Cancer Center (License No. 37–28179–02); and Exton Cancer Center (License No. 37–30087–01). In addition, a license was issued to Jefferson Radiation Oncology Center (License No. 37–30085–01).

II

An inspection of the Licensee's activities at its facilities located in Indiana, Pennsylvania and Pittsburgh, Pennsylvania was conducted on December 3–18, 1992, by an NRC Incident Investigation Team, following an event involving the Indiana, Pennsylvania facility in which there was a significant misadministration to a patient who died five days later, and significant radiological exposures to members of the public. In addition, NRC Region I performed an inspection on December 8, 1992, at the Licensee's Exton and Lehighton, Pennsylvania facilities. The results of these inspections indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the Licensee by letter dated May 31, 1994. The Notice states the nature of the violations, the provisions of the NRC requirements that the Licensee had violated, and the amount of the civil penalties proposed for the violations.

The Licensee responded to the Notice in letters dated August 31, 1994 and October 4, 1994. In its responses, the Licensee admits Violations III.C.2, III.D.5, III.E. III.F, and III.I; denies Violations I.A, I.B, II.A, II.B, III.A, III.B, III.C.1, III.D.1–4, III.D.6, III.G, III.H, and III.J.1–3 protests the amount of civil penalties proposed; and requests mitigation of the penalties, as appropriate.

III

After consideration of the Licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated in the Notice, and that the penalties proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered* that:

The Licensee pay civil penalties in the cumulative amount of $280,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in Violations I.A, I.B, II.A, II.B, III.A, III.B, III.C.1, III.D.1–4, III.D.6, III.G, III.H, and III.J.1–3 of the Notice referenced in Seciton II above, and

(b) Whether, on the basis of such violations and the additional violations set forth in the Notice of Violation that the Licensee admitted, this Order should be sustained.

Dated at Rockville, Maryland this 24th day of April 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Appendix—Evaluations and Conclusion

On May 31, 1994, a Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was issued for violations identified during NRC inspections (including an Incident Investigation Team (IIT) inspection) at several Oncology Services Corporation (Licensee) facilities. The Licensee responded to the Notice on August 31, 1994 and October 4, 1994. The Licensee admitted Violations III.C.2, III.D.5, III.E, III.F, and III.I; denied Violations I.A, I.B, II.A, II.B, III.A, III.B, III.C.1, III.D.1–4, III.D.6, III.G, III.H, and III.J.1–3; and requested remission of the civil penalties. The NRC's evaluation and conclusion regarding the Licensee's requests are as follows:

Restatement of Violations in Section I of the Notice

I. A. 10 CFR 20.201(b) requires that each Licensee make such surveys as may be necessary to comply with the requirements of 10 CFR Part 20 and which are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above, on November 16, 1992, the Licensee did not make a survey necessary to comply with the requirements of 10 CFR 20.101 which limits radiation exposure to individuals in restricted areas, and 10 CFR 20.105(b) which limits radiation levels in unrestricted areas. Specifically, although the room radiation monitor in the treatment room (restricted area) at the Indiana Regional Cancer Center (IRCC), flashed the red alarm signal even after the console of the High Dose Rate (HDR) afterloader unit showed that a 4.2 Curie iridium-192 source was safety retracted (because the source had broken off inside the patient), a radiation survey was not performed to confirm or discount the presence of a radiation hazard in the room or the patient as indicated by the alarming room monitor.

B. Condition 17 of License No. 37–28540–01, Amendment No. 3 dated August 19, 1992, requires, in part, that the Licensee conduct its program in accordance with the statements, representations, and procedures contained in the application dated June 1, 1990, and the letter dated August 2, 1990.

Item 9.C.3 of the application dated June 1, 1990, requires, in part, that a radiation monitor (PrimAlert or equivalent) be mounted on the wall [in the HDR afterloader treatment room] and will remain in place as a means of verifying a source "safe" or "out" condition.

Item 10.15.A.3 of the application dated June 1, 1990, requires, in part, that all attending personnel must remain in the control area during actual treatment and may not re-enter the treatment room until the room radiation detector (PrimAlert) indicates a safe condition prevails.

Item 6 of the letter dated August 2, 1990, states that failure of the radiation monitor will result in termination of the treatment until the monitor is replaced or repaired and, in the event of failure of the room monitor, no personnel will enter the room without a portable survey meter or audible dosimeter.

Contrary to the above, on November 16, 1992, during a patient treatment utilizing an iridium-192 source in a HDR afterloader, at the IRCC, when the wall-mounted radiation monitor flashed the red alarm signal to indicate a source "out" condition, a physician authorized user, who had been informed that the red alarm signal was flashing, entered the treatment room without a portable survey meter or audible dosimeter; and, at some point during the event, a Licensee technologist entered the treatment room and unplugged and replugged the power supply of the room radiation monitor to reset the alarm.

These violations represent a Severity Level I problem (Supplement IV and VI) Civil Penalty—$100,000.

Summary of Licensee's Response to Violation I.A

The Licensee in its responses, denies Violation I.A and states that the treatment room at the Indiana Regional Cancer Center was surveyed with what the Licensee terms "a wall mounted survey instrument ('WMSI')", the WMSI did not flash red in the presence of the authorized user, and the WMSI stopped flashing when the electrical connection was touched. The Licensee further asserts that the authorized user was not aware, prior to entering the treatment room, that the WMSI had flashed. The Licensee also asserts that all output on the Omnitron unit and console indicated that the source was parked and safe; no alarm went off on the Omnitron unit; and all personnel acted in accordance with what the Licensee terms its "NRC approved Omnitron training." The Licensee states that the conduct of the authorized user and the Licensee was reasonable at all times and in conformity with NRC regulations.

The Licensee also states that the Omnitron machine failed; that failure was neither expected nor intended; and that the Licensee could not have prevented the failure. The Licensee also notes that it believes the NRC was in a much better position to understand the need for adequate surveys, yet the NRC license application reviewer did not find it necessary to require, or even request, the Licensee modify its license application or procedure to include a patient survey with a hand held survey meter after each treatment. The Licensee states that it believes that at all times it followed the applicable regulations, and that it was the victim of a machine failure and inadequate and/or outdated regulations. The Licensee further states that there was no intent to violate any regulations and that personnel were not reckless. The Licensee states that since the WMSI was not flashing when the authorized user was in the treatment room, to expect the authorized user to act other than as he did is not rational under the existing circumstances. The Licensee believes that, in any event, this violation would be classified at Severity Level IV.

NRC Evaluation of Licensee's Response to Violation I.A

The specific issue addressed in Violation I.A is whether the Licensee performed a survey as required by 10 CFR 20.101 to confirm or discount the presence of a radiation hazard in the room or the patient as indicated by the alarming room monitor. The fact that the wall mounted radiation monitor flashed the red alarm signal even though the Omnitron console showed that the source was safety retracted is the condition that triggered the requirement to conduct a survey pursuant to § 20.201. Thus, the Licensee cannot point to the same wall mounted radiation monitor as fulfilling the requirement to conduct the survey pursuant to § 20.201. Rather, the Licensee was required under those circumstances, pursuant to § 20.201, to perform an independent survey, such as by using a hand held radiation survey instrument, to determine which indicator was correct—the wall mounted radiation monitor, or the Omnitron console. The Licensee failed to do this and chose instead to discount the alarm from the wall mounted radiation monitor and to rely on the Omnitron console indicator.

As to the Licensee's statement that the regulations are inadequate or outdated, the Licensee does not identify any particular regulation. However, only 10 CFR 20.201 is cited in Violation I.A. An extensive revision of 10 CFR Part 20 became effective January 1, 1994, and the survey requirement of 10 CFR 20.201 is now codified at 10 CFR 20.1501. The language of the specific requirement has been changed only slightly. The survey requirement of 10 CFR 20.201 is not outdated or inadequate. It would have been a simple matter for the Licensee to comply with the requirement using the hand held survey instrument that the Licensee had on hand, which is a basic radiation protection practice.

Even before the authorized user (AU) arrived at the treatment room, Licensee technologists noticed that the wall mounted radiation monitor was flashing, knew that the Omnitron console indicated that the source was retracted safely, and yet they were present in the treatment room without having performed the survey required pursuant to § 20.201. At this point, such a survey was necessary to comply with the requirements of 10 CFR 20.101, which limits exposure to individuals in restricted areas. Thus, Violation I.A was occurring even before the AU entered the room.

VOL 60 ISS 84 MY 2 1995 UMI

Although knowledge on the part of the AU that the wall mounted radiation monitor had been flashing is not necessary to prove the violation, the fact that the AU was aware that the wall mounted radiation monitor was flashing as he entered the treatment room is corroborated by his testimony, as well as the testimony of others, in transcribed interviews. Additionally, the transcribed interviews of the AU consistently show that, while he was in the treatment room, he was aware that: (1) The wall mounted radiation monitor had been flashing; and (2) the Omnitron console showed that the source was safely retracted.

NRC agrees that the Omnitron source broke off and was not retracted, that this was neither expected nor intended by the Licensee, and that the Licensee could not have prevented the break. However, that does not change the fact that the survey required by 10 CFR 20.201 was not performed, which is a matter that was within the Licensee's control. Given the conflicting information from the flashing wall mounted radiation monitor and the Omnitron control panel, such a survey was reasonable under the circumstances to evaluate the extent of the radiation hazards that were present. Since such a survey was not performed, the NRC concludes that Violation I.A occurred as stated in the Notice. The issue of the severity level of the violation is addressed in the evaluation of the Licensee's Response to Violation I.B, below.

Summary of Licensee's Response to Violation I.B

The Licensee denies Violation I.B; incorporates its response to Violation I.A, summarized above; and asserts that Violation I.B would be a Severity Level IV violation. The Licensee states that the wall mounted radiation monitor should have continued to alarm, and that if the monitor had done so, the technologist and authorized user would have acted accordingly.

NRC Evaluation of Licensee's Response to Violation I.B

Licensee employees entered the treatment room while the wall mounted radiation monitor was alarming, indicating a non-safe condition, and they did so without a portable survey meter or audible dosimeter. If the employees believed that the wall mounted radiation monitor was functioning properly, they should not have entered the treatment room while it was alarming, which is a violation of License Condition 17. If the employees discounted the alarm because they believed that the wall mounted radiation monitor was not functioning properly (i.e., spuriously alarming), they should not have entered the treatment room without a portable survey meter or audible dosimeter, which is also a violation of License Condition 17.

Moreover, the requirements of License Condition 17 as cited in Violation I.B were being violated even before the authorized user entered the treatment room. The transcribed interviews clearly show that the monitor was alarming when the technologists entered the treatment room. The violation occurred upon entry. Thus, whether the monitor should have continued to alarm after the technologist entered the treatment room and manipulated its plug is not relevant to the existence of the violation. Accordingly, the NRC concludes that Violation I.B occurred as stated in the Notice.

Among other things, Violations I.A and I.B were classified in the aggregate as a Severity Level I problem in accordance with Supplements IV and VI of the NRC Enforcement Policy because: (1) Conducting the survey and complying with the requirements of License Condition 17 regarding the wall mounted radiation monitor, and the use of a portable survey meter or audible dosimeter in the event of a failure of the wall mounted radiation monitor, constitute a system designed to prevent or mitigate a serious safety event, and in this case, the system was not operable when actually required to perform; and (2) the violations resulted in acute radiation exposure and subsequent death of a patient. *See* Enforcement Policy (1993), Supplement IV, Example A.2; and Supplement VI, Examples A.2 and A.4.

Restatement of Violations in Section II of the Notice

II.A. 10 CFR 20.207(a) requires that licensed materials stored in an unrestricted area be secured against unauthorized removal from the place of storage. 10 CFR 20.207(b) requires that licensed materials in an unrestricted area and not in storage be tended under constant surveillance and immediate control of the Licensee. As defined in 10 CFR 20.3(a)(17), an unrestricted area is any area access to which is not controlled by the Licensee for purposes of protection of individuals from exposure to radiation and radioactive materials.

Contrary to the above, from November 16, 1992 to December 1, 1992, licensed material consisting of Curie quantities of iridium-192 was located at a nursing home, a waste disposal facility, and several vehicles, which are unrestricted areas, and the licensed material was not secured against unauthorized removal nor was it under the constant surveillance and immediate control of the Licensee.

B. 10 CFR 20.105(b) requires that, except as authorized by the Commission in 10 CFR 20.105(a), no Licensee shall possess, use, or transfer licensed material in such a manner as to create radiation levels in unrestricted areas which, if an individual were continuously present in the area, could result in his receiving a dose in excess of 2 millirems in any one hour or 100 millirems in any seven consecutive days.

Contrary to the above, from November 16, 1992 to December 1, 1992, the Licensee allowed the creation of radiation levels in unrestricted areas, such that if an individual were continuously present in the area, he could have received a dose in excess of 2 millirems in any one hour or 100 millirems in any seven consecutive days. Specifically, the Licensee allowed the creation of radiation levels of approximately 2000 millirem per hour at a distance of one meter in unrestricted areas, specifically a nursing home, a waste disposal facility, and several vehicles.

These violations represent a Severity Level I problem (Supplement IV) Civil Penalty—$100,000.

Summary of Licensee Response to Violations II.A and II.B

The Licensee denies Violations II.A and II.B and incorporates by reference its response to the violations in Section I. The Licensee contends that the source was lost, not possessed, used, transferred or stored. According to the Licensee, loss is an accidental act, while, as used in NRC regulations, possession, use, transfer and storage are deliberate acts. The Licensee asserts that the cited violations would have required knowledge of attending personnel that the source was still in the patient, but since they did not know the source was still inside the patient, the Licensee did not possess, use, transfer or store material in violation of any regulations.

NRC Evaluation of Licensee's Response to Violations II.A and II.B

The Notice does not assert, expressly or otherwise, that the violations were knowing or deliberate. Neither 10 CFR § 20.207 nor § 20.105 require a knowing failure to maintain control of licensed material, or knowing exposure of individuals to radiation, in order to establish a violation. Under the regulations in 10 CFR part 20, licensees are strictly held accountable for loss of radioactive material and for radiation levels in unrestricted areas caused by such loss. As a result of the Licensee's use of the source on November 16, 1992, the source escaped the Licensee's control and was transferred to the nursing home and, subsequently, to other unrestricted areas, where it created radiation levels far in excess of the allowable limits. Therefore, the NRC concludes that Violations II.A and II.B occurred as stated in the Notice.

Restatement of Violations in Section III of the Notice

III.A. 10 CFR 19.12 requires, in part, that all individuals working in a restricted area be instructed in the precautions and procedures to minimize exposure to radioactive materials, in the purpose and functions of protective devices employed, and in the applicable provisions of the Commission's regulations and licenses.

10 CFR 35.25(a)(1) requires, in part, that a Licensee that permits the use of byproduct material under the supervision of an authorized user shall instruct the supervised individual in the principles of radiation safety appropriate to that individual's use of byproduct material.

Condition 17 of License No. 37–28540–01, Amendment No. 3 dated August 19, 1992, requires, in part, that the Licensee conduct its program in accordance with the statements, representations, and procedures contained in the application dated June 1, 1990.

Item 8 of the application dated June 1, 1990, requires, in part, that training for HDR device operators will include emergency training where the device operator will demonstrate emergency routine competence during a "dry run" emergency of the source not retracting.

Contrary to the above, individuals who were working in the HDR afterloader treatment room, a restricted area, at three of the Licensee's six facilities in Pennsylvania, had not been adequately instructed in the precautions and procedures to minimize exposure to radioactive materials, in the purpose and functions of protective devices employed, and in the applicable provisions of the Commission's regulations and the conditions of the license, as evidenced by the following examples:

1. As of December 18, 1992, technologists working in a restricted area at the Indiana facility were not adequately instructed in how to use a survey meter, the meaning of a high radiation area, the methods of performing HDR afterloader door interlock checks, the significance of the alarm setpoint (the preset value) of the wall-mounted radiation monitor, the meaning of HDR afterloader error messages, the activity of the sources contained in the HDR unit and their potential radioactive hazard, or the corporate policy that requires the staff to survey each patient treated with the HDR afterloader unit with a portable survey meter before the patient's release, and in addition, individuals who operated the HDR device had not performed a "dry run" emergency; and

2. As of December 8, 1992, Licensee personnel working in restricted areas at the Exton and Lehighton facilities had not been instructed in the applicable provisions of the Commission's regulations and the NRC license, and individuals who operated the HDR device had not performed a "dry run" emergency of the source not retracting.

B. 10 CFR 35.25(a)(1) requires, in part, that a Licensee that permits the use of byproduct material by an individual under the supervision of an authorized user shall instruct the supervised individual in the Licensee's written quality management program.

Contrary to the above, as of December 8, 1992, the Licensee did not instruct personnel who used iridium-192 under the supervision of an authorized user at the Exton facility in the Licensee's written quality management program.

C. 10 CFR 20.202(a) (1) and (3) requires, in part, that: Each Licensee supply appropriate personnel monitoring equipment to, and require the use of such equipment by, each individual who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 25 percent of the applicable value specified in 10 CFR 20.101(a); and each Licensee supply appropriate personnel monitoring equipment to, and require the use of, such equipment by each individual who enters a high radiation area.

Contrary to the above,

1. On November 16, 1992, during a treatment of a patient with iridium-192 in a HDR afterloader unit, the physician authorized user at the Indiana facility entered the treatment room, a restricted area, and, although the wall-mounted radiation monitor had flashed the red alarm signal to indicate the presence of a radiation field, the authorized user did not wear his personal monitoring equipment; and,

2. On December 1, 1992, the authorized user at the Indiana facility, in efforts to retrieve the iridium-192 radioactive source, entered a high radiation area at the Browning-Ferris Industries waste facility in Carnegie, Pennsylvania, and did not wear his personnel monitoring equipment.

D. Condition 17 of License No. 37–28540–01 requires, in part, that licensed material be possessed and used in accordance with statements, representations, and procedures contained in an application dated June 1, 1990, and a letter dated August 16, 1991.

1. Item 10.2 of the application dated June 1, 1990, states that the Licensee will establish and implement the ALARA program that was published in Appendix G to Regulatory Guide 10.8, Revision 2.

Appendix G to Regulatory Guide 10.8, Revision 2, requires, in part, that the RSO [Radiation Safety Officer] be in close contact with all users and workers in order to develop ALARA procedures for working with radioactive materials.

Contrary to the above, as of December 3, 1992, the RSO did not maintain close contact with all users and workers. For example, Medical Director/Authorized Users at the Indiana and Lehighton facilities were not aware of who the RSO was. Additionally, the RSO had not visited the Lehighton facility in the past 6–9 months.

2. Item No. 10.15.A.1 of the June 1, 1990, application requires that emergency procedures be conspicuously posted near the control console.

Contrary to the above, on December 8, 1992, the emergency procedures were not posted at the Exton facility.

3. Item No. 10.15.B.1 of the June 1, 1990, application requires that the calibration of the HDR afterloader source and device include a check of source travel time error and accuracy of the timing device.

Contrary to the above, as of December 8, 1992, the calibration of the HDR afterloader source and device at the Exton facility did not include a check of source travel time error and accuracy of the timing device.

4. Item No. 10.12 of the June 1, 1990, application requires that surveys of radiation levels in adjacent and control areas be performed at each source exchange and logged.

Contrary to the above, as of December 8, 1992, surveys of radiation levels in adjacent and control areas were not performed at each source exchange at the Exton facility.

5. The Licensee's letter dated August 16, 1991, requires, in part, that the key for the linear accelerator and the key for the HDR afterloader unit be on the same ring to prohibit the simultaneous activation of these units.

Contrary to the above, on December 8, 1992, the key for the linear accelerator and the key for the HDR afterloader unit

VOL 60 ISS 84 MY 2 1995 UMI

were not on the same ring at the Exton facility and the Lehighton facility. At each facility, the inspector noted that the linear accelerator key was in the linear accelerator console and the HDR key was in the HDR console.

6. Item 4 of the letter dated August 2, 1990, requires, in part, that ancillary personnel will receive an orientation program and an annual review of the basic principles related to identifying, and proper procedures in working in, areas controlled under this license. Instructions for individuals will include the subjects listed on page A–1 of NRC Regulatory Guide 10.8, Rev. 2.

Regulatory Guide 10.8, Rev. 2, page A–1, requires instruction in potential hazards associated with radioactive material in each area where the employee will work.

Contrary to the above, as of December 4, 1992, ancillary personnel at the IRCC facility were not informed about radiation hazards associated with a 3.7 Curie iridium-192 source in a source container located in the HDR afterloader treatment room. Specifically, housekeeping personnel had access to the keys to the treatment room and offered to move the source container which measured approximately 80 millirem per hour at the surface.

E. 10 CFR 20.203(c)(1) requires that each high radiation area be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words: "Caution High Radiation Area."

Contrary to the above, on December 8, 1992, the high radiation area in the HDR afterloader treatment room at the Exton facility was not posted as required with the required sign bearing the radiation caution symbol and the words: "Caution High Radiation Area."

F. 10 CFR 35.51(c) requires, in part, that a Licensee check each survey instrument for proper operation with the dedicated check source each day of use.

Contrary to the above, as of December 8, 1992, the Licensee at the Exton facility routinely did not check its survey meter with a dedicated check source on days when the instrument was used.

G. 10 CFR 35.25(a)(3) requires, in part, that a Licensee that permits the use of byproduct material by an individual under the supervision of an authorized user shall periodically review the supervised individual's use of byproduct material and the records kept to reflect this use.

Condition 17 of License No. 37–28540–01 requires, in part, that licensed material be possessed and used in accordance with statements, representations, and procedures contained in an application dated June 1, 1990, and a letter dated August 16, 1991.

Item 10.15.A.4 of the application dated June 1, 1990, requires, in part, that daily checks of interlocks, safety systems, and alarms be performed and logged.

Contrary to the above, as of December 3, 1992, supervised individuals at the IRCC facility routinely did not perform daily interlock checks as required in conjunction with operating the HDR afterloader containing iridium-192, and the Licensee did not review their performance of this procedure.

H. 10 CFR 35.21(b)(2) requires, in part, that the RSO establish, collect in one binder or file, and implement written policy and procedures for:

(v) Using byproduct material safely,

(vi) Taking emergency action if control of byproduct material is lost,

(viii) Performing checks of survey instruments and other safety equipment, and

(x) Training personnel who work in or frequent areas where byproduct material is used or stored.

Contrary to the above, as of November 16, 1992:

1. The RSO did not establish and implement written policy and procedures for using byproduct material safely. Specifically, although iridium-192 was in use in HDR afterloader units at the Indiana, Exton, and Lehighton facilities, written procedures entitled, "Oncology Services Corporation, Department of Physics, HDR Treatment Manual", existed only in draft form and the RSO had not distributed them to the staff.

2. The RSO did not establish and implement procedures for taking emergency action if control of byproduct material was lost. Specifically, the RSO had not established or implemented such procedures as of December 1, 1992, when the Licensee retrieved a 3.7 Curie iridium-192 source from a waste disposal facility and transported it back to the Licensee's facility.

3. The RSO did not implement procedures at the IRCC for performing checks of survey instruments and other safety equipment. Specifically, the RSO did not implement procedures for checking survey instruments for proper operation with a dedicated check source on days when the instrument was used, as required by 10 CFR 35.51(c); and for checking the treatment room door interlock in conjunction with operating the HDR afterloader, as required by License Condition 17, application dated June 1, 1990, Item 10.15.A.4.

4. The RSO did not establish and implement written policy and procedures for training personnel who work in or frequent areas where byproduct material is used or stored. For example, the RSO believed that it was the responsibility of the physicist at the Indiana, PA, facility to provide such training to the individuals there; however, the medical physicist stated that his contract did not indicate that he should provide training.

I. 10 CFR 35.13(e) requires that a Licensee apply for and must receive a license amendment before it adds to or changes the areas of use or address or addresses of use identified in the application or on the license.

Contrary to the above, on or about April 23, 1991, the Licensee's RSO changed the area of use of iridium-192 in a HDR afterloader for a shielding experiment from the shielded therapy room at the Greater Harrisburg Cancer Center, the area of use identified in the application, to an area outside of the building and, as of that date, the Licensee had not applied for or received a license amendment authorizing the change.

J. 10 CFR 71.5(a) requires that a Licensee who transports licensed material outside the confines of its plant or other place of use, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the regulations appropriate to the mode of transport of the Department of Transportation (DOT) in 49 CFR Parts 170 through 189.

1. 49 CFR 173.24(f)(ii) requires, in part, that closures on packagings shall be so designed and closed that under conditions normally incident to transportation, the closure is secure.

49 CFR 173.475(c) requires, in part, that before each shipment of any radioactive materials package, the shipper shall ensure by examination or appropriate tests that each closure device of the packaging is properly installed, secured, and free of defects.

Contrary to the above, on December 1, 1992, the Licensee transported a radioactive materials package containing 3.7 Curies of iridium-192 and there was no closure device on the packaging.

2. 49 CFR 177.817(a) requires that a carrier not transport a hazardous material unless it is accompanied by a shipping paper prepared in accordance with 49 CFR 172.200–203. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, on December 1, 1992, the Licensee transported 3.7 Curies of iridium-192, a radioactive material, without a shipping paper.

3. 49 CFR 172.504 prescribes requirements for placarding vehicles used to transport hazardous materials. Specifically, Table 1 requires that the transport vehicle be placarded on each side and each end with a "RADIOACTIVE" placard when transporting packages bearing a "RADIOACTIVE YELLOW–III" label (footnote 4).

Contrary to the above, on December 1, 1992, the Licensee transported 3.7 Curies of iridium-192 outside the confines of its plant in a package with the required YELLOW–III label, and the transport vehicle was not placarded with a "RADIOACTIVE" placard.

These violations represent a Security Level II problem (Supplement IV, V and VI) Civil Penalty—$80,000.

Summary of Licensee's Response to Violations III.A and III.B

The Licensee denies Violations III.A and III.B and states that at all times it adequately instructed all personnel in relevant areas consistent with 10 CFR 19.12, 10 CFR 35.25(a)(1), and the license, and that it would be incorrect for NRC to take the position that each and every individual must be knowledgeable about each and every regulation and/or license condition. The Licensee believes that, in any event, these violations would be classified at Severity Level III.

NRC Evaluation of Licensee Response to Violations III.A and III.B

The Licensee was not cited for failure to instruct each and every individual in every NRC requirement. 10 CFR 19.12 requires that training for workers be commensurate with potential radiological health protection problems in restricted areas. Additionally, training must fulfill specific regulations such as 10 CFR 35.25(a)(1), as well as specific commitments made by the Licensee and incorporated into the license by condition. Violations III.A and III.B were identified as a result of discussions between OSC personnel and NRC inspectors or investigators. NRC does not dispute that some training did occur. However, as documented in the inspection report, the Incident Investigation Team (IIT) report, and the investigation by NRC's Office of Investigations (OI), the training that was given was not adequate to meet the requirements. The Licensee's general assertion that it complied with all requirements does not refute the fact that the specific subjects described in Violations III.A and III.B were not covered adequately in the training that the Licensee gave to the personnel described in Violations III.A and III.B. Thus, the NRC concludes that the violations occurred as stated in the Notice.

The NRC did not categorize the individual violations and examples of violations in Section III of the Notice by severity level. Rather, the NRC considered the violations in the aggregate as a single problem categorized at Severity Level II. The Enforcement Policy defines a Severity Level II violation or problem as one of very significant concern. Clearly, this severity level is appropriate here because the number and nature of the violations represent a very significant corporate management breakdown in the control of licensed activities; and the lack of attention to, and understanding of, regulatory requirements on the part of Licensee management and its RSO contributed to the November 1992 event. The purpose of aggregating violations is to focus the Licensee's attention on the fundamental underlying causes for which enforcement action is warranted, and to reflect the fact that several violations with a common cause are more significant collectively than individually, and therefore, warrant a more substantial enforcement action. See Enforcement Policy, Section IV.A. In this case it was necessary to focus the Licensee's attention on the importance of meticulous oversight of the corporate radiation safety program, the lack of which was a common causative factor in the violations.

Summary of Licensee's Response to Violation III.C

The Licensee denies Example III.C.1 and states that it supplied and required the use of personnel monitoring equipment; however, the authorized user had no reason to believe that it was necessary to wear a film badge. The Licensee further incorporates by reference its response to Violations A and B in Section I of the Notice. The Licensee believes that, in any event, Example III.C.1 would constitute a Severity Level V violation. The Licensee admits Example III.C.2 but believes that it constitutes a Severity Level V violation.

NRC Evaluation of Licensee Response to Violation III.C

10 CFR 20.202(a)(1) requires that the Licensee require the use of appropriate personnel monitoring equipment by each individual who enters a restricted area (the HDR treatment room) under such circumstances that he receives, or is likely to receive, a dose in any calendar quarter in excess of 25 percent of the occupations dose limits specified in 10 CFR 20.101(a). The treatment room constituted a restricted area because access to this area was controlled by the Licensee for purposes of protection of individuals from exposure to radiation and radioactive materials. *See* 10 CFR 20.3(a)(14). With a 4.2 Curie iridium–192 source in the unshielded configuration, an individual entering the treatment room would be likely to receive a dose in excess of 25% of the occupational dose limits specified in 10 CFR 20.101(a).

Moreover, 10 CFR 20.202(a)(3) requires that the Licensee require the use of personnel monitoring equipment by each individual who enters a high radiation area. The treatment room constituted a high radiation area because, when the source is in an unshielded configuration, radiation levels in the treatment room are such that a major portion of the body could receive in any one hour a dose in excess of 100 millirem. *See* 10 CFR 20.202(b)(3). The Licensee was well aware of this fact, because it had posted the room as a high radiation area at the time of the November 16, 1992 event.

The requirement that the Licensee supply and require the use of appropriate personnel monitoring equipment does not depend on the individual's perception of a radiation hazard, but rather on the fact of a radiation hazard that may result in an exposure in excess of the limit in § 20.202(a)(1), or that requires posting as a high radiation area as per § 20.202(a)(3). Any time that the authorized user (AU) supervised the use of the HDR unit, he could be called upon to make an emergency entry into the treatment room with the source in an unshielded configuration. The Licensee should have been well aware of this fact, because the license application specifies training for its employees in emergency procedures involving entry into the treatment room with the source in an unshielded configuration. *See* License Condition 17, Application dated June 1, 1990, Item 10.15.C. Thus, the Licensee should have assured that the AU wore his personnel monitoring equipment whenever he supervised the use of the HDR unit. The AU did enter the treatment room with the source in an unshielded configuration and he was not wearing his personnel monitoring equipment. Therefore, the NRC concludes that Example III.C.1 occurred as stated in the Notice. Moreover, even if the Licensee had provided an adequate reason to withdraw Example III.C.1, Violation III.C still occurred as evidenced by the

VOL 60 ISS 84 MY 2 1995 UMI

Licensee's admission of Example III.C.2. The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Response to Violation III.D.1

The Licensee denies Violation III.D.1, states that *the RSO* did not fail to discharge his duties, states that the RSO did not violate any regulation relating thereto, and notes that the NRC has not cited any such specific regulation and that the RSO had an ALARA program in place. The Licensee states that there is no requirement that the Licensee have any physical presence at any facility. In addition, the Licensee states that the RSO and a physicist were in communication with the Lehighton facility by telephone and fax.

NRC Evaluation of the Licensee Response to Violation III.D.1

The Licensee was required, pursuant to License Condition 17, to follow the commitments it made in the June 1, 1990, application to the NRC. Item 10.2 of the application required that Appendix G of Regulatory Guide 10.8 be followed which in turn required the RSO to be in "close contact" with all users and workers in order to develop ALARA procedures for working with radioactive materials. The Licensee specifically committed in its license application that *the RSO* would do this. The development of ALARA procedures is a continuing and evolving process and requires firsthand observations and audits of employee knowledge, work, and work conditions. The fact that some ALARA procedures may have been in place does not relieve the Licensee of full compliance with this requirement.

The mere fact that the RSO may have been in communication by telephone or facsimile does not disprove the violation. In order for that fact to be relevant at all, the Licensee would have to show that such communications were with all users and workers and were for the purpose of developing ALARA procedures, which the Licensee has not done. Clearly, communications concerning, for example, patient treatment parameters, would have no bearing at all.

The NRC determined, via interviews, that the Medical Director and authorized user at the Indiana, Pennsylvania and Lehighton, Pennsylvania facilities were not aware, at the time of the IIT and the NRC inspection in December 1992, who the RSO was. Additionally, the RSO had not visited the Lehighton facility in the past 6–9 months. Also, as determined during the inspection of the Exton facility, the technologist and the medical physicist at the Exton facility both believed that the medical physicist was the RSO. Accordingly, it is appropriate to conclude that the RSO did not maintain close contact with all users and workers as required by License Condition 17. Therefore, the NRC concludes that Violation III.D.1 occurred as stated in the Notice.

Summary of Licensee's Response to Violation III.D.2

The Licensee denies Violation III.D.2 and states that emergency procedures were available but not vertically posted because they kept falling down, and that it immediately posted the procedures following the inspection. The Licensee believes that, in any event, this constitutes a Severity Level V violation.

NRC Evaluation of Licensee Response to Violation III.D.2

The Licensee stated that the emergency procedures kept falling down. The inspection report states that the procedures were available but not posted at the time of the inspection, and that this was corrected before the inspectors left the facility. During the inspection, the medical physicist obtained a copy of a set of emergency procedures which was incomplete (contained blanks), and the Licensee had to fill in the blanks with Licensee specific information, and post the procedures conspicuously near the control console so that appropriate staff would have access to the procedures. The Licensee specific information had not been entered on the emergency procedures prior to the inspection. Therefore, even the emergency procedures that were available, but not posted, were incomplete.

At the time that the Licensee established its HDR brachytherapy program, the blanks in the emergency procedures should have been filled in with Licensee specific information and the procedures should have been conspicuously and durably posted near the control console so that appropriate staff would have immediate access to it. This was not done. There, the NRC concludes that Violation III.D.2 occurred as stated in the Notice. The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Response to Violation III.D.3

The Licensee denies Violation III.D.3 and states that Exton personnel always did hand calculations and always checked the source travel time error and accuracy of the timing device by using the clock on the wall and their wrist watches. The Licensee believes that, in any event, Violation III.D.3 would constitute a Severity Level V violation.

NRC Evaluation of Licensee Response to Violation III.D.3

The Licensee's unsupported general assertion that the calculations and checks for timing device accuracy and travel time error were in fact performed does not demonstrate that the violation did not occur. During the inspection, the NRC found evidence that the checks of the source travel time error and accuracy of the timing device were not done. Specifically, as noted in Section 7 of NRC Inspection Report 30–31765/92–001, issued on December 23, 1992, the record of the HDR calibration performed at Exton indicated that the source output was checked but that the source travel time error and accuracy of the timing device were not checked. Therefore, the NRC concludes that the violation occurred as stated in the Notice. The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Response to Violation III.D.4

The Licensee denies Violation III.D.4 and states its belief that Omnitron personnel performed surveys for the benefit of the Licensee. The Licensee believes that, in any event, Violation III.D.4 would constitute a Severity Level IV violation.

NRC Evaluation of Licensee Response to Violation III.D.4

The Licensee's response provides no facts or records to support the Licensee's assertion that the surveys in question were ever performed by Omnitron. While Omnitron personnel may have performed some surveys in connection with their work during source exchanges, the Licensee provides no evidence that any such surveys included all adjacent areas as well as control areas. Therefore, the NRC concludes that Violation III.D.4 occurred as stated in the Notice. The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Response to Violation III.D.5

The Licensee admits the violation but believes that it would constitute a Severity Level IV violation.

NRC Evaluation of Licensee Response to Violation III.D.5

The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B above.

Summary of Licensee's Response to Violation III.D.6

The Licensee states that since it does not have sufficient knowledge as to the specific truth regarding whether ancillary personnel (specifically, housekeeping personnel) were informed about radiation hazards associated with a 3.7 curie iridium-192 source in a source container located in the High Dose Rate (HDR) afterloader treatment room, it must deny this violation. The Licensee believes that, in any event, Violation III.D.6 would constitute a Severity Level IV violation.

NRC Evaluation of Licensee Response to Violation III.D.6

Housekeeping personnel interviewed by the NRC staff were not aware of the radiation hazards associated with a 3.7 curie iridium-192 source. Specifically, on December 4, 1992, OSC housekeeping personnel unlocked the area where the iridium source was being stored following the source retrieval operation and accompanied NRC inspectors into the area, and the housekeeping personnel had not been informed about the radiation hazards associated with the source. Therefore, the NRC concludes that Violation III.D.6 occurred as stated in the Notice. The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Responses to Violations III.E–F

The Licensee admits the violations but believes that Violation III.E would constitute a Severity Level V violation and that Violation III.F would constitute a Severity Level IV violation.

NRC Evaluation of Licensee Response to Violation III.E–F

The issue of the Severity Level of the violations is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Response to Violation III.G

The Licensee states that daily interlock checks were consistently done by individuals at IRCC, and that there was no requirement for the Licensee to review such completed checks as of December 1992. In addition, the Licensee notes that such checks would have been reviewed at an annual audit. The Licensee believes that, in any event, Violation III.G would constitute a Severity Level IV violation.

NRC Evaluation of Licensee's Response to Violation III.G

Licensee technologists interviewed by the Incident Investigation Team (IIT) indicated that daily HDR interlock checks routinely were not performed as required. This is corroborated by the fact that there is not a log record for every check required. The Statements of Consideration for 10 CFR 35.25, "Supervision", state: "The purpose of supervision is to provide *assurance* that technologists and physicians do not use byproduct materials in a manner that is contrary to the requirements of the license, the regulations, or that is hazardous to the public health and safety [emphasis added]." See 51 Fed. Reg. 36940. While the Licensee was not required to review each and every check on a daily basis, it was required, pursuant to 10 CFR §§ 35.11, 35.25(a)(2), and 35.25(a)(3), to perform periodic reviews at a frequency sufficient to provide reasonable assurance that individuals working under the supervision of an authorized user were complying with, among other things, License Condition 17 with respect to the performance of daily interlock checks. It is clear from the fact that the noncompliance was occurring, undetected to the Licensee, that a single audit at the end of the year would not suffice. The NRC concludes that Violation III.G occurred as stated in the Notice. The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Response to Violation III.H

The Licensee denies the violation and states that at all times the RSO fully complied with relevant regulatory requirements, including implementing and distributing policies and procedures, and gathering materials. The Licensee also states that the RSO was immediately notified about the November 16, 1992 incident and instructed personnel how to respond appropriately.

NRC Evaluation of Licensee Response to Violation III.H

The Licensee provides no information to support its general assertion that it complied with all regulatory requirements or to refute the facts documented in the Incident Investigation Team (IIT) report, and the investigation by NRC's Office of Investigations (OI), upon which the violations are based. Accordingly, the NRC concludes that the violation occurred as stated in the Notice.

Summary of Licensee's Response to Violation III.I

The Licensee admits that the RSO conducted the experiment, but states that the RSO took all measures to assure that such experiment was done safely and without risk, and this was not a willful violation but was done for the purpose, in part, of radiation safety. The Licensee believes that, in any event, Violation III.I would constitute a Severity Level IV violation.

NRC Evaluation of Licensee Response to Violation III.I

The Licensee admits that the RSO conducted the experiment and does not deny that the RSO changed the area of use of iridium-192 from the shielded therapy room to an area outside the building without first applying for or receiving a license amendment authorizing the change. The Licensee and its RSO may not pick and choose which regulatory requirements they will follow, even if they believe that noncompliance would somehow further radiation safety. 10 CFR 35.13(e) requires that the Licensee apply for and receive a license amendment before changing the area of use specified in the license. Moreover, willfulness is not a necessary element of a violation of 10 CFR 35.13(e). Accordingly, the NRC concludes that Violation III.I occurred as stated in the Notice. The issue of the Severity Level of the violation is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Response to Violations III/J.1–3

The Licensee states that its intent was not to become a shipper or a carrier of licensed material but under the extenuating circumstances, the Licensee contacted the NRC and was told what to do to retrieve the source. In addition, the Licensee states that at no time did the NRC attempt to alert the Licensee about the regulations cited in the Notice. The Licensee states that at the time of the incident, it did not transport sources, and as such was not generally knowledgeable about such. The Licensee further states that the Licensee took extreme precautions and brought the source back in a safe, secured container. Finally, the Licensee states that since it quickly retrieved the source after the NRC specifically told the Licensee to get the source, it would be unfair to cite the Licensee for these

VOL 60 ISS 84 MY 2 1995 UMI

violations. The Licensee believes that, in any event, Violations III.J.1–3 would constitute Severity Level V violations.

NRC Evaluation of Licensee Response to Violations III.J.1–3

Prior to the incident, the Licensee requested a license amendment to permit it to transport licensed material as part of its licensed activities. License Condition No. 15 of Amendment No. 03, dated August 19, 1992, authorized the Licensee to transport licensed material in accordance with the provisions of 10 CFR Part 71, "Packaging and Transportation of Radioactive Material". Therefore, the Licensee should have been familiar with the provisions of 10 CFR Part 71. In any case, the Licensee transported the radioactive source on December 1, 1992, and therefore was bound by the requirements in 10 CFR 71.5(a). The fact that the NRC advised the Licensee to retrieve the Licensee's source does not excuse the Licensee from the requirements of Part 71, nor does it excuse the Licensee from its ignorance of the requirements of Part 71. At no time did NRC suggest that applicable regulations should not be followed. Since these requirements were not met, the NRC concludes that Violations III.J.1–3 occurred as stated in the Notice. The issue of the Severity Level of the violations is addressed in the evaluation of the Licensee's response to Violations III.A and III.B, above.

Summary of Licensee's Request for Mitigation

The Licensee states that subsequent to the Indiana event, Licensee management took corrective action by: immediately and voluntarily suspending HDR treatments at the Licensee's facilities that did not have full-time physicists for HDR treatments in order to review its entire HDR program; fully and timely complying with any and all Confirmatory Action Letters (CALs); replacing its RSO with a brachytherapy specialist; replacing multiple contract physicists; and hiring additional, qualified full-time physicists. The Licensee states that its proposed replacement of the RSO constitutes corrective action regarding all issues raised by the NRC, and notes that its new RSO has regularly been physically present at the Greater Pittsburgh and Greater Harrisburg facilities to review the entire HDR program.

The Licensee also notes that it has completely modified its HDR program, that the revised program has been approved by the NRC, and that Licensee management has been highly involved with the HDR program and has met on a regular basis with the new RSO. In addition, the Licensee notes that it has restructured its physics program, which has resulted in at least quarterly training/refresher courses in radiation safety and regulatory compliance at all facilities for all staff. Further, the Licensee notes that is authorized users have attended an intensive training session with the new RSO regarding HDR usage, safety and emergency responses. The Licensee also notes that it hired a Certified Health Physicist (CHP) as Vice President of Regulatory Affairs and gave the CHP broad management authority, and that the CHP is responsible for the day-to-day radiation safety program company-wide.

The Licensee also states that it believes that the fines imposed are inappropriate and unsupported by the facts and applicable law. The Licensee states that to apply the $100,000 per violation discretionary fine on the Licensee is now warranted and is unfair. In addition, the Licensee states that the NRC has attempted to impose the $100,000 fine twice for one alleged failure, that being the alleged failure by the authorized user to do a survey with a hand held survey meter; and asserts that the loss of the source was not a separate action and cannot be separated from the alleged survey failure. With respect to the $80,000 fine for the violations in Section III, the Licensee submits that the alleged violations, even if true, do not constitute a Severity Level II problem. The Licensee claims that it appears that NRC has not taken the past exemplary conduct of the Licensee into consideration and the Licensee requests that this conduct be reviewed again.

The Licensee cites a number of enforcement sanctions taken by the NRC against other licensees, which the Licensee believes supports its claim that the sanction imposed on the Licensee is not only unfair and inappropriate, but unlawful. The Licensee requests that the fines be reduced to $14,000.

NRC Evaluation of Licensee's Request for Mitigation

Pursuant to Section 234 of the Atomic Energy Act, as amended, the NRC is authorized to impose civil penalties of up to $100,000 per violation per day for each day that a violation continues. Normally, proposed civil penalties are determined after application to the base civil penalty of the mitigating and escalating factors in Section VI of the Enforcement Policy, including corrective action and licensee performance. Section VII.A of the Enforcement Policy provides, however, that notwithstanding the outcome of the normal civil penalty adjustment process, the NRC may exercise its full enforcement authority to ensure that the resulting enforcement action appropriately reflects the level of NRC concern regarding the violations at issue and conveys the appropriate message to the licensee, in order to provide an appropriate sanction when particularly serious violations or serious breakdowns in management controls have occurred. In view of the particularly serious violations, which resulted in the death of a patient and exposure of numerous members of the public to radiation in excess of regulatory limits, and in view of the necessity of emphasizing to the Licensee the importance of meticulous management oversight of the radiation safety program, a very significant civil penalty was warranted. The NRC appropriately exercised its statutory authority when it proposed a $100,000 civil penalty each for the violations in Section I and II of the NOV, and an $80,000 civil penalty for the violations in Section III. The NRC also expects that these penalties will give all other similar licensees, including the successor licensees to OSC, an incentive to closely scrutinize their operations to avoid similar violations.

The Licensee's assertion that Problems I and II constitute a single violation is mistaken. Problems I and II involve violations of separate and distinct NRC requirements, with separate and distinct facts and consequences. Problem I involves a failure to perform surveys and to use radiation safety devices in violation of 10 CFR 20.201(b) and License Condition 17, which led to a misadministration resulting in acute radiation exposure and subsequent death of the patient. Problem II involves a loss of control of a radioactive source and the creation of radiation levels in unrestricted areas in violation of 10 CFR 20.206 and 10 CFR 20.105, which led to exposures of numerous members of the public to radiation in excess of regulatory limits. Therefore, separate violations are clearly justified. *Atlantic Research Corporation*, ALJ–78–2, 7 NRC 701 (1978).

The issue of the severity level of the violations in Section III of the NOV was addressed under "NRC Evaluation of Licensee's Response to Violations III.A and III.B."

The NRC acknowledges that the Licensee has taken corrective actions and is aware of the Licensee's past performance. However, in this case, the NRC exercised discretion to escalate the civil penalties, which supersedes the normal application of the adjustment factors, as explained above. In addition, civil penalties are imposed, in part, to deter future violations by not only the involved licensee, but other licensees conducting similar activities. *See* Enforcement Policy, Section VI.B.

Contrary to the Licensee's statements, the civil penalties proposed in this case are within the authority of the NRC. The Licensee's comparison of the civil penalties in this case with civil penalties in other cases does not bring the NRC's exercise of its lawful authority into question. Of decisive importance is the NRC's clear authority to exercise discretion in the choice of enforcement sanctions and the ordering of enforcement priorities. *Advanced Medical Systems, Inc.*, (CLI–94–6), 39 NRC 285, 320 (1994). A sanction is not rendered invalid because it is more severe than that issued in other cases. *Id.* As explained above, the NRC acted within its statutory authority and the bounds of the Enforcement Policy when NRC exercised its discretion to escalate the civil penalties in this case. A rigid uniformity is not required in enforcement decisions, which inherently involve the exercise of informed judgment on a case-by-case basis. *Id. See also, Radiation Technology, Inc.*, (ALAB–567), 10 NRC 533, 541 (1979).

NRC Conclusion

The NRC has concluded that the violations occurred as stated in the Notice and an adequate basis for mitigation of the civil penalties was not provided by the Licensee. Consequently, the proposed civil penalties in the amount of $280,000 should be imposed.

[FR Doc. 95–10731 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–278]

PECO Energy Company; Public Service Electric and Gas Company; Delmarva Power and Light Company; Atlantic City Electric Company (Peach Bottom Atomic Power Station, Unit 3); Exemption

I

PECO Energy Company, et al. (PECo., the licensee), is the holder of Operating License No. DPR–56, which authorizes operation of the Peach Bottom Atomic Power Station, Unit 3, at steady state reactor core power levels not in excess of 3293 megawatts thermal. The license provides, among other things, that the licensee is subject to the rules, regulations and order of the Commission now or hereafter in effect.

The plant is a boiling water reactor located at the licensee's site in York County, Pennsylvania.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water cooled power reactors be subject to the requirements of Appendix J to 10 CFR Part 50. Appendix J contains the leakage test requirements, schedules, and acceptance criteria for tests of the leak tight integrity of the primary reactor containment and systems and components which penetrate the containment.

Section III.D.2(a) of Appendix J to 10 CFR Part 50 requires that Type B leak rate tests, except for air locks, be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years. Type B tests are intended to detect local leaks and to measure leakage across each pressure-containing or leakage-limiting boundary for certain reactor containment penetrations.

Section III.D.3 of Appendix J to 10 CFR Part 50 requires that Type C leak rate tests be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years. Type C tests are intended to measure containment isolation valve leakage rates for certain containment isolation valves.

III

By letter dated February 22, 1995, the licensee requested a one-time exemption from the requirements of Appendix J, Sections III.D.2(a) and III.D.3 for a period of 60 days for the isolation valves or leakage boundaries for 80 penetrations. In its request, the licensee provided a list of the affected penetrations and associated plant-specific leak test procedures, the date when the leak tests had last been performed and the date when the current leak test will expire.

The licensee has implemented a 24-month operating cycle schedule at the Peach Bottom facility. The last refueling outage for Unit 3, 3R09, commenced in September 1993 and ended in November 1993 and the next refueling outage, 3R10 is scheduled to commence no later than September 30, 1995. The leak tests for which the licensee has requested schedular exemption were last conducted during the refueling outage 3R09, based on the information provided in the licensee's application. The licensee has stated that the affected leak test require either that safety systems be isolated or require access to the drywell, either of which would require the reactor to be shutdown.

The licensee has divided the affected leak tests into two categories: (1) Those that require shutdown reactor conditions but come due prior to the latest scheduled commencement of 3R10 on September 30, 1995, and (2) those that require reactor shutdown conditions and come due after the scheduled commencement of 3R10. There are 52 leak test surveillance procedures affecting 47 penetrations or penetration groups in the first category. These tests and penetrations are listed in Table 1 of the licensee's February 22, 1995 request. The earliest of these tests falls due on August 12, 1995, up to 49 days prior to the scheduled shutdown. The licensee has requested an exemption for 60 days which will allow the unit to operate until the beginning of the planned outage without shutting down to perform leak tests and which will allow for flexibility in planning the leak tests during the outage.

There are 28 leak test surveillance procedures affecting 29 penetrations in the second category described previously. These tests are listed in Table 2 of the licensee's February 22, 1995 submittal. The licensee has requested an exemption of 60 days to allow for flexibility in planning these leak tests during the outage. The licensee stated that all of the affected penetrations will be leak tested prior to restart from 3R10.

IV

The licensee presented information in support of its request for a 60-day extension of the Type B and C test intervals. The maximum allowable leakage rate for maintaining primary containment (L_a—minimum pathway leakage) is 125,417 cc/min. The as-found total Type B and C minimum pathway leakage rate observed during Unit 3 refueling outage 3R09 during the fall of 1993 was 33,434 cc/min. The as-left leak rate for that same outage was 27,188 cc/min.

PECo stated that an extension of the leak test interval to allow for 49 days of operation in not likely to significantly decrease the margin between as-found leak rates and L_a.

PECo also stated that the remainder of the total 60-day extension, requested for outage planning flexibility, will have minimal safety significance since the unit will be in cold shutdown. Primary containment integrity is not required during cold shutdown.

The licensee provided information regarding the requirements of 10 CFR 50.12, "Specific Exemptions." With respect to the requirements of 10 CFR

VOL 60 ISS 84 MY 2 1995 UMI

50.12(a)(1), the licensee stated that the requested action is authorized by law in that no prohibition of law exists which would preclude the activities which would be authorized by the exemption. In addition, the licensee stated that, for the reasons discussed above, the requested exemption does not present an undue risk to the public health and safety. Finally, the licensee stated that containment leak rate testing is not considered in the common defense and security of the nation.

With respect to the requirements of 10 CFR 50.12(a)(2)(iii), the licensee stated that special circumstances are present because compliance with the strict requirements of Appendix J would result in hardships significantly in excess of those contemplated when the regulation was adopted. The licensee stated that at the time the regulation was adopted, a presumption was made that a 2-year test interval would easily accommodate performance of the required tests during an operating cycle. However, development of new core designs have resulted in cycles of 24 months, or longer. Performance of the tests at the 24-month frequency would result in undue financial hardship resulting from extended reactor shutdown beyond that intended by the regulation with little or no compensatory increase in the level of safety or quality.

V

Based on the above, the staff finds there is reasonable assurance that the containment leakage-limiting function will be maintained and that a forced outage to perform Type B and C tests is not necessary. Therefore, the staff finds the requested exemption, to allow the Type B and C test intervals for the penetrations listed in the licensee's February 22, 1995 request to be extended for 60 days from their current expiration date, to be acceptable. The exemption request has been evaluated in a safety evaluation dated April 25, 1995.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission finds that the special circumstances as required by 10 CFR 50.12(a)(2) are present. The Commission's finding is based on the information provided by the licensee regarding 10 CFR 50.12(a)(2)(iii). In addition, as specified in 50.12(a)(2)(ii), special circumstances are present whenever the application of the regulation in the particular circumstance would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of the rule is to ensure that the components comprising the primary containment boundary are maintained and leak tested at periodic and appropriate intervals. The 24-month maximum interval was originally expected to bound the typical operating cycle, including a limited amount of mid-cycle outage time. The advent of advanced fuel types has made it possible to operate the facility for the 24 months with minimal, if any mid-cycle outage time. Strict adherence to the 24-month maximum interval is not necessary to meet the underlying purpose of the rule in that, taking into consideration the 60-day extension, the components that comprise the primary containment boundary will still be tested at a frequency that is appropriate to those components and their application. In addition, the 60-day extension represents a minimal increase in the existing 24-month interval required by the rule. Therefore, the staff finds the requested temporary exemption, to allow the Type B and C test intervals for penetrations described in the licensee's February 22, 1995 letter, to be extended for 60 days, to be acceptable.

An exemption is hereby granted from the requirements of Sections III.D.2(a) and III.D.3 of Appendix J to 10 CFR Part 50, which requires that Type B and C tests be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years, for a period of 60 days from the expiration of the current leak test for the affected penetrations.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 19968).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 25th day of April 1995.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10733 Filed 5–1–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–32493; License No. 29–28685–01; EA 93–072]

Radiation Oncology Center at Marlton, Marlton, New Jersey; Order Imposing a Civil Monetary Penalty

I

Radiation Oncology Center at Marlton (Licensee) is the holder of Byproduct Materials License No. 29–28685–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) on January 17, 1992. The License authorizes the Licensee to possess and use certain byproduct materials in accordance with the conditions specified therein. The License is due to expire on January 31, 1997. By a Confirmatory Action Letter dated February 5, 1993, the Licensee agreed to not obtain any sources of radioactive material authorized under the License until specifically authorized by NRC Region I. By a Confirmatory Order Modifying License (Effective Immediately) dated March 9, 1993, the Licensee was required to maintain any NRC-licensed material in a locked, stored, and shielded condition, and was prohibited from receiving any NRC-licensed material.

II

An NRC inspection of the Licensee's activities was conducted on February 2 and 4, 1993. The results of this inspection indicated that the Licensee has not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated May 31, 1994. The Notice states the nature of the violation, the provisions of the NRC requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters dated August 31, 1994, October 4, 1994, and December 1, 1994. In its responses the Licensee denies Examples A.3, A.4, B.1, B.2, D., and G. of the violations, denies in part and admits in part Examples A.1, A.2, and C. of the violation, and admits Examples A.5, E., and F. of the violation. The Licensee also protests the amount of the civil penalty proposed and requests mitigation of the penalty as appropriate.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that, with the exceptions of Examples A.3 and G of the violation, the violation occurred as stated in the Notice; the Examples A.3 and G of the violation will be withdrawn; and the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered That:*

The Licensee pay a civil penalty in the amount of $80,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the Licensee was in violation of the Commission's requirements as set forth in the violation in the Notice referenced in Section II above, and the following specific examples given with the violation: Examples A.1, A.2, A.4, B.1, B.2, C., and D.; and

(b) whether, on the basis of the violation set forth in the Notice of Violation, this Order should be sustained.

Dated at Rockville, Maryland this 24th day of April 1995.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support.

Appendix—Evaluations and Conclusion

On May 31, 1994, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation identified during an NRC inspection of Radiation Oncology Center at Marlton (ROCM) (Licensee). The licensee responded to the Notice on August 31, 1994, October 4, 1994, and December 1, 1994. The Licensee denies Examples A.3, A.4, B.1, B.2, D., and G. of the violation, denies in part and admits in part Examples A.1, A.2, and C. of the violation, and admits Examples A.5, E., and F. of the violation. In addition, the Licensee protests the amount of the civil penalty proposed and requests mitigation of the civil penalty as appropriate. The NRC's evaluation and conclusion regarding the Licensee's requests are as follows:

Restatement of Violation

10 CFR 35.21(a) requires, in part, that the licensee, through the Radiation Safety Officer (RSO), shall ensure that radiation safety activities are being performed in accordance with approved procedures and regulatory requirements in the daily operation of the licensee's byproduct material program.

Contrary to the above, the Licensee, through the RSO, did not ensure that radiation safety activities were performed in accordance with approved procedures and regulatory requirements in the daily operation of the Licensee's byproduct material program. Specifically, the RSO named on the Radiation Oncology Center at Marlton (ROCM) license stated at the enforcement conference that, although she had signed the license submittal, she believed that her responsibilities and authorities were primarily a medical function and not a regulatory function. She said that she was aware that she was named as the RSO on the license and added, "I was told that being—I was the fixed fixture there, that was the easiest thing to do, and that is all I was told. I had no concept of what that entailed." The following are specific examples of the failure of the Licensee, through the RSO, to ensure that radiation safety activities were performed in accordance with approved procedures and regulatory requirements in the daily operation of the Licensee's byproduct material program:

A. Condition 14 of License No. 29–28685–01 requires that the Licensee conduct its program in accordance with the statements, representations, and procedures contained in the application dated July 11, 1991, letter received December 18, 1991, and letter dated January 15, 1992.

1. Item 8.B of the Licensee's application, dated July 11, 1991, requires that all source exchanges be carried out by Omnitron Factory Personnel under the observation of the RSO.

Contrary to this requirement, source exchanges carried out by Omnitron Factory Personnel were not always under the observation of the RSO. Specifically, the RSO stated that although she observed the first source exchange at the facility on March 5, 1992, she did not observe the three subsequent source exchanges on June 4, September 16, and December 9, 1992.

2. Item 10.12 of the Licensee's application, dated July 11, 1991, requires that surveys of radiation levels in all adjacent areas and controlled areas be performed at initial installation and then quarterly thereafter at source exchanges and that results of the surveys be maintained.

Contrary to this requirement, surveys of radiation levels in all adjacent areas and controlled areas were not performed during the source exchanges which occurred on March 5, June 4, and September 16, 1992. In addition, the Licensee was unable to supply the inspectors with documentation demonstrating that surveys were performed in any adjacent areas following the December 9, 1992 source change.

3. Item 10.15.A.4 of the Licensee's application, dated July 11, 1991, requires, in part, that a daily check of all interlocks, safety systems and alarms be performed and documented in log books, that daily operational system checks be recorded, and that source position indicators (visual and radiation detection) be checked before each use and recorded.

Contrary to this requirement, as of February 4, 1993, daily checks of all interlocks, safety systems and alarms were not performed and documented in log books. Specifically, Licensee personnel believed that the performance of these checks was the responsibility of the physics consultant even though the physics consultant was only present for approximately one half of the total patient treatments, and the ROCM staff did not perform these daily checks when the physics consultant was not present. In addition, the Licensee was unable to provide any documentation indicating that daily checks of all the inter-locks, safety systems and alarms; daily operational system checks; and daily checks of source position indicators (visual and radiation detection) were performed on the occasions when the physicist was present.

4. Item 8.E.5 of the Licensee's application, dated July 11, 1991, requires, in part, that each operator/user of the HDR individually demonstrate competence in the emergency procedures during "dry run" emergencies using several failure modes for each operator.

Contrary to this requirement, as of February 4, 1993, each operator/user of the HDR did not individually demonstrate competence in the emergency procedures during "dry run" emergencies using several failure modes for each operator.

5. Item 9.1.C.4 of the Licensee's application, dated July 11, 1991, requires, in part, that the radiation monitor (PrimAlert) have a battery backup.

Contrary to this requirement, as of February 4, 1993, the Licensee did not have a battery back-up to operate the radiation monitor (PrimAlert).

B. 10 CFR 19.12 requires, in part, that all individuals working in or frequenting any

VOL 60 ISS 84 MY 2 1995 UMI

portion of a restricted area be instructed in the purposes and functions of protective devices employed, and in the appropriate response to warning made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material.

10 CFR 35.25(a)(1) requires, in part, that a Licensee that permits the use of byproduct material under the supervision of an authorized user shall instruct the supervised individual in the principles of radiation safety appropriate to that individual's use of byproduct material.

Contrary to these requirements,

1. As of February 4, 1993, individuals working in or frequenting portions of a restricted area were not instructed in the purposes and functions of protective devices employed. Specifically, the Licensee failed to instruct the dosimetrist in the proper use of the radiation survey meter. The dosimetrist, when questioned by the inspector on the operation and use of the survey meter, stated that the X1000 setting was the instrument's "lowest strength" scale. The X1000 setting is actually the highest scale setting on the instrument.

2. As of February 4, 1993, individuals working in or frequenting portions of a restricted area were not instructed in the appropriate response to a warning made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material. Specifically, the Licensee failed to adequately train the dosimetrist to identify, and respond to HDR error messages.

When questioned by the inspector on February 4, 1993, the dosimetrist did not know the meaning of the error messages from a random printout of a treatment execution record, dated May 7, 1992, which contained several error messages.

C. 10 CFR 35.31(b) requires that a licensee that makes minor changes in radiation safety procedures, as permitted under 10 CFR 35.31(a), retain a record of each change until the license has been renewed or terminated. The record shall include the effective date of the change, a copy of the old and new radiation safety procedures, the reason for the change, a summary of radiation safety matters that were considered before making the change, the signature of the RSO, and the signatures of the affected authorized users, and of management or, in a medical institution, the Radiation Safety Committee's chairman and the management representative.

Contrary to this requirement, prior to February 2, 1993:

1. The Licensee made a minor change in its radiation safety procedures, as permitted under 10 CFR 35.31(a), by posting emergency procedures that differed from those procedures submitted to the NRC in support of the license application, and the Licensee did not retain a record of the change that included the effective date of the change, the reasons for the change, a summary of the radiation matters that were considered before making the change, the signature of the RSO, and the signatures of the affected authorized users, and of management.

2. The Licensee made a minor change in its radiation safety procedures, as permitted under 10 CFR 35.31(a), by using HDR calibration procedures that differed from those procedures submitted to the NRC in support of the license application, and the Licensee did not retain a record of the change that included the effective date of the change, the reason for the change, a summary of the radiation matters that were considered before making the change, the signature of the RSO, and the signatures of the affected authorized users, and of management.

D. 10 CFR 35.32 requires, in part, that each licensee, as applicable, establish and maintain a written quality management program to provide high confidence that byproduct material or radiation from byproduct material will be administered as directed by the authorized user.

Contrary to this requirement, from March through December 1992, the Licensee engaged in licensed activities (namely, the administration of brachytherapy radiation doses using an iridium-192 source in an HDR unit) which required the establishment of a quality management program, and as of February 5, 1993, the Licensee had not established a written quality management program.

E. 10 CFR 35.51(a)(3) requires that the apparent exposure rate from a dedicated check source as determined at the time of calibration, be conspicuously noted on the instrument with the date of calibration.

Contrary to this requirement, as of February 4, 1993, the apparent exposure rate from a dedicated check source as determined at the time of calibration, was not conspicuously noted on the instrument with the date of calibration.

F. 10 CFR 19.11 (a) and (b) require, in part, that the Licensee post current copies of Part 19 and 20, and the license, or post a notice describing these documents and where they may be examined. 10 CFR 19.11(c) also requires that the licensee post a Form NRC–3, "Notice to Employees."

Contary to this requirement, as of February 4, 1993, the Licensee did not post current copies of Parts 19 and 20, and the license, or a notice describing the documents and where they could be examined, and did not post a Form NRC–3.

G. 10 CFR 30.51(a) requires each licensee to keep records showing the receipt, transfer, and disposal of byproduct material.

Contrary to this requirement, as of February 4, 1993, the Licensee did not keep records showing the receipt, transfer, and disposal of byproduct material. Specifically, the Licensee did not maintain records of the source receipt and transfer for disposal.

This is a Severity Level II violation (Supplement VI).

Summary of Licensee's Response to Example A.1 of the Violation

The Licensee admits this example in part and denies it in part, but does not state specifically what it admits or denies. The Licensee states that, although the RSO was not present in the room during the source exchange, the RSO or the physicist was physically present at the facility during the source exchanges, or readily available in case of an emergency, and thus the RSO was overseeing the source exchanges. The Licensee believes that this was all that was intended by its license application, that the RSO may delegate duties, and that the physical presence of the RSO during a source exchange would violate ALARA principles. The Licensee believes that, in any event, this example would constitute a Severity Level IV violation.

NRC Evaluation of Licensee's Response to Example A.1 of the Violation

The Licensee's application is clear in requiring that all source exchanges be carried out by Omnitron Factory Personnel under the observation of the RSO. With proper planning and the application of common radiation protection methods, the RSO could observe source exchanges without violating ALARA principles. At the transcribed enforcement conference, the RSO confirmed that she observed the first source exchange but did not observe the three subsequent source exchanges. Since source exchanges occurred that were not under the observation of the RSO, the NRC concludes that this example of the violation occurred as stated in the Notice. The issue of severity level is addressed below under "NRC Evaluation of Licensee's Request for Mitigation."

Summary of Licensee Response to Example A.2 of the Violation

The Licensee admits this example in part and denies it in part, but does not state specifically what it admits or denies. The Licensee states its belief that surveys of radiation levels in adjacent areas and/or controlled areas were performed during the source exchanges which occurred on March 5, June 4, and September 16, 1992, by Omnitron for the Licensee's benefit. The Licensee, in its letter dated December 1, 1994, provided Omnitron's record of surveys conducted during the source exchange on December 9, 1992, as well as other records of surveys conducted on March 5, June 4, and September 16, 1992. The Licensee believes that, in any event, this would constitute a Severity Level IV violation.

NRC Evaluation of Licensee's Response to Example A.2 of the Violation

Omnitron's record of surveys conducted on December 9, 1992 does not show that all adjacent areas were surveyed as required by License Condition 14. Regarding the records of other surveys that the Licensee submitted, the NRC inspection report indicates that the inspectors did see documentation of partial surveys for March 5, 1992, June 4, 1992, and September 16, 1992. With the exception of the survey record for December 17, 1992, the survey records that the Licensee submitted show that the surveys did not include all adjacent areas as required by the license condition. As noted in the inspection report, examples of adjacent areas that were not surveyed include a staff restroom, a utility room, the patient examination room, and the patient dressing room. Therefore, the NRC concludes that this example of the violation occurred as stated in the Notice. The issue of severity level is addressed below under "NRC Evaluation of Licensee's Request for Mitigation."

Summary of Licensee Response to Example A.3 of the Violation

The Licensee states that it denies this example. The Licensee states that, contrary to the NRC findings, checks were performed and an entire log indicating that certain checks were performed does exist. In its letter dated December 1, 1994, the Licensee provided numerous log entries to show that checks were performed.

NRC Evaluation of Licensee's Response to Example A.3 of the Violation

The NRC staff has reviewed the log entries provided by the Licensee on December 1, 1994. Based on those records, which were not provided during the inspection or the transcribed enforcement conference, the NRC staff is withdrawing this example of the violation. The withdrawal of this example of the violation does not change the fact that the violation occurred, nor does it affect the appropriateness of the amount of the civil penalty assessed for the violation in this case, given the nature of the violation and the numerous other examples of the violation that are not being retracted.

Summary of Licensee Response to Example A.4 of the Violation

The Licensee denies the example and asserts that relevant personnel attended Omnitron training where dry runs were performed and emergency situations and procedures were taught and discussed. The Licensee believes that, in any event, this could constitute a Severity Level IV violation.

NRC Evaluation of Licensee's Response to Example A.4 of the Violation

While Omnitron training may have covered emergency situations, License Condition 14 specifically requires that each operator/user of the HDR individually demonstrate emergency routine competence during "dry run" emergencies using several failure modes for each operator. At the transcribed enforcement conference, the Medical Director, recalling the portion of the Omnitron training that pertained to emergency situations, stated, "[t]o the best of my recollection, I believe they went through some of the descriptive terms on how to recrank the machine manually, and I believe they showed us the knob. But I cannot say with any degree of recollection that we actually went through it." As noted in the inspection report, the dosimetrist stated to inspectors that she had not performed "dry run" emergencies using several failure modes. Therefore, the NRC concludes that this example of the violation occurred as stated in the Notice. The issue of severity level is addressed below under "NRC Evaluation of Licensee's Request for Mitigation."

Summary of Licensee Response to Example A.5 of the Violation

The Licensee admits this example of the violation, but states its belief that this would constitute a Severity Level IV violation.

NRC Evaluation of Licensee's Response to Example A.5 of the Violation

The issue of severity level is addressed below under "NRC Evaluation of Licensee's Request for Mitigation."

Summary of Licensee Response to Example B of the Violation

The Licensee denies this example. The Licensee states that failure to answer all questions posed by the inspector does not necessarily constitute evidence that employees were not adequately trained in accordance with the commitments in the application or in the regulations. The Licensee believes that at all times personnel were trained as required under the license and under the applicable regulations. The Licensee states that 10 CFR 19.12 only requires that personnel be trained "commensurate with potential radiological health protection problems in the restricted area." The Licensee also states that "the NRC did not allege that the dosimetrist did not know how to operate a hand held survey meter or that she was not trained in its operation." The Licensee asserts that the dosimetrist was trained pursuant to license requirements. The Licensee believes that, in any event, this would constitute a Severity Level IV violation.

NRC Evaluation of Licensee's Response to Example B of the Violation

As documented in the inspection report, the dosimetrist was asked to demonstrate the operation and use of the radiation survey meter. The dosimetrist incorrectly set the instrument response dial to the X1000 scale, stating that this was the instrument's lowest strength scale. The inspectors asked the dosimetrist to repeat this demonstration and explanation a second time and the dosimetrist produced the same result. The dosimetrist is the individual who operated the HDR unit at Marlton. When the inspectors asked the dosimetrist to explain the meaning of the "error code" and "error class" messages on a printout of a treatment record, the dosimetrist stated that she did not know the meaning of the error messages.

The NRC staff finds that the dosimetrist's lack of understanding of the differences between the highest setting on the meter and the lowest setting on the meter, as well as the lack of understanding concerning response to HDR error messages are clear evidence that adequate training was not provided.

10 CFR 19.12 also requires that all individuals working in or frequenting any portion of a restricted area shall be instructed in precautions or procedures to minimize exposure, and in the purposes and function of protective devices employed. The extent of these instructions shall be commensurate with potential radiological health protection problems in the restricted area. The dosimetrist operated the HDR. In an emergency situation, the dosimetrist's duties could involve use of a survey meter to determine the status and location of the source in the restricted area as a means of protecting herself as well as other employees and patients. The Licensee clearly recognized that emergency situations could arise because it discussed "dry run" emergency procedures in its license application. In addition, since the dosimetrist's duties included operation of the HDR, this individual should have been knowledgeable on the meaning of error messages and how to respond to error messages generated by the HDR unit. Error messages could indicate hazardous conditions in the restricted area. Therefore, this individual was required by 10 CFR 19.12 to be trained by the Licensee on the meaning of the error messages, how to respond to error messages, and the use of a hand-held survey meter. Based on the above, the NRC concludes that this example of the violation occurred as stated in the Notice. The issue of severity level is addressed below under "NRC Evaluation of Licensee's Request for Mitigation."

Summary of Licensee Response to Example C of the Violation

The Licensee states in its response that it admits in part and denies in part this example. The Licensee asserts that it did record certain changes and may not have recorded others. The Licensee further asserts that, in this case, there was no potential or actual impact on health and safety. The Licensee believes that, in any event, this would constitute a Severity Level V violation.

NRC Evaluation of Licensee's Response to Example C of the Violation

10 CFR 35.31 authorizes medical use licensees to make minor changes in radiation safety procedures that are not potentially important to safety. 10 CFR 35.31(b) requires that if these changes (ministerial changes) are made, the licensee must maintain a record as specified in the regulation. There is no exception granted to the Licensee to only record certain changes. Since the Licensee did not maintain a record of some changes, the NRC concludes that this example of the violation occurred as stated in the Notice. The issue of severity level is addressed below under "NRC Evaluation of Licensee's Request for Mitigation."

Summary of Licensee Response to Example D of the Violation

The Licensee states in its response that it denies this example. The Licensee asserts that it had a written quality management program (QMP) which was in effect at the relevant times. In addition, the Licensee states that it has modified its quality management plan pursuant to completion of a review of its HDR program, and that the modified plan has been submitted to the NRC.

NRC Evaluation of Licensee's Response to Example D of the Violation

The requirement is that the Licensee establish and maintain a written quality management program to provide high confidence that byproduct material or radiation from byproduct material will be administered as directed by the authorized user. The inspection report indicates that inspectors did find a copy of "Quality Management of Brachytherapy Patients High Dose Rate Techniques" authorized by David Cunningham of Oncology Services Corporation and dated January 16, 1992. This

VOL
60
ISS
84
MY
2
1995
UMI

document was in a notebook containing other HDR records. According to the inspection report, the facility Medical Director/RSO had no knowledge of the document. In addition, the Medical Director/RSO stated at the time of the inspection that no one at the facility had received training on the document. Further, at the time of the inspection, the Licensee had not submitted its quality management program (QMP) to NRC as required by 10 CFR 35.32(f)(2). Since the Medical Director/RSO had no knowledge of the QMP, had not trained the staff on the QMP, and had not submitted the QMP to NRC, it is clear that the QMP was neither established nor maintained so as to provide high confidence that radiation from byproduct material would be administered as directed by the authorized user. Therefore, the NRC concludes that this example of the violation did occur.

Summary of Licensee Response to Example E of the Violation

The Licensee admits this example, but states its belief that this would constitute a Severity Level V violation.

NRC Evaluation of Licensee's Response to Example E of the Violation

The issue of severity level is addressed below under "NRC Evaluation of Licensee's Request for Mitigation."

Summary of Licensee Response to Example G of the Violation

The Licensee states in its response that it denies this violation. The Licensee states that it believes that certain records were maintained and that Omnitron also kept records for the benefit of the Licensee. The Licensee, in its letter dated December 1, 1994, provided copies of shipping papers showing the transfer of sources back to Omnitron, and copies of leak test results performed on sources by Omnitron. The Licensee believes that, in any event, this would constitute a Severity Level V violation.

NRC Evaluation of Licensee's Response to Example G of the Violation

The NRC staff has reviewed the records submitted by the Licensee on December 1, 1994. The particular shipping records that the Licensee submitted, which include the transferee, isotope, activity, and date, meet the requirement for records of the transfer of byproduct material. The leak test records that the Licensee submitted meet in part the requirement for records of receipt of licensed material. The leak test records did identify the transferor, isotope, and activity; but not the date of receipt. However, because the Licensee has other records, such as source exchange records, that identify the date of receipt, the NRC is withdrawing this example of the violation. The withdrawal of this example of the violation does not change the fact that the violation occurred, nor does it affect the appropriateness of the amount of the civil penalty assessed for the violation in this case, given the nature of the violation and the numerous other examples of the violation that are not being retracted.

Summary of Licensee's Request for Mitigation

The Licensee states in its response that it has taken numerous corrective actions to strengthen and improve all aspects of its radiation safety program. The licensee also states that over the past eighteen months, it has attempted to continually review and update its HDR program and staff, and emphasize the importance of radiation safety and applicable regulations. In addition, the Licensee indicates that management has attended courses regarding RSO duties and responsibilities. The Licensee also notes that five patients were treated with the HDR unit between March 1992 and December 1992 and there were no misadministrations or incidents.

The Licensee states that it: (1) Immediately and voluntarily suspended all HDR treatments in order to review the entire HDR program; (2) fully and timely complied with any and all CALs; and (3) replaced its contract physicist with a full-time physicist who, as RSO under the license, would provide necessary onsite RSO continuity needed to assure Licensee management and the NRC that the HDR program could run safely and in accordance with all regulations at all times. The Licensee also states its belief that the replacement of the RSO constitutes required and necessary corrective action regarding the identified issues, noting that the new physicist has held quarterly meetings where radiation safety, and regulatory issues have been reviewed with the staff. According to the Licensee, staff members have attended additional outside training and the authorized users have attended a six hour Radiation Safety Officers Review Course. In addition, the Licensee states that it has hired a Certified Health Physicist to assist in the coordination and oversight of all aspects of the Licensee's radiation safety program.

The Licensee states its belief that by hiring a full-time physicist to serve as RSO and obtaining the assistance of the Certified Health Physicist, it has clearly demonstrated that it has committed the resources necessary to develop and implement an appropriate, comprehensive and long lasting commitment to address the root cause of the violations. The Licensee believes that its new program, which permits only the physicist and physician to be involved with actual HDR patient treatments, will assure the NRC that none of the examples of the violation will be repeated.

The Licensee contends that a fine of $80,000 for what the Licensee terms "a number of Level IV and V violations" is arbitrary, capricious and unsupported by any of the NRC rules, regulations and/or legislative history. In support of this argument, the Licensee claims that similar enforcement actions involving similar violations by Part 35 licensees resulted in substantially smaller penalties. The Licensee further states that these citations collectively do not constitute a Severity Level II program and, in any case, the maximum penalty should be $8,000 before any mitigation. The Licensee asserts that it has an exemplary record having had no previous violations or misadministration. The Licensee cites a number of NRC Enforcement sanctions which the Licensee believes supports its claim that the sanction imposed on the License is inappropriate.

NRC Evaluation of Licensee's Request for Mitigation

Pursuant to Section 234 of the Atomic Energy Act, as amended, the NRC is authorized to impose civil penalties of up to $100,000 per violation per day for each day that a violation continues. Normally, proposed civil penalties are determined after application to the base civil penalty of the mitigating and escalating factors in Section VI of the Enforcement Policy, including corrective action and past licensee performance. Section VII.A of the Enforcement Policy provides, however, that notwithstanding the outcome of the normal civil penalty adjustment process, the NRC may exercise its full enforcement authority to ensure that the resulting enforcement action appropriately reflects the level of NRC concern regarding the violations at issue and conveys the appropriate message to the licensee, in order to provide an appropriate sanction when particularly serious violations or serious breakdowns in management controls have occurred. Given the seriousness of the violation in that the RSO failed to devote time or attention to the radiation safety program and that corporate management created the environment in which this was allowed to occur, a large civil penalty is warranted to emphasize the unacceptable performance of the Licensee, its RSO, and its corporate owner; and to emphasize the need for the Licensee and its corporate owner, as well as other licensees engaged in similar activities, to assure that controls are in place to avoid similar violations. THe NRC appropriately exercised its statutory authority when it proposed an $80,000 civil penalty for the violation.

As the Licensee's arguments that some of the examples are appropriately classified at Severity Level IV or V, the NRC did not categorize the individual examples of the violation in the Notice by severity level. Rather, the NRC categorized the single violation, including all of the listed examples, at Severity Level II. The violation is appropriately categorized at Severity Level II because it is of very significant regulatory concern and involved high potential impact on the public. Enforcement Policy Section IV. The guidance given by the examples in Supplements I–VII of the Enforcement Policy is neither exhaustive nor controlling in classifying the severity level of violations. The NRC reviews each enforcement action on its own merits to ensure that the severity level of a violation is characterized at the level best suited to the significance of the violation, which may warrant an adjustment to the severity level categorization. Enforcement Policy, Section IV. In this case, the violation represents a near total failure of the RSO to address her regulatory responsibilities and an equally serious failure of licensee management to exercise oversight over the radiation safety program in order to ensure that regulatory requirements were met, all of which created a high potential impact on the public for an incident similar to the November 1992 misadministration and

radiological event at the owner's facility in Indiana, Pennsylvania.

The NRC acknowledges that the Licensee has taken corrective actions and is aware of the Licensee's past performance. However, in this case, the NRC exercised discretion to escalate the civil penalties, which supersedes the normal application of the adjustment factors, as explained above. In addition, civil penalties are imposed, in part, to deter *future* violations by not only the involved licensee, but other licensees conducting similar activities. *See* Enforcement Policy, Section VI.B.

The civil penalties proposed in this case are within the authority of the NRC. The Licensee's comparison of the civil penalty in this case with civil penalties in other cases does not bring NRC's exercise of its lawful authority into question. Of decisive importance is the NRC's clear authority to exercise discretion in the choice of enforcement sanctions and the ordering of enforcement priorities. *Advanced Medical Systems, Inc.*, (CLI–94–6), 39 NRC 285, 320 (1994). A sanction is not rendered invalid because it is more severe than that issued in other cases. *Id.* As explained above, the NRC acted within its statutory authority and the bounds of the Enforcement Policy when NRC exercised its discretion to escalate the civil penalties in this case. A rigid uniformity is neither required nor possible in enforcement decisions, which inherently involve the exercise of informed judgement on a case-by-case basis. *Id.* See also, *Radiation Technology, Inc.*, (ALAB–567), 10 NRC 533, 541 (1979).

NRC Conclusion

The NRC has concluded that: (1) With the exceptions of Examples A.3 and G., the violation occurred as stated in the Notice; (2) Examples A.3 and G are being withdrawn; (3) the withdrawal of these two examples of the violation does not change the fact that the violation occurred nor does it affect the appropriateness of the amount of the civil penalty assessed for the violation; and (4) an adequate basis for mitigation of the civil penalty was not provided by the Licensee. Consequently, the proposed civil penalty in the amount of $80,000 is being imposed.

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[Docket No. 50–244]

Rochester Gas and Electric Company (R. E. Ginna Nuclear Power Plant); Exemption

I

Rochester Gas and Electric Corporation (RG&E) is the holder of Facility Operating License No. DPR–18, which authorizes operation of R. E. Ginna Nuclear Power Plant at steady-state power levels up to a maximum of 1520 megawatts thermal. The facility is a pressurized water reactor located at the licensee's site in Wayne County, State of New York. The license provides among other things, that the facility is subject to all rules, regulations, and Orders of the Commission.

II

Appendix J of Part 50 of Title 10 of the Code of Federal Regulations, "Primary Reactor Containment Leakage Testing for Water-Cooled Reactors," Section III.D.3, requires that Type C leakage rate testing be performed each reactor shutdown for refueling, but in no case at intervals greater than 2 years.

By letter dated March 15, 1995, RG&E requested a one-time Exemption from two parts of 10 CFR Part 50, Appendix J, Section III.D.3. First, RG&E requests an Exemption from performing Type C tests during the 1995 refueling outage except for isolation valves which have maintenance performed on them or valves which have not demonstrated acceptable leakage during the previous two leakage rate tests. Second, RG&E requests an Exemption from performing Type C tests within a 2-year interval, as required by the regulation. RG&E requests up to a 1-month extension of the 2-year interval for 129 containment isolation valves.

The last Type C tests were performed during the 1994 refueling outage after March 10, 1994. RG&E stated in the March 15, 1995, letter that the 1996 refueling outage will commence on March 31, 1996, with Cold Shutdown reached on April 1, 1996. RG&E requested an Exemption from the 2 year test interval until April 10, 1996, an interval 1 month greater than the required 2 year test interval.

The R. E. Ginna Nuclear Power Plant has a total of 151 containment isolation valves. RG&E has proposed to exempt 129 of these valves from Type C testing during the 1995 refueling outage. The other valves would be tested during the 1995 refueling outage either because maintenance has been done on them or they have not passed the RG&E's criterion for exemption of two successful consecutive tests.

The NRC staff finds RG&E's proposal to be acceptable for several reasons. As discussed in RG&E's March 15, 1995 letter, the performance of the containment isolation valves and the R. E. Ginna Nuclear Power Plant overall containment integrity have been good. The as-left Type A test leakage rate is 35% of L_a. The current Type B and C as-left maximum path leakage rate is 61% of the 0.6 L_a Appendix J limit. Therefore, there is reasonable assurance that the 1-month extension of the 2-year interval will not result in exceeding the Appendix J limits.

In addition, RG&E has proposed to limit the Exemption only to those valves on which no maintenance has been done and which have passed the last two consecutive Type C leakage rate tests. The NRC staff has granted similar requests in the past. On February 2, 1994, the NRC staff granted a similar Exemption to the River Bend Station licensee, and by letter dated April 29, 1987, the NRC staff granted a similar request to the Washington Public Power Supply System, Unit 2 licensee.

The NRC staff, therefore, grants the requested one-time Exemption to the R. E. Ginna Nuclear Power Plant licensee subject to the condition that the Exemption apply only to those valves on which no maintenance has been done and which have passed the last two consecutive Type C leakage rate tests. The Exemption is granted until plant shutdown for the 1996 refueling outage, not to extend beyond April 10, 1996.

III

Section 50.12 of the Commission's regulations permit granting an Exemption from the regulations when special circumstances are present. According to 50.12(a)(2)(ii), special circumstances are present whenever application of the regulation in question is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of Appendix J, Section III.D.3, is to assure a leak tight containment to mitigate the consequences of an accident. The past leakage rate data and available margin to the allowed technical specifications, as discussed above, are sufficient to assure that the underlying purpose of Appendix J, Section III.D.3, is achieved.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this Exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Accordingly, the Commission hereby grants an Exemption from 10 CFR Part 50, Appendix J, Section III.D.3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the Exemption will have no significant impact on the environment (60 FR 20513).

Dated at Rockville, Maryland, this 26th day of April 1995.

This Exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10734 Filed 5–1–95; 8:45 am]
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VOL 60 ISS 84 MY 2 1995 UMI

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35649; File No. SR–DTC–94–19]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Regarding Implementation of New Guidelines Regarding Principal and Income Payments in a Same-Day Funds Environment

April 26, 1995.

On December 5, 1994, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–DTC–94–19) under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] As filed, the proposal consisted of changes to the depository-eligibility requirements for securities issues to require that principal and income distributions be made in same-day funds and provided for the use of a "Blanket Letter of Representations" in lieu of individual letters of representations for each securities issue.[2] Notice of the proposal was published in the **Federal Register** on February 14, 1995.[3] On April 3, 1995, DTC amended the proposed rule change by requesting that the Commission withdraw from consideration the portion of the proposed rule change that related to implementing the use of a Blanket Letter of Representations for making securities depository-eligible.[4] The Commission received one comment letter opposing a part of DTC's proposal.[5] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

A. Background

In 1988, the Group of Thirty[6] determined that international agreement on a set of practices and standards for clearance and settlement systems was desirable. Accordingly, a Working Committee appointed by the Group of Thirty issued a report in March 1989 containing nine recommendations to reduce risk, improve efficiency, and reduce costs in the world's clearance and settlement systems.[7] One recommendation called for making payments associated with the settlement of securities transactions consistent across instruments and markets by adopting a same-day funds payment convention. The U.S. Working Committee of the Group of Thirty[8] concluded that payment for settlements among financial intermediaries and between financial intermediaries and their institutional customers should be made using same-day funds. In particular, the U.S. Working Committee concluded that payments for dividends, interest, redemptions, and reorganizations, commonly referred to as "principal and income payments," also should be made using same-day funds.

Thereafter, the U.S. Working Committee encouraged DTC and the National Securities Clearing Corporation ("NSCC") to focus on developing a same-day funds settlement system for U.S. trades in equity securities and corporate and municipal debt. Accordingly, in June 1992, DTC and NSCC published a memorandum entitled "A Same-Day Funds Settlement System Proposal for Industry Evaluation." In response to the memorandum, issues were raised regarding the appropriate handling of principal and income payments in a same-day funds settlement environment. Accordingly, a task force comprised of issuers, trustees, paying agents, depositories, depository participants and their customers, and the respective representative organizations for these various groups was formed ("Same-Day Funds Task Force" or "Task Force") to explore ways that principal and income payments could be made to a depository for pass through to participants in same-day funds on payment date.[9]

The Task Force determined that converting to a same-day funds settlement system for principle and income payments would have a significant impact on industry participants, including a change in the timing of payments to depositories by paying agents. Paying agents will have to make payments to depositories earlier in the day so that depositories can settle with their participants before the Fedwire closes.

The Task Force recommended that several principles be adopted in order to convert to a same-day funds settlement system for principal and income payments. As discussed below, DTC proposes to incorporate the relevant provisions in its operational arrangements memorandum.

B. Proposed Rule Change

DTC's operational arrangements that are necessary for securities issues to be eligible for DTC services are designed to maximize the number of issues that can be made depository-eligible while ensuring orderly processing and timely payments to participants. DTC's experience demonstrates that when issuers, underwriters, and their counsel are aware of DTC's requirements those requirements can be met almost without exception.[10] The purpose of the rule change is to incorporate in DTC's operational arrangements memorandum

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Same-day funds, which are also known as "Fed funds," are immediately available for redelivery on the day of receipt.

[3] Securities Exchange Act Release No. 35342 (February 8, 1995), 60 FR 8434.

[4] Letter from Piku Thakkar, Assistant Counsel, DTC, to Peter Geraghty, Senior Counsel, Division of Market Regulation, Commission (April 3, 1995).

[5] Letter from Terrence Hassett, President, North East Securities Transfer Association, Inc. ("NESTA"), to Jonathan Katz, Secretary, Commission (March 16, 1995). NESTA opposes the part of DTC's proposal that would deny depository eligibility to issues brought to market by agents who fail to make principal and income payments in same-day funds. In response, DTC stated that agents will not be penalized for isolated incidents of a failure to pay DTC in same-day funds on payment date and that the sanction of denying depository eligibility to an issue would be a last resort mechanism used in very limited circumstances. Furthermore, DTC indicated that it will make efforts to accommodate the needs of issuers and agents and will work closely with them in converting to a same-day funds payment standard for principal and income payments. Telephone conversation between Piku Thakkar, Assistant Counsel, DTC and Katherine Horan, Attorney, Commission (April 11, 1995).

[6] The Group of Thirty, established in 1978, is an international, nonprofit organization charged with broadening the understanding of international economic and financial issues, exploring the international repercussions of decisions taken in public and private sectors, and examining the choices available to policymakers.

[7] Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets, New York and London, March 1989.

[8] The U.S. Working Committee of the Group of Thirty is an organization made up of representatives from broker-dealers, banks, and financial intermediaries charged with analyzing the existing clearance and settlement systems in the U.S. in light of the Group of Thirty's nine recommendations.

[9] In the current next-day funds settlement ("NDFS") system, paying agents make payments in same-day funds to depositories for corporate income payments (*e.g.*, interest and dividends) and reorganization actions (*e.g.*, tenders and exchanges) for the majority of issues. Although corporate and municipal redemption payments and municipal income payments may be paid in next-day funds, generally paying agents make these payments in same-day funds on payment date to ensure their timely arrival at the depositories. DTC invests these funds overnight and rebates to the paying agents interest on the deposits as compensation for holding the funds overnight.

[10] During 1993, a total of 392,000 new issues were made eligible for DTC's services. This was 99.94% of all new issues submitted to DTC's Underwriting Department for eligibility determinations. These figures include equity, corporate debt, municipal debt, and U.S. Government and Agency securities. In the unusual circumstance where the processing characteristics of a new issue that is being structured would not meet DTC's operational arrangements, if contacted early enough in the planning process DTC staff often is able to assist in suggesting restructuring alternatives that would permit the issue to be made depository eligible.

principles for the processing of principal and income payments in same-day funds.[11] Towards this end, the operational arrangements memorandum incorporates the relevant provisions of the "Standards for Principal and Income Payments Guidelines" established by the U.S. Working Committee of the Group of Thirty. Pursuant to this rule change, the relevant provisions of these principles, as set forth below, will become a part of DTC's income and reorganization/redemption payments standards.

First, all new issues are required to meet depository-eligibility requirements and must be structured so that all payments to depositories of principal and income are made in same-day funds on payment date by 2:30 p.m. Eastern Standard time.

Second, for all depository-eligible issues already outstanding, paying agents must remit to DTC all principal and income payments in same-day funds on payment date by 2:30 p.m. Eastern Standard time according to existing arrangements between the paying agent and DTC. Recognizing that paying agents for certain issues may need to modify their current business arrangements to account for this change, DTC will continue through July 31, 1996, to pay the same rebates it now pays to paying agents that pay municipal interest and municipal and corporate redemptions to DTC in same-day funds on payment date.[12]

However, once DTC converts to same-day funds settlement for all security transactions, DTC will make all payments to its participants on payment date in same-day funds. As a result, DTC will not have funds resulting from overnight investing available to rebate to paying agents. Recognizing that participants will benefit by receiving all their expected payments in same-day funds on payment date DTC will charge participants in proportion to their holdings in each issue for which a rebate applies the funds needed to pay the rebate from the date of the conversion to same-day funds settlement for all security transactions until July 31, 1996. With respect to payments made on or after August 1, 1996, these charges to participants will no longer be required. The rebate will not be applied to payments of corporate interest, dividends, and reorganizations for which the paying agents already pay DTC in same-day funds on payment date and which currently are not subject to interest earnings rebates. However, DTC will require that 100% of corporate interest, dividend, and reorganization payments to paid to DTC in same-day funds on payment date by 2:30 p.m. Eastern Standard time.

Third, DTC will require paying agents to provide DTC with the CUSIP numbers for each issue for which payment is being sent as well as the dollar amount of the payment for each issue no later than noon Eastern Standard time on the payment date. Notification of payment details should be made using automated communications.

Finally, if an issuer or agent continually fails to make payment as called for in DTC's guidelines, DTC may decide to systematically prevent the allocation of such payments to participants on the payable date. Eventually, DTC also may elect to deny depository-eligibility to issues brought to market by noncomplying issuers or agents.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with Section 17A(b)(3)(F) because it provides a framework for the conversion of principal and income payments to same-day funds. Making principal and income payments in same-day funds is consistent with the goal of prompt and accurate clearance and settlement because it will give participants same-day access to their funds. Requiring paying agents to provide DTC with the corresponding CUSIP numbers for each issue for which payment is being made will make the processing of such payments more accurate. The Commission also believes that the guidelines for converting to a same-day funds payment standard for principal and interest payments are consistent with the goal of fostering cooperation and coordination among persons engaged in the clearance and settlement of securities transactions. Specifically, in order to allow paying agents time to modify their current business practices, DTC will continue to pay rebates through July 31, 1996, to those paying agents currently making payments to DTC in same-day funds on payment date for municipal interest and municipal and corporate redemption payments.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with Section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–DTC–94–19) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10790 Filed 5–1–95; 8:45 am]

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[11] DTC's operational arrangements were published in a June 1987 memorandum and were updated in both June 1988 and February 1992. For a complete description of the operational arrangements memorandum, refer to Securities Exchange Act Release No. 24818 (August 19, 1987), 52 FR 31833 [File No. SR–DTC–87–10] (order approving the implementation of DTC's operational arrangements for the eligibility of security issues), and Securities Exchange Act Release No. 30625 (April 30, 1992), 57 FR 18534 [File No. SR–DTC–92–06] (order approving modifications to DTC's operational arrangements).

[12] *Supra* note 9.

[Release No. 34–35647; File No. SR–MSTC–94–12]

Self-Regulatory Organization; Midwest Securities Trust Company; Order Granting Temporary Approval of Proposed Rule Change Enabling Midwest Securities Trust Company To Enter Into Contracts With Participants To Provide Custodial, Transactional, and Related Services

April 25, 1995.

On October 11, 1994, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–MSTC–94–12) pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal appeared in the **Federal Register** on October 19, 1994, to solicit comment from interested persons.[2] For the reasons discussed below, the Commission is approving the proposed rule change through October 1, 1995.

I. Description of the Proposal

The purpose of the proposed rule change is to permit MSTC to enter into contracts with any of its participants whereby MSTC will provide certain

[13] 15 U.S.C. 78s(b)(2) (1988).

[14] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b) (1988).

[2] Securities Exchange Act Release No. 34835 (October 13, 1994), 59 FR 52851.

VOL 60 ISS 84 MY 2 1995 UMI

custodial and transactional processing services for the participant with respect to the participant's certificated securities. The proposed services will consist, among other things, of processing and accepting physical deposits of certificates, processing the physical withdrawal of certificates, and providing incidental services in connection thereto. Book-entry movements of deposited securities will not be permitted.[3]

Under the proposal, MSTC will provide all custodial and transactional processing services on a negotiated basis with its participants. MSTC will not be obligated to enter into such contracts with any participant, and if it chooses to enter into such a contract with any participant, it will not be obligated to enter into a contract with similar terms with any other participant.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and more specifically with the requirements of Section 17A(b)(3)(F).[4] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. The Commission believes that MSTC's service is consistent with this obligation.

MSTC's new service will provide custodian, transaction processing, and related data-entry services with respect to participants' certificated securities. Participants have been experiencing a continual decline in their activity associated with the processing of physical securities primarily due to the increase in book-entry eligibility of securities at the clearing agency level. Many participants no longer find it desirable to maintain their own custodial operations. As a result, MSTC has been requested to provide such custodial and processing services as part of MSTC's operations.

The Commission believes that MSTC's proposed rule change should help to minimize inefficient procedures employed by individual participants by concentrating these operations in one centralized facility. As a result, the individual participants will be able to eliminate their own custodial operations and the high fixed costs associated with them while maintaining the required safeguarding of these securities.

III. Conclusion

For the reasons stated above, the Commission finds that MSTC's proposal is consistent with Section 17A of the Act [5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–MSTC–94–12) be, and hereby is, approved until October 1, 1995.

For the Commission of the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10788 Filed 5–1–95; 8:45 am]

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[3] Letter from George T. Simon, Foley & Lardner, to Jonathan Kallman, Associate Director, Division of Market Regulation, Commission (January 23, 1995).

[4] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[5] 15 U.S.C. 78q–1 (1988).

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35850; File No. SR–NYSE–95–08]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Listed Company Relations Proceedings

April 26, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 3, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of new Rule 103C concerning procedures relating to initiation and conduct of a review of the relationship between a listed company and its specialist organization. The text of the proposed Rule 103C is attached as Exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt new Rule 103C (Listed Company Relations Proceedings) to provide its listed companies and specialist units with a procedure for resolving non-regulatory issues that may arise between them. The Exchange believes that the relationship between a listed company and its specialist unit is a significant one.

Specialist units work to foster and promote sound mutual understanding and effective communications with their listed companies, but situations may occasionally arise in which one or both sides cannot easily resolve differences with respect to non-regulatory issues. Such issues might include, for example, misunderstandings with respect to the frequency and adequacy of communications between a company and its specialist unit. Proposed new Rule 103C contains a formal procedure by which a listed company could make a written notification (known as an "Issuer Notice") to the Exchange's New Listings and Client Services Division of its desire to commence a proceeding to mediate and resolve such issues. The Exchange's Quality of Markets Committee ("QOMC"), a Board of Directors level committee, would be responsible for oversight of the Listed Company Relations Proceeding ("LCRP") through a subcommittee consisting of the two Exchange vice-chairmen, a senior Exchange official, and two listed company representatives, all of whom would be appointed from the QOMC membership. This subcommittee would work with the listed company and the specialist unit through written submissions and meetings designed to produce an action plan with specific steps for resolution of the matter. At regular intervals of three, six and nine months, the subcommittee would work with the parties to resolve their issues. The listed company could conclude the LCRP at any time during the process if it believed that matters had been satisfactorily addressed.

If matters were not resolved at the end of one year from the commencement of the LCRP, the listed company could formally request a reassignment of its stock to another specialist unit. The subcommittee would prepare a recommendation to the QOMC as to whether it is appropriate to reassign the stock. The QOMC would review the recommendation and give the parties an additional opportunity to present their views in writing. It would then make a recommendation to the Exchange's Board of Directors. The Board could also afford the parties an opportunity to present their views in writing. The Board would then determine whether the stock should be reassigned. If the stock were to be reassigned, the Board would direct the Exchange's Allocation Committee to reallocate it. The then current specialist unit and the unit of any specialist member of the Board would not be permitted to apply for allocation of the stock. Proposed Rule 103C also provides that no reference to the LCRP or the Board's action would be retained in the information maintained by the Allocation Committee regarding the then current specialist unit. The rule further provides that the specialist unit subject to a reallocation would not be afforded any preferential treatment in subsequent allocations as a result of a reallocation pursuant to the rule.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The adoption of Rule 103C is consistent with these objectives in that it would enhance the Exchange's ability to foster closer relationships between its specialists and their listed companies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and coping at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–95–08 and should be submitted by May 23, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

Exhibit A—New Rule 103C: Listed Company Relations Proceedings

(a) A listed company may file with the New Listings & Client Service Division a written notification ("Issuer Notice"), signed by the company's chief executive officer, that it wishes to commence a proceeding whereby the Quality of Markets Committee ("QOMC") shall attempt to mediate and resolve non-regulatory issues that have arisen between the company and its assigned specialist unit. The Issuer Notice shall indicate the specific issues sought to be mediated and resolved, and what steps, if any, have been taken to try to address them before the filing of the Issuer Notice.

(b) The QOMC shall refer the Issuer Notice to its Listed Company Relations Subcommittee (the "Subcommittee") which shall consist of two listed company members of the QOMC, as well as a senior officer and two vice-chairmen of the Exchange, provided these individuals are also members of the QOMC. The Subcommittee shall review the Issuer Notice and shall notify the subject specialist unit that a Listed Company Relations Proceeding ("LCRP") is being commenced pursuant to this rule, and that the LCRP shall run for one year from the date of notice to the specialist unit, unless concluded earlier by the listed company. The specialist unit shall be provided with a copy of the Issuer Notice, and shall be given two weeks within which to submit a written response to the Subcommittee.

(c) After the two-week period for a response from the subject specialist unit, the Subcommittee shall meet with representatives of the listed company and the specialist unit that are parties to the LCRP, and shall identify specific steps that may be taken to mediate and resolve matters indicated in the Issuer Notice.

(d) The parties to the LCRP shall each submit a written report to the Subcommittee no later than three months from the date the LCRP is commenced with respect to all matters indicated in the Issuer Notice, and any other matter that either party believes may have a bearing on the LCRP. The listed company may give written notice that it is concluding the LCRP at any time if it believes matters have been satisfactorily addressed. If the listed company wishes the LCRP to continue, it must so state. After receiving the written reports from the parties to the LCRP, the Subcommittee shall then advise the QOMC, as appropriate. The Subcommittee may meet further with the parties to the LCRP, and identify such other specific steps that may be taken to resolve matters, as it deems appropriate. The same process shall be followed at six and nine month intervals from the date the LCRP is commenced, unless the listed company has chosen to conclude the LCRP.

(e) At the end of one year from the commencement of the LCRP, the listed company shall, in writing, either (i) inform the Subcommittee that it wishes to conclude the LCRP; or (ii) inform the Subcommittee that matters between it and its specialist unit remain unresolved, and that it wishes that its stock be assigned to a different specialist unit. The Subcommittee shall prepare a report to the QOMC recommending either that (i) the LCRP should be concluded; or (ii) that the listed company's stock should be assigned to a different specialist unit.

(f) The QOMC shall review the report prepared by the Subcommittee and shall give the parties to the LCRP an opportunity to present their views in writing. The QOMC shall then make a recommendation to the Exchange's Board of Directors as to the disposition of the LCRP, including a recommendation as to whether the listed company's stock should be assigned to a different specialist unit.

(g) The Exchange's Board of Directors shall review the QOMC's recommendation and may give the parties to the LCRP an

VOL 60 ISS 84 MY 2 1995 UMI

opportunity to present their views in writing. The Board of Directors shall then determine the appropriate disposition of the LCRP, and may, if it deems such action to be in the best interests of the Exchange, direct that the Allocation Committee reallocate the listed company's stock to a different specialist unit. The currently-assigned specialist unit and the member organization of any specialist member of the Board of Directors shall be precluded from applying to be allocated the stock. No reference to the LCRP or the Board's action shall be retained in the information maintained by the Allocation Committee with respect to the currently-assigned specialist unit, and the currently-assigned specialist unit shall not be afforded preferential treatment in subsequent allocations as a result of a reallocation pursuant to this rule.

[FR Doc. 95–10789 Filed 5–1–95; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 2195]

Advisory Committee on International Law; Meeting

A meeting of the Advisory Committee on International Law will take place on Thursday, May 18, 1995, from 2:00 to approximately 5:00 p.m., as necessary, in room 1207 of the United States Department of State, 2201 C Street, N.W., Washington, D.C. The meeting will be chaired by the Legal Adviser of the Department of State, Conrad K. Harper, and will be open to the public up to the capacity of the meeting room. The meeting will focus on the establishment of an international criminal court and possible United States Government involvement in genocide cases before the International Court of Justice, as well as review of other current developments in international law.

Entry to the building is controlled and will be facilitated by advance arrangements. Members of the public desiring access to the session should, prior to May 17, 1995, notify the Office of the Assistant Legal Adviser for United Nations Affairs (telephone (202) 647–6771) of their name, Social Security number, date of birth, professional affiliation, address and telephone number in order to arrange admittance. The above includes government and non-government attendees. All attendees must use the "C" entrance. One of the following valid IDs will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

Dated: April 20, 1995.

Bruce C. Rashkow,

Assistant Legal Adviser for United Nations Affairs; Executive Director, Advisory Committee on International Law.

[FR Doc. 95–10689 Filed 5–1–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Final Order Amending Certain Tentative Findings Contained in an Earlier Order to Show Cause Order 94–10–5, Dated October 6, 1994

We are publishing the order in its entirety as an appendix to this document.

DATES: Issued in Washington, D.C. April 26, 1995.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Dennis DeVany, U.S. Department of Transportation, Office of Aviation Analysis, X–53, Room 6407C, 400 7th Street, S.W., Washington, DC 20590 (202) 366–1061.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

Appendix

[Order 95–4–38; Docket 49814]

Waivers for Regional/Commuter Carriers from Certain Service Termination Notice Requirements; Final Order Granting Waiver

By Order 94–10–5, October 6, 1994, the Department tentatively established criteria for granting waivers to regional/commuter carriers from the notice provision of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305). That law requires carriers to file a 45-day notice of their intention to suspend service at FAA-designated nonhub communities. However, it also instructed the Department to establish terms and conditions under which regional/commuter carriers were to be exempted from the notice requirement.[1]

Order 94–10–5 proposed that the notice requirement should be waived for regional/commuter carriers under either of two scenarios: first, if the affected community would continue to receive scheduled service with jet aircraft; or second, if the affected community would continue to receive scheduled service from at least two other regional/commuter carriers. Thus, in situations where reasonable levels of capacity would remain in the form of at least one jet operator or at least two regional/commuter carriers, no 45-day notice would have been required.

The Regional Airline Association (RAA) has responded to Order 94–10–5 on behalf of its members. According to the RAA, the legislative history of Public Law 103–305 clearly suggests that the notice requirement is aimed at jet service, particularly at the 27 nonhubs for which the Department has not established essential air service determinations.[2] The RAA contends that, if the Department's proposed waiver criteria were finalized, the effect would be the creation of notice obligations at many nonhubs that are served exclusively by regional/commuter carriers. The RAA concludes that our proposed criteria would thus shift the main burden of the requirement from major carriers providing jet service at a small number of nonhubs, as intended by Congress, to many regional/commuter carriers serving numerous small communities throughout the country.

We agree with the RAA that our proposed criteria were unnecessarily narrow. The legislative history of Public Law 103–305 indicates that the focus of Congress's concern was the abrupt loss of jet service at nonhubs for which we have not established essential air service determinations. Moreover, communities for which we have established determinations already enjoy the protections of the more stringent 90-day notice requirement and hold-in provisions contained in 49 U.S.C. 41734; application of the new 45-day notice in such cases would therefore be superfluous.

Under these circumstances, we conclude that regional/commuter carriers should be subject to the 45-day notice requirement of Public Law 101–305 only at communities for which the Department has not established an essential air service determination. We will therefore grant a waiver from the notice requirement to regional/commuter carriers serving nonhubs for which the Department has established a determination. In the latter cases, however, carriers should be mindful that they remain subject to the more stringent essential air service provisions contained in 49 U.S.C. 41734.

The appendix to this order contains the nonhubs to which the 45-day notice requirement continues to apply. We would stress, however, that this list is likely to change over time. Some communities may grow from nonhubs to small hubs while others shrink from small hubs to nonhubs, or we could ultimatey establish determinations for some communities that currently have none.

Accordingly,

1. We grant a waiver from the 45-day notice requirement contained in the Federal Aviation Administration Authorization Act of 1994, Public Law 103–305, to all regional/commuter carriers insofar as it would apply to service at nonhub communities for which the Department has established essential air service determinations;

2. We grant the motion for leave to file an otherwise unauthorized document by the Regional Airline Association in Docket 49184; and

3. We will publish a copy of this order in the **Federal Register** and serve a copy on the Regional Airline Association.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

Nonhubs for Which a 45-Day Notice Is Required

Ashland, Kentucky/Huntington, West Virginia
Bismarck/Mandan, North Dakota
Bristol/Kingsport/Johnson City, Tennessee
Bozeman, Montana
Butte, Montana
Caspar, Wyoming
Charleston/Dunbar, West Virginia
Evansville, Indiana
Fargo, North Dakota
Grand Forks, North Dakota
Grand Junction, Colorado
Great Falls, Montana
Helena, Montana
Idaho Falls, Idaho
Kalispell, Montana
Lincoln, Nebraska
Minot, North Dakota
Missoula, Montana
Monroe, Louisiana
Montgomery, Alabama
Peoria, Illinois
Rapid City, South Dakota
Rochester, Minnesota
Saginaw/Bay City/Midland, Michigan
Scranton/Wilkes-Barre, Pennsylvania
Sioux City, Iowa
Sioux Falls, South Dakota

[FR Doc. 95–10760 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–62–P

[1] P.L. 103–305 defines "regional/commuter carriers" as (a) all Part 135 carriers, and (b) Part 121 carriers whose operations consist entirely of service with aircraft with 70 or fewer passenger seats. An FAA-designated "nonhub" is a community that accounts for less than 0.05 percent of all revenue enplanements in the nation—less than 234,157 enplanements during calendar year 1993, the most recent year for which data are available.

[2] The Appendix lists the 27 nonhubs at issue.

Federal Aviation Administration

Airworthiness Standards; Fiscal Year 1998, Small Airplane Directorate's Research, Engineering and Development Initiatives, Program Identification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for small airplane directorate's research, engineering and development program proposals.

SUMMARY: This notice announces a request for proposals that will define the Federal Aviation Administration (FAA), Aircraft Certification Service, Small Airplane Directorate, Research, Engineering and Development (R,E&D) initiatives for Fiscal Year (FY) 1998 by defining and documenting specific, potential R,E&D program proposals. The request for proposals will focus on Aircraft Certification R,E&D programs related to the Small Airplane Directorate's activities. The Small Airplane Directorate is responsible for airworthiness areas related to the normal, utility, acrobatic, and commuter category airplanes, gliders, balloons, and airships. Other FAA requirements such as flight standards, air traffic, or airway facilities will not be addressed. The FAA is soliciting the public sector to ensure that the proposed Small Airplane Directorate's R,E&D requirements will have relevant, practical applications and will be cost effective.

DATES: The request for proposals will be open until close of business May 31, 1995.

ADDRESSES: Submit comments in triplicate to: Ervin E. Dvorak, Standards Staff (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ervin E. Dovorak, Aerospace Engineer, Standards Staff (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration; telephone number (816) 426–6941.

SUPPLEMENTARY INFORMATION: Each FY the FAA prepares an R,E&D program plan that include new (and amended) R,E&D proposals. The Aircraft Certification Service's Small Airplane Directorate is responsible for preparing its part of the overall FAA submittal.

The philosophy of the R,E&D process is to create an atmosphere that will promote the identification of requirements by any person or organization in the government or private sector. This makes the R,E&D process more responsive to public sector needs. Within the Aircraft Certification Service's Small Airplane Directorate, the R,E&D process places increased emphasis on outside participation in identifying new requirements and in sponsoring and monitoring the resulting R,E&D projects. Therefore, as part of the overall FAA and Aircraft Certification initiatives, the FAA's Small Airplane Directorate is undertaking a directly-related initiative specifically for airworthiness areas related to the normal, utility, acrobatic, and commuter category airplanes, gliders, balloons, and airships. Requirements should support issues critical to our regulatory and policy development. Also, the requirements could support certification issues for new and innovative designs and technology, and/or support correcting deficiencies in continued airworthiness. It has the same basic mission, goals, and procedures as the agency-wide initiative.

The Small Airplane Directorate will implement its segment of the FY–98 submittal by identifying, describing, evaluating, and cataloguing potential R,E&D requirements (i.e., proposals) for potential sponsorship and incorporation into the overall FAA FY–98 R,E&D submittal. This will result in a coordinated FY–98 requirements package that will be assigned to the appropriate FAA R,E&D provider organizations when approved and when funds are allocated by the budget process.

It should be stressed that the proposals that are evaluated as a result of this notice, if accepted, will not be funded until the overall FAA FY–98 R,E&D submittal is funded, (i.e., at least two years after their original submittal on October 15, 1995) and that reprogramming of limited R,E&D resources before than is highly unlikely. Also, the accepted proposals will have to complete for resources with other requirements identified for R,E&D by other FAA activities. Nonetheless, the need clearly exists to identify Small Airplane Directorate's Certification R,E&D needs to complete for the agency's R,E&D resources.

As a matter of information, there are four primary FAA R,E&D supplier organizations: (1) the FAA Technical Center (FAATC) in Atlantic City, New Jersey; (2) the Research and Development Service (ARD) in Washington, D.C.; (3) the Office of Environment and Energy (AEE) in Washington, D.C.; and (4) the Civil Aeromedical Institute (CAMI) in Oklahoma City, Oklahoma, of the Office of Aviation Medicine (AAM). These organizations perform the R,E&D on programs that are approved and funded through the process.

Although not mandatory, the format of Figure 1 for R,E&D proposals is preferred:

Figure 1—FY–98 Small Airplane Director's R,E&D Program Description Form I.D. No. (FAA will fill in)

Originator

(Insert Name, Address, Phone Number, and Fax Number)

Proposed R,E&D Program Description & Objectives

(Insert Brief Description of the proposal program and its major goals and objectives)

Note: A more detailed description may be attached in addition to this summary but is not mandatory at this time.

VOL 60 ISS 84 MY 2 1995 UMI

How Would You Accomplish This Program?

(Insert Brief Description of your recommended method of accomplishing the proposed R,E&D program)

Justification/History

(If appropriate, furnish data such as a concise accident/incident history and any other relevant statistics or information that would show that the proposed research is needed, cost-effective, and applicable to developing a solution to the proposed R,E&D project. This history/justification input data will be used to aid in assessing the relative value of the proposed R,E&D project.)

Anticipated Benefits/Products and Beneficiaries

(Insert Brief Description of anticipated benefits/products, who would benefit, and how)

If an R,E&D proposal has been submitted previously, then (unless a major change or update has been made) it is on file and need not be resubmitted.

Copies of this notice are being mailed to all known interested parties. Any interested party who desires but has not received a copy of this notice by May 19, 1995, should request a copy from Terre Flynn, Standards Staff (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number (816) 426–6941.

Issued in Kansas City, Missouri, on April 25, 1995.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10769 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee; Airport Certification Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Robert E. David, Assistant Executive Director for Airport Certification Issues, Office of Airport and Safety Standards (AAS–300), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3085; fax (202) 267–5383.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is Airport Certification issues. These issues involve the certification and operation of airports that service air carriers in 14 CFR part 139.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendations on the following task.

Review Title 14, Code of Federal Regulations (CFR) part 139 and develop recommendations concerning what requirements are applicable to airports that have scheduled service with aircraft having a seating capacity of 10 to 30 seats. In developing these recommendations, consideration should be given to accepted industry practices regarding airport safety, personnel available at these airports, costs associated with meeting these requirements (e.g., capital, operating, and maintenance costs) and the types of accidents/incidents that occur at these airports. Where it appears that it is not reasonable to apply a part 139 requirement at these airports, the ARAC shall examine alternatives to the requirement to determine if there is another means to assure a comparable level of safety.

In conducting this review, ARAC should (1) Consider categorizing the requirements applicable to these airports by the size of the airport, or some other means to achieve specific safety objectives, while minimizing the operational burden; (2) consider alternatives to providing aircraft rescue and firefighting services for operations at these airports; (3) consider conducting a survey of the airports that would be affected by this rule; and (4) recommend applicable requirements, including a reasonable compliance period, taking into account economic and operational factors.

The recommendations from ARAC could serve as the basis for a notice of proposed rulemaking, if the FAA is granted the legislative authority to certificate these airports.

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to establish a new Commuter Airport Certification Working Group. The working group will serve as staff to ARAC to assist ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Commuter Airport Certification Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the tasks, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider airport certification issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. Provide a status report at each meeting of ARAC held to consider airport certification issues. Participation in the Working Group.

The Commuter Airport Certification Working Group will be composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Commuter Airport Certification Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on April 25, 1995.

Robert E. David,

Assistant Executive Director for Airport Certification Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–10771 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Fort Collins-Loveland Municipal Airport, Submitted by the Cities of Fort Collins and Loveland, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Fort Collins-Loveland Municipal Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before June 1, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, CO 80216-6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Fred Anderton, Airport Manager, at the following address: Cities of Ft. Collins & Loveland, 4824 Earhart Road, Fort Collins, CO 80538.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Ft. Collins-Loveland Municipal Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Schaffer, (303) 286-5525; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, Suite 300; Denver, Colorado 80216-6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Ft. Collins-Loveland Municipal Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 24, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Cities of Fort Collins & Loveland was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 28, 1995.

The following is a brief overview of the application. Level of the proposed PFC: $3.00; Proposed charge effective date: October 1, 1995; Proposed charge expiration date: September 30, 1999; Total estimated PFC revenues: $385,201.00

Brief description of proposed project: Acquire Index "A" aircraft/rescue fire fighting (ARFF) vehicle; extend Taxiway "D"; rehabilitate Runway 15/33; and acquire passenger lift device.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Fort Collins-Loveland Municipal Airport.

Issued in Renton, Washington on April 25, 1995.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 95–10767 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Medford-Jackson County Airport, Submitted by Jackson County, Medford, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Medford-Jackson County Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before June 1, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bern E. Case, Airport Director, at the following address: Medford-Jackson County Airport, 3650 Biddle Road, Medford, OR 97504.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to Medford-Jackson County Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Trujillo, (206) 227–2629; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW; Suite 250; Renton, Washington 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at Medford-Jackson County Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

On April 24, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by Jackson County was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 1, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1995.

Proposed charge expiration date: October 31, 2000.

Total estimated PFC revenues: $1,810,000.00.

Brief description of proposed project: Acquire passenger life device; ground level loading bridge/mobile covered walkway; and air carrier ramp rehabilitation.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Operations by Air Taxi/Commercial Operators when enplaning revenue passengers in

VOL 60 ISS 84 MY 2 1995 UMI

limited, irregular, special service air taxi/commercial operations such as air ambulance services, student instruction, non-stop sightseeing flights that begin and end at the airport and are concluded [conducted] within a 25 mile radius of the airport, and other similar limited, irregular, special service operations by such Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Medford-Jackson County Airport.

Issued in Renton, Washington on April 24, 1995.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 95–10768 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Lapeer County, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for the proposed improvement of M–24 from 1.6 kilometers (one mile) north of the Oakland County line to the I–69 interchange south of Lapeer in Lapeer County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Stoner, Program Operations Engineer, Federal Highway Administration, 315 West Allegan St., Room 211, Lansing, Michigan 48933, Telephone (517) 377–1880 or Mr. Ron Kinney, Manager, Environmental Section, Bureau of Transportation Planning, Michigan Department of Transportation, PO Box 30050, Lansing, Michigan 48909, Telephone (517) 335–2621.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation, (MDOT), is preparing an Environmental Impact Statement (EIS) for the proposed improvement of M–24 from 1.6 kilometers (one mile) north of the Oakland County line to the I–69 interchange south of Lapeer in Lapeer County, Michigan. The proposed project is approximately 14.5 kilometers (9 miles) in length and is needed to accommodate current and future traffic volumes and to improve operating conditions and the safety of the traveling public. The present facility is two lanes.

The alternatives under consideration include (1) No Action; (2) a Low Capital Investment Improvement Alternative which would include intersection improvements and other minor traffic safety modifications; and (3) Improvements Along the Existing Alignment which include a five-lane roadway or a four-lane divided highway. The five-lane alternative consists of five 3.6 meter (12–foot) lanes, shoulders and open drainage. The four-lane divided highway alternative consists of two 7.3 meter (24 foot) paved roadways with an 25.6 meter (84–foot) median, valley ditch type design and paved shoulders constructed within a predominant 91.4 meter (300 foot) right-of-way. Minor corrections of the vertical alignment would be implemented where possible. It has not yet been determined whether improvements are more likely on the east side or the west or if there are areas where the alignments need to cross over or narrow. Consequently, the alternatives are centered on the existing roadway with the widening either all west or all east. The existing right-of-way varies but is predominantly 36.6 meters (120 feet).

Early coordination with a number of Federal, State, and local agencies has identified the more significant issues to be addressed in the EIS. Accordingly, no agency scoping meeting is planned at this time. A scoping report has been prepared identifying the alternatives and the social, economic, and environmental issues involved and is available to all interested agencies, organizations and individuals on request. A public meeting was held on March 25, 1993 to provide the public an opportunity to discuss the proposed action. Comment on the scoping report and issues identified are invited from all interested parties. Requests for a copy of the scoping document or any comments submitted should be addressed to the above contact persons.

The Draft EIS is scheduled for completion in 1996 and will be made available for public and agency review and comment.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planing and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: April 12, 1995.

Donald Cameron,

Planning & Program Development Engineer, Lansing, Michigan.

[FR Doc. 95–10664 Filed 5–1–95; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TREASURY

Internal Revenue Service

Announcement of Open Membership Application Period for the Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service, Treasury.

SUMMARY: In 1991 the Internal Revenue Service (IRS) established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures, and when necessary, suggests ways to improve the operation of the Information Reporting Program. IRPAC is currently comprised of 20 representatives from various segments of the private sector payer community. Ten of these appointments to IRPAC will expire at the end of 1995. Additional members will be selected for two-year terms beginning in January 1996. National business, technical, and professional associations are encouraged to submit multiple nominees.

SUPPLEMENTARY INFORMATION: IRPAC reports to the National Director, Service Center Compliance, who is the executive responsible for information reporting and is charged with its system-wide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden.

IRPAC members are not paid for their time or services, but consistent with Federal regulations, they will be reimbursed for their travel and lodging expenses to attend two two-day public meetings each year. IRPAC members are expected to attend and pay their own way to four subcommittee meetings each year; these meetings are generally held in Washington, DC or New York, NY.

The IRS is interested in representation from different areas of the payer community (e.g., banking, data processing, mutual funds, securities, life insurance, public accounting, payroll, and state & local government, etc.). Anyone wishing to be considered for membership on IRPAC should so advise the IRS. Please complete the following application questionnaire (or a facsimile thereof prepared on a word processor), and forward it to Ms. Kate LaBuda of the Office Payer Compliance, at the address below.

ADDRESSES: Internal Revenue Service, CP:CO:SC:P, 1111 Constitution Avenue, NW., room 2013, Washington, DC 20224.

DATES: Completed questionnaires (or facsimiles) should be received by IRS no later than June 30, 1995. Questionnaires received after this date will not be considered. An acknowledgment letter will be sent upon receipt.

FOR FURTHER INFORMATION CONTACT: Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: April 19, 1995.

Larry Faulkner,

Director, Office of Payer Compliance, Service Center Compliance.

Information Reporting Program Advisory Committee Membership Application Questionnaire

The following questions must be answered by anyone interested in becoming a member of the Information Reporting Program Advisory Committee (IRPAC). Applications (or facsimiles produced on a word processor) must be received at the address listed below by June 30, 1995. Those received after this date will not be considered. All applications received will be acknowledged. Questions may be directed to Kate LaBuda at 202–622–3404.

Ms. Kate LaBuda, CP:CO:SC:P, Service Center Compliance, Internal Revenue Service, Room 2013, 1111 Constitution Avenue NW., Washington, DC 20224.

1. Name:
2. Title:
3. Company or Organization Name:
4. Business Address:
5. Business Phone:
6. Fax Number:
7. Home Address:
8. Home Phone:

9. If you are applying on behalf of an organization or association other than your employer, please state the name, and address of that organization. Also, provide a letter of reference from that organization stating that you are nominated on their behalf. This letter should contain the name of a contact and this contact's phone number.

10. List professional credentials (e.g., Ph.D., CPA, Enrolled Agent, Attorney, Accountant, etc.)

11. Check the *one* segment of the Information Reporting Program (IRP) payer community to which the organization that you represent, and your experience, most closely relate:

_____ Real Estate
_____ Transmitter/Forms Developer
_____ Software Developer
_____ Insurance: Property & Casualty
_____ Insurance: Life
_____ Securities
_____ Mutual Funds
_____ Payroll
_____ State & Local Government
_____ Corporate Compliance
_____ Small Business Compliance
_____ Public Accounting
_____ Employee Plans
_____ Trust Company
_____ Corporate Transfer Agent/ Utilities
_____ Large Financial Institution
_____ Small Financial Institution
_____ Other (Please specify. _____)

12. List the number of years of IRP-related experience you have, and specific sources of this IRP experience. (Account for all years of IRP experience claimed.)

13. Identify organizations to which you belong and any relevant leadership positions you have held.

14. List any previous IRS employment (please state position/s, title/s, and length of time in each position):

15. Please propose two topic ideas that you feel would be appropriate for discussion by IRPAC. Include a short description (two sentences) of each topic.

THE FOLLOWING THREE ITEMS ARE REQUIRED FOR AN FBI NAME CHECK.

16. Date of Birth:
17. Place of Birth:
18. Other names ever used:

THE FOLLOWING ITEMS ARE REQUIRED FOR AN IRS TAX CHECK. (PLEASE NOTE THAT A TAX CHECK IS NOT A TAX AUDIT.)

I hereby authorize the Internal Revenue Service to perform the standard Federal Advisory Committee member tax check, (pursuant to 26 U.S.C. 6103; 5 U.S.C. 1303; Executive Orders 9397, 11222, 10450; CFR 5.2; 31 CFR Part O, Treasury Department Order Nos. 82 (Revised) and 150–87) and to provide this information to the Assistant Secretary (Administration) of the Treasury Department.

I understand that the purpose of such tax check and income tax filing record check is to promote public confidence in the integrity of the Treasury Department and its administration of the Federal tax system. I have been advised that my Social Security Number is required to identify my tax records accurately. I also understand that this tax check must be completed prior to my appointment to this Federal Advisory Committee and I hereby voluntarily provide the following information:

19. Social Security Number:

20. Spouse's name and SSN (if married and filing jointly):

21. Name(s) and address(es) under which tax returns were filed for the past three years.

THE FOLLOWING ITEM IS REQUIRED BECAUSE OF THE FOREIGN AGENTS REGISTRATION ACT (FARA), AS AMENDED.

22. I presently _____ am / _____ am not required to register as an agent of a foreign principal under FARA, as amended.

Note: Pursuant to 18 U.S.C. sec. 219, an individual who is required to register as an agent of a foreign principal under FARA is prohibited from serving on IRPAC. By executing this questionnaire, you agree that (1) if you are required to register as an agent of a foreign principal under the FARA before your term commences on IRPAC, you will terminate any and all such agencies prior to beginning your tenure and will provide appropriate verification therefor; and (2) you will immediately resign from IRPAC if you become such an agent at any time during your term.

Certification

23. I certify that, to the best of my knowledge and belief, all of my statements are true, correct, complete, and made in good faith. I also agree to the background checks set forth herein.

Signature _____
Date _____

[FR Doc. 95–10764 Filed 5–1–95; 8:45 am]

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VOL
60
ISS
84
MY
2
1995
UMI

DEPARTMENT OF VETERANS AFFAIRS

Information Collections Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: None.

The Department of Veterans Affairs has submitted to OMB the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the type of information collection and the following: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collections and supporting documents may be obtained from Trish Fineran, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–6886.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 10102, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collections should be directed to the OMB Desk Officer on or before June 1, 1995.

Dated: April 24, 1995.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

Extension

1. Application for Reimbursement from Accrued Amounts Due a Deceased Beneficiary, VA form 21–601.

2. The form is used to file a claim for accrued benefits available at the time of the veteran's death. The information is used by Veterans Benefits Administration to determine the appropriate claimant eligible for accrued benefits.

3. Individuals or households.

4. 1,875 hours.

5. 30 minutes.

6. On occasion.

7. 3,750 respondents.

Extension

1. Report and Certification of Loan Disbursement, VA Form 26–1820.

2. This form is completed by lenders closing VA loans under the automatic or prior approval procedure subsequent to issuance of guaranty.

3. Individuals or households.

4. 150,000 hours.

5. 30 minutes.

6. On occasion.

7. 300,000 respondents.

Reinstatement

1. Application for Conversion, VA Form 29–0152.

2. The form is used by the insured to apply for conversion of a term policy to a permanent plan of insurance. The information is used by Veterans Benefits Administration to initiate the processing of the insured's request to convert his/her term insurance.

3. Individuals or households.

4. 1,125 hours.

5. 15 minutes.

6. On occasion.

7. 4,500 respondents.

Reinstatement

1. Designation of Beneficiary, VA Form 29–336.

2. The form is used by the insured to designate a beneficiary and select an optional settlement to be used when the insurance matures by death. The information is requested to determine the claimants eligibility to receive the proceeds.

3. Individuals or households.

4. 13,917 hours.

5. 10 minutes.

6. On occasion.

7. 83,500 respondents.

Reinstatement

1. Application of Surviving Spouse or Child for REPS Benefits (Restored Entitlement Program for Survivors), VA Form 21–8924.

2. The form is used by dependents of deceased veterans for the sole purpose of making a claim for REPS benefits. The information is used by Veterans Benefits Administration to determine whether the claimant is eligible for REPS benefits.

3. Individuals or households.

4. 2,500 hours.

5. 20 minutes.

6. On occasion.

7. 7,000 respondents.

[FR Doc. 95–10691 Filed 5–1–95; 8:45 am]

BILLING CODE 8320–01–M

Privacy Act of 1974; Report of Matching Programs

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of renewal—VA/IRS Match Program.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs (VA), Veterans Health Administration (VHA), intends to renew the computer matching program comparing Internal Revenue Service (IRS) and Social Security Administration (SSA) income records with VA patient income data which is contained in the patient medical records.

The goal of these matches is to compare income, social security number, and employment status as reported to VHA with income records maintained by IRS and SSA. For the information of all concerned, a summary report of the VHA matching program describing the computer matches follows. In accordance with 5 U.S.C. 552a(o)(2), copies of the computer matching report are being sent to both houses of Congress. These matches are expected to commence on or about May 1, 1995, but start no sooner than 30 days after publication of this notice in the **Federal Register**, or 40 days after copies of this notice and the agreement are submitted to Congress and the Office of Management and Budget. These matches may be extended by the involved Data Integrity Boards for a twelve month period provided all agencies involved certify to the Data Integrity Boards, within three months of the termination date of the original match, that the matching program will be conducted without change and the matching programs have been conducted in compliance with the original matching agreements. The matches will not continue past the legislative authorized date to obtain this information. However, expiration of this agreement is December 31, 1995.

ADDRESSES: Interested individuals may comment on the matches by writing to the Associate Chief Medical Director for Administration (161D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Janice E. Wheeler (202) 273–6276, Program Analyst, Income Verification Match Policy Service.

SUPPLEMENTARY INFORMATION: Further information regarding the matching program is provided below. This information is required by Title 5 U.S.C. 552a(e)(12), the Privacy Act of 1974, as amended. A copy of this notice has been provided to both houses of Congress and the Office of Management and Budget.

Approved: April 25, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

Report of Matching Program

Department of Veterans Affairs Patient Medical Records With Income Records Maintained by the Internal Revenue Service and the Social Security Administration

a. *Authority:* Title 38, U.S.C. 5106 and 5317; Pub. L. 101–508 as amended by Pub. L. 102–568.

b. *Program Description:*

(1) Purpose: (a) the Department of Veterans Affairs (VA), Veterans Health Administration (VHA) plans to match the household income information contained in the medical records of certain nonservice-connected veterans, with the income records for those persons maintained by the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Those nonservice-connected veterans subject to income verification matching are those veterans who are receiving VA medical care in a mandatory eligibility category due to a finding of low income subsequent to means testing.

(b) Currently, information about a veterans household income (i.e., veterans and spouses receipt of wage, self-employment and other income as well as employment status, health insurance coverage and number of dependents) is obtained when the veteran makes application for medical care at a VA medical care facility. The household income and dependent data is evaluated in a "means test" which takes into account deductions of certain income not counted as such for Veterans Health Administration eligibility purposes. Once a net income for the veteran is established, it is applied against means test thresholds, or levels of income establishing mandatory or discretionary eligibility for medical care. If the veteran's net income falls below the applicable means test threshold, he or she is eligible for mandatory care (i.e., no-cost care); however, if the net income falls over the applicable threshold, the veteran is given a discretionary eligibility. Veterans who are eligible for discretionary care are provided care if the VA medical facility has the resources to treat discretionary veterans, and if the veteran agrees to make a co-payment for such care. The proposed matching programs will enable VA to verify the accuracy of reported income and employment status and therefore more accurately determine eligibility for medical care.

(2) *Procedures:* VA's Veterans Health Administration has established an Income Verification Match (IVM) Center. The IVM Center will electronically extract demographic and income data from each VA medical care facility's database on nonservice-connected veterans found eligible for mandatory care based solely on low income. The VHA IVM extract file will be matched against IRS and SSA income records. If a VHA record and SSA or IRS record match on social security number and name, the IVM Center will begin an extensive case development and verification process. This process will assure the validity of the matched cases by verifying the IRS/SSA reported income amount with the payer(s) and recipients of the income. Each veteran and/or spouse identified by the match will be contacted in order to notify the veteran and/or spouse of any income discrepancy identified by the match, to verify the discrepancy, and to advise him or her of potential changes to the veteran's medical care eligibility at the VA medical center, and the potential billing action for co-payments. Before any adverse action is taken, the individual(s) identified by the match will be given the opportunity to contest the findings. Where there are reasonable grounds to believe that there has been a violation of criminal laws, the matter will be referred for prosecution

consideration in accordance with existing VA policies.

c. *Records to be Matched:* The VA records involved in the match are patient medical records maintained in the "Patient Medical Record-VA (24VA136)" published at 40 FR 38095 (8/26/75) and amended at 40 FR 52125 (11/7/75), 41 FR 2881 (1/20/76), 41 FR 11631 (3/19/76), 42 FR 30557 (6/15/72), 44 FR 31058 (5/30/79), 45 FR 77220 (11/21/80), 46 FR 2766 (1/12/81), 47 FR 28522 (6/30/82), 47 FR 51841 (11/17/82), 50 FR 11610 (3/22/85), 51 FR 25968 (7/17/86), 51 FR 44406 (12/9/86), 52 FR 381 (1/5/87), 53 FR 49818 (12/13/90), 55 FR 5112 (2/13/90), 55 FR 37604 (9/12/90), 55 FR 42534 (10/19/90), 56 FR 1054 (1/10/91), 57 FR 28003 (6/23/92), 57 FR 4519 (10/1/92), 58 FR 29853 (5/24/93), 58 FR 40852 (7/30/93) and 58 FR 57674 (10/26/93). The IRS records are from the Wage and Information Returns (IRP) Master File, Privacy Act system Treas/IRS 22.061. The SSA records are from the Earnings Recording and Self-Employment Income system, HHS/SSA/OSR 09–60–0059.

d. *Period of Match:* The initial date exchanges are expected to begin 40 days after the matching agreements are signed by the Data Integrity Boards (DIB's) and Congressional Offices and OMB have been notified, and 30 days from the date of publication of notice in the **Federal Register** or 40 days from the date this notice is approved, whichever is later. These matches may be extended by the involved DIB's for a twelve-month period provided the agencies participating in the match certify to the DIB's, within three months of the termination date of the original match, that the matching program will be conducted without change and the matching programs have been conducted in compliance with the original matching agreements. The matches will not continue past the date legislative authority to obtain this information expires.

[FR Doc. 95–10692 Filed 5–1–95; 8:45 am]

BILLING CODE 8320–01–M

VOL 60 ISS 84 MY 2 1995 UMI

Sunshine Act Meetings

Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

FCC to Hold Open Commission Meeting Thursday, May 4, 1995

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, May 4, 1995, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Item No., Bureau, and Subject

1—Mass Media—Title: Review of the Commission's Regulations Regarding Network Control of Station Rates and Network Advertising Representation Rules. Summary: The Commission will consider action concerning Sections 73.658(h) and (i) of the Commission's Rules, which regulate a broadcast television network's relationship with its affiliates with regard to the affiliates' advertising rates and sales representation.

2—Cable Services—Title: Implementation of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992—Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming. Summary: The Commission will consider whether to solicit information, data and comment from the public for its 1995 report to Congress on the status of competition in the market for the delivery of video programming.

3—Common Carrier—Title: The NYNEX Telephone Companies Petition for Waiver, Transition Plan to Preserve Universal Service in a Competitive Environment. Summary: The Commission will consider the NYNEX petition for waiver of Parts 61 and 69 of the Commission's Rules.

4—Common Carrier—Title: Rules and Policies Regarding Calling Number Identification Service—Caller ID (CC Docket No. 91-281). Summary: The Commission will consider action concerning policies for interstate caller ID.

5—Mass Media and General Counsel—Title: Application for Renewal of License of Station WNYW-TV, New York, New York. Summary: The Commission will consider the Application of Fox Television Stations, Inc., for renewal of License for Station WNYW-TV, New York, New York.

Additional information concerning this meeting may be obtained from Audrey Spivack or Maureen Peratino, Office of Public Affairs, telephone number (202) 418-0500.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95-10849 Filed 4-28-95; 11:01 am]

BILLING CODE 6712-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 8, 1995.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 28, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10915 Filed 4-28-95; 3:02 pm]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION

TIME AND DATE: 4:00 p.m., Wednesday, May 3, 1995.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Discussion of status of Telemarketing Rulemaking.

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2180, Recorded Message: (202) 326-2711.

Donald S. Clark,

Secretary.

[FR Doc. 95-10930 Filed 4-28-95; 3:54 pm]

BILLING CODE 6750-01-M

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 9, 1995.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423.

STATUS: The Commission will meet to discuss among themselves the following agenda items. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED: Ex Parte No. 346 (Sub-No. 34), *Rail General Exemption Authority—Exemption Of Hydraulic Cement.* Finance Docket No. 32352, *Chevron U.S.A., Inc.—Lease And Operation Exemption—Richmond Belt Railway.* Docket No. AB-362 (Sub-No. 2X), *Texas And Oklahoma R.R. Company—Abandonment—Between The Oklahoma-Texas State Line And Orient Junction (Sweetwater), Texas.* Ex Parte No. MC-37 (Sub-No. 41), *Petition To Establish A Commercial Zone Of El Paso County, Texas And Dona Ana And Luna Counties, New Mexico.*

CONTACT PERSONS FOR MORE INFORMATION: Alvin H. Brown or A. Dennis Watson, Office of Congressional and Press Services, Telephone: (202) 927-5350, TDD: (202) 927-5721.

Vernon A. Williams,

Secretary.

[FR Doc. 95-10892 Filed 4-28-95; 3:02 pm]

BILLING CODE 7035-01-P

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 1, 8, 15, and 22, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 1

Wednesday, May 3

2:00 p.m.
Briefing on NRR Licensing Actions Program (Public Meeting)
(Contact: Roy Zimmerman, 301-415-1284)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of May 8—Tentative

Thursday, May 11

10:00 a.m.

Briefing on Business Process Reengineering for Materials Licensing Area (Public Meeting)
(Contact: Pat Rathbun, 301-415-7178)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, May 12

10:00 a.m.
Briefing by DOE on HLW Licensing Support System (LSS) (Public Meeting)

Week of May 15—Tentative

Friday, May 19

10:00 a.m.
Briefing on Site Decommissioning Management Plan (SDMP) Program and Policy Issues (Public Meeting)
(Contact: Mike Weber, 301-415-7298)

Week of May 22—Tentative

Wednesday, May 24

10:00 a.m.
Briefing on Part 1 Recommendations for National Performance Review Phase II (Public Meeting)
(Contact: Jack Roe, 301-415-1354)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, May 26

10:00 a.m.
Briefing on Steam Generator Issues (Public Meeting)

ADDITIONAL INFORMATION: By a vote of 3-0 on April 25, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that "Affirmation of Babcock and Wilcox Company (Pennsylvania Nuclear Service Operations, Parks Township, PA), Initial Decision (License Renewal), LBP-95-1, Docket No. 70-364-ML-Ren" (Public Meeting) be held on April 26, and on less than one week's notice to the public.

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (301) 415-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 415-1661.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1963).

In addition, distribution of this meeting notice over the internet system will also become available in the near future. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95-10908 Filed 4-28-95; 2:16 pm

BILLING CODE 7590-01-M

VOL
60
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84
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Corrections

Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

Drug Products Containing Quinine for the Treatment and/or Prevention of Malaria for Over-the-Counter Human Use

Correction

In proposed rule document 95–9701 beginning on page 19650 in the issue of Wednesday, April 19, 1995, make the following correction:

§ 310.547 [Corrected]

On page 19655, in the third column, in § 310.547(d), in the first line, "May 19, 1995" should read "*(insert date 30 days after date of publication of the final rule in the* **Federal Register**)".

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AF18

Federal Employees Health Benefits Program: Filing Claims; Disputed Claims Procedures and Court Actions

Correction

In rule document 95–7793 beginning on page 16037, in the issue of Wednesday, March 29, 1995, make the following corrections:

1. On page 16037, in the third column, under **SUPPLEMENTARY INFORMATION:**, in the first full paragraph, in the second line, "15 CFR 890.105," should read "5 CFR 890.105,".

§890.107 [Corrected]

2. On page 16039, in the first column, in §890.107 (c), in the third line, "State" should read "Federal".

BILLING CODE 1505–01–D

federal register

Tuesday
May 2, 1995

Part II

Environmental Protection Agency

40 CFR Part 439
Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pharmaceutical Manufacturing Category; Proposed Rule

VOL
60
ISS
84
MY
2
1995
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 439

[FRL–5165–2]

RIN 2060–AC49

Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards: Pharmaceutical Manufacturing Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would limit the discharge of pollutants into waters of the United States and the introduction of pollutants into publicly owned treatment works by existing and new facilities that manufacture pharmaceuticals. The proposed rule establishes limitations on pollutants, but does not specify the technology to be employed to achieve compliance. The Agency intends that this proposed rule will have a common technology basis with a rule yet to be proposed to control air emissions to allow coordinated and cost effective compliance planning by the industry.

This proposed rule would annually reduce priority pollutant discharges from this industry by an estimated 15.7 million pounds and total pollutant discharges by 139 million pounds at an estimated annual cost of $80 million (1994 $). The benefits include reductions in both carcinogenic and non-carcinogenic risk, ecological and recreational benefits due to improved water quality, and benefits to publicly owned treatment works such as improved worker health and safety.

As a result of consultation with stakeholders, the preamble solicits comments and data not only on issues raised by EPA, but also on those issues raised by State and local governments who will be implementing these regulations and by industry representatives who will be affected by them.

DATES: Comments on the proposed rule must be received by July 31, 1995 at the address noted below. EPA will conduct a public hearing on the effluent pretreatment standards included in the proposed rule. EPA will publish in the **Federal Register** an announcement of the public hearing.

ADDRESSES: Send written comments on this proposal in triplicate and in electronic form if possible to Mr. David Hoadley, Engineering and Analysis Division (4303), U.S. EPA, 401 M Street SW., Washington, DC 20460. The public record supporting the proposed effluent limitations guidelines and standards is in the Water Docket located in the basement of the EPA Headquarters building, Room L102, 401 M Street SW., Washington, DC 20460, telephone number (202) 260–3027. EPA regulations at 40 CFR part 2 provide that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Background documents supporting the proposed regulations are described in the "Background Documents" section below. Contact the Office of Water Resource Center, RC–4100, at the U.S. EPA, Washington, DC address shown above, telephone (202) 260–7786, for the voice mail publication request line. For additional information on the engineering aspects of the regulation, contact Dr. Frank H. Hund, Engineering and Analysis Division (4303), U.S. EPA, 401 M Street SW., Washington, DC 20460, at (202) 260–7182. For additional information on the economic and statistical aspects of the regulation, contact Mr. Neil Patel at the address above at (202) 260–5405. For additional engineering information on the preliminary air emissions control aspects of this rule, contact Mr. Randy McDonald, Office of Air Quality Planning and Standards (MD–13), Research Triangle Park, NC 27711, at (919) 541–5402.

SUPPLEMENTARY INFORMATION:

Overview

The preamble describes the definitions, acronyms, and abbreviations used in this notice; the background documents that support these proposed regulations; the legal authority of this rule; a summary of the proposal; background information; and the technical and economic methodologies used by the Agency to develop these proposed regulations. This preamble also solicits comment and data on all aspects of this rulemaking, including on specific areas of interest.

Confidential Business Information

EPA notes that many documents in the record supporting this proposed rule have been claimed as confidential business information and, therefore, are not included in the record that is available to the public in the Water Docket. To support the rulemaking, EPA is presenting certain information in aggregated form or is masking plant identities to preserve confidentiality claims. Further, the Agency has withheld from disclosure some data not claimed as confidential business information because release of this information could indirectly reveal information claimed to be confidential.

Plant-specific data that have been claimed as confidential business information are available to the company that submitted the information. To ensure that all CBI is protected in accordance with EPA regulations, any requests for company-specific data should be submitted on that company's letterhead and signed by a responsible official authorized to receive such data. The request must list the specific data requested and include the following statement, "I certify that EPA is authorized to transfer confidential business information submitted by my company, and that I am authorized to receive it."

Organization of this document:

I. Definitions, Acronyms, and Abbreviations
II. Background Documents
III. Legal Authority
IV. Summary and Scope of the Proposed Rule
A. Effluent Limitations Guidelines and Standards
1. Subcategorization
2. Best Practicable Control Technology Currently Available (BPT)
3. Best Conventional Pollutant Control Technology (BCT)
4. Best Available Technology Economically Achievable (BAT)
5. New Source Performance Standards (NSPS)
6. Pretreatment Standards for Existing Sources (PSES)
7. Pretreatment Standards for New Sources (PSNS)
8. Best Management Practices (BMPs)
B. Scope of the Proposed Rule
V. Background
A. Clean Water Act
1. Statutory Requirements of Regulations
2. Prior Regulations
3. Litigation History
4. Section 304(m) Requirements
B. Clean Air Act
C. Resource Conservation and Recovery Act (RCRA)
D. Pollution Prevention Act of 1990
E. Common Sense Initiative
VI. Regulatory Development Under the Clean Water Act
A. Background
B. Goals
C. Technical Approach
1. Information Collection
2. Summary of Public Participation
3. Development of Effluent Limitations Control Technology Options
4. Analyses of Regulatory Alternatives
VII. Description of the Industry
A. Pharmaceutical Manufacturing Facilities
B. Manufacturing Processes
1. Fermentation
2. Biological and Natural Extraction
3. Chemical Synthesis
4. Mixing/Compounding/Formulating
VIII. Summary of Data Gathering Efforts
A. Technical and Economic Data
1. 1989 Screener Survey of the Pharmaceutical Industry
2. 1990 Pharmaceutical Manufacturing Industry Survey
3. Sampling and Analytical Program
B. Air Emission Data
IX. Development of Effluent Limitations Guidelines and Standards
A. Industry Subcategorization
1. Introduction
2. Current Subcategorization
3. Rationale for Maintaining the Current Subcategorization
4. Subcategory Regulation Not Revised
B. Water Use, Wastewater Discharge and Characterization
1. Water Use and Wastewater Generation
2. Wastewater Discharge
3. Wastewater Characterization
C. Selection of Pollutant Parameters
1. Pollutants Regulated
2. Pollutants Not Regulated
D. Available Technologies
1. Pollution Prevention Technologies Considered
2. In-plant Technologies Considered
3. End-of-Pipe Technologies Considered
E. Rationale for Selection of Technology Bases for Proposed Regulations
1. BPT
2. BCT
3. BAT
4. NSPS
5. PSES
6. PSNS
7. BMPs
F. Determination of Long-Term Averages, Variability Factors, and Limitations
G. Costs
1. BPT
2. BAT
3. PSES
H. Pollutant Reductions
1. Conventional Pollutants
2. Priority Pollutants
3. Nonconventional Pollutants
I. Regulatory Implementation
1. Applicability
2. Upset and Bypass Provisions
3. Variances and Modifications
4. Relationship of Effluent Limitations to NPDES Permits and Monitoring Requirements
5. Best Management Practices
6. Analytical Methods
X. Regulation of the Pharmaceutical Manufacturing Industry Under the Clean Air Act Amendments of 1990
A. Preliminary Development of Air Emissions Standards
B. Potential Interaction of Proposed Effluent Limitations Guidelines and Future Air Emissions Standards
XI. Impacts of Regulatory Options Considered in this Rulemaking
A. Regulatory Options
B. Economic Impact Considerations
1. Introduction
2. Projected Facility Economic Impacts
3. Projected Owner Company-Level Economic Impacts
4. Projected Employment Losses and Gains and Community-Level Economic Impacts
5. Projected Foreign Trade Impacts
6. Regulatory Flexibility Analysis
7. Projected Distributional Impacts
8. Projected Impacts on New Sources
9. Regulatory Impact Assessment
XII. Relationship of Proposed Effluent Guidelines to EPA's Hazardous Waste Initiatives
A. Relationship to Rulemaking Activities Under RCRA
1. Introduction and Overview of Land Ban Regulations
2. The Land Disposal Restrictions Program
3. Phase 3 and the Pharmaceutical Effluent Guidelines
B. Coordination With Waste Minimization and Combustion Strategy
1. Waste Minimization
2. Combustion
XIII. Administrative Requirements
A. Changes in Format and Name
B. Docket and Public Record
C. Clean Water Act Procedural Requirements
D. Executive Order 12866
E. Regulatory Flexibility Act
F. Reduction of Unfunded Mandates and Consultation with State Local, and Tribal Governments
G. Paperwork Reduction Act
XIV. Solicitation of Data and Comments
A. Introduction and General Solicitation
B. Specific Data and Comment Solicitations

I. Definitions, Acronyms, and Abbreviations

1989 Pharmaceutical Screener Questionnaire—A short questionnaire distributed by EPA to all known pharmaceutical facilities in June 1989 in order to identify plants which manufacture pharmaceutical products.

1990 Detailed Questionnaire—The 1990 Pharmaceutical Manufacturing Survey. A questionnaire sent by EPA to certain facilities in the pharmaceutical manufacturing industry in September 1991 to gather technical and financial information. The questionnaire was sent to those facilities likely to be affected by promulgation of revised effluent limitations guidelines, pretreatment standards, and new source performance standards for this industry.

Administrator—The Administrator of the U.S. Environmental Protection Agency.

Agency—The U.S. Environmental Protection Agency.

Annual average—The mean concentration, mass loading or production-normalized mass loading of a pollutant over a period of 365 consecutive days (or such other period of time determined by the permitting authority to be sufficiently long to encompass expected variability of the concentration, mass loading or production-normalized mass loading at the relevant point of measurement).

Average monthly discharge limitation—The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

BAT—The best available technology economically achievable, as described in Section 304(b)(2) of the Clean Water Act.

Bench-scale operation—Laboratory testing of materials, methods, or processes on a small scale, such as on a laboratory worktable.

BCT—The best conventional pollutant control technology, as described in section 304(b)(4) of the Clean Water Act.

BID—Background Information Document, which presents the technical basis for air pollution controls under the Clean Air Act.

Biological and Natural Extraction—The chemical and physical extraction of pharmaceutically active ingredients from natural sources such as plant roots and leaves, animal glands, and parasitic fungi. The process operations involving biological and natural extraction define subcategory B (40 CFR 439, subpart B).

BMP or BMPs—Best management practices, as described in section 304(e) of the Clean Water Act.

BOD_5—Five-Day Biochemical Oxygen Demand. A measure of biochemical decomposition of organic matter in a water sample. It is determined by measuring the dissolved oxygen consumed by microorganisms to oxidize the organic contaminants in a water sample under standard laboratory conditions of five days and 20 °C. BOD_5 is not related to the oxygen requirements in chemical combustion.

Boiler—Any enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator.

BPT—The best practicable control technology currently available, as described in section 304(b)(1) of the Clean Water Act.

CAA—Clean Air Act. The Air Pollution Prevention and Control Act (42 U.S.C. 7401 et seq.), as amended, *inter alia*, by the Clean Air Act Amendments of 1990 (Pub. L. 101–549, 104 Stat. 2399).

Chemical Synthesis—The process(es) of using a chemical reaction or a series of chemical reactions to manufacture pharmaceutically active ingredients. The chemical synthesis process operations define subcategory C (40 CFR 439, subpart C).

Clarifier—A treatment unit designed to remove suspended materials from wastewater, typically by sedimentation.

Closed vent system—A system that is not open to the atmosphere and is composed of piping, ductwork,

VOL 60 ISS 84 MY 2 1995 UMI

connections, and, if necessary, flow-inducing devices that transport gas or vapor from an emission point to a control device or back into the process.

CN—Abbreviation for total cyanide.

COD—Chemical oxygen demand (COD)—A nonconventional bulk parameter that measures the total oxygen-consuming capacity of wastewater. This parameter is a measure of materials in water or wastewater that are biodegradable and materials that are resistant (refractory) to biodegradation. Refractory compounds slowly exert demand on downstream receiving water resources. Certain of the compounds measured by this parameter have been found to have carcinogenic, mutagenic, and similar adverse effects, either singly or in combination. It is expressed as the amount of oxygen consumed by a chemical oxidant in a specific test.

Combustion device—An individual unit of equipment, including but not limited to, an incinerator or boiler, used for the thermal oxidation of organic hazardous air pollutant vapors.

Condensate—Any material that has condensed from a gaseous phase into a liquid phase.

Continuous discharge—Discharge that occurs without interruption throughout the operating hours of the facility.

Control Techniques Guidance (CTG)—A document prepared to provide State and local air pollution authorities with an information base for proceeding with analysis of Reasonably Available Control Technology (RACT) to meet Clean Air Act statutory requirements.

Controlled-release discharge—A discharge that occurs at a rate that is intentionally varied to accommodate fluctuations in receiving stream assimilative capacity or for other reasons.

Conventional pollutants—The pollutants identified in section 304(a)(4) of the Clean Water Act and the regulations thereunder (i.e., biochemical oxygen demand (BOD_5), total suspended solids (TSS), oil and grease, fecal coliform and pH).

CWA—Clean Water Act. The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et seq.), as amended, *inter alia*, by the Clean Water Act of 1977 (Pub. L. 95–217) and the Water Quality Act of 1987 (Pub. L. 100–4).

Daily discharge—The discharge of a pollutant measured during any calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

Direct discharger—A facility that discharges or may discharge treated or untreated process wastewaters, non-contact cooling waters, or non-process wastewaters (including stormwater runoff) into waters of the United States.

Effluent—Wastewater discharges.

Effluent limitation—Any restriction, including schedules of compliance, established by a State or the Administrator on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the United States, the waters of the contiguous zone, or the ocean.

Emission—Passage of air pollutants into the atmosphere via a gas stream or other means.

Emission point—Any location within a source from which air pollutants are emitted, including an individual process vent, an opening within a wastewater collection and treatment system, or an open piece of process equipment.

EOP effluent—Final plant effluent discharged to waters of the United States or to a POTW.

EOP treatment—End-of-pipe treatment facilities or systems used to treat process wastewaters, non-process wastewaters (including stormwater runoff) after the wastewaters have left the process area of the facility and prior to discharge. End-of-pipe treatment generally does not include facilities or systems where products or by-products are separated from process wastewaters and returned to the process or directed to air emission control devices.

EPA—The U.S. Environmental Protection Agency.

General Provisions—General Provisions for national emission standards for hazardous air pollutants and other regulatory requirements pursuant to section 112 of the Clean Air Act, as amended November 15, 1990. The General Provisions, located in subpart A of part 63 of title 40 of the Code of Federal Regulations, codify procedures and criteria to implement emission standards for stationary sources that emit (or have the potential to emit) one or more of the 189 chemicals listed as hazardous air pollutants in section 112(b) of the Clean Air Act as amended in 1990. EPA published the NESHAP General Provisions in the **Federal Register** on March 16, 1993 (59 FR 12408). The term General Provisions also refers to the General Provisions for the effluent limitations guidelines and standards proposed today, to be located at 40 CFR part 439.

Fermentation—A chemical change induced by a living organism or enzyme, specifically bacteria or the microorganisms occurring in unicellular plants such as yeast, molds, or fungi. Process operations that utilize fermentation to manufacture pharmaceutically active ingredients define subcategory A (40 CFR 439, subpart A).

HAP—Hazardous Air Pollutant. Any of the 189 chemicals listed under section 112(b) of the Clean Air Act.

HON—Hazardous Organic NESHAP. As used in this notice, it refers to the standard published by EPA for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) on April 22, 1994 (59 FR 19402).

Incinerator—An enclosed combustion device that is used for destroying organic compounds. Auxiliary fuel may be used to heat waste gas to combustion temperatures. Any energy recovery section present is not physically formed into one manufactured or assembled unit with the combustion section; rather, the energy recovery section is a separate section following the combustion section and the two are joined by ducts or connections carrying flue gas.

Indirect discharger—A facility that discharges or may discharge wastewaters into a publicly owned treatment works.

Individual drain system—The system used to convey process wastewater streams away from the pharmaceutical manufacturing process equipment or tank, or process wastewater collection and treatment system unit. The term includes all process drains and junction boxes, together with their associated sewer lines and other junction boxes, manholes, sumps and lift stations. The individual drain system is designed to segregate the vapors within the system from other drain systems. A separate storm sewer system, which is a drain and collection system designed and operated for the purpose of collecting storm runoff at a facility, and which is segregated from all other individual drain systems, is excluded from this definition.

In-plant Control Technologies—These include controls or measures applied within the manufacturing process to reduce or eliminate pollutant and hydraulic loadings; these also include technologies, such as steam stripping and cyanide destruction, applied directly to wastewater generated by manufacturing processes.

IU—Industrial User. Synonym for "Indirect Discharger."

Junction box—A manhole access point to a wastewater sewer system or a lift station.

LTA—Long-term average. For purposes of proposed effluent limitations guidelines and standards, average pollutant levels achieved over a period of time by a plant, subcategory, or technology option. LTAs were used in developing the limitations and standards in today's proposed regulation.

MACT—Maximum Achievable Control Technology. Technology basis for the national emission standards for hazardous air pollutants.

Major source—As defined in section 112(a) of the Clean Air Act, major source is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

Maximum daily discharge limitation—The highest allowable daily discharge of a pollutant measured during a calendar day or any 24 hour period that reasonably represents a calendar day for purposes of sampling.

Mg—Megagram. One million (10^6) grams, or one metric ton.

Metric ton—One thousand (10^3) kilograms (abbreviated as kkg), or one megagram. A metric ton is equal to 2,204.5 pounds.

Minimum level—The level at which an analytical system gives recognizable signals and an acceptable calibration point.

Mixing/Compounding/Formulating—Processes through which pharmaceutically active ingredients are put in dosage forms. Processes involving mixing/compounding/formulating define subcategory D (40 CFR 439, subpart D).

Modification—As defined in section 112(a) of the Clean Air Act, modification is any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount.

NESHAP—National Emission Standard for Hazardous Air Pollutants. Emission standard promulgated that has been or will be promulgated under section 112(d) of the Clean Air Act for hazardous air pollutants listed in section 112(b) of the Clean Air Act.

New Source—As defined in 40 CFR 122.2, 122.29, and 403.3(k), a new source is any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced (1) For purposes of compliance with New Source Performance Standards, after the promulgation of such standards being proposed today under CWA section 306; or (2) for the purposes of compliance with Pretreatment Standards for New Sources, after the publication of proposed standards under CWA section 307(c), if such standards are thereafter promulgated in accordance with that section.

Nonconventional pollutants—Pollutants that are neither conventional pollutants nor toxic pollutants.

Non-detect value—A concentration-based measurement reported below the minimum level that can reliably be measured by the analytical method for the pollutant.

Non-water quality environmental impact—An environmental impact of a control or treatment technology, other than to surface waters.

NPDES—The National Pollutant Discharge Elimination System authorized under section 402 of the CWA. The Clean Water Act requires NPDES permits for discharge of pollutants from any point source into waters of the United States.

NRDC—Natural Resources Defense Council.

NSPS—New Source Performance Standards. As used in this notice, this term refers to standards for new sources under section 306 of the CWA.

OMB—Office of Management and Budget.

Outfall—The mouth of conduit drains and other conduits from which a plant discharges effluent into receiving waters.

Pharmaceutically active ingredient—Any substance considered to be an active ingredient by Food and Drug Administration regulations (21 CFR 210.3(6)(7)).

Pilot-scale operation—The trial operation of processing equipment, which is the intermediate stage between laboratory experimentation and full-scale operation in the development of a new process or product.

Point of Generation—The location where the process wastewater stream exits the pharmaceutical process equipment.

Point source category—A category of sources of water pollutants that are included within the definition of "point source" in section 502(14) of the Clean Water Act.

Pollutant (to water)—Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, certain radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. See CWA section 502(6); 40 CFR 122.2.

POTW or POTWs—Publicly owned treatment works, as defined at 40 CFR 403.3(o).

Pretreatment standard—A regulation specifying industrial wastewater effluent quality required for discharge to a POTW.

Primary fuel—The fuel that provides the principal heat input to a combustion device. To be considered primary, the fuel must be able to sustain operation of the combustion device without the addition of other fuels.

Priority pollutants—The toxic pollutants listed in 40 CFR part 403, Appendix A (printed immediately following 40 CFR 423.17).

Process changes—Alterations in process operating conditions, equipment, or chemical use that reduce the formation of chemical compounds that are pollutants and/or pollutant precursors.

Process emission point—A gas stream that contains hazardous air pollutants discharged during operation of process equipment. Process emission points include gas streams that are discharged directly to the atmosphere, discharged to the atmosphere via vents or open process equipment, or discharged after diversion through a product recovery device.

Process unit—A piece of equipment, such as a chemical reactor or fermentation tank, associated with pharmaceutical manufacturing operations.

Process wastewater—Any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes surface runoff from the immediate process area that has the potential to become contaminated.

(1) For purposes of this part, the following materials are excluded from the definition of process wastewater:

1. Trimethyl silanol;
2. Any active anti-microbial materials;
3. Wastewater from imperfect fermentation batches; and
4. Process area spills.

VOL 60 ISS 84 MY 2 1995 UMI

(2) For purposes of this part, the following waters and wastewaters are excluded from the definition of process wastewater: noncontact cooling water, utility wastewaters, general site surface runoff, groundwater (e.g., contaminated groundwaters from on-site or off-site groundwater remediation projects), and other water generated on site that are not process wastewaters.

The discharge of such waters and wastewaters must be regulated separately.

Process wastewater collection system—A piece of equipment, structure, or transport mechanism used in conveying or storing a process wastewater stream. Examples of process wastewater collection system equipment include individual drain systems, wastewater tanks, surface impoundments, and containers.

Process wastewater stream—When used in connection with CAA obligations, any HAP-containing liquid that results from either direct or indirect contact of water with organic compounds.

Process water—Water used to dilute, wash, or carry raw materials or any other materials used in pharmaceutical manufacturing processes.

PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the CWA.

PSNS—Pretreatment standards for new sources of indirect discharges, under sections 307(c) of the CWA.

RCRA—Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901, et seq.).

Research—Bench-scale activities or operations used in research and/or product development of a pharmaceutical product. The Research operations define subcategory E (40 CFR 439, Subpart E).

SIC—Standard Industrial Classification. A numerical categorization system used by the U.S. Department of Commerce to denote segments of industry. An SIC code refers to the principal product, or group of products, produced or distributed, or to services rendered by an operating establishment. SIC codes are used to group establishments by the primary activity in which they are engaged.

Source Category—A category of major or area sources of hazardous air pollutants.

Source Reduction—The reduction or elimination of waste generation at the source, usually within a process. A source reduction practice is any practice that (1) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and (2) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

Stationary source—Any building, structure, facility, or installation that emits or may emit any air pollutant. See CAA section 111(a)(3).

Support Document(s)—see section II for titles.

TDD—Technical Development Document

TEQ—Toxic Equivalent.

TSCA—Toxic Substances Control Act (15 U.S.C. 2601, *et seq.*).

TSS—Total Suspended Solids.

Toxic pollutants—the pollutants designated by EPA as toxic in 40 CFR 401.15.

Variability factor—The daily variability factor is the ratio of the estimated 99th percentile of the distribution of daily values divided by the expected value, or mean, of the distribution of the daily data. The monthly variability factor is the estimated 95th percentile of the monthly averages of the data divided by the expected value of the monthly averages.

VOC—Volatile Organic Compound—means any organic compound, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions other than those that the Administrator designates as having negligible photochemical reactivity. The Administrator has designated the following organic compounds as negligibly reactive: methane; ethane; methylene chloride; methyl chloroform; CFC–113; CFC–11; CFC–12; CFC–22; CFC–23; CFC–114; CFC–115; HCFC–123; HFC–134a; HCFC–141b; HCFC–142b; HCFC–124; HFC–125; HFC–134; HFC–143a; HFC–152a; and perfluorocarbon compounds which fall into these classes: (i) Cyclic, branched, or linear, completely fluorinated alkanes; (ii) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations; cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and (iv) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine. 40 CFR 51.100(s)(1).

Waters of the United States—the same meaning set forth in 40 CFR 122.2.

Zero discharge (ZD)—No discharge of wastewater to waters of the United States or to a POTW.

II. Background Documents

The rule proposed today is supported by several major documents: (1) EPA's technical conclusions concerning the wastewater regulations are detailed in the "Development Document for Proposed Effluent Limitations Guidelines and Standards for the Pharmaceutical Manufacturing Point Source Category," hereafter referred to as the Technical Development Document (TDD) (EPA 821–R–95–019), (2) the Agency's economic analysis is found in the "Econor..ic Impact and Regulatory Flexibility Analysis of Proposed Effluent Guidelines for the Pharmaceutical Manufacturing Industry," hereafter called the Economic Impact Analysis (EPA 821–R–95–018), (3) the regulatory impact analysis (including the Agency's assessment of environmental benefits) is detailed in the "Regulatory Impact Assessment of Proposed Effluent Guidelines for the Pharmaceutical Manufacturing Industry," hereafter called the Regulatory Impact Assessment (EPA 821–R–95–017), (4) an analysis of the incremental costs and pollutant removals for the proposed effluent limitations guidelines and standards is presented in "Cost-effectiveness Analysis of Proposed Effluent Limitations Guidelines for the Pharmaceutical Manufacturing Industry," (EPA 821–R–95–015), (5) analytical methods used in the development of the proposed effluent limitations guidelines and standards are found in "Analytical Methods for the Determination of Pollutants in Pharmaceutical Manufacturing Industry Wastewater," a compendium of analytical methods (EPA 821–R–95–014), and (6) the statistical (EPA 821–R–95–016) support for today's proposed effluent limitations guidelines and standards is found in "Statistical Support Document for the Proposed Effluent Limitations Guidelines for the Pharmaceutical Manufacturing Industry."

III. Legal Authority

This regulation is being proposed under the authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1317, 1318, and 1361.

IV. Summary and Scope of the Proposed Rule

In today's notice, EPA proposes effluent limitations guidelines and standards for process wastewater generated by the pharmaceutical manufacturing industry. Section IX of this notice discusses the rationale for

the proposed guidelines and standards. This summary section highlights the technology bases and other key aspects of the proposed rule. The technology descriptions in this section are presented in abbreviated form; more detailed descriptions are included in the TDD.

Today's notice presents the Agency's proposed regulatory approach and several others that EPA considered. The Agency's proposal is based on comments received from interested parties during the development of this proposed rule, and on detailed evaluation of the available data. As indicated below in the discussion of the specifics of the proposal, the Agency welcomes comment on all options, issues, rationale, and proposed decisions and encourages commenters to submit additional data during the comment period (*see* section XIV of this preamble). In particular, the Agency welcomes comments on the treatment technologies that EPA has selected as the basis for the limitations and standards being proposed today. For example, EPA bases its proposed standards for new sources primarily on steam stripping with distillation technology. For most existing sources, EPA bases the proposed limitations and standards primarily on steam stripping technology, which is less costly and less energy intensive than distillation technology.

EPA expects a variety of human health, environmental, and economic benefits to result from these reductions in effluent loadings and, in some cases, air emissions. In particular, the benefits include: human health and agricultural benefits due to reductions in emissions of ozone precursors (i.e., reductions in VOC emissions); human health benefits due to reductions in excess cancer risk; human health benefits due to reductions in non-carcinogenic risk; ecological and recreational benefits due to improved water quality; and benefits to publicly owned treatment works (POTWs) from reductions in interference, passthrough, and sludge contamination problems and improvements in worker health and safety. EPA monetized the estimated benefits for reductions in air emissions of ozone precursors and cancer risk reductions, but is unable to quantify the dollar magnitude of benefits from the other benefit categories. Therefore, the reported benefit estimate understates the total benefits of the proposed rule. EPA estimates that the annual benefits resulting from the proposed rule will range from $231,000 to $7.6 million ($1994).

EPA has internally coordinated among relevant program offices in developing this rule. Section X of this preamble describes close coordination between the Office of Water and the Office of Air and Radiation on this proposed water rule and an air rule that will be proposed at a later date for the pharmaceutical manufacturing industry. As explained in detail in Section X, the Agency intends that direct and indirect dischargers will be able to employ a single steam stripper design to achieve the requirements of both final rules. It is also the Agency's intent, upon promulgation, that both rules will apply to essentially the same high concentration, low volume process wastewater streams in which the bulk of the volatile organic pollutants are contained (see Section X for details). The practical effect of this approach will be that only a relatively small portion (i.e., substantially less than half) of all process wastewaters will require control of volatile organic pollutants (e.g., by steam stripping) to achieve compliance with both rules. In the air rule, EPA also will develop air emission standards for other emission points (e.g., process vents, process area fugitive emissions, etc.). Also, Section XII of this preamble describes coordination between the Office of Water and the Office of Solid Waste and Emergency Response regarding the hazardous waste implications of this proposed water rule, including recovering ignitable nonhalogenated organics and reusing them as "clean fuels."

The Agency has worked with the Food and Drug Administration (FDA) to explore pollution prevention opportunities to the maximum extent feasible. EPA shared with FDA information and data gathered from the industry in responses to EPA's detailed Section 308 questionnaire. This was done to assist FDA in evaluating the environmental impacts of revised drug manufacturing processes (as described in "supplement" applications) and of new drug manufacturing processes. These reviews will ensure that opportunities for solvent use minimization/elimination and water-based manufacturing processes (e.g., water-based tablet coating) are considered and adopted within the constraints of maintaining the efficacy of both existing and new pharmaceutical products.

EPA has involved stakeholders and interested parties, including state and local governments, in the process of developing this rule. Since the inception of the project in 1986, there have been periodic meetings with the industry and its trade association, the Pharmaceutical Research and Manufacturers of America (PhRMA), to discuss progress on the rulemaking. The Agency also has met with the Natural Resources Defense Council (NRDC) to discuss progress on this rulemaking. Because most of the facilities affected by this proposal are indirect dischargers, the Agency conducted an outreach survey in 1990 to a limited number of POTWs substantially affected by one or more pharmaceutical manufacturing facilities to solicit their input on the need for this proposed rule and pertinent technical issues.

The Agency also held a public meeting on May 23, 1994. EPA representatives of the Office of Water and the Office of Air and Radiation outlined the underlying technical basis and options being considered for this proposal, the efforts to coordinate the future air rule and this proposed water rule, and took comments and questions from the audience. The Agency also consulted recently with representatives of selected POTWs regarding underlying technical aspects of this proposal.

The Agency plans to have additional discussions with stakeholders and interested parties during the comment period to minimize the potential for unfunded mandates and to help ensure that the Agency has the views of such parties and the best possible data upon which to base a decision for the final rule. EPA's final rule may be based upon any technologies, rationale or approaches that are a logical outgrowth of this proposal, including any options discussed in this or subsequent **Federal Register** documents.

A. Effluent Limitations Guidelines and Standards

1. Subcategorization

EPA is proposing to maintain the subcategorization scheme under the existing effluent limitations guidelines and standards for this industry (in part 439). The rationale for maintaining the existing subcategorization scheme is detailed in section IX.A.

2. Best Practicable Control Technology Currently Available (BPT)

EPA is proposing to revise the BPT effluent limitations guidelines for biochemical oxygen demand (BOD_5), COD, and total suspended solids (TSS) for four subcategories of the pharmaceutical manufacturing industry. These proposed revisions are based on the application of advanced biological treatment. EPA also is proposing to revise the BPT effluent limitations guidelines for CN (Total Cyanide) for facilities with subcategory A and/or C operations, based on in-plant cyanide destruction technology. As discussed in

VOL 60 ISS 84 MY 2 1995 UMI

Section IX.E., below, EPA also is proposing to repeal the existing BPT cyanide limitations for facilities with subcategory B and/or D operations. The proposed BPT effluent limitations are defined by the performance of the average of the best plants in the subcategory. The development of proposed BPT effluent limitations is discussed in section IX.E.1 of this notice and in Section 8 of the TDD.

3. Best Conventional Pollutant Control Technology (BCT)

EPA is proposing to revise the BCT effluent limitations guidelines for BOD_5 and TSS for four subcategories of the pharmaceutical manufacturing industry. In all cases, the proposed BCT effluent limitations are equal to the proposed BPT effluent limitations. The development of proposed BCT effluent limitations is further explained in section IX.E.2.

4. Best Available Technology Economically Achievable (BAT)

The Agency is proposing to revise the BAT effluent limitations guidelines for four subcategories of the pharmaceutical manufacturing industry to control priority and nonconventional pollutants. Table IV.A–1 is a summary of the technology basis for the proposed BAT effluent limitations for each subcategory.

TABLE IV.A–1.—PROPOSED TECHNOLOGY BASIS FOR BAT EFFLUENT LIMITATIONS

Proposed subpart	Name of subcategory	Proposed technology basis
A	Fermentation	In-plant steam stripping and cyanide destruction followed by advanced biological treatment.
B	Natural Extraction	Advanced biological treatment.
C	Chemical Synthesis	In-plant steam stripping and cyanide destruction followed by advanced biological treatment.
D	Mixing/Compounding/Formulating	Advanced biological treatment.[1]

[1] Same technology basis as for proposed BPT limitations.

The pollutants that EPA proposes to regulate and the points of monitoring to establish compliance with the limitations vary for each subcategory and are described in sections IX.C and IX.E.3.

5. New Source Performance Standards (NSPS)

a. Priority and Nonconventional Pollutants. EPA is proposing revised NSPS for four subcategories of the pharmaceutical manufacturing industry. For facilities with subcategory A and/or C and B and/or D operations, EPA is proposing NSPS to be more stringent than the proposed BAT effluent limitations and is basing those standards primarily on steam stripping with distillation technology. The development of proposed NSPS for priority and nonconventional pollutants is discussed in section IX.E.4.

b. Conventional Pollutants. EPA is proposing to revise NSPS pertaining to discharges of BOD_5, COD and TSS for four subcategories of the pharmaceutical manufacturing industry at a level equal to the discharge characteristics of the best performing plant. A summary of the pollutants and subcategories proposed to be regulated is presented in section IX.C. The development of proposed NSPS for conventional pollutants and COD is discussed in section IX.E.4.

6. Pretreatment Standards for Existing Sources (PSES)

EPA is proposing to revise PSES for four subcategories of the pharmaceutical manufacturing industry for the priority and nonconventional pollutants to be controlled by technologies summarized in Table IV.A–2. EPA also co-proposes two different pass-through determinations for 33 less strippable volatile organic pollutants. PSES are further discussed in section IX.E.5.

TABLE IV.A–2.—PROPOSED TECHNOLOGY BASIS FOR PSES EFFLUENT LIMITATIONS

Proposed subpart	Name of subcategory	Proposed technology basis
A	Fermentation	In-plant cyanide destruction; in-plant steam stripping.
B	Natural Extraction	In-plant steam stripping.
C	Chemical Synthesis	In-plant cyanide destruction; in-plant steam stripping.
D	Mixing/Compounding/Formulating	In-plant steam stripping.

7. Pretreatment Standards for New Sources (PSNS)

EPA is proposing to revise PSNS for four subcategories of the pharmaceutical manufacturing industry for the same priority and nonconventional pollutants controlled by the proposed PSES, but based on steam stripping with distillation technology. As under PSES, EPA co-proposes two different pass-through determinations for 33 less strippable volatile organic pollutants. PSNS are further discussed in section IX.E.6.

8. Best Management Practices (BMPs)

The Agency is not proposing today BMPs for the pharmaceutical manufacturing point source category. However, the Agency is soliciting comment on whether BMPs are applicable to pharmaceutical manufacturing facilities and, if so, what they should be. See Section XIV of this preamble, solicitation number 31.

B. Scope of the Proposed Rule

The rule proposed today covers four subcategories of the pharmaceutical manufacturing point source category. As discussed in Section IX.A.4, below, EPA does not propose to revise the effluent limitations guidelines applicable to Subcategory E (Pharmaceutical Research) facilities and subcategory E operations at facilities with subcategory A through D operations. These activities will be covered by the existing BPT effluent limitations regulations for this subcategory and subject to BAT and BCT limitations, where appropriate, set on a case-by-case basis using best professional judgment (BPJ).

Pharmaceutical manufacturers use many different raw materials and manufacturing processes to create a wide range of products. These products include medicinal and feed grades of all organic chemicals having therapeutic value, whether obtained by chemical synthesis, fermentation, extraction from naturally occurring plant or animal substances, or by refining a technical grade product.

The pharmaceutical products, processes and activities covered by this proposal include:

a. Biological products covered by the U.S. Department of Commerce, Bureau of the Census Standard Industrial Classification (SIC) Code No. 2836, with the exception of diagnostic substances. (Products covered by SIC Code No. 2836 were formerly covered under the 1977 SIC Code No. 2831.)

b. Medicinal chemicals and botanical products covered by SIC Code No. 2833;

c. Pharmaceutical products covered by SIC Code No. 2834;

d. All fermentation, biological and natural extraction, chemical synthesis and formulation products considered to be pharmaceutically active ingredients by the Food and Drug Administration that are not covered by SIC Code Nos. 2833, 2834, and 2836;

e. Multiple end-use products derived from pharmaceutical manufacturing operations (e.g., components of formulations, intermediates, or final products, provided that the primary use of the product is intended for pharmaceutical purposes);

f. Products not covered by SIC Code Nos. 2833, 2834, and 2836 if they are manufactured by a pharmaceutical manufacturer by processes that generate wastewaters that in turn closely correspond to those of pharmaceutical products;

g. Cosmetic preparations covered by SIC Code No. 2844 that function as a skin treatment. (This group of preparations does not include products such as lipsticks or perfumes that serve to enhance appearance or to provide a pleasing odor, but do not provide skin care. In general, this also excludes deodorants, manicure preparations, and shaving preparations that do not function primarily as a skin treatment.); and

h. Pharmaceutical research that includes biological, microbiological, and chemical research, product development, clinical and pilot-scale activities. (This does not include farms that breed, raise, and/or hold animals for research at another site. This also does not include ordinary feedlot or farm operations utilizing feed that contains pharmaceutically active ingredients.) Pilot-scale and product development operations conducted at research facilities would be subject to the specific manufacturing subcategory limitations and standards corresponding to the subcategory wastewater that the research facility's wastewater resembles. For example, a pilot chemical synthesis operation that generates wastewater that is similar to wastewater generated by chemical synthesis manufacturing would be subject to the subcategory C limitations and standards.

A number of products and/or activities such as surgical and medical manufacturing and medical laboratory activity are not part of the pharmaceutical manufacturing category. A descriptive listing of the products and activities that are specifically excluded from the pharmaceuticals manufacturing category may be found in section 2 of the TDD.

V. Background

A. Clean Water Act

1. Statutory Requirements of Regulations

The objective of the Clean Water Act (CWA) is to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters". Section 101(a) of the CWA. To assist in achieving this objective, EPA issues effluent limitations guidelines, pretreatment standards, and new source performance standards for industrial dischargers. These guidelines and standards are summarized below:

a. Best Practicable Control Technology Currently Available (BPT)—section 304(b)(1) of the CWA. BPT effluent limitations guidelines apply to all discharges from existing direct dischargers. BPT guidelines are based on the average of the best performance achieved by plants in a category or subcategory utilizing currently available technology. In establishing BPT, EPA considers the cost of achieving effluent reductions in relation to the effluent reduction benefits, the age of equipment and facilities, the processes employed, process changes required, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and other factors as the EPA Administrator deems appropriate. Section 304(b)(1)(B) of the CWA. Where existing performance is uniformly inadequate within a category or subcategory, BPT may be transferred from a different subcategory or category.

b. Best Conventional Pollutant Control Technology (BCT)—section 304(b)(4) of the CWA. The 1977 amendments to the CWA established BCT as an additional level of control for discharges of conventional pollutants from existing industrial point sources. Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demanding pollutants (measured as BOD_5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease as an additional conventional pollutant on July 30, 1979 (44 FR 44501). See 40 CFR 401.16. In addition to other factors specified in section 304(b)(4)(B), the CWA requires that BCT limitations be established in light of a two part "cost-reasonableness" test. EPA issued a methodology for the development of BCT limitations on July 9, 1986 (51 FR 24974).

c. Best Available Technology Economically Achievable (BAT)—section 304(b)(2) of the CWA. In general, BAT effluent limitations guidelines represent the best economically achievable performance of plants in the industrial subcategory or category, based on available technology. The CWA establishes BAT as a principal means of controlling the direct discharge of toxic and nonconventional pollutants to waters of the United States. The factors considered in assessing BAT include the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts, including energy requirements. The Agency retains considerable discretion in assigning the weight to be accorded these factors. As with BPT, where existing performance is uniformly inadequate within a category or subcategory, BAT may be transferred from a different category or subcategory. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

d. New Source Performance Standards (NSPS)—section 306 of the CWA. NSPS are based on the best available demonstrated treatment technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent controls attainable through the application of the best available control technology for all pollutants (i.e., conventional, nonconventional, and toxic pollutants). In establishing NSPS,

VOL 60 ISS 84 MY 2 1995 UMI

EPA is directed to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements.

e. Pretreatment Standards for Existing Sources (PSES)—section 307(b) of the CWA. PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly owned treatment works (POTWs). The CWA authorizes EPA to establish pretreatment standards for pollutants that pass through POTWs or interfere with treatment processes or sludge disposal methods at POTWs. Pretreatment standards are technology-based and are analogous to BAT effluent limitations guidelines. See Section IX.E.5.(ii) for discussion of EPA's pass-through methodology.

The General Pretreatment Regulations, which set forth the framework for the implementation of categorical pretreatment standards, are found at 40 CFR part 403. Those regulations contain a definition of pass-through that addresses localized rather than national instances of pass-through and establish pretreatment standards that apply to all nondomestic dischargers. For national instances of pass-through, EPA performs an analysis based on the procedures set forth at 52 FR 1586 (January 14, 1987).

f. Pretreatment Standards for New Sources (PSNS)—section 307(b) of the CWA. Like PSES, PSNS are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a POTW. PSNS are to be issued at the same time as NSPS. New indirect dischargers have the opportunity to incorporate into their plants the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating NSPS.

g. Best Management Practices (BMPs). Section 304(e) of the CWA gives the Administrator the authority to publish regulations, in addition to the effluent limitations guidelines and standards listed above, to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage that the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process of the regulated point source category and that she (he) determines may contribute significant amounts of pollutants to waters of the United States.

2. Prior Regulations

EPA promulgated interim final BPT regulations for the pharmaceutical manufacturing point source category on November 17, 1976 (41 FR 50676; 40 CFR part 439, Subparts A–E). The five subcategories of the pharmaceutical manufacturing industry (40 CFR 439) are:

- Subpart A—Fermentation Products Subcategory.
- Subpart B—Extraction Products Subcategory.
- Subpart C—Chemical Synthesis Subcategory.
- Subpart D— Mixing, Compounding, and Formulating Subcategory.
- Subpart E— Research Subcategory.

The 1976 BPT regulations set monthly limitations for BOD_5 and COD based on percent removal for all subcategories. No daily maximum effluent limitations were established for these parameters. The pH was set within the range of 6.0 to 9.0 standard units. The regulations also set maximum 30 day average total suspended solids (TSS) limitations for subcategories B, D, and E. No TSS limitations were established for subcategories A and C. Subpart A was amended (42 FR 6813) on February 4, 1977, to improve the language referring to separable mycelia and solvent recovery. The amendment also allowed the inclusion of spent beers (broths) in the calculation of raw waste loads for Subpart A in those instances where the spent beer is actually treated in the wastewater treatment system.

On October 27, 1983, at 48 FR 49808, EPA promulgated revised BPT and BAT, PSES, and PSNS regulations for Subparts A–D covering the toxic pollutant cyanide and the conventional pollutants BOD_5, TSS and pH and the nonconventional pollutant COD. The 1983 regulations kept intact the percent reduction regulations for BOD_5 and COD established in 1976 but added floor concentration-based limitations for these parameters applicable to subcategories B and D. In addition, limitations for TSS based on each plant's BOD_5 discharge were promulgated for subcategories A–D. EPA also promulgated BPT, BAT, PSES and PSNS for pH (6.0–9.0) and BAT concentration-based limitations controlling the discharge of cyanide from subcategory A–D plants. The Agency also proposed NSPS for BOD_5, TSS and pH in the October 1983 notice, but did not publish final NSPS for these parameters. That proposal is being replaced by today's NSPS proposal.

On December 16, 1986, at 51 FR 45094, EPA promulgated BCT effluent limitations for BOD_5, TSS and pH for subcategories A–D. That final rule set BCT effluent limitations equal to the existing BPT effluent limitations for BOD_5, TSS, and pH.

3. Litigation History

The effluent limitations guidelines and standards for the pharmaceutical manufacturing industry have never been the subject of litigation.

4. Section 304(m) Requirements

Section 304(m) of the Clean Water Act (33 U.S.C. 1314(m)), added by the Water Quality Act of 1987, requires EPA to establish schedules for (i) reviewing and revising existing effluent limitations guidelines and standards and (ii) promulgating new effluent guidelines. On January 2, 1990, EPA published an Effluent Guidelines Plan (55 FR 80), in which schedules were established for developing new and revised effluent guidelines for several industry categories. One of the industries for which the Agency established a schedule was the pharmaceutical manufacturing point source category.

Natural Resources Defense Council, Inc. (NRDC) and Public Citizen, Inc. challenged the Effluent Guidelines Plan in a suit filed in U.S. District Court for the District of Columbia (*NRDC et al.* v. Reilly, Civ. No. 89–2980 (D.D.C.)). (The suit originally challenged EPA's failure to publish the plan by the statutory deadline.) The plaintiffs charged that EPA's plan did not meet the requirements of section 304(m). On January 31, 1992, EPA entered into a consent decree (the "304(m) Decree"), which established schedules for, among other things, EPA's proposal and promulgation of approximately 20 effluent guidelines including those for the pharmaceutical manufacturing point source category.

On May 18, 1994, the Agency published a second plan (see 59 FR 25859). The plan projected proposal and promulgation dates for several industrial categories including the pharmaceutical manufacturing category.

B. Clean Air Act

Title III of the 1990 Clean Air Act Amendments was enacted to reduce the amount of nationwide emissions of hazardous air pollutants. It comprehensively amended section 112 of the Clean Air Act (CAA).

Section 112(b) lists the 189 chemicals, compounds, or groups of chemicals deemed by Congress to be hazardous air pollutants (HAPs). These toxic air pollutants are to be regulated by national emission standards for hazardous air pollutants (NESHAP). Section 112(c) requires the

Administrator to use this list of HAPs to develop and publish a list of source categories for which NESHAP will be developed. EPA must list all known categories and subcategories of "major sources."

The term major source is defined in paragraph 112(a)(1) to mean any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate 10 tons per year (tons/yr) or more of any HAP or 25 tons/yr or more of any combination of HAPs. The term stationary source, from section 111 of the CAA, means any building, structure, facility, or installation that emits or may emit any air pollutant. The term area source, as defined in section 112(a)(2), means any stationary source of HAPs that is not a major source.

Notice of the initial list of categories of major and area sources of HAPs was published on July 16, 1992 (57 FR 31576), under authority of section 112(c). This notice listed pharmaceutical manufacturing as a category of major sources of HAPs. Notice of the schedule for the promulgation of emission standards for the listed categories, under authority of section 112(e), was given on December 3, 1993 (58 FR 63941). Under this notice, emission standards for the pharmaceutical production industry would be promulgated no later than November 15, 1997.

Section 112(d) of the CAA directs the Administrator to promulgate emission standards for each category of HAP sources listed under section 112(c). Such standards are applicable to both new and existing sources and must require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new and existing sources in the category or subcategory to which such emission standard applies. See 42 U.S.C. 7412(d)(2).

Section 112(d)(3) provides that the maximum degree of reduction in emissions that is deemed achievable for new sources shall not be any less stringent than the emission control that is achieved in practice by the best controlled similar source. For existing sources, the standards may not be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources in each category of 30 or more sources.

Once this minimum control level (referred to as the floor) has been determined for new or existing sources for a category, the Administrator must set a standard based on maximum achievable control technology (MACT) that is no less stringent than the floor. The Administrator may set MACT standards that are more stringent than the floor if such standards are achievable considering the cost, environmental, and other impacts listed in section 112(d)(2). Such standards must then be met by all sources within the category.

C. Resource Conservation and Recovery Act (RCRA)

Subtitle C of RCRA, 42 U.S.C. 6921–39b, directs EPA to establish a comprehensive "cradle to grave" system regulating the generation, transport, storage, treatment and disposal of hazardous wastes. The hazardous wastes subject to this comprehensive management scheme include any solid waste, or combination of solid wastes, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. 42 U.S.C. 6903(5).

RCRA defines "solid waste" to include any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material. 42 U.S.C. 6903(27). The Act does not specify what characteristics of a waste render it hazardous to human health or the environment; instead, it directs EPA to develop and promulgate criteria for identifying the characteristics of hazardous waste and for listing hazardous waste, taking into account toxicity, persistence, and degradability in nature, potential for accumulation in tissue, and other related factors such as flammability, corrosiveness, and other hazardous characteristics. 42 U.S.C. 6921. Pursuant to this directive, EPA has adopted a two track scheme for identifying hazardous wastes. So-called "characteristic wastes," regulated under 40 CFR 261.20–.24, exhibit at least one of four specified characteristics: ignitability, corrosivity, reactivity, or toxicity. Such wastes are deemed automatically subject to regulation under RCRA subtitle C, and retain the designation of hazardous waste until they cease to exhibit any of the characteristics. See 40 CFR 261.3(d)(1).

The other type of hazardous wastes, "listed wastes," comprises wastes specifically classified as hazardous by EPA rule. See 40 CFR 261.11 (setting out criteria EPA considers in determining whether a solid waste should be a listed hazardous waste). Under EPA regulations, a listed hazardous waste retains that classification, even if has been treated in some fashion, until the waste has been demonstrated to be no longer hazardous. See 40 CFR 261.3(c)–(d) (the "derived-from" rule).

Once a waste has been identified or listed by EPA, RCRA permits its disposal on the land if the waste has been treated to meet standards established by EPA pursuant to 42 U.S.C. 6924(m). Section 6924(m)(1) instructs EPA to specify those levels or methods of treatment, if any, that substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. EPA has concluded that requiring hazardous wastes to be treated in accordance with the best demonstrated available technology ("BDAT") is sufficient to satisfy this criterion. See 51 FR 40,572, 40,578 (1986). These standards can apply even after a characteristic waste no longer exhibits a characteristic. 40 CFR 261.3(d)(1).

In addition to meeting treatment standards before land disposal, hazardous wastes are also subject to cradle-to-grave control from point of generation to point of final disposition. Generators prepare manifests to assure proper tracking of all hazardous wastes. Facilities treating, storing or disposing of such wastes are subject to design and operating standards established by EPA. Such standards ordinarily are embodied in an operating permit issued by EPA to the facility. In addition to meeting design and operating standards, facilities must commit sufficient money to assure that the facility will be properly closed, or that proper post-closure care of the wastes will occur.

D. Pollution Prevention Act of 1990

In the Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*), Congress declared pollution prevention the national policy of the United States. The Pollution Prevention Act declares that pollution should be prevented or reduced whenever feasible; pollution that cannot be prevented should be recycled or reused in an

VOL
60
ISS
84
MY
2
1995
UMI

environmentally safe manner whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be chosen only as a last resort and should be conducted in an environmentally safe manner. See 42 U.S.C. 13101(b).

Today's proposed rule is consistent with this policy. The technology basis for the proposed NSPS and PSNS for facilities with subcategory A, B, C and/or D operations includes steam stripping with distillation. Today's proposed PSES for facilities with subcategory A, B, C and/or D operations, as well as today's proposed BAT limitations for facilities with subcategory A and/or C operations, are based on steam stripping. Both technologies allow for the recovery from wastewaters and possible reuse of organic solvents. As part of today's proposal, the Agency also investigated whether solvent use could be minimized and/or eliminated through process changes but concluded that such opportunities may be limited to specific process operations at some facilities. The Agency encourages research regarding solvent use reduction and/or elimination procedures for existing as well as future pharmaceutical manufacturing operations. The Agency solicits comment on process change (source reduction) opportunities for pharmaceutical manufacturing and products. See section XIV, solicitation number 12.0.

E. Common Sense Initiative

On August 19, 1994, the Administrator established the Common Sense Initiative (CSI) Council in accordance with the Federal Advisory Committee Act (U.S.C. App. 2, Section 9(c)) requirements. A principal goal of the CSI includes developing recommendations for optimal approaches to multi-media controls for six industrial sectors including Metal Plating and Finishing, Electronics and Computers, Auto Manufacturing, and Iron and Steel Manufacturing. The following are the six overall objectives of the CSI program, as stated in the "Advisory Committee Charter."

1. Regulation. Review existing regulations for opportunities to get better environmental results at less cost. Improve new rules through increased coordination.

2. Pollution Prevention. Actively promote pollution prevention as the standard business practice and a central ethic of environmental protection.

3. Recordkeeping and Reporting. Make it easier to provide, use, and publicly disseminate relevant pollution and environmental information.

4. Compliance and Enforcement. Find innovative ways to assist companies that seek to comply and exceed legal requirements while consistently enforcing the law for those that do not achieve compliance.

5. Permitting. Improve permitting so that it works more efficiently, encourages innovation, and creates more opportunities for public participation.

6. Environmental Technology. Give industry the incentives and flexibility to develop innovative technologies that meet and exceed environmental standards while cutting costs.

The pharmaceutical manufacturing rulemaking effort was not among those included in the Common Sense Initiative. However, the Agency believes that the CSI objectives already have been incorporated into the pharmaceutical manufacturing industry rulemaking. Nonetheless, given the multimedia considerations affecting this rulemaking, the Agency will continue to pursue these objectives. The Agency particularly will focus on avenues for giving state and local authorities flexibility in implementing this rule, and giving the industry flexibility to develop innovative and cost-effective compliance strategies. In developing this rule, EPA took advantage of several opportunities to gain the involvement of various stakeholders. Section XIII.F of this preamble describes consultations with state, local, and tribal governments and other parties including the industry. EPA has internally coordinated among relevant program offices in developing this rule. Section X of this preamble describes coordination between the Office of Water and the Office of Air and Radiation concerning this proposed water and a related air rule that will be proposed at a later date. Also, Section XII of this preamble describes coordination between the Office of Water and the Office of Solid Waste and Emergency Response regarding the hazardous waste implications of this proposed water rule. See Section XIV of this preamble for pertinent comment and data solicitations. The effluent guideline development process for the pharmaceutical manufacturing industry will continue to implement the principles of the Common Sense Initiative.

VI. Regulatory Development Under the Clean Water Act

This section describes the Agency's approach for developing proposed effluent limitations guidelines and standards applicable to the pharmaceutical manufacturing industry under the CWA. In developing this rule, EPA first collected information about the industry, next identified potential control and treatment technology bases for the effluent limitations and standards EPA proposes to establish, and then, using methodologies, assumptions, and data described in the economic and regulatory impact analyses (See Section XI of this preamble), estimated and analyzed the total environmental and economic impacts of basing limitations and standards on various combinations of these control technologies. Finally, EPA selected the control technologies upon which it based the proposed effluent limitations and standards.

A. Background

The pharmaceutical manufacturing industry releases significant amounts of pollutants to surface waters, and POTWs, and ambient air. Section V of this notice discusses in greater detail the legal authorities available to EPA to address these pollutant releases.

B. Goals

EPA has several technical and policy goals regarding the development of the proposed effluent limitations guidelines and standards. These goals include: (1) Protecting the public health and the environment by attaining significant reductions in pharmaceutical manufacturing industry pollutant releases to water and other media; (2) minimizing the cost of complying with the rule; (3) promoting and facilitating coordinated compliance planning within the industry; (4) promoting and facilitating pollution prevention; and (5) taking into account the multimedia nature of pollution control.

In light of the multimedia nature of the environmental releases from this industry, the Agency has closely coordinated this effluent guidelines rulemaking with the rulemaking and related activities of the Office of Air and Radiation (OAR) and the Office of Solid Waste and Emergency Response (OSWER).

C. Technical Approach

1. Information Collection

EPA's first step in developing these proposed regulations was to develop a plant-specific database, using information gathered under section 308 of the CWA, of all facilities potentially subject to the limitations and standards. See Section VIII below. Information and data were gathered by EPA from a number of sources, including EPA's wastewater sampling program, the 1989

screener questionnaire, and the 1990 survey questionnaire. The information collected includes the processes and control technologies in use, current control levels, and pollutant releases. EPA also updated survey data through telephone calls and letters to specific facilities in an attempt to ensure that the database reasonably reflects the current status of the industry. The Agency recognizes that the industry is dynamic, and that processes and equipment change over time. Accordingly, EPA will consider information and data submitted in a timely manner by interested parties in response to this proposal for the purpose of updating the database prior to promulgation.

EPA placed information collected about the industry into plant-specific databases. These databases consist mainly of the 1990 survey responses provided by 244 plants but also contain information from EPA's sampling program. EPA then estimated costs of implementing the proposed technology bases in order to analyze the economic impacts of achieving the proposed effluent limitations guidelines and standards. The Agency used the plant-specific databases and other components to calculate wastewater discharges and the costs of complying with the proposed effluent limitations and standards. This comprehensive information provides a strong basis for ensuring that the proposed regulations meet the statutory requirements, and allows consideration of other factors such as multimedia pollutant reduction.

2. Summary of Public Participation

Beginning in 1989, EPA met on at least a biennial basis with industry representatives from the Pharmaceutical Research and Manufacturers of America (PhRMA) to discuss the development of the screener and detailed questionnaires that EPA intended to distribute under section 308 of the CWA. The Agency received input from the industry representatives that was invaluable in the development of these information collection instruments. Following the completion of the screener and detailed questionnaires, EPA has continued to meet informally with PhRMA representatives to discuss progress in the rulemaking effort. EPA has also met informally with the Natural Resources Defense Council regarding this rulemaking and has made available to environmental groups and other members of the public the information that was provided to the industry.

On May 23, 1994, EPA held a public meeting on the pharmaceutical rulemaking (see 59 FR 21740, April 26, 1994). Following the meeting EPA sent copies of revised meeting handout materials to all attendees and to interested parties who could not attend. In addition, by letter dated August 12, 1994, EPA provided written responses to questions submitted by PhRMA concerning issues raised at the public meeting. These documents are in the rulemaking docket.

3. Development of Effluent Limitations Control Technology Options

After evaluating a variety of control and treatment technologies and their use in the industry, EPA selected BPT, BAT, BCT, PSES, NSPS, and PSNS control technology options upon which it bases this proposed rule. This process is described in Section IX of this notice.

4. Analyses of Regulatory Alternatives

EPA conducted a series of analyses to assess the economic and environmental impacts of various combinations of BPT, BCT, BAT, NSPS, PSES, and PSNS control options. EPA then compared the projected effluent loadings and air emissions resulting from each regulatory alternative to baseline pollutant releases estimated as of January 1, 1991, based on the 1990 survey data. EPA also estimated the costs of implementing the various control options and other environmental and economic impacts for each alternative above the baseline level of control which EPA determined as treatment technologies in place in 1990. EPA evaluated each alternative in order to determine the effectiveness of the control technologies represented and to ascertain the reductions in effluent loadings and air emissions below the baseline that each control technology option could attain. The Agency also determined the environmental effects of these technologies with a goal toward minimizing the cross-media transfer of pollutants between water and air.

EPA also evaluated the possibility of basing BAT and PSES on process changes involving solvent use minimization or elimination. After evaluating information provided in response to the section 308 detailed questionnaire survey regarding pollution prevention measures on-going at pharmaceutical manufacturing facilities, the Agency concluded that no option involving solvent use elimination or minimization is technically available at this time. Nonetheless, the Agency is encouraging the industry to conduct research into eliminating or minimizing the use of solvents for existing processes and to design future manufacturing processes that eliminate or minimize the use of volatile solvents. See Section XIV, solicitation number 12.0.

VII. Description of the Industry

A. Pharmaceutical Manufacturing Facilities

Presented below is a brief description of the pharmaceutical manufacturing industry. Other characteristics of the industry are detailed in Sections IX.B., IX.C., IX.D., and IX.E. of this notice and in Section 3 of the TDD. Based upon responses to EPA's 1989 Screener Survey of Pharmaceutical Manufacturing Facilities, the Agency estimates that there are 566 manufacturing facilities located in 39 States, Puerto Rico, and the Virgin Islands. The major pharmaceutical manufacturing areas in the U.S. are the Northeast, the Midwest, and Puerto Rico.

B. Manufacturing Processes

1. Fermentation

Fermentation is the usual method for producing most steroids and antibiotics. The fermentation process involves three basic steps: inoculum and seed preparation, fermentation or growth, and product recovery. Production of a pharmaceutically active ingredient begins with spores from the plant master stock. The spores are activated with water, nutrients, and warmth and are then propagated through the use of agar plates, test tubes, and flasks until enough mass is produced for transfer to the seed tank. Following adequate propagation in the seed tank, microorganisms from the seed tank are transferred to a fermenter tank along with the sterilized nutrients and the tank is then sparged with air to begin the fermentation or growth process. After a period ranging from 12 hours to a week, depending on the specific process, the fermenter batch whole broth is ready for filtration, which removes mycelia (i.e., the remains of the microorganisms). The filtered aqueous broth containing product and residual nutrients is then ready to enter the product recovery phase.

There are three common methods of product recovery: solvent extraction, direct precipitation, and ion exchange or adsorption. The most common method, solvent extraction, involves the use of an organic solvent to remove or extract the pharmaceutically active ingredient or product from the aqueous broth. Numerous solvent extractions are usually necessary to remove an acceptable yield of product from the contaminant mixture. Another common recovery method, direct precipitation, involves the use of aqueous solutions of

VOL
60
ISS
84
MY
2
1995
UMI

heavy metals such as copper and zinc to precipitate the product as a metal salt from the aqueous broth, after which the broth is filtered and the product is extracted from the solid residue. Ion exchange or adsorption involves removal of the product from the broth using solid materials such as ion exchange resin, adsorptive resin or activated carbon to bond with the product. The product is extracted from the solid phase material using solvent extraction followed by solvent evaporation.

2. Biological and Natural Extraction

Biological and natural extraction is used to manufacture pharmaceutically active ingredients whose molecular structure is too complex for chemical synthesis or fermentation methods. Extraction involves the collection and processing of large volumes of plant or animal matter to produce small quantities of product. Initially, this large volume material is subject to a large, usually organic solvent-based, extraction procedure to obtain a first product cut or extraction. This cut is purified in many successive extraction operations. At each stage of the extraction process, the volume of material used becomes smaller. In the end, the volume of product may be only a few thousandths of the mass of material handled in the earlier procedures. Generally, the yield from extraction procedures is very small and pharmaceutical companies use extraction only when they have no other alternative.

Recently, pharmaceutical manufacturers have been developing bioengineered microorganisms that can produce pharmaceutically active ingredients. Pharmaceutical manufacturers sometimes use extraction procedures to obtain and purify these ingredients, but EPA understands generally that the amounts of water and solvents used in these procedures at this time are minimal. Nonetheless, EPA is soliciting information and data to better characterize wastewaters from these operations (see Section XIV at solicitation number 11.0).

3. Chemical Synthesis

Chemical synthesis involves the use of a series of chemical reactions to produce pharmaceutically active ingredients, usually starting with common feedstock chemicals as raw materials. The product of each successive chemical reaction then becomes the reactant in the next chemical reaction until the final reaction step of the synthesis is reached when the pharmaceutically active ingredient product is generated. More pharmaceutically active ingredients are manufactured by chemical synthesis than by any other process.

4. Mixing/Compounding/Formulating

Before active ingredients can be used as pharmaceuticals, they must be prepared in dosage forms. The primary dosage forms utilized by the industry include tablets, capsules, liquids and ointments. For example, in tablet-making, manufacturers blend pharmaceutically inactive materials filler (e.g., starch) and binder (e.g., corn starch) with the active ingredient(s) and form tablets using a tablet press machine. Mixing, compounding, and formulating operations are utilized by more plants than any other process operation.

VIII. Summary of Data Gathering Efforts

A. Technical and Economic Data

1. 1989 Screener Survey of the Pharmaceutical Industry

In 1988, the Agency developed a short questionnaire for distribution to all known or suspected pharmaceutical manufacturers. The purpose of the questionnaire was to identify facilities that could be affected by future effluent limitations guidelines and standards applicable to the pharmaceutical manufacturing industry. The Information Collection Review (ICR) package for this questionnaire was sent to OMB in May 1989 and approved in June 1989. The questionnaire was sent to 1163 facilities in July of 1989. The Agency received 962 responses.

2. 1990 Pharmaceutical Manufacturing Industry Survey

In early 1989, EPA began to develop a questionnaire to gather the technical and financial information necessary for this rulemaking. EPA met with industry representatives during the questionnaire development process in an effort to keep the industry informed of the Agency's plans and to solicit informed comments on questionnaire design. Before pretesting the questionnaire, EPA sent a preliminary version of the questionnaire to the Pharmaceutical Manufacturers Association (now known as the Pharmaceutical Research and Manufacturers of America) for distribution and review by representatives of member companies. The Agency then incorporated all appropriate comments of the industry representatives into a pretest version of the questionnaire. In 1990, EPA sent pretest versions of the questionnaire to eight facilities for response and comment. Along with their responses, the pretest candidates provided information on the amount of time required to complete the questionnaire and suggestions for improving the questionnaire as an information gathering instrument.

The pretest suggestions were used to develop a final version of the questionnaire, which was part of an ICR package that was sent to OMB for approval in May 1990. In August of that year, OMB cleared part A (technical section) of the questionnaire and some questions in part B (economic and financial) but denied clearance for most of the part B plant-specific financial and economic questions. In order to accommodate OMB's and industry's concerns about the need for responses to plant-specific economic and financial questions, the Agency developed a certification procedure. This procedure allowed industry respondents to certify that future pharmaceutical category regulations would not impact their facility above a certain dollar amount. A respondent making the certification was not required to respond to most of the part B questions.

In May 1991, the Agency submitted a revised ICR package to OMB, including the certification option discussed above. OMB approved the questionnaire and EPA sent the final questionnaire to 280 facilities in September 1991. EPA received responses from 244 of the 304 facilities still engaged in pharmaceutical manufacturing with solvent use.

3. Sampling and Analytical Program

Between 1986 and 1991, EPA conducted a sampling program at 13 pharmaceutical manufacturing facilities to: (1) Characterize the pollutants in the wastewater being discharged directly to surface waters and indirectly to POTWs; (2) generate pollutant treatment system performance data from facilities with well-operated advanced biological treatment systems (those systems attaining better than BPT annual average effluent quality); and (3) obtain treatability data from steam stripping units.

Prior to 1986, the Agency had focused on five conventional pollutants and 126 priority pollutants in the pharmaceutical manufacturing industry's wastewater. Beginning in 1986, the Agency expanded the analysis of pharmaceutical wastewater and wastewater treatment plant sludges to determine the presence and levels of all the pollutants on the "Industrial Technology Division (ITD) List of Analytes" (hereinafter, the "List of Analytes").

During the sampling program, EPA gathered analytical data to characterize the wastewater from five direct dischargers and eight indirect dischargers. Treatment system performance data were gathered from three advanced biological treatment systems and two biological pretreatment systems. Treatment unit performance data documenting the performance of five steam stripping columns were also gathered. The performance of one resin adsorption column and one cyanide destruction unit was also documented.

a. Bench-, Pilot-, and Full-Scale Studies. Between October and December 1991, EPA conducted bench-scale and pilot-scale tests to study: (1) Air stripping technology (with ammonia capture) for ammonia removal from pharmaceutical plant final effluent; and (2) steam stripping technology for removal of volatile organic pollutants from pharmaceutical plant process wastewaters.

EPA conducted the air stripping and steam stripping pilot studies at a pharmaceutical manufacturing facility with fermentation, chemical synthesis, formulation, and research operations. The objective of the air stripping study was to examine the feasibility of obtaining at least 90 percent ammonia removal using air stripping technology. A portion of the total facility effluent was used as the feed to the pilot-scale air stripping study.

The objectives of the steam stripping study were to demonstrate the achievement of the lowest practical concentrations of volatile organic pollutants in the treated effluent, using the available bench- and pilot-scale steam stripping test equipment, and to collect sufficient data to document these concentrations using the available bench- and pilot-scale data. On-site pilot-scale testing was conducted for two of the three streams. EPA elected not to run pilot-scale tests on one of the streams because the stream flow from that process area was insufficient for pilot-scale testing during the study time period. Performance data for this third process wastewater stream were collected using bench-scale equipment.

In September 1993, EPA conducted an on-site treatment performance study using a pharmaceutical manufacturing facility's existing distillation column that treated wastewaters containing methanol. The objective of the study was to achieve the lowest practical concentrations of methanol (within the operating constraints of the facility) in the treated effluent and to collect sufficient data to document these concentrations. All of the studies are discussed in more detail in sections 5 and 8 of the TDD.

B. Air Emission Data

In July 1993, pursuant to section 114 of the Clean Air Act, EPA distributed questionnaires seeking data on air emissions to 396 pharmaceutical manufacturing facilities. The scope of the survey included all manufacturing operations that were covered by the SIC Code Nos. 2833, 2834, and 2836 and that also emitted hazardous air pollutants. Research facilities were not included. The questionnaire requested production data, process flow diagrams, emissions data, emission control technology data, and information on source reduction measures. EPA will use this data and information in developing standards to be promulgated under the Clean Air Act for the pharmaceutical manufacturing industry. EPA will compare these data and information, to the extent it is appropriate, to the data and information collected under the Clean Water Act to ensure that the best and most consistent data are used in both rulemaking efforts. See Section X below.

IX. Development of Effluent Limitations Guidelines and Standards

A. Industry Subcategorization

1. Introduction

In developing today's proposed rule, EPA considered whether different effluent limitations and standards were appropriate for different groups of plants or subcategories within the pharmaceutical manufacturing industry. Factors considered included: processes employed, effluent characteristics, costs, age of equipment and facilities, size, location, engineering aspects of the application of various types of control techniques, process changes, and non-water quality environmental impacts. In determining which subcategories were appropriate for this proposed rule, EPA, using recently available data, evaluated the scheme for establishing subcategories regulated under the current effluent limitations guidelines and standards applicable to this industry.

2. Current Subcategorization

The current subcategorization of this industry dates back to 1976 and was developed using data from the mid-1970s. The current subcategories are as follows:

Subpart A Fermentation
Subpart B Biological and Natural Extraction
Subpart C Chemical Synthesis
Subpart D Mixing/Compounding/Formulating
Subpart E Pharmaceutical Research

3. Rationale for Maintaining the Current Subcategorization

Prior to finalizing the 1983 regulation, the Agency evaluated the original subcategorization scheme developed for the 1976 interim final regulations. This evaluation is discussed in section 4 of the 1983 technical development document and in the preamble to the final regulation at 48 FR 49808 (October 27, 1983). The Agency concluded at that time that the original subcategorization scheme based on manufacturing process type was the most appropriate one for the Pharmaceutical Manufacturing Point Source Category. In determining whether this scheme is appropriate for the rule being proposed today, the Agency evaluated the wastewater and production data obtained from the detailed questionnaire responses as well as plant sampling data in light of the current scheme. The Agency compared the wastewater flow and pollutant characteristics data (influent and effluent BOD_5, TSS, and COD) obtained from the 1990 detailed questionnaire responses with the data presented in Section 4 of the 1983 TDD. EPA concluded that the similarities and data trends reported for both subcategory A and C and subcategory B and D facilities were identical to those reported in 1983 for analogous data. Consequently, the Agency concluded that the current subcategorization scheme continues to be appropriate for today's proposed rule. As was the case with the 1983 final regulation, the limitations and standards being proposed today for subcategory A are identical to those proposed for subcategory C and those limitations and standards being proposed for subcategory B are identical to those being proposed for subcategory D. The Agency invites comments regarding this regulatory scheme. The subcategorization analysis is discussed in more detail in section 4 of the TDD for this rulemaking. See Section XIV, solicitation number 4.0.

4. Subcategory Regulation Not Revised

EPA is not proposing new or revised effluent limitations and standards for the Pharmaceutical Research Subcategory (Subcategory E). Rather, research activities falling within this subcategory will continue to be subject to the BPT regulations established for that subcategory in the 1983 regulations for this industry. The 1983 regulations did not establish BCT, BAT, NSPS, PSES, or PSNS effluent limitations and standards for the research subcategory, and today's proposed revisions to 40

VOL
60
ISS
84
MY
2
1995
UMI

CFR part 439 will not change this. However, process wastewater generated by research activities falling within this subcategory will continue to be subject to BCT and BAT limitations, as appropriate, established on a best professional judgment (BPJ) basis. In addition, indirect dischargers will be subject to local limits, as appropriate.

In its preamble to the 1983 regulations, EPA explained that it was specifically excluding subcategory E pharmaceutical research from all limitations and standards in the regulation other than BPT limitations because these operations do not involve production and wastewater generation in appreciable quantities on a regular basis. See 48 FR 49808, 49816 (Oct. 27, 1983). EPA also noted that research activities conducted at mixed and single subcategory plants (A, B, C, and D only) would be covered by that regulation. In today's Notice, EPA proposes to exclude subcategory E research operations from all limitations and standards in the proposed rule, other than the existing BPT limitations, at both stand alone and mixed subcategory plants. However, in order to clarify the scope of Subcategory E as described in the 1983 preamble, EPA proposes to define Subcategory E research operations specifically as bench-scale activities related to the development of pharmaceutical products. Bench-scale activities, in contrast to pilot-scale operations, do not involve production or wastewater generation in appreciable quantities on a regular basis and therefore describe the activities historically encompassed within Subcategory E, Pharmaceutical Research.

Consequently, under this proposal, bench-scale research activities that generate process wastewater at manufacturing facilities or at stand-alone Subcategory E facilities will be covered by the current subcategory E BPT limitations on BOD_5, COD, TSS and pH. This means that if a facility engaging in bench-scale research operations also engages in pharmaceutical manufacturing operations covered by subcategories A, B, C, or D, the process wastewater from the bench-scale research operations would be subject only to subcategory E regulations (and on a case-by-case basis BCT and BAT limitations based on BPJ, as appropriate). Conversely, if a facility engages in research operations on a pilot-scale level, then the wastewater generated by those operations would be subject to the standards and limitations applicable to the manufacturing subcategory (A, B, C, or D) that the wastewater most resembles. See 40 CFR 439.50 et seq.

The proposal that subcategory E applies to all bench-scale research operations irrespective of their proximity to pharmaceutical manufacturing process operations represents a change from the interpretation expressed by EPA in the preamble to the 1983 rule. In that preamble, EPA indicated that research activities conducted at mixed and single subcategory plants (A, B, C, and D only) would be covered by the regulations corresponding to the particular subcategory. Accordingly, the Agency is soliciting comment on whether facilities with both subcategory E and subcategory A, B, C, or D process operations should be subject to the standards and limitations corresponding to the manufacturing subcategory (A, B, C, or D) and not to subcategory E BPT limitations as proposed here. See Section XIV, solicitation number 5.2.

B. Water Use, Wastewater Discharge and Characterization

This section describes current water use and wastewater recycling practices, discharge practices and the general characteristics of wastewater at the plants that manufacture pharmaceuticals in the United States. A more detailed presentation can be found in Section 5 of the TDD. Almost all pharmaceutical manufacturing processes require the use of water, although use and discharge practices and the characteristics of the wastewater will vary depending on the process operations at individual facilities.

1. Water Use and Wastewater Generation

a. Water Use. EPA estimates the average daily wastewater generation by the pharmaceutical manufacturing industry to be 266 million gallons, based on the responses to questions in part A section 4 of the 1990 Pharmaceutical Manufacturing Survey. Pharmaceutical manufacturers use water for process operations and for other nonprocess purposes such as noncontact cooling and sanitation.

The water is used or generated in pharmaceutical manufacturing process operations in several ways, thereby generating process wastewater:

- Water of reaction: Water formed during the chemical reaction.
- Process solvent: Water used to transport or support the chemicals involved in the reaction process; this water is usually removed from the process through a separation step, such as centrifugation, decantation, drying, or stripping.
- Process stream washes: Water added to a process stream (i.e., the carrier, spent acid, or spent base) that has been separated from the reaction mixture, in order to purify the stream by washing away impurities in the stream.
- Product washes: Water added to the reaction medium to purify an intermediate or final product by washing away the impurities (this water is subsequently removed through a separations step); or water used to wash the crude product after it has been removed from the reaction medium.
- Spent Acid/Caustic: Spent acid and caustic streams, which may consist primarily of water, that are discharged from the process during the separation steps following the reaction step in which acid and basic reagents are used to facilitate, catalyze, or participate in the reactions.
- Condensed steam: Steam used as a sterilizing medium and in steam strippers for solvent recovery and wastewater treatment.

Other sources of process wastewater associated with pharmaceutical manufacturing operations include:

- Air pollution control scrubber blowdown: Water or acidic or basic compounds used in air emission control scrubbers to control fumes from reaction vessels, storage tanks, incinerators, and other process equipment.
- Equipment and floor washes: Water used to clean process equipment during unit shutdowns and floors during general housekeeping or for spill cleanup.
- Pump seal water: Direct contact water used to cool packing material and lubricate pumps.

In addition to process wastewater, non-process wastewater may be generated during pharmaceutical manufacturing. This non-process wastewater may include noncontact cooling water (used in heat exchangers), noncontact ancillary water (e.g., boiler blowdown, bottle washing), sanitary wastewater, and wastewater from other sources such as stormwater.

b. Water Conservation. In response to the 1990 detailed survey questionnaire, 137 of the 244 responding pharmaceutical manufacturers reported implementing water conservation measures with regard to process wastewater. Such water conservation measures include: careful monitoring of water use, installation of automatic monitoring and alarm systems on in-plant discharges, implementation of alternative production processes requiring less water, conversion from barometric to surface condensers, reuse of wastewater from other manufacturing processes, reuse of noncontact water as process makeup water, and treatment of contact cooling water to allow reuse.

2. Wastewater Discharge

Based on the responses to the screener and detailed survey questionnaires and other information, EPA has learned that of the 304 potentially affected facilities, 35 facilities discharge their wastewater directly to surface waters of the United States, 259 discharge to a POTW, three discharge directly to surface water as well as to a POTW, and seven do not discharge to a POTW or to surface waters. EPA estimates that the average daily volume of pharmaceutical process wastewater discharged via a POTW or directly from the manufacturing facility to surface waters of the U.S. is 84 and 20 million gallons, respectively.

3. Wastewater Characterization

The pharmaceutical manufacturing industry generates process wastewaters containing a variety of pollutants. Most of this process wastewater receives some treatment, either in-plant at the process unit prior to commingling with other facility wastewaters or in an end-of-pipe wastewater treatment system. Pharmaceutical manufacturers discharge wastewater containing conventional, priority, and nonconventional pollutants. These pollutants are discussed in Section IX.C below.

a. Conventional Pollutants: BOD_5, TSS, and pH. BOD_5, the quantity of oxygen used in the aerobic stabilization of wastewater streams, is the most widely used measure of general organic pollution in wastewater. BOD_5 discharges from facilities with subcategory A and/or C operations are significantly higher than those discharges from facilities with subcategory B and/or D operations because fermentation and chemical synthesis process operations generate substantially greater concentrations of organic material (on average ten times higher untreated BOD_5 concentrations) than extraction or mixing, compounding, and formulating processes.

TSS is the portion of the total solids that can be filtered out of a solution using a 1-micron filter. (Total solids in wastewater is defined as the residue remaining after evaporation at just above the boiling point.) Discharges of TSS for this industry are generally proportional to the amount of BOD_5 discharged and, as a result, A and/or C subcategory facilities discharge significantly more TSS than do B and/or D facilities.

The pollutant parameter, pH, is a measure of the acidity or alkalinity of an aqueous solution. It is defined as the logarithm of the reciprocal of the hydronium-ion concentration of a solution. A pH of 7.0 indicates neutrality or a balance between free hydronium and free hydroxyl ions. A pH above 7.0 indicates that a solution is alkaline; a pH below 7.0 indicates that a solution is acidic. Untreated wastewaters from the pharmaceutical manufacturing industry range from being highly alkaline (pH 12 or higher) to highly acidic (pH 2 or lower). The pollutant parameter, pH, is currently controlled within the range of 6.0 to 9.0 by promulgated effluent limitations guidelines and standards for all five subcategories of the pharmaceutical manufacturing industry. EPA does not propose to modify the promulgated pH limitations by this rulemaking. Therefore, pH is not included in the following discussion of pollutant parameters.

b. Priority Pollutants. Questionnaire respondents reported discharging 13 different priority pollutants. The annual mass loading of untreated priority pollutants released to the environment from pharmaceutical wastewater (including pollutants emitted to the air from wastewaters) range from 3.6 million pounds per year to 400 pounds per year. The most significant priority pollutants discharged by the industry are methylene chloride, toluene, chloroform, and chloromethane. EPA sampling data at various direct and indirect discharging facilities indicate over 57 different priority pollutants were detected in pharmaceutical wastewaters at various concentrations. Many of the priority pollutants detected during sampling programs were pesticides unrelated to process operations and priority pollutant metals detected at concentrations incapable of being treated by available technologies.

In general, facilities with subcategory A and/or C operations reported discharging a greater variety of priority pollutants and at greater loads than facilities with Subcategory B and/or D operations. The Subcategory B and/or D direct dischargers reported that they did not discharge any priority pollutant load, while the Subcategory B and/or D indirect dischargers reported discharging some priority pollutant load. See Section 9 of the TDD for a presentation of the current priority pollutant discharge loads by subcategory group.

c. Nonconventional Pollutants. Questionnaire respondents reported discharging 105 different nonconventional pollutants, not including COD. The annual mass loadings of nonconventional pollutants released to the environment from pharmaceutical wastewaters (including air emissions from wastewaters) range from 15.4 million pounds per year to one pound per year. The most significant nonconventional pollutants discharged by the industry are methanol, ethanol, isopropanol, and acetone. EPA sampling data at various direct and indirect discharging facilities indicate over 59 different volatile and semivolatile organic compounds were detected in pharmaceutical wastewaters at various concentrations.

In general, facilities with subcategory A and/or C operations reported discharging a greater variety of nonconventional pollutants and at greater loads than Subcategory B and/or D operations. In addition, the Subcategory B and/or D direct dischargers reported discharging fewer nonconventional pollutants at lower loads than the Subcategory B and/or D indirect dischargers. See Section 9 of the TDD for a presentation of the current nonconventional pollutant discharge loads by subcategory group.

C. Selection of Pollutant Parameters

1. Pollutants Regulated

a. Introduction. This section lists the pollutants covered by today's proposed rule in groups of conventional, priority, and nonconventional pollutants. For this proposed rule, EPA considered each pollutant identified in questionnaire responses and in EPA's sampling programs. In selecting the pollutants for control, EPA took into account their respective discharge loadings, frequency of occurrence, treatability, and environmental significance. In addition, EPA considered whether appropriate analytical methods were available or could be readily developed to detect and quantify the presence of these pollutants in wastewater. Finally, EPA investigated whether bulk parameters (e.g., COD) could be substituted for groups of individual pollutants. EPA concluded preliminarily that no known bulk parameters could be substituted as indicator pollutants for the individual pollutants to be regulated by these proposed effluent limitations and standards. EPA is soliciting comment on this finding. See section XIV of this preamble at solicitation number 37.0. Table IX.C–1 and Table IX.C–2 list the pollutants to be regulated by the various proposed effluent limitations and standards. A complete discussion of the pollutant selection/exclusion process may be found in section 6 of the TDD.

Conventional Pollutants:
BOD_5 and TSS
Priority Pollutants:
Benzene
Chlorobenzene
Chloroform

VOL 60 ISS 84 MY 2 1995 UMI

Chloromethane
Cyanide
o-Dichlorobenzene*
1,2-Dichloroethane*
Methylene Chloride
Phenol
Toluene
Nonconventional Pollutants:
Acetone*
Acetonitrile
Ammonia (aqueous)
n-Amyl Acetate*
Amyl Alcohol*
Aniline*
2-Butanone (MEK)*
n-Butyl Acetate*
n-Butyl Alcohol*
tert-Butyl Alcohol*
COD (Chemical Oxygen Demand)
Cyclohexane
Diethyl Ether*
Diethylamine*
N,N-Dimethylacetamide
Dimethylamine*
N,N-Dimethylaniline*
N,N-Dimethylformamide
Dimethyl Sulfoxide
1,4-Dioxane*
Ethanol*
Ethyl Acetate*
Ethylene Glycol
Formaldehyde
Formamide*
Furfural*
n-Heptane
n-Hexane
Isobutyraldehyde*
Isopropanol*
Isopropyl Acetate*
Isopropyl Ether*
Methanol*
Methylamine*
Methyl Cellosolve (2-Methoxyethanol)
Methyl Formate*
Methyl Isobutyl Ketone (MIBK)*
2-Methyl Pyridine*
Petroleum Naphtha*
Polyethylene Glycol 600
n-Propanol*
Pyridine*
Tetrahydrofuran*
Trichlorofluoromethane
Triethylamine*
Xylenes

*Under co-proposal (2) these pollutants will not be regulated.

TABLE IX.C–1. POLLUTANTS REGULATED IN PROPOSED EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR FACILITIES WITH SUBCATEGORY A AND/OR C OPERATIONS

Pollutants regulated	Effluent regulation					
	BPT	BCT	BAT	NSPS	PSES	PSNS
BOD_5	X	X		X		
TSS	X	X		X		
COD	X		X	X		
CN	X		X[2]	X[2]	X[2]	X[2]
Ammonia			X	X	X	X
Nonconv Vol. Orge			X	X	X[3]	X[3]
Pri. Pol. Vol. Orgs			X	X	X	X
Phenol			X	X		
Nonconv. Svol. Orgs [1]			X	X	(4)	(4)

[1] Dimethyl sulfoxide, N,N-dimethyl acetamide, N,N-dimethyl formamide, ethylene glycol and formaldehyde.
[2] For purposes of proposal, CN limits for BAT, NSPS, PSES, and PSNS are the same as BPT.
[3] Does not include two pollutants which do not pass through (acetonitrile and polyethylene glycol 600).
[4] Limits are not being proposed at this time for these pollutants.

TABLE IX.C–2. POLLUTANTS REGULATED IN PROPOSED EFFLUENT LIMITATIONS GUIDELINES AND STANDARDS FOR FACILITIES WITH SUBCATEGORY B AND D OPERATIONS

Pollutants regulated	Effluent regulation					
	BPT	BCT	BAT	NSPS	PSES	PSNS
BOD_5	X	X		X		
TSS	X	X		X		
COD	X		X	X		
Nonconv. Vol. Orgs			X	X	X[2]	X[2]
Pri. Pol. Vol. Orgs			X	X	X	X
Phenol			X	X		
Nonconv. Svol Orgs [1]			X	X	(3)	(3)

[1] Dimethyl sulfoxide, N,N-dimethyl acetamide, N,N-dimethyl formamide, ethylene glycol and formaldehyde.
[2] Does not include two pollutants which do not pass through (acetonitrile and polyethylene glycol 600).
[3] Limits are not being proposed at this time for these pollutants.

b. Conventional pollutants. Biochemical oxygen demand (BOD_5) and total suspended solids (TSS) are conventional pollutants that have been regulated in this industry by previous BPT and BCT effluent limitations guidelines. These parameters are important because they quantify the biodegradable organic matter and suspended solids generated by all plants in all subcategories of the pharmaceutical industry. EPA estimates that 3.3 million pounds per year of BOD_5 and 6.4 million pounds per year of TSS are discharged by the 35 facilities EPA has identified as direct dischargers. Most direct discharger plants have some level of secondary biological treatment in-place designed to treat BOD_5 and TSS. EPA is proposing to establish NSPS and to revise the BPT and BCT effluent limitations for these pollutants in all subcategories. EPA does not propose to set limitations for BOD_5 and TSS applicable to indirect dischargers because EPA has determined that these pollutants can be adequately treated by POTWs. EPA is not proposing to use them as indicators for other pollutants in this industrial category, although this will be given further evaluation.

c. Priority pollutants. The priority pollutants selected for control include cyanide, phenol and various solvents used by the industry. EPA estimates that direct and indirect discharging facilities discharge 0.5 and 1.8 million pounds per year, respectively, of the 10 priority pollutants addressed in this proposal. EPA is proposing to promulgate BPT, BAT, NSPS, PSES, and PSNS for some or all of these pollutants in subcategories A, B, C, and D.

d. Nonconventional pollutants. Nonconventional pollutants include ammonia, COD (Chemical Oxygen Demand), and various volatile and semivolatile organic compounds that are used for the most part as solvents by the industry. EPA estimates that 0.8 and 0.5 million pounds per year of ammonia and 32 and 78 million pounds per year of COD are discharged by direct and indirect discharging facilities, respectively. With respect to COD, EPA is proposing to revise existing BPT limitations and promulgate new BAT limitations and NSPS for subcategories A, B, C, and/or D. With respect to ammonia, EPA is proposing to promulgate BAT, NSPS, PSES, and PSNS for subcategories A and/or C. EPA has determined that ammonia is not a pollutant of concern in wastewaters of facilities with subcategory B and/or D operations and hence does not propose limits for ammonia for those subcategories. See Section 5 of the TDD. See Section XIV, solicitation numbers 20.0 and 23.0. For PSES, EPA is co-proposing a finding of no pass-through for 33 priority and nonconventional pollutants.

2. Pollutants Not Regulated

EPA is not proposing effluent limitations or standards for 85 priority and nonconventional pollutants identified as potentially present in pharmaceutical wastewaters. In Section 6 of the TDD, EPA describes for each pollutant or group of pollutants the reasons each is excluded from this proposal. EPA bases its decision to exclude these pollutants or groups of pollutants on one or more of the following reasons:

(1) The pollutant or group of pollutants is deemed not present in pharmaceutical wastewaters, because it was not detected in the effluent with the use of analytical methods promulgated pursuant to section 304(h) of the Clean Water Act or with other state-of-the-art methods;

(2) The pollutant or group of pollutants is present only in trace amounts and is neither causing nor likely to cause toxic effects in humans or aquatic life;

(3) The pollutant or group of pollutants is detected in the effluent from only one or a small number of sources;

(4) The pollutant or group of pollutants is effectively controlled by the technologies used as a basis for limitations on other pollutants, including those limitations and standards proposed today; or

(5) Insufficient data are available to establish effluent limitations or standards for that pollutant or group of pollutants.

In addition, EPA proposes to control phenol discharged by direct dischargers (through BAT and NSPS) but not by indirect dischargers (through PSES and PSNS) because pass-through has not been demonstrated for phenol. See the discussion on the analysis of pollutant pass-through in Section IX.E.5.a. of this preamble. EPA also is proposing to exclude two nonconventional pollutants from control by PSES and PSNS regulations (acetonitrile and polyethylene glycol 600) because pass-through has not be demonstrated for these pollutants. In addition, as noted in Section C above, EPA is proposing two alternative pass-through for PSES for 33 priority and nonconventional pollutants. Under one of the proposed alternatives, EPA proposes to exclude 33 pollutants because EPA has some doubt as to whether these pollutants pass through. Under the other co-proposal, EPA proposes PSES for those pollutants based on a determination that they do pass through according to the data presently available to EPA.

D. Available Technologies

1. Pollution Prevention Technologies Considered

EPA requested pollution prevention and process information regarding organic solvent use from pharmaceutical manufacturing facilities in its 1990 questionnaire. The responses indicate that while plants can make some process changes that would result in some source reduction, the opportunities to minimize or eliminate solvent use by changes in existing processes are limited, especially for facilities with subcategory A and/or C operations. Fermentation (A) and chemical synthesis (C) processes often involve complicated procedures which utilize solvents according to an exact recipe. In most cases, any change in the specific process or the amount of solvent used may result in a significant reduction in the yield of product obtained. Nonetheless, some Subcategory D (Mixing/Compounding/Formulating) facilities have utilized aqueous-based solvents instead of organic solvents to coat tablets, thereby eliminating solvent use for that operation. This approach is generally not applicable to all tablet coating operations because most coating materials are not soluble in aqueous solvents.

Pharmaceutical plants sometimes cite an administrative, as well as a technical, impediment to pollution prevention. That is, once a pharmaceutical company gains approval from the Food and Drug Administration (FDA) to manufacture a pharmaceutically active ingredient or drug via a specific procedure, it may not deviate significantly from the approved procedure without additional FDA approval. Thus, if a company wishes to alter significantly an approved manufacturing procedure for any reason, including pollution prevention, it must submit a "supplement" application to FDA, which must be approved before the company can use the altered procedure.

EPA understands that FDA historically needs to take a long period of time to process these requests for approval. However, since the enactment of the "Prescription Drug User Fee Act of 1992," 21 U.S.C. 379 *et seq.*, Pub. L. 102–571, Oct. 29, 1992, the FDA has committed to using the revenues generated under that Act to expedite the prescription drug review and approval process, which include decisions on manufacturing supplements relating to pollution prevention-oriented process changes. EPA understands that the FDA hopes to eliminate its backlog of overdue manufacturing supplements by the end of Fiscal Year 1995 and to achieve, by Fiscal Year 1997, its goal of reviewing and acting upon every complete manufacturing supplement within six months of submission. EPA believes that such expeditious processing of supplements will eliminate impediments that presently discourage pharmaceutical plants from making process changes necessary to achieve source reductions.

In addition to evaluating opportunities for source reduction, EPA also examined potential treatment technologies to determine whether any might promote recovery, recycling, and reuse of chemicals in process wastewater generated by pharmaceutical manufacturing operations; such as solvents. After evaluating the various technologies available to treat solvent-laden wastewaters, EPA concluded that in-plant technologies such as steam stripping and steam stripping with distillation offered the best opportunity for recovery of solvents from wastewater. As discussed in greater

VOL
60
ISS
84
MY
2
1995
UMI

detail in Section IX.E.3 below, steam stripping technology and steam stripping with distillation technology are applied in-plant and minimize the dilution effects of commingling process wastewater streams and the transfer of volatile pollutants to air associated with other technologies. These technologies also allow the pharmaceutical manufacturing operation to recover the stripped solvents from the treatment process in an efficient and cost-effective manner from concentrated streams. These recovered solvents can then be recycled back into the process from which they were removed, reused in other manufacturing operations (e.g., in this industry or in other industries), or reused as "clean fuel" for boilers or other combustion devices. For further discussion of "clean fuels," see section XII.B of this preamble.

2. In-Plant Technologies Considered

EPA considered the following in-plant technologies to control solvent- and cyanide-laden wastewater generated by pharmaceutical manufacturing: (1) Steam stripping; (2) steam stripping with distillation; and (3) cyanide destruction. EPA concludes that steam stripping technology is the best technology available for removing high loadings and high concentrations of volatile organic pollutants from wastewater, and accordingly proposes BAT limitations for facilities with subcategory A and/or C operations on that technology basis. Fourteen plants reported using steam stripping technology and one facility reported using distillation technology for wastewater treatment in 1990. The demonstrated removal efficiencies for both technologies treating streams with high concentrations of highly strippable volatiles are greater than 99 percent. A detailed discussion of steam stripping and steam stripping with distillation (using fractional distillation columns with rectifying sections for difficult to strip volatile organic pollutants) and their use in the pharmaceutical manufacturing industry may be found in Section 7 of the TDD.

3. End-of-Pipe Technologies Considered

The end-of-pipe treatment technologies currently employed by the industry include: preliminary or primary treatment (neutralization, equalization, and primary clarification); biological or equivalent treatment (aerated stabilization basins with and without settling basins, oxidation ponds, and activated sludge systems); and physical/chemical treatment (multimedia filtration and chemically assisted clarification). In addition, EPA has designated as advanced biological treatment a treatment configuration consisting of primary treatment plus some form of activated sludge treatment, which achieves better than 90 percent BOD_5 and 74 percent COD reduction from raw waste levels. EPA evaluated each of these available technologies in developing the limitations and standards proposed today. In addition to these technologies, the Agency also considered granular activated carbon (GAC) adsorption technology, which is an appropriate and available end-of-pipe treatment technology for pharmaceutical wastewater. All of the various technologies mentioned above are discussed in detail in Section 7 of the TDD.

All 35 direct dischargers responding to EPA's detailed questionnaire reported having some form of primary treatment in place in 1990. Thirty-one facilities reported having some form of biological or secondary treatment in place, either air- or oxygen-activated sludge treatment followed by secondary clarification and, in some cases, multimedia filtration and polishing ponds. One plant reported using GAC technology as end-of-pipe technology, and one plant reported using GAC technology in-plant.

E. Rationale for Selection of Technology Bases for Proposed Regulations

1. BPT

a. Introduction. EPA is today proposing revised BPT effluent limitations guidelines based on the Best Practicable Control Technology Currently Available (BPT) for BOD_5, TSS, and COD for subcategories A, B, C, and D of the pharmaceutical manufacturing industry. EPA is also proposing to revise existing BPT limitations for cyanide for facilities with subcategory A and/or C operations and to repeal the existing BPT cyanide limitations for facilities with B and/or D operations. The Clean Water Act explicitly authorizes EPA to revise all effluent limitations guidelines, including those based on best practicable technology, at least annually if appropriate. See CWA section 304(b). In the 1987 amendments to the Clean Water Act, Congress further required EPA to establish a schedule for the annual review and revision of promulgated effluent guidelines in accordance with section 304(b). See CWA section 304(m). Moreover, as discussed in Section V.A.4, above, EPA entered into a consent decree that requires EPA to propose and promulgate effluent guidelines for the pharmaceutical manufacturing industry, as appropriate, including those authorized by section 304(b) for existing dischargers. See 304(m) Decree at 4–5. Because BPT guidelines are among those listed in section 304(b), EPA thus is required by the 304(m) Decree to propose and take final action on BPT guidelines for this industry, unless not appropriate.

EPA has determined that revising BPT limitations for the pharmaceutical manufacturing industry is indeed appropriate and important. The existing BPT guidelines for BOD_5, TSS, COD and cyanide for this industry, which were most recently revised in 1983, are based on secondary treatment data collected in the mid-1970s and cyanide destruction technology data collected in the early 1980s. Data from the 1990 detailed questionnaire indicate that there have been significant improvements in secondary treatment and cyanide destruction technologies in the industry since that time. Accordingly, the technology underpinnings of the current BPT limitations no longer reflect the "average of the best" technology currently available. Moreover, substantial environmental benefits would ensue from more stringent BPT limitations. For example, there would be significant reductions in the levels of COD and cyanide in addition to BOD_5 and TSS from current levels if BPT were revised. EPA has determined that revising the BPT limitations to reflect the best practicable control technology currently available is appropriate at this time.

b. Pollutants of concern. EPA is proposing to revise BPT effluent limitations controlling the discharge of BOD_5, TSS, COD, and, for facilities with subcategory A and/or C operations, cyanide (CN). EPA has determined that cyanide is not a pollutant of concern for facilities with subcategory B and/or D operations. Limitations for the pollutant parameter, pH, are not being revised.

c. Determination of technology basis of BPT. To determine the technology basis and performance level that constitutes BPT, EPA developed a database consisting of 1988 and 1989 effluent data supplied in response to the 1990 detailed questionnaire and its pretest form. The Agency determined that more than 29 of 35 direct dischargers and 23 indirect dischargers utilized biological treatment (activated sludge treatment). In addition, 10 direct and indirect discharging plants reported some form of cyanide destruction technology in place. Other technologies utilized include wastewater incineration (12 plants), effluent filtration (6 plants), and polishing ponds (8 plants).

d. Determination of performance level defining BPT. EPA used 1989 and 1990 data supplied in the response to the 1990 detailed questionnaire regarding BOD_5, TSS, and COD effluent and effluent concentrations and loadings in order to calculate long-term average concentrations for BOD_5, TSS, and COD. EPA then used this information to determine the performance level defining proposed BPT for BOD_5, TSS, and COD. EPA has determined that the level of performance necessary for a plant to be considered as a best performer with respect to advanced biological treatment was full compliance with the existing BPT limitations.

In order to develop BPT limitations for BOD_5, TSS, and COD for facilities with subcategory A and/or C and B and/or D operations, EPA first identified those plant datasets that indicated full compliance with the 1983 BPT regulation. BPT in the 1983 regulation was based on activated sludge treatment, which is considered a principal component of advanced biological treatment. Under the intent of the 1983 regulation, facilities with subcategory A and/or C operations must achieve long-term average reductions of 90 and 74 percent in BOD_5 and COD, respectively, and average TSS concentrations equal to 1.7 times their average influent BOD_5 concentrations. As an initial matter, EPA did not consider plants for this rulemaking unless they were consistently achieving such long-term BOD_5 and COD percent reductions and related TSS concentrations.

Having identified the plants that are complying with the 1983 BPT requirements, EPA then undertook to determine which could be considered best performers in the two subcategory groups. To do this, EPA usually develops editing criteria to analyze available performance data. EPA concluded that no such editing criteria were necessary in this case, however, because performance data for the plants employing advanced biological treatment to fully comply with the intent of the 1983 BPT regulation showed that all were achieving similar good performance. Five thus emerged as best performers among facilities with subcategory A and/or C operations; for facilities with subcategory B and/or D operations, EPA identified two as best performers. The Agency then calculated long-term average performance concentrations for BOD_5, TSS, and COD using datasets from the best performing A and C and B and D plants. The limitations derived from these concentrations represent the "average of the best" performance with respect to advanced biological treatment in the pharmaceutical manufacturing industry.

With respect to the development of the BPT cyanide limitations for facilities with subcategory A and/or C operations, EPA identified ten facilities that used some form of cyanide destruction technology to destroy or oxidize the cyanide in their waste streams. The existing BPT limits for CN were based on alkaline chlorination technology. After evaluating the performance data characteristic of the various cyanide destruction technologies employed, EPA concluded that hydrogen peroxide oxidation appeared to meet the statutory requirements for BPT most effectively. In reaching this decision, EPA used influent and effluent cyanide data from one of these facilities to determine the effectiveness of this form of treatment in reducing cyanide concentrations. This facility achieved substantially more effective treatment than the other two facilities that used the same cyanide destruction technology. As a result, the proposed cyanide limitations for facilities with subcategory A and/or C operations are based on the performance of hydrogen peroxide oxidation technology. EPA is proposing to repeal the current BPT limitations for cyanide for facilities with subcategory B and/or D operations because cyanide is not a pollutant of concern for those operations. See Section 9 of the TDD for discussion of the cyanide content of raw wastewaters generated by facilities with subcategory B and/or D operations.

The development of the variability factors used to determine BPT effluent limitations for BOD_5, TSS, COD, and cyanide from the LTA is discussed in section IX.F below. A detailed explanation of the development of the proposed BPT effluent limitations is found in Section 2.2 of the statistical support document. Additional discussion of the basis for developing treatment effectiveness data for cyanide destruction is presented in Section 8 of the TDD.

2. BCT

a. *Methodology for determining revised BCT limits.* EPA is today proposing revised BCT effluent limitations guidelines based on the Best Conventional Pollutant Control Technology (BCT) for four subcategories (A, B, C, and D) of the pharmaceutical manufacturing industry. These proposed guidelines, for the conventional pollutants BOD_5 and TSS, are based on the average performance of the best plants in these subcategories that employ advanced biological treatment (the technology basis of the proposed BPT limitations). In developing and proposing revised BCT limits, EPA considered whether there are technologies that achieve greater removals of conventional pollutants than the proposed BPT, and whether those technologies are cost-reasonable according to the BCT cost test. In the four subcategories for which EPA proposes revised limitations today, EPA identified no technologies that achieve greater removals of conventional pollutants than those associated with the proposed BPT limits that are also cost-reasonable under the BCT cost test, and accordingly proposes BCT limits equal to the proposed BPT limits for those subcategories. The technologies considered for facilities with subcategory A and/or C operations included effluent filtration, polishing ponds, and the combination of effluent filtration and polishing ponds. EPA considered only effluent filtration for facilities with subcategory B and/or D operations.

EPA's analysis had several steps. First, EPA considered how best to define the BPT "baseline" for these purposes. In performing the BCT cost tests, the BPT baseline serves as the starting point against which more stringent technologies are analyzed. EPA considered three possible baselines: (i) the revised BPT limits proposed in today's notice; (ii) the actual long-term average discharge of conventional pollutants from plants in this industry, based on EPA's 1990 survey data; and (iii) a level of control equal to the amount of discharge allowed under existing BPT regulations. Of these, the first is the most stringent and the third is the least stringent level of control. EPA has selected the proposed revised BPT limits because the revised BPT limitations reflect the average performance of the best facilities in the industry as required by the Clean Water Act. Moreover, dischargers would be required to meet these limitations irrespective of the BCT analysis and hence they provide a more realistic starting point against which to analyze potentially more stringent candidate BCT technologies.

As the second step in determining whether to revise BCT limits, EPA identified candidate BCT technologies. Three candidate technologies were identified for facilities with subcategory A and/or C operations. Each incorporates advanced biological treatment plus one of the following: (1) Multimedia filtration; (2) polishing ponds; or (3) polishing ponds followed by multimedia filtration. The only option evaluated for facilities with subcategory B and/or D operations was

VOL
60
ISS
84
MY
2
1995
UMI

multimedia filtration. EPA was able to evaluate these candidate technologies for facilities with subcategory A and/or C operations and for facilities with subcategory B and/or D operations by estimating costs and pollutant removals on a plant-by-plant basis. The design parameters and other engineering assumptions for these cost and pollutant removal estimates applicable to both A and/or C and B and/or D facilities are explained in Section 10 of the TDD. Section 7 of the TDD also discusses EPA's evaluation and selection of the various candidate BCT technologies. The Agency solicits comment on the above described candidate technologies, and other candidate technologies that might be more cost-effective than multimedia filtration, polishing ponds, or the combination thereof. See Section XIV of this preamble, solicitation number 30.0.

EPA found that all candidate technology options failed the BCT cost test in the two subcategory groups (A and C, and B and D). As a result, EPA is today proposing to set BCT equal to proposed BPT in these two subcategory groups. See the Section 14 of the TDD for a complete discussion of the BCT methodology as applied in each of the subcategories.

b. *Alternative methodology for developing BCT limits.* EPA performed an alternative BCT analysis, in addition to the foregoing. This alternative analysis is based on the possibility that, notwithstanding today's proposal, BPT limits for this industry ultimately are not revised. In performing this analysis, EPA considered four candidate technology options for facilities with subcategory A and/or C operations and two candidate technology options for facilities with subcategory B and/or D operations. The technologies identified above plus advanced biological treatment is the first candidate technology option in each case. The analysis also uses, as its baseline, the level of control equal to the discharge allowed under the existing BPT regulations. This baseline was used in the development of the 1986 BCT limitations for the pharmaceutical manufacturing industry. EPA concluded from this alternative analysis that all candidate technology options fail the BCT cost test using the baseline for the 1986 analysis. Section 14 of the TDD provides more discussion of all BCT cost test analyses.

3. BAT

a. *Introduction.* EPA today is proposing both new and revised BAT effluent limitations guidelines based on the Best Available Technology Economically Achievable (BAT) for four subcategories (A, B, C, and D) of the pharmaceutical manufacturing industry. The BAT effluent limitations proposed today would control certain priority and nonconventional pollutants discharged from plants in these subcategories at an end-of-pipe location. In developing these proposed effluent limitations, EPA identified technologies appropriate for individual priority and nonconventional pollutants.

b. *Establishing BAT limits.* EPA has identified 56 pollutants for possible control by BAT limitations for facilities with subcategory A and/or C operations. The proposed BAT limitations for these subcategories for cyanide and COD are identical to those established under BPT. EPA also is proposing limitations for ammonia for facilities with subcategory A and/or C operations based on incidental removal through steam stripping and advanced biological treatment. Of the remaining 53 priority and nonconventional pollutants for which limitations are being proposed today for facilities with subcategory A and/or C operations, 45 are volatile organic pollutants, which are treatable by steam stripping and steam stripping with distillation technologies. For facilities with subcategory A and/or C operations, EPA is today proposing BAT limitations for those pollutants based on steam stripping technology followed by end-of-pipe advanced biological treatment. The remaining eight pollutants are nonstrippable organic compounds, which are biodegradable. Consequently, EPA is proposing advanced biological treatment as the basis for BAT limitations for these pollutants for facilities with subcategory A and/or C operations.

For facilities with subcategory B and/or D operations, EPA has identified 54 pollutants for control by the proposed BAT limitations based on advanced biological treatment (the technology selected as the basis for the proposed BPT). As discussed under BPT, cyanide is not a pollutant of concern for subcategory B and/or D operations and EPA is proposing to repeal the current BAT limitations for cyanide for facilities with subcategory B and/or D operations. EPA also has determined that ammonia is not a pollutant of concern for these subcategories. EPA is proposing to set BAT limitations for COD for facilities with subcategory B and/or D operations at the levels achieved by compliance with the proposed BPT limitations.

c. *Rationale for BAT limitations by subcategory.* Section V.A.1 summarizes the factors to be considered in establishing the BAT level of control. In general, BAT represents the performance of the best available technology economically achievable among plants with shared characteristics. Where existing pollution control technologies are uniformly inadequate, BAT may be transferred from a different subcategory or industrial category. BAT limitations may be based upon process changes, as well as upon measures that are not common industry practice.

The Agency is today proposing BAT effluent limitations for facilities with subcategory A, B, C, and D operations. The rationale for the proposed effluent limitations in each subcategory is presented in the following paragraphs.

(1) Fermentation and Chemical Synthesis Subcategories, Subparts A and C

The technology basis for the current BAT limitations is cyanide destruction plus end-of-pipe biological treatment.

In establishing the proposed BAT effluent limitations, EPA considered four regulatory options to reduce the generation of priority and nonconventional pollutants by facilities with subcategory A and/or C operations. These options are as follows:

Option (1)—In-plant cyanide destruction plus advanced biological treatment with nitrification.

This option is identical to the technology selected as the basis for the proposed BPT limitations for facilities with subcategory A and/or C operations, except that provisions for nitrification are added.

Option (2)—In-plant cyanide destruction and steam stripping plus advanced biological treatment.

This option adds in-plant steam stripping to the technology described in option 1 for the purpose of removing strippable volatile organic pollutants prior to dilution from commingled wastestreams and air stripping in treatment basins and impoundments at the end of the pipe. Steam stripping will also remove ammonia, thereby obviating the need to add nitrification to end-of-pipe biological treatment.

Option (3)—In-plant cyanide destruction and steam stripping with distillation plus advanced biological treatment.

This option adds in-plant fractional distillation to the technology described in Option 2 for the fractional purpose of achieving greater removal of difficult to strip volatile organic pollutants (such as methanol) prior to dilution from commingled wastestreams and air stripping in treatment basins and impoundments at the end of the pipe.

Option (4)—In-plant cyanide destruction and steam stripping with distillation plus advanced biological treatment plus end-of-pipe Granular Activated Carbon (GAC) adsorption technology.

This option adds Granular Activated Carbon adsorption treatment to the technology described in Option 3 for the purpose of achieving additional removal of the pollutant parameter COD beyond that achieved by Option 3.

EPA selected Option 2 as the proposed technology basis for BAT limitations for facilities with subcategory A and/or C operations because EPA believes this option represents the best available technology economically achievable, considering all statutory factors.

The Agency found that the annual incremental increase in electrical power consumption for all facilities to achieve Option 2 was 13,200 MW. This increase is equivalent to an increase of approximately 0.25 percent of the pharmaceutical industry's purchased electrical energy usage in 1990. Using the industry's 1990 purchased electrical energy usage as a baseline, the estimated incremental increases for electrical power consumption for the remaining options were, for Option 3, an increase of 13,800 MW and, for Option 4, an increase of 17,900 MW. With respect to energy needs associated with steam generation for steam stripping and distillation, the Agency found that Option 2 would result in 720,000 MW of incremental energy consumption, or approximately an 8 percent increase above the industry's 1990 total energy consumption. For Option 3, EPA found that 2,220,000 MW of incremental energy consumption, or a 25 percent increase above the industry's 1990 total energy consumption, would be required. EPA did not select Option 3 as proposed BAT because of this large increase in energy consumption required for steam generation. This decision is consistent with the CWA's requirement that EPA take into account energy requirements in selecting BAT. While steam generation under Option 2 requires slightly higher energy consumption than the 1990 baseline, the Agency notes that the potential for solvent recovery and reuse will substantially offset these energy expenditures. See Section XII.B of this preamble for further discussion of "clean fuels." Further discussion of these non-water quality environmental and energy impacts also is presented in Sections 12 and 15 of the TDD.

EPA also is proposing standards to control COD, based upon advanced biological treatment. These proposed BAT limitations are based on the performance of the "best" performers among facilities with subcategory A and/or C operations. EPA believes that a substantial portion of the raw waste load COD can be removed in plant, prior to advanced biological treatment, by application of steam stripping technology—upon which the proposed BAT limitations for priority pollutants and the other nonconventional pollutants are based. However, EPA lacks sufficient data at this time to quantify the removal of COD achievable through in-plant steam stripping, and in turn the further removal of remaining COD load achievable by advanced biological treatment, and therefore does not propose its subcategory A and/or C BAT limitations for COD based on that combination of technologies. EPA solicits data and comments concerning the establishment of EPA for COD for subcategories A and C based on steam stripping plus advanced biological treatment. See Section XIV, solicitation number 20.

In estimating the energy consumption for steam generation associated with Option 3, EPA assumed, based on available data, that very high volumes of wastewater would need to be stripped and distilled, thus requiring high demands for steam. EPA believes that this assumption is very conservative because the Agency assumed from the 308 questionnaire responses that wastewater streams containing high concentrations of volatile organic pollutants could not be segregated from streams containing minimal or no concentrations of these pollutants. EPA believes that stream segregation is possible. EPA further expects that more recent data will show that the volume of wastewater that would be subject to steam stripping and distillation is substantially lower than the volume assumed in this proposal. Such lower volumes would also invariably result in higher concentrations of the volatile organic pollutants to be stripped. Considerably less steam, and hence considerably less energy, would be necessary to strip (Option 2) or distill (Option 3) such pollutants from low volume, high concentration wastewater. If more recent data fulfills this expectation, the Agency may reconsider Option 3 for A and/or C subcategory facilities. Therefore, EPA invites comments and data regarding the volume of wastewater that may require steam stripping and the pollutant concentrations in those wastestreams. See Section XIV, solicitation numbers 6.0 and 15.6. EPA also solicits comments on the use of distillation technology for the purpose of obtaining additional removal of pollutants such as methanol that are difficult to steam strip. See Section XIV, solicitation number 15.9.

The Agency considered other non-water quality environmental impacts of the selected option, including the role which this proposal may play in the minimization, recycle, and disposal of characteristic (ignitable) volatile organic wastes. EPA has determined that Options 2 and 3 will generate 52,200 and 61,000 metric tons per year of condensates, respectively (more than Option 1 because of the use of steam stripping and steam stripping with distillation technologies). The condensates may include both halogenated and nonhalogenated solvents. Plants may choose to purify these condensates and then recycle/reuse the purified solvents as raw materials or use the condensate streams as fuel for incinerators either on or off site. If plants choose the latter approach, EPA has determined that adequate commercial incinerator capacity exists. Although EPA believes that most facilities will either recycle or incinerate their steam stripping condensates on-site because, in many cases, adequate recycle or incineration capability exists on-site, the Agency has adopted the conservative approach in its BAT cost estimates by assuming all condensates will be disposed of by off-site incineration. Because Option 3 features distillation in addition to steam stripping and achieves greater organic pollutant removal, resulting in a higher volume of condensates, EPA determined that the estimated costs of off-site incineration of the resulting condensates would be about 10 percent higher for Option 3 than for Option 2. Because the cost differential between Options 2 and 3 represents only a small part of the total costs associated with Option 3, EPA did not regard it as a significant factor. Accordingly, EPA concluded that the generation of condensates as a result of steam stripping and steam stripping with distillation technology does not provide a basis for choosing between technology Options 2 and 3 as the basis for BAT limitations for facilities with subcategory A and/or C operations. A more complete discussion of the Agency's waste minimization and combustion strategy and its relationship to this industry and rulemaking is presented in Section XII.B of this preamble and in Section 7 of the TDD.

The Agency also considered the effect of Options 1, 2, 3, and 4 on the current levels of air emissions from wastewaters at facilities with subcategory A and/or C operations. EPA used the WATER7 computer model employed by the EPA Office of Air and Radiation (OAR) in the

VOL 60 ISS 84 MY 2 1995 UMI

recently promulgated Hazardous Organic NESHAP (HON) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI), in conjunction with Section 308 questionnaire responses, to evaluate the 1990 levels of air emissions from wastewater for this industry. The results of the analyses were used to estimate air emission increases or decreases for the regulatory options. The Agency estimates that Option 1 would result in a minimal increase in air emissions, while Options 2 and 3 would decrease air emissions by 5,300 and 6,350 metric tons per year, respectively. Option 4 would achieve the same air emission reduction as Option 3. In EPA's view, these beneficial non-water quality environmental impacts militate in favor of selecting a technology option employing steam stripping or distillation (i.e., Options 2, 3 or 4).

The Agency did not find that the age of equipment and facilities involved provided any basis for choosing among the options. The Agency also evaluated whether the engineering aspects of the options were compatible with the manufacturing processes employed and potential process changes at facilities with subcategory A and/or C operations. EPA concluded that the engineering aspects of all four options were compatible with current manufacturing processes and possible process changes at these facilities, and the results of this evaluation did not provide a basis for selecting an option.

(2) Biological and Natural Extraction and Mixing/Compounding/Formulating Subcategories, Subparts B and D

EPA considered four regulatory options to reduce the generation of priority and nonconventional pollutants by facilities with subcategory B and/or D operations. In selecting and evaluating these technology options for BAT for these facilities, EPA examined the 1990 questionnaire data supplied by the fourteen facilities with subcategory B and/or D operations only that discharge directly into surface waters. Among other things, EPA undertook to characterize the process wastewater from these facilities in order to identify the best technologies available to treat the pollutants of concern. The data supplied by these facilities indicate that the process wastewater of these direct dischargers is significantly different, in terms of the pollutants present and their concentrations, from the process wastewater of indirect discharging facilities with subcategory B and/or D operations. EPA is unable to account for this marked difference, because the processes employed by the direct and indirect dischargers with subcategory B and/or D operations seem to be the same, and therefore EPA has some doubts that these data depict the typical wastestreams of direct dischargers with subcategory B and/or D operations. Although EPA proposes BAT limitations for these facilities based on the conclusions it drew from the data, EPA also solicits comment on those conclusions and invites additional data concerning the processes and wastewater characteristics (flow and pollutant concentration) of these facilities. See Section XIV, solicitation number 7.0. Because new data for 1991–1994 may establish greater similarities between the process wastewaters of direct and indirect dischargers with operations than are evident today, EPA is also considering and specifically inviting comment on whether it should promulgate BAT limitations based on the model treatment technology selected by EPA as the basis for its proposed PSES limitations for facilities with subcategory B and/or D operations. See Section IX.E.5 for a discussion of the reasoning underlying that proposal.

In addition, in the event a facility with subcategory B and/or D operations changes its mode of discharge and decides to discharge its wastewater directly to surface waters (rather than through a POTW), EPA is considering establishing BAT limitations for such dischargers that reflect the wastewater characteristics reported by the indirect dischargers with subcategory B and/or D operations. The possibility that an indirect discharger may change its mode of discharge and thus become subject to BAT limitations rather than to PSES further suggests to EPA that it should consider the entire universe of data from facilities with subcategory B and D operations—not just those currently with direct discharges—in setting BAT limits. Therefore, EPA seeks comment on whether it should promulgate BAT limitations for this subcategory based on steam stripping technology, which EPA has determined is appropriate technology for the wastestreams reported by indirect dischargers in this subcategory. See Section XIV, solicitation number 7.0.

The four options considered by EPA are as follows:

Option (1)—Advanced biological treatment.

This option is identical to the proposed technology basis for BPT for facilities with subcategory B and/or D operations.

Option (2)—In-plant steam stripping plus advanced biological treatment.

This option adds in-plant steam stripping to the technology described in Option 1 for the purpose of removing strippable organic pollutants prior to dilution from commingled wastewater streams and air stripping in treatment basins and impoundments at the end of the pipe.

Option (3)—In-plant steam stripping with distillation plus advanced biological treatment.

This option adds in-plant fractional distillation to the technology described in Option 2 for the fractional purpose of achieving greater removal of difficult to strip volatile organic pollutants (such as methanol) prior to dilution from commingled wastestreams and air stripping in treatment basins and impoundments at the end of the pipe.

Option (4)—Steam stripping with distillation plus advanced biological treatment plus end-of-pipe Granular Activated Carbon (GAC) adsorption technology.

This option adds Granular Activated Carbon adsorption treatment to the technology described in Option 3 for the purpose of achieving additional removal of the pollutant COD beyond that achieved by Option 3.

EPA is proposing Option 1 as the technology basis for BAT limitations for facilities with subcategory B and/or D operations because, on the basis of the data submitted by the direct dischargers in these subcategories, EPA determined that this technology basis is the best available technology economically achievable for these pollutants. However, as discussed above, EPA is seriously considering and specifically invites comment on setting BAT limitations for these plants based on the PSES model technology for facilities with subcategory B and/or D operations. In making the proposed BAT determination, EPA analyzed data for each facility identified through the 1989 Pharmaceutical Screener Questionnaire and the 1990 Detailed Questionnaire as engaging in subcategory B and/or D operations. The results of the screener questionnaire indicate that, nationwide, 14 pharmaceutical manufacturing plants with direct discharges engage only in subcategory B and/or D operations (excluding subcategory E research activities). These 14 facilities reported to EPA in response to the 1990 detailed questionnaire that they discharge BOD_5, TSS, COD, six solvents and no priority pollutants. Of the six solvents, the facilities reported discharging only two in quantities exceeding a combined subcategory total of 1000 lbs/year. EPA's analysis of the questionnaire data indicates that the total nonconventional pollutant loadings discharged, on average, for each facility with subcategory B and/or D operations in

1990 was 1,660 pounds/year. In addition, these 14 facilities reported in their questionnaire responses that they emit from wastewater a total of 170 pounds/year of volatile organic pollutants. Subsequent analysis by EPA using its WATER7 model indicates that these 14 facilities may actually emit closer to 35,000 pounds/year from wastewater. See Section 12 of TDD for discussion of difference between questionnaire results and WATER7 results. By way of comparison, facilities with subcategory A and/or C operations reported in the 1990 questionnaire that they emit from wastewater a total of 3.2 million pounds/year of volatile organic and priority pollutants, and the WATER7 model projected 14 million pounds/year of those pollutants from wastewater.

Based on its evaluation of the data available to it, EPA proposes to base BAT limitations for facilities with subcategory B and/or D operations on advanced biological treatment (PSES Option 1 minus cyanide destruction). In view of the comparatively small quantities of pollutants reported to be discharged and emitted from wastewater from the 14 existing facilities with subcategory B and/or D operations only, EPA has determined that the chosen technology basis for the proposed BAT limit is best suited to the type of wastewater the data describe for direct discharges in these subcategories. Other technology options, which incorporate steam stripping or steam stripping with distillation technologies, are designed to remove large quantities and many varieties of solvents from process wastewater. They are not optimal treatment technologies for the type of wastestreams reported by the 14 direct dischargers in these subcategories, because the 1990 data indicate that these direct dischargers discharge only 6 solvents (in contrast to the 45 solvents reported to be discharged by the facilities with subcategory A and/or C operations), and then in relatively small amounts (an average of 1,660 pounds/year for facilities with subcategory B and/or D operations, compared to an average of 14,600 pounds/year for facilities with subcategory A and/or C operations). Accordingly, based on the data available to EPA for these facilities from the 1990 questionnaire, EPA is not proposing steam stripping or steam stripping with distillation as part of the technology basis for BAT for facilities with subcategory B and/or D operations.

However, in the event that new data for these facilities show that the wastestreams of these facilities actually resemble those of the indirect dischargers in these subcategories, EPA proposes to base the BAT limitations on steam stripping technology, which EPA has determined is the best available technology for wastestreams of that character. See Section IX.E.5. Accordingly, EPA specifically invites comments on establishing BAT limitations equal to the proposed PSES for those pollutants, including those that EPA has determined pass through as part of co-proposal (1). See Section XIV, solicitation number 7. In addition, if EPA promulgated BAT limitations based on steam stripping or steam stripping with distillation, EPA would include BAT limitations on phenol, acetonitrile and polyethylene glycol 600 (based on advanced biological treatment), which are present in the wastestreams of indirect dischargers but which EPA does not propose to regulate under either PSES co-proposal because EPA has concluded that they do not pass through POTWs.

The Agency has estimated that the facilities with subcategory B and/or D operations would incur total post-tax annualized costs of $0.71 million in complying with Option 1. The estimated total post-tax annualized costs for complying with other options are $1.5 million for Option 2, and $2.9 million for Option 3. The Agency estimated that none of the options would result in any closures or unemployment. These impacts; and the methodology behind them, are explained in greater detail in Section XI.B of this preamble and in the Economic Impact Analysis. Based upon these findings, EPA concluded that all four options are economically achievable. EPA selected Option 1 because it determined that option represented that best available technology from among all the economically achievable options.

In evaluating the non-water quality environmental impacts of the options, specifically electrical power consumption, the Agency found that the annual incremental increase in electrical power consumption for all facilities to achieve Option 1 was 265 megawatts (MW) beyond current usage (the same as for the proposed BPT limits). This is equivalent to an increase of approximately 0.005 percent of the pharmaceutical industry's purchased electrical energy usage in 1990. The incremental increases for electrical power consumption for the remaining options were: for Options 2 and 3, an increase of 182 MW and 364 MW, respectively, for all facilities for which EPA estimated compliance costs; and for Option 4 an increase of 911 MW for all facilities for which EPA estimated compliance costs. Further discussion of these non-water quality environmental impacts are presented in Section 12 of the Technical Development Document.

The Agency considered other non-water quality environmental impacts of the proposed option, including the role which this proposal may play in the minimization, recycle, and disposal of characteristic (ignitable) volatile organic wastes. EPA has determined that Options 2, 3 and 4 will generate 76 metric tons per year of condensates as a result of the use of steam stripping or steam stripping with distillation technologies at direct discharging plants. Based on the small increase in condensate generation associated with Options 2, 3 and 4 EPA has concluded that the recovery opportunities or incineration issues prompted by condensate generation do not provide a basis for choosing one of the technology options as the basis for proposed BAT limitations for facilities with subcategory B and/or D operations. The Agency also considered the effect of these four options on the current levels of air emissions from wastewater at facilities with subcategory B and/or D operations. To do this, EPA used the WATER7 computer model to evaluate the 1990 levels of air emissions from wastewater for facilities with subcategory B and/or D operations. The results of the analyses were used to estimate air emission increases or decreases for the regulatory options. The Agency estimates that Option 1 would result in a minimal increase in air emissions, while Options 2, 3 and 4 would decrease air emissions by 16 metric tons per year. EPA concluded that the changes from current emission levels are not significant enough to justify selection of Options 2, 3 and 4.

EPA also concluded that the engineering aspects of all four options were compatible with current manufacturing processes employed and potential process changes at facilities with subcategory B and/or D operations and thus did not provide a basis for selecting an option. Similarly, the age of equipment and facilities involved did not provide any basis for selecting among the options.

The selection of Option 1 as BAT for facilities with subcategory B and/or D operations reflects, in large part, EPA's conclusion, based on currently available data, that BPT level biological treatment can degrade the relatively small load of organic pollutants generated by these facilities with a low occurrence of air emissions during advanced biological treatment. The Agency has noted, however, that this industry is dynamic with respect to its production processes. Thus, volatile organic pollutant loading data requested by EPA for 1991–1994

VOL 60 ISS 84 MY 2 1995 UMI

may lead to a different conclusion regarding the need for and feasibility of controlling volatile organic pollutants. See Section XIV, solicitation number 7.

d. Point of regulation. EPA considered three different points of compliance monitoring for facilities with subcategory A and/or C operations in establishing the proposed BAT effluent limitations for control of strippable and nonstrippable organic pollutants, and cyanide and ammonia. These points are located: (1) In-plant prior to dilution by non-process wastewater, commingling with other process wastewater streams not containing the regulated pollutants at treatable levels, and any conveyance, equalization, or other treatment units that are open to the atmosphere; (2) in-plant after commingling with other regulated process wastewater streams but prior to open-air primary treatment; and (3) at the final effluent point or end-of-pipe.

EPA is proposing BAT limitations for 45 volatile and semivolatile pollutants for facilities with subcategory B and/or D operations based on advanced biological treatment at the end of the pipe because currently available data does not support basing such limitations on in-plant steam stripping or steam stripping with distillation technologies. For facilities with subcategory A and/or C operations, EPA is proposing to set BAT limitations based on advanced biological treatment at the end of the pipe for eight semivolatile organic pollutants and COD because these pollutants are not strippable. For these facilities, EPA also proposes to enforce limits on cyanide inside the discharger's facility at in-plant location (1). EPA is proposing BAT limitations for 37 volatile and semivolatile pollutants plus ammonia for facilities with subcategory A and/or C operations based on in-plant steam stripping followed by advanced biological treatment at the end of the pipe.

In the usual case, compliance monitoring for NPDES permits occurs at the end of the pipe. See 40 CFR 122.45(a). However, the NPDES regulations also authorize permitting authorities to impose in-plant monitoring requirements on a case-by-case basis. 40 CFR 122.45(h). Those regulations provides that when permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, limitations or standards may be imposed on internal wastestreams before mixing with other wastestreams or cooling waters. *Id.* Under that regulation, the permit writer must describe in the fact sheet the exceptional circumstances that make such limits necessary. Section 122.45(h)(2) lists examples of exceptional circumstances that could justify such in-plant monitoring requirements. EPA also proposes to provide in the regulations that the BAT limitations set forth in the tables for subcategories A and C do not apply for any pollutant for which the permit writer finds it necessary to specify in-plant monitoring requirements under 40 CFR 122.44(i) and 122.45(h). EPA proposes that limitations for those pollutants would be established on a best professional judgment basis pursuant to 40 CFR 125.3. Permit writers in such cases should use as guidance the standards proposed as PSES for the particular pollutants as set forth at §§ 439.16(a)(1) and 439.36(a)(1) of the proposed regulation, because the proposed standards for those pollutants reflect in-plant monitoring based or the steam-stripping component of the BAT technology.

In the event that EPA decides to specify an in-plant monitoring location for the 12 highly strippable volatile organic pollutants, EPA would also propose to establish different BAT limitations corresponding to that location. EPA would likely use as a model the proposed pretreatment standards for existing sources in these subcategories for the reasons set forth above.

In developing this proposal, EPA considered establishing in-plant monitoring locations for all 45 volatile organic pollutants for facilities with subcategory A and/or C operations. EPA had several reasons for considering that approach. First, EPA was concerned that limits imposed at the end of the pipe for these pollutants could be impractical or infeasible to enforce. The limitations being proposed for the 45 volatile organic pollutants are based on BAT model technology steam stripping followed by advanced biological treatment. Many of these proposed limitations are only marginally above the levels at which these pollutants can be detected in the wastestreams. Dilution of these regulated wastestreams with other streams not containing the regulated pollutants, followed by incidental air stripping in primary and secondary treatment units, would in most cases cause the pollutants to be present at or below detection by current analytical methods. Thus, EPA was concerned that neither the discharger nor the permitting authority could practicably or feasibly determine, at the end of the pipe, whether the limits in fact were being met. Second, EPA was also concerned that monitoring for some pollutants at the point of discharge would be impractical and infeasible as measures of the performance of the BAT control technologies, because EPA would have no way of knowing whether reductions in wastewater discharges are being achieved by application of the control technology or by air emissions in wastewater conveyance and treatment facilities. Companies are not required to install EPA's model BAT technology and can choose how they wish to achieve the limitations in these regulations. (EPA uses such information to review existing effluent limitations and to determine, consistent with sections 304(b) and 304(m) of the Clean Water Act, whether revisions are necessary.) Third, in-plant monitoring requirements could promote pollution prevention opportunities for recycle and reuse of volatile organic pollutants, including nonhalogenated volatile organic compounds (e.g., methanol), derived from application of in-plant technologies, like steam stripping. These compounds are considered "clean fuels." See Section XII.B for a discussion of "clean fuels." Reuse of these compounds as fuel could also help reduce a discharger's energy needs, a factor EPA must consider under section 304(b) of the Clean Water Act.

In considering whether to establish in-plant limitations for the 45 volatile organic pollutants, EPA also weighed the likelihood that wastewater pollutants will be transferred to the air in the course of primary or secondary treatment. Based on its analyses using the WATER7 model and questionnaire response data, EPA believes that wastewater from subcategory A and/or C facilities can indeed produce significant air emissions. EPA also believes that the steam stripping component of the proposed BAT technology will significantly reduce the likelihood of these emissions, because it achieves a removal efficiency of 99% for most of these pollutants. EPA further emphasizes that air stripping is not part of the proposed BAT technology.

Although EPA concluded that it has the legal authority to establish in-plant monitoring requirements, EPA has determined as a matter of policy that proposing such requirements today to account for these emissions would be premature because of the impending rulemaking for this industry under the Clean Air Act. As discussed in greater detail in Section X below, EPA expects to propose MACT standards for the pharmaceutical industry on the basis of the same steam stripper design employed in this water rulemaking. EPA also expects in the Clean Air Act rulemaking to regulate all volatile organic hazardous air pollutants (HAPs), including many of the 45 volatile

organic pollutants covered by this proposed rule. The least stringent control option preliminarily identified in Section X would require all wastewater streams with a flow of 100 liters per minute or greater and a 1,000 ppmw or greater volatile organic HAP concentration to be equipped with controls. Thus, the Agency intends that both rules ultimately will be based on the same control technologies for the same high concentration low volume process wastewater streams that contain the pollutants of concern. In short, EPA expects that the non-water quality environmental benefits that could be achieved by establishing in-plant monitoring requirements in this rulemaking will be realized under the statute that provides the most direct and effective means for controlling the air emissions at issue. By coordinating these rulemakings to the extent that external deadlines allow, EPA hopes to address the multi-media issues associated with the manufacture of pharmaceuticals while using, respectively, the statutory tools best suited to the particular media being protected.

EPA specifically solicits comment on all issues pertaining to the establishment of in-plant limitations on a case-by-case basis, including the burden imposed on permit writers, the recommended limitations, and the reasons EPA considered for setting limitations in-plant on a national basis. See Section XIV, solicitation numbers 7.2, 15.1–15.7. EPA also seeks comment on EPA's policy decision to defer at this time to the Clean Air Act rulemaking. See Section XIV, solicitation number 15.8.

4. NSPS

a. Introduction. The Agency today is proposing New Source Performance Standards (NSPS) for facilities with subcategory A, B, C, and D operations in the pharmaceutical manufacturing industry. New plants have the opportunity to incorporate the best available demonstrated technologies, including process changes, in-plant controls, and end-of-pipe treatment technologies. Current regulations establish NSPS for cyanide based on alkaline chlorination for all four manufacturing subcategories. EPA proposes to revise these standards for facilities with subcategory A and/or C operations and to repeal them for facilities with subcategory B and/or D operations.

b. Definitions of new source. EPA's NPDES regulations define the term "new source" at 40 CFR 122.2 and 122.29. Pursuant to those regulations, to be a "new source" a source must:

(1) be constructed at a site at which no other source is located;

(2) totally replace the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) have processes substantially independent of an existing source at the same site, considering the extent of integration with the existing source and the extent to which the new facility is engaged in the same general type of activity as the existing source. 40 CFR 122.29(b).

Any new source subject to part 439 that was a "new source" as defined under 40 CFR 122.29 prior to the date on which the New Source Performance Standards proposed today are promulgated will continue to be subject to the current NSPS regulations for the subpart to which the source is subject until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1). After that time, the source is no longer considered to be a new source and will be required to achieve the BPT, BCT and BAT effluent limitations proposed in this rulemaking applicable to the source for its subcategory. EPA defines new source for the purpose of NSPS in this rulemaking as a source that commences construction after promulgation of the standards being proposed today, rather than after proposal, because, in accordance with the schedule established in the 304(m) Consent Decree, as modified, EPA does not expect to promulgate final standards within 120 days after proposal. See 40 CFR 122.2 (definition of New Source).

c. NSPS options and selection. (1) Fermentation and chemical synthesis subcategory, subparts A and C. EPA today is proposing NSPS for 58 priority, nonconventional, and conventional pollutants for facilities with operations in the fermentation and chemical synthesis (A and C) subcategories. These proposed standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Administrator considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Priority and nonconventional pollutants. EPA today is proposing New Source Performance Standards for 56 priority and nonconventional pollutants for facilities with subcategory A and/or C operations. In so doing, EPA evaluated two technology options described earlier in section IX.E.3.c.1. The two options are: (1) In-plant cyanide destruction and steam stripping with distillation plus advanced biological treatment; and (2) option 1 plus Granular Activated Carbon adsorption treatment. EPA did not consider a technology option based primarily on steam stripping without distillation because it is not as effective as distillation in removing pollutants such as methanol, that are difficult to strip. EPA is proposing NSPS based on the technology described in Option 1 for subcategories A and C because EPA has determined that it is the best available demonstrated control technology for treating and removing the pollutants of concern for these subcategories. EPA selected a more stringent NSPS technology than its chosen BAT technology because new sources have the opportunity to segregate their process wastewater in such a way as to minimize the amount of wastewater that will require steam stripping with distillation, thereby reducing the adverse energy impacts that prevented EPA from selecting this technology as BAT.

EPA considered the potential cost of the proposed NSPS technology for new plants, as well as the costs associated with Option 2, which EPA did not select. EPA concluded that costs associated with any option would not be so great as to present a barrier to entry, because EPA anticipated no economic impacts for existing source subcategory A and C plants if they were to implement the proposed NSPS technology. The Agency also considered energy requirements and other non-water quality environmental impacts when comparing the GAC technology (Option 2) with Option 1. EPA concluded that there would be only a slight difference in the energy requirements associated with Options 1 and 2. There are no significant differences in the other non-water quality environmental impacts between the two options considered. EPA did not select Option 2 as the proposed basis for NSPS because, as noted above, EPA does not have sufficient data to quantify the amount of COD removed after application of steam stripping with distillation technology and therefore could not determine whether granular activated carbon technology is appropriate to remove remaining COD loads. See Section 16 of the TDD for further discussion of NSPS for all four subcategories.

EPA is proposing standards to control COD based upon advanced bio'ogical treatment, which is the BAT technology. These proposed standards are based on the performance of the "best"

VOL 60 ISS 84 MY 2 1995 UMI

performers with subcategory A and/or C operations. EPA believes that a substantial portion of the raw waste load COD can be removed in plant, prior to advanced biological treatment, by application of steam stripping with distillation technology—upon which the proposed NSPS for priority pollutants and the other nonconventional pollutants are based. However, EPA lacks sufficient data at this time to quantify the removal of COD achievable through in-plant steam stripping with distillation, and in turn the further removal of remaining COD load achievable by advanced biological treatment, and therefore is not able to propose subcategory A and/or C NSPS for COD based on that combination of technologies. EPA solicits data and comments concerning the establishment of NSPS for COD for subcategories A and C based on steam stripping with distillation plus advanced biological treatment. See Section XIV, solicitation number 20.

(ii) Conventional pollutants. EPA today is proposing NSPS for BOD_5 and TSS for the fermentation and chemical synthesis subcategories (A and C). As noted above for the proposed revised BPT limitations, EPA is not proposing to change the pH limitations incorporated in the existing NSPS. Based upon data available for this subcategory, the technology basis for these proposed standards—advanced biological treatment—represents the best available demonstrated level of performance (the one best performer) for the control of BOD_5 and TSS in these subcategories.

EPA considered the cost of the proposed technology basis for NSPS for new plants. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that one currently operating plant is performing at the NSPS level using this technology. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for any different standards than the proposed NSPS for conventional pollutants.

(2) Biological and Natural Extraction and Mixing/Compounding/Formulating Subcategories, Subparts B and D. EPA today is proposing New Source Performance Standards (NSPS) for 56 priority, nonconventional and conventional pollutants for facilities with Biological and Natural Extraction and Mixing/Compounding/Formulating (B and D) subcategory operations. These proposed standards are based on the best available demonstrated control technology, process, operating method, or other alternative. In developing these proposed standards, the Agency considered factors including the cost of achieving effluent reductions, non-water quality environmental impacts, and energy requirements.

(i) Priority and Nonconventional Pollutants. EPA today is proposing New Source Performance Standards for 54 priority and nonconventional pollutants for facilities with subcategory B and D operations. In developing NSPS for these subcategories, EPA evaluated two technology options described earlier in Section IX.E.3.c.(2). The two options are: (1) In-plant steam stripping with distillation plus advanced biological treatment; and (2) Option 1 plus Granular Activated Carbon adsorption treatment.

EPA is today proposing Option 1 as the NSPS technology basis for subcategories B and/or D. In making this selection, EPA analyzed all of the questionnaire data supplied by facilities with subcategory B and/or D operations and projected the types and volume of volatile organic pollutants that would be present in treatable levels in process wastewaters from new facilities in these subcategories. Although the 1990 questionnaire data indicated that process wastewater from the 14 direct dischargers contained fewer pollutants in lower concentrations than the process wastewater of indirect dischargers (therefore justifying proposed effluent limitations based on advanced biological treatment alone, not including steam stripping with distillation), EPA has determined that there is no basis to conclude that data would adequately depict the wastewater characteristics of a new direct discharger. Thus, EPA relied instead on the entire universe of facilities with subcategory B and/or D operations, irrespective of their direct or indirect discharger status, on the theory that these facilities are more plentiful and hence statistically more significant. Because EPA has no basis for concluding that the wastewater characteristics are related to the manner of discharge, EPA saw no reason to confine its NSPS analysis to the 14 existing direct dischargers and to ignore the 67 indirect dischargers that reported data. In evaluating all of the data available to it for these subcategories from the 1990 questionnaire, EPA concluded that the vast majority of facilities with subcategory B and/or D operations have process wastewater with a comparatively wide variety of volatile organic pollutants in comparatively high concentrations, as reported by 67 of the 188 existing indirect discharging plants with subcategory B and/or D operations. EPA considers wastestreams of these 67 plants to be more typical of the wastestreams EPA expects to find in new sources in this subcategory. Therefore, EPA concluded that the process wastewater of new facilities with subcategory B and/or D operations was more likely to resemble the more typical subcategory B and/or D wastestreams, not the atypical wastestreams reported by the 14 existing direct dischargers in those subcategories. Based on that conclusion, EPA selected, as the proposed technology basis for NSPS for facilities with subcategory B and/or D operations, in-plant steam stripping with distillation treatment followed by end-of-pipe advanced biological treatment, which EPA has concluded represents the best available demonstrated treatment technology. EPA selected a more stringent NSPS technology than its chosen BAT technology because new sources have the opportunity to segregate their process wastewater in such a way as to minimize the amount of wastewater that will require steam stripping with distillation, thereby reducing the adverse energy impacts that prevented EPA from selecting this technology as BAT. See Section 5 of the TDD for further discussion of process wastewaters that EPA projects would be generated by facilities with subcategory B and D operations.

EPA considered the potential cost of the proposed NSPS technology for new plants. EPA concluded that costs associated with either option would not be so great as to present a barrier to entry. EPA predicted no economic impacts (i.e., closures) for existing source subcategory B and D plants if they were to implement the equivalent technology options considered as possible BAT for those subcategories. The Agency noted, however, that the BAT technology option (based primarily on steam stripping with distillation) was inappropriate treatment for the small reported quantities of volatile organic loadings, because the resulting small pollutant removals did not warrant the additional cost of steam stripping with distillation. See Section IX.E.3.c(2) above.

The Agency also considered energy requirements and other non-water quality environmental impacts when comparing the GAC technology (Option 2) with Option 1. EPA concluded that there would be only a slight difference in the energy requirements associated with Options 1 and 2. There are no significant differences in the other non-water quality environmental impacts between the two options considered. EPA did not select Option 2 as the proposed basis for NSPS because, as noted above, EPA does not have sufficient data to quantify the amount of COD removed after application of steam stripping with distillation technology and therefore could not determine whether granular activated carbon technology is appropriate to remove remaining COD loads. See Section 16 of the TDD for further discussion of NSPS for all four subcategories.

For reasons set forth above in the discussion of the proposed NSPS for facilities with subcategory A and/or C operations, EPA is proposing NSPS for the pollutant COD best performing advanced biological treatment. EPA is not proposing NSPS for COD based on in-plant steam stripping with distillation technology because it has not been able to date to quantify the removal of COD achievable through that technology. See Section XIV of this preamble, solicitation number 20.

(ii) Conventional Pollutants. EPA today is proposing NSPS for BOD_5 and TSS for facilities with Biological and Natural Extraction and Mixing/Compounding/Formulating subcategories (B and D). As noted above for the proposed NSPS for facilities with subcategory A and/or C operations, EPA is not proposing to change the pH limitations incorporated in the existing NSPS for facilities with subcategory B and D operations. Based upon data available for this subcategory, the technology basis selected for these proposed standards—advanced biological treatment—represents the most stringent demonstrated level of performance (the one best performer) for the control of BOD_5 and TSS in these subcategories.

EPA considered the cost of the proposed technology basis for the proposed NSPS for new plants. EPA concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that one currently operating plant is performing at the NSPS level using this technology. The Agency considered energy requirements and other non-water quality environmental impacts and found no basis for proposing any different standards than those based on the selected NSPS for conventional pollutants.

d. Point of Regulation. For the reasons set forth in Section IX.E.3.d., above in connection with BAT, EPA is proposing to specify an end-of-pipe monitoring location for its proposed NSPS standards for facilities with A, B, C and/or D operations (excluding cyanide, for which EPA proposes in-plant limitations for facilities with subcategory A and/or C operations). EPA seeks comments on all issues pertaining to this proposal. See Section XIV, solicitation number 15. EPA also proposes to provide in the regulations that the standards set forth in the NSPS tables for subcategories A, B, C and D do not apply for any pollutant for which the permit writer finds it necessary to specify in-plant monitoring requirements under 40 CFR 122.44(i) and 122.45(h). EPA proposes that NSPS for those pollutants would be established on a best professional judgment basis pursuant to 40 CFR 125.3. Permit writers in such cases should use as guidance the standards proposed as PSNS for the particular pollutants (as set forth at §§ 439.17(a)(1), 439.27(a)(1), 439.37(a)(1) and 439.47(a)(1) of the proposed regulation), because those standards are based on the steam stripping with distillation technology that also represents the NSPS technology. See Section XIV, solicitation number 15.7.

5. PSES

Pretreatment Standards for Existing Sources (PSES) are established to prevent passthrough of pollutants from POTWs to waters of the United States, to prevent pollutants from interfering with the operation of POTWs, and to reduce non-water quality environmental impacts (e.g., concerns for worker safety and health, sludge contamination, and air emissions). CWA Section 307(b). The current PSES is based on cyanide destruction, which does not remove volatile organic pollutants. EPA is proposing to establish PSES for this industry to prevent passthrough from POTWs of the same pollutants proposed to be controlled by BAT for the respective subcategories, except polyethylene glycol 600, acetonitrile, and phenol. Standards for existing indirect discharging plants are based upon the best available technologies economically achievable, which may include process changes, in-plant controls, and end-of-pipe treatment technologies. As discussed in section 5.a below, EPA is also proposing to establish no PSES at this time for 33 volatile organic pollutants because there is some doubt that these pollutants actually pass through.

The Agency today is proposing to establish pretreatment standards for existing sources in the pharmaceutical manufacturing point source category. These standards would apply to plants in the four manufacturing subcategories of the industry. Currently, according to the 1990 detailed survey questionnaire responses, 259 plants report discharging to POTWs, 88 of which conduct predominantly A and C subcategory operations and 171 conduct only B and D operations. In 1993, EPA solicited comments regarding PSES from nine POTWs that treated significant quantities of pharmaceutical wastewater. EPA received responses from six POTWs, each of which report treating significant amounts of pharmaceutical wastewater discharges. The questionnaires asked the respondents to comment on the need for pretreatment standards for the pharmaceutical manufacturing category and other matters relating to discharges from pharmaceutical plants. The six POTWs that responded to the questionnaire and their locations are: The Onondaga County Department of Drainage and Sanitation, Syracuse, NY; the Greenville Utilities Commission, Greenville, NC; the Bergen County Utilities Authority, Little Ferry, NJ; the North Shore Sanitary District, Gurnee, IL; the Passaic Valley Sewerage Commissioners, Newark, NJ; and the Puerto Rico Aqueduct and Sewerage Authority, Barceloneta, Puerto Rico.

Except as provided in 40 CFR 403.7 and 403.13, any existing indirect discharger subject to subparts A, B, C or D would be required to achieve the proposed PSES for the subcategory to which the facility is subject by a date three years from promulgation of the final rule.

a. Pass-Through Analysis. To determine whether pollutants indirectly discharged by plants in this industry pass through POTWs, EPA reviewed pharmaceutical manufacturing industry treatment performance data, responses to the detailed questionnaire, performance data for POTWs, and technical literature. In today's notice, EPA makes two alternative proposals associated with PSES and its pass-through determinations. Under co-proposal (1), for subcategories A and C, EPA concludes that nine priority and 42 nonconventional organic pollutants plus ammonia pass through POTWs. Therefore, for all but five nonconventional pollutants for which EPA has not selected a treatment basis, EPA proposes to establish categorical pretreatment standards to regulate those pollutants for subcategories A and C. Similarly under that co-proposal, for subcategories B and D, EPA proposes to establish categorical pretreatment standards to regulate the same pollutants (minus ammonia and cyanide, which EPA has determined are not present in the wastewater of facilities in those subcategories). Under co-proposal (2), EPA proposes that 33 volatile pollutants do not pass through and therefore does not propose PSES for those pollutants for any subcategory.

VOL 60 ISS 84 MY 2 1995 UMI

In determining whether to propose pretreatment standards for the four manufacturing subcategories, EPA first identified the pollutants of concern present in the wastewater characteristic of the particular subcategories. EPA determined from the available data that as many as ten priority pollutants and 45 nonconventional pollutants could be present, in varying amounts and frequencies, in the wastestreams of facilities in all four manufacturing subcategories (excluding cyanide and ammonia for subcategories B and D.) In selecting the pollutants for analysis and in performing the pass-through determination, EPA made three threshold decisions in view of the data available to it.

First, with respect to subcategories B and D, EPA used wastestream data pertaining to indirect discharging facilities rather than direct discharging facilities, because, for reasons EPA is unable to explain, the available data indicated that the wastestreams of direct dischargers were significantly different from and hence unrepresentative of the wastestreams for indirect dischargers in those subcategories. Accordingly, EPA concluded that it would be most appropriate to identify the pollutants of concern and ultimately evaluate the need for pretreatment standards based on the wastewater characteristic of the indirect dischargers that would be subject to such standards.

Second, based on that wastestream data, EPA identified cyanide destruction plus steam stripping followed by advanced biological treatment for subcategory A and/or C facilities and advanced biological treatment for subcategory B and/or D facilities as the best available technology economically achievable to remove the pollutants of concern from those wastestreams. EPA then used these technologies in its pass-through analysis as the basis for comparing the removal efficiencies accomplished through secondary treatment by POTWs.

Third, EPA made pass through determinations by pollutant for all four manufacturing subcategories together, because the data from indirect dischargers data available to EPA indicate that steam stripping is applicable to all four subcategory wastestreams at indirect discharging facilities. Based on these decisions, EPA then compared removal efficiencies achievable by well-operated POTWs employing secondary treatment with those achievable by direct dischargers employing the relevant technology for those subcategories. In co-proposal (1), EPA determined for subcategories A and C that 52 pollutants pass through POTWs and for subcategories B and D that 50 pollutants pass through, based on the information available to it at this time.

For subcategories A and C, EPA also concluded that ammonia passes through because POTWs generally do not have the nitrification capability that comprises part of the technology basis for the proposed BAT limitations for those subcategories. With respect to cyanide for subcategories A and C, EPA found that this pollutant passes through POTWs because the removal of cyanide by BAT-level cyanide destruction units at direct discharging plants with subcategory A and C operations is significantly greater than the documented removals by POTWs with advanced secondary treatment. These findings regarding ammonia and cyanide are not affected by alternative co-proposals (1) and (2).

Based on the pass-through determination in co-proposal (1), EPA proposes to set pretreatment standards for 45 priority and nonconventional organic pollutants for all subcategories in addition to cyanide and ammonia for subcategories A and C. In determining whether these volatile and semi-volatile organic pollutants pass through POTWs, EPA employed its traditional pass through methodology as described above. EPA determined that dischargers in all subcategories could remove up to 99 percent or more of the volatile and semi-volatile organic pollutants from their wastestreams using the BAT technology basis which includes in-plant steam stripping for subcategory A and/or C facilities.

Relying on data reported in the Domestic Sewage Study, EPA then ascertained the removal efficiencies achieved by POTWs for those pollutants using secondary treatment. In evaluating removal efficiencies by POTWs for volatile and semi-volatile pollutants, EPA notes the fact that some of the removal occurring after wastewater leaves a manufacturing facility results from volatilization of these pollutants in the head works and unit operations preceding biological treatment of the POTWs. EPA has consistently refused in these circumstances to regard transfers of pollutants from wastewater to the air as treatment. See, e.g., 59 FR at 50665 (Pesticides guidelines); 58 FR at 36885 (Organic Chemicals, Plastics and Synthetic Fibers guidelines). Therefore, because of this volatilization, the quantity of a particular volatile or semi-volatile pollutant actually available to be removed by the POTW's secondary treatment works was less than the quantity of that pollutant present in the wastestream at the time it entered the POTW collection system. Thus, the POTW treated—and hence removed—a smaller percentage of the pollutant than it would have achieved through its secondary treatment if volatilization en route had not occurred. For a detailed discussion of volatilization in the context of EPA's pass through determinations for all pollutants in all subcategories, see Section 17 of the TDD.

The pass-through determinations reflected in co-proposal (1) are supported by POTWs that treat wastewater generated by pharmaceutical manufacturing facilities. In a letter sent to EPA dated February 14, 1995, the Association of Metropolitan Sewerage Agencies (AMSA) urged EPA to establish national pretreatment standards for organic pollutants found in pharmaceutical wastewater. A copy of this letter is in the rulemaking docket. AMSA argued that a decision by EPA not to regulate these pollutants at the national level would shift the financial, technical and legal burden of regulation to POTWs, which would need to establish local limits for these pollutants on a plant-by-plant, pollutant-by-pollutant basis. Among other things, AMSA asserted that many of its POTW member organizations lack the on-site technical expertise to develop limits for the wide variety of volatile organic pollutants of potential concern. It further asserted that even where such expertise exists, the costs associated with establishing local limits in the absence of federal standards would be so significant that they would amount to unfunded mandates. AMSA also noted that pretreatment standards established at the national level would facilitate the enforcement of limits to protect against volatility, exfiltration and flammability concerns. AMSA concluded that promulgation of national pretreatment standards such as those contained in co-proposal (1) would be the most environmentally sound, timely, and cost effective method of addressing these pollutants of concern. EPA solicits comment on these arguments in support of co-proposal (1). See Section XIV, solicitation number 24.4.

Under co-proposal (2), EPA is considering a finding of no pass-through for 33 priority and nonconventional pollutants in all four subcategories. EPA is soliciting comments and data with respect to this finding. See Section XIV, solicitation number 24.3. EPA has developed co-proposal (2) because of concerns expressed by industry representatives that EPA's pass-through analysis under co-proposal (1) may not be correct for some of the 33 volatile organic pollutants such as methanol, ethanol, and acetone. EPA believes that the additional data and comments received concerning the pass-through analysis for these 33 volatile organic pollutants will enable the Agency to make a final pass-through determination for these pollutants. EPA notes that co-proposal (2) does not affect EPA's pass-through findings regarding the 12 highly strippable organic pollutants (and cyanide and ammonia for subcategories A and C) for which EPA proposes to establish PSES independently.

EPA is not proposing pretreatment standards for several pollutants found in subcategory A, B, C and D facility wastestreams for the following reasons. (This part of the proposal is not affected by the issues addressed in co-proposals (1) and (2).) EPA has concluded for all four manufacturing subcategories that phenol does not pass through for the reasons set forth in the **Federal Register** Notices announcing the promulgation of effluent limitation guidelines and standards for the Pesticide Chemicals and Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) industries. See 59 FR 50638, 50664–65 (September 28, 1993); 58 FR 36872, 36885–86 (July 9, 1993). In addition, EPA does not have sufficient data at this time to determine whether *acetonitrile* and *polyethylene glycol 600* pass through POTWs and therefore does not propose pretreatment standards to control them. Similarly, EPA lacks sufficient data to make a pass-through determination for COD generated by facilities with subcategory A and/or C operations, although EPA is concerned that certain refractory organic waste materials measured as COD that are generated by such facilities may pass through POTWs. (EPA has made a preliminary judgment that COD generated by facilities with subcategory B and/or D operations does not pass through POTWs. EPA will review this judgment based on new data as it becomes available.) EPA therefore is soliciting data and comments in order to make a pass-through determination with respect to *acetonitrile, polyethylene glycol 600,* and COD. See Section XIV of this preamble, solicitation numbers 26 and 27.3. In addition, as noted above, EPA is not proposing pretreatment standards for five nonconventional organic pollutants (formaldehyde, N,N-dimethyl formamide, N,N dimethyl acetamide, ethylene glycol, and dimethyl sulfoxide) for any subcategory because, although EPA has determined that they pass through based on the BAT-level technology, EPA has concluded that the PSES technology (in-plant steam stripping) is an inappropriate basis for pretreatment standards because these pollutants are not strippable. Moreover, EPA currently has insufficient data to select a treatment technology that would be an appropriate basis for such standards. EPA is considering package biological treatment of selected wastestreams for this purpose and solicits comments and data on this and other possible technology bases for pretreatment standards. See Section XIV, solicitation numbers 27.1 and 27.2. EPA also solicits comment and data regarding other pollutants that may pass through or interfere with POTWs, e.g., sulfates and sulfides. See Section XIV, solicitation number 28.

b. Options Considered. EPA considered four technology options for PSES under two different regulatory co-proposal scenarios for facilities with subcategory A, B, C, and D operations. Under co-proposal (1), EPA would propose PSES for 12 highly strippable organic pollutants (plus cyanide at an in-plant location (1) for subcategory A and/or C facilities) and 33 less strippable pollutants (plus ammonia for subcategory A and/or facilities) at the point of discharge to the POTW sewer. In-plant location (1) is described in IX.E.3.d, above. Under co-proposal (2), EPA would propose PSES only for the 12 highly strippable organic pollutants, plus cyanide at an in-plant location (1) and ammonia at the point of discharge to the POTW sewer for subcategory A and/or C facilities. As discussed in subsection a, above, EPA would not propose any pretreatment standards for the 33 less strippable organic pollutants under co-proposal (2) because of issues raised concerning EPA's pass-through analysis for those pollutants.

Under co-proposals (1) and (2), EPA considered basing PSES on the following four technology options for facilities with subcategory A and/or C operations for those pollutants found to pass through:

Option (1) In-plant steam stripping plus in-plant cyanide destruction.

Standards based on this option would control up to eight priority and 38 nonconventional volatile organic pollutants plus cyanide (depending on the pass-through co-proposal considered). Twelve pollutants plus cyanide would be controlled at the in-plant location (1) and 34 pollutants (including ammonia) at the point of discharge to the POTW sewer.

Option (2) In-plant steam stripping/ distillation plus in-plant cyanide destruction.

Standards based on this option would control up to eight priority and 38 nonconventional volatile organic pollutants plus cyanide (depending on the pass-through co-proposal considered). Distillation affords significantly greater removal of volatile organic pollutants that are difficult to strip, such as methanol. Under this option, 22 volatile organic pollutants plus cyanide would be controlled at the in plant location (1) and 24 pollutants (including ammonia) would be controlled at the point of discharge to the POTW sewer.

Option (3) In-plant steam stripping/ distillation plus in-plant cyanide destruction plus advanced biological treatment. The addition of advanced biological treatment would achieve additional volatiles removal beyond that achieved by the technology described in Option 2 as well as significant reductions in discharge levels of COD. Advanced biological treatment would also reduce discharge levels of nonstrippable organic pollutants that are biodegradable.

Option (4) In-plant steam stripping/ distillation plus in-plant cyanide destruction plus advanced biological treatment plus granular activated carbon (GAC) treatment. The addition of granular activated carbon treatment to the technology described in Option 3 would further reduce COD discharge levels.

EPA considered the same four technology options for PSES for facilities with subcategory B and/or D operations, excluding in-plant cyanide destruction (cyanide and ammonia are not regulated pollutants at subcategory B and/or D facilities). EPA has selected Option 1 for PSES under both co-proposals for indirect discharging facilities with subcategory A and/or C operations. The Agency has evaluated the costs of this option based on co-proposal (1) and found that there would be no closures among affected facilities (for which costs were estimated by EPA) as a result of these costs. Therefore EPA determined the costs of Option 1 to be economically achievable based on co-proposal (1). EPA also found the other options to be economically achievable. EPA selected Option 1 because it determined that this option represents the best available technology among all economically achievable options, insofar as it achieves pollutant reductions necessary to prevent pass-through of volatile organic pollutants, allows for recovery and recycling of volatile organic pollutants, and reduces non-water quality environmental impacts caused by air emissions of pollutants from wastewater. See Section XII.B of this preamble for a discussion of the Administrator's waste minimization and combustion strategy. Although Options 2, 3, and 4 would

VOL 60 ISS 84 MY 2 1995 UMI

achieve essentially the same decrease in the emission of wastewater pollutants to the air as Option 1, the increase in energy use requirements associated with Options 2, 3, and 4 would be equivalent to an increase of 31 percent above the 1990 pharmaceutical industry energy use. For this reason, EPA selected Option 1 over Options 2, 3, and 4.

EPA did not select Options 3 or 4 because EPA has not determined whether refractory organic materials measured as COD that are generated by facilities with subcategory A and/or C operations pass through POTWs and therefore is not proposing standards based on potentially unnecessary technology. Moreover, as noted above in EPA's discussion of the proposed BAT limitations for these subcategories, even assuming COD does pass through, EPA lacks data to estimate the COD reductions achievable by steam stripping and thus cannot compare COD reductions achievable by Options 2, 3, and 4.

EPA has also selected Option 1 as the proposed technology basis for PSES (minus cyanide destruction) for facilities with subcategory B and/or D operations. Under co-proposal (1), EPA would propose PSES for 12 highly strippable organic pollutants at in-plant location (1) and 33 less strippable pollutants at the point of discharge to the POTW sewer. In-plant location (1) is described in IX.E.3.d., above. Under co-proposal (2), EPA would propose PSES only for the 12 highly strippable organic pollutants at in-plant location (1).

In selecting steam stripping (PSES Option 1 minus cyanide destruction) as the technology basis for the proposed PSES for facilities with B and/or D subcategory operations, EPA relied upon the 1990 questionnaire data supplied by 188 facilities with subcategory B and/or D operations that send their wastewater to POTWs for treatment. For reasons that EPA is not able to explain, these data show that the wastestreams characteristic of indirect dischargers with subcategory B and/or D operations are significantly different (for regulatory purposes) than the wastestreams of direct dischargers with subcategory B and/or D operations. See Section IX.E.3.c(2) for discussion of basis for proposed BAT limitations for facilities with subcategory B and D operations. In view of this reported difference, EPA has based today's proposed pretreatment standards on a different technology—steam stripping—than the BAT limitations proposed for the direct dischargers in this subcategory, which are based on advanced biological treatment.

The data supplied by the 188 indirect facilities in this subcategory show that these facilities discharge BOD_5, TSS, COD, 18 nonconventional pollutants and four priority pollutants. See Section 9 of the TDD. EPA's analysis of the questionnaire data indicates that the total nonconventional and priority pollutant loadings discharged, on average, for each indirect discharger with subcategory B and D operations in 1990 was 14,600 pounds/year (in contrast to the average of 1,660 pounds/year reported by the 14 direct dischargers in these subcategories). The 188 facilities also reported in their questionnaire responses that they emit from wastewater a total of 1.5 million pounds/year of volatile organic pollutants (in contrast to the emissions totaling 170 pounds/year reported by the direct dischargers). Subsequent analysis by EPA using its WATER7 model indicates that these indirect dischargers may actually emit closer to 3.3 million pounds/year from wastewater (in contrast to the emissions totaling 35,000 pounds/year for the direct dischargers). See Section 12 of TDD for discussion of difference between questionnaire results and WATER7 model results. Based on its evaluation of the data available to it, EPA proposes to base pretreatment standards for facilities with subcategory B and D operations on in-plant steam stripping (Option 1). This technology is designed to remove large quantities and many varieties of solvents from process wastewater. According to the data supplied by the 188 indirect dischargers with subcategory B and D operations, EPA has concluded that the wastewater characteristic of these facilities—with its comparatively high volume and concentration of solvents—is well-suited to this form of treatment. Accordingly, EPA has determined for the reasons set forth above in connection with establishing BAT limitations for facilities with A and C subcategory operations, see Section IX.E.3.c(1) above, that in-plant steam stripping is the most appropriate technology basis for pretreatment standards for facilities with subcategory B and/or D operations. Even though EPA's 1990 data indicates that subcategory B and/or D facilities discharge only 22 priority and nonconventional pollutants, EPA is proposing to establish pretreatment standards for 45 priority and nonconventional pollutants because all 45 pollutants potentially can be discharged to POTWs. (EPA is soliciting comment on mechanisms by which dischargers that do not use or generate pollutants for which standards are proposed can be exempted from monitoring for those pollutants. See Section XIV, solicitation number 38.) In addition, EPA found that none of the 67 facilities (of the 188 indirect dischargers with subcategory B and D operations) that would incur costs as a result of the proposed PSES limitations would close as a result of this option. Therefore EPA determined that the costs of the pollutant reduction achieved by this option were economically achievable.

In considering the various technology options available as possible bases for the proposed pretreatment standards for these subcategories, EPA rejected advanced biological treatment as a viable technology option and therefore did not consider it. Because indirect discharging facilities with subcategory B and/or D operations generate levels of BOD_5, TSS and COD comparable to levels found in ordinary domestic sewage, EPA concluded that biological treatment afforded by POTWs is adequate for these levels of pollutants. Accordingly, EPA has determined that BOD_5, TSS and, preliminarily, COD from facilities with subcategory B and/or D operations do not pass through. Thus, advanced biological treatment at these facilities prior to POTW treatment would be duplicative.

The Agency considered age, size, processes, other engineering factors, and non-water quality environmental impacts in developing the proposed PSES for all four subcategories. The Agency did not identify any basis for establishing different pretreatment standards based on age, size, processes, or other engineering factors. EPA has concluded that the technology upon which EPA proposes to base PSES for facilities with subcategory B and/or D operations would significantly decrease air emissions and would be consistent with the Administrator's waste minimization and combustion strategy. See Section XII.B of this preamble for a discussion of this strategy. EPA did not choose Option 2 because, although this option would result in approximately the same decrease in air emissions as Option 1, it would result in a significant increase in total energy use over that required under Option 1. (See section 16 of the TDD and the BAT discussion above.)

c. Point of Regulation. EPA is proposing to specify an in-plant compliance monitoring location for each of the 12 highly strippable volatile organic pollutants for which EPA is proposing PSES. (This is not affected by the co-proposals addressing the 33 less strippable pollutants.) This location is described as in-plant location (1) in section E.3.d., above. For facilities with subcategory A and/or C operations, EPA also proposes to require in-plant monitoring for cyanide based upon cyanide destruction technology.

EPA acknowledges that it reached a different conclusion regarding the point of regulation for direct dischargers with subcategory A and/or C operations. As discussed in section E.3.d., above, EPA is proposing to specify end-of-pipe monitoring requirements for the 12 highly strippable volatile organic pollutants in deference to the forthcoming Clean Air Act rule for this industry, which will control air emissions of these pollutants. EPA also noted in that section, however, that the permit writer has the authority under the NPDES permit regulations to establish limits in-plant on a case-by-case basis when it would be impractical or infeasible to monitor for the pollutants at the end of the pipe because of dilution or other considerations. Indeed, EPA observed that the BAT limitations being proposed for the 12 highly strippable volatile organic pollutants in subcategories A and C are at levels that are only marginally above the analytical minimum levels established for these pollutants and expressed its concern that dilution or air stripping might make detection of the pollutants infeasible at the end of the pipe. Nevertheless, EPA concluded that this concern could be addressed for direct dischargers on a case-by-case basis by the permit writer and therefore proposed that establishing in-plant compliance requirements on a national level was not essential.

EPA is proposing to reach a different conclusion for indirect dischargers. Like the proposed BAT limitations, the proposed pretreatment standards for existing dischargers are only marginally above the minimum levels established for these pollutants. Similarly, EPA is concerned that dilution with process and non-process wastewater might cause the pollutants to be undetectable by current analytical methods. Under EPA regulations, however, indirect dischargers are prohibited from substituting dilution for treatment, except where dilution is expressly authorized by an applicable pretreatment standard. See 40 CFR 403.6(d). This prohibition theoretically could be enforced by POTWs through the establishment of local limitations at in-plant locations on a pollutant-by-pollutant, case-by-case basis in the same way that a permit writer could do so for direct dischargers. By establishing in-plant monitoring requirements, the POTW, like the permit writer, would be able to determine whether compliance is being achieved by dilution or by treatment. The difference, however, is this pollutant-by-pollutant, case-by-case solution to the detection and dilution problems may impose a financial and technical burden on POTWs. There are six times as many indirect dischargers as direct dischargers, and unlike state and EPA permit writers, POTWs commonly lack the on-site technical expertise to establish and justify in-plant monitoring requirements on a case-by-case basis. Even when such expertise exists, EPA is concerned that the accompanying burden and expense would be significant. Therefore, EPA is proposing to establish in-plant points of regulation on a nationwide level.

EPA is proposing pretreatment standards in large measure because of the concern registered by some POTWs that discharges containing substantial concentrations of these volatile organic pollutants may interfere with the operation of the sewerage system and the health and safety of employees of the POTW system. EPA solicits comment and supporting data regarding whether this objective may be satisfied by assuring that discharges to the POTW sewer are near or at the level of detection. See Section XIV, solicitation number 24.0. In addition, as discussed in Section X, EPA is developing a separate rulemaking under the requirements of Section 112 of the Clean Air Act to address the air emissions from pharmaceutical plants, including the emissions of these 12 highly strippable volatile organic pollutants. EPA's air rulemaking may complement this proposal so that standards set at the point of discharge to the POTW sewer may satisfy EPA's objectives in this rulemaking. EPA expects to propose these air emission standards next year. As a result, EPA is also considering whether to establish limits for the 12 highly strippable volatile organic pollutants at the point of discharge to the POTW sewer. See Section XIV, solicitation number 24.5.

6. PSNS

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time it promulgates new source performance standards (NSPS). New indirect discharging plants, like new direct discharging plants, have the opportunity to incorporate the best available demonstrated technologies, including process changes, in-plant controls, and end-of-pipe treatment technologies.

Any new source subject to part 439 that was a "new source" as defined under 40 CFR 122.29 prior to the date on which the pretreatment standards for new sources proposed today are promulgated will continue to be subject to the current PSNS regulations for the subpart to which the source is subject until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1). After that time, the source is no longer considered to be a new source and will be required to achieve the PSES standards proposed in this rulemaking applicable to the source for its subcategory. EPA defines new source for the purpose of PSNS in this rulemaking as a source that commences construction after promulgation of the standards being proposed today, rather than after proposal, because, in accordance with the schedule established in the 304(m) Consent Decree, as modified, EPA does not expect to promulgate final standards within 120 days after proposal. See 40 CFR 122.2 (definition of New Source).

EPA considered three technology options for PSNS under two different regulatory co-proposal scenarios for facilities with subcategory A and/or C operations. Under co-proposal (1), EPA would propose PSNS for 12 highly strippable organic pollutants plus cyanide at an in-plant location (1) and 33 less strippable pollutants plus ammonia at the point of discharge to the POTW sewer. Under co-proposal (2), EPA would propose PSNS only for the 12 highly strippable organic pollutants, plus cyanide at in-plant location (1) and for ammonia at the end-of-pipe (3).

Under co-proposals (1) and (2), EPA considered the following three technology options for facilities with subcategory A and/or C operations for those pollutants found to pass through:

Option (1): In-plant steam stripping with distillation plus in-plant cyanide destruction.

Option (2): In-plant steam stripping with distillation plus in-plant cyanide destruction plus advanced biological treatment.

Option (3): In-plant steam stripping with distillation plus in-plant cyanide destruction plus advanced biological treatment plus granular activated carbon (GAC) treatment.

Under co-proposals (1) and (2), EPA considered the following two technology options for facilities with subcategory B and/or D operations for those pollutants found to pass through:

Option (1): In-plant steam stripping with distillation.

Option (2): In-plant steam stripping with distillation plus granular activated carbon (GAC) treatment.

EPA selected a more stringent PSNS technology than its chosen PSES technology because new sources have the opportunity to segregate their

VOL 60 ISS 84 MY 2 1995 UMI

process wastewater in such a way as to minimize the amount of wastewater that will require steam stripping with distillation, thereby reducing the adverse energy impacts that prevented EPA from selecting this technology as PSES.

EPA is proposing to set pretreatment standards for new sources based on PSNS Option 1 (steam stripping with distillation plus cyanide destruction) for priority and nonconventional pollutant for indirect discharging facilities with subcategory A and/or C operations. Similarly, EPA is proposing to set pretreatment standards for new sources based on PSNS Option 1 (steam striping with distillation) for facilities with subcategory B and/or D operations.

EPA considered the cost of the proposed PSNS technologies for new plants. EPA has concluded that such costs are not so great as to present a barrier to entry, as demonstrated by the fact that currently operating plants are using these technologies. The Agency also considered energy requirements and other non-water quality environmental impacts when comparing the three PSNS technology options for facilities with subcategroy A and/or C operations and the two PSNS technology options for facilities with subcategory B and/or D operations. EPA concluded that there would be only a slight difference in the energy requirements associated with Options 1, 2, and 3 for subcategory A and/or C facilities and with Options 1 and 2 for subcategory B and/or D facilities. There are no significant differences in the other non-water quality environmental impacts between the options considered.

7. BMP

EPA is not proposing any Best Management Practices (BMPs) today for the Pharmaceutical Manufacturing Category. However, EPA is soliciting comment on whether BMPs are applicable to the pharmaceutical manufacturing industry and, if so, what they should include. See Section XIV, solicitation number 31.0. See also the TDD at Appendix B for specific BMPs that EPA is considering adopting.

F. Determination of Long-Term Averages, Variability Factors, and Limitations

A detailed description of the statistical methodology used for the calculation of limitations is described in the Statistical Support Document. A summary of the methodology follows.

Limitations were based on actual concentrations of constituents measured in wastewaters treated by BAT treatment systems when such data were available. Limitations were transferred based on engineering analysis when actual monitoring data were unavailable. For steam stripping and distillation technology, engineering analysis involved grouping constituents on the basis of their Henry's Law Constant. For biological treatment, the engineering analysis involved grouping constituents on the basis of their chemical structure and published data on relative biodegradability.

The calculation of the BAT daily limitations for constituents other than cyanide was performed by the following steps. The arithmetic long-term mean concentration was calculated for each facility dataset representing BAT treatment technology, and the median of the means was determined. A modified delta-lognormal distribution, the distribution model used by EPA in the Organic Chemicals, Plastics and Synthetic Fibers (OCPSF) and Pesticides Manufacturing rulemakings, was fit to daily concentration data from each facility dataset that had enough detected concentration values for parameter estimation. Variability factors were then computed for each of these datasets, and the average variability factor was determined. Finally, the daily maximum limitation was calculated by multiplying the median long-term mean by the average variability factor. The monthly average maximum limitation was calculated similarly except that the variability factor corresponding to the 95th percentile of the distribution of monthly averages was used instead of the 99th percentile of daily concentration measurements. The monthly average maximum limitation calculation assumes four measurements per month, or one per week.

The modified delta-lognormal distribution models the data as a mixture of non-detects and measured values. This distribution was selected because the data for most constituents consisted of a mixture of measured values and non-detects. The modified delta-lognormal distribution assumes that all non-detects have a value equal to the detection limit and the detected values follow a lognormal distribution.

A beta distribution rather than a delta-lognormal was used to model cyanide data. The BAT treatment for cyanide requires the reprocessing of wastewater if effluent cyanide concentrations exceed 1 ppm. Therefore, the cyanide data from a properly operated treatment system should range between 0 and 1 ppm. Such data are appropriately modelled by the beta distribution. The parameters of the beta distribution were estimated from the cyanide dataset by the method of moments. Parameter estimates were then substituted in the beta distribution from which the daily limitation (99th percentile) was calculated. The monthly average cyanide (based on 4 daily measurements) limitation was estimated in a similar fashion.

The calculation of the proposed BPT limitations was based on measured concentrations of BOD_5, COD, and TSS measured in wastewaters treated by BPT systems. A 1-day and 30-day limitation was determined for each BPT facility dataset from a modified delta-lognormal distribution that was fit to the data. These limitations were then averaged across the datasets to determine the overall 1-day and 30-day maximum limitations. An intermediate step involved adjusting the modeled variability to account for day-to-day correlation in concentrations of BOD_5, COD, and TSS. The adjustment was based on a lag-1 autocorrelation time series model estimated from adjacent day observations, the same approach adopted in the OCPSF rulemaking. For datasets having an insufficient number of adjacent day observations to estimate an autocorrelation an average value was assumed.

G. Costs

The Agency estimated the cost for the pharmaceutical manufacturing industry to achieve each of the effluent limitations and standards proposed today. These estimated costs are summarized in this section and discussed in more detail in section 10 of the Technical Development Document. All cost estimates are expressed in 1990 dollars (the year for which EPA received questionnaire responses and data submissions). The cost components reported in this section are engineering estimates of the capital cost of purchasing and installing equipment and the annual operating and maintenance costs associated with that equipment. The total annualized cost, which is used to estimate economic impacts, better describes the actual compliance cost that a company will incur because it allows for interest, depreciation, and taxes. A summary of the economic impact analysis for the proposed regulation is contained in Section XI.B of today's notice. See also the Economic Impact Analysis.

1. BPT

The Agency used a plant-specific engineering cost assessment to estimate the costs of achieving the proposed BPT limitations. If a plant's reported 1990 discharges of BOD_5, TSS, COD and, in the case of facilities with subcategory A and/or C operations, cyanide were less than the long-term average loads achievable by the technology basis for today's proposed BPT limitations, the plant was estimated to have no compliance costs. If the resulting pollutant loads exceeded the proposed BPT long-term average loads, EPA estimated costs for treatment system upgrades and, in the case of cyanide, in-plant hydrogen peroxide oxidation technology. Based on this analysis, EPA concluded that 20 pharmaceutical manufacturing facilities would incur costs to comply with the proposed BPT limitations. EPA estimated the total capital expenditures for complying with the proposed BPT limitations to be $15.3 million and the annual operating and maintenance (O&M) costs to be $7.5 million. The estimated cost for implementing the proposed BPT limitations is summarized for the A and C and B and D subcategories below in Table IX.G.1.

2. BAT

EPA estimated the costs to comply with today's proposed BAT limitations on priority and nonconventional pollutants on plant-by-plant and pollutant-by-pollutant basis. If the loading data provided by the facility in its Section 308 questionnaire response indicated that its discharge was above the proposed limitation target load for a given pollutant, EPA developed cost estimates for the control technology EPA believes is appropriate for that pollutant (e.g., steam stripping for all strippable pollutants).

For direct dischargers with subcategory A and C operations, BAT costs include, where necessary, the costs for in-plant steam stripping followed by end-of-pipe advanced biological treatment upgrades to comply with the proposed limitations for priority and nonconventional pollutants. The operation and maintenance costs include monitoring of strippable pollutants in-plant and nonstrippable biodegradable pollutants at the end-of-pipe.

For direct dischargers with subcategory B and D operations, BAT costs include the costs for end-of-pipe advanced biological treatment upgrades. The upgrades are designed around treating conventional pollutants to specific targets, equivalent to BPT long-term mean performance. In a few cases, additional compliance costs were estimated for direct discharging facilities with subcategory B and D operations that already achieve these conventional pollutant upgrade targets, but require more closely controlled treatment system operation to comply with the priority and nonconventional pollutant BAT limitations.

The BAT operation and maintenance costs for subcategories B and D include monitoring for priority and nonconventional pollutants at the end-of-pipe. EPA estimated the total capital expenditures for complying with the proposed BAT limitations to be $57.0 million, and the annual operating and maintenance (O&M) costs to be $36.8 million. These costs are not incremental and include the advanced biological treatment upgrades also presented under BPT. See Table IX.G.2–1 for a breakdown of the costs by subcategory.

TABLE IX.G.1.—COST OF IMPLEMENTING PROPOSED BPT REGULATIONS

[In millions of 1990 dollars]

Subcategory	No. of plants	Capital costs	Annual O&M costs
Fermentation (A) and Chemical Synthesis (C)	15	14.7	7.0
Biological and Natural Extraction (B) and Mixing/Compounding/Formulating (D)	5	0.6	0.5

TABLE IX.G.2.—COST OF IMPLEMENTING PROPOSED BAT REGULATIONS

[In millions of 1990 dollars]

Subcategory	No. of plants	Capital costs	Annual O&M costs
Fermentation (A) and Chemical Synthesis (C)	23	56.4	35.7
Biological and Natural Extraction (B) and Mixing/Compounding/Formulating (D)	13	0.64	1.1

3. PSES

EPA developed PSES costs for compliance with the proposed pretreatment standards for strippable priority and nonconventional pollutants in the same manner that it developed BAT compliance costs for these pollutants. In developing these costs, EPA based the number of pollutants proposed to be regulated under PSES on the pass-through findings of PSES co-proposal (1), which include the 33 less strippable volatile organic pollutants. EPA did not include cost estimates for nonstrippable nonconventional pollutants in the PSES costs because EPA is requesting comment on its technology basis for controlling the discharge of these pollutants. See Section XIV, solicitation numbers 27.1 and 27.2. The estimated total capital expenditure for complying with the proposed PSES limitations are $91.8 million and the annual operating and maintenance (O & M) costs are $54.1 million. See table IX.G.3 for a breakdown of the costs by subcategory.

TABLE IX.G.3.—COST OF IMPLEMENTING PROPOSED PSES REGULATIONS

[In millions of 1990 dollars]

Subcategory	No. of plants	Capital costs	Annual O&M costs
Fermentation (A) and Chemical Synthesis (C)	71	70.8	46.4
Biological and Natural Extraction (B) and Mixing/Compounding/Formulating (D)	75	21.0	7.7

VOL 60 ISS 84 MY 2 1995 UMI

H. Pollutant Reductions

The Agency estimated the reduction in the mass of pollutants that would be discharged from pharmaceutical manufacturing plants after the implementation of the regulations being proposed today. The reduction in pollutant mass is attributable both to in-plant treatment technologies and improved end-of-pipe treatment. In-plant technologies such as steam stripping achieve pollutant load reductions by physical removal or extraction of volatile organic pollutants. Other technologies such as end-of-pipe biological treatment and in-plant cyanide destruction achieve pollutant reduction by chemically or biochemically altering the nature of the pollutants (e.g., by converting them to different substances like carbon dioxide and water). Additional information on the methodology used to estimate the pollutant reductions resulting from the implementation of the proposed effluent limitations and standards is included in Section 9 of the Technical Development Document.

1. Conventional Pollutants

For each subcategory, the Agency developed an estimate of the annual average mass loadings of BOD_5 and TSS that would be discharged after the implementation of the proposed BPT limitations. Since EPA proposes to set BCT limitations for conventional pollutants equal to the proposed BPT limitations for all subcategories, there would be no further reduction in BOD_5 and TSS achieved through BCT. Then EPA subtracted these loadings from the discharge loadings reported in the Section 308 questionnaire responses for 1990. The resultant pollutant reductions for BOD_5 and TSS are summarized in Table IX.H.1.

TABLE IX.H.1.—BPT, BOD_5 AND TSS REDUCTIONS

Subcategories	BOD_5 reduction (lbs. per yr.)	TSS reduction (lbs. per yr.)
A and C	931,000	2,150,000
B and D	10,000	4,820

2. Priority Pollutants

For the ten priority pollutants EPA proposes to regulate, EPA estimated the removals achieved by the various BPT, BAT, and PSES technologies based on raw waste load data provided by plants in their Section 308 questionnaire responses. In estimating these pollutant reductions, EPA did not include pollutant reductions being achieved by existing technology, including advanced biological treatment, already in place. The resultant priority pollutant reductions are summarized in Table IX.H.2.

TABLE IX.H.2.—BPT, BAT AND PSES PRIORITY POLLUTANT REDUCTIONS

Subcategories	BPT reduction (cyanide) (lbs. per yr.)	BAT reduction (lbs. per yr.)	PSES reduction (lbs. per yr.)
A and C	38	2,650,000	7,140,000
B and D	[1] N/A	0	694,000

[1] Cyanide is not a pollutant of concern for facilities with subcategory B and D operations.

3. Nonconventional Pollutants

For the 45 nonconventional pollutants (excluding COD) for which limitations and standards are being proposed, EPA estimated the removals achieved by the various proposed BPT, BAT, and PSES technology bases, using raw waste load data provided by plants in their Section 308 questionnaire responses. In estimating these pollutant reductions, EPA did not include pollutant reductions being achieved by technology already in place, including in many cases advanced biological treatment. The resultant priority pollutant reductions are summarized in Table IX.H.3.

TABLE IX.H.3.—BPT, BAT AND PSES NONCONVENTIONAL POLLUTANT REDUCTIONS

Subcategories	BPT reduction (lbs. per yr.) COD only	BAT reduction (lbs. per yr.)	PSES reduction (lbs. per yr.)
A and C	9,840,000	15,800,000	30,900,000
B and D	59,600	22,500	3,440,000

I. Regulatory Implementation

1. Applicability

The regulation proposed today is just that—a proposed regulation. As such, although it represents EPA's best judgment at this time, it is not intended to be relied upon by permit writers in establishing effluent limitations. Indeed, because EPA solicits comment and data (see specific solicitation numbers 1.2 and 1.3) regarding the proposed effluent limitations and standards specified in today's notice as well as on the technologies upon which they are based, the proposed limitations and standards and any conclusions set forth in this notice are subject to change.

2. Upset and Bypass Provisions

A "bypass" is an intentional diversion of waste streams from any portion of a treatment facility. An "upset" is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. EPA's regulations concerning bypasses and upsets are set forth at 40 CFR 122.41(m) and (n).

3. Variances and Modifications

The CWA requires application of the effluent limitations established pursuant to section 301 or the pretreatment standards of section 307 to all direct and indirect dischargers. However, the statute provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency has established administrative mechanisms to provide an opportunity for relief from the application of national effluent limitations guidelines and pretreatment standards for categories of existing sources for toxic, conventional and nonconventional pollutants.

a. Fundamentally Different Factors Variances. EPA will develop effluent limitations or standards different from the otherwise applicable requirements if an individual discharging facility is fundamentally different with respect to factors considered in establishing the limitation or standards applicable to the individual facility. Such a modification is known as a "fundamentally different factors" (FDF) variance.

Early on, EPA, by regulation, provided for FDF modifications from BPT effluent limitations, BAT limitations for toxic and non-conventional pollutants and BCT limitation for conventional pollutants for direct dischargers. For indirect dischargers, EPA provided for FDF modifications from pretreatment standards. FDF variances for toxic pollutants were challenged judicially and ultimately sustained by the Supreme Court. *Chemical Manufacturers Ass'n* v. *NRDC*, 479 U.S. 116 (1985).

Subsequently, in the Water Quality Act of 1987, Congress added new section 301(n) of the Act explicitly to authorize modification of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with respect to the factors specified in section 304 (other than costs) from those considered by EPA in establishing the effluent limitations or pretreatment standard. No FDF variance is available for new sources subject to NSPS or PSNS. Section 301(n) also defined the conditions under which EPA may establish alternative requirements. Under section 301(n), an application for approval of an FDF variance must be based solely on (1) information submitted during the rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard.

EPA regulations at 40 CFR Part 125 Subpart D, authorizing the Regional Administrators to establish alternative limitations and standards, further detail the substantive criteria used to evaluate FDF variance requests for direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (e.g., volume of process wastewater, age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility in question is fundamentally different from the facilities and factors considered by the EPA in developing the nationally applicable effluent guidelines. The regulation also lists four other factors (e.g., infeasibility of installation within the time allowed or a discharger's ability to pay) that may not provide a basis for an FDF variance. In addition, under 40 CFR 125.31(b)(3), a request for limitations less stringent than the national limitation may be approved only if compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations, or (b) a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the national limits. EPA regulations provide for an FDF variance for indirect dischargers at 40 CFR 403.13. The conditions for approval of a request to modify applicable pretreatment standards and factors considered are the same as those for direct dischargers.

The legislative history of Section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) are explicit in imposing this burden upon the applicant. The applicant must show that the factors relating to the discharge controlled by the applicant's permit which are claimed to be fundamentally different are, in fact, fundamentally different from those factors considered by the EPA in establishing the applicable guidelines. The pretreatment regulations incorporate a similar requirement at 40 CFR 403.13(h)(9).

b. Economic Variances. Section 301(c) of the CWA authorizes a variance from the otherwise applicable BAT effluent guidelines for nonconventional pollutants due to economic factors. The request for a variance from effluent limitations developed from BAT guidelines must normally be filed by the discharger during the public notice period for the draft permit. Other filing time periods may apply, as specified in 40 CFR 122.21(l)(2). Specific guidance for this type of variance is available from EPA's Office of Wastewater Management.

c. Water Quality Variances. Section 301(g) of the CWA authorizes a variance from BAT effluent guidelines for certain nonconventional pollutants due to localized environmental factors. These pollutants include ammonia, chlorine, color, iron, and total phenols.

d. Permit Modifications. Even after EPA (or an authorized State) has issued a final permit to a direct discharger, the permit may still be modified under certain conditions. (When a permit modification is under consideration, however, all other permit conditions remain in effect.) A permit modification may be triggered in several circumstances. These could include a regulatory inspection or information submitted by the permittee that reveals the need for modification. Any interested person may request modification of a permit modification be made. There are two classifications of modifications: major and minor. From a procedural standpoint, they differ primarily with respect to the public notice requirements. Major modifications require public notice while minor modifications do not. Virtually any modification that results in less stringent conditions is treated as a major modification, with provisions for public notice and comment. Conditions that would necessitate a major modification of a permit are described in 40 CFR 122.62. Minor modifications are generally non-substantive changes. The conditions for minor modification are described in 40 CFR 122.63.

e. Removal credits. As described previously, many industrial facilities discharge large quantities of pollutants to POTWs where their wastewaters mix with wastewater from other sources, domestic sewage from private residences and run-off from various sources prior to treatment and discharge by the POTW. Industrial discharges frequently contain pollutants that are generally not removed as effectively by treatment at the POTWs as by the industries themselves.

The introduction of pollutants to a POTW from industrial discharges may pose several problems. These include

VOL
60
ISS
84
MY
2
1995
UMI

potential interference with the POTW's operation or pass-through of pollutants if inadequately treated. As discussed, Congress, in section 307(b) of the Act, directed EPA to establish pretreatment standards to prevent these potential problems. Congress also recognized that, in certain instances, POTWs could provide some or all of the treatment of an industrial user's wastewater that would be required pursuant to the pretreatment standard. Consequently, Congress established a discretionary program for POTWs to grant "removal credits" to their indirect dischargers. The credit, in the form of a less stringent pretreatment standard, allows an increased concentration of a pollutant in the flow from the indirect discharger's facility to the POTW.

Section 307(b) of the CWA establishes a three-part test for obtaining removal credit authority for a given pollutant. Removal credits may be authorized only if (1) The POTW "removes all or any part of such toxic pollutant," (2) the POTW's ultimate discharge would "not violate that effluent limitation, or standard which would be applicable to that toxic pollutant if it were discharged" directly rather than through a POTW and (3) the POTW's discharge would "not prevent sludge use and disposal by such [POTW] in accordance with section [405] * * *." Section 307(b).

EPA has promulgated removal credit regulations in 40 CFR Part 403.7. The United States Court of Appeals for the Third Circuit has interpreted the statute to require EPA to promulgate comprehensive sewage sludge regulations before any removal credits could be authorized. *NRDC* v. *EPA*, 790 F.2d 289, 292 (3d Cir. 1986), *cert. denied*. 479 U.S. 1084 (1987). Congress made this explicit in the Water Quality Act of 1987 which provided that EPA could not authorize any removal credits until it issued the sewage sludge use and disposal regulations required by section 405(d)(2)(a)(ii).

Section 405 of the CWA requires EPA to promulgate regulations that establish standards for sewage sludge when used or disposed for various purposes. These standards must include sewage sludge management standards as well as numerical limits for pollutants that may be present in sewage sludge in concentrations which may adversely affect public health and the environment. Section 405 requires EPA to develop these standards in two phases. On November 25, 1992, EPA promulgated the Round One sewage sludge regulations establishing standards, including numerical pollutant limits, for the use or disposal of sewage sludge. 58 FR 9248 [1]. EPA established pollutant limits for ten metals when sewage sludge is applied to land, for three metals when it is disposed of on a surface disposal site and for seven metals and a total hydrocarbon operational standard, a surrogate for organic pollutant emissions, when sewage sludge is incinerated. These requirements are codified at 40 CFR Part 503.

The Phase One regulations partially fulfilled the Agency's commitment under the terms of a consent decree that settled a citizens suit to compel issuance of the sludge regulations. *Gearhart, et al.* v. *Reilly*, Civil No. 89–6266–JO (D.Ore). Under the terms of that decree, EPA must propose and take final action on the Round Two sewage sludge regulations by December 15, 2001.

At the same time EPA promulgated the Round One regulations, EPA also amended its pretreatment regulations to provide that removal credits would be available for certain pollutants regulated in the sewage sludge regulations. *See* 58 FR 9386. The amendments to Part 403 provide that removal credits may be made potentially available for the following pollutants:

(1) If a POTW applies its sewage sludge to the land for beneficial uses, disposes of it on surface disposal sites or incinerates it, removal credits may be available, depending on which use or disposal method is selected (so long as the POTW complies with the requirements in Part 503). When sewage sludge is applied to land, removal credits may be available for ten metals. When sewage sludge is disposed of on a surface disposal site, removal credits may be available for three metals. When the sewage sludge is incinerated, removal credits may be available for seven metals and for 57 organic pollutants. *See* 40 CFR 403.7(a)(3)(iv)(A).

(2) In addition, when sewage sludge is used on land or disposed of on a surface disposal site or incinerated, removal credits may also be available for additional pollutants so long as the concentration of the pollutant in sludge does not exceed a concentration level established in Part 403. When sewage sludge is applied to land, removal credits may be available for two additional metals and 14 organic pollutants. When the sewage sludge is disposed of on a surface disposal site, removal credits may be available for seven additional metals and 13 organic pollutants. When the sewage sludge is incinerated, removal credits may be available for three other metals. *See* 40 CFR 403.7(a)(3)(iv)(B).

(3) When a POTW disposes of its sewage sludge in a municipal solid waste landfill that meets the criteria of 40 CFR Part 258 (MSWLF), removal credits may be available for any pollutant in the POTW's sewage sludge. *See* 40 CFR 403.7(a)(3)(iv)(C). Thus, given compliance with the requirements of EPA's removal credit regulations,[2] following promulgation of the pretreatment standards being proposed here, removal credits may be authorized for any pollutant subject to pretreatment standards if the applying POTW disposes of its sewage sludge in a MSWLF that meets the requirements of 40 CFR Part 258. If the POTW uses or disposes of its sewage sludge by land application, surface disposal or incineration, removal credits may be available for the following metal pollutants (depending on the method of use or disposal): arsenic, cadmium, chromium, copper, iron, lead, mercury, molybdenum, nickel, selenium and zinc. Given compliance with section 403.7, removal credits may be available for the following organic pollutants (depending on the method of use or disposal) if the POTW uses or disposes of its sewage sludge: benzene, 1,1-dichloroethane, 1,2-dibromoethane, ethylbenzene, methylene chloride, toluene, tetrachloroethene, 1,1,1-trichloroethane, 1,1,2-trichloroethane and trans-1,2-dichloroethene.

Some facilities may be interested in obtaining removal credit authorization for other pollutants being considered for regulation in this rulemaking for which removal credit authorization would not otherwise be available under Part 403. Under sections 307(b) and 405 of the CWA, EPA may authorize removal credits only when EPA determines that, if removal credits are authorized, that the increased discharges of a pollutant to POTWs resulting from removal credits will not affect POTW sewage sludge use or disposal adversely. As discussed in the preamble to amendment to the Part 403 regulations (58 FR 9382–83), EPA has interpreted these sections to authorize removal credits for a pollutant only in one of two circumstances. Removal credits may be authorized for any categorical pollutant (1) for which EPA have established a numerical pollutant limit in Part 503; or (2) which EPA has determined will not threaten human health and the environment when used or disposed of in sewage sludge. The pollutants described in paragraphs (1)–(3) above include all those pollutants that EPA either specifically regulated in Part 503 or evaluated for regulation and determined would not adversely affect sludge use and disposal.

Consequently, in the case of a pollutant for which EPA did not perform a risk assessment in developing the Phase One sewage sludge regulations, removal credit for pollutants will only be available when the Agency determines either a safe level for the pollutant in sewage sludge or that regulation of the pollutant is unnecessary to protect public health and the environment from the reasonably anticipated adverse effects of such a pollutant.[3] Therefore, any person seeking to add additional categorical pollutants to the list for which removal credits are now available would need to submit information to the Agency to support such a determination. The basis for such a determination may include information showing the absence of risks for the pollutant (generally established through an environmental pathway risk assessment such as EPA used for Phase One) or data establishing the pollutant's presence in sewage sludge at low levels relative to risk levels or both. Parties, however, may submit whatever information they conclude is sufficient to establish either the absence of any potential for harm from the presence of the pollutant in sewage sludge or data demonstrating a "safe" level for the pollutant in sludge. Following submission of such a demonstration, EPA will review the data and determine whether or not it should propose to amend the list of pollutants for which removal credits would be available.

EPA has already begun the process of evaluating a number of pollutants for adverse potential to human health and the environment when present in sewage sludge. In May, 1993, pursuant to the terms of the consent decree in the *Gearhart* case, the Agency notified the United States District Court for the District of Oregon that, based on the information then available at that time, it intended to propose 31 pollutants for regulation in the Round Two sewage sludge regulations. These are acetic acid (2,4-dichlorophenoxy), aluminum, antimony, asbestos, barium, beryllium, boron, butanone (2-), carbon disulfide, cresol (p-), cyanides (soluble salts and complexes), dioxins/dibenzofurans (all monochloro to octochloro congeners), endsulfan-II, fluoride, manganese, methylene chloride, nitrate, nitrite, pentachloronitrobenzene, phenol, phthalate (bis-2-ethylexyl), polychlorinated biphenyls (co-planar), propanone (2-), silver, thallium, tin, titanium, toluene, trichlorophenoxyacetic acid (2, 4,5-), trichlorphenoxypropionic acid ([2-(2,4,5-)], and vanadium.

The Round Two regulations are not scheduled for proposal until December, 1999 and promulgation in December 2001. However, given the necessary factual showing, as detailed above, EPA could conclude before the contemplated proposal and promulgation dates that regulation of some of these pollutants is not necessary. In those circumstances, EPA could propose that removal credits should be authorized for such pollutants before promulgation of the Round Two sewage sludge regulations. However, given the Agency's commitment to promulgation of effluent limitations and guidelines under court-supervised deadlines, it may not be possible to complete review of removal credit authorization requests by the time EPA must promulgate these guidelines and standards.

4. Relationship of Effluent Limitations to NPDES Permits and Monitoring Requirements

Effluent limitations act as a primary mechanism to control the discharges of pollutants to waters of the United States. These limitations are applied to individual facilities through NPDES permits issued by the EPA or authorized States under section 402 of the Clean Water Act.

The Agency has developed the limitations and standards for this proposed rule to cover the discharge of pollutants for this industrial category. In specific cases, the NPDES permitting authority may elect to establish technology-based permit limits for pollutants not covered by this proposed regulation, on a case-by-case basis using best professional judgment. See section 402(a)(1)(B) of the Clean Water Act; 40 CFR 125.3. In addition, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permitting authority must apply those limitations. See, e.g., section 301(b)(1)(C) of the Clean Water Act.

For determination of effluent limits where there are multiple products or multiple categories and subcategories, the effluent guidelines would be applied using a flow-weighted combination of the appropriate guideline for each category or subcategory. Where a facility has added a new production facility in conjunction with an existing production facility, the effluent guidelines would also be applied by using a flow-weighted combination of the NSPS limit for the new line and the BAT and BCT standards to the existing lines to derive the limitations. However, as stated above, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits on covered pollutants), the permitting authority must apply those limitations regardless of the limitation derived using the production-weighted combinations.

The Agency does not consider certain wastewaters or materials to be process wastewaters; therefore, these proposed effluent limitations guidelines and standards would not apply to the discharge of such wastewaters. Such materials include, for example, any active anti-microbial materials, wastewater from imperfect fermentation batches, or process area spills. Any pharmaceutical manufacturing facility wishing NPDES authorization to discharge any materials and/or non-process wastestream(s) must specifically disclose this in its permit application. If the permitting authority wishes to authorize this discharge, the permit must specifically authorize the discharge of the specified materials and/or non-process wastestream(s). The effluent limitations in the permit must also reflect a separate analysis, done by the permitting authority on a best professional judgment basis, of the levels of pollutants in such materials and/or non-process wastestream(s) that are commensurate with the application of BPT, BCT, BAT, and PSES. Caution should be exercised in permitting such discharges. Treatment systems may not be designed to accommodate these types of materials and their discharge could adversely affect the treatment systems and receiving waters.

Working in conjunction with the effluent limitations are the monitoring conditions set out in an NPDES permit. An integral part of the monitoring conditions are the monitoring points. The point at which a sample is collected

[1] The U.S. Court of Appeals for the District of Columbia Circuit has remanded portions of these regulations not pertinent here for modification or additional justification. *Leather Industries of America, Inc.* v. *EPA*, 40 F.3d 392 (D.C. Cir. 1994).

[2] Under Section 403.7, a POTW is authorized to give removal credits only under certain conditions. These include applying for, and obtaining, approval from the Regional Administrator (or Director of a State NPDES program with an approved pretreatment program), a showing of consistent pollutant removal and an approved pretreatment program. *See* 40 CFR § 403.7(a)(3)(i), (ii), and (iii).

[3] In the Round One sewage sludge regulation, EPA concluded, on the basis of risk assessments, that certain pollutants (*see* Appendix G to Part 403) did not pose an unreasonable risk to human health and the environment and did not require the establishment of sewage sludge pollutant limits. As discussed above, so long as the concentration of these pollutant in sewage sludge are lower than a prescribed level, removal credits are authorized for such pollutants.

VOL 60 ISS 84 MY 2 1995 UMI

can have a dramatic effect on the monitoring results for that facility. Therefore, it may be necessary to require internal monitoring points in order to assure compliance. Authority to address internal waste streams is provided in 40 CFR 122.44(i)(1)(iii) and 122.45(h). In some instances, today's proposed rule establishes internal monitoring points to ensure compliance with the effluent limitations guidelines and standards. Permit writers may establish additional internal monitoring points to the extent consistent with EPA's regulations.

5. Best Management Practices

EPA is not proposing in today's notice best management practices (BMPs) pursuant to Section 304(e) of the Clean Water Act. BMPs established under Section 304(e) may be different from effluent limitations guidelines and standards principally because BMPs are specific requirements for conduct, not performance standards. When EPA sets technology-based effluent limits, those limits may be achieved by any technology a discharger chooses. However, when EPA establishes BMPs under Section 304(e) of the CWA, and those BMPs are incorporated into a dischargers permit, the discharger must perform those specific BMPs. The fact that a discharger had met all its technology-based effluent limits would not be a defense, if the discharger were charged with a permit violation for failing to perform its BMPs.

BMPs for the pharmaceutical manufacturing industry, which might include spill prevention, control provisions, and other aspects to prevent the release of raw materials, solvents, and process chemicals to wastewaters, would control the release of constituents listed in sections 307(a) and 311(e) of the CWA, such as methylene chloride, toluene, chloroform, and chloromethane (methyl chloride).

The EPA believes these BMPs are important because: discharges of raw materials, process chemicals and other materials are not recognized process wastewaters and contribute to significant portions of untreated wastewater loadings and to final effluent discharge loadings of oxygen demanding substances and priority and nonconventional pollutants. Prevention and control of discharges of materials used in pharmaceutical manufacturing processes will result in less demand for make-up chemicals; energy efficiency through recovery of process materials; more effective and less costly wastewater treatment system operations; reduced formation of wastewater treatment sludges; and reduced atmospheric emissions of hazardous air pollutants (HAPs) and other volatile organic pollutants.

EPA is soliciting comment on whether BMPs are applicable to pharmaceutical manufacturing facilities in any or all subcategories for which effluent limitations guidelines and standards are being proposed. The principal focus of the BMPs are prevention and control of losses of raw materials, process chemicals and other process materials from spills and equipment leaks. More information related to the BMPs is outlined in Section XIV regarding solicitation of comments and data (see specific solicitation number 31.0). Appendix B of the Technical Development Document presents details on the specifics of BMPs that may be appropriate.

6. Analytical Methods

Section 304(h) of the Clean Water Act (CWA) directs the EPA to promulgate guidelines establishing test procedures (methods) for the analysis of pollutants. These methods are used to determine the presence and concentration of pollutants in wastewater, and for compliance monitoring. Dischargers seeking NPDES permits must supply information on the characteristics of their effluent, analyzed in accordance with approved test procedures, as part of their permit applications. 40 CFR 122.21(g)(7). Similarly, holders of NPDES permits are required to conduct monitoring in accordance with such test procedures. 40 CFR 122.41(j)(4). Information and analysis performed in accordance with these methods are also required under the pretreatment program, 40 CFR 403.12(d)(5)(vi), and as a condition for receiving a conditional removal credit under 40 CFR 403.7(d).

EPA has promulgated analytical methods for monitoring discharges to surface water at 40 CFR part 136, and has promulgated methods for parameters specific to a given industrial category and for other purposes at parts 400–480 of the CFR. In today's notice, EPA also proposes to establish appropriate analytical methods at 40 CFR part 439 to support regulation of discharges in the pharmaceutical manufacturing industrial point source category. Those methods are presented in "Analytical Methods for the Determination of Pollutants in Pharmaceutical Industry Wastewater," a compendium of analytical methods and are incorporated herein by reference. See Section XIV, solicitation number 33.

Methods 1624 and 1625 are two of the previously promulgated methods applicable to the determination of volatile and semivolatile organic pollutants in water and wastewater for the proposed effluent guidelines. They employ gas chromatography coupled to a mass spectrometer (GC/MS) to separate and quantify volatile and semivolatile organic pollutants. Detected pollutants are quantified by isotope dilution. For volatile organic pollutants, samples of water or solids suspended in water are purged by a stream of inert gas into the gaseous phase where they are concentrated into a trap. Subsequent heating of the trap introduces the concentrated volatile organics into a GC/MS for separation and quantification. The sensitivity of these methods are sufficient to detect and quantify volatile and semivolatile organics at parts per billion (ppb) levels in environmental samples. EPA also solicits comment on whether it may be appropriate to allow facilities to use analytical methods for organic pollutants other than those used to generate data upon which this proposal is based. See Section XIV, solicitation number 38.3.

Many of the non-conventional pollutants that may be released from the pharmaceutical manufacturing industry are not included in methods previously promulgated for monitoring effluents from other industries. For this reason it has been necessary to develop methods for these pollutants. Some are amenable to extraction from aqueous solution and can be analyzed by GC/MS after extraction and concentration. Method 1665 has been developed for these analytes. Others may be concentrated by purging from aqueous solution and trapping in a column containing sorbent material. For these substances, purge-and-trap followed by GC/MS analysis as described in Method 1666 was developed. Some highly water soluble analytes, however, could not be extracted from aqueous solution and could not be efficiently purged from water. For this reason, it was necessary to develop a direct aqueous injection technique for GC/MS analysis by Method 1666. A subset of these highly water soluble substances, all containing nitrogen, were found not to chromatograph well on the column used. For this reason, a third technique, Method 1668, was developed using a different GC column and detection by electrolytic conductivity. Formaldehyde is not extractable from water and can not be readily analyzed by either purge-and-trap GC/MS or direct aqueous injection. For this reason a fourth approach, Method 1667, was developed for formaldehyde and the other aldehydes included in the analyte list. A complete description of these methods can be found in the Methods Compendium mentioned previously.

Methods 410.1 and 410.2 are two of several methods allowed for determination of chemical oxygen demand (COD) in water and wastewater. Other methods allowed for the determination of COD in this industry are those in 40 CFR part 136 that use analytical technologies equivalent to the technologies used in EPA methods 410.1 and 410.2, specifically oxidation by potassium dichromate and titration with ferrous ammonium sulfate, as described below. Method 410.2 is specific for levels of COD less than 50 mg/L, and Method 410.1 for levels greater than 50 mg/L. Other methods for COD that are intended for brines (e.g., EPA method 410.3) and that are interfered with by color (e.g., EPA method 410.4) and the methods in 40 CFR part 136 equivalent to these methods are allowed for monitoring pharmaceutical manufacturing wastewaters.

X. Regulation of the Pharmaceutical Manufacturing Industry Under the Clean Air Act Amendments of 1990

Section 112 of the Clean Air Act Amendments of 1990 (CAAA) requires EPA to develop National Emission Standards for Hazardous Air Pollutants (NESHAP) based on maximum achievable control technology (MACT) for sources that emit 10 or more tons per year of a single hazardous air pollutant (HAP) or 25 or more tons per year of a mixture of HAP. The CAAA contain a list of 189 pollutants identified as HAPs. It also establishes a schedule for issuing these standards over a ten-year period. Pharmaceutical plants are among the source categories for which MACT standards must be promulgated by November 15, 1997.

EPA's Office of Water, which is developing the effluent limitations and standards being proposed today, has been working closely with EPA's Office of Air and Radiation since the beginning of this effluent guidelines effort in order to ensure that the present rulemaking is consistent, within the constraints of the governing statutes, with the air emissions standards EPA will be promulgating for the pharmaceutical manufacturing industry. As noted in Section V.A above, EPA's promulgation of this effluent guideline—including the date of this proposal—is subject to a court-ordered schedule, which at this time requires EPA to issue this regulation in final form by August 1996. Meanwhile, EPA has established November 15, 1997, as the date by which it will promulgate air emissions standards for this industry. See Section V.B above. In determining priorities for promulgating standards for this and other industries, EPA was required by section 112(e) of the Clean Air Act to consider several factors, including anticipated adverse effects on public health and the environment. Thus, the promulgation date for the pharmaceutical industry NESHAP reflects EPA's consideration of these statutory criteria, as well as resource limitations that reinforced the Agency's need to rank its rulemakings in priority order. Despite the different schedules and resource constraints necessitating separate rulemakings under the Clean Water Act and Clean Air Act for the pharmaceutical manufacturing industry, EPA is making every effort to reconcile these activities.

Consistent with this intent, EPA is providing the following information to put the affected public on notice that EPA is developing regulations and guidance to reduce air emissions from wastewater operations at pharmaceutical manufacturing facilities under the Clean Air Act. Section X of this notice also sketches in preliminary form the approach EPA is considering to regulate such air emissions and provides preliminary cost and emission reduction information associated with that approach. By this notice, EPA solicits comment on the possible combined effect of the proposed Clean Water Act regulation and the tentative Clean Air Act approach for the pharmaceutical manufacturing industry. See Section XIV, solicitation number 32. This notice is also intended to provide the industry with an opportunity to plan for integrated least-cost multimedia compliance.

A. Preliminary Development of Air Emissions Standards

EPA is in the early stages of developing the MACT standard for pharmaceutical plants; the standards will require the control of several different emission points, including organic air emissions from wastewater operations. EPA recently promulgated a similar MACT standard for organic HAP emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI). This rule, often referred to as the Hazardous Organic NESHAP or HON, was published on April 22, 1994 (59 FR 19402). On January 7, 1993, EPA published amendments to the Benzene Waste Operations NESHAP, which controls benzene emissions from wastewater operations based upon Clean Air Act authority predating the 1990 amendments (40 CFR part 61 subpart FF).

The control approach that EPA is considering for the pharmaceutical manufacturing industry is similar to the approach EPA used in the SOCMI HON and the Benzene Waste Operations NESHAP to control organic air emissions from wastewater collection and treatment operations. That approach consists first of identifying a subset of wastewater streams that require control through a combination of wastewater flowrate and concentration action levels, and second, the control requirements for these affected streams. The flowrate and concentration of each wastewater stream would be determined to reflect the characteristics at the point of generation of the wastewater stream.

The point of generation is defined to be where each individual wastewater stream exits production process equipment prior to any form of wastewater treatment. The characteristics of a wastewater stream at the point of generation are used to determine which streams to control because this is where the organic concentration is the highest and the flow is the lowest. The use of the point of generation characteristics in this way results in the identification of the most cost effective streams for control. If the characteristics of the streams were determined at some point downstream of the point of generation, there would be losses of organics due to air emissions and an increase in the wastewater flowrate due to mixing with other wastewater streams, both of which would result in the subsequent control of the stream being less cost effective. In addition, if wastewater treatment were allowed before the point of generation, the treatment unit, such as an air stripper, would not be required to have air emission control.

The flowrate action level is generally expressed as the liters per minute of wastewater flow. Values of flowrate used in previous regulatory analyses range from 0.02 to 10 liters per minute.

The concentration action level is based on the "volatile organic" concentration of the wastewater stream rather than the total concentration. EPA has developed a test method, Method 305 in Appendix A of 40 CFR part 63, to determine the volatile organic HAP concentration for use with wastewater MACT standards. The purpose of this test method is to determine a relative measure of the emission potential of a typically controlled wastewater stream by measuring essentially all of an organic HAP compound that is likely to be emitted in significant quantities while measuring essentially none of an organic HAP compound that is unlikely

VOL 60 ISS 84 MY 2 1995 UMI

to be emitted. Previous regulatory analyses have used an action level of 10,000 ppmw at any flowrate and coupled with a range of action levels from 10 to 1,000 ppmw tied to a flowrate cutoff as described above.

Examples of the use of these action levels in recent rules include the Benzene Waste Operations NESHAP, which has action levels of 0.02 liters per minute and 10 ppmw benzene, and the HON, which has a 10,000 ppmw volatile organic HAP concentration action level at any flow rate coupled with an action level pair of 10 liters per minute and 1,000 ppmw volatile organic HAP concentration.

The control requirements for affected wastewater streams include managing the identified wastewater streams in controlled units during collection and treatment to remove or destroy the organics. This control approach includes: (1) Suppression or control of air emissions from the point of wastewater generation to the treatment device by installing controls on the sewer system, tanks, and containers used to transport the wastewater; (2) treatment of the wastewater to remove or destroy the organics; (3) control of air emissions from the treatment device (e.g., the non-condensible air emissions from the stripper condenser); and (4) control or recycling of the organics removed by the treatment device (e.g., the condensed residuals collected by the stripper condenser). See also Section XII.B of this preamble for discussion of the Administrator's strategy for waste minimization and combustion (incineration) of ignitable organic wastes.

The treatment device used as the basis for the HON is a steam stripper, the same device proposed as the primary technology basis for today's proposed limits and standards. The HON requirements are performance standards, so that any device that achieves the desired performance can be used. In addition, the HON allows several compliance alternatives including the use of open biological treatment units to treat the wastewater if a controlled collection and treatment system is used up to the unit and the unit can be demonstrated to achieve the required level of biological degradation. The HON requires the use of the procedures outlined in Appendix C of 40 CFR part 63 to demonstrate that the organics are being degraded by the biological treatment unit and not emitted to the air.

The CAAA also requires EPA to establish Control Techniques Guideline (CTG) documents for the States to use to develop VOC emissions control plans for ozone nonattainment areas. Industrial wastewater, which includes the pharmaceutical manufacturing industry, is one of the source categories for which EPA is developing a CTG document (see the draft document entitled "Control of Volatile Organic Compound Emissions from Industrial Wastewater," EPA–453/D–92–056, September 1992; available in the public docket for this Clean Water Act rulemaking). Based on this guidance, certain States will write rules for VOC emissions from wastewater operations at pharmaceutical plants located in ozone nonattainment areas. These rules are expected to be similar to the MACT standards, except they would control additional wastewater streams based on their potential for VOC emissions rather than HAP emissions. The concentration action level used in the draft CTG is based on the volatile organic concentration, which is determined by Method 25D in Appendix A of 40 CFR part 60.

The volatile organic HAP and flowrate action levels for the MACT standard for pharmaceutical plants have not yet been determined. For this notice, EPA has conducted a preliminary analysis of the impacts of a set of control options (action levels) for direct and indirect dischargers of A and C, and B and D effluent guideline subcategory production process wastewaters based on the approaches used in the HON. EPA emphasizes that this analysis is still preliminary. Wastewater data from the recent Section 308 pharmaceutical industry questionnaire responses were used in the analysis; however, a number of assumptions were made. See the draft document entitled "Control of Volatile Organic Compound Emissions from Industrial Wastewater, EPA–453/D–92–056, September 1992, for presentation of the assumptions and methodology used for this preliminary analysis. During the development of the MACT standard, this analysis will be refined based on new information and comments from the public.

Tables X.A.1 and X.A.2 summarize the results of this preliminary analysis. Two sets of preliminary results are presented based on two ways to evaluate the existing data for effluent guideline subcategory A, B, C, and D plants. The actual results of a rule based on any of the control options could be very different than these preliminary impacts. Table X.A.1 presents results based on applying the controls described above to wastewater streams that are equal to or greater than the identified action levels as the streams were reported in the Section 308 questionnaire responses. This database reflects the characteristics of combined process area wastewater streams, not the point of generation of the wastewater. Table X.A.2 presents results based on the same criteria, but the Section 308 questionnaire wastewater data have been disaggregated in an attempt to simulate the characteristics at the point of generation. This disaggregation was performed in the manner described in Appendix B of the draft CTG document.

The control options (action levels), which encompass different combinations of volatile organic HAP (VOHAP) and wastewater stream flowrates, identified in both tables are ones that were considered in the development of the HON. All of the control options would require control of any wastewater stream that has 10,000 ppmw or greater volatile organic HAP concentration. The least stringent control option identified would require all wastewater streams with a flow of 10 liters per minute or greater and a 1,000 ppmw or greater volatile organic HAP concentration be equipped with controls. Wastewater streams below these criteria would not require control. Other more stringent control options would have lower action levels and require more wastewater streams to be controlled. The most stringent control option shown would require all streams with a flow of 1.0 liters per minute or greater and a 100 ppmw or greater volatile organic HAP concentration be controlled.

The analysis will be refined, and these results, along with other statutory criteria in the Clean Air Act, will be considered before a MACT standard for the pharmaceutical manufacturing industry is proposed. Information on the controls that may be required for wastewater streams exceeding the action levels, however, is provided in today's notice to allow pharmaceutical manufacturing facility owners and operators to consider these additional controls in their planning and to allow the public to comment on the combined effect of the MACT standard and today's proposed effluent limitations guidelines.

It is the Agency's intent for both the effluent guidelines being proposed today and the MACT standards to be proposed at a later date that upon promulgation the in-plant technology basis of both rules will be applicable to essentially the same high concentration low volume process wastewater streams in which the bulk of the volatile organic pollutants are contained, as represented preliminarily by Tables X.A.1 and X.A.2. The practical effect of this approach will be that only a relatively small portion (i.e., substantially less

than half) of all process wastewaters will require control by a treatment device (e.g., steam stripping) to achieve both rules. EPA has been informed by the industry that additional data will be submitted (some data have been submitted) in order to characterize, in greater detail than available in responses to the Section 308 questionnaire, the individual process wastewater streams at the point of generation. This additional data and any other information available to EPA will be considered prior to promulgation in identifying the small portion of process wastewater streams that would require control of volatile organic pollutants under both the effluent guideline and the MACT standard for this industry. The methodology to be used in analyzing these data will likely be the same as presented above and the preliminary results of which are presented in the following tables.

TABLE X.A.1.—PRELIMINARY IMPACTS OF CONTROL OPTIONS FOR A, B, C, AND D SUBCATEGORY PHARMACEUTICAL PLANTS BASED ON PROCESS AREA STREAMS

Control Option	VOHAP conc.[1] cutoff (PPMW)	Flow cutoff (LPM)	Total flow controlled by option (percent)	HAP emissions (MG/yr)	HAP emission reduction (percent)	Total annual cost ($M/yr)	HAP cost effectiveness ($/MG HAP ER[2])
Baseline				12,500			
1	1,000	10	45	1,650	87	19.0	1,750
2	800	5	47	1,640	87	19.8	1,830
3	500	1	72	1,520	88	26.1	2,380
4	200	1	75	1,510	88	27.6	2,520
5	100	1	80	1,500	88	29.5	2,680

Notes:
[1] "VOHAP CONC. CUTOFF" means the volatile organic HAP concentration determined by Method 305 in 40 CFR Part 63, Appendix A.
[2] "$/MG HAP ER" means the dollars per megagram of HAP emission reduction by the given control option, which is determined by dividing the annual cost of the option by the annual emission reduction.
- All options include an action level of 10,000 ppmw volatile organic HAP concentration at any flowrate.
- Total industry wastewater flow equals 75,300 liters per minute.

TABLE X.A.2.—PRELIMINARY IMPACTS OF CONTROL OPTIONS FOR A, B, C, AND D SUBCATEGORY PHARMACEUTICAL PLANTS BASED ON DISAGGREGATED STREAMS

Control Option	VOHAP conc.[1] cutoff (PPMW)	Flow cutoff (LPM)	Total flow controlled by option (percent)	HAP emissions (MG/yr)	HAP emission reduction (percent)	Total annual cost ($M/yr)	HAP cost effectiveness (R/MG HAP ER[2])
Baseline				12,500			
1	1,000	10	7	2,790	78	6.6	680
2	800	5	10	2,440	80	8.0	800
3	500	1	16	2,120	83	10.6	1,020
4	200	1	25	1,680	87	13.7	1,270
5	100	1	29	1,630	87	15.9	1,460

Notes:
[1] "VOHAP CONC." means the volatile organic HAP concentration determined by Method 305 in 40 CFR Part 63 Appendix A.
[2] "$/MG HAP ER" means the dollars per megagram of HAP emission reduction by the given control option, which is determined by dividing the annual cost of the option by the annual emission reduction.
- All options include an action level of 10,000 ppmw volatile organic HAP concentration at any flowrate.
- Total industry wastewater flow equals 75,300 liters per minute.

B. Potential Interaction of Proposed Effluent Limitations Guidelines and Future Air Emission Standards

Because both the effluent limitations guidelines and standards being proposed today and the future MACT standards for this industry are likely to regulate similar pollutants and to reflect similar technology bases, EPA acknowledges that there is considerable interest in the industry concerning the potential interaction of these rulemakings. In this section, EPA addresses various issues that thus far have come to EPA's attention.

The effluent limitations guidelines and standards proposed today for nonconventional and priority pollutants are based on actual performance data obtained for specific pollutants over a range of influent concentrations. The future MACT standards for HAPs emissions from pharmaceutical wastewater, like the HON, probably will employ data on Volatile Organic HAP concentration and flow rate of the wastewater stream to determine applicability of its standards to covered sources. Like the HON, the pharmaceuticals NESHAP will probably authorize percent reduction standards, effluent concentration limitations and mass removal requirements as options for measuring compliance.

EPA considered proposing percent reduction limitations and standards in this water rulemaking, but for the following reasons has determined that such limitations and standards would not adequately control the discharge of wastewater pollutants of concern, particularly volatile pollutants. First, in EPA's view, effluent limitations guidelines and standards based on percent reduction do not reflect the performance of the best available technology in removing wastewater pollutants for the pharmaceutical manufacturing industry. EPA's analysis of actual performance data shows that the proposed concentration-based effluent limitations and standards can be met, regardless of variations in the influent concentrations of the target volatile compounds, using well-designed and well-operated technology. Second, percent reduction effluent limitations, as previously promulgated under the Clean Water Act for this industry, may discourage source

VOL 60 ISS 84 MY 2 1995 UMI

reduction programs (programs whose goal is to reduce raw waste loadings of volatiles) because plants with high raw waste loadings of volatiles can more easily comply with percent reduction regulations than plants with moderate or low volatile loadings. Finally, the percent reduction approach for effluent limitations guidelines and standards imposes special burdens on permit writers and facilities. The percent reduction approach would require the gathering and evaluation of long-term raw waste data from each facility in order to develop plant-specific limitations on individual pollutants, and to demonstrate continuing compliance with the limitations.

The Agency solicits comments and data on potential alternative formats for effluent limitations guidelines and standards, such as percent removal limitations and standards and minimum treatment threshold concentrations for individual wastewater streams. See Section XIV of this preamble, solicitation number 32.4.

Another issue arises in connection with the design of the steam stripper being proposed as a technology basis for various limitations and standards in today's rule. Today's notice proposes performance standards, based on a specific steam stripper design, that correspond to the wastestreams being treated. EPA also expects that the MACT standards for this industry also will be a performance standard based on a specific steam stripper design. However, the control approach contained in the air rule will include four components: (1) Suppression or control of air emissions from the point of generation to the treatment device by installing controls on the sewer system, tanks, and containers used to transport the wastewater; (2) a treatment device (such as a steam stripper); (3) control of air emissions from the treatment device itself (e.g., the non-condensible air emissions from the steam stripper condensor); and (4) control or recycling of the organics removed by the treatment device (e.g., the condensed residuals collected by the steam stripper condensor). The treatment device itself is a major component of the air emissions control approach for wastewater. It is the Agency's intent that a facility that installs steam stripping for the purpose of complying with this proposed rule also will achieve the requirements of the MACT standards to be developed for this industry. By the time public comments on the effluent guideline are being considered, EPA will have a better understanding of the stripper design that will serve as the basis for the MACT standards to be proposed for this industry. This understanding, as well as the public comments on the water rule, will be considered in formulating the final effluent guideline as it pertains to stripper design. The Agency's intent is that the same stripper design will be able to achieve the requirements of both final rules, and will be applicable both to direct dischargers (BAT) and indirect dischargers (PSES). It is possible, however, that the stripper design upon which today's proposed water rule is based could change before promulgation based upon additional data and any comments received. Any information or comment on this subject is welcomed. See Section XIV, solicitation number 32.3. EPA also will develop air emission standards for other emission points (e.g., process vents, process area fugitive emissions, etc.).

A third issue relates to the possibility that the future MACT standard for the pharmaceutical manufacturing industry will allow plants to use an enclosed collection system to suppress emissions while transporting the wastewaters containing volatile pollutants to a central treatment unit, which in turn can be controlled for air emissions. In today's notice, EPA has selected in-plant steam stripping for controlling volatile organic pollutants. Under this proposal, plants would be required to treat all wastewater streams that contain regulated volatile organic pollutants at concentrations greater than the long-term average concentrations established for these regulated pollutants. However, a plant could choose to meet the proposed effluent limitations guidelines and standards by combining all such streams and treating the combined wastestreams at a central treatment unit prior to their dilution by wastestreams that do not contain volatile organic pollutants. This approach to the treatment of wastestreams containing volatile organic pollutants not only would satisfy the proposed regulations, but also appears to be more efficient than treating individual wastestreams at the wastewater generation source. However, in certain cases individual plants may find that streams containing recoverable quantities of individual volatile organic pollutants (e.g., methanol) may be more cost-effectively managed as segregated binary streams (i.e., water and one solvent), rather than mixing them with streams containing all other volatile organic pollutants generated at the facility, prior to either steam stripping or steam stripping/distillation. EPA solicits data and comment on this option. See Section XIV of this preamble, solicitation number 32.5.

A fourth issue concerns the possibility that the future MACT standards will allow the use of open biological treatment units to treat organic compounds with limited volatility (e.g., methanol) from enclosed primary treatment systems, provided that a facility-specific emission limit or a 95 percent destruction of the organic HAP by biodegradation is achieved. In demonstrating the destruction, losses due to air emissions and effluent discharge would not be considered destruction. EPA did not select this technology as BAT for subcategories A and C because all known A and C direct discharger plants have open biological treatment systems and no air emissions data were available from plants with biological treatment systems that demonstrate 95 percent biodegradation of volatiles. In addition, the use of biodegradation for volatiles treatment eliminates the potential for their recovery and reuse. Nevertheless, EPA solicits comment on whether it is appropriate and feasible, considering recycle opportunities and control of air emissions, to develop a separate subcategory for the effluent limitations guidelines and standards with alternate limits that would allow for end-of-pipe biological treatment in place of or in combination with in-plant steam stripping for volatile organic pollutants. See Section XIV of this preamble, solicitation number 32.6.

XI. Impacts of Regulatory Options Considered in this Rulemaking

The purpose of this section is to analyze the projected economic impacts and non-water quality environmental impacts associated with the various technology options considered as possible bases for the limitations and standards proposed in today's notice.

A. Regulatory Options

In developing the proposed effluent limitations and standards set forth in today's notice, EPA developed technology options based upon a variety of different technologies and combinations of technologies. EPA developed technology options for direct dischargers and indirect dischargers, and for different industry subcategory groupings, *i.e.*, facilities with subcategory A and C operations and facilities with subcategory B and D operations. For direct dischargers, EPA proposes limitations and standards based on options for Best Practicable Control Technology Currently Available (BPT), Best Conventional Pollutant Control Technology (BCT), Best Available Technology Economically Achievable (BAT), and New Source Performance Standards (NSPS) options. For indirect dischargers, EPA proposed Pretreatment Standards for Existing Sources (PSES) and Pretreatment Standards for New Sources (PSNS), based on a variety of technology options considered. Table XI.A–1 presents the technology options considered in this rulemaking. The economic impact analysis discussed below reflects each of these options.

TABLE XI.A–1.—TECHNOLOGY OPTIONS CONSIDERED IN THE ECONOMIC IMPACT ANALYSIS

Type of option	Name	Description
Direct Dischargers		
Best Practicable Technology (BPT).	BPT–A/C#1	Current biological treatment
	BPT–A/C#2	Cyanide destruction + advanced biological treatment.
	BPT–A/C#3	Cyanide destruction + advanced biological treatment + effluent filtration.
	BPT–A/C#4	Cyanide destruction + advanced biological treatment + polishing pond.
	BPT–A/C#5	Cyanide destruction + advanced biological treatment + effluent filtration + polishing pond.
	BPT–B/D#1	Current biological treatment.
	BPT–B/D#2	Advanced biological treatment.
	BPT–B/D#3	Advanced biological treatment + effluent filtration.
Best Conventional Technology (BCT)*.	BCT–A/C#1	Advanced biological treatment + effluent filtration.
	BCT–A/C#2	Advanced biological treatment + polishing pond.
	BCT–A/C#3	Advanced biological treatment + effluent filtration + polishing pond.
	BCT–B/D#1	Advanced biological treatment.
	BCT–B/D#2	Advanced biological treatment + effluent filtration.
Best Available Technology (BAT)	BAT–A/C#1	Cyanide destruction + advanced biological treatment with nitrification, where necessary.
	BAT–A/C#2	Cyanide destruction + in-plant steam stripping + advanced biological treatment.
	BAT–A/C#3	In-plant cyanide destruction + in-plant steam stripping/distillation + advanced biological treatment.
	BAT–A/C#4	In-plant cyanide destruction + in-plant steam stripping/distillation + advanced biological treatment + granular activated carbon.
	BAT–B/D#1	Advanced biological treatment.
	BAT–B/D#2	In-plant steam stripping + advanced biological treatment.
	BAT–B/D#3	In-plant steam stripping/distillation + advanced biological treatment.
	BAT–B/D#4	In-plant steam stripping/distillation + advanced biological treatment + granular activated carbon.
New Source Performance Standard (NSPS).	NSPS–A/C#1	In-plant cyanide destruction + in-plant steam stripping/distillation + advanced biological treatment.
	NSPS–A/C#2	In-plant cyanide destruction + in-plant steam stripping/distillation + advanced biological treatment + granular activated carbon.
	NSPS–B/D#1	Advanced biological treatment + in-plant steam stripping/distillation.
	NSPS–B/D#2	In-plant steam stripping/distillation + advanced biological treatment + granular activated carbon.
Indirect Dischargers		
Pretreatment Standards for Existing Sources (PSES).	PSES–A/C#1	In-plant steam stripping + cyanide destruction.
	PSES–A/C#2	In-plant steam stripping/distillation + in-plant cyanide destruction.
	PSES–A/C#3	In-plant steam stripping/distillation + in-plant cyanide destruction + end-of-pipe advanced biological treatment.
	PSES–A/C#4	In-plant steam stripping/distillation + in-plant cyanide destruction + advanced biological treatment + granular activated carbon.
	PSES–B/D#1	In-plant steam stripping.
	PSES–B/D#2	In-plant steam stripping/distillation.
	PSES–B/D#3	In-plant steam stripping/distillation + granular activated carbon.
Pretreatment Standard for New Sources (PSNS).	PSNS–A/C#1	In-plant steam stripping/distillation + in-plant cyanide destruction.
	PSNS–A/C#2	In-plant steam stripping/distillation + in-plant cyanide destruction + end-of-pipe advanced biological treatment.
	PSNS–A/C#3	In-plant steam stripping/distillation + in-plant cyanide destruction + end-of-pipe advanced biological treatment + granular activated carbon.
	PSNS–B/D#1	In-plant steam stripping/distillation.
	PSNS–B/D#2	In-plant steam stripping/distillation + granular activated carbon.

*In the Development Document, BCT–A/C#1, #2, and #3 in this table actually correspond to Options 3, 4, and 5, and BCT–B/D#1 and #2 in this table actually correspond to Options 2 and 3. The options not listed in this table were never considered in the EIA because they are equal to or less stringent than the requirements of the selected BPT options, and thus no incremental costs are incurred.

EPA has selected the following technology options as bases for the effluent limitations and standards proposed in today's notice:

- For direct discharging A/C facilities, BPT–A/C#2 is the technology basis for conventional pollutants and BAT–A/C#2 is the technology basis for priority and nonconventional pollutants.
- For direct discharging B/D facilities, BPT–B/D#2 is the technology basis for conventional pollutants and BAT–B/D#1 is the technology basis for nonconventional pollutants.
- NSPS–A/C#1 is the technology basis for new A/C facilities that are direct dischargers.

VOL 60 ISS 84 MY 2 1995 UMI

- NSPS–B/D#1 is the technology basis for new B/D facilities that are direct dischargers (this option is identical to BAT–B/D#3).
- PSES–A/C#1 is the technology basis for A/C facilities that are indirect dischargers.
- PSES–B/D#1 is the technology basis for B/D facilities that are indirect dischargers.
- PSNS–A/C#1 is the technology basis for new A/C facilities that are indirect dischargers (this option is identical to PSES–A/C#2).
- PSNS–B/D#1 is the technology basis for new B/D facilities that are indirect dischargers (this option is identical to PSES–B/D#2).

B. Economic Impact Considerations

1. Introduction

EPA's economic impact assessment is documented in the report titled "Economic Impact Analysis of Proposed Effluent Limitations Guidelines and Standards for the Pharmaceutical Manufacturing Industry" (hereinafter EIA). This report estimates the economic effect of compliance with the proposed regulation in terms of annualized costs, facility closures, changes in rate of return on assets and the interest coverage ratio at the company level, and profit losses at the company level. In addition, impacts on affected communities, foreign trade, specific demographic groups, and new sources also are considered. Finally, a Regulatory Flexibility Analysis detailing the impacts on small businesses within the pharmaceutical industry is included in the EIA. The methodologies for these analyses are detailed in the EIA. The major source of information for this EIA is the 1990 Detailed Questionnaire, which was conducted under the authority of Section 308 of the Clean Water Act.

2. Projected Facility Economic Impacts

The annual costs of regulatory compliance may have a negative effect on facility earnings. Facility closures are identified when the salvage value (i.e., liquidation value) of the facility exceeds the present value of its future earnings. A post-compliance facility closure analysis was performed for all technology options.

a. Annual Costs. The aggregate post-tax annualized costs for all the regulatory options are given in Tables XI.B.2–1 through XI.B.2–3. The annualized costs for the selected options for this proposed rulemaking are shown in Table XI.B.2–4. The aggregate post-tax annualized costs were estimated at $30.6 million (1994 $) for facilities with subcategory A and C operations to implement BAT Option 2 (BAT–A/C#2), $0.8 million (1994 $) for facilities with subcategory B and D operations to implement BAT Option 1 (BAT–B/D#1), $39.5 million (1994 $) for facilities with subcategory A and C operations to implement PSES Option 1 (PSES–A/C#1), and $9.1 million (1994 $) for facilities with subcategory B and D operations to implement PSES Option 1 (PSES–B/D#1), for a total of $80.0 million (1994 $) for the selected options.[4]

TABLE XI.B.2–1.—ESTIMATED COMPLIANCE COSTS FOR A/C DIRECT DISCHARGERS

[Millions of 1994 dollars]

Option No.	Total capital costs	Total O&M costs	Total post-tax annualized costs	Average annual cost per facility[1]
BPT Option Costs				
BPT–A/C#1	0	0	0	0
BPT–A/C#2	16.9	8.1	6.5	0.3
BPT–A/C#3	25.0	8.6	7.7	0.3
BPT–A/C#4	42.8	24.9	19.0	0.8
BPT–A/C#5	50.5	26.8	21.0	0.9
BCT Option Costs				
BCT–A/C#1	19.3	3.4	4.1	0.17
BCT–A/C#2	37.1	18.9	15.0	0.62
BCT–A/C#3	44.8	21.8	17.5	0.73
BAT Option Costs				
BAT–A/C#1	17.2	9.8	7.5	0.3
BAT–A/C#2	64.5	40.8	30.6	1.3
BAT–A/C#3	77.8	66.3	46.8	1.9
BAT–A/C#4	106.1	130.6	87.0	3.6

Footnotes:
[1] Total Post-Tax Annualized Costs divided by the total number of A/C direct discharge facilities.

b. Post-compliance Facility Closures. The selected options result in no closures of any facilities. When the most stringent options are considered, one direct discharging facility with subcategory A and C operations is predicted to close under BAT–A/C#4, and one indirect discharging facility with subcategory B and D operations is predicted to close under PSES–B/D#3. No other options were determined to result in any other facility closures.

[4] The Development Document presents costs in 1990 dollars. These costs are inflated to 1994 dollars in this preamble using a factor of 1.143 derived from *Engineering News Record* "Construction Cost Index."

TABLE XI.B.2–2.—ESTIMATED COMPLIANCE COSTS FOR B/D DIRECT DISCHARGERS

[Millions of 1994 dollars]

Option No.	Total capital costs	Total O&M costs	Total post-tax annualized costs	Average annual cost per facility[1]
BPT Option Costs				
BPT–B/D#1	0	0	0	0
BPT–B/D#2	0.69	0.59	0.42	0.030
BPT–B/D#3	3.4	0.86	0.87	0.062
BCT Option Costs				
BCT–B/D#1	0.64	0.51	0.37	0.026
BCT–B/D#2	3.3	0.78	0.82	0.058
BAT Option Costs				
BAT–B/D#1	0.74	1.3	0.81	0.058
BAT–B/D#2	2.0	1.1	0.84	0.060
BAT–B/D#3	3.4	2.2	1.7	0.12
BAT–B/D#4	11.8	3.5	3.3	0.24

Footnotes:
[1] Total Post-Tax Annualized Costs divided by the total number of B/D direct discharge facilities.

TABLE XI.B.2–3.—ESTIMATED COMPLIANCE COSTS FOR INDIRECT DISCHARGERS (PSES)

[Millions of 1994 dollars]

Option No.	Total capital costs	Total O&M costs	Total post-tax annualized costs	Average annual cost per facility[1]
A/C Facilities				
PSES–A/C#1	80.9	53.1	39.5	0.4
PSES–A/C#2	103.0	93.6	65.3	0.7
PSES–A/C#3	164.6	120.9	87.8	1.0
PSES–A/C#4	213.7	203.0	140.6	1.6
B/D Facilities				
PSES–B/D#1	28.8	10.2	9.1	0.06
PSES–B/D#2	34.8	19.4	15.0	0.10
PSES–B/D#3	70.8	112.2	72.5	0.5

Footnotes:
[1] Total Post-Tax Annualized Costs divided by the total number of indirect discharge facilities.

TABLE XI.B.2–4.—ESTIMATED COMPLIANCE COSTS FOR SELECTED REGULATORY OPTIONS

[Millions of 1994 dollars]

Option No.	Total capital costs	Total O&M costs	Total post-tax annualized costs	Average annual cost per facility[1]
BAT–A/C#2	64.5	40.8	30.6	1.3
BAT–B/D#1	0.7	1.3	0.8	0.06
PSES–A/C#1	80.9	53.1	39.5	0.4
PSES–B/D#1	28.8	10.2	9.1	0.06
Total[2]	174.9	105.4	80.0	0.29

Footnotes:
[1] Total Post-Tax Annualized Costs divided by the total number of facilities for each subcategory.
[2] Total number of facilities includes seven non-discharging facilities.

3. Projected Owner Company-Level Economic Impacts

Firm failures are identified when the return on assets and the interest coverage ratio, common financial indicators, fall below benchmarks for the industry.

Table XI.B.3.b2–1 presents the results of the postcompliance analysis under the selected regulatory options. This analysis determined that none of the firms owning direct discharging facilities with subcategory A and C or B and D operations are expected to

VOL
60
ISS
84
MY
2
1995
UMI

experience significant impacts (i.e., firm failure) as a result of implementing the selected regulatory options. In addition, only two firms with indirect discharging facilities with subcategory A and C operations and one firm owning an indirect discharging facility with subcategory B and D operations would be expected to experience significant impacts as a result of compliance costs. Thus, a total of three firms are projected to fail under the conservative assumption of no costs being passed through to consumers. Overall, these firms represent 3.8 percent of all firms with indirect discharging facilities with subcategory A and C operations, 1.4 percent of firms with subcategory B and D operations, and 2.3 percent of all regulated firms. As indicated by the Profitability Analysis, 15 firms (11 percent of firms in the postcompliance analysis) are anticipated to have major impacts short of firm failure (i.e., will experience a change in ROA of greater than 5 percent). Impacts are most likely overstated, however, because this analysis assumes that firms cannot pass any increased costs through to consumers. If half the costs can be passed through to consumers there would be no firm failures.

TABLE XI.B.3.b2–1.—PROJECTED FIRM FAILURE: [1] POST COMPLIANCE ANALYSIS [2]

	Total No. of firms	Regulatory impact on firms			
		No significant impact		Significant impact	
		No.	Percent	No.	Percent
Firms with A/C Direct Facilities	15	15	100.0	0	0.0
Firms with B/D Direct Facilities	7	7	100.0	0	0.0
Firms with A/C Indirect Facilities	53	51	96.2	2	3.8
Firms with B/D Indirect Facilities	72	71	98.6	1	1.4
All Firms [3]	133	130	97.7	3	2.3

Note: Analysis excludes three firms because of lack of financial data.

[1] Firm failure is defined when a firm's return on assets or interest coverage ratio falls below industry benchmarks. This analysis assumes no costs can be passed through to consumers.

[2] This scenario analyzes impacts from regulating A/C Direct Facilities under options BAT–A/C#2 and BPT–A/C#2, B/D Direct Facilities under options BAT–B/D#1 and BPT–B/D#2, A/C Indirect Facilities under option PSES–A/C#1, and B/D Indirect Facilities under option PSES–B/D#1.

[3] Number of firms for All Firms may be less than the total firms by subcategory because some firms have more than one type of facility. Total number of All Firms includes firms that have nondischarging facilities.

4. Projected Employment Losses and Gains and Community-Level Economic Impacts

Based on facility closures and firm failures, the employment losses analysis sums the number of jobs lost in the postcompliance scenario and compares these losses to community employment measures. Job gains are calculated based on the cost of manufacturing, installing, and operating compliance equipment.

No employment losses were projected to occur as a result of regulatory options for direct dischargers. For indirect dischargers, however, total projected primary employment losses resulting from the selected regulatory options were 78 full time equivalent (FTE) positions among indirect discharging facilities with subcategory A and C operations and 13 FTEs among indirect discharging facilities with subcategory B and D operations, for a total of 91 FTEs or 0.07 percent of total employment for the affected portion of the industry. Secondary employment losses were predicted to be 541 FTEs.

None of these losses is expected to result in a change of employment rates of more than 1 percent in the affected communities.

Employment losses are offset to some extent by the need to hire workers to manufacture, install, and maintain the pollution control equipment. Primary employment gains are expected to total 68 annual FTEs for manufacturing equipment, 10 annual FTEs for installing equipment, and 0 to 889 annual FTEs for operating and maintaining equipment for a total of 78 to 967 annual FTE gains. The sum of primary and secondary gains is calculated to range from 218 FTEs to 2,890 FTEs. Net gains and losses thus range from a loss of 323 FTEs to a gain of 2,349 FTEs.

5. Projected Foreign Trade Impacts

The impact of effluent guidelines on pharmaceutical exports and the U.S. balance of trade was found to be negligible. The one firm/facility predicted to close as a result of the effluent guidelines had pharmaceutical exports totaling $0.09 million (1994 $). The loss of these exports would have virtually no effect on U.S. pharmaceutical exports, which, according to the U.S. Department of Commerce, totalled $5.7 billion in 1991.

6. Regulatory Flexibility Analysis

a. Purpose of the Regulatory Flexibility Analysis. The Regulatory Flexibility Act requires the federal government to consider the impacts on small entities as part of rulemaking procedures. The goal of the analysis is to ensure that small entities potentially affected by a new regulation will not be disproportionately burdened. Small entities have limited resources, and it is the responsibility of the regulating federal agency to avoid, if possible, disproportionately or unnecessarily burdening such entities.

b. Projected Impacts on Small Businesses. (i) Size Distribution. Small firms make up 76 percent of the 190 firms in the survey universe. The largest percentage of firms are in the 100 to 499 employees size group (37 percent of all firms in the survey universe).

(ii) Recordkeeping and Reporting Requirements. The proposed effluent guidelines for the pharmaceutical industry are revisions to existing effluent guidelines and, accordingly, most of the recordkeeping and reporting requirements to which the industry would be subject are not new requirements. There are some new monitoring requirements. The new monitoring costs total $10.3 million (1994 $) annually, and are 15 percent of the total annual compliance cost for the selected options. Large firms incur the largest proportion of the new monitoring costs (61 percent of total monitoring costs).

(iii) Other Federal Requirements. EPA is aware of no federal rules that duplicate, overlap, or conflict with the proposed effluent guidelines for the pharmaceutical industry.

(iv) Significant Alternatives to the Proposed Rule. No significant alternatives to the proposed rule will substantially reduce impacts on small entities, thus the Agency believes the

stated objectives of the Clean Water Act are met with this proposed rule and the impacts to small firms have been considered, where possible.

(v) Projected Impacts on Small Firms. Projected Impacts on small firms measured as firm failure are as follows. Two of the three firms that were projected to fail in the firm-level analysis under the selected regulatory options have fewer than 750 employees, although only 2 percent of small firms in the postcomplaince analysis are affected in this manner. In addition, 14 of 15 firms found to experience a significant decline in ROA (over 5 percent) have fewer than 750 employees. These firms represent about 14 percent of all small firms in the post-compliance analysis.

When cash flow is analyzed, however, impacts seem less disproportionate. Except in the 19 to 99 employees group, the total present value of compliance costs as a percentage of the present value of net income is smaller among small firms than among large firms. Over all small firms (or all large firms), the present value of compliance costs is less than 1 percent of the present value of net income.

The above analyses indicate that although small firms do bear a large portion of the impacts such as firm failures, these impacts are felt by a very small percentage of all small firms. Additionally, the percentages of the present value of compliance costs to the present value of net income are expected to be smaller, on average, among small firms than among large firms; thus, impacts to small firms are not expected to be disproportionate to those for large firms.

7. Projected Distributional Impacts

a. Impacts on Drug Prices. Assuming that all costs are passed on to consumers and that price increases will reflect 100 percent of the cost increases to manufacturers, the following observations can be made. For all the selected regulatory options, the ratio of compliance costs to total pharmaceutical costs was 1.6 percent. Most facilities would incur compliance costs less than 1 percent of total pharmaceutical costs. Only three facilities (1 percent of all facilities) would incur compliance costs greater than 10 percent of total pharmaceutical costs.

b. Impacts on Specific Demographic Groups. When possible uses for products produced by a sampling of highly affected facilities (those where compliance costs exceed 10 percent of total pharmaceutical costs) were investigated, it appeared that children, women, and the elderly were likely to be the major consumers of many of these products. It was further determined that individuals who lack any health insurance, those who are covered by government insurance, and those who are covered by nonwork-related medical insurance might be least likely to have drug coverage. These groups include Hispanics, young adults, African Americans, young children, and the elderly. Thus, young adult women, children, and the elderly are likely to be the most heavily affected by potential cost increases, if such increases can be passed through to consumers.

Because on average any potential price increases are likely to be very low (1.6 percent), impacts on mass consumers of drugs such as HMOs, governments, and, indirectly, third-party insurers should be minimal.

8. Projected Impacts on New Sources

The projected selected options for new sources are NSPS–A/C#1, NSPS–B/D#1, PSNS–A/C#1, and PSNS–B/D#1. In all cases, the requirements for new sources are more stringent than those for existing sources. However, the difference in cost between new source requirements and existing source requirements for typical facilities are relatively small when compared to the average facility costs of production. In most cases, existing facilities would be required to retrofit in-plant steam stripping systems, whereas new sources would have to install in-plant steam stripping/distillation systems. Because designing in pollution control equipment in a new source is typically less expensive than retrofitting the same equipment in an existing source, the cost differential between the selected requirements for existing sources and those higher existing source options that are technically equivalent to new source requirements should be an upper limit on the differential annual cost faced by new sources. Where this differential is not substantial relative to the typical costs of doing business in this industry, no significant barrier to entry is likely to exist.

The average per-facility compliance costs were investigated to determine what the cost differentials would be between proposed new source and existing source requirements. The average per-facility cost differentials ranged from about a $39,000 to a $674,000 difference (1994 $) (for A/C direct dischargers), depending on the type of facility. The maximum $674,000 difference generates the highest percentage of compliance cost differential to pharmaceuticals manufacturing cost—about 1.4 percent of total manufacturing costs and about 3.0 percent of pharmaceutical manufacturing costs. Since this cost differential is likely to be less than that assumed here, this small premium estimated to be paid by new sources is not likely to have much impact on the decision to enter the market. Furthermore, these same options, when applied to existing sources, were found to have nearly identical impacts on existing sources as the selected options for existing sources. Thus no significant barriers to entry are estimated to result from the proposed new source requirements.

9. Regulatory Impact Assessment

The Agency has prepared a regulatory impact assessment (RIA) for the proposed regulatory alternative. The RIA responds to the requirements in Executive Order 12866 to assess both the costs and benefits to society of significant regulatory actions. Significant regulatory actions are those that impose an annual cost to the economy of $100 million or more, or have certain other regulatory, policy or economic impacts. The RIA is detailed in "Regulatory Impact Assessment of the Proposed Effluent Guidelines for the Pharmaceutical Manufacturing Industry" (see Section II for availability of this and other supporting documents). This RIA was submitted to OMB for review as required by Executive Order 12866.

The RIA analyzes the effects of current air and water emissions and assesses the benefits of reductions in these emissions resulting from the proposed regulation. EPA expects a variety of human health, environmental, and economic benefits to result from these reductions in effluent loadings and air emissions. In particular, the benefits assessment addresses the following benefit categories: human health and agricultural benefits due to reductions in emissions of ozone precursors (i.e., reductions in VOC emissions); human health benefits due to reductions in excess cancer risk; human health benefits due to reductions in non-carcinogenic risk; ecological and recreational benefits due to improved water quality; and benefits to publicly owned treatment works (POTWs) from reductions in interference, pass through, and sludge contamination problems and improvements in worker health and safety. EPA monetizes the estimated benefits for reductions in air emissions of ozone precursors and cancer risk reductions, but is unable to quantify the dollar magnitude of benefits from the other benefit categories. Air benefits are estimated separately for Section 308

VOL
60
ISS
84
MY
2
1995
UMI

survey air emissions data and for air emissions estimated by the WATER7 model which estimates the maximum emissions.

a. Human Health/Agricultural Benefits from Reductions in Emissions of Ozone Precursors. The proposed effluent guidelines are expected to result in reductions in ambient ozone concentrations due to reductions in VOC emissions. Controlling VOC emissions is beneficial because VOCs are precursors to ozone, which negatively affects human health and the environment.

(1) Human Health Benefits.

The RIA estimates that the annual human health benefits resulting from reductions in VOC emissions due to the proposed rule range from $31,000 to $1.9 million (1994 $). EPA monetizes these benefits using a benefits-transfer-based approach. Specifically, the estimated reductions in VOC emissions in nonattainment areas (1,396 Mg) are multiplied by an existing estimate of the range of the value of a unit reduction in VOC emissions ($22/Mg to $1,382/Mg, 1994 $). This range is taken from an existing study that evaluated the human health benefits of ozone reductions in nonattainment areas.

(2) Welfare Benefits from Increased Agricultural Crop Yields.

Studies of the relationship between ambient ozone concentrations and greenhouse-controlled ozone concentrations and agricultural crop yields demonstrate that ozone negatively affects crop yields. Reductions in crop yields in turn affects agricultural production, crop prices, and incomes of agricultural producers, and thus affects social welfare. Thus, reductions in ozone concentrations that lead to improved crop yields will generate welfare benefits.

The RIA estimates that the annual agricultural-related economic welfare benefits from reductions in VOC emissions range from $186,000 to $315,000 (1994 $). To generate these welfare benefit estimates, EPA applies an existing estimate of the benefits per unit reduction in VOC emissions ($134/Mg to $226/Mg, 1994 $) to the total expected reduction in VOC emissions in nonattainment areas. The existing value estimates were developed using economic models that estimate the net change in social welfare resulting from higher crop yields as a result of lower ambient ozone levels in rural areas.

b. Human Health Benefits Due To Cancer Risk Reduction. The benefits from the proposed rule include human health benefits from reductions in excess cancer risk. EPA expects the proposed rule to reduce loadings of toxic substances that otherwise would volatilize and pose a cancer risk to humans, resulting in reductions in excess cancer risk in exposed populations from inhalation of VOCs. In addition, EPA expects that reduced loadings to surface waters will improve water quality and thus reduce cancer risk to the exposed populations from consumption of contaminated drinking water and fish tissue.

Based on the cancer risk assessment conducted for the RIA, EPA estimates that the proposed guidelines will result in 0.02 to 0.35 excess cancer cases avoided per year nationwide. The estimated value of the human health benefits from these cancer risk reductions ranges from $14,000 to $5.4 million (1994 $) annually. EPA developed these benefit estimates by applying an existing estimate of the value of a statistical life to the estimated number of excess cancer cases avoided. The estimated range of the value of a statistical life used in this analysis is $0.7 million to $15.4 million (1994 $). This estimated range is based on a review of literature pertaining to the value of life.

c. Human Health Benefits from Reductions in Noncarcinogenic Risk. Exposure to toxic substances poses risk of systemic and other effects to humans, including effects on the circulatory, respiratory or digestive systems and neurological and developmental effects. The proposed rule might generate human health benefits by reducing exposure to these substances, thus reducing the risks of these associated effects.

As in the case of the cancer risk assessment, systemic risks from exposure to air emissions and consumption of contaminated fish tissue and drinking water are evaluated. Modeled pollutant concentration levels are compared to human health criteria or estimated toxic effect levels. Based on this analysis, reductions in air emissions might result in reduced systemic risk, with benefits ranging from reduced risk to zero individuals (since estimated baseline risks are low) to reduced risk to 126,000 individuals due to reduced exposure to two toxic pollutants. No systemic risk reductions are expected to result from reduced exposure to contaminated fish tissue or drinking water. Sufficient data to quantify these benefits further are not available.

d. Ecological and Recreational Benefits Due to Improved Water Quality. EPA expects the proposed effluent guidelines to generate environmental benefits by improving water quality. There are a wide range of benefits associated with the maintenance and improvement of water quality. These benefits include use values (e.g., recreational fishing), ecological values (e.g., provision of habitat), and passive use values. For example, water pollution might affect the quality of the fish and wildlife habitat provided by water resources, thus affecting the species using these resources. This in turn might affect the quality of recreational experiences of users, such as anglers fishing in the affected streams. In the RIA, EPA considers the value of the recreational benefits resulting from the proposed rule, but does not evaluate the other types of ecological and environmental benefits due to data limitations.

To estimate the benefits from the improvements in water quality expected to result from this rule, instream concentration estimates are modeled and then compared to EPA's freshwater acute and chronic aquatic life criteria to evaluate whether these discharges pose risk to aquatic organisms. The projected reductions in toxic loadings to surface waters are significant. Pollutant loadings are estimated to decline by 57 percent, from 39.9 million pounds per year under current conditions to 17.1 million pounds per year under the proposed rule. The analysis comparing instream concentration levels to aquatic life water quality criteria estimates that current discharge loadings result in excursions of aquatic water quality criteria at two locations. The analysis also indicates that no excursions are expected to occur at these two sites under the proposed rule.

EPA estimates that the annual recreational benefits associated with the expected changes in water quality are on the order of thousands of dollars. EPA evaluates these recreational benefits, applying a simple model that considers the change in consumer welfare likely to result from improved catch rates by recreational anglers at these two sites. EPA assumes that catch rates improve due to larger fish populations that are assumed to result from improved water quality.

e. Benefits from Reductions in Loadings Discharged to POTWs. The RIA considers three potential sources of benefits to POTWs from the proposed regulation: Reductions in the likelihood of interference, pass through, and sewage sludge contamination problems, reductions in health and safety risks to POTW workers, and reductions in costs potentially incurred by POTWs in analyzing toxic pollutants and determining whether to, and the appropriate level at which to, set local limits. Although the benefits from reducing these effects at POTWs might be substantial, the RIA does not quantify these benefits due to data limitations.

First, regarding potential interference, pass through and sewage sludge contamination problems, the proposed rule is expected to help reduce these problems by reducing toxic loadings in the industry's effluent and reducing shock releases. Anecdotal evidence from POTW responses to an EPA survey and analytic results indicate that such effects can occur. In addition, based on an analysis comparing POTW influent levels to available data on inhibition levels, inhibition problems are projected to occur at six POTWs for seven pollutants under current conditions. Inhibition problems are projected to occur at five POTWs for three pollutants after the proposed rule. Sufficient data are not available to further quantify this benefit category.

Furthermore, toxic substances in effluent discharges to POTWs pose health risks to POTW workers. The proposed rule is expected to reduce these risks, thus generating human health benefits. Based on the assessment of the risk posed to POTW workers from exposure to toxic pollutants, the proposed rule is estimated to reduce occupational risk at six POTWs. Data are not available to monetize this benefit category.

Finally, in implementing local programs to control pollutants discharged to their systems, authorized POTWs often must set numerical limits on toxic loadings in discharges to the POTW, based on national categorical pretreatment standards or local limits determined by the POTW. In setting these local limits, POTWs sometimes need to undertake analyses to determine which pollutants warrant local limits and at what numerical level. Conducting these analyses is expensive, costing on the order of hundreds of thousands of dollars. Several POTWs contacted as part of EPA's survey of POTWs indicated that they will benefit from the establishment of national pretreatment standards by avoiding these analytical costs. In addition, they indicated that the pretreatment standards will bolster the legal authority of the limits they set. EPA solicits comments on this issue. See Section XIV, solicitation number 24.4.

f. Summary of Benefits. EPA estimates that the annual benefits resulting from the proposed rule will range from $231,000 to $7.6 million (1994 $). Table XI.B.9.f summarizes these benefits by category. The range reflects the uncertainty in evaluating the effects of the proposed rule and in placing a dollar value on these effects. As indicated in the table, these benefit ranges do not reflect many of the benefit categories expected to result under the proposed rule, including human health benefits associated with potential reductions in chronic effects from ozone exposure, human health benefits associated with reductions in acute effects in attainment areas, agriculture-related benefits from reductions in emissions of ozone precursors in attainment areas, ecological and recreational benefits from improvements in water quality, benefits from avoided interference and pass through problems and improved worker health and safety at POTWs, and human health benefits from potential reductions in systemic risk. Therefore the reported benefit estimate understates the total benefits of the proposed rule.

TABLE XI.B.9.f.—POTENTIAL ECONOMIC BENEFITS FROM THE PROPOSED EFFLUENT GUIDELINES FOR THE PHARMACEUTICAL INDUSTRY

Benefit category	Thousands of 1994 dollars per year
Reductions in Emissions of Ozone Precursors:[1]	
Human Health	31–1,929.
Agricultural	186–315.
Cancer Risk Reductions	14–5,401.
Non-carcinogenic Risk Reductions	Unquantified.
Ecological and Recreational Benefits	Unquantified.
POTW Reductions in Interference and Sludge Inhibition	Unquantified.
Total quantifiable benefits	231–7,646.

[1] The estimates presented only include benefits associated with reductions in acute health effects and improvements in agricultural yields in nonattainment areas. Potential welfare benefits associated with forest yield, materials damage, and visibility are not addressed in this analysis.

g. Costs to Society. A major component of social cost (beyond the cost to industry of compliance) is the cost to government of providing the tax deductions on pollution control costs to industry. In addition, there are other monetary and nonmonetary outlays made by government. Government administrative costs and costs of reallocating displaced workers are two additional monetary costs. Nonmonetary costs include losses in consumers' or producers' surpluses in product markets, discomfort or inconvenience, loss of time, and slowing the rate of innovation. The social costs estimated here, which include compliance costs to industry and the costs of government tax subsidies, therefore, are a very large portion of, but not the true total social cost of the proposed regulation. The costs reported here are thus only a close estimate of this true cost.

The estimate of total annual social costs for all selected options is shown in Table XI.B.9.g. Total social costs resulting from the proposed effluent guideline are estimated to be $123.9 million (1994 $).

TABLE XI.B.9.g.—SOCIAL COSTS FOR SELECTED REGULATORY OPTIONS

[Millions of 1994 dollars]

Option No.	Total capital costs	Total O&M costs	Total annualized costs[1]
BAT–A/C#2	64.5	40.8	47.6
BAT–B/D#1	0.7	1.3	1.3

VOL 60 ISS 84 MY 2 1995 UMI

TABLE XI.B.9.g.—SOCIAL COSTS FOR SELECTED REGULATORY OPTIONS—Continued

[Millions of 1994 dollars]

Option No.	Total capital costs	Total O&M costs	Total annualized costs [1]
PSES–A/C#1	80.9	53.1	61.6
PSES–B/D#1	28.8	10.2	13.3
Total [2]	174.9	105.4	123.9

Footnotes:
[1] The total annualized costs of compliance are calculated prior to accounting for the tax deductibility of the pollution control costs.
[2] Total number of facilities includes seven non-discharging facilities.
Note: These numbers are for all facilities and do not reflect closures predicted by the analyses in this report.

h. Benefit-Cost Comparison. Because not all of the benefits resulting from the regulatory alternative can be valued in terms of dollars, a complete cost-benefit comparison cannot be performed. The social cost of the alternatives considered in the proposed rule, discussed in the preceding section is estimated to be $123.9 million (1994 $). The sum of total benefits that can be valued in dollar terms ranges from $0.2 to $7.6 million per year (1994 $) (see Table XI.B.9.h).

TABLE XI.B.9.h.—COMPARISON OF ANNUAL BENEFITS AND COSTS FOR THE PHARMACEUTICAL RULEMAKING

[Thousands of 1994 dollars]

Benefits	
Cancer risk reductions	14–5,401
Reductions in emissions of ozone precursors	31–1,929
Human health	186–315
Agricultural benefits	
Total quantifiable benefits	231–7,646
Costs	
Total Annual Costs to Industry	80,000
Total Annual Social Costs	123,900

XII. Relationship of Proposed Effluent Guidelines to EPA's Hazardous Waste Initiatives

A. Relationship to Rulemaking Activities Under RCRA

1. Introduction and Overview of Land Ban Regulations

EPA's Office of Solid Waste Phase 3 proposed land disposal restriction regulations under the Resource Conservation and Recovery Act (RCRA) for certain hazardous wastes streams common to the pharmaceutical manufacturing industry on February 16, 1995. These regulations will be codified at 40 CFR Part 268 after they are finalized (scheduled for January 1996).

The proposed RCRA regulations signed on February 16, 1995 cover decharacterized ignitable (I), corrosive (C), reactive (R) and toxic (TC) wastes (i.e., wastes that initially exhibit a characteristic but, as a result of dilution, no longer do so when they are land disposed) that are managed in surface impoundments whose ultimate discharge is regulated under the Clean Water Act. These regulations also potentially apply to decharacterized wastes disposed in Class I nonhazardous deep injection wells regulated under the Safe Drinking Water Act's Underground Injection Control program. The definitions of these waste streams are listed in Table XII.A. The September 1992 Third decision in *Chemical Waste Management* v. *EPA*, 976 F.2d 2 (D.C. Cir. 1992) requires EPA to assure that decharacterized wastes disposed in surface impoundments are treated to the same extent they would be if disposed in surface disposal units. However, the opinion specifically allows this showing of equivalent treatment to be measured at the eventual discharge point, so that treatment occurring in the wastewater treatment system (including the surface impoundment) can be taken into account.

2. The Land Disposal Restrictions Program

a. Introduction to RCRA Land Disposal Restrictions. The Hazardous and Solid Waste Amendments (HSWA) to RCRA, enacted on November 8, 1984, largely prohibit the land disposal of untreated hazardous wastes. Once a hazardous waste is prohibited from land disposal, the statute provides only two options for legal land disposal: Meet the treatment standard for the waste prior to land disposal, or dispose of the waste in a land disposal unit that has been found to satisfy the statutory no migration test. A no migration unit is one from which there will be no migration of hazardous constituents for as long as the waste remains hazardous. RCRA sections 3004 (d),(e),(g)(5).

The treatment standards may be expressed as either constituent concentration levels or as specific methods of treatment. These standards must substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized. RCRA section 3004(m)(1). For purposes of the restrictions, the RCRA program defines land disposal to include any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave. Discharge of wastewater streams containing hazardous wastes to surface impoundments is considered temporary land disposal. RCRA section 3004(k).

EPA has implemented these requirements by requiring treatment standards for hazardous wastes to be based on performance of Best Demonstrated Available Technology (BDAT).

b. Regulation of Characteristic Wastes. On May 8, 1990, EPA promulgated land disposal prohibitions and treatment standards for hazardous wastes that exhibited one or more of the following characteristics: ignitability, corrosivity, reactivity, or EP toxicity (40 CFR 261.21–261.24). These regulations established treatment standards for the characteristic wastes in one of four forms: (1) A concentration level equal to, or greater than, the characteristic level; (2) a concentration level less than the characteristic level; (3) a specified treatment technology (e.g., for ignitable wastes containing high levels of total organic carbon); and (4) a treatment standard of "deactivation" which allowed the use of any technology, including dilution, to remove the characteristic.

Such treatment frequently occurs in centralized wastewater management systems subject to regulation under the Clean Water Act or Safe Drinking Water Act. Furthermore, the deactivation can occur as a result of mixing wastewaters together (for example, to equalize wastewater flow into a centralized wastewater management unit). This mixing, however, is a type of dilution, and dilution is normally an impermissible means of achieving a land disposal regulation (LDR) treatment standard. EPA addressed at length the question of whether dilution incidental to such centralized wastewater management should be allowed. See generally 55 FR 22653–59 (June 1, 1990). The Agency found, generally, that mixing waste streams to eliminate certain characteristics was appropriate and permissible for corrosive wastewaters and, in some cases, reactive or ignitable wastewaters. Furthermore, EPA stated that the dilution prohibition did not normally apply to characteristic wastewaters that are managed in treatment trains, including surface impoundments, whose ultimate discharge is regulated under the pretreatment and NPDES programs under sections 307(b) and 402 of the CWA, or in Class I underground injection well systems regulated under the Safe Drinking Water Act (SDWA). The Agency stated that the treatment requirements and associated dilution rules under the CWA are generally consistent with the dilution rules under RCRA, and that the Agency should rely on the existing CWA provisions. The Agency also singled out certain particularly toxic wastewaters to which the dilution prohibition still applies notwithstanding management in CWA systems. 40 CFR 268.3(b). Similarly, EPA stated that a regulatory program had been established under the SDWA to prevent underground injection that endangers drinking water sources.

c. The Third Third Court Decision. On September 25, 1992, the United States Court of Appeals for the District of Columbia Circuit ruled on the various petitions for review filed against the 1990 land disposal rule, also known as the Third Third rule. *See Chemical Waste Management* v. *EPA*, 976 F.2d 2, cert. denied, 113 S.Ct. 1961 (1993). The court issued three principal holdings of the case with respect to characteristic wastes. First, EPA may require treatment under RCRA section 3004(m) to more stringent levels than those at which wastes are identified as hazardous, *Id.* at 12–14. Second, section 3004(m) requires that treatment standards address both short-term and long-term potential harms posed by hazardous wastes, and consequently must result in destruction and removal of hazardous constituents as well as removal of the characteristic property, *Id.* at 16, 17, 23. As a consequence, dilution without destruction or removal of hazardous constituents is permissible as an exclusive method of treatment only for those characteristic wastes that do not contain hazardous constituents "in sufficient concentrations to pose a threat to human health or the environment" (*i.e.*, the minimize threat level in section 3004(m)). *Id.* at 16. Third, situations where characteristic hazardous wastes are diluted, lose their characteristic(s) and are then managed in centralized wastewater management land disposal units (*i.e.*, subtitle D surface impoundments or Class I nonhazardous injection wells) are legal only if it can be demonstrated that hazardous constituents are removed or destroyed to the same extent they would be pursuant to otherwise-applicable RCRA treatment standards. *Id.* at 7.

As a consequence of these holdings, the court held that the deactivation standard for ignitable and corrosive wastes did not fully comply with RCRA section 3004(m). This was because that standard could be achieved by dilution, and dilution fails to destroy or remove the underlying hazardous constituents that can be present in the wastes. *Id.*

3. Phase 3 and the Pharmaceutical Effluent Guidelines

The RCRA regulations EPA proposed on February 16, 1995 are known as the Phase 3 rule. In response to the D.C. Circuit court decision requiring treatment beyond decharacterization or dilution for ignitable, corrosive, reactive and characteristically toxic wastes, the proposed rule addresses underlying hazardous constituents of these wastes.

EPA believes that the practices of disposal of spent solvents used extensively in pharmaceutical processes for cleaning out batch units result in the discharge of significant amounts of characteristically ignitable (D001) hazardous waste. Many of these streams are disposed in surface impoundments and will be covered by the Phase 3 proposal.

The Phase 3 rule sets out EPA's general approach to have the RCRA standards be the same as BAT under the CWA. This is because the BAT standards reflect an industry-specific evaluation of best treatment for that industry's wastewater. Thus, the RCRA technology-based standards will typically match those of the Clean Water Act. This approach works well for the pharmaceutical manufacturing industry because the Clean Water Act rule effluent limitations guidelines and standards are being revised contemporaneously with the Phase 3 LDR rules, and thus reflect current BAT.

TABLE XII.A.—IGNITABLE/CORROSIVE/REACTIVE/TOXICITY CHARACTERISTIC WASTES D001, D002, D003 AND D004–32

D001	IGNITABLE.
D001	Liquid—flash point<60 C—High TOC—261.21(a)(1).
D001	Liquid—flash point<60 C—Low TOC—261.21(a)(1).
D001	Nonliquid—burns vigorously/persistently—261.21(a)(2).
D001	Ignitable compressed gas—49 CFR 173.300—261.21(a)(3).
D001	Oxidizer—49 CFR 173.151—261.21(a)(4).
D002	CORROSIVE.
D002	pH<2—261.22(a)(1).
D002	pH>10—261.22(a)(1).

VOL
60
ISS
84
MY
2
1995
UMI

TABLE XII.A.—IGNITABLE/CORROSIVE/REACTIVE/TOXICITY CHARACTERISTIC WASTES D001, D002, D003 AND D004–32—Continued

D002	Corrodes steel—261.22(a)(2).
D003	REACTIVE.
D003	Violent change without detonating—261.23(a)(1).
D003	Violent reaction with water—261.23(a)(2).
D003	Generates toxic gases—261.23(a)(3).
D003	Contains CN or S—261.23(a)(4).
D003	Capable of detonating under stress—261.23(a)(5).
D003	Capable of detonating spontaneously—261.23(a)(6).
D003	Forbidden, Class A or Class B explosive—261.23(a)(7).
D004–D043	TOXICITY CHARACTERISTIC (TC) WASTES.
D004	Arsenic.
D005	Barium.
D006	Cadmium.
D007	Chromium.
D008	Lead.
D009	Mercury.
D010	Selenium.
D011	Silver.
D012	Endrin.
D013	Lindane.
D014	Methoxychlor.
D015	Toxaphene.
D016	2,4-D.
D017	Silvex.
D018	Benzene.
D019	Carbon tetrachloride.
D020	Chlordane.
D021	Chlorobenzene.
D022	Chloroform.
D023	o-Cresol.
D024	m-Cresol.
D025	p-Cresol.
D026	Cresol.
D027	1,4-Dichlorobenzene.
D028	1,2-Dichloroethylene.
D029	1,1-Dichloroethylene.
D030	2,4-Dinitrotoluene.
D031	Heptachlor and epoxide.
D032	Hexachlorobenzene.
D033	Hexachlorobutadiene.
D034	Hexachloroethane.
D035	Methyl ethyl ketone.
D036	Nitrobenzene.
D037	Pentachlorophenol.
D038	Pyridine.
D039	Tetrachloroethylene.
D040	Trichloroethylene.
D041	2,4,5-Trichlorophenol.
D042	2,4,6-Trichlorophenol.
D043	Vinyl chloride.

B. Coordination With Waste Minimization and Combustion Strategy

In May 1994, the Administrator announced a Draft Hazardous Waste Minimization and Combustion Strategy that is pertinent to this rulemaking for the pharmaceutical manufacturing industry. The Draft Strategy provides the central framework for EPA's federal effort to maximize the source reduction and recycling of hazardous wastes under RCRA. The Draft Strategy focuses on a number of specific goals, including reducing the amount and toxicity of hazardous waste that is generated, particularly when such reductions would benefit more than one environmental medium. The Draft Strategy also encompasses a number of other features, including public outreach, public involvement and environmental justice, permitting, enforcement, risk assessments, and good science.

1. Waste Minimization

The Draft Strategy has both short-term and a longer-term phases. In the short-term, EPA will address the source reduction and environmentally sound recycling of halogenated (and metal-bearing) combustible wastes. The longer-term effort will encompass all RCRA hazardous wastes, taking a more comprehensive approach to how wastes are generated and managed, and the role waste minimization can play as a preferred "mode of management" over other forms of waste management (e.g., treatment, storage, and disposal). This source reduction (waste minimization) strategy should reduce the long-term demand for combustion and other waste management facilities. Section VI of this preamble presents EPA's efforts toward increasing opportunities for source reduction (e.g., process changes) in the pharmaceutical manufacturing industry.

The Agency also has released a draft report by the EPA Office of Solid Waste's Definition of Solid Waste Task Force. This report, *Reengineering RCRA for Recycling*, presents recommendations of the Task Force to improve the regulation of hazardous waste recycling under RCRA. One of the recommendations of the Task Force was that provision should be made to exempt "clean" waste-derived fuels from the regulatory requirements of RCRA for hazardous wastes. "Clean fuels" are fuels with "*de minimis*" levels of halogens (primarily chlorine in this case) or toxic metals, especially fuels that are characteristically hazardous only because of ignitability. EPA has initiated a rulemaking effort to address the recommendations of the Task Force, including the recommendation on "clean fuels."

In the case of the pharmaceutical manufacturing industry, the volatile organic pollutants that are generated in the largest quantities are non-halogenated volatile organic pollutants, including methanol, ethanol, isopropanol, and acetone. Implementation of in-plant steam stripping or steam stripping with distillation technology affords the opportunity to recover these potentially "clean fuels" for recycle in industrial boilers, such as those on-site at pharmaceutical manufacturing facilities.

Implementation of in-plant steam stripping or steam stripping with distillation technology also affords the opportunity to recover halogenated volatile organic pollutants (e.g., methylene chloride) for recycle in the pharmaceutical manufacturing process. Recovered chlorinated solvents that are not of sufficient quality for reuse in pharmaceutical manufacturing processes may be sold for reuse in other industries.

2. Combustion

The Draft Strategy also addresses rigorous controls on hazardous waste combustion facilities using best available technologies to ensure that these facilities do not impose unacceptable risk to human health and the environment. EPA's regulatory activities are scheduled to be directed toward upgrading technical standards for residual wastes and emissions from hazardous waste combustion facilities, including incinerators, cement kilns, light-weight aggregate kilns, and smelter furnaces, as well as boilers and industrial furnaces.

EPA estimates that approximately 115,000 metric tons per year of solvents (halogenated and nonhalogenated) would be recovered from in-plant steam stripping technology at pharmaceutical manufacturing facilities. There is currently adequate capacity at commercial incinerators to combust the entire mass of solvents (in excess of 1 million metric tons per year) if none was recovered and recycled. However, it is the Agency's policy, as stated in the Draft Waste Minimization and Combustion Strategy, that the most appropriate mode of management for solvents removed from pharmaceutical manufacturing wastewaters by steam stripping is recycle of "clean fuels" in boilers, recycle in the process, or recycle at other facilities.

XIII. Administrative Requirements

A. Changes In Format and Name

EPA is not proposing any changes in format to part 439 of the Code of Federal Regulations.

B. Docket and Public Record

The Record for this rulemaking is available for public review at EPA Headquarters, 401 M Street SW, Washington, DC 20460. The Record supporting the effluent limitations guidelines in part 439 is located in the Office of Water Docket, Room L102 (in the basement of Waterside Mall). The Docket is staffed by an EPA contractor, Labat-Anderson, Inc., and interested parties are encouraged to call for an appointment. The telephone number for the Water Docket is (202) 260–3027.

EPA notes that many documents in the record supporting these proposed rules have been claimed as confidential business information and, therefore, are not included in the record that is available to the public in the Water Docket. To support the rulemaking, EPA is presenting certain information in aggregated form or is masking plant identities to preserve confidentiality claims. Further, the Agency has withheld from disclosure some data not claimed as confidential business information because release of this information could indirectly reveal information claimed to be confidential.

C. Clean Water Act Procedural Requirements

As required by the Clean Water Act, EPA will conduct a public hearing on the pretreatment standards portion of the proposed rule. The location and time of this public hearing will be announced in a future notice.

D. Executive Order 12866

Under Executive Order 12866, (58 FR 51735 (October 4, 1993)) requires EPA and other agencies to assess the potential costs and benefits of all significant regulatory actions, and submit these actions to the Office of Management and Budget (OMB). Significant regulatory actions are those that impose a cost on the economy of $100 million or more annually or have certain other regulatory, policy, or economic impacts. Today's rule meets the criteria of a significant regulatory action as set forth in section 3(f) of the Executive Order. The regulatory analysis for this proposed rule is presented in "Regulatory Impact Assessment of Proposed Effluent Guidelines for the Pharmaceutical Industry." This analysis (referred to as the RIA) is summarized in section XI.B. Today's proposed rule and the RIA were submitted to the OMB for review.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, requires EPA and other agencies to prepare an initial regulatory flexibility analysis for regulations that have a significant impact on a substantial number of small entities. EPA projects that today's proposed rule, if promulgated, could affect small businesses. The initial regulatory flexibility analysis for these proposed rules is incorporated into the economic impact analysis and is discussed in section XI.B. Reporting and other compliance requirements are summarized in sections IX.I and detailed in the TDD. While the Agency has not identified any duplicative, overlapping, or conflicting Federal rules, a discussion of other related rulemakings is presented in sections V.B, V.C, V.D, X.A, X.B, XII.A, and XII.B.

F. Reduction of Unfunded Mandates and Consultation with State, Local, and Tribal Governments

Executive Order No. 12875 supplements Executive Order No. 12866 [Sec. 1(b)(9)], and is intended "to reduce the imposition of unfunded mandates upon State, local, and tribal governments." Facilities in the pharmaceutical manufacturing industry are not associated with tribal governments, and the burden to states and local authorities is expected to be minimal, if not decreased, by the implementation of this rule.

These proposed requirements, when promulgated, will be implemented via the existing regulatory structure and no additional burden is expected beyond that previously estimated by EPA for the NPDES and general pretreatment programs. In the absence of effluent limitations guidelines and pretreatment standards, establishing BAT, BCT, NSPS, PSES, and PSNS permit limitations are to be developed on a case-by-case "Best Professional Judgment" (BPJ) basis. In addition, NPDES permits for all direct dischargers

VOL 60 ISS 84 MY 2 1995 UMI

and POTWs must incorporate state water quality standards where necessary. Once these revised pharmaceutical effluent guidelines and standards are in place, regulatory burdens on the states and local POTWs in developing pollutant control requirements that heretofore have not been addressed for this industry, particularly for volatile organic pollutants and other wastewater discharge characteristics, will be reduced. For example, the Agency is aware that certain POTWs have expended considerable resources for outside contractors (e.g., engineering consultants) to secure technical support in developing the basis for local limits or other special requirements, for POTW maintenance and equipment replacement, and for special treatment systems. These requirements were needed to prevent pollutant pass through, interference, or sludge contamination attributable to pharmaceutical facility discharges.

In compliance with E.O. 12875, EPA has involved state and local governments in the process of developing this rule. Since the inception of the project in 1986, there have been periodic meetings with the industry and its trade association, the Pharmaceutical Research and Manufacturers of America (PhRMA), to discuss progress on the rulemaking. The Agency also has met with the Natural Resources Defense Council (NRDC) to discuss progress on this rulemaking. Because most of the facilities affected by this proposal are indirect dischargers, the Agency conducted an outreach survey to a limited number of POTWs substantially affected by one or more pharmaceutical manufacturing facilities to solicit their input on the need for this proposed rule and pertinent technical issues. The Agency has worked with the Food and Drug Administration (FDA) to explore pollution prevention opportunities to the maximum extent feasible. As described previously in this preamble, EPA shared with FDA information and data gathered from the industry in responses to EPA's detailed Section 308 questionnaire. This was done to assist FDA in evaluating the environmental impacts of revised drug manufacturing processes (as described in "supplement" applications) and of new drug manufacturing processes. These reviews will ensure that opportunities for solvent use minimization/elimination and water-based manufacturing processes (e.g., water-based tablet coating) are considered and adopted within the constraints of maintaining the efficacy of both existing and new pharmaceutical products.

The Agency also held a public meeting on May 23, 1994. EPA representatives of the Office of Water and the Office of Air and Radiation outlined the underlying technical basis and options being considered for this proposal, the efforts to coordinate the future air rule and this proposed water rule, and took comments and questions from the audience. The Agency also consulted with representatives of selected POTWs regarding underlying technical aspects of this proposal.

The Agency will continue this process of consulting with state, local, and other affected parties after proposal in order to further minimize the potential for unfunded mandates that may result from this rule.

G. Paperwork Reduction Act

The proposed effluent guidelines and standards for the pharmaceutical manufacturing industry contain no information collection activities beyond those required for the NPDES permit program and the general pretreatment program. Therefore, an information collection request (ICR) has not been submitted to the Office of Management and Budget (OMB) for review and approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

OMB has approved the existing information collection requirements associated with NPDES discharge permit applications and the general pretreatment program under the provisions of the Paperwork Reduction Act.

The collection of information required for NPDES discharge permit applications has an estimated reporting burden averaging 12 hours per response and an estimated annual recordkeeping burden averaging two hours per respondent. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

XIV. Solicitation of Data and Comments

A. Introduction and General Solicitation

EPA invites and encourages public participation in this rulemaking. The Agency asks that comments address any perceived deficiencies in the record of this proposal and that suggested revisions or corrections be supported by data.

The Agency invites all parties to coordinate their data collection activities with EPA to facilitate mutually beneficial and cost-effective data submissions. EPA is interested in participating in study plans, data collection and documentation. Please refer to the "For Further Information" section at the beginning of this preamble for technical contacts at EPA.

When responding to these comment solicitations, please identify for each comment or data submission the comment solicitation number or numbers that the comment or data submission addresses. Commenters should also submit an electronic version on diskette if possible.

B. Specific Data and Comment Solicitations

EPA has solicited comments and data on many individual topics throughout this preamble. The Agency incorporates each of these solicitations here, and reiterates its interest in receiving data and comments on the issues addressed by those solicitations. EPA particularly requests comments and data on the following issues:

1.0 General

1.1 Comments on Options and Technologies Evaluated

The Agency solicits comments on all of the technologies and technology options identified in today's proposal.

1.2 Comments on Options/ Technologies Selected for Proposal

The Agency solicits comments on the options and technologies and compliance monitoring points selected for proposal today, and the technical, policy, and legal bases expressed by EPA in support of such selections.

1.3 Comments on Proposed Effluent Limitations and Standards

The Agency solicits comments on the effluent limitations and standards proposed today.

1.4 Comments on the Methodology Used to Develop Steam Stripper- and Steam Stripper With Distillation-Based Limitations and Standards

The Agency solicits comment regarding its methodology for developing the proposed limitations and standards based on available steam stripper and steam stripper/distillation performance data.

2.0 Adequacy of the 308 Questionnaire Database

The Agency has collected a significant amount of technical and economic data from pharmaceutical manufacturing facilities. Nonetheless, the Agency is open to suggestions regarding any additional data collections that may be required. The Agency also solicits information, comments, and data on the following technical areas:

a. Data characterizing in-facility process wastewater streams bearing pollutants proposed to be regulated, including ammonia concentration in the wastewater stream, stream pH, stream TDS and TSS, and information on the ionic species in the stream.

b. Information on new steam strippers installed since 1990 for the treatment of pharmaceutical process wastewater.

c. Information on the storage capacity used by facilities prior to steam stripping.

d. Information on steam generation and cost, including how much steam is generated on-site and at what cost, how much steam is purchased from off-site sources and at what cost, steam condition, and steam pressure used by the facility.

e. Information on scaling in steam strippers including information concerning the issues, problems, and solutions to scaling.

f. Information on the operation and maintenance costs for running steam strippers at pharmaceutical manufacturing facilities.

3.0 Basis for Pollutant Loading Estimates

EPA requests information from plants that completed Table 3–2 of the "1990 Pharmaceutical Manufacturing Survey" but did not indicate a technical basis for their loadings estimates (*i.e.*, air emissions from wastewater, discharges to surface waters/sewers etc.). The Agency requests that facilities specify the method and underlying assumptions used in making air emission and water discharge estimates for individual pollutants, the loading estimate values either estimated or measured, and the uncertainty associated with the method used to estimate these quantities.

4.0 Subcategorization

EPA is proposing to maintain the existing subcategorization scheme. The rationale for maintaining this scheme is discussed in Section IX.A.3 of this preamble.

4.1 Comments on Maintaining the Existing Subcategorization Scheme

EPA solicits comments regarding the decision to maintain the existing scheme.

4.2 Alternative Regulatory Schemes

The Agency also solicits suggestions for alternative regulatory schemes.

5.0 Definition of Research Operations

5.1 Definition

Research operations are defined and discussed in section IX.A.4 of this preamble. EPA solicits comments regarding the definition of research operations for the pharmaceutical manufacturing category.

5.2 Research Operation Wastewater in Combination With Other Subcategory Wastewater

EPA solicits comment on whether wastewaters generated from bench-scale pharmaceutical research operations at facilities with other pharmaceutical subcategory wastewaters (A, B, C, D) should be subject to the proposed subcategory A, B, C, and/or D standards and limitations rather than the existing BPT limitations for subcategory E.

6.0 Characterization of Individual Process Wastewater Streams

The Agency anticipates that at most facilities, a greater mass of volatile organic pollutants will be concentrated in specific wastewater streams rather than being evenly distributed in all wastewater streams. Nonetheless, EPA has assumed for purposes of this proposal that wastewater streams with volatile organic pollutants at concentrations above the distillation treatability target concentrations would require steam stripping. Because of a lack of detailed and consistent flow and pollutant characterization data in the plant responses to the section 308 questionnaire, EPA assumed, when estimating costs associated with the steam stripping and steam stripping with distillation options, that facilities would be treating all or most of the process wastewater generated by their individual plants. EPA believes that this is not a realistic assumption and that the costs developed for in-plant steam stripping and steam stripping with distillation are substantially overstated. As a practical matter, EPA anticipates that plants will attempt to segregate and treat the most concentrated volatile pollutant-bearing wastewater streams from those not requiring treatment, thus reducing the amount of wastewater that will be treated. Since amount of flow entering a steam stripper or steam stripper with distillation unit is a significant cost component in the design of these units (i.e., the greater the flow the greater the cost), reductions in input flows should result in significant cost reductions.

6.1 Data on Flow and Organic Pollutant Distribution

In order to obtain better estimates of the volume and pollutant characterization of wastewaters requiring treatment, EPA solicits data from plants in the industry on the distribution of volatile organic pollutants in process wastewater streams. These data should specify: (1) The number and measured or estimated volume of *individual* process wastewater streams; (2) the types of organics in these waste streams and the ranges of organic pollutant concentrations either measured or estimated in these streams (e.g., <1 mg/l, 1–10 mg/l, 10–100 mg/l, 100–1,000 mg/l, >1,000 mg/l); and (3) the ten organic pollutants found or expected to be found in these streams in the highest concentrations. In any cases where these data are estimates, the underlying assumptions for these estimates will need to be specified. In cases where plants undertake to generate data from process wastewater flow measurements and pollutant analyses, the measurement and analytical methods used to generate these data also will need to be specified. The Agency strongly suggests that any such plants which choose to generate these data should contact EPA staff (please refer to the FOR FURTHER INFORMATION section of this preamble) for guidance on details of the scope and methods of data collection and supporting documentation.

6.2 Wastewater Stream Segregation

EPA anticipates that plants would segregate volatile bearing wastewater from non-volatile bearing wastewater. EPA solicits comments supported by data concerning whether stream segregation of volatile bearing streams from non-volatile bearing streams is feasible and/or practical.

7.0 BAT Limitations for Direct Discharging Facilities With Subcategory B and D Operations Based on Steam Stripping or Steam Stripping With Distillation

In section IX.E.3.c(2) of this preamble, EPA speculated that pollutant loading data from years other than 1990 may indicate that in-plant steam stripping technology or in-plant steam stripping with distillation technology is an appropriate basis for BAT regulations for facilities with subcategory B and/or D operations. Accordingly, EPA solicits volatile pollutant loading data from direct discharging facilities with subcategory B and D operations for

VOL 60 ISS 84 MY 2 1995 UMI

years other than 1990 (i.e., 1991–1994, or any later period if available).

7.1 Feasibility and Appropriateness of Such Limits

EPA also solicits comment concerning the feasibility and appropriateness of setting BAT limitations on volatile organic pollutants for facilities with subcategory B and/or D operations based on steam stripping or steam stripping with distillation.

7.2 Point of Regulation for BAT Limitations and NSPS Standards Based on In-Plant Technologies

EPA also solicits comment on the point of regulation for any BAT limitations and NSPS standards based on in-plant technologies.

7.3 Limitations if Facilities Change Their Mode of Discharge

EPA also solicits comment on the issue of whether it should promulgate separate BAT limitations, based on in-plant technologies, for facilities with subcategory B and/or D operations that change their mode of discharge from indirect to direct (in view of EPA's proposal today to base PSES on steam stripping for these subcategories).

8.0 Definition of Process Wastewater

The Agency is proposing a definition of process wastewater for the effluent limitations guidelines regulation set out at 40 CFR section 122.2. The definition specifically includes any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product. The types of wastewaters considered to be process wastewater are set out in the proposed regulation at § 439.01(m), and discussed in detail in section 5 of the TDD. EPA solicits comment on the wastewaters being defined as process wastewater.

9.0 Prohibited Discharges

The Agency is proposing to prohibit the discharge of certain materials to POTWs or waters of the United States without an NPDES permit or individual control mechanism authorizing such discharge. See proposed regulation at §§ 439.10, 439.20, 439.30 and 439.40. A list of these materials is set forth at § 439.01(m)(1) of the proposed regulation. The Agency believes that discharge and loss of these materials is inappropriate from the standpoint of productivity loss, pollution prevention, adverse impacts on wastewater treatment (i.e., in POTWs) and worker safety and health.

9.1 List of Prohibited Materials

EPA solicits comment on the specific proposed list of materials prohibited for discharge. EPA is separately soliciting comment on whether BMPs are appropriate for application to control the discharge of these materials through leaks, spills, and intentional diversions (see solicitation number 31 in this section of the preamble).

9.2 Non-Process Wastewaters

EPA solicits comment on the following waters and wastewaters proposed to be excluded from the definition of process wastewater: noncontact cooling water, utility wastewaters, general site surface runoff, groundwater (e.g., contaminated groundwaters from on-site or off-site groundwater remediation projects), and other nonprocess water generated on site. EPA also solicits comment on the proposal that the discharge of such waters and wastewaters be regulated separately.

9.3 Costs of Complying With the Prohibitions

EPA solicits comment on the potential costs of complying with the proposed prohibition of the discharge of materials used in or generated by pharmaceutical manufacturing processes.

10.0 TOC Limits as Alternative to COD Limits

EPA is aware of suggestions that, in some instances, the TOC (Total Organic Carbon) test may be an appropriate substitute for the COD test and that, therefore, TOC limits should be promulgated instead of or as an alternative to COD limits. Industrial commenters on analytical methods have indicated that the approved method for determining COD in wastewater does not completely correct for abnormally high chloride (a direct interferant) concentrations found in some wastewaters.

EPA solicits all influent and effluent TOC and COD concentration data points that are descriptive of the same wastewater stream but the Agency is especially interested in those concentration data that are descriptive of wastewaters with high chloride concentrations.

11.0 Wastewaters From Bioengineered Materials

The Agency recognizes that there has been considerable development of bioengineered materials that may be incorporated in pharmaceutical products. The Agency is concerned about the release of these bioengineered materials in pharmaceutical wastewaters. EPA solicits comment and data that characterize wastewater from the development of bioengineered materials.

12.0 Source Reduction Activities

The Agency solicits information and data on any efforts (ongoing or planned) concerning source reduction activities at pharmaceutical manufacturing facilities, as discussed in Section IX of this preamble.

12.1 Pollution Prevention and Combustion Strategy

EPA solicits comments on the waste minimization and combustion strategy discussed in Section XII.B of this preamble as it may be applied in this industry. See also solicitation number 22 below.

13.0 Water-Based Tablet Coating Processes

EPA is aware that certain facilities engaging in subcategory D operations (compounding/mixing/formulating) have opportunities to make process changes that can result in lower wastewater discharges and air emissions of volatile pollutants. Specifically, facilities may utilize an aqueous-based tablet coating process as opposed to a volatile organic solvent-based tablet coating process. EPA realizes that this substitution is not feasible for all coating processes. Nonetheless, EPA solicits data from plants in the industry on any changes or substitutions made to solvent-based tablet coating processes.

14.0 Concentration Versus Percent Reduction and Mass-Based Limitations

The Agency today is proposing concentration-based effluent limitations and standards as the most appropriate basis for controlling the discharge of conventional, priority, and nonconventional pollutants from the pharmaceutical manufacturing industry. Industry representatives have commented that alternative formats for these limitations and standards controlling volatile pollutants may be appropriate, including percent removal with base concentrations as provided for in the HON.

14.1 Concentration-Based Format

The Agency solicits comment on the concentration-based format for limitations being proposed today.

14.2 Implementation of an Alternative Percent Reduction Limitation

The Agency solicits comment on alternative percent reduction-based limitations, as used for some of the existing effluent limitations and the HON, and how this approach would be implemented. See solicitation number 32.4.

14.3 Implementation of a Mass-Based Limitation

The Agency solicits comment on alternative mass-based limitations and how this approach would be implemented.

15.0 In-Plant Limitations for Volatile Organic Pollutant Control

For PSES and PSNS, the Agency is proposing to require compliance monitoring in-plant for certain pollutants (e.g., chloroform, methylene chloride, and toluene) that due to dilution would be found at the end-of-pipe at levels below the current analytical limits of detection. The long-term average concentrations upon which the applicable standards are based are, for many pollutants, near the analytical limits of detection established for these pollutants in wastewater. The Agency is concerned that measurements made at end-of-pipe, after dilution with process and non-process wastewaters, will not adequately reflect the performance of the PSES or PSNS level treatment due to uncertainty associated with pollutant concentration measurements near established limits of detection. EPA has a similar concern for the proposed BAT technology for facilities with subcategory A and/or C operations and the NSPS technology for all manufacturing subcategories.

During development of these proposed regulations, industry representatives asserted that requiring compliance monitoring in-plant on internal streams may reduce their flexibility in compliance and require installation of specific in-plant treatment technologies. Based upon available data, the Agency believes that even if in-plant monitoring is required, pharmaceutical facilities will retain considerable flexibility in choosing specific compliance strategies that may be implemented at individual facilities, including available in-plant treatment technologies. EPA also believes in-plant limitations will enhance opportunities for recovery and reuse of solvents and may allow for the generation of "clean fuels," as described in section XI.C of this preamble.

15.1 Feasibility of End-of-Pipe Limits in Measuring Compliance

EPA solicits comments and data on whether requiring compliance monitoring at the end-of-pipe could practically or feasibly be used to determine whether the proposed BAT, PSES, NSPS and PSNS limitations and standards are being met.

15.2 Feasibility of End-of-Pipe Limits in Measuring Technology Performance

EPA solicits comments and data on whether requiring compliance monitoring at the end-of-pipe could practically or feasibly be used to measure the performance of the process technologies that form the basis of EPA's proposed BAT, PSES, NSPS and PSNS regulation.

15.3 Extent That In-Plant Control Enhances Recovery/Reuse

The Agency solicits comments and specific supporting data on the extent to which recovery and reuse opportunities may be enhanced by in-plant control.

15.4 Compliance Strategy With In-Plant Monitoring Points

The Agency solicits comments on whether compliance strategies are either enhanced or limited by the use of in-plant monitoring points.

15.5 Air Emissions

The Agency solicits comment on the extent to which air emissions may be controlled by in-plant limits and standards for volatile organic pollutants based on steam stripping or steam stripping with distillation.

15.6 Minimum Concentration and Flow Thresholds

EPA is aware that it may not be efficient or cost effective for plants to steam strip or distill wastewater streams containing low concentrations of volatile organic pollutants. Consequently, EPA solicits suggestions for concentration and flow thresholds for identifying wastewater streams containing volatile organic pollutants which would be subject to in-plant steam stripping or steam stripping with distillation.

15.7 Setting In-Plant Limitations on Case-by-Case Basis

The Agency solicits comment on the burden imposed on permit writers to establish in-plant BAT limitations and NSPS on a case-by-case basis for the 45 volatile organic pollutants for which EPA is proposing to specify end-of-pipe limitations and standards. EPA also seeks comment on its proposal that the end-of-pipe BAT limitations and NSPS standards for particular pollutants would not apply if a permit writer finds in-plant limitations or standards to be necessary for those pollutants; EPA also seeks comment on the recommendation that the permit writer consult the appropriate PSES or PSNS table in setting the necessary in-plant limitations and standards on a best professional judgment basis. EPA also seeks comment on the utility of relying on EPA's existing NPDES permit regulations to address issues associated with pollutants that are not detectable at the end of the pipe.

15.8 Deference to Clean Air Act Rulemaking

The Agency seeks comment on all aspects of EPA's policy determination in this proposal to defer to the Clean Air Act rulemaking for the pharmaceuticals industry with respect to the control of volatile air emissions from certain pharmaceutical wastestreams.

15.9 Comments on Steam Stripping With Distillation

The Agency requests comments and data on whether steam stripping with distillation should be the technology basis for effluent limitations and standards for volatile organic pollutants, particularly those that are difficult to strip, such as methanol and ethanol.

15.10 Comments on the Proposed End-of-Pipe Limits for Highly Strippable Volatile Organic Pollutants

The Agency solicits comments supported by data regarding whether it is appropriate to develop limitations requiring compliance monitoring at the end of the pipe for highly strippable volatile organic pollutants such as methylene chloride and chloroform.

16.0 WATER7 Model

In analyzing responses to the mass balance question (section 3–2 of the 308 questionnaire), EPA has determined that many of the loading estimates (i.e., to air, to water etc.) provided for individual pollutants were not accompanied with explanations of how the estimates were made. The Agency is concerned that the 308 mass balance responses may underestimate the amount of pollutant air emissions from wastewater and overestimate the amount of pollutant biodegradation and/or destruction. Consequently, EPA has used the WATER7 computer model in conjunction with other 308 response data to develop pollutant-by-pollutant air emission estimates. The WATER7 program was used previously to estimate air emissions from wastewater for the SOCMI HON (see 59 FR 19402).

16.1 Technical Validity of the WATER7 Model

EPA solicits comments on the technical validity of the WATER7 model and its use in estimating pollutant releases at pharmaceutical facilities.

VOL
60
ISS
84
MY
2
1995
UMI

16.2 Other Models for Estimating Air and Water Loadings

The Agency also welcomes suggestions regarding the use of other computer models for estimating air and water loadings at pharmaceutical plants.

17.1 Alternative Technologies to Steam Stripping or Steam Stripping With Distillation Technology

For volatile organic pollutants, EPA is proposing to base its BAT limitations for facilities with subcategory A and/or C operations and PSES limitations for all manufacturing subcategories on steam stripping technology. EPA also proposed to base NSPS and PSNS regulations for all manufacturing subcategories for those pollutants on in-plant steam stripping with distillation technology. The Agency believes that steam stripping technology is the best available technology and that steam stripping with distillation technology is the best demonstrated technology for removing volatile pollutants from wastewater that also offer the opportunity for recovery and recycle of solvents.

EPA solicits comments accompanied by data regarding other technologies designed to remove volatile organic pollutants from wastewater. Information on alternative technologies should be accompanied by influent and effluent data that demonstrate removal.

18.0 Materials of Construction for Steam Stripper and Distillation Columns

EPA has used stainless steel as its construction material in steam stripper and distillation column capital cost estimates. Nonetheless, the Agency recognizes that certain corrosive (low pH) streams may require the use of construction materials made of corrosion resistant alloys such as Hastalloy to allow long-term operation of steam strippers and distillation columns.

18.1 Process Wastewater Characteristics Requiring Special Alloys

The Agency solicits comments and data on the characteristics of any process wastewater streams that may require that steam strippers and/or distillation columns be constructed of highly specialized alloys such as Hastalloy.

18.2 Existing Materials of Construction

The Agency requests information regarding the construction materials used to build all the steam strippers and distillation units currently in-place within the industry.

19.0 Streams Containing Volatile Organic Pollutants That Also Contain Significant Amounts of Dissolved Solids

EPA wants to ensure that the final limitations and standards for volatile organics based on steam stripping or steam stripping with distillation technology adequately reflect the dissolved solids content of representative industry wastestreams. The Agency is aware that certain waste streams that contain large concentrations of certain inorganic salts may cause scaling problems within packed columns that may reduce column performance. Consequently, EPA solicits comments supported by data concerning the strippability of wastestreams containing high concentrations of inorganic salts (dissolved solids).

20.0 COD Removal Through Steam Stripping and Steam Stripping With Distillation

As indicated earlier in this preamble, the Agency does not have removal data for COD achievable through steam stripping and steam stripping with distillation technology.

20.1 COD Removal Data

EPA solicits any influent and effluent COD data across a steam stripper and/or distillation unit for any available time period. The COD influent and effluent data should also include influent stream characteristics data (i.e., organic constituent concentrations) if possible. EPA also solicits COD data for any facilities that also have a biological treatment system following a steam stripper or distillation unit for which COD data are available or may be gathered.

20.2 COD Regulation Beyond BPT

EPA is proposing BAT limitations and NSPS for COD for all manufacturing subcategories based on advanced biological treatment (the BPT-level technology). EPA is not proposing COD limitations and standards based on steam stripping or steam stripping with distillation because EPA is unable at this time to quantify the COD loading reductions attainable through those technologies in addition to advanced biological treatment. EPA solicits comments and data concerning whether BAT limitations and NSPS for COD based on in-plant steam stripping or steam stripping with distillation in addition to advanced biological treatment are necessary or appropriate for facilities with subcategory A and/or C operations. EPA also solicits comments and data on the advisability of adding granular activated carbon adsorption technology to the steam stripping-based technologies for additional removal of COD. EPA also solicits comments and data concerning BAT limitations and NSPS for COD for facilities with subcategory B and D operations.

21.0 Clean Up of Steam Stripping and Distillation Overheads, i.e., Condensates

21.1 Additional Treatment Required for Clean Up

EPA is aware that the overhead materials recovered from steam stripping and distillation may need to be "cleaned up" prior to reuse. EPA solicits information on the technologies that are currently being used to purify overheads from steam stripping and distillation.

21.2 Costs of Overhead Recovery for Reuse

EPA solicits information and data regarding the costs of cleaning up or purifying overheads for reuse in manufacturing operations along with information on the cost of virgin solvent materials.

22.0 Clean Fuels

EPA is aware that some facilities use distillation/steam stripping overheads as boiler feed. The Agency solicits data and comment concerning the use of such overheads as "clean fuels" from plants which are using overheads as boiler feed and from plants which plan to do so in the future.

23.0 Regulation of Ammonia at BAT and PSES

EPA is proposing effluent limitations and standards controlling the discharge of the pollutant ammonia for facilities with subcategory A and/or C operations because it is a pollutant of concern and is discharged at treatable concentration levels. Data are available demonstrating that ammonia passes through POTWs, and that ammonia is not adequately treated at direct dischargers. The control technology basis for BAT ammonia limitations is incidental removal through in-plant steam stripping and advanced biological treatment upgraded for nitrification. The control technology basis for PSES ammonia limitations is removal through in-plant steam stripping. Industry representatives have commented that ammonia discharges from direct dischargers should be controlled through water quality standards. Industry representatives have also commented that the adoption of technology-based limitations and standards for ammonia would result in

significant cross-media transfers and energy use.

23.1 Degree to Which Ammonia Passes Through POTWs

EPA solicits comments and data on the degree to which ammonia generated by pharmaceutical manufacturing facilities passes through POTWs.

23.2 Degree to Which Ammonia is Treated at Direct Dischargers

EPA solicits comments and data on the degree to which ammonia is adequately treated at direct discharging facilities.

23.3 Achievability of the Proposed Ammonia Limitations

EPA solicits comments and data on the achievability of the Agency's proposed ammonia limitations.

23.4 Proposed Ammonia Control Technologies

EPA solicits comments on the underlying control technologies proposed for ammonia treatment.

23.5 Nutrient Balance of Downstream Biotreatment

EPA solicits comments on the extent to which ammonia removal may adversely affect the nutrient balance of process wastewaters treated in biological treatment systems.

23.6 Other Factors

EPA solicits comments on the costs, effluent reduction benefits, water quality benefits, and any other factors that may be related to the proposed ammonia limitations and standards.

24.0 Impact of Pharmaceutical Wastewaters on POTW Operations

EPA has received information and data indicating that pharmaceutical manufacturing process wastewaters discharged to POTWs contain significant concentrations of volatile organic pollutants. These concentrations can result in slug loads of volatile organic pollutants and other wastewater constituents that, in turn, may cause significant air emissions in the headworks of these POTWs and may be a threat to worker safety and health. The Agency's proposed PSES are intended to reduce the concentration of volatile organic pollutants in pharmaceutical discharges. EPA solicits comments and supporting data on these findings and on the question whether these objectives can be satisfied by assuring that discharges to the POTW sewer are near or at the level of detection.

24.1 PSES Removal of Volatile Organic Pollutants

The Agency solicits comments and data that address the extent to which EPA's proposed PSES may reduce the concentration of volatile organic pollutants in pharmaceutical plant discharges to POTWs.

24.2 Regulatory Approach

The Agency solicits comment on the appropriate regulatory approach for facilities that discharge pharmaceutical manufacturing wastewater to privately owned treatment works. The Agency specifically requests comment on whether such discharges are best regulated under today's proposed regulations, are best regulated under effluent limitations guidelines and standards for centralized waste treatment facilities, 40 CFR Part 437, or are best regulated on a case-by-case basis using best professional judgment.

24.3 Comments on the Finding of No Pass-Through for 33 Volatile Organic Pollutants Under PSES Co-Proposal (2)

The Agency solicits comments and data regarding its finding under PSES co-proposal (2) that the specified 33 volatile organic pollutants do not pass through.

24.4 Need for Pretreatment Standards for 33 Less Strippable Volatile Organic Pollutants

The Agency proposes as PSES and PSNS pass-through co-proposal (1) to establish PSES and PSNS for 33 less strippable volatile organic pollutants. Co-proposal (1) is supported by the Association of Metropolitan Sewerage Agencies, which in letter to EPA dated February 14, 1995, asserted that the promulgation of national pretreatment standards for these pollutants would be the most environmentally sound, timely and cost-effective method of addressing those pollutants. See Section IX.E.5.a. EPA solicits comments on EPA's two pass-through co-proposals and on the asserted benefits to POTWs associated with co-proposal (1).

Industry data supplied to the Agency indicate preliminarily that only 10 percent of the indirect sources account for 80 to 90 percent of the total discharge of these pollutants to POTWs and that problems associated with discharges to POTWs are specific and local. EPA solicits comments and supporting data on the extent to which indirect discharges present a national problem warranting regulation at the national, as opposed to local, level and whether mechanisms other than those considered as the technology basis for PSES and PSNS are possible alternatives for addressing the problem.

24.5 Effect of Forthcoming Clean Air Rule

EPA is developing a separate rulemaking (under the requirements of Section 112 of the Clean Air Act) to address the air emissions from pharmaceutical plants, including the emissions of most of these 12 volatile organic pollutants. EPA's air rulemaking may complement this proposal so that standards set at the point of discharge to the POTW sewer may satisfy EPA's objectives in this rulemaking. EPA expects to propose these air emission standards next year. As a result, EPA is also considering whether to establish the limits for the 12 highly strippable organic pollutants at the point of discharge to the POTW sewer and solicits comments and supporting data on this question.

25.0 Pretreatment of Methanol

25.1 Biodegradation of Non-Halogenated Volatile Organic Pollutants Without Causing Air Emissions

Industry representatives have stated that EPA's pretreatment standards requiring removal of methanol and other non-halogenated volatile organic pollutants (e.g., acetone, ethanol, and isopropanol) are not necessary because these pollutants are adequately biodegraded by POTWs. Industry maintains that these pollutants have low predicted air emissions from industrial direct discharge systems and, at the lower temperatures and concentrations found in POTW systems, would have even lower potential to be emitted from POTWs.

EPA solicits comments and supporting data regarding the ability of POTWs to biodegrade non-halogenated volatile organic pollutants without significant air emissions.

25.2 BOD_5 Removal Efficiency at POTWs

Industry also asserts that removal of these non-halogenated volatile organic pollutants (a portion of which are measured as BOD_5) may have adverse impacts on the BOD_5 removal efficiency of biological treatment systems at POTWs receiving pharmaceutical manufacturing process wastewaters. EPA solicits comments and supporting data on whether pretreatment of these pollutants will adversely affect the BOD_5 removal efficiency of POTWs.

25.3 Financial Impact on POTWs

The industry has asserted that pretreatment of methanol and other non-halogenated volatile organic

VOL
60
ISS
84
MY
2
1995
UMI

pollutants by pharmaceutical manufacturing facilities will have an adverse financial impact on POTWs.

EPA solicits comments and supporting data on whether pretreatment for removal of these pollutants, and thereby reduced BOD_5 raw waste loads to POTWs, will have adverse financial impacts on POTW revenues.

26.0 Pass-Through of COD at POTWs

EPA will be conducting a POTW pass-through analysis for the pollutant COD because EPA is concerned that certain refractory organic waste materials from subcategory A and C operations measured as COD may pass-through the treatment afforded by POTWs.

26.1 Data on COD Pass-Through

EPA is soliciting data on COD removal (influent and effluent data) from POTWs that treat wastewater from pharmaceutical plants engaging in subcategory A and C operations.

26.2 Appropriate Procedure for Conducting the COD Pass-Through Analysis

EPA also solicits comments on the appropriate procedure for conducting a pass-through analysis for the pollutant COD.

27.0 Pretreatment Standards for Nonstrippable Organic Pollutants

27.1 Package Biotreatment for Five Nonstrippable Organic Pollutants

As noted in Section IX.E.5.a of this preamble, EPA has determined that five nonstrippable biodegradable organic pollutants (N,N dimethyl formamide, dimethyl sulfoxide, N,N-dimethyl acetamide, formaldehyde and ethylene glycol) pass through POTWs. EPA is considering developing pretreatment standards for these pollutants based on package biological treatment. EPA solicits comments and data regarding whether pretreatment standards based on package biological treatment for the five nonstrippable organic pollutants should be promulgated.

27.2 Other Treatment Technologies for Nonstrippable Organic Pollutants

EPA solicits data and information regarding the ability of other technologies to reduce wastewater concentrations of the five nonstrippable organic pollutants identified in the comment solicitation above.

27.3 POTW Pass Through for Acetonitrile and PEG 600

EPA solicits data and information concerning whether acetonitrile and polyethylene glycol 600 pass through POTWs.

28.0 PSES for Additional Pollutants

Although today's proposed PSES would control 45 volatile organic pollutants (as well as cyanide and ammonia for subcategories A and C), the Agency is concerned that additional pollutants currently being discharged by pharmaceutical plants may either pass through POTWs or interfere with their operation.

Consequently, EPA solicits comments and data concerning other pollutants discharged by pharmaceutical plants in all manufacturing subcategories that may pass through and/or interfere with POTWs, such as sulfates and sulfide (hydrogen sulfide) which are capable of causing significant worker safety problems and corrosion.

29.0 Revision of BPT

EPA is proposing to revise the existing BPT effluent limitations, which are outdated and no longer represent the average of the best performers in the pharmaceutical manufacturing industry. In developing the proposed revised BPT effluent limitations, EPA has identified the average of the best performers with advanced biological treatment.

29.1 Advanced Biological Treatment

EPA solicits comments and data with respect to whether EPA has appropriately selected advanced biological treatment as the technology basis for the proposed BPT conventional pollutant limitations.

29.2 Methodology Used to Select Best Performers

EPA solicits comments on the methodology used to select the best performing facilities with advanced biological treatment and to develop the limitations based on performance data from these facilities.

29.3 Statutory Authority and Other Factors

EPA solicits comments and data with respect to the authority under the Clean Water Act to revise BPT, and on costs, effluent reduction benefits, water quality benefits, and any other factors that may be related to the proposed BPT revisions.

30.0 Revision of BCT

EPA is proposing to revise the existing BCT effluent limitations that were promulgated in july 1986 (51 FR 24974). EPA identified no technologies that achieve greater removals of conventional pollutants than those associated with the proposed revised BPT limitations that are also cost-reasonable.

30.1 Proposed Baseline for BCT Cost Test

EPA solicits comments on the baseline used for this proposal (i.e., revised BPT limits being proposed today) beyond which candidate technologies were identified, and the alternative baseline identified (i.e., existing BPT limitations).

30.2 Candidate Technologies for BCT

EPA solicits comments on the candidate technologies considered for BCT in this analysis and any others not identified that may be appropriate.

30.3 BCT Results

EPA solicits comments on the finding that none of the candidate BCT technologies beyond BPT were cost-reasonable.

30.4 Other Factors

EPA solicits comments with respect to costs, effluent reduction benefits, and any other factors that may be related to the proposed BCT revisions.

31.0 Applicability and Scope of Best Management Practices

Section 304(e) of the CWA gives the Administrator the authority to publish regulations to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage that the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment processes of the regulated point source category and that she (he) determines may contribute significant amounts of pollutants to waters of the United States. Examples of BMP regulations include the requirement that dikes be constructed in process areas and required employee training in spill prevention and control.

31.1 Establishment of BMPs

EPA solicits comments regarding whether BMP regulations should be established for the pharmaceutical manufacturing industry.

31.2 BMPs and Costs

The Agency also solicits suggestions on possible BMPs to be prescribed by regulation, accompanied by facility implementation cost estimates that may be appropriate for this industrial category.

31.3 Suggested Specific BMPs

The Agency solicits comments on the suggested specific BMPs presented in Appendix B of the Technical Development Document.

32.0 MACT Standards Versus Effluent Guidelines

The proposed BAT and PSES effluent limitations guidelines will control volatile organic pollutants of which 22 are hazardous air pollutants (HAPs), that are released to the environment primarily in wastewater discharges and air emissions. The mass of HAPs being controlled by the effluent limitations guidelines and standards is about 40 percent of the total mass of volatile organic pollutants being controlled. It is the Agency's intent for both the effluent guidelines being proposed today and the MACT standards to be proposed at a later date that upon promulgation the in-plant technology basis of both rules will be applicable to essentially the same high concentration low volume process wastewater streams in which the bulk of the volatile organic pollutants are contained.

Industry representatives commented that air emissions from pharmaceutical manufacturing facilities should be controlled by a NESHAP rulemaking rather than by BAT limitations and PSES. Industry representatives also commented that the Agency should integrate the development of these two rules, which now are progressing on separate schedules. Industry representatives commented further that the effluent guidelines should include the same elements of flexibility (e.g., allow for demonstration of equivalence of biological treatment to steam stripping) and format of the limitations as included in the HON (e.g., percent removal). Industry representatives also indicated that the HON will allow for emission-suppressed transport of volatile organic pollutant-containing wastewaters to central treatment facilities.

32.1 Should the Water and Air Regulations Be Integrated

In view of these preliminary concerns, the Agency solicits comments and data with respect to whether it is necessary or appropriate for the two rules to be integrated and, if so, how.

32.2 List of Organic Pollutants Covered

EPA solicits comments on whether it is necessary or appropriate for the two rules to cover the same list of volatile organic pollutants.

32.3 Steam Stripping Design and Operating Parameters

EPA solicits comments on whether the design and operating parameters for steam stripping technology as applied in the two rules should be the same and, if so, how (within the constraints of the governing statutes).

32.4 Percent Removal Standard With a Base Concentration

EPA solicits comments on whether EPA should adopt, as an alternative to the proposed concentration-based limitations and standards, effluent limitations guidelines and standards based on percent removal standards, as proposed in the HON for the Specialty Organic Chemical Manufacturing Industry (SOCMI). See solicitation numbers 14.0–14.3.

32.5 Central Treatment for Volatiles Removal

EPA solicits comments on whether central treatment (i.e., steam stripping or an equivalent technology prior to end-of-pipe biological treatment) is or should be an acceptable compliance approach for the effluent guidelines.

32.6 Alternate Limitations for End-of-Pipe Biological Treatment

EPA solicits comments on whether the effluent guidelines should include alternative limitations which would allow for end-of-pipe biological treatment of hard-piped volatile organic pollutants (in place of in-plant steam stripping or steam stripping with distillation technology).

32.7 Control of Air Emissions Using Alternate Limitations

EPA solicits comments on whether an alternative approach (as described in comment number 32.6) would present the same control of air emissions as achieved by in-plant steam stripping and steam stripping with distillation technology.

32.8 Energy Use for and Air Emissions From Generation of Steam Used for Steam Stripping and Steam Stripping with Distillation

EPA solicits comments and data on the increase in energy required to generate steam used for steam stripping and distillation, and on the increase in air emissions created by steam generation facilities (industrial boilers).

32.9 Comments on Evaluating the Record of This Rulemaking in the Context of the MACT Rule

The Agency requests comments on whether it is appropriate for the Office of Air and Radiation to evaluate the basis for the proposed effluent limitations and standards as part of its development of MACT standards for the pharmaceutical manufacturing industry.

33.0 Analytical Methods

A complete discussion of the new analytical methods being proposed in conjunction with these proposed regulations may be found in section 18 of the Technical Development Document.

33.1 Analytical Methods Proposed Today

The methods being proposed today involve the use of isotope dilution gas chromatography/mass spectrometry (GC/MS), derivatization followed by high pressure liquid chromatography (HPLC), and GC followed by detection in an electrochemical cell optimized for nitrogen containing compounds (GC/ELCD). EPA solicits comments with respect to these techniques (see discussion in Section IX of this preamble, and the supporting compendium of analytical methods entitled "Analytical Methods for the Determination of Pollutants in Pharmaceutical Manufacturing Industry Wastewater;" see Section II of this preamble) and any suggestions regarding alternative techniques as well.

33.2 Limitations Set at the Minimum Level of the Method

EPA solicits comments on those limitations whose long-term average basis is equal to the minimum level established for the limited pollutant.

33.3 Statistical Methods for Establishing Limitations

EPA solicits alternative statistical methodologies for developing limitations based on all non-detect data which may be more appropriate than the statistical methodology employed by EPA.

33.4 Analytical Methods for Alcohols

EPA has proposed analytical methods for quantifying various low-molecular weight alcohols (*e.g.*, methanol and ethanol) in wastewater. See "Analytical Methods for the Determination of Pollutants in Pharmaceutical Wastewater", EPA 821–R–95–015. EPA invites comments on the proposed methods for determining alcohols in wastewater from industrial laboratories, public sector laboratories and individual researchers familiar with similar analytical methods.

33.5 Matrix Interferences and Analytical Methods

EPA is interested in identifying solutions to matrix interference problems connected with the analysis of pharmaceutical manufacturing industry wastewater streams. EPA is also interested in any extraction, concentration or other analytical techniques that may offer solutions to matrix interference problems.

VOL 60 ISS 84 MY 2 1995 UMI

33.6 Analytical Method for the Determination of Polyethylene Glycol 600 in Wastewater

EPA has determined that GC/MS methods have not been found to be useful in the determination of polyethylene glycol 600 in wastewater. EPA invites suggestions concerning the analysis of this pollutant in wastewater.

33.7 COD Determinations in Samples With High Chloride Content

EPA is aware that the standard method determinations of COD in samples with high chloride content (*e.g.*, brackish wastewater) need to be pretreated to remove chloride prior to the oxidation step in the COD determination. EPA requests comments regarding the techniques used to remove chlorides prior to the oxidation step and their adequacy in preventing interference with the COD determinations. EPA also solicits data and information with respect to any analytical method studies involving COD determinations in wastewaters with high chloride concentrations.

34.0 Surface Impoundments

EPA is concerned about the transfer of volatile organic pollutants from surface impoundments located at pharmaceutical manufacturing facilities to groundwater and air. EPA solicits comment and data on the monitoring of surface impoundments, including leachate data and air emissions data.

35.0 Regulatory Impact Analysis

EPA solicits comments concerning the methodology employed to estimate costs and benefits in the Regulatory Impact Analysis developed for these regulations and the conclusions EPA reached by applying those methodologies.

36.0 Economic Impact Analysis

EPA solicits comments on the methodology employed to measure the economic impacts of the proposed regulations.

36.1 Definition of Small Entities

The Agency solicits comment on the definition of small entity used in this analysis, the analytical procedures for assessing impacts on small entities, and the opportunities to minimize the impacts on small entities, as described in the Economic Impact Analysis and Regulatory Flexibility Analysis of Proposed Effluent Guidelines for the Pharmaceutical Manufacturing Industry.

37.0 Use of Bulk Parameters to Represent Pollutants of Concern

EPA solicits comments and data on the use of bulk parameters such as COD to represent the presence and treatability of pollutants of concern, such as the broad range of organic compounds present in pharmaceutical manufacturing process wastewaters, particularly chemical synthesis process wastewaters. See also solicitation numbers 10.0, 20.0, 26.0, 27.0, and 28.0.

38.0 Reducing Monitoring Requirements

The Agency solicits comment on ways to reduce the monitoring requirements associated with the proposed rulemaking.

38.1 Subcategory D Facilities

The Agency is aware that many facilities with subcategory D operations do not use or generate the pollutants for which regulations are being proposed today. Consequently, these facilities should not be required to monitor for these pollutants. EPA solicits comment on any appropriate mechanism for reducing monitoring requirements for these facilities.

38.2 Pollutants Not Used or Generated

Similarly, facilities with operations in other subcategories may not use or generate specific pollutants for which regulations are being proposed. EPA solicits comment on any appropriate mechanism for reducing monitoring requirements for these pollutants at such facilities.

38.3 Use of Alternate Analytical Methods

EPA also solicits comments on whether circumstances may exist under which it may be appropriate to allow facilities to use analytical methods for organic pollutants other than those used to generate data upon which this proposal is based. Such circumstances may include "screening" to confirm the absence of pollutants where solvents are not used in pharmaceutical manufacturing processes (i.e., subcategory D, mixing/ compounding/ formulating). These alternate methods might include Methods 624 and 625 as alternatives to Methods 1624 and 1625.

39.0 Privately Owned Treatment Plants

EPA solicits comment on the issue whether part 439 should apply to process wastewater pollutants introduced into privately owned treatment works.

List of Subjects in 40 CFR Part 439

Environmental Protection Air pollution control, pharmaceutical manufacturing Pollution prevention, Wastewater treatment.

Dated: February 28, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 439 of the Code of Federal Regulations is proposed to be amended as follows:

PART 439—PHARMACEUTICAL MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for part 439 is revised to read as follows:

Authority: Sections 301, 304, 306, 307, and 501 of the Clean Water Act, (33 U.S.C. 1311, 1314, 1316, 1317, and 1361).

2. The Table of Contents for part 439 is amended by adding §§ 439.3 and 439.4 and the entire table of contents is published for the convenience of the reader.

Sec.
439.0 Applicability.
439.1 General definitions.
439.2 Monitoring requirements.
439.3 Dilution prohibition.
439.4 [Reserved]

Subpart A—Fermentation Subcategory

439.10 Applicability; description of the fermentation products subcategory.
439.11 Specialized definitions.
439.12 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
439.13 Effluent limitations representing the degree of effluent reduction attainable by the best conventional pollutant control technology (BCT).
439.14 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
439.15 New source performance standards (NSPS).
439.16 Pretreatment standards for existing sources (PSES).
439.17 Pretreatment standards for new sources (PSNS).
439.18 [Reserved]

Subpart B—Extraction Subcategory

439.20 Applicability; description of the extraction products subcategory.
439.21 Specialized definitions.
439.22 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
439.23 Effluent limitations representing the degree of effluent reduction attainable by the best conventional pollutant control technology (BCT).
439.24 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
439.25 New source performance standards (NSPS).
439.26 Pretreatment standards for existing sources (PSES).
439.27 Pretreatment standards for new sources (PSNS).
439.28 [Reserved]

Subpart C—Chemical Synthesis Subcategory

439.30 Applicability; description of the chemical synthesis products subcategory.
439.31 Specialized definitions.
439.32 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
439.33 Effluent limitations representing the degree of effluent reduction attainable by the best conventional pollutant control technology (BCT).
439.34 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
439.35 New source performance standards (NSPS).
439.36 Pretreatment standards for existing sources (PSES).
439.37 Pretreatment standards for new sources (PSNS).
439.38 [Reserved]

Subpart D—Mixing, Compounding and Formulating Subcategory

439.40 Applicability; description of the mixing, compounding and formulating subcategory.
439.41 Specialized definitions.
439.42 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
439.43 Effluent limitations representing the degree of effluent reduction attainable by the best conventional pollutant control technology (BCT).
439.44 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
439.45 New source performance standards (NSPS).
439.46 Pretreatment standards for existing sources (PSES).
439.47 Pretreatment standards for new sources (PSNS).
439.48 [Reserved]

Subpart E—Research Subcategory

439.50 Applicability; description of the research subcategory.
439.51 Specialized definitions.
439.52 Effluent limitations representing the degree of effluent reduction attainable by the application of best practicable control technology currently available (BPT).
439.53 Effluent limitations representing the degree of effluent reduction attainable by the best conventional pollutant control technology (BCT).
439.54 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).
439.55 New source performance standards (NSPS). [Reserved]
439.56 Pretreatment standards for existing sources (PSES). [Reserved]
439.57 Pretreatment standards for new sources (PSNS). [Reserved]
439.58 [Reserved]

3. Sections 439.0 through 439.2 are revised and §§ 439.3 and 439.4 are added to read as follows:

General Provisions

§ 439.0 Applicability.

This part applies to any pharmaceutical manufacturing facility that discharges or may discharge process wastewater pollutants to the waters of the United States, or that introduces or may introduce process wastewater pollutants into a publicly owned treatment works. This part does not apply to process wastewater pollutants introduced into privately owned treatment works.

§ 439.1 General definitions.

In addition to the definitions set forth in 40 CFR part 401, the following definitions shall apply to this part:

(a) *Annual average.* The mean concentration, mass loading or production-normalized mass loading of a pollutant over a period of 365 consecutive days (or such other period of time determined by the permitting authority to be sufficiently long to encompass expected variability of the concentration, mass loading, or production-normalized mass loading at the relevant point of measurement).

(b) *Bench-scale operation.* Laboratory testing of materials, methods, or processes on a small scale, such as on a laboratory worktable.

(c) *Chemical oxygen demand (COD).* A bulk parameter that measures the total oxygen-consuming capacity of wastewater. This parameter is a measure of materials in water or wastewater that are biodegradable and materials that are resistant (refractory) to biodegradation. Refractory compounds slowly exert demand on downstream receiving water resources. Certain of the compounds measured by this parameter have been found to have adverse effects, either singly or in combination. It is expressed as the amount of oxygen consumed by a chemical oxidant in a specific test.

(d) *Conventional pollutants.* The pollutants identified in Section 304(a)(4) of the CWA and the regulations thereunder, 40 CFR 401.16 (i.e., biochemical oxygen demand (BOD_5), total suspended solids (TSS), oil and grease, pH, and fecal coliform).

(e) *End-of-pipe effluent.* Final plan effluent discharged to waters of the United States or to a POTW.

(f) *In-plant monitoring points.* (1) For regulated organic pollutants, monitoring point(s) prior to dilution by non-process wastewater, commingling with other process wastewaters not containing the regulated organic pollutants at treatable levels, and any conveyance, equalization, or other wastewater treatment units that are open to the atmosphere.

(2) For cyanide, monitoring point(s) prior to dilution or mixing with any noncyanide-bearing wastewater.

(g) *Minimum level.* The level at which an analytical system gives recognizable signals and an acceptable calibration point. The following minimum levels (for water samples only) and analytical methods apply to pollutants in this part:

Pollutant	Method	Minimum level micrograms per liter (µg/L)
Acetone	1624B	50
Acetonitrile	1666, 1671	5,000
Ammonia (aqueous)	350.1, 350.2, 350.3	30
n-Amyl Acetate	1666	5
Amyl Alcohol	1666	500
Aniline	1665	2
Benzene	1624B	10
BOD_5	405.1	(*)
2-Butanone	1624B	50
n-Butyl Acetate	1666	5
n-Butyl Alcohol	1666	500

VOL 60 ISS 84 MY 2 1995 UMI

Pollutant	Method	Minimum level micrograms per liter (µg/L)
tert-Butyl Alcohol	1666	100
Chemical Oxygen Demand (COD)	410.1, 410.2, 410.3, 410.4	(a)
Chlorobenzene	1624B	10
Chloroform	1624B	10
Chloromethane	1624B	50
Cyanide (Total)	335.1, 335.2, 335.3	(a)
Cyclohexane	1666	5
1,2-Dichlorobenzene	1625B	10
1,2-Dichloroethane	1624B	10
Diethylamine	1666, 1671	50,000
Diethyl Ether	1624B	50
N-N-Diethylacetamide	1665	50
N,N-Dimethylaniline	1665	10
Dimethylamine	1666, 1671	50,000
N,N-Dimethylformamide	1665	5
Dimethylsulfoxide	1666, 1671	20,000
1,4-Dioxane	1624B	50
Ethanol	1666, 1671(b)	3,180
Ethyl Acetate	1666	10
Ethylene Glycol	1666, 1671	100,000
Formaldehyde	1667	50
Formamide	1666, 1671	100,000
Furfural	1666, 1677	50
n-Heptane	1666	10
n-Hexane	1666	10
Isobutyraldehyde	1666, 1667	10
Isopropanol	1666	200
Isopropyl Acetate	1666	10
Isopropyl Ether	1666	5
Methanol	1666, 1671(a)	3,180
Methylamine	1666, 1671	50,000
Methyl Cellosolve	1666, 1671	20,000
Methylene Chloride	1624B	10
Methyl Formate	1666	100
Methyl Isobutyl Ketone (MIBK)	1666	10
2-Methylpyridine	1624B, 1665	5
Petroleum Naptha (as n-pentane)	1666	10
Phenol	1625	10
Polyethylene Glucol 600	1673	1,000
n-Propanol	1666, 1671(b)	3,180
Pyridine	1665	5
Tetrahydrofuran	1666	20
Toluene	1624	10
Trichlorofluoromethane	1666	10
Triethylamine	1666, 1671	50,000
TSS	160.2	(a)
m,p-Xylene	1666	10
o-Xylene	1666	5

(a)—As specified in 40 CFR Part 136.
(b)—Method 1671 is modified ASTM Method D3695–88.

(h) *New source.* As defined in EPA's regulations at 40 CFR 122.2 and 122.29.

(i) *Nonconventional pollutants.* Pollutants that are neither conventional pollutants nor toxic pollutants.

(j) *Non-detect (ND) value.* A concentration-based measurement reported below the minimum level (see paragraph (g) of this section) that can be reliably measured by the analytical method for the pollutant.

(k) *Pilot-scale operation.* The trial operation of processing equipment, which is the intermediate stage between laboratory experimentation and full-scale operation in the development of a new process or product.

(l) *POTW.* Publicly owned treatment works, as defined at 40 CFR 403.3(o).

(m) *Process wastewater.* Any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes surface runnoff from the immediate process area that has the potential to become contaminated.

(1) For the purposes of this part, the following materials are excluded from the definition of process wastewater, and the discharge of such materials must be regulated separately.

(i) Trimethyl silanol;

(ii) Any active anti-microbial materials;

(iii) Wastewater from imperfect fermentation batches; and

(iv) Process area spills.

(2) For purposes of this part, the following waters and wastewaters are excluded from the definition of process wastewater: noncontact cooling water, utility wastewaters, general site surface runoff, groundwater (e.g., contaminated groundwaters from on-site or off-site groundwater remediation projects), and other nonprocess water generated on site. The discharge of such waters and

wastewaters must be regulated separately.

(n) *Toxic pollutants.* The pollutants designated by EPA as toxic in 40 CFR 401.15.

(o) *Xylenes.* The sum of o-xylene, p-xylene, and m-xylene.

§ 439.2 Monitoring requirements.

Permit compliance monitoring is required for each regulated pollutant generated or used at a pharmaceutical manufacturing facility. Routine compliance monitoring is not required for regulated pollutants not generated or used at the facility. Except for cyanide, for which a separate procedure is established in subparts A and C, determination that regulated pollutants are not generated or used should be based on a review of all raw materials used, and an assessment of all chemical processes used, considering resulting products and by-products. The determination that a regulated pollutant is not generated or used must be confirmed by annual chemical analyses of wastewater from each monitoring location. Such confirmation is provided by an analytical measurement of a non-detect value. Compliance monitoring for all regulated pollutants generated or used is required at each of the monitoring locations specified in this part for those pollutants or at such locations specified pursuant to 40 CFR 122.45.

CAS No.	Pollutant	Monitoring frequency (frequency per week)
67–64–1	Acetone	1
75–05–8	Acetonitrile	1
1336–21–6	Ammonia	1
628–63–7	n-Amyl Acetate	1
71–41–0	Amyl Alcohol	1
62–53–3	Aniline	1
71–43–2	Benzene	1
78–93–3	2-Butanone	1
123–86–4	n-Butyl Acetate	1
71–36–3	n-Butyl Alcohol	1
75–65–0	tert-Butyl Alcohol	1
C–004–(r)	Chemical Oxygen Demand (COD)	7
108–90–7	Chloabenzene	1
67–66–3	Chloroform	1
74–87–3	Chloromethane	1
57–12–5	Cyanide, Total	1
110–82–7	Cyclohexane	(b)1
95–50–1	1,2-Dichlorobenzene	1
107–06–2	1,2-Dichloroethane	1
109–89–7	Diethylamine	1
60–29–7	Diethyl ether	1
127–19–5	N,N-Dimethylacetamide	1
121–69–7	N,N-Dimethylaniline	1
124–40–3	Dimethylamine	1
68–12–2	N,N-Dimethylformamide	1
67–68–5	Dimethylsulfoxide	1
123–91–1	1,4-Dioxane	1
64–17–5	Ethanol	1
141–78–6	Ethyl acetate	1
107–21–1	Ethylene glycol	1
50–00–1	Formaldehyde	1
75–12–7	Formamide	1
98–01–1	Furfural	1
142–82–5	n-Heptane	1
110–54–3	n-Hexane	1
78–84–2	Isobutyraldehyde	1
67–63–0	Isopropanol	1
108–21–4	Isopropyl acetate	1
108–20–3	Isopropyl ether	1
67–56–1	Methanol	1
74–89–5	Methylamine	1
109–86–4	Methyl Cellosolve	1
75–09–2	Methylene Chloride	1
107–31–3	Methyl formate	1
108–10–1	Methyl Isobutyl Ketone	1
109–06–8	2-Methylpyridine	1
8030–30–6	Petroleum Naphtha	1
108–95–2	Phenol	1
25322–68–3	Polyethylene Glycol 600	1
71–23–8	n-Propanol	1
110–86–1	Pyridine	1
109–99–9	Tetrahydrofuran	1
108–88–3	Toluene	1
75–69–4	Trichlorodiuoromethane	1
121–44–8	Triethylamine	1
(c)	Xylenes	1
C–002–(a)	BOD_5	7

VOL 60 ISS 84 MY 2 1995 UMI

CAS No.	Pollutant	Monitoring frequency (frequency per week)
C–009–(a)	TSS	7

(*) These are synthetic CASRN's designed for use with the Environmental Monitoring Methods Index (EMMI).
(b) Monitoring fequency for cyanide is once per treated batch.
(c) M-Xylene 108–38–3, o-Xylene 95–47– 6, p-Xylene 106–42–3.

§ 439.3 Dilution prohibition.

Dilution may not be practiced to meet the effluent limitations and standards specified in this part.

§ 439.4 [Reserved]

Subpart A—Fermentation Subcategory

4. Sections 439.10 through 439.14 are revised to read as follows:

§ 439.10 Applicability; description of the fermentation subcategory; prohibition.

(a) The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceuticals by fermentation. Fermentation operations are defined as process operations that utilize a chemical change induced by a living organism or enzyme, specifically, bacteria, or the microorganisms occurring in unicellular plants such as yeast, molds, or fungi to produce a specified product. Fermentation operations include pilot-scale research operations not covered by the provisions of subpart E, Research Subcategory.

(b) The discharge of nonprocess wastewater and materials excluded from the definition of process wastewater at § 439.1 is not covered by this subpart. Discharge of such nonprocess wastewater and excluded materials into publicly owned treatment works or waters of the United States by a source subject to this subpart without an NPDES permit or individual control mechanism authorizing such discharge is prohibited.

§ 439.11 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided in paragraph (b) of this section, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 and § 439.1 shall apply to this subpart.

(b) The term "product" shall mean pharmaceutical products derived from fermentation processes.

§ 439.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(1) Subpart A (For In-Plant Monitoring Points).

Pollutant or pollutant property	BPT effluent limitations micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Cyanide (Total)	766	406

(2) Subpart A (For End-of-Pipe Effluent).

Pollutant or pollutant property	BPT effluent limitations milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	137	58
TSS	318	110
COD	1100	528

(3) The pH shall be within the range of 6.0–9.0 standard units.

(b) Permittees not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the permit issuing authority that they are not using or generating this pollutant.

§ 439.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology: The limitations shall be the same as those specified for the conventional pollutants BOD_5 and TSS in § 439.12 for the best practicable control technology currently available.

§ 439.14 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(1) Subpart A (For In-Plant Monitoring Points).

Pollutant or pollutant property	BAT effluent limitations micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Cyanide (Total)	766	406

(2) Subpart A (For End-of-Pipe Effluent). The limitations in the following table do not apply for any pollutant(s) for which the permit writer finds it necessary to specify in-plant monitoring requirements pursuant to 40 CFR 122.44(i) and 122.45(h). Limitations for those pollutant(s) would be established on a best professional judgment basis pursuant to 40 CFR 125.3.

Pollutant or pollutant property	BAT effluent limitations micrograms per liter (µNDg/L)	
	Maximum for any one day	Monthly average
Acetone	ND	ND
Acetonitrile	ND	ND
Ammonia	4,850	3,230
n-Amyl Acetate	105	45
Amyl Alcohol	668	ND
Aniline	10	10
Benzene	ND	ND
2-Butanone (MEK)	202	86
n-Butyl Acetate	87	37
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	668	284
Chemical Oxygen Demand (COD)	1,100,000	628,000
Chlorobenzene	ND	ND
Chloroform	ND	ND
Chloromethane	ND	ND
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	100	35
Diethylamine	ND	ND
Diethyl Ether	574	244
Dimethylamine	ND	ND
N,N-Dimethylacetamide	ND	ND
N,N-Dimethylaniline	50	50
N,N-Dimethylformamide	45	19
Dimethyl Sulfoxide	ND	ND
1,4-Dioxane	220	94
Ethanol	ND	ND
Ethyl Acetate	105	45
Ethylene Glycol	ND	ND
Formaldehyde	1,480	623
Formamide	ND	ND
Furfural	2,670	1,140
n-Heptane	ND	ND
n-Hexane	ND	ND
Isobutyraldehyde	1,370	581
Isopropanol	ND	ND
Isopropyl Acetate	87	37
Isopropyl Ether	574	244
Methanol	ND	ND
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methyl Formate	105	ND
Methylene Chloride	ND	ND
Methyl Isobutyl Ketone (MIBK)	ND	ND
2-Methylpyridine	50	50
Petroleum Naphtha	ND	ND
Phenol	25	14
Polyethylene Clycol 600	4,870	2,070
n-Propanol	ND	ND
Pyridine	10	10
Tetrahydrofuran	910	264
Toluene	ND	ND
Trichlorofluoromethane	ND	ND
Triethylamine	ND	ND
Xylenes	ND	ND

(b) Permittees not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the permit issuing authority that they are not using or generating this pollutant.

5. Section 439.15 is amended by revising paragraph (a) introductory text and paragraph (b) and by adding paragraph (c) to read as follows:

§ 439.15 New source performance standards (NSPS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following new source performance standards until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the effluent limitations specified in §§ 439.12, 439.13, and 439.14.

* * * * *

(b) Except as provided in paragraph (a) of this section, any new source subject to this subpart must achieve the following new source performance standards.

(1) Subpart A (For In-Plant Monitoring Points).

VOL 60 ISS 84 MY 2 1995 UMI

Pollutant or pollutant property	New source performance standards micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Cyanide (Total)	766	406

(2) Subpart A (For End-of Pipe Effluent). The standards in the following table do not apply for any pollutant(s) for which the permit writer finds it necessary to specify in-plant monitoring requirements pursuant to 40 CFR 122.44(i) and 122.45(h). Standards for those pollutant(s) would be established on a best professional judgment basis pursuant to 40 CFR 125.3.

Pollutant or pollutant property	New source performance standards micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	ND	ND
Acetonitrile	ND	ND
Ammonia	4,850	3,230
n-Amyl Acetate	14	6
Amyl Alcohol	ND	ND
Aniline	10	4
Benzene	ND	ND
2-Butanone (MEK)	144	61
n-Butyl Acetate	11	ND
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	ND	ND
Chlorobenzene	ND	ND
Chloroform	ND	ND
Chloromethane	ND	ND
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	13	ND
Diethylamine	ND	ND
Diethyl Ether	74	ND
Dimethylamine	ND	ND
N,N-Dimethylacetamide	ND	ND
N,N-Dimethylaniline	50	45
N,N-Dimethylformamide	45	19
Dimethyl Sulfoxide	ND	ND
1,4-Dioxane	ND	ND
Ethanol	ND	ND
Ethyl Acetate	14	ND
Ethylene Glycol	ND	ND
Formaldehyde	1,480	623
Formamide	ND	ND
Furfural	53	ND
n-Heptane	ND	ND
n-Hexane	ND	ND
Isobutyraldehyde	304	129
Isopropanol	ND	ND
Isopropyl Acetate	11	ND
Isopropyl Ether	74	32
Methanol	ND	ND
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methyl Formate	ND	ND
Methylene Chloride	ND	ND
Methyl Isobutyl Ketone (MIBK)	ND	ND
2-Methylpyridine	50	45
Petroleum Naphtha	ND	ND
Phenol	25	14
Polyethylene Glycol 600	4,870	2,070
n-Propanol	ND	ND
Pyridine	10	10
Tetrahydrofuran	910	264
Toluene	ND	ND
Trichlorofluoromethane	ND	ND
Triethylamine	ND	ND
Xylenes	ND	ND

(3) Subpart A For End-of-Pipe Effluent).

Pollutant or pollutant property	New source performance standards milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	62	29
COD	781	538
TSS	87	43
pH	(*)	(*)

(*) Within the range of 6.0 to 9.0 standard units.

(c) Permittees not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the permit issuing authority that they are not using or generating this pollutant.

6. Section 439.16 is revised to read as follows:

§ 439.16 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 by [date 3 years from the promulgation date of the final rule] and achieve the following pretreatment standards for existing sources.

(1) Subpart A (For In-Plant Monitoring Points).

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Benzene	796	268
Chlorobenzene	796	268
Chloroform	ND	ND
Chloromethane	796	268
Cyanide	766	406
Cyclohexane	796	268
n-Heptane	796	268
n-Hexane	796	268
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Toluene	198	148
Trichlorofluoromethane	796	268
Xylenes	796	268

(2) Subpart A (For End-of-Pipe Monitoring Points).

[Note: With respect to pollutants in this table, EPA proposes pretreatment standards for existing sources only for ammonia under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	31,400	9,690
Ammonia	12,900	10,900
n-Amyl Acetate	23,900	8,050
Amyl Alcohol	607,000	205,000
Aniline	10,900,000	3,690,000
2-Butanone (MEK)	1,440,000	430,000
n-Butyl Acetate	23,900	8,050
n-Butyl Alcohol	10,900,000	3,690,000
tert-Butyl Alcohol	607,000	205,000
o-Dichlorobenzene	23,900	8,050
1,2-Dichloroethane	23,900	8,050
Diethylamine	ND	ND
Diethyl Ether	23,900	8,050
Dimethylamine	607,000	205,000
N,N-Dimethylaniline	607,000	205,000
1,4-Dioxane	10,900,000	3,690,000
Ethanol	2,200,000	784,000
Ethyl Acetate	23,900	8,050
Formamide	607,000	205,000
Furfural	607,000	285,000
Isobutyraldehyde	23,900	8,050

VOL 60 ISS 84 MY 2 1995 UMI

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Isopropanol	597,000	198,000
Isopropyl Acetate	23,900	8,050
Isopropyl Ether	23,900	8,050
Methanol	11,700,000	3,800,000
Methylamine	607,000	205,000
Methyl Formate	23,900	8,050
Methyl Isobutyl Ketone (MIBK)	23,900	8,050
2-Methylpyridine	607,000	205,000
Petroleum Naphtha	10,900,000	3,690,000
n-Propanol	2,790,000	941,000
Pyridine	1,000	1,000
Tetrahydrofuran	9,210	3,360
Triethylamine	ND	ND

(b) Indirect dischargers not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the control authority that they are not using or generating this pollutant.

7. Section 439.17 is amended by revising paragraph (a) introductory text and paragraph (b) and by adding paragraph (c) to read as follows:

§ 439.17 Pretreatment standards for new sources (PSNS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following pretreatment standards for new sources until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the standards specified in § 439.16.

* * * * *

(b) Except as provided in 40 CFR 403.7 and paragraph (a) of this section, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources.

(1) Subpart A (For In-Plant Monitoring).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone*	1,190	600
Amyl Alcohol*	8,690	3,220
Benzene	573	212
n-Butyl Alcohol*	8,690	3,220
tert-Butyl Alcohol*	8,690	3,220
Chlorobenzene	573	212
Chloroform	ND	ND
Chloromethane	573	212
Cyanide	766	406
Cyclohexane	573	212
Diethylamine*	ND	ND
Diethyl Ether*	2,230	826
Dimethylamine*	ND	ND
Ethanol*	8,690	3,220
Formamide*	ND	ND
n-Heptane	573	212
n-Hexane	573	212
Isopropanol*	8,690	3,220
Methanol*	8,320	ND
Methylamine*	ND	ND
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Methyl Formate*	2,230	826
n-Propanol*	8,690	3,220
Toluene	184	135
Trichlorofluoromethane	573	212
Triethylamine*	ND	ND
Xylenes	573	212

(2) Subpart A (For End-of-Pipe Monitoring Points).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Ammonia	12,900	10,900
n-Amyl Acetate*	2,230	826
Aniline*	8,690	3,220
2-Butanone (MEK)*	161,000	57,900
n-Butyl Acetate*	2,230	826
o-Dichlorobenzene*	2,230	826
1,2-Dichloroethane*	2,230	826
N,N-Dimethylaniline*	8,690	3,220
1,4-Dioxane*	8,690	3,220
Ethyl Acetate*	2,230	826
Furfural*	8,690	3,220
Isobutyraldehyde*	2,230	826
Isopropyl Acetate*	2,230	826
Isopropyl Ether*	2,230	826
Methyl Isobutyl Ketone (MIBK)*	2,230	826
2-Methylpyridine*	8,690	3,220
Petroleum Naphtha*	8,690	3,220
Pyridine*	1,000	1,000
Tetrahydrofuran*	9,210	3,360

(c) Indirect dischargers not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the control authority that they are not using or generating this pollutant.

§ 439.18 [Reserved]

Subpart B—Extraction Subcategory

8. Sections 439.20 through 439.24 are revised to read as follows:

§ 439.20 Applicability; description of the extraction subcategory; prohibition.

(a) The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceutical products by biological and natural extraction operations. Biological and natural extraction operations are defined as process operations that utilize the chemical and physical extraction of pharmaceutically active ingredients from natural sources such as plant roots and leaves, animal glands, and parasitic fungi. Biological and natural extraction operations include pilot-scale research operations not covered by the provisions of subpart E, Research Subcategory.

(b) The discharge of nonprocess wastewater and materials excluded from the definition of process wastewater at § 439.1 is not covered by this subpart. Discharge of such nonprocess wastewater and excluded materials into publicly owned treatment works or waters of the United States by a source subject to this subpart without an NPDES permit or individual control mechanism authorizing such discharge is prohibited.

§ 439.21 Specialized definitions.

(a) Except as provided paragraph (b) of this section, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 and § 439.1 shall apply to this subpart.

(b) The term "product" shall mean any biological and natural extraction product. This subcategory shall include blood fractions, vaccines, serums, animal bile derivatives, endocrine products, and isolation of medicinal products, such as alkaloids, from botanical drugs and herbs.

§ 439.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(1) Subpart B (For End-of-Pipe Effluent).

Pollutant or pollutant parameter	BPT effluent limitations milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	37	11
TSS	80	27
COD	145	60

(2) The pH shall be within the range of 6.0–9.0 standard units.

(b) [Reserved]

§ 439.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology: The limitations shall be the same as those specified for conventional pollutants BOD_5 and TSS in § 439.22 for the best practicable control technology currently available.

§ 439.24 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of

VOL 60 ISS 84 MY 2 1995 UMI

effluent reduction attainable by the application of the best available technology economically achievable.

(1) Subpart B (For End-of-Pipe Effluent).

Pollutant or pollutant property	BAT effluent limitations micrograms per Liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	413	178
Acetonitrile	ND	ND
n-Amyl Acetate	3,000	1,280
Amyl Alcohol	3,980	1,690
Aniline	10	10
Benzene	40	17
2-Butanone (MEK)	202	86
n-Butyl Acetate	500	500
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	3,980	1,690
Chemical Oxygen Demand (COD)	145,000	59,900
Chlorobenzene	ND	ND
Chloroform	22	13
Chloromethane	206	87
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	438	152
Diethylamine	ND	ND
Diethyl Ether	4,870	2,070
N,N-Dimethylacetamide	ND	ND
Dimethylamine	ND	ND
N,N-Dimethylaniline	50	50
N,N-Dimethylformamide	45	19
Dimethyl Sulfoxide	ND	ND
1,4-Dioxane	220	94
Ethanol	ND	ND
Ethyl Acetate	3,000	1,280
Ethylene Glycol	ND	ND
Formaldehyde	1,480	623
Formamide	ND	ND
Furfural	3,000	1,280
n-Heptane	ND	ND
n-Hexane	ND	ND
Isobutyraldehyde	1,370	581
Isopropanol	1,120	476
Isopropyl Acetate	500	500
Isopropyl Ether	4,870	2,070
Methanol	6,660	ND
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methylene Chloride	1,420	357
Methyl Formate	3,000	1,280
Methyl Isobutyl Ketone (MIBK)	119	51
2-Methylpyridine	50	50
Petroleum Naphtha	40	17
Phenol	25	14
Polyethylene Glycol 600	4,870	2,070
n-Propanol	3,980	ND
Pyridine	10	10
Tetrahydrofuran	15,000	4,350
Toluene	40	17
Trichlorofluoromethane	599	322
Triethylamine	ND	ND
Xylenes	ND	ND

(2) [Reserved]

(b) [Reserved]

9. Section 439.25 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 439.25 New source performance standards (NSPS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following new source performance standards until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the effluent limitations specified in §§ 439.22, 439.23, and 439.24.

* * * * *

(b) Except as provided in paragraph (a) of this section any new source subject to this subpart must achieve the following new source performance standards.

(1) Subpart B (For End-of-Pipe Effluent) The standards in the following table do not apply for any pollutant(s) for which the permit writer finds it necessary to specify in-plant monitoring requirements pursuant to 40 CFR 122.44(i) and 122.45(h). Standards for those pollutant(s) would be established on a best professional judgment basis pursuant to 40 CFR 125.3.

Pollutant or pollutant property	New source performance standards micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	ND	ND
Acetonitrile	ND	ND
Ammonia	4,850	3,230
n-Amyl Acetate	14	6
Amyl Alcohol	ND	ND
Aniline104 Benzene	ND	10/4
2-Butanone (MEK)	144	61
n-Butyl Acetate	11	ND
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	ND	ND
Chlorobenzene	ND	ND
Chloroform	ND	ND
Chloromethane	ND	ND
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	ND	ND
Diethylamine	13	ND
Diethyl Ether	ND	ND
Dimethylamine	74	ND
N,N-Dimethylacetamide	ND	ND
N,N-Dimethylaniline	ND	ND
N,N-Dimethylformamide	50	45
Dimethyl Sulfoxide	45	19
1,4-Dioxane	ND	ND
Ethanol	ND	ND
Ethyl Acetate	ND	ND
Ethylene Glycol	14	ND
Formaldehyde	ND	ND
Formamide	1,480	623
Furfural	ND	ND
n-Heptane	53	ND
n-Hexane	ND	ND
Isobutyraldehyde	ND	ND
Isopropanol	304	129
Isopropyl Acetate	ND	ND
Isopropyl Ether	11	ND
Methanol	74	32
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methyl Formate	ND	ND
Methylene Chloride	ND	ND
Methyl Isobutyl Ketone (MIBK)	ND	ND
2-Methylpyridine	ND	ND
Petroleum Naphtha	50	45
Phenol	ND	ND
Polyethylene Glycol 600	25	14
n-Propanol	4,870	2,070
Pyridine	ND	ND
Tetrahydrofuran	10	10
Toluene	910	264
Trichlorofluoromethane	ND	ND
Triethylamine	ND	ND
Xylenes	ND	ND
	ND	ND

VOL 60 ISS 84 MY 2 1995 UMI

(2) Subpart B (For End-of-Pipe Effluent).

Pollutant or pollutant parameter	New source performance standards milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	34	10
COD	60	24
TSS	40	12
pH	(*)	(*)

(*) Within the range of 6.0 to 9.0 standard units.

10. Section 439.26 is revised to read as follows:

§ 439.26 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and by [date 3 years from the promulgation date of the final rule] achieve the following pretreatment standards for existing sources.

(1) Subpart B (For In-Plant Monitoring Points).

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Benzene	796	268
Chlorobenzene	796	268
Chloroform	ND	ND
Chloromethane	796	268
Cyclohexane	796	268
n-Heptane	796	268
n-Hexane	796	268
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Toluene	198	148
Trichlorofluoromethane	796	268
Xylenes	796	268

(2) Subpart B (For End-of-Pipe Monitoring Points).

(Note: Under co-proposal (2), EPA does not propose pretreatment standards for existing sources for these pollutants.)

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	31,400	9,690
n-Amyl Acetate	23,900	8,050
Amyl Alcohol	507,000	205,000
Aniline	10,900,000	3,690,000
2-Butanone (MEK)	1,440,000	430,000
n-Butyl Acetate	23,900	8,050
n-Butyl Alcohol	10,900,000	3,690,000
tert-Butyl Alcohol	607,000	205,000
o-Dichlorobenzene	23,900	8,050
1,2–Dichloroethane	23,900	8,050
Diethylamine	ND	ND
Diethyl Ether	23,900	8,050
Dimethylamine	607,000	205,000
N,N-Dimethylaniline	607,000	205,000
1,4-Dioxane	10,900,000	3,690,000
Ethanol	2,200,000	784,000
Ethyl Acetate	23,900	8,050
Formamide	607,000	205,000
Furfural	607,000	205,000
Isobutyraldehyde	23,900	8,050
Isopropanol	597,000	198,000
Isopropyl Acetate	23,900	8,050
Isopropyl Ether	23,900	8,050
Methanol	11,700,000	3,800,000
Methylamine	607,000	205,000
Methyl Formate	23,900	8,050
Methyl Isobutyl Ketone (MIBK)	23,900	8,050
2-Methylpyridine	607,000	205,000
Petroleum Naphtha	10,900,000	3,690,000
n-Propanol	2,790,000	941,000
Pyridine	1,000	1,000

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Tetrahydrofuran	9,210	3,360
Triethylamine	ND	ND

(b) [Reserved]

11. Section 439.27 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 439.27 Pretreatment standards for new sources (PSNS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following pretreatment standards for new sources until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the standards specified in § 439.26.

* * * * *

(b) Except as provided in 40 CFR 403.7 and paragraph (a) of this section, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources.

(1) Subpart B (For In-Plant Monitoring Points).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone*	1,190	600
Amyl Alcohol*	8,690	3,220
Benzene	573	212
n-Butyl Alcohol*	8,690	3,220
tert-Butyl Alcohol*	8,690	3,220
Chlorobenzene	573	212
Chloroform	ND	ND
Chloromethane	573	212
Cyclohexane	573	212
Diethylamine*	ND	ND
Diethyl Ether*	2,230	826
Dimethylamine*	ND	ND
Ethanol*	8,690	3,220
Formamide*	ND	ND
n-Heptane	573	212
n-Hexane	573	212
Isopropanol*	8,690	3,220
Methanol*	8,320	ND
Methylamine*	ND	ND
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Methyl Formate*	2,230	826
n-Propanol*	8,690	3,220
Toluene	184	135
Trichlorofluoromethane	573	212
Triethylamine*	ND	ND
Xylenes	573	212

(2) Subpart B (For End-of-Pipe Monitoring Points).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
n-Amyl Acetate*	2,230	826
Aniline*	8,690	3,220
2-Butanone (MEK)*	161,000	57,900
n-Butyl Acetate*	2,230	826
o-Dichlorobenzene*	2,230	826
1,2-Dichloroethane*	2,230	826

VOL 60 ISS 84 MY 2 1995 UMI

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
N,N-Dimethylaniline*	8,690	3,220
1,4-Dioxane*	8,690	3,220
Ethyl Acetate*	2,230	826
Furfural*	8,690	3,220
Isobutyraldehyde*	2,230	826
Isopropyl Acetate*	2,230	826
Isopropyl Ether*	2,230	826
Methyl Isobutyl Ketone (MIBK)*	2,230	826
2-Methylpyridine*	8,690	3,220
Petroleum Naphtha*	8,690	3,220
Pyridine*	1,000	1,000
Tetrahydrofuran*	9,210	3,360

§ 439.28 [Reserved]

Subpart C—Chemical Synthesis Subcategory

12. Sections 439.30 through 439.34 are revised to read as follows:

§ 439.30 Applicability; description of the chemical synthesis subcategory; prohibition.

(a) The provisions of this subpart are applicable to discharges resulting from the manufacture of pharmaceutical products by chemical synthesis operations. Chemical synthesis is defined as the process(es) of using a chemical reaction or series of chemical reactions to produce a specified product. Chemical synthesis operations include pilot-scale research operations not covered by the provisions of subpart E, Research Subcategory.

(b) The discharge of non-process wastewater and materials excluded from the definition of process wastewater at § 439.1 is not covered by this subpart. Discharge of such non-process wastewater and excluded materials into publicly owned treatment works or waters of the United States by a source subject to this subpart without an NPDES permit or individual control mechanism authorizing such discharge is prohibited.

§ 439.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided in paragraph (b) of this section, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 and § 439.1 shall apply to this subpart.

(b) The term "product" shall mean any pharmaceutical product derived from chemical synthesis processes.

§ 439.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(1) Subpart C (For In-Plant Monitoring Points).

Pollutant or pollutant property	BPT effluent limitations micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
Cyanide (Total)	766	406

(2) Subpart C (For End-of-Pipe Effluent).

Pollutant or pollutant property	BPT effluent limitations micrograms per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	137	58
TSS	318	110
COD	1100	528

3) The pH shall be within the range of 6.0–9.0 standard units.

(b) Permittees not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the permit issuing authority that they are not using or generating this pollutant.

§ 439.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology: The limitations shall be the same as those specified for conventional pollutants BOD_5 and TSS in § 439.32 for the best practicable control technology currently available.

§ 439.34 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(1) Subpart C (For In-Plant Monitoring Points)

Pollutant or pollutant property	BAT effluent limitations micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
Cyanide (Total)	766	406

(2) Subpart C (For End-of-Pipe Effluent). The limitations in the following table do not apply for any pollutant(s) for which the permit writer finds it necessary to specify in-plant monitoring requirements pursuant to 40 CFR 122.44(i) and 122.45(h). Limitations for those pollutant(s) would be established on a best professional judgment basis pursuant to 40 CFR 125.3.

Pollutant or pollutant property	BAT effluent limitations micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
Acetone	ND	ND
Acetonitrile	ND	ND
Ammonia	4,850	3,230
n-Amyl Acetate	105	45
Amyl Alcohol	668	ND
Aniline	10	10
Benzene	ND	ND
2-Butanone (MEK)	202	86
n-Butyl Acetate	87	37
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	668	284
Chemical Oxygen Demand (COD)	1,100,000	628,000
Chlorobenzene	ND	ND
Chloroform	ND	ND
Chloromethane	ND	ND
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	100	35
Diethylamine	ND	ND
Diethyl Ether	574	244
Dimethylamine	ND	ND
N,N-Dimethylacetamide	ND	ND
N,N-Dimethylaniline	50	50
N,N-Dimethylformamide	45	19
Dimethyl Sulfoxide	ND	ND
1,4-Dioxane	220	94
Ethanol	ND	ND
Ethyl Acetate	105	45
Ethylene Glycol	ND	ND
Formaldehyde	1,480	623
Formamide	ND	ND
Furfural	2,670	1,140
n-Heptane	ND	ND
n-Hexane	ND	ND
Isobutyraldehyde	1,370	581
Isopropanol	ND	ND
Isopropyl Acetate	87	37
Isopropyl Ether	574	244
Methanol	ND	ND
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methyl Formate	105	ND
Methylene Chloride	ND	ND
Methyl Isobutyl Ketone (MIBK)	ND	ND
2-Methylpyridine	50	50
Petroleum Naphtha	ND	ND
Phenol	25	14
Polyethylene glycol 600	4,870	2,070
n-Propanol	ND	ND
Pyridine	10	10
Tetrahydrofuran	910	264
Toluene	ND	ND
Trichlorofluoromethane	ND	ND
Triethylamine	ND	ND
Xylenes	ND	ND

(b) Permittees not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the permit issuing authority that they are not using or generating this pollutant.

13. Section 439.35 is amended by revising paragraph (a) introductory text and paragraph (b) and by adding paragraph (c) to read as follows:

§ 439.35 New source performance standards (NSPS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following new source performance standards until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the effluent limitations

VOL 60 ISS 84 MY 2 1995 UMI

specified in §§ 439.32, 439.33, and 439.34.

* * * * *

(b) Except as provided in paragraph (a) of this section, any new source subject to this subpart must achieve the following new source performance standards.

(1) Subpart C (For In-Plant Monitoring Points).

Pollutant or pollutant property	New source performance standards micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Cyanide (Total)	766	406

(2) Subpart C (For End-of-Pipe Effluent). The standards in the following table do not apply for any pollutant(s) for which the permit writer finds it necessary to specify in-plant monitoring requirements pursuant to 40 CFR 122.44(i) and 122.45(h). Standards for those pollutant(s) would be established on a best professional judgment basis pursuant to 40 CFR 125.3.

Pollutant or pollutant property	New source performance standards micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	ND	ND
Acetonitrile	ND	ND
Ammonia	4,850	3,230
n-Amyl Acetate	14	6
Amyl Alcohol	ND	ND
Aniline	10	4
Benzene	ND	ND
2-Butanone (MEK)	144	61
n-Butyl Acetate	11	ND
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	ND	ND
Chlorobenzene	ND	ND
Chloroform	ND	ND
Chloromethane	ND	ND
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	13	ND
Diethylamine	ND	ND
Diethyl Ether	74	ND
Dimethylamine	ND	ND
N,N-Dimethylacetamide	ND	ND
N,N-Dimethylaniline	50	45
N,N-Dimethylformamide	45	19
Dimethyl Sulfoxide	ND	ND
1,4-Dioxane	ND	ND
Ethanol	ND	ND
Ethyl Acetate	14	ND
Ethylene Glycol	ND	ND
Formaldehyde	1,460	523
Formamide	ND	ND
Furfural	53	ND
n-Heptane	ND	ND
n-Hexane	ND	ND
Isobutyraldehyde	304	129
Isopropanol	ND	ND
Isopropyl Acetate	11	ND
Isopropyl Ether	74	32
Methanol	ND	ND
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methyl Formate	ND	ND
Methylene Chloride	ND	ND
Methyl Isobutyl Ketone (MIBK)	ND	ND
2-Methylpyridine	50	45
Petroleum Naphtha	ND	ND
Phenol	25	14
Polyethylene Glycol 600	4,870	2,070
n-Propanol	ND	ND
Pyridine	10	10
Tetrahydrofuran	910	264
Toluene	ND	ND
Trichlorofluoromethane	ND	ND
Triethylamine	ND	ND
Xylenes	ND	ND

(3) Subpart C (For End-of-Pipe Effluent).

Pollutant or pollutant property	New source performance standards milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	62	29
COD	781	538
TSS	87	43
pH	(a)	(a)

(a) Within the range of 6.0 to 9.0 standard units.

(c) Permittees not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the permit issuing authority that they are not using or generating this pollutant.

14. Section 439.36 is revised to read as follows:

§ 439.36 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and by [date 3 years from the promulgation date of the final rule] achieve the following pretreatment standards for existing sources.

(1) Subpart C (For In-Plant Monitoring Points).

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Benzene	796	268
Chlorobenzene	796	268
Chloroform	ND	ND
Chloromethane	796	268
Cyanide	766	406
Cyclohexane	796	268
n-Heptane	796	268
n-Hexane	796	268
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Toluene	198	148
Trichlorofluoromethane	796	268
Xylenes	796	268

(2) Subpart C (For End-of-Pipe Monitoring Points).

[Note: With respect to the pollutants in this table, EPA proposes pretreatment standards for existing sources only for ammonia under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	31,400	9,690
Ammonia	12,900	10,900
n-Amyl Acetate	23,900	8,050
Amyl Alcohol	607,000	205,000
Aniline	10,900,000	3,690,000
2-Butanone (MEK)	1,440,000	430,000
n-Butyl Acetate	23,900	8,050
n-Butyl Alcohol	10,900,000	3,690,000
tert-Butyl Alcohol	607,000	205,000
o-Dichlorobenzene	23,900	8,050
1,2-Dichloroethane	23,900	8,050
Diethylamine	ND	ND
Diethyl Ether	23,900	8,050
Dimethylamine	607,000	205,000
N,N-Dimethylaniline	607,000	205,000
1,4-Dioxane	10,900,000	3,690,000
Ethanol	2,200,000	784,000
Ethyl Acetate	23,900	8,050
Formamide	607,000	205,000
Furfural	607,000	205,000
Isobutyraldehyde	23,900	8,050
Isopropanol	597,000	198,000
Isopropyl Acetate	23,900	8,050

VOL 60 ISS 84 MY 2 1995 UMI

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Isopropyl Ether	23,900	8,050
Methanol	11,700,000	3,800,000
Methylamine	607,000	205,000
Methyl Formate	23,900	8,050
Methyl Isobutyl Ketone (MIBK)	23,900	8,050
2-Methylpyridine	607,000	205,000
Petroleum Naphtha	10,900,000	3,690,000
n-Propanol	2,790,000	941,000
Pyridine	1,000	1,000
Tetrahydrofuran	9,210	3,360
Triethylamine	ND	ND

(b) Indirect dischargers not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the control authority that they are not using or generating this pollutant.

15. Section 439.37 is amended by revising paragraph (a) introductory text and paragraph (b) and by adding paragraph (c) to read as follows:

§ 439.37 Pretreatment standards for new sources (PSNS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following pretreatment standards for new sources until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the standards specified in § 439.36.

* * * * *

(b) Except as provided in 40 CFR 403.7 and paragraph (a) of this section, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources.

(1) Subpart C (For In-Plant Monitoring Points).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone*	1,190	600
Amyl Alcohol*	8,690	3,220
Benzene	573	212
n-Butyl Alcohol*	8,690	3,220
tert-Butyl Alcohol*	8,690	3,220
Chlorobenzene	573	212
Chloroform	ND	ND
Chloromethane	573	212
Cyanide	766	406
Cyclohexane	573	212
Diethylamine*	ND	ND
Diethyl Ether*	2,230	826
Dimethylamine*	ND	ND
Ethanol*	8,690	3,220
Formamide*	ND	ND
n-Heptane	573	212
n-Hexane	573	212
Isopropanol*	8,690	3,220
Methanol*	8,320	ND
Methylamine*	ND	ND
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Methyl Formate*	2,230	826
n-Propanol*	8,690	3,220
Toluene	184	135
Trichlorofluoromethane	573	212
Triethylamine*	ND	ND
Xylenes	573	212

(2) Subpart C (For End-of-Pipe Monitoring Points).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Ammonia	12,900	10,900
n-Amyl Acetate*	2,230	826
Aniline*	8,690	3,220
2-Butanone (MEK)*	161,000	57,900
n-Butyl Acetate*	2,230	826
o-Dichlorobenzene*	2,230	826
1,2-Dichloroethane*	2,230	826
N,N-Dimethylaniline*	8,690	3,220
1,4-Dioxane*	8,690	3,220
Ethyl Acetate*	2,230	826
Furfural*	8,690	3,220
Isobutyraldehyde*	2,230	826
Isopropyl Acetate*	2,230	826
Isopropyl Ether*	2,230	826
Methyl Isobutyl Ketone (MIBK)*	2,230	826
2-Methylpyridine*	8,690	3,220
Petroleum Naphtha*	8,690	3,220
Pyridine*	1,000	1,000
Tetrahydrofuran*	9,210	3,360

(c) Indirect dischargers not using or generating cyanide are deemed to comply with the monitoring requirements specified in paragraph (a) of this section for cyanide if they certify to the control authority that they are not using or generating this pollutant.

§ 439.38 [Reserved]

Subpart D—Mixing, Compounding and Formulating Subcategory

16. Sections 439.40 through 439.44 are revised to read as follows:

§ 439.40 Applicability; description of the mixing, compounding and formulating subcategory; prohibition.

(a) The provisions of this subpart are applicable to discharges resulting from the mixing, compounding and formulating operations of pharmaceutical products. Mixing, compounding, and formulating operations are defined as processes through which pharmaceutical products are put in dosage forms. Mixing, compounding, and formulating operations include pilot-scale research operations not covered by the provisions of subpart E, Research Subcategory.

(b) The discharge of non-process wastewaters and materials excluded from the definition of process wastewater at § 439.1 is not covered by this subpart. Discharge of such non-process wastewater and excluded materials into publicly owned treatment works or waters of the United States, by a source subject to this subpart, without an NPDES permit or individual control mechanism authorizing such discharge is prohibited.

§ 439.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 and § 439.1 shall apply to this subpart.

(b) The term "product" shall mean products from plants that blend, mix, compound, and formulate pharmaceutical ingredients. Pharmaceutical preparations for human and veterinary use such as ampules, tablets, capsules, vials, ointments, medicinal powders, solutions, and suspensions are included.

§ 439.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(1) Subpart D (For End-of-Pipe Effluent).

Pollutant or pollutant parameter	BPT effluent limitations milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	37	11
TSS	80	27
COD	145	60

(2) The pH shall be within the range of 6.0–9.0 standard units.

(b) [Reserved]

§ 439.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology. The limitations shall be the same as those specified for conventional pollutants BOD_5 and TSS in § 439.42 for the best practicable control technology currently available.

§ 439.44 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of

VOL 60 ISS 84 MY 2 1995 UMI

effluent reduction attainable by the application of the best available technology economically achievable.

(1) Subpart D (For End-of-Pipe Effluent).

Pollutant or pollutant property	BAT effluent limitations micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	413	178
Acetonitrile	ND	ND
n-Amyl Acetate	3,000	1,280
Amyl Alcohol	3,980	1,690
Aniline	10	10
Benzene	40	17
2-Butanone (MEK)	202	86
n-Butyl Acetate	500	500
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	3,980	1,690
Chemical Oxygen Demand (COD)	145,000	59,900
Chlorobenzene	ND	ND
Chloroform	22	13
Chloromethane	206	87
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	438	152
Diethylamine	ND	ND
Diethyl Ether	4,870	2,070
N,N-Dimethylacetamide	ND	ND
Dimethylamine	ND	ND
N,N-Dimethylaniline	50	50
N,N-Dimethylformamide	45	19
Dimethyl Sulfoxide	ND	ND
1,4-Dioxane	220	94
Ethanol	ND	ND
Ethyl Acetate	3,000	1,280
Ethylene Glycol	ND	ND
Formaldehyde	1,480	623
Formamide	ND	ND
Furfural	3,000	1,280
n-Heptane	ND	ND
n-Hexane	ND	ND
Isobutyraldehyde	1,370	581
Isopropanol	1,120	476
Isopropyl Acetate	500	500
Isopropyl Ether	4,870	2,070
Methanol	6,660	ND
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methylene Chloride	1,420	357
Methyl Formate	3,000	1,280
Methyl Isobutyl Ketone (MIBK)	119	51
2-Methylpyridine	50	50
Petroleum Naphtha	40	17
Phenol	25	14
Polyethylene Glycol 600	4,870	2,070
n-Propanol	3,980	ND
Pyridine	10	10
Tetrahydrofuran	15,000	4,350
Toluene	40	17
Trichlorofluoromethane	599	322
Triethylamine	ND	ND
Xylenes	ND	ND

(2) [Reserved]

(b) [Reserved]

17. Section 439.45 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 439.45 New source performance standards (NSPS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following new source performance standards until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the effluent limitations specified in §§ 439.42, 439.43, and 439.44.

* * * * *

(b) Except as provided in paragraph (a) of this section, any new source subject to this subpart must achieve the following new source performance standards.

(1) Subpart D (For End-of-Pipe Monitoring Points). The standards in the following table do not apply for any pollutant(s) for which the permit writer finds it necessary to specify in-plant monitoring requirements pursuant to 40 CFR 122.44(i) and 122.45(h). Standards for those pollutant(s) would be established on a best professional judgment basis pursuant to 40 CFR 125.3.

Pollutant or pollutant property	New source performance standards micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Acetone	ND	ND
Acetonitrile	ND	ND
Ammonia	4,850	3,230
n-Amyl Acetate	14	6
Amyl Alcohol	ND	ND
Aniline	10	4
Benzene	ND	ND
2-Butanone (MEK)	144	61
n-Butyl Acetate	11	ND
n-Butyl Alcohol	ND	ND
tert-Butyl Alcohol	ND	ND
Chlorobenzene	ND	ND
Chloroform	ND	ND
Chloromethane	ND	ND
Cyclohexane	ND	ND
o-Dichlorobenzene	ND	ND
1,2-Dichloroethane	13	ND
Diethylamine	ND	ND
Diethyl Ether	74	ND
Dimethylamine	ND	ND
N,N-Dimethylacetamide	ND	ND
N,N-Dimethylaniline	50	45
N,N-Dimethylformamide	45	19
Dimethyl Sulfoxide	ND	ND
1,4-Dioxane	ND	ND
Ethanol	ND	ND
Ethyl Acetate	14	ND
Ethylene Glycol	ND	ND
Formaldehyde	1,480	623
Formamide	ND	ND
Furfural	53	ND
n-Heptane	ND	ND
n-Hexane	ND	ND
Isobutyraldehyde	304	129
Isopropanol	ND	ND
Isopropyl Acetate	11	ND
Isopropyl Ether	74	32
Methanol	ND	ND
Methylamine	ND	ND
Methyl Cellosolve	ND	ND
Methyl Formate	ND	ND
Methylene Chloride	ND	ND
Methyl Isobutyl Ketone (MIBK)	ND	ND
2-Methylpyridine	50	45
Petroleum Naphtha	ND	ND
Phenol	25	14
Polyethylene Glycol 600	4,870	2,070
n-Propanol	ND	ND
Pyridine	10	10
Tetrahydrofuran	910	264
Toluene	ND	ND
Trichlorofluoromethane	ND	ND
Triethylamine	ND	ND
Xylenes	ND	ND

(2) Subpart D (For End-of-Pipe Effluent).

Pollutant or pollutant property	New source performance standards milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
BOD_5	34	10

VOL 60 ISS 84 MY 2 1995 UMI

Pollutant or pollutant property	New source performance standards milligrams per liter (mg/L)	
	Maximum for any one day	Monthly average
COD	60	24
TSS	40	12
pH	(*)	(*)

(*) Within the range of 6.0–9.0 standard units.

18. Section 439.46 is revised to read as follows:

§ 439.46 Pretreatment standards for existing sources (PSES).

(a) Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and by [date 3 years from the promulgation date of the final rule] achieve the following pretreatment standards for existing sources.

(1) Subpart D (For In-Plant Monitoring Points).

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
Benzene	796	268
Chlorobenzene	796	268
Chloroform	ND	ND
Chloromethane	796	268
Cyclohexane	796	268
n-Heptane	796	268
n-Hexane	796	268
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Toluene	198	148
Trichlorofluoromethane	796	268
Xylenes	796	268

(2) Subpart D (For End-of-Pipe Monitoring Points).

[Note: Under co-proposal (2), EPA does not propose pretreatment standards for existing sources for these pollutants.]

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
Acetone	31,400	9,690
n-Amyl Acetate	23,900	8,050
Amyl Alcohol	607,000	205,000
Aniline	10,900,000	3,690,000
2-Butanone (MEK)	1,440,000	430,000
n-Butyl Acetate	23,900	8,050
n-Butyl Alcohol	10,900,000	3,690,000
tert-Butyl Alcohol	607,000	205,000
o-Dichlorobenzene	23,900	8,050
1,2-Dichloroethane	23,900	8,050
Diethylamine	ND	ND
Diethyl Ether	23,900	8,050
Dimethylamine	607,000	205,000
N,N-Dimethylaniline	607,000	205,000
1,4-Dioxane	10,900,000	3,690,000
Ethanol	2,200,000	784,000
Ethyl Acetate	23,900	8,050
Formamide	607,000	205,000
Furfural	607,000	205,000
Isobutyraldehyde	23,900	8,050
Isopropanol	597,000	198,000
Isopropyl Acetate	23,900	8,050
Isopropyl Ether	23,900	8,050
Methanol	11,700,000	3,800,000
Methylamine	607,000	205,000
Methyl Formate	23,900	8,050

Pollutant or pollutant property	Pretreatment standards for existing sources micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
Methyl Isobutyl Ketone (MIBK)	23,900	8,050
2-Methylpyridine	607,000	205,000
Petroleum Naphtha	10,900,000	3,690,000
n-Propanol	2,790,000	941,000
Pyridine	1,000	1,000
Tetrahydrofuran	9,210	3,360
Triethylamine	ND	ND

(b) [Reserved]

19. Section 439.47 is amended by revising paragraph (a) introductory text and paragraph (b) to read as follows:

§ 439.47 Pretreatment standards for new sources (PSNS).

(a) Any new source subject to this subpart that was a "new source" under 40 CFR 122.29 prior to [promulgation date of the final rule] must achieve the following pretreatment standards for new sources until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1), after which the source must achieve the standards specified in § 439.46.

* * * * *

(b) Except as provided in 40 CFR 403.7 and paragraph (a) of this section, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR part 403 and achieve the following pretreatment standards for new sources.

(1) Subpart D (For In-Plant Monitoring Points).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
Acetone*	1,190	600
Amyl Alcohol*	8,690	3,220
Benzene	573	212
n-Butyl Alcohol*	8,690	3,220
tert-Butyl Alcohol*	8,690	3,220
Chlorobenzene	573	212
Chloroform	ND	ND
Chloromethane	573	212
Cyclohexane	573	212
Diethylamine*	ND	ND
Diethyl Ether*	2,230	826
Dimethylamine*	ND	ND
Ethanol*	8,690	3,220
Formamide*	ND	ND
n-Heptane	573	212
n-Hexane	573	212
Isopropanol*	8,690	3,220
Methanol*	8,320	ND
Methylamine*	ND	ND
Methyl Cellosolve	ND	ND
Methylene Chloride	809	279
Methyl Formate*	2,230	826
n-Propanol*	8,690	3,220
Toluene	184	135
Trichlorofluoromethane	573	212
Triethylamine*	ND	ND
Xylenes	573	212

(2) Subpart D (For End-of-Pipe Monitoring Points).

[Note: With respect to pollutants in this table, EPA does not propose pretreatment standards for new sources for pollutants with an asterisk (*) under co-proposal (2).]

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (μg/L)	
	Maximum for any one day	Monthly average
n-Amyl Acetate*	2,230	826

VOL
60
ISS
84
MY
2
1995
UMI

Pollutant or pollutant property	Pretreatment standards for new sources micrograms per liter (µg/L)	
	Maximum for any one day	Monthly average
Aniline*	8,690	3,220
2-Butanone (MEK)*	161,000	57,900
n-Butyl Acetate*	2,230	826
o-Dichlorobenzene*	2,230	826
1,2—Dichloroethane*	2,230	826
N,N-Dimethylaniline*	8,690	3,220
1,4-Dioxane*	8,690	3,220
Ethyl Acetate*	2,230	826
Furfural*	8,690	3,220
Isobutyraldehyde*	2,230	826
Isopropyl Acetate*	2,230	826
Isopropyl Ether*	2,230	826
Methyl Isobutyl Ketone (MIBK)*	2,230	826
2-Methylpyridine*	8,690	3,220
Petroleum Naphtha*	8,690	3,220
Pyridine*	1,000	1,000
Tetrahydrofuran*	9,210	3,360

§ 439.48 [Reserved]

Subpart E—Research Subcategory

20. Sections 439.50 through 439.52 are revised to read as follows:

§ 439.50 Applicability; description of the research subcategory; prohibition.

(a) The provisions of this subpart are applicable to discharges resulting from bench-scale pharmaceutical research operations and product development activities. This subpart does not apply to pilot- or full-scale operations that generate wastewaters using fermentation, extraction, chemical synthesis, or mixing, compounding and formulating. Such operations are covered under subparts A, B, C, and D, respectively.

(b) The discharge of non-process wastewaters and materials excluded from the definition of process wastewater at § 439.1 is not covered by this subpart. Discharges of such non-process wastewater and excluded materials into publicly owned treatment works or waters of the United States, by a source subject to this subpart without an NPDES permit or individual control mechanism authorizing such discharge is prohibited.

§ 439.51 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR part 401 and § 439.1 shall apply to this subpart.

(b) The term "product" shall mean any product or service resulting from pharmaceutical research, which includes microbiological, biological, and chemical operations.

§ 439.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(1) The allowable discharge for the pollutant parameters BOD_5 and COD shall be expressed in mass per unit time and shall represent the specified wastewater treatment efficiency in terms of a residual discharge associated with an influent to the waste treatment plant corresponding to the maximum production period for a given pharmaceutical plant as defined in paragraph (a)(4) of this section.

(2) The allowable effluent discharge limitation for the daily average mass of BOD_5 in any calendar month shall specifically not reflect not less than 90 percent reduction in the long term daily average raw waste content of BOD_5 multiplied by a variability factor of 3.0. However, a plant shall not be required to attain a 30-day average BOD_5 effluent limitation of less than the equivalent of 45 mg/L.

(3) The allowable effluent discharge limitation for the daily average mass of COD in any calendar month shall specifically not reflect not less than 74 percent reduction in the long term daily average raw waste content of COD multiplied by a variability factor of 2.2. However, a plant shall not be required to attain a 30-day average COD effluent limitation of less than the equivalent of 220 mg/L.

(4) The long term daily average raw waste load for the pollutant parameters BOD_5 and COD is defined as the average daily mass of each pollutant influent to the wastewater treatment system over a 12 consecutive month period within the most recent 36 months, which shall include the greatest production effort.

(5) To assure equity in regulation of discharges from sources covered by this subpart of the point source category, calculation of raw waste loads of BOD_5 and COD for the purpose of determining NPDES permit limitations (i.e., the base numbers to which the percent reductions are applied) shall exclude any waste load associated with solvents in those raw waste loads, except the residual amounts of solvents remaining after the practice of solvent recovery and/or separate disposal or reuse. These practices of removal, disposal, or reuse include recovery of solvents from waste streams and incineration of concentrated solvent waste streams (including tar still bottoms). This subpart does not prohibit inclusion of such wastes in the raw waste loads in fact, nor does it mandate any specific practice, but rather describes the rationale for determining permit conditions. These limits may be achieved by any one of several programs and practices or a combination thereof.

(6) The allowable effluent discharge limitation for the daily average mass of TSS in any calendar month shall be 1.7 times the BOD_5 limitation determined in paragraph (a)(2) of this section.

(7) The pH shall be within the range of 6.0–9.0 standard units.

(b) [Reserved]

439.53 Effluent limitations representing the degree of effluent reduction attainable by the best conventional pollutant control technology (BCT). [Reserved]

439.54 Effluent limitations representing the degree of effluent reduction attainable by the application of best available technology economically achievable (BAT). [Reserved]

439.55 New source performance standards (NSPS). [Reserved]

439.56 Pretreatment standards for existing sources (PSES). [Reserved]

439.57 Pretreatment standards for new sources (PSNS). [Reserved]

439.58 [Reserved]

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VOL
60

ISS
84

MY
2

1995

UMI

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May 2, 1995

Part III

Environmental Protection Agency

40 CFR Part 82

Motor Vehicle Air Conditioners and Protection of Stratospheric Ozone; Final Rule

VOL
60
ISS
84
MY
2
1995
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5199–4]

Motor Vehicle Air Conditioners and Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Supplemental final rule.

SUMMARY: On July 14, 1992, EPA published a final rule in the **Federal Register** establishing the standards and requirements regarding the servicing of motor vehicle air conditioners and restrictions on the sale of small containers of class I or class II substances pursuant to section 609 of the Clean Air Act as amended (Act). The rule requires that only approved refrigerant recovery/recycling equipment be used to perform service for consideration on motor vehicle air conditioners. Two types of equipment could be approved: Equipment that recovers refrigerant and recycles it on-site, and equipment that only recovers refrigerant. The refrigerant from recover-only equipment may be recycled on-site or sent off-site for reclamation. The Agency established a standard for recover/recycle equipment (appendix A), but reserved finalizing the standard for recover-only equipment.

Today's final rule establishes a standard for approval of recover-only equipment that extracts CFC–12 from motor vehicle air conditioners. This standard follows closely the Society of Automotive Engineers (SAE) Standards J1989: Recommended Service Procedure for the Containment of R–12, and J2209: CFC–12 (R–12) Extraction Equipment for Mobile Automotive Air-conditioning Systems. Because automotive technicians have previously been required to use only recover/recycle equipment for which an Agency standard had been established, today's rule permits these technicians additional flexibility in determining how to meet Section 609 requirements.

This final rule also updates the purity standard for off-site reclamation, by changing the standard from ARI 700–88 to ARI 700–93.

By promoting the reclamation of refrigerants from motor vehicle air conditioners, this final rule will help to lower the risk of depletion of the stratospheric ozone layer, thus diminishing potentially harmful effects to human health and the environment, including increased incidences of certain skin cancers and cataracts.

DATES: This final rule is effective June 1, 1995, except that the changes to § 82.32(e)(2) will become effective on July 3, 1995, unless EPA has received by June 1, 1995, adverse comment. Should EPA receive such notice, EPA will publish one subsequent action in the **Federal Register** to withdraw the changes to § 82.32(e)(2), and will publish another action proposing this action and requesting comments.

Judicial review of this action is available only by the filing of a petition for review in the United States Circuit Court of Appeals for the District of Columbia Circuit within 60 days of publication.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. A–91–41 in room M–1500, Waterside Mall (Ground Floor), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket may be inspected from 8:30 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials. Those wishing to submit adverse comments on the portion of this action relating to the adoption of the ARI 700–1993 standard should contact Christine Dibble, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460 Docket #A–91–41 IV–D (202) 233–9147.

FOR FURTHER INFORMATION CONTACT: Christine Dibble, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street SW., Washington, DC 20460. (202) 233–9147. The Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Background
II. Summary of Public Participation
III. Summary and Response to Major Public Comments
IV. Summary of Today's Final Rule
  A. Adoption of Standard Based on ARI 700–1993 in Definition of "Properly Using" and in Appendix B
  B. Standard for Recover-Only Equipment
  C. Substantially Identical Equipment
  D. Approved Independent Standards Testing Organizations
  E. Technician Training and Certification
V. Summary of Supporting Analyses
  A. Executive Order 12866
  B. Regulatory Flexibility Analysis
  C. Paperwork Reduction Act

I. Background

Title VI of the Act is designed to protect the stratospheric ozone layer. Section 609 of the Act requires the Administrator to promulgate regulations establishing standards and requirements regarding the servicing of motor vehicle air conditioners. On July 14, 1992, the Agency published the final rule implementing this section. In that rule, the Agency defined "approved refrigerant recycling equipment" as equipment certified by the Administrator or by an independent standards testing organization approved by the Agency as meeting the standards set forth in appendix A in the rule. Refrigeration recycling equipment was also considered approved if it was purchased before September 4, 1991, and is substantially identical to the certified equipment. Only equipment certified as meeting the standards or meeting the criteria for substantially identical equipment are approved for use in the servicing of motor vehicle air conditioners under section 609 of the Act.

Underwriters Laboratories (UL) and ETL Testing Laboratories (ETL) are the approved independent standards testing organizations that currently certify equipment using the standards that appear in appendix A of the rule. These standards apply to recover/recycle equipment that extracts CFC–12 refrigerant from a motor vehicle air conditioner and cleans the refrigerant on-site (recover/recycle equipment). The regulatory standards, based on those developed by the SAE, cover service procedures for recovering CFC–12 (SAE J1989, issued in October 1989), test procedures to evaluate recover/recycle equipment (SAE J1990, issued in October 1989 and revised in March 1992) and a purity standard for recycled CFC–12 refrigerant (SAE J1991, issued in October 1989).

Although appendix A set forth the standards appropriate for recover/recycle equipment, EPA has until now not established a standard which would apply to certification of equipment that extracts but does not recycle refrigerant (recover-only equipment). Under the current regulation, the refrigerant from these recover-only machines would typically be sent off-site for purification, but it may be recycled on-site in a recover/recycle machine to the SAE J1991 standard of purity. In addition, refrigerant may be extracted using the recover-only equipment and subsequently recycled off-site by equipment owned by the person who owns both the recover-only equipment and owns or operates the establishment at which the refrigerant was extracted.

Appendix B of the rule was reserved for the standards for recover-only equipment. EPA proposed appendix B in a supplemental notice published April 22, 1992 (57 FR 14763). The proposed standard closely resembled a proposed SAE standard, SAE J2209: CFC–12 Extraction Equipment for Mobile Automotive Air-conditioning Systems, with the Agency's editorial comments included in the standard in brackets. This final rule adopts the final version of this SAE standard, with minor changes. In addition, EPA is adopting for recover-only equipment the recommended service procedure for the containment of CFC–12 described in SAE J1989 and already set forth in appendix A. In today's rule, that portion of appendix A based on SAE J1989 has been incorporated into appendix B in order to make clear that those service procedures apply when operating recover-only equipment.

For both recover/recycle equipment and recover-only equipment, the definition of "properly using" set forth in 40 CFR 82.32(e) applies. This final rule revises the requirements for Agency approval of independent standards testing organizations to include certification of recover-only equipment in compliance with the standards in appendix B. The criteria for approval of technician training and certification programs are also revised to reflect the use of recover-only equipment. The discussion in this preamble clarifies how the inclusion of standards for recover-only equipment will affect the certification of technicians, the Agency's approval of technician certification programs, and the Agency's approval of independent standards testing organizations.

II. Summary of Public Participation

A public hearing on the proposed supplemental rule was held on May 12, 1992. Only one person presented oral comments on the proposed requirements, also submitting written testimony to the Agency. A transcript of the hearing is contained in the public docket.

The Agency received a total of 10 letters on the supplemental proposed rule.

III. Summary and Response to Major Public Comments

Comments to this rule were submitted between April 22, 1992 and May 22, 1992. The remarks of several commenters were addressed in the July 14, 1992 final rule (57 FR 31241). For example, several commenters urged the Agency to state more explicitly the circumstances in which refrigerant may be recycled off-site (*i.e.*, if the recycle equipment is owned by the person who also owns both the recover-only equipment and the establishment at which the refrigerant was recovered). These circumstances were explicitly discussed when EPA adopted the definition of "properly using" in the July 14, 1992 final rule (57 FR 31241).

One commenter urged the Agency not to adopt a recover-only equipment standard. This commenter argued that recover-only equipment increases the risk of contamination of the entire recycled refrigerant pool because it could lead to intermixing of refrigerant types and failure to purify the recovered refrigerant prior to recycling. EPA believes the use of recover-only equipment will, in conjunction with recover/recycle equipment, afford more cost-effective compliance options for smaller service facilities that may choose not to purchase the more expensive recover/recycle equipment, but instead to send all recovered refrigerant to off-site reclaimers. In addition, larger service facilities and fleet owners may purchase the less expensive recover-only equipment for use in conjunction with their recover/recycle equipment during peak air conditioning service months. By adopting this standard, the Agency believes that facilities are likely to recover ozone-depleting chemicals that might have otherwise been improperly vented. Moreover, EPA believes that the adoption of the appendix B standards will effectively safeguard against contamination of the refrigerant supply. For example, the standard specifies that the equipment discharge or transfer fitting on recover-only equipment shall be unique in order to prevent the unintentional use of extracted CFC–12 used for recharging prior to recycling or reclamation.

The remainder of the comments remarked upon the adoption of SAE J2209 standard as the basis of appendix B, or upon specific provisions of appendix B. The adoption of the J2209 standard for recover-only equipment in appendix B parallels the adoption of the J1990 standard for recover/recycle equipment in appendix A. The J1991-based standard set forth in appendix A establishes a standard for recycled refrigerant and consequently would not apply to recover-only equipment. As discussed above, the J1989-based standard in appendix A has been incorporated by reference in appendix B.

The standard for recover-only equipment proposed by EPA differed slightly from the then-current draft of J2209, with the Agency's editorial comments included in the appendix B proposed standard in brackets. These editorial comments clarified some terms, inserted missing words and corrected other typographical errors in the J2209 draft. The final version of SAE J2209, which eliminated these errors, has been almost wholly incorporated into today's rulemaking as appendix B.

The significant differences between the draft version of the J2209 standard as set forth in the proposed appendix B, and the final version of this standard as set forth in today's rule, are as follows. First, the proposed appendix B stated that portable refillable containers of recovered refrigerant must be marked with the words "Dirty Refrigerant—Do Not Use Without Recycling." In the final version of J2209, and in this final rule, the container marking must read "Dirty R–12—Do Not Use, Must Be Reprocessed." This change illuminates the fact that refrigerant may either be recycled on-site using recover/recycle equipment, *or* may be reclaimed off-site to the ARI 700 standard.

In addition, unlike the draft version of J2209, the final J2209 standard and today's final rule: (1) Require that recover-only equipment be preconditioned with standard contaminated CFC–12 before starting the test cycle; (2) designate the temperature of the preconditioning; and (3) specify the operation of the sample method fixture. These additions were incorporated into the final version of J2209 and into appendix B in order to remain consistent with, and as stringent as, SAE J1990. Section 609(b)(2)(a) of the Act states that standards developed by the Administrator shall, as a minimum, be as stringent as SAE J1990 in effect as of November 15, 1990.

The standard reproduced here is almost identical to the final SAE standard submitted to the Agency in June, 1992, except that references to ARI standard 700–88 have been changed to 700–93. SAE intends to make this change in J2209 shortly. In addition, updates or revisions to SAE publications referenced in the standard will not automatically be incorporated by reference.

One commenter urged that EPA adopt ARI standard 740 rather than SAE J2209 as the basis of appendix B because complying with the more stringent J2209 standard would increase the cost of recover-only equipment, so that small businesses would face greater difficulties meeting Section 609 requirements. The standard adopted today in appendix B is as stringent as SAE J1990 regarding the procedure for extracting refrigerant and separating lubricant from refrigerant. Unlike SAE J2209, ARI standard 740 is not designed to address the servicing of mobile automotive air-conditioning systems,

VOL 60 ISS 84 MY 2 1995 UMI

and does not meet the statutory requirement of being as rigorous in all respects as J1990. Unlike J1990 and J2209, ARI 740 does not establish an oil separation requirement or require that a contaminated CFC–12 sample be processed to verify oil separation.

One commenter remarked that sections 6.2 and 6.2.1 of J2209 should not be adopted into appendix B because these sections, which describe the preconditioning of the equipment with a standard contaminated CFC–12 sample, apply only to recycle equipment and not to recover-only equipment. These provisions not only apply to measuring the efficiency with which a unit cleans the refrigerant for recycling, but also to measuring how much lubricant has been removed from the air-conditioning system during the recovery process, so that technicians may determine how much lubricant to replace prior to the completion of servicing. This determination should be made whenever any refrigerant is recovered, whether from a recover-recycle unit or a recover-only unit.

In addition, the language contained in Sections 6.2 and 6.2.1 is almost identical to the language of J1990, Sections 8.3 and 8.4.1. Since today's standard must at a minimum be as stringent as SAE J1990, these provisions should be contained in appendix B. The Agency believes that the proper determination of how well a particular model of equipment extracts refrigerant depends in part on testing the model with a contaminated sample. Noncondensable gases in particular may affect extraction efficiency. In addition, the Agency desires to further consistency between industry standards such as J2209 and Agency regulations.

A commenter remarked that the reference in section 6.3.3 of appendix B to the use of overfill protection based on a tank's volume should be based on weight rather than volume, because many tank filling operations recognize that weight is a better control to prevent overfilling a tank. The Agency has decided to base its overfill protection method on volume since both the Department of Transportation specifications for shipments and packagings and the American Society of Mechanical Engineers do so.

One commenter argued that the Agency should consider a six-month grace period which would allow owners of uncertified equipment to use older recover-only equipment while ordering and installing recover-only equipment that would comply with this rule. The Agency believes that the provisions set forth in today's rule governing substantially identical equipment, combined with the extended time frame between the publication of the proposal and the publication of this final rule, and the adoption of standard closely modeled on a consensus SAE standard, sufficiently address these lead time concerns. Equipment owners have had a significant time period to purchase equipment that should meet the standards to be adopted today.

Finally, two commenters objected to the provision set forth in section 6.7 of appendix B requiring that the equipment be able to separate the lubricant from recovered refrigerant and accurately indicate the amount removed from the system. These commenters claimed that this was a redundant requirement, and was not needed to determine the amount of oil to be replaced. EPA has included this provision in appendix B because it promotes consistency between the Agency requirements and the industry standard, as set forth in SAE J2209; because it promotes consistency in operating recover-only and recover/recycle equipment (*i.e.*, the technician will know that oil separation and measurement is a component in operating both types of machines); and because, by helping to prevent overcharging the vehicle system with lubricant, section 6.7 provides the technician with every opportunity to complete compressor lubrication properly.

IV. Summary of Today's Final Rule

A. Adoption of Standard Based on ARI 700–1993 in Definition of "Properly Using" and in Appendix B

Section 82.32(e) provides in the definition of "properly using" that "(r)efrigerant from reclamation facilities that is used for the purpose of recharging motor vehicle air conditioners must be at or above the standard of purity developed by the Air-conditioning and Refrigeration Institute (ARI 700–88) * * * in effect as of November 15, 1990.'" Today's rulemaking changes the definition of "properly using" to refer to ARI 700–1993, which is an updated version of ARI 700–88. In addition, references to the ARI 700 standard in appendix B, the Standard for Recover Equipment, are to ARI 700–93 rather than ARI 700–88.

EPA believes that ARI 700–1993 should substitute for ARI 700–1988 in order for section 609 regulations to remain consistent with other provisions of the Clean Air Act regulations and with industry standards. The direct final rule amending the Refrigerant Recycling Regulations published on August 19, 1994 (59 FR 42949) and effective on October 18, 1994 requires that persons reclaiming refrigerant for sale to a new owner must return refrigerant to a standard of purity based on ARI 700–1993. In addition, the Society of Automotive Engineers is in the process of revising all of its air-conditioning standards and recommended practices to reference current ARI specifications for fluorocarbon refrigerants. SAE will soon revise its J2209 standard, the basis for appendix B.

Whereas ARI 700–1988 allowed 0.5 as the maximum percentage by weight of "other refrigerants", ARI 700–1993 allows 0.50 as the maximum percentage by weight of "all other organic impurities, including other refrigerants," effectively tightening the standard. Changes in ARI 700–1993 that do not affect the automotive industry include adding purity standards for eleven additional refrigerants, and increasing liquid phase contaminant water levels for certain refrigerants not used in automobile air conditioners.

EPA is substituting the ARI 700–1993 standard for ARI 700–1988 as a direct final rule, recognizing that the Agency did not propose the substitution in the April 22, 1992 proposal of this rulemaking. This substitution predominantly affects the activities of refrigerant reclaimers, who were similarly affected by the substitution of ARI 700–93 for ARI 700–88 in the direct final rule amending the Refrigerant Recycling Regulations published on August 18, 1994 (59 FR 42949). Commenters to that rule overwhelmingly agreed that the changes to the ARI standard were both appropriate and necessary.

As discussed above, this portion of today's rule will become effective on July 3, 1995, unless EPA is has received by June 1, 1995 adverse comment. Should EPA receive such notice, EPA will publish one subsequent action in the **Federal Register** to withdraw the portion of this final action, and will publish another action proposing this action and requesting comments. In that event, following a public comment period and the opportunity for a public hearing, the Agency will draft the final regulation to be published in the **Federal Register**.

B. Standard for Recover-Only Equipment

Section 82.36(a) of the regulations specifies that equipment that recovers and recycles refrigerant must meet the standards set forth in appendix A. Today's rulemaking adds a provision that equipment that extracts refrigerant for recycling on-site or for reclamation off-site must meet the SAE J2209

standards set forth in appendix B, the Standard for Recover Equipment.

The standard adopted today contains specifications for labeling recover equipment once it is certified; safety requirements; requirements that the equipment manufacturer must provide operating instructions; and a functional description of the equipment, including hose and fitting specifications, overfill protection requirements and additional storage tank requirements. The standard requires that the container for used refrigerant be gray with a yellow top and be marked in black print "DIRTY REFRIGERANT—DO NOT USE, MUST BE REPROCESSED." The standard states that the recovery equipment must be able to separate lubricant from recovered refrigerant and to indicate accurately the amount removed from the air-conditioning system in order to assure that the proper amount of lubricant can be returned to the system. It should be noted that EPA's labeling rule published on February 11, 1993 (58 FR 8136) requires that containers containing class I or II substances that enter into interstate commerce are required to bear a specific warning label. Such containers that are sent for off-site recycling or reclamation are entered into interstate commerce and thus require labeling.

The Act states that standards developed by the Administrator shall, as a minimum, be as stringent as SAE J1990 in effect as of the date of November 15, 1990. The standard proposed today is equally as stringent as SAE J1990 regarding the procedure for extracting refrigerant and separating lubricant from refrigerant. It offers a further specification on extraction efficiency (referring to 102 mm of mercury versus the more general statement regarding removal "to a vacuum"). Procedures and requirements regarding unintentional releases of refrigerant during the extraction process are equivalent to SAE J1990, and because recover-only equipment does not purge non-condensable gases from the refrigerant collected, no CFC–12 is released in the process.

Refrigerant removed from motor vehicle air conditioners with recover-only equipment must be either recycled on-site to the SAE J1991 standard of purity or sent off-site to a reclamation facility for purification to ARI 700–93, a higher standard of purity than SAE J1991. Under the provisions of the July 14, 1992 final rule, refrigerant may also be sent off-site for recycling but only if the equipment used to recycle the refrigerant is owned by the person who owns both the recover-only equipment and owns or operates the establishment at which the refrigerant was extracted. Requirements concerning reclamation facilities and their ability to ensure that refrigerant meets the ARI 700–93 standard of purity were addressed in the direct final rule amending 40 CFR 82.164, published on August 19, 1994 (59 FR 42949).

The standard adopted today as appendix B represents a consensus of the Interior Climate Control Committee of SAE. This committee is made up of automotive industry experts, equipment and supply manufacturers, and chemical producers. SAE prepared the standards (SAE J1990, SAE J1991) later adopted by EPA in appendix A and the Agency believes that the standard set forth in today's rulemaking as appendix B is consistent with the specifications required in those standards for recovery. The Agency believes that the appendix B standard is appropriate for recovery because it achieves environmental protection through efficient recovery of refrigerant and protects automobile equipment through lubricant removal indication.

C. Substantially Identical Equipment

Section 82.36(b) of the regulations states that equipment purchased before the proposal of the standards for refrigerant recycling equipment in appendix A (*i.e.*, before September 4, 1991) shall be considered certified if it is "substantially identical" to equipment approved under § 82.36(a). Until now, this provision has effectively applied only to recover/recycle equipment, because only recover/recycle equipment has been approved by the Agency.

Today's rulemaking applies the Act's "substantially identical" provision to recover-only equipment as well. Recover-only equipment shall be considered approved if it is substantially identical to recover-only equipment approved under § 82.36(a) and if it was purchased prior to the date of proposal of this rulemaking (*i.e.*, April 22, 1992). EPA's regulations do not define "substantially identical," but a manufacturer or owner may request a determination from EPA on this point.

The Agency's views on implementation of the "substantially identical" provision are discussed in some detail in the September 4, 1991 Notice. In general, EPA proposes to follow the same strict approach in implementing this provision for recover-only equipment as for recover/recycle equipment. The Agency is aware that although some recover-only machines have been sold, until mid-1992, manufacturers of these machines did not have the opportunity to have machines certified because the proposed standard had not been developed. Recover-only equipment that is certified to meet the standard in appendix B will be considered "approved refrigerant recycling equipment." Where the models sold in the past are the same as models that are approved, this equipment will be considered substantially identical. In situations where the models sold were not the same as the approved model, EPA will consult with approved independent standards testing organizations to evaluate the previously sold equipment. EPA will use these organizations' test data and any additional information submitted by the manufacturer, such as process diagrams and lists of components, in the evaluation. EPA will maintain a list of equipment determined to be substantially identical. An essential criterion for evaluation is that equipment removes refrigerant as efficiently as the SAE J2209 standard and separates lubricant from refrigerant. The Agency is also interested in ensuring safety in operation of the equipment.

Should manufacturers consider the possibility of retrofit kits to bring the pre-certification models up to the performance standard of certified models, EPA would require that the retrofit kits be certified by an approved independent standards testing organization and that equipment owners indicate in their certification to the Agency (as discussed in the September 4, 1991 proposal) that they have retrofitted equipment.

EPA is aware of some cases in which equipment purchased before the publication of the proposal to today's rule was produced by manufacturers that have not yet received a certification on any model or by manufacturers that no longer make equipment. In situations where equipment was purchased without certification and no model by that manufacturer achieves certification, EPA will evaluate the equipment on a model-by-model basis before making a substantially identical determination. Owners of the equipment, if they cannot contact manufacturers to determine the status of equipment, must submit process flowsheets and lists of components, and EPA reserves the right to inspect the equipment and request samples of refrigerant if necessary. The address for submittal of information is: MVACs Recycling Program Manager, Stratospheric Protection Division, (6205J), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, Attention: Substantially Identical Equipment Review. EPA will maintain a strict interpretation of the

VOL 60 ISS 84 MY 2 1995 UMI

substantially identical clause in order to protect the air-conditioning units and the integrity of the recycling program. As a result, the Agency does not anticipate that many types of recover-only machines will qualify as substantially identical through this evaluation procedure.

D. Approved Independent Standards Testing Organizations

Section 82.38 establishes the criteria for approval of testing laboratories or organizations to certify whether equipment governed by the regulations meets the standards set forth in the regulations. Under the original final rule, approved organizations would determine whether recover/recycle equipment met the standards set forth in appendix A to the rule, which was based on SAE J1990 and 1991. Today's rulemaking will expand that provision so that approved organizations will be able to determine whether recover-only equipment meets the standards set forth in appendix B to the rule.

Because the Agency received written requests from both UL and ETL requesting that they be approved to certify recover-only equipment, and because the application materials received by the Agency from UL on October 21, 1991, and from ETL on November 27, 1991 demonstrate that both organizations have met the criteria set forth in § 82.38(b) with respect to recover-only equipment, the Agency has approved UL and ETL to certify recover-only equipment, effective as of the effective date of this rulemaking.

EPA encourages applications from other facilities that are capable of testing equipment to the necessary standards. Organizations must demonstrate that they have the experience and the appropriate equipment to perform testing. The EPA will maintain a list of approved independent standards testing organizations available upon request at the address set forth in § 82.38. The Agency reserves the right to revoke approval if the testing organization violates any of the requirements contained in § 82.38.

E. Technician Training and Certification

Section 82.40 established the standards for programs approved to train and certify technicians. The standards cover training, the subject material that must be covered by each program, and minimum test administration procedures. Summaries of reviews of programs must be submitted every two years and programs must offer technicians proof of certification upon successful completion of the test.

At this time, 23 organizations have been approved by EPA to train and certify technicians in the use of recover-recycle equipment. Ten of these organizations train and certify their employees, while the remaining train members of the general public. While EPA's approval of these organizations has been limited to recover-recycle equipment, the Agency believes that for purposes of training and certification conducted prior to June 1, 1995, these organizations should also be considered as approved for purposes of recover-only equipment. As discussed below, recover-only equipment and the recovery aspects of recover-recycle equipment are very similar, and the procedures for extracting refrigerant are very similar for both types of equipment. Retraining and recertifying of technicians already certified to use recover-recycle equipment would therefore produce only a limited environmental benefit. In addition, such retraining and recertification would impose a large burden on the technicians and the organizations that certify them. For these reasons, EPA intends at this time to approve the 23 organizations noted above for training and certification of technicians in the use of recover-only equipment conducted prior to June 1, 1995.

EPA will also approve organizations for future training and certification of technicians for the use of recover-only equipment on the condition that each organization certify in writing to the Agency that its training materials discuss the standard set forth in Appendix B, and that its testing materials include questions concerning that standard. Each organization that submits such a certification shall be approved upon the date which is the later of (i) the effective date of this rule (*i.e.*, June 1, 1995), or (ii) the receipt by the Agency of such a certification. Organizations that do not submit such a certification will not be approved to train and certify future technicians for the use of recovery-only equipment.

As noted above, the prior training and testing of previously approved technicians for recover-recycle equipment adequately and sufficiently covers the standards set forth in appendix B because of the large overlap between the text of the standard based on SAE J1990 contained in appendix A and the standard based on SAE J2209 contained in appendix B. In both appendix A and appendix B, the following provisions are identical or nearly identical: safety requirements; requirement that the manufacturer must provide operating instructions; requirement that the equipment must ensure the refrigerant recovery by reducing system pressure below atmospheric to a minimum of 102 mm of mercury; the preconditioning of the equipment with a contaminated sample; the composition of that contaminated sample; the requirement that the equipment must be certified by UL or an equivalent certifying laboratory; the requirement that the label on the equipment must state that it has been design certified to meet applicable SAE standards; and the additional storage tank requirements.

Where the SAE J1990-based standards in appendix A differ from the SAE J2209-based standards in appendix B, they differ largely because appendix A contains many provisions which relate to the recycle portion of the equipment operation and which are thus not applicable to appendix B. For example, appendix A describes requirements for the recycling test cycle and for the quantitative determination of moisture, lubricant, and noncondensable gas in that cycle.

In addition, SAE J2209 contains one provision which applies to recover-only but not to recover/recycle equipment. Section 3.5 of J2209 states that the label on the equipment must be processed to ARI 700–88 specifications before reuse in a mobile air-conditioning system. The Agency recognizes that refrigerant may be transferred on-site to recover/recycle equipment and processed to the standards set forth in appendix A, rather than be transferred off-site to a reclamation facility for processing to the ARI 700 standard. However, since the final SAE J2209 standard, including the textual requirements for the equipment label, was issued over two years prior to the date of this rule, the Agency has determined not to require the inclusion of any language on the label which would be inconsistent with SAE requirements.

A review of SAE J2209 indicates it contains two provisions which relate to the recovery of refrigerant for which there are no equivalent provisions in SAE J1990. First, section 3.2 of SAE J2209 requires that the equipment discharge or transfer fitting shall be unique. SAE did not consider this requirement until after the publication of the final version of J1990. Second, section 6.1 of SAE J2209 requires that the unit must have a device that assures that refrigerant has been recovered so that outgassing is prevented. Although there is no equivalent to this provision in SAE J1990, J1989 requires safeguards to prevent outgassing.

VI. Summary of Supporting Analyses

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined by OMB and EPA that this supplemental final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order. The Agency prepared an analysis to assess the impact of the proposed regulation (see Costs and Benefits of MACs Recycling, May 24, 1991) which covers both recover/recycle equipment and recover-only equipment, and is available for review in the public docket for this rulemaking.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal agencies examine the impacts of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Agency performed an initial regulatory flexibility analysis for the July 14, 1992 final rule that this rule supplements. No additional RFA need be prepared for this supplemental final rule because the changes being made today to that final rule do not alter the original analysis.

C. Paperwork Reduction Act

This supplemental final rule has no new information requirements subject to the Paperwork Reduction Act.

List of Subjects for 40 CFR Part 82

Environmental protection, Chlorofluorocarbons, Motor vehicle air-conditioning, Recover-only equipment, Stratospheric ozone layer.

Dated: April 24, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, EPA is hereby amending 40 CFR part 82 as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671, and 7671h.

2. Section 82.32 is amended by redesignating the first four sentences of paragraph (e) as paragraph (e)(1), and redesignating the last four sentences of paragraph (e) as paragraph (e)(2), and by revising the first sentences of newly redesignated paragraphs (e)(1) and (e)(2) to read as follows:

§ 82.32 Definitions.

* * * * *

(e) (1) Properly using means using equipment in conformity with Recommended Service Procedures and Recommended Practices for the Containment of R–12 (CFC–12) set forth in appendix A or appendix B to this subpart, as applicable.

(2) Refrigerant from reclamation facilities that is used for the purpose of recharging motor vehicle air conditioners must be at or above the standard of purity developed by the Air-conditioning and Refrigeration Institute (ARI 700–93) (which is codified at 40 CFR part 82, subpart F, appendix A, and is available at 4301 North Fairfax Drive, Suite 425, Arlington, Virginia 22203).

* * * * *

3. Section 82.36 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 82.36 Approved refrigerant recycling equipment.

(a) (1) * * *

(2) Equipment that recovers and recycles the refrigerant must meet the standards set forth in appendix A to this subpart (Recommended Service Procedure for the Containment of R–12, Extraction and Recycle Equipment for Mobile Automotive Air-Conditioning Systems, and Standard of Purity for Use in Mobile Air-Conditioning Systems). Equipment that recovers refrigerant for recycling on-site or for reclamation off-site must meet the standards set forth in appendix B to this subpart (Recommended Service Procedure for the Containment of R–12, Extraction Equipment for Mobile Automotive Air-Conditioning Systems).

(b) Refrigerant recycling equipment purchased before September 4, 1991 that recovers and recycles refrigerant, and refrigerant recycling equipment purchased before April 22, 1992 that recovers refrigerant for recycling on-site or reclamation off-site, that has not been certified under paragraph (a) of this section, shall be considered approved if the equipment is substantially identical to equipment certified under paragraph (a) of this section. Equipment manufacturers or owners may request a determination by the Administrator by submitting an application and supporting documents that indicate that the equipment is substantially identical to approved equipment to: MVACs Recycling Program Manager, Stratospheric Protection Division (6205J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attn: Substantially Identical Equipment Review. Supporting documents must include process flow sheets, lists of components and any other information that would indicate that the equipment is capable of processing the refrigerant to the standards in appendix A or appendix B to this subpart, as applicable. Authorized representatives of the Administrator may inspect equipment for which approval is being sought and request samples of refrigerant that has been extracted and/or recycled using the equipment. Equipment that fails to meet appropriate standards will not be considered approved.

* * * * *

4. Section 82.38 is amended by revising paragraphs (a) and (b)(1)(iii) to read as follows:

§ 82.38 Approved independent standards testing organizations.

(a) Any independent standards testing organization may apply for approval by the Administrator to certify equipment as meeting the standards in appendix A and appendix B to this subpart, as applicable. This application shall be sent to: MVACs Recycling Program Manager, Stratospheric Protection Division (6205J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

(b) * * *

(1) * * * (i) * * *

(ii) * * *

VOL 60 ISS 84 MY 2 1995 UMI

(iii) Thorough knowledge of the standards as they appear in appendix A and appendix B of this subpart, as applicable; and

* * * * *

5. Section 82.40 is amended by revising paragraph (a)(2)(i) to read as follows:

§ 82.40 Technician training and certification.

(a) * * *

(2) * * *

(i) The standards established for the service and repair of motor vehicle air conditioners as set forth in appendix A and appendix B to this subpart. These standards relate to the recommended service procedures for the containment of refrigerant, extraction equipment, extraction and recycle equipment, and the standard of purity for refrigerant in motor vehicle air conditioners.

* * * * *

6. Section 82.42 is amended by revising the last sentence of paragraph (a)(1)(iii) to read as follows:

§ 82.42 Certification, recordkeeping and public notification requirements.

(a) * * *

(1) * * *

(iii) * * * The certification should be sent to: MVACs Recycling Program Manager, Stratospheric Protection Division, (6205J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

* * * * *

7. Appendix B is added to subpart B to read as follows:

Appendix B to Subpart B—Standard for Recover Equipment

SAE J1989, Recommended Service Procedure for the Containment of R–12, as set forth under Appendix A, also applies to this Appendix B.

SAE J2209, issued June, 1992.

SAE Recommended Practice: CFC–12 (R–12) Extraction Equipment for Mobile Automotive Air-Conditioning Systems

Foreword

CFCs deplete the stratospheric ozone layer that protects the earth against harmful ultraviolet radiation. To reduce the emissions of CFCs, the 1990 Clean Air Act requires recycle of CFC–12 (R–12) used in mobile air-conditioning systems to eliminate system venting during service operations. SAE J1990 establishes equipment specifications for on-site recovery and reuse of CFCs in mobile air-conditioning systems. Establishing extraction equipment specifications for CFC–12 will provide service facilities with equipment to assure that venting of refrigerant will not occur.

1. Scope

The purpose of this document is to provide equipment specifications for CFC–12 (R–12) recovery for recycling on-site or for transport off-site to a refrigerant reclamation facility that will process it to ARI (Air-Conditioning and Refrigeration Institute) standard 700–93 as a minimum. It is not acceptable that the refrigerant removed from a mobile air-conditioning system, with this equipment, be directly returned to a mobile air-conditioning system.

This information applies to equipment used to service automobiles, light trucks, and other vehicles with similar CFC–12 systems.

2. References

2. Applicable Documents—The following documents form a part of this specification to the extent specified herein.

2.1.1 SAE Publications—Available from SAE, 400 Commonwealth Drive, Warrendale, PA 15096–0001.

SAE J639—Vehicle Service Coupling

SAE J1990—Extraction and Recycle Equipment for Mobile Automotive Air-Conditioning Systems

SAE J2196—Service Hose for Automotive Air-Conditioning

2.1.2 ARI Publications—Available from Air-Conditioning and Refrigeration Institute, 1501 Wilson Boulevard, Sixth Floor, Arlington, VA 22209.

ARI 700–93—Specifications for Fluorocarbon Refrigerants

2.1.3 CGA Publications—Available from CGA, Crystal Gateway #1, Suite 501, 1235 Jefferson Davis Highway, Arlington, VA 22202.

CGA S–1.1—Pressure Relief Device Standard Part 1—Cylinders for Compressed Gases

2.1.4 DOT Specifications—Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

49 CFR, Section 173.304—Shippers—General Requirements for Shipments and Packagings

2.1.5 UL Publications—Available from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, IL 60062–2096.

UL 1769—Cylinder Valves

3. Specifications and General Description

3.1 The equipment must be able to extract CFC–12 from a mobile air-conditioning system.

3.2 The equipment discharge or transfer fitting shall be unique to prevent the unintentional use of extracted CFC–12 to be used for recharging auto air conditioners.

3.3 The equipment shall be suitable for use in an automotive service garage environment as defined in 6.8.

3.4 Equipment Certification—The equipment must be certified by Underwriters Laboratories or an equivalent certifying laboratory to meet this standard.

3.5 Label Requirements—The equipment shall have a label "Design Certified by (company name) to meet SAE J2209 for use with CFC–12. The refrigerant from this equipment must be processed to ARI 700–93 specifications before reuse in a mobile air-conditioning system." The minimum letter size shall be bold type 3mm in height.

4. Safety Requirements

4.1 The equipment must comply with applicable federal, state and local requirements on equipment related to the handling of R–12 material. Safety precautions or notices or labels related to the safe operation of the equipment shall also be prominently displayed on the equipment and should also state "CAUTION—SHOULD BE OPERATED BY CERTIFIED PERSONNEL." The safety identification shall be located on the front near the controls.

4.2 The equipment must comply with applicable safety standards for electrical and mechanical requirements.

5. Operating Instructions

5.1 The equipment manufacturer must provide operating instructions, necessary maintenance procedures and source information for replacement parts and repair.

5.2 The equipment must prominently display the manufacturer's name, address and any items that require maintenance or replacement that affect the proper operation of the equipment. Operation manuals must cover information for complete maintenance of the equipment to assure proper operation.

6. Functional Description

6.1 The equipment must be capable of ensuring recovery of the CFC–12 from the system being serviced, by reducing the system pressure to a minimum of 102 mm of mercury below atmospheric. To prevent system delayed outgassing, the unit must have a device that assures that the refrigerant has been recovered from the air-conditioning system.

6.1.1 Testing laboratory certification of the equipment capability is required which shall process contaminated refrigerant samples at specific temperatures.

6.2 The equipment must be preconditioned with 13.6 kg of the standard contaminated CFC–12 at an ambient of 21°C before starting the test cycle. Sample amounts are not to exceed 1.13 kg with sample amounts to be repeated every 5 minutes. The sample method fixture defined in Figure 1 of appendix A shall be operated at 24°C. Contaminated CFC–12 samples shall be processed at ambient temperatures of 10 and 49°C.

6.2.1 Contaminated CFC–12 sample.

6.2.2 Standard contaminated CFC–12 refrigerant, 13.6 Kg sample size, shall consist of liquid CFC–12 with 100 ppm (by weight) moisture at 21°C and 45,000 ppm (by weight) mineral oil 525 suspension nominal and 770 ppm (by weight) of noncondensable gases (air).

6.3 Portable refillable containers used in conjunction with this equipment must meet applicable DOT standards.

6.3.1 The container color must be gray with yellow top to identify that it contains used CFC–12 refrigerant. It must be permanently marked on the outside surface in black print at least 20 mm high "DIRTY R–12—DO NOT USE, MUST BE REPROCESSED".

6.3.2 The portable refillable container shall have a SAE 3/8 inch flare male thread connection as identified in SAE J639 CFC–12 High Pressure Charging Valve Figure 2.

6.3.3 During operation the equipment shall provide overfill protection to assure that the storage container liquid fill does not exceed 80% of the tank's rated volume at 21°C per DOT standard, CFR Title 49, section 173.304 and the American Society of Mechanical Engineers.

6.4 Additional Storage Tank Requirements.

6.4.1 The cylinder valve shall comply with the standard for cylinder valves, UL 1769.

6.4.2 The pressure relief device shall comply with the pressure relief device standard part 1, CGA pamphlet S–1.1.

6.4.3 The container assembly shall be marked to indicate the first retest date, which shall be 5 years after date of manufacture. The marking shall indicate that retest must be performed every subsequent five years. The marking shall be in letters at least 6 mm high.

6.5 All flexible hoses must meet SAE J2196 standard for service hoses.

6.6 Service hoses must have shutoff devices located within 30 cm of the connection point to the system being serviced to minimize introduction of noncondensable gases into the recovery equipment during connection and the release of the refrigerant during disconnection.

6.7 The equipment must be able to separate the lubricant from the recovered refrigerant and accurately indicate the amount removed from the system during processing in 30 ml units.

6.7.1 The purpose of indicating the amount of lubricant removed is to ensure that a proper amount is returned to the mobile air-conditioning system for compressor lubrication.

6.7.2 Refrigerant dissolved in this lubricant must be accounted for to prevent system lubricant overcharge of the mobile air-conditioning system.

6.7.3 Only new lubricant, as identified by the system manufacturer, should be replaced in the mobile air-conditioning system.

6.7.4 Removed lubricant from the system and/or the equipment shall be disposed of in accordance with applicable federal, state and local procedures and regulations.

6.8 The equipment must be capable of continuous operation in ambient temperatures of 10°C to 49°C and comply with 6.1.

6.9 The equipment should be compatible with leak detection material that may be present in the mobile air-conditioning system.

7.0 For test validation, the equipment is to be operated according to the manufacturer's instructions.

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VOL
60

ISS
84

MY
2

1995

UMI

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Tuesday
May 2, 1995

Part IV

Department of Housing and Urban Development

Funding Availability; Application Submission for Applicants in Oklahoma City Area for Certain NOFAs; Notice

VOL
60
ISS
84
MY
2
1995
UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3915; FR–3910–N–01]

PIH Notices of Funding Availability (NOFAs); Notice of Extension of Application Due Date and Location of Application Submission for Applicants in Oklahoma City Area for Certain NOFAs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notices of Funding Availability (NOFA) for Fiscal Year 1995; Notice of Extension of Application Due Date and Location of Application for Applicants in Oklahoma City Area for Certain PIH NOFAs.

SUMMARY: This notice sets forth a list of notices of funding availability (NOFAs) recently published by HUD's Office of Public and Indian Housing, and identifies where applications should be submitted in lieu of submission to HUD's Oklahoma State Office in Oklahoma City, Oklahoma. This notice also extends the application due date for certain NOFAs. The revised application submission locations and, where applicable, revised submission dates are applicable only to applicants within the Oklahoma State/Southern Plains Service Areas. All other applicants must rely on submission locations and submission dates published in the underlying NOFAs.

DATES: See **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Please contact the person listed in the individual NOFA for which an application is to be submitted. For general information about this notice, contact Cheryl Teninga, Director, Field Operations Staff, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4120, 451 Seventh Street, SW, Washington, DC 20410–5000, telephone 708–4016. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Rely Service on 1–800–877–TDDY (1–800–877–8339) or (202) 708–9300. (Other than the "800" TDD number, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: Due to the tragic event that occurred in Oklahoma City, Oklahoma, on April 19, 1995, which resulted in the destruction of the Alfred Murrah Federal Building in Oklahoma City, Oklahoma, the location for the submission of applications in response to certain NOFAs, applications that would have been submitted to HUD's Oklahoma State Office in Oklahoma City, Oklahoma, must be submitted to other HUD offices. In addition, application due dates for certain NOFAs will be extended for applicants that would have been required to submit their applications to HUD's Oklahoma State Office in Oklahoma City.

HUD, however, assures the public, especially HUD's customers and clients in the Oklahoma State Office area that HUD will maintain an office in Oklahoma City. Additionally, HUD will not bypass the involvement of staff from the Oklahoma State Office, with whom applicants are familiar and have established a good working relationship. The other HUD offices to which applications are being directed will assist the Oklahoma office staff with processing of applications until the HUD Oklahoma State Office is fully operational in Oklahoma City. Available Oklahoma State Office will be involved in the NOFA processing in coordination with the offices that are providing assistance.

Accordingly, this notice sets forth a list of NOFAs recently published by HUD's Office of Public and Indian Housing. The notice identifies where applications should be submitted, and also extends the application due date for certain NOFAs. The NOFAs are listed in the order of publication. Application due dates that are extended are identified as extended.

With the exception of possible new application *due dates*, and a new location for submission of applications, all other information applicable to a particular NOFA remains as set forth in the published NOFA (as may have been amended by any subsequent technical correction or clarification). Please note that the unchanged information includes the time at which applications are due to the applicable HUD Office, and the manner in which applications are to be submitted.

Note: The revised application submission locations set forth in this notice, and where applicable, revised submission dates are applicable only to applicants within the Oklahoma State/Southern Plains Service Areas. All other applicants must rely on submission locations and submission dates published in the underlying NOFAs.

Subject to the limitations set forth in this notice, applicants within the Oklahoma State/Southern Plains Service area should submit applications under the following NOFAs to the location identified, and by the due date set forth below.

1. NOFA for Public and Indian Housing Family Investment Centers

[Docket No. N–95–3714; FR 3832–N–01, published February 15, 1995, at 60 FR 8900]

Application Due Date: June 29, 1995*
[*Reflects extended due date]

Submit application to: HUD Colorado State Office, Public Housing, First Interstate Tower North, 633–17th Street, Denver, CO 80202–3607, ATTN: OKC

For Native American Programs submit application to: HUD Eastern/Woodlands Office of Native American Programs, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507

2. NOFA for Community Development Block Grant Program for Indian Tribes and Alaska Native Villages. [Docket No. N–95–3870; FR–3798–N–01, published February 24, 1995 at 60 FR 10452]

Application Due Date: May 30, 1995*
[*Reflects extended due date]

Submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

3. NOFA for Service Coordinators for Public Housing Agencies

[Docket No. N–95–3854; FR–3785–N–01, published February 27, 1995, at 60 FR 10274]

Application Due Date: May 2, 1995*
[*Reflects extended due date [1]]

Submit application to: HUD Colorado State Office, Public Housing, First Interstate Tower North, 633–17th Street, Denver, CO 80202–3607, ATTN: OKC

4. NOFA for Public and Indian Housing Tenant Opportunities Program Technical Assistance [Docket No. N–95–3847; FR–3828–N–01, published March 1, 1995, at 60 FR 11222]

Application Due Date: May 19, 1995*
[*Reflects extended due date]

Submit application to: HUD Colorado State Office, Public Housing, First Interstate Tower North, 633–17th Street, Denver, CO 80202–3607, ATTN: OKC

For Native American Programs submit application to: HUD Eastern/Woodlands Office of Native American Programs, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507

5. NOFA for the Rental Voucher Program and Rental Certificate Program

[Docket No. N–95–3874; FR–3849–N–01, published March 3, 1995 at 60 FR 12036]

There were six subprogram areas. Each subprogram had its own application due date:

a. Fair Share Allocations

Application Due Date: May 16, 1995*

[1] Only two housing authorities located in the Oklahoma State/Southern Plains Service area would have submitted their applications to the Oklahoma State Office under this NOFA. These authorities have advised HUD that a May 2, 1995 application due date can be met.

[* Reflects extended due date]

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

b. Section 8 Counseling

Application Due Date: May 16, 1995*
[* Reflects extended due date]

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

c. Funding for Family Unification

Application Due Date: May 17, 1995

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

d. Funding for FSS Service Coordinators

Application Due Date: May 17, 1995

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

e. Funding for Mainstream Housing

Application Due Date: June 1, 1995

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905,Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

f. Funding for Persons With AIDs

Application Due Date: June 1, 1995

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado,, 80202–3607

g. Funding for Homeless Families

Application Due Date: June 1, 1995

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

6. NOFA for Comprehensive Improvement Assistance Program (CIAP)

[Docket No. N–95–3867; FR 3774–N–02; published on March 17, 1995, at 60 FR 14538]

Application Due Date: May 30, 1995*
[*Reflects extended due date]

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

7. NOFA for Lead-Based Paint (LBP) Risk Assessments

[Docket No. N–95–3778; FR–3875–N–01; published March 30, 1995, at 60 FR 16560]

Application Due Date: June 13, 1995*
[*Reflects extended due date]

Submit application to: HUD Texas State Office, Public Housing, P.O. Box 2905, Fort Worth, TX 76113–2905, ATTN: Bill Canales—OKC

For Native American Programs submit application to: HUD Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

8. NOFA for Emergency Shelter Grants Set-Aside for Indian Tribes and Alaskan Native Villages

[Docket No. N–95–3893; FR–3879–N–01, published April 11, 1995, at 60 FR 18524]

Application Due Date: June 9, 1995*
[*Reflects extended due date]

Submit application to: HUD Northern Plains Office of Native American Programs First Interstate Tower North, 633 17th Street, Denver, Colorado 80202–3607

Dated: April 28, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–10884 Filed 4–28–95; 1:54 pm]

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VOL
60

ISS
84

MY
2

1995

UMI

federal register

Tuesday
May 2, 1995

Part V

The President

Proclamation 6793—Small Business Week

VOL
60
ISS
84
MY
2
1995
UMI

Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

Presidential Documents

Title 3—

The President

Proclamation 6793 of April 28, 1995

Small Business Week, 1995

By the President of the United States of America

A Proclamation

At the heart of our free enterprise system are the Nation's 21.5 million small businesses. They are the engine of our economy, keeping America competitive in domestic and global markets. These businesses demonstrate by their achievements and success that the promise of the American Dream is within the grasp of every one of our citizens.

America's small business entrepreneurs are risk-takers, venturing into new and often uncertain territory. As a Nation, we are indebted to these bold men and women. With unparalleled commitment and determination, they keep us at the forefront of innovation and help fuel our economy.

During the past decade, more than 600,000 new firms have been created annually. Indeed, just last year, more small businesses were created than at any time in our country's history. Through much of this period, small businesses generated most of the Nation's new jobs. Today, they employ almost 60 percent of the country's private work force.

Growing numbers of women and minorities are empowering themselves through small business ownership, taking risks, and pursuing their entrepreneurial ambitions. New programs are teaching business ownership skills to our youth. And our Administration's Reinventing Government initiative—building a government that works better and costs less—will help sustain this entrepreneurial spirit for generations to come.

As we approach a new era of economic opportunity, our Nation's small business owners continue to inspire us by their example. On behalf of all Americans, I thank these hardworking citizens across the country for helping to keep the American Dream alive.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 30 through May 6, 1995, as "Small Business Week." I ask all Americans to join me in saluting the small business owners of our Nation during this week with appropriate events and ceremonies.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95–10980
Filed 5–1–95; 11:15 am]
Billing code 3195–01–P

VOL
60
ISS
84
MY
2
1995
UMI

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Federal Register
Vol. 60, No. 84
Tuesday, May 2, 1995

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Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
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FEDERAL REGISTER PAGES AND DATES, MAY

21033–21424.....1
21425–21698.....2

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR
Proclamations:
6792.....21423
6793.....21696

5 CFR
890.....21590

7 CFR
6.....21425
28.....21033
75.....21034
400.....21035
1464.....21036
1494.....21037

8 CFR
245a.....21039

9 CFR
94.....21428

14 CFR
39.....21041, 21429
71.....21433, 21434
1245.....21042
Proposed Rules:
39.....21053, 21054, 21056, 21470, 21471
71.....21473

19 CFR
7.....21043
11.....21043
12.....21043
18.....21043
19.....21043
24.....21043
54.....21043
101.....21043
102.....21043
111.....21043
114.....21043
123.....21043
128.....21043
132.....21043
134.....21043
141.....21043
145.....21043
146.....21043
148.....21043
151.....21043
152.....21043
177.....21043
181.....21043
191.....21043

21 CFR
Proposed Rules:
173.....21474
310.....21590

24 CFR
Proposed Rules:
Ch. IX.....21058

26 CFR
1.....21435
Proposed Rules:
1.....21475, 21482

29 CFR
Proposed Rules:
2200.....21058

30 CFR
944.....21435
Proposed Rules:
934.....21484

33 CFR
Proposed Rules:
322.....21061

34 CFR
690.....21438
Proposed Rules:
200.....21400
201.....21400
203.....21400
205.....21400
212.....21400

37 CFR
1.....21043, 21438
10.....21438

38 CFR
Proposed Rules:
21.....21486

40 CFR
52.....21440, 21442, 21445, 21447, 21451, 21453, 21455, 21456
81.....21456
82.....21682
Proposed Rules:
52.....21487, 21488, 21489, 21490
81.....21490
82.....21490
300.....21491
439.....21592

42 CFR
421.....21048

45 CFR
96.....21332

VOL
60
ISS
84
MY
2
1995
UMI

47 CFR
2.....21048
76.....21464

48 CFR
502.....21467
506.....21467
513.....21467
552.....21467

50 CFR
678.....21468

Proposed Rules:
625.....21491
640.....21493

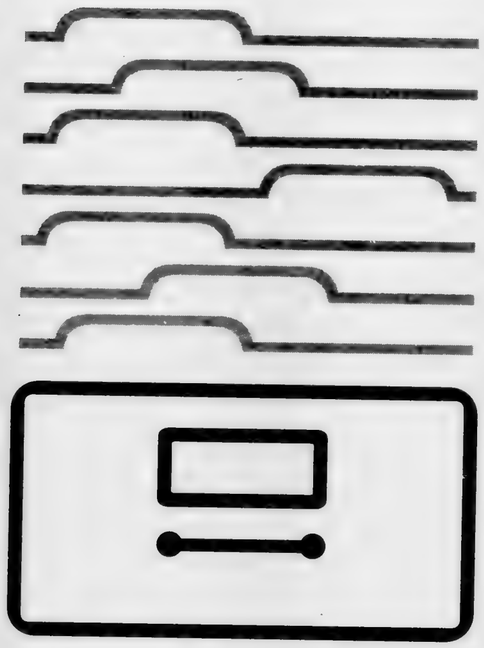

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VOL
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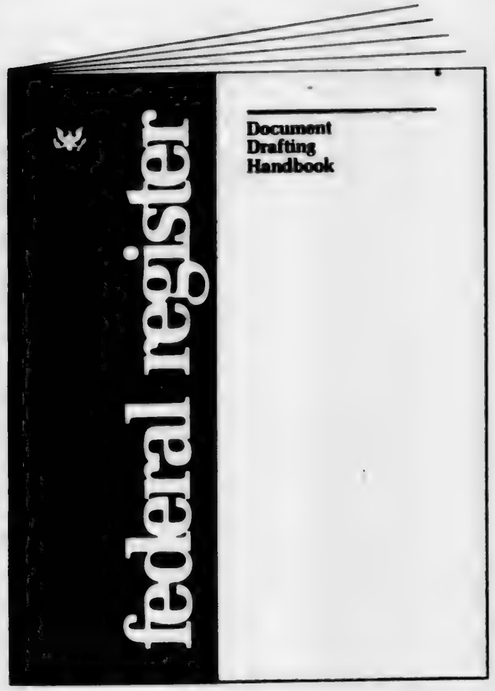

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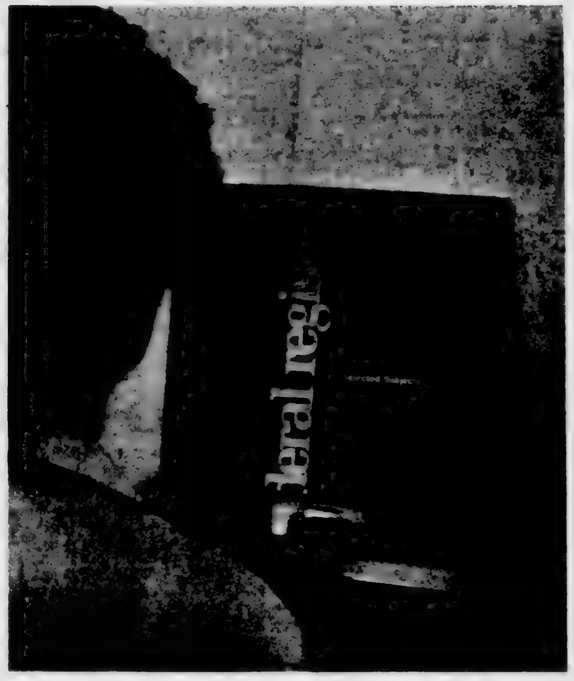

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VOL
60

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84

MY
2

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60

ISS
85

MY
3

1995

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5–3–95
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May 3, 1995

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VOL
60

ISS
85

MY
3

1995

UMI

5-3-95
Vol. 60 No. 85
Pages 21699-21972

federal register

Wednesday
May 3, 1995

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VOL
60
ISS
85
MY
3
1995
UMI

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Contents

Federal Register
Vol. 60, No. 85
Wednesday, May 3, 1995

Agency for International Development
NOTICES
Agency information collection activities under OMB review, 21828

Air Force Department
NOTICES
Environmental statements; availability, etc.:
Joint Primary Aircraft Training System (JPATS), 21793

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Commerce Department
See Economic Development Administration
See Export Administration Bureau
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 21790–21791

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
China, 21792–21793

Customs Service
PROPOSED RULES
Recordkeeping, inspection, search, and seizure:
Customs Modernization Act ("Mod Act"); implementation—
Seizure of merchandise, mandatory and permissive, 21778–21779

Defense Department
See Air Force Department

Economic Development Administration
NOTICES
Trade adjustment assistance eligibility determination petitions:
Todd Tool & Machine, Inc., et al., 21791–21792

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
National Institute on Disability and Rehabilitation Research—
Innovation program, 21940

Energy Department
See Federal Energy Regulatory Commission
See Hearings and Appeals Office, Energy Department
NOTICES
Civilian Radioactive Waste Management Office; waste acceptance issues; final interpretation, 21793–21798

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 21702–21703
Delaware, 21707–21713
Illinois, 21706–21707
Indiana, 21717–21720
Kentucky, 21713–21717
Washington, 21703–21706
Clean Air Act:
Reformulated gasoline program; nonattainment area inclusion—
Wisconsin; withdrawn, 21724–21725
State operating permits programs—
California, 21720–21724
Pesticide programs:
Worker protection standards—
Crop advisors; exemption, 21948–21953
Early-entry prohibition; addition of table of exception decisions, 21953–21954
Training grace period and phase-in period associated with grace period, 21944–21948
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Bacillus thuringiensis CryIIIA delta-endotoxin, etc., 21725–21728
Metolachlor, 21733–21734
Myclobutanil, 21728–21731, 21736–21739
Triasulfuron, 21734–21736
Urea-formaldehyde copolymer, 21731–21733
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Delaware, 21780
Illinois, 21780
Indiana, 21780–21781
Nevada, 21781–21783
Washington, 21783
Pesticide programs:
Worker protection standards—
Agricultural pesticides; exceptions to early entry restrictions; irrigation activities, 21960–21965
Restricted entry intervals for limited contact tasks, 21955–21960
Worker protection standards; pesticides, reduced restricted entry intervals
Reduced restricted entry intervals for pesticides; policy statement, 21965–21968
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Acephate, etc., 21786
Poly(phenylhexylurea), cross-linked, 21784–21786
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 21786–21789
NOTICES
Drinking water:
Underground injection control program—
Louisiana, 21809
Grants, State and local assistance:
Grantee performance evaluation reports—
Alabama et al., 21809–21810
Socioeconomic projects related to pollution prevention, 21810–21813

VOL
60
ISS
85
MY
3
1995
UMI

Meetings:
Pesticide metabolism testing guideline; workshop, 21813–21814
Pesticide, food, and feed additive petitions:
Gowan Co. et al., 21815–21816
Pesticide registration, cancellation, etc.:
Riverdale Malathion 5, etc., 21816–21818
Pesticides; emergency exemptions, etc.:
Cymoxanil, etc., 21814–21815

Executive Office of the President
See Presidential Documents

Export Administration Bureau
NOTICES
Meetings:
Regulations and Procedures Technical Advisory Committee, 21792

Federal Aviation Administration
RULES
Class E airspace, 21700
PROPOSED RULES
Airworthiness directives:
Boeing, 21774–21776
Construcciones Aeronauticas, S.A., 21772–21774
VOR Federal airways, 21776–21778
NOTICES
Technical standard orders:
Airborne ground proximity warning equipment, 21846–21847

Federal Communications Commission
NOTICES
Radio services, special:
Private land mobile services—
800 MHz SMR, business, industrial/land transportation, and general category channels; applications, 21818–21819

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
New Hampshire et al., 21739–21741
NOTICES
Disaster and emergency areas:
Alabama, 21819
Oklahoma, 21819

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Consumers Power Co. et al., 21803–21805
Florida Power Corp. et al., 21806–21807
Natural gas certificate filings:
Northwest Pipeline Corp. et al., 21807–21809
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 21803
Algonquin LNG, Inc., 21802
Granite State Gas Transmission, Inc., 21803

Federal Maritime Commission
NOTICES
Agreements; additional information requests:
American President Lines, Ltd., et al., 21819–21820
Agreements filed, etc., 21820
Casualty and nonperformance certificates:
Hapag-Lloyd (America) Inc. et al., 21820

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
City Holding Co. et al., 21820–21821
Dalrymple Family Ltd. Partnership, L.P., et al.; correction, 21821
Moran, John D., Sr., et al., 21821–21822
Moundville Bancshares, Inc., 21821

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 21822–21823

Fish and Wildlife Service
NOTICES
Meetings:
Endangered Species of Wild Fauna and Flora International Trade Convention, 21825–21827

Food and Drug Administration
RULES
Food additives:
Acesulfame potassium, 21700–21702
NOTICES
Human drugs:
Export applications—
VAQTA Hepatitus A V, Purified Inactivated, 21823–21824

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
NOTICES
Medicare:
Peer review organizations—
Expiration dates of contracts with out-of-state organizations and solicitation of statements of interest from in-state organizations, 21824–21825

Hearings and Appeals Office, Energy Department
NOTICES
Decisions and orders, 21798–21802

Housing and Urban Development Department
RULES
Mortgage and loan insurance programs:
Single-family mortgage insurance; nationwide pre-foreclosure sale procedure, 21936–21937

Indian Affairs Bureau
NOTICES
Meetings:
Tribal consultation on—
Welfare assistance, contract support, and housing improvement funds, 21942

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
PROPOSED RULES
Income taxes:
Securities dealers; mark-to-market method of accounting
Hearing cancellation, 21779–21780
NOTICES
Privacy Act:
Systems of records, 21848

International Development Cooperation Agency
See Agency for International Development

International Trade Commission
NOTICES
Import investigations:
Circular welded non-alloy steel pipe from—
Romania and South Africa, 21828–21829
Polyvinyl alcohol from—
China et al., 21829

Interstate Commerce Commission
NOTICES
Environmental statements; availability, etc.:
Chicago & North Western Railway Co. et al., 21829–21830
Railroad operation, acquisition, construction, etc.:
Omaha Public Power District, 21830

Justice Department
See Justice Programs Office
NOTICES
Agency information collection activities under OMB review, 21830

Justice Programs Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Program plans (1995 FY), 21852–21934

Labor Department
See Mine Safety and Health Administration
NOTICES
Agency information collection activities under OMB review, 21830–21831

Mine Safety and Health Administration
NOTICES
Safety standard petitions:
KenAmerican Resources, Inc., et al., 21831–21832

National Credit Union Administration
RULES
Truth in Savings Act; implementation:
Official staff commentary; correction, 21699–21700

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Dance Advisory Panel, 21832–21833
Meetings; Sunshine Act, 21850

National Highway Traffic Safety Administration
NOTICES
Highway safety program; motorcycle helmets and safety belts, benefits; report to Congress, 21847

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
Sea turtle conservation; shrimp trawling requirements—
Additional turtle excluder device requirements within statistical zones, 21741–21745
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 21746–21758
NOTICES
Coastal zone management programs and estuarine sanctuaries:
State programs—
Evaluation findings availability, 21792

National Park Service
NOTICES
Concession contract negotiations:
Grand Canyon National Park; Colorado River running services, 21827
Environmental statements; availability, etc.:
Saint-Gaudens National Historic Site, NH, 21827
Meetings:
Lake Clark National Park Subsistence Resource Commission, 21827

National Science Foundation
NOTICES
Meetings; Sunshine Act, 21850

Nuclear Regulatory Commission
NOTICES
Agency information collection activities under OMB review, 21833
Environmental statements; availability, etc.:
Texas Utilities Electric Co., 21835–21836
Reports; availability, etc.:
Digital upgrades licensing guidelines, 21836
Applications, hearings, determinations, etc.:
Entergy Operations, Inc., 21833–21835

Personnel Management Office
PROPOSED RULES
Group life insurance, Federal employees:
Merger of life insurance regulations, 21759–21772
NOTICES
Meetings:
National Partnership Council, 21837

Presidential Documents
PROCLAMATIONS
Special observances:
Loyalty Day, 1995 (Proc. 6794), 21971

Public Health Service
See Food and Drug Administration
See Substance Abuse and Mental Health Services Administration

Reclamation Bureau
NOTICES
Concessions management; guidelines and policy statement, 21827–21828

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange, Inc., 21839–21840

VOL 60 ISS 85 MY 3 1995 UMI

Applications, hearings, determinations, etc.:
Carrington Laboratories, Inc., 21837
Equitable Variable Life Insurance Co. et al., 21837–21839

Small Business Administration
NOTICES
Disaster loan areas:
Oklahoma, 21840–21841

Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Substance Abuse and Mental Health Services Administration National Advisory Council; correction, 21825

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
NOTICES
Applications, hearings, determinations, etc.:
Gallup Federal Savings & Loan Association, 21848
Schenectady Federal Savings & Loan Association, 21848–21849

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration
NOTICES
Gambling on commercial aircraft; study; comment request, 21845–21846
International air transportation; policy statement, 21841–21845

Treasury Department
See Customs Service
See Internal Revenue Service
See Thrift Supervision Office

Separate Parts in This Issue

Part II
Department of Justice, Office of Justice Programs, 21852–21934

Part III
Department of Housing and Urban Development, 21936–21937

Part IV
Department of Education, 21940

Part V
Department of the Interior, Bureau of Indian Affairs, 21942

Part VI
Environmental Protection Agency, 21944–21968

Part VII
The President, 21971

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6794 21971

5 CFR
Proposed Rules:
870 21759
871 21759
872 21759
873 21759
874 21759

12 CFR
707 21699

14 CFR
71 21700
Proposed Rules:
39 (2 documents) 21772, 21774
71 21776

19 CFR
Proposed Rules:
162 21778

21 CFR
172 21700

24 CFR
200 21936
203 21936

26 CFR
Proposed Rules:
1 21779

40 CFR
52 (6 documents) 21702, 21703, 21706, 21707, 21713, 21717
70 21720
80 21724
170 (3 documents) 21944, 21948, 21953
180 (6 documents) 21725, 21728, 21731, 21733, 21734, 21736
185 21736
Proposed Rules:
52 (5 documents) 21780, 21781, 21783
156 21965
170 (2 documents) 21955, 21960
180 21784
185 21786
300 21786

44 CFR
64 21739

50 CFR
217 21741
227 21741
661 21746

VOL
60
ISS
85
MY
3
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 85
Wednesday, May 3, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings; Correcting Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule; correcting amendments.

SUMMARY: The NCUA is amending Appendix C, its commentary to the Truth in Savings regulation. This appendix contains the NCUA Official Staff Interpretation for the Truth in Savings Act and regulation for credit unions. This document contains clarifications, technical amendments and revisions to Appendix C.

DATES: These correcting amendments are effective as of January 1, 1995. Compliance with Appendix C is optional until May 22, 1995, except for those credit unions that have assets of $2 million or less that are not automated, which have a later compliance date of January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Martin S. Conrey, Staff Attorney, Office of General Counsel, NCUA, 1775 Duke Street, Alexandria, VA 22315–3428, or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

NCUA's final Official Staff Interpretation, also known as the Commentary, was published November 21, 1994 (59 FR 59887), and is the subject of these revisions. The Commentary acts as the official staff interpretation of part 707 (12 CFR part 707), NCUA's rule implementing the Truth in Savings Act. (12 U.S.C. 4301 *et seq.*). The Commentary is designed to provide guidance to credit unions in applying the regulation to specific transactions and is a substitute for, and a supplement to, individual staff interpretations.

Need for Correction

As published, Appendix C to the final rule contained several drafting and technical errors that are confusing or erroneous, and need to be clarified and corrected.

List of Subjects in 12 CFR Part 707

Advertising, Credit unions, Consumer protection, Interest, Interest rates, Truth in savings.

For the reasons set forth above the following correcting amendments are made to 12 CFR part 707 as indicated below:

PART 707—TRUTH IN SAVINGS

1. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

Appendix C to Part 707—[Corrected]

2. Appendix C to part 707 is amended as follows:

a. Under § 707.2(a)5, entitled "Use of synonyms", the third sentence is amended by adding to the end of the sentence the phrase "and, for account disclosures, is used in conjunction with the correct legal term".

b. Under § 707.2(j)1, a new paragraph (vi) is added to read as set forth below.

c. Section 707.2(v) entitled "Tiered-Rate Account" is redesignated as § 707.2(y).

d. Under newly designated § 707.2(y) entitled "Tiered-Rate Account", the final parenthetical in paragraph 1. is revised as set forth below.

e. Under § 707.3(a)1, in the first sentence, the first word, "Alal," is revised to read "All".

f. Under § 707.3(e)1, in the fourth sentence, the phrase "the in" is revised to read "in the".

g. Under § 707.4(b)(4) entitled "Fees", the second paragraph 2 and paragraphs 3 and 4 are redesignated as paragraph 3 and paragraphs 4 and 5, respectively.

h. Under § 707.4(b)(4)2(ii), the phrase "for photocopying forms" is revised to read "for photocopying".

i. Under § 707.4(b)(5) entitled "Transaction Limitations", the first sentence under paragraph 1. introductory text entitled "General rule," is amended by adding the word "of" between the words "Examples" and "limitations".

j. Under § 707.5(b)5. entitled "Renewal of a term share account", paragraph (i) is amended by adding at the end of the first sentence the word "apply".

k. Under § 707.5(b)5. entitled "Renewal of a term share account", paragraph (ii) is amended by adding at the end of the first sentence the word "apply".

l. Under § 707.6(b)(2), paragraph 1. entitled "Definition of earned", the final parenthetical is revised as set forth below.

m. Under § 707.7(c)3, the heading "*Withdrawal or principal.*" is revised to read "*Withdrawal of principal.*".

n. Under § 707.8(b)3 entitled "Representative examples." paragraph (ii) is revised as set forth below.

The additions and revisions read as follows:

Appendix C to Part 707—Official Staff Interpretations

* * * * *

§ 707.2 Definitions.

* * * * *

(j) *Dividend Declaration Date.*

1. * * *

vi. "As of the last dividend declaration date" (the last dividend period upon which a dividend has been paid).

* * * * *

(y) *Tiered-Rate Account*

1. * * * (See Appendix A, part I, D.)

* * * * *

§ 707.6 Periodic Statement Disclosures.

* * * * *

(b) Statement Disclosures

* * * * *

(b)(2) *Amount of Dividends or Interest*

1. *Definition of earned.* * * * (See 707.6(b)(1)1. and 707.7(c)2. of this Appendix.)

* * * * *

§ 707.8 Advertising.

* * * * *

(b) *Permissible Rates*

* * * * *

3. *Representative examples.* * * *

ii. Indicate that various rates are available, such as by stating short-term and longer-term maturities along with the applicable annual percentage yields:

VOL 60 ISS 85 MY 3 1995 UMI

"We offer share certificates with annual percentage yields that depend on the maturity you choose. For example, our one-month share certificate earns a 2.75% APY. Or, earn a 5.25% APY for a three-year share certificate."

* * * * *

By the National Credit Union Administration Board on April 27, 1995.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–10851 Filed 5–2–95; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–ACE–6]

Proposed Removal of Class E Airspace; St. Louis, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document removes Class E airspace at St. Louis, MO. Weiss Airport at St. Louis, MO, has been abandoned making this necessary.

EFFECTIVE DATE: May 3, 1995.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, ACE–530c, Air Traffic Operations Branch, Federal Aviation Administration, Docket No. 95–ACE–6, 601 East 12th Street, Kansas City, MO 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

The only SIAP for the airport was cancelled on July 21, 1994, after the airport was abandoned.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at St. Louis-Weiss Airport, MO, by removing the controlled airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 St. Louis, MO [Removed]

Weiss Airport

(Lat. 38°32'13.5" N, long. 90°26'48.6" W)

* * * * *

Herman J. Lyons, Jr.,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 95–10772 Filed 5–2–95; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 93F–0286]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Acesulfame Potassium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of acesulfame potassium as a nonnutritive sweetener in alcoholic beverages. This action is in response to a petition filed by Hoechst Celanese Corp.

DATES: Effective May 3, 1995; written objections and requests for a hearing by June 2, 1995.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 10, 1993 (58 FR 47746), FDA announced that a food additive petition (FAP 3A4391) had been filed by Hoechst Celanese Corp., Rt. 202–206 North, Somerville, NJ 08876, proposing that § 172.800 *Acesulfame potassium* (21 CFR 172.800) be amended to provide for the safe use of acesulfame potassium as a nonnutritive sweetener in alcoholic beverages.

I. Determination of Safety

Under Section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act)(21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause," a food additive cannot be listed for a particular use unless a fair evaluation of the evidence establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision: "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of the additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstance" (H. Rept. 2284, 85th Cong., 2d sess. 4 (1958)). This concept of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)).

The food additives anticancer, or Delaney, clause (section 409(c)(3)(A) of the act) further provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to constituents of the additive. That is, where an additive has not been shown to cause cancer, even though it contains a carcinogenic impurity, the additive is not subject to the legal effect of the Delaney clause. Rather, the additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)).

II. Evaluation of Safety of the Petitioned Use of the Additive

In its original evaluation of acesulfame potassium, FDA concluded that a review of animal feeding studies showed that there is no association between neoplastic disease (cancer) and consumption of this additive (53 FR 28379 at 28380 and 28381, July 28, 1988). No new information has been received that would change that conclusion. Therefore, FDA has evaluated the safety of the petitioned use of acesulfame potassium under the general safety clause, considering all available data.

In determining whether the proposed use of an additive is safe, FDA considers, among other things, whether an individual's estimated daily intake of the additive will be less than the acceptable daily intake established from toxicological information. The agency has established an acceptable daily intake for acesulfame potassium of 15 milligrams per kilogram (mg/kg) of body weight per day (equivalent to 900 mg per person per day (mg/p/d)). The agency described its analysis of the data that led to the establishment of the acceptable daily intake in its original decision on the use of acesulfame potassium (53 FR 28379). The agency has considered consumer exposure to acesulfame potassium resulting from its use in alcoholic beverages, as well as all currently listed uses and other uses in a pending petition. FDA has calculated the 90th percentile estimated daily intake from these combined uses to be 180 mg/p/d, which is well below the acceptable daily intake.

A. Special Conditions Relevant to Use in Alcoholic Beverages

The use of acesulfame potassium as a nonnutritive sweetener in alcoholic beverages (e.g. malt beverages, wine coolers, presweetened cordials and cocktails) may subject the sweetener to conditions other than those considered in the petitions that supported the currently listed uses of this additive. FDA has evaluated data in the subject petition and other information regarding the stability of acesulfame potassium under a variety of conditions that characterize the proposed uses in alcoholic beverages. Based on these data and information, the agency concludes that acesulfame potassium is stable under the proposed conditions of use.

B. Methylene Chloride

Residual amounts of reactants and manufacturing aids are commonly found as contaminants in chemical products, including food additives. FDA, in its evaluation of the safety of acesulfame potassium, reviewed both the safety of the additive and the chemical impurities that may be present in the additive from the manufacturing process.

In the current manufacturing process for acesulfame potassium, methylene chloride, a carcinogenic chemical, is used as a solvent in the initial step. Subsequently, the product is neutralized, stripped of methylene chloride, and recrystallized from water. Data submitted by the petitioner show that methylene chloride could not be detected in the final product at a limit of detection of 40 parts per billion (ppb).

FDA has recently discussed the significance of the use of methylene chloride in the production of acesulfame potassium. That discussion, published in the **Federal Register** of December 1, 1994 (59 FR 61538, 61540, and 61543), is incorporated into the agency's determination on the subject petition.

Specifically, in evaluating the safety of certain uses of the additive that are currently listed, FDA concluded, using risk assessment procedures, that the estimated upper-bound limit of individual lifetime risk from the potential exposure to methylene chloride resulting from the uses of acesulfame potassium, including the use of acesulfame potassium in alcoholic beverages, is 2.6×10^{-11}, or less than 3 in 100 billion. The agency also concluded that, because of the numerous conservative assumptions used in calculating this estimated upper-bound limit of risk, this upper-bound limit would be expected to be substantially higher than any actual risk (59 FR 61538 at 61539, 61540 at 61542, and 61543 at 61544, December 1, 1994). No new information has been received that would change the agency's previous conclusion (Ref. 1). Therefore, the agency concludes that there is a reasonable certainty of no harm from the exposure to methylene chloride that might result from the proposed use of acesulfame potassium.

In the evaluation described above, the agency also considered whether a specification is necessary to control the amount of potential methylene chloride impurity in acesulfame potassium. FDA concluded that there is no reasonable possibility that methylene chloride will be present in amounts that present a health concern, and that there would thus be no justification for requiring manufacturers to monitor compliance with a specification (59 FR 61538 at 61539, 61540 at 61542, and 61543 at 61544, December 1, 1994). No new information has been received that would change the agency's previous conclusion. Therefore, the agency affirms its prior determination that a specification for methylene chloride impurity in acesulfame potassium is unnecessary.

III. Conclusion of Safety

FDA has evaluated the data in the petition and other relevant material and concludes that the use of acesulfame potassium in alcoholic beverages is safe. Therefore, the agency concludes that § 172.800 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

V. Objections

Any person who will be adversely affected by this regulation may at any time on or before June 2, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a

VOL 60 ISS 85 MY 3 1995 UMI

waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from M. DiNovi, Chemistry Review Branch, CFSAN, FDA, to P. Hansen, Biotechnology Policy Branch, CFSAN, FDA, dated April 28, 1994.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 379e).

2. Section 172.800 is amended by adding new paragraph (c)(12) to read as follows:

§ 172.800 Acesulfame potassium.

* * * * *

(c) * * *

(12) Alcoholic beverages.

* * * * *

Dated: April 24, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–10897 Filed 5–2–95; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 95–6–6924; FRL–5190–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District and San Bernardino County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on January 19, 1995. The revisions concern rules from the Mojave Desert Air Quality Management District (MDAQMD) and the San Bernardino County Air Pollution Control District (SBCAPCD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from the loading, transfer, and storage of organic liquids, including gasoline. Thus, EPA is finalizing the approval of these revisions into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on June 2, 1995.

ADDRESSES: Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Mojave Desert Air Quality Management District (formerly San Bernardino County APCD), 15428 Civic Drive, Suite 200, Victorville, CA 92392–2383.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 1995, in 60 FR 3794, EPA proposed to approve the following rules into the California SIP: MDAQMD's Rule 461, "Gasoline Transfer and Dispensing," and Rule 462, "Organic Liquid Loading," and SBCAPCD's Rule 463, "Storage of Organic Liquids" (the NPRM). Rules 461 and 462 were adopted by MDAQMD on May 25, 1994, and Rule 463 was adopted by SBCAPCD on November 2, 1992. These rules were submitted by the California Air Resources Board to EPA on January 11, 1993 (Rule 463) and July 13, 1994 (Rules 461 and 462). These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPRM cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in the NPRM and in technical support documents available at EPA's Region IX office, dated July 14, 1994 (Rule 463) and August 26, 1994 (Rules 461 and 462).

Response to Public Comments

A 30-day public comment period was provided in the NPRM. EPA received no comments on Rules 461, 462, and 463.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 6, 1995.

Nora L. McGee,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c) (191)(i)(C) and (198)(i)(E) to read as follows:

52.220 Identification of plan.

* * * * *

(c) * * *

(191) * * *

(i) * * *

(C) San Bernardino County Air Pollution Control District.

(*1*) Rule 463, adopted on November 2, 1992.

* * * * *

(198) * * *

(i) * * *

(E) Mojave Desert Air Quality Management District.

(*1*) Rules 461 and 462, adopted on May 25, 1994.

* * * * *

[FR Doc. 95–10816 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–W

40 CFR Part 52

[WA25–1–6520a; FRL–5190–1]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) is approving in part, disapproving in part, and taking no action on the Regulations of the Southwest Air Pollution Control Authority (SWAPCA) for the control of air pollution in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties, Washington, as revisions to the Washington State Implementation Plan (SIP). These Regulations were submitted by the Director of the Washington State Department of Ecology (WDOE) on April 11, 1994. In accordance with Washington statutes, SWAPCA rules must be at least as stringent as the WDOE statewide rules.

DATES: This action will be effective on July 3, 1995 unless adverse or critical comments are received by June 2, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air Programs Branch (AT–082), EPA, Docket # WA25–1–6520, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air Programs Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and Washington Department of Ecology, PO Box 47600, Olympia, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Kelly McFadden, Air Programs Branch (AT–082), EPA, Region 10, Seattle, Washington 98101, (206) 553–1059.

SUPPLEMENTARY INFORMATION:

I. Background

On April 11, 1994, the Director of WDOE submitted to EPA Region 10 regulations for SWAPCA affecting Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties. SWAPCA and WDOE held joint public hearings on June 15, 1993 and September 21, 1993, to receive public comments on the revisions to SWAPCA's rules and the submittal to EPA as a revision to the Washington SIP.

SWAPCA requested that the WDOE submit these additions to EPA for incorporation into the Washington SIP.

II. Description of Plan Revisions

The SWAPCA amendments submitted by WDOE on April 11, 1994 for inclusion into the Washington SIP are local air pollution regulations which are at least as stringent as the statewide rules of the WDOE. EPA is approving in part, disapproving in part, and taking no action on the various portions of SWAPCA's submitted regulations. In this rulemaking, EPA is approving the following sections, except as noted, adopted by SWAPCA on September 21, 1993 under SWAPCA Regulation 400, General Regulations for Air Pollution Sources, as a revision to the Washington SIP:

400–010 Policy and Purpose
400–020 Applicability
400–030 Definitions, except the second sentences of (14) and (43)
400–040 General Standards for Maximum Emissions, except (1) (c) and (d), (2), (4), and the exception provision of (6)(a)
400–050 Emission Standards for Maximum Emissions, except the exception provision in (3)
400–052 Stack Sampling of Major Combustion Sources
400–060 Emission Standards for General Process Units
400–070 Emission Standards for Certain Source Categories, except (7)
400–081 Startup and Shutdown
400–090 Voluntary Limits on Emissions
400–100 Registration and Operating Permits, except the first sentence of (3) (a)(iv), (a)(v) and (5)
400–101 Sources Exempt From Registration Requirements
400–105 Records, Monitoring and Reporting
400–107 Excess Emissions
400–110 New Source Review
400–112 Requirements for New Sources in Nonattainment Area
400–113 Requirements for New Sources in Attainment or Nonclassifiable Areas

VOL 60 ISS 85 MY 3 1995 UMI

400–114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source
400–151 Retrofit Requirements for Visibility Protection
400–161 Compliance Schedules
400–171 Public Involvement
400–190 Requirements for Nonattainment Areas
400–200 Creditable Stack Height and Dispersion Techniques
400–205 Adjustment for Atmospheric Conditions
400–210 Emission Requirements of Prior Jurisdiction
400–220 Requirements for Board Members
400–230 Regulatory Actions
400–240 Criminal Penalties
400–250 Appeals
400–260 Conflict of Interest

The following discussion of sections in SWAPCA Regulation 400, explains which sections EPA is approving, disapproving, or taking no action on. The following actions are being approved unless exceptions are noted:

Section 010—Policy and Purpose, explains SWAPCA's goals and policies. Section 020—Applicability, explains over what sources and area SWAPCA's regulations apply. EPA finds that Section 030—Definitions, are consistent with the requirements of 40 CFR Part 51, Subpart I, however the second sentences of definitions (14) Class I area and (43) Mandatory Class I area are not being acted on as they may create a future conflict if a SWAPCA source is found to affect a Class I area that is not listed. Section 030 Definition (78) SIP shall be approved as its changed to read "* * * and approved by EPA" rather than "* * * and submitted to EPA for approval". Section 040—General Standards for Maximum Emissions, details the maximum emissions allowed within SWAPCA's jurisdiction for those emission units emitting criteria pollutants and that are not more specifically controlled by SWAPCA Sections 050 through 075. Section 040(1) (c) and (d) are being disapproved due to their allowance for the establishment of alternative opacity limits. EPA is also disapproving the exception provision of Section 040(6)(a) which provides an exception to the sulfur dioxide emission limitation. EPA is taking no action on Section 040(2) Fallout and Section 40(4) Odors as these provisions are not related to the criteria pollutants regulated under the SIP. Section 050—Emission Standards for Combustion and Incineration Units, contains more specific requirements than Section 040, and is included for those emission units that incinerate or combust as part of their operation process, but the exception provision in paragraph (3) allows for the establishment of an alternative oxygen correction factor for combustion and incineration sources and is therefore being disapproved. Section 052—Stack Sampling of Major Combustion Sources, contains requirements for particular sources to monitor or conduct emissions testing in order to prove compliance for their applicable pollutants. Section 060—Emission Standards for General Process Units, explains the maximum particulate matter permitted for those process units not specifically covered in SWAPCA Sections 050 through 075 and references the procedures that may be used to determine source compliance. EPA is approving Section 070—Emission Standards for Certain Source Categories except for subsection (7)—Sulfuric Acid Plants, where no action is taken as it is not related to the criteria pollutants regulated under the SIP. No action is being taken on Section 075—Emission Standard for Sources Emitting Hazardous Air Pollutants because it has no relation to the criteria pollutants that are regulated under the SIP. Section 081—Startup and Shutdown, establishes a requirement that State and local air pollution control authorities consider any physical constraints on the ability of a source to comply with a standard whenever an authority promulgates a technology-based emission standard or makes a control technology determination. Where the authority determines that the source is not capable of achieving continuous compliance with a standard during startup or shutdown, the authority shall establish appropriate limitations to regulate the performance of the source during startup or shutdown conditions. Section 090—Voluntary Limits on Emissions, provides a mechanism for the owner or operator of a source to apply for, and obtain, enforceable conditions that limit the source's potential to emit. Section 100—Registration and Operating Permits, explains those sources that need to register with SWAPCA for operation. The portions that are not being acted on eliminate the requirement for operating program sources to pay a fee due to EPA's approval of SWAPCA's Operating Permit Program. Section 101—Sources Exempt From Registration Requirements, lists the emissions units that are exempt from registration with the Authority and the requirement to maintain sufficient documentation to prove such. Section 105—Records, Monitoring and Reporting, explains the steps that notified sources must follow in order to comply with the applicable emission limitations and control measures required by SWAPCA. Section 107—Excess Emission, establishes requirements for reporting periods of excess emissions and the procedures and criteria for determining, in the context of an enforcement action, when such excess emissions are unavoidable and could therefore be excused and not subject to penalty. Section 110—New Source Review, includes the procedures for submittal of applications, making completeness determinations and final determinations, and appeals of orders of approval. Section 112—Requirements for New Sources in Nonattainment Areas, specifies the requirements for new and modified major and minor stationary sources proposing to locate in designated nonattainment areas. Section 113—Requirements for New Sources in Attainment or Nonclassifiable Areas, specifies the requirements for new and modified major and minor stationary sources located in attainment areas. Section 114—Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source, explains the procedure that is to be followed when replacing or altering the emission control technology on an existing stationary source. EPA is taking no action on Section 115—Standards of Performance for New Sources, as this provision is not related to the criteria pollutants regulated under the SIP. EPA is disapproving the following: Section 120 Bubble Rules, Section 130 Acquisition and Use of Emission Reduction Credits, Section 131 Issuance of Emission Reduction Credits, and Section 136 Use of Emission Reduction Credits; as these regulations do not comply with the requirements of EPA's Final Emissions Trading Policy Statement (51 FR 43814) for source-specific alternative emission limits (bubbles) and creditable emission reductions for new source permitting. Section 141—Prevention of Significant Deterioration (PSD) is being disapproved as it does not meet the requirements of 40 CFR 51.166. Section 151—Retrofit Requirements for Visibility Protection, requires sources that may cause or contribute to impairment of visibility by emitting more than 250 tons/yr of any contaminant and affecting any mandatory Class I area to apply technology to reduce that impairment. Section 161—Compliance Schedules, allows SWAPCA to issue a schedule to sources violating an emission standard,

or another provision of regulation 400, which will bring the source into compliance within a specified period of time. Section 171—Public Involvement, lists which types of application or other actions require public notice, and what constitutes public notice. The inclusion of Section 172—Technical Advisory Council, is not a requirement of the Clean Air Act, and does not directly apply to the regulation of the criteria pollutants, and thus is not being acted for inclusion into the SIP. Section 180—Variance, is being disapproved because it allows SWAPCA to grant a variance to the requirements governing the quality, nature, duration, or extent of discharges of air contaminants. Section 190—Requirements for Nonattainment Areas, requires consultation with local government and public involvement. Section 200—Credible Stack Height and Dispersion Techniques, explains how to determine a source's credible stack height. Section 205—Adjustment for Atmospheric Conditions, prohibits varying the emissions rate in response to the varying atmospheric conditions. Section 210—Emission Requirements of Prior Jurisdictions, requires that the more stringent standards apply when jurisdiction is transferred. Section 220—Requirements for Board Members, prohibits Board members from administering enforcement programs in which a significant portion of their income is derived. Section 230—Regulatory Actions, explains the enforcement actions to be taken by SWAPCA when its regulations have not been followed. Section 240—Criminal Penalties, subjects violators of SWAPCA's regulations to the provisions of RCW 70.94.430. Section 250—Appeals, explains who appeals may be made to and under what circumstances. Section 260—Conflict of Interest, explains that all board members and officials that vote on air pollution sources must comply with the Federal Clean Air Act:

SWAPCA's regulations are similar to the state of Washington's WAC 173–400, and therefore if a more detailed explanation of the approvals/disapprovals is wanted, one should refer to the January 15, 1993 (58 FR 4578) **Federal Register** notice.

III. Summary of EPA Action

EPA is approving the following sections, with the following exceptions, of SWAPCA 400—General Regulation for Air Pollution Sources: 010; 020; 030 except the second sentences of (14) and (43); 040 except (1)(c) and (1)(d) (2) (4) and the exception provision of (6)(a); 050 except the exception provision of (3); 052; 060; 070 except (7); 081; 090; 100 except the first sentence of (3)(a)(iv) and (5); 101; 105; 107; 110; 112; 113; 114; 151; 161; 171; 190; 200; 205; 210; 220; 230; 240; 250; and 260.

EPA is disapproving the following sections: 040(1) (c) and (d); the exception provision of 040(6)(a); the exception provision in 050(3); 120; 130; 131; 136; 141; and 180.

EPA is taking no action on the following sections: the second sentence of 030 (14) and (43); 040(2); 040(4); 070(7); 075; the first sentence of 100(3)(a)(iv); 100(3)(a)(v); 100(5); 115; and 172.

IV. Administrative Review

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective July 3, 1995 unless, by June 2, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 3, 1995.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

VOL 60 ISS 85 MY 3 1995 UMI

Dated: March 30, 1995.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(51) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(51) On April 11, 1994 the Washington Department of Ecology (WDOE) submitted the Southwest Air Pollution Control Authority (SWAPCA) 400 General Regulations for Air Pollution Sources as a revision to the Washington State Implementation Plan (SIP).

(i) Incorporation by reference.

(A) April 11, 1994 letter from the Director of WDOE to EPA Region 10 submitting the Southwest Air Pollution Control Authority SWAPCA 400 Regulation, General Regulations for Air Pollution Sources.

(B) Regulations of the Southwest Air Pollution Control Authority—Sections 010; 020; 030 except the second sentences of (14) and (43); 040 except (1)(c) and (1)(d) (2) (4) and the exception provision of (6)(a); 050 except the exception provision of (3); 052; 060; 070 except (7); 081; 090; 100 except the first sentence of (3)(a)(iv) and (5); 101; 105; 107; 110; 112; 113; 114; 151; 161; 171; 190; 200; 205; 210; 220; 230; 240; 250; and 260, effective on November 8, 1993.

[FR Doc. 95–10812 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL107–1–6708a; FRL–5190–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA approves the Illinois, September 26, 1994, State Implementation Plan (SIP) revision request which grants a variance to J.M. Sweeney Co. (Sweeney) from Stage II vapor recovery requirements from November 1, 1993, until March 31, 1995. This variance has been granted because Sweeney has demonstrated that immediate compliance with the requirements at issue would impose an arbitrary and unreasonable hardship. USEPA made a finding of completeness on the SIP submittal on October 28, 1994. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this action, USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. Please be aware that USEPA will institute another rulemaking notice on this action only if warranted by significant revision to the rulemaking based on any comments received in response to today's action. Parties interested in commenting on this action should do so at this time.

DATES: This action will be effective July 3, 1995 unless an adverse comment is received by June 2, 1995. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the Illinois submittal are available for public review during normal business hours, between 8:00 a.m. and 4:30 p.m., at the above address. A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), Room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6082.

SUPPLEMENTARY INFORMATION: On January 12, 1993, USEPA approved Illinois's Stage II vapor recovery rules (35 Ill. Adm. Code 218) as a revision to the Illinois SIP for ozone, applicable to the Chicago ozone nonattainment area (Cook, DuPage, Kane, Lake, McHenry, Will Counties and Aux Sable and Goose Lake Townships in Grundy County and Oswego Township in Kendall County). These regulations satisfy section 182(b)(3) of the Clean Air Act as amended in 1990, which requires certain ozone nonattainment areas to require specified gasoline dispensing facilities to install and operate Stage II vapor recovery equipment. Stage II vapor recovery systems are designed to control and capture at least 95 percent of the Volatile Organic Compound (VOC) vapors emitted during the refueling of motor vehicles. Among these Stage II requirements is the provision that certain gasoline dispensing facilities, such as Sweeney's facility in Cicero, Illinois, must install Stage II vapor recovery equipment no later than November 1, 1993.

Sweeney contends that it had initiated efforts to achieve compliance by the November 1, 1993 compliance date. Among these efforts was a site evaluation conducted by a geophysical consulting firm. On August 30, 1993, the consulting firm informed Sweeney that petroleum contamination likely occurred at the site. On August 31, 1993, Sweeney notified the Illinois Emergency Management Agency (IEMA) of the suspected contamination and of the likely need for remediation. Subsequent on-site sampling confirmed that remediation is necessary and that it will require removal of both soil and some of the tanks. Installing Stage II equipment before the completion of the remediation would require that some of the Stage II equipment would have to be dismantled and removed during the remediation, which, according to Sweeney and the Illinois Environmental Protection Agency, would cost Sweeney an additional $50,000 to $60,000. As of July 14, 1994, the full areal extent of the contamination was yet to be identified, pending Sweeney's ability to gain access to off-site sampling locations.

On December 17, 1993, Sweeney filed a petition with the Illinois Pollution Control Board (IPCB) requesting a variance from meeting the November 1, 1993, compliance date on the grounds that requiring installation of the Stage II vapor recovery equipment prior to remediation would cause an unreasonable financial hardship. The IPCB is charged under the Illinois Environmental Protection Act with the responsibility of granting variance from regulations issued by the Board whenever it is found that compliance with the regulations would impose an arbitrary or unreasonable hardship upon the petitioner for the variance.

On September 1, 1994, the IPCB granted the variance extending Stage II compliance for Sweeney until March 31, 1995. Given both the high additional cost associated with installing and dismantling Stage II equipment before the remediation is completed and the low environmental impact occasioned by temporary noncompliance before March 31, 1995, the IPCB found that requiring Sweeney to have installed Stage II equipment by November 1, 1993, does constitute an unreasonable hardship. Illinois submitted this variance as a revision to the Illinois ozone SIP on September 26, 1994.

Final Rulemaking Action

The USEPA is approving this SIP revision on the basis that the uncontrolled emissions generated by Sweeney as a result of the variance will not contribute significantly to ozone formation, given that the variance will expire on March 31, 1995, before the onset of the ozone season which is April 1.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial amendment and anticipates no adverse comments. However, USEPA is publishing a separate document in this **Federal Register** publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on July 3, 1995, unless adverse or critical comments are received by June 2, 1995.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw the approval before its effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking notice. Please be aware that USEPA will institute another rulemaking notice on this action only if warranted by significant revision to the rulemaking based on any comments receives in response to today's action.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises that this action will be effective July 3, 1995.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids the USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

Under section 307(b)(1)of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Volatile organic compounds.

Dated: March 29, 1995.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(110) to read as follows:

§ 52.720 Identification of plan.

(c) * * *

(110) On September 26, 1994, the State of Illinois submitted a revision to its ozone State Implementation Plan for the J. M. Sweeney Company located in Cicero, Cook County, Illinois. It grants a compliance date extension from Stage II vapor control requirements (35 Ill. Adm. Code 218.586) from November 1, 1993, to March 31, 1995.

(i) Incorporation by reference.

(A) Illinois Pollution Control Board Final Opinion and Order, PCB 93–257, adopted on September 1, 1994, and effective on September 1, 1994. Certification dated 9/23/94 of Acceptance by J. M. Sweeney.

[FR Doc. 95–10819 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[DE–16–1–5887a, DE20–1–6548a; FRL–5180–5]

Approval and Promulgation of Air Quality Implementation Plans; Delaware: Regulation 24—Control of Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware on January 11, 1993 and January 20, 1994. The revision pertains to Delaware Regulation 24—"Control of Volatile Organic Compound Emissions", sections 1 to 9, 13 to 35, 37 to 43, and Appendices A to H. These sections of Regulation 24 establish emission standards that represent the application of reasonably available control technology (RACT) to categories of stationary sources of volatile organic compounds (VOCs), and establish associated testing, monitoring, recordkeeping, compliance certification, and permit requirements. This revision was submitted to comply with the RACT "Catch-up" provisions of the Clean Air Act Amendments of 1990 (CAAA). This action is being taken

VOL
60
ISS
85
MY
3
1995
UMI

under section 110 of the Clean Air Act (CAA).

DATES: This final rule is effective July 3, 1995 unless notice is received on or before June 2, 1995 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164, at the EPA Region III address.

SUPPLEMENTARY INFORMATION: On January 11, 1993, the Delaware Department of Natural Resources & Environmental Control (DNREC) submitted several revisions to its SIP. One of those revisions to the SIP is to establish statewide applicability for Delaware's VOC RACT regulations. The VOC RACT-related revisions were submitted to comply with the RACT "Catch-up" provisions of the CAA. This revision consists of amendments to Delaware's Regulation 24, "Control of Volatile Organic Compound Emissions", adopted in accordance with the recommendations made by EPA VOC RACT Model Rules, June 1992. This revision requires and establishes RACT to control VOC emissions from twenty-nine (29) control technique guideline (CTG) source categories (sections 13 to 42 of Regulation 24) and a section which applies to all major VOC sources not covered by a CTG (section 43 of Regulation 24 which applies to non-CTG sources). This regulation replaces and supersedes in its entirety Regulation 24, "Control of VOC Emissions", dated July 3, 1990. The other SIP revisions submitted on January 11, 1993 are the subject of separate rulemaking notices.

On January 20, 1994, Delaware DNREC submitted an amended VOC RACT regulation: Regulation 24, Section 43, entitled, "Other Facilities that Emit VOCs". This submittal replaces and supersedes Regulation 24, Section 43 submitted on January 11, 1993.

This action concerns only sections 1 to 9, 13 to 35, 37 to 42, parts of section 43, and Appendices A to H of Regulation 24. Sections 43(a)(5) and 43(b)(3) of the January 20, 1994 submittal are the subject of separate rulemaking.

I. Background

Section 182(b)(2) of the CAA requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. Section 182(b)(2) requires the state to submit a RACT SIP revision for each of the following categories of sources: (1) Sources covered by an existing CTG (i.e., a CTG issued prior to the enactment of the Amendments), (2) sources covered by a post-enactment CTG, and (3) all major sources not covered by a CTG. This RACT requirement makes nonattainment areas that previously were exempt from RACT requirements "catch-up" to those nonattainment areas that became subject to those requirements during an earlier period, and therefore is known as the RACT Catch-up requirement. In addition, it requires newly designated ozone nonattainment areas to adopt RACT rules consistent with those previously designated nonattainment areas.

The entire State of Delaware (Kent, New Castle, and Sussex Counties), is located in the ozone transport region (OTR) that was statutorily created by section 184 of the CAA. As such, Delaware was required to adopt RACT rules for all CTG and non-CTG sources throughout the State by November 15, 1992. Therefore, under the RACT Catch-up provision of section 182(b)(2), Delaware was required to submit RACT rules for Kent, New Castle, and Sussex Counties for sources covered by pre-enactment CTGs; to adopt RACT for all sources covered by a post-enactment CTG; and to submit non-CTG rules for all remaining major stationary sources having the potential to emit 25 TPY in Kent and New Castle Counties and 50 TPY of VOC in Sussex County.

In summary, to fully comply with the RACT Catch-up provisions of the CAA, Delaware is required to expand its RACT regulations to statewide. It must adopt all RACT regulations for all CTG sources and all major non-CTG VOC sources (VOC sources with the potential to emit 25 TPY in Kent and New Castle Counties nonattainment area and 50 TPY in Sussex County) throughout the State. Delaware must require sources to comply with these provisions as expeditiously as possible, but no later than May 31, 1995. In the case of RACT rules adopted pursuant to a post-enactment CTG, Delaware would need to establish a compliance date consistent with that set forth in the CTG or a related document.

II. EPA Evaluation and Action

VOCs contribute to the production of ground level ozone and smog. These rules were adopted as part of an effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone. The following is EPA's evaluation of and action on sections 1 to 9, 13 to 35, 37 to 42, parts of 43, and appendices A to H of Regulation 24, for the State of Delaware. Detailed descriptions of the amendments addressed in this document, and EPA's evaluation of the amendments, are contained in the technical support document (TSD) prepared for these rulemaking actions by EPA. Copies of the TSD are available from the EPA Regional office listed in the **ADDRESSES** section of this document.

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAAA and EPA regulations, as found in section 110 and Part D of the CAAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for this action, appears in various EPA policy guidance documents. For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of CTG documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for RACT for specific source categories. The CTGs applicable to sections 13 to 35, 37 to 42, of Regulation 24 are entitled, Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles and Light Duty Trucks, EPA–450/2–77–008, May 1977; Surface Coating of Metal Furniture, EPA–450/2–77–032, December 1977; Surface Coating of Large Appliances, EPA–450/2–77–034, December 1977; Surface Coating for Insulation of Magnet Wire, EPA–450/2–77–033, December 1977; Surface Coating of Miscellaneous Parts and Products, EPA–450/2–78–015, June 1978; Bulk Gasoline Plants, EPA–450/2–77–035, December 1977; Tank Truck Loading Terminals, EPA–450/2–77–026, December 1977; Design Criteria Document—Gasoline Dispensing Facilities—Stage I, November 1975; Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA–450/2–78–051, December 1978; Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds, EPA–450/2–77–025, October 1977; Petroleum Refinery Equipment, EPA–450/2–78–036, June 1978; Petroleum Liquid Storage in External Floating Roof Tanks, EPA–450/2–78–047, December 1978; Storage of Petroleum Liquids in Fixed Roof Tanks, EPA–450/2–77–036, December 1977; Leaks from Natural Gas/Gasoline Processing Plants, EPA–450/3–83–007, December 1983; Cutback Asphalt, EPA–450/2–77–037, December 1977; Perchloroethylene Dry Cleaning Systems, EPA–450/2–78–050, December 1978; Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry, EPA–450/2–83–006, March 1984. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987) and "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988). In general, these guidance documents are designed to ensure that VOC rules are fully enforceable and to strengthen the SIP.

State Submittal: Sections 1 through 9 of Regulation 24 include general applicability, monitoring, recordkeeping, compliance certification, and permit requirements and include definitions and other provisions common to more than one section. Regulation 24 applies to sources located in the entire state of Delaware. Sources that exceed any applicability threshold of Regulation 24 remain subject to the provisions even if the source's throughput or emissions later fall below the applicability threshold. Alternative control plans must be approved by the Department and the U.S. EPA. By November 15, 1993, owners or operators of sources claiming exemption from the surface coating provisions of sections 13 to 22 must certify to the Department that they are exempt and after November 15, 1993 are required to keep daily records documenting the daily VOC emissions and are required to report to the Department if any combined daily VOC emissions exceed 6.8 kg (15 lb). By November 15, 1993 owners or operators of sources subject to the surface coating provisions of sections 13 to 22 must certify to the Department the method of compliance—complying coatings, daily weighted averaging, or control devices—to be used for each affected coating line or operation and are required to keep daily records demonstrating compliance and to report any excess emissions. By November 15, 1993 owners and operators of sources subject to the provisions of sections 23 to 43 must certify to the Department the method of compliance—control system equipment specification, leak detection and repair, coating formulation, work practice, etc.—to be used and are required to keep records for control devices and report excess emissions. Owners and operators of any coating line complying by the use of a control device are required to operate the capture and control device whenever the coating line is in use and are required to ensure the required monitoring system is installed, maintained and calibrated and in use whenever the control device is in operation. Owners or operators of facilities subject to sections 13 to 23 and section 37 are prohibited from using open containers to store or dispose cloth or paper impregnated with VOC or to store spent or fresh VOC used for surface preparation, cleanup or removal of coatings and are prohibited from using VOC to clean spray equipment unless equipment is used to collect the cleaning compounds. Owners and operators of sources subject to Regulation 24 that must make major process changes or major capital expenditures to comply must submit to the Department a compliance schedule within 180 days of the effective date of this regulation. Compliance must be as expeditious as practicable but not later than May 31, 1995.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the CAA.

State Submittal: Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 of Regulation 24 cover coating operations or lines in the following source categories, respectively: automobile and light-duty truck, can, coil, paper, fabric, vinyl, metal furniture, large appliances, magnetic wire, miscellaneous metal parts and products, and flat wood paneling.

A. Common Provisions

A coating line or operation is subject to the emission limits of a section if the daily facility-wide VOC emissions from coating lines in that source category exceeds 6.8 kg (15 lb) without control devices. Each section requires that compliance be demonstrated in one of three ways: use of coatings that comply with the VOC content limits of each section; use of coatings on a coating line whose daily weighted average comply with the VOC content for that coating line; or use of a capture and control system that provides an overall emission reduction that is the lesser of the reduction needed to be equivalent to the VOC content of complying coatings on a "solids basis" (mass VOC per volume of solids) or 95 percent. The VOC content limits in mass per volume of coating, minus water and exempt compounds, as applied, are the same as those contained in the applicable CTG. Section 20 exempts from the VOC content limits the use of up to 0.95 liters (0.25 gallons), in any 8-hour period, of quick drying lacquers used for repair of scratches and nicks on large appliances. Section 22 sets a standard of 0.52 kilograms per liter (4.3 lb/gal) of coating less water and exempt compounds for drum and pail interior coatings. The calculation procedures for daily weighted averaging and for required control device efficiency are provided in Appendix C. Calculations are required daily to demonstrate daily compliance.

B. Coverage of Section 22, Miscellaneous Metal Parts and Products

Section 22 applies to coating of miscellaneous metal parts and products, which include (but are not limited to) small and large farm machinery, small appliances, commercial machinery, industrial machinery, fabricated metal products, coating applications at automobile and light duty truck assembly plants other than prime, primer surfacer, topcoat and final repair, and to any other industrial category that coats metal parts or products under Standard Industrial Classification (SIC) Codes of Major Groups 33 to 39. Section 22 does not apply to the application of coatings regulated under sections 13, 14, 15, 19, 20, and 21, exteriors of completely assembled aircraft, automobile or truck refinishing, and customized topcoating of automobiles and trucks where the daily production is less than 35 vehicles per day. Section 22 does not apply to primer, primer surfacer, topcoat and final repair operations at automobile and light duty truck assembly plants covered under section 13.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Sections 24, 25, 26 and 27 cover bulk gasoline plants, bulk

VOL
60
ISS
85
MY
3
1995
UMI

gasoline terminals, gasoline dispensing facilities, and gasoline tank trucks.

A. Section 24 requires bulk gasoline plants of between 4,000 and 20,000 gallons per day throughput to install a vapor balance system between incoming/outgoing tank trucks and stationary storage tanks, to fill storage vessels by submerged filling, and to incorporate design and operational practices to minimize leaks from storage tanks, loading racks, tank trucks and loading operations.

B. Section 25 requires bulk gasoline terminals of greater than 20,000 gallons per day throughput to equip each loading rack with a vapor collection system to control VOC vapors displaced from gasoline tank trucks during product loading. The vapor control system is limited to emissions of 80 milligrams or less of VOC per liter of gasoline loaded.

C. Both bulk plants and terminals are required to inspect vapor balance or loading racks and VOC collection systems monthly for leaks and to repair leaks within 15 days of discovery. Both bulk plants and terminals are restricted to loading only vapor-tight gasoline tank trucks and to loading tank trucks by submerged filling.

D. Section 26 requires gasoline dispensing facilities to install a vapor balance system, submerged drop tubes for gauge well, vapor tight caps and submerged fill loading on all storage vessels. Both sections 24 and 26 prohibit the transfer of gasoline into a storage tank or into a tank truck unless vapor balance systems are properly used.

E. Section 27 requires gasoline tank trucks equipped for vapor collection be tested at least annually for vapor-tightness and display a sticker near the DOT certification plate that shows the date the truck passed the vapor-tightness test, that shows the truck identification number and that expires not more than 1 year after the date of the test.

F. Sections 24, 25 and 26 also set standards for smaller facilities and tanks: Bulk plants of less than 4,000 gallons per month are only required to fill storage tanks or tank trucks by submerged filling and to discontinue transfer operations if any leaks are observed. A vapor balance system is not required on any tank with a capacity of 550 gallons or less at a bulk plant. However, such tanks are still subject to the requirement that these tanks be filled by submerged filling. Under section 26, dispensing facilities of less than 10,000 gallons per month throughput and certain small storage tanks are required to be loaded by submerged fill. These smaller storage tanks are those of less than 2,000 gallon capacity constructed prior to January 1, 1979, of less than 250 gallons capacity constructed after December 31, 1978, and of less than 550 gallons capacity if used solely for fueling implements of agriculture.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG and other EPA guidance.

State Submittal: Section 28 applies to any vacuum-producing system, wastewater separator and process unit turnaround at petroleum refineries. Uncondensed vapors from vacuum-producing systems must be piped to a firebox or incinerator or compressed and added to the refinery fuel gas. Wastewater separators must be equipped with covers and seals on all separator and forebays. Lids and seals are required on all openings in separators, forebays and their covers and must be kept closed except when in use. During a process unit turnaround the process unit must be vented to a vapor recovery system, flare or firebox. No emissions are allowed from a process unit until the internal pressure reaches 19.7 psia.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Sections 29 and 32 regulate leaks from equipment in VOC service at any process unit at a petroleum refinery or at any natural gas/gasoline processing facility, respectively. Both require open ended lines and valves to be sealed with a second valve, blind flange, cap or plug except during operations requiring process fluid flow. Both require quarterly leak monitoring of pumps in light liquid service, valves, and compressors and require first attempt to repair the leak within five calendar days of discovery and with final repair within 15 calendar days. Both sections reference the leak detection method found in appendix F. Both allow less frequent monitoring of unsafe-to-monitor and difficult-to-monitor valves if a written plan that requires, respectively, monitoring of unsafe-to-monitor as frequently as practicable during safe-to-monitor periods and at least annual leak monitoring of difficult-to-monitor valves. Under both sections, valves in gas/vapor service and in light liquid service may be monitored less frequently if the criteria of the skip period leak detection and repair provisions are met and maintained. Both sections allow certain equipment be exempt from the leak monitoring program. These exemptions are: any pressure relief valve connected to a flare header or operating vapor recovery device, any equipment in vacuum service, any compressor with a degassing vent connected to an operating VOC control device. Also exempted from a leak detection and repair is any pump with dual seals at a natural gas/gasoline processing facility and any pump with dual mechanical seals with a barrier fluid system at refineries. Under section 29, pumps in heavy liquid service at refineries must be leak checked using the method of appendix F only if evidence of a leak is found by sight, sound or smell. Under section 32, pumps in heavy liquid service are exempted from the leak detection and repair provisions. Under section 29, pressure relief valves at refineries must be leak checked after each overpressure relief. Under section 32, pressure relief valves must be leak checked within 5 days unless monitored by non-plant personnel. In the latter case, monitoring must be done the next time monitoring personnel are on site or within 30 days, whichever is the shorter period.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Sections 30 and 31 regulate storage of petroleum liquids that apply to any petroleum liquid storage tank over 40,000 gallons capacity. Section 30 applies to tanks that are equipped with an external floating roof. Section 31 applies to tanks that are of fixed roof construction. Section 30 prohibits storage of petroleum liquid in an external floating roof tank unless the tank is equipped with a continuous secondary seal from the floating roof to the tank wall, the seals are maintained so that there are no visible holes or tears and the seals are intact and uniformly in place. Section 30 also sets design and operation and maintenance criteria for openings in the external floating roof and for gaps in vapor-mounted primary seals. Section 30 requires routine, semi-annual inspections of the roof and seal and requires annual measurement of the seal gap in vapor-mounted primary seals. Section 31 prohibits storage of petroleum liquid in a fixed roof tank unless the tank is equipped with an internal floating roof equipped with closure seal(s) between the roof edge and tank wall, and the seals are maintained so that there are no visible holes or tears. Section 31 also sets design, operational and maintenance criteria for openings, drains and vents.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG and other EPA guidance.

State Submittal: Section 33 applies to all solvent metal cleaning sources (cold cleaning facilities, open top vapor degreasers, and conveyorized degreasers) with the following exemptions: (1) any open top vapor degreasing operation with an open area smaller than one square meter is exempt from the requirement to install a refrigerated chiller, or a carbon adsorption system; and (2) any conveyorized degreaser with an air/solvent interface smaller than 2.0 square meters is exempt from the requirement for a refrigerated chiller, carbon adsorption system or equivalent control system.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 34 prohibits the manufacturing, mixing, storage, use and application of cutback asphalt during the ozone season. Exemptions for long-life stockpiling or use solely as a penetrating prime coat may be granted by the Department. Section 34 also prohibits the manufacturing, mixing, storage, use and application of emulsified asphalt containing VOC during the ozone season.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 35 applies to the following sources of VOCs at all synthesized pharmaceutical manufacturing facilities: each vent from reactors, distillation operations, crystallizers, centrifuges and vacuum dryers, air dryers and production equipment exhaust systems, storage tanks, transfer operations from truck/rail car deliveries to storage tanks, centrifuges, rotary vacuum and other filters, in-process tanks, and leaks from equipment and vessels.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 37 applies to any packaging rotogravure, publication rotogravure, or flexographic printing press at any graphic art systems facility whose maximum theoretical emissions of VOCs—including solvents used to clean each of these printing presses—without control devices from all printing presses are greater or equal to 7.7 tons per year of press-ready ink.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 38 applies to any petroleum solvent dry cleaning facility that consumes more than 123,000 liters of petroleum solvent per year. There should be no perceptible leaks from any portion of the equipment and all traps and doors closed. Any perceptible leaks shall be repaired within 3 days after the leak is detected.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 39 covers drycleaning facilities using perchloroethylene. Section 39 requires a carbon adsorption system for the dryer exhaust. An emission limit of 100 parts per million (volumetric) of VOC is established for the exhaust of this control device. Coin operated facilities are exempt from the requirement for a carbon adsorption system. Section 39 sets the standards recommended in the CTG to minimize VOC emissions from leaks, from treatment, handling and disposal of filters, and from wet wastes from solvent stills.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 40 applies to all equipment in VOC service in any process unit at a synthetic organic chemical, polymer, and resin production facility which manufactures, as an immediate or end product, Methyl Tert-Butyl Ether, Polyethylene, Polypropylene, Polystyrene, and those organic chemicals given in § 60.489 of 40 CFR part 60. A piece of equipment is not in VOC service if the VOC content of the process fluid exceeds 10% by weight. This section does not apply to any synthetic organic chemical, polymer, or resin manufacturing facility whose annual design production capacity is less than 1,000 megagrams (Mg) (1,100 tons) of product. Any liquid pump that has a dual mechanical pump seal with a barrier fluid system, and any compressor with a degassing vent that is routed to an operating VOC control device are exempt from the inspection and repair standard. Equipment operated entirely under a vacuum and pressure relief valve that is connected to an operating flare header or vapor recovery device are exempt from the inspection and repair standard.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 41 applies to the manufacture of polymer resins: (1) for the manufacture of high-density polyethylene using a liquid phase slurry process material recovery sections and product finishing sections are regulated, (2) for the manufacture of polypropylene using a liquid-phase process polymerization reaction sections, material recovery sections, and product finishing sections are regulated, and (3) for the manufacture of polystyrene using a continuous process material recovery sections are regulated.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 42 covers air oxidation processes in the synthetic organic chemical manufacturing industry (SOCMI). SOCMI is defined as production, either as a final product or as an intermediate, of any of the

VOL
60
ISS
85
MY
3
1995
UMI

chemicals listed in 40 CFR 60.489. Covered are vent streams from air oxidation reactors and from combinations of air oxidation reactors and recovery systems. Section 42 requires VOC emissions from these vent streams be no more 20 parts per million (volumetric, dry basis corrected to 3 percent oxygen) or be reduced by 98 percent (whichever is less) or be burned in a flare that meets the requirements of 40 CFR 60.18. Vent streams that have a total resource effectiveness (TRE) index value greater than 1.0 are required only to maintain the TRE index value greater than 1.0, to recalculate the TRE index value after any process change and to install monitoring devices on the final recovery device.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Section 43 applies to all major VOC sources not covered by a CTG (non-CTG sources: VOC sources with the potential to emit 25 TPY in Kent and Castle Counties nonattainment area and 50 TPY in Sussex County). The control requirements do not apply to coke ovens (including by-products recovery plants), fuel combustion sources, barge facilities, jet engine test cells, vegetable oil processing facilities, wastewater treatment facilities, and iron and steel production.

EPA's Evaluation: The regulation listed above is approvable as a SIP revision because it conforms to EPA guidance and complies with the requirements of the CAA. EPA has determined that the RACT standards are no less stringent than the applicable CTG.

State Submittal: Appendices A to H comprise the test and compliance methods applicable to more than one of the source categories of sections 13 to 43. Appendix H specifies the quality control procedures for continuous emission monitors. Each section requires that adaptations to specified methods or alternative test methods must be approved by the Department and the U.S. EPA.

A. Appendix A requires that the methods of Appendices B to G be used and sets the general requirements for test plans and testing quality assurance programs. Test plans must be submitted to the Department at least 30 days prior to the testing, preliminary results within 30 days after completion and the final report within 60 days of the completion of the testing.

B. Appendix B specifies the methods to be used for sampling and analyzing coatings and inks for VOC content. Specified methods for determining VOC content are Method 24 of 40 CFR Part 60, Appendix A for coatings and Method 24A of 40 CFR Part 60, Appendix A for inks.

C. Appendix C specifies the methods to be used by coating sources for calculation of daily weighted average, of required overall emission reduction efficiency and of equivalent emission limitations. Appendix C(a) provides the formula for calculating the daily weighted average VOC content. Appendix C(c) specifies how the daily required control efficiency is to be calculated. Provided are procedures: (1) To convert the complying coating, emission limits from a mass VOC per gallon of coating (less water and exempt solvent) basis to a solids basis, mass VOC per gallon solids, (2) to calculate the required overall emission reduction efficiency using the complying coating emission limit on a solids basis and either the maximum actual VOC content (solids basis) or the actual, daily-weighted average VOC (on a solids basis), and (3) to calculate the actual, daily-weighted average VOC (on a solids basis) of the coatings used.

D. Appendix D specifies the methods for measuring capture efficiency and for calculating control device destruction or removal efficiency.

(1) Capture efficiency: Four capture efficiency testing and calculation protocols are used: Gas/gas methods using either a temporary total enclosure (TTE) or a building enclosure (BE) as a TTE. Liquid/gas methods using either a BE as a TTE or a TTE.

(2) Control device destruction or removal efficiency: Appendix D(b) requires that the methods specified in Appendix E be used for determining the flows and VOC concentrations in the inlets and outlets of VOC control devices. Appendix D stipulates the formula for calculating control device destruction or removal efficiency. Appendix D also requires continuous monitoring on carbon adsorption systems and incinerators and specifies the requirements for such monitoring systems.

(3) Overall capture and control efficiency: Appendix D(c) requires that overall capture and control efficiency be calculated as the product of the capture efficiency and the control device efficiency.

E. Appendix E adopts reference methods found in 40 CFR Part 60, appendix A. The methods adopted are: Method 18, 25 or 25A for determining VOC concentrations at the inlet and outlet of a control device; only Method 25 is allowed for determining destruction efficiency of thermal or catalytic incinerators. Method 1 or 1A for velocity traverse. Method 2, 2A, 2B, 2C, or 2D for measuring velocity and flow rates. Method 3 or 3A for determining oxygen and carbon dioxide analysis. Method 4 for stack gas moisture. Appendix E also specifies the number and length of tests.

F. Appendix F specifies leak detection methods. Method 21 of 40 CFR part 60, appendix A is adopted.

G. Appendix G sets the performance specifications of systems for the continuous emissions monitoring of total hydrocarbons as a surrogate for measuring the total gaseous organic concentration in a combustion gas stream.

H. Appendix H requires each owner or operator of a continuous emissions monitor system (CEMS) to develop and implement a CEMS quality control program. Appendix H defines the minimum requirements for such a program.

EPA's Evaluation: The regulations listed above are approvable as SIP revisions because they conform to EPA guidance and comply with the requirements of the CAA. EPA has determined that the test methods and compliance procedures are no less stringent than that required by the applicable CTG and pertinent EPA guidance.

As required by 40 CFR 51.102, the State of Delaware has certified that public hearings with regard to these revisions were held in Delaware on September 29, 1992; and on September 8, 1993 on the amended VOC RACT Catch-ups.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective July 3, 1995 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 3, 1995.

Final Action

EPA is approving sections 1 to 9, inclusive, 13 to 35, inclusive, 37 to 42, inclusive, parts of 43, and appendices A to H of Delaware Regulation 24 as a revision to the Delaware SIP. The State of Delaware submitted these amendments to EPA as a SIP revision on January 11, 1993 and January 20, 1994.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action approving twenty-nine VOC RACT regulations for Delaware must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: January 27, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart I of chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart I—Delaware

2. Section 52.420 is amended by adding paragraphs (c)(46) and (c)(51) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(46) Revisions to the Delaware State Implementation Plan submitted on January 11, 1993 by the Delaware Department of Natural Resources & Environmental Control:

(i) Incorporation by reference. (A) Letter of January 11, 1993 from the Delaware Department of Natural Resources & Environmental Control transmitting Regulation 24—"Control of Volatile Organic Compound Emissions", effective January 11, 1993.

(B) Regulation 24—"Control of Volatile Organic Compound Emissions", Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, 40, 41, 42, and Appendices A, B, C, D, E, F, G, & H.

* * * * *

(51) Revisions to the Delaware State Implementation Plan submitted on January 20, 1994 by the Delaware Department of Natural Resources & Environmental Control:

(i) Incorporation by reference. (A) Letter dated January 20, 1994, from the Delaware DNREC transmitting an amendment to Regulation 24, "Control of Volatile Organic Compound Emissions", Section 43—"Other Facilities that Emit VOCs", effective November 24, 1993.

(B) Amendment to Regulation 24, "Control of VOC Emissions", Section 43—"Other Facilities that Emit VOCs", Sections 43(a)(1), 43(a)(2), 43(a)(3), 43(a)(4), 43(b)(1), 43(b)(2), 43(c), 43(d), 43(e), and 43(f).

(ii) Additional Material. (A) Remainder of January 11, 1993 and January 20, 1994 State submittal pertaining to Regulation 24 referenced in paragraphs (c)(46)(i) and (c)(51)(i) of this section.

(iii) Additional Information. (A) These rules supersede paragraph (c)(44)(i)(C) of this section.

[FR Doc. 95–10817 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[KY–80–1–6943; FRL–5200–8]

Control Strategy: Ozone (O_3); Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving an exemption request from the oxides of nitrogen (NO_X) reasonably available control technology (RACT) requirement of the Clean Air Act as amended in 1990 (CAA) for the Kentucky portion of the Huntington-Ashland, moderate ozone (O_3) nonattainment area. The exemption request, submitted by the Commonwealth of Kentucky through the Department of Environmental Protection, is based upon the most recent three years of ambient air monitoring data, which demonstrate that additional reductions of NO_X would not contribute to the attainment of the National Ambient Air Quality Standard (NAAQS) for O_3 in the area. The CAA requires states with designated nonattainment areas of the NAAQS for O_3, and classified as moderate nonattainment or above, to adopt RACT rules for major stationary sources of NO_X. The CAA provides further that the NO_X requirements do not apply to these areas outside an O_3 transport region if EPA determines that additional reductions of NO_X would not

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contribute to attainment of the NAAQS for O_3 in the area.

EFFECTIVE DATE: This action will be effective June 2, 1995.

ADDRESSES: A copy of the exemption request is available for inspection at the following location (it is recommended that you contact Kimberly Bingham at (404) 347–3555 extension 4195 before visiting the Region 4 office):

United States Environmental Protection Agency, Air, Pesticides, and Toxics Management Division, Air Programs Branch, Regulatory Planning and Development Section, Stationary Source Planning Unit, 345 Courtland Street NE., Atlanta, Georgia 30365.

Department for Environmental Protection Natural, Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

FOR FURTHER INFORMATION CONTACT: Kimberly Bingham, Stationary Source Planning Unit, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365.

SUPPLEMENTARY INFORMATION: The air quality planning requirements for the reduction of NO_X emissions are set out in section 182(f) of the CAA. Section 182(f) of the CAA requires states with areas designated nonattainment for O_3 and classified as moderate or above to impose the same control requirements for major stationary sources of NO_X as apply to major stationary sources of volatile organic compounds (VOCs). Section 182(f) provides further that these NO_X requirements do not apply to areas outside an O_3 transport region if EPA determines that additional reductions of NO_X would not contribute to attainment in such areas. In an area that did not implement the section 182(f) NO_X requirements, but did attain the O_3 standard as demonstrated by ambient air monitoring data (consistent with 40 CFR part 58 and recorded in the EPA's—Aerometric Information Retrieval system (AIRS)), it is clear that the additional NO_X reductions required by section 182(f) would not contribute to attainment of the NAAQS.

The criteria established for the evaluation of an exemption request from the section 182(f) requirements are set forth in an EPA memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, dated May 27, 1994, entitled "Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria," and an EPA guidance document entitled "Guidelines for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f)," dated December 1993, from EPA, Office of Air Quality Planning and Standards, Air Quality Management Division.

On November 12, 1993, the Commonwealth of Kentucky submitted to EPA Region 4 a request to redesignate the Kentucky portion of the Huntington-Ashland moderate O_3 nonattainment area to attainment. The redesignation request is currently under review and will be addressed in a separate rulemaking. On August 16, 1994, the Commonwealth requested that the Kentucky portion of the Huntington-Ashland area be exempt from the NO_X RACT requirement in section 182(f) of the CAA. The 182(f) exemption also relieves the area of all NO_X requirements of the CAA such as New Source Review, General Conformity, and Inspection/Maintenance. The exemption request is based upon ambient air monitoring data from 1991, 1992, and 1993, which demonstrate that the NAAQS for O_3 has been attained in the area without additional reductions of NO_X (a violation of the ozone NAAQS occurs when the average number of exceedances for any O_3 monitoring site in a three year period is greater than 1.0).

Only one O_3 exceedance was recorded in the Huntington-Ashland area for the period from 1991 to 1993: Monitor 21–019–0015—0.129ppm (1993). Thus, there has been no violation of the NAAQS in the area during this period and the area has maintained the standard through 1994.

EPA has reviewed the ambient air monitoring data for O_3 (consistent with the requirements contained in 40 CFR part 58 and recorded in AIRS) submitted by the Commonwealth of Kentucky in support of the exemption request and has determined that a violation of the O_3 NAAQS has not occurred in the Huntington-Ashland, Kentucky portion area for the relevant three year period. Because the Kentucky portion of the Huntington-Ashland area is meeting the O_3 NAAQS, this exemption request for the area meets the applicable requirements contained in the EPA policy and guidance documents referenced above.

Continuation of the section 182(f) exemption granted herein is contingent upon continued monitoring and continued maintenance of the O_3 NAAQS for the entire Huntington-Ashland area. If a violation of the O_3 NAAQS is monitored in the Kentucky portion of the Huntington-Ashland area, EPA will provide notice in the **Federal Register**. A determination that the NO_X exemption no longer applies would mean that the NO_X RACT provision (see 58 FR 63214 and 58 FR 62188) would immediately be applicable to the affected area. Although the NO_X RACT requirements would be applicable, some reasonable period of notice is necessary to provide major stationary sources subject to the RACT requirements time to purchase, install, and operate any required controls. Accordingly, the Commonwealth may provide sources a reasonable time period to meet the RACT emission limits after the EPA determination that NO_X RACT requirements are necessary. EPA expects the time period to be as expeditious as practicable, but in no case longer than 24 months.

The EPA proposed approval of the Commonwealth of Kentucky's request for an exemption request from NO_X and RACT requirements of the CAA as amended in 1990 (60 FR 5881). Comments were received supporting the exemption request. However, the National Resources Defense Council (NRDC), Sierra Defense Club, and EDF submitted adverse comments to Mary Nichols on August 24, 1994, addressing all **Federal Register** notices proposing to approve section 182(f) NO_X exemption requests. The EPA has responded to the adverse comments by issue as set forth below.

NRDC Comment 1

Certain commenters argued that NO_X exemptions are provided for in two separate parts of the CAA, section 182(b)(1) and section 182(f). Because the NO_X exemption tests in subsections 182(b)(1) and 182(f)(1) include language indicating that action on such requests should take place "when [EPA] approves a plan or plan revision," these commenters conclude that all NO_X exemption determinations by the EPA, including exemption actions taken under the petition process established by subsection 182(f)(3), must occur during consideration of an approvable attainment or maintenance plan, unless the area has been redesignated as attainment. These commenters also argue that even if the petition procedures of subsection 182(f)(3) may be used to relieve areas of certain NO_X requirements, exemptions from the NO_X conformity requirements must follow the process provided in subsection 182(b)(1), since this is the only provision explicitly referenced by section 176(c), the CAA's conformity provisions.

EPA Response

Section 182(f) contains very few details regarding the administrative procedure for acting on NO_X exemption requests. The absence of specific guidelines by Congress leaves EPA with discretion to establish reasonable procedures, consistent with the requirements of the Administrative Procedure Act (APA).

The EPA disagrees with the commenters regarding the process for considering exemption requests under section 182(f), and instead believes that subsections 182(f)(1) and 182(f)(3) provide independent procedures by which the EPA may act on NO_X exemption requests. The language in subsection 182(f)(1), which indicates that the EPA should act on NO_X exemptions in conjunction with action on a plan or plan revision, does not appear in subsection 182(f)(3). And, while subsection 182(f)(3) references subsection 182(f)(1), the EPA believes that this reference encompasses only the substantive tests in paragraph (1) [and, by extension, paragraph (2)], not the procedural requirement that the EPA act on exemptions only when acting on SIPs. Additionally, paragraph (3) provides that "person[s]" (which section 302(e) of the CAA defines to include States) may petition for NO_X exemptions "at any time," and requires the EPA to make its determination within six months of the petition's submission. These key differences lead EPA to believe that Congress intended the exemption petition process of paragraph (3) to be distinct and more expeditious than the longer plan revision process intended under paragraph (1).

Section 182(f)(1) appears to contemplate that exemption requests submitted under these paragraphs are limited to States, since States are the entities authorized under the Act to submit plans or plan revisions. By contrast, section 182(f)(3) provides that "person[s]" may petition for a NO_X determination "at any time" after the ozone precursor study required under section 185B of the Act is finalized, and gives EPA a limit of 6 months after filing to grant or deny such petitions. Since individuals may submit petitions under paragraph (3) "at any time" this must include times when there is no plan revision from the State pending at EPA. The specific timeframe for EPA action established in paragraph (3) is substantially shorter than the timeframe usually required for States to develop and for EPA to take action on revisions to a SIP. These differences strongly suggest that Congress intended the process for acting on personal petitions to be distinct—and more expeditious—from the plan-revision process intended under paragraph (1). Thus, EPA believes that paragraph (3)'s reference to paragraph (1) encompasses only the substantive tests in paragraph (1) [and, by extension, paragraph (2)], not the requirement in paragraph (1) for EPA to grant exemptions only when acting on plan revisions.

With respect to major stationary sources, section 182(f) requires States to adopt NO_X NSR and RACT rules, unless exempted. These rules were generally due to be submitted to EPA by November 15, 1992. Thus, in order to avoid the CAA sanctions, areas seeking a NO_X exemption would need to submit their exemption request for EPA review and rulemaking action several months before November 15, 1992. In contrast, the CAA specifies that the attainment demonstrations are not due until November 1993 or 1994 (and EPA may take 12–18 months to approve or disapprove the demonstration). For marginal ozone nonattainment areas (subject to NO_X NSR), no attainment demonstration is called for in the CAA. For maintenance plans, the CAA does not specify a deadline for submittal of maintenance demonstrations. Clearly, the CAA envisions the submittal of and EPA action on exemption requests, in some cases, prior to submittal of attainment or maintenance demonstrations.

The CAA requires conformity with regard to federally-supported NO_X generating activities in relevant nonattainment and maintenance areas. However, EPA's conformity rules explicitly provide that these NO_X requirements would not apply if EPA grants an exemption under section 182(f). In response to the comment that section 182(b)(1) should be the appropriate vehicle for dealing with exemptions from the NO_X requirements of the conformity rule, EPA notes that this issue has previously been raised in a formal petition for reconsideration of EPA's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. The issue, thus, is under consideration within EPA, but at this time remains unresolved. Additionally, subsection 182(f)(3) requires that NO_X exemption petition determinations be made by the EPA within six months. The EPA has stated in previous guidance that it intends to meet this statutory deadline as long as doing so is consistent with the Administrative Procedure Act. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in EPA's final conformity regulations, and EPA remains bound by their existing terms.

NRDC Comment 2

Three years of "clean" data fail to demonstrate that NO_X reductions would not contribute to attainment. EPA's policy erroneously equates the absence of a violation for one three-year period with "attainment."

EPA Response

The EPA has separate criteria for determining if an area should be redesignated to attainment under section 107 of the CAA. The section 107 criteria are more comprehensive than the CAA requires with respect to NO_X exemptions under section 182(f).

Under section 182(f)(1)(A), an exemption from the NO_X requirements may be granted for nonattainment areas outside an ozone transport region if EPA determines that "additional reductions of [NO_X] would not contribute to attainment" of the ozone NAAQS in those areas. In some cases, an ozone nonattainment area might attain the ozone standard, as demonstrated by 3 years of adequate monitoring data, without having implemented the section 182(f) NOX provisions over that 3-year period. The EPA believes that, in cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data without having implemented the section 182(f) NOX provisions, it is clear that the section 182(f) test is met since "additional reductions of [NO_X] would not contribute to attainment" of the NAAQS in that area. The EPA's approval of the exemption, if warranted, would be granted on a contingent basis (i.e., the exemption would last for only as long as the area's monitoring data continue to demonstrate attainment).

NRDC Comment 3

Comments were received regarding exemption of areas from the NO_X requirements of the conformity rules. They argue that such exemptions waive only the requirements of section 182(b)(1) to contribute to specific annual reductions, not the requirement that conformity SIPs contain information showing the maximum amount of motor vehicle NO_X emissions allowed under the transportation conformity rules and, similarly, the maximum allowable amounts of any such NO_X emissions under the general conformity rules. The commenters admit that, in prior guidance, EPA has acknowledged the need to amend a drafting error in the existing transportation conformity rules to

VOL 60 ISS 85 MY 3 1995 UMI

ensure consistency with motor vehicle emissions budgets for NO_X, but want EPA in actions on NO_X exemptions to explicitly affirm this obligation and to also avoid granting waivers until a budget controlling future NO_X increases is in place.

EPA Response

With respect to conformity, EPA's conformity rules, provide a NO_X waiver if an area receives a section 182(f) exemption. In its "Conformity; General Preamble for Exemption From Nitrogen Oxides Provisions," 59 FR 31238, 31241 (June 17, 1994), EPA reiterated its view that in order to conform nonattainment and maintenance areas must demonstrate that the transportation plan and TIP are consistent with the motor vehicle emissions budget for NO_X even where a conformity NO_X waiver has been granted. Due to a drafting error, that view is not reflected in the current transportation conformity rules. As the commenters correctly note, EPA states in the June 17th notice that it intends to remedy the problem by amending the conformity rule. Although that notice specifically mentions only requiring consistency with the approved maintenance plan's NO_X motor vehicle emissions budget, EPA also intends to require consistency with the attainment demonstration's NO_X motor vehicle emissions budget. However, the exemptions were submitted pursuant to section 182(f)(3), and EPA does not believe it is appropriate to delay the statutory deadline for acting on these petitions until the conformity rule is amended. As noted earlier in response to a previous issue raised by these commenters, this issue has also been raised in a formal petition for reconsideration of the Agency's final transportation conformity rule and in litigation pending before the U.S. Court of Appeals for the District of Columbia Circuit on the substance of both the transportation and general conformity rules. This issue, thus, is under consideration within the Agency, but at this time remains unresolved. The EPA, therefore, believes that until a resolution of this issue is achieved, the applicable rules governing this issue are those that appear in the Agency's final conformity regulations, and the Agency remains bound by their existing terms.

NRDC Comment 4

The CAA does not authorize any waiver of the NO_X reduction requirements until conclusive evidence exists that such reductions are counter-productive.

EPA Response

EPA does not agree with this comment since it ignores Congressional intent as evidenced by the plain language of section 182(f), the structure of the Title I ozone subpart as a whole, and relevant legislative history. By contrast, in developing and implementing its NO_X exemption policies, EPA has sought an approach that reasonably accords with that intent. Section 182(f), in addition to imposing control requirements on major stationary sources of NO_X similar to those that apply for such sources of VOC, also provides for an exemption (or limitation) from application of these requirements if, under one of several tests, EPA determines that in certain areas NO_X reductions would generally not be beneficial. In subsection 182(f)(1), Congress explicitly conditioned action on NO_X exemptions on the results of an ozone precursor study required under section 185B. Because of the possibility that reducing NO_X in a particular area may either not contribute to ozone attainment or may cause the ozone problem to worsen, Congress included attenuating language, not just in section 182(f) but throughout the Title I ozone subpart, to avoid requiring NO_X reductions where it would be nonbeneficial or counterproductive. In describing these various ozone provisions (including section 182(f), the House Conference Committee Report states in pertinent part: "[T]he Committee included a separate NO_X/VOC study provision in section [185B] to serve as the basis for the various findings contemplated in the NO_X provisions. The Committee does not intend NO_X reduction for reduction's sake, but rather as a measure scaled to the value of NO_X reductions for achieving attainment in the particular ozone nonattainment area." H.R. Rep. No. 490, 101st Cong., 2d Sess. 257–258 (1990). As noted in response to an earlier comment by these same commenters, the command in subsection 182(f)(1) that EPA "shall consider" the 185B report taken together with the timeframe the Act provides both for completion of the report and for acting on NO_X exemption petitions clearly demonstrate that Congress believed the information in the completed section 185B report would provide a sufficient basis for EPA to act on NO_X exemption requests, even absent the additional information that would be included in affected areas' attainment or maintenance demonstrations. However, while there is no specific requirement in the Act that EPA actions granting NO_X exemption requests must await "conclusive evidence", as the commenters argue, there is also nothing in the Act to prevent EPA from revisiting an approved NO_X exemption if warranted due to better ambient information.

In addition, the EPA believes (as described in EPA's December 1993 guidance) that section 182(f)(1) of the CAA provides that the new NO_X requirements shall not apply (or may be limited to the extent necessary to avoid excess reductions) if the Administrator determines that *any one* of the following tests is met:

(1) In any area, the net air quality benefits are greater in the absence of NO_X reductions from the sources concerned;

(2) In nonattainment areas not within an ozone transport region, additional NO_X reductions would not contribute to ozone attainment in the area; or

(3) In nonattainment areas within an ozone transport region, additional NO_X reductions would not produce net ozone air quality benefits in the transport region.

Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption. Only the first test listed above is based on a showing that NO_X reductions are "counter-productive." If one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.

Pollution Probe (Ontario 9–27–94)

Air Quality Comment

Several commenters stated that the air quality monitoring data alone does not support this exemption proposal. The air quality levels are below USEPA's definition of an exceedance of the ozone NAAQS at 0.125 ppm, but are greater than the ozone NAAQS of 0.120 ppm.

EPA Response

For the reasons provided below, EPA does not agree with the commenter's conclusion. As stated in 40 CFR 50.9, the ozone "standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 parts per million (235 $\mu g/m^3$) is equal to or less than 1, as determined by Appendix H." Appendix H references EPA's "Guideline for Interpretation of Ozone Air Quality Standards" (EPA–450/4–79–003, January 1979), which notes that the stated level of the standard is taken as defining the number of significant figures to be used in comparison with the standard. For example, a standard level of 0.12 ppm means that measurements are to be rounded to two decimal places (0.005 rounds up to 0.01). Thus, 0.125 ppm is the smallest concentration value in excess of the level of the ozone standard.

Final Action

EPA is approving Kentucky's request to exempt the Kentucky portion of the Huntington-Ashland area moderate O_3 nonattainment area from the section 182(f) NO_X RACT requirement. This approval is based upon the evidence provided by Kentucky and the Commonwealth's compliance with the requirements outlined in the applicable EPA guidance. If a violation of the O_3 NAAQS occurs in the Kentucky portion of the Huntington-Ashland area, the exemption from the NO_X RACT requirement of section 182(f) of the CAA in the applicable area shall no longer apply. This action will be effective June 2, 1995.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)).

The OMB has exempted these actions from review under Executive Order 12866.

This action is not a SIP revision and is not subject to the requirements of section 110 of the CAA. The authority to approve or disapprove exemptions from NO_X requirements under section 182 of the CAA was delegated to the Regional Administrator from the Administrator in a memo dated July 6, 1994, from Jonathan Cannon, Assistant Administrator, to the Administrator, titled, "Proposed Delegation of Authority: 'Exemptions from Nitrogen Oxide Requirements Under Clean Air Act Section 182(f) and Related Provisions of the Transportation and General Conformity Rules'—Decision Memorandum."

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This rule approves an exemption from a CAA requirement. Therefore, I certify that it does not have a significant impact on any small entities affected.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 17, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52, chapter 1, title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart II—Kentucky

2. Section 52.937 is added to read as follows:

§ 52.937 Review of new sources and modifications.

(a) Approval—EPA is approving the section 182(f) oxides of nitrogen (NO_X) reasonably available control technology (RACT) exemption request submitted by the Kentucky Department for Environmental Protection on August 16, 1994, for the Kentucky portion of the Huntington-Ashland ozone (O_3) moderate nonattainment area. This approval exempts this area from implementing NO_X RACT on major sources of NO_X. If a violation of the O_3 NAAQS occurs in the area, the exemption from the requirement of section 182(f) of the CAA in the applicable area shall not apply.

(b) [Reserved]

[FR Doc. 95–10826 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN44–1–6538a; FRL–5190–6]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On March 23, 1994, the State of Indiana requested a revision to the Indiana State Implementation Plan (SIP) for lead, in accordance with part D, title I requirements of the Clean Air Act (the Act) for the Marion County lead nonattainment area. Supplemental information was received on September 21, 1994. The submittal provides for the control of both stack and fugitive emissions by requiring, among other things, revised emission limitations, improved monitoring, building enclosures, an amended fugitive lead dust plan, and contingency measures in the event that subsequent violations of the lead National Ambient Air Quality Standard (NAAQS) occur. USEPA made a finding of completeness in a letter dated September 23, 1994. Therefore, because the submittal contains all the necessary elements under part D, USEPA is approving it. In the proposed rules section of this **Federal Register**, USEPA is proposing approval of and soliciting public comment on this requested SIP revision. If adverse comments are received on this action, USEPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule which is being published in the proposed rules section of this **Federal Register**. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

DATES: This final rule is effective on July 3, 1995 unless an adverse comment is received by June 2, 1995. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the SIP revision request and USEPA's analysis are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Rosanne Lindsay at (312) 353–1151, before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Rosanne Lindsay at (312) 353–1151.

VOL 60 ISS 85 MY 3 1995 UMI

SUPPLEMENTARY INFORMATION:

I. Background/History

In a final rule published on November 6, 1991, USEPA announced that a portion of Marion County, Indiana was being designated nonattainment for lead under section 107(d)(5) of the Clean Air Act (the Act), based on violations of the lead NAAQS monitored in 1990 in the vicinity of the Refined Metals facility in Marion County [See, 56 FR 56694 (codified at 40 CFR 81.315)]. The lead nonattainment designation for this area became effective on January 6, 1992.

Section 191(a) of the Act requires that States containing areas designated nonattainment for lead submit a SIP meeting the requirements of part D, title I of the Act within 18 months of the nonattainment designation. On February 4, 1992, Indiana submitted to the USEPA a site-specific revision request to the lead implementation plan addressing the 1990 lead NAAQS violations. Because the revision request did not satisfy all part D, title I, requirements, on July 12, 1993, USEPA proposed a limited approval/limited disapproval (58 FR 37450). On September 23, 1993, Indiana officially withdrew the SIP submittal. On March 23, 1994, the State submitted a revised rule which forms the basis for this rulemaking. The State supplemented the submittal on September 21, 1994, and USEPA deemed the submittal complete on September 23, 1994. Finally, on January 24, 1995, Indiana submitted contingency measures in an operating permit which underwent a public hearing.

Section 192(a) further provides that each lead SIP must provide for attainment of the lead NAAQS as expeditiously as practicable, but no later than 5 years from the date of the nonattainment designation. Among other things, the part D, title I requirements include: implementation of all reasonably available control measures (RACM), including reasonably available control technology (RACT); demonstration of reasonable further progress (RFP); a comprehensive, accurate and current inventory of all sources of lead in the nonattainment area; a new source review (NSR) program meeting the requirements of section 173 of the Act (i.e., require permits for construction and operation permits for new or modified major stationary sources of lead in the nonattainment area); enforceable emission limits, timetables and schedules for compliance; the applicable requirements of section 110(a)(2); and provisions for the implementation of specific measures (contingency measures) upon a determination by USEPA that the nonattainment area fails to make RFP or meet the NAAQS by the applicable date (See, sections 172(c), 173 and 171 of the Act). USEPA provided the States with guidance on SIP requirements for lead nonattainment areas in the April 16, 1992, General Preamble for the Implementation of Title I of the Act of 1990 (See, 57 FR 13498; See also, 57 FR 18070, April 28, 1992), and in a December 22, 1993, Addendum to the General Preamble (See, 58 FR 67748). The State's February 4, 1992, submittal, as well as the final submittal, are available for inspection at the USEPA Region 5 Office.[1]

II. Identification of Review Criteria

USEPA has evaluated the revisions to Indiana's lead SIP for consistency with the requirements of sections 191(a) and 192(a) of the Act, and other applicable federal requirements. Additional guidance documents containing USEPA policy include: the April 23 and June 24, 1992, Questions and Answers for Lead, prepared by the Office of Air Quality Planning and Standards (OAQPS); the April 16, 1992, General Preamble (See, 57 FR 13498; See also, 57 FR 18070, April 28, 1992); and the December 22, 1993, Addendum to the General Preamble (See, 58 FR 67748).

III. USEPA Review and Findings

A. Review of Submittal Applicable to Portion of Marion County Designated Nonattainment for Lead

This revision request provides for the control of both stack and fugitive emissions by requiring revised emission limitations, a new baghouse and stack, and a total enclosure of the buildings housing the sources considered to be responsible for the monitored violations (i.e., blast furnace, dust furnaces, material storage building). The emission limits for the new and existing baghouse stacks are summarized below:

BAGHOUSE STACK LIMITS

Baghouse stack	Old limit (lb/hr)	New limit (lb/hr)
M–1	1.132	0.91
M–2	.015	.15
M–3	.005	.15
M–4	.....	.30

In addition to the above limitations, and a fugitive lead dust control plan, the site-specific lead rule (Title 326 IAC 15–1–2, sections 2(1)(A) to 2(1)(I)) contains the following provisions to mitigate the release of lead fugitive emissions to the atmosphere: (1) the installation and operation of several hooding systems in several areas of the facility; (2) enclosure of the screw conveyors used to transport lead dust; (3) a three (3) percent opacity limit for all building openings; (4) a five (5) percent opacity limit for each stack; (5) a continuous monitoring system to ensure negative pressure inside the affected buildings, use of continuous opacity monitors (COMs) for stacks M–1 and M–4; (6) initial certification of COMs; (7) quarterly excess emission reporting of COM data and quality assurance reports; (8) stack testing of all stacks; and authority by the State to require the cessation in production, if necessary, to ensure attainment of the lead NAAQS (See January 12, 1995, operating permit provisions). Compliance with these provisions is to be achieved no later than March 1, 1994, with the exception of the operating permit provisions, which are effective from January 12, 1995 through January 31, 1998.

B. Review of SIP Submittal

The following summary describes how Indiana addresses the part D, title I requirements of the Act:

Section 172(c)(1) calls for the implementation of RACM and RACT. Indiana has satisfied the requirement for RACM and RACT through emission limitations on the baghouse stacks, the maintenance of the buildings under negative pressure, and monitoring requirements. An amended fugitive lead dust plan, which mirrors an Agreed Order between the State and the source, further reduces lead emissions through operation and maintenance practices. A sampling survey of lead dust conducted on facility grounds also provided the State with new information needed for accurate inputs to air quality modeling.

In modeling the ambient air quality at Refined Metals, IDEM first evaluated the performance of the Industrial Source Complex Long Term model (ISCLT2) against the performance of the Fugitive Dust Model (FGM), to determine which model would best characterize the air quality in the area. ISCLT2 predicted lead concentrations which more closely matched the monitored lead concentrations for the area. Therefore, ISCLT2 was used in the attainment demonstration for this SIP revision.

The Refined Metals facility's lead emission points include point, area, and volume sources. Building downwash effects were considered for the elevated point sources. Roadway dust, which has been found to contain a large percentage of lead particles, makes up a significant portion of the area's ambient air lead concentration. The roadway lead emissions were modeled as a series of area sources. The Refined Metals implementation plan calls for measures to limit the amount of lead-containing dust allowed to accumulate on truck tires and leave the plant vicinity. The facility would also be enclosed to prevent additional buildup of dust on the roadways. Indiana used the assumption that the dust mass and the percentage of lead in that dust would be reduced by 90 percent using the planned control measures. The background lead concentration was calculated from monitored data to be 0.14 $\mu g/m^3$. This concentration was added to the modeled concentrations to demonstrate attainment. The maximum quarterly average lead concentration was 0.66 $\mu g/m^3$, which included background totals 0.80 $\mu g/m^3$. This is below the lead NAAQS of 1.5 $\mu g/m^3$.

Section 172(c)(2) requires RFP goals to be met. Indiana maintains that linear progression toward attainment is, in this case, inappropriate due to the fact that Refined Metals is the sole source of lead NAAQS violations. Instead, the State contends that compliance with the emission limitations, provisions of the lead rule and a modified fugitive lead dust control plan will result in immediate attainment of the lead NAAQS in Marion County. This is acceptable to USEPA.

Section 172(c)(3) requires a complete, comprehensive, accurate and current inventory of the nonattainment area. Completed in April of 1994, the inventory adequately demonstrates that Refined Metals is the only significant source of lead emissions in the lead nonattainment area.

Section 172(c)(4) requires the identification and quantification of any pollutant which will be allowed from the construction and operation of major new or modified major sources for such area, in accordance with section 173(a)(1)(B) (targets economic development zones). Indiana states that Marion County is not currently and does not expect to become a targeted economic development zone. This is acceptable to USEPA.

Section 172(c)(5) requires an approved NSR program to be in place in the nonattainment area. USEPA approved Indiana's emission offset rules on October 7, 1994 (326 IAC 2–3; 59 FR 51108). The rules, which became effective on December 6, 1994, satisfy this requirement.

Section 172(c)(6) requires enforceable emission limitations, schedules, and timetables for compliance. USEPA finds that the site-specific lead rule subject to this rulemaking, effective April 27, 1994, fulfills these requirements because the source is subject to clear emission limits, averaging times, compliance dates, continuous compliance, recordkeeping and reporting requirements, and appropriate testing methods to determine compliance.

Section 172(c)(7) requires compliance with section 110(a)(2) of the Act. Indiana has met these requirements through the existing State air quality rules and this SIP submittal.

Section 172(c)(8) allows the State to use equivalent techniques for modeling, emission inventory, or planning procedures. Indiana believes these alternatives not to be applicable to this submittal. This is acceptable to USEPA.

Section 172(c)(9) requires inclusion of provisions for the implementation of contingency measures if the area fails to meet RFP or attainment of the lead NAAQS by the applicable date. Indiana incorporated contingency measures into an operating permit issued to Refined Metals that was subject to public comment and included in the SIP submittal. The measures are triggered upon notification by the local or State agency that the air quality monitors in the source's vicinity have recorded a violation of the lead NAAQS, or clearly will record a violation when initial data is averaged over the quarter. These measures include: a cessation of operations until a corrective action plan has been approved by the Local and State agencies, an investigation by the source into all possible causes of the excessive lead concentrations, a final report of the investigation and a proposed plan for corrective measures with a schedule, and timely implementation of corrective measures. The Local and State agencies can approve, disapprove and/or request additional information from the source. Source operations can recommence upon approval of the plan. The operating permit has a lifetime of 5 years. In order for these contingency measures to remain permanent and federally enforceable, the permit must be renewed upon each expiration with the same contingency measures while the area remains designated as nonattainment. In meeting these requirements, the State satisfies its obligation for contingency measures.

USEPA also notes that the fugitive lead dust control plan, required under part D, title I of the Act, is satisfied by this submittal.[2] The newly modified plan for Refined Metals reflects recent changes required by an Agreed Order between the State and Refined Metals.

IV. Final Rulemaking Action

USEPA is approving the March 23, 1994, SIP submittal because all of the applicable Federal requirements under section 110(a)(2) and part D, title I, of the Act have been satisfied. The submittal for Marion County also satisfies the requirements of sections 191(a) and 192(a) of the Act by providing for the necessary elements to reach attainment of the lead NAAQS no later than 5 years from the January 6, 1992, nonattainment designation.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the USEPA is proposing to approve the requested SIP revision should adverse or critical comments be filed. This action will be effective on July 3, 1995 unless adverse or critical comments are received by June 2, 1995.

If the USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 3, 1995.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA

[1] USEPA approved the Indiana lead SIP called for in response to the issuance of lead NAAQS and subject to the requirements of then section 110 of the Act [see Title IAC 326 15–1 on April 10, 1988 (53 FR 12096) and October 3, 1988 (53 FR 38719)].

[2] Pursuant to USEPA's approval of the Indiana SIP, the State is required to submit approvable source-specific fugitive lead dust control plans as revisions to the SIP. Fugitive dust control plans for 9 sources were disapproved in a rulemaking action on February 1, 1993 (58 FR 6606). State plans for these sources, excluding Refined Metals, are still required to be submitted to USEPA.

VOL
60
ISS
85
MY
3
1995
UMI

shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead.

Dated: April 3, 1995.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to reads as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(95) to read as follows:

§ 52.770 Identification of plan.

(c) * * *

(95) On May 22, 1994, the Indiana Department of Environmental Management submitted a request to revise the Indiana State Implementation Plan by adding a lead plan for Marion County which consists of a source specific revision to Title 326 of the Indiana Administrative Code (326 IAC) for Refined Metals.

(i) Incorporation by reference.

(A) Amendments to 326 IAC 15–1–2 Source-specific provisions. Filed with the Secretary of State March 25, 1994. Effective April 24, 1994. Published at Indiana Register, Volume 17, Number 8, May 1, 1994.

[FR Doc. 95–10810 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[AD–FRL–5200–7]

Clean Air Act Final Interim Approval of Operating Permits Program for Nineteen California Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the California Air Resources Board on behalf of Amador County Air Pollution Control District (APCD), Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River Air Quality Management District (AQMD), Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California (districts) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: June 2, 1995.

ADDRESSES: Copies of the nineteen districts' submittals and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: For information, please contact: Sara Bartholomew, Operating Permits Section, A–5–2, Air and Toxics Division, U.S. EPA-Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1170.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (the Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On December 8, 1994, EPA proposed interim approval of the operating permits programs for Amador County APCD, Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California. See 54 FR 63289. The EPA received public comment on the proposal, and is responding to those comments in this document and in a separate "Response to Comments" document that is available in the docket. The EPA also compiled a Technical Support Document (TSD) for each of the nineteen districts, which describes each operating permits program in greater detail.

In this notice EPA is taking final action to promulgate interim approval of the operating permits program for Amador County APCD, Butte County APCD, Calaveras County APCD, Colusa County APCD, El Dorado County APCD, Feather River AQMD, Great Basin Unified APCD, Imperial County APCD, Kern County APCD, Lassen County APCD, Mendocino County APCD, Modoc County APCD, North Coast Unified AQMD, Northern Sierra AQMD, Northern Sonoma County APCD, Placer County APCD, Siskiyou County APCD, Tuolumne County APCD, and Yolo-Solano AQMD, California.

II. Final Action and Implications

A. Analysis of State Submission

EPA received two comment letters on the proposed rulemaking for the districts, one from the National Environmental Development Associations Clean Air Regulatory Project ("NEDA/CARP"), and one from the American Forest & Paper Association ("AF&PA"), both dated January 9, 1995. The issues discussed in the December 8, 1994 proposal were not changed as a result of public comment with the exception of the implementation of section 112(g) from the effective date of the title V program. EPA's final action is being revised from the proposed notice with respect to this issue. This change is discussed below along with other issues raised during the public comment period.

1. 112(g) Implementation

NEDA/CARP and AF&PA both submitted comments regarding EPA's proposed approval of the nineteen California districts' preconstruction permitting programs for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a District rule implementing EPA's section 112(g) regulations. In opposition to the proposed action, the commenters argued that the nineteen districts should not, and cannot, implement section 112(g) until: (1) EPA has promulgated a section 112(g) regulation; and (2) the District has a section 112(g) program in place.

EPA received many comments nationally on this issue, and agrees that it is not reasonable to expect the states and districts to implement section 112(g) before a rule is issued. EPA has therefore published an interpretive notice in the **Federal Register** regarding section 112(g) of the Act: 60 FR 8333 (February 14, 1995). This notice outlines EPA's revised interpretation of 112(g) applicability prior to EPA's issuing the final 112(g) rule. The notice states that major source modifications, constructions, and reconstructions will not be subject to 112(g) requirements until the final rule is promulgated. EPA expects to issue the 112(g) final rule in September 1995.

The notice further explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow States and Districts time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), the nineteen districts must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing District regulations.

For this reason, EPA is proposing to approve the nineteen districts' preconstruction review programs as a mechanism to implement section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by the nineteen districts of rules specifically designed to implement section 112(g). However, since approval is intended solely to confirm that the districts have mechanisms to implement section 112(g) during the transition period, the approval itself will be without effect if EPA decides in the final section 112(g) rule that there will be no transition period. The EPA is limiting the duration of its approval of the use of preconstruction programs to implement 112(g) to 12 months following promulgation by EPA of the section 112(g) rule.

2. Insignificant Activities

NEDA/CARP and AF&PA both assert that EPA lacks the legal footing to reject the districts' present "insignificant levels," and that EPA has no authority to hold out "suggested" emission levels as a threshold for receiving full approval.

EPA disagrees that it lacks authority to reject inappropriate or unsupported insignificance levels, or to articulate on a program-by-program basis levels that it definitely would accept. Part 70 allows States to deem certain activities or emission levels insignificant if they are listed in the program submitted to EPA and approved by EPA, but does not grant States authority to create new exemptions without EPA approval. Section 70.4(b)(2) requires the submittal of criteria used to determine insignificant activities, and § 70.5(c) does not allow States to create an insignificant activities permit exemption if the exemption will interfere with the imposition of applicable requirements or the collection of fees. In addition, part 70 explicitly authorizes EPA to approve insignificant activities based on emission levels (§ 70.5(c)). EPA has the legal authority to reject district provisions which contravene these part 70 requirements.

As stated in the proposal, most of the nineteen programs provided EPA with no criteria or information on the level of emissions of activities on the districts' exemption lists. In addition, the specific insignificant activities provisions submitted by the districts have raised concerns with EPA regarding the districts' ability to ensure that applicable requirements are included in permits. None of the nineteen districts provided EPA with a demonstration to the contrary. For these reasons, the nineteen districts' lists of insignificant activities are not acceptable.

In the proposed rulemaking EPA suggested insignificance levels that the Agency would find acceptable even without a further demonstration. Neither of the commenters specifically addressed these sugested insignificance levels. EPA would like to note that the nineteen districts have the flexibility to modify their regulations and submit criteria for EPA approval of new exemptions, as long as each district demonstrates, or EPA is otherwise satisfied, that such alternative emission levels are insignificant compared to the level of emissions and types of units that are permitted or subject to applicable requirements.

3. Public Petitions to EPA

NEDA/CARP and AF&PA both registered their concern regarding the public petition requirements, notification and other procedural requirements, stating that they believe these requirements will thwart efforts in California to develop market incentive approaches to emissions reductions.

Provisions for public participation, notification and public petitions are required under title V of the Clean Air Act (CAA 502(b)(6) for public participation, and CAA 505(b)(2) for public petitions), and are therefore included in part 70, the regulations that implement title V. EPA believes public participation does not preclude a district from developing market based incentive programs.

VOL 60 ISS 85 MY 3 1995 UMI

4. Compliance Certification

NEDA/CARP and AF&PA both contend that EPA has misread its own rule in requiring that the full text of the responsible official's certification be included in both the application content and permit content. They argue that the provision of § 70.5(d) sets out the terms and conditions for any certification of an application form, report or compliance made pursuant to the rules, but does not establish a signatory statement that must be attested to by the responsible official to the exclusion of all other statements (emphasis in comment letters).

EPA disagrees with the above comment. Section 70.5 requires that: "This certification * * * shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete" (emphasis added). This indicates that it is not sufficient merely for the responsible official to sign the certification; the certificate must state that he or she considered the issue carefully. The statement must contain the essential elements of § 70.5(d), and include the words quoted above. EPA does not rule out having a pre-printed statement on the certificate for convenience.

5. Deviation Reporting

NEDA/CARP and AF&PA both contend that it is necessary for EPA to revise several of its earlier interim approval notices, in which the Agency conditioned final approval on including a definition of "prompt" in the state operating permits program, in order to provide a consistent application of the appropriate interpretation of its rules.

In the proposed interim approval notice EPA stated that the nineteen districts' regulations should define the meaning of "prompt" as used in the requirement found at 40 CFR 70.6(a)(3)(iii)(B), which requires "prompt" reporting of deviations from applicable requirements. The Agency indicated that an acceptable alternative to defining in the regulation what constitutes "prompt" is to define "prompt" in each individual permit.

NEDA/CARP and AF&PA both support this approach. EPA has consistently asserted that this is an acceptable alternative to defining "prompt" in the body of the permitting regulations, and sees no need to revisit past interim approval actions to clarify this interpretation of the definition of what constitutes "prompt" reporting of deviations from applicable requirements.

6. Potential to Emit

In the proposed rulemaking, EPA required Amador and Tuolumne counties to revise the definition of "potential to emit" in their rules to clarify that only federally-enforceable limitations may be considered in determining a source's potential to emit. NEDA/CARP and AF&PA both argue that limitations based on state requirements, as well as federally-enforceable limitations, should be considered in determining the potential to emit.

EPA's requirement that Amador and Tuolumne revise their definitions of the term "potential to emit" is based upon the definition of that term found in 40 CFR 70.2. Section 70.2 defines "potential to emit" as the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. The definition further provides, however, that a physical and operational limit on potential to emit is considered to be part of the source's design if it is enforceable by EPA. Since the Amador and Tuolumne rules do not conform to this critical definition, the districts must revise their programs to clarify that only federally enforceable restrictions can provide a legal limitation on a source's potential to emit.

B. Final Action

The EPA is promulgating interim approval of the operating permits programs submitted by the California Air Resources Board on behalf of Amador County APCD (complete submittal received on December 27, 1993), Butte County APCD (complete submittal received on December 16, 1993), Calaveras County APCD (complete submittal received on October 31, 1994), Colusa County APCD (complete submittal received on February 24, 1994), El Dorado County APCD (complete submittal received on November 16, 1993), Feather River AQMD (complete submittal received on November 16, 1993), Great Basin Unified APCD (complete submittal received on January 12, 1994), Imperial County APCD (complete submittal received on March 12, 1994), Kern County APCD (complete submittal received on November 16, 1993), Lassen County APCD (complete submittal received on January 12, 1994), Mendocino County APCD (complete submittal received on December 27, 1993), Modoc County APCD (complete submittal received on December 27, 1993), North Coast Unified AQMD (complete submittal received on February 24, 1994), Northern Sierra AQMD (complete submittal received on June 6, 1994), Northern Sonoma County APCD (complete submittal received on January 12, 1994), Placer County APCD (complete submittal received on December 27, 1993), Siskiyou County APCD (complete submittal received on December 6, 1993), Tuolumne County APCD (complete submittal received on November 16, 1993), and Yolo-Solano AQMD (complete submittal received on October 14, 1994), California.

The nineteen districts must make the changes specified in the proposed rulemaking, under II.C., *District Title V Interim Approval Issues Common to All Nineteen Districts* and Section III., *Individual District Title V Interim Approval Issues*, in order to be granted full approval.

The scope of the nineteen districts' part 70 programs approved in this notice applies to all part 70 sources (as defined in the approved program) within the districts, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, *e.g.*, 59 FR 55813, 55815–55818 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

This interim approval, which may not be renewed, extends until June 3, 1997. During this interim approval period, the nineteen districts are protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a Federal operating permits program in any of these districts. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If any of the nineteen districts fails to submit a complete corrective program for full approval by December 3, 1996, EPA will start an 18-month clock for mandatory sanctions. If any of the districts then fail to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA will apply sanctions to that district as required by section 502(d)(2) of the Act, which will remain in effect until EPA determines that the district has corrected the deficiency by submitting a complete corrective program.

If EPA disapproves any of the nineteen districts' complete corrective program, EPA will apply sanctions to that district or districts as required by section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date the district or districts has submitted a revised program and EPA has determined that the district or districts corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if any of the nineteen districts has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to any of the nineteen districts' programs by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for those districts lacking full approval, upon interim approval expiration.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State or District's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the nineteen districts' programs for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the nineteen districts' submittals and other information relied upon for the final interim approval, including two public comments received and reviewed by EPA on the proposal, are contained in docket number CA–NONGR19–94–01–OPS, maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

C. Regulatory Flexibility Act

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 21, 1995.

John Wise,

Acting Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. Appendix A to part 70 is amended by adding the entry for California in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

California

The following district programs were submitted by the California Air Resources Board on behalf of:

(a) *Amador County Air Pollution Control District* (APCD) (complete submittal received on September 30, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(b) [Reserved]

(c) *Butte County APCD* (complete submittal received on December 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(d) *Calaveras County APCD* (complete submittal received on October 31, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(e) *Colusa County APCD* (complete submittal received on February 24, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(f) *El Dorado County APCD* (complete submittal received on November 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(g) *Feather River Air Quality Management District* (AQMD) (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(h) [Reserved]

(i) *Great Basin Unified APCD* (complete submittal received on January 12, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(j) *Imperial County APCD* (complete submittal received on March 24, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(k) *Kern County APCD* (complete submittal received on November 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(l) [Reserved]

(m) *Lassen County APCD* (complete submittal received on January 12, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(n) [Reserved]

(o) *Mendocino County APCD* (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(p) *Modoc County APCD* (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(q) [Reserved]

(r) [Reserved]

(s) *North Coast Unified AQMD* (complete submittal received on February 24, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(t) *Northern Sierra AQMD* (complete submittal received on June 6, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(u) *Northern Sonoma County APCD* (complete submittal received on January 12, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(v) *Placer County APCD* (complete submittal received on December 27, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

(w) [Reserved]

VOL
60
ISS
85
MY
3
1995
UMI

(x) [Reserved]
(y) [Reserved]
(z) [Reserved]
(aa) [Reserved]
(bb) [Reserved]
(cc) *Siskiyou County APCD* (complete submittal received on December 6, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 997.
(dd) [Reserved]
(ee) [Reserved]
(ff) *Tuolumne County APCD* (complete submittal received on November 16, 1993); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.
(gg) [Reserved]
(hh) *Yolo-Solano AQMD* (complete submittal received on October 14, 1994); interim approval effective on June 2, 1995; interim approval expires June 3, 1997.

* * * * *

[FR Doc. 95–10825 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 80

[AMS–FRL–5201–4]

Regulation of Fuels and Fuel Additives: Standards for Reformulated and Conventional Gasoline Withdrawal of Reformulated Gasoline Program Extension in Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rule.

SUMMARY: The Clean Air Act, as amended, directs the Administrator of EPA to apply the prohibition against the sale of conventional gasoline under EPA's reformulated gasoline (RFG) regulations in an ozone nonattainment area upon the application of the governor of the state in which the nonattainment area is located. On December 29, 1994, EPA issued a direct final rule (DFRM) extending the prohibition set forth in section 211(k)(5) of the Act to three moderate ozone non-attainment areas in Wisconsin, including those counties in the federal RFG program. EPA is withdrawing the direct final rule, because the governor has withdrawn the three counties from the federal RFG program.

EFFECTIVE DATE: This action is effective April 25, 1995.

ADDRESSES: Materials directly relevant to the direct final rule are contained in Public Docket No. A–94–46, located at Room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. Other materials relevant to the reformulated gasoline final rule are contained in Public Dockets A–91–02 and A–92–12. The docket may be inspected from 8:00 a.m. until 4:00 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Joann Jackson Stephens, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4507. To Request Copies of This Notice Contact: Delores Frank, U.S. EPA (RDSD–12), Regulation Development and Support Division, 2565 Plymouth Road, Ann Arbor, MI 48105. Telephone: (313) 668–4295.

SUPPLEMENTARY INFORMATION: A copy of this action is available on the EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network Bulletin Board System (TTNBBS). The service is free of charge, except for the cost of the phone call. The TTNBBS can be accessed with a dial-in phone line and a high-speed modem per the following information:

TTN BBS: 919–541–5742
(1200–14400 bps, no parity, 8 data bits, 1 stop bit)
Voice Help-line: 919–541–5384
Accessible via Internet:
TELNETttnbbs.rtpnc.epa.gov
Off-line: Mondays from 8:00 AM to 12:00 Noon ET

When first signing on, the user will be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following series of menus:

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS
<K> Rulemaking and Reporting
<3> Fuels
<9> Reformulated gasoline

A list of ZIP files will be shown, all of which are related to the RFG rulemaking process. To download any file, type the instructions below and transfer according to the appropriate software on your computer:

<D>ownload, <P>rotocol, <E>xamine, <N>ew, <L>ist, or <H>elp Selection or <CR> to exit: D filename.zip

You will be given a list of transfer protocols from which you must choose one that matches with the terminal software on your own computer. The software should then be opened and directed to receive the file using the same protocol. Programs and instructions for de-archiving compressed files can be found via <S>ystems Utilities from the top menu, under <A>rchivers/de-archivers. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command. Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

I. Background

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Clean Air Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated in the nine worst ozone nonattainment areas beginning January 1, 1995. EPA published final regulations for the RFG program on February 16, 1994 and on August 2, 1994. See 59 FR 7716 and 59 FR 39258. Corrections and clarifications to the final RFG regulations were published July 20, 1994. See 59 FR 36944.

EPA has determined the nine covered areas to be the metropolitan areas including Los Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee. Any other ozone nonattainment area classified under subpart 2 of Part D of Title I of the Act as a Marginal, Moderate, Serious or Severe may be included in the program at the request of the Governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a Governor, EPA shall apply the prohibition against the sale of conventional gasoline (gasoline EPA has not certified as reformulated) in any area classified as an ozone nonattainment area classified as an ozone nonattainment area [1] and EPA is to publish a governor's application in the **Federal Register**. To date, EPA has received and published applications from the Mayor of the District of Columbia and the Governors of the following states with ozone nonattainment areas: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Texas, and Kentucky. Since submitting opt-in applications, some states (Pennsylvania, Maine, and New York) have recently requested to opt-out of the RFG program for various reasons.

[1] EPA promulgated such designations pursuant to Section 107(d)(4) of the Act (56 FR 56694; November 6, 1991).

Governor Tommy G. Thompson of Wisconsin submitted two letters dated April 6, 1994 and August 2, 1994 requesting to opt-in the reformulated gasoline program. The DFRM published by EPA on January 11, 1995 (60 FR 2693) extended the reformulated gasoline program to three moderate ozone nonattainment areas in Wisconsin: Sheboygan, Manitowoc, and Kewaunee counties to be effective May 1, 1995 at the terminal and June 1, 1995 at the retail level. The Agency published a Direct Final Rule because it viewed the addition of the three ozone nonattainment areas in Wisconsin to the RFG program and the May 1/June 1 effective dates as non-controversial given the level of coordination between EPA, Wisconsin, and industry on the opt-in request and thus, anticipated no adverse or critical comments.

II. Withdrawal of the Wisconsin Opt-in DFRM

After publication of the DFRM in the **Federal Register**, Governor Tommy G. Thompson of Wisconsin submitted a letter dated March 31, 1995 requesting the termination of the federal reformulated gasoline program slated for extension to Wisconsin's three moderate ozone nonattainment counties of Sheboygan, Manitowoc, and Kewaunee.

After publication of the DFRM in the **Federal Register**, the Agency also received adverse comments expressing concern about the economic impact of the reformulated gasoline program on Kewaunee County citizens and small businesses, as well as border/supply issues. A copy of these comments can be found in Public Docket A–94–46.

Since receiving the Governor's letter and adverse comments which were submitted to EPA, as was stipulated in the DFRM, the final rule adding the three Wisconsin nonattainment areas to the RFG program is being withdrawn by today's action and is effective immediately. Today's withdrawal affects the amendment of § 80.70, paragraphs (l) and (l)(1) appearing at 60 FR 2693 (January 11, 1995), which were to become effective March 13, 1995.

EPA is withdrawing this provision to the reformulated and conventional gasoline regulations without providing prior notice and an opportunity to comment because it finds there is good cause within the meaning of 5 U.S.C. 553(b) to do so. For the same reasons, EPA finds it has good cause under 5 U.S.C. 533(d) to make this withdrawal immediately effective.

III. Statutory Authority

The statutory authority for the action finalized today is granted to EPA by Sections 114, 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

IV. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this withdrawal is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 requires Federal agencies to identify potentially adverse impacts of federal regulations upon small entities. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(B) et seq., the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

D. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate; or by the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This action has the net effect of reducing burden of the reformulated gasoline program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Motor vehicle pollution.

Dated: April 25, 1995.

Carol M. Browner,
Administrator.

40 CFR part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended, (42 U.S.C. 7414, 7545 and 7601(a)).

§ 80.70 [Amended]

2. In § 80.70 paragraph (l) is removed.

[FR Doc. 95–10882 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 180

[PP 3F4273/R2132; FRL–4953–2]

RIN 2070–AB78

Plant Pesticide Bacillus Thuringiensis CryIIIA Delta-Endotoxin and the Genetic Material Necessary for its Production; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is establishing an exemption from the requirement of a tolerance for residues of the plant pesticide active ingredient *Bacillus thuringiensis* CryIIIA delta-endotoxin and the genetic material necessary for

VOL
60
ISS
85
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3
1995
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its production in potatoes. The Monsanto Co. requested this exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of this plant pesticide in potatoes.

EFFECTIVE DATE: Effective on May 3, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 3F4273/R2132], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees) P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and requests for hearings filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and requests for hearings will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and requests for hearings in electronic form must be identified by the docket number [PP 3F4273/R2132]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and requests for hearings on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Willie H. Nelson, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 51B6, CS #1, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8128; e-mail: nelson.willie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 8, 1993 (58 FR 64583), which announced that the Monsanto Co., 700 Chesterfield Village Parkway, St. Louis, MO 63198, had submitted a pesticide petition, PP 3F4273, to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish an exemption from the requirement of a tolerance for the plant pesticide *Bacillus thuringiensis* subsp. *tenebrionis* (B.t.t) Colorado potato beetle (CPB) control protein (CryIIIA).

EPA has assigned the active ingredient of this product the name *Bacillus thuringiensis* CryIIIA delta-endotoxin and the genetic material necessary for its production. "Genetic material necessary for production" means the CryIIIA gene and its regulatory regions. "Regulatory regions" are the genetic material that control the expression of the gene, such as promoters, terminators, and enhancers.

Monsanto has genetically modified potato plants to produce the pesticidal protein derived from the common soil bacterium *Bacillus thuringiensis* subsp. *tenebrionis*. The protein produced by CPB-resistant potatoes is identical to that found in nature. Monsanto has genetically engineered potatoes by using plant-expressed vectors that transferred the CryIIIA and neomycin phosphotransferase II (nptII) marker gene into the genomic DNA of the potato plants. In the **Federal Register** of September 28, 1994 (59 FR 49353), EPA exempted nptII and the genetic material necessary for its production in or on all raw agricultural commodities when used as an inert. There were no adverse comments or requests for referral to an advisory committee received in response to the notice of filing of the petition, PP 3F4273 (58 FR 64582, Dec. 8, 1993).

Residue Chemistry Data

Residue chemistry data were not required because of the lack of toxicity to this active ingredient. This is similar to the Agency position regarding the submission of residue data for the microbial *Bacillus thuringiensis* products from which this plant pesticide was derived. (See 40 CFR 158.740(b).) For microbial products, residue data are required only when Tier II or III toxicology data are required. The kinds of studies submitted for this plant pesticide are like those in Tier I, not Tiers II or III. Submitted data indicated that the product is of low mammalian toxicity/pathogenicity and the kinds of studies required in Tier II or III were not appropriate. Therefore, no residue data are required in order to grant an exemption from the requirement of a tolerance for Monsanto's plant pesticide, *Bacillus thuringiensis* Cry IIIA delta-endotoxin protein, the CryIIIA gene and the genetic material necessary for its production in potato.

Product Analysis

Monsanto submitted information which adequately described the CryIIIA delta-endotoxin from B.t.t., as expressed in potato, along with the genetic material necessary for its production. Because it would be difficult, or impossible, to extract sufficient biologically active toxin from the plants to perform toxicology tests, Monsanto used delta-endotoxin produced in bacteria. Product analysis data were submitted to show that the microbially expressed and purified CryIIIA delta-endotoxin is sufficiently similar to that expressed in the plant to be used for mammalian toxicological purposes.

1. *Molecular characterization of CPB-resistant Russet Burbank Potatoes equivalence of microbially produced B.t.t. protein.* The relative size and number of copies of the DNA inserted into potatoes was demonstrated with endonuclease digested chromosomal DNA from field-grown potato plants southern blotted with the entire introduced plasmid PV-STBT02 as the probe. These southern blots provided information about the number of copies of introduced DNA, the lack of significant amount of DNA introduced outside the border regions, and integrity of the introduced DNA near the endonuclease cut site. These results indicate only that the DNA necessary to produce the CryIIIA delta endotoxin were introduced into the plant, thus indicating that exposure would only be to the CryIIIA delta-endotoxin and the nucleic acids found in the genetic material necessary for its production. Such nucleic acids have not, by themselves, been associated with toxic effects to animals or humans and are regular constituents of the human diet.

2. *Equivalence of microbially produced and plant-produced B.t.t. protein also called Colorado potato beetle active protein from Bacillus thuringiensis subsp. tenebrionis.* Microbially produced delta endotoxin from the CryIIIA gene as expressed in *Escherichia coli* and in potato tubers were compared. The data consists of SDS-PAGE comigration, Western blot analysis, staining for carbohydrate residues, *N*-terminal amino acid sequence analysis, and biological

equivalence against *Leptinotarsa decemlineata*. These data are adequate to support the equivalence of the microbially produced and plant-produced protein for use in the toxicology studies.

3. *Characterization of the major tryptic fragment from Colorado potato beetle active bacillus thuringiensis subsp. tenebrionis.* The purity and activity of a 55kD protein released with tryptic digestion of the B.t.t. delta endotoxin purified from *E. coli* was shown to have a similar size, immunoreactivity, and amino acid sequence to the 55kD fragment found in potato tubers. The 55kD protein had somewhat higher bioactivity than the 68kD full-length delta endotoxin from B.t.t. These data support the contention that both the 55kD and 68kD forms of the CryIIIA delta-endotoxin found in the plant were similar to those occurring in B.t.t.

4. *Characterization of Colorado potato beetle active bacillus thuringiensis subsp. tenebrionis protein produced in escherichia coli.* The method of preparing by fermentation the delta endotoxin from B.t.t. in *E. coli* was presented. The protein was characterized for purity and stability after purification. These data indicate that normal fermentation techniques were used to produce the plant equivalent, microbial CryIIIA delta-endotoxin.

5. *Compositional comparison of Colorado potato beetle (CPB) active bacillus thuringiensis subsp. tenebrionis proteins produced in CPB-resistant potato plants and commercial microbial products.* The CryIIIA delta-endotoxin as expressed in potato tissue or an *E. coli* alternative gives a similar immunoreactivity and electrophoretic mobility to registered microbial products producing the same delta-endotoxin.

Toxicology Assessment

Toxicity

The delta-endotoxin proteins of *B. thuringinesis* have been intensively studied, and no indications of mammalian toxicity have been reported. Furthermore, approximately 176 different *B. thuringiensis* products have been registered since 1961, and the Agency has not received any reports of dietary toxicity attributable to their use. This is especially significant because FIFRA section 6(a)(2) requires registrants to report any adverse effects to EPA. Therefore, EPA does not expect any mammalian toxicity from this protein in plants based on the use history of *B. thuringiensis* products.

The data submitted by Monsanto support the prediction that this protein would be nontoxic to humans. Adequate information was submitted to show that the test material derived from microbial cultures was essentially identical to the protein as produced by the potatoes. Production of a plant equivalent, microbial CryIIIA delta-endotoxin, was chosen to obtain sufficient material for mammalian testing. In addition, the *in vitro* digestibility studies indicate the protein would rapidly be degraded following ingestion.

The genetic material necessary for the production of the *Bacillus thuringiensis* CryIII(A) delta endotoxin are the nucleic acids (DNA and RNA) which comprise the CryIII(A) gene and its controlling sequences. DNA and RNA are common to all forms of life, including plants, and the Agency knows of no instance where these nucleic acids have been associated with toxic effects related to the consumption of food. These ubiquitous nucleic acids as they appear in the subject active ingredient have been adequately characterized by the applicant. Therefore, no mammalian toxicity is anticipated from dietary exposure to the genetic material necessary for the production of the *Bacillus thuringiensis* CryIII(A) delta endotoxin in potatoes.

Allergenicity

Despite decades of widespread use of *Bacillus thuringiensis* as a pesticide (it has been registered since 1961), there have been no confirmed reports of immediate or delayed allergic reactions from exposure. Such incidents, should they occur, are required to be reported under FIFRA section 6(a)(2) and as a data requirement for registration of microbial pesticides (40 CFR 158.740 and Subdivision M of the FIFRA testing guidelines, NTIS # PB89-211676).

Studies done in laboratory animals or as reported in the literature also have not indicated any potential for allergic reactions to *B. thuringiensis* or its components, including the delta-endotoxin in the crystal protein. Recent *in vitro* studies also confirm that the delta endotoxin would be readily digestible *in vivo*.

Current scientific knowledge suggests that common food allergens tend to be resistant to degradation by heat, acid, and proteases, are glycosylated, and are present at high concentrations in the food. The delta endotoxins are not present at high concentrations, are not resistant to degradation by heat, acid and proteases, and are apparently not glycosylated when produced in plants. The company has submitted data to indicate that the CryIIIA delta endotoxin is rapidly degraded by gastric fluid *in vitro*, is not present as a major component of food, and is apparently nonglycosylated when produced in plants.

Submitted Data

1. *Acute oral toxicity of B.t.t. protein.* The B.t.t. proteins were determined to be stable and the dosing concentrations were determined to be 74.9 mg/mL, 14.62 mg/mL, and 7.4 mg/mL. B.t.t. protein was not toxic by oral gavage when mice were dosed with up to 5220 mg/kg body weight. These results placed this protein in Tox Category IV.

2. *In-vitro digestibility of B.t.t. protein.* The 68 kD and 55kD B.t.t. proteins degraded within 30 seconds in simulated gastric fluid when analyzed by western blot and were not active against Colorado potato beetles after degradation. The 68kD B.t.t. protein degraded to 55kD within 2 hours of incubation in simulated intestinal fluid. The 55 kD form remained unchanged after 14 hours of incubation and retained its bioactivity and western blot results. These results indicate that, following ingestion by humans, the B.t.t. proteins will be degraded like other proteins to amino acids and peptides similar to those occurring in a normal human diet.

Scientific Advisory Panel Subpanel on Plant Pesticides

A Subpanel of the FIFRA Scientific Advisory Panel (SAP) met on March 1, 1995, to discuss the Agency's Preliminary Scientific Review for this use and concluded that "The Monsanto B. t. potato presents little potential for human dietary toxicity. At a dose of one million-fold greater than that contained in a potato (a 150-gram potato contains about 300 micorgrams B.t. protein, 70 kg person = 4.5 micrograms/kg), no toxicity was observed. Moreover, several studies of B.t. potatoes are indistinguishable from strains of wild-type potatoes in nutritive content (total protein, total sugars, vitamin C, minerals, etc.). Furthermore, the B.t. toxin is rapidly digested by pepsin and is inactivated by heat encountered in cooking."

Conclusions

In summary, based upon the submitted studies and other available information, the Agency does not foresee any human health hazards from the use of the *Bacillus thuringiensis* CryIII(A) delta-endotoxin and the genetic material necessary for its production.

Based upon submitted data and a review of its use, EPA has found that when used in accordance with good

VOL 60 ISS 85 MY 3 1995 UMI

agricultural practice, this ingredient is useful for the purpose for which the tolerance exemption is sought. Based on the information considered, EPA concludes that a tolerance is not necessary to protect the public health. Therefore, the exemption from the requirement of a tolerance is established as set forth below.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition because the data and information submitted demonstrate that this active ingredient is not toxic to mammalian species. No enforcement actions are expected, based upon the toxicity for this plant pesticide. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/ or a request for a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections, and must conform to the other requirements of 40 CFR 178.25. Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on each such issue, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 3F4273/R2132] (including copies of any objections and requests for hearings submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

An electronic copy of objections and requests for hearings can be sent directly to EPA at:

opp-Docket@epamail.epa.gov.

A copy of electronic objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copy of objections and requests for hearings received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include any objections and requests for hearings submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant" regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (3) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemption from tolerance requirements do not have a significant economic effect on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4,1981 (49 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 25, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, by adding new § 180.1147, to read as follows:

§ 180.1147 Bacillus thuringiensis CryIIIA delta-endotoxin and the genetic material necessary for its production.

Bacillus thuringiensis CryIIIA delta-endotoxin and the genetic material necessary for its production are exempted from the requirement of a tolerance when used as a plant pesticide in potatoes. "Genetic material necessary for its production" means the CryIIIA gene and its regulatory regions. 'Regulatory regions" are the genetic materials that control the expression of the gene, such as promoters, terminators, and enhancers.

[FR Doc. 95–10864 Filed 4–28–95; 12:21 pm]
BILLING CODE 6560–50–F

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40 CFR Part 180

[PP 4F4317/R2125; FRL–4949–4]

RIN No. 2070–AB78

Myclobutanil; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide myclobutanil and a metabolite in or on the raw agricultural commodity cottonseed at 0.02 part per million (ppm). The Rohm & Haas Co. requested establishment of this tolerance.

EFFECTIVE DATE: This regulation became effective on March 30, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4F4317/R2125], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of the objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and requests for hearings filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and requests for hearings will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and requests for hearings in electronic form must be identified by the docket number [PP 4F4317/R2125]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and requests for hearings on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 8, 1995 (60 FR 7539), which announced that the Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, was proposing the establishment of a tolerance of 0.02 part per million (ppm) in pesticide petition (PP) 4F4317 for the residues of the fungicide myclobutanil, [*alpha*-butyl-*alpha*-(3-hydroxybutyl)-1*H*-1,2,4-triazole-1-propanenitrile], and both the free and bound forms of its metabolite, *alpha*-(3-hydroxybutyl)-*alpha*-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile, in or on the raw agricultural commodity cottonseed. There were no comments received in response to the **Federal Register** notice. The data submitted in support of the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the tolerance include the following:

1. A 1-year dog feeding study using doses of 0, 10, 100, 400, and 1,600 ppm (equivalent to doses of 0, 0.34, 3.09, 14.28 and 54.22 milligrams/kilogram (mg/kg) body weight (bwt)/day in males and 0, 0.40, 3.83, 15.68 and 58.20 mg/kg bwt/day in females). The no-observed-effect level (NOEL) is 100 ppm (3.09 mg/kg/day for males and 3.83 mg/kg/day for females) based upon hepatocellular hypertrophy, increases in liver weights, "ballooned" hepatocytes, and increases in alkaline phosphatase, SGPT and GGT, and possible slight hematological effects. The lowest-observed-effect level (LOEL) is 400 ppm (14.28 mg/kg/day for males and 15.68 mg/kg/day for females).

2. A 2-year chronic feeding/carcinogenicity study in rats using dietary concentrations of 0, 50, 200 and 800 ppm (equivalent to doses of 0, 2.49, 9.84 and 39.21 mg/kg bwt/day in males and 0, 3.23, 12.86 and 52.34 mg/kg bwt/day in females). The NOEL for chronic effects other than carcinogenicity is 2.49 mg/kg/day, and the LOEL is 9.84 mg/kg/day based on testicular atrophy in males. No other significant effects were observed in either sex at the stated dose levels over a 2-year period. In addition, no carcinogenic effects were observed in either sex at any of the dose levels tested. Based on the toxicological findings, the maximum tolerated dose (MTD) selected for testing (based on the 90-day feeding study) was not high enough to fully characterize the compound's carcinogenic potential.

The study was repeated at dose levels of 0 and 2,500 ppm (125 mg/kg/day) in the diet, which approaches the MTD, in order to characterize the carcinogenic potential. At 2,500 ppm the observed effects included: decreases in absolute and relative testes weights, increases in the incidences of centrilobular to midzonal hepatocellular enlargement and vacuolation in the liver of both sexes, increases in bilateral aspermatogenesis in the testes, increases in the incidence of hypospermia and cellular debris in the epididymides, and increased incidence of arteritis/periarteritis in the testes. In this study, a NOEL could not be established because there were effects at the only dose level tested. Myclobutanil was not oncogenic when tested under the conditions of the study.

3. A 2-year carcinogenicity study in mice using dietary concentrations of 0, 20, 100, and 500 ppm (equivalent to 0, 2.7, 13.7, and 70.2 mg/kg/day in males and 0, 3.2, 16.5, and 85.2 mg/kg/day in females). The NOEL for chronic effects other than carcinogenicity was 20 ppm (2.7 mg/kg/day in males and 3.2 mg/kg/day in females). The LOEL was 100 ppm (13.7 mg/kg/day in males and 16.5 mg/kg/day in females) based on a slight increase in liver mixed-function oxidase (MFO). Microscopic changes in the liver were evident in both sexes at 500 ppm (70.2 mg/kg/day in males and 85.2 mg/kg/day in females). There were no carcinogenic effects in either sex at any dose level tested. The highest selected dose was satisfactory for evaluating carcinogenic potential in male mice but was lower than the MTD in females.

The above study was reevaluated since the increase in the MFO at 3 months in females was not considered to be significant enough to establish an LOEL. The LOEL was raised to 500 ppm (70.2 mg/kg/day for males and 85.2 mg/kg/day for females) based on increases in MFO in both sexes, increases in SGPT values in females and in absolute and relative liver weights in both sexes at 3 months, increased incidences and severity of centrilobular hepatocytic hypertrophy, Kupffer cell pigmentation, periportal punctate vacuolation and individual hepatocellular necrosis in males, and increased incidences of focal hepatocellular alteration and multifocal hepatocellular vacuolation in both sexes. The NOEL has been raised to 100 ppm (13.7 mg/kg/day for males and 16.5 mg/kg/day for females).

An 18-month study was conducted with female mice using a dose level of 2,000 ppm, which approaches the MTD, to evaluate the carcinogenic potential in female mice. In this study, a NOEL could not be established because there were effects at the only dose level tested. These effects included: decreases in body weight and body weight gain, increases in liver weights,

VOL 60 ISS 85 MY 3 1995 UMI

hepatocellular hypertrophy, hepatocellular vacuolation, necrosis of single hypertrophied hepatocytes, yellow-brown pigment in the Kupffer cells and cytoplasmic eosinophilia and hypertrophy of the cells of the zona fasciculata area of the adrenal cortex. Myclobutanil was not oncogenic when tested under the conditions of the study.

4. A rabbit developmental toxicity study at dosages of 0, 20, 60, and 200 mg/kg/day administered by oral gavage. The LOEL for maternal toxicity was 200 mg/kg/day, and the maternal toxicity NOEL was 60 mg/kg/day based on reduced body weight and body weight gain during the dosing period, clinical signs of toxicity, and possibly abortions. The LOEL for developmental toxicity is 200 mg/kg/day, and the NOEL for developmental toxicity is 60 mg/kg/day based on increases in resorptions, decreases in litter size, and a decrease in the viability index.

5. A developmental toxicity study on rats treated with dosages of 0, 31.26, 93.77, 312.58, and 468.87 mg/kg/day. The maternal toxicity LOEL was 312.6 mg/kg/day, and maternal toxicity NOEL was 93.8 mg/kg/day based on clinical signs of toxicity. The developmental toxicity LOEL was 312.6 mg/kg/day, and the developmental toxicity NOEL was 93.8 mg/kg/day based on increased incidences of 14th rudimentary and 7th cervical ribs.

6. A two-generation rat reproduction study with dosage rates of 0, 50, 200, and 1,000 ppm (equivalent to 0, 2.5, 10, and 50 mg/kg/day). The parental (systemic) toxicity LOEL was 200 ppm (10 mg/kg/day), and the parental (systemic) toxicity NOEL was 50 ppm (2.5 mg/kg/day) based on hepatocellular hypertrophy and increases in liver weights. The reproductive toxicity LOEL was 1,000 ppm (50 mg/kg/day) and reproductive toxicity NOEL was 200 ppm (10 mg/kg/day) based on an increased incidence in the number of stillborns and atrophy of the testes and prostate. The developmental toxicity LOEL was 1,000 ppm (50 mg/kg/day) and the developmental toxicity NOEL was 200 ppm (10 mg/kg/day) based on a decrease in pup body weight gain during lactation.

7. A reverse mutation assay (Ames), point mutation in CHO/HGPRT cells, *in vitro* and *in vivo* (mouse) cytogenetic assays, unscheduled DNA synthesis, and a dominant-lethal study in rats, all of which were negative for mutagenic effects.

The Reference Dose (RfD) based on the 2-year rat chronic feeding study (NOEL of 2.49 mg/kg bwt/day) and using a hundredfold uncertainty factor, is calculated to be 0.025 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) from previously established tolerances and the tolerance established here is 0.002075 mg/kg bwt/day for the general population and utilizes 8% of the RfD. The percentage of the RfD for the most highly exposed subgroup, nonnursing infants (less than 1 year old) is 49%. The TMRC was calculated based on the assumption that myclobutanil occurs at the maximum legal limit in the dietary commodity for which a tolerance is proposed. Even with this probable large overestimate of exposure/risk, the TMRC is well below the RfD for the population as a whole and for each of the 22 subgroups considered. Thus, the dietary risk from exposure to myclobutanil appears to be minimal for the use on cottonseed.

The nature of the residues is adequately understood, and adequate analytical methodology is available for enforcement. Prior to their publication in the Pesticide Analytical Manual, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 will protect the public health. Therefore, the tolerances are established as set forth below. By way of public reminder, this document also reiterates the registrant's responsibility under section 6(a)(2) of FIFRA, to submit additional factual information regarding adverse effects on the environment and to human health by these pesticides.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33 (i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 4F4317/R2125] (including any objections and requests for hearings submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and requests for hearings, identified by the document control number [4F4317/R2125], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and requests for hearings can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and requests for hearings received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all

comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 30, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, chapter I of the title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In part 180:

The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.443(a), by amending the table therein by adding and alphabetically inserting an entry for cottonseed, to read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Cottonseed	0.02
* * * * *	

* * * * *

[FR Doc. 95–10862 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[OPP–300377A; FRL–4949–6]

RIN 2070–AB78

Urea-Formaldehyde Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA establishes an exemption from the requirement of a tolerance for residues of urea-formaldehyde copolymer (CAS Reg. No. 9011-05-6) when used as an inert ingredient in pesticide formulations applied to growing crops only under 40 CFR 180.1001(d) to include uses as a solid diluent, filler, and/or carrier and to modify the minimum molecular weight from 30,000 to 20,000. Ciba-Geigy Corp. requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act.

EFFECTIVE DATE: This regulation becomes effective on May 3, 1995.

ADDRESSES: Written objections, identified by the document control number, [OPP-300377A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and requests for hearings filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and requests for hearings will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and requests for hearings in electronic form must be identified by the docket number [OPP-300377A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and requests for hearings on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Kerry Leifer, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Westfield Building North, 6th Fl., 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8323; e-mail: leifer.kerry@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 26, 1995 (60 FR 5157), EPA issued a proposed rule that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419-8300, had submitted pesticide peitition (PP) 4E04423 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(d) by revising the existing exemption from the requirement of a tolerance for residues of urea-formaldehyde copolymer (CAS Reg. No. 9011-05-6), when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only. The petitioner sought to expand the use of urea-formaldehyde copolymer to include solid diluent, filler, and carrier and to revise the minimum number-average molecular weight from 30,000 to 20,000.

VOL 60 ISS 85 MY 3 1995 UMI

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register,** file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [OPP-300377A] (including any objections and requests for hearings submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and requests for hearings, identified by the document control number [OPP-300377A], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and requests for hearings can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and requests for hearings received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations or recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended in the table therein by revising the entry for the urea-formaldehyde copolymer, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
Urea-formaldehyde copolymer (CAS Reg. No. 9011-05-6); minimum number average molecular weight 20,000.		Encapsulating agent, solid diluent, filler, carrier.

* * * * *

[FR Doc. 95–10863 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 180

[PP 0E3882 and PP 4E4286/R2115; FRL–4941–5]

RIN 2070–AB78

Metolachlor; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for the combined residues of the herbicide metolachlor and its metabolites in or on the raw agricultural commodities celery and dry bulb onion. The Interregional Research Project No. 4 (IR-4) requested this regulation to establish maximum permissible levels for residues of the herbicide in or on the commodities.

EFFECTIVE DATE: This regulation becomes effective on May 3, 1995.

ADDRESSES: Written objections and requests for hearings, identified by the document control number, [PP 0E3882 and PP 4E4286/R2115], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and requests for hearings to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections and requests for hearings shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and requests for hearings filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and requests for hearings will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and requests for hearings in electronic form must be identified by the docket number [PP 0E3882 and PP 4E4286/R2115]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and requests for hearings on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 15, 1995 (60 FR 8613), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions (PP) 0E3882 and PP 4E4286 to EPA on behalf of the named Agricultural Experiment Stations. These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.368 by establishing tolerances for combined residues (free and bound) of the herbicide metolachlor, [2-chloro-*N*-(2-ethyl-6-methlyphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide], and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol, and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on certain raw agricultural commodities as follows:

1. *PP 0E3882.* Petition submitted on behalf of the Experiment Stations of California, Florida, and Texas proposing a tolerance for celery at 0.1 part per million (ppm).

2. *PP 4E4286* Petition submitted on behalf of the Experiment Stations of Arkansas, Michigan, New Jersey, New York, Oklahoma, and Texas proposing a tolerance for dry bulb onion at 1.0 ppm. The petitioner proposed that use of metolachlor on dry bulb onion be limited to onion production areas east of the Rocky Mountains based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register,** file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the

VOL 60 ISS 85 MY 3 1995 UMI

requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 0E3882 and PP 4E4286/R2115] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and requests for hearings, identified by the document control number [PP 0E3882 and PP 4E4286/R2115], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and requests for hearings can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and requests for hearings received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. In § 180.368, paragraph (a) is amended by adding and alphabetically inserting the entry for celery, and paragraph (c) is amended by adding and alphabetically inserting the entry for onion (dry bulb), to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * * *	
Celery	0.1
* * * * *	

* * * * *

(c) * * *

Commodity	Parts per million
* * * * *	
Onion, dry bulb	1.0
* * * * *	

[FR Doc. 95-10866 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 8F3658/R2126; FRL-4950-1]

RIN 2070-AB78

Triasulfuron; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a permanent tolerance for residues of the herbicide triasulfuron, [3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-(2-(2-chloroethoxy)phenylsulfonyl)urea], in or on barley and wheat grain at 0.02 part per million (ppm); barley and wheat straw at 2.0 ppm; barley and wheat forage at 5.0 ppm; meat, fat, and meat byproducts (excluding kidney) of cattle, goats, hogs, horses, and sheep at 0.1 ppm; kidney of cattle, goats, hogs, horses, and sheep at 0.2 ppm; and milk at 0.02 ppm. Ciba-Geigy Corp. has fulfilled certain testing requirements, and EPA is changing time-limited tolerances to permanent tolerances.

EFFECTIVE DATE: This regulation becomes effective on May 3, 1995.

ADDRESSES: Written objections, identified by the document control number, [PP 8F3658/R2126], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and requests for hearings filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and requests for hearings will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and requests for hearings in electronic form must be identified by the docket number [PP 8F3658/R2126]]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and requests for hearings on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 241, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6800; e-mail: taylor.robert@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 15, 1995 (60 FR 13939), EPA issued a proposed rule that gave notice that based on completion of required studies by the Ciba-Geigy Corp. and based on the information cited in documents establishing time-limited tolerances for triasulfuron (57 FR 8844, March 13, 1992 and 59 FR 44931, August 31, 1993), EPA proposed to establish permanent tolerances to replace the then-current time-limited tolerances for triasulfuron.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the permanent tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 8F3658/R2126] (including copies of objections and requests for hearings submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and requests for hearings, identified by the document control number [PP 8F3658/R2126], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and requests for hearings can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and requests for hearings received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance

VOL 60 ISS 85 MY 3 1995 UMI

requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 20, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By revising § 180.459, to read as follows:

§ 180.459 Triasulfuron; tolerances for residues.

Tolerances are established for the residues of the herbicide triasulfuron, [3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-(2-(2-chloroethoxy)phenylsulfonyl)urea] in or on the following raw agricultural commodities:

Commodity	Parts per million
Barley, forage	5.0
Barley, grain	0.02
Barley, straw	2.0
Cattle, fat	0.1
Cattle, kidney	0.2
Cattle, meat	0.1
Cattle, mbyp (except kidney)	0.1
Goats, fat	0.1
Goats, kidney	0.2
Goats, mbyp (except kidney)	0.1
Goats, meat	0.1
Hogs, fat	0.1
Hogs, kidney	0.2
Hogs, mbyp (except kidney)	0.1
Hogs, meat	0.1
Horses, fat	0.1
Horses, kidney	0.2
Horses, mbyp (except kidney)	0.1
Horses, meat	0.1
Milk	0.02
Sheep, fat	0.1
Sheep, kidney	0.2
Sheep, mbyp (except kidney)	0.1
Sheep, meat	0.1
Wheat, forage	5.0
Wheat, grain	0.02
Wheat, straw	2.0

[FR Doc. 95–10868 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Parts 180 and 185

[PP 2F4116 and FAP 2H5644/R2124; FRL–4948–3]

RIN 2070–AB78

Myclobutanil; Pesticide Tolerances and Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes permanent tolerances for the combined residues of the fungicide myclobutanil and a metabolite in or on the raw agricultural commodities stone fruits (except cherries) at 2.0 parts per million (ppm) and cherries at 5.0 ppm and establishes a food additive regulation for the combined residues in or on the processed food commodity dried plums at 8.0 ppm. The Rohm & Haas Co. requested establishment of these tolerances and food additive regulation.

EFFECTIVE DATE: This regulation became effective on March 30, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 2F4116 and FAP 2H5644/R2124], may be submitted to : Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of the objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and requests for hearings filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and requests for hearings will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and requests for hearings in electronic form must be identified by the docket number [PP 2F4116 and FAP 2H5644/R2124]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and requests for hearings on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6900; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the **Federal Register** of December 30, 1992 (57 FR 62333), which announced that the Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, had submitted pesticide petition (PP) 2F4116 proposing to amend 40 CFR 180.443 by establishing permanent tolerances for the residues of the fungicide myclobutanil, [*alpha*-butyl-*alpha*-(3-hydroxybutyl)-1*H*-1,2,4-triazole-1-propanenitrile], and both the free and bound forms of its metabolite, *alpha*-(3-hydroxybutyl)-*alpha*-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile, in or on stone fruits group (except cherries) at 2.0 ppm and cherries at 5.0 ppm and food additive petition (FAP) 2H5644 proposing to amend 40 CFR 185.4350 by establishing a tolerance for the combined residues of myclobutanil and its metabolite in or on the food additive commodity dried plums at 8.0 ppm. Rohm & Haas Co. also requested that previous petitions submitted for stone fruits (PP 9F3811, PP 1F3954, and FAP 1H5608) be combined in these petitions.

Time-limited tolerances were established for myclobutanil in or on the raw agricultural commodities nectarines and peaches at 2.0 ppm and cherries (sweet and sour) at 4.0 ppm with an expiration date of October 1, 1994, in response to PP 9F3811 in a document in the **Federal Register** of February 5, 1992 (57 FR 4368). These tolerances were extended to April 1, 1995, on September 30, 1994.

There were no comments received in response to the notices of filing of any of the petitions. The data submitted in support of the petitions and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the tolerances include the following:

1. A 1-year dog feeding study using doses of 0, 10, 100, 400, and 1,600 ppm (equivalent to doses of 0, 0.34, 3.09, 14.28, and 54.22 milligrams/kilogram (mg/kg) body weight (bwt)/day in males and 0, 0.40, 3.83, 15.68, and 58.20 mg/kg bwt/day in females). The no-observed-effect level (NOEL) is 100 ppm (3.09 mg/kg/day for males and 3.83 mg/kg/day for females) based upon hepatocellular hypertrophy, increases in liver weights, "ballooned" hepatocytes, and increases in alkaline phosphatase, SGPT, and GGT, and possible slight hematological effects. The lowest-observed-effect level (LOEL) is 400 ppm (14.28 mg/kg/day for males and 15.68 mg/kg/day for females).

2. A 2-year chronic feeding/carcinogenicity study in rats using dietary concentrations of 0, 50, 200, and 800 ppm (equivalent to doses of 0, 2.49, 9.84, and 39.21 mg/kg bwt/day in males and 0, 3.23, 12.86, and 52.34 mg/kg bwt/day in females). The NOEL for chronic effects other than carcinogenicity is 2.49 mg/kg/day, and the LOEL is 9.84 mg/kg/day based on testicular atrophy in males. No other significant effects were observed in either sex at the stated dose levels over a 2-year period. In addition, no carcinogenic effects were observed in either sex at any of the dose levels tested. Based on the toxicological findings, the maximum tolerated dose (MTD) selected for testing (based on the 90-day feeding study) was not high enough to fully characterize the compound's carcinogenic potential.

The study was repeated at dose levels of 0 and 2,500 ppm (125 mg/kg/day) in the diet, which approaches the MTD, in order to characterize the carcinogenic potential. At 2,500 ppm, the observed effects included: decreases in absolute and relative testes weights, increases in the incidences of centrilobular to midzonal hepatocellular enlargement and vacuolation in the liver of both sexes, increases in bilateral aspermatogenesis in the testes, increases in the incidence of hypospermia and cellular debris in the epididymides, and increased incidence of arteritis/periarteritis in the testes. In this study, a NOEL could not be established because there were effects at the only dose level tested. Myclobutanil was not oncogenic when tested under the conditions of the study.

3. A 2-year carcinogenicity study in mice using dietary concentrations of 0, 20, 100, and 500 ppm (equivalent to 0, 2.7, 13.7, and 70.2 mg/kg/day in males and 0, 3.2, 16.5 and 85.2 mg/kg/day in females). The NOEL for chronic effects other than carcinogenicity was 20 ppm (2.7 mg/kg/day in males and 3.2 mg/kg/day in females). The LOEL was 100 ppm (13.7 mg/kg/day in males and 16.5 mg/kg/day in females) based on a slight increase in liver mixed-function oxidase (MFO). Microscopic changes in the liver were evident in both sexes at 500 ppm (70.2 mg/kg/day in males and 85.2 mg/kg/day in females). There were no carcinogenic effects in either sex at any dose level tested. The highest selected dose was satisfactory for evaluating carcinogenic potential in male mice, but was lower than the MTD in females.

The above study was reevaluated since the increase in the MFO at 3 months in females was not considered to be significant enough to establish an LOEL. The LOEL was raised to 500 ppm (70.2 mg/kg/day for males and 85.2 mg/kg/day for females) based on increases in MFO in both sexes, increases in SGPT values in females and in absolute and relative liver weights in both sexes at 3 months, increased incidences and severity of centrilobular hepatocytic hypertrophy, Kupffer cell pigmentation, periportal punctate vacuolation and individual hepatocellular necrosis in males, and increased incidences of focal hepatocellular alteration and multifocal hepatocellular vacuolation in both sexes. The NOEL has been raised to 100 ppm (13.7 mg/kg/day for males and 16.5 mg/kg/day for females).

An 18-month study was conducted with female mice using a dose level of 2,000 ppm, which approaches the MTD, to evaluate the carcinogenic potential in female mice. In this study, a NOEL could not be established because there were effects at the only dose level tested. These effects included: decreases in body weight and body weight gain, increases in liver weights, hepatocellular hypertrophy, hepatocellular vacuolation, necrosis of single hypertrophied hepatocytes, yellow-brown pigment in the Kupffer cells, and cytoplasmic eosinophilia and hypertrophy of the cells of the zona fasciculata area of the adrenal cortex. Myclobutanil was not oncogenic when tested under the conditions of the study.

4. A rabbit developmental toxicity study at dosages of 0, 20, 60, and 200 mg/kg/day administered by oral gavage. The LOEL for maternal toxicity was 200 mg/kg/day, and the maternal toxicity NOEL was 60 mg/kg/day based on reduced body weight and body weight gain during the dosing period, clinical signs of toxicity, and possibly abortions. THE LOEL for developmental toxicity is 200 mg/kg/day and NOEL for developmental toxicity is 60 mg/kg/day based on increases in resorptions, decreases in litter size, and a decrease in the viability index.

5. A developmental toxicity study on rats treated with dosages of 0, 31.26, 93.77, 312.58, and 468.87 mg/kg/day. The maternal toxicity LOEL was 312.6 mg/kg/day, and maternal toxicity NOEL was 93.8 mg/kg/day based on clinical signs of toxicity. The developmental toxicity LOEL was 312.6 mg/kg/day, and the developmental toxicity NOEL was 93.8 mg/kg/day based on increased incidences of 14th rudimentary and 7th cervical ribs.

6. A two-generation rat reproduction study with dosage rates of 0, 50, 200, and 1,000 ppm (equivalent to 0, 2.5, 10, and 50 mg/kg/day). The parental (systemic) toxicity LOEL was 200 ppm (10 mg/kg/day) and the parental (systemic) toxicity NOEL was 50 ppm (2.5 mg/kg/day) based on hepatocellular hypertrophy and increases in liver weights. The reproductive toxicity LOEL was 1,000 ppm (50 mg/kg/day), and reproductive toxicity NOEL was 200 ppm (10 mg/kg/day) based on an increased incidence in the number of stillborns and atrophy of the testes and prostate. The developmental toxicity LOEL was 1,000 ppm (50 mg/kg/day), and the developmental toxicity NOEL was 200 ppm (10 mg/kg/day) based on a decrease in pup body weight gain during lactation.

7. A reverse mutation assay (Ames), point mutation in CHO/HGPRT cells, *in vitro* and *in vivo* (mouse) cytogenetic assays, unscheduled DNA synthesis, and a dominant-lethal study in rats, all of which were negative for mutagenic effects.

The Reference Dose (RfD) based on the 2-year rat chronic feeding study (NOEL of 2.49 mg/kg bwt/day) and using a hundredfold uncertainty factor is calculated to be 0.025 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) from previously established tolerances and tolerances established here is 0.002319 mg/kg bwt/day for the general population and utilizes 9% of the RfD. The percentages of the RfD for the most highly exposed subgroups, nonnursing infants (less than 1 year old) and children (1 to 6 years old), are 58% and 25%, respectively. The TMRC was calculated based on the assumption that myclobutanil occurs at the maximum legal limit in all of the dietary commodities for which tolerances are proposed. Even with this probable large overestimate of exposure/risk, the TMRC is well below the RfD for the population as a whole and for each of the 22 subgroups considered. Thus, the dietary risk from exposure to myclobutanil appears to be minimal for the use on stone fruits.

The nature of the residues is adequately understood and adequate

VOL 60 ISS 85 MY 3 1995 UMI

analytical methods, gas liquid chromatography using nitrogen/phosphorus and electron capture detectors, are available for enforcement. Prior to their publication in the Pesticide Analytical Manual, Vol. II, the enforcement methodology is being made available in the interim to anyone who is interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 1128C, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA 22202, (703)-305-5232.

The pesticide is considered useful for the purpose for which the tolerances are sought. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR parts 180 and 185 will protect the public health. Therefore, the tolerances are established as set forth below. By way of public reminder, this document also reiterates the registrant's responsibility under section 6(a)(2) of FIFRA, to submit additional factual information regarding adverse effects on the environment and to human health by these pesticides.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33 (i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 2F4116 and FAP 2H5644/R2124] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and requests for hearings, identified by the document control number [PP 2F4116 and FAP 2H5644/R2124], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and requests for hearings can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and requests for hearings must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and requests for hearings received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Parts 180 and 185

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 30, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, chapter I of the title 40 of the Code of Federal Regulations is amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.443(a), by revising the table therein, to read as follows:

§ 180.443 Myclobutanil; tolerances for residues.

(a) * * *

Commodity	Parts per million
Apples	0.5
Cherries (sweet and sour)	5.0
Grapes	1.0
Stone fruits (except cherries)	2.0

* * * * *

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In section 185.4350, by revising the table therein, to read as follows:

§ 185.4350 Myclobutanil.

* * * * *

Commodity	Parts per million
Plums, dried	8.0
Raisins	10.0

[FR Doc. 95–10861 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7616]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 et seq., unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 et seq. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Deputy Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Deputy Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

VOL 60 ISS 85 MY 3 1995 UMI

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain federal assistance no longer available in special Flood Hazard Areas
Region I				
New Hampshire: Raymond, town of, Rockingham County.	330140	Oct. 15, 1975, Emerg.; Apr. 15, 1982, Reg.; May 2, 1995, Susp.	May 2, 1995	May 2, 1995.
Region III				
Pennsylvania:				
Juniata, township of, Huntingdon County.	421692	Feb. 4, 1976, Emerg.; Feb. 17, 1989, Reg.; May 2, 1995, Susp.	.....do	Do.
Upper Chichester, township of, Delaware County.	420439	Dec. 17, 1971, Emerg.; May 16, 1977, Reg.; May 2, 1995, Susp.	.....do	Do.
West Virginia: Mercer County, unincorporated areas.	540124	Dec. 23, 1975, Emerg.; Feb. 1, 1985, Reg.; May 2, 1995, Susp.	.....do	Do.
Region VI				
Louisiana: Farmerville, town of, Union Parish.	220325	May 19, 1978, Emerg.; Mar. 23, 1982, Reg.; May 2, 1995, Susp.	.....do	Do.
Oklahoma:				
Bethany, city of, Oklahoma County.	400254	Jan. 17, 1975, Emerg.; July 31, 1979, Reg.; May 2, 1995, Susp.	.....do	Do.
Purcell, city of, McClain County.	400104	Nov. 21, 1975, Emerg.; July 2, 1981, Reg.; May 2, 1995, Susp.	.....do	Do.
Region I				
Connecticut: Prospect, town of, New Haven County.	090151	July 1, 1975, Emerg.; Feb. 4, 1977, Reg.; May 16, 1995, Susp..	May 16, 1995	May 16, 1995.
Region II				
New York: Hammondsport, village of, Steuben County.	360775	July 18, 1973, Emerg.; Apr. 17, 1978, Reg.; May 16, 1995, Susp.	.....do	Do.
Region III				
Pennsylvania: Huntingdon, borough of, Huntingdon County.	420486	Apr. 16, 1973, Emerg.; Sept. 29, 1978, Reg.; May 16, 1995, Susp.	.....do	Do.
Region IV				
Georgia: North High Shoals, town of, Oconee County.	130368	Oct. 28, 1983, Emerg.; Sept. 1, 1986, Reg.; May 16, 1995, Susp.	.....do	Do.
Region V				
Indiana: Shoals, town of, Martin County.	180166	May 27, 1975, Emerg.; Sept. 1, 1986, Reg.; May 16, 1995, Susp.	.....do	Do.
Ohio:				
Gilboa, village of, Putnam County.	390469	June 20, 1979, Emerg.; May 16, 1995, Reg.; May 16, 1995, Susp.	.....do	Do.
Metamora, village of, Fulton County.	390840	July 21, 1982, Emerg.; May 16, 1995, Reg.; May 16, 1995, Susp.	.....do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: April 25, 1995.

Frank H. Thomas,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–10859 Filed 5–2–95; 8:45 am]

BILLING CODE 6718–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

[Docket No. 950427119–5119–01; I.D. 042495C]

RIN 0648–AH98

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawling Activities; Additional Turtle Excluder Device Requirements Within Certain Statistical Zones

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary additional restrictions on fishing by shrimp trawlers in nearshore waters along two sections of the Texas and Louisiana coast to protect sea turtles; request for comments.

SUMMARY: NMFS is temporarily imposing additional restrictions on fishing by shrimp trawlers in Gulf of Mexico offshore waters out to 10 nautical miles (nm)(18.5 km) from the COLREGS line, along 2 sections of the Texas and Louisiana coasts, between 27° N. lat. and 28° N. lat. and between 95°13' W. long. and 93°20.5' W. long. for a 30-day period. This area includes nearshore waters in shrimp fishery statistical zones 18 and 20, the western portion of zone 17 east to Calcasieu Pass, Louisiana and the extreme northeastern portion of Zone 19. The restrictions include prohibition of the use of soft turtle excluder devices (TEDs), the use of bottom opening TEDs, the use of webbing flaps that completely cover the escape opening of TEDs, and the use of try nets by shrimp trawlers, unless the try nets are equipped with NMFS-approved TEDs other than soft or bottom-opening TEDs. This action is necessary to prevent the continuation of high levels of mortality and strandings of threatened and endangered sea turtles.

DATES: This action is effective 12:01 a.m. (local time) on April 30, 1995, through 11:59 p.m. (local time) on May 29, 1995. Comments on this action must be submitted by May 30, 1995.

ADDRESSES: Comments on this action and requests for a copy of the environmental assessment (EA) or supplemental biological opinion (BO) prepared for this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 813–570–5312, or Russell Bellmer, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in United States (U.S.) waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of sea turtles, as a result of shrimp trawling activities have been documented in the Gulf of Mexico and along the Atlantic Seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions set forth at 50 CFR 227.72. The incidental taking of turtles during shrimp trawling in the Gulf and Atlantic Areas is excepted from the taking prohibition, if the sea turtle conservation measures specified in the sea turtle conservation regulations (50 CFR part 227, subpart D) are employed. The regulations require most shrimp trawlers operating in the Gulf of Mexico and Southeast U.S. Atlantic to have a NMFS-approved TED installed in each net rigged for fishing, year round.

The conservation regulations provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings of sea turtles that may be likely to jeopardize the continued existence of listed species or that would violate the terms and conditions of an incidental take statement or biological opinion (50 CFR 227.72(e)(6)). Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions will be imposed to conserve listed species. These restrictions are effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each.

November 14, 1994—Biological Opinion

On November 14, 1994, NMFS issued a biological opinion (Biological Opinion), which concluded that the continued long term operation of the shrimp fishery in the nearshore waters of the southeastern U.S. was likely to jeopardize the continued existence of the highly endangered Kemp's ridley sea turtle. This Biological Opinion resulted from an ESA section 7 consultation that was reinitiated in response to the unprecedented number of dead sea turtles that stranded along the coasts of Texas, Louisiana, and Georgia in the spring and summer of 1994, coinciding with heavy nearshore shrimp trawling activity. Pursuant to section 7(b)(4) of the ESA, NMFS provided a reasonable and prudent alternative to the existing management measures that would allow the shrimp fishery to continue without jeopardizing the continued existence of the Kemp's ridley sea turtle. In addition, the Biological Opinion is accompanied by an incidental take statement, pursuant to section 7(b)(4)(i) of the ESA, that specifies the impact of such incidental taking on the species. The incidental take statement provides two levels to identify the expected incidental take of sea turtles by shrimp fishing. The incidental take levels are based upon either documented takes or indicated takes measured by stranding data. Stranding data are considered an indicator of lethal take in the shrimp fishery during periods in which intensive shrimping effort occurs and there are no significant or intervening natural or human sources of mortality other than shrimping conclusively identified as the cause of strandings.

NMFS has established an indicated take level (ITL) by identifying the weekly average number of sea turtle strandings documented in each NMFS statistical zone for the last three years (taking into consideration anomalous years). In Texas and Georgia, where strandings were anomalously high in 1994, the years 1991 through 1993 were used to determine historical levels. The weekly average was computed as a five-week running average (two weeks before and after the week in question) to reflect seasonally fluctuating events such as fishery openings and closures and turtle migrations. The ITL for each zone was set at two times the weekly three year stranding average. For weeks and zones where the historical average is less than one, the ITL has been set at two strandings.

VOL
60
ISS
85
MY
3
1995
UMI

The Emergency Response Plan

The reasonable and prudent alternative of the November 14, 1994, Biological Opinion and the accompanying incidental take statement required NMFS to develop and implement an Emergency Response Plan (ERP) to respond to future stranding events and to ensure compliance with sea turtle conservation measures. The Assistant Administrator for Fisheries, NOAA, (AA) approved the ERP on March 14, 1995, and published a notice of availability on April 21, 1995 (60 FR 19885). The ERP provides for elevated enforcement of TED regulations in two areas in which strandings of Kemp's ridley sea turtles are historically high. The first, the Atlantic Interim Special Management Area includes shrimp fishery statistical Zones 30 and 31 (northeast Florida and Georgia). The second, the Northern Gulf Interim Special Management Area, includes statistical Zones 13 through 20 (Louisiana and Texas from the Mississippi River to North Padre Island). The ERP also establishes procedures for notifying NMFS of sea turtle stranding events, and provides guidelines for implementation of temporary restrictions to prevent take levels in the Biological Opinion from being exceeded.

As described in the ERP, restrictions in addition to those already imposed by 50 CFR 227.72(e) will be placed on shrimping in the Interim Special Management Areas if 75 percent or more of the ITL is reached for 2 consecutive weeks. The ERP states that the restrictions are expected to be:

1. Prohibition of the use of soft TEDs;
2. Prohibition of the use of bottom opening TEDs;
3. Prohibition of the use of try nets, unless equipped with NMFS-approved TEDs other than soft or bottom-opening TEDs; and
4. Prohibition of the use of webbing flaps that completely cover the escape opening of TEDs, as described in the Requirements section herein.

In addition, when strandings remain elevated for one month in zones outside the Interim Special Management Area, the Director, Southeast Region, NMFS, may determine that management actions, similar to those specified for the Interim Special Management Areas, will be implemented.

Recent Stranding Events

Sea turtle strandings on offshore beaches in a number of fishery Statistical Zones in Texas have been elevated beyond historical levels in the spring of 1995.

Shrimp effort declined in south Texas waters in early March from unusually high levels of effort in February, and strandings were generally low throughout Texas during March. In Zone 20, 6 turtles stranded between January 1 and March 18, 1995; all 6 carcasses exhibited severed flippers or other straight-edge wounds. During the 2 consecutive weeks beginning on April 9, 1995, 3 turtles stranded per week on the offshore beaches of Zone 20, where the ITL was 4 turtles. Of those 6 turtles, 3 were Kemp's ridleys. One of the loggerhead turtles recovered in Zone 20 exhibited straight-edge wounds. Most recently, during the first 2 days of the week beginning on April 23, 5 turtles, including 3 ridleys, have stranded in Zone 20.

Elevated strandings for two consecutive weeks have been reported for two additional zones in Texas. Within Zone 19, strandings were above historical levels and met or exceeded the established ITL between March 26, 1995 and April 8, 1995. However, only one turtle stranded in each of the two following weeks. In Zone 21, which lies outside the Interim Special Management Areas, stranding levels were at or above the ITL from March 26 to April 15, but fell to only 1 stranding between April 16 and April 22. Because the most recent stranding reports from Zones 19 and 21 have been low, no management action for those zones is being promulgated at this time, but may be required if strandings again rise in those zones.

The most severe stranding rates occurred in Zone 18. Strandings were low in zone 18 until the week beginning April 9, when 12 turtles stranded on offshore beaches, including 9 Kemp's ridleys. A headstarted Kemp's ridley also stranded. For comparison, from 1991–1993, only 1 turtle stranded in Zone 18 during the same time period. During the week beginning April 16, 16 turtles, including 14 Kemp's ridleys, stranded.

Shrimping Effort and Enforcement

Comprehensive shrimp effort data are not yet available. However, preliminary information regarding activity within observed ports has been collected from NMFS Port Agents and Texas state officials. The data submitted in mid-April, based on landings and port activity, indicated that the fishery active in Texas and Louisiana did not appear to be significantly different from previous years. However, United States Coast Guard (USCG) personnel conducting overflights off Texas during the week of April 23, reported extremely heavy shrimping effort nearshore in Zones 18 and 20. The location and level of effort has varied, and has been affected, in part, by fluctuating weather conditions. Beach workers have reported concentrations of shrimping vessels in the vicinity of strandings during the week beginning April 9 and April 16. Recent turbulent weather may have shifted effort into nearshore waters where white shrimp are being targeted.

Enforcement efforts have been increased in the Northern Gulf Interim Special Management Area, especially in Zones 17 through 20. The USCG has doubled their normal operating level in response to the increased strandings reported in early April. NMFS TED Law Enforcement Team members have been deployed to the northern Gulf since April 1. Additional NMFS agents were added to enforcement efforts in Texas during the week of April 16–22 due to the continued strandings.

Enforcement efforts have not identified any recurring gear problems in the northern Gulf in 1995. NMFS gear specialists have been conducting informational and training workshops to assist shrimpers use TEDs. They report encountering soft TEDs with escape openings that were too small and hard TEDs with illegal ramps. Two net shops in Alabama were identified that were unaware that hard TEDs with ramps were not legal, and they have stopped manufacturing TEDs with ramps.

Analysis of Other Factors

NMFS has investigated factors other than shrimping that may contribute to sea turtle mortality in the northern Gulf, including environmental conditions, oil and gas activities, and other fisheries. There is no information to suggest that red tide or other environmental conditions have contributed to sea turtle strandings thus far in 1995. There were no oil platform removals by explosives during March 1995. One platform was removed on April 17 and 18, 30 miles (48.27 km) south of Cameron, LA. No sea turtles were sighted by the NMFS observers monitoring the rig removal. Seismic survey vessels have been operating throughout the northern Gulf, primarily beyond 10 nm (18.5 km) from shore. One vessel was operating from the beach in the center of the Matagorda Peninsula (Zone 19) out to 9 nm (16.7 km) between April 16 and April 18, during a week of low strandings for that zone. Seismic activities will be ongoing from Freeport through the southern end of the Matagorda Peninsula for the rest of the summer. NMFS has no information to suggest that seismic activities result in sea turtle mortalities. While observers on menhaden vessels have never observed the incidental take of a sea turtle, interactions with the menhaden fishery are possible, but not likely to be fatal. The menhaden fishery opens the third Monday in April in northern Gulf waters (April 17 in 1995), and therefore would not have contributed to any of the strandings documented before that time.

A preliminary analysis of satellite sea surface data for the Gulf of Mexico, indicates that oceanographic conditions along the Texas-Louisiana coast are normal for this time of the year. The normal current flow from northeast to southwest along the Texas and Louisiana coastline is in place.

Restrictions on Fishing by Shrimp Trawlers

The Biological Opinion provides that conservation measures are to be implemented as mortality levels approach incidental take levels established in the Incidental Take Statement in order to ensure that shrimping is not likely to jeopardize the continued existence of Kemp's ridley. The Biological Opinion specifically provides that such measures will be implemented immediately when sea turtle takings, indicated or documented, reach 75 percent of the established levels. These measures are intended to allow shrimp fishing to continue, while reducing the likelihood of further sea turtle strandings. The ERP provides further guidance on the nature and geographic scope of such measures. As noted in the foregoing discussion, strandings have met or exceeded the 75 percent threshold of the ITL in zones 18 and 20, therefore conservation measures are being promulgated.

Pursuant to 50 CFR 227.72(e)(6), the exemption for incidental taking of sea turtles in 50 CFR 227.72(e)(1) does not authorize the incidental takings during fishing activities if the takings would violate the restrictions, terms or conditions of an incidental take statement or biological opinion, and may be likely to jeopardize the continued existence of a species listed under the Act. The AA has determined that continued takings of sea turtles by shrimp fishing are unauthorized, and therefore promulgates this action.

The measures that NMFS is promulgating include:

1. Prohibition of the use of soft TEDs;
2. Prohibition of the use of bottom opening TEDs;
3. Prohibition of the use of try nets, unless equipped with NMFS-approved TEDs other than soft or bottom-opening TEDs; and,
4. Prohibition of the use of webbing flaps that completely cover the escape opening of TEDs, as described in the Requirements section herein.

These restrictions are being applied in the Gulf of Mexico offshore waters seaward to 10 nm (18.5 km) along 2 sections of the Texas and Louisiana coasts, between 27° N. lat. and 28° N. lat. and between 95°13′ W. long. and 93°20.5′ W. long. Under 50 CFR 217.12, offshore is defined as marine and tidal waters seaward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the NOAA (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80.

This area includes the nearshore waters of Zones 20 and 18, where elevated sea turtle strandings are occurring, and the western portion of Zone 17 east to Calcasieu Pass, LA, and the extreme northeastern portion of zone 19. This portion of Zone 17 is included in the affected area for several reasons. The first is the likelihood that some of the carcasses documented in Zone 18 were taken in Zone 17 and carried into Zone 18 by the westward flowing current. Secondly, the areas immediately around Sabine Pass and Calcasieu Pass have been identified as high-use habitat for Kemp's ridley turtles. They are also the sites of heavy shrimping effort. Thirdly, limiting the restricted area to the eastern boundary of Zone 17 may shift some shrimping effort to the east, increasing the already heavy fishing pressure around Sabine Pass and Calcasieu Pass and increasing the threat to sea turtles from intensive shrimp trawling. Finally, in the week beginning April 16, 1995, 2 Kemph's ridley turtles stranded in the Texas portion of Zone 17, which includes only about 8.5 nm (14.8 km) of the 58 miles (93.3 km) of coastline in Zone 17. No strandings have been reported in the Louisiana portion of Zone 17, but most of the shoreline in Louisiana is inaccessible or poorly monitored for sea turtle strandings. As described in the ERP, NMFS may extend conservation measures in any statistical zone to portions of contiguous zones as determined necessary.

These restrictions will allow fishing by shrimp trawlers to continue in these statistical areas despite elevated rates of turtle strandings. Gear types that have the greatest potential for turtle capture are prohibited. Although soft TEDs and bottom opening TEDs are generally approved for use, NMFS believes that they may not be as effective, under some conditions, as top opening hard TEDs at releasing turtles. NMFS has previously promulgated regulations to address and discuss problems with bottom-opening hard TEDs (59 FR 33447, June 29, 1994; 60 FR 15512, March 24, 1995).

Notwithstanding the required use of floats, turtles may be more susceptible to capture in bottom-opening TEDs. Pursuant to 50 CFR 227.72(e)(2)(ii)(B)(*1*), try nets have been exempted from the TED requirements, because they are only intended for use in brief sampling tows not likely to result in turtle mortality. Turtles are, however, caught in try nets, and either through repeated captures or long tows, try nets can contribute to the mortality of sea turtles. Takes of sea turtles in try nets, including one mortality, have been documented by NMFS. Finally, webbing flaps have been permitted to help reduce shrimp loss with TEDs, but may be hindering turtle release. In a top-opening TED, high pressure is generated above the trawl net which forces the webbing flap closed; while in a bottom-opening TED, the weight of the TED grid can pin the webbing flap shut over the escape opening. Additionally, the webbing flap can be sewn shut to disable the TED deliberately. Under these temporary restrictions, only NMFS-approved hard or special hard TEDs with top escape openings may be used in shrimp trawls in the specified areas. If flaps are used, they may not cover the escape opening. Figure 1 illustrates a top-opening hard TED with a shortened webbing flap meeting the dimension requirements of this emergency action.

Requirements

This action is authorized by 50 CFR 227.72(e)(6). The definitions in 50 CFR 217.12 are applicable to this action, as well as all relevant provisions in 50 CFR parts 217 and 227. For example, § 227.71(b)(3) provides that it is unlawful to fish for or possess fish or wildlife contrary to a restriction specified or issued under § 227.72 (e)(3) or (e)(6).

NMFS hereby notifies owners and operators of shrimp trawlers (as defined in 50 CFR 217.12) that for a 30-day period, starting 12:01 a.m. (local time) on April 30, 1995, and ending 11:59 p.m. (local time) on May 30, 1995, fishing by shrimp trawlers in offshore waters, seaward to 10 nm (18.5 km) from the COLREGS line, along 2 sections of the Texas and Louisiana coast, the first bounded between 27° N. lat. and 28° N. lat. and the second bounded between 95°13′ W. long. and 93°20.5′ W. long., is prohibited unless shrimp trawlers comply with the following restrictions to the exceptions for incidental taking in 50 CFR 227.72(e):

1. Use of soft TEDs described in 50 CFR 227.72(e)(4)(iii) is prohibited.

VOL
60
ISS
85
MY
3
1995
UMI

2. Use of hard TEDs with bottom escape openings and special hard TEDs with bottom escape openings is prohibited. Approved hard TEDs and special hard TEDs must be configured with the slope of the deflector bars upward from forward to aft and with the escape opening at the top of the trawl.

3. Use of try nets with a headrope length of 20 ft (6.1 m) or less is prohibited unless an NMFS-approved top-opening, hard TED or special hard TED is installed when the try nets are rigged for fishing.

4. Use of a webbing flap that completely covers the escape opening in the trawl is prohibited. Any webbing which is attached to the trawl, forward of the escape opening, must be cut to a length so that the trailing edge of such webbing does not approach to within 2 inches (5.1 cm) of the posterior edge of the TED grid (see Figure 1). The requirements for the size of the escape opening are unchanged.

All provisions in 50 CFR 227.72(e), including, but not limited to 50 CFR 227.72(e)(2)(ii)(B)(*1*) (use of try nets), 50 CFR 227.72(e)(4)(iii) (approval of soft TEDs), 50 CFR 227.72(e)(4)(i)(F) (position of escape opening), and 50 CFR 227.72(e)(4)(iv)(C) (webbing flap), that do not conform to these requirements are hereby suspended for the duration of this action.

NMFS hereby notifies owners and operators of shrimp trawlers in the area subject to restrictions that they may be required to carry an NMFS-approved observer aboard such vessel(s) if selected to do so by the Director, Southeast Region, NMFS, upon written notification sent to either the address specified for the vessel registration or documentation purposes, or otherwise served on the owner or operator of the vessel. Shrimp trawlers must comply with the terms and conditions specified in such written notification.

Additional Conservation Measures

The AA may withdraw or modify the requirement for specific conservation measures or any restriction on shrimping activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30-day emergency action, will be published in the **Federal Register** pursuant to 50 CFR 227.72(e)(6).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures. If, after these restrictions are instituted, strandings in statistical areas 17, 18, and/or 20 persist at or above 75 percent of the ITL for 2 weeks, NMFS will follow the guidance in the ERP to determine whether to prohibit fishing by some or all shrimp trawlers, as required, in the offshore waters of statistical areas 17, 18, and/or 20 seaward to 10 nm (18.5 km) from the COLREGS line, for a period of 30 days. Contiguous statistical areas or portions of those areas may be included in the closure as necessary. These restrictions may apply to gear types/vessels currently exempted from the TED requirement at 50 CFR 227.72(e)(2)(ii)(A) and/or (B). Area closures will be promulgated through emergency rulemaking notices pursuant to the procedures identified at 50 CFR 227.72(e)(6).

Classification

The AA has determined that this action is necessary to respond to an emergency situation to conserve and provide adequate protection for endangered and threatened sea turtles pursuant to the ESA and other applicable law.

Because neither section 553 of the Administrative Procedure Act (APA), nor any other law requires that general notice of proposed rulemaking be published for this action, and under section 603(b) of the Regulatory Flexibility Act, an initial Regulatory Flexibility Analysis is not required.

This action has been determined to be not significant for purposes of E.O. 12866.

Pursuant to section 553(b)(B) of the APA, the AA finds there is good cause to waive prior notice and opportunity to comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment because unusually high levels of turtle strandings have been reported in shrimp fishery statistical areas 18 and 20 and continue to occur as shrimping continues. Any delay in this action will likely result in additional fatal takings of listed sea turtles.

Pursuant to section 553(d) of the APA, the AA finds there is good cause to waive the 30-day delayed effective date. In addition to the need to protect listed sea turtles, these restrictions are expected to impose only a minor burden on shrimp fishermen. The predominant TED design in use in the affected area is a bottom-opening hard grid TED. Bottom-opening hard grid TEDs can be modified to comply with these restrictions in one to two hours. Any webbing flap over the escape opening can be shortened in less than ten minutes. Trawlers equipped with soft TEDs may be required to move out of the affected area, either offshore or alongshore, or to equip their nets with hard TEDs. Hard grid TEDs are available for as little as $75.00 and take several hours to install. Finally, some fishermen may not elect to equip their try nets with hard grid TEDs. These fishermen would then be unable to monitor their catch rate during long tows.

The AA prepared an EA for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and establishing the 30-day notice procedures. A supplemental EA has been prepared for this action. Copies of the EA and the supplemental EA are available (see **ADDRESSES**).

Dated: April 27, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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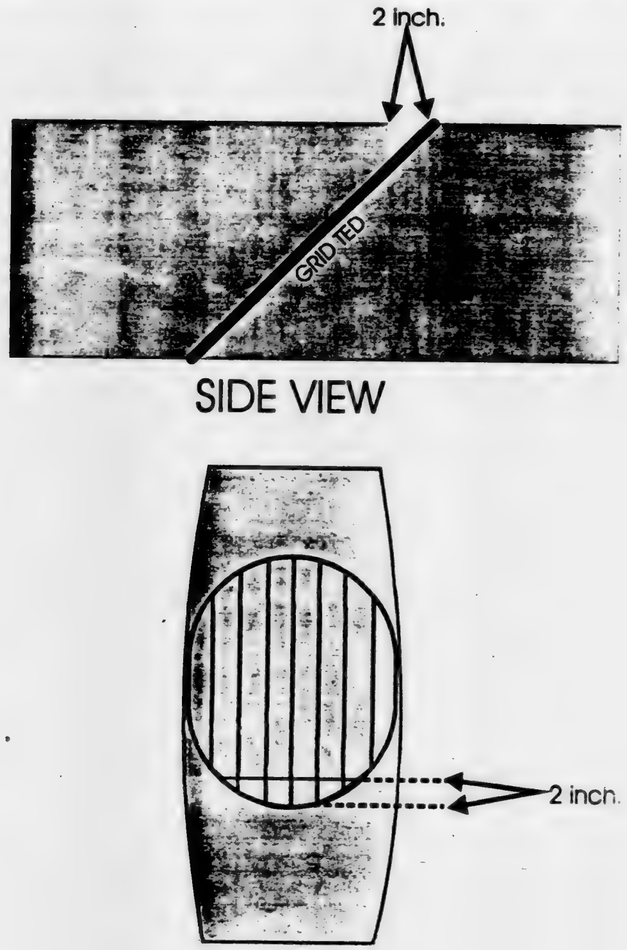

FIGURE 1 SHORTENED WEBBING OVER THE ESCAPE OPENING COMPLYING WITH REQUIREMENT NUMBER 4 OF THIS ACTION.

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VOL
60
ISS
85
MY
3
1995
UMI

50 CFR Part 661

[Docket No. 950426116–5116–01; I.D. 042095A]

RIN 0648–AH79

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California; 1995 Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Annual management measures for the ocean salmon fishery; request for comments.

SUMMARY: NMFS establishes fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California for 1995. Specific fishery management measures vary by fishery and area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3–200 nautical miles) off Washington, Oregon, and California. These management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among treaty Indian and non-treaty commercial and recreational fisheries. The measures are intended to allow a portion of the salmon runs to escape the ocean fisheries to provide for spawning escapement and inside fisheries. NMFS also announces 1996 recreational salmon seasons opening earlier than May 1, 1996.

DATES: Effective from 0001 hours Pacific Daylight Time (P.d.t.), May 1, 1995, until the effective date of the 1996 management measures, as published in the **Federal Register**.

Comments must be received by June 2, 1995.

ADDRESSES: Comments on the management measures may be sent to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way N.E., BIN C15700, Seattle, WA 98115–0070; or Hilda Diaz-Soltero, Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213. Documents cited in this notice are available on request.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" fishery management plan (FMP). The framework FMP was approved in 1984 and has been amended five times (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991; 59 FR 23013, May 4, 1994). Regulations at 50 CFR part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notification in the **Federal Register**.

These management measures for the 1995 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 4–7, 1995, meeting.

Schedule Used To Establish 1995 Management Measures

In accordance with the FMP, the Council's Salmon Technical Team (STT) and staff economist prepared several reports for the Council, its advisors, and the public. The first report, "Review of 1994 Ocean Salmon Fisheries," summarizes the 1994 ocean salmon fisheries and assesses how well the Council's management objectives were met in 1994. The second report, "Preseason Report I Stock Abundance Analysis for 1995 Ocean Salmon Fisheries," provides the 1995 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 1994 regulations or regulatory procedures were applied to the 1995 stock abundances.

The Council met on March 7–10, 1995, in South San Francisco, CA, to develop proposed management options for 1995. Three commercial and three recreational fishery management options were proposed for analysis and public comment. These options presented various combinations of management measures designed to protect numerous weak stocks of coho and chinook salmon and provide for ocean harvests of more abundant stocks. All options provided for no directed harvest of chinook salmon in non-treaty fisheries north of Cape Falcon, OR, and no directed harvest of coho salmon south of Cape Falcon. After the March Council meeting, the STT and staff economist prepared a third report, "Preseason Report II Analysis of Proposed Regulatory Options for 1995 Ocean Salmon Fisheries," which analyzes the effects of the proposed 1995 management options. This report also was distributed to the Council, its advisors, and the public.

Public hearings on the proposed options were held March 27–29, 1995, in Westport, WA; Astoria and North Bend, OR; and Eureka and Sacramento, CA.

The Council met on April 4–7, 1995, in Portland, OR, to adopt its final 1995 recommendations. Following the April Council meeting, the STT and staff economist prepared a fourth report, "Preseason Report III Analysis of Council-Adopted Management Measures for 1995 Ocean Salmon Fisheries," which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was distributed to the Council, its advisors, and the public.

Resource Status

Many salmon runs returning to Washington, Oregon, and California streams in 1995 are expected to be somewhat improved from the record low levels in 1994.

Aside from salmon species listed under the Endangered Species Act (discussed below), the primary resource concerns are for: Klamath River fall chinook; Columbia River hatchery chinook; Oregon Production Index area coho stocks destined for the Columbia River and the California and Oregon coasts, particularly Oregon coastal natural coho; and Washington coastal and Puget Sound natural coho. (The Oregon Production Index (OPI) is an annual index of coho abundance from Leadbetter Point, Washington, south through California). Management of all of these stocks is affected by interjurisdictional agreements among Tribal, State, Federal, and/or Canadian managers.

Chinook Salmon Stocks

California Central Valley stocks are relatively abundant compared to the other chinook stocks of the Pacific coast. The Central Valley Index of abundance of combined Central Valley chinook stocks is estimated to be 654,000 fish for 1995, 13 percent above the postseason estimate of the index for 1994 and 7 percent above the average of the index from 1970–1994. The spawning escapement of Sacramento River adult fall chinook was 141,700 adults in 1994, 11 percent greater than the 1993 escapement and within the spawning escapement goal range of 122,000 to 180,000 adult spawners.

Winter-run chinook from the Sacramento River are listed under the ESA as an endangered species (59 FR 440, January 4, 1994) and are a

consideration in establishing ocean fishing regulations. The 1994 spawning escapement was estimated to be 189 adults, the lowest return on record. Neither preseason nor postseason estimates of ocean abundance are available for the winter run.

Klamath River fall chinook ocean abundance is expected to be 172,100 age-3 and age-4 fish at the beginning of the fishing season. Although the abundance forecast is 31 percent above the 1994 actual abundance, it is 43 percent below the average estimates for 1985–94. The spawning escapement goal for the stock is 33–34 percent of the natural adults for each brood but no fewer than 35,000 natural spawners (fish that spawn outside of hatcheries). The natural spawning escapement in 1994 was 33,400 adults, which was below the minimum natural spawner requirement for the fifth consecutive year.

In recent years of low abundances, the procedures used to model the Klamath fall chinook population have consistently overestimated stock abundance. This year the Council modified the predictor used to forecast age-4 ocean abundance. The change resulted in a 24 percent reduction in the 1995 forecast of the age-4 ocean population. A new predictor of the ratio of natural to hatchery adult spawners was also implemented in the 1995 escapement forecast.

Oregon coastal chinook stocks include south-migrating and localized stocks primarily from southern Oregon streams, and north-migrating chinook stocks which generally originate in central and northern Oregon streams. Abundance of south-migrating and localized stocks is expected to be low and similar to the levels observed in 1994. These stocks are important contributors to ocean fisheries off Oregon and northern California. The generalized expectation for north-migrating stocks is for a continuation of average to above-average abundance as observed in recent years. These stocks contribute primarily to ocean fisheries off British Columbia and Alaska. It is expected that the aggregate Oregon coastal chinook spawning escapement goal of 150,000 to 200,000 naturally spawning adults will be met in 1995.

Estimates of Columbia River chinook abundance vary by stock as follows.

(1) *Upper Columbia River spring and summer chinook.* Numbers of upriver spring chinook predicted to return to the river in 1995 are at a record low of 12,000 fish, 43 percent below the 1994 run size of 21,100 fish, and 79 percent below the 1979–84 average of 56,600 fish. The 1995 stock status continues the substantial 1994 decline from recent improvements (1985–90 and 1992–93) in the depressed status of this stock. The 1985–90 and 1992–93 increases from the poor returns in the early 1980s are primarily the result of increases of hatchery stocks. The natural stock component remains severely depressed. Ocean escapement is expected to be significantly below the goal of 115,000 adults counted at Bonneville Dam. Upriver spring chinook are affected only slightly by ocean harvests in Council area fisheries, with the contribution of these stocks being generally 1 percent or less of the total chinook catch north of Cape Falcon, OR. Expected ocean escapement of adult upriver summer chinook is a record low of 8,600 fish. The 1995 stock status remains extremely depressed, with ocean escapement being only 11 percent of the lower end of the spawning escapement goal range of 80,000 to 90,000 adults counted at Bonneville Dam. Upriver summer chinook migrate to the far north and are not a major contributor to ocean fisheries off Washington and Oregon. Snake River spring and summer chinook are listed as threatened under the ESA (57 FR 14653, April 22, 1992).

(2) *Willamette River spring chinook.* Willamette River spring chinook returns are projected to be 48,500 fish, similar to the observed 1994 run of 47,800 fish, and 26 percent below the 1980–84 average return of 65,000 fish. Willamette River spring chinook stocks are important contributors to Council area fishery catches north of Cape Falcon.

(3) *Columbia River fall chinook.* Abundance estimates are made for five distinct fall chinook stock units, as follows.

(a) Upriver bright fall chinook ocean escapement is expected to be 125,000 adults, 7 percent below the 1994 actual return of 134,500 adults. The escapement goal for upriver bright fall chinook is 40,000 adults above McNary Dam, although in recent years the management goal has been 45,000 adults above McNary Dam. This stock has a northern ocean migratory pattern and constitutes less than 10 percent of Council area fisheries north of Cape Falcon.

(b) Lower river natural fall chinook ocean escapement is forecast at 11,500 adults, 11 percent below the 1994 run size of 12,900 adults.

(c) Lower river hatchery fall chinook ocean escapement is forecast at a record low of 42,400 adults, similar to the 1994 preseason estimate but 20 percent below the 1994 return of 52,900 adults. This stock has declined sharply since the record high return in 1987. Lower Columbia River fall chinook stocks normally account for more than half the total catch in Council area fisheries north of Cape Falcon, with lower river hatchery fall chinook being the single largest contributing stock.

(d) Spring Creek hatchery fall chinook ocean escapement is projected to be about 22,500 adults, above the 1994 return of 18,000 adults; the 1986–1990 average ocean escapement was 16,700 adults. The Spring Creek hatchery fall chinook stock has been rebuilding slowly since the record low return in 1987.

(e) Mid-Columbia bright fall chinook ocean escapement is projected to be about 30,100 adults, 6 percent above the 1994 return of 28,500 adults. These fall chinook are returns primarily from hatchery releases of bright fall chinook stock in the area below McNary Dam, although some natural spawning in tributaries between Bonneville and McNary dams is also occurring.

(4) *Snake River wild fall chinook.* Also of concern are Snake River wild fall chinook, which are listed as threatened under the ESA (57 FR 14653, April 22, 1992). Ocean escapement of Snake River fall chinook in 1995 is predicted to be 580 fish, just over one-half the 1994 run. Information on the stock's ocean distribution and fishery impacts are not available. Attempts to evaluate fishery impacts on Snake River fall chinook have used the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook. The Lyons Ferry stock is widely distributed and harvested by ocean fisheries from southern California to Alaska.

(5) *Washington coastal and Puget Sound chinook.* Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada border.

Coho Salmon Stocks

Oregon coastal and Columbia River coho stocks are the primary components of the OPI. Beginning in 1988, the Council adopted revised estimation procedures that were expected to more accurately predict abundance of the following individual OPI area stock components: Public hatchery, private hatchery, Oregon coastal natural (OCN) for rivers and lakes, and Salmon Trout Enhancement Program. Prediction methodologies are described in the Council's "Preseason Report I Stock Abundance Analysis for 1988 Ocean Salmon Fisheries." In response to the extremely low abundances in 1994, some changes to the abundance predictors were implemented as described in the Council's "Preseason Report I Stock Abundance Analysis for

VOL
60
ISS
85
MY
3
1995
UMI

1994 Ocean Salmon Fisheries." In particular, the predictor for the OCN river component did not adequately incorporate environmental variability. Therefore, an environment-based model used to predict abundance in 1994 is again being used in 1995. This model incorporates upwelling and sea surface temperatures by year, but its long-term usefulness is doubtful, because it does not take into account the number of spawners. Future use of this model will be evaluated before the 1996 season. The 1995 OPI is forecast to be 443,000 coho, 85 percent above the 1994 preseason forecast of 239,700 coho, and 30 percent above the 1994 observed level of 341,000 fish. The 1995 estimate includes one of the lowest on record for OCN coho: 219,000 fish, 61 percent above the record low abundance of 136,200 OCN fish observed in 1994. The 1994 spawning escapement of the OCN stock was 133,300 fish.

All Washington coastal natural coho stocks and Puget Sound combined natural coho stocks are expected to be more abundant in 1995 than forecast in 1994. Abundances for Washington coastal stocks of Hoh, Queets, and Grays Harbor natural coho are projected to be 36 percent, 75 percent, and 70–92 percent above the 1994 preseason predictions, respectively. Abundances for Puget Sound stocks of Skagit, Stillaguamish, and Hood Canal natural coho are projected to be 66 percent, more than 3 times, and 43 percent above the 1994 preseason predictions, respectively. Despite increased abundance, many natural coho run sizes are forecast to be well below maximum sustainable yield (MSY) spawning escapement goals. Abundance forecasts for coho hatchery production are well above 1994 expectations for most Washington coastal stocks and 10 percent below the 1994 forecast for Puget Sound combined stocks.

Coho populations in California have not been monitored closely nor have they been a controlling factor in establishing ocean salmon management measures in the past. Although no forecast of the ocean abundance of coho originating from California are available, these runs have been generally at low abundance levels for several years. Concern for California coho has prompted petitions to list these runs under the ESA and a formal review of their status has confirmed that concern is well founded. NMFS is considering the results of the status review and may soon propose to list appropriate groups of coho stocks in California as well as elsewhere on the coast.

Pink Salmon Stocks

Major pink salmon runs return to the Fraser River and Puget Sound only in odd-numbered years. In 1995, abundance expectations are for 20 million Fraser River pink salmon and 3.4 million Puget Sound pink salmon.

Management Measures for 1995

The Council adopted allowable ocean harvest levels and management measures for 1995 that are designed to apportion the burden of protecting the weak stocks discussed above equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. The management measures below reflect the Council's recommendations.

A. South of Cape Falcon

In the area south of Cape Falcon, the management measures in this rule are based primarily on concerns for Klamath River fall chinook, Sacramento River winter chinook, and California and OCN coho stocks.

The low abundance of Klamath River fall chinook resulted in restrictive fishing seasons in the area between Humbug Mountain, OR, and Horse Mountain, CA, termed the Klamath management zone (KMZ), as well as in the areas adjacent to the KMZ. The Council recommended measures that equally distribute Klamath River fall chinook impacts north and south of the KMZ and provide for a target ocean exploitation rate on age-4 Klamath fall chinook of 9 percent. This level of ocean harvest is intended to provide equal sharing of the harvest of Klamath River fall chinook between the Klamath River Indian Tribes and non-Indian fishers, as well as meet the spawning escapement floor of 35,000 natural adult spawners.

Sacramento River winter-run chinook are listed as an endangered species under the ESA. In 1991, NMFS concluded a formal consultation regarding the impacts of the ocean salmon fishing regulations on the winter run. The biological opinion issued from that consultation concluded that the 1990 level of incidental harvest by ocean fisheries should allow the recovery of the winter-run. NMFS recommended shortening the recreational fishing season off central California and closure of an area at the mouth of San Francisco Bay during the time when the winter-run are entering the Bay. These recommended conservation measures were implemented in 1991 and remain a part of the salmon management measures for 1995. NMFS also recommended reducing ocean impacts on winter-run chinook from their 1990 levels. The overall impact of the 1995 salmon management program on the winter-run is expected to be less than in 1990, the base year for the biological opinion. This expectation is based on the ocean exploitation index model for the Central Valley Index stocks of fall chinook, which predicts an ocean exploitation index of 0.72 in 1995 as compared to 0.79 in 1990. These indices only indicate the relative impact on the winter-run, because these fish are less vulnerable to the ocean fisheries than fall-run chinook due to the timing of the seasons as well as their growth and migration patterns.

Since 1991, all hatchery-reared Sacramento River winter chinook have been tagged. Based on ocean recoveries of tagged winter chinook, it is estimated that approximately 100 hatchery produced winter chinook were taken in the 1994 sport and commercial harvests. There are no estimates of the ocean abundance of either hatchery or wild winter-run chinook, nor are there estimates of the numbers of wild winter-run chinook taken by ocean fisheries. As a result, it is not possible to assess what fraction of the total winter-run chinook population the estimated 100 hatchery-reared adults taken in ocean fisheries represent. NMFS intends to reinitiate consultation prior to next year's seasons under section 7 of the ESA to determine whether further steps are necessary to reduce overall mortality of the stock.

The 1995 abundance estimate for OCN coho is a near-record low of 219,000 fish. At this abundance level, the FMP only allows up to a 20 percent incidental exploitation rate that would result in a spawner escapement of 35 adults per mile on standard index surveys. The 1995 management measures result in a total OCN coho exploitation rate of 12 percent, of which 5 percent are impacts associated with non-Council fisheries (Canadian, Alaskan, and inside fisheries). At this exploitation rate, the expected spawner escapement is 38 adults per mile on standard index surveys—less than the spawning escapement goal of 42 adults per mile. There is also ongoing concern for specific individual stocks within the OCN complex, given the disproportionate geographic distribution of OCN coho spawners. The Council's recommendations include time and area closures, and gear restrictions intended to minimize incidental fishing contact with OCN coho and subsequent hook-and-release mortality while allowing access to harvestable stocks of chinook salmon.

Commercial Troll Fisheries

Retention of coho salmon is prohibited in all areas south of Cape Falcon. All seasons listed below are restricted to all salmon species except coho salmon.

Chinook quotas are being implemented in the area between Florence South Jetty and House Rock, OR, to further ensure that the ocean impacts on Klamath River fall chinook do not exceed those that have been modeled. Specifically, commercial troll fisheries will be limited to: Quotas of 1,000 chinook during May in the area between Sisters Rocks and House Rock; 1,200 chinook during July and August in the area between Sisters Rocks and Mack Arch; 13,500 chinook during May and June in the area between Cape Arago and Humbug Mountain; 10,000 chinook during September and October in the area between Cape Arago and Humbug Mountain; and 14,000 chinook during August in the area between Florence South Jetty and Cape Arago. Troll fisheries in other areas south of Cape Falcon are not limited by chinook quotas because of the minor contribution of Klamath stocks to the fisheries.

From Point San Pedro, CA, to the United States-Mexico border, the commercial fishery for all salmon, except coho, will open May 1 through June 15, then reopen July 19 through September 30. Gear is restricted to no more than six lines per boat.

From Point Reyes to Point San Pedro, CA, the commercial fishery for all salmon, except coho, will open May 24 through July 4, then reopen July 19 through September 30. Gear is restricted to no more than six lines per boat.

From Point Arena to Point Reyes, CA, the commercial fishery for all salmon, except coho, will open July 5 through September 30. Gear is restricted to no more than six lines per boat.

From Horse Mountain to Point Arena, CA, the commercial fishery for all salmon, except coho, will open September 1 through September 30. Gear is restricted to no more than six lines per boat.

From Sisters Rocks to House Rock, OR, the commercial fishery for all salmon, except coho, will be open on the following days through May 31 or attainment of the chinook quota, whichever comes earlier: May 1–2, 5–6, 10–11, 14–15, 18–19, 23–24, 27–28, and 31. The days open may be adjusted inseason, if necessary, to manage the fishery. Gear is restricted to no more than four spreads per line, with the open area restricted to only 0–6 nautical miles (11.1 km) of the baseline from which the territorial sea is measured.

From Sisters Rocks to Mack Arch, OR, the commercial fishery for all salmon, except coho, will open the following days through August 31 or attainment of the chinook quota, whichever comes earlier: July 24–25, 28–29, August 1–2, 5–6, 9–10, 13–14, 17–18, 21–22, 25–26, and 30–31. The days open may be adjusted inseason if necessary to manage the fishery. Gear is restricted to no more than four spreads per line, with the open area restricted to only 0–4 nautical miles (7.4 km) of the baseline from which the territorial sea is measured.

From Cape Falcon to Humbug Mountain, OR, the commercial fishery for all salmon except coho will open May 1 and continue through June 30, except that the area between Cape Arago and Humbug Mountain will close on the attainment of the chinook quota for that area. A control zone in state waters at the mouth of Tillamook Bay will be closed to commercial troll fishing in June. Gear is restricted to no more than four spreads per line.

Later in the season, the area from Cape Arago to Humbug Mountain will reopen for all salmon, except coho, on September 1 and continue through the earlier of October 31 or attainment of the chinook quota. Gear is restricted to no more than four spreads per line.

From Florence South Jetty to Cape Arago, OR, the commercial fishery for all salmon, except coho, will reopen August 1 until attainment of the 14,000 chinook quota, then open again September 1 through October 31. Gear is restricted to no more than four spreads per line.

From Cape Falcon to Florence South Jetty, OR, the commercial fishery for all salmon except coho will reopen August 1 through October 31, except that in September the open area north of Cape Lookout is restricted to 0–3 miles (4.8 km) of the baseline from which the territorial sea is measured. A control zone in state waters at the mouth of Tillamook Bay will be closed to commercial troll fishing in August and September.

Recreational Fisheries

Retention of coho salmon is prohibited in all areas from May 1. From Point Arena, CA, to the United States-Mexico border, the recreational fishery, which opened on March 4 (the nearest Saturday to March 1) for all salmon, continues for all salmon, except coho, from May 1 through October 29 (the nearest Sunday to November 1) with a two-fish daily bag limit.

From Horse Mountain to Point Arena, the recreational fishery, which opened on February 18 (the nearest Saturday to February 15) for all salmon, continues for all salmon, except coho, from May 1 through June 30, with a two-fish daily bag limit. This area will reopen on August 1 for all salmon except coho and continue through November 12 (the nearest Sunday to November 15) with a two-fish daily bag limit.

From Humbug Mountain to Horse Mountain, the recreational fishery will open May 17 for all salmon, except coho, and continue through the earlier of July 8 or attainment of the 10,600-chinook quota. If the quota is exceeded by more than 10 percent, the amount over 10 percent will be deducted from the August quota. This area will reopen on August 16 for all salmon, except coho, and continue through the earlier of August 31 or attainment of the 900-chinook quota, except that the control zone at the mouth of the Klamath River will be closed. Both seasons will be open Wednesday through Saturday only, with a one-fish daily bag limit. This area will reopen for all salmon except coho from September 1 through September 9, open 7 days per week, with a one-fish daily bag limit, and no person may retain more than 6 fish in 7 consecutive days.

From Cape Falcon to Humbug Mountain, the recreational fishery will open May 1 through June 30 for all salmon except coho, with a two-fish daily bag limit, no more than six fish in 7 consecutive days, and a control zone at the mouth of Tillamook Bay will be closed in June. Legal gear is limited to artificial plugs or whole bait, either of which must be no less than 6 inches (15.2 cm) long; only nonpainted weights may be used; and no more than two single-point, single-shank barbless hooks are allowed on whole bait or artificial plugs. All attractors, including divers, are prohibited.

B. North of Cape Falcon

From the United States-Canada border to Cape Falcon, ocean fisheries are managed to protect depressed upper Columbia River spring and summer chinook salmon, lower Columbia River hatchery fall chinook salmon, and Washington coastal and Puget Sound natural coho salmon stocks. Ocean treaty and non-treaty harvests and management measures were based in part on negotiations between Washington State fishery managers, user groups, and the Washington coastal, Puget Sound, and Columbia River Treaty Indian tribes as authorized by the U.S. District Court in *U.S.* v.

Washington, U.S. v. *Oregon*, and *Hoh Indian Tribe et al.* v. *Baldridge*.

Due to the projected low returns for Columbia River chinook salmon stocks, non-treaty commercial troll and recreational ocean fisheries north of Cape Falcon prohibit the retention of chinook salmon in 1995. Snake River wild spring chinook and Snake River wild summer chinook comprise only a very small proportion of total chinook abundance in the Council management area, and it is unlikely that these fish are significantly impacted in Council area fisheries. For Snake River wild fall chinook, which are caught in Council area fisheries, the STT estimated a 65-percent reduction in the ocean exploitation rate in Council area fisheries under the recommended 1995 ocean measures compared to the 1988–93 average.

Commercial Troll Fisheries

The commercial fishery for all salmon except chinook will open between the United States-Canada border and Carroll Island, WA, on August 5 through the earliest of September 15 or attainment of the 18,750-coho quota or the 160,000-pink-salmon guideline. The fishery will follow a cycle of 4 days open and 3 days closed, with a possession and landing limit of 80 coho per opening, and gear restricted to flashers with barbless, bare, blued hooks or flashers with barbless hooks and pink hoochies of 3 inches (7.6 cm) or less.

Recreational Fisheries

Recreational all-salmon-except-chinook fisheries are divided into four subareas. Opening dates, subarea quotas, bag limits, and area and gear restrictions are described below. The fisheries in all subareas will close by September 28 or at attainment of the subarea coho salmon quota.

From the Queets River to Leadbetter Point and from Leadbetter Point to Cape Falcon, the fishery will open July 24, with coho subarea quotas of 20,800 and 28,125, respectively. Both subareas will be open Sunday through Thursday only, with a two-fish daily bag limit; no person may retain more than four fish in 7 consecutive days; and the area will be closed 0–3 miles (4.8 km) off shore and in the control zone at the Columbia River mouth.

From Cape Alava to Queets River, the fishery will open August 1, with a 1,460 coho subarea quota, open Sunday through Thursday only, will be subject to a two-fish daily bag limit, and closed 0–3 miles (4.8 km) of shore.

From the U.S.-Canada border to Cape Alava, the fishery will open August 1 with a 5,850-coho subarea quota, open 7 days per week with a two-fish daily bag limit, and closed 0–3 miles (4.8 km) off shore south of Skagway Rock.

Treaty Indian Fisheries

Ocean salmon management measures proposed by the treaty Indian tribes are part of a comprehensive package of Indian and non-Indian salmon fisheries in the ocean and inside waters agreed to by the various parties. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the tribes and agreed to by the Council. Treaty Indian troll fisheries north of Cape Falcon are governed by quotas of 12,000 chinook and 25,000 coho salmon. The all-except-coho seasons will open May 1 and extend through May 31 or until the overall harvest guideline of 7,000 chinook is reached, whichever is earlier. The all-salmon seasons will open August 1 and extend through the earliest of September 30 or attainment of the chinook or coho quotas. The minimum length restrictions for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 inches (61.0 cm) for chinook and 16 inches (40.6 cm) for coho.

1996 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend to NMFS fishing seasons that begin before May 1 of the same year. Therefore, openings for 1996 fishing seasons earlier than May 1 are established in this notification. The Council recommended, and NMFS concurs, that the following two recreational seasons will open in 1996. First, the area from Point Arena to the United States-Mexico border will open on March 2 (the nearest Saturday to March 1) for all salmon. This fishery will be subject to a two-fish daily bag limit unless an evaluation indicates low coho abundance is anticipated in 1996, in which case inseason action may be taken to prohibit retention of coho. The control zone near the mouth of San Francisco Bay will be closed from March 2 through March 31. Second, the area from Horse Mountain to Point Arena will open on February 17 (the nearest Saturday to February 15) for all salmon, except coho, with a two-fish daily bag limit.

The following tables and text are the management measures recommended by the Council for 1995 and, as specified, for 1996. The Secretary concurs with these recommendations and finds them responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The management measures are consistent with requirements of the Magnuson Fishery Conservation and Management Act and other applicable law, including U.S. obligations to Indian tribes with Federally recognized fishing rights.

Halibut Retention

In accordance with the Northern Pacific Halibut Act, regulations governing the Pacific halibut fishery were published in the **Federal Register** on March 20, 1995 (60 FR 14651) under 50 CFR part 301. The regulations state that vessels participating in the salmon troll fishery in Area 2A (all waters off the States of Washington, Oregon, and California), that have obtained the appropriate International Pacific Halibut Commission (IPHC) license, may retain halibut caught incidentally during the May through June salmon fisheries, in conformance with the annual salmon management measures.

As provided by 50 CFR 301.7(c) and 301.23(e), the following measures have been approved. Trollers must obtain a license from the IPHC by May 1 to retain Pacific halibut caught incidental to the salmon troll fishery during May through June in Area 2A. A salmon troller may participate in this fishery or in the directed commercial fishery targeting halibut, but not both. During the May-through-June troll fishery, no more than one halibut may be landed for each 20 chinook landed by a salmon troller. Any halibut retained must be in compliance with the minimum size limit of 32 inches (81.3 cm). A salmon troller must have 20 chinook on board before retaining a halibut. The Oregon Department of Fish and Wildlife will monitor landings, and if they are projected to exceed the 16,068-pound (7.3-mt) preseason allocation specified at 50 CFR 301.10(b)(2), NMFS will take inseason action to close the incidental halibut fishery through a notice published in the **Federal Register**.

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Table 1. Commercial management measures for 1995 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, D, and E which must be followed for lawful participation in the fishery. Areas on the map are not proportional to actual geographic areas.)

A. SEASONS, SUBAREA QUOTAS, AND SPECIES (Shaded areas represent closures.)

MAY	JUNE	JULY	AUGUST	SEPT/OCT
U.S.-CANADA BORDER				
CAPE FALCON 45E46N00NN N. lat.				
5/1 thru 6/30. All salmon except coho. No more than 4 spreads per line. Closed in Control Zone 2, mouth of Tillamook Bay, in June (C.5.).				
FLORENCE SOUTH JETTY 44E01N00NN N. lat.				
5/1 thru 6/30. All salmon except coho. No more than 4 spreads per line.				
CAPE ARAGO 43E18N20NN N. lat.				
5/1 thru earlier of 6/30 or 13,500 chinook quota (E.3.). All salmon except coho. No more than 4 spreads per line.				
HUMBUG MOUNTAIN 42E40N30NN N. lat.				

JULY	AUGUST	SEPT/OCT
U.S.-CANADA BORDER		
8/5 thru earliest of 9/15 or 18,750 coho quota (E.1.) or 160,000 pink guideline. All salmon except chinook. Cycle of 4 days open/3 days closed. Possession and landing limit of 80 coho per opening. Legal gear limited to flashers with barbless, bare, blued hooks or flashers with barbless hooks and pink hoochies 3 inches (7.6 cm) or less. See D.1.		
CARROLL ISLAND 48E00N18NN N. lat.		
8/1 thru 10/31. All salmon except coho. No more than 4 spreads per line. Open only 0 to 3 miles (4.8 km) of shore north of Cape Lookout (45E20N15NN N. lat.) in September. Closed in Control Zone 2, mouth of Tillamook Bay, in August and September (C.5.).		
FLORENCE SOUTH JETTY 44E01N00NN N. lat.		
8/1 thru earlier of 8/31 or 14,000 chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.	9/1 thru 10/31. All salmon except coho. No more than 4 spreads per line.	
CAPE ARAGO 43E18N20NN N. lat.		
	9/1 thru earlier of 10/31 or 10,000 chinook quota (E.3.). All salmon except coho. No more than 4 spreads per line.	
HUMBUG MOUNTAIN 42E40N30NN N. lat.		

Neah Bay

La Push

Westport
Ilwaco/Astoria

Garibaldi
Cape Lookout
Newport

Florence

Coos Bay
Charleston

Port Orford

Table 1. Commercial management measures for 1995 ocean salmon fisheries (continued).

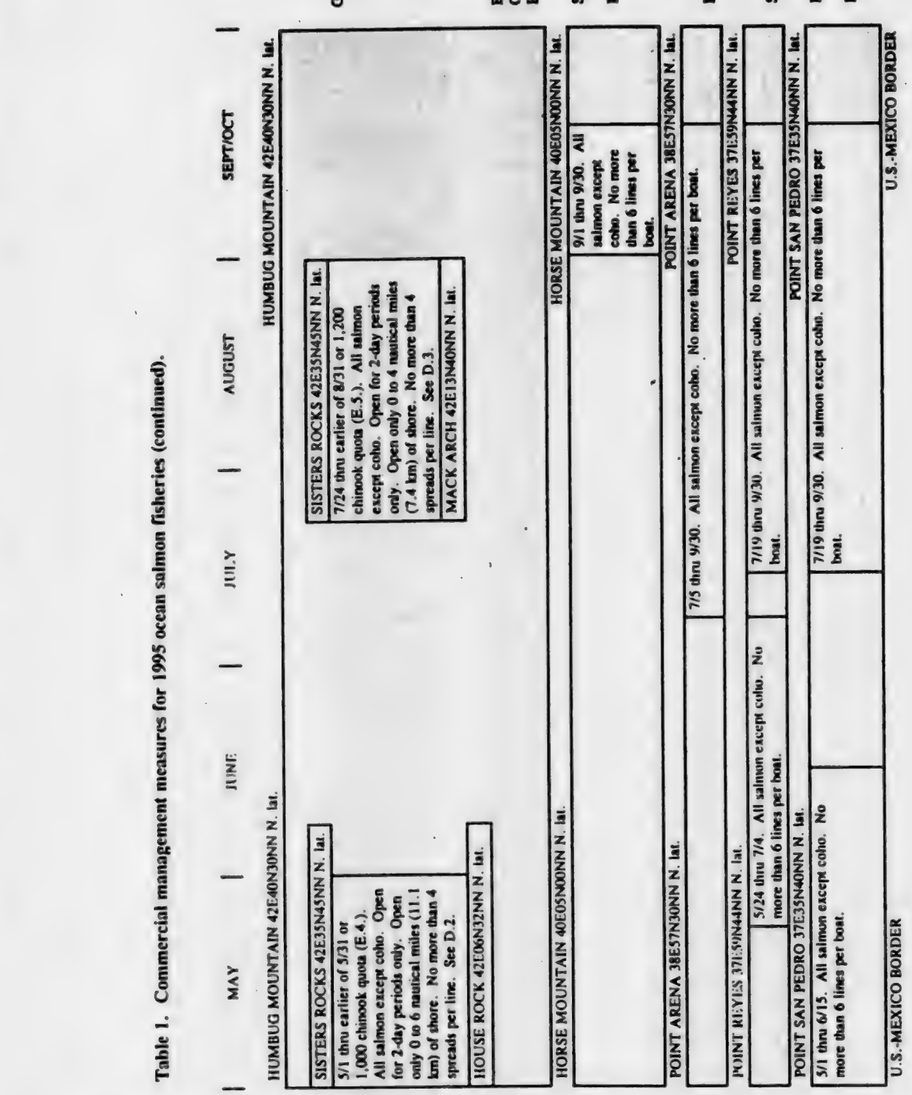

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TABLE 1.—COMMERCIAL MANAGEMENT MEASURES FOR 1995 OCEAN SALMON FISHERIES (Continued)

[B. Minimum size limits (inches) *]

	Chinook		Coho		Pink
	Total length	Head-off	Total length	Head-off	
North of Cape Falcon	.....	.....	16.0	12.0	None.
Cape Falcon to Humbug Mountain	26.0	19.5	.....	.....	None.
South of Humbug Mountain	26.0	19.5	.....	.....	None.

Chinook not less than 26 inches (19.5 inches head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon.

* Metric equivalents for chinook: 26.0 inches=66.0 cm, 19.5 inches=49.5 cm.
Metric equivalents for coho: 16.0 inches=40.6 cm, 12.0 inches=30.5 cm.

C. General Requirements, Restrictions, and Exceptions

C.1. *Hooks*—Single point, single shank barbless hooks are required.

C.2. *Spread*—A single leader leading to an individual lure or bait.

C.3. *Transit Through Closed Areas with Salmon on Board*—It is unlawful for a vessel, that has been issued an ocean salmon permit by any state, to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

C.4. *Landing Salmon in Closed Areas*—Legally caught salmon may be landed in closed areas unless otherwise prohibited by these regulations.

C.5. *Control Zone 2*—The area immediately adjacent to the mouth of Tillamook Bay is closed as established by the Oregon Department of Fish and Wildlife in state regulations.

C.6. Consistent with Council management objectives, the State of Oregon may establish some additional late-season, all-salmon-except-coho fisheries in state waters.

C.7. For the purposes of California Fish and Game Code Section 8232.5, the definition of the Klamath management zone for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Horse Mountain, California.

C.8. *Inseason Management*—In addition to certain automatic inseason actions and specific inseason regulatory modifications noted under Section D below, NMFS may make inseason adjustments to fisheries north of Cape Falcon which are consistent and complementary to Council spawner escapement objectives in the event that management agreements or understandings with Canada warrant re-evaluation of the Council's assumptions about prior interceptions.

C.9. *Halibut Retention*—Trollers must obtain a license from the International Pacific Halibut Commission (206–634–1838) by May 1 to retain Pacific halibut caught incidental to the salmon troll fishery during May through June in Area 2A (all waters off the States of Washington, Oregon, and California). A salmon troller may participate in this fishery or in the directed commercial fishery targeting halibut, but not both. During the May through June troll fishery, no more than 1 halibut may be landed for each 20 chinook landed by a salmon troller. Any halibut retained must be in compliance with the minimum size limit of 32 inches (81.3 cm). A salmon troller must have 20 chinook on board before retaining a halibut. The Oregon Department of Fish and Wildlife will monitor landings and if they are projected to exceed the 16,068 pound (7.3 mt) preseason allocation, NMFS will take inseason action to close the incidental halibut fishery through a notice published in the **Federal Register**.

D. Possession, Landing, and Special Restrictions by Management Area

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area where landing is required. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board, and the estimated time of arrival.

D.1. *U.S.-Canada Border to Carroll Island, August/September All-Salmon-Except-Chinook Season*—The fishery will follow a cycle of 4 days open and 3 days closed, continuing the cycle until the earliest of September 15 or attainment of the coho quota (see E.1.) or pink harvest guideline. Each vessel may possess, land and deliver no more than 80 coho per open period. Vessels must land and deliver within the area or in adjacent closed areas. All salmon must be landed and delivered within 24 hours of each closure. If the catch exceeds 6,000 coho in the first 4-day cycle, the fishery may be modified inseason to maximize the likelihood that the fishery will continue for at least 3 cycles by either (1) adjusting the landing and possession limit or (2) prohibiting retention of coho. The Fraser River Panel of the Pacific Salmon Commission intends to maintain jurisdiction over the level of ocean commercial harvest of pink salmon north of Carroll Island in 1995 and is expected to set a quota of 160,000 pink salmon for this fishery.

D.2. *Sisters Rocks to House Rock in May*—The fishery will be open only on the following days through the earlier of May 31 or attainment of the chinook quota (see E.4.): May 1–2, 5–6, 10–11, 14–15, 18–19, 23–24, 27–28 and 31. The Oregon Department of Fish and Wildlife and NMFS may adjust the open/closure cycle through the inseason management process as necessary to manage the fishery. All salmon caught in the area must be landed and delivered in the immediate area ports only (Gold Beach, Brookings, or Port Orford) within 24 hours of each closure. Landing limits may be imposed inseason as required to maintain an orderly fishery.

D.3. *Sisters Rocks to Mack Arch in July and August*—The fishery will be open only on the following days through the earlier of August 31 or attainment of the chinook quota (see E.5.): July 24–25, 28–29, August 1–2, 5–6, 9–10, 13–14, 17–18, 21–22, 25–26, and 30–31. The Oregon Department of Fish and Wildlife and NMFS may adjust the open/closure cycle through the inseason management process as necessary to manage the fishery. All salmon caught in the area must be landed in the immediate area ports only (Gold Beach, Brookings, or Port Orford) within 24 hours of each closure. Landing limits may be imposed inseason as required to maintain an orderly fishery.

E. Quotas

E.1. *North of Cape Falcon*—All non-treaty troll and recreational ocean fisheries will be limited by either (a) an overall 0 chinook quota or (b) impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason quota of 75,000 coho. The troll fishery will be limited by overall catch quotas of 0 chinook and 18,750 coho. Any transfers between subarea quotas of 5,000 fish or less shall be done on a fish-for-fish basis.

E.2. *Florence South Jetty to Cape Arago in August*—Limited to a catch quota of 14,000 chinook.

E.3. *Cape Arago to Humbug Mountain*—Limited by catch quotas of 13,500 chinook for the May/June fishery and 10,000 chinook for the September/October fishery.

E.4. *Sisters Rocks to House Rock*—Limited by a catch quota of 1,000 chinook in May.

E.5. *Sisters Rocks to Mack Arch*—Limited by a catch quota of 1,200 chinook for July and August.

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VOL 60 ISS 85 MY 3 1995 UMI

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Table 2. Recreational management measures for 1995 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, and D which must be followed for lawful participation in the fishery. Areas on the map are not proportional to actual geographic areas.)

A. SEASONS, SUBAREA QUOTAS, SPECIES AND BAG LIMITS (Shaded areas represent closures.)

FEB/MAR/APR	MAY	JUNE	JULY	AUGUST	SEPT/OCT/NOV	
U.S.-CANADA BORDER					U.S.-CANADA BORDER	
				8/1 thru earlier of 9/28 or 5,850 coho subarea quota (D.1.). Open 7 days per week. All salmon except chinook. 2 fish per day. Closed 0 to 3 miles (4.8 km) of shore south of Skagway Rock (48E21N58NN N. lat.). Inseason management may be used to maintain season length.		Neah Bay
CAPE ALAVA 48E10N00NN N. lat.					CAPE ALAVA 48E10N00NN N. lat.	
				8/1 thru earlier of 9/28 or 1,460 coho subarea quota (D.1.). Open Sunday thru Thursday only. All salmon except chinook. 2 fish per day. Closed 0 to 3 miles (4.8 km) of shore. Inseason management may be used to maintain season length.		La Push
QUEETS RIVER 47E31N42NN N. lat.					QUEETS RIVER 47E31N42NN N. lat.	
			7/24 thru earlier of 9/28 or 20,800 coho subarea quota (D.1.). Open Sunday thru Thursday only. All salmon except chinook. 2 fish per day. No more than 4 fish in 7 consecutive days. Closed 0 to 3 miles (4.8 km) of shore. Inseason management may be used to maintain season length.			Westport
LEADBETTER POINT 46E38N10NN N. lat.					LEADBETTER POINT 46E38N10NN N. lat.	
			7/24 thru earlier of 9/28 or 28,125 coho subarea quota (D.1.). Open Sunday thru Thursday only. All salmon except chinook. 2 fish per day. No more than 4 fish in 7 consecutive days. Closed 0 to 3 miles (4.8 km) of shore and in Control Zone 1, Columbia River mouth (C.3.). Inseason management may be used to maintain season length.			Ilwaco/Astoria
CAPE FALCON 45E46N00NN N. lat.					CAPE FALCON 45E46N00NN N. lat.	
	5/1 thru 6/30. All salmon except coho. 2 fish per day. No more than 6 fish in 7 consecutive days. See gear restriction C.2. Closed in Control Zone 2, mouth of Tillamook Bay, in June (C.4.).				Limited fall fisheries in State waters (see C.8.).	Garibaldi Pacific City Newport Florence Coos Bay
HUMBUG MOUNTAIN 42E40N30NN N. lat.					HUMBUG MOUNTAIN 42E40N30NN N. lat.	

BILLING CODE 3510-22-C

Table 2. Recreational management measures for 1995 ocean salmon fisheries (continued).

FEB/MAR/APR	MAY	JUNE	JULY	AUGUST	SEPT/OCT/NOV	
HUMBUG MOUNTAIN 42E40N30NN N. lat.					HUMBUG MOUNTAIN 42E40N30NN N. lat.	
	5/17 thru earlier of 7/8 or 10,600 chinook quota (D.2.). Open Wednesday thru Saturday only. All salmon except coho. 1 fish per day. If quota exceeded by more than 10%, the amount over 10% will be deducted from the August quota.		8/16 thru earlier of 8/31 or 900 chinook quota (D.2.). Open Wednesday thru Saturday only. All salmon except coho. 1 fish per day. Closed in Control Zone 3, Klamath River mouth (C.5.).	9/1 thru 9/9. All salmon except coho. 1 fish per day. No more than 6 fish in 7 consecutive days.	Limited fall fisheries in Oregon State waters (see C.8.).	Gold Beach Brookings Crescent City Eureka
HORSE MOUNTAIN 40E05N00NN N. lat.					HORSE MOUNTAIN 40E05N00NN N. lat.	
	2/18 (nearest Saturday to 2/15) thru 4/30. All salmon. 2 fish per day. 5/1 thru 6/30. All salmon except coho. 2 fish per day. In 1996, the season will open 2/17 (nearest Saturday to 2/15) thru 4/30 for all salmon except coho; 2 fish per day.			8/1 thru 11/12 (nearest Sunday to 11/15). All salmon except coho. 2 fish per day.		Shelter Cove Fort Bragg
POINT ARENA 38E57N30NN N. lat.					POINT ARENA 38E57N30NN N. lat.	
	3/4 (nearest Saturday to 3/1) thru 4/30. All salmon. 2 fish per day. 5/1 thru 10/29 (nearest Sunday to 11/1). All salmon except coho. 2 fish per day. In 1996, the season will open 3/2 (nearest Saturday to 3/1) thru 4/30 for all salmon; 2 fish per day. If evaluation indicates low coho abundance in 1996, inseason action may be taken to prohibit retention of coho. In 1996, Control Zone 4, near the mouth of San Francisco Bay, will be closed from 3/2 thru 3/31 (C.6.).					Bodega Bay San Francisco Half Moon Bay Monterey
U.S.-MEXICO BORDER					U.S.-MEXICO BORDER	

VOL 60 ISS 85 MY 3 1995 UMI

TABLE 2.—RECREATIONAL MANAGEMENT MEASURES FOR 1995 OCEAN SALMON FISHERIES (Continued)

[B. Minimum size limits (Total Length in inches)*]

	Chinook	Coho	Pink
North of Cape Falcon	.....	16.0	None.
Cape Falcon to Humbug Mountain	20.0	.....	None.
South of Humbug Mountain	20.0	.....	None, except 20.0 off California.

*Metric equivalents: 20.0 inches=50.8 cm, 16.0 inches=40.6 cm.

C. Special Requirements, Restrictions and Exceptions

C.1. *Hooks*—Single point, single shank barbless hooks are required north of Point Conception, California (34°27'00" N. latitude).

C.2. *Gear Restriction Between Cape Falcon and Humbug Mountain*—Legal gear limited to artificial plugs or whole bait, either of which must be no less than 6 inches (15.2 cm) long; nonpainted weights and no more than 2 single point, single shank barbless hooks allowed on whole bait or artificial plugs; all attractors, including divers, are prohibited.

C.3. *Control Zone 1*—The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles (11.1 km) due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

C.4. *Control Zone 2*—The area immediately adjacent to the mouth of Tillamook Bay is closed as established by the Oregon Department of Fish and Wildlife in state regulations.

C.5. *Control Zone 3*—The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23'00" W. longitude (approximately 12 nautical miles off shore), and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth), is closed August 16–31. (6 nautical miles=11.1 km, 12 nautical miles=22.2 km)

C.6. *Control Zone 4 (Sacramento River Winter Chinook Conservation Closure)*—The ocean area bounded by a line commencing at Bolinas Point (Marin County, 37°54'17" N. latitude, 122°43'35" W. longitude) southerly to Duxbury Buoy to Channel Buoy 1 to Channel Buoy 2 to Point San Pedro (San Mateo County, 37°35'40" N. latitude, 122°31'10" W. longitude) is closed from the opening of the season in 1996 through March 31.

C.7. *Inseason Management*—To meet preseason management objectives such as quotas, harvest guidelines and season duration, certain regulatory modifications may become necessary inseason. Such actions could include modifications to bag limits or days open to fishing and extensions or reductions in areas open to fishing. In addition, NMFS may make inseason adjustments to fisheries north of Cape Falcon which are consistent and complementary to Council spawner escapement objectives in the event that management agreements or understandings with Canada warrant re-evaluation of the Council's assumptions about prior interceptions.

The procedure for inseason transfer of coho among recreational subareas north of Cape Falcon will be as follows:

After conferring with representatives of the affected ports and the Salmon Advisory Subpanel recreational representatives north of Cape Falcon, NMFS may transfer coho inseason among recreational subareas to help meet the recreational season duration objectives (for each subarea). Any transfers between subarea quotas of 5,000 fish or less shall be done on a fish-for-fish basis.

C.8. Consistent with Council management objectives, the State of Oregon may establish limited, all-salmon-except-coho fisheries inside state waters. Fall fisheries under consideration (mid-September through November) include areas at the mouths of Tillamook, Yaquina and Coos bays, and at the mouths of the Elk and Chetco rivers.

C.9. Consistent with Council management objectives, the State of Washington may establish limited fisheries in state waters.

D. Quotas

D.1. *North of Cape Falcon*—All non-treaty troll and recreational ocean fisheries will be limited by either (a) an overall 0 chinook quota or (b) impacts on critical Washington coastal and Puget Sound natural coho stocks equivalent to the preseason quota of 75,000 coho. The recreational fishery will be limited by overall catch quotas of 0 chinook and 56,250 coho.

D.2. *Humbug Mountain to Horse Mountain*—Limited by harvest quotas of 10,600 chinook in May–July, and 900 chinook in August. If the May–July quota is exceeded by more than 10 percent, the amount over 10 percent will be deducted from the August quota.

TABLE 3.—TREATY INDIAN MANAGEMENT MEASURES FOR 1995 OCEAN SALMON FISHERIES

Tribe and area boundaries	Open seasons	Salmon species	Minimum size limit (inches)*		Special restrictions by area
			Chinook	Coho	
A. Seasons, Species, Minimum Size Limits, and Gear Restrictions					
Makah—That portion of the Fishery Management Area (FMA) north of 48°02'15" N. latitude (Norwegian Memorial) and east of 125°44'00" W. longitude.	May 1 thru earlier of May 31 or overall chinook guideline. August 1 thru earliest of September 30 or chinook or coho quota	All except coho ..... All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat or no more than 4 hand-held lines per person.
Quileute—That portion of the FMA between 48°07'36" N. latitude (Sand Point) and 47°34'42" N. latitude (Queets River) east of 125°44'00" W. longitude.	May 1 thru earlier of May 31 or overall chinook guideline. August 1 thru earliest of September 30 or chinook or coho quota	All except coho ..... All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat.
Hoh—That portion of the FMA between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River) east of 125°44'00" W. longitude.	May 1 thru earlier of May 31 or overall chinook guideline. August 1 thru earliest of September 30 or chinook or coho quota	All except coho ..... All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat.

TABLE 3.—TREATY INDIAN MANAGEMENT MEASURES FOR 1995 OCEAN SALMON FISHERIES—Continued

Tribe and area boundaries	Open seasons	Salmon species	Minimum size limit (inches)*		Special restrictions by area
			Chinook	Coho	
Quinault—That portion of the FMA between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis) east of 125°44'00" W. longitude.	May 1 thru earlier of May 31 or overall chinook guideline. August 1 thru earliest of September 30 or chinook or coho quota	All except coho ..... All	24 24	 16	Barbless hooks. No more than 8 fixed lines per boat.

* Metric equivalents: 24 inches=61.0 cm, 16 inches=40.6 cm.

(Note: This table contains important restrictions in Parts A, B, and C which must be followed for lawful participation in the fishery.)

B. Special Requirements, Restrictions, and Exceptions

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a federal court for that tribe's treaty fishery.

B.2. Applicable lengths for dressed, head-off salmon, are 18 inches (45.7 cm) for chinook and 12 inches (30.5 cm) for coho. Minimum size and retention limits for ceremonial and subsistence harvest are as follows: *Makah Tribe*—None. *Quileute, Hoh, and Quinault tribes*—Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.

B.3. The areas within a 6-mile (9.7 km) radius of the mouths of the Queets River (47°31'42" N. latitude) and the Hoh River (47°45'12" N. latitude) will be closed to commercial fishing. A closure within 2 miles (3.2 km) of the mouth of the Quinault River (47°21'00" N. latitude) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.

C. Quotas

C.1. The overall treaty troll ocean quotas are 12,000 chinook and 25,000 coho salmon. These quotas include troll catches by the Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through September 30. The all-salmon-except-coho fishery in May will be limited by an overall harvest guideline of 7,000 chinook with the remainder of the quota available for the all-salmon fishery beginning in August.

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3 of this preamble, the following gear definitions and restrictions will be in effect.

Troll Fishing Gear

Troll fishing gear for the Fishery Management Area (FMA) is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear

Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed 4 pounds (1.8 kg). There is no limit to the number of lines that a person may use while recreationally fishing for salmon off California.

Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Geographical Landmarks

Geographical landmarks referenced in this notice are at the following locations:

Skagway Rock	48°21'58" N. lat.
Cape Alava	48°10'00" N. lat.
Carroll Island	48°00'18" N. lat.
Queets River	47°31'42" N. lat.
Leadbetter Point	46°38'10" N. lat.
Cape Falcon	45°46'00" N. lat.
Cape Lookout	45°20'15" N. lat.
Florence South Jetty	44°01'00" N. lat.
Cape Arago	43°18'20" N. lat.
Humbug Mountain	42°40'30" N. lat.
Sisters Rocks	42°35'45" N. lat.
Mack Arch	42°13'40" N. lat.
House Rock	42°06'32" N. lat.
Horse Mountain	40°05'00" N. lat.
Point Arena	38°57'30" N. lat.
Point Reyes	37°59'44" N. lat.
Point San Pedro	37°35'40" N. lat.
Point Conception	34°27'00" N. lat.

Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 Khz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Inseason actions will also be filed with the Office of the Federal Register as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

This notification of annual management measures is exempt from review under E.O. 12866.

Section 661.23 of title 50, Code of Federal Regulations, requires NMFS to publish a notice establishing management measures for ocean salmon fisheries each year and, if time allows, invite public comments prior to the effective date. Section 661.23 further states that if, for good cause, a notice must be filed without affording a prior opportunity for public comment, the measures will become effective; however, comments on the notice must be invited and received for a period of 15 days after filing the notice with the Office of the Federal Register.

Because many ocean salmon seasons are scheduled to start May 1, the management measures must be in effect by this date. Each year the schedule for establishing the annual management measures begins in February with the compilation and analysis of biological and socio-economic data for the previous year's fishery and salmon stock abundance estimates for the current year. These documents are made available and distributed to the public for review and comment. Two meetings of the Council follow in March and April. These meetings are open to the public and public comment on the

VOL
60
ISS
85
MY
3
1995
UMI

salmon management measures is encouraged. In 1995, the Council recommended management measures near the conclusion of its meeting on April 7, which resulted in a short timeframe for implementation.

In addition, delay in the start of the fishing season would deny ocean fishermen access to harvestable salmon stocks that, if taken later in the year, would produce unacceptable impacts on other salmon stocks, such as those listed under the ESA. Due to the migratory patterns of the various salmon stocks, harvest regimes account for the timing and location of harvestable stocks in concert with the stocks of concern. Therefore, in light of the limited available time and the adverse effect of delay, NMFS has determined that good cause exists to waive the requirements of 50 CFR 661.23 and 5 U.S.C. 553(b) for prior notice and opportunity for prior public comments on that notice to be published in the **Federal Register**. For the same reasons, NMFS has determined that good cause exists to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d). For this notice, NMFS is receiving public comments for 30 days from publication of the notice.

The public had opportunity to comment on these management measures during their development. The public participated in the March and April Council, STT, and Salmon Advisory Subpanel meetings, and in public hearings held in Washington, Oregon, and California in late March that generated the management actions recommended by the Council and approved by the Secretary. Written public comments were invited by the Council between the March and April Council meetings.

On March 31, 1991, NMFS issued a biological opinion that considered the effects on Sacramento River winter-run chinook salmon of fishing under the FMP. The opinion concluded that implementation of the plan is not likely to jeopardize the continued existence of the species. The 1995 season falls within the scope of the 1991 opinion, and the seasons and management measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinitiate consultation on Sacramento River winter-run chinook salmon.

NMFS has issued a biological opinion that considered the effects of fishing under the 1995 salmon management measures on wild sockeye salmon, wild spring/summer chinook salmon, and wild fall chinook salmon from the Snake River, which concluded the fishery in 1995, and the recreational fisheries early in 1996, under the FMP are not likely to jeopardize the continued existence of the listed stocks or adversely modify critical habitat.

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*

Dated: April 27, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–10804 Filed 4–28–95; 11:27 am]

BILLING CODE 3510–23–P

Proposed Rules

Federal Register
Vol. 60, No. 85
Wednesday, May 3, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 871, 872, 873, and 874

RIN 3206–AF32

Federal Employees' Group Life Insurance Program: Merger of Life Insurance Regulations

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations to combine the five parts of title 5 of the Code of Federal Regulations relating to the Federal Employees' Group Life Insurance (FEGLI) Program. This will ease administration and aid in understanding the Program. We are also simplifying the language and incorporating policy information from FPM Supplement 870–1, which is being abolished as of December 31, 1994.

DATES: We must receive comments on or before July 3, 1995.

ADDRESSES: Send your comments to Lucretia F. Myers, Assistant Director for Insurance Programs, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044; deliver them to OPM, Room 3451, 1900 E Street NW., Washington, DC; or FAX them to 202–606–0633.

FOR FURTHER INFORMATION CONTACT: Karen Leibach, 202–606–0004.

SUPPLEMENTARY INFORMATION: The FEGLI Act of 1960 made sweeping changes in the Program, including establishing two new forms of optional coverage. At that time, we decided to pattern the regulations after the law by setting up separate parts of the Code for each of the types of insurance (basic, standard optional, additional optional, and family optional coverages). Although we recognized that this method of translating the law into regulations would result in a lot of duplication, we believed that the format helped OPM and agencies put the new provisions in place. We believe that the regulations can now be merged to eliminate the duplication, without losing clearness or content.

The proposed merger involves deleting parts 871, 872, 873, and 874 and combining the information now contained in those parts into an expanded part 870. This results in a complete presentation of material in one place.

In addition to merging the regulations, we have reorganized the material; incorporated some material formerly found in FPM Supplement 870–1, which is being abolished as of December 31, 1994; and simplified the language to make the regulations easier to understand.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, because the regulations will affect only Federal employees and annuitants.

List of Subjects in 5 CFR Parts 870, 871, 872, 873, and 874

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Reporting and recordkeeping requirements, Life insurance, Retirement.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend title 5, Code of Federal Regulations, as follows:

Part 870 is revised to read as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

Subpart A—Administration and General Provisions

Sec.
870.101 Definitions.
870.102 The policy.
870.103 Correction of errors.
870.104 Initial decision and reconsideration.

Subpart B—Types and Amount of Insurance

870.201 Types of insurance.
870.202 Basic insurance amount (BIA).
870.203 Annual rates of pay.
870.204 Amount of optional insurance.
870.205 Accidental death and dismemberment.

Subpart C—Eligibility

870.301 Eligibility for life insurance.
870.302 Exclusions.

Subpart D—Cost of Insurance

870.401 Withholdings and contributions for basic insurance.
870.402 Withholdings for optional insurance.
870.403 Withholdings and contributions provisions that apply to both basic and optional insurance.
870.404 Direct premium payments under 5 U.S.C. chapter 84 (Federal Employees' Retirement System—FERS).

Subpart E—Coverage

870.501 Basic insurance: effective dates of automatic coverage.
870.502 Basic insurance: waiver/cancellation of insurance.
870.503 Basic insurance: cancelling a waiver.
870.504 Optional insurance: election.
870.505 Optional insurance: waiver/cancellation of insurance.
870.506 Optional insurance: cancelling a waiver.
870.507 Open enrollment periods.
870.508 Nonpay status.
870.509 Transfers to international organizations.

Subpart F—Termination and Conversion

870.601 Termination of basic insurance.
870.602 Termination of optional insurance.
870.603 Conversion of basic and optional insurance.

Subpart G—Annuitants and Compensationers

870.701 Eligibility for life insurance.
870.702 Election of basic insurance.
870.703 Amount of life insurance.
870.704 Reinstatement of life insurance.
870.705 Waiver or suspension of annuity or compensation.
870.706 Reemployed annuitants.
870.707 MRA-plus-10 annuitants.

Subpart H—Order of Precedence and Designation of Beneficiary

870.801 Order of precedence and payment of benefits.
870.802 Designation of beneficiary.
870.803 Child incapable of self-support.

Subpart I—Assignments of Life Insurance

870.901 Assignments permitted.
870.902 Making an assignment.
870.903 Effective date of assignment.
870.904 Amount of insurance.
870.905 Withholdings.
870.906 Cancellation of insurance.
870.907 Termination and conversion.
870.908 Annuitants and compensationers.
870.909 Designations and changes of beneficiary.
870.910 Notification of current addresses.

VOL 60 ISS 85 MY 3 1995 UMI

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

870.1001 Purpose.
870.1002 Definitions.
870.1003 Coverage and amount of insurance.
870.1004 Effective date of insurance.
870.1005 Premiums.
870.1006 Cancellation of insurance.
870.1007 Termination and conversion.
870.1008 Order of precedence and designation of beneficiary.
870.1009 Responsibilities of the U.S. Department of State.

Authority: 5 U.S.C. 8716.

Subpart A—Administration and General Provisions

§ 870.101 Definitions.

Annuitant means a former employee entitled to an annuity under a retirement system established for employees. This includes the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard.

Assign and *assignment* refer to a judge's irreversible transfer to another individual, corporation, or trustee all ownership of FEGLI coverage (except Option C).

Assignee means the individual, corporation, or trustee to which a judge irreversibly transfers ownership of FEGLI coverage (except Option C).

Child, as used in the definition of *family member*, means a legitimate child, an adopted child, a stepchild who lives with the employee or former employee in a regular parent-child relationship, or a recognized natural child. It does not include a stillborn child, a grandchild, or a foster child. The child must be under age 22, or if over age 22, must be incapable of self-support because of a mental or physical disability which existed before the child reached age 22.

Child, as used in the order of precedence, means a legitimate child, an adopted child, or a recognized natural child. It does not include a stepchild, a grandchild, a parent, a brother, a sister, or any other relative, unless the individual has in fact been placed in the legal custody of the employee or annuitant as a foster child. However, if the age of majority in the individual's legal residence is not 18, the individual is considered an "adult" while pending that lower age. Adopted children do not inherit under the order of precedence based on ties to families from their birth parents, other than as designated beneficiaries, but inherit from their adoptive parents. However, a child who is adopted by the spouse of a birth parent inherits from that birth parent.

Compensation means compensation under subchapter I of chapter 81 of title 5, United States Code, which is payable because of an on-the-job injury or disease.

Compensationer means an employee or former employee who is entitled to compensation and whom the Department of Labor determines is unable to return to duty.

Date of retirement, as used in 5 U.S.C. 8706(b)(1)(A), means the starting date of annuity.

Dependent means living with or receiving support from the insured individual.

Duly appointed representative of the insured's estate means an individual named in a court order granting the individual the authority to receive, or the right to possess, the insured's property; the order must be issued by a court having jurisdiction over the insured's estate. Where the law of the insured's legal residence provides for the administration of estates through alternative procedures which do away with the need for a court order, this term also means an individual who shows that he/she is entitled to receive, or possess, the insured's property under the terms of those alternative procedures.

Employee means an individual defined by section 8701(a) of title 5, United States Code.

Employing office means the agency office or retirement system office that has responsibility for life insurance actions.

(a) The Administrative Office of the United States Courts is the employing office for judges of the following courts:

(1) All [illegible] Courts of Appeals;

(2) All United States District Courts, the Court of International Trade, the Court of Federal Claims, the United States Court of Appeals for the Armed Forces, the Tax Court, the Court of Veterans Appeals, and the territorial courts of the United States;

(3) All bankruptcy courts; and

(4) All United States probation and pretrial services offices.

(b) The Federal Judicial Center is the employing office for judges of the United States Court of International Trade.

(c) The United States Sentencing Commission is the employing office for judges of the United States Courts of Appeals and United States District Courts.

Immediate annuity means (1) an annuity that begins no later than 1 month after the date the insured would otherwise stop, and (2) an annuity under § 842.204(a)(1) of this title for which the starting date has been postponed under § 842.204(c) of this title.

Judge means an individual appointed as a Federal justice or judge under Article I or Article III of the Constitution. Administrative law judges, bankruptcy judges, and magistrates are not judges for purposes of assignment of FEGLI coverage.

OFEGLI means the Office of Federal Employees' Group Life Insurance, which makes payments to beneficiaries under the policy.

OPM means the Office of Personnel Management.

OWCP means the Office of Workers' Compensation Programs, U.S. Department of Labor, which administers subchapter I of chapter 81 of title 5, United States Code.

Parent means the mother or father of a legitimate child or an adopted child. The term *parent* includes the mother of a recognized natural child; it also includes the father of a recognized natural child if the recognized natural child meets the definition provided below.

Recognized natural child, with respect to paternity, is one for whom the father meets one of the following:

(a) (1) Has acknowledged paternity in writing;

(2) Was ordered by a court to provide support;

(3) Before his death, was pronounced by a court to be the father;

(4) Was established as the father by a certified copy of the public record of birth or church record of baptism, if the insured was the informant and named himself as the father of the child; or

(5) Established paternity on public records, such as records of schools or social welfare agencies, which show he was the father of the child.

(b) [illegible]

Surviving spouse means a widow or widower who is entitled under subchapter III of chapter 83 or chapter 85 of title 5, United States Code. This includes

service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard for an individual who elected to remain under a retirement system established for employees described in section 2105(c) of title 5.

Underdeduction means a failure to withhold the required amount of life insurance deductions from an individual's pay, annuity, or compensation. This includes nondeductions (when none of the required amount was withheld) and partial deductions (when only part of the required amount was withheld).

§ 870.102 The policy.

Basic, Option A, Option B, and Option C benefits are payable according to a contract with the company or companies that issue a policy under section 8709 of title 5, United States Code. Any court action to obtain money due from an insurance policy must be taken against the company that issues the policy.

§ 870.103 Correction of errors.

(a) The employing office may make corrections of administrative errors regarding coverage or changes in coverage. Retroactive corrections are subject to the provisions of § 870.401(f).

(b) OPM may order correction of an error after reviewing evidence that it would be against equity and good conscience not to do so.

§ 870.104 Initial decision and reconsideration.

(a) (1) An employee may ask his/her agency to reconsider its initial decision denying life insurance coverage or the opportunity to change coverage.

(2) An annuitant may ask his/her retirement system to reconsider its initial decision affecting life insurance coverage.

(3) A judge may ask his/her agency, or retirement system if applicable, to reconsider its initial decision denying an entitlement related to assignments under 5 U.S.C. 8706(e) or subpart I of this part.

(4) An individual insured under subpart J of this part may ask the U.S. Department of State to reconsider its initial decision affecting life insurance coverage.

(b) An employing office's decision is an initial decision when the employing office gives it in writing and informs the individual of the right to an independent level of review (reconsideration) by the appropriate agency or retirement system.

(c) A request for reconsideration must be made in writing and must include the employee's (or annuitant's) name, address, date of birth, Social Security number, reason(s) for the request, and, if applicable, retirement claim number.

(d) A request for reconsideration must be made within 30 calendar days from the date of the initial decision. This time limit may be extended when the individual shows that he/she was not notified of the time limit and was not otherwise aware of it or that he/she was unable, due to reasons beyond his/her control, to make the request within the time limit.

(e) The reconsideration must take place at or above the level at which the initial decision was made.

(f) After reconsideration, the agency or retirement system must issue a final decision. This decision must be in writing and must fully state the findings.

Subpart B—Types and Amount of Insurance

§ 870.201 Types of insurance.

(a) There are two types of life insurance under the FEGLI Program: Basic and optional.

(b) There are three types of optional insurance: Option A (standard optional insurance), Option B (additional optional insurance), and Option C (family optional insurance).

§ 870.202 Basic insurance amount (BIA).

(a) (1) An employee's basic insurance amount (BIA) is either: (i) His/her annual rate of basic pay, rounded to the next higher thousand, plus $2,000; or

(ii) $10,000; whichever is higher. However, the BIA can never be more than the annual rate of pay for Level II Executive Schedule positions under section 5313 of title 5, U.S.C., rounded to the next higher thousand, plus $2,000.

(2) The BIA of an individual who is eligible to continue basic life insurance coverage as an annuitant or compensationer is the BIA in effect at the time his/her insurance as an employee would stop under § 870.601.

(b) An employee's BIA automatically changes whenever annual pay is increased or decreased by an amount sufficient to raise or lower pay to a different $1,000 bracket.

(c) The amount of an employee's basic life insurance coverage is equal to his/her BIA multiplied by the appropriate factor based on the employee's age, as follows:

Age	Factor
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0

§ 870.203 Annual rates of pay.

(a) (1) An insured employee's annual pay is his/her annual rate of basic pay as fixed by law or regulation.

(2) Annual pay for this purpose includes the following:

(i) Interim geographic adjustments and locality-based comparability payments as provided by Pub. L. 101–509;

(ii) Premium pay under 5 U.S.C. 5545(c)(1);

(iii) For a law enforcement officer as defined under 5 U.S.C. 8331(20) and § 831.903 of this title, premium pay under 5 U.S.C. 5545(c)(2);

(iv) Night differential pay for wage employees;

(v) Environmental differential pay for employees exposed to danger or physical hardship;

(vi) Tropical differential pay for citizen employees in Panama; and

(vii) Special pay adjustments for law enforcement officers.

(b) To convert a pay rate of other than annual salary to an annual rate, multiply the pay rate by the number of pay periods in a 52-week work year.

(c) The annual pay for a part-time employee is his/her basic pay applied to his/her tour of duty in a 52-week work year.

(d) The annual pay for an employee on piecework rates is the total basic earnings for the previous calendar year, not counting premium pay for overtime or holidays.

(e) The annual pay for an employee with a regular schedule who works at different pay rates is the weighted average of the rates at which the employee is paid, projected to an annual basis.

(f) The annual pay for a non-Postal intermittent employee or an employee who works at different pay rates without a regular schedule is the annual rate which he/she is receiving at the end of the pay period.

(g) If an employee legally serves in more than 1 position at the same time, and at least 1 of those positions entitles him/her to life insurance coverage, the annual pay is the sum of the annual basic pay fixed by law or regulation for each position. Exception: This doesn't apply to part-time flexible schedule employees in the Postal Service.

VOL 60 ISS 85 MY 3 1995 UMI

§ 870.204 Amount of optional insurance.

(a) Option A coverage is $10,000. However, if an employee's annual rate of pay is more than the sum of the annual rate of basic pay for Level II Executive Schedule positions under 5 U.S.C. 5313 plus $10,000, Option A coverage automatically increases. The amount of Option A coverage in this case is the difference between the employee's annual rate of pay, (rounded to the next higher thousand if not already an even thousand) and the BIA.

(b) (1) Option B coverage comes in 1, 2, 3, 4, or 5 multiples of an employee's annual pay (after the pay has been rounded to the next higher thousand, if not already an even thousand). A multiple can not be more than the annual rate of basic pay for Level II Executive Schedule positions under 5 U.S.C. 5313, rounded to the next higher thousand.

(2) The amount of Option B coverage automatically changes whenever annual pay is increased or decreased by an amount sufficient to raise or lower pay to a different $1,000 bracket.

(c) Option C coverage is $5,000 payable upon the death of a spouse and $2,500 payable upon the death of a child. Payments are made to the insured individual.

§ 870.205 Accidental death and dismemberment.

(a) (1) Accidental death and dismemberment coverage is an automatic part of basic and Option A insurance for employees.

(2) There is no accidental death and dismemberment coverage with Options B and C.

(3) Individuals who are insured as annuitants or compensationers do not have accidental death and dismemberment coverage.

(b) Under basic insurance, accidental death benefits are equal to the BIA, but without the age factor described in § 870.202(c).

(c) (1) Under basic insurance, accidental dismemberment benefits for the loss of a hand, foot, or eye are equal to one-half the BIA. For loss of 2 of these, benefits are equal to the BIA.

(2) For more than one type of loss in a single accident, total benefits cannot be more than the BIA.

(3) Accidental dismemberment benefits are paid to the employee.

(d) Under Option A, accidental death and dismemberment benefits are equal to the amount of Option A.

Subpart C—Eligibility

§ 870.301 Eligibility for life insurance.

(a) Each nonexcluded employee is automatically insured for basic insurance unless he/she waives it.

(b) (1) Optional insurance must be specifically elected; it is not automatic.

(2) An employee may elect optional insurance if:

(i) He/she has basic insurance;

(ii) He/she doesn't have a waiver of that type of optional insurance still in effect; and

(iii) His/her periodic pay, after all other deductions, is enough to cover the full cost.

§ 870.302 Exclusions.

(a) The following employees are excluded from life insurance coverage by law:

(1) An employee of a corporation supervised by the Farm Credit Administration, if private interests elect or appoint a member of the board of directors.

(2) An individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States. Exception: An individual who met the definition of employee on September 30, 1979, by service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone.

(3) An individual first employed by the Government of the District of Columbia on or after October 1, 1987. Exception: An employee of St. Elizabeths Hospital, who accepts employment with the District of Columbia Government following Federal employment without a break in service, as provided in section 6 of Pub. L. 98–621.

(4) Teachers in Department of Defense dependents schools overseas, if employed by the Federal Government in a nonteaching position during the recess period between school years.

(b) The following employees are also excluded from life insurance coverage:

(1) An employee serving under an appointment limited to 1 year or less. Exceptions:

(i) An employee whose full-time or part-time temporary appointment has a regular tour of duty and follows a position in which he/she was insured, with a break in service of no more than 3 days;

(ii) An acting postmaster;

(iii) A Presidential appointee appointed to fill an unexpired term; and

(iv) Certain temporary employees who receive provisional appointments as defined in §§ 316.401 and 316.403 of this title.

(2) An employee who is employed for an uncertain or purely temporary period, who is employed for brief periods at intervals, or who is expected to work less than 6 months in each year. Exception: An employee who is employed under an OPM-approved career-related work-study program under Schedule B lasting at least 1 year and who is in pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

(3) An intermittent employee (a non-full-time employee without a regularly scheduled tour of duty). Exception: An employee whose intermittent appointment follows, with a break in service of no more than 3 days, a position in which he/she was insured and to which he/she is expected to return.

(4) An employee whose pay, on an annual basis, is $12 a year or less.

(5) A beneficiary or patient employee in a Government hospital or home.

(6) An employee paid on a contract or fee basis. Exception: An employee who is a United States citizen, who is appointed by a contract between the employee and the Federal employing authority which requires his/her personal service, and who is paid on the basis of units of time.

(7) An employee paid on a piecework basis. Exception: An employee whose work schedule provides for full-time or part-time service with a regularly scheduled tour of duty.

(c) OPM makes the final determination about whether the above categories apply to a specific employee or group of employees.

Subpart D—Cost of Insurance

§ 870.401 Withholdings and contributions for basic insurance.

(a) The cost of basic insurance is shared between the insured individual and the Government. The employee pays two-thirds of the cost, and the Government pays one-third.

(b) (1) During each pay period in which an insured employee is in pay status for any part of the period, $0.165 must be withheld from the employee's biweekly pay for each $1,000 of the employee's BIA. The amount withheld from the pay of an employee who is paid on other than a biweekly basis must be prorated and adjusted to the nearest one-tenth of 1 cent.

(2) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the amount obtained by converting the biweekly rate to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(3) The amount withheld from the pay of an insured employee whose BIA changes during a pay period is based on the BIA in force at the end of the pay period.

(4) No payment is required while an insured employee is in nonpay status for up to 12 months.

(c) For each pay period in which an employee is insured, the employing agency must contribute an amount equal to one-half the amount withheld from the employee's pay. This agency contribution must come from the appropriation or fund that is used for the payment of the employee's pay. For an elected official, the contribution must come from the appropriation or fund that is available for payment of other salaries in the same office.

(d) (1) For an annuitant who elects to continue basic insurance and chooses the maximum reduction of 75 percent after age 65 under § 870.702(a)(2), the amount withheld monthly is $0.3575 for each $1,000 of the BIA. For a compensationer who makes this election, the amount withheld weekly is $0.0825 for each $1,000. These withholdings stop the month after the month in which the individual reaches age 65. There are no withholdings from individuals who retired or began receiving compensation before January 1, 1990, and who elected the 75 percent reduction. For the purpose of this paragraph, an individual who separates from service after meeting the requirements for an immediate annuity under 5 U.S.C. 8412(g) is considered to retire on the day before the annuity begins.

(2) For an annuitant who elects to continue basic insurance and chooses the maximum reduction of 50 percent after age 65 under § 870.702(a)(3), the amount withheld monthly is $0.8775 for each $1,000 of the BIA until the annuitant reaches age 65; the amount is then reduced to $0.52 for each $1,000. For a compensationer who makes this election, the amount withheld weekly is $0.2025 for each $1,000 of the BIA until age 65; the amount is then reduced to $0.12 for each $1,000.

(3) For an annuitant who elects to continue basic insurance and chooses no reduction after age 65 under § 870.702(a)(4), the amount withheld monthly is $2.0475 for each $1,000 of the BIA until the annuitant reaches age 65; the amount is then reduced to $1.69 for each $1,000. For a compensationer who makes this election, the amount withheld weekly is $0.4725 for each $1,000 of the BIA until age 65; the amount is then reduced to $0.39 for each $1,000.

(e) (1) For each period in which an annuitant or compensationer is insured, OPM must contribute an amount equal to one-half the amount that would be withheld under paragraph (d)(1) of this section. Exception: For USPS employees who become annuitants or compensationers after December 31, 1989, the Postal Service pays the Government contributions.

(2) The Government contribution is the same amount whether the individual elects a maximum 75 percent reduction, a maximum 50 percent reduction, or no reduction.

(3) The Government contribution stops the month after the month in which the individual reaches age 65.

(f) When an agency withholds less than or none of the proper amount of basic life insurance deductions from an individual's pay, annuity, or compensation, the agency must submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under 5 U.S.C. 8708 to OPM for deposit in the Employees' Life Insurance Fund.

§ 870.402 Withholdings for optional insurance.

(a) The insured individual pays the full cost of all optional insurance. There is no Government contribution toward the cost of any optional insurance. Exception: The United States Postal Service may make a contribution toward the cost of optional insurance for USPS employees in some situations.

(b) During each pay period in any part of which an insured employee is in pay status, the employing agency must withhold the full cost of optional insurance from his/her pay.

(c) Subject to the provisions for reemployed annuitants in § 870.706(d), the full cost of optional insurance must be withheld from the annuity of an annuitant and from the compensation of a compensationer. These withholdings stop after the end of the month in which an annuitant or compensationer reaches age 65.

(d) (1) The biweekly cost per $10,000 of Option A coverage is:

For persons under age 35	$0.40
For persons ages 35 through 39	.50
For persons ages 40 through 44	.70
For persons ages 45 through 49	1.10
For persons ages 50 through 54	1.80
For persons ages 55 through 59	3.00
For persons ages 60 and over	7.00

(2) The amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be prorated and adjusted to the nearest cent.

(e) (1) The biweekly cost per $1,000 of Option B coverage is:

For persons under age 35	$0.04
For persons ages 35 through 39	.05
For persons ages 40 through 44	.07
For persons ages 45 through 49	.11
For persons ages 50 through 54	.18
For persons ages 55 through 59	.30
For persons ages 60 and over	.70

(2) The amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be prorated and adjusted to the nearest one-tenth of 1 cent.

(f) (1) The biweekly cost of Option C coverage is based on the age of the employee, annuitant, or compensationer. The cost is:

For persons under age 35	$0.30
For persons ages 35 through 39	.31
For persons ages 40 through 44	.52
For persons ages 45 through 49	.70
For persons ages 50 through 54	1.00
For persons ages 55 through 59	1.50
For persons ages 60 and over	2.60

(2) The amount withheld from pay, annuity, or compensation paid on other than a biweekly basis must be prorated and adjusted to the nearest cent.

(g) For the purpose of this subpart, an individual is considered to reach age 35, 40, 45, 50, 55, or 60 on the first day of the first pay period beginning on or after the January 1 following his/her corresponding birthday.

(h) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the amount obtained by converting the biweekly rate for his/her age group to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(i) When an agency withholds less than or none of the proper amount of optional life insurance deductions from an individual's pay, annuity, or compensation, the agency must submit an amount equal to the uncollected deductions required under 5 U.S.C. 8714a to OPM for deposit in the Employees' Life Insurance Fund.

§ 870.403 Withholdings and contributions provisions that apply to both basic and optional insurance.

(a) Withholdings (and Government contributions, when applicable) are based on the amount of insurance in force at the end of the pay period.

(b) Withholdings are not required for the period between the end of the pay period in which an employee separates from service and the date his/her annuity or compensation begins.

VOL 60 ISS 85 MY 3 1995 UMI

(c) The deposit described in §§ 870.401(f) and 870.402(i) must be made no later than 60 calendar days after the date the employing office determines the amount of the underdeduction that has occurred, regardless of whether or when the underdeduction is recovered by the agency. The agency must determine whether to waive collection of the overpayment of pay, in accordance with 5 U.S.C. 5584, as implemented by 4 CFR ch. I, subchapter G. However, if the agency involved is excluded from the provisions of 5 U.S.C. 5584, it may use any applicable authority to waive the collection.

(d) Effective October 21, 1972, when an employee returns to work after being suspended or fired erroneously, no withholdings are made from the back pay.

(e) If an individual's periodic pay, compensation, or annuity isn't sufficient to cover the full withholdings, any amount available for life insurance withholding must be applied first to basic insurance, with any remainder applied to optional insurance.

§ 870.404 Direct premium payments under 5 U.S.C. chapter 84 (Federal Employees' Retirement System—FERS).

(a) If the FERS annuity, excluding subchapter III of 5 U.S.C. chapter 84 (Thrift Savings Plan), is too low to cover any of the insurance premiums, the retirement system must notify the annuitant of the opportunity to pay his/her share of the basic premium and the optional premium(s) directly to the retirement system.

(b) The retirement system must establish a method for accepting these direct premium payments. The retirement system must provide the annuitant with a premium payment schedule and the requirements for continued enrollment.

(c) The annuitant must send the retirement system the required premium(s) for every pay period during which the coverage(s) continue, excluding the 31-day temporary extension of coverage provided in § 870.601. The annuitant must make payment after the pay period in which he/she is covered, according to the schedule established by the retirement system. If it does not receive payment by the due date, the retirement system must notify the annuitant that coverage(s) will be continued only if he/she makes payment within 15 days after receiving the notice. The basic and optional insurance coverage(s) of an annuitant who does not pay within the specified time limit terminate. An individual whose coverage(s) terminate because of nonpayment of premium cannot reelect or reinstate coverage, except as provided in paragraph (d) of this section.

(d) If, for reasons beyond his/her control, an annuitant is unable to pay within 15 days after receiving the notice, he/she may request reinstatement of coverage by writing to the retirement system. Such a request must be made within 30 calendar days from the date of termination and must be accompanied by proof that the annuitant was prevented from paying within the time limit for reasons beyond his/her control. The retirement system will decide if the individual is eligible for reinstatement of coverage. If the decision is yes, the coverage is reinstated back to the date of termination.

(e) Termination of coverage for failure to pay premiums within the time limit established according to paragraph (c) of this section is effective at the end of the last pay period for which payment has been received on time.

(f) The retirement system must submit all direct premium payments, along with its regular life insurance premiums, to OPM according to procedures set by OPM.

Subpart E—Coverage

§ 870.501 Basic insurance: Effective dates of automatic coverage.

(a)(1) When an employee is appointed or transferred to a position in which he/she is eligible for insurance, the employee is automatically insured for basic insurance on the day he/she enters on duty in pay status, unless, before the end of the first pay period, the employee files a waiver of basic insurance with the employing office or had previously filed a waiver which remains in effect.

(2) An insured employee who moves to another covered position is automatically insured on the effective date of the move, unless the employee files a waiver of basic insurance with the new employing office before the end of the first pay period in the new position.

(b) An employee who returns to pay and duty status after a period of more than 12 months of nonpay status is automatically insured at the time he/she actually enters on duty in pay status, unless, before the end of the first pay period, the employee files a waiver of basic insurance coverage with the employing office or had previously filed a waiver which remains in effect.

(c) For an employee who serves in cooperation with a non-Federal agency and who is paid in whole or in part from non-Federal funds, OPM sets the effective date. This date must be part of an agreement between OPM and the non-Federal agency. The agreement must provide either:

(1) That the required withholdings and contributions be made from federally controlled funds and deposited into the Employees' Life Insurance Fund on a timely basis, or

(2) That the cooperating non-Federal agency, by written agreement with the Federal agency, make the required withholdings and contributions from non-Federal funds and transmit that amount to the Federal agency for deposit into the Employees' Life Insurance Fund on a timely basis.

(d) If an employee waived basic insurance on or before February 28, 1981, the waiver was automatically cancelled effective on the 1st day the employee entered on duty in pay status on or after April 1, 1981. Basic insurance coverage was automatically effective on the date of the waiver's cancellation, unless the employee filed a new waiver of basic insurance with the employing office before the end of the pay period during which the coverage became effective.

§ 870.502 Basic insurance: Waiver/cancellation of insurance.

(a) An insured individual may cancel his/her basic insurance at any time by filing a waiver of basic insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers his/her retirement system. If still employed, a compensationer files with the employing office, and if not still employed, with OWCP. The waiver is effective, and the insurance stops, at the end of the pay period in which the waiver is properly filed.

(b) An individual who cancels his/her basic insurance automatically cancels all forms of optional insurance.

§ 870.503 Basic insurance: Cancelling a waiver.

(a) An annuitant who has filed a waiver of basic insurance cannot cancel the waiver.

(b) An employee who has filed a waiver of basic insurance may cancel the waiver and become insured if:

(1) At least 1 year has passed since the effective date of the waiver, and

(2) He/she provides satisfactory medical evidence of insurability.

(c) OFEGLI reviews the Request for Insurance filed by an employee who has complied with paragraph (b) of this section and decides whether to approve it. The insurance is effective when, after OFEGLI's approval, the employee actually enters on duty in pay status in a position in which he/she is eligible for insurance. If the employee doesn't enter on duty in pay status within 31 days following the date of OFEGLI's approval, the approval is automatically revoked and the employee is not insured.

(d) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of basic insurance is automatically cancelled. Unless the employee files a new waiver, basic insurance becomes effective on the 1st day he/she actually enters on duty in pay status in a position in which he/she is eligible for coverage. Exception: For employees who waived basic insurance after February 28, 1981, separated, and returned to Federal service before December 9, 1983, the waiver remained in effect; these employees were permitted to elect basic insurance by applying to their employing office before March 7, 1984.

§ 870.504 Optional insurance: Election.

(a)(1) Each employee must, on the form entitled Life Insurance Election, elect or waive Option A, Option B, and Option C coverage within 31 days after becoming eligible, unless during earlier employment he/she filed an election or waiver which remains in effect. The 31-day time limit for Option B or Option C begins on the 1st day after February 28, 1981, on which an individual meets the definition of an employee.

(2) Within 6 months after an employee becomes eligible, an employing office may determine that the employee was unable, for reasons beyond his/her control, to elect any type of optional insurance within the time limit. In this case, the employee must elect or waive that type of optional insurance within 31 days after he/she is notified of the determination. The insurance is retroactive to the 1st day of the first pay period beginning after the date the individual became eligible or after April 1, 1981, whichever is later. The individual must pay the full cost of the insurance from that date for the time that he/she is in pay status, retired, or receiving compensation and under age 65.

(b) An employee who doesn't file a Life Insurance Election form with his/her employing office specifically electing any type of optional insurance is considered to have waived it and does not have that type of optional insurance.

(c) For the purpose of having Option A as an employee, an election of this insurance filed on or before February 28, 1981, is considered to have been cancelled effective at the end of the pay period which included March 31, 1981, unless the employee didn't actually enter on duty in pay status during the 1st pay period which began on or after April 1, 1981. In that case the election is considered to have been cancelled on the 1st day after the end of the next pay period in which the employee actually entered on duty in pay status. In order to have Option A as an employee after the date of this cancellation, an employee must specifically elect the coverage by filing the Life Insurance Election form with his/her employing office, subject to the provisions of § 870.504(a) or 870.506.

(d) Optional insurance is effective the 1st day an employee actually enters on duty in pay status on or after the day the employing office receives the election.

(e) For an employee whose optional insurance stopped for a reason other than a waiver, the insurance is reinstated on the 1st day he/she actually enters on duty in pay status in a position in which he/she again becomes eligible.

§ 870.505 Optional insurance: Waiver/cancellation of insurance.

(a) An insured individual may cancel entirely any type of optional insurance, or reduce the number of multiples of his/her Option B insurance, at any time by filing a waiver of optional insurance coverage. An employee files with the employing office. An annuitant files with OPM or other office that administers his/her retirement system. If still employed, a compensationer files with the employing office, and if not still employed, with OWCP.

(b) A cancellation of optional insurance becomes effective, and optional insurance stops, at the end of the pay period in which the waiver is properly filed. Exception: If Option C is cancelled because there are no eligible family members, the effective date is retroactive to the end of the pay period in which there stopped being any eligible family members.

(c) A waiver of optional insurance remains in effect until it is cancelled as provided in § 870.506.

§ 870.506 Optional insurance: Cancelling a waiver.

(a)(1) An employee who has waived Option B coverage may elect it, and an employee who has Option B of fewer than five multiples of annual pay may increase the number of multiples, upon his/her marriage or divorce, upon a spouse's death, or upon acquiring an eligible child.

(2) The number of multiples of Option B coverage that an employee can obtain or add (which can't exceed a total of five) is limited to the following:

(i) For marriage, the number of additional family members (spouse and eligible children) acquired with the marriage;

(ii) For acquisition of children, the number of eligible children acquired; and

(iii) For divorce or death of a spouse, the total number of eligible children of the enrollee.

(3) An employee who has waived Option C coverage may elect it upon his/her marriage or upon acquiring an eligible child. An employee may also elect Option C coverage upon divorce or death of a spouse, if the employee has any eligible children.

(4)(i) The employee must file the election on the Life Insurance Election form, along with proof of the event, with the employing office no later than 60 days following the date of the event that permits the election.

(ii) This 60-day time limit may be extended if the individual isn't serving in a covered position on the date of the event or if the individual separates from covered service prior to the end of the 60-day time limit. This extension cannot exceed the 31-day time limit for electing insurance following employment in a covered position or the 31-day period following the 1st day on which the individual becomes eligible to cancel a waiver of basic insurance.

(5)(i) The effective date of Option B insurance elected under this paragraph is the 1st day the employee actually enters on duty in pay status on or after the day the employing office receives the election.

(ii) The effective date of Option C insurance elected under this paragraph is the day the employing office receives the election.

(b)(1) An employee who has waived Option A or Option B coverage may elect it if:

(i) At least 1 year has passed since the effective date of the waiver, and

(ii) He/she provides satisfactory medical evidence of insurability.

(2) An employee who has Option B coverage of fewer than five multiples of annual pay may increase the number of multiples if:

(i) At least 1 year has passed since the effective date of his/her last election of fewer than five multiples (including a reduction in the number of multiples), and

(ii) He/she provides satisfactory medical evidence of insurability.

(iii) The requirement for at least 1 year to have passed since the effective date of the last election doesn't apply when an employee elected fewer than five multiples because of the limitation under paragraph (a)(2) of this section.

VOL 60 ISS 85 MY 3 1995 UMI

(c) OFEGLI reviews the request filed by an employee who has complied with paragraph (b) of this section and decides whether to approve it. The optional insurance is effective when, after OFEGLI's approval, the employee actually enters on duty in pay status in a position in which he/she is eligible for insurance. If the employee doesn't enter on duty in pay status within 31 days following the date of OFEGLI's approval, the approval is automatically revoked and the employee does not have the optional insurance requested.

(d)(1) If an employee waived Option A insurance on or before February 28, 1981, the waiver was automatically cancelled effective on the 1st day the employee entered on duty in pay status on or after April 1, 1981. Option A was effective on the date of the waiver's cancellation, if the employee filed an election of Option A during the March 1, 1981 through March 31, 1981 open enrollment period. If the employee didn't file the election form with his/her employing office during the March, 1981 open enrollment period, the employee will be considered to have waived Option A on March 31, 1981.

(2) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of optional insurance is automatically cancelled, as follows:

(i) An employee who returned to service between April 1, 1981 and December 8, 1983, after a 180-day break in service was permitted to elect any form of optional insurance by applying to his/her employing office before March 7, 1984.

(ii) An employee who returns to service after December 8, 1983, following a 180-day break in service may elect any form of optional insurance by applying to his/her employing office within 31 days after reinstatement. Coverage is effective on the 1st day the employee actually enters on duty in pay status in a position in which he/she is eligible for insurance on or after the date the employing office receives the election. If the employee doesn't file a Life Insurance Election form within the 31-day period, the employee is considered to have waived optional insurance. However, an employee who fails to file during the 31-day period due to reasons beyond his/her control may enroll belatedly under the conditions stated in § 870.504(a)(2).

(e) An annuitant or compensationer is not eligible to cancel a waiver or to increase multiples of Option B under this section.

(f) The United States Postal Service may have less limiting requirements for cancelling waivers for USPS employees in some situations.

§ 870.507 Open enrollment periods.

(a) There are no regularly scheduled open enrollment periods for life insurance. Open enrollment periods are held only when specifically scheduled by OPM.

(b) During an OPM-scheduled open enrollment period, eligible employees may cancel their existing waivers of basic and/or optional insurance by electing the insurance on an OPM-designated form.

(c)(1) OPM sets the effective date for all insurance elected during an open enrollment period. The newly elected insurance is effective on the 1st day of the first pay period which begins on or after the OPM-established date and which follows a pay period during which the employee was in pay and duty status for at least 32 hours.

(2) A part-time employee must be in pay and duty status for one-half the regularly scheduled tour of duty shown on his/her current Standard Form 50 for newly elected coverage to become effective.

(3) An employee who has no regularly scheduled tour of duty or who is employed on an intermittent basis must be in pay and duty status for one-half the hours customarily worked before newly elected coverage can become effective. For the purpose of this paragraph, employing offices can determine the number of hours customarily worked by averaging the number of hours worked in the most recent calendar year quarter prior to the start of the open enrollment period.

(d) Within 6 months after an open enrollment period ends, an employing office may determine that an employee was unable, for reasons beyond his/her control, to cancel an existing waiver by electing to be insured during the open enrollment period. In this case, if the employee wants coverage, he/she must submit an election within 31 days after being notified of the determination. Coverage is retroactive to the first pay period which begins on or after the effective date set by OPM and which follows a pay period during which the employee was in pay and duty status for at least 32 hours. If the employee doesn't file an election within this 31-day time limit, he/she will be considered to have waived coverage.

§ 870.508 Nonpay status.

(a) An employee who is on leave without pay is entitled to continue life insurance for up to 12 months. No premium payments are required.

(b) If an insured employee who is entitled to free insurance while in nonpay status accepts a temporary appointment to a position in which he/she would normally be excluded from insurance, the insurance continues. The amount of basic insurance is based on whichever position's salary is higher. Withholdings are made from the employee's pay in the temporary position.

(c) If an insured employee goes on leave without pay to serve as a full-time officer or employee of certain employee organizations, within 60 days of the start of the leave-without-pay he/she may elect to continue life insurance. The insurance continues for the length of the appointment, even if the leave-without-pay lasts longer than 12 months. The employee must pay to the employing office the full cost of basic and optional insurance. There is no Government contribution for these employees.

(d) If an insured employee goes on leave without pay while assigned to a State government, local government, or institution of higher education, life insurance continues for the length of the assignment, even if the leave-without-pay lasts longer than 12 months. The employee must pay his/her premiums to the Federal agency on a current basis. The agency must continue to pay its contribution as long as the employee makes his/her payments.

§ 870.509 Transfers to international organizations.

An employee transferred to an international organization as provided in 5 U.S.C. 3582 may continue life insurance coverage. Regulations governing these transfers are in part 352 of this title.

Subpart F—Termination and Conversion

§ 870.601 Termination of basic insurance.

(a) Except as provided in § 870.701, the basic insurance of an insured employee stops on the date he/she separates from service, subject to a 31-day extension of coverage.

(b) The basic insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this title and who postpones receiving the annuity, as provided by § 842.204(c) of this title, stops on the date he/she separates from service, subject to a 31-day extension of coverage.

(c) The basic insurance of an insured employee who moves without a break in service to a position in which he/she is excluded from life insurance stops on his/her last day in the former position, subject to a 31-day extension of coverage.

(d)(1) Except as provided in § 870.701, the basic insurance of an insured employee who is in nonpay status stops on the date the employee completes 12 months in nonpay status, subject to a 31-day extension of coverage. The 12 months' nonpay status may be broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he/she is entitled to begin the 12 months' continuation of basic insurance again. If an employee has used up his/her 12 months' continuation in nonpay status and returns to duty for less than 4 consecutive months, his/her basic insurance stops on the 32nd day after the last day of the last pay period in pay status.

(2) For the purpose of this paragraph, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status for at least part of each pay period.

§ 870.602 Termination of optional insurance.

(a) The optional insurance of an insured employee stops when his/her basic insurance stops, subject to the same 31-day extension of coverage.

(b) The optional insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this title and who postpones receiving the annuity, as provided by § 842.204(c) of this title, stops on the date he/she separates from service, subject to a 31-day extension of coverage.

(c) If, because of a waiver, an insured employee isn't eligible to continue optional coverage as an annuitant or compensationer (see § 870.701), the optional insurance stops on the date that his/her basic insurance is cancelled or reinstated under the provisions of § 870.701, subject to a 31-day extension of coverage.

(d) If, at the time of an individual's election of basic insurance during receipt of annuity or compensation (see § 870.701), he/she elects no basic life insurance, the optional insurance stops at the end of the month in which the election is received in OPM, subject to a 31-day extension of coverage.

(e) Except as provided in § 870.404, optional insurance stops, subject to a 31-day extension of coverage, at the end of the pay period in which it's determined that an individual's periodic pay, compensation, or annuity, after all other deductions, isn't enough to cover the full cost of the optional insurance. If an individual has more than one type of optional insurance, and his/her pay, compensation, or annuity is sufficient to cover some but not all of the insurance, Option C terminates first, followed by Option A and then Option B.

§ 870.603 Conversion of basic and optional insurance.

(a)(1) When group coverage terminates for any reason other than voluntary cancellation, an employee may apply to convert all or any part of his/her basic and optional insurance to an individual policy; no medical examination is required. The premiums for the individual policy are based on the employee's age and class of risk. An employee is eligible to convert the policy only if he/she doesn't return, within 3 calendar days from the terminating event, to a position allowing coverage under the group plan.

(2) The employing agency must notify the employee of the loss of coverage and the right to convert to an individual policy either before or immediately after the event causing the loss of coverage.

(3) The employee must submit the request for conversion information to OFEGLI. It must be postmarked within 31 days following the date of the terminating event or within 31 days of the date the employee received the notice of loss of group coverage and right to convert, whichever is later.

(4) An employee who fails to use his/her conversion right within 31 days after receiving notice of the right to convert or within 31 days of the terminating event, whichever is later, is considered to have refused coverage, unless OFEGLI determines the failure was for reasons beyond the employee's control, as described in paragraph (a)(5) of this section.

(5) When the employee fails to request conversion information within the time limit set in paragraph (a)(3) of this section for reasons beyond his/her control, he/she may make a belated request by writing to OFEGLI. The employee must make the request within 6 months after becoming eligible to convert the insurance. The employee must show that he/she wasn't notified of the loss of coverage and the right to convert and was not otherwise aware of it or that he/she was unable to convert to an individual policy for reasons beyond his/her control. OFEGLI will determine if the employee is eligible to convert. When the request is approved, the employee must convert within 31 days of that determination.

(b) The individual conversion policy is effective the day after the group coverage ends. The employee must pay the premiums for any period retroactive to that date.

(c) The 31-day extension of coverage provided under this subpart does not depend upon timely notification of the right to convert to an individual policy. The extension cannot be continued beyond 31 days.

Subpart G—Annuitants and Compensationers

§ 870.701 Eligibility for life insurance.

(a) When an insured employee retires, basic life insurance (but not accidental death and dismemberment) continues or is reinstated if he/she:

(1) Is entitled to retire on an immediate annuity under a retirement system for civilian employees, including the retirement system of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard;

(2) Was insured for the 5 years of service immediately before the date the annuity starts, or for the full period(s) of service during which he/she was eligible to be insured if less than 5 years; and

(3) Has not converted to an individual policy as described in § 870.603. If it is not determined that an individual is eligible to continue the group coverage as an annuitant until after he/she has converted, the group enrollment must be reinstated. The conversion policy must be voided, and the premiums already paid on the policy must be refunded to the individual.

(b) A compensationer's basic life insurance (but not accidental death and dismemberment) continues or is reinstated if he/she:

(1) Has been insured for the 5 years of service immediately before the date of entitlement to compensation, or for the full period(s) of service during which he/she was eligible to be insured if less than 5 years; and

(2) Has not converted to an individual policy as described in § 870.603. If it is not determined that an individual is eligible to continue the group coverage as a compensationer until after he/she has converted, the group enrollment must be reinstated. The conversion policy must be voided, and the premiums already paid on the policy must be refunded to the individual.

(c) An individual who meets the requirements under paragraphs (a) or (b) of this section or § 870.707 for continuation or reinstatement of life insurance must complete a written election on the appropriate form at the time entitlement is established. For the election to be valid, OPM must receive

VOL 60 ISS 85 MY 3 1995 UMI

the election form before it has made a final decision on the individual's application for annuity or supplemental annuity or an individual's request to continue life insurance as a compensationer. If there is no valid election, OPM considers the individual to have chosen the option described in paragraph (a)(2) of § 870.702.

(d) If the annuity or compensation of an insured individual is terminated, or if the Department of Labor finds that an insured compensationer is able to return to duty, his/her basic life insurance held as an annuitant or compensationer stops on the date of the termination or finding. There is no 31-day extension of coverage or conversion right.

(e)(1) An annuitant or compensationer who is eligible to continue or have reinstated basic insurance is also eligible to continue or have reinstated optional insurance if he/she meets the same coverage requirements for optional insurance as those stated in paragraph (a) or (b) of this section for basic insurance.

(2) For the purpose of continuing insurance as an annuitant or compensationer, an employee is not considered to have been eligible for Option C during any period when the employee had no eligible family member.

§ 870.702 Election of basic insurance.

(a) An individual who makes an election under § 870.701(c) must select one of the following options:

(1) Termination of the insurance. The individual's insurance stops upon conversion to an individual policy as provided under § 870.603. If the individual doesn't convert to an individual policy, insurance stops at the end of the month in which OPM or the employing office receives the election;

(2) Continuation or reinstatement of basic insurance with a maximum reduction of 75 percent during retirement. Premiums are withheld from annuity or compensation (except as provided under § 870.601(b)(1)). The amount of basic life insurance in force reduces by 2 percent a month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later;

(3) Continuation or reinstatement of basic insurance with a maximum reduction of 50 percent during retirement. Premiums are withheld from annuity or compensation. The amount of basic insurance in force reduces by 1 percent a month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later; or

(4) Continuation or reinstatement of basic insurance with no reduction after age 65. Premiums are withheld from annuity or compensation.

(b)(1) An insured individual may cancel an election under paragraph (a)(3) or (a)(4) of this section at any time. The amount of basic insurance automatically switches to the amount that would have been in force if the individual had originally elected the 75 percent reduction. This revised amount is effective at the end of the month in which OPM receives the request to cancel the previous election.

(2) If the individual files a waiver of insurance, the coverage stops without a 31-day extension of coverage or conversion right. This is effective at the end of the month in which OPM receives the waiver.

§ 870.703 Amount of life insurance.

(a)(1) The amount of an annuitant's or compensationer's basic insurance is his/her BIA on the date insurance would otherwise have stopped because of separation from service or completion of 12 months in nonpay status, minus any reductions applicable under § 870.702(a).

(2) For the purpose of paying benefits upon the death of a retired insured individual under age 45, the BIA is multiplied by the appropriate age factor shown in § 870.202(c). Exception: If the insured individual retired before October 10, 1960.

(b) The amount of an annuitant's or compensationer's Option A coverage reduces by 2 percent a month up to a maximum reduction of 75 percent. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later.

(c)(1) The number of multiples of Option B coverage an annuitant or compensationer can continue is the smallest number of multiples in force during the applicable period of service required to continue Option B.

(2) Each multiple of an annuitant's or compensationer's Option B coverage reduces by 2 percent a month. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the insured's 65 birthday, whichever is later. At 12 noon on the day before the 50th reduction, the insurance stops, with no extension of coverage or conversion right.

(d) The amount of an annuitant's or compensationer's Option C coverage on each family member reduces by 2 percent a month. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the annuitant's or compensationer's 65th birthday, whichever is later. At 12 noon on the day before the 50th reduction, the insurance stops, with no extension of coverage or conversion right.

(e)(1) Judges retiring under 28 U.S.C. 371 (a) and (b), 28 U.S.C. 372(a), and 26 U.S.C. 7447 are considered employees under the FEGLI law. Basic and optional insurance for these judges continues without interruption or reduction upon retirement.

(2) If a judge chooses to receive compensation instead of an annuity, his/her optional insurance reduces as stated in paragraphs (b), (c), and (d) of this section.

§ 870.704 Reinstatement of life insurance.

(a) An annuitant whose disability annuity terminates because he/she recovers from the disability or because his/her earning capacity returns, and whose disability annuity is later restored under 5 U.S.C. 8337(e) (after December 31, 1983), may elect to resume the basic insurance held immediately before his/her disability annuity terminated. OPM must receive the election within 60 days after OPM mails a notice of insurance eligibility and election form.

(b) An annuitant described in paragraph (a) of this section may elect to resume any optional insurance held immediately before the annuity terminated if:

(1) He/she has made an election under paragraph (a) of this section; and

(2) OPM receives the election within 60 days after OPM mails a notice of insurance eligibility and election form.

(c) Basic and optional insurance reinstated under paragraphs (a) and (b) of this section are effective on the 1st day of the month after the date OPM receives the election form. Any applicable annuity withholdings are also reinstated on the 1st day of the month after OPM receives the election form.

(d) The amounts of basic and optional insurance reinstated under paragraphs (a) and (b) of this section are the amounts that would have been in force if the individual's annuity hadn't terminated.

§ 870.705 Waiver or suspension of annuity or compensation.

(a) Except as provided in paragraph (b) of this section, when annuity or compensation is waived or suspended, optional life insurance continues. When the annuity or compensation is resumed, back payments must be withheld for the full cost of the optional insurance for the period of waiver or suspension during which the person is under age 65.

(b) If suspension of annuity or compensation is because of reemployment, the reemploying office must withhold the full cost of the insurance during each pay period of reemployment.

§ 870.706 Reemployed annuitants.

(a) (1) If an insured annuitant is appointed to a position in which he/she is eligible for insurance, the amount of his/her basic life insurance as an annuitant (and any applicable annuity withholdings) is suspended on the day before the 1st day in pay status under the appointment, unless the reemployed annuitant waives all insurance coverage. The benefit payable upon the death of a reemployed annuitant who has basic insurance in force as an employee cannot be less than the benefit which would have been payable if the individual hadn't been reemployed.

(2) Except as provided in paragraph (b) of this section, the basic insurance obtained as an employee stops, with no 31-day extension of coverage or conversion right, on the date reemployment terminates. Any suspended basic insurance (and any applicable annuity withholdings) is reinstated on the day following termination of the reemployment.

(b) Basic insurance obtained during reemployment can be continued after the reemployment terminates if:

(1) The annuitant qualifies for a supplemental annuity or receives a new retirement right;

(2) He/she has had basic insurance as an employee for at least 5 years of service immediately before separation from reemployment or for the full period(s) during which such coverage was available to him/her, whichever is less; and

(3) He/she doesn't convert to nongroup insurance when basic insurance as an employee would otherwise terminate.

(c) If the basic insurance obtained during reemployment is continued as provided in paragraph (b) of this section, any suspended basic life insurance stops, with no 31-day extension of coverage or conversion right.

(d)(1) An annuitant appointed to a position in which he/she is eligible for basic insurance, is also eligible for optional insurance as an employee, unless he/she has on file an uncanceled waiver of basic or optional insurance.

(2) If the individual has Option A or C as an annuitant, that insurance (and applicable annuity withholdings) is suspended on the day before his/her 1st day in pay status under the appointment. Unless he/she waives Option A or C (or waives basic insurance), he/she obtains Option A or C as an employee.

(3) If the individual has Option B as an annuitant, that insurance (and applicable annuity withholdings) continues as if the individual weren't reemployed, unless:

(i) The individual files with his/her employing office an election of Option B on the Life Insurance Election form within 31 days after the date of reemployment. In this case Option B (and applicable annuity withholdings) as an annuitant is suspended on the date that Option B as an employee becomes effective; or

(ii) The individual waives basic insurance.

(4) Except as provided in paragraph (e) of this section, the optional insurance obtained as an employee stops, with no 31-day extension or conversion right, on the date reemployment terminates. The amount of suspended optional insurance which remains in force after applicable monthly reductions after age 65 (and corresponding withholdings) is reinstated on the day after reemployment terminates.

(e) Optional life insurance obtained during reemployment may be continued after the reemployment terminates if the annuitant:

(1) Qualifies for a supplemental annuity or receives a new retirement right;

(2) Continues his/her basic life insurance under paragraph (d)(2), (3), or (4) of § 870.701; and

(3) Has had optional insurance in force for the 5 years of service immediately before separation from reemployment or for the full period(s) of service during which it was available to him/her, whichever is less.

(f) If optional insurance obtained during reemployment is continued as provided in paragraph (e) of this section, any suspended optional insurance stops, with no 31-day extension of coverage or conversion right.

(g) If a reemployed annuitant waives life insurance as an employee, the waiver also cancels his/her life insurance as an annuitant.

§ 870.707 MRA-plus-10 annuitants.

(a) The basic insurance of an individual whose coverage terminates under § 870.601(a), and who meets the requirements for continuing basic insurance after retirement as stated in § 870.601(b), resumes on the starting date of annuity or on the date OPM receives the application for annuity, whichever is later. The individual must file an election as provided in § 870.701(c) so that OPM receives it within 60 days after OPM mails a notice of insurance eligibility and election form.

(b) Optional insurance of an individual whose coverage terminates under § 870.602(a), and who meets the requirements for continuing optional insurance after retirement under § 870.602(b), resumes on the starting date of annuity or on the date OPM receives the application for annuity, whichever is later.

Subpart H—Order of Precedence and Designation of Beneficiary

§ 870.801 Order of precedence and payment of benefits.

(a) Benefits are paid according to the order of precedence stated in 5 U.S.C. 8705, as follows:

(1) To the designated beneficiary (or beneficiaries);

(2) If none, to the widow(er);

(3) If none, to the child, or children in equal shares, with the share of any deceased child going to his/her children;

(4) If none, to the parents in equal shares or the entire amount to the surviving parent;

(5) If none, to the executor or administrator of the estate;

(6) If none, to the next of kin according to the laws of the State in which the insured individual legally resided.

(b) If an insured individual provided in a valid designation of beneficiary for insurance benefits to be payable to the insured's estate, or to the Executor, Administrator, or other representative of the insured's estate, or if the benefits would otherwise be payable to the duly appointed representative of the insured's estate under the order of precedence specified in 5 U.S.C. 8705(a), payment of the benefits to the duly appointed representative of the insured's estate bars recovery by any other person.

(c) Option A or B insurance in force on a person on the date of his/her death is paid, on receipt of a valid claim, in the same order of precedence and under the same conditions as basic insurance. A designation of beneficiary for basic

VOL
60
ISS
85
MY
3
1995
UMI

insurance is also a designation of beneficiary for Option A or B, unless the insured individual states otherwise in his/her designation.

(d) Upon the death of an insured family member, Option C benefits are paid to the employee, annuitant, or compensationer responsible for withholdings under § 870.402(f), except as provided in paragraph (e) of this section.

(e) In spite of an assignment of life insurance under subpart I of this part, if an employee, annuitant, or compensationer entitled to receive Option C benefits dies before the benefits are paid, the Option C benefits are paid to the individual(s) entitled to receive basic life insurance benefits.

§ 870.802 Designation of beneficiary.

(a) If an insured individual wants benefits paid differently from the order of precedence, he/she may file a designation of beneficiary. A designation of beneficiary cannot be filed by anyone other than the insured individual.

(b) A designation of beneficiary must be in writing, signed, and witnessed by two people. The employing office (or OPM, in the case of an individual receiving an annuity or compensation must receive the designation before the death of the insured.

(c) A designation, change, or cancellation of beneficiary in a will or any other document not witnessed and filed as required by this section has no legal effect with respect to benefits under this chapter.

(d) A witness to a designation of beneficiary cannot be named as a beneficiary.

(e) Any individual, firm, corporation, or legal entity can be named as a beneficiary, except an agency of the Federal or District of Columbia Government.

(f) An insured individual may change his/her beneficiary at any time without the knowledge or consent of the previous beneficiary. This right cannot be waived or restricted.

(g) A designation of beneficiary is automatically cancelled 31 days after the individual stops being insured.

(h) An insured individual may provide that a designated beneficiary is entitled to the insurance benefits only if the beneficiary survives him/her for a specified period of time (not more than 30 days). If the beneficiary doesn't survive for the specified period, insurance benefits will be paid as if the beneficiary had died before the insured.

§ 870.803 Child incapable of self-support.

(a) When it receives a claim for Option C benefits because of the death of a child over age 21, OFEGLI determines, based on whatever evidence it considers necessary, whether the deceased child was incapable of self-support because of a mental or physical disability which existed before the child reached age 22.

(b) If an employee elects Option C under § 870.506(a)(3), and the opportunity to elect is based solely on the acquisition of a child over age 21, the employee must submit to the employing office at the time of making the election a doctor's certificate stating that the child is incapable of self-support because of a physical or mental disability which existed before the child reached age 22 and which is expected to continue for more than 1 year. The certificate must include the name of the child, the type of disability, how long it has existed, and its expected future course and duration. The certificate must be signed by the doctor and show his/her office address.

Subpart I—Assignments of Life Insurance

§ 870.901 Assignments permitted.

(a) Section 208 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. 98–353, effective July 10, 1984, permits Federal judges to irreversibly assign their FEGLI coverage to one or more individuals, corporations, or trustees. A judge may assign ownership of all life insurance under this part, except Option C. If a judge owns more than one type of coverage, he/she must assign all the insurance; a judge cannot assign only a portion of the coverage. Option C cannot be assigned.

(b) A judge cannot name conditional assignees in case the primary assignee dies before the insured judge.

(c) If the insurance is assigned to two or more individuals, corporations, or trustees, the judge must specify percentage shares, rather than dollar amounts or types of insurance, to go to each assignee.

(d) If a judge who has made an assignment later elects increased insurance coverage under § 870.506 or during an open enrollment period, the increased coverage is considered included in the already-existing assignment. The right to increase coverage remains with the judge, rather than transferring to the assignee.

(e) A judge who assigns ownership of insurance continues to be the insured individual, but the assignee receives those rights of an insured employee that are specified in this part.

(f) Once assigned, the value of the insurance increases or decreases automatically as provided by this part.

§ 870.902 Making an assignment.

To assign insurance, a judge must make a written request for an approved assignment form. The judge must complete and submit to the employing office the signed and witnessed form indicating the intent to irreversibly assign all ownership of the insurance. (Assignments submitted prior to November 28, 1986, were accepted without an approved assignment form.)

§ 870.903 Effective date of assignment.

An assignment under this section is effective on the date the employing office receives the properly completed, signed, and witnessed assignment form.

§ 870.904 Amount of insurance.

The amount of insurance is based on the judge's basic pay as stated in subpart B of this part.

§ 870.905 Withholdings.

Premium withholdings for assigned insurance are withheld from the salary, annuity, or compensation of the judge, as provided in subpart D of this part.

§ 870.906 Cancellation of insurance.

The assignee has the right to cancel insurance according to the provisions of §§ 870.502 and 870.505. When there is more than 1 assignee, all assignees must agree to the cancellation. A cancellation of basic insurance also cancels all optional insurance.

§ 870.907 Termination and conversion.

(a) Assigned insurance terminates under the conditions stated in subpart F of this part.

(b) (1) When a judge's insurance terminates, an assignee has the right to convert all or part of the group insurance to an individual policy on the judge. The conditions stated in subpart F of this part apply to assignees who elect to convert.

(2) When there is more than 1 assignee, each assignee has the right to convert all or part of his/her share of the insurance. Any assignee who doesn't convert loses all ownership of the insurance.

(3) When there is more than 1 assignee and they wish to convert the assigned insurance to individual policies on the judge, the maximum amount of insurance each assignee will be able to convert is determined by the dollar amount corresponding to the assignee's share of the total insurance. This amount will be rounded up to the next higher thousand, if it's not already an even thousand dollar amount.

(4) Premiums for converted life insurance are based on the insured judge's age and class of risk at the time the conversion policy is issued.

(5) The employing office must notify each assignee of the conversion right at the time the assigned group insurance terminates.

§ 870.908 Annuitants and compensationers.

(a) If a judge assigns basic insurance and later becomes eligible to continue such insurance coverage while receiving annuity or compensation as provided in § 870.701:

(1) At the time he/she retires or becomes eligible to receive compensation, the judge may elect unreduced or partially reduced insurance coverage as provided in § 870.702(a).

(2) After the judge has made the election described in paragraph (a)(1) of this section, the assignee (or, if more than one, all of the assignees acting together) may, at any time, elect to cancel all or part of the basic insurance coverage as provided in § 870.702(b).

(b) Judges retiring under 28 U.S.C. 371 (a) and (b), 28 U.S.C. 372(a), and 26 U.S.C. 7747 are considered employees under the FEGLI law. Insurance for these judges continues without interruption or reduction upon retirement. The amount of basic insurance for a judge who elects to receive compensation in lieu of annuity will be computed according to § 870.703(e)(2).

§ 870.909 Designations and changes of beneficiary.

(a) Each assignee (or the legally appointed guardian of an assignee) may designate a beneficiary or beneficiaries to receive insurance benefits upon the death of the insured judge and may also later change the beneficiaries. Assignees may designate themselves the primary beneficiaries and name other conditional beneficiaries to receive insurance benefits if the assignees die before the insured judge.

(b) Benefits for assigned insurance are paid to an assignee's estate if the assignee dies before the insured judge and:

(1) The assignee did not designate a beneficiary; or

(2) The assignee's designated beneficiary dies before the insured judge.

(c) An assignment automatically cancels a judge's prior designation of beneficiary.

(d) The provisions of § 870.802 apply to designations of beneficiary made by assignees.

§ 870.910 Notification of current addresses.

Each assignee and each beneficiary of an assignee must keep the office where the assignment is filed informed of his/her current address.

Subpart J—Benefits for United States Hostages in Iraq and Kuwait and United States Hostages Captured in Lebanon

§ 870.1001 Purpose.

This subpart sets forth the conditions for life insurance coverage according to the provisions of section 599C of Pub. L. 101–513.

§ 870.1002 Definitions.

In this subpart:

Hostage and *hostage status* have the meaning set forth in section 599C of Pub. L. 101–513.

Pay period for individuals insured under this subpart means the pay period set by the U.S. Department of State.

Period of eligibility means the period beginning on the effective date set forth in § 870.1004 and ending 12 months after hostage status ends.

§ 870.1003 Coverage and amount of insurance.

(a) An individual is covered under this subpart when the U.S. Department of State determines that the individual is eligible under section 599C of Pub. L. 101–513.

(b) (1) The amount of basic life insurance for these individuals is the amount specified in § 870.202, subject to the applicable conditions stated in this subpart.

(2) The BIA under § 870.202 is the amount of the payment specified in section 599C(b)(2) of Pub. L. 101–513, rounded to the next higher $1,000, plus $2,000.

(c) Individuals who have basic insurance under this section also have group accidental death and dismemberment insurance.

(d) Individuals insured by this subpart are not eligible for optional insurance.

(e) Individuals insured by this subpart are not considered employees for the purpose of this part.

(f) Eligibility for insurance under this subpart depends on the availability of funds under section 599C(e) of Pub. L. 101–513.

§ 870.1004 Effective date of insurance.

Insurance under this subpart was effective on August 2, 1990, for hostages in Iraq and Kuwait and on January 1, 1990, for hostages captured in Lebanon, unless the U.S. Department of State sets a later date.

§ 870.1005 Premiums.

(a) Government contributions and employee withholdings required under subpart D of this part are paid from the funds provided under section 599C(e) of Pub. L. 101–513.

(b) If an individual isn't insured for the full pay period, premiums are paid only for the days he/she is actually insured. The daily premium is the monthly premium multiplied by 12 and divided by 365.

(c) OPM may accept the payments required by this section in advance from a State Department appropriation, if necessary to fund the 12-month period of coverage beginning the earlier of:

(1) The day after sanctions or hostilities end; or

(2) The day after the individual's hostage status ends.

(d) OPM will place any funds received under paragraph (c) of this section in an account set up for that purpose. OPM will make the deposit required under 5 U.S.C. 8714 from the account when the appropriate pay period occurs.

§ 870.1006 Cancellation of insurance.

(a) An individual who is insured under this subpart may cancel his/her insurance at any time by written request. The cancellation is effective on the 1st day of the pay period after the pay period in which the U.S. Department of State receives the request.

(b) Cancellation must be requested by the insured individual and cannot be requested by a representative acting on the individual's behalf.

(c) An individual who cancels the insurance under this section cannot obtain the insurance again, unless the U.S. Department of State determines that it would be against equity and good conscience not to allow the individual to be insured.

§ 870.1007 Termination and conversion.

(a) Insurance under this subpart terminates 12 months after hostage status ends, unless the individual cancels the insurance earlier.

(b) Insured individuals whose coverage terminates are eligible for the 31-day extension of coverage and conversion as set forth in subpart F of this part, unless the individual cancelled the coverage.

§ 870.1008 Order of precedence and designation of beneficiary.

Insurance benefits are paid under the order of precedence set forth in 5 U.S.C. 8705 and under the provisions of subpart H of this part.

VOL
60
ISS
85
MY
3
1995
UMI

§ 870.1009 Responsibilities of the U.S. Department of State.

(a) The U.S. Department of State functions as the "employing office" for individuals insured under this subpart.

(b) The U.S. Department of State must determine the eligibility of individuals under Pub. L. 101–513 for insurance under this subpart. This includes determining whether an individual is barred from insurance under chapter 87 of title 5 U.S.C. because of other life insurance, as provided in section 599C of Pub. L. 101–513.

PART 871—[REMOVED]

2. Part 871 is removed.

PART 872—[REMOVED]

3. Part 872 is removed.

PART 873—[REMOVED]

4. Part 873 is removed.

PART 874—[REMOVED]

5. Part 874 is removed.

[FR Doc. 95–10778 Filed 5–2–95; 8:45 am]
BILLING CODE 8325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–75–AD]

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model C–212–CB, –CC, –CD, –CE, –CF, and –DF Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all CASA Model C–212–CB, –CC, –CD, –CE, –CF, and –DF series airplanes. This proposal would require supplemental structural inspections, and repair or replacement, as necessary, to ensure the continued airworthiness of these airplanes. This proposal is prompted by a structural reevaluation, which identified certain significant structural components to inspect for fatigue cracks as these airplanes approach and exceed the manufacturer's original fatigue design life goal. The actions specified by the proposed AD are intended to prevent reduced structural integrity of these airplanes.

DATES: Comments must be received by June 12, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–75–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sam Grober, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1187; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–75–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–75–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In June 1988, the FAA sponsored a conference on aging airplane issues, which was attended by representatives of the aviation industry from around the world. It became obvious that, because of the tremendous increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes rather than retiring them, increased attention needed to be focused on this aging fleet and maintaining its continued operational safety.

The FAA, in concert with the Regional Airline Association (RAA); several U.S. and non-U.S. operators of the affected airplanes; the Dirección General de Aviación Civil (DGAC), which is the airworthiness authority for Spain; and Construcciones Aeronauticas, S.A. (CASA); has agreed to undertake the task of identifying and implementing procedures to ensure continuing structural airworthiness of aging commuter-class airplanes. This group reviewed selected service bulletins, applicable to CASA Model C–212–CB, –CC, –CD, –CE, –CF, and –DF series airplanes, to be recommended for mandatory rulemaking action to ensure the continued operational safety of these airplanes.

The group reviewed and recommended CASA Supplemental Inspection Document (SID) C–212–PV–01–SID, dated June 1, 1987 (hereinafter referred to as the "Document"), for mandatory rulemaking action. The Document describes procedures for implementing a structural inspection program, which includes inspections of the following Principal Structural Elements (PSE's) on the airplane:

1. 6 PSE's of the flap controls;
2. 24 PSE's of the fuselage structure, attach lugs and bolts, frame, and attachments;
3. 14 PSE's of the horizontal and vertical tails;
4. 14 PSE's of the wings; and
5. 8 PSE's of the engine support structure, firewall attach fittings, attach fittings to the wing, and attach bolts.

The Document also provides information addressing retirement lives, stress analysis, and fatigue inspections.

The intent of this Document is to positively address fatigue cracking of the significant structural components described previously as these airplanes approach and exceed the manufacturer's original fatigue design life goal. Fatigue cracking of these components, if not detected and corrected in a timely manner, could result in reduced structural integrity of the airplane.

The DGAC classified the Document as mandatory and issued Spanish airworthiness directive 02–88, Revision 1, dated May 17, 1993, in order to assure the continued airworthiness of these airplanes in Spain.

Additionally, results of fatigue tests accomplished by CASA at the time of type certification of these airplanes have revealed that, for Model C–212–CB series airplanes, certain horizontal stabilizer-to-fuselage attach fittings must be replaced prior to incorporation of the SID program.

This airplane model is manufactured in Spain and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require supplemental structural inspections, and repair or replacement, as necessary. The actions would be required to be accomplished in accordance with the Document described previously. This proposed AD also would require that results of these inspections, positive or negative, be reported to CASA.

This proposed AD also would require replacement of certain horizontal stabilizer to fuselage attach fittings on Model C–212–CB series airplanes. The replacement would be required to be accomplished in accordance with procedures specified in the CASA C–212 Airworthiness Limitations Manual.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA estimates that 33 airplanes of U.S. registry and 16 U.S. operators would be affected by this proposed AD.

The FAA estimates that 2 Model C–212–CB series airplanes of U.S. registry would be required to replace certain horizontal stabilizer to fuselage attach fittings. The proposed replacement would take approximately 250 work hours at an average labor rate of $60 per work hour. Required parts would cost approximately $18,941 per airplane. Based on these figures, the total cost of this proposed replacement to the 2 U.S. operators of Model C–212–CB series airplanes is estimated to be $67,882, or $33,941 per airplane.

Incorporation of the SID into an operator's maintenance program is estimated to necessitate 60 work hours at an average labor rate of $60 per work hour. Sixteen U.S. operators would be required to incorporate the SID into their maintenance programs. Based on these figures, the total cost to these 16 U.S. operators is estimated to be $57,600, or $3,600 per operator.

The recurring inspections cost is estimated to be 310 work hours per airplane at an average labor rate of $60 per week hour. Based on these figures, the recurring cost for these proposed requirements is estimated to be $613,800 for the affected U.S. fleet, or $18,900 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing these costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this proposed AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the proposed actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this proposed AD would be redundant and unnecessary.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part

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39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Construcciones Aeronauticas, S.A. (CASA): Docket 92–NM–75–AD.

Applicability: All Model C–212–CB, –CC, –CD, –CE, –CF, and –DF series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously. To prevent reduced structural integrity of the airplane, accomplish the following:

(a) For Model C–212–CB series airplanes: Prior to the accumulation of 16,500 total hours time-in-service, or within 6 months after the effective date of this AD, whichever occurs later, replace the horizontal stabilizer to fuselage attach fittings, part numbers 212–31101.05 and 212–31102.05, with part numbers 212–31122.03 and 212–31123.03, respectively, in accordance with the CASA C–212 Aircraft Maintenance Manual, Chapter 5, Section 5–20, task number 55.15.

Note 2: Replacement of the attach fittings on Model C–212–CB series airplanes may be accomplished by replacing part numbers 212–31101.05 and 212–31102.05 with part numbers 212–31123.30 and 212–31122.30, respectively.

(b) For all airplanes: Incorporate a revision into the FAA-approved maintenance inspection program that provides for inspection of the Principal Structural Elements (PSE) defined in CASA Supplemental Inspection Document (SID) C–212–PV–01–SID, dated June 1, 1987 (hereinafter referred to as the "Document"), at the later of the times specified in paragraphs (b)(1) and (b)(2) of this AD.

(1) Prior to the accumulation of 20,000 total landings or 20,000 total hours time-in-service, whichever occurs first. Or

(2) Within 9 months after the effective date of this AD.

(c) Any cracked structure detected during the inspections required by paragraph (b) of this AD must be repaired or replaced, prior to further flight, in accordance with the instructions in the Document, or in accordance with other data meeting the certification basis of the airplane that is approved by the FAA or by the Dirección General de Aviación Civil (DGAC).

(d) Within 10 days after accomplishing each inspection required by paragraph (b) of this AD, report the results (positive or negative) of each inspection required by paragraph (b) of this AD to CASA in accordance with the Document. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 27, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10628 Filed 5–2–95; 8:45 am]

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14 CFR Part 39

[Docket No. 95–NM–35–AD]

Airworthiness Directives; Boeing Model 727–100 and –200 Series Airplanes Equipped With an Engine Nose Cowl Installed in Accordance With Supplemental Type Certificate (STC) SA4363NM

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727–100 and –200 series airplanes. This proposal would require replacing the attachin–nutplates on certain engine nose cowls with washers and self-locking nuts. This proposal is prompted by reports indicating that nose cowls separated (or nearly separated) from the engines of certain airplanes following failure of the engine fan blade and subsequent vibration of the engine, which caused loosening of the attach bolts on the nose cowl of the engine. The actions specified by the proposed AD are intended to prevent the attach bolts from becoming loose, which could result in subsequent separation of the nose cowl from the engine.

DATES: Comments must be received by June 12, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–35–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from VALSAN Partnership Ltd., Aviation Products Management, Product Support Office, 39450 Third Street East, suite 121, Palmdale, California 93550. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Phil Forde, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2771; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–35–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–35–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA received reports from three operators of McDonnell Douglas Model DC–9–80 series airplanes indicating that a nose cowl separated from the engine of the airplane. In addition, the FAA received one report indicating that the nose cowl nearly separated from an airplane equipped with a Pratt & Whitney JT8D–200 series engine. These incidents occurred following severe vibration of the engine due to failure of the engine fan blade. Such vibration of the engine could cause the attach bolts on the nose cowl of the engine to become loose. This condition, if not corrected, could result in separation of the nose cowl from the engine of the airplane.

On December 2, 1994, the FAA issued AD 94–25–06, amendment 39–9090 (59 FR 64566, December 15, 1994), to address this unsafe condition on McDonnell Douglas Model DC–9–80 series airplanes and Model MC–88 airplanes. Subsequently, the FAA has determined that certain Boeing Model 727–100 and –200 series airplanes are equipped with an engine nose cowl installed in accordance with Supplemental Type Certificate (STC) SA4363NM, which is identical to the engine nose cowl installed on the McDonnell Douglas airplanes affected by AD 94–25–06. Therefore, the FAA has determined that these Boeing Model 727–100 and –200 series airplanes also are subject to the addressed unsafe condition.

The FAA has reviewed and approved VALSAN B727–RE Service Bulletin 71–006, Revision 1, dated March 3, 1995, which describes procedures for replacing the attaching nutplates of the No. 1 and No. 3 engine nose cowls with washers and self-locking nuts. The replacement involves removing the attaching nutplates from the No. 1 and No. 3 engine nose cowls, reversing the installation direction of the attach bolt, installing washers and self-locking nuts in place of the removed nutplates, and increasing bolt torque values. Accomplishment of this replacement will minimize the possibility of the attach bolts becoming loose as a result of severe engine vibration, thereby minimizing the possibility of the nose cowl separating from the engine.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacing the attaching nutplates on certain engine nose cowls with washers and self-locking nuts. The actions would be required to be accomplished in accordance with the service bulletin described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 22 Model 727–100 and –200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 19 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost for required parts would be negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $6,840, or $360 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 95–NM–35–AD.

Applicability: Model 727–100 and –200 series airplanes equipped with an engine nose cowl installed in accordance with Supplemental Type Certificate (STC) SA4363NM, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been

VOL 60 ISS 85 MY 3 1995 UMI

modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the attach bolts on the nose cowl of the engine from becoming loose, and subsequent separation of the nose cowl from the engine, accomplish the following:

(a) Within 12 months after the effective date of this AD, replace the attaching nutplates of the No. 1 and No. 3 engine nose cowls with washers and self-locking nuts in accordance with VALSAN B727–RE Service Bulletin 71–006, Revision 1, dated March 3, 1995.

(b) As of the effective date of this AD, no person shall install a nose cowl having part number 259–0002–501 or 259–0002–503 on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 27, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10829 Filed 5–2–95; 8:45 am]

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14 CFR Part 71

[Airspace Docket No. 94–ASO–20]

Proposed Alteration and Establishment of VOR Federal Airways; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would modify several existing airways and establish a new Federal Airway V–601, in the Miami, FL, area. This proposed action is necessary because of the decommissioning of the Miami, FL, Very High Frequency Omnidirectional Range and Tactical Air Navigation (VORTAC) and the commissioning of the Dolphin, FL, VORTAC.

DATES: Comments must be received on or before June 16, 1995.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Docket No. 94–ASO–20, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–ASO–20." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Federal Airway V–601 and to modify various Federal airways in the Miami, FL, area. Establishing this airway and amending the existing airways are necessary because of the commissioning of a new navigational aid, Dolphin VORTAC, to replace the Miami VORTAC. The Dolphin VORTAC will serve the south Florida area once the Miami VORTAC has been decommissioned. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9B dated July 18, 1994, and effective September 16, 1994, which is incorporated by reference in 14 CFR 71.1. The Domestic VOR Federal airways listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Rules and Procedures Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil aircraft operations on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp.; p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9B, Airspace Designations and Reporting Points, dated July 18, 1994, and effective September 16, 1994, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–3 (Revised)

From Key West, FL; INT Key West 063° and Dolphin, FL, 191°T(195°M) radials; Dolphin; Ft. Lauderdale, FL; Palm Beach, FL; Vero Beach, FL; Melbourne, FL; Ormond Beach, FL; Brunswick, GA; Savannah, GA; Vance, SC; Florence, SC; Sandhills, NC; Raleigh-Durham, NC; INT Raleigh-Durham 016° and Flat Rock, VA, 214° radials; Flat Rock; Gordonsville, VA; INT Gordonsville 331° and Martinsburg, WV, 216° radials; Martinsburg; Westminster, MD; INT Westminster 048° and Modena, PA, 258° radials; Modena; Solberg, NJ; INT Solberg 044° and Carmel, NY, 243° radials; Carmel; Hartford, CT; INT Hartford 084° and Boston, MA, 224° radials; Boston; INT Boston 014° and Pease, NH, 185° radials; Pease; INT Pease 004° and Augusta, ME, 233° radials; Augusta; Bangor, ME; INT Bangor 030° and Houlton, ME, 203° radials; Houlton; Presque Isle, ME; to PQ, Canada. The airspace within R–2916, R–2934, R–2935 and within Canada is excluded.

* * * * *

V–7 (Revised)

From Dolphin, FL; INT Dolphin 293°T(297°M) and Lee County, FL, 126° radials; Lee County; Lakeland, FL; Cross City, FL; Tallahassee, FL; Wiregrass, AL; INT Wiregrass 332° and Montgomery, AL, 128° radials; Montgomery; Vulcan, AL; Muscle Shoals, AL; Graham, TN; Central City, KY; Pocket City, IN; INT Pocket City 010° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; INT Chicago Heights 358° and Falls, WI, 179° radials; Falls; Green Bay, WI; Manominee, MI; Marquette, MI. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

V–35 (Revised)

From Dolphin, FL; INT Dolphin 267°T(271°M) and Cypress, FL, 110°T(110°M) radials; INT Cypress 110° and Lee County, FL, 139° radials; Lee County; INT Lee County 326° and St. Petersburg, FL, 152° radials; St. Petersburg; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City, FL; Greenville, FL; Pecan, GA; Macon, GA; INT Macon 005° and Athens, GA, 195° radials; Athens; Electric City, SC; Sugarloaf Mountain, NC; Holston Mountain, TN; Glade Spring, VA; Charleston, WV; INT Charleston 051° and Elkins, WV, 264° radials; Clarksburg, WV; Morgantown, WV; Indian Head, PA; Johnstown, PA; Tyrone, PA; Philipsburg, PA; Stonyfork, PA; Elmira, NY; Syracuse, NY. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit. The airspace within R–2916 is excluded.

* * * * *

V–97 (Revised)

From Dolphin, FL; La Belle, FL; St. Petersburg, FL; Tallahassee, FL; Pecan, GA; Atlanta, GA; INT Atlanta 001° and Volunteer, TN, 197° radials; Volunteer; London, KY; Lexington, KY; Cincinnati, OH; Shelbyville, IN, INT Shelbyville 313° and Boiler, IN, 136° radials; Boiler; Chicago Heights, IL; to INT Chicago Heights 358° and Chicago O'Hare, IL, 127° radials. From INT Northbrook, IL, 290° and Janesville, WI, 112° radials; Janesville; Lone Rock, WI; Nodine, MN; to Gopher, MN. The airspace below 2,000 feet MSL outside the United States is excluded.

* * * * *

V–157 (Revised)

From Key West, FL; INT Key West 038°T(037°M) and Dolphin, FL, 244°T(248°M) radials; Dolphin; INT Dolphin 331°T(335°M) and La Belle, FL, 113°T radials; La Belle; Lakeland, FL; Ocala, FL; Gainesville, FL; Taylor, FL; Waycross, GA; Alma, GA; Allendale, SC; Vance, SC; Florence, SC; Fayetteville, NC; Kinston, NC; Tar River, NC; Lawrenceville, VA; Richmond, VA; INT Richmond 039° and Patuxent, MD, 228° radials; Patuxent; Smyrna, DE; Woodstown, NJ; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Deer Park, NY, 326° radials; INT Deer Park 326° and Kingston, NY, 191° radials; Kingston, NY; to Albany, NY. The airspace within R–2901A and R–5602A is excluded. The airspace at and above 7,000 feet MSL which lies within the Lake Placid MOA is excluded during the time the Lake Placid MOA is activated. The airspace within R–4005 and R–4006 is excluded.

* * * * *

V–267 (Revised)

From Dolphin, FL; INT Dolphin 334°T(338°M) and Pahokee, FL, 157° radials; Pahokee; Orlando, FL; Craig, FL; Dublin, GA;

VOL 60 ISS 85 MY 3 1995 UMI

Athens, GA; INT Athens 340° and Harris, GA, 148° radials; Harris; Volunteer, TN.

* * * * *

V–437 (Revised)

From Dolphin, FL; INT Dolphin 354°T(358°M) and Pahokee, FL, 157° radials; Pahokee; Melbourne, FL; INT Melbourne 322° and Ormond Beach, FL, 211° radials; Ormond Beach; Savannah, GA; Charleston, SC; Florence, SC. The airspace within R–2935 is excluded.

* * * * *

V–511 (Revised)

From Lakeland, FL; INT Lakeland 140° and Dolphin, FL, 331°T(335°M) radials; Dolphin.

* * * * *

V–521 (Revised)

From Dolphin, FL; INT Dolphin 318°T(322°M) and Lee County, FL, 099° radials; Lee County; INT Lee County 014° and Lakeland, FL, 154° radials; Lakeland; Cross City, FL; INT Cross City 287° and Marianna, FL, 141° radials; Marianna; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; INT Montgomery 357° and Vulcan, AL, 139° radials; Vulcan.

* * * * *

V–569 (Revised)

From Lee County, FL; INT Lee County 083°T(085°M) and Dolphin, FL, 331°T(335°M) radials; Dolphin.

* * * * *

V–601 (New)

From Pahokee, FL; INT Pahokee 212°T(212°M) and Marathon, FL; 354°T(357°M) radials; Marathon.

* * * * *

Issued in Washington, DC, on April 24, 1995.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 95–10775 Filed 5–2–95; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 162

RIN 1515–AB62

Seizure of Merchandise

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, Customs is proposing to amend its regulations in response to enactment of the Customs Modernization Act ("The Mod Act"). Among its other provisions, the Mod Act amended Section 596(c) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)) to clarify and codify Customs authority to seize and forfeit merchandise introduced or attempted to be introduced into the United States contrary to law. The Mod Act distinguishes between circumstances under which seizure of such merchandise is mandatory and those in which it is permissive. The proposed amendment follows the legislation and specifies the circumstances under which the mandatory and permissive seizures may take place. The proposed amendment also contains provisions for the detention of merchandise and the remission of articles subject to seizure and forfeiture.

DATES: Comments must be received on or before July 3, 1995.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229, and may be inspected at Franklin Court, 1099 14th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Schneider, Penalties Branch (202) 482–6950.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the President signed the North American Free Trade Agreement Implementation Act (Pub. L. 103–182). The Customs Modernization portion of this Act (Title VI), popularly known as the Customs Modernization Act, or "the Mod Act" became effective when it was signed. Section 624 of Title VI amended section 596(c) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)) to codify and clarify the circumstances under which merchandise may be seized and forfeited by Customs. Customs is now proposing to amend its regulations so that they will conform to the amended statute.

The Mod Act amendments to section 1595a(c) provide that merchandise which is introduced or attempted to be introduced into the United States contrary to law shall be treated in two different manners depending upon the circumstances of the introduction or attempted introduction. In instances where the merchandise is stolen, smuggled, or clandestinely imported or introduced or is a controlled substance or contraband article, seizure is mandatory.

Paragraph (a) of the proposed amendment addresses conditions where seizure is mandatory.

Paragraph (b) of the proposed amendment covers those situations in which seizure is permissive. Seizure is permissive in instances where the merchandise is subject to health, safety or conservation restrictions which have not been complied with; when licenses, permits or other authorizations of a U.S. Government agency are required but do not accompany the merchandise; when copyright, trademark, or trade name violations are involved; when trade dress merchandise involved is in violation of a court order citing section 43 of the Act of July 5, 1946 (15 U.S.C. 1125); and when the merchandise is marked intentionally in violation of section 304, Tariff Act of 1930 (19 U.S.C. 1304). The legislation also provides that merchandise may be seized if it is merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been marked in violation of section 304, Tariff Act of 1930 (19 U.S.C. 1304).

Paragraph (c) of the proposed amendment provides instructions on procedures which Customs will follow in resolving questions which result from seizures which have been made under section 1595a(c).

Paragraph (d) of the proposed amendment contains language specifying that merchandise which is misclassified or incorrectly valued, where there is no issue of admissibility, will be subject to seizure only under section 1592.

The Mod Act also provides that merchandise which is subject to quantitative restrictions requiring a visa, permit, license or other similar document from the United States Government or a foreign government or issuing authority pursuant to a bilateral or multilateral agreement shall be subject to detention until the appropriate visa, license, permit or similar document or stamp is presented to Customs. However, if the visa, license, permit, or similar document or stamp is counterfeit as presented, the merchandise may be seized. This provision is contained in paragraph (e) of the proposed amendment.

Comments

Before adopting the proposed amendment, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street NW., Suite 4000, Washington, DC.

Regulatory Flexibility Act

Because the proposed regulations closely follow legislative requirements, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that the proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 162

Customs duties and inspection, Law enforcement, Seizures and forfeitures.

Proposed Amendment

It is proposed to amend Part 162, Customs Regulations (19 CFR part 162) as set forth below:

PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The authority citation for part 162 would be revised in part to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624.

* * * * *

Section 162.23 also issued under 19 U.S.C. 1595a(c).

* * * * *

2. In part 162, a new § 162.23 is added to read as follows:

§ 162.23 Seizure under section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)).

(a) *Mandatory seizures.* The following, if introduced or attempted to be introduced into the United States contrary to law, shall be seized pursuant to section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)):

(1) Merchandise that is stolen, smuggled, or clandestinely imported or introduced;

(2) A controlled substance, as defined in the Controlled Substance Act (21 U.S.C. 801 *et seq.*), not imported in accordance with law; or

(3) A contraband article, as defined in section 1 of the Act of August 9, 1939 (49 U.S.C. App. 781).

(b) *Permissive seizures.* The following, if introduced or attempted to be introduced into the United States contrary to law, may be seized pursuant to section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)):

(1) Merchandise, the importation or entry of which is subject to any restriction or prohibition imposed by law relating to health, safety, or conservation, and which is not in compliance with the applicable rule, regulation or statute;

(2) Merchandise the importation or entry of which requires a license, permit or other authorization of a United States Government agency, and which is not accompanied by such license, permit or authorization;

(3) Merchandise or packaging in which copyright, trademark or trade name protection violations are involved (including, but not limited to, a violation of sections 42, 43 or 45 of the Act of July 5, 1946 (15 U.S.C. 1124, 1125 or 1127), sections 506 or 509 of title 17, United States Code, or sections 2318 or 2320 of title 18, United States Code);

(4) Trade dress merchandise involved in the violation of a court order citing section 43 of the Act of July 5, 1946 (15 U.S.C. 1125);

(5) Merchandise marked intentionally in violation of 19 U.S.C. 1304;

(6) Merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been in violation of 19 U.S.C. 1304; or

(7) Merchandise subject to quantitative restrictions, found to bear a counterfeit visa, permit, license, or similar document, or stamp from the United States or from a foreign government or issuing authority pursuant to a multilateral or bilateral agreement (but see paragraph (e), of this section).

(c) *Resolution of seizure under section 1595a(c).* When merchandise is either required or authorized to be seized under this section, the forfeiture incurred may be remitted in accord with 19 U.S.C. 1618, to include as a possible option the exportation of the merchandise under such conditions as Customs shall impose, unless its release would adversely affect health, safety, or conservation, or be in contravention of a bilateral or multilateral agreement or treaty.

(d) *Seizure under 19 U.S.C. 1592.* If merchandise is imported, introduced or attempted to be introduced contrary to a provision of law governing its classification or value, and there is no issue of admissibility, such merchandise shall not be seized pursuant to 19 U.S.C. 1595a(c). Any seizure of such merchandise shall be in accordance with section 1592 (see § 162.75).

(e) *Detention only.* Merchandise subject to quantitative restrictions requiring a visa, permit, license, or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, shall be subject to detention in accordance with 19 U.S.C. 1499, unless the appropriate visa, permit, license, or similar document, or stamp is presented to Customs (but see paragraph (b)(7) of this section for instances when seizure may occur).

Michael H. Lane,

Acting Commissioner of Customs.

Approved: April 5, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 95–10855 Filed 5–2–95; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

26 CFR Part 1

[FI–42–94]

RIN 1545–AS85

Mark to Market for Dealers in Securities; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the mark-to-market method of accounting for securities that is required to be used by a dealer in securities.

DATES: The public hearing originally scheduled for Wednesday, May 3, 1995, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 475 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** for Wednesday, January 4, 1995 (60 FR 397), announced that the public hearing on proposed regulations under section 475 of the Internal Revenue Code would be held on Wednesday,

VOL 60 ISS 85 MY 3 1995 UMI

May 3, 1995, beginning at 10 a.m., in the IRS Auditorium Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

The public hearing scheduled for Wednesday, May 3, 1995, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95-10798 Filed 4-27-95; 5:07 pm]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL107-1-6708b; FRL-5190-5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois's September 26, 1994, State Implementation Plan (SIP) revision request to grant a variance from Stage II vapor control requirements to J.M. Sweeney Co. (Sweeney), located in Cicero, Cook County, Illinois. This variance has been granted because Sweeney has demonstrated that immediate compliance with the requirements at issue would impose an arbitrary and unreasonable hardship. This variance expires on March 31, 1995. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw the approval before its effective date by publishing a subsequent rule that withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking notice. Please be aware that USEPA will institute another rulemaking notice on this action only if warranted by significant revision to the rulemaking based on any comments receives in response to today's action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before June 2, 1995. If no such comments are received, USEPA hereby advises that the direct final approval will be effective July 3, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: March 20, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 95-10820 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[DE-16-1-5887b, DE20-1-6548b; FRL-5180-6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware: Regulation 24, Control of Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware on January 11, 1993 and January 20, 1994. The revision consists of Sections 1 to 9, 13 to 35, 37 to 43 and Appendices A to H to Regulation 24—"Control of Volatile Organic Compound Emissions". These regulations are necessary to satisfy the Clean Air Act (CAA) and to support attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for ozone in Delaware. In the final rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be submitted in writing by June 2, 1995.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597-3164, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title (Regulation 24, Control of Volatile Organic Compound Emissions) which is located in the Rules and Regulations Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: January 27, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 95-10818 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[IN44-1-6538b; FRL-5190-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Indiana's March 23, 1994, submittal of requested revisions to the Indiana State Implementation Plan (SIP) for lead. In the final rules section of this **Federal Register**, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this notice should do so at this time.

DATES: Comments on this proposed rule must be received on or before June 2, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Rosanne Lindsey, Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: April 3, 1995.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 95-10811 Filed 5-2-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[NV9-1-6574; FRL-5201-8]

Clean Air Act Partial Approval and Partial Disapproval and Promulgation of Title V, Section 507, Small Business Stationary Source Technical and Environmental Compliance Assistance Program for Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The EPA today proposes to partially approve and partially disapprove the State Implementation Plan (SIP) revision submitted by the State of Nevada for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM). The implementation plan was submitted by the State to satisfy the Federal mandate, found in Section 507 of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA. The rationale for the partial approval and partial disapproval is set forth in this document; additional information is available at the address indicated below.

DATES: Comments on this proposed action must be received in writing by June 2, 1995. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments can be mailed to the U.S. Environmental Protection Agency, Division Director, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105, Attention: R. Michael Sternburg.

Copies of the State's submittal and EPA's technical support document are available for inspection during normal business hours at the following locations: (1) U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; (2) Nevada Division of Environmental Protection, Bureau of Air Quality, 123 West Nye Lane, Room 123, Carson City, NV 89710.

FOR FURTHER INFORMATION CONTACT: R. Michael Sternburg, A-1, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1102.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of Title V of the Clean Air Act (CAA), as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the national ambient air quality standards (NAAQS) and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (PROGRAM), and submit this PROGRAM as a revision to the Federally approved SIP. In addition, the CAA directs the Environmental Protection Agency (EPA) to oversee these small business assistance programs and report to Congress on their implementation. The requirements for establishing a PROGRAM are set out in Section 507 of Title V of the CAA. In February 1992, EPA issued Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments, in order to delineate the Federal and State roles in meeting the new statutory provisions and as a tool to provide further guidance to the States on submitting acceptable SIP revisions.

The State of Nevada has submitted a SIP revision to EPA in order to satisfy the requirements of Section 507. In order to gain full approval, the State submittal must provide for each of the following PROGRAM elements: (1) the establishment of a Small Business Assistance Program (SBAP) to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

II. Analysis

1. Small Business Assistance Program

Section 507(a) sets forth six requirements[1] that the State must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act. The

[1] A seventh requirement of Section 507(a), establishment of an Ombudsman office, is discussed in the next section.

VOL
60
ISS
85
MY
3
1995
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State has met this requirement by describing a satisfactory program that, when operational, would utilize a variety of outreach techniques to disseminate information to small business stationary sources. These efforts include distributing fact sheets, working with industry trade groups, conducting seminars, developing newsletters for industry-specific mailing lists, disseminating news media articles and developing videotapes. In addition, the State will provide statewide toll-free access to the Small Business Assistance Program, develop a library of reference materials, organize an information clearinghouse and utilize electronic bulletin boards to receive and communicate regulatory information.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution. The State has met this requirement by describing a satisfactory program that, when operational, would provide sources with technical information and assistance on air pollution prevention, including technical assistance on process changes and methods of operation that help reduce air pollution. Resources utilized will include the Pollution Prevention Information Clearinghouse which provides information on pollution prevention programs, an electronic database and a toll-free hotline. In addition, the State will help sources develop plans for accidental release prevention and detection. This effort will be coordinated with the appropriate local, state and federal programs. Resources utilized will include a Chemical Safety Audit Program to provide mechanisms for examining process management systems and preventing accidental releases of hazardous air pollutants.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner. The State has met this requirement by describing a satisfactory program that, when operational, would provide clear and timely compliance advice and assistance to small businesses, including permit assistance, and technical assistance on compliance options such as alternative technologies and material substitution. The state will provide this assistance using informational materials available on request, statewide toll free access to SBAP, staff presentations at workshops for key target groups and coordination through the appropriate trade associations and industry groups.

The fourth requirement is to develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act. The State has met this requirement by describing a satisfactory program that, when operational, will notify sources of their rights and responsibilities under the Clean Air Act and Nevada Statutes and Regulations through preparation and distribution of information materials, as well as in providing direct technical assistance.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act. The State has met this requirement by describing a satisfactory program that, when operational, would inform small business sources of their obligations under the Act through preparation and distribution of information materials, as well as providing direct technical assistance. Compliance assessments will be provided by the State free of charge to sources and will not involve regulatory or enforcement actions unless a clear and immediate danger is identified. The State will also provide sources with a list of qualified auditors.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of (A) any work practice or technological method of compliance, or (B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source. The State has met this requirement by specifying administrative procedures for small businesses to request modifications of work practices, compliance methods and the implementation for work practices or compliance methods.

The State has provided supplementary written information describing an implementation schedule of milestones showing when the programs will be operational, what the program resources will be and where the programs will be located organizationally.

2. Ombudsman

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. The State has met this requirement by providing supplementary written information describing a milestone schedule showing when the Ombudsman will be operational. This position will be located within the Nevada State Environmental Commission office. The Ombudsman will serve as an advocate for small business stationary sources in the investigation and resolution of complaints and disputes against the State or local air pollution control agencies. The Ombudsman will also aid in the dissemination of information to small businesses and other interested parties and will encourage small businesses to participate in the development of regulations that affect them.

3. Compliance Advisory Panel

Section 507(e) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has not met this requirement because it has not indicated an implementation schedule of milestones showing when the officials will be appointed and when the program will be operational. The composition of the seven member panel will be in accordance with the Clean Air Act requirements.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act;[2] (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has partially met these requirements by specifying that, when operational, the panel will evaluate the effectiveness of the SBAP, issue advisory opinions, prepare periodic reports to EPA regarding the program's compliance with the Paperwork Reduction Act, the Regulatory Flexibility Act and the Equal Access to Justice Act. The State has not indicated that the CAP will review and assure that information for small business stationary sources is easily understandable.

[2] Section 507(e)(1)(B) requires the CAP to report on the *compliance* of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State PROGRAM must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

4. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

(A) is owned or operated by a person who employs 100 or fewer individuals,

(B) is a small business concern as defined in the Small Business Act;

(C) is not a major stationary source;

(D) does not emit 50 tons per year (tpy) or more of any regulated pollutant; and

(E) emits less than 75 tpy of all regulated pollutants.

The State of Nevada has not established a definition of a small business and therefore has not established procedures for including or excluding sources from that definition. Although the program has been developed to assist small businesses, the State has determined that assistance will be provided to any business seeking assistance.

III. Today's Action

In today's action, EPA is proposing to partially approve and to partially disapprove the SIP revision submitted by the State of Nevada. The submittal does not adequately meet all of the requirements for the Compliance Advisory Panel. EPA is proposing to partially approve this submittal for satisfying all of the requirements for the Small Business Assistance Program, the Ombudsman and most of the requirements for the Compliance Advisory Panel. EPA is also proposing to partially disapprove this submittal for not satisfying the Compliance Advisory Panel requirements for indicating an implementation schedule of milestones showing when the officials will be appointed and when the program will be operational and for not indicating that the Compliance Advisory Panel will review and assure that information for small business stationary sources is easily understandable. If the State submits the necessary information to correct these deficiencies before EPA goes final, then EPA will fully approve the submittal.

The OMB has exempted this action from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

By today's action, EPA is partially approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being partially approved today does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the state. Therefore, because the EPA's partial approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 24, 1995.

John Wise,

Acting Regional Administrator.

[FR Doc. 95–10880 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WA25–1–6520b; FRL–5190–2]

Approval and Promulgation of State Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of approving the Southwest Air Pollution Control Authority's (SWAPCA) 400 General Regulations for Air Pollution Sources. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Comments on this proposed rule must be received in writing by June 2, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (AT–082), Air Programs Section, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air Programs Section, 1200 6th Avenue, Seattle, WA 98101.

The State of Washington Department of Ecology, 300 Desmond Drive, Lacey, WA 98504.

FOR FURTHER INFORMATION CONTACT: Kelly McFadden, Environmental Engineer, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–1059.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: March 30, 1995.

Chuck Clarke,

Regional Administrator.

[FR Doc. 95–10813 Filed 5–2–95; 8:45 am]

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VOL
60
ISS
85
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1995
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40 CFR Part 180

[OPP-300383; FRL-4945-6]

RIN 2070-AB78

Poly(phenylhexylurea), Cross-Linked; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an exemption from the requirement of a tolerance for residues of poly(phenylhexylurea), cross-linked, when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only under 40 CFR 180.1001(d) to replace the existing exemption from the requirement of a tolerance for residues of cross-linked polyurea-type encapsulating polymer under 40 CFR 180.1082. The Monsanto Co. requested this proposed regulation.

DATES: Written comments, identified by the document control number, [OPP-300383], must be received on or before June 2, 1995.

ADDRESSES: By mail, submit written comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-300383]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Mary Waller, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8811; e-mail: Waller.Mary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Monsanto Co., Suite 1100, 700 14th St., NW., Washington, DC 20005, submitted pesticide petition (PP) 4E04408 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), propose to amend 40 CFR part 180 by replacing the existing exemption from the requirement of a tolerance for residues of cross-linked polyurea-type encapsulating polymer listed under 40 CFR 180.1082 with an exemption from the requirement of a tolerance for residues of poly(phenylhexylurea), cross-linked, when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only under 40 CFR 180.1001(d).

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for poly(phenylhexylurea), cross-linked, will need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Poly(phenylhexylurea), cross-linked, conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria that are used to identify low-risk polymers.

1. The minimum number-average molecular weight of poly(phenylhexylurea), cross-linked, is 36,000. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal tract. Chemicals not absorbed through skin or GI tract generally are incapable of eliciting a toxic response.

2. Poly(phenylhexylurea), cross-linked, is not a cationic polymer, nor is it reasonably expected to become a cationic polymer in a natural aquatic environment.

3. Poly(phenylhexylurea), cross-linked, does not contain less than 32.0 percent by weight of the atomic element carbon.

4. Poly(phenylhexylurea), cross-linked, contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. Poly(phenylhexylurea), cross-linked, does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. Poly(phenylhexylurea), cross-linked, is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. Poly(phenylhexylurea), cross-linked, is not manufactured from reactants containing, other than impurities, halogen atoms or cyano groups.

8. Poly(phenylhexylurea), cross-linked, does not contain a reactive functional group that is intended or reasonably expected to undergo further reaction.

9. Poly(phenylhexylurea), cross-linked, is neither designed nor reasonably expected to substantially degrade, decompose, or depolymerize.

The establishment of an exemption from the requirement of a tolerance for residues of poly(phenylhexylurea), cross-linked, when used as an inert ingredient (encapsulating agent) in pesticide formulations applied to growing crops only under 40 CFR 180.1001 will obviate the need to maintain an exemption of polyurea-type encapsulating polymer as listed under 40 CFR 180.1082. The polymer listed in 40 CFR 180.1082 is described as being "formed by the reaction of polymethylene polyphenylisocyanate and hexamethylene diamine." The resultant polymer can best be described as poly(phenylhexylurea), cross-linked, the subject of this proposed regulation.

In addition, based on the polymer's conformance to the set of criteria that are used to identify low-risk polymers, the additional use restrictions described in 40 CFR 180.1082 (i.e., use as an encapsulating material for formulations of alachlor (2-chloro-*N*-(2,6-diethylphenyl)-*N*-(methoxymethyl) acetamide) for use on dry beans, lima beans, peas, potatoes and soybeans, when applied to the soil before edible portions of the crops form are no longer applicable.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful, and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, that contains any of the ingredients listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300383]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [OPP-300383] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirement of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have an economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subject in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 20, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1001(d) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
• • •	• • •	• • •
Poly(phenylhexylurea), cross-linked; minimum average molecular weight 36,000.	.....	Encapsulating agent.
• • •	• • •	• • •

VOL 60 ISS 85 MY 3 1995 UMI

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§ 180.1082 [Removed]

3. By removing § 180.1082 *Cross-linked polyurea-type encapsulating polymer (Alachlor); exemption from the requirement of a tolerance.*

[FR Doc. 95–10867 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 185

[OPP–300260A; FRL–4951–8]

RIN 2070–AC18

Acephate, Triadimefon, Iprodione, and Imazalil; Revocation of Food Additive Regulations; Reopening and Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Reopening and extension of comment period.

SUMMARY: EPA is reopening and extending until June 2, 1995, the comment period for a proposed rule that was published in the **Federal Register** of January 18, 1995 (60 FR 3607) that proposed the revocation of certain section 409 food additive regulations established under the Federal Food, Drug and Cosmetic Act (FFDCA) for four chemicals: acephate, triadimefon, iprodione, and imazalil. The original comment period on the proposal extended until April 18, 1995, but because of the unavailability of certain documents in the docket, the comment period is being extended.

DATES: Written comments, identified by the document control number [OPP-300360A], must be received on or before June 2, 1995.

ADDRESSES: By mail, submit written comments to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [OPP-300360A]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Niloufar Nazmi, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF32C5, Crystal Station #1, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8028; e-mail: nazmi.niloufar@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: A record has been established for this rulemaking under docket number [OPP-300360A] (including any comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects in 40 CFR Part 185

Administrative practice and procedure, Agricultural commodities, Food additives, Pesticides and pests, Processed foods, Reporting and recordkeeping requirements.

Dated: April 25, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–10869 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 300

[FRL–5197–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Alpha Chemical Corporation Site from the National Priorities List: request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region IV announces its intent to delete the Alpha Chemical Corporation Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL is codified as Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, no further response pursuant to CERCLA is appropriate.

DATES: Comments concerning this Site may be submitted on or before: June 2, 1995.

ADDRESSES: Comments may be mailed to: Joe Franzmathes, Director, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Comprehensive information on this Site is available through the Region IV public docket, which is available for viewing at the Alpha Chemical Corporation information repositories at two locations. Locations, contacts, phone numbers and viewing hours are:

U.S. EPA Record Center, attn: Shannon Neal, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Phone: (404) 347–0506. Hours: 8:00 a.m. to 4:00 p.m., Monday through Friday, by appointment only;

Lakeland Public Library, 100 Lake Morton Drive, Lakeland, Florida 33801, Phone: (813) 499–8242, Hours: 9:00 a.m. to 9:00 p.m., Monday through Thursday, 9:00 a.m. to 5:00 p.m., Friday and Saturday, 1:30 p.m. to 5:00 p.m., Sunday.

FOR FURTHER INFORMATION CONTACT: Barbara Dick, U.S. EPA Region IV, Mail Code: WD–SSRB, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347–2643 x6273.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The EPA Region IV announces its intent to delete the Alpha Chemical Corporation Site, Lakeland, Florida, from the NPL, which constitutes Appendix B of the NCP, 40 CFR Part 300, and requests comments on this deletion. EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Pursuant to Section 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA proposes to delete the Alpha Chemical Corporation Site at 4620 N. Galloway Road, Lakeland, Florida 33809 from the NPL.

EPA will accept comments concerning this Site for thirty days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how this Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR Section 300.425(e), sites may be deleted from or recategorized on the NPL where no further response is appropriate. In making this determination, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazardous Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of the Site:

1. FDEP has concurred with the deletion decision;

2. A notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties announcing a 30-day public comment period on the proposed deletion from the NPL; and

3. The Region has made all relevant documents available at the information repositories.

The Region will respond to significant comments, if any, submitted during the comment period.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect any deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary, if any, will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the intention to delete this Site from the NPL.

The Alpha Chemical Corporation Site in western Polk County, Florida encompasses 32 acres of land. Since 1967 Alpha Resins Corporation (ARC) has manufactured polyester resins at the Site and until 1976 discharged wastewater from the resin manufacturing into two onsite surface impoundments. The ponds operated as percolation basins under a permit with the FDEP. In 1976 a thermal oxidizer was installed and water was no longer placed into the percolation ponds.

By 1977 the smaller of the two permitted ponds had dried. This unlined pond was used as a solid waste landfill for ARC and its employees for approximately one year. A dam was constructed in the center of the other wastewater pond and half was lined in concrete after pumping the sediments and water into the other half. The concrete-lined pond received caustic wash waste and did not discharge any of the waste stream to the environment. This concrete-lined pond was later filled with soil. The unlined pond remained; however, its use was discontinued.

In October 1981 Alpha Chemical Corporation was one of the original sites proposed for placement on the NPL. In the early 1980's EPA collected samples from the Site and offsite wells, and in 1983 FDEP issued an Environmental Groundwater Assessment report. The report determined that groundwater contamination was confined to the surficial aquifer and had not migrated offsite. Contaminants detected onsite included ethylbenzene, xylene, naphthalene, and benzene. Alpha Chemical Corporation became a final site on the first NPL list in September 1983.

ARC installed ground water monitoring wells and sampled the soil and groundwater and found phthalates, halogenated and non-halogenated volatile organic compounds (VOCs), phenols, polynuclear aromatic hydrocarbons (PAHs), and non-priority pollutants such as benzyl alcohol and benzoic acid in groundwater from the shallow onsite monitoring wells. ARC signed a consent order with FDEP in March 1985 to perform a Remedial Investigation (RI), Endangerment Assessment (EA), and if necessary, a Feasibility Study (FS).

The EA concluded that the contaminated samples are confined to a few sampling locations. Groundwater sampling results in 1987 from all groundwater monitoring wells and sand point wells showed an overall trend of decreasing levels of constituents in the groundwater. No positively identified constituents were detected in the shallow monitoring wells located immediately south of the wetland, indicating offsite migration was unlikely.

FDEP and EPA met the community in a public meeting in November 1986, to discuss the EA and RI and again in a 1988 public meeting to discuss the results of the FS. EPA and FDEP

VOL
60
ISS
85
MY
3
1995
UMI

addressed questions from the audience concerning health effects, aquifer characteristics, onsite landfill impacts, sampling efforts, remedial alternatives, and monitoring.

In May 1988 EPA signed a Record of Decision (ROD) selecting a remedy for the Alpha Chemical Corporation Site. The ROD called for placing a low permeability cap over the small unlined pond and long-term monitoring of the surface and groundwater to ensure that the remedy is effective and that the landfill continues to meet the applicable and relevant or appropriate requirements (ARARs). (Section 121(d)(2)(A) of CERCLA, 42 U.S.C. § 9621(d)(2)(A), requires with respect to any contaminant that will remain on site after the remedy is complete, that the degree of cleanup must meet all ARARs.)

A consent decree between EPA and ARC was entered into court in May 1989, requiring ARC to perform the remedial design/remedial action (RD/RA) and to record appropriate deed restrictions. The remedial design consisted of capping the unlined pond with a synthetic low permeability cap. The cap design ensured that surface runoff would be diverted and vertical infiltration would be prevented.

The remedial action involved removing water from the unlined pond and filling with clean clay soil. A synthetic low permeability liner and layers of drainage material, filter fabric, and topsoil were placed over the compacted fill material. Drainage swales were installed around the cap to prevent vertical infiltration. The cap surface was seeded and drainage ditches sodded to preclude erosional damage to the cap. Construction of the cap over the unlined pond required two weeks and was completed on September 15, 1989. EPA sent out fact sheets to inform the public that remedial construction had been completed. During the following year, ARC decided to sod the cap as an extra measure of precaution against the threat of erosion.

The ROD identified groundwater and surface water cleanup standards for five indicator chemicals at the site. One of these chemicals, 1,2-dichloropropane, was not detected in groundwater at the time the ROD was written and another chemical, benzoic acid, did not have a groundwater cleanup value; therefore, the ROD required periodic monitoring for only three contaminants, ethylbenzene, styrene, and total xylenes. Quarterly groundwater samples taken from two monitoring wells have been analyzed for these three compounds since the remedial action construction was complete in September 1989. Six other wells selected for monitoring in the Remedial Design/Remedial Action Project Operations Plan (POP) were eliminated from the monitoring requirements since the three contaminants being monitored in these wells were consistently below contingency levels, often at non-detect levels. Prior to site close out, it was confirmed that 1,2-dichloropropane was still not present in the groundwater.

When the ROD was issued in 1988, the Agency had established Recommended Maximum Contaminant Levels (RMCLs) for four of the five groundwater contaminants at the Alpha Chemical Corporation Site. These RMCLs were also used as the contingency levels, or cleanup goals, in the POP and are shown in the table below. Since then EPA has established MCL Goals (MCLGs) and MCLs for these four contaminants at the site. The fifth contaminant, benzoic acid, did not have a RMCL nor does it have a MCLG or MCL. The protective groundwater values for the four contaminants have changed as follows:

Contaminant	Recommended MCL (ug/l)	MCL goal (ug/l)	MCL (ug/l)
1,2-Dichloropropene	6	0	5
Xylene	440	10,000	10,000
Styrene	140	100	100
Ethylbenzene	680	700	700

In addition, the ROD required groundwater monitoring to ensure that source control (the cap and landfill) achieved the clean-up standards identified in the ROD as ARARs. The Agency is now confident that the remedy, as carried out pursuant to the ROD, is, and will continue to be, protective of human health and the environment, because the post-ROD, more protective MCL levels have been attained at this Site for 1,2-dichloropropane and styrene.[1] In addition, the other two contaminants of concern, xylene and ethylbenzene, have attained RMCLs, which are the clean-up standards established in the ROD.

The Agency has groundwater monitoring data showing that groundwater downgradient of the landfill has attained all ARARs, as identified in the ROD. Monitoring results have shown that groundwater concentrations of xylene have consistently been below the RMCL and MCLG for 10 years in all monitoring wells being monitored. Since one detection at 100 ug/l in 1990, styrene has been below both the RMCL and the MCLG in all groundwater samples. Concentrations of ethylbenzene in the groundwater have been below the RMCL and MCLG since 1991, with the exception of a detection of 690 ug/l in December 1992 and 1200 ug/l in June 1994. Overall monitoring results clearly show these minor exceedances are isolated cases. This data demonstrates the effectiveness of the source control remedy selected in the ROD as the preferred alternative for protecting human health and the environment at the Site.

The ROD also required surface water monitoring to be conducted to confirm surface water ARARs were being attained and specified surface water values for ambient criteria for protection of fresh water life for the five contaminants. Prior to site close out, all five contaminants were confirmed to be below the surface water values cited in the ROD. Current ARARs for surface water are the Florida Surface Water Quality Criteria and the Federal Ambient Quality Criteria; however, no state or federal criteria values have been designated for any of the five contaminants. Freshwater quality screening values for 1,2-dichloropropane and ethylbenzene have been established by Region IV Waste Management Division and these two contaminants have not been found in surface water above the screening values. In addition, the three VOCs constantly being monitored over the long-term have either not been detected or were detected at low levels in surface water samples.

As required by the consent decree, ARC has recorded approriate deed restrictions for the property.

In summary, sampling results from all monitoring wells and surface water collections confirm that the contaminants have decreased to levels below ARARs and that all appropriate actions have been taken to ensure that the Site remains protective of human health and the environment. ARC's inspections of the cap have indicated that the remedy is performing as designed.

EPA completed a Five-Year Review at the Site to determine whether the cap remains effective in 1994. Review activities included a Site visit, a reassessment of the ARARs, and sampling. The Five-Year Review and monitoring results have demonstrated that the remedy at Alpha Chemical Corporation Site has been effective at meeting the ARARs. EPA has met the requirement for performing a five-year review at the Site, as specified in Section 121(c) of SARA. The next five-year review will check future problems and be performed no later than February 1999.

Confirmational monitoring of groundwater demonstrates that no significant risk to public health or the environment is posed by the Site. The results of the monitoring confirmed that the remedy is effective and that the landfill continues to meet ARARs.

EPA, with concurrence of FDEP, has determined that all appropriate actions at the Alpha Chemical Corporation Site have been completed, and that no further response is necessary. Therefore, EPA is proposing deletion of the Site from the NPL.

Dated: April 11, 1995.

Patrick M. Tobin,

Acting Regional Administrator, USEPA Region IV.

[FR Doc. 95–10750 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–P

[1] Zero level MCLGs are not used as ARARs, instead the MCL is used if applicable and appropriate. 40 CFR 300.430(e)(2)(i)(C).

VOL 60 ISS 85 MY 3 1995 UMI

Notices

Federal Register
Vol. 60, No. 85
Wednesday, May 3, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Current Industrial Reports – Broadwoven Fabrics (Gray).
Form Number(s): MQ22T.
Agency Approval Number: 0607–0625.
Type of Request: Revision of a currently approved collection.
Burden: 1,339 hours.
Number of Respondents: 487.
Avg Hours Per Response: 56 minutes.
Needs and Uses: This survey is part of the Census Bureau's Current Industrial Reports Program which measures United States production of various manufactured products. The Census Bureau conducts this survey quarterly to gather information on the level of production of selected broadwoven fabrics. The interagency Committee for the Implementation of Textile Agreements (CITA) uses survey data to monitor potential market disruptions resulting from trade in gray broadwoven fabric. Other government agencies, trade associations, and business firms use these data for making production, investment, and trade policy decisions. Most establishments report quarterly in this survey. Those establishments that contribute less than 10 percent to any publishable item report annually. This request for revision informs OMB of a change in sample size due to a reduction in the universe of manufacturers in this segment of the economy. No other changes are requested.
Affected Public: Businesses or other for–profit organizations.
Frequency: Quarterly, with annual counterpart.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1995.
Gerald Taché,
Departmental Forms Clearance Officer, Office of Management and Organization.
[FR Doc. 95–10906 Filed 5–2–95; 8:45 am]
BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: Annual Retail Trade Report.
Form Number(s): B–151, B–151A, B–151D, B–153, B–153D.
Agency Approval Number: 0607–0013.
Type of Request: Revision of a currently approved collection.
Burden: 8,686 hours.
Number of Respondents: 20,805.
Avg Hours Per Response: 25 minutes.
Needs and Uses: The Bureau of the Census conducts the Annual Retail Trade Survey to collect annual totals of sales, inventories, inventory valuation methods, purchases, and accounts receivable balances from a sample of retail establishments in the United States. The estimates compiled from this survey are critical to the accurate measurement of total economic activity and are used in computing such indicators of economic well–being as the Gross Domestic Product and the National Income and Product Accounts. Survey results also provide valuable information for economic policy decisions and actions by the government and are widely used by private businesses, trade organizations, professional associations, and others for market research and analysis. This request for revision informs OMB of some recent methodological changes the Census Bureau has implemented for estimating retail nonemployers and recent employer births. We now use new Employer Identification Numbers (EINs) and administrative records provided by the Internal Revenue Service for estimating these components of retail trade. Previously we used an area sample.
Affected Public: Businesses or other for–profit organizations.
Frequency: Annual.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1995.
Gerald Taché,
Departmental Forms Clearance Officer, Office of Management and Organization.
[FR Doc. 95–10905 Filed 5–2–95; 8:45 am]
BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.
Title: MAF and TIGER Linkage Activities.
Form Number(s): Will vary by activity.
Agency Approval Number: None.
Type of Request: New collection.
Burden: 1,195 hours.
Number of Respondents: 32,103.
Avg Hours Per Response: Two and one half minutes.
Needs and Uses: The Census Bureau requests OMB approval for a generic clearance to undertake a number of activities it plans to conduct to create and update its Master Address File (MAF) and maintain the linkage between the MAF and the Topologically Integrated Geographic Encoding and Referencing (TIGER) data base of address ranges and associated geographic information. These activities will be conducted on a schedule to support preparations for the 2000 decennial census, but also will support the address matching and geocoding requirements of the proposed Continuous Measurement program, the population estimates program, the economic and agriculture censuses, and the current demographic surveys. This clearance will allow the Census Bureau to focus its limited resources on operational planning and procedural development activities. The activities to be conducted under this clearance are: Listing, Update/Leave, MAF Reconciliation, Canvassing, Block Splits, Field Verification, Master Address File Quality Improvement Program (MAF QIP), the Address List Availability Survey (ALAS), and the Rural Address Reference Availability Survey (RARAS). The Census Bureau has conducted each category of activity (or similar ones) previously and the burden remains relatively unchanged from one time to another.
Affected Public: Individuals or households.
Frequency: One–time.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1995.
Gerald Taché,
Departmental Forms Clearance Officer, Office of Management and Organization.
[FR Doc. 95–10907 Filed 5–2–95; 8:45 am]
BILLING CODE 3510–07–F

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.
ACTION: To Give Firms an Opportunity to Comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 03/16/95–04/17/95

Firm name	Address	Date petition accepted	Product
Todd Tool & Machine, Inc	Rt. 130 N. &-Cathy, Lane Roebling, NJ 08554	03/16/95	Precision Metal Parts.
Velvet Textile Company, Inc (The).	300 Church Street, Blackstone, VA 23824	03/22/95	Velvet Fabric.
Brunson Instrument Company	8000 E. 23rd Street, Kansas City, MO 64129	03/24/95	Optical Tooling.
Karew, Inc	500 Wood Street, Bristol, RI 02809	03/27/95	Mirrored Vanity Trays.
MRM Elgin Corp	902 Parkway Road, Menomonie, WI 54751	03/29/95	Rotary Filling Machines, of Machined Metal, Hydraulic, and Electronic Components.
Jen-Cel-Lite Corporation	954 East Union Street, Seattle, WA 98122	04/04/95	Sleeping Bags.
Trionix Research Laboratory, Inc.	8037 Bavaria Road, Twinsburg, OH 44087	04/07/95	Mach. & Equp.—Nuclear Imaging Detectors Multi-Detector Spect and Whole Body Scanning Systems.
Bob, Inc	8740 49th Avenue, North, Minneapolis, MN 55428.	04/10/95	Electronics—Computer Hard Disk Drives.
Seaark Marine, Inc	404 N. Gabbert, Monticello, ARF 71655	04/10/95	Motorized Commercial Workboats and Parts.
National Biological Corporation	1532 Enterprise Parkway, Twinsburg, OH 44087.	04/10/95	Phototherapy Devices for the Treatment of Skin Disorders.
L.W. Packard and Company, Inc.	6 Mill Street, Ashland, NH 03217	04/10/95	Wool Blended Fabric.
Jedco, Inc	1615 Broadway, N.W., Grand Rapids, MI 49504.	04/10/95	Aircraft Engine Parts.
M.C. Carbide Tool Company	14505 Keel Street, Plymouth, MI 48170	04/11/95	Custom Precision Carbide Cutting Tools.
Norwich Aero Products, Inc	P.O. Box 109, Norwich, NY 13815	04/11/95	Thermocouples and Resistance Temperature Detectors.
Simmons Hosiery Hill	391 10th Ave. Drive NE, Hickory, NC 28601–3833.	04/12/95	Athletic Socks.
Albany Woodworks, Inc	P.O. Box 729, Albany, LA 70711	04/14/95	Beams.
Rialto Furniture Company, Inc	150 North 5th Street, Brooklyn, NY 11211	04/14/95	Commercial Furniture.
Montpelier Glove Co., Inc	1 Glove Lane, P.O. Box 187, Hartford, KY 42347.	04/14/95	Work Gloves.
Terra Designs, Inc	241 East Blackwell Street, Dover, NJ 07801	04/14/95	Glazed and Unglazed Wall and Floor Tiles.
Electronic Interface Company, Inc.	970 Lonus Street, San Jose, CA 95126	04/14/95	Linear Actuators.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in

VOL 60 ISS 85 MY 3 1995 UMI

sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: April 26, 1995.

Lewis E. Pedolsky,

Acting Director, Trade Adjustment Assistance Division.

[FR Doc. 95–10841 Filed 5–2–95; 8:45 am]

BILLING CODE 3510–24–M

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Partially Closed Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held May 23, 1995, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M–2, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

General Session

1. Opening Remarks by the Chairman.
2. Presentation of Papers or Comments by the Public.
3. Update on Export Administration.
4. Presentation on software and technology de minimis accounting standards and reporting.
5. Report on Regulations Reform.
6. Discussion on Automated Export System.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA, Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 22, 1994, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: April 27, 1995.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 95–10834 Filed 5–2–95; 8:45 am]

BILLING CODE 3510–DT–M

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of availability of evaluation findings.

SUMMARY: Notice is hereby given of the availability of the final evaluation findings for the Hawaii, North Carolina, and Virgin Islands Coastal Management Programs, and the Padilla Bay (Washington) and Waquoit Bay (Massachusetts) National Estuarine Research Reserves (NERRs). Section 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, requires a continuing review of the performance of coastal states with respect to coastal management and the operation and management of NERRs.

The states of Hawaii and North Carolina were found to be implementing and enforcing their Federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA section 303(2)(A)—(K), and adhering to the programmatic terms of their financial assistance awards.

The Territory of the Virgin Islands was found to be adhering to its approved program. However the Department of Planning and Natural Resources has not fully adhered to applicable terms of its financial assistance awards with respect to the timely completion of a critical grant task (Areas for Particular Concern management plans). Implementation of several recommendations listed in the findings will bring the Virgin Islands back into satisfactory adherence. Padilla Bay and Waquoit Bay NERRs were found to be satisfactorily adhering to programmatic requirements of the NERR system.

Copies of these final evaluation findings may be obtained upon request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, Silver Spring, Maryland 20910 (301) 713–3087 x126

Dated: April 27, 1995.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration

[FR Doc. 95–10794 Filed 5–2–95; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Transshipment Charges for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

April 27, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs charging transshipments to 1995 limits.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a notice published in the **Federal Register** on June 28, 1993 (58 FR 34568), CITA announced that Customs would be conducting other investigations of transshipments of textiles produced in China and exported to the United States. Based on these investigations, the U.S. Customs Service has determined that textile products in Categories 338, 339, 347 and 352, produced or manufactured in China and entered into the United States with the incorrect country of origin and as non-textile products, were transshipped in circumvention of the Memorandum of Understanding dated January 17, 1994 between the Governments of the United States and the People's Republic of China. Consultations were held between the Governments of the United States and the People's Republic of China on this matter December 6 through December 8, 1994 and March 6 through March 8, 1995. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to charge the following amounts to the 1995 quota levels for the categories listed below:

Category	Amounts to be charged
338	162,000 dozen.
339	147,492 dozen.
347	173,669 dozen.
352	632,114 dozen.

As a result of the charges, the current limit for Category 352 will be highly filled.

U.S. Customs continues to conduct other investigations of such transshipments of textiles produced in China and exported to the United States. The charges resulting from these investigations will be published in the **Federal Register**.

The U.S. Government is taking this action pursuant to U.S. letters dated October 5, 1994 and April 17, 1995, and the Memorandum of Understanding dated January 17, 1994 between the Governments of the United States and the People's Republic of China.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 59 FR 65760, published on December 21, 1994.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 27, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: To facilitate implementation of the Memorandum of Understanding dated January 17, 1994, between the Governments of the United States and the People's Republic of China, I request that, effective on May 4, 1995, you charge the following amounts to the following categories for the 1995 restraint period (see directive dated December 16, 1994):

Category	Amount to be charged to 1995 limit
338	162,000 dozen.
339	147,492 dozen.
347	173,669 dozen.
352	632,114 dozen.

This letter will be published in the **Federal Register**.

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 95–10842; Filed 5–2–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Finding of No Significant Impact (FONSI) for the Joint Primary Aircraft Training System

Pursuant to the Council on Environmental Quality regulations (40 CFR 1500–1508) implementing the procedural provisions of the National Environmental Policy Act (NEPA) and Department of Defense Instruction 5000.2, Defense Acquisition Management Policy and Procedures, the U.S. Air Force gives notice that an Environmental Assessment (EA) and draft FONSI has been prepared to support the decision to proceed to Manufacturing Development of the Joint Primary Aircraft Training System (JPATS) and is available for review.

The JPATS is proposed to replace the two primary training aircraft and ground-based training systems used by the U.S. air Force (USAF) and the U.S. Navy (USN) with one commercial-derivative aircraft. The proposed action includes the missionization, testing, and low-rate production of 55 aircraft meeting the technical requirements of the USAF and the USN over the next four years. The aircraft procured aircraft would more closely resemble the more advanced training and fighter aircraft used by the USAF and the USN with respect to design and equipment. The aircraft would also offer better performance and improvements in safety, reliability, and maintainability compared to the current aircraft over a 20-year life of the program.

This assessment analyzes the potential environmental impacts of the decision to proceed with JPATS into the Manufacturing Development phase. Additionally, the EA provides an initial overview of impacts associated with future decisions which could lead to the production of 656 additional aircraft, beddown and operations at 9 Air Force Bases and Naval Air Stations, and eventual system disposal.

For further information and/or a copy of the EA and draft FONSI, please contact: Lt Col Frank Szalejko, JPATS Program Manager, ASC/YT, Wright Patterson AFB, OH 45430, Phone: 513–225–9223.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–10893 Filed 5–2–95; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Nuclear Waste Acceptance Issues

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Department of Energy final interpretation of nuclear waste acceptance issues.

SUMMARY: This Notice responds to public comments on the Department of Energy (DOE) Notice of Inquiry on Waste Acceptance Issues published on May 25, 1994 (59 FR 27007). After analyzing public comments received in response to the Notice, DOE has concluded that it does not have an unconditional statutory or contractual obligation to accept high level waste and spent nuclear fuel beginning

VOL 60 ISS 85 MY 3 1995 UMI

January 31, 1998 in the absence of a repository or interim storage facility constructed under the Nuclear Waste Policy Act of 1982, as amended. In addition, DOE has concluded that it lacks statutory authority under the Act to provide interim storage.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Waxman of the Department of Energy Office of General Counsel at (202) 586–6975.

SUPPLEMENTARY INFORMATION:

I. Background

The Nuclear Waste Policy Act of 1982, as amended (Act or NWPA), 42 U.S.C. 10101 *et seq.*, provides a comprehensive framework for disposing of high level radioactive waste and spent nuclear fuel (SNF) generated by civilian nuclear power reactors. In general, the Act sets forth procedures for selecting a repository site and developing a repository for disposal of high-level radioactive waste and SNF and for financing the cost of such disposal. Section 302(a) of the Act authorizes the Secretary to enter into contracts with the owners and generators of SNF of domestic origin (utilities) for the acceptance and disposal of SNF,[1] and stipulates that the contracts provide that the Secretary shall take title to the SNF as expeditiously as practicable following commencement of operation of a repository. In return for the payment of fees, section 302(a) also stipulates that the contracts provide that the Secretary, beginning not later than January 31, 1998 will dispose of such SNF.

DOE implemented the provisions of section 302(a) through rulemaking. Following notice and comment, DOE promulgated the Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Nuclear Waste (Standard Contract), which set forth the contractual terms under which the Department would make its disposal services available. 48 FR 16590 (April 18, 1983), codified at 10 CFR part 961. Under the terms of the final rule promulgating the Standard Contract, all civilian nuclear utilities desiring to dispose of SNF signed individual versions of the Standard Contract.

Although the Act originally envisioned that a geologic repository would be in operation, and DOE would be prepared to begin acceptance of SNF by January 31, 1998, it since has become apparent that neither a repository nor an interim storage facility constructed under the Act will be available by 1998. DOE currently projects that the earliest possible date for acceptance of waste for disposal at a repository is 2010.

Accordingly, DOE published the Notice of Inquiry on Waste Acceptance Issues (NOI) to elicit the views of interested parties on: (1) DOE's preliminary view that it does not have an obligation to accept SNF in the absence of an operational repository or interim storage facility constructed under the Act; (2) the need for interim storage prior to repository operation; and (3) use of the Nuclear Waste Fund to offset a portion of the financial burdens that may be incurred by utilities in continuing to store SNF at reactor sites beyond 1998. Written comments were initially due on or before September 22, 1994. 59 FR 27007 (May 25, 1994). DOE extended the comment period on the NOI until December 19, 1994 to permit additional public comment. 59 FR 52524 (October 18, 1994).

II. Written Comments

DOE received 1,111 written responses to the NOI, representing 1,476 signatories, including utilities (38 responses), public utility commissions and utility regulators (26 responses), Federal, state, and local governments, agencies, and representatives (23 responses), industry representatives and companies (30 responses), public interest groups and other organizations (19 responses), and members of the general public (975 responses). All written comments received by DOE in response to the NOI were carefully reviewed and fully considered. The majority of the responses to the NOI addressed the issue of DOE's legal obligation to accept SNF beginning in 1998 and asserted that DOE has an unconditional obligation to begin accepting SNF from the utilities by January 31, 1998.

DOE previously published a notice of the availability of DOE/RW–0462, "Summary of Responses to the Notice of Inquiry on Waste Acceptance Issues" (March 1995). 60 FR 14739 (March 20, 1995). That report contains a summary of all the comments received in response to the NOI.

This Notice sets forth DOE's conclusions with respect to the legal issues involved in the NOI. Section III below discusses DOE's final interpretation of its obligations with respect to the 1998 waste acceptance issue, addresses the issue of DOE's authority under the Act to provide interim storage, and also contains DOE's conclusions on the legal availability of the Nuclear Waste Fund to offset the potential financial burdens that may be incurred by utilities in storing SNF on-site beyond 1998.

III. Final Interpretation of Agency Obligations and Authorities Under the Act

Most of the commenters on the NOI expressed the view that the language in section 302(a)(5)(B) of the Act, which provides that "in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel as provided in this subtitle," 42 U.S.C. 10222(a)(5)(B), creates an unconditional legal obligation, beginning January 31, 1998, for DOE to initiate acceptance of SNF from utilities under the Standard Contract. According to these commenters, DOE's obligation is clear, non-discretionary, and not inconsistent with DOE's duty to take title to SNF under section 302(a)(5)(A) of the Act following commencement of repository operations. 42 U.S.C. 10222(a)(5)(A).

However, some commenters contended that DOE does not have an unconditional duty to dispose of SNF beginning in 1998 in the absence of an operational repository. They asserted that the obligations to take title and dispose of SNF established in subsections (5)(A) and (B) of section 302(a) of the Act must be read together and ultimately are dependent upon the existence of an operational repository. Based upon the entire statutory scheme and the legislative history of the Act, these commenters suggested that the January 31, 1998 date does not create an obligation to initiate SNF disposal regardless of the availability of a repository, but rather indicates the "sense of Congress" concerning an appropriate target date for arriving at a solution to the problem of accumulating high level nuclear waste and spent nuclear fuel.

After considering the views of the commenters, the provisions of the Act and its legislative history, and the terms and conditions of the Standard Contract, DOE has concluded that it does not have a legal obligation under either the Act or the Standard Contract to begin disposal of SNF by January 31, 1998, in the absence of a repository or interim storage facility constructed under the Act.

A. DOE's Final Interpretation of Its Obligations Under Section 302(a)(5)

1. The Act does not impose a statutory obligation on DOE to begin nuclear waste disposal in 1998 in the absence of a disposal or interim storage facility constructed under the Act.

Section 302(a)(1) of the Act authorizes the Secretary of Energy to enter into contracts for acceptance of title, transportation, and disposal of SNF with any person who generates or holds title to spent fuel of domestic origin. 42 U.S.C. 10222(a)(1). Section 302(a)(5) states that such contracts shall provide that:

> (A) Following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and
>
> (B) In return for payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

42 U.S.C. 10222(a)(5). DOE's Standard Contract contains a provision that reflects this statutory mandate. *See* 10 CFR 961.11.

a. Section 302(a)(5)(A), the so-called "take title" provision of the Act, requires that each contract executed by DOE under the Act provide that "the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon request of the generator or owner of such waste or spent fuel," but specifically provides that the obligation to take title applies only *"following commencement of operation of a repository."* 42 U.S.C. 10222 (a)(5)(A). Thus, the Act is clear that DOE is required to take title "expeditiously," but only "following commencement of operation of a repository." 42 U.S.C. 10222 (a)(5)(A).

Section 302(a)(5)(B), the so-called "dispose" provision of the Act, requires that each contract shall also provide that "in return for payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will *dispose* of the high-level radioactive waste or spent fuel involved as provided in this subtitle." 42 U.S.C. 10222 (a)(5)(B). While the Act does not define the word "dispose," it does define "disposal." DOE believes that the words "dispose" and "disposal" are merely different grammatical forms of the same word, and that the Act's definition of "disposal" also defines DOE's obligation to "dispose" under section 302(a)(5)(B) of the Act. The Act defines "disposal" to mean "the emplacement *in a repository* of spent nuclear fuel with no foreseeable intent of recovery." 42 U.S.C. 10101(9). Thus, the mandate to dispose of SNF beginning January 31, 1998, like the duty to take title to SNF, requires the existence of an operating repository. *See* H.R. Rep. No. 491, Part 1, 97th Cong., 2d Sess. at 59 (1982).[2]

The logic, language, and structure of section 302(a) require that the mandate to dispose and the duty to take title must be read together. Section 302(a)(1) of the Act, which authorizes the Secretary to enter in contracts with utilities "for acceptance of title, subsequent transportation, and disposal of * * * (SNF)", indicates that the duty to accept title and the mandate to dispose are part of a sequential process: The Act contemplates that "taking title" is a predicate to "disposal". Similarly, section 123 of the Act provides that "[d]elivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository constructed under this subtitle (42 U.S.C. 10131 et seq., the repository subtitle) shall constitute a transfer to the Secretary of title to such waste or spent fuel." 42 U.S.C. 10143. The "delivery and acceptance" provision of section 123 implements the "take title" provision of section 302(a)(5)(A), and again contemplates that DOE "take title" prior to disposal in a repository.

b. Sections 302(a)(5) (A) and (B) of the Act must not only be read together, but also must be read in the context of the entire Act. When read in conjunction with other provisions in the Act, these provisions clearly do not contemplate nuclear waste disposal by DOE beginning January 31, 1998, in the absence of an operational repository.

The findings and purposes section of the Act states that "the Federal Government has the responsibility to provide for the *permanent disposal* of nuclear waste," 42 U.S.C. 10131(a)(4), and that the purpose of the Act is "to establish a schedule for the siting, construction, and operation of *repositories* that will provide a reasonable assurance that the public will be adequately protected from the hazards posed by high-level waste and such spent nuclear fuel *as may be disposed of in a repository.*" 42 U.S.C. 10131 (b)(1). As noted above, the term "disposal" is defined in the Act to mean "emplacement of nuclear waste *in a repository* with no foreseeable intent of recovery." 42 U.S.C. 10101 (9).

However, the Act imposes numerous prerequisites on the Department's ability to develop a repository and dispose of SNF that demonstrate that the Act did not contemplate that DOE would have an unconditional duty to begin disposing of SNF in 1998. For instance, the Act provides that only Yucca Mountain, in Nevada, is to be characterized as a potential repository site, 42 U.S.C 10172, and that DOE may not commence construction of a repository at Yucca Mountain unless and until the site been found suitable for a repository through the site characterization process, 42 U.S.C. 10134. The Act specifically recognizes that the Yucca Mountain site may be found *unsuitable* for development of a repository, and states that "if the Secretary at any time determines the Yucca Mountain site to be unsuitable for development as a repository, the Secretary shall terminate all site characterization activities at such site * * * (and) reclaim the site to mitigate any significant adverse environmental impacts caused by site characterization at such site." 42 U.S.C. 10133(c)(3). Moreover, even if Yucca Mountain proves suitable, the Act imposes additional conditions on the actual development of the site as a repository. For example, the Act provides that the Secretary must decide whether to recommend approval of the site to the President; the President must determine whether he considers the site qualified; and if the President ultimately recommends development of the site to Congress, the host state may disapprove that recommendation for any reason at all, in which case an entirely new law must be enacted by Congress to override the host state's disapproval. 42 U.S.C. 10134 and 10135. Assuming site suitability, a favorable Presidential recommendation, and enactment of a new law to override any state notice of disapproval, the Act further requires DOE to obtain an NRC license to construct and operate a repository. 42 U.S.C. 10134(b).

Each of these statutory conditions for construction and operation of a repository represents a Congressionally-created contingency that could prevent or delay construction and operation of a repository. Given the number of these contingencies, Congress could not have intended to impose an unconditional obligation on DOE to take and dispose of SNF by a date certain.[3]

[1] In this notice, we limit our discussion to SNF, because that is the primary concern of the utilities with whom DOE has executed the Standard Contract.

[2] DOE notes that the statutory language on disposal quoted above uses "will" rather than the term "shall" in setting forth the Secretary's duty to dispose of nuclear waste. DOE believes the use of the predictive term "will" in the disposal provision of the Act, rather than the mandatory term "shall" which is used in the take-title provision, indicates that the January 31, 1998 date expresses the sense of Congress as to when the Department should strive to have a repository in operation, rather than an unconditional legal obligation to initiate acceptance of SNF by a date certain.

[3] In addition, as discussed *infra*, beginning at page 19, the Act contained only very limited

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VOL 60 ISS 85 MY 3 1995 UMI

2. The legislative history of the Act confirms that both the "take title" and the "dispose" provisions of section 302(a)(5) require an operating repository before their obligations attach.

Subparagraphs (A) and (B) of Section 302(a)(5) were originally part of section 124 of H.R. 3809. The House Report on H.R. 3809 stated that "Section 124 authorizes the Secretary to contract with utilities or other agents *requiring use of repositories* constructed under this Act to *provide repository services* in exchange for payments by *repository users* to cover program costs." H.R. Rep. No. 491, Part 1, 97th Cong., 2nd Sess. at 58 (1982). The House Report further stated that "[a]ll persons desiring to dispose of high level waste or spent fuel *in repositories constructed under this subtitle* are required to pay a ratable portion of the costs of such disposal." H.R. Rep. No. 491, Part 1, 97th Cong., 2d Sess. at 58 (April 27, 1982). As the quoted language indicates, the focus of section 124 was on contracting for the disposal of spent nuclear fuel in a repository.

With regard to what emerged as subparagraph (A) of section 302(a)(5), the House Committee Report on section 124 of H.R. 3809 stated:

> Paragraph 4(A) requires that under such contracts the Secretary will be required to take title to high level waste or spent fuel, at the request of the generator, as expeditiously as practicable *following the commencement of operation of a repository.*

H.R. Rep. No. 491, Part 1, 97th Cong., 2d Sess. at 59 (1982). Thus, subparagraph (A) in H.R. 3809, like subparagraph (A) in the Act, clearly made commencement of operation of a repository a condition precedent to taking title.

Significantly, the House Committee Report on H.R. 3809 also described the source of the current Act's subparagraph (B) in terms of the existence of a permanent disposal facility:

> Paragraph 4(B) makes the Secretary responsible for *disposing* of high level waste or spent fuel *as provided under this subtitle in permanent disposal facilities*, beginning not later than January 1998, in return for the payment of fees established by this section.

Id. at 59. "This subtitle" referred to Subtitle A, "Repositories for Disposal of High-Level Radioactive Waste and Spent Nuclear Fuel," of which section 124 was then a part. Here too, as the underscored language and reference to Subtitle A make clear, the obligation contemplated depended upon the successful development of a repository.

The conclusion that section 302(a)(5) of the Act was not intended to create an obligation to dispose of SNF unless and until a repository had been developed is also supported by a floor statement made during the Senate's debate on the Act by the then Chairman of the Senate Energy and Natural Resources Committee, a primary sponsor of the Act, Senator James McClure. On December 13, 1982, Senators McClure, Simpson, Jackson, Johnston and Domenici offered amendment number 4983, which struck all the language after the enacting clause of H.R. 3809, and replaced it with a Senate version of the proposed legislation. Section 302 of the Senate amendment would have required DOE to take title and store or dispose of nuclear waste no later than December 31, 1996. Unlike the House version of H.R. 3809, the Senate amendment made no mention of an operating repository. *See* 128 *Cong. Rec.* S14,484, S14,501 (daily ed. Dec. 13, 1982). However, after proposing the Senate amendment, Senator McClure then offered—and the Senate accepted—an amendment to section 302(a)(5) of the substitute amendment which brought the Senate version of that provision into conformity with the House version contained in H.R. 3809. Senator McClure described the effect of this amendment as follows:

> Mr. President, this amendment amends section 302(a)(5) of the substitute amendment to provide that the Secretary of Energy take title to high-level waste or spent fuel as expeditiously as practicable upon the request of the generator of such waste. In addition, this amendment directs the Secretary to begin, not later than January 31, 1998, to begin to dispose of the high-level radioactive waste or spent nuclear fuel from those generating such waste. *Under the substitute amendment, there was some concern that, in directing the Secretary to take title to and dispose of such wastes no later than December 31, 1996, we might not be giving the Secretary enough flexibility to tailor his schedule for accepting such wastes to the availability of a repository. This amendment simply directs the Secretary to take title to such wastes as expeditiously as practicable, upon the request of the generator of those wastes, after commencement of repository operation.*

128 *Cong. Rec.* S15,657 (daily ed. Dec. 20, 1982). This summary of what section 302(a)(5) "directs" indicates that Congress did not intend to establish an inflexible schedule and that it intended to "tailor" DOE's obligation for accepting SNF to the availability of a repository, albeit that it intended for DOE to proceed "as expeditiously as practicable."[4]

3. The Standard Contract, which was promulgated through notice and comment rulemaking, implements the provisions of section 302(a)(5) of the Act.[5] Article II of the Standard Contract, entitled "Scope," states that "[t]he services to be provided by DOE under this contract shall begin, after commencement of facility operations, not later than January 31, 1998 and shall continue until such time as all (nuclear waste from the contracting utilities) has been disposed of." 10 CFR 961.11, Art. II.

Some commenters asserted that the language in Article II of the Standard Contract that "(t)he services to be provided by DOE under this contract shall begin * * * not later than January 31, 1998," either represents DOE's recognition of, or itself creates, an unconditional legal obligation to begin accepting nuclear waste by 1998. However, the Standard Contract contains the specific condition that the services to be provided by DOE "shall begin *after commencement of facility operations.*" 10 CFR 961.11, Art. II.[6] One of the recitals in the preamble to the Standard Contract similarly indicates that the Department's obligations are conditioned upon the existence of an operational storage or disposal facility constructed under the Act:

> Whereas, the DOE has the responsibility, *following commencement of operation of a repository*, to take title to the spent nuclear fuel or high-level radioactive waste involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent nuclear fuel.

10 CFR 961.11, Preamble. The Standard Contract, like the Act, thus predicated DOE's obligation on the development of a facility under the Act.

This reading of the Standard Contract was confirmed by a statement of former Secretary Donald Hodel in 1984, the year following the promulgation of the Standard Contract. In a written response to a question posed in a letter from Senator Bennett Johnston, Secretary Hodel stated:

> The Department is authorized to implement the Act through contractual commitments. To this end, the Department plans to incorporate into its contracts provisions which specify the minimum amount of spent fuel and waste which the Department will be obligated to accept, not later than January 31, 1998. Since these contracts have not yet been modified, it would be premature for the Department to speculate on particulars that might ultimately be incorporated in any or all of the contracts. However, it is my intention that this commitment in the Contracts, together with the overall thrust of the Act, will create an obligation for the Department to accept spent fuel in 1998 whether or not a repository is in operation.

Although former Secretary Hodel stated that he intended for DOE to assume an unconditional obligation to begin accepting SNF in 1998, he also recognized that the terms of the Standard Contract would have to be changed in order to create such an unconditional obligation. However, the Department never undertook a rulemaking to modify the Standard Contract. Thus, this essentially contemporaneous construction of the Standard Contract reinforces the conclusion that the Contract did not and does not create, or recognize, an unconditional obligation.[7]

B. Interim Storage Authority

The Department recognizes that some utilities are running out of on-site storage capacity and will have to provide additional storage capacity until a repository or interim storage facility is available. In response to the NOI, a number of comments stated that DOE should provide interim storage. However, DOE has concluded that it has no authority under the Act to provide interim storage in present circumstances.[8]

Interim storage by DOE was contemplated by the Act in only two situations, neither of which currently applies. Under the Act, DOE had authority to offer a limited interim storage option. *See* 42 U.S.C. 10156. However, that authority has, by its express terms, expired. Under the Act, DOE also has authority to provide for interim storage in an MRS. That authority also is inapplicable, however, because the Act ties construction of an MRS to the schedule for development of a repository. *See* 42 U.S.C. 10165, 10168. Because these are the only interim storage authorities provided by the Act, and because the Act expressly forbids use of the Nuclear Waste Fund to construct or expand any facility without express congressional authorization (42 U.S.C. 10222(d)), DOE lacks authority under the Act to provide interim storage services under present circumstances.

C. Use of Nuclear Waste Funds to Offset Financial Burdens to Utilities of Storing Nuclear Waste Beyond 1998

Section 302(d) of the Act states that the Nuclear Waste Fund may be used only for radioactive waste disposal activities under titles I and II of the Act, including a number of enumerated activities.[9] 42 U.S.C. 10222(d). Paying for the costs of on-site storage is not enumerated in that provision.

Although the Act thus does not provide for use of the Nuclear Waste Fund to help utilities defray costs of on-site storage, if the Act were construed unconditionally to require DOE to begin providing disposal services in January of 1998 notwithstanding DOE's inability to do so, utilities might be entitled to financial relief under the terms of the Standard Contract. Since the Act itself does not address the consequences of a failure by DOE to perform its obligations under the Act, it has fallen to DOE as the administering agency to fill the gap left by Congress. DOE has done so through the Standard Contract, which expressly addresses the situation in which performance by either party to the contract is delayed.

Under Article IX, entitled "DELAYS," the Standard Contract provides that neither party shall be liable for damages in the case of unavoidable delay and that the parties will adjust their schedules, as appropriate, to accommodate such delay. Art. IX, ¶A. In the case of an *avoidable* delay, however, the Standard Contract provides that the "charges and schedules specified by this contract will be equitably adjusted to reflect any estimated additional costs incurred by the party not responsible for or contributing to the delay." Art. IX, ¶B. Were DOE deemed to have an unconditional obligation to begin providing disposal services in 1998, we have concluded that the Delays Clause would be applicable in the event of a failure to perform. Were the Delays Clause to be invoked, Article XVI of the Standard Contract establishes the process for resolving disputed questions of fact (e.g., whether a delay has occurred and, if so, whether it was avoidable or unavoidable). Article XVI provides for initial resolution of disputed facts by the designated Contracting Officer, with a right of appeal to the DOE Board of Contract Appeals. In sum, it is the Department's view that, were the Act to be construed to impose an unconditional obligation to begin to provide disposal services in 1998, the appropriate remedy would be the contractual remedy under the Delays Clause and Article XVI.

D. Availability of Alternative Dispute Resolution Procedures

The Department believes that important public and private interests are implicated by the need for orderly financial and technical planning with respect to the Department's inability to accept SNF in 1998. There are also equitable considerations that may argue for some form of relief to help offset costs incurred as a result of the Department's inability to begin acceptance of SNF in 1998. The Department recognizes that these equitable and public interest considerations may be better addressed

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authority for DOE to provide interim storage in the event that a repository is not in operation.

[4] A few commenters claimed that certain statements from the legislative history of the monitored retrievable storage provisions of the Act support their assertion that DOE has an unconditional duty to accept SNF for disposal beginning in 1998. They cited the following statement of Senator Bennett Johnston, made during the floor debate on the 1987 amendments, as evidence of Congress' intent that the Department has an unconditional obligation to begin accepting waste in 1998:

> The MRS is not an alternative to at-reactor storage, and it is not a substitute for a repository. Utilities are required to take care of their own storage until 1998, but the Federal Government has a contractual commitment to take title to spent fuel beginning in 1998. An MRS will better ensure that the Department is able to meet this contractual commitment to accept spent fuel beginning in 1998.

133 *Cong. Rec.* S16,045 (daily ed. Nov. 10, 1987). The following statement of Senator James McClure from the same debate was also relied upon by a commentar:

> Furthermore, we have an option to proceed with the construction of a monitored retrievable storage (MRS) facility for receipt and temporary storage of fuel by 1998 and thereby meet the Government's statutory obligation to begin taking spent fuel by that date.

133 *Cong. Rec.* S15,795 (daily ed. Nov. 10, 1987).

DOE believes that these 1987 statements do not supplant the foregoing analysis of what Congress intended when it enacted Section 302(a)(5), because they were not contemporaneous with passage of the Act in 1982. Post-enactment views by individual legislators are entitled to little weight in construing a statute enacted by a prior Congress.

[5] The U.S. Court of Appeals for the District of Columbia Circuit has held that the Standard Contract should be treated as more akin to a regulation, rather than a traditional contract, since its terms were established by rulemaking following notice and comment. *Commonwealth Edison Co. v. United States Department of Energy*, 877 F.2d 1042, 1045 (D.C. Cir. 1989).

[6] Under the Standard Contract, the term "DOE facility" is defined to mean either a disposal or interim storage facility operated by or on behalf of DOE. *See* 10 CFR 961.11, Art. I.

[7] One commenter on the NOI criticized DOE's denial of an obligation to begin accepting SNF from domestic utilities on the ground that DOE has accepted "foreign SNF" for storage at its own facilities. However, the authority for acceptance of foreign SNF arises under the Atomic Energy Act, as amended, not under the Nuclear Waste Policy Act. The foreign fuel in question, which is not commercial SNF from domestic utilities but much smaller fuel elements from research reactors, contains highly enriched uranium that must be controlled for nuclear nonproliferation purposes. It is because of these nonproliferation concerns that the United States government has in some circumstances received foreign SNF under the Atomic Energy Act in order to remove it from international commerce. No Nuclear Waste Fund monies are (or could be) used for this storage activity.

[8] DOE's multi-purpose canister program is part of DOE's overall transportation strategy for disposal of SNF, and the use of Nuclear Waste Fund monies to support this work is authorized by Section 302(d)(4) of the Act, which provides that the Secretary may make expenditures from the Nuclear Waste Fund for any costs incurred in connection with the transportation of SNF.

[9] Section 302(d) further provides that no funds may be spent on construction or expansion of any facility unless expressly authorized.

VOL
60
ISS
85
MY
3
1995
UMI

and resolved through settlement discussions than through litigation or through the process established by Article XVI of the Standard Contract. Therefore, in accordance with the Department's commitment to increased use of alternative dispute resolution procedures, the Department is prepared to discuss with utilities and other parties to the pending litigation (*Northern States Power Company* v. *U.S. Department of Energy*, Nos. 94–1457, 94–1458, 94–1574 (D.C. Cir., 1994)) financial or other assistance that may be appropriate in light of the Department's inability to begin providing disposal services in 1998.

Issued in Washington, D.C., April 28, 1995.

Daniel A. Dreyfus,

Director, Office of Civilian Radioactive Waste Management.

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The Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of January 23 Through January 27, 1995

During the week of January 23 through January 27, 1995, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

The National Security Archive, 1/23/95, VFA–0015

The National Security Archive (NSA) filed an Appeal from a determination issued to it on December 5, 1994, by the Director, Office of Arms Control and Nonproliferation of the Department of Energy (Arms Control) which denied a request for information it had filed under the Freedom of Information Act (FOIA). The request sought records relating to negotiations with Japan, and the transfer of plutonium to Japan between 1980 and 1983. Arms Control stated that it did not possess any responsive documents, and the Appeal challenged the adequacy of the search. In considering the Appeal, the DOE found that Arms Control conducted a reasonable search for responsive documents located in its files. However, the DOE found that other offices that were not searched might have responsive documents. Accordingly, NSA's Appeal was granted and the matter was remanded to the FOIA Office for a search of all of the offices or their successors originally named in NSA's request or its Appeal.

Implementation of Special Refund Procedures

Ed'S Exxon, Ron's Shell, 1/27/95, LEF–0078, LEF–0084

The DOE issued a Decision and Order implementing special refund procedures to distribute $3,657.84, plus accrued interest, which Ed's Exxon and Ron's Shell (the remedial order firms) remitted to the DOE pursuant to Remedial Orders issued on September 30, 1981, and April 27, 1982, respectively. The DOE determined that it would distribute the fund in two stages. In the first stage, the DOE will accept applications for refund from those claiming injury as a result of the remedial order firms' violations of Federal petroleum pricing regulations. If any funds remain after meritorious claims are paid in the first stage, they will be used for indirect restitution through the States in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986.

Refund Applications

Rochdale Village, Inc., 1/27/95, RF272–66448, RD272–66448

The DOE issued a Decision and Order granting a refund to Rochdale Village, Inc., in the crude oil overcharge refund proceeding. Rochdale Village operates an apartment complex in New York City. In granting a refund, the DOE rejected an argument from a group of states and territories that certain increases in New York City's rent control guidelines adequately compensated Rochdale Village for crude oil overcharges. The DOE also denied a Motion for Discovery submitted by the group of states and territories.

Standard Oil Co. (Indiana)/Oklahoma, Belridge/Oklahoma, Palo Pinto/Oklahoma, OKC/Oklahoma, Vickers/Oklahoma, Standard Oil Co. (Indiana)/Oklahoma, 1/25/95, RM21–282, RM8–283, RM5–284, RM13–285, RM1–286, RM251–287

The DOE issued a Decision and Order granting Motions for Modification of previously-approved refund plans filed by the State of Oklahoma in the Standard Oil Co. (Indiana) (Amoco I and II), Belridge Oil, Palo Pinto Oil & Gas, OKC Corp., and Vickers Energy Corp. refund proceedings. Oklahoma requested permission to use $45,000 in interest from funds which the State originally received or other second-stage refund proposals to install a compressed natural gas line between Kingston, Oklahoma, and Lake Texoma State Park. The project will supply natural gas service to residents and businesses in the surrounding area as well as to the state park, and it is to serve as a pilot program for other sites within the state. In accordance with prior Decisions that have noted the benefits of encouraging the use of alternative fuels, the DOE approved Oklahoma's Motions.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Carl's Arco	RF304–15464 ...	01/23/95
Atlantic Richfield Company/North Market Arco et al	RF304–13214 ...	01/23/95
Cedar Fair, L.P	RF272–93563 ...	01/23/95
City of Broken Bow et al	RF272–84910 ...	01/27/95
Davis County Schools et al	RF272–86678 ...	01/25/95
Glendenning Motorways, Inc	RF272–89025 ...	01/23/95
Wag Enterprises, Inc	RF272–89026 ...	
Hawaiian Airlines, Inc	RF272–98767 ...	01/25/95
Eastern Air Lines, Inc	RF272–98778 ...	
Prairie Transportation, Inc	RF272–95099 ...	01/27/95
Star Truck Rental Inc	RF272–93462 ...	01/25/95
Stoops Express	RF272–82514 ...	01/25/95
Monkem Co., Inc.	RF272–82515 ...	
Texaco Inc./Atkins' 7–day Market	RF321–18684 ...	01/25/95
Stop & Shop	RF321–18685 ...	
Texaco Inc./Joe Dvornich Texaco et al	RF321–20243 ...	01/27/95
Texaco Inc./Skyline Texaco et al	RF321–20646 ...	01/27/95
Warner & Smith Motor Freight, Inc	RF272–89454 ...	01/27/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Alpha Beta Company	RF321–20365
American Western Corp	RF321–20363
Austin Bridge & Road, Inc	RF272–93567
Braswell Sand & Gravel Co., Inc	RF272–95002
Brooks Lumber Company	RF272–94277
Hamakua Sugar Company, Inc	RF321–20362
Kalama Chemical, Inc	RF272–90203
Purity Dairies, Inc	RF272–97254
Singer Sewing Company	RF321–20360
Stephens Contracting	RF272–95318
TFCO, Inc	RF304–14616
Tiger Oil Co	RF321–20500

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: April 27, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10903 Filed 5–2–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders; Week of March 13 Through March 17, 1995

During the week of March 13 through March 17, 1995, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Casey O. Ruud, 3/16/95, VFA–0027

Casey O. Ruud filed an Appeal from a partial denial by the Richland Operations Office of a Request for Information which he had submitted under the Freedom of Information Act. The Richland Operations Office had released copies of two letters that were requested, but had withheld the identity of the writer. In considering the Appeal, the DOE found that the writer's name and address were properly withheld under Exemption 6 of the FOIA.

Robert S. Foote, 3/16/95, VFA–0024

Robert S. Foote filed an Appeal from a determination issued to him on January 18, 1995 by the Acting Associate Director for Health and Environmental Research (OHER) in the Office of Energy Research of the Department of Energy (DOE). In that determination, the OHER denied in part a request for information filed by Mr. Foote on July 26, 1994, under the Freedom of Information Act (FOIA). The OHER released certain items requested by Mr. Foote. However, it withheld other items either in their entirety or in part pursuant to 5 U.S.C. § 552(b)(5) (Exemption 5). In his Appeal, Mr. Foote challenged the OHER's application of Exemption 5 to the requested information and requested that the DOE direct the OHER to release the withheld information. In considering the Appeal, the Office of Hearings and Appeals found that although in the past it has analyzed this kind of information under the deliberative process privilege of Exemption 5, it is more appropriate to apply FOIA Exemption 6 to the withheld information. The Office of Hearings and Appeals remanded this Appeal to the OHER to either release the withheld information or prepare a new determination that explains in detail the reasons which justify withholding the information under Exemption 6.

VOL
60
ISS
85
MY
3
1995
UMI

Therefore, the Department of Energy granted in part and denied in part Mr. Foote's Appeal.

Request for Exception

Visa Petroleum, Inc., 3/15/95, LEE–0096

Visa Petroleum, Inc., filed an Application for Exception from the requirement that it file Form EIA–782B, the "Reseller's/Retailer's Monthly Petroleum Product Sales Report." The applicant submitted evidence that for the last two years, it had lost $10,000 per year. In addition, the wife of the owner, who had been completing the forms, had recently been diagnosed as having cancer. Under these circumstances, the DOE found that the requirement that the firm submit the reports constituted a serious hardship. Accordingly, the firm's Application for Exception was granted.

Refund Applications

Shell Oil Company/Briggs Transportation Company, Texaco Inc./Briggs Transportation Company, 3/16/95, RR315–13, RR321–175

The DOE issued a Decision and Order denying a Motion for Reconsideration filed by LK, Inc. (LK), a filing service. In an earlier Decision, the DOE had rescinded two refunds granted to a bankrupt company, Briggs Transportation Company (Briggs) in the Shell Oil Company and Texaco Inc. special refund proceedings. In that Decision, the DOE also ordered the filing service which had filed the Applications, LK, to repay its commissions which it had subtracted from the refunds. In its Motion for Reconsideration, LK argued that DOE does not possess the necessary authority to order the filing service to repay these funds. LK also argued that even if DOE possesses this authority, LK was still entitled to retain its commissions. In its Decision, the DOE found that it possesses the necessary authority to govern the conduct of those filing claims in its Subpart V proceedings, including filing services. It further found that the restitutionary purposes of the Petroleum Overcharge Distribution and Restitution Act of 1986 would not be served by permitting a filing service to recover a fee for an application in which the refund had been rescinded. Finally, the Decision noted that even under general common law principles, the filing service would not be entitled under its contingency fee arrangement with Briggs to recover a commission unless Briggs received a refund, and that Briggs cannot be considered to have received a refund which has been rescinded. Therefore, LK's Motion for Reconsideration was denied.

Texaco Inc./Airport Texaco, 3/17/95, RR321–147, RF321–21060

The DOE issued a Decision and Order granting a Motion for Reconsideration filed by Ben A. Story on behalf of Airport Texaco and rescinding a portion of a refund previously granted to John M. Locklier on behalf of the same station. Documents and statements submitted by both applicants demonstrated that a portion of Mr. Locklier's previous refund was based on purchases made by Airport Texaco when Mr. Story was the sole proprietor of that business, and that another portion of Mr. Locklier's refund was based on purchases made by the station during a period in which Airport Texaco was operated as a limited partnership of the two men. The limited partnership arrangement at Airport Texaco entitled Mr. Locklier to a specific amount from the outlet's profits, with the balance of the profits, if any, distributed to Mr. Story. Accordingly, DOE determined that dividing the refund money in the same proportions as the profits were divided was the most equitable solution in this case. Accordingly, the DOE issued a Decision and Order granting Mr. Story a refund and rescinding a portion of the refund granted to Mr. Locklier in *Texaco*, Case Nos. RF321–3311 *et al.* (May 26, 1992).

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Green Run Arco et al	RF304–14741 ..	03/15/95
Atlantic Richfield Company/Shelton Butane Co., Inc. et al	RF304–13487 ..	03/15/95
Clark Oil & Refining Corp./Lansing Ice & Fuel Company	RF342–6	03/13/95
Rollins Oil Company	RF342–9	.....
Clark Oil & Refining Corp./Oakley & Oldfield, Inc	RF342–311	03/13/95
Cross Winds Transport, Inc	RF272–91991 ..	03/15/95
Gulf Oil Corporation/Crawford Garden Supplies, Inc	RF300–21572 ..	03/13/95
Crawford Garden Supplies, Inc	RF300–21824 ..	.....
Crawford Garden Supplies, Inc	RF300–21825 ..	.....
Minnesota Power	RF272–97260 ..	03/15/95
Shell Oil Company/Loiza Valley Shell Service Station	RR315–8	03/15/95
Sigmor Corporation	RF272–93888 ..	03/13/95
Texaco Inc./Evan's Valley Texaco et al	RF321–20402 ..	03/16/95
Texaco Inc./Phillips Texaco et al	RF321–20208 ..	03/15/95

Dismissals

The following submissions were dismissed:

Name	Case No.
A&L Texaco	RF321–18601
City of Canton	RF272–85687
City of Clarkston	RF272–85667
City of Warrington	RF272–85806
Dejong Service	RF272–94053
Frank Kovac's Texaco Service	RF321–05529
Hendersonville Police Dept	RF272–94111
Interstate Texaco	RF321–20737
Lewis County	RF272–85814

Name	Case No.
Mullis Petroleum Co	RF321–20635
Read's Service Station	RF300–21680
Richland Parish	RF272–85808
Roosevelt County	RF272–85784
Town of Manlius	RF272–85818
Tri-Gas & Oil Co., Inc	RF321–20657
Venable, Baetjer, and Howard, LLP	VFA–0028

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: April 27, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10900 Filed 5–2–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of March 27 Through March 31, 1995

During the week of March 27 through March 31, 1995 the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

David K. Hackett, 3/31/95, VFA–0032

David K. Hackett filed an Appeal from a determination issued by the Oak Ridge Operations Office (Oak Ridge) of the Department of Energy. In its determination, Oak Ridge stated that it was providing all documents responsive to the Appellant's November 6, 1994 request under the Freedom of Information Act (FOIA) which were in the possession of Oak Ridge. In his Appeal, the Appellant challenged the adequacy of Oak Ridge's search. The DOE found that some confusion had arisen because the Appellant had submitted three partially overlapping FOIA requests, and because three different DOE offices had been assigned to respond to the request at issue in this Appeal. In its Decision and Order, the DOE explained which offices were responsible for responding to each request and how the request at issue in this particular case had been divided among these offices. The DOE concluded that there may be responsive documents that were not identified in the initial search and that some factual issues needed clarification. Accordingly, the DOE granted the Appeal and remanded the matter to Oak Ridge for further action.

J. Eileen Price, 3/27/95 VFA–0031

J. Eileen Price filed an Appeal from a determination issued to her by the Western Area Power Administration (WAPA) of the Department of Energy. The determination partially denied a Request for Information which Ms. Price submitted under the Freedom of Information Act. Ms. Price requested copies of all appraisal information in her personnel file, including any unofficial documents, notes and files which pertained to her or her employment in WAPA's Loveland Area Office beginning in October 1992. In its determination, the WAPA provided Ms. Price various documents responsive to her Freedom of Information Act Request. However, Ms. Price, in her Appeal, argued that further responsive documents must exist, since she had knowledge regarding the existence of several documents which WAPA failed to provide to her in its response. During its consideration of the Appeal, the DOE was notified by WAPA that it had discovered several documents which might be responsive to Ms. Price's FOIA Request. Consequently, the DOE granted the Appeal and remanded the matter to WAPA for a determination on the newly discovered documents.

Mid-Missouri Nuclear Weapons Freeze, Inc., 3/27/95 VFA–0029

Mid-Missouri Nuclear Weapons Freeze, Inc. (MNWF) filed an Appeal from a denial issued to it by the FOIA/Privacy Act Division of the Department of Energy and a partial denial issued to it by the Office of Nuclear Energy (DOE/NE) of a Request for Information which it had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Oak Ridge Operations Office and the Office of Nuclear Energy had conducted searches reasonably calculated to find the requested information, and that all responsive documents had been released to MNWF. The DOE also found that MNWF had erred in believing that the Oak Ridge Operations Office was withholding subcontractor records. The Appeal was therefore denied.

Physicians for Social Responsibility, Inc., 3/29/95 VFA–0030

Physicians for Social Responsibility, Inc. (PSR) filed an Appeal from a denial issued to it by FOIA/Privacy Act Division of the Department of Energy and a partial denial issued to it by the Office of Nuclear Energy (DOE/NE) of a Request for Information which it had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Oak Ridge Operations Office and the Office of Nuclear Energy had conducted searches reasonably calculated to find the requested information, and that all responsive documents had been released to PSR. The DOE also found that PSR had erred in believing that the Oak Ridge Operations Office was withholding subcontractor records. The Appeal was therefore denied.

Personnel Security Hearing

Rocky Flats Field Office, 3/27/95, VSO–0008

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual to maintain a level "Q" access authorization under the provisions of 10 CFR part 710. The individual was alleged to have an illness or mental condition (difficulty in controlling his temper) of a nature that in the opinion of a board-certified psychiatrist causes, or may cause, a significant defect in his judgment or reliability. The individual was also alleged to abuse alcohol. On January 25, 1995, an evidentiary hearing was conducted in which a DOE-sponsored psychiatrist and the individual testified, along with other relevant witnesses. After carefully examining the record of the proceeding, the Hearing Officer determined that the psychiatrist had based his diagnosis in part upon incorrect information. In addition, there

VOL 60 ISS 85 MY 3 1995 UMI

were significant mitigating factors, primarily the individual's substantial reduction of his alcohol intake over the last year and the fact that the last incident of lack of temper control was several years ago. The Hearing Officer concluded that neither the individual's alcohol use nor his mental condition present a risk to national security. Accordingly, the Hearing Officer found that the individual's access authorization should be reinstated.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Company/Greens Propane Gas Co., Inc. et al	RF304–13473	03/31/95
Enron Corp./Liquigas, Inc	RF340–116	03/27/95
Highland Butane Company	RF340–175	
Knop Butane Company	RF340–193	
Robrock Oil Company, Inc	RF272–97148	03/29/95
Texaco Inc./Caranil Service Station	RR321–174	03/31/95
Texaco Inc./Roger's Port Service	RF321–7523	03/27/95
Zarate Texaco	RF321–19920	

Dismissals

The following submissions were dismissed:

Name	Case No.
Buddy O'S Texaco Service	RF321–19350
City of Florence	RF272–88608
Daymark Foods, Inc	RF272–88760
Douglas County School Dist. 4	RF272–96542
Duart Film Labrotories, Inc	RF272–88825
E.M. Melahn Construction	RF272–88979
Edgecombe County Schools	RF272–90429
Enloe's Texaco Travel Center	RF321–19351
Golden Valley County	RF272–96789
Harold J. Brim Texaco & U-Haul	RF321–20708
J.O. Ramsey Trucking Company	RF272–88928
James Devaney Fuel Co., Inc	RF321–20563
Lee County Schools	RF272–90104
Lehigh Arco	RF304–14785
Mallette Brothers Trucking	RF272–88950
Smith Sand and Gravel Co	RF315–9167
State Line Texaco	RF321–20641
Town of Mercedes	RF272–88034
Town of Poland	RF272–88135
Village of Covington	RF272–88315
Westside Elementary	RF272–88052

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: April 27, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95–10901 Filed 5–2–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP95–250–000]

Algonquin LNG, Inc; Notice of Proposed Changes in FERC Gas Tariff

April 27, 1995.

Take notice that on April 24, 1995, Algonquin LNG, Inc. (Algonquin LNG) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, effective May 4, 1995, the following revised tariff sheet:

Second Revised Sheet No. 65

Algonquin LNG states that the purpose of this filing is to revise the capacity release provisions of its tariff to conform to changes in § 284.243(h) of the Commission's regulations pursuant to Order No. 577.

Algonquin LNG states that copies of its filing were mailed to all affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and § 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10799 Filed 5–2–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–249–000]

Algonquin Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

April 27, 1995.

Take notice that on April 24, 1995, Algonquin Gas Transmission Company (Algonquin) submitted for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, effective May 4, 1995, the following revised tariff sheet:

First Revised Sheet No. 650

Algonquin states that the purpose of this filing is to revise the capacity release provisions of its tariff to conform to changes in § 284.243(h) of the Commission's regulations pursuant to Order No. 577.

Algonquin states that copies of its filing were mailed to all affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 4, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10800 Filed 5–2–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–52–000]

Granite State Gas Transmission, Inc.; Notice of Public Scoping Meeting and Site Inspection

April 28, 1995.

On May 15, 1995, at 7:00 p.m., the Office of Pipeline Regulation environmental staff will conduct a public scoping meeting for Granite State Gas Transmission, Inc.; (Granite State) proposed liquefied natural gas (LNG) facilities in Wells, Maine. The meeting will be held at Wells-Ogunquit High School.

The public meeting will be designed to give more detailed information and another opportunity to offer comments on the proposed project. Those wanting to speak at the meeting can call the Environmental Assessment (EA) Project Manager to preregister their names on the speaker list. Individuals on the speaker list before the date of the meeting will be allowed to speak first. A second speaker list will be developed at the meeting. Priority will be given to people representing groups. A transcript of each meeting will be made so that your comments will be accurately recorded.

In addition to the public meeting, the environmental staff will inspect the proposed and alternative project sites on the afternoon of May 15, 1995. Those planning to attend must provide their own transportation. On May 16, 1995, at 8:30 a.m., the environmental staff will meet with representatives of Granite State to conduct a cryogenic design and engineering review of the LNG facilities proposed for Wells, Maine. The meeting will be held at Wells Town Hall, Route 109, Wells, Maine.

For further information, call Chris Zerby, EA Project Manager, at (202) 208–0111.

Kevin P. Madden,

Director, Office of Pipeline Regulation.

[FR Doc. 95–10914 Filed 5–2–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–883–000, et al.]

Consumers Power Co., et al.; Electric Rate and Corporate Regulation Filings

April 25, 1995.

Take notice that the following filings have been made with the Commission:

1. Consumers Power Company

[Docket No. ER95–883–000]

Take notice that on April 7, 1995, Consumers Power Company (Consumers Power), tendered for filing Amendment No. 1 to its Wholesale for Resale Electric Service Agreement dated January 1, 1990 for service to the Village of Chelsea (Chelsea). Amendment No. 1 provides for a second delivery point to enable the delivery of wholesale requirements service to Chelsea.

Copies of the filing were served upon Chelsea and the Michigan Public Service Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

2. Virginia Electric and Power Company

[Docket No. ER95–884–000]

Take notice that on April 7, 1995, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Northern Indiana Public Service Company and Virginia Power, dated April 3, 1995 under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Northern Indiana Public Service Company under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of Service Schedule B included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

3. Virginia Electric and Power Company

[Docket No. ER95–885–000]

Take notice that on April 7, 1995, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Citizens Lehman Power Sales and Virginia Power, dated March 14, 1995 under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Citizens Lehman Power Sales under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of Service Schedule B included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

4. Virginia Electric and Power Company

[Docket No. ER95–886–000]

Take notice that on April 7, 1995, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Catex Vitol Electric L.L.C. and Virginia Power, dated April 1, 1995 under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994. Under the tendered Service Agreement Virginia Power agrees to provide services to Catex Vitol Electric L.L.C. under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of Service Schedule B included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission and the North Carolina Utilities Commission.

VOL
60
ISS
85
MY
3
1995
UMI

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

5. Delmarva Power & Light Company

[Docket No. ER95–887–000]

Take notice that on April 7, 1995, Delmarva Power & Light Company (Delmarva), tendered for filing as an initial rate under section 205 of the Federal Power Act and Part 35 of the Regulations issued thereunder, an Agreement between Delmarva and Old Dominion Electric Cooperative (Old Dominion) dated March 31, 1995.

Delmarva states that the Agreement set forth the terms and conditions for the sale of short-term energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to Old Dominion. Delmarva requests that the Commission waive its standard notice period and allow this Agreement to become effective on April 14, 1995.

Delmarva states that a copy of this filing has been sent to Old Dominion and will be furnished to the Delaware Public Service Commission, the Maryland Public Service Commission, and the Virginia State Corporation Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

6. Central Vermont Public Service Corporation

[Docket No. ER95–888–000]

Take notice that on April 10, 1995, Central Vermont Public Service Corporation, tendered for filing a service agreement with New Hampshire Electric Cooperative, Inc. under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power and energy at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on March 18, 1995.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

7. Maine Public Service Company

[Docket No. ER95–889–000]

Take notice that on April 10, 1995, Maine Public Service Company (Maine Public) filed an executed Service Agreement with the New York Power Authority. Maine Public states that the service agreement is being submitted pursuant to its tariff provision pertaining to the short-term non-firm sale of capacity and energy which establishes a ceiling rate at Maine Public's cost of service for the units available for sale.

Maine Public requests that the service agreement become effective on April 15, 1995 and requests waiver of the Commission's regulations regarding filing.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

8. Arizona Public Service Company

[Docket No. ER95–890–000]

Take notice that on April 10, 1995, Arizona Public Service Company (APS), tendered for filing Supplement No. 4 (Supplement) to the Wholesale Power Supply Agreement (Agreement) between the Tohono O'odham Utility Authority (TOUA) and APS. This Supplement provides for a reduction in demand rates to TOUA and amends the term of the Agreement to provide for a termination date of December 31, 1999.

APS and TOUA request waiver of the Commission's Notice Requirements in 18 CFR 35.3(a) under § 35.11 to allow the Supplement to become effective March 1, 1994.

A copy of this filing has been served on TOUA and the Arizona Corporation Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

9. Southern California Edison Company

[Docket No. ER95–891–000]

Take notice that on April 10, 1995, Southern California Edison Company (Edison), tendered for filing a Supplement to the Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (1990 IOA) for the integration of San Onofre Nuclear Generating Station (SONGS) and the associated Firm Transmission Service (FTS) Agreement with the City of Riverside (Riverside), Commission Rate Schedule FERC No. 250.14 and No. 250.15.

The Supplement amends the Effective Operating Capacity for SONGS Unit 2 during Fuel Cycle 8 for the purposes of determining Riverside's Rated Capability and Contract Capacity under the Supplemental Agreement and the FTS Agreement respectively and corresponding Capacity Credit under the 1990 IOA. Edison is seeking waiver of the Commission's requirement for 60-day prior notice and requesting an effective date concurrent with the beginning of Fuel Cycle 8.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

10. Citizens Lehman Power LP

[Docket No. ER95–892–000]

Take notice that on April 10, 1995, Citizens Lehman Power LP, tendered for filing its initial FERC electric service tariff, Rate Schedule No. 1, and a petition for blanket approvals and waivers of various Commission Regulations under the Federal Power Act.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

11. St. Joseph Light & Power Company

[Docket No. ER95–893–000]

Take notice that on April 10, 1995, St. Joseph Light & Power Company (SJLP), submitted for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) approving SJLP's application for membership in WSPP. SJLP requests it be permitted to become a member of the WSPP. In order to receive the benefits of pool membership, SJLP requests waiver of the Commission's prior notice requirement to allow its WSPP membership to become effective as soon as possible, but in no event later than 60 days from this filing.

SJLP states that copies of this filing were served on WSPP and the Missouri Public Service Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER95–894–000]

Take notice that on April 11, 1995, Commonwealth Edison Company (ComEd), submitted a Service Agreement, dated February 14, 1995, establishing American Municipal Power-Ohio, Inc. (AMP-Ohio) as a customer under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of February 14, 1995, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon AMP-Ohio and the Illinois Commerce Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

13. Rochester Gas and Electric Corporation

[Docket No. ER95–895–000]

Take notice that on April 11, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Engelhard Power Marketing Inc. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

14. Alabama Power Company

[Docket No. ER95–897–000]

Take notice that on April 12, 1995, Alabama Power Company tendered for filing a Transmission Service Delivery Point Agreement dated January 21, 1995, which reflects the addition of a delivery point to Coosa Valley Electric Cooperative. This delivery point will be served under the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Member of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designed FERC Rate Schedule No. 147). The parties request an effective date of June 1, 1995, for the addition of the delivery point.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

15. Southern Company Services Inc.

[Docket No. ER95–899–000]

Take notice that on April 12, 1995, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a Service Agreement dated as of March 24, 1995 between Arkansas Electric Cooperative Corporation and SCS (as agent for Southern Companies) for service under the Short-Term Non-Firm Transmission Service Tariff of Southern Companies.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

16. Southern Indiana Gas and Electric Company

[Docket No. ER95–900–000]

Take notice that on April 12, 1995, Southern Indiana Gas and Electric Company (SIGECO), tendered for filing to a proposed Interchange Agreement with LG&E Power Marketing, Inc. (LPM).

The proposed revised Interchange Agreement will provide for the purchase, sale, and transmission of capacity and energy by either party under the following Service Schedules: (a) SIGECO Power Sales; (b) LPM Power Sales, and (c) Transmission Service.

Waiver of the Commission's Notice Requirements is requested to allow for an effective date of April 11, 1995.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

17. Commonwealth Edison Company

[Docket No. ER95–901–000]

Take notice that on April 12, 1995, Commonwealth Edison Company (ComEd) submitted for filing a Letter Agreement, dated November 22, 1994 between ComEd and the City of Rochelle, Illinois (Rochelle). The Letter Agreement reflects the rates, terms and conditions pursuant to which ComEd will supply Rochelle with Limited Term Power and Interruptible Short Term Power during the period 1996 through 2005.

ComEd requests an effective date of January 1, 1995. Accordingly, ComEd requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Illinois Commerce Commission and Rochelle.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

18. Northern Indiana Public Service Company

[Docket No. ER95–902–000]

Take notice that on April 12, 1995, Northern Indiana Public Service Company, tendered for filing an Interchange Agreement between Northern Indiana Public Service Company and Wisconsin Electric Power Company to become effective on May 1, 1995.

The Interchange Agreement allows for General Purpose transactions or Negotiated Capacity transactions. General Purpose transactions are economy based energy transaction which may be made available from the supplying party's resources from time to time. Negotiated Capacity transactions provide capacity and energy to the buyer, customized to the specific needs at the time of the reservation.

Copies of this filing have been sent to Wisconsin Electric Power Company and to the Indiana Utility Regulatory Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

19. Northern Indiana Public Service Company

[Docket No. ER95–903–000]

Take notice that on April 12, 1995, Northern Indiana Public Service Company tendered for filing an Interchange between Northern Indiana Public Service Company and LG&E Power Marketing, Inc. to become effective on May 1, 1995.

The Interchange Agreement allows for General Purpose transactions or Negotiated Capacity transactions. General Purpose transactions are economy based energy transactions which may be made available from the supplying party's resources from time to time. Negotiated Capacity transactions provide capacity and energy to the buyer, customized to the specific needs at the time of the reservation.

Copies of this filing have been sent to LG&E Power Marketing, Inc. and to the Indiana Utility Regulatory Commission.

Comment date: May 9, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Secretary.

[FR Doc. 95–10912 Filed 5–2–95; 8:45 am]

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[Docket No. ER95-469-001, et al.]

Florida Power Corp., et al.; Electric Rate and Corporate Regulation Filings

April 26, 1995.

Take notice that the following filings have been made with the Commission:

1. Florida Power Corporation

[Docket No. ER95-469-001]

Take notice that Florida Power Corporation, on April 21, 1995, tendered for filing a compliance filing required by the Commission's order of March 21, 1995 in this docket. The filing consists of a letter agreement executed by the Company and the parties to the Pre-Filing Settlement Agreement in this docket and Attachments A through E to that letter agreement. The letter agreement with Attachments A through E constitute an amendment to the Settlement Agreement and is subject to all of the conditions contained in Article V thereof.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

2. AIG Trading Corporation

[Docket No. ER94-1691-004]

Take notice that on April 6, 1995, AIG Trading Corporation tendered for filing its quarterly report in the above-referenced docket, reporting no purchases or sales of electricity in the quarter ending March 31, 1995.

3. Petroleum Source & Systems Group, Inc.

[Docket No. ER95-268-001]

Take notice that on April 7, 1995, Petroleum Source & Systems Group, Inc. tendered for filing its quarterly report in the above-referenced docket, reporting no purchases or sales of electricity in the quarter ending March 31, 1995.

4. Rochester Gas and Electric Corporation

[Docket No. ER95-904-000]

Take notice that on April 13, 1995, Rochester Gas and Electric Corporation (RG&E) tendered for filing a letter terminating the Amended Agreement between RG&E and Green Mountain Power Corporation regarding the sale of power from May 1, 1988 through October 31, 1997.

Comment date: May 10, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

5. Entergy Services, Inc.

[Docket No. ER95-905-000]

Take notice that on April 14, 1995, Entergy Services, Inc. (ESI), acting as agent for Arkansas Power & Light Company (AP&L), tendered for filing the Twenty-Third Amendment to the Power Coordination, Interchange and Transmission Service Agreement between AP&L and Arkansas Electric Cooperative Corporation (AECC) which provides for the addition or modification of Points of Delivery thereunder. To the extent necessary, Entergy Services requests a waiver of the notice requirements of the Federal Power act and the Commission's Regulations.

Comment date: May 10, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

6. Southern California Edison Company

[Docket No. ER95-906-000]

Take notice that on April 14, 1995, Southern California Edison Company tendered for filing a supplemental agreement, associated procedure, and letter agreement to the 1990 Integrated Operations Agreement with the City of Riverside (Riverside), Commission Rate Schedule No. 250.

The supplemental agreement, procedure and letter agreement establish the terms and conditions for the integration of Replacement Capacity Resources purchased by Riverside under the Conformed Western Systems Power Pool Agreement. Edison is requesting waiver of the Commission's 60 day notice requirements and is requesting an effective date of April 15, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 10, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

7. Southern California Edison

[Docket No. ER95-907-000]

Take notice that on April 14, 1995, Southern California Edison Company tendered for filing letter agreements (Agreements) between Edison and the City of Riverside (Riverside) as an initial rate schedule. Pursuant to the terms of the Letter Agreements, Edison is also submitting revisions to Rate Schedules FERC Nos. 17, 129, 245, and 250.

The Letter Agreements set forth the terms and conditions under which Edison shall construct, own and maintain that portion of the Seventh Line, including the required substation and telecommunications facilities, between the 66 Kv bus at Vista Substation and the Riverside City Limits for operation by June 1, 1995. Edison seeks waiver of the 60 day prior notice requirements and requests the Commission to assign an effective date of June 1, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 10, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

8. Southern California Edison Company

[Docket No. ER95-908-000]

Take notice that on April 14, 1995, Southern California Edison Company tendered for filing a supplemental agreement, associated procedure, and letter agreement to the 1990 Integrated Operations Agreement with the City of Colton (Colton), Commission Rate Schedule No. 249.

The supplemental agreement, procedure and letter agreement establish the terms and conditions for the integration of Replacement Capacity Resources purchased by Colton under the Conformed Western Systems Power Pool Agreement. Edison is requesting waiver of the Commission's 60 day notice requirements and is requesting an effective date of April 15, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 10, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

9. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER95-909-000]

Take notice that on April 14, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the "GPU Operating Companies"), filed an executed Service Agreement between GPU and Engelhard Power Marketing, Inc. (EPM), dated April 6, 1995. This Service Agreement specifies that EPM has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff ("Sales Tariff") designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Co., Metropolitan Edison Co. and Pennsylvania Electric Co.*, Docket No. ER95-276-000 and allows GPU and EPM to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of April 6, 1995, for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

10. New England Power Company

[Docket No. ER95-910-000]

Take notice that New England Power Company, on April 14, 1995, tendered for filing Amendments to FERC Electric Tariff, Original Volume No. 5.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

11. New England Power Company

[Docket No. ER95-911-000]

Take notice that New England Power Company, on April 14, 1995, tendered for filing a contract with the Massachusetts Bay Transportation Authority for construction, operation and maintenance of distribution facilities in Revere, Massachusetts.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10911 Filed 5-2-95; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP95-329-000, et al.]

Northwest Pipeline Corp., et al.; Natural Gas Certificate Filings

April 26, 1995.

Take notice that the following filings have been made with the Commission:

1. Northwest Pipeline Corporation

[Docket No. CP95-329-000]

Take notice that on April 17, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108 filed a request with the Commission in Docket No. CP95-329-000 pursuant to Sections 157.205, 157.211 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for approval to construct and operate modified metering facilities, authorized in blanket certificate issued in Docket No. CP82-433-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to construct and operate modified metering facilities at the Grace and East Raft River Meter Stations. Northwest states that by partially abandoning existing obsolete meter facilities and appurtenances and constructing and operating replacement facilities, it would more efficiently accommodate an existing firm transportation agreement with Intermountain Gas Company (Intermountain) and Intermountain's affiliate, IGI Resources, Inc. (IGI Resources). Northwest further states that it intends to remove and retire the existing obsolete 2-inch positive displacement meter at the Grace Meter Station. At the East Raft River Meter Station, Northwest proposes to remove and retire the existing obsolete 4-inch positive displacement meter. The retired meters from each meter station would be scrapped and replaced with updated facilities. The total estimated cost of upgrading the Grace Meter Station would be approximately $42,328, and the total estimated cost of upgrading the East Raft River Meter Station would be approximately $38,143 which would make a grand estimated total of $80,471.

Comment date: June 12, 1995, in accordance with Standard Paragraph (G) at the end of this notice.

2. Texas Gas Transmission Corporation

[Docket No. CP95-341-000]

Take notice that on April 21, 1995, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, 42301, filed in Docket No. CP95-341-000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct, install and operate approximately 0.93 mile of 8-inch pipeline paralleling the existing 6-inch portion of Texas Gas's Herbert-Cannelton system located in Ohio and Hancock Counties, Kentucky, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas states it is requesting authority to construct, install and operate approximately 0.93 mile of 8-inch pipeline paralleling the existing 6-inch portion of Texas Gas's Herbert-Cannelton pipeline system. The cost associated with such facilities is approximately $413,000. Texas Gas proposes to have the facilities constructed and in service by November 1, 1995.

Texas Gas states that it is proposing the additional 0.93 mile of pipeline, as a result of the request by one of Texas Gas's existing customers located in Zone 3 and served off of the Herbert-Cannelton system, Ohio Valley Gas Corporation (Ohio Valley), for 500 MMBtu per day of firm transportation service under Texas Gas's FT Rate Schedule, effective November 1, 1995. Texas Gas states that such firm service is needed by Ohio Valley in order to accommodate additional residential and industrial growth on its system. A portion of the proposed loop is necessary, according to Texas Gas, to accommodate these firm transportation volumes for Ohio Valley.

Texas Gas also explains that the 0.93 mile of pipeline will serve to loop the existing 6-inch portion of the Herbert-Cannelton system providing added security for that portion of the system and those customers served off the Herbert-Cannelton system.

Comment date: May 17, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

3. Columbia Gas Transmission Corporation, National Fuel Gas Supply Corporation

[Docket No. CP95-343-000]

Take notice that on April 21, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia, 25314, and National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP95-343-000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain exchange services between Columbia and National Fuel, all as more fully set forth in the application on file with the Commission and open to public inspection.

VOL 60 ISS 85 MY 3 1995 UMI

The rate schedules for which these companies are seeking abandonment authority are as follows:

Docket No.	Order issued	Company	Rate schedule
CP64–67	Mar. 25, 1964	Columbia	X–25
CP64–67	Mar. 25, 1964	National Fuel	X–4
CP64–67	Mar. 25, 1964	Columbia	X–26
CP76–316	July 20, 1976	Columbia	X–42
CP76–316	July 20, 1976	National Fuel	X–7
CP78–323	Apr. 10, 1979	Columbia	X–88
CP78–323	Apr. 10, 1979	National Fuel	X–35
CP76–19	Oct. 10, 1980	Columbia	X–101
CP76–19	Oct. 10, 1980	National Fuel	X–39

Columbia also requests abandonment authorization of the Thomas Corners temporary arrangement which was initiated by a Letter Agreement dated May 13, 1975, for which certificate authorization was not obtained. The companies state that the exchange agreements have been terminated.

Comment date: May 17, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

4. Columbia Gas Transmission Corporation

[Docket No. CP95–348–000]

Take notice that on April 24, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia, 25314, National Fuel Gas Supply Corporation (National Fuel) 10 Lafayette Square, Buffalo, New York 14203, and Texas Eastern Transmission Corporation (Texas Eastern) Post Office Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–348–000 a joint application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon exchange services between the companies, all as more fully set forth in the application on file with the Commission and open to public inspection.

The companies request permission and approval to abandon the following exchange services which are no longer required:

Docket No.	Company	Rate schedule
CP74–9–004	Columbia	X–37
CP74–9–004	National Fuel	X–6
CP74–9–004	Texas Eastern	X–68

Comment date: May 17, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

5. CMS Gas Transmission and Storage Company

[Docket No. CP95–331–000]

Take notice that on April 18, 1995, CMS Gas Transmission and Storage Company (CMS) located at Fairlane Plaza South, 330 Town Center Drive, Suite 1100, Dearborn, Michigan 48126, filed in Docket No. CP95–331–000 an application pursuant to Executive Order No. 10485 and §§ 153.10–153.12 of the Commission's Regulations for a Presidential Permit to operate and maintain natural gas facilities at the International Boundary between the State of Michigan, and the Province of Ontario, Canada, in order to export and import gas to and from Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that CMS seeks a Presidential Permit in order to operate and maintain, as a natural gas pipeline, the U.S portion of an existing 12-inch diameter natural gas liquids pipeline (the "Polysar Pipeline") that crosses the St. Clair River between the United States and Canada at Maryville, Michigan. The Polysar Pipeline will interconnect with the Bluewater Pipeline, a 3.1-mile, 20-inch diameter natural gas pipeline that CMS will be constructing and operating as part of its intrastate pipeline system.

Comment date: May 17, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

6. CMS Gas Transmission and Storage Company

[Docket No. CP95–332–000]

Take notice that on April 18, 1995, CMS Gas Transmission and Storage Company (CMS) located at Fairlane Plaza South, 330 Town Center Drive, Suite 1100, Dearborn, Michigan 48126, filed in Docket No. CP95–332–000 an application pursuant to Section 3 of the Natural Gas Act and Sections 153.1–153.8 of the Commission's Regulations for Section 3 authorization to site and operate natural gas facilities at the United States-Canadian border for importation and exportation of natural gas to and from Canada, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that CMS seeks authorization to site and operate the U.S portion of an existing 12-inch diameter natural gas liquids pipeline (the "Polysar Pipeline") that crosses the St. Clair River between the United States and Canada at Maryville, Michigan and proposes to operate that pipeline as a natural gas transmission facility. The Polysar Pipeline will interconnect with the Bluewater Pipeline, a 3.1 mile, 20-inch diameter natural gas pipeline that CMS will be constructing and operating as part of its intrastate pipeline system as soon as practicable after the receipt of all necessary governmental approvals. It will be the responsibility of the individual shippers to obtain the appropriate import and export authority to transport natural gas through the facilities.

Comment date: May 17, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell

Secretary.

[FR Doc. 95–10913 Filed 5–2–95; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5201–7]

Underground Injection Control Program, Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Rollins Environmental Services of Louisiana, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Decision on Petition Reissuance.

SUMMARY: Notice is hereby given that reissuance of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Rollins, for the Class I injection well located at Plaquemine, Louisiana. As required by 40 CFR Part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Rollins, of the specific restricted hazardous waste identified in the exemption reissuance, into the Class I hazardous waste injection well at the Plaquemine, Louisiana facility specifically identified in the reissued exemption, for as long as the basis for granting an approval of this exemption remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued February 16, 1995. The public comment period closed on April 5, 1995. EPA received no comments. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of April 13, 1995.

ADDRESSES: Copies of the reissued petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division Water Supply Branch (6W-SU), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Phil Dellinger, Unit Leader, State Programs/Land Ban, EPA—Region 6, telephone (214) 665–7142.

Richard G. Hoppers,

Acting Director, Water Management Division (6W).

[FR Doc. 95–10879 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5201–6]

Availability of FY 94 Grant Performance Reports for Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA recently performed end-of-year evaluations of eight state air pollution control programs (Alabama Department of Environmental Management, Florida Department of Environmental Regulation, Georgia Environmental Protection Division, Kentucky Department for Environmental Protection, Mississippi Bureau of Pollution Control, North Carolina Department of Environment, Health, and Natural Resources, South Carolina Department of Health and Environmental Control and Tennessee Department of Conservation and Environment), and 16 local programs (Knox County Department of Air Pollution Control, Tn—Chattanooga-Hamilton County Air Pollution Control Bureau, Tn—Memphis-Shelby County Health Department, Tn—Nashville-Davidson County Metropolitan Health Department, Tn—Jefferson County Air Pollution Control District, Ky—Western North Carolina Regional Air Pollution Control Agency, NC—Mecklenburg County Department of Environmental Protection, NC—Forsyth County Environmental Affairs Department, NC—Palm Beach County Public Health Unit, Fl—Hillsborough County Environmental Protection Commission, Fl—Dade County Environmental Resources Management, Fl—Jacksonville Air Quality Division, Fl—Broward County Environmental Quality Control Board, Fl—Pinellas County Department of Environmental Management, Fl—City of Huntsville

VOL 60 ISS 85 MY 3 1995 UMI

Department of Natural Resources, Al—Jefferson County Department of Health, Al). These audits were conducted to assess the agencies' performance under the grants made to them by EPA pursuant to Section 105 of the Clean Air Act. EPA Region 4, has prepared reports for the twenty-four agencies identified above and these 105 reports are now available for public inspection.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 345 Courtland Street, NE., Atlanta, Georgia 30365, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Linda Thomas, (404) 347–3555 vmx4180, at the above Region 4 address, for information concerning States of Alabama, Florida, Mississippi, Georgia, and local agencies. Vera Bowers, (404) 347–3555 vmx4178, at the above Region 4 address, for information concerning the States of Kentucky, North Carolina, South Carolina, Tennessee and local agencies.

Dated: April 18, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–10878 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5202–3]

Fiscal Year 1995 Environment Technology Initiative Solicitation for Socioeconomic Projects Related to Pollution Prevention

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability, request for proposals; extension of deadline for receipt of applications.

SUMMARY: The deadline for receipt of proposals for this solicitation has been extended from May 1, 1995 to Tuesday, May 16, 1995. The solicitation is included in this notice. This solicitation was previously announced in the **Federal Register** on February 24, 1995.

FOR FURTHER INFORMATION CONTACT: General information about the grant solicitation process and application kits may be obtained by calling (202) 260–7474. For inquiries pertaining to technical questions only call Kenneth Jewett, Office of Policy, Planning and Evaluation, (202) 260–4211 or fax your request to (202) 260–2685.

Introduction

This Announcement describes a grant solicitation of the U.S. Environmental Protection Agency (EPA) to support projects directed toward furthering the objectives of the President's Environmental Technology Initiative (ETI). The ETI is an integral part of the Clinton Administration's broad new technology policy, enunciated on February 22, 1993 in "Technology for America's Economic Growth: A New Direction to Build Economic Strength". This government-wide policy recognizes that industry is the primary creator of new technology and the main engine of sustained economic growth. The policy assigns the federal government a catalytic role in promoting the development of new pollution prevention technologies for use across a range of economic sectors including: Auto manufacturing, computers and electronics, iron and steel, metal finishing and plating, petroleum refining, and printing—as well as converting defense technologies to civilian applications. The ETI addresses all of the above sectors that are concerned with environmental protection.

EPA seeks proposals to conduct "socioeconomic projects" related to pollution prevention technology development and use. Projects may be focused on technology policy regulatory reforms, opportunities for building organizational capacity to be innovative, and diffusion of innovative prevention technologies. EPA's interests in this instance are clearly distinct from conventional socioeconomic research and development. That is, they go beyond study and analysis of issues to apply existing knowledge in pioneering attempts to effect social or institutional change with respect to promoting development and use of innovative pollution prevention technology.

Unlike other civilian technologies, the demand for environmental technologies is primarily driven by federal and state pollution prevention and control policies, regulation and enforcement. Over the past 25 years, with the passage of the Clean Air Act, the Clean Water Act, Resource Conservation and Recovery Act, Superfund and other environmental statutes, EPA has invested hundreds of millions of dollars in researching and developing new technologies to monitor and control pollution. With the passage of the Pollution Prevention Act of 1990 and the Agency's adoption of "pollution prevention" as a first-choice environmental protection policy, the demand for pollution prevention technologies and concomitant research and development in pollution prevention has also influenced the demand for "better, cheaper, more reliable" environmental technologies—especially technologies that can reduce the costs of compliance, recycle or reuse wastes, foster cleaner, safer manufacturing processes or prevent pollution from being created at all. Indeed, the domestic market for environmental technologies in the U.S. today is nearly $134 billion annually. It employs more than 1,000,000 Americans in some 40,000 to 60,000 businesses nationwide.

Inadvertently however, the "policy framework" that has driven the demand for these technologies also poses barriers to the adoption and use of technologies that offer substantial environmental and economic benefits. According to Dag Syrrist, President of Technology Funding in California, the environmental technology industry today, "fears innovation and repels capital." Technologies that can prevent pollution, reduce health risks and dramatically cut costs of managing environmental quality are NOT getting to market because of these barriers. EPA's ETI is uniquely positioned to address these barriers—as a technology policy reform initiative.

EPA is directing approximately $3.5 million this fiscal year (FY) in awards under this initiative to not-for-profit organizations, colleges and universities. Proposals averaging $150,000 per year with a maximum duration of 2 years are being sought.

Not-for-profit organizations are generally defined as those organizations that qualify for such status under section 501(c) of the Internal Revenue Service tax code. Examples of not-for-profit organizations include public and private colleges and universities, as well as trade associations, professional societies, research consortia, and community development corporations.

Electronic Availability

This Announcement can be accessed on the Internet at the following Gopher and World Wide Web (WWW) addresses:

Gopher: GOPHER.EPA.GOV
WWW: HTTP://WWW.EPA.GOV

Rationale

EPA has structured its ETI project-selection process for FY95 to conform to the strategic ETI objectives contained in the Agency's Draft Technology Innovation Strategy (EPA 543–K–93–002), January 1994. This strategy has the following objectives (please refer to the draft Strategy document for more detail on these objectives):

(1) Policy Framework: Adapt EPA's policy, regulatory, and compliance framework to promote innovation;

(2) Innovation Capacity: Strengthen the capacity of technology developers and users to succeed in environmental innovation;

(3) Diffusion: Accelerate the diffusion of innovative technologies at home and abroad; and

(4) Environmental and Pollution Prevention Technologies: Strategically invest funds in the development and commercialization of promising new technologies.

This solicitation is focused on pollution prevention-related proposals that support the first three objectives. Proposals relevant to the fourth objective are being sought jointly by the National Science Foundation (NSF) and EPA through a contemporaneous solicitation. Information about the joint solicitation can be obtained from either NSF (pfirth@nsf.gov; voice 703/306–1480) or EPA (202/260–7474).

The 1990 Pollution Prevention Act declares pollution prevention to be national policy and states that "* * * pollution should be prevented or reduced at the source whenever feasible." Pollution prevention is now considered EPA's preferred choice for environmental protection, and the Agency is seeking to integrate prevention as an ethic throughout all of its activities. Pollution prevention includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in industrial housekeeping, operational maintenance, employee training, or inventory control.

On July 22, 1994, EPA Administrator Browner announced the new environmental policy Common Sense Initiative (CSI), which is designed to shift environmental protection from the current "pollutant-by-pollutant, end-of-pipe, command-and-control" approach to an "industry-by-industry, multi-media, prevention-oriented" approach. Six pilot industries were identified for CSI: auto manufacturing, computers and electronics, iron and steel, metal finishing and plating, petroleum refining, and printing. Proposals with relevance to these industries will receive priority consideration.

Program Scope

This EPA grant solicitation is intended to finance prevention-related projects supporting policy analysis (frameworks), institution building (innovation capacity), and domestic and international diffusion. Descriptions of the program areas that are addressed in this solicitation are provided below.

Policy framework topics of interest include: (1) Strengthening incentives for the development and use of innovative prevention technologies; and (2) identifying and reducing barriers to innovation. Aspects to be addressed include regulations and implementation mechanisms (e.g., permitting and compliance policies and programs). This program area encompasses all environmental media (water, air, etc.) and emphasizes pilot projects not analytical studies. Policy framework proposals often address issues that have a broader focus than pollution prevention alone. Such proposals are welcomed so long as they are also applicable to pollution prevention technologies or issues.

Policy framework projects focus on environmental regulatory programs in the broadest sense, from regulation through compliance and enforcement. Projects selected in this areas will address regulatory programs in order to:

- Identify and enhance incentives for the development and use of prevention technologies;
- Minimize barriers to the development and use of such technologies; and
- Incorporate provisions into new and existing regulations and programs that maximize flexibility and widen the range of technologies accepted for use.

Special attention will be given to the use of market-based instruments for creating flexibility and incentives to innovate.

Innovation capacity proposals should be focused on how to assist, or catalyze, prevention technology development and commercialization efforts.

Examples of possible work in these areas are programs or projects to:

- Establish programs to standardize testing protocols and verify the cost and performance of innovative prevention technologies;
- Provide pollution prevention technology testing centers;
- Catalyze the efforts of many organizations to promote innovation by convening partnerships;
- Develop and communicate timely information about high priority prevention technology gaps; and
- Work jointly with organizations in the public and private sectors to identify and address non-regulatory sources of market inefficiency and failure in the environmental technology sector.

Proposals on diffusion of information should focus on new and improved means of fostering information networks, technical assistance, and outreach activities. Both domestic and international applications are encouraged. For example, there is a need to enhance the capacity of existing or newly created public and private sector diffusion activities to serve the potential users of pollution prevention technologies both domestically and abroad. Proposals may include activities relating to market demand, availability, cost, performance, opportunities for business development, and regulatory requirements.

General Selection Criteria

The objective of this solicitation is to harness the capability of the nonprofit sector to help address the goals of the ETI. EPA will not accept proposals that are not directly related to one of the previously mentioned areas of ETI focus. Moreover, proposals must address barriers to the development and use of innovative pollution prevention approaches to be eligible unless they are addressing policy framework issues that will also benefit pollution prevention approaches as well as their target.

Each proposal will only be evaluated against one strategy objective based on the information provided above. Proposals with relevance to industries highlighted by the Common Sense Initiative and the Design for Environment Program will receive priority consideration. Special consideration will also be given to projects that support small businesses and/or small communities. This focus on a select few industries is intended to provide concentrated support for cleaner technology development and commercialization and sustainable economic growth and increased competitiveness.

Many barriers to development and application of pollution prevention exist because of the lack of flexibility in the policy infrastructure. Thus, proposals that seek to make the implementation of environmental policy a process that is more friendly to technology innovation will also receive additional attention. This is the one area in which projects may go beyond the pollution prevention domain.

The most significant problems and creative solutions most likely will be identified by nonprofit organizations and industrial investigators, working together on challenges posed by real problems. Projects must show appropriateness to current national concerns for pollution reduction or prevention; vague arguments that the proposed project may eventually be of value are not compelling.

This initiative particularly seeks innovative and high risk/high payoff ideas. It does not invite studies of "the problem" but rather specific approaches to possible solutions. Since the preparation of competitive proposals is very time consuming, it is also well to

VOL 60 ISS 85 MY 3 1995 UMI

present the following examples of what this initiative is not:

- Not basic research;
- Not technology development for pollution prevention, remediation, or control;
- Not diffusion of pollution control technology; and
- Not activities addressing processes to remove pollutants from waste streams or remediate waste problems.

Specific Selection Criteria

Proposals will be evaluated against the following factors:

- Does the project reduce uncertainty, improve flexibility, speed timing, enhance cost-effectiveness, address liability constraints, and/or diminish restraints on technology innovation?
- Is there broad applicability of the project's expected results (i.e., across levels of government, different states, or environmental media)? Is the problem clearly defined?
- Does the project complement current environmental legislative initiatives or significantly strengthen the Nation's ability to meet existing statutory or regulatory goals?
- Will the project produce measurable, visible results in an expeditious time-frame? Action projects will be emphasized over studies. Do project participants have the authority to implement programmatic changes?
- Does the project support multi-organizational partnerships across the public and private sectors? Will the project include leveraging funds among the partnering organizations? Applicant's proposals will be given more consideration to the extent that matching funds or in-kind services from participating partners are included.
- Does the proposal address global, transboundary, or other international environmental issues directly affecting the United States or lower the cost of innovative technologies for use in the United States?

In addition, the following considerations relate to particular subtopics:

- Policy framework proposals will be reviewed with respect to their capability to advance the goals and activities of ETI; breadth of applicability of the expected results; and potential to reduce barriers and create incentives; and projected probability of success.
- Proposals embracing the theme of innovation capacity should specifically be designed to be self-sustaining after ETI funds are expended.
- Domestic diffusion proposals must be customer-based, and should emphasize pollution prevention technology approaches. Special consideration will be given to projects that support small businesses and/or small communities.
- International diffusion proposals should address global or international environmental issues that directly affect the United States. Proposals should also result in improving U.S. competitiveness and trade objectives in the international arena.

The Application

Application forms and instructions are available in the EPA Research Grants Application Kit. Interested investigators should review the materials in this kit before preparing an application for assistance. The kits can be obtained at the following address: U.S. Environmental Protection Agency, Office of Research and Development, Office of Exploratory Research (8703), 401 M Street, SW., Washington DC 20460.

Each application for assistance must consist of Application for Federal Assistance Forms (Standard Forms (SF): 424 and 424A), separate sheets that provide the budget breakdowns for each year of the project, the resumes of the principal investigator and co-workers, the abstract of the proposed project, and a project narrative. All certifications must be signed and included with the application.

The closing date for application submission has been extended to COB on Tuesday May 16, 1995. COB is 5 pm EDT in Washington, D.C.

To be considered, the original and eight copies of the fully developed research grant application, prepared in accordance with the instructions in the Application for Federal Assistance Forms, must be received by the EPA Office of Exploratory Research no later than the above closing date. Informal, incomplete, or unsigned proposals will not be considered. Completed applications should be sent via regular or express mail to: U.S. Environmental Protection Agency, Office of Research and Development, Office of Exploratory Research (8703), 401 M Street, SW., Washington DC 20460.

Applications sent via express mail should have the following telephone number listed on the express mail label: (202) 260–7445.

Special Instructions

The following special instructions apply to all applicants responding to this request for application.

- Applications must unbound and clipped or stapled. The SF–424 must be the first page of the application. Budget information should immediately follow the SF–424. All certification forms should be placed at the end of the application.
- Applicants must be identified by printing "ETI95" in block 10 of the SF–424. This will facilitate proper assignment and review of the application.
- A one-page abstract must be included with the application.
- The "project narrative" section of the application must not exceed 25, consecutively numbered, 8 × 11 inch pages of standard type (i.e., 12 point), including tables, graphs, and figures. For purposes of this limitation, the "project narrative" section of the application consists of the following five items:

1. Description of Project
2. Objectives
3. Results or Benefits Expected
4. Approach
5. General Project Information

Any attachments, appendices, and other references for the narrative section may be included but must remain within the 25-page limitation. Appendices will not be considered an integral part of the application.

Items not included under the 25-page limitation are the SF–424 and other forms, budgets, resumes, and the abstract. Resumes must not exceed two consecutively-numbered pages for each investigator and should focus on education, positions held, and most recent or related publications.

Applications not meeting these requirements will be returned to the applicant without review.

Guidelines and Limitations

All recipients are required to provide a minimum of 1% of the total project cost, which may not be taken from Federal sources. All partnerships are encouraged. Primary partners are defined as contract awardees and secondary partners are those partners who do not receive grant funding directly from EPA. Subcontracts from primary partners to secondary partners for research to be conducted under this grant should not exceed 40% of the total direct cost of the grant for each year in which the subcontract is awarded.

Except for federal agencies and employees work may primary partners may subcontract work to any for-profit or not-for-profit organizations.

Eligibility

Not-for-profit institutions located within the U.S., including public and private colleges and universities, are eligible under all existing authorizations. Federal agencies and federal employees, as well as state and local governments are not eligible to submit proposals to this program. Potential applicants who are uncertain of their eligibility should contact EPA's Grants Operations Branch at (202) 260–9266.

Proprietary Information

By submitting an application in response to this solicitation, the applicant grants EPA permission to share the application with technical reviewers both within and outside of the Agency. Applications containing proprietary or other types of confidential information will be immediately returned to the applicant without review.

Funding Mechanisms

The funding mechanism for all awards issued under this solicitation will consist of a grant agreement between EPA and the recipient. In accordance with Pub. L. 95–225, a grant is used to accomplish a public purpose of support or stimulation authorized by Federal statute rather than acquisition for the direct benefit of the Agency.

Minority Institution Assistance

Pre-application assistance is available upon request for potential investigators representing institutions identified by the Secretary, Department of Education, as Historically Black Colleges or Universities (HBCUs), Hispanic Association of Colleges and Universities (HACUs), or Native American or Tribal Colleges. For further information on minority assistance, contact Charles Mitchell by telephone at (202) 260–7448, by faxing a written request to (202) 260–0211, or by mailing it to the address for EPA's Office of Exploratory Research shown below.

Contacts

Additional general and technical information on this solicitation and the grants program may be obtained by contacting: U.S. Environmental Protection Agency, Office of Exploratory Research (8703), 401 M Street SW., Washington DC 20460, Phone: (202) 260–7474/Fax: (202) 260–0211.

Information about the technical content of the solicitation may be obtained by contacting: Kenneth Jewett, Office of Policy, Planning and Evaluation, Phone: (202) 260–4211/Fax: (202) 260–2685.

General information on the ETI may be obtained from the ETI information line: (202) 260–2686.

Dated: April 27, 1994.

Thomas E. Kelly,

Acting Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 95–10881 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–P

[OPP–00406; FRL–4952–6]

Metabolism Testing Guideline; Notice of Workshop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of workshop.

SUMMARY: There will be a 1-day workshop sponsored by the EPA's Office of Pesticide Programs, to discuss the revision of the Metabolism Testing Guideline.

DATES: The workshop will be held on Wednesday, May 24, 1995, from 8:30 a.m. to 5 p.m. Written comments must be submitted by May 17, 1995.

ADDRESSES: The workshop will be held at: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA. Interested persons are invited to submit written comments in triplicate to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–00406." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under the SUPPLEMENTARY INFORMATION unit of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Yiannakis M. Ioannou (7509C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 820D, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7894. Copies of documents may be obtained by contacting: By mail: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1128 Bay, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5805 or 5454.

SUPPLEMENTARY INFORMATION: The Pesticide Assessment Guidelines Subdivision F, describe protocols for performing toxicology and related tests to support registration of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Some of the tests are also used in tolerance reviews under the Federal Food, Drug, and Cosmetic Act (FFDCA). Subdivision F was proposed for public comment in 1978 and published in October 1982. At that time, the Agency published the criteria for performing a general metabolism study on a pesticide and reserved a line item, Section 85-1, for a guideline on General Metabolism Studies of Pesticides. The Toxic Substances Control Act (TSCA) also specifies that General Metabolism studies can be required under the TSCA section 4 test rule.

The proposed revisions are the result of efforts by Agency scientists to improve the existing guideline to reflect current state-of-the-art regarding metabolism of pesticides and other toxic compounds. In addition, a need for revision was indicated by the results of the Pesticide Reregistration Rejection Rate Analysis as well as by comments received in response to the notice published in the Federal Register of September 19, 1990 (55 FR 38578).

The agenda for the meeting and a draft of the proposed Metabolism Guideline revisions will be available from the public docket within a week or two prior to the meeting.

Any member of the public wishing to submit written comments should contact the OPP docket staff at the address or the phone number given above. Interested persons are permitted to file written statements before the meeting. To the extent that time permits and upon advance notice, interested persons may be permitted to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. Persons wishing to make oral and/or written

VOL 60 ISS 85 MY 3 1995 UMI

statements should notify the OPP docket staff and submit three copies of a summary no later than May 17, 1995, in order to ensure appropriate consideration by the Panel.

A record has been established for this document under docket number "OPP–00408" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this document, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. All statements will be made part of the record and will be taken into consideration by the Panel.

Dated: April 27, 1995.

Stephanie R. Irene,

Acting Director, Health Effects Division, Office of Pesticide Programs.

[FR Doc. 95–10865 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180970; FRL 4951–2]

Cymoxanil and Dimethomorph; Receipt of Applications for Emergency Exemptions, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Delaware, Minnesota, and Pennsylvania Departments of Agriculture, the New York Department of Environmental Conservation, and the Wisconsin Department of Agriculture, Trade, and Consumer Protection (hereafter referred to as the "Applicants") to use the pesticides cymoxanil (CAS 57966–95–7) and dimethomorph (CAS 110488–70–5) to treat up to 5,000 (DE), 60,000 (MN), 30,000 (NY), 24,000 (PA), and 30,000 (WI) acres of potatoes to control metalaxyl-resistant late blight. The Applicants propose the use of new (unregistered) chemicals; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemptions.

DATES: Comments must be received on or before May 18, 1995.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180970," should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-180970; FRL 4951–2]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8326; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a state agency from any registration provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicants have requested the Administrator to issue specific exemptions for the use of cymoxanil and/or dimethomorph on potatoes to control late blight. Information in accordance with 40 CFR part 166 was submitted as part of these requests.

Recent failures to control late blight in potatoes with the registered fungicides, have been caused almost exclusively by immigrant strains of late blight *Phytophthora infestans*, which are resistant to the control of choice, metalaxyl. Before the immigrant strains of late blight arrived, all of the strains in the U.S. were previously controlled by treatment with metalaxyl. The Applicants state that presently, there are no fungicides registered in the U.S. that will provide adequate control of the immigrant strains of late blight. The Applicants state that both dimethomorph and cymoxanil have been shown to be effective against these strains of late blight. Both of these materials hold current registrations throughout many European countries for control of this disease. The Applicants state that losses in some states have been greater than $10 million per year for the past 3 years, due to these new strains of late blight, and some growers have completely lost their crops and will go out of business. These costs do not include the increased amount of money spent on fungicides in attempts to control this disease. Under appropriate conditions, it is possible that this disease could develop to epidemic proportions, causing major changes and losses to the U.S. potato industry. Although exemption requests have thus far been received from DE, MN, NY, PA and WI, EPA expects to receive requests from other potato growing states as well.

The Applicants propose to apply cymoxanil at a maximum rate of 0.1 lbs. active ingredient [a.i.], (1.25 lb. of product) per acre, by ground or air, with a maximum of 5 applications per season, to a maximum of the following acreages of potatoes: 5,000 (DE), 60,000 (MN), 30,000 (NY), 24,000 (PA), 30,000 (WI). Therefore, use under this exemption could potentially amount to the following maximum amounts of cymoxanil: DE: 2,500 lbs. a.i. (31,250 lbs. product); MN: 30,000 lbs. a.i. (375,000 lbs. product); NY: 15,000 lbs. a.i. (187,500 lbs. product); PA: 12,000 lbs. a.i. (150,000 lbs. product); WI: 15,000 lbs. a.i. (187,500 lbs. product).

The Applicants propose to apply dimethomorph at a maximum rate of 0.18 lbs. a.i. (2.25 lb. of product) per acre, by ground or air, with a maximum of 5 applications per season, to a maximum of the following acreages of potatoes: 5,000 (DE), 60,000 (MN), 30,000 (NY), 24,000 (PA), 30,000 (WI). Therefore, use under this exemption could potentially amount to the following maximum total amounts of dimethomorph: DE: 4,500 lbs. a.i. (56,250 lbs. product); MN: 54,000 lbs. a.i. (675,000 lbs. product); NY: 27,000 lbs. a.i. (337,500 lbs. product); PA: 21,600 lbs. a.i. (270,000 lbs. product); WI: 27,000 lbs. a.i. (337,500 lbs. product). This notice does not constitute a decision by EPA on the applications.

The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

A record has been established for this notice under docket number OPP–180970; FRL 4951–2 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Delaware, Minnesota, and Pennsylvania Departments of Agriculture, the New York Department of Environmental Conservation, and the Wisconsin Department of Agriculture, Trade, and Consumer Protection.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: April 21, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–10618 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

[PF–622; FRL–4941–3]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces initial filings and amendments for a pesticide petition (PP) and for a feed additive petition (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number, [PF-622; FRL-4941-3]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/ telephone number:

VOL 60 ISS 85 MY 3 1995 UMI

Product Manager	Office location/telephone number	Address
George LaRocca (PM 13)	Rm. 204, CM #2, 703–305–6100	1921 Jefferson Davis Hwy., Arlington, VA.
Joanne Miller (PM 23)	Rm. 237, CM #2, 703–305–7830	Do.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition and a feed additive petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

1. *PP 5F4476.* Gowan Co., P.O. Box 5569, Yuma, AZ 85366-5569, has submitted the pesticide petition, PP 5F4476, proposing to amend 40 CFR 180.448 by establishing a regulation to establish tolerances for the combined residues of the acaricide hexythiazox, *trans*-5-(4-chlorophenyl)-*N*-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide and its metabolites containing the (4-chlorophenyl)-4-methyl-2-oxo-3-thiazolidine moiety (expressed as parts per million of the parent compound), in or on the following commodities: pears at 0.30 part per million (ppm) and apples at 0.05 ppm. (PM-13)

2. *FAP 5H5722.* Valent U.S.A. Corp. 1333 N. California Blvd., Suite 600, Walnut Creek, CA 95496, proposes to amend 40 CFR 186.1075 by establishing a feed additive regulation to permit residues of the herbicide clethodim, [(E)-(±)-2-[(1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-2-one] and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexen-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexen-3-one moieties and their sulphoxides and sulphones, expressed as clethodim, in or on sugar beet molasses at 2.0 ppm. (PM–23)

A record has been established for this notice under docket number [PF-622; FRL-4941-3] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests.

Authority: 7 U.S.C. 136a.

Dated: April 24, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–10870; Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34075; FRL 4946–9]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on August 1, 1995.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail:

hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 24 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before August 1, 1995 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product name	Active ingredient	Delete from label
000228–00068	Riverdale Malathion 5	Malathion	Peanut storage areas, bagged flour & packed cereals, stored wheat/oats/corn/rye & barley, apples, pears, melons.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product name	Active ingredient	Delete from label
000228–00244	Riverdale 50% Malathion E.C.	Malathion	Dairy barns.
000432–00041	Brittle Extract of Cube Root	Rotenone	Livestock, ornamentals (Domestic, commercial, institutional).
000432–00046	Roterione Crystalline	Rotenone; Cube Resins	Terrestrial non-crop uses, greenhouse non- crop uses, livestock, household uses, commercial and industrial use.
000432–00525	Powdered Cube Root	Rotenone	Livestock, ornamentals (domestic, commercial, institutional).
000432–00562	1% Rotenone Dust	Rotenone; Cube Resins	Garden & truck crops, asparagus, beans, beets, cabbage, cole crops, cucumbers, squash, melons, eggplant, lettuce, peas, potatoes, radish, spinach, tomatoes, turnips, flowers & shrubs, carnations, chrysanthemum, geranium, nasturtium.
000432–00664	Foliafume Insecticide	Pyrethrins; Rotenone; Cube Resins	Ornamental & flowering plants, vegetables, fruits & berries.
000432–00684	Foliafume Insecticide, Emulsifiable Concentrate 1.1%–0.8%	Pyrethrins; Rotenone; Cube Resins	Ornamental & flowering plants, vegetables, fruits & berries.
000432–00695	UltraTEC Insecticide TE 2.2%–1.6%	Pyrethrins; Rotenone; Cube Resins	Ornamental & flowering plants, indoor residential.
000432–00697	UltraTEC Insecticide TEDC 2.2%–1.6%	Pyrethrins; Rotenone; Cube Resins	Ornamental & flowering plants, indoor residential.
000432–00698	Rotenone/Pyrethrins Transparent Emulsion Spray 0.02%+0.01%	Pyrethrins; Rotenone; Cube Resins	Indoor residential.
000432–00700	UltraTEC Insecticide TEC 2.2%–1.6%	Pyrethrins; Rotenone; Cube Resins	Livestock, ornamentals (domestic, commercial, institutional).
000432–00770	Foliafume XK Insecticide EC 1.1%+0.8%	Pyrethrins; Rotenone	Ornamental & flowering plants, vegetables, fruits, berries, indoor residential.
000802–00544	Lilly/Miller Simazine 4G	Simazine	All non-crop land uses.
004816–00051	Cube Resins	Rotenone; Cube Resins	Terrestrial food crops, terrestrial non-food, greenhouse (vegetables & ornamentals), indoor residential, domestic outdoor (household & ornamental), commercial/industrial, livestock.
004816–00120	BPR Liquid Base Insecticide	Piperonyl Butoxide; Pyrethrins; Rotenone; Cube Resins	Terrestrial food crops, terrestrial non-food, greenhouse (vegetables & ornamentals), indoor residential, domestic outdoor (household & ornamental), commercial/industrial, livestock.
004816–00123	BPR Dust Base	Piperonyl Butoxide; Pyrethrins; Rotenone; Cube Resins	Terrestrial food crops, terrestrial non-food, greenhouse (vegetables & ornamentals), indoor residential, domestic outdoor (household & ornamental), commercial/industrial, livestock.
004816–00166	Rotenone 5% Emulsifiable Insecticide	Rotenone; Cube Resins	Terrestrial food crops, terrestrial non-food, greenhouse (vegetables & ornamentals), indoor residential, domestic outdoor (household & ornamental), commercial/industrial, livestock.
004816–00459	Plant Spray P.R. Concentrate Insecticide	Pyrethrins; Rotenone; Cube Resins	Terrestrial food crops, terrestrial non-food, greenhouse (vegetables & ornamentals), indoor residential, domestic outdoor (household & ornamental), commercial/industrial, livestock.
010370–00036	Ford's Dursban 1/2G Granular Insecticide	Chlorpyrifos	Sugar beets.
010370–00127	Ford's Malathion 25% Wettable Powder	Malathion	Ornamentals, in and around animal quarters, in poultry houses.

VOL 60 ISS 85 MY 3 1995 UMI

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product name	Active ingredient	Delete from label
010370–00147	Ford's 50% Malathion Emulsifiable Concentrate	Malathion	Household indoors, use on animals and in animal quarters, stored grain, livestock, mushroom houses, greenhouses, peanuts (empty storage bins and peanuts going into storage), food processing plants, dairies, stored field and garden seeds, empty bins.
010370–00179	Ford's 6% Malathion Dust for Grain Protection	Malathion	Stored field & garden seed, rice & grain sorghum.
010370–00207	Organic Dip	Pyrethrins; Rotenone; Cube Resins	Ornamental & flowering plants, vegetables, fruit, berries, indoor residential.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000228	Riverdale Chemical Co., 425 West 194th St., Glenwood, IL 60425.
000432	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
000802	The Chas. H. Lilly Co., 7737 NE Killingsworth, Portland, OR 97218.
004816	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
010370	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: April 19, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–10619 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[DA 95–867]

Grant of Applications for 800 MHz SMR, Business, Industrial/Land Transportation and General Category Channels Received Between November 8, 1993 and August 10, 1994

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On March 17, 1994, the Wireless Telecommunications Bureau ("Bureau") released a Public Notice concerning grant of certain applications for 800 MHz SMR, Business, Industrial/Land Transportation and General Category Channels received between November 8, 1993 and August 10, 1994.

This Order modifies such grants to be conditional grants pending the Bureau's disposition of a Petition for Reconsideration filed on April 13, 1995 by the American Mobile Telecommunications Association, Inc., the Industrial Telecommunications Association, Inc., including its Council of Independent Communications Suppliers, and the Personal Communications Industry Association.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: D'wana R. Speight, Legal Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, (202) 418–0620.

SUPPLEMENTARY INFORMATION:

Order Modifying License Grants

Adopted: April 17, 1995.
Released: April 17, 1995.

By the Chief, Wireless Telecommunications Bureau:

1. On March 17, 1995, the Wireless Telecommunications Bureau ("Bureau") released a public notice announcing its completion of its review of approximately 40,000 applications received between November 8, 1993 and August 10, 1994 for channels in the SMR, Business, Industrial/Land Transportation, and General Categories.[1] In the 800 MHz Application Grants Public Notice, the Bureau also granted more than 4,500 of those applications.[2] We have received a Petition for Reconsideration filed on April 13, 1995 by the American Mobile Telecommunications Association, Inc., the Industrial Telecommunications Association, Inc., including its Council of Independent Communications Suppliers, and the Personal Communications Industry Association (collectively, the "Coalition") requesting reconsideration of the license grants made in the 800 MHz Application Grants Public Notice. The Coalition submits that "the public interest would be greatly served, and Bureau resources conserved, by making slight modifications to the Coalition software used to assist the Bureau to process backlogged 800 MHz applications, reprocessing the applications, and issuing a revised list of granted licenses."[3] Section 1.113 of the Commission's rules provides, in pertinent part, that "[w]ithin 30 days after public notice has been given of any action taken pursuant to delegated authority, the person, panel, or board taking the action may modify or set it aside on its own motion."[4]

2. Given the significant number of authorizations affected by the 800 MHz Application Grants Public Notice and the Number of licensees that could be potentially affected if the Commission acted favorably upon the Coalition's request, we conclude that the public interest would be served by modifying such license grants to be conditional grants pending the Bureau's disposition of the Coalition's Petition.

3. Accordingly, It Is Hereby Ordered, pursuant to Section 1.113 of the Commission's Rules, 47 CFR 1.113(a), that the license grants made in the 800 MHz Application Grants Public Notice issued by the Bureau on March 17, 1995 Are Modified as described herein.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 95–10795 Filed 5–2–95; 8:45 am]

BILLING CODE 6712–01–M

[1] Wireless Telecommunications Bureau Processes Over 40,000 and Grants More than 4500 Applications for 800 MHz SMR, Business, Industrial/Land Transportation and General Category Channels Received Between March 17, 1995 ("800 MHz Application Grants Public Notice").

[2] *Id.*

[3] Coalition Petition at 1.

[4] 47 CFR 1.113(a).

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1047–DR]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1047–DR), dated April 21, 1995, and related determinations.

EFFECTIVE DATE: April 21, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Cambell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 21, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Alabama, resulting from severe storms, tornadoes, and flooding on February 15, 1995 through and including February 20, 1995, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Edward A. Thomas of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alabama to have affected adversely by this declared major disaster:

Cullman, DeKalb, Marion, Marshall, and Winston Counties for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–10858 Filed 5–2–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1048–DR]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–1048–DR), dated April 26, 1995, and related determinations.

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 26, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). I, therefore, declare that such a major disaster exists in Oklahoma County in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated area. Public Assistance may be added at a later date, if requested and warranted.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Dell Greer of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Oklahoma to have been affected aversely by this declared major disaster:

Oklahoma County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 95–10857 Filed 5–2–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Request for Additional Information

Agreement No.: 203–011492.

Title: TWRA/8900 Discussion Agreement.

Parties:

American President Lines, Ltd.
Transpacific Westbound Rate

VOL
60
ISS
85
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Agreement
Cho Yang Shipping Co., Ltd.
Croatia Line
Hapag Lloyd AG
Nedlloyd Lijnen B.V.
The "8900" Lines Agreement
A.P. Moller-Maersk Line
DSR-Senator Lines
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
P&O Containers, Ltd.
United Arab Shipping Company (S.A.G.)
Neptune Orient Lines, Ltd.
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
The National Shipping Company of Saudi Arabia

Synopsis: Notice is hereby given that the Federal Maritime Commission pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C. app. 1701–1720) has requested additional information from the parties to the Agreement in order to complete the statutory review of Agreement No. 203–011492 as required by the Act. This action extends the review period as provided in section 6(c) of the Act.

By Order of this Federal Maritime Commission.

Dated: April 28, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–70843 Filed 5–2–95; 8:45 am]

BILLING CODE 6730–01–M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011493–001.

Title: Cool Carriers AB/Dammers Chartering NV Discussion Agreement.

Parties:

Cool Carriers AB
Dammers Chartering NV

Synopsis: The proposed modification amends the Agreement to provide for sailing authority, the formation and use of a common agent and related matters. It also changes the name of Dammers Chartering N.V. to Seatrade Group N.V. In addition, it changes the name of the Agreement to Cool Carriers AB/Seatrade Group N.V. Discussion and Sailing Agreement. The parties have requested a shortened review period.

Agreement No.: 203–011497.

Title: Unigreen Marine, S.A./Flota Mercamte Grancolombiana Space Charter and Sailing Agreement.

Parties:

Unigreen Marine S.A.
Flota Mercante Grancolombiana S.A.

Synopsis: The proposed Agreement authorizes the parties to discuss and agree upon rates, rate policies, service items, terms and condition of service contracts or tariffs maintained by any party or by any conference to which any party may be a member. Adherence to any agreement reach is voluntary. In addition, the parties may consult and agree upon the deployment and utilization of vessels, charter space from one another, and rationalize sailings in the trade between ports in Puerto Rico, on the one hand, and ports in Colombia, Curacao, Venezuela, Dominican Republic, Jamaica, Panama and Aruba, on the other hand, with transshipment between ports in the Far East and Puerto Rico. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: April 27, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10844 Filed 5–2–95; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Hapag-Lloyd (America) Inc., Hapag-Lloyd Kreuzfahrten GmbH and KG MS "Europa" der Breschag Bremer Schiffsvercharterungs AG & Co. KG, Gustav-Deetjen-Allee 2–6, Bremen D–28215, Germany.

Vessel: Europa.

Dated: April 27, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10792 Filed 5–2–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

City Holding Company, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 26, 1995.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. City Holding Company, Charleston, West Virginia; to merge with First Merchants Bancorp, Inc., Montgomery, West Virginia, and thereby indirectly acquire The Merchants National Bank of Montgomery, Montgomery, West Virginia.

2. First Bancorporation, Inc., Beaufort, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of FirstBank, N.A., Beaufort, South Carolina, formerly known as The Savings Bank of Beaufort County, FSB.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Farmers & Merchants Bank Employee Stock Ownership Plan, Forest, Mississippi; to become a bank holding company by acquiring 27.30 percent of the voting shares of Community Bancshares of Mississippi, Inc., Forest, Mississippi, and thereby indirectly acquire Farmers & Merchants Bank, Forest, Mississippi.

Board of Governors of the Federal Reserve System, April 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10845 Filed 5-2-95; 8:45 am]

BILLING CODE 6210-01-F

Dalrymple Family Limited Partnership, L.P.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-10228) published on page 20494 of the issue for Wednesday, April 26, 1995.

Under the Federal Reserve Bank of Atlanta heading, the entry for Dalrymple Family Limited Partnership, L.P., is revised to read as follows:

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Dalrymple Family Limited Partnership, L.P. and 2105 South Broadway Associates, L.P., both of Elmira, New York; each to acquire 4.92 percent of the voting shares of Chemung Financial Corporation, Elmira, New York, and thereby indirectly acquire Chemung Canal Trust Company, Elmira, New York.

Comments on this application must be received by May 10, 1995.

Board of Governors of the Federal Reserve System, April 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10846 Filed 5-2-95; 8:45 am]

BILLING CODE 6210-01-F

Moundville Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Moundville Bancshares, Inc., Moundville, Alabama, to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Moundville, Moundville, Alabama.

In connection with this application, Applicant also has applied to engage *de novo* in credit insurance activities, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted throughout the state of Alabama.

Board of Governors of the Federal Reserve System, April 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10848 Filed 5-2-95; 8:45 am]

BILLING CODE 6210-01-F

John Daniel Moran, Sr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 17, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. John Daniel Sr., and Maureen F. Moran, Shavertown, Pennsylvania; to acquire an additional 20.7 percent of the voting shares, for a total of 45.4 percent, of the voting shares of Guaranty Bancshares Corporation, Shamokin, Pennsylvania, and thereby indirectly acquire Guaranty Bank, N.A., Shamokin, Pennsylvania.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Salvardor Bonilla-Mathe, Miami, Florida; to acquire an additional 1.6 percent, for a total of 25.4 percent, of the voting shares of Gulf Bank, Miami, Florida.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Jon Black, Crowell, Texas; to acquire an additional .86 percent, for a total of 25.75 percent, of the voting shares of Crowell Bancshares, Crowell, Texas, and thereby indirectly acquire Crowell State Bank, Crowell, Texas.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Peter Huizinga Testamentary Trust, Oak Brook, Illinois, to acquire an additional 4.6 percent, for a total of 14.5 percent; and Robert A. Schoellhorn Revocable Trust, Highland Park, Illinois, to acquire an additional 4 percent, for a

VOL 60 ISS 85 MY 3 1995 UMI

total of 13.9 percent, of the voting shares of Monarch Bancorp, Laguna Niguel, California, and thereby indirectly acquire Monarch Bank, Laguna Niguel, California.

Board of Governors of the Federal Reserve System, April 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-10847 Filed 5-2-95; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 041095 AND 042195

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
H.D. Smith Wholesale drug Co., Equus Equity Appreciation Fund, L.P., Texas Drug WholeSale Drug Co	95-1351	04/10/95
Oerlikon-Buhrle Holding AG, N.C. Industries, Inc., N.C. Industries, Inc	95-1237	04/11/95
Northwestern Healthcare Network, Covenant Church Healthcare Chicago, Covenant Church Healthcare Chicago	95-1365	04/11/95
USI Investors LP, US Industries Inc., US Industries Inc	95-1342	04/12/95
Willamette Industries, Inc., The Mead Corporation, The Mead Corporation	95-1294	04/14/95
Cookson Group plc, MPM Enterprises, Inc., MPM Enterprises, Inc	95-1363	04/14/95
Mr. Keith Rupert Murdoch, Warburg, Pincus Capital Company, L.P., Renaissance Communications Corp	95-1364	04/14/95
Warburg, Pincus Capital Company, L.P., Mr. Keith Rupert Murdoch, Fox Television Stations, Inc	95-1369	04/14/95
W.R. Grace & Co., MEDIQ Incorporated, MEDIQ Imaging Services, Inc	95-1379	04/14/95
Robert L. Green, Kolbenschmidt, AG (A German company), KSG Industries, Inc	95-1380	04/14/95
James and Virginia Stowers, James M. Benham and Maribeth Benham, Benham Management International, Inc	95-1384	04/14/95
James and Maribeth Benham, James and Virginia Stowers, Twentieth century Companies, Inc	95-1385	04/14/95
The President and Fellows of Harvard College, Playtex Products, Inc., Playtex Products, Inc	95-1386	04/14/95
Thomas H. Lee Equity Partners, L.P., PanAm Wireless, Inc., PanAm Wireless, Inc	95-1387	04/14/95
AmeriData Technologies, Inc., Debera Wexler and Victor Grinshtein (Wife & Husband), MicroComputer Power, Inc	95-1392	04/14/95
Emerson Electric Co., Intellution, Inc., Intellution, Inc	95-1395	04/14/95
New Valley Corporation, Ladenburg, Thalmann & Co., Inc., Ladenburg, Thalmann & Co., Inc	95-1397	04/14/95
TriFoods International, Inc., Jean-Noel Bongrain, Lloyds Foods Products, Inc	95-1400	04/14/95
The Interpublic Group of Companies, Inc., Cordiant plc (a British company), Campbell-Mithun-Esty, Inc	95-1401	04/14/95
Acclaim Entertainment, Inc., Lazer-Tron Corporation, Lazer-Tron Corporation	95-1403	04/14/95
Fleet Financial Group, Inc., Household International, Inc., Household Assets	95-1406	04/14/95
General Electric Company, Wachovia Corporation, Wachovia Mortgage Company	95-1407	04/14/95
Dean Foods Company, Flowers Industries, Inc., Rio grande Foods, Inc	95-1410	04/14/95
Thermo Electron Corporation, Japan Energy Corporation, Gould Instruments Systems, Inc	95-1412	04/14/95
Windwood Limited, United Texon PLC, United Texon PLC	95-1413	04/14/95
Georg von Holtzbrinck GmbH & Co., Macmillan Limited, Macmillan Limited	95-1416	04/14/95
The RTZ Corporation PLC, Freeport-McMoRan Inc., Freeport-McMoRan Copper & Gold Inc	95-1417	04/14/95
Equus Equity Appreciation Fund, L.P., Brunswick Corporation, Brunswick Technical Group	95-1419	04/14/95
Unilab Corporaton, WestSphere Equity Holdings II, Ltd., MLN Holding Acquisition Co	95-1394	04/17/95
The Hearst Corporation, Consolidated Newspaper, Inc. Voting Trust, The Houston Post Company	95-1247	04/18/95
MMI Companies, Inc., American Hospital Association, Health Providers Insurance company	95-1296	04/18/95
Dover Corporation, AT&T Corp., AT&T Frequency Control Products business	95-1389	04/18/95
David R. Belding, Circus Circus Enterprises, Inc., Circus Circus Enterprises, Inc	95-1423	04/18/95
Circus Circus Enterprises, Inc., Peter A. Simon II, Diamond Gold, Inc	95-1424	04/18/95
Peter A. Simon II, Circus Circus Enterprises, Inc., Circus Circus Enterprises, Inc	95-1425	04/18/95
Circus Circus Enterprises, Inc., William A. Richardson, Last Chance Investments, Incorporated	95-1426	04/18/95
William A. Richardson, Circus Circus Enterprises, Inc., Circus Circus Enterprises, Inc	95-1427	04/18/95
Circus Circus Enterprises, Inc., Michael s. Ensign, M.S.E. Investments, Incorporated	95-1428	04/18/95
Michael S. Ensign, Circus Circus Enterprises, Inc., Circus Circus Enterprises, Inc	95-1429	04/18/95
Alcan Aluminium Limited, Halco (Mining) Inc., Halco (Mining) Inc	95-1430	04/18/95
Charles A. McFadden, Citicorp, WKEF-TV	95-1307	04/19/95
Boral Limited, Bickerstaff Clay Products Company, Inc., Bickerstaff Clay Products Company, Inc	95-1405	04/19/95
W. Don Cornell, Lawrence A. Busse, WMMT, Inc	95-1408	04/19/95
Westinghouse Electric Corporation, Daniel R. Lee, Diamond Broadcasting, Inc	95-1409	04/19/95
Columbia/HCA Healthcare Corporation, Healthtrust, Inc.—The Hospital Company, Healthtrust, Inc.—The Hospital Company	95-0184	04/21/95
Arch Communications Group, Inc., USA Mobile Communications Holdings, Inc., USA Mobile Communications Holdings, Inc	95-1329	04/21/95

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 041095 AND 042195—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Arch Communications Group, Inc., USA Mobile Communications Holdings, Inc., USA Mobile Communications Holdings, Inc.	95-1420	04/21/95
Citizens, Inc., American Liberty Financial Corporation, American Liberty Financial Corporation	95-1433	04/21/95
Living Centers of America, Inc., Mr. Donald C. Beaver, see attached list	95-1435	04/21/95
Mr. Donald C. Beaver, Living Centers of American, Inc. Living Centers of America, Inc.	95-1436	04/21/95
Akzo Nobel nv, BASF Aktiengesellschaft ("BASF AG"), BASF Corporation	95-1437	04/21/95
The Dow Chemical Company, Oasis Pipe Line Company, Oasis Pipe Line Company	95-1440	04/21/95
Egyptian General Petroleum Corporation, Mosvold Shipping AS, Seadrill 97, Inc.	95-1441	04/21/95
Coastal Healthcare Group, Inc., Mid-South Insurance Company, Mid-South Insurance Company	95-1442	04/21/95
Oxford Health Plans, Inc., OakTree Health Plan, Inc., OakTree Health Plan, Inc.	95-1443	04/21/95
Tiger (a limited partnership), XTRA Corporation, XTRA Corporation	95-1444	04/21/95
Panther Partners L.P., XTRA Corporation, XTRA Corporation	95-1445	04/21/95
Puma (a limited partnership), EXTRA Corporation, XTRA Corporation	95-1446	04/21/95
USA Mobile Communications Holdings, Inc., Arch Communications Group, Inc.; Arch Communications Group, Inc.	95-1447	04/21/95
ABC Rail Products Corporation, General Electric Corp., GE Railcar Wheel	95-1448	04/21/95
AMP Incorporated, M/A-Com, Inc., M/A-Com, Inc.	95-1449	04/21/95
The Jaguar Fund N.V., XTRA Corporation, XTRA Corporation	95-1450	04/21/95
Union Pacific Corporation, Robert M. Edsel, Gemini Exploration Company	95-1451	04/21/95
International Reality Investors, L.L.C., Bramalea Inc., Colonial Park Mall	95-1454	04/21/95
RIT Capital Partners PLC, Mr. David Elias, H-G Holdings, Inc.	95-1456	04/21/95
The Coastal Corporation, Cohyco, Inc., Maverick Markets, Inc.	95-1457	04/21/95
Golder, Thoma, Cressey, Rauner Fund IV, L.P., Kwik-Wash Laundries, Inc., Ford Coin Laundries, Inc.	95-1458	04/21/95
Kelso Investment Associates V, L.P., Peebles Inc., Peebles Inc.	95-1459	04/21/95
Converse Inc., Apex One, Inc., Apex One, Inc.	95-1461	04/21/95
Code, Hennessy & Simmons II, L.P., Home-Crest Corporation, Home-Crest Corporation	95-1462	04/21/95
Elcat, Inc., Chattem, Inc., Chattem Chemicals Divsion	95-1465	04/21/95
Roland O. Perelman, Stephen J. Cannell, Cannell Entertainment, Inc.	95-1470	04/21/95
Clal (Israel) Ltd., Pharmaceutical Resources, Inc., Pharmaceutical Resources, Inc.	95-1471	04/21/95

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580 (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95-10885 Filed 5-2-95; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N-0106]

Drug Export; VAQTA™ Hepatitis A Vaccine, Purified Inactivated

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Merck & Co., Inc., has filed an application requesting approval for the export of the final bulk human biological product VAQTA™ Hepatitis A Vaccine, Purified Inactivated to the Federal Republic of Germany and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Cathy Conn, Center for Biologics Evaluation and Research (HFM-610), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-594-1070.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Merck & Co., Inc., P.O. Box 4, West Point, PA 19486, has filed an application requesting approval for the export of the final bulk human biological product VAQTA™ Hepatitis A Vaccine, Purified Inactivated, to the United Kingdom for filling into syringes and export to the Federal Republic of Germany and the United Kingdom. The VAQTA™ Hepatitis A Vaccine, Purified Inactivated, is a highly purified inactivated whole virus vaccine derived from hepatitis A virus grown in cell culture in human fibroblasts. The application was received and filed in the Center for Biologics Evaluation and Research on February 13, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets

VOL
60
ISS
85
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3
1995
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Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by May 15, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: April 12, 1995.

James C. Simmons,

Acting Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 95–10898 Filed 5–2–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[HSQ–227–N]

Medicare Program; Peer Review Organization Contracts: Solicitation of Statements of Interest From In-State Organizations—Alaska, Delaware, the District of Columbia, Idaho, Kentucky, Maine, Nebraska, Nevada, South Carolina, Vermont, and Wyoming

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice.

SUMMARY: This notice, in accordance with section 1153(i) of the Social Security Act, announces the scheduled expiration dates of the current contracts between HCFA and several out-of-State Utilization and Quality Control Peer Review Organizations. It also specifies the period of time in which in-State organizations may submit a statement of interest so that they may be eligible to compete for these contracts. The States currently affected and their respective expiration dates are as follows:

Delaware	March 31, 1996.
Nevada	March 31, 1996.
Wyoming	March 31, 1996.
Alaska	June 30, 1996.
District of Columbia	June 30, 1996.
Idaho	June 30, 1996.
Maine	June 30, 1996.
Vermont	June 30, 1996.
Nebraska	September 30, 1996.
Kentucky	September 30, 1996.
South Carolina	September 30, 1996.

DATES: Written statements of interest must be received at the address specified no later than 5 p.m. EST, June 2, 1995. Due to staffing and resource limitations, we cannot accept statements submitted by facsimile (FAX) transmission.

ADDRESSES: Statements of interest must be submitted to—Health Care Financing Administration, OFHR, OAG, Attn.: Brian Hebbel, Room G–M–1, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Kathleen Kelso, (410) 966–7214.

SUPPLEMENTARY INFORMATION:

I. Background

The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), Pub. L. 97–248) amended Part B of Title XI of the Social Security Act (the Act) by establishing the Utilization and Quality Control Peer Review Organization (PRO) program. Congress created the PRO program in order to redirect, simplify, and enhance the cost-effectiveness and efficiency of the peer review process.

PROs currently review certain health care services furnished under Title XVIII of the Act (Medicare) and under certain other Federal programs to determine whether those services are reasonable, medically necessary, furnished in the appropriate setting, and are of a quality that meets professionally recognized standards. PRO activities are a part of the Health Care Quality Improvement Program (HCQIP) that supports HCFA's mission of assuring health care security for its eligible beneficiaries. The HCQIP is carried out locally by the PRO in each State. Under the HCQIP, PROs provide information for health care plans, providers, and practitioners to improve the quality of care furnished to Medicare beneficiaries.

In June 1984, HCFA began awarding contracts to PROs. We currently maintain 53 PRO contracts with organizations that provide medical review activities for 49 of the United States, the District of Columbia, Puerto Rico, and the Virgin Islands. The organizations that are eligible to contract as PROs have satisfactorily demonstrated that they are either physician-sponsored or physician-access organizations in accordance with sections 1152 and 1153 of the Act and our regulations at 42 CFR 462.102 and 462.103. A physician-sponsored organization is one that is both composed of a substantial number of the licensed doctors of medicine or osteopathy practicing medicine or surgery in the respective review area and is representative of the physicians practicing in the review area. A physician-access organization is one that has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy practicing medicine or surgery in the review area to assure adequate peer review of the services furnished by the various medical specialties and subspecialties. In addition, the organization must not be a health care facility, health care facility association, or a health care facility affiliate, and must have a consumer representative on its governing board.

The Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203) amended section 1153 of the Act by adding a new subsection (i) that prohibits the Secretary from renewing the contract of any PRO that is not an in-State organization without first publishing in the **Federal Register** a notice announcing when the contract will expire. This notice must be published no later than 6 months before the date of expiration, and must specify the period of time during which an in-State organization may submit a proposal for the contract. If one or more qualified in-State organizations submits a proposal within the specified period of time, HCFA may not automatically renew the contract on a noncompetitive basis but must instead provide for competition for the contract in the same manner used for a new contract. An in-State organization is defined as an organization that has its primary place of business in the State in which review will be conducted or that is owned by a parent corporation, the headquarters of which is located in that State.

There are currently 11 PRO contracts with entities that do not meet the statutory definition of an in-State organization. The areas affected for purposes of this notice are Alaska, Delaware, the District of Columbia, Idaho, Kentucky, Maine, Nebraska, Nevada, South Carolina, Vermont, and Wyoming.

II. Provisions of the Notice

This notice announces the scheduled expiration dates of the current contracts between HCFA and the out-of-State PROs responsible for review in Alaska, Delaware, the District of Columbia, Idaho, Kentucky, Maine, Nebraska, Nevada, South Carolina, Vermont, and Wyoming. Interested in-State organizations may submit statements of interest to be the PRO for the aforementioned States. The statements must be received by HCFA no later than June 2, 1995. In its statement of interest, the organization must furnish materials that demonstrate that it meets the definition of an in-State organization. Specifically, the organization must have its primary place of business in the State in which review will be conducted or be owned by a parent corporation, the headquarters of which is located in that State. In its statement, each interested organization must further demonstrate that it meets the following requirements:

A. Be Either a Physician-Sponsored or a Physician-Access Organization

1. Physician-Sponsored Organization

i. The organization must be composed of a substantial number of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area, and be representative of the physicians practicing in the review area.

ii. The organization must not be a health care facility, health care facility association, or health care facility affiliate.

iii. In order to meet the substantial number requirement of A.1.i., an organization must be composed of at least 10 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area. In order to meet the representation requirement of A.1.i., an organization must state and have documentation in its files demonstrating that it is composed of at least 20 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area; or, if the organization does not demonstrate that it is composed of at least 20 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area, then the organization must demonstrate in its statement of interest, through letters of support from physicians or physician organizations, or through other means, that it is representative of the area physicians.

2. Physician-Access Organization

i. The organization must have available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy practicing medicine or surgery in the review area to assure adequate peer review of the services provided by the various medical specialties and subspecialties.

ii. The organization must not be a health care facility, health care facility association, or health care facility affiliate.

iii. An organization meets the requirements of A.2.i. if it demonstrates that it has available to it at least one physician in every generally recognized specialty; and has an arrangement or arrangements with physicians under which the physicians would conduct review for the organization.

B. Have at Least One Individual Who Is a Representative of Consumers on Its Governing Board

If one or more organizations meet the above requirements in a PRO area, and submit statements of interest in accordance with this notice, HCFA will consider those organizations to be potential sources for the aforementioned contracts upon their expiration. These organizations will be entitled to participate in a full and open competition for the PRO contract to provide medical review services.

III. Information Collection Requirements

This notice contains information collection requirements that have been approved and assigned Control Number OMB 0938–0526 by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This approval expires on October 31, 1997.

IV. Other

In accordance with the provisions of Executive Order 12866, this regulation was not reviewed by the Office of Management and Budget.

Authority: Section 1153 of the Social Security Act (42 U.S.C. 1320c–2).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: March 23, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–10793 Filed 5–2–95; 8:45 am]

BILLING CODE 4120–01–P

Substance Abuse and Mental Health Services Administration (SAMHSA)

Correction of Meeting Notices

Public notice was given in the **Federal Register** on April 18, 1995, Vol. 60, No. 74, page 19405, that the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council meeting on May 15, 1995, would be open from 9:00 a.m. to 3:00 p.m. and closed for review of contract proposals from 3:15 p.m. to 6:00 p.m. Due to unforeseen circumstances, the meeting schedule has been revised. The closed session is now scheduled from 9:00 a.m. to 10:30 a.m., and the open session will be from 10:45 a.m. until adjournment. In addition, a status report from the Council's AIDS workgroup will not be presented at this meeting.

Public notice was also given in the **Federal Register** on April 19, 1995, Vol. 60, No. 75, page 19602, that the Center for Substance Abuse Prevention (CSAP) National Advisory Council would be meeting on May 25 and 26, 1995. However, the meeting will now be held for only one day, May 25.

Dated: April 27, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–10899 Filed 5–2–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Thirty-fifth Meeting of the Standing Committee; Meeting of the Animals Committee; Meeting of the Plants Committee; Public Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: With this notice the U.S. Fish and Wildlife Service (Service) announces a public meeting to discuss the results of the thirty-fifth meeting of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Standing Committee, held March 21–24, 1995, in Geneva, Switzerland, and to discuss matters related to the upcoming meetings of the CITES Animals and Plants Committees.

DATES: The public meeting will be held on June 13, 1995, from 1:30 p.m. to 3:30 p.m.

ADDRESSES: The public meeting will be held in Room 7000 A and B of the Department of the Interior, 18th and C Streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Stansell or Susan S. Lieberman, Office of Management Authority, 4401 N. Fairfax Drive, Room 420–C, Arlington, VA 22203; telephone 703/358–2093.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild

VOL
60
ISS
85
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3
1995
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Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to control international trade in certain animal and plant species which are or may become threatened with extinction, and are listed in Appendices to the Convention. Currently, 128 countries, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties which review its implementation, make provisions enabling the CITES Secretariat in Switzerland to carry out its functions, consider amending the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of the Convention.

The Standing Committee, Animals Committee, and Plants Committee were established by the Conference of the Parties. The functions of the Standing Committee are to provide guidance and advice to the Secretariat on the implementation of CITES, on the preparation of meetings, and on other matters brought to it by the Secretariat; to oversee, on behalf of the Parties, the development and execution of the Secretariat's budget and also all aspects of fund raising undertaken by the Secretariat in order to carry out specific functions authorized by the Conference of the Parties; to provide coordination and advice as required to other Committees; to provide direction and coordination of working groups established by either itself or the Conference of the Parties; to carry out, between one meeting of the Conference of the Parties and the next, any necessary interim activities on behalf of the Conference as may be necessary; to draft resolutions for consideration by the Conference of the Parties; to report to the Conference of the Parties on the activities it has carried out between meetings of the Conference; to act as the Bureau at meetings of the Conference of the Parties until the Rules of Procedure are adopted; and to perform any other functions entrusted to it by the Conference of the Parties. The functions of the Animals Committee are to assist the Nomenclature Committee in the development and maintenance of a standardized list of animal names; to assist the Identification Manual Committee in the preparation of an identification manual on animal species; to establish a list of those animal taxa included in CITES Appendix II which are considered to be significantly affected by trade, and review and assess biological and trade information on these taxa to exclude species concluded not to be detrimentally affected by trade, formulate recommendations for remedial measures for species for which trade is believed to be having a detrimental effect, and to establish priorities for projects to collect information on species for which there is insufficient information available to judge whether the level of trade is detrimental; to assess information on those animal species for which there is evidence of a change in the volume of trade or for which information is available to indicate the necessity for review; to undertake a periodic review of animal species included in the CITES Appendices; to provide advice on management techniques and procedures available on request to range States; to draft resolutions on animal matters for consideration by the Conference of the Parties; to deal with the matter of transport of live animals; to perform any other functions entrusted to it by the Conference of the Parties or the Standing Committee; and to report to the Conference of the Parties and, if so requested, to the Standing Committee, on the activities it has carried out between meetings of the Conference. The functions of the Plants Committee are to provide guidance and advice to the Conference of the Parties, and other Committees, working groups, and the Secretariat, on all aspects relevant to international trade in plant species included in the CITES Appendices; to assist the Nomenclature Committee in the development and maintenance of a standardized list of plant names; to assist the Identification Manual Committee in the preparation of an identification manual on plant species; to assist and advise Parties in the preparation of publicity material for plants included in the CITES Appendices; to establish a list of those plant taxa included in CITES Appendix II which are considered to be significantly affected by trade, and review and assess biological and trade information on these taxa to exclude species concluded not to be detrimentally affected by trade, formulate recommendations for remedial measures for species for which trade is believed to be having a detrimental effect, and to establish priorities for projects to collect information on species for which there is insufficient information available to judge whether the level of trade is detrimental; to assess information on those plant species for which there is evidence of a change in the volume of trade or for which information is available to indicate the necessity for review; to undertake a periodic review of plant species included in the CITES Appendices; to make advice on management techniques and procedures available on request to range States; to draft resolutions on plant matters for consideration by the Conference of the Parties; to serve as a plants working group, if so requested by the Conference of the Parties; to perform any other functions entrusted to it by the Conference of the Parties or the Standing Committee; and to report to the Conference of the Parties and, if so requested, to the Standing Committee, on the activities it has carried out between meetings of the Conference.

Agenda of the Thirty-fifth Meeting of the Standing Committee

The agenda for the thirty-fifth meeting of the Standing Committee, held March 21–24, 1995, is listed below. The results of each agenda item will be discussed at the public meeting on June 13, 1995:

Agenda

1. Opening remarks by the Chairman and CITES Secretary General
2. Adoption of the Agenda
3. Revision of Rules of Procedure
4. Tasks for the CITES Standing Committee given by the ninth regular meeting of the Conference of the Parties (COP9) and tentative timetable for the next Standing Committee meetings and for the discussions on modalities of representation of the regions in the Standing Committee
5. Review "How to improve the effectiveness of the Convention"
6. Working Group on Timber
7. Recommendations of the Animals Committee in relation to species subject to significant trade
   (a) Primary recommendations—follow-up of the relevant decisions of Standing Committee 32
   (b) Secondary recommendations subject to a deadline of 31 January 1995
8. Follow-up of Resolution Conf. 9.13. Tiger trade issues in range and consumer States
9. African elephant and related issues (e.g. Panel of Experts and ivory stockpiles)
10. Enforcement issues
11. National legislation for the implementation of CITES
12. Information on the status of the budget and on staffing issues including the position of the Deputy Secretary-Generalship
13. Late submission of annual reports by Parties
14. Consideration of new project proposals
15. Any other business
16. Closing remarks

Animals and Plants Committee Meetings

The next meeting of the CITES Animals Committee is tentatively scheduled to be held September 11–15, 1995, in Guatemala. An agenda for the meeting has not yet been established. Any documents to be submitted for inclusion in the agenda of the meeting must be submitted to the Chairman of the Animals Committee no later than one month prior to the start of the meeting. Matters related to the upcoming meeting of the Animals Committee will be discussed at the public meeting June 13, 1995.

The next meeting of the CITES Plants Committee is scheduled to be held June 19–23, 1995, in the Canary Islands. Matters related to the upcoming meeting of the Plants Committee will be discussed at the public meeting June 13, 1995.

Author: This notice was prepared by Mark R. Albert, Office of Management Authority, U.S. Fish and Wildlife Service (703/358–2095; FAX 703/358–2280).

Dated: April 27, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–10916 Filed 5–2–95; 8:45 am]

BILLING CODE 4310–55–P

National Park Service

Grand Canyon National Park; Colorado River Running Services

SUMMARY: The National Park Service is now ready to issue a concession prospectus to operate river running services for park visitors on the Colorado River within Grand Canyon National Park. Existing contracts are expiring. Sixteen separate contracts are to be awarded.

SUPPLEMENTARY INFORMATION: It is expected that within thirty (30) days the National Park Service will issue a Prospectus describing the terms and conditions that will apply to applicants for the above contracts. Parties interested in making such applications should contact Ms. Teresa Jackson, Division of the Concession Program Management, Western Regional Office, (415) 744–3981 (fax telephone number (414) 744–3951) to place themselves on the mailing list for the Prospectus.

Dated: March 29, 1995.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 95–10837 Filed 5–2–95; 8:45 am]

BILLING CODE 4310–70–M

Saint-Gaudens National Historic Site, Cornish, New Hampshire; Draft General Management Plan/ Environmental Impact Statement; Notice of Availability, Public Comment Period, and Public Meetings

In accordance with the National Environmental Policy Act (P.L. 91–190) the National Park Service (NPS), U.S. Department of the Interior, announces that the Saint-Gaudens National Historic Site Draft General Management Plan/ Environmental Impact Statement will be available for public review and comment from May 12 to July 7, 1995.

The draft document presents four alternatives for site management and addressing planning issues, including resource preservation and provision of visitor services. Following the review period and consideration of comments received, the National Park Service will prepare and make available the final GMP/EIS, which will guide the management of the site for twenty years.

During the sixty-day review period, interested persons may review the document and make written comments to the Superintendent, Saint-Gaudens National Historic Site, RR#3 Box 73 Cornish, NH 03745.

The NPS will distribute a complete version of the draft for public and agency review. The plan will be available at local libraries as well. Inquiries and requests for copies of the complete draft should be directed to Saint-Gaudens NHS at (603) 675–2175.

The NPS will hold public meetings during the sixty-day period on Tuesday, June 6, from 3:00 to 8:00 pm and on Wednesday, June 7 from 3:00 to 5:00 pm at the Little Studio, Saint-Gaudens NHS, Cornish, NH.

Robert McIntosh,

Acting Regional Director.

[FR Doc. 95–10838 Filed 5–2–95; 8:45 am]

BILLING CODE 4310–70–P

Subsistence Resource Commission Meeting

SUMMARY: The Superintendent of Lake Clark National Park and the Chairperson of the Subsistence Resource Commission for Lake Clark National Park announce a forthcoming meeting of the Lake Clark National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Chairman's welcome.
(2) Introduction of Commission members and guests.
(3) Review agenda.
(4) Approval of minutes of last meeting.
(5) Superintendent's welcome:
   —Park subsistence resource update.
(6) Old business:
   —Update of roster regulation.
(7) New business:
   a. Election of Chairperson.
   b. Status of Commission appointments.
(8) Agency comments and public comments.
(9) Hunting plan recommendation work session.
(10) Determine time and date of next meeting.
(11) Adjourn.

DATES: The meeting will be held on Monday, May 22, 1995. The meeting will begin at 10:00 a.m. and conclude around 5 p.m.

LOCATION: The meeting will be held at the City Hall in Nondalton, Alaska.

FOR FURTHER INFORMATION CONTACT: Ralph Tingey, Superintendent, Lake Clark National Park, 4230 University Dr., #311, Anchorage, AK 99508. Phone (907) 271–3751.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Ralph Tingey,

Acting Regional Director.

[FR Doc. 95–10839 Filed 5–2–95; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Reclamation

Interim Concessions Management Policy Statement and Corresponding Concessions Management Guidelines

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation (Reclamation) has issued an interim concessions management policy statement and corresponding concessions management guidelines (policy and guidelines). The policy and guidelines are the first comprehensive instructions to be developed by Reclamation. This policy and guidelines will provide for a Reclamation-wide consistent approach to managing concessions while protecting the public interests.

DATES: Comments on the policy and guidelines must be submitted to Reclamation on or before July 3, 1995.

FOR FURTHER INFORMATION CONTACT: To request a copy of the policy and guidelines contact Bruce Glenn, Bureau

VOL
60
ISS
85
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1995
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of Reclamation, P.O. Box 25007, Denver, Colorado, 80225, Telephone: 303–236–3289, extension 314. Submit written comments to Mr. Glenn at the above address.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation will use this interim policy and guidelines for managing concessions until the Department of the Interior (Interior) issues further administrative guidance or Congress provides legislative requirements. This policy implements the recommendations of Interior's Interagency Concession Reform Task Force. It also includes recommendations from the Report of the Concessions Management Task Force Regarding Commercial Recreational Activities of Federal Land.

Dated: April 26, 1995.

Wayne O. Deason,

Assistant Director, Policy Analysis.

[FR Doc. 95–10832 Filed 5–2–95; 8:45 am]

BILLING CODE 4310–94–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The U.S. Agency for International Development (USAID) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction act of 1980, (44 U.S.C. Chapter 35). Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Records Management Officer, Renee Poehls, (202) 736–4743, M/AS/ISS Room 930B, N.S., Washington, D.C. 20523.

Date Submitted: April 11, 1995

Submitting Agency: U.S. Agency for International Development

OMB Number: OMB 0412–0520

Form Number: AID 1470–17

Type of Submission: Renewal

Title: Contractor Employee Biographical Data Sheet, USAID Acquisition Regulation (AIDAR)

Purpose: USAID is authorized to make contracts with any corporation, international organization, or other body or persons in or out of the United States in furtherance of the purposes and within the limitations of the Foreign Assistance Act (FAA). Information Collections and recordkeeping requirements placed on the public by the USAID Acquisition Regulation (AIDAR), are published as 48 CFR, Chapter 7. The Contractor Employee Biographical Data Sheet, AID form 1420–17 is one of USAID's unique procurement requirements which contains pre-award information.

Annual Reporting Burden:

Respondents: 700

Annual responses: 4500

Annual burden hours: 2250

Reviewer: Jeffery Hill (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503

Dated: April 25, 1995.

Genease E. Pettigrew,

Chief, Information Support Services Division, Office of Administrative Service, Bureau of Management.

[FR Doc. 95–10904 Filed 5–2–95; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–732 and 733 (Preliminary)]

Circular Welded Non-Alloy Steel Pipe From Romania and South Africa

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of preliminary antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–732 and 733 (Preliminary) under section 733(a) of the Tariff Act of 1930, as amended by Section 212(b) of the Uruguay Round Agreements Act (URAA), Pub. L. 103–465, 108 Stat. 4809 (1994) (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Romania and South Africa of circular welded non-alloy steel pipe, provided for in subheadings 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by June 12, 1995. The Commission's views are due at the Department of Commerce within 5 business days thereafter, or by June 19, 1995.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: April 26, 1995.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on April 26, 1995, by Allied Tube & Conduit Corp., Harvey, IL; Sawhill Tubular Division (Armco), Sharon, PA; LTV Steel Tubular Products Co., Youngstown, OH; Sharon Tube Co., Sharon, PA; Laclede Steel Co., St. Louis, MO; Wheatland Tube Co., Collingswood, NJ; and Century Tube Co., Pine Bluff, AR.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on May 17, 1995, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Valerie Newkirk (202–205–3190) not later than May 15, 1995, to arrange for their appearance. Parties in support of the imposition of antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before May 22, 1995, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII, as amended by the URAA. This notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: April 28, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–10895 Filed 5–2–95; 8:45 am]

BILLING CODE 7020–02–P

[Investigations Nos. 731–TA–726–729 (Preliminary)]

Polyvinyl Alcohol From China, Japan, Korea, and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China, Japan, and Taiwan of polyvinyl alcohol,[2] provided for in subheading 3905.20.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV). Investigation No. 731–TA–728 (Preliminary) concerning Korea is terminated on the basis of the unanimous determination that imports from Korea are negligible.

Background

On March 9, 1995, a petition was filed with the Commission and the Department of Commerce by Air Products and Chemicals, Inc., Allentown, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of polyvinyl alcohol from China, Japan, Korea, and Taiwan. Accordingly, effective March 9, 1995, the Commission instituted antidumping investigations Nos. 731–TA–726 through 729 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 17, 1995 (60 F.R. 14448). The conference was held in Washington, DC, on March 30, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 24, 1995. The views of the Commission are contained in USITC Publication 2883 (April 1995), entitled "Polyvinyl Alcohol from China, Japan, Korea, and Taiwan: Investigations Nos. 731–TA–726–729 (Preliminary)."

By order of the Commission.

Issued: April 25, 1995.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–10894 Filed 5–2–95; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The product covered by these investigations is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer, usually prepared by hydrolysis of polyvinyl acetate. This product includes polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid.

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203.

Comments on the following assessment are due 15 days after the date of availability:

AB–1 (Sub-No. 259X), Chicago and North Western Railway Company—Abandonment Exemption—Cannon Falls, Minnesota, Spur. EA available 4/21/95.

AB–1 (Sub-No. 261X), Chicago and North Western Railway Company—Abandonment Exemption—Mankato, Minnesota, Spur. EA available 4/21/95.

AB–1 (Sub-No. 262X), Chicago and North Western Railway Company—Abandonment Exemption—Albert Lea Spur in Freeborn County, Minnesota. EA available 4/25/95.

AB–55 (Sub-No. 505X), CSX Transportation, Inc. Abandonment In Lee County, North Carolina. EA available 4/28/95.

Comments on the following assessment are due 30 days after the date of availability:

AB–1 (Sub-No. 260), Chicago and North Western Railway Company—Abandonment Exemption—Hayward,

VOL 60 ISS 85 MY 3 1995 UMI

Wisconsin Spur. EA available 4/21/95.

AB–1 (Sub-No. 258X), Chicago and North Western Railway Company—Abandonment Exemption—Central Soya Spur Near Madison, Wisconsin.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10891 Filed 5–2–95; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32630]

Omaha Public Power District—Construction Exemption—In Otoe County, NE

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction by Omaha Public Power District (OPPD) of a 5-mile line of railroad in Otoe County, NE, subject to the results of the Commission's environmental review and further decision. The line will extend from OPPD's Nebraska City electric generating plant, cross Burlington Northern Railroad Company's rail line at grade northwest of the plant, and connect with Union Pacific Railroad Company's rail line southwest of Nebraska City.

DATES: The exemption cannot become effective until after the environmental process has been completed. At that time, the Commission will issue a further decision addressing the environmental matters and establishing an exemption effective date, if appropriate. Petitions to reopen must be filed by May 23, 1995.

ADDRESSES: Send pleadings referring to Finance Docket No. 32630 to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue NW., Washington, DC 20423; and (2) petitioner's representative: Thomas W. Wilcox, Donelan, Cleary, Wood & Maser, P.C., 1100 New York Avenue NW., Washington, DC 20005–3934.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue NW., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: April 13, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10786 Filed 5–2–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection:

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) Troops to COPS Application Kit.

(2) COPS 009. Office of Community Oriented Policing Services, United States Department of Justice.

(3) Primary=State, Local or Tribal Government, Others=None. The Troops to COPS Application Kit will be used by law enforcement agencies seeking reimbursement of expenses for training a recently separated member of the armed forces hired by the applicant to participate in community policing.

(4) 800 annual respondents at .5 hours per response.

(5) 400 annual burden hours.

(6) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: April 27, 1995.

Robert B. Briggs,

Department Clearance Officer, Department of Justice.

[FR Doc. 95–10836 Filed 5–2–95; 8:45 am]

BILLING CODE 4410–Z1–M

DEPARTMENT OF LABOR

Office of the Secretary

Service Contracts Act Occupational Employment Questionnaire

AGENCY: Office of the Secretary, Labor.

SUMMARY: The Director, Office of Information Resources Management Policy, invites comments on the following proposed expedited review information collection request as required by the Paperwork Reduction Act of 1980, as amended.

DATES: This expedited review is being requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 3, 1995.

ADDRESSES: Written comments should be addressed to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, 725 17th St., NW., Room 10235, New Executive Office Building, Wash., DC 20503. Requests for copies of the proposed information collection request should be addressed to Kenneth A. Mills, Department of Labor, 200 Constitution Ave., NW., Room N–1301, Wash., DC 20210.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Mills, (202) 219–5095. Individuals who use a telecommunications device for the deaf (TTY/TDY) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested persons an early opportunity to comment on an information collection request. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with the agency's ability to perform its statutory obligations. The Director, Office of Information Resources Management and Policy, publishes this notice simultaneously with the submission of this request to OMB. This notice contains the following information:

Agency: Employment Standards Administration

Type of Review: Expedited.
Title: Service Contract Act Occupational Employment Questionnaire.
Frequency of Response: Completed one time.
Affected Public: Individuals or households; Businesses or other for profit; not for profit institutions; Federal Government.
Number of Respondents: 5,500.
Estimated Time Per Response: 30 minutes.
Total Annual Burden Hours: 2,250.
Respondents Obligation To Reply: Voluntary.
Description: Section 2(a) of the Service Contract (SCA) provides that every contract subject to the Act contain a provision specifying the minimum monetary wages and fringe benefits to be paid the various classes or service employees performing the contract work. The Secretary of Labor is charged with determining the minimum monetary wages and fringe benefits prevailing in the locality where the contract work is to be performed. It is necessary to design and conduct a statistically reliable, one-time survey of occupational employment on SCA-covered contracts. Form WH–SCA will be used for this purpose. Once this occupational distribution has been determined, the data will be utilized in evaluating alternative methodologies for estimating prevailing health and welfare benefits for SCA-covered projects. The survey involves a random sample of a universe of approximately 83,000 contracts. The Employment Standards Administration, U.S. Department of Labor, has provided the University of Tennessee with the universe of SCA-covered contracts, which was obtained from the Federal Procurement Data System for the most recent years. The University has designed and selected a sample of contracts by three-digit SIC, and has designed a questionnaire with accompanying instructions and definitions.

Signed at Washington, DC, this 28th day of April 1995.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 95–10971 Filed 5–2–95; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. KenAmerican Resources, Inc.

[Docket No. M–95–53–C]

KenAmerican Resources, Inc., 7590 Highway 181, Central City, Kentucky 42330 has filed a petition to modify the application of 30 CFR 75.213 (roof support removal) to its Paradise No. 11 Mine (I.D. No. 15–17606) located in Wayne County, Kentucky. The petitioner requests a modification of the standard to permit the removal of loose roof bolts where massive self-supporting limestone roof is exposed. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. CONSOL of Kentucky, Inc.

[Docket No. M–95–54–C]

CONSOL of Kentucky, Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1101–8 (water sprinkler systems; arrangement of sprinklers) to its Indian Gap Mine—Hz4 (I.D. No. 15–17652) located in Letcher County, Kentucky. The petitioner proposes to use a single overhead pipe system with ½-inch orifice automatic sprinklers located on 10-foot centers, to cover 50 feet of fire-resistant belt or 150 feet of non-fire resistant belt, with actuation temperatures between 200 degrees and 230 degrees fahrenheit and with water pressure equal to or greater than 10 psi. The sprinklers would be located not more than 10 feet apart, so that the discharge of water would extend over the belt drive, belt take-up, electrical control, and gear reducing unit. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Mountain Valley Management, Inc. T/A Bucket Coal Company

[Docket No. M–95–55–C]

Mountain Valley Management, Inc., T/A Bucket Coal Company, 1021 Chestnut Street, Pottsville, Pennsylvania 17901 has filed a petition to modify the application of 30 CFR 75.335 (construction of seals) to its Heather Mine (I.D. No. 36–07903) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the standard to permit alternative methods of seal construction using wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criterion in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Kerr-McGee Coal Corporation

[Docket No. M–95–56–C]

Kerr-McGee Coal Corporation, Caller Box 3013, Gillette, Wyoming 82717 has filed a petition to modify the application of 30 CFR 77.402 (hand-held power tools; safety devices) to its Jacobs Ranch Mine (I.D. No. 48–00997) located in Campbell County, Wyoming. The petitioner proposes to use gas-powered chain saws with a trigger latch to start the saw and to follow all other manufacturer's instructions. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. D.G.W. Coal Company

[Docket No. M–95–57–C]

D.G.W. Coal Company, R.D. #2, Box 425–B–2, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.335 (construction of seals) to its No. 7 Vein Slope (I.D. No. 36–07093) located in Schuylkill County, Pennsylvania. The

VOL 60 ISS 85 MY 3 1995 UMI

petitioner requests a modification of the standard to permit alternative methods of seal construction using wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criterion in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Black Gem Mining, Inc.

[Docket No. M–95–58–C]

Black Gem Mining, Inc., P.O. Box 1257, Pikeville, Kentucky 41502 has filed petitions to modify the application of 30 CFR 75.1710 (canopies or cabs; electric face equipment) to its No. 3 Mine (I.D. No. 15–12303) located in Floyd County, Kentucky. The petitioner proposes to operate its C X 2 S & S Scoop without a canopy due to the height of this equipment, which is 54 inches with canopy, and the height of the seam varies from 40 inches to 60 inches. The petitioner states that installation of a canopy on the equipment would result in a diminution of safety to the equipment operator.

7. McElroy Coal Company

[Docket No. M–95–59–C]

McElroy Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed petitions to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its McElroy Mine (I.D. No. 46–01437) located in Marshall County, West Virginia. Due to deteriorating roof and rib conditions in the return entry of the new section adjacent to the bottom of the Belt Slope in the oldest portion of the mine, physically traveling the area on a weekly basis would be unsafe. The petitioner proposes establish checking stations A and B to monitor for methane and the quantity of air in the affected area; to have a certified person check each station on a weekly basis and record the result in a book kept on the surface and made available for inspection by interested persons; to conduct an immediate investigation of the affected area by the mine foreman and record the results in a book located on the surface if at any time the quantity of air at either checking station indicates a change of ten (10) percent or a 0.5 percent increase in methane; to include the checking stations in the Ventilation Plan with the location of air readings shown on the ventilation map; and to examine the stopping line along the track entry on a weekly basis. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Mystic Energy, Inc.

[Docket No. M–95–60–C]

Mystic Energy, Inc., 130 George Street, Suite J, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Candice 2 Mine (I.D. No. 46–08429) located in Boone County, West Virginia. The petitioner proposes to replace a padlock on battery plug connectors on mobile battery-powered machines used inby the last open cross-cut with a threaded ring and a spring loaded device to prevent the plug connector from accidently disengaging while under load; to provide a warning tag that states "Do Not Disengage Plugs Under Load" on all battery plug connectors on battery-powered machines using the alternative method; and to instruct all persons who are required to operate or maintain the battery-operated machines on safe work practices and procedures. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. AMAX Coal West, Inc.

[Docket No. M–95–61–C]

AMAX Coal West, Inc., P.O. 3040, Gillette, Wyoming 82717–3040 has filed a petition to modify the application of 30 CFR 77.1304(a) (blasting agents; special provisions) to its Eagle Butte Mine (I.D. No. 48–01078) located in Campbell County, Wyoming. The petitioner proposes to use petroleum-based lubrication oils, recycled from equipment used at its mine for blending with fuel oil for the purpose of creating ammonium nitrate/fuel oil (ANFO) for use as a blasting agent at its surface coal mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. Pen Coal Corporation

[Docket No. M–95–62–C]

Pen Coal Corporation, Route 1, Box 191, Dunlow, West Virginia 25511 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Devilstrace N. 3 Mine (I.D. No. 46–08470) located in Wayne County, West Virginia. The petitioner proposes to replace a padlock on battery plug connectors on mobile battery-powered machines used inby the last open cross-cut with a threaded ring and a spring loaded device to prevent the plug connector from accidently disengaging while under load; to provide a warning tag that states "Do Not Disengage Plugs Under Load" on all battery plug connectors on battery-powered machines using the alternative method; and to instruct all persons who are required to operate or maintain the battery-operated machines on safe work practices and procedures. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 2, 1995. Copies of these petitions are available for inspection at that address.

Dated: April 27, 1995.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 95–10850 Filed 5–2–95; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers Fellowships Prescreening Section) to the National Council on the Arts will be held on May 31–June 2, 1995. The panel will meet from 10 a.m. to 5 p.m. on May 31 and from 9 a.m. to 6 p.m. on June 1–2 in Room M–07, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of application evaluation, under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 27, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–10808 Filed 5–2–95; 8:45 am]

BILLING CODE 7537–01–M

National Endowment for the Arts; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Choreographers Fellowships Section) to the National Council on the Arts will be held on June 5–9, 1995 from 9 a.m. to 8:30 p.m. on June 5–8 and from 9 a.m. to 6 p.m. on June 9 in Room M–07, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 9 from 2 p.m. to 6 p.m. for a policy discussion.

The remaining portions of this meeting from 9 a.m. to 8:30 p.m. on June 5–8 and from 9 a.m. to 2 p.m. on June 9 are for the purpose of panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of February 8, 1994, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TYY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 27, 1995.

Yvonne M. Sabine,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 95–10809 Filed 5–2–95; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: U.S. Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of Submission (new, revision, or extension): Revision.

2. The title of the information collection: 10 CFR 4, "Nondiscrimination in Federally Assisted Commission Programs."

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Recipients of Federal financial assistance provided by the Nuclear Regulatory Commission.

6. An estimate of the number of responses: 60 per year.

7. An estimate of the total number of hours needed to complete the requirement or request: 21 hours annually (an average of .22 hours per response plus .27 hours per recordkeeper).

8. An indication of whether Section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Recipients of NRC financial assistance provide data on procedures to provide assurance to NRC that they are in compliance with nondiscrimination policies.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150–0053), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be communicated by telephone at (202) 395–3084. The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 25th day of April 1995.

For the U.S. Nuclear Regulatory Commission.

Gerald F. Cranford,

Senior Official for Information Resources Management.

[FR Doc. 95–10889 Filed 5–2–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

Entergy Operations Inc., (Grand Gulf Nuclear Station, Unit No. 1); Exemption

I

Entergy Operations, Inc., (the licensee) is the holder of Facility Operating License No. NPF–29, which authorizes operation of the Grand Gulf Nuclear Station, Unit 1. The operating license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Commission now and hereafter in effect.

The facility consists of a boiling water reactor at the licensee's site in Claiborne County, Mississippi.

II

By letter dated August 13, 1993, as supplemented by letters dated April 15, May 11, June 24, and July 20, 1994, and April 18, 1995, pursuant to 10 CFR 50.12(a), Entergy Operations Inc. requested an exemption to Sections III.D.1(a), III.D.2, III.D.2(b)(i), III.D.2.(b)(iii) and III.D.3 of 10 CFR Part 50, Appendix J, to permit the selection of containment leakage rate testing intervals for components on the basis of performance.

Although the staff had issued an Advanced Notice of Proposed Rule Making to revise Appendix J on November 24, 1992 (57 FR 55156), the licensee stated in the August 13, 1993, submittal that the "plant specific needs

VOL 60 ISS 85 MY 3 1995 UMI

of Grand Gulf" would best be met by a plant specific submittal. The staff agreed to review the licensee's proposal in the context of the ongoing rulemaking activities. In SECY 94–036, dated February 17, 1994, the staff informed the Commission that it would review the Grand Gulf proposal because of its potential usefulness in the rulemaking process due to its scope and the technical information it provides. Testing methods were not included in the scope of the licensee's proposal. The licensee proposed changes to the frequency of testing only. The staff has reviewed the licensee's proposed exemption. The staff's safety evaluation is enclosed.

III

The licensee proposed changes to the frequency of performing Type A, B, and C tests including changes to the frequency of leakage rate testing of air locks. The test frequencies will be determined individually for each component based on previous performance. The licensee presented plant specific data and plant specific risk analyses to support the proposed changes. In addition to information supplied by the licensee, the staff, in reviewing this exemption request, utilized technical information available from the on-going Appendix J rulemaking, including NUREG–1493 "Performance-Based Containment Leak-Test Program", dated December 1994. This rulemaking will also revise the frequency of leakage rate testing so that the intervals between tests is a function of individual component performance.

Because an Appendix J rulemaking is in progress, this exemption shall be valid until startup following Refueling Outage 9.

IV

A Type A test assures that the overall or integrated leakage rate from the whole containment is below the acceptance criterion specified in Appendix J. This exemption does not change this value. Appendix J presently specifies the test frequency for a Type A test as a set of three tests, at approximately equal intervals during each 10-year service period. The licensee proposes to change the test frequency to one Type A test in 10 years. Both an analysis of the test results from operating reactors over an extended period (NUREG–1493) and a risk analysis (EPRI TR–104285, "Risk Impact Assessment of Revised Containment Leak Rate Testing Intervals") support extending the Type A test interval to once in 10 years.

The staff proposed that the exemption include a precondition before extending the Type A test. Two consecutive Type A tests must be successful before the interval is extended. This is included in the exemption. By letter dated April 18, 1995, the licensee agreed to this change. The following exemption is granted until startup from Refueling Outage (RFO) 9, currently scheduled for Spring 1998.

Exemption From Section III.D.1(a)

Type A tests shall be performed on a 10-year interval provided that the two previous consecutive Type A tests, performed on the test interval specified in Appendix J (three tests, at approximately equal intervals in a 10-year period), have been successful.

If a Type A test is failed, and the failure is not due to a Type B or C component, acceptable performance must be reestablished by performing a Type A test within 48 months of the unsuccessful Type A test. Following a successful Type A test, the surveillance frequency may be returned to once per 10 years.

In addition, the licensee must perform general inspections of the accessible interior and exterior surfaces of the containment structures, as specified in Section V.A of Appendix J, at the test interval specified in Appendix J for Type A tests, even when no Type A test is required during that outage. By letter dated April 18, 1995, the licensee agreed to this change.

There is no relationship between Type A testing and the inservice inspection (ISI) service period. This exemption will continue in effect until startup from RFO 9.

V

The licensee proposed an exemption from Sections III.D.2(a) and III.D.3 of Appendix J to permit Type B and C testing to be done based on previous performance of a component. The licensee presented data and analyses to show that the risk from using a performance-based approach to Type B and C testing is negligible. This is in agreement with the conclusions of NUREG–1493.

The licensee proposed that the test interval be determined as follows: (1) One successful test or a failure would require maintaining the present test interval of 2 years. (2) Two successful consecutive tests would permit extending the test interval to five years. (3) Three successful consecutive tests would result in increasing the test interval to 10 years. The staff does not agree with a 10-year interval. It is the staff's judgment that the licensee has not justified the 10-year interval to the same degree of confidence as the 5-year interval. By letter dated April 18, 1995, the licensee agreed to this change.

In addition, there are certain valves which the staff considers to be so safety significant that the test interval for these valves should not be extended without prior staff review and approval. The staff has specified these valves in the exemption. By letter dated April 18, 1995, the licensee agreed to this change.

Exemption From Sections III.D.2(a) and III.D.3 of Appendix J

After two successful consecutive tests, performed at the present Appendix J test interval of no more than 2 years, a Type B or C component may be tested once every 5 years. If this test or a subsequent test is a failure, the test interval for this component shall revert to a 2-year interval until the component passes two consecutive tests. The 5-year interval may then be resumed. By letter dated April 18, 1995, the licensee agreed to this change.

Main steam isolation valves, feedwater valves and containment system supply and exhaust isolation valves shall remain on a 2-year test interval. Any change will require prior review and approval by the NRC. This exemption will continue in effect until startup from RFO 9.

VI

The licensee proposed to increase the test intervals for air locks based on the good performance of the air locks at Grand Gulf. The licensee's August 13, 1993, submittal provides a summary of test data which shows excellent performance in both air lock and air lock door seal testing.

The staff proposed an addition to the requested exemption to account for the contingency that the performance may not be maintained at this high level. If an air lock fails a test, the extended interval would revert to the Appendix J test intervals until two consecutive successful's tests demonstrate that the problem has been resolved. By letter dated April 18, 1995, the licensee agreed to this change.

Exemption From Section III.D.2(b)(i) and (b)(iii)

Air locks may be leakage rate tested at intervals of no more than 2 years. If an air lock fails a leakage rate test, the air lock shall then be required to pass two consecutive leakage rate tests at a test interval of 6 months prior to returning to the 2-year test interval. During a period of frequent opening of air lock doors, the air locks shall be tested at least every 30 days. If an air lock fails a leakage rate test during a period of frequent opening, the air lock shall be required to pass two consecutive leakage rate tests at a test interval of 72 hours prior to returning to the 30-day interval. Since the Grand Gulf air lock doors have testable seals, testing the seals fulfills the 30-day test requirement. This exemption will continue in effect until startup from RFO 9.

VII

The staff's safety evaluation, which is enclosed and summarized above, concludes that the licensee's proposed extension of Appendix J test intervals is acceptable. This exemption will remain valid until startup following Refueling Outage 9. This approval is based on the assumption that all other aspects of Appendix J testing not explicitly addressed will be conducted in accordance with Appendix J.

Section 50.12 of Title 10 of the Code of Federal Regulations, "Specific Exemptions", delineates the conditions which must be satisfied in order for the Commission to grant an exemption from the regulations of 10 CFR Part 50. The proposed exemption must not violate applicable law, it must not "present an undue risk to the public health and safety", and must be "consistent with the common defense and security". The licensee states that it believes these conditions are satisfied. The staff concurs.

In addition, 10 CFR 50.12 states that the Commission will not consider granting an exemption unless special circumstances are present. The licensee, in the August 13, 1993, submittal presented its argument as to why this exemption request meets several of the special circumstances specified in 10 CFR 50.12. It is the staff's opinion that the licensee's proposal satisfies special circumstance 50.12(a)(2)(iv). Special circumstance (iv) states that: The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption.

It is the staff's judgment that there is a significant public benefit to be derived from granting the licensee's exemption request to 10 CFR Part 50, Appendix J. The licensee's proposal was detailed and well thought-out and thoroughly considered the effect on safety of the proposed changes. Reviewing this exemption request was beneficial to the staff's Appendix J rulemaking effort. Granting the exemption will assist the staff in assessing the process of implementing a performance-based containment leakage rate testing rule which, inturn, is of a clear benefit to the public. The staff considers any decrease in safety that may result from granting the exemption to be very small. This was confirmed by the risk studies discussed in Section 3 of the safety evaluation on this exemption request.

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that this exemption is authorized by law and will not present an undue risk to the public health and safety, and is consistent with the common defense and security. In addition, the Commission has found special circumstances in that granting of this exemption will result in a benefit to public health and safety that compensates for any decrease in safety that may result from the grant of the exemption. Therefore, the Commission hereby grants the exemption from 10 CFR Part 50, Appendix J, Sections III.D.1(a), III.D.2(a) and III.D.3 and Section III.D.(b)(i) and III.D.2(b)(iii). The specific exemptions are stated as in Sections IV, V, and VI above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (60 FR 19791). The exemption is effective upon issuance.

Dated at Rockville, Maryland, this 26th day of April 1995.

For the Nuclear Regulatory Commission.

Elinor G. Adensam

Acting Director, Division of Reactor Projects-III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10887 Filed 5–2–95; 8:45 am]

BILLING CODE 7590–01–M

The proposed action is in accordance with the licensee's application dated January 16, 1995 (TXX–95012), as supplemented by letters dated March 1 (TXX–95064), and April 3, 1995 (TXX–95089), for exemption from certain requirements of 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power plant reactors against radiological sabotage."

The Need for the Proposed Action

Pursuant to 10 CFR 73.55, paragraph (a), the licensee shall establish and maintain an onsite physical protection system and security organization.

Paragraph (1) of 10 CFR 73.55(d), "Access Requirements," specifies that "licensee shall control all points of personnel and vehicle access into a protected area * * *" It is specified in 10 CFR 73.55(d)(5) that "A numbered picture badge identification system shall be used for all individuals who are authorized access to protected areas without escort." It also states that an individual not employed by the licensee (i.e., contractors) may be authorized access to protected areas without escort provided the individual "receives a picture badge upon entrance into the protected area which must be returned upon exit from the protected area * * *"

Currently, unescorted access into protected areas of the CPSES is controlled through the use of a photograph on a combination badge and keycard. (Hereafter, these are referred to as badges). The security officers at the entrance station use the photograph on the badge to visually identify the individual requesting access. The badges for both licensee employees and contractor personnel who have been granted unescorted access are issued upon entrance at the entrance/exit location and are returned upon exit. The badges are stored and are retrievable at the entrance/exit location. In accordance with 10 CFR 73.55(d)(5), contractor individuals are not allowed to take badges off site. In accordance with the plant's physical security plans, neither licensee employees nor contractors are allowed to take badges off site.

The licensee proposes to implement an alternative unescorted access control system which would eliminate the need to issue and retrieve badges at the entrance/exit location and would allow all individuals with unescorted access to keep their badges with them when departing the site.

An exemption from 10 CFR 73.55(d)(5) is required to permit contractors to take their badges off site

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[Docket Nos. 50–445 and 50–446]

Texas Utilities Electric Co., Comanche Peak Steam Electric Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License Nos. NPF–87 and NPF–89, issued to Texas Utilities Electric Company (TU Electric, the licensee), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, located in Somervell County, Texas.

Environmental Assessment

Identification of Proposed Action

The proposed action would allow implementation of a hand geometry biometric system of site access control such that photograph identification badges can be taken off site.

VOL 60 ISS 85 MY 3 1995 UMI

instead of returning them when exiting the site.

The Commission has completed its evaluation of the proposed action. Under the proposed system, each individual who is authorized for unescorted entry into protected areas would have the physical characteristics of their hand (hand geometry) registered with their badge number in the access control system. When an individual enters the badge into the card reader and places the hand on the measuring surface, the system would record the individual's hand image. The unique characteristics of the extracted hand image would be compared with the previously stored template to verify authorization for entry. Individuals, including licensee employees and contractors, would be allowed to keep their badges with them when they depart the site.

Based on a Sandia report entitled "A Performance Evaluation of Biometric Identification Devices" (SAND91—0276 UC—906 Unlimited Release, printed June 1991), and on its experience with the current photo-identification system, the licensee stated that the false acceptance rate of the proposed hand geometry system is comparable to that of the current system. The licensee stated that the use of the badges with the hand geometry system would increase the overall level of access control. Since both the badge and hand geometry would be necessary for access into the protected area, the proposed system would provide for a positive verification process. Potential loss of a badge by an individual, as a result of taking the badge off site, would not enable an unauthorized entry into protected areas. The licensee will implement a process for testing the proposed system to ensure continued overall level of performance equivalent to that specified in the regulation. The Physical Security Plan for CPSES will be revised to include implementation and testing of the hand geometry access control system and to allow licensee employees and contractors to take their badges off site.

The access process will continue to be under the observation of security personnel. A numbered picture badge identification system will continue to be used for all individuals who are authorized access to protected areas without escorts. Badges will continue to be displayed by all individuals while inside the protected area.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluent that may be released off site, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. the environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the CPSES, Units 1 and 2 dated October 1989.

Agencies and Persons Consulted

In accordance with its stated policy, on April 7, 1995, the staff consulted with Texas State official, Mr. John Haygood of the Texas Department of Health, Bureau of Radiation control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 16, 1995 (TXX–95012), as supplemented by letters dated March 1 (TXX–95064), and April 3, 1995 (TXX–95089), which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room located at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Dated at Rockville, Maryland, this 27th day of April 1995.

For the Nuclear Regulatory Commission.

Timothy J. Polich,

Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10888 Filed 5–2–95; 8:45 am]

BILLING CODE 7590–01–M

Use of NUMARC/EPRI Report TR–102348 for Analog-to-Digital Replacements; Issued

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter 95–02 on informing licensees for reactors of the NRC staff's new position on the use of Nuclear Management and Resource Council/Electric Power Research Institute (NUMARC/EPRI) Report TR–102348, "Guideline on Licensing Digital Upgrades," dated December 1993, as acceptable guidance for determining when an analog-to-digital replacement can be performed without prior NRC staff approval under the requirements of § 50.59 of Title 10 of the Code of Federal Regulations. This generic letter is available in the Public Document Rooms under accession number 9504140227. The resolution of public comments received on this generic letter is discussed in a memorandum which is also available in the Public Document Rooms under accession number 9504260141.

DATES: The generic letter was issued on April 26, 1995.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Paul J. Loeser at (301) 415–2825.

SUPPLEMENTARY INFORMATION: None.

Dated at Rockville, Maryland, this 26th day of April, 1995.

For the Nuclear Regulatory Commission.

Boen-Dar Liaw,

Acting Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10890 Filed 5–2–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Office of Personnel Management (OPM) announces the next meeting of the National Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

TIME AND PLACE: The Council will meet May 10, 1995, at 1 p.m., in the OPM Conference Center, Room 1350, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC 20415–0001. The conference center is located on the first floor.

TYPE OF MEETING: This meeting will be open to the public. Seating will be available on a first-served basis. Handicapped individuals wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

POINT OF CONTACT: Douglas K. Walker, National Partnership Council, Executive Secretariat, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 5315, Washington, DC 20415–0001, (202) 606–1000.

SUPPLEMENTARY INFORMATION: The Council will receive reports on and discuss activities contained in the strategic action plan for 1995 that was adopted at the January 10, 1995, meeting.

PUBLIC PARTICIPATION: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Douglas K. Walker at the address shown above. Comments should be received by May 5, in order to be considered at the May 10, meeting.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 95–10779 Filed 5–2–95; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Carrington Laboratories, Inc., Common Stock, $.01 Par Value and the Related Preferred Share Purchase Rights Issued Pursuant to Its Rights Agreement Dated September 19, 1991) File No. 1–6395

April 27, 1995.

The Carrington Laboratories, Inc., ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on February 9, 1995 to withdraw the Securities from listing on the Exchange and, instead, list the Securities on the Nasdaq/NMS. The decision of the Board followed a lengthy study of the matter, and was based upon the belief that listing of the Securities on Nasdaq will be more beneficial to the Company and its stockholders than the present listing on the Exchange because:

(a) The Nasdaq system of multiple, competing market makers will provide the Company with increased visibility within the financial community, thereby encouraging greater investor awareness of the Company's activities;

(b) The Nasdaq system will enable the Company to attract its own group of market makers and expand the capital base available for purchases of the Securities;

(c) The Nasdaq system will stimulate increased demand for the Securities and result in greater liquidity for the Company's shareholders; and

(d) The firm making a market in the Securities on Nasdaq will be more likely to issue research reports on the Company, which will increase the availability of information about the Company and the Securities and enhance the Company's visibility to investors.

Any interested person may, on or before May 18, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–10854 Filed 5–2–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21032; File No. 812–9270]

Equitable Variable Life Insurance Company, et al.

April 26, 1995.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Equitable Variable Life Insurance Company ("Equitable Variable"), Separate Account FP of Equitable Variable Life Insurance Company (the "Account"), and Equico Securities, Inc. ("Equico").

RELEVANT 1940 ACT SECTION AND RULE: Order requested under Section 6(c) of the 1940 Act for exemptions from Section 27(a)(3) thereof and subsections (b)(13)(ii) and (d)(1)(ii)(A) of Rule 6e–3(T) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit Equitable Variable to make available an Accounting Benefit Rider ("the Rider") to certain flexible premium variable life insurance policies ("Policies") it currently issues. The Rider permits the waiver of specified percentages of a Policy's contingent deferred sales charge during the early policy years. The Rider is designed to minimize the negative impact to earnings that results under generally accepted accounting principles in connection with the purchase of a Policy.

FILING DATE: The application was filed on October 4, 1994, and amended and restated on April 17, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving the

VOL 60 ISS 85 MY 3 1995 UMI

Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on May 22, 1995, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Equitable Variable and the Account, 787 Seventh Avenue, New York, NY 10019. Equico, 1755 Broadway, New York, NY 10019.

FOR FURTHER INFORMATION CONTACT: Patrice M. Pitts, Special Counsel, or Wendy Finck Friedlander, Deputy Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. Equitable Variable is a stock life insurance company organized in 1972 under the laws of the State of New York.

2. Equitable Variable established the Account as a segregated investment account in 1985, pursuant to the insurance laws of New York, for the purpose of funding variable life insurance policies, including the Policies.[1] The Account is registered with the Commission as a unit investment trust under the 1940 Act. Equitable Variable is the depositor of the Account.

3. Equico is registered as a broker-dealer under the Securities Exchange Act of 1934. Equico distributes the variable life insurance policies funded by the Account, including the Policies.

4. Equitable Variable deducts a monthly administrative expense charge and cost of insurance charges from the Policy account value, and reserves the right to assess a charge for transfers among the various investment options available under the Policies. In addition to deductions made from premiums and Policy account value, Equitable Variable assesses a charge against the assets of the Account for mortality and expense risks borne by it under the Policies. All administrative and other charges in connection with the Policies will comply with all applicable requirements of Rule 6e–3(T) under the 1940 Act, subject only to the relief requested in this application.

5. Among the charges assessed under the Policies are: (a) A premium sales charge deducted either on a front-end or a deferred basis (the "Premium Sales Charge"); and (b) a contingent deferred sales charge (the "Surrender Charge"). The guaranteed maximum Premium Sales Charge is 6% of each premium payment (some Policies have lower guaranteed maximums). On a current basis, Equitable Variable intends to limit the cumulative Premium Sales Charge on the IL 2000 and IL Plus Series to less than the guaranteed maximum.[2]

6. The Rider provides that, upon surrender of a Policy: (a) All or a portion of the deductions from premiums (charge for premium taxes and Premium Sales Charge) will be refunded if the Policy deducts the Premium Sales Charge;[3] and (b) all or a portion of the Surrender Charge (and, in the case of the IL Plus Series, the administrative surrender charge) will be waived if the Policy is surrendered during the early policy years. The amount refunded or waived decreases proportionately in each of the second through sixth policy years as follows:

Surrender in policy year	Percent of premium deductions refunded	Percent of surrender charges waived
1	100	100
2	67	80
3	33	60
4	0	40
5	0	20
6 and later	0	0

7. Applicants represent that the net effect of implementation of the Rider is to reduce the amount of sales charges that would otherwise be applicable during the early policy years. Applicants further represent that, because the waiver percentages under the Rider decrease in each of the second through the sixth policy years, implementation of the Rider could cause a policyowner to pay proportionately more Surrender Charge than would have been paid had the Policy been surrendered in a preceding policy year.

8. There is no specific fee or charge related to the Rider.[4] Equitable Variable intends to make the Rider available with Policies purchased through corporations or partnerships under the following circumstances:[5] (a) A minimum of five lives are insured; (b) proposed insureds are highly compensated; (c) the Policies have an average Face Amount of at least $500,000;[6] (d) the initial premium payment is made with corporate or partnership funds; and (e) the aggregate annualized first year premium for all Policies is at least $150,000.

9. In Equitable Variable's experience, policyowners of the type to which the Rider will be available are unlikely to surrender their Policies within the five-year period during which the Rider is operative. Applicants represent that the amount of the Surrender Charge has not been increased to compensate for the fact that, because of the Rider, not all Policies will be subject to the full Surrender Charges that otherwise would apply.

Applicants' Legal Analysis

1. Section 27(a)(3) of the 1940 Act provides, in effect, that the amount of sales Charge deducted from any of the first twelve monthly payments of a periodic payment plan certificate may not exceed proportionately the amount deducted from any other such payment, and that the amount deducted from any subsequent payment may not exceed proportionately the amount deducted from any other subsequent payment. This prohibition is referred to commonly as the "stair-step" rule.

2. Applicants request an exemption from the stair step requirements of Section 27(a)(3) and Rule 6e–3(T)(b)(13)(ii) and (d)(1)(ii)(A) to the extent necessary because, until the seventh policy year, the Rider could cause a policyowner to pay proportionately more Surrender Charge than would have been paid had the Policy been surrendered in a preceding policy year. Applicants submit that the requested relief is necessary only because they have reduced the amount of the Surrender Charge otherwise payable under the Policy during the early policy years, a procedure they contend is favorable to policyowners.

3. Subsection (b)(13)(ii) of Rule 6e–3(T) under the 1940 Act, in pertinent part, provides an exemption from Section 27(a)(3), provided that the proportionate amount of sales charge deducted from any payment does not exceed the proportionate amount deducted from any prior payment. This general proviso holds true unless the increase in sales load deduction is caused by reductions in the annual cost of insurance or reductions in sales load for amounts transferred to a variable life insurance policy from another plan of insurance. Applicants represent that neither exception applies in the present case.

4. Subsection (d)(1) of Rule 6e–3(T) provides relief similar to that provided by subsection (b)(13)(ii), but for sales charges deducted from other than premiums, and provided that the sales load deducted pursuant to any method permitted thereunder does not exceed the proportionate amount of sales load deducted prior thereto pursuant to the same method. Applicants represent that the express language of subsection (d)(1)(ii)(A) prohibits the actual deduction of proportionately greater amounts.

5. Applicants represent that although the Rider causes the Surrender Charge to increase over a limited period of time, the actual amount of the Surrender charge deducted in connection with the IL 2000 Series and the IL Plus Series never is proportionately greater than any Surrender Charge deducted prior thereto, because either: (a) There has been no prior Surrender Charge deduction; or (b) the prior deduction resulted from a face amount decrease to which the Rider does not apply, with the result that the Surrender Charge percentages applicable to the decrease are the higher percentages specified in the Policy.

6. Applicants state that, unlike under the IL 2000 Series and the IL Plus Series, however, under the COLI Series, the Rider applies to amounts of Surrender Charges imposed upon decreases in the face amount. Therefore, the effective rate of a Surrender Charge imposed upon a decrease in the face amount under the COLI Series during the first five Policy years may be lower than the Surrender Charge applicable to a later decrease in the face amount, surrender, or termination of a Policy. Applicants represent that this phenomenon results solely from the fact that the Rider—which is beneficial to policyowners—applies to decreases in face amount (as well as surrenders and Policy termination) under the COLI Series.

7. Applicants assert that Section 27(a)(3), in conjunction with the other sales charge limitations in the 1940 Act, was designed to address the perceived abuse of periodic payment plan certificates that deducted large amounts of front-end sales charges so early in the life of the plan that an investor redeeming in the early periods would recoup little of his or her investment. Applicants contend that waiver of an amount of Surrender Charge otherwise payable under the Policy upon surrender through operation of the Rider does not present the abuses addressed in Section 27(a)(3); indeed, operation of the Rider could further the purposes of the 1940 Act.

8. Applicants also assert that one purpose behind Section 27(h)(3) of the 1940 Act, a provision similar to Section 27(a)(3), is to discourage unduly complicated sales charges. Applicants submit that this also may be deemed to be a purpose of Section 27(a)(3) and subsections (b)(3)(ii) and (d)(1) of Rule 6e–3(T). Applicants submit that the variation to the Policies' sales charge structure effected by the Rider is relatively straightforward and easily understood, as compared to that of many other variable life insurance Policies currently being offered. Moreover, Applicants represent that eligible policyowners will benefit from the sales charge structure effected by the Rider, and that the prospectuses for the Policies, or supplements thereto, will contain disclosure informing prospective eligible policyowners of the effect of the Rider on the sales charges under the Policies.

Applicants' Conclusion

Applicants submit that, for the reasons and based upon the facts set forth above, the requested exemptions from Section 27(a)(3) of the 1940 Act and subsections (b)(13)(ii) and (d)(1)(ii)(A) of Rule 6e–3(T) under the 1940 Act—to permit Equitable Variable to make a Rider available under the Policies—meet the standards of Section 6(c) of the 1940 Act. In this regard, Applicants submit that the exemptions are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10797 Filed 5–2–95; 8:45 am]

BILLING CODE 8010–01–M

[1] The Policies shall be referred to more specifically herein as the "IL 2000 Series," The "IL Plus Series," and the "COLI Series." The relevant file numbers are 33–40590 (IL 2000 Series) and 33–83948 (IL Plus and COLI Series).

[2] Under the COLI Series, the Premium Sales Charge is deducted on a deferred basis from Policy account value rather than from gross premium.

[3] No deductions from premium are refunded under a Policy that provides for deferred deduction of the Premium Sales Charge.

[4] The provisions of the Rider are incorporated into the contract form for the COLI Series. The term "Rider" as used herein, includes the provisions of the COLI Series contract.

[5] These requirements may vary in certain states.

[6] This criterion does not apply to the COLI Series.

[Release No. 34–35853; File No. SR–NYSE–95–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Entry of Limit-at-the-Close Orders

April 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 3, 1995, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change, and on April 18, 1995, filed Amendment No. 1 to the proposed rule change,[1] as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide for a one-year pilot for the entry of limit-at-the-close ("LOC") orders[2] to offset a market-at-the-close ("MOC") order[3] imbalance of 50,000 shares or more in all stocks for which MOC order imbalances are published.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] Amendment No. 1 made non-substantive, clarifying changes to the proposal. See Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Glen Barrentine, Team Leader, SEC dated April 17, 1995.

[2] A LOC order is a limited price order entered for execution at the closing price if the closing price is within the limit specified. See Securities Exchange Act Release No. 33706 (March 3, 1994), 59 FR 111093.

[3] A MOC order is a market order to be executed in its entirety at the closing price on the Exchange. See NYSE Rule 13.

VOL 60 ISS 85 MY 3 1995 UMI

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to expand the universe of stocks in which LOC orders may be entered to all stocks for which MOC imbalances are published pursuant to such procedures regarding time of order entry and order cancellation as the Exchange may establish from time to time. The Exchange intends to keep the 3:55 p.m. cutoff time for the entry of LOC orders, except to correct a bona fide error. On expiration days,[4] LOC orders will continue to be irrevocable after 3:40 p.m., except to correct a bona fide error. For non-expiration days, cancellation of LOC orders would be prohibited after 3:55 p.m., except to correct errors.

In SR–NYSE–92–37, the Exchange filed a proposed amendment to Exchange Rule 13 to provide that LOC orders may be entered to offset published imbalances of MOC orders of 50,000 shares or more in stocks selected from the expiration day pilot stocks.[5] The Commission approved this proposal on a 15-month pilot basis through July 15, 1995.[6]

The LOC pilot currently consists of only five of the expiration day "pilot stocks." Thus far, the LOC order type has been used rarely. Members cite the limited number of stocks for which this order type may be entered as a primary reason for not committing resources to effect system program changes necessary to support this order type.

The Exchange believes that by expanding the universe of eligible LOC stocks, the Exchange will make it more feasible for member firms to effect the systems changes required to use this order type. The Exchange is therefore proposing to expand the pilot to permit the entry of LOC orders to offset a MOC order imbalance of 50,000 shares or more in all stocks for which MOC order imbalances are published.[7]

The Exchange believes that the LOC order type may be a useful means to help address the prospect of excess market volatility that may be associated with an imbalance of MOC orders at the close. Therefore, the Exchange believes it is appropriate to expand the current pilot for LOC orders to all stocks for which MOC imbalances are published and to extend the pilot for LOC orders one year from the date of approval of this proposed rule change.[8]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change perfects the mechanism of a free and open market by providing investors with the ability to use LOC orders as a vehicle for managing risk at the close.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the proposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written date, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer the File No. SR–NYSE–95–09 and should be submitted by May 24, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10853 Filed 5–2–95; 8:45 am]

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[4] The term "expiration days" refers to both (1) the trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently ("Expiration Fridays") and (2) the trading day on which end of calendar quarter index options expire ("QIX Expiration Days").

[5] The Expiration Friday pilot stocks consist of the 50 most highly capitalized Standard & Poors ("S&P") 500 stocks and any component stocks of the Major Market Index ("MMI") not included therein. The QIX Expiration Day pilot stocks consist of the 50 most highly capitalized S&P 500 stocks, any component stocks of the MMI not included therein and the 10 highest weighted S&P Midcap 400 stocks.

[6] See Securities Exchange Act Release No. 33706 (March 3, 1994), 59 FR 11093.

[7] Currently, MOC imbalances are published for pilot stocks on expiration days and non-expiration days. In addition, on non-expiration days, MOC imbalances are published for stocks that are being added to or dropped from an index and, upon the request of a specialist, any other stock with the approval of a Floor Official. See Securities Exchange Act Release No. 35589 (April 10, 1995), 60 FR 19313.

[8] Given the limited use of the LOC order type in the current pilot for five stocks, the Exchange proposes that the existing pilot be replaced with the one year pilot for LOCs in all stocks proposed herein.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2769]

Oklahoma; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 26, 1995, I find that Oklahoma County in the State of Oklahoma constitutes a disaster area due to damages caused by an explosion at the Alfred P. Murrah Federal Building in Oklahoma City on April 19, 1995. Applications for loans for physical damages may be filed until the close of business on June 24, 1995, and for loans for economic injury until the close of business on January 26, 1996, at the address listed below:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Canadian, Cleveland, Kingfisher, Lincoln, Logan and Pottawatomie in the State of Oklahoma may be filed until the specified date at the above location.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere.	8.000
Homeowners Without Credit Available Elsewhere.	4.000
Businesses With Credit Available Elsewhere.	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere.	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere.	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere.	4.000

The number assigned to this disaster for physical damage is 276904 and for economic injury the number is 850400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: April 26, 1995.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 95–10805 Filed 5–2–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 49844]

RIN 2105–AC19

Statement of United States International Air Transportation Policy

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice.

SUMMARY: This notice sets forth a statement of U.S. international air transportation policy.

FOR FURTHER INFORMATION CONTACT: William Boyd, Office of International Aviation, Office of the Assistant Secretary for Aviation and International Affairs, U.S. Department of Transportation, 400 7th Street SW., Room 6412, Washington, DC 20590, (202) 366–4870; or Patricia N. Snyder, Office of International Law, Office of the General Counsel, U.S. Department of Transportation, 400 7th Street SW., Room 10105, Washington, DC 20590. (202) 366–9179.

SUPPLEMENTARY INFORMATION: This statement of U.S. international air transportation policy, which was developed by the Department of Transportation in consultation with the Department of State and other executive agencies, sets forth objectives and guidelines for use by U.S. Government officials in carrying out U.S. international air transportation policy. It was first published in the **Federal Register** on November 7, 1994 to enable interested persons to comment.[1] On January 6, 1995, the Department asked for comments on a related report prepared for the Office of the Secretary titled "A Study of International Airline Code Sharing."[2] After reviewing the comments received on the policy statement and on the code sharing study, the Department of Transportation and other agencies have adopted the following final international air transportation policy statement.

United States International Air Transportation Policy

Introduction

The availability of efficient international air transportation will greatly enhance the future expansion of international commerce and the development of the emerging global marketplace. Worldwide, travelers and shippers are demanding more and better quality service to more places. U.S. and foreign airlines are responding to this demand by expanding traditional forms of service and by developing new and innovative services. Increased demand and the variety of carrier responses to it challenge the existing intergovernmental system's ability to ensure the development of a competitive air transportation system that meets the needs of the rapidly evolving, expanding and increasingly integrated international aviation marketplace. In many cases, existing bilateral agreements impede the growth of the marketplace.

We must address the challenges presented by these rapid changes to meet our future civil and military air transportation needs, and to provide our aviation industry with the environment and the opportunities that will enable it to grow and compete effectively in the world market. This policy statement outlines our approach to addressing those challenges.

Our Goal

Safe, Affordable, Convenient and Efficient Air Service for Consumers

As established in our last aviation policy statement in 1978, our overall goal continues to be to foster safe, affordable, convenient and efficient air service for consumers. We continue to believe that the best way to achieve this goal is to rely on the marketplace and unrestricted, fair competition to determine the variety, quality, and price of air service. We believe that this approach will provide consumers and shippers with more and better service options at costs that reflect economically efficient operations and work best to:

- Expand the international aviation market;
- Increase airlines' opportunities to expand their operations;
- Increase productivity and high-quality job opportunities within the aviation industry;
- Address the nation's defense air transportation needs; and
- Promote aerospace exports and general economic growth.

Changing Environment

Growing economic interdependence among nations—the "globalization" of the world economy—has expanded demand for convenient, reliable and affordable international air service. Demand for international service is growing faster than demand for U.S. domestic service, and most major U.S. airlines are now providing and planning to expand international operations. Between 1983 and 1993, the international component of U.S. airlines' route networks, measured in revenue passenger miles (RPMs), grew from around 16% to over 27%. U.S. airline revenues from international air service nearly tripled from $6.3 billion to $17.6 billion. Moreover, forecasts indicate that U.S. carrier international traffic, measured by RPMs, will increase to almost one-third of their total system traffic by the year 2000.

Just as important, the pattern of demand for international service has changed considerably. First, the regional distribution of U.S. carriers' international revenues has changed dramatically, as the primary focus of carriers' expansion moved beyond Europe to meet new demand in the emerging markets of Asia, the Pacific

[1] An earlier statement of international air transportation policy and our request for comments on the statement was published at 59 FR 55523, Nov. 7, 1994.

[2] Our request for comments on the code sharing study was published at 60 FR 2171, Jan. 6, 1995.

VOL 60 ISS 85 MY 3 1995 UMI

Rim and Latin America. In 1983, the Atlantic accounted for 48% of our carriers' international revenues, while the Pacific accounted for 32%. By 1993, the Pacific had grown to 46% while the Atlantic was only 37%. The fastest growing sectors of the international aviation market are new and relatively undeveloped markets. During this same period, revenues in the Pacific grew 286%, in Latin America 151% and in Europe 116%. Second, from 1983 to 1993, the number of international aviation city-pair markets in which U.S. airlines participate has grown by more than a third, reflecting the major expansion of air service and carrier networks throughout the world and the increased dispersion of demand. Many of these city-pair markets are relatively small, generating only a few passengers per day.

Towards a Globalized Aviation Industry

The rapid growth of demand for international air service and the wider dispersion of traffic in city-pair markets are primary factors influencing the development of the air service industry. Carriers are increasingly finding that they cannot remain profitable unless they can respond to this changed demand. To compete effectively, carriers today must have unrestricted access to as many markets and passengers as possible

To meet demand and to improve their efficiency, many carriers are developing international hub-and-spoke systems that permit them to combine traffic flows from many routes (the "spokes") at a central point (the "hub") and transport them to another point either directly or through a hub in another region. Just as U.S. carriers developed hub-and-spoke systems to tap the broad traffic pool in the domestic market and to provide the most cost-efficient service for hundreds of communities that could not support direct service, international air carriers are developing world-wide hub-and-spoke systems to tap the substantial pool of international city-pairs. Internationally, an even larger portion of traffic moving over hub-and-spoke systems will require the use of at least two hubs (*e.g.*, a hub in both the U.S. and Europe for a passenger moving from an interior U.S. point to a point beyond the European hub). This increases the complexity and interdependence of the components of the system (both the spokes and hubs) and the importance of multinational traffic rights to the success of the system.

As a result, carriers wishing to establish global networks require a higher quality and quantity of supporting route authority than they have sought in the past. Airlines will become increasingly concerned with every market that enables them to flow passengers over any part of their system network. These airlines will be looking for broad, flexible authority to operate beyond and behind hub points, in addition to the hub-to-hub market between two countries. At present, governments operating in a bilateral context naturally focus on opportunities for their respective carriers to serve the local market between their two countries. In a bilateral context, services destined for or coming from third countries receive less consideration. In the future, governments will have to adjust their focus to bargain for the bundles of rights that will permit airlines to develop global networks.

Carriers can either serve markets themselves (direct service) or provide service through commercial arrangements with other carriers (indirect service), whether on a traditional interline connecting basis or under a closer commercial agreement between the carriers, such as code sharing. Carriers will develop service products—single-plane, on-line connecting, interline connecting, joint service—that respond to the preferences of the traveling public as measured by passenger willingness to pay for differences in the quality of service and that take into account their cost structure and market strategy. To the greatest extent possible, airlines should be free to set prices and offer various service products in response to passenger preferences.

Significant challenges face carriers wishing to develop international networks using their own direct services. They need:

- Substantial access not only to key hub cities overseas, but also through and beyond them to numerous other cities, mostly in third countries. This type of access is not readily obtainable in today's bilateral system of negotiating air rights, since governments can only exchange access rights to their own countries and cannot, between themselves, deliver access to third countries, thus requiring piecemeal negotiating efforts to build the necessary package of rights;
- Access to a large number of gates and takeoff/landing slots, frequently at some of the world's most congested airports. It may become increasingly difficult for carriers to gain effective, direct access to certain airport facilities, including some in the United States;
- Considerable financial resources to establish and sustain commercially successful overseas hub systems; and
- The ability to obtain infrastructure and establish market presence in a new region quickly. Existing foreign investment laws can effectively preclude airlines from entering new markets in one of the most efficient means available: merger or acquisition.

Some carriers are taking on these challenges directly and are striving to develop their own global systems of direct service. Other carriers have chosen to side-step the obstacles, turning instead to a new network-building technique: Cross-border marketing alliances that link traffic flows between established hub-and-spoke systems in key cities of the Western Hemisphere, Europe and Asia. Some of these alliances involve cross ownership, while others do not. Under this strategy, the linking of hubs requires indirect market access through code-sharing or other cooperative marketing arrangements. Although code sharing has become a widely-used marketing device for airlines and is currently the most prevalent form of commercial arrangement, further evolution of the industry and its regulatory environment may lead to new marketing practices that could supplement or supplant code sharing.

Code sharing and other cooperative marketing arrangements can provide a cost-efficient way for carriers to enter new markets, expand their systems and obtain additional flow traffic to support their other operations by using existing facilities and scheduled operations. Because these cooperative arrangements can give the airline partners new or additional access to more markets, the partners will gain traffic, some stimulated by the new service, and some diverted from incumbents. In this way, cooperative arrangements can enhance the competitive positions of both partners in such a relationship.

Increased international code sharing and other cooperative arrangements can benefit consumers by increasing international service options and enhancing competition between carriers, particularly for traffic to or from cities behind major gateways. By stimulating traffic, the increased competition and service options should expand the overall international market and increase overall opportunities for the aviation industry. U.S. airlines should be major beneficiaries of this expansion and the concomitant increased service opportunities, given their competitive advantages.

Moreover, code sharing should also enhance domestic competition. Many international passengers traveling to or from U.S. interior cities use domestic services for some portion of their international journey. Code sharing should increase competition among domestic carriers to carry those passengers on the domestic segment of their international journey.

Although we expect the expansion of cooperative arrangements to be largely beneficial, there may be some negative effects. The greater traffic access of participants may give them considerable competitive muscle, and we may need to watch for harmful effects on competition. In addition, cooperative arrangements may affect the availability of civil aircraft to meet emergency airlift requirements. Our national defense establishment relies on U.S. civil aircraft committed to the Civil Reserve Air Fleet program to respond to worldwide crises. As set forth in our National Airlift Policy, the global mobility needs of our national defense establishment, and ensuring that the nation's defense air transportation needs are met during peace and contingency operations, are important considerations.

Global systems and the growing use of code sharing may put significant competitive pressure on carriers whose strategy does not include participation in such systems or in code-sharing alliances, or whose options to participate may be limited due to the lack of potential partners. Such carriers will have to develop other commercial responses to compete effectively. We expect these pressures and responses to lead to a restructuring of service and airlines, similar to the U.S. domestic experience in the 1980s. Overall, cities and consumers will probably enjoy improved service and access to the international transportation system, although some cities may have fewer or less convenient service options in some markets than they have today. Similarly, although some airlines will grow and prosper, others will not. Moreover, we recognize that the balance of benefits in any particular alliance will depend on the specific structure of that arrangement between the partners. Overall, this evolution should expand the level and quality of international air service for consumers.

Code-sharing arrangements are designed to address the preference of passengers and shippers for on-line service from beginning to end through coordinated scheduling, baggage- and cargo-handling, and other elements of single-carrier service. However, innovative service products, such as code sharing, can only respond to consumer preferences accurately, and thereby enable the marketplace to function efficiently, if consumers make choices based on full information. Therefore, we must ensure that airlines give consumers clear information about the characteristics of their service product, and that consumers can distinguish between code sharing and other forms of service.

In addition to the two types of global networks (sole-carrier systems and joint carrier systems), there will continue to be a role for air services outside of global networks. The U.S. experience with deregulation indicates that—absent legal barriers to entry—specialized competitors will enter the market and discipline the pricing and service behavior of the larger network operators. The introduction of technologically advanced aircraft such as the B–767, the MD–11 and the B–777 make direct service on longer or thinner routes economically viable. Moreover, airlines can viably serve heavily traveled routes with point-to-point service.

In short, as indicated by our domestic experience, a variety of service forms—global networks with carriers participating either as the sole provider or as participant in a joint network, and regional niche carriers—can exist in the international aviation market and the competition among these services will enhance consumer benefits through efficient operations and low fares. Thus, our international aviation strategy should provide opportunities for all of these forms of service so that we realize the benefits from maximum competition among them.

Our airlines are well positioned to be primary participants in all aspects of the future global marketplace. In recent years, our largest domestic carriers have become our primary international carriers, replacing specialized international operators. After operating in a deregulated domestic market for more than 15 years, our carriers have developed operating efficiencies that give them a cost advantage over their major foreign competitors. Moreover, the financial positions of our carriers are improving due to their cost-cutting measures and improving economic conditions. Coupled with their cost efficiencies, their improving financial status will further enhance their competitive capabilities. Over time, however, trends toward privatization and increased productivity of major foreign competitors may affect the current cost advantage U.S. airlines enjoy. We must try to provide our carriers with the flexible rights and economic environment that will enable them to respond to the dynamics of the marketplace.

Intergovernment Aviation Relations

International air services between two nations have traditionally been conducted pursuant to bilateral agreements. The U.S. National Commission to Ensure a Strong Competitive Airline Industry and the European Union's Comité des Sages for Air Transport have both recognized that the bilateral system is limited in its ability to encompass the broad, multinational market access required by the new global operating systems. Consequently, progress in developing global networks has been and will be extremely fragmented and may preclude or limit the development of efficient operations. We must consider alternative forums for international aviation negotiations and agreements in which we can obtain the necessary broad access rights. We should examine the feasibility of achieving multilateral air service agreements among trading partners. Although such negotiations may be more complex and difficult because of the number of parties involved, they should be undertaken when they present a reasonable prospect for further liberalization.

Moreover, some governments are taking steps to enhance their airlines' positions both by restricting the development of new, competitive services and by trying to overcome, through government fiat, their carriers' cost disadvantages that make it difficult for them to compete against U.S. airlines in a free market. These efforts underlie many of the disputes we face in international negotiations today.

Such countries are responding to the highly competitive integrated and global air transportation market, in which their airlines may not be fully prepared to compete. Most foreign airlines are only beginning to adapt to the more competitive operating environment through such mechanisms as streamlining costs and realigning their operations to achieve greater productivity and operating economies. For state-owned airlines, privatization is an important initial step as it will lead those airlines to develop cost-efficient operations and, in the longer term, to expand their markets. These governments also may be reacting to the U.S. airlines' recent operating successes in the international aviation market, which are largely attributable to the U.S. airlines' productivity and competitive gains.

Some national governments continue to give their national airlines financial aid. Some also distort the marketplace by permitting their national airlines to maintain ground-handling and other

VOL 60 ISS 85 MY 3 1995 UMI

monopolies, by denying airlines access to necessary airport facilities, or by allowing user fees that equalize cost differentials between carriers. These actions distort competition and deprive the aviation system and consumers of the benefits that greater cost efficiency and lower prices would encourage. In the long run, these efforts will work against the overall best interest of the world economy. Moreover, they will be unsuccessful in providing long-term protection against the developing global aviation systems because no individual government can control all facets of its airlines' marketplace.

U.S. Objectives

We have outlined above our expectations about the future of the world air transportation industry and the role of U.S. airlines. We expect that international operations will depend more on traffic flows from multiple countries. In light of our goals, recent developments in the market and industry, and the positions and actions of our trading partners, we have designed our international aviation strategy to meet the following objectives:

- Increase the variety of price and service options available to consumers.
- Enhance the access of U.S. cities to the international air transportation system.
- Provide carriers with unrestricted opportunities to develop types of service and systems based on their assessment of marketplace demand:

—These opportunities should include unrestricted rights for airlines to operate between international gateways by way of any point and beyond to any point, at the discretion of airline management. Carriers should be able to pursue both direct service using their own equipment and indirect service through commercial relationships with other carriers;

—Service opportunities should not be restricted in any manner, such as restrictions on frequencies, capacity or equipment, so that carriers may provide levels of service commensurate with market demand;

—Carriers' ability to set prices should also be unrestricted to create maximum incentives for cost efficiencies and to provide consumers with the benefits of price competition and lower fares; and

—These opportunities should apply not only to scheduled passenger services, but also to cargo and charter opportunities, because of their growing importance to the world's economy. We have long recognized the significant differences among these types of operations. In particular, air cargo services have specific qualities and requirements that are significantly different from the passenger market. We will continue to follow our longstanding policy of seeking an open, liberal operating environment to facilitate the establishment and expansion of efficient, innovative and competitive air cargo services.

- Recognize the importance of military and civil airlift resources being able to meet defense mobilization and deployment requirements in support of U.S. defense and foreign policies.
- Ensure that competition is fair and the playing field is level by eliminating marketplace distortions, such as government subsidies, restrictions on carriers' ability to conduct their own operations and ground-handling, and unequal access to infrastructure, facilities, or marketing channels.
- Encourage the development of the most cost-effective and productive air transportation industry that will be best equipped to compete in the global aviation marketplace at all levels and with all types of service:

—Infrastructure needs should be addressed and unnecessary regulatory barriers eliminated.

—Privately held airlines have better incentives to reduce costs and respond to public demand. Therefore, as we have in the past, we will be supportive of governments wishing to privatize their airlines so that their privatization efforts will be successful; and

—Reduce barriers to the creation of global aviation systems, such as limitations on cross-border investments wherever possible.

Plan of Action

We recognize that considerable time and effort will be required to achieve an open aviation regime worldwide. We can get there by making a concerted effort to eliminate the obstacles to that regime and by taking a more strategic and long-term approach to our overall international aviation policies. At a minimum, we must increase our focus on emerging markets and their contribution to global networks; build a coalition of like-minded trading partners committed to the principles of free trade in aviation services; work closely with our trading partners to address their concerns; develop new incentives for encouraging market reform, such as increased opportunities for cross-border investment in airlines; and devise alternatives to the bilateral aviation system for achieving our objectives. We are launching our new initiatives to create freer trade in aviation services by taking the following steps:

- Extend invitations to enter into open aviation agreements to a group of countries that share our vision of liberalization and offer important flow traffic potential for our carriers even though they may have limited Third and Fourth Freedom traffic potential. This would assist the development of global systems and increase the momentum for further worldwide liberalization.
- Give priority to building aviation relationships between the United States and potential growth areas in Asia, South America and Central Europe. This recognizes the importance of these trading partners and the need to provide air transportation to support those developing trade markets. It will also make available new markets to build global networks.
- Renew efforts to achieve liberal agreements with trading partners with which our aviation relationships lag behind those of our general trade advancements, as we have done successfully with Canada.
- Emphasize the importance of sound economic analysis based on sufficient data in developing policies and strategies for achieving our overall aviation goals. This will enable us to remain focused on the overall strategic objectives, understand developments in the industry and market, and plan for the future.
- Seek changes in U.S. airline foreign investment law, if necessary, to enable us to obtain our trading partners' agreement to liberal arrangements to the extent it is consistent with U.S. economic and security interests.
- Increase our efforts to reach out to Congress and constituent groups, such as consumers, corporations with international perspectives (aircraft manufacturers, telecommunications, travel and tourism industries), cities, airports, airlines, labor and travel agents to learn their anticipated needs over a 3–5 year period. This will provide us with valuable information for developing our positions, as well as enlisting their support in pushing for greater liberalization.
- Establish stronger connections among U.S. government agencies whose functions are to promote U.S. business and trade interests (e.g., Departments of Commerce, State, and Transportation, Office of the United States Trade Representative, and the Export/Import Bank) as well as the Department of Defense, to ensure that we share a single vision of the future global marketplace while meeting national security requirements.

Given the diverse positions of our trading partners and their varying degrees of willingness to liberalize aviation relations, we must also have a strategy for dealing with countries that are not prepared or willing to join us in moving quickly to an unrestricted air service regime. Our approach is a practical one: It proposes to advance the liberalization of air service regimes as far as our partners are willing to go, and to withhold benefits from those countries that are not willing to move forward. Specifically, we will pursue the following strategy:

1. We will offer liberal agreements to a country or group of countries if it can be justified economically or strategically. We will view economic value more broadly than we have in the past, in terms of both direct and indirect access and in terms of potential future development. Moreover, there may be strategic value in adopting liberal agreements with smaller countries where doing so puts competitive pressure on neighboring countries to follow suit.

2. We recognize that some countries believe that they can resist the trend of economic forces and continue to control access to their markets tightly. We believe that they cannot, and that attempts to do so will ultimately fail. Nevertheless, we will work with these countries to develop alternatives that address their immediate concerns where this will advance our international aviation policy objectives. We will examine alternative approaches that may include departing from established methods of negotiation (perhaps negotiations with two or more trading partners); trying to develop service opportunities for the foreign airline to make service to the U.S. more economically advantageous for it; and continuing our efforts to help those governments and their constituencies appreciate the benefits that unrestricted air services can bring to their economies and industries.

While we work with such countries, we can consider, in the interim, transitional or sectoral agreements.

Transitional agreements—Under this approach, we would agree to a specified phased removal of restrictions and liberalization of the air service market. This approach contemplates that both sides would agree, from the beginning, to a completely liberalized air service regime that would come into effect at the end of a certain period of time.

Sectoral agreements—Traditionally, aviation agreements have covered all elements of air transportation between two countries. However, as a first step, we can consider agreements that eliminate restrictions only on services in specific aviation sectors, such as air cargo or charter services.

3. For countries that are not willing to advance liberalization of the market, we will maintain maximum leverage to achieve our procompetitive objectives. We can limit their airlines' access to the U.S. market and restrict commercial relations with U.S. airlines. When airlines request authority to serve restricted bilateral markets that is not provided for under an international agreement, we will consider their requests on a case-by-case basis in light of all our policy objectives, including, inter alia:

- Whether approval will increase the variety of pricing and service options available to consumers;
- Whether approval will improve the access of cities, shippers and travelers to the international air transportation system;
- The effect of granting code-sharing authority on the Civil Reserve Air Fleet program;
- The effect of the proposed transaction on the U.S. airline industry and its employees. In this regard, we will ascribe greater value to code-sharing arrangements where U.S. airlines provide the long-haul operations. We will also recognize the greater economic value of such arrangements where the services connect one hub to another; and
- Whether the transaction will advance our goals of eliminating operating and market restrictions and achieving liberalization.

If aviation partners fail to observe existing U.S. bilateral rights, or discriminate against U.S. airlines, we will act vigorously, through all appropriate means, to defend our rights and protect our airlines.

Conclusion

We are living through a period in which international aviation rules must change. Privatization, competition, and globalization are trends fueled by economic and political forces that will ultimately prevail. Governments and airlines that embrace these trends will far outpace those that do not. The U.S. government will be among those that embrace the future.

Authority citation: 49 U.S.C.40101, 40113, 41102, 41302, and 41310.

Dated: April 25, 1995.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs, Department of Transportation.

[FR Doc. 95–10584 Filed 5–2–95; 8:45 am]

BILLING CODE 4910–62–P

[Docket No. 50315]

Study of Gambling on Commercial Aircraft

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice of request for comments on study of gambling on commercial aircraft.

SUMMARY: This notice sets forth the elements of an ongoing study of gambling on commercial aircraft. This notice is being published to provide interested persons an opportunity to provide comments on specific questions important to the study.

DATES: Comments must be received no later than May 31, 1995.

ADDRESSES: Comments should be sent to the Docket Clerk, Docket 50315, Department of Transportation, 400 7th Street SW., Plaza 401, Washington, DC 20590. To facilitate consideration of the comments, we ask commenters to file eight copies of each comment. We encourage commenters who wish to do so also to submit comments to the Department through the Internet; our Internet address is dot_dockets@postmaster.dot.gov.[1] However, at this time the Department considers only the paper copies filed with the Docket Clerk to be the official comments. Comments will be available for inspection at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday. Commenters who wish the Department to acknowledge the receipt of their comments should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: James H. New, II, Office of Planning and Special Projects, Office of the Secretary, U.S. Department of Transportation, 400 7th Street SW., Room 9215A, Washington, DC 20590, (202) 366–4868.

SUPPLEMENTARY INFORMATION: This study, which is mandated by 49 U.S.C. 41311, requires the consideration of, among other things, the safety and competitive implications of gambling on commercial aircraft. Before this study is

[1] Our X.400 e-mail address is S=dotdockets/OU1=qmail/O=hq/p=gov+dot/a=attmail/c=us.

VOL 60 ISS 85 MY 3 1995 UMI

completed, we will carefully consider any comments that are received.

Study of Gambling on Commercial Aircraft

Background

Section 205 of the Federal Aviation Administration Authorization Act of 1994 (the "Act"), P.L. No. 103–305 (August 23, 1994) added section 41311 to Title 49 of the U.S. Code. Under 49 U.S.C. 41311(a), "an air carrier or foreign air carrier may not install, transport, or operate, or permit the use of any gambling device on board an aircraft in foreign air transportation." Section 41311(a) was designed to clarify current statutory prohibitions and to ensure equal treatment of U.S.-flag air carriers with foreign flag carriers with regard to in-flight gambling on commercial aircraft while the Department of Transportation studied the issue and recommended whether a different approach might be appropriate. Moreover, there was some concern that at some future time a different rule might be more appropriate. *See* 140 Cong. Rec. S6664 (June 9, 1994).

Pursuant to 49 U.S.C. 41311(b), the Secretary of Transportation is required to complete a study not later than one year (August 23, 1995) after the date of the enactment of the Federal Aviation Administration Authorization Act of 1994.

The study must have three components outlined as follows:

(1) the aviation safety effects of gambling applications on electronic interactive video systems installed on board aircraft for passenger use, including an evaluation of the effect of such systems on the navigational and other electronic equipment of the aircraft, on the passengers and crew of the aircraft and on issues relating to the method of payment;

(2) the competitive implications of permitting foreign air carriers only, but not United States air carriers, to install, transport, and operate gambling applications on electronic interactive video systems on board aircraft in the foreign commerce of the United States on flights over international waters, or in fifth freedom city-pair markets; and

(3) whether gambling should be allowed on international flights, including proposed legislation to effectuate any recommended changes in existing law.

Within five days after completion of the study, the Secretary of Transportation must submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the results of the study.

Interested parties are invited to participate in this study of gambling on aircraft by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasonable responses to the congressional issues raised. Comments are specifically invited regarding:

(a) Effects on safety of allowing gambling devices, including payment methods, to be installed and/or operated onboard aircraft including the effects on: (1) Navigational and other electronic equipment, and (2) passengers and crew. Regarding payment methods, at a minimum, the following issues are of particular interest—payments that require an air-to-surface interface, and whether payments/losses will interfere with passenger safety and duties of the crew.

(b) Competitive effects of retaining, lifting, or modifying the current restrictions on U.S. carriers with respect to (1) foreign air transportation, (2) code-share arrangements, and (3) flights involving fifth freedom markets.

(c) Whether gambling should be allowed in foreign air transportation by U.S. and/or foreign air carriers.

(Authority Citation: 49 U.S.C. 41311)

Dated: April 27, 1995.

Patrick V. Murphy

Acting Assistant Secretary for Aviation and International Affairs, Department of Transportation.

[FR Doc. 95–10909 Filed 5–2–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Airborne Ground Proximity Warning Equipment; Proposed Technical Standard Order

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and request comments on a proposed technical standard order (TSO) pertaining to airborne ground proximity equipment. The proposed TSO prescribes the minimum performance standards that airborne ground proximity equipment must meet to be identified with the marking "TSO–C92c.".

DATES: Comments must identify the TSO file number and be received on or before August 4, 1995.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service—File No. TSO–C92c, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Or deliver comments to: Federal Aviation Administration, Room 804, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Programs and Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–9546.

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed technical standard order may be examined, before and after the comment closing date, in Room 804, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director of the Aircraft Certification Service before issuing the final TSO.

Background

The FAA has reviewed TSO–C92b and the referenced RTCA, Inc., Document No. DO–161A and finds that there is a need to revise this TSO to address NTSB Safety Recommendations A–92–39 through A–92–42 and to update the computer software and environmental requirements.

Proposed TSO–C92c would add two new requirements: Each aural warning shall identify the reason for a GPWS warning, and each approved equipment would include airspeed in the logic that determines GPWS warning times. These requirements should satisfy Safety recommendations A–92–39 and A–92–40. The proposal adds a new paragraph which will allow added features, such as altitude callouts during nonprecision approaches and warnings based on airport location and aircraft position data. This paragraph addresses Safety Recommendations A–92–41 and A–92–42. Additionally, the FAA proposes to include RTCA DO–178B as the computer software requirement (none specified in TSO–C92b) and to update the environmental standard with RTCA DO–160C.

How To Obtain Copies

A copy of the proposed TSO–C92c may be obtained by contacting "For Further Information Contact." Copies of RTCA Document No. DO–161A, "Minimum Performance Standards for Airborne Ground Proximity Warning Equipment," may be purchased from the RTCA Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

Issued in Washington, DC, on April 18, 1995.

Abbas A. Rizvi,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 95–10766 Filed 5–2–95; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 95–21, Notice No. 01]

Availability and Request for Comment on Draft Report to Congress on the Benefits of Safety Belts and Motorcycle Helmets

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of availability and request for comment on draft report to Congress on the benefits of safety belts and motorcycle helmets required by the Intermodal Surface Transportation Efficiency Act of 1991.

SUMMARY: This notice announces the availability of the draft of the report to Congress on the benefits of safety belts and motorcycle helmets generated from the Crash Outcome Data Evaluation System (CODES) Project. The Report was mandated by Section 1031(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). As required in the ISTEA, the agency seeks comments on the draft report. The comments will be evaluated and incorporated, as appropriate, into the final report which will be provided to the Congress in February, 1996.

DATES: Comments on the draft report are due no later than August 1, 1995.

ADDRESSES: Interested persons may obtain a copy of the draft report, free of charge, from NHTSA's Docket Section at the address below. Written comments should refer to the docket and notice number of this notice and should be submitted to: Docket Section, Room 5109, NASSIF Building, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–4949. Docket hours are 9:30 a.m. to 4:00 p.m., Monday through Friday.

SUBMISSION OF COMMENTS: Interested persons are invited to submit comments on the draft report. It is requested, but not required, that 10 copies be submitted. All comments must not exceed 10 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 10 page limit. This limitation is intended to encourage commenters to detail their arguments in a concise fashion. All comments received before the close of business on the comment closing date indicated above for the draft report will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date also will be considered. Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Utter, National Center for Statistics and Analysis NRD–31, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590: Telephone 202–366–5351.

SUPPLEMENTARY INFORMATION: The Report to Congress on the benefits of safety belts and motorcycle helmets was mandated by Section 1031(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Grants were awarded to entities in Hawaii, Maine, Missouri, New York, Pennsylvania, Utah, and Wisconsin to obtain the data and perform the analyses upon which this report is based. NHTSA entitled the project the Crash Outcome Data Evaluation System (CODES) Project. These CODES grantee states linked statewide motor vehicle crash report data and computerized emergency medical service, emergency department, hospital discharge, and rehabilitative/long-term care data, so that those people injured in motor vehicle crashes could be followed through the health care system. The medical and financial outcome information was then used to determine the benefits of the protective devices in crashes. The grantees have provided NHTSA with the results of analyses using these data, and NHTSA has summarized the results of the individual state studies to produce the draft report to Congress. After the close of the comment period, NHTSA will review any comments received and make appropriate modifications to the report. The final version is to be delivered to Congress by February, 1996.

The draft report provides an overview of the study, the databases used, and the methodology used to link and analyze the data. The effectiveness rates presented in the report show that safety belts are highly effective in preventing injury and fatality in motor vehicle traffic crashes, particularly the more serious injuries. Motorcycle helmets also are effective in preventing fatalities and serious injuries, but not as effective in preventing minor injuries. Average inpatient charges are compared for belted and unbelted passenger vehicle drivers and for helmeted and unhelmeted motorcycle riders. Because the estimates of safety belt effectiveness are higher than NHTSA's current estimates, a discussion is presented about the potential effect of over-reporting of safety belt use on the study results. However, the results support NHTSA's belief that safety belts and motorcycle helmets are effective in reducing mortality and morbidity and showed, for the first time, that costs (inpatient charges) were significantly higher for unbelted hospitalized drivers compared to those who used their safety belts.

The CODES project had other benefits. The project demonstrated the efficacy of linking crash data files with medical outcome data files. Through the cooperation of the highway safety and medical communities, CODES was the first project to link state highway safety and injury-related databases using a probabilistic linkage algorithm, whereby statewide data from police crash reports, emergency medical services, hospital emergency departments, hospital discharge files, claims, and other sources were linked, without in most states the benefit of personal identifiers. The project also showed examples of the value of the linked data. Several of the CODES states have used their data to support highway safety initiatives and to produce research articles. Because the linked data are permanent and state specific, they can continue to be used now and in the future at minimal cost to support state and local highway safety initiatives.

Issued On: April 27, 1995.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 95–10840 Filed 5–2–95; 8:45 am]

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VOL
60
ISS
85
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Supplemental information about a proposed amendment to a system of records.

SUMMARY: On December 20, 1994, the Internal Revenue Service published, at 59 FR 65573, notice of an amended Privacy Act system of records: "Compliance Programs and Projects File—Treasury, IRS 42.021." Based on the comments received, the notice may not have adequately distinguished among the various users and uses of the compliance system, as well as the data it is to contain.

The system will not be used to support large scale data matching in order to identify specific individuals for contact by IRS personnel. The IRS has developed procedural safeguards to prevent data used in the compliance research programs and projects that engage in large scale data manipulation techniques to determine levels of compliance in particular "market segments" from being used for enforcement purposes as to specific taxpayers.

In light of the comments received, the IRS will clarify the notice to better describe more precisely the types of activities covered. Until that clarification is issued, the supplementary information below fully describes the compliance programs and projects covered.

ADDRESSES: Comments may be sent to the Office of Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224. Comments will be made available for inspection and copying in the Freedom of Information Reading Room, (202) 622–5164, upon request.

FOR FURTHER INFORMATION CONTACT: Wayne Thomas, National Director, Compliance Research, (202) 874–0100.

SUPPLEMENTARY INFORMATION: The compliance research system presently includes records to support information gathering to identify noncompliance with the Internal Revenue Code. The system is being redesigned to identify causes and trends of noncompliance and to generate and test new approaches to increasing voluntary compliance.

This redesign will be accomplished by using an automated information system and secure networks to support compliance research on broadly shared characteristics and compliance trends of large groups. The enhancements themselves, the personnel who will access and use the enhanced system, and the purposes for which it will be used will be clearly distinguished from other uses by enforcement personnel who lawfully access similar records for individual enforcement actions.

The enhancements will not include maintenance of records with individually identifying information since compliance research will focus on broadly shared characteristics and compliance trends of large groups, typically national in scope. The personnel who use and access the research system will not be enforcement personnel. The system will not be used to select individuals for enforcement actions.

The enhanced system should provide the Internal Revenue Service with a wider range of options for improving voluntary compliance beyond the limited and costly current enforcement actions applied to individuals, one at a time. Information produced by analyzing enhanced data will be analogous to that used broadly in the private sector under the name "market segment research." It will allow group-based measurements of noncompliance. Based solely upon an identified significant degree of group noncompliance, these enhancements will further allow the construction of group profiles or characteristics directly related to tax compliance behavior. Enhanced data will also permit researchers to use statistical and other research methods to determine the issues and causes of noncompliance. Against those issues and causes, new initiatives at improving group compliance will be vigorously tested on a small scale. Research personnel will oversee but not directly test or implement such initiatives.

The enhanced system is intended to support compliance initiatives that rely more on group access and forums that on contacting individuals; and more on non-enforcement actions (e.g., legislative or regulatory revision, education, assistance) rather than on enforcement actions. Even in those instances where an enforcement remedy is appropriate, the enhanced system itself cannot be used by enforcement personnel nor can it select individuals to whom such remedies will be applied.

This system of records has always on a limited basis and with legal authority contained information from various third-party sources. The enhancements to this system will add more information from more sources. It will also improve access to this information. However, use of these enhancements for the purposes of compliance research will adhere to the operating principles of such research: it will be group-focused rather than individually focused and not directly used to select individuals for enforcement actions. The minimum data about group demographic and economic characteristics that bear directly upon measured group non-compliance will be used. Unlike the common practice of private-sector market research, these enhancements will not include "life-style" or other highly personal information even in aggregate. Additionally, the Internal Revenue Service recognizes its responsibility to validate third-party data before they are used to support even research activities.

Dated: April 16, 1995.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 95–10801 Filed 5–2–95; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

[AC–27; OTS No. 2952]

Gallup Federal Savings and Loan Association, Gallup, New Mexico; Approval of Conversion Application

Notice is hereby given that on April 26, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Gallup Federal Savings and Loan Association, Gallup, New Mexico, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039.

Dated: April 27, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10806 Filed 5–2–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–28; OTS No. 5161]

Schenectady Federal Savings and Loan Association, Schenectady, New York; Approval of Conversion Application

Notice is hereby given that on April 25, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Schenectady Federal Savings and Loan Association, Schenectady, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: April 27, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10807 Filed 5–2–95; 8:45 am]

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VOL
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Sunshine Act Meetings

Federal Register
Vol. 60, No. 85
Wednesday, May 3, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

INSTITUTE OF MUSEUM SERVICES

Notice of Meeting

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government through the Sunshine Act (Public Law 94–409) and regulations of the Institute of Museum Services, 45 CFR 1180.84.

TIME/DATE: 1:30 p.m. to 4 p.m.—Friday, May 12, 1995.

STATUS: Open.

ADDRESS: The Madison Hotel, 15th and M Streets, NW., Salon A, Washington, DC 20005, 202/862–1600.

FOR FURTHER INFORMATION CONTACT: Elsa Mezvinsky, Special Assistant to the Director, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Room 510, Washington, DC 20506—(202) 606–8536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting of Friday, May 12 will be open to the public.

If you need special accommodations due to a disability, please contact: Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506—(202) 606–8536—TDD (202) 606–8636 at least seven (7) days prior to the meeting date.

63rd Meeting of the National Museum Services Board, Friday, May 12, 1995, 1:30 p.m.–4 p.m.

Meeting Agenda

I. Swearing in of New Members
II. Chairman's Welcome and Approval of Minutes
III. Director's Report
IV. Appropriations Report
V. IMS Programs—Actions Items
  A. Conservation Project Support (CP)
  B. General Operating Support (GOS)
  C. Museum Assessment Program (MAP)
  D. Conservation Assessment Program (CAP)
VI. Museum Assessment Committee Report
VII. Legislative/Public Affairs Report

Dated: April 24, 1995.

Linda Bell,

Director of Policy, Planning and Budget, National Foundation on the Arts and the Humanities, Institute of Museum Services.

[FR Doc. 95–11006 Filed 5–1–95; 1:01 pm]

BILLING CODE 7036–01–M

NATIONAL SCIENCE FOUNDATION

NATIONAL SCIENCE BOARD

DATE AND TIME:

May 11, 1995, 8:30 a.m. Open Session
May 11, 1995, 3:30 p.m. Closed Session
May 12, 1995, 9 a.m. Closed Session
May 12, 1995, 11 a.m. Open Session

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, Virginia 22230.

STATUS: Part of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Thursday, May 11, 1995

Open Session (8:30 a.m.–3:20 p.m.)

—Long Range Planning and Priorities
—Swearing in Ceremony of New NSB Members—Public invited
—Long Range Planning and Priorities: Continued

Thursday, May 11, 1995

Closed Session (3:30 p.m.–4:30 p.m.)

—Planning and Budget

Friday, May 12, 1995

Closed Session (9 a.m.–11 a.m.)

—Minutes, March 1995 Meeting
—Election of Executive Committee Members
—Planning and Budget: Continued

Friday, May 12, 1995

Open Session (11 a.m.–11:45 a.m.)

—Minutes, March 1995 Meeting
—Closed Session Agenda Items for June 1995 Meeting
—Chairman's Report
—Director's Report
—Executive Committee Annual Report
—Calendar of Meetings
—Reports from Committees
—Other Business/Adjourn

[FR Doc. 95–10943 Filed 5–1–95; 9:15 am]

BILLING CODE 7555–01–M

federal register

Wednesday
May 3, 1995

Part II

Department of Justice

Office of Justice Programs Fiscal Year 1995 Program Plans; Notice

VOL 60 ISS 85 MY 3 1995 UMI

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP NO. 1048]

ZRIN 1121–ZA11

Office of Justice Programs Fiscal Year 1995 Program Plans

AGENCY: Department of Justice, Office of Justice Programs.

ACTION: Notice of program plans.

DATES: See specific Program Plan.

ADDRESSES: All questions concerning these Program Plans should be addressed to the appropriate Bureau or Office at 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Carol Winfield of the Department of Justice Response Center at 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Preface

OJP Bureaus' Fiscal Year 1995 Program Plans

The increasing crime rate, particularly escalating violent crime by juvenile offenders, continues to be a major concern of the American public. No community is untouched. Law enforcement and criminal justice agencies around the country are faced with new and increasing challenges as they respond to crime.

The Fiscal Year 1995 Program Plans for the United States Department of Justice, Office of Justice Programs (OJP) Bureaus—the National Institute of Justice, the Bureau of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime—reflect an effort to address these problems aggressively. Their simultaneous publication in the **Federal Register** reflects an emphasis on collaborative relationships among the Bureaus and a strong commitment to working in partnership with communities across the country in addressing the problem of crime.

These plans not only reflect a renewed commitment to coordination among the OJP Bureaus, but also demonstrate a recognition that the only way in which we can hope to have an impact on the country's crime problems is by reaching out to public agencies at all levels of government, as well as a broad range of community and private groups. In developing their Program Plans, the Bureaus solicited input from State and local criminal justice agencies, constituent and community groups, law enforcement, prosecutors, courts, corrections agencies, and victim service providers, as well as other Department of Justice components and other Federal agencies. Thus, in addition to embracing existing Administration and Department of Justice initiatives—reducing violent crime, developing comprehensive community-based approaches to crime and violence, focusing on youth crime and firearms, actively involving citizens in prevention efforts, and meeting the needs of crime victims—the Fiscal Year 1995 OJP Program Plans also reflect needs expressed by the field.

The Program Plans encourage applicants to forge partnerships along new frontiers, often reaching beyond criminal justice boundaries to find solutions. By approaching crime and violence in a comprehensive fashion—bringing all the players in the system together—applicants are encouraged to improve the effectiveness of their services, reduce wasteful duplication, and identify new and innovative approaches to tough problems.

For example, OJP Bureaus are working together on several initiatives, such as Project PACT (Pulling America's Communities Together), the Comprehensive Communities Program (CCP), and the new Safe Futures Program, that fund communities to mobilize their law enforcement and justice system resources together with a coalition of government agencies and private sector resources. Working in partnership with the community, key officials and community leaders develop broad-based, coordinated strategies to reduce the high rates of drug abuse and related crime and violence in their neighborhoods. Project PACT, CCP, and Safe Futures are examples of programs that empower communities to impact crime and violence, particularly youth violence, through comprehensive planning, and improved intergovernmental relationships.

Another recurrent theme in the OJP Program Plans is the Federal government's role in providing leadership and guidance on crime control, prevention and victims issues by developing and testing new approaches and determining "what works." As model programs are tested and developed through research, evaluation, and demonstration grants, information on effective programs and practices is disseminated widely to State and local criminal justice and social service agencies. Local communities should not have to "road test" new ideas without solid knowledge about what has been tried before in other jurisdictions, what has worked, and what has not. The Program Plans also provide information on the availability of training and technical assistance to assist States and local jurisdictions interested in implementing "best practices."

Important priorities identified in the 1994 Crime Act—particularly with regard to violence against women, the illegal possession and use of firearms, and comprehensive, innovative prevention and early intervention strategies aimed at high risk youth—are also reflected in the Program Plans.

Another key goal for OJP was to make it easier for States and local communities to access OJP services, programs, and information. As a result, we have set up a new inter-department, Internet-based clearinghouse called PAVNET. PAVNET will provide information on promising programs, available funding, and technical assistance. We have also set up the Department of Justice Response Center to answer questions concerning program availability and funding.

The Program Plans that follow, describe in greater detail OJP's funding goals and priorities for this Fiscal Year. For more information about the application process, as well as about Crime Act programs, you can call the DOJ Response Center at 1–800–421–6770.

* * * * *

As we move ahead with our initiatives for Fiscal Year 1995, the Office of Justice Programs is committed to working in close partnership with communities at the State and local level. Only by working together can we hope to have an impact on the enormous problems of crime and violence confronting our nation today.

Laurie Robinson,

Assistant Attorney General Office of Justice Programs.

Bureau of Justice Assistance

Fiscal Year 1995 Program Plan

I am pleased to announce the Bureau of Justice Assistance's (BJA) Discretionary Program Plan for FY 1995. BJA assists States and local jurisdictions through the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. Through the Byrne Discretionary Grant Program, BJA provides leadership and guidance on crime and violence prevention and control and criminal justice system improvement at the State and local levels. BJA also develops and tests new approaches in criminal justice and crime control, and encourages replication of effective programs and practices by State and local agencies.

This year, BJA's plan focuses primarily on national scope demonstration programs. These programs support two goals: to assist States and local units of government to reduce and prevent crime, violence, and drug abuse and to improve the criminal justice system. To meet these goals BJA will work with communities to develop comprehensive strategies and expansive, problem-solving partnerships. Special emphasis is placed on anti-violence initiatives, particularly those dedicated to reducing the availability of illegal firearms and providing young people with alternatives to gangs and criminal involvement. Additionally, BJA will continue to work in partnership with State and local law enforcement, as well as the United States Attorneys; improve the adjudication process; assist States with alleviating prison overcrowding by fostering corrections options programs; and focus resources on both evaluation of promising programs and dissemination of information about these programs to the field.

BJA's Program Plan for FY 1995 includes a $50 million appropriation for general programs and a $12 million appropriation for Corrections Options Programs. It describes planned activities for the Regional Information Sharing Program (RISS) and the National White Collar Crime Center. Joint efforts planned with other Federal agencies are also described.

Obviously, our dollars are limited. Consistent with the Administration's policies and in an effort to get the most for each dollar spent, I am committed to making BJA's Discretionary Grant Program as competitive as possible and to maximizing the impact of these limited competitive dollars through a wide array of programs directed toward urban communities, rural areas, and Native American communities. For this reason, in FY 1995 BJA will:

- Give preference to applicants who leverage BJA dollars through partnerships among organizations bringing a commitment of other resources to the table (such as Empowerment Zones/Enterprise Communities);
- Notify all grantees that continuation funding in future years is not guaranteed but, rather, will be based on performance and other relevant factors;
- Institute the practice of awarding a declining BJA share of funding for second and subsequent years where continuation funding is provided;
- Complete the process of developing, in consultation with the National Institute of Justice, a strategy for obtaining early evaluative information on particularly promising programs for early dissemination to our constituents;
- Promote activities complementing the initiatives being implemented through the Crime Act; and
- Continue to maximize OJP resources by working in partnership with the National Institute of Justice, the Office for Victims of Crime, the Office of Juvenile Justice and Delinquency Prevention, and other components of the Justice Department.

These initiatives, coupled with focused goals and objectives, will build stronger partnerships at all levels. I envision these partnerships to be a continuum of relationships encompassing all components of the criminal justice system.

Goals

The FY 1995 Program Plan addresses BJA's two goals: To help State and local units of government (1) reduce and prevent crime and violence and (2) improve the functioning of the criminal justice system. Enhanced coordination and cooperation of Federal, State and local efforts facilitate the achievement of these goals. The objectives for each of the goals are outlined below. The programs developed to address the objectives are described in the plan.

- Reduce and Prevent Crime and Violence

Encourage the development and implementation of comprehensive strategies, in coordination with human service providers, to reduce and prevent crime and violence.

Encourage the active participation of community organizations and citizens in crime- and violence-prevention efforts.

Provide national scope training and technical assistance to support local crime-, drug use-, and violence-prevention efforts.

Provide young people with legitimate opportunities and activities which serve as alternatives to crime and involvement with gangs.

Reduce the availability of illegal weapons and develop programs to address violence in our communities, homes, schools, and workplaces.

- Improve the Functioning of the Criminal Justice System

Enhance the ability of law enforcement agencies to reduce crime, drug trafficking and sales, and violence.

Improve the effectiveness and efficiency of all aspects of the adjudication process.

Assist States in freeing prison space for serious and violent offenders through the design, development, and implementation of effective correctional options for nonviolent offenders.

Enhance the ability of State and local agencies, in conjunction with the Immigration and Naturalization Service, to apprehend and deport criminal aliens.

Evaluate the effectiveness of funded programs, disseminate results, and enhance the ability of criminal justice agencies to use new information technologies.

How Priorities Were Established

Priorities for the FY 1995 Discretionary Grant Program reflect a balance of congressional mandates, Administration priorities, and needs expressed by State and local criminal justice practitioners. The goals are defined by the authorizing legislation for the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. Priorities for a number of specific programs to address those goals are mandated by Congress through the earmarking of the appropriation.

BJA's priorities also reflect Administration and Department of Justice priorities, especially those related to reducing violent crime, the need to develop comprehensive approaches to crime and violence, the focus on youth, and the need for active citizen participation in prevention efforts.

During the planning process, BJA solicited input on priorities from national organizations which represent State and local governments, criminal justice agencies, and community groups. Input was also requested from the State agencies which administer the Byrne Formula Grant Program as well as from U.S. Attorneys. A number of programs that address current issues were incorporated into the plan in response to this valuable input.

Types of Programs

BJA is authorized by Congress to make awards to public and private agencies and organizations for national scope and multi-State programs, demonstration programs, training, and technical assistance to assist States and local jurisdictions. National scope programs provide a service or product of benefit throughout the country or across multiple States or address issues that are of concern nationally. Demonstration programs are used to develop, test, evaluate, and document new programs and practices. Training is developed and provided to State and local criminal justice practitioners and others to provide them with state-of-the-art information on effective programs and practices. Technical assistance is

VOL 60 ISS 85 MY 3 1995 UMI

provided to sites participating in demonstration programs or is available to help an individual jurisdiction implement a program or practice or address a specific issue.

Competitive and Noncompetitive Grants

Each section of this Program Plan is divided into programs that will be awarded on a competitive basis and those that are noncompetitive. Whenever possible, BJA encourages broad participation in the grants process by public and private agencies and organizations at the State and local levels and makes awards on a competitive basis.

Each year, BJA also makes noncompetitive awards. There are a number of factors that limit the number of competitive programs:

- Congressional Earmarks—Each year Congress directs BJA to award a portion of the appropriated funds for specified programs and/or organizations. In FY 1995, over $23 million of the $50 million appropriated for general discretionary programs were earmarked for specific programs. BJA was also directed to review other programs (soft earmarks) for possible funding.
- Continuation and Implementation Grants—Many of BJA's programs require several years of funding to accomplish their goals. For example, training efforts require several years of funding to develop the curriculum and to reach the intended audience. Demonstration sites, which are generally selected competitively the first year, require 2–3 years of funding to develop fully, implement, and evaluate the program. In addition, BJA has funded several planning efforts with implementation funding provided in subsequent years.
- Limited Competition—Limited competition is used when a limited number of jurisdictions or organizations meet the requirements of the program. These jurisdictions or organizations are then invited to compete for an award. A limited competition saves jurisdictions or organizations that will not qualify the time and expense of preparing an application. It also allows BJA to concentrate technical assistance and training on this limited pool of applicants.
- Sole Source Selection—In some cases, there is only one organization or agency that has the capability, expertise, or constituents to administer a program that BJA wants to implement. For example, an association that represents a constituency which BJA wants to reach with technical assistance or training may be the best organization to implement the program. In other cases, BJA may make an award on a non-competitive basis to an agency that has developed an innovative program and has the expertise to implement it.

In FY 1995, BJA has modified applicant requirements and review criteria to facilitate stronger partnerships with grantee agencies and to maximize the impact of limited competitive dollars. These include:

- Preference will be given to applicants who leverage BJA dollars through partnerships among organizations bringing a commitment of other resources to the table;
- All grantees are on notice that continuation funding in future years is not guaranteed but, rather, will be based on performance and other relevant factors; and
- As appropriate, BJA will provide a declining share of total funding for second and subsequent years where continuation funding is provided after FY 1995.

Application Process

A Program Announcement and Application Kit, which will be available in late April, will serve as a request for proposals. It will contain detailed descriptions of competitive programs and complete forms and instructions for developing an application.

Competitive Programs—The Program Announcement and Application Kit will describe for each competitive program: the purpose of the program, background, goals, objectives, program design, eligibility requirements, selection criteria, award period, award amount and due date. Applications for competitive programs are due by June 30, 1995. A panel of experts will be established for each competitive program area to review and rank the applications. Funding decisions are made by the Director of BJA.

Non-Competitive Programs—BJA staff will contact applicants for noncompetitive programs to discuss application requirements and due dates.

The Department of Justice Response Center staff are available to respond to questions and provide technical assistance to applicants and other interested parties. The Response Center number is (800) 421–6770.

Goal I: Reduce and Prevent Crime and Violence

Comprehensive Communities Program

Encourage the Development and Implementation of Comprehensive Strategies To Reduce and Prevent Crime and Violence

The Comprehensive Communities Program (CCP) reflects the Administration's priority of reducing crime and violence by initiating comprehensive planning and improving intergovernmental relationships. It requires selected jurisdictions to engage in a comprehensive planning and strategy development process for crime and violence control and prevention. It requires law enforcement and other governmental agencies to work in partnership with communities to address crime problems, as well as the factors that increase the risk that individuals will become involved in problem behavior.

In FY 1994, 16 jurisdictions faced with high rates of crime and violence were selected to participate in CCP. The four Pulling America's Communities Together (Project PACT) sites were included in this group. Each jurisdiction was provided with planning funds to develop a strategy that demonstrates a jurisdictionwide commitment to community policing, coordination among public and private agencies (including, social services, public health, etc.), and an active role by the community in problem solving.

BJA made funding available for a number of program components to assist with implementation of the strategy. These components are designed to implement specific models that BJA has already developed and found to be effective or models the agency wants to test. These components also allow for the development of new models, which, if successful, can be replicated by other jurisdictions. The program components are described below. Each strategy was required to include community policing and community mobilization/prevention initiatives. Six sites received awards from the FY 1994 allocation. The remaining 10 sites received awards in FY 1995.

Jurisdictionwide Community Policing

Jurisdictionwide Community Policing, a mandatory program component, forms the core of the Comprehensive Communities Program. It requires the applicant to implement a jurisdiction-wide model of community policing using a framework developed by a consortium of national law enforcement organizations working with BJA. Funding for this component, in the amount of $9,990,000 was provided by the COPS Office.

Community Mobilization/Prevention—$969,718

Community mobilization, also a mandatory component, focuses on implementation of strategies to promote the acceptance and practice of community policing, rehabilitate crime-ravaged neighborhoods, and empower communities by strengthening relationships among citizens, law enforcement, and other public and private service providers.

Nonviolent Dispute Resolution

The Non-Violent Dispute Resolution component is a joint effort of BJA and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to test a variety of strategies to train teenagers constructively to manage anger, resolve conflict without the use of firearms or violence, learn the importance of mutual respect, and be responsible for their actions. Funding, in the amount of $300,000 is being provided by OJJDP.

Boys & Girls Clubs Demonstration

The goal of this component is to establish or expand Boys and Girls Clubs in public housing and other at-risk communities through the Boys and Girls Clubs of America. This program will be supported under an earmark to the Boys and Girls Clubs of America described in the section on Youth and Gangs.

Comprehensive Gang Initiative

The Comprehensive Gang Initiative requires sites to implement a model comprehensive approach to gang issues that carefully balances initiatives for prevention, intervention, and suppression. Funding for this component, in the amount of $799,345, is being provided by OJJDP.

Community Prosecution—$969,719

This program component encourages local prosecutors to be more responsive to the needs of their communities by bringing the prosecutor and the community together as partners to maintain public safety.

Community-Based Alternatives to Incarceration—$1,350,000

This program component encourages local communities to develop community-based alternatives to incarceration that hold offenders accountable while keeping them in the community where they can participate in job training and/or work, substance abuse treatment, restitution or community service, and other services needed to make them productive citizens.

Continued Comprehensive Planning—$400,000

Four of the sites that participated in the Comprehensive Communities Program planning process in FY 1994 will be provided with additional time and resources to refine their comprehensive strategies.

Implementation Funding—$1,600,004

Funds are being set aside to assist the four sites still engaged in planning with implementation of their strategies.

Training and Technical Assistance—$300,000

Training and technical assistance will be provided to the Comprehensive Communities Program sites to assist them with the planning process and the effective implementation of their strategies.

Community-Based Programs

Encourage the Active Participation of Community Organizations and Citizens in Crime- and Violence-Prevention Efforts

Crime and violence are only symptoms of broader problems which plague our communities. Crime cannot be stopped by law enforcement without the active participation of the community and other public and private agencies. It cannot be eradicated unless we address the causes which surround our children with violence, crime, and despair.

BJA plans to expand and enhance community mobilization efforts by assisting local communities and law enforcement agencies actively to engage residents and community groups in taking back their neighborhoods. One neighborhood at a time, these partnerships will seek to rid communities of drug dealers, gangs, and other criminals.

Operation Weed and Seed will be continued and expanded in FY 1995. This comprehensive, multiagency approach is helping 36 communities address both public safety and neighborhood revitalization issues. BJA will also continue to fund several community mobilization/action programs that encourage citizens to work with the police, government, community organizations, and the private sector to explore new and innovative approaches to preventing crime, youth handgun violence, and drug abuse.

In FY 1995, BJA will also address the Attorney General's commitment to focus resources on problems faced by many American Indian tribes by establishing Federal/tribal partnerships with several tribes for the purpose of developing tribal strategies against violence. Violence in public housing will also be addressed by assisting local communities develop comprehensive approaches to crime and violence in public housing. Both of these planning processes will be documented to serve as guides for other communities.

To address the rights and needs of the victims of crime, which are important components of all of the community-based programs, BJA and the Office for Victims of Crime will jointly fund a number of programs to assist the victims of crime and to increase the criminal justice system's responsiveness to the rights and needs of victims.

Competitive

Communities in Action to Prevent Drug Abuse—$400,000

The Bureau of Justice Assistance in cooperation with the Employment and Training Administration, U.S. Department of Labor, will continue a unique demonstration program at the grassroots-level. The National Training and Information (NTIC) and up to ten of its affiliated neighborhood-based organizations will implement a program to reduce crime and violence and to help residents access services of local job training and employment systems. Key program elements are: building and/or enhancing local planning teams and partnerships made up of public officials, law enforcement, representatives of private industry councils and other groups that focus on providing job training and related services, other service providers, businesses, churches, schools, community organizations, youth, and other residents; the development of short-, intermediate-, and long-term strategies; community policing; prevention education; and, the development of training opportunities for job placement.

Non-Competitive

Tribal Strategies Against Violence—$300,000

This program is a Federal/tribal partnership initiative designed to galvanize Native American communities in up to five sites to develop strategies to reduce the incidence of family violence, child abuse, and juvenile delinquency as well as to foster community participation and support in the implementation of the strategies.

Community Drug Abuse Prevention Initiatives—$500,000

The National Crime Prevention Council will continue to provide cost-effective technical assistance and training to reduce crime, violence, and the demand for drugs, with a focus on acceptance of community policing, rehabilitating crime-ravaged neighborhoods, and community empowerment.

VOL 60 ISS 85 MY 3 1995 UMI

National Neighborhood Mobilization Program to Prevent Crime—$50,000

This program will provide continuation funding for a grassroots organization in Philadelphia to support community policing through the implementation of comprehensive, innovative, anti-crime, anti-firearm, and anti-drug strategies.

Victim Services as a Component of the Criminal Justice System $450,000

This project will provide training and technical assistance to criminal justice agencies to encourage them to be more responsive to the needs and concerns of victims and to incorporate victim services into criminal justice functions.

Operation Weed and Seed—Demonstration and Technical Assistance—$10,000,000

Operation Weed and Seed is a community-based, comprehensive, multiagency approach designed to "weed" out crime and gang activity from target neighborhoods and then "seed" them with a wide range of human services that provide opportunities for citizens to live, work, and raise families in a stable environment. The 36 existing demonstration sites will receive awards to continue activities and/or expand into new target neighborhoods. Five sites will also receive funding to participate in the National Performance Review Lab, focused on neighborhood revitalization strategies. An array of technical assistance and training services will be available to the demonstration sites. Weed and Seed is a joint effort between BJA and the Executive Office for Weed and Seed. The Executive Office will contribute approximately $13 million to the program, in addition to the BJA funds.

Community Crime and Drug Abuse Prevention and Education Initiatives

Provide National Scope Training and Technical Assistance To Support Local Crime-, Drug Use-, and Violence-Prevention Efforts

This program area implements national-level programs which provide training and technical assistance to local communities to support their prevention activities. For example, local programs may make use of, and localize, nationally and professionally developed print and television crime prevention messages through the National Citizens' Crime Prevention Campaign. Use of the McGruff the Crime Dog logo, which is recognized and respected by over 97 percent of school age children, provides local programs with instant credibility. Similarly, participation in National Night Out serves as a rallying point for citizen participation in local efforts. Both of these programs provide communities with technical assistance and crime prevention materials that can be used locally.

In FY 1995, BJA will continue to support the five Drug Abuse Resistance Education (DARE) Training Centers. These centers prepare State and local law enforcement officers to teach the DARE program in local schools. These Centers have been critical in facilitating the expansion of this very popular program and ensuring that both large and small jurisdictions from across the country have access to the training. Program funds are also used to develop enhancements to the DARE program, such as the mentoring program, the DARE parent program, and DARE training for junior and senior high school students.

The TRIAD Program, initiated in FY 1994, will be continued in FY 1995. This program focuses specifically on reducing the incidence and impact of crime and violence on the elderly. TRIAD, conducted jointly by the National Sheriffs' Association, the International Association of Chiefs of Police, the American Association of Retired Persons, the Office for Victims of Crime, and BJA will provide technical assistance and will develop training and materials at the national level for dissemination to local jurisdictions throughout the country.

Non-Competitive

National Citizens' Crime Prevention Campaign—$3,000,000

The National Citizens' Crime Prevention Campaign, best known for McGruff the Crime Dog and the TAKE A BITE OUT OF CRIME slogan, will continue to rally national, State and local crime and violence prevention efforts through the development and implementation of timely and effective crime-, violence-, and drug-prevention materials, publications, technical assistance, training, and programming.

Drug Abuse Resistance Education (DARE)—$1,750,000

BJA will continue to support the DARE Regional Training Centers which train law enforcement officers to teach the DARE program to students from elementary through high school to help them learn how to resist drug use, gangs, and violent behavior; build self-esteem; and prevent abduction.

The National Association of Town Watch: Crime- and Drug-Prevention Campaign—$200,000

Commonly known as "National Night Out", this year-long program provides information, materials, and technical assistance for the development of effective police/community partnerships to reduce crime, violence, and substance abuse.

TRIAD—$200,000

TRIAD, a program developed by the National Sheriffs' Association, the International Association of Chiefs of Police, and the American Association of Retired Persons, strives to reduce the adverse impact of crime and violence on the elderly and promote a better quality of life through volunteerism and the provision of prevention services to their peers. Additional funding of $50,000 will be provided by the Office for Victims of Crime.

Youth and Gangs Programs

Provide Young People With Legitimate Opportunities and Activities Which Serve as Alternatives to Crime and Involvement With Gangs

Research has identified certain risk factors which contribute to substance abuse, delinquency, and violence among adolescents as well as protective factors which promote positive behavior. BJA's youth and gang programs are designed to address a number of risk factors related to: attitudes and norms favorable to problem behaviors, friends who engage in problem behavior, lack of commitment to school, and parental attitudes and involvement. The programs help to balance the risk factors in high-risk communities by establishing or strengthening protective factors which counter or provide buffers against the risk factors. These programs are designed to establish or strengthen protective factors which address the relationships between youth and their social environment.

Most of the programs are joint efforts between BJA and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Several include participation by private foundations. All of the programs bring together various service agencies and community organizations to assist and provide opportunities for at-risk youth.

Competitive

Pathways to Success—$200,000

The Pathways to Success program, funded jointly by BJA, OJJDP, and the National Endowment for the Arts, is designed to encourage young people to explore a wide range of career and life

options. The program will promote arts education, recreation, job skills training, and business entrepreneurial programs for after-school and weekend hours at the community level. This program will fund up to five applications at up to $40,000 under OJJDP's Safe Futures Program and up to five competitive sites at up to $50,000 each for the first year of a 2-year project.

Interested applicants will need to demonstrate that collaboration has taken place with existing arts, education, business and community groups, and youth-serving agencies in the development of its program, including, where appropriate, collaboration with existing after school and weekend youth programs. The Pathways to Success program is designed to serve at-risk youth from 6 to 18 years of age, but a project need not cover the full age range. Each applicant will be expected to define a lasting outcome, i.e. a product that benefits the community, or to provide an ongoing program that will continue to provide community-based services beyond the end of the funding cycle. OJJDP will also contribute $200,000 to and will administer the Pathways to Success Program.

Non-Competitive

Truancy Reduction Training and Technical Assistance—$200,000

BJA will collaborate with the OJJDP to address the needs of truants, dropouts, children afraid to go to school, children who have been suspended or expelled, as well as children in the juvenile justice system. Program activities include regional hearings, training and technical assistance, and related support services for communities interested in comprehensively addressing the needs of these youth. OJJDP will also contribute $200,000 to and will administer the program.

Boys & Girls Clubs Demonstration—$4,350,000

BJA will provide resources to the Boys and Girls Clubs of America to promote the establishment of Boys and Girls Clubs in public housing and other at-risk communities.

Children At-Risk Program—$1,150,000

This program tests a variety of intervention strategies for preventing and controlling illegal drugs, gun use, and related crime and for fostering healthy development among young people from drug- and crime-ridden neighborhoods. In FY 1995, an impact evaluation, technical assistance with emphasis on community policing, and existing demonstration sites will be continued. This program is joint venture between BJA, OJJDP, and the Center for Addiction and Substance Abuse, with additional funding provided by several foundations. OJJDP will contribute $350,000 to the program.

Comprehensive Gang Initiative—$150,000

Under the Comprehensive Gang Initiative, BJA developed a model comprehensive approach to gang issues that carefully balances initiatives for prevention, intervention, and suppression. In FY 1995, BJA will provide continuation funding for the four currently funded projects and provide technical assistance to help other jurisdictions experiencing emerging gang problems. OJJDP will contribute $600,000 to this joint BJA/OJJDP effort.

Violence Reduction

Reduce the Availability of Illegal Weapons and Develop Programs to Address Violence in Our Communities, Homes, Schools, and Workplaces

Efforts to reduce and prevent violence continue to be high priorities in FY 1995. BJA's efforts will include the continuation and expansion of programs to reduce the availability of illegal firearms, prevent homicides, and reduce violence in our communities.

In FY 1993 and 1994, BJA began to address the increase in gun violence and homicides through the initiation of a Firearms Licensee Compliance Program, the establishment of a Firearms Investigative Task Force Program, the creation of a Homicide Task Force, and other initiatives. These programs will be expanded and built upon in coordination with the U.S. Attorneys' Anti-Violence and Youth Handguns Initiatives to assist State and local criminal justice agencies and communities control and prevent street violence.

BJA will also continue its focus on domestic and relational violence. According to the Surgeon General, the number one public health risk to adult women in the United States is violence. For women ages 15–44, violence is the leading cause of injuries. The nature and prevalence of this problem has been dramatized by recent news events. BJA developed a new initiative in FY 1993 to address violence against women, including spouse abuse, child abuse, elder abuse, sexual assault, and stalking. This initiative promotes a systems approach which emphasizes criminal prosecution with comprehensive case follow-through. This demonstration program will be evaluated and documented this year to provide guidance to the States as they implement the Violence Against Women Block Grant Program created by the Violent Crime Control and Law Enforcement Act of 1994.

New initiatives will be implemented to address the growing problem of violence in the workplace and to create a National Major Gang Task Force to track and respond to the growing interaction between street and prison gangs. BJA will also participate in a public/private partnership against violence in America which is a joint effort among private and corporate foundations and several Federal agencies to help local communities address violence.

Competitive

Homicide Investigation Enhancement Program—$300,000

The purpose of this program is to develop a model(s) to assist jurisdictions faced with high and increasing rates of homicides by increasing their capacity and ability to investigate homicides. One or two demonstration sites will implement this model(s) and its various procedures and policies as appropriate to their situation. The development of the model(s) will be based on the Homicide Investigation Enhancement Program at the Metropolitan Police Department (MPD), District of Columbia. This program, funded in FY 1994, assisted the MPD in restructuring its Homicide unit and its operations. In addition, ways to utilize the resources and expertise of the Federal law enforcement agencies, like the Federal Bureau of Investigation and the U.S. Marshal's Service, will be explored. The Police Executive Research Forum will develop this model(s) and provide technical assistance to the demonstration sites.

Firearms Trafficking Program—$1,000,000

The purpose of the BJA Firearms Trafficking Program, working in cooperation with the U.S. Bureau of Alcohol, Tobacco and Firearms, is to demonstrate effective strategies to reduce the level of violent crime by controlling the illegal trafficking of firearms. The goals of the program are to: (1) Reduce the number of Federal firearms licensees and ensure that those who do obtain licenses have a legitimate reason for doing so, and (2) reduce the level of firearms-related violent crime in the demonstration sites. Applicants may address either of the two program goals set forth for this program or develop a strategy which combines both of the

VOL 60 ISS 85 MY 3 1995 UMI

program goals in a comprehensive approach to reducing firearms-related violence. Three or four demonstration sites will be funded.

Non-Competitive

Firearms Trafficking Program—$1,750,000

The Firearms Trafficking Program is designed to assist State and local governments reduce incidents of violence by reducing the availability of and the illegal trafficking in firearms. This program contains several components which BJA has found to be effective or promising in reducing the availability of firearms.

- The Firearms Licensee Compliance Program enhances the ability of State or local law enforcement agencies to conduct more complete and comprehensive background investigations on applicants for new or renewed Federal Firearms Licenses.
- The Firearms Investigative Task Force Program is designed to identify, target, investigate, and prosecute individuals and dismantle organizations involved in the unlawful use, sale, or acquisition of firearms in violation of the Federal and/or State firearms laws.
- Interstate Firearms Trafficking Program supports a cooperative effort among the Governors of 14 States, the District of Columbia, and the ATF to address the increase in violent crime committed with firearms obtained through interstate trafficking of guns.
- Innovative Firearms Program assists State or local jurisdictions in developing and implementing innovative new or enhanced projects designed to control illicit firearms trafficking. In addition, BJA, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), ATF, and U.S. Attorneys will work together to develop a State or local project to implement the new Youth Handgun Safety Act. OJJDP will contribute $250,000.

Public/Private Partnership Against Violence in America—$1,000,000

A Funding Collaborative, comprised of private and corporate foundations, the Department of Justice, and other Federal agencies, has been established to address violence in America, particularly violence affecting children and youth. Local sites will be selected to participate in this program on a competitive basis by the Funding Collaborative.

Arson and Explosives—Investigation and Prosecution Training for Prosecutors—$50,000

This program supports national training for State and local prosecutors in the investigation and prosecution of arson and bombings by addressing the personal and economic losses caused by incendiary and suspicious fires. The U.S. Fire Administration will also contribute $50,000 to this program.

Prison Gang Tracking System—$450,000

This program will support a National Major Gang Task Force designed to provide a coordinated law enforcement and corrections response to the growing interaction between street and prison gangs.

Firearms Legislation Program—$125,000

The purpose of this project is to develop a body of general information about key provisions of States' firearms codes. The Office for Juvenile Justice and Delinquency Prevention contributed $52,500 to this program.

Violence Against Women Demonstration Program—$400,000

This program is designed to demonstrate and assess a systems approach to violence against women including spouse abuse, child abuse, sexual assault, and stalking, which coordinates criminal prosecution with comprehensive case follow-through of court orders, monitoring and enforcement services, and protection for victims. This program will provide continuation funding for three existing sites.

Violence Against Women Program—Training and Technical Assistance—$150,000

A consortium, established between BJA, the American Prosecutors Research Institute, and the National Council of Juvenile and Family Court Judges, will assist the demonstration sites described above in addressing the critical issues related to violence against women.

Goal II: Improve The Functioning Of The Criminal Justice System

Comprehensive Law Enforcement Initiatives

Enhance the Capacity of Law Enforcement Agencies To Disrupt Crime, Drug Trafficking and Sales, and Violence

The Comprehensive Law Enforcement Initiatives are designed to develop and test new programs and practices that enhance the effectiveness of State and local law enforcement agencies in making our communities safe from serious and violent criminals. In addition to continuing several drug task force and financial investigation demonstration programs in FY 1995, BJA will fund an Anti-Car Theft Demonstration Program; a Major Crime Problem Solving Unit; and Gang Organized Crime Narcotics and Violence Enforcement Task Forces. Under these programs, new approaches to major crime and gang problems will be developed, implemented, documented, and made available to other jurisdictions.

Training and technical assistance related to Organized Crime Narcotics (OCN) Enforcement, Financial Investigations, and Clandestine Laboratory Investigation and Interdiction, which have been in great demand by local agencies, will be continued. Training currently under development through a BJA grant to the National Organization of Black Law Enforcement Executives will be initiated in FY 1995 to enhance the ability of law enforcement officers to draw on social and economic support systems available in their community to assist minority families.

BJA will also continue the National Law Enforcement Policy Center, which provides a national resource for local agencies to use in establishing and enhancing their policies and procedures. The Center focuses on new and difficult issues facing local law enforcement agencies. It is a valuable resource to many small- and medium-sized departments that do not have the resources or expertise to conduct research.

Competitive

Auto-theft Deterrence, Investigation and Prosecution Program—$200,000

The purpose of the Auto-Theft, Deterrence, Investigation, and Prosecution Program is to develop, demonstrate, and assess effective strategies to reduce the incidence of auto theft, carjackings and trafficking in stolen motor vehicles or motor vehicle parts. It is designed to: Develop new and innovative strategies to reduce, prevent and deter motor vehicle theft and violence; develop tactical coordination and interagency plans between law enforcement agencies and prosecutors to increase the likelihood of arrest and prosecution for motor vehicle theft and carjacking; and target repeat offenders. The 25 cities with the highest motor vehicle theft rates per 100,000 population in 1993 and/or the 15 cities with the highest number of carjackings in 1992 are eligible to apply for one of two awards to be made. See the Program Announcement and Application Kit for a list of eligible cities.

Non-Competitive

Anti-Car Theft Program—$300,000

The purpose of this program is to establish a National Stolen Auto Part Information System to assist law enforcement agencies in tracking parts from stolen vehicles.

Training and Technical Assistance to Rural Areas—$150,000

This program assists rural areas in the development of approaches and strategies to address rising rates of crime, drug abuse and violence through the provision of technical assistance and training related to such issues as: Prevention, intervention, law enforcement, prosecution, courts, corrections, and treatment.

Non-Traditional Law Enforcement Responses to Minority Families—$150,000

The National Organization of Black Law Enforcement Executives, in partnership with the Jefferson Institute, will continue the development and implementation of a training program through which law enforcement officers will be taught how to access a variety of community resources to address problems facing minority families.

National Law Enforcement Policy Center—$200,000

The National Law Enforcement Policy Center, administered by the International Association of Chiefs of Police, will continue to develop and disseminate model policies for use by State and local law enforcement agencies.

Washington Metropolitan Area Drug Enforcement Task Force—$2,000,000

The Washington, DC, Metropolitan Area Drug Enforcement Task Force will continue to: (1) Provide a visible law enforcement presence; (2) disrupt major links between drug suppliers, distributors, and users; (3) initiate enforcement action against property owners who knowingly allow their property to be used in the distribution of illicit drugs; (4) develop comprehensive intelligence systems; and (5) coordinate with appropriate agencies regarding illegal firearms used by drug organizations.

Major Crime Problem Solving Unit—$400,000

The North Miami Beach Police Department will expand its innovative community policing approach to the detective function.

Chicago Building Interdiction Team Efforts—$500,000

This program will continue the Chicago Building Interdiction Team (BITE), a joint effort of the Chicago and the Chicago Housing Authority Police Departments, in the Robert Taylor Homes/Gateway Gardens Public Housing Developments. It is designed to regain control of these developments from gangs committing violent crime, particularly firearms crimes, and restore tenant confidence in law enforcement agencies.

Organized Crime Narcotics (OCN) Program—Technical Assistance—$300,000

This program will continue to provide technical assistance to the OCN projects, that are demonstrating the effectiveness of law enforcement agencies working together under a shared management concept to attack multijurisdictional criminal conspiracies involving narcotics.

Gang OCN Violence Enforcement Program—$500,000

This program is designed to assist local law enforcement and prosecution agencies in addressing the growing problem of gang-related violence, with a special focus on drugs and firearms. Two sites will be selected to gather intelligence and develop investigative and prosecutorial strategies designed to weaken the structure and activities of violent gangs.

Statewide Intelligence Sharing (SIS) Program—Demonstration and Technical Assistance—$850,000

This program will continue to develop, implement, and demonstrate the efficacy of centrally coordinated statewide narcotics intelligence sharing, using the OCN approach to system design, management, and operation. The four SIS projects will be continued in FY 1995.

Financial Investigations (FINVEST)—Demonstration and Technical Assistance—$900,000

The FINVEST sites will continue to demonstrate the effectiveness of coordinated multijurisdictional financial investigations and prosecutions, using the shared management concept and attacking the profit motive of illegal narcotics trafficking at the State and local levels.

OCN/FINVEST—Multi-Agency Response Training Project—$650,000

The Multi-Agency Response Training Project will continue to help State and local agencies address management issues and provide dedicated training and technical assistance in support of the OCN—New Directions, Statewide Integrated Resources Model, the Financial Investigations Demonstration Programs, as well as for other State and locally funded multi-agency task forces.

Financial Investigation and Money Laundering—Training and Technical Assistance—$250,000

This program will enable the National Association of Attorneys General to continue comprehensive program development initiatives, develop program documentation, and provide training and technical assistance to State Attorneys General to assist them in conducting complex financial investigations of and prosecuting illicit drug enterprises.

Clandestine Laboratory Training and Certification $300,000

The Clandestine Laboratory Model Enforcement Program assists State and local policymakers and practitioners develop policies, procedures and programs related to the hazardous chemicals problems associated with clandestine laboratories. In FY 1995, training and followup technical assistance will be provided in approximately nine locations by The Circle, Inc. BJA funding will also enable the Drug Enforcement Administration (DEA) to continue to provide regional safety certification training to State and local law enforcement officers.

Community-Focused Adjudication

Improve the Effectiveness and Efficiency of All Aspects of the Adjudication Process

BJA is committed to the development of partnerships among the various components of the criminal justice system to focus on problem solving in the adjudication process and in the wider community.

The Community Focused Adjudication programs address a wide variety of issues facing all of the players in the adjudication process: The courts, local prosecutors, and defense attorneys. A number of the programs, such as Tribal Courts, Partnerships for the Improvement of Adjudication, Technical Assistance to State Courts, and the National Judicial College, are designed to enhance the capacity of State and local judges and court systems effectively and efficiently to process the large numbers of cases and to address the complex issues that are presented to the courts.

BJA is also committed to assisting State and local courts expand

VOL
60
ISS
85
MY
3
1995
UMI

sentencing or referral options to better meet the needs of the community, the victim, and the offender. The Drug Court Resource Center and the Denial of Federal Benefits Program, which will be continued in FY 1995, help to make such options available to judges.

BJA is also committed to assisting State and local prosecutors address new and complex issues such as the growing problem of fraud and abuse by health care providers. As with other components of the criminal justice system, BJA will continue to support activities which encourage prosecutors to work more closely with and be more responsive to the needs of the communities they serve.

Competitive

Adjudication Partnership—$250,000

The purpose of this program is to enhance the State and local adjudication process by improving practices and partnerships among the various components of the criminal justice system. Innovative, coordinated adjudication efforts across component systems will be identified, documented, and assessed. A symposium will be held to discuss the barriers to cooperation as well as creative methods of overcoming those impediments. One award will be made. Two jurisdictions will receive subawards of $50,000 each to implement model programs.

Improving the Interaction Among State, Tribal, and Federal Courts—$200,000

In close collaboration with the tribal courts, this program will improve the interrelations of State, tribal and Federal courts. The goals of the program are to identify and develop a long-range research, demonstration, and training agenda to improve tribal, State, and Federal court relations; provide direct technical assistance to tribal courts on issues of court organization, personnel management, facilities, automation, caseflow, evaluation, and criminal justice records; and enhance the tribal administration of justice by helping prosecutors, probation officers, and judges develop long term plans and strategies with the tribal government. One award will be made.

Litigation Project—$100,000

The purpose of this program is to examine the impact of pro se inmate litigation and to document innovative methods to address the growing demands on State Attorneys General, Federal (and to a limited extent, State) courts, and State correctional departments caused by State prisoners' direct access and appeal to the courts. The program will identify and develop strategies to assist civil and criminal justice agencies in dealing with the increase in inmate litigation; develop and initiate stringent screening procedures to determine which cases have sufficient merit to proceed in forma pauperis; and produce more efficient case management systems for managing and disposing of pro se inmate litigation. A single award will be made to an educational institution, not-for profit private organization, prosecution agency or State court.

Health Care Fraud Investigation and Prosecution Demonstration—$600,000

The purpose of this program is to develop a prototype Statewide Health Care Fraud Prosecution Unit capable of investigating and prosecuting all types of health care fraud. It will provide support for the planning, organization and implementation of demonstration health care fraud prosecution units. The program will assess and document State Attorney General's leadership role in directing and coordinating complex health care fraud investigations. Grant awards of up to $200,000 each will be awarded to up to three State Attorneys General offices.

Non-Competitive

Health Care Fraud Investigation and Prosecution Training and Technical Assistance—$250,000

This project will enable the National Association of Attorneys General to work with the demonstration sites described above to develop prototype strategies for conducting health care fraud investigations and prosecutions by State Attorneys General, including health care consumer fraud, Medicaid fraud, and fraud against traditional insurance companies and HMOs.

Community Prosecution—$250,000

BJA and NIJ will conduct a joint effort in FY 1995, to assess the state of the art in community prosecution and develop a program initiative that will move this important community-based effort to its next phase of development and implementation. This effort will build on the American Prosecutors Research Institute's earlier work to define and document community prosecution.

Model State Drug Enforcement and Treatment Statutes—$200,000

This program will continue the education and promotion of comprehensive model State drug laws which significantly reduce, with the goal to eliminate, substance abuse through effective use and coordination of enforcement, treatment, education, prevention, community, and corrections resources.

Technical Assistance to State Courts—$150,000

American University will provide technical assistance to State courts that request help in addressing specific problems related to such issues as case processing and backlog, family violence and protective orders, sentencing, and other emerging problems.

Denial of Federal Benefits—$125,000

This program provides an information system for the courts to use to notify the Federal government about offenders convicted of certain drug-related offenses that disqualify them from receiving various Federal benefits, including contracts and grants.

Drug-Related Legal Education for Judges—$100,000

The National Judicial College will provide approximately 175 scholarships to State and local trial court judges to attend training on subjects identified by the Administration as high priorities, such as Alcohol and Other Drugs and the Courts; Domestic Violence; Equal Justice in the Courts; and Effective Sentencing and Probation Management for Judges and Probation Officers.

DNA Legal Assistance Unit—$150,000

This project will fill the void created when the Federal Bureau of Investigation discontinues DNA testing and related legal and technical services for local prosecutors.

Correctional Options, Boot Camps, and Treatment

Assist States in Freeing Prison Space for Serious and Violent Offenders Through the Design, Development, and Implementation of Effective Correctional Options for Nonviolent Offenders

The purpose of the Correctional Options Program is to help States plan, design, develop, implement, and evaluate innovative alternatives to traditional modes of incarceration for youthful offenders, including offender education, training, work, skill development, substance abuse treatment, and transitional release programs.

The program operates under the authority established by Title XVIII of the Crime Control Act of 1990 and provides grants to both public agencies and private organizations. The goals of the Correctional Options Program are to reduce the costs of incarceration, relieve prison and jail crowding, lower recidivism rates for youthful offenders, and introduce innovation in correctional practices.

Congress appropriated $12 million for this program in FY 1995, which is allocated by Congress among the three program areas described below. The balance of the allocation for Part I will be awarded under the Comprehensive Communities Program for Community-based Alternatives to Incarceration.

Part I—Demonstration Programs—$8,250,000

The purpose of this program is to demonstrate the development and implementation of correctional options within existing correctional systems. The term "correctional option" includes community-based incarceration, weekend incarceration, correctional boot camps, transitional programs and aftercare services, drug courts, day reporting, structured fines, electronic monitoring, intensive probation, and other innovative sanctions designed to have the greatest impact on offenders who can be dealt with more effectively in a nontraditional correctional environment.

Some sites, funded with demonstration grants in FY 1992 and FY 1993, will receive continuation funding. Up to 10 new sites will be selected competitively from among the 24 sites funded with planning grants in FY 1994, to receive Correctional Options Demonstration Grants.

BJA will also provide $1.5 million to support two demonstration sites for the Office of Juvenile Justice and Delinquency's (OJJDP) Accountability Based Community Intervention Program. In addition, $500,000 has been allocated to support OJJDP's Intensive Aftercare Program.

From Part I, $1.35 million has been allocated for the development of community-based alternatives to incarceration under the Comprehensive Communities Program.

Part II—Training and Technical Assistance—$1,200,000

The purpose of this program is to make grants to private, nonprofit organizations to provide training and technical assistance to criminal justice personnel and establish small, innovative demonstration projects. In FY 1995, the Correctional Options Technical Assistance and Support Program will continue to provide services to public agencies that have been awarded Part I grants for demonstration programs and Part III grants for correctional boot camps. The program will also implement a nationwide outreach program to jurisdictions seeking to plan, develop, implement, improve, or expand alternatives to traditional modes of incarceration.

As described below, the nationwide outreach program will include the efforts of a number of other nonprofit organizations with specialized areas of expertise, some of which will not receive new awards in FY 1995.

- Treatment Alternatives for Special Clients (TASC)—The National Consortium of TASC Programs will provide technical assistance and training on developing linkages between treatment and criminal justice.
- American Probation and Parole Association (APPA) will provide technical assistance and training on Intensive Supervision Programs and mobilizing community involvement and support for correctional options programs.
- The Sentencing Project will provide training and technical assistance on defense-based sentencing initiatives.
- The American Correctional Association will convene a National Meeting to Promote Correctional Options, support follow-up regional meetings and training sessions, and provide training and technical assistance to support the Federal Surplus Property Program.
- Productive Work and Employment Preparedness—The Correctional Industries Association (CIA) will provide technical assistance and support to the Prison Industries Enhancement and Certification Program. BJA will also continue to provide technical assistance and program development to support productive work opportunities in local jails, through a continuation grant to the Jail Work and Industries Center.
- Structured Sentencing— The National Council on Crime and Delinquency will complete a study of structured sentencing practices and experiences nationwide and will develop a dissemination and technical assistance initiative.
- Telecommunications to Support Correctional Options—The Community Corrections Improvement Association will develop informational and training videos, a national satellite teleconference on correctional options, and other telecommunications products, such as telephone training conferences, computer bulletin boards, or regional teleconferences.
- Transitional and Aftercare Services—The VERA Institute will provide technical assistance and support to strengthen transitional and aftercare services available to youthful offenders that successfully complete correctional boot camp programs. It will also support the design of community-based intervention services for drug dependent offenders.
- Prosecutor and Public Defender Training—The Institute for Law and Justice will continue to work with prosecutors and public defenders to promote a greater understanding of the issues that influence the development, implementation, and successful operation of correctional options.

Part III—Boot Camps—$1,200,000

The purpose of this program is to develop and test the effectiveness of correctional boot camps as a correctional option. Sites that received boot camp implementation grants in FY 1992 and FY 1993 will be eligible to receive continuation funding in FY 1995. Funds will also be available to support boot camp applications developed by FY 1994 planning grant recipients.

Criminal Aliens Initiatives

Enhance the Ability of State and Local Agencies, in conjunction with the Immigration and Naturalization Service, To Apprehend and Deport Criminal Aliens

The number of criminal aliens being arrested and incarcerated is increasing, adding to the already enormous criminal justice caseload and to the crowding in our jails and prisons. An estimated 100,000 illegal aliens convicted of felonies reside in our Federal, State, and local correctional/detention facilities. The identification and deportation of criminal aliens are high priorities for the Department of Justice. BJA, in conjunction with the Immigration and Naturalization Service (INS), will continue to assist State and local law enforcement and corrections agencies in addressing the problems associated with the investigation of criminal aliens involved in drug trafficking and other serious crime as well as the impact of criminal aliens detained in State correctional systems.

Non-Competitive

Criminal Alien Identification and Intervention—$1,000,000

The Criminal Alien Identification and Intervention Program is designed to enable the earliest possible identification of aliens arrested for felony offenses through INS's Law Enforcement Support Center (LESC). During FY 1995, the six States that have documented the largest alien populations in their correctional systems will continue to serve as demonstration sites. Technical assistance will be provided by the

VOL
60
ISS
85
MY
3
1995
UMI

Institute for Intergovernmental Research.

Training in Anti-Drug Activities and Cultural Differences Involving Illegal Aliens—$125,000

This project will, through a collaborative effort between the International Association of Chiefs of Police and INS, continue to present a series of training seminars to local law enforcement officers that will enable them more effectively to investigate crimes involving criminal aliens.

Evaluation, System Improvement, and Information Dissemination

Evaluate the Effectiveness of Funded Programs, Disseminate Results, and Enhance the Ability of Criminal Justice Agencies To Use New Information Technologies

The primary purpose of the programs in this program area is to determine "what works" in crime control/prevention and criminal justice system improvement and to disseminate that information to practitioners throughout the country. BJA will continue to work with the National Institute of Justice to support the evaluation of BJA-funded Discretionary and Formula Grant Programs. BJA will also continue to support the building of an evaluation capacity at the State and local levels to increase the quality and quantity of programs funded with formula grant and local resources.

Dissemination of the evaluation results is accomplished through the BJA Clearinghouse and Response Center, conferences, publications, technical assistance, and training.

The other important purpose of this program area is to enhance the capacity of State and local criminal justice agencies to share intelligence information and to use information system technology.

Non-Competitive

Evaluation—$1,500,000

This program will be implemented by the National Institute of Justice (NIJ) which will evaluate several BJA funded programs and then disseminate information to States and local jurisdictions on "what works" against crime and violence. Additionally BJA and NIJ will convene a national conference on "Evaluating Violent Crime and Drug Abuse Initiatives."

Operational Systems Support Training and Technical Assistance—$1,000,000

This program will continue to provide training and technical assistance on criminal justice information management, the use of microcomputer technology among criminal justice agencies, and the operational benefits of technology. An award will be made to SEARCH Group, Inc.—the National Consortium for Justice Information and Statistics.

Federal/State/Local Partnership Conference—$200,000

This project will enable BJA to hold a conference with State and local governmental and criminal justice officials to discuss issues related to crime and violence in America.

Technical Assistance and Training to State and Local Criminal Justice Agencies—$1,500,000

This program will provide training and technical assistance to States, local, and Native American Indian jurisdictions in developing and implementing comprehensive strategies. It also encourages States to include the programs and strategies developed through BJA's Discretionary Program in their State violent crime and drug control strategies developed under the Formula Grant Program.

Peer Review Services—$150,000

Applications submitted to BJA in response to a competitive program announcement are reviewed by a panel of independent experts who have experience and expertise in the subject area. A Peer Review Services contract provides administrative support and pays the expenses of the reviewers.

Department of Justice Response Center and BJA Clearinghouse—$1,139,000

This program supports the BJA Clearinghouse which serves as an information and dissemination source for the criminal justice field. BJA is also responsible for the management of the Department of Justice Response Center, which provides timely and accurate information on Department of Justice initiatives.

Report Publication and Dissemination—$200,000

This allocation enables BJA to produce and disseminate information to the criminal justice field about state-of-the-art programs and activities to improve the criminal justice system through publications and other media materials (e.g., brochures, pamphlets, videos, and updating electronic bulletin boards).

Regional Information Sharing Systems—$14,500,000

The Regional Information Sharing Systems (RISS) program is composed of six regional projects that share intelligence and coordinate efforts of State and local law enforcement against criminal networks that operate in many locations across jurisdictional lines. In FY 1995, all RISS projects will enhance gang and firearms intelligence, provide linkages within RISS and outreach linkages to other systems, and assist the U.S. Attorneys antiviolence initiative.

National White Collar Crime Information Center—$1,400,000

The National White Collar Crime Center takes the lead in multi-State investigations of white collar crimes including but not limited to: Investment fraud, telemarketing fraud, securities fraud, boiler room operations, and advanced fee loans.

Immediate Response to Emerging Problems—$1,500,000

This program will provide BJA the resources to respond quickly to emerging problems or target "hot spot" areas by providing programs, training, and/or technical assistance to State and local criminal justice agencies.

Automated Speech Recognition—$200,000

BJA will provide an award to Advanced Solutions Group of South Carolina to develop automated speech storage and retrieval software and automated speech recognition for input into database fields, in order to reduce the time that law enforcement officers devote to preparing incident reports and to fulfilling other reporting requirements.

State and Local Evaluation Capacity Building Initiative—$1,000,000

Technical assistance and training will be provided by the Justice Research and Statistics Association to State and local agencies responsible for implementing, monitoring, evaluating, and developing reporting mechanisms for violent crime and drug control programs implemented under the Byrne Formula Grant Program.

Nancy E. Gist,

Director, Bureau of Justice Assistance.

Office of Juvenile Justice and Delinquency Prevention Final Comprehensive Program Plan for Fiscal Year 1995 and Notification of the Availability of the FY 1995 Competitive Discretionary Assistance Program and Application Kit

Introduction

The Nation's juvenile justice system stands at a crossroads. We are faced with a disturbing increase in violent crimes committed by juveniles and an alarming rise in abuse, neglect, and street violence perpetrated against American youth. In light of this emerging crisis, we can no longer afford a narrow focus by separate disciplines to attack this problem. To effectively address the rising levels of juvenile crime, participants from all community sectors, public and private, and across specializations, must plan collaboratively and comprehensively to reduce violence and build safer and healthier communities. Collectively, we must launch a two-pronged assault on juvenile delinquency and violence, and their causes. Prevention and early intervention programs, coupled with a strong focus on law enforcement and a comprehensive system of graduated sanctions are crucial to this battle.

The public's fear of youth violence is well founded. Assuming that juvenile violent crime arrest rates increase annually at the rate they have in the past decade, juvenile violent crime arrests would more than double by the year 2010. The Federal Bureau of Investigation's Uniform Crime Reports for 1992–1993 show that the greatest increase in arrests of violent offenders involves children under the age of 18. Offenders under the age of 15 show the greatest increase in offenses involving the use of weapons. No place is a haven. Our neighborhoods, our schools and our homes are becoming increasingly violent. In 1992, 1.55 million violent crimes were committed against juveniles age 12 to 17, a 23.4% increase since 1987. The increased use of weapons, particularly firearms, by juveniles has created a climate of fear both for and of our children.

An increased emphasis on law enforcement and corrections has been the most common response to rising levels of juvenile violent crime. Assuredly, our communities have a vital stake in ensuring that serious, violent and chronic offenders are removed from the street. However, providing more detention beds and secure commitment facilities and increasing prosecution of juveniles as adults can only protect our communities in the short term. Such measures alone cannot put an end to youth violence. While we need to take immediate steps to protect our communities today, programs that prevent delinquency and violence tomorrow are the greatest hope for the future.

We must intensify our efforts to prevent delinquency by seeking ways to target services to youth and families at risk and to intervene immediately to hold first time juvenile offenders accountable before they become serious, violent, or chronic delinquents or graduate to become adult criminals. Working with our communities, we must integrate a system of support for families and children that will help them live in a safe and healthy environment. America's children should awaken each morning in homes that are free of child abuse and neglect; they should attend schools that are free of drugs, gangs, and guns; and after school, they should be able to play in parks that are safe and return to homes that provide a nurturing and supportive atmosphere.

Much of the public debate about juvenile delinquency centers on at-risk youth. If we are to provide early and effective intervention to prevent delinquency, we must begin by more precisely targeting at-risk children and families, but we should not exclude any child who needs services.

The road to adulthood has become increasingly hazardous in our society, and many families have broken apart. We must strengthen and preserve families. In particular, we must help families provide their children with the support that young people need to become productive and law abiding citizens.

If we are serious about combating crime, we must start early to ensure the healthy development of our children. We know that the early years of life are highly significant in a child's development. It is during that period that children learn empathy from caring adults with whom they have secure attachments and develop a sense of trust derived from parental responsiveness and loving attention.

Therefore, it is critical to:

- Offer parents the tools they need to nurture their children effectively, through parent training classes and home visitation programs, including parents of offenders and juvenile offenders who are teen parents.
- Enable children to enter kindergarten ready for school with a chance to succeed, through programs such as Head Start and HIPPY (Home Instruction Program for Preschool Youngsters).
- Keep students in school, where they can acquire the tools to become self-sufficient through truancy and dropout prevention and intervention programs.
- Give youth a positive alternative to being out on the street and the violence this encourages through after-school activities and conflict resolution programs.
- Provide youth with positive role models through mentoring programs.

There are clear correlations between child abuse and neglect and increased delinquency and violence. A National Institute of Justice study on the cycle of violence reports that childhood abuse and neglect increase the likelihood of arrest as a juvenile and as an adult. The direct connection between violence and child neglect is striking: 12.5 percent of neglected children and 15.8 percent of physically abused children will be arrested for a violent offense by the age of 25. An ongoing OJJDP study on the causes and correlates of delinquency found that adolescents from families in which two or more forms of violence are present (e.g. child and spouse abuse) are almost twice as likely to report committing violent offenses as their peers from nonviolent families.

Thousands of alleged incidents of child abuse and neglect are reported to authorities every day. These reports must be handled within systems that are ill-equipped to properly investigate cases, report adequately to the court, or provide effective protective supervision, appropriate foster care, or timely permanent placement. As a result, children may be harmed by the very systems designed to protect them. The juvenile justice system's inability to properly deal with the deluge of abuse and neglect cases is devastating families.

In addition to manageable caseloads, child protective service workers, investigators, police officers, and others responsible for protecting children need expert training in child development and investigative techniques. This will enable them to gather the information needed to make legal determinations while displaying sensitivity to the child and the family. To effectively manage their cases, court counselors must have sufficient time to get the critical details needed to make appropriate recommendations regarding such matters as placement and future court action. Social workers must have adequate time to work with families, ensure compliance with court orders, and, above all, ensure the safety of children. Monitoring a child's status in foster care and minimizing the trauma of out-of-home placement is a time consuming responsibility. Judges need the time to thoughtfully and thoroughly deliberate in order to render informed decisions that are in the best interests of the child, justice and society. Finally, necessary resources to meet the treatment needs of the child and the family must be available in the community.

The juvenile justice system must also be strengthened if we are to reduce delinquency and juvenile violence.

VOL 60 ISS 85 MY 3 1995 UMI

There must be a full range of graduated sanctions designed to meet the needs of each juvenile in the juvenile justice system. We have learned that immediate intervention programs, based on a proper assessment, are a critical need the first time a juvenile commits an offense. A variety of innovative early intervention programs for first-time, nonviolent offenders have been implemented successfully. They include neighborhood resource teams, informal probation, peer mediation, community service, victim awareness programs, restitution, day treatment, alternative education, and outpatient alcohol and drug abuse treatment. These types of programs need to be replicated across America.

We must ensure that appropriate sanctions are available for more serious offenders and for offenders who have failed to benefit from the early interventions described above. Such sanctions include drug testing, weekend detention, intensive supervision for probationers, inpatient drug and alcohol abuse treatment, electronic monitoring, community-based residential programs and boot camps.

Secure facilities are needed for serious, violent, and chronic offenders who require a structured treatment environment or who threaten community safety. If a review of the nature of the offense, the offender's amenability to treatment, and the offender's record indicate that the juvenile justice system cannot provide appropriate services and adequately protect the community, the prosecution of such offenders in the criminal courts is both appropriate and necessary.

Finally, aftercare, or "community care," must be more than an afterthought. Such services must be an integral aspect of all dispositions involving residential placement and include the active involvement of the child's family. It makes little sense to intervene in a significant way in children's lives only to send those children back into the same environment without a support system for the family and child. OJJDP's intensive aftercare program is developing both the programmatic and policy underpinnings for enhancing our efforts in this vital area.

Existing research points to the efficacy of a community-wide, comprehensive, multi-dimensional approach. This approach should include family support, prevention programs, immediate and intermediate sanctions, small secure facilities for the most serious offenders, and sound re-entry and aftercare services. As a result of research and evaluation, we can now point to a variety of program models proven to reduce delinquency and control youth violence. In these times of limited resources, program development should be predicated on this knowledge and innovative demonstration programs should be evaluated to measure their impact. Information, technical assistance, and training on the most promising programs should be provided as quickly and broadly as possible.

Protecting our communities and protecting our children: this two-part strategy lies at the heart of OJJDP's leadership of the Nation's efforts to prevent and combat delinquency and of the programs proposed in this plan. Community-based, collaborative efforts that involve comprehensive strategies aimed at reducing delinquency and youth violence will be critical to our success. Federal departments whose programs affect youth must work in an interdisciplinary manner, adopting this approach. With the tools now at hand—including enhanced community-oriented policing, delinquency prevention and intervention programs, and new correctional programs and facilities—we have an opportunity to build prevention and intervention strategies that can be implemented to reduce juvenile delinquency and violence across America.

OJJDP's Comprehensive Response

The Justice Department has called for an unprecedented national commitment of public and private resources to reverse the rising trend of juvenile violence and victimization. OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders, which outlines the two principal components of prevention and intervention, is the centerpiece of this call for action.

The prevention component of the Strategy calls for establishing community-based planning teams and collaborative efforts between the juvenile justice system and other service systems, including mental health, health, child welfare, and education. To be effective, delinquency prevention programs should be based on a risk-focused approach in which communities systematically assess their delinquency problem in relation to known risk factors and implement programs to counteract them.

A key strategy to counter risk factors for delinquency in young people's lives is to enhance protective factors that fall into three basic categories: (1) Individual characteristics (having a resilient temperament or a positive orientation), (2) bonding (positive relationships with adult role models), and (3) healthy beliefs and clear standards.

The intervention component of the Comprehensive Strategy is based on a model for the treatment and rehabilitation of delinquent offenders that combines accountability and sanctions with increasingly intensive treatment and rehabilitation. Families must be integrated into treatment and rehabilitative efforts at each stage of this continuum. Aftercare must be a formal component of all residential placements, actively involving the family and the community in supporting and reintegrating the juvenile into the community.

The intervention component also calls for a range of graduated sanctions to provide both immediate interventions and intermediate sanctions, including extensive use of nonresidential community-based programs. Many serious, violent, and chronic offenders will require the use of secure detention to protect the community and provide a structured treatment environment.

To expand implementation of the Comprehensive Strategy, OJJDP will fund several key initiatives in fiscal year 1995 designed to assist both urban and rural communities to address youth violence.

The National Council on Crime and Delinquency and Developmental Research and Programs have identified the most effective, promising programs for use in implementing the Comprehensive Strategy. Reports will be published on:

- Effective prevention strategies from birth to age six.
- Selected prevention strategies for early childhood and adolescence.
- Effective and promising graduated sanctions programs for serious, violent, and chronic juvenile offenders.
- Use of risk assessment and classification instruments.

These reports will be combined with an operations manual, which communities can use as a blueprint to assess their efforts in the areas of prevention and graduated sanctions to design and implement improvements that respond to community-identified needs.

Extensive efforts to coordinate and develop solutions to youth violence are ongoing at the Federal level. For example, a national conference, Solving Youth Violence: Partnerships that Work, was held in 1994. OJJDP is providing extensive technical assistance and training to four pilot jurisdictions in an interdepartmental initiative called Project PACT (Pulling America's Communities Together). The Denver metropolitan area, the District of Columbia, the Atlanta metropolitan area, and the State of Nebraska are developing coordinated solutions to violence. Key officials and community leaders are being trained and assisted in assessing the local adult and juvenile violence problem and mobilizing their justice system responses and resources to develop system-wide solutions. Staff are being trained in establishing effective delinquency prevention programs using a risk-focused strategy and in intervention efforts employing a range of graduated sanctions for juveniles in the juvenile justice system.

OJJDP is participating in a collaborative effort with the Bureau of Justice Assistance called the Comprehensive Communities Program, in which cities or counties faced with high rates of drug-related crime and violence are developing a comprehensive strategy for crime- and drug-control that requires law enforcement and other government agencies to work in partnership with the community to address these problems by focusing on the environment that fosters them.

Program Plan Contents

Overview
1992 JJDP Act Amendments
Fiscal Year 1995 Program Planning Activities
Discretionary Program Activities
Discretionary Grant Continuation Policy
OJJDP Funding Policy
Application and Further Information
Strengthening of the Juvenile Justice System
Public Safety and Law Enforcement
Delinquency Prevention
Missing, Exploited and Abused Children
Fiscal Year 1995 Programs
Fiscal Year 1995 Program Listing

Overarching Programs

New Programs

SafeFutures: Partnerships to Reduce Youth Violence and Delinquency
Information and Statistics Projects
OJJDP Management Evaluation Contract
Technical Assistance for State Legislatures
Contra Costa County, California Continuum of Care Program*
Evaluation of SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program

Overarching Programs

Continuation Programs

Juvenile Justice Clearinghouse
Coalition for Juvenile Justice*
OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center
National Juvenile Court Data Archive*
Juvenile Justice Statistics and Systems Development
Insular Area Support*
Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Research Program on Juveniles Taken Into Custody—NCCD
Children in Custody—Census
Contract for the Evaluation of OJJDP Programs
Pulling America's Communities Together (PACT) Program Development
Juveniles Taken Into Custody (JTIC): Interagency Agreement
Juvenile Justice Data Resources

Strengthening Juvenile Justice

New Programs

Mental Health in the Juvenile Justice System
Bethesda Day Treatment Center
Interventions to Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah M. Wysinger Memorial Program)
The Juvenile Justice Prosecution Center
Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)

Strengthening Juvenile Justice

Continuation Programs

Serious, Violent, and Chronic Juvenile Offender Treatment Program
Juvenile Court Training*
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Native American Alternative Community-Based Program
Training for Juvenile Corrections and Detention Staff
Technical Assistance to the Juvenile Courts*
Due Process Advocacy Program Development
Improvement in Correctional Education for Juvenile Offenders
Robeson County, North Carolina*
P.A.C.E., Center for Girls, Inc.*
Juvenile Restitution: Balanced Approach
Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Douglas County, Nebraska*
Professional Development for Youth Workers
Lackawanna County, Pennsylvania*

Public Safety and Law Enforcement

New Programs

Gangs and Delinquency Research
Field-Initiated Gang Research Program
Juvenile Transfers to Criminal Court Studies
Innovative Firearms Program
Gangs, Groups, Individuals, and Violence Intervention
Youth Handgun Study/Model Juvenile Handgun Legislation

Public Safety and Law Enforcement

Continuation Programs

Law Enforcement Training and Technical Assistance Program
Comprehensive Communities Program—Comprehensive Gang Initiative
Targeted Outreach with a Gang Prevention and Intervention Component (Boys and Girls Clubs)
Comprehensive Gang Initiative
Violence Studies*
Violence Study—Causes and Correlates
Child Centered Community-Oriented Policing
National School Safety Center
Enhancing Enforcement Strategies for Juvenile Impaired Driving Due to Alcohol and Other Drug Use
Training in Cultural Differences for Law Enforcement/Juvenile Justice Officials

Delinquency Prevention

New Programs

Community-Based Gang Intervention
Family Strengthening and Support—Including Non-English Speaking
Comprehensive Community-Based Services for At-Risk Girls and Adjudicated Juvenile Female Offenders
Innovative Approaches in Law-Related Education*
Training in Risk-Focused Prevention Strategies
Pathways to Success
Truancy
North Omaha B.E.A.R.S. (Building Esteem and Responsibility Systematically) Program*
Training and Technical Assistance for Family-Strengthening Services
Youth-Centered Conflict Resolution
ASAP: Athlete Student Achievement Pact*
Project Mister/Project Sister*
Facing History and Ourselves*
La Nueva Vida*
Henry Ford Heath System*
Anti-Crime Youth Council*

Delinquency Prevention

Continuation Programs

Law-Related Education (LRE)*
Teens, Crime, and Community: Teens in Action in the 90s*
Satellite Prep School Program and Early Elementary School for Privatized Public Housing

VOL 60 ISS 85 MY 3 1995 UMI

Children at Risk
Nonviolent Dispute Resolution
The Congress of National Black Churches: National Anti-Drug Abuse Program
"Just Say No" International*
Jackie Robinson Center (JRC)*
Cities in Schools—Federal Interagency Partnership Hate Crimes
Community Anti-Drug Abuse Technical Assistance Voucher Project
Race Against Drugs

Missing, Exploited and Abused Children

New Programs

Lowcountry Children's Center, Inc.*
KidsPeace*
Multipurpose Educational Curriculum for Young Victims

Missing, Exploited and Abused Children

Continuation Programs

Parents Anonymous, Inc.*
Permanent Families for Abused and Neglected Children*
Children as Witnesses to Community Violence

Discussion of Comments

Overview

OJJDP was established by the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415), as amended, to provide a comprehensive, coordinated approach to prevent and control juvenile crime and improve the juvenile justice system. Under Title II, OJJDP administers the State Formula Grants and State Challenge programs in 56 States and territories, funds more than 100 national, State and local projects through its Special Emphasis Discretionary Grant Program and its National Institute for Juvenile Justice and Delinquency Prevention, and funds projects under both Part D (Gangs) and Part G (Mentoring) programs.

OJJDP serves as the staff agency for the Coordinating Council on Juvenile Justice and Delinquency Prevention, coordinates the Concentration of Federal Efforts Program, and all Federal activities related to juvenile justice and delinquency prevention, and administers the Title IV Missing and Exploited Children's Program, the Title V Prevention Incentive Grants Program, and programs under the Victims of Child Abuse Act of 1990, as amended (42 U.S.C. 13001 *et seq.*).

1992 JJDP Act Amendments

The Juvenile Justice and Delinquency Prevention Amendments of 1992 (Public Law 92–586) expanded the role of OJJDP in Federal efforts to prevent and treat juvenile delinquency and improve the juvenile justice system by including three new priorities: strengthening the families of delinquents; improving State and local administration of justice and services to juveniles; and assisting States and local communities in preventing youth from entering the justice system. The Amendments encourage coordination of services, interagency cooperation, and parental involvement in treatment and services for juveniles. Seven new studies were mandated. The Comptroller General is in the process of completing five of these studies: (1) Juveniles waived, certified, or transferred to adult court, (2) Admissions of juveniles with behavior disorders to private psychiatric hospitals, (3) Gender bias in State juvenile justice systems, (4) Native American pass-through under the Formula Grants Program, and (5) Access to counsel in juvenile court proceedings. OJJDP is conducting the other two studies: one on the incidence, nature, and causes of violence committed by or against juveniles in urban and rural areas, and a second on the extent and characteristics of juvenile hate crimes.

The JJDP Act Amendments of 1992 authorized OJJDP to administer several new grant programs.

- Part E, State Challenge Activities, authorizes grants to States participating in the Part B Formula Grants Program that provide up to 10 percent of a State's Formula Grants Program allocation for each of 10 challenge activities in which the State participates.
- Part F, Treatment for Juvenile Offenders Who are Victims of Child Abuse or Neglect, authorizes grants to public and nonprofit private organizations for treatment of juvenile offenders who are victims of child abuse or neglect, transitional services, and related research.
- Part G, Mentoring, authorizes three-year grants to local education agencies, or to private nonprofit or organizations working in partnership with such agencies, for mentoring programs designed to link at-risk youth with responsible adults to discourage youth involvement in criminal and violent activity.
- Part H, Boot Camps, authorizes grants to establish up to 10 military-style boot camps for delinquent juveniles.
- Title V, Incentive Grants for Local Delinquency Prevention Programs, authorizes grants to local governments for a broad range of delinquency prevention activities targeting youth who have had contact with, or are at-risk of contact with, the juvenile justice system.

In fiscal year 1995, funds were appropriated for three of the five programs cited above: Part G, Mentoring ($4 million), Title V, Prevention Grants ($20 million), and Part E, State Challenge Activities ($10 million). These programs are not included in this Plan (except for $1 million of Part G and $1 million of Title V funds committed to the SafeFutures Program), nor are programs authorized and funded under the Title IV Missing Children's Assistance Act and the Victims of Child Abuse Act of 1990, as amended.

Fiscal Year 1995 Program Planning Activities

The OJJDP program planning process for fiscal year 1995 has been coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and the four other OJP Program Bureaus: The Bureau of Justice Assistance (BJA); the Bureau of Justice Statistics (BJS); the National Institute of Justice (NIJ); and the Office for Victims of Crime (OVC). OJJDP's program planning process involved the following steps:

- Internal review of existing programs by OJJDP staff.
- Internal review of proposed programs by OJP bureaus and selected Department of Justice components.
- Review of information and data from OJJDP grantees and contractors.
- Review of information contained in State comprehensive plans.
- Review of comments made by youth services providers, juvenile justice practitioners, and researchers.
- Consideration of suggestions made by juvenile justice policy makers concerning State and local needs.
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

An example of the intra-agency coordination between OJP Program Bureaus involves OJJDP and Bureau of Justice Assistance (BJA) gang initiatives. Although these programs are being implemented in a similar manner, the two initiatives are different in their theoretical approach and program targets.

BJA's fiscal year 1995 Comprehensive Gang Initiative is based on a prototype developed through a grant to the Police Executive Research Forum in 1992. The prototype emphasizes prevention, intervention, and suppression and encompasses strategies which bring together cooperative and coordinated efforts of the police, other criminal justice agencies, human service providers, and community programs. This initiative is primarily designed to

focus on older teens and adults. In fiscal year 1995, this program is featured in BJA's Comprehensive Communities program.

OJJDP's fiscal year 1995 Gang-Free Schools and Communities Program is based on a prevention-based community mobilization model derived from the research of Dr. Irving Spergel and colleagues. This model specifically focuses on juveniles and young adults under age 22. This fiscal year, the program has a specific focus on gang-free schools and public or federally subsidized housing. Another differentiating factor is that OJJDP's fiscal year 1995 initiative will be concentrated within the overarching SafeFutures demonstration program, as part of the comprehensive continuum of care that the program is designed to establish.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C and Part D funds and eligible for funding in fiscal year 1995, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives.

Consideration for continuation funding for an additional project period for previously funded discretionary grant programs is based upon several factors, including:

- The extent to which the project responds to the applicable requirements of the JJDP Act.
- Responsiveness to OJJDP and Department of Justice fiscal year 1995 program priorities.
- Compliance with performance requirements of prior grant years.
- Compliance with fiscal and regulatory requirements.
- Compliance with any special conditions of the award.
- Availability of funds (based on program priority determinations).

In accordance with section 262 (d)(1)(B), 42 U.S.C. 5665a, the competitive process for the award of Part C funds shall not be required if the Administrator makes a written determination waiving the competitive process:

1. With respect to programs to be carried out in areas in which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*) that a major disaster or emergency exists, or

2. With respect to a particular program described in part C that is uniquely qualified.

In implementing the fiscal year 1995 Program Plan, OJJDP will continue the process of developing, testing, and demonstrating both the prevention efforts and the graduated sanctions concept throughout its programs, such as in SafeFutures: Partnerships to Reduce Youth Violence and Delinquency, while also prioritizing support for applicants that reflect the coordinated, interdisciplinary approaches found in Weed and Seed sites and Empowerment Zones and Enterprise Communities. This support will be provided through:

- New competitive programs to be funded at the State or local level and new programs that provide funds to national organizations to provide services at the State and local level.
- Continuation awards, under which OJJDP will negotiate with grantees and task contractors to identify and ensure the provision of site specific technical assistance, training, information, and direct program services to Weed and Seed sites, Empowerment Zones and Enterprise Communities, and jurisdictions adopting a continuum of care program approach.

OJJDP Funding Policy

OJJDP focuses its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and crime and that create and strengthen partnerships with State and local organizations. To that end, OJJDP has defined four programatic themes that constitute the major elements of a sound policy for juvenile justice and delinquency prevention:

- Strengthening the Juvenile Justice System.
- Public Safety and Law Enforcement.
- Juvenile Delinquency Prevention and Intervention.
- Missing, Exploited and Abused Children.

OJJDP will also fund a new overarching demonstration program, SafeFutures: Partnerships To Reduce Youth Violence and Delinquency, which builds on the knowledge accumulated over 30 years of juvenile justice research. This overarching program builds upon broad-based community planning and support from all sectors and systems to provide a continuum of programs that focus on ameliorating known community risk factors. It stresses addressing the problems of youth along a continuum of prevention and intervention activities, from those aimed at the at-risk child to the serious and violent juvenile offender. Other overarching programs, both new and continuation, that cross programmatic themes will also receive OJJDP funding under this Plan.

Application and Further Information

Program inquiries are to be addressed to the attention of the OJJDP staff contact person identified in the FY 1995 Competitive Discretionary Program Announcements and Application Kit. For general information, contact Marilyn Silver, Management Analyst, Information Dissemination Unit, (202) 307–0751. This is not a toll-free number. Due dates for all competitive programs are contained in the FY 1995 Competitive Discretionary Program Announcements and Application Kit. Please call the Juvenile Justice Clearinghouse, toll-free, 24 hours a day, (800) 638–8736 to obtain a copy.

Applications are invited from eligible public and private agencies, organizations, institutions, individuals, or combinations thereof. Eligibility differs from program to program. Please consult the FY 1995 Competitive Discretionary Program Announcements and Application Kit for individual competitive program announcements and specific eligibility requirements. Where eligible for an assistance award, private for profit organizations must agree to waive any profit or fee. Joint applications by two or more eligible applicants are welcome, as long as one organization is designated as the primary applicant and the other(s) as co-applicant(s). Applicants must demonstrate that they have experience in the design and implementation of the type of program or program activity for which they are an applicant.

Strengthening of the Juvenile Justice System

All parts of the juvenile justice system are straining under the burden of increasing numbers of juvenile offenders. In 1992, the juvenile arrest rate was the highest in 20 years. Between 1982 and 1992, juvenile courts saw a 26% increase in the number of delinquency cases. In 1990, a congressionally mandated study identified several areas in which problems in secure juvenile facilities are substantial and widespread, most notably living space (crowding), health care, security, and control of suicidal behavior. OJJDP is continuing to fund

VOL
60
ISS
85
MY
3
1995
UMI

several programs that aggressively address these issues.

The limited resources of the juvenile justice system must continue to target the most difficult and intractable problems of juvenile crime. Strengthening the system requires support of all parts of the justice system, including law enforcement, prosecutors and the courts, as well as detention and corrections, including alternative residential placements and aftercare. A sound policy includes the assessment of each offender's needs and risks to the community, and concentrates the more formal, expensive, and restrictive options of the juvenile justice system in two areas:

- Youth behavior that is most serious and least amenable to preventive measures and community responses.
- Problems of youth and their families that exceed community resources and require more stringent legal resolution. This approach should promote accountability on the part of individual juvenile offenders to their victims.

Public Safety and Law Enforcement

The epidemic of youth violence is striking fear in communities across the Nation. While violent crime statistics are generally down, violent criminal activity is increasing among the young. Juvenile arrests for violent crime increased 57% between 1983 and 1992. The nearly 54,200 juvenile weapons arrests in 1992 accounted for nearly 1 of 4 weapons arrests. Violent youth gangs, often associated with large urban areas, are emerging in smaller cities.

While ultimately the reduction in youth violence depends on overcoming or changing those societal factors that propel troubled youth toward violent behavior, immediate public safety issues require the justice system to incapacitate the small number of serious, violent and chronic offenders responsible for the majority of juvenile violence. However, a sound policy for combating juvenile crime must not indiscriminately treat children as small versions of adults. Law enforcement training on how to deal with juvenile offenders and victims and how to address the problems of youth gangs and the increasing use of guns by juveniles is an integral part of a comprehensive response to the escalating violence.

Delinquency Prevention and Intervention

By the year 2005, the total population of youths from 15 to 19 years old will grow by an estimated 23 percent. Research has shown that the peak age of arrest for serious violent crime is 18 years. It has also shown that we must focus on addressing the root causes of delinquency as well as the symptoms. OJJDP programs encourage a risk-focused approach based on public health and social development models.

Communities cannot afford to place responsibility for juvenile crime entirely on the juvenile justice system. We must maximize the use of a community's less formal, less expensive, and less alienating responses to youthful misbehavior, while at the same time maintaining the safety of the public. The science of prevention has taught us that a sound policy for juvenile delinquency prevention must strengthen the most powerful contributing factor to good behavior: A productive place for young people in a law-abiding society. This type of preventive measure can operate on a large scale, providing gains in youth development while reducing juvenile delinquency.

Missing, Exploited and Abused Children

The Missing Children's Assistance Act of 1984 (42 U.S.C. 5771–5780, Title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended) established OJJDP as the lead federal agency in matters pertaining to missing and exploited children. The fiscal year 1995 Competitive Discretionary Grant Programs for Title IV Missing and Exploited Children's Program and Application Kit Notice was published in the **Federal Register** on January 5, 1995.

Fiscal Year 1995 Programs

Brief summaries of each of OJJDP's new and continuation programs for fiscal year 1995 are provided below. The programs are organized according to the four areas that constitute the major elements of OJJDP's comprehensive approach to preventing juvenile justice and improving public safety.

A number of programs have been identified for funding by Congress with regard to the grantee(s), the amount of funds, or both. Such programs are indicated by an asterisk (*). The 1995 Appropriations Act Conference Report for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Programs identified 13 programs for OJJDP to examine and fund if warranted. Three of the programs are included in this Plan for continuation funding. Nine of the remaining ten have been reviewed and will receive consideration for funding in fiscal year 1995 at the levels indicated in the Final Plan.

OJJDP's new overarching demonstration program, SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program, is presented first since it addresses the major elements that must be present in an effective strategy to prevent and control delinquency and provide the juvenile justice system with the program resources needed to do its job effectively. This new program focuses on a variety of services and funding resources. Other overarching programs are then presented, followed by programs that seek to strengthen juvenile justice, enhance public safety and law enforcement, prevent delinquency, and address the problem of missing, exploited and abused children.

Fiscal Year 1995 Program Listing

Overarching Programs

New Programs

SafeFutures: Partnerships to Reduce Youth Violence and Delinquency—$7,200,000
Information and Statistics Projects—525,000
OJJDP Management Evaluation Contract—360,000
Technical Assistance For State Legislatures—262,500
Contra Costa County, California: Continuum of Care Program*—247,000
Evaluation of SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program—150,000

Overarching Programs

Continuation Programs

Juvenile Justice Clearinghouse—$1,031,167
Coalition for Juvenile Justice*—700,000
OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center—650,000
National Juvenile Court Data Archive*—611,000
Juvenile Justice Statistics and Systems Development—550,000
Insular Area Support*—511,000
Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders—500,058
Research Program on Juveniles Taken Into Custody-NCCD—450,000
Children in Custody-Census—450,000
Contract for the Evaluation of OJJDP Programs—290,000
Pulling America's Communities Together (PACT) Program Development—261,000
Juveniles Taken Into Custody (JTIC): Interagency Agreement—200,000
Juvenile Justice Data Resources—25,000

Strengthening Juvenile Justice

New Programs

Mental Health in the Juvenile Justice System—$750,000
Bethesda Day Treatment Center—320,000
Interventions to Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah M. Wysinger Memorial Program)—300,000
The Juvenile Justice Prosecution Center—300,000
Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)—200,000

Strengthening Juvenile Justice

Continuation Programs

Serious, Violent, and Chronic Juvenile Offender Treatment Program—$1,500,000
Juvenile Court Training*—1,074,000
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program—620,000
Native American Alternative Community-Based Program—600,000
Training for Juvenile Corrections and Detention Staff—500,000
Technical Assistance to the Juvenile Courts*—389,943
Due Process Advocacy Program Development—250,000
Improvement in Correctional Education for Juvenile Offenders—250,000
Robeson County, North Carolina*—202,645
P.A.C.E., Center for Girls, Inc.*—150,000
Juvenile Restitution: Balanced Approach—100,000
Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program—80,000
Douglas County, Nebraska*—67,055
Professional Development for Youth Workers—50,000
Lackawanna County, Pennsylvania*—50,000

Public Safety and Law Enforcement

New Programs

Gangs and Delinquency Research—$500,000
Field-Initiated Gang Research Program—300,000
Juvenile Transfers to Criminal Court Studies—275,000
Innovative Firearms Program—250,000
Gangs, Groups, Individuals, and Violence Intervention—250,000
Youth Handgun Study/Model Juvenile Handgun Legislation—202,838

Public Safety and Law Enforcement

Continuation Programs

Law Enforcement Training and Technical Assistance Program—$1,504,924
Comprehensive Communities Program—Comprehensive Gang Initiative—799,345
Targeted Outreach with a Gang Prevention and Intervention Component (Boys and Girls Clubs)—600,000
Comprehensive Gang Initiative—600,000
Violence Studies*—500,000
Violence Study—Causes and Correlates—300,000
Child Centered Community-Oriented Policing—300,000
National School Safety Center—250,000
Enhancing Enforcement Strategies for Juvenile Impaired Driving Due to Alcohol and Other Drug Use—150,000
Training in Cultural Differences for Law Enforcement/Juvenile Justice Officials—100,000

Delinquency Prevention

New Programs

Community-Based Gang Intervention—$2,000,000
Family Strengthening and Support—Including Non-English Speaking—1,000,000
Comprehensive Community-Based Services for At-Risk Girls and Adjudicated Juvenile Female Offenders—600,000
Innovative Approaches in Law-Related Education*—600,000
Training in Risk-Focused Prevention Strategies—500,000
Pathways to Success—450,000
Truancy—400,000
North Omaha B.E.A.R.S. (Building Esteem and Responsibility Systematically) Program*—300,000
Training and Technical Assistance for Family-Strengthening Services—250,000
Youth-Centered Conflict Resolution—200,000
ASAP: Athlete Student Achievement Pact*—150,000
Project Mister/Project Sister*—146,500
Facing History and Ourselves*—100,000
La Nueva Vida*—64,000
Henry Ford Health System*—58,000
Anti-Crime Youth Council*—50,000

Delinquency Prevention

Continuation Programs

Law-Related Education (LRE)*—$2,800,000
Teens, Crime, and Community: Teens in Action in the 90s*—1,000,000
Satellite Prep School Program and Early Elementary School for Privatized Public Housing—720,000
Children at Risk—350,000
Nonviolent Dispute Resolution—300,000
The Congress of National Black Churches: National Anti-Drug Abuse Program—250,000
"Just Say No" International*—250,000
Jackie Robinson Center (JRC)*—250,000
Cities in Schools—Federal Interagency Partnership—200,000
Hate Crimes—200,000
Community Anti-Drug Abuse Technical Assistance Voucher Project—200,000
Race Against Drugs—150,000

Missing, Exploited and Abused Children

New Programs

Lowcountry Children's Center, Inc.*—$250,000
KidsPeace*—140,000
Multipurpose Educational Curriculum for Young Victims—75,000

Missing, Exploited and Abused Children

Continuation Programs

Parents Anonymous, Inc.*—$250,000
Permanent Families for Abused and Neglected Children*—225,000
Children as Witnesses to Community Violence—170,658

Overarching Programs

New Programs

SafeFutures: Partnerships to Reduce Youth Violence and Delinquency—$7,200,000

Background

The SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program rests on two important premises: The first is that public safety can be improved by providing prevention, intervention and treatment services to all at-risk youth. These three elements constitute a continuum of care that should be directed at youth throughout their development. The second premise is that the strategy for implementing this continuum of care lies with a comprehensive, customer-focused approach in which there is broad collaboration between all service agencies, all levels of government, and the public and private sectors. Availability of services, community responsiveness, and partnerships leading to increased public safety constitute the heart of the SafeFutures Program.

Many communities throughout the country have been engaged in reform efforts to develop a comprehensive, community-based service delivery

VOL 60 ISS 85 MY 3 1995 UMI

system for disadvantaged children. OJJDP's Comprehensive Strategy for Serious, Violent and Chronic Juvenile Offenders presents a similar approach. Under this strategy, a broad-based community planning board systematically assesses the risk factors present in the environment that are best known to foster delinquent behavior in children. The community then develops a strategy to address identified risk factors for delinquency and increase protective factors that promote healthy and productive behavior. In addition, the board develops a full range of graduated sanctions, beginning with immediate interventions, that are designed to hold juvenile delinquents accountable to the victim and the community, ensure community security and provide a continuum of services that responds appropriately to the needs of each juvenile offender.

SafeFutures builds on and expands the model presented in the Comprehensive Strategy. Five sites will be selected: Three urban, one rural, and one Native American site. Each must have completed risk assessments and developed a comprehensive delinquency prevention, intervention and treatment plan prior to application to the SafeFutures program. At least one of the sites will be an Empowerment Zone or Enterprise community. Each must have established a multi-disciplinary community team to oversee implementation efforts. Finally, each site must have forged partnerships between government, local businesses and civic organizations, and leveraged resources from a variety of sources. The Native American site must have a Tribal Court.

SafeFutures is geared toward communities who have made significant progress in reforming their systems and implementing a strategy to reduce youth violence and juvenile delinquency. It will provide them with additional resources to expand existing efforts and fill in the gaps in service each has identified.

Program Goals

Specifically, SafeFutures will assist communities to:

1. Control and prevent juvenile violence and delinquency by—

a. Reducing risk factors and increasing protective factors
b. Developing a full range of graduated sanctions, beginning with intermediate interventions that are designed to hold delinquents accountable to the victim and ensure community safety
c. Providing a continuum of services for all youth, with appropriate treatment for juvenile offenders

2. Develop a more efficient and effective service delivery system for at-risk youth and their families, capable of meeting their needs at any point of entry into the system.

3. Build the capacity to institutionalize and sustain coordinated efforts through streamlining the service delivery system, and expanding, and diversifying its sources of funding.

4. Determine what outcomes have been achieved and whether a comprehensive strategy involving a concentration of effort and resources is successful at preventing and controlling juvenile delinquency.

Many communities have begun this process on their own, while others throughout the country have received support for these planning and implementation activities through OJJDP's Title V Prevention Program and programs designed to intervene with delinquent juveniles. Failure to previously participate under Title V, however, does not preclude selection as a SafeFutures applicant as long as the requirements described in the next section are met.

OJJDP will provide each site with up to $1.44 million the first year, with subsequent funding anticipated for four additional years. This amount includes not only OJJDP program dollars, but other federal sources of support which OJJDP has leveraged. In addition, OJJDP will offer all sites a comprehensive technical assistance package.

Grant Programs

Units of general local government or combinations thereof are eligible to apply. Successful applicants must demonstrate the capacity to establish and sustain a continuum of care for the jurisdiction's at-risk and delinquent youth and their families. If the size or makeup of the applicant's local unit(s) does not make jurisdictional-wide services practical or desirable, the applicant may request resources for an identified local area(s) or neighborhood.

The applicant must provide evidence of the following:

- The presence of risk factors for delinquency in the target area such as high rates of crime, poverty, teenage pregnancy, child abuse and neglect, dysfunctional or single parent families, school drop-outs, unemployment or other risk factors the community identifies;
- An established planning board in existence, with balanced representation of public and private agencies, community organizations and residents, including youth representation;
- Completion of a needs and resources assessment;
- A comprehensive delinquency prevention, intervention, and graduated sanction plan for their jurisdiction;
- Federal, State, local and private partnerships, and a commitment to leverage additional resources and coordinate the necessary systemic changes to both the juvenile justice and social services system of care.

In addition to providing overall administrative support for the coordination and implementation activities, SafeFutures provides specific support for ten program components. The applicant's proposal must demonstrate how each of the components described below will be implemented, its relationship to others within the continuum of care, and its impact upon at-risk youth and their families. Applicants that can demonstrate that they have adequately addressed, with their own resources, specific program components funded with Part C monies, will have the flexibility to use those designated funds (with the exception of the Day Treatment component) for alternative delinquency prevention activities. Each of the components is grouped below according to major OJJDP goals. Each is described in greater detail under these same goal areas in the Fiscal Year 1995 Program Plan.

Strengthening the Juvenile Justice System and Law Enforcement

- Serious, Violent, and Chronic Juvenile Offender Accountability and Treatment Programs (Part C—$500,000).
- Comprehensive Community-Based Services for At-Risk Girls and Adjudicated Female Juvenile Offenders (Part C—$600,000).
- Day Treatment Services (Part C—$150,000).
- Intensive Community-Based Aftercare Program (Part C—Technical Assistance).
- Community-Based Gang Intervention (Part D—$2,000,000).
- Mental Health Services for At-Risk and Adjudicated Youth, including treatment services for juvenile sex offenders and victims of sexual abuse (Part C—$750,000).

Providing Opportunities and Role Models for High-Risk Youth

- Youth Skills/Pathways to Success (Part C—$200,000).
- Mentoring (Part G—$1,000,000).

Breaking the Cycle of Violence Through Prevention

- Family Strengthening, including services for non-English speaking families (Part C—$1,000,000).
- Delinquency Prevention Program (Title V—$1,000,000).

Sites funded under this initiative will be eligible for program implementation, training, and technical assistance directly from OJJDP grantees and contractors. In addition, sites will receive training and technical assistance from:

Boys and Girls Clubs of America, to develop or enhance a Boys and Girls Club in the target area;

National Association of Service and Conservation Corps, to develop or enhance a Juvenile Youth Corps Program; and the

Home Builders Institute, to develop an apprenticeship program for high-risk youth in sites which have a local association of home builders.

In addition, the Departments of Health and Human Services (HHS), Housing and Urban Development (HUD), Education (DOE), and Labor (DOL), AmeriCorps, and the National Endowment for the Arts have agreed to participate in the SafeFutures Program by making available resources, technical assistance, and linkages to existing grant programs. OJJDP is also seeking other public and private partnerships to support substance abuse prevention, jobs skills development, individual youth assessment and evaluation activities by the SafeFutures sites.

Evaluation

Sites will be expected to demonstrate a strong capacity for data collection and analysis in order to support a requisite and stringent evaluation component addressing both process and outcome measures. Partnerships with academic institutions to enhance evaluation efforts are also encouraged.

Collaboration

Applicants are expected to demonstrate how they have linked their activities with other Federal, State, and local programs; national and community foundations; and private sector programs. Federal programs include: HUD's Empowerment Zones/Enterprise Communities and Hope Six; HHS's Family Preservation and Support Services; DOE's Safe and Drug Free Schools; DOL's Youth Fair Chance; and the Department of Justice's (DOJ) Operation Weed and Seed, PACT, Community Oriented Policing Services, Boot Camps, Drug Courts, Comprehensive Communities programs; and the U.S. Attorneys' anti-violence strategies.

Application Process

OJJDP will utilize a two stage process to select grantees. All applicants will first submit concept papers. Jurisdictions will be required to document existing legislation, executive orders, memoranda of understanding, and other formal commitments of bona fide partnerships. Preference will given to jurisdictions that demonstrate linkages with other Federal, State and local programs as well as the ability to secure additional financial and programmatic resources. Those best demonstrating an ability to qualify for funding will then be invited to submit full applications.

Prospective applicants should obtain a copy of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and the forthcoming Implementation Guide for the Comprehensive Strategy. The Guide identifies promising programs, suggests effective community assessment tools and in general offers guidance to communities implementing a continuum of care model. Copies of the Guide will be available from OJJDP in May 1995.

OJJDP plans to conduct several workshops to answer questions about SafeFutures requirements prior to the concept paper submission date. To obtain more information regarding these workshops, please contact the Juvenile Justice Clearinghouse.

Information and Statistics Projects—$525,000

OJJDP recently conducted an independent review of its Information and Statistics Program to help the Office develop a 5-year plan for information and data collection. As a result of this review, $525,000 will be allocated to the following new projects: National Juvenile Statistics Analysis Center; National Indicators of Risk and Protective Factors; Juveniles in the Criminal Justice System; National Program Directory; and Integrated Juvenile Justice, Mental Health, and Child Welfare Data Collection.

National Juvenile Statistics Analysis Center—($200,000)

OJJDP is considering the establishment of a center devoted to collecting and analyzing statistics generated by OJJDP programs, State agencies, academic research, and other Federal agencies and programs. This National Juvenile Statistics Analysis Center would focus on two principal activities: (1) Retrieving Federal, State and local research and data, and (2) providing quick analyses to inform Federal, State, and local policy and program decisions. The impetus for the Center comes from the recognition that many States are collecting data and performing statistical analyses of their delinquency and juvenile justice systems and that other jurisdictions can benefit greatly from access to this information. The Center would function as a collection point for this research. With an increased national emphasis on juvenile justice issues, there is more need for specific and quick analyses of particular issues. The Center would provide such analyses on a wide range of subjects.

Other statistical activities identified as important include:

- Analyzing demographic, delinquency, and violence trends, including surveys of delinquency and related youth problems, Uniform Crime Report data, and victimization surveys.
- Analyzing violent behavior trends and patterns, particularly assaults and robberies, to increase our understanding of these phenomena.
- Maintaining national data sets on juvenile justice system handling of juveniles. State studies of disproportionate minority confinement and gender bias being conducted pursuant to the JJDP Act would be of particular interest.
- Retrieving statewide data sets for analysis and cultivating State resources for information and statistics.
- Maintaining data sets produced under major studies of delinquency and related juvenile problems.
- Distributing the results of statistical analyses conducted by others at the State and local level.

Once OJJDP determines the specific nature of this project, a subsequent announcement will be made.

National Indicators of Delinquency, Risk and Protective Factors—($225,000)

Widespread adoption of the public health model has stimulated interest in viewing juvenile delinquency and other problem behaviors in terms of risk and protective factors. At the same time, interest in developing social indicators of delinquency has grown. Because of these two developments, the collection and analysis of national indicators of risk and protective factors will be explored. State and community level baselines would enable measurement of the impact of delinquency prevention programs on risk and protective factors. A national baseline, with annual comparisons, would permit forecasts of changes in delinquency and youth violence levels and trends.

VOL
60
ISS
85
MY
3
1995
UMI

Several projects have laid the foundation for national and state-by-state baselines: Kids Count, the National Youth Survey, OJJDP's Causes and Correlates Research Program, the Six State Communities that Care Pilot Program, and InfoNation. The key issue concerns the feasibility of nationwide establishment, at the State level, of reporting requirements necessary to generate comparable data.

OJJDP will explore the feasibility of establishing comparable measurements of risk and protective factors, and prevalence measures for delinquency and other problem behaviors, at the individual, community, State, and national levels. This effort will involve a wide range of expertise, including researchers, practitioners, and policymakers. OJJDP will examine the most direct and efficient manner of gathering these indicators. In particular, OJJDP will explore cooperation with other Federal agencies. Once the nature of this project has been finalized, OJJDP will make a subsequent announcement.

Juveniles in the Criminal Justice System

Policymakers and legislators seeking data on how juveniles get to criminal court and on rates of conviction and sentencing, treatment, and conditions of confinement have found that existing information is often inadequate to help them make decisions about legislation, policy, and program development.

OJJDP, in cooperation with the National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS), seeks to identify and fill these data gaps by working collaboratively with interested State and local officials. Through OJJDP's Juvenile Justice Statistics and Systems Development Program, a series of meetings will be convened involving prosecutors, judges, corrections officials, State Statistical Analysis Centers, researchers, and staff from OJJDP, NIJ, and BJS. The purpose of the meetings will be to plan multi-jurisdictional studies of the transfer process and its outcomes. The project also will identify information needs to recommend for inclusion in the BJS National Survey of State Prosecutors.

A number of multi-agency planning teams will be invited to assist in the collaborative design of the studies by identifying core data elements and definitions for cross-jurisdictional collection and analysis. The design process will be informed by a literature review and the identification of existing studies and data sets for secondary analysis to fill immediate gaps. A detailed review of the Government Accounting Office's pending waiver study will inform the project as to the feasibility of certain options. No funds will be awarded in fiscal year 1995.

National Program Directory—$100,000

To further develop OJJDP's statistical capability, OJJDP will create a National Program Directory. This directory will contain the names and addresses of specific juvenile justice programs along with important identifying information and will include prosecutors, juvenile probation departments, juvenile court judges, mental health agencies, youth welfare agencies, and other executive branch juvenile justice agencies. OJJDP will use the directory as a sampling frame for future surveys.

An important feature of this project is a series of Quick Response Surveys (QRS). Each QRS addresses a specific problem and is directed to a specific group of respondents. The goal of each QRS will be to provide vital information quickly on emerging problems and issues. QRS' will be made possible through Census Bureau development of program and facility directories on juvenile courts, detention centers, and long-term State confinement facilities. These surveys will address such issues as: characteristics of assaultive behaviors, juveniles in police lock-ups, juvenile sex offenders, family issues, and overcrowding.

The initial phase of this project will focus on developing a directory structure, collecting core information, and developing a QRS strategy. These funds will be transferred to the Census Bureau through an interagency agreement.

Integrated Juvenile Justice, Mental Health and Child Welfare Data Collection

Recent research has documented the co-occurrence of delinquency, mental health problems, drug and alcohol abuse, and child abuse and neglect. However, linkage of client data from the juvenile justice system with data from the mental health and child welfare systems is not possible with current data collection mechanisms. Information is needed on how the child welfare and mental health systems function as diversion programs and as providers of alternative incarceration for problem youth not served by the juvenile justice system. Ways of linking these data collection systems would be explored in order to: (1) Understand the interrelationships of the three systems, (2) develop models that coordinate the actions of the three systems, and (3) integrate them into a continuum of care.

OJJDP will support a planning effort to map out steps toward integrated juvenile justice, mental health, and child welfare data collection. OJJDP will carry this work out in collaboration with other Federal agencies that have an interest in the objectives of this program, including the National Institute of Mental Health; the Center for Mental Health Services; the National Institute on Drug Abuse; the National Institute on Alcohol Abuse; the Administration on Children, Youth and Families; and the Social Security Administration. This project will also involve practitioners and researchers from the mental health, juvenile justice, and child welfare fields. OJJDP's Statistics and Systems Development Program will provide staff support for this planning activity, including conducting a literature review, identifying useful data sets for secondary analysis, and convening planning meetings. The results will include recommendations for future implementation steps.

OJJDP's current Statistics and System Development Program grantee, the National Center for Juvenile Justice, will conduct this program activity. No funds will be awarded in fiscal year 1995.

OJJDP Management Evaluation Contract—$360,000

The purpose of this contract is to provide OJJDP with an expert resource capable of performing independent, management-oriented evaluations of selected OJJDP programs. Evaluations will determine the effectiveness and efficiency of either individual projects or groups of projects.

Evaluations could include demonstrations, tests, training, and technical assistance programs. Evaluations will be requested through work orders issued by OJJDP and carried out in accordance with work plans prepared by the contractor and approved by OJJDP. Each evaluation will be defined by OJJDP and costs, method, and timetable determined through negotiation between OJJDP and the contractor. The contract will be funded through a competitive award in fiscal year 1995.

Technical Assistance for State Legislatures—$262,500

State legislatures are being pressed to respond to public fear of juvenile crime, and a loss of confidence in the capability of the juvenile justice system to respond effectively. For the most part, State legislatures have had insufficient information to properly address juvenile justice issues. Consequently, OJJDP will award a grant to the National Conference of State Legislatures to identify, analyze, and disseminate information to help State legislatures make more informed decisions about legislation affecting the juvenile justice system. A complementary task will involve supporting increased communication between State legislators and State and local leaders who influence decisionmaking regarding juvenile justice issues. A $262,500 grant will be awarded to the NCSL in fiscal year 1995. No additional applications will be solicited in fiscal year 1995.

Contra Costa County, California: Continuum of Care Program*—$247,000

The purpose of this program is to develop and implement a model continuum of care program for youth in the Juvenile Justice System. The model proposes three specific components: (1) Development of risk and needs assessment instruments that reflect law enforcement and juvenile justice consensus; (2) establishment of linkages and coordination among several major planning efforts; and (3) the implementation and coordination of existing programs.

Grant funds will be used to fund several positions charged with building the continuum of care infrastructure, improving coordination, and managing the implementation. This grant will also contribute funding to an Employment Aftercare Program for youth returning to the community from secure institutional confinement and will provide technical support for a community education effort, designed to build public awareness and involvement in the reform of the juvenile justice system and the provision of services.

Evaluation of SafeFutures: Partnerships to Reduce Youth Violence and Delinquency—$150,000

OJJDP will fund five communities (three urban, one rural, and one Native American) under the SafeFutures: Partnerships to Reduce Youth Violence and Delinquency. SafeFutures will provide a range of coordinated services to meet the needs of at-risk youth and families and juveniles in the juvenile justice system. This Program will also serve to strengthen the juvenile justice system and develop the ongoing sustainability of service collaboration within the jurisdiction.

The evaluation of each of the five sites will be supported by this Program and will consist of both process and impact components. The process evaluation, to begin during the first year, will include an examination of planning procedures and the extent to which the sites' implementation is consistent with the principles of a continuum of care/graduated sanctions model. The evaluation process will identify the key factors responsible for successful implementation. It will also be important for the evaluation to identify substantial obstacles to successful implementation of the SafeFutures continuum model.

The selected evaluator will be responsible for developing a cross-site monograph that discusses Program implementation for use by other communities that want to develop and implement a community strategy to address serious, violent, and chronic delinquency.

The evaluator will develop a research design for the impact evaluation within the first year. Data collection for the impact evaluation would begin during the second year of the evaluation and will address the effects of the community's SafeFutures Program on the clients served. Furthermore, it will address the efficacy of the structure and operation of the SafeFutures model.

OJJDP will award a single cooperative agreement for up to $150,000 for first-year funding of this multiyear evaluation program. Significant funding for the evaluation is anticipated in the second and subsequent years of this evaluation.

OVERARCHING PROGRAMS

Continuation Programs

Juvenile Justice Clearinghouse—$1,031,167

As part of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse provides support to OJJDP in: (1) Collecting, synthesizing, and disseminating information to the public on all aspects of juvenile delinquency; (2) developing publications; and (3) preparing specialized responses to information requests from the public. The Clearinghouse maintains a toll-free number for information requests. It also reviews reports, data, and standards relating to the juvenile justice system in the United States and develops specialized resource products for the juvenile justice community.

The Clearinghouse serves as a center for acquiring and disseminating information on juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans; availability of resources; training and educational programs; statistics; and other pertinent data and information. It also serves as an information bank for the collection and synthesis of data and knowledge obtained from research and evaluation conducted by public and private agencies, institutions, or individuals concerning all aspects of juvenile delinquency.

Recognizing the critical need to inform juvenile justice practitioners and other policymakers on promising program approaches, the Clearinghouse continually develops and recommends new strategies to communicate the research findings and program activities of OJJDP and the field to the practitioner community.

The entire NCJRS, of which the OJJDP-funded Juvenile Justice Clearinghouse is a part, is administered by the National Institute of Justice under a competitively awarded contract.

Coalition for Juvenile Justice—$700,000

The Coalition for Juvenile Justice supports and facilitates the purposes and functions of each State's Juvenile Justice State Advisory Group (SAG). The Coalition, acting as a Federal advisory committee, reviews Federal policies and practices regarding juvenile justice and delinquency prevention, prepares and submits an annual report and recommendations to the President and Congress, and provides advice to the OJJDP Administrator. The coalition is also authorized to develop an information center for the SAGs and to conduct an annual conference to provide training for SAG members. The program will be implemented by the current grantee, the Coalition for Juvenile Justice. No additional applications will be solicited in fiscal year 1995.

OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center—$650,000

This contract provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. Support of this program will be supplemented in fiscal year 1995.

National Juvenile Court Data Archive*—$611,000

The National Juvenile Court Data Archive collects, processes, analyzes, and disseminates automated data and published reports from the Nation's juvenile courts. The Archive's reports examine referrals, offenses, intake, and dispositions in addition to specialized topics such as minorities in juvenile courts and specific offense categories. The Archive also provides assistance to jurisdictions in analyzing their juvenile court data. In fiscal year 1995, the Archive will enhance the collection, reporting, and analysis of more detailed data on detention, dispositions, risk

VOL 60 ISS 85 MY 3 1995 UMI

factors, and treatment data using offender-based data sets from a sample of juvenile courts.

The program will be implemented by the current grantee, the National Center for Juvenile Justice. No additional applications will be solicited in fiscal year 1995.

Juvenile Justice Statistics and Systems Development—$550,000

The purpose of the Juvenile Justice Statistics and Systems Development (SSD) Program is to improve Federal, State, and local juvenile justice statistics on juveniles as victims and offenders. The SSD Program helps OJJDP to formulate a comprehensive program for the collection, analysis and dissemination of national statistics on juveniles as victims and offenders, and to document the juvenile justice system's response. A major product to be completed will be a national report on juvenile offending and victimization. Work on this product will consist mainly of report production followup, including the completion of a detailed technical appendix and preparation of additional products for dissemination. The SSD program will focus on the following areas in fiscal year 1995: (1) Juveniles in the criminal justice system; (2) development and testing of a training curriculum for improving information systems; (3) integration of juvenile justice, mental health, and child welfare data collection; and (4) improving information on juvenile detention.

The program will be implemented by the current grantee, the National Center for Juvenile Justice. No additional applications will be solicited in fiscal year 1995.

Insular Area Support*—$511,000

The purpose of this program is to provide supplemental financial support to the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (Palau), and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by section 261(e) of the JJDP Act, 42 U.S.C. 5665(e).

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders—$500,058

The National Council on Crime and Delinquency (NCCD), in collaboration with Developmental Research and Programs, Inc. (DRP), has completed Phase I of a collaborative effort to support development and implementation of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. This effort involved assessing existing and previously researched programs in order to identify effective and promising programs which can be used in implementing the Comprehensive Strategy. A series of reports, which will be combined into a Guide to the Comprehensive Strategy, has been completed on early intervention for ages 0 to 6, prevention from childhood to adolescence, graduated sanctions, risk and needs assessments, and an operations manual. Phase II, to be carried out in fiscal year 1995, will include: (1) convening a national forum on youth violence; (2) information dissemination; (3) program development and implementation activities; (4) providing information to national, State and local organizations; (5) providing training and technical assistance to Title V Prevention, Serious, Violent, and Chronic Juvenile Offender Treatment and SafeFutures sites; and (6) conducting a series of regional training sessions for representative groups of key leaders. The national forum and regional training sessions will contribute to implementation of the National Juvenile Justice Action Plan being formulated by the Coordinating Council on Juvenile Justice and Delinquency Prevention.

The program will be implemented by NCCD ($274,627) and DRP ($225,431) under cooperative agreements. No additional applications will be solicited in fiscal year 1995.

Research Program on Juveniles Taken Into Custody—NCCD—$450,000

The Research Program on Juveniles Taken Into Custody was designed in response to a statutory requirement to produce a detailed annual summary of juvenile custody data. During the next 24-month period, the National Council on Crime and Delinquency (NCCD) will continue to implement and refine the State Juvenile Correctional System Reporting Program. It is anticipated that individual-level data for 1993 will be representative of more than 75 percent of the at-risk juvenile population. In addition, NCCD will prepare two additional reports for OJJDP. These reports will provide a detailed summary and analysis of the most recent data regarding: (1) The number and characteristics of juveniles taken into custody; (2) the rate at which juveniles are taken into custody; and (3) the trends demonstrated by the data.

The 1994 data collection will expand coverage by collecting data from several small, nonautomated State systems. In order to better understand the data collected under the State Juvenile Corrections System Reporting Program, NCCD will conduct a State Juvenile Corrections Organizational Survey to identify critical dimensions of corrections administration that may explain variation in results. NCCD, in cooperation with the National Center for Juvenile Justice, will assess the proportion of all court commitments that are covered by the State Juvenile Corrections Reporting Program as compared with direct commitments by local authorities. NCCD will also conduct a pilot data collection and research effort on a small sample of detention centers to generate data and information on juveniles in detention.

This program will be implemented by the current grantee, NCCD. No additional applications will be solicited in fiscal year 1995.

Children in Custody—Census $450,000

Under this ongoing collaborative program between OJJDP and the U.S. Bureau of the Census, OJJDP proposes to transfer funds to the Census Bureau to conduct the 1995 biennial census of public and private juvenile detention, correctional, and shelter facilities. The census describes juvenile custody facilities in terms of their resident population, programs, and physical characteristics. It provides information on trends in the use of juvenile custody facilities for delinquent juveniles and status offenders. The Census Bureau's Center for Survey Methods Research will also continue to develop and test a roster-based data collection system designed to significantly improve information on juveniles in custody. The Bureau's Governments Division will create a new directory of facilities.

The program will be implemented under an interagency agreement with the U.S. Bureau of the Census. No additional applications will be solicited in fiscal year 1995.

Contract for the Evaluation of OJJDP Programs—$290,000

This contract will be extended and supplemented in the amount of $290,000 to complete evaluation reports on OJJDP's Boot Camp Pilot Program, to continue the evaluation of the Disproportionate Minority Confinement and Title V Prevention Program evaluations, and to provide other evaluation services required by OJJDP prior to the award of a new competitive contract.

The contract supplement will be awarded to Caliber Associates. A new competitive contract will be solicited in fiscal year 1995.

Pulling America's Communities Together (PACT) Program Development—$261,000

Project PACT is an initiative through which Federal agencies work with State and local agencies and communities to develop a strategic plan to help reduce crime and violence by building healthier communities. The role of the Federal government in Project PACT is to support the community's identification of needs, formulation of a coordinated community response, and development of resources to implement a community action plan. OJJDP will continue to provide PACT cities with technical assistance and information on programs and services that offer the best hope for success in the development of antiviolence strategies for juvenile offenders and victims.

The National Council on Crime and Delinquency (NCCD) has provided the Project PACT jurisdictions of Metro Atlanta, Metro Denver, Nebraska, and Washington, D.C., with technical assistance for the past year. NCCD will continue to provide such assistance through fiscal year 1995 by responding to requests for assistance in implementing juvenile justice reform through OJJDP's *Comprehensive* Strategy for Serious, Violent, and Chronic Juvenile Offenders.

This program will be implemented by NCCD. No additional applications would be solicited in fiscal year 1995.

Juveniles Taken Into Custody (JTIC): Interagency Agreement—$200,000

The U.S. Bureau of the Census is working with OJJDP and the National Council on Crime and Delinquency to develop a comprehensive national statistical reporting system that is responsive to the information requirements of the JJDP Act, the needs of the juvenile justice field for data on juvenile custody populations, and the needs of State legislatures and juvenile justice professionals for data to assist in making informed planning and policymaking decisions.

The Census Bureau acts as the data collection agent for the JTIC program under an interagency agreement. No additional applications will be solicited in fiscal year 1995.

Juvenile Justice Data Resources—$25,000

This program enhances the availability of juvenile justice data sets for secondary analysis. The project takes data files from OJJDP research and statistical programs and prepares them for use by other researchers. Data files made available during fiscal year 1994 include the 1993 Children in Custody Census, Juveniles Taken Into Custody, and the Causes and Correlates Research Program.

This program will be implemented under an interagency agreement with the University of Michigan. No additional applications will be solicited in fiscal year 1995.

Strengthening Juvenile Justice

New Programs

Mental Health in the Juvenile Justice System—$750,000

This program addresses the mental health and juvenile justice systems' lack of coordinated and adequate mental health treatment for at-risk and delinquent youth. The program will target juveniles with mental health problems and impairments (including learning disabilities), those who are at risk of becoming status or delinquent offenders, status offenders, and delinquents with undiagnosed or untreated mental health problems, including offenders in secure and non-secure residential care.

Fiscal year 1995 funds will provide up to $150,000 to each of the five jurisdictions participating in the SafeFutures Program. Their planning process would be expected to provide comprehensive, coordinated, and collaborative approaches among juvenile justice, youth service, and mental health agencies to improve mental health services for juveniles in these five communities. A particular focus of the fiscal year 1995 funding will be to target victims of child abuse and juvenile sex offenders.

Bethesda Day Treatment Center—$320,000

Pennsylvania's Bethesda Day Treatment Center is a private nonprofit agency established to provide intensive day treatment and a variety of other services that promote the social adjustment of juvenile offenders in the community.

For four years, OJJDP has provided funds to the Center to develop and document intensive, outpatient, community-based treatment and care centers for juveniles at risk of delinquency and those who have been referred to court and are in the preadjudication or postadjudication stages of the juvenile justice system. Center services were initially designed to help youth in rural areas or small towns who committed offenses related to family supervision and control. More recently, the program has demonstrated its effectiveness in larger cities, including Kalamazoo, Michigan and Philadelphia, Pennsylvania, with juveniles who commit serious delinquent acts.

Bethesda Day Treatment Center's services include intensive supervision, counseling, and coordination of a range of services necessary to develop skills that enable youth to function appropriately in the community. Services are client, group, and family focused. Client-focused services include intake, casework, service and treatment planning, individual counseling, intensive supervision, and study skills. Group-focused services include group counseling; life and jobs skill training, cultural enrichment, and physical education. Family-focused activities include family counseling, home visits, parent counseling, and family intervention services.

Day treatment services cost about 50 percent less than secure placement, pose a minimal risk to community safety, and can be implemented quickly. With management systems and funding in place, it takes only 6 to 9 months from startup to full implementation of a program.

The Bethesda Day Treatment Center will offer to replicate the day treatment model in the five SafeFutures sites. Successful applicants will be eligible to submit applications to the Bethesda Day Treatment Center for up to $30,000, with a $30,000 local contribution, in training and technical assistance services. Other local jurisdictions will also be eligible to receive services from the grantee under the same terms. Interested jurisdictions should contact the Bethesda Day Treatment Center at (717) 568–1131. No additional applications will be solicited in fiscal year 1995.

Interventions to Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah Wysinger Memorial Program)—$300,000

National data and studies have demonstrated that minority juveniles are over-represented in secure facilities across the country. In response to this problem, OJJDP issued regulations in 1989 requiring States participating in the Formula Grants Program to gather and assess data to determine the existence of disproportionate minority confinement and, if it existed, to design strategies to address the problem. To date, 47 States have completed the required data analyses, with all but five determining that minority juveniles are overrepresented in secure facilities. Analysis of the data indicates that in a majority of States minority juveniles are disproportionately represented at

VOL 60 ISS 85 MY 3 1995 UMI

several points of decision-making in the juvenile justice system.

This competitive Special Emphasis program will provide funds to States, local units of government, and nonprofit organizations to demonstrate effective interventions designed to eliminate the disproportionate confinement of minority juveniles in secure detention or correctional facilities, adult jails and lockups, and other secure institutional facilities. Activities appropriate for funding under this initiative include such programs as:

- Training and education programs for law enforcement and juvenile justice practitioners.
- Diversion programs for minority youths who come in contact with the juvenile justice system.
- Prevention programs in communities with high numbers of minority residents.
- Programs to increase the capacity of community-based organizations to provide alternatives to detention and incarceration for minority youths.
- Aftercare programs designed to assist minority youths returning to their communities from secure institutions.

Grants will be available in amounts ranging from $50,000 to $100,000 for the implementation and evaluation of interventions designed to reduce disproportionate minority confinement. In addition to the general selection criteria applied to all OJJDP competitive applications, OJJDP will consider the relationship of the application to the State's development of multiple strategies to address the State's problem based on minority overrepresentation indices as identified in the Phase I data collection analysis. Three to six competitive applications will be funded in fiscal year 1995 at $50,000 to $100,000 each.

The Juvenile Justice Prosecution Center—$300,000

For several years, OJJDP has supported prosecutor training activities through the National District Attorneys' Association (NDAA). This project will establish a Juvenile Justice Prosecution Center to provide prosecutor training and implement workshops on juvenile justice related executive policy, leadership, and management for chief prosecutors and juvenile unit chiefs, and provide background information to prosecutors on juvenile justice issues and programs.

The project will be implemented by the American Prosecutors Research Institute (APRI), based on planning and input by prosecutors familiar with juvenile justice needs. APRI is the research and technical assistance affiliate of NDAA. The project will utilize a working group of chief prosecutors and juvenile unit chiefs to support the project's staff in providing training, technical assistance, and juvenile justice related research and program information to practitioners nationwide. The expectation is that within the next three years a self-supporting Juvenile Justice Prosecution Center will be established through links with State prosecutor training programs.

The award for the Juvenile Justice Prosecution Center will be made to APRI. No additional applicants will be considered in fiscal year 1995.

Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)—$200,000

The purpose of this program is to continue OJJDP's capability to provide technical assistance for juvenile corrections and detention. A major responsibility of the grantee will be to plan and convene the annual Juvenile Corrections and Detention Forum. The forum provides an opportunity for 100 juvenile corrections and detention leaders to meet and discuss issues, problems, and solutions to corrections and detention problems. A second objective is to provide workshops and training conferences on current and emerging national issues in the field of juvenile corrections and detention. The grantee will provide limited technical assistance through document dissemination. OJJDP will award a competitive grant to an organization experienced in this area of expertise to provide these services.

Strengthening Juvenile Justice

Continuation Programs

Serious, Violent, and Chronic Juvenile Offender Treatment Program—$1,500,000

In fiscal year 1993, under a competitive announcement, OJJDP awarded funds to enable two jurisdictions (Allegheny County, Pennsylvania and Washington, DC) to develop a plan for systematic graduated sanctions for juvenile offenders. The plan combines accountability and sanctions with increasingly intensive community-based intervention, treatment, and rehabilitation services as the seriousness of a juvenile's offenses increases or a particular offense warrants. The plan's basic elements are to: (1) Assess the existing continuum of secure and nonsecure intervention, treatment, and rehabilitation services in each jurisdiction; (2) define the juvenile offender population; (3) develop and implement a program strategy; (4) develop and implement an evaluation; (5) integrate private nonprofit, community-based organizations into juvenile offender services; (6) incorporate an aftercare program as a formal component of all residential placements; (7) develop a resource plan to enlist the financial and technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and (8) develop a victim assistance component using local organizations.

In fiscal year 1994, these jurisdictions each qualified for $500,000 implementation grants. Two additional jurisdictions are being selected for combined planning and implementation awards of $500,000 each under a fiscal year 1994 competitive program.

In fiscal year 1995, each of the original jurisdictions will receive continuation awards of $500,000 for second year implementation. Also in fiscal year 1995, up to $100,000 will be available to each of the five SafeFutures sites to refine and implement action plans for graduated sanctions systems in the target areas. The Bureau of Justice Assistance will transfer $1,500,000 to OJJDP to implement this program in fiscal year 1995. No additional applications will be solicited in fiscal year 1995.

Juvenile Court Training*—$1,074,000

The primary purpose of this project is to continue and refine the training and technical assistance program offered by the National Council of Juvenile and Family Court Judges. The training objectives are to supplement law school curricula and provide judges with current information on developments in juvenile and family case law and available options for sentencing and treatment. Emphasis will also be placed on drug testing, gangs and violence, and intermediate sanctions. The project will provide both basic training to new juvenile and family court judges and specialized training to experienced judges.

The program will be implemented by the current grantee, The National Council of Juvenile and Family Court Judges. No additional applications will be solicited in fiscal year 1995.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program—$620,000

This initiative is designed to support implementation, delivery of training and technical assistance, and evaluation for a statewide intensive community-based aftercare model in four states competitively selected to participate in this demonstration program.

In fiscal year 1994, the Johns Hopkins University was awarded funds to test its intensive community-based aftercare model in four demonstration sites in Denver, Colorado; Clark County (Las Vegas), Nevada; Camden and Newark, New Jersey; and Richmond, Virginia. Each of the four sites will receive up to $100,000 to support program implementation in fiscal year 1995. An independent evaluation contractor is providing an initial evaluation design and documenting the implementation process under a separate grant.

The Johns Hopkins University will receive a supplemental award of $220,000 to provide training and technical assistance to the four selected sites and to OJJDP's Youth Environmental Service Program, Boot Camp Pilot Program, and SafeFutures Program sites. This is the second budget period of a three-year project. BJA will contribute $500,000 to the support of this program in fiscal year 1995.

Native American Alternative Community-Based Program—$600,000

This program is designed as a collaborative effort between OJJDP and other public and private organizations concerned about juvenile delinquency among Native Americans. Its purpose is to develop community-based alternative programs for Native American youth who are adjudicated delinquent and to develop a re-entry program for Native American delinquents returning from institutional placements. A multicomponent design has been developed in the four project sites. Fiscal year 1995 funding will support continued implementation of these projects. Training and technical assistance will also be provided to integrate the critical elements of OJJDP's intensive supervision and community-based aftercare programs with cultural elements traditionally used by Native Americans to control and rehabilitate offending youths.

The Red Lake Band of Chippewa Indians, the Navajo Nation, the Gila River Indian Community, and the Pueblo of Jemez are the project sites initially funded in fiscal year 1992. The National Indian Justice Center provides the sites with training and technical assistance. No additional applications will be solicited in fiscal year 1995.

Training for Juvenile Corrections and Detention Staff—$500,000

OJJDP will continue the development and implementation of a comprehensive training program for juvenile corrections and detention management staff through its interagency agreement with the National Institute of Corrections (NIC). The program is designed to offer a core curriculum for juvenile corrections and detention administrators and mid-level management personnel in such areas as leadership development, management, training of trainers, legal issues, cultural diversity, the role of the victim in juvenile corrections, gang activity, juvenile programming for specialized needs of offenders, and overcrowding. The training is conducted at the NIC Academy and regionally. This program is a continuation activity, implemented in fiscal year 1995 under an interagency agreement with NIC. No additional applications will be solicited in fiscal year 1995.

Technical Assistance to the Juvenile Courts*—$389,943

The National Center for Juvenile Justice (NCJJ), the research division of the National Council of Juvenile and Family Court Judges, provides four types of technical assistance under this grant: (1) Information resources; (2) onsite consultation; (3) off-site consultation; and (4) a cross-site consultation. Emphasis will be placed on intermediate sanctions for handling juveniles involved in drug-related offenses and gang activities and other emerging issues confronting the juvenile court.

The current grantee, the National Center for Juvenile Justice, will implement the program. No additional applications will be solicited in fiscal year 1995.

Due Process Advocacy Program Development—$250,000

In fiscal year 1993, OJJDP funded the American Bar Association (ABA), in partnership with the Juvenile Law Center (JLC) of Philadelphia, Pennsylvania, and the Youth Law Center (YLC) of San Francisco, California to develop due process advocacy program strategies. The goals of the program are: (1) To increase juvenile offenders' access to legal services; (2) to improve the quality of preadjudication, adjudication, and dispositional advocacy for juvenile offenders; and (3) to ensure due process to all juveniles in the juvenile justice system. The strategies will be made available to State and local bar associations and other relevant organizations so that they can develop approaches to increase the availability and quality of counsel for juveniles. The ABA, JLC, and YLC have completed an assessment of the current state of the art with regard to legal services, training, and education. In fiscal year 1995, they will develop strategies to improve access, availability, and the quality of counsel and provide a comprehensive report on these issues. During this second funding cycle, training materials will be developed and tested in selected sites. Training materials will be adjusted based on experience in the test sites and a dissemination strategy developed. The ABA will establish mechanisms for networking with legal service providers such as public defender offices and children's law centers. Fiscal year 1995 funding will support the second six months of the second year budget for this 3-year effort. No new applications will be solicited in fiscal year 1995.

Improvement in Correctional Education for Juvenile Offenders—$250,000

The purpose of this program is to assist juvenile corrections administrators in planning and implementing improved educational services for detained and incarcerated juvenile offenders.

In fiscal year 1992, the National Office for Social Responsibility (NOSR) was awarded a three-year cooperative agreement to conduct a comprehensive assessment of the literature and to produce a report documenting state of the art practices in educational reform. The results of this effort were utilized to develop a training and technical assistance program to improve educational services for incarcerated juveniles.

In fiscal year 1995, NOSR will be awarded up to $250,000 to provide training and technical assistance to three sites to be competitively selected. No additional applications would be solicited for this training and technical assistance program during fiscal year 1995.

Robeson County, North Carolina*—$202,645

This grant to the State of North Carolina will continue implementing a pilot program for African-American males, ages 12 to 15, who, in lieu of confinement, will be supervised in the community and assigned to a weekend academy where they will receive intensive services including counseling, tutoring, conflict resolution, and job training. In the first year, 100 juveniles were expected to be served. Second-year funds will be used to continue and expand the program.

P.A.C.E. Center for Girls, Inc.*—$150,000

The P.A.C.E. Center for Girls, Inc., headquartered in Orlando, Florida, will expand its program to several new sites and provide technical assistance to jurisdictions that wish to adopt the P.A.C.E. program model. P.A.C.E.

VOL 60 ISS 85 MY 3 1995 UMI

provides juvenile court judges with an alternative program for at-risk teenage girls arrested for status and minor delinquent offenses. Fiscal year 1995 funds will support the second year of implementation.

Juvenile Restitution: Balanced Approach—$100,000

OJJDP will continue to support the juvenile restitution training and technical assistance program in fiscal year 1995. The project design is based on practitioner recommendations for current needs in the field. OJJDP initiated a survey on how best to integrate and institutionalize restitution as a key component of juvenile justice dispositions. In addition to the survey, a working group was convened to help map out the course of OJJDP's support for optimum development of the components of restitution. These components include community service, victim reparation, victim-offender mediation, offender employment and supervision, employment development, and potential program elements designed to establish restitution as an important alternative in improving the juvenile justice system. This project is guided by the need to provide a balance of community protection and offender competency development and accountability in the provision of community-based sanctions.

The Division of Applied Research of Florida Atlantic University was competitively selected in fiscal year 1992 to implement this project. The grant will be extended into fiscal year 1995 to enable the grantee to provide technical assistance and support to States and localities seeking to implement the balanced approach. No additional applications will be solicited in fiscal year 1995.

Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program—$80,000

This supplement will allow the evaluation grantee, the National Council on Crime and Delinquency (NCCD), to provide additional assistance in data collection in fiscal year 1995 to the four States implementing the Intensive Community-Based Aftercare Demonstration and Technical Assistance Program.

The initial stage of this evaluation will assess the process used by the four demonstration states to implement an intensive community-based aftercare program, evaluate technical assistance provided to these States, and develop a preliminary impact evaluation research design. This supplemental award will provide for the initiation of data collection efforts as soon as the research design for the impact evaluation is completed.

This program will be implemented by NCDD. No additional applications will be solicited in fiscal year 1995.

Douglas County, Nebraska*—$67,055

This grant for a youth pre-trial diversion program in Douglas County, Nebraska was initially funded in fiscal year 1994 for a two-year project period. Fiscal year 1995 funding will support second-year implementation.

Professional Development for Youth Workers—$50,000

The primary purpose of this program is to promote professional development of youth service and juvenile justice system providers through formal training. The program will include an inventory of existing training programs and their effectiveness, a needs assessment training survey, development of curricula for several program settings, design of a dissemination strategy, and an implementation plan for the third year of a three-year program.

Initially funded in fiscal year 1992, the Academy for Educational Development, Inc., located in Washington, D.C., will continue the project for six months to train trainers in the new curricula. No additional applications will be solicited in fiscal year 1995.

Lackawanna County, Pennsylvania*—$50,000

With fiscal year 1994 funds, the District Attorney's Office in Lackawanna County created a Comprehensive Juvenile Crime Unit to investigate, prosecute, and prevent juvenile crime and to coordinate with other county agencies that are helping youth avoid delinquent behavior and become productive citizens. The primary activity will be to establish a Juvenile Justice Task Force to work with the Juvenile Probation Office to assess the needs and services of Lackawanna County. The Task Force will also review the last five years of the Juvenile Probation Office files to determine demographics, numbers of juvenile crimes committed, recidivism, and school district disciplinary and rehabilitation programs. Fiscal year 1995 funds will complete implementation of this program.

Public Safety and Law Enforcement

New Programs

Gangs and Delinquency Research—$500,000

In fiscal year 1994, OJJDP channeled its gang-related activities into the Comprehensive Gang Program, made possible by an increased Part D appropriation. The National Gang Assessment and Resource Center, funded under the fiscal year 1994 Program Plan, will provide a national baseline study of the presence and characteristics of violent gangs. This year, OJJDP proposes to supplement this baseline study with two studies designed to develop detailed information on various aspects of gangs in gang-plagued cities identified in the baseline studies. The main purpose of these supplemental studies is to examine gang behavior as a subset of overall delinquency. This program will fund the addition of gang studies to ongoing studies of juvenile delinquency, including serious, violent, and chronic delinquency. Specific issues to be examined include assessing the relationship of gang participation to other forms of delinquency and violence associated with gang membership and determining the proportion of violent youth crime accounted for by youth gangs. Proposals are encouraged that incorporate gang studies into ongoing studies of large samples of juveniles.

OJJDP will provide up to four assistance awards in amounts ranging from $100,000 to $150,000 each under this program.

Field-Initiated Gang Research Program—$300,000

OJJDP's Field-Initiated Research Program offers support for research ideas generated in the field rather than by OJJDP. Fiscal year 1995 Field-Initiated Research Program funding will be directed to the support of research on gangs, reflecting the growth in violence among youth gangs. Priority research topics include evaluation of prevention and intervention approaches aimed at diverting at-risk youth from becoming gang members, factors related to joining and leaving gangs, ethnographic studies on the dynamics of gang creation or joining, or other topics identified by applicants.

OJJDP will provide up to three assistance awards ranging from $75,000 to $125,000 each under this program.

Juvenile Transfers to Criminal Court Studies—$275,000

States are increasingly enacting new legislation mandating transfer of juveniles to criminal courts. This trend includes the development of innovative procedures such as blending traditional features of juvenile and criminal justice procedures and sanctions and statutes that categorize juvenile offenders into different classes according to the seriousness of the offense, designating juvenile or criminal court for each class. Research in this area has been limited. Few studies have evaluated juvenile and criminal court handling of serious or violent juvenile offenders.

OJJDP proposes to support two studies in fiscal year 1995. The first will compare juvenile and criminal court handling of juveniles. This comparison would be made between a State(s) that allows for judicial waiver of serious or violent juvenile offenders and a State(s) that mandates criminal court handling for specified categories of offenders. The second study will evaluate an innovative system of blending criminal and juvenile justice systems to handle serious or violent juvenile offenders.

Funding for the initial phase of each of these studies will be competitively awarded and will be up to $150,000 each for up to two grant awards.

Innovative Firearms Program—$250,000

The purpose of the Innovative Firearms Program is to assist State and local jurisdictions to develop and implement new or enhanced projects to prevent the possession and use of firearms by juveniles and control illicit firearm trafficking. Law enforcement, prosecutorial agencies, schools, community groups, and juvenile justice system representatives may participate in the program. The grantee(s), in cooperation with the Bureau of Justice Assistance (BJA), OJJDP, and the Bureau of Alcohol, Tobacco and Firearms, will also work with U.S. Attorneys to develop and implement State and local projects related to the new Youth Handgun Safety Act that prohibits the possession of a handgun or ammunition by, or the private transfer of a handgun or ammunition to, a juvenile. BJA and OJJDP will also work with local jurisdictions to develop a program to reduce firearms crimes by juvenile gangs through improved enforcement of firearms laws and other laws and regulations, such as tax and business laws, that are used to control firearm sales. OJJDP and BJA will jointly fund this program at $500,000. BJA will administer the program.

Gangs, Groups, Individuals, and Violence Intervention—$250,000

Little is known about the interrelationships among gang participation, group delinquency, and individual violence. The dynamics of a juvenile's movement in and out of these relationships is not well understood. How these patterns of delinquency contribute to the careers of serious and violent offenders is also unknown. Nor do we have a clear understanding of the prevention and intervention program implications of these patterns of delinquency.

This project will involve a systematic review, assessment, and synthesis of existing research results on gangs, other types of group involvement, and individual serious and violent delinquency to determine the implications for prevention and juvenile/criminal justice system interventions. The framework to be used in conducting this review of existing knowledge is a criminal career model, including onset, acceleration, maintenance, and desistance elements.

Implications for OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders project will be drawn. Recommendations will be made for prevention programs and interventions in the juvenile and criminal justice systems that take into account meta-analyses of prevention and intervention programs. One cooperative agreement will be competitively awarded to implement this project in fiscal year 1995.

The results of this program will be of interest to other OJP agencies addressing serious, violent and chronic offender careers. The results also will be shared with OJP agencies through the Gangs Working Group and with other Federal agencies through the National Gang Consortium.

Youth Handgun Study/Model Juvenile Handgun Legislation—$202,838

Reducing and preventing gun violence is a primary concern of Federal, State, and local governments. This violence affects youth not only as perpetrators but also as victims and witnesses. There is a need to know about the various State laws concerning youth and handguns. This project will collect, analyze, and compare selected provisions of State firearms codes, particularly as they pertain to juveniles. The purpose is to develop a body of information about key provisions of State firearms codes. The results of this study will assist in formulating laws, policies, and programs to reduce firearms-related violence.

The product to be developed is a guide to selected State firearm provisions. This study, and the development of a model juvenile handgun law, are mandated by the Violent Crime Control and Law Enforcement Act of 1994. In order to immediately begin collecting study data to assist in developing the model law, a total of $75,290 was transferred to the Bureau of Justice Assistance for a joint award to the National Criminal Justice Association for the purpose of collecting, examining, and analyzing existing and proposed State firearms codes. The Crime Act requires the Attorney General, through the Administrator and the National Institute for Juvenile Justice and Delinquency Prevention, to develop a Constitutional and enforceable model juvenile handgun law. This model law will guide the States in their development of laws concerning juvenile handgun possession. The model law will be stated in a format designed to enable States to determine which provisions are best suited to their individual needs. This effort is being assisted by the National Criminal Justice Association under a grant in the amount of $127,548. No additional applications will be solicited in fiscal year 1995.

Public Safety and Law Enforcement

Continuation Programs

Law Enforcement Training and Technical Assistance Program—$1,504,924

This continuation award will supplement the contract between OJJDP and Fox Valley Technical College in Appleton, Wisconsin. Fiscal year 1995 funds will be used to conduct a nationwide training and technical assistance program designed to improve law enforcement's capability to respond to serious juvenile crime, to contribute to delinquency prevention, and to address issues of missing and exploited children and child abuse and neglect. Technical assistance under this contract is provided in response to a wide variety of requests from Federal, State, local, and county agencies with responsibility for the prevention and control of juvenile delinquency and juvenile victimization. The contract supports continuation of the Police Operations Leading to Improved Children and Youth Services (POLICY) series of training programs and other law enforcement training programs offered by OJJDP. No additional applications will be solicited in fiscal year 1995.

Comprehensive Communities Program—Comprehensive Gang Initiative—$799,345

Under the Comprehensive Communities Program, the Bureau of Justice Assistance (BJA) provides funds

VOL 60 ISS 85 MY 3 1995 UMI

to communities to implement a Comprehensive Gang Initiative. Funding for fiscal year 1995 would be a joint BJA and OJJDP effort, with OJJDP transferring $799,345 to BJA to support continued implementation of the Comprehensive Gang Initiative. The program includes a training curriculum and the provision of technical assistance to model demonstration sites by the Police Executive Research Forum (PERF). Four competitively selected demonstration sites were funded during fiscal year 1993 with technical assistance provided by PERF. Four additional sites will be funded in fiscal year 1995 through a competitive process. Applications will be solicited by BJA.

Targeted Outreach With a Gang Prevention and Intervention Component (Boys and Girls Clubs)—$600,000

This program is designed to enable local Boys and Girls Clubs to prevent youth from entering gangs and to intervene with gang members in the early stages of gang involvement to divert them from gang activities and into more constructive programs. The National Office of Boys and Girls Clubs will provide training and technical assistance to existing Gang Prevention and Intervention sites and expand the gang prevention and intervention program to other Boys and Girls Clubs, including those in the SafeFutures sites. The program will be implemented by the current grantee, the Boys and Girls Clubs of America. No additional applications will be solicited in fiscal year 1995.

Comprehensive Gang Initiative—$600,000

Under the Comprehensive Gang Initiative, BJA has developed a model comprehensive approach to gang issues that carefully balances prevention, intervention, and suppression approaches. The model incorporates strategies that bring together cooperative and coordinated efforts of the police, other criminal justice agencies, human services providers, and community programs. Funds in the amount of $600,000 will be transferred to the Bureau of Justice Assistance (BJA). In fiscal year 1995, BJA will provide continuation funding for the four currently funded project sites.

Violence Studies*—$500,000

The 1992 Amendments to the JJDP Act required OJJDP to conduct studies on violence. Sites were selected and grants awarded in Columbia, South Carolina; Los Angeles, California; Milwaukee, Wisconsin; and Washington, DC. Building on the results of OJJDP's Program of Research on Causes and Correlates, these studies address the incidence of violence committed by or against juveniles in urban and rural areas of the United States. In fiscal year 1993, OJJDP initiated these studies by supporting a planning phase and providing funding to each of four programs with fiscal year 1994 funds. Awards will be required to continue studies in two of the four designated sites in fiscal year 1995. No additional applications would be solicited in fiscal year 1995.

Violence Study—Causes and Correlates—$300,000

OJJDP proposes to support additional analyses of data collected under its Program of Research on the Causes and Correlates of Delinquency, conducted at the State University of New York at Albany, the University of Pittsburgh, and the University of Colorado. Because of the richness and scope of the data base, many issues have yet to be addressed. The main purpose of additional analyses to be conducted under this program is to inform the further development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. In addition to conducting analyses specifically related to the Comprehensive Strategy, the grantees will produce an updated summary of their research results.

This program will be implemented by the grantees noted above. No additional applications will be solicited in fiscal year 1995.

Child Centered Community-Oriented Policing—$300,000

In fiscal year 1993, OJJDP provided support to the New Haven, Connecticut, Police Department and the Yale University Child Development Center to document a child-centered community-oriented policing model, which is being implemented in New Haven. The basic elements of the model are a 10-week training course in child development for all new police officers, and child development fellowships for all community-based district commanders who direct neighborhood police teams. The fellowships provide 4 to 6 hours of training each week over a 3-month period at the Child Study Center. The program also includes: (1) 24-hour consultation from a clinical professional and a police supervisor to patrol officers who assist children in violent situations; (2) weekly case conferences with police officers, educators, and child study center staff; and (3) open police stations, located in neighborhoods and accessible to residents for police and related services, community liaison, and neighborhood foot patrols.

In fiscal year 1994, Community Policing funds transferred from the Bureau of Justice Assistance supported a technical assistance and training grant to allow the Yale/New Haven project to serve as a host site for jurisdictions interested in replicating the essential elements of the model. In fiscal year 1995, OJJDP funds will support the continuation of this project in two to four replication sites. No additional applications will be solicited in fiscal year 1995.

National School Safety Center—$250,000

The purposes of this collaborative program between OJJDP and the Department of Education are: (1) To provide training and technical assistance regarding school safety for elementary and secondary schools and, (2) to identify methods for diminishing crime, violence, and illegal drug use in schools and on campuses, with special emphasis on gang-related crime. The National School Safety Center maintains a library and clearinghouse with specialized information, does research on school safety issues, and develops publications and training programs. The program focuses on preventing drug abuse and violence in schools and providing State personnel trained in school safety to give technical assistance to localities.

The Department of Education contributed $1 million to the program in fiscal year 1994. The program will be implemented by the current grantee, the National School Safety Center at Pepperdine University. No additional applications will be solicited in fiscal year 1995.

Enhancing Enforcement Strategies for Juvenile Impaired Driving Due to Alcohol and Other Drug Use—$150,000

Through a $75,000 interagency agreement with the National Highway Traffic Safety Administration of the Department of Transportation, OJJDP ($75,000) is supporting an initiative on Enhancing Enforcement Strategies for Juvenile Impaired Driving Due to Alcohol and Other Drug Use. The goals of this program are: (1) To increase the use of the arrest sanction among law enforcement agencies in cases where juvenile drivers are impaired by alcohol and other drugs, by developing and testing a model comprehensive program in selected demonstration sites and by disseminating training and technical assistance materials for police, prosecutors, judges, and probation officers on effective procedures and law enforcement strategies, and (2) to increase community reliance on a unified systemwide response to juvenile impaired driving by involving the criminal justice system and other elements of the community in encouraging enforcement efforts that use the arrest sanction.

This three-phase program is entering its third and final phase. To date, the grantee, the Police Executive Research Forum (PERF), has developed a draft comprehensive Juvenile Driving Under the Influence Enforcement Working Model, training curricula, and technical assistance materials. Five sites have been selected and are testing the model and receiving training and technical assistance from PERF. The demonstration sites are Albany County, New York; Astoria, Oregon; Hampton, Virginia; Phoenix, Arizona; and Tulsa, Oklahoma.

In the third phase of the program, the observations and lessons learned from the demonstration sites will be categorized, analyzed, consolidated, and organized into a replicable model. The model will be presented to law enforcement and other interested public and private organizations through a variety of "how-to" materials. Program work products will be developed as a series of discrete, stand-alone publications to be published and distributed with the notation that the materials, like the various model components, must be coordinated in order to produce the desired result—a cooperating local criminal justice system that supports its police in the use of the arrest sanction as a principle deterrent to juvenile impaired driving. No additional applications will be solicited in fiscal year 1995.

Training in Cultural Differences for Law Enforcement/Juvenile Justice Officials—$100,000

Under a previous OJJDP award, The American Correctional Association (ACA), in collaboration with the Police Executive Research Forum (PERF), developed and tested a 2½ day cultural diversity training curriculum that is applicable to all juvenile justice system components. The curriculum has been presented by ACA and PERF trainers, and has been well received by training attendees, particularly juvenile justice/law enforcement trainers. In addition, the ACA has received numerous requests from juvenile justice agencies to provide the training to their personnel.

In recognition of the need for and benefits of cultural diversity training, OJJDP will continue support for the above project in fiscal year 1995. The purpose of the additional funding is to enable the grantee to implement additional State and regional training-of-trainers programs across the country in response to requests from the field.

The competitively awarded grant to the ACA for this project will be supplemented in fiscal year 1995 in the amount of $100,000.

Delinquency Prevention

New Programs

Community-Based Gang Intervention—$2,000,000

This program is designed to help communities build coalitions to reduce gangs and violence in public housing developments in partnership with public and federally subsidized housing residents. Fiscal year 1995 funding will establish the program in public and federally subsidized housing developments in the five SafeFutures sites. Under this program, community-based groups that can demonstrate a successful record of providing services to public housing youth and residents will be eligible to receive funds for a community coalition to address the needs of youth at risk for gang involvement. Program components will include: (1) Prevention and intervention activities directed at elementary school through high school gang violence; and (2) on-site technical assistance to community-based groups, including members of the local public housing resident association, and residents who are parents of youth to be served.

Each grantee must conduct a community assessment of current conditions and programs directed at youth and at preventing violence that uses a planning committee composed of residents and representatives from those sectors of the community which the residents believe can help reduce youth violence. Based on this assessment, the committee will develop and initiate its local program. Under an interagency agreement between OJJDP and the Department of Housing and Urban Development, $250,000 will be provided for the technical assistance and training component of this program.

Family Strengthening and Support—Including Non-English Speaking—$1,000,000

Strengthening and supporting families, including non-English speaking families, is a priority area in the JJDP Act and a key component of the comprehensive approach to delinquency prevention and control envisioned in OJJDP's Comprehensive Strategy to Address Serious, Violent, and Chronic Delinquency and the proposed SafeFutures: Partnerships to Reduce Youth Violence and Delinquency. OJJDP will provide funding to each of the five communities selected to implement a SafeFutures Program. Funds will be used to initiate or expand family-strengthening intervention and treatment programs, including programs for English and non-English-speaking families, that involve juveniles who are parents and are in the juvenile justice system, and that enlist schools and other local entities in family programming.

A major family-strengthening research project funded by OJJDP was recently completed. The grantees, the University of Utah and the Pacific Institute for Research and Evaluation, produced a user's guide, Strengthening America's Families: Promising Parenting and Family Strategies for Delinquency Prevention, and an executive summary that reviews both the current impact of family characteristics on risk for delinquency and the most promising family change interventions. Given the multiple variations of intervention strategies, the project recommends the organization of family-strengthening programs and services according to the family's level of functioning and the child's age. A representative group of 25 particularly promising programs were identified.

Under this program area, OJJDP will support implementation of new or expanded family-strengthening efforts designed to improve parental functioning as part of an overall plan to prevent delinquency or intervene with juveniles and their families who are in the juvenile justice system. Communities that compete and are selected as SafeFutures sites will be eligible to receive funding under this program. Family Strengthening and Support Program funds will be available to the five selected SafeFutures communities at $200,000 per site.

Comprehensive Community-Based Services for At-Risk Girls and Adjudicated Juvenile Female Offenders—$600,000

This program will focus on providing comprehensive, gender-specific prevention, intervention, treatment, and alternative services that include an intensive aftercare component for juvenile female offenders and girls who are at high-risk of entering the juvenile justice system. The program will be part of the SafeFutures program. Applicants must assess existing community services for at-risk and adjudicated female juvenile offenders and document

VOL
60
ISS
85
MY
3
1995
UMI

the need for a new or improved comprehensive prevention, intervention, treatment, or alternative service project in their target area. An aftercare component will be required to assist juvenile female offenders who are returning to the community from an out-of-home placement.

While intervention services should be provided in the least restrictive environment, the increase in arrests of female juvenile offenders indicates that community-based intervention is not always possible. In order to offer needed prevention and intervention services to as many juveniles as possible, this program will focus on girls in nonresidential and nonsecure residential programs such as day treatment and group homes. One hundred and twenty thousand dollars will be available to each of the five SafeFutures grantees to coordinate community service providers, assess existing services, identify local resources to supplement funded services, and provide training for project staff.

Innovative Approaches in Law-Related Education*—$600,000

The purpose of this competitive program is to support and advance the practices of law-related education (LRE) for the prevention of delinquency within and outside the classroom. Funds will be available for assistance awards to support up to six projects, at up to $150,000 each, that promote innovative methods, techniques, approaches, or delivery related to LRE. The promising approaches or ideas submitted will be judged on their applicability to delinquency prevention, on whether the proposed approach differs from previously funded efforts of OJJDP, and on the extent to which they provide an innovative approach consistent with accepted LRE program principles.

Training in Risk-Focused Prevention Strategies—$500,000

OJJDP will provide additional training in fiscal year 1995 for communities interested in developing a risk-focused delinquency prevention strategy. This training is designed to support OJJDP's Title V Delinquency Prevention Program and similar federally funded programs by providing the knowledge and skills necessary for local, State, and private agency officials and citizens to identify and address risk factors that are known to lead to violent and delinquent behavior in children and youth. In fiscal year 1994, this training was offered in all 50 States and the District of Columbia, and to State and local officials engaged in planning associated with Department of Health and Human Services prevention programs.

OJJDP will award a contract to provide the training, including the following: (1) Orientation training on risk and resiliency-focused prevention theories and strategies for State, local and private community leaders; (2) identifying, assessing, and addressing risk factors; (3) training for trainers in selected States to provide statewide capacity to train communities on risk-focused prevention; and (4) development of training curricula, materials, and media to increase the capacity of States and localities to conduct risk-focused prevention training. This training will be provided through a competitive contract award.

Pathways to Success—$450,000

This project will support a collaborative effort among OJJDP, the Bureau of Justice Assistance (BJA), and the National Endowment for the Arts (NEA). The project will promote vocational skills, entrepreneurial initiatives, recreation, and arts education for after-school, weekend hours, and summer that make a variety of opportunities available to at-risk youth outside the regular school curriculum. Hours considered to be outside the regular school curriculum include after-school, weekend hours, and summer; however, the project would not need to, but may, cover the full year.

This program will be jointly funded by OJJDP ($200,000), BJA ($200,000), and NEA ($50,000). Through a competitive concept paper and application process, it will fund five sites, at up to $50,000 each, for the first year of a two-year project period. Prospective applicants will be asked to submit a pre-application concept paper. Based on OJJDP's review of these papers, those best demonstrating an ability to qualify for funding will be invited to submit full applications. Applicants interested in applying for this program must demonstrate that collaboration has taken place with existing education, business, arts, and community groups, and youth-serving agencies in the development of its program including, where appropriate, collaboration with existing after-school, weekend, and summer youth programs. The applicant should develop and submit written documentation of existing and proposed collaboration as part of the application process, such as memoranda of understanding, legislation, executive orders, and/or other formal commitments of bona fide partnership (e.g., collapsed funding streams, wrap-around services, multi-service centers, and procedures for service coordination). Prospective applicants must serve at-risk youth who are 6 to 18 years of age, but a project would not need to cover the full age range.

Truancy—$400,000

The Truancy Project will be part of a joint effort with the Bureau of Justice Assistance and the under the Youth Out of the Education Mainstream Initiative (Initiative). The Initiative will address the needs of truants, dropouts, children who are afraid to go to school, children who have been suspended or expelled, and children in the juvenile justice system who need to maintain or enhance their educational status and be reintegrated into the school system upon their release from residential placement. The Initiative proposes a series of activities that includes regional hearings, training and technical assistance, and related support services for communities that wish to comprehensively address the needs of these youth. The training and technical assistance services will help jurisdictions direct their efforts at model prevention and intervention programs that address the needs of the students through a wide range of collaborative services. These models will make collaborative multi-disciplinary services available to students from agencies within the school, law enforcement, social services, and community organizations. These services would include student and parent attendance policy review, attendance review boards, parental notification of absences, individual education programs for students with special needs, mental health counseling, drug and alcohol abuse treatment, career and vocational courses, tutorial assistance, in-school suspension, parenting training, law enforcement partnerships, and transitional programs assisting students reentering the mainstream school.

The National School Safety Center (NSSC) will work with jurisdictions to develop and implement model programs to address the problems of youth out of the education mainstream. Those jurisdictions that have current programs working with these students, but would like to expand and improve support services to better address the needs of these youth, may also request training and technical assistance services through NSSC. Funds for implementing the truancy component of the Initiative will be awarded to the NSSC as a supplement to its current grant. The Office of Juvenile Justice and Delinquency Prevention and the Bureau of Justice Assistance are each contributing $200,000 to this effort. No additional applications will be solicited in fiscal year 1995.

North Omaha B.E.A.R.S. (Building Esteem and Responsibility Systematically) Program*—$300,000

The North Omaha B.E.A.R.S. Program will enhance and expand its delinquency prevention program over a three-year period. This program focuses on at-risk youth ages 7–14 from the city of Omaha, Nebraska, using athletic participation as a means of providing tutoring, social enhancement and other services to Omaha youth. Funds will be used to enhance the linkages between the B.E.A.R.S. Program and the community. These funds will also be utilized to expand the number of at-risk juveniles and juveniles in the juvenile justice system being served by this program.

Training and Technical Assistance for Family-Strengthening Services—$250,000

Prevention, early intervention, and effective crisis intervention are critical elements in a community's family support system. In many communities, support services are geared toward intervention following a traumatic event, or toward the point when a child comes into contact with the justice system as a result of repeated behavioral problems. Over the years, OJJDP's program support and technical assistance has focused primarily on youth in the juvenile justice system. Technical assistance and training have not generally been available to community organizations and agencies focused upon family-oriented prevention services or early intervention initiatives. Currently, training is being provided to communities interested in implementing risk focused prevention. Following this training, communities will be better able to apply for and use Title V funds to support prevention programs.

Title V funds, along with funds available through the State Challenge Activities Grant Program, provide resources through State agency recipients of formula grant funds for jurisdictions and communities wanting to strengthen family support services, develop services where gaps exist, or augment and retool existing services to respond to new populations. In fiscal year 1995, OJJDP will support a program to provide technical assistance and training to public and private nonprofit agencies and organizations interested in structuring or enhancing family strengthening program models in communities where such services are designed as part of community-wide efforts to prevent delinquency and reduce violence. Such assistance will be offered for a selected number of family support models that have been demonstrated to be effective in diverse communities. OJJDP will award a competitive grant to an organization experienced in this area of expertise to provide these services.

Youth-Centered Conflict Resolution—$200,000

Violence in and around school campuses, conflict among students within schools, and conflicts between schools related to intramural activities have become increasingly problematic for school administrators, teachers, parents, and community leaders. While experts may debate the merits and impact of the varied contributing factors, most would agree that public school curricula, for the most part, do not provide for the systematic development of problem- and conflict-resolving skills. Inclusion of problem-solving skills in school curricula and community activities can be expected to provide a continuum in problem-solving skills and approaches that will enhance school discipline and lead to improved functioning in a democratic society.

OJJDP will award a grant to a qualified organization to develop, in concert with other established organizations currently providing conflict resolution services, a national strategy for broad-based education, training, and utilization of conflict resolution skills. In support of this task, the grantee would conduct four regional technical assistance workshops on the use of the joint publication being developed by the Departments of Justice and Education, Conflict Resolution Programs in Schools: A Guide to Program Selection and Implementation. This guide will be available late summer 1995. A complementary task may include the compilation of a compendium of model programs for this publication.

ASAP: Athlete Student Achievement Pact*—$150,000

The Sports Museum of New England will refine and continue developing the Athlete Student Achievement Pact (ASAP) mentoring program. ASAP focuses on at-risk school aged youth demonstrating poor academic achievement or participation. Through a signed agreement between a mentor and the student, tutoring is provided to assist these youth in their academic progress, and by acting as role models, to help students understand how to become successful in society. This program also utilizes high profile sports figures as role models for these youth. The overall purpose of this program is to reduce gang involvement, drug use, delinquency and drop-out rates within the target population.

Project Mister/Project Sister*—$146,500

This school-based delinquency prevention program will provide at-risk youth in three alternative high schools in Seattle and Tacoma, Washington with expanded counseling and case management services, pre-employment training, job search and placement, and parenting education. Many youth in these schools are teen parents and gang members. Most have been out of school at least once. Funds will support a full time case manager and job developer, and part-time parenting lab instructors. The goals of the program are to reduce the dropout rate, provide employment opportunities within two weeks of school completion, and prevent teen pregnancy.

Facing History and Ourselves*—$100,000

Facing History and Ourselves (FHO) is a national program aimed at promoting citizenship through increased awareness of racism and examples of positive actions for participating in democracy. This awareness-training is conducted through in-depth examination of the Holocaust as a historical case study in which youth study the roles and actions of various persons such as bystanders, victims, rescuers, and resisters. FHO, headquartered in Boston, Massachusetts, serves approximately 600,000 youth beginning in the eighth grade in 39 states. This grant will enable FHO to expand to reach more approximately 40,000 more youth through 350 newly trained teachers.

La Nueva Vida*—$64,000

La Nueva Vida is a residential treatment program that has recently expanded to create a school-based prevention program. It has been active in four schools where special classes on prevention-related subjects are presented twice a week. With the funds provided through this grant, La Nueva Vida proposes to establish a youth leadership development program in the public housing areas of Santa Fe, New Mexico. Youth aged 16 to 21 will receive leadership training and supervision as they engage in cross-age teaching and mentoring type relationships with younger children in the public housing areas in Santa Fe.

VOL
60
ISS
85
MY
3
1995
UMI

Henry Ford Health System*—$58,000

The Henry Ford Health System (HFHS) will implement a two-year Program called Reducing Youth Violence through School-Based initiatives in the Northern High School area of Detroit. The Program will develop and test a health care based violence prevention program through school-based health centers being established by HFHS at seven elementary schools, two middle schools, and the high school in this area. Participants will include teachers, family members, community programs and agencies, as well as student and health center staff. The initial program activities will involve an assessment of the problem in these school areas, and a coordinated planning process. The Program will then test approaches to violence prevention, evaluate the effort, and if it is successful, seek implementation funding from State, local and private funding sources.

Anti-Crime Youth Council*—$50,000

The Anti-Crime Youth Council program was developed as a forum in New Haven, Connecticut in which students could get together to discuss crime and be empowered to develop and implement solutions. The Council holds monthly public forums either in the evening on a weeknight or during the school day. The youth have developed several committees, focusing on areas such as law enforcement and community service. One hundred and fifty students are currently involved in the Council. This grant will facilitate the operation and expansion of the Council program in Connecticut.

Delinquency Prevention

Continuation Programs

Law-Related Education (LRE)*—$2,800,000

The national Law-Related Education (LRE) Program, titled "Youth for Justice", includes five coordinated LRE projects and programs operating in 48 States and four non-State jurisdictions.

The Program's purpose is to provide training and technical assistance to State and local school jurisdictions that will result in the institutionalization of quality LRE programs for at-risk youth. The focus of the program during fiscal year 1995 will be on linking LRE, violence reduction and youth action. The major components of the program are coordination and management, training and technical assistance, preliminary assistance to future sites, public information, program development, and assessment.

This program will be implemented by the current grantees, the American Bar Association, the Center for Civic Education, the Constitutional Rights Foundation, the National Institute for Citizen Education in the Law, and the Phi Alpha Delta Legal Fraternity. No additional applications will be solicited in fiscal year 1995.

Teens, Crime, and Community: Teens in Action in the 90s*—$1,000,000

This continuation program is conducted by the National Crime Prevention Council (NCPC) in partnership with and the National Institute for Citizen Education in the Law (NICEL). Teens in Action in the 90s is a special application of the Teens, Crime, and Community program, which operates on the premise that teens are disproportionately victims of crimes, and they can contribute to improving their schools and communities through a broad array of activities.

Under the fiscal year 1995 award, NCPC and NICEL will work through the National Teens, Crime, and Community Program Center to harness the energies of young people toward constructive activities designed to reduce crime and violence. The Program Center will be enlarged to serve as a formal clearinghouse for information and materials dissemination and to provide technical assistance and training. With fiscal year 1995 funds, NCPC and NICEL will significantly expand the number of communities participating in this program.

This program will be implemented by the current grantee. No additional applications will be solicited in fiscal year 1995.

Satellite Prep School Program and Early Elementary School for Privatized Public Housing—$720,000

This is a continuation of a demonstration program under which OJJDP supports the operation of an early elementary school program on the premises of the Ida B. Wells Public Housing Development in Chicago, Illinois. The program is a collaborative effort among OJJDP, the Chicago Housing Authority, and the Westside Preparatory School and Training Institute to establish a prep school for children in kindergarten through 4th-grade who live in the Development.

On October 1, 1991, the Wells prep school opened with kindergarten and 1st-grade students. In September 1993, a 2nd grade was added and in September 1994, a 3rd grade was added. The prep school operates as an early intervention educational model based on the Marva Collins Westside Preparatory School educational philosophy, curriculum, and teaching techniques. The Westside Preparatory School, a private institution located in Chicago's inner-city Weed and Seed neighborhood, has had dramatic success in raising the academic achievement level of low-income minority children. Fiscal year 1995 funds will be used to continue the operation and management of the Wells prep school and to add a 4th grade. No additional applications will be solicited in fiscal year 1995.

Children at Risk—$350,000

OJJDP, the Bureau of Justice Assistance (BJA), and the Center on Addiction and Substance Abuse of Columbia University have undertaken a joint program to help communities rescue high-risk pre-adolescents from the interrelated threats of crime and drugs. The program tests a specific intervention strategy for reducing and controlling illegal drugs and related crime in target neighborhoods and fosters healthy development among youth from drug- and crime-ridden neighborhoods. Multi-service, multi-disciplinary, neighborhood-based programs are established to provide a range of opportunities and services for pre-adolescents and their families who are at high risk of involvement in illegal drugs and crime. Simultaneously, the criminal and juvenile justice systems are targeting resources to reduce illegal drug use and crime in the neighborhoods where these young people reside. OJJDP funds are used for the delinquency prevention component of the program.

The Center has received funding from a number of foundations that has been matched by OJJDP and BJA. Based on the proposals submitted, six communities were selected to receive funds beginning in fiscal year 1992 to implement programs over a three-year period: Austin, Texas; Bridgeport, Connecticut; Memphis, Tennessee; Newark, New Jersey; Savannah, Georgia; and Seattle, Washington. Foundation and government funding ranging from $500,000 to $1 million was allocated to each community. The program will be implemented by the current grantee in each of the six communities. OJJDP funds will be transferred to BJA to implement the program. No additional applications will be solicited in fiscal year 1995.

Nonviolent Dispute Resolution—$300,000

This program is a joint effort of OJJDP and the Bureau of Justice Assistance (BJA) to test a variety of strategies to train teenage students to constructively manage anger, resolve conflicts, learn the importance of mutual respect, and be responsible for their actions. Organizations or agencies in jurisdictions participating in the Comprehensive Communities Program will be selected to implement program models. To qualify, applicants must have demonstrated successful work in programs that include collaborative efforts among educators, counselors, criminal justice representatives, and parents or caretakers. Applications will be solicited and awarded by BJA on a competitive basis under the Comprehensive Communities Program.

The Congress of National Black Churches: National Anti-Drug Abuse Program—$250,000

OJJDP will continue to fund The Congress of National Black Churches' (CNBC) national public awareness and mobilization strategy to address the problem of drug abuse and enhance drug abuse prevention efforts in targeted communities. The goal of the CNBC's national mobilization strategy is to summon, focus, and coordinate the leadership of the black religious community, in cooperation with the Department of Justice and other Federal agencies and organizations, to mobilize groups of community residents to combat drug abuse and drug-related crime activities among adults and juveniles. CNBC operates this program in 31 cities.

The program will be expanded in fiscal year 1995 to address family violence intervention issues and target up to six additional cities for a total of 37 cities. Consideration will be given to expanding to SafeFuture sites when selecting the six new CNBC locations. No additional applications will be solicited in fiscal year 1995.

"Just Say No" International*—$250,000

This two-year program is designed to assist "Just Say No" International to expand its Youth Power anti-drug program to public housing projects in Oakland, California, and Baltimore, Maryland. In fiscal year 1994, Just Say No expanded the program to Oakland, California and, in fiscal year 1995, will expand into Baltimore, Maryland.

Jackie Robinson Center (JRC)*—$250,000

The Jackie Robinson Center (JRC) provides a comprehensive program of cultural education, sports, and counseling services for at-risk youth. This is the second year of the three year program designed to support expansion of the program to new sites in New York City.

Cities in Schools—Federal Interagency Partnership—$200,000

This program is a continuation of a national school dropout prevention model developed and implemented by Cities in Schools, Inc. (CIS). CIS provides training and technical assistance to States and local communities, enabling them to adapt and implement the CIS model. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families at the school level. Where CIS State organizations are established, they will assume primary responsibility for local program replication during the Federal interagency partnership.

This program is jointly funded by OJJDP and the Departments of the Army, Health and Human Services, and Commerce under an OJJDP grant. The project will be implemented by the current grantee. No additional applications will be solicited in fiscal year 1995.

Hate Crimes—$200,000

The Education Development Center, Inc. (EDC) is developing a multipurpose curriculum for hate crime prevention in the schools and sanctions for juveniles who commit hate crimes. This curriculum is being pilot tested in the 8th grade of the Collins Middle School in Salem, Massachusetts. Once the pilot is evaluated and the curriculum redesigned, EDC will test the revised curriculum in two additional sites to ensure that it is geographically and demographically representative.

In consultation with the Office of Victims of Crime, EDC will develop a dissemination strategy for the curriculum and other products, including a judges' guide for dealing with hate crimes.

No additional applications will be solicited in fiscal year 1995.

Community Anti-Drug-Abuse Technical Assistance Voucher Project—$200,000

In July 1991, OJJDP entered into a cooperative agreement with the National Center for Neighborhood Enterprise (NCNE) to extend its outreach to community-based grassroots organizations around the country that are working effectively to solve the problems of youth drug abuse. This project has three goals: (1) To allow various neighborhood groups to inexpensively purchase needed services through the use of technical assistance vouchers disbursed by NCNE; (2) to demonstrate the cost-effective use of vouchers to help neighborhood groups secure technical assistance for anti-drug-abuse projects to serve high-risk youth; and (3) to extend OJJDP technical assistance to groups that are traditionally excluded because they lack the administrative sophistication, technical and grantsmanship skills, and resources to participate in traditional competitive grant programs.

In order to accomplish these goals, NCNE : (1) Provides support to community groups in developing and implementing a strategy under the "Weed and Seed" program; (2) functions as a clearinghouse for information on community anti-drug-prevention initiatives; and (3) reviews all technical assistance applications and select 15–25 eligible community-based anti-drug programs for award of vouchers.

This continuation award is designed to provide more than $90,000 in vouchers to 20–30 organizations and to provide clearinghouse services to an additional 300 community groups.

Vouchers, which range in value from $1,000 to $10,000, can be used for planning, proposal writing, program promotion, legal assistance, financial management, and other activities. Selection of awardees and amounts is determined by the degree to which applicants meet the following criteria:

- Not previously funded by OJJDP or NCNE.
- Lack of access to traditional funding sources.
- Need for technical assistance and training.
- Small budget.
- Comprehensiveness of youth anti-drug programs.
- Clarity and feasibility of strategies presented on application.

No additional applications will be solicited in fiscal year 1995.

Race Against Drugs—$150,000

Race Against Drugs (RAD) is a unique drug awareness, education and prevention campaign designed to help young people understand the dangers of drugs and live a non-impaired lifestyle. With the help and assistance from 21 motorsports organizations, and the cooperation of the Federal Bureau of Investigation and the National Child Safety Council, it has become a fun and exciting addition to drug abuse prevention programs. RAD now includes national drug awareness and prevention activities at schools, malls and motorsports events; television public service announcements, posters, and signage on T-shirts, hats, decals, etc.; and specialized programs like the "Adopt-A-School Essay and Scholarship" and "Winner's Circle"

VOL 60 ISS 85 MY 3 1995 UMI

programs. Curriculum materials include the Be A Winner Action Book for 6–8 graders, a RAD Adult Guide and a RAD Coloring Book for K–4 graders. This program will be supplemented and expanded to provide additional and updated curriculum materials, reach additional program sites, and demonstrate the Winner's Circle Program in Seattle, Washington. It will be funded by the Bureau of Justice Assistance (BJA) ($25,000), OJJDP ($25,000), and the Center for Substance Abuse Prevention (C-SAP) ($100,000). It will be implemented by the current grantee, the National Child Safety Council. No additional applications will be solicited in fiscal year 1995.

Missing, Exploited and Abused Children

New Programs

Lowcountry Children's Center, Inc.*—$250,000

The Lowcountry Children's Center, Inc., is a community-based program that offers services to children who are victims of violence. The Center is a nonprofit organization located in Charleston, South Carolina. Its mission is to coordinate a full range of services for abused and victimized children and their families. A major goal of the program is to restore child victims and their families to a healthy level of functioning. One Center currently provides an initial assessment, psychological testing, and individual, group, and family therapy. In addition, lay and expert testimony in court hearings, investigative/law enforcement services, on-going multidisciplinary case coordination and case tracking, professional training, and case and program consultation services are provided by the center. OJJDP funds will enable the Center to provide the array of services necessary to create a model comprehensive program of intervention for these children and their families. The Center will also focus on program evaluation and research to determine effective interventions in particular types of case-enabling the model created by this funding to be fully evaluated and, if successful, replicated. No additional applications will be solicited in fiscal year 1995.

KidsPeace*—$140,000

This program provides therapeutic foster care to children in crisis. Eighty percent of the children who are referred to the project are victims of child abuse. However, these children may be referred for delinquency, substance abuse, teenage pregnancy or other problems. The program now serves children in Pennsylvania, Georgia, New York, and Indiana. The grant will enable the program to expand into one additional state in fiscal year 1995.

Multipurpose Educational Curriculum for Young Victims—$75,000

Funds for this program will be transferred to the Office for Victims of Crime. The project will develop curriculum and training materials for use by school personnel, youth groups, and victim services providers to teach adolescents about the impact of crime on victims, about available victim assistance resources, and about strategies for providing effective peer support for young victims of crime. The program is expected to enhance victim service provider outreach activities targeting youth at risk and promote violence prevention.

Missing, Exploited and Abused Children

Continuation Programs

Parents Anonymous, Inc.*—$250,000

Parents Anonymous, Inc., (PA) will continue the program started in fiscal year 1994 and expand services in communities that have existing PA chapters to families and youth at highest risk of delinquency. The main focus of this program is to prevent child abuse and neglect through the creation of parent support groups.

Permanent Families for Abused and Neglected Children*—$225,000

This is a national project to prevent unnecessary foster care placement of abused and neglected children, to reunify the families of children in care, and to ensure permanent adoptive homes when reunification is impossible. The purpose is to ensure that foster care is used only as a last resort and as a temporary solution. Accordingly, the project is designed to ensure that government's responsibility to children in foster care is acknowledged by the appropriate disciplines. Project activities include national training programs for judges, social service personnel, citizen volunteers, and others under the Reasonable Efforts Provision of 42 U.S.C. 671(a)(15), training in selected lead States; and development of a model guide for risk assessment. The program will be implemented by the current grantee, the National Council of Family and Juvenile Court Judges. No additional applications will be solicited in fiscal year 1995.

Children as Witnesses to Community Violence—$170,658

This project develops, implements, and evaluates after-school interventions to protect elementary-school-age children in Washington, DC from the aftereffects of exposure to violence. The intervention program is expected to prevent or reduce the occurrence of certain negative psychological symptoms among children exposed to community violence. It should also help children develop coping skills that can reduce the likelihood of their future involvement in violence. The program is administered by Howard University and managed by the National Institute of Justice (NIJ). OJJDP funds will be transferred to NIJ to complete this program in fiscal year 1995.

Discussion of Comments

OJJDP published its proposed Comprehensive Plan for fiscal year 1995 in the **Federal Register** on December 30, 1994, 59 FR 68080, for a 45-day period of public comment. The Office received 58 letters commenting on the proposed plan. All comments have been considered in the development of the Final Comprehensive Plan for Fiscal Year 1994.

The majority of the letters OJJDP received provided positive comments about the overall plan and its programs. The following is a summary of the substantive comments and the responses by OJJDP. Unless otherwise indicated, each comment was made by a single respondent.

Comment: A respondent noted agreement with an emphasis on prevention and early intervention and the establishment and utilization of a system of graduated sanctions for juvenile offenders. The respondent further noted that this is a prudent and logical approach that covers the entire spectrum of responses to youth involved with the juvenile justice system and addresses community concerns about the escalation of youth violence.

Response: OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders incorporates the two principal components of delinquency prevention and improving the juvenile justice system's response to delinquent offenders through a system of graduated sanctions and a continuum of treatment alternatives. The delivery of services must be provided with a balance of: (1) Community protection and public safety; (2) juvenile offender accountability; (3) competency development; (4) individualization; and (5) representation of the interests of the community, victim and juvenile. By taking these factors into account in each program component, a new direction in the administration of juvenile treatment services is fostered.

Comment: A respondent encouraged the "renewed" focus on aftercare. In addition, the respondent suggested that special attention be given to the coordination of mental health, medical, substance abuse, educational, independent living, and crisis intervention services well in advance of discharge. It was further suggested that these services should be an automatic extension of care given while in placement.

Response: OJJDP's Intensive Community-Based Aftercare for High Risk Juvenile Offenders Project (IAP) incorporates this approach. The IAP model is currently being implemented in four competitively selected jurisdictions, following a multi-year research and development initiative conducted by Johns Hopkins University and California State University (Sacramento). Each Serious, Violent, and Chronic Juvenile Offender Treatment Program site and the SafeFutures jurisdictions are expected to incorporate aftercare services as a key component of the graduated sanctions continuum. OJJDP will provide technical assistance on implementing the IAP model, as necessary, in these and other jurisdictions.

Comment: A respondent recommended the use of "teen mentors" or peers as role models, presenters and speakers in programs for youth, based on the writer's success in using such youth in delivering various positive messages.

Response: OJJDP agrees that involving peers as role models in delinquency prevention and intervention can be effective and that "peer-related prevention must be an essential part of comprehensive prevention programming." (Pransky, 1991) As reflected in the "Ensure Education" issue area of the SafeFutures program, peer mediation is addressed through "encouraging the development of positive values and teaching critical social skills, including conflict resolution and peer mediation."

Comment: Two respondents recommended that input on prevention and intervention programs be sought and utilized from youth involved in the program. It was suggested that by making these involved youth part of the process, they will stay involved and programs will be improved.

Response: OJJDP agrees with the respondents. Research has demonstrated that "Young people are more likely to be active program participants if they themselves are involved in creating and running (the program)" (Pransky, 1991).

Comment: A respondent recommended that OJJDP support the development and/or acquisition of videos and provide information and training on promising and effective programs to assist in replication.

Response: Through OJJDP's Juvenile Justice Clearinghouse (JJC), the Office makes available a variety of program materials developed through OJJDP funded grants and contracts. This material includes videos, manuals, surveys, program summaries and directories of promising programs. In addition, JJC collects and disseminates similar materials on other programs of various types not funded by OJJDP. JJC can be reached by calling 1–800–638–8736 or sending an Internet message to "askncjrs@ncjrs.aspensys.com". OJJDP routinely provides training and technical assistance on promising programs such as Law-Related Education and the Intensive Community-Based Aftercare for Juveniles Program.

Comment: A respondent recommended that OJJDP identify and promote existing and new programs. It was suggested that these programs be identified by soliciting responses from police, court, school, and media personnel.

Response: Since 1992, OJJDP has annually awarded the Gould-Wysinger Award to State and local programs in order to recognize exceptional achievements in juvenile justice programming. This program is designed to both recognize and acknowledge outstanding local programs and to encourage replication in communities facing similar challenges. Each year, projects are nominated by each State's Formula Grants program agency, in consultation with the State Advisory Group. Winners of the award are published in OJJDP's Juvenile Justice Magazine and in an OJJDP Bulletin with a short description of each program along with a contact name and phone number for more information on the program. Since 1992, a total of 72 programs have received the Gould-Wysinger Award.

It has also been recognized that identifying promising programs for delinquent and at-risk youth in the juvenile justice system is a key concern of juvenile justice practitioners and others. In 1992, OJJDP awarded a grant to the National Center for Juvenile Justice to identify programs that effectively address the needs of juvenile offenders. During the data collection process, 3,000 juvenile court judges, probation administrators, and line staff nominated more than 1,100 programs in 49 States. The result is What Works: Promising Interventions in Juvenile Justice, a directory of 425 intervention programs deemed effective by the practitioners who use them. This directory and descriptions of those programs having received the Gould-Wysinger Award are available from the Juvenile Justice Clearinghouse by calling 1–800–638–8736, or sending an Internet message to askncjrs@ncjrs.aspensys.com".

Comment: A respondent recommended that "vocational education" be provided to youth in various parts of the juvenile justice system, including "community service, probation and to suspended students in an atmosphere conducive to youth involvement." It was further recommended that a "recreational hook" be used to "get kids involved and build upon that 'activity' in order to allow youth to learn 'practical trades' and skills that can later be used in industry."

Response: OJJDP agrees in principle with the respondent and recognizes the need for comprehensive service delivery, including supplementing traditional academic education with vocational training. OJJDP also intends to address a number of these issues in the SafeFutures Program, including ensuring education, increasing the effectiveness of juvenile justice by providing youth vocational training and meaningful job opportunities, addressing truancy and school dropouts through alternative education, and providing a continuum of services to respond appropriately to the needs of each juvenile offender.

OJJDP also agrees that "recreation", including cycling, baseball, football, and basketball, can be an effective "hook" to get youth involved in prevention services. However, it should be made clear that recreation *alone* is not an effective intervention. Wrap-around services that address the needs and risk factors of the youth involved are a necessity. For example, the Boys and Girls Clubs of America have successfully and consistently used recreation and other activities to reach out to at-risk youth in order to make available prevention and intervention services available once inside the clubs.

Comment: A respondent recommended that "job training skills" be incorporated with the education process so as to allow youth "to stay involved in a program by keeping them interested." Students who have been suspended should be allowed to "prove" themselves in a program that offers a variety of job opportunities. An

VOL
60
ISS
85
MY
3
1995
UMI

"apprenticeship" period should be created so they can be educated in the "field" by subsidizing their employment and allowing them to earn credits toward their High School Diploma. After graduation, this job opportunity should be available on a full time basis.

Response: OJJDP is entering into a collaborative effort with the Bureau of Justice Assistance and the National Endowment for the Arts to promote business vocational skills, entrepreneurship, recreation, and arts programs for afterschool, weekend hours, and summer. Apprenticeships and other job skills programs would be developed with the involvement of the business sector. The Pathways to Success Program will be implemented as part of the SafeFutures Program to provide vocational, job, and other skills training as part of a comprehensive service delivery system. Five additional Pathways to Success grants will be competed and awarded independent of the SafeFutures Program.

It is also possible that various components of the SafeFutures Program can be effectively linked with school-to-work opportunities in the applicant's State, if available. Created through the School-to-Work Opportunities Act, this collaborative initiative between the U.S. Departments of Education and Labor prepares youth for first jobs in high-skill, high-wage careers, to achieve high academic and occupational standards, and for further postsecondary education and training. The initiative has three core elements, including: (1) School-based learning consisting of classroom instruction based on high academic and occupational skill standards that integrates work-based learning and school-based learning; (2) work-based learning which includes work experience, structured training and mentoring at job sites; and (3) connecting activities, which include a variety of activities that build and maintain bridges between school and work. Examples of connecting activities include courses that integrate classroom and on-the-job instruction, matching students with participating employers and training job-site members.

For more information on School-to-Work Opportunities, contact the School-to-Work Opportunities Information Center at (202) 260–7278.

Comment: A respondent recommended that the prevention component of the Program Plan include youth suicide and teenage grief as well as provide a holistic approach to preventing delinquent behavior.

Response: Teenage grief and suicidal patterns are common signs of psychological disturbances in juveniles at high risk of getting involved in delinquent behavior or social acting out. To address psychological needs, OJJDP is looking to mental health services to provide evaluation (diagnosis), prevention, and treatment of mental disorders for high-risk juveniles and juveniles in the juvenile justice system. Under the SafeFutures program, funds will be available to establish or enhance mental health services in the juvenile justice system and to promote, develop, and implement mental health services for at-risk children, including victims of child abuse.

Comment: After studying OJJDP's proposed Comprehensive Program Plan for fiscal year 1995, one respondent commented that the Plan is still addressing symptoms rather than the core problem of family dysfunction.

Response: OJJDP recognizes the critical importance of strong families and their essential role in nurturing strong, healthy children. The Office also recognizes the link between dysfunctional families and juvenile delinquency. OJJDP has long supported family-related studies and programs designed to strengthen families and family strengthening remains a program priority. In 1988, OJJDP launched a major parenting initiative entitled Effective Parenting Strategies for Families of High-Risk Youth. An interdisciplinary team comprised of family researchers at the University of Utah and policy scientists at the Pacific Institute for Research and Evaluation conducted an extensive literature review focused on the causes and correlates of delinquency, and the effectiveness of prevention, intervention, and treatment strategies for high-risk families. The results of the study are summarized in a publication entitled Strengthening America's Families: Promising Parenting Strategies for Delinquency Prevention, User's Guide. The fiscal year 1995 OJJDP Comprehensive Program Plan provides funding support for family strengthening activities that build on the findings and recommendations of this study.

Comment: A respondent noted that various segments of OJJDP's Proposed Comprehensive Program Plan touched on the lack of employment skills as a major contributor to juvenile crime, but did not thoroughly address this problem area and the need for early career and/or employment preparation. The suggested strategy for addressing this area is to teach employment skills and career preparation to all school children by incorporating instruction into the curriculum of every grade level, beginning in kindergarten.

Response: OJJDP has long recognized the importance of providing juveniles with the skills they need to increase their employment potential and pursue the career of their choice. For this reason, many of the OJJDP supported programs have components that address this area. For example, the national Cities in Schools (CIS) dropout prevention program teaches job skills at the elementary, middle and high school levels. CIS has also established a number of alternative schools. A key component of their program is not only to provide young people with job skills, but to provide them with career exploration through job shadowing. Youth are also encouraged to pursue entrepreneurial activities. Several other fiscal year 1995 programs have components that address this issue. OJJDP also partners with other agencies such as the Departments of Commerce, Health and Human Services, Education, Labor and others and hopes to expand those partnerships in the future.

Comment: One respondent was concerned that the Family Strengthening Program did not place greater emphasis to prevention or acknowledge a role for community-based organizations.

Response: OJJDP remains committed to addressing the wide range of family strengthening needs that encompass prevention, intervention and treatment. The OJJDP publication, Strengthening America's Families: Promising Parenting and Family Strategies for Delinquency Prevention, User's Guide, stresses that there is no "one-size-fits-all" family strategy for preventing delinquency. Several types of parenting programs are needed. There are programs designed for parents of infants, children and adolescents. Some programs are best suited for well-functioning families, while others address the needs of dysfunctional families. OJJDP also remains committed to encouraging the involvement of community-based organizations. The Family Strengthening Program calls for the creation or expansion of programs "that enlist schools and other local entities in family programming." "Other local entities" includes community-based organizations. Many of the representative 25 programs that the researchers identified as particularly promising classified themselves as "prevention" programs and most included relevant community- based organizations in aspects of their program strategy. OJJDP will continue to emphasize family strengthening through prevention, intervention and treatment utilizing a range of available resources that are community-based.

Comment: One respondent felt that the Proposed Comprehensive Program Plan outline was unclear as to which programs allow a community-based organization to compete for funding and that many of the eligibility requirements seem to exclude community organizations with experience, providing only limited opportunities for these qualified organizations to receive OJJDP funding.

Response: OJJDP recognizes the importance of community-based organizations, particularly in the planning phase of any collaborative project. The SafeFutures Program specifically calls for community-based collaboratives. Community-based organizations have the experience to operate a broad range of programs. In cases where only local units of government are eligible for awards, community-based organizations should pursue the option of partnering with them as a service provider or administering agency.

Comment: A community-based organization commented that despite its varied experiences in a number of areas, including mentoring, it would be unable to compete for Part G Mentoring Funds, Title V Incentive Grants, and Part E State Challenge Activities. The respondent organization felt that these activities should require that funds go to community-based organizations that have significant experience providing culturally appropriate programs to at-risk ethnic minorities. Without this requirement, a real partnership will not be achieved.

Response: For the activities mentioned above, community organizations can still qualify for support but they must do so through a local unit of government. For example, $1 million in fiscal year 1995 Part G Mentoring Program funding is being awarded through the SafeFutures program. Mentoring is a logical component of a continuum of care for youth-at-risk. Under Part G and the SafeFutures Program, mentoring programs are required to be conducted either by LEA's (local education agencies) or by non-profit private organizations (including community-based organizations) or public agencies in partnership with LEA's.

Comment: One respondent questioned whether the Native American Alternative Community-Based Program will receive additional funding in fiscal year 1995.

Response: Continuation funding of $600,000 will be available for this program in fiscal year 1995.

Comment: One respondent commented that the description of the Juvenile Justice Prosecutor Training Project is vague and that training should include cultural awareness and how poverty-related and misunderstood cultural behaviors affect decisions.

Response: The Juvenile Justice Prosecution Training Center will support prosecutor training in areas of need identified by a working group of chief prosecutors. OJJDP expects that cultural differences and poverty-related problems among juvenile offenders will be covered in the training. In addition, OJJDP continues to support training in cultural differences for juvenile justice officials under a grant to the American Correctional Association for the Training in Cultural Differences for Law Enforcement/Juvenile Justice Officials Program.

Comment: A respondent noted that the description of Interventions to Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities Program indicates that the application process is open to new applicants. However, the program is listed under Continuation Programs. It is unclear if additional organizations can apply.

Response: This project was inadvertently listed under the Continuation Programs section. New applicants will be eligible to apply for OJJDP funding in fiscal year 1995.

Comment: A respondent noted that the Nonviolent Dispute Resolution Program is listed under Continuation Programs, indicating that only prior recipients can apply. The description, however, seems to contradict this by indicating a competitive application process.

Response: This is a competitive program being administered by the Bureau of Justice Assistance for cities which have been selected to receive funds under the Comprehensive Communities Program. OJJDP is contributing funds to the program.

Comment: One State official commented that OJJDP should notify the State Formula Grants Program Agency when a project is selected for funding within a given State.

Response: OJJDP agrees that in the interest of comprehensive planning and interagency coordination, cognizant State agencies should be notified when OJJDP awards funds directly to projects operating with the State. A formal notification process will be initiated to provide information on all discretionary grant awards to State agencies.

Comment: One respondent proposed that OJJDP adopt a policy to provide periodic updates to State agencies on projects selected for funding under the SafeFutures Program.

Response: The SafeFutures Program is based on a continuum of care model that calls for maximum coordination and cooperations among agencies serving juveniles. OJJDP encourages States having SafeFutures sites to include SafeFutures in the comprehensive planning undertaken for the Formula Grants Program and make maximum use of Formula Grant, Title V, and Challenge Grant funds to enhance juvenile justice and delinquency prevention activities in SafeFutures sites. While the level of State agency participation expected in SafeFutures should obviate the need for "periodic updates" by OJJDP, funded sites will be required to provide the cognizant State agency with a copy of their quarterly progress report.

Comment: A national organization expressed concern about the level of support in the fiscal year 1995 Program Plan for programs to address disproportionate minority confinement.

Response: OJJDP is strongly committed to supporting State efforts to address the disproportionate confinement (DMC) of minority juveniles in secure custody in States where such condition exists. The Office has supported demonstration efforts under the Special Emphasis discretionary grant program, as well as research, program evaluation, and training and technical assistance in this area. Many States are allocating significant amounts of their Formula Grants Program funds to address section 223(a)(23) of the JJDP Act.

OJJDP is working with the Coalition for Juvenile Justice's Committee on Ethnic and Cultural Diversity to find other ways to improve our DMC programming. OJJDP looks forward to cooperative efforts with the Coalition and others committed to improving juvenile justice by addressing the DMC issue.

Comment: One respondent suggested that OJJDP add language to the section which describes organizations with whom OJJDP would coordinate the SafeFutures Program to include Youth Corps that are certified by the National Association of Service and Conservation Corps and provide participants with a six to twelve month, full-time, crew-based, highly structured, and adult supervised work and learning experience, and that promote the development of citizenship, life and employment skills.

Response: OJJDP concurs with the importance of coordinating the SafeFutures program with Youth Corps programs that have a component serving a juvenile population. The Office has incorporated appropriate language into

VOL
60
ISS
85
MY
3
1995
UMI

the fiscal year 1995 Final Comprehensive Program Plan.

Comment: A number of respondents representing juvenile justice agencies across the country wrote in support of continued and/or increased funding for the Balanced and Restorative Justice Project (BARJ), a key component of OJJDP's Juvenile Restitution Program. They noted that the BARJ Project has advanced the implementation of the "Balanced Approach" and the use of restitution and community service in a number of juvenile justice systems and that additional jurisdictions are interested in implementing this major shift in system philosophy and practice through BARJ Project training and technical assistance.

Response: The BARJ Project will receive continuation funding of $100,000 in fiscal year 1995 and a similar amount is anticipated as a supplement from fiscal year 1996 funds. This will give the Project a twelve-month budget of $200,000 to complete its activities under this multi-year funded Program. State and local jurisdictions interested in adopting the balanced and restorative justice approach should also request technical assistance through OJJDP's technical assistance support contract under the Formula Grants program or seek local support for implementation funding.

Comment: A respondent recommended giving youth access to their police chief and officers through programs funded under the Final Comprehensive Program Plan.

Response: In fiscal year 1993, OJJDP provided support to the New Haven, Connecticut Police Department and the Yale University Child Development Center to document a child-centered community-oriented policing model. This is a continuation program of OJJDP and the Bureau of Justice Assistance and will serve as a model for other sites to replicate.

Comment: A respondent stated that OJJDP has omitted a key group of professionals who have been trained in diversion and have demonstrated success in working to divert juveniles from the juvenile justice system, recommending that OJJDP include parks and recreation professionals in the SafeFutures Program.

Response: OJJDP agrees that those within the "justice system" cannot make a difference alone. This is a key premise of the SafeFutures Program. OJJDP encourages local jurisdictions to develop a continuum of care that includes professionals representing all aspects of youth development, especially those who are in a position to promote positive youth development. OJJDP agrees with the National Parks and Recreation Association that the perception of public recreation should move beyond "fun and games" to the status of an essential service (National Parks and Recreation Association, 1994). OJJDP will work with the Association and other parks and recreation organizations during fiscal year 1995 to highlight the many outstanding delinquency prevention and intervention programs that are being implemented by local parks and recreation departments across the country and to further the evaluation of these programs.

Due to the fact that OJJDP is not requiring the involvement of specific types of professionals, it is ultimately up to the jurisdictions chosen to implement the SafeFutures program to identify key resources to support a continuum of care. It is expected that parks and recreation professionals will be an integral part of this group. One possibility for parks and recreation professionals is involvement in the development and implementation of the "Pathways to Success" program within the SafeFutures program. This program emphasizes, in part, recreational alternatives during after-school and weekend hours.

Comment: One respondent felt that the budget for Training for Family-Strengthening Services ($250,000) should be increased to support trained individuals who provide technical assistance for family strengthening.

Response: One million dollars in Family Strengthening and Support funds will be available to the five SafeFutures program sites. These funds can be used for both training/technical assistance and direct service programs in the five sites. An additional $250,000 will be available for training/technical assistance in other communities interested in improving their Family Strengthening Service programs. Further support can be drawn from other OJJDP training/technical assistance projects, including the newly established National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center.

Comment: One respondent questioned why virtually all funds for law-related education were being awarded on a non-competitive basis to the Law-Related Education National Training and Dissemination Program, with only $200,000 in competitive funding being made available for "Innovative Approaches in Law-Related Education," thereby limiting opportunities for other organizations to seek funding for new law-related education programs.

Response: Eighty percent of the funds set aside for Law-Related Education are earmarked for the Law-Related Education National Training and Dissemination Program (Youth for Justice). OJJDP proposed to set aside $500,000 of the remaining $700,000 for a competitively awarded impact evaluation. However, because Department of Education funds were not available for a joint evaluation project, $600,000 of the $700,000 is being made available to support the "Innovative Approaches in Law-Related Education" program. One hundred thousand dollars will be awarded to fund the Facing History and Ourselves Program.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

National Institute of Justice—Research Plan 1995–1996

For general information regarding NIJ's 1995–96 Research Plan, please contact Edwin Zedlewski, at (202) 307–2953, or Winifred Reed, at (202) 307–2952. For other general NIJ information, contact Carrie Smith, at (202) 616–3233. For document publication information, contact Mary Graham, at (202) 514–6207.

For information about the Violent Crime Control and Law Enforcement Act of 1994 (Crime Law), contact the Department of Justice Response Center, at (202) 307–1743 or (800) 421–6770.

For substantive questions regarding specific Goals, please contact the appropriate Program Manager. Names and telephone numbers of all Program Managers are listed at the end of each Goal. To inquire about NIJ receipt of applications, contact Louise Lofton, at (202) 307–2965.

For general information about NIJ programs and funding opportunities, and application procedures; for requests for reprints, literature, final reports, funded grants on related topics, etc.; for names of researchers or practitioners working on related topics, contact the National Criminal Justice Reference Service (NCJRS), at (800) 851–3420.

The NIJ 1995–96 Research Plan is also available electronically via the National Criminal Justice Reference Service Bulletin Board System. You can access the Bulletin Board through the Internet (telnet to ncjrsbbs.aspensys.com or gopher to ncjrs.aspensys.com 71) or through a modem (set at 9600 baud and 8–N–1; dial 301–738–8895). The NIJ Research Plan is listed under the "National Institute of Justice Information" menu.

For Internet access information, e-mail lively@justice.usdoj.gov.

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Introduction

The National Institute of Justice (NIJ) is the research and development agency of the U.S. Department of Justice. Created in 1968 by Congress pursuant to the Omnibus Crime Control and Safe Streets Act, the Institute is authorized to:

- Sponsor research and development to improve and strengthen the Nation's system of justice with a balanced program of basic and applied research.
- Evaluate the effectiveness of criminal justice and law enforcement programs and identify those that merit application elsewhere.
- Support technological advances applicable to criminal justice.
- Test and demonstrate new and improved approaches to strengthen the justice system.
- Disseminate information from research, development, demonstrations, and evaluations.

This Plan signals the new administrative direction that NIJ will follow to achieve its research and evaluation goals. Conceptually, the Plan is the basis of NIJ's pyramid of research. It will be supplemented over the coming months by a series of solicitations on topics that speak to current or persistent policy concerns that warrant research investments. By their nature, those solicitations will represent a somewhat more focused part of this pyramid. Intramural studies are at the apex of the research pyramid. Questions with strong policy orientation or immediate concern may best be addressed by NIJ staff who can interact directly with the policymakers asking the questions.

Readers of prior NIJ Plans will find that this Plan has been substantially shortened. Much of the traditional background text has been discarded; suggested research topics have been reduced from paragraphs to phrases. This change in style, however, implies no change in the kinds of research being sought. NIJ believes that this abbreviated format is more consistent with the spirit and intent of the Plan as a vehicle to encourage the field to submit original ideas on a wide range of research issues.

Focused solicitations will appear intermittently over the next year. These will address more specific topics for which special funding is available. Certain activities funded under the Violent Crime Control and Law Enforcement Act of 1994 (Crime Law) will be focal points—specifically, community policing, violence against women, boot camps, and drug courts—as will evaluations of selected Bureau of Justice Assistance programs. NIJ will also initiate solicitations in collaborative arrangements with other Federal agencies, as well as for topics that NIJ believes merit special attention for the development of knowledge. These solicitations will be announced through the Federal Register and other NIJ communications channels including the Internet (the Department of Justice and NCJRS Online) and special mailings. Interested applicants should telephone the National Criminal Justice Reference Service (NCJRS) at 800–851–3420 or e-mail askncjrs@ncjrs.aspensys.com for pending releases and dates of announcement.

Partnerships are another new priority for the Institute. NIJ believes that many of today's crime problems require solutions that extend beyond criminal justice boundaries. The Institute has been active in discussions with other Federal agencies and private foundations and has established a variety of collaborative relationships. Some of these will manifest themselves in the form of special solicitations on specific topics or programs. Others will simply encourage collaborative or interdisciplinary research and offer the prospect of joint funding. Still others will result in the development of shared research agendas. NIJ encourages researchers from all disciplines to explore the opportunities for collaborative efforts presented in this Plan and subsequent announcements, and to propose arrangements that they are able to construct beyond those mentioned. NIJ particularly encourages coordination of research applications with submissions in other OJP agency Plans.

An organizational change has also occurred. The factors that distinguish "research" from "evaluation" are subtle and secondary to the substance of the issues. Therefore, the Institute has merged these functions into a single Office of Research and Evaluation that will review submissions for both areas. The Plan invites proposals for a range of funding amounts. It includes a category of small grants (less than $50,000) across all goals and subjects. Readers should consult the administrative sections of the Research Plan for additional information on the differences in application requirements.

Six Strategic Long-Range Goals

In FY 1993, the Institute set forth six long-range goals as the focus of NIJ research, evaluation, and development in the coming years. The creation of this long-range agenda was well received; a large number of research and evaluation proposals were submitted, providing an interdisciplinary framework for 1994.

VOL
60
ISS
85
MY
3
1995
UMI

In this 1995–96 Research Plan, the Institute specifies the research, evaluation, and technology projects that NIJ anticipates supporting under each goal. The numeric order of the goals does not indicate levels of priority for the Institute.

Many of the special grant programs for individuals—such as the Data Resources Program, various Fellowship programs, the NIJ Internship Program—are now described in a separate publication, which will be announced in the **Federal Register**.

NIJ solicits research and evaluations to develop knowledge that will further these long-range goals:

I. Reduce violent crime.
II. Reduce drug- and alcohol-related crime.
III. Reduce the consequences of crime.
IV. Improve the effectiveness of crime prevention programs.
V. Improve law enforcement and the criminal justice system.
VI. Develop new technology for law enforcement and the criminal justice system.

Studies that involve the use of randomized experimental designs are encouraged, as are multiple strategies for data collection, and well-controlled, quasi-experimental designs and equivalent comparison group designs. Qualitative studies, including ethnographic data collection, are also encouraged.

Research Collaborations

NIJ encourages joint research and evaluation projects with other Federal agencies and private foundations interested in crime and criminal justice issues. Applicants may wish to consider whether their proposed project might lend itself to joint funding with another agency or foundation. Applicants interested in exploring possible partnerships should contact the potential partner agency directly, or the relevant NIJ program manager, to discuss specific topics for possible collaborative projects. NIJ has entered into memorandums of agreement or is in other ways collaborating with the Departments of Defense, Education, Energy, Health and Human Services, Housing and Urban Development, and Treasury. Agencies and foundations that have indicated a desire to collaborate with NIJ on projects of mutual interest, or are currently involved in joint research efforts with NIJ, include:

Agencies

Advanced Research Projects Agency (DOD)
Bureau of Alcohol, Tobacco, and Firearms
Bureau of Justice Assistance
Centers for Disease Control and Prevention
Center for Mental Health Services
Center for Substance Abuse Treatment
Corrections Program Office (OJP)
Drug Courts Program Office (OJP)
National Aeronautics and Space Administration
National Institute of Mental Health
National Institute on Alcohol Abuse and Alcoholism
National Institute of Corrections
National Institute on Drug Abuse
National Science Foundation
Office of Community-Oriented Policing Services (DOJ)
Office of Juvenile Justice and Delinquency Prevention
Office of Assistant Secretary for Planning and Evaluation (HUD)
Office of National Drug Control Policy
Office for Victims of Crime
State Justice Institute
Violence Against Women Program Office (OJP)

Foundations

The Annie E. Casey Foundation
The Carnegie Corporation of New York
The Ford Foundation
The Daniel and Florence Guggenheim Foundation
The J.C. Kellogg Foundation
John D. and Catherine T. MacArthur Foundation
The Pew Charitable Trusts
The Prudential Foundation
The Ronald McDonald Foundation
The Rockefeller Foundation

The Institute cannot guarantee that joint funding for research and evaluation projects will be forthcoming from these sources. Applicants should consider whether their proposals are in accord with the goals of these agencies and private foundations.

Specific information about applying for Institute grants is contained in the section "Administrative Guidelines"
See p. 23 of this Plan.

Goal I: Reduce Violent Crime

Purpose

The purpose of this solicitation is to encourage research and evaluation projects spanning six broad areas: family violence, violence against women, homicide, firearms and violence, gangs, and juvenile violence. Through this solicitation the National Institute of Justice (NIJ) expects to support research that will improve the criminal justice knowledge base on crimes and criminal behavior that increasingly concern the public.

Background

Violent crime is a leading concern among the American public today. According to the National Crime Victimization Survey (NCVS), in 1992 there were 6.6 million violent victimizations in the United States—including 141,000 rapes, 1.2 million robberies, and 5.3 million assaults. The violent crime rate is steadily increasing, especially among juveniles, and in 1992 was the highest ever recorded for blacks; homicide is now the leading cause of death for young black males.

Handguns are a major factor in the increasing violence, especially in the commission of homicide. Of the 23,760 murders reported to the FBI in 1992, handguns were used in 55 percent. One of the most critical issues in any consideration of ways to reduce violence and its consequences is the role firearms play in contributing to violent crime, serious injury, and death. The NCVS estimates the rate of nonfatal handgun victimizations in 1992 at 4.5 crimes per 1,000 persons aged 12 or older—the highest such figure on record. Findings from an NIJ and Office of Juvenile Justice and Delinquency Prevention (OJJDP) study of incarcerated juveniles and inner-city high school students showed that 83 percent of inmates and 22 percent of students had possessed guns, with 55 percent and 12 percent respectively having carried guns all or most of the time. Between 1988 and 1992, arrests of juveniles for violent crimes increased by 47 percent—more than double the increase for persons 18 years of age or older. Over the same period, juvenile arrests for homicide increased by 51 percent and statistics on weapons law violations indicate that juvenile use of guns has increased dramatically.

Spousal abuse commonly comes to mind when violence against women is discussed, but violence against women is much broader. According to the NCVS, more than 2.5 million women experience violence each year; nearly two in three female victims of violence were related to or knew their attacker; about a third were injured as a result of the crime; nearly half the victims of rape believed the offender to have been under the influence of drugs or alcohol at the time of the attack. The issue has emerged as a topic of national interest and led to the inclusion of the Violence Against Women Act (VAWA) in the 1994 Crime Law.

The Crime Law contains many other provisions directed toward the prevention, control, and reduction of violent crimes—enhancements for law enforcement, correctional facilities, and drug treatment options; restrictions on firearms; provisions to deal with juvenile crime and gangs; and increases in the programs and research about

family violence as well as violence against women. Through this general solicitation NIJ encourages studies that will address these areas of broad general concern and that examine the specific priorities identified in the 1994 Crime Law, particularly with regard to violence among juveniles and the illegal possession and use of firearms. The Institute is especially interested in filling critical gaps in current knowledge and identifying and evaluating existing programs of crime prevention and control.

Research Areas of Interest

Listed below are examples of research areas that could advance criminal justice knowledge and practice under Goal I of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Studies of Offenders and Offenses. Criminal careers of offenders who engage in violent crime, including risk and protective factors, and initiation, frequency, and termination patterns. Studies of specific offenses and offenders, including robbery, sexual assault, child sexual assault, stalking, and homicide. Offender perceptions of criminal justice response to violent offenders. Juvenile violence, including escalation patterns, racial conflicts, and influence of peers and gangs. Family violence involving intimate partners, spouses, children, and elders.

Violent Situations. Role of gangs and group offending in criminal violence. Studies of patterns in violent events, including triggering events, situational elements, and predisposing influences. Protective factors in neighborhoods and communities at high risk of violence. Violence in specific situations and locations including schools, families, recreational settings, and the workplace.

Firearms Violence. Adult and juvenile patterns of gun availability, sources of guns, and use in violent crime. Role of illegal markets in weapons on patterns of firearms violence, especially among juveniles. Impact of firearms laws on gun crimes, substitution of other weapons, and offense patterns. Feasibility studies of innovative firearms regulations.

Responses to Violent Offenders. Differentiating system responses to violence from responses to other crimes. Violence prevention. Evaluation of innovative programs and practices. Evidentiary concerns, including uncooperative witnesses. Management of violent offenders on probation and parole including risk assessment, treatment programs, and community supervision.

Violence Against Women. Note: NIJ is not receiving applications for research on violence against women under the June and December 1995 deadlines. Instead, researchers should await the special solicitation to be issued in 1995, as noted in the Introduction to this Plan.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact:

Bernard Auchter, (202) 307–0154, for family violence and violence against women.
Lois Mock, (202) 307–0693, for firearms violence.
Winifred Reed, (202) 307–2952, for gangs.
James Trudeau, (202) 307–1355, for studies of offenders and offenses, violent situations, and responses to violent offenders.

Goal II: Reduce Drug- and Alcohol-Related Crime

Purpose

The purpose of this solicitation is to encourage research and evaluation projects that will improve the criminal justice knowledge base about crimes and criminal behavior involving the use of drugs and alcohol. Through this solicitation the National Institute of Justice (NIJ) seeks to clarify further the relationship between substance abuse and crime and to reduce drug- and alcohol-related crime.

Background

Substance abuse and drug-related crimes continue to affect the lives of countless Americans residing in both urban and rural neighborhoods across the Nation. NIJ's Drug Use Forecasting (DUF) data show an increase in marijuana use and relatively stable but high levels of major addictive substance use among booked arrestees in the 23 urban areas monitored by DUF. Recent data from the Drug Abuse Warning Network (DAWN) indicate that the use of heroin and cocaine is on the rise. Efforts to prevent and reduce drug-related crime, and thereby improve the quality of life in these areas, continue to occupy the criminal justice community.

Alcohol is used by both offenders and victims in a significant proportion of violent events, with documented connections between both situational and chronic drinking and aggressive or violent behavior. The National Academy of Sciences Panel on the Understanding and Control of Violent Behavior has called for more research into the role of alcohol in promoting violent events, particularly since little is known about how alcohol and violence may reinforce one another or how the alcohol-violence relationship may vary depending on type of violence.

The criminal justice system is the largest single source of external pressure influencing abusers who otherwise would not enter substance abuse treatment programs. Half or more of the admissions to community-based residential and outpatient substance abuse treatment programs are offenders on probation or parole. Criminal justice referral to treatment relieves courts and prisons of overcrowding and reduces the high cost of continued incarceration, while providing an added degree of supervision beyond what probation or parole offices may be able to afford. When successful, treatment further reduces criminal justice costs by breaking the pattern of recidivism that brings typical substance abusers back into the criminal justice system again and again.

Research on criminal justice-involved populations suggests that substance abuse treatment can be effective in reducing substance abuse and criminal activity while the client is in treatment and for some time thereafter. As substance abuse programs are implemented, it is important to provide critical feedback on how they are working and for whom they are most effective. It is also important to determine how best to provide treatment—through public criminal justice agencies or through private treatment agencies under contract.

Substance abuse prevention programs continue to proliferate in response to public concerns. Comprehensive substance abuse programs for youths can promote antidrug social norms and thereby reduce or prevent the use of cigarettes, alcohol, marijuana, heroin, and cocaine. NIJ seeks to evaluate comprehensive community-based substance abuse programs that develop partnerships among criminal justice and schools, health centers, families, peers, and media.

NIJ's Drug Use Forecasting (DUF) program gathers offense and drug use information from samples of adult and juvenile arrestees at 23 sites nationwide, providing access to a national sample of arrestees within hours of arrest. Along with a brief, voluntary interview, urine specimens are obtained to test for evidence of recent use of drugs. For 7 years, data from NIJ's DUF program

VOL
60
ISS
85
MY
3
1995
UMI

have traced the trends in drug use among persons arrested for a wide range of offenses. Beginning in 1995, NIJ solicits proposals that capitalize and expand upon the research potential provided through the DUF program's quarterly collection of interviews and urine specimens from samples of adult and juvenile arrestees brought to jails in 23 cities nationwide.

Researchers are encouraged to develop proposals that present innovative ways of utilizing the DUF program as a research "platform" for pursuing a wide range of hypotheses related to drug use and criminal activity. For instance, in collaboration with existing DUF sites, the basic data collection protocol could be supplemented with additional interview assessments or bio-assays. NIJ is also interested in proposals that examine specific research questions by applying the DUF protocol to targeted samples of arrestees such as those in suburban or rural jails, or those arrested for specific offenses.

Research Areas of Interest

Listed below are examples of research areas that could advance criminal justice knowledge and practices under Goal II of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Substance Abuse and Criminal Behavior. Relationships between drugs, alcohol, and violence, including the individual and environmental circumstances. Relationship between substance abuse and related criminal behavior of all types, including family violence. Understanding substance abuse careers and how they track with criminal careers over time. Inventory of the validity, scope, and gaps in current substance abuse data sets.

Substance Abusing Offenders and the Criminal Justice System. Impact of pretrial services, adjudication, sentencing, and corrections (including community corrections) programs. Effect of strategies implemented in one segment of the system on the rest of the system. Offender attitudes, perceptions, and experiences as they move through particular components/programs. Effective use of a series of graduated sanctions for noncompliance behaviors. (For research on treatment drug courts, see page 16.)

Substance Abuse Prevention. Cost benefit analyses. Impact of criminal justice-based strategies on later substance abuse and other related criminal behavior. Development and identification of demand-reduction strategies and programs for high-risk populations.

Treatment and Aftercare Evaluations. Assessment of treatment drop-outs. Determination of the optimal mix of various treatment and after-care components for various criminal justice populations.

Drug Use Forecasting (DUF) Research Platform Initiatives. Expansion of adult and juvenile research protocols to address additional research questions such as drug market analysis, drug treatment history of arrestees, the onset of drug use among arrestees, the relationship between drug acquisition and other criminal activities, and the role of alcohol and drug consumption in the commission of crimes.

Drug Enforcement. Research on the effectiveness of interdiction efforts and control strategies such as increased penalties for drug trafficking in prisons and drug dealing in drug-free school zones.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact:

Laurie Bright, (202) 616–3624, for substance abuse research and evaluations related to the criminal justice system. Thomas E. Feucht, (202) 307–2949, for substance abuse research related to DUF research platform initiatives. James Trudeau, (202) 307–1355, for substance abuse research related to criminal behavior.

Goal III: Reduce The Consequences of Crime

Purpose

The purpose of this solicitation is to encourage research and evaluation projects that explore the causes of victimizations, their consequences in injury, fear, property damage, and other forms of cost; and the institutional responses of criminal justice agencies to victims. In addition to individual victims, the Institute is interested in the ways that households, organizations, and communities become victims, and how victimizations harm and otherwise alter daily functioning. NIJ is also interested in how victim service institutions can best serve victims to reduce the harm done. The goals of the research solicited are to understand how natural circumstances can lead to victimizations, as well as the nature and extent of harm caused by crime, and to use these findings to reduce both victimization risk and severity.

Background

The extent of criminal victimization within the United States is disturbing: In 1992, approximately 1 in every 4 households was victimized by 1 or more crimes, and 1 in 20 had at least one member age 12 or older who was the victim of a violent crime. Violent crime victimization rates, after declining through most of the 1980's, have again begun to increase, most notably among blacks and persons ages 12–24.

National public opinion surveys consistently indicate that crime has displaced other issues as the Nation's most serious concern. In a 1994 New York Times/CBS News nationwide telephone poll, 23 percent of respondents listed crime as "the most important problem facing this country today," and 40 percent said they live within a mile of an area where they would be afraid to walk alone at night. The harm of victimization includes injury, dollar loss, and a pervasive sense of insecurity that disrupts and truncates the victim's daily activities and satisfactions. This harm also touches those close to or acquainted with the victim.

The victim's needs are imperfectly understood by researchers and practitioners and are inadequately responded to by available programs of assistance. The victim's dealings with the criminal justice system often compound the damage rather than serving to restore the victim and create a sense of justice.

We are limited in our understanding of the antecedents and causes of victimization. "Routine activities" research—that includes the victim along with the offender, environment, and "guardians"—has the potential to improve the validity and effectiveness of crime prevention programs. Such research might examine specific types of victims, specific activity domains, or specific locations. A special emphasis might be topics suggested by the Violence Against Women Act, which is discussed in Goal I.

The effects of crime reach far beyond their impact on individuals and households, extending into businesses, public housing areas, neighborhoods, and ultimately into entire communities. Within the community, violent crime, gangs and the threat they pose, vandalism, drugs, and disorder may cause businesses to close or relocate, reduce employment and shopping opportunities, and decrease property values. Where this grim process is not interrupted, urban neighborhoods and communities decay, investments dwindle or disappear, and law-abiding residents and their organizations move out.

Crimes against business range from the armed robbery of a neighborhood grocery to the electronic swindle of an international corporation and include such offenses as the theft of cash or property (by customers, employees, and suppliers), burglary, vandalism, billing scams, embezzlement, extortion, computer hacking, hijacking of shipments, kidnaping, arson, and theft of intellectual property. The cost of crime to business is, of course, ultimately borne by consumers, employees, and residents of areas that experience a decline because of crime's effect on local business.

Through this general solicitation NIJ encourages studies that will address these critical areas of citizen concern. The Institute is particularly interested in research that advances our knowledge of the extent and consequences of criminal victimization in the following areas: Assessing the harm caused by victimization, improving the delivery of services to victims and their treatment by the criminal justice system, increasing our understanding of the causes and means of prevention of victimization, improving data about the victimization of businesses, and the effects of crime and victimization on the delivery of services in affected areas.

Research Areas of Interest

Listed below are examples of research topics that will advance criminal justice knowledge of the extent, causes, and consequences of criminal victimization under Goal III of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Assessing Victim Needs. Diagnostic instruments for use by victim services providers that would assist staff intake assessment of victim harm and required services. Victim-based evaluations of services.

Program Evaluations. Evaluations of victim services programs in such areas as restorative justice, use of computers by victim services, incorporation of victim services in community policing, programs tailored to victims with special needs, including child victims, and local program compliance with victim services mandated by State legislation.

Criminal Justice System Response to Victims. How treatment of victims and witnesses by the criminal justice system affects the public's willingness to cooperate with the system at all stages of its processes.

Victimization Patterns. How routine activities, behavior, perceptions, and knowledge interact with situational variables and offender behavior to increase or lower the risk of victimization. Knowledge that can contribute to reducing the level of victimization.

Impact of Crime on Business. The quality of data on the costs of victimization of business, its customers, suppliers, and employees, and the community. Priorities for new data collection and the utility of the data for combating crimes against business.

Impact of Crime on Service Delivery. Effects of fear of crime and victimization on the ability of communities, public agencies, and nonprofit organizations to provide services and meet the needs of residents of affected neighborhoods.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact Richard Titus, at (202) 307–0695.

Goal IV: Improve the Effectiveness of Crime Prevention Programs

Purpose

The purpose of this solicitation is to encourage research and evaluation projects that will increase the safety of individuals within families, and in schools, businesses, workplaces, and community environments; that will advance the knowledge of criminal justice practitioners and help prevent crime and criminal behavior, and develop and improve crime prevention programs. NIJ seeks research and evaluations aimed at preventing involvement in crime, and individual, community, and workplace efforts to improve safety and security.

Background

Crime prevention takes many forms. NIJ research in crime prevention continues to focus on potential offenders, potential victims, and particular locations and emphasizes both individual and community responses to crimes that occur in various settings. There is a need to examine how certain characteristics of neighborhoods, households, schools, businesses, public housing developments, parks and other public areas promote or constrain criminal activity. It is equally important to study populations that may be especially vulnerable, or invulnerable, to crime in those locations. It is also important to examine crime prevention programs and strategies in the context of the communities and jurisdictions in which they are found.

Crime prevention can and should focus on deterring potential offenders by formulating strategies directed at high-risk groups that are likely to become involved with the criminal justice system. NIJ research emphasizes prevention strategies that may influence the attitudes and behaviors of persons living in high-risk environments by addressing their needs in a comprehensive manner and by promoting positive and constructive forms of behavior. This approach to crime prevention requires the coordination of mutually reinforcing efforts that involve the family, school, and community as crime prevention agents. Research has shown that efforts to assist youths at risk are more likely to be effective when they start early and provide forms of intervention based on an understanding of the developmental processes that influence the attitudes and behavior of youths over time.

Crime prevention programs can also focus on potential victims of crime and ways to prevent their victimization. A major issue in prevention research is how to influence the behavior of individuals, households, organizations, and community groups. Lessons learned in studies of citizen patrols, changes in physical design, the relationship between fear and physical signs of disorder, and the redeployment of police officers, have all been incorporated in national crime prevention campaigns and in the development of programs and strategies designed to reduce crime victimization. Citizens and community groups can accept and respond to the challenge of shared responsibility for community security. Diverse crime prevention efforts undertaken include means of preventing victimization as well as ways of addressing the personal and social needs of victims resulting from crime and drug abuse. In addition, citizen and community anti-crime efforts are more likely to be effective when they are part of a comprehensive approach to neighborhood problem solving that involves citizens in a partnership with police and other municipal agencies.

We have learned that crime can be reduced through the proper design and effective use of environmental crime prevention methods in commercial sites, public and private housing, recreational areas, and transportation systems. Research has underscored the importance of incorporating environmental strategies as key

VOL 60 ISS 85 MY 3 1995 UMI

components of community crime prevention programs.

One possible way to protect people from crime is to develop a more thorough understanding of such factors about offenders as how they select their victims and targets; their modus operandi during the commission of an offense, including any involvement with co-offenders; their methods of disposing of noncash proceeds from crime; their perceptions of the opportunity structure of different locations, environments, and situations; and their perceptions of the criminal justice system's effectiveness in apprehending and prosecuting them.

Research Areas of Interest

Listed below are examples of research areas that could advance crime prevention knowledge and practice under Goal IV of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Crime Prevention Programs for High-Risk Youths. (In coordination with the Office of Juvenile Justice and Delinquency Prevention.) Development of methods that foster positive and constructive forms of behavior. Focus on resilient youth and families. Interaction between community, family and individual factors in promoting positive behavior.

Developing Community-Based Crime Prevention Partnerships. Identification of factors that enhance or diminish partnerships. Development and testing of strategies to revitalize and reclaim high-crime areas. Ways to organize community resources in an integrated manner. How to develop useful problem-solving strategies.

Location-Specific Crime Prevention Programs. Schools and routes to and from school. Public housing. Commercial settings. Parks and recreation facilities. Parking lots. Use of traffic barriers for crime and drug prevention. Understanding the actions and responses of potential victims and offenders in these and other settings. (See Goal III: "Routine Activities and Victimization" for a description of victim-related research using the routine activities approach). Focus on environmental and design features. Focus on a comprehensive approach.

Crimes and Offender Behavior. Offender daily activity patterns. Offense selection and planning. Target and victim selection. Modus operandi during the commission of an offense including co-offending. Disposition of noncash proceeds from crime. Offender perception of criminal justice system effectiveness. Disruption of stolen property markets.

Crime By and Related to Illegal Aliens. Recruitment, transportation, and smuggling of illegal aliens into the United States. Provision of false documentation to illegals. Employers' role in committing crimes related to hiring illegals and fostering crime among illegal aliens.

Contact

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. For specific information on the programs described under this goal, potential applicants may contact:

Rosemary Murphy, (202) 307–2959, for school-based prevention programs, crime prevention in public housing, crime prevention partnerships and prevention for high-risk youths.

Richard Titus, (202) 307–0695 for location specific prevention (except schools and public housing), crimes and offender behavior, and crime by and related to illegal aliens.

Goal V: Improve Law Enforcement and the Criminal Justice System

Purpose

The purpose of this solicitation is to encourage efforts in research and evaluation that will advance criminal justice knowledge in the areas of policing, prosecution, defense, adjudication, and corrections. The primary focus of research and evaluation under this goal is improvement of the efficiency, effectiveness, and fairness of the system. Certain types of cases, however, take priority. These involve violent juvenile and adult offenders, drug and alcohol abusers, and family violence offenders. Also of interest are the consequences of decisions and practices in one part of the system on other criminal justice agencies and on related social service agencies. Through this solicitation, NIJ also seeks a greater understanding of the relationship among the offender, victim, and the criminal justice system. All issues surrounding the case are of interest, but projects that focus on an issue from the perspective of the various participants—prosecutor, defender, judge, legislator—are encouraged.

Background

Each part of the criminal justice system faces new challenges. Juvenile arrests for violent crimes increased by 47 percent between 1988 and 1992; juvenile arrests for homicide increased by 51 percent during the same period. FBI data indicate that juvenile use of guns has risen dramatically. Prosecutors nationwide note that youthful offenders are being brought to their offices in increasing numbers.

The Nation's prison and jail population reached 1 million in the past year, with more than 5 million persons under some form of correctional supervision. Data from jails and prisons show a high incidence of substance abuse disorders among inmates. Approximately 70 percent of jail detainees have a history of substance abuse; 56 percent were under the influence of drugs or alcohol at the time of arrest.

A significant proportion of inmates with drug abuse problems have a high prevalence of other disorders. About 75 percent of inmates with mental disorders, for example, are also substance abusers. Other inmates abuse both drugs and alcohol. Few programs exist for such inmates who have special needs. In most State prison systems, for example, inmates may receive services from either mental health or substance abuse programs but not from programs designed to treat those with both conditions.

The 1994 crime law encourages innovations to improve criminal justice effectiveness in many of these areas, including community policing; prison construction and construction of alternative facilities such as boot camps for nonviolent offenders; and drug courts that combine court-supervised abstinence with outpatient treatment and sanctions for those who fail to comply. NIJ expects to issue separate solicitations for research in these areas by mid-1995.

White collar and organized crime pose a serious threat to the stable and orderly functioning of society. These complex and sophisticated crimes threaten our economic stability, corrupt legitimate institutions, and undermine the public respect for government and law.

Research is also needed on the consequences of the decisionmaking process within the criminal justice system. Much criminal justice research has been specific to a single criminal justice agency, such as the decisions of police in using deadly force, charging decisions and plea bargaining practices of prosecutors and use by judges of intermediate sanctions. However, such studies rarely focus on the relationship among police, defense attorneys, public prosecutors, and judges in plea or sentence bargaining.

Moreover, much research on criminal justice evaluates effectiveness in terms of standards internal to a particular agency rather than the consequences

that decisions and practices in one part of the system have for other components in the system or on system processes. There are studies of jail and prison overcrowding and of early release as a result of judicially mandated standards for maintaining correctional facilities, but little is known about their consequences for the criminal careers of offenders who have been released early. Likewise, there is little research on the effect of sentence length or a given type of sentence for any given offense.

Relatively little is known about how different kinds of crime are detected and selected by social service and other agents and the processes by which they are referred to law enforcement. NIJ seeks research addressing these broader issues.

Research Areas of Interest

Listed below are examples of research topics that could advance criminal justice knowledge under Goal V of the NIJ Research Plan. Individuals are encouraged to suggest their own topics of interest. Research is encouraged in, but not limited to, the following areas:

Law Enforcement

Note: NIJ is not receiving applications for policing research against the June and December 1995 deadlines. Instead, researchers should await the special solicitation to be issued in 1995, as noted above.

Prosecution, Defense, and Adjudication

Issues at the Pretrial Stage. Effective release and detention decisions, charging decisions, and diversion decisions. Effective responses to witness intimidation. Impact of variations in discovery policy.

New Approaches. Specialized courts, e.g., domestic violence, firearms offenses. Community courts. Restorative justice. Community-based prosecution and defense services.

Drug Courts. Note: NIJ is not receiving applications for research on drug courts under the June and December 1995 deadlines. Instead, researchers should await the special solicitation to be issued in 1995, as noted above.

Juvenile Justice. (In coordination with the Office of Juvenile Justice and Delinquency Prevention) Juvenile case processing, emphasizing waiver to adult courts. Diversion to noncriminal justice programs. Postarrest preconviction programs for chronic, serious juvenile offenders.

Community and Institutional Corrections

Boot Camps. Note: NIJ is not receiving applications for research on boot camps under the June and December 1995 deadlines. Instead, researchers should await the special solicitation to be issued in 1995, as noted above.

Sanctions and Punishments. Operating community-based sanctions as a system. Prosecutors' role in intermediate sanctions. Innovative programs in domestic violence, child abuse, firearms.

Meeting Offender Needs. Offenders with mental health and drug addiction conditions. Creating parity in services for incarcerated women. Coordinating transitional care and community reintegration.

Preserving Safety. Planning and managing "super" maximum security prisons. Managing juvenile offenders in adult facilities. Correctional officer health and safety risks.

Managing Change. Understanding the impacts of prison expansion. Correctional management of changing inmate populations. Inmate and correctional officers' safety. Managing offenders in the community.

Systemwide Issues

Consequences of Decisions on System Responses. The impact that reforms or major resources changes in one part of the system may have on another. Perceived fairness of the criminal justice system, particularly in minority communities, and appropriate responses by criminal justice professionals.

Sentencing. Costs and benefits of various State sentencing reforms. Impact of sentencing policy changes on prosecution, defense, and the courts, e.g., "truth in sentencing" and "three strikes" legislation, abolition of parole, mandatory minimums, enhanced sentencing schemes for juvenile offenders.

Illegal Aliens. U.S. policy toward arrested illegal aliens. Impact on local criminal justice system. Links with immigration. Management of foreign language populations in correctional settings.

White Collar and Organized Crime. For White Collar Crime, research on the prevention and control of health care fraud, insider insurance fraud, and environmental crime, including regulatory issues, detention, investigation, and prosecution. For organized crime, research on the criminal justice response to international organized crime networks and enterprise, and organized crime corruption of legitimate industries and markets.

Contact

Applicants are encouraged to contact NIJ program managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact:

Lois Mock, (202) 307–0693, and Winifred Reed, (202) 307–2952, for policing

Bernard Auchter, (202) 307–0154, for adjudication

Laurie Bright, (202) 616–3624, for prosecution and defense

Voncile Gowdy, (202) 307–2951, for corrections and sanctions

Richard Titus, (202) 307–0695, for illegal aliens and the criminal justice system

Lois Mock, (202) 307–0693, for white collar and organized crime

Goal VI: Develop New Technology for Law Enforcement and the Criminal Justice System

Purpose

The purpose of this solicitation is to encourage technological development projects that will improve the operational efficiency of the criminal justice system. Through this solicitation the National Institute of Justice (NIJ) expects to support research that will enhance the safety and effectiveness of law enforcement and correctional officers and other officers of the court.

Background

Science and technology programs cut across the entire range of criminal justice issues and goals at NIJ; programs already in progress or in the early stages of planning and development promise to provide significant benefits in the 21st century. The Institute's science and technology mission is accomplished through three major program areas: The collection and dissemination of technical information, the development of standards and operation of an equipment testing program, and a research and development grants program.

To strengthen the collection and dissemination of technology information, NIJ is developing the capabilities of the National Law Enforcement Technology Center (NLETC) (the former Technology Assessment Program Information Center) and establishing regional law enforcement technology centers. The purpose of these centers is to provide criminal justice professionals with information on available technology, guidelines and standards for these technologies, and technical assistance in implementing them. These centers will be linked through a Technology Information Network (TIN) to provide Federal, State and local agencies with

VOL
60
ISS
85
MY
3
1995
UMI

objective, reliable, and timely information on technologies and equipment, such as who are the producers and users, where high-cost, seldom-used equipment can be borrowed for temporary or emergency situations, what the current equipment standards are tests and evaluations, and what safety, health, or procedure bulletins have been issued. This TIN will also link the centers with the current Regional Information Sharing Service (RISS) that will then create an overall law enforcement technology exchange network. NIJ is also in the process of establishing an Office of Law Enforcement Technology Commercialization (OLETC) to help bring technology to the market place for criminal justice procurement.

One of the most significant developments of NIJ's criminal justice technology and standards program was the development of soft body armor for police officers and standards governing its manufacture and sale. NIJ has also developed standards for vehicle tracking devices, security systems for doors and windows, breath alcohol testing, autoloading pistols, mobile antennas, and other equipment. The Institute is currently completing the development of performance standards for two DNA testing procedures: Restriction Fragment Length Polymorphism (RFLP) and Polymerase Chain Reaction (PCR). The standards program is funded by NIJ through the Office of Law Enforcement Standards (OLES) at the National Institute of Standards and Technology (NIST).

NIJ's research and development efforts have also been significant and broad in scope in other areas. In the area of forensic science, NIJ has supported a wide range of research on fingerprints, blood and semen, DNA, trace evidence, bite marks, and forged or altered documents. Further research is needed, particularly in DNA testing, weapons identification, fingerprinting, and trace evidence. Progress is also being made to develop alternatives to lethal force. When confronted with the need to use force, officers are limited to the use of firearms, batons, physical "hands-on" restraint, or, more recently, chemical agents such as pepper spray. To provide alternatives, NIJ initiated a Less-Than-Lethal technology program to develop innovative, nonlethal measures suitable for use in situations involving fleeing suspects, domestic disturbances, barricades, issuing search warrants, drug raids, prison or jail disturbances, etc.

This announcement also supports research recommendations of the Department of Justice (DOJ) and the Department of Defense (DOD) under a Memorandum of Understanding (MOU) for interagency collaboration in developing and sharing dual-use technologies for law enforcement agencies and military operations other than war. Congress has appropriated fiscal year 1995 funds for this program through the Defense Authorization Bill. The day-to-day management of the program is carried out at the DOD Advanced Research Projects Agency (ARPA) under a Joint Program Steering Group (JPSG) with equal numbers of program managers from the Defense and Justice Departments.

In soliciting research and development topics, NIJ principally focuses on technologies and studies that will support the needs of State and local criminal justice agencies. The Institute's science and technology research also addresses the legal and social issues related to the employment of new technologies in order to ensure that they will be acceptable to the agency and the community.

Research Areas of Interest

Listed below are examples of research areas under Goal VI of the NIJ Research Plan where new or improved technologies could enhance the efficacy of the criminal justice system and reduce the level of injuries and death during policing and correctional operations. Individuals are encouraged to suggest their own topics of interest. Projects should be directed toward the production of affordable and practical equipment or systems that will have reasonably wide application to Federal, State, and local agencies. Research is encouraged in, but not limited to, the following areas:

Forensic Sciences. Identification and development of evidence in DNA/serology, finger-prints, trace evidence, pathology, entomology, odontology, toxicology, questioned documents, and weapons identification.

Less-Than-Lethal Technology. Reduction in the incidence of injuries and death to officers and the public during confrontations, especially those requiring the use of force, arrest of suspects, transport of suspects or prisoners, pursuit of fleeing suspects on foot or in vehicles, and control of violent individuals or crowds in the streets or in prisons and jails. Enhancement of officer safety. Field evaluations of new less-than-lethal technology.

Science and Technology. Virtual reality technology for officer training; command and control operations; providing improved courtroom security; improving the efficiency of probation and parole operations; identifying concealed weapons; monitoring the status, health, and location of officers or prisoners; and detecting and disabling explosives. Technology useful in the detection and apprehension of persons engaged in computer crime.

Drug Testing. Developing or adapting analytic techniques for extracting drug-related material from hair and urine and other body fluids. Comparative efficiencies and relative costs as well as the utility of the testing techniques in various criminal justice settings.

Contact

Grant Proposals

Applicants are encouraged to contact NIJ Program Managers to discuss topic viability, data availability, or proposal content before submitting proposals. To obtain specific information on the programs described under this goal, potential applicants may contact:

Richard M. Rau, (202) 307–0648, for the Forensic Sciences Program and the Drug Testing Program

Raymond Downs, (202) 307–0646, for the Less-Than-Lethal Program and the Science and Technology Program

Kevin Jackson, (202) 307–2956, for the Standards Development and Testing Program and the Law Enforcement Technology Centers. DOD/DOJ Memorandum of Understanding

Peter Nacci, (703) 351–8608, for information on the law enforcement aspects of the DOJ/DOD MOU.

John Pennella, (703) 696–2372, for information on the Military Operations Other Than War aspects of the DOJ/DOD MOU.

General Law Enforcement Technology Information

Marc Caplan, National Law Enforcement Technology Center, (800) 248–2742, for information on specific law enforcement technologies that are under development or in production, technologies in use by law enforcement agencies, soft-body armor and other equipment standards, equipment testing and results, and other such nongrant-related questions.

Administrative Guidelines

In this section applicants will find recommendations to grant writers, requirements for grant recipients, general application information, and a reiteration of the 1995–1996 grant application deadlines.

Application Information

Please see "Requirements for Award Recipients" below for general application and eligibility requirements.

and selection criteria. Proposals not conforming to these application procedures will not be considered.

Award Period. NIJ limits its grants and cooperative agreements to a maximum period of 24 months.

Due Date. Ten (10) copies of fully executed proposals should be sent to: (Name and Number of Specific Goal), National Institute of Justice, 633 Indiana Avenue N.W., Washington, DC 20531.

Completed proposals must be received at the National Institute of Justice by the close of business on June 15 and December 15, 1995, and June 17 and December 16, 1996. Extensions of these deadlines will not be permitted.

Contact. Applicants are encouraged to contact NIJ Program Managers in the appropriate goal areas to discuss topic viability, data availability, or proposal content before submitting proposals.

Recommendations to Grant Writers

Over the past 4 years, Institute staff have reviewed approximately 1,500 grant applications. On the basis of those reviews and inquiries from applicants, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals. Many of these recommendations were adopted from materials provided to NIJ by the State Justice Institute, especially for applicants new to NIJ. Others reflect standard NIJ requirements.

The author(s) of the proposal should be clearly identified. Proposals that are incorrectly collated, incomplete, or handwritten will be judged as submitted or, at NIJ's discretion, will be returned without a deadline extension. No additions to the original submission are allowed. The Institute suggests that applicants make certain that they address the questions, issues, and requirements set forth below when preparing an application.

1. What is the subject or problem you wish to address? Describe the subject or problem and how it affects the criminal justice system and the public. Discuss how your approach will improve the situation or advance the state of the art of knowledge or state of the science and explain why it is the most appropriate approach to take. Give appropriate citations to the scientific literature. The source of statistics or research findings cited to support a statement or position should be included in a reference list.

2. What do you want to do? Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project, rather than the tasks or activities to be conducted. To the greatest extent possible, applicants should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance an application.

3. How will you do it? Describe the methodology carefully so that what you propose to do and how you would do it is clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, err on the side of caution and provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from agencies that will be involved in or directly affected by the proposed project.

4. What should you include in a grant application for a program evaluation? An evaluation should determine whether the proposed program, training, procedure, service, or technology accomplished the objectives it was designed to meet. Applicants seeking support for a proposed evaluation should describe the criteria that will be used to evaluate the project's effectiveness and identify program elements that will require further modification. The description in the application should include how the evaluation will be conducted, when it will occur during the project period, who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

5. How will others learn about your findings? Include a plan to disseminate the results of the research, evaluation, technology, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods that will be used to inform the field about the project such as the publication of journal articles or the distribution of key materials. Expectations regarding products are discussed more fully in the following section, "Requirements for Award Recipients." A statement that a report or research findings "will be made available" to the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items. Applicants must concisely describe the interim and final products and address each product's purpose, audience, and usefulness to the field. This discussion should identify the principal criminal justice constituency or type of agency for which each product is intended and describe how the constituent group or agency would be expected to use the product or report. Successful proposals will clearly identify the nature of the grant products that can reasonably be expected if the project is funded. In addition, a schedule of delivery dates of all products should be delineated.

6. What are the specific costs involved? The budget application should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of "Other" or "Miscellaneous" items should be specified in the application budget narrative and should not include set-asides for undefined contingencies.

7. How much detail should be included in the budget narrative? The budget narrative should list all planned expenditures and detail the salaries, materials, and cost assumptions used to estimate project costs. The narrative and cost estimates should be presented under the following standard budget categories: Personnel, fringe benefits, travel, equipment, supplies, contracts, other, and indirect costs. For multiyear projects, applicants must include the full amount of NIJ funding for the entire life of the project. This amount should be reflected in item 15g on Form 424 and line 6k on 424A. When appropriate, grant applications should include justification of consultants and a full explanation of daily rates for any consultants proposed. To avoid common shortcomings of application budget narratives, include the following information:

Personnel estimates that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (e.g., Project Director, 50 percent of 1 year's annual salary of $50,000=$25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work year should be shown.

Estimates for supplies and expenses supported by a complete description of the supplies to be used, nature and extent of printing to be done,

VOL 60 ISS 85 MY 3 1995 UMI

anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (e.g., 100 reports × 75 pages each × $0.05/page = $375.00). Supply and expense estimates offered simply as "based on experience" are not sufficient.

8. What travel regulations apply to the budget estimates? Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Federal Government. The budget narrative should state which regulations are in force for the project and should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed separately. When combined, the subtotals for these categories should equal the estimate listed on the budget form.

9. Which forms should be used? A copy of Standard Form (SF) 424, Application for Federal Assistance, plus instructions, appears in the back of this book. Please follow the instructions carefully and include all parts and pages. In addition to SF 424, recent requirements involve certification regarding (1) lobbying; (2) debarment, suspension, and other responsibility matters; and (3) drug-free workplace requirements. The certification form that is attached to SF 424 should be signed by the appropriate official and included in the grant application.

10. What technical materials are required to be included in the application? A one-page abstract of the full proposal, highlighting the project's purpose, methods, activities, and when known, the location(s) of field research.

A program narrative, which is the technical portion of the proposal. It should include a clear, concise statement of the problem, goals, and objectives of the project and related questions to be explored. A discussion of the relationship of the proposed work to the existing literature is expected.

A statement of the project's anticipated contribution to criminal justice policy and practice. It is important that applicants briefly cite those particular issues and concerns of present-day criminal justice policy that stimulate the proposed line of inquiry and suggest what their own investigation would contribute to current knowledge.

A detailed statement of the proposed research or study design and analytical methodologies. The proposed data sources, data collection strategies, variables and issues to be examined, and procedures of analysis to be employed should be delineated carefully and completely. When appropriate, experimental designs are encouraged because of their potential relevance to policymaking and the strength of the evidence they can produce.

The organization and management plan to conduct the study. A list of major milestones of events, activities, and products and a timetable for completion that indicates the time commitments to individual project tasks should be included. All grant activities, including writing of the final report, should be completed within the duration of the award period.

The applicant's curriculum vitae should summarize education, research experience, and bibliographic information related to the proposed work.

11. Use of grant funds. Grant funds may be used to purchase or lease equipment essential to accomplishing the objectives of the project. The budget narrative must list such equipment and explain why the equipment is necessary. Funds may not be used for operating programs, writing texts or handbooks, training, etc.

12. To what extent may indirect costs be included in the budget estimates? It is the policy of the Institute that all costs should be budgeted directly; however, if an applicant has an indirect cost rate that has been approved by a Federal agency within the past 2 years, an indirect cost recovery estimate may be included in the budget. A copy of the approved rate agreement should be submitted as an appendix to the application. If an applicant does not have an approved rate agreement, the applicant should contact the Office of the Comptroller, Office of Justice Programs, (202) 307–0604, to obtain information about preparing an indirect cost rate proposal.

13. What, if any, matching funds are required? Units of State and local governments (not including publicly supported institutions of higher education) are encouraged to contribute a match (cash, noncash, or both) of requested funds. Other applicants also are encouraged to seek matching contributions from other Federal agencies or private foundations to assist in meeting the costs of the project.

14. Should other funding sources be listed? Applicants are expected to identify all other Federal, local, or private sources of support, including other NIJ programs, to which this or a closely related proposal has been or will be submitted. This information permits NIJ to consider the joint funding potential and limits the possibility of inadvertent duplicate funding. Applicants may submit more than one proposal to NIJ, but the same proposal cannot be submitted in more than one program area.

15. What are the deadlines? June 15 and December 15, 1995, and June 17 and December 16, 1996.

16. Is there a page limit? The Institute has established a limit of 30 double-spaced pages for all normal grant applications. This page limit does not include references, budget narrative, curriculum vitae, or necessary appendices. Applications for small grants ($1,000–$50,000) are limited to 15 double-spaced pages. NIJ does not wish to create elaborate regulations regarding type fonts, margins, and spacing. Applicants are cautioned, however, that obvious attempts to stretch interpretations of the Institute's limits have, in the past, caused proposal reviewers to regard such efforts unfavorably.

17. What is the page order? The following order is mandatory. Omission can result in rejection of the application

1. SF 424.
2. Names and affiliations of all key persons from applicant and subcontractor(s), advisors, consultants, and Advisory Board members. Include the name of the Principal Investigator, title, organizational affiliation (if any), department (if institution of higher education), address, phone, and fax.
3. Abstract.
4. Table of Contents.
5. Budget narrative.
6. Assurances and Certifications, etc.
7. Negotiated rate agreement.
8. Program narrative.
9. References.
10. Résumés of key personnel.

18. What does the review process entail? After all applications for a competition are received, NIJ will convene a series of peer review panels of criminal justice professionals and researchers. NIJ will assign proposals to peer panels that it deems most appropriate. Panel members read each proposal and meet to assess the technical merits and policy relevance of the proposed research. Panel assessments of the proposals, together with assessments by NIJ staff, are submitted to the Director, who has sole and final authority over approval and awards. The review normally takes 60 to 90 days, depending on the number of applications received. Each applicant receives written comments from the peer review panel concerning the strengths and weaknesses of the proposal. These comments may include suggestions for how a revised or subsequent application to NIJ might be improved.

19. What are the criteria for an award? The essential question asked of each applicant is, "If this study were successful, how would criminal justice policies or operations be improved?" Four criteria are applied in the evaluation process:

Impact of the proposed project.

Feasibility of the approach to the issue, including technical merit and practical considerations.

Originality of the approach, including creativity of the proposal and capability of the research staff.

Economy of the approach. Applicants bear the responsibility of demonstrating to the panel that the proposed study addresses the critical issues of the topic area and that the study findings could ultimately contribute to a practical application in law enforcement or criminal justice. Reviewers will assess applicants' awareness of related research or studies and their ability to direct the research or study toward answering questions of policy or improving the state of criminal justice operations.

Technical merit is judged by the likelihood that the study design will produce convincing findings. Reviewers take into account the logic and timing of the research or study plan, the validity and reliability of measures proposed, the appropriateness of statistical methods to be used, and each applicant's awareness of factors that might dilute the credibility of the findings. Impact is judged by the scope of the proposed approach and by the utility of the proposed products. Reviewers consider each applicant's understanding of the process of innovation in the targeted criminal justice agency or setting and knowledge of prior uses of criminal justice research by the proposed criminal justice constituency. Appropriateness of products in terms of proposed content and format is also considered.

Applicants' qualifications are evaluated both in terms of the depth of experience and the relevance of that experience to the proposed research or study. Costs are evaluated in terms of the reasonableness of each item and the utility of the project to the Institute's program.

20. Are there any other considerations in selecting applications for an award? Projects should have a national impact or have potential relevance to a number of jurisdictions. Because of the broad national mandate of the National Institute of Justice, projects that address the unique concerns of a single jurisdiction should be fully justified. Projects that intend to provide services in addition to performing research are eligible for support, but only for the resources necessary to conduct the research tasks outlined in the proposal. The applicant's performance on previous or current NIJ grants will also be taken into consideration in making funding decisions.

21. Who is eligible to apply? NIJ awards grants to, or enters into cooperative agreements with, educational institutions, nonprofit organizations, public agencies, individuals, and profitmaking organizations that are willing to waive their fees. Where appropriate, special eligibility criteria are indicated in the separate solicitations.

22. Does NIJ accept resubmission of proposals? The Institute will accept resubmission of a previously submitted proposal. The applicant should indicate for Question 8, Form 424, that the application is a revision. The applicant should include this information in the abstract. Finally, the applicant should prepare a one-page response to the earlier panel review (to follow the abstract) including (1) the title, submission date, and NIJ-assigned application number of the previous proposal and (2) a brief summary of responses to the review and/or revisions to the proposal.

NIJ Policy Regarding Unsolicited Proposals

It is NIJ's policy to submit all unsolicited proposals to peer review. NIJ's peer review process takes place in periodic cycles; unsolicited proposals received will be included in the next available review cycle. NIJ will offer the applicant the option of revising the proposal in accordance with the program goals established in the Plan or, alternatively, submitting the original proposal to the peer panel it deems most appropriate.

Requirements for Award Recipients

Required Products

Each project is expected to generate tangible products of maximum benefit to criminal justice professionals, researchers, and policymakers. In particular, NIJ strongly encourages documents that provide information of practical utility to law enforcement officials; prosecutors; judges; corrections officers; victims services providers; and Federal, State, county, and local elected officials. Products should include:

A summary of approximately 2,500 words highlighting the findings of the research and the policy issues those findings will inform. The material should be written in a style that will be accessible to policy officials and practitioners and suitable for possible publication as an NIJ Research in Brief. An NIJ editorial style guide is sent to each project director at the time of the award.

A full technical report, including a discussion of the research question, review of the literature, description of project methodology, detailed review of project findings, and conclusions and policy recommendations.

Clean copies of all automated data sets developed during the research and full documentation prepared in accordance with the instructions in the NIJ Data Resources Manual.

Brief project summaries for NIJ use in preparing annual reports to the President and the Congress. As appropriate, additional products such as case studies and interim and final reports (e.g., articles, manuals, or training materials) may be specified in the proposal or negotiated at the time of the award.

Public Release of Automated Data Sets

NIJ is committed to ensuring the public availability of research data and to this end established its Data Resources Program in 1984. All NIJ award recipients who collect data are required to submit a machine-readable copy of the data and appropriate documentation to NIJ prior to the conclusion of the project. The data and materials are reviewed for completeness. NIJ staff then create machine-readable data sets, prepare users' guides, and distribute data and documentation to other researchers in the field. A variety of formats are acceptable; however, the data and materials must conform with requirements detailed in Depositing Data With the Data Resources Program of the National Institute of Justice: A Handbook. A copy of this handbook is sent to each project director at the time of the award. For further information about NIJ's Data Resources Program, contact Dr. Pamela Lattimore, (202) 307–2961.

VOL
60
ISS
85
MY
3
1995
UMI

Standards of Performance by Recipients

NIJ expects individuals and institutions receiving its support to work diligently and professionally toward completing a high-quality research or study product. Besides this general expectation, the Institute imposes specific requirements to ensure that proper financial and administrative controls are applied to the project. Financial and general reporting requirements are detailed in Financial and Administrative Guide for Grants, a publication of the Office of Justice Programs. This guideline manual is sent to recipient institutions with the award documents. Project directors and recipient financial administrators should pay particular attention to the regulations in this document.

Program Monitoring

Award recipients and Principal Investigators assume certain responsibilities as part of their participation in government-sponsored research and evaluation. NIJ's monitoring activities are intended to help grantees meet these responsibilities. They are based on good communication and open dialogue, with collegiality and mutual respect. Some of the elements of this dialogue are:

Communication with NIJ in the early stages of the grant, as the elements of the proposal's design and methodology are developed and operationalized.

Timely communication with NIJ regarding any developments that might affect the project's compliance with the schedules, milestones, and products set forth in the proposal. (See statement on Timeliness, below.)

Communication with other NIJ grantees conducting related research projects. An annual "cluster conference" should be anticipated and should be budgeted for by applicants at a cost of $1,000 for each year of the grant.

Providing NIJ on request with brief descriptions of the project in interim stages at such time as the Institute may need this information to meet its reporting requirements to the Congress. NIJ will give as much advance notification of these requests as possible, but will expect a timely response from grantees when requests are made. NIJ is prepared to receive such communication through electronic media.

Providing NIJ with copies of presentations made at conferences, meetings, and elsewhere based in whole or in part on the work of the project.

Providing NIJ with prepublication copies of articles based on the project appearing in professional journals or the media, either during the life of the grant or after.

Other reporting requirements (Progress Reports, Final Reports, and other grant products) are spelled out elsewhere in this section of the Research Plan. Financial reporting requirements will be described in the grant award documents received by successful applicants.

Communications

NIJ Program Managers should be kept informed of research progress. Written progress reports are required on a quarterly basis. All awards use standard quarterly reporting periods (January 1 through March 31, April 1 through June 30, and so forth) regardless of the project's start date. Progress reports will inform the monitor which tasks have been completed and whether significant delays or departures from the original workplan are expected.

Timeliness

Grantees are expected to complete award products within the timeframes that have been agreed upon by NIJ and the grantee. The Institute recognizes that there are legitimate reasons for project extensions. However, NIJ does not consider the assumption of additional research projects that impinge upon previous time commitments as legitimate reasons for delay. Projects with unreasonable delays can be terminated administratively. In this situation, any funds remaining are withdrawn. Future applications from either the project director or the recipient institution are subject to strict scrutiny and may be denied support based on past failure to meet minimum standards.

Publications

The Institute encourages grantees to prepare their work for NIJ publication. In cases where grantees disseminate their findings through a variety of media, such as professional journals, books, and conferences, copies of such publications should be sent to the Program Manager as they become available, even if they appear well after a project's expiration. NIJ imposes no restriction on such publications other than the following acknowledgment and disclaimer: This research was supported by grant number _____ from the National Institute of Justice. Points of view are those of the author(s) and do not necessarily represent the position of the U.S. Department of Justice.

Data Confidentiality and Human Subjects Protection

Research that examines individual traits and experiences plays a vital part in expanding our knowledge about criminal behavior. It is essential, however, that researchers protect subjects from needless risk of harm or embarrassment and proceed with their willing and informed cooperation. NIJ requires that investigators protect information identifiable to research participants. When information is safeguarded, it is protected by statute from being used in legal proceedings: "[S]uch information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings" (42 U.S.C. 3789g).

Applicants should file their plans to protect sensitive information as part of their proposal. Necessary safeguards are detailed in 28 Code of Federal Regulations (CFR), ¶ 22. A short "how-to" guideline for developing a privacy and confidentiality plan can be obtained from NIJ program managers.

In addition, the U.S. Department of Justice has adopted Human Subjects policies similar to those established by the U.S. Department of Health and Human Services. In general, these policies exempt most NIJ-supported research from Institutional Review Board (IRB) review. However, the Institute may find in certain instances that subjects or subject matters may require IRB review. These exceptions will be decided on an individual basis during application review. Researchers are encouraged to review 28 CFR part 46, ¶ 46.101 to determine their individual project requirements.

Jeremy Travis,

Director, National Institute of Justice.

Office for Victims of Crime Notice of FY 1995 Discretionary Program Plan

This Program Announcement is outlined as follows:

I. Introduction
II. New, Competitive Programs
A. Promising Strategies and Practices to Improve Services to Crime Victims
1. Law Enforcement Agencies
2. Evidentiary Medical Examinations
a. Nurse Examiners
b. Specialized Settings
3. Prosecutors
4. Probation and Parole Agencies
5. Corrections Agencies
6. Judiciary
7. Rural Areas
8. Professional Education
9. Technology
10. White Collar Crime Victims
11. Healing Through Community Service
12. Guidelines for Victim/Offender Mediation and Dialogue
13. Workplace Violence
B. Training and Technical Assistance for Crime Victim Practitioners and Allied Professionals
1. Regional Seminars for Establishing Community and Institutional Crisis Response Teams
2. Conference Support Training Initiative
3. National Symposium on Victims of Federal Crime
4. Training of Trainers Seminars
a. Victim Services in Rural Areas
b. Responding to Staff Victimization
c. Victim Impact Classes for Offenders
5. Resources for State Compensation and Assistance Administrators
a. National Technical Assistance Conference for State VOCA Assistance Administrators
b. Regional Technical Assistance Meetings for State VOCA Administrators
c. Mentor Program for VOCA Administrators
C. Information Dissemination
1. Videotapes
a. Cultural Diversity
b. Path Through the Criminal Justice System
c. Victim Issues for Parole Boards
2. Resources for National Crime Victims Rights Week, 1996
D. Native American Programs
1. Training and Technical Assistance for Victims of Federal Crime in Indian Country Discretionary Grant Subgrantees
2. Children's Justice Act Discretionary Grant Program for Native Americans
3. Cross-Cultural Skills Development and Training for Federal Criminal Justice Personnel in Indian Country
4. Indian Nations Conference
III. Non-Competitive Programs
A. OVC Training and Technical Assistance Resources
1. OVC Trainers Bureau
2. Immediate Response to Emerging Problems
3. Emergency Fund for Federal Crime Victims
B. Training and Technical Assistance for Federal Law Enforcement
1. Federal Bureau of Investigation In-Service Training Support
2. Federal Law Enforcement Training Center
3. Federal Victim-Witness Training Events
4. Training-Related Travel for Federal Personnel
C. Training and Technical Assistance for Federal Victim-Witness Coordinators and Assistant U.S. Attorneys
1. Development of a Model U.S. Attorney Victim-Witness Program
2. Dual Track Training
3. District-Specific Training
4. Huntsville Child Sexual Abuse Conference
D. Training and Technical Assistance for Victim Assistance Providers and Allied Professionals
1. Multijurisdictional Model for Child Sexual Exploitation Cases
2. Resources for Children's Advocacy Centers
3. Violence Against Women
a. Training and Technical Assistance
b. Anti-Stalking Resource Group
4. National TRIAD Trainings
5. Training for Military Chaplains
6. Bias Crime Training for Law Enforcement and Victim Assistance Professionals
7. Victim Assistance in Public Housing
E. Native American Programs
1. Assistance to Victims of Federal Crime in Indian Country
2. Training and Technical Assistance for Native American Children's Justice Act Grantees
3. Court Appointed Special Advocates (CASA) in Indian Country
4. Children's Justice Act Discretionary Grant Program for Native Americans
5. Travel/Training and Technical Assistance for Native Americans
6. Tribal Judges Symposium
F. Information Dissemination
1. OVC Resource Center
2. Crime Victim Compensation Videotape
3. Reproduction of Federal Victim Assistance Informational Materials
a. Attorney General Guidelines for Victim and Witness Assistance
b. Federal Resource Book
c. Prosecution of Child Abuse
d. Victim-Witness Briefing Packages
e. "Going to Court" Activity Books
4. Conference and Meeting Support
G. Restorative Justice Symposium
IV. National Crime Victims Agenda: Update of the 1982 Final Report of the President's Task Force on Victims of Crime
V. Solicitations for FY 1996
A. Victim Assistance Academy
B. Victim Assistance Training for Military Victim Assistance Providers
C. Concept Papers for FY 1996
VI. Eligibility Requirements
VII. Application Requirements
VIII. Procedures for Selection
IX. Submission Requirements
X. Civil Rights Compliance
XI. Audit Requirements
XII. Catalog of Federal Domestic Assistance Numbers

I. Introduction

Violent crime is a shattering experience. It can destroy a person's sense of safety and security in the world. Of paramount importance to victims and survivors of crime is an assurance that their government cares about their suffering, offers support to help them heal, and holds the criminal accountable for the harm caused.

The Office for Victims of Crime (OVC) was created by the Victims of Crime Act of 1984 (VOCA) to help ensure justice and healing for our nation's crime victims. In carrying out this mission, OVC provides funding for crucial victim services, supports training for the diverse professionals who work with crime victims, and develops projects to enhance victims' rights and services. OVC administers two formula and many discretionary grant programs designed to benefit victims. These programs are funded by the Crime Victims Fund (Fund), which is derived from the fines, penalty assessments, and bail forfeitures of Federal criminal offenders—not from tax dollars. In Fiscal Year (FY) 1995, OVC has about $150 million to support critical services to crime victims and national-scope training and technical assistance.

Approximately 90 percent of the money in the Fund each year is allocated to states for funding of victim assistance and compensation programs. These programs provide the lifeline services that help victims to heal. Victim assistance funds support nearly 3,000 local victim services agencies, such as family violence shelters, child advocacy centers, and sexual assault treatment programs. Compensation funds supplement state efforts to reimburse victims for out-of-pocket expenses resulting from crime, including medical costs, lost wages, and mental health counseling.

Guidelines and application information for the FY 1995 state compensation and assistance formula grant programs were previously issued to eligible state agencies. OVC will award $144,223,998 from the Crime Victims Fund to support these two important formula grant programs. In addition, $10 million was made available from the Fund pursuant to the Children's Justice Act, with $8.5 million designated for the Department of Health and Human Services (HHS) and $1.5 million designated for OVC to support local child abuse programs. The Administrative Office of U.S. Courts received $6.2 million to improve criminal debt collection efforts.

This program announcement describes 30 new programs that will be bid competitively and 33 non-competitive and continuation programs. Some of these programs include a number of separate initiatives and conferences, such as the Children's Justice Act discretionary grant program, which will fund five to eight new grants within that one program.

Goals

OVC has established six goals for allocating discretionary training and technical assistance dollars in its 1995 program plan:

- To identify and promote the use of promising practices in serving crime victims;
- To provide and encourage training and technical assistance for all service providers who interact with crime victims;

VOL 60 ISS 85 MY 3 1995 UMI

- To develop and disseminate information to victims of crime and the people who serve them;
- To work closely with Native American communities to help provide needed services for crime victims;
- To create partnerships with other Department of Justice entities, governmental agencies, communities, and organizations; and
- To develop a national crime victims agenda that provides a guide for long-term action and sets forth future training and technical assistance needs.

These goals reflect the Attorney General's strong commitment to the rights and needs of crime victims, partnerships between all levels of government and communities, and the dissemination of effective approaches to provide services to crime victims. They also meet OVC's legislative mandates to provide national-scope training and technical assistance, ensure services to victims of Federal crimes, and work with Native American communities to respond to crime victims.

Listed below are some of OVC's proposed projects that correspond to the goals described above:

1. To identify and promote the use of promising practices in serving crime victims.

To accomplish this goal, OVC will fund projects to identify innovative and promising crime victim programs in local communities across the country. These include projects to:

- Identify and disseminate information about promising strategies and practices to improve victim services provided by diverse criminal justice professionals, including law enforcement, prosecutors, judges, probation and parole personnel, and corrections officials;
- Identify and disseminate information about promising approaches for providing and maintaining victim services in underserved settings, such as in rural areas and public housing developments;
- Explore avenues for applying technology to improve and increase services for crime victims;
- Assist in the development and pilot testing of a model victim/witness program within a U.S. Attorney's Office;
- Identify and develop courses and curricula on crime victim issues for use at related undergraduate and graduate programs, including schools of law, medicine, social work, mental health, and criminal justice; and
- Support local partnerships and multidisciplinary programs, such as TRIAD and Children's Advocacy Centers.

Part of OVC's challenge is to identify and promote the replication of promising programs so that victims and service providers nationwide can benefit from these innovations.

2. To provide and encourage training and technical assistance for service providers who interact with crime victims.

Training and technical assistance is critical to ensuring the highest quality of service and care to crime victims by the many different professionals who work with them. These professionals include law enforcement, prosecutors, judges, probation and parole officers, and corrections officials who work within state and Federal criminal justice systems. They also include mental health professionals, doctors and nurses, the clergy, and others who regularly interact with victims of crime. At the Federal level alone, there are more than 70 different law enforcement entities within the Department of Justice and other Executive Branch agencies that are responsible for serving crime victims in accordance with guidelines issued by the Attorney General.

OVC will continue to support two flexible training and technical assistance resources that offer customized services to agencies at the state and local levels:

- A Trainers Bureau that pays for expert consultants to provide training and technical assistance on issues requested by local communities; and
- The Immediate Response to Emerging Problems (IREP) initiative that provides a crisis response team if requested by a community to assist in dealing with a catastrophic crime, such as a mass murder.
- Examples of other types of training and technical assistance that OVC will fund are:
- National and regional training conferences for state VOCA administrators, victim-witness coordinators, and child advocacy workers;
- Regional training seminars to assist communities and institutions to be prepared for multiple victimizations by establishing their own crisis response plans and teams;
- Team approaches that strengthen the response of criminal justice agencies to the many forms of violence against women and children;
- Hate and bias crimes training for law enforcement and victim service personnel;
- Training events at the Department of Treasury's Federal Law Enforcement Training Center (FLETC) and the National Symposium for Child Sexual Abuse in Huntsville, Alabama to sensitize officials to victim/witness issues and promote "team approaches" in handling cases;
- The first national symposium to provide high-quality victim assistance training for victim-witness coordinators from all Federal law enforcement agencies;
- Victim assistance programs in Native American communities, including an Indian Nations' Conference in 1996;
- Assistance to military personnel and clergy who work with victims of crime on military installations; and
- Mentoring programs to facilitate on-site training at promising programs for state VOCA administrators and multidisciplinary teams.

In addition, OVC will continue to monitor the development of the Victim Assistance Academy funded last year to provide high-quality intensive training to victim service providers across the country from Federal, state, tribal, and local communities. OVC anticipates that the Academy will provide a curriculum to help professionalize the field and develop standards for victim service providers.

3. To develop and disseminate information to victims of crime and the people who serve them.

To achieve this goal, OVC will disseminate the findings of its projects that identify promising practices currently being used in the field. In addition, OVC is supporting other initiatives that will directly benefit crime victims. These include:

- A videotape describing how victims can obtain compensation to reimburse expenses related to their victimization;
- A booklet, "Healing Through Community Service," that will describe case studies of victims whose contributions to the community have helped them heal and suggest other therapeutic strategies;
- A videotape, "Path Through the Criminal Justice System," that will describe what victims can expect as their case proceeds through the system; and
- Activity books designed for children who will be testifying in Federal court to increase their understanding of the process. These books accompany a film that was funded by OVC last year.

These products and reports describing promising practices will be distributed through the OVC Resource Center, as well as at the many conferences OVC sponsors and supports around the country. Numerous products are already available through the Resource Center, which can be reached at 1–800–627–6872. OVC will augment its funding commitment to the Resource Center to improve its capacity to provide crucial information directly to the public and the field.

Finally, OVC will contribute all findings and publications to PAVNET, the Partnerships Against Violence Network. PAVNET is an integrated information system that pools ideas, information, and resources about promising programs, technical assistance, and funding sources. As OVC and its grantees identify promising programs and strategies in the field, information about these will be added to the on-line search and retrieval system available through the National Criminal Justice Reference Service and a Federal agency coalition that includes the Departments of Justice, Agriculture, Education, Health and Human Services, Housing and Urban Development, and Labor.

4. To work closely with Native American communities to assist in the provision of needed services for crime victims.

OVC is committed to providing extensive, culturally appropriate services to crime victims in Native American communities. The Native American programs that OVC will fund this year include:

- Comprehensive training and technical assistance for Children's Justice Act grantees in Indian Country to enhance victim service skills and facilitate a team approach in responding to child sexual abuse cases;
- Cross-cultural skills development and training for Federal criminal justice personnel to enhance their ability to serve Native American crime victims;
- An Indian Nations' conference that will improve the skills of diverse professionals in responding to the needs of Native American crime victims and in addressing cases of child sexual and physical abuse in Indian Country;
- Court Appointed Special Advocate (CASA) programs in Indian Country to ensure that trained advocates represent the best interests of Native American child victims in court; and
- A project to provide training for tribal judges, based upon topics identified through a needs assessment.

5. To create partnerships with other Department of Justice (DOJ) entities, governmental agencies, communities, and organizations.

Partnerships are a key element in this year's discretionary program plan. OVC recognizes that no program can reach its best potential in isolation. To that end, this program announcement itself reflects collaborative efforts between OVC and all other offices and bureaus within OJP; many DOJ components; and diverse Federal agencies.

Joint projects with other OJP components include:

- Eleven separate projects or fund transfers jointly sponsored by OVC and the Bureau of Justice Assistance (BJA), including training on hate and bias crimes, victim services in public housing, community and institutional crisis response teams, and a videotape on cultural diversity;
- Four projects or fund transfers jointly sponsored by OVC and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), including training on a multi-jurisdictional model for handling child sexual exploitation cases and seminars to train trainers in the use of victim impact classes, including classes for juvenile offenders;
- A restorative justice symposium cosponsored by OVC and the National Institute of Justice (NIJ) to examine how restorative justice concepts and practices can improve the treatment of victims and increase the involvement of communities in the criminal justice process. OVC also will work with NIJ on NIJ's victims' related research and to include information about promising programs and strategies in PAVNET; and
- Collaborative projects between OVC and the Bureau of Justice Statistics (BJS) to enhance the National Crime Victimization Survey and improve OVC's efforts to collect data and assess its grant programs.

OVC also reaches outside of OJP to work with other components of the Department of Justice. Examples include:

- Collaboration with the Executive Office of U.S. Attorneys (EOUSA) to provide training for Federal victim-witness coordinators and prosecutors and to create a model victim-witness program for U.S. Attorneys' Offices nationwide;
- Work with the FBI to strengthen its victim-witness program;
- Coordination of projects in Indian Country with DOJ's Office of Tribal Services;
- Collaboration with the Criminal Division's Child Exploitation and Obscenity Section to develop policies regarding child sexual abuse; and
- Cooperation with DOJ's Financial Litigation and Debt Collection staff to maintain the integrity of the Crime Victims Fund.

In addition, OVC works in concert with other Federal agencies to carry out its mission. This includes:

- Collaboration with the Department of Health and Human Services (HHS) to implement the Children's Justice Act (CJA) programs, with OVC administering CJA programs to tribal organizations, and HHS administering the program in the states;
- A collaborative effort with the Administration on Aging at HHS, BJA, the National Sheriffs' Association, the International Association of Chiefs of Police, and older American organizations to encourage replication of TRIAD programs, which are partnerships between local law enforcement and senior citizen organizations;
- Sponsorship with the Department of Defense of victim assistance training for military victim service providers and military chaplains; and
- A symposium on workplace violence issues that would include participation by a number of Federal agencies, including HHS, the Department of Labor, and the United States Postal Service.

These examples are representative—not exhaustive—of OVC collaboration with other agencies and organizations and its commitment to continue developing partnerships throughout all levels of government to improve crime victim services.

OVC is in the process of exploring new partnerships with public and private sector organizations, including foundations. Moreover, the program strategy and selection criteria for projects encourage applicants to collaborate whenever possible.

6. To develop a national crime victims agenda that provides a guide for long-term action and sets forth future training and technical assistance needs.

In 1982, President Reagan appointed a Task Force on Victims of Crime to study a long overlooked constituency of our criminal justice system—crime victims. This task force examined the way crime victims were treated by the criminal justice system and held public hearings around the country. It found that the system was severely imbalanced, almost entirely focusing on the criminal, while ignoring the rights and needs of victims. In its final report, the Task Force issued a comprehensive blueprint of 68 recommendations designed to improve the treatment of crime victims by the criminal justice system and other sectors of society. This document, the first Federal study of its kind, served to spearhead a national movement to secure specific victim rights and develop services that are responsive to victims' unique needs. Its proposals also lead to the legislation that created OVC and the Crime Victims Fund.

Using FY 1995 and 1996 funding, OVC will produce a document updating

VOL 60 ISS 85 MY 3 1995 UMI

the 1982 report. This update will not only describe the progress made in victim services during the past thirteen years, but also will describe a plan for the future, including promising practices, model programs and legislation, and needed national-scope training and technical assistance programs. OVC hopes that this new report, like the landmark 1982 publication, will become a guide for long-term action to improve victims' rights and services into the next century.

DATES: This Program Announcement is effective May 3, 1995. All applications for new, competitive programs are due by 5 p.m. on July 3, 1995. All applications for FY 1996 funding are due by 5 p.m. on August 1, 1995. Postmarks are not acceptable.

Program Announcement Development

OVC solicited input from a wide variety of sources in developing the proposals contained within this program announcement. A request for concept papers from the field was made in OVC's FY 1994 program announcement. OVC received 45 responses. OVC also sought input from the field at a number of training conferences around the country, including meetings with U.S. Attorneys and LECC/Victim-Witness Coordinators, Native American representatives, state VOCA Compensation and Assistance Administrators, and victim advocates at the national, state, and local levels. The program plan reflects much of that input. Those suggestions that fell outside of OVC's statutory authority were shared with other DOJ components for their consideration.

Competitive and Continuation Grants

This program announcement contains new competitive, non-competitive, and continuation grants, as well as information on interagency agreements.

Discretionary grants for new programs are generally awarded through a competitive process. The programs are open to a broad range of public and private non-profit organizations. Awards will be made to organizations and agencies that offer the greatest potential for achieving the objectives outlined in the description of each program. Selections primarily will be made on the basis of the information provided in the applicants' proposals. However, the Director also may consider any unsatisfactory past performance of applicants on OVC or OJP grants.

To supplement and assist in the consideration and review of applications by the program office, all competitive applications will be rated by a peer review panel of experts in the program areas. The panel will make recommendations for funding to the Director of OVC, who has final funding authority. The panel will rate competing applicants by numerical values based on the point distribution identified in the Selection Criteria (see Section VIII for details). Letters will be sent to all applicants notifying them of the final decision regarding their proposal. At their request, unsuccessful applicants will be notified of the major deficiencies identified in their application by the panel. OVC will negotiate specific terms of the awards with the selected applicants based upon the comments of panel members and OVC program managers. No awards will be granted until and unless selected applicants agree to terms specified by OVC.

For continuation programs, the awards are limited to specific organizations/grantees who have previously received at least one year of funding for a previous year's program solicitation. Continuation awards will be negotiated directly with current grantees to support further program activities or with organizations that are uniquely qualified to address subsequent phases of previously funded projects.

II. New, Competitive Programs

All grantees that are awarded funding for new programs following the OVC peer review and selection process are expected to work closely with the OVC project monitor during all phases of the award period.

All written products resulting from these grants must be submitted on computer disk, as well as in hard copy. Grantees will be expected to submit a short monograph or summary of the project and its findings (5–10 pages) that may be published as an OVC Bulletin.

A. Promising Strategies and Practices To Improve Services to Crime Victims

Promising Strategies and Practices for Law Enforcement Agencies (Cooperative Agreement)—Award Amount: $75,000

Purpose: To identify and document innovative policies, procedures, practices, and programs used by law enforcement agencies to respond to the needs of crime victims and to develop a plan for their dissemination.

Background: Law enforcement officers usually are the first criminal justice personnel to interact with crime victims. The way in which they treat victims can have a profound impact on how well and how quickly they recover from traumatic events.

Experienced law enforcement professionals are keenly aware of their responsibility toward victims. As a result, many agencies at both the federal and local level have developed a variety of innovative approaches to assisting victims. These include: Brochures that explain what victims can expect to happen as their case moves through the criminal justice system; wallet-sized cards that list victims rights and local resources; innovative ways of utilizing social service workers and volunteers; and partnerships with others, including community groups, to enhance victim services.

Goal: To increase and enhance services provided to crime victims by law enforcement personnel.

Objectives:

- To identify the elements of effective or promising approaches law enforcement can use to assist victims;
- To find existing policies, procedures, practices, and programs that contain these elements;
- To prepare detailed descriptions of the promising strategies; and
- To prepare a plan for disseminating this information to law enforcement agencies.

Program Strategy: With OVC, the grantee first will identify Federal and local law enforcement and victim assistance experts who can help develop criteria for determining what strategies can be considered "promising." The grantee then will conduct a review of programs in the field to identify policies, procedures, practices, and programs that meet the criteria. The review should include an examination of tribal agency practices in Indian Country, Federal approaches, and state and local programs.

The project staff will collect information about promising strategies in sufficient detail to allow other agencies to replicate them. This information will be compiled into a compendium of "Promising Victim Assistance Strategies for Law Enforcement Agencies." A shorter version of the document will be prepared for publication as an OVC Bulletin.

The products of this project include:

- Selection criteria for promising strategies;
- Assessment Plan for identifying qualifying strategies;
- Comprehensive descriptions of the essential elements of each promising strategy or program;
- Compendium of Promising Strategies and Practices, in complete and shortened Bulletin format;
- Final Report, including project assessment; and
- A dissemination plan.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate knowledge of victim assistance strategies in law enforcement, as well as victim rights and services related to the criminal justice system.

Award Period: 12 months.

Contact: Diane Ragan, (202) 307–2021.

Promising Strategies and Practices for Evidentiary Medical Examinations, Including the Use of Nurse Examiners and Special Settings—Award Amount: $50,000

Purpose: To describe promising practices for utilizing victim-oriented medical settings and nurse examiner programs to conduct evidentiary medical examinations.

Background: In many places, victims of sexual assault and child abuse who arrive at hospital emergency rooms often have to contend with a lack of privacy, long waits for doctors who are busy attending to other medical emergencies, a lack of emotional support throughout the forensic examination process, and an impersonal, chaotic environment. These conditions not only compound the trauma experienced by victims, but discourage many victims from coming forward to report the crime or to obtain necessary assistance and medical services. To address these issues, some jurisdictions have developed sexual assault nurse examiner programs, in which nurses who are specially trained to address the medical and emotional needs of victims perform the examinations in a setting especially designed for victims. The intent of these programs is to free doctors to attend to other medical emergencies; to use consistent forensic examination practices to ensure appropriate steps are followed in collecting, handling, and storing evidence; and, most importantly, to assist sexual assault victims in a compassionate and sensitive manner. Various communities have found that examination rooms designed for victims seem to increase their willingness to participate in the criminal justice system. They have also found that the use of trained nurse examiners can reduce costs, as well as enhance the provision of services.

Goals:

- To increase victim participation in the criminal justice system by facilitating the use of nurse examiners and special settings for expert medical examinations; and
- To promote consistent and quality practices in providing expert medical examinations for victims of sexual assault and child sexual abuse.

Objectives:

- To survey and assess promising policies, procedures, and training materials used by sexual assault nurse examiner programs around the country;
- To give the details regarding the training provided to nurse examiners and how to set up special medical settings for expert medical examinations;
- To issue a guidebook on the operation of sexual assault nurse examiner programs for the field;
- To identify competent, experienced sexual assault nurse examiners for training purposes;
- To assess whether nurse examiner programs are useful in providing evidentiary medical examinations to child sexual abuse victims; and
- To provide information about the use of specialized clinics or rooms to conduct these examinations.

Program Strategy: This solicitation invites applications for a grantee to develop a guidebook on how to implement and operate a nurse examiners program for victims of sexual assault and how to establish examination rooms especially designed for victims. The grantee also will explore whether similar programs can be established for child sexual abuse victims. The program will be comprised of three phases:

I. Assessment: This phase entails the identification and assessment of materials currently describing or in use by sexual assault nurse examiner programs. As part of the assessment, the grantee will convene an advisory board of experienced nurse examiners and administrators of such programs, as well as representatives from law enforcement and prosecutors' offices, for their input and for the review of collected materials. The activities to be completed are:

- Establishment of an advisory committee;
- Development and submission of a plan and criteria for surveying and assessing sexual assault nurse examiner programs, similar programs for child sexual abuse victims, and use of medical settings especially designed for victims;
- Survey and review of literature, policies, procedures, and practices for sexual assault nurse examiner programs and use of special examination settings;
- Identification and description of model programs nationwide; and
- Preparation of an assessment report of findings.

II. Development of Prototype: Upon completion of the first phase, the grantee will, in collaboration with its advisory board, develop a model program brief for implementing and operating a sexual assault nurse examiner program and for establishing special settings for expert medical examinations. The brief will highlight essential components of nurse examiner programs, as well as optional or adaptable elements from model programs around the nation. Attention will be given to issues such as training and credentialing of nurse examiners, as well as qualifying them to testify in court. The brief will also describe examples of special medical settings used for expert medical examinations of crime victims. The activities for this phase are:

- Development and drafting of model program elements;
- Highlighting of model programs identified by the survey; and
- Review and refinement of draft product.

III. Finalization of Products: Upon completion of the second phase, the grantee will produce the guidebook and make it available to the field. The activities for this phase are:

- Development and draft of guidebook, consisting of the model program brief and accompanying instruction on how to set up a sexual assault nurse examiner program and clinic designed for victims;
- Review and refinement of draft;
- Development of a plan for product dissemination;
- Identification in list form with supporting vitae of training and technical assistance staff for addition to the OVC Trainer's Bureau;
- Preparation of a final report on the project; and
- Preparation of an OVC Bulletin summarizing the project's findings.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

- Expert knowledge of trauma related to sexual assault and unique needs of these victims;
- Expertise in conducting national-scope information searches;
- Knowledge of issues associated with the criminal justice system's handling of crime victims and, more specifically, service provision to sexual assault victims; and
- Management and financial capability to oversee a project of this size and scope.

Award Period: 12 months.

Contact: Melanie Smith, (202) 616–3575.

Promising Strategies and Practices for Prosecutors (Cooperative Agreement)—Award Amount: $50,000

Purpose: To identify and document innovative policies, procedures,

VOL 60 ISS 85 MY 3 1995 UMI

practices, and programs used by prosecutors' offices to respond to the needs of crime victims, and to develop a plan for their dissemination.

Background: The prosecutor is a pivotal figure in the criminal justice system for victims. Prosecutors represent the state and manage the case against the offender. They should inform victims of the status of their case from the time of charging to the final disposition. They also should inform the court about the victims' views on key decisions, such as bail, plea bargains, and sentencing, and make every effort to allow victims the opportunity to be heard by the court. Prosecutors must try to protect victims from any threats, intimidation, or harassment from offenders. In addition, prosecutors should ensure that victims have the support and assistance they need in order to participate fully in the criminal justice process.

Goal: To increase and enhance services provided by prosecutors to crime victims.

Objectives:

• To identify the elements of exemplary victim-related prosecutorial practices;

• To find existing practices and programs that contain these elements;

• To prepare detailed descriptions of the promising practices; and

• To prepare a plan for disseminating this information to prosecutors' offices nationwide.

Program Strategy: This initiative will identify the most promising victim-related prosecutorial practices and programs, describe their essential elements, and make that information available to prosecutors' offices. The grantee will first identify prosecution experts who can assist in developing criteria for determining what practices can be considered "promising." Examples of promising practices might include specialized units to handle certain types of cases, such as sexual assault or domestic violence; vertical prosecution; and community-based prosecutor's offices. The grantee will then conduct an overview of the field to identify practices and programs that meet the criteria. The review should include an examination of tribal agency practices in Indian Country and state and local programs. Under another grant to a U.S. Attorney's office, which is described later, promising approaches used by Federal prosecutors are being identified and documented.

Once the promising practices and programs have been identified, project staff will collect information in sufficient detail to allow other agencies to replicate them. This information will be compiled into a compendium of "Promising Strategies and Practices for Prosecutors." A shorter version of the document will be prepared for publication as an OVC Bulletin.

The products of this project include:

• Selection criteria for promising practices;

• Assessment Plan for identifying promising practices;

• Comprehensive descriptions of the essential elements of each promising strategy or program;

• Compendium of Promising Practices, in complete and shortened Bulletin format;

• Final Report, including project assessment; and

• A dissemination plan.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate knowledge of prosecutorial practices, as well as victim rights and services related to the other aspects of the criminal justice system.

Award Period: 12 months.

Contact: Susan Laurence, (202) 616–3573.

Promising Strategies and Practices for Probation and Parole Agencies (Cooperative Agreement)—Award Amount: $75,000

Purpose: To identify and disseminate innovative policies, procedures, and programs developed by individual probation and supervising parole agencies to respond to the needs of crime victims, and to encourage their replication.

Background: Historically, most involvement of crime victims in the criminal justice process has occurred in the early phases of case investigation and prosecution. Once an offender is convicted, many victims have believed—and have been supported in this belief by criminal justice personnel—that they no longer need to be involved in the case or to expect information or services from system officials. Yet almost five million Americans were under some form of correctional control in 1993, with more than two-thirds of these being supervised in the community on probation or parole.

The perceived and actual danger of an offender to his or her victim does not necessarily end with a conviction or with the completion of a prison term. Nor can a victim realistically feel fully protected merely knowing that his or her offender is under community supervision. Victims need information and services from probation and parole personnel.

A number of individual agencies that supervise offenders in the community have created innovative victim-related practices and programs. Some promising practices include strategies for informing victims of offender status changes, soliciting their input, and using trained volunteers. Others have created enforcement courts that collect substantial amounts of unpaid restitution for victims.

Goal: To increase and enhance services provided by probation and parole agencies to crime victims.

Objectives:

• To identify the elements of exemplary victim-related probation and parole community supervision practices;

• To find existing practices and programs that contain these elements;

• To prepare detailed descriptions of the promising practices; and

• To disseminate this information to probation and parole agencies.

Program Strategy: This initiative will identify the most promising victim-related community supervision practices and programs in probation and parole, describe their essential elements, and make that information available to probation and parole agencies. The grantee will first identify community corrections experts who can assist in developing criteria for determining what practices can be considered "promising." The grantee then will conduct an overview of the field to identify practices and programs that meet the criteria. The review should include an examination of tribal agency practices in Indian Country, Federal approaches, and state and local programs.

Once the promising practices and programs have been identified, project staff will collect information in sufficient detail to allow other agencies to replicate them. This information will be compiled into a compendium of "Promising Practices in Probation and Parole." A shorter version of the document will be prepared for publication as an OVC Bulletin.

The products of this project include:

• Selection criteria for promising practices;

• Assessment Plan for identifying promising practices;

• Comprehensive descriptions of the essential elements of each promising strategy or program;

• Compendium of Promising Practices, in complete and shortened Bulletin format;

• Final Report, including project assessment; and

• A dissemination plan.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate knowledge of probation and parole practices, and victim rights and services within the criminal justice system.

Award Period: 12 months.

Contact: Susan Laurence, (202) 616–3573.

Promising Strategies and Practices for Corrections Agencies/Training and Technical Assistance (Cooperative Agreement)— Award Amount: $150,000

Purpose: To identify and disseminate innovative policies, procedures, and programs developed by institutional corrections agencies and paroling authorities to respond to the needs of crime victims, to encourage their replication by prison and jail personnel and parole board members.

Background: In 1988, the American Correctional Association's Task Force on Crime Victims issued a set of recommendations for improving the treatment of victims by correctional agencies. The recommendations fall into four major areas: (1) Training on victim issues and victim awareness for correctional staff; (2) direct services to victims; (3) victim assistance programs for correctional staff; and (4) victim awareness programs for offenders. Responding to the call from the corrections profession to become more victim oriented, OVC awarded a grant for a project entitled, "Crime Victims and Corrections" in 1989. The grantee surveyed the needs of the field, and developed and pilot-tested a training curriculum with protocol and related materials focusing on promising and innovative victim-related programs and practices. In two subsequent phases of the project, the grantee provided training and technical assistance to a number of jurisdictions, working intensively in eight states, as well as with Department of Defense (DoD) and Federal Bureau of Prisons correctional personnel. A final phase of the project provided training solely to DoD personnel.

During the last four years, the demand from the field for both basic and advanced training and technical assistance on victim topics has increased. Requests have come from institutional corrections, paroling authorities, and more recently, jail officials. This project will allow OVC to respond to these requests.

Goal: To improve the correctional system's response to the needs and rights of crime victims by providing training and technical assistance on promising victim-related practices and programs.

Objectives:

• To determine the current level of victim services provided by correctional agencies;

• To identify promising practices and programs used by correctional agencies to address victim needs;

• To produce up-to-date training materials for institutional corrections, paroling authorities, and jail personnel;

• To provide training and technical assistance to selected correctional agencies and jurisdictions;

• To disseminate information about promising practices to correctional personnel; and

• To evaluate the impact of the training and technical assistance activities on individual agencies and the field.

Program Strategy: This solicitation invites applications from eligible organizations to refine and expand existing training curricula and materials, to provide both intensive and short-term training and technical assistance on promising practices to select correctional agencies, and to extend the training to target the specific victim-related needs of jail personnel.

The grantee will conduct the following activities:

• Conduct an overview of victim-related policies and services in jails, state institutional corrections agencies, and paroling agencies;

• Update OVC's "Crime Victims and Corrections" training curriculum manual with information on newly identified promising practices, programs, and overview results;

• Adapt the training manual and materials to address specific needs of jail personnel;

• Identify qualified professionals who can provide high quality training and technical assistance and, if necessary, conduct train-the-trainer workshops;

• Identify at least one jail jurisdiction for pilot assessment and intensive training and technical assistance;

• Identify two states for assessment and intensive training and technical assistance;

• Conduct an on-site assessment process in selected sites;

• Conduct customized, intensive training conferences and provide follow-up technical assistance; and

• Evaluate the impact of the project.

Interim documents and final products include:

• Overview Plan and Report;

• Training Curriculum Manual, with related training materials;

• Modified Training Curriculum Manual for Jail Personnel;

• Outreach Package and Selection Criteria for Intensive Sites;

• Site Assessment Reports;

• Training Conference Agendas;

• Training and Technical Assistance Reports;

• Promising Practices Report, to be published as an OVC Bulletin;

• Final Report, including project assessment; and

• A dissemination plan.

OVC intends to fund another phase of the project for a second 18 month period, based on the findings and accomplishments of this project. During the second period, additional jail jurisdictions and state corrections agencies would be selected for intensive training and technical assistance, and follow-up assistance would be provided to sites from previous years.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate knowledge of institutional corrections, parole, and jail policies and practices, as well as victim rights and services related to the criminal justice system. Eligibility for any continuation of this project is contingent upon satisfactory work performance and product development under this phase of the grant.

Award Period: 18 months.

Contact: Susan Laurence, (202) 616–3573.

Promising Strategies and Practices for the Judiciary

Award Amount: $100,000.

Purpose: To identify and document innovative policies, procedures, practices, and programs used by the judiciary to respond to the needs of crime victims and to develop a plan for their dissemination.

Background: Judges play a central, vital role in the entire criminal justice process. Their decisions, actions, and attitudes affect the practices of all other criminal justice professionals. For this reason, it is crucial for judges to understand the impact of crime on victims and how the victimization experience creates special needs for victims that can only be addressed by a balanced and fair system of justice. Many judges are aware of the needs of the victims in the cases they adjudicate, and they make every effort to ensure that victims are informed, present, and heard at key decision points in the judicial process. However, judicial training regarding victim-sensitive policies, procedures, and practices in courtrooms is needed. This project would identify these approaches and recommend appropriate avenues for disseminating information about them to judges throughout the country.

Goal: To increase judicial understanding about the unique needs of crime victims and how those needs

VOL 60 ISS 85 MY 3 1995 UMI

can be addressed within the court setting at the local, county, state, tribal, and Federal levels.

Objectives:

- To identify the needs of victims that can be addressed within the court setting;
- To review state and federal judicial training programs for the information regarding victims and witnesses provided;
- To share examples of existing policies, procedures, and practices used by individual judges or court administrators to address the needs of victims;
- To identify curricula and training materials that can communicate court-related victim needs and victim sensitive approaches to other judicial jurisdictions; and
- To develop recommendations for encouraging the adoption of victim sensitive practices by the judiciary nationwide.

Program Strategy: This solicitation invites applications for one grantee to conceptualize, organize, and convene a two day transfer of knowledge symposium on promising judicial responses to crime victims. The symposium will bring together up to 40 participants, including judges from the local, county, state, tribal, and Federal levels, as well as representatives from national judicial and victim service organizations. Participation will be by invitation only, and the grant will cover attendees' travel and per diem expenses.

The grantee will develop resource materials that will be sent to participants prior to the symposium. The symposium agenda will include an introductory session followed by plenary and small group sessions. Participants will share information about promising policies, procedures, and practices; identify effective training materials; identify areas for further action; and, as a final group task, produce a report of recommendations to improve the response of the judiciary to crime victims through the dissemination of these types of information. At the close of the event, participants will evaluate the symposium.

Major products include:

- A list of attendees, for OVC review and approval;
- A symposium agenda, including descriptions of presentations;
- A participant resource package;
- An assessment plan; and
- A symposium report containing recommendations and action plans developed by participants.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate an understanding of the victimization experience, as well as an extensive knowledge of and experience with the judicial process at its various levels.

Contact: Duane Ragan, (202) 307–2021.

Promising Strategies and Practices in Rural Areas (Cooperative Agreement)—Award Amount: $75,000

Purpose: To identify and document innovative policies, procedures, practices, and programs developed by victim service providers, criminal justice agencies, and others who serve crime victims in rural areas and to develop a plan for their dissemination.

Background: When violent crime occurs in a rural area, its victims and those who would help them must contend with a variety of issues and concerns that are specifically related to the rural environment and lifestyle. One of the first issues that must often be faced is inaccessibility of services. The victim may live some distance away from the nearest town, which may not have the capacity to respond quickly to a crisis situation or have the particular type of support services that are needed. Residents in isolated areas may not have telephone service or access to public transportation, and neighbors may be too far away to help.

Social attitudes in rural areas can also present obstacles for victims. A rural victim of violent crime often finds that others discount or deny the seriousness of the offense, or blame the victim for the incident. Also, in small towns even the most private matters can become public knowledge, often in a distorted version. This can make it difficult to maintain confidentiality regarding the event and bring further humiliation to the victim.

Goal: To increase and enhance services provided to crime victims in rural areas.

Objectives:

- To identify the elements of promising approaches to assisting victims in rural areas;
- To find existing practices and programs that contain these elements;
- To prepare detailed descriptions of the promising practices; and
- To prepare a plan for disseminating this information to relevant agencies.

Program Strategy: This initiative will identify the most promising victim-related practices and programs for responding to crime victims who live in rural areas, describe their essential elements, and develop a plan to make this information available nationwide. The grantee will first identify victim assistance and criminal justice experts who can assist in developing criteria for determining what practices can be considered "promising." The grantee will then conduct an overview of the field to identify practices and programs that meet the criteria. The review should include an examination of tribal agency practices in Indian Country, Federal approaches, and state and local programs.

Once the promising practices and programs have been identified, project staff will collect information in sufficient detail to allow other agencies to replicate them. This information will be compiled into a compendium of "Promising Strategies and Practices for Assisting Crime Victims in Rural Areas." A shorter version of the document will be prepared for publication as an OVC Bulletin.

The products of this project include:

- Selection criteria for promising practices;
- Assessment Plan for identifying qualifying practices;
- Comprehensive descriptions of the essential elements of each promising strategy or program;
- Compendium of Promising Practices, in complete and shortened Bulletin format; and
- Final Report, including project assessment.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate knowledge of victim service strategies in rural areas, as well as victim rights and services related to the criminal justice system.

Award Period: 12 months.

Contact: Jackie McCann Cleland, (202) 616–2145.

Promising Strategies and Practices in Professional Education—Award Amount: $100,000

Purpose: To identify and document promising and innovative courses and professional curricula that address victim issues and to enhance education on these issues for students at undergraduate and graduate schools of law, medicine, nursing, divinity, criminal justice, mental health, and social work.

Background: Many of the professionals who routinely work with crime victims—both within and outside of the criminal justice system—do not receive adequate training in crime and victim-related issues. For example, attorneys often are not trained to respond sensitively and effectively to clients who are crime victims. Similarly, physicians frequently lack the training necessary to identify and assist patients who exhibit symptoms related to victimization. As with law and medicine, many members of other professions—including nursing, social work, criminal justice, and the clergy—do not receive adequate training on crime victim issues.

Without an understanding of issues central to crime victimization, many professionals will be limited in their ability to meet their clients' needs. An assessment of the most promising existing professional curricula may encourage the integration of materials regarding crime victim issues into many college and university courses. Ultimately, this instruction should lead to better treatment for the crime victims served by these professionals.

Goals:

- To foster better treatment of crime victims and survivors by members of key professions; and
- To improve the education on crime victim issues that is provided to prospective professionals in a variety of disciplines;

Objectives:

- To identify and assess existing courses and curricula on crime victim issues at colleges and universities—at the undergraduate and graduate level—including at schools of law, medicine, nursing, social work, criminal justice, mental health, and divinity;
- To document and describe effective professional curricula on crime victim issues;
- To develop a multidisciplinary core curriculum that can eventually be used as the foundation for discipline-specific curricula on crime victim issues. OVC will make available copies of curricula developed under previous OVC grants to assist the grantee in meeting this objective; and
- To survey state laws and regulations to ascertain licensing and credentialing requirements for the professions listed above regarding crime victim issues.

Program Strategy: This solicitation invites applications for one grantee to survey academic and professional training institutions for curricula and programs that effectively address crime victim issues and to develop a core curriculum for professions that work with crime victims. The core curriculum and other products developed by the grantee will be the foundation for discipline-specific curricula, to be developed in the project's second year through competitively awarded funding. The first year's project activities will take place in the following three phases:

I. Assessment: The first phase of the project entails a survey, identification, and assessment of academic curricula and best programs, including clinical programs and multidisciplinary courses on victim issues, currently in use by schools of law, divinity, medicine, nursing, criminal justice, and social work. Academic and professional associations for these professional groups shall be contacted as part of the survey process. The activities to be completed are:

- Establishment of an advisory committee with OVC review and approval;
- Development, drafting, and submission of an assessment plan and assessment criteria;
- Survey, identification, collection, and review of existing professional curricula that address crime victim issues;
- Description and detailed summary of promising curricula and programs, including examples of multi-disciplinary programs established at graduate schools; and
- Preparation of a comprehensive assessment report of findings.

II. Development of Prototype: Upon completion of the first phase, the grantee will develop a multidisciplinary core curriculum that may serve as the foundation for discipline-specific curricula developed later. The prototype will address crime victims' mental, emotional, physical, and spiritual needs; crime victims in the criminal justice system; relevant legislation; and the role of victim service providers. To assist with this process, OVC will provide a copy of the curriculum currently under development for the Victim Assistance Academy. Elements to be included in discipline-specific curricula should also be enumerated and described. Activities to be completed are:

- Development, drafting, and submission of a multidisciplinary core curriculum, for OVC review and approval;
- Summary of discipline-specific curricular elements; and
- Review and refinement of the draft.

III. Finalization of Products: Upon completion of the second phase, the grantee will prepare a report listing and describing effective curricula and professional programs at identified academic and training institutions; a multi-disciplinary core curriculum on crime victim issues with an enumeration and discussion of elements to be included in discipline-specific curricula; and a final report with recommendations for developing discipline-specific curricula in the second year of the project. Samples of collected curricula should be appended to the final products.

Based upon the findings and recommendations of the grantee funded under the first year of the project, OVC anticipates funding a program to build on the products developed under this initiative by developing a few discipline-specific crime victims' curricula and a train-the-trainer component. The first year's products would be made available to second year grantees for this purpose.

The grantee also will produce an OVC Bulletin highlighting promising practices in teaching about crime victim issues in colleges and universities for dissemination through OVC to the field. In addition, the grantee will produce an OVC Bulletin that describes state requirements for education regarding crime victim issues that are mandated for the people who work with victims.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

- Expertise in conducting a national-scope information search;
- Knowledge of curriculum development and implementation;
- Knowledge of issues associated with the criminal justice system's handling of crime victims;
- Management and financial capability to oversee a project of this size and scope; and
- An understanding of the role of each discipline in serving crime victims.

Contact: Melanie Smith, (202) 616–3575.

Promising Strategies and Practices in Using Technology To Benefit Crime Victims (Cooperative Agreement)

Award Amount: Up to $100,000.

Purpose: To survey the field to ascertain innovative applications of technology to benefit crime victims, convene a symposium of crime victim advocates, service providers, and experts in technology to explore ways in which emerging technologies can be enhanced to assist crime victims, and issue a report that describes promising practices, recommendations for future action, and resource contacts.

Background: The Information Age is transforming the ways in which public and private sector organizations disseminate information and render services. The labor-intensive, underfunded crime victims field needs to develop technological literacy and seriously consider ways in which computer networks and other emerging technologies can be applied. Through a national-scope symposium, leaders in technology and victim services can come together to identify problem areas in providing services to crime victims and discuss ways in which advancing technologies can fill service gaps,

VOL 60 ISS 85 MY 3 1995 UMI

simplify procedures, ensure the safety and confidentiality of crime victims, and otherwise assist crime victims, their advocates, and allied professionals.

Goal: To use emerging technologies to assist crime victim advocates and victim service providers to enhance services to crime victims.

Objectives

- To survey the field to identify existing technologies that already serve crime victims at the Federal, state, and local levels;
- To identify promising practices that apply these technologies to benefit crime victims;
- To identify and convene a group of crime victim advocates, assistance providers, and experts in technology for a two-day transfer of knowledge symposium;
- To identify gaps in services to crime victims that might be remedied or improved through applied technology;
- To identify ways in which emerging technologies can be used to inform, assist, and serve crime victims, and to explore ways to enhance communication about victim issues within the field; and
- To develop an action plan with strategies to implement the ideas discussed during the symposium and to recommend future collaboration in this area.

Program Strategy: This solicitation invites applications for one grantee to identify and demonstrate promising practices regarding the use of technology to benefit crime victims; organize a two-day transfer of knowledge symposium for about 25 participants on issues related to technology and crime victim services; and develop an action plan with recommendations for future action. The grantee will identify an appropriate balance of participants from the fields of crime victim assistance and applied technology. Participation will be by invitation only, and attendees will be expected to cover their own travel and per diem expenses. Some limited stipends will be available to address cases of special need.

The grantee will develop resource materials that will be sent to participants prior to the symposium. The grantee also will be responsible for identifying a symposium site and coordinating the symposium logistics.

Interim documents and final products include:

- A summary of promising practices;
- A list of attendees, for OVC review and approval;
- A symposium agenda, including descriptions of presentations;
- A participant resource package;
- Documented symposium proceedings;
- A symposium report, on disk and hard copy, containing recommendations and action plans developed by participants; and
- A dissemination plan.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

- Knowledge of the organization, development, and implementation of training conferences;
- Knowledge of applied communications technologies;
- General knowledge of crime victim issues; and
- Management and financial capability to oversee a project of this size and scope.

Award Period: 12 months.

Contact: David Osborne, (202) 616–3580.

Promising Strategies and Practices to Improve Services for White Collar Crime Victims (Cooperative Agreement)—Award Amount: $100,000

Purpose: To improve the response of Federal criminal justice personnel to the rights and unique needs of Federal victims of white-collar crime, and to develop a resource package to assist service providers and victims.

Background: Many in the criminal justice system and in society fail to recognize the serious nature and profound impact of white-collar crime on individuals. Nonviolent white-collar crime can be psychologically devastating to victims, who experience psychological trauma and other reactions similar to victims of violent crime. These emotional reactions can be profound, especially when the victim is a senior citizen, is on fixed income, or has limited resources. The criminal justice system often is unprepared to respond to the emotional and financial devastation experienced by victims of this crime.

Goal: To improve the response of Federal criminal justice personnel to the rights and unique needs of Federal victims of white-collar crimes.

Objectives:

- To create a resource package that contains information for Federal criminal justice personnel to inform white-collar crime victims of their rights, the services they can expect, and a description of the criminal justice system; and
- To develop a 20-minute videotape that explains the nature and extent of Federal white-collar crimes, as well as the devastating psychological and financial impact of these crimes, especially upon senior citizens.

Program Strategy: This solicitation invites applications for a grantee to develop resource packages that will enhance the ability of Federal Victim-Witness Coordinators and other criminal justice personnel to assist white-collar crime victims and witnesses. The OVC program specialist will work closely with the grantee throughout the assessment and product development phases of the project to ensure that feedback is provided from representatives on any ad-hoc working group.

The grant activities and products include:

- The establishment of an ad-hoc DOJ working group to assist the grantee in identifying resource materials and effective strategies for helping victims;
- A review of existing materials that assist white-collar crime victims;
- The development and printing of a camera-ready victim pamphlet that provides information regarding the dynamics of white-collar crime, the investigative phase, the unique needs of senior citizens who are victimized by scams and frauds, and victims' rights and services. This pamphlet should be broadly disseminated to potential fraud victims identified early during a fraud investigation;
- The development and printing of a camera-ready victim handbook for dissemination by Federal Victim-Witness Coordinators to victims who will be participating in the Federal prosecution. This booklet will give a range of information about the victim's role and what to expect as the case proceeds through the criminal justice process;
- The development of a 20-minute educational videotape that explains the nature and extent of Federal white-collar crimes, the devastating psychological and financial impact of these crimes, and preventive strategies. The videotape will be distributed by Federal Victim-Witness Coordinators to victims, community advocacy groups, victim assistance professionals, and Federal criminal justice and court personnel;
- The development of a Guidebook for Federal Victim-Witness Coordinators on promising practices and program strategies for assisting white-collar crime victims; and
- The development of the package containing products described above for each U.S. Attorney's Office.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

- Experience in developing and producing material and/or videos for use by criminal justice personnel;

- Experience in and knowledge of trauma reactions of victims of violent and nonviolent crimes;
- Demonstrated knowledge in assessing the emotional and financial needs, rights and concerns of white-collar crime victims; and
- Demonstrated knowledge in researching and applying appropriate strategies for effective assistance to white-collar crime victims as they participate in the criminal justice process.

Selection Criteria: All applicants will be evaluated and rated based upon the extent to which they meet the following criteria:

A. Utility of the project: (10 Points)

Project's purpose, goals, and objectives are clearly stated and the usefulness of the project to the field is clearly defined by the applicant.

B. Project Strategy/Design: (25 Points)

Project's plan for undertaking activities is sound and specific, and includes how the applicant intends to achieve the purpose, goals, and objectives of the project.

C. Implementation Plan: (25 Points)

Project's implementation plan is sufficiently thorough and is appropriately tied to the project's strategy so that adequate time lines and staff resources can be identified.

D. Qualifications of Organization/Project Staff: (25 Points)

Applicant possesses the necessary management, staff, and financial capabilities to complete the project successfully.

E. Budget: (10 Points)

Applicant's proposed budget directly relates to the project strategy and implementation plan, includes reasonable and allowable costs, and provides narrative detail on the project's budget cost.

F. Assessment Plan: (5 Points)

Applicant includes a strategy for testing the effectiveness of the materials as the products are developed.

Award Period: 18 months.

Contact: Laura Federline, (202) 616–3576.

Promising Strategies and Practices for Healing Through Community Service (Cooperative Agreement)—Award Amount: $50,000

Purpose: To create a document that describes how community involvement by individual crime victims has assisted them in reorganizing their lives following the trauma of victimization and sets forth a step-by-step therapeutic plan to assist victims to heal.

Background: Victims of violent crime experience a variety of profound, long-lasting effects resulting from their victimization. In the wake of crime, many victims have been moved to reach out and help other victims and their communities. This help may take the form of either prevention or assistance activities. Some victims decide to get involved with an activity or a program designed to prevent further crime, such as serving on a victim impact panel or participating in a crime victims conference. Often victims offer assistance to other victims to ease their sense of dislocation and personal devastation. In either case, the victim who gets involved in helping others can hasten his or her own healing process.

Many victims and service providers, including mental health professionals, are unaware that this type of involvement can benefit crime victims. Moreover, little is known about the most appropriate timing for these kinds of activities. This document will illustrate, through the use of case examples of community service by crime victims, how these victims have helped themselves by helping others.

Goal: To support the use of promising strategies for addressing the needs of crime victims.

Objectives:

- To identify activities in which victims can participate to aid their recovery process;
- To profile individuals who have productively engaged in these activities;
- To provide guidance to victims and victim advocates about these types of victim involvement; and
- To provide step-by-step strategies to assist crime victims in the healing process.

Program Strategy: This grant will support the development, publication, and dissemination of a monograph on the role of victim activism as a victim assistance strategy. The grantee will review and assess the principal crime prevention and victim assistance activities that victims commonly participate in after they have been victimized. This process will explore the major issues involved in victim activism, such as the length of time that victims should wait before they become involved in these activities and what type of involvement is likely to be most suitable for different types of people. In examining these and related issues, the grantee will conduct extensive interviews with activists who have been crime victims, victim advocates, and mental health professionals who work with them.

During the review and assessment process, the grantee will identify individuals who have used diverse victimization experiences to fuel creative and effective activities or programs to benefit others. The histories and accomplishments of at least ten of these outstanding individuals will be profiled and produced as case studies.

The final major task of the grantee is to produce a monograph. This will catalogue the variety of ways victims become active in helping others, illustrated by profiles of exceptional individuals. It should include a presentation of the issues involved in this type of activism and how they can best be addressed, as well as detailed recommendations for addressing common victim reactions to crime.

Major products include:

- Catalogue of victim involvement activities;
- Discussion paper on major issues involved in victim activism;
- Case studies of at least ten victims whose community service has benefited themselves and others. These should be based upon taped "oral history" type interviews;
- Monograph to be used as an OVC Bulletin; and
- Recommendations for expanding this grant into an oral history project regarding crime victims whose community service following their victimization has benefited both them and their community.

OVC may decide to fund this project in the future through a continuation grant to compile additional case studies.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate an understanding of the victimization experience, knowledge of victim assistance practices and programs, and expertise in writing and producing publishable documents.

Award Period: 12 months.

Contact: Jackie McCann Cleland, (202) 616–2145.

Guidelines for Victim/Offender Mediation and Dialogue (Cooperative Agreement)—Award Amount: $50,000

Purpose: To establish criteria for effective victim/offender mediation programs that are victim-oriented and sensitive.

Background: Programs bringing victims face to face with their offenders have sprung up across the country. While some victims strongly prefer not to interact with their assailants, for other victims, these types of personal meetings provide the opportunity to describe the impact of the crime and seek answers to unanswered questions regarding the nature of the crime directly from the attacker.

While some of these programs may be effective, others appear to be offender-oriented. In these, the mediation

VOL 60 ISS 85 MY 3 1995 UMI

sessions may be conducted by juvenile justice or criminal justice personnel who have little understanding of the victimization experience or of the needs of victims. Without appropriate sensitivity and preparation, this form of intervention can be harmful to victims.

Goal: To improve and enhance services designed to empower and restore crime victims.

Objectives:

- To identify effective victim/offender mediation programs;
- To develop victim-oriented program guidelines for conducting victim/offender mediation;
- To create training materials for victim/offender mediation that are applicable to a variety of program settings; and
- To develop a plan for disseminating the guidelines and information about promising practices in victim/offender mediation and dialogue.

Program Strategy: This solicitation invites applications for a grantee to survey existing victim/offender mediation programs throughout the country, as well as some promising programs in other countries. This information should detail program goals and objectives; programmatic structure and agency affiliations; procedures and protocols; staffing, staff backgrounds, and training; and measures of effectiveness. The grantee will identify and describe particularly promising programmatic elements and develop a set of criteria for conducting effective and appropriate victim/offender mediation. Based on the criteria, training materials will be created to guide the development of effective victim/offender mediation programs in a variety of settings, including college campuses and the workplace.

The grantee will develop an OVC Bulletin that highlights existing promising programs and presents guidelines for conducting effective victim/offender mediation. The Bulletin should also include specific examples of kinds of crimes and circumstances which may lend themselves to mediation.

Major project products include:

- Assessment plan;
- Draft survey guide;
- Profiles of promising practices and programs;
- Criteria for victim sensitive victim/offender mediation programs;
- Training materials on program implementation;
- Guidelines for Victim/Offender Mediation, to be published as OVC Bulletin; and
- Dissemination plan.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, eligible applicants must demonstrate expert knowledge of victim/offender mediation principles and practices, the criminal and juvenile justice systems, and related victim issues.

Award Period: 12 months.

Contact: Susan Laurence, (202) 616–3573.

Workplace Violence Symposium

Award Amount: $30,000.

Purpose: To improve the capacity and preparedness of employers and victim assistance providers to respond to the unique needs of victims of workplace violence.

Background: According to the Bureau of Justice Statistics, each year nearly one million individuals become victims of violent crime (e.g., rape, robbery, assault, or homicide) while working or on duty. Crime costs these victims more than $55 million in lost wages annually, not including days covered by sick or annual leave. Six out of ten incidents of workplace violence occur in private companies. In these companies, first responders are frequently employee assistance personnel or security guards, who often lack basic crisis response techniques. Company managers may not know how to assist employees whose performance suffers due to the effects of personal crime victimization or traumatic effects resulting from a co-worker's victimization.

Goal: To improve employer response to primary and secondary victims of workplace violence.

Objectives:

- To identify issues and challenges in responding effectively to victims of workplace violence;
- To identify and share examples of programs and techniques for immediate and long-term assistance for victims of workplace violence; and
- To develop strategies for further action in this area.

Program Strategy: This solicitation invites applications for one grantee to conceptualize, organize, and convene a two-day transfer-of-knowledge symposium for 30 participants on issues related to workplace violence. OVC will collaboratively plan the symposium with other Federal agencies that have workplace related responsibilities, such as HHS, the Department of Labor, the Centers for Disease Control and Prevention, the United States Postal Service, and the Department of Commerce.

The grantee will identify an appropriate balance of participants from the fields of victim assistance, employee assistance, and business management/administration. Participation will be by invitation only, and attendees will be expected to cover their own travel and per diem expenses.

The grantee will develop resource materials that will be sent to participants prior to the symposium. Participants will share information about promising practices, identify areas for further action, and, as a final group task, produce a report of recommendations and action plans to improve the response of employers to incidents of workplace violence. At the close of the event, participants will be asked to evaluate the conference. Symposium activities and discussions will be recorded and published in a written report for dissemination nationwide.

Interim documents and final products include:

- A list of attendees, for OVC review and approval;
- A symposium agenda, including descriptions of presentations;
- A participant resource package;
- An assessment plan;
- A transcript of symposium proceedings;
- A symposium report containing recommendations and action plans developed by participants; and
- A dissemination plan.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

Knowledge of the organization, development, and implementation of training conferences;

- Knowledge of workplace violence issues;
- Knowledge of victim assistance practices related to workplace violence; and
- Management and financial capability to oversee a project of this size and scope.

Award Period: 12 months.

Contact: Duane Ragan, (202) 307–2021.

B. Training and Technical Assistance for Crime Victim Practitioners and Allied Professionals

Regional Seminars for Establishing Community and Institutional Crisis Response Teams

Award Amount: $60,000.

Purpose: To provide high quality training on the establishment of community and institutional crisis response teams at the regional level to victim service providers, criminal justice personnel, and others who regularly deal with crime victims.

Background: Like individuals, an entire community or an institution's entire work force may suffer trauma in the wake of a sudden, devastating crime. To be most effective, crisis intervention with survivors should be immediate. Subsequent follow-up "debriefings" of victims and others impacted by the crime are needed to reduce long-term trauma. Local care-givers may be among those who are traumatized by the event, and may themselves need to receive assistance to deal with the aftermath of the crime. For an adequate crisis response to be mobilized, the plan should be formulated before the critical event, and crisis team members should be designated, trained, and ready to respond.

Goal: To establish community and institutional crisis response teams.

Objectives:

- To produce up-to-date, comprehensive training materials and a booklet regarding how to establish community and institutional crisis response teams for the field;
- To identify highly skilled trainers capable of presenting this training; and
- To provide focused training on these topics at the regional level.

Program Strategy: OVC, in collaboration with BJA, invites applications to organize, conduct, and evaluate a series of four regional training seminars on establishing community and institutional crisis response teams. The regional training will assist participants in preparing a community or institutional crisis response plan that is flexible enough to appropriately address many possible crime-related crises. The plan must address both chronic crises, such as multiple victimizations on one college campus, and acute crises, such as the hostage situations.

The training also will assist in identifying key professionals to serve on the crisis response team. These should include mental health professionals, victim service providers, police and fire officials, members of the clergy, and others. Institutional teams should include representatives from key divisions within the institution, as well as many of the same types of agencies and professional groups from the local community as noted above.

In preparation for the seminars, the grantee will review and assess existing training materials and identify qualified trainers familiar with presenting the information. With input from the trainers, the grantee will produce a comprehensive and user-friendly training package, as well as a booklet setting forth the process for establishing a team for communities and institutions. A training plan and instruments for assessing its impact must also be developed.

Each seminar will last two to three days and train up to 60 participants. Since the effectiveness of the training is dependent upon reaching key individuals from a community or institution, the task of recruiting appropriate, area-specific groups is crucial. The recruitment process may require an intensive outreach effort. The training package will be disseminated to participants prior to each seminar. The training will be free of charge, but participants are expected to cover their own travel expenses.

Participants of each seminar will develop, as a final product of the training event, an Action Plan for future activities related to establishing a crisis response team. Approximately six to eight weeks after the training, the grantee will contact all participants to gather follow-up information and input about how each jurisdiction's Action Plan is being implemented. As an additional product, the grantee will prepare a shortened introductory version of the curriculum (including outline and overheads), which can be made available to agencies that wish to present it as a two hour workshop at training conferences.

Major project products include:

- Training package;
- Booklet on how to set up a crisis response team;
- Proposed faculty list;
- Marketing plan;
- Seminar agenda;
- Four two to three-day seminars;
- Assessment plan;
- Two-hour introductory curriculum; and
- Final Report, with assessment of project impact.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants from private and public organizations and agencies must demonstrate topical expertise and management capability to organize, market, conduct, and assess a seminar series on this topic.

Award Period: 12 months.

Contact: Susan Laurence, (202) 616–3573.

Conference Support Training Initiative

Award Amount: Up to $10,000 for the state grants; up to $30,000 for regional victim assistance training conferences; and up to $20,000 for victim assistance training tracks at national conferences. A total of $200,000 will be made available for these grants.

Purpose: To provide Federal support for national, Federal, state, and regional victim assistance training conferences.

Background: The growth of the victims movement and the increasingly specialized nature of professions involved in responding to victims of crime has led to an ongoing and profound need for both general and specific training in the field.

OVC has been instrumental in supporting statewide and regional network training and technical assistance efforts by funding quality trainers and covering conference costs. OVC is expanding this program to include support for victim assistance training at national conferences for professionals who work with crime victims.

During the past 2 years, OVC has co-sponsored about 25 state and regional victim assistance conferences. OVC is continuing and expanding its mini-grant program, formerly referred to as the State Conference Training Initiative. This funding is provided on a competitive basis to support statewide and regional victim assistance conferences, as well as tracks of victim assistance training at national conferences of allied professionals.

Goals:

- To supplement funding for victim assistance training and technical assistance to professionals at the national, Federal, regional, state, and local levels;
- To infuse victim assistance training into national conferences of allied professionals by providing funding to support tracks of training;
- To encourage coordination among the many professions interacting with crime victims such as the medical community, social service agencies, and criminal justice system components; and
- To improve the quality of victim assistance services by providing intensive training to direct service providers.

Objectives:

- To sponsor training presentations, at national, Federal, state, or regional victim assistance and other professional conferences, by high quality trainers, many of whom have been involved in OVC training and technical assistance projects;
- To offer OVC staff assistance in identifying training topics and quality trainers;
- To serve the needs of victims of Federal crimes by encouraging the participation of Federal victim-witness coordinators in planning national and state/regional training conferences, and by identifying and including topics that improve the response to Federal victims;
- To determine future training needs on a national, Federal, state, or regional

VOL 60 ISS 85 MY 3 1995 UMI

basis as a result of the discussions at the training conference; and

• To consider the types of crime, gaps in services and knowledge, coordination of service, and legislative mandates.

Program Strategy:

I. National Conferences

OVC will accept applications to support tracks of training at national conferences sponsored by medical, mental health, legal, and law enforcement communities as well as the clergy and other allied professions. OVC will support training tracks on general and specific victim-related topics such as understanding the trauma of crime victimization, providing services to survivors of homicide victims, crisis intervention, and advocacy.

II. Regional Conferences

OVC will continue to support regional training for victim assistance providers, program managers and advocates, crime victims, law enforcement officials, prosecutors, and other professionals who work with crime victims. By funding regional efforts, OVC expects to facilitate the exchange of relevant information and training, the coordination of victim assistance services, and interstate agreements.

III. State Conferences

OVC will support statewide efforts to provide training and technical assistance to state and local victim assistance providers and allied professionals. A portion of the training workshops must be devoted to Federal crime victim issues. These issues may include bank robbery, bias/hate crimes, white collar crime, and crimes occurring on Federal lands or in Indian Country.

The following provisions apply to each of the conferences described above. Applicants may select workshop topics from a broad menu of training topics recommended by OVC. These topics include training components for service providers working with victim populations, such as domestic violence, sexual assault, child abuse, elder abuse, victims of juvenile crimes, Native American crime victims, and victims of crime in rural areas.

At least 60 percent of each award must be used to finance workshop presentations approved by OVC and can be spent on such items as travel costs and consultant fees. Up to 20 percent of each award may be used to develop and reproduce conference materials, and up to 20 percent may be used to finance facility costs.

To maximize the benefit of the statewide and regional training conferences, it is recommended that conference planning involve state Victim Assistance and Compensation Administrators, victim assistance service providers, representatives from private, non-profit organizations such as state coalitions on sexual assault, domestic violence and child abuse; victim assistance coordinators from U.S. Attorney's offices, military bases and Indian reservations, and national victim organizations.

To ensure that the needs of victims of Federal crimes are served through these grants, all selected state and regional applicants will be required to involve their respective Federal victim-witness coordinators in the conference planning process.

Specific deliverables and activities that should be part of the applicant's program strategy include: The establishment of a conference planning committee or victim assistance advisory committee; an explanation of how recommendations from past conference assessments will be incorporated into conference planning as appropriate; a review of literature, products, policies, and/or practices that will be addressed in workshops; identification of future training needs that may be utilized by the national organization, states, and regions to provide training and/or technical assistance on crime victim issues; and a strategy for assessing the training by conference participants.

Deliverables should also include brochures announcing the conference or track of training to be offered in the case of national conferences; a tentative time/task plan for conference planning implementation; and identification of training personnel.

To obtain the menu of training topics and to discuss cost-related details, all interested applicants are strongly encouraged to contact OVC prior to submitting an application for funding.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, eligible applicants, including national organizations, state agencies, or qualified private non-profit organizations, must demonstrate the capability to manage a national, statewide, or regional conference. To be eligible for funding, the state or regional applicant also must include with its application a letter of support from the state crime victim compensation and victim assistance administrator(s). State victim compensation and assistance agencies, with the concurrence of the state victim coalitions and the U.S. Attorneys office, are also eligible to apply for funding.

Selection Criteria: All applicants will be evaluated and rated based on the extent to which they respond to goals and objectives and meet the weighted criteria as follows:

A. Organizational Capability (20 points)

Organizational capability is demonstrated at a level sufficient to support the project successfully. Previous experience in organizing and sponsoring victim assistance training events will be taken into account.

B. Project Strategy/Design (30 points)

The applicant's training needs are clearly stated and identified. Applications should reflect a responsiveness to the specific needs at the state and/or region, or the constituencies served by the national organizations. The goals and objectives of the proposed project are clearly identified. The strategy should include as wide a variety of training components as possible, to meet the needs at the national, state, or regional levels.

C. Qualifications of the Project Staff (10 points)

The qualifications of staff identified to manage and implement the program should be stated, with resumes included for each key staff person. Past experience related to training conference management should be included.

D. Program Implementation and Assessment Plan (20 points)

The project design must be sound, and the management structure must be adequate for the successful implementation of the project. This criterion includes adequacy of the project management structure, the feasibility of the tentative time/task plan, and the plan for assessing the impact of the project in accomplishing its goals.

E. Budget (20 points)

Budgeted costs are reasonable, allowable, and cost-effective for the activities to be undertaken.

F. Funding Preference

Funding preference will be given to applicants that have not previously participated in this OVC funding initiative, and to national organizations that have made a commitment to address crime victim issues.

Award Period: 12 months.

Contact: Diane Wells, (202) 616–1860, or Cynthia Darling, (202) 616–3571.

National Symposium on Victims of Federal Crime (Cooperative Agreement)

Award Amount: Up to $50,000 available for Phase I in FY 1995 and up to $250,000 for Phase II in FY 1996.

Purpose: To improve direct services to victims of Federal crime by providing high quality victim assistance training to victim-witness coordinators from a broad range of Federal agencies.

Background: In the last five years, Congress has focused on the rights and needs of Federal crime victims by codifying a Federal Crime Victims' Bill of Rights and identifying a range of services that must be made available to victims participating in the Federal criminal justice system. At the same time, Federal criminal statutes have been expanded to include crimes such as car-jacking, crossing a state line to injure, intimidate or harass an intimate partner, and engaging in telemarketing schemes to defraud the elderly. The Victims of Child Abuse Act of 1990 42 U.S.C. 13031 requires certain professionals working in Federally-operated facilities or on Federal lands to report suspected child abuse cases. These and other recent Federal statutes have increased the number of cases, as well as the Federal responsibility for assisting victims.

As a result, there is an urgent need for additional training and technical assistance for Federal victim-witness coordinators. As many as 1,000 Federal agency coordinators may be interested in attending a symposium that will provide basic and intensive victim assistance training, create a forum to share information regarding promising programs and policies, and identify strategies for strengthening Federal victim assistance programs throughout the government.

Objectives:

• To identify and assess, with the assistance of a Federal ad-hoc working group, existing practices and training materials used by Federal criminal justice personnel to respond to victims of Federal crime;

• To develop and implement a cost-effective strategy for providing training to Federal agency victim-witness coordinators utilizing existing victim assistance training curricula;

• To develop a training agenda for the symposium;

• To develop training and technical assistance materials in the areas of program development, program management, and direct services to victims of Federal crime by combining the expertise and resources of the grantee, OVC, and Federal agencies;

• To convene a national symposium to explore issues relating to the provision of services to victims of Federal crime and to provide training to Federal agency victim-witness coordinators;

• To offer an array of skills-building workshops that address the variety of missions of more than 70 different Federal law enforcement agencies; and

• To evaluate the symposium and submit to OVC a strategy for improving Federal agency services to Federal crime victims.

Program Strategy: This project will be implemented in two phases, with supplemental funding in FY 96 for the second phase if OVC determines that the first phase has been completed successfully. This solicitation invites applications for a grantee to provide comprehensive victim assistance training to Federal agency victim-witness coordinators from a broad range of Federal agencies with diverse missions.

The grantee will work with OVC staff and an ad-hoc working group of representatives from the various Federal agencies to identify the unique training needs of various agencies and to plan and implement the first comprehensive training conference for this audience. The week-long symposium will provide training regarding the provision of direct services to Federal crime victims, and address issues such as the unique aspects of Federal jurisdiction, and the development of victim assistance programs that utilize local resources. The symposium will also include training on program development, program management, and direct victim services. The conference will include: (1) Topic specific sessions to discuss subjects such as victims of hate/bias crimes, domestic violence, stalking, and child abuse; (2) discipline specific sessions for agencies such as law enforcement and prosecution; and (3) agency-specific sessions, including training for FBI agents or U.S. Postal Inspection Service personnel.

Phase I, Assessment:

The first stage of Phase I consists of the identification and assessment of effective procedures and practices and training materials currently used by Federal agencies in response to victims of Federal crime. The grantee should also determine unique training needs of specific Federal agencies. The activities and products to be completed during this stage are:

• Establishment of an ad-hoc working group, with OVC's assistance;

• Development of an assessment plan of Federal agency procedures, practices, and training;

• Review of practices, procedures, programs, and training materials;

• Identification of effective programs;

• Identification of Federal agency specific topical subject areas and training needs; and

• Development of an assessment report.

Development of Training Strategy:

Based upon the results of the assessment stage, the grantee will develop and present to OVC a cost-effective strategy for providing training to Federal agency victim-witness coordinators, utilizing both existing victim assistance training materials and Federal agency materials. The activities and products to be completed during this stage are:

• A training strategy; and

• A draft training agenda for a national symposium.

Phase II, Training:

Following OVC approval of the assessment report, training strategy, and draft training agenda, the grantee will develop appropriate training and technical assistance materials. The activities and products to be completed during this stage are:

• A plan for the development of appropriate training materials that includes the areas of program development, program management, and direct services to victims of Federal crime and combines the expertise and resources of the grantee, OVC, and Federal agencies;

• A draft and final training manual, including trainer and participant manuals and other informational materials;

• A strategy for assessing the training and draft assessment forms, procedures, and tools;

• A national symposium on issues relating to the provision of services to victims of Federal crime.

Assessment and Recommendations:

The grantee will assess the symposium and submit recommendations to OVC for improving Federal agency services to Federal crime victims. A final report and a summary of the project will be submitted by the grantee for use as an informational OVC bulletin during this stage.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

• Expertise in developing victim-witness assistance training curricula and accompanying materials;

• Experience in the management and development of large victim assistance training conferences;

• Knowledge of issues associated with the Federal criminal justice system's handling of crime victims; and

• Organizational experience and financial capability to administer this training initiative.

Award Period: 6 months to complete Phase I; 12 months (FY 1996) to complete Phase II.

VOL 60 ISS 85 MY 3 1995 UMI

Contact: Sue Shriner, (202) 616–3577.

Training of Trainers Seminars

Award Amount: Three proposals for up to $33,000 each.

Purpose: To expand the number of trainers qualified to provide training on promising practices to benefit crime victims on a variety of victim-related topics.

Background: In recent years, OVC has provided innovative training and technical assistance to victim service providers and criminal justice personnel on a range of important, emerging victim issues and promising programmatic practices. A number of agencies have requested additional staff training on these topics through OVC's Trainers Bureau. In some cases, the demand for training is too great for the limited number of expert trainers to accommodate. Additional trainers who are capable of presenting workshops on these particular subjects are needed. This initiative will provide a vehicle for expanding the cadre of trained practitioners who can pass their knowledge and skills on to others.

Goal: To expand the training resources that are available to victim service providers and others who deal with victims.

Objectives:

- To create comprehensive, up-to-date training materials on topics of particular interest to the field.
- To provide advanced training on these topics to highly qualified trainers.

Program Strategy: OVC invites applicants to organize, conduct, and evaluate a training of trainers seminar on a particular topic. In preparation for the seminar, the grantee will review and assess existing training materials and identify expert trainers on the subject. With input from the trainers, the grantee will produce a comprehensive and user-friendly training package. It will develop a plan and instruments for assessing the impact of the training.

The grantee will identify an appropriate audience for the seminar and advertise the event in such a way as to reach the intended audience. The training package will be disseminated to the participants prior to the seminar.

Each seminar will last two to four days and provide training for up to 40 participants who have previous training experience. The training will be provided free of charge, and limited stipends will be available to offset a portion of the participants' travel expenses.

Topics have been selected for training of trainer seminars because the requests for these types of training currently exceed the number of qualified trainers available to respond. Consequently, OVC extends a specific invitation for proposals addressing the following topics:

Victim Services in Rural Areas

Victim service providers operating in rural areas face special obstacles in reaching their clients. They must provide services, sometimes in response to immediate crises, to people living long distances from public agencies and support systems. Available resources are often scarce and rural victims sometimes must deal with difficult confidentiality issues.

Responding to Staff Victimization

This training focuses on agencies, primarily criminal justice agencies, whose staff members regularly deal with offenders. It covers the victimization experience, post-traumatic stress disorder, crisis intervention techniques, networking with local victim service providers, dealing with the media, and how to mobilize crisis response teams.

Victim Impact Classes for Offenders

This promising program strategy, originally developed by the California Youth Authority, has been adopted by a number of corrections, probation, and parole agencies for use with both adult and juvenile offenders. Victims, as one aspect of their recovery process, tell offenders about the actual impact of crime on their own lives, their families, and the communities in which they live. This seminar is co-sponsored by BJA and OJJDP.

Major project products for each training of trainers seminar include:

- Training package;
- Proposed faculty list;
- Marketing plan;
- Seminar agenda;
- Two to four-day seminar;
- Assessment plan; and
- Final report, which highlights problem areas and promising practices and includes an assessment of project impact.

Eligibility Requirements: Proposals will be solicited from both private non-profit and public organizations and agencies. In addition to the requirements of Sections VI–XI, applicants must demonstrate topical expertise and management capability to organize, market, conduct, and assess a train the trainer seminar on one of the victim-related topics listed above.

Award Period: 12 months.

Contact: Jackie McCann Cleland, (202) 616–2145, regarding the Victim Services in Rural Areas training; Vicki Rapoport, (202) 616–3572, regarding the Responding to Victimized Staff training; and Susan Laurence, (202) 616–3573, regarding the Victim Impact training.

Resources for State Compensation and Assistance Administrators

National Technical Assistance Conference for State VOCA Assistance Administrators (Cooperative Agreement)

Award Amount: $50,000 in FY 95, with the possibility of a continuation grant for the same amount in FY 96.

Purpose: To provide state VOCA assistance administrators with training and information on VOCA grant implementation and on services to crime victims.

Background: In the past, OVC has planned and held national training conferences for state administrators of the VOCA victim assistance grant program. Since 1989, conferences have been held approximately every two years. OVC believes that the state administrator's role is "necessary and essential" for ensuring that crime victims receive direct services and assistance intended by VOCA.

Goal: To hold a conference that will address the technical assistance and information needs of VOCA victim assistance state administrators. This conference will focus on VOCA grant implementation issues and efforts to expand and enhance the delivery of quality services to crime victims throughout the states.

Objectives:

- To establish an ad hoc advisory committee of state VOCA administrators that identifies technical assistance and information needs and develop a conference agenda;
- To survey each state VOCA administrator to ascertain technical assistance and information needs, as well as workshop topics and presenters; and
- To develop, implement, and evaluate a national conference for state VOCA administrators.

Program Strategy: OVC invites applications from nonprofit organizations, national victim organizations, and consortiums of state administrators to organize, conduct, and evaluate a conference that provides training to VOCA victim assistance state administrators. The conference will be held during calendar year 1996. The grantee should accomplish the following tasks:

- Develop a plan for delivering three days of technical assistance based on the survey results;
- Develop a resource manual with an agenda, workshops, and training materials and resources;
- Identify and retain trainers for all programmatic and financial sessions;
- Hold the conference;
- Develop an assessment instrument, assess the conference, and make recommendations for subsequent technical assistance conferences; and
- Prepare a conference report that contains the assessment results and recommendations for future training conferences;

Project funds can be used to pay trainer and consultant fees and all other costs associated with the planning, delivery, and assessment of the conference.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate knowledge and experience in providing services to crime victims, knowledge of VOCA grant administration issues, experience in managing and developing training conferences, and organizational capability to manage the conference.

Selection Criteria: Each application will be evaluated based upon how well the proposal addresses the following criteria:

A. Understanding of goals and objectives: 10 points

The applicant's response to the stated project purpose, goals, and objectives is clearly understood and defined.

B. Project Strategy/Design: 25 points

The applicant's response is sound and constitutes an effective approach to meeting the stated goals and objectives of the project.

C. Implementation Plan: 25 points

The applicant's response is realistic and includes a detailed time/task line.

D. Organizational Capability: 20 points

A description of the applicant's management structure and previous experience with related efforts, the financial capability of the organization to carry out the project, and the documentation of the professional staff member's qualifications to perform the assigned tasks.

E. Budget: 20 points

The applicant's costs are reasonable, allowable, and cost effective for the proposed activities.

Award Period: 12 months.

Contact: Jeffrey Kerr, (202) 616–3581.

Regional Technical Assistance Meetings for State VOCA Administrators

Award Amount: $5,000 to $10,000 will be available per conference, not to exceed a total of $25,000 for FY 95 and $25,000 for FY 96.

Purpose: To encourage and support regional training and technical assistance meetings for state VOCA compensation and assistance administrators.

Background: Many factors affect the delivery of quality services to crime victims. Often these factors reflect regional influences. OVC is committed to supporting states that wish to hold regional conferences to address mutual state concerns and needs. OVC will support regional meetings of state compensation and assistance administrators by accepting proposals from state administrators who will plan, coordinate, and implement a regional conference to further the implementation of the VOCA formula grant programs and services to crime victims.

Goal: To support a number of regional state VOCA administrators' conferences, which will address the training and information needs.

Objectives:

- To survey compensation and/or assistance state VOCA administrators within the region to identify technical assistance needs;
- To develop a plan for delivering a one or two day training and technical assistance based on the results of the survey;
- To develop a curriculum with an agenda, lesson plans, and training materials and resources; and
- To convene the conference, which may focus exclusively on victim assistance, victim compensation, or a combination of the two.

Program Strategy: This solicitation invites applications from state administrators of VOCA compensation and assistance grants only to hold regional technical assistance conferences. The conferences will be held during the 1995 and 1996 calendar years.

Federal funds will be used to support coordination, materials, meeting space, consultants, and other costs associated with the planning, delivering, and assessing each conference. Specific tasks include:

- To identify and retain trainers and technical experts for all programmatic and financial sessions;
- To develop an assessment instrument and assess the conference; and
- To prepare a conference report that contains the assessment findings and recommendations for future conferences.

Eligibility Requirements: Applications will be accepted from state VOCA administrators. In addition to the requirements of Sections VI-XI, applicants must demonstrate experience in managing and developing training conferences and the organizational capability to manage the conference.

Selection Criteria: Each application will be evaluated based on how well the proposal addresses the following criteria:

A. Understanding of goals and objectives: 10 points

The applicant's response to the stated project purpose, goals, and objectives is clearly understood and defined.

B. Project Strategy/Design: 25 points

The applicant's response is sound and constitutes an effective approach to meeting the stated goals and objectives of the project.

C. Implementation Plan: 25 points

The applicant's response is realistic and includes a detailed time/task line.

D. Organizational Capability: 20 points

A description of the applicant's management structure and previous experience with related efforts, the overall capability of the applicant to carry out the project, and the documentation of the professional staff member's qualifications to perform the assigned tasks.

E. Budget: 20 points

The applicant's costs are reasonable, allowable, and cost effective for the proposed activities.

Award Period: 18 months.

Contact: Contact the OVC program specialist assigned to monitor the state's VOCA formula grant.

Mentor Program for VOCA Victim Compensation and Assistance State Administrators

Award Amount: Funds will not be directly awarded to successful state applicants. OVC will pay mentors up to $220 per day and reimburse travel expenses in accordance with Federal guidelines. $25,000 has been set aside for this initiative.

Purpose: To provide short-term technical assistance to VOCA victim compensation and assistance state administrators.

Background: The role of state VOCA administrators is constantly changing and expanding. As a result, OVC has decided to fund a mentoring program for state VOCA administrators that would facilitate an administrator from one state offering technical assistance and peer consultation to an administrator in another state. Technical assistance and peer consultation may be offered in many different areas including use of administrative dollars to implement the VOCA grant program, planning

VOL 60 ISS 85 MY 3 1995 UMI

statewide training, establishing program standards for both compensation and local victim assistance programs, and assessing needs and service delivery strategies, such as more efficient processing of compensation claims. In addition, the mentoring program will facilitate one-on-one technical assistance and peer consultation for new state administrators.

Goal: To provide effective short-term, individualized technical assistance and peer consultation to state agencies responsible for administering the VOCA victim compensation and assistance grant programs.

Objectives:

- To identify state compensation and assistance administrators who are available to provide short-term technical assistance to colleagues in other states;
- To identify and develop materials that may be used to offer technical assistance to state administrators to include assessment tools, protocols, policies, and procedures; and
- To offer technical assistance and peer consultation that is individually tailored to meet the needs of states' efforts to deliver victim services.

Program Strategy: OVC will support on-site technical assistance and peer consultation to VOCA state administrators in areas such as program development, administration, assessment, financial management, and grant administration. OVC will coordinate the provision of technical assistance and peer consultation in response to requests from VOCA compensation and assistance state administrators. OVC will identify and handle the logistical and financial arrangements for such requests.

VOCA state grant administrators interested in receiving technical assistance should submit the following information:

- A description of the technical assistance needed or a problem statement;
- An estimate of the number of hours/days of technical assistance needed;
- A description of the number of individuals to be trained and their job responsibilities; and
- A description of any state resources available to build upon the technical assistance.

VOCA state grant administrators interested in serving as mentors should submit the following information:

- A description of their background, experience, and area of expertise in administering statewide compensation and/or assistance services to crime victims;
- A letter from their agency head supporting their participation as a trainer in this program; and
- A copy of any assessment tools, protocols, policies, or procedures that they have used to administer and oversee the provision of statewide services to crime victims.

Applications will be reviewed within 30 days of their receipt. Once an application has been approved by the Director of the State Compensation and Assistance Division, the request will be matched with an appropriate state administrator. OVC will work with the mentor to design a technical assistance plan that responds directly to the identified needs of the state applicant. All parties—OVC, the state applicant and the mentor consultant—must agree to the plan. Approved on-site assistance will be short-term, generally between one and three days.

Within 30 days after the technical assistance has been provided, the state applicant must submit an assessment to OVC of the technical assistance received. The assessment will examine the extent to which the planned assistance was executed, as well as the effectiveness of the mentor or consultant. Likewise, the mentor or consultant must submit a description of his/her findings, assistance that may be beneficial to other state administrators, and any recommendations for improving the delivery of technical assistance through this mechanism in the future.

Eligibility Requirements: This program is open only to state agencies designated by the Governor to administer the VOCA victim compensation and assistance grant programs. Applications will be reviewed and selected based upon following criteria:

- Clarity of the request, including the description of the problem;
- Potential impact of the assistance; and
- Commitment of resources from other sources to support the implementation of technical assistance.

Award Period: Funds will be available to address requests during FY 1995 and 1996.

Due Date: Applications will be accepted for consideration throughout the award period.

Contact: For further information, as either a State Administrator wishing to apply for assistance or to serve as a mentor, contact the OVC program specialist assigned to monitor the state's VOCA formula grant.

C. Information Dissemination

Topic-Specific Videotapes

Award Amount: $50,000 to produce each videotape.

Purpose: To provide educational information on crime victim issues to victim service providers, allied professionals, and the general public.

Background: The tremendous growth of victims' programs and training for service providers has necessitated the sharing of relevant information on practices and related issues in an adaptable and easily accessible way. Videotapes are suitable to a variety of audiences and settings, can convey substantive information in a succinct and memorable way, and provide the field with an inexpensive and rapid means of highlighting model practices and explaining the rights and needs of crime victims.

Goal: To educate the field and the general public about crime victim issues and effective responses.

Objective: To develop and produce training videotapes on important topics in the victims field.

Program strategy: This initiative, in cooperation with BJA, will fund one to three grantees for the production of three professional quality, 20 to 30 minute training videotapes on the following topics:

- Path through the criminal justice system (an explanation of the criminal justice system for crime victims);
- Training on victim issues for parole boards; and
- Multicultural issues in victim services.

Each videotape will identify a specific victim-related issue, and provide basic "how-to" information for crime victims and service providers. The videotapes should appeal to a broad audience, but can also be used to educate specific audiences. It is important that all products be culturally sensitive. Each videotape will be accompanied by a brief guidebook with suggestions for effective usage. The production of the videotapes will take place in two phases:

I. Development of Products

During the initial phase of the grant, the grantee will:

- Identify key issue points to be addressed in the videotape and accompanying guide;
- Articulate the approach (e.g., documentary or dramatization; color versus black and white) to be used in the videotape;
- Develop and draft the videotape script or narrative for OVC review and approval;
- Finalize the script or narrative;
- Secure the subjects and film location; and
- Secure technical staff to videotape and produce the sound track.

II. Videotape Production

During this phase, the grantee will:

- Film the videotapes and produce the sound track;
- Edit and produce a draft videotape;
- Submit the draft for OVC review and approval;
- Draft and submit the user's guide for OVC review and approval;
- Edit and refine the user's guide;
- Draft, submit and finalize a brochure publicizing the videotape and giving information on how to obtain it;
- Finalize all products; and
- Produce a final report on the project. Upon completion of the project, the grantee will furnish OVC with a master copy of the videotape, and camera-ready copy and floppy disk of the guidebook for reproduction and dissemination.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

- Expertise in professional quality videotape production;
- Knowledge of issues associated with the criminal justice system's handling of crime victims;
- Specific knowledge of one or more of the topic areas articulated in this announcement; and
- Management and financial capability to oversee a project of this size and scope.

Award Period: 12 months.

Contact: Vicki Rapoport, (202) 616–3572, regarding the Cultural Diversity and Path Through the Criminal Justice System videotapes, and Susan Laurence, (202) 616–3573, regarding the Victim Issues for Parole Boards videotape.

Resources for National Crime Victims Rights Week, 1996 (Cooperative Agreement)

Award Amount: $25,000

Purpose: To draw national attention to National Crime Victims Rights Week, 1996 through the development of public relations strategies and the dissemination of materials in the form of a kit.

Background: Each year since 1982, National Crime Victims Rights Week (NCVRW) has been formally designated and commemorated at the Federal level during the month of April. The observance of this event serves as a reminder that, not so long ago, crime victims were treated only as witnesses for the prosecution—often denied the dignity, respect, and assistance to which they are entitled. NCVRW affords the nation the opportunity to acknowledge the plight of crime victims and to recognize the numerous reforms that have been instituted to advance their rights and respond to their unique needs.

Goal: To heighten public awareness of victim issues nationwide.

Objective: To develop and disseminate a Crime Victims Rights Week kit with strategies for commemorating the week-long, national event.

Program Strategy: This solicitation invites applications for one grantee to conceptualize, develop, and produce a NCVRW kit for use by victim service providers, advocates, elected leaders, and the general public in commemorating the national event. Project applications may include suggestions for observance of NCVRW at the state, local and Federal levels, including sample poster art, public service announcements, fact sheets, and commemorative activities. Applications shall also include a specific plan for disseminating the kit as broadly as possible.

The selected applicant will be expected to work closely with the OVC project monitor and to ensure that all project deliverables are produced and disseminated well in advance of NCVRW events to ensure their timely use by the field.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate general knowledge of victim issues and previous public relations experience.

Award Period: 12 months.

Contact: Celestine Williams, (202) 616–3565.

D. New Native American Programs

Training and Technical Assistance for Victims of Federal Crime in Indian Country Discretionary Grant Subgrantees (Cooperative Agreement)

Award Amount: $160,000.

Purpose: To provide program materials and training and technical assistance that are uniquely tailored to the needs of Native American communities that have received funds under the Assistance to Victims of Federal Crime in Indian Country (VAIC) Discretionary Grant Program.

Background: The VAIC Program established victim assistance programs in remote areas of Indian Country where there were limited or no existing services for victims of crime. Since 1989, OVC has awarded $5.4 million to nineteen states. As a result, more than 50 Native American victim assistance programs have been established in the States of Arizona, Colorado, Idaho, Iowa, Kansas, Michigan, Minnesota, Mississippi, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming.

As each program is unique to the Native American community it serves, an individual approach to meeting the training and technical assistance needs of these programs is required. The program will provide training and technical assistance and materials specifically tailored to each program.

Goals:

- To enhance, expand, and improve services provided by Native American and tribal subgrantees that have been funded under OVC's VAIC grant program through short-term, on-site training, technical assistance or consultation;
- To develop a video for tribal leaders that illustrates how the VAIC program should work; and
- To develop a manual that assists Indian tribes in establishing and expanding victim assistance programs in Native American communities.

Objectives:

- To survey 19 state victim assistance grantees regarding the need their subgrantees have for training, technical assistance, or consultation;
- To develop and maintain a register of experienced consultants who are qualified to provide technical assistance, or peer consultation that is culturally relevant to Native American communities in the area of victim assistance, including child abuse, domestic violence and sexual assault;
- To develop a script or film treatment that illustrates the benefits of a victim assistance program and depicts how a successful victim assistance program is integrated into tribal law enforcement and social service systems;
- To develop, print, and disseminate a program manual to all VAIC subrecipients; and
- To evaluate and summarize the effectiveness of each training, as well as the project as a whole, and recommend future training and technical assistance strategies.

Program Strategy: To accomplish the goals and objectives of this project, the grantee will:

- Develop and complete a survey of 19 state grantees to assess the range and type of training and technical assistance needed by subgrantees;
- Acquire a copy of each state agency's application kit and guidelines to assist subgrantees in developing an application for continued funding;

VOL
60
ISS
85
MY
3
1995
UMI

• Develop a format or application procedure for subgrantees to request training and technical assistance. This format should detail the range of training and/or technical assistance possible and capture information from the subgrantee to include the purpose of the training, desired goals, and a list of staff to be trained. The format will require final approval by the grantor agency;

• Develop a method for evaluating requests submitted by the subgrantees;

• Agree on the desired training and technical assistance activity that could include: assistance in improving overall management, developing competitive subgrant applications, implementing a specific part of the victim assistance program such as a training program for volunteers in crisis intervention, setting up a case record system, training law enforcement officers on improving their response to crime victims, establishing support groups for survivors of homicide, or developing an advocacy program for child victims who participate in tribal court. Special emphasis will be placed on providing needed training and technical assistance to the four newly funded tribal organizations within Colorado, Iowa, Mississippi, and Oklahoma, as well as meeting the urgent training and technical needs of previously funded programs;

• Work with OVC staff to select a project advisory board composed of Native American VAIC subgrantees, VOCA Victim Assistance Administrators, experts on Native American culture and a Federal Victim-Witness Coordinator to develop an outline defining the range of materials to be included in the program manual and to assist grantee staff to develop the manual, and to assist with providing ideas for and reviewing the script for the video;

• Develop a plan for making the video;

• Evaluate effectiveness of the training provided and the project as a whole; and

• Recommend future training and technical assistance strategies.

Eligibility Requirements: Applications will be accepted from public agencies, private agencies, or non-profit organizations. As this program will focus primarily on short-term training and technical assistance to Native Americans, Indian Tribes, or Native American organizations, and in addition to the requirements of Sections VI-XI, applicants must meet the following requirements in order to be eligible for consideration:

• Experience in the development of training and technical assistance;

• Information or access to information on local experts in the area of victim assistance to include child abuse, spouse abuse, and other services that assist victims of violent crimes;

• Knowledge of the problems and issues inherent in maintaining victim-related, culturally-sensitive programs in Indian Country;

• Knowledge in the development of instructional and training video's for Native American communities, tribal councils, and leaders; and

• Demonstrated management and financial capability to operate a program of this size and scope.

Award Period: 24 months.

Contact: Toni Thomas, (202) 616–3579.

Children's Justice Act Discretionary Grant Program For Native Americans

Award Amount: Up to $513,500 will support five to eight grants in FY 1995. Full accomplishment of this project is anticipated to require three to five years of funding. The first year award amount will be limited to $60,000 per grantee, to allow for the lead-time that may be required to obtain Tribal Council approval for the grant and hire staff. Awards for the remaining years will range from $60,000 to $100,000.

Purpose: To assist Native American communities in improving the investigation, prosecution, and handling of cases of child sexual and physical abuse in a manner that increases support for and reduces trauma to child victims.

Background: During the mid-1980's, reports of sexual abuse and disclosures of multiple-victim child molestation cases on Indian reservations sharply increased. As the cases surfaced, it became apparent that services were seriously lacking for Native American children, and that handling abuse in Indian Country was more difficult due to geographic isolation and the scarcity of law enforcement, social and medical services. Procedures for sensitive and thorough pediatric forensic examinations, as well as follow-through with mental health counseling, which is critical to a child's recovery, were frequently nonexistent.

In response to the acute increases in reports and disclosures of child molestation on Indian reservations, the Children's Justice Act Grant Program for Native Americans (CJA) was established to assist Indian tribes develop, establish, and operate programs that improve the overall response to child sexual abuse cases. The program focuses on handling the case from the initial report and the first stages of intervention and investigation through to the resolution of the case.

Since 1988, OVC has provided CJA funding to 28 tribes. The funded projects have supported: Establishment, expansion and training for multidisciplinary teams; revision of tribal codes to address child sexual abuse; child advocacy services for children involved in court proceedings; development of protocols and procedures for reporting, investigating, and prosecuting child sexual abuse cases; development of working relationships that minimizes the number of child interviews; enhanced case management and treatment services; specialized training for prosecutors, judges, investigators and other professionals who handle child sexual abuse cases; specially designed child interview rooms; and special prosecution units.

Goal: To strengthen existing CJA programs, create new ones that deal effectively with cases of child sexual and physical abuse during the investigation, prosecution, and treatment phases, and establish systemic improvement in a community's overall response to child sexual abuse.

Objectives:

• To assess the current tribal system for responding to child sexual abuse and identify changes needed to implement more effective programs;

• To hire staff and develop an organizational structure to execute the planned program;

• To develop or revise policies, procedures, and tribal codes that directly address child abuse and neglect;

• To form liaisons and working relationships with Federal, state and local agencies that result in improved communication and a better use of resources for child victims and their families;

• To provide specialized and multidisciplinary training to key personnel that focuses on developing or improving the skills needed to effectively handle the problem of child abuse and specifically child sexual abuse;

• To establish specialized law enforcement, prosecution or child advocacy units within existing tribal agencies that are uniquely trained and qualified to handle child victim cases; and

• To develop written program implementation materials that can be replicated and used to assist other tribal agencies that wish to establish similar programs.

Program Strategy: This program will be implemented in three stages. As grantees will be required to reapply for the grant each year, the grantee must show significant progress in meeting project objectives in order to continue receiving grant funds. CJA programs will be eligible for three to five years of funding depending on the availability of Federal funds and success in program implementation.

Each project must be designed to improve the investigation and prosecution of child sexual abuse cases, and to improve the overall handling of these cases in a manner that reduces trauma to the child. OVC recognizes that jurisdictional authority over child sexual abuse cases varies greatly among tribes. Therefore, we seek innovative projects based on the unique jurisdictional characteristics of the tribal criminal justice and service delivery systems. OVC expects tribes that receive these grants to be actively involved in determining the manner by which these cases are administratively and judicially processed at the tribal, state, and Federal levels.

In addition, OVC recommends the use of multi-disciplinary teams (known in many areas of Indian Country as Child Protection Teams) to respond to cases of child sexual abuse. This could also include specialized prosecutorial units for the investigation, referral, and prosecution of child abuse cases. Multi-disciplinary teams which are developed or expanded as a result of this grant must include representatives from the tribal, state, and Federal agencies that provide services to the tribe.

Stage I—Assessment and Project Development

The grantee is expected to develop a new program or continue an existing program that handles child physical and sexual abuse cases in an effective and timely manner. The organizational structure and staffing pattern described in the grant application should be implemented as soon as possible after award of grant funds.

The grantee should make an assessment of its current tribal system and resources for developing a CJA program and determine the additional resources and system changes needed to implement a program. The grantee must hire and use either tribal staff or outside consultants to train key staff for investigating and prosecuting child physical and sexual abuse cases in tribal court. Additional training for multidisciplinary teams, prosecutors, law enforcement personnel, judges, advocates or medical, mental health, and social service professionals may be required. Improved procedures for interviewing child victims, providing court advocacy, handling child victim cases, and providing treatment services could be established at this stage.

The products of this stage include:

• Job descriptions and résumés for key staff hired or contracted under the grant;

• Assessment report of findings and recommendations for additional changes and resources needed to implement an efficient project. The report should be developed by tribal working groups, multidisciplinary teams or with the assistance of a consultant;

• Activity reports that summarize major activities and accomplishments of the grant to be submitted to OVC four times during this stage of program activities; and

• Agendas for the training of personnel involved in the handling of child sexual abuse and serious child physical abuse cases, if appropriate at this stage.

Stage II—Implementation of Project and Development of Training and Resource Materials

The grantee must develop and/or finalize materials that demonstrate how the program operates. Policies and procedures, interagency protocols, or memoranda of understanding identifying different agency roles and responsibilities, reporting procedures, forms for recording case information, working agreements with Federal and/or state agencies or a tribal code that addresses child sexual abuse (including definitions and maximum penalties for offenders) are examples of materials that must be developed. The materials will be used by the grantee in implementing its own program and will also be disseminated to other tribes to demonstrate how to develop similar programs.

The grantee may find it useful to gather all available resources that will aid the tribe in responding to child physical and sexual abuse. These resources could include any materials available from other tribes, national clearinghouses, agencies, organizations and state CJA programs that would be useful in improving the response to child physical and sexual abuse cases Using these materials, the grantee must seek to improve its current system for addressing child abuse and, upon successfully applying these materials to its own system, should develop the capability to provide training and technical assistance to other tribes on handling child abuse cases.

The products of this stage would include:

• A compilation of materials gathered by the grantee from within the tribe and from other sources;

• Materials developed for improving the handling of child physical and sexual abuse cases (e.g., protocols, revised tribal codes, and procedures);

• Training curricula for law enforcement officers, prosecutors, judges, victim advocates, multidisciplinary teams and medical, mental health, and social service personnel;

• A brochure or resource directory to be distributed which advertises the availability of the tribe's resources, services, and training opportunities if appropriate, for addressing child abuse cases; and

• Activity reports that summarize major activities and accomplishments of the grant to be submitted to OVC during this stage of program activities.

Stage III—Delivery of Services

The project should serve as the tribe's primary program for illustrating effective approaches to handling serious child sexual abuse cases; working with various tribal, state and Federal agencies; meeting the needs of Native American child sexual abuse victims and their families; and communicating with tribal councils and other bodies in responding effectively to child abuse.

After completing Stages I and II, project staff should be in a position to make the program's resources and implementation materials available to other tribes. Project staff should be available to present diagrams and descriptions of program models that illustrate coordination among tribal, state and Federal law enforcement agencies, criminal justice professionals, victim assistance providers and human service, health and mental health personnel. Project staff should have developed its capacity to provide training and technical assistance to tribes and tribal organizations upon their request and within program staffing resources, being careful to schedule such training and technical assistance so as not to disrupt on-going program services. In addition, project staff will be asked to participate in OVC sponsored conferences and training sessions to demonstrate model practices, provide program materials and handouts or serve as trainers or on discussion groups and panels.

The products of this stage are:

• Individualized consultation, training and dissemination of illustrative program implementation materials;

VOL
60
ISS
85
MY
3
1995
UMI

• Reports describing the training provided to tribes;

• Recommendations for and descriptions of training workshops to be included in OVC sponsored conferences for assisting child victims in Indian Country; and

• Activity reports that summarize major activities and accomplishments of the grant to be submitted to OVC four times during this stage of program activities.

Eligibility Requirements: Eligible applicants are Federally recognized Indian tribes and tribal organizations. Grant awards will be limited to tribal organizations as defined in the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, 25 U.S.C. 450b. Applications must be signed by the leader or chief executive of the tribe. In those cases where the Tribal Council serves as the governing body, the application must be signed by the Chairman of the Council or other recognized leader of that group. Applicants also must adhere to the requirements of Sections VI–XI of this Announcement.

Selection Criteria: In determining which applications to fund, OVC will use a grant review panel to evaluate and rank the application on the following criteria:

A. The problem to be addressed (15 points)

The need for such a program, including the problems experienced and issues related to child physical and sexual abuse in the community is clearly stated. A description of the agencies involved (tribal, local, state and Federal) is provided and, where possible, statistics on the number of cases reported, investigated and substantiated; referred for services; and prosecuted are included.

B. Goals and objectives (20 points)

The goals and objectives are clearly defined and relate directly to the program purpose, the problem to be addressed and the implementation of this project. The objectives are stated in measurable terms.

C. The appropriateness and soundness of program design (25 points)

The program design and methodology clearly address the identified problem and provide a clear description of how the project will achieve the stated goals and objectives. The method for implementing project components must be consistent with the goals and objectives. In addition, the program strategy contains an implementation plan that includes a timeline schedule and milestones for the accomplishment of objectives and submission of products.

D. Budget (15 points)

The budgeted costs are reasonable, cost-effective and accurately reflect how grant funds will be used to promote the development of the project.

E. Organizational capability (20 points)

The organizational capability demonstrates a capacity for developing and packaging a comprehensive program that addresses the investigation, prosecution, case handling and treatment of child physical and sexual abuse. This criterion includes: (1) Adequacy of the tribe's management structure and financial capability (10 points), and (2) the qualifications of key staff identified to manage and implement the project (10 points). Where the applicant has previously received CJA funds, the progress made under the previous grant is discussed.

F. Assessment Plan (5 points)

The plan for assessing the impact of the project in improving the investigation, prosecution, and overall handling of child sexual abuse cases is clearly defined.

Award Period: 3 to 5 years, depending on the availability of funding and success of the grantee in achieving the goals and objectives of the project.

Contact: Cathy Sanders, (202) 616–3578 for further information and to obtain a copy of the Application Kit.

Cross-Cultural Skills Development and Training for Federal Criminal Justice Personnel in Indian Country (Cooperative Agreement)—Award Amount: $150,000 (in Cooperation With BJA)

Purpose: To encourage culturally-sensitive responses from Federal criminal justice personnel and Federal Victim-Witness Coordinators to the rights and diverse needs of Native American victims of crime. This project will support the development of a monograph and companion trainer's guide/training curriculum and a video that offers basic skills and effective program strategies for culturally-sensitive service delivery to Native American victims of crime by criminal justice personnel.

Background: There are more than 535 Federally-recognized Indian tribes in the United States, each having extremely diverse cultures that include clan systems, customs, language base, and traditional as well as non-traditional religious beliefs. Governed by a complex array of Federal, state, and tribal law, certain crimes committed by non-Indians against Indians can fall within Federal criminal jurisdiction for purposes of investigation and prosecution (The Indian Country Crimes Act, 18 U.S.C. section 1152, and The Major Crimes Act, 18 U.S.C. section 1153). Federal criminal justice personnel are also responsible for providing victims' rights and victim assistance services to Indian victims of Federal crime.

Non-Indian personnel often run the risk of unknowingly alienating Native American victims of crime by their actions. Special care needs to be taken by non-Indian criminal justice personnel to ensure that cultural stereotyping does not become a barrier to providing effective criminal justice and victim assistance services. One of the ways to counteract potential stereotyping and to encourage culturally-sensitive service delivery is to understand the abundant diversity within Indian culture.

Goals:

• To enhance the provision of culturally-sensitive services by non-Indian Federal criminal justice personnel to Native American victims of crime;

• To create a package of material that includes a monograph, a companion trainer's guide/training curriculum, and a video designed to promote a better understanding of the diversity among Native American people and to improve the quality of the response of Federal criminal justice personnel and victim assistance providers to Native American victims of crime; and

• To disseminate information about effective strategies for responding to Native American crime victims through the monograph, training curriculum, and video to Federal criminal justice personnel having jurisdiction in Indian Country.

Objectives:

• To identify and assess effective practices and related training material used by law enforcement and victim assistance agencies to respond in culturally-sensitive ways to victims of crime who are Native American;

• To develop and print a monograph that promotes awareness of the diverse needs of Native American victims of crime, as well as a companion trainer's guide/training curriculum, incorporating skills-building exercises and effective strategies for providing culturally-sensitive services to Native American victims of crime;

• To develop a broadcast quality video tape that promotes awareness of the diverse needs of Native American victims of crime and state of the art strategies for providing culturally sensitive services to Native American victims of crime;

• To provide a train-the-trainers segment during an appropriate OVC-sponsored training event; and

• To disseminate up to 200 final copies of the products to appropriate Federal criminal justice and victim assistance personnel in the field.

Program Strategy: The project will consist of four phases:

Phase 1

• Develop a plan describing how the identification, review, and assessment of existing material and effective practices will be completed (including the use or guidance of an advisory committee as appropriate);

• Identify, review, and assess the existing training curricula, relevant literature, and effective practices regarding the treatment of and services to Native American victims of crime; and

• Develop a report for OVC detailing the results of the assessment.

Phase 2

• Upon successful completion of phase 1, develop a plan for designing the monograph, and trainer's guide/training curriculum; and

• Develop a draft monograph that explores the general principles, practical approaches, and key issues defining culturally-sensitive treatment of Native American victims of crime, including the need for cross-cultural practice in the delivery of effective criminal justice and victim assistance services by non-Indians; the impact of one's own values and beliefs on the delivery of effective services; cross-cultural assessment of victims' emotional, physical, and financial needs; culturally-sensitive interviewing techniques of a Native American victim; and the elements of effective service delivery.

Phase 3

• Upon successful completion of phase 2, develop a plan for incorporating the finished products into an appropriate OVC-sponsored training event, such as the provision of a train-the-trainers segment; and

• Develop a trainer's guide/curriculum and video that serves as a companion to the monograph. The training guide should be part of the training curriculum and should include example transparencies, hypothetical case examples, or other training tools that would convey the information. The core training curriculum should incorporate basic skills in cross-cultural practice, including elements of effective service delivery and the impact of an individual's own values on culturally-sensitive interviewing of the Indian client. The training curriculum and video also should be developed in a modular format, allowing for maximum flexibility of the trainers and participants given the jurisdiction or region of the country where the training will occur. The training curriculum will be showcased during an OVC-approved training conference.

Phase 4

• Upon successful completion of phase 3, develop a plan to inform the field of the products and make them available to Federal criminal justice personnel and victim service agencies through an OVC-sponsored training event and other means;

• Print and disseminate 200 copies of the packaged material to the field (dissemination can partially be achieved through an appropriate OVC-sponsored training event that would feature a train-the-trainer block of instruction); and

• Develop a final report that includes an assessment of the effort.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

• Experience in developing training curricula for use by victim assistance and criminal justice personnel;

• Experience in providing culturally-sensitive training and technical assistance;

• Demonstrated knowledge of the issues associated with the criminal justice system's handling of Native American crime victims;

• Demonstrated knowledge in assessing the emotional needs, rights, and concerns of Native American victims of crime; and

• Experience in reviewing, analyzing, and preparing educational materials, including videos that are culturally-sensitive to the needs of crime victims.

Selection Criteria: All applicants will be evaluated and rated based upon the extent to which they address the following criteria:

A. Utility of the project: (10 Points)

Project's purpose, goals, and objectives are clearly stated and the usefulness of the project to the field is clearly defined by the applicant;

B. Project Strategy/Design: (25 Points)

Project's plan for undertaking activities is sound, specific, and includes how the applicant intends to achieve the purpose, goals, and objectives of the project;

C. Implementation Plan: (25 Points)

Project's implementation plan is thorough and is appropriately tied to the project strategy such that adequate time lines and staff resources can be identified;

D. Qualifications of Organization/Project Staff: (25 Points)

Applicant possesses the necessary management, staff, and financial capabilities to successfully undertake the project;

E. Budget: (10 Points)

Applicant's proposed budget directly relates to the project strategy and implementation plan, includes reasonable and allowable costs, and provides narrative detailed on the project's proposed cost; and

F. Assessment Plan: (5 Points)

Applicant includes a strategy for testing the effectiveness of the materials through use of training assessment forms or provides other means for the field to review and comment on drafts as the products are developed.

Award Period: 18 months.

Contact: Bill Brantley, (202) 616–3574.

Indian Nations Conference (Cooperative Agreement)— Award Amount: $200,000, to be awarded in FY 1996

Purpose: To improve the skills of diverse professionals in responding to the needs of Native American crime victims and in handling cases of family violence, child sexual and physical abuse.

Background: Through the Victims Assistance in Indian Country (VAIC) program, the Office for Victims of Crime (OVC) has supported victim service programs in over 50 tribal organizations in 19 states. Further, under the Children's Justice Act (CJA) Discretionary Grant Program for Native Americans, OVC has provided direct funding to 28 tribes to improve the investigation, prosecution, and handling of child abuse cases.

Since 1988, OVC has sponsored five national conferences to bring together tribal, state, and Federal professionals who work on behalf of crime victims in Indian Country. Those conferences have provided training by Native Americans and others on promising practices and approaches for investigating, prosecuting and handling cases and for establishing effective victim assistance services. In addition, they have presented models for combining the resources at the tribal, Federal, and state levels to improve the response to crime victims in Indian Country and have provided an opportunity to experience the rich diversity of tribal customs. In 1994, nearly 600 participants representing approximately 100 tribes attended the fifth Indian Nations Conference.

Goal: To sponsor a national conference to train victim service personnel and professionals involved in

VOL 60 ISS 85 MY 3 1995 UMI

providing services and securing rights for crime victims in Indian Country.

Objectives:

- To review current information on victim assistance and how crime victim cases are handled in Indian Country;
- To plan an agenda for the national conference using a planning committee with tribal, Federal, and state representatives;
- To fund the travel of tribal representatives to the conference;
- To present a three-day national conference; and
- To complete an assessment of the training provided and identify strategies for future training.

Program Strategy:

I Assessment

- Compilation of information on victim assistance and child abuse programs in Indian Country and previous Indian Nations Conferences; and
- Establishment of a planning committee composed of tribal, Federal, and state representatives with OVC's recommendations and approval.

II. Planning

- Convening of the planning committee to decide upon conference site, dates, theme, agenda, presenters, and speakers;
- Development of the conference agenda with OVC review and approval;
- Arrangement of conference facilities;
- Publication of conference brochure with scholarship application;
- Notification of tribal, Federal, and state personnel of conference and solicitation of scholarship applications;
- Compilation of victim assistance materials in a conference notebook; and
- Selection of scholarship recipients with OVC approval.

Scholarships to pay for travel, lodging, per diem and registration will be awarded to individuals in the following order of priority: (1) VAIC subgrantees and CJA grantees; (2) tribal representatives attending as part of a multidisciplinary team (see next paragraph); and (3) others involved in victim assistance and/or child abuse case handling services.

In an effort to enhance tribal-Federal-state partnerships, a portion of the scholarship funds should be set aside for tribal representatives attending as part of a multidisciplinary team. The scholarship application should set forth this priority. Examples of individuals on a multidisciplinary team would include: A tribal prosecutor; a tribal or Bureau of Indian Affairs law enforcement officer; a tribal child protective services worker; a tribal victim assistance coordinator; an Assistant U.S. Attorney; a Federal Victim-Witness Coordinator; and a Federal investigator.

III. Training

- Host three-day national training conference.

The purpose of the conference will be to: Enhance the skills of victim service providers in Indian Country; train professionals involved in the investigation, prosecution, and management of child abuse cases; promote an interdisciplinary strategy to respond to Native American crime victimization and child abuse; and present established and new models, including traditional approaches, of assisting Native American crime victims and handling child abuse cases.

The conference will also serve as a forum for promoting communication among tribal, Federal, and state officials, exchanging information on promising practices unique to Indian Country, "showcasing" promising programs, and identifying and solving problems.

IV. Assessment

The grantee must review conference assessments and prepare a conference report that includes conference evaluations and recommendations for future strategies.

Eligibility Requirements: In addition to the requirements of Sections VI–XI, applicants must demonstrate:

- Knowledge of and experience with victim assistance and child abuse case handling in Indian Country; and
- Management capability to organize and host a national conference.

Award Period: 12 months. The award will be made in early FY 1996.

Contact: Carolyn Hightower, (202) 616–3586.

III. Non-Competitive Programs

The statement of purpose, goals, objectives, and strategy are not outlined in this Program Announcement for continuation and non-competitive funding. This information will appear in the application kits, grant award documents, and reimbursable agreements for the programs that follow.

All grantees awarded new programs following the OVC peer review and selection process are expected to work closely with the OVC project monitor during all phases of the award period. All written products resulting from these grants must be submitted on computer disk and in hard copy.

A. OVC Training and Technical Assistance Resources

Trainers Bureau—$170,000

Through the Trainers Bureau, OVC responds to requests for training and technical assistance by providing expert consultants in the field of victim services. Skilled trainers capable of conducting high quality workshops are available to offer training and technical assistance at a wide range of victim-related conferences, seminars, and other types of training events. The Trainers Bureau also includes professionals capable of providing appropriate, effective on-site technical assistance to address significant operational problems or needs commonly experienced by agencies.

For further information, either as an agency wishing to apply for assistance or a party interested in serving as a consultant, contact Vicki Rapoport, (202) 616–3572. Applications will be accepted for consideration throughout the award period.

Immediate Response to Emerging Problems (IREP)—$50,000 in Early FY 1996

IREP allows OVC the flexibility to respond to requests for training or technical assistance from communities and Federal, state, and local agencies that must respond to a major crisis involving multiple victims. This jointly funded OVC/BJA program provides rapid response victim assistance for communities in crisis. Through this program, OVC can sponsor a team of diverse professionals, including mental health providers, law enforcement, victim advocates, and medical personnel, to assist these communities.

Approved on-site assistance will be short-term, generally between one and three days. No funds will be awarded directly to successful applicants. OVC and BJA will absorb all costs in accordance with Federal guidelines. Requests for assistance must not exceed $10,000.

Applications will be accepted throughout FY 1995 and 1996. For further information, contact David Osborne, (202) 616–3580, or Sue Shriner (Federal cases), (202) 616–3577.

Assistance for Victims of Federal Crime (Reimbursable Agreement)—$75,000

Since 1988, OVC has provided funds to support essential emergency victim services, such as emergency shelter and transportation to scheduled judicial proceedings, for Federal crime victims when these services are unavailable from any other source. OVC will continue this program so that funds can be made available for victim-witness coordinators in United States Attorneys' offices to obtain services needed by Federal crime victims.

B. Training and Technical Assistance for Federal Law Enforcement

Training and Technical Assistance for Federal Law Enforcement (Continuation)—$460,000

OVC is responsible for training law enforcement personnel from over 70 Federal agencies in the delivery of services to victims of Federal crime. OVC will enter into Reimbursable and Interagency Agreements to: (1) Transfer $75,000 to the Federal Bureau of Investigation (FBI) to support its Victim-Witness Program by assisting with the salary of one staff member and sending FBI Victim-Witness Coordinators/agents to a yearly in-service training; (2) make $100,000 available to the Department of Treasury's Federal Law Enforcement Training Center (FLETC) to support basic and advanced training for Federal law enforcement officers, a training conference for Federal criminal justice personnel on bias crime, a train-the-trainer session for Federal Victim-Witness Coordinators, Federal agency specific training sessions, and production of two training videos; and (3) set aside $100,000 to assist other Federal agencies with their mandated victim-witness program training needs. Federal agencies may submit requests to OVC for financial assistance. These requests must be accompanied by specific training plans and detailed budgets. Selections will be based on cost effectiveness and the capacity of the project to improve victim assistance services.

OVC will provide $185,000 to sponsor the attendance of Federal law enforcement personnel at OVC sponsored or other approved training sessions. In FY 95, OVC will send participants and trainers to the following training sessions: (1) OVC's military "Crime Victims and Corrections;" (2) OVC's "Military Communities Assisting Crime Victims;" (3) OVC's Dual Track Conference with EOUSA; (4) OVC's "Multi-jurisdictional Child Exploitation" project; (5) the National Symposium on Child Sexual Abuse; (6) trainings provided by the National Center for Prosecution of Child Abuse; and (7) other training sessions as approved by the OVC Director. These activities will be supported through financial mechanisms such as Interagency Agreements and travel reimbursements.

C. Training and Technical Assistance for Federal Victim-Witness Coordinators and Prosecutors in U.S. Attorneys' Offices (Continuation)

Training and Technical Assistance for Federal Victim-Witness Coordinators and Prosecutors in U.S. Attorneys' Offices—$350,000

To improve the response of the Federal criminal justice system to the needs and rights of crime victims, OVC will enter into a Reimbursable Agreement with the Executive Office for U.S. Attorneys. This initiative will support training and technical assistance programs for Federal victim-witness coordinators and prosecutors, including:

- $150,000 to fund a model Victim-Witness Assistance Program within a U.S. Attorney's office to address the unique needs of Federal crime victims, such as victims of white collar crime and bank robbery. The program, funded in cooperation with BJA, will produce model policies and program materials to benefit all U.S. Attorneys' Offices and provide comprehensive victim assistance services.
- $75,000 to reimburse expenses at OVC approved or sponsored training sessions and conferences on victim and witness assistance, including a joint OVC/EOUSA training session in September, 1995;
- $75,000 to reimburse Federal Districts for providing District-Specific Training involving victims' rights legislation and compliance with the 1991 Attorney General Guidelines for Victim and Witness Assistance; and,
- $50,000 to reimburse expenses for Federal victim-witness coordinators and Federal prosecutors to attend the 11th Annual National Symposium for Child Sexual Abuse in Huntsville, Alabama.

D. Training and Technical Assistance for Crime Victim Practitioners and Allied Professionals

Multi-jurisdictional Model for Handling Child Sexual Exploitation Cases (Continuation)—$100,000

This continuation grant to the Education Development Center, Inc. (EDC) will expand the scope of a current joint OVC/OJJDP project. Using $50,000 from OVC and $50,000 from OJJDP, the grant will allow EDC to provide training using the protocol developed during the first phase of the grant. The protocol, Blueprint for Action, offers a coordinated approach for handling these cases. EDC will promote the widespread adoption of the model by showcasing the protocol at the National Symposium on Child Sexual Abuse and by providing training on the model in three cities.

Expanding Resources for Children's Advocacy Centers (Non-competitive)—$100,000

OVC seeks to combine efforts with OJJDP and private non-profit organizations to identify and fill current needs of children's advocacy centers (CACs) and other service providers. OVC will collaborate with these organizations to fund programs that expand resources for multidisciplinary teams and extend the concept of teamwork used by CACs to other kinds of crimes, such as family violence.

Violence Against Women

Training and Technical Assistance to Combat Violence Against Women (Non-Competitive)—$200,000

The recently enacted Violence Against Women Act (VAWA) in the Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. 2265, makes formula grants available to states for developing and strengthening effective law enforcement and prosecution strategies and victims services in cases involving crimes against women. OVC will provide funding for and work with the Department of Justice's VAWA Office to develop appropriate programs.

No applications are being solicited at this time. OVC resources will be dedicated in part to the following areas of need:

1. The Full Faith and Credit provision of VAWA mandates that protection from abuse orders issued in one jurisdiction receive "full faith and credit" in another locale. The provision seeks to ensure that valid protection orders will be enforced by non-issuing states when a victim travels across state lines. Protection orders issued in Native American lands also must be given "full faith and credit" by state courts and non-issuing other tribal courts.

OVC funding will be allocated for the development of model policies and procedures on implementation and enforcement of the Full Faith and Credit provisions, and to train state and local criminal justice components and advocates. Efforts will be made to ensure that the project builds on work previously undertaken to address related issues, such as the development of model legislation and research on needed reforms.

2. OVC funding also will be allocated to the development of customized, multidisciplinary training and technical assistance for local, county, and state jurisdictions responding to violence

VOL 60 ISS 85 MY 3 1995 UMI

against women. Under this program, teams from one community can visit a "promising program" in another community to learn about multidisciplinary approaches in handling family violence cases. This funding will augment limited training and technical assistance dollars provided by the Violence Against Women (VAWA) Office for states receiving formula grants and will be used for the same purposes.

OVC will reserve up to $200,000 available for this non-competitive initiative.

Meeting of the Anti-Stalking Resource Group (Non-competitive)—$9,906

BJA awarded the National Criminal Justice Association (NCJA) a grant in September 1993 to conduct a series of regional seminars in the states on implementing anti-stalking codes. NCJA is invited to convene a resource group meeting to conclude its previous work and to issue a final report that could be included in OVC's national agenda project with a compilation of a historical perspective, promising practices, new legislation, and a model statute (see Section IV). $9,906 is available to provide support during a 12 month period.

National TRIAD Trainings To Reduce Elder Victimization (Interagency Transfer)—$50,000

In 1988, representatives of the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP) created the TRIAD program. TRIAD focuses on how crime, fear of crime, and crime victimization adversely impact older Americans and how the collaborating agencies can develop effective strategies to improve the quality of life for this population. Since then, communities across the nation have established more than 150 local TRIADs, and 21 states have signed agreements indicating the support of their state police chiefs and sheriffs' associations and AARP for this program.

To complement local efforts, OVC, BJA, and the Administration on Aging (AoA) at the Department of Health and Human Services have entered into an Interagency Agreement (IA) to fund up to five regional training conferences/seminars to support programming directed at elder abuse, victimization, provision of community services, and other related issues. These conferences will seek to further spread TRIAD programs throughout the country, identify model practices used to assist older Americans and identify resources, such as local Area Agencies on Aging, that can be included within any local strategy addressing crimes against older Americans. OVC will make $50,000 available to assist this effort. These funds will be transferred to BJA, which will award combined OVC, AoA, and BJA funds to NSA to plan and implement these conferences.

Training for Military Chaplains (Continuation/Cooperative Agreement)—$60,000

This training and technical assistance project will be implemented by the current OVC grant recipient, the Spiritual Dimension in Victim Services. Traumatized victims of crime on military installations often seek assistance from chaplains rather than from other service or law enforcement professionals. This project seeks to modify the current training manual for military chaplains and to provide up to three regional training programs on victim assistance for military chaplains from all four military services and the U.S. Coast Guard.

Regional Training Seminar Series: Bias Crime Training for Law Enforcement and Victim Assistance Professionals (Continuation)—$55,000

As discussed Section II, OVC is sponsoring regional training seminar series on two topics during Fiscal Year 1995. The basic description of this initiative, its purpose, background, goals, and objectives are described in that section, as is the program strategy for the series on establishing community and institutional crisis response teams. The specifics regarding the second series, bias crime training for law enforcement and victim assistance professionals, are described here, as this grant is a continuation of a previous OVC grant.

This grant, in cooperation with BJA, will expand the scope of an OVC grant previously competitively awarded to the Education Development Center, Inc. to develop a bias crimes training curriculum that would help strengthen the knowledge and skills of law enforcement and victim service providers. The training curriculum was developed, and a pilot training session was held successfully. The grantee will modify the curriculum to include current information about Federal statutes, and then offer training at four sites to be selected with the assistance of an Advisory Board. Participants of each seminar will develop, as a final product of the training event, an action plan for incorporating skills learned into their approach to serving the victims of bias crimes.

Victim Assistance in Public Housing (Non-competitive)—$25,000

This project, in cooperation with BJA, will provide resources to the National Organization for Victim Assistance (NOVA) to gather information about current victim assistance efforts in public housing, identify potential resources, and develop model strategies for furthering victim assistance programs within public housing developments.

This program seeks to: (1) Identify existing victim assistance programs operating within public housing developments; (2) assess the strengths and weaknesses of these programs and identify major barriers to successful delivery of victim services; and (3) solicit these programs to work with OVC, the Department of Housing and Urban Development, other related Federal agencies, and NOVA to identify and develop model strategies that support the development and sustainment of victim assistance programs within public housing developments.

NOVA will collect program materials that can be used by public housing authorities to establish victim assistance programs and will convene meetings with representatives of the above mentioned agencies and other experts in order to facilitate discussions and generate recommendations. When completed, NOVA will submit a report that includes a design for a model public housing victim assistance program and recommendations for program implementation.

E. Native American Programs

Assistance to Victims of Federal Crime in Indian Country (Continuation)—$765,245

OVC initiated the Victim Assistance in Indian Country (VAIC) Program in 1987 to establish a network of "on-reservation" victim assistance programs in areas of Indian Country so that services normally available in towns and cities across the country would also be available to crime victims in remote sections of Indian Country. Grants were awarded to state agencies to make subgrants to Indian tribes or Native American organizations on land areas of Federal jurisdiction. Services provided through the tribal programs include crisis intervention and counseling to provide emotional support to victims following a violent crime; emergency, short-term child care or temporary shelter for family violence victims; help in participating in Federal criminal justice proceedings; and payment for forensic medical examinations for

sexual assault victims. Funds may also be used for salaries for victim service providers. No applications are solicited.

Due to the progress in this area, OVC will fund continuation grants for 19 states to make subgrant awards to support 36 tribal victim assistance programs funded in cycles since FY 1989. The program will provide continued support to Native American communities in remote sections of Indian Country where victim assistance services have previously been unavailable or scarce.

OVC will continue funding for all participating states in FY 1995 and for the four new states through FY 1997. OVC also is exploring alternative strategies for supporting the program and will seek information from VAIC programs and others.

Training and Technical Assistance for Native American Children's Justice Act Grantees (Continuation/Cooperative Agreement)—$305,000

This program will continue support for a grant awarded to the National Indian Justice Center (NIJC) in 1994 to provide comprehensive, skills-building training and technical assistance to Indian tribes and organizations that were awarded grants as part of the Children's Justice Act Discretionary Grant Program for Native Americans (CJA). The purpose of the CJA program is to assist tribes to improve the handling of serious child abuse cases, especially child sexual abuse cases. This grant also will support the development and production of a ten minute video for tribal leaders that explains the importance of a coordinated effort among tribal agencies in implementing the CJA program.

The training provided has been individually tailored to each tribe's special circumstances and needs. As a result, tribes have established, expanded, and trained multi-disciplinary teams; revised tribal codes; developed protocols and procedures for handling child sexual abuse cases; and developed procedures for managing child-centered interview rooms. OVC seeks to ensure that all tribal programs receiving CJA grants are provided the training and technical assistance necessary to successfully implement their programs. No additional applications are being solicited in FY 1995. For further information, please contact Cathy Sanders, (202) 616–3578.

Court Appointed Special Advocates (CASA) in Indian Country (Continuation)—$53,635

While currently there are 549 certified CASA programs in 50 states with 33,000 volunteers, only two such programs operate in the 170 court systems of Federally recognized tribal governments. This program will support the development of CASA programs in Indian Country so that tribal courts funded through this program will be able to assign advocates to represent the best interests of children. This program is especially important in Indian Country since a tribal court may serve as a Native American child's only recourse to protection and justice.

OVC will transfer funds to OJJDP to be awarded to the National CASA Association for the purpose of supporting child advocacy programs in Indian Country. Of the total amount, $23,635 will go toward the organization of a tribal CASA symposium in conjunction with the National CASA Conference. The symposium will develop a plan to swiftly, effectively, and sensitively adapt the CASA concept to the needs of tribal courts. The remaining $30,000 will be used to support the establishment of two tribal CASA programs.

Children's Justice Act Discretionary Grant Program for Native Americans (Continuation)—$525,000

In 1988, the Victims of Crime Act was amended to make funding available annually to Indian tribes and organizations to improve the handling of child abuse cases. Since 1989, OVC has granted annual awards to Indian tribes to improve the systemic response to serious cases of child abuse in a way that increases support for and lessens trauma to child victims.

Since 1989, OVC has provided funding to 28 tribes for a range of activities including: Development of protocols and procedures for reporting, investigating, and prosecuting child sexual abuse cases; collaboration among professionals that minimizes the number of child interviews; establishment, expansion, and training of multidisciplinary teams; revision of tribal codes to address child sexual abuse; child advocacy services for children involved in court proceedings; enhanced case management and treatment services; specialized training for prosecutors, judges, criminal investigators, and other professionals who handle child sexual abuse cases; development of procedures for establishing and managing child interview rooms; and special prosecution units.

This program will extend the progress made during the award year and ensure that systemic improvements are fully developed, defined, effectively implemented, and operating so as to result in improved investigation, prosecution, and overall handling of serious child abuse and neglect and child sexual abuse cases. The projects (Ramah Navajo School Board, Inc., Salt River Indian Community, Fort Peck Assiniboine and Sioux Tribes, Chugachmuit, Minnesota Chippewa Tribe, Omaha Tribe of Nebraska, South Puget Intertribal Planning Agency, and Shoshone Tribal Business Council) will be funded early in FY 1996.

Travel/Training and Technical Assistance for Native Americans (Non-competitive)—$53,665

This program will provide assistance to Indian tribes seeking a range of specialized training for tribal professionals. This program is designed to meet the training needs of individual tribal personnel who handle complex child abuse cases and who manage other child victim programs. Specifically, the program will: (1) Support trainers at various OVC sponsored training sessions that focus on assisting child victims in Indian Country, and send Native American participants to these events; (2) provide an array of assistance, training, and travel to the CJA grantees and other tribal organizations that may request assistance; and (3) develop a model CJA application that tribes can use in developing their own applications.

Tribal Judges Project (Non-competitive)—$80,000

OVC will work with other DOJ components as well as the Administrative Office of the U.S. Courts to identify a range of training and technical assistance strategies or projects that will assist tribes to improve the handling of child abuse and family violence. The funds will be used to support training and technical assistance for Federally-recognized tribes participating in DOJ projects or grant programs directed to improving tribal systems of justice and the handling of child and spouse abuse cases. Planning will continue throughout the year with DOJ entities such as BJA, the Office of Tribal Justice, the Child Exploitation and Obscenity Section, the Violence Against Women Office, and other offices that are funding projects in Indian Country. Example of activities that could be funded include:

- Support for tribal judges and clerks of court to attend multidisciplinary trainings scheduled to occur in Federal Districts throughout 1995;
- Assistance in developing tribal codes or protocols within and among tribal governments, and memoranda of understanding to coordinate the

VOL 60 ISS 85 MY 3 1995 UMI

response of the tribal, state, and federal systems of justice in handling family violence cases;

• Attendance for tribal judges at specialized training courses, seminars, or conferences;

• Training or support for a planning meeting or focus group initiated by a tribe to develop specific procedures for coordinating the civil and criminal aspects of tribal, state, and federal justice systems.

F. Dissemination of Information

Office for Victims of Crime Resource Center (Continuation)—$261,084

The OVC Resource Center serves as a national clearinghouse of information concerning victim and witness assistance programs, victim compensation programs, and organizations from the private sector that assist victims and witnesses. In addition, it establishes liaisons with national, state, local, and private sector organizations whose activities are directed toward improving services for victims and witnesses and maintains directories of state, local, and private sector programs, resources, and experts.

Since 1986, OVC has supported the Resource Center as part of the National Criminal Justice Reference Service contract. In order to maintain and enhance Resource Center activities during FY 1995, OVC, in cooperation with BJA, will make $261,084 available to Aspen Systems Inc.

Crime Victim Compensation Videotape (Non-Competitive)—$30,000

This non-competitive grant to the National Association of Crime Victim Compensation Boards (NACVCB) will continue an existing grant and build upon a previous grant that produced a highly successful video about compensation benefits for Native Americans. NACVCB will produce a video that explains how the compensation program works so that victims will understand the basics of the program. NACVCB will use the "core script" that was written for the previous video. The video will be distributed to all military bases, National Parks, and other areas of Federal jurisdiction and made available nationally to organizations and programs assisting crime victims. In addition, OVC will use the "masters" of the video to make copies available on a fee-for-service basis through the OVC Resource Center.

Reproduction of Federal Victim Assistance Informational Materials (Continuation)—$120,000

OVC has responsibility for the preparation, publication, and distribution of informational materials that describe Federal crime victims' rights and available services. In FY 95, OVC will support:

• The publication of revised Attorney General Guidelines for Victim and Witness Assistance ($20,000);

• The development, printing and distribution of a Federal Resource Book for Federal agencies ($40,000);

• The printing and distribution to all U.S. Attorneys' offices of a Federal supplement to the manual "Prosecution of Child Abuse" ($10,000);

• The development and distribution of briefing packages to assist Federal Victim-Witness Coordinators ($10,000); and

• The printing and distribution of "Going to Court" activity books and parent's handbooks for child victims required to testify in court ($40,000).

These materials will be reproduced within DOJ or as the result of Interagency Agreements.

Conference and Meeting Support Grant (Non-Competitive)—$75,000

OVC will retain up to $75,000 to handle the logistical planning and implementation tasks for OVC-sponsored conferences and events. These events are likely to include:

• A focus group of ten to 15 ministers, rabbis, and priests from a variety of religious traditions will be convened to provide input to OVC on developing and presenting appropriate training for members of the clergy;

• A focus group of approximately ten to 12 members will meet to make recommendations regarding continuing support for the Victim Assistance in Indian Country (VAIC) program, and to identify strategies for strengthening the program and assisting subgrantees; and

• Support for unanticipated conferences and events that OVC may wish to conduct in the course of the year.

G. Restorative Justice Symposium

Restorative Justice Symposium (Interagency Transfer)—$30,000

In attempting to ensure that justice is administered fairly and impartially, our system of criminal justice makes crime a violation against the state. A consequence of this approach is that crime victims—those who personally suffer the impact of crime—are often excluded from their own cases. The focus usually is placed on the offender's crime, rights, and needs, and the sanction that represents society's just retribution. The current system often fails to hold the offender accountable to either the victim or the community, both of which are harmed by crime.

Restorative justice is a philosophical framework that allows the victim and the community to participate actively in the criminal justice process. Both must be restored, insofar as possible, from the harm done by the offender. The community has an additional role: To assist offenders in re-building their ties to the community as responsible citizens. This role is crucial for the community to be interactively engaged in the administration of justice.

This activity will be conducted under a current NIJ contract. The NIJ contractor will plan, organize, and conduct a transfer of knowledge symposium on restorative justice. The symposium will bring together policy and decision makers from a number of environments, including the political arena, victim services, criminal justice, academia, and research. Participation in the symposium will be by invitation only, with no more than 80 in attendance.

For further information, contact Susan Laurence, OVC, (202) 616–3573 or Cheryl Crawford, NIJ, (202) 514–6210.

IV. National Crime Victims Agenda

Update of the 1982 Final Report of the President's Task Force on Victims of Crime (Non-Competitive)—$125,000

In 1982, the President's Task Force on Victims of Crime issued its final report—a comprehensive blueprint of 68 recommendations designed to improve the treatment of the nation's crime victims by the criminal justice system and other sectors of society. The report was the first Federal study of its kind and spearheaded a national momentum toward securing specific victim rights and developing services responsive to the unique needs of crime victims.

In the decade that followed, state governments and the Federal government adopted many of the recommendations in the 1982 report. At the Federal level, the Office for Victims of Crime was established to serve as the national advocate for crime victims and to administer the Crime Victims Fund. The Fund, derived from fines, penalty assessments, and bond forfeitures leveled against Federal criminal offenders, was an innovative idea for helping to fund state compensation and assistance programs at the local level, supporting victims of Federal crimes, and providing national scope training and technical assistance. Since the publication of the report, victim services have expanded throughout the country and many service providers have received specialized training regarding crime victim issues. Victim advocacy groups have developed nationwide

memberships and have gained prominence. Both the states and the Federal government also have enacted numerous laws designed to establish and protect the rights of crime victims.

This announcement is provided for informational purposes only. No applications are being solicited. OVC is sponsoring a new report that will assess crime victims-related reforms achieved during the past thirteen years and set forth recommendations for the future. Approximately thirty national experts will assist in preparing the report by participating in a two-day round-table discussion of crime victim issues and drafting background papers on specific crime victim related topics.

OVC will make up to $125,000 available for this project in FY 1995. The project is being jointly funded by OVC and BJA. For further information, contact Sharon English, (202) 616–3588, or Melanie Smith, (202) 616–3575.

V. Solicitations for FY 1996

Victim Assistance Academy (Continuation)

In 1994, OVC solicited applications for a grant to establish a Victim Assistance Academy for the purpose of making high quality intensive training available to victim service providers across the country from Federal, state, tribal and local settings. OVC anticipated that the project would be an initial step toward establishing an annual training event and creating a professional school and training program for victim service providers. In early 1995, the grant was awarded to a consortium of national victim assistance organizations that included the Victims' Assistance Legal Organization, the National Crime Victims Research and Treatment Center of the Medical University of South Carolina, and California State University-Fresno. The grantee was funded to design an interdisciplinary training curriculum, develop a bibliography of training curricula, and produce a video of training highlights with an accompanying viewer's guide and participant training manual. OVC will work with the grantee during the year to evaluate the products developed and determine if the project will be continued and expanded in Fiscal Year 1996. Accordingly, OVC will reserve $100,000 that could be awarded to continue this effort in early 1996.

Victim Assistance Training for Military Victim Assistance Providers (Continuation)—$40,000

Continued funding will be provided to the National Organization for Victim Assistance (NOVA) to improve direct services to victims of crime on military installations by providing training in program development, program management, and direct victim services for military justice personnel. This grant will supplement an existing grant that provides for three regional victim assistance training conferences for criminal justice professionals from military installations. The current grant combines the expertise and resources of NOVA, OVC, and the Department of Defense (DoD) to provide comprehensive skills training on crime victims' issues. Two additional training sessions will be held, one in Germany and one in the Far East, to accommodate the overseas military installations that were unable to attend FY 95 training sessions because of cost and space limitations. All grant activities will be coordinated with DoD's Victim Assistance Advisory Council. OVC is announcing this continuation grant in FY 95; however, the grant award will be made October 1, 1995 with FY 96 funding.

Regional Coordination Initiative

This project seeks to create a network of trainers and technical assistance providers who will enhance existing victim services by planning, managing, and conducting innovative training events at the regional level. This new initiative will identify Regional Field Coordinators (RFC) who, with support from OVC, will develop and implement regional training and technical assistance projects on victim issues. OVC will divide the nation into four regions, as the National Institute of Corrections has done for its Regionalization Program, which serves as the prototype for this initiative. Four individuals per region will be selected to serve as RFCs.

Immediately after their selection, the RFCs will begin an assessment of the major training and technical needs in their local areas. Late in the first project quarter, all 16 RFCs will meet for a three day orientation and planning meeting in Washington, DC. OVC will cover all travel-related expenses for the meeting. During this meeting, the four RFCs for each region will plan and organize one training or technical assistance activity that their group will sponsor during the year. They will base their plans on input they have gathered from victim service providers and trainers in the assessment process.

Through the Trainers Bureau, OVC will provide up to $3,500 to each region toward the support of the annual training or technical assistance project. The RFCs will be responsible for marketing the project throughout the region, processing applications from participants who wish to attend, and organizing the event. It is expected that training participants or their agencies will cover the travel-related costs of attending the training.

Since the RFC is an unpaid volunteer position, those serving in this capacity will do so with the support of their own agencies and organizations. The chief executive officer of the employer of each prospective RFC must agree in writing to allow the employee to participate in RFC activities as a part of their regular job. They must also agree to permit the RFC to spend a portion of time on RFC tasks and to use limited amounts of the agency's telephone, mail, and duplication resources in carrying out these tasks. RFC responsibilities last for one year, and may be renewable on a yearly basis for up to three years.

Experienced victim service providers with training and technical assistance expertise, working either in public or private agencies, are encouraged to apply as volunteer regional field coordinators. Applications must include written permission from the applicants' employers, as stipulated above.

Individuals will be selected to fill these positions based on their skills and experience in the victims field, their expertise in providing training and technical assistance, and their capability to work collaboratively with other service providers in their area. The four coordinators selected from each region should have diverse expertise (e.g., family violence, sexual assault, general victim services) and represent different types of agencies (e.g., law enforcement, prosecutor, private service providers). Geographic diversity within each region is also a selection factor.

Application forms may be requested by writing to: Regional Coordination Initiative, Office for Victims of Crime, 633 Indiana Avenue, NW., Washington, DC. 20531. Applications will be accepted through September 30, 1995 for the FY 1996 program. For further information, contact Susan Laurence, (202) 616–3573.

Concept Papers for FY 1996

OVC is soliciting short concept papers for innovative demonstration and training and technical assistance programs for funding consideration in FY 1996. The purpose of this effort is to identify innovative ideas falling within OVC's statutory authority to improve the response to the nation's crime victims through the provision of training and technical assistance. OVC is seeking input from the victim assistance field for new ways of meeting

VOL
60
ISS
85
MY
3
1995
UMI

the needs of crime victims that may be widely applied.

Concept papers may focus on the needs of a specific group of crime victims, such as victims of workplace violence, improving the quality of services, or on a new concept or design for providing services. These concept papers will permit OVC to identify program areas of primary interest to the field, to determine program funding priorities, to identify emerging issues, and to explore innovative ideas that address crime victim needs by OVC and within the Federal government.

Concept papers will be reviewed as part of OVC's FY 1996 program planning process. The papers should support the development of training materials and the delivery of training on specific topics relating to crime victims. Topics discussed in the concept papers also should address the needs of victim service providers, law enforcement, mental health practitioners, the clergy, or others who play a critical role in responding to victims of crime.

A brief program narrative should be included within the concept paper to describe the need for the project, the process by which the project would be undertaken, the method of determining the effects and quality of the project, and the possible products arising from the project.

The submission of a concept paper does not in any way constitute a commitment by OVC to award a grant to support any program proposed in the concept paper or provide funding to a specific organization.

Concept papers should be submitted to David Osborne, Special Assistant to the Director, OVC, (202) 616–3580 for consideration. The concept papers will be reviewed in conjunction with Administration priorities, OVC legislative mandates, and staff input during the development of OVC's FY 1996 discretionary program planning priorities. Invitations to submit applications for funding on a competitive basis will be announced in OVC's FY 1996 program plan. A specific invitation by OVC to submit a grant application as a result of the concept paper review process will not in any way constitute a commitment by OVC to award a grant to support that proposed project.

VI. Eligibility Requirements

In addition to special eligibility requirements listed within the individual program descriptions above, the following will apply. Applications are invited from public and private non-profit agencies and organizations. Applicants must demonstrate that they have ample expertise and/or prior experience in the design and conduct of projects of a nature similar to that for which they are applying.

Applicants must also demonstrate that they have the management capability, fiscal integrity, and financial responsibility, including, but not limited to, an acceptable accounting system and internal controls, and compliance with grant fiscal requirements. Applicants who fail to demonstrate that they have the capability to manage the program will be ineligible for funding consideration.

VII. Application Requirements

All applicants must submit a completed Application for Federal Assistance (Standard Form 424 and OJP Form 4000/3 (1/93) Attachment to SF–424), including a program narrative. All applications must include the information outlined in this section of the solicitation (Section VI, Application Requirements) in Part IV, Program Narrative of the application (SF–424). The program narrative of the application must not exceed 35 double-spaced pages in length. Applicants that fail to adhere to this program requirement will be automatically disqualified from competition.

In accordance with Executive Order No. 12549, 28 CFR 67.510, applications must also provide Certifications Regarding Lobbying, Debarment, Suspension, and other Responsibility Matters; and Drug-Free Workplace Requirements (OJP Form 4061/6), which will be supplied with the application package, and must be submitted with the application.

Applications that include non-competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $100,000. Financial questionnaires must be completed by new non-governmental (except public colleges, universities, and hospitals) applicants. This includes a review of the accounting system and a determination that periodic audits are performed to ensure fiscal integrity. New or supplemental awards may not be made to applicants with delinquent financial or progress reports, delinquent or unresolved audit reports, delinquent Federal debts, other unresolved issues of fiscal integrity, or to applicants who have been debarred or suspended from Federal financial and non-financial assistance and benefits under Federal programs and activities.

Where indicated, cooperative agreements are awarded to states, units of local government, or public or private non-profit organizations at the discretion of OVC. Cooperative agreements are used when substantial involvement is anticipated between OVC and the recipient during performance of the contemplated activity. Interagency agreements between OVC and other governmental units or agencies are negotiated by the entities involved.

The following information must be included in the application (SF–424) Part IV Program Narrative:

A. *Organizational Capability.* Applicants must demonstrate that they are eligible to compete for a grant on the basis of the eligibility criteria established in Section VI of this solicitation. Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in each program description listed above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of the initiative for which they are applying. Applicants are invited to append examples of prior work products of a similar nature to their application.

Applicants must demonstrate that their organization has or can establish fiscal controls and accounting procedures that assure that Federal funds available under this agreement are disbursed and accounted for properly. Non-profit applicants who have not previously received Federal funds will be asked to submit a copy of the Office of Justice Programs Accounting System and Financial Capability Questionnaire (OJP Form 7120/1). Copies of the form will be provided in the application kit and must be prepared and submitted along with the application. The CPA certification (Section H) is required only of those non-profit applicants who have not previously received Federal funding.

B. *Program Goals and Objectives.* A brief statement of the applicant's understanding of the goals and objectives of the program should be included. The application should also include a problem statement and a discussion of the potential contribution of this program to the field.

C. *Program Strategy.* Applicants should describe the proposed approach for achieving the goals and objectives of each program. A detailed description of how the activities and projects of each program would be accomplished should be included.

D. *Program Implementation Plan.* Applicants should prepare a plan that outlines the major activities involved in implementing the program, describe how they will allocate available

resources to implement the project, and also describe how the program will be managed.

The plan must also include an organizational chart depicting the roles and describing the responsibilities of key organizational and functional components and a list of key personnel responsible for managing and implementing the major stages of the project. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. This documentation and individual resumes may be submitted as appendices to the application.

E. *Time-Task Plan.* Applicants must develop a time-task plan for the duration of the project periods, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the activities and products. Applicants should also indicate the anticipated cost schedule per month for the entire project period.

F. *Products.* Applicants must describe concisely the interim and final products of each stage of the program.

G. *Program Budget.* Budgets must be accompanied by a detailed justification for all costs, including the basis for computation of these costs. Applications containing contract(s) must include detailed budgets for each organization's expenses.

H. *Assessment.* Each grant recipient will be required to submit formal findings from an assessment, within 60 days of the completion of each year's activities and within 90 days of project completion. Each application must provide a plan for assessing the project.

VIII. Procedures for Selection

All applications will be evaluated and rated based on the extent to which they meet the established weighted criteria In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements set forth in Section VII. Applications will be evaluated by a peer review panel according to the OVC Competition and Peer Review Guidance.

Applications submitted in response to the competitive announcements will be evaluated by a peer review panel. The results of the peer review will be a relative aggregate ranking of applications in the form of "Summary of Ratings." These ordinarily will be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary reviews, will assist OVC in considering competing applications and in selection of the application for funding. The final award decision will be made by the OVC Director.

Applications for each program description, except where other point values or categories have been specifically identified, will be evaluated and rated by the peer review panels based on the extent to which they meet the following criteria:

A. Utility of the project (10 points): This refers to the applicant's response to the stated project purpose, goals, and objectives, and the applicant's explanation of the usefulness of the project to the field.

B. Project Strategy/Design (30 points): This provides a description of project components and activities; a specific plan for how the grant applicant intends to achieve the purpose, goals and objectives of the funded program. The strategy or design must include clear descriptions of interim deliverables and final products.

C. Implementation Plan (10 points): This plan will be judged on the realistic identification of tasks according to increments in the project period, and the assignment of specific staff to tasks on the time-task line.

D. Organizational Capability (30 points): Points will be awarded based on the applicant's statement of the organization's capability to successfully undertake this Federally funded project. This will consist of two parts: (1) A specific description of the applicant's management structure, previous experience with similar or related efforts, and financial capability (15 points); and (2) a project management plan and documentation of the professional staff members unique qualifications to perform their assigned tasks (15 points).

E. Budget (15 points): Points will be awarded based on the enumeration and accompanying narrative of grant costs, to be evaluated for clarity, reasonableness, allowability, and cost effectiveness.

F. A Plan to Assess the Project's Accomplishments (5 points): This assigns points based on the grant applicant's plan for assessing the impact of the project in accomplishing its goal(s)

IX. Submission Requirements

All applicants responding to this solicitation are subjected to the following requirements.

1. Upon request to OVC, the necessary forms for application will be provided, along with Department of Justice certification information

2. Applicants must submit the original signed application (Standard Form 424) and two copies to OVC. Applications should not be bound. Applicants should also include Certifications Regarding Lobbying; Debarment; Suspension and other Responsibility Matters; and Drug-Free Workplace Requirements (Form 4061/6), in order to meet the requirements of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D) and the Disclosure of Lobbying Activities Form (SF LLL) in accordance with 31 U.S.C. 1352.

3. All applications must be received by mail or hand delivered to OVC by 5 p.m. E.S.T. by the established deadline (60 days from date of publication of this Program Announcement). Those applications sent by mail should be addressed to: Office for Victims of Crime, U.S. Department of Justice, 633 Indiana Avenue, NW, Washington DC., 20531, ATTN: Administrative Officer. Hand-delivered applications must be taken to OVC, 633 Indiana Avenue, NW, Room 1386, Washington, DC. between the hours of 8 a.m. and 5 p.m. except weekends or Federal holidays. Applications must be received at OVC by 5 p.m. E.S.T. by the established deadline date. Postmarks WILL NOT be accepted.

OVC will notify applicants in writing of the receipt of their application Applicants also will be notified by letters as to the decision made regarding whether or not their submission will be recommended for funding. Applications will be reviewed as Peer Review Panels can be convened. Every effort will be made to review applications in a timely manner.

X. Civil Rights Compliance

A. All recipients of Crime Victims Fund assistance, including contractors, must provide Certified Assurances that they are in compliance with the non-discrimination requirements of the Victims of Crime Act of 1984, as amended, which states, No person shall on the ground of race, color, religion, national origin, [disability], or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any undertaking funded in whole or in part with sums made available under this chapter Section 1407(e), 42 U S C 10604

Recipients also must assure compliance with the following additional statutes and regulations Title VI of the Civil Rights Act of 1964, as amended, 42 U S C 2000d; section 504 of the Rehabilitation Act of 1973, as

VOL
60
ISS
85
MY
3
1995
UMI

amended, 29 U.S.C. 794; Subtitle A, Title II of the Americans With Disabilities Act of 1990, 42 U.S.C. 12101, et seq.; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681–1683, the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, et seq.; and Department of Justice Non-Discrimination Regulations, 28 CFR part 42, subparts C, D, E, and G.

B. In the event a Federal or state court or Federal or state administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.

XI. Audit Requirements

An audit is required for agencies receiving Federal funds, with some exceptions. The purpose of an audit is to determine whether Federal funds are being used properly and effectively. Each funded agency must provide the name of the Federal cognizant agency where their audit report is submitted. In most cases, the agency that receives an applicant's audit is the agency that provides the most direct funds to applicant during the current fiscal year. If you do not know the name of the cognizant agency, please check with your budget office. More detailed information on audit requirements are listed in the Office of Justice Programs Guideline Manual, Financial and Administrative Guide for Grants, May 15, 1990.

XII. Catalog of Federal Domestic Assistance Numbers

16.582 Crime victim assistance/ discretionary grants

16.583 Children's Justice Act for Native American Indian Tribes

Aileen Adams,

Director, Office for Victims of Crime.

[FR Doc. 95–10333 Filed 5–2–95; 8:45 am]

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federal register

Wednesday
May 3, 1995

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 200 and 203

Nationwide Pre-Foreclosure Sale Procedure; Final Rule

VOL 60 ISS 85 MY 3 1995 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Parts 200 and 203

[Docket No. R-95-1749; FR-2682-F-02]

RIN 2502-AE72

Nationwide Pre-Foreclosure Sale Procedure

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule adopts as final the interim rule that set forth the requirements and procedures that govern the Department's Pre-foreclosure Sale (PFS) Procedure. The interim rule was published in the **Federal Register** on September 30, 1994, at 59 FR 50136. The requirements and procedures contained in the interim rule are based on the Pre-foreclosure Sale Demonstration Program established by a notice published in the **Federal Register** on May 29, 1991, at 56 FR 24324.

EFFECTIVE DATE: June 2, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph Bates, Director, Single Family Servicing Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone (202) 708-3680. A telecommunications device for deaf persons (TDD) is available at (202) 708-1112. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) and have been assigned approval number 2502-0464.

Background

Sometimes, a mortgagor must confront the twin realities of not being able to meet his or her mortgage obligation and static or declining property values. Such a situation makes it virtually impossible for a financially distressed mortgagor to sell the home and, using the proceeds, to fully discharge the mortgage debt. Foreclosure of the mortgage is often the method by which these difficulties are resolved.

Over the past few years, much interest has been expressed by mortgagors and real estate agents in a transaction known as the "pre-foreclosure sale." This loss mitigation technique has grown significantly in use by the private sector and is also now commonly used by Government-sponsored enterprises, such as Fannie Mae (Federal National Mortgage Association), to ameliorate their losses from defaulted loans. In a successful pre-foreclosure sale involving a property subject to an FHA-insured mortgage loan, neither foreclosure nor conveyance of the property to the Department occur. A third party buys the home from a defaulting mortgagor at its approximate fair market value (with certain adjustments, as approved by the Secretary), which is less than the owner's outstanding indebtedness at the time of sale.

Section 1064 of the McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100-628) amended section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) to authorize HUD to pay a claim to a lender equal to the difference between the fair market sale price and the outstanding indebtedness (with certain adjustments). A successfully completed pre-foreclosure sale benefits the mortgagor, who avoids the stigma of foreclosure on his or her credit record, and also benefits HUD, which can expect to save by not paying foreclosure-related costs. HUD also saves on maintenance costs and marketing expenses for properties which would otherwise be conveyed to the Department following foreclosure. Finally, mortgagees also benefit through incorporating this loss-mitigation technique into their overall loan servicing, by frequently being able to file their claim for insurance benefits sooner, following a successful pre-foreclosure sale, than they would following a post-foreclosure conveyance claim.

On May 29, 1991, the Department published in the **Federal Register**, at 56 FR 24324, a notice which announced a limited demonstration program to gauge the demand for, and the efficacy of, pre-foreclosure sales as a means of assisting qualified mortgagors in avoiding foreclosure of their FHA-insured mortgages and of saving the Department money.

The Demonstration was successful in that the demand for this alternative to foreclosure was found to be very substantial; the efficacy of the pre-foreclosure sale transaction was found to be cost-beneficial to HUD; and feedback obtained from participating local HUD offices, program coordinators, mortgagees, homeowners and the general public was quite favorable. By expanding the options available to financially distressed mortgagors and not adversely affecting any mortgagor rights or interests under existing FHA-insured loan servicing regulations, the Department has not only acted responsibly toward the homeowners with FHA-insured mortgages, but also has operated with an eye to the cost-effectiveness of its own policies and procedures.

The Department then decided to implement the pre-foreclosure sale procedure nationwide by incorporating it into the overall approach of servicing FHA-insured loans by FHA-approved lender/servicers. Therefore, the Department issued an interim rule on September 30, 1994, at 59 FR 50136. The September 30, 1994 interim rule made pre-foreclosure sales an even more efficient servicing tool by streamlining procedures and, in some respects, reducing the Department's cost of following this course of action.

Public Comments

The public was given 60 days to comment on the requirements and procedures set forth in the September 30, 1994 interim rule. Comments were received from one commenter (a national trade association), and that comment was totally favorable to the interim rule.

This Final Rule

This final rule adopts without change the interim rule published on September 30, 1994, at 59 FR 50136.

Other Matters

Environmental Finding

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities because this rule pertains to a limited number of single-family mortgage situations. It expands the options available to financially distressed mortgagors and does not adversely affect any mortgagor rights or interests under existing FHA-insured loan servicing regulations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule does not have "federalism implications" because it does not have substantial direct effects on the States (including their political subdivisions), or on the distribution of power and responsibilities among the various levels of government. The purpose of this rule is to implement the requirements and methods of pre-foreclosure sales as a means of assisting qualified mortgagors in avoiding foreclosure of their FHA-insured mortgages and of saving the Department money.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being.

Semiannual Agenda

This rule was listed as item 1784 in the Department's Semiannual Agenda of Regulations published on November 14, 1994 (59 FR 57632, 57652), pursuant to Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Wages.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, the Department adopts as final without change the interim rule amending 24 CFR parts 200 and 203 published on September 30, 1994, at 59 FR 50136.

Dated: April 26, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95-10803 Filed 5-2-95; 8:45 am]

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VOL
60

ISS
85

MY
3

1995

UMI

federal register

Wednesday
May 3, 1995

Part IV

Department of Education

National Institute on Disability and Rehabilitation Research; Application Availability Under the Innovation Grants Program for Fiscal Year 1995; Notice

VOL
60
ISS
85
MY
3
1995
UMI

DEPARTMENT OF EDUCATION

[CFDA No.: 84.133C]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications Under the Innovation Grants Program for Fiscal Year (FY) 1995

Purpose of Program: The Innovation Grants Program is designed to provide financial support to projects that test new concepts and innovative ideas, demonstrate research results of high potential benefits, purchase and evaluate prototype aids and devices, develop unique rehabilitation training curricula, and respond to special initiatives of the Secretary, including projects to conduct feasibility, planning, and evaluation studies, conferences, and other activities to disseminate specific research findings.

Invitational Priorities: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that address the following invitational priority. However, an application that meets an invitational priority does not receive competitive or absolute preference over other applications.

NIDRR has observed that disability research is hampered by the lack of researchers with training to assess the comprehensive phenomenon of disability and its complex interaction with all aspects of society, particularly from the perspective of individuals with disabilities. Therefore, the Secretary is interested in supporting innovative projects that study the feasibility of and develop model approaches to teaching disability studies at the postsecondary level. Research projects in this area might address one or more of the following issues: The current availability of disability studies in institutions of higher education and the feasibility of instituting disability studies curricula; model curricula at the undergraduate or graduate levels; and the relative advantages of creating disability studies as a specialty area in core disciplines or as an interdisciplinary program.

A body of NIDRR research and other writings has suggested that the goals of the Rehabilitation Act of full integration into society, empowerment, and personal independence would be facilitated by an increased awareness of the history, nature, consequences, and culture of disability among individuals with disabilities and others within society as a whole. Therefore, the Secretary is also interested in supporting projects that study the feasibility of and develop models for teaching disability studies to adults in community settings. Projects addressing disability studies in community settings (e.g., adult education programs, independent living centers, or other accessible community facilities) would be most useful if they explore ways of accommodating various cognitive, sensory, and other disabilities and various ethnic and language populations in the learning experiences.

This notice supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: Parties eligible to apply for grants under this program are public and private nonprofit and for-profit agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations.

Deadline for Transmittal of Applications: June 19, 1995.

Applications Available: May 4, 1995.

Available Funds: $150,000.

Estimated Average Size of Awards: $50,000.

Estimated Number of Awards: 3.

Maximum Award: The Secretary does not consider an application that proposes a budget exceeding $50,000 for each 12-month budget period.

The Secretary may change the maximum amount award through a note accompanying the application package.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: Up to 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, 80, 81, 82, 85, 86; and (b) the regulations for this program in 34 CFR parts 350 and 358.

In order to obtain information about the invitational priorities contact Betty Jo Berland, U.S. Department of Education, 600 Independence Avenue, S.W., Switzer Building, Room 3422, Washington, DC 20202. Telephone: (202) 205–8801. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8133.

FOR FURTHER INFORMATION CONTACT: In order to obtain an application package, contact William H. Whalen, U.S. Department of Education, 600 Independence Avenue SW., Switzer Building, Room 3411, Washington, DC 20202. Telephone: (202) 205–9141. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8887.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 761a and 762.

Dated: April 27, 1995.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–10802 Filed 5–2–95; 8:45 am]

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federal register

Wednesday
May 3, 1995

Part V

Department of the Interior

Bureau of Indian Affairs

Office of Tribal Services National Tribal Consultation; Notice

VOL
60
ISS
85
MY
3
1995
UMI

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Office of Tribal Services National Tribal Consultation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Tribal Consultation Meeting.

SUMMARY: Notice is hereby given that the Bureau of Indian Affairs (BIA), Office of Tribal Services, will conduct a consultation meeting with Indian tribes to obtain oral comments concerning:

1. The proposed transfer of welfare assistance funds to the Tribal Priority Allocations budget system in FY 1996 by the BIA's Division of Social Services.
2. The proposed transfer of contract support funds to the Tribal Priority Allocations budget system in FY 1996 by the BIA's Division of Self-Determination Services.
3. The proposed resource allocation for the Housing Improvement Program and proposed revisions for program regulations by the BIA's Division of Housing Services.
4. The proposed rule describing the base support funding formula for the distribution of Indian Tribal Justice Act funds by the BIA's Branch of Judicial Services.
5. The proposed regulations establishing minimum standards of character, caseload standards and funding distribution formula as required by Pub. L. 101–630, the Indian Child Protection and Family Violence Prevention Act.

All oral comments presented at the tribal consultation meeting will be recorded, transcribed and taken into consideration by the agency in the development of the final regulations and or funding distribution methodologies.

DATES: June 20 through 22, 1995. The consultation meeting will commence at 8:30 a.m., June 20, 1995, and conclude at 5 p.m. June 22, 1995.

ADDRESSES: The Albuquerque Convention Center, 401 Second Street, NW., Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: The Office of Tribal Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 4603–MIB, Washington, DC 20240, telephone number (202) 208–3599.

SUPPLEMENTARY INFORMATION: The purpose of the consultation meeting is to provide Indian tribes, tribal and BIA program personnel, tribal organizations, and interested persons an opportunity to present oral comments on the proposed actions. Briefing books and deadline dates for the submission of written comments on the proposed actions and regulations will be mailed to all Federally recognized Indian tribes and BIA area directors.

Dated: April 26, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–10735 Filed 5–2–95; 8:45 am]

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federal register

Wednesday
May 3, 1995

Part VI

Environmental Protection Agency

40 CFR Parts 156 and 170

Pesticide Programs; Worker Protection Standards; Final Rules and Proposed Rules

VOL
60
ISS
85
MY
3
1995
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250097A; FRL–4949–9]

RIN No. 2070–AC69

Pesticide Worker Protection Standard; Grace Period for Providing Worker Safety Training

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendment.

SUMMARY: EPA is amending the 1992 Worker Protection Standard (WPS), by making the 5-day grace period (the number of days of employment before workers must be trained) effective January 1, 1996. Additionally, effective January 1, 1996, EPA is requiring agricultural employers to assure that untrained workers receive basic pesticide safety information before they enter a treated area on the establishment.

EFFECTIVE DATE: This rule will become effective July 17, 1995.

FOR FURTHER INFORMATION CONTACT: Jeanne Heying, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number and e-mail address: Room 1121, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington VA, Telephone: 703–305–7164, Heying.Jeanne@epamail.epa.gov.

ADDRESSES: The Agency invites any interested person who has concerns about the implementation of this action to submit written comments identified by docket number "OPP–250097A" to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–250097A." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VI of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION: This document discusses the background leading to this final rule amending the Worker Protection Standard; summarizes the public's comments on the provisions of the proposed amendments (60 FR 2820, January 11, 1995); provides EPA's response to comments and final determination with respect to modifying the training provisions of the Worker Protection Standard, and provides information on the applicable statutory and regulatory review requirements.

I. Statutory Authority

This rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a).

II. Background

In 1992 EPA revised its Worker Protection Standard (40 CFR part 170) (57 FR 38102, August 21, 1992) which is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues. The WPS is also intended to reduce the risk of pesticide poisonings and injuries among pesticide handlers who may face more hazardous levels of exposure. The 1992 WPS superseded the 1974 WPS and expanded the WPS scope not only to include workers performing hand labor operations in fields treated with pesticides, but also to include workers in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides. The WPS contains requirements for pesticide safety training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals following pesticide application, and decontamination and emergency medical assistance in the event of an accident.

The 1992 WPS requires agricultural employers to assure that before the 6th day of employment (referred to as the grace period) a worker receives basic pesticides safety training before entering any areas on the agricultural establishment where, within the last 30 days, a pesticide has been applied or a restricted entry interval (REI) has been in effect. For the first 5 years after the effective date of the WPS, however, the WPS allows employers up to the 16th day of employment to assure that the worker receives the training. Additionally, workers are required to be retrained at 5–year intervals.

Since the issuance of the 1992 WPS, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and individual and public meetings to address concerns with the WPS, some specifically suggesting changes to the training requirements.

In response, EPA proposed five actions to revise elements of the WPS. These actions were published on January 11, 1995 (60 FR 2820), and proposed to:

(1) Shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety.

(2) Exempt those who perform crop advising tasks from certain requirements.

(3) Allow early entry to pesticide treated areas to perform certain time-sensitive irrigation activities.

(4) Allow early entry to pesticide treated areas to perform certain time-sensitive activities resulting in "limited contact" with pesticide-treated surfaces.

(5) Allow workers to enter areas treated with certain lower risk pesticides after 4 hours rather than 12 hours.

This action addresses the proposed rulemaking to shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety. Final determinations on the other four actions mentioned above are being published elsewhere in this issue of the **Federal Register**.

III. Summary of the Final Rule Amendment

The Agency is revising 40 CFR 170.130(a)(3) to require that basic pesticide safety information be provided to workers before entry. New §170.130(a)(3)(iii), the exception for the first 5–year period, allows a 15–day grace period until January 1, 1996. The Agency is thereby accelerating the transition to a 5–day grace period by approximately 2 years.

The Agency is adding a new paragraph § 170.130(c) and redesignating existing paragraphs to specify the content by including a reference to new paragraph (c). The Agency has decided to retain the 5–year retraining interval in § 170.130(a)(1). No other sections of the training provisions are affected by this final action.

IV. Summary of Response to Comments

EPA received 91 comments referring to the pesticide safety training proposal from farm worker groups, individuals, State, commodity groups, and growers. Many comments from farmworker groups were supportive of eliminating a grace period provision and requiring retraining annually. Comments from commodity groups, growers and State Departments of Agriculture expressed concern regarding eliminating a grace period and supported maintaining a grace period and a longer retraining interval. A more detailed summary of the issues addressed by comments is presented below and in the Response to Comments document contained in the public docket.

A. Grace Period and Interim Grace Period

EPA proposed several options: eliminating the grace period (from the current 15 days to 0 days) after 1 year; shortening the grace period from 15 days to between 1 and 5 days; or establishing a weekly training program for those requiring training.

Comments, received primarily from farmworker groups, opposed a grace period of any length stating that training prior to potential exposure would provide greater protection for workers. Other industries which require worker training before potential exposure were cited as examples of how a 0–day grace period could be feasible in agriculture. Comments also stated that a grace period can create greater administrative cost and difficulty with enforcement given diverse crop production practices and high worker turnover.

Growers and many States noted that a training grace period is necessary to cope with unanticipated circumstances that might require hiring large numbers of workers to harvest a crop quickly, for example, and with no time or capacity to train them. Additionally, the U.S. Department of Agriculture (USDA) and others pointed out that the training provisions are supplemental to other WPS provisions, such as central posting, that are intended to prevent or mitigate worker exposure to pesticides and that WPS training is not the primary means to avoid such exposure. USDA comments noted that WPS training is valuable reinforcement for the other WPS protections; however the existence of other methods of risk prevention and mitigation reduces the urgency for workers to have had training prior to the commencement of work at each new job.

Some comments also supported making training available on a weekly basis for similar reasons discussed above, emphasizing the benefit of flexibility, the ability to absorb training costs, and the ability to plan training sessions based on hiring needs and practices. In addition to the options proposed, several comments supported alternative grace period options or providing an orientation session covering basic pesticide safety information before a new employee begins work. The more complete WPS pesticide safety training program would follow.

EPA believes the WPS is comparable, in large measure, to requirements in other industries for training prior to exposure to hazardous chemicals. Pesticide handlers and early-entry workers must be trained prior to applying pesticides or entering treated areas during the restricted-entry interval (REI). The current training grace period applies only to agricultural workers who do not handle pesticides but may be exposed to pesticide residues after the REI. Prior to or in the absence of the worker training, the REI serves its intended purpose of limiting agricultural workers' exposure to pesticides by prohibiting routine early entry to pesticide-treated areas.

EPA agrees that providing training before potential exposure would be more protective than after potential exposure, and that such a requirement would be easier to enforce. EPA strongly recommends that all agricultural employers provide the full WPS pesticide safety training to workers before they are allowed to enter pesticide treated areas on the establishment. However, EPA acknowledges that, given the diversity of agricultural operations across the United States, a training grace period may be needed to provide flexibility to agricultural establishment owners and will likely reduce administrative and compliance costs. EPA believes, that under some circumstances, without a grace period, agricultural employers may be in the position of needing to provide daily training during busy harvest periods. Daily training (estimated to take 30 to 40 minutes at a minimum), along with the need to hire a translator in some cases, could mean a significant loss in time, increase in cost and loss of agricultural productivity. Notwithstanding, EPA believes that it is feasible to provide basic safety information before untrained workers enter treated areas without compromising the flexibility afforded by a 5–day grace period.

Effective January 1, 1996, EPA is requiring that all agricultural employers assure that untrained workers receive basic pesticide safety information before they enter a pesticide treated area on the establishment. The agricultural employer must assure the basic pesticide safety information is communicated to agricultural workers in a manner they can understand (e.g., by providing written materials, handouts, posters, or oral communication or by other means). Employers must be able to verify that they have complied with this requirement. EPA recommends a system which involves employee signature acknowledging receipt of the required information. Other verifiable means of showing compliance would be acceptable. EPA will develop and distribute, in cooperation with USDA and States, a model handout that will contain the basic pesticide safety information to satisfy this requirement. Agricultural employers can use this particular handout, develop their own, or use other materials that contain the basic pesticide safety information required by this rule. No more than five days after initial employment has commenced, all agricultural workers must receive complete WPS pesticide safety training before they enter pesticide treated areas.

A few comments specifically addressed the issue of when the 15–day grace period should expire. Some comments supported keeping the 15–day grace period until October 20, 1997, while others preferred ending the 15–day grace period after 1 year. EPA believes that a year (from implementation) is sufficient time to enhance training programs, acquire training materials and identify translators in the necessary languages. A lengthy (about 2 years) lead time was provided before the training provisions of the 1992 rule were enforceable. The

VOL 60 ISS 85 MY 3 1995 UMI

lead time, until January 1, 1996, allows for a substantial number of workers to be trained before the 5–day grace period is effective. The majority of workers are expected to be trained the first year under a 15–day grace period. Training after the first year is expected to be limited to new entrants to the workforce and those whose training is not recognized by a new employer.

Therefore the Agency has decided to retain a 15–day grace period until January 1, 1996; thereafter a grace period of 5 days will become effective.

EPA is revising § 170.130(a)(3) by adding a new paragraph (i) to require that basic pesticide safety information be provided to workers before entry. The remaining paragraphs in this section are renumbered accordingly. Also EPA is revising § 170.130(a)(3)(iii) to eliminate the 15-day grace period on December 31, 1995 and replace it with a 5-day grace period.

EPA is adding a new paragraph § 170.130(c) to specify the content of the pesticide safety information. The remaining paragraphs in this section are renumbered accordingly and EPA is revising new § 170.130(e) by including a reference to new paragraph (c).

B. Retraining Interval for Workers and Handlers

EPA proposed the following options for the retraining interval: keep the 5 year retraining interval; establish a 3 year retraining interval; or require annual retraining.

The following types of comments were supportive of a 5–year retraining interval: the level of safety information was fairly basic; the training would be easily retained, especially as workers incorporate the training into their work habits; that WPS signs, posters, and supervisor instructions would reinforce worker safety protections. Some comments noted that a 5–year interval would allow States the flexibility to establish a more frequent retraining interval that might better adapt to existing agricultural practices, workforce characteristics and educational and administrative programs in each State. Some comments supported shorter retraining interval for handlers and a 5–year retraining interval for workers.

Some comments supported a 3–year retraining interval for both handlers and workers. A few comments supported a 3–year retraining period for handlers, noting increased risk of exposure for handlers compared to workers.

Numerous comments supported an annual retraining requirement noting the need for repetitive training to improve retention. Some comments supported annual retraining for handlers only. A few comments indicated that training programs and materials were now available to reduce the costs of frequent training. However, many comments specifically noted that annual retraining would increase employer costs, especially for small growers, who may have to secure the services of trainers and interpreters.

EPA has decided to maintain the 5 year retraining interval for workers and handlers. The Agency believes that the 5–year interval is adequate to cover basic safety principles without undue burden. The 5–year retraining interval will continue to allow States and growers the flexibility to tailor their individual retraining intervals to best fit their needs and capabilities.

Therefore, no change is made to the retraining provision in § 170.130(a).

V. Reevaluation of Training Rule

The Agency is adopting this amendment in order to ensure that agricultural workers receive needed training while still providing the agricultural sector flexibility to address practical concerns with regard to the timing and cost of training. As discussed more fully above, the Agency believes that any added risks associated with pesticide exposure of workers from activities conducted during the 5–day grace period will be limited by other requirements in the WPS. EPA intends to reevaluate this decision after it has been implemented, because the WPS program is relatively new and there is relatively little experience either with the practical consequences of compliance or the extent of worker risks under the WPS.

The Agency intends to collect information over the next several growing seasons to evaluate the effectiveness of this amendment. In particular, EPA is interested in determining whether, collectively, the requirements imposed by the WPS successfully protect workers against pesticide poisonings. EPA is also interested in better characterizing the extent and timing of training and in understanding whether the 5–day grace period addresses the needs of growers and workers adequately. Finally, EPA would like to obtain information on the extent of compliance with the conditions in the training requirement and any practical problems with enforcement.

To obtain a better understanding of the implementation and impacts of this amendment, EPA will work with USDA and States to gather relevant information. The Agency will hold public meetings in agricultural areas to provide those directly affected by the WPS—growers, enforcement staff, and agricultural workers—an opportunity to comment on these actions and the WPS rule in general. As appropriate, EPA may conduct surveys and review incident data to assess how the rules are affecting agriculture. The Agency invites any interested person who has concerns about the implementation of this action to send comments to the Agency at the address listed at the beginning of this rule under the ADDRESSES section.

VI. Public Docket

A record has been established for the rulemaking and this administrative decision under docket number "OPP–250097A" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for the rulemaking and this administrative decision, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

VII. Statutory Review

As required by FIFRA Section 25(a), this rule was provided to the USDA, and to Congress for review. EPA consulted informally with USDA during the development of the final rule and, through this exchange, addressed all of the Department's comments. The final rule was provided formally to USDA, as required by FIFRA. USDA had no comment on the final rule. The FIFRA Scientific Advisory Panel waived its review.

VIII. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is a "significant regulatory action" because it raises potentially novel legal or policy issues. This action was submitted to the Office of Management and Budget (OMB) for review under the Executive Order. Any comments or changes made during OMB review, have been documented in the public record.

The total cost of this regulatory action will depend upon the additional training costs that may be incurred as a result of a shorter training grace period for the period from January 1, 1996 to October 20, 1997, as well as the cost of providing basic safety information to all workers before they enter areas subject to WPS pesticide safety training. The cost of reducing the training grace period from 15 days to 5 days has been estimated by EPA and is presented in the Impact Assessment for the Worker Protection Standard, Training Provisions Rule. EPA has reviewed its Impact Assessment and has determined (with the concurrence of USDA) that whatever the incremental cost of this revision may be, it should be modest and that these additional costs are warranted.

B. Executive Order 12898

Executive Order 12898 (environmental justice) was taken into account in developing the WPS amendments.

C. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA has assessed the effects of this regulatory action on State, local, and tribal governments, and the private sector. This action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector. The costs associated with this action are described in Unit VIII.A. above.

In addition to the consultations prior to proposal, EPA has had several informal consultations regarding the proposed rule with some States through the EPA regional offices and at regularly scheduled State meetings. No significant issues or information was identified as a result of EPA's discussion with the States.

D. Regulatory Flexibility Act

This rule was reviewed under the provisions of sec. 3(a) of the Regulatory Flexibility Act, and it was determined that the rule would not have an adverse impact on small entities. The smallest entities regulated under the Worker Protection Standard are family-operated agricultural establishments with no hired labor. These operations are not subject to the WPS training requirements, and therefore have no training cost associated with this rule. These small entities (with no hired labor) represent about 45 percent of the agricultural establishments within the scope of the WPS. The smallest of those entities which do hire labor are those with only one hired employee. Estimated costs per worker or handler are similar for an establishment with one employee as for larger establishments, causing no significant disproportionate burden on small entities.

I therefore certify that this proposal does not require a separate analysis under the Regulatory Flexibility Act.

E. Paperwork Reduction Act

EPA has determined that there are no information collection burdens under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., associated with the requirements contained in this final amendment.

List of Subjects in 40 CFR Part 170

Environmental protection, Pesticides and pests, Intergovernmental relations, Occupational safety and health, Reporting and recordkeeping requirements.

Dated: April 26, 1995.

Lynn M. Browner,

Administrator.

Therefore, 40 CFR part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation continues to read as follows:

Authority: 7 U.S.C. 136w.

2. Section 170.130 is amended by revising the section heading and paragraph (a)(3), redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, adding paragraph (c), and revising newly designated paragraph (e)(1) to read as follows:

§ 170.130 Pesticide safety training for workers.

(a) * * *

(3) *Requirements for other agricultural workers—(i) Information before entry.* As of January 1, 1996, and except as provided in paragraph (a)(2) of this section, before a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or the restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been provided the pesticide safety information specified in paragraph (c), in a manner that agricultural workers can understand, such as by providing written materials or oral communication or by other means. The agricultural employer must be able to verify compliance with this requirement.

(ii) *Training before the 6th day of entry.* Except as provided in paragraph (a)(2) of this section, before the 6th day that a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or a restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been trained.

(iii) *Exceptions during interim period.* Until December 31, 1995, and except as provided by paragraph (a)(2) of this section, before the 16th day that a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or a restricted-entry interval has been in effect, the agricultural employer shall assure that the worker has been trained. After December 31, 1995 this exception no longer applies.

* * * * *

(c) *Pesticide safety information.* The pesticide safety information required by paragraph (a)(3)(i) shall be presented to workers in a manner that the workers can understand. At a minimum, the following information shall be provided:

(1) Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications.

(2) Prevent pesticides from entering your body by:

(i) Following directions and/or signs about keeping out of treated or restricted areas.

(ii) Washing before eating, drinking, using chewing gum or tobacco, or using the toilet.

(iii) Wearing work clothing that protects the body from pesticide residues.

(iv) Washing/showering with soap and water, shampoo hair, and put on clean clothes after work.

(v) Washing work clothes separately from other clothes before wearing them again.

VOL 60 ISS 85 MY 3 1995 UMI

(vi) Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.

(3) Further training will be provided within 5 days.

* * * * *

(e) *Verification of training.* (1) Except as provided in paragraph (e)(2) of this section, if the agricultural employer assures that a worker possesses an EPA-approved Worker Protection Standard worker training certificate, then the requirements of paragraph (a) and (c) of this section will have been met.

* * * * *

[FR Doc. 95–10871 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–60–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250100A; FRL–4928–7]

RIN 2070–AC82

Pesticide Worker Protection Standard; Requirements for Crop Advisors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending the 1992 Worker Protection Standard (WPS), by exempting qualified crop advisors from some requirements. EPA is also exempting persons from certain of the WPS requirements while performing crop advising tasks under the direct supervision of a certified or licensed crop advisor. This rule also establishes a grace period for all persons doing crop advising tasks to allow time to acquire certification or licensing.

EFFECTIVE DATE: This rule will become effective July 17, 1995.

FOR FURTHER INFORMATION CONTACT: Donald E. Eckerman, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 1121, Crystal Mall #2, 1921 Jefferson Davis Highway., Arlington, VA 22202. Telephone: 703–305–5062, eckerman.donald@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This **Federal Register** document discusses the background and events leading to this final rule amending the WPS; summarizes the public's comments on the provisions of the proposed amendments (60 FR 2827, Jan. 11, 1995); provides EPA's response to comments and final determination with respect to amendment of the crop advisor provisions of the WPS; and provides information on the applicable statutory and regulatory review requirements.

I. Statutory Authority

This rule is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a).

II. Background

In 1992, EPA revised the WPS (40 CFR part 170) (57 FR 38102, August 21, 1992), which is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues and to reduce the risk of pesticide poisonings and injuries among pesticide handlers who may face more hazardous levels of exposure. The 1992 WPS superseded a rule promulgated in 1974 and expanded the WPS scope to not only include workers performing hand labor operations in fields treated with pesticides, but also to include workers in or on farms, forests, nurseries, and greenhouses, as well as pesticide handlers who mix, load, apply, or otherwise handle pesticides. The WPS contains requirements for pesticide safety training, notification of pesticide applications, use of personal protective equipment, restricted entry intervals following pesticide application, decontamination supplies and emergency medical assistance.

Under the 1992 WPS, crop advisors are defined by the tasks performed. Specifically, a person is a "crop advisor" when assessing pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants. The term does not include any person who is performing hand labor tasks. Crop consultants, pest control advisors, foresters, scouts and crop advisors while performing crop advising tasks on farms, nurseries, greenhouses and forests are included under the definition of crop advisor in the WPS.

During the 1992 rulemaking, the U.S. Department of Agriculture (USDA) expressed concerns about limiting the access of crop consultants and integrated pest management scouts to treated areas during and immediately following pesticide applications. In response to this concern, EPA included crop advisors in the definition of handlers. Thus, persons performing crop advisor tasks during pesticide application, and any restricted entry interval (REI), could enter treated areas as handlers. Employees of agricultural establishments performing crop-advising tasks in a treated area within 30 days of the expiration of an REI are considered to be workers under 40 CFR part 170. Finally, employees of commercial pesticide handling establishments performing crop advisor tasks in a treated area after the expiration of an REI are not included in the scope of 40 CFR part 170.

Since the issuance of the 1992 WPS, farmworker groups have expressed an interest in enhancing specific protection measures, while grower groups, the National Association of State Departments of Agriculture and others have expressed an interest in addressing practical, operational concerns. The Agency received various requests and comments in the form of letters, petitions, and conversations at individual and public meetings to address concerns with the WPS, some specifically suggesting an exemption for crop advisors.

In response, EPA proposed five actions to revise elements of the WPS. These actions were published on January 11, 1995 (60 FR 2820), and proposed to: (1) Exempt those who perform crop advising tasks from certain requirements; (2) shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety; (3) allow early entry to pesticide-treated areas to perform certain time-sensitive irrigation activities; (4) allow early entry to pesticide-treated areas to perform certain time-sensitive activities resulting in "limited contact" with pesticide-treated surfaces; and (5) allow workers to enter areas treated with certain lower risk pesticides after 4 hours rather than 12 hours.

This action addresses the proposed rulemaking (NPRM) to exempt those who perform crop advising tasks from certain requirements. The rule amendment established by this action will exempt certified or licensed crop advisors and persons under their direct supervision while performing crop advising tasks from certain handler requirements during the REI and certain worker requirements during the 30-day period after the expiration of the REI. However, crop advisors and persons under their direct supervision will not be able, under this exception, to enter the treated area until after pesticide application ends. If a person is a certified or licensed crop advisor, they will be exempt from the pesticide safety training required for workers and handlers.

Final determinations on the other four actions mentioned above are being published elsewhere in this issue of the **Federal Register**.

III. Summary of the Final Rule Amendment

EPA is amending the WPS to exempt qualified crop advisors from some requirements. EPA is also exempting persons performing crop advising tasks from some of the WPS requirements, only if the tasks are performed under the direct supervision of a certified or licensed crop advisor. This rule also establishes a grace period for all persons while doing crop advising tasks in order to allow time to acquire certification or licensing.

EPA is including in new §§ 170.104 and 170.204 exemptions for knowledgeable and experienced crop advisors from the requirement of using personal protection equipment (PPE) (§ 170.240), knowledge of labeling and site specific information (§ 170.232), decontamination (§§ 170.150 and 170.250), and emergency assistance (§§ 170.160 and 170.260) requirements of the WPS. The crop advisor exemption applies only to individuals performing crop advising tasks in the treated area and only after application ends. Certified or licensed crop advisors may substitute pesticide safety training received during the certification or licensing program if such training is at least equivalent to the WPS training required by § 170.230.

A temporary grace period for all individuals while performing crop advisor tasks is established until May 1, 1996 to allow time for acquiring certification or licensing.

IV. EPA's Amendment Decision

Based on information submitted in comments and EPA's knowledge and understanding of crop advisor activities, EPA has concluded that an amendment exempting qualified crop advisors and persons they directly supervise is appropriate. Further, based on comments received, EPA believes that crop advisors, through their training and expertise, can assess which risk reduction measures are most appropriate depending on the situation. Finally, EPA believes that crop advisors can successfully communicate these judgments to persons they directly supervise, thereby assuring that both advisors and persons they directly supervise carry out their responsibilities safely.

Crop advisor tasks typically do not require extended periods of time in recently treated fields, thus lessening potential risk of exposure to pesticide residues through direct or incidental contact. Crop advisors commented that in practice, it is typically necessary to wait a period of time after application to properly assess the effectiveness of the recommended treatment. EPA recognizes, however, that some situations may result in substantial exposure to pesticide residues, such as entering greenhouses shortly after fumigation, or entering treated areas during the first 4 hours after an application or before the ventilation criteria/inhalation exposure levels have been met. However, crop advisors, because of their knowledge, training and experience gained in the field, are in a unique position to understand pesticide-related hazards and protect themselves and persons they directly supervise from potential exposure. EPA expects that they would take appropriate protective steps, such as using appropriate PPE, or delaying entering into the treated area, especially where fumigants and double notification pesticides have been used.

The provisions set forth in the exemption provide protective measures for crop advisors and persons they directly supervise. The exemption does not allow entry into the treated area before the application ends and applies only to persons performing crop advisor tasks in the treated area. The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to safely conduct the crop advisor tasks. The crop advisor must convey this information to each person under their direct supervision in a language that the person understands. Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under their direct supervision of the pesticide product and active ingredient(s) applied, method and time of application, and the restricted entry interval. The crop advisor must instruct each person whom they directly supervise regarding which tasks to undertake and how to contact the crop advisor. EPA believes that these terms will significantly limit exposure to pesticide residues, and consequently, the risk.

This exemption has substantial benefits for crop advisors by allowing them flexibility to make informed judgements regarding the need for protection on a case-by-case basis. The exemption also encourages the use of crop advisors, whose activities support agricultural productivity by maximizing the use of integrated pest management practices while minimizing chemical inputs, creating both environmental and economic benefits.

In summary, in deciding to grant this exemption to crop advisors and persons they supervise, EPA has weighed the risk of possible increased pesticide exposure and the benefits of crop advisor activities during the REI and the 30-day period following the expiration of the REI, and finds ample justification for this exemption for the reasons summarized in this preamble and discussed in detail in the response to comments.

V. Summary of Response to Comments

EPA received 169 comments referring to the crop advisor proposal. Comments were received from States, commodity groups, farmworker groups, and individuals.

In the January 11, 1995 document, EPA proposed to exempt certified or licensed crop advisors and their employees from several provisions of the pesticide WPS while performing crop advisor tasks. A temporary exemption until January 1, 1996 was proposed for all persons performing crop advisor tasks to allow time for crop advisors to obtain certification or licensing.

A. General

EPA proposed to exempt a qualified subset of crop advisors, those who are certified or licensed, from all requirements of the WPS. Acceptable certification or licensing would have to include training at least equivalent to the WPS handler training.

While many comments supported the proposal as written, a number of comments expressed concerns. Farmworker groups and some State Departments of Agriculture stated that crop advisors are not different enough from other workers or handlers and that different WPS requirements for them would not be justified. Representatives of and individual crop advisors stated that they can determine what PPE is needed according to the activities they plan to conduct while in a treated area and that they carry decontamination supplies, including water, with them.

EPA believes that, because of their training and experience, crop advisors typically have considerably greater knowledge about the potential health effects of pesticides and ways to mitigate exposure than many other agricultural workers. Consequently, they are, as a class, capable of judging what actions may safely be conducted within a pesticide-treated area subject to WPS requirements. EPA is persuaded that the exposure for crop advisor tasks is minimal and crop advisor tasks contribute to the maintenance and expansion of integrated pest

VOL 60 ISS 85 MY 3 1995 UMI

management practices in agriculture. EPA has concluded that it is appropriate to allow crop advisors to use their judgment and knowledge to determine whether a treated area may be safely entered during an REI and is granting an exemption from some of the WPS provisions to appropriate persons while they are performing crop-advising tasks.

Some comments requested clarification on the applicability of the exemption to crop advisors in a range of situations, for example, crop advisors employed by a single agricultural establishment, researchers, chemical company representatives, or agricultural extension personnel, etc. The exemption established by this action applies to crop advisors, who have demonstrated training and experience by completion of a crop advisor program, regardless of the source of compensation or employment. The WPS is not applicable to a person or establishment providing services (including crop advising services) on an agricultural establishment without compensation from the agricultural establishment for those services. For example, the WPS would not apply to extension agents, university researchers and chemical company representatives providing recommendations to growers where the agricultural establishment is not providing compensation for those recommendations.

B. Scope of the Exemption

EPA has been persuaded by comments that a complete exemption from all the WPS provisions at all times would not be reasonable. The potential for exposure, and thus risk, is at its highest during pesticide application. Consequently, the exemption will not apply during pesticide application. During the REI and the 30 days following the REI, qualified persons performing crop advising tasks would not be required to comply with PPE (§ 170.240), knowledge of labeling and site specific information (§ 170.232), decontamination (§§ 170.150 and 170.250), and emergency assistance (§§ 170.160 and 170.260) requirements of the rule.

The comments received also persuaded EPA that the exemption should be applicable only when performing crop advising tasks as defined in the rule. Accordingly, section §§ 170.104 and 170.204 make it explicit that the exemption is available only when crop advising tasks are being performed in the treated area, and only after application ends.

Some comments expressed concern that the crop advisor would not know what applications had been made on the agricultural establishment if this exemption were established. It should be noted that § 170.124 requires that agricultural employers notify commercial pesticide handling establishments whenever handlers (including crop advisors) employed by commercial pesticide handling establishments are performing handling tasks (including crop advising tasks) on the agricultural establishment. EPA believes that this requirement of agricultural establishment owners will result in adequate information being provided to crop advisors since the exemption for crop advisors does not eliminate the owner's responsibility under the notification requirement.

C. Certification or Licensing

EPA proposed that, to be eligible for the exemption, crop advisors should be required to obtain certification or licensing from a program administered or approved by a State, Tribal or Federal agency having jurisdiction over such licensing or certification. The certification or licensing program would have to include pesticide safety training at least equivalent to the handler training required by the WPS.

Many comments agreed that the proposed mechanism for eligibility for the exemption was appropriate. Some comments suggested certified applicator licensing as being sufficient. Still others suggested that EPA recognize certain national programs, such as the American Society of Agronomy (ASA) Certified Crop Advisor and the National Alliance of Independent Crop Consultants (NAICC) Certified Professional Crop Consultant programs. Some comments stated that crop advisor certification or licensing is not currently available in all States.

EPA expects each State will determine its own criteria for acceptable programs which will qualify crop advisors for the exemption. States are given this flexibility and authority because a wide range of certifying programs are available across the country. EPA is requiring crop advisor certification programs to contain pesticide safety training at least equivalent to WPS handler training. States may consider and EPA expects and suggests, using a written test for competency, a requirement for experience and continuing education, and a specified renewal period. Most State certified applicator programs would not meet these criteria because EPA does not require work experience for pesticide applicator certification, and a written examination is only required for the initial certification of commercial applicators. However, some States may go beyond the minimum EPA certified applicator requirements and require the testing and experience so that they would meet EPA's suggested crop advisor certification standards.

EPA agrees that a wide range of crop advisor programs may be appropriate for the exemption and has revised and clarified the text in §§ 170.104, 170.130, 170.204, and 170.230 to allow a number of crop advisor programs to be acceptable. EPA expects to approve requests from several national crop advisor certification programs, but will permit States to approve other programs they deem acceptable. EPA or a State may approve (or disapprove) a certification program by issuing to it a letter acknowledging that its content and requirements are (or are not) sufficient to qualify for the WPS crop advisor exemption.

D. Employees

EPA also proposed exempting employees of certified or licensed crop advisors from WPS requirements, except for WPS pesticide safety training.

While most comments supported inclusion of employees, some raised concerns about removing protections for employees. They expressed concern that certified or licensed crop advisors could not adequately transfer their knowledge and experience to employees, especially if the employees were working independently from the crop advisor (e.g., in remote locations). Concern also was raised that crop advising employees are likely to be less educated and experienced than professional crop advisors. Finally, some comments found the proposal unclear regarding who is considered an employee and assumed that the exemption would apply to individuals when performing other than crop advising tasks and therefore could be abused by employers to avoid compliance with the WPS protections.

EPA agrees that it must be clear that any crop advisor exemption applies only to individuals when they are performing crop advising tasks and has revised §§ 170.104 and 170.204 accordingly.

EPA believes that, for this exemption, the employment relationship between crop advisors and assistants is not as critical as the supervisory relationship between them that allows the imparting of knowledge and guidance. Therefore, EPA has decided to refer to employees as "persons under the direct supervision" of a crop advisor. Since EPA believes that the important relationship between crop advisors and assistants is one that allows the imparting of knowledge and guidance, the Agency is concerned that crop advisors must be able to transfer their knowledge and guidance effectively to assistants, particularly if they are not in the same location. Therefore, EPA has established in §§ 170.104 and 170.204 specific conditions in this amendment to assure that crop advisors provide persons they supervise with adequate direction.

E. Grace Period

EPA also proposed to exempt all individuals performing crop advisor activities from all the WPS requirements until January 1, 1996, to allow time for individuals to obtain certification or licensing. After January 1, 1996, only crop advisors who are certified or licensed and employees under their direct supervision would be exempt.

A number of comments pointed out that examinations for certification programs are scheduled infrequently, often only twice a year, and that the January 1, 1996, date would be difficult to meet since one of 1995's exams may have already taken place. One comment suggested a 3-month temporary exemption to minimize the time that all crop advisors would be working without benefit of the WPS protections.

EPA believes that a grace period until May 1, 1996, is a reasonable period to allow crop advisors to obtain certification or licensing. Sections 170.104(c) and 170.204(c) provide that this grace period will apply to all individuals while performing crop advising tasks until May 1, 1996.

VI. Reevaluation of Crop Advisor Exemption

The Agency is adopting this amendment in order to provide the flexibility to crop advisors under the WPS. As discussed more fully above, the Agency believes that any added risks associated with pesticide exposure of those performing crop advisor activities will be outweighed by the benefits of this action. The Agency intends over the next growing seasons to collect information to evaluate the effectiveness of this action. In particular, EPA is interested in determining whether the conditions imposed by this action successfully protect crop advisors and persons under their direct supervision against pesticide poisonings. EPA is also interested in better characterizing the circumstances in which this exclusion is being used and in understanding whether the exclusion addresses the practical problems of performing crop advising tasks adequately. Finally, EPA would like to obtain information on the extent of compliance with the conditions in the exclusion and any practical problems with enforcement.

To obtain a better understanding of the implementation and impacts of this exclusion, EPA will work with USDA and states to gather relevant information. The Agency will hold public meetings in agricultural areas to provide those directly affected by the WPS, growers, enforcement staff, and agricultural workers, an opportunity to comment on these actions and the WPS rule in general. As appropriate, EPA may conduct surveys and review incident data to assess the impact of the exemption. The Agency invites any interested person who has concerns about the implementation of this action to send comments to the Agency at the address listed under the ADDRESSES section of this document.

VII. Technical Amendments

EPA is revising §§ 170.202 and 170.102, which exempt owners of agricultural establishments from subparts B and C requirements for workers and handlers, by reorganizing the paragraphs into three sections: for applicability (§§ 170.102 and 170.202), exceptions (§§ 170.103 and 170.203), and exemptions (§§ 170.104 and 170.204). The existing exemptions for agricultural owners are included in the new §§ 170.104 and 170.204. No substantive change has been made to the exemptions for agricultural establishment owners.

VIII. Public Docket

A record has been established for this rulemaking under docket number OPP–250100A. This record is available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday. The public record is located in Rm. 1132, Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway., Arlington, VA. Written requests should be mailed to: Public Response and Program Resources Branch (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

IX. Statutory Review

As required by FIFRA Section 25(a), this rule was provided to the USDA, and to Congress for review. EPA consulted informally with USDA during the development of the final rule and, through this exchange, addressed all of the Department's comments. The final rule was provided formally to USDA, as required by FIFRA. The Department of Agriculture had no comment on the final rule. The FIFRA Scientific Advisory Panel waived its review.

X. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this is a "significant regulatory action" because it raises potentially novel legal or policy issues. This action was submitted to the Office of Management and Budget (OMB) for review under the Executive Order. Any comments or changes made during OMB review, have been documented in the public record.

In addition, the Agency estimates that the total potential cost savings associated with the amendment ranges from $20 to $23 million over a 10–year period, with a single crop advisor saving approximately $1,150 over a 10–year period.

B. Executive Order 12898

Executive Order 12898 (environmental justice) was taken into account in developing the WPS amendments.

C. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA has assessed the effects of this regulatory action on State, local, and tribal governments, and the private sector. This action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector. The cost savings associated with this action are described Unit X.A. above.

In addition to the consultations prior to proposal, EPA has had several informal consultations regarding the proposed rule with some States through the EPA regional offices and at regularly scheduled State meetings. No significant issues or information were identified as a result of EPA's discussion with the States.

D. Regulatory Flexibility Act

This rule was reviewed under the provisions of section 3(a) of the Regulatory Flexibility Act, and it was determined that this rule would not have an adverse impact on any small entities. The rule will provide cost savings to an estimated 2,500 to 5,000 crop advisors and an additional 15,000 employees of crop advisors who will be affected. I therefore certify that this regulatory action does not require a separate Regulatory Impact Analysis under the Regulatory Flexibility Act.

VOL 60 ISS 85 MY 3 1995 UMI

E. Paperwork Reduction Act

EPA has determined that there are no information collection burdens under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., associated with the requirements contained in this rule.

List of Subjects in 40 CFR Part 170

Environmental protection, Administrative practice and procedure, Occupational safety and health, Pesticides and pests.

Dated: April 26, 1995.

Carol M. Browner,

Administrator.

Therefore, 40 CFR part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 136w.

§ 170.103 [Redesignated from § 170.102]

2. Section 170.102 is partially designated as § 170.103 and entitled Exceptions. Paragraph (b) introductory text and paragraphs (b)(1) through (10) are redesignated as § 170.103 introductory text and paragraphs (a) through (j), respectively. The remainder of § 170.102 is revised to read as follows:

§ 170.102 Applicability of this subpart.

Except as provided by §§ 170.103 and 170.104, this subpart applies when any pesticide product is used on an agricultural establishment in the production of agricultural plants.

3. New § 170.104 is added to read as follows:

§ 170.104 Exemptions.

The workers listed in this section are exempt from the specified provisions of this subpart.

(a) *Owners of agricultural establishments.* (1) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing tasks related to the production of agricultural plants on their own agricultural establishment the protections of:

(i) Section 170.112(c)(5) through (9).

(ii) Section 170.112(c)(5) through (9) as referenced in §§ 170.112(d)(2)(iii) and 170.112(e).

(iii) Section 170.120.

(iv) Section 170.122.

(v) Section 170.130.

(vi) Section 170.135.

(vii) Section 170.150.

(viii) Section 170.160.

(2) The owner of the agricultural establishment must provide the protections listed in paragraph (a)(1)(i) through (viii) of this section to other workers and other persons who are not members of his immediate family.

(b) *Crop advisors.* (1) Provided that the conditions of paragraph (b)(2) of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

(i) Section 170.150.

(ii) Section 170.160.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in paragraphs (b)(2)(iii) and (iv) of this section. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(2) Conditions of exemption. (i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in § 170.230(c)(4).

(ii) Applies only when performing crop advising tasks in the treated area.

(iii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iv) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide product and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

(c) *Grace period for persons performing crop advisor tasks who are not certified or licensed.* (1) Provided that the conditions of paragraph (c)(2) of this section are met, a person who is neither certified nor licensed as a crop advisor and any person performing crop advising tasks under his direct supervision is exempt until May 1, 1996, from the requirements of:

(i) Section 170.130.

(ii) Section 170.150.

(iii) Section 170.160.

(2) Conditions of exemption. (i) Applies only when the persons are performing crop advising tasks in the treated area.

(ii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iii) Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under his direct supervision of the active ingredient, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

4. Section 170.130 is amended by revising paragraph (b) to read as follows:

§ 170.130 Pesticide safety training for workers.

* * * * *

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A worker who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A worker who satisfies the training requirements of part 171 of this chapter.

(3) A worker who satisfies the handler training requirements of § 170.230(c).

(4) A worker who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the information set out in § 170.230(c)(4).

* * * * *

§ 170.203 [Redesignated from § 170.202]

5. Section 170.202 is partially redesignated as § 170.203 entitled Exceptions. Paragraph (b) introductory text and paragraphs (b)(1) through (9) are redesignated as § 170.203 introductory text and paragraphs (a) through (i), respectively. The remainder of § 170.102 is revised to read as follows:

§ 170.202 Applicability of this subpart.

Except as provided by §§ 170.203 and 170.204, this subpart applies when any pesticide is handled for use on an agricultural establishment.

6. New § 170.204 is added to read as follows:

§ 170.204 Exemptions.

The handlers listed in this section are exempt from the specified provisions of this subpart.

(a) *Owners of agricultural establishments.* (1) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing handling tasks on their own agricultural establishment the protections of:

(i) Section 170.210(b) and (c).

(ii) Section 170.222.

(iii) Section 170.230.

(iv) Section 170.232.

(v) Section 170.234.

(vi) Section 170.235.

(vii) Section 170 240(e) through (g).

(viii) Section 170.250.

(ix) Section 170.260.

(2) The owner of the agricultural establishment must provide the protections listed in paragraphs (a)(1)(i) through (ix) of this section to other handlers and other persons who are not members of his immediate family.

(b) *Crop advisors.* (1) Provided that the conditions of paragraph (b)(2) of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

(i) Section 170.232.

(ii) Section 170.240.

(iii) Section 170.250.

(iv) Section 170.260.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in paragraphs (b)(2)(iv) and (v) of this section. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(2) Conditions of exemption. (i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in § 170.230(c)(4).

(ii) No entry into the treated area occurs until after application ends.

(iii) Applies only when performing crop advising tasks in the treated area.

(iv) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(v) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

(c) *Grace period for persons performing crop advisor tasks who are not certified or licensed.* (1) Provided that the conditions of paragraph (c)(2) of this section are met, a person who is neither certified nor licensed as a crop advisor and any person performing crop advising tasks under his direct supervision is exempt until May 1, 1996, from the requirements of:

(i) Section 170.230.

(ii) Section 170.232.

(iii) Section 170.240.

(iv) Section 170.250.

(v) Section 170.260.

(2) Conditions of exemption. (i) No entry into the treated area occurs until after application ends.

(ii) Applies only when the persons are performing crop advising tasks in the treated area.

(iii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iv) Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

7. In § 170.230, by revising the section title and paragraph (b) to read as follows:

§ 170.230 Pesticide safety training for handlers.

* * * * *

(b) *Exceptions.* The following persons need not be trained under this section:

(1) A handler who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A handler who satisfies the training requirements of part 171 of this chapter.

(3) A handler who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the information set out in § 170.230(c)(4).

[FR Doc. 95–10872 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 170

[OPP–250104; FRL–4950–6]

Technical Amendment, Addition of Table of Exception Decisions to Early-Entry Prohibition, Worker Protection Standard; Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In the Notices section of this **Federal Register**, EPA is providing notice for two additional administrative exceptions to the general prohibition on early entry into pesticide treated areas contained in the Worker Protection Standard (WPS) issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The exceptions allow, under specific conditions, early entry for workers to perform irrigation and limited contact tasks. Both exceptions are in response to requests the Agency received from the agricultural community. To ensure that the regulated community is aware of these and future administrative exceptions to the early-entry prohibition, EPA is amending the WPS to add a new § 170.112(e)(7) that informs the regulated community where to locate **Federal Register** notices that set forth the terms and conditions of the administrative exceptions.

EFFECTIVE DATE: May 3, 1995.

FOR FURTHER INFORMATION CONTACT: Sara Ager or Linda Strauss, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: 1921 Jefferson Davis Highway, Rm. 1121, Crystal Mall 2, Arlington, VA 22202, Telephone: 703–305–7666, ager.sara@epamail.epa.gov or strauss.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

EPA issued the WPS on August 21, 1992 (57 FR 38102) (40 CFR part 170). The WPS includes a prohibition (§ 170.112) against routine early entry into pesticide treated areas during restricted-entry interval (referred to as "early entry"). Section 170.112(e) of the

VOL
60
ISS
85
MY
3
1995
UMI

WPS provides a process for EPA to consider and grant administrative exceptions to this prohibition on early entry. In the Notices section of this **Federal Register**, EPA is granting the second and third such administrative exceptions. EPA is amending § 170.112 by adding two new paragraphs to paragraph (e)(7) identifying the **Federal Register** citations and effective dates for administrative exceptions granted under § 170.112(e).

The addition to paragraph (e)(7) is a technical amendment. It does not make any substantive changes in the WPS or § 170.112. EPA provided notice and an opportunity for comment on the proposed administrative exceptions. Detailed discussion of the public comments and the Agency's response are found in the Response to Public Comments in the docket.

II. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB). Under section 3(f), the order defines "significant regulatory action" as action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, it has been determined that this rule is not "significant" and is therefore not subject to OMB review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 650(b)), EPA has determined that this technical amendment will not have a significant impact on a substantial number of small businesses since the technical amendment makes no substantive changes in the WPS.

C. Paperwork Reduction Act

This technical amendment contains no information collection requirements as defined in the Paperwork Reduction Act (44 U.S.C. 3502 et seq.)

List of Subjects in 40 CFR Part 170

Administrative practice and procedure, Labeling, Occupational safety and health, Reporting and recordkeeping requirements.

Dated: April 24, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I, subchapter E, part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 136w.

2. Section 170.112 is amended by adding paragraph (e)(7)(ii) and (iii) to read as follows:

§ 170.112 Entry restrictions.

* * * * *

(e) * * *

(7) * * *

(ii) Exception to perform irrigation tasks under specified conditions published in the **Federal Register** of May 3, 1995.

(iii) Exceptions to perform limited contact tasks under specified conditions published in the **Federal Register** of May 3, 1995.

[FR Doc. 95–10874 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250101A; FRL–4950–4]

Exception to Worker Protection Standard Early Entry Restrictions for Limited Contact Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Administrative exception decision.

SUMMARY: EPA is granting an administrative exception to the 1992 Worker Protection Standard (WPS) allowing early entry into pesticide treated areas to perform certain limited contact activities. The exception is in response to a petition that the Agency received from many organizations in the agricultural community. This exception allows workers to perform tasks, which if delayed would result in significant economic loss, and that result in minimal contact with pesticide-treated surfaces, for up to 8 hours per 24-hour period during a restricted entry interval. EPA is granting this exception because it believes the benefits of this exception outweigh any resulting risks and the potential risk from this exception is not unreasonable.

EFFECTIVE DATE: May 3, 1995.

ADDRESSES: The Agency invites any interested person who has concerns about the implementation of this action to submit written comments identified by docket number "OPP–250101A" to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–250101A." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VIII of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Linda Strauss or Joshua First, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Office location, telephone number and e-mail: 1921 Jefferson Davis Highway, Crystal Mall 2, room 1121, Arlington, VA 22202, (703) 305-7371, strauss.linda@epamail.epa.gov or first.josh@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This is one of a series of Agency actions to revise elements of the WPS. These actions were published on January 11, 1995 (60 FR 2820), and proposed to:

(1) Shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety.

(2) Exempt those who perform crop advising tasks from certain requirements.

(3) Allow early entry to pesticide treated areas to perform certain time-sensitive irrigation activities.

(4) Allow early entry to pesticide treated areas to perform certain time-sensitive activities resulting in "limited contact" with pesticide treated surfaces.

(5) Allow workers to enter areas treated with certain lower risk pesticides after 4 hours rather than 12 hours.

This action addresses allowing early entry to pesticide treated areas to perform certain time-sensitive limited contact activities. Final determinations on the other four actions mentioned above are being published at the same time as this action.

I. Background

On August 21, 1992, EPA issued a final rule (57 FR 38102) revising the Worker Protection Standard (WPS) for agricultural pesticides (40 CFR part 170). The WPS prohibits routine entry by workers into pesticide treated areas during restricted-entry intervals (REIs). An REI is the time after the end of a pesticide application during which entry into the treated area is restricted. Section 170.112(e) of the WPS provides a process for considering exceptions to this prohibition against early entry into treated areas.

In July 1994, EPA was petitioned by a coalition of agricultural organizations to allow individuals to perform tasks involving limited contact with treated surfaces in pesticide treated areas before the expiration of the REI.

EPA considered the petition, held several work sessions with the National Association of State Departments of Agriculture and other co-signers of the petition exploring the need for and scope of limited contact tasks, and proposed granting a nationwide exception for limited contact activities. EPA solicited comments on the proposed exception and received comments supporting and opposing the proposed exception. Information received during the public comment period persuaded EPA that there could be significant economic impacts if certain limited contact tasks were prohibited during the REI.

A. WPS Early Entry Restrictions

In general, the WPS prohibits agricultural workers from entering a pesticide-treated area during the REI. REIs are based on the toxicity of the active ingredient in the product, and other factors. They are specified on the pesticide product label and typically range from 12 to 72 hours or possibly longer where product-specific REIs have been determined.

Additionally, workers engaging in early entry work are not permitted to engage in hand labor, which results in substantial contact with treated surfaces. The WPS defines hand labor as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants or soil) that may contain pesticide residues.

B. Exceptions to Early Entry Restrictions

Currently, the WPS contains the following exceptions to the general prohibition against worker early entry: Entry resulting in no contact with treated areas; entry allowing short-term tasks to be performed with PPE and other conditions; entry to perform tasks associated with agricultural emergencies; and an exception process for EPA to determine on a case-by-case basis whether entry is warranted for activities not covered in the previous exceptions.

VOL
60
ISS
85
MY
3
1995
UMI

II. EPA's Exception Decision

EPA is granting an exception to the early-entry prohibition to allow limited contact tasks to be performed. This decision is based on the information submitted in comments and EPA's experience over many years of reviewing agricultural practices in connection with pesticide use. EPA has concluded that this exception appropriately balances the potential risk of worker exposure and the significant economic impact which could be incurred if growers are not allowed to perform these necessary tasks. The exception is designed to minimize risk to workers conducting early-entry "limited contact tasks" while providing growers the needed flexibility to perform these tasks.

EPA has reviewed information on the risks and benefits associated with granting an exception for necessary limited contact activities and believes that the benefits outweigh the risks. This assessment is based on EPA's evaluation of the risk reduction provided by the provisions contained in this exception and the benefits which may be obtained by allowing the exception. Furthermore, where the benefits outweighed the risks, EPA, in the context of the WPS, has previously made exceptions to the general prohibition against early entry, even for hand labor activities. (See Hand Labor Tasks on Cut Flowers and Ferns Exception at 57 FR 38175, August 21, 1992). Because hand labor as defined in the WPS involves substantial worker contact with surfaces that may contain pesticide residues, and this exception is restricted to limited contact tasks where workers' contact with treated surfaces would be minimal and limited to the workers' feet, lower legs, hands, and forearms, EPA believes that pesticide exposure to workers performing limited contact tasks under the terms of this exception would be less than exposures to workers performing hand labor tasks in the same treated area. Therefore, EPA believes that early entry under the terms of the exception (see Unit IV of this document), will not pose unreasonable risk to workers performing limited contact tasks.

The category of activity envisioned by this exception includes only those "limited contact tasks" which cannot be delayed until the expiration of the REI. The definition of a task that cannot be delayed is one that, if not performed before the expiration of the REI, would cause significant economic loss and where there are no alternative practices which would prevent the loss. By this definition, EPA has defined the category of permissible tasks, with significant limits on the type and duration of activity, and the economic circumstances under which the exception can be applied. Taken together, these elements limit the exception to only high-benefit activities.

Further, EPA has included significant provisions which will limit pesticide exposure and risk to employees performing "limited contact tasks." This exception specifically: prohibits hand labor activity; prohibits entry into a treated area during the first 4 hours after a pesticide application and until applicable ventilation criteria and any label-specified inhalation exposure level have been met; limits the time in treated areas under a restricted entry interval for any worker to 8 hours in any 24-hour period; requires that any contact with treated areas by a worker be minimal and limited to feet, lower legs, hands, and forearms; excludes pesticides requiring "double notification"; requires PPE; directs the agricultural employer to notify workers of specific information concerning the exception; and ensures that the requirements of § 170.112 (c)(3) through (c)(9) are met. These terms will limit worker exposure and, consequently, worker risk.

The WPS's general prohibition against early entry is designed to limit worker exposure during the critical restricted-entry interval. In granting this exception, EPA has weighed the risk to workers against the benefits to be gained from early entry to perform "limited contact tasks" and finds justification for this exception. EPA believes that this exception adequately addresses and balances worker exposure concerns with the commercial needs of agriculture.

III. Summary of Major Issues

EPA received over 80 comments on the proposed exception. Comments were received from State agencies, grower groups, farm worker groups, and individuals.

A. Need for Exception

Comments received primarily from growers noted the need for the exception in order to add flexibility and practicality to the WPS, and thereby help ensure grower compliance. Without this exception, growers projected reduced production due to the inability to perform various tasks which would involve minimal contact with surfaces containing pesticide residues but which would need to occur during times where early entry was prohibited. Growers provided examples of situations that would require early entry to perform limited contact tasks such as: Opening windows or vents from the inside of a greenhouse, replacing electrical fuses for pumps, unloading beehives for pollinating crops, placing small equipment (e.g., weather monitoring stations) in fields, performing frost protection measures, removing equipment, and removing livestock from crop areas.

Most comments opposing the exception identified risk to workers as a primary concern. These comments noted the existence of exceptions to early entry in the 1992 WPS and questioned the need for this exception, as well as the ability to properly interpret and enforce the exception.

EPA remains concerned about worker risk during the restricted-entry interval. Additionally, EPA continues to be concerned that even PPE, decontamination supplies, and training may not adequately reduce the risk to workers if an unlimited time is allowed in an area under an REI.

EPA provided the existing WPS early entry exceptions to address short term, time-sensitive, critical, emergency situations. EPA continues to believe that entry to perform routine tasks, particularly hand labor tasks such as harvesting, is rarely needed, especially when the REI is 72 hours or less.

While the existing WPS exceptions cover most unanticipated circumstances necessitating early entry, EPA believes there may be a few occasions when the existing exceptions do not provide the flexibility to deal with non-routine, non-hand labor tasks for more than the one hour that is provided in the short-term entry exceptions. This exception is designed to address such situations, but EPA expects that it will rarely be needed.

EPA believes that the entry requirements set out in this exception acceptably reduces worker contact with pesticide treated surfaces by limiting the duration of the contact; by limiting contact to feet, lower legs, hands, and forearms; by requiring PPE to protect the worker from the treated surfaces; by not allowing hand labor activities, as defined by the WPS, to be performed, as well as by other conditions.

B. Definition of Limited Contact Task

Most comments supported the EPA definition of limited contact in the proposal. Some comments, however, suggest expanding the scope to include hand labor tasks and removing the condition that tasks must be those that cannot be delayed until after the REI.

EPA believes that the exclusion of hand labor is critical to eliminate specific tasks that could result in greater exposure and unacceptable risk. Excluding hand labor tasks from the definition of "limited contact task" will eliminate specific tasks that could result in greater exposure. EPA determined that hand labor tasks could not be performed with limited contact. The WPS defines hand labor as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. Allowing hand labor tasks would result in more frequent and longer periods of worker entry into the field. Generally, a worker performing hand labor is likely to have near-constant exposure to plant foliage, plant stems, and soil and therefore, higher exposure to pesticide residues. Therefore the Agency has limited the exception to non-hand labor tasks that are performed by workers that result in minimal contact with treated surfaces (including but not limited to soil, water, surfaces of plants, and equipment), and where such contact with treated surfaces is limited to the forearms, hands, lower legs, and feet.

To establish offsetting benefits to balance the potential risk to workers from early entry for "limited contact tasks," EPA is requiring that the limited contact task must be one that "cannot be delayed until after the expiration of the restricted entry interval" and, therefore, would constitute a significant economic loss if not undertaken. The Agency wishes to limit entry in the treated area during the REI and therefore is restricting entry to necessary tasks that cannot be delayed until the expiration of the REI.

C. Two Year Expiration Date

Under the proposal, this exception would have expired 24 months after the implementation date. Most comments were opposed to an expiration date and stated that 2 years was not sufficient time to gather data concerning any documented increase in poisoning incidents. Several comments were in favor of the two-year expiration as a period to be used to monitor the need for further restriction if necessary.

EPA believes that the two-year time period would not provide adequate time for EPA to evaluate the impact of the exception. In general, changes in pesticide use practices do not occur suddenly, and there is often a lag time in reporting and analysis of incident data. Therefore, EPA expects it might be several years before data would be available to evaluate the impact of this exception. Therefore, EPA has decided to remove the 24-month expiration. EPA, of course, may use the procedure in § 170.112(e)(6) to revoke the exception at any time that data become available indicating that such action is necessary.

D. Personal Protective Equipment (PPE)

The Agency has concluded that a generic set of PPE, consisting of coveralls, chemical-resistant gloves and footwear, and socks, should be required for this exception. Several comments requested modifications to this requirement, including removing the requirement for coveralls, substituting long sleeve shirts and long pants for coveralls to avoid the effects of heat stress, making PPE optional, and tailoring PPE requirements to the size of the plant.

Several comments disagreed with eliminating protective eyewear, given that workers will be in recently-treated areas and that residues on workers' hands and gloves can be transferred to the eyes. A number of comments stated that workers should always use label PPE.

EPA is convinced that the use of coveralls, chemical-resistant gloves and footwear, and socks is appropriate for limited contact tasks. Given the nature and range of tasks permitted under this exception EPA has concluded that coveralls are more appropriate than long-sleeved shirts and long pants.

While the terms of the exception require that contact be limited to feet, lower legs, hands, and forearms, EPA believes that incidental, unintended, or unanticipated exposure to other parts of the body besides the lower legs, feet, forearms and hands may be possible and thus, is requiring coveralls as part of the generic PPE. The WPS requires that all PPE, which includes coveralls, be properly cleaned and maintained by agricultural employers. This PPE maintenance includes cleaning according to manufacturer's instructions. In the absence of these instructions, the PPE must be washed thoroughly in detergent and hot water. The PPE must also be inspected for leaks, holes, tears, or worn places before each day of use.

EPA has carefully considered comments supporting required eyewear and reviewed information in its possession that indicates a relatively low incidence of eye injuries to field workers by pesticides. EPA has concluded that rather than create a universal standard for eyewear to be used under the limited contact exception, the use of protective eyewear should be consistent with the early-entry PPE requirement on the labeling. Where eyewear is required on the label for early entry, it is also required for this exception.

In response to concerns regarding heat stress from wearing PPE, EPA has included in the exception a requirement that the agricultural employer assure that no worker is allowed or directed to perform the early-entry activity without implementing, when appropriate, measures to prevent heat-related illness. See Unit V.(7) of this document.

E. Time Allowed in the Treated Area During an REI

The Agency requested comments on the proposal to allow up to 3 hours allowable time to perform limited contact tasks during the REI, but for reasons outlined in this action has decided to allow no more than 8 hours of limited contact activity in a 24-hour period during an REI. Most of the comments requested an unlimited time be allowed for limited contact activities.

Some comments stated that the proposed time limit does not provide the needed flexibility in performing tasks, given the unpredictable and variable nature of farming and the necessity to perform certain tasks. Some comments stated further that without sufficient time, workers might feel pressured to work faster to complete the task, which could lead to safety risks, heat stress and exhaustion. In addition, several comments also stated that the proposed time limit would be difficult to enforce. Finally, several comments supported the proposed time limit for limited contact activities during the REI.

EPA has concluded that up to 8 hours in a 24-hour period in the treated area is sufficient time to perform almost all limited contact tasks. The Agency recognizes that, due to the vagaries of weather, pest populations, etc., unforeseen exigencies frequently occur in agriculture. These circumstances may necessitate more than the one-hour time limit currently allowed in the existing early entry exception. If limited contact activities can be completed in less than 8 hours, the exception does not authorize workers to remain in the treated areas to perform tasks that do not meet all of the conditions of the exception.

EPA concludes that early entry will not result in unreasonable risks to workers performing limited contact tasks, given that the allowable tasks are confined to those tasks that cannot be delayed until after the REI expires, that hand labor tasks are not permissible, and the exception does not apply where "double notification" pesticides have been applied. When workers do enter fields, exposure will be limited because of:

(1) The definition of the tasks.

VOL
60
ISS
85
MY
3
1995
UMI

(2) Entry is prohibited for the first 4 hours after a pesticide application and until ventilation criteria and inhalation exposure levels are met.

(3) PPE must be provided and.

(4) The workers must be informed of the safety information on the product labeling.

The Agency recognizes that a time limit for limited contact tasks will be more difficult to enforce than universally prohibiting workers from entering the treated area under any conditions. EPA contends, however, that in this case, administrative ease must be balanced against the agricultural industry's need to cope with critical needs.

F. Exclusion of Double-Notification Pesticides

Entry into areas treated with pesticides requiring "double notification" is not allowed under the terms of this exception. The "double notification" provision relates to pesticides that are highly toxic, dermally irritating, or have other health effects that set them apart from other pesticides and requires growers to both post the treated area and orally notify workers of the application.

Several commenters opposing the exclusion of double-notification pesticides asserted that the same tasks are necessary for crops treated with these pesticides; they said they believed the risks would be low since workers would have only "minimal contact with treated surfaces," and that PPE would provide adequate protection. Other alternatives proposed included: Allowing entry to fields based on the height of the crop or on the nature of the task, rather than on the toxicity of the pesticide, and reducing the maximum time allowed in fields treated with double notification pesticides.

Another commenter stated that other hazardous pesticides as well as ones posing chronic risk have not been subjected to the double notification requirement and are, therefore, still included under this exception.

The Agency is convinced that allowing workers to enter a field treated with a double-notification pesticide before the expiration of the REI would pose an unreasonable risk. Incidental exposure to double-notification and other highly toxic pesticides, such as brushing against a treated surface, more than with other pesticides, has the potential to cause an acute illness or a delayed effect. There are reports of acute poisonings which have occurred after short-term exposure to many of these highly toxic pesticides. Thus, shortening the period allowed for early entry may still not provide adequate protection. EPA has data demonstrating that the majority of pesticides requiring double-notification are responsible for many reported incidents of worker poisonings. The Agency is prohibiting early entry during the REI to fields treated with pesticide products which require both the posting of treated areas and oral notification to workers (i.e. double-notification).

EPA acknowledges the concern raised by commenters that exclusion of double notification pesticides may not guarantee that all hazardous chemicals are excluded from use under this exception. EPA believes it has excluded a group of pesticides known to be responsible for many poisoning incidents because of their acute toxicity. The Agency believes that worker exposure to other pesticides has been addressed by the stringent terms of this exception.

IV. Definitions and Examples

A. Definitions

This exception defines a "limited contact task" as follows:

> A limited contact task is a non-hand labor task performed by workers that results in minimal contact with treated surfaces (including but not limited to soil, water, surfaces of plants, and equipment), and where such contact with treated surfaces is limited to the forearms, hands, lower legs, and feet.

This exception specifically prohibits hand labor activity, as defined by the WPS. The WPS defines "hand labor" as follows:

> Any agricultural activity performed by hand or with hand tools that causes a worker to have significant contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues.

B. Examples

Examples of possible limited contact tasks that might qualify for the exception include, but are not limited to: The operation and repair of weather monitoring and frost protection equipment; the repair of greenhouse heating, air conditioning, and ventilation equipment; the repair of non-application field equipment; the maintenance and moving of beehives.

Examples of hand labor activity that is specifically prohibited include, but are not limited to: Harvesting; detasseling; thinning; weeding; caning; girdling; topping; planting; sucker removal; pruning; disbudding; roguing; packing produce into containers in the field.

Hand labor does not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors. Hand labor tasks involve substantial contact and have a potential for high exposure.

V. Terms of the Exception

The exception described in this Notice may be used unless early entry is expressly prohibited in product labeling. For example, some labels prohibit entry — including entry that would otherwise be permitted under the WPS and this exception — by any person other than trained and equipped handlers performing handling tasks for specified periods after the application. It should be noted that because this exception allows tasks to be performed during the REI, all persons engaged in irrigation tasks permitted under this exception must be trained.

Under this exception, a trained worker may enter a treated area during a restricted entry interval to perform a limited contact task if the agricultural employer ensures that the following requirements are met:

(1) The need for the task could not have been foreseen and cannot be delayed until after the expiration of the REI. A task that cannot be delayed is one that, if not performed before the REI expires, would cause significant economic loss, and there are no alternative tasks which would prevent significant loss.

(2) No hand labor activity is performed. (The WPS defines "hand labor" as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues.)

(3) The worker's only contact with treated surfaces (including but not limited to soil, water, surfaces of plants, crops), is minimal and is limited to feet, lower legs, hands, and forearms.

(4) The personal protective equipment for early entry must be provided to the worker by the agricultural employer for all tasks. Such personal protective equipment shall either: (a) Conform with the label requirements for early entry PPE; or (b) consist of coveralls, chemical-resistant gloves, socks, and chemical-resistant footwear, and eyewear (if eyewear is required for early entry PPE by the product labeling). In either case, the PPE must conform to the standards set out in § 170.112(c)(4)(i) through (c)(4)(x).

(5) The pesticide product does not have a statement in the pesticide product labeling requiring both the posting of treated areas and oral notification to workers ("double notification"), or a restriction prohibiting any person, other than an appropriately trained and equipped handler, from entering during the restricted entry interval.

(6) The time in treated areas under a restricted entry interval for any worker does not exceed a maximum of 8 hours in any 24-hour period.

(7) For all limited contact tasks, the requirements of § 170.112(c)(3) through (c)(9) are met. These are WPS requirements for all early entry situations that involve contact with treated surfaces, and include:

(a) A prohibition against entry during the first 4 hours, and until applicable ventilation criteria have been met, and until any label-specified inhalation exposure level has been reached.

(b) Informing workers of safety information on the product labeling.

(c) Provision, proper management, and care of personal protective equipment.

(d) Heat-related illness prevention.

(e) Requirements for decontamination facilities.

(f) Prohibition on taking personal protective equipment home.

(8) The agricultural employer shall notify workers before entering a treated area, either orally or in writing, in a language the worker understands, that:

(a) The establishment is relying on this exception to allow workers to enter treated areas to complete limited contact tasks.

(b) No entry is allowed for the first 4 hours following an application, and until applicable ventilation criteria have been met, and until any label-specified inhalation exposure level has been reached.

(c) The time in a treated area under a restricted-entry interval for any worker cannot exceed 8 hours in any 24 hour period.

EPA reserves the right to withdraw exceptions, in accordance with § 170.112(e)(6), if the Agency receives information or any other data that indicates the health risks posed by activities permitted under the exception are unreasonable, that the provisions of this exception are being abused, or that indicates the exception no longer has benefits that outweigh the risks.

VI. Reevaluation of the Limited Contact Exception

The Agency is adopting this exception in order to provide the flexibility to the agriculture sector to avoid significant economic losses while providing protections for agricultural workers under the WPS. As discussed more fully above, the Agency believes that any added risks associated with pesticide exposure of workers from activities permitted by this action will be limited by the specific conditions imposed in the exception. The Agency intends over the next several growing seasons to collect information to evaluate the effectiveness of this exception. In particular, EPA is interested in determining whether the conditions imposed by this action successfully protect workers against pesticide poisonings. EPA is also interested in better characterizing the circumstances in which this limited contact exception is being used and in understanding whether the exception addresses the needs of growers adequately. Finally, EPA would like to obtain information on the extent of compliance with the conditions in the exception and any practical problems with enforcement.

To obtain a better understanding of the implementation and impacts of this limited contact exception, EPA will work with USDA and states to gather relevant information. The Agency will hold public meetings in agricultural areas to provide those directly affected by the WPS — growers, enforcement staff, and agricultural workers — an opportunity to comment on these actions and the WPS rule in general. As appropriate, EPA may conduct surveys and review incident data to assess how the rules are affecting agriculture. The Agency invites any interested person who has concerns about the implementation of this action to send comments to the Agency at the address listed at the beginning of this document under the ADDRESSES section.

VII. List of Exceptions in 40 CFR 170.112

EPA will be amending § 170.112 of the WPS by adding to § 170.112 new paragraph (e)(7)(iii) referencing this administrative exception for "limited contact" tasks and its effective date. EPA will ensure that the regulated community is aware of the terms and conditions of the exception, and is able to locate this and future administrative exceptions. This amendment to paragraph (e) of § 170.112 will be a technical amendment. It does not make any substantive changes in the WPS or in § 170.112.

VIII. Public Docket

A record has been established for the rulemaking and this administrative decision under docket number "OPP–250101A " (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for the WPS rulemaking and this administrative decision, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

IX. Consultations and Reviews

A. Statutory Reviews

As required by FIFRA section 25(a), this administrative decision was provided to the U.S. Department of Agriculture for review and will be provided to Congress. The FIFRA Scientific Advisory Panel waived its review.

B. OMB Review

This action was submitted to the Office of Management and Budget (OMB) for their informal review. Any comments or changes made during OMB's review have been documented in the public record.

C. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA has assessed the effects of this administative decision on State, local, and tribal governments, and the private sector. This action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector. In fact, this action actually involves a reduction in burden and overall cost.

VOL 60 ISS 85 MY 3 1995 UMI

In addition to the consultations prior to proposal, EPA has had several informal consultations regarding the proposed rule with some States through the EPA regional offices and at regularly scheduled State meetings. No significant issues or information was identified as a result of EPA's discussion with the States.

List of Subjects in 40 CFR Part 170

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pest.

Dated: April 24, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–10875 Filed 5–2–95; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250098A; FRL–4950–5]

Administrative Exception to Worker Protection Standard Early Entry Prohibition for Irrigation Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Administrative exception decision.

SUMMARY: EPA is granting an administrative exception to the 1992 Worker Protection Standard (WPS) allowing early entry into pesticide treated areas to perform certain irrigation activities. The exception is in response to formal requests the Agency received from the States of California and Hawaii, a petition from many organizations in the agricultural community, and informal requests from other States. The exception allows workers to perform necessary irrigation activities, which if delayed could cause significant economic loss, and that result in minimal contact with pesticide-treated surfaces, for a maximum of 8 hours in a 24–hour period during a restricted-entry interval (REI). EPA is granting this exception because it believes the benefits outweigh the risks and the potential risk from this exception is not unreasonable.

EFFECTIVE DATE: May 3, 1995.

ADDRESSES: The Agency invites any interested person who has concerns about the implementation of this action to submit written comments identified by docket number "OPP–250098A" to: By mail: Public Response and Program Resources Branch, Field Operations Division (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP–250098A." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VII of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

The exception requests and all comments submitted on the proposed exception are available for public inspection in the Office of Pesticide Programs' public docket, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Sara Ager, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Rm. 1121, Crystal Mall #2, Arlington, VA, (703) 305–7666, ager.sara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This is one of a series of Agency actions to revise elements of the WPS. These actions were published on January 11, 1995 (60 FR 2820), and proposed to: (1) Shorten the time periods before which employers must train workers and retrain workers and handlers in pesticide safety; (2) exempt those who perform crop advising tasks from certain requirements; (3) allow early entry to pesticide-treated areas to perform certain time-sensitive irrigation activities; (4) allow early entry to pesticide-treated areas to perform certain time-sensitive activities resulting in "limited contact" with pesticide treated surfaces; and (5) allow workers to enter areas treated with certain lower risk pesticides after 4 hours rather than 12 hours. This action addresses allowing early entry to pesticide-treated areas to perform certain time-sensitive irrigation activities. Final determinations on the other four actions mentioned above are being published elsewhere in this issue of the **Federal Register**.

I. Background

On August 21, 1992, EPA issued a final rule (57 FR 38102) revising the Worker Protection Standard (WPS) for agricultural pesticides (40 CFR part 170). The WPS prohibits routine entry by workers into pesticide-treated areas during REIs. An REI is the time after the end of a pesticide application during which entry into the treated area is restricted. Section 170.112(e) of the WPS provides a process for considering exceptions to this prohibition against early entry to treated areas.

In 1994, both California and Hawaii specifically requested that EPA grant an exception to allow early entry to pesticide-treated areas, prior to the expiration of the REI, to perform necessary irrigation tasks involving limited contact with treated surfaces. Specifically, the Agency was asked to consider allowing unlimited early entry during the REI if workers would not have substantial contact with pesticide-treated surfaces. The Agency was also asked to consider establishing a single requirement for personal protective equipment (PPE) that could be worn by irrigation workers.

The irrigation exception requests from California and Hawaii, and a petition from a coalition of agricultural and commodity groups, persuaded EPA that there is a potential for significant economic impact if growers could not tend to irrigation tasks in a timely manner due to REIs. In response to these requests, EPA proposed a national exception for irrigation activities to be performed within the REI, provided certain conditions were met.

EPA received comments supporting and opposing the proposed exception.

Information received during the public comment period persuaded EPA that there could be significant economic impact if irrigation activities, resulting in minimal contact, were prohibited during the REI. EPA has been persuaded by comments that the irrigation tasks are relevant to the production of a wide variety of agricultural plants across a broad geographic area.

A. WPS Early Entry Restrictions

In general, the WPS prohibits agricultural workers from entering a pesticide-treated area during the REI. REIs are based on the toxicity of the active ingredient in the product and other factors. They are specified on pesticide product labels and typically range from 12 to 72 hours or possibly longer where product-specific REIs have been determined.

Additionally, workers engaging in early-entry work are not permitted to engage in hand labor, which results in substantial contact with treated surfaces. The WPS defines hand labor as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants or soil) that may contain pesticide residues.

B. WPS Exceptions to Early Entry Restrictions

Currently, the WPS contains the following exceptions to the general prohibition against worker early entry: entry resulting in no-contact with treated areas; entry allowing short-term tasks, with required PPE and other conditions; entry to perform tasks associated with agricultural emergencies; and an exception process for EPA to determine on a case-by-case basis whether entry is warranted for activities not covered in the previous exceptions.

II. EPA's Exception Decision

EPA is granting an exception to the early-entry prohibition to allow irrigation tasks to be performed. Based on the information submitted in comments and EPA's experience over many years of reviewing agricultural practices in connection with pesticide use, EPA has concluded that this exception appropriately balances the potential risk of worker exposure and the significant economic impact which could be incurred if growers are not allowed to tend to irrigation tasks at necessary times.

The exception is designed to minimize risk to workers conducting early-entry irrigation tasks while providing growers the needed flexibility to irrigate their crops. EPA has reviewed information on the risks and benefits associated with granting an exception for necessary irrigation activities and believes that the benefits outweigh the risks. This assessment is based on EPA's evaluation of the risk reduction provided by the provisions contained in this exception and the benefits which may be obtained by allowing the exception. Furthermore, where the benefits outweighed the risks, EPA has, in the context of the WPS, previously made exceptions to the general prohibition against early entry, even for hand labor activities. [See Hand Labor Tasks on Cut Flowers and Ferns Exception (57 FR 38175, August 21, 1992)]. Because hand labor as defined in the WPS involves substantial worker contact with surfaces that may contain pesticide residues, and this exception is limited to irrigation tasks where workers' contact with treated surfaces would be minimal and limited to the workers' feet, lower legs, hands, and forearms, EPA believes that pesticide exposure to workers performing irrigation tasks under the terms of this exception would be less than exposures to workers performing hand labor tasks in the same treated area. Therefore, EPA believes that early entry under the terms of the exception (see unit IV of this document), will not pose unreasonable risk to irrigation workers.

The category of activity envisioned by this exception includes only those irrigation tasks which cannot be delayed until the expiration of the REI. The definition of a task that cannot be delayed is one that, if not performed before the expiration of the REI, would cause significant economic loss and where there are no alternative practices which would prevent the loss. By this definition, EPA has defined a category of tasks with significant limits placed on the type and duration of activity in which a worker can be engaged and the economic circumstances under which the exception can be applied. Taken together, these elements limit the exception to only high-benefit activities.

Further, EPA has included significant provisions which will limit pesticide exposure and risk to irrigation workers. This exception specifically forbids hand labor activity; prohibits entry into a treated area during the first 4 hours after a pesticide application and until applicable ventilation criteria and any label-specified inhalation exposure level have been met; limits the time in treated areas under a REI for any worker to 8 hours in any 24-hour period; requires that any contact with treated areas by a worker be minimal and limited to feet, lower legs, hands, and forearms; excludes pesticides requiring double-notification; requires PPE; directs the agricultural employer to notify workers of specific information concerning the exception; and ensures that the requirements of § 170.112(c)(3)–(c)(9) are met. These terms will limit worker exposure and, consequently, worker risk.

The WPS's general prohibition against early entry is designed to limit worker exposure during the critical REI. In granting this irrigation exception, EPA has weighed the risk to irrigation workers against the benefits of early-entry irrigation activities and finds justification for this exception. EPA believes that this exception adequately addresses and balances worker exposure concerns with the commercial needs of agriculture.

III. Summary of Major Issues

EPA received over 80 comments on the proposed irrigation exception. Comments were received from State agencies, grower groups, farmworker groups, and individuals.

A. Need for the Exception

An exception for allowing irrigation activities is needed because failure to irrigate crops in a timely manner could cause a significant economic impact. The existing exceptions do not adequately address irrigation needs.

Commenters described many circumstances where failure to irrigate before the expiration of the REI could cause a significant economic impact. Comments from nurseries and greenhouses stated that frequently they need to water more than once a day. Several commenters stated their dependency on the irrigation districts for water and noted that often a grower has only a few hours notice before water arrives from the irrigation contractor. USDA cited the need for the exception for United States agriculture to be competitive in international markets.

EPA agrees with these comments, and is persuaded that it is necessary to allow early entry during the REI to perform irrigation activities. EPA has written specific restrictions into this exception to reduce risk to irrigators.

B. Geographic Limitation

The States of California and Hawaii formally requested an exception for irrigation activities. In response to other States, informally expressing the need to irrigate before the expiration of the REI, the Agency requested comments on the need for a national exception. Comments were received from: Arkansas, Arizona, California, Delaware, Florida, Hawaii, Illinois, Kansas, Louisiana, Maryland, Missouri,

VOL 60 ISS 85 MY 3 1995 UMI

Montana, North Carolina, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, and Washington. Most comments opposed a geographic limitation and several commenters stated their irrigation needs were similar to California and Hawaii. The greenhouse and nursery industry, which is national in scope, expressed the importance of watering-in pre-emergent herbicides. One commenter stated that a geographic limitation could pose an economic disadvantage to parts of the country where the exception is not applicable. However, another commenter stated, that a national exception would heighten the risk of poisonings and another commenter stated, that criteria should be established and applied on a case-by-case basis.

Based on the comments received, EPA has concluded that a nationwide irrigation exception is necessary. Although irrigation practices and the circumstances in which irrigation is employed vary considerably throughout the country, the need for early entry to perform irrigation tasks, that cannot be delayed without incurring significant economic loss, is common nationwide. The provisions of the exception which define the category of acceptable tasks limits those activities to ones which are needed nationwide. Granting exceptions for certain geographic areas is appropriate to address local, particularized needs. But in the present instance, EPA believes that such a case-by-case approach is unwarranted and overly burdensome given that the need is common and amenable to a more generalized exception.

The disruption of needed irrigation can lead to significant and even catastrophic economic losses. All types of irrigation require occasional maintenance, repair or adjustment necessitating early entry. This exception will allow such activities during the REI only if the failure to act during the REI will result in significant economic loss. By limiting the exception in this manner, EPA intends to prevent use of the exception for routine irrigation activities.

Furthermore, EPA's analysis takes into account the concern that this exception should adequately protect worker safety. Among other limitations to ensure appropriate protection for irrigation workers, EPA is limiting the tasks that may be engaged in by time (a maximum of 8 hours during any 24–hour period), necessity, and economic impact. These measures will provide workers with adequate protection while allowing growers the needed flexibility to prevent significant economic losses due to problems with their irrigation systems.

C. Two-Year Expiration Date

Under the proposal, this exception would have expired 24 months after the implementation date. Most commenters were opposed to an expiration date and stated that 2 years was not sufficient time to gather data concerning any documented increase in incidents. Several commenters were in favor of the 2–year expiration as a period to be used to monitor the need for further restriction if necessary.

EPA agrees with comments opposed to the 24–month expiration. The 2–year time period would not provide adequate time for EPA to evaluate the impact of the exception date. In general, changes in pesticide use practices do not occur suddenly, and there is often a lag time in reporting and analysis of incident data. Therefore, EPA expects it might be several years before data would be available to evaluate the impact of this exception. EPA, of course, may use the procedure in § 170.112(e)(5) to revoke the exception at any time that data become available indicating that such action is necessary.

D. Personal Protective Equipment (PPE)

The Agency was asked to consider establishing a generic PPE set. Since irrigation workers may work in several different treated areas, they could be required to comply with several different label requirements for PPE. EPA proposed a generic PPE set which would consist of coveralls, chemical resistant gloves, socks, and chemical resistant footwear. EPA proposed that the employer may choose to provide employees with PPE that either: (a) conforms with the label requirements for early-entry PPE; or (b) conforms with the generic PPE. The proposed alternative generic PPE requirement includes eyewear, if on the label.

Several commenters expressed concern that irrigators may be at risk of heat stress from performing strenuous tasks in coveralls. Several commenters maintained that bodily contact with treated surfaces would be limited to areas protected by gloves and boots. One commenter mentioned that the use of gloves would be impractical for certain tasks.

Some commenters stated that the complete PPE was necessary because it could not be assumed that exposure would be only to feet, lower legs, hands and forearms. It was mentioned that irrigators may not have considerable contact with foliage, but do have significant contact with contaminated soil and pipes. Several commenters responded favorably to the option of wearing generic PPE, in lieu of the label requirements, because it would reduce confusion for irrigators entering multiple fields in a single day. One commenter opposed the use of generic PPE, in lieu of the label PPE, because irrigation workers will be exposed through incidental exposure, such as residues dripping from orchards, irrigation water, or wiping perspiration from the face. Even while wearing PPE, injuries have been reported.

EPA has concluded that rather than require eyewear as part of the generic PPE, the use of protective eyewear should be consistent with the early-entry PPE requirement on the labeling. EPA is not requiring respiratory equipment because the exception expressly prohibits workers from entering treated fields during the first 4 hours after application and until applicable ventilation criteria have been met, and until any label-specified inhalation exposure level has been reached.

While the terms of the exception require that the contact be limited to feet, lower legs, hands, and forearms, the Agency believes that incidental, unintended, or accidental exposure to other parts of the body, besides the lower legs, feet, forearms and hands, may be possible and thus, is requiring coveralls as part of the generic PPE. The WPS requires that PPE not be worn home and that it must be properly maintained by agricultural employers. The requirement for coveralls could decrease exposure risk to residues from long-sleeved shirts and long pants which could be worn home.

In response to concerns regarding heat stress from wearing PPE, EPA notes that the agriculture employer is required, under unit IV.7 of this document, to assure that no worker is allowed or directed to perform the early-entry activity without implementing, when appropriate, measures to prevent heat-related illness.

E. Time Allowed in the Treated Area

EPA proposed that the time in treated areas under the REI for each worker not exceed 8 hours in any 24–hour period.

Many comments recommended unlimited entry during the REI for irrigation. Several commenters favored the 8–hour limit in any 24–hour period and one commenter said it would be difficult and uncommon for an irrigator to exceed 8 hours in a treated area during even the longest work shift. One commenter indicated that pesticide-treated surfaces cannot be controlled and that PPE may not adequately protect for 8 hours. It was also suggested that

time in the treated area should be determined by the toxicity of the chemical, allowing up to 6 hours per 24–hour period.

EPA has designed this exception by balancing the benefits of giving employers the flexibility to perform irrigation tasks against the added risks resulting from increased exposure during early entry. In this case, one way to limit risk is to limit exposure to 8 hours, rather than to allow unlimited entry as commenters requested. Entry for up to 8 hours affords employers considerably more flexibility in using workers than a shorter period. EPA is retaining the 8 hours maximum time allowed within a 24–hour period. The Agency concludes that this is a sufficient amount of time to address most irrigation needs and, after considering this provision in combination with the other protections required under this exception, that the benefits of an 8–hour period outweigh the risk of exposure in that period.

F. Exclusion of Double-Notification Pesticides

Entry into areas treated with pesticides requiring double notification is not allowed under the terms of this exception. The "double-notification" provision relates to pesticides that are highly toxic, dermally irritating, or have other health effects that set them apart from other pesticides and requires growers to both post the treated area and orally notify workers of the application.

Several commenters opposing the exclusion of double-notification pesticides, asserted that the same tasks are necessary and believed the risks would be low since workers would have only "minimal contact with treated surfaces" and that PPE would provide adequate protection. Other alternatives proposed included: allowing entry to fields based on the height of the crop or on the nature of the task rather than the toxicity of the pesticide; and reducing the maximum time allowed in fields treated with double-notification pesticides.

Several commenters supported excluding double-notification pesticides and one commenter stated that the double-notification pesticides should also be excluded from the other exceptions. One commenter stated that category B or C carcinogens, identified as developmental or reproductive toxins or known to be sensitizers, and pesticides with the signal word DANGER should also be excluded from the exception. Another commenter expressed concern over the methodology of compiling the double-notification list and expressed concern regarding other risky pesticide exposures, especially from the standpoint of eye exposure and chronic toxicity.

The Agency is convinced that allowing workers to enter a field treated with a double-notification pesticide before the expiration of the REI would pose an unreasonable risk. Incidental exposure to double-notification pesticides, such as brushing against a treated surface, more than with other pesticides, has the potential to cause an acute illness or a delayed effect. There are reports of acute poisonings which have occurred after short-term exposure to many of these highly-toxic pesticides. Thus, shortening the period allowed for early entry may still not provide adequate protection. EPA has data demonstrating that the majority of pesticides requiring double-notification are responsible for many reported incidents of worker poisonings. The Agency is prohibiting early entry during the REI to fields treated with pesticide products which require both the posting of treated areas and oral notification to workers (i.e. double-notification).

G. Notification Requirements to Workers

The exception proposed 10 posting requirements. Many of these requirements duplicated requirements of the WPS and one (the posting of the 2–year expiration date) is no longer relevant.

The Agency is requiring growers that use this exception to inform workers, either in writing or orally in language the worker understands, that: (1) The establishment is relying on the irrigation exception to allow workers to enter treated areas to complete irrigation tasks; (2) no entry is allowed for the first 4 hours following an application, and until applicable ventilation criteria have been met, and until any label-specified inhalation exposure level has been reached; and (3) the time in the treated area under a REI for any worker may not exceed 8 hours in any 24–hour period.

H. Poisoning Information

Several commenters supplied the Agency with poisoning incident data. Many poisoning incidents, while involving irrigators, appear to be accidents and would not be affected by this exception. Also, many of these pre-WPS incidents would constitute non-compliance with the federal WPS requirements if they had been in effect. These incidents have reinforced the Agency's conclusion about the potential for risk reduction by wearing PPE when entering treated fields before the REI expires.

Implementation of the WPS will reduce the number of pesticide-related incidents by requiring irrigators to wear PPE if entering before the REI expires and by not allowing any entry until the 4 hours after application and until inhalation/ventilation criteria have been met.

IV. Terms of the Exception

The terms of the exception are essentially the same as those proposed in the **Federal Register** of January 11, 1995 (60 FR 2830), with two minor differences; the final exception is not limited to 2 years and the 10 posting requirements have been changed to 3 notification requirements. It should be noted that because this exception allows tasks to be performed during the REI, all persons engaged in irrigation tasks under this exception must be trained.

The exception described in this document may be used unless early entry is expressly prohibited in product labeling. For example, some labels prohibit entry--including entry that would otherwise be permitted under the WPS and this exception--by any person other than trained and equipped handlers performing handling tasks for specified periods after the application.

Under the terms of this exception, a trained worker may enter a treated area during a REI to perform tasks related to operating, moving, or repairing irrigation or watering equipment, if the agricultural employer ensures that all of the following requirements are met:

1. The need for the task could not have been foreseen and cannot be delayed until after the expiration of the REI. A task that cannot be delayed is one that, if not performed before the REI expires, would cause significant economic loss, and there are no alternative practices which would prevent significant loss.

2. No hand labor activity is performed. (The WPS defines "hand labor" as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues.)

3. The worker's only contact with treated surfaces (including but not limited to soil, water, surfaces of plants, crops, and irrigation equipment) is minimal and is limited to feet, lower legs, hands, and forearms.

4. The PPE for early entry must be provided to the worker by the agricultural employer for all tasks. Such PPE shall either: (a) conform with the label requirements for early-entry PPE; or (b) consist of coveralls, chemical resistant gloves, socks, and chemical

VOL 60 ISS 85 MY 3 1995 UMI

resistant footwear, and eyewear (if eyewear is required for early-entry PPE by the product labeling). In either case, the PPE must conform to the standards set out in § 170.112(c)(4)(i) through (c)(4)(x).

5. The pesticide product does not have a statement in the pesticide product labeling requiring both the posting of treated areas and oral notification to workers (double notification), or a restriction prohibiting any person, other than an appropriately trained and equipped handler, from entering during the REI.

6. The time in treated areas under a REI for any worker does not exceed a maximum of 8 hours in any 24–hour period.

7. For all irrigation tasks, the requirements of § 170.112(c)(3)–(c)(9) are met. These are WPS requirements for all early-entry situations that involve contact with treated surfaces, and include:

i. A prohibition against entry during the first 4 hours, and until applicable ventilation criteria have been met, and until any label specified inhalation exposure level has been reached.

ii. Informing workers of safety information on the product labeling.

iii. Provision, proper management, and care of PPE.

iv. Heat-related illness prevention.

v. Requirements for decontamination facilities.

vi. Prohibition on taking PPE home.

8. The agricultural employer shall notify workers before entering a treated area, either orally or in writing, in a language the worker understands, that:

i. The establishment is relying on this exception to allow workers to enter treated areas to complete irrigation tasks.

ii. No entry is allowed for the first 4 hours following an application, and until applicable ventilation criteria have been met, and until any label-specified inhalation exposure level has been reached.

iii. The time in a treated area under a REI for any worker cannot exceed 8 hours in any 24–hour period.

EPA reserves the right to withdraw exceptions, in accordance with § 170.112(e)(6), if the Agency receives information or any other data that indicates the health risks posed by activities permitted under the exception are unreasonable, that the provisions of this exception are being abused, or that indicates the exception no longer has benefits that outweigh the risks.

V. Reevaluation of Irrigation Exception

The Agency is adopting this exception in order to provide the flexibility to the agriculture sector to avoid significant economic losses while still providing agricultural workers protection under the WPS. As discussed more fully above, the Agency believes that any added risks associated with pesticide exposure of irrigation workers, from activities permitted by this action, will be limited by the specific conditions imposed in the irrigation exception. The Agency intends, over the next several growing seasons, to collect information to evaluate the effectiveness of this exception. In particular, EPA is interested in determining whether the conditions imposed by this action successfully protect workers against pesticide poisonings. EPA is also interested in better characterizing the circumstances in which this exception is being used and in understanding whether the exception addresses the needs of growers adequately. Finally, EPA would like to obtain information on the extent of compliance with the conditions in the irrigation exception and any practical problems with enforcement.

To obtain a better understanding of the implementation and impacts of this irrigation exception, EPA will work with USDA and States to gather relevant information. The Agency will hold public meetings in agricultural areas to provide those directly affected by the WPS–growers, enforcement staff, and agricultural workers–an opportunity to comment on these actions and the WPS rule in general. As appropriate, EPA may conduct surveys and review incident data to assess how the rules are affecting agriculture. The Agency invites any interested person who has concerns about the implementation of this action to send comments to the Agency at the address listed at the beginning of this Notice under FOR FURTHER INFORMATION CONTACT.

VI. List of Exceptions in 40 CFR 170.112

In a technical amendment published elsewhere in this issue of the **Federal Register**, EPA is amending § 170.112 of the WPS by adding to § 170.112(e)(7) a referencing of this administrative exception for irrigation tasks and its effective date. EPA will ensure that the regulated community is aware of the terms and conditions of the exception, and is able to locate this and future administrative exceptions. The technical amendment to § 170.112(e)(7) does not make any substantive changes in the WPS or in § 170.112.

VII. Public Docket

A record has been established for the WPS rulemaking and this administrative decision under docket number "OPP–250098A" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for the WPS rulemaking and this administrative decision, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

VIII. Consultations and Reviews

A. Statutory Reviews

As required by FIFRA section 25(a), this administrative decision was provided to the U.S. Department of Agriculture and to Congress for review. The FIFRA Scientific Advisory Panel waived its review.

B. OMB Review

This action was submitted to the Office of Management and Budget (OMB) for their informal review. Any comments or changes made during OMB's review have been documented in the public record.

C. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA has assessed the effects of this administrative decision on State, local, and tribal governments, and the private sector. This action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector. In fact, this action actually involves a reduction in burden and overall cost.

In addition to the consultations prior to proposal, EPA has had several informal consultations regarding the proposed rule with some States through the EPA regional offices and at regularly scheduled State meetings. No significant issues or information were identified as a result of EPA's discussion with the States.

List of Subjects

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pest.

Dated: April 24, 1995.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 95–10873 Filed 5–2–95; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 156

[OPP–00399A; FRL–4950–8]

Worker Protection Standard; Reduced Restricted Entry Intervals for Certain Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy Statement.

SUMMARY: EPA is issuing a final policy statement on "Reduced Restricted Entry Intervals for Certain Pesticides." EPA will allow registrants to reduce the interim Worker Protection Standard (WPS) restricted entry intervals (REIs) from 12 to 4 hours for certain low risk pesticides. EPA developed a two Tiered screening process to determine the eligibility of all Toxicity Category III and IV pesticides. The first Tier screened all Toxicity III and IV active ingredients against the low toxicity criteria. This policy statement contains a candidate list of those active ingredients that meet the low toxicity criteria, and may be eligible for reduced REIs. End use products containing active ingredients that appear on the list are to be evaluated by the criteria set in the second Tier of the screening process, described in this policy, to determine if the current REI may be reduced to 4 hours.

EFFECTIVE DATE: This policy will become effective May 3, 1995.

FOR FURTHER INFORMATION CONTACT: Judy Smith or Ameesha Mehta, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Crystal Mall #2, Rm. 1121, Arlington, VA, (703) 305–7371, smith.judy@epamail.epa.gov or mehta.ameesha@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Agency is issuing a final policy statement that allows registrants to reduce the current interim Worker Protection Standard (WPS) restricted entry intervals (REIs) from 12 to 4 hours for certain low risk pesticides. This policy is one of a series of Agency actions since the publication of the final WPS in August 1992. In addition, EPA is also publishing final actions regarding: (1) Worker training requirements; (2) allowing early entry for irrigation activities; (3) allowing provisions for limited contact activities; and, (4) reduced requirements for crop advisors. Final determinations on the other four actions mentioned above are being published elsewhere in this issue of the **Federal Register**.

I. Summary of the Policy

EPA will permit registrants to reduce the current interim WPS REIs from 12 to 4 hours for pesticides which contain specific active ingredients and which meet certain additional criteria. Using the criteria described in Unit III of this policy statement, the Agency screened a total of 495 active ingredients and determined that over 100 active ingredients met the low toxicity criteria. As a result, end use products containing these active ingredients may be eligible for a reduced REI. Unit IV of this policy statement lists the candidate active ingredients that the Agency has determined meet the low toxicity criteria.

Registrants of end use products which are subject to WPS, and which contain only these active ingredients may apply the criteria in Unit VI of this policy statement to determine whether their end use product qualifies for the reduced REI. To revise labeling to reflect the reduced REI, the Agency will allow registrants to use a streamlined notification process process which is described in this policy statement until December 31, 1995. After that date, registrants must use the existing registration label amendment process to submit an application for a reduced REI. Such applications would be evaluated and approved on the basis of the criteria provided in this policy statement.

If the Agency becomes aware of information and determines at any time that the reduced REI is not appropriate, EPA will inform and, after opportunity for discussion, may direct the registrant to revise the REI on the label.

If any person believes that an active ingredient, not listed as a candidate for reduced REI in Unit IV of this policy statement, meets the low toxicity criteria of this policy statement, and that the end use products containing that active ingredient should be eligible for a reduced REI, the registrant should contact EPA at the address provided in the FOR FURTHER INFORMATION CONTACT unit.

II. Background

The 1992 WPS established an interim minimum REI of 12 hours for all end use pesticide products for agricultural uses. Longer interim REIs were established for more toxic products. Many commenters, during the promulgation of the rule, stated that it was difficult to determine when the sprays have dried or dusts have settled; thus, judgment was required to assess when such REI had expired. Other commenters requested the Agency establish minimum REIs to protect workers against possible unknown chronic or delayed health effects as a product-specific health effect evaluation would take the Agency a long time to conduct. Therefore, the 12-hour minimum REI was established for two reasons: (1) To replace previous REI which was the statement "when sprays have dried and dusts have settled"; and (2) to incorporate a margin of safety for unknown chronic or delayed health effects.

Since 1992, numerous registrants and pesticide users have asked EPA to consider reducing the minimum 12–hour REI for lower toxicity products that they believe do not need a 12–hour REI to protect workers. In response to these concerns, on January 11, 1995, the Agency published a proposal (60 FR 2848) for public comment. The January proposal contained 75 candidate active ingredients that were eligible for 4–hour REIs. Many comments stated that all Toxicity Category III's and IV's should be included on the list. EPA screened a total of 495 WPS in-scope active ingredients, and has added 39 more active ingredients to the candidate list.

III. Policy and Rationale for Low Toxicity Criteria

The 1992 WPS revised a 1974 regulation that expressed REIs in terms of the statement "when sprays have dried and dusts have settled." This phrasing was sufficiently vague to cause both enforcement problems and concerns about necessary margins of safety for chronic or delayed health

VOL 60 ISS 85 MY 3 1995 UMI

effects. The 1992 revision addresses these problems and concerns by establishing an interim minimum REI of 12 hours for all end use pesticide products for agricultural uses. The 12–hour figure was applied because data indicated that many of the residue concerns were not present after 12 hours.

The 12–hour default covers a very large number of active ingredients, with only active ingredients in Toxicity Categories I and II (more toxic) having longer REIs under the WPS. Some of the active ingredients subject to the 12–hour REI, however, have such low levels of toxicity as to pose minimal risk to workers, even if a fair degree of exposure occurred. These active ingredients are classified as: microbial pesticides (living organisms, including protozoa, fungi, bacteria, and viruses); biochemical pesticides (materials that occur in nature and possess a non-toxic mode of action to the target pest(s); and certain conventional agricultural chemicals.

Therefore, EPA developed screening criteria to identify those active ingredients with low toxicities from the universe of all Toxicity Categories III and IV active ingredients covered by the WPS. The Agency was concerned that the active ingredient should not be acutely toxic and have no other associated developmental, reproductive, neurotoxic, or carcinogenic effects. Additionally, the active ingredient should not be a cholinesterase inhibitor (N-methyl carbamate and organophosphate) since those chemicals are known to cause a large number of pesticide poisonings and have the potential for serious neurological effects. Finally, no adverse incident data must be present for those active ingredients.

For the few active ingredients where limited data were available, EPA evaluated data on chemically similar active ingredients (analogs which EPA believes are predictive of the toxicity of those active ingredients) and used that data as a surrogate. Examples of such active ingredients are , 2,4-D Isopropyl, and 2,4-D, Isooctyl(2-octyl).

The Agency believes that reducing the REIs for pesticides which meet the criteria below would still provide adequate protection to workers. Moreover, reducing the REI would provide agricultural producers with greater flexibility and may promote the use of these inherently less toxic products over those with greater risks and longer REIs. The Agency concludes that the modification of the REIs will not result in unreasonable risk to workers.

Accordingly, the Agency established the following criteria to select the active ingredients with low toxicity, which would be eligible for shorter REIs.

1. The active ingredient is in Toxicity Category III or IV based upon data for acute dermal toxicity, acute inhalation toxicity, primary skin irritation, and primary eye irritation. Acute oral toxicity data were used if no acute dermal data were available. If EPA lacked data on primary skin irritation, acute inhalation, or primary eye irritation of the active ingredient, in question the Agency reviewed data on that end-point for similar active ingredients (analogs). If the analog was in Toxicity Category I or II, EPA excluded such active ingredients from consideration for the reduced REI.

2. The active ingredient is not a dermal sensitizer (or in the case of biochemical and microbial active ingredients, no known reports of hypersensitivity exist).

3. The active ingredient is not a cholinesterase inhibitor (N-methyl carbamate or organophosphate) as these chemicals are known to cause large numbers of pesticide poisonings and have the potential for serious neurological effects.

4. No known reproductive, developmental, carcinogenic, or neurotoxic effects have been associated with the active ingredient. If active ingredients did not have data available for these chronic health effects, EPA considered data on appropriate chemical and biological analogs. Active ingredients that have been classified as carcinogenic in Category B (probable human carcinogen) or Category C(possible human carcinogen, for which quantification of potential risk is considered appropriate), or are scheduled for EPA's Health Effects Division Cancer Peer Review process, were omitted from consideration.

5. EPA does not possess incident information (illness or injury reports) that are "definitely" or "probably" related to post-application exposures to the active ingredient.

6. Some active ingredients are not included in Unit IV of this policy statement because they have been the subject of a reregistration eligibility decision document (RED) which concluded that a 12–hour or longer REI was necessary to protect workers. Active ingredients with REIs established during the recent reregistration activities are *not* eligible for reduced REIs through the notification process. Although a RED has been completed on Glyphosate, the REI for Glyphosate was set utilizing end use product data, and hence, the Agency will add it to the candidate active ingredient list. However, the registrant for those end use products must meet criteria listed in Unit VI of this policy statement to be eligible for a 4–hour REI reduction.

It should also be noted that WPS does not apply to pheromones used in insect traps.

IV. Candidate Active Ingredients Meeting Low Toxicity Criteria

The following is a list of 114 active ingredients currently subject to the WPS requirements that meet the lower toxicity criteria.

Acetylchitin
Agrobacterium radiobacter
Ampelomyces quisqualis isolate M-10
Azadirachtin (neem extract)
B.t. subsp. aizawai
B.t. subsp. aizawai strain GC-91
B.t. subsp. israelensis
B.t. subsp. kurstaki
B.t. subsp. kurstaki HD-263
B.t. subsp. kurstaki strain EG2348
B.t. subsp. kurstaki strain EG2371
B.t. subsp. kurstaki strain EG2424
B.t. subsp. san diego
B.t. subsp. tenebrionis
Bacillus popilliae and B. lentimorbus
Bacillus sphaericus
Bacillus subtilis GB03
Bacillus subtilis MBI 600
BNOA (b-naphythoxy acetic acid)
Borax
Calcium hypochlorite
Calcium oxytetracycline
Calcium thiosulfate
Candida oleophila
Capsicum oleoresin
Checkmate peach twig borer pheromone
Chitosan
Chlorsulfuron
Colletotricum gleosporoides
Copper as ammonia complex
Copper salts of fatty acids
Cytokinin
2,4-DB, isooctyl
Diatomaceous earth
Disodium octaborate tetrahydrate
Disparlure
Ethylene
Ethoxyquin
Farnesol
Fatty acids, C8-12, Methyl esters
Fenridazone-potassium
Fluazifop-butyl
Fluazifop-r-butyl
Gibberellic acid
Gibberellins A4 and A7
Gliocladium virens G-21
Glyphosate, ammonium
Glyphosate, isopropylamine
Glyphosate, sodium
Gossyplure: hexadecadien-1-ol acetate
Gypsy moth npv
Heavy aromatic naphtha
Imazethapyr
Imazethapyr, ammonium salt
Indole-3-butyric acid
Lagendidium giganteum, mycelium
Mefluidide, diethanolamine
Mefluidide, potassium salt
Methyl nonyl ketone

Metsulfuron-methyl
Milky spore
Mineral oil
Muscalure, component of (e)-9-tricosene
Muscalure, component of (z)-9-tricosene
N-6-Benzyladenine
NAA, Ethyl ester
Nerolidol
Nicosulfuron
Nosema locustae
Octyl bicycloheptenedicarboxamide
Oxytetracycline hydrochloride
Paradichlorobenzene
Paraffin oils
Periplanone B
Polyhedral inclusion bodies of Autographa californica
Polyhedral inclusion bodies of Heliothis zea NPV or Helicoverpa zea NPV
Polyhedral inclusion bodies of beet armyworm npv
Polyhedral inclusion bodies, Neodiprion sertifer NVP
Potassium gibberellate
Promalin
Pseudomonas cepacia type wiscons.
Pseudomonas fluorescens
Pseudomonas fluorescens A506
Pseudomonas fluorescens EG–1053
Pseudomonas fluorescens strain NCIB 12089
Pseudomonas syringae
Puccinia canaliculata (Schweinitz)
Rimsulfuron DPX–E9636
Ryania speciosa
Ryanodine
s-Kinoprene
s-Methoprene
Sesame plant, ground
Siduron
Silica gel
Silicon dioxide
Sodium carboxymethylcellulose
Sodium metaborate
Soybean oil
Streptomyces griseoviridis
Streptomycin
Streptomycin sesquisulfate
Sulfometuron-methyl
Thifensulfuron-methyl
Thiobencarb
Tomato pinworm (e)-4-tridecen-1-yl acetate
Tomato pinworm (e)-11-tetradecenyl acetate
Triasulfuron
1-Triacontanol
Trichoderma harzianum var. rifai (KRL–AG2)
Trichoderma harzianum (ATCC 20476)
Trichoderma polysporum (ATCC 20475)
Tussock moth npv

V. Procedure for Adding Active Ingredients To List

If a registrant believes an active ingredient not on the candidate list meets the criteria set forth in Unit III of this policy statement, and that end use products containing that active ingredient should be eligible for a reduced REI, the registrant should contact EPA at the address given in the FOR FURTHER INFORMATION CONTACT unit, before December 31, 1995. To be considered for a reduced REI, the active ingredient must meet the criteria outlined in this policy, based upon studies determined by the Agency to be acceptable. To use the streamlined notification process, the registrant is required to submit the studies or cite their MRID numbers and provide copies of Agency reviews that confirm that the criteria are met.

If a registrant believes a new active ingredient may meet the criteria set forth in Unit III of this policy statement, the registrant should request that EPA apply the screening criteria for the reduced REI and reference this policy in the application for registration. Registrants having pending applications may also request the reduced 4–hour REI by amending their application for registration. The registrant must also cite this policy and indicate that a reduced REI of 4 hours is being sought. Such pending applications will be considered against the criteria of this policy statement, and, if acceptable, will be permitted the reduced REI. The screening criterion for incident data would not apply to new active ingredients.

If a registrant wishes to add a new WPS use to an existing WPS product, and the active ingredient and product would qualify for a 4–hour REI, the registrant must use the standard label amendment process.

After December 31, 1995, registrants must use the existing label amendment process to request a reduction in a REI. In the future, the Agency will continue to apply the lower toxicity criteria to identify active ingredients which may be eligible for the 4–hour REI during both registration and reregistration process. The Agency will update the list of the candidate active ingredients periodically.

VI. Procedures for Determining Eligibility of End-Use Products

If the registrant wishes to qualify for REI reduction of an end use product(s) that contains any active ingredient(s) included on the candidate list in Unit IV of this policy statement or any subsequent update, the registrant is responsible for determining if that end use product(s) qualifies. To qualify, the following criteria must be met:

1. The end-use product is in Toxicity Category III or IV for all of the following acute toxicity studies: acute dermal toxicity, acute inhalation toxicity, primary skin irritation, and primary eye irritation.

2. Based on the required sensitization or hypersensitivity studies, the end use product is not a sensitizer and there have been no reports of hypersensitivity.

3. The registrant has no data indicating, and is not aware of, adverse health effects associated with the end use product, e.g., carcinogenicity, neurotoxicity, developmental effects, or reproductive effects.

4. The registrant is not aware and has not been informed of incident information (illness or injury reports) that are "definitely" or "probably" (as defined by the California Incident Reporting System) related to post-application exposures to the product.

VII. Procedure for Notification/ Certification

A. Notification Statement

If a registrant determines that an end use product qualifies for a reduced REI, the registrant may notify EPA using the following streamlined notification procedure. The registrant would submit, for each product, to the Agency, Office of Pesticide Programs, Registration Division:

1. An Application for Registration (EPA Form 8570–1), identified as a notification under this policy.

2. One copy of the current product label, clearly marked to highlight the interim WPS REI.

3. Two copies of a revised label, clearly marked to highlight the revised REI.

4. In order to certify to the Agency that the end use product meets all of the criteria outlined above, the registrant must submit the following proof required to demonstrate that the product is eligible for the reduced REI:

i. The registrant must submit the required studies, and cite the MRID numbers for all studies submitted. EPA need not have completed reviews of these studies.

ii. If EPA has permitted the use of studies performed on a substantially similar end use product (analog) to fulfill the acute toxicity data requirements, then the registrant must submit proof that EPA has accepted such data to satisfy end use product data requirements.

iii. If EPA has waived a data requirement for one or more of the required studies, the registrant must submit proof that the requirement for data was waived.

Note: All studies required for evaluating the acute dermal, acute inhalation, eye irritation, skin irritation or skin sensitization/ hypersensitization on the end use product must have been submitted, cited, or waived by EPA; only then, can the REI be reduced for the end use product under this notification procedure.

VOL
60
ISS
85
MY
3
1995
UMI

5. The following certification statement:

I certify that this notification is complete in accordance with the provisions of EPA's reduced REI policy and that no other changes have been made to the labeling or the confidential statement of formula of this product. I further understand that if this notification does not comply with the terms of EPA's reduced REI policy, this product may be in violation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and I may be subject to enforcement action and penalties under sections 12 and 14 of FIFRA. I understand that the Agency may direct a change in the REI of a product subject to this notice if the Agency determines that a change is appropriate, and that products may be subject to regulatory and enforcement action if the appropriate changes are not made.

Notifications should be sent to:

U.S. Postal Service Deliveries, Document Processing Desk (WPS:95–1), Office of Pesticide Programs (7504C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460–0001.

Personal/Courier Service Deliveries (Monday thru Friday, 8 a.m. to 4:30 p.m. except Federal holidays), Document Processing Desk (WPS:95–1), Office of Pesticide Programs (7504C), Environmental Protection Agency, Rm. 266A, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

B. Final Printed Labeling

For each product, final printed labeling must be submitted either as part of the notification or separately in accordance with PR Notice 82–2, before the product may be distributed or sold.

VIII. Sale and Distribution of Pesticide Products Qualifying for a Reduced REI

After the registrant has submitted the information and certification specified in Unit VII of this document, the registrant may sell or distribute products bearing the registrant-certified revised labeling that was submitted to the Agency.

Such registrants may revise labeling of products already in channels of trade through stickering or full relabeling. Stickering, or full relabeling, may occur at sites where product is not under direct registrant control (such as distribution or retail sites) by any person the registrant designates and without registration of the site as a pesticide producing establishment. However, the registrant retains full responsibility for ensuring that such labeling modifications are carried out correctly.

IX. Agency Determination to Revise the REI

FIFRA section 6(a)(2) requires that registrants submit to the Agency "additional factual information regarding unreasonable adverse effects on the environment of the pesticide." Registrants may become aware of information or data concerning adverse effects, illnesses or injury associated with exposure of an agricultural worker to a pesticide product or its use, including those resulting from post-application exposures. The Agency generally regards this information as relevant to the Agency's on-going assessment of the risks associated with pesticide products.

If, on the basis of information received from a registrant or other sources, the Agency determines that the REI should be increased, the Agency will inform the registrant of that determination and of the new REI to replace the existing REI. The Agency will also inform the registrant at that time of actions, if any, that must be taken with respect to existing stocks of product labeled with a 4–hour REI.

Reregistration decisions or decisions resulting from other Agency review processes may supersede this policy statement. Please note that REIs established through the streamlined notification procedure in this policy are considered to be interim REIs. Once an active ingredient has gone through the reregistration process, it may result in an active ingredient either being removed or added to the candidate list, and a subsequent change in the length of the REI.

X. Compliance

Registrants are responsible for the content and accuracy of labeling and for compliance with labeling requirements. The Agency will monitor selected submissions to verify compliance with the required criteria in this policy statement. Registrants that submit notifications which do not comply with this policy or EPA's requirements may be subject to enforcement action under FIFRA sections 12 and 14.

Registrants electing to sell or distribute products bearing registrant-verified revised labeling are responsible for correcting any errors on the proposed label. In most cases, incorrectly reducing the REI from 12 hours to 4 hours would be considered a serious error possibly requiring stop-sale orders, recalls, or civil penalties. A serious error is one which may create a potential for harm to workers, handlers, or other persons, or the environment, or when the errors prevent achievement of the basic goals of the WPS or FIFRA.

XI. Public Docket

A record has been established for this policy statement under docket number "OPP–00399" A public version of this record, which does not include any information claimed as confidential business information, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132, Office of Pesticide Programs (7506C), Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

XII. Consultations

A. Executive Order 12866

This action was submitted to the Office of Management and Budget (OMB) for review under Executive Order 12866 (58 FR 51735, October 4, 1993). Any comments or changes made during OMB's review have been documented in the public record.

B. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995, which the President signed into law on March 22, 1995, EPA has assessed the effects of this administrative decision on State, local, and tribal governments, and the private sector. This action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector. In fact, this action actually involves a reduction in burden and overall cost.

In addition to the consultations prior to proposal, EPA has had several informal consultations regarding the proposed rule with some States through the EPA regional offices and at regularly scheduled State meetings. No significant issues or information were identified as a result of EPA's discussion with the States.

List of Subjects in 40 CFR Part 156

Environmental protection, Labeling, Occupational safety and health, Pesticides and pest, Reporting and recordkeeping requirement.

Dated: April 26, 1995.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 95–10876 Filed 5–3–95; 8:45 am]
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federal register

Wednesday
May 3, 1995

Part VII

The President

Proclamation 6794—Loyalty Day

VOL
60
ISS
85
MY
3
1995
UMI

Federal Register
Vol. 60, No. 85
Wednesday, May 3, 1995

Presidential Documents

Title 3—

The President

Proclamation 6784 of April 29, 1995

Loyalty Day, 1995

By the President of the United States of America

A Proclamation

Our country's rich diversity of peoples and cultures has been called "the noble experiment." From its beginnings, our great democracy has guaranteed its citizens the blessings of freedom and the right of self-determination. Each year, with the coming of spring and the rebirth of nature, we pause to consider the progress of our Nation and to reaffirm our allegiance to the American experiment.

Two hundred and twenty years ago in Lexington, Massachusetts, a ragged group of colonial Americans faced a column of British soldiers. As the smoke cleared from the "shot heard round the world," eight American "Minutemen" lay dead-their blood spilled along the path to a new Nation on this soil. Their gift of freedom is held sacred to this day.

All Americans can be proud of the heritage of courage and sacrifice that has extended unbroken through generations of our citizens. The success of the United States today is seen both in our continued prosperity and strength and in our role as an international beacon of liberty. As we recall those who gave their lives for our freedom, we see our Nation's history reflected in their ranks-from the tireless "Minutemen" in Lexington to the brave men and women who fought in the Persian Gulf. These fine citizens, along with their families and those who have served on the home front, deserve our profound respect and gratitude. Let history forever record our loyalty to their legacy.

The Congress, by Public Law 85–529, has designated May 1 of each year as "Loyalty Day." We spend this day in celebration of our Constitution and our precious Bill of Rights and in honor of the sacrifices that have enabled this great charter to endure.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 1, 1995, as Loyalty Day. I call upon all Americans to observe this day with appropriate ceremonies and activities, including public recitation of the Pledge of Allegiance to the Flag of the United States. I also call upon government officials to display the flag on all government buildings and grounds on this day.

IN WITNESS WHEREOF, I have hereunto set my hand thistwenty-ninth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95–11089
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VOL
60
ISS
85
MY
3
1995
UMI

Reader Aids

Federal Register
Vol. 60, No. 85
Wednesday, May 3, 1995

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534
Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, MAY

21033–21424.....1
21425–21698.....2
21699–21972.....3

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR
Proclamations:
6792.....21423
6793.....21696
6794.....21971

5 CFR
890.....21590
Proposed Rules:
870.....21759
871.....21759
872.....21759
873.....21759
874.....21759

7 CFR
6.....21425
28.....21033
75.....21034
400.....21035
1464.....21036
1494.....21037

8 CFR
245a.....21039

9 CFR
94.....21428

12 CFR
707.....21699

14 CFR
39.....21041, 21429
71.....21433, 21434, 21790
1245.....21042
Proposed Rules:
39.....21053, 21054, 21056, 21470, 21471, 21772, 21774
71.....21473, 21776

19 CFR
7.....21043
11.....21043
12.....21043
18.....21043
19.....21043
24.....21043
54.....21043
101.....21043
102.....21043
111.....21043
114.....21043
123.....21043
128.....21043
132.....21043
134.....21043
141.....21043
145.....21043
146.....21043
148.....21043
151.....21043
152.....21043
177.....21043
181.....21043
191.....21043
Proposed Rules:
162.....21778

21 CFR
172.....21700
Proposed Rules:
173.....21474
310.....21590

24 CFR
200.....21936
203.....21936
Proposed Rules:
Ch. IX.....21058

26 CFR
1.....21435
Proposed Rules:
1.....21475, 21482, 21779

29 CFR
Proposed Rules:
2200.....21058

30 CFR
944.....21435
Proposed Rules:
934.....21484

33 CFR
Proposed Rules:
322.....21061

34 CFR
690.....21438
Proposed Rules:
200.....21400
201.....21400
203.....21400
205.....21400
212.....21400

37 CFR
1.....21043, 21438
10.....21438

38 CFR
Proposed Rules:
21.....21486

40 CFR
52.....21440, 21442, 21445, 21447, 21451, 21453, 21455, 21456, 21702, 21703, 21706, 21707, 21713, 21717
70.....21720

VOL
60
ISS
85
MY
3
1995
UMI

80 21724
81 21456
82 21682
Proposed Rules:
52 ..... 21487, 21488, 21489, 21490, 21780, 21781, 21783
81 21490
82 21490
156 21965
170 ..... 21944, 21948, 21953, 21955, 21960
180 ..... 21725, 21728, 21731, 21733, 21734, 21736, 21784
185 ..... 21736, 21786
300 ..... 21491, 21786
439 21592

42 CFR
421 21048

44 CFR
64 21739

45 CFR
96 21332

47 CFR
2 21048
76 21464

48 CFR
502 21467
506 21467
513 21467
552 21467

50 CFR
217 21741
227 21741
661 21746
678 21468
Proposed Rules:
625 21491
640 21493

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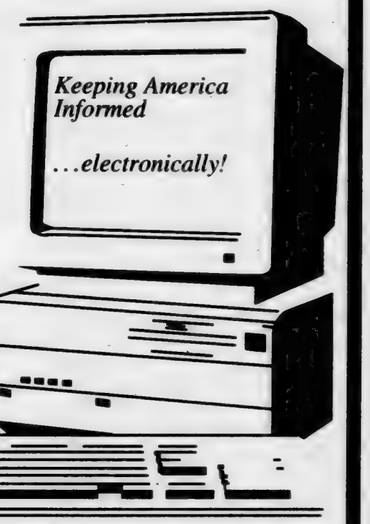

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12/94 See Page II inside any issue of the Federal Register for additional information

VOL
60
ISS
85
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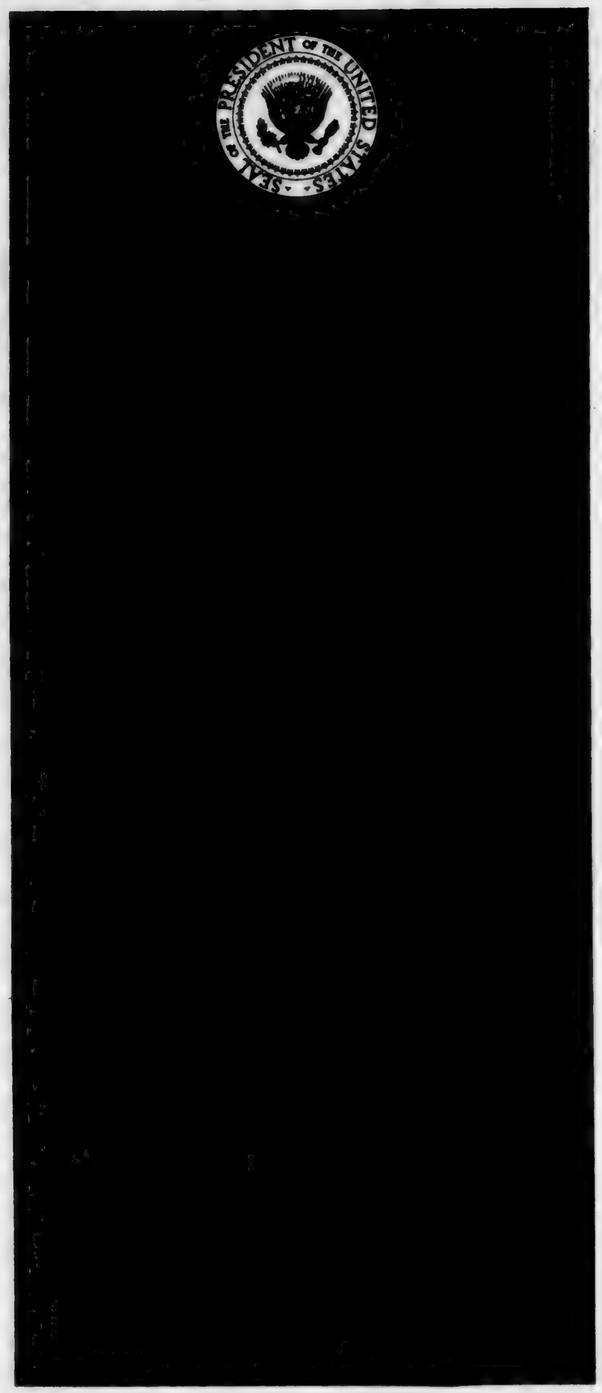

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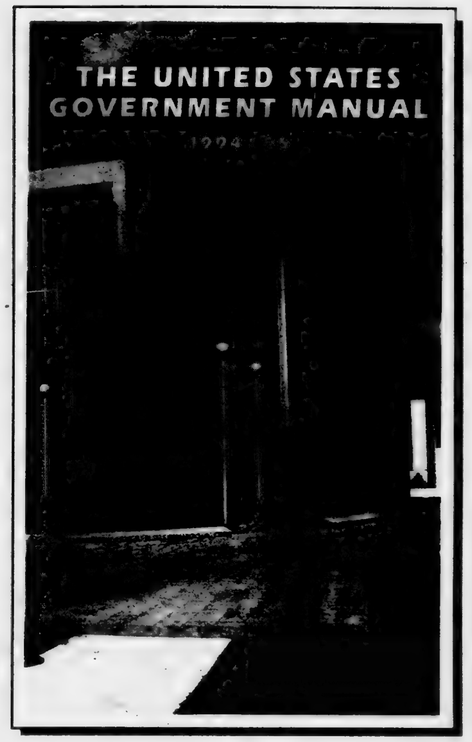

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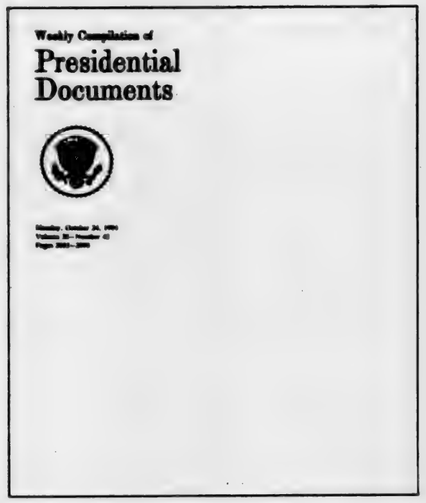

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VOL
60

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federal register

Thursday
May 4, 1995

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VOL
60
ISS
86
MY
4
1995
UMI

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Contents

Federal Register
Vol. 60, No. 86
Thursday, May 4, 1995

Agricultural Marketing Service
PROPOSED RULES
Cotton research and promotion order:
Imported cotton and cotton-containing products; supplemental assessments, 21999–22010

Agriculture Department
See Agricultural Marketing Service
See Forest Service
NOTICES
Agency information collection activities under OMB review, 22037
Meetings:
Agricultural Biotechnology Research Advisory Committee, 22037

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Maine, 22045

Coast Guard
RULES
Anchorage regulations:
Wisconsin; correction, 21983
Regattas and marine parades:
Great Chesapeake Bay Swim Event, 21982–21983
PROPOSED RULES
Drawbridge operations:
Connecticut, 22014–22016

Commerce Department
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 22045

Comptroller of the Currency
RULES
Community Reinvestment Act regulations, 22156–22225

Copyright Office, Library of Congress
RULES
Claims registration:
Appeal procedure modification, 21983–21984

Defense Department
See Navy Department
RULES
Acquisition regulations:
Fuel allocation procedures, 21992–21993
PROPOSED RULES
Acquisition regulations:
Small business and small disadvantages business concerns; evaluation preference, 22035
NOTICES
Agency information collection activities under OMB review, 22052
Meetings:
Electron Devices Advisory Group, 22052–22053
Science Board task forces, 22053–22054

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Merkow, Leonard, M.D., 22075–22076
Sargent, Michael G., M.D., 22076–22078

Education Department
NOTICES
Meetings:
National Assessment Governing Board, 22054–22055

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Acquisition regulations:
Technical amendments, 21993–21994
Air quality implementation plans; approval and promulgation; various States:
Indiana, 22240–22242
Water pollution control:
Water quality standards; priority toxic pollutants, numeric criteria; State compliance—
Metals criteria revision, 22229–22237
Metals criteria, specific; administrative stay of effectiveness, 22228–22229
NOTICES
Agency information collection activities under OMB review, 22062–22063
Clean Water Act:
Settlement penalty policy; interim revision, 22063–22064
Meetings:
Clean Air Act Advisory Committee, 22064
Superfund; response and remedial actions, proposed settlements, etc.:
North Indian Bend Wash Site, AZ, 22064
Performance One, Inc. Site, IL, 22064–22065

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Export-Import Bank
NOTICES
Agency information collection activities under OMB review, 22065

Federal Aviation Administration
RULES
Airworthiness directives:
Bell, 21976–21977
McCauley, 21979–21981
McDonnell Douglas, 21977–21979
PROPOSED RULES
Airworthiness directives:
Airbus, 22011–22013
Beech, 22013–22014

VOL 60 ISS 86 MY 4 1995 UMI

Federal Communications Commission
RULES
Radio services, special:
Private land mobile services—
896-901/935-940 MHz bands; 200 channels use, 21987–21992
Cordless telephones; additional operation frequencies, 21984–21987
PROPOSED RULES
Radio services, special:
Private land mobile services—
900 MHz SMR; licensing and auction rules, 22023–22034
Radio stations; table of assignments:
Arizona, 22022–22023
California, 22022
Indiana, 22022
Oregon, 22021
Texas, 22021
NOTICES
Agency information collection activities under OMB review, 22065

Federal Deposit Insurance Corporation
RULES
Community Reinvestment Act regulations, 22156–22225

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Destec Power Services, Inc., et al., 22055–22056
Environmental statements; availability, etc.:
Tuscarora Gas Transmission Co., 22056–22057
Natural gas certificate filings:
Williston Basin Interstate Pipeline Co. et al., 22057–22058
Applications, hearings, determinations, etc.:
ANR Storage Co., 22058–22059
Central Illinois Public Service Co., 22059
Cincinnati Gas & Electric Co. et al., 22059
Columbia Gulf Transmission Co., 22059
Florida Gas Transmission Co., 22059–22060
Granite State Gas Transmission, Inc., 22060
J. Anthony & Associates Ltd., 22060
Northwest Pipeline Corp., 22060
Paiute Pipeline Co.; correction, 22095
Panhandle Eastern Pipe Line Co., 22060–22061
Portland General Electrical Co., 22061
Rainbow Energy Marketing Corp., 22061
Steuben Gas Storage Co., 22061
Texas Eastern Transmission Corp., 22061–22062
Transcontinental Gas Pipe Line Corp., 22062
Williams Natural Gas Co., 22062

Federal Maritime Commission
NOTICES
Casualty and nonperformance certificates:
Celebrity Cruises, Inc., et al., 22066
Freight forwarder licenses:
M&M Worldwide, Inc., et al., 22066

Federal Reserve System
RULES
Community Reinvestment Act regulations, 22156–22223
Home mortgage disclosure (Regulation C):
Annual reporting requirements; instructions and forms, 22223–22225
NOTICES
Applications, hearings, determinations, etc.:
Deutsche Bank AG, 22066–22067
Societe Generale, 22067

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 22072–22073
Environmental statements; availability, etc.:
Brown tree snake; control plan and extermination outside of historic range, 22073–22074

Food and Drug Administration
NOTICES
Meetings:
Advisory committees, panels, etc., 22067

Forest Service
NOTICES
Animal damage management; adoption of final policy, 22037–22044
Environmental statements; availability, etc.:
Tongass National Forest, AK, 22044–22045
Withdrawal and reservation of lands:
Montana, 22045

General Services Administration
PROPOSED RULES
Federal Information Resources Management Regulation:
Excess and exchange/sale Federal information processing (FIP) equipment; screening and transfer, 22019–22021

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See Social Security Administration
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
NOTICES
Medicaid:
State plan amendments, reconsideration; hearings—
Illinois, 22067–22068

Immigration and Naturalization Service
RULES
Immigration:
Employment authorization; application filing by direct mail, 21973–21976

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

International Trade Administration
NOTICES
Antidumping:
Forged steel crankshafts from—
United Kingdom, 22045–22047
Small business telephone systems and subassemblies from—
Korea, 22048–22049
Countervailing duties:
Apparel from—
Peru, 22049

Textile mill products from—
Sri Lanka, 22049–22050
Export trade certificates of review, 22050

Interstate Commerce Commission
PROPOSED RULES
Practice and procedure:
Rail exemption revocation proceedings, 22035–22036

Justice Department
See Drug Enforcement Administration
See Immigration and Naturalization Service
NOTICES
Pollution control; consent judgments:
Azrael, Edward, et al., 22075
Silver Bow Water Inc. et al., 22075

Land Management Bureau
RULES
Public land orders:
Colorado, 21984
NOTICES
Environmental statements; availability, etc.:
Alturas 345 kilovolt transmission line project, CA and NV, 22070
Lacks Creek, Red Mountain, Covelo and Scattered Tracts management areas, CA, 22071
Oil and gas leases:
New Mexico, 22071
Right-of-way applications:
New Mexico, 22072
Survey plat filings:
California, 22071–22072
Wyoming, 22072

Library of Congress
See Copyright Office, Library of Congress

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Contractor indemnification; streamlined policy and approval process
Correction, 22095

National Institute of Standards and Technology
NOTICES
Information processing standards, Federal:
Video/Teletext Presentation Level Protocol Syntax (North American PLPS); proposed withdrawal; comment request, 22051

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
American lobster, 21994–21998
Northeast multispecies, 21994
NOTICES
Meetings:
South Atlantic Fishery Management Council, 22051
Permits:
Endangered and threatened species, 22051–22052

National Park Service
NOTICES
Concession contract negotiations:
Isle Royale National Park, MI; air transportation services, 22074
Environmental statements; availability, etc.:
Grand Canyon National Park, AZ, 22074–22075

National Science Foundation
NOTICES
Reports; availability, etc.:
Climate change; second assessment by Climate Change Intergovernmental Panel, 22078–22079

Navy Department
NOTICES
Meetings:
Naval War College, Board of Advisors to President, 22054
Planning and Steering Advisory Committee, 22054

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities; domestic licensing:
Nuclear power plants; environmental qualification of electric equipment, 22010–22011
NOTICES
Generic letters:
Systematic Evaluation Program (SEP) lessons-learned issues; final disposition, 22079
Petitions; Director's decisions:
Southern California Edison et al., 22079–22081
Applications, hearings, determinations, etc.:
McCormick, Taylor, & Associates, Inc., 22081–22083

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Rate Commission
PROPOSED RULES
Practice and procedure rules:
Rate and classification changes; expedition, flexibility, and innovation, 22017–22019

Presidential Documents
ADMINISTRATIVE ORDERS
Anti-Economic Discrimination Act of 1994; suspending prohibitions on certain sales and leases (Presidential Determination No. 95–20 of May 1, 1995), 22245

Public Health Service
See Food and Drug Administration
See Substance Abuse and Mental Health Services Administration

Railroad Retirement Board
RULES
Railroad Retirement Act:
Annuity or lump sum application procedures, 21982
Railroad Unemployment Insurance Act:
Public commuter railroads; contributions under special transition rule; CFR part removed, 21981–21982

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 22084–22086
National Association of Securities Dealers, Inc., 22086–22088
Applications, hearings, determinations, etc.:
Public utility holding company filings, 22088–22091

VOL 60 ISS 86 MY 4 1995 UMI

Small Business Administration
NOTICES
License surrenders:
Consumer United Capital Corp., 22091
Meetings:
Investment Advisory Council, 22091

Social Security Administration
NOTICES
Organization, functions, and authority delegations, 22098–22153
Social security acquiescence rulings:
Preslar v. HHS Secretary; highly marketable skills definition for individuals close to retirement age, 22091–22093

State Department
NOTICES
Meetings:
International Telecommunications Advisory Committee, 22093

Substance Abuse and Mental Health Services Administration
NOTICES
Federal agency urine drug testing; certified laboratories meeting minimum standards, list, 22068–22070

Thrift Supervision Office
RULES
Community Reinvestment Act regulations, 22156–22225

Trade Representative, Office of United States
NOTICES
Generalized System of Preferences:
Annual review (1995)—
Petition submission deadline, 22083–22084

Transportation Department
See Coast Guard
See Federal Aviation Administration

Treasury Department
See Comptroller of the Currency
See Thrift Supervision Office

United States Information Agency
NOTICES
Art objects; importation for exhibition:
Claude Monet 1840–1926, 22093–22094

Veterans Affairs Department
PROPOSED RULES
Adjudication; pensions, compensation, dependency, etc.:
Incompetency and competency determinations, 22016–22017
NOTICES
Meetings:
Minority Veterans Advisory Committee, 22094

Separate Parts in This Issue

Part II
Social Security Administration, 22098–22153

Part III
Department of the Treasury, Comptroller of the Currency and Office of Thrift Supervision, Federal Reserve System, and Federal Deposit Insurance Corporation; Federal Reserve System, 22156–22225

Part IV
Environmental Protection Agency, 22228–22237

Part V
Environmental Protection Agency, 22240–22242

Part VI
The President, 22245

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Administrative Orders:
Presidential Determinations:
No. 95–20 of May 1, 1995 22245

7 CFR
Proposed Rules:
1205 21999

8 CFR
103 21973
208 21973
210 21973
214 21973
240 21973
242 21973
245a 21973
274a 21973

10 CFR
Proposed Rules:
50 22010

12 CFR
25 22156
203 (2 documents) 22156, 22223
228 22156
345 22156
563e 22156

14 CFR
39 ..... 21976, 21977, 21979
Proposed Rules:
39 ..... 22011, 22013

20 CFR
217 21981
344 21982

33 CFR
100 21983
110 21982
Proposed Rules:
117 22014

37 CFR
202 21983

38 CFR
Proposed Rules:
3 22016

39 CFR
Proposed Rules:
3001 22017

40 CFR
52 (2 documents) 22240, 22241
131 (2 documents) 22228, 22229

41 CFR
Proposed Rules:
201–23 22019
201–24 22019

43 CFR
Public Land Order:
7138 21984

47 CFR
15 21984
90 ..... 21984, 21987
Proposed Rules:
73 ..... 22021, 22022
90 22023

48 CFR
1503 21993
1505 21993
1513 21993
1514 21993
1515 21993
1522 21993
1525 21993
1542 21993
1552 21993
1852 22095
5452 21992
Proposed Rules:
219 22035

49 CFR
Proposed Rules:
1121 22035

50 CFR
649 21994
651 21994

VOL
60
ISS
86
MY
4
1995
UMI

Rules and Regulations

Federal Register
Vol. 60, No. 86
Thursday, May 4, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 208, 210, 214, 240, 242, 245a, and 274a

[INS No. 1719–95]

RIN 1115 AE18

Rules and Procedures for Filing an Application for Employment Authorization

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: The Immigration and Naturalization Service (INS) publishes this rule to inform the public of a change in procedures for filing certain employment authorization applications. At present, persons seeking work authorization apply either by mailing an application to an INS service center or by delivering it to an INS district office. The INS intends to expand its direct mailing program, so that more categories of applicants can file their work authorization applications by mail directly with the service centers. The expansion will enhance the agency's ability to adjudicate work authorization applications efficiently. This final rule revises the regulations to reflect the changed filing procedures. It also makes a technical amendment to the regulatory provisions governing work authorization for persons applying for suspension of deportation and two technical amendments to the regulatory provision governing interim work authorization for asylum reform applicants. The instructions that accompany an application for work authorization are being revised simultaneously to provide comprehensive general information on filing procedures.

EFFECTIVE DATE: This rule is effective June 3, 1995.

FOR FURTHER INFORMATION CONTACT: Jack Tabaka, Senior Examiner Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, (202) 616–7432.

SUPPLEMENTARY INFORMATION: The INS announced the expansion of its direct mail program in an interim rule published in the **Federal Register** on July 1, 1994 at 59 FR 33903. In that interim rule, the INS announced its intent to reduce processing time and the need for personal visits to the INS by permitting applicants to file certain applications by mail to the service centers. Under INS regulations, an applicant generally should file an application in accordance with the instructions that accompany the application form. 8 CFR 103.2(a). The regulations required employment authorization applicants to file their applications with the district director. Many of the references to filing with the district director were removed with the publication of the July 1, 1994 interim rule to permit applicants to mail applications to the service centers. Certain employment authorization regulations continue to require that an applicant file an application with the district director having jurisdiction over the applicant's place of residence. While the interim rule removed many of the references to district director and replaced those references with the term "director" so that service center directors could accept such applications, further changes to the regulations are necessary to accomplish the expansion of the direct mail program. This rule eliminates the remaining references to "district director" filing, consistent with the change in filing procedures announced in the interim rule.

On July 1, 1994 the INS also announced the implementation of a pilot direct mail program for persons applying at the Baltimore District Office in a **Federal Register** notice published at 59 FR 33985. The INS is reviewing the comments it has received from the public on both the interim rule and the direct mail pilot program notice and will publish a response in the future.

Based in part on the addition of new personnel, INS service centers are able to accept a greater volume of applications from a greater number of categories of employment authorization applicants. This change to the employment authorization filing procedures will reduce the number of visits to district offices now required to obtain work authorization and will permit the INS to further streamline its procedures and to improve overall efficiency to its customers. To explain more fully the changed filing procedures, the INS has revised the instructions that accompany Form I–765, Application for Employment Authorization. The INS has received Office of Management and Budget approval under the Paperwork Reduction Act for the revised set of instructions and is in the process of having the new I–765 package published and distributed to its district offices and its form distribution centers. The corresponding regulations are revised below to direct employment authorization applicants to follow the instructions that accompany the employment authorization application when determining where to file.

El Salvadoran and Guatemalan nationals who are eligible for benefits under the *American Baptist Church* v. *Thornburgh*, 760 F.Supp. 796 (N.D. Cal. 1991) ("*ABC*") should refer to special filing instructions which will supplement the I–765 instructions. Those instructions can be obtained visiting local INS offices or by calling 1–800–755–0777. Under this change in filing procedures, asylum applicants generally will file future employment authorization applications at the service centers and will no longer be required to file at district offices.

The change in filing procedures is, in the view of the INS, a rule of agency procedure or practice. Therefore, it is not subject to the notice and comment requirements of 5 U.S.C. 553. The INS publishes this rule of procedure or practice in the **Federal Register** for the guidance of the public under 5 U.S.C. 552. The INS intends to provide information to the public regarding the new filing procedures through its public outreach programs in addition to publication of this rule.

This rule also makes three technical corrections. On August 23, 1991, the INS eliminated the requirement under 8 CFR 274a.12(c)(10) that applicants for suspension of deportation establish economic necessity as a condition of

VOL
60
ISS
86
MY
4
1995
UMI

obtaining work authorization. 56 FR 41767. Nevertheless, the phrase "if the alien establishes the economic need to work" was not removed in that section and continued to appear in the Code of Federal Regulations. The final rule revising the asylum regulations on December 5, 1994 perpetuated that mistake. 59 FR 62284. The December 5, 1994 regulations also refer mistakenly to asylum applications rather than employment applications in a sentence having to do with the availability of interim employment authorization. This final rule corrects these two technical errors. In addition, the INS has made a technical correction to § 274a.13(a)(2), which concerns applications for employment authorization filed in connection with an asylum application. The last sentence of that section was amended at the publication of the December 5, 1994 final rule to state that "[t]he Service Center shall adjudicate the application within 30 days of receipt." This is correct insofar as it reiterates the period under asylum reform for adjudicating an initial request by an asylum applicant for employment authorization under § 208.7(a)(1). It is incorrect, however, to the extent that it appears to apply to applications for renewal or replacement of employment authorization, which are discussed in the sentence immediately preceding it. As is clear from the preamble to the December 5, 1994 final rule, specifically at 59 FR 62291, and from § 274a.13(d), the INS is to adjudicate requests for renewal or replacement of employment authorization within 90 days, not 30. Therefore, the last sentence of § 274a.13(a)(2) has been removed.

Regulatory Flexibility Act

The Commissioner of the INS, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. This regulation merely provides notice to the public of change in filing procedures for employment authorization applications by correcting the remaining regulatory references to filing with the district director and makes two technical corrections to recently published INS regulations. It does not change the amount of the application fee though it corrects the figure listed currently in the regulations.

Executive Order 12866

This rule is not considered by the INS to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12606

The Commissioner of the INS certifies that she has assessed this rule in light of the criteria in Executive Order 12606 and has determined that this regulation will not have an impact on family well-being.

Paperwork Reduction Act

The information collection requirement contained in this rule has been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The clearance number for this collection is 1115–0163.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 210

Aliens, Migrant labor, Reporting and recordkeeping requirements.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part240

Administrative practice and procedure, Immigration.

8 CFR Part 242

Administrative practice and procedure, Aliens.

8 CFR Part 245a

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS: AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR 1982 Comp., p. 166; 8 CFR part 2.

§ 103.6 [Amended]

2. Section 103.6(a)(2)(ii) is amended by removing the phrase "District Director" and adding the term "INS" in its place.

3. In § 103.6(a)(2)(iii) the first sentence is amended by removing "§ 109.1(b)" and adding "§ 274a.12" in its place.

* * * * *

4. In § 103.7 (b)(1), the entry for Form I–765 is revised to read as follows:

§ 103.7 Fees.

* * * * *

(b)(1) * * *

Form I–765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—$70, unless otherwise noted on the instructions attached to the application form.

* * * * *

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF DEPORTATION

5. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 31 U.S.C. 9701; 8 CFR part 2.

6. Section 208.7 is amended by:

a. In paragraph (a)(1), the sixth sentence, removing the word "asylum" and adding the word "employment" in its place;

b. In paragraph (c), the first sentence of the introductory text, removing the phrase "asylum officer, or district director where appropriate" and adding in its place the phrase "INS, in accordance with the instructions on or attached to the employment authorization application";

c. In paragraph (c), in the second sentence, removing the phrase "asylum officer" and adding in its place the term "INS"; and

d. In paragraph (e) remove the phrase "district director, in his discretion," and add the term "INS".

7. PART 210—SPECIAL AGRICULTURAL WORKERS

8. The authority citation for part 210 continues to read as follows:

Authority: 8 U.S.C. 1103, 1160, 8 CFR part 2.

§ 210.2 [Amended]

9. In § 210.2(c)(4)(iii), the third sentence is amended by removing the words "A district director" and adding the words "The INS" in their place.

10. Section 210.4(b) is amended by:

a. Removing in paragraph (b)(1), in the first sentence, the phrase "may only be granted by a Service legalization office" and adding in its place the phrase "be granted by the INS";

b. Revising in paragraph (b)(2), the fourth and fifth sentences; and

c. Revising in paragraph (b)(3), the second sentence, to read as follows:

§ 210.4 Status and benefits.

* * * * *

(b) * * *

(2) *Employment and travel authorization prior to the granting of temporary resident status.* * * * Employment and travel authorization subsequent to an interview will be granted on the employment authorization document, and will be restricted to 6 months duration, pending final determination on the application for temporary resident status. If a final determination has not been made on the application prior to the expiration date of the employment authorization document, that date may be extended upon return of the employment authorization document by the applicant to the INS office. * * *

(3) *Employment and travel authorization upon grant of temporary resident status.* * * * The applicant may appear at an INS office, and upon surrender of the previously issued Form I–688A or employment authorization document will be issued Form I–688, Temporary Resident Card. * * *

* * * * *

PART 214—NONIMMIGRANT CLASSES

11. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2.

12. Section 214.2 is amended by:

a. Revising in paragraph (f)(11), introductory text the fourth sentence;

b. Removing in paragraph (f)(11), introductory text the fifth sentence;

c. Removing in paragraph (f)(12), in the second sentence the term "director";

d. Removing in paragraph (f)(16)(i), introductory text the phrase "A Service Director" and adding in its place the phrase "The Service";

e. Removing in paragraph (f)(16)(i)(A), the word "director";

f. Revising paragraph (f)(16)(ii);

g. Removing in paragraph (j)(1)(v)(A), in the second sentence, the phrase "8 CFR 274a.12(c)(5)" and adding the phrase "the Service" in its place;

h. Removing in paragraph (m)(14)(ii), the second and third sentences; and

i. Removing in paragraph (m)(15), the term "district director" and adding the term "Service" in its place.

The revised text reads as follows:

§ 214.2 Special Requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

(11) * * * An F–1 student must apply to the INS for the EAD by filing the Form 1–765. * * *

* * * * *

(16) * * * * *

(ii) *Decision.* If the Service reinstates the student, the Service shall endorse the Form I–20 A–B to indicate that the student has been reinstated, return the I–20 ID to the student, and forward the school copy of the form to the Service's processing center for data entry. If the Service does not reinstate the student, the student may not appeal that decision.

* * * * *

PART 240—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

13. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254a, 1254a note.

§ 240.12 [Amended]

14. In § 240.12 paragraphs (a) and (c) are amended by removing the term "district director" and adding in its place the term "INS".

§ 240.17 [Amended]

15. In § 240.17(a) the first and third sentences are amended by removing the term "District Office" and adding in its place the words "INS designated office".

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL

16. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1252 note, 1252b, 1254, 1362; 8 CFR part 2.

17. In Section 242.6, paragraph (e)(5) is revised to read as follows:

§ 242.6 Family Unity Program.

* * * * *

(e) * * *

(5) *Employment authorization.* An alien granted benefits under the Family Unity Program is authorized to be employed in the United States and may apply for an employment authorization document in accordance with the instructions accompanying Form I–765, Application for Employment Authorization.

* * * * *

PART 245a—ADJUSTMENT OF STATUS TO THAT OF PERSONS ADMITTED FOR LAWFUL TEMPORARY OR PERMANENT RESIDENT STATUS UNDER SECTION 245A OF THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED BY PUBLIC LAW 99–603, THE IMMIGRATION REFORM AND CONTROL ACT OF 1986, AND PUBLIC LAW 100–204, SECTION 902

18. The authority citation for part 245a continues to read as follows:

Authority: 8 U.S.C 1101, 1103, 1255a and 1255a note.

§ 245a.2 [Amended]

19. Section 245a.2 is amended by:

a. Removing in paragraph (j), in the first sentence the word "Legalization" and also by removing the phrase "Forms I–688 and I–688A" and adding in its place the words "an employment authorization document and Form I–688";

b. Removing in paragraph (n)(1), in the first and last sentences, the word "Legalization";

c. Revising in paragraph (n)(2)(ii) the third sentence to read as set forth below;

d. Removing in paragraph (n)(3), in the last sentence, the word "Legalization".

§ 245a.2 Application for temporary residence.

* * * * *

(n) * * *

(2) * * *

(ii) * * *

VOL 60 ISS 86 MY 4 1995 UMI

The employment authorization document will be given to the applicant after an interview has been completed by an immigration officer unless a formal denial is issued by the appropriate INS office. * * *

* * * * *

20. Section 245a.4 is amended by:

a. Removing in paragraph (b)(10), in the first sentence the phrase "Forms I–688A and I–688" and adding in its place the phrase "an employment authorization document and Form I–688";

b. Removing in paragraph (b)(14)(ii)(b), in the third sentence the phrase "Form I–688A, Employment Authorization," and adding in its place the phrase "An employment authorization document"; and

c. Revising in paragraph (b)(14)(iii) the second sentence to read as follows:

§ 245a.4 Adjustment to lawful resident status of certain nationals of countries for which extended voluntary departure has been made available.

* * * * *

(b) * * *

(14) * * *

(iii) * * * The alien will be required to return to the appropriate INS office, surrender the I–688A or employment authorization document previously issued, and obtain Form I–688, Temporary Resident Card, authorizing employment and travel abroad.

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

21. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

§ 274a.12 [Amended]

22. In § 274a.12 paragraph (c)(10), in the first sentence is amended by removing the phrase ", if the alien establishes the economic need to work".

23. In § 274a.13, paragraph (a) is revised to read as follows:

274a.13 Application for employment authorization.

(a) *General.* Aliens authorized to be employed under § 274a.12(a)(3)–(8) and (10)–(13) must file an Application for Employment Authorization (Form I–765) in order to obtain documentation evidencing this fact.

(1) Aliens who may apply for employment authorization under § 274a.12(c) of this part, except for those who may apply under § 274a.12(c)(8), shall file a Form I–765 with the director having jurisdiction over applicant's residence, or the director having jurisdiction over the port of entry at which the alien applies, or with such other Service office as the Commissioner may designate. The approval of applications filed under § 274a.12(c) of this part, except for § 274a.12(c)(8), shall be within the discretion of the director or such other officer as the Commissioner may designate. Where economic necessity has been identified as a factor, the alien must provide information regarding his or her assets, income, and expenses in accordance with instructions on Form I–765.

(2) An initial Application for Employment Authorization (Form I–765) for asylum applicants under 274a.12(c)(8) of this part shall be filed in accordance with instructions on or attached to Form I–765 with the appropriate Service Center or with such other Service office as the Commissioner may designate. The applicant also must submit a copy of the underlying application for asylum or withholding of deportation, together with evidence that the application has been filed in accordance with §§ 208.3 and 208.4 of this chapter. An application for an initial employment authorization or for a renewal of employment authorization filed in relation to a pending claim for asylum shall be adjudicated in accordance with § 208.7 of this chapter. An application for renewal or replacement of employment authorization submitted in relation to a pending claim for asylum, as provided in § 208.7 of this chapter, shall be filed, with fee or application for waiver of such fee, in accordance with the instructions on or attached to Form I–765 with the appropriate Service Center or with such other Service office as the Commissioner may designate.

* * * * *

Dated: May 1, 1995.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 95–11058 Filed 5–2–95; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–ASW–28; Amendment 39–9209; AD 95–09–06]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 206A, 206B, 206L, 206L–1, and 206L–3 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. (BHTI) Model 206A, 206B, 206L, 206L–1, and 206L–3 helicopters, that requires installing a protective mechanical fuel valve switch guard on the fuel valve switch. This amendment is prompted by reports of airmen inadvertently placing the fuel valve switch to the "OFF" position. The actions specified by this AD are intended to prevent the fuel valve switch from being inadvertently placed in the "OFF" position, which could result in an engine failure and a subsequent power-off landing.

DATES: Effective June 8, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., Attention: Customer Support, P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Lance Gant, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5141, fax (817) 222–5959.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. (BHTI) Model 206A, 206B, 206L, 206L–1, and 206L–3 helicopters was published in the **Federal Register** on November 14, 1994 (59 FR 56436).

That action proposed to require installing a protective mechanical fuel valve switch guard on the fuel valve switch.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, except for editorial changes.

The FAA estimates that 5,192 helicopters of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost nothing for these helicopters since the manufacturer is providing full warranty compensation for the parts. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $311,520.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

95–09–06 Bell Helicopter Textron, Inc.: Amendment 39–9209. Docket No. 91–ASW–28.

Applicability: Model 206A, 206B, 206L, 206L–1, and 206L–3 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the fuel valve switch from being inadvertently placed in the "OFF" position, which could result in an engine failure and a subsequent power-off landing, accomplish the following:

(a) Within the next 50 hours time-in-service after the effective date of this airworthiness directive (AD), modify the fuel valve switch to add a protective mechanical fuel valve switch guard as follows:

(1) For the Model 206A, serial numbers (S/N) 1 through 153, modify in accordance with Part I of the Accomplishment Instructions in BHTI Alert Service Bulletin (ASB) No. 206–90–54, dated May 31, 1990.

(2) For the Model 206A, S/N 154 through 660 and 672 through 715, and Model 206B, S/N 661 through 671 and 716 through 913, modify in accordance with Part II of the Accomplishment Instructions in ASB No. 206–90–54, dated May 31, 1990.

(3) For the Model 206B, S/N 914 through 4069 and 4071 through 4074, modify in accordance with Part III of the Accomplishment Instructions in ASB No. 206–90–54, dated May 31, 1990.

(4) For the visual flight rule-equipped Model 206L, S/N 45001 through 45153 and 46601 through 46617, Model 206L–1, S/N 45154 through 45790, and Model 206L–3, S/N 51001 through 51319, modify in accordance with Part I of the Accomplishment Instructions in BHTI ASB No. 206L–90–67, Revision A, dated August 5, 1991.

(5) For the Model 206L–1, S/N 45154 through 45790, and Model 206L–3, S/N 51001 through 51319, equipped with instrument flight rule kit, part number 206–705–001–101, installed per BHTI Service Instructions No. 206–2030, modify in accordance with Part II of the Accomplishment Instructions in ASB No. 206L–90–67, Revision A, dated August 5, 1991.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used when approved by the Manager, Rotorcraft Certification Office, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with Bell Helicopter Textron, Inc. ASB 206–90–54, dated May 31, 1990, and ASB 206L–90–67, Revision A, dated August 5, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, Inc., Attention: Customer Support, P.O. Box 482, Fort Worth, Texas 76101. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on June 8, 1995.

Issued in Fort Worth, Texas, on April 24, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 95–10589 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 95–NM–68–AD; Amendment 39–9213; AD 95–09–10]

Airworthiness Directives; McDonnell Douglas Model DC–8–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

VOL 60 ISS 86 MY 4 1995 UMI

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes. This action requires an inspection to detect chafing of or damage to the wire bundle in the overhead switch panel of the cockpit, application of spiral wrap to the wire bundle, and corrective actions, if necessary. This amendment is prompted by reports of chafed and shorted wires that resulted in smoke emanating from the overhead switch panel of the cockpit. The actions specified in this AD are intended to prevent the potential for fire and uncontrolled smoke throughout the cockpit as a result of chafing and shorting in the electrical wire bundles.

DATES: Effective May 19, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 19, 1995.

Comments for inclusion in the Rules Docket must be received on or before July 3, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–68–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: J. Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5345; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Recently, the FAA has received reports of smoke emanating from the overhead switch panel of the cockpit of Model DC–9–80 series airplanes and Model MD–88 airplanes. Investigation revealed that the cause of the smoke may be attributed to chafing of a wire bundle in the overhead switch panel of the cockpit. This chafed wire bundle made contact with the electrical connector of the cabin temperature indicator, which resulted in a short circuit. This condition, if not corrected, could result in the potential for fire and uncontrolled smoke throughout the cockpit.

The FAA has reviewed and approved McDonnell Douglas DC–9 Alert Service Bulletin DC9–24A157, dated April 11, 1995, which describes procedures for a one-time visual inspection to detect chafing of the wire bundle in the overhead switch panel of the cockpit, application of spiral wrap, repair of chafed wire insulation, and splicing of damaged wires. The effectivity listing of this service bulletin includes certain Model DC–9, DC–9–80, and C–9 (military) series airplanes, and Model MD–88 airplanes. This service bulletin recommends a compliance time of 6 months.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent the potential for fire and uncontrolled smoke throughout the cockpit. This AD requires a one-time visual inspection to detect chafing of or damage to the wire bundle in the overhead switch panel of the cockpit, application of spiral wrap to the wire bundle, repair of chafed wire insulation, and splicing of damaged wires. The actions are required to be accomplished in accordance with the service bulletin described previously.

Operators should note that, although the service bulletin recommends that the inspection be performed within 6 months, this AD requires that it be performed within 90 days. In light of the consequences of fire or smoke in the cockpit, the FAA finds that the 90-day compliance time is appropriate to ensure the safety of this group of airplanes.

This AD does not apply to Model DC–9 and C–9 (military) series airplanes because the wires/wire bundles on these airplanes are manufactured of a stronger material than those on Model DC–9–80 series airplanes and Model MD–88 airplanes, and are therefore less susceptible to the subject damage. Additionally, this AD does not apply to Model MD–90–30 series airplanes. Since these airplanes are relatively new, the FAA does not anticipate that the wire bundles on these airplanes would be chafed as severely as those on the Model DC–9 series airplanes, which have been in service for a much longer period of time. Further, the reported incidents of smoke in the cockpit occurred only on Model DC–9–80 series airplanes and Model MD–88 airplanes. Therefore, the FAA is considering further rulemaking action to revise this AD to require modification of the wire bundles on Model DC–9–80 series airplanes and Model MD–88 airplanes. However, the proposed compliance time for the modification is sufficiently long so that notice and time for public comment would not be impracticable.

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this rule to clarify this long-standing requirement.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–68–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–09–10 McDonnell Douglas: Amendment 39–9213. Docket 95–NM–68–AD.

Applicability: Model DC–9–80 series airplanes and Model MD–88 airplanes; as listed in McDonnell Douglas DC–9 Alert Service Bulletin DC9–24A157, dated April 11, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the potential for fire and uncontrolled smoke throughout the cockpit, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a visual inspection to detect chafing of or damage to the wire bundle in the overhead switch panel of the cockpit, in accordance with McDonnell Douglas Alert Service Bulletin DC9–24A157, dated April 11, 1995.

(1) If no chafing or damage is detected, prior to further flight, apply spiral wrap to the wire bundle in accordance the alert service bulletin.

(2) If the wire insulation is chafed, prior to further flight, repair it and then apply spiral wrap to the wire bundle, in accordance with the alert service bulletin.

(3) If the wire conductor is damaged, prior to further flight, splice the wires and then apply spiral wrap to the wire bundle, in accordance with the alert service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The inspection, application of spiral wrap, repair, and splicing shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC9–24A157, dated April 11, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Administrative Support, Dept. L51, M.C. 2–98. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles ACO, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 19, 1995.

Issued in Renton, Washington, on April 25, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10588 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–ANE–14; Amendment 39–9211; AD 95–09–08]

Airworthiness Directives; McCauley Model 2A37C223/90RB Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to McCauley Model 2A37C223/90RB propellers. This action requires installation of internal steel components, replacement of a balance ring, replacement of cylinder mounting screws, and modification to an oil-filled configuration with red dye. Replacement of the identified components redistributes propeller weight while the red dye oil-filling provides an "on-condition" (in-service)

VOL 60 ISS 86 MY 4 1995 UMI

means of early crack detection of the propeller assembly and also improves lubrication and corrosion protection. Any screw failures or cracks found during the accomplishment of this AD must be reported to the FAA. This amendment is prompted by a report of a propeller found with at least one cylinder screw that had failed due to fatigue. The actions specified in this AD are intended to prevent cylinder screw failure that could result in loss of propeller control and subsequent loss of aircraft control.

DATES: Effective May 19, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 19, 1995.

Comments for inclusion in the Rules Docket must be received on or before July 3, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–14, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from McCauley Accessory Division, The Cessna Aircraft Company, 3535 McCauley Drive, P.O. Drawer 5053, Vandalia, OH 45377–5053; telephone (513) 890–5246, fax (513) 890–6001. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Bonnen, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Room 232, Des Plaines, IL 60018; telephone (708) 294–7134, fax (708) 294–7834.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) received a report that a McCauley Model 2A37C223/90RB propeller installed on a Beech Bonanza that crashed on October 2, 1992, had at least one cylinder screw that had failed due to fatigue. Though the screw failure was not associated with the cause of the accident since the cylinder remained attached until impact, continued operation of a propeller with failed cylinder screws could lead to additional screw failures and ultimately loss of propeller control. This condition, if not corrected, could result in cylinder screw failure that could result in loss of propeller control and subsequent loss of aircraft control.

The FAA has reviewed and approved the technical contents of McCauley Service Letter (SL) No. 1993–13, dated September 15, 1993, that describes procedures for the installation of internal steel components, replacement of a balance ring, and for conversion of non-oil filled propeller models to an oil filled configuration.

Since an unsafe condition has been identified that is likely to exist or develop on other McCauley Model 2A37C223/90RB propellers of the same type design, this airworthiness directive (AD) is being issued to prevent cylinder screw failure that could result in loss of propeller control and subsequent loss of aircraft control. This AD requires, within the next 50 hours time in service (TIS), at the next annual inspection, or within 12 calendar months after the effective date of this AD, whichever occurs first, installing internal steel components, replacing balance ring part number C–6440–[X] with part number C–6560, replacing cylinder mounting screws with new screws, part number A–1635–70, and modifying the propeller to a red dye oil-filled configuration. The modification of the propeller hub assembly to contain oil with a red dye provides an "on-condition" (in-service) means of early crack detection and also improves lubrication and corrosion protection. The propeller weight increase from the addition of the internal steel components, together with the addition of the lubricating oil, permit the replacement of the C–6440–[X] balance ring without affecting propeller weight. The new balance ring is reduced in weight to reduce loading on the propeller cylinder mounting screws. Any screw failures or cracks found during the accomplishment of this AD must be reported. This information is necessary for the FAA to assess the long term effectiveness of the corrective actions described in this AD. The actions are required to be accomplished in accordance with the SL described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–ANE–14." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

95–09–08 McCauley: Amendment 39–9211. Docket 94–ANE–14.

Applicability: McCauley Model 2A37C223/90RB two bladed propellers with the following Propeller Serial Numbers:

901074–901092, 901094–901099, 901315–901320, 901322–901336, 901338–901340, 902816, 902818–902821;

910044, 910046–910051, 910161–910164, 910166, 910169–910170, 910172, 910174, 910176–910181, 911694, 911696, 912019, 912057, 912060, 912062, 912912;

920256–920260, 920262, 920264, 920266.

The above McCauley Model 2A37C223/90RB serial-numbered propellers are installed on but not limited to Beech Debonair 35–33, –A33, –B33, –C33, –C33A; E33, E33A, E33C, F33, F33A, F33C, and G33; and Beech Bonanza 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, V35B, 36, and A36 aircraft.

Note: The above is not an exhaustive list of aircraft which may contain the affected serial-numbered McCauley Model 2A37C223/90RB propellers. It is not possible to identify all aircraft using the affected propeller model because of installation approvals made by Supplemental Type Certificate or FAA Form 337 "Major Repair and Alteration," etc. It is the responsibility of the owner, operator, and person returning the aircraft to service to determine if an aircraft has an affected propeller.

Compliance: Required as indicated, unless accomplished previously.

To prevent cylinder screw failure that could result in loss of propeller control and subsequent loss of aircraft control, accomplish the following:

(a) Within the next 50 hours time in service (TIS), at the next annual inspection, or within 12 calendar months after the effective date of this AD, whichever occurs first, install internal steel components, replace balance ring part number C–6440–[X] with part number C–6560, replace cylinder mounting screws with new screws, part number A–1635–70, and modify the propeller to an oil-filled configuration with red dye, all in accordance with McCauley SL No. 1993–13, dated September 15, 1993. Any propeller marked as 2A37C223/90RB–C that has an oil-fill plug in the side of the hub has complied with paragraph (a) of this AD.

Note: The modification of the propeller hub assembly to contain oil with a red dye provides an "on-condition" (in-service) means of early crack detection of the propeller assembly and also improves lubrication and corrosion protection. The oil will add approximately 2.8 lbs. to the weight of the propeller assembly.

(b) If leakage of oil containing red dye is detected in service (whether during flight or while on the ground), determine, prior to further flight, the source of leakage in accordance with McCauley SL No. 1993–13, dated September 15, 1993. Remove from service, prior to further flight, propeller assemblies that exhibit cracks and replace with a serviceable unit, modified in accordance with paragraph (a) of this AD, or with an equivalent initial production propeller that has incorporated a hub with oil containing red dye. Oil-filled propellers are identified by a letter C in the model designation and an oil-fill plug on the side of the hub.

(c) The "calendar month" compliance times stated in this AD allow the performance of the required action up to the last day of the month in which compliance is required.

(d) Report in writing any screw failures or cracks found during the accomplishment of paragraphs (a) or (b) of this AD to the Manager, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Room 232, Des Plaines, IL 60018; telephone (708) 294–7134, fax (708) 294–7834, within 10 days of the inspection. Information collection requirements contained in the regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and has been assigned OMB Control Number 2120–0056.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

(g) The replacement and modifications shall be done in accordance with the following McCauley service document:

Document No.	Pages	Date
SL No. 1993–13	1–25	Sept. 15, 1993.
Total pages: 25.		

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McCauley Accessory Division, The Cessna Aircraft Company, 3535 McCauley Drive, P.O. Drawer 5053, Vandalia, OH 45377–5053; telephone (513) 890–5246, fax (513) 890–6001. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 19, 1995.

Issued in Burlington, Massachusetts, on April 24, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–10590 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–13–U

RAILROAD RETIREMENT BOARD

20 CFR Part 344

RIN 3220–AB13

Contributions Under Special Transition Rule for Public Commuter Railroads

AGENCY: Railroad Retirement Board.

ACTION: Final rule; removal.

SUMMARY: The Railroad Retirement Board (Board) hereby amends its regulations to remove a temporary rule regarding the computation and payment of contributions under the Railroad Unemployment Insurance Act for commuter railroads. The rule is now obsolete.

EFFECTIVE DATE: May 4, 1995.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 7102(a) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 (Title VII, Subtitle A of Pub. L. 100–647) enacted a special transition rule regarding computation and payment of contributions by public commuter railroads for calendar years 1989 and 1990. Under the special transition rule, each public commuter

VOL 60 ISS 86 MY 4 1995 UMI

railroad paid contributions under section 8(a) of the Railroad Unemployment Insurance Act in an amount equal to the amount of unemployment and sickness benefits paid to its employees, plus an additional amount for administrative expenses. The Board promulgated Part 344 as a temporary rule (see 54 FR 25846, June 20, 1989) to explain how it would apply the special transition rule. Effective with calendar year 1991, public commuter railroads have been paying experience-rated contributions on the same basis as other railroad employers. Thus, Part 344 is obsolete.

The Board has determined that this is not a major rule for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required.

List of Subchapter in 20 CFR Part 344

Railroad employees, Railroad employers, Railroad unemployment benefits.

For the reasons set out in the preamble, part 344 of title 20, chapter II of the Code of Federal Regulations is amended as follows:

PART 344—[REMOVED AND RESERVED]

1. The authority citation for this part continues to read as follows:

Authority: 45 U.S.C. 362(i) and 362(l).

2. Part 344, consisting of §§ 344.1 through 344.6, is hereby removed and reserved.

Dated: April 26, 1995.

By Authority of the Board.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95–11007 Filed 5–3–95; 8:45 am]

BILLING CODE 7905–01–M

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20 CFR Part 217

RIN 3220–AB05

Application for Annuity or Lump Sum

AGENCY: Railroad Retirement Board.

ACTION: Final rule.

SUMMARY: The Railroad Retirement Board (Board) amends its regulations to enable the Board to pay the following benefits without requiring additional applications therefor: (1) An accrued annuity due at the death of a spouse or former spouse to a railroad employee receiving an annuity based on the same earnings record; and (2) a full-time student's annuity if the student was entitled to a child's annuity in the month before the month the child attained age 18.

EFFECTIVE DATE: May 4, 1995.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 217.8 of the Board's regulations specifies a list of benefits paid by the Board which may be paid based on a previously-filed application (*i.e.*, where a new application is not required). The rule adds to that list the cases where an accrued annuity is due at the death of a spouse or former spouse to a railroad employee receiving an annuity based on the same earnings record as the spouse or former spouse and where a full-time student's annuity is payable if the student was entitled to a child's annuity in the month before the month the child attained age 18. In those cases there is no additional information contained in the applications and there is no utility to the Board in requiring additional applications. Using the earlier application reduces paperwork and the burden on persons claiming benefits.

On February 9, 1995, the Board publishes this rule as a proposed rule (60 FR 7728), inviting comments on or before March 13, 1995. No comments were received.

The Board, in conjunction with the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 217

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, title 20, chapter II, part 217 of the Code of Federal Regulations is amended as follows:

PART 217—APPLICATION FOR ANNUITY OR LUMP SUM

1. The authority citation for part 217 continues to read as follows:

Authority: 45 U.S.C. 231d and 45 U.S.C. 231f.

2. Section 217.8 is amended by adding paragraphs (t) and (u) to read as follows:

§ 217.8 When one application satisfies the filing requirement for other benefits.

* * * * *

(t) An accrued annuity due at the death of a spouse or divorced spouse if the claimant is entitled to an employee annuity on the same claim number.

(u) A full-time student's annuity if the student was entitled to a child's annuity in the month before the month the child attained age 18.

Dated: April 26, 1995.

By Authority of the Board.

For the Board,

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 95–11008 Filed 5–3–95; 8:45 am]

BILLING CODE 7905–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–95–015]

RIN 2115–AE46

Special Local Regulations for Marine Events; the Great Chesapeake Bay Swim Event, Chesapeake Bay, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This document implements 33 CFR 100.507 for the Great Chesapeake Bay Swim Event to be held on June 11, 1995. These special local regulations are needed to provide for the safety of participants and spectators on the navigable waters during this event. The effect will be to restrict general navigation in the regulated area for the safety of participants in the swim, and their attending personnel.

EFFECTIVE DATE: The regulations in 33 CFR 100.507 are effective from 6:30 a.m. until 1 p.m., on June 11, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 (804) 398–6204, or Commander, Coast Guard Group Baltimore (410) 576–8516.

SUPPLEMENTARY INFORMATION: The drafters of this notice are QM2 Gregory C. Garrison, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and LCDR C.A. Abel, project attorney, Fifth Coast Guard District Legal Staff.

Discussion: Mr. Charles Nabit, a representative of the March of Dimes, submitted an application to hold the Great Chesapeake Bay Swim Event on June 11, 1995. Approximately 600 swimmers will start from Sandy Point State Park and swim between the

William P. Lane Jr. Memorial Twin Bridges to the Eastern Shore. This is the type of event contemplated by these regulations and the safety of the participants depends upon control of vessel traffic, therefore the regulations in 33 CFR 100.507 are implemented and effective from 6:30 a.m. until 1 p.m., on June 11, 1995. During the swim itself, all vessel traffic will have to be stopped. However, vessel traffic will be permitted to transit the regulated area as the swim progresses. As a result, commercial traffic should not be severely disrupted.

Dated: April 14, 1995.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 95–10923 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 110

[CGD09–93–033]

Special Anchorage Area, Lake Superior, La Pointe Harbor, Madeline Island, WI; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule (CGD09–93–033), which was published Wednesday, March 22, 1995 (60 FR 15052). The regulation established a Special Anchorage Area on Lake Superior, La Pointe Harbor, Madeline Island, Wisconsin.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Second Class Jeffrey M. Yunker, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, Room 2083, 1240 East Ninth Street, Cleveland, Ohio 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Lieutenant Junior Grade Byron D. Willeford, Project Officer, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, and Lieutenant Karen E. Lloyd, Project Attorney, Ninth Coast Guard District Legal Office.

Background

The final rule that is the subject of these corrections, established a Special Anchorage Area on Lake Superior, La Pointe Harbor, Madeline Island, Wisconsin.

Need for Correction

As published, the final rule contained errors which incorrectly state the coordinates of the Special Anchorage Area. This may cause a mariner to anchor his or her vessel in an inappropriate area and must therefore be corrected.

Correction of Publication

Accordingly, the publication on March 22, 1995, of the final rule [CGD09–93–033] which was the subject of FR Doc. 95–6955, is corrected as follows:

§ 110.775 [Corrected]

1. The coordinates in § 110.77b, on page 15053 in the first column should be corrected to read as follows:

Latitude	*Longitude*
46°46'21.5" N	090°46'59" W, to
46°46'36" N	090°47'13" W, to
46°46'41" N	090°47'13" W, thence along the natural shoreline and structures to:
46°46'21.5" N	090°46'59" W.

Dated: April 18, 1995.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 95–10924 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–14–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 95–4]

Modification of Appeal Procedure

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of policy decision.

SUMMARY: The Copyright Office of the Library of Congress issues this Policy Decision modifying the appeal procedure regarding refusals to register a copyright claim. Currently, this procedure is specified in Compendium II of Copyright Office Practices and an applicant whose claim is rejected is entitled to two reconsiderations, each handled within the Examining Division. The modified procedure establishes an interim system with a Board of Appeals to reconsider the second appeal that is the final agency action.

EFFECTIVE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

One of the most significant responsibilities assigned the Copyright Office by Title 17 of the U.S. Code is the registration of copyright claims. Currently, the Copyright Office registers slightly more than 600,000 copyright claims annually, and refuses to register a small percentage of these.

Subsections 410(a) and (b) of the copyright law determine the parameters of the registration system:

(a) When, after examination, the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited constitutes copyrightable subject matter and that the other legal and formal requirements of this title have been met, the Register shall register the claim and issue to the applicant a certificate of registration under the seal of the Copyright Office. The certificate shall contain the information given in the application, together with the number and effective date of the registration.

(b) In any case in which the Register of Copyrights determines that, in accordance with the provisions of this title, the material deposited does not constitute copyrightable subject matter or that the claim is invalid for any other reason, the Register shall refuse registration and shall notify the applicant in writing of the reasons for such refusal.

In administering these provisions, the Copyright Office usually accepts as true the facts given by the applicant.[1] The decision to register or not rests on a determination of whether a prima facie valid copyright claim has been submitted under the provisions of the Copyright Act.

An applicant may appeal a refusal to register using the appeal procedure specified in the Compendium of Copyright Office Practices. Under this practice, an applicant whose claim has been denied registration is entitled to two reconsideration, each handled within the Examining Division. Specifically, the procedure provides:

Refusal to register: request for reexamination. When the Copyright Office has refused a claim as submitted, it notifies the applicant in writing of the refusal to register. After such notification, the applicant may set forth in writing his or her objections to the refusal and request that the Office reconsider its action. If the claim is refused

[1] Section 108.05 of Compendium II of Copyright Office Practices provides: "Factual determinations. In connection with its examining and related activities, the Copyright Office does not ordinarily make findings of fact with respect to publication or any other thing done outside the Copyright Office." This practice is qualified by section 108.05(b) providing: "Administrative notice. The Copyright Office may take notice of matters of general knowledge. It may use such knowledge as the basis for questioning applications that appear to contain or be based upon inaccurate or erroneous information."

VOL
60
ISS
86
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after reconsideration, the head of the appropriate Examining Division section will send the applicant written notification of the reasons for refusal. The applicant may again request reconsideration. If the claim is refused again, the Chief of the Examining Division will notify the applicant in writing of the reasons. The Division Chief's decision constitutes final agency action.

Section 606.04 Compendium II of Copyright Office Practices.

II. Circumstances Leading to Modification

Although the Office's practice concerning appeals is long-standing, we have periodically considered modifying it. A number of commentators have criticized the current practice on the grounds that containment within the Examining Division leads to an overly closed system. Even under the existing practice, however, there has been some discussion of particular cases with the General Counsel or the Register. More recently, the Library of Congress appointed an Advisory Committee on Copyright Registration and Deposit, (ACCORD); in their meetings, members of this Committee criticized the appeals procedure and suggested that it be changed. Library of Congress, Advisory Committee on Copyright Registration and Deposit, 31 (1993).

The Copyright Office is committed to improving this procedure and will be publishing a Notice of Proposed Rulemaking seeking public comment on legal and administrative issues associated with establishing a more formal procedure at a later date. Meanwhile, as a first step, the Office has decided to establish a Board of Appeals within the Copyright Office as an interim system. By instituting this Board, we will gain experience in administering an alternative system.

After the Office has some practical experience with the new system, we will make a detailed proposal and seek public comment. Following review of these comments, the Copyright Office will publish the new appeal procedure as a regulation. Although we are now adopting as an interim system the Board of Appeals described below, the precise nature of the final appeal procedure will not be established until we publish final rules. Anyone who wishes to suggest specific guidelines for our consideration before the proposed rulemaking should submit them to the Board of Appeals, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024.

III. Policy Decision

The Copyright Office's appeal procedure set out in § 606.04 of the Compendium is amended to read as follows:

Appeals of refusal to register: request for reconsideration. When the Copyright Office has refused to register a claim as submitted, it notifies the applicant in writing of the refusal to register. After such notification, the applicant may set forth in writing his or her objections to the refusal and request that the Office reconsider its action. The appeal letter should be addressed to the appropriate section of the Examining Division, Copyright Office, Washington, D.C. 20559. The first request for reconsideration must be received in the Copyright Office within 120 days of the date of the Office's first refusal to register, and the envelope containing the request should be clearly marked: FIRST APPEAL/ EXAMINING DIVISION.

If the claim is refused after reconsideration, the head of the appropriate section of the Examining Division sends the applicant written notification of the reasons for refusal. The applicant may again request reconsideration in writing. This second appeal must be received in the Copyright Office within 120 days of the date of the Office's refusal of the first appeal, and be directed to the Board of Appeals at the following address: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C., 20024. The Board of Appeals shall consist of the Register of Copyrights, the General Counsel, and the Chief of the Examining Division, or their respective designees. The Board shall consider the second appeal and render a final decision. The designated Chair of the Board of Appeals will write the applicant setting out the reasons for acceptance or denial of the claim. The Appeals Board's decision constitutes final agency action.

Dated: April 27, 1995.

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–11045 Filed 5–3–95; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7138

[CO–930–1920–00–4355; COC–51843]

Transfer of Public Land for the Slick Rock Disposal Site; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order permanently transfers 61.25 acres of public land to the Department of Energy in accordance with the terms of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916 (1988)), as amended.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916 (1988)), as amended, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby permanently transferred to the Department of Energy, and as a result of this transfer, the land is no longer subject to the operation of the general land laws, including the mining and the mineral leasing laws, for the Slick Rock Disposal Site:

New Mexico Principal Meridian

T. 44 N., R. 18 W.,
Sec. 21, S½S½SE¼SW¼;
Sec. 28, NE¼NW¼, N½NE¼SE¼NW, N½S½NE¼SE¼NW¼, NE¼NW¼SE¼NW¼, and N½SE¼NW¼SE¼NW¼.

The area described contains approximately 61.25 acres of public land in San Miguel County.

2. The transfer of the above-described land to the Department of Energy vests in that Department full management, jurisdiction, responsibility, and liability for such land and all activities conducted therein, except as provided in paragraph 3.

3. The Secretary of the Interior shall retain the authority to administer any existing claims, rights, and interests in this land established before the effective date of the transfer.

Dated: April 21, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–10992 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–JB–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 90

[ET Docket 93–235; FCC 95–148]

Additional Frequencies for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this action, the Commission makes available 15 new channel pairs for cordless telephones. This action is taken to relieve congestion on existing channels and is intended to improve the operation and convenience of cordless telephones, making it easier for consumers to obtain improved wireless access to telephone service.

EFFECTIVE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: Anthony Serafini, Office of Engineering and Technology, (202) 776–1628.

SUPPLEMENTARY INFORMATION: This is a summary of the background to the Commission's *Report and Order*, in ET Docket 93–235, Adopted April 5, 1995 and released April 10, 1995. The complete *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

1. On August 20, 1992, the Personal Communications Section of the Telecommunications Industry Association (TIA) submitted a Petition for Rule Making (RM–8094) seeking additional frequencies for cordless telephones. TIA stated that additional cordless telephone channels are needed to relieve channel-crowding problems, due to the widespread popularity of these devices. TIA suggested that an additional 15 channel pairs using 30 frequencies near 44 and 49 MHz be made available for cordless telephone use.

2. On August 20, 1993, the Commission adopted a *Notice of Proposed Rule Making* (*Notice*), 58 FR 51299 (October 1, 1993), in this proceeding. In the *Notice*, the Commission proposed to make available for cordless telephone use the additional 15 channel pairs suggested by TIA. These frequencies are currently allocated to the Private Land Mobile Radio Service (PLMRS). The Commission also proposed to require that cordless telephones operating on these new frequencies incorporate a mechanism for automatically monitoring and preventing activation on any occupied channel. The proposed frequencies in the 44 MHz band are used internally by TV receivers. The Commission therefore proposed to designate the lower frequencies near 44 MHz, for base units in order to minimize interference to TV receivers and not to require any specific pairing of frequencies. It further requested comment on certain other technical aspects associated with cordless telephone operation. Namely, it requested comment on whether to continue to allow cordless telephone operating frequencies to be offset from the center of cordless telephone channels and whether 20 kHz is the appropriate bandwidth for operation on the new frequencies.

3. The commenting parties representing cordless telephone manufacturers agreed that there is a need for additional cordless telephone frequencies to relieve channel congestion. Some of these parties raised concerns with respect to specific technical requirements and implementation procedures. Other parties, generally representing land mobile and broadcast interest, expressed concern about potential interference problems and questioned the need for additional cordless telephone spectrum.

4. Based on these comments, the Commission adopted the *Report and Order* to allow new cordless telephone frequencies. Accordingly, it is ordered that Parts 15 and 90 of the Commission's rules are amended as specified below, effective 30 days after publication in the **Federal Register**. Furthermore, it is ordered that the Petitions for Reconsideration filed by the Telecommunications Industry Association and Uniden America Corporation in GEN Docket No. 89–626 are granted with regard to the offset channel rule. This action is taken pursuant to the authority contained in sections 4(i), 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended.

List of Subjects

47 CFR Part 15

Communications equipment.

47 CFR Part 90

Communications equipment.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

A. Title 47 of the Code of Federal Regulations, parts 15 and 90, as amended to read as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: Secs. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, 304, and 307.

2. Section 15.233 is amended by revising the section heading and paragraphs (b) and (d), to read as follows:

§ 15.233 Operation within the bands 43.71–44.49 MHz, 46.60–46.98 MHz, 48.75–49.51 MHz and 49.66–50.0 MHz.

* * * * *

(b) An intentional radiator used as part of a cordless telephone system shall operate centered on one or more of the following frequency pairs, subject to the following conditions:

(1) Frequencies shall be paired as shown below, except that channel pairing for channels one through fifteen may be accomplished by pairing any of the fifteen base transmitter frequencies with any of the fifteen handset transmitter frequencies.

(2) Cordless telephones operating on channels one through fifteen must:

(i) Incorporate an automatic channel selection mechanism that will prevent establishment of a link on any occupied frequency; and

(ii) The box or an instruction manual which is included within the box which the individual cordless telephone is to be marketed shall contain information indicating that some cordless telephones operate at frequencies that may cause interference to nearby TVs and VCRs; to minimize or prevent such interference, the base of the cordless telephone should not be placed near or on top of a TV or VCR; and, if interference is experienced, moving the cordless telephone farther away from the TV or VCR will often reduce or eliminate the interference. A statement describing the means and procedures used to achieve automatic channel selection shall be provided in any application for equipment authorization of a cordless telephone operating on channels one through fifteen.

Channel	Base transmitter (MHz)	Handset transmitter (MHz)
1	43.720	48.760
2	43.740	48.840
3	43.820	48.860
4	43.840	48.920
5	43.920	49.020
6	43.960	49.080
7	44.120	49.100
8	44.160	49.160
9	44.180	49.200
10	44.200	49.240
11	44.320	49.280
12	44.360	49.360
13	44.400	49.400
14	44.460	49.460
15	44.480	49.500
16	46.610	49.670
17	46.630	49.845
18	46.670	49.860
19	46.710	49.770
20	46.730	49.875
21	46.770	49.830
22	46.830	49.890

VOL 60 ISS 86 MY 4 1995 UMI

Channel	Base transmitter (MHz)	Handset transmitter (MHz)
23	46.870	49.930
24	46.930	49.990
25	46.970	49.970

* * * * *

(d) The fundamental emission shall be confined within a 20 kHz band and shall be centered on a carrier frequency shown above, as adjusted by the frequency tolerance of the transmitter at the time testing is performed. Modulation products outside of this 20 kHz band shall be attenuated at least 26 dB below the level of the unmodulated carrier or to the general limits in § 15.209, whichever permits the higher emission levels. Emissions on any frequency more than 20 kHz removed from the center frequency shall consist solely of unwanted emissions and shall not exceed the general radiated emission limits in § 15.209. Tests to determine compliance with these requirements shall be performed using an appropriate input signal as prescribed in § 2.989 of this chapter.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. secs. 154, 303, and 332, unless otherwise noted.

2. In § 90.65, the table in paragraph (b) is amended, to add a new limitation "44" to the entries for frequencies 48.76, 48.84, 48.86, 48.92, 49.02, 49.08, 49.10, 49.16, 49.20, 49.24, 49.28, 49.36, 49.40, 49.46 and 49.50 MHz, and a new paragraph (c)(44) is added, to read as follows:

§ 90.65 Petroleum Radio Service.

* * * * *

(b) * * *

PETROLEUM RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
48.76	do	10, 44.
48.84	do	10, 44.
48.86	do	10, 44.
48.92	do	10, 44.
49.02	do	10, 44.

PETROLEUM RADIO SERVICE FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations
49.08	do	10, 44.
49.10	do	10, 44.
49.16	do	10, 44.
49.20	do	10, 44.
49.24	do	10, 44.
49.28	do	10, 44.
49.36	do	10, 44.
49.40	do	10, 44.
49.46	do	10, 44.
49.50	do	10, 44.

(c) * * *

(44) This frequency is also used on a secondary basis by cordless telephones under part 15 of this chapter.

* * * * *

3. In § 90.67, the table in paragraph (b) is amended, to add a new limitation "38" to the entries for frequencies 48.76, 48.84, 48.86, 48.92, 49.02, 49.08, 49.10, 49.16, 49.20, 49.24, 49.28, 49.36, 49.40, 49.46 and 49.50 MHz, and a new paragraph (c)(38) is added, to read as follows:

§ 90.67 Forest Products Radio Service.

* * * * *

(b) * * *

FOREST PRODUCTS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
48.76	do	2, 38.
48.84	do	2, 38.
48.86	do	2, 38.
48.92	do	2, 38.
49.02	do	2, 38.
49.08	do	2, 38.
49.10	do	2, 38.
49.16	do	2, 38.

FOREST PRODUCTS RADIO SERVICE FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations
49.20	do	2, 38.
49.24	do	2, 38.
49.28	do	2, 38.
49.36	do	2, 38.
49.40	do	2, 38.
49.46	do	2, 38.
49.50	do	2, 38.

(c) * * *

(38) This frequency is also used on a secondary basis by cordless telephones under part 15 of this chapter.

* * * * *

4. In § 90.89, the table in paragraph (b) is amended, to add a new limitation "23" to the entries for frequencies 43.72, 43.74, 43.82, 43.84, 43.92, 43.96, 44.12, 44.16, 44.18, 44.20, 44.32, 44.36, 44.40, 44.46 and 44.48 MHz, and a new paragraph (c)(23) is added, to read as follows:

§ 90.89 Motor Carrier Radio Service.

* * * * *

(b) * * *

MOTOR CARRIER RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
43.72	do	4, 23.
43.74	do	4, 23.
43.82	do	4, 23.
43.84	do	4, 23.
43.92	do	5, 6, 23.
43.96	do	5, 23.
44.12	do	5, 23.
44.16	do	5, 23.
44.18	do	5, 23.
44.20	do	5, 20, 23.
44.32	do	5, 23.
44.36	do	5, 6, 23.
44.40	do	5, 6, 23.
44.46	do	1, 23.
44.48	do	1, 23.

(c) * * *

(23) This frequency is also used on a secondary basis for cordless telephones under part 15 of this chapter.

* * * * *

[FR Doc. 95–11012 Filed 5–3–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 90

[PR Docket No. 89–553, GN Docket No. 93–252, PP Docket No. 93–253, FCC 95–159]

Service Rules for SMR Systems in the 900 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted a *Second Report and Order*, implementing final service rules to complete the licensing of the 900 MHz Specialized Mobile Radio (SMR) service. This Order implements the Commission's decision in the *Third Report & Order* in GN Docket No. 93–252, (*CMRS Third Report & Order*), to license the 900 MHz band on a Major Trading Area (MTA) basis. The *Second Report and Order* also establishes technical and operational rules for the new MTA licensees, and defines the rights of SMR licensees already operating in the 900 MHz band. This Second Report and Order also addresses issues raised on reconsideration of the *CMRS Third Report & Order* pertaining specifically to the 900 MHz SMR service.

EFFECTIVE DATE: June 5, 1995.

FOR FURTHER INFORMATION CONTACT: Amy Zoslov, (202) 418–0620, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Second Report and Order*, adopted April 14, 1995, released April 17, 1995. The complete text of this *Second Report and Order* is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 239, 1919 M Street NW., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street NW., Suite 140, Washington, D.C. 20037.

Synopsis of the Second Report and Order

Adopted: April 14, 1995
Released: April 17, 1995
Comment Date: May 24, 1995
Reply Comment Date: June 1, 1995

I. Background

1. When the Commission established the 900 MHz SMR service in 1986, it elected to use a two-phase licensing process. In Phase I, licenses were assigned in 46 "Designated Filing Areas" (DFAs) comprised of the top 50 markets. Phase II licensing, for facilities outside the DFAs, was frozen after 1986, when the Commission opened its filing window for the DFAs. In 1989, the Commission adopted a *Notice of Proposed Rule Making* in PR Docket 89–553, proposing to begin Phase II licensing of SMR facilities nationwide. In 1993, the Commission adopted a *First Report & Order & Further Notice of Proposed Rule Making* in PR Docket 89–553 (*Phase II First R&O & Further Notice*), 58 FR 12176 (March 3, 1993), modifying its Phase II proposal and seeking comment on whether to license the 900 MHz SMR band to a combination of nationwide, regional and local systems. Shortly thereafter, Congress amended the Communications Act to reclassify most SMR licensees as Commercial Mobile Radio Service (CMRS) providers and establish the authority to use competitive bidding to select from among mutually exclusive applicants for certain licensed services. The Commission deferred further consideration of Phase II and incorporated the 900 MHz SMR docket into its CMRS proceeding.

2. In the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission further revised its Phase II proposals and established the broad outlines for the completion of licensing in the 900 MHz SMR band. The Commission left the specific service rules for the Phase II *Order*, which the Commission adopted herein. This Order also considers petitions for reconsideration of the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994) and *ex parte* presentations concerning, *inter alia*, secondary sites, loading requirements, treatment of incumbents *vis a vis* the MTA licensees, and coverage requirements. The Commission also affirms its rules governing channel blocks and MTA service areas; addresses coverage requirements for MTA licensees; provides incumbent licensees protection from interference by MTA licensees through geographic separation and short-spacing rules; provides for co-channel interference protection between adjacent MTA licensees, including signal level limitation, coordination of frequency usage, and emission mask rules; partially reconsiders its rule governing primary site protection; affirms its rules regarding loading requirements; provides channel block allocation for MTA licensees in Mexican and Canadian border areas; and modifies its rule regarding discontinuance of operation. Finally, the Commission applies the CMRS spectrum cap to 900 MHz SMR licensees, and establish rules grandfathering incumbent PMRS licensees and foreign-ownership of private land mobile providers.

II. Second Report and Order

A. Service Rules

3. *Service Areas.* In the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission found that MTAs are the preferable service area for future 900 MHz SMR licensing. The limited success of existing 900 MHz SMR systems confined to providing service in DFAs weighs against the use of more numerous Basic Trading Areas (BTAs) or similarly small service areas. The Commission also found that MTA licensing is more likely to create opportunities for both existing licensees and new entrants to meet customer demands for wide-area service, and unlike larger regional or nationwide service areas, will not unnecessarily restrict entry to a small number of licensees. *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994). For those reasons, the Commission affirms its initial decision to license 900 MHz SMR licenses on an MTA basis.

4. The Commission notes that Rand McNally & Company is the copyright owner of MTA listings, and an agreement in principal for a blanket copyright license has been reached between Rand McNally and the American Mobile Telecommunications Association. MTA licensees would

VOL 60 ISS 86 MY 4 1995 UMI

obtain a license to use Rand McNally's copyrighted material pursuant to this agreement upon payment to Rand McNally of $125.00 per each ten-channel block MTA license a grantee obtains. The agreement, along with the MTA listings and map, are available for public inspection at the Wireless Telecommunications Bureau's public reference room, Room 628, 1919 M Street NW., Washington, D.C. 20554. Copies also can be obtained by contacting Kim McLean, Marketing Coordinator, Rand McNally & Company, 8255 North Central Park, Skokie, IL 60076 (tel. (800) 333–0134) or AMTA, 1150 18th Street N.W., Suite 250 Washington, D.C. 20036 (tel. (202) 331–7773). Grantees are free to negotiate their own licensing arrangement with Rand McNally. Grantees may not, however, rely on grant of an MTA–based SMR license as a defense to any claim of copyright infringement brought by Rand McNally.

5. *Channel Blocks.* The 900 MHz SMR band is comprised of 20 blocks of 10 contiguous channels each, interleaved with channels assigned to other Part 90 services. The *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), provides that each 10-channel block would be separately licensed and that applicants would be permitted to aggregate blocks. Eligibility for any channel block would not be restricted, and both incumbents and new entrants would be allowed to bid without restriction for one or more 900 MHz blocks. An MTA licensee will be authorized to construct stations anywhere in its MTA on unoccupied channels that are available for construction, and to expand or modify facilities throughout its MTA provided that the system remains in compliance with the Commission's technical and operational rules, protects incumbents, and the licensee notifies the Commission of such changes. *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994). These rules will afford 900 MHz SMR MTA licensees the same flexibility afforded cellular and PCS licensees.

6. *Coverage Requirements.* The *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), provides MTA licensees five years to construct and operate their systems, but deferred adoption of interim requirements to this proceeding. In this *Second Report and Order*, the Commission will require that MTA licensees provide coverage to one-third of the population of their service area within three years of initial license grant and to two-thirds of the population of their service area within five years. Alternatively, at the five-year mark, MTA licensees may submit a showing to the Commission demonstrating that they are providing substantial service. In addition, licensees may resell party of their geographic area to help them fulfill coverage requirements. An MTA licensee must satisfy its coverage requirements regardless of the extent of the presence of incumbents within its MTA block, and failure to comply with these requirements will result in forfeiture of the entire MTA license. These standards are similar to those imposed on other wide-area CMRS licensees such as cellular and broadband PCS. The Commission states that these standards will allow for ubiquitous wide-area service to the public and protect incumbents, while deterring competitors from seeking MTA licenses for anticompetitive warehousing.

7. *Treatment of Incumbents.* In the *CMRS Third Report & Order*, 59 FR 59,945, (Nov. 21, 1994), the Commission determined that incumbent SMR systems in the 900 MHz MTA blocks are entitled to co-channel protection by MTA licensees, and that mandatory relocation of incumbents was not feasible in the 900 MHz band because no alternative 900 MHz SMR channels were available for relocation. The Commission instead stated that MTA licensees could negotiate mergers, buyouts, frequency swaps, or similar arrangements with incumbent systems on a voluntary basis. In furtherance of that policy, this *Second Report & Order* requires that MTA licensees afford protection to incumbent SMR systems pursuant to 47 C.F.R. § 90.621(b), by locating their stations at least 113 km (70 mi.) from the facilities of any incumbent, by complying with the co-channel separation standards set forth in our "short-spacing" rule, or by negotiating an even shorter distance with the incumbent licensee. *See* 47 C.F.R. § 90.621(b)(4). This will adequately protect incumbent operations without hampering the ability of MTA licensees to construct stations throughout their authorized service area.

8. While the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), provides full co-channel interference protection for existing facilities, incumbent systems may not expand beyond existing service areas unless they obtain the MTA license for the relevant channels; the Commission did not, however, specifically define an incumbent's "existing service area." To provide incumbent licensees with additional flexibility, the Commission is defining an incumbent licensee's existing service area by its originally-licensed 40 dBu signal strength contour.

9. Thus, incumbent licensees may add new transmitters in their existing service area without prior notification to the Commission, so long as their original 40 dBu signal strength contour is not expanded. Incumbent licensees will be required to notify the Commission of any changes in technical parameters or additional stations constructed through a minor modification of their license, including agreements with an MTA licensee to expand beyond their signal strength contour. These minor modification applications, however, will not be subject to public notice and petition to deny requirements or mutually exclusive applications. These rules will allow incumbents to continue existing operations without harmful interference and give them flexibility to modify or augment their systems so long as they do not encroach on the MTA licensee's operations.

10. *Interference Between Adjacent MTA Licensees.* In the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission concluded that co-channel interference criteria for adjacent MTA licensees would be similar to those imposed on the cellular and PCS services in that they would only apply to transmitting locations near the boundaries of each licensee's MTA. Consistent with that objective, this *Second Report and Order* prohibits MTA licensees from exceeding a signal level of 40 dBuV/M at their service area boundaries, unless all affected parties agree to a higher level. Co-channel adjacent MTA licensees and other affected parties must coordinate frequency usage. To the extent that a single licensee obtains licenses for adjacent MTAs on the same channel block, it will not be required to coordinate its operations in this manner. This approach provides MTA licensees a signal strength level sufficient to operate their systems up to the borders of their MTA licenses while protecting adjacent operations.

11. *Secondary Sites.* In the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission determined that incumbent systems are entitled to full co-channel interference protection for existing facilities, but are not allowed to expand beyond existing service areas unless they obtain the MTA license for the relevant channels. Several incumbent 900 MHz licensees have been granted authorizations to construct facilities outside of their DFAs on a secondary (*i.e.*, unprotected) basis to link their facilities in different markets. As a practical matter, these sites developed on an interference-free basis due to the freeze on primary licensing outside the DFAs. To prevent unnecessary disruption of existing operations, the Commission concluded that 900 MHz secondary sites licensed on or before August 9, 1994, would be afforded primary status, thus requiring new MTA licensees to afford them full co-channel interference protection.

12. On reconsideration, the Commission amends its rules to extend protected status to all secondary sites filed on or before August 9, 1994, even if they were not granted until after August 9. Granting primary site protection for these sites will promote uninterrupted service, and protect only a *de minimis* amount of new spectrum. Moreover, the Commission's delays in processing secondary site applications in the 900 MHz SMR service appear to have produced an inequitable result for applicants who otherwise would have been entitled to protection under the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994). Therefore, this *Second Report and Order* provides that all MTA licensees provide complete co-channel protection to all sites for which applications were filed on or before August 9, 1994. Secondary sites based on applications filed after August 9, 1994, however, will not be afforded such protection.

13. *Loading Requirements.* In the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission determined that loading requirements, which were adopted in the SMR services to protect against spectrum warehousing, are not necessary for MTA-based licensing of 900 MHz SMR, provided that licensees are subject to strict construction and coverage requirements. However, the Commission retained the loading/automatic cancellation requirement for 900 MHz SMR incumbent licensees. *See* 47 C.F.R. § 90.631(i). Because the 900 MHz SMR market is less mature than the 800 MHz SMR market, and because incumbent licensees are not required to achieve significant coverage of their service areas, the Commission found that loading requirements continue to serve a public interest purpose in the former.

14. Based on the unique history and nature of the 900 MHz service as it has developed to date, the Commission affirms its decision in the *CMRS Third Report & Order* to retain loading requirements for incumbent 900 MHz SMR licensees. The 900 MHz service is not a mature service, both because it was licensed more recently than 800 MHz and because Phase I licensing has been confined to limited service areas. Based on these factors, the Commission has already granted special relief to 900 MHz licensees by providing them an additional two years to load their systems, on top of the five years originally granted. *Report & Order*, PR Docket No. 92–17, 57 FR 37731 (August 20, 1992). Having granted this relief, eliminating loading requirements for incumbent licensees who have failed to fully load their systems would not be in the public interest. Incumbents may overcome this obstacle by obtaining an MTA license, which exempts them from all previously applicable loading requirements. Moreover our policy of retaining loading requirements for incumbents will prevent the warehousing of spectrum, as once the Commission takes back channels from an incumbent who has not met loading requirements, the spectrum covered by the incumbent's authorization will automatically revert to the MTA licensee who has obtained the contingent rights to that spectrum. *See, e.g., Further Notice of Proposed Rule Making*, PR Docket No. 83–144, 59 FR 60111 (November 22, 1994).

15. *Emission Masks.* The Commission generally subjects mobile radio services to emission mask rules to restrict transmitter emissions on spectrum adjacent to the licensee's adjacent channel. In the *CMRS Third Report & Order*, 59 FR 59,945 (November 21, 1994), the Commission affirmed that the out-of-band emission rules should apply only where emissions have the potential to affect other licensees' operations. Consistent with the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission will only apply emission mask rules to "outer" MTA channels in each block (*i.e.*, channels on the outer edges of an MTA licensee's channel block that may present adjacent channel interference to other MTA licensees) and to "interior" MTA channels (*i.e.* channels inside of the MTA licensee's channel block assignment that are adjacent only to the licensee's channels and not to other licensees) where there are incumbent SMR licensees who will be affected by the MTA licensee's operations.

16. These channels alone have the potential to affect operations outside of the MTA licensee's authorized bandwidth, and that the emission mask established in this Order will adequately protect other MTA licensees. Specifically, for wide-area licensees in the 900 MHz SMR band on any frequency outside the MTA licensee's frequency block, the peak power of any emission shall be attenuated below the transmitter power (P) by at least 43 plus $10 \log_{10}(P)$ decibels or 80 decibels, whichever is the lesser attenuation. As an exception to this requirement, if a single entity aggregates adjacent channel blocks, it will not be required to mask its emissions at the band edge of each ten-channel block.

17. *Mexican/Canadian Border Areas.* In the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission noted that 900 MHz channel availability is limited in the Mexican and Canadian border areas and that limitations on ERP and antenna height have been placed on a number of the channels. *See* 47 C.F.R. §§ 90.619(b)(2), 90.619(d). Consequently, some channels may not be available to MTA licensees operating in border areas, and restrictions on ERP or antenna height will make them less attractive for MTA licensees. The creation of different channel allocations in border areas is administratively unworkable. Because applicants can assess the impact of border requirements in their valuation of these blocks for competitive bidding purposes, the Commission will use the same allocation of MTA channel blocks in border areas as in non-border areas. Therefore, use of channels in MTAs that encompass border areas will be subject to the relevant rules regarding international assignments and coordination of such channels.

18. *Discontinuance of Operation.* Section 90.631(f) of the Commission's rules, 47 CFR § 90.631(f), provides that SMR licenses cancel automatically if a licensee discontinues station operations for more than 60 consecutive days, unless the Commission authorizes additional time for station operations to remain discontinued. If additional time is not authorized, the license cancels automatically unless the station resumes operations within five days after the licensee receives the Commission's letter declining to authorize additional time. The Omnibus Budget Reconciliation Act of 1993, however, requires the Commission to modify its rules, to the extent "necessary and practical," to ensure that substantially similar services are subject to "comparable technical requirements." 47 U.S.C. § 332(d)(3). Because the Commission concluded in the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), that 900 MHz SMR services compete or have the potential to compete with existing wide-area CMRS service providers, the rules governing MTA licensees must be substantially similar to the rules governing cellular and PCS providers. Therefore, the Commission modifies Section 90.631(f) to include provisions comparable to those contained in

VOL 60 ISS 86 MY 4 1995 UMI

Section 22.317 for cellular operations. This will permit licensees to discontinue operations for 90 continuous days and removes any provisions for licensees to request an additional extension of this period.

B. Miscellaneous Matters

19. *Spectrum Cap and Attribution.* An entity may hold up to 45 MHz of spectrum in the three radio services (broadband PCS, cellular, and SMR) in any geographic area. *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994). The Commission will also apply a 20 percent cross-ownership attribution rule for purposes of the spectrum aggregation limit. For example, an entity with 20 percent or greater ownership of a 900 MHz SMR license who has 40 MHz of broadband PCS spectrum in a geographic market would reach the spectrum cap with 5 MHz of SMR spectrum in an MTA within that geographic market. Where cellular, broadband PCS and SMR licensees are held indirectly through intervening corporate entities, attribution will be determined through a multiplier. *Memorandum Opinion & Order*, GEN Docket No. 90–314, 60 FR 13915 (March 15, 1995). Finally, 900 MHz SMR channels count toward the 10 percent population overlap threshold adopted in the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994). Thus, a 900 MHz SMR provider's spectrum counts toward the spectrum cap if the carrier is licensed to serve ten percent or more of the population of the MTA.

20. *Grandfathering—Regulatory Classification.* In the *CMRS Second Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission stated that SMR licensees are classified as CMRS if they offer interconnected service, and are otherwise classified as PMRS. All 900 MHz MTA licensees presumptively will be classified as CMRS providers. An MTA licensee, however, who was an incumbent in the 900 MHz service before August 10, 1993, is not subject to CMRS regulation until August 10, 1996. 47 U.S.C. § 332(c)(2)(B)).

21. *Foreign Ownership Waivers.* The Budget Act amendments to the Communications Act permit the Commission to waive the application of Section 310(b) to any foreign ownership that lawfully existed before May 24, 1993, of any provider of a private land mobile service that will be treated as a common carrier, as a result of the Budget Act amendments, on the condition that the extent of foreign ownership not increase above the pre-May 24, 1993, level, and that no subsequent transfer of ownership is made to anyone in violation of Section 310(b). 47 U.S.C. § 332(b)(6). The Commission's decision to treat incumbent licensees as new applicants raise the question as to whether a waiver filed by an incumbent licensee will cover the MTA license, in the event that the incumbent wins the MTA license. The Commission will grandfather any timely filed waiver petitions with respect to the MTA license. Although the MTA license is considered a "new" license, the provider's existing facilities will be entirely subsumed in the new license. Thus, the Commission believes it is unnecessary to require an additional filing by an incumbent who wins the MTA license.

III. Procedural Matters

22. *Final Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rule Making in GN Docket No. 93–252. Written comments on the IRFA were requested. The Commission's final analysis is as follows:

A. *Need for and purpose of the action.* This rulemaking proceeding was initiated to implement Sections 332 and 3(n), respectively, of the Communications Act, as amended. The rules adopted herein will carry out Congress's intent to establish a consistent regulatory framework for all commercial mobile radio service (CMRS).

B. *Issues raised in response to the IRFA.* No comments were submitted in response to the IRFA in GN Docket No. 93–252.

C. *Significant alternatives considered and rejected.* All significant alternatives have been addressed in the *Second Report & Order*, and the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994).

23. *Ordering Clauses.* Accordingly, IT IS ORDERED, That the petitions for reconsideration ARE GRANTED to the extent described above and DENIED in all other respects.

24. It is further ordered that Part 90 of the Commission's rules, 47 C.F.R. Part 90, IS AMENDED, as indicated below. It is ordered that the rule changes herein will become effective 30 days after publication in the **Federal Register**.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. The authority citation for Part 90 is revised to read as follows:

Authority: 47 U.S.C. 154, 303, 309 and 332.

2. Section 90.7 is amended by adding the definition for "MTA license" following the definition for "Mobile station" to read as follows:

§ 90.7 Definitions.

* * * * *

MTA-based license or MTA license. A license authorizing the right to use a specified block of SMR spectrum within one of the 51 Major Trading Areas ("MTAs"), as embodied in Rand McNally's Trading Area System MTA Diskette and geographically represented in the map contained in Rand McNally's Commercial Atlas & Marketing Guide (the "MTA Map.") The MTA Listings, the MTA Map and the Rand McNally/AMTA license agreement are available for public inspection at the Wireless Telecommunications Bureau's public reference room, Room 628, 1919 M Street NW., Washington, DC 20554.

* * * * *

3. Section 90.617 is amended by revising paragraph (d) introductory text, to read as follows:

§ 90.617 Frequencies in the 809.750–824/854.750–869 MHz, and 896–901/935–940 MHz bands available for trunked or conventional system use in non-border areas.

* * * * *

(d) The channels listed in Tables 4A and 4B are available only to eligibles in the SMR category, which consists of Specialized Mobile Radio (SMR) stations and eligible end users. The frequencies listed in Table 4B are available to SMR eligibles desiring to be authorized on MTA service areas in accordance with Section 90.661. SMR licensees licensed on the channels listed in Table 4B on or before August 9, 1994 may continue to utilize these frequencies within their existing service areas, as provided in Section 90.661. This paragraph deals with the assignment of frequencies only in areas farther than 110 km (68.4 miles) from the U.S./Mexico border and farther than 140 km (87 miles) from the U.S./Canada border. See § 90.619 for the assignment

of SMR frequencies in these border areas. For stations located within 113 km (70 miles) of Chicago, channels 401–600 will be assigned in groups as outlined in Table 4C.

* * * * *

4. Section 90.631 is amended by revising paragraphs (f) and (i) to read as follows:

§ 90.631 Trunked systems loading, construction and authorization requirements.

* * * * *

(f) If a station is not placed in permanent operation, in accordance with the technical parameters of the station authorization, within one year, except as provided in § 90.629, its license cancels automatically and must be returned to the Commission. For purposes of this section, a base station is not considered to be placed in operation unless at least two associated mobile stations, or one control station and one mobile station, are also placed in operation. An SMR licensee with facilities that have discontinued operations for 90 continuous days is presumed to have permanently discontinued operations, unless the licensee notifies the FCC otherwise prior to the end of the 90 day period and provides a date on which operation will resume, which date must not be in excess of 30 additional days.

* * * * *

(i) For SMRS category trunked systems licensed in the 896–901/935–940 MHz band (other than MTA-licensed systems), if at the end of the initial five-year license term the licensee of such a trunked system has not satisfied the loading requirements of paragraph (b) of this section, the licensee requesting renewal of its license will be granted a renewal for only a two-year period. Regardless of the date of grant of the two-year renewal, the licensee will be required to comply fully with the minimum requirements set forth in paragraph (b) of this section at the end of the two-year renewal term. As an exception to this requirement, if the licensee obtains the MTA license covering its assigned spectrum in accordance with Sections 90.661 through 90.671, these loading requirements will no longer be applicable and the coverage requirements of Section 90.665 will govern.

5. Subpart S is amended by adding a new heading following § 90.659 to read as follows:

Policies Governing the Licensing and Use of MTA-Based SMR Systems in the 896–901/935–940 MHZ Band

6. A new § 90.661 is added to Subpart S to read as follows:

§ 90.661 MTA-based SMR service areas.

MTA licenses for SMR spectrum blocks in the 896–901/935–940 MHz band listed in Table 4B of Section 90.617(d) are available in 51 Major Trading Areas (MTAs) as defined in Section 90.7. Within these MTAs, licenses will be authorized in ten channel blocks as specified in Table 4B of Section 90.617(d) through the competitive bidding procedures described in Subpart U of this Part.

7. A new § 90.663 is added to Subpart S to read as follows:

§ 90.663 MTA-based SMR system operations.

(a) MTA-based licensees authorized in the 896–901/935–940 MHz band pursuant to Section 90.661 may construct and operate base stations using any frequency identified in their spectrum block anywhere within their authorized MTA, provided that:

(1) The MTA licensee affords protection, in accordance with Section 90.621(b), to all sites for which applications were filed on or prior to August 9, 1994.

(2) The MTA licensee complies with any rules and international agreements that restrict use of frequencies identified in their spectrum block, including the provisions of Section 90.619 relating to U.S./Canadian and U.S./Mexican border areas.

(3) The MTA licensee limits its field strength at any location on the border of the MTA service area in accordance with Section 90.671 and masks its emissions in accordance with Section 90.669.

(b) In the event that the authorization for a previously authorized co-channel station within the MTA licensee's authorized spectrum block is terminated or revoked, the MTA licensee's co-channel obligations to such station will cease upon deletion of the facility from the Commission's licensing record. The MTA licensee then will be able to construct and operate base stations using such frequency.

8. A new § 90.665 is added to Subpart S to read as follows:

§ 90.665 Authorization, construction and implementation of MTA licenses.

(a) MTA licenses in the 896–901/935–940 MHz band will be issued for a term not to exceed ten years.

(b) MTA licensees in the 896–901/935–940 MHz band will be permitted five years to construct their stations. This five-year period will commence with the issuance of the MTA-wide authorization and will apply to all of the licensee's stations within the MTA spectrum block, including any stations that may have been subject to an earlier construction deadline arising from a pre-existing authorization.

(c) MTA licensees in the 896–901/935–940 MHz band must, within three years, construct and place into operation a sufficient number of base stations to provide coverage to at least one-third of the population of the MTA. Further, each MTA licensee must provide coverage to at least two-thirds of the population of the MTA within five years or, alternatively, submit a showing to the Commission demonstrating that they are providing substantial service.

(d) MTA licensees who fail to meet the coverage requirements imposed at either the third or fifth years of their construction period, or to make a convincing showing of substantial service, will forfeit their entire MTA license.

9. A new § 90.667 is added to Subpart S to read as follows:

§ 90.667 Grandfathering provisions for incumbent licensees.

(a) These provisions apply to all 900 MHz SMR licensees who obtained licenses or filed applications on or before August 9, 1994 ("incumbent licensees"). An incumbent licensee's service area shall be defined by its originally-licensed 40 dBu signal strength contour. Incumbent licensees are permitted to add new transmit sites in this existing service area without prior notification to the Commission so long as their original 40 dBu signal strength contour is not expanded. Incumbents will be required to notify the Commission of any changes in technical parameters or additional stations constructed with a minor modification application. These minor modification applications will not be subject to public notice and petition to deny requirements or mutually exclusive applications.

(b) Applications in the 900 MHz SMR service for secondary sites filed after August 9, 1994 shall be authorized on a secondary, non-interference basis to MTA licensee operations. No secondary sites shall be granted on this basis in an MTA once the MTA licensee has been selected.

10. A new § 90.669 is added to Subpart S to read as follows:

VOL 60 ISS 86 MY 4 1995 UMI

§ 90.669 Emission limits.

(a) On any frequency in an MTA licensee's spectrum block that is adjacent to a non-MTA frequency, the power of any emission shall be attenuated below the transmitter power (P) by at least 43 plus 10 $\log_{10}$(P) decibels or 80 decibels, whichever is the lesser attenuation.

Note: The measurements of emission power can be expressed in peak or average values, provided they are expressed in the same parameters as the transmitter power.

(b) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

11. A new § 90.671 is added to Subpart S to read as follows:

§ 90.671 Field strength limits.

The predicted or measured field strength at any location on the border of the MTA service area for MTA licensees shall not exceed 40 dBuV/m unless all bordering MTA licensees agree to a higher field strength. MTA licensees are also required to coordinate their frequency usage with co-channel adjacent MTA licensees and all other affected parties. To the extent that a single entity obtains licenses for adjacent MTAs on the same channel block, it will not be required to coordinate its operations in this manner. In the event that this standard conflicts with the MTA licensee's obligation to provide co-channel protection to incumbent licensees under Section 90.621(b), the requirements of Section 90.621(b) shall prevail.

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DEPARTMENT OF DEFENSE

Defense Logistics Agency

48 CFR Part 5452

DLA Acquisition Regulation; Fuel Allocation Procedures

AGENCY: Defense Logistics Agency, DoD.

ACTION: Final rule.

SUMMARY: The Defense Logistics Agency establishes a new 48 CFR Chapter 54 to contain Defense Logistics Agency acquisition regulations. New part 5452 is added to supplement Federal Acquisition Regulation 49.504(a)(1) and its requirement to use FAR Default clause 52.249–8. The Defense Fuel Supply Center (DFSC) proposed three nonstandard clauses for bulk, bunkers, into-plane, and posts, camps, and stations petroleum solicitations and contracts concerning fuel allocation procedures. The three clauses have been incorporated into one clause for use by DFSC. This allocation clause permits DFSC contractors to supply less than the full amount of fuel contracted by the government, without being terminated for default, during periods of exceptional fuel shortages, provided that the shortage is beyond the control and without the fault or negligence of the contractor.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Melody Reardon, (703) 274–6431.

SUPPLEMENTARY INFORMATION:

A. Background

On April 28, 1994, DFSC published a proposed rule in the **Federal Register** to incorporate three nonstandard clauses into the DLAR. Public comments were requested, received, addressed, and resolved by DFSC. As a result, the three nonstandard clauses were consolidated into one clause by DFSC, to be used in domestic and overseas petroleum solicitations and contracts. DFSC has historically utilized deviations to FAR termination for default clauses in order to provide for contingencies in the case of fuel allocations by contractors. These deviations have been approved on an annual basis since 1974. DFSC incorporates the nonstandard fuel allocation clause in DLAR in order to eliminate the need for annual review and approval. The clause is necessary to protect potential contractors from default proceedings and ensure the continuance of a competitive procurement environment for government petroleum requirements. Allocation of fuel to customers on a pro rata basis during periods of extreme shortage is a standard practice in the petroleum industry.

B. Regulatory Flexibility Act

The final clause is not expected to have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* since the previous clauses have been utilized for many years by Defense Fuel Supply Center as deviations to FAR. An initial regulatory flexibility analysis has, therefore, not been performed.

C. Paperwork Reduction Act

The final rule does not impose any reporting or record keeping requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 5452

Government procurement.

Accordingly, 48 CFR Chapter 54 is added to read:

CHAPTER 54—DEFENSE LOGISTICS AGENCY, DEPARTMENT OF DEFENSE

PART 5452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 5452.2—Texts of Provisions and Clauses

5452.249 Allocation

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, 48 CFR part 1, subpart 1.3 and 48 CFR part 201, subpart 201.3

5452.249 Allocation

The Defense Fuel Supply Center is authorized to use the following clause in domestic and overseas petroleum solicitations/contracts, including those for Canal Zone and Puerto Rico, when a fixed-price contract is contemplated and the contract amount is expected to exceed the small purchase limitation.

Allocation (DFSC 1995) (Deviation) (9F01)

(a) Reduced Supplies.

If, for any cause beyond the control and without the fault or negligence of the Contractor, the total supply of crude oil and/or refined petroleum product is reduced below the level that would have otherwise been available to the Contractor, the Contractor allocates to its regular customers its remaining available supplies of crude oil or product, then the Contractor may also allocate to the U.S. Government supplies to be delivered under this contract, provided—

(1) Prompt notice of and evidence substantiating the necessity to allocate and describing the allocation rate for all the Contractor's customers are submitted to the Contracting Officer;

(2) Allocation among the Contractor's regular customers is made on a fair and reasonable basis (except where allocation on a different basis is required by a governmental authority, agency or instrumentality); and

(3) Reduction of the quantity of product due the Government under this contract shall not exceed the pro rata amount by which the Contractor reduces delivery to its other contractual customers.

(b) Additional Supplies.

If, after the event causing the shortage of crude oil and/or refined petroleum product as described in (a) above, additional supply becomes available to the Contractor, the Contracting Officer may choose any one of the following three possible courses of action:

(1) Accept an updated pro rata reduction as outlined in (a);

(2) Determine that continuance of the contract with the quantities as originally stated in the Schedule is in the best interests of the Government; or

(3) Terminate the contract as permitted in (d) below.

(c) Reduced Deliveries.

If the Contractor believes that a law, regulation, or order of a foreign government requires the Contractor to deliver less than the quantity set forth in the Schedule for any location within that country, the Contractor may request allocation in accordance with (a) above. In addition to the criteria in (a) above, the Contractor's request shall cite—

(1) The law, regulation or order, furnishing copies of the same;

(2) The authority under which is imposed; and

(3) The nature of the Government's waiver, exception, and enforcement procedure.

The Contracting Officer will promptly review the matter and advise the Contractor whether or not the need to allocate has been substantiated. If the law, regulation, or order requiring the Contractor to reduce deliveries ceases to be effective, the Contractor shall resume deliveries in accordance with the original Schedule.

(d) If, as a result of reduced deliveries permitted by (a), (b), or (c) above, the Contracting Officer decides that continuation of this contract is no longer in the best interests of the Government, the Government may terminate this contract or any quantity thereunder, by written notice, at no cost to the Government. However, the Government shall not be relieved of its obligation to pay for supplies actually delivered to and accepted by it.

(e) Except as otherwise stated in (b) above, any volumes omitted pursuant to (a) or (b) above shall be deleted from this contract, and the Contractor shall have no continuing obligation, so far as this contract is concerned, to make up such omitted supplies.

(f) For Posts, Camps, and Stations contracts, Department of Energy priority orders and allocation regulations will take precedence over any conflicting provisions of this clause.

(g) For Bulk Fuels contracts, the provisions contained in (a) and (b) above shall be inoperative when the Secretary of Defense makes a written determination that it is essential to the National Defense that the Defense Fuel Supply Center be provided contract volumes exceeding the pro rata amount of product to which it would otherwise be entitled. However, in no case will the Contractor be required, under this contract, to supply more than 100% of the quantity specified in the Schedule.

[end of clause]

Dated: April 24, 1995.

Margaret J. Janes,

Assistant Executive Director (Procurement Policy).

[FR Doc. 95–10761 Filed 5–3–95; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1503, 1505, 1513, 1514, 1515, 1522, 1525, 1542 and 1552

[FRL–5201–5]

Acquisition Regulation

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is amending the EPA Acquisition Regulation (EPAAR) to incorporate changes to the EPAAR which are generally administrative in nature.

EFFECTIVE DATE: May 4, 1995.

ADDRESSES: Environmental Protection Agency, Office of Acquisition Management (3802F), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry Wyborski, Telephone: (202) 260–6482.

SUPPLEMENTARY INFORMATION:

I. Background Information

This rule raises the level of delegated authority and the dollar thresholds for several administrative review requirements. The rule also corrects terminology, FAR and EPAAR references and improves the consistency between the FAR and the EPAAR.

II. Executive Order 12866

This is not a significant regulatory action under Executive Order 12866; therefore, no review is required at the Office of Information and Regulatory Affairs within OMB.

III. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not contain information collection requirements for the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

IV. Regulatory Flexibility Act

This rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

List of Subjects in 48 CFR Parts

1503, 1505, 1513, 1514, 1515, 1522, 1525, 1542 and 1552. Government Procurement.

For the reasons set forth in the preamble, Chapter 15 of Title 48 Code of Federal Regulations 1503, 1505, 1513, 1514, 1515, 1522, 1525, 1542 and 1552 is amended as follows:

1. The authority citation for parts 1503, 1505, 1513, 1514, 1515, 1522, 1525, 1542 and 1552 continue to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 as amended, 40 U.S.C. 486(c).

1503.203 [Amended]

2. Section 1503.203 is amended by removing the words "Head of the Contracting Activity" and adding in its place the words "Chief of the Contracting Office".

1505.270 [Amended]

3. Section 1505.270 is amended by removing the dollar figure "$10,000" in paragraph (b) and adding in its place the dollar figure "$25,000".

1505.271 [Removed and Reserved]

4. Section 1505.271 is removed and reserved.

1513.570 [Amended]

5. Section 1513.570 is amended by revising paragraph (c) to read as follows:

1513.570 Oral Purchase Orders

* * * * *

(c) Oral purchase orders shall not be used for—

(1) Acquisitions for construction over $2,000.

(2) Acquisitions for services over $2,500 which are subject to the Service Contract Act.

1514.406–3 [Amended]

6. Section 1514.406–3 is amended by removing the words "Head of Contracting Activity (HCA)" and adding in its place the words "Chief of the Contracting Office".

1515.506 [Amended]

7. Section 1515.506 is amended by removing "PM–216" and adding in its place "3903F".

1515.612 [Amended]

8. Section 1515.612 is amended by removing the dollar figure of "$5,000,000" in paragraphs (a)(1) introductory text and (a)(2) introductory text and adding in its place the dollar figure "$15,000,000."

1522.608–3 [Amended]

9. 1522.608–3 is amended by removing the words "Head of the Contracting Activity (HCA) for referral to the Department of Labor (DOL) or to the Administrator of SBA if the offeror is a small business" and adding in its place "Chief of the Contracting Office in accordance with FAR 22.608–3(b)(1)–(3)".

10. Section 1522.1003 is revised to read as follows:

VOL 60 ISS 86 MY 4 1995 UMI

1522.1003 Applicability.

Requests for limitations, variances, tolerances and exemptions shall be submitted to the Chief of the Contracting Office for signature and through the agency labor advisor in the Grants Administration Division to the Department of Labor in accordance with FAR 22.1003–4.

11. Section 1525.102 is revised to read as follows:

1525.102 Policy.

The Chief of the Contracting Office is designated to approve determinations required by FAR 25.102(b)(2).

1542.708 [Amended]

12. Section 1542.708 is amended by removing the dollar figure "$500,000" in paragraph (a)(1) and replacing it with the dollar figure "$2,000,000" and by removing the dollar figure "$1,000,000" in paragraph (a)(2) and replacing it with the dollar figure "$5,000,000".

1552.210–75 [Amended]

13. Section 1552.210–75 introductory text is amended by removing "1510.011– 74" and adding in its place "1510.011–75."

1552.210–76 [Amended]

14. Section 1552.210–76 introductory text is amended by removing "1510.011–75" and adding in its place "1510.011–76."

1552.210–77 [Amended]

15. Section 1552.210–77 introductory text is amended by removing "1510.011–76" and adding in its place "1510.011–77."

1552.210–78 [Amended]

16. Section 1552.210–78 introductory text is amended by removing "1510.011–77" and adding in its place "1510.011–78."

Dated: April 24, 1995.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 95–10877 Filed 5–3–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 651

[Docket No. 950410096–5096–01; I.D. 042695A]

RIN 0648–AH66

Northeast Multispecies Fishery; Framework 9 Measures; Reporting Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; effectiveness of collection-of-information requirements.

SUMMARY: NMFS announces approval by the Office of Management and Budget (OMB) of collection-of-information requirements contained in Framework Adjustment 9 to the Northeast Multispecies Fishery Management Plan (FMP). This rule makes effective several reporting requirements that are associated with regulations that provide significant regulatory relief to fishermen, including transiting certain closed areas under specified conditions, fishing by vessels in a given state's winter flounder fishing program under certain conditions using net mesh size less than the minimum mesh size, and fishing by party and charter boats in the Nantucket Lightship Closed Area under certain conditions.

EFFECTIVE DATE: Sections 651.20(a)(6)(iii)(B), 651.20(j)(1), and 651.21(c)(2)(iv)(A) published at 60 FR 19364 (April 18, 1995) are effective on April 28, 1995.

ADDRESSES: Any comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to the Regional Director, Northeast Regional Office, National Marine Fisheries Service, Gloucester, MA 01930, and to the Office of Information and Regulatory Affairs, (Attention: NOAA Desk Officer), Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 508–281–9252.

SUPPLEMENTARY INFORMATION: A final rule that implemented the measures contained in Framework 9 to the FMP was published in the **Federal Register** on April 18, 1995 (60 FR 19364), and most of those measures were made effective on April 13, 1995. However, because OMB approval of the reporting requirements contained in Framework 9 had not yet been received as of the effective date of that rule, effectiveness of those measures was delayed. OMB approval for those measures was received on April 26, 1995. Consequently this rule makes the three reporting measures (§§ 651.20(a)(6)(iii)(B), 651.20(j)(1), and 651.21(c)(2)(iv)(A)), which were codified in the April 18 final rule, effective.

Classification

The Assistant Administrator for Fisheries, NOAA, finds that, under 5 U.S.C. 553(d)(1), because immediate implementation of this rule relieves restrictions on the industry with virtually no impact on the conservation objectives of the FMP, there is no need to delay the effectiveness of the reporting requirements contained herein.

This rule contains three new collection-of-information requirements subject to the Paperwork Reduction Act that have been approved by the Office of Management and Budget under OMB control number 0648–0202. The public reporting burden for each of these collections of information is estimated to be 2 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

NOAA codifies its OMB control numbers for information collection at 50 CFR 204.1.

This action has been determined to be not significant for purposes of E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 28, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–10929 Filed 4–28–95; 4:36 pm]

BILLING CODE 3510–22–F

50 CFR Part 649

[Docket No. 950224059–5114–02; I.D. 011195C]

RIN 0648–AH36

American Lobster Fishery; Framework Adjustments 2 and 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS implements measures contained in Framework Adjustments 2 and 3 to the American Lobster Fishery Management Plan (FMP). These framework adjustments change the eligibility requirements for lobster limited access permits to address potentially unequal standards for lobster harvesters who reside in different states. Framework Adjustment 3 also authorizes NMFS to issue a letter of authorization to the owners of some vessels, in order to allow them to continue to fish for lobster while pursuing an appeal of the denial of a Federal limited access permit.

EFFECTIVE DATE: May 1, 1995.

ADDRESSES: Copies of Framework Adjustments 2 and 3, Amendment 5 to the FMP, its regulatory impact review, initial regulatory flexibility analysis, and final supplemental environmental impact statement (FSEIS) are available from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 508–281–9273.

SUPPLEMENTARY INFORMATION:

Background

Eligibility for a Federal American lobster limited access permit can be established with a vessel's or a person's state permit history (59 FR 31938, June 21, 1994). Because the various states have not had uniform permitting systems, potentially unequal eligibility criteria were inadvertently created for lobster harvesters who reside in different states. These framework actions are implemented to remedy that inequity. This rule also implements a measure contained in Framework Adjustment 3 to prevent harm to active fishery participants by allowing them to continue fishing while they are appealing the denial of a limited access permit.

Framework Adjustment 2

Prior to this action, to qualify for a limited access American lobster permit, which may be issued only to a vessel, the vessel or vessel owner must have been issued a Federal American lobster permit, or a federally endorsed state lobster permit, and must have landed American lobster prior to March 25, 1991. This requirement resulted in potentially unequal eligibility criteria for lobster harvesters residing or fishing in different states. Framework Adjustment 2 remedies this by requiring all permit applicants who base their eligibility on a federally endorsed state license to demonstrate that they owned a boat and used it to land lobsters during the qualification period. These applicants will be required to show proof of ownership of a fishing vessel and of having landed lobsters from that vessel prior to March 25, 1991.

Sections of the current regulations dealing with transferability of permit eligibility were previously written from the perspective of Federal permits issued to vessels. As a result, the regulations were not directly applicable to the transfer of eligibility based on federally endorsed state lobster permits that are issued to individuals. To be consistent with the transferability of eligibility associated with federally permitted vessels, this rule includes regulatory language at § 649.4(b)(1)(i)(B)(*2*) and (b)(3)(ii) to clarify that eligibility based on a federally endorsed state lobster permit can be transferred with the sale of a vessel after March 25, 1991, if the intent to transfer such rights is verified by credible written evidence.

Because this rule changes the qualification criteria for obtaining a limited access American lobster permit for 1995, it also changes the dates by which vessel owners are required to obtain permits. This rule also makes several minor modifications to § 649.4 (p) and (q) to ease the public's administrative burden and to conform the requirement to the Council's recommendation.

The New England Fishery Management Council (Council) followed the framework procedure codified in 50 CFR part 649, subpart C, when making adjustments to the FMP, by developing and analyzing the actions at two Council meetings, on September 21–22 and October 28–29, 1994. In accordance with the regulations, public comments on the framework adjustment were solicited during these Council meetings. No comments were received. However, because this action was initiated at the first of these meetings without adequate notice to the public, the Council recommended that NMFS publish the measures contained in Framework Adjustment 2 as a proposed rule to ensure that the public was afforded sufficient prior notice and an opportunity for comment. The proposed rule was published on March 16, 1995 (60 FR 14261) and the comment period ended on March 30, 1995. No comments were received.

This adjustment is being made through the framework process (§ 649.44) and is within the scope of analyses contained in Amendment 5 and the FSEIS. Supplemental rationale and analyses of expected biological effects, economic impacts, impacts on employment, and safety concerns are contained within the supporting documents for Framework Adjustment 2 (see **ADDRESSES**).

Changes From the Proposed Rule

After the development of Framework Adjustment 2, additional concerns were raised to the attention of the Council concerning inequities resulting from differences among the states in the handling of federally endorsed state permits. Framework Adjustment 3 was developed to address these and other issues. Both Framework Adjustments 2 and 3 deal with aspects of applicant eligibility for limited access permits. These Frameworks are published together in order to present the revisions to the regulations in the clearest manner possible. In the interests of clarity, this presentation has resulted in some changes in the final text when compared to the text published in the proposed rule for Framework Adjustment 2. The changes are listed below.

Paragraph (b)(1)(i)(B)(*3*) is added to implement the action adopted by the Council in Measure 2 of Framework Adjustment 3.

Paragraph (b)(1)(i)(B)(*4*) is added to implement the action adopted by the Council in Measure 1 of Framework Adjustment 3.

Paragraph (b)(1)(i)(C) is revised to clarify the relation of the permit eligibility criteria for vessels that were under construction or re-rigging to the measures contained in Framework Adjustment 3.

Paragraph (b)(1)(iii) is deleted, because NMFS is reexamining the scheduling of permit renewals.

A new paragraph (b)(2)(iii) was proposed to clarify the application deadline for permit renewal in 1996. This paragraph was not included in this final rule, because the issue of permit renewal is under reexamination by NMFS.

Paragraph (b)(5)(vi) is added to implement Measure 4 of Framework Adjustment 3.

Framework Adjustment 3

Approved Measures

Framework Adjustment 3 revises the permit qualification criteria to clarify eligibility criteria for: (1) Applicants who leased federally endorsed state permits, (2) applicants who owned vessels that fished for lobster under a federally endorsed state permit issued to

VOL 60 ISS 86 MY 4 1995 UMI

the operator, and (3) applicants who seek a transfer of permit eligibility as a result of inheritance. Framework Adjustment 3 also establishes a fourth measure, which will allow the owner of a vessel that is denied a Federal limited access lobster permit to continue to fish for lobster while pursuing an appeal of the denial under § 649.4(b)(5) if the vessel was issued a Federal or federally endorsed state permit for the lobster fishery in 1994.

Measure 1 addresses the issue of permit eligibility in the case of harvesters who leased federally endorsed state lobster permits. The Council and NMFS have concurred that this measure is required in order to apply the eligibility criteria equitably to these applicants. The measure entitles the applicant to the fishing right associated with the exercise of the permit, despite the fact that the permit was held through a lease arrangement. This criteria applies only to applicants who have met all other eligibility requirements.

Measure 2 addresses the issue of permit eligibility for vessels that operated legally under federally endorsed state lobster permits issued to the vessel captain. If such vessels meet all other eligibility criteria, the Council believes and NMFS concurs that they should be eligible for the limited access lobster permit because the vessel was operated legally under the existing laws. Permit eligibility for a limited access permit is conferred on the owner of the vessel rather than the vessel captain because the captain who is not the vessel owner cannot satisfy the vessel ownership requirement. This policy is consistent with the Council's policy for limited access permit eligibility for the Northeast multispecies and Atlantic sea scallop fisheries.

Measure 3 was intended by the Council to clarify that the rules relating to permit transfers apply to inheritance of limited access permits. NMFS determined that the existing language specified in § 649.4(b)(3) would apply to transfers through inheritance in a manner consistent with Council intent and that additional regulatory language is not necessary.

Measure 4 allows some applicants to continue to harvest lobsters if they have appealed the denial of their application for the 1995 limited access permit. This action is intended to prevent needless harm to current participants in the fishery. Based on the determination that vessels with a current economic dependence upon the EEZ lobster fishery would have obtained permits in 1994, this provision is restricted to vessels that were issued a 1994 Federal or federally endorsed state lobster permit.

Disapproved Measure

Framework Adjustment 3 included one measure that was disapproved by the Director, Northeast Region, NMFS (Regional Director). The proposed measure would have allowed vessel owners who could show that their vessel landed lobster from the EEZ before the control date, to qualify for a limited access permit, despite never having had a permit to fish in the EEZ. This measure was disapproved because, in part, there is no apparent justification for such an exception in the lobster limited access fishery given that this exemption was not included in the recently implemented amendments establishing limited access programs in the Northeast Multispecies and Atlantic Sea Scallop FMPs. Without justification, NMFS would not implement a measure inconsistent with other similar fishery regulations. In addition, the measure would undermine the perceived importance and the effective enforcement of Federal permitting requirements by appearing to grant a benefit to harvesters who acknowledge that they fished illegally in Federal waters. Moreover, given the indefiniteness of the proposed logbook criterion for establishing an applicant's participation in the Federal lobster fishery, it would be very difficult, if not impossible, to administer this measure consistently, fairly, and equitably, and it is likely that the measure would invite fraud and abuse.

The Council followed the framework procedure codified in 50 CFR part 649, subpart C, when making adjustments to the FMP, by notifying the public of the proposed actions and providing opportunities for comment at two Council meetings, on February 16 and March 30, 1995. Ten members of the industry made comments at these meetings. Most commenters supported the proposed measures. However, there were two commenters who opposed the proposal that would have allowed vessel owners who could show that their vessel landed lobster from the exclusive economic zone (EEZ) before the control date to qualify for a limited access permit, despite never having had a permit to fish in the EEZ.

This adjustment is being made through the framework process (§ 649.44) and is within the scope of analyses contained in Amendment 5 and the FSEIS. Supplemental rationale and analyses of expected biological effects, economic impacts, impacts on employment, and safety concerns are contained within the supporting documents for Framework Adjustment 3 (see **ADDRESSES**).

There are four factors that the Council and NMFS are required to consider in order to publish a framework adjustment as a final rule: (1) Whether the availability of data allows for adequate time to publish the action as a proposed rule, (2) whether there has been adequate notice and opportunity for public participation in the development of the measures, (3) whether there is an immediate need to protect the resource, and (4) whether there will be a continuing evaluation of management measures adopted following publication of the final rule.

The Council recommended publication of these measures as a final rule, rather than as a proposed rule, in order to minimize disruption in the fishery and clarify the administrative requirements associated with the limited access permit requirement. Implementation of these measures is not dependent upon data availability. The Council determined, and NMFS agrees, that adequate notice and opportunity for public participation was provided in the development of the measures. The measures in Framework Adjustment 3 are necessary to administer effectively the management measures contained in the FMP, which was developed in response to the need to protect the resource. The Council will be carrying out continuing evaluation of the management measures adopted under this action.

Comments and Responses—Framework Adjustment 3

Comment—Measure 1: An applicant who is a vessel owner who only leased a federally endorsed permit did not actually have a Federal permit and therefore should not qualify for a limited access lobster permit.

Response: The person who owned and operated the boat and leased the legal rights associated with the permit should be eligible for the limited access permit as a result of exercising the permit because that person legally operated the vessel with authority to fish in the EEZ.

Comment—Measure 2: The operator and not the owner should be eligible for a Federal limited access lobster permit.

Response: Fishing operations are permitted directly under the Federal permit system. The Council's intent is to base eligibility for limited access lobster permits on whether the vessel qualifies, not the operator. This measure attempts to make eligibility criteria based on federally endorsed state permits operate in an identical way. Moreover, to allow operators to qualify independently

would potentially result in significantly more limited access lobster permits being issued than the number of vessels participating in the Federal lobster fishery at the time of the control date.

Comment—Measure 4: This provision discriminates between applicants with a recent history in the fishery and those who participated further in the past.

Response: The opportunity to fish while appealing a permit denial is restricted to 1994 permit holders to avoid allowing a potentially unlimited group of non-bona fide applicants from using the appeals process to gain temporary access to the fishery. Based on the determination that vessels with a current economic dependence upon the EEZ lobster fishery would have obtained permits in 1994 and are more likely to be disadvantaged if not allowed to fish, this provision applies only to vessels that were issued a 1994 Federal or federally endorsed state lobster permit.

Comment—Disapproved Measure: Several commenters supported this measure. They either thought they had federally endorsed state permits and were fishing illegally in the EEZ or were unaware of the requirement. Without this measure, these commenters would be ineligible for the limited access permit.

Response: Though sympathetic with the commenter's dilemma, NMFS has disapproved this measure for the reasons stated above.

Comment—Disapproved Measure: This provision unfairly qualifies people who should not qualify for a limited access permit. The permit applicant should have obtained a Federal lobster permit for a vessel that fished in the EEZ and therefore should not be granted a limited access permit.

Response: NMFS agrees that persons who did not have a Federal lobster permit at the time of the control date should not be eligible for a limited access permit and has disapproved the measure.

Comment—Disapproved Measure: This provision would let too many additional entrants into the EEZ lobster fishery and undermine the stock rebuilding program.

Response: If the measure had been found to address inequities in the application of the criteria used to determine limited access permit eligibility, it would not have mattered how many additional entrants would result because the issue would have been one of equity. However, NMFS has disapproved the measure, because it is inconsistent with other similar fishery regulations, and it undermines the perceived importance and effective enforcement of Federal permitting requirements.

Classification

The Assistant Administrator for Fisheries, NOAA, finds there is good cause to waive the requirements to provide prior notice and an opportunity for public comment concerning Framework Adjustment 3 under 5 U.S.C. 553(b)(B). Two public meetings held by the Council to discuss the management measures implemented by this framework measure provided adequate prior notice and an opportunity for public comment to be considered. Furthermore, NMFS has responded to comments received from the public during those meetings on this rule. Thus, additional opportunity for public comment is unnecessary.

The 30-day delay in effectiveness of these measures required by the APA is waived under 5 U.S.C. 553(d)(1), because this rule relieves restrictions on the eligibility for a lobster permit.

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: April 28, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 649 is amended as follows:

PART 649—AMERICAN LOBSTER FISHERY

1. The authority citation for part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.4, the first sentence of paragraph (a)(1), the first sentence of paragraph (b) introductory text, and paragraphs (b)(1)(i), (b)(2)(i), (b)(3), (p), and (q) are revised; and paragraph (b)(5)(vi) is added to read as follows:

§ 649.4 Vessel permits.

(a) * * *

(1) Through April 30, 1995, any vessel of the United States fishing for American lobster in the EEZ must have been issued and carry on board a valid permit required by or issued under this part. * * *

(b) * * * From May 1, 1995, through December 31, 1999, any vessel of the United States that fishes for, possesses, or lands American lobster in or harvested from the EEZ must have been issued and carry on board a valid Federal limited access American lobster permit. * * *

(1) * * *

(i) To be eligible for a limited access permit for 1995, a vessel or the permit applicant must meet one of the following criteria:

(A) The vessel was issued a Federal American lobster permit and landed American lobster prior to March 25, 1991, while in possession of the lobster permit.

(B) To qualify for the limited access permit based on a federally endorsed state permit history, one of the following criteria must be met:

(*1*) The permit applicant was issued a federally endorsed state American lobster permit, and landed American lobster prior to March 25, 1991, and owned a vessel that landed American lobster prior to March 25, 1991, while in possession of the lobster permit; or

(*2*) The vessel was owned by a person who landed lobster prior to March 25, 1991, while in possession of a valid federally endorsed state American lobster permit, and the vessel was transferred to the current vessel owner in accordance with the exception to the presumption specified in paragraph (b)(3)(ii) of this section; or

(*3*) The permit applicant owned a vessel that landed American lobster prior to March 25, 1991, while under the operation of an individual with a valid federally endorsed state lobster permit; or

(*4*) The permit applicant owned a vessel that landed American lobster prior to March 25, 1991, while the applicant held a valid signed written lease, recognized and authorized by the issuing state, granting the rights to a federally endorsed state lobster permit.

(C) The permit applicant owned a vessel that was under written agreement for construction or for rerigging for directed American lobster fishing as of March 25, 1991, and the applicant meets one of the eligibility criteria set forth in paragraphs (b)(1)(i)(A) or (B) of this section. For the purposes of paragraph (b)(1)(i)(C) all references to March 25, 1991, in paragraph (b)(1)(i)(A) or (B) of this section should be March 25, 1992.

(D) The vessel is replacing a vessel that meets the criteria set forth in paragraph (b)(1)(i)(A), (B), or (C) of this section.

* * * * *

(2) * * *

(i) To be eligible to renew or apply for a limited access lobster permit after 1995, a vessel or permit applicant must have been issued either a limited access lobster permit or a confirmation of permit history for the preceding year, or a vessel must be replacing a valid limited access American lobster permit or permit history confirmation from the preceding year. If more than one applicant claims eligibility to apply for

VOL
60
ISS
86
MY
4
1995
UMI

a limited access American lobster permit based on one fishing and permit history, the Regional Director shall determine who is entitled to qualify for the limited access permit or permit history confirmation.

* * * * *

(3) *Change in ownership.* (i) The fishing and permit history of a vessel that qualifies based on issuance of a Federal lobster permit under paragraphs (b)(1)(i)(A) and (C) of this section is presumed to transfer with the vessel whenever it is bought, sold or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel fishing and permit history for purposes of replacing the vessel.

(ii) The fishing and permit history of a vessel owner and a vessel that qualifies based on issuance of a federally endorsed state lobster permit under paragraphs (b)(1)(i)(B) and (C) of this section is presumed to remain with such owner for any transfers of the vessel before and including March 25, 1991; and for any transfers of ownership of the vessel after March 25, 1991, the fishing and permit history necessary to qualify for a limited access lobster permit under paragraphs (b)(1)(i)(B) and (C) of this section is presumed to remain with the last owner of the vessel as of or prior to March 25, 1991, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is transferring the fishing and permit history of a vessel necessary to qualify for a limited access lobster permit under paragraph (b)(1)(i)(B) or (C) of this section to the transferee/buyer.

* * * * *

(5) * * *

(vi) *Fishing during appeal.* A vessel for which an appeal has been initiated and that was issued a 1994 Federal or federally endorsed state lobster permit, may fish for American lobster in the EEZ if the appeal is pending and the vessel has on board an authorizing letter from the Regional Director. If the appeal is finally denied, the Regional Director shall send a notice of final denial to the vessel owner; the authorizing letter becomes invalid 5 days after receipt of the notice of denial.

* * * * *

(p) *Limited access American lobster permit renewal.* To renew a limited access permit in 1996 and thereafter, a completed application must be received by the Regional Director by December 31 of the year in which the permit is required. Failure to renew a limited access American lobster permit or confirmation of permit history in any year prevents the renewal of such in subsequent years.

(q) *Abandonment or voluntary relinquishment of limited access American lobster permits.* If a vessel's limited access American lobster permit or confirmation of permit history is voluntarily relinquished to the Regional Director, or abandoned through failure to renew or otherwise, no limited access American lobster permit or confirmation of permit history may be reissued or renewed based on that vessel's history.

[FR Doc. 95–10942 Filed 5–1–95; 10:53 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 86
Thursday, May 4, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN–95–002]

1995 Proposed Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to amend the Cotton Board Rules and Regulations by raising the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. The proposed value reflects the 12-month average price received by U.S. farmers for Upland cotton for calendar year 1994.

DATES: Comments must be received by June 5, 1995.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to Craig Shackelford, Chief, Research and Promotion Staff, Cotton Division, AMS, USDA, P.O. Box 96456, Room 2641–S, Washington, D.C. 20090–6456, or by facsimile (202) 690–1718. Three copies of all written materials shall be submitted, and they will be made available for public inspection in the office of the Cotton Division, Washington, D.C. during regular business hours. All comments should reference docket number, date, and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, (202) 720–2259.

SUPPLEMENTARY INFORMATION: This rule has been determined to be "not significant" for purposes of Executive Order 12866, and therefore has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of the ruling.

The Administrator, Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This rule would affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This rule would raise the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be raised, the increase is small and would not significantly affect small businesses. The AMS Administrator therefore has certified that this rule will not have a significant economic impact on a substantial number of small entities.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program. These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991. Proposed rules implementing the amended Order were published in the **Federal Register** on December 17, 1991, (56 FR 65450). The final implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This proposed rule would increase the value assigned to imported cotton in the Cotton Board Rules and Regulations 7 CFR 1205.510 (b)(2). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms.

Supplemental assessments are levied at a rate of five tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency adopted the use of the calendar year average price received by U.S. farmers for Upland cotton as a benchmark for the value of domestically produced cotton. The source for this statistic is "Agricultural Prices", a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment

VOL 60 ISS 86 MY 4 1995 UMI

that approximates assessments paid on domestically produced cotton.

The current value of imported cotton as published in the **Federal Register** (59 FR 59110) for the purpose of calculating supplemental assessments on imported cotton is $1.197 per kilogram. Using the Average Price Received by U.S. farmers for Upland cotton for the calendar year 1994, which is $0.683 per pound, the new value of imported cotton would be $1.5057 per kilogram.

An example of the assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.

One kilogram equals 2.2046 pounds.

One pound equals 0.453597 kilograms.

One dollar per bale assessment converted to kilograms

A 500 pound bale equals 226.8 kg. (500 × .453597)

$1 per bale assessment equals § 0.002000 per pound (1 ÷ 500) or $0.004409 per kg. (1 ÷ 226.8).

Supplemental assessment of 5/10 of one percent of the value of the cotton converted to kilograms

Average price received $0.683 per pound or $1.5057 per kg. (0.683 × 2.2046) = 1.5057.

5/10 of one percent of the average price in kg. equals $0.007529 per kg. (1.5057 × .005)

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment § 0.007529 per kg. which equals $0.011938 per kg.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, these figures have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

As a result of implementation of national trade agreements, several changes in the harmonized tariff schedule numbering have occurred. Modifications to the harmonized tariff schedule were published in the January 4, 1995, **Federal Register** at 60 FR 1007 (Proclamation 6763 of December 23, 1994, by the President of the United States of America). Therefore, revisions to the Import Assessment Table used in the Cotton Research and Promotion program were necessary. These changes are as follows:

Deleted numbers:

5201001000
5201002000
5702422090
5702491010
5702494090
6002920000
6116926020
6116926030
6116926040
6116929000
6116939010
6208920010
6208920030
6211320080
6211420050
6211420080
6211430090
6216001220
6216003910
6216003920
6303920000

New numbers:

5201000000
5201000500
5201001200
5201001400
5201001800
5201002200
5201002400
5201002800
5201003400
5201003800
5701104000
5701109000
5801210000
5804291000
5808107000
6002921000
6110909022
6110909024
6110909030
6110909040
6110909042
6115199010
6117809010
6117809040
6201999060
6203399060
6203498045
6201198090
6207199010
6210109010
6210403000
6210405020
6211118010
6211118020
6212105020
6212109010
6212109020
6217109010
6217109030
6302215010
6302215020
6302217010
6302219010
6302217020
6302219020
6302217050
6302219050
6302313010
6302313050
6302315050
6302317010
6302319010
6302317020
6302319020
6302317040
6302319040
6302317050
6302319050

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1205 is proposed to be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In Section 1205.510(b) (2) and (3) are revised to read as follows:

§ 1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly average prices received by U.S. farmers will be calculated annually. Such average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $1.5057 per kilogram.

(3) The following table contains Harmonized Tariff Schedule (HTS) classification numbers and corresponding conversion factors and assessments. The left column of the following table indicates the HTS classifications of imported cotton and cotton-containing products subject to assessment. The center column indicates the conversion factor for determining the raw fiber content for each kilogram of the HTS. HTS numbers for raw cotton have no conversion factor in the table. The right column indicates the total assessment per kilogram of the article assessed.

(i) Any line item entry of cotton appearing on Customs entry documentation in which the value of the cotton contained therein is less than $220.99 will not be subject to assessments as described in this section.

(ii) In the event that any HTS number subject to assessment is changed and such change is merely a replacement of a previous number and has no impact on the physical properties, description, or cotton content of the product involved, assessments will continue to be collected based on the new number.

IMPORT ASSESSMENT TABLE

[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
5201000000	0.0000	1.1938
5201000500	0.0000	1.1938
5201001200	0.0000	1.1938
5201001400	0.0000	1.1938
5201001800	0.0000	1.1938
5201002200	0.0000	1.1938
5201002400	0.0000	1.1938
5201002800	0.0000	1.1938
5201003400	0.0000	1.1938
5201003800	0.0000	1.1938
5204110000	1.1111	1.3264
5204200000	1.1111	1.3264
5205111000	1.1111	1.3264
5205112000	1.1111	1.3264
5205121000	1.1111	1.3264
5205122000	1.1111	1.3264
5205131000	1.1111	1.3264
5205132000	1.1111	1.3264
5205141000	1.1111	1.3264
5205210000	1.1111	1.3264
5205220000	1.1111	1.3264
5205230000	1.1111	1.3264
5205240000	1.1111	1.3264
5205250000	1.1111	1.3264
5205310000	1.1111	1.3264
5205320000	1.1111	1.3264
5205330000	1.1111	1.3264
5205340000	1.1111	1.3264
5205410000	1.1111	1.3264
5205420000	1.1111	1.3264
5205440000	1.1111	1.3264
5205450000	1.1111	1.3264
5206120000	0.5556	0.6633
5206130000	0.5556	0.6633
5206140000	0.5556	0.6633
5206220000	0.5556	0.6633
5206230000	0.5556	0.6633
5206240000	0.5556	0.6633
5206310000	0.5556	0.6633
5207100000	1.1111	1.3264
5207900000	0.5556	0.6633
5208112020	1.1455	1.3675
5208112040	1.1455	1.3675
5208112090	1.1455	1.3675
5208114020	1.1455	1.3675
5208114060	1.1455	1.3675
5208114090	1.1455	1.3675
5208118090	1.1455	1.3675
5208124020	1.1455	1.3675
5208124040	1.1455	1.3675
5208124090	1.1455	1.3675
5208126020	1.1455	1.3675
5208126040	1.1455	1.3675
5208126060	1.1455	1.3675
5208126090	1.1455	1.3675
5208128020	1.1455	1.3675
5208128090	1.1455	1.3675
5208130000	1.1455	1.3675
5208192020	1.1455	1.3675
5208192090	1.1455	1.3675
5208194020	1.1455	1.3675
5208194090	1.1455	1.3675
5208196020	1.1455	1.3675
5208196090	1.1455	1.3675
5208224040	1.1455	1.3675

VOL 60 ISS 86 MY 4 1995 UMI

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
5208224090	1.1455	1.3675
5208226020	1.1455	1.3675
5208226060	1.1455	1.3675
5208228020	1.1455	1.3675
5208230000	1.1455	1.3675
5208292020	1.1455	1.3675
5208292090	1.1455	1.3675
5208294090	1.1455	1.3675
5208296090	1.1455	1.3675
5208298020	1.1455	1.3675
5208312000	1.1455	1.3675
5208321000	1.1455	1.3675
5208323020	1.1455	1.3675
5208323040	1.1455	1.3675
5208323090	1.1455	1.3675
5208324020	1.1455	1.3675
5208324040	1.1455	1.3675
5208325020	1.1455	1.3675
5208330000	1.1455	1.3675
5208392020	1.1455	1.3675
5208392090	1.1455	1.3675
5208394090	1.1455	1.3675
5208396090	1.1455	1.3675
5208398020	1.1455	1.3675
5208412000	1.1455	1.3675
5208416000	1.1455	1.3675
5208418000	1.1455	1.3675
5208421000	1.1455	1.3675
5208423000	1.1455	1.3675
5208424000	1.1455	1.3675
5208425000	1.1455	1.3675
5208430000	1.1455	1.3675
5208492000	1.1455	1.3675
5208494020	1.1455	1.3675
5208494090	1.1455	1.3675
5208496010	1.1455	1.3675
5208496090	1.1455	1.3675
5208498090	1.1455	1.3675
5208512000	1.1455	1.3675
5208516060	1.1455	1.3675
5208518090	1.1455	1.3675
5208523020	1.1455	1.3675
5208523040	1.1455	1.3675
5208523090	1.1455	1.3675
5208524020	1.1455	1.3675
5208524040	1.1455	1.3675
5208524060	1.1455	1.3675
5208525020	1.1455	1.3675
5208530000	1.1455	1.3675
5208592020	1.1455	1.3675
5208592090	1.1455	1.3675
5208594090	1.1455	1.3675
5208596090	1.1455	1.3675
5209110020	1.1455	1.3675
5209110030	1.1455	1.3675
5209110090	1.1455	1.3675
5209120020	1.1455	1.3675
5209120040	1.1455	1.3675
5209190020	1.1455	1.3675
5209190040	1.1455	1.3675
5209190060	1.1455	1.3675
5209190090	1.1455	1.3675
5209210090	1.1455	1.3675
5209220020	1.1455	1.3675
5209220040	1.1455	1.3675
5209290040	1.1455	1.3675
5209290090	1.1455	1.3675
5209313000	1.1455	1.3675
5209316020	1.1455	1.3675
5209316030	1.1455	1.3675

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
5209316050	1.1455	1.3675
5209316090	1.1455	1.3675
5209320020	1.1455	1.3675
5209320040	1.1455	1.3675
5209390020	1.1455	1.3675
5209390040	1.1455	1.3675
5209390060	1.1455	1.3675
5209390080	1.1455	1.3675
5209390090	1.1455	1.3675
5209413000	1.1455	1.3675
5209416020	1.1455	1.3675
5209416040	1.1455	1.3675
5209420020	1.0309	1.2307
5209420040	1.0309	1.2307
5209430020	1.1455	1.3675
5209430040	1.1455	1.3675
5209490020	1.1455	1.3675
5209490090	1.1455	1.3675
5209516030	1.1455	1.3675
5209516050	1.1455	1.3675
5209520020	1.1455	1.3675
5209590020	1.1455	1.3675
5209590040	1.1455	1.3675
5209590090	1.1455	1.3675
5210114020	0.6873	0.8205
5210114040	0.6873	0.8205
5210116020	0.6873	0.8205
5210116040	0.6873	0.8205
5210116060	0.6873	0.8205
5210118020	0.6873	0.8205
5210120000	0.6873	0.8205
5210192090	0.6873	0.8205
5210214040	0.6873	0.8205
5210216020	0.6873	0.8205
5210216060	0.6873	0.8205
5210218020	0.6873	0.8205
5210314020	0.6873	0.8205
5210314040	0.6873	0.8205
5210316020	0.6873	0.8205
5210318020	0.6873	0.8205
5210414000	0.6873	0.8205
5210416000	0.6873	0.8205
5210418000	0.6873	0.8205
5210498090	0.6873	0.8205
5210514040	0.6873	0.8205
5210516020	0.6873	0.8205
5210516040	0.6873	0.8205
5210516060	0.6873	0.8205
5211110090	0.6873	0.8205
5211120020	0.6873	0.8205
5211190020	0.6873	0.8205
5211190060	0.6873	0.8205
5211210030	0.4165	0.4972
5211210050	0.6873	0.8205
5211290090	0.6873	0.8205
5211320020	0.6873	0.8205
5211390040	0.6873	0.8205
5211390060	0.6873	0.8205
5211490020	0.6873	0.8205
5211490090	0.6873	0.8205
5211590020	0.6873	0.8205
5212146090	0.9164	1.094
5212156020	0.9164	1.094
5212216090	0.9164	1.094
5309214010	0.2864	0.3419
5309214090	0.2864	0.3419
5309294010	0.2864	0.3419
5311004000	0.9164	1.094
5407810010	0.5727	0.6837
5407810030	0.5727	0.6837

VOL 60 ISS 86 MY 4 1995 UMI

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
5407912020	0.4009	0.4786
5408312020	0.4009	0.4786
5408329020	0.4009	0.4786
5408349020	0.4009	0.4786
5408349090	0.4009	0.4786
5509530030	0.5556	0.6633
5509530060	0.5556	0.6633
5513110020	0.4009	0.4786
5513110040	0.4009	0.4786
5513110060	0.4009	0.4786
5513110090	0.4009	0.4786
5513120000	0.4009	0.4786
5513130020	0.4009	0.4786
5513210020	0.4009	0.4786
5513310000	0.4009	0.4786
5514120020	0.4009	0.4786
5516420060	0.4009	0.4786
5516910060	0.4009	0.4786
5516930090	0.4009	0.4786
5601210010	1.1455	1.3675
5601210090	1.1455	1.3675
5601300000	1.1455	1.3675
5602109090	0.5727	0.6837
5602290000	1.1455	1.3675
5602906000	0.526	0.6279
5604900000	0.5556	0.6633
5607902000	0.8889	1.0612
5608901000	1.1111	1.3264
5608902300	1.1111	1.3264
5609001000	1.1111	1.3264
5609004000	0.5556	0.6633
5701104000	0.0556	0.0664
5701109000	0.1111	0.1326
5701901010	1.0444	1.2468
5702109020	1.1	1.3132
5702312000	0.0778	0.0929
5702411000	0.0722	0.0862
5702412000	0.0778	0.0929
5702421000	0.0778	0.0929
5702913000	0.0889	0.1061
5702991010	1.1111	1.3264
5702991090	1.1111	1.3264
5703900000	0.4489	0.5359
5801210000	1.1455	1.3675
5801230000	1.1455	1.3675
5801250010	1.1455	1.3675
5801250020	1.1455	1.3675
5801260020	1.1455	1.3675
5802190000	1.1455	1.3675
5802300030	0.5727	0.6837
5804291000	1.1455	1.3675
5806200000	0.3534	0.4219
5806310000	1.1455	1.3675
5806400000	0.4296	0.5129
5808107000	0.5727	0.6837
5808900010	0.5727	0.6837
5811002000	1.1455	1.3675
6001106000	1.1455	1.3675
6001210000	0.8591	1.0256
6001220000	0.2864	0.3419
6001910010	0.8591	1.0256
6001910020	0.8591	1.0256
6001920020	0.2864	0.3419
6001920030	0.2864	0.3419
6001920040	0.2864	0.3419
6002203000	0.8681	1.0363
6002206000	0.2894	0.3455
6002420000	0.8681	1.0363
6002430010	0.2894	0.3455
6002430080	0.2894	0.3455

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
6002921000	1.1574	1.3817
6002930040	0.1157	0.1381
6002930060	0.1157	0.1381
6101200010	1.0094	1.205
6101200020	1.0094	1.205
6102200010	1.0094	1.205
6102200020	1.0094	1.205
6103421020	0.8806	1.0513
6103421040	0.8806	1.0513
6103421050	0.8806	1.0513
6103421070	0.8806	1.0513
6103431520	0.2516	0.3004
6103431540	0.2516	0.3004
6103431550	0.2516	0.3004
6103431570	0.2516	0.3004
6104220040	0.9002	1.0747
6104220060	0.9002	1.0747
6104320000	0.9207	1.0991
6104420010	0.9002	1.0747
6104420020	0.9002	1.0747
6104520010	0.9312	1.1117
6104520020	0.9312	1.1117
6104622010	0.8806	1.0513
6104622015	0.8806	1.0513
6104622025	0.8806	1.0513
6104622030	0.8806	1.0513
6104622060	0.8806	1.0513
6104632010	0.3774	0.4505
6104632025	0.3774	0.4505
6104632030	0.3774	0.4505
6104632060	0.3774	0.4505
6104692030	0.3858	0.4606
6105100010	0.985	1.1759
6105100020	0.985	1.1759
6105100030	0.985	1.1759
6105202010	0.3078	0.3675
6105202030	0.3078	0.3675
6106100010	0.985	1.1759
6106100020	0.985	1.1759
6106100030	0.985	1.1759
6106202010	0.3078	0.3675
6106202030	0.3078	0.3675
6107110010	1.1322	1.3516
6107110020	1.1322	1.3516
6107120010	0.5032	0.6007
6107210010	0.8806	1.0513
6107220015	0.3774	0.4505
6107220025	0.3774	0.4505
6107910040	1.2581	1.5019
6108210010	1.2445	1.4857
6108210020	1.2445	1.4857
6108310010	1.1201	1.3372
6108310020	1.1201	1.3372
6108320010	0.2489	0.2971
6108320015	0.2489	0.2971
6108320025	0.2489	0.2971
6108910005	1.2445	1.4857
6108910015	1.2445	1.4857
6108910025	1.2445	1.4857
6108910030	1.2445	1.4857
6108920030	0.2489	0.2971
6109100005	0.9956	1.1885
6109100007	0.9956	1.1885
6109100009	0.9956	1.1885
6109100012	0.9956	1.1885
6109100014	0.9956	1.1885
6109100018	0.9956	1.1885
6109100023	0.9956	1.1885
6109100027	0.9956	1.1885
6109100037	0.9956	1.1885

VOL 60 ISS 86 MY 4 1995 UMI

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
6109100040	0.9956	1.1885
6109100045	0.9956	1.1885
6109100060	0.9956	1.1885
6109100065	0.9956	1.1885
6109100070	0.9956	1.1885
6109901007	0.3111	0.3714
6109901009	0.3111	0.3714
6109901049	0.3111	0.3714
6109901050	0.3111	0.3714
6109901060	0.3111	0.3714
6109901065	0.3111	0.3714
6109901090	0.3111	0.3714
6110202005	1.1837	1.4131
6110202010	1.1837	1.4131
6110202015	1.1837	1.4131
6110202020	1.1837	1.4131
6110202025	1.1837	1.4131
6110202030	1.1837	1.4131
6110202035	1.1837	1.4131
6110202040	1.1574	1.3817
6110202045	1.1574	1.3817
6110202065	1.1574	1.3817
6110202075	1.1574	1.3817
6110909022	0.263	0.314
6110909024	0.263	0.314
6110909030	0.3946	0.4711
6110909040	0.263	0.314
6110909042	0.263	0.314
6111201000	1.2581	1.5019
6111202000	1.2581	1.5019
6111203000	1.0064	1.2014
6111205000	1.0064	1.2014
6111206010	1.0064	1.2014
6111206020	1.0064	1.2014
6111206030	1.0064	1.2014
6111206040	1.0064	1.2014
6111305020	0.2516	0.3004
6111305040	0.2516	0.3004
6112110050	0.7548	0.9011
6112120010	0.2516	0.3004
6112120030	0.2516	0.3004
6112120040	0.2516	0.3004
6112120050	0.2516	0.3004
6112120060	0.2516	0.3004
6112390010	1.1322	1.3516
6112490010	0.9435	1.1264
6114200005	0.9002	1.0747
6114200010	0.9002	1.0747
6114200015	0.9002	1.0747
6114200020	1.286	1.5352
6114200040	0.9002	1.0747
6114200046	0.9002	1.0747
6114200052	0.9002	1.0747
6114200060	0.9002	1.0747
6114301010	0.2572	0.307
6114301020	0.2572	0.307
6114303030	0.2572	0.307
6115199010	1.0417	1.2436
6115922000	1.0417	1.2436
6115932020	0.2315	0.2764
6116101300	0.3655	0.4363
6116101720	0.8528	1.0181
6116926420	1.0965	1.309
6116926430	1.2183	1.4544
6116926440	1.0965	1.309
6116928800	1.0965	1.309
6117809010	0.9747	1.1636
6117809040	0.3655	0.4363
6201121000	0.948	1.1317
6201122010	0.8953	1.0688

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
6201122050	0.6847	0.8174
6201122060	0.6847	0.8174
6201134030	0.2633	0.3143
6201921000	0.9267	1.1063
6201921500	1.1583	1.3828
6201922010	1.0296	1.2291
6201922021	1.2871	1.5365
6201922031	1.2871	1.5365
6201922041	1.2871	1.5365
6201922051	1.0296	1.2291
6201922061	1.0296	1.2291
6201931000	0.3089	0.3688
6201933511	0.2574	0.3073
6201933521	0.2574	0.3073
6201999060	0.2574	0.3073
6202121000	0.9372	1.1188
6202122010	1.1064	1.3208
6202122025	1.3017	1.554
6202122050	0.8461	1.0101
6202122060	0.8461	1.0101
6202134005	0.2664	0.318
6202134020	0.333	0.3975
6202921000	1.0413	1.2431
6202921500	1.0413	1.2431
6202922026	1.3017	1.554
6202922061	1.0413	1.2431
6202922071	1.0413	1.2431
6202931000	0.3124	0.3729
6202935011	0.2603	0.3107
6202935021	0.2603	0.3107
6203122010	0.1302	0.1554
6203221000	1.3017	1.554
6203322010	1.2366	1.4763
6203322040	1.2366	1.4763
6203332010	0.1302	0.1554
6203392010	1.1715	1.3985
6203399060	0.2603	0.3107
6203422010	0.9961	1.1891
6203422025	0.9961	1.1891
6203422050	0.9961	1.1891
6203422090	0.9961	1.1891
6203424005	1.2451	1.4864
6203424010	1.2451	1.4864
6203424015	0.9961	1.1891
6203424020	1.2451	1.4864
6203424025	1.2451	1.4864
6203424030	1.2451	1.4864
6203424035	1.2451	1.4864
6203424040	0.9961	1.1891
6203424045	0.9961	1.1891
6203424050	0.9238	1.1028
6203424055	0.9238	1.1028
6203424060	0.9238	1.1028
6203431500	0.1245	0.1486
6203434010	0.1232	0.1471
6203434020	0.1232	0.1471
6203434030	0.1232	0.1471
6203434040	0.1232	0.1471
6203492010	0.1245	0.1486
6203498045	0.249	0.2973
6204132010	0.1302	0.1554
6204192000	0.1302	0.1554
6204198090	0.2603	0.3107
6204221000	1.3017	1.554
6204223030	1.0413	1.2431
6204223040	1.0413	1.2431
6204223050	1.0413	1.2431
6204223060	1.0413	1.2431
6204223065	1.0413	1.2431
6204292040	0.3254	0.3885

VOL
60
ISS
86
MY
4
1995
UMI

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
6204322010	1.2366	1.4763
6204322030	1.0413	1.2431
6204322040	1.0413	1.2431
6204423010	1.2728	1.5195
6204423030	0.9546	1.1396
6204423040	0.9546	1.1396
6204423050	0.9546	1.1396
6204423060	0.9546	1.1396
6204522010	1.2654	1.5106
6204522030	1.2654	1.5106
6204522040	1.2654	1.5106
6204522070	1.0656	1.2721
6204522080	1.0656	1.2721
6204533010	0.2664	0.318
6204584060	0.2664	0.318
6204622010	0.9961	1.1891
6204622025	0.9961	1.1891
6204622050	0.9961	1.1891
6204624005	1.2451	1.4864
6204624010	1.2451	1.4864
6204624020	0.9961	1.1891
6204624025	1.2451	1.4864
6204624030	1.2451	1.4864
6204624035	1.2451	1.4864
6204624040	1.2451	1.4864
6204624045	0.9961	1.1891
6204624050	0.9961	1.1891
6204624055	0.9854	1.1764
6204624060	0.9854	1.1764
6204624065	0.9854	1.1764
6204633510	0.2546	0.3039
6204633530	0.2546	0.3039
6204633532	0.2437	0.2909
6204633540	0.2437	0.2909
6204692510	0.249	0.2973
6204692540	0.2437	0.2909
6204699044	0.249	0.2973
6204699046	0.249	0.2973
6204699050	0.249	0.2973
6205202015	0.9961	1.1891
6205202020	0.9961	1.1891
6205202025	0.9961	1.1891
6205202030	0.9961	1.1891
6205202035	1.1206	1.3378
6205202046	0.9961	1.1891
6205202050	0.9961	1.1891
6205202060	0.9961	1.1891
6205202065	0.9961	1.1891
6205202070	0.9961	1.1891
6205202075	0.9961	1.1891
6205302010	0.3113	0.3716
6205302030	0.3113	0.3716
6205302040	0.3113	0.3716
6205302050	0.3113	0.3716
6205302070	0.3113	0.3716
6205302080	0.3113	0.3716
6206100040	0.1245	0.1486
6206303010	0.9961	1.1891
6206303020	0.9961	1.1891
6206303030	0.9961	1.1891
6206303040	0.9961	1.1891
6206303050	0.9961	1.1891
6206303060	0.9961	1.1891
6206403010	0.3113	0.3716
6206403030	0.3113	0.3716
6206900040	0.249	0.2973
6207110000	1.0852	1.2955
6207199010	0.3617	0.4318
6207210010	1.1085	1.3233
6207210030	1.1085	1.3233

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
6207220000	0.3695	0.4411
6207911000	1.1455	1.3675
6207913010	1.1455	1.3675
6207913020	1.1455	1.3675
6208210010	1.0583	1.2634
6208210020	1.0583	1.2634
6208220000	0.1245	0.1486
6208911010	1.1455	1.3675
6208911020	1.1455	1.3675
6208913010	1.1455	1.3675
6209201000	1.1577	1.3821
6209203000	0.9749	1.1638
6209205030	0.9749	1.1638
6209205035	0.9749	1.1638
6209205040	1.2186	1.4548
6209205045	0.9749	1.1638
6209205050	0.9749	1.1638
6209303020	0.2463	0.294
6209303040	0.2463	0.294
6210109010	0.2291	0.2735
6210403000	0.0391	0.0467
6210405020	0.4556	0.5439
6211111010	0.1273	0.152
6211111020	0.1273	0.152
6211118010	1.1455	1.3675
6211118020	1.1455	1.3675
6211320007	0.8461	1.0101
6211320010	1.0413	1.2431
6211320015	1.0413	1.2431
6211320030	0.9763	1.1655
6211320060	0.9763	1.1655
6211320070	0.9763	1.1655
6211330010	0.3254	0.3885
6211330030	0.3905	0.4662
6211330035	0.3905	0.4662
6211330040	0.3905	0.4662
6211420010	1.0413	1.2431
6211420020	1.0413	1.2431
6211420025	1.1715	1.3985
6211420060	1.0413	1.2431
6211420070	1.1715	1.3985
6211430010	0.2603	0.3107
6211430030	0.2603	0.3107
6211430040	0.2603	0.3107
6211430050	0.2603	0.3107
6211430060	0.2603	0.3107
6211430066	0.2603	0.3107
6212105020	0.2412	0.2879
6212109010	0.9646	1.1515
6212109020	0.2412	0.2879
6212200020	0.3014	0.3598
6212900030	0.1929	0.2303
6213201000	1.1809	1.4098
6213202000	1.0628	1.2688
6213901000	0.4724	0.564
6214900010	0.9043	1.0796
6216000800	0.2351	0.2807
6216001720	0.6752	0.8061
6216003800	1.2058	1.4395
6216004100	1.2058	1.4395
6217109010	1.0182	1.2155
6217109030	0.2546	0.3039
6301300010	0.8766	1.0465
6301300020	0.8766	1.0465
6302100010	1.1689	1.3954
6302215010	0.8182	0.9768
6302215020	0.8182	0.9768
6302217010	1.1689	1.3954
6302219010	0.8182	0.9768
6302217020	1.1689	1.3954

VOL 60 ISS 86 MY 4 1995 UMI

IMPORT ASSESSMENT TABLE—Continued
[Raw Cotton Fiber]

HTS classification	Conversion factor	Cents/kg.
6302219020	0.8182	0.9768
6302217050	1.1689	1.3954
6302219050	0.8182	0.9768
6302222010	0.4091	0.4884
6302222020	0.4091	0.4884
6302313010	0.8182	0.9768
6302313050	1.1689	1.3954
6302315050	0.8182	0.9768
6302317010	1.1689	1.3954
6302319010	0.8182	0.9768
6302317020	1.1689	1.3954
6302319020	0.8182	0.9768
6302317040	1.1689	1.3954
6302319040	0.8182	0.9768
6302317050	1.1689	1.3954
6302319050	0.8182	0.9768
6302322020	0.4091	0.4884
6302322040	0.4091	0.4884
6302402010	0.9935	1.186
6302511000	0.5844	0.6977
6302512000	0.8766	1.0465
6302513000	0.5844	0.6977
6302514000	0.8182	0.9768
6302600010	1.1689	1.3954
6302600020	1.052	1.2559
6302600030	1.052	1.2559
6302910005	1.052	1.2559
6302910015	1.1689	1.3954
6302910025	1.052	1.2559
6302910035	1.052	1.2559
6302910045	1.052	1.2559
6302910050	1.052	1.2559
6302910060	1.052	1.2559
6303110000	0.9448	1.1279
6303910000	0.6429	0.7675
6304111000	1.0829	1.2689
6304190500	1.052	1.2559
6304191000	1.1689	1.3954
6304191500	0.4091	0.4884
6304192000	0.4091	0.4884
6304910020	0.9351	1.1163
6304920000	0.9351	1.1163
6505901540	1.181	1.4099
6505902060	0.9935	1.186
6505902545	0.5844	0.6977

* * * * *

Dated: April 27, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–10950 Filed 5–3–95; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Environmental Qualification of Electric Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: The Commission has undertaken a major initiative to answer questions related to the environmental qualification (EQ) of electric equipment in nuclear power plants, 10 CFR 50.49. In November 1993, the Office of Nuclear Regulatory Research held a public workshop to obtain technical input for the formulation of EQ research program. One of the recommendations made at this workshop was that the NRC staff should review all previous work in the EQ area and endeavor to have its research program cost effective without duplicating past efforts.

The participants at the workshop stated that the focus of the NRC's attention should be on components such as cables and electrical penetrations, that are long lived and very burdensome to replace.

The NRC staff accepted these recommendations and the current research efforts are limited to EQ issues pertaining to cables. In this context, the staff plans to review approximately 300 EQ documents (test reports, technical papers and reports, etc.). The listing of these references is available in the NRC Public Document Room. The staff is seeking public input to determine the completeness of this list of references.

DATES: Submit additional references by June 16, 1995.

ADDRESSES: Chief, Rules Review and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Mr. Satish K. Aggarwal, Senior Program Manager, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–415–6005.

Dated at Rockville, MD, this 26th day of April 1995.

For the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 95–10725 Filed 5–3–95; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–04–AD]

Airworthiness Directives; Airbus Model A300 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Airbus Model A300 and A300–600 series airplanes. This proposal would require repetitive eddy current inspections to detect cracks at the aft spar web of the wings, and repair, if necessary. This proposal is prompted by reports indicating that cracks have been found in the rear spar web of the wings between ribs 1 and 2 of an in-service airplane and during testing on the fatigue test wing; the cracking occurred due to fatigue-related high shear stress. The actions specified by the proposed AD are intended to prevent such fatigue-related cracking, which could result in reduced structural integrity of the wing.

DATES: Comments must be received by June 13, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–04–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–04–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–04–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A300 and A300–600 series airplanes. The DGAC advises that cracks have been found in the rear spar web of the wings between ribs 1 and 2 of an in-service airplane and during testing of the fatigue test wing. In both cases, the cracks spanned across the tip of the build slot and to the nearest adjacent fastener hole. Investigation revealed that such cracking was caused by fatigue-related high shear stress experienced during the landing cycle. Further investigation revealed that the earliest damage to an in-service airplane was found on a Model A300–B2 series airplane that had accumulated 21,500 flight cycles. The crack in the fatigue test wing was discovered at 50,000 simulated flight cycles, and, subsequently, was monitored for an additional 12,000 flight cycles with no evidence of continued crack growth from the hole. Such fatigue-related cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the wing.

Airbus has issued Service Bulletin A300–57–0213, dated August 12, 1994, which is applicable to Model A300 series airplanes. This service bulletin describes procedures for repetitive high frequency eddy current (HFEC) inspections to detect cracks at the aft spar web of the wings, and repair, if necesaary. The DGAC classified this service bulletin as manadatory and issued French airworthiness directive 94–207–168(B), dated September 14, 1994, in order to assure the continued airworthiness of these airplanes in France.

Airbus also has issued Service Bulletin A300–57–6059, dated August 12, 1994, which is applicable to Model A300–600 series airplanes. This service bulletin describes procedures for repetitive high frequency eddy current (HFEC) inspections to detect cracks at the aft spar web of the wings, and repair, if necesaary. The DGAC plans to make this service bulletin mandatory when the Model A300–600 series airplane fleet leader approaches the accumulation of 21,600 total flight cycles, which is the recommended time for accomplishment of the initial inspection.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or

VOL
60
ISS
86
MY
4
1995
UMI

develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive eddy current inspections to detect cracks at the aft spar web of the wings, and repair, if necessary. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Operators should note the following differences between the procedures specified in the referenced Airbus service bulletins and the proposed requirements of this AD:

1. Airbus Service Bulletin A300–57–0213, paragraph 1.B.(5)(c), Accomplishment Timescale, makes allowances for airplanes that are close to or have exceeded the specified inspection threshold to fly an additional 1,000 or 1,800 flight cyles prior to the initial inspection, depending upon the number of flight cycles accumulated at the time that the operator received the service bulletin. This proposed AD, however, would allow those airplanes to fly additional 1,400 flight cycles after the effective date of this AD. The FAA considers that this number of flight cycles is a reasonable number for all affected airplanes, regardless of when the service bulletin was received.

2. Airbus Service Bulletin A300–57–0213, paragraph 1.B.(5)(d), Accomplishment Timescale; and Airbus Service Bulletin A300–57–6059, paragraph 1.B.(5)(c), Accomplishment Timescale; provide for adjustments of the inspection threshold and intervals specified in the service bulletin, under certain criteria related to the number and types of touch-and-go flights that have been accumulated on the airplane. The FAA considers that this criteria for adjustments may cause undue confusion among affected operators in attempting to calculate and/or record allowable or "non-allowable" types of touch-and-go flights and, therefore, has not included those provisions of the service bulletin in this proposed rule.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this requirement.

The FAA estimates that 89 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $16,020, or $180 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 95–NM–04–AD.

Applicability: All Model A300 and Model A300–600 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking in the rear spar web of the wings, which could result in reduced structural integrity of the wing, accomplish the following:

(a) For Model A300 B2 series airplanes: Prior to the accumulation of 18,000 total flight cycles or within 1,400 flight cycles after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) inspection to detect cracks of at the aft spar web of the wings, in accordance with Airbus Service Bulletin A300–57–0213, dated August 12, 1994. Repeat the inspection thereafter at intervals not to exceed 5,000 flight cycles.

(b) For Model A300 B4–103, and B4–2C series airplanes: Prior to the accumulation of 19,000 total flight cycles or within 1,400 flight cycles after the effective date of this AD, whichever occurs later, perform an HFEC inspection to detect cracks at the aft spar web of the wings, in accordance with Airbus Service Bulletin A300–57–0213, dated August 12, 1994. Repeat the inspection thereafter at intervals not to exceed 6,000 flight cycles.

(c) For Model A300 B4–200 series airplanes: Prior to the accumulation of 17,000 total flight cycles or within 1,400 flight cycles after the effective date of this AD, whichever occurs later, perform an HFEC inspection to detect cracks at the aft spar web of the wings, in accordance with Airbus Service Bulletin A300–57–0213, dated August 12, 1994. Repeat the inspection thereafter at intervals not to exceed 5,000 flight cycles.

(d) For Model A300–600 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, and F4–605R series airplanes: Prior to the accumulation of 21,600 flight cycles, perform an HFEC inspection to detect cracks at the aft spar web of the wings, in accordance with Airbus Service Bulletin A300–57–6059, dated August 12, 1994. Repeat the inspection thereafter at intervals not to exceed 5,700 flight cycles.

(e) If any crack is detected during any inspection required by this AD, prior to further flight, repair the crack in accordance with Airbus Service Bulletin A300–57–0213, dated August 12, 1994, or Airbus Service Bulletin A300–57–6059, dated August 12, 1994, as applicable; or in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 28, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10988 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–NM–31–AD]

Airworthiness Directives; Beech Model 400 and 400A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech Model 400 and 400A airplanes. This proposal would require modification of the autopilot and rudder boost interlock. This proposal is prompted by a report indicating that the rudder boost system installed on these airplanes does not operate correctly during deployment of a thrust reverser. The actions specified by the proposed AD are intended to prevent incorrect operation of the rudder boost system during deployment of a thrust reverser and to prevent the autopilot from exceeding certain bank angle limits; these conditions could result in reduced controllability of the airplane.

DATES: Comments must be received by June 13, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Beech Aircraft Corporation, Commercial Service Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Dale Vassalli, Aerospace Engineer, Systems and Equipment Branch, ACE–130W, FAA, Wichita Aircraft Certification Office, Small Airplane Directorate, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4132; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95–NM–31–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–31–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The FAA received a report from the airplane manufacturer indicating that, during ground operation, the rudder boost system installed on Beech Model 400 and 400A airplanes is disabled only when the left thrust reverser is deployed. Operation of either the right or left thrust reverser during ground operation should disable the rudder boost system. Additionally, during flight, the rudder boost system on these airplanes is disabled when inadvertent deployment of the left thrust reverser occurs. However, inadvertent deployment of a thrust reverser should not disable the rudder boost system.

The FAA also discovered that, when landing the airplane with a failed left engine, use of the right thrust reverser will result in a rudder boost in the wrong direction. (When landing with a failed right engine, use of the left thrust reverser will disable the rudder boost system, as it should.) Further, inadvertent deployment of the left thrust reverser will result in disengagement of the rudder boost system. Should this condition occur during takeoff, rudder forces could exceed the limits specified in the Federal Aviation Regulations (FAR).

These conditions, if not corrected, could result in reduced controllability of the airplane.

The FAA has reviewed and approved Beechcraft Service Bulletin No. 2533, dated October 1994, which describes procedures for modification of the autopilot and rudder boost interlock. The modification entails installing an autopilot and rudder boost improvement kit. Installation of the kit will disable the rudder boost feature during operation of the thrust reverser with only one engine operating in order to alleviate control input requirements. In addition, the service bulletin describes removal of a placard if one

VOL 60 ISS 86 MY 4 1995 UMI

was installed in accordance with Beechcraft Service Bulletin No. 2502, dated May 1993.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the autopilot and rudder boost interlock. The actions would be required to be accomplished in accordance with the service bulletin described previously.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 92 Model 400 and 400A airplanes of the affected design in the worldwide fleet. The FAA estimates that 69 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 24 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $99,360, or $1,440 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Beech Aircraft Corporation: Docket 95–NM–31–AD.

Applicability: Model 400 airplanes, serial RJ–61; and Model 400A airplanes, serials RK–1 through RK–77 inclusive, and RK–79 through RK–92 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane, accomplish the following:

(a) At the next scheduled inspection, but no later than 200 hours time-in-service after the effective date of this AD, install an autopilot and rudder boost improvement kit in accordance with Beechcraft Service Bulletin No. 2533, dated October 1994.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished. Issued in Renton, Washington, on April 28, 1995.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10989 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–13–U

Coast Guard

33 CFR Part 117

[CGD01–95–009]

RIN 2115–AE47

Drawbridge Operation Regulations; Connecticut River, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a change to the regulations for the Route 82 Bridge at mile 16.8 over the Connecticut River, between East Haddam and Haddam, Connecticut. This proposal would provide openings for recreational vessels only on the hour and half-hour from 15 May through 31 October, between 9 a.m. and 9 p.m. Commercial vessels would continue to be granted bridge openings at all times. This action should ease traffic delays and still meet the reasonable needs of navigation.

This proposal would also require bridge owners to install clearance gauges at the AMTRAK Old Saybrook-Old Lyme Bridge, the CONRAIL Middletown-Portland Bridge and the Route 82 Bridge to assist mariners in determining if their vessels can pass under the bridges and thereby reduce the number of unnecessary openings at time when the draw is not required to open.

This change was requested by the Connecticut Department of Transportation (CONNDOT) to provide relief from traffic delays caused by frequent, unscheduled bridge openings.

DATES: Comments must be received on or before July 3, 1995.

ADDRESSES: Comments may be mailed to Commander (obr), First Coast Guard District, Building 135A, Governors Island, New York, 10004–5073, or may be hand-delivered to the same address between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. The telephone number is (212) 668–7170. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Kassof, Bridge Administrator, First Coast Guard District, (212) 668–7069.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–95–009), the specific section of this proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½" by 11", suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period, and may change this proposal in light of comments received. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (obr), First Coast Guard District at the address listed under **ADDRESSES.** The request should include reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The drafters of this notice are Mr. Waverly W. Gregory, Jr., Project Manager, Bridge Branch, and Lieutenant Commander Samuel R. Watkins, Project Counsel, District Legal Office.

Background and Purpose

The Route 82 Bridge over the Connecticut River, at mile 16.8 between East Haddam and Haddam, Connecticut, has vertical clearances of 22' above mean high water (MHW) and 25' above mean low water (MLW). The Coast Guard previously published a temporary final rule (57 FR 24191; June 2, 1992) that required the bridge to open for recreational vessels only on the hour and half-hour from 22 May through 31 October, 1992 between 9 a.m. and 9 p.m. on Fridays, Saturdays, Sundays, and federal holidays. Interested persons were given until November 13, 1992 to submit comments. No comments were received; a public hearing was not requested nor was one held.

Upon the expiration of the temporary final rule in October, 1992, the bridge reverted to the general operating regulations contained in 33 CFR part 117, subpart A. These regulations required the draw to open for all vessels on signal at all times. However, in 1993 and 1994, from 15 May to 15 October, from 9 a.m. to 9 p.m., CONNDOT implemented hourly and half-hourly openings for recreational vessels on Saturdays, Sundays, and federal holidays without Coast Guard approval.

The Town of East Haddam and CONNDOT have since requested the Coast Guard to consider a change to the special operating regulations for the Route 82 Bridge to provide for hourly and half hourly openings from 9 a.m. to 9 p.m. during the summer.

In 1993 and 1994, CONNDOT left the signs for the temporary regulations from the 1992 season in place, unofficially implementing half-hourly openings for recreational vessels from 15 May to 15 October, between 9 a.m. and 9 p.m., on weekends and federal holidays. The Coast Guard has not received any complaints or inquiries concerning this unofficial operating schedule implemented during 1993 and 1994.

The proposed regulations for the Route 82 Bridge would provide openings for recreational vessels on the hour and half hour, daily from 15 May to 31 October, between 9 a.m. and 9 p.m. Openings for commercial vessels would be provided on signal at all times.

Analysis of the bridge logs for 1990, 1991 and 1992 indicated that spring and fall transient recreational boating traffic on the weekends created the greatest potential for disruption of vehicular traffic due to back-to-back openings. Additionally, on Fridays and weekends during the summer months there were frequent, untimely openings affecting persons attending concerts and plays at the Goodspeed Opera House in East Haddam. Analysis of the 1992 and 1993 bridge logs showed that a majority of the recreational vessels requiring openings transited the bridge on the hour and half hour from Monday through Thursday as well as weekends during the summer period.

Discussion of Proposed Amendments

Under this proposal 33 CFR 117.205 would be revised to remove dedundant language and requirements that are included elsewhere in the CFR as general Part 117 operating regulations.

Paragraph (a)(1)(i) and paragraph (a)(1)(ii) from the existing regulation would be deleted as unnecessary because trains are now controlled by the block method. Under this method the track is divided into blocks or segments of a mile or more in length. When a train is in a block with a drawbridge, the draw may not open until the train has passed out of the block. This requirement is contained in 33 CFR 117.9 as a general requirement for bridges.

This proposal would also require bridge owners to install clearance gauges at the AMTRAK Old Saybrook-Old Lyme Bridge, the CONRAIL Middletown-Portland Bridge and the Route 82 Bridge as part of a new paragraph (a). This proposed requirement would assist mariners in determining if their vessels can pass under the Route 82 Bridge during periods when the draw need not be opened and would eliminate unnecessary openings at the other bridges.

Paragraph (b) in the existing regulations would be revised because the requirement to fully open is provided in 33 CFR 117.5 of the general operating regulations. The revised paragraph (b) would add the proposed regulations to formalize the current, unofficial operating regulations at the Route 82 Bridge.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies

VOL
60
ISS
86
MY
4
1995
UMI

and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is based upon the fact that commercial vessels are unaffected by the proposal and that the regulations will not prevent recreational boaters from transiting the bridge. Rather it will only require them to adjust their time of arrival for openings on the hour and half hour.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this action, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and it has determined that this proposed regulation does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994) this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.205 is revised to read as follows:

§ 117.205 Connecticut River.

(a) The owners of the AMTRAK Old Saybrook-Old Lyme Bridge, mile 3.4, the Route 82 Bridge, mile 16.8 and the Conrail Middletown Bridge, mile 32.0 shall provide, and keep in good legible condition, clearance gauges with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of section 118.160 of this chapter.

(b) The draws of the AMTRAK Old Saybrook-Old Lyme Bridge, mile 3.4, and the CONRAIL Middletown-Portland Bridge, mile 32.0 shall be opened as soon as practicable for all noncommercial vessels that cannot pass under the closed bridges, but in no case shall the delay be more than 20 minutes from the time the opening was requested.

(c) The draw of the Route 82 Bridge, mile 16.8 at East Haddam, shall open on signal except that, from 15 May to 31 October between 9 a.m. and 9 p.m., the draw need open for recreational vessels on the hour and half-hour only. The draw shall open on signal for commercial vessels at all times.

Dated: April 19, 1995.

J.L. Linnon,

Rear Admiral, U.S. Coast Guard Commander, First Coast Guard District.

[FR Doc. 95–10922 Filed 5–3–95; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AH10

Determinations of Incompetency and Competency

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations concerning determinations of mental incompetency to make clear that only rating boards are authorized to make determinations of incompetency.

DATES: Comments must be received on or before July 3, 1995.

ADDRESSES: Mail written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or hand-deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001. Comments should indicate that they are in response to "RIN 2900–AH10." All written comments received will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: Regulations at 38 CFR 3.353 govern VA determinations of competency and incompetency. 38 CFR 3.353(a) defines a mentally incompetent person as one who lacks the mental capacity to manage his or her own affairs, including disbursement of funds without limitation. 38 CFR 3.353(b) was intended to authorize rating boards to make determinations of competency and incompetency for VA purposes without involvement of a Veterans Services Officer (VSO).

In a recent decision (Coleman v Brown, No. 90–966) the United States Court of Veterans Appeals interpreted § 3.353(b) as requiring VSO participation prior to determination of the issue of incompetency. Although the VSO was meant to play an integral role in developing evidence relating to the veteran's ability to handle his or her affairs, the intent of the regulation was to give rating boards sole responsibility for incompetency determinations without the VSO participating in the decision. See 38 CFR 3.104(a). Although it was intended that evidence produced by the VSO could lead to later reconsideration of the incompetency determination, it was not intended that the VSO's concurrence be a condition precedent to rating a beneficiary incompetent. The VSO's investigation was meant merely to provide an additional safeguard which could lead to later review.

The proposed amendment provides that the rating board has sole authority to determine the competency of beneficiaries, but that if the VSO develops new information bearing on the issue of the beneficiary's competency, the rating board will consider that evidence together with all other evidence of record to determine whether the prior determination of incompetency should remain in effect. Paragraph (b)(2) provides that the Adjudication Officer will authorize disbursement to an incompetent beneficiary as directed by the VSO (e.g., supervised direct payment, payment to a fiduciary, or payment to the beneficiary's spouse). Additional nonsubstantive changes would be made in the wording and format of § 3.353(b) for the sake of clarity.

The Secretary hereby certifies that these regulatory amendments would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The amendments would not directly affect any small entities. Only VA beneficiaries would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of section 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: April 11, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR Part 3 is amended to read as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.353 is amended by revising paragraph (b) to read as follows:

§ 3.353 Determinations of incompetency and competency.

* * * * *

(b) *Authority.* (1) Rating agencies have sole authority to make official determinations of competency and incompetency for the purpose of existing laws, Department of Veterans Affairs regulations and Department of Veterans Affairs instructions. Such determinations are final and binding on field stations for purposes of: insurance (38 U.S.C. 1922), the discontinuance and payment of amounts withheld because of an estate in excess of $1,500 (§ 3.557(b)), and, subject to § 13.56 of this chapter, disbursement of benefits.

(2) Where the beneficiary is rated incompetent, the Adjudication Officer will inform the Veterans Services Officer of jurisdiction of that fact. The Veterans Services Officer will develop information as to the beneficiary's social, economic and industrial adjustment and appoint (or recommend appointment of) a fiduciary as provided in § 13.55 of this chapter, select a method of disbursing payment as provided in § 13.56 of this chapter, or in the case of a married beneficiary, appoint the beneficiary's spouse to receive payments as provided in § 13.57 of this chapter. The Adjudication Officer will authorize disbursement of the benefit in the manner selected by the Veterans Services Officer.

(3) If in the course of fulfilling the responsibilities assigned in paragraph (b)(2) the Veterans Services Officer develops evidence indicating that the beneficiary may be capable of administering the funds payable without limitation, he or she will refer that evidence to the rating agency with a statement as to his or her findings. The rating agency will consider this evidence, together with all other evidence of record, to determine whether its prior determination of incompetency should remain in effect. Reexamination may be requested as provided in § 3.327(a) if necessary to properly evaluate the beneficiary's mental capacity to contract or manage his or her own affairs.

* * * * *

[FR Doc. 95–10936 Filed 5–3–95; 8:45 am]

BILLING CODE 8320–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM95–4]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is soliciting comments on a Postal Service petition, including proposed rules for initiation of a rulemaking on procedural changes intended to foster expedition, flexibility and innovation in seven aspects of ratemaking and classification. Proposed rules accompanied the petition. The changes are based in part on recommendations in a joint Postal Service/Postal Rate Commission task force report on improvements in the ratemaking process. The proposed rules generally provide for a lesser amount of initial supporting documentation in Postal Service requests for certain rate and classification changes and a specific, limited period for public comments and Commission review of those requests.

DATES: Comments must be submitted on or before July 5, 1995.

ADDRESSES: Comments and correspondence should be sent to Margaret Crenshaw, Secretary of the Commission, 1333 H Street NW, Suite 300, Washington, DC 20068–0001 (telephone: 202/789–6840).

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street NW, Suite 300, Washington, DC 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: On April 13, 1995, the Postal Service filed with the Commission a petition for initiation of a rulemaking involving changes in, or additions to, procedural mechanisms for handling certain rate and classification matters. In support thereof, the petition asserts a keen interest on the part of postal management and the Governors in improving approaches to general rate changes. The petition also acknowledges the influence of certain recommendations of the Joint Task Force on Postal Ratemaking (June 1, 1992). The petition, the Joint Task Force's report, and other reports referred to in the Service's petition are on file in the Commission's Docket Room. A summary of the proposed changes, a number of additional related topics for consideration. The text of the rule changes proposed by the Postal Service may be obtained from the Secretary of the Commission upon request.

"Limited Scope" Rate Cases

Citing the Joint Task Force's acknowledgement that certain circumstances might call for limited adjustments to rates outside the context of an omnibus rate proceeding, the Postal Service proposes rules that would allow expedited, limited rate changes between rate cases. Petition at 7 (internal citation omitted). The Service says the rules are intended to permit extensive reliance on the most recent

VOL
60
ISS
86
MY
4
1995
UMI

general rate case, and to keep the inquiry narrowly focused on areas related to the limited nature of the change and the effects on revenues and costs. The rules would require the Commission to issue a recommended decision on requests that are not challenged within 60 days. If the request is challenged, a 90-day period for issuance of a Commission decision would apply. Ibid.

Rate Bands

The Service indicates that its proposal for rate bands for competitive services adopts the Joint Task Force's framework of establishing a range within a general rate proceeding, but differs in several other respects. Id. at 8. For example, instead of a written notice procedure, the proposed rules create a mechanism in general rate cases for establishing a band of rates for competitive services based on a range of markups over attributable costs, and an aggregate institutional cost contribution for each product or service classified as competitive. The band and contribution thereby established would serve as the criteria for recommending rates in each general rate case and for changing rates within the bands between cases. Provisions in the Domestic Mail Classification Schedule (DMCS) would identify certain categories of mail as eligible to benefit from rate band flexibility. Between general rate cases, the Service would submit to the Commission a request for a recommended decision on whether to adjust prices within the pre-established bands. The Commission would be required to issue a decision within 30 days if the request is not challenged, and within 60 days if challenged. The Service says it believes that a classification proceeding under existing rules would be adequate to create the necessary DMCS provision to implement the rate band mechanism.

Expedited Minor Classification Cases

The Service also proposes rules that would allow expedited treatment for certain narrowly focused, limited classification changes, such as those affecting mailing requirements, eligibility standards, and categories of service with low aggregate costs and revenues. Initial filing requirements would be less demanding than those applicable to more complex classification cases, and findings from the last omnibus rate case would not be relitigated. The Commission would be required to issue a recommended decision within 60 days if the Service's request is not challenged, and within 90 days if it is challenged.

Market Tests

The Postal Service asserts that its rules for market tests attempt to track elements of a procedure outlined in the Joint Task Force Report. Id. at 11. The proposed rules would allow consideration of proposals to obtain data from actual market testing of mail classification or rate changes. There would be limits on the scope, scale and duration of the test. Initially, only information available to support the experimental proposal and a description of the test and the plan for collecting the necessary additional data would need to be filed. Information obtained from the test could be considered in a later portion of the proceeding to determine whether the change should be made permanent. The scope of inquiry in the initial phase would be limited to issues of general legality, the design and necessity of the test, and the nature of any adverse effect on competitors or discrimination among mailers. The Commission would either recommend or not recommend the service as proposed, without modification. However, if the Commission made suggestions for modifications, the Service could incorporate those suggestions in a new request. The petition notes that the rules would embody a presumption in favor of innovation.

Provisional Services

The Service also proposes a mechanism for implementing the Joint Task Force's concept of new services with provisional status. The proposed rules would allow fast-track consideration of proposals to introduce a new service. The type of service eligible for this treatment, in line with the Joint Task Force's recommendation, would be one which supplements existing rates and classifications without changing any of them. The service would be approved initially for only a limited period, and subsequent review would be expected. This provisional status would justify an expedited, more limited degree of review. Although the service could affect future overall revenue requirements, it would not be tied to the rates for any existing class or category. The scope of inquiry would be limited to whether the proposal would have a material adverse effect on revenue or costs, or pose unnecessary or unreasonable harm for competitors. Commission approval or disapproval would be required within 90 days. As with the market test rules, the Postal Service could incorporate Commission modifications in a new request. In the absence of a showing of adverse effect or unreasonable harm to competitors, the rules contemplate that the Commission would recommend the provisional service.

Multi-Year Test Periods for New Services

The Service proposes rules authorizing the use of multi-year test periods for potential new services that are not expected to generate sufficient volumes and revenues to cover costs in their first year or two of existence, but which are expected to generate an appropriate contribution to institutional costs when they mature. Currently, the Commission recommends rates based on a comparison of costs and revenues over a one-year period soon after the implementation of a new service. The Service claims that the proposed rules would encourage innovation by examining costs and revenues for a new service over a multi-year period.

Negotiated Service Agreements

The petition notes that the proposed rules contemplate authorization for the Service to negotiate agreements with mailers. The Service would agree to provide mail services not currently included within the DMCS, at rates attractive to the mailer and beneficial to the Postal Service. The petition indicates that implementation of this proposal would involve two steps. One is introducing DMCS language enabling the Service to provide service in the context of a Negotiated Service Agreement (NSA). The other is establishing procedural rules to govern the actions undertaken by the Commission to allow such agreements to be placed into effect. Under the proposed DMCS provisions, only mailers who meet specified standards and who are willing to submit mailings within closely defined parameters would be eligible to enter NSAs. The negotiated rate must contribute a reasonable amount towards the recovery of institutional costs, with a minimum markup level identified as presumptively reasonable. Similarly situated mailers would be able to apply to receive the same service at the same rate. In addition to providing the text of the NSA, the Service would be required to demonstrate that the NSA would be beneficial to the Postal Service. The Commission would either approve or reject the tentative NSA as submitted. Furthermore, when the effective markup equals or exceeds the percentage amount previously specified as reasonable in the DMCS, the Commission could avoid further debate as to whether that markup is appropriate. The Commission would be required to issue a recommendation within 60 days.

Request for Comments

The Commission invites interested parties to submit their views on the subject matters addressed in the Service's petition, and on its substantive and procedural proposals. In particular, the Commission invites comments on the following topics.

1. The Service's petition acknowledges the influence of the Joint Task Force's recommendations on the development of its proposals. Does that report offer other recommendations not included in the Service's petition that warrant consideration?

2. The petition states, without further elaboration, that existing Commission and judicial precedent create impediments to accommodating many promising ideas for carrying out the Joint Task Force's recommendations. Id. at 4. The Postal Service is requested to specify to what judicial precedents the petition refers, and how the proposed rules accommodate these precedents.

3. Any commenter which considers one or more of these proposals to violate current law as judicially interpreted is requested to explain why that proposal might be considered unlawful. Comments addressing whether the proposals are consistent with the Administrative Procedure Act, 5 U.S.C. 556, 557, are requested to specify adequate time periods for various procedural steps.

4. The petition indicates that the proposed rules for market tests and provisional services include certain presumptions that would apply in evaluating Postal Service proposals. Id. at 11 and 13. Is inclusion of these presumptions an appropriate approach to Commission review of Service requests? Should these presumptions be specified in the rules?

5. The petition indicates that the Service and Governors believe that improvements in the ratemaking process may require direct legislative change or an explicit clarification that flexibilities already exist in the current law. Moreover, the petition states that certain fundamental changes in the law seem advisable in any event, particularly in basic structural matters and in substantive areas that have been the most controversial in the past. Petition at 3–4. The Postal Service is requested to explain what legislative changes it believes would be needed to foster further expedition and flexibility if the Commission were to adopt the proposed rules.

6. The petition acknowledges the Commission's workload, but nonetheless urges that a rulemaking docket be opened to consider the proposed changes. Petition at 5–6. Should the Commission consider all seven of these proposed changes at this time, or should part or all of the rulemaking be postponed? If some, but not all, of the proposals are considered at this time, which ones should be reviewed first, and which should be deferred? Why?

Issued by the Commission on April 24, 1995.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 95–10944 Filed 5–3–95; 8:45 am]

BILLING CODE 7710–FW–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201–23 and 201–24

Amendment of FIRMR Provisions Relating to GSA's Role in Screening Excess and Exchange/Sale Federal Information Processing (FIP) Equipment

AGENCY: Information Technology Service, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Federal Information Resources Management Regulation (FIRMR) to allow Federal agencies to screen and transfer excess and exchange/sale FIP equipment.

DATES: Comments are due: July 3, 1995.

ADDRESSES: Comments may be mailed to GSA/KAR, 18th and F Streets NW., Room 3224, Washington, DC 20405, Attn: R. Stewart Randall, or delivered to that address between 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: R. Stewart Randall, GSA, Office of Information Technology (IT) Policy and Leadership, Regulations Analysis Division (KAR), 18th and F Streets NW., Room 3224, Washington, DC 20405, telephone FTS/Commercial (202) 501–4469 (v) or (202) 501–4469 (tdd).

SUPPLEMENTARY INFORMATION: (1) Part 201–23 is being amended to delegate authority and responsibility to agencies regarding the screening and transfer of excess FIP equipment. Currently, the FIRMR requires Federal agencies to request GSA to interagency screen and transfer excess FIP equipment that is not outdated and has an original acquisition cost (OAC) per component of $1 million or more. It is not necessary for GSA to continue to operate this program on a centralized basis. Accordingly, the requirement for GSA to be directly involved in interagency screening and transfer of excess FIP equipment will be removed from the FIRMR.

(2) Explanation of the changes being made in this issuance are shown below:

(a) Section 201–23.000 "Scope of part" is revised by removing paragraphs (b), (c), and (d) to more succinctly describe the entire contents of this revised part.

(b) Section 201–23.001 paragraph (a)(2) is revised and paragraph (a)(4) is deleted to remove the references to the GSA Excess FIP Equipment Program. Agencies will no longer be required to submit to GSA information about their excess FIP equipment with the OAC above $1 million for GSA to do interagency screening.

(c) Section 201–23.001 paragraph (b) is deleted. Section 201–23.001 paragraph (c) is redesignated as paragraph (b).

(d) Section 201–23.002 paragraph (c) the sentence "Agencies may interagency screen and transfer excess FIP equipment without GSA approval" is added at the end of the paragraph.

(e) Paragraph (b) of section 201–23.003 is redesignated as (c) and a new paragraph (b) is added. In the newly designated section 201–23.003 paragraph (c)(1), the work "internal" will be removed because it is redundant in this context. The words "within the agency" are added at the end of the paragraph to distinguish these procedures for interagency screening from those GSA will require.

(f) Section 201–23.003(c) is redesignated as paragraph (d) and is completely revised to remove the mandatory reporting requirement for agencies to submit equipment with an OAC of $1 million or more to GSA for interagency screening purposes. The section will now show that agencies must offer to other Federal agencies excess FIP equipment with an OAC of $1 million or more in accordance with guidelines in FIRMR Bulletin C–2.

(g) Section 201–23.003(d) is redesignated as paragraph (e) and is revised to remove words indicating GSA's former role in interagency screening of agencies' excess FIP equipment.

(h) Paragraph (h) is added to § 201–23.003 to show that an agency may request GSA to review another agency's decision to transfer excess FIP equipment.

(i) Section 201–24.202 referencing the GSA Excess FIP Program as a mandatory for consideration program will be removed because changes to part 201–

VOL
60
ISS
86
MY
4
1995
UMI

23 and FIRMR Bulletin C–2 will make the references no longer valid.

(3) GSA has determined that this rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 201–23 and 201–24

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Property management, Records management, and Telecommunications.

Accordingly 41 CFR Ch. 201 is proposed to be amended as follows:

PART 201–23—DISPOSITION

Part 201–23 is revised to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

Sec.

201–23.000 Scope of part.
201–23.001 General.
201–23.002 Policies.
201–23.003 Procedures.

§ 201–23.000 Scope of part.

This part prescribes policies and procedures to be followed by agencies for disposing of Government-owned Federal information processing (FIP) equipment and software that is no longer needed for the purpose for which it was acquired.

§ 201–23.001 General.

(a) Government-owned FIP equipment that is no longer needed for the purpose for which it was acquired is either—

(1) Reassigned within the agency;

(2) Declared excess to the agency's needs and made available for transfer to another agency;

(3) Exchanged or sold as part of a transaction to acquire replacement FIP equipment; or

(4) Declared surplus and made available for donation.

(b) FIP software that is no longer needed for the purpose for which it was acquired is either—

(1) Reassigned within the agency consistent with the limitations of any applicable license; or

(2) Otherwise disposed of consistent with the limitations of any applicable license.

§ 201–23.002 Policies.

Agencies shall—

(a) Use FIP equipment of FIP software that is available for reassignment within the agency or by transfer from another agency when such use is the most advantageous alternative to satisfy the agency's requirements.

(b) Make available for reassignment within the agency FIP equipment that is not outdated and that is no longer needed for the purpose for which it was acquired.

(c) Make available for interagency screening and transfer to another agency, excess FIP equipment that is not outdated and has an original acquisition cost (OAC) per component of $1 million or more. Interagency transfer of FIP equipment that is not outdated with an OAC per component of less than $1 million, is permitted if the holding agency learns of a potential user outside of the screening process. Agencies may interagency screen and transfer excess FIP equipment without GSA approval.

(d) Make available for surplus donation or subsequent sale, excess FIP equipment not exchanged, sold, reassigned or transferred.

(e) Consistent with the limitations of any applicable license—

(1) Make available for reassignment within the agency FIP software that is no longer needed for the purpose for which it was acquired;

(2) Make available for interagency transfer, excess FIP software not exchanged or sold, if the holding agency learns of a potential user outside of the screening process (GSA does not require interagency screening of FIP software);

(3) For excess FIP software not reassigned, transferred, exchanged, or sold, either:

(i) Return it to the licensor, or

(ii) Destroy it after a duly authorized agency official determines in writing that destruction is the most cost-effective disposal approach.

§ 201–23.003 Procedures.

(a) Each agency head shall designate an agency point of contact of managing the disposition of FIP equipment and software. Each agency shall submit the name, address, and phone number of this individual to the General Services Administration, Acquisition Reviews Division (KAA), 18th & F Streets, NW., Washington, DC 20405.

(b) GSA will convene meetings with agency points of contacts periodically to discuss emerging issues relating to the disposition of excess FIP resources.

(c) Agencies shall—

(1) Establish procedures for the reassignment of FIP equipment and software within the agency; and

(2) Obtain approval from the agency DSO before reassigning outdated FIP equipment.

(d) Agencies shall offer excess FIP equipment that is not outdated and has an OAC per component of $1 million or more to other Federal agencies in accordance with FIRMR Bulletin C–2.

(e) Agencies may conduct exchange/sale transactions of FIP equipment and software not transferred to another agency without GSA approval. (Exchange/sale transactions for FIP equipment may be initiated in parallel with interagency screening, but screening of exchange/sale transactions with an OAC per component of $1 million or more shall be completed prior to concluding an exchange/sale transaction.) When an agency determines that FIP equipment will be replaced by exchanging or selling it, the agency shall follow the contracting policies and procedures in part 201–39 and the Federal Acquisition Regulation (FAR) and the policies and procedures on exchange/sale contained in 41 CFR part 101–46. FIP software transactions must be consistent with the limitations of any applicable license.

(f) Agencies shall make available for surplus donation or subsequent sale, in accordance with 41 CFR parts 101–44 and 101–45, excess FIP equipment not exchanged, sold, reassigned, or transferred.

(g) Agencies shall apply the policies and procedures of this part 201–23 to FIP equipment used by grantees and contractors when FIP equipment is—

(1) Acquired by the contractor or grantee under a contract or grant and the terms vest title in the Government or the Government is obligated or has the option to take over title;

(2) Furnished to the grantee or contractor by the Government (Transfer of excess FIP equipment to agency project grantees shall be conducted in accordance with 41 CFR 101–43.314.); or

(3) Operated by the grantee or contractor as part of a Government-owned or Government-controlled facility.

(h) Agencies may request GSA to review another agency's decision to transfer excess FIP equipment. Requests shall be sent to the General Services Administration, Acquisition Reviews Division, (KAA), 18th & F Streets, NW., Washington, DC 20405.

PART 201–24—GSA SERVICES AND ASSISTANCE

2. The authority citation for part 201–24 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

§ 201–24.202 [Reserved]

3. Section 201–24.202 is removed and reserved.

Dated: March 22, 1995.

Francis A. McDonough,

Acting Deputy Commissioner for Information Technology (IT) Policy and Leadership.

[FR Doc. 95–10999 Filed 5–3–95; 8:45 am]

BILLING CODE 6820–25–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–53, RM–8613]

Radio Broadcasting Services; Eugene, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Conway Broadcasting seeking the allotment of Channel 265A to Eugene, OR, as the community's fifth local FM service. Channel 265A can be allotted to Eugene with a site restriction of 7.1 kilometers (4.4 miles) southeast, at coordinates 44–00–52 North Latitude; 123–00–50 West Longitude, to avoid a short-spacing to the pending application (BPH–940708IZ) of Station KZUS-FM, Channel 264C2, Toledo, OR.

DATES: Comments must be filed on or before June 22, 1995, and reply comments on or before July 7, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lars Conway, Conway Broadcasting, 4415 Fremont Avenue, South, Minneapolis, MN 55409 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–53, adopted April 19, 1995, and released May 1, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–11013 Filed 5–3–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–49, RM–8556]

Radio Broadcasting Services; Llano and Marble Falls, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Maxagrid Broadcasting Corporation, licensee of Station KLKM(FM), Channel 284C3, Llano, Texas, seeking the substitution of Channel 285C3 for Channel 284C3, the reallotment of Channel 285C3 from Llano to Marble Falls, Texas, and the modification of Station's KLKM(FM)'s license to specify Marble Falls as the station's community of license. Channel 285C3 can be allotted to Marble Falls in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.1 kilometers (10.0 miles) southeast to accommodate Maxagrid's desired site. The coordinates for Channel 285C3 at Marble Falls are 30–26–45 and 98–11–45. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 285C3 at Marble Falls or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties. In addition, since Marble Falls is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

DATES: Comments must be filed on or before June 22, 1995, and reply comments on or before July 7, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John Joseph McVeigh, Esq., Multinational Legal Services, P.C., 11 Dupont Circle, Suite 700, Washington, D.C. 20036 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2173.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–49, adopted April 19, 1995, and released May 1, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments.

See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–11014 Filed 5–3–95; 8:45 am]

BILLING CODE 6712–01–F

VOL 60 ISS 86 MY 4 1995 UMI

47 CFR Part 73

[MM Docket No. 95–52, RM–8604]

Radio Broadcasting Services; Roann, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Roann Broadcasting seeking the allotment of FM Channel 270A to Roann, Indiana, as that community's first local aural transmission service. Coordinates used for Channel 270A at Roann are 40–55–18 North Latitude and 85–55–30 West Longitude. Roann is located within 320 kilometers (199 miles) of the Canadian border, and therefore, the Commission must obtain concurrence of that Government in this proposal.

DATES: Comments must be filed on or before June 22, 1995, and reply comments on or before July 7, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Matthew H. McCormick, Esq., Reddy, Begley, Martin & McCormick, 1001 - 22nd Street, NW, Suite 350, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–52, adopted April 19, 1995, and released May 1, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–11015 Filed 5–3–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–51, RM–8591]

Radio Broadcasting Services; Shingletown, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Mark C. Allen, seeking the allotment of Channel 232A to Shingletown, California, as that community's second local FM service. Coordinates used for this proposal are North Latitude 40–29–33 and West Longitude 121–53–17.

DATES: Comments must be filed on or before June 22, 1995, and reply comments on or before July 7, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mark C. Allen, 3745 McHale Way, Redding, CA 96001.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–51, adopted April 19, 1995, and released May 1, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–11016 Filed 5–3–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–50, RM–8581]

Radio Broadcasting Services; Willcox, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of William S. Konopnicki, licensee of Station KWCX-FM, Channel 252A, Willcox, Arizona, seeking the substitution of Channel 285C3 for Channel 252A and modification of his license accordingly to specify operation on the higher powered channel. Coordinates for this proposal are 32–14–48 and 109–39–52. Willcox is located within 320 kilometers (199 miles) of the United States-Mexico border, and therefore, the Commission must obtain concurrence of the Mexican government to this proposal.

Additionally, petitioner's modification proposal is consistent with the provisions of Section 1.420(g)(2) of the Commission's Rules as he demonstrated that an additional equivalent channel can be allotted to Willcox in the event other parties express an interest in the proposal. Therefore, we will not accept competing expressions of interest in the use of Channel 285C3 at Willcox.

DATES: Comments must be filed on or before June 22, 1995, and reply comments on or before July 7, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC,

interested parties should serve the petitioner's consultant, as follows: Dennis Silver, P.E., 3404 West 2640 South, West Valley City, Utah 84119–1625.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95–50, adopted April 17, 1995, and released May 1, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–11017 Filed 5–3–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 90

[PR Docket No. 89–553, GN Docket No. 93–252, PP Docket No. 93–253, FCC 95–159]

Implementation of Section 309(j) of the Communications Act—900 MHz SMR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopted a *Second Further Notice of Proposed Rule Making* seeking comment on proposed licensing and auction rules to complete the licensing of the 900 MHz Specialized Mobile Radio (SMR) service. This Order implements the Commission's decision in the *Third Report & Order* in GN Docket No. 93–252, 59 FR 59,945 (Nov. 21, 1994) (*CMRS Third Report & Order*), to license the 900 MHz band on a Major Trading Area (MTA) basis, and to use competitive bidding to select from among mutually exclusive applicants. This Second Further Notice requests comment on proposed new licensing rules and auction procedures for the service, including special provisions for small businesses, minority-owned and women-owned entities, and rural telephone companies.

DATES: Comments must be filed on or before May 24, 1995, and reply comments must be filed on or before June 1, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Amy Zoslov, (202) 418–0620, Wireless Telecommunications Bureau, Commercial Wireless Division.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Second Further Notice of Proposed Rule Making*, in PR Docket No. 89–553, FCC 95–159, adopted April 14, 1995, and released April 17, 1995. The complete text of this *Second Further Notice of Proposed Rule Making* is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 239, 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Second Further Notice of Proposed Rule Making

I. Introduction

1. When the Commission established the 900 MHz SMR service in 1986, it elected to use a two-phase licensing process. In Phase I, licenses were assigned in 46 "Designated Filing Areas" (DFAs) comprised of the top 50 markets. Phase II licensing, for facilities outside the DFAs, was frozen after 1986, when the Commission opened its filing window for the DFAs. In 1989, the Commission adopted a *Notice of Proposed Rule Making* in PR Docket 89–553, 55 FR 00744, proposing to begin Phase II licensing of SMR facilities nationwide. In 1993, the Commission adopted a *First Report & Order & Further Notice of Proposed Rule Making* in PR Docket 89–553, 58 FR 12176 (March 3, 1993) (*Phase II First R&O & Further Notice*), modifying its Phase II proposal and seeking comment on whether to license the 900 MHz SMR band to a combination of nationwide, regional and local systems. 8 FCC Rcd 1469 (1993). Shortly thereafter, Congress amended the Communications Act to reclassify most SMR licensees as Commercial Mobile Radio Service (CMRS) providers and establish the authority to use competitive bidding to select from among mutually exclusive applicants for certain services. The Commission deferred further consideration of Phase II and incorporated the 900 MHz SMR docket into its CMRS proceeding.

2. In the *CMRS Third Report & Order*, FR 59,945 (Nov. 21, 1994), the Commission further revised its Phase II proposals and established the broad outlines for the completion of licensing in the 900 MHz SMR band. The Commission left the specific auction rules for the Phase II proceeding.

3. The Commission seeks comment on the following proposals: adoption of a single simultaneous multiple round auction; establishment of upfront payment requirements; adoption of the Milgrom-Wilson activity rule; adoption of application procedures; adoption of procedures governing timing and duration of auction rounds, stopping rules and bid increments; adoption of bid withdrawal and default rules; adoption of procedures governing down payment and full payment for winning bidders; adoption of anti-collusion rules for bidders; and adoption of transfer disclosure and performance requirements for winning bidders.

4. With respect to rules for designated entities (*i.e.* small businesses, women-owned and minority-owned entities, and rural telephone companies), the Commission seeks comment on the following proposals: insulating certain spectrum blocks from large bidders; providing small businesses bidding credits, reduced down payment requirements, and installment payment options; whether reduced upfront payments are necessary; adoption of partitioning rule for rural telephone companies; adoption of eligibility standards for small business and rural telephone companies; and for small businesses, adoption of restrictions on transfer or assignment of their licenses.

II. Discussion

A. Competitive Bidding

5. In the *CMRS Third Report & Order*, 59 FR 59,945 (Nov. 21, 1994), the Commission determined that it would use competitive bidding to select from among mutually exclusive applicants in

VOL
60
ISS
86
MY
4
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the 900 MHz SMR service. Accordingly, under the Commission's auction authority, if mutually exclusive applications for an MTA 10-channel block are accepted for filing, the Commission will award that license through competitive bidding. The Commission requests comment on specific bidding procedures, as set forth below.

6. *Competitive Bidding Design.* In the *Second Report & Order*, PP Docket No. 93–253, 59 FR 22980 (May 4, 1994) (Auctions Second Report and Order), the Commission stated that (1) licenses with strong value interdependencies should be auctioned simultaneously; and (2) multiple round auctions generally will yield more efficient allocations of licenses and higher revenues by providing bidders with information regarding other bidders' valuations of licenses, especially where there is substantial uncertainty as to value. Thus, where the licenses to be auctioned are interdependent and their value is expected to be high, simultaneous multiple round auctions would best achieve the Commission's goals for competitive bidding. Based on these factors, the Commission tentatively concluded that simultaneous multiple round auctions are appropriate for the 900 MHz SMR service. The expected value of 900 MHz SMR licenses is high, the licenses are interdependent, and licensees will likely aggregate across spectrum blocks and geographic regions. Because, however, the presence of incumbents on certain channels could affect the relative desirability and value of otherwise identical MTA licenses, the Commission proposes to delegate authority to the Wireless Telecommunications Bureau to revisit the issue of whether another auction design would be more appropriate. The Commission seeks comments on this tentative conclusion and proposal.

7. *License Grouping.* The Commission determined in the *Auctions Second Report & Order*, 59 FR 22980 (May 4, 1994), that in a multiple round auction, highly interdependent licenses should be grouped together and put up for bid at the same time because such grouping provides bidders with the most information about the prices of complementary and substitutable licenses during the course of an auction. The Commission also determined that the greater the degree of interdependence among the licenses, the greater the benefit of auctioning a group of licenses together in a simultaneous multiple round auction. The Commission tentatively concludes that all 51 MTAs in the 900 MHz band should be auctioned simultaneously. While this may entail more administrative costs than breaking the licenses into groups, the added cost will be outweighed by the informational and bidding flexibility advantages afforded by a single auction. Moreover, the 1020 MTA licenses to be auctioned are less than half the number of broadband PCS licenses to be auctioned in Blocks A through F, and all licenses will be for the same amount of spectrum and use a single service area definition. The Commission also proposes to reserve the discretion to inform applicants by Public Notice if the Commission determines to hold more than one auction, on the basis that a single auction proves administratively unworkable.

B. Bidding Issues

8. *Bid Increments.* The bid increment is the amount or percentage by which a bid must be raised above the previous round's high bid in order to be accepted as valid in the current bidding round. The Commission proposes to start the 900 MHz auction with relatively large increments, and adjust the increments as bidding activity indicates. In Stage I of the auction, the minimum bid increment would be five percent of the high bid in the previous round or $.02 per MHz-pop, whichever is greater. In Stage II, the Commission would reduce the minimum bid increment to the greater of five percent of $.01 per MHz-pop, and in Stage III, the greater of five percent of $.01 per MHz-pop. The Commission also proposes to retain the discretion to vary the minimum bid increments for individual license or groups of licenses at any time before or during the course of the auction, based on the number of bidders, bidding activity, and the aggregate high bid amounts. Finally, the Commission proposes to retain the discretion to keep an auction open if there is a round in which no bids are submitted.

9. *Stopping Rules.* In the *CMRS Third Report & Order*, 59 Fed. Reg. 59,945 (Nov. 21, 1994), the Commission noted that in multiple round auctions, a stopping rule must be established for determining when the auction is over. The Commission proposes to adopt a simultaneous stopping rule for 900 MHz SMR. Under this approach, bidding remains open on all licenses until there is no new acceptable bid for any license. This approach also provides full flexibility to bid for any license as more information becomes available during the course of the auction. MTA licenses are expected to have relatively high values because of the substantial amount of clear spectrum that remains available, the high valuation of SMR spectrum in secondary market transactions, the substitutability between licenses within the same MTA and the ability to pursue back-up strategies. Likewise, the use of MTAs, rather than BTAs or more numerous service areas, should reduce complexity of a simultaneous stopping rule. Because the Commission proposes to impose an activity rule, this approach will not lead to excessively long auctions while affording bidders flexibility to pursue back-up strategies.

10. The Commission also proposes to retain the discretion to announce at any time during the auction that the auction will end after a specified number of additional rounds. Bids would only be accepted on licenses where the high bid has increased in the last three rounds. This would deter bidders from continuing to bid on a few low value licenses solely to delay the closing of the auction. It would also enable the Commission to end the auction when it determines that the benefits of terminating the auction and issuing licenses exceed likely benefits of continuing to allow bidding. The Commission proposes that this mechanism be used only in case of extremely dilatory bidding and that final bidding procedures would be announced by public notice. The Commission also proposes to retain the discretion to conduct market by market closings, if circumstances so warrant, to be announced during the auction. Finally, the Commission proposes to retain discretion to keep an auction open in a round in which no new acceptable bids are submitted if the Commission receives a "proactive" waiver of the activity rules, and to retain discretion to keep an auction open even if no proactive waivers are filed.

11. *Duration of Bidding Rounds.* The Commission reserves the discretion to vary the duration of bidding rounds or the interval at which bids are accepted (*e.g.* run more than one round per day) in order to move the auction toward closure more quickly. The Commission will announce any changes to the duration of and intervals between bidding rounds either by public notice prior to the auction or by announcement during the auction.

12. *Activity Rules.* The Milgrom-Wilson activity rule encourages bidders to participate in early rounds by limiting their maximum participation to some multiple of their minimum participation level. The Commission tentatively concludes that the Milgrom-Wilson activity rule should be used in conjunction with the simultaneous stopping rule to award 900 MHz SMR licenses. Under this approach, the minimum activity level increases during the course of the auction. Absent waivers, a bidder's eligibility in the current round is determined by the bidder's activity level and eligibility in the previous round; in the first round, however, eligibility is determined by the bidder's upfront payment and is equal to the upfront payment divided by $.02 per MHz-pop. Bidders are required to declare their maximum eligibility in terms of MHz-pops, and made an upfront payment equal to $0.02 per MHz-pop. In each round, bidders are limited to bidding on licenses encompassing no more than the number of MHz-pops covered by their upfront payment, and licenses on which a bidder is the high bidder from the previous round count toward this bidding limit. Bidders have flexibility to shift their bids among any license for which they have applied so long as, within each round, the total MHz-pops encompassed by those licenses does not exceed the total number of MHz-pops on which they are eligible to bid. This approach would best achieve the Commission's goals of affording bidders flexibility to pursue backup strategies, while at the same time ensuring that simultaneous auctions are concluded within a reasonable period of time. The Commission seeks comment on these issues.

13. During Stage I, the Commission tentatively concludes that a bidder must be active on licenses encompassing one-half of the MHz-pops for which it is eligible. In Stage II and Stage III, the Commission tentatively concludes that the bidder must be active on 75 and 95 percent, respectively, of the MHz-pops for which it is eligible. The penalty for falling below the minimum activity level at any stage would be a reduction in maximum eligibility to bid in future rounds. The transition from one stage of the auction to the next would be determined by the aggregate level of bidding activity, subject to the Commission's discretion. Once an auction proceeds from one stage to the next, it could not revert to any previous stage. Moreover, the Commission proposes to reserve the discretion to increase or decrease these activity levels as well as to vary the timing of stages and activity levels for each stage through public notices issued after applications are filed and before the auction begins, as circumstances warrant. The Commission seeks comment on these proposals.

14. In the *Fourth Memorandum Opinion & Order*, PP Docket No. 93–253, 59 FR 53364 (October 24, 1994), the Commission clarified that it retained the discretion to modify the method and timing of submitting waivers and to allow for both "proactive" and "automatic" waivers. Proactive waivers are submitted by the bidder, while automatic waivers would be submitted automatically for a bidder whenever its eligibility would be reduced because of insufficient bidding activity and a waiver is available unless the bidder specifically chooses not to have the automatic waiver apply. The Commission proposes to use these waiver procedures with respect to the 900 SMR auctions.

15. Specifically, the Commission proposes to implement a waiver procedure permitting each bidder to request and automatically receive a certain number of waivers of the activity rule during the auction. The Commission would announce by Public Notice how many waivers bidders will receive. A waiver would permit a bidder to maintain its eligibility at the same level as in the round for which the waiver is submitted; it could not, however, be used to correct an error in the amount bid. Under this proposal, a bidder may request a waiver either in the round in which its bidding falls below the minimum required level or prior to submitting a bid in the next round. If an activity rule waiver is proactively requested in a round in which no other bidding activity occurs, the auction would remain open. The Commission seeks comment on these proposals. Finally, the Commission retains discretion to use an alternative activity rule for 900 MHz SMR if it determines that the Milgrom-Wilson rule is too complicated or costly to administer. Any such change would be announced by public notice before commencement of the auction.

16. *Rules Prohibiting Collusion.* Section 1.2105(c) of the Commission's Rules, 47 CFR 1.2105(c) prohibits collusive conduct in the context of competitive bidding. This rule prohibits bidders from communicating with one another after short-form applications have been filed regarding the substance of their bids or bidding strategies, and also prohibits bidders from entering into consortium arrangements or joint bidding agreements after the deadline for short-form applications has passed. 47 C.F.R. 1.2105(c)(1)–(2). The Commission proposes to apply Section 1.2105(c) to 900 MHz SMR auctions. Bidders who have not filed form 175 applications for any of the same MTA licenses would be permitted enter into such discussions, consortia, or arrangements, or add equity partners, during the course of an auction. Also, communications among bidders concerning matters unrelated to the auctions would be permitted. The Commission seeks comment on this proposal.

17. Under the collusion rules, bidders would also identify on their Form 175 applications parties with whom they have entered into any agreements relating to the competitive bidding process, and certify that they will not enter into any such agreements with any parties other than those identified. 47 CFR 1.2105(a)(2). Furthermore, winning bidders in the 900 MHz SMR auctions would attach as an exhibit to the Form 600 long-form application a detailed explanation of the terms and conditions and parties involved in any such agreement entered into prior to the close of bidding. All such arrangements would have been entered into prior to filing of short-form applications to comply with the Commission's rules. 47 CFR 1.2107. Allegations of specific instances of collusion in violation of these rules would be investigated by the Commission or referred to the Department of Justice. The Commission also proposes that bidders found to have violated the Commission's rules or the antitrust laws may be subject to forfeiture of their down payment or their full bid amount, revocation of their licenses, and prohibition from participation in future auctions. The Commission seeks comment on these proposals.

C. Procedural, Payment and Penalty Issues

18. *Pre-Auction Application Procedures.* The Commission proposes to follow generally the processing and procedural rules established in 47 CFR Part 1, Subpart Q with certain modifications designed to address the particular characteristics of the 900 MHz SMR service. Unlike incumbent 900 MHz SMR licensees that are essentially confined to the smaller DFA region, MTA licensees will gain use of a large geographic area and the freedom to locate base stations anywhere within that larger geographic region. Thus, the Commission proposes to treat MTA applicants as initial applicants for public notice, application processing, and auction purposes, regardless of whether they are already incumbent operators.

19. The 1993 Budget Act expressly provides the Commission authority to require that bidders' applications contain all information and documentation sufficient to demonstrate that the application is not in violation of Commission rules, and to dismiss applications not meeting those requirements prior to the competitive

VOL 60 ISS 86 MY 4 1995 UMI

bidding. 47 U.S.C. 309(j)(5). *See also* H. R. Rep. No. 111, 103d Cong., 1st Sess. 28 (1993). In furtherance of this policy, the Commission decided to require only a short-form application prior to competitive bidding, and determined that only winning bidders should be required to submit a long-form license application after the auction. 47 CFR 1.2104, 1.207. Because this procedure fulfills the statutory requirements and adequately protects the public interest here, the Commission proposes to extend application of these rules to the competitive bidding process for 900 MHz SMR.

20. Under this proposal, the Wireless Telecommunications Bureau would release an initial Public Notice announcing the auction. The Public Notice would specify the following: licenses to be auctioned; time and place of the auction method of competitive bidding to be used; applicable bid submission procedures; stopping rules; activity rules; the deadline by which short-form applications must be filed; and the amounts and deadlines for submitting the unfront payment. Applications submitted before the release of the Public Notice would be returned as premature. Likewise, applications submitted after the deadline specified by Public Notice would be dismissed, with prejudice, as untimely.

21. All bidders would be required to submit short-form applications on FCC Form 175 (and FCC Form 175–S, if applicable), by the date specified in the initial Public Notice. *See* CFR 1.2105(a)(2). Applications could be filed manually or electronically. Each applicant would specify on its applications certain information, including its status as a designated entity (if applicable), its classification (*i.e.*, individual, corporation, partnership, trust, or other), the markets and frequency blocks for which it is applying, and the names of persons authorized to place or withdraw a bid on its behalf. If there is no mutual exclusivity for a particular license, and no petitions to deny are filed, the application would be grantable after 30 days. The Commission seeks comment on the proposals discussed above.

22. *Amendments and Modifications.* To encourage maximum bidder participation, the Commission proposes to provide 900 MHz SMR applicants with an opportunity to correct minor defects in their short form applications prior to the auction. The Commission also proposes to waive the ex parte rules as they apply to submission of amended short-form applications to maximize applicants' opportunities to seek Commission staff advice on making such amendments. Also, applicants would be permitted to modify their applications to reflect formation of consortia or changes in ownership at any time before or during an auction, provided that (1) such changes do not result in a change in control of the applicant, and (2) parties forming consortia or entering into ownership agreements have not applied for licenses in any of the same geographic licenses. Applicants would not, however, be permitted to make major modifications to their applications, including changes in markets, changes in control of the applicant, or additions of the other bidders into the bidding consortia, until after the auction. Applications that are not signed would be dismissed as unacceptable. The Commission seeks comment on these proposals.

23. Applications with defects, minor or otherwise, would be listed in a public notice. After reviewing corrected applications, the Commission would release a second public notice announcing applicants whose applications have been accepted or filing. This second public notice would announce the date by which applicants must submit an upfront payment to the Commission, generally no later than 14 days before the scheduled auction. The Commission would release a third public notice announcing the names of all applicants that have been determined as qualified to bid. An applicant who fails to submit a sufficient upfront payment to qualified it to bid on any license being auctioned would not be identified on this Public Notice as a qualified bidder. The Commission seeks comment on these proposals.

24. *Upfront Payments.* The Commission tentatively concludes that applicants that have been determined as qualified to bid should be required to submit a payment of $0.02 per MHz-pop, based on the number of 10-channel blocks in each MTA identified by an applicant on its Form 175. This requirement would help ensure that only serious and qualified bidders participate and that any bid withdrawal or default penalties are paid. *See Auctions Second Report & Order* at ¶ 171. This formula would also afford bidders the flexibility to change their strategy during an auction and bid on a larger number of smaller licenses or a smaller number of larger licenses, so long as the total MHz-pops combination does not exceed that amount covered by the upfront payment. Population information for each license would be announced in the initial Public Notice released prior to the auction. The Commission seeks comment on these proposals.

25. *Down payment and Full Payment.* The Commission tentatively concludes that winning bidders in 900 MHz SMR auctions should be required to supplement their upfront payments with a down payment sufficient to bring their total deposits up to 20 percent of their winning bid(s). Under this proposal, if the upfront payment already tendered by a winning bidder, after deducting any bid withdrawal and default penalties due, amounts to 20 percent or more of its winning bids, no additional deposit would be required. If the upfront payment amount on deposit is greater than 20 percent of the winning bid amount after deducting any bid withdrawal and default penalties due, the additional monies would be refunded. If a bidder has withdrawn a bid or defaulted but the amount of the penalty cannot yet be determined, the bidder would be required to make a deposit of 20 percent of the amount bid on such licenses. When it becomes possible to calculate and assess the penalty, any excess deposit would be refunded. Upfront payments would be applied to such deposits and to bid withdrawal and default penalties due before being applied toward the bidder's down payment on licenses the bidder has won and seeks to acquire. The Commission seeks comment on these proposals.

26. The Commission proposes to require winning bidders to submit the required down payment by cashier's check or wire transfer to its lock-box bank by a date to be specified by Public Notice, generally within five business days following the close of bidding. The balance of their winning bids would be made within five business days following public notice that the Commission is about to award the license, and grant of the license would be conditioned on this payment. An auction winner that is eligible to make payments through an installment plan, however, would be required to submit a deposit up to five percent of its winning bid, and would submit an additional five percent of its winning bid after the license granted. This would ensure that auction winners have the necessary financial capabilities to complete payment for the license and pay for the costs of constructing a system, without hindering growth or diminishing access to the auctions. The Commission seeks comment on this proposal.

27. *Bid Withdrawal, Default, and Disqualification.* The Commission proposes that bidders who withdraw a high bid, are found unqualified to hold licenses, or default on payment of a balance due, would be assessed a substantial penalty. Any bidder that withdraws a high bid during an auction before the Commission declares bidding closed would be required to reimburse the Commission in the amount of the difference between its high bid and the amount of the winning bid the next time the license is offered by the Commission, if this subsequent winning bid is lower than the withdrawn bid. If a license is re-offered by auction, the "winning bid" would refer to the high bid in the auction in which the license is re-offered. If a license is re-offered in the same auction, the "winning bid" would refer to the high bid amount, made subsequent to the withdrawal, in that auction. If the subsequent high bidder also withdraws its bid, that bidder would be required to pay a penalty equal to the difference between its withdrawn bid and the amount of the subsequent willing bid the next time the license is offered by the Commission. If a license which is the subject of withdrawal or default is not re-auctioned, but is instead offered to the highest losing bidders in the initial auction, the "winning bid" would refer to the bid of the highest bidder who accepts the offer. Losing bidders would not be required to accept the offer, and therefore may decline without penalty. The Commission seeks comment on these proposals.

28. The Commission also proposes that after bidding closes, a defaulting winner would be assessed an additional penalty of three percent of the subsequent winning bid or three percent of the amount of the defaulting bid, whichever is less. *See* 47 CFR 1.2104(g), 1.2109. If a default or disqualification involves an applicant's gross misconduct, misrepresentation, or bad faith, the Commission would be able to declare the applicant ineligible to bid in future auctions or take other action. These penalties would adequately discourage default and ensure that bidders have adequate financing and meet all eligibility and qualification requirements.

29. Finally, the Commission proposes that if the MTA winner defaults, is otherwise disqualified after having made the required down payment, or the license is terminated or revoked, then the Commission would re-auction the license. If the default occurs within five days after bidding has closed, the Commission would retain the discretion to offer the license to the second highest bidder at its final bid level, and thereafter to other bidders (in descending order of their bid amounts). If only a small number of relatively low-value licenses were to be re-auctioned and only a short time has passed since the initial auction, the Commission would have authority to choose to offer the license to the highest losing bidders if the cost of running another auction exceed the benefits. The Commission seeks comment on these proposals.

30. *Long-Form Applications.* If the winning bidder makes the down payment in a timely manner, the Commission proposes the following procedures: A long-form application filed on FCC Form 600 must be filed by a date specified by Public Notice, generally within ten business days after the close of bidding. Designated entities must also submit evidence to support their claim to any special provision, such as bidding credits or installment payment options. Once the long-form is accepted for filing, the Commission will issue a Public Notice announcing this fact, triggering the filing window for petitions to deny. If the Commission denies all petitions to deny, and is otherwise satisfied that the applicant is qualified, the license(s) will be granted to the auction winner. *See generally* 47 CFR 90:163–90.166. The Commission seeks comment on this proposal.

31. *Petitions to Deny and Limitations on Settlements.* A party filing a petition to deny will be required to demonstrate standing and meet all other applicable filing requirements. 47 CFR 90.163. The Commission also adopted "greenmail" restrictions to prevent filing of speculative applications and pleadings (or threats of the same) designed to extract money from 900 MHz SMR applicants. 47 CFR 90.162. Thus, the consideration than an applicant or petitioner is permitted to receive for agreeing to withdraw an application or petition to deny is limited to the legitimate and prudent expenses of the withdrawing party. Finally, the Commission need not conduct a hearing before denying an application if it determines that an applicant is not qualified and no substantial issue of fact exists concerning that determination.

32. *Transfer Disclosure Requirements.* In the 1993 Budget Act amendments to the Communications Act, Congress directed the Commission to "require such transfer disclosures and anti-trafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits. 47 U.S.C. 309(j)(4)(E)). To ensure that these statutory requirements are met, the Commission concluded in the *Auctions Second Report & Order*, 59 FR 22980 (May 4, 1994), that transfer disclosure requirements will enable the Commission to accumulate the necessary data to evaluate auction designs and judge whether licenses have been issued for bids that fall short of the true market value of the license. The Commission tentatively concludes to apply these same requirements to all 900 MHz SMR licenses obtained through the competitive bidding process. *See* 47 CFR 1.2111(a). Generally, licensees transferring their licenses within three years after the initial license grant would be required to file, together with their transfer applications, the associated contracts for sale, option agreements, management agreements, and all other documents disclosing the total consideration received in return for the transfer of the license. The Commission would give particular scrutiny to auction winners who have not yet begun commercial service and who seek approval for a transfer of control or assignment of their licenses, so it may determine if any unforeseen problems relating to unjust enrichment have arisen outside the small business context. The Commission seeks comment on this proposal.

33. *Performance Requirements.* The Communications Act requires the Commission to "include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services. 47 U.S.C. 309(j)(4)(B). The Commission tentatively concludes that additional performance requirements, beyond those already provided in the service rules, and that coverage requirements adopted in this Order will sufficiently prevent warehousing of spectrum. The Commission seeks comment on this proposal.

D. Treatment of Designated Entities

34. *Overview and Objectives.* Congress provided that in establishing eligibility criteria and bidding methodologies, the Commission shall "promot[e] economic opportunity and competition and ensur[e] that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women." 47 U.S.C. 309(j)(3). Congress also provided that to promote these objectives, the Commission shall "consider alternative payment schedules and methods of calculation, including lump sums or

VOL
60
ISS
86
MY
4
1995
UMI

guaranteed installment payments, with or without royalty payments, or other schedules or methods * * * and combinations of such schedules and methods." 47 U.S.C. 309(j)(3)(B). The statute also requires the Commission to "ensure that small businesses rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services. *Id.* § 309(j)(4)(D). To achieve this goal, the statute indicates that the Commission should "consider the use of tax certificates, bidding preferences, and other procedures." *Id.*

35. Congress was particularly concerned that difficulties in accessing capital would prevent designated entities from meaningful participation in auctions and spectrum-based services. *See* H.R. Rep. No. 111, 103d Cong., 1st Sess. 254–55 (1993). In other services, the Commission has employed a wide range of special provisions and eligibility criteria designed to meet this statutory objective. *See, e.g., Third Report & Order*, PP Docket No. 93–253, 59 FR 26741 (May 24, 1994). The Commission states its intention to meet this objective in the 900 MHz SMR service, and tentatively concludes that it should provide for bidding credits, installment payments and reduced down payments to promote opportunities for small businesses, including small businesses owned by women and minorities—on all channel blocks in each MTA. These provisions would reduce barriers to accessing capital faced by all small businesses. In addition, to facilitate the introduction of service to rural areas, the Commission proposes to allow rural telephone companies to obtain geographically partitioned 900 MHz SMR licenses in areas where they provide telephone service.

36. *Bidding Credits.* Bidding credits allow eligible designated entities to receive a payment discount (or credit) for their winning bid in an auction. In the *Auctions Second Report & Order*, 59 FR 22980 (May 4, 1994), the Commission determined that competitive bidding rules applicable to individual services would specify the designated entities eligible for bidding credits and the amounts of the available bidding credits for that particular service. The Commission has since adopted bidding credits for narrowband PCS, broadband PCS, and Interactive Video and Data Service. *See Third Memorandum Opinion & Order & Further Notice of Proposed Rule Making*, PP Docket No. 93–253, 59 FR 44058 (August 26, 1994); *Fifth Report & Order*, PP Docket No. 93–253, 59 FR 37566 (July 22, 1994); *Fourth Report & Order*, PP Docket No. 93–253, 59 FR 24947 (May 13, 1994). For 900 MHz SMR service, the Commission proposes to offer a 10 percent bidding credit to small businesses bidding on any of the ten-channel blocks within each MTA. These bidding credit designations would help achieve the objectives of the Budget Act and provide small businesses with a meaningful opportunity to participate in the 900 MHz SMR auction, while taking into account the concerns of incumbents within the DFAs. Because of the large number of licenses available in this service, the Commission states that a higher bidding credit would be unnecessary.

37. The Commission seeks comment on this proposal. Specifically, is a 10 percent credit sufficient to enhance bidding opportunities? Also, how should the presence of incumbents on all channel blocks affect the availability of bidding credits on all blocks? In previous auctions where bidding credits for women and minorities have been available, varying degrees of participation in spectrum-based services has resulted, and the Commission's auction experience to date has not included a small business bidding credit available on all blocks. Also, the Commission proposes to limit eligibility for bidding credits to small businesses. The Commission seeks comment on whether eligibility should be expanded to include businesses owned by minorities and/or women, even if they do not fall within the Commission's small business size standards for 900 MHz SMRs.

38. In the event that the Commission modifies the bidding credit eligibility proposal for minority- and women-owned entities, the Commission also seeks comment on a second bidding credit alternative, which would entitle small businesses and minority- and women-owned entities to receive bidding credits on the five least encumbered blocks in each MTA. In the event the Commission adopts a proposal to limit bidding credits to small businesses, should it also limit availability of the credit to the channel blocks with the fewest incumbents, or would this limitation dilute the effectiveness of a small business credit as a means of attracting broad designated entity participation in the 900 MHz SMR service? What bidding credit amounts should apply to women and minority-owned businesses and small businesses? Should women-owned and minority-owned businesses that are also small businesses receive an aggregate bidding credit? The Commission seeks comment on the ramifications of each proposal for incumbents in each block. Finally, the Commission seeks comment on any possible alternative bidding credit schemes.

39. *Reduced Down Payments/ Installment Payments.* The Commission proposes to adopt an installment payment option for small businesses that are winning bidders in the 900 MHz SMR auction. Under this proposal, small businesses that are winning bidders in the 900 MHz SMR auction would be entitled to pay their bid in installments over the term of the license, with interest charges to be fixed at the time of licensing at a rate equal to the rate for ten-year U.S. Treasury obligations plus 2.5 percent. Under this proposed rule, qualified licensees would make interest-only payments during the first two years of the remaining license term. Timely payment of all installments would be a condition of the license grant and failure to make such timely payment would be grounds for revocation of the license. Additionally, the Commission tentatively concludes that small businesses that are eligible for installment payments also would be allowed to pay a reduced down payment (five percent of the winning bid) five days after the auction closes, with the remaining five percent down payment due five days after Public Notice that the license is ready for grant. This proposal would mitigate the effect of limited access to capital by small businesses, especially those owned by minorities and/or women.

40. The Commission seeks comment on these payment procedures. If the Commission expands its installment payment eligibility proposal for women- and minority-owned entities, should those entities also receive reduced down payment and installment payment provisions and, if so, on what terms? In the event the Commission adopts provisions for minority- and women-owned applicants, should enhanced installment payments be made available?

41. *Eligibility for Bidding Credits, Installment Payments and Reduced Down Payments.* The Commission proposes to limit eligibility for bidding credits, installment payments and reduced down payments to small businesses, including those owned by members of minority groups and women and those rural telephone companies that meet the small business size standards. The Commission proposes to define small businesses as those entities with less than $3 million in average gross revenues for each of the preceding three years. The Commission states that it is unnecessary to propose different eligibility criteria for minority- and women-owned entities that do not meet the small business size standards in order to achieve the goals of Section 309(j) in the 900 MHz SMR service. Broadening the scope of opportunities for very small businesses in all channel blocks still has the potential to result in substantial participation by women and minorities in the provision of 900 MHz SMR service. Moreover, the Commission expects that because capital entry requirements are lower than PCS, minority- and women-owned businesses will have greater opportunities to participate.

42. To enhance the Commission's understanding, however, of the capital requirements the 900 MHz service is likely to entail, the Commission seeks comment on the projected costs associated with acquisition, construction and operation of 900 MHz MTA licenses. In addition, to gain insight into which the degree of small business participation has resulted in opportunities for women and minority-owned businesses, the Commission seeks comment on the composition of existing 900 MHz SMR operators as well as providers in other similar services such as 800 MHz SMR. For example, what proportion of existing 900 MHz SMR businesses are owned by women or minorities? To what extent have participants in 900 MHz SMR networks been small businesses owned by women and minorities? What is the likelihood that management agreements are likely to serve as a vehicle for participation in the 900 MHz SMR service by minority and women-owned businesses? Finally, regardless of whether the Commission adopts its proposal for small businesses, the Commission proposes to request bidder information on the short-form filings as to minority and/or women-owned status in order to monitor the applicant pool and monitor participation by women and minorities. The Commission seeks comment on this monitoring proposal.

43. *Small Business Definition.* The Commission defines eligibility requirements for small businesses on a service-specific basis, taking into account capital requirements and other characteristics of each particular service. *Second Memorandum Opinion & Order*, PP Docket No. 93–253, 59 FR 44272 (August 26, 1994). Because 900 MHz SMR is expected to be less capital-intensive than PCS, a much lower gross revenue threshold is warranted. Therefore, the Commission proposes to define a small business as an entity that, together with affiliates and attributable investors, has average gross revenues for the three preceding years of less than $3 million. This standard appropriately accounts for build-out costs, abundant license supply, and low acquisition costs. The Commission seeks comment on this proposal. For example, is it an appropriate threshold? Should it be higher or lower, based on the types of companies that are likely to benefit from the special provisions proposed here? The Commission also tentatively concludes that it will consider the revenues of affiliates and certain investors and it proposes to apply the 25 percent attribution threshold and affiliation rules similar to those used in the PCS auction rules. *See* 47 CFR 24.320(b)(2)(iv), 24.720(j)(1). The Commission seeks comment on these issues.

44. Finally, if the Commission adopts separate provisions for minority-owned and women-owned entities, it also seeks comment on whether it should adopt the definition of minority-owned and women owned businesses contained in Section 1.2110(b)(2) of the Commission's rules, 47 CFR 1.2110(b)(2), *i.e.*, businesses in which minorities and/or women who control the applicant have at least 50.1 percent equity ownership and, in the case of a corporate applicant, a 50.1% voting interest. Every general partner in a partnership either must be a minority and/or a woman who individually or together own at least 50.1 percent of the partnership equity.

45. *Transfer Restrictions and Unjust Enrichment Provisions.* In the *Fifth Report & Order*, PP Docket No. 93–253, 59 FR 37566 (July 22 1994), the Commission adopted restrictions on the transfer or assignment of licenses to ensure that designated entities do not take advantage of special provisions by immediately assigning or transferring control of their licenses. The Commission proposes to adopt these restrictions on transfer and assignment of 900 MHz SMR licenses won by designated entities. Under this proposal, a designated entity would be prohibited from voluntarily assigning or transferring control of its license to any other entity during the three years after license grant. In the fourth and fifth years of the license term, the designated entity would only be able to assign or transfer control of its license to another qualified designated entity, and no unjust enrichment could be gained through the transfer. Thus, if the entity to which the designated entity transfers or assigns the license were not eligible for the same provisions, the difference would have to be paid back to the U.S. Treasury as a condition of approval of the transfer or assignment. The Commission seeks comment on these proposals.

46. For the remainder of the license term, the Commission proposes to continue to impose unjust enrichment rules on designated entities. These unjust enrichment provisions would deter speculation and participation in the licensing process by those who do not intend to offer service to the public, or who intend to use the Commission's provisions to obtain a license at a lower cost than they otherwise would have to pay, and later to sell it at the market price. Under this proposal, licensees seeking to transfer their licenses for profit must, within a specified time, remit to the government a penalty equal to a portion of the total value of the benefit conferred by the government. Therefore, if a designated entity making installment payments sells its license to an entity that does not qualify as a designated entity, the Commission would require payment of the remaining principal and any interest accrued through the date of assignment as a condition of the license assignment or transfer. If a transfer is made to another eligible designated entity, no penalty would be assessed against the original designated entity license holder. If bidding credits were awarded to a licensee, the Commission would require a designated entity approval for a transfer of control or an assignment of license to a non-designated entity, or who proposes to take any other action relating to ownership or control that will result in loss of status as an eligible designated entity, to reimburse the government for the amount for the amount of the bidding credit before transfer of the license will be permitted. The Commission proposes to apply these payment requirements for the entire license term. The Commission seeks comment on this proposal.

47. *Rural Telephone Company Partitioning.* Congress directed the Commission to ensure that rural telephone companies have the opportunity to participate in the provision of spectrum-based services. Rural areas tend to be less profitable to serve than more densely populated urban areas. Therefore, service to these areas may not be a priority or feasible for many licensees. Rural telephone companies, however, are well positioned to serve these areas because of their existing infrastructure. Therefore, the Commission proposes a geographic partitioning scheme to encourage participation by rural telephone companies.

48. Under this proposal, rural telephone companies would be

VOL
60
ISS
86
MY
4
1995
UMI

permitted to acquire partitioned 900 MHz SMR licenses either by: (1) forming bidding consortia consistent entirely of rural telephone companies to participate in auctions, and then partition the licenses won among consortia participants; or (2) acquiring partitioned 900 MHz SMR licenses from other licenses through private negotiation and agreement either before or after the auction. The Commission would require that partitioned areas conform to established geopolitical boundaries and include all portions of the wireline service area of the rural telephone company applicant that lies within the service area. This partitioning scheme would prevent rural telephone companies from having to bid on the entire MTA license to obtain licenses covering their wireline service areas. In addition, rural telephone companies would have the flexibility to serve areas in which they already provide service, while the remainder of the service area could be served by other providers. The Commission also proposes to use the definition for rural telephone companies implemented in the *Fifth Report & Order*, PP Docket No. 93–253, 59 FR 37566 (July 22, 1994), for broadband PCS. Rural telephone companies would be defined as local exchange carriers having 100,000 or fewer access lines, including all affiliates. The Commission seeks comment on this proposal.

E. Other Provisions

49. *Reduced Upfront Payments.* The Commission proposes not to adopt a reduced upfront payment option in the 900 MHz SMR service for designated entities. The other provisions adopted here render a reduced upfront payment option unnecessary and, in the absence of an entrepreneurs' block, may be too costly to administer in the 900 MHz SMR service. The Commission seeks comment on this proposal. Also, if the Commission adopts provisions for minority and women-owned entities, should the Commission apply a reduced upfront payment provision to those entities only?

50. *Set-aside Spectrum.* In the *Fifth Report & Order*, PP Docket No. 93–253, 59 FR 37566 (July 22, 1994), the Commission established entrepreneurs' blocks on which only qualified entrepreneurs, including designated entities, could bid. *See also* 47 CFR 24.709. The Commission tentatively concludes not to adopt an entrepreneurs' block for the 900 MHz SMR auction. First, the large numbers of licenses available and relatively small spectrum allocations in the 900 MHz SMR service should allow for extensive small business participation. Second, the effectiveness of bidding credits and other provisions will be diluted, due to the smaller capital outlay anticipated for this service. Third, it may be impractical to choose particular blocks to set aside for bidding solely by entrepreneurs due to incumbent 900 MHz SMR operators in 19 of the 46 DFAs. The Commission seeks comment on this proposal. Are the capital requirements of this service anticipated to be so substantial that the Commission should insulate certain blocks from very large bidders in order to provide meaningful opportunities for designated entities?

III. Procedural Matters

Initial Regulatory Flexibility Analysis. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in this Further Notice of Proposed Rule Making. Written public comments are requested on the IRFA.

Reason for Action: This rule making proceeding was initiated to secure comment on proposals for establishing a flexible regulatory scheme for the 900 MHz Specialized Mobile Radio (SMR) service that would promote efficient licensing and enhance the service's competitive potential in the commercial mobile radio marketplace. The proposals advanced in the Second Further Notice of Proposed Rule Making are also designed to implement Congress's goal of regulatory symmetry in the regulation of competing commercial mobile radio services as described in Sections 3(n) and 332 of the Communications Act, 47 U.S.C. 153(n), 332, as amended by Title VI of the Omnibus Budget Reconciliation Act of 1993 (Budget Act). The Commission also seeks to adopt rules regarding competitive bidding in the 900 MHz SMR service based on Section 309(j) of the Communications Act, 47 U.S.C. 309(j), which delegates authority to the Commission to use auctions to select among mutually exclusive initial applications in certain services, including 900 MHz SMR.

Objectives: The Commission proposes to adopt rules for the 900 MHz SMR service that are intended to promote the growth of incumbent 900 MHz SMR systems, and emerging MTA SMR licensees, and to enhance the ability of all SMR providers to compete in the larger commercial mobile services market. The Further Notice of Proposed Rule Making seeks to establish competitive bidding procedures and a new licensing mechanism for the 900 MHz SMR service that will expedite service to the public and promote competition in the CMRS marketplace.

Legal Basis: The proposed action is authorized under the Budget Act, Pub. L. No. 103–66, Title VI, 6002, and Sections 2(a), 3(n), 4(i), 302, 303(g), 303(r), 309(i), 309(j), 332(a), 332(c), and 332(d) of the Communications Act of 1934, 47 U.S.C. 152(a), 153(n), 154(i), 302, 303(g), 303(r), 309(i), 309(j), 332(a), 332(c) and 332(d), as amended.

Reporting, Recordkeeping, and Other Compliance Requirements: Under the proposal contained in the Further Notice of Proposed Rule Making, SMR licensees who obtain MTA-based licenses may be required to report information regarding location of their facilities and coverage of their service areas. SMR applicants seeking treatment as "designated entities" may also be subject to reporting and recordkeeping requirements to demonstrate compliance with the Commission's competitive bidding rules.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules: None.

Description, Potential Impact, and Number of Small Entities Involved: The Further Notice of Proposed Rule Making potentially affects numerous small entities already operating 900 MHz SMR systems in Designated Filing Areas that will co-exist with 900 MHz SMR MTA licensees. The competitive bidding proposals contained in the Further Notice of Proposed Rule Making also could affect small entities seeking initial licenses in the 900 MHz SMR service. The Further Notice of Proposed Rule Making proposes special provisions in the Commission's auction rules to benefit "designated entity" applicants, including small businesses. After evaluating comments filed in response to the Further Notice of Proposed Rule Making, the Commission will examine further the impact of all rule changes on small entities and set forth its findings in the Final Regulatory Flexibility Analysis.

Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives: This Further Notice of Proposed Rule Making solicits comment on a variety of alternatives. Any additional significant alternatives presented in the comments will also be considered.

IRFA Comments: The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided above.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission,
William F. Caton,
Acting Secretary.

Amendatory Text

Part 90 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309 and 332.

2. A new Subpart U consisting of §§ 90.801 through 90.814 is proposed to be added to Part 90 to read as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Subpart U—Competitive Bidding Procedures for 900 MHz Specialized Mobile Radio

Sec.

90.801 900 MHz SMR subject to competitive bidding.
90.802 Competitive bidding for 900 MHz SMR licensing..
90.803 Competitive bidding mechanisms.
90.804 Aggregation of 900 MHz SMR licenses.
90.805 Withdrawal, default and disqualification payments.
90.806 Bidding application (FCC Form 175 and 175–S Short-form).
90.807 Submission of upfront payments and down payments.
90.808 Long-form applications.
90.809 License grant, denial, default, and disqualification.
90.810 Bidding credits for small businesses.
90.811 Reduced down payment for licenses won by small businesses.
90.812 Installment payments for licenses won by small businesses.
90.813 Procedures for partitioned licenses.
90.814 Definitions.

§ 90.801 900 MHz SMR subject to competitive bidding.

Mutually exclusive initial applications to provide 900 MHz SMR service are subject to competitive bidding procedures. The general competitive bidding procedures found in 47 CFR Part 1, Subpart Q will apply unless otherwise provided in this part.

§ 90.802 Competitive bidding design for 900 MHz SMR licensing.

The Commission will employ a simultaneous multiple round auction design when choosing from among mutually exclusive initial applications to provide 900 MHz SMR service, unless otherwise specified by the Wireless Telecommunications Bureau before the auction.

§ 90.803 Competitive bidding mechanisms.

(a) *Sequencing.* The Commission will establish and may vary the sequence in which 900 MHz SMR licenses will be auctioned.

(b) *Grouping.* All 900 MHz SMR licenses for each of the MTAs will be auctioned simultaneously, unless the Wireless Telecommunications Bureau announces, by Public Notice prior to the auction, an alternative auction scheme.

(c) *Minimum Bid Increments.* The Commission will, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms.

(d) *Stopping Rules.* The Commission will establish stopping rules before or during multiple round auctions in order to terminate an auction within a reasonable time.

(e) *Activity Rules.* The Commission will establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder will be entitled to request and will be automatically granted a certain number of waivers of such rule during the auction.

§ 90.804 Aggregation of 900 MHz SMR licenses.

The Commission will license each 10-channel block in the 900 MHz SMR spectrum separately. Applicants may aggregate across spectrum blocks within the limitation specified in § 20.6(b) of this Chapter.

§ 90.805 Withdrawal, default and disqualification payments.

(a) During the course of an auction conducted pursuant to § 90.802, the Commission will impose payments on bidders who withdraw high bids during the course of an auction, who default on payments due after an auction closes, or who are disqualified.

(b) *Bid withdrawal prior to close of auction.* A bidder who withdraws a high bid during the course of an auction will be subject to a payment equal to the difference between the amount bid and the amount of the winning bid the next time the license if offered by the Commission. No withdrawal payment would be assessed if the subsequent winning bid exceeds the withdrawn bid. This payment amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(c) *Default or disqualification after close of auction.* If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (a) of this section plus an additional penalty equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent payment will be calculated based on the defaulting bidder's bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or disqualified bidder has deposited with the Commission.

§ 90.806 Bidding application (FCC Form 175 and 175–S Short-form).

All applicants to participate in competitive bidding for 900 MHz SMR licenses must submit applications on FCC Forms 175 and 175–S pursuant to the provisions of § 1.2105 of this Chapter. The Wireless Telecommunications Bureau will issue a Public Notice announcing the availability of 900 MHz SMR licenses and, in the event that mutually exclusive applications are filed, the date of the auction for those licenses. This Public Notice also will specify the date on or before which applicants intending to participate in a 900 MHz SMR auction must file their application in order to be eligible for that auction, and it will contain information necessary for completion of the application as well as other important information such as the materials which must accompany the Forms, any filing fee that must accompany the application or any upfront payment that will need to be submitted, and the location where the application must be filed. In addition to identifying its status as a small business or rural telephone company, each applicant must indicate whether it is a minority-owned entity, as defined in § 90.814(g) and/or a women-owned entity.

§ 90.807 Submission of upfront payments and down payments.

(a) Bidders in the 900 MHz SMR auction will be required to submit an upfront payment of $0.02 per pop per MHz, in accordance with § 1.2106 of this Chapter.

(b) Winning bidders in a 900 MHz SMR auction must submit a down payment to the Commission in an amount sufficient to bring their total deposits up to 20 percent of their winnings bids, and in accordance with § 1.2107(b) of this chapter, except for small businesses that are winning bidders, which are governed by § 90.811.

VOL 60 ISS 86 MY 4 1995 UMI

§ 90.806 Long-form applications.

Each winning bidder will be required to submit a long-form application on FCC Form 600 within ten (10) business days after being notified by Public Notice that it is the winning bidder. Applications on FCC Form 600 shall be submitted pursuant to the procedures set forth in 90.119 of this Part and any associated Public Notices. Only auction winners (and rural telephone companies seeking partitioned licenses pursuant to agreements with auction winners under § 90.813) will be eligible to file applications on FCC Form 600 for initial 900 MHz SMR licenses in the event of mutual exclusivity between applicants filing Form 175.

§ 90.809 License grant, denial, default, and disqualification.

(a) Except with respect to entities eligible for installment payments (*see* § 90.812) each winning bidder will be required to pay the balance of its winning bid in a lump sum payment within five (5) business days following Public Notice that the license is ready for grant. The Commission will grant the license within ten (10) business days after receipt of full and timely payment of the winning bid amount.

(b) A bidder who withdraws its bid subsequent to the close of bidding, defaults on a payment due, or is disqualified, will be subject to the payments specified in § 90.805 or § 1.2109 of this Chapter, as applicable.

(c) MTA licenses pursued through competitive bidding procedures will be granted pursuant to the requirements specified in § 90.166.

§ 90.810 Bidding credits for small businesses.

(a) A winning bidder that qualifies as a small business or a consortium of small businesses, (as defined in § 90.814) may use a bidding credit of 10 percent to lower the cost of its winning bid on any of the blocks identified in § 90.617(d), Table 4B.

(b) *Unjust Enrichment.* (1) If a licensee that utilizes a bidding credit under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for bidding credits or seeks to make any other change in ownership that would result in the licensee no longer qualifying for bidding credits under this section, the licensee must seek Commission approval of such assignment, transfer or other ownership change.

(2) If a licensee that utilizes a bidding credit under this section seeks to assign or transfer control of its license to an entity meeting the eligibility standards for lower bidding credits or seeks to make any other change in ownership that would result in the licensee qualifying for a lower bidding credit under this section, the licensee must seek Commission approval and reimburse the government for the difference between the amount of the bidding credit obtained by the licensee and the bidding credit for which the assignee, transferee or licensee is eligible under this section as a condition of the approval of such assignment, transfer or other ownership change.

§ 90.811 Reduced down payment for licenses won by small businesses.

Each winning bidder that qualifies as a small business shall make a down payment equal to ten percent of its winning bid (less applicable bidding credits); a winning bidder shall bring its total amount on deposit with the Commission (including upfront payment) to five percent of its net winning bid within five (5) business days after the auction closes, and the remainder of the down payment (five percent) shall be paid within five (5) business days following Public Notice that the license is ready for grant. The Commission will grant the license within ten (10) business days after receipt of the remainder of the down payment.

§ 90.812 Installment payments for licenses won by small businesses.

(a) Each licensee that qualifies as a small business may pay the remaining 90 percent of the net auction price for the license in installment payments pursuant to § 1.210(e) of this chapter.

(b) Interest shall be imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; payments shall include interest only for the first two years and payments of interest and principal amortized over the remaining eight years of the license term.

(c) *Unjust Enrichment.* (1) If a licensee that utilizes installment financing under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for installment payments, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of approval.

(2) If a licensee that utilizes installment financing under this section seeks to make any change in ownership structure that would result in the licensee losing eligibility for installment payments, the licensee shall first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of such change as a condition of approval.

§ 90.813 Procedures for partitioned licenses.

(a) Notwithstanding § 90.661, an applicant that is rural telephone company, as defined in § 90.814, may be granted a 900 MHz SMR license that is geographically partitioned from a separately licensed MTA, so long as the MTA applicant or licensee has voluntarily agreed (in writing) to partition a portion of the license to the rural telephone company.

(b) If partitioned licenses are being applied for in conjunction with a license(s) to be awarded through competitive bidding procedures—

(1) The applicable procedures for filing short-form applications and for submitting upfront payments and down payments contained in this Part and Part 1 of this Chapter shall be followed by the applicant, who must disclose as part of its short-form application all parties to agreement(s) with or among rural telephone companies to partition the license pursuant to this section, if won at auction (*see* 47 CFR § 1.2105(a)(2)(viii) of this Chapter);

(2) Each rural telephone company that is a party to an agreement to partition the license shall file a long-form application for its respective, mutually agreed-upon geographic area together with the application for the remainder of the MTA filed by the auction winner.

(c) If the partitioned license is being applied for as a partial assignment of the MTA license following grant of the initial license, request for authorization for partial assignment of a license shall be made pursuant to § 90.153.

(d) Each application for a partitioned area (long-form initial application or partial assignment application) shall contain a partitioning plan that must propose to establish a partitioned area to be licensed that meets the following criteria:

(1) Conforms to established geopolitical boundaries (such as county lines);

(2) Includes the wireline service area of the rural telephone company applicant; and

(3) Is reasonable related to the rural telephone company's wireline service area.

Note: A partitioned service area will be presumed to be reasonably related to the rural telephone company's wireline service area if the partitioned service area contains no more than twice the population overlap between the rural telephone company's wireline service area and the partitioned area.

(e) Each licensee in each partitioned area will be responsible for meeting the construction requirements in its area (*see* § 90.665).

§ 90.814 Definitions.

(a) Scope. The definitions in this section apply to §§ 90.810 through 90.813, unless otherwise specified in those sections.

(b) *Small Business: Consortium of Small Businesses.* (1) A small business is an entity that, together with its affiliates and persons or entities that hold attributable interests in such entity and their affiliates, have average gross revenues for the three preceding years of less than $3 million.

(2) A small business consortium is conglomerate organization formed as a joint venture between or among mutually-independent business firms, each of which individually satisfies the definition of a small business in paragraphs (b)(1) and (b)(2) of this section.

(c) *Rural Telephone Company.* A *rural telephone company* is a local exchange carrier having 100,000 or fewer access lines, including all *affiliates.*

(d) *Gross Revenues. Gross revenues* shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (*e.g.*, cost of goods sold), as evidenced by audited financial statements for the relevant number of calendar years preceding January 1, 1994, or, if audited financial statements were not prepared on a calendar-year basis, of the most recently completed fiscal years preceding the filing of the applicant's short-form application (Form 175). For applications filed after December 31, 1994, gross revenues shall be evidenced by audited financial statements for the preceding relevant number of calendar or fiscal years. If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate.

(e) *Business Owned by Members of Minority Groups and/or Women.* A business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens control the applicant, have at least 50.1 percent equity ownership and, in the case of a corporate applicant, a 50.1 percent voting interest. For applicants that are partnerships, every general partner either must be a minority and/or woman (or minorities and/or women) who are U.S. citizens and who individually or together own at least 50.1 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interest of minorities and women are to be calculated on a fully-diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised. However, upon a demonstration that options or conversion rights held by non-controlling principals will not deprive the minority and female principals of a substantial financial stake in the venture or impair their rights to control the designated entity, a designated entity may seek a waiver of the requirement that the equity of the minority and female principals must be calculated on a fully-diluted basis.

(f) *Members of Minority Groups. Members of minority groups* includes Blacks, Hispanics, American Indians, Alaskan Natives, Asians, and Pacific Islanders.

(g) *Nonattributable Equity. Nonattributable equity* shall mean:

(1) For corporations, voting stock or non-voting stock that includes no more than 25 percent of the total voting equity, including the right to vote such stock through a voting trust or other arrangement;

(2) For partnerships, joint ventures and other non-corporate entities, limited partnership interests and similar interests that do not afford the power to exercise control of the entity.

(h) *Affiliate.* (1) *Basis for Affiliation.* An individual or entity is an affiliate of an applicant or of a person holding an attributable interest in an applicant (both referred to herein as "the applicant") if such individual or entity:

(i) Directly or indirectly controls or has the power to control the applicant, or

(ii) Is directly or indirectly controlled by the applicant, or

(iii) Is directly or indirectly controlled by a third party or parties that also controls or has the power to control the applicant, or

(iv) Has an "identity of interest" with the applicant.

(2) *Nature of control in determining affiliation.*

(i) Every business concern is considered to have one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example for paragraph (h)(2)(i). An applicant owning 50 percent of the voting stock of another concern would have negative power to control such concern since such party can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting to block any actions taken by the other stockholders in the other entity. Affiliation exists when the applicant has the power to control a concern while at the same time another person, or persons, are in control of the concern at the will of the party or parties with the power of control.

(ii) Control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

(iii) Control can arise through management positions where a concern's voting stock is so widely distributed that no effective control can be established.

Example for paragraph (h)(2)(iii). In a corporation where the officers and directors own various size blocks of stock totaling 40 percent of the corporation's voting stock, but no officer or director has a block sufficient to give him or her control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control. If persons with such management control of the other entity are persons with attributable interests in the applicant, the other entity will be deemed an affiliate of the applicant.

(3) *Identity of interest between and among persons.* Affiliation can arise between or among two or more persons with an identity of interest, such as members of the same family or persons with common investments. In determining if the applicant controls or is controlled by a concern, persons with an identity of interest will be treated as though they were one person.

Example 1 for paragraph (h)(3) introductory text. Two shareholders in Corporation Y each have attributable interests in the same SMR application. While neither shareholder has enough shares to individually control Corporation Y, together they have the power to control Corporation Y. The two shareholders with these common investments (or identity of interest) are treated as though they are one person and Corporation Y would be deemed an affiliate of the applicant.

Example 2 for paragraph (h)(3) introductory text. One shareholder in

VOL
60
ISS
86
MY
4
1995
UMI

Corporation Y, shareholder A, has an attributable interest in a SMR application. Another shareholder in Corporation Y, shareholder B, has a nonattributable interest in the same SMR application. While neither shareholder has enough shares to individually control Corporation Y, together they have the power to control Corporation Y. Through the common investment of shareholders A and B in the SMR application, Corporation Y would still be deemed an affiliate of the applicant.

(i) *Spousal Affiliation.* Both spouses are deemed to own or control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States.

(ii) *Kinship Affiliation.* Immediate family members will be presumed to own or control or have the power to control interests owned or controlled by other immediate family members. In this context "immediate family member" means father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father, or -mother, step-brother, or -sister, step-son, or -daughter, half brother or sister. This presumption may be rebutted by showing that

(A) The family members are estranged,

(B) The family ties are remote, or

(C) The family members are not closely involved with each in business matters.

Example for paragraph (h)(3)(ii). A owns a controlling interest in Corporation X. A's sister-in-law, B, has an attributable interest in an SMR application. Because A and B have a presumptive kinship affiliation, A's interest in Corporation X is attributable to B, and thus to the applicant, unless B rebuts the presumption with the necessary showing.

(4) *Affiliation through stock ownership.* (i) An applicant is presumed to control or have the power to control a concern if he or she owns or controls or has the power to control 50 percent or more of its voting stock.

(ii) An applicant is presumed to control or have the power to control a concern even though he or she owns, controls or has the power to control less than 50 percent of the concern's voting stock, if the block of stock he or she owns, controls or has the power to control is large as compared with any other outstanding block of stock.

(iii) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, such minority holdings are equal or approximately equal in size, and the aggregate of these minority holdings is large as compared with any other stock holding, the presumption arises that each one of these persons individually controls or has the power to control the concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(5) *Affiliation arising under stock options, convertible debentures, and agreements to merge.* Stock options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination, such options, debentures, and agreements will generally be treated as though the rights held thereunder had been exercised. However, neither an affiliate nor an applicant can use such options and debentures to appear to terminate its control over another concern before it actually does so.

Example 1 for paragraph (h)(5). If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in an SMR application, the situation is treated as though company B had exercised its rights and had become owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

Example 2 for paragraph (h)(5). If a large company, BigCo, holds 70% (70 of 100 outstanding shares) of the voting stock of company A, who holds an attributable interest in an SMR application, and gives a third party, SmallCo, an option to purchase 50 of the 70 shares owned by BigCo, BigCo will be deemed to be an affiliate of company, and thus the applicant, until SmallCo actually exercises its options to purchase such shares. In order to prevent BigCo from circumventing the intent of the rule which requires such options to be considered on a fully diluted basis, the option is not considered to have present effect in this case.

Example 3 for paragraph (h)(5). If company A has entered into an agreement to merge with company B in the future, the situation is treated as though the merger has taken place.

(6) *Affiliation under voting trusts.* (i) Stock interests held in trust shall be deemed controlled by any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will.

(ii) If a trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the stock interests held in trust will be deemed controlled by the grantor or beneficiary, as appropriate.

(iii) If the primary purpose of a voting trust, or similar agreement, is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may meet the Commission's size standards, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not recognized within the appropriate jurisdiction.

(7) *Affiliation through common management.* Affiliation generally arises where officers, directors, or key employees serve as the majority or otherwise as the controlling element of the board of directors and/or the management of another entity.

(8) *Affiliation through common facilities.* Affiliation generally arises where one concern shares office space and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operations, or where such concerns were formerly affiliated, and through these sharing arrangements one concern has control, or potential control, of the other concern.

(9) *Affiliation through contractual relationships.* Affiliation generally arises where one concern is dependent upon another concern for contracts and business to such a degree that one concern has control, or potential control, of the other concern.

(10) *Affiliation under joint venture arrangements.* (i) A joint venture for size determination purposes is an association of concerns and/or individuals, with interests in any degree or proportion, formed by contract, express or implied, to engage in and carry out a single, specific business venture for joint profit for which purpose they combine their efforts, property, money, skill and knowledge, but not on a continuing or permanent basis for conducting business generally. The determination whether an entity is a joint venture is based upon the facts of the business operation, regardless of how the business operation may be designated by the parties involved. An agreement to share profits/losses proportionate to each party's contribution to the business operation is a significant factor in determining whether the business operation is a joint venture.

(ii) The parties to a joint venture are considered to be affiliated with each other.

[FR Doc. 95–11010 Filed 5–2–95; 12:52 pm]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 219

Defense Federal Acquisition Regulation Supplement; Evaluation Preference for Small Disadvantaged Business Concerns

AGENCY: Department of Defense.

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement to state that the evaluation preference for small disadvantaged business concerns shall not be used in acquisitions for long distance telecommunications services.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before July 3, 1995, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D008 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

Subpart 219.70 of the Defense Federal Acquisition Regulation Supplement (DFARS) provides policy and procedures for use of an evaluation preference for offers from small disadvantaged business (SDB) concerns in competitive acquisitions. SDB concerns receiving the evaluation preference in acquisitions for services must agree that at least 50 percent of the cost of personnel for contract performance will be spent for employees of the SDB concern.

This DFARS rule proposes to make the SDB evaluation preference inapplicable to acquisitions for long distance telecommunications services, as it is often necessary for large long distance carriers to provide more than 50 percent of the labor under contracts for long distance telecommunications services.

B. Regulatory Flexibility Act

The proposed change to DFARS Part 219 may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule eliminates the evaluation preference for small disadvantaged business concerns in acquisitions for long distance telecommunications services. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments are invited. Comments from small entities concerning the affected DFARS subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D008 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 219 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

2. Section 219.7001(b) is revised to read as follows:

219.7001 Applicability.

* * * * *

(b) Do not use the evaluation preference in acquisitions which—

(1) Use small purchase procedures;

(2) Are set-aside for small disadvantaged businesses;

(3) Are set-aside for small businesses;

(4) Are for commissary or exchange resale; or

(5) Are for long distance telecommunications services.

[FR Doc. 95–11020 Filed 5–3–95; 8:45 am]

BILLING CODE 5000–04–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1121

[Ex Parte No. 400 (Sub-No. 4)]

New Procedures in Rail Exemption Revocation Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is requesting comments on a proposal by the Railway Labor Executives' Association and its affiliated labor organizations to establish procedural rules to govern the filing and processing of petitions to revoke exemptions.

DATES: Written comments are due on June 19, 1995.

ADDRESSES: Send an original and 10 copies of comments, referring to Ex Parte No. 400 (Sub-No. 4), to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: By petition filed December 30, 1994, the Railway Labor Executives' Association and its affiliated labor organizations (RLEA)[1] ask that we establish formal procedural rules to govern petitions to revoke exemptions brought under 49 U.S.C. 10505(d) or 49 CFR 1152.25(e). RLEA proposes a set of rules which, it asserts, provides the parties and the Commission with a specific procedure for filing and processing petitions to revoke exemptions. These rules would require, among other things, that a petition to revoke be filed to initiate a proceeding, containing a concise, plain statement of the grounds for revocation, as well as the relief sought. The rules would further require that respondent(s) reply within 15 days, setting forth, among other things, a concise, plain statement of the reasons why the petition should not be granted. Discovery would commence with the

[1] The affiliated organizations include: American Train Dispatchers Department; International Brotherhood of Locomotive Engineers; Brotherhood of Locomotive Engineers; Brotherhood of Maintenance of Way Employes; Brotherhood of Railroad Signalmen; Hotel Employees and Restaurant Employees International Union; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; International Brotherhood of Firemen and Oilers; and Sheet Metal Workers' International Association.

VOL
60
ISS
86
MY
4
1995
UMI

filing of the reply or upon expiration of 15 days after the filing of the petition to revoke (whichever is shorter), and would close within 105 days. Parties could proceed with depositions only by filing a petition with the Commission. All discovery and scheduling matters would be handled by an Administrative Law Judge. RLEA's proposed regulations also allow for the filing of briefs by petitioner and respondent and set a staggered schedule.[2] Finally, the proposed procedural schedule calls for a Commission decision to be issued within 45 days from the filing of the reply brief, if there has been discovery, or within 30 days, if there has been no discovery.

We are now seeking public comments on this proposal by RLEA to amend 49 CFR 1121.4(i) to provide formal procedural rules for the filing and processing of a revocation petition.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Because this is not a notice of proposed rulemaking within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we need not make, at this time, the small business impact examination required by that Act. Nevertheless, we welcome any comments regarding the small entities considerations embodied in that Act. If we decide to issue a notice of proposed rulemaking, we will conduct an appropriate Regulatory Flexibility Act examination at that time.

List of Subjects in 49 CFR Part 1121

Rail exemption procedures.

Authority: 49 U.S.C. 10326, 10505 and 5 U.S.C. 553.

Decided: April 27, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–11011 Filed 5–3–95; 8:45 am]

BILLING CODE 7035–01–P

[2] Petitioner's brief would be due 30 days after the close of discovery, or if there is no discovery, 15 days after the filing of the reply. Respondent's brief would be due 30 days after service of petitioner's brief or within 15 days if there is no discovery. Petitioner would be permitted to file a reply brief (not to exceed 10 pages) within 10 days after service of the opposition brief.

Notices

Federal Register
Vol. 60, No. 86
Thursday, May 4, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 28, 1995.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) Who will be required or asked to report; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 690–2118.

Revision

• Foreign Agricultural Service
Application for Supplementary Dairy Product Import Licenses—Addendum
FAS 924A
Individuals or households; Business or other for profit; 1,560 responses; 920 hours
Richard Warsack, (202) 720–9439

• Agricultural Marketing Service
Meat Market News
Individuals or households; Business or other for-profit; Farms; State, Local or Tribal Government; 195,000 responses; 3,250 hours
Jimmy A. Beard, (202) 720–6231

• Agricultural Marketing Service
Cotton Classification and Market News Service
CN–59
Business or other for-profit; 2,494 responses; 237 hours
Elvis W. Morris, (901) 384–3000

Extension

• Animal and Plant Health Inspection Service
APHIS Exit Survey
Individuals or households; 300 responses; 75 hours
Richard F. Fraser, (301) 734–5747

• Foreign Agricultural Service
Regulations—Financing Commercial Sales of Agricultural Commodities Under Title I, P.L. 480—Recordkeeping and Reporting Requirements
Business or other for-profit; 252 responses; 528 hours
James Chase, (202) 720–5780.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 95–10949 Filed 5–3–95; 8:45 am]

BILLING CODE 3410–01–M

Office of the Secretary

Agricultural Biotechnology Research Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. 92–463, 86 Stat. 770–776), the U.S. Department of Agriculture (USDA), Research, Education, and Economics, announces the following advisory committee meeting:

Name: Agricultural Biotechnology Research Advisory Committee.

Date: June 26, 1995.

Time: 9:00 a.m. to approximately 5:00 p.m.

Place: Club Room, Westpark Hotel, 1900 North Fort Myer Driver, Arlington (Rosslyn), Virginia 22209.

Type of Meeting: This meeting is open to the public. Persons may participate in the meeting as time and space permit. Members of the public wishing to speak at the meeting may be given such an opportunity at the discretion of the Chair.

Comments: The public may file written comments before or after the meeting with the contact person specified below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Under Secretary for Research, Education, and Economics with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research.

The items to be considered at this meeting include performance standards for research with genetically modified aquatic organisms.

Contact Persons: Dr. Alvin L. Young, Director, or Dr. Daniel D. Jones, Deputy Director, Office of Agricultural Biotechnology, Cooperative State Research, Education, and Extension Service, Department of Agriculture, Room 3868, South Building, 14th and Independence Avenue SW., Washington, D.C. 20250–0904, phone (202) 720–5853.

Done at Washington, D.C., this 17th day of April, 1995.

Floyd P. Horn,

Acting Under Secretary, Research, Education, and Economics.

[FR Doc. 95–11041 Filed 5–3–95; 8:45 am]

BILLING CODE 3410–22–M

Forest Service

[RIN 059–AB47]

Animal Damage Management

AGENCY: Forest Service, USDA.

ACTION: Notice; adoption of final policy.

SUMMARY: The Forest Service is adopting a revised policy for animal damage management on National Forest System lands. This action incorporates the tenets of a 1993 Memorandum of Understanding between the Animal and Plant Health Inspection Service (APHIS) and the Forest Service. The policy clarifies the role and responsibility of the Forest Service in coordinating with the APHIS—Animal Damage Control program on APHIS-sponsored animal damage management plans and in cooperating with APHIS to manage wild vertebrates causing damage on National Forest System lands under the Animal Damage Control Act of 1931, as amended. This final policy also outlines the procedures for settling differences between the two agencies and clarifies agency responsibility for National Environmental Policy Act (NEPA) compliance.

EFFECTIVE DATE: This policy is effective May 4, 1995.

FOR FURTHER INFORMATION CONTACT:

Tom Darden, Wildlife Program Leader, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 205–1205.

VOL
60
ISS
86
MY
4
1995
UMI

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1994, the Forest Service published a proposed revision of its animal damage management direction in Forest Service Manual Chapter 2650 [59 FR 30334]. The proposed policy clarified the role of the Forest Service, and Animal and Plant Health Inspection Service (APHIS) in NEPA compliance for animal damage management activities on National Forest System lands.

The Forest Service cooperates with APHIS under the Animal Damage Control Act of 1931, as amended (7 U.S.C. 426–426c), which, in part, authorizes animal damage management activities on National Forest System lands. In cooperation with the Forest Service and States, APHIS carries out animal damage management activities on some National Forest System lands, mostly to minimize livestock losses from predation by coyotes, black bears, and other predators. Under other authorities (e.g., Multiple-Use, Sustained-Yield Act of 1960 [16 U.S.C. 528(note), 528–531]), the Forest Service conducts activities to control animal damage caused by small mammals and other animals to National Forest System resources, such as damage to timber stands and roads by beavers.

The Secretary of Agriculture has assigned APHIS the lead responsibility for animal damage management activities (7 CFR 2.51(a)(41)). The principal change proposed to existing Forest Service Manual policy (FSM 2650) is the designation of APHIS as the lead agency for preparing environmental documentation on those animal damage management activities conducted by APHIS that would be carried out on National Forest System lands. The Forest Service will be a cooperating agency in preparing and reviewing environmental analysis and documentation of actions proposed by APHIS that would occur on or affect National Forest System lands. In that role, the Forest Service would provide any mitigation measures needed to ensure that animal damage management activities performed by APHIS are compatible with direction established in the Forest Land and Resource Management Plan.

The proposed policy would bring the Forest Service Manual direction into conformance with the Memorandum of Understanding (MOU) between APHIS and the Forest Service, signed June 18, 1993. Notice of availability of the MOU was published in the **Federal Register** on July 13, 1993 (58 FR 37704).

The 1993 MOU clarified the role of each Forest Supervisor in cooperating with APHIS and the States to ensure that animal damage management activities performed by APHIS are compatible with direction provided in forest plans. The MOU also clarified that APHIS, in cooperation with the Forest Service, develops annual work plans for animal damage management activities on National Forest System lands. These plans address control areas, specific control techniques, emergency control procedures, timeframes, and other limitations and restrictions on the implementation of ADM decisions based on NEPA analysis. The MOU recognizes APHIS annual work plans as establishing the guidelines for predator control actions initiated by APHIS on National Forest System lands.

Response to Public Comments Animal Damage Management Policy

The public comment period on the proposed policy closed August 12, 1994. The Forest Service received 58 letters from individuals, organizations, six State agencies, and one federal agency.

Of the 58 letters submitted, two (2) letters expressed support for the proposed policy. Four (4) letters expressed support if specific changes were made to the policy. Two (2) letters requested that all animal damage management be abolished. One (1) letter expressed support for only non-lethal methods of animal damage management. Forty six (46) letters expressed opposition to the policy changes for a variety of reasons.

The 58 letters were from 11 Western, six Eastern, two Southern and two Midwestern states. Of the 58 letters, 30 were written by individuals who identifies no affiliation with any group or organization. Twenty-one (21) letters represented a variety of organizations, including: animal rights or welfare organizations (11 letters); environmental action organizations (3 letters); organizations concerned with biodiversity (3 letters); wilderness organizations (3 letters); an organization of state agencies (1 letter). Six letters were from State agencies with responsibility for fish and wildlife management. One letter was from a federal agency. A summary of major comments received and the agency response to them follow.

1. Role of States

Comment: Of the 50 States, six responded individually and comments were generally favorable. Six State fish and wildlife agencies and the International Association of Fish and Wildlife Agencies, representing all the 50 States, generally concurred with the proposed policy. Two State agencies, however, requested (1) that a statement be included that any animal damage management activities on National Forest System (NFS) lands by any individual or agency must be done in accordance with State law; and (2) section 2651.2 be revised to require not only cooperation but also consultation with the State Fish and Wildlife agencies to control damage caused by game animals and furbearers through hunting or trapping, where practical.

Response: While "cooperation" requires "consultation", the Forest Service has no substantive concern with revising section 2651.2 to include "consultation" and has adopted the proposed suggestion.

The Forest Service, historically, has viewed the regulation of hunting and fishing as the responsibility of the States. This is recognized in agency direction and FS cooperative agreements with State fish and wildlife agencies. This policy does not infringe or modify that approach. Since 1897, under the federal statutes governing National Forests, general civil and criminal jurisdiction of States has extended to federal lands reserved as National Forests. 16 U.S.C. 480. Over the years, State wildlife and game laws have therefore controlled hunting and fishing in these reservations. Beginning in 1960, when Congress enacted modern, multiple-use provisions for forest resources, it carefully preserved the States' role in managing the wildlife resources in National Forests:

> It is the policy of Congress that the national forests are established and shall be administered for (multiple use). * * * Nothing herein shall be construed as affecting the jurisdiction of the several States with respect to wildlife and fish on the national forests (16 U.S.C. 528). More recently, Congress reiterated the States' role over wildlife, hunting, and fishing on national forest land in the Federal Land Management Policy Act of 1976: (N)othing in this Act shall be construed as authorizing the Secretary concerned to require federal permits to hunt and fish on * * * lands in the National Forest System * * * or as enlarging or diminishing the responsibility or the authority of the States for management of fish and resident wildlife (43 U.S.C. 1732 (b)).

Thus, consistant with the statutory context, the Forest Service is strongly encouraged to rely on State regulation of hunting on National Forest System Lands; and the Forest Service is not expected to intervene, absent some overriding federal concern. See, e.g., *Hunt* v. *United States*, 278 U.S. 96 (1928). The new FSM 2650 is consistent with this approach.

2. Loss of Administrative Appeal Opportunity

Comment: While recognizing that APHIS is subject to the National Environmental Policy Act (NEPA), many reviewers opposed designating APHIS as the lead agency for NEPA compliance. Respondents emphasized that APHIS, unlike the Forest Service, has no administrative appeal process for NEPA decision documents. Several reviewers stated that the loss of this administrative process is very significant to them, leaving only the option of challenging animal damage management decisions in court.

Response: While those interested in ADM activities carried out by APHIS on NFS lands have enjoyed an appeal opportunity until now, this is not a "right." The only reason APHIS–ADC proposals affecting NFS lands have been subject to appeal under Forest Service procedures until now is that, prior to the 1993 MOU, the Forest Service has assumed lead agency responsibility for NEPA analysis and disclosure. Since APHIS will not assume these NEPA compliance duties, those interested and affected by an APHIS-initiated ADM proposal will no longer be able to use Forest Service appeals procedures, since the Forest Service will not be the proponent or deciding agency.

It is true that APHIS has no formal appeal process, but APHIS must consider all issues and concerns presented to them by the public during the NEPA process and comment period. A final decision must address those concerns raised during public comment periods. Given the protections of NEPA procedures and the availability of judicial review, the Forest Service does not believe the loss of ADM appeal opportunity is sufficient grounds for revising the final policy.

3. APHIS NEPA Experience and Procedures

Comment: Many of the reviewers who objected to transferring NEPA compliance from the Forest Service to APHIS asserted that APHIS has no formalized NEPA procedures.

Response: This comment is not accurate and provides no compelling reason for the Forest Service and APHIS to revise the terms of the MOU. APHIS follows Council on Environmental Quality (CEQ) NEPA Regulations (40 CFR parts 1500–1508, et. seq.), the USDA NEPA procedures (7 CFR part 1b), and the APHIS NEPA Implementing Procedures (60 FR 6000–6005, Feb. 1, 1995) effective March 3, 1995, in meeting its NEPA compliance obligations.

Comment: Twenty-six respondents, including a government agency, expressed concerns about differences between APHIS and Forest Service NEPA procedures, and differences in quality of analyses. They thought that APHIS lacked sufficient experience in writing environmental documents.

Response: While APHIS and Forest Service NEPA procedures, and ultimately, NEPA documents, may be identical, they must be prepared in accordance with the Council on Environmental Quality (CEQ) regulations. Where APHIS requests NEPA analysis assistance or help with developing NEPA compliance procedures, the Forest Service will cooperate with APHIS personnel. The MOU and final policy provide the basis for such a partnership. Similarly, as the Forest Service or another agency reviews NEPA documents prepared by APHIS, each agency can note any issues related to quality of analyses and suggest improvement. Additionally, in its leadership and training roles, the Council on Environmental Quality has had opportunity to work with APHIS as it devised formal NEPA implementing procedures. CEQ will have additional opportunities as APHIS implements these procedures and prepares NEPA documents on animal damage management activities.

4. Abdication of Forest Service Responsibility

Comment: Eleven of the response letters claimed that the Forest Service is "abdicating its responsibility" or "turning over all decisionmaking procedures" to APHIS and that as a result the Forest Service will not be able to "adequately critique and challenge Animal Damage Control proposals and data." These respondents all expressed concern that the Forest Service would no longer take an active role in managing these activities. Additionally, another agency asked "if APHIS would have the lead in ensuring compliance with forest land and resource management plans on NFS lands? To what extent might APHIS predator control policies conflict with such plans, and which governs in the event of a conflict, and who decides?

Response: There are two assertions underlying these comments: (1) that the Forest Service has all [ultimate] authority for ADM activities and (2) that the Forest Service is abdicating its responsibilities for ADM on National Forest System lands (NFS). Neither of these assertions is accurate. The legal authorities of each agency are recognized in the Memorandum of Understanding (MOU) between APHIS and the Forest Service, signed in June 1993.

Under the final policy and the MOU, tools and procedures for animal damage management activities on NFS lands are to be used "according to a plan developed in compliance with National Environmental Policy Act (NEPA), National Forest Management Act (NFMA); and Animal Damage Control Act." This plan is the Wildlife Damage Management (WDM) Plan, developed by APHIS/ADC in cooperation with the land management agencies, including the Forest Service. The plan is assessed through NEPA documents that cover an entire forest or larger area and is developed under APHIS/ADC leadership. An annual work plan implements the WDM plans, which APHIS–ADC prepares to analyze impacts in logical geographic areas to assess damage caused by wildlife and alternative strategies to manage the damage, regardless of land ownership status. These assessments include NEPA analysis and consider the concerns of all affected interests. The WDM plans are completed as necessary, or when new or changed conditions occur, prior to specific ADM actions. The Forest Service also cooperates with APHIS-ADC in development and review of these WDM plans. The 1993 Memorandum of Understanding states that:

> APHIS-ADC is the agency with the authority and expertise under the Animal Damage Control Act of March 2, 1931, as amended; and pursuant to The Rural Development, Agriculture, and Related Agencies Appropriation Act of 1988 for providing ADM services. This includes maintaining technical expertise in the science of animal damage management, control tools and techniques, conducting ADM research, conducting management programs, and NEPA compliance on activities related to predator control [that APHIS-ADC conducts].

This approach in the MOU is based on the Secretary of Agriculture's longstanding assignment of ADM activities to APHIS. Additionally, the Memorandum of Understanding states that both the Forest Service and APHIS agree to:

> Ensure interagency coordination and concurrence on the effects of predator control activities on National Forest resources before NEPA decisions on predator control are signed.

The Secretary has delegated National Forest System forest planning authorities in the Chief of the Forest Service, including the responsibility to ensure that Forest Service authorized

VOL 60 ISS 86 MY 4 1995 UMI

activities are not in conflict with forest plans. The MOU allows the Forest Service to ensure consistency of ADM activities with Forest Plans, agency regulations, and policy.

It is impossible to speculate whether, or to what degree, if any, APHIS Animal Damage Management activities might conflict with Forest Plans. If there is any conflict, the Forest Service will identify and APHIS will adopt these measures necessary to ensure consistency with the goals and objectives in the Forest Plans. The MOU formalizes the two agency's intent to work closely and cooperate on all activities.

Finally, the Memorandum of Understanding also calls for annual meetings at the State and regional levels to evaluate and coordinate ADM activities. Therefore, on its face, the 1993 MOU recognizes the Forest Service duty to regulate use of NFS lands and ensures that the Forest Service plans a cooperative role in reviewing and commenting on proposed actions and associated NEPA documents prior to APHIS making a decision for predator ADM activities.

If conflicting interpretations arise, the Forest Service will make the final determination of whether the proposed activity conforms to a standard or guideline in a forest plan. A fundamental principle of APHIS' ADM program is its commitment to comply with landowner/manager's restrictions as to where animal damage management activities can and cannot be conducted.

5. Animal Damage Management in Wilderness

Comment: Three respondents expressed concerns about ADM activities in wilderness areas, stating that this "is counter to the meaning and intent of a wilderness area."

Response: All ADM activities on NFS lands must be carried out in a manner consistent with the Wilderness Act and subsequent amendments establishing wilderness areas within the NFS system.

6. Compatibility With Ecosystem Management

Comment: Nine reviewers stated that Animal Damage Management is incompatible with the Forest Service's ecosystem management approach on NFS lands.

Response: There is nothing inherent in Animal Damage Management that is incompatible with ecosystem management. Under the final policy and the 1993 MOU, APHIS will consult with the Forest Service concerning any and all effects of APHIS ADM actions on NFS lands. The 1993 MOU states that both agencies agree to:

Conduct ADM on NFS lands in accordance with the APHIS-ADC Policies, USDA policy on fish and wildlife and consistent with Forest Land and Resource Management Plans" and to "[e]nsure interagency coordination and concurrence on the effects of predator control activities on National Forest resources before NEPA decisions on predator control are signed."

Comment: In addition, another agency stated that the Forest Service recently signed a MOU with the Fish and Wildlife Service (FWS), Bureau of Land Management (BLM), National Park Service (NPS), and National Marine Fisheries Service (NMFS), "* * * which encourages an ecosystem approach to addressing endangered species. How will FS ensure that it meets this commitment where APHIS is the lead agency?"

Response: The Forest Service's cooperative role will ensure that ADM activities are consistent with broader goals and mandates such as ecosystem management. APHIS will coordinate with the Forest Service concerning any and all effects of their actions on Forest Service lands including the Forest Service's ecosystem management approach.

7. Inadequate Opportunity for Public Comment

Comment: Ten reviewers stated that designating APHIS as the lead agency for NEPA compliance for Animal Damage Management was completed with inadequate opportunity for comment.

Response: Intradepartmental agreements have always been considered a routine business operation of the agency. Such agreements are the mechanisms by which USDA agencies reach agreement on responsibilities and procedures to be followed when programs and activities involve more than one USDA agency. The Forest Service places intradepartmental agreements into Title 1500 of the Forest Service Manual to ensure that agency personnel across the country have access to them in carrying out day-to-day management activities. The Forest Service interprets such intra-agency agreements to be of the same nature as administrative support activities such as personnel, procurement, service contracting and other routine business practices. As such, the Agency was not legally required to give notice of and opportunity to comment on the agreement, pursuant to 36 CFR part 216. However, the Forest Service did give notice of the new agreement on July 13, 1993, at 58 FR 37704 and notice that copies were available upon request. Subsequently, the agency decided to give notice of revisions to its Animal Damage Management policy arising from implementation of the 1993 MOU. The notice was published in a **Federal Register** Notice on June 13, 1994, at 59 FR 30334 and provided a 60-day comment period. Thus, the public has been given adequate notice of and adequate opportunity to comment on the proposed policy.

8. Legality of Animal Damage Management Activities on NFS Lands and of Transfer of NEPA Responsibilities

Comment: Thirty-five respondents stated that it is "illegal" for APHIS/ADC to conduct animal damage management on NFS lands or for the Forest Service to "transfer" NEPA planning responsibilities to APHIS. These respondents contend that, in doing so, the Forest Service violates the Endangered Species Act, National Forest Management Act, Multiple-Use Sustained Yield Act, Wilderness Act, and the Animal Damage Control Act. Additionally, another agency asked if the Forest Service role as stated in FSM 2651.1 is consistent with APHIS approach so that ESA obligations are met.

Response: The MOU serves to reemphasize the authority that APHIS and the State agencies already have for ADM activities on National Forest System lands. Under the Animal Damage Control Act of 1931, as amended, the Secretary of Agriculture is authorized to control predators and other wild animals causing damage on NFS lands. The Secretary has delegated this authority to APHIS at 7 CFR 2.51(a)(41). Animal damage management for predators has never been a Forest Service responsibility. APHIS is the authorized action agency and has had, and continues to have, responsibility for its ADM activities. Therefore, it is completely lawful for APHIS to conduct animal damage management on NFS land. It is also appropriate for APHIS to be the lead agency in preparing environmental documentation of APHIS-sponsored ADM activities on NFS lands.

However, the policy, at FSM 2651.1, explicitly recognizes the responsibility of Forest Supervisors in cooperating with APHIS to complete necessary site-specific environmental analysis and documentation of actions proposed by APHIS and in providing mitigation measures to ensure that animal damage management activities performed by APHIS are compatible with direction provided in forest plans.

As the lead agency (40 CFR 1508.16) for completing environmental documentation of APHIS-sponsored ADM activities on NFS lands, APHIS will also be responsible for completion of all Endangered Species Act-mandated interagency consultations (16 U.S.C. 1536.7; FSM 2671.4). Presently, APHIS operates under the programmatic biological opinion issued by the U.S. Fish and Wildlife Service for the Animal Damage Control Program on July 28, 1992 and will consult with the U.S. Fish and Wildlife Service both formally and informally, as appropriate, under Section 7 of the Endangered Species Act, on future actions including those on NFS lands.

As to consistency of approaches to ensure Endangered Species Act (ESA) compliance, under the MOU, the FS and APHIS will cooperate in ESA compliance. In addition to changes based on public comment, the Forest Service, after consideration of the potential for joint responsibility under the ESA, developed additional policy to assure consistent application of protection for threatened and endangered species.

In the final amendment this language appears in section 2650.3, paragraph (5) and reads as follows:

> Additionally, the lead agency responsible for completing environmental documentation is responsible for completion of all Endangered Species Act-mandated interagency consultations. However, the Forest Service will be a cooperating agency with APHIS during consultation under the Endangered Species Act where actions involve National Forest System resources or authorities.

Nothing in the Forest Service policy relieves APHIS of any of its current responsibilities to consult with the FWS nor does it violate any Forest Service policies.

9. Clarification of Each Agency's Roles

Comment: Another government agency asserted that "the Forest Service and APHIS must clarify their precise roles in preparation of environmental impact analyses and documentation for animal damage management activities on National Forest System lands * * *."

Response: The roles have been clarified in the 1993 MOU and proposed FSM 2650.6. The Forest Service and APHIS have agreed that APHIS will ensure NEPA compliance and be the lead agency for all actions that APHIS initiates and carries out on NFS lands. Predator control to reduce livestock loss is an example of an action carried out by APHIS. If the Forest Service carries out the action, such as reducing bear or beaver damage to tree regeneration, the Forest Service will be the lead agency for NEPA compliance.

APHIS has not and will not work on any Forest Service administered land without proper NEPA compliance. The Forest Service will cooperate in each effort by APHIS. Disagreements on any specific points are handled through annual meetings or during the development of work plans or NEPA documents, as appropriate. The MOU describes the specific framework for meetings and states that disagreements will be elevated to appropriate levels for resolution.

Comment: Twenty-five reviewers noted their view that APHIS "cannot comply with forest plans;" and ten others questioned whether APHIS "fails to comply with the Endangered Species Act, National Environmental Policy Act, National Forest Management Act, Wilderness Act, Administrative Procedures Act, and numerous other State and Federal laws".

Response: The Department does not agree. The statement that APHIS "cannot comply with forest plans" reflects a misunderstanding of law and authority. Under the 1993 MOU, APHIS consults with the Forest Service to assure that any ADC plans and actions are consistent with the standards and guidelines in the applicable forest plan. As already stated under comments on "Forest Service Abdication of Responsibility", the Forest Service retains the ability to assure that ADM plans and actions are consistent with forest plan requirements.

10. NEPA Analysis and Disclosure on Proposed Policy

Comment: Seventeen respondents asserted that the Forest Service must "complete an Environmental Impact Statement (EIS) to analyze the impact of this transfer." Six stated that an Environmental Assessment (EA) is needed.

Response: The Forest Service disagrees. Section 31.1b of Forest Service Handbook 1909.15 (57 FR 43180; September 18, 1992) excludes "rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions." Based on consideration of the comments received on the proposed policy, and the nature and scope of the proposed policy, the Forest Service has determined that this policy falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

11. Use of Pesticides in Animal Damage Management

Comment: Two respondents were concerned about the use of pesticides on NFS lands stating that the Forest Service does not "understand the public's biological concerns about the use of pesticides and the effects on wildlife" and "that no one is responsible for overseeing of tracking sodium cyanide in M–44s".

Response: By law and regulation, both APHIS and the Forest Service allow only certified individuals to administer pesticides being used on NFS lands for animal damage management activities. APHIS reports their use of pesticides annually to the Environmental Protection Agency (EPA). The Forest Service also annually reports pesticide use. Use of sodium cyanide present in M–44s would appear in APHIS reports.

Conclusion

Having carefully considered the comments received in response to the June 13, 1994, notice of proposed policy and having reconsidered the 1993 Animal Damage Management MOU between the Forest Service and APHIS, the Forest Service is adopting the revised Animal Damage Management policy as proposed, except for the revisions noted in the response to public comments and several minor technical revisions. The agency believes the policy is fully responsive to the agency's legal and management obligations. The policy implements the 1993 Memorandum of Understanding which recognizes APHIS as the lead for NEPA compliance where APHIS is the action proposing agency. APHIS has entered into a similar agreement with the Bureau of Land Management of the U.S. Department of Interior, thus providing a fully coordinated, streamlined and consistent approach to NEPA compliance across all land ownerships on federally-funded animal damage management activities to be undertaken by APHIS. This partnership with APHIS will achieve efficiencies through both economies of scale and integrated NEPA documentation. The full text of the directive as it will appear in the Forest Service Manual is set out at the end of this notice.

Environmental Impact

This policy provides administrative instructions to Forest Service field offices on the procedures and processes to follow in order to coordinate with APHIS on animal damage management activities and implements the terms of the 1993 Memorandum of Understanding between the Forest

VOL
60
ISS
86
MY
4
1995
UMI

Service and APHIS. As noted in the response to comments, section 31.1b(2) of Forest Service Handbook 1909.15 (57 FR 43180, Sept. 18, 1992) excludes from documentation in an environmental assessment or impact statement "rules, regulations, or policies to establish Servicewide administrative procedures, program processes, or instructions." Accordingly, the agency's assessment is that this policy falls within this category of action and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement. This decision is further documented in a Decision Memo available from the Forest Service through the Wildlife Program Leader whose address is provided as a contact for further information at the beginning of this notice.

Controlling Paperwork Burden on the Public

This policy will not result in additional paperwork. Therefore, the review provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and implementing regulations at 5 CFR Part 1320 do not apply.

Regulatory Impact

This policy has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. It has been determined that this is a significant policy.

Dated: April 5, 1995.

David G. Unger,

Associate Chief.

FSM 2600—Wildlife, Fish, and Sensitive Plant Habitat Management

Chapter 2650—Animal Damage Management

(**Note:** The Forest Service organizes its directive system by alpha-numeric codes and subject headings. Only those sections of the Forest Service Manual that are the subject of this notice are set out here. The audience for this direction is Forest Service employees charged with coordinating with the Animal and Plant Health Inspection Service—Animal Damage Control Unit on animal damage management activities on National Forest System lands.)

The Forest Service and Animal and Plant Health Inspection Service (APHIS)—Animal Damage Control program along with the states, cooperate under the Animal Damage Control Act of 1931, as amended, to manage animal damage on National Forest System lands. These activities include actions to provide wildlife damage management through direct control, as well as technical assistance to achieve desired management objectives. APHIS carries out animal damage management activities on National Forest System lands, mostly to minimize livestock losses from predation by coyotes, black bears, and other predators. The Forest Service conducts activities to control animal damage caused by small mammals and other animals to National Forest System resources, such as timber stands and roads.

2650.1—Authority. In addition to the authorities listed in FSM 2601, the following authorities govern animal damage management activities on National Forest System lands:

1. *The Animal Damage Control Act of March 2, 1931,* as amended, (7 U.S.C. 426–426c) authorizes the Secretary of Agriculture to provide animal damage management services, to maintain technical expertise for evaluating and recommending animal damage management techniques, and to perform animal damage research. The Secretary has delegated this authority to the Animal and Plant Health Inspection Service (APHIS) and the Animal Damage Control program in APHIS is specifically responsible for ADM activities.

2. *The Federal Insecticide, Fungicide, and Rodenticide Act* limits the use of pesticides to those that are properly registered in accordance with federal and state requirements for animal damage management and that conform to policies on pesticide-use management and coordination (FSM 2150). (61 stat. 63, as amended; 7 U.S.C. 136 (note), 136, 136b, 136i–m, 136p)

3. *Executive Order 12342, January 24, 1982,* permits the use of chemical toxicants registered by the Environmental Protection Agency for predator damage control on federal lands.

4. *Department of Agriculture Regulation* (DR) 9500–4 (FSM 2601.2) requires Department of Agriculture programs to include measures to alleviate damage by plant and animal pests; develop new techniques and methodologies through management and research programs to limit damage to agriculture or forestry production; and apply integrated pest management practices, where feasible, in carrying out these responsibilities.

5. *A Memorandum of Understanding (MOU) between APHIS and the Forest Service, June 18, 1993,* outlines the cooperative approach to animal damage management on National Forest System lands. Both agencies have a joint responsibility for limiting damage caused by wildlife. In this MOU, APHIS and state agencies are recognized as having the authority and expertise to conduct predator control on National Forest System lands, to determine livestock losses, and to determine methodology for animal damage management. Under the MOU, APHIS is named the lead agency in preparing environmental documentation for predator control and other animal damage management activities initiated by APHIS on National Forest System lands.

Also, under the MOU, the Forest Service agrees to:

a. Cooperate to ensure that the animal damage management plans developed by APHIS will provide for protection of National Forest System resources and;

b. Cooperate with APHIS in the development of work plans to ensure consistency with forest land and resource management plans. See FSM 1543.14 for the full text of the MOU.

2650.2—Objective. The objective of animal damage management activities is to protect National Forest System resources, to protect activities taking place on National Forest System lands, and to reduce threats to human health and safety.

2650.3—Policy. National Forest System resources must be adequately protected during animal damage management activities authorized by the states and conducted by the states or Animal and Plant Health Inspection Service (APHIS)—Animal Damage Control program. This policy in no way defines or limits the authority of States to regulate the taking of predators according to State and other applicable Federal laws.

When the Forest Service conducts animal damage management activities, such as controlling small mammal populations on plantations, the agency must comply fully with state and federal laws. In carrying out animal damage management activities, Forest Service employees shall—

1. Rely upon APHIS or the state agencies to provide the expertise and conduct predator control on National Forest System lands, to determine livestock losses, and to determine methodology for animal damage management.

2. Conduct non-predator animal damage management, such as controlling small mammal populations on plantations, and necessary environmental analysis and disclosure on National Forest System lands consistent with forest plans.

3. Coordinate with the Bureau of Land Management (BLM) and other federal and state agencies to improve effectiveness of control program activities conducted on National Forest System and other public lands.

4. Use an integrated approach to the prevention of animal damage and management of animal damage control programs. Consider a full range of methods, including physical barriers, repellents, habitat manipulation, biological controls, silvicultural methods (for example, fertilizing to improve soil fertility), pesticides, and hunting and trapping. Use licensed hunting, fishing, and trapping as a control technique where practicable.

5. Follow direction in FSM 2670, Threatened, Endangered, and Sensitive Plants and Animals, to determine whether proposed control measures conducted by the Forest Service are likely to have an effect on federally proposed, threatened, endangered, or sensitive species.

Additionally, the lead agency responsible for completing environmental documentation is also responsible for completion of all Endangered Species Act-mandated interagency consultations. However, the Forest Service will be a cooperating agency with APHIS during consultation under the Endangered Species Act where actions involve National Forest System resources or authorities.

2650.4—Responsibility.

2650.41—Deputy Chief for National Forest System. The Deputy Chief for the National Forest System is responsible for resolving any difficulties arising between Regions and the Animal and Plant Health Inspection Service (APHIS)—Animal Damage Control program that cannot be resolved by Regional Foresters under the Memorandum of Understanding (FSM 1543.14).

2650.42—Regional Foresters. Regional Foresters are responsible for:

1. Reviewing and approving all proposed pesticide uses for animal damage management on National Forest System lands (FSM 2151). Regional Foresters may redelegate this authority to Forest Supervisors, except that only Regional Foresters may approve animal damage management in wilderness (FSM 2323).

2. Establishing or amending existing Memorandums of Understanding between the Region and appropriate State and other federal agencies regarding animal damage management.

3. Reviewing all proposed Forest Service animal damage management activities within areas occupied by and habitat of federally proposed or listed threatened or endangered species and Regional Forester approved sensitive species. Regional Foresters may redelegate this authority to Forest Supervisors.

4. Meeting with or designating a representative to meet with State or regional representatives, such as the APHIS Regional Director, as needed to coordinate animal damage management operations.

5. Resolving any difficulties arising among APHIS personnel and Forest Supervisors under the Memorandum of Understanding (FSM 1543.14), or referring unresolved issues to the Deputy Chief, National Forest System, for resolution.

2650.43—Forest Supervisors. Forest Supervisors are responsible for:

1. Ensuring appropriate environmental analysis requirements are met for proposed non-predator control activities conducted by the Forest Service and ensuring consistency with forest plan direction.

2. Recommending changes in state hunting, fishing, or trapping regulations to accommodate animal damage management activities on National Forest System lands (FSM 2640).

3. Meeting with APHIS personnel and responsible state agencies to cooperate where proposed predator control is needed to ensure coordination of Forest Service resources or activities on National Forest Systems lands.

4. Cooperating with APHIS in preparation of environmental documentation for predator control or other animal damage management activities conducted by APHIS on National Forest System lands (40 CFR 1508.15).

5. As necessary, referring any difficulties arising from activities with APHIS under the Memorandum of Understanding (FSM 1543.14) for resolution by the Regional Forester.

6. When needed, requesting training from APHIS in animal damage management techniques.

7. Ensuring that licensing and certification of Forest Service personnel performing animal damage management activities comply with applicable federal and state regulations and that certified pesticide applicators use or supervise the use of restricted-use pesticides on National Forest Systems Lands (FSM 2150).

2650.6—Cooperation in Animal Damage Management Activities. Both the Forest Service and Animal and Plant Health Inspection Service (APHIS)—Animal Damage Control program have a responsibility for limiting damage caused by wildlife, consistent with other wildlife values and resource management objectives. APHIS responsibilities are generally directed toward the management and control of animals causing damage to livestock, agriculture, wildlife, and human health and safety. Trapping or shooting coyotes to prevent losses of sheep or cattle are examples of these activities.

Forest Service animal damage management activities are related to the management of National Forest System resources. Examples of Forest Service initiated activities include, but are not limited to, removing beavers that are damaging roads, reducing bear damage to tree regeneration and controlling mice and pocket gophers to protect seedlings. Pursuant to the delegation of authority to APHIS at section 2.51 (a)(41) of Title 7 of the code of Federal Regulations (7 CFR 2.51 (a)(41)), the 1993 Memorandum of Understanding between the Forest Service and APHIS for animal damage management activities (FSM 1543.14), the role of APHIS is as follows:

1. Evaluate animal damage management needs and conduct predator control in cooperation with the Forest Service, state agencies, and permittees.

2. Serve as lead agency for preparing environmental documentation on animal damage management activities initiated by APHIS on National Forest System lands.

3. Develop and update animal damage management work plans in cooperation with the Forest Service and appropriate state and federal agencies, and interested publics to ensure compliance with forest plans.

4. Inform the Forest Service about animal damage management requests, management activities, and results on a timely basis.

5. Provide the Forest Service with technical information on recommended animal damage management tools and techniques.

6. Conduct animal damage management training sessions for Forest Service personnel, when requested.

2651—WILDLIFE AND FISH DAMAGE MANAGEMENT.

2651.1—Threatened and Endangered Species. Follow specific species control plans for federally listed species (for example, grizzly bear and wolf) cleared through consultation with the Fish and Wildlife Service and National Marine Fisheries Service.

2651.2—Game and Furbearers. Control damage caused by game animals and furbearers through hunting or trapping, where practicable, in cooperation and consultation with the State fish and wildlife agencies, and APHIS, where appropriate.

2651.3—Nongame Species. Control damage caused by nongame species on National Forest System lands in close cooperation with the State fish and

VOL 60 ISS 86 MY 4 1995 UMI

wildlife agencies, or other involved state or federal agencies.

2651.4—Birds. Nonlethal repellents, frightening devices, pesticides, or physical barriers may be used to prevent or reduce resource damage or hazards, where birds damage reforestation or other resources, or where they create health hazards. Obtain permits from the Fish and Wildlife Service for any lethal control of species protected under the Migratory Bird Treaty Act. Consult the Fish and Wildlife Service for permit requirements and procedures.

2651.5—Fish and Aquatic Animals. States or other responsible agencies have the authority to control undesirable fish and aquatic animals in National Forest System waters. The Forest Service is responsible for coordinating with the responsible agencies to develop a work plan to ensure control activities are consistent with direction provided in forest plans. Control activities conducted by the Forest Service must meet appropriate environmental analysis requirements and be consistent with forest plan direction.

2651.6—Wildlife and Fish Damage Management in Wilderness Areas. Follow direction in FSM 2151, FSM 2323, and FSM 4063 for management of wildlife or fish damage in wilderness and Research Natural Areas. Animal damage management is permitted in wilderness only when it was used prior to wilderness designation; when it conforms with direction in FSM 2323.33 on resource management in wilderness; and when it is needed for the recovery of federally listed threatened or endangered species.

2652—REPORTS. Report pesticide uses annually following direction in FSM 2158.

[FR Doc. 95–10918 Filed 5–3–95; 8:45 am]

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Tongass Land Management Plan Revision, Tongass National Forest, Alaska

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a revised supplement to the draft environmental impact statement.

SUMMARY: The Forest Service will prepare a revised supplement to the draft environmental impact statement on a proposal to revise the Tongass Land Management Plan. This is a revision of the supplement published in August 1991.

DATES: Formal comments are not being solicited at this time. A revised supplement to the draft environment impact statement is scheduled to be filed with the Environmental Protection Agency in November 1995, at which time a formal comment period will begin.

FOR FURTHER INFORMATION CONTACT: Gary Lidholm, Public Affairs Officer, Tongass Revision Team, 8465 Old Dairy Road, Juneau, AK 99801. Telephone (907) 586–8726.

SUPPLEMENTARY INFORMATION: The original notice of intent for the Tongass Land Management Plan revision was published September 10, 1987 (52 FR 34264, *34265). A draft environmental impact statement was available for public review and comment from July 1990 to January 1991, and a supplement to that draft was available from September to December 1991. Release of a final environmental impact statement was delayed pending completion of additional studies. Based on the results of these studies, other new information, and the lapse of time since public review of the supplement, the Forest Service has decided to issue another draft document, the revised supplement, for public review.

The issues identified in the August 1991 supplement to the draft environmental impact statement have been updated. The focus for the revised supplement will be on the following specific issues: providing for species viability consistent with the provisions of NFMA and the Endangered Species Act; evaluating recommendations for additional fisheries habitat protection; cave and karst management; ensuring conformance with ecosystem management principles; and the socio-economic effects of alternative actions. The alternatives described in the 1991 supplement will be the basis for formulating alternatives to deal with these issues.

A partnership approach with the agency's Pacific Northwest Research Station (PNW) will be an important vehicle to bring science to bear on the issues. PNW will be involved along with the Alaska Region of the Forest Service at every phase of the project. Other federal agencies are being asked to cooperate in the planning process, including the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the Environmental Protection Agency. In addition, the skills and expertise of Alaska State agencies and Alaska tribal governments will be sought.

A revised supplement to the draft environment impact statement is anticipated to be filed with the Environmental Protection Agency in November 1995, and a final environmental impact statement is projected for June 1996.

The responsible official is Phil Janik, Regional Forester, Alaska Region, P.O. Box 21628, Juneau, AK 99801.

A 90-day public comment period on the revised supplement to the draft environmental impact statement will begin on the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. An extensive scoping process has already taken place with respect to the proposed TLMP revision. No further formal scoping process is scheduled as part of the preparation of the revised supplement to the draft environmental impact statement. Public meetings are expected and will be announced.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements (or, in this case, the revised supplement to the draft) must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, objections that could be raised at the draft (or revised supplement to the draft) environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 90 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

The revised supplement is preceded by two other draft documents (the 1990 draft and 1991 supplement referred to earlier). Reviewers should note that comments on either of these two previous documents are still valid, and will be considered along with all comments received on the revised supplement in reaching a final decision. Participation in any of the three comments periods satisfies the intent of the previous discussion, provided that the reviewer's position and/or concerns have been raised.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the revised supplement to the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the revised supplement to the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: April 21, 1995.

Robert Williams,

Acting Regional Forester of the Alaska Region.

[FR Doc. 95–10940 Filed 5–3–95; 8:45 am]

BILLING CODE 3410–11–M

Snowbird Mineral Withdrawal, Lolo National Forest, Mineral County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw 160 acres of National Forest System lands for 30 years to allow for public recreational crystal and mineral collection. From the date of the withdrawal, these lands would be closed to location and entry under the mining laws for the next 30 years.

DATES: Comments concerning the scope of the analysis should be received in writing by May 15, 1995.

ADDRESSES: Send written comments to the Ninemile Ranger District, 20325 Ninemile Road, Huson, MT, 49846.

FOR FURTHER INFORMATION CONTACT: Lisa Stoeffler, 406–626–5201.

SUPPLEMENTARY INFORMATION: On March 29, 1993, the U.S. Department of Agriculture filed an application to withdraw the following described National Forest System land from location and mineral entry under the United States mining laws, subject to valid existing rights:

Principle Meridian, Montana

T. 12 N., 25 W., (Unsurveyed)
Sec. 19, SW¼.

The area described contains 160 acres in Mineral County.

The Forest Service is preparing an Environmental Analysis to in order to make a recommendation for the withdrawal of these lands for 30 years.

The purpose of the 30 year withdrawal is to provide the opportunity for the public to use the site as a recreational mineral and crystal collecting area. The Forest Service will undertake an analysis to determine the existing and potential demand for the land and its resources.

The public is invited to comment, in writing, on this proposal

Dated: April 3, 1995

Robert P. Meuchel,

Acting Forest Supervisor.

[FR Doc. 95–10937 Filed 5–3–94; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting Cancellation of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission which was to have convened on Monday, May 8, 1995, at 1:30 p.m. and adjourned at 4:00 p.m., at the Magistrate Court of the U.S. District Court House, Third Floor, 202 Harlow Street, Bangor, Maine 04401, has been canceled.

The original notice for the May 8, 1995, meeting was announced in the **Federal Register** on April 21, 1995, 60 FR 19883.

Persons desiring additional information, or planning a presentation to the Committee, should contact Edward Darden, Acting Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116).

Dated at Washington, DC, May 1, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–11074 Filed 5–3–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southeast Region Dealer/Interview Family of Forms.

Form Number: Agency: NOAA 88–30; OMB Number 0648–0013.

Type of Request: Extension of the expiration date.

Burden: 2,268 hours; 9,170 respondents with 15,286 responses; Avg. Hours Per Response varies depending on requirement but ranges between 3 to 40 minutes.

Needs and Uses: Data from dealer reporting are used to monitor mandated fishery quotas. Interviews with fishermen provide detailed catch, effort, and species composition data for stock assessments that support fishery management plans.

Affected Public: Businesses or other for-profit institutions, individuals.

Frequency: Weekly, monthly, on occasion.

Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Gerald Taché, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 27, 1995

Gerald Taché,

Department Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–11053 Filed 5–3–95; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[A–412–602]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Forged Steel Crankshafts From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–1766 or (202) 482–3464, respectively.

VOL 60 ISS 86 MY 4 1995 UMI

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1993, the Department of Commerce (the Department) published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the Antidumping Duty Order on Certain Forged Steel Crankshafts from the United Kingdom (52 FR 35467). In accordance with 19 CFR 353.22(a)(2), in September 1993, United Engineering and Forging (UEF) requested an administrative review of the antidumping order covering the period September 1, 1992, through August 31, 1993. We initiated the administrative review on October 18, 1993 (58 FR 53710), and are conducting it in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

The products covered in this review are certain forged steel crankshafts (CFSCs). The term "crankshafts," as used in this review, includes forged carbon or alloy steel crankshafts with a shipping weight between 40 and 750 pounds, whether machined or unmachined. The products are currently classifiable under items 8483.10.10.10, 8483.10.10.30, 8483.10.30.10, and 8483.10.30.50 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Neither cast crankshafts nor forged crankshafts with shipping weights of less than 40 pounds or more than 750 pounds are subject to this review. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Such or Similar Merchandise

In determining similar merchandise comparisons, we considered the following physical characteristics, which appear in order of importance: (1) Twisted vs. untwisted; (2) number of throws; (3) ship weight; (4) forging method; (5) engine type; (6) number of bearings; (7) number of flanges; and, (8) number of counterweights (*see* the February 4, 1993, model matching methodology memorandum from Louis Apple, Acting Division Director to David L. Binder, Acting Director, Office of Antidumping Investigations; and the April 26, 1995, memorandum from the case analyst to the file).

United States Price (USP)

We based USP on purchase price, in accordance with section 772(b) of the Act, because the subject merchandise was sold to an unrelated purchaser before importation into the United States and because exporter's sales price methodology was not otherwise indicated. We based purchase price on the packed, c.i.f. price to the first unrelated purchaser in the United States.

We made deductions from USP, where appropriate, for ocean and foreign inland freight, U.S. duties, harbor maintenance and merchandise processing fees, marine insurance and U.S. brokerage and handling expenses, in accordance with section 772(d)(2) of the Act. For certain sales made by UEF's Shardlow facility, ocean freight, foreign inland freight, U.S. duties, and U.S. brokerage and handling expenses were not reported. Therefore, in accordance with section 776(c) of the Act, we have relied upon the best information available (BIA) in these preliminary results to value these unreported expenses for those sales. As BIA, we applied the largest reported amount to each of Shardlow's unreported expenses. Based on verification, we requested UEF to correct its reported brokerage and handling expenses, and ocean freight expenses identified in the August 23, 1994, verification reports. In addition, we made certain corrections to UEF's reported credit expenses, warranty expenses, U.S. duty expenses, marine insurance expenses and additional corrections to ocean freight and U.S. brokerage and handling expenses identified in the verification reports.

For one crankshaft model, we increased USP to account for tooling and manufacturing costs that were not included in the U.S. sales invoice, but were billed separately to the U.S. customer. Such costs are normally considered a component of USP for that merchandise (*see Final Results of Antidumping Duty Administrative Review: Certain Forged Steel Crankshafts from the United Kingdom* (52 FR 5975 (February 14, 1991)).

We also made adjustments to USP, as appropriate, for price and/or quantity changes subsequent to shipment.

Finally, we made an adjustment for taxes paid on comparison sales in the United Kingdom, in accordance with our practice, pursuant to the Court of International Trade (CIT) decision in *Federal-Mogul, et al* v. *United States*, 834 F. Supp. 1993. *See Preliminary Determination of Sales at Less Than Fair Value: Color Negative Photographic Paper and Chemical Components Thereof from Japan* (59 FR 16177, 16179 (April 6, 1994)), for an explanation of this tax methodology.

Foreign Market Value

In order to determine whether there were sufficient sales of CFSCs in the home market to serve as a viable basis for calculating foreign market value (FMV), we compared the volume of the respondent's home market sales to the volume of its third country sales, in accordance with section 773(a)(1)(B) of the Act. Based on this comparison, we determined that the home market is viable, and that it is the most appropriate basis for calculating FMV.

Where home market sales were used for comparisons, we calculated FMV based on packed, ex-factory or delivered prices to customers in the United Kingdom. We made deductions, where appropriate, for discounts. We also made adjustments to FMV, where appropriate, for price and/or quantity changes subsequent to shipment.

In light of the Court of Appeals for the Federal Circuit's decision in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement* v. *United States*, 13 F.3d 398 (Fed. Cir. 1994), the Department no longer can deduct home market movement charges from FMV pursuant to its inherent power to fill in gaps in the antidumping statute. Instead, we adjust for those expenses under the circumstance-of-sale (COS) provision of 19 CFR 353.56(a). Accordingly, in the present case, we adjusted for post-sale home market inland freight charges under the COS provision of 19 CFR 353.56(a).

Because all price-to-price comparisons involved purchase price sales, we also made COS adjustments, where appropriate, for differences in credit expenses, warranty expenses, and pre-sale and post-sale warehousing expenses on U.S. sales, in accordance with 19 CFR 353.56(a). We treated the pre-sale warehousing expense as a direct selling expense because UEF has an agreement with its U.S. customer that it will store the subject merchandise in a warehouse before it transfers title of the merchandise to its customer. In accordance with section 773(a)(1) of the Act, we then added U.S. packing costs to all home market prices. We did not deduct home market packing costs because UEF could not report them separately.

Where appropriate, we made adjustments to FMV to account for differences in physical characteristics of the merchandise, in accordance with 19 CFR 353.57.

For two U.S. products, we found no home market products sold in contemporaneous periods which had an adjustment for differences in physical characteristics of merchandise that was less than 20 percent of the cost of manufacture of the U.S. product. For sales of one U.S. product, we deemed it inappropriate to match a twisted with an untwisted crankshaft (*see Final Determination of Sales at Less Than Fair Value: Certain Forged Steel Crankshafts from the United Kingdom* (52 FR 32951, 32953 (September 1, 1987)). For the second U.S. product, there were no contemporaneous sales of comparable home market products. For these products, we based FMV on CV. We calculated CV based on the sum of the respondent's submitted cost of materials, fabrication, general expenses, U.S. packing and profit. In addition, we increased the respondent's submitted general and administrative expenses (G&A) to include certain forging division G&A items (*see* August 18, 1994, verification report for a further discussion). According to section 773(e)(1)(B) (i) and (ii) of the Act, we included the actual general expenses which exceeded the statutory minimum (ten percent of the cost of manufacturing (COM)). We used the statutory minimum profit, which is eight percent of the sum of COM and general expenses, because the actual profit amount was less than the statutory minimum.

We made adjustments to CV, in accordance with 19 CFR 353.56, for differences in circumstances of sale. These adjustments were made for differences in credit expenses, warranties, and warehousing.

Currency Conversion

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(b) of the Act, we verified information provided by respondent by using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original source documentation containing relevant information.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margin exists for the period September 1, 1992, through August 31, 1993:

Manufacturer/exporter	Review period	Margin (percent)
UEF	9/01/92—8/31/93	0.36

Interested parties may request a disclosure within 5 days of publication of this notice and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirement will be effective for all shipments of CFSCs from the United Kingdom entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for UEF will be the rate established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the "all others" rate, as set forth below.

On March 25, 1993, the Court of International Trade (CIT), in *Floral Trade Council v. United States*, 822 F.Supp. 766 (CIT 1993), and *Federal-Mogul Corporation v. United States*, 822 F.Supp. 782 (CIT 1993), decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement this decision, it is appropriate to reinstate the original "all others" rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders. In proceedings governed by antidumping findings, unless we are able to ascertain that "all others" rate from the original investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical errors or as a result of ligitation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews. Because this proceeding is governed by an antidumping duty order, the "all others" rate for the purposes of this review will be 14.67 percent, the "all others" rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 27, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–11056 Filed 5–3–95; 8:45 am]

BILLING CODE 3510–DS–P

VOL 60 ISS 86 MY 4 1995 UMI

[A-580-803]

Certain Small Business Telephone Systems and Subassemblies Thereof From Korea; Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On December 23, 1994, the Department of Commerce (the Department) published the preliminary results of its 1993–94 administrative review of the antidumping duty order on certain small business telephone systems and subassemblies thereof (SBTS) from Korea. The review covers one manufacturer/exporter of this merchandise to the United States, SsangBangWool Inc. (SBW). The review period is February 1, 1993, through January 31, 1994.

We gave interested parties the opportunity to comment on the preliminary results. We received one comment from the respondent.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Michael R. Rill, Office of Antidumping Compliance, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On December 23, 1994, the Department published in the **Federal Register** (59 FR 66294) the preliminary results of its administrative review of the antidumping duty order on SBTS from Korea (55 FR 4215, February 7, 1990). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

The products covered by this review are SBTS, currently classifiable under *Harmonized Tariff Schedule* (HTS) item numbers 8517.30.2000, 8517.30.2500, 8517.30.3000, 8517.10.0020, 8517.10.0040, 8517.10.0050, 8517.10.0070, 8517.10.0080, 8517.90.1000, 8517.90.1500, 8517.90.3000, 8518.30.1000, 8504.40.0004, 8504.40.0008, 8504.40.0010, 8517.81.0010, 8517.81.0020, 8517.90.4000, and 8504.40.0015.

The HTS item numbers are provided for convenience and Customs purposes. They are not determinative of the products subject to the order. The written description remains dispositive.

Certain SBTS are telephone systems, whether complete or incomplete, assembled or unassembled, with intercom or internal calling capability and total non-blocking port capacities of between 2 and 256 ports, and discrete subassemblies designed for use in such systems. A subassembly is "designed" for use in a small business telephone system if it functions to its full capability only when operated as part of a small business telephone system. These subassemblies are defined as follows:

(1) Telephone sets and consoles, consisting of proprietary, corded telephone sets or consoles. A console has the ability to perform certain functions including: Answer all lines in the system; monitor the status of other phone sets; and transfer calls. The term "telephone sets and consoles" is defined to include any combination of two or more of the following items, when imported or shipped in the same container, with or without additional apparatus: housing; hand set; cord (line or hand set); power supply; telephone set circuit cards; console circuit cards.

(2) Control and switching equipment, whether denominated as a key service unit, control unit, or cabinet/switch. "Control and switching equipment" is defined to include the units described in the preceding sentence which consist of one or more circuit cards or modules (including backplane circuit cards) and one or more of the following items, when imported or shipped in the same container as the circuit cards or modules, with or without additional apparatus: connectors to accept circuit cards or modules; building wiring.

(3) Circuit cards and modules, including power supplies. These may be incorporated into control and switching equipment or telephone sets and consoles, or they may be imported or shipped separately. A power supply converts or divides input power of not more than 2400 watts into output power of not more than 1800 watts supplying DC power of approximately 5 volts, 24 volts, and 48 volts, as well as 90 volt AC ringing capability.

The following merchandise has been excluded from this order: (1) Nonproprietary industry-standard ("tip/ring") telephone sets and other subassemblies that are not specifically designed for use in a covered system, even though a system may be adapted to use such nonproprietary equipment to provide some system functions; (2) telephone answering machines or facsimile machines integrated with telephone sets; and (3) adjunct software used on external data processing equipment.

The review covers one manufacturer/exporter of this merchandise to the United States, SBW. The review period is February 1, 1993, through January 31, 1994.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results as provided by section 353.22(c) of the Department's regulations. We received one comment from the respondent.

Comment Received From SBW

Comment: SBW argues that the Department should include an adjustment for duty drawback with respect to one U.S. sale for which duty drawback has not yet been received. SBW states that it routinely submits the required documentation to Customs and receives the duty drawback allowance. However, at the time of submission, SBW had not received duty drawback with respect to this one sale. Also, SBW asserts that it has already applied for drawback and has no reason to believe that it will not be granted. SBW requests that the Department make the duty drawback adjustment for the sale in question by using the higher of two amounts of drawback reported for the two groups of export transactions for the period of review.

Department's Position: We disagree with SBW. On March 10, 1995, SBW informed the Department that drawback had still not been received with respect to this sale. Thus, more than a year and a half has elapsed since the date of shipment, and SBW has not received any duty drawback. This is more than sufficient time for SBW to collect drawback. In addition, SBW received duty drawback for other exports of this merchandise shipped at about the same time and even later. Accordingly, because SBW has not received drawback for this sale, we have determined that an adjustment for duty drawback is not appropriate.

Final Results of Review

As a result of this review, we determine that the following weighted-average dumping margin exists for the period February 1, 1993, through January 31, 1994:

Manufacturer/exporter	Margin (percent)
SsangBangWool Inc	2.86

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions concerning all respondents directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 13.90 percent, the "all others" rate established in the LTFV investigation.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 27, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–11057 Filed 5–3–95; 8:45 am]

BILLING CODE 3510-DS-P

[C–333–402]

Determination To Revoke Countervailing Duty Order; Certain Apparel from Peru

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of determination to revoke countervailing duty order.

SUMMARY: The Department of Commerce (the Department) is revoking the countervailing duty order on certain apparel from Peru because it is no longer of interest to interested parties.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1995, the Department published in the **Federal Register** (60 FR 11075) its intent to revoke the countervailing duty order on certain apparel from Peru (48 FR 9871; March 12, 1985). Additionally, as required by 19 CFR 355.25(d)(4)(ii)(1994), the Department served, by certified mail, written notice of its intent to revoke this countervailing duty order on each party listed on its most current service list.

Determination to Revoke

The Department may revoke a countervailing duty order if it concludes that the order is no longer of interest to interested parties. We conclude that there is no interest in a countervailing duty order when no interested party (as defined in sections 355.2 (i)(3), (i)(4), (i)(5), and (i)(6) of the Department's regulations) has requested an administrative review for at least five consecutive review periods and when no domestic interested party objects to the revocation (19 CFR 355.25(d)(4)(iii)). We received no requests for administrative review for the previous five consecutive review periods and no objections to our notice of intent to revoke the countervailing duty order. Therefore, we have concluded that the countervailing duty order on certain apparel from Peru is no longer of interest to interested parties, and we are revoking this countervailing duty order in accordance with 19 CFR 355.25(d)(4)(iii).

Further, as required by 19 CFR 355.25(d)(5), the Department is terminating the suspension of liquidation on the subject merchandise as of the effective date of this notice, and will instruct the Customs Service to liquidate, without regard to countervailing duties, all unliquidated entries of this merchandise exported from Peru on or after January 1, 1995.

This notice is published in accordance with 19 CFR 355.25(d)(4)(iii).

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–11055 Filed 5–3–95; 8:45 am]

BILLING CODE 3510-DS-P

[C–542–401]

Determination Not To Revoke Countervailing Duty Order; Certain Textile Mill Products From Sri Lanka

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty order on certain textile mill products from Sri Lanka.

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1994, the Department published in the **Federal Register** (59 FR 9727) its intent to revoke the countervailing duty order on certain textile mill products from Sri Lanka (50 FR 9826; March 12, 1985). Under 19 CFR 355.25(d)(4)(iii), the Secretary of

VOL 60 ISS 86 MY 4 1995 UMI

Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation, and no interested party requests an administrative review by the last day of the fifth anniversary month.

Within the specified time frame, we received an objection from domestic interested parties to our intent to revoke this countervailing duty order. The Department determined that these domestic interested parties had standing as an interested party under 19 CFR 355.2(i) with respect to all like products covered by this countervailing duty order. See Memorandum to the File from Martina Tkadlec, Case Analyst, April 12, 1995, which is on file in the Central Records Unit (Room B–099 of the Main Commerce Building).

Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order.

This determination is in accordance with 19 CFR 355.25(d)(4).

Dated: April 8, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–11054 Filed 5–3–95; 8:45 am]

BILLING CODE 3510–DS–P

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the application and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from State and Federal Government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 95–00001."

Summary of the Application

Applicant: VINEX International, Inc., 1407 Foothill Blvd., Suite 105, La Verne, CA 91750

Application No.: 95–00001

Date Deemed Submitted: April 26, 1995.

VINEX International, Inc. seeks a Certificate to cover the following specific Export Trade, Export Markets, and Export Trade Activities and Methods of Operations.

Export Trade

Products

All products.

Services

All services.

Technology Rights

Technology rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets, that relate to Products and Services.

Export Trade Facilitation Services (as They Relate to the Export of Products, Services, and Technology Rights)

Export Trade Facilitation Services include professional services in the areas of government relations and assistance with State and Federal programs; foreign trade and business protocol; consulting; market research and analysis; collection of information on trade opportunities; marketing; negotiations; joint ventures; shipping; export management; export licensing; advertising; documentation and services related to compliance with Customs requirements; insurance and financing; trade show exhibitions; organizational development; management and labor strategies; transfer of technology; transportation; and facilitating the formation of shippers associations.

Export Markets

The export markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. With respect to the sale of Products and Services, licensing of Technology Rights and provisions of Export Trade Facilitation Services, VINEX International, Inc. may:

a. Provide and/or arrange for the provision of Export Trade Facilitation Services;

b. Engage in promotional and marketing activities and collect information on trade opportunities in the Export Markets and distribute such information to clients;

c. Enter into exclusive and/or non-exclusive licensing and/or sales agreements with suppliers for the export of Products, Services, and/or Technology Rights in Export Markets;

d. Enter into exclusive and/or non-exclusive agreements with distributors and/or sales representatives in Export Markets;

e. Allocate export sales or divide Export Markets among suppliers for the sale and/or licensing of products, services, and/or Technology Rights;

f. Allocate export orders among suppliers;

g. Establish the price of Products, Services, and/or Technology Rights for sale and/or licensing in Export Markets;

h. Negotiate, enter into, and/or manage licensing agreements for the export of Technology Rights;

i. Enter into contracts for shipping; and

j. Exchange information on a one-on-one basis with individual suppliers regarding inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating exports with distributors.

Dated: April 28, 1995.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 95–11052 Filed 5–3–95; 8:45 am]

BILLING CODE 3510–DR–M

National Institute of Standards and Technology

[Docket No. 950405088–5088–01]

RIN 0693–AB40

Proposed Withdrawal of Federal Information Processing Standard (FIPS) 121, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; Request for comments.

SUMMARY: NIST proposes to withdraw Federal Information Processing Standard (FIPS) 121, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS). This standard, which provides formats, rules and procedures for encoding alphanumeric text and pictorial information for videotex and teletext applications, adopts American National Standard X3.110–1983/Canadian Standard T500–1983. This standard is proposed for withdrawal because commercial products supported by this technology are no longer needed by the Federal government.

The purpose of this notice is to solicit views from the public, manufacturers, and Federal, state, and local government users prior to submission of this proposed withdrawal to the Secretary of Commerce for review and approval.

DATES: Comments on this proposed revision must be received on or before August 2, 1995.

ADDRESSES: Written comments concerning the proposed withdrawal should be sent to: Director, Computer Systems Laboratory, Attn: Proposed Withdrawal of FIPS 121, Technology Building, Room B–154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Radack, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2833.

Dated: April 27, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–10919 Filed 5–3–95; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

[I.D. 042095D]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold two series of meetings, on May 15 through 17 and on May 31 through June 2, 1995, respectively.

ADDRESSES: South Atlantic Fishery Management Council; One Southpark Circle, Suite 306; Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Sharon Coste, telephone: (803) 571–4366; fax: (803) 769–4520.

SUPPLEMENTARY INFORMATION: The meetings are as follows:

May 15, from 1:00 p.m. until 5:00 p.m., and May 16, from 8:30 a.m. until 12:00 noon, the Executive Committee (Committee) will meet at the Council offices, One Southpark Circle, Suite 306, Charleston, SC, to plan the Council's activities and draft a schedule for the coming year. The Committee also will discuss coordination of the Council's activities with NMFS regional office's manpower and resource capabilities. Additionally, the Committee will discuss FY 1996 funding and changes to the Council's Statement of Organization Practices and Procedures.

May 16 from 1:00 p.m. until 5:00 p.m., and May 17, from 8:30 a.m. until 3:00 p.m., the Snapper-Grouper Plan Development Team will meet at the Council offices to finalize research plans for the Oculina Bank Habitat Area of Particular Concern and to review options papers for Snapper-Grouper Amendments 8 and 9 to the fishery management plan (FMP).

May 31, from 1:00 p.m. until 5:00 p.m., and June 1, from 8:30 a.m. until 12 noon, at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC, the Council will hold a joint meeting of the four state Habitat and Environmental Protection Committee subpanels to receive input on the development of an FMP for Fisheries Habitat of the South Atlantic Region, the development of new Council habitat policy statements, and future coordination of the Council and other state and Federal agencies with the National Center for Ecosystem Health.

June 1, from 1:00 p.m. until 5:00 p.m., and June 2, from 8:30 a.m. until 12:00 noon, the Rock Shrimp Ad-Hoc Advisory Panel will meet at the Town and Country Inn to review comments received at public hearings and finalize recommendations on options for Amendment 1 (Rock Shrimp to the Shrimp FMP).

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office by May 8, 1995.

Dated: April 28, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–10946 Filed 5–3–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 042595D]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for modifications to scientific research and enhancement permits 919 (P503N), 921 (P503P), 922 (P503Q), and 847 (P211E).

SUMMARY: Notice is hereby given that the Idaho Department of Fish and Game (IDFG) and the Oregon Department of Fish and Wildlife (ODFW) have applied in due form for modifications to permits authorizing takes of listed species for the purpose of scientific research and enhancement associated with hatchery supplementation programs.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before June 5, 1995.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, F/NWO3, NMFS, 525 NE Oregon Street, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing on any of these applications should be submitted to the Chief, Endangered Species Division, Office of Protected Resources.

SUPPLEMENTARY INFORMATION: IDFG and ODFW request these modifications to their permits under the authority of section 10 of the Endangered Species

VOL
60
ISS
86
MY
4
1995
UMI

Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Permit 919 (P503N) authorizes a take of listed Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a supplementation program at Sawtooth Hatchery. IDFG requests modification 1 to the permit for authorization to retain adult, listed, naturally-produced salmon that return to the adult trap for broodstock without any restrictions due to the annual forecasted runsize of returning adults. IDFG is currently authorized to retain adult, listed, naturally-produced salmon for broodstock when the annual forecasted runsize of returning adults is greater than or equal to 80. IDFG also requests authorization to release non-listed, hatchery-origin adults above the adult trap, if necessary, to meet the minimum target of 35 adult pairs to be released annually for natural spawning. Modification 1 is requested for the duration of the permit. Permit 919 expires on December 31, 1998.

Permit 921 (P503P) authorizes a take of listed Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a supplementation program at McCall Hatchery. IDFG requests modification 1 to the permit for authorization to retain adult, listed, naturally-produced salmon that return to the adult trap for broodstock without any restrictions due to the annual forecasted runsize of returning adults. IDFG is currently authorized to retain adult, listed, naturally-produced salmon for broodstock when the annual forecasted runsize of returning adults is greater than or equal to 80. IDFG also requests authorization to release non-listed, hatchery-origin adults above the adult trap at Stolle Meadows, if necessary, to meet the minimum target of 35 adult pairs to be released annually for natural spawning. Modification 1 is requested for the duration of the permit. Permit 921 expires on December 31, 1998.

Permit 922 (P503Q) authorizes a take of listed Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a supplementation program at Pahsimeroi Hatchery. IDFG requests modification 1 to the permit for authorization to retain adult, listed, naturally-produced salmon that return to the adult trap for broodstock without any restrictions due to the annual forecasted runsize of returning adults. IDFG is currently authorized to retain adult, listed, naturally-produced salmon for broodstock when the annual forecasted runsize of returning adults is greater than or equal to 100. IDFG also requests authorization to release all of the returning listed and non-listed hatchery-origin adults above the adult trap for natural spawning in 1995 due to the anticipated low adult return. IDFG's listed adult retention strategy is requested for the duration of the permit. The releases of listed and non-listed hatchery-origin adults is requested for 1995 only. Permit 922 expires on December 31, 1998.

Permit 847 (P211E) authorizes a take of listed Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with supplementation programs at the Imnaha River and Lookingglass Creek Hatcheries. ODFW requests modification 3 to the permit for authorization to retain all of the adult listed salmon that return to the adult trap for broodstock if the forecasted runsize of returning adults is less than 100. If the forecasted runsize of returning adults is greater than or equal to 100, ODFW proposes to release 20 percent of the returning adult listed salmon above the adult trap for natural spawning, with no restriction on the percentage of hatchery-origin fish to be released. ODFW is currently authorized to retain no more than 30 percent of the returning adult, listed, naturally-produced salmon for broodstock each year. ODFW's current permit also restricts the amount of hatchery-origin fish released annually above the adult trap for natural spawning to no more than 50 percent of the total annual releases. Modification 3 is requested for 1995 only. Permit 847 expires on March 31, 1998.

Those individuals requesting a hearing on any of these modification applications should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in these application summaries are those of the applicants and do not necessarily reflect the views of NMFS.

Dated: April 27, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, National Marine Fisheries Service.

[FR Doc. 95–10931 Filed 5–3–95; 8:45 am]

BILLING CODE 3510–23–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title; Applicable Form; and OMB Control Number: Health-Related Survey—Individual Facility Report; DA Form 4723–2–R; OMB Control Number 0704–0175.

Type of Request: Reinstatement.

Number of Respondents: 1,035.

Responses per Respondent: 1.

Annual Responses: 1,035.

Average Burden per Responses: 1 hour.

Annual Burden Hours: 1,035.

Needs and Uses: The information collected hereby, provides the Department of the Army with the data necessary to identify appropriate facilities, and to assign Army personnel to areas where services are available for exceptional family members.

Affected Public: State or local governments; Businesses or other for-profit, and Non-profit institutions.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–11022 Filed 5–3–95; 8:45 am]

BILLING CODE 5000–04–P–M

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday and Friday May 11–12, 1995.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App II sec. 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: May 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–11023 Filed 5–3–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the DOD Advisory Group on Election Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Mainly Opto-Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday and Friday, May 11–12, 1995.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II sec. 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: May 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–11024 Filed 5–3–94; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Hostile Capabilities Team

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Hostile Capabilities Team will meet in closed session on May 16, 1995 at Science Applications International Corporation, 1525 Wilson Boulevard, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will focus on those R&D investments that must be made now so as to assure a technology base in the year 2000 capable of providing U.S. military superiority in the 21st century.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–11025 Filed 5–3–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Current DoD Initiatives Team

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board 1995 Summer Study Task Force on Technology Investments for 21st Century Military Superiority, Current DoD Initiatives Team will meet in closed session on May 23–24, June 15–16, July 5, and July 26–27, 1995 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will focus on those R&D investments that must be made now so as to assure a technology base in the year 2000 capable of providing U.S. military superiority in the 21st century.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

VOL 60 ISS 86 MY 4 1995 UMI

Dated: May 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–11026 Filed 5–3–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Defense Mapping for Future Operations

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Defense Mapping for Future Operations will meet in closed session on June 12–13, July 6–7, August 3–4, and August 31–September 1, 1995 at Science Applications International Corporation, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will develop recommendations for implementing a cost-effective approach for providing geospatial information and products to Department of Defense users.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: May 1, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–11027 Filed 5–3–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Navy

Board of Advisors to the President, Naval War College, Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is given that the Board of Advisors to the President, Naval War College, will meet on May 31, and June 1, 1995, in Room 210, Conolly Hall, Naval War College, 686 Cushing Road, Newport, Rhode Island. The meeting will commence at 8:30 a.m. on May 31, and terminate at approximatetly 12:00 p.m. on June 1, 1995.

The purpose of the meeting is to elicit the advice of the Board on educational, doctrinal, and research policies and programs. The agenda will consist of presentations and discussions on the curriculum, programs and plans of the College, and is open to the public.

For further information contact: Mrs. Mary E. Estabrooks, Assistant to the Dean of Academics, Naval War College, 686 Cushing Road, Newport, RI 02841–1207. Telephone number (401) 841–3589.

Dated: April 24, 1995.

L.R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–10998 Filed 5–3–95; 8:45 am]

BILLING CODE 3810–FF–F

CNO Planning and Steering Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Planning and Steering Advisory Committee will meet May 17, 1995, from 9:00 a.m. to 4:00 p.m., at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting will be to discuss topics relevant to SSBN Security. The entire agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact: LCDR R. F. Brese, Pentagon, Room 4D534, Washington, DC 20350, Phone: (703) 693–7248.

Dated: April 24, 1995.

L.R. McNees,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–10997 Filed 5–3–95; 8:45 am]

BILLING CODE 3810–FF–F

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Amendment to notice of open meeting.

SUMMARY: This amends the notice of an open meeting of the National Assessment Governing Board published on Tuesday, April 25, 1995 in Vol. 60, No. 79, page 20260. This notice changes the status of the meeting from open to partially closed. This document is intended to notify the general public of the closed sessions.

DATES: May 12, and 13, 1995.

TIME: May 12, 1995—Achievement Levels Committee, 7:30 a.m.–8:45 a.m. (closed); Subject Area Committee #2, 10:00 a.m.–11:30 a.m. (closed). May 13, 1995—Full Board, 9:00 a.m.–10:00 a.m. (closed).

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: On May 12, 1995 the Achievement Levels Committee will meet from 7:30 a.m. to 8:45 a.m. in closed session to permit the Committee to hear a technical briefing on the 1994 achievement levels. Specifically, the Committee will be briefed on unverified results of the 1994 achievement levels for U.S. History and Geography. This portion of the meeting must be conducted in closed session because premature disclosure of the information presented for review might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of Section 552b(c) of Title 5 U.S.C.

Beginning at 10:00 a.m. until 11:30 a.m., the Subject Area Committee #2, will be in session. The meeting of Subject Area Committee #2 will be closed to the public to permit the Committee to review data from the 1995 field test, and to comment on a draft statement of work for specifications for the 1997/1998 writing assessment. This meeting must be conducted in closed session because premature disclosure of the information presented for review might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of Section 552b(c) of Title 5 U.S.C.

On May 13, at 9:00 a.m. until 10:00 a.m., the full Board will reconvene in closed session to permit the Board to hear a briefing on the Preliminary Report on Achievement Levels for History and Geography. The report will include references to specific items from the assessments. This portion of the meeting must be conducted in closed session because premature disclosure of the information presented for review might significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption 9(B) of Section 552b(c) of Title 5 U.S.C.

A summary of the activities of the closed sessions and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street NW., Washington, DC, from 8:30 am. to 5:00 p.m.

Dated: April 28, 1995.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 95–10939 Filed 5–3–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–1612–002, et al.]

Destec Power Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 27, 1995.

Take notice that the following filings have been made with the Commission:

1. Destec Power Services, Inc.

[Docket No. ER94–1612–002]

Take notice that on April 10, 1995, Destec Power Services, Inc. tendered for filing a letter reporting no activity for the quarter ending March 31, 1995.

2. Utility-2000 Power Corporation

[Docket No. ER95–187–001]

Take notice that on April 10, 1995, Utility-2000 Power Corporation tendered for filing a letter reporting no activity for the quarter ending March 31, 1995.

3. Industrial Gas & Electric Services Company

[Docket No. ER95–257–001]

Take notice that on April 3, 1995, Industrial Gas & Electric Services Company tendered for filing its quarterly report in the above-referenced docket, reporting no purchases or sales of electricity in the quarter ending March 31, 1995.

4. Kaztex Energy Services, Inc.

[Docket No. ER95–295–001]

Take notice that on April 17, 1995, Kaztex Energy Services, Inc. (KES) filed certain information as required by the Commission's February 24, 1995, letter order in Docket No. ER95–295–000. Copies of KES's informational filing are on file with the Commission and are available for public inspection.

5. Rayburn Electric Cooperative, Inc.

[Docket No. ER95–898–000]

Take notice that on April 12, 1995, Rayburn Electric Cooperative, Inc. (Rayburn Electric) tendered for filing its Application for Authority to Change Rate. Rayburn Electric seeks to reduce its uniform, system-wide rate to allow all of its members to share in the cost savings projected by Rayburn Electric.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

6. LG&E Power Marketing Inc.

[Docket No. ER95–913–000]

Take notice that on April 13, 1995, LG&E Power Marketing Inc. (LPM) tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) indicating that LPM had completed all the steps for pool membership. LPM requests that the Commission amend the WSPP Agreement to include it as a member.

LPM requests an effective date of March 31, 1995, for the proposed amendment. Accordingly, LPM requests waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon the WSPP Executive Committee.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

7. Electric Power Clearinghouse

[Docket No. ER95–914–000]

Take notice that on April 11, 1995, Electric Power Clearinghouse tendered for filing an application for authorization to do business as a Power Marketer.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

8. Southwestern Electric Power Company

[Docket No. ER95–927–000]

Take notice that on April 19, 1995, Southwestern Electric Power Company (SWEPCO), submitted for filing a Power Supply Agreement (PSA) dated March 13, 1995, between SWEPCO and the City of Minden, Louisiana (Minden). Pursuant to the PSA, SWEPCO will, effective May 1, 1995, supply Minden's full requirements in excess of the power and energy generated by Minden's own unit and Minden's hydro entitlement from the Southwestern Power Administration.

SWEPCO seeks an effective date of May 1, 1995, and, accordingly, seeks waiver of the Commission's notice requirements. SWEPCO served copies of the filing on Minden and the Louisiana Public Service Commission.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER95–928–000]

Take notice that on April 19, 1995, Louisville Gas and Electric Company (Louisville), tendered for filing a new Interchange Agreement between Public Service Electric and Gas Company (PSE&G) and Louisville.

The Interchange Agreement allows transactions between Louisville to PSE&G.

A copy of the filing was served upon the Kentucky Public Service Commission.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER95–929–000]

Take notice that on April 19, 1995, Arizona Public Service Company (APS) tendered for filing a Service Agreement under APS–FERC Electric Tariff Original Volume No. 1 (APS Tariff) with the following entities.

Howell Power Systems
InterCoast Power Marketing Company
Rainbow Energy Marketing Corporation

A copy of this filing has been served on the above listed entities and the Arizona Corporation Commission.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

11. Commonwealth Edison Company

[Docket No. ER95–930–000]

Take notice that on April 21, 1995, Commonwealth Edison Company (ComEd), submitted a Service Agreement, dated March 16, 1995, establishing Dairyland Power Cooperative (Dairyland) as a customer under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2.

ComEd requests an effective date of March 16, 1995, and accordingly seeks waiver of the Commission's requirements.

VOL
60
ISS
86
MY
4
1995
UMI

Copies of this filing were served upon Dairyland and the Illinois Commerce Commission.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

12. PECO Energy Company

[Docket No. ER95–931–000]

Take notice that on April 21, 1995, PECO Energy Company (PECO), tendered for filing an Agreement between PECO and CINergy Services, Incorporated (CINergy) dated February 14, 1995.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to CINergy. In order to optimize the economic advantage to both PECO and CINergy, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on April 24, 1995.

PECO states that a copy of this filing has been set to CINergy and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

13. Alabama Power Company

[Docket No. ER95–912–000]

Take notice that on April 18, 1995, Alabama Power Company tendered for filing a Transmission Service Delivery Point Agreement dated January 27, 1995, which reflects the addition of a delivery point to Baldwin County Electric Membership Cooperative. This delivery point will be served under the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Member of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designated FERC Rate Schedule No. 147). The parties request an effective date of July 4, 1995, for the addition of the delivery point.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

14. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER95–915–000]

Take notice that on April 13, 1995, Northern States Power Company—Minnesota (NSP–M) and Northern States Power Company—Wisconsin (NSP–W) jointly tendered and requested the Commission to accept two Transmission Service Agreements which provide for Limited and Interruptible Transmission Service to Cenergy, Inc.

NSP requests that the Commission accept for filing both Transmission Agreements effective on April 17, 1995. NSP requests a waiver of the Commission's notice requirements pursuant to Part 35 of the Commission's regulations so the Agreement may be accepted for filing effective on the date requested.

Comment date: May 11, 1995, in accordance with Standard Paragraph (E) at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Secretary.

[FR Doc. 95–10990 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–685–000 and CP93–685–001]

Tuscarora Gas Transmission Company; Notice of Availability of the Final Environmental Impact Report/ Environmental Impact Statement for the Proposed Tuscarora Pipeline Project

April 28, 1995.

The staffs of the Federal Energy Regulatory Commission (FERC) and the California State Lands Commission (SLC) have prepared a Final Environmental Impact Report/ Environmental Impact Statement (FEIR/ EIS) on the natural gas pipeline facilities proposed by Tuscarora Gas Transmission Company (Tuscarora) in the above-referenced dockets.

The FEIR/EIS was prepared to satisfy the requirements of the National Environmental Policy Act and the California Environmental Quality Act. The FERC and the SLC staffs conclude that approval of the proposed project, with appropriate mitigating measures including receipt of necessary permits and approvals, has the potential to significantly impact the environment. The FEIR/EIS evaluates alternatives to the proposal.

The FEIR/EIS assesses the potential environmental effects of the construction and operation of the proposed Tuscarora Pipeline Project, which includes the following facilities:

- One 229-mile, 20-inch-diameter pipeline between Malin, Oregon and Tracy, Nevada, (the Tuscarora mainline). The Tuscarora mainline would interconnect with the Pacific Gas Transmission Company's mainline at Malin;
- One 4.42-mile, 4-inch-diameter lateral between the Tuscarora mainline and Alturas, California (the Alturas Lateral);
- One 10.61-mile, 6-inch-diameter lateral between the Tuscarora mainline and a point near Susanville, California (the Susanville Lateral);
- One 5.45-mile, 4-inch-diameter lateral between the Tuscarora mainline and the Sierra Army Depot near Herlong, California (the Herlong Lateral);
- Five meter stations located in Alturas, Susanville, and Herlong (Sierra Army Depot) California; and near Spanish Springs and Tracy, Nevada; and
- Twelve mainline valves.

The project gas would be used to generate electrical power at the Sierra Pacific Company (SPPC) power plant in Tracy, Nevada. A total of 113,050 dekatherms of gas per day (Dkt/d) would be provided. Part of the supply would also service municipal, commercial, and industrial uses in the areas around Reno, Nevada; the California cities of Alturas and Susanville; and at the Sierra Army Depot in the Herlong area.

The FEIR//EIS will be used in regulatory decision making process at the FERC. While the period for filing interventions in this case has expired, motions to intervene out-of-time can be filed with the FERC in accordance with the Commission's Rules of Practice and Procedure, 18 CFR 385.214(d). Further, anyone desiring to file a protest with the FERC should do so in accordance with 18 CFR 385.211.

The SLC is expected to certify the FEIR/EIS and act on the application of the Tuscarora Gas Transmission Company at its regularly scheduled meeting in May or June. Interested parties will be notified of the date, time, and place of the meeting when it is scheduled. The SLC will accept written comments at the address below. If you have any questions regarding the SLC hearing, or wish to testify, please contact Kirk Walter at the number below.

The FEIR/EIS has been placed in the public files of the FERC and the SLC and is available for public inspection at the following addresses:

Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 941 North Capitol Street, NE., room 3104, Washington, DC 20426, (202) 208–1371.

California State Lands Commission, 100 Howe Avenue, suite 100-South, Sacramento, CA 95825–8202, (916) 574–1900.

Copies of the FEIR/EIS have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

A limited number of copies of the FEIR/EIS are available from either:

Ms. Alisa Lykens, Federal Energy Regulatory Commission, Environmental Project Manager, Office of Pipeline Regulation, room 7312, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0766; or

Mr. Kirk Walter, California State Lands Commission, Environmental Project Manager, 100 Howe Avenue, suite 100-South, Sacramento, CA 95825–8202.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10951 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–325–000, et al.]

Williston Basin Interstate Pipeline Company, et al.; Natural Gas Certificate Filings

April 25, 1995.

Take notice that the following filings have been made with the Commission:

1. Williston Basin Interstate Pipeline Company

[Docket No. CP95–325–000]

Take notice that on April 14, 1995, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP 95–325–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157,211) for authorization to construct and operate four storage meter stations in Unit 2 of the Baker Storage Field, Montana under Williston Basin's blanket certificate issued in Docket No. CP82–487–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin proposes to install and operate four two-way (injection/ withdrawal) storage meter stations and related facilities in Unit 2 of the Baker Storage Field. The constructed facilities at each storage meter site will consist of a 6′ x 12′ building which will house an orifice meter run, a chart recorder and minor auxiliary metering devices. The land is located completely within Williston Basin's existing right-of-way. Estimated project cost is $36,300. Williston Basin states that the proposed facilities will have no significant effect on peak day or annual requirements.

With the installation of these proposed metering facilities, Williston Basin states that it will be able to provide more detailed injection and withdrawal data from selected storage well groups. This will allow Williston Basin to obtain greater accuracy and detail in gathering reservoir and surface facility data, will give more accurate reservoir modeling and will create greater operating efficiency in Unit 2. Until this time, the metering of gas storage injection and withdrawal volumes for the twelve storage wells extending over seven square miles in Unit 2 has been provided by one storage meter located at the Cabin Creek Compressor Station.

Comment date: June 9, 1995, in accordance with Standard Paragraph (G) at the end of this notice.

2. Columbia Gas Transmission Corporation

[Docket No. CP95–334–000]

Take notice that on April 19, 1995, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia, 25325–1273, filed in Docket No. CP95–334–000 an abbreviated joint application pursuant to Section 7(b) of the Natural Gas Act, as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder, for permission and approval to abandon a natural gas transportation service for Penn Fuel Gas, Inc. (Penn Fuel), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia states that it proposes to abandon a transportation service initiated to implement a storage agreement for annual storage of up to 850,000 Mcf of natural gas by National Gas Storage Corporation (Storage Corporation) for Penn Fuel. Columbia indicates that it provides its service under its Rate Schedule X–98. Columbia further states that the service was authorized in Docket No. CP80–234. It is indicated that National Fuel Gas Supply Corporation (Supply Corporation) agreed to transport the gas from Penn Fuel's account to and from Storage Corporation. It is further indicated that Columbia, Penn Fuel, and Supply Corporation entered into a agreement whereby Columbia agreed to transport base gas and injection and withdrawal volumes from Penn Fuel's Rate Schedule CDS entitlement to Supply Corporation for transportation and redelivery to Storage Corporation, and to transport storage withdrawal volumes delivered by Supply Corporation to Columbia for delivery to existing points of delivery to Penn Fuel.

Columbia states that Rate Schedule X–98 allowed it to transport, on a best efforts basis, summer injection volumes of from 2,000 to 7,000 Mcf per day for delivery to Supply Corporation for Penn Fuel's account, and to transport from 2,000 to 10,000 Mcf per day for Penn Fuel during winter withdrawal periods. Columbia advises that delivery of the summer injection volumes was at existing points of interconnection between Columbia and Supply Corporation near Emporium, Cameron County, Pennsylvania. Columbia indicates that the withdrawal volumes were received at the same points of interconnection and redelivered to Penn Fuel at existing delivery points between Columbia and Penn Fuel. Columbia avers that it is currently providing alternative service under a Part 284 storage service transportation agreement for Penn Fuel as filed in ST94–2317–000. It is indicated that volumes were last transported under Rate Schedule X–98 in November 1994 and that there are no outstanding balances.

Comment date: May 16, 1995, in accordance with Standard Paragraph (F) at the end of this notice.

3. Florida Gas Transmission Company

[Docket No. CP95–339–000]

Take notice that on April 21, 1995, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–339–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for permission and approval to abandon a meter station and .1 of a mile of pipeline. FGT makes such request under its blanket certificates issued in

VOL 60 ISS 86 MY 4 1995 UMI

Docket No. CP82–553–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT is proposing to abandon .1 mile of 3-inch lateral pipeline and the Plymouth Citrus Meter Station located in Orange County, Florida. FGT states that Mid-Florida Freezer Warehouses, Ltd. (Mid-Florida) now owns and operates the citrus processing facility that previously took gas from this system. FGT asserts that Mid-Florida does not need to use natural gas and therefore does not need the facilities previously used by Citrus World. FGT reports that no activity has occurred at this meter station since 1990.

Comment date: June 9, 1995, in accordance with Standard Paragraph (G) at the end of this notice.

4. NorAm Gas Transmission Company

[Docket No. CP95–342–000]

Take notice that on April 21, 1995, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–342–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.211) for approval to construct and operate a delivery tap and meter station located in Phillips County, Arkansas for delivery of natural gas to ARKLA, a division of NorAm Energy Corporation, for redelivery to its customer, Alumax, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

NGT proposes to construct and operate a one-inch delivery tap and a two-inch L-Shape meter station on its Line JM–19 for ultimate redelivery to Alumax. NGT states that the estimated volumes to be delivered through this tap are approximately 182,500 MMBtu annually and 750 MMBtu on a peak day. NGT indicates that the volumes delivered are within ARKLA's certificated entitlement and NGT's tariff does not prohibit the addition of new delivery points. NGT further indicates that it has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers. It is indicated that the estimated cost of construction is $42,264, and that ARKLA will reimburse NGT for all construction costs.

Comment date: June 9, 1995, in accordance with Standard paragraph (G) at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice of the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10953 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–330–000]

ANR Storage Company; Notice of Application

April 28, 1995.

Take notice that on April 18, 1995, ANR Storage Company (ANR Storage) 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP95–330–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon three storage services performed for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR Storage states that the services are provided pursuant to Rate Schedules X–2, X–3, and X–4 which was authorized by Order issued in Docket No. CP78–432 et al.

ANR Storage states further that the term of the agreement underlying each of the services has expired, and Panhandle has requested termination of the services.

Any person desiring to be heard or any person desiring to make any protest with reference to said application should on or before May 19, 1995, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10954 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–917–000]

Central Illinois Public Service Company; Notice of Filing

April 28, 1995.

Take notice that on April 14, 1995, Central Illinois Public Service Company (CIPS) submitted a Service Agreement, dated March 22, 1995, establishing Citizens Lehman Power as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 ("CST–1 Tariff").

CIPS requests an effective date of March 22, 1995, and accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon Citizens Lehman Power and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10955 Filed 5–3–95; 8;45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–625–000, ER95–626–000, AND EL95–39–000]

Cincinnati Gas & Electric Co. and PSI Energy, Inc.; Notice of Initiation of Proceeding and Refund Effective Date

April 28, 1995.

Take notice that on April 26, 1995, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL95–39–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL95–39–000 will be 60 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Secretary.

[FR Doc. 95–10991 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–238–001]

Columbia Gulf Transmission Company; Notice of Supplemental Filing of Proposed Changes in FERC Gas Tariff

April 28, 1995.

Take notice that on April 26, 1995, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following tariff sheet to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective May 4, 1995, the effective date of Order No. 577. Columbia Gulf states that this filing is intended to supplement Columbia Gulf's April 19, 1995, filing initiating this docket.

Substitute Second Revised Sheet No. 192

In Order No. 577, the Commission modified its capacity release regulations to permit shippers to release firm capacity for a period of one calendar month or less without having to comply with advance posting and bidding requirements. On April 19, 1995, Columbia Gulf filed tariff sheets initiating this docket reflecting the changes dictated by Order No. 577. In that filing, Columbia Gulf also shortened the duration of minimum posting periods in Section 14.2(e) of the General Terms and Conditions (GTC) of its tariff.

Further review of this tariff section revealed that it is different from GTC Section 14.2(e) in Columbia as Transmission Corporation's (Columbia) FERC Gas Tariff, Second Revised Volume No. 1, which is simply the result of an oversight during the Order No. 636 restructuring process for Columbia and Columbia Gulf. Columbia Gulf cites to its restructuring orders as requiring that this provision be identical for Columbia and Columbia Gulf. Columbia Gulf further states that the above referenced tariff sheet corrects Columbia Gulf's GTC Section 14.2(e) to be identical to Columbia's same provision.

Columbia Gulf states that copies of its filing have been mailed to all firm customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 5, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of Columbia Gulf's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10956 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–253–000]

Florida Gas Transmission Company; Notice of Transition Cost Recovery Report

April 28, 1995.

Take notice that on April 26, 1995, Florida Gas Transmission Company (FGT) tendered for filing a Transition Cost Recovery Report pursuant to Section 24 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

FGT states that the Transition Cost Recovery Report summarizes the activity which has occurred in its TCR Account and Order 636 Account through April 30, 1995. FGT states that it has not made any payments since its last report filed October 26, 1994 in Docket No. RP95–18–000. Because the currently effective surcharge rates are at the maximum levels permitted by FGT's tariff, no tariff revisions are required as a result of this filing.

FGT states that copies of the report were mailed to all customers serviced under the rate schedules affected by the report and the interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426 in accordance with Sections

VOL
60
ISS
86
MY
4
1995
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385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 5, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10957 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-229-003]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

April 28, 1995.

Take notice that on April 25, 1995, Granite State Gas Transmission, Inc. (Granite State) tendered for filing the revised tariff sheets listed below in its FERC Gas Tariff, Third Revised Volume No. 1, containing changes in rates for effectiveness on May 1, 1995:

Fourth Revised Sheet No. 21
Fifth Revised Sheet No. 22
Fourth Revised Sheet No. 23

According to Granite State, the Commission issued an order on April 13, 1995, approving a Stipulation and Agreement settling Granite State's rate proceeding in Docket No. RP94-229. It is further stated that the tariff sheets listed above reflect the revised Base Tariff Rates for Granite State's transportation services approved in the settlement and, according to the terms of the settlement, such rates are to be effective on the first day of the month following the approval of the Stipulation and Agreement.

Granite State further states that copies of its filing have been mailed to its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before May 5, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10958 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP95-187-000 and TM95-2-37-000]

Northwest Pipeline Corporation; Notice of Technical Conference

April 28, 1995.

Take notice that at 9:30 a.m. on Thursday, May 18, 1995, the Commission staff will convene a technical conference in the above-captioned proceedings pursuant to an order issued on March 31, 1995.[1] The technical conference will be held at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10962 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-01-M

[1] 70 FERC ¶61,381 (1995).

[Docket No. RP94-325-000]

Panhandle Eastern Pipe Line Company; Notice of Informal Settlement Conference

April 28, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Monday, May 15, 1995, at 10 a.m., continuing, if necessary, on Tuesday, May 16, 1995, at 9 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of discussing the proposed draft settlement in the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's Regulations (18 CFR 358.214).

For additional information, contact Carmen Gastilo at (202) 208-2182 or Kathleen Dias at (202) 208-0524.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10959 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-251-000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

April 28, 1995.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on April 25, 1995, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with proposed effective date of May 4, 1995:

First Revised Volume No. 278
First Revised Volume No. 279
First Revised Volume No. 282

Panhandle states that this filing is being made to comply with Order No. 577, the Commission's Final Rule in Docket No. RM95-5-000 issued March 29, 1995.

Panhandle states that the revised tariff sheets listed on Appendix A reflect the revisions in the term and character of capacity releases that are exempt from advance posting and bidding requirements and reduce the restriction period to re-release such capacity to the same pre-arranged shipper. Specifically, the tariff sheets: (1) Extend the maximum term of pre-arranged capacity releases, at less than the maximum rate, that are exempt from advance posting and bidding requirements to one full calendar month, and (2) reduce the restriction period from thirty days to twenty-eight days for re-releasing capacity exempt from advance posting and bidding to the same pre-arranged shipper.

In addition, Panhandle states that this filing proposes tariff language to modify Section 15.5 of Panhandle's General Terms and Conditions—Selection of Replacement Shipper. For electronically processed contracts, Panhandle will reduce the time required to tender a Service Agreement for firm service from no later than two (2) Business Days to no later than one (1) Business Day after the close of the posting period.

Panhandle states that copies of this filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before May 5, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10963 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER95-916-000]

Portland General Electric Company; Notice of Filing

April 28, 1995.

Take notice that on April 14, 1995, Portland General Electric Company tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 180.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 12, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10960 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER95-918-000]

Rainbow Energy Marketing Corporation; Notice of Filing

April 28, 1995.

Take notice that on April 18, 1995, Rainbow Energy Marketing Corporation tendered for filing its service agreement with Rochester Gas and Electric Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protestants should be filed on or before May 12, 1995. Protestants will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10964 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-010-M

[Docket No. CP95-119-001]

Steuben Gas Storage Co.; Notice of Amended Application

April 28, 1995.

Take notice that, on April 18, 1995, Steuben Gas Storage Company (Steuben), 500 Renaissance Center, Detroit, Michigan 48243, amended its December 13, 1994, application in Docket No. CP95-119-000, for a certificate of public convenience and necessity, under Section 7(c) of the Natural Gas Act (NGA) and Part 157 and Part 284 of the Commission's Regulations, by proposing a new route for its Thomas Corners Field's injection/withdrawal facilities (a 12-inch pipeline, the terminus of which remains the same as originally set forth in the application).

Any person desiring to be heard, or to make any protest with reference to said application should on or before May 19, 1995, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 95-10965 Filed 5-3-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP95-252-000]

Texas Eastern Transmission Corp. Notice of Proposed Changes in FERC Gas Tariff

April 28, 1995.

Take notice that on April 25, 1995, pursuant to and in compliance with the Commission's Final Rule (Order No. 577) issued March 29, 1995 in Docket No. RM95-5-000, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 464
First Revised Sheet No. 465
First Revised Sheet No. 467

Texas Eastern states that the tariff sheets submitted herewith reflect the revisions in the term and character of capacity releases that are exempt from advance posting and bidding requirements and which reduce the restriction period for re-releasing such capacity to the same pre-arranged customer.

Texas Eastern requests waiver of the notice requirement of Section 154.22 of the Regulations to permit the tendered tariff sheets to become effective on May 4, 1995, which is the date Order No. 577 will become effective.

Texas Eastern states that copies of the filing were served on firm customers of

VOL 60 ISS 86 MY 4 1995 UMI

Texas Eastern and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 5, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10996 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–11–29–000]

Transcontinental Gas Pipe Line Corp.; Notice of Proposed Changes in FERC Gas Tariff

April 28, 1995.

Take notice that on April 25, 1995, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Fifth Revised Sheet No. 28B to which tariff sheet is proposed to be effective April 1, 1995.

TGPL states that the purpose of the instant filing is to track a rate change attributable to storage service purchased from North Penn Gas Company (North Penn) under its Rate Schedule SS the costs of which are included in the rates and charges payable under TGPL's Rate Schedule SS–1. The tracking filing is being made pursuant to Section 5 of TGPL's Rate Schedule SS–1.

TGPL states that included in Appendix A attached to the filing is an explanation of the rate change and details regarding the computation of the revised SS–1 rates.

TGPL states that copies of the filing are being mailed to each of its SS–1 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 5, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10967 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–254–000]

Williams Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 28, 1995.

Take notice that on April 26, 1995, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet Nos. 243 and 244. The proposed effective date of these tariff sheets is June 1, 1995.

WNG states that this filing is being made to eliminate unnecessary paperwork by not requiring service agreements on capacity releases which are: (1) For less than three months, (2) occur through the EBB, and (3) cannot generate more than $100,000 in reservation charges and reservation surcharges, calculated at 100% load factor for the duration of the release. Section 11.4(d) is modified to remove the requirement that earnest money must be paid on releases. First Revised Sheet No. 244 is being filed for pagination purposes. These changes will make it easier for Shippers to utilize capacity release on WNG's system.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 5, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10968 Filed 5–3–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5202–6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 5, 1995.

FOR FURTHER INFORMATION CONTACT: For further information, or a copy of this ICR, contact Sandy Farmer at (202) 260–2740, please refer to ICR #1488.03.

SUPPLEMENTARY INFORMATION:

Office of Solid Waste and Emergency Response

Title: Superfund Site Evaluation and Hazard Ranking System, EPA ICR #1488.03. This ICR requests renewal of a currently approved collection (OMB #2050–0095).

Abstract: Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, 1980 and 1986) amends the National Oil and Hazardous Substances Contingency Plan (NCP) to include criteria prioritizing releases throughout the U.S. before undertaking remedial action at uncontrolled hazardous waste before undertaking remedial action at uncontrolled hazardous waste sites. The Hazard Ranking System (HRS) is a model that is used to evaluate the relative threats to human health and the environment posed by actual or potential releases of hazardous substances, pollutants, and contaminants. The HRS criteria take into account the population at risk, the hazard potential of the substances, as well as the potential for contamination of drinking water supplies, direct human contact, destruction of sensitive ecosystems, damage to natural resources affecting the human food chain, contamination of surface water used for recreation or potable water consumption, and contamination of ambient air.

Under this ICR the States will apply the HRS by identifying and classifying those releases that warrant further investigation. The HRS score is crucial since it is the primary mechanism used to determine whether a site is eligible to be included on the National Priorities List (NPL). Only sites on the NPL are eligible for Superfund-financed remedial actions.

HRS scores are derived from the sources described in this information collection, including field reconnaissance, taking samples at the site, and reviewing available reports and documents. States record the collected information on HRS documentation worksheets and include this in the supporting reference package. States then send the package to the EPA region for a completeness and accuracy review, and the Region then sends it to EPA Headquarters for a final quality assurance review. If the site scores above the NPL designated cutoff value, and if it meets the other criteria for listing, it is then eligible to be proposed on the NPL.

Burden Statement: Depending on the number and type of activities performed, burden for the collection of site assessment information is estimated to range from 130 to 2,170 hours per site. The number of hours required to assess a particular site depends on how far a site progresses through the site assessment process. Sites where only a Preliminary Assessment is performed will typically require approximately 130 hours, while sites that progress to NPL listing will require approximately 2,170 hours. The burden estimates include reporting activities and minimal recordkeeping activities. The States are reimbursed 100% of their costs, except for record maintenance. The ICR does not impose burden for HRS activities on local governments or private businesses.

Respondents: State agencies requesting oversight of the site.

Estimated Number of Respondents: 50 States.

Estimated Total Annual Burden on Respondents: 363,000 hours.

Frequency of Collection: one time; section 116(b) requires an HRS evaluation within four years of the site's entry into the EPA CERCLIS database.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, (please refer to EPA ICR #1488.03 and OMB #2050–0095) to:

Sandy Farmer, EPA ICR #1488.03, U.S. Environmental Protection Agency, Regulatory Information Division (2136), 401 M Street, SW., Washington, DC 20460 and

Jonathan Gledhill, OMB #2050–0095, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

Dated: April 28, 1995.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 95–11034 Filed 5–3–95; 8:45 am]

BILLING CODE 6560–50–M

[Docket No. 95F–00 FRL–5202–8]

Interim Revised Clean Water Act Settlement Penalty Policy Issued

AGENCY: Office of Enforcement and Compliance Assurance, Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Assistant Administrator Steve Herman of the Office of Enforcement and Compliance Assurance issued an "Interim Revised Clean Water Act Settlement Penalty Policy" on February 28, 1995. This Interim Policy supersedes the 1986 Clean Water Act Penalty Policy and six subsequent guidances.

FOR FURTHER INFORMATION CONTACT: David Hindin, 202–564–6004 or Kenneth Keith, 202–564–4031, Office of Regulatory Enforcement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Section 309 of the Clean Water Act (CWA), (33 U.S.C. 1319) authorizes the Administrator of the U.S. Environmental Protection Agency ("EPA" or "Agency") to bring civil judicial and administrative actions against persons who violates various Federal water pollution control standards and requirements in the CWA. In such actions the Administrator may seek civil penalties.

EPA brings enforcement actions to require alleged violators to promptly correct the violations and remedy any harm caused by the violations. As part of an enforcement action, EPA also seeks monetary penalties. Penalties promote environmental compliance and help protect public health by deterring future violations by the same violator and deterring violations by other members of the regulated community. Penalties also help ensure a national level playing field by ensuring that violators do not obtain an unfair economic advantage over competitors who have done whatever was necessary to comply on time. Penalties also encourage companies to adopt pollution prevention and recycling techniques, so that they minimize their pollutant discharges and reduce their potential liabilities.

This Policy guides EPA in establishing appropriate penalties in settlement of civil judicial and administrative actions. Subject to the circumstances of a particular case, this Policy provides the lowest penalty figure which the Federal Government should accept in a settlement. This Policy is drafted so that violators whose actions, or inactions, resulted in a significant economic benefit and/or harmed or threatened public health or the environment will pay the highest penalties.

The purpose of this Policy is to further four important environmental goals. First, penalties should be large enough to deter noncompliance. Second, penalties should help ensure a level playing field by ensuring that violators do not obtain an economic advantage over their competitors. These two goals generally require that penalties recover the economic benefit of noncompliance, plus an appropriate amount reflective of the gravity or seriousness of the violations. Third, CWA penalties should be generally consistent across the country. This provides fair and equitable treatment to the regulated community wherever they may operate. Fourth, settlement penalties should be based on a logical calculation methodology to promote swift resolution of enforcement actions and the underlying violations.

This interim revision of the Clean Water Act Penalty Policy provides numerous improvements to the 1986 Policy. First, this revision establishes an alternative approach to use in appropriate cases to determine penalties against municipalities. This approach, called the national municipal litigation consideration, is based in part on the penalties obtained in prior case settlements and on an evaluation of four factors: size of the facility (as measured by service population), duration of violations, environmental impact and economic benefit. Second, the methodology for evaluating the gravity of violations has been revised to reduce redundancy, improve national consistency, and provided broader coverage for all types of violations.

VOL
60
ISS
86
MY
4
1995
UMI

Finally, two new gravity adjustments have been established to provide incentives for quick settlements and to mitigate penalty amounts for small facilities.

The Agency is issuing this Policy in an interim version because it may be subsequently revised based on public comments and our experience in using it. (It is being issued as an Interim Policy, rather than as a draft, because this revision is superior in many ways to the existing 1986 version of the Policy.) The Agency is specifically interested in comments on how well the national municipal litigation consideration and gravity adjustment factors function, and how the Policy should apply in conjunction with EPA's new Voluntary Environmental Self-Policing and Self-Disclosure Interim Policy Statement, 60 FR 16875 (April 3, 1995).

Comments from the public are welcome and should be sent within 90 days of the date of this publication to: U.S. Environmental Protection Agency, Water Enforcement Division (2243A), 401 M Street SW., Washington, DC 20460.

Dated: April 17, 1995.

Steven A. Herman,

Assistant Administrator for the Office of Enforcement and Compliance Assurance.

[FR Doc. 95–11033 Filed 5–3–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5203–4]

Clean Air Act Advisory Committee Notice of Public Meeting and Extending the Expiration Date of Subcommittee

Under Section (10)(a)(2) of Title 5 U.S.C. App 2, "The Federal Advisory Committee Act," notice is hereby given that the Subcommittee on Mobile Source Emissions and Air Quality in the Northeastern States of the Clean Air Act Advisory Committee will meet on Thursday, May 25, 1995 beginning at 8:30 A.M. to 5:00 P.M. at the Hyatt Regency Washington Hotel, located near Capitol Hill at 400 New Jersey Avenue, N.W., Washington, D.C. 20001, 202/737–1234. This meeting is open to the public. For further information concerning the meeting, please contact the individuals listed below.

Public notice is also given extending the expiration date of the Subcommittee on Mobile Source Emissions and Air Quality in the Northeastern States to June 15, 1995.

Further Information and Providing Comments

For additional information concerning these meetings, please contact Mike Shields, Designated Federal Official, Office of Mobile Sources, U.S. Environmental Protection Agency, 401 M Street, SW. Washington, D.C. 20460 (202) 260–7645.

Dated: April 27, 1995.

Rob Brenner,

Director, Office of Policy Analysis and Review, Office of Air and Radiation, U. S. Environmental Protection Agency.

[FR Doc. 95–11037 Filed 5–3–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5202–5]

Proposed Administrative Settlement, North Indian Bend Wash Site

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with Section 122(i)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA," commonly referred to as Superfund), 42 U.S.C. 9622(i), notice is hereby given of a proposed cost recovery administrative settlement concerning Area 3 of the North Indian Bend Wash Site in Scottsdale, Arizona. The United States Environmental Protection Agency ("EPA") is proposing to enter into a settlement pursuant to Section 122(h) of CERCLA. This proposed settlement is intended to resolve the liabilities under CERCLA of William Munzer, Miles Munzer, Gerald Glassman, on behalf of himself and Plainville West, Inc. and Jeffrey Scoon for EPA's past and future response costs associated with Area 3 of the North Indian Bend Wash Site. Under the agreement, these parties are to pay a total of $160,000 to EPA.

EPA may withdraw or withhold its consent to this settlement if comments received during the 30 day public comment period disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

DATES: Pursuant to Section 122(i)(1) of CERCLA, EPA will receive written comments relating to this proposed settlement until June 5, 1995.

ADDRESSES: Comments should be addressed to Steve Armsey, Regional Hearing Clerk, U.S. EPA Region IX (RC–1), 75 Hawthorne Street, San Francisco, CA 94105 and should refer to: North Indian Bend Wash Superfund Site, Scottsdale, Arizona, U.S. EPA Docket No. 95–14. A copy of the proposed Administrative Order on Consent may be obtained from the Regional Hearing Clerk at the address provided above.

FOR FURTHER INFORMATION CONTACT: Janet R. Carlson, Assistant Regional Counsel, (415) 744–1395, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Dated: April 21, 1995.

Jeff Zelikson,

Director, Hazardous Waste Management Division.

[FR Doc. 95–11032 Filed 5–3–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5202–7]

Proposed Administrative Settlement Pursuant to Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: U.S. Environmental Protection Agency.

ACTION: Request for Public Comment.

SUMMARY: The United States Environmental Protection Agency ("U.S. EPA") is proposing to enter into an administrative settlement agreement under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99–499, 100 Stat. 1613 (1986) ("CERCLA"). The proposed agreement provides for: (1) Recoupment by U.S. EPA of $30,000 in past costs; (2) resolution of the proposed settling party's liability for past costs; and (3) contribution protection.

DATES: Comments should be provided on or before June 5, 1995.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, IL 60604, and should refer to: Performance One, Inc, Site, Loves Park, IL.

FOR FURTHER INFORMATION CONTACT: Eileen L. Furey, U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard (C–29A), Chicago, IL 60604, (312) 353–6124.

NOTICE OF SETTLEMENT: In accordance with Section 122(i)(1) of CERCLA, notice is hereby given of a proposed administrative settlement agreement concerning the Performance One, Inc. Site, which is located in Loves Park, Illinois.

In response to the release or threat of release of hazardous substances, U.S. EPA undertook a removal action at the Performance One Site pursuant to Section 104 of CERCLA. The removal action was completed on February 16, 1994. The former owner and operator of the Site defaulted on loans secured by the property, which had been guaranteed by the U.S. Small Business Administration ("SBA"). After conducting several environmental audits, the SBA was able to secure Donald D. Elmore (the proposed "Settling Party") as a potential purchaser. The purchase/sale transaction occurred on December 20, 1994.

Under the terms of the proposed agreement, the Agency will receive $30,000 from the Settling Party in exchange for a release from any liability for the payment of past costs, as defined in the proposed agreement, associated with the removal action. The Settling Party will receive the contribution protection afforded by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4) for past response costs.

Nothing in the proposed agreement compromises U.S. EPA's potential claims against any person not a party to the agreement.

U.S. EPA will receive written comments relating to this agreement for 30 days from the date of publication of this notice.

A copy of the proposed administrative settlement agreement may be obtained in person or by mail from U.S. EPA's Region V Office of Regional Counsel, 77 West Jackson Boulevard (C–29A), Chicago, IL 60604.

Authority: The Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601–9675, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99–499, 100 Stat. 1613 (1986).

Dated: April 14, 1995.

Richard C. Karl,

Acting Associate Division Director, Office of Superfund.

[FR Doc. 95–11036 Filed 5–3–95; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 25]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Ex-Im Bank has submitted two applications to be used under the Bank's medium- and long-term loan and guarantee programs.

PURPOSE: The proposed applications are to be used by applicants when applying for Ex-Im Bank's services under its medium- and long-term loan and guarantee programs. The LI application will be used by Ex-Im Bank to obtain the information needed to ensure that statutory and program requirements relevant to the medium- and long-term loan and guarantee program are met. The PC/AP application will be used to obtain the information needed to ensure that statutory and program requirements, including a judgment of creditworthiness, relevant to the medium- and long-term loan and guarantee program are met.

SUMMARY: The following summarizes the information collection proposal submitted to OMB.

(1) Type of request: revision

(2) Number of forms submitted: two

(3) Form Number: EIB 95–9 and 95–10 (previously EIB No. 87–14)

(4) Title of information collection: Ex-Im Bank Letter of Interest Application Form; Ex-Im Bank Preliminary Commitment and Final Commitment Application Form

(5) Frequency of use: Submission of applications

(6) Respondents: Any U.S. or foreign bank, other financial institution, other responsible party including the exporter or creditworthy borrowers in a country eligible for Ex-Im Bank assistance.

(7) Estimated total number of annual responses: LI–900; PC/AP–550

(8) Estimated total number of hours needed to fill out the form: LI–300; PC/AP–550

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed application may be obtained from Tamzen C. Reitan, Agency Clearance Officer, (202) 565–3333. Comments and questions should be directed to Jefferson Hill, Office of Management and Regulatory Affairs, Room 3235, New Executive Office Building, Washington, DC 20503, (202) 395–3176. All comments should be submitted within two weeks of this notice; if you intend to submit comments but are unable to meet this deadline, please advise by telephone that comments will be submitted late.

Dated: April 28, 1995.

Tamzen C. Reitan,

Agency Clearance Officer.

[FR Doc. 95–10945 Filed 5–3–95; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

April 28, 1995.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. For further information contact Jonathan Cohen, Federal Communications Commission, (202) 418–2030.

Federal Communications Commission

OMB Control No.: 3060–0639.

Expiration Date: 04/30/98.

Title: Implementation of Section 309(j) of the Communications Act Competitive Bidding, PP Docket 93–253, First Report and Order.

Estimated Annual Burden: 1100 total annual hours; 1 hour per response.

Description: Lottery applicants for voluntary transfer of control or assignment must file with the Commission, along with their application, the consideration they will receive if the Commission grants their application for voluntary transfer of control or assignment. Any applicant for voluntary transfer of control or assignment would be required to file, together with its application, the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration received in return for the transfer of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind or other consideration (e.g., management or consulting contracts either with or without an option to purchase; below-market financing).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–11018 Filed 5–3–95; 8:45 am]

BILLING CODE 6712–01–F

VOL 60 ISS 86 MY 4 1995 UMI

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Celebrity Cruises, Inc. and Esker Marine Shipping, Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126.

Vessel: GALAXY.

Dated: May 1, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10996 Filed 5–3–95; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

M & M Worldwide, Inc., 1940–44 N.W. 82 Ave., Miami, FL 33126, Officers: Mario A. Gomez, President; Maria S. Gomez, Vice President

D.L. Bynum & Company, Inc., 3040 Airfreight Road, Houston, TX 77032, Officer: Diana Lee Bynum, President

ProCargo Inc., 126 N. Langley Rd., Glen Burnie, MD 21060, Officer: Margaret B. Troy, President, Les Harrison, Director

Apollo Stevedoring Company, dba Jason Shipping Company, 13251 Eastern Ave—Port Manatee, Palmetto, FL 34221, Officers: Edward E. Sheffield, President; Joan E. Sheffield, Secretary

Worldwide Cargo Express Inc., dba Wessco International, 1551 N.W. 93rd Ave., Miami, FL 33172, Officers: Carlos A. Henao, President, Astrid Henao, Vice President

One Stop Cargo Services, Inc., 4410 NW 74th Ave., Miami, FL 33166, Officers: Ben Barbosa, President, Andreia Barbosa, Vice President.

Dated: May 1, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–10995 Filed 5–3–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Deutsche Bank AG, Frankfurt, Germany; Application to engage in Nonbanking Activities

Deutsche Bank AG, Frankfurt, Germany (Deutsche Bank), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), through a newly-formed wholly-owned subsidiary, Deutsche Bank Futures Corporation, New York, New York (Futures), to engage in the following activities: 1) acting as a futures commission merchant (FCM) for nonaffiliated persons in executing and clearing, executing without clearing, and clearing without executing, on the Chicago Board of Trade and the Chicago Mercantile Exchange with respect to certain futures and options contracts, 2) acting as an FCM for nonaffiliated persons in executing and clearing, and clearing without executing, through omnibus trading accounts with affiliated and nonaffiliated futures commission merchants or brokers with respect to certain futures and options contracts, 3) providing related investment advisory services, 4) providing securities brokerage services on the American Stock Exchange, the Chicago Board Options Exchange and the Philadelphia Stock Exchange, and 5) providing related data processing services. Deutsche Bank would engage in these activities on a worldwide basis.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks generally have provided the proposed activity, that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement regarding Regulation Y, 49 FR 806 (1984).

Deutsche Bank states that the Board previously has determined by regulation that certain of the proposed activities, when conducted within limitations established by the Board in its regulations and in related interpretations and orders, are closely related to banking for purposes of section 4(c)(8) of the BHC Act. *See* 12 CFR 225.25(b)(15)(full-service securities brokerage); 12 CFR 225.25(b)(4)(investment advisory services); 12 CFR 225.25(b)(18)(futures commission merchant services);12 CFR 225.25(b)(7), *Citicorp*, 72 Federal Reserve Bulletin 497 (1986), and *Citicorp*, 68 Federal Reserve Bulletin 505 (1982)(data processing services).

Deutsche Bank also maintains that the Board has determined by order that several of the other proposed activities, when conducted within the limitations established by the Board in previous orders, are closely related to banking. *See Sakura Bank, Limited*, 79 Federal Reserve Bulletin 723 (1993)(providing execution-only, clearing-only, and investment advisory services, and buying and selling contracts through omnibus accounts, with respect to financial futures and options on futures); *Northern Trust Corporation*, 79 Federal Reserve Bulletin 723 (1993)(providing execution-only, clearing-only, and investment advisory services, and buying and selling contracts through omnibus accounts, with respect to financial futures and options on futures); *Commerzbank Aktiengesellschaft*, 79 Federal Reserve Bulletin 961 (1993)(providing execution-only, clearing-only, and investment advisory services, and buying and selling contracts through omnibus accounts, with respect to financial futures and options on futures); and *Societe Generale*, 76 Federal Reserve Bulletin 776 (1990). Deutsche Bank maintains that Futures would conduct these previously approved activities in conformance with the conditions and limitations established by the Board in prior cases.

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Deutsche Bank and Futures "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." 12 U.S.C. 1843(c)(8). Deutsche Bank believes that the proposal will produce public benefits that outweigh any potential adverse effects. In particular, Deutsche Bank maintains that the proposal will enhance competition and enable Deutsche Bank to assist its customers in lowering financing costs, contributing to greater market stability, increasing efficiency and reducing portfolio risk. In addition, Deutsche Bank states that the proposed activities will not result in adverse effects such as an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 18, 1995 . Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, April 28, 1995.

Jennifer J. Johnson

Deputy Secretary of the Board.

[FR Doc. 95–11038 Filed 5–3–95; 8:45 am]

BILLING CODE 6210–01–F

Societe Generale; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 18, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. Societe Generale, Paris, France; to engage *de novo* through its subsidiary, Societe Generale Asset Management Corp., New York, New York, in nonbanking activities acting as investment or financial advisor, pursuant to § 225.25(b)(4) of the Board's Regulation Y. These activities will be conducted worldwide.

Board of Governors of the Federal Reserve System, April 28, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–11039 Filed 5–3–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Advisory Committee; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is cancelling the subcommittee meeting of the Food Advisory Committee scheduled for May 8 and 9, 1995, to provide time for the agency to expand its ongoing research review. The meeting was announced in the **Federal Register** of April 21, 1995 (60 FR 19949). It is anticipated that the meeting will be rescheduled in the future, to be announced at a later date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS–5), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4727,

Catherine M. DeRoever, Advisory Committee Staff (HFS–22), 200 C St. SW., Washington, DC 20204, 202–205–4251, or

FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Food Advisory Committee, code 10564.

Dated: May 1, 1995.

Linda A. Suydam,

Interim Deputy Commissioner for Operations.

[FR Doc. 95–11169 Filed 5–2–95; 2:25 pm]

BILLING CODE 4160–01–F

Health Care Financing Administration

Hearing: Reconsideration of Disapproval of Illinois State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration (HCFA), HHS.

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ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on June 14, 1995, at 10 a.m. in the 15th Floor Conference Room, 105 West Adams, Chicago, Illinois to reconsider our decision to disapprove Illinois SPA 93–14.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Stan Katz, Presiding Officer, Ground floor, Meadowwood East Building, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207, Telephone: (410) 597–3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Illinois State plan amendment (SPA) number 93–14.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The State of Illinois submitted SPA 93–14 on October 18, 1994, to establish a new payment adjustment for uncompensated care services, and requested an effective date of July 1, 1993.

The issue in this matter is whether Illinois SPA 93–14, meets Federal regulations which require the State to comply with the public notice requirements in Section 447.205.

Illinois published public notice on August 6, 1993, with the plan amendment's proposed effective date of July 1, 1993.

HCFA believes the proposed effective date of the plan amendment was not approvable because the State failed to comply with the Federal regulation at 42 CFR 447.253(h) which requires that the Medicaid agency must comply with public notice requirements in § 447.205 when it is proposing significant changes to its methods and standards for setting payment rates for inpatient hospital and long-term care facility services. Section 447.225(d)(1) requires that the notice be published before the proposed effective date of the change. The State's requested effective date is prior to the date of the public notice announcement.

However, because public notice was published on August 5, 1993, HCFA believes the plan amendment was approvable with an effective date of August 6, 1993.

The State of Illinois contends that the change was not significant. Additionally, Illinois challenges HCFA's disapproval because public notice was published prior to the State's implementation of the amendment, and because the eventual disallowances of Federal financial participation funds based on public notice requirements are the subject of current regulatory reform proposals.

Under HCFA's policy, the sole factor in determining a significant change is the degree to which the State is proposing to modify its payment methods and standards. HCFA believes since this amendment established a new payment adjustment for uncompensated care services, the amendment represents a significant change in the methods and standards used to determine payment rates.

The notice to Illinois announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Robert W. Wright,
Director, Illinois Department of Public Aid, Jesse B. Harris Building II, 3rd Floor, 100 South Grand Avenue, East, Springfield, Illinois 62762–0001

Dear Mr. Wright: I am responding to your request for reconsideration of the decision to disapprove Illinois State Plan Amendment (SPA) 93–14. The State of Illinois submitted SPA 93–14 on October 18, 1994, to establish a new payment adjustment for uncompensated care services, and requested an effective date of July 1, 1993.

The issue in this matter is whether Illinois SPA 93–14, meets Federal regulations at 42 CFR 447.253(h) which require the State to comply with the public notice requirements in section 447.205.

I am scheduling a hearing on your request for reconsideration to be held on June 14, 1995, at 10 a.m. in the 15th floor conference room, 105 West Adams, Chicago, Illinois. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, Part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide the names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 597–3013.

Sincerely,
Bruce C. Vladeck,
Administrator.

(Sec. 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: April 28, 1995.

Bruce C. Vladeck,
Administrator, Health Care Financing Administration.

[FR Doc. 95–11019 Filed 5–3–95; 8:45 am]

BILLING CODE 4120–01–P

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS, (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and

will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACCU-LAB, Inc., 405 Alderson St., Schofield, WI 54476, 800–627–8200 (formerly: Alpha Medical Laboratory, Inc., Employee Health Assurance Group, ExpressLab, Inc.)

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917

CORNING Clinical Laboratories, South Central Divison, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 (formerly: Metropolitan Reference Laboratories, Inc.)

CORNING Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 800–526–0947 (formerly: Damon Clinical Laboratories, Damon/MetPath)

CORNING MetPath Clinical Laboratories, 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888 (formerly: MetPath, Inc.)

CORNING MetPath Clinical Laboratories, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000 (formerly: MetPath, Inc.)

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–836–3093

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180 / 206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Eagle Forensic Laboratory, Inc., 950 N. Federal Highway, Suite 308, Pompano Beach, FL 33062, 305–946–4324

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300 (formerly: Harrison & Associates Forensic Laboratories)

HealthCare/MetPath, 24451 Telegraph Rd., Southfield, MI 48034, 800–444–0106 ext. 650 (formerly: HealthCare/Preferred Laboratories)

Holmes Regional Medical Center Toxicology Laboratory, 5200 Babcock St., N.E., Suite 107, Palm Bay, FL 32905, 407–726–9920

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927 (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199

MetPath Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–931–7200 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon)

MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808 (x4512)

National Health Laboratories Incorporated, 2540 Empire Dr., Winston-Salem, NC 27103–6710,

VOL 60 ISS 86 MY 4 1995 UMI

Outside NC: 919–760–4620/800–334–8627 / Inside NC: 800–642–0894
National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522
National Health Laboratories Incorporated, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100
National Psychopharmacology Laboratory, Inc., 9320 Park W. Blvd., Knoxville, TN 37923, 800–251–9492
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 503–687–2134
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400
PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352
PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177
PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627 (formerly: Physicians Reference Laboratory Toxicology Laboratory)
Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272
Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378
Regional Toxicology Services, 15305 N.E. 40th St., Redmond, WA 98052, 206–882–3400
Roche Biomedical Laboratories, Inc., 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286
Roche Biomedical Laboratories, Inc., 69 First Ave., Raritan, NJ 08869, 800–437–4986
Roche CompuChem Laboratories, Inc., A Member of the Roche Group, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984 (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory)
Roche CompuChem Laboratories, Inc., Special Division, A Member of the Roche Group, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263 (Formerly: CompuChem Laboratories, Inc.—Special Division)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–848–8800
Sierra Nevada Laboratories, Inc. 888 Willow St. Reno, NV 89502 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–376–2520
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 904–787–9006 (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 404–934–9205 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010 (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (formerly: SmithKline Bio-Science Laboratories)
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373 (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191 (formerly: MetWest-BPL Toxicology Laboratory)

No laboratories withdrew from the Program in April.

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–11044 Filed 5–3–95; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–020–5101–10–B038; CACA–31406, NVN–57250]

Alturas 345 Kilovolt Transmission Line Project; California

AGENCY: Bureau of Land Management, Interior; Susanville District Office, California.

ACTION: Amendment to Notice of Availability of a Draft Environmental Impact Statement (EIS No. 950068).

SUMMARY: The Bureau of Land Management (BLM) and the California Public Utilities Commission (CPUC) have prepared a draft Environmental Impact Report/Statement (EIR/S) for the Alturas 345 kilovolt (KV) transmission line project proposed by Sierra Pacific Power Company (SPPCo) in BLM application number CACA–31406. The BLM notice of availability of the draft EIR/S was published in the **Federal Register** on March 9, 1995 (60 FR 12967–12968), and provided a comment period on the draft EIR/S that ended May 3, 1995. This Amendment to the BLM notice of availability of a Draft EIR/S hereby extends the comment period until June 2, 1995. All comments on the Draft EIR/S for the Alturas 345 kilovolt (KV) transmission line project must be postmarked no later than June 2, 1995, and must be sent to: Julie Halligan/Peter Humm, CPUC/BLM; c/o Aspen Environmental Group; 30423 Canwood Street, Suite 218, Agoura Hills, CA 91301. For information call Peter Humm, BLM Project Manager, at (916) 257–0456.

Dated: April 27, 1995.

John Bosworth,

Acting District Manager.

[FR Doc. 95–11000 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–40–M

[CA–050–05–1610–00]

Availability of an Environmental Assessment and Proposed Arcata Resource Management Plan Amendment for the Lacks Creek, Red Mountain, Covelo and Scattered Tracts Management Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Land Management has available the Environmental Assessment which proposes to amend the existing Arcata Resource Management Plan. The Plan specifically addresses four management areas (MAS): Lacks Creek, Red Mountain, Covelo, and Scattered Tracts. These MAS encompass approximately 122,400 acres of public land located within the northern California counties of Humboldt, Mendocino, Trinity and Sonoma. This notice is furnished to inform the public of the document's availability and the notice of a 30-day public comment period.

FOR FURTHER INFORMATION CONTACT:

Lynda J. Roush, Area Manager, at Bureau of Land Management, Arcata Resource Area, 1695 Heindon Road, Arcata CA 95521–4573. Telephone: (707) 825–2300.

SUPPLEMENTARY INFORMATION: The environmental assessment was prepared in accordance with the requirements set forth in the Code of Federal Regulations (43 CFR 1610.5–5) to amend the Arcata Resource Area Management Plan.

The issues and concerns addressed in the environmental assessment focus on key land use management changes. The scope of this plan amendment is limited to a review of decisions related to forest management and land tenure adjustment in the four MAS listed above.

The environmental assessment is available to the public for review. Availability has also been published in local and county newspapers. There will be a 30-day comment period beginning approximately April 28, 1995 and ending approximately May 30, 1995. Public comments must be in writing and mailed to the above address.

Lynda J. Roush,

Arcata Area Manager.

[FR Doc. 95–10934 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–40–M

[NM–930–1310–01; NMNM 90818]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Terminated Oil and Gas Lease NMNM 90818, Rio Arriba County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1994, the date of termination. No valid lease has been issued affecting the land. The lessee has agree to new lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made. Having met all the requirements for reinstatement of the lease as set in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1994, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT:

Tony Ferrero, BLM, New Mexico State Office, (505) 438–7607.

Dated: April 25, 1995.

Tony Ferrero,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 95–10938 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–FB–M

[CA–942–1420–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATES: Filing was effective at 10:00 a.m. on the date of submission to the Bureau of Land Management (BLM), California State Office, Public Room.

FOR FURTHER INFORMATION CONTACT:

James B. McCavitt, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room E–2845, Sacramento, CA 95825, 916–979–2890.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office, Sacramento, CA.

Humboldt Meridian, California

T. 17 N., R. 8 E.—Dependent resurvey, subdivision of section 16, and metes-and-bounds survey of Tracts 37, 38 and 39, (Group 1096) accepted February 9, 1995, to meet certain administrative needs of the U.S. Forest Service, Klamath National Forest.

Mount Diablo Meridian, California

T. 3 S., R. 20 E.—Dependent resurvey of certain lots of the Foresta Subdivision, (Group 1178) accepted February 9, 1995, to meet certain administrative needs of the National Park Service, Yosemite National Park.

T. 3 N., R. 9 W.—Survey of a portion of the Point Reyes National Seashore Boundary, (Group 1032) accepted February 28, 1995, to meet certain administrative needs of the National Park Service, Point Reyes National Seashore.

T. 9 N., R. 12 E.—Dependent resurvey and subdivision of sections, (Group 958) accepted March 6, 1995, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 13 S., R. 35 E.—Dependent resurvey and subdivision of section 6, (Group 1175) accepted March 29, 1995, to meet certain administrative needs of the BIA, Central California Agency.

T. 25 S., Rs. 36 & 37 E.—Corrective dependent resurvey, dependent resurvey, and metes-and-bounds survey, (Group 943) accepted March 29, 1995, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area, and the California Desert District, Ridgecrest Resource Area.

San Bernardino Meridian, California

T. 16 S., R. 5 E.—Supplemental plat of the NE ¼ of section 7, accepted March 8, 1995, to meet certain administrative needs of the U.S. Forest Service, Cleveland National Forest.

VOL 60 ISS 86 MY 4 1995 UMI

T. 12 S., R. 19 E.—Dependent resurvey, and subdivision of section 13, (Group 1190) accepted March 8, 1994, to meet certain administrative needs of the BLM, California Desert District, El Centro Resource Area.

T. 10 S., R. 1 W.—Dependent resurvey and subdivision of sections 28 & 33, accepted March 31, 1995, to meet certain administrative needs of the BIA, Southern California Agency. All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: April 26, 1995.

James B. McCavitt,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 95–11001 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–40–M

[NM–070–5101–09–G010; NMNM91469]

Notice of Right-of-Way Application; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An application, serialized as NMNM91469, was received from El Paso Natural Gas Company (EPNG) for a natural gas pipeline right-of-way in San Juan County, New Mexico.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 USC 185), as amended by the Act of November 16, 1973, (37 Stat. 576), EPNG has applied for a right-of-way for 36 inch diameter pipeline that is 5.20 miles in length. An additional 11.00 miles would be located on land administered by the Bureau of Indian Affairs. The project would loop existing lines and will help relieve line pressure and also help in accommodating projected volumes. The proposed line crosses the following public lands.

New Mexico Principal Meridian

T. 29 N., R. 11 W.,
Sec. 9, SE¼/SE¼;
Sec. 10, lot 4, SW¼SW¼;
Sec. 16, N½NE¼, SW¼NE¼, E½W¼, NW¼SE¼;
Sec. 20, E½NE¼, N½SE¼, SW¼SE¼;
Sec. 21, N¼NW¼, SW¼NW¼;
Sec. 29, NW¼NE¼, N½NW¼, SW¼NW¼.
T. 29 N., R. 11 W.,
Sec. 27, W½SE¼;
Sec. 33, lot 1, NE¼SE¼;
Sec. 34, NW¼NE¼, E½NW¼, SW¼NW¼, NW¼SW¼.

The purpose of this notice is to inform the public that the Bureau will be making a decision on approval of the right-of-way, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 1235 La Plata Highway, Farmington, New Mexico 87401 within 30 days of publication of this notice. Additional information can be obtained by contacting Jerry Crockford at (505) 599–6333.

Dated: April 28, 1995.

Robert Moore,

Acting Assistant District Manager for Resources.

[FR Doc. 95–10985 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–FB–M

[WY–989–1958–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 43 N., R. 68 W., accepted April 21, 1995
T. 42 N., R. 71 W., accepted April 21, 1995
T. 20 N., R. 108 W., accepted April 21, 1995

Sixth Principal Meridian, Nebraska

T. 25 N., R. 8 E., accepted April 21, 1995
T. 26 N., R. 8 E., accepted April 21, 1995

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s)

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 2515 Warren Ave., Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: April 26, 1995.

John P. Lee,

Chief, Branch of Cadastral Survey.

[FR Doc. 95–10935 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–801916

Applicant: Brookfield Zoo, Brookfield, IL

The applicant requests a permit to import 5 male captive born Leadbeater's possum (*Gymnobelideus leadbeateri*) from Healesville Sanctuary and Melbourne Zoo, Australia for the purpose of enhancement of the species through captive breeding and conservation education.

PRT–798412

Applicant: Exotic Endangered Cats of the World, FL

The applicant requests a permit to export and re-import captive-born Asian leopards (*Panthera pardus*), captive-born Bengal tigers (*Panthera tigris*), captive-born Amur leopards (*Panthera pardus orientalis*), captive-born Siberian tigers (*Panthera tigris altaica*), and captive-born snow leopards (*Panthera uncia*) and progeny of the animals currently held by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification period covers activities conducted by the applicant over a three year period.

PRT–801979

Applicant: Leila Porter, Department of Anthropology, State University of New York

The applicant requests a permit to import blood samples from five sportive lemurs (*Lepilemur sp.*) in Ranamafana National Park, Madagascar for the purpose of scientific research.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, the Endangered Species Act of 1973, *as amended* (U.S.C. 1531, *et seq.*) and the regulations governing marine mammals and endangered species (50 CFR 17 and 18).

PRT–801652

Applicant: National Biological Service, Alaska Science Center, Anchorage, AK

Type of Permit: Scientific Research.
Name and Number of Animals: Walrus (*Odobenus rosmarus*); 230.
Summary of Activity to be Authorized: The applicant requests a permit to capture, immobilize, tag, implant transmitters, collect blood and whisker samples, biopsy, and release 230 walrus, aged 6 years or older, to continue scientific research to develop reliable methods for anesthetizing and holding walrus, develop methods for attaching transmitters and testing these devices in determining walrus movements, diving, and haulout patterns, and collect data on physiological status and life history parameters of walrus. The applicant also intends to import biological samples taken from Atlantic or Pacific walrus in Canada, Greenland, Norway, and Russia.
Source of Marine Mammals for Research: Cape Pierce, Round Island, and Bristol Bay, Alaska, and Bering and Chukchi seas.
Period of Activity: Through December 31, 2000.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, Office of Management Authority (OMA), 4401 N. Fairfax Dr., Room 420(c), Arlington, VA 22203 and must be received by the Director within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 28, 1995.

Mary Ellen P. Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–10917 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–55–P

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–801914

Applicant: Savannah River Ecology Laboratory, University of Georgia, Aiken, South Carolina.

Perform recovery-related management and monitoring activities on the endangered wood stork, Mycteria americana, for the purposes of enhancement of survival of the species.

PRT–801913

Applicant: Barrett Kays and Associates, Raleigh, North Carolina.

Perform recovery-related monitoring activities on the endangered dwarf-wedge mussel, *Alasmidenta heterodon*, to enhance the survival of the species.

Written data or comments on any of these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and the Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Permit Coordinator). Telephone: 404/679–7110; Fax: 404/679–7280.

Dated: April 28, 1995.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 95–10983 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–55–P

Receipt of Application(s) for Permit

The following applicant(s) have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.)

PRT–801822

Applicant: Mr. Donald F. Eriacho, Governor, Pueblo of Zuni, New Mexico.

The applicant requests a permit to take (conduct presence/absence surveys) for the southwestern willow flycatcher Empidonax trailii extimus on Reservation lands in New Mexico for the purpose of scientific research and enhancement of propagation and survival of the species as prescribed by Service recovery documents.

ADDRESSES: Written data or comments should be submitted to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103, and must be received by the Assistant Regional Director within 30 days for the date of this publication.

Documents and other information submitted with this application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the above office within 30 days of the date of publication of this notice. (See **ADDRESSES** above.)

James A. Young,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–10984 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–55–M

Draft Brown Tree Snake Control Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and request for comments.

SUMMARY: This notice announces the availability of the Draft Brown Tree Snake Control Plan for public review and comments. The document was prepared by the Brown Tree Snake Control Committee of the Aquatic Nuisance Species Task Force, as required by section 1209 of the

VOL
60
ISS
86
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Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. Comments received will be considered in preparing the final Brown Tree Snake Control Plan, which will become the basis for a cooperative and integrated Brown Tree Snake Control Program with the involvement of Federal, State, and Territorial, and local resource agencies.

DATES: Comments on the Draft Brown Tree Snake Control Plan should be received by June 19, 1995.

ADDRESSES: Written responses and requests for copies of the document should be mailed to Robert P. Smith, Chair, Brown Tree Snake Control Committee, U.S. Fish and Wildlife Service, Box 50167, Honolulu, HI 96850.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Chair, Brown Tree Snake Control Committee, at (808) 541–2749.

SUPPLEMENTARY INFORMATION: A native of Indonesia, New Guinea, the Solomon Islands, and Australia, the brown tree snake (Boiga irregularis) has caused or been a major factor in a modern extinction episode beyond its native range that is unprecedented in its scope: the extirpation of most of Guam's native terrestrial vertebrates, including fruit bats, lizards, and virtually all of the island's forest birds. In addition, brown tree snakes in Guam have caused more than a thousand power outages, damaged agricultural interests by preying on poultry, killed many pets, and envenomated numerous children.

Several governmental agencies and private entities have been working to prevent similar ecological disasters on other Pacific islands, since the threat of the brown tree snake's dispersal to other islands and continents is significant. The brown tree snake is a major threat to the biodiversity of the Pacific region and other areas at risk. High densities of snakes occur in many urban areas on Guam where cargo is loaded for transport by air and sea to other Pacific islands, and dispersal has been documented by snakes discovered on islands in Hawaii and the Commonwealth of the Northern Mariana Islands, and even in the continental United States.

In recognition of this threat, the United States Congress included a section in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 that authorizes a cooperative program to control the brown tree snake outside of its historic range. Representatives of the Departments of Agriculture, Commerce, Defense, and the Interior; the Commonwealth of the Northern Mariana Islands; the Territory of Guam; and the State of Hawaii formed the Brown Tree Snake Control Committee on May 1993 to develop an integrated pest management approach that would:

- Reduce existing brown tree snake population on Guam;
- Prevent the spread of brown tree snakes to other Pacific islands and mainland areas;
- Eradicate or contain new populations as soon as detected;
- Protect endangered species and other wildlife from brown tree snake predation;
- Assist organizations and individuals on Guam to manage and control brown tree snake infestations, and especially to reduce disruptions of electrical supplies and human-snake encounters resulting in emotional trauma and bites;
- Develop adequate information on the brown tree snake's biology, dispersal dynamics, and control to support Federal, State, Territorial, and Commonwealth needs; and
- Develop more effective and environmentally sound control strategies and methods.

To meet these objectives, the Brown Tree Snake Control Committee has developed a draft plan reviewing the biology of the brown tree snake, its population development and status on various Pacific islands, its current and potential impacts on the environment and the economy, and past and present brown tree snake control activities. The draft plan also outlines specific tasks that need to be accomplished and funding needed for operational and research activities.

Dated: April 28, 1995.

Gary Edwards,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 95–11021 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–65–M

National Park Service

Concession Contract Negotiations for Continued Operation of Air Transportation Services; Isle Royale National Park, MI

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession permit authorizing continued operation of air transportation services to and from Isle Royale National Park for the public at Isle Royale National Park, Michigan, for a period of approximately five (5) years from date of execution through December 31, 2000.

EFFECTIVE DATE: July 3, 1995.

ADDRESSES: Interested parties should contact the Superintendent, Isle Royale National Park, 800 East Lakeshore Drive, Houghton, Michigan 49931 to obtain a copy of the prospectus describing the requirements of the proposed permit.

SUPPLEMENTARY INFORMATION: This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared. The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1994, and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the negotiation of a new proposed permit providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: April 4, 1995.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 95–11059 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–70–M

Grand Canyon National Park, AZ Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: General Management Plan/ Environmental Impact Statement; Grand Canyon National Park, Arizona; Extension of Time.

The National Park Service announced the availability for public review of the Draft General Management Plan/ Environmental Impact Statement for Grand Canyon National Park on March 13, 1995 (60 Federal Register 13450). At that time a public review period was announced and scheduled to end no later than April 24, 1995. This notice extends the comment period to May 11, 1995.

ADDRESSES: Comments should be sent to Planning Team Leader, Grand Canyon General Management Plan, National Park Service, Denver Service Center-TWE, P.O. Box 25287, Denver, CO 80225–0287.

FOR FURTHER INFORMATION CONTACT: Larry Norris at the above address or telephone (303) 969–2210.

Dated: April 26, 1995.

Denis P. Galvin,

Associate Director, Planning and Development.

[FR Doc. 95–10932 Filed 5–3–95; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Correction to Notice of Lodging a Final Judgment by Consent Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)

Notice of the lodging of a proposed consent decree in *United States* versus *Edward Azrael, et al.*, Civ. A. No. WN–89–2898, was published at 60 Fed. Reg. 19772 on April 20, 1995. The decree was lodged on April 10, 1995, with the United States District Court for the District of Maryland. The complaint in the action seeks recovery of costs and injunctive relief under Sections 106 and 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99–499, 42 U.S.C. 9606, 9607(a).

The *Azrael* case involves the Kane and Lombard Superfund Site located in Baltimore, Maryland. Under the proposed consent decree, Edward Azrael, Harriet Azrael and the Estate of Cele Landay (the "Settlors") will pay $325,000.00 to the United States and $175,000.00 to the State of Maryland toward reimbursement of past and future costs incurred by the United States and the State of Maryland in performing certain response actions at the Kane and Lombard Superfund Site. The notice of lodging published April 20, 1995, had mistakenly stated that the Settlors were to pay $375,000.00 to the United States.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from April 20, 1995, the date of Notice of Lodging was originally published. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* versus *Edward Azrael, et al.*, DOJ Reference No. 90–11–2–299.

The proposed consent decree may be examined at the Office of the United States Attorney for the District of Maryland, U.S. Courthouse, Eighth Floor, 101 W. Lombard Street, Baltimore, Md. 21201; Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania; and at the Consent Decree Library, 1120 "G" Street NW., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Acting Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 95–11003 Filed 5–3–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Amendment Consent Decree Pursuant to the Safe Drinking Water Act

In accordance with Departmental policy and 28 C.F.R. 50.7, notice is hereby given that on April 24, 1995, a proposed Amendment To Consent Decree For Injunction Relief in *United States* v. *Silver Bow Water Inc., et al.*, Civil Action No. 94CV026, was lodged with the United States District Court for the District of Montana.

The proposed amendment modified a consent decree entered on May 15, 1992 which resolved claims by the United States and State of Montana against Silver Bow Water, Inc. and the City-County of Butte-Silver Bow under Sections 1414 and 1431 of the Safe Drinking Water Act, 42 U.S.C. 300g–3 and 300i. The consent decree required *inter alia*, the construction of two drinking water filtration plants. The scheduled date for completion, startup and compliance of the two plants with the Safe Drinking Water Act was December 31, 1994 under the decree. The proposed amendment modifies the compliance schedule for the Moulton water treatment plant to allow for construction of custom filtration technology with a final compliance date on June 1, 1995. The compliance schedule for the Big Hole water treatment plant is unaffected by the proposed amendment.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed amendment to consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* v. *Silver Bow Water, Inc. et al.*, DOJ Ref. #90–5–1–1–3751A.

The proposed consent decree amendment may be examined at the Office of the United States Environmental Protection Agency, Region VIII, Montana Office, 301 S. Park, Helena, Montana 59626 and at the Consent Decree Library, 1120 "G" Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed decree amendment may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $2.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–11004 Filed 5–3–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 93–62]

Leonard Merkow, M.D.; Denial of Application

On June 10, 1993, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Leonard Merkow, M.D. (Respondent). The Order to Show Cause sought to deny Respondent's application for a

VOL
60
ISS
86
MY
4
1995
UMI

DEA Certificate of Registration. The Order to Show cause alleged that Respondent's registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f).

The Order to Show Cause was received by Respondent. Respondent, through counsel, timely filed a request for a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Judge Bittner ordered the parties to file prehearing statements. After the Government filed its prehearing statement, Respondent requested and obtained an extension of time to file his prehearing statement on or before February 10, 1994. On February 28, 1994, Judge Bittner issued an order terminating the proceedings based upon the fact that Respondent had not filed a prehearing statement nor any other pleading. The order also found that Respondent waived his right to a hearing pursuant to 21 CFR 1301.54(a) and 1301.54(d). Accordingly, the Deputy Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

In 1986, Respondent prescribed various narcotic and benzodiazepine controlled substances to an individual whom Respondent knew was drug addicted. Respondent also prescribed Tylenol with codeine, a Schedule III controlled substance, and Doriden, then a Schedule III controlled substance and now a Schedule II substance, to this individual. This combination, known by its street name of "fours and dors", is commonly abused by many drug addicts and Respondent was aware of such fact at the time he prescribed these substances to this individual.

In October 1987, this individual acting in an undercover capacity made thirteen undercover visits to Respondent's office. The transcripts of these undercover visits revealed that Respondent was well aware that the combination of Tylenol with codeine and Doriden was used by drug abusers and that he was not prescribing these substances to this individual for any legitimate reason. In addition, from October 1987 to December 1987, Respondent's receptionist gave this individual over 300 dosage units of Valium, a Schedule IV controlled substance, and 144 dosage units of Doriden for no legitimate medical purpose. Although Respondent claimed he was unaware of this activity, he was responsible for this employee's actions and ultimately accountable for the controlled substances that were dispensed from his office.

Respondent ordered about 200,000 dosage units of controlled substances in a nine month period in 1987. These controlled substances were stored at his residence, and then transferred to Respondent's two offices; one of these offices was never a registered location and Respondent let the other office's registration lapse in January 1987.

In February of 1986, Respondent was convicted in the Commonwealth of Pennsylvania of 47 counts of submitting false or fraudulent Medicaid claims. Respondent was sentenced to three years probation and to pay a fine and restitution. The Pennsylvania Bureau of Occupational and Professional Affairs suspended Respondent's medical license in March 1988, but reinstated the license about a month later.

On March 23, 1988, Respondent was notified that his prior DEA registration was immediately suspended and that he should notify DEA of any controlled substance deliveries that he might receive subsequent to that date. In fact Respondent did order over 19,000 dosage units of controlled substances on March 23, 1988, and he received this shipment on March 28, 1988. He never notified DEA of this receipt of controlled substances. The controlled substances were discovered in the garage at the residence of Respondent's attorney pursuant to a search warrant which was served on April 13, 1988. Based upon these events, Respondent's prior DEA registration, AM5075305, was revoked on March 27, 1989. 54 FR 13254 (1989).

In evaluating whether Respondent's registration by the Drug Enforcement Administration would be inconsistent with the public interest, the Deputy Administrator considers the factors enumerated in 21 U.S.C. 823(f). They are as follows:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

In determining whether a registration would be inconsistent with the public interest, the Deputy Administrator is not required to make findings with respect to each of the factors listed above. Instead, he has the discretion to give each factor the weight he deems appropriate, depending upon the facts and circumstances of each case. *See David E. Trawick, D.D.S.*, Docket No. 88–69, 53 FR 5326 (1988).

Regarding factor two, Respondent's experience in dispensing controlled substances is poor based upon his prescribing the combination of Tylenol with codeine and Doriden to an individual, especially when Respondent was aware that this combination was subject to abuse. This factor is also supported by the fact that Respondent's employee dispensed numerous controlled substances to this individual in addition to the controlled substances that he received from Respondent's illegitimate prescriptions.

With respect to factor four, Respondent failed to comply with applicable Federal law by dispensing controlled substances from an unregistered location. 21 U.S.C. 822(e). Respondent also did not maintain records of the controlled substances dispensed from his office by his employee. 21 U.S.C. 827(a). Finally, Respondent received controlled substances after he was notified that his DEA registration was suspended. 21 U.S.C. 843(a)(2). This violation is particularly egregious because Respondent ignored instructions to inform DEA of any controlled substance shipments received after the suspension of his DEA registration. Factor five is applicable based upon Respondent's Medicaid fraud convictions.

No evidence of explanation or mitigating circumstances has been offered by Respondent. Therefore, the Deputy Administrator concludes that Respondent's application for a DEA Certificate of Registration must be denied.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration, submitted by Leonard Merkow, M.D., be, and it is hereby denied. This order is effective May 4, 1995.

Dated: April 28, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–10928 Filed 5–3–95; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–56]

Michael G. Sargent, M.D.; Revocation of Registration

On June 2, 1993, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Michael G. Sargent, M.D. of Katy, Texas (Respondent), proposing to revoke his DEA Certificate of Registration, AS2512374, as a practitioner and deny any pending application for registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent's continued registration as a practitioner would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause, and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, a hearing was held on January 5 and 6, 1994, in Houston, Texas. On August 25, 1994, the administrative law judge issued her opinion and recommended ruling, findings of fact, conclusions of law and decision recommending that Respondent's registration be revoked. Respondent filed exceptions to the opinion on September 19, 1994.

On October 13, 1994, the administrative law judge transmitted the record of the proceeding to the Deputy Administrator. After a careful consideration of the record in its entirety, the Deputy Administrator enters his final order in this matter, in accordance with 21 CFR 1316.67, based on findings of fact and conclusions of law as set forth herein.

The administrative law judge found that, in July 1991, DEA investigators in Houston, Texas, received an anonymous complaint that Respondent was prescribing controlled substances to individuals without a legitimate medical purpose. As a result, DEA investigators conducted prescription surveys of pharmacies located near Respondent's office. These surveys established that Respondent was prescribing Tylenol #3 with codeine, a Schedule III controlled substance, in conjunction with Valium, a Schedule IV controlled substance.

Judge Bittner further found that, on five separate occasions from August 16, 1991 through April 16, 1992, Respondent prescribed combinations of Tylenol #3 with codeine and Valium to two undercover agents without a legitimate medical purpose and not in the usual course of professional medical practice. Respondent failed to conduct and record an appropriate patient history and failed to conduct a physical examination of either agent prior to prescribing this combination of controlled substances.

The administrative law judge considered testimony from the Government's expert medical witness who concluded that Respondent was not acting within the normal course of his professional practice when these prescriptions were issued. Conversely, Respondent's expert medical witness concluded that Respondent issued the prescription at issue for a legitimate medical need and in the normal course of professional practice, and, at worse may have exercised poor judgment with respect to prescribing Tylenol with codeine.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any application for such registration, if he determines that continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

"(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The [registrant's] experience in dispensing or conducting research with respect to controlled substances.

(3) The [registrant's] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety."

The Deputy Administrator may properly rely on any one or a combination of these factors, and give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration denied. *Henry J. Schwartz, Jr., M.D.* 54 FR 16422 (1989). In the present case, the administrative law judge found that factors two, four and five were relevant in determining whether Respondent's registration should be revoked.

Judge Bittner found that Respondent's prescribing of controlled substances to the undercover agents was not for a legitimate medical purpose. Further, Respondent did not conduct comprehensive physical examinations of the two agents and failed to maintain proper records regarding his prescribing of controlled substances.

The administrative law judge concluded that the record does not support Respondent's contentions that the controlled substances he prescribed were warranted by, and appropriate for, the medical ailments that the investigators presented to him. She further found that the record demonstrates Respondent neither conducted anything resembling comprehensive physical examinations nor asked probing questions of the agents as to their symptoms, the possible causes of these symptoms, or alternative treatments for their complaints. *See James H. Brown, M.D.*, 59 FR 37778 (1994). Respondent additionally was remiss in his responsibilities as a DEA registrant by failing to keep appropriate patient files on the agents.

Judge Bittner additionally found that a negative inference is warranted where, as in the present case, Respondent did not testify. *See Raymond A. Carlson, M.D.*, 53 FR 7425 (1988). The administrative law judge concluded that Respondent has not discharged his responsibilities as a DEA registrant in the past and there is no indication that he is more likely to do so in the future. Judge Bittner recommended that Respondents DEA Certificate of Registration be revoked and any pending applications for registration as a practitioner be denied.

Respondent took exception to Judge Bittner's opinion and recommendation arguing that there was not sufficient, reliable, probative, and substantial evidence to support such recommendation of revocation. Respondent further contended that Judge Bitter, in finding that 21 U.S.C. 823(f) (2), (4) and (5) were relevant, failed to discuss Respondent's threat to the public interest under these factors. Respondent additionally argued that the record, as a whole, does not support a conclusion that his behavior was egregious, that Judge Bittner failed to address the requirements of 21 CFR 1306.04 concerning valid prescriptions, that Respondent did not have inadequate recordkeeping practices, and that a negative inference was not warranted from Respondent's decision not to testify. Respondent further objected to the characterization that he did not perform any diagnostic tests, and to the administrative law judge's description of the agents' visit to Respondent's office on March 23, 1992. Respondent also took exception to the use of the testimony given by the Government's expert medical witness.

The Deputy Administrator adopts the opinion and recommended decision of the administrative law judge in its entirety. The Deputy Administrator concurs with the administrative law judge's finding that the Government had met its burden of proof with respect to establishing the factors set forth under 21 U.S.C. 823(f) (2), (4) and (5). The Deputy Administrator finds that Respondent prescribed controlled

VOL
60
ISS
86
MY
4
1995
UMI

substances to the undercover agents without legitimate medical purpose and not in the usual course of professional medical practice. Further, Respondent's recordkeeping practices, medical examinations and patient history procedures were extremely deficient. Finally, the Deputy Administrator concurs with the administrative law judge's finding that a negative inference was warranted from Respondent's decision not to testify.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, AS2512374, previously issued to Michael G. Sargent, M.D, be, and it hereby is, revoked, and any pending applications for such registration be, and hereby are, denied. This order is effective June 5, 1995.

Dated: April 28, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–10927 Filed 5–3–95; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL SCIENCE FOUNDATION

Reports; Availability, etc.: Climate Change; Second Assessment by Climate Change Intergovernmental Panel

AGENCY: National Science Foundation.

ACTION: Notice of the availability of draft report and request for comment.

SUMMARY: Working Group I of the Intergovernmental Panel on Climate Change (IPCC) has prepared a draft Second Assessment on Climate Change. The IPCC Secretariat requires comments on this report from national governments so that the Secretariat can meet its obligations to member governments of the IPCC. The U.S. Government is expected to receive its copy of the draft assessment for formal government comment on May 8, 1995. The U.S. Subcommittee on Global Change Research (SGCR) is responsible for coordinating the preparation of the comments of the United States Government. Through this notice, the SGCR is announcing the availability of the draft Second Assessment upon its receipts from IPCC and is requesting comments on the draft report by June 2, 1995 from experts and interested groups and individuals. These comments will be reviewed, combined, and incorporated as appropriate, in the process of preparing the set of official U.S. comments to the IPCC.

DATES: Written comments (hard copy and if possible on a 3.5-inch diskette in either Microsoft Word or Word Perfect format) on the draft Second Assessment should be received on or before June 2, 1995. The SGCR cannot extend this deadline because the member countries of the IPCC have established a strict timetable for the review process.

ADDRESSES: Comments should be submitted either by mail to: IPCC WG I Comments, Office of the U.S. Global Change Research Program, 300 D Street, SW., Suite 840, Washington, DC 20024, or by E-mail in ASCII format on Inter net to: "wg1@usgcrp.gov". A list of chapters making up the draft Second Assessment is included with this notice. Review is sought by those individuals and groups having specific expertise or interest in the various aspects of the assessment. Copies of individual chapters making up the draft Second Assessment can be obtained by: (1) Telephone request to Mr. Earley Green at (202) 651–8240; (2) sending E-mail to "office@usgcrp.gov"; (3) faxing a request to (202) 554–6715; or (4) sending a letter to the USGCRP Office directed to Mr. Earley Green at the address shown above.

FOR FURTHER INFORMATION CONTACT: Dr. Michael C. MacCracken, Office of the U.S. Global Change Research Program, at 202–651–8250.

SUPPLEMENTARY INFORMATION:

I. Background

The Intergovernmental Panel on Climate Change (IPCC) was jointly established in 1988 by the United Nations Environment Programme and the World Meteorological Organization to conduct periodic assessments of the state of knowledge concerning global climate change. The IPCC has formed working groups to study various aspects of climate change. Working Group I addresses the state of the science concerning what is happening and is projected to happen to the climate; Working Group II addresses the state of the science concerning (i) vulnerability to and impacts of climate change and (ii) adaptation and mitigation strategies; and Working Group III addresses the state of science and understanding concerning economics and cross-cutting issues associated with climate change. Each Working Group is charged with issuing periodic assessments. The first Scientific Assessment of Climate Change, for example, was prepared in 1990. Working Group I provided a supplementary report in 1992 and a report on radiative forcing of climate change in 1994.

Periodic assessment reports such as these provide a comprehensive statement of the state of knowledge concerning topics such as scientific information, environmental impacts, response strategies, and other issues concerning climate change.

II. Public Input Process

The member countries of the IPCC have established a timetable that includes a brief period for comments from governments so that the IPCC Secretariat can meet its obligations for a timely completion of the IPCC Second Assessment. The Subcommittee on Global Change Research is responsible for coordinating preparation of the U.S. Government response, and through this notice is seeking the views of experts and interested groups and individuals to help in the formulation of its response. Comments that are provided will be reviewed, integrated, and used, as appropriate, in the preparation of the official U.S. comments. An information sheet providing specific requests for formatting submissions will be provided with each mailing of a chapter. In this review process, the emphasis should be on providing detailed recommendations on specific chapters for which the reviewer has established expertise or interest. To be most useful, comments should be specific in suggesting wording changes to the text of a particular paragraph or chapter and, where appropriate, offer supporting information and peer-reviewed references supporting the proposed changes. Comments on the overall tone and scientific validity of the chapter and comments expressing agreement and disagreement with specific major points in the Executive Summary of the chapters are also solicited. Reviewers should request for review those specific chapters of the draft IPCC Working Group I Second Assessment for which they have expertise or special interest. The materials available for review include 11 chapters and a Summary for Policymakers. In addition to a specific chapter, a copy of the draft Summary for Policymakers will be provided for each reviewer in order to provide an opportunity for the reviewer to consider the consistency of the chapter and the selection and representation of its major points in the draft Summary for Policymakers.

Chapter 1 The Climate System—An Overview
Chapter 2 Update of 1994 WG I report
- 2.1 CO_2 and the carbon cycle
- 2.2 Other trace gases and atmospheric chemistry
- 2.3 Aerosols
- 2.4 Radiative forcing
- 2.5 Trace gas radiative forcing indices

Chapter 3 Observed climate variability and change
Chapter 4 Climate processes
Chapter 5 Climate models—validation
Chapter 6 Climate models—projections of future climate
Chapter 7 Changes in sea-level
Chapter 8 Detection of climate change, and attribution of causes
Chapter 9 Terrestrial biotic responses to environmental change and feedbacks to climate
Chapter 10 Marine biotic responses to environmental change and feedbacks to climate
Chapter 11 Advancing our understanding

III. Public Availability of Comments

Subsequent to the US assembly of its comments, all comments received will be available for public inspection in the NSF Library, which is located on the second floor of the NSF building at 4201 Wilson Boulevard, Arlington, VA (adjacent to the Ballston Metro station).

Robert W. Corell,

Assistant Director for Geosciences, NSF, and Chair, Subcommittee on Global Change Research.

[FR Doc. 95–10933 Filed 5–3–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Final Disposition of SEP Lessons-Learned Issues; Issued

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued Generic Letter 95–04 which informs licensees of nuclear power reactors about the final disposition of the 27 lessons-learned issues found in the Systematic Evaluation Program (SEP). This generic letter is available in the Public Document Rooms under accession number 9504210293.

DATES: The generic letter was issued on April 28, 1995.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Sheri R. Peterson at (301) 415–2752.

SUPPLEMENTARY INFORMATION: None.

Dated at Rockville, MD, this 28th day of April, 1995.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 95–11028 Filed 5–3–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–361 and 50–362]

Southern California Edison, et al.; San Onofre Nuclear Generating Station, Units 2 and 3, Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has acted on a Petition for action under 10 CFR 2.206 received by Ted Dougherty, dated August 10, 1994, for the San Onofre Nuclear Generating Station, Units 2 and 3.

The Petitioner requested that the NRC cause the shutdown and dismantlement of the San Onofre Nuclear Generating Station because of concerns regarding (1) the vulnerability of the San Onofre Nuclear Generating Station to earthquakes because of nearby fault lines and (2) a newspaper article concerning the threat of vehicle bombs and the Commission's recent rule requiring nuclear generating plants to install antiterrorist barriers within 18 months.

The Director of the Office of Nuclear Reactor Regulation has determined that the request should be denied for the reasons stated in the "Director's Decision Under 10 CFR 2.206" (DD–95–06), the complete text of which follows this notice, and which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the University of California Main Library, P.O. Box 19577, Irvine, California 92713.

A copy of this Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, this Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 27th day of April 1995.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

I. Introduction

On August 10, 1994, Mr. Ted Dougherty (the Petitioner) submitted a letter to the Nuclear Regulatory Commission (the Commission or NRC) requesting a shutdown of the San Onofre Nuclear Generating Station (SONGS). The Commission determined to act on this request pursuant to 10 CFR 2.206. The request was based on concerns regarding the vulnerability of SONGS to earthquakes because of the existence of nearby fault lines, and concerns regarding the defensibility of SONGS to a terrorist threat.

On September 22, 1994, I informed the Petitioner that the Petition had been referred to this Office for action pursuant to 10 CFR 2.206 of the Commission's regulations. I also informed the Petitioner that the NRC would take appropriate action within a reasonable time regarding the Petitioner's request.

My Decision in this matter follows.

II. Background

The Petitioner provided as basis for the request (1) a letter to the Governor of California wherein the Petitioner expressed concerns regarding the vulnerability of SONGS to earthquakes and (2) a *Los Angeles Times* article concerning the threat of vehicle bombs and the Commission's recent rule requiring nuclear generating plants to install antiterrorist barriers within 18 months.

III. Discussion

A. Vulnerability of SONGS to Earthquakes

The Petitioner asserts that SONGS is vulnerable to a deep ocean quake as well as a magnitude 8 earthquake (or greater) on the Newport-Inglewood fault. He asserts that human error following an earthquake of this magnitude could result in failure of the plant's safety systems to protect the plant, thereby resulting in a meltdown.

Before licensing SONGS (and all nuclear plants), the NRC reviewed the design of the facility including its ability to withstand the effects of natural phenomena such as earthquakes, tornadoes, and hurricanes without loss of capability to perform the safety functions. Appendix A (Criterion 2) to 10 CFR part 50 states that the design basis for the nuclear power plant should reflect the most severe of the natural phenomena that have been historically

VOL 60 ISS 86 MY 4 1995 UMI

reported for the site and surrounding area, the combinations of the effects of normal and accident conditions with the effects of the natural phenomena, and the importance of the safety functions to be performed. Appendix A to 10 CFR part 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," Section III(C), requires that the nuclear power plant's design bases for earthquakes be determined through evaluation of the geologic and seismic history of the nuclear power plant site and surrounding region. The purpose of this determination is to estimate the magnitude of the strongest earthquake that might affect the site of a nuclear power plant during its operating lifetime. the earthquake postulated for the seismic design of a plant, called the Safe Shutdown Earthquake (SSE), defines the maximum ground motion for which certain nuclear power plant structures, systems and components necessary for safe operation and shutdown are designed to remain functional (e.g., for decay heat removal after the reactor is shutdown).

The San Onofre Nuclear Generating Station (SONGS) site had undergone geologic and seismic investigations and reviews prior to issuance of the construction permits including surveys performed by the applicant, the United States Geological Survey, the California Division of Mines and Geology, and the National Oceanic and Atmospheric Administration. The findings of these investigations were reviewed extensively by the staff and were litigated extensively in proceedings concerning the issuance of the construction permits [1] and operating licenses [2] for SONGS Units 2 and 3.

The Petitioner asserts that SONGS is vulnerable to a deep ocean quake. There are a number of offshore faults in the coastal waters off of Southern California. Of greatest concern to the San Onofre site is an offshore structure beginning with the Newport-Inglewood Zone of Deformation near Long Beach, passing the site about 8 kilometers offshore and extending south to the San Diego area as the Rose Canyon Fault Zone.[3] This entire structure is known as the Offshore Zone of Deformation (OZD).[4] The Atomic Safety and Licensing Board determined, during the 1982 operating license proceeding, that, based on historic earthquake data, the distinctive geology of the area, and prevailing stresses in the earth's crust, the controlling feature for San Onofre is the OZD.[5]

The Petitioner asserts that SONGS is vulnerable to a magnitude 8 or greater earthquake on the Newport-Inglewood Fault. The largest earthquake known to have occurred on that fault is the 1933 Long Beach earthquake which was a magnitude 6.3.[6] Testimony presented during the operating license proceeding concluded that the features of the OZD, its geologic strain rate, regional tectonic setting, and absence of extensive and/or through-going fault rupture in near-surface strata along much of the OZD, all support earthquakes of less than about a magnitude 7.[7] In addition, the NRC staff concluded, based on an evaluation of historical seismicity of the OZD and an evaluation of the fault parameters, that a maximum magnitude of 7.0 is based upon a reasonable and conservative interpretation of all available geological and seismological information.[8] The Atomic Safety and Licensing Board [9] as well as the Atomic Safety and Licensing Appeal Board [10] concluded that a magnitude 7 earthquake on the OZD is appropriately conservative.[11] The Petitioner has not provided any basis to support the likelihood of magnitude 8 or greater earthquake on the Newport-Inglewood Fault or call into question the conclusion of the Atomic Safety and Licensing Board and the Atomic Safety and Licensing Appeal Board.

The Petitioner expresses concern that panic caused by an earthquake could result in a meltdown due to human error. The ability of a nuclear power plant to resist the forces generated by the ground motion during an earthquake is incorporated in the design and construction of the plant. Industry codes and practices that govern the design and construction of nuclear power plant structures and components are far more stringent than those used for residential and commercial buildings. As a result, nuclear power plants are able to resist earthquake ground motions well beyond their design bases and well beyond the ground motion that would result in damage to commercial buildings.

As a safety requirement, nuclear power plants have strong ground motion seismic instruments in and near the sites. If the ground motion at a site exceeds a specified level, which is one-half or less of the Safe Shutdown Earthquake, the plant is required to shut down (10 CFR 100, Appendix A, V, (a)(2)). As a defense-in-depth design feature, SONGS has a automatic seismic scram system to shut down the reactors when the ground motion exceeds a conservatively selected threshold value.[12] Prior to resuming operations following plant shutdown as the result of an earthquake, the licensee is required to demonstrate to the Commission that no functional damage has occurred to those plant features necessary for continued safe operation.

In summary, based on exhaustive seismic and geologic investigations performed for the SONGS site, which has been subjected to extensive litigation, the seismic design basis for the plant is reasonably conservative.

The Petitioner has failed to provide an adequate basis for his concern regarding the seismic adequacy of SONGS and, accordingly, has not raised any substantial health or safety issue that would call into question the safe operation of SONGS.

B. Threat of Vehicle Bombs

The Petitioner asserts that SONGS is not defensible from terrorists. The Petitioner bases this assertion on a newspaper article (*Los Angeles Times*, August 4, 1994) concerning the threat of vehicle bombs at nuclear plants and the Commission's recent rule requiring nuclear plants to install anti-terrorist barriers within 18 months.

[1] *See Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), LBP–73–36, 6 AEC 929 (1973), and ALAB–248, 8 AEC 957 (1974).

[2] *See Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), LBP–82–3, 15 NRC 61 (1982); ALAB–673, 15 NRC 688 (1982); ALAB–717, 17 NRC 346 (1983); and *see Carstens v NRC*, 742 F.2d 1546 (D.C. Cir. 1984), *cert denied* 471 U.S. 1136 (1985) (the Court of Appeals affirmed the Commission's granting of the operating licenses for SONGS Units 2 and 3, noting the voluminous record and substantial evidence supporting the seismic review).

[3] *See Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), LBP–82–3, 15 NRC 61, at 68 (1982).

[4] *Id.*

[5] *Id.*, at 69.

[6] *Id., at 104.*

[7] *Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB–673, 15 NRC 688, 709 n. 40 (1982).

[8] NUREG–0712, "Safety Evaluation Report Related to the Operation of San Onofre Nuclear Generating Station, Units 2 and 3," Section 2.5.2.3.4, February 1981.

[9] *See Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), LBP–82–3, 15 NRC 61, at 86 (1982).

[10] *Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB–717, 17 NRC 346, 364–65 (1983).

[11] The Petitioner also provided a scenario of the effects on the Los Angeles area of a magnitude 6 earthquake on the Newport-Inglewood Fault followed by a magnitude 8 earthquake. The Petitioner has failed to provide any basis to support this scenario. The staff reviewed this scenario and determined that, based on the investigations and reviews discussed above, it has no basis in scientific theory or physical possibility.

[12] NUREG–0741, "Technical Specifications San Onofre Nuclear Generating Station Unit 2," Table 3.3.1 February 1982; and NUREG–0952, "Technical Specifications San Onofre Nuclear Generating Station Unit 3,", Table 3.3.1, November 1982.

The Commission's regulations regarding physical protection of nuclear plants are set forth in 10 CFR part 73. The regulations require a physical protection system designed to protect against acts of radiological sabotage or theft of special nuclear material based on certain design basis threats. The design basis threats for radiological sabotage defined in 10 CFR part 73.1(a)(1) include "a determined, violent, external assault." The potential threat posed by malevolent use of vehicles as part of a violent external assault and the need to protect against it, were the subject of detailed analysis before the NRC published its regulations on design basis threat. However, the use of a land vehicle bomb was not initially included in the design basis threat for radiological sabotage.

The newspaper article cited by the Petitioner describes two events that occurred in February 1993: a forced vehicle entry into the protected area at Three Mile Island (TMI), Unit 1, and a van bomb which was detonated in a public underground parking garage at the World Trade Center in New York City. As a result of these events, the Commission directed the NRC staff to reevaluate and, if necessary, update the design basis threat for vehicle intrusions and the use of vehicle bombs.

In its subsequent review of the threat environment, the NRC staff concluded that there is no indication of an actual vehicle threat against the domestic commercial nuclear industry (59 FR 38889, August 1, 1994). Nonetheless, in light of the above recent events, the NRC staff concluded that a vehicle intrusion or bomb threat to a nuclear power plant could develop without warning in the future. Therefore, on August 1, 1994, the Commission published in the **Federal Register** (59 FR 38889), a final regulation to amend its physical protection regulation for operating nuclear power reactors. The amendments modified the design basis threat for radiological sabotage to include use of a land vehicle by adversaries for transporting personnel and their hand-carried equipment to the proximity of vital areas and to include a land vehicle bomb (*see* 10 CFR 73.1(a)(1)(i)(E) and (iii)).

All operating commercial nuclear power plants, including SONGS Units 2 and 3, must comply with the modified design basis threat. This amended rule requires reactor licensees to install vehicle control measures, including vehicle barrier systems, to protect against the malevolent use of a land vehicle by February 29, 1996 (*see* 10 CFR 73.55(c)(9)). A description of the proposed vehicle control measures for all operating commercial power reactors was required to be submitted to the Commission by February 28, 1995, for review. The licensee for SONGS submitted its proposed measures on February 24, 1995, and they are currently being reviewed by the NRC staff.

The security program at SONGS has consistently demonstrated superior performance and continues to exceed regulatory requirements. In addition to the normal NRC inspection activities of the SONGS security program, and Operational Safeguards Response Evaluation (OSRE) was conducted with the assistance of members of the U.S. Army Special Forces. One objective of the OSRE is to evaluate the licensee's abilities to respond to an external threat. The OSRE team concluded that SONGS had an excellent contingency response capability.

The Petitioner has failed to provide an adequate basis for asserting that the plant is not defensible. The petitioner cited a newspaper article as basis for his allegation. The article does not provide any information that is new or different than that already considered by the Commission. The staff has concluded that the Petitioner has not raised a significant health or safety issue.

IV. Conclusion

The NRC staff has reviewed the basis and justification stated to support the Petitioner's request that the NRC take appropriate actions to cause the shutdown and dismantling of SONGS. This review did not reveal any substantial safety issues that would call into question the continued safe operation of SONGS.

The institution of proceedings in response to a request pursuant to Section 2.206 is appropriate only when substantial health and safety issues have been raised. *See Consolidated Edison Co. of New York* (Indian Point, Units 1, 2, and 3), CLI–75–8, 2 NRC 173, (1975), and *Washington Public Power Supply System* (WPPSS Nuclear Project No. 2), DD–84–7, 19 NRC 899, 923 (1984). This standard has been applied to determine whether any action in response to the Petition is warranted. For the reasons discussed above, no basis exists for taking any action in response to the Petition as no substantial health or safety issues have been raised by the Petition. Accordingly, no action pursuant to Section 2.206 is being taken in this matter.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 CFR 2.206(c). As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 27th day of April 1995.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 95–11030 Filed 5–3–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–31609 License No. 37–28496–01 (Revoked) EA 94–253]

McCormick, Taylor, And Associates, Inc., Philadelphia, Pennsylvania; Order Imposing A Civil Monetary Penalty

I

McCormick, Taylor and Associates, Inc. (MTA) (Licensee) was the holder of Byproduct Materials License No. 37–28496–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) on October 31, 1979. The License was revoked by the Commission on August 13, 1992 for nonpayment of fees. The License authorized MTA to possess and use certain byproduct materials in accordance with the conditions specified therein at its facility in Philadelphia, Pennsylvania.

II

An inspection of MTA's activities was conducted on December 2, 1994, at MTA's facility located in Philadelphia, Pennsylvania. The results of the inspection and review of communication (and associated documents) conducted between NRC and MTA between August 13, 1992, and November 19, 1994, indicated that MTA had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon MTA by letter dated February 13, 1995. The Notice states the nature of the violations, the provisions of the NRC requirements that MTA had violated, and the amount of the civil penalty proposed for one of the violations.

MTA responded to the Notice in two letters, both dated March 10, 1995. In its responses, MTA admits the violations as stated in the Notice and requests mitigation of the penalty.

III

After consideration of MTA's responses and the statements of fact, explanation, and arguments for

VOL 60 ISS 86 MY 4 1995 UMI

mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated in the Notice, and that the violation set forth in Section I of the Notice was appropriately classified at a Severity Level III. The staff also has determined that an adequate basis was provided for partial mitigation of the penalty, and that a penalty of $2,000 should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that: MTA pay a civil penalty in the amount of $2,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

MTA may request a hearing within 30 days of the date of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If MTA fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event MTA requests a hearing as provided above, the issue to be considered at such hearing shall be whether, on the basis of Violation I, which is admitted by MTA, this Order should be sustained.

Dated at Rockville, Maryland, this 26th day of April 1995.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluations and Conclusion

On February 13, 1995, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation identified during a review of communications (and associated documents) conducted between NRC and McCormick, Taylor and Associates, Inc. (MTA) between August 13, 1992 and November 9, 1994, as well as an NRC inspection conducted at the MTA facility on December 2, 1994. MTA responded to the Notice in two letters, both dated March 10, 1995. In its responses, MTA admits the violations as stated in the Notice, but requests mitigation of the penalty. The NRC's evaluation and conclusion regarding MTA's requests are as follows:

Summary of MTA's Request for Mitigation

In its response, MTA maintains that there are a number of extenuating circumstances and other mitigating factors which should be considered and result in mitigation of the penalty.

With respect to the NRC application of 50% escalation because the violation was identified by the NRC, MTA contends that it, in fact, notified the NRC on December 2, 1994, that it could not locate the gauge. MTA states that it did not become convinced until December 1 or 2, 1994 that the gauge had been stolen or misplaced. MTA further contends that a statement made by the Radiation Safety Officer during a telephone conversation with the NRC on December 2, 1994, was, in fact, a notification that MTA was in violation.

With respect to the NRC application of 50% escalation because of the lack of prompt action, MTA states that it was not until December 2, 1994, that it became fully aware that the gauge was lost or stolen. MTA further maintains that it has acted promptly and aggressively since December in an attempt to locate the gauge.

With respect to the NRC application of 100% escalation because of prior opportunity to prevent the violation, MTA states that it did not believe it ever received the Order issued in 1992 for nonpayment of fees. At the enforcement conference, MTA indicated that it requested proof of a delivery receipt from the NRC but the NRC has not yet provided MTA with a receipt. MTA also states that its Chief Financial Officer had a conversation with an NRC representative (unnamed) in 1993, and was told that with its payment of fees and penalties at that time it was fully paid up through September 1994.

With respect to the NRC application of 100% escalation based on duration (because the gauge was unattended for an extended period), MTA states that there is no evidence to document how long the gauge was outside the locked storage closet before it was lost or stolen. MTA also states that its office is not easily accessible and is typically a secure location, noting that the fact that the gauge was out of its locked storage cabinet was not as risky a location as it might seem. Therefore, while admitting the violation, MTA maintains that these factors should reduce the escalation.

MTA also describes other bases which it considers mitigating factors and extenuating circumstances to the proposed civil penalty. Specifically, MTA contends that there was significant confusion over payment of fees from 1991 to 1993, noting that on at least one occasion, it was cited for nonpayment of a particular charge that had in fact been paid. MTA stated that due to the confusion over payment of fees, when it was contacted in August and September of 1994, there was still confusion over payment. MTA further states that this confusion, and the fact that it never received the Order in 1992 may help explain why it did not initially respond with urgency.

MTA also states that a significant amount has already been paid in penalties for late payment of fees and that the imposition of an additional $3,000 seems excessive. MTA maintains that it acted aggressively to locate the gauge over the ten weeks prior to its response. MTA states that the penalty is excessive to emphasize the importance of maintaining a valid license, and is unnecessary since MTA does not intend to possess a gauge of this type, or any NRC licensed material, in the future. MTA requests that the civil penalty be reduced to $500.

NRC Evaluation of Licensee's Request for Mitigation

The NRC letter, dated February 13, 1995, transmitting the civil penalty, notes that the base civil penalty amount of $500 in this case was increased by 50% because the violations were identified by the NRC; increased by 50% based on the licensee's lack of prompt corrective action; increased by 100% based on the prior opportunity since the Order provided ample notice of the need to control entry to restricted areas; and increased 100% based on the duration because the gauge was unattended in the vicinity of a closet for an extended period, based on the RSO's recollection. The letter also notes that to emphasize the importance of maintaining a valid license or properly disposing of NRC-licensed materials, particularly after the NRC directed and reminded MTA to do so, and the importance of maintaining proper control of licensed material, the NRC exercised discretion in accordance with Section VII.A of the Enforcement Policy and increased the base civil penalty by an additional 200%. As a result, a penalty of $3,000 was proposed.

With respect to the identification factor, the NRC is not citing the licensee for failure to notify the NRC as required. It was during the NRC inspection that the specific violation was identified, namely, failure to maintain adequate security of licensed material (which resulted in the gauge being lost or stolen). Further, the loss of the gauge was only identified after the NRC repeatedly reminded MTA of the need to transfer the gauge to an authorized recipient, as well as to notify the NRC that such a transfer had taken place. Therefore, mitigation is not warranted for this factor.

With respect to the corrective actions and prior opportunity to identify factors, the NRC also notes that MTA had ample opportunity to identify and correct any problems with security of the gauge, via the repeated contacts with the NRC reminding MTA of the need to transfer the gauge to an authorized recipient. If MTA had aggressively responded to the Notice of a Violation issued by the NRC on September 7, 1994, or the telephone call from Mr. Walt Pasciak on August 29, 1994, the security violation could have either been prevented, or corrected, or identified if the gauge was already missing.

MTA's failure to do so is considered particularly egregious. Even if MTA had not received a copy of the 1992 Order, it had several conversations with NRC staff regarding the status of the gauge between August 1992 and November 1994, and had received the September 7, 1994 Notice of Violation which provided prior opportunities to prevent or correct this violation. If MTA had promptly acted to locate and transfer the gauge to an authorized recipient at that time, the security violation and subsequent loss of the gauge might have been prevented. Therefore, no mitigation is warranted for these factors.

With respect to the duration factor, while MTA contends that its office is typically a secure location, and the gauge being out of its locked storage cabinet is not as risky a situation as it might seem, MTA's action to remove the gauge from its secure location without taking appropriate measures for an extended period, as the RSO recollects, provided an appropriate basis for excalating the penalty on this factor. Therefore, no mitigation of this factor is warranted.

Escalation of the penalty by 200% to emphasize the importance of maintaining a valid license is no longer warranted due to MTA's assertion that they do not intend to posses any NRC licensed material in the future. Therefore, the penalty is reduced to $2,000.

Furthermore, notwithstanding MTA's contention, the NRC does not consider the penalty excessive, particularly given the fact that the security violation resulted in a loss or theft of radioactive material.

NRC Conclusion

The NRC has concluded that MTA did not provide an adequate basis for mitigation of the civil penalty to $500. Given the significance of the failure to maintain security of radioactive materials, and the loss of the gauge that occurred in this case, a civil penalty in the amount of $2,000 should be imposed.

[FR Doc. 95–11029 Filed 5–3–95; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Deadline for Submission of Petitions in the 1995 Annual GSP Review

AGENCY: Office of the United States Trade Representatives.

ACTION: Notice of the 1995 Annual GSP Review.

SUMMARY: The notice announces the deadline for the submission of petitions in the 1995 Annual GSP Review.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., Room 518, Washington, DC 20506. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION:

I. Announcement of 1995 Annual GSP Review

The GSP regulations (15 CFR 2007.3 *et seq.*) provided for annual review, unless otherwise specified by **Federal Register** notice. Notice is hereby given that, in order to be considered in the 1995 Annual GSP Review, all petitions to modify the list of articles eligible for duty-free treatment under the GSP and requests to review the GSP status of any beneficiary developing country must be received by the GSP Subcommittee no later than 5 p.m., Wednesday, June 14, 1995. Petitions submitted after the deadline will not be considered for review and will be returned to the petitioner. The GSP provides for the duty-free importation of designated articles when imported from designated beneficiary developing countries. The GSP is authorized by Title V the Trade Act of 1974, as amended ("Trade Act") (19 U.S.C. 2461 *et seq.*), and was implemented by Executive Order 11888 of November 24, 1975, and modified by subsequent Executive Orders and Presidential Proclamations.

A. 1995 Annual GSP Review

Interested parties or foreign governments may submit petitions: (1) To designate additional articles as eligible for GSP; (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; (3) to waive the competitive need limits for individual beneficiary developing countries with respect to specific GSP eligible articles; (4) to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462 (b) and (c)); and, (5) to otherwise modify GSP coverage.

B. Identification of Product Requests With Respect to the Harmonized Tariff Schedule of the United States

The Harmonized Tariff Schedule of the United States (HTS) was implemented by the United States on January 1, 1989, and replaces the former Tariff Schedules of the United States nomenclature. All product petitions must include a detailed description of the product and the HTS subheading in which the product is classified.

C. Submission of Petitions and Requests

Petitions to modify GSP treatment should be addressed to GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW., Room 518, Washington, DC 20506. All such submissions must conform with the GSP regulations, which are set forth at 15 CFR 2007. These regulations were published in the **Federal Register** on Tuesday, February 11, 1986 (FR 5035). The regulations are printed in "A Guide to the U.S. Generalized System of Preferences (GSP)" (August 1991) ("GSP Guide"). Information submitted will be subject to public inspection by appointment only with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and other qualifying information submitted in confidence pursuant to 15 CFR 2007.7. An original and fourteen (14) copies of each petition must be submitted in English. If the petition contains business confidential information, an original and fourteen (14) copies of a nonconfidential version of the submission along with an original and fourteen (14) copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential").

Petitioners are strongly advised to review the GSP regulations. Petitioners are reminded that submissions that do not provide all information required by § 2007.1 of the GSP regulations will not be accepted for review except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required. These requirements will be strictly enforced. Petitions with respect to competitive need waivers must meet the informational requirements for product addition requests in § 2007.1(c). A model petition format is available from the GSP Subcommittee and is included in the GSP Guide. Petitioners are requested to use this model petition format so as to ensure that all informational requirements are met. Furthermore, interested parties

VOL 60 ISS 86 MY 4 1995 UMI

submitting petitions that request action with respect to specific products should list on the first page of the petition the following information: (1) The requested action; (2) the HTS subheading in which the product is classified; and, (3) if applicable, the relevant beneficiary developing country.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–11051 Filed 5–3–95; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35651; File SR–Amex–95–05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing and Trading of Indexed Term Notes Linked to the Real Estate Index

April 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 16, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. On April 4, 1995, the Exchange filed Amendment No. 1 to the proposal.[1] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to approve for listing and trading under Section 107A of the Amex Company Guide ("Guide") intermediate-term, indexed notes ("Notes") whose value will be linked in part to changes in the level of the Real Estate Index ("Index"), a new index designed to reflect general movements in the underlying market for commercial real estate. The Index is calculated by combining the performance of two separate equity indexes—one comprised entirely of large, actively traded Real Estate Investment Trusts ("REIT50 Index"), and the other being the Russell 2000 Index, a broad-based index comprised of small capitalization stocks ("Russell 2000"). The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Under Section 107 (Other Securities) of the Guide, the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, and warrants. The Amex now proposes to list for trading under Section 107A of the Guide, intermediate-term, indexed notes, the value of which can be expected to fluctuate based on changes in the level of an index designed to reflect general movements in the underlying market for commercial real estate by combining the performance of two separate equity indexes—one comprised entirely of large, actively trade real estate investment trusts ("REITS"), *i.e.*, the REIT50 Index, and the other a broad-based index of small capitalization stocks, *i.e.*, the Russell 2000.

Background

According to the Exchange, by some estimates over half of the wealth in the United States and as much as one-fourth of total corporate value are in the form of real estate. In addition, the Exchange represents that studies of asset allocation demonstrate clear diversification benefits from allocating a portion of an investment portfolio to real estate as a separate asset class. Traditional investment in a diversified portfolio of commercial real estate, however, is not possible for most investors, in the Exchange's opinion, because of high transaction costs, market illiquidity, and the extremely large investment required to purchase a pool of properties diversified across different property types and geographic regions.

The Exchange further represents that research has demonstrated that the performance associated with an index of REITs may be attributed partly to movements in the underlying real estate market and partly to the small capitalization nature of REIT securities. Therefore, by subtracting a portion of the returns associated with a broad-based small capitalization stock index from the returns generated by an index of REITs, the Exchange believes that an index can be generated that more closely reflects the performance of the underlying real estate market. The Exchange states that the proposed Notes are intended to use this method to provide an exchange-listed alternative for investors who wish to gain exposure to general movements in the real estate sector or whose portfolios are heavily weighted in real estate and wish to shed some of that exposure.

Note Structure

The proposed Notes will conform to the listing guidelines under Section 107A of the Guide which provide, in part, that such issues have: (1) a public distribution of at least one million trading units; (2) a minimum of 400 holders; and (3) a market value of not less than $4 million.[2] The Notes will have a term of two to five years and may provide for periodic payments to holders. Upon maturity, holders will receive not less than 90% of the original issue price plus an amount in U.S. dollars equal to a participation rate (*i.e.*, a specified percentage) multiplied by the increase, if any, in the level of the Index at the time of the offering and the average of the closing Index level on the first ten days of the last twenty days preceding maturity ("Closing Index Level").[3]

The Notes may not be redeemed prior to maturity and holders of the Notes have no claim to the securities underlying the Index. Thus, holders will be able to liquidate their investment prior to maturity only by selling the Notes in the secondary market. The Exchange anticipates that the trading value of the Notes in the secondary market will depend in large part on the value of the securities comprising the Index and such other factors as the level of interest rates, the volatility of the value of the Index, the time remaining to maturity, dividend rates, and the credit of the issuer.

The Notes will be subject to the equity margin rules of the Exchange. The Exchange will also distribute a circular to its membership prior to trading the Notes providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the notes and highlighting the special risks and characteristics of the Notes.[4]

The Index

The Notes will be linked to the Real Estate Index, a new index designed to reflect general movements in the underlying market for commercial real estate. The Index is calculated as a combination of the performance of two separate equity indexes: the REIT50 Index, which is a total return index comprised of 50 large, actively traded REITS;[5] and the Russell 2000 Index, which is a well-established capitalization-weighted broad-based index designed to track the performance of the small capitalization segment of the stock market.[6]

The Exchange represents that the method for calculating the value of the Index was developed based upon research that has demonstrated that the performance associated with an index of REITs may be attributed partly to movements in the underlying real estate market, and partly to the small capitalization nature of REIT stocks. Therefore, by subtracting a portion of the returns associated with a broad-based small capitalization stock index (such as the Russell 2000) from the returns generated by an index of REITs, the Exchange believes that an index can be generated that more closely reflects the performance of the underlying real estate market. Based on historical research and for purposes of simplicity, the Exchange has determined that the portion of small capitalization stock returns to be subtracted from the returns of the REIT50 Index will be set at a fixed level of 50% of the value of the Russell 2000.

The Index will initially be set at a level of 100 as of the market close on the day prior to the start of trading of the Notes. At any point in time, the Index value is calculated by multiplying the initial Index level (*i.e.*, 100) by a factor determined as follows: First, the percentage change in the REIT50 Index from the market close on the day prior to the start of trading of the Notes is determined. Next, the percentage change of the Russell 2000 from the market close on the day prior to the start of trading of the Notes is determined. One half of the calculated percent change in the Russell 2000 is then subtracted from the calculated percent change in the REIG50 Index. This differential is added to the number one to yield the factor by which the initial Index level is multiplied to determine the current Index level. The following formula summarizes this calculation:

$$I_t = 100 * \left(1 + \left[\frac{(RE50_t - RE50_{init})}{RE50_{init}} - 50\% * \frac{(R2000_t - R2000_{init})}{R2000_{init}}\right]\right)$$

Where:
RE50=REIT50 Index.
R2000=Russell 2000 Index.
Init=Indicates the level of the designated index as of the market close on the day prior to the start of trading of the Notes.
t=Indicates the current level of the designated index.

The Index will be calculated continuously based on the most recently reported values of the REIT50 Index and the Russell 2000 and disseminated every 15 seconds over the Consolidated Tape Association Network B.

Russell 2000 Index

The Russell 2000 is a well established benchmark index of the small-capitalization segment of the U.S. equity market. Options on the Russell 2000 trade at the Chicago Board Options Exchange and futures trade at the Chicago Mercantile Exchange. The Russell 2000 is capitalization-weighted, and values are disseminated every 15 seconds to market vendors through the Option Price Reporting Authority. The value of the Russell 2000 does not reflect reinvestment of dividends paid on component stocks in the Index.

REIT50 Index

The REIT50 Index is a new capitalization-weighted index and, as discussed below, is a total return index. The Exchange represents that the REIT50 Index conforms with Exchange Rule 901C, which specifies criteria for inclusion of stocks in an index on which standardized options will be traded. The REIT50 Index is composed of the 50 largest publicly-traded equity REITs, as measured by market capitalization. The REIT50 Index will be maintained so that at each quarterly review, as discussed below, over the prior six-month period, the components of the Index will have had an average monthly trading volume of at least 400,000 shares with share prices greater than or equal to $5 for the majority of business days during the preceding three calendar months.[7] The REIT50 Index also does not and will not include health care REITs or REITs that invest primarily in real estate mortgages or debt securities.[8] The REIT50 Index also will exclude real estate operating companies and partnerships.[9]

The Exchange will review the component securities on a quarterly basis to ensure that the REIT50 Index continues to represent only the largest and most actively traded REITs. After the close of trading on the last business day of December, March, June, and September, all eligible REITs will be ranked by descending market capitalization, and the 50 largest, subject to the maintenance criteria discussed above, will comprise the REIT50 Index until the next quarterly review. Only REITs that have been trading for at least three calendar months will be considered for inclusion in the REIT50 Index. Resulting composition changes will be made after the close of trading on the third Friday of January, April, July, and October. The divisor of the REIT50 Index will be adjusted as necessary to ensure that there is no discontinuity in the value of

[1] In Amendment No. 1, the Exchange proposes to: (1) clarify the name of the Real Estate Index; (2) specify that the Real Estate Index will be initialized at a value of 100; and (3) amend the formula for calculating the value of the Real Estate Index. *See* Letter from Claire McGrath, Managing Director and Special Counsel, Amex, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated April 4, 1995.

[2] The proposal incorrectly indicates that Section 107A requires a market value of not less than $20 million. Section 107A was recently amended to set the minimum market value to $4 million. *See* Securities Exchange Act Release No. 34765 (September 30, 1994), 59 FR 51220 (October 7, 1994).

[3] If the Closing Index Level is lower than the level of the Index at the time of the offering, holders will receive at least 90% of the original issue price. The minimum level that holders will receive at maturity will be set at the time of the offering of the Notes.

[4] The Commission notes that the Amex will be required to submit a draft of the circular to the Commission staff for approval prior to distribution to members.

[5] *See* Discussion of the REIT50 Index, *infra*.

[6] *See* Discussion of the Russell 200 Index, *infra*.

[7] Telephone conversation between Claire McGrath, Managing Director and Special Counsel, Amex, and Brad Ritter, Senior Counsel, OMS, Division, Commission, on April 5, 1995.

[8] *Id.*

[9] *Id.*

VOL 60 ISS 86 MY 4 1995 UMI

the REIT50 Index as a result of these replacements.

The number of component stocks in the REIT50 Index will remain fixed between quarterly reviews. In the event that one or more component securities must be removed due to merger, takeover, bankruptcy, or other circumstances, the REIT next on the list from the most recent quarterly review, subject to the maintenance criteria discussed above, will be selected to replace that security in the REIT50 Index. In such case, the divisor will be adjusted as necessary to ensure that there is no discontinuity in the value of the REIT50 Index.

The REIT50 Index is a total return index in that the regular cash dividends of its component securities are included in calculating the value of the REIT50 Index. Therefore, at the close of trading each day, the prices of component securities that will trade "ex-dividend" the next day will be adjusted (downward) by the value of the dividend to reflect the price impact on the stock as it trades without (or "ex") the dividend on the following day. The divisor is then adjusted to ensure continuity of the Index value. The REIT50 Index value will be calculated and disseminated every 15 seconds over the Consolidated Tape Association's Network B under a separate ticker symbol so that the two component indexes that comprise the Index (*i.e.*, the REIT50 and the Russell 2000 Indexes) may be monitored separately, and the Index value calculated independently.

Because the Notes are linked to an index of equity securities, the Exchange's equity floor trading rules will apply to the trading of the Notes. In addition, members and member firms will have an obligation pursuant to Exchange Rule 411 to learn the essential facts relating to every customer prior to trading the Notes. The Exchange also will require, pursuant to Exchange Rule 411, that a member or member firm specifically approve a customer's account for trading the Notes prior to, or promptly after, the completion of the transaction.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–95–05 and should be submitted by May 25, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

[10] 17 CFR 200.30–3(a)(12) (1994).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95–10969 Filed 5–3–95; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–35852; File No. SR–NASD–95–14]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to an Interim Extension of the OTC Bulletin Board℠ Service Through June 28, 1995

April 27, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 26, 1995 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is simultaneously approving the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

On June 1, 1990, the NASD, through a subsidiary corporation, initiated operation of the OTC Bulletin Board Service ("OTCBB Service" or "Service") in accord with the Commission's approval of File No. SR–NASD–88–19, as amended.[1] The OTCBB Service provides a real-time quotation medium that NASD member firms can elect to use to enter, update, and retrieve quotation information (including unpriced indications of interest) for securities traded over-the-counter that are not listed on The Nasdaq Stock Market℠ nor on a registered national securities exchange (collectively referred to as "OTC Equities").[2] Essentially, the Service supports NASD members' market making in OTC Equities through authorized Nasdaq Workstation℠ units. Real-time access to quotation information captured in the Service is available to subscribers of Level 2/3 Nasdaq service as well as subscribers of vendor-sponsored services that now carry OTCBB Service data. The Service is currently operating under an interim approval that expires on April 28, 1995.[3]

The NASD hereby files this proposed rule change, pursuant to Section 19(b)(1) of the Act and Rule 19b–4 thereunder, to obtain authorization for an interim extension of the Service through June 28, 1995. During this interval, there will be no material change in the OTCBB Service's operational features, absent Commission approval of a corresponding Rule 19b–4 filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this filing is to ensure continuity in the operation of the OTCBB Service while the Commission considers an earlier NASD rule filing (File No. SR–NASD–92–7) that requested permanent approval of the Service.[4] For the month ending March 31, 1995, the Service reflected the market making positions of 421 NASD member firms displaying quotations/indications of interest in approximately 5,753 OTC Equities.

During the proposed extension, unregistered foreign securities and American Depositary Receipts (collectively, "Foreign Equity Securities") will remain subject to the twice-daily, update limitation that traces back to the Commission's original approval of the OTCBB Service's operation. As a result, all priced bids/offers displayed in the Service for unregistered Foreign Equity Securities will remain indicative.

In conjunction with the launch of the Service in 1990, the NASD implemented a filing requirement (under Section 4 of Schedule H to the NASD By-Laws) and review procedures to verify member firms' compliance with Rule 15c2–11 under the Act. During the proposed extension, this review process will continue to be an important component of the NASD's self-regulatory oversight of broker-dealers' market making in OTC Equities. The NASD also expects to work closely with the Commission staff in developing further enhancements to the Service to fulfill the market structure requirements mandated by the Securities Enforcement Remedies and Penny Stock Reform Act of 1990 ("Reform Act"), particularly Section 17B of the Act.[5] The NASD notes that implementation of the Reform Act entails Commission rulemaking in several areas, including the development of mechanisms for gathering and disseminating reliable quotation/transaction information for "penny stocks."

* * * * *

The NASD believes that this proposed rule change is consistent with Sections 11A(a)(1), 15A(b)(6) and (11), and Section 17B of the Act. Section 11A(a)(1) sets forth the Congressional findings and policy goals respecting operational enhancements to the securities markets. Basically, the Congress found that new data processing and communications techniques should be applied to improve the efficiency of market operations, broaden the distribution of market information, and foster competition among market participants. Section 15A(b)(6) requires, among other things, that the NASD's rules promote just and equitable principles of trade, facilitate securities transactions, and protect public investors. Subsection (11) thereunder authorizes the NASD to adopt rules governing the form and content of quotations for securities traded over-the-counter for the purposes of producing fair and informative quotations, preventing misleading quotations, and promoting orderly procedures for collecting and disseminating quotations. Finally Section 17B contains Congressional findings and directives respecting the collection and distribution of quotation information on low-priced equity securities that are neither Nasdaq nor exchange-listed.

The NASD believes that extension of the Service through June 28, 1995 is fully consistent with the foregoing provisions of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests that the Commission find good cause, pursuant to Section 19(b)(2) of the Act, for approving the proposed rule change prior to the 30th day after its publication in the **Federal Register** to avoid any interruption of the Service. The current authorization for the Service extends through April 28, 1995. Hence, it is imperative that the Commission approve the instant filing on or before that date. Otherwise, the NASD will be required to suspend operation of the Service pending Commission action on the proposed extension.

The NASD believes that accelerated approval is appropriate to ensure continuity in the Service's operation pending a determination on permanent status for the Service, as requested in File No. SR–NASD–92–7. Continued operation of the Service will ensure the availability of an electronic quotation medium to support member firms' market making in approximately 5,753 OTC Equities and the widespread dissemination of quotation information on these securities. The Service's operation also expedites price discovery and facilitates the execution of customer orders at the best available price. From a regulatory standpoint, the NASD's capture of quotation data from participating market makers supplements the transactional data now reported by member firms pursuant to

[1] Securities Exchange Act Release No. 27975 (May 1, 1990), 55 FR 19124.

[2] With the Commission's approval of File No. SR–NASD–93–24, the universe of securities eligible for quotation in the OTCBB now includes certain equities listed on regional stock exchanges that do not qualify for dissemination of transaction reports via the facilities of the Consolidated Tape Association.

[3] Securities Exchange Act Release No. 35316 (February 1, 1995), 60 FR 7613.

[4] Securities Exchange Act Release No. 30766 (June 1, 1992), 57 FR 24281.

[5] On November 24, 1992, the NASD filed an application with the Commission for interim designation of the Service as an automated quotation system for penny stocks, pursuant to Section 17B(b) of the Act. On December 30, 1992, the Commission granted Qualifying Electronic Quotation System ("QEQS") status for the Service for purposes of certain penny stock rules that became effective on January 1, 1993. On August 26, 1993, the Commission granted the NASD's request for an extension of QEQS status until such time as the OTCBB meets the statutory requirements of Section 17B(b)(2). Finally, on May 13, 1994, the NASD filed an application with the Commission for permanent designation of the Service as an automated quotation system for penny stocks pursuant to Section 17B(b) of the Act. The Commission has not yet acted upon the May 13th application.

VOL 60 ISS 86 MY 4 1995 UMI

Part XII of Schedule D to the NASD By-Laws.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principle office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by May 25, 1995.

V. Commission's Findings and Order Granting Accelerated Approval

The Commission finds that approval of the proposed rule change is consistent with the Act and the rules and regulations thereunder, and in particular with the requirements of Section 15A(b)(11) of the Act, which provides that the rules of the NASD relating to quotations must be designed to produce fair and informative quotations, prevent fictitious or misleading quotations and promote orderly procedures for collecting, distributing, and publishing quotations.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publishing notice of the filing thereof. Accelerated approval of the NASD's proposal is appropriate to ensure continuity in the Service's operation as an electronic quotation medium that supports NASD members' market making in OTC Equities and that facilitates price discovery and the execution of customers' orders at best available price. Additionally, continued operation of the Service will materially assist the NASD's surveillance of trading in OTC Equities that are quoted in the Service, including certain non-Tape B securities that are listed on regional exchanges and quoted in the Service.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved for an interim period through June 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10970 Filed 5–3–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26283]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

April 28, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 22, 1995, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Arkansas Power & Light Company, et al. (70–8001)

Arkansas Power & Light Company ("AP&L"), 425 West Capitol, 40th Floor, Little Rock, Arkansas 72201, Louisiana Power & Light Company ("LP&L"), 639 Loyola Avenue, New Orleans, Louisiana 70113, Mississippi Power & Light Company ("MP&L"), 308 East Pearl Street, Jackson, Mississippi 39201 and New Orleans Public Service Inc. ("NOPSI"), 639 Loyola Avenue, New Orleans, Louisiana 70113, each an electric public-utility subsidiary of Entergy Corporation, a registered holding company, and System Fuels, Inc. ("SFI"), 639 Loyola Avenue, New Orleans, Louisiana 70113, a fuel supply company jointly owned by AP&L, LP&L, MP&L and NOPSI (all companies collectively, "Applicants"), have filed a post-effective amendment under sections 9(a) and 10 of the Act and rule 54 thereunder to their application previously filed under sections 9(a) and 10 of the Act.

By orders dated November 1, 1979, August 25, 1980, June 15, 1982 and May 15, 1984 (HCAR Nos. 21277, 21689, 22556 and 23309), the Commission authorized SFI to acquire by leveraged lease ("Lease") 600, 750, 580 and 320 steel railroad cars,[1] respectively, for the transportation of coal from Wyoming to the White Bluff Steam Electric Station located near Redfield, Arkansas ("White Bluff") and the Independence Steam Electric Station located near Newark, Arkansas ("ISES"). Pursuant to the Lease transactions, the obligations of SFI were supported by SFI's parent companies (AP&L, LP&L, MP&L and NOPSI, collectively "Parents") by means of "keep-well" arrangements. Under these keep-well arrangements, the Parents agreed, severally and to the extent of their percentage ownership of SFI, to keep SFI in sound financial condition and to place SFI in a position, and cause SFI, to perform and discharge all its obligations under the relevant Lease transaction agreements.

By orders dated July 7, 1992 and September 3, 1992 (HCAR Nos. 25576 and 25618) (collectively, "1992 Orders"), AP&L was authorized to assume SFI's rights and obligations as lessee under the Leases. Such assumption released and discharged SFI from its obligations under the Leases, and the Parents were released and discharged from their keep-well obligations. In addition, the 1992 Orders authorized AP&L to sublease the steel railroad cars to nonaffiliate companies. The 1992 Orders included two restrictions on such subleasing: (i) No sublease could be longer than the lesser of one year or the period during which the steel railcars were not needed for the transportation of coal to White Bluff and ISES; and (ii) no more than 50% of the steel railroad cars leased by AP&L could be subleased at any one time ("50% Restriction").

[6] 17 CFR 200.30–3(a)(12).

[1] AP&L states that, during the past 14 years, 25 of the original steel railcars were destroyed in derailments leaving 2,225 railcars currently in service.

AP&L now proposes to replace its existing steel railcar fleet with aluminum railcars. Consequently, AP&L seeks Commission authority to: (i) Sublease all of its existing steel railcars for up to the remainder of their respective lease terms; and (ii) sublease new aluminum railcars during periods when they are not needed to service the coal transportation requirements of White Bluff and ISES.

AP&L states that the above request for authority would be limited by the following conditions: (i) Each subleasing transaction shall be reported by a quarterly rule 24 certificate; and (ii) any revenue realized from the sublease of the steel railcars shall be credited against AP&L's costs as lessee of the steel railcars. AP&L's proposal expressly rejects the 50% Restriction, as imposed by the 1992 Orders.

AP&L further states that the benefit from such lower costs of leasing the steel railcars shall accrue to the owners of White Bluff and ISES on a pass-through basis. Such revenues shall be reflected accordingly in AP&L's ratemaking provisions, except to the extent the regulatory authority having jurisdiction over the matters authorizes a different treatment. Such revenues will be credited to "Fuel Stock" (Account No. 151 under the Federal Energy Regulatory Commission's Uniform System of Accounts). In the event AP&L changes its method of accounting for subleasing it will provide 30 days advance notice of the proposed change to the Commission.

General Public Utilities Corporation (70–8593)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45 and 53 thereunder.

GPU proposes to acquire and hold the interests or securities of one or more foreign utility companies ("FUCOs") and exempt wholesale generators ("EWGs") (each, an "Exempt Entity"), as defined in sections 32 and 33 of the Act. To facilitate the acquisition and ownership of interests in Exempt Entities, GPU proposes to acquire the securities of subsidiary companies which are not themselves Exempt Entities (each, a "Subsidiary Company"). Each Subsidiary Company will be engaged, directly or indirectly, and exclusively, in the business of owning and holding the interests and securities of one or more Exempt Entities and in project development activities relating to the acquisition of such interests and securities and the underlying projects.

Accordingly, GPU proposes to acquire Subsidiary Company securities which may take the form of capital stock or shares, trust certificates, partnership interests or other equity or participation interests. Any investment in the capital stock or other equity securities of a Subsidiary Company having a stated or par value will be in an amount equal to or greater than such stated or par value.

If GPU determines that a Subsidiary Company whose securities it has acquired no longer has a purpose (whether due to termination of a proposed project acquisition, loss of a bid, change of law, or otherwise), it shall (to the extent that it is able to do so), liquidate or dissolve such Subsidiary Company within 45 days after such determination, unless GPU determines that such Subsidiary Company may be used in conjunction with a proposal or plan to acquire an interest in a different Exempt Entity.

GPU further proposes to make investments in such Subsidiary Companies from time to time through December 31, 1997 in an aggregate amount of up to $200 million. Investments may take the form of cash capital contributions or open account advances; loans evidenced by promissory notes; guarantees by GPU of the principal of, or interest on, any promissory notes or other evidences of indebtedness or obligations of any Subsidiary Company, or of GPU's undertaking to contribute equity to a Subsidiary Company; assumption of liabilities of a Subsidiary Company; and reimbursement agreements with banks entered into to support letters of credit delivered as security for GPU's equity contribution obligation to a Subsidiary Company or otherwise in connection with a Subsidiary Company's project development activities.

In addition to the above-described investments in Subsidiary Companies, GPU requests authority to make investments in Exempt Entities from time to time through December 31, 1997. Such investments could take the form of (i) guarantees of the indebtedness or other obligations of one or more Exempt Entities; (ii) assumption of liabilities of one or more Exempt Entities; and (iii) guarantees and letter of credit reimbursement agreements in support of equity contribution obligations or otherwise in connection with project development activities for one or more Exempt Entities. The aggregate amount of such guarantees, assumptions and reimbursement agreements entered into with respect to Exempt Entities, together with the amount invested in Subsidiary Companies, would not exceed $200 million in the aggregate outstanding at any one time.

Any open account advance made by GPU will be non-interest bearing and repayable within one year of the date of the advance. Any promissory note issued by a Subsidiary Company to GPU, and any promissory note or similar evidence of indebtedness issued by a Subsidiary Company or an Exempt Entity to a person other than GPU with respect to which GPU may issue a guarantee, would mature not later than 30 years after the date of issuance thereof, and would bear interest at a rate (a) not greater than the prime rate at a bank to be designated by GPU in the case of any promissory note issued to GPU, and (b) in the case of any note or similar evidence of indebtedness issued to a person other than GPU and guaranteed by GPU, not in excess of the rates proposed below for borrowings by Subsidiary Companies. Any promissory note issued to GPU by any Subsidiary Company may, at GPU's option, be converted to a capital contribution to such Subsidiary Company through GPU's forgiveness of the indebtedness evidenced thereby.

Any reimbursement agreement supporting a letter of credit would have a term not in excess of 30 years. Drawings under any such letter of credit would bear interest at not more than 5% above the prime rate of the letter of credit bank as in effect from time to time, and letter of credit fees would not exceed 1% annually of the face amount of the letter of credit.

GPU also requests authorization for each Subsidiary Company to issue equity and debt securities to persons other than GPU (and with respect to which there is no recourse to GPU except to the extent GPU may guarantee payment of such securities pursuant to the authorization herein requested), including banks, insurance companies and other financial institutions, exclusively for the purpose of financing or refinancing investments in and project development activities for Exempt Entities. Such securities may be issued in one or more transactions from time to time through the earlier to occur of (i) December 31, 1997, and (ii) the effective date of any rule or regulation under the Act exempting such transactions from prior Commission authorization. No equity security having a stated or par value would be issued or sold by a Subsidiary Company for a consideration that is less than such stated or par value.

The aggregate principal amount of such debt securities issued by

VOL
60
ISS
86
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Subsidiary Companies to persons other than GPU will not exceed $500 million at any one time outstanding. In any case in which GPU directly or indirectly owns less than 100% of the equity interests of a Subsidiary Company, only that portion of the indebtedness of such Subsidiary Company equal to GPU's equity ownership percentage shall be included for purposes of the foregoing limitation.

Debt securities issued or sold by any Subsidiary Company will mature not later than 30 years from the date of issuance thereof, and will bear interest at a rate not in excess of the greater of (A) if such note, bond or other indebtedness is U.S. dollar denominated, the greater of (i) 250 basis points above the greater of (a) the lending bank's or other recognized prime rate and (b) 50 basis points above the federal funds rate, (ii) 400 basis points above the specified London Interbank Offered Rate plus any applicable reserve requirement, or (iii) a negotiated fixed rate which, in any event, would not exceed 500 basis points above the 30 years "current coupon" treasury bond rate; and (B) if such note, bond or other indebtedness is denominated in the currency of a country other than the United States , at a fixed or floating rate which, when adjusted (i.e., reduced) for the prevailing rate of inflation in such country, as reported in official indices published by such country, would be equivalent to a rate on a U.S. dollar denominated borrowing of identical average life that does not exceed 10% over the highest rate set forth in clause (A) above.

In connection with the issuance of any securities by any Subsidiary Company, it is anticipated that such Subsidiary Company may grant a security interest in its assets. Such security interest may take the form of a pledge of the shares or other equity securities of an Exempt Entity that it owns, including a security interest in any distributions from any such Exempt Entity, and/or a collateral assignment of its rights under and interests in other property, including rights under contracts.

It is also anticipated that fees in the form of placement or commitment fees, or other similar fees, would be paid to lenders, placement agents, or others in connection with the issuance of any such securities. GPU proposes that any Subsidiary Company may agree in any case to pay placement or commitment fees, and other similar fees, in connection with such issuance, provided that the aggregate amount of any such fees (i) payable at or about the time of the issuance of the securities would not exceed 4% of the stated or principal amount thereof and (ii) payable thereafter would not cause the effective annual interest charge on such securities to exceed 115% of the stated interest rate thereon.

GPU states that it would obtain the funds for any direct or indirect investment in any Subsidiary Company or Exempt Entity from available cash or as the Commission may otherwise authorize by separate order.

West Penn Power Company, et al. (70–8613)

Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, The Potomac Edison Company ("Potomac Edison"), 10435 Downsville Pike, Hagerstown, Maryland 21740, and West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, public-utility subsidiary companies of Allegheny Power System, Inc., a registered holding company, have filed a declaration under sections 6(a), 7 and 12(c) of the Act and rule 42 thereunder.

Monongahela, Potomac Edison and West Penn proposes to issue and sell, at any time or from time to time through December 31, 1998, in one or more series, up to $95,000,000, $61,834,900, and $110,000,000 principal amount, respectively (an aggregate of $266,834,900 principal amount for all three companies) of junior subordinated debentures (the "Debt Securities"). The Debt Securities will be issued under an indenture or indentures to be entered into with a trustee or trustees to be named.

The Debt Securities will be unsecured obligations of the issuer thereof, will be subordinate to all other indebtedness for borrowed money of such issuer, and may contain cross-default provisions with respect to other indebtedness of the issuer. Each such series will have a term of no more than fifty years and will bear interest, payable at periodic intervals, at a fixed or an adjustable rate. Any adjustable rate will be determined on a periodic basis as a percentage of or spread from a predetermined benchmark security, by auction or remarketing procedures, in accordance with a formula based on reference rates, or by other predetermined methods. The issuer of any series of Debt Securities may have the right to defer payment of interest for up to five years, provided that at the end of any deferral period the issuer would be required to pay all accrued and unpaid interest, with interest thereon at the rate borne by such Debt Securities, and during any deferral period the issuer may not be permitted to declare or pay dividends on or to acquire any of its capital stock. Debt Securities of any series may be redeemable at the option of the issuer, at any time after a specified date not later than twenty years from the date of issuance, at a price equal to the principal amount thereof plus accrued and unpaid interest, plus a premium (if any).

The Debt Securities will be sold at such time, at such interest rates, and for such prices as shall be approved by the issuer, depending on market conditions. The proceeds of the sale of Debt Securities will be applied to the redemption, tender offer or other retirement of outstanding preferred stock. Monongahela, Potomac Edison and West Penn state that the Debt Securities will provide substantial benefits over traditional perpetual preferred stock (including increased cash flow and net income and a lower net interest cost due to the tax deductibility of interest payments), while receiving substantially similar treatment for rating agency and other credit analysis purposes.

Appalachian Power Company, et al. (70–8615)

Appalachian Power Company ("Appalachian"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, and its subsidiary, Southern Appalachian Coal Company (SACCo") (collectively, the "Sellers"), both located at 40 Franklin Road, Roanoke, Virginia 24022, have filed an application-declaration under Sections 9(a), 10 and 12(b) of the Act and Rule 45 thereunder.

By Commission order dated June 6, 1984 (HCAR No. 23322), the Commission approved the sale of a significant portion of Appalachian's and its subsidiary's coal mining assets. The Sellers have now entered into an Agreement of Purchase and Sale, dated March 22, 1995 ("Agreement"), with Whites Creek Limited Liability Company ("Buyer"), a West Virginia limited liability company, with respect to most of its remaining West Virginia mining assets. Appalachian owns certain real property interests, including coal lands and docking facilities, located in Boone and Kanawha Counties, West Virginia. SACCo owns the Bull Creek Preparation Plant and equipment consisting of certain raw coal and clean coal handling and preparation plant facility together with fixed assets and improvements and other coal mining equipment. SACCo is the permittee under various reclamation, pollutant discharge, pollution control and facilities permits applicable to coal mining, preparation and transportation.

Pursuant to the Agreement, the Buyer will acquire the real property interests, the coal preparation facility, the equipment and the permits ("Assets") from the Sellers. The Sellers shall assign and delegate to the Buyer all rights and obligations under various oil and gas leases, farming leases, timber leases, residential leases, licenses, franchises, contracts, concessions and recorded and unrecorded occupancy agreements applicable to or for the use or occupancy of the real estate to be sold. The total purchase price under the Agreement for the Assets is $6.05 million, of which $1.25 million shall be paid at closing to be held no later than June 30, 1995. The Buyer will deliver a promissory note, secured by a letter of credit, in the amount of $4.8 million, bearing interest at the rate of a 8.004213 percent per annum, payable in 40 equal quarterly installments of principal and interest of $175,500, beginning on September 30, 1995 and ending on June 30, 2005.

Under the Agreement, the Sellers have agreed to indemnify the Buyer against certain liabilities and contingencies that may be asserted by employees or former employees of SACCo against the Buyer or by federal, state or local agencies as a result of noncompliance with laws relating to mining operations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–11040 Filed 5–3–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License # 03/03–5171]

Consumer United Capital Corporation; Notice of License Surrender

Notice is hereby given that *Consumers United Capital Corporation, ("CUCC"), 1150 Connecticut Avenue NW., Suite 205, Washington, D.C. 20036,* has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). CUCC was licensed by the Small Business Administration on *April 25, 1985.*

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on *March 22, 1994,* and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 27, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–10952 Filed 5–3–95; 8:45 am]

BILLING CODE 8025–01–M

Investment Advisory Council; Public Meeting

The U.S. Small Business Investment Advisory Council will hold a public meeting from 10 a.m. to 3 p.m. Thursday, May 11, 1995, at the ANA Hotel, located at 2900 M Street, NW, Washington, DC, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ed Cleveland, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416, (202) 205–6510.

Dated: April 27, 1995.

Dorothy A. Overal,

Director, Office of Advisory Council.

[FR Doc. 95–10926 Filed 5–3–95; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 95–1(6)]

Preslar v. Secretary of Health and Human Services; Definition of Highly Marketable Skills for Individuals Close to Retirement Age

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2), the Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 95–1(6).

EFFECTIVE DATE: May 4, 1995.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965–1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Sixth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after May 4, 1995. If we made a determination or decision on your application for benefits between January 21, 1994, the date of the Court of Appeals' decision and May 4, 1995, the effective date of this Social Security Acquiescence Ruling, you may request application of the Social Security Acquiescence Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b) or 416.1485(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e) and 416.1485(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c) and 416.1485(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income.)

Dated: November 14, 1994.

Shirley S. Chater,

Commissioner of Social Security.

Acquiescence Ruling 95–1(6)

Preslar v. *Secretary of Health and Human Services*, 14 F.3d 1107 (6th Cir. 1994)—Definition of Highly Marketable Skills for Individuals Close to Retirement Age—Titles II and XVI of the Social Security Act.

Issue: Whether, in order to find that the skills of a claimant who is close to retirement age (age 60–64) are "highly marketable" within the meaning of the Secretary's regulations, the Social Security Administration (SSA) must

VOL
60
ISS
86
MY
4
1995
UMI

first establish that the claimant's skills are sufficiently specialized and coveted by employers as to make the claimant's age irrelevant in the hiring process and enable the claimant to obtain employment with little difficulty.

Statute/Regulation/Ruling Citation: Sections 223(d)(2)(A) and 1614(a)(3)(B) of the Social Security Act (42 U.S.C. 423(d)(2)(A) and 1382c(a)(3)(B)); 20 CFR 404.1520(f)(1), 404.1563(d), 404.1566(c), 416.920(f)(1), 416.963(d), 416.966(c); 20 CFR Part 404, Subpart P, Appendix 2, sections 201.00(f) and 202.00(f); Social Security Ruling 82–41.

Circuit: Sixth (Kentucky, Michigan, Ohio, Tennessee)

Preslar v. *Secretary of Health and Human Services*, 14 F.3d 1107 (6th Cir. 1994).

Applicability of Ruling: This Ruling applies to determinations or decisions at all administrative levels (i.e., initial, reconsideration, Administrative Law Judge (ALJ) hearing or Appeals Council).

Description of Case: In April 1989, the plaintiff, Walter Preslar, who was 61 years of age and had an eleventh grade education, applied for Social Security disability insurance benefits and Supplemental Security Income benefits based on disability. Mr. Preslar alleged that he was disabled due to pain resulting from hip and back injuries, osteoarthritis and the late effects of musculoskeletal and connective tissue injuries. Following denial of his claims at both the initial and reconsideration levels of the administrative review process, the plaintiff requested and received a hearing before an ALJ. The evidence provided at the hearing included the testimony of a vocational expert who testified that Mr. Preslar could not perform any of his past relevant work, which included food truck driving, custodial work, and bartending. The vocational expert also testified, however, that Mr. Preslar possessed truck driving skills and that there were a significant number of skilled light trucking jobs in the regional economy that he could perform with no significant vocational adjustment.

The ALJ found that Mr. Preslar could not perform his past relevant work, but that he retained the capacity to do a full range of light work with only minor limitations. The ALJ also found, based upon testimony by the vocational expert, that Mr. Preslar had "highly marketable work skills," including truck driving, the ability to use hand and power tools, and the ability to use a cash register. Based on these findings, the ALJ concluded that Mr. Preslar was not disabled. The Appeals Council denied Mr. Preslar's request for review, and the ALJ's decision became the final decision of the Secretary. This decision was reviewed by a district court which upheld the Secretary's denial of disability benefits, and the plaintiff appealed to the Court of Appeals for the Sixth Circuit.

Holding: The Sixth Circuit reversed the decision of the district court. The court of appeals noted that at the fourth and fifth steps of the five-step sequential evaluation process for determining disability prescribed in the Secretary's regulations, once a claimant establishes that he or she can no longer perform his or her past relevant work because of a severe impairment (step four), the burden shifts to the Secretary to show whether the claimant can perform other work which exists in the national economy, considering the claimant's residual functional capacity, age, education and work experience (step five). The court observed that for purposes of step five, a claimant's age is to be evaluated under the four-tiered structure of section 404.1563 of the Secretary's regulations.[1] Among other things, section 404.1563(d) provides that if a claimant is of advanced age (55 or over), has a severe impairment, and cannot do medium work, such claimant may not be able to work unless he or she has skills that can be transferred to less demanding jobs which exist in significant numbers in the national economy. The court noted that, in addition, section 404.1563(d) states that, "[i]f you are close to retirement age (60-64) and have a severe impairment, we will not consider you able to adjust to sedentary or light work unless you have skills which are highly marketable."

The Sixth Circuit observed that the term "highly marketable" skills was not expressly defined in the statutes, regulations or case law. The court stated, however, that it was evident from the regulations that "highly marketable" skills denoted something more than "transferable" skills. Specifically, the court noted that, under section 404.1563(d) of the regulations, claimants age 55 or over, including those close to retirement age, must possess skills easily transferable to other occupations; the "highly marketable" requirement, on the other hand, only applies to those age 60-64. In addition, the court indicated that section 404.1563(a) of the regulations also sheds light on how the Secretary is required to evaluate a claimant's age, noting that the section states, in part:

> Age refers to how old you are (your chronological age) and the extent to which your age affects your ability to adapt to a new work situation and to do work in competition with others.

Although the Sixth Circuit noted that, under section 223(d)(2)(A) of the Act (42 U.S.C. 423(d)(2)(A)), vocational factors usually are to be viewed in terms of their effect on the ability to perform jobs rather than obtain them, the court nevertheless found that section 404.1563 of the regulations "recognizes a direct relationship between age and the likelihood of employment" and that, as age increases, the four-tiered structure of the regulation places an increasingly heavy burden on the Secretary to demonstrate that a claimant is "easily employable." The court concluded that the regulations and other judicial interpretations of "highly marketable" skills imply that such skills are those "which are sufficiently coveted by employers and sufficiently specialized or unique so as to offset the disadvantage of advancing age" and enable a claimant to obtain employment with little difficulty. The court indicated that the possession of such skills may be shown by establishing that a claimant's skills were acquired through specialized or extensive education, training or experience and that they give the claimant a significant advantage or edge over other, younger, potential employees competing for jobs requiring the skills, giving consideration to the number of such jobs available and the number of individuals competing for such jobs.

The court applied its interpretation of "highly marketable" skills to Mr. Preslar's case and concluded that the Secretary had not assessed whether Mr. Preslar's skills were in some way specialized or coveted by employers; had not determined the amount of training, education or experience required of the plaintiff to attain his skills; and had not assessed whether the plaintiff enjoyed a competitive edge over younger, potential employees with whom he would compete for truck driving jobs. Accordingly, the court remanded the case to the Secretary for reevaluation of whether the plaintiff possessed "highly marketable" skills in accordance with the court's interpretation of that term in section 404.1563(d) of the regulations.

[1] Although the court of appeals only cited the title II regulation concerning the evaluation of age, section 404.1563, the corresponding title XVI regulation, section 416.963, also was relevant in Mr. Preslar's case. These sections, entitled "Your age as a vocational factor," are virtually identical. Sections 404.1563(b)-(d) and 416.963 (b)-(d) specify three age categories: "Younger person" (under age 50); "Person approaching advanced age" (age 50-54); and "Person of advanced age" (age 55 or over). The latter includes a subcategory—a person close to retirement age (age 60-64).

Statement as to How Preslar Differs From Social Security Policy

At step five of the sequential evaluation, SSA considers a claimant's chronological age in conjunction with residual functional capacity, education and work experience to determine whether a claimant can do work other than past relevant work. SSA weighs the effect of increasing age by the extent it erodes a claimant's ability to adapt to new work situations and to work in competition with others.

To this end, SSA's regulations provide that in order to find that a claimant whose sustained work capability is limited to light work or less and who is close to retirement age (60–64) possesses skills that can be used in (transferred to) other work, "there must be very little, if any, vocational adjustment required in terms of tools, work processes, work settings, or the industry." 20 CFR Part 404, Subpart P, Appendix 2, section 202.00(f). SSA's regulations provide the same rule for a claimant whose sustained work capability is limited to sedentary work and who is of advanced age (55 or over). 20 CFR Part 404, Subpart P, Appendix 2, section 201.00(f). If the claimant's skills are transferable to other work under this standard, SSA will consider such skills "highly marketable" under 20 CFR 404.1563(d) and 416.963(d).

SSA's regulations do not require a finding that a claimant's skills are specialized and coveted so as to offset the disadvantage that advancing age may present in obtaining employment. Instead, SSA's regulations require that a claimant (of *any* age) be found not disabled if his or her residual functional capacity and vocational abilities enable him or her to work, but he or she remains unemployed because of the hiring practices of employers. The evaluation of disability is based on the ability to perform jobs in the national economy and not the ability to obtain them, 20 CFR 404.1566(c) and 416.966(c).

The Sixth Circuit's interpretation of "highly marketable" imposes requirements in contravention of the Secretary's regulations regarding the vocational relevance of a claimant's age. Specifically, the court has interpreted "highly marketable" skills in 20 CFR 404.1563(d) to mean those skills which are sufficiently specialized and coveted by employers so as to make a claimant's age irrelevant in the hiring process and enable the claimant to obtain employment with little difficulty.

Explanation of How SSA Will Apply The Preslar Decision Within the Circuit

This ruling applies only where the claimant resides in Kentucky, Michigan, Ohio or Tennessee at the time of the determination or decision at any level of administrative review, i.e., initial, reconsideration, ALJ hearing or Appeals Council review.

In the case of a claimant whose sustained work capability is limited to sedentary or light work as a result of a severe impairment, who is closely approaching retirement age (age 60-64), and who has skills, an adjudicator will consider the claimant's skills to be "highly marketable" only if the skills are sufficiently specialized and coveted by employers as to make the claimant's age irrelevant in the hiring process and enable the claimant to obtain employment with little difficulty. In determining whether a claimant's skills meet this definition of "highly marketable," an adjudicator will consider:

(1) whether the skills were acquired through specialized or extensive education, training or experience; and

(2) whether the skills give the claimant a competitive edge over other, younger, potential employees with whom the claimant would compete for jobs requiring those skills, giving consideration to the number of such jobs available and the number of individuals competing for such jobs.

SSA intends to clarify the regulations at issue in this case, 20 CFR 404.1563 and 416.963, through the rule making process and may rescind this Ruling once such clarification is made.

[FR Doc. 95–10920 Filed 5–3–95; 8:45 am]

BILLING CODE 4190–29–F

DEPARTMENT OF STATE

[Public Notice 2198]

International Telecommunications Advisory Committee; Radiocommunications Sector; Study Group 8—Mobile Services; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Radiocommunication Sector Study Group 8—Mobile Services will meet on 19 May 1995 at 10 AM to 1 PM, in room 1107 at the Department of State, 2201 C Street, N.W., Washington, DC 20520.

Study Group 8 studies and develops recommendations concerning technical and operating characteristics of mobile, radiodetermination, amateur and related satellite services.

This May meeting will continue preparations for the June 12–16, 1995 international meeting of Study Group 8. It will also review activities concerning the Inter-American Telecommunication Commission Permanent Consultative Committee III—Radiocommunications, and begin preparations for the August 24–26 meeting of PCC.III.

Members of the General Public may attend the meeting and join in the discussions, subject to the instructions of the Chairman, John T. Gilsenan.

Note: In order to gain access to State Department for this meeting, please call 202–647–0201 and leave your name, your social security number, and date of birth. Please use "C" Street Entrance.

Dated: April 28, 1995.

Warren G. Richards,

Chairman, U.S. ITAC for ITU-Radiocommunication Sector.

[FR Doc. 95–10947 Filed 5–3–95; 8:45 am]

BILLING CODE 4710–45–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects in the exhibit, "Claude Monet 1840–1926" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition of the objects at The Art Institute of Chicago, Chicago, Illinois from on or about July 14, 1995, to on or about November 26, 1995, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan of the Office of the General Counsel of USIA. The telephone number is 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547.

VOL
60
ISS
86
MY
4
1995
UMI

Dated: April 28, 1995.

Les Jin,

General Counsel.

[FR Doc. 95–10925 Filed 5–3–95; 8:45 am]

BILLING CODE 8235–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans; Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103–446, gives notice that a meeting of the Advisory Committee on Minority Veterans will be held June 5–8, 1995, in Washington, DC. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services for minority veterans and to assess the needs of minority veterans and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The committee will make recommendations to the Secretary regarding such activities.

The sessions will convene in room 230, VA Central Office Building, 810 Vermont Avenue, NW, Washington, DC. on June 5, from 9 a.m. to 5:30 p.m. and end on June 8 at 12 noon. All sessions will be open to the public up to the seating capacity of the room. Because the capacity is limited, it will be necessary for those wishing to attend toe contact Mrs. Angelia Sare, Department of Veterans Affairs (phone 202 273–6708) prior to June 1, 1995. Limited time will be allocated for the purpose of receiving oral presentations from the public, however prior notification of request to speak will be required. The Committee will accept appropriate written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (008D), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: April 26, 1995.

By Direction of the Secretary:

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–10948 Filed 5–3–95; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 60, No. 86

Thursday, May 4, 1995

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP93-49-000]

Paiute Pipeline Company; Notice of Settlement Conference

Correction

In notice document 95–10561 appearing on page 21187 in the issue of Monday, May 1, 1995, in the first column, the document should be removed because it is a duplicate of FR Doc. 95-10563.

BILLING CODE 1505–01–D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1852

Indemnification Under Public Law 85-804

Correction

In rule document 95–8511 beginning on page 18032 in the issue of Monday, April 10, 1995, make the following correction:

On page 18034, in the third column, the first bold line after amendatory instruction 8 should read as set forth below.

1852.250-70— [Removed]

BILLING CODE 1505–01–D

VOL
60

ISS
86

MY
4

1995

UMI

federal register

Thursday
May 4, 1995

Part II

Social Security Administration

Statement of Organization, Functions and Delegations of Authority; Notice

VOL 60 ISS 86 MY 4 1995 UMI

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given of the complete revision of existing Part S and the establishment of Part T as SSA becomes an independent agency. Notice is further given that Chapter SA for the Office of the Commissioner; Chapter S1 for the Office of the Deputy Commissioner for Finance, Assessment and Management; Chapter S2 for the Office of the Deputy Commissioner for Operations; Chapter S4 for the Office of the Deputy Commissioner for Systems; and Chapter S7 for the Office of the Deputy Commissioner for Human Resources are being amended to reflect internal organizational realignments and the deletion of all references to the Department of Health and Human Services as the parent agency of SSA. Chapter S3 for the Office of the Deputy Commissioner for Policy and Chapter S5 for the Office of the Deputy Commissioner for Policy and External Affairs are being deleted in their entirety. Notice is further given of the establishment of Chapter S8 for the SSA Office of Inspector General; Chapter S9 for the SSA Office of General Counsel; Chapter TA for the Office of the Deputy Commissioner for Programs, Policy, Evaluation and Communications; and Chapter TB for the Office of the Deputy Commissioner for Legislation and Congressional Affairs. The Deputy Commissioners for Finance, Assessment and Management (S1); Operations (S2); Systems (S4); Human Resources (S7); Programs, Policy, Evaluation and Communications (TA); Legislation and Congressional Affairs (TB); the SSA Inspector General (S8); and the SSA General Counsel (S9) are all line officials responsible for directing major organizational components. The following chapters reflect these changes.

Chapter S—Social Security Administration

S.00 Mission
S.10 Organization
S.20 Functions
S.30 Order of Succession

Section S.00 *The Social Security Administration*—(Mission): The Social Security Administration is the Nation's primary income security Agency. It administers the Federal retirement, survivors and disability insurance programs, as well as the program of supplemental security income (SSI) for the aged, blind and disabled, and performs certain functions with respect to the black lung benefits program. SSA also directs the aid to the aged, blind and disabled in Guam, Puerto Rico and the Virgin Islands.

Section S.10 *The Social Security Administration*—(Organization):

The Social Security Administration, under the supervision and direction of the Commissioner of Social Security (the Commissioner), includes:

A. The Office of the Commissioner of Social Security (SA).

B. The Office of the Deputy Commissioner of Social Security (SA).

C. The Office of the Deputy Commissioner, Finance, Assessment and Management (S1).

D. The Office of the Deputy Commissioner, Operations (S2).

E. The Office of the Deputy Commissioner, Systems (S4).

F. The Office of the Deputy Commissioner, Human Resources (S7).

G. The Office of the SSA Inspector General (S8).

H. The Office of the SSA General Counsel (S9).

I. The Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications (TA).

H. The Office of the Deputy Commissioner, Legislation and Congressional Affairs (TB).

Section S.20 *The Social Security Administration*—(Functions): The Social Security Administration performs all functions necessary to accomplish the Agency's mission. These are specified in more detail in the sections which follow Section S.30.

Section S.30 *The Social Security Administration*—(Order of Succession):

A. 1. In the event of the absence or disability of the Commissioner, the Deputy Commissioner shall serve as Acting Commissioner.

2. In the event of the absence or disability of both the Commissioner and Deputy Commissioner of Social Security or vacancies in the positions, one of the Deputy Commissioners or another Executive Level official, will be designated to serve as Acting Commissioner.

3. In the event of the absence of the Commissioner and the Deputy Commissioners, an SSA official designated by the Commissioner shall serve as Acting Commissioner.

4. Should the positions of Commissioner and Deputy Commissioner of Social Security and the Deputy Commissioners become vacant, or these officials become disabled, an official will be designated to serve as Acting Commissioner.

B. 1. Where an Associate Commissioner has two deputies, one of the deputies shall be designated by the Associate Commissioner to serve as Acting Associate Commissioner during his/her absence. In the event of a disability of the Associate Commissioner, the Commissioner shall designate one of the Deputy Associate Commissioners to serve as Acting Associate Commissioner.

2. In the event of the absence of both an Associate Commissioner and his/her Deputy or deputies, an executive designated by the Associate Commissioner shall serve as Acting Associate Commissioner.

3. Should an Associate Commissioner or his/her Deputy Associate Commissioner become disabled, an SSA official designated by the Commissioner shall serve as Acting Associate Commissioner.

C. 1. During the absence or disability of a Regional Commissioner, the Deputy Regional Commissioner shall serve as Acting Regional Commissioner.

2. In the event of the absence of both a Regional Commissioner and his/her Deputy, an SSA regional office official designated by the particular Regional Commissioner shall serve as Acting Regional Commissioner.

3. Should both the Regional Commissioner and Deputy Regional Commissioner become disabled, an SSA official designated by the Commissioner shall serve as Acting Regional Commissioner.

Delete: Existing Chapter S3, the Office of Policy and Chapter S5, the Office of Policy and External Affairs in their entirety.

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given of the revision of Chapter SA for the Office of the Commissioner of SSA to reflect changes as SSA becomes an independent agency. The changes are as follows:

Section SA.10 *The Office of the Commissioner*—(Organization):

Retitle:

B. The Office of the Principal Deputy Commissioner (SA) to the Office of the Deputy Commissioner of Social Security (SA).

Establish:

D. The Office of the Chief of Staff (SAN).

Section SA.20 *The Office of the Commissioner*—(Functions) Retitle and revise to read as follows:

B. The Deputy Commissioner of Social Security (SA) assists the Commissioner in carrying out his/her responsibilities and performs other duties as the Commissioner may prescribe.

Delete all references to HHS:

C. The Immediate Office of the Commissioner (SA).

Establish:

D. The Chief of Staff (SAN) provides day-to-day support to the Commissioner and Deputy Commissioner in matters relating to program policy, administration, communications and external liaison.

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S1 for the Office of the Deputy Commissioner, Finance, Assessment and Management is being amended to reflect internal organizational realignments and the deletion of all references to the Department of Health and Human Services as the parent agency of SSA. The following material replaces Chapter S1 in its entirety.

Chapter S1—The Office of the Deputy Commissioner, Finance, Assessment and Management

S1.00 Mission
S1.10 Organization
S1.20 Functions

Section S1.00 *The Office of the Deputy Commissioner, Finance, Assessment and Management*—(Mission): The Office of the Deputy Commissioner Finance, Assessment and Management (ODCFAM) directs the administration of comprehensive SSA management programs including budget, acquisition and grants, facilities management and publications and logistics. The Office directs the development of Agency policies and procedures as well as the management of the Agency financial management systems. It directs the activities of the Systems Review Board (SRB) and the systems procurement review function. It directs the evaluation of programs operations quality and the management of Agency quality assurance, management integrity and systems security programs and the oversight of SSA's matching operations.

Section S1.10 *The Office of the Deputy Commissioner, Management, Budget and Assessment*—(Organization): The Office of the Deputy Commissioner, Finance, Assessment and Management under the leadership of the Deputy Commissioner, Finance, Assessment and Management, includes:

A. The Deputy Commissioner, Finance, Assessment and Management (S1).

B. The Assistant Deputy Commissioner, Finance, Assessment and Management (S1).

C. The Immediate Office of the Deputy Commissioner, Finance, Assessment and Management (S1J), which includes:

1. The SSA Senior Financial Executive (S1J–1).

2. The Information Technology Systems Review Staff (S1J–2).

3. The Management Analysis and Audit Program Support Staff (S1J–3).

D. The Office of Program and Integrity Reviews (S1K).

E. The Office of Financial Policy and Operations (S1N).

F. The Office of Budget (S1P).

G. The Office of Acquisition and Grants (S1Q).

H. The Office of Facilities Management (S1R).

I. The Office of Publications and Logistics Management (S1S).

Section S1.20 *The Office of the Deputy Commissioner, Finance, Assessment and Management*—(Functions):

A. The Deputy Commissioner, Finance, Assessment and Management (S1) is directly responsible to the Commissioner for carrying out the ODCFAM mission and providing general supervision to the major components of ODCFAM. The Deputy Commissioner also is the SSA Chief Financial Officer (SSACFO) and is directly responsible to the Commissioner for carrying out the SSACFO mission.

B. The Assistant Deputy Commissioner, Finance, Assessment and Management (S1) assists the Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Deputy Commissioner may assign.

C. The Immediate Office of the Deputy Commissioner, Finance, Assessment and Management (S1J) provides the Deputy Commissioner with staff assistance on the full range of his/her responsibilities. It reviews and analyzes existing and proposed formal delegations of program and administrative decisionmaking authorities within SSA. It includes:

1. The SSA Senior Financial Executive (S1J–1) provides financial management expertise, advice and support to the Deputy Commissioner, Finance, Assessment and Management (DCFAM) in his/her role as the Chief Financial Officer; serves as a high-level Agency focal point for financial management matters and on selected issues, acts as liaison with the Department of the Treasury and the Internal Revenue Service; monitors Agency activities to improve financial management and management integrity weaknesses to assure Agency commitment and followthrough. The Senior Financial Executive is the focal point for Agency combined annual wage reporting/wage reconciliation improvement efforts; prepares progress reports and recommends corrective action as required.

2. The Information Technology Systems Review Staff (S1J–2) serves as the principal independent source of advice to the SRB, the SSACFO and the Commissioner on the feasibility, suitability and conformance to regulations of proposed systems plans and acquisitions; on proposed systems design and requirement specifications; and on all other systems strategies and related issues. It reviews the proposed Information Technology Systems (ITS) budget and Agency Procurement Requests for adequacy, clarity, cost-effectiveness, achievability, consistency with Agency plans, and to ensure that project objectives are realistic and complete. It conducts technical reviews of the functional requirements and design specifications of all ITS hardware and software systems to ensure their sufficiency and compliance with applicable policies, procedures and Agency plans. The Staff conducts in-process reviews of systems, planned implementation strategies, contracts, interagency agreements and other ongoing work in the systems area to determine compliance with Agency decisions and plans and monitors significant ITS projects to ensure the Agency objectives and timeframes are met. The Staff conducts postimplementation reviews of Agency systems and ITS acquisitions to determine if Agency investments provide the expected returns and whether the Agency objectives are being met with timely and cost-effective methods. The Staff conducts Information Resources Management reviews, maintains the Agency ITS budget project accounting data base and provides the DCFAM and the Commissioner with regular status reports on the execution of the Agency's ITS budget.

3. The Management Analysis and Audit Program Support Staff (S1J–3) provides analytical staff support for a wide range of Agencywide and/or Office-wide administrative program activities related to program administration, operations and policy; plans and directs SSA's participation in the audit programs conducted by the U.S. Government Accounting Office (GAO), the Office of Inspector General (OIG) and other external organizations;

VOL
60
ISS
86
MY
4
1995
UMI

develops Agency position on issues presented in the audits; reviews and evaluates audit reports and monitors and evaluates the implementation of GAO and OIG audit reports and internal survey recommendations.

D. The Office of Program and Integrity Reviews (S1K) reviews, evaluates and assesses the integrity and quality of the administration of Social Security programs in headquarters and in the field. It recommends corrective changes in programs, policies, procedures or legislation aimed at quality and productivity improvement and/or program simplification. It evaluates the quality of SSA operations with emphasis on the prevention of program and systems abuse, the elimination of waste and the increase of efficiency. It also has responsibility for overseeing SSA's computer matching operations.

E. The Office of Financial Policy and Operations (S1N) has operational responsibility for SSA's accounting and payment operations and establishes requirements for all SSA financial systems and processes to ensure Agency compliance with accounting principles and standards as prescribed by the Comptroller General and Chief Financial Officer of the United States; fiscal policies and procedures prescribed by the Secretary of the Treasury; and management integrity and control standards prescribed by the Office of Management and Budget under the Federal Managers' Financial Integrity Act.

F. The Office of Budget (S1P) provides overall management of the planning, development and execution of the SSA budget. The Office develops policies and guidelines for the exercise of SSA-wide budget responsibility and evaluates and appraises the manner in which this responsibility is carried out.

G. The Office of Acquisition and Grants (S1Q) directs the business management aspects of SSA's procurement program and grants management program by awarding and administering contracts, preparing purchase orders or other contractual instruments, and awarding and administering grants. It develops and implements policies, procedures and directives for SSA procurement and grants activities.

H. The Office of Facilities Management (S1R) directs the national SSA real property program including short- and long-range facilities planning: design, construction and leasing of central office and large field facilities and maintenance, repair and construction projects and policy development related to these operations and facilities. It acquires, utilizes and manages space at SSA headquarters and develops a comprehensive space inventory and utilization system. The Office of Facilities Management develops, implements and evaluates SSA's environmental protection, safety and protective services programs. It ensures that these programs are responsive to the needs of the Agency and serves as a focal point for inquiries and guidance concerning these programs.

I. The Office of Publications and Logistics Management (S1S) directs a comprehensive SSA printing, publications and distribution management program and develops pertinent policies, standards, and procedures for SSA's forms and publications management, printing, reprographics and distribution programs. It directs the administration and maintenance of the SSA library, the SSA History Room, the historical research program and records management program. It administers the SSA logistics management program, directs the SSA property and supply management programs and manages the operation of SSA warehousing facilities including receipt, storage and issuance of forms publications, supplies and equipment for SSA-wide use. The Office directs activities related to employee transportation including providing headquarters passenger, mail and freight transportation services. The Office directs the SSA mail management program.

Subchapter S1K—Office of Program and Integrity Reviews

S1K.00 Mission
S1K.10 Organization
S1K.20 Functions

Section S1K.00 *The Office of Program and Integrity Reviews*—(Mission): The Office of Program and Integrity Reviews (OPIR) reviews, evaluates and assesses the integrity and quality of the administration of Social Security programs in headquarters and in the field. It recommends corrective changes in programs, policies, procedures or legislation aimed at quality and productivity improvement and/or program simplification. It evaluates the quality of SSA operations with emphasis on the prevention of program and systems abuse, the elimination of waste and the increase of efficiency. It also oversees SSA's computer matching operations.

Section S1K.10 *The Office of Program and Integrity Reviews*—(Organization): The Office of Program and Integrity Reviews, under the leadership of the Associate Commissioner for Program and Integrity Reviews, includes:

A. The Associate Commissioner for Program and Integrity Reviews (S1K).

B. The Deputy Associate Commissioner for Program and Integrity Reviews (S1K).

C. The Immediate Office of the Associate Commissioner for Program and Integrity Reviews (S1K).

1. The Administration, Matching and Data Management Staff (S1K–1).

D. The Office of Statistics and Special Area Studies (S1KE).

1. The Division of Statistics (S1KE1).
2. The Division of Special Studies and Analysis (S1KE2).
3. The Division of Public Service Evaluation (S1KE3).

E. The Office of Disability Program Quality (S1KC).

1. The Division of Disability Quality Policy, Evaluation and Analysis (S1KC1).
2. The Division of Disability Quality Operations (S1KC2).
3. The Division of Disability Hearings Quality (S1KC3).

F. The Offices of Regional Program and Integrity Reviews (S1K–F1—S1K–FX).

G. The Office of Assistance and Insurance Program Quality (S1KG).

1. The Division of Insurance Program Entitlement Quality (S1KG1).
2. The Division of Insurance Program Postentitlement Quality (S1KG2).
3. The Division of Assistance Program Eligibility Quality (S1KG3).
4. The Division of Assistance Program Posteligibility Quality (S1KG4).

Section S1K.20 *The Office of Program and Integrity Reviews*—(Functions):

A. The Associate Commissioner for Program and Integrity Reviews (S1K) is directly responsible to the Deputy Commissioner, Finance, Assessment and Management for carrying out OPIR's mission and providing general supervision to the major components of OPIR.

B. The Deputy Associate Commissioner for Program and Integrity Reviews (S1K) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Program and Integrity Reviews (S1K) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

1. The Administration, Matching and Data Management Staff (S1K–1) consolidates and focuses on a number of

functions previously spread throughout the organization. It conducts a variety of activities that cross component lines and impact the organization as a whole. The staff provides support on all budget, personnel and staffing issues; oversees the implementation of the provisions of the Computer Matching and Privacy Protection Act of 1988 for the Agency; and supports OPIR components, including the Office of Regional Program Integrity Reviews (ORPIR), by planning, developing, maintaining and improving OPIR's communications and data processing systems and the quality review data bases for SSA programs.

D. The Office of Statistics and Special Area Studies (S1KE) has the responsibility for conducting broad-based studies and analyses of SSA's Retirement and Survivors Insurance (RSI), Supplemental Security Income (SSI), Disability Insurance (DI) and 800 Number operations and policies. It surveys SSA's customers to determine their satisfaction with field office (FO) services and whether their expectations were met; i.e., customer satisfaction. This effort supports the Agency initiative to improve the quality of services provided. The Office provides statistical advice and assistance to OPIR components. Operations research studies of SSA programs and management issues, designed to improve the efficiency of SSA's operational workloads, are also conducted in this office.

1. The Division of Statistics (S1KE1).

a. Provides statistical advice and support to OPIR components on study design, sample selection, variance calculations, hypothesis testing and data analysis.

b. Develops and applies statistical profiling techniques to operational workloads to improve targeting of resources and/or quality of operations.

2. The Division of Special Studies and Analysis (S1KE2).

a. Designs, coordinates and conducts ad hoc studies and analyses of the RSI, SSI and DI programs' policies and procedures.

b. Develops recommendations to improve quality and/or cost-effectiveness of SSA operations.

3. The Division of Public Service Evaluation (S1KE3).

a. Designs, directs and coordinates the nationwide system and procedures for evaluating SSA's 800 Number service.

b. Designs, directs and coordinates the evaluation of SSA's delivery of services to our customers by obtaining feedback of their expectations for, and perceptions of, SSA's service.

c. Plans, coordinates and conducts focus group discussions on various issues/policies/concerns with general public and beneficiary/recipient populations.

E. The Office of Disability Program Quality (S1KC) plans, designs and maintains a quality review system for the Title II and Title XVI disability programs to ensure quality in adjudication and payment. It designs sampling methods and techniques, and issues policies and procedures for reviews. It analyzes review data and prepares reports on findings, including recommendations for corrective action or changes in disability program policies, procedures or legislation. The Office plans and designs special reviews of problem areas and plans and utilizes an automated data base of findings in current and longitudinal analyses so that policy and operational managers can improve the operation of the disability program. The Office provides technical support and guidance to program and integrity field staff in the disability quality review program and conducts reviews of ORPIR adherence to OPIR review policies and procedures.

I111. The Division of Disability Quality Policy, Evaluation and Analysis (S1KC1):

a. Develops disability quality review policy, procedures, forms and instructions for use by State and Federal components in payment and adjudicative process consistency and preeffectuation reviews.

b. Identifies error-prone and user-support type case review workloads, and plans targeted sampling procedures to produce appropriate quality review data. Verifies production of sample levels for targeted reviews. Provides sampling intervals for use by State agencies in their quality review operations.

c. Studies the adjudication and payment quality review programs, and modifies them to accommodate new workloads or to improve quality of the data.

d. Develops sampling techniques for adjudication and payment process quality reviews. Modifies sampling to insure validity of data and to respond to disability program and quality review program changes.

e. Provides technical guidance and support to the ORPIR in regard to disability quality review operations. Develops technical training package and programs for workload, policy or procedural changes.

f. Plans and issues periodic reports related to the quality of disability payment and eligibility processes for the Title II and Title XVI disability programs.

g. Analyzes data to identify repetitive and significant errors to determine their causes and costs, and to target areas needing study to determine corrective action.

h. Determines the need for, and designs, special studies to supplement regular reports of disability quality reviews. Coordinates, reviews and evaluates these studies, and helps field offices develop field-initiated studies.

i. Works with program components to identify user requirements for various profiles and to implement and evaluate profiles.

2. The Division of Disability Quality Operations (S1KC2):

a. Conducts consistency quality reviews of samples of QA or preeffectuation reviews by Disability Quality Branches in the ORPIR. These cases include initial claims, reconsideration and continuing disability investigations.

b. Conducts consistency quality reviews of the substantive and technical aspects of samples of continuing disability reviews completed by the Office of Disability Operations and the Disability Review Sections of the Processing Centers.

c. Conducts quality reviews of the substantive and technical aspects of samples of uneffectuated claims adjudicated by the Federal Disability Determination Services and the Office of International Operations.

d. Reviews samples of types of disability cases that have been identified as error-prone or which involve policy, procedural or operational problems. Prepares evaluative reports of the findings derived from such reviews, including recommendations for corrective actions.

e. Designs and conducts special studies of problem areas and prepares reports indicating trends and recommendations for improvements in policy and procedure.

3. The Division of Disability Hearings Quality (S1KC3).

a. Plans, designs and maintains a quality assurance (QA) review system to assess quality in adjudication of disability claims in which a hearing before an administrative law judge (ALJ) has been requested.

b. Conducts QA reviews of the disability and procedural aspects of a sample of claims decided by the ALJ including State Agency reconsideration determinations that have been appealed by an ALJ hearing.

c. Plans and issues periodic reports related to the QA reviews of ALJ decisions.

VOL 60 ISS 86 MY 4 1995 UMI

d. Designs and conducts special studies of significant issues that are identified during the QA review.

F. The Offices of Regional Program and Integrity Reviews (ORPIR) (S1K–F1—S1K–FX) manage quality assurance and evaluation activities in the field. They conduct independent reviews to determine payment and eligibility error rates in Social Security programs, including errors in Federally-administered State supplementary payments. The ORPIR conduct independent reviews to determine the quality of adjudication processes of Social Security programs. They implement study reviews as formulated by the Office of Program and Integrity Reviews and provide reports, data and analyses. They assist in identifying error trends and sources and recommend corrective actions. They also perform special assessment surveys and analyses.

G. The Office of Assistance and Insurance Program Quality (S1KG) is responsible for quality reviews, special studies and analyses of the full range of legal requirements, policies, procedures, systems and operations for the RSI and SSI programs, for the nonmedical aspects of disability in both programs, and for issues common to both programs.

1. The Division of Insurance Program Entitlement Quality (S1KG1).

a. Is the principal SSA source for quality measurement and data for preclaims (enumeration and earnings maintenance) and RSI claims actions and for the level of service rendered to the public with such actions.

b. Designs, develops and conducts ongoing RSI quality reviews, special studies and analyses of entitlement. Special studies and targeted analyses are requested by Congress, higher monitoring authorities, the SSA Executive Staff, as well as being Division-initiated in response to identified error issues.

c. Maintains, analyzes and reports quality data and develops and promotes recommendations to improve the accuracy and cost-effectiveness of RSI entitlement, to improve productivity in processing entitlement workloads, and to improve entitlement policies and procedures.

d. Conducts research in the areas of RSI entitlement and serves as SSA liaison with other Federal entities, State and local governments, and the private sector.

2. The Division of Insurance Program Postentitlement Quality (S1KG2).

a. Is the principal SSA source for quality measurement and data for RSI postentitlement actions, including Stewardship studies, and for the level of service rendered to the public with such actions.

b. Designs, develops and conducts ongoing RSI quality reviews, special studies and analyses of postentitlement. Special studies and targeted analyses are requested by Congress, higher monitoring authorities, the SSA Executive Staff, as well as being Division-initiated in response to identified error issues.

c. Maintains, analyzes and reports quality data and develops and promotes recommendations to improve the accuracy and cost-effectiveness of RSI postentitlement, to improve productivity in processing postentitlement workloads, and to improve postentitlement policies and procedures.

d. Conducts research in the areas of RSI postentitlement and serves as SSA liaison with other Federal entities, State and local governments, and the private sector.

3. The Division of Assistance Program Eligibility Quality (S1KG3).

a. Is the principal SSA source for quality measurement and data for SSI claims and subsequent determination actions and for the level of service rendered to the public with such actions.

b. Designs, develops and conducts ongoing SSI quality reviews, special studies, and analyses of eligibility and subsequent determinations of eligibility. Conducts special studies and targeted analyses in response to identified error issues whether requested by Congress, higher monitoring authorities, the SSA Executive Staff or Division-initiated.

c. Maintains, analyzes and reports quality data and develops and promotes recommendations to improve the accuracy and cost-effectiveness of SSI eligibility and subsequent determinations of eligibility, to improve productivity in processing such workloads, and to improve such policies and procedures.

d. Conducts research in the areas of SSI eligibility and subsequent eligibility and serves as SSA liaison with other Federal entities, State and local governments, and the private sector.

e. Designs automation-enhanced quality review processes.

4. The Division of Assistance Program Posteligibility Quality (S1KG4).

a. Is the principal SSA source for quality measurement and data for SSI posteligibility actions, including Stewardship studies, and for the level of service rendered to the public with such actions.

b. Designs, develops and conducts ongoing SSI quality reviews, special studies, and analyses of posteligibility decisions. Special studies and targeted analyses are requested by Congress, higher monitoring authorities, the SSA Executive Staff, as well as being Division-initiated in response to identified error issues.

c. Maintains, analyzes and reports quality data, performs consistency reviews, and develops, promotes and tracks recommendations to improve the accuracy of SSI posteligibility, to improve productivity in processing posteligibility workloads, and to improve posteligibility policies and procedures.

d. Conducts research in the areas of SSI posteligibility and serves as SSA liaison with other Federal entities, State and local governments, and the private sector.

Subchapter S1N—Office of Financial Policy and Operations

S1N.00 Mission
S1N.10 Organization
S1N.20 Functions

Section S1N.00 *The Office of Financial Policy and Operations*—(Mission): The Office of Financial Policy and Operations (OFPO) has operational responsibility for SSA's accounting and payment operations and establishes requirements for all SSA financial systems and processes to ensure Agency compliance with accounting principles and standards prescribed by the Comptroller General and Chief Financial Officer of the United States; fiscal policies and procedures prescribed by the Secretary of the Treasury; and management integrity and control standards prescribed by the Office of Management and Budget under the Federal Managers' Financial Integrity Act.

Section S1N.10 *The Office of Financial Policy and Operations*—(Organization): The Office of Financial Policy and Operations, under the leadership of the Associate Commissioner for Financial Policy and Operations, includes:

A. The Associate Commissioner for Financial Policy and Operations (S1N).

B. The Deputy Associate Commissioner for Financial Policy and Operations (S1N).

C. The Immediate Office of the Associate Commissioner for Financial Policy and Operations (S1N).

D. The Office of Financial Policy and Systems Design (S1NA).

1. The Division of Financial Policy and Standards (S1NA1).

2. The Division of Financial/Administrative Systems (S1NA2).

3. The Division of Systems Security (S1NA6).

4. The Division of Program Systems Requirements (S1NA7).

E. The Office of Finance (S1NC).

1. The Division of Central Accounting Operations (S1NC1).

2. The Division of Administrative Payments and Recovery (S1NC2).

3. The Division of Travel Management (S1NC3).

F. The Office of Program Accounting Operations (S1NE).

1. The Division of Benefit Certification and Accounting (S1NE1).

2. The Division of Cost Analysis (S1NE2).

Section S1N.20 *The Office of Financial Policy and Operations*—(Functions):

A. The Associate Commissioner for Financial Policy and Operations (S1N) is directly responsible to the Deputy Commissioner, Finance, Assessment and Management for carrying out OFPO's mission and provides general supervision to the major components of OFPO.

B. The Deputy Associate Commissioner for Financial Policy and Operations (S1N) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Financial Policy and Operations (S1N) provides the Associate Commissioner and the Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Financial Policy and Systems Design (S1NA) develops financial accounting policies, procedures and requirements for all SSA financial management systems: program benefits, debt management and financial/administrative systems. It directs the preparation and publication of SSA's annual financial statement, plans and directs the analysis of SSA's integrated financial/administrative systems and develops and executes Agency policies and procedures for system security, management integrity, cash management, administrative control and use of Agency funds and performance measurement including analysis of program outcomes, program financing adequacy, operational efficiency and service delivery.

1. The Division of Financial Policy and Standards (S1NA1) directs the development of financial accounting policies and procedures for all SSA financial management systems in compliance with accounting principles and standards prescribed by the Comptroller General and Chief Financial Officer of the United States and fiscal policies prescribed by the Secretary of the Treasury. It administers SSA's Federal Managers' Financial Integrity Act reporting and monitoring program (sections 2 and 4) including a risk analysis/vulnerability assessment program to ensure the accuracy and accountability of SSA's operational and administrative processes. It manages the preparation of SSA's audited annual financial statement and reports required by the Government Performance and Results Act.

2. The Division of Financial/Administrative Systems (S1NA2) provides systems analysis and support for the design, development and implementation of SSA's financial management systems and their integration with related administrative processes including applications to support core accounting functions of fund control, general ledger and reporting to higher monitoring authorities; accounts payable functions with connectivity to Treasury disbursing centers, Agency cashier and electronic commerce operations; cost analysis functions with determinations for Agency production, productivity and costs of workloads, business processes, programs and projects; travel management functions including document preparation, authorization and management information; payroll management functions, including full-time equivalency, workyear and dollar tracking at all organizational levels; budget formulation and execution functions of the Office of Budget; and related functions of managers SSA-wide.

3. The Division of Systems Security (S1NA6) directs, coordinates and manages SSA's overall information systems security program. This includes the development of SSA's security policy requirements and procedures, the effective implementation of other governing directives in the area of security, the administration of an effective access control program and an onsite review program. It provides educational training and awareness programs to management and employees on security policy/requirements; serves as the Agency focal point for day-to-day contact with the Office of Inspector General on matters of fraud, waste and abuse; and provides direction and guidance to the Agency's component and regional security officers.

4. The Division of Program Systems Requirements (S1NA7) directs the development of financial and accounting requirements for SSA's programmatic systems; reviews and negotiates modifications to Agency's functional requirements for adherence to the SSACFO requirements; participates in software validation/testing to ensure its effectiveness, reliability and conformance; and negotiates scope and timing for software releases especially to ensure prompt correction of material nonconformances with accounting principles and standards prescribed by the Comptroller General and the Chief Financial Officer of the United States.

E. The Office of Finance (S1NC) directs SSA's central accounting and financial reporting activities and provides financial, fund control, cash management services that include administrative payments, administrative debt collection and travel management. It plans and directs the development of operating policies and procedures related to financial operations and evaluates these activities to ensure they are responsive to the needs of the Agency.

1. The Division of Central Accounting Operations (S1NC1) directs SSA's central accounting and reporting operations and develops related Agency operating procedures. It monitors and reports on the status of Agency spending and maintains control over Agency assets, liabilities and appropriations; manages the Agency's cash position and flow including coordination with trust fund investment activities and with fund balances at the U.S. Treasury; manages SSA's financial reporting activities, including preparation of all Agency financial reports to higher monitoring authorities; and serves as the Agency's obligations control point assuring and certifying the legality and propriety of proposed and incurred obligations.

2. The Division of Administrative Payments and Recovery (S1NC2) directs SSA's administrative payment and collection operations and develops related operating policies and procedures. It examines and certifies SSA's administrative payments; administers SSA's third party draft program, providing both administrative and benefit payment delivery service to SSA FOs nationwide; adjudicates claims submitted to the Agency under the Federal Tort Claims and Military Personnel and Civilian Employees' Claims Act; and serves as the Agency's focal point for administrative debt management ensuring the billing and collection of fees charged by SSA for reimbursable services.

3. The Division of Travel Management (S1NC3) directs SSA's travel management operations and develops related operating policies and procedures. It serves as the Agency's

VOL 60 ISS 86 MY 4 1995 UMI

focal point for travel management, ensuring the propriety of travel payments; examines and certifies SSA's travel payments; administers commercial travel agent, charge card, traveler's checks and automated teller machine services; and manages SSA's nationwide relocation services program.

F. The Office of Program Accounting Operations (S1NE) directs SSA's program accounting operations including the processes which determine trust fund revenues, authorize recurring and daily benefit payments and determine the administrative expenses to be borne by each trust fund and the general fund for administration of Titles II, XVI and XVIII of the Social Security Act and other Federal programs. It also plans and directs the formulation of SSA's operating policies and procedures in these areas and provides a wide range of management information and analysis of SSA workloads, workyears, productivity and costs.

1. The Division of Benefit Certification and Accounting (S1NE1) directs SSA's benefit payment and earnings certification operations and develops related operating policies and procedures. It certifies and accounts for all benefit payments authorized under the Social Security Act; interacts with the Department of the Treasury to ensure accurate and timely issuance of benefit entitlements and accounting for all related cash activity, including proper charges and credits to the Agency's trust funds and general fund appropriations and master beneficiary records. As necessary, directs parallel actions by SSA's FOs and processing centers. Oversees the Agency's earnings records maintenance operation and maintains accounting controls necessary for interim and final certifications to the Secretary of the Treasury which determine revenues paid to the Social Security and Medicare trust funds.

2. The Division of Cost Analysis (S1NE2) directs SSA's cost accounting and analysis operations and the development of related Agency operating procedures; develops Agency workload measurement policy and labor distribution requirements; manages SSA's Cost Analysis System which supports the Agency's budget formulation and execution processes; and satisfies the statutory requirements for attribution of costs to all Agency workloads, functions, business processes and programs. Provides a wide range of management information and analysis on the Agency's administrative costs, workloads, labor utilization and productivity.

Chapter S1P—Office of Budget

S1P.00 Mission
S1P.10 Organization
S1P.20 Functions

Section S1P.00 *The Office of Budget*—(Mission): The Office of Budget (OB) provides overall management of the planning, development and execution of the SSA budget. The Office develops policies and guidelines for the exercise of SSA-wide budget responsibility and evaluates and appraises the manner in which this responsibility is carried out.

Section S1P.10 *The Office of Budget*—(Organization): The Office of Budget, under the leadership of the Associate Commissioner, Office of Budget, includes:

A. The Associate Commissioner, Office of Budget (S1P).

B. The Deputy Associate Commissioner, Office of Budget (S1P).

C. The Immediate Office of the Associate Commissioner, Office of Budget (S1P).

D. The Office of Administrative Budget (S1PA).

E. The Office of Program Budget (S1PB).

F. The Office of Administrative Budget Coordination and Analysis (S1PC).

Section S1P.20 *The Office of Budget*—(Functions):

A. The Associate Commissioner, Office of Budget (S1P) is directly responsible to the Deputy Commissioner, Finance, Assessment and Management for carrying out OB's mission and providing general supervision to the major components of OB.

B. The Deputy Associate Commissioner, Office of Budget (S1P) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner, Office of Budget (S1P) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Administrative Budget (S1PA).

1. Interprets and applies SSA policies and guidelines on budget formulation and execution in the review and analysis of SSA component budget requests.

2. Formulates the operational workload portion of SSA's administrative budget based on SSA plans, policies, and operational data.

3. Monitors and analyzes component spending as part of SSA level budget execution policies.

E. The Office of Program Budget (S1PB).

1. Reviews and consolidates present statutory program cost estimates for trust fund and other Federal fund programs administered by SSA (Retirement, Survivors and Disability Insurance, Black Lung Benefits and Supplemental Security Income). Formulates a unified Agency budget through consolidation of program and administrative budgets, coordinating with OB's other offices as necessary.

2. Coordinates presentation of the SSA budget in total and by account; presents the proposed budget to the Commissioner; and develops budget documents and briefing material for the Commissioner's budget presentation to the Office of Management and Budget (OMB) and Congress.

3. Reviews, coordinates and presents program cost estimates for proposed legislative, operational policy and regulatory changes. Formulates or directs the formulation of administrative cost estimates for proposed legislative, operational policy and regulatory changes, coordinating with OB's other offices and other SSA components, as necessary. Provides financial management advice to the Commissioner and other SSA officials in the policy development process.

4. Serves as the SSA focal point for budget information provided to OMB, congressional appropriations and budget staffs and, as requested, by representatives of the media.

F. The Office of Administrative Budget Coordination and Analysis (S1PC).

1. Interprets administrative budgetary policies and limitations, and develops and issues guidelines and instructions to SSA components for budget formulation and execution.

2. Executes the total administrative and program budgets for SSA through issuance of workyear and dollar controls, budgetary allotments/allowances for administrative and program expenditures and employment ceilings to SSA components, coordinating with OB's Office of Administrative Budget and the Office of Program Budget as appropriate.

3. Coordinates and analyzes SSA administrative budget totals including the Information Technology Systems Budget.

4. Provides direct budget support for ODCFAM.

5. Develops and implements a program to evaluate Agency operations

in accordance with the requirements of A–76.

Subchapter S1Q—Office of Acquisition and Grants

S1Q.00 Mission
S1Q.10 Organization
S1Q.20 Functions

Section S1Q.00 *The Office of Acquisition and Grants*—(Mission): The Office of Acquisition and Grants (OAG) directs the business management aspects of SSA's procurement program and grants management program by awarding and administrating contracts, preparing purchase orders or other contractual instruments, and awarding and administrating grants. It develops and implements policies, procedures and directives for SSA procurement and grants activities.

Section S1Q.10 *The Office of Acquisition and Grants*—(Organization): The Office of Acquisition and Grants, under the leadership of the Associate Commissioner, Office of Acquisition and Grants, includes:

A. The Associate Commissioner, Office of Acquisition and Grants (S1Q).

B. The Deputy Associate Commissioner, Office of Acquisition and Grants (S1Q).

C. The Immediate Office of the Associate Commissioner, Office of Acquisition and Grants (S1Q).

D. The Office of Information Resources and Programs Contracts (S1QA).

E. The Office of Operations Contracts and Grants (S1QB).

F. The Office of Acquisition Support (S1QC).

Section S1Q.20 *The Office of Acquisition and Grants*—(Functions):

A. The Associate Commissioner, Office of Acquisition and Grants (S1Q) is directly responsible to the Deputy Commissioner, Finance, Assessment and Management for carrying out OAG's mission and provides general supervision to the major components of OAG.

B. The Deputy Associate Commissioner, Office of Acquisition and Grants (S1Q) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner, Office of Acquisition and Grants (S1Q) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Information Resources and Programs Contracts (S1QA).

1. Responsible for planning, solicitation, award and administration of contracts, purchase orders, delivery orders or other contractual instruments for the entire range of automatic data processing equipment, software and services; voice-grade telecommunications equipment and services; and specialized training and computer support equipment.

2. Provides coordination, assistance and guidance in the development of complex procurement requirements and translates these needs into comprehensive solicitation packages to assure the maximum use of full and open competition.

3. Provides procurement advice, guidance and support for the development of acquisition strategies, evaluation techniques and negotiation of business and technical terms and conditions.

E. The Office of Operations Contracts and Grants (S1QB).

1. Responsible for planning, solicitation, award and administration of contracts, purchase orders, delivery orders or other contractual instruments for specialized program needs (e.g., program research, development and demonstration through studies and surveys, consultants, systems designs and evaluations and facilities construction and alterations) and procurement of administrative supplies, equipment and services in support of SSA's overall operational mission (e.g., technical and professional services, office equipment, moving services, film processing, translations and transcription services). Responsible for contracts for construction and facilities management and operations.

2. Provides coordination, assistance and guidance in the development of complex procurement requirements and translates these needs into comprehensive solicitation packages to assure maximum use of full and open competition.

3. Provides procurement advice, guidance and support for the development of acquisition strategies, evaluation techniques and negotiation of business and technical terms and conditions.

4. Responsible for planning, placement and administration of grants under all SSA discretionary grants programs (including guidance and support in the selection strategy, evaluation process, budget negotiation, planning and development of policies, procedures, regulations and directives).

F. The Office of Acquisition Support (S1QC).

1. Responsible for the development, evaluation and implementation of comprehensive SSA-wide acquisition policies, procedures, regulations and directives.

2. Performs acquisition management reviews of SSA activities with delegated procurement authority.

3. Manages SSA's acquisition planning and tracking processes.

4. Responsible for SSA's acquisition information collection, analysis and reporting activities.

5. Responsible for the planning, designing, developing and administering of automated systems to support SSA's acquisition and grant processes.

6. Provides audit, accounting and financial advisory services in support of the negotiation, administration, settlement and closeout of SSA contracts.

Subchapter S1R—Office of Facilities Management

S1R.00 Mission
S1R.10 Organization
S1R.20 Functions

Section S1R.00 *The Office of Facilities Management*—(Mission): The Office of Facilities Management (OFM) manages SSA-wide materiel management and facilities management programs. It directs the SSA real property program including short- and long-range facilities planning: design, construction and leasing of central office facilities and maintenance, repair and construction projects and policy development related to these operations. It acquires, utilizes and manages space at SSA headquarters and develops a comprehensive space inventory and utilization system. OFM develops, implements and evaluates SSA's environmental protection, safety and protective services programs. It ensures that these programs are responsive to the needs of the Agency and serves as a focal point for inquiries and guidance concerning these programs.

Section S1R.10 *The Office of Facilities Management*—(Organization): The Office of Facilities Management, under the leadership of the Associate Commissioner for Facilities Management, includes:

A. The Associate Commissioner for Facilities Management (S1R).

B. The Deputy Associate Commissioner for Facilities Management (S1R).

C. The Immediate Office of the Associate Commissioner for Facilities Management (S1R).

D. The Office of Realty Management (S1RE).

E. The Office of Environmental Policy and Automation Resources (S1RG).

F. The Office of Main Complex Management (S1RH).

VOL 60 ISS 86 MY 4 1995 UMI

G. The Office of Outlying Buildings Management (S1RJ).

H. The Office of Field Facilities Management (S1RK).

I. The Office of Protective Security Services (S1RL).

Section S1R.20 *The Office of Facilities Management*—(Functions):

A. The Associate Commissioner for Facilities Management (S1R) is directly responsible to the Deputy Commissioner for Finance, Assessment and Management for carrying out OFM's mission and provides general supervision to the major components of OFM.

B. The Deputy Associate Commissioner for Facilities Management (S1R) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Facilities Management (S1R) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities.

D. The Office of Realty Management (S1RE) directs SSA's national real property program, including long- and short-range planning, design, construction and leasing of central office and prospectus level field facilities, renovation projects, energy management, project management, and the development and implementation of policies, procedures and technical assistance to support these programs. The Office of Realty Management is SSA's representative to other agencies in all these areas, and participates in the development of governmentwide policies and procedures.

E. The Office of Environmental Policy and Automation Resources (S1RG) directs SSA's national security, environmental, occupational health, and safety programs, including long- and short-range planning, management of disparate contract guard forces, automation efforts, the Agency's asbestos management program, national testing programs for water and indoor air quality, the Agency's suitability program, and the development and implementation of policies, procedures and technical assistance to support these programs.

F. The Office of Main Complex Management (S1RH) directs SSA's headquarters facilities, including the East, Operations, Annex, West, Supply and Altmeyer Buildings. Responsibilities include long- and short-range planning, maintenance, repair, ongoing preventive maintenance, space planning, execution of safety, environmental health, and physical security policies, and the development and implementation of policies, procedures and technical assistance to support these programs.

G. The Office of Outlying Buildings Management (S1RJ) directs operations at the Metro West, Security West, the National Computer Center, Hollings Ferry, and Techwood Buildings, including long- and short-range planning, construction and lease management, maintenance, repair, ongoing preventive maintenance, space planning, execution of safety, environmental health, and physical security policies, and the development of the appropriate policies, procedures and technical assistance to support these programs.

H. The Office of Field Facilities Management (S1RK) directs SSA's space management program for all field facilities, including long- and short-range planning, acquisition, management, and utilization of space, installation of IWS/LAN, modular furniture installation, asbestos management, and the execution of safety, environmental health, and physical security policies, and the development of policies, procedures and technical assistance to support these programs.

I. The Office of Protective Security Services (S1RL) directs the SSA's security program, including physical security, criminal investigation, and civil defense, designed to ensure the physical security of life and property on premises occupied by SSA personnel on a nationwide basis. The office is the SSA representative to other agencies in all these areas and participates in the development of governmentwide policies and procedures.

Subchapter S1S—Office of Publications and Logistics Management

S1S.00 Mission
S1S.10 Organization
S1S.20 Functions

Section S1S.00 *The Office of Publications and Logistics Management*—(Mission): The Office of Publications and Logistics Management (OPLM) provides overall management of the SSA logistics and publications programs. It directs a comprehensive SSA printing, publications and distribution management program and develops pertinent policies, standards, and procedures for SSA's forms and publications management, printing, reprographics and distribution programs. It directs the administration and maintenance of the SSA library, the SSA History Room, the historical research program and records management program. It administers the SSA logistics management program, directs the SSA property and supply management program, manages the operation of SSA warehousing facilities including receipt, storage and issuance of forms publications, supplies and equipment for SSA-wide use. The Office directs activities related to employee transportation including providing headquarters passenger, mail and freight transportation services. It directs the SSA mail management program.

Section S1S.10 *The Office of Publications and Logistics Management*—(Organization): The Office of Publications and Logistics Management, under the leadership of the Associate Commissioner for Publications and Logistics Management, includes:

A. The Associate Commissioner for Publications and Logistics Management (S1S).

B. The Deputy Associate Commissioner for Publications and Logistics Management (S1S).

C. The Immediate Office of the Associate Commissioner for Publications and Logistics Management (S1S).

D. The Office of Receiving, Storage and Issue (S1SC).

E. The Office of Property Management (S1SE).

F. The Office of Supply Management (S1SG).

G. The Office of Logistics Planning and Process Control (S1SH).

H. The Office of Publications Management (S1SJ).

I. The Office of Library, Records and Reprographics (S1SK).

J. The Office of Printing Operations (S1SL).

K. The Office of Mail Management (S1SM).

Section S1S.20 *The Office of Publications and Logistics Management*—(Functions):

A. The Associate Commissioner for Publications and Logistics Management (S1S) is directly responsible to the Deputy Commissioner for Finance, Assessment and Management for carrying out OPLM's mission and provides general supervision to the major components of OPLM.

B. The Deputy Associate Commissioner for Publications and Logistics Management (S1S) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Publications and Logistics Management (S1S) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities.

D. The Office of Receiving, Storage and Issue (S1SC).

1. Directs the supply program nationwide by managing the operations of SSA warehousing facilities, including the control and maintenance of stock, the receipt, storage and issuance of forms, publications, supplies and equipment for use, and conducts ongoing inventories and investigates discrepancies at all sites.

2. Provides transportation services including chauffeur service for the SSA Executive Staff and shuttle service for employees between SSA headquarters and other buildings in the Washington/Baltimore metropolitan areas.

3. Prepares and administers maintenance contracts and services for all SSA equipment and maintains adequate stock of repair parts for in-house emergency repair.

4. Performs all electrical preparations for SSA ceremonies; provides carpentry services for all SSA occupied buildings in the Baltimore/Washington area; exercises procurement authority to provide parts, services and maintenance for all SSA equipment; and maintains all equipment inventory history and records.

E. The Office of Property Management (S1SE).

1. Oversees all policy and procedures pertaining to the acquisition, utilization, accountability, transfer and disposal of SSA personal property. Manages and maintains the SSA Property Accountability System and the Property Management Officer/Custodial Officer network for the effective control of all SSA sensitive, accountable, and personalized personal property assets. Provides SSA's liaison for all personal property activities with other Federal, State and local agencies, as well as commercial and civic organizations. Represents SSA's interest in the acquisition, transfer and disposal of personal property.

2. Oversees the acquisition and installation of modular/systems furniture in SSA offices nationwide; acts as technical expert; plans, coordinates and implements studies and surveys related to providing necessary ergonomic furniture and equipment to support SSA employees; plans coordinates and implements studies and surveys to access the variety of ergonomic furniture previously purchased and new furniture available to SSA offices; and provides expert technical advice and consultative services to the SSA Executive Staff and to major headquarters and regional components.

3. Responsible for all financial management and contracting activities performed within the scope of the Interagency Agreement with the Federal Prison Industries. Maintains audit trails for all expenses incurred during and after furniture installation.

F. The Office of Supply Management (S1SG).

1. Responsible for the development of policies, procedures and directives in support of SSA supply management program. Ensures that Agency's printing requests and justified requisitions are processed timely for all necessary forms, publications, office supplies and instructional materials.

2. Monitors Agencywide stock items usage for making proper stock replenishment and to initiate scheduled shipments timely through the Direct Delivery Program, and oversees the replenishment of warehouse stock for headquarters' use, emergencies, etc.

3. Manages the direct delivery program of scheduled shipments to field components of major use forms, publications and supplies; evaluates all supply proposals; monitors warehouse availability of on-hand training materials to accommodate periodic changes to training schedules and course material configurations; and develops and oversees common expense supply budget.

G. The Office of Logistics Planning and Process Control (S1SH).

1. Responsible for the overall management and control of automatic data processing resources which support SSA's centralized Supply and Property Accountability Systems; coordinates with financial/administrative components governmentwide on major systems management projects and studies; and is the primary systems planning, development, and execution component within the Office of the Deputy Commissioner.

2. Responsible for the collection, validation, process, and control of SSA-wide requisitions for expendable supplies and supports special service programs for processing field and headquarters routine and emergency supply requests and planned training class orders.

H. The Office of Publications Management (S1SJ).

1. Directs a comprehensive SSA-wide forms control, publication and distribution management program, including forms and publications design, photocomposition and electronic information dissemination (electronic publishing, on-line publishing/services, electronic reference materials and CD–ROM and multi-media production and delivery) and provides SSA-wide special media services for visually impaired employees.

2. Responsible for administering the regulatory and procedural requirements governing SSA's collection of information from the public, stemming from the Paperwork Reduction Act and providing liaison services with the Office of Management and Budget and coordinates the Agency Administrative Instructions Manual System for the printing, clearance and issuance of policy, standards and procedural instructions.

3. Coordinates and directs a comprehensive printing management program and administers the procurement of all SSA printing needs; prepares the Agency's Comprehensive Printing Program Plan report for the Joint Committee on Printing; and provides liaison on policy and procedures.

4. Plans, directs and administers the SSA mail policy program, including developing policy and procedures for more efficient Agency mail processing methodologies and administers Agencywide mail management contracts. Provides liaison with the United States Postal Service in all national level mail management and operational policy negotiations and activities.

I. The Office of Library, Records and Reprographics (S1SK).

1. Directs, develops and maintains an Agencywide library and information service at SSA headquarters and nationwide. Provides on-line information on subjects relating to SSA programs and their operations in a variety of media.

2. Directs, develops and maintains a records management program. Develops policy and procedures regarding the retention and disposition of SSA's program and administrative records, administrative filing systems and equipment utilization, administrative correspondence, electronic records and vital records. Coordinates records storage and maintenance activities.

3. Directs, develops and maintains a reprographics management program. Develops Agencywide reprographic policy and procedures, manages the nationwide complement of SSA's reprographic equipment; and represents SSA in activities and negotiations with reprographic vendors and government officials at the General Services Administration.

J. The Office of Printing Operations (S1SL).

1. Provides SSA in-house printing services for short turnaround work

VOL
60
ISS
86
MY
4
1995
UMI

which cannot be procured commercially.

2. Provides coordination, technical advice and guidance to Agency components on SSA's in-house printing operation.

K. The Office of Mail Management (S1SM).

1. Plans, directs and coordinates the SSA mail handling program, including the receipt, processing and dispatch of all incoming and outgoing United States Postal Service mail for SSA headquarters. Provides inter-office mail service for SSA headquarters and priority delivery service in Washington, D.C.

2. Administers oversight of necessary contracts such as the internal mail messenger service. Consolidates and processes outgoing mail from headquarters to district offices, branch offices, program service centers and regional offices.

3. Processes computer-generated priority notices to SSA beneficiaries nationwide, using high-speed equipment to fold, insert and label mailings.

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S2 for the Office of the Deputy Commissioner for Operations is being amended to reflect internal organizational realignments and the deletion of all references to the Department of Health and Human Services as the parent agency of SSA. The following material replaces Chapter S2 in its entirety.

Chapter S2—Office of the Deputy Commissioner, Operations

S2.00 Mission
S2.10 Organization
S2.20 Functions

Section S2.00 *The Office of the Deputy Commissioner, Operations*—(Mission): The Office of the Deputy Commissioner, Operations (ODCO) directs and manages central office and geographically dispersed operations installations. It oversees regional operating program, technical, assessment and program management activities. It directs studies and actions to improve the operational effectiveness and efficiency of its components. It promotes systems and operational integration and defines user needs in the strategic planning process. It determines automation support for Operations components. This office defines user concerns in the development of operational and programmatic specifications for new and modified systems, evaluations and implementation phases.

Section S2.10 *The Office of the Deputy Commissioner, Operations*—(Organization): The Office of the Deputy Commissioner, Operations, under the leadership of the Deputy Commissioner, Operations, includes:

A. The Deputy Commissioner, Operations (S2).

B. The Assistant Deputy Commissioner, Operations (S2).

C. The Immediate Office of the Deputy Commissioner, Operations (S2A).

1. The Senior Advisor to the Deputy Commissioner, Operations (S2A–2).

D. The Office of the Central Records Operations (S2B).

E. The Office of Disability and International Operations (S2H).

F. The Office of the Regional Commissioner (S2D).

G. The Office of Public Service and Operations Support (S2N).

H. The Office of Telephone Services (S2Q).

I. The Office of Automation Support (S2L).

Section S2.20 *The Office of the Deputy Commissioner, Operations*—(Functions):

A. The Deputy Commissioner, Operations (S2) is directly responsible to the Commissioner for carrying out the ODCO mission and providing general supervision to the major components of ODCO.

B. The Assistant Deputy Commissioner Operations (S2) assists the Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Deputy Commissioner may prescribe.

C. The Immediate Office of the Deputy Commissioner, Operations (S2A) provides the Deputy Commissioner with staff assistance on the full range of his/her responsibilities.

1. The Senior Advisor to the Deputy Commissioner, Operations (S2A–2) assists the Deputy Commissioner on a wide variety of special management issues affecting Agency operations and the delivery of SSA programs to the public.

D. The Office of Central Records Operations (S2B) provides executive direction and leadership for the nationwide establishment and maintenance of basic records supporting Social Security programs. It manages centralized records operations and a stand alone data operations center (DOC). The Office receives and processes Social Security earnings reports from private and governmental employers and adjustments or corrections to posted earnings items. The Office maintains records of SSA enumeration and earnings records in microfilm, magnetic tape and disc form and maintains an ongoing data exchange activity with the Treasury Department on the compilation and verification of individual earnings data.

E. The Office of Disability and International Operations (S2H) provides executive direction and leadership to centralized disability and foreign claims operations. It directs the processing of claims under disability and Black Lung Benefits programs and maintains beneficiary rolls. It directs the review of initial and reconsidered determinations of disability excluded from State agency jurisdiction and directs the authorization of disability claims not authorized by District Offices (DOs) at the initial, reconsideration and other appeal levels. It directs the development, adjudication, authorization of payment or disallowance of claims for Retirement, Survivors and Disability Insurance (RSDI) benefits filed by persons in foreign countries; determines eligibility for Medicare on related claims; and determines entitlement to benefits based on international Social Security agreements. It determines whether and when eligibility or payments should be terminated, suspended, continued, increased or reduced in amount. Recovers or waives recovery of amounts incorrectly paid to beneficiaries. It serves as liaison on operational issues which affect the administration of the United States Social Security program abroad, with the Department of State, other Federal agencies, agencies of foreign governments and private organizations.

F. The Office of the Regional Commissioner (S2D) serves as the principal SSA component at the regional level and ensures effective SSA interaction with other Federal agencies in the regions, State welfare agencies, State Disability Determination Services (DDS) and other regional and local organizations. The Office provides regional program leadership and technical direction for the RSDI programs, the Black Lung Benefits program and the SSI program. It issues regional operating policy and procedures for these programs. It directs a regionwide network of Field Offices (FOs), Teleservice Centers (TSCs) and in the regions where present, Program Service Centers (PSCs). The Office manages and coordinates SSA regional operations. It provides overall management direction for the provision of personnel services and administrative support to SSA regional components. It establishes regional priorities and issues policy directives consistent with national program objectives, operational requirements and systems; and implements a regional SSA public affairs program. The Office maintains a broad overview of administrative operations of the ROs of SSA, the Office of Hearings and Appeals (OHA) and the DOC to ensure effective coordination of SSA activities at the regional level.

G. The Office of Public Service and Operations Support (S2N) provides operations analysis, program support, service to the public and employee services for the Deputy Commissioner, Operations (DCO), and conducts studies and analyses. Provides broad operations support to FOs, TSCs, PSCs, the Office of Disability and International Operations (ODIO) and the Office of Central Records Operations (OCRO). OPSOS also integrates operational delivery of public services under the RSDI, SSI and health insurance (HI) programs for domestic beneficiaries and delivery of RSDI program services to foreign beneficiaries. Provides broad operations support to the maintenance of the basic earnings data which support the Social Security programs. Conducts activities associated with the overall effectiveness and efficiency of the DCO components. Directs and coordinates internal management support functions to ensure effective position management, workforce utilization and management analysis and planning. Directs the overall DCO budget process. Plans, implements, manages and assesses the interrelated duties of delivering SSA program and related services to the public.

H. The Office of Telephone Services (S2Q) plans, implements, operates and evaluates SSA's telephone service to the public delivered by the national 800 Number and SSA FOs. Plans and conducts studies, pilots and analyses of 800 Number and FO telephone operations to assess and improve the service provided. Provides direct support to 38 TSCs and approximately 1,300 FOs, including developing and communicating uniform operating policies and procedures. Maintains close, effective working relationships with SSA policy, program and administrative components, with other Federal agencies and with vendors which have important roles in the delivery and evaluation of SSA's telephone service to the public. Manages SSA's national 800 Number network operation, designs and administers call routing plans, continuously monitors call handling and adjusts routing to handle emergency situations and to maximize call answering effectiveness and efficiency.

I. The Office of Automation Support (S2L) is responsible for integrating service delivery and employee concerns with modern technology. It determines and defines DCO requirements for software and hardware support. OAS directs user evaluations of new technology assuring that technology meets DCO needs and coordinates all implementation activities. OAS develops, implements and administers evaluative tools for hardware purchases and software development. Assures that the most recent technology is integrated into the operations of all DCO components.

Subchapter S2B—Office of Central Records Operations

S2B.00 Mission
S2B.10 Organization
S2B.20 Functions

Section S2B.00 *The Office of Central Records Operations*—(Mission): The Office of Central Records Operations (OCRO) provides executive direction and leadership for the nationwide establishment and maintenance of basic records supporting Social Security programs. It manages centralized records operations and a stand alone DOC. The Office receives and processes Social Security earnings reports from private and governmental employers and adjustments or corrections to posted earnings items. The Office maintains records of SSA enumeration and earnings records in microfilm, magnetic tape and disc form and maintains an ongoing data exchange activity with the Treasury Department on the compilation and verification of individual earnings data.

Section S2B.10 *The Office of Central Records Operations*—(Organization): The Office of Central Records Operations, under the leadership of the Director, OCRO, includes:

A. The Director, Office of Central Records Operations (S2B).

B. The Immediate Office of the Director, Office of Central Records Operations (S2B).

C. The Division of Certification and Coverage (S2BA).

D. The Division of Earnings and Adjustments (S2BC).

E. The Division of Operations Support (S2BE).

F. The Data Operations Center (S2B-F6).

Section S2B.20 *The Office of Central Records Operations*—(Functions):

A. The Director, OCRO (S2B) is directly responsible to the Deputy Commissioner, Operations for carrying out OCRO's mission and managing its respective components.

B. The Immediate Office of the Director, OCRO (S2B) provides internal operations and management analysis staff support and assistance to the Director and all OCRO components.

C. The Division of Certification and Coverage (S2BA).

1. Answers inquiries about earnings records, including earnings discrepancies; investigates and adjusts incorrectly reported earnings items; and resolves discrepancies where SSA's records disagree with individual allegations of services rendered or remuneration received.

2. Certifies earnings record data to DOs and PCs for use in the adjudication of RSDI cases.

3. Reviews determinations on correctness of earnings data, coverage, increment years, total earnings, closing dates, primary insurance amounts and, in disability cases, determinations as to whether work requirements are met. Makes these determinations when needed.

4. Makes determinations as to coverage under the Social Security Act, as amended, of services performed by employees or self-employed individuals in earnings disagreement cases if a claim for benefits has not been filed.

5. Maintains files of microfilmed employer wage reports, self-employed income reports, detailed earnings listings and a file of earnings reported incorrectly or incompletely by employers or by self-employed individuals.

D. The Division of Earnings and Adjustments (S2BC).

1. Corresponds with employers and the Internal Revenue Service about the correction and processing of employer wage reports and self-employment income reports.

2. Investigates and corrects, as necessary, improperly reported earnings items.

3. Investigates and resolves magnetic media annual wage reporting (AWR) exception output.

4. Maintains control of pre-tax year 1987 agreements with State and interstate entities and modifications of these agreements and reviews wage statements submitted for State and interstate entity employees.

5. Ensures that Supplemental Security Income payments are interfaced with various external payment programs such as the Veterans Administration, the Railroad Retirement Board, the Office of Personnel Management and the Department of Defense.

E. The Division of Operations Support (S2BE).

1. Receives, converts and processes AWR data submitted on magnetic media

VOL 60 ISS 86 MY 4 1995 UMI

for input to the central computer complex at SSA headquarters.

2. Provides programming, scheduling and operating support for the automated processing of operational, administrative, management and statistical computer programs for OCRO and other SSA components. Develops technical requirements for information reporting systems. Maintains the OCRO magnetic tape library.

3. Provides internal mail, central microfilm storage and retrieval services to OCRO.

4. Procures and maintains contracts for microphotographic services for SSA. Maintains master copies of basic systems and microfilm records to ensure continuous operations should records be destroyed. Reproduces, on film, records for current use and for preservation of a variety of employee and employer records.

F. The Data Operations Center (S2BF6)

1. Receives, examines and processes annual wage reports and other SSA program data through imaged-base data capturing and telecommunications systems for input to the central computer complex at SSA headquarters.

2. Performs electronic editing, validating and balancing functions related to the processing of source data and transmits products to the SSA headquarters computer complex for processing in a timely manner.

3. Contacts beneficiaries, representative payees, district office and program service center personnel to resolve post-eligibility systems exceptions output.

4. Serves as the central repository for all SSI folders.

Subchapter S2D—Office of the Regional Commissioner

S2D.00 Mission
S2D.10 Organization
S2D.20 Functions

Section S2D.00 *The Office of the Regional Commissioner*—(Mission): The Office of the Regional Commissioner (ORC) serves as the principal SSA component at the regional level and assures effective SSA interaction with other Federal agencies in the regions; State welfare agencies; State Disability Determination Services (DDSs); and other regional and local organizations. The Office provides regional program leadership and technical direction for the RSDI programs, the Black Lung Benefits program and the SSI program. It issues regional operating policy and procedures for these programs and evaluates program effectiveness. It implements national operational and management plans for providing SSA service to the public, and directs a regionwide network of FOs, TSCs and where present, PSCs. The Office manages and coordinates SSA regional operations. It provides overall management direction for the provision of personnel services and administrative support to SSA regional components. It establishes regional priorities and issues policy directives consistent with national program objectives, operational requirements and systems and implements a regional SSA public affairs program. The Office maintains a broad overview of administrative operations of the ROs of SSA's OHA and the DOC to ensure effective coordination of SSA activities at the regional level.

Section S2D.10 *The Office of the Regional Commissioner*—(Organization): The Office of the Regional Commissioner, under the leadership of the Regional Commissioner, includes:

A. The Regional Commissioner (S2D1–S2DX).

B. The Deputy Regional Commissioner (S2D1–S2DX).

C. The Immediate Office of the Regional Commissioner (S2DB–S2DX).

D. The Office of the Assistant Regional Commissioner for Program Operations and Systems (S2D1B–S2DXB).

E. The Office of the Assistant Regional Commissioner for Field Operations (S2D14–S2DX4).

F. The Office of the Assistant Regional Commissioner for Management and Budget (S2D17–S2DX7).

G. The Office of the Assistant Regional Commissioner for Processing Center Operations (S2D25,35,45,55,75,95).

Section S2D.20 *The Office of the Regional Commissioner*—(Functions):

A. The Regional Commissioner (S2D1–S2DX) is directly responsible to the Deputy Commissioner, Operations, for carrying out the Regional Commissioner's (RC) mission and managing the respective SSA regional organizations.

B. The Deputy Regional Commissioner (S2D1–S2DX) assists the Regional Commissioner in carrying out his/her responsibilities, and performs other duties as the Regional Commissioner may prescribe.

C. The Immediate Office of the Regional Commissioner (S2D1–S2DX) provides the Regional Commissioner with high-level staff assistance on the full range of his/her responsibilities. It also furnishes staff support for the civil rights, equal opportunity and external affairs functions.

D. The Office of the Assistant Regional Commissioner for Program Operations and Systems (S2D1B–S2DXB).

1. Provides program leadership and technical direction for the RSDI, SSI and Black Lung Benefits programs in the region. Issues regional operating policies and procedures necessary to ensure implementation of national policies for these programs. Establishes and maintains a field visit program covering DDSs, FOs, TSCs and PSCs to determine the effectiveness of RSDI, SSI and Black Lung Benefits program policies and procedures, and to provide technical assistance in the resolution of operational problems relating to these programs. Evaluates RSDI, SSI and the Black Lung Benefits program effectiveness in the region.

2. Assists DDSs in developing their operating budgets, reviews these budgets with the Assistant Regional Commissioner for Management and Budget and submits recommendations on the acceptability of DDS budgets to the RC. Manages a comprehensive review and analysis program covering DDS operations.

3. Plans, directs and coordinates regional activities concerning Social Security coverage agreements between SSA and State or interstate entities; carries out negotiations with State or interstate authorities on the content of these agreements; makes recommendations to final approving officials regarding the execution of new coverage agreements, modifications in existing agreements, or the termination of agreements; and processes requests for further extensions, or extensions for more than 1 year, of time limits for assessments, credits or refunds of amounts due.

4. Negotiates and maintains agreements with States covering the administration of optional State SSI supplementation, mandatory minimum State SSI supplementation and Medicaid eligibility determinations. Evaluates and monitors State budgets necessary to carry out these agreements and maintains ongoing dialogues with States on SSI program issues in such areas as adjustment levels, hold harmless provisions, operational aspects of the Food Stamp program, social service referral practices, etc. Directs the preparation of regional operations instructional material necessary to implement agreements negotiated with the States.

5. Oversees SSA regional automated data processing (ADP) systems and automated processing operations, ensures their effectiveness and carries out an ongoing regional systems planning program to ensure effective integration of regional operating and management systems. Coordinates and monitors regional implementation of major changes to national systems on behalf of SSA's Central Office components dealing with systems activities.

6. Conducts operational analyses and provides support to regional operations management in the resolution of operational, procedural and systems problems. Consolidates, reviews and arranges for the distribution of regional program instructions and systems instructional material developed at the regional level. Coordinates with Rehabilitation Services Administration and other agencies to attain disability insurance (DI), Black Lung Benefits and SSI program goals. Maintains relationships with professional medical organizations, interacts with outside groups representing program interests or concerns and consults with representatives of community and private organizations on operational matters.

E. The Office of the Assistant Regional Commissioner for Field Operations (S2D14–S2DX4).

1. Provides leadership, guidance and direction FO's and TSC's.

2. Ensures the consistency of field operations in the region with national and regional policies and procedures and is accountable for the effectiveness of these operations.

F. The Office of the Assistant Regional Commissioner for Management and Budget (S2D17–S2DX7).

1. Furnishes leadership and support to SSA regional operations components in the areas of financial, workpower, and organization management and other areas of management concern.

2. Develops regional management policies, procedures and guidelines consistent with prevailing Federal and SSA requirements and objectives. Guides and controls regional administrative management operations and administrative practices. Evaluates component performance and needs in these areas to ensure effective and economical use of available resources and takes appropriate action on behalf of the RC to remedy or correct any inefficiencies or undesirable practices uncovered in administrative management operation.

3. Furnishes financial management staff expertise and professional judgments required to compile and recommend effective regional/State operating budgets.

4. Coordinates regional operations administrative management issues and concerns with SSA headquarters and other Federal-regional authorities.

5. Carries out the SSA regional security program.

G. The Office of the Assistant Regional Commissioner for Processing Center Operations (S2D25,35,45,55,75,95) (located in the six regions containing PSCs).

1. Reviews and authorizes payment or disallows claims for RSDI benefits and HI entitlement; certifies RSDI benefit amounts to the Treasury Department for payment; and maintains RSDI benefit and HI records.

2. Determines whether and when eligibility or payments should be terminated, suspended, continued, increased or reduced in amount and reconsiders determinations on initial claims and continuing eligibility.

3. Maintains RSDI payment rolls; recovers or waives recovery of amounts incorrectly paid to RSDI beneficiaries; receives, records and deposits Supplemental Medical Insurance (SMI) premium and overpayment refunds; and makes representative payee determinations and processes related accountability reports.

4. Answers inquiries about individual RSDI cases and claims determinations and ensures expeditious processing of actions where inquiries indicate claimant hardship.

5. Receives and coordinates computer programs and exceptions on case processing. Maintains accounting controls and ensures, by sample audit, that magnetic tape records reflect actual authorized payment actions.

6. Coordinates PSC operations with the other components within ORC, other SSA components, the Railroad Retirement Board, the Veterans Administration, the United States Postal Service and other Federal agencies as required.

Subchapter S2H—The Office of Disability and International Operations

S2H.00 Mission
S2H.10 Organization
S2H.20 Functions

Section S2H.00 *The Office of Disability and International Operations*—(Mission): The Office of Disability and International Operations (ODIO) provides executive direction and leadership to centralized disability operations that process claims under disability and Black Lung Benefits programs and maintain beneficiary rolls. It directs the review of initial and reconsidered determinations of disability excluded from State agency jurisdiction, and directs the authorization of disability claims not authorized by DOs at the initial, reconsideration and other appeal levels. It responds to public and congressional correspondence on disability operations issues. It directs the development, adjudication, authorization of payment or disallows claims for RSDI benefits filed by persons in foreign countries; determines eligibility for HI and SMI on related claims; and determines entitlement to benefits based on international Social Security agreements. It determines whether and when eligibility or payments should be terminated, suspended, continued, increased or reduced in amount and recovers or waives recovery of amounts incorrectly paid to beneficiaries. It serves as liaison on operational issues which affect the administration of the United States Social Security program abroad, with the Department of State, other Federal agencies, agencies of foreign governments and private organizations.

Section S2H.10 *The Office of Disability and International Operations*—(Organization): The Office of Disability and International Operations, under the leadership of the Director, includes:

A. The Director, The Office of Disability and International Operations (S2H).

B. The Deputy Director, The Office of Disability and International Operations (S2H).

C. The Immediate Office of the Director, The Office of Disability and International Operations (S2H).

1. The Organizational Planning, Analysis and Review Staff (S2H–2).

D. The Office of Disability Operations (S2HA).

1. The Process Divisions (S2HA1,2,3,4).

E. The Office of International Operations (S2HB).

1. The International Process Division (S2HB1).

2. The International Operations and Totalization Staff (S2HB3).

F. The Office of Support Services (S2HC).

1. The Division of Management Support (S2HC1).

2. The Division of Operations Support (S2HC2).

Section S2H.20 *The Office of Disability and International Operations*—(Functions):

A. The Director, The Office of Disability and International Operations (S2H) is directly responsible to the Deputy Commissioner, Operations, for carrying out ODIO's mission and managing its respective components.

B. The Deputy Director, Office of Disability and International Operations (S2H) assists the Director, Office of

VOL 60 ISS 86 MY 4 1995 UMI

Disability and International Operations in carrying out his/her responsibilities and performs other duties as the Director may prescribe.

C. The Immediate Office of the Director, Office of Disability and International Operations (S2H) provides internal organizational planning, analysis and review, staff support and assistance to the Director and all ODIO components.

1. The Organizational Planning, Analysis and Review Staff (S2H–2).

a. Conducts operations analysis and provides support to the Director of Disability and International Operations in the resolution of operational and procedural problems.

b. Directs the development of long-range systems planning for ODIO and evaluates ongoing systems requirements.

c. Analyzes office automation activities and systems operations, and recommends enhancements to improve capabilities. Evaluates systems changes prior to implementation and conducts postimplementation analysis.

d. Oversees procurement of ADP hardware and software for ODIO.

e. Provides technical advice and information to managers and employees in ODIO on systems development and changes that affect operations.

D. The Office of Disability Operations (ODO) (S2HA) plans, directs and coordinates activities related to the processing and maintenance of domestic disability claims for individuals under age 59, and for Black Lung and End Stage Renal Disease cases under the jurisdiction of the component. It directs activities related to continuing disability reviews of Title XVI and concurrent Title II/XVI claims under section 1619. It has responsibility for processing initial claims allowed at the administrative law judge and other appellate levels for disability claims under the jurisdiction of the component.

1. The Process Divisions (S2HA1,2,3,4).

a. Make initial determinations of disability and reconsider disability determinations of claims excluded from State agency jurisdiction. Make determinations of continuing disability entitlement.

b. Make determinations of entitlement or eligibility to primary or auxiliary benefits, and authorize allowance or disallowance of disability claims not authorized by district offices and reconsider those cases appealed for issues other than the existence of disability. Make representative-payee determinations, process representative-payee accountability reports, approve the payment and amount of attorney fees and offset disability insurance benefits due to previous SSI payments.

c. Implement, adjust, suspend and terminate benefits and prepare benefit payment data for introduction into the computer system; process all actions to maintain beneficiary payment rolls; recover or waive recovery of amounts incorrectly paid to beneficiaries, prepare and release award certificates, denial letters and other claims-related notices; and maintain the files of disability claim folders.

d. Answer inquiries regarding individual cases and ensure expeditious processing of actions where claimant hardship is indicated.

e. Contact outside Federal/State components such as the Department of Labor, Railroad Retirement Board, Workers' Compensation Commissions and other SSA components, as necessary, to resolve disability claims actions.

E. The Office of International Operations (OIO) (S2HB) serves as liaison with the Department of State, other Government agencies and SSA components on matters pertaining to the administration of the program abroad. It directs the Social Security representatives stationed overseas, appraises the role of foreign service posts in administering the Social Security program abroad and conducts special studies to evaluate the overseas program. Has responsibility for the operational implementation of totalization agreements. Negotiates operational accords and procedures with foreign Social Security agencies for the implementation of agreements. Develops requirements for totalization processing. OIO plans, directs and coordinates activities pertinent to development and processing of foreign claims. Directs the processing of postentitlement actions. Assures the proper application of tax liability to benefit payments abroad and is the focal point for debt management activities in the foreign sector. Directs the processing of sensitive and controlled correspondence related to the program abroad. It directs the reconsideration of claims for benefits filed by persons overseas and the approval of fees for attorney and other representatives. It directs a variety of State agency type functions for disability claims filed abroad such as the development and adjudication of initial claims, continuing disability reviews and other disability benefits issues.

1. The International Process Division (S2HB1).

a. Develops and adjudicates Retirement, Survivors and Disability Health Insurance (RSDHI) claims, and makes decisions on continuing eligibility for persons living in foreign countries. This includes cases filed under the totalization agreements.

b. Determines health insurance eligibility and proper payees for beneficiaries; makes decisions regarding recovery of overpayments; processes nonreceipt allegations and congressional, critical, hardship and controlled correspondence and cases; performs material associations and record maintenance activities; and types notices and other correspondence.

c. Processes requests for Social Security numbers from individuals residing in foreign countries.

d. Provides translation services to SSA, including translation of program material for foreign visitors, materials relating to foreign pension systems, documents and other materials required to process foreign claims and some domestic claims.

e. Reconsiders determinations on claims for benefits filed by persons living in foreign countries and prepares claims material for appealed cases. Reconsiders certain adverse claims involving benefits for persons in foreign countries. Approves fees for attorneys and other representatives of claimants outside the United States.

f. Makes findings of administrative finality. Determines proper application of regulations governing the disclosure of confidential records.

g. Performs functions similar to domestic State agencies related to the determination of entitlement to, and processing of, foreign disability claims. Includes the development and review of medical evidence and other factors required for the adjudication of initial claims.

h. Processes continuing disability reviews for foreign beneficiaries.

3. The International Operations and Totalization Staff (S2HB3).

a. Provides liaison with the Department of State and other Government agencies to ensure SSA operations, systems and administrative policies and procedures are correctly carried out as they affect the Social Security program overseas.

b. Evaluates and provides direction and guidance to the Social Security representatives stationed overseas, and ensures that necessary administrative support is provided to carry out SSA's mission abroad.

c. Furnishes information on Social Security foreign program matters and concerns to other SSA components, other Government agencies, Members of Congress and the public. Designs and conducts validation and other special studies to foster integrity in the Social Security program overseas.

d. Oversees the operational implementation of totalization agreements. Participates in negotiations with foreign government representatives and negotiates operational accords and procedures with foreign Social Security agencies.

e. Prepares forms and procedures for the ODIO and foreign service post employees, and participates with the Office of International Policy (OIP) in the development of district office instructions, applications, notices, public information materials and systems requirements for totalization processing, and continually evaluates the processing of cases under existing agreements.

F. The Office of Support Services (OSS) (S2HC) plans, directs and coordinates support activities for ODIO in a broad range of essential administrative areas including: personnel and organization management, labor and employee relations, budget and facilities management, managerial, technical and clerical training, integrity and security. It is responsible for ADP hardware and software support activities for ODIO. OSS directs ODIO liaison between the Office of Systems Operations and the Department of the Treasury to ensure timely benefit payments. It ensures delivery, distribution and dispatch of mail for ODIO, and oversees ODIO's folder and record control operation.

1. The Division of Management Support (S2HC1).

a. Provides administrative support services to the Director, ODIO; the Director, Disability Operations; and the Director, International Operations in such areas as:

—Budget development and monitoring.
—Personnel management.
—Labor relations.
—Management information.
—Organization planning.

b. Develops and conducts ODIO-wide operational training and employee development activities. Analyzes and evaluates training needs and effectiveness. Ensures that required agency-level, other Government agency and private vendor training is provided.

c. Performs independent reviews to detect and prevent employee and beneficiary fraud. Plans, develops and implements ODIO's security program and conducts security reviews. Reviews beneficiary fraud cases and determines whether cases will be referred for prosecution. Determines proper application of regulations governing the disclosure of confidential records.

2. The Division of Operations Support (S2HC2).

a. Provides ADP hardware and software support for ODIO. Conducts analyses relating to user software application development, contract maintenance and equipment use.

b. Serves as SSA liaison with the Department of the Treasury to ensure timely payments.

c. Integrates and controls benefit payment processing operations.

d. Delivers, distributes and dispatches mail for ODIO.

e. Oversees the ODIO folder and record control operations. Identifies and resolves folder and record control problems and coordinates case location activities.

f. Coordinates systems support services, health and safety matters, laborer services, transportation activities, projects concerning the maintenance and performance of capitalized equipment and other property inventories, and provides input to budget submittals for furniture and supplies.

Subchapter S2L—Office of Automation Support

S2L.00 Mission
S2L.10 Organization
S2L.20 Functions

Section S2L.00 *The Office of Automation Support*—(Mission): The Office of Automation Support (OAS) ensures delivery of automation support to meet end users' needs to deliver accurate, caring, efficient public service while providing a favorable environment for OAS employees. OAS is responsible for integrating service delivery and employee concerns with modern technology. In concert with the Deputy Commissioner for Systems (DCS), it determines and defines DCO requirements for software and hardware support. OAS directs user evaluations to ensure that technology meets DCO needs and coordinates all implementation activities. Working with DCS, it ensures that the most recent technology is integrated into the operations of all DCO components.

Section S2L.10 *The Office of Automation Support*—(Organization): The Office of Automation Support, under the leadership of the Associate Commissioner for Automation Support, includes:

A. The Associate Commissioner for Automation Support (S2L).

B. The Deputy Associate Commissioner for Automation Support (S2L).

C. The Immediate Office of the Associate Commissioner for Automation Support (S2L).

D. Software Implementation Process Team (S2LA).

E. Technology Support Process Team (S2LB).

Section S2L.20 *The Office of Automation Support*—(Functions):

A. The Associate Commissioner for Automation Support (S2L) is directly responsible to the Deputy Commissioner, Operations for carrying out OAS' mission and provides general supervision to the major components of OAS.

B. The Deputy Associate Commissioner for Automation Support (S2L) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Automation Support (S2L) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities.

D. Software Implementation Process Team (S2LA).

1. Works with the systems, policy, security, training and personnel components during the development and implementation of all modernized software to ensure that security, user and operational needs are satisfied within DCO.

2. Works with DCO user components to define the operational requirements for modernized software, training materials and procedural support and helps shape the directions the Agency takes to meet these needs.

3. In concert with DCS, ensures that functional requirements are accurate, straightforward and efficient and support the mission of providing high quality public service.

4. Evaluates with DCS and DCO users all modernized software and support material prior to implementation to confirm that operational requirements have been met and that effective and efficient audit and security controls are in place to deter and detect improper systems usage for fraudulent purposes.

5. Coordinates DCO user component software implementation activities and provides help desk support for problem reporting, analysis and remedial measures as well as providing procedural clarification.

6. Works with DCS to monitor and support national software and online and batch systems performance on behalf of the operational end user to ensure that operational expectations and performance standards are satisfied.

7. Develops and manages effective mechanisms to evaluate user reaction to modernized software and support materials in order to help define, shape

VOL 60 ISS 86 MY 4 1995 UMI

and refine future Agency approaches to modernized software development.

8. Directs the activities of the Model District Office and Test Processing Module, which are the major operational components for testing and evaluating modernized software.

E. Technology Support Process Team (S2LB).

1. Serves as the focal point for user systems planning within Operations. Working with DCS components, determines and defines the technological hardware needs for the operational components and promotes the acquisition, effective implementation and innovative usage of this technology.

2. Identifies operational needs and works through DCS to evaluate and promote the implementation of state-of-the-art technologies such as imaging, storage and retrieval alternatives, and optical disk capabilities that can modernize and streamline labor-intensive current processes.

3. Provides leadership in the management of automated computer processes resident in OCRO, ODIO, PSCs, FOs and the DOC and identifies and defines support requirements, such as procedural and technical training needs, to assure the smooth operation of those computer processes.

4. Arranges with the appropriate technical staff in the systems components to provide technical training when needed and provides oversight in the management of operating software, version control and scheduling of these local computer operations.

5. Through analytical and evaluative mechanisms it develops and manages, the team ensures that modern technology serves the needs of all DCO employees, including those employees with disabilities, that fully participate in the accomplishment of their mission.

6. Supports field components in their efforts to integrate modern technology into day-to-day work environments and articulates user needs as the Agency moves into distributed processing platforms and office automation/local intelligence arenas.

7. Assures that proper technical support, including procedural instructions and comprehensive user training, is provided for these distributive platforms, such as local area networks, where needed.

Subchapter S2N—Office of Public Service and Operations Support

S2N.00 Mission
S2N.10 Organization
S2N.20 Functions

Section S2N.00 *The Office of Public Service and Operations Support*—(Mission): The Office of Public Service and Operations Support (OPSOS) is responsible for providing operational/program support and for conducting studies and analyses related to service to the public, employee services and activities associated with financial management, budget and management information. This Office provides broad operations support to the FOs, TSCs, PSCs, the Office of Disability and International Operations and the Office of Central Records Operations. OPSOS is also responsible for integrating operational delivery of public services under the RSDI, SSI and HI programs for domestic beneficiaries and for the delivery of RSDI program services to foreign beneficiaries. Additionally, this Office provides broad operations support to the maintenance of the basic earnings data which support the Social Security programs. It conducts studies, pilots and other activities associated with the overall effectiveness and efficiency of DCO components. It directs and coordinates internal management support functions to ensure effective position management, workforce utilization and management analysis and planning. It directs the overall DCO budget process and plans, implements, manages and assesses the interrelated duties of delivering SSA program and related services to the public.

Section S2N.10 *The Office of Public Service and Operations Support*—(Organization): The Office of Public Service and Operations Support, under the leadership of the Associate Commissioner for Public Service and Operations Support, includes:

A. The Associate Commissioner for Public Service and Operations Support (S2N).

B. The Deputy Associate Commissioner for Public Service and Operations Support (S2N).

C. The Immediate Office of the Associate Commissioner for Public Service and Operations Support (S2N).

D. The Division of Service Delivery and Program Policy (S2NA).

E. The Division of Operations Management (S2NB).

F. The Division of Resource and Management Information (S2NC).

Section S2N.20 *The Office of Public Service and Operations Support*—(Functions):

A. The Associate Commissioner for Public Service and Operations Support (S2N) is directly responsible to the Deputy Commissioner, Operations, for carrying out OPSOS' mission and provides general supervision to the major components of OPSOS.

B. The Deputy Associate Commissioner for Public Service and Operations Support (S2N) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Public Service and Operations Support (S2N) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities. Ensures open and effective communication with employees and Union representatives.

D. The Division of Service Delivery and Program Policy (S2NA).

1. Plans, develops or participates in the development of operational policy and procedures to assure effective and efficient implementation of national and international program activities in DCO.

2. Plans and implements studies designed to assess DCO's processing activities and affected operational objectives to ensure appropriate integration of new program policies.

3. Provides analysis and recommendations to the DCO regarding legislative planning and implementation. Provides technical guidance to DCO management and ensures integration of RSI, DI, SSI, and Medicare policies and procedures.

4. Develops partnerships with other SSA components and the Health Care Financing Administration to ensure effective program delivery within operational constraints.

5. Provides operational support to the enumeration process.

6. Plans, directs and evaluates the quality of program activities throughout operational components. Develops initiatives to improve the quality of the claims, postentitlement and preclaims processes.

7. Participates with appropriate policy components in SSA to provide clear, accurate and timely notices to the public and to fully utilize automation to reduce the need for manually prepared notices.

8. Develops and recommends to DCO standards and practices for national and international delivery of services. Plans, implements and evaluates the full range of SSA's service to the public.

9. Establishes service delivery policies. Develops and evaluates standards for measuring service to the public to ensure that quality, efficient and compassionate service is provided.

10. Plans, conducts and evaluates public information/referral programs to ensure Agency and other public and private services are effectively provided to the community within the guidelines and direction provided by the Agency.

Ensures SSA's public affairs/information efforts are implemented effectively and efficiently within DCO components.

11. Establishes policies and develops criteria on field office accessibility (hours of service, size of field offices, type and location of services, etc.).

12. Directs the planning, analysis and evaluation of field office structure and develops innovative concepts for the future role of DCO components, including improvements in service.

E. The Division of Operations Management (S2NB).

1. Plans and coordinates postentitlement cyclical workloads; maintenance of beneficiary and earnings records; certification of payment; and recoupment of overpayment processes impacting on DCO components.

2. Plans, designs and implements studies and analyses to assess payment processing activities and operational goals and objectives. Plans and initiates new processing workflows for claims and postadjudicative actions to ensure the most effective and efficient program delivery to the public.

3. Establishes workload processing schedules ensuring efficient sequences of interrelated workloads and recommends to DCO appropriate priorities.

4. Coordinates operational processes with programs administered by other government agencies such as Railroad Retirement Board, Treasury Department, Internal Revenue Service, Veterans Administration, State Department and the Administration on Aging.

5. Creates workflows and processes with systemic safeguards to prevent errors and ensure a full audit trail for automated and paper products.

F. The Division of Resource and Management Information (S2NC).

1. Performs a broad range of financial management, budget and management information activities. Formulates, executes and monitors component budgets and spending plans. Develops and monitors DCO's operating budgets. Develops reprogramming recommendations for DCO management consideration.

2. Analyzes and develops budget cost analyses based on Agency constraints, initiatives and legislation. Analyzes budget data, program cost allocations, operating program input, workload and productivity information for the preparation of the annual budget.

3. Analyzes and monitors component productivity to determine staffing requirements and ensure effective delivery of service. Establishes component fulltime equivalents, workyears and dollar allocations, including identification of reprogramming needs. Distributes and monitors General Services Administration building delegations.

4. Analyzes legislative, procedural and technological changes and ensures appropriate resource allocations are provided to effectively implement those changes. Plans and implements budgetary incentives/pay reform projects.

5. Implements and maintains an integrated management information system through studies and analyses which identify specific operating areas to be measured and to control workloads. Identifies DCO management needs and develops systems and methods to deliver the timely, pertinent information that managers need to effectively manage SSA's programs and delivery of service.

6. Analyzes data to identify trends which DCO management must consider in developing plans for deployment of human and materiel resources. Designs, develops and analyzes various weekly, quarterly and annual management information reports.

7. Develops policies, procedures and standards for which DCO can carry out its management activities in the areas of personnel, employee relations, facilities, space, property management, etc.

8. Identifies training and career development needs of DCO employees and ensures these needs are met. Assesses future training needs as technology advances and plans and implements component career enhancement programs to ensure employees have skills needed to plan and prepare for these technological changes.

9. Within established guidelines, plans and oversees implementation in DCO components of projects which improve employee environment and well being (wellness/fitness, child care, elder care, office space/furniture).

10. Plans, develops, implements and evaluates comprehensive handicapped, Equal Employment Opportunity and affirmative employment programs to ensure all employees are treated equitably.

11. Plans and implements effective management communication networks to ensure employees are kept informed of Operations' and SSA's initiatives as well as determining, evaluating and addressing employee concerns.

12. Provides staff support to DCO in planning and providing effective performance management/awards programs ensuring fair and equitable treatment of all employees.

13. Develops innovative approaches to job restructuring/enhancements from an Operations' perspective. Plans, develops, implements and analyzes pilots and studies to enhance the quality of the workforce.

Subchapter S2Q—Office of Telephone Services

S2Q.00 Mission
S2Q.10 Organization
S2Q.20 Functions

Section S2Q.00 *The Office of Telephone Services*—(Mission): The Office of Telephone Services is responsible for planning, implementing, operating and evaluating SSA's telephone service to the public delivered by the national 800 Number and SSA FOs. The Office plans and conducts studies, pilots and analyses of 800 Number and FO telephone operations to assess and improve the service provided. The Office provides direct support to 38 TSCs and approximately 1,300 FOs, including developing and communicating uniform operating policies and procedures. The Office maintains close, effective working relationships with SSA policy, program and administrative components, with other Federal agencies and with vendors which have important roles in the delivery and evaluation of SSA's telephone service to the public. This Office manages SSA's national 800 Number network operation, designs and administers call routing plans, continuously monitors call handling and adjusts routing to handle emergency situations and to maximize call answering effectiveness and efficiency.

Section S2Q.10 *The Office of Telephone Services*—(Organization): The Office of Telephone Services includes:

A. The Director of the Office of Telephone Services (S2Q).

B. The Deputy Director of the Office of Telephone Services (S2Q).

C. The Immediate Office of the Director of the Office of Telephone Services (S2Q).

D. The Service Team (S2QA).

E. The Voice Network Team (S2QB).

Section S2Q.20 *The Office of Telephone Services*—(Functions):

A. The Director, Office of Telephone Services (S2Q) is directly responsible to the DCO for carrying out the Office's mission relating to the operation of SSA's national 800 Number and FO telephone service, and provides general supervision to the major components in the Office.

B. The Deputy Director, Office of Telephone Services (S2Q) assists the Director in carrying out his/her responsibilities and performs other duties as the Director may prescribe.

VOL 60 ISS 86 MY 4 1995 UMI

C. The Immediate Office of the Office of Telephone Services (S2Q) provides the Director with staff assistance over the full range of his/her responsibilities.

D. The Service Team (S2QA).

1. Plans, designs, implements and evaluates studies of initiatives related to the effective management, operation and future direction of telephone services provided to the public by the national 800 Number and FOs.

2. Provides leadership on SSA telephone service planning initiatives for the Office of Operations.

3. Researches and evaluates the application of innovative concepts and new technologies for SSA's public telephone services.

4. Designs, implements and maintains management information systems for SSA telephone service delivery. Analyzes data, evaluates trends and long-range needs and prepares executive level reports.

5. Evaluates and plans for implementation of legislative issues that impact SSA's telephone service. Works with other SSA components, other Federal agencies and vendors to ensure quality public telephone services.

6. Plans, develops, implements and evaluates systematic measurement processes to assess the operational effectiveness and efficiency of SSA public telephone service operations.

7. Develops and maintains procedural guides, operational instructions and training materials for TSC and FO employees providing public telephone service.

8. Develops and evaluates plans for the effective utilization of TSC and FO resources and equipment relating to delivery of telephone services to the public.

9. Develops and evaluates operational telephone service quality review policies. Evaluates telephone service delivery training needs to ensure quality public service is provided.

E. The Voice Network Team (S2QB).

1. Plans, develops, implements and evaluates the effectiveness and efficiency of the routing of 800 Number calls to the geographically dispersed TSCs that provide 800 Number service.

2. Administers 800 Number call routing on a daily basis, making necessary adjustments to ensure the best possible public telephone service.

3. Develops and maintains an effective management information system needed for the 800 Number operation and produces the required reports. Analyzes the information to evaluate the routing of calls.

4. Identifies trends and/or patterns that impact 800 Number call volumes and resource requirements. Projects call volumes and creates staffing models and other techniques to determine future call-handling capacity needs.

5. Analyzes the applicability of innovative concepts and technologies to the national 800 Number and FO telephone service and recommends ways to improve service.

6. Studies and evaluates the effectiveness of TSCs and overall SSA 800 Number network operations and FO telephone services and makes recommendations for improving operations.

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S4 for the Office of the Deputy Commissioner Systems is being amended to reflect internal organizational realignments and the deletion of all references to the Department of Health and Human Services as the parent agency of SSA. The following material replaces Chapter S4 in its entirety.

Chapter S4—Office of the Deputy Commissioner, Systems

S4.00 Mission
S4.10 Organization
S4.20 Functions

Section S4.00 *The Office of the Deputy Commissioner, Systems*—(Mission): The Office of the Deputy Commissioner, Systems (ODCS) directs the conduct of systems and operational integration and strategic planning processes, and the implementation of a comprehensive systems configuration management, data base management and data administration program. Initiates software and hardware acquisition for SSA and oversees software and hardware acquisition procedures, policies and activities. Directs the development of operational and programmatic specifications for new and modified systems, and oversees development, validation and implementation phases.

Section S4.10 *The Office of the Deputy Commissioner, Systems*—(Organization): The Office of the Deputy Commissioner, Systems, under the leadership of the Deputy Commissioner, Systems, includes:

A. The Deputy Commissioner, Systems (S4).

B. The Assistant Deputy Commissioner, Systems (S4).

C. The Immediate Office of the Deputy Commissioner, Systems (S4C).

D. The Office of Systems Operations (S4E).

E. The Office of Systems Design and Development (S4G).

F. The Office of Systems Requirements (S4H).

G. The Office of Systems Planning and Integration (S4J).

H. The Office of Information Management (S4K).

I. The Office of Telecommunications (S4L).

Section S4.20 *The Office of the Deputy Commissioner, Systems*—(Functions):

A. The Deputy Commissioner, Systems (S4) is directly responsible to the Commissioner for carrying out the ODCS mission and providing general supervision to the major components of ODCS.

B. The Assistant Deputy Commissioner, Systems (S4) assists the Deputy Commissioner in carrying out his/her responsibilities, and performs other duties as the Deputy Commissioner may prescribe.

C. The Immediate Office of the Deputy Commissioner, Systems (S4C) provides the Deputy Commissioner with management support on the full range of his/her responsibilities.

D. The Office of System Operations (OSO) (S4E) directs, manages and coordinates the planning, acquisition, implementation, security, operation and maintenance of SSA's computer systems operations. It directs and coordinates the transition, implementation and operation of current/ongoing operating systems support software, including diagnostic software. OSO coordinates with the Office of Telecommunications (OTC) in the design and implementation of the critical interface between OTC's telecommunications facilities and OSO's teleprocessing complexes. OSO interfaces with the Office of Systems Design and Development (OSDD) and the Office of Information Management (OIM) in the transition and implementation of redesigned programmatic and administrative systems to progressively replace existing application systems. It manages the computer operations complex which process SSA's programmatic support, administrative, management information (MI) and statistical application systems. OSO conducts continuing assessments and engineering analyses of the computer operations, as well as equipment performance analyses and coordinates with OSDD the implementation of necessary improvements to existing resources. It directs and coordinates the activities associated with the planning, management, acquisition, procurement and renewal of ADP equipment, software and technical services for SSA to maintain operational systems and to prevent progressive deterioration. OSO develops, controls and implements operational plans which include the preparing of technical specifications, evaluation criteria, acceptance test criteria, facilities engineering plans and budget estimates to maintain operational systems. It advises the Deputy Commissioner, SSA Executive Staff and external monitoring authorities such as the General Services Administration, the General Accounting Office, the Office of Management and Budget and Congress on SSA's computer systems operations.

E. The Office of Systems Design and Development (OSDD) (S4G) directs the design, development and maintenance of all programmatic software to support SSA's social insurance and income maintenance programs. The Office directs SSA's data base integration activities to improve the administration of SSA's data bases and to implement modern data base management systems software. It designs and develops all new or improved data base-oriented systems. OSDD directs a comprehensive software engineering program to modernize the Agency's programmatic applications software by developing new software and improving existing software engineering technologies. It develops and oversees the implementation of standards, methods and procedures for software design and development. It plans and directs a software development facility to support applications development personnel and supports the testing of new or redesigned software. OSDD directs and coordinates a comprehensive management program for SSA's programmatic software.

F. The Office of System Requirements (OSR) (S4H) directs, develops and coordinates operational and programmatic information requirements and functional specifications for new systems and modifications to existing systems in direct support of SSA programs. It manages an Agencywide process for assessment of user requirements and establishment of priorities for software development and modification. The Office directs validation of systems processes against user-defined performance criteria to ensure conformance with requirements and approves the resulting system for operational acceptance. It directs the development of procedures and instructions to support user needs in effective implementation of all systems. It develops and implements standards for analysis and requirements definition and validation phases of the system development process. It designs, develops and executes an interactive validation environment and associated automated techniques, methodologies, tools and data bases necessary for conducting validations for all programmatic systems. It develops control, auditability and security standards and ensures their implementation through the systems development life cycle. It is responsible for SSA-wide data administration including the overall operation of the SSA Data Resource Management Program.

G. The Office of Systems Planning and Integration (OSPI) (S4J) directs and conducts comprehensive integration and systems planning processes. It provides management leadership and direction to systems activities in the areas of software engineering technology and systems engineering management, including configuration management and quality assurance. It carries out a variety of technology assessment functions, including the development of pilot projects to evaluate specific technology applications in SSA. The Office develops the Information Technology Systems Budget for Systems, prepares the detailed budget submission and develops monitoring and tracking systems. It also develops systems security policy for the systems community and coordinates technical activities for Systems components.

H. The Office of Information Management (OIM) (S4K) directs, develops and coordinates SSA-wide administrative, management and statistical information (AMSI) systems. The Office is responsible for long-range planning and analyses to define new and improved systems processes to support SSA's long-term AMSI needs. It directs the coordination of user requirements with private contractors, the SSA user community and the State Disability Determination Services to ensure efficient and effective administration of MI needs and related systems support. OIM directs a comprehensive data base administration program for the control of SSA's AMSI data bases. It develops technical specifications for the acquisition, implementation and operation of AMSI, ADP and telecommunications resources.

I. The Office of Telecommunications (OTC) (S4L) plans, implements and evaluates SSA's communications technology and systems. It is responsible for evaluating current and emerging communications technologies and for designing, acquiring, implementing, operating and maintaining new integrated telecommunications systems combining voice, data, video, facsimile, and other SSA communications requirements. OTC directs, manages and coordinates the planning, analysis, design, acquisition, implementation, operation and maintenance of SSA's existing telecommunications systems. It manages the telecommunications operations complexes located at the Central Office, Regional Offices and field sites. It is responsible for SSA's comprehensive voice communication management program.

Subchapter S4E—Office of Systems Operations

S4E.00 Mission
S4E.10 Organization
S4E.20 Functions

Section S4E.00 *The Office of Systems Operations*—(Mission): The Office of Systems Operations (OSO) directs, manages and coordinates the planning, acquisition, implementation, security, operation and maintenance of SSA's computer systems operations. It directs and coordinates the transition, implementation and operation of current/ongoing operating systems support software, including diagnostic software. OSO coordinates with OTC in the design and implementation of the critical interface between OTC's telecommunications facilities and OSO's teleprocessing complexes. OSO manages the implementation of production application software at all network platforms and interfaces with OSDD and OIM in the transition and implementation of redesigned programmatic, and administrative systems to progressively replace existing application systems. OSO administers all activities pertaining to configuration management, change management and problem management. It manages the computer operations complex which process SSA's programmatic support, administrative, MI and statistical application systems. OSO conducts continuing assessments and engineering analyses of the computer operations, as well as equipment performance analyses and coordinates with OSDD the implementation of necessary improvements to existing resources. It directs and coordinates the activities associated with the planning, management, acquisition, procurement and renewal of ADP equipment, software and technical services for SSA to maintain operational systems and to prevent progressive deterioration. OSO develops, controls and implements operational plans which include the preparing of technical specifications, evaluation criteria, acceptance test criteria, facilities engineering plans and budget estimates to maintain operational systems. It advises the Deputy Commissioner, SSA Executive Staff and external monitoring

VOL 60 ISS 86 MY 4 1995 UMI

authorities such as the General Services Administration, the General Accounting Office, the Office of Management and Budget and Congress on SSA's computer systems operations.

Section S4E.10 *The Office of Systems Operations*—(Organization): The Office of Systems Operations (S4E), under the leadership of the Associate Commissioner for Systems Operations, includes:

A. The Associate Commissioner for Systems Operations (S4E).

B. The Deputy Associate Commissioner for Systems Operations (S4E).

C. The Immediate Office of the Associate Commissioner for Systems Operations (S4E).

D. Division of Systems User Services and Facilities (S4EE).

E. The Division of Computer Operations Production Control (S4EG).

F. The Division of Operational Support Software (S4EH).

G. The Division of Operational Capacity Performance Management (S4EJ).

H. The Division of Standards and Control (S4EK).

I. The Division of Operational Resource Management (S4EL).

J. The Division of Integration and Environmental Testing (S4EM).

K. The Division of Teleprocessing Systems Operations (S4EN).

Section S4E.20 *The Office of Systems Operations*—(Functions):

A. The Associate Commissioner for Systems Operations (S4E) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OSO mission and providing general supervision to the major components of OSO.

B. The Deputy Associate Commissioner for Systems Operations (S4E) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Operations (S4E) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. Division of Systems User Services and Facilities (S4EE).

1. Provides all computer hardware-related support for OSO and coordinates the installation of all major hardware and software. Plans and coordinates all computer systems installations and relocations. Provides technical evaluation support for the procurement, acceptance, testing, installation and implementation of equipment and software.

2. Plans and coordinates computer facility environmental systems requirements. Provides computer facilities support for all Agency computer processing centers.

3. Serves as focal point for all user systems problems, questions, complaints and corrective actions regarding the full range of production services. Establishes quality standards for selected operations areas and provides enforcement of the standards. Measures operations performance in providing timely output services as delineated in the User Service Agreements.

4. Provides operational status and workload information to field offices and payment centers using the SSA telecommunications network. Provides statistical analyses of, and reports on, operations performance at meeting both user and computer center management service objectives.

5. Provides a centralized contact for the management of all online storage media resources in the National Computer Center (NCC) and Program Service Centers. Manages Direct Access Storage Device (DASD) resources to maintain the integrity, reliability and performance of state-of-the-art storage technology. Responsible for DASD backup and recovery operations. Advises senior management of all aspects of storage media management.

E. The Division of Computer Operations Production Control (S4EG).

1. Manages and processes all of SSA's program/mission-oriented and MI batch and online batch production workloads and administers effective resource utilization.

2. Manages and directs the automated magnetic media processes and directs the activity of the magnetic tape library function. Serves as the focal point for management of all magnetic tape storage resources, both internal and external to the Agency.

3. Participates in the design reviews of proposed application systems to assure operational support and control aspects are being considered. Analyzes applications systems to assure compliance with systems standards. Approves applications systems for production status and incorporates them into the production library. Before acceptance of any new batch applications, performs preproduction testing to minimize unexpected impacts to existing schedules and to ensure the most optimum use of existing data center resources.

4. Manages all incoming and end-deliverable products of data processing operations within both the test and production environments. Responsible for the operations and control of the print and punch products produced in the NCC. Ensures the quality, timeliness and accurate delivery of all distributed information, including transmitted data.

5. Represents OSO and Systems in the preparation and revision of Service Level Agreements between Systems and its users.

F. The Division of Operational Support Software (S4EH).

1. Directs the analysis, design, development, implementation and maintenance of computer operating systems and locally prepared subroutines in support of programmatic workloads for SSA's central data processing center.

2. Designs, develops, implements and maintains production control ADP systems which supervise media library controls and automates the scheduling of the production workload.

3. Directs the analysis, evaluation, selection, implementation and maintenance of a wide variety of vendor proprietary and locally provided utility software to support the programmatic production and MI workloads of the central and remote data centers.

4. Supports other SSA components with user liaison, systems development, technical and operational problem resolution.

G. The Division of Operational Capacity Performance Management (S4EJ).

1. Evaluates computer performance and monitors resource utilization to ensure that OSO's operational computer systems capacity is utilized effectively and efficiently. Ensures that OSO's systems performance objectives are being met and that data bases are efficiently implemented. Prepares recommendations to OSO management and as directed, performs similar functions for other SSA components.

2. Ensures that sufficient ADP capacity is available to process present and future workloads, coordinating decisions on target systems for new/modified workloads and systems configuration changes.

3. In conjunction with other Deputy Commissioner, Systems (DCS) components, develops an ADP Capacity Plan for 1-, 2- and 5-year timeframes.

4. Provides advice and services to other OSO components in the use of computer interpretation of reports and data resulting from evaluation and utilization studies.

5. Uses operational research tools to investigate operational efficiency problems and develop workload and utilization relationships.

H. The Division of Standards and Control (S4EK).

1. Develops, publishes and implements standards and operating procedures within OSO. Develops and controls enforcement mechanisms to ensure adherence to operational standards. Administers the Federal systems standards program within OSO.

2. Directs the planning, implementation and evaluation of the systems security program in OSO and SSA privacy and security policies.

3. Serves as OSO liaison with other SSA components in matters of privacy and security. Provides for the security of all OSO resources in the centralized OSO computer boundaries established by the Deputy Commissioner for Finance, Assessment and Management.

4. Provides planning, evaluation and oversight on disaster recovery capabilities in order to maintain continuity of data center operations. Develops, implements and evaluates systems and procedures for the security and protection of data.

5. Formulates an OSO-wide Systems Plan and assigns responsibility to OSO components for various parts of the Plan. Works with OSO components to evaluate their proposed systems objectives in terms of technical feasibility, availability of resources and systems costs. Identifies the major OSO activities and resources needed to support these objectives. Directs and coordinates the OSO technical workpower, equipment and other special costs for the SSA budget process and justifies these on the basis of the ADP plan.

6. Coordinates OSO activities related to the SSA ADP Plan. Directs the preparation of detailed project plans including resource estimates for projects of which OSO has the lead. Monitors progress and use of workpower and equipment resources by OSO components against their approved plans. Develops standard methods for project management and assists OSO components in their use.

7. Manages the OSO technical training program. Assesses needs, and formulates and executes strategies to upgrade individual knowledge and skill levels.

8. Performs systems analysis, configuration design, software selection, implementation and procurement support for micro-computers, minicomputers and computer graphics systems and equipment for various components of OSO. Provides state-of-the-art technical expertise including the evaluation of new and existing systems activities and provides support for enhancements, modifications, design and/or redesign. Research and analyze emerging office systems developments to ensure technology awareness and provide supporting systems development, design, planning and implementation. Provides systems training support within OSO.

I. The Division of Operational Resource Management (S4EL).

1. Directs OSO's participation in the Information Technology Systems (ITS) procurement process.

2. Performs technical and cost reviews of all OSO/ITS procurements. Performs technical review of procurement proposals for ITS resources.

3. Provides support for ITS Technical Evaluation Committees.

4. Supports contract administration for all OSO/ITS contracts.

5. Provides technical support to Project Officers in the development, modification and administration of ITS contracts.

6. Directs the renewal process for existing lease and maintenance contracts for ITS and telecommunications equipment and services.

7. Manages the fiscal administration of all ITS contracts, collecting, analyzing and reporting performance data to support required fiscal and other contractual proceedings.

8. Manages a centralized inventory of all SSA ITS and telecommunications equipment, and manages the ITS excess equipment process.

9. Provides for the centralized certification and authorization for the lease and maintenance of SSA's ITS and telecommunications equipment.

10. Provides necessary staff support to all users within OSO for the development of procurement documents and documentation.

11. Develops and maintains the OSO macroprocurement plan which relates to planned acquisitions of ITS equipment, software, system design and system support services.

12. Serves as Project Officer for ITS recompetition/ongoing maintenance contracts.

13. Provides technical support to OSO and other SSA components during major procurement activities. Ensures that procurement documentation complies with directives published by SSA and higher monitoring authorities. Provides recommendations for disposition of procurement proposals for ITS resources.

J. The Division of Integration and Environmental Testing (S4EM).

1. Directs and controls all activities with the release of new or enhanced versions of host programmatic and telecommunications-related software. Enforces software acceptance and certifications standards. Directs the initial staging of program modules to be tested, including generation of executable code.

2. Develops and maintains extensive test data bases for use in the acceptance, integration and environmental testing processes. Develops and incorporates the use of software simulators and emulators in software acceptance testing.

3. Directs the integration testing of new or enhanced communications host software, remote network/terminal and microprocessor software and network communications software. Participates in the movement and/or migration of software systems and associated data files between complexes and processing components.

4. Directs environmental testing to ensure that all new or enhanced software is compatible with changing hardware configurations. Directs the integration of new or enhanced SSA programmatic software. Administers the generation of finalized testing results for evaluation. Directs software performance evaluations, parallel testing, timing studies, inter/intrasystem relationship and testing trend analysis.

5. Responsible for administering ADP hardware integration and acceptance testing.

6. Provides the checks and balances on SSA's ADP systems and equipment procurement for complying with contractual performance requirements throughout the life cycle of the procurement.

7. Directs the design, development and implementation of software to gather and report statistical information on the functioning of telecommunications networks. Distributes the information to other SSA components to report on network performance and equipment utilization.

8. For all teleprocessing application software, manages and controls libraries, controls and migrates software into the production environment and designs and develops backup and recovery procedures.

9. Administers all activities pertaining to configuration management for the OSO change management system.

10. Monitors problem determination and resolution flow for all software, hardware and environmental failures that occur in the NCC and other Agency data processing centers.

K. The Division of Teleprocessing Systems Operations (S4EN).

1. Procures, installs, modifies and tunes all online/batch teleprocessing monitor systems software, vendor support products and Data Base Management Systems. Designs, modifies, implements and installs

VOL
60
ISS
86
MY
4
1995
UMI

specialized teleprocessing system software to support new teleprocessing application software including inhouse modifications.

2. Directs all teleprocessing system software problem determination and resolution.

3. Participates in the establishment of teleprocessing software standards for application design and for the use of data base packages within the SSA network environment. Formulates policy for data base applications software systems and monitors and optimizes performance of that software.

4. Coordinates with other OSO components in addressing teleprocessing software concerns regarding system capacity issues and system configuration proposals.

5. Develops teleprocessing software procedures for computer operations components.

6. Manages all online teleprocessing and Data Base Management Systems interface regions.

7. Operates and maintains an integrated systems and technical coordination control center and help desk to coordinate problem identification and resolution activities with the Office of Telecommunications.

Subchapter S4G—Office of Systems Design and Development

S4G.00 Mission
S4G.10 Organization
S4G.20 Functions

Section S4G.00 *Office of Systems Design and Development*—(Mission): OSDD directs the design, development and maintenance of all programmatic software to support SSA's social insurance and income maintenance programs. It is responsible for a comprehensive software engineering program and oversees the implementation of standards, methods and procedures in connection with this program. OSDD directs and coordinates a comprehensive software configuration management program and manages a detailed project control system for OSDD software development projects. It directs SSA's data base administration management program and designs, develops and, with OSO, implements the production of all new or improved data base oriented systems. It develops policies and procedures, prepares procurement documents for and oversees acquisition of software packages and tools and software support services. OSDD plans and directs a software development facility to support applications development personnel. It serves as liaison with other SSA components and external monitoring authorities including the Deputy Commissioner for Human Resources, General Services Administration, General Accounting Office and Congress on SSA applications systems planning and software and data base development.

Section S4G.10 *Office of Systems Design and Development*—(Organization): The Office of Systems Design and Development, under the leadership of the Associate Commissioner for Systems Design and Development, includes:

A. The Associate Commissioner for Systems Design and Development (S4G).

B. The Deputy Associate Commissioner for Systems Design and Development (S4G).

C. The Immediate Office of the Associate Commissioner for Systems Design and Development (S4G).

Section S4G.20 *Office of Systems Design and Development*—(Functions):

A. The Associate Commissioner for Systems Design and Development (S4G) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OSDD mission and providing general supervision to the major components of OSDD.

B. The Deputy Associate Commissioner for Systems Design and Development (S4G) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Design and Development (S4G) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

1. OSDD plans and manages the Software Engineering Facility (SEF) mainframe and OSDD LAN/workstation configurations to provide an integrated set of automated tools, techniques and services in support of SSA's application development community. Provides support for both programmatic and MI applications throughout each phase of the systems development life cycle, including analysis, design, development, testing, validation, production and maintenance. Plans, designs, develops, selects and implements automation methods and standards for the design and development stages of the Software Engineering Technology. Provides for automated software configuration management, quality control and library migration. Provides technical assistance to SEF users with specific emphasis on software tools used by the programming community. Acts as liaison between the SEF user community and the computer center to ensure that user needs are being met. Monitors SEF performance to ensure that appropriate service levels are continuously maintained; performs impact analyses and validation of proposed software development tools before they are installed on the SEF; and manages the SEF DASD pool. Also manages a security program for the SEF which includes administration of SSA's security software, control of system access and coordination of component Security Officer activities.

2. OSDD directs the design and development of all new or improved in-house file access software for data base/master record files, including selection and installation of commercial data base management packages in connection with systems modernization and design/development initiatives. It identifies, evaluates and manages software improvement projects which are implemented internally by OSDD or assigned to private contractors. Prepares draft requirements statements and statements of work for the acquisition of software packages/tools and software contractor support services. It designs and develops new software systems/subsystems based on systems modernization plans or user requirements. It designs and develops all new or improved in-house applications support software designed to promote data base/master record data independence. It is responsible for all analyses in support of data standardization and data quality improvement/ assurance in connection with software improvement and design and development initiatives. It establishes and maintains a data dictionary to support and control its function.

3. OSDD plans, directs and coordinates the development of operational ADP systems which directly support SSA's social insurance and income maintenance programs. Based on user requirements developed by OSR, it develops and modifies programmatic applications software systems, including systems analysis and design, development, documentation, testing, implementation and maintenance. Coordinates systems development activities with OSR to assure full integration with OSDD and SSA plans. It assures implementation of systems operating policies by developing detailed standards, methods and procedures consistent with OSDD directives and standards. Serves as liaison with other SSA components, other governmental agencies and private organizations on operational systems development and maintenance functions.

Chapter S4H—Office of Systems Requirements

S4H.00 Mission
S4H.10 Organization
S4H.20 Functions

Section S4H.00 *Office of Systems Requirements*—(Mission): The Office of Systems Requirements (OSR) directs, develops and coordinates organizational information requirements and functional requirements for new systems and modifications to existing systems in direct support of SSA programs. OSR is responsible for long-range planning and analyses to define new and improved systems processes in support of user requirements and maintains a comprehensive, updated and integrated set of system requirement specifications. OSR directs validation of systems operations against user-defined requirements and performance criteria, and approves the resulting system for operational acceptance. It directs the development of procedures and instructions to support user needs in effective implementation of all systems. OSR is also responsible for all SSA-wide data administration including the overall operation of the SSA Data Resource Management Program. OSR develops security standards and ensures implementation of the standards within OSR. It directs the evaluation of the effect of proposed legislation, policies or regulations to determine the impact on SSA systems and develops information requirements and procedures as they relate to such legislation, regulations and SSA policy directives. It directs the coordination of user requirements with SSA central and regional operations to ensure the efficiency and effectiveness of program information needs and overall systems support. Based on input from users, OSR translates organizational information requirements and priorities into plans and, in line with OSDD and OSO systems targets, develops SSA's annual Automated Data Processing (ADP) Plan and directs development and maintenance of the plan. OSR serves as primary contact and advocate for the SSA user community on issues concerning the development of organizational information requirements, functional specifications and supporting operational procedures and instructions. OSR provides system support for the Agency's programmatic systems interactive validation environment, project management and control, resource management, ITS Budget/ADP Plan coordination, Agency Strategic Plan and workload scheduling.

Section S4H.10 *Office of Systems Requirements*—(Organization): The Office of Systems Requirements, under the leadership of the Associate Commissioner for Systems Requirements, includes:

A. The Associate Commissioner for Systems Requirements (S4H).

B. The Deputy Associate Commissioner for Systems Requirements (S4H).

C. The Immediate Office of the Associate Commissioner for Systems Requirements (S4H).

1. The Data Administration, Methods, Modeling and Processes Staff (S4H–2).

D. The Division of Claims and Control (S4HE).

E. The Division of Data Support and Enumeration (S4HG).

F. The Division of Earnings Control and Processing (S4HH).

G. The Division of Earnings Correction and Certification (S4HJ).

H. The Division of Payment Processes (S4HK).

I. The Division of Planning and Support (S4HL).

J. The Division of Requirements Support and Security (S4HM).

K. The Division of RSDI Postentitlement Systems (S4HN).

L. The Division of Supplemental Security Income Systems (S4HP).

M. The Division of Validation (S4HQ).

Section S4H.20 *The Office of Systems Requirements*—(Functions):

A. The Associate Commissioner for Systems Requirements (S4H) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OSR mission and providing general supervision to the major components of OSR.

B. The Deputy Associate Commissioner for Systems Requirements (S4H) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Systems Requirements (S4H) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

1. The Data Administration, Methods, Modeling and Processes Staff (S4H–2).

a. Responsible for all SSA-wide data administration, including responsibility for the overall operation of the SSA Data Resource Management Program.

b. Responsible for the development of Systems-wide policies, procedures and standards for the specific OSR phases of the life cycle development process and development of methods to assure the quality of systems products.

c. Serves as the focal point for coordinating the development and maintenance of the Software Engineering Technology (SET) for all OSR standards and procedures.

d. Responsible for providing assistance to the configuration management processes by developing strategies and guidelines for baselining automated functional requirements (FR) data bases.

e. Responsible for the integration of data and process models, as well as FRs and software design.

f. Responsible for the development of requirements for standardizing data collection across application areas.

g. Responsible for the development of proposals and recommendations for the new software engineering methods for use at SSA, based on extensive research into various methodologies utilized by other data processing installations.

h. Responsible for providing program expertise and process management direction and oversight for cross-cutting segments for all SSA systems initiatives, legislative initiatives or projects involving the initiation, interpretation and/or the implementation of administrative and programmatic systems.

i. Responsible for providing a variety of high level coordinative, analytical, consultative and advisory services to SSA as a whole relative to very visible and complex systems initiatives.

D. The Division of Claims and Control (S4HE).

1. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection for the retirement and disability initial claims processes, control of claims folders and claims-related material, the transaction control operation, RSDI disallowances, appeals processes and management data reports.

2. Participates, with the Division of Validation (DV), in the planning and conducting of integrated validation tests of new systems and modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

3. Develops and maintains a comprehensive, updated and integrated set of systems requirements specifications for the claims and control process.

4. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of claims and control to

VOL
60
ISS
86
MY
4
1995
UMI

OSDD for development of ADP specifications and systems design.

5. Evaluates legislative proposals, regulations and policy changes affecting the claims and control process.

6. Represents users in resolving system discrepancies and errors relating to existing claims and control processes with OSDD and OSO representatives.

7. Coordinates user requirements with SSA central and field offices to ensure the efficiency and effectiveness of program information needs and overall systems support.

E. The Division of Data Support and Enumeration (S4HG).

1. Plans, develops, validates, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection for data exchanges between SSA systems and other Federal and State agencies; for data base access to programmatic information; for access to SSA main and sub menus; for Telecommunications support; for the establishment, correction, maintenance and verification of Social Security numbers; for the issuance of new or replacement cards; for the updating of death data; and for the Death Master, News and Tride files, serves as the lead component in OSR for development of the Integrated Client database.

2. Participates, with DV, in the planning and conducting of integrated validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

3. Develops and maintains a comprehensive, updated and integrated set of systems requirements specifications for the enumeration process and for interface and data base access processes.

4. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the areas of enumeration, data base accesses and interfaces to OSDD for the development of ADP specifications and systems design.

5. Evaluates legislative proposals, regulations and policy changes affecting the enumeration process, system interfaces programmatic data base queries.

6. Represents users in resolving system discrepancies and errors relating to the existing interface, enumeration processes and programmatic queries with OSDD and OSO representatives.

7. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

F. The Division of Earnings Control and Processing (S4HH).

1. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including those relating to security and fraud detection, for reporting private and public sector earnings data; for establishment, correction and maintenance of earnings records for Trust Fund accounting information provided to the Department of the Treasury; for reconciling disagreements and resolving discrepancies; for the establishment and maintenance of employer identification information; for the classification of employers; for the employer reporting control and SSA/IRS reconciliation process; and for State and local reporting audit and reconciliation.

2. Participates, with DV, in the planning and conducting of integrated validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

3. Develops and maintains a comprehensive, updated and integrated set of systems requirements specifications for the earnings reporting and maintenance process, State and local contribution and liability, and the employer identification and control process.

4. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the areas of earnings reporting, State and local contributions and liability, and employer identification and control to OSDD for the development of ADP specifications and system design.

5. Evaluates legislative proposals, regulations and policy changes affecting the earnings reporting process, State and local contributions and liability, and the employer identification and control process.

6. Represents users in resolving systems discrepancies and errors relating to the existing earnings reporting and maintenance process, existing State and local contributions and liability, and employer identification and control processes with OSDD and OSO's representatives.

7. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

G. The Division of Earnings Correction and Certification (S4HJ).

1. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including those relating to security and fraud detection for use, access and exchange of earnings; for providing certified earnings data to support Titles II and XVI programmatic processes; for issuing earnings and benefit estimate statements; for reconciling disagreements and resolving discrepancies related to earnings data; and for reinstating earnings data from suspense.

2. Participates, with DV, in the planning and conducting of integrated validation tests of new systems or modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

3. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for earnings data use, item correction and data accessing processes.

4. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of earnings data use, item correction and data accessing processes to OSDD for the development of ADP specifications and systems design.

5. Evaluates legislative proposals, regulations and policy changes affecting use and maintenance of earnings data and data accessing processes.

6. Represents users in resolving system discrepancies and errors relating to earnings data uses and data accessing processes with OSDD and OSO representatives.

7. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall system support.

H. The Division of Payment Processes (S4HK).

1. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection, for the Master Beneficiary Record (MBR) update operations; Titles II and XVI check-related areas; the taxation process; overpayment, underpayment, misuse, fraud and civil suit actions; and benefit-related accounting operations.

2. Participates, with DV, in the planning and conducting of integrated validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

3. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the payment process.

4. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of Titles II and XVI payment processes to OSDD for the development of ADP specifications and systems design.

5. Evaluates legislative proposals, regulations and policy changes affecting the payment process.

6. Represents users in resolving system discrepancies and errors relating to existing payment processes with OSDD and OSO representatives.

7. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

I. The Division of Planning and Support (S4HL).

1. Directs development, operation and maintenance of Management Support Systems which provide automated support to OSR and DCS planning, monitoring, project and resource management functions. Analyzes management requirements and needs of other OSR components, and develops appropriate systems support capability. Acquires necessary ADP capability to meet user needs through equipment acquisition or timesharing agreements. Works with OSPI and OIM contractors and other involved components to develop, maintain and implement systems' management support and control processes to integrate OSR's management support systems and processes systems-wide.

2. Provides standards, procedures, systems support and technical assistance to OSR project managers to facilitate preparation of work plans. Directs review of project work plans to ensure completeness, compatibility with standards and managerial directives, and requirements and conformity to the ADP Plan, Configuration Control Board (CCB) decisions and other management decisions. Coordinates systems-wide approval of new and modified plans, and ensures that differences and conflicts among components are resolved. Provides for monitoring progress of work projects against work plans and reporting status to systems management.

3. Develops procedures and works with systems management to develop, maintain and implement configuration control and systems change control processes. Directs review and control of requests for modification of SSA systems and documentation of problems identified in the validation and production of application software environments. Ensures that all systems change requests are in accordance with ADP Plan and CCB decisions and correspond to approved project work plans. Monitors change requests through the systems life cycle, and ensures that all necessary concurrences and approvals are obtained.

4. Monitors DCS workloads, resource estimates and resource usage and provides comprehensive resource information to DCS management to support workload priority decisions. Directs resource estimation and reporting processes for OSR.

5. Plans and analyzes information and resource requirements to determine the requirements for new or improved systems processes to support long-term agency needs, and develops a final list of recommended requirements for new or improved systems, setting priorities among the requirements.

6. Develops, maintains and publishes the overall approved SSA plan for fulfilling short-term and long-range information system requirements, including determining, classifying and ranking systems needs of all SSA components, and recommends final priorities for approval. Documents all critical issues having major Agencywide impact and forwards them to the Associate Commissioner for Systems Requirements for resolution.

7. Coordinates approved system requirements changes for pre-claims and claims areas with system modernization plans maintained by OSDD. Coordinates OSR input to Agency and DCS planning processes.

8. Coordinates Modernized Systems Operating Manual (MSOM) activities including Version Directory Management, Indexing, Cataloging, Scheduling and Transmittal release and manages MSOM on CD–ROM activities.

9. Coordinates the evaluation of legislative proposals affecting SSA programs for DCS and performs implementation monitoring.

J. The Division of Requirements Support and Security (S4HM).

1. Develops controls, auditability and security standards for the organizational information requirements for all SSA systems, and ensures the implementation of the standards within all areas of OSR's functional responsibilities. Also, develops methods to improve control and security features based on established standards and cost/benefit considerations.

2. Reviews FR documents, requests for systems modifications, procedural issuance and related material developed by OSR components to determine adherence to SSA and the Office of Management and Budget standards relating to the security and integrity of SSA data processing and information systems.

3. Leads and/or coordinates reviews of programmatic processes and systems to identify weaknesses in control, auditability and security features, makes recommendations for improvement, and coordinates activities with other SSA components to ensure that approved recommendations are implemented.

4. Provides the capability for, and performs dynamic testing and static testing of, all programmatic systems in support of SSA and oversight Agency requirements, as well as in support of OSR control and audit process reviews.

5. Develops requirements for, and authorizes systems software changes to, various Control and Audit Test Facility software modules and programmatic modules used in the performance of static and dynamic testing, and validates those changes.

6. Coordinates with users and all systems components on Privacy Act and Freedom of Information Act (FOIA) issues to ensure that FRs and procedures are in conformance with that legislation.

7. Performs requirement analyses and definition and conveys SSA approved user needs and requirements in the area of audit data collection to OSDD for the development of ADP specifications and systems designs.

8. Reviews SSA approved security access control requirements to ensure that they reflect any recent additions or modifications to an applications functionality and conveys the requirements to OSO for an update of the access control apparatus.

9. Performs security, functional security, access control, Individuals of Extraordinary National Prominence and Social Security Number Block validations, and audit trail data collection validations to ensure that profiles are accurate, security does not interfere with the functionality of an application and audit trail data are properly collected.

10. Develops requirements for and validates software changes to the TOP SECRET Administration process.

11. Implements and supports the appropriate standards and procedures for functional requirements definition and analysis stages through the use of

VOL 60 ISS 86 MY 4 1995 UMI

Computer-Aided Software Engineering (CASE) tools.

12. Supports the procurement, use and integration of automated tools in support of OSR's development and maintenance of FRs, documents and data models for SSA's programmatic systems.

13. Defines, designs, develops and implements computer programs and automated processes which support the development and maintenance of integrated programmatic data processing systems.

14. Develops, maintains, and provides technical support of hardware, software and all networking functions within OSR.

15. Performs user analyses, develops functional requirements and validates PC programmatic applications and Expert systems that run on SSA's Intelligent Work Station/Local Area Network (IWS/LAN) platform to support its field offices nationwide.

K. The Division of RSDI Postentitlement Systems (S4HN).

1. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection, for ADP of RSDI postentitlement reports and events (work notices, student reports, etc.) that involve manual/automated suspensions, terminations or reinstatements; related beneficiary notices; address and/or representative-payee changes and Medicare enrollment, withdrawal and termination actions; critical case processing; attorney fees; and cyclical workloads (AERO, ARF/DRC, Earnings Enforcement), Black Lung processes and Drug Addiction and Alcohol (DA&A) processes.

2. Participates, with DV, in the planning and conducting of unit validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

3. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the RSDI Postentitlement process.

4. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of RSDI Postentitlement to OSDD for the development of ADP specifications and systems design.

5. Evaluates legislative proposals, regulations and policy changes affecting the RSDI Postentitlement process.

6. Represents users in resolving system discrepancies and errors relating to the existing RSDI Postentitlement process with OSDD and OSO representatives.

7. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

L. The Division of Supplemental Security Income Systems (S4HP).

1. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection for Title XVI (SSI) processes and redetermination operations.

2. Participates, with DV, in the planning and conducting of integrated validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

3. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications and validation tests of systems changes against user requirements and performance criteria and certifies that changes are in conformance with specifications for assigned areas of responsibility.

4. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of SSI initial claims and posteligibility operations, computation and record balancing operations, notices and redeterminations to OSDD for the development of ADP specifications and systems design.

5. Evaluates legislative proposals, regulations and policy changes affecting the SSI process.

6. Represents users in resolving system discrepancies and errors relating to the existing SSI process with OSDD and OSO representatives.

7. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

M. The Division of Validation (S4HQ).

1. Designs, develops, evaluates and implements automated techniques and methodologies for the validation and systems acceptance phases of system development in accordance with established standards and in support of modified operational systems and system modernization efforts.

2. Identifies and documents requirements for automated validation tools and validation data bases.

3. Designs, develops, evaluates and implements validation files and historical data bases, validation tools and model test plans for use by OSR components in conducting integrated validation tests.

4. Executes integration/validation tests and analyzes the results to ensure that all activities have been performed and all necessary outputs have been produced in order to assist in the validation of programmatic systems developmental, cyclical, and maintenance projects.

5. Coordinates with other system components and users in evaluating the analysis of the validation.

6. Performs integration and pilot validations, including operational procedures, to ensure that the functional requirements have been met and that the systems are free of operating faults.

7. Certifies resulting systems for operational acceptance.

8. Constructs periodic software version releases for modified operational systems and software modernization projects using systems change control procedures.

Subchapter S4J—Office of Systems Planning and Integration

S4J.00 Mission
S4J.10 Organization
S4J.20 Functions

Section S4J.00 *Office of Systems Planning and Integration*—(Mission): The Office of Systems Planning and Integration (OSPI) directs and conducts comprehensive systems integration and systems planning processes. It provides management leadership and direction to systems activities in the areas of software engineering technology and systems engineering management, including configuration management and quality assurance. It carries out a variety of technology assessment functions, including the development of pilot projects to evaluate specific technology applications in SSA. The Office develops the Information Technology Systems budget for Systems, prepares the detailed budget submission and develops monitoring and tracking systems. It also develops and monitors systems security policy for the systems community, and coordinates technical training activities for SSA Systems components.

Section S4J.10 *Office of Systems Planning and Integration*—(Organization): The Office of Systems Planning and Integration under the leadership of the Director for Systems Planning and Integration, includes:

A. The Director, Office of Systems Planning and Integration (S4J).

B. The Deputy Director, Office of Systems Planning and Integration (S4J).

C. The Immediate Office of the Director, Office of Systems Planning and Integration (S4J).

D. The Division of Systems Engineering (S4JA).

E. The Division of Systems Planning (S4JC).

Section S4J.20 *Office of Systems Planning and Integration*—(Function):

A. The Director, Office of Systems Planning and Integration (S4J) is directly responsible to the Deputy Commissioner, Systems for carrying out the Office of Systems Planning and Integration's mission and managing its respective components.

B. The Deputy Director, Office of Systems Planning and Integration (S4J) assists the Director in carrying out his/her responsibilities and performs other duties as the Director may prescribe.

C. The Immediate Office of the Director, Office of Systems Planning and Integration (S4J) provides internal operations and management analysis staff support and assistance to the Director, the Deputy Director and all of the Office of Systems Planning and Integration components.

D. The Division of Systems Engineering (S4JA) is responsible for the development of Systems-wide policies, procedures and standards for all phases of the systems life cycle development process and systems security and integrity; development of methods to assure the quality of systems products; and development and maintenance of the Software Engineering Technology, which includes the policies, standards, guidelines, procedures, tools and training elements pertaining to the following software life cycle stages: requirements definition and analysis, design, programming, validation, operation and review. The Division develops proposals and recommendations for new software engineering methods for use at SSA, based on extensive research into various methodologies utilized by other data processing installations. Develops and maintains quality assurance procedures and mechanisms to assure that software products satisfy user requirements and conform to the defined standards, guidelines and procedures of SSA systems. The Division is responsible for assessment of new technologies and planning for and acquiring technical training for systems personnel. It analyzes the current SSA data processing environment, future systems requirements and technology forecasts to evaluate the applicability of new technologies to SSA processes. It develops pilot projects to evaluate technologies, particularly in the area of artificial intelligence and expert systems, for selected applications. The Division evaluates technical and nontechnical training needs for all Systems offices and coordinates and evaluates vendor provided and inhouse training as applicable.

E. The Division of Systems Planning (S4JC) is responsible for development of SSA's Information Systems Plan (ISP) which sets forth SSA's major systems goals and objectives and the initiatives/projects to achieve them. It develops the Systems 5-year ITS plan and budget. It directs the fiscal management and tracking of ITS procurements and keeps management abreast of the status of all ITS acquisitions, systems life cycle costs and full-time equivalent utilization. The Division functions as an advisor and consultant to the Director, Office of Systems Planning and Integration, and the DCS, on all matters related to the development and execution of the ISP and the 5-year plan and budget. The Division is responsible for ongoing, formal change control procedures for the ISP and monitoring and reporting progress toward ISP project goals. It identifies major systems integration issues and develops alternative solutions and recommendations to the DCS. It also designs and maintains software systems such as the Resource Accounting System to track and report on personnel and computer resource utilization.

The Division operates the Systems Management Center, a fully-automated multimedia briefing center, and designs briefing material for SSA Executive Staff.

Subchapter S4K—Office of Information Management

S4K.00 Mission
S4K.10 Organization
S4K.20 Functions

Section S4K.00 *The Office of Information Management*—(Mission): The Office of Information Management (OIM) provides overall management of the SSA-wide administrative, management and statistical information systems. It is responsible for long-range planning and analyses to define new and improved systems processes to support SSA's long-term AMSI needs. Directs the coordination of user requirements with private contractors, the SSA user community and the State Disability Determination Services to ensure efficient and effective administration of MI needs and related systems support. Directs a comprehensive data base administration program for the control of SSA's AMSI data bases. Develops technical specifications for the acquisition, implementation and operation of AMSI ADP and telecommunications resources.

Section S4K.10 *The Office of Information Management*—(Organization): The Office of Information Management (S4K), under the leadership of the Associate Commissioner for Information Management, includes:

A. The Associate Commissioner for Information Management (S4K).

B. The Deputy Associate Commissioner for Information Management (S4K).

C. The Immediate Office of the Associate Commissioner for Information Management (S4K).

D. The Division of Information Resource Management (S4KB).

E. The Division of Information Systems Policy and Administration (S4KC).

F. The Division of Administrative Systems Development (S4KE).

G. The Division of Management Information Systems Development (S4KG).

Section S4K.20 *The Office of Information Management*—(Functions):

A. The Associate Commissioner for Information Management (S4K) is directly responsible to the Deputy Commissioner, Systems for carrying out OIM's mission and provides general supervision to the major components of OIM.

B. The Deputy Associate Commissioner for Information Management (S4K) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Information Management (S4K) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. Division of Information Resource Management (S4KB).

1. Coordinates with the staff components under the DCS on all areas within Division control, (e.g., ITS budget, MI systems design and delivery, ongoing user support).

2. Directs the development and monitoring of the ITS budget for OA/end-user computing/MI-related hardware, software and services.

3. Directs the preparation, review and approval of OA/end-user computing/MI procurements.

4. Maintains knowledge of each MI area and monitors support provided by division.

VOL
60
ISS
86
MY
4
1995
UMI

5. Directs SSA-wide work measurement and performance management systems, as well as component work measurement systems for the field, State agencies and Regional Program and Integrity Review offices.

6. Directs audits and analyses of MI systems and reports to ensure adherence to users' and Agency needs, Federal and SSA guidelines and integrity standards.

7. Serves as initial point of user contact for MI delivery-related problems.

8. Directs OIM's total quality management program and manages OIM's production environment, including systems support.

9. Plans, implements, integrates and controls Office Automation (OA) software functions at SSA and is responsible for development and dissemination of OA software acquisition and development policies, standards, guidelines and procedures.

10. Monitors technology trends and maintains current information on OA software products, development tools and techniques.

11. Works with SSA users to provide solutions to their OA requirements that are consistent with Agency OA policies.

12. Assists SSA users in refining OA requirements, configuring and engineering solutions, coordinating implementation and evaluating effectiveness.

13. Assists SSA users in determining OA applications, software and training needs, implementing solutions, planning for expansion.

14. Provides a full range of initial and follow-up OA applications, software and development support for SSA users in requirements analysis, system design, engineering, implementation and training.

15. Directs the preparation, acquisition and management of contracts for OA/end-user computing/MI hardware, software and support services.

F. Division of Information Systems Policy and Administration (S4KC).

1. Plans, formulates, develops and maintains SSA's MI policy.

2. Develops and maintains strategic and technical level views and plans from an OIM automated information systems integration perspective (e.g., cross application area integration) to define how the various OIM automated information systems map into SSA's MI logical and physical information systems architectures as required by the Agency's MI policy. Manages the technical aspects related to such views, plans and MI integration.

3. Plans, develops and coordinates MI policy and integration among all involved SSA components, and plans for the transition to, and integration with, current SSA automated information systems and with those of the future.

4. Initiates and submits project proposals through the formal OIM review and approval process for development of new or modified automated information systems where necessary to facilitate integration among SSA's administrative and MI systems under the Agency's logical and physical MI systems architectures.

5. Represents SSA and works with other Government agencies and the private sector on issues involving MI policy, automated information systems, integration, software development, exchange of information, information systems data and data base topics, and other MI and automated information systems related matters.

6. Plans, develops, administers and maintains SSA's administrative and MI data, and data base requirements and standards in consultation with internal OIM Divisions and external SSA components. Assists in the development, maintenance and enforcement of SSA's end-user computing policies, standards and procedures.

7. Responsible for SSA's Information Systems Data and DataBase Administration functions as well as providing support to other internal OIM Divisions and liaison with external components.

8. Responsible for formulating and maintaining the Information Systems Architecture supporting SSA's administrative and MI systems.

9. Responsible for developing systems requirements and validation in support of new automated MI systems.

10. Provides fourth and fifth generation computer language support to end-users and developers of Administrative/MI systems.

G. Division of Administrative Systems Development (S4KE).

1. Responsible for the entire administrative systems development life cycle.

2. Designs, develops, coordinates and implements new administrative application systems and enhancements to existing systems which include quality assurance, financial/physical and human resources, and planning/policy and procedures.

3. Assists other parts of OIM in procurement associated with application projects.

H. Division of Management Information Systems Development (S4KG).

1. Responsible for the entire MI systems life cycle.

2. Designs, develops, coordinates and implements new MI application systems and enhancements to existing systems which include workload management, work measurement, program demographics, earnings and employee/employer statistics.

3. Assists other parts of OIM in procurements associated with application projects.

Subchapter S4L—Office of Telecommunications

S4L.00 Mission
S4L.10 Organization
S4L.20 Functions

Section S4L.00 *The Office of Telecommunications*—(Mission): The Office of Telecommunications (OTC) plans, implements and evaluates SSA's communications technology and systems. It is responsible for evaluating current and emerging communications technologies and for designing, acquiring, implementing, operating and maintaining new integrated telecommunications systems combining voice, data, video, facsimile, and other SSA communications requirements. OTC directs, manages and coordinates the planning, analysis, design, acquisition, implementation, operation and maintenance of SSA's existing telecommunications systems. It manages the telecommunications operations complexes located at the Central Office, Regional Offices and field sites. It is responsible for SSA's comprehensive voice communication management program.

Section S4L.10 *The Office of Telecommunications*—(Organization): The Office of Telecommunications (S4L), under the leadership of the Associate Commissioner for Telecommunications, includes:

A. The Associate Commissioner for Telecommunications (S4L).

B. The Deputy Associate Commissioner for Telecommunications (S4L).

C. The Immediate Office of the Associate Commissioner for Telecommunications (S4L), which includes:

1. The Distributed Data Processing Management Staff (S4L–1).

D. The Telecommunications Resource Management Staff (S4LC).

E. The Division of IWS/LAN Engineering (S4LE).

F. The Division of Integrated Telecommunications Management (S4LG).

G. The Division of Wide-Area Network Engineering (S4LH).

H. The Division of Telecommunications Operations (S4LJ).

Section S4L.20 *The Office of Telecommunications*—(Functions):

A. The Associate Commissioner for Telecommunications (S4L) is directly responsible to the Deputy Commissioner, Systems, for carrying out the OTC mission and providing general supervision to the major components of OTC.

B. The Deputy Associate Commissioner for Telecommunications (S4L) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Telecommunications (S4L) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities. It includes:

1. Distributed Data Processing Management Staff (S4L–1).

a. Directs the plans and activities to implement distributed data processing systems across SSA.

b. Initiates major program, subprogram, project and task activities in support of the implementation of Distributed Data Processing Management Staff (DDPMS) plans outlined in the Integrated Systems Plan and the Agency Strategic Plan.

c. Oversees/coordinates all DDPMS implementation activity among all systems components including the incorporation of office automation, programmatic systems, existing distributed-type systems, stand-alone personal computer-based systems, pilot systems and user-developed systems into a unified distributed processing environment.

d. Develops and manages the DDPMS procurement plan, outlining all acquisitions related to the project. Manages the development of distributed data processing acquisitions in the intelligent IWS/LAN areas.

e. Develops and manages the delivery, implementation and acceptance plans for DDPMS acquisitions.

f. Manages the evaluation process for all technology substitutions, technology refreshments, upgrades and unsolicited proposals for DDPMS. Manages the administration of DDPMS contracts to include amendments, cancellations and renewals.

g. Establishes and maintains the coordination and liaison interfaces to all other systems components, all SSA central office and field components and external committees, conferences and organizations involved in and affected by DDPMS.

h. Approves technical specifications, technical evaluation criteria, technology substitution specifications for DDPMS-related workstation, network and application acquisitions.

i. Directs project activities to ensure that SSA-level DDPMS initiatives maintain compatibility with Governmentwide ITS standards.

D. The Telecommunications Resource Management Staff (S4LC).

1. Manages, plans and coordinates the activities relating to business and financial planning of SSA's telecommunications needs.

2. Manages and plans for the acquisition of network hardware, software and related services. Controls, reviews and tracks status of telecommunications requisitions through the procurement process.

3. Coordinates within OTC and SSA the planning of the design and configuration of the telecommunications network.

4. Serves as focal point for procurement of telecommunications and related equipment and services.

5. Coordinates within OTC the development of planning documents assessing current and future technology for suitability and impact on the telecommunications network.

6. Develops short-term and long-range telecommunications strategic plans and telecommunications macro strategic plans.

7. Assists SSA users in determining network requirements and interfacing needs. It is responsible for the coordination of strategic and tactical planning and implementing telecommunications expansion.

8. In conjunction with other Systems components, develops user service level agreements in support of the telecommunications solutions.

9. Develops, executes and monitors the telecommunications network portion of the ITS budget. Monitors budgetary commitments for contract awards of network telecommunications acquisitions.

10. Maintains a database of telecommunications hardware and software and ensures proper disposition of telecommunications equipment no longer in use.

E. The Division of IWS/LAN Engineering (S4LE).

1. Responsible for all aspects of engineering, design, configuration, implementation and support of LAN Operating System (OS) software, telecommunications and connectivity service functions at SSA.

2. Responsible for telecommunications and connectivity projects, including acquisition, implementation, integration and control.

3. Develops, disseminates and enforces standards and policies relating to workstations, workstation configurations, peripherals, LANs, LAN OS, local bridges and routers and related customer support and service.

4. Works with SSA users to provide solutions to LAN telecommunications needs that are consistent with SSA-network architecture policies; determines network and interfacing hardware needs, implementing solutions, planning and expansion; and determines staff hardware training needs. It assists SSA telecommunications users in determining and refining services and support requirements, configuration and engineering solutions, planning for future needs, coordinating implementation and evaluating effectiveness.

5. Provides a full range of initial and followup telecommunications and connectivity services and support for SSA users in network requirements analysis, system design, LAN needs determination, engineering, implementation, network control, OS software support and training.

6. Supports operating system and connectivity software on the LANs and IWS. It researches and tests current off-the-shelf products for their network configuration to LAN and workstation needs.

7. Develops and distributes research papers on applied technology and its relationship to existing and future telecommunications and connectivity requirements. It also develops alternate systems configurations to meet specific alternative requirements (non-traditional technology approaches).

8. Solves network problems by applying information on state-of-the-art OS, telecommunications and connectivity software and hardware currently available in the marketplace. It develops turn-key telecommunications systems and special menus to meet unusual customer requirements.

F. The Division of Integrated Telecommunications Management (S4LG).

1. Plans and manages the strategic and tactical direction of the SSA voice communications and voice-data integration programs.

2. Provides technical and analytical support for the National 800 Number and other communications initiatives and programs.

3. Provides and manages voice communications systems hardware, software, services and ancillary equipment for SSA nationwide.

VOL 60 ISS 86 MY 4 1995 UMI

4. Directs the acquisition, operations, maintenance, retention and disposal of voice communications systems and services SSA-wide. Develops and administers voice communications ITS contracts.

5. Administers Federal Telecommunication System (FTS) 2000 services SSA-wide and supports OTC in representing SSA in all related negotiations with SSA, General Services Administration and FTS vendors and carriers.

6. Directs the evaluation, acquisition, installation, operation and disposal of voice communications systems and services for SSA nationwide.

7. Serves as the SSA focal point for voice communications capacity planning.

8. Manages SSA-wide programs for imaging, video, facsimile, satellite, radio and emergency communications.

9. Manages SSA headquarters voice communications systems.

10. Serves as SSA-level liaison with Federal, State and other government and private-sector entities on voice communications and voice-data integration.

11. Manages within SSA the development and application of emerging voice communications technology.

12. Manages technical solutions for "800" and other toll-free services SSA-wide.

13. Manages the acquisition of data circuits.

G. The Division of Wide-Area Network Engineering (S4LH).

1. Directs the design, development, implementation, maintenance and support of specialized data communications software to support SSA's international network (SSANet).

2. Responsible for network design, connectivity, management, automation, availability, performance and capacity planning and modeling.

3. Researches network prototypes and performs testing of new network technologies and implements and monitors network standards.

4. Supports SSA components as well as other Government agencies to provide optimum network interface design, management capabilities, connectivity, availability and response time.

5. Integrates and validates new network hardware, software products, versions and maintenance levels into SSANet and SSANet connectivity management.

6. Manages and coordinates all change management system control relating to network hardware and software changes to SSANet under the auspices of the change management facility.

7. Performs Level 3 network monitoring and problem determination for the SSANet.

8. Develops and implements a network backup recovery.

9. Performs network software planning, installation and management at all remote sites.

10. Serves as the SSA-level liaison with Federal, State, and local Government agencies and with the private sector to integrate them into the SSA network.

11. Responsible for SSANet software distribution and version management.

12. Interfaces with SSANet users to determine the impact of new applications and workloads and supports user liaison and systems development activities of other SSA components in the resolution of network technical and operational problems.

13. Manages communications software changes to ensure compatibility with hardware modifications at Central Office and all remote network platform locations.

14. Directs the planning, analysis and design of specialized network software systems for providing information relevant to the development of existing and proposed data communications systems.

H. The Division of Telecommunications Operations (S4LJ).

1. Manages the installation, relocation and operation of SSA's telecommunications network facilities for the transmission of program and management data over SSA established networks.

2. Monitors telecommunications operations, analyzes equipment problems and effects proper maintenance and repair.

3. Develops and directs the implementation of new procedures and updates existing procedures for network node operations.

4. Escalates outages to vendor management for prompt resolution and is responsible for the repair of advanced communications electronics equipment.

5. Provides emergency support services for equipment reconfiguration as well as repair, assembly/disassembly and installation of advanced telecommunications electronics.

6. Serves as the initial point of contact for user and technical problem determination for telecommunications. Diagnoses data-center hardware and network problems and coordinates network operations issues with applications and systems support staff.

7. Monitors and controls functions for the nationwide telecommunications system. Develops operational procedures to modernize and streamline network operation and develops plans for automation.

8. Manages traffic flow between telecommunications complexes and other SSA complexes.

9. Communicates status of the network to other network nodes and advises users of abnormal or extraordinary situations affecting network operations.

10. Monitors voice communications operations, analyzes equipment problems and effects proper maintenance and repair.

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S7 for the Office of the Deputy Commissioner, Human Resources is being amended to reflect internal organizational realignments and the deletion of all references to the Department of Health and Human Services as the parent agency of SSA. The following material replaces Chapter S7 in its entirety.

Chapter S7—Office of the Deputy Commissioner, Human Resources

S7.00 Mission
S7.10 Organization
S7.20 Functions

Section S7.00 *The Office of the Deputy Commissioner, Human Resources*—(Mission): The Office of the Deputy Commissioner, Human Resources (ODCHR) directs the administration of comprehensive SSA human resources programs including: personnel management, labor management relations, employee relations, civil rights and equal opportunity, training and workforce analysis.

Section S7.10 *The Office of the Deputy Commissioner, Human Resources*—(Organization): The Office of the Deputy Commissioner, Human Resources, under the leadership of the Deputy Commissioner, Human Resources, includes:

A. The Deputy Commissioner, Human Resources (S7).

B. The Assistant Deputy Commissioner, Human Resources (S7).

C. The Immediate Office of the Deputy Commissioner, Human Resources (S7A).

D. The Office of Personnel (S7B).

E. The Office of Labor Management Relations (S7C).

F. The Office of Civil Rights and Equal Opportunity (S7E).

G. The Office of Training (S7G).

H. The Office of Workforce Analysis (S7H).

Section S7.20 *The Office of the Deputy Commissioner, Human Resources*—(Functions):

A. The Deputy Commissioner, Human Resources (DCHR) (S7) is directly responsible to the Commissioner for carrying out the ODCHR mission and providing general supervision to the major components of ODCHR as well as guidance, support and technical assistance to the SSA regional personnel administration operation.

B. The Assistant Deputy Commissioner, Human Resources (S7) assists the Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Deputy Commissioner may prescribe.

C. The Immediate Office of the Deputy Commissioner, Human Resources (S7A) provides the Deputy Commissioner and the Assistant Deputy Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Personnel (OPE) (S7B) is directly responsible to the Deputy Commissioner for Human Resources for carrying out OPE's mission and for providing general supervision to the major components of OPE. The Office directs a comprehensive SSA personnel management program. It develops, implements and maintains a fully integrated and coordinated personnel management program responsive to the needs of SSA. The Office manages personnel programs in the following areas: personnel policy and research, personnel data, position classification and organization management, recruitment and placement, employee counseling, personnel management evaluation, executive personnel services, employee assistance services, personnel information planning, employee recognition and health services.

E. The Office of Labor Management Relations (OLMR) (S7C) is directly responsible to the Deputy Commissioner for Human Resources for carrying out OLMR's mission and for providing general supervision to the major components of OLMR. The Office manages the SSA labor management relations program, including the development and evaluation of the program and the formulation of SSA-wide labor management relations policy.

F. The Office of Civil Rights and Equal Opportunity (OCREO) (S7E) is directly responsible to the Deputy Commissioner for Human Resources for carrying out OCREO's mission and for providing general supervision to the major components of OCREO. The Office provides overall management of the SSA-wide programs of civil rights and equal opportunity, including the development of SSA-wide civil rights and equal opportunity policy.

G. The Office of Training (OT) (S7G) is directly responsible to the Deputy Commissioner for Human Resources for carrying out OT's mission and for providing general supervision to the major components of OT. The Office manages and administers a national training program to enhance SSA's capability of providing effective and efficient service to the public. It develops and issues Agencywide policies, procedures and operational guidelines for the design, development, implementation, maintenance and evaluation of all SSA training activities. It directs the financial management of training monies to ensure accountability of money spent to train and develop the Agency's employees.

H. The Office of Workforce Analysis (OWA) (S7H) is directly responsible to the Deputy Commissioner for Human Resources for carrying out OWA's mission and providing general supervision to the major components of OWA. The Office develops, implements and directs a comprehensive program of management studies, research and analysis. It implements a comprehensive workforce effectiveness program and conducts studies of work processes and procedures. It provides SSA liaison with other Federal agencies and outside sources on these matters.

Subchapter S7B—Office of Personnel

S7B.00 Mission
S7B.10 Organization
S7B.20 Functions

Section S7B.00 *The Office of Personnel*—(Mission): The Office of Personnel (OPE) directs a comprehensive program designed to provide the full range of personnel management programs, including personnel management evaluation, executive personnel services, recruitment and placement, employee counseling, personnel policy and research, personnel data, employee assistance services, personnel information planning, employee recognition, health services and classification and organization management. The Office develops policy and guidelines for the SSA-wide management of those programs and evaluates the manner in which they are carried out.

Section S7B.10 *The Office of Personnel*—(Organization): The Office of Personnel under the Associate Commissioner, Office of Personnel, includes:

A. The Associate Commissioner, Office of Personnel (S7B).

B. The Deputy Associate Commissioner, Office of Personnel (S7B).

C. The Immediate Office of the Associate Commissioner, Office of Personnel (S7B).

D. The Project Management Staff (S7BH).

E. The Personnel Management Information Systems and Payroll Staff (S7BJ).

F. The Center for Personnel Operations (S7BK).

G. The Center for Personnel Policy and Program Development (S7BE).

H. The Center for Employee Services (S7BG).

Section S7B.20 *The Office of Personnel*—(Functions):

A. The Associate Commissioner, Office of Personnel (S7B) is directly responsible to the Deputy Commissioner, Human Resources for carrying out the Office of Personnel's mission and for providing general supervision to the major components.

B. The Deputy Associate Commissioner, Office of Personnel (S7B) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner, Office of Personnel (S7B) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Project Management Staff (S7BH).

1. Provides the Associate Commissioner with a staff of self-managed work/project teams of a temporary nature which can be rapidly deployed to address high priority, interdisciplinary personnel projects of a specialized nature. The staff expands or contracts based upon the workload at any given time.

2. Directs an SSA-wide program for inspection and evaluation of SSA's personnel management program including employment and staffing, position management and classification, employee relations, equal employment opportunity and labor relations. Conducts administrative surveys and special studies to provide managers with information and assistance to assure conformance with Office of Personnel Management (OPM) regulations and SSA policies and directives.

3. Designs, analyzes and implements a variety of research projects in the areas of personnel management.

VOL 60 ISS 86 MY 4 1995 UMI

E. The Personnel Management Information Systems and Payroll Staff (S7BJ).

1. Plans and directs ongoing development, analysis and evaluation of SSA's personnel recordkeeping systems; develops general objectives and performance standards for automated systems and detailed specifications for development or modification of computer programs used in automated systems; and proposes changes in these systems to meet SSA's human resources data, statistics and information needs.

2. Coordinates, with SSA's Office of the Deputy Commissioner for Systems, the planning, development, modification and evaluation of automated systems.

3. Plans, designs and evaluates the use of personal computers and provides office automation support for human resources systems.

4. Operates selected data processing/office automation systems in OPE.

5. Reviews and processes all personnel and payroll actions in conformance with OPM regulations.

F. The Center for Personnel Operations (S7BK).

1. Develops and implements policies and regulations pertaining to SSA recruitment and placement, including policies and guidelines for SSA administration of the Senior Executive Service (SES). Initiates and processes personnel actions for SSA Headquarters employees; participates with office managers and staffs in assessing placement actions; and directs the administration of all Merit Promotion Plans applicable within Baltimore/Washington/Falls Church Headquarters components. Processes necessary administrative actions required for new employees entering on duty.

2. Develops and implements SSA-wide programs of position classification, position management and personnel security within SSA Headquarters. Directs position classification, position management and personnel security activities having SSA-wide significance.

3. Provides advice and assistance to all SSA components on activities and issues that involve position classification and position management; serves as the central SSA referral point on these programs; and acts as SSA liaison with OPM and other non-SSA entities and organizations with respect to assigned areas of responsibility.

4. Formulates and oversees the implementation of policies, procedures, standards, directives and objectives which assure that position structure and management promote cost-effective operations and the efficient use of employee skills.

5. Provides leadership and coordination in the formulation of SSA policies, directives and programs relating to the Fair Labor Standards Act and to salary and wage surveys; conducts a continuing review of the applicability of classification standards; and, as appropriate, negotiates with OPM for the revision of such standards or the development of single Agency standards.

6. Authorizes the establishment of positions and organizations, providing advice and guidance to managers on organizational structure and preparing **Federal Register** and Organization Manual material.

7. Implements policies, regulations and programs pertaining to special recruitment and staffing activities for SSA Headquarters and field organizations. Develops and implements student employment programs.

8. Directs the development and administration of SSA services concerning employee benefit programs which include the Civil Service Retirement System, the Federal Employee Retirement System, the Thrift Savings Plan, the Federal Employees Group Life Insurance Program and the Federal Employees Health Benefits Program.

9. Provides for the establishment and maintenance of the Official Personnel Folders for SSA Headquarters employees.

10. Develops and implements all SSA policies and activities relating to the Agency's executive level personnel management program.

11. Recruits for and places individuals in positions in the SES in accordance with OPM regulations.

12. Provides staff support to the Executive Resources Board in administering a systematic program to manage SSA's executive and professional resources and ensuring the appropriate selection of candidates to participate in official executive development programs.

13. Provides staff support to the Performance Review Board in reviewing performance plans and subsequent appraisals of career and noncareer executives in SES and employees in equivalent level positions.

G. The Center for Personnel Policy and Program Development (S7BE).

1. Directs the formulation and issuance of SSA personnel policies and directives. Provides guidance on matters pertaining to such areas as staffing, compensation, appraisals and performance standards, personnel information disclosure and management communications and ensures that guidance is consistent with pertinent laws, regulations and policies. Oversees the dissemination and implementation of SSA-wide policies and directives pertaining to personnel management areas. Directs the development and maintenance of the SSA personnel manual system, reviewing all issuances under this system.

2. Directs the development and operation of SSA performance and employee awards programs. Develops and implements SSA employee suggestion, incentive and honor awards programs and administers the performance management systems.

H. The Center for Employee Services (S7BG).

1. Provides professional counseling and referral services for employees with mental health problems and for employees with alcohol or drug problems. Provides technical advice and guidance to SSA management officials on matters related to these functions.

2. Develops, implements and evaluates SSA's employee health services programs in conformance with appropriate laws, policies and regulations.

3. Directs the development and operation of SSA's Workers' Compensation services program. Provides assistance to employees regarding claims for loss of wages, settlement awards, notices of injury and required medical reports.

4. Provides overall coordination and direction to work environment improvement efforts within SSA. Coordinates a variety of studies throughout SSA designed to improve the work environment.

5. Plans, develops and implements a variety of employee and family-oriented programs and services in the areas of Child Care, Elder Care, fitness and wellness, Career/Life Planning and financial counseling.

Subchapter S7C—Office of Labor Management Relations

S7C.00 Mission
S7C.10 Organization
S7C.20 Functions

Section S7C.00 *The Office of Labor Management Relations*—(Mission): The Office of Labor Management Relations (OLMR) provides overall management of an SSA-wide program of labor management and employee relations, including the development and evaluation of the program and the formulation of SSA-wide labor management relations policy.

Section S7C.10 *The Office of Labor Management Relations*—(Organization): The Office of Labor Management Relations under the leadership of the Director, Office of Labor Management Relations, includes:

A. The Director, Office of Labor Management Relations (S7C).

B. The Human Resources Manager, Office of Labor Management Relations (S7C).

C. The Immediate Office of the Director, Office of Labor Management Relations (S7C).

Section S7C.20 *The Office of Labor Management Relations*—(Functions):

A. The Director, Office of Labor Management Relations (S7C) is directly responsible to the Deputy Commissioner, Human Resources for carrying out OLRM's mission and for providing general supervision to the major components of OLRM.

B. The Human Resources Manager, Office of Labor Management Relations (S7C) assists the Director in carrying out his/her responsibilities and performs other duties as the Director may prescribe.

C. The Immediate Office of the Director, Office of Labor Management Relations (S7C) provides the Director and the Human Resources Manager with staff assistance on the full range of their responsibilities.

1. Administers the Master Agreement nationwide. Negotiates midterm contractual issues with the recognized bargaining unit(s).

2. Provides technical and advisory services and expertise to management in establishing management negotiating positions and for representation in third-party proceedings. Coordinates SSA representation in unfair labor practice complaints before the Federal Labor Relations Authority.

3. Represents SSA at unemployment compensation hearings and on management-initiated actions under appeal to the Merit Systems Protection Board and before arbitrators.

4. Provides technical guidance in developing, implementing and administering performance plans and standards.

5. Responsible for negotiation, administration and implementation of SSA national labor agreements which include prenegotiation activities, team preparation, advisory services and problem resolution.

6. Maintains files of case law which affect contracts and researches bargaining history relevant to establishing management's position at third-party proceedings and negotiations.

7. Formulates SSA policy for the labor management and employee relations programs, and researches policy questions for management.

8. Negotiates national midterm personnel policy-related issues and coordinates SSA management representation at national-level arbitration, unfair labor practice hearings and national-level meetings with the recognized bargaining units.

9. Conducts statutory review of all Memoranda of Understanding negotiated agencywide. Administers and maintains arbitration panels.

10. Develops, implements and evaluates SSA programs involving disciplinary and adverse actions, performance-based actions, grievances, appeals and serious misconduct cases. Provides advisory services to management and prepares documentation for headquarters' managers pertaining to such cases. Provides consultation to SSA management on nonbargaining unit grievances.

Subchapter S7E—Office of Civil Rights and Equal Opportunity

S7E.00 Mission
S7E.10 Organization
S7E.20 Functions

Section S7E.00 *The Office of Civil Rights and Equal Opportunity*—(Mission): The Office of Civil Rights and Equal Opportunity (OCREO) provides overall management of the SSA-wide programs of civil rights and equal opportunity.

Section S7E.10 *The Office of Civil Rights and Equal Opportunity*—(Organization): The Office of Civil Rights and Equal Opportunity, under the leadership of the Director, Office of Civil Rights and Equal Opportunity, includes:

A. The Director, Office of Civil Rights and Equal Opportunity (S7E).

B. The Immediate Office of the Director, Office of Civil Rights and Equal Opportunity (S7E).

Section S7E.20 *The Office of Civil Rights and Equal Opportunity*—(Functions):

A. The Director, Office of Civil Rights and Equal Opportunity (S7E) is directly responsible to the Deputy Commissioner, Human Resources for carrying out OCREO's mission and for providing general supervision to the major components of OCREO.

B. The Immediate Office of the Director, Office of Civil Rights and Equal Opportunity (S7E) provides the Director with staff assistance on the full range of his/her responsibilities.

1. Directs implementation and evaluation of the SSA Equal Employment Opportunity Discrimination Complaint program for both Headquarters and the field. Provides advice, guidance and assistance to SSA officials concerning the discrimination complaint program area and related management matters.

2. Provides leadership, guidance and direction in formulating and implementing SSA policies, regulations and procedures pertaining to the timely, accurate, fair and impartial processing of discrimination complaints throughout the Headquarters and field organizations.

3. Provides overall direction regarding all aspects of SSA's complaint system in order to ensure uniformity in complaint handling, resolution and disposition. Directs the preparation of guidelines on all complaint matters.

4. Prepares proposed dispositions on complaints of discrimination against SSA. Ensures compliance with any corrective or remedial action directed by SSA, Equal Employment Opportunity Commission (EEOC) or any other agency having authority to so direct.

5. Develops litigation information and documentation for the Office of the General Counsel and the U.S. Attorney's Office in employment discrimination court suits filed against SSA. Prepares the Agency's brief for complaints appealed to EEOC. Also, responds to interrogatories submitted in class complaints. Analyzes new and recent court decisions, public laws and Federal regulations for their impact on SSA complaint processing.

6. Directs special projects and studies of the various aspects of SSA's nationwide discrimination complaint process to evaluate the overall effectiveness of the equal opportunity program. Directs the analysis of trends observed during projects and studies and implements new procedures as required.

7. Provides the authoritative interpretations on legal, regulatory and technical discrimination complaint matters to SSA management nationwide.

8. Implements policies, regulations and affirmative action programs, and develops and implements special needs placement programs related to the Disabled program.

9. Directs the development and monitoring of SSA's equal opportunity and civil rights programs.

10. Provides leadership, direction and guidance throughout the Headquarters and field organizations in the formulating and implementing of SSA policies, regulations and procedures pertaining to the development of sound affirmative civil rights and equal opportunity programs. Approves, on behalf of the Deputy Commissioner, affirmative employment program plans prepared by components and regions.

VOL
60
ISS
86
MY
4
1995
UMI

Develops the overall SSA affirmative employment program plan.

11. Develops guidelines and procedures for effective affirmative employment program planning and monitoring throughout SSA. Develops recommendations on affirmative employment policy and operations for the Director, OCREO.

12. Reviews non-SSA equal opportunity and civil rights issuances, EEOC and court decisions for applicability to SSA policy statements. Develops instructions and guidelines to transmit or implement equal opportunity and civil rights policy decisions in SSA.

13. Conducts and coordinates studies or analyses of SSA's human resources and operating policies and procedures to assess their equal opportunity and civil rights impact.

14. Directs the development and maintenance of minority disabled persons employment information system(s) for SSA employees and applicants for employment.

15. Develops and tracks SSA's major initiatives that relate to civil rights and equal opportunity and oversees their implementation.

16. Plans, directs and implements special programs for minority, female, Hispanic and disabled employees of SSA.

17. Directs the SSA-wide program of processing civil rights complaints, which involves developing complaint policy, procedures and guidelines for applying standards under the civil rights statutes. Develops SSA standards, consistent with government-wide standards, for delivering services to members of the public and meeting other SSA service and outreach commitments under civil rights statutes.

18. Develops, implements, monitors and evaluates special recruitment plans, programs and projects for targeted equal opportunity groups.

19. Develops, monitors and evaluates SSA compliance program(s) under civil rights statutes.

Subchapter S7G—Office of Training

S7G.00 Mission
S7G.10 Organization
S7G.20 Functions

Section S7G.00 *The Office of Training*—(Mission): The Office of Training (OT) directs a nationwide program designed to assure that all levels of SSA employees receive the training necessary to provide effective and efficient service to the public.

Section S7G.10 *The Office of Training*—(Organization): The Office of Training under the leadership of the Director, Office of Training, includes:

A. The Director, Office of Training (S7G).

B. The Immediate Office of the Director, Office of Training (S7G).

C. The Administrative Staff (S7GC).

D. The Human Resources Planning Staff (S7GE).

E. The Center for Technology and Employee Development (S7GG).

F. The Center for Program Initiatives and Management Education (S7GH).

G. The Center for Educational Research and Evaluation (S7GJ).

Section S7G.20 *The Office of Training*—(Functions):

A. The Director, Office of Training (S7G) is directly responsible to the Deputy Commissioner, Human Resources for carrying out OT's mission and for providing general supervision to the major components of OT.

B. The Immediate Office of the Director, Office of Training (S7G) provides the Director with staff assistance on the full range of his/her responsibilities.

D. The Administrative Staff (S7GC) plans, directs, coordinates and administers the activities relative to developing and executing budget activities; acts as OT liaison with Personnel on such personnel matters as classification, position management, staffing and recruitment; plans, formulates and implements SSA training policies; and provides overall support and coordination to the training function. Coordinates travel, training and conference attendance for office staff.

E. The Human Resources Planning Staff (S7GE) is responsible for the development, implementation and updating of SSA's Human Resources Plan. This plan provides for the development of an SSA staffing and recruitment plan, for training employees once they enter on duty, for providing the means for employee development beyond training for the initial position for which the employee was recruited and for retaining Agency employees.

F. The Center for Technology and Employee Development (S7GG).

1. Directs the design, development, implementation and evaluation of Title II disability related program/technical training for SSA components, including entry-level and advanced program, systems-user and computer technology training and other technical training to meet the needs of SSA components Agencywide.

2. Develops guidelines and procedures to determine technical training needs for disability related training programs, and reviews and evaluates technical training Agencywide.

3. Initiates independent studies and analyses to anticipate and identify new or changing training and development needs in a dynamic organizational environment.

G. The Center for Program Initiatives and Management Education (S7GH).

1. Directs the design, development, implementation and evaluation of Title II Retirement Survivor Insurance-related program/technical training for SSA components, including entry-level and advanced program, systems-user and computer technology training and other technical training to meet the needs of SSA components Agencywide.

2. Directs, designs, develops, implements, conducts and evaluates all SSA supervisory, managerial and executive level training development activities.

3. Develops guidelines and procedures to determine technical training needs for Retirement, Survivor Insurance-related training programs, and reviews and evaluates technical training Agencywide.

4. Has Agencywide responsibility for common needs and general skills training, including related developmental activities for nonsupervisory personnel.

H. The Center for Educational Research and Evaluation (S7GJ).

1. Directs the design, development, implementation and evaluation of Title XVI program/technical training for SSA components, including entry-level and advanced program, systems-user and computer technology training and other technical training to meet the needs of SSA components Agencywide.

2. Develops guidelines and procedures to determine technical training needs, and reviews and evaluates technical training Agencywide.

3. Engages in applied research and development efforts associated with training and development programs administered by the center. Provides ongoing consultative assistance and support to SSA components, including training needs identification and program design. Monitors and evaluates Agency training and developmental activities to ensure desired results and effects of non-technical training provided to the Agency's employees. Fosters and maintains effective communications with appropriate internal and external organizations to ensure positive results relative to Agency objectives, policy directives, new initiatives, inservice training needs, etc.

4. Develops guidelines and procedures to determine technical training needs for Title XVI training programs, and reviews and evaluates technical training Agencywide.

5. Conducts ongoing research to identify automated technologies and instructional methodologies for application to training throughout SSA.

Subchapter S7H—Office of Workforce Analysis

S7H.00 Mission
S7H.10 Organization
S7H.20 Functions

Section S7H.00 *The Office of Workforce Analysis*—(Mission): The Office of Workforce Analysis (OWA) directs a comprehensive program of management studies, research and analysis. It implements and manages a comprehensive workforce effectiveness system and conducts studies of work processes and procedures.

Section S7H.10 *The Office of Workforce Analysis*—(Organization): The Office of Workforce Analysis under the leadership of the Director, Office of Workforce Analysis, includes:

A. The Director, Office of Workforce Analysis (S7H).

B. The Immediate Office of the Director, Office of Workforce Analysis (S7H).

Section S7H.20 *The Office of Workforce Analysis*—(Functions):

A. The Director, Office of Workforce Analysis (S7H) is directly responsible to the Deputy Commissioner for Human Resources for carrying out OWA's mission and for providing general supervision to the major components of OWA.

B. The Immediate Office of the Director, Office of Workforce Analysis (S7H) provides the Director with staff assistance on the full range of his/her responsibilities.

1. Directs, develops and implements a comprehensive program of management studies, research and analysis to evaluate and determine the feasibility of implementing major changes affecting the SSA organization, its administrative practices and its methods of operation. Studies and analyses are Agencywide, frequently deal with issues of a sensitive nature and may involve other Government agencies.

2. Undertakes feasibility, predictive benefit and cost/risk analyses to identify alternatives and to develop administrative strategies for consideration by the SSA Executive Staff in responding to Agencywide problems and issues.

3. Develops SSA-wide workforce management policies, procedures and guidelines; determines resource requirements, conducts trend analysis; and makes recommendations regarding management options, transition alternatives, etc, as appropriate.

4. Develops and implements comprehensive workforce utilization and planning programs to improve productivity and the use of the SSA workforce.

5. Conducts studies and analyses of work processes and procedures, workflows and workload processing positions; applies a variety of disciplines and techniques, including management analysis and model building to assure best workforce utilization; and recommends action to top SSA executives for improving the effectiveness of the SSA workforce.

6. Develops, analyzes and interprets workforce forecasting data and projects future workforce needs, including the types of skills and positions required.

7. Directs, develops and conducts Agencywide reviews and studies using industrial engineering, model building and other scientific approaches and methodologies.

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given of the establishment of SSA's Office of the Inspector General (OIG) (S8) at the first level below the Commissioner and the establishment of the Office of Investigations, the Office of Audits and the Office of Evaluations and Inspections. The new chapter reads as follows:

Chapter S8—The Office of the Inspector General

S8.00 Mission
S8.10 Organization
S8.20 Functions

Section S8.00 *The Office of the Inspector General*—(Mission): The Office of the Inspector General (OIG) is directly responsible for meeting the statutory mission of promoting economy, efficiency and effectiveness in SSA programs and detecting and preventing fraud, waste and abuse. To accomplish this mission, OIG conducts and supervises audits, investigations, inspections and evaluations relating to SSA's programs and operations. The OIG also searches for systemic weaknesses in SSA programs and operations and makes recommendations for needed improvements.

Section S8.10 *The Office of the Inspector General*—Organization: The Office of the Inspector General under the leadership of the Inspector General includes:

A. The Inspector General (S8).

B. The Deputy Inspector General (S8).

C. The Immediate Office of the Inspector General (S8A).

D. The Office of Investigations (S8B).

E. The Office of Audits (S8C).

F. The Office of Evaluations and Inspections (S8E).

Section S8.20 *The Office of the Inspector General*—Functions:

A. The Inspector General (S8) is directly responsible to the Commissioner for carrying out the OIG mission and providing general supervision to the major components of OIG.

B. The Deputy Inspector General (S8) assists the Inspector General in carrying out his/her responsibilities and performs other duties as the Inspector General may prescribe.

C. The Immediate Office of the Inspector General (S8A) provides the Inspector General with staff assistance on the full range of his/her responsibilities. Conducts and coordinates OIG reviews of existing and proposed legislation and regulations related to SSA programs and operations to identify their impact on economy and efficiency and their potential for fraud and abuse. Serves as the OIG contact for the press and electronic media and serves as OIG congressional liaison. Coordinates the development of the OIG long-range strategic plan and the OIG annual work plan. Compiles the Semiannual Report to the Congress and operates the Executive Secretariat. Formulates and assists the IG with the execution of the OIG budget and confers with the Office of the Commissioner (OC), the Office of Management and Budget (OMB) and the Congress on budget matters. Conducts management analyses and establishes and coordinates general management policies of the OIG. Serves as OIG liaison on personnel issues and other administrative policies and practices as well as on equal employment opportunity and civil rights matters.

D. The Office of Investigations (OI) (S8B) conducts and coordinates investigative activity related to fraud, waste, abuse and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, grantees, or contractors, or by SSA employees in the performance of their official duties. It serves as OIG liaison to the Department of Justice on all matters relating to investigations of SSA programs and personnel, and reports for the Attorney General when the OIG has reason to believe Federal criminal law has been violated. OI works with other investigative agencies and organizations on special projects and assignments. In support of its mission, the office carries

VOL 60 ISS 86 MY 4 1995 UMI

out and maintains an internal quality assurance system.

E. The Office of Audits (OA) (S8C) provides audit policy direction for and conducts and oversees comprehensive audits of SSA programs, operations, grantees and contractors, following generally accepted Government auditing standards. It maintains an internal quality assurance system, including periodic quality assessment studies and quality control reviews, to provide reasonable assurance the applicable laws, regulations, policies, procedures, standards and other requirements are followed in all audit activities performed by, or on behalf of, SSA.

F. The Office of Evaluations and Inspections (OEI) (S8E) conducts inspections of SSA programs, operations and processes to identify vulnerabilities, to prevent and detect misconduct, and to promote economy, efficiency and effectiveness in SSA programs and operations. In support of its mission, the office carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OEI processes and products to ensure that policies and procedures are effective, are followed and are functioning as intended.

Subchapter S8B—Office of Investigations

S8B.00 Mission
S8B.10 Organization
S8B.20 Functions

Section S8B.00 *The Office of Investigations*—(Mission): The Office of Investigations (OI) conducts and coordinates investigative activity related to fraud, waste, abuse and mismanagement in SSA programs and operations. This includes wrongdoing by applicants, grantees, or contractors, or by SSA employees in the performance of their official duties. It serves as OIG liaison to the Department of Justice on all matters relating to investigations of SSA programs and personnel, and reports for the Attorney General when the OIG has reason to believe Federal criminal law has been violated. OI works with other investigative agencies and organizations on special projects and assignments. In support of its mission, the office carries out and maintains an internal quality assurance system.

Section S8B.10 *The Office of Investigations*—(Organization): The Office of Investigations (S8B) under the leadership of the Assistant Inspector General for Investigations, includes:

A. The Assistant Inspector General for Investigations (S8B).

B. The Immediate Office of the Assistant Inspector General (S8B).

Section S8B.20 *The Office of Investigations*—(Functions):

A. The Assistant Inspector General for Investigations (S8B) is directly responsible to the Inspector General for carrying out the OI mission and providing general supervision to the major components of OI.

B. The Immediate Office of the Assistant Inspector General (S8B) provides the Inspector General with staff assistance on the full range of his/her responsibilities. Coordinates quality assurance studies to assure that applicable laws, regulations, policies, procedures standards and other requirements are followed in all investigative activities performed by, or on behalf of, SSA.

1. Establishes investigative priorities, evaluates the progress of investigations and reports to the IG on the effectiveness of investigative efforts. Develops and implements investigative techniques, programs, guidelines and policies.

2. Provides investigative programmatic expertise and issues information on new programs, procedures, regulations and statutes.

3. Directs and coordinates the investigative field offices which conduct investigations of fraud, waste, abuse, mismanagement and violations of standards of conduct and other investigative matters within the jurisdiction of the OIG.

4. Coordinates investigations with SSA operating and staff components, OIG counterparts and other investigative and law enforcement agencies.

5. Prepares and issues completed reports of investigations and ensures accuracy and compliance with guidelines and recommends appropriate debarment actions, administrative sanctions, civil money penalties and other civil action or prosecution under the law.

6. Identifies systemic and programmatic vulnerabilities in SSA's operations and makes recommendations for changes to the appropriate official.

7. Provides policy guidance and technical expertise to SSA on civil fraud laws and regulations, penalties, sanctions and other remedies.

8. Maintains liaison with the Department of Justice on the civil fraud aspects of SSA investigations.

9. Coordinates and/or helps investigate matters arising under the Program Fraud Civil Remedies Act, the Civil Monetary Penalties Law and Public Law 100–93.

10. Assists the Department of Justice to investigate and evaluate civil fraud lawsuits under provisions of the Federal False Claims Act and related statutes.

11. Leads outreach activities to State and local investigative agencies.

12. Provides pertinent information from SSA records to assist Federal, State and local investigative agencies to detect, investigate and prosecute fraud.

13. Manages SSA Hotline to receive complaints and allegations of fraud, waste and abuse, and to refer the information for investigation, audit, program review or other appropriate action. Coordinates with the GAO Hotline and hotlines from other agencies.

14. Maintains investigative files for OI headquarters and an automated data and management information system used by all OI managers and investigators.

15. Provides technical expertise on computer applications for investigations and coordinates and approves investigative computer matches with other agencies.

16. Develops general management policy for OI; coordinates general management processes; develops and issues instructional media on wrongdoing and on investigating and processing cases; plans, develops, implements; and evaluates all levels of employee training in OI.

17. Assists the IG in reviews of proposed legislation, regulations, policies and procedures to identify vulnerabilities and recommends modifications where appropriate. Reviews investigative files in response to Privacy and Freedom of Information Act requests.

Subchapter S8C—Office of Audits

S8C.00 Mission
S8C.10 Organization
S8C.20 Functions

Section S8C.00 *The Office of Audits*—(Mission): The Office of Audits (OA) provides policy direction for and conducts and oversees comprehensive audits of SSA programs, operations, grantees and contractors, following generally accepted Government auditing standards. It maintains an internal quality assurance system, including periodic quality assessment studies and quality control reviews, to provide reasonable assurance the applicable laws, regulations, policies, procedures, standards and other requirements are followed in all audit activities performed by, or on behalf of, SSA.

Section S8C.10 *The Office of Audits*—(Organization): The Office of Audits (S8C) under the leadership of the Assistant Inspector General for Audits, includes:

A. The Assistant Inspector General for Audits (S8C).

B. The Immediate Office of the Assistant Inspector General for Audits (S8C).

Section S8C.20 *The Office of Audits*—(Functions):

A. The Assistant Inspector General for Audits (S8C) is directly responsible to the Inspector General for carrying out the OA mission and providing general supervision to the major components of OA.

B. The Immediate Office of the Assistant Inspector General for Audits (S8C) provides the Inspector General with staff assistance on the full range of his/her responsibilities.

1. Directs and coordinates the activities of the Regional Inspectors General for Audits who carry out audit activities in their assigned geographic areas.

2. Develops audit policy, procedures, standards, criteria and instructions for all audit activities performed by, or on behalf of, or conforming with SSA programs, grants, contracts or operations, complying with general accepted Government auditing standards and other legal, regulatory and administrative requirements.

3. Develops policy and procedure for an internal quality assurance system to provide reasonable assurance that applicable laws, regulations, procedures, standards and other requirements are followed in all audit activities performed by, or on behalf of, SSA.

4. Conducts quality assurance studies to ensure that the policies and procedures are implemented by each OA component and are functioning as intended.

5. Evaluates audit work, including performing quality control reviews of audit reports.

6. Develops and monitors audit work plans and tracks, monitors and reports on audit resolution.

7. Plans, develops and coordinates advanced techniques to carry out OA functions and coordinates and manages OA's information system.

8. Conducts, as well as oversees nationwide, the audits of SSA's Retirement, Survivors and Disability Insurance programs; the Supplemental Security Income Program; the Black Lung program; as well as the operation and administration of the entire agency.

9. Maintains an internal quality assurance system, including periodic quality control reviews, to provide reasonable assurance that applicable laws, regulations, policies, procedures, standards and other requirements are followed in all SSA audit activities performed by, or on behalf of, SSA.

Subchapter S8E—Office of Evaluations and Inspections

S8E.00 Mission
S8E.10 Organization
S8E.20 Functions

Section S8E.00 *The Office of Evaluations and Inspections*—(Mission): The Office of Evaluations and Inspections (OEI) (S8E) conducts inspections of SSA programs, operations and processes to identify vulnerabilities, to prevent and detect misconduct, and to promote economy, efficiency and effectiveness in SSA programs and operations. In support of its mission, the office carries out and maintains an internal quality assurance system. The system includes quality assessment studies and quality control reviews of OEI processes and products to ensure that policies and procedures are effective, are followed and are functioning as intended.

Section S8E.10 *The Office of Evaluations and Inspections*—(Organization): The Office of Evaluations and Inspections (S8E) under the leadership of the Assistant Inspector General for Evaluations and Inspections, includes:

A. The Assistant Inspector General for Evaluations and Inspections (S8E).

B. The Immediate Office of the Assistant Inspector General for Evaluations and Inspections (S8E).

Section S8E.20 *The Office of Evaluations and Inspections*—(Functions):

A. The Assistant Inspector General for Evaluations and Inspections (S8E) is directly responsible to the Inspector General for carrying out the OEI mission and providing general supervision to the major components of OEI.

B. The Immediate Office of the Assistant Inspector General for Evaluations and Inspections (S8E) provides the Inspector General with staff assistance on the full range of his/her responsibilities.

1. Directs and coordinates the activities of the Regional Inspectors General for Evaluations and Inspections who carry out OEI's mission and activities in assigned geographic areas.

2. Develops OEI's evaluations and inspections policies, standards and procedures and assesses the quality of inspections to ensure compliance with policies and procedures.

3. Manages OEI's human and financial resources and develops and monitors OEI's management information systems.

4. Manages OEI's work planning process and reviews legislative, regulatory and program proposals for vulnerabilities to fraud, waste and mismanagement.

5. Conducts inspections of SSA programs and recommends changes to improve efficiency and effectiveness. Provides programmatic expertise and issues information on new programs, procedures, regulations and statutes to OEI regional offices.

6. Evaluates SSA programs, provides written reports and follows up on implementation of corrective action recommendations. Evaluates the actions taken to resolve problems and vulnerabilities identified and provides additional data or corrective action options, where applicable.

7. Conducts data and trend analyses of major SSA initiatives to determine the effects of current policies and practices on program effectiveness and efficiency.

8. Recommends changes in program policies, regulations and law to improve efficiency and effectiveness and to prevent fraud, waste and abuse. Analyzes current policies to evaluate options for future policy, regulatory and legislative improvements.

This statement amends part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given of the establishment of SSA's Office of the General Counsel (OGC) (S9) at the first level below the Commissioner and the establishment of subordinate components. The new chapter reads as follows:

Chapter S9—The Office of the General Counsel

S9.00 Mission
S9.10 Organization
S9.20 Functions

Section S9.00 *The Office of the General Counsel*—(Mission): The General Counsel, as special advisor to the Commissioner on legal matters, is responsible for providing all legal services and advice to the Commissioner, Deputy Commissioner and all subordinate organizational components of SSA in connection with the operation and administration of SSA.

Section S9.10 *The Office of the General Counsel*—(Organization) The Office of the General Counsel under the leadership of the General Counsel includes:

A. The General Counsel (S9).

B. The Principal Deputy General Counsel (S9).

C. The Immediate Office of the General Counsel (S9A) which includes:

1. The Deputy General Counsel (Regional Operations) (S9A–1).

VOL
60
ISS
86
MY
4
1995
UMI

2. The Inspector General Staff (S9A–2).

D. The Division of General Law (S9B).

E. The Division of Litigation (S9C).

F. The Division of Policy and Legislation (S9E).

G. The Offices of Regional Chief Counsels (S9G–F1—S9G–FX).

Section S9.20 *The Office of the General Counsel*—(Functions):

A. The General Counsel (S9) is directly responsible to the Commissioner for carrying out the OGC mission and providing general supervision to the major components of OGC.

B. The Principal Deputy General Counsel (S9) assists the General Counsel in carrying out his/her responsibilities and performs other duties as the General Counsel may prescribe. In the event of the General Counsel's absence or disability, or in the event of a vacancy in the position of General Counsel, the Principal Deputy General Counsel acts for him/her unless the Commissioner directs otherwise.

C. The Immediate Office of the General Counsel (S9A) provides the General Counsel with staff assistance on the full range of his/her responsibilities. It includes:

1. The Deputy General Counsel (Regional Operations) (S9A–1) directs and coordinates regional Offices of the General Counsel personnel who carry out OGC's mission. In the event of the absence or disability of both the General Counsel and the Principal Deputy General Counsel, the Deputy General Counsel (Regional Operations) acts for the General Counsel unless the Commissioner directs otherwise.

2. The Inspector General Staff (S9A–2) provides legal services to SSA's Inspector General in all areas within the jurisdiction of the Inspector General including prosecution of all claims by SSA for civil money penalties under section 1129 of the Social Security Act, 42 U.S.C. 1320a–8.

D. The Division of General Law (S9B).

1. Provides legal services on business management activities and administrative operations throughout SSA, including procurement, contracting, patents, copyrights, personnel, budget, appropriations, employment, compensation, travel and claims involving these areas by and against SSA.

2. Provides legal services and advice regarding SSA's civil defense, civil rights and security programs as well as for SSA's administration of the Freedom of Information and Privacy Acts. Provides liaison with the Department of Justice on administering the Freedom of Information and Privacy Acts. Liaisons with the Comptroller General.

3. Provides legal advice to officials and employees regarding ethics and standards of conduct matters. Coordinates SSA's confidential reporting system for reporting on financial interests and outside activities.

4. Assists SSA components with the development and implementation of ethics training, provides liaison with the White House General Counsel and the Office of Government Ethics on ethics matters.

5. Furnishes litigation support and litigation related advice to the Commissioner and all components of SSA in both administrative and court litigation in connection with each of the areas mentioned above. Represents SSA in all such litigation when such direct representation is authorized by law. In other cases, makes and supervises contacts with attorneys responsible for the conduct of such litigation.

E. The Division of Litigation (S9C).

1. Furnishes legal support and litigation related advice in both administrative and court litigation in connection with the operations and administration by SSA of the various programs administered by SSA under the Social Security Act and of other programs which do not fall within the jurisdiction of the Division of General Law (DGL) or the Inspector General Staff (IGS).

2. Represents SSA in all such litigation when such direct representation is authorized by law and in other cases, makes and supervises contacts with attorneys responsible for the conduct of such litigation.

F. The Division of Policy and Legislation (S9E).

1. Furnishes nonlitigation legal services and advice in connection with the operations and administration by SSA of the various programs administered by SSA under the Social Security Act and of other programs and areas which do not fall within the jurisdiction of DGL or IGS.

2. Drafts proposals for legislation originating in SSA, reviews specifications for such proposed legislation and reviews all proposed legislation submitted by SSA for comment. Drafts or reviews reports and letters to congressional committees, the Office of Management and Budget and others on proposed legislation and legislative matters. Prescribes the procedures to govern the routing and review within SSA of material relating to proposed legislation.

3. Drafts or reviews proposed testimony of SSA officials before Congress relating to any area within the jurisdiction of the division.

4. Drafts or reviews all SSA regulatory materials and legal instruments relating to an area within the jurisdiction of the division.

G. The Offices of Regional Chief Counsels (S9G–F1—S9G—FX) provide the Commissioner and the various regional components of SSA with legal services and support as follows:

1. Provide professional legal and managerial expertise for the OGC in their respective geographic locations.

2. Provide litigation support and legal services and advice to the SSA Regional Commissioners in the various areas set out above regarding OGC divisions and the IGS.

This statement establishes part T of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given of the establishment of the Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications (TA) at the first level below the Commissioner. Notice is further given of the establishment of the Office of Program Coordination and Planning, the Office of Policy Analysis and Evaluation, the Office of the Actuary, the Office of Disability, the Office of Disclosure Policy, the Office of Hearings and Appeals, the Office of International Policy, the Office of Policy, the Office of Communications, the Office of Research and Statistics and the Office of Program Benefits Policy. The new chapter reads as follows:

Chapter TA—Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications

TA.00 Mission
TA.10 Organization
TA.20 Functions

Section TA.00 *The Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications*—(Mission): The Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications (ODCPPEC) directs the formulation of overall policy for SSA. Directs the formulation and issuance of program objectives. Directs and manages the planning, development, issuance and evaluation of program and operational policies, standards and instructions for the retirement and survivors insurance, disability and supplemental security income programs. Serves as a focal point for international program policy issues and activities. Oversees Agency hearings and appeals activities. Directs a public communications program that effectively promotes and furthers the initiatives of SSA and public understanding of the Social Security programs. Serves as the central receipt for public inquiries. Oversees the collection, use and dissemination of both personal and non-personal information to ensure consistency with Agency objectives, law and the expectations of the American public. Directs, administers and coordinates a program of actuarial analysis and social science research related to Agency-administered programs and projected changes in those programs. Directs the development of actuarial estimates pertaining to SSA-administered programs. Provides information on the effects on individuals and the economy of programs operated by SSA and the interactions among these programs, other tax and income-transfer programs and economic, social and demographic forces.

Section TA.10 *The Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications*—(Organization): The Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications under the leadership of the Deputy Commissioner, Programs, Policy, Evaluation and Communications, includes:

A. The Deputy Commissioner, Programs, Policy, Evaluation and Communications (TA).

B. The Assistant Deputy Commissioner, Programs, Policy, Evaluation and Communications (TA).

C. The Immediate Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications (TAA).

1. The Resources Management Staff (TAA–1).

2. The Office Automation Support Staff (TAA–2).

D. The Office of Program Coordination and Planning (TAB).

E. The Office of the Actuary (TAC).

F. The Office of Disability (TAE).

G. The Office of Disclosure Policy (TAG).

H. The Office of Hearings and Appeals (TAH).

I. The Office of International Policy (TAJ).

J. The Office of Policy (TAK).

K. The Office of Communications (TAL).

L. The Office of Research and Statistics (TAN).

M. The Office of Program Benefits Policy (TAP).

N. The Office of Policy Analysis and Evaluation (TAQ).

Section TA.20 *The Office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications*—(Functions):

A. The Deputy Commissioner, Programs, Policy, Evaluation and Communications (TA) is directly responsible to the Commissioner for carrying out the ODCPPEC mission and for providing general supervision to the major components of ODCPPEC.

B. The Assistant Deputy Commissioner, Programs, Policy, Evaluation and Communications (TA) assists the Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Deputy Commissioner may prescribe.

C. The Immediate office of the Deputy Commissioner, Programs, Policy, Evaluation and Communications (TAA) provides the Deputy Commissioner with staff assistance on the full range of his/her responsibilities.

1. The Resources Management Staff (TAA–1).

a. Plans, develops and coordinates Deputy Commissioner for Programs, Policy, Evaluation and Communications (DCPPEC) financial, personnel, and administrative management programs, and advises the Executive Officer and/or the Deputy Commissioner of the impact of agency level finance, personnel and the administrative decisions which affect DCPPEC.

b. Formulates, justifies and presents DCPPEC's annual and multi-year budget submissions. Controls the collection, recording and reporting of all financial, personnel and administrative data in connection with the budget and staffing formulation and execution functions.

c. Reviews, and analyzes budget requests submitted by DCPPEC components and formulates DCPPEC financial operating plans and budget projections.

d. Is responsible for presenting DCPPEC's budget submissions and the justifications for these submissions to SSA officials and for the assessment of, and response to, SSA's reviews of these submissions.

e. Administers cost allocation functions of the budget process. Works with SSA budget officials to obtain the resources necessary to meet DCPPEC goals and objectives.

f. Monitors workload projections for budget execution and control purposes. Ensures that employment ceilings and obligations and expenditures of funds are in conformance with authorized allotments and allowances. Performs periodic reviews of budget execution and financial management practices in DCPPEC offices.

g. Administers Agency guidelines on personnel and Equal Employment Opportunity (EEO) issues. Serves as DCPPEC liaison with SSA and other federal components on labor management relations, EEO and training issues.

h. Is responsible for advising the Executive Officer and/or Deputy Commissioner on issues impacting DCPPEC staff and staffing levels.

2. The Office Automation Support Staff (TAA–2).

a. Designs, implements and maintains automated information and communications systems DCPPEC-wide and provides systems support to DCPPEC components, advises on changing SSA plans and strategies with respect to systems.

b. Prepares all support documentation, and represents DCPPEC interests with respect to systems projects and procurements, including performing project officer duties on contracts. Provides data and analysis for the DCPPEC Information Technology Systems budget submission.

c. Performs contract management functions for DCPPEC computer system contracts and interagency agreements. Ensures DCPPEC systems meet user needs and management information requirements.

d. Performs liaison function with vendors and Office of Systems components for servicing hardware, software, and network.

e. Performs property management function for systems equipment and software within the immediate Office of the Deputy Commissioner.

f. Designs complex computer-based systems to improve efficiency of DCPPEC operations and functions. Develops, implements, documents, and maintains applications systems for DCPPEC. These systems include client-server databases working across multiple operating system platforms. Performs management analysis of requirements, workflow, work processes and writes specifications for computer systems needed to improve operations, work processes and tasks. Maintains management plans for all systems projects.

g. Provides day-to-day operational systems management and support services for DCPPEC, including minicomputers, network, communications and microcomputer operations. Ensures that projects effectively support DCPPEC business and strategic plans.

h. Serves as electronic mail administrator for the immediate front office of the Deputy Commissioner.

i. Maintains electronic gateways from DCPPEC networks into Agency and non-SSA mainframe and other computer systems. Maintains liaison with Office of Systems on network issues and standards.

VOL
60
ISS
86
MY
4
1995
UMI

J. Identifies DCPPEC training needs with respect to systems activities, and coordinates with responsible SSA components to ensure that these needs are met.

D. The Office of Program Coordination and Planning (TAB) provides Agency leadership in identifying policies that can be changed and emerging technologies that can be used to improve service to the public; manages all planning activities for the Deputy Commissioner, including liaison with other Agency, governmental and private sector committees and groups; manages the Agency's on-line (Internet) policies and services; manages the flow of information and assignments within DCPPEC, and in coordination with the Office of the Commissioner and other major SSA Offices; prepares a wide range of information and materials for the Deputy Commissioner; and monitors progress in achieving Commissioner and DCPPEC initiatives and objectives.

E. The Office of the Actuary (TAC) develops actuarial estimates and analyses and cost estimates pertaining to SSA-administered retirement, survivors and disability programs and the supplemental security income program and to projected changes in those programs. Conducts studies of program financing. Performs actuarial and demographic research on social insurance and related program issues and projects future workloads.

F. The Office of Disability (TAE) develops, coordinates and evaluates the disability program and issues related operational policies, standards and procedures. Develops and issues policies and guidelines for use by State, Federal or private contractor providers which implement the disability provisions of the Social Security Act as amended. The Office plans and directs a continuing evaluation of program performance and an economic and social survey program to evaluate the current impact and future needs of the disability program. Ensures that interrelated program policy and procedural areas are coordinated.

G. The Office of Disclosure Policy (TAG) develops and interprets SSA policy governing requests for disclosure of information from Agency records made under the provisions of the Privacy Act and the Freedom of Information Act (FOIA).

H. The Office of Hearing and Appeals (TAH) holds hearings and issues decisions as part of the SSA appeals process. Directs a nationwide field organization which conducts impartial hearings and makes decisions on appealed determinations involving retirement, survivors, disability, health insurance, black lung and supplemental security income benefits. Performs central office reviews of decisions.

I. The Office of International Policy (TAJ) serves as SSA's focal point for international program policy matters and for its participation in the international Social Security community. Serves as liaison to international agencies and associations which deal with Social Security matters. Negotiates international Social Security (totalization) agreements with foreign governments and develops policies and procedures to implement the agreements. Develops and implements policies and procedures relating to the operation of the Social Security program outside the United States. Provides training programs and technical consultation on Social Security and related fields to Social Security officials and other experts outside the United States. Serves as liaison with other Federal agencies, such as the Department of State and the Department of the Treasury, on Social Security program matters outside the United States.

J. The Office of Policy (TAK) serves as the focal point for the Agency to ensure that strategic policy decisions are properly translated into operational policies and procedures and are implemented in an effective manner. Coordinates the development of policies across program lines to ensure consistency in implementation. Develops, promulgates and reviews all program regulations for consistency. Reviews regulations for directly-administered programs for consistency with statutory and congressional intent and with SSA policy decisions and requirements. Directs the clearance of regulations within the Agency and with other departments and agencies and the Office of Management and Budget. Develops the Agency's Regulatory Plan and its portion of the United Agenda of Federal Regulations. Is responsible for development, review and distribution of the Agency's instructional system. Develops and publishes general and special compilations of Social Security laws, various technical issuances and program handbooks. Ensures that policies are coordinated internally and that all instructional materials developed are compatible with overall operating policies and practices. Establishes policies relating to the Agency's notices to the public and serves as the focal point for the Agency's effort to improve service to the public through the issuance of clear notices. Evaluates the effectiveness of national policies in meeting program goals and recommends necessary program modifications.

K. The Office of Communications (TAL) directs a program to develop and preserve working relationships with a wide variety of national organizations, special interest and advocacy groups, the media, other Federal agencies and State and local governments, for purposes of securing understanding, cooperation and acceptance of SSA programs, policies and procedures and for providing avenues of public participation in the decisionmaking process of SSA. Plans, directs, coordinates, effects and evaluates SSA's nationwide communications program, which involves interaction with other Federal and State agencies, local governments and other organizations concerned with public communications programs and activities. Develops public information programs and materials to ensure public knowledge and understanding of protections, rights and responsibilities under the programs administered by SSA. Directs SSA's Satellite Communications Network activities. Coordinates the non-English communications activities within SSA. Provides a central receipt, control, acknowledgement, response and referral program for all high-priority and other inquiries addressed to, or telephone calls directed to SSA headquarters, the Commissioner or other SSA executives. Develops correspondence policy and procedures and guide language on recurring topics and issues for use throughout the Agency.

L. The Office of Research and Statistics (TAN) is responsible for providing information on the effects on individuals and the economy of programs operated by SSA and the interactions among these programs, other tax and income-transfer programs and economic, social and demographic forces.

M. The Office of Program Benefits Policy (TAP) develops, coordinates and evaluates the retirement and survivors insurance and supplemental security income programs and issues related operational policies, standards and instructions. Develops and issues policies and guidelines for use by State and Federal organizations which implement supplemental security income provisions. Develops agreements with the States that govern State supplementation programs, Medicaid eligibility, data exchange programs, food stamps and fiscal reporting processes. Plans and directs continuing performance evaluation and economic and social survey programs to evaluate the current impact and future needs of the RSI and SSI programs.

N. The Office of Policy Analysis and Evaluation (TAQ) conducts a comprehensive program to analyze cross-cutting policy issues, provide analytic support to external commissions and evaluate current and proposed social welfare policy.

Subchapter TAB—Office of Program Coordination and Planning

TAB.00 Mission
TAB.10 Organization
TAB.20 Functions

Section TAB.00 *The Office of Program Coordination and Planning*—(Mission): The Office of Program Coordination and Planning (OPCP) provides Agency leadership in identifying policies that can be changed and emerging technologies that can be used to improve service to the public; manages all planning activities for the Deputy Commissioner, including liaison with other Agency, governmental and private sector committees and groups; manages the Agency's on-line (Internet) policies and services; manages the flow of information and assignments within ODCPPEC and in coordination with the Office of the Commissioner and other major SSA Offices; prepares a wide range of information and materials for the Deputy Commissioner; and monitors progress in achieving Commissioner and DCPPEC initiatives and objectives.

Section TAB.10 *The Office of Program Coordination and Planning*—(Organization): The Office of Program Coordination and Planning, under the leadership of the Director, Office of Program Coordination and Planning, includes:

A. The Director of the Office of Program Coordination and Planning (TAB).

B. The Immediate Office of the Director, Office of Program Coordination and Planning (TAB).

C. The Planning and Technology Policy Staff (TABA).

D. The Program Coordination Staff (TABB).

Section TAB.20 *The Office of Program Coordination and Planning*—(Functions):

A. The Director of the Office of Program Coordination and Planning (TAB) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out OPCP's mission and providing managerial direction to the major components of OPCP.

B. The Immediate Office of the Director, Office of Program Coordination and Planning (TAB) provides the Director with staff assistance on the full range of his/her responsibilities.

C. The Planning and Technology Policy Staff (TABA).

1. Provides Agency leadership in identifying the policies that can be changed and emerging technologies that can be used to improve our service to the public; develops policy scenarios for such change, testing change models and evaluating their efficacy; and recommends policy adjustments and positions to the Deputy Commissioner, Commissioner and the SSA Executive Staff.

2. Identifies how DCPPEC can administer its program functions more efficiently and effectively, considering such influences as workforce demographic changes, Agency-level restructuring and downsizing activities, technology and the organizational vision and missions. Tests change models within the organization.

3. Implements new planning strategies within DCPPEC organizations and manages the DCPPEC planning process, including improvements in information dissemination and coordination for DCPPEC staff.

4. Maintains liaison with Government-wide planning bodies, including committees, working groups, and oversight panels established in conjunction with Government-wide policy, planning and technology assessment activities. Establishes and maintains appropriate relationships with entities in the public and private sectors with respect to technology and policy planning issues.

5. Provides Agency leadership for SSA's on-line (Internet and emerging online information infrastructure) services, including participation with other SSA components, other governmental Agencies and the private sector in designing and testing specific online services which have major policy implications for improving service to the public; manages SSA's Internet services; establishes Internet service policies; and serves as DCPPEC's managing organization for Information Resources Management (IRM) functions.

6. Develops and manages DCPPEC-wide planning initiatives in conjunction with Agency-level planning activities (such as the Agency Strategic Plan, SSA Business Plan, Information Technology Systems plan) and in concert with Government-wide planning and policy review activities, including Presidential, Vice-Presidential and Office of Management and Budget initiatives.

D. The Program Coordination Staff (TABB).

1. Performs a wide variety of analytical, coordinative, technical and liaison activities for the Deputy Commissioner; conducts in-depth reviews of submittals and policy documents to ensure completeness and consistency with the Social Security Act, regulations and policy; serves as a liaison with other SSA components and Federal agencies; represents the Deputy Commissioner at meetings with officials from other Federal agencies and/or SSA components; and provides guidance to DCPPEC executive staff in the area of communications.

2. Manages the daily flow of assignments and information within DCPPEC components and in coordination with the Office of the Commissioner and other major SSA Offices, ensuring timeliness, quality, and policy consistency in products created within DCPPEC.

3. Prepares a wide range of materials, including analytical papers, memoranda, speeches, talking points and briefing papers on the full range of Agency program provisions and policies.

4. Monitors progress in achieving Commissioner and Deputy Commissioner initiatives, objectives and priorities which involve DCPPEC components.

Subchapter TAC—Office of the Actuary

TAC.00 Mission
TAC.10 Organization
TAC.20 Functions

Section TAC.00 *The Office of the Actuary*—(Mission): The Office of the Actuary (OACT) plans and directs a program of actuarial estimates and analyses pertaining to SSA-administered retirement, survivors and disability insurance programs and supplemental security programs and to projected changes in these programs. Evaluates operations in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, conducts studies of program financing, performs actuarial and demographic research on social insurance and related program issues, and projects future workloads. Provides technical and consultative services to the Commissioner and to the Board of Trustees of those two Trust Funds and appears before congressional committees to provide expert testimony on the actuarial aspects of Social Security issues.

Section TAC.10 *The Office of the Actuary*—(Organization): OACT, under the leadership of the Chief Actuary, includes:

A. The Chief Actuary (TAC).

B. The Deputy Chief Actuary (Short-Range) (TAC).

C. The Deputy Chief Actuary (Long-Range) (TAC).

VOL
60
ISS
86
MY
4
1995
UMI

D. The Immediate Office of the Chief Actuary (TAC).

E. The Office of Short-Range Actuarial Estimates (TACA).

F. The Office of Long-Range Actuarial Estimates (TACB).

Section TAC.20 *The Office of the Actuary*—(Functions):

A. The Chief Actuary (TAC) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out OACT's mission and provides supervision to the major components of OACT.

B. The Deputy Chief Actuary (Short-Range) (TAC) assists the Chief Actuary in carrying out his/her OACT-wide responsibilities and performs other duties as prescribed.

C. The Deputy Chief Actuary (Long-Range) (TAC) assists the Chief Actuary in carrying out his/her OACT-wide responsibilities and performs other duties as prescribed.

D. The Immediate Office of the Chief Actuary (TAC) provides the Chief Actuary and his/her Deputies with staff assistance on the full range of their responsibilities, and conducts special actuarial studies and analyses.

E. The Office of Short-Range Actuarial Estimates (TACA) is responsible for planning, directing and coordinating the development of short-range cost estimates for all Social Security programs both under current provisions and proposed changes in law or regulation. Develops special cost analyses involving technical actuarial issues; projects operations of the Trust Funds; provides a variety of data services including data collection, statistical support; and prepares estimates for general fund and interprogram reimbursement.

F. The Office of Long-Range Actuarial Estimates (TACB) is responsible for planning, directing and coordinating the development of long-range cost estimates for all the Social Security programs both under current provisions and proposed changes in law or regulation. Designs the economic, demographic and programmatic assumptions and the methods needed to develop these estimates; analyzes and publishes actuarial research based on projections and actual program experience; and provides authoritative advice to agency policymakers and congressional staffs relating to the long-range actuarial impact of current law and proposed program changes.

Subchapter TAE—Office of Disability

TAE.00 Mission
TAE.10 Organization
TAE.20 Functions

Section TAE.00 *The Office of Disability*—(Mission): The Office of Disability (OD) plans, develops, evaluates and issues the operational and administrative appeals process policies, standards and instructions for the SSA administered disability programs. Develops and promulgates policies and guidelines for use by State, Federal or private contractor providers which implement the disability provisions of the Social Security Act as amended. Provides operational policy advice, technical support and management direction to central office, regional office and field components in the administration of the disability programs. Evaluates the effects of proposed legislation and legislation pending before Congress to determine the impact on the disability programs. Plans and directs a continuing program performance evaluation, and an economic and social survey program to evaluate the current impact and future needs of the disability programs. Ensures that interrelated policy areas are coordinated. Processes State agency workloads on a temporary or transitional basis.

Section TAE.10 *The Office of Disability*—(Organization): The Office of Disability under the leadership of the Associate Commissioner for Disability, includes:

A. The Associate Commissioner for Disability (TAE).

B. The Deputy Associate Commissioner(s) for Disability (TAE).

C. The Immediate Office of the Associate Commissioner for Disability (TAE).

D. The Office of Medical Evaluation (TAEA).

E. The Federal Disability Determination Services (TAEB).

F. The Division of Medical and Vocational Policy (TAEC).

G. The Division of Field Disability Operations (TAEE).

H. The Division of Disability Process Policy (TAEG).

I. The Division of Disability Program Information and Studies (TAEH).

J. The Division of Employment and Rehabilitation Programs (TAEJ).

Section TAE.20 *The Office of Disability*—(Functions):

A. The Associate Commissioner for Disability (TAE) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out OD's mission and provides general supervision to the major components of OD.

B. The Deputy Associate Commissioner(s) for Disability (TAE) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Disability (TAE) provides the Associate Commissioner and the Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and coordinates the administrative and program activities of OD components.

D. The Office of Medical Evaluation (TAEA):

1. Provides advice and consultation to the Associate Commissioner of OD, the Commissioner and other officials of SSA on all medical aspects in the planning, direction and coordination of the Title II disability insurance (DI) program and the Title XVI supplemental security income (SSI) program for the blind and disabled.

2. Develops broad medical concepts and policies for the administration of the Title II and Title XVI programs, and provides consultation for research studies to develop improved medical techniques for evaluating impairment severity and disability.

3. Provides leadership and professional direction to the Regional Medical Officers and consultants, and to State Disability Determination Services (DDS) medical personnel engaged in Title II and Title XVI related activities.

4. Provides medical consultation required in the formulation of medical evaluation and development policies and guides, and develops orientation and training programs for medical personnel in OD, regional offices and State DDSs.

5. Carries out professional relations efforts in support of SSA's efforts to gain support from professional medical associations.

E. The Federal Disability Determination Services (TAEB):

1. Develops and adjudicates disability determinations either temporarily as help for one or more Disability Determination Services (DDS) or as a transition until a permanent alternative case processing operation is fully operational in the event that SSA must assume the disability determination function for a State because of noncompliance with regulations and guidelines, or voluntary withdrawal.

2. Pilot tests new work processes, procedures and systems prior to nationwide implementation; validates and conducts useability tests on new and/or revised systems processes; evaluates new or revised disability adjudication policies for national consistency and practical application; and conducts special studies and policy reviews required for management purposes.

3. Reviews and makes disability decisions on applications for disability under Title II and Title XVI of the Social Security Act on initial applications, on reconsideration requests, and continuing disability.

4. Screens disability applicants for, and makes referrals to, vocational rehabilitation (VR) agencies; develops and evaluates medical/vocational evidence; and arranges for procurement and payment of such evidence, as required.

5. Reviews State hearing officer and Federal hearing officer decisions; prepares decisions on foreign claims and changes hearing officers' determinations in accordance with the regulations at 404.918 and 416.1418; participates in hearing process studies; and prepares statistical and narrative reports and recommendations for training and policy and procedural changes based on case review and analysis or study findings.

F. The Division of Medical and Vocational Policy (TAEC):

1. Develops, evaluates, implements and maintains medical policy for deciding disability claims for all body systems to be used at all adjudicative levels.

2. Develops, evaluates, implements and maintains policy for deciding disability claims, including such areas as residual functional capacity, medical improvement review standard and other continuing disability issues, onset, duration, weighing of evidence and other issues affecting disability claims at all adjudicative levels.

3. Develops, evaluates, implements and maintains policy for all vocational issues, such as age, education, work experience, the vocational rules, and work evaluations which are used to decide disability claims at all adjudicative levels.

4. Develops, evaluates, implements and maintains all policy used to decide disability in childhood disability claims, including the childhood Listings of Impairments, individualized functional assessment and functional equivalency for all adjudicative levels.

5. Coordinates recommendations concerning which court decisions should be appealed; coordinates development of responses to interrogatories and court orders; and ensures that policies and procedures are changed to reflect specific court orders and legal precedents.

G. The Division of Field Disability Operations (TAEE):

1. Provides national guidance for the administrative aspects of the disability determination function whether administered through State DDS, contracted out to the private sector, or accomplished by designated SSA organizational components.

2. Develops pertinent policies, regulations and procedures by establishing standards and guides for performance; monitoring performance; initiating corrective action where needed; coordinating workloads and administering the funds for the DDSs, etc. Conducts such studies and reviews as are necessary to the disability determination function.

3. Works through SSA regional offices, interested national organizations and other SSA central office components to accomplish objectives or, in special situations, works directly with the component performing the disability determination function.

4. Plans, coordinates and manages the Office of Disability systems related activities, including DDS and Federal Disability Determination Services automation, information resource management, expert systems, development of user specifications, and installation and testing of hardware, networks and communications links for DDSs.

5. Analyzes, plans, distributes and monitors all DDS funding on a State-by-State basis. This includes establishing and monitoring workload and productivity targets for each DDS.

H. The Division of Disability Process Policy (TAEG):

1. Develops procedures and instructions for the disability provisions of other programs including certain Title XVI and XVIII provisions unique to the disability programs, e.g., worker's compensation.

2. Develops and issues the policies, procedures and instructions relating to the development of nonmedical evidence, the processing of claims, the development of policy guidelines and technical procedures for the Continuing Disability Review process.

3. Develops the procedures and instructions which define the administrative appeals process. Develops notice policy and issues language and forms for use in disability claims and notices including foreign language and Braille notices.

4. Maintains liaison and assists professional relations efforts to gain the support of private advocacy groups, Federal, State and local agencies and the public and provides guidance and assistance on disability professional relations issues to the SSA regional and Disability Determination Services' field networks.

I. Division of Disability Program Information and Studies (TAEH):

1. Conducts research and evaluates studies on the disabled population and recipients and specific operational/administrative program issues. Designs demonstration projects.

2. Designs evaluation systems for and evaluates demonstration projects.

3. Develops and maintains data bases for research, statistical activities and program information. Provides recurring and specialized reports, and coordinates information requirements.

J. The Division of Employment and Rehabilitation Programs (TAEJ):

1. Implements the provisions of the Social Security Act which call for the referral of beneficiaries and recipients to the State or alternate vocational rehabilitation (VR) providers, evaluates VR provider services, reimburses VR providers for successful rehabilitations, ensures that client participation in a program is appropriate and meets the requirements of the Act and develops proposals and plans for new VR initiatives.

2. Implements and evaluates test models for delivering rehabilitation, job placement and post-employment services and for making appropriate referrals to public and private agencies. Administers contracts to support projects.

3. Develops initiative to promote public understanding and use of work incentives through enhanced outreach activities and by building networks with community-based agencies and service providers.

4. Prepares and revises regulations, operating policies and training materials. Develops proposals and plans for new work incentives.

5. Develops procedures and instructions for implementation of the drug addiction and alcoholism referral and monitoring provisions. Administers agreements implementing the provisions.

Subchapter TAG—Office of Disclosure Policy

TAG.00 Mission
TAG.10 Organization
TAG.20 Functions

Section TAG.00 *The Office of Disclosure Policy*—(Mission): The Office of Disclosure Policy (ODP) develops and interprets SSA policy governing requests for disclosure of information from SSA records made under the provisions of the Privacy Act and the Freedom of Information Act (FOIA).

Section TAG.10 *The Office of Disclosure Policy*—(Organization): ODP, under the leadership of the Director of the Office of Disclosure Policy, includes:

VOL
60
ISS
86
MY
4
1995
UMI

A. The Director of the Office of Disclosure Policy (TAG).

B. The Immediate Office of the Director of the Office of Disclosure Policy (TAG).

Section TAG.20 *The Office of Disclosure Policy*—(Functions):

A. The Director of the Office of Disclosure Policy (TAG) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out ODP's mission and provides managerial direction to the major components of ODP.

B. The Immediate Office of the Director of the Office of Disclosure Policy (TAG) provides the Director with staff assistance on the full range of their responsibilities.

1. Develops and interprets SSA policy governing requests for information made under the provisions of the Privacy Act.

2. Develops national standards relating to the release and exchange of personal data in SSA data bases. Manages SSA's interaction with other agencies in negotiating data releases and exchanges. Develops and interprets SSA policy related to personal access initiatives which allow individuals to use technology (e.g., personal computers, kiosks) to access their records from SSA data bases.

3. Negotiates with various federal government entities regarding electronic data sharing, direct terminal access to SSA computer records and use of the Social Security Number.

4. Assures Agencywide sensitivity to importance of privacy considerations in all situations involving disclosure of SSA data about individuals. Reviews Agency projects and initiatives to ensure compliance with the Privacy Act and related laws and regulations. Examines public service issues related to handling various information requests from the public. Develops decisions on Privacy Act appeals for the Commissioner.

5. Develops and interprets SSA policy governing requests for information made under the provisions of the Freedom of Information Act (FOIA). Directs FOIA activities in SSA, develops SSA's FOIA policies and procedures, and prepares the Annual Report to Congress on these activities. Decides whether records are required to be disclosed to members of the public. Develops decisions on FOIA appeals for the Commissioner and Deputy Commissioner.

Subchapter TAH—Office of Hearings and Appeals

TAH.00 Mission
TAH.10 Organization
TAH.20 Functions

Section TAH.00 *The Office of Hearings and Appeals*—(Mission): The Office of Hearings and Appeals (OHA) administers the nationwide hearings and appeals program for SSA. Provides the basic mechanisms through which individuals and organizations dissatisfied with determinations affecting their rights to and amounts of benefits or their participation in programs under the Social Security Act may administratively appeal these determinations in accordance with the requirements of the Administrative Procedure and Social Security Acts. OHA includes a nationwide field organization staffed with Administrative Law Judges (ALJs) who conduct impartial hearings and make decisions on appeals filed by claimants, their representatives, providers-of-service institutions and others under the Social Security Act. The Appeals Council of OHA impartially reviews ALJ decisions, either on the Appeals Council's own motion or at the request of the claimant, and renders the Commissioner's final decision when review is taken. Reviews new court cases to determine whether the case should be defended on the record or the Commissioner should seek voluntary remand, and reviews final court decisions in light of the programmatic and administrative implications involved and makes recommendations as to whether appeal should be sought. Provides advice and recommendations on Social Security Administration program policy and related matters, including proposed Social Security Rulings.

Section TAH.10 *The Office of Hearings and Appeals*— (Organization): The Office of Hearings and Appeals, under the leadership of the Associate Commissioner for Hearings and Appeals, includes:

A. The Associate Commissioner for Hearings and Appeals (TAH).

B. The Deputy Associate Commissioner for Hearings and Appeals (TAH).

C. The Immediate Office of the Associate Commissioner for Hearings and Appeals (TAH) which includes:

1. The Executive Secretariat (TAH–1).

2. The Special Counsel Staff (TAH–2).

D. The Office of the Chief Administrative Law Judge (TAHA).

1. The Division of Field Operations and Liaison (TAHA1).

2. The Division of Field Practices and Procedures (TAHA2).

3. The Vocational Expert and Medical Advisor Staff (TAHA1).

4. The Division of Medicare Part B (TAHA4).

E. The Offices of the Regional Chief Administrative Law Judges (TAH–F1—TAH–FX).

F. The Office of Appellate Operations (TAHB), which includes the Executive Director who also serves as Deputy Chair of the Appeals Council, the Appeals Council and its Administrative Appeals Judges, Appeals Officers, a Deputy Director to the Executive Director, and a Director of Operations.

1. The Operations Management, Analysis and Coordination Staff (TAHB1).

2. The Division of Program Support (TAHB2).

3. The Medical Support Staff (TAHB3).

4.–22. The Disability Program Branches 1–19 (TAHB4–9 and TAHBA–Q).

23.–24. The Court Case Preparation and Review Branches 1–2 (TAHBR–S).

25. The Division of Retirement and Survivors Insurance, Supplemental Security Income and Health Insurance (TAHBT).

G. The Office of Policy, Planning and Evaluation (TAHC).

1. The Division of Litigation Analysis and Implementation (TAHC1).

2. The Division of Planning and Evaluation (TAHC2).

3. The Division of Policy (TAHC3).

H. The Office of Management (TAHE).

1. The Equal Employment Opportunity Staff (TAHE1).

2. The Division of Congressional and Public Inquiries (TAHE2).

3. The Division of Budget and Financial Management (TAHE3).

4. The Division of Materiel Resources (TAHE4).

5. The Division of Systems Resources (TAHE5).

6. The Division of Management Analysis and Employee Development (TAHE6).

Section TAH.20 *The Office of Hearings and Appeals*—(Functions):

A. The Associate Commissioner of Hearings and Appeals (TAH) is directly responsible to the Commissioner of Social Security for carrying out OHA's mission of holding hearings and rendering decisions on appeals filed under Titles II, XVI, and XVIII of the Social Security Act, as amended, and Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. The Associate Commissioner is responsible for planning, directing, managing, coordinating, and maintaining the integrity of the nationwide SSA hearings and appeals system. As Chair of the Appeals Council, the Associate Commissioner is responsible for the decisions issued at the final administrative level of the Social Security Administration.

B. The Deputy Associate Commissioner for Hearings and Appeals (TAH) assists the Associate Commissioner in carrying out his/her OHA-wide responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Hearings and Appeals (TAH) provides the Associate Commissioner and the Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

1. The Executive Secretariat (ES) (TAH–1) is the liaison and coordination point between the Office of the Associate Commissioner and major SSA and OHA components. It serves as the primary point of contact with OC, ODCPPEC, other Deputy and Associate Commissioners and other top SSA staff for sensitive and urgent matters and to ensure OHA support to those officials.

2. The Special Counsel Staff (TAH–2) serves as professional legal advisor to the Associate Commissioner, OHA, and to other members of the OHA Executive Staff on all matters pertaining to the legislative process, labor relations law, ethics and administrative law, with special emphasis on the Administrative Procedure Act.

D. The Office of the Chief Administrative Law Judge (TAHA) serves as the principal consultant and advisor to the Associate Commissioner on all matters concerning the Administrative Law Judge (ALJ) hearing function. Under the executive leadership of the Associate Commissioner, the Chief Administrative Law Judge manages and administers a hearings organization consisting of a nationwide network of hearing offices and supporting regional offices nationwide. The Chief Administrative Law Judge has primary responsibility for maintaining effective channels of communication between the Associate Commissioner and the RCALJs and the ALJ corps. Formulates and develops broad policies and objectives and establishes program goals for OHA's ALJ corps. Maintains a continuous review of all aspects of OHA field operations, and implements improvements where needed. Is responsible for developing and maintaining the procedures for effective operation of the hearings process. Provides management oversight for all administrative and managerial functions involved in the day-to-day operations of field activities; coordinates regional and hearing office activities; prepares, reviews and drafts decisions and dismissals in Medicare Part B cases; and conducts liaison with other government and private agencies on issues falling within the Office's area of responsibility.

1. The Division of Field Operations and Liaison (TAHA1) serves as liaison for the field with all headquarters components, and provides advice, guidance, and counsel to field units in all areas of identified needs. Assists the Chief Administrative Law Judge in setting field office objectives. Analyzes field resource needs, including staffing, equipment, training and travel and recommends resource allocations to meet those needs. Represents the field on ongoing or ad hoc workgroups, task forces, etc.

2. The Division of Field Practices and Procedures (TAHA2) formulates, develops, communicates and oversees field practices and procedures governing the conduct of the hearing process and other program operations issues in response to the Associate Commissioner, the Chief Administrative Law Judge, or other OHA management officials, as well as a result of court orders and/or changes in the law and regulations.

3. The Vocational Expert and Medical Expert Staff (TAHA3) formulates, develops and oversees the national program for recruitment and use of Vocational Experts and Medical Experts at hearings before Administrative Law Judges. On an ongoing basis, monitors Regional and Hearing Office operations regarding the program and when appropriate provides guidance and makes necessary changes.

4. The Division of Medicare Part B (TAHA4) processes Medicare Part B cases on receipt from Health Care Financing Administration (HCFA) contractors. Researches the law, regulations and relevant policy to resolve case-related issues as necessary. Drafts all decisions where an on-the-record decision is requested and drafts decisions where hearings are held by an Administrative Law Judge who is attached directly to the division. Provides technical and staff assistance to the Chief Administrative Law Judge and all Administrative Law Judges concerning the adjudication of Medicare Part B cases.

E. Each Office of the Regional Chief Administrative Law Judge (TAH–F1—TAH–FX) acts on behalf of the Associate Commissioner and the Chief Administrative Law Judge at the respective regional levels on all matters involving the hearings process, and is directly responsible for the effective execution of the hearings process within the region. Provides direction, leadership, management and guidance to the regional office staff and to the hearing offices in the region, including Administrative Law Judges (ALJs) and their staffs. Is responsible for the regional implementation of national policies, goals, objectives, and procedures pertaining to the hearings process, and formulates policies, goals, and objectives for the ALJs and support staff in the region. Develops and recommends OHA action with respect to allegations of unfair hearings within the region. Is responsible for evaluating the effectiveness of regional and hearing office management. Reviews hearing practices and procedures to detect trends, training needs, and operational problems. Investigates allegations of improper employee conduct, and makes recommendations as to necessary corrective action. Has responsibility for the acquisition and distribution of human and materiel resources within the region. Coordinates operation and administrative activities with SSA regional offices, other SSA regional components, State Agencies, and others, as necessary. Establishes a program to maintain ongoing communication with congressional offices on issues of mutual interest and ensures timely and accurate responses to congressional inquiries. Ensures that court remands are processed efficiently within the region, and coordinates with the Office of the Chief Counsel in the region to foster OHA compliance with court requirements. Serves as an expert advisor on substantive issues within the region, and upon request by ALJs, provides advice and guidance in matters relating to adjudicating cases under the provisions of the Social Security Act, as amended. Reviews and analyzes fee petitions from attorneys and representatives of claimants for the provision of services at the hearing level, and authorizes payment of fees in those cases where the fees are beyond the authority of a hearing office Administrative Law Judge.

F. The Office of Appellate Operations (TAHB) consists of the Appeals Council and its support staff. In accordance with a direct delegation of authority from the Commissioner of Social Security, the Appeals Council is the final level of administrative review under the Administrative Procedure Act for claims filed under Titles II, XVI, and XVIII of the Social Security Act, as amended, and Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. The Executive Director of the Office of Appellate Operations (OAO) is the Deputy Chair of the Appeals Council and is responsible for the day-to-day operations of a program of administrative review of ALJ decisions issued under the provisions of the

VOL
60
ISS
86
MY
4
1995
UMI

Social Security Act. Upon claimant request or on the Appeals Council's own motion, OAO reviews ALJ decisions and dismissals involving claims for benefits filed under Titles II and XVI of the Social Security Act, as amended, health insurance cases under Title XVIII of the Act, including claims for individual enrollment to participate under Parts A and/or B of Title XVIII and claims by hospitals, skilled nursing facilities and independent laboratories seeking certification or continued certification under the Act, and claims under Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, to determine if jurisdiction exists, and, if so, takes appropriate action. The Appeals Council identifies cases which represent broad policy matters or have national impact, conducts oral hearings and acts to resolve the issues in such cases, establishing binding adjudicatory standards and decisional principles that govern OHA's adjudicatory process. Tracks and analyzes court case trends and disseminates information to guide adjudicators with respect to case law, to implement an effective appeals strategy, and to identify areas and make recommendations as to policies which need to be developed and/or clarified, new regulations which need to be developed, or clarifying legislation which should be sought.

1. The Operations Management, Analysis and Coordination Staff (TAHB1) provides a comprehensive program of management analysis and evaluative services to assist the Appeals Council in adjudicating cases, to assist the Executive Director of OAO, and to assist the support staff of the Appeals Council in performing their program review function.

2. The Division of Program Support (TAHB2) under the direction of the Director of Operations of OAO, provides support services to the Appeals Council, including reconstruction of lost claim files and receiving and analyzing fee petitions. Provides reprographic services and controls transcription of hearing cassettes in preparation of the official answer to civil actions filed against the Commissioner of SSA.

3. The Medical Support Staff (TAHB3) consists of staff physicians, consulting physicians, and support staff and provides expert professional judgment to the Appeals Council on individual disability and health insurance claims. Provides informational, advisory and consultant services to the Appeals Council and its support staff on matters of interpretation and application of national policy on SSA and OHA disability criteria and regulations. It reviews disability evaluation training manuals for consistency and national uniformity, represents OHA in contacts with appropriate professional affiliations, and coordinates with the Office of Disability and International Operations all matters of joint interest in the area of medical disability evaluation.

4.–22. The Disability Program Branches 1–19 (TAHB4–9 and TAHBA–Q) serve as support staff providing advice to the Appeals Council in its review of ALJ decisions and dismissals involving claims for benefits. Following an analysis of the record and any additional evidence and/or argument submitted, and applying a thorough knowledge of the Act, Regulations, Rulings and applicable case law, the staff in the program review branches examine hearing decisions and other final actions of the Administrative Law Judges, and requests for Appeals Council review, and make recommendations to the Appeals Council as to what action should be taken on cases pending before the Council. Analyze and recommend action on cases remanded by the courts and those referred by the Office of General Counsel (OGC) for consideration of whether remand should be requested at the Commissioner's motion. Recommend to OGC defense on the record of certain litigated cases if further administrative action is not warranted.

23.–24. The Court Case Preparation and Review Branches 1–2 (TAHBR–S) serve as a support staff to OAO. Prepare remand orders and affidavits and related correspondence on cases in which a complaint has been filed in Federal court. Within published guidelines, recommend to OGC defense on the record for certain litigated cases if further administrative action is not warranted. Analyze and recommend action on cases remanded by the courts. Prepares all court transcripts and controls and maintains all certified records of claims at the civil actions level.

25. The Division of Retirement and Survivors Insurance, Supplemental Security Income and Health Insurance (TAHBT) serves as a support staff and provides advice to the Appeals Council in its review of decisions and dismissals involving claims to establish entitlement to Health Insurance benefits under Title XVIII of the Social Security Act, including claims for individual enrollment to participate under Parts A and/or B of Title XVIII and claims by hospitals, skilled nursing facilities and independent laboratories seeking certification under the Social Security Act, decisions and dismissals involving claims to establish entitlement and the amount of benefits in old-age, survivors and disability under Title II of the Social Security Act; and claims to establish eligibility for and benefits payable in Title XVI cases. Following an analysis of the record and any additional evidence and/or argument submitted, and applying a thorough knowledge of the Act, Regulations, Rulings and applicable case law, examines hearing decisions and other final actions of the ALJ, and requests for Appeals Council review, and makes recommendations to the Administrative Appeals Judges as to what action should be taken on cases pending before the Council whether before or after a civil action is filed.

G. The Office of Policy, Planning and Evaluation (TAHC) plans, analyzes and develops OHA-wide policy for the hearings, appeals and civil actions processes. Responsible for SSA policy with respect to claimant representation and fees charged for their services. Manages the overall OHA hearings and appeals process policy communications system. Is responsible for OHA activity with respect to Social Security regulations, including developing an OHA position with respect to program regulations proposed by SSA components. Monitors OHA's implementation of program regulations governing the hearings and appeals process. Plans and conducts a comprehensive OHA-wide evaluation program designed to support OHA policy and regulatory initiatives and measure the overall effectiveness of the nationwide hearings and appeals process. Provides advice and guidance throughout OHA on matters involving program policies, planning and evaluation. Coordinates policy, planning and evaluation matters within OHA, with OGC, other SSA components, with HCFA and with other Federal agencies and private organizations. Develops and coordinates program training in conjunction with appropriate OHA, SSA, HCFA and OGC components. Develops and implements an appeals strategy, in conjunction with other OHA components, that identifies the issues and types of cases which OHA believes should be appealed. Captures court trend information for dissemination to other components to assist in formulating the Agency's litigation strategy and improving the adjudication process.

1. The Division of Litigation Analysis and Implementation (TAHC1) develops and implements, in conjunction with other OHA components, an appeals strategy that identifies the issues and types of cases which OHA believes should be appealed. Captures court trend information for dissemination to other components to assist in formulating the Agency's litigation strategy and improving the adjudication process. Develops and maintains a compendium of circuit court case law with systems-based access. Tracks pending class actions, forecasts potential workload impact, and makes recommendations to workload components regarding workload impact. Uses court trend information to identify and make appropriate recommendations with respect to areas in which policies need to be developed and/or clarified, new regulations need to be developed, or clarifying legislation should be sought. Prepares and updates significant court case requirements used in reviewing court cases. Uses court trend information to identify areas where additional training is needed or other measures are needed to improve defensibility. Advises OHA officials of significant cases and trends and of litigation issues which may require revision of operating instructions, and assists with the preparation of the instructions. Coordinates OHA's views on proposed Social Security Acquiescence Rulings. In response to OHA-identified cases and to requests for appeals recommendations from the Litigation Staff, ODCPPEC, obtains the views of affected OHA components and formulates an OHA position on appeal. Maintains liaison with OGC and ODCPPEC to coordinate the settlement of class actions and class action implementation. In coordination with other OHA components, develops instructions for OHA implementation of class action orders, monitors implementation and serves as a focal point for questions from OHA adjudicators. Responds to requests from OGC and the ODCPPEC regarding information about OHA operations requested in the course of litigation. Coordinates OHA's response to discovery requests. Administers and coordinates the Freedom of Information Act and Privacy Act provisions for OHA.

2. The Division of Planning and Evaluation (TAHC2) develops, coordinates and conducts a comprehensive OHA-wide program of studies and analyses of the application of and compliance with SSA and OHA policies and procedures in all phases of OHA's hearings and appeals processes and SSA's claimant representation process and the quality of results achieved. Provides advice and assistance to other OHA components in designing and implementing appropriate systems and procedures for collecting, recording, analyzing and evaluating data to assess the quality of work emanating from the hearings and appeals processes. Conducts studies of policy implementation within OHA. Identifies problem areas and deficiencies in policies. Develops techniques and systems for conducting evaluations of the substantive and technical aspects of claims throughout OHA.

3. The Division of Policy (TAHC3) plans, develops and coordinates the preparation of regulations, policies and guidelines for the hearings, appeals, civil actions and claimant representation processes under Titles II, XVI and XVIII of the Social Security Act, as amended, and under Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. Ensures that operating procedures and instructions developed to implement the hearings and appeals process conform with SSA benefit program policy and OHA hearings and appeals process policy. Provides advisory services, consultation, and staff assistance to other components of OHA. Maintains ongoing liaison with SSA, HCFA, OGC and others with respect to program, legislative and policy matters. Reviews current and developing trends in administrative law and litigation; analyzes and prepares policy recommendations; and develops long-range and short-range plans for hearing and appeals policy matters and OHA's implementation of benefit program policy matters. Develops and coordinates program training in conjunction with other OHA, SSA, and OGC program components.

H. The Office of Management (OM) (TAHE) provides administrative support to the Associate Commissioner for all management and systems related activities for OHA. Coordinates with the Chief Administrative Law Judge with respect to management, financial, materiel resources and systems support functions which affect field operations. Has direct line authority for all management and administrative support functions for Headquarters' components of OHA and in coordination with the Chief Judge, for all field components of OHA including its regional offices (ROs) and hearing offices nationwide. Coordinates and integrates the management programs and administrative planning initiatives of OHA into the long-range goals and objectives of SSA. Monitors OHA's progress toward meeting established Agency goals and makes recommendations for needed adjustments to enable OHA to meet these goals. Plans, directs and implements an EEO program within OHA. Plans, directs, administers and evaluates the congressional and public inquiries activities for OHA. Plans, directs and administers a comprehensive nationwide management analysis program to identify areas requiring improvement to enhance the quality and effectiveness of management practices and to assess trends in management.

1. The Equal Employment Opportunity Staff (TAHE1) is responsible for OHA's Equal Opportunity program. Plans, develops, implements and monitors OHA's affirmative action program, and administers the EEO complaint process for OHA headquarters. Provides guidance for, and monitoring of, OHA regional EEO programs.

2. The Division of Congressional and Public Inquiries (TAHE2) formulates policies, procedures and guidelines for use in responding to high priority correspondence from the public and congressional offices. Serves as the correspondence liaison staff with the Commissioner's Office, the Office of Communications and other SSA components.

3. The Division of Budget and Financial Management (TAHE3) plans, develops and coordinates OHA's budget and financial management programs, advising the Director of OM and/or the Associate Commissioner of the financial impact of all decisions which may affect the program and administrative operations of the Agency. Formulates, justifies and presents OHA's annual and multi-year budget submissions. Reviews and analyzes budget requests submitted by OHA components and formulates OHA's financial operating plans and budget projections. Works with SSA budget officials to obtain the resources necessary to meet OHA goals and objectives. Develops all necessary applications for generating budget data and financial management reports. Executes and administers a financial management system, integrating resource management controls. Ensures that employment ceilings and obligations and expenditures of funds are in conformance with authorized allotments and allowances. Administers the travel and payroll function for all OHA headquarters components and ALJs nationwide.

4. The Division of Materiel Resources (TAHE4) plans, directs and provides administrative support services in the areas of space planning and management; forms and records management; property management; equipment control and maintenance;

VOL 60 ISS 86 MY 4 1995 UMI

graphic arts; safety and self-protection, including emergency planning; security; procurement and supply; laboring services; mail and messenger services; motor vehicle operations; and communications systems management. Organizes, controls and coordinates procurement and property management activities, including development of specifications and requisitions for procurement of property, inspections of property owned or leased by the United States Government, and property accountability. Administers an occupational health and safety program in compliance with established health and safety concepts, regulations, standards and procedures. Administers security programs and inspections, and coordinates with local law enforcement officials to ensure protection of OHA property and personnel.

5. The Division of Systems Resources (TAHE5) is the focal point for all OHA systems-related activities. Provides office automation and data processing support to all OHA components. Develops OHA's long-range systems goals and objectives. Provides computer programming and systems support for the planning, design, development and implementation of all OHA ADP systems. Serves as liaison with the Office of Systems on all matters pertaining to systems, and ensures that OHA systems efforts are undertaken, that projects underway are carried out successfully and that OHA participates fully in the SSA systems strategy.

6. The Division of Management Analysis and Employee Development (TAHE6) advises the Director of OM and the Associate Commissioner in all management areas involving management practices, management analysis, operational analysis and the resolution of management/employee concerns and problems. Plans, designs and administers evaluation programs and tracking systems to assess the efficiency and effectiveness of OHA operations in the field and headquarters. Serves as the focal point of contact for coordinating the General Accounting Office, OIG, SSA and other studies of OHA operations. Coordinates, develops and publishes administrative delegations of authority for OHA. Administers OHA's Employee Development Program. Develops and administers an OHA-wide program to identify training needs; develops mechanisms to meet identified training needs; and assesses the effectiveness of the OHA training program in meeting the training needs of managers, supervisors and employees.

Subchapter TAJ—Office of International Policy

TAJ.00 Mission
TAJ.10 Organization
TAJ.20 Functions

Section TAJ.00 *The Office of International Policy*—(Mission): The Office of International Policy (OIP) serves as SSA's focal point for international program policy matters and for its participation in the international Social Security community. Serves as liaison to international agencies and associations which deal with Social Security matters. Negotiates international Social Security (totalization) agreements with foreign governments, and develops policies and procedures to implement the agreements. Develops and implements policies and procedures relating to the operation of the Social Security program outside the United States. Provides programs of training and technical consultations on Social Security and related fields to Social Security officials and other experts outside the United States. Serves as liaison with other Federal agencies, such as the Department of State and the Department of the Treasury, on Social Security program matters outside the United States.

Section TAJ.10 *The Office of International Policy*—(Organization): The Office of International Policy, under the leadership of the Director of the Office of International Policy includes:

A. The Director for International Policy (TAJ).

B. The Immediate Office of the Director for International Policy (TAJ).

C. The Division of International Program Policy and Agreements (TAJA).

D. The International Activities Staff (TAJB).

Section TAJ.20 *The Office of International Policy*—(Functions):

A. The Director for International Policy (TAJ) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out the OIP mission and provides supervision to the major components of OIP.

B. The Immediate Office of the Director for International Policy (TAJ) provides the Director with staff assistance on the full range of his/her responsibilities, helps coordinate the activities of OIP components, and acts as the SSA or United States Government representative to international organizations and world bodies involved with international social security matters.

C. The Division of International Program Policy and Agreements (TAJA).

1. Plans, develops and evaluates program policies and procedures relating to foreign claims administration, foreign evidence and beneficiaries and modifies policies and procedures to meet program requirements in foreign countries.

2. Negotiates international Social Security (totalization) agreements with foreign governments and takes the actions necessary to secure their approval, develops policies and procedures to implement agreements and administers the coverage provisions of the agreements.

3. Issues certificates of coverage to United States-based workers who are on temporary assignments in countries with which the United States has international totalization agreements to exempt them (and their employers) from foreign social security taxes.

4. Interacts with various SSA components, other Federal agencies and governments of other countries on all foreign program matters, including evaluation of foreign social insurance systems for alien nonpayment purposes, benefit payment delivery and restrictions, acceptability of foreign evidence, program integrity and mutual assistance arrangements with other countries.

5. Conducts legislative and regulatory reviews, studies and analyses of all matters relating to international policy and international Social Security agreements and takes necessary legislative or regulatory action on foreign program and agreement problems requiring such remedy.

D. The International Activities Staff (TAJB).

1. Develops and coordinates individualized programs of consultation and observation for foreign Social Security officials and experts in related fields on the United States Social Security system.

2. Coordinates SSA's technical assistance to foreign countries in designing and/or modernizing existing social security systems.

3. Serves as SSA's focal point in disseminating information about the United States Social Security program to foreign organizations.

4. Plans and coordinates SSA's international travel plan, including providing logistical support and administering all activities relating to control of official passports for SSA staff travelling abroad.

5. Plans, implements and manages SSA-hosted international conferences, meetings and seminars.

Subchapter TAK—Office of Policy

TAK.00 Mission
TAK.10 Organization
TAK.20 Functions

Section TAK.00 *The Office of Policy*—(Mission): The Office of Policy (OP) serves as the focal point for the Agency to ensure that strategic policy decisions are properly translated into operational policies and procedures and are implemented in an effective manner. Coordinates the development of policies across program lines to ensure consistency in implementation. Develops, promulgates and reviews all program regulations for consistency. Reviews regulations for directly-administered programs for consistency with statutory and congressional intent and with SSA policy decisions and requirements. Directs the clearance of regulations within the Agency and with other departments and agencies and the Office of Management and Budget. Develops the Agency's Regulatory Plan and its portion of the United Agenda of Federal Regulations. Is responsible for development, review and distribution of the Agency's instructional system. Develops and publishes general and special compilations of Social Security laws, various technical issuances and program handbooks. Ensures that policies are coordinated internally and that all instructional materials developed are compatible with overall operating policies and practices. Establishes policies relating to the Agency's notices to the public and serves as the focal point for the Agency's effort to improve service to the public through the issuance of clear notices. Evaluates the effectiveness of national policies in meeting program goals and recommends necessary program modifications.

Section TAK.10 *The Office of Policy*—(Organization):

The Office of Policy, under the leadership of the Associate Commissioner for Policy includes:

A. The Associate Commissioner for Policy (TAK).

B. The Deputy Associate Commissioner for Policy (TAK).

C. The Immediate Office of the Associate Commissioner for Policy (TAK).

D. The Notice Policy Staff (TAKA).

E. The Division of Regulations and Rulings (TAKB).

F. The Division of Directives Management (TAKC).

Section TAK.20 *The Office of Policy*—(Functions):

A. The Associate Commissioner for Policy (TAK) is directly responsible to the Deputy Commissioner Programs, Policy, Evaluation and Communications for carrying out OP's mission and provides general supervision to major components of OP.

B. The Deputy Associate Commissioner for Policy (TAK) assists the Associate Commissioner in carrying out his/her responsibilities, and performs other duties that the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Policy (TAK) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and helps coordinate the activities of OP components.

D. The Notice Policy Staff (TAKA) serves as the focal point for SSA's effort to improve service to the public through the issuance of clear notices. Coordinates, plans, establishes priorities and schedules all notice improvement activities for the Agency. Develops Agency-level strategies for notice improvements. Establishes the Agency's notice policy and develops and publishes the Agency's Notice Standards. Designs and writes notices and selected forms. Provides direction for notice content and design throughout SSA. Acts as a clearinghouse through which program offices submit proposed new or revised notices and selected forms. Assesses the impact of new notices on public service. Develops, plans and implements Agency efforts to get public feedback about notices. Maintains the language database for the Field Office Notice Software, both in English and Spanish. Oversees training for operations and program components to improve the quality of notices.

E. The Division of Regulations and Rulings (TAKB) plans, develops and writes SSA regulations and provides for the publication of regulations. Performs an ongoing assessment of the regulations process in SSA. Coordinates, within SSA, the review and clearance of regulations for the claims and payment processes developed for the RSDI programs, the SSI program and the Black Lung Benefits programs. Ensures that OP has input into the regulations development process. Coordinates activities with SSA's Office of the General Counsel on the issuance of regulations. Coordinates activities with other departments and agencies on the issuance of regulations. Negotiates with the Office of Management and Budget and the Office of the Federal Register on regulations matters. Plans and develops Social Security Rulings to provide interpretations and applications of the Social Security Act. Coordinates the review and clearance of Social Security Rulings with the Office of the General Counsel, the Office of the Commissioner and other ODCPPEC components and arranges for their publication in the **Federal Register**.

F. The Division of Directives Management (TAK3) directs the review, coordination, publication and distribution of program instructions and other materials in paper and electronic form to insure uniformity, lack of duplication and compatibility of all SSA operations, instructional and informational material. Also, coordinates the publication, distribution and warehousing of all Social Security Rulings that have been published in the **Federal Register**. Participates in determining the instructional needs of SSA operating personnel. Researches and develops processes for providing instructions digitally. Directs technical review of program operating instructions to insure proper integration, organization, clearance and audience for materials prepared by various SSA components for the Program Operations Manual System and related program guides. Coordinates publication, distribution and warehousing of all program instructional and related materials and directs a quality review of new issuances to insure proper reproduction of printed materials. Indexes all program instructional materials and determines user needs in this area. Develops and publishes general and special compilations of Social Security laws, various technical issuances and program handbooks. Participates with SSA's Systems organization in the design, development and ongoing administration of a computerized system for storing, updating, publishing and distributing operational instructions and materials. Coordinates with SSA's Office of Human Resources as appropriate. Establishes policies and guidelines for the distribution of SSA's program publications to the public as required by the Freedom of Information Act.

Subchapter TAL—Office of Communications

TAL.00 Mission
TAL.10 Organization
TAL.20 Functions

Section TAL.00 *The Office of Communications*—(Mission): The Office of Communications (OCOMM) directs a program to develop and preserve working relationships with a wide variety of national organizations, special interest and advocacy groups, the media, Members of Congress, other Federal agencies and State and local governments, for purposes of securing understanding, cooperation and acceptance of SSA programs, policies

VOL
60
ISS
86
MY
4
1995
UMI

and procedures and for providing avenues of public participation in the decisionmaking processes of SSA. Plans, directs, coordinates, effects and evaluates SSA's nationwide public communications program, which involves interaction with other Federal and State agencies, and other organizations concerned with public communications programs and activities. Develops public information programs and materials to ensure public knowledge and understanding of protections, rights and responsibilities under the programs administered by SSA. Directs SSA's Satellite Communications Network activities. Directs the non-English communications activities within SSA.

Section TAL.10 *The Office of Communications*—(Organization): The Office of Communications, under the leadership of the Associate Commissioner for Communications, includes:

A. The Associate Commissioner for Communications (TAL).

B. The Deputy Associate Commissioner for Communications (TAL).

C. The Immediate Office of the Associate Commissioner for Communications (TAL).

D. The Office of Communications Technology (TALA).

1. The Visual Graphics and Community Affairs Staff (TALA1).

2. The Audiovisual Media Operations Staff (TALA2).

E. The Office of Editorial Policy and Communications (TALB).

1. The Editorial Policy and Communications Staff (TALB1).

2. The Special Communications Staff (TALB2).

F. The Office of National Affairs (TALC).

G. The Office of Regional Affairs and Special Projects (TALE).

H. The Office of Public Inquiries (TALG).

1. The Policy, Appraisal and Systems Group (TALG1).

2. The Correspondence Analysis and Response Group (TALG2).

Section TAL.20 *The Office of Communications*—(Functions):

A. The Associate Commissioner for Communications (TAL) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out OCOMM's mission and providing managerial direction to the major components of OCOMM.

B. The Deputy Associate Commissioner for Communications (TAL) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Communications (TAL) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities.

D. The Office of Communications Technology (OCT) (TALA) directs and implements technical information communications for the Agency. Develops the Agency's goals and objectives for using the media to promote SSA programs and policies. Is responsible for the design and production of audiovisual and graphics materials. Utilizes state-of-the-art technological theories, principles and methodologies in determining and creating the most effective means of communicating the Agency's information.

1. The Visual Graphics and Community Affairs Staff (TALA1).

a. Plans, designs and produces Agency display, presentation, media and photographic materials for internal and external public information programs.

b. Produces materials in various media formats for the observance of special ceremonial events.

c. Plans and implements a program of community liaison in the Baltimore/Washington metropolitan area. Maintains viable relationships with representatives of users of SSA programs, professional societies and local governments.

2. The Audiovisual Media Operations Staff (TALA2).

a. Plans, develops and directs electronic systems required for the Agency's television and audiovisual productions and management communications.

b. Coordinates all technical activities related to the Agency's television and audiovisual production system.

c. Plans, writes, directs and edits motion picture and television productions covering all aspects of Social Security for public information, SSA training and management information purposes.

d. Plans, designs and coordinates satellite communication programs for SSA and other agencies nationwide.

E. The Office of Editorial Policy and Communications (OEPC) (TALB) directs SSA's information activities to ensure public knowledge and understanding of programs administered by SSA. Develops and evaluates goals, objectives, policies, standards and guidelines for SSA public information needs, and carries out programs to inform the public of the purposes and provisions of SSA-administered programs, program changes and people's rights and responsibilities under these programs. Prepares and determines distribution of a wide variety of public information materials on all phases of SSA-administered programs, evaluates the quality of informational materials to ensure a high-quality product and helps in public affairs training in SSA.

1. The Editorial Policy and Communications Staff (TALB1).

a. Develops and evaluates goals and objectives, policies, standards and guidelines for SSA public information needs. Prepares public information workplans and SSA's National Communications objectives.

b. Provides direction and quality control of information materials for the administration of SSA public affairs and public information programs.

c. Writes, edits and produces a variety of public information materials. Provides advice and consultation to other components on editorial policy and methods of initiating and developing informational programs.

d. Conducts editorial reviews and approves content, format and style of Social Security information materials for use in all media.

e. Plans and conducts a public information management program. Determines public information strategies for a wide variety of public information materials on all phases of SSA-administered programs.

f. Designs and conducts broad evaluation programs, incorporating and coordinating various evaluation methods, techniques and efforts.

2. The Special Communications Staff (TALB2).

a. Directs the internal communications program in SSA. Publishes a variety of informational materials, including a monthly national employee magazine and Central Office Bulletin. Prepares and edits administrative reports and presentations.

b. Provides assistance to and appraises internal communications activities in SSA field organizations. Identifies weaknesses in communications SSA-wide, and recommends improvements.

F. The Office of National Affairs (ONA) (TALC) implements and directs programs designed to develop and preserve working relationships with a wide variety of national organizations, special interest and advocacy groups, other Federal agencies and State and local governments. Presents, explains, advocates and defends the views and objectives of SSA. Provides the avenue for bringing the views and opinions of influential organizations into the Agency. Is responsible for reviewing and considering the validity of SSA-related issues and concerns raised by a variety of external sources and recommending changes or referring the matter to other SSA components for further study. Facilitates operational dealings between these organizations and other SSA components.

G. The Office of Regional Affairs and Special Projects (ORASP) (TALE) provides onsite leadership and direction to the regional SSA public communications program. Analyzes and evaluates regional public communications activities and issues national public communications policies. Plans and coordinates the development of regional policies, directives and procedures concerning the relationships of SSA programs to public and private welfare and community service programs. Oversees the regional public information program. Prepares and disseminates public information materials. Coordinates the development and implementation of regional information and referral programs. Advises the Regional Public Affairs Officers in carrying out SSA public information policy, plans and activities. Provides guidance and assists in interpreting, analyzing and evaluating public communications/public information needs of the regions. Coordinates workgroups representing SSA components for the purpose of solving complex problems resulting from adverse impacts of SSA programs and program service delivery on special groups or the general public.

H. The Office of Public Inquiries (OPI) (TALG) provides a central receipt, control, acknowledgement, response, and referral program for all public inquiries. Develops correspondence policy and procedure and guide language on recurring topics and issues for use throughout the Agency.

1. The Policy, Appraisal and Systems Group (PASG) (TALG1) develops policy and procedures concerning the style, control, workflow and signature of correspondence, and disseminates the information to headquarters components. Performs a pre-release quality review of final replies prepared in OPI to ensure that they are well-written, accurate and responsive. Designs and administers OPI's electronic correspondence management system and provides support to system users. Directs surveys and analyses to increase the effectiveness of the correspondence workflow process throughout SSA.

2. The Correspondence Analysis and Response Group (CARG) (TALG2) collects, stores and maintains information needed to respond congressional, White House and public inquiries. Prepares responses in conformance with SSA standards, policies and procedures. Performs correspondence receipt, screening, imaging, routing and letterwriting functions. Identifies sensitive inquiries and trends and reports them to appropriate officials. Receives and responds to telephone inquiries.

Subchapter TAN—Office of Research and Statistics

TAN.00 Mission
TAN.10 Organization
TAN.20 Functions

Section TAN.00 *The Office of Research and Statistics*—(Mission): The Office of Research and Statistics (ORS) is responsible for providing information on the effects on individuals and the economy of programs operated by SSA and the interactions among these programs, other tax and income-transfer programs and economic, social and demographic forces. Plans and directs a continuing program of economic and social research to evaluate the effectiveness of national policies in meeting program goals.

Section TAN.10 *The Office of Research and Statistics*—(Organization): The Office of Research and Statistics under the leadership of the Associate Commissioner, Office of Research and Statistics, includes:

A. The Associate Commissioner, Office of Research and Statistics (TAN).

B. The Deputy Associate Commissioner, Office of Research and Statistics (TAN).

C. The Immediate Office of the Associate Commissioner, Office of Research and Statistics (TAN).

D. The Publications Staff (TANA).

E. The Division of Program Analysis (TANB).

F. The Division of Economic Research (TANC).

G. The Division of Earnings Statistics and Analysis (TANE).

H. The Division of Retirement, Survivors, Disability Insurance Research Statistics (TANG).

I. The Division of SSI Analysis/Management Statistical Support (TANH).

J. The Disability Research Staff (TANJ).

Section TAN.20 *The Office of Research and Statistics*—(Functions):

A. The Associate Commissioner, Office of Research and Statistics (TAN) is directly responsible to the Deputy Commissioner for Programs, Policy, Evaluation and Communications for carrying out ORS' mission, and providing general supervision to the major components of ORS.

B. The Deputy Associate Commissioner, Office of Research and Statistics (TAN) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner, Office of Research and Statistics (TAN) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and helps coordinates the activities of ORS components.

D. The Publications Staff (TANA).

1. Advises ORS on the development, organization and presentation of research and statistical studies.

2. Publishes and distributes these studies to national and international audiences.

3. Assesses informational needs of SSA staff, staff in other Government agencies, the social science research community and the public for data and findings from the ORS research program.

E. The Division of Program Analysis (TANB).

1. Plans, designs and conducts surveys of program target groups and performs policy-relevant research.

2. Analyzes the impact of proposed policy options, legislative proposals and special high-priority issues and prepares briefing materials for SSA administrators.

3. Plans, conducts and publishes the results of cross-national research on social security programs worldwide.

F. The Division of Economic Research (TANC).

1. Plans, directs and executes issue-oriented research to provide information about relationships between the Social Security program, the economy and other aspects of society.

2. Makes program revenue projections and interprets changing demographic and economic trends as they relate to the broad field of economic security and to overall economic and social policy.

3. Studies such major areas as: Social Security financing, economic impacts of Social Security, income maintenance, effect of Social Security on lifetime income redistribution, alternative measures of income adequacy, and labor market and retirement behavior.

G. The Division of Earnings Statistics and Analysis (TANE).

1. Plans, coordinates and directs the preparation of statistical and analytical

VOL 60 ISS 86 MY 4 1995 UMI

data pertaining to earnings, employment and employer classification. Analyzes these data with emphasis on demographic, economic, social and program characteristics. These data are used to support program and legislative planning and serve as important sources for program evaluation, research and administrative information within SSA, and for research by other Federal and State and local government agencies, universities, and private research organizations.

2. Provides ORS and other SSA researchers with support in the development of social science survey data linked with SSA administrative record data.

H. The Division of Retirement, Survivors and Disability Insurance Research Statistics (TANG).

1. Plans, coordinates and directs the preparation of statistical and analytical data pertaining to RSDI claims and benefits provisions of Title II of the Social Security Act. Analyzes these data with emphasis on demographic, economic, social and program characteristics. These data are used to support program and legislative planning and serve as important sources for program evaluation, research and administrative information within SSA, and for research by other Federal and State and local government agencies, universities and private research organizations.

I. The Division of SSI Analysis/ Management Statistical Support (TANH).

1. Plans, coordinates and directs the preparation of statistical and analytical data pertaining to the Supplemental Security Income provisions of Title XVI of the Social Security Act. Analyzes these data with emphasis on demographic, economic, social and program characteristics. These data are used to support program and legislative planning and serve as important sources for program evaluation, research and administrative information within SSA and for research by other Federal and State and local government agencies, universities and private research organizations.

2. Provides management statistical services to SSA operating and policy components, including such activities as the development of general purpose and customized field office samples, development of work sampling systems and quality assurance systems, and the design and analysis of operational pilot studies. Provides support for the development and use of mathematical models and statistical methods.

J. The Disability Research Staff (TANJ).

1. Plans, directs and implements a wide range of studies and analyses, utilizing data from surveys and administrative records, on the national disabled population, disability applicants and disability beneficiaries.

2. Develops research in response to DI program issues.

3. Maintains and develops research surveys and administrative data files used in the analysis of disability data.

Subchapter TAP—Office of Program Benefits Policy

TAP.00 Mission
TAP.10 Organization
TAP.20 Functions

Section TAP.00 *The Office of Program Benefits Policy*—(Mission): The Office of Program Benefits Policy (OPBP) provides SSA-wide leadership and direction to the development, coordination and promulgation of RSI and SSI policies and procedures. Develops, coordinates and evaluates the program and issues the operational policies, standards and instructions for the RSI and SSI programs. Develops and issues policies and guidelines for use by State and Federal organizations which implement the SSI provision. Develops agreements with the States and other agencies that govern State supplementation programs, Medicaid eligibility, data exchange programs, food stamps and fiscal reporting processes. Plans and directs continuing performance evaluation and economic and social survey programs to evaluate the current impact and future needs of the RSI and SSI programs.

Section TAP.10 *The Office of Program Benefits Policy*—(Organization): The Office of Program Benefits Policy, under the leadership of the Associate Commissioner for Program Benefits Policy includes:

A. The Associate Commissioner for Program Benefits Policy (TAP).

B. The Deputy Associate Commissioner(s) for Program Benefits Policy (TAP).

C. The Immediate Office of the Associate Commissioner for Program Benefits Policy (TAP).

D. The Division of Benefit Continuity (TAPA).

E. The Division of Coverage (TAPB).

F. The Division of Entitlement (TAPC).

G. The Division of Payment Policy (TAPE).

H. The Division of Program Requirements Policy (TAPG).

I. The Division of Program Management, Research and Demonstration (TAPH).

Section TAP.20 *The Office of Program Benefits Policy*—(Functions):

A. The Associate Commissioner for Program Benefits Policy (TAP) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out OPBP's mission and provides general supervision to the major components of OPBP.

B. The Deputy Associate Commissioner(s) for Program Benefits Policy (TAP) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties as the Associate Commissioner may prescribe.

C. The Immediate Office of the Associate Commissioner for Program Benefits Policy (TAP) provides the Associate Commissioner and Deputy Associate Commissioner with staff assistance on the full range of their responsibilities and helps coordinate the activities of OPBP components.

D. The Division of Benefit Continuity (TAPA).

1. Plans, develops and evaluates the operational policies, standards and instructions and provides guidance to field components on issues related to the retirement and survivors insurance program and common to one or more of the other SSA programs in the area of benefit continuity.

2. Develops, issues and evaluates guidelines, directives, instructions and operating procedures for such areas as work notices, annual and monthly earnings tests, suspensions and terminations, governmental pension offset and enforcement and beneficiary compliance, overpayments; underpayments, recovery and waiver, garnishment, payment delivery, onsite review, accounting, representative payee selection, advance notice, capability/incapability and use and misuse.

E. The Division of Coverage (TAPB).

1. Plans, develops and evaluates the operational policies, standards and instructions and provides guidance to field components on issues related to the retirement and survivors insurance program and common to one or more of the other SSA programs in the area of coverage.

2. Develops and issues guidelines, directives, instructions and operating procedures for such coverage and employment subject areas as wages, coverage and exceptions, anti-poverty programs, earnings records and earnings records discrepancies, coverage aspects of international agreements, self-employment status and income, religious exemptions, State and local coverage and statutes of limitations.

F. The Division of Entitlement (TAPC).

1. Plans, develops and evaluates the operational policies, standards and instructions and provides guidance to field components on issues related to the retirement and survivors insurance program and common to one or more of the other SSA programs in the area of entitlement.

2. Develops and issues guidelines, directives, instructions and operating procedures for such entitlement subject areas as applications, insured status, veterans' benefits, railroad employment, family relationships, dependency and support, evidence, school attendance, indexing of earnings, primary insurance amount computation, reduction of benefits for age, family maximums, saving clauses, recomputations and recalculations of benefits, period of disability computations, awards, disallowances and abatements of claims, earnings records, claims application forms, administrative finality, adjudicative standards, evidence, documentation, conspicuous characteristics and social security numbers.

G. The Division of Payment Policy (TAPE).

1. Plans, develops and evaluates the operational policies, standards and instructions and provides guidance to field components on issues related to the supplemental security income program in the area of payment policy.

2. Develops and issues guidelines, directives, instructions and operating procedures for such payment policy subject areas as redeterminations, SSI notices, SSI appeals and overpayments/ underpayments matching and interfaces, mandatory and optional State supplemental payments, pass through of rate increases, monitoring of fiscal information systems with the States, maintenance of State agreements, food stamps, Medicaid, State assistance reimbursements, energy assistance, State data exchange systems and postadjudicative issues.

H. The Division of Program Requirements Policy (TAPG).

1. Plans, develops and evaluates the operational policies, standards and instructions and provides guidance to field components on issues related to the supplemental security income program in the area of program requirements policy.

2. Develops and issues guidelines, directives, instructions and operating procedures for such program requirements subject areas as individual/couple/child eligibility status, in-kind income, support and maintenance, in-kind living arrangements, institutionalization, special classifications of income and medical social services, generic income issues, deeming of income and resources, computation of income, certain grandfather clauses, special sponsored alien deeming, color of law alien status, presence in the United States, generic resources issues, trust policy, filing for other benefit requirements and property essential for self-support.

I. The Division of Program Management, Research and Demonstration (TAPH).

1. Designs, manages and conducts studies to measure the impact and effectiveness of the supplemental security income and the retirement and survivors insurance program policies, procedures and programs on the population.

2. Establishes, maintains and operates statistical program data base extract systems to provide program information for internal and external use; develops functional specifications and programs; validates output; and assists requestors in verifying final product.

3. Conducts retirement and survivors insurance and supplemental security income research programs based on administrative records and State and Federal data to formulate and evaluate policies and the impact of legislation, to reduce errors, to implement redetermination requirements, and to improve program implementation.

4. Manages demonstration cooperative agreements and initiatives to target special populations and program issues. Evaluates the effectiveness of demonstrations and initiatives and develops new and revised policies and procedures to implement program improvements.

5. Coordinates and directs assignments and projects related to program redesign and systems modernization efforts, including development of program specifications for expert systems. Formulates, plans and implements computer programs and other automation activities in support of program policy, research and administrative needs.

6. Develops and issues guidelines, directives, instructions and operating procedures for SSI applications policy, including protective filing and advance filing and SSI work incentive provisions, including plans for achieving self-support and 1619 provisions.

Subchapter TAQ—Office of Policy Analysis and Evaluation

TAQ.00 Mission
TAQ.10 Organization
TAQ.20 Functions

Section TAQ.00 *The Office of Policy Analysis and Evaluation*—(Mission): The Office of Policy Analysis and Evaluation (OPAE) conducts a comprehensive program to analyze cross-cutting policy issues, provide analytic support to external commissions and evaluate current and proposed social welfare policy.

Section TAQ.10 *The Office of Policy Analysis and Evaluation*—(Organization): The Office of Policy Analysis and Evaluation, under the leadership of the Director of the Office of Policy Analysis and Evaluation, includes:

A. The Director of the Office of Policy Analysis and Evaluation (TAQ).

B. The Immediate Office of the Director of the Office of Policy Analysis and Evaluation (TAQ).

Section TAQ.20 *The Office of Policy Analysis and Evaluation*—(Functions):

A. The Director of the Office of Policy Analysis and Evaluation (TAQ) is directly responsible to the Deputy Commissioner, Programs, Policy, Evaluation and Communications for carrying out OPAE's mission and providing managerial direction to the major components of OPAE.

B. The Immediate Office of the Director of the Office of Policy Analysis and Evaluation (TAQ) provides the Director with staff assistance on the full range of his/her responsibilities.

1. Provides analyses of complex and cross-cutting policy issues, ensuring the consideration of available knowledge, commissions analyses to fill knowledge gaps and to synthesize available research and develops options and recommendations for Agency action.

2. Serves as a link between SSA and the external social welfare research and policymaking communities.

3. Coordinates analytic support for major external commissions and studies relating to Social Security and Supplemental Security Income program policy.

4. Evaluates the effectiveness and appropriateness of current and proposed social welfare policy to assess what implications may exist regarding future directions of Social Security and Supplemental Security Income programs.

This statement amends part T of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given of the establishment of the Office of the Deputy Commissioner, Legislation and Congressional Affairs (DCLCA) (TB) at the first level below the Commissioner. Notice is further given of the establishment of the Disability

VOL
60
ISS
86
MY
4
1995
UMI

Insurance Program Staff, the Congressional Relations Staff, the Supplemental Security Income (SSI) Program Staff, the Old Age and Survivors Insurance (OASI) Benefits Staff and the Program Administration and Financing Staff. The new chapter reads as follows:

Section TB.00 *The Office of the Deputy Commissioner, Legislation and Congressional Affairs*—(Mission): The Office of the Deputy Commissioner, Legislation and Congressional Affairs develops and conducts the legislative program of SSA, serves as the focal point for all legislative activity in SSA, analyzes legislative and regulatory initiatives and develops specific positions and amendments. The Office evaluates the effectiveness of programs administered by SSA in terms of legislative needs, and analyzes and develops recommendations on related income maintenance, social service and rehabilitation program proposals, particularly those which may involve coordination with SSA-administered programs, and on other methods of providing economic security. It provides advisory service to SSA officials on legislation of interest to SSA pending in Congress. It also provides legislative drafting to officials within the Executive Branch, congressional committees, individual Members of Congress and private organizations interested in Social Security legislation. It establishes and maintains a working relationship with all Members of Congress. It serves as SSA's information gathering and dissemination staff on congressional activities affecting SSA programs and handles certain claims and administrative matters that are particularly urgent or sensitive to Members of Congress.

Section TB.10 *The Office of the Deputy Commissioner, Legislation and Congressional Affairs*—(Organization): The Office of the Deputy Commissioner, Legislation and Congressional Affairs, under the leadership of the Deputy Commissioner for Legislation and Congressional Affairs, includes:

A. The Deputy Commissioner for Legislation and Congressional Affairs (TB).

B. The Assistant Deputy Commissioner for Legislation and Congressional Affairs (TB).

C. The Immediate Office of the Deputy Commissioner for Legislation and Congressional Affairs (TBA).

D. The Disability Insurance Program Staff (TBB).

E. The Congressional Relations Staff (TBC).

F. The Supplemental Security Income (SSI) Program Staff (TBE).

G. The Old Age and Survivors Insurance (OASI) Benefits Staff (TBG).

H. The Program Administration and Financing Staff (TBH).

Section TB.20 *The Office of the Deputy Commissioner, Legislation and Congressional Affairs*—(Functions):

A. The Deputy Commissioner for Legislation and Congressional Affairs (TB) is directly responsible to the Commissioner for carrying out DCLCA's mission and providing general supervision to the major components of DCLCA.

B. The Assistant Deputy Commissioner for Legislation and Congressional Affairs (TB) assists the Deputy Commissioner in carrying out his/her responsibilities and performs other duties as the Deputy Commissioner may prescribe.

C. The Immediate Office of the Deputy Commissioner for Legislation and Congressional Affairs (TBA) provides the Deputy Commissioner and Assistant Deputy Commissioner with staff assistance on the full range of their responsibilities, including the legislative reference function. The legislative reference function:

1. Tracks legislative bills, highlights items of interest from the Congressional Record and other publications for DCLCA and SSA's Executive Staff and provides support for other DCLCA and SSA components at congressional hearings.

2. Assists individual Members of Congress and their staffs and congressional committee staffs by responding to requests for information on pending and proposed Social Security legislation, related legislative proposals and the legislative history of the Social Security program.

3. Reviews legislative proposals for consistency with existing program goals, philosophy and program requirements.

D. The Disability Insurance Program Staff (TBB).

1. Develops and explains disability insurance (DI) program principles and philosophy.

2. Reviews proposed regulations dealing with the DI program to assure consistency with policy requirements and decisions.

3. Develops and evaluates legislative proposals for changes in the DI program, the SSA hearings and appeals process and other matters.

4. Provides technical and advisory services to other agencies within the Executive Branch, congressional committees, State officials and private organizations having an interest in the DI program, the SSA hearings and appeals process and other matters.

E. The Congressional Relations Staff (TBC).

1. Develops and preserves working relationships with Members of Congress covering the full range of program and administrative matters.

2. Serves as consultant to the Deputy Commissioner, DCLCA with regard to establishing and maintaining effective congressional relationships.

3. Maintains productive relationships with all members on behalf of the Agency. Conducts dialogue on a routine basis, and participates in negotiations on highly sensitive matters with members.

F. The Supplemental Security Income (SSI) Program Staff (TBE).

1. Develops and explains SSI program principles and philosophy.

2. Studies the SSI program interrelationships with Social Security income maintenance, child support enforcement, food stamps, employment and other Federal, State and local programs and recommends methods for coordinating these programs.

3. Reviews regulations dealing with the SSI program for the aged, blind and disabled to ensure consistency with policy requirements and decisions.

4. Develops and evaluates legislative proposals for changes in the SSI program.

5. Provides technical and advisory services to other agencies within the Executive Branch, congressional committees and individual Members of Congress, State officials and private organizations having an interest in the SSI program.

G. The Old Age and Survivors Insurance (OASI) Benefits Staff (TBG).

1. Develops and explains retirement and survivors insurance (RSI) program principles and philosophy.

2. Develops and evaluates legislative proposals for changes in the areas of retirement and survivors benefits and coverage.

3. Provides analytical support on broad programmatic issues, including eligibility requirements for dependents' and survivors' benefits, the level of Social Security benefits, value of benefits in relation to contributions, benefit computation methods, which dependents should receive benefits and the establishment of priority among these dependents.

4. Reviews proposed regulations dealing with RSI issues, such as Social Security coverage, the retirement earnings test, insured status and the definition of employment and wages to assure cross-program consistency with policy requirements and decisions.

5. Provides technical and advisory services to other agencies within the Executive Branch, congressional committees and individual Members of Congress, State officials and private organizations having an interest in RSI and Social Security coverage issues.

H. The Program Administration and Financing Staff (TBH).

1. Develops and explains Social Security program principles and philosophy.

2. Provides analytical support on broad programmatic issues, including tax rates, alternative methods of financing trust fund operations, service to the public, Social Security numbers, taxation of benefits, alien suspension, and debt management.

3. Identifies and analyzes far-reaching economic, political and societal issues that impact/influence the development and modification of Social Security program policies and procedures.

4. Recommends methods for coordinating the protection afforded under Social Security with that afforded under other public and private benefit programs.

5. Reviews proposed regulations dealing with interprogram relationships to assure cross-program consistency with policy requirements and decisions.

6. Provides technical and advisory services to other agencies within the Executive Branch, congressional committees and individual Members of Congress, State officials and private organizations having an interest in interprogram relationships.

Dated: March 31, 1995.

Shirley S. Chater,

Commissioner of Social Security.

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VOL
60

ISS
86

MY
4

1995

UMI

federal register

Thursday
May 4, 1995

Part III

Department of the Treasury
Office of the Comptroller of the Currency
12 CFR Part 25
Federal Reserve System
12 CFR Part 228
Federal Deposit Insurance Corporation
12 CFR Part 345
Department of the Treasury
Office of Thrift Supervision
12 CFR Part 563e
Federal Reserve System
12 CFR Part 203

Community Reinvestment Act Regulations and Home Mortgage Disclosure; Final Rules

VOL
60
ISS
86
MY
4
1995
UMI

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket No. 95–07]

RIN 1557–AB32

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Regulation BB; Docket No. R–0822]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AB27

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563e

[Docket No. 95–72]

RIN 1550–AA69

FEDERAL RESERVE SYSTEM

12 CFR Part 203

Community Reinvestment Act Regulations

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS).

ACTION: Joint final rule.

SUMMARY: The OCC, Board, FDIC, and OTS, (collectively, the Federal financial supervisory agencies or agencies) are amending their regulations concerning the Community Reinvestment Act (CRA). The agencies published a joint notice of proposed rulemaking on this issue on December 21, 1993 (1993 proposal) and again on October 7, 1994 (1994 proposal). This final rule reflects comments received on both proposals and the agencies' further internal considerations.

The purpose of the CRA regulations is to establish the framework and criteria by which the agencies assess an institution's record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, consistent with safe and sound operations, and to provide that the agencies' assessment shall be taken into account in reviewing certain applications.

The final rule seeks to emphasize performance rather than process, to promote consistency in evaluations, and to eliminate unnecessary burden. As compared to the 1993 and 1994 proposals, the final rule reduces recordkeeping and reporting requirements and makes other modifications and clarifications.

EFFECTIVE DATES: This joint rule is effective July 1, 1995, except 12 CFR 25.3 through 25.7 and 25.51, 12 CFR 228.3 through 228.7 and 228.51, 12 CFR 345.3 through 345.7 and 345.51, and 12 CFR 563e.3 through 563e.7 and 563e.51 are removed effective July 1, 1997.

FOR FURTHER INFORMATION CONTACT:

OCC: Stephen M. Cross, Deputy Comptroller for Compliance, (202) 874–5216; or Matthew Roberts, Director, Community and Consumer Law Division, (202) 874–5750, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Glenn E. Loney, Associate Director, Division of Consumer and Community Affairs, (202) 452–3585; Robert deV. Frierson, Assistant General Counsel, Legal Division, (202) 452–3711; or Leonard N. Chanin, Managing Counsel, Division of Consumer and Community Affairs, (202) 452–3667, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Bobbie Jean Norris, Chief, Fair Lending Section, Division of Compliance and Consumer Affairs, (202) 942–3090; Robert W. Mooney, Fair Lending Specialist, Division of Compliance and Consumer Affairs, (202) 942–3092; or Ann Hume Loikow, Counsel, Regulation and Legislation Section, Legal Division, (202) 898–3796, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Timothy R. Burniston, Assistant Director for Compliance Policy, (202) 906–5629; Theresa A. Stark, Program Analyst, Compliance Policy, (202) 906–7054; or Lewis A. Segall, Senior Attorney, Regulations and Legislation Division, Chief Counsel's Office, (202) 906–6648, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Introduction

The Federal financial supervisory agencies jointly are amending their regulations implementing the CRA (12 U.S.C. 2901 *et seq.*). The amended regulations will, when fully effective, replace the existing regulations in their entirety.

The CRA is designed to encourage regulated financial institutions to help meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Despite the CRA's notable successes in improving access to credit, banks and savings and loan institutions, as well as community and consumer groups, maintain that its full potential has not been realized, in large part because regulatory compliance efforts have focused on process rather than performance.

In accordance with a request from the President, the Federal financial supervisory agencies have undertaken a comprehensive effort to reform their standards for evaluating compliance with CRA requirements. The final rule implements this reform effort by substituting a new system that evaluates institutions based on their actual performance in helping to meet their communities' credit needs.

Background

In 1977, the Congress enacted the CRA to encourage banks and thrifts to help meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound lending practices. In the CRA, the Congress found that:

"(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) the convenience and needs of communities include the need for credit as well as deposit services; and

(3) regulated financial institutions have continuing and affirmative obligation[s] to help meet the credit needs of the local communities in which they are chartered."

(12 U.S.C. 2901(a))

The CRA has come to play an increasingly important role in improving access to credit in communities—both rural and urban—across the country. Under the impetus of the CRA, many banks and thrifts opened new branches, provided expanded services, and made substantial commitments to increase lending to all segments of society.

Despite these successes, the CRA examination system has been criticized. Financial institutions have indicated that policy guidance from the agencies on the CRA is unclear and that examination standards are applied inconsistently. Financial institutions have also stated that the CRA examination process encourages them to generate excessive paperwork at the expense of providing loans, services, and investments to their communities.

Community, consumer, and other groups have agreed with the industry that there are inconsistencies in CRA evaluations and that current examinations overemphasize process and underemphasize performance. Community and consumer groups also have criticized the agencies for failing aggressively to penalize banks and thrifts for poor performance.

Noting that the CRA examination process could be improved, President Clinton requested in July 1993 that the Federal financial supervisory agencies reform the CRA regulatory system. The President asked the agencies to consult with the banking and thrift industries, Congressional leaders, and leaders of community-based organizations across the country to develop new CRA regulations and examination procedures that "replace paperwork and uncertainty with greater performance, clarity, and objectivity."

Specifically, the President asked the agencies to refocus the CRA examination system on more objective, performance-based assessment standards that minimize compliance burden while stimulating improved performance. He also asked the agencies to develop a well-trained corps of examiners who would specialize in CRA examinations. The President requested that the agencies promote consistency and even-handedness, improve CRA performance evaluations, and institute more effective sanctions against institutions with consistently poor performance.

To implement the President's initiative, the four agencies held a series of seven public hearings across the country in 1993. At those hearings, the agencies heard from over 250 witnesses. Nearly 50 others submitted written statements. The preamble to the 1993 proposal reviewed the results of those hearings.

The 1993 Proposal

The agencies published proposed revisions to their CRA regulations on December 21, 1993. The 1993 proposal (58 FR 67466) would have eliminated the twelve assessment factors in the present CRA regulations and substituted a more performance-based evaluation system. Under the 1993 proposal, the agencies would have evaluated institutions based on their actual lending, service, and investment performance rather than on how well they conducted their needs assessments, documented their community outreach, and implemented other procedural requirements of the existing regulations.

Generally, large retail institutions would have been evaluated based on some combination of lending, service, and investment tests. Institutions would have been required to report data on the basis of the geographic distribution of applications, denials, originations, and purchases of loans. Small banks and thrifts could have elected to be evaluated under a streamlined method that would not have required them to report this data. Every institution also could have elected to have its performance evaluated on the basis of a pre-approved strategic plan.

All banks and thrifts would have been assigned one of four statutorily mandated CRA ratings (12 U.S.C. 2906(b)(2)). However, five ratings would have been used for the lending, service, and investment tests, with the satisfactory category split into low satisfactory and high satisfactory.

Collectively, the agencies received over 6,700 comment letters on the 1993 proposal. As a general matter, the vast majority of commenters expressed support for the agencies' goal of developing more objective, performance-based assessment standards that minimize burden while stimulating improved performance. However, many expressed concern over aspects of the 1993 proposal that they viewed as allocating credit to particular kinds of borrowers. After considering the comments, the agencies published a second proposal on October 7, 1994, which responded to many of the suggestions in the comments on the 1993 proposal, including concerns about credit allocation, while preserving the 1993 proposal's goal of emphasizing performance over process.

The 1994 Proposal

The 1994 proposal (59 FR 51232) retained the principles and structure underlying the 1993 proposal but made significant changes to the details in order to respond to many of the specific concerns raised in the comment letters. As in the 1993 proposal, the 1994 proposal would have replaced the existing regulations' twelve assessment factors with a performance-based evaluation system. The 1994 proposal retained, but modified, the lending, investment, and service tests for large retail institutions; the streamlined evaluation for small institutions; an alternative evaluation for limited purpose and wholesale institutions; and the pre-approved strategic plan option available to all institutions.

The 1993 proposal had been criticized because of certain objective criteria in the proposal (including market share, a presumptively reasonable loan to deposit ratio, loan mix, investment to capital ratios, and the number of branches readily accessible to low- and moderate-income geographies) which were intended to respond to concerns about the need for more objective standards for evaluating compliance with CRA requirements. Many commenters viewed these criteria as calling for credit allocation, although the agencies did not intend this result. The 1994 proposal removed these criteria from the regulatory language and substituted a broader range of qualitative and quantitative criteria. A system for evaluating compliance with CRA should not eliminate examiner judgment, even if completely objective criteria consistently applied were achievable. Preservation of examiner judgment to take into account the unique characteristics and needs of an institution's community and the institution's own capacity and relevant constraints are essential for a workable rule.

At the same time, consistency in evaluations, reduction in the burden of compliance, and emphasis on performance are fully consistent with assuring a measure of examiner judgment. The 1994 proposal would have provided a balance between objective analysis and subjective judgment through a series of examiner decisions relying on detailed data measuring an institution's actual lending, service and investment performance. In order to minimize unnecessary subjectivity, the agencies provided guidance as to the standards that examiners would have applied in making the required judgments.

Compared to the 1993 proposal, the 1994 proposal would have reduced data reporting burdens by streamlining reporting requirements. The one significant new reporting requirement was the collection and reporting of information on the race and gender of small business and farm borrowers. The agencies proposed this provision to respond to concerns that the 1993 proposal did not give enough weight to the fair lending aspect of an institution's CRA performance.

In order to take into account community characteristics and needs, the 1994 proposal would have made explicit the context in which the tests and standards would have been applied to individual institutions. In a specific effort to reduce burden, the preamble indicated that the agencies, rather than institutions, would have collected and

VOL 60 ISS 86 MY 4 1995 UMI

developed the information needed to provide this "assessment context."

The 1994 proposal also modified the rating process from the 1993 proposal. For large retail institutions, in calculating the assigned rating, the revised proposal would have given primacy to lending performance, but an institution's performance on the service and investment tests also would have been reflected in the assigned rating. The rating process for small institutions similarly would have given primacy to lending performance, and would have provided guidance on how the agencies would have considered service and investment performance. For all institutions, evidence of discriminatory or other illegal credit practices would have adversely affected the evaluation of an institution's performance. In addition, an appendix to the 1994 proposal included rating profiles to guide the assessments.

The 1994 proposal revised and clarified other important features of the 1993 proposal. It provided more detail as to how the proposed strategic plan option would operate in practice. Wholesale and limited purpose institutions were made subject to a community development test, which would have incorporated both community development lending and community development services in addition to qualified investments. Also, the agencies revised the definition of service area to include the local areas around an institution's deposit facilities in which it has significant lending activity and all other areas equally distant from such facilities.

Overview of Comments on the 1994 Proposal

Collectively, the agencies received over 7,200 comment letters on the 1994 proposal. The agencies received comment letters from individuals, representatives of bank and thrift institutions, consumer and community groups, members of Congress, state, local, and tribal governments, and others, as shown in the following table.

TABLE OF COMMENTS RECEIVED

Agency	Letters from banks, thrifts and their trade associations	Letters from consumer and community groups	Letters from government entities	Letters from others	Total
OCC	669	839	39	672	2,219
Board	507	832	12	482	1,933
FDIC	1,007	788	32	237	2,064
OTS	261	623	24	173	1,081

The agencies reviewed and considered all of these comments in writing the final rule. The section-by-section analysis of the final rule discusses these comments in greater detail. As a general matter, the vast majority of commenters expressed support for the agencies' goal of developing more objective, performance-based assessment standards that minimize burden while stimulating improved performance. Many commenters believed that, under the existing CRA regulations, the agencies focus too closely on documentation of CRA performance and too little on actual performance. Some commenters felt the present documentation requirements are overly burdensome. Many commenters also supported the agencies' goal of ensuring consistency and evenhandedness among the agencies in CRA evaluations, without including specific criteria that might be viewed as allocating credit to specific borrowers. Commenters supported enhanced CRA examiner training to increase consistency. Although most commenters generally supported the agencies' goals in amending their CRA regulations, many expressed concern over certain aspects of the 1994 proposal.

The Final Rule

Review of Comments on the 1994 Proposal and Responses

The final rule retains, to a significant extent, the principles and structure underlying the 1993 and 1994 proposals, but makes important changes to some details in order to respond to concerns raised in the comment letters and further agency consideration. The following discussion describes by topic the ways in which the agencies addressed commenters' concerns. The discussion also describes important technical modifications included in the final rule.

Enforcement Authority

The agencies have removed two provisions found in both the 1993 and 1994 proposals that engendered considerable comment. These provisions were the community reinvestment obligation, which stated that banks and thrifts have a specific affirmative obligation to help meet the credit needs of their communities, and the enforcement provision, which provided for penalties against banks and thrifts with "substantial noncompliance" ratings using the agencies' general enforcement powers under 12 U.S.C. 1818. Substantial comment was received both in favor of, and in opposition to, these provisions. Based on further analysis of their statutory authority, the agencies have removed these provisions.

Consistent with the statute, the final rule provides that an institution's CRA rating reflects its record of helping to meet the credit needs of its entire community. The agencies will take into account an institution's record when evaluating various types of applications, such as applications for branches, office relocations, mergers, consolidations, and purchase and assumption transactions, and may deny or condition an application on the basis of the institution's record.

Scope

The scope of the final rule does not differ appreciably from the scope of the current CRA regulations or the 1993 and 1994 proposals. The agencies historically have excluded from CRA coverage certain special purpose institutions, such as banker's banks, that are not organized to grant credit to the public in the ordinary course of business. These institutions continue to be treated as special purpose banks in the final rule and are excluded from coverage. Several commenters were concerned that the definition of banker's bank in the 1994 proposal may not have conformed with that found in 12 U.S.C. 24 (Seventh), as modified by the Interstate Banking Efficiency Act of 1994 (IBEA). Therefore, the final rule references the definition of "banker's bank" found in 12 U.S.C. 24 (Seventh). The rule also specifies that institutions that provide only cash management controlled disbursement services are excluded from CRA coverage. In addition, the final rule provides for the CRA's applicability to foreign institutions consistent with the IBEA and prior agency interpretations.

Definitions

Many of the definitions in the 1994 proposal remain the same in the final rule or have been adjusted only for purposes of clarity, with no change in substance. The agencies did, however, change some definitions substantively.

Assessment area. The agencies replaced the term "service area" in the 1994 proposal with "assessment area" in the final rule for the reasons explained in the discussion of assessment area.

ATM and branch. The agencies changed the definitions of ATM and branch to eliminate the requirement that an ATM or a branch be at a fixed site. This change means that staffed mobile offices that are licensed as branches will be considered "branches" under the final rule and that mobile ATMs will be considered "ATMs." This change may affect the delineation of an institution's assessment area(s) because the assessment area(s) must include the geographies in which the institution has its main office, branches and deposit-taking ATMs. Including mobile branches and ATMs in defining an assessment area ensures that an institution that uses these means in an area not otherwise served by the institution will be evaluated on its success in helping to meet the credit needs of the area. Including mobile branches in the definition of "branch" will also affect evaluation of an institution's service to its community because the "service test" evaluates the distribution of an institution's branches and the institution's history of opening and closing branches. In the revised Part 345, the FDIC uses the term "remote service facility" instead of "ATM" to conform with the terminology used in its regulations.

Community development. The 1994 proposal did not provide a separate definition of "community development," although the term was used in defining community development loans and services and qualified investments. Several commenters requested further guidance on the scope of activities that would qualify. Some commenters were concerned that, without further specification, the regulation might permit an overly broad range of activities to be considered favorably as supporting community development. Others were concerned that the definition might be too narrow.

The final rule separately defines community development to mean: (1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals; (2) community services targeted to low- or moderate-income individuals; (3) activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a)(2) or have gross annual revenues of $1 million or less; or (4) activities that revitalize or stabilize low- or moderate-income geographies.

The definition of community development restricts qualifying activities to those that promote community welfare, while recognizing that community welfare can be promoted in diverse ways. For example, a number of commenters, representing both the industry and community and consumer groups, stated that the requirement in the 1994 proposal that community development loans and services and qualified investments meet "community economic development needs" inappropriately limited community development to efforts that meet "economic" needs. The final rule does not contain this limitation, and community development includes community- or tribal-based child care, educational, health, or social services targeted to low- or moderate-income persons or services that revitalize or stabilize low- or moderate-income geographies.

In response to comments, the definition clarifies the small businesses and farms that the agencies intend to cover. The section of the definition that discusses activities that promote economic development by financing small businesses and farms refers to 13 CFR 121.802(a)(2), the size limitations for the Small Business Administration's Small Business Investment Company and Development Company programs, as well as the $1 million gross annual revenues threshold used for lending test analysis.

Several commenters stated that community development should require benefit to low- and moderate-income areas. However, narrowing the focus to only these areas would ignore some of the beneficial purposes of community development lending for low- and moderate-income individuals. Under the rule, community development includes activities outside of low- and moderate-income areas if the activities provide affordable housing for, or community services targeted to, low- or moderate-income individuals or if they promote economic development by financing small businesses and farms. Activities that create, retain, or improve jobs for low- or moderate-income persons to stabilize or revitalize low- or moderate-income areas also qualify as community development, even if the activities are not located in low- or moderate-income areas.

The final rule also requires that, in order to be community development loans or services or qualified investments, activities must have community development as their primary purpose. Activities not designed for the express purpose of revitalizing or stabilizing low- or moderate-income areas, providing affordable housing for, or community services targeted to, low- or moderate-income persons, or promoting economic development by financing small businesses and farms are not eligible. The fact that an activity provides indirect or short-term benefits to low- or moderate-income persons does not make the activity community development. Thus, a loan for upper-income housing in a distressed area would not qualify simply on the basis of the indirect benefit to low- or moderate-income persons from construction jobs or the increase in the local tax base that supports enhanced services to low- and moderate-income area residents.

The final rule removes the requirement in the 1994 proposal that community development loans and services and qualified investments primarily benefit low- or moderate-income persons or small businesses or farms. This requirement is unnecessary because the definitions of community development loan and service and qualified investment in the final rule require that community development be the primary purpose of the activities.

Community development loan. The agencies have amended the definition of "community development loan" as described in the discussion of "community development" and in several other ways to respond to commenters' concerns.

First, many commenters objected to the requirement in the 1994 proposal that community development loans meet needs "not being met by the private market." Some commenters pointed out that financial institutions are part of the private market so, if financial institutions make the loans, the needs addressed by the loans will, as a matter of course, be met by the private market. To respond to these comments, the agencies removed this

VOL
60
ISS
86
MY
4
1995
UMI

qualifier from the definition of a community development loan.

Second, some commenters expressed confusion about the extent to which the definition of "community development loan" in the 1994 proposal would have differed for wholesale and limited purpose institutions. The agencies amended the definition of "community development loan" in the final rule to clarify the two ways in which a "community development loan" differs for wholesale and limited purpose institutions. First, wholesale and limited purpose institutions may consider loans as community development loans wherever they are located, if the institutions have otherwise adequately addressed the credit needs in their assessment area(s). This different treatment accounts for the fact that wholesale and limited purpose institutions typically draw their resources from, and serve areas well beyond, their immediate communities. Second, a wholesale or limited purpose institution may consider loans reported as home mortgage, small business, small farm or consumer loans to be community development loans. Institutions subject to the lending test may not consider loans reported in those categories to be community development loans, unless the loans are multifamily dwelling loans. This different treatment recognizes that the rule does not separately assess wholesale and limited purpose institutions on these reported loans.

Some commenters also urged that the agencies permit wholesale and limited purpose institutions to include as a community development loan any loan that primarily benefits low- or moderate-income individuals regardless of the loan's effect on community development. The lending test evaluates an institution's performance in making home mortgage, small business, small farm, and consumer loans based on the geographic distribution of loans to borrowers of different incomes, not on the basis of the total number and dollar amount of loans to low- and moderate-income borrowers. Because the community development test does not consider borrower distribution, but only loan amount and volume, crediting any loan that benefits low- and moderate-income individuals could significantly inflate performance under this test. Therefore, the final rule does not incorporate the suggested change.

Other commenters urged that institutions that are not wholesale or limited purpose institutions have the option of treating a home mortgage, small business, or small farm loan as a community development loan if it would otherwise qualify. The agencies have not done so. For retail institutions, the community development loan category permits consideration of loans that do not meet the definitions of home mortgage, small business or small farm loans but deserve favorable consideration in a CRA assessment. Loans that do meet the definitions of home mortgage, small business and small farm loans are more appropriately evaluated based on the criteria provided for these loans in the lending test.

Some commenters requested that retail institutions receive favorable consideration for community development loans outside their assessment areas. Under the final rule, an institution that is not a wholesale or limited purpose institution may receive favorable consideration for a community development loan that benefits a broader statewide or regional area that includes the institution's assessment area(s). This approach maintains a balance between the broader purposes of community development lending and the focus of CRA on meeting the credit needs of an institution's local community. As previously noted, because of their different operational focus, wholesale and limited purpose institutions receive consideration for community development loans made outside this broader area if they have adequately addressed credit needs within the area.[1]

Community development service. The definition of "community development service" has been moved to the definition section of the rule for clarity. The definition has been conformed to the definitions of "community development loan" and "qualified investment" by removing the reference to "needs not being met by the private market" for the reasons described in the discussion of "community development loan." In addition, community development services are required to be related to the provision of financial services. For example, service on the board of directors of an organization that promotes credit availability or affordable housing meets this requirement. Providing technical assistance in the financial services field to community-based groups, local, or tribal government agencies, or intermediaries that help to meet the credit needs of low- and moderate-income individuals or small businesses and farms is also related to the provision of financial services. By contrast, general participation by bank or thrift employees in community activities that do not take advantage of the employee's technical or financial expertise would not qualify. Although an admirable civic contribution, such employee participation is not sufficiently related to the provision of financial services to meet the purposes of CRA. As mentioned in the preamble to the 1994 proposal, electronic benefits transfer and point-of-sale terminal systems that are designed to improve access, such as by decreasing costs, for low- or moderate-income individuals would receive favorable consideration.[2]

Consumer loan. The definition of "consumer loan" remains substantially the same as in the 1994 proposal. As in the 1994 proposal, a consumer loan must be extended to one or more individuals for household, family, or other personal expenditures. However, as proposed in 1994, the definition would have mirrored the definition of consumer loan in the Consolidated Report of Condition and Income (Call Report) or Thrift Financial Report (TFR) in an effort to reduce potential regulatory burden. The Call Report and TFR definitions exclude loans secured by real estate and loans used to purchase or carry securities. Many industry commenters objected to these exclusions. Commenters were particularly concerned that home equity loans that do not fall within the definition of home improvement loans reportable under HMDA would not have been considered consumer loans under the proposed rule. The definition of consumer loan in the final rule no longer uses the definition in the Call Report or TFR. As a result, home equity loans that are not reportable under HMDA are consumer loans if they otherwise meet the definition. However, the agencies have clarified in the final rule that consumer loans do not include home mortgage, small business, or small farm loans. These loans are considered separately under the lending test so treating them also as consumer loans would result in double-counting.

The final rule contains definitions for five categories of consumer loans: motor vehicle loans, credit card loans, home equity loans, other secured consumer loans, and other unsecured consumer loans. These definitions reflect the fact that the final rule permits an institution to elect evaluation of its consumer lending on a product-by-product basis.

Home mortgage loan. In the 1994 proposal's definition of "home mortgage loan," the agencies referred to the HMDA and its implementing regulations. Some commenters pointed out that the Board has refined the definition of home mortgage loan in its HMDA regulations (12 CFR Part 203). These commenters indicated it would be preferable and, perhaps, less confusing if the agencies referred only to the Board's HMDA regulations, rather than to both the HMDA and the regulations. The agencies have amended the definition of "home mortgage loan" in the final rule accordingly. Under the final rule, a home mortgage loan means a "home improvement loan" or a "home purchase loan" as these terms are defined in 12 CFR Part 203. This definition includes multifamily dwelling loans and refinancings of home improvement and home purchase loans.

Income level. The income level definitions under the 1994 proposal would have included adjustments to reflect high-cost areas and family size. A number of commenters suggested that, although these adjustments would make the income definitions more accurate, the value of the increased accuracy would be outweighed by the complication and burden associated with the use of adjusted figures. Other commenters pointed out that HMDA disclosure statements, which are used, in part, to evaluate CRA performance, do not employ the adjustments. Some commenters strongly supported the use of adjusted area median income, especially in high-cost communities. However, the flexibility of the performance standards allows examiners to account in their evaluations under the tests for conditions in high-cost communities, such as a shortage of credit for moderate-income persons or areas. In addition, the flexibility in the requirement that community development loans, community development services, and qualified investments have as their "primary" purpose community development allows examiners to account for conditions in high-cost areas. Therefore, the definitions of income level in the final rule are based upon area median income without adjustments. In addition, the definition of "area median income" for rural areas has been simplified and uses only the statewide non-metropolitan median rather than the higher of county median or the statewide figure.

Limited purpose institution and wholesale institution. A number of industry commenters suggested that "nonbank banks" permitted under the Competitive Equality Banking Act (12 U.S.C. 1843(f)) (CEBA banks) should automatically be considered limited purpose institutions. These institutions operate under a variety of different business plans and legal constraints and include retail and wholesale banks, credit card banks, and industrial loan companies. CEBA banks may legally engage in different activities, depending on which activities a particular bank engaged in as of March 1, 1987. A uniform treatment of these institutions is therefore not practicable. The final rule provides the necessary flexibility to assess the CRA performance of these institutions and does not require any institution to engage in proscribed activities. Some of these institutions could be designated as wholesale or limited purpose institutions on a case-by-case basis. Further, the final rule permits the agencies to take into account any legal constraints placed on an institution in assessing performance. As in the case of thrifts, adjustments can be made in the ratings profiles to reflect the legal constraints imposed on the activities of CEBA banks.

Other commenters requested more guidance on incidental lending activities that wholesale and limited purpose institutions could engage in without losing their special designation. Wholesale institutions may engage in some retail lending without losing their designation if this activity is incidental and done on an accommodation basis. Similarly, a limited purpose institution continues to meet the narrow product line requirement if it provides other types of loans on an infrequent basis.

Qualified investment. The definition of "qualified investment" has been moved to the definition section for clarity and changed to reflect the new definition of "community development" and to respond to comments. The agencies have removed the requirement that a qualified investment must address community development needs "not being met by the private market." Instead, in evaluating performance, the agencies will give greater weight to qualified investments that are not routinely provided by private investors.

The 1994 proposal clearly permitted consideration of investments in organizations that make qualified investments, and the final rule is unmodified in this respect. Some commenters asked that qualified investments be required to benefit low- or moderate-income areas or required to benefit either low- or moderate-income people or areas. The agencies rejected these suggestions for the reasons noted in the discussion of "community development."

The final rule clarifies specific aspects of qualified investments proposed in the 1994 proposal that raised issues in the comments. For example, the explicit reference to investments in credit unions has been removed to clarify that no special treatment for these institutions was intended under the investment test. Deposits and membership shares in any financial institution that otherwise meet the criteria discussed earlier for treatment as a qualified investment qualify under the investment test. In addition, although some comments suggested otherwise, Federal Home Loan Bank stock does not have a sufficient connection to community development to be considered a qualified investment.

The use of the term "standard" mortgage backed securities in the preamble to the 1994 proposal was ambiguous and should be clarified to mean "untargeted" mortgage backed securities. Untargeted mortgage backed securities and untargeted municipal bonds are not qualified investments because their primary purpose is not community development. Investments in municipal bonds designed primarily to finance community development generally are qualified investments and need not be housing-related. Housing-related municipal bonds must primarily address affordable housing (including multifamily rental housing) needs in order to qualify.

The term "grants" in the final rule includes in-kind contributions of property to community development organizations. Grants do not automatically have less weight than

[1] Examples of community development loans include, but are not limited to, loans to: borrowers for affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low- and moderate-income persons; not-for-profit organizations serving primarily low- and moderate-income housing or other community development needs; borrowers in support of community facilities in low- and moderate-income areas or that are targeted to low- and moderate-income individuals; and financial intermediaries including, but not limited to, Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, and low-income or community development credit unions that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development. Other examples include loans to: local, state, and tribal governments for community development activities; and loans to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the low- or moderate-income community in which the property is located.

[2] Examples of community development services include, among other things: providing technical expertise for not-for-profit, tribal or government organizations serving low- and moderate-income housing needs or economic revitalization and development; lending executives to organizations facilitating affordable housing construction and rehabilitation or development of affordable housing; providing credit counseling, home buyers counseling, home maintenance counseling, and/or financial planning to promote community development and affordable housing; school savings programs; and other financial services the primary purpose of which is community development, such as low-cost or free government check cashing.

VOL 60 ISS 86 MY 4 1995 UMI

investments, but the weight accorded a grant is determined under the performance criteria in the investment test.[3]

Small institution. Under the 1994 proposal, institutions would have been considered small institutions if they had total assets of less than $250 million and were either independent institutions or affiliates of holding companies with less than $250 million in total assets. This definition of "small institution" received numerous comments. Industry commenters generally believed that the asset level for holding companies should be raised or eliminated entirely, although some indicated that the $250 million asset level for small institutions would be satisfactory. Some commenters representing institutions with assets below $250 million affiliated with a larger holding company indicated that their institutions typically operated independently from the holding company in complying with CRA obligations. They stated that it would be unfair for them to be evaluated under the assessment tests for a larger institution merely because of their ownership structure. On the other hand, community and consumer groups often commented that small institutions should not be treated differently, or that only institutions with fewer than $50 million in assets should be considered small institutions for purposes of the CRA rule.

The final rule modifies the definition of "small institution" in light of these comments. In the final rule, for any independent institution to be considered a small institution, it must have total assets of less than $250 million. Moreover, an institution with total assets of less than $250 million that is owned by a holding company would be considered a small institution if the total bank and thrift assets of its holding company are less than $1 billion. The agencies were persuaded that some smaller holding companies may be unable to provide support to their subsidiary banks and thrifts for CRA compliance. Larger holding companies have the ability to provide support to their subsidiary banks and thrifts, so small institutions owned by these holding companies will not be unfairly burdened by evaluation under the lending, investment, and service tests used in the assessments of larger institutions. The choice of the $1 billion level reflects the weight of the comments that suggested raising the asset level and the agencies' judgment regarding the size at which a holding company should be expected to support the compliance activities of its bank and thrift subsidiaries. The agencies estimate that this change will add only a limited number of institutions, with average assets of about $100 million, to those eligible under the small bank performance standards.

Many commenters also asked the agencies to clarify the date on which the determination will be made whether an institution is a small institution. The agencies have amended the definition of "small institution" to clarify that an institution will be considered a small institution throughout any calendar year if, as of December 31 of either of the prior two calendar years, the total assets of the institution (and, if applicable, its holding company) fell below the asset limits set out earlier for a small institution. This definition ensures some stability in whether an institution is classified as a small institution and minimizes the chance that an institution's status will change repeatedly from year to year. The definition also ensures that institutions that exceed the asset limits have adequate time to prepare to meet the requirements applicable to larger institutions.

Small business loan and small farm loan. The agencies made no substantive changes to the definitions of "small business loan" and "small farm loan." The final rule cross-references the Call Reports and TFR definitions rather than restating the substance of the definitions as the 1994 proposal would have done. The definitions are based on the size of the loans. Some commenters urged that the definitions be based on the asset size of the business or the farm, as was originally proposed in 1993. The agencies have concluded that, although defining small business and small farm loans by the size of the loan may not be as precise as definitions based on business or farm asset size, following the approach used in the Call Report and TFR will appreciably reduce the burden of compliance for institutions and their borrowers. Also, the Call Report and TFR definitions minimize the need for institutions to collect additional information. The danger of inaccuracy is limited, because loan size roughly correlates with the size of a business or farm borrower. Furthermore, the agencies have retained the proposed requirement that institutions indicate whether a small business or small farm loan is to a business or farm with gross annual revenues of $1 million or less. This requirement will provide additional information to identify loans to small entities.

Several commenters requested that the agencies clarify whether the definitions of small business and small farm loans include loans made to nonprofit organizations as described in the Internal Revenue Code at 26 U.S.C. 501(c)(3). Loans made to nonprofit organizations are included to the same extent they are included under the Call Report and TFR definitions of small business and small farm loans. Loans to nonprofits that are reported as small business or small farm loans cannot also be reported as community development loans, except by wholesale and limited purpose institutions.

Performance Tests, Standards and Ratings in General

Several changes have been made to the section of the 1994 proposal on assessment tests, standards, and ratings. As an initial matter, the terms "performance tests," "performance standards," and "performance criteria" have been substituted for the terms "assessment tests," "assessment standards," and "assessment criteria" to reflect more accurately the final rule's focus on performance rather than process. The agencies have also changed the term "assessment context" to "performance context" because the latter term better describes the role of this information in the CRA evaluation process.

Performance context. An institution's performance under the tests and standards in the rule is judged in the context of information about the institution, its community, its competitors, and its peers. Examiners will consider the following information, as appropriate, in order to assist in

[3] Examples of qualified investments include, but are not limited to, investments, grants, deposits or shares: in or to financial intermediaries (including, but not limited to CDFIs, CDCs, minority- and women-owned financial institutions, and low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation; in support of organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing; in support of organizations promoting economic development by financing small businesses, including Small Business Investment Companies (SBICs) and specialized SBICs; to support or develop facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as day care facilities; in projects eligible for low-income housing tax credits; in state and municipal obligations that specifically support affordable housing or other community development; to not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as home-ownership counseling, home maintenance counseling, credit counseling, and other financial services education; and in or to organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development.

understanding the context in which the institution's performance should be evaluated: (1) The economic and demographic characteristics of the assessment area(s); (2) lending, investment, and service opportunities in the assessment area(s); (3) the institution's product offerings and business strategy; (4) the institution's capacity and constraints; (5) the prior performance of the institution and, in appropriate circumstances, the performance of similarly situated institutions; and (6) other relevant information. The final rule clarifies that a proposed strategic plan will also be evaluated in the same context. However, all of the factors described in the performance context would not necessarily apply to each strategic plan. In this regard, the performance of similarly situated lenders would not generally be appropriate for evaluating future goals under a strategic plan.

Under the 1994 proposal, the assessment context would have included examiner-developed information on the credit needs of an institution's service area. Many commenters interpreted the proposal to mean that the agencies would prepare a detailed needs assessment for each institution's service area(s). Several bank and thrift commenters criticized such a role for the agencies, reasoning that institutions know their communities far better than a regulatory agency, and that agency-prepared assessments would lead to credit allocation. Some community organization commenters, while more supportive of the concept of agency prepared needs assessments, were concerned that the proposal might imply that institutions did not need to make an effort to know their communities' credit needs, but could instead look to the agencies for that determination.

The agencies did not intend to suggest that an agency-developed needs assessment would prescribe the credit needs an institution must address. Instead, the examiner-developed information on credit needs was intended to help inform the examiner's judgment about the institution's record of performance. Institutions are in the better position to know their communities, and it is neither appropriate nor feasible for the agencies to prepare a detailed assessment of the credit needs of an institution's community. Thus, under the final rule the agencies will analyze the information an institution maintains on the credit needs of its community along with relevant information available from other sources. At the same time, the final rule does not establish a requirement that each institution prepare a "needs assessment" to be evaluated by the examiner as urged in some comments provided by financial institutions and community organizations.

Under the final rule, the agencies will neither prepare a formal assessment of community credit needs nor evaluate an institution on its efforts to ascertain community credit needs. Instead, the agencies will request any information that the institution has developed on lending, investment, and service opportunities in its assessment area(s). The agencies will not expect more information than what the institution normally would develop to prepare a business plan or to identify potential markets and customers, including low- and moderate-income persons and geographies in its assessment area(s). This information from the institution will be considered along with information from community, government, civic and other sources to enable the examiner to gain a working knowledge of the institution's community. In response to comments, the final rule also clarifies that information about lending, investment, and service opportunities in an institution's assessment area will, where appropriate, be obtained from tribal governments, as well as from other sources.

Statutory limits on investment authority. Several thrift commenters had concerns about the application of the investment test to thrift institutions because of their limited investment authority. Rather than providing a blanket exemption from the investment test, the final rule modifies the "capacity and constraints" section of the performance context to clarify that examiners should consider an institution's investment authority in evaluating performance under the investment test. A thrift that has few or no qualified investments may still be considered to be performing adequately under the investment test if, for example, the institution is particularly effective in responding to the community's credit needs through community development lending activities.

Safety and soundness. The CRA requires the agencies to assess an institution's record of helping to meet the credit needs of its entire community, consistent with the safe and sound operation of the institution. A number of industry commenters were concerned that the 1994 proposal would not have stressed the importance of the safety and soundness of an institution's operation to the same extent as the CRA statute or the current regulations. These commenters responded primarily to the omission of a statement in the 1993 proposal that the CRA does not require any institution to make loans or investments that are expected to result in losses or are otherwise inconsistent with safe and sound operations. The agencies did not intend by this omission to encourage unprofitable or otherwise unsafe and unsound practices. The agencies firmly believe that institutions can and should expect lending and investments encouraged by the CRA to be profitable. The final rule explicitly reflects this belief and addresses the importance of safety and soundness considerations in several sections and in the ratings appendix. The agencies assess an institution's record of helping to meet community credit needs with careful attention to the constraints imposed by safety and soundness. As in other areas of bank and thrift operations, unsafe and unsound practices are viewed unfavorably. The ratings appendix specifically states: "The bank's overall performance, however, must be consistent with safe and sound banking practices. * * *"

Flexible underwriting approaches. The final rule states that the agencies permit and encourage an institution's use of flexible underwriting approaches to facilitate lending to low- and moderate-income individuals and areas, but only if consistent with safe and sound operations. This is consistent with, and clarifies, language in the 1994 proposal. Some commenters urged that the rule expressly identify particular types of areas or borrowers covered by this provision. Mentioning particular types of borrowers or areas in the regulatory text is unnecessary and inconsistent with the principle of evaluating each institution and its community based on their characteristics, capacity, and needs. However, certain borrowers or areas, such as Native Americans residing in Indian country, may face difficulties obtaining credit that could warrant special consideration. The efforts of lenders that utilize innovative or flexible methods, in a safe and sound manner, to address these or other unusual underwriting issues are recognized under the lending test.

The Lending Test

The lending test in the final rule is substantially similar to the 1994 proposal. However, there are some significant changes in response to the comments.

Consideration of originations and purchases. The 1994 proposal would

VOL 60 ISS 86 MY 4 1995 UMI

have evaluated home mortgage lending based on HMDA data, which is based on loan originations and purchases. However, the proposal would have required institutions to collect, report, and be evaluated on loans outstanding for other types of loans. The agencies took this approach in an effort to reduce burden on the industry, because institutions must already report loans outstanding on Call Reports and TFRs.

The vast majority of commenters who addressed this issue (almost exclusively industry commenters) stated that use of originations would provide a substantially more accurate picture of actual lending activity, because current activity would not be obscured by past activity and the data would reflect seasonal variations and sale of loans in the secondary market. Moreover, using originations rewards, rather than penalizes, institutions for selling loans on the secondary market, which frees up capital for additional lending and increases credit availability. The commenters did not support the premise that use of originations would be more burdensome than using loans outstanding. Because institutions would have to collect and report additional information on each loan for CRA purposes, using loans outstanding would not significantly decrease burden. The bulk, if not all, of the burden reduction would be achieved by using the Call Report and TFR definitions. The final rule therefore uses originations and purchases, instead of loans outstanding, for all types of loans.

Lines of credit are considered originated at the time the line is approved or increased; and an increase is considered a new origination. Generally, the full amount of the credit line (or in the case of an increase in an existing line, the amount of the increase) is the amount that is considered originated. Although some lines of credit may be for both home improvement and other purposes, only the amount that is considered to be for home improvement purposes is reported as a home improvement loan under HMDA. Lines of credit should be considered in assessing an institution's lending activity in all applicable loan types. Therefore, where a portion of a line of credit is reported under HMDA and another portion meets the definition either of a "small business loan" or a "consumer loan," the full amount of the line of credit should be reported as a small business loan or collected as a consumer loan, as appropriate, and the agencies will also consider as a home mortgage loan the portion of the credit line that is reported under HMDA.

The final rule contains an option for lenders also to provide data on loans outstanding, which may, in certain circumstances, enhance an examiner's understanding of an institution's performance. Institutions may also provide for examiner consideration information on letters of credit and commitments, as well as any other loan information. The language of the lending test (and the definition of "community development loan") has been adjusted as appropriate to reflect these changes.

Consumer loan evaluation. Under the 1994 proposal, consumer lending would have been evaluated under the lending test only if an institution elected to have it evaluated and provided the necessary loan data. Thus, the 1994 proposal would have permitted an institution that is primarily a consumer lender not to be evaluated on a substantial portion of its business if it so chose. Under these circumstances, meaningful evaluation of certain institutions might have been very difficult. The final rule, therefore, changes the treatment of consumer lending. Under the rule, if a substantial majority of an institution's business is consumer lending, this lending is evaluated in the lending test. The rule does not impose any reporting requirements for consumer lending, however. If an examiner determines that a substantial portion of an institution's business is consumer lending, and the institution has not elected to provide consumer loan data, the examiner will evaluate consumer lending by analyzing an appropriate sample of the institution's consumer loan portfolio. In addition, this aspect of the final rule does not affect the evaluation of a limited purpose bank, because the bank will be evaluated under the community development test, not the lending test.

The 1994 proposal would have required that institutions provide information on all consumer loans if they choose to provide information on any consumer loans. The agencies included this requirement because they were concerned that, otherwise, an institution might provide information only on those consumer products that would reflect well on the institution's CRA performance and would choose not to provide information on those products that would reflect poorly.

Many industry commenters stated that the prospect of reporting all their consumer loan information was so burdensome that they would not report any information. On the other hand, consumer and community groups commented that, if consumer lending is to be considered in CRA at all, consumer loan reporting should be mandatory. After considering these comments, the agencies have decided to permit institutions to provide information on one or more categories (motor vehicle, credit card, home equity, other secured, and other unsecured) of consumer loans.

Although an institution may have some opportunity to mask poor performance or otherwise inappropriately influence its CRA evaluation through selective provision of data, this opportunity will be limited by the provision in the final rule requiring an institution to maintain data on all loans in the category or categories in which it seeks to be evaluated. For example, if an institution provides information on its credit card lending, it would have to provide information on all its credit card lending, although it need not provide information on its motor vehicle lending. Furthermore, under the final rule, if an institution is a substantial consumer lender, the agencies will evaluate its consumer lending in appropriate categories regardless of whether the institution reports data for those categories.

Relative weight of different lending categories. The 1994 proposal explicitly stated that home mortgage, small business, and small farm lending (and consumer lending if it was considered) would have been weighted to reflect the relative importance of the categories to the institution's overall business. The proposal also stated that community development lending would have been weighted to reflect the characteristics and needs of an institution's assessment area(s), the capacity and constraints of the institution, and the opportunities available for this lending. Several commenters expressed concern about the lack of certainty in these provisions; some also believed that community development lending would have received excessive weight. However, a fixed formula for the relative weight of different categories would require a determination that some categories of lending are uniformly more important than others, when the appropriate weight depends on the specific institution and its community. The agencies have removed the discussion of the relative weight assigned to different lending categories because examiners will determine the appropriate weight based on the performance context.

Lending activity criterion. The lending test in the 1994 proposal, unlike the current CRA regulations, did not specifically consider the volume of lending activity—the number and amount of home mortgage, small business, small farm, and consumer loans located in the institution's

assessment area(s). Experience under the current regulations has demonstrated that this criterion can be useful in assessing performance. Therefore, based on further internal agency considerations, the final rule contains a lending activity performance criterion. This criterion encourages an institution that does not itself engage in the categories of lending evaluated under the lending test to seek designation as a wholesale or limited purpose institution so that the institution's CRA performance can be evaluated under criteria appropriate to the institution. The criterion also creates a disincentive for institutions to try to influence inappropriately the evaluation of their CRA performance by conducting activities viewed favorably under CRA in the institution and other activities in an affiliate. An institution's performance on the lending activity criterion will be assessed taking into account the information described in the section of the preamble discussing the performance context, including the institution's business strategy regarding the lending conducted by the institution itself and the lending conducted by affiliates.

Market share analysis. Many commenters, particularly community and consumer groups, suggested that the market share evaluation of the 1993 proposal be reinstated or that the agencies substitute an alternative objective ratio to serve as the linchpin for an institution's lending test rating. Other commenters, particularly those representing the industry, opposed using any market share analysis. In the agencies' opinion, the 1994 proposal struck the appropriate balance between objective performance measures and subjective judgments. A single, standardized set of performance evaluation tools is not appropriate because of the variety of institutions and the differences among the communities that they serve. The public evaluation prepared by the agencies will explain the data and analytic tools used to evaluate the institution.

The geographic distribution of an institution's loans remains a component of the lending test. One element of the geographic distribution analysis, both in the 1994 proposal and in the final rule, is the amount of lending to low-, moderate-, middle- and upper-income geographies. As part of the performance context, examiners would consider, among other considerations described earlier in this preamble, the performance of other similarly-situated lenders. In this regard, examiners would use market share and other analyses to assist in evaluating the geographic distribution of an institution's lending where such analyses would provide accurate insight. However, the final rule does not require examiners to use any single type of analysis, and would not link a particular market share ratio, or any ratio, with a particular lending test rating.

Proportion of lending within assessment areas. Under the final rule, as under the 1994 proposal, another component of the geographic distribution criterion is the proportion of total loans made in an institution's assessment area(s). Some commenters believed that this criterion is inappropriate; they noted that safety and soundness considerations require an institution to lend to a geographically dispersed area. This criterion is a consideration under the existing CRA rules and has proved over the years to be one useful indicator of the degree to which an institution is focused on serving its local community. Moreover, the agencies believe the criterion encourages an institution to draw its assessment area broadly enough to allow the dispersion of its lending and distribution of its loans among geographies of different income levels. Therefore, the agencies retained the provision unchanged in the final rule.

Dispersion. The third component of the geographic distribution criterion of the lending test is the dispersion of the institution's lending activity. The 1994 proposal would have assessed the degree of dispersion "throughout" an institution's assessment area(s). For clarification, the word "throughout" has been changed to "in" in the final rule. The agencies will still examine the entire assessment area; however, an institution is not expected to lend evenly throughout or to every geography in its assessment area. Rather, an institution's lending pattern should not exhibit conspicuous gaps that are not adequately explained by the performance context.

Borrower distribution. The lending test also considers the distribution of an institution's loans among borrowers of different income levels and businesses of different sizes. Favorable consideration is given for loans to low- and moderate-income persons and small businesses and farm loans outside of the institution's assessment area, provided that the institution has adequately served borrowers within its assessment area. The importance of this criterion, particularly in relation to the geographic distribution criterion, will depend on the performance context. For example, borrower distribution may be more important in rural areas or in assessment areas without identifiable geographies of different income categories; geographic distribution may be more important in urban areas and assessment areas with the full range of geographies of different income categories.

Some commenters recommended that the lending test evaluate an institution's record of lending to different racial and ethnic groups and to women. The final rule does not incorporate this suggestion. The appropriate inquiry regarding service to particular racial or ethnic groups and men and women is whether the institution is operating in a non-discriminatory manner. Therefore, in arriving at an institution's assigned rating, the agencies consider whether there is evidence of discrimination in violation of the Fair Housing Act or Equal Credit Opportunity Act, or evidence of other illegal credit practices.

Innovative or flexible lending practices. The final rule, like the 1994 proposal, assesses an institution's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income individuals or geographies. An innovative practice is one that serves low- and moderate-income creditworthy borrowers in new ways or serves groups of creditworthy borrowers not previously served by the institution. Both innovative practices and flexible practices are favorably considered. Although a practice ceases to be innovative if its use is widespread, it may nonetheless receive consideration if it is a flexible practice. An institution need not provide lending data connected with a practice in order to receive consideration. For example, an examiner could consider an institution's secured credit card program as a flexible lending practice even though the institution has not provided its credit card loan data for evaluation under the other criteria of the lending test.

Compliance with private commitments. Some commenters suggested that, in the lending test, the agencies should consider the extent to which an institution has fulfilled lending agreements that the institution has made with third parties. The final rule does not incorporate this suggestion. The CRA requires the agencies to assess an institution's record of helping to meet the credit needs of its community, not to enforce privately negotiated agreements. Therefore, an institution's record of fulfilling these types of agreements is not an appropriate CRA performance criterion.

Affiliate lending. The 1994 proposal would have permitted consideration of affiliate lending at an institution's option or if the agency determined that

VOL
60
ISS
86
MY
4
1995
UMI

the affiliate's activity is integral to the institution's business. Many industry commenters opposed consideration of affiliate lending except at the institution's option on the ground that consideration without the institution's consent may be equivalent to extending CRA coverage to affiliates that may not be subject to the statute. Some community and consumer groups supported consideration of affiliate activity and urged that the regulatory language be strengthened to require the agencies to take affiliate lending into account under certain circumstances. In the final rule, affiliate lending is considered only at the election of the institution, except with regard to the lending activity criterion, where, as described earlier, it will provide context for the assessment in order to discourage an institution from inappropriately influencing an evaluation of its CRA performance by conducting activities that would be viewed unfavorably in an affiliate. The agencies also received comments that the phrase "integral to the institution's business" in the proposal was unclear. The final rule does not use this phrase.

The other limitations on consideration of affiliate lending contained in the 1994 proposal have been retained in the final rule. However, the limitation against double-counting of loans has been modified to clarify that an institution can count as a purchase a loan originated by an affiliate, or count as an origination a loan sold to an affiliate, provided the same loans are not sold several times to inflate their value for CRA purposes.

The agencies have added language to the final rule to clarify that affiliate lending is not considered in evaluating the proportion of total lending made within an institution's assessment area(s). The agencies also wish to clarify that if an institution elects to have the lending activities of its affiliates considered in the evaluation of the institution's lending, the geographies served by the affiliate's lending activities do not affect the institution's delineation of assessment area(s).

Furthermore, the final rule would not change the existing supervisory authority of the agencies over institutions and their affiliates. Therefore, although lending by affiliates may be treated as lending by an institution, this treatment for CRA purposes will not permit a regulatory agency to examine any institution or its affiliate if it does not otherwise have such authority.

Direct and indirect lending. Many consumer and community groups expressed concern that the 1994 proposal did not adequately emphasize direct lending by the institution as compared to indirect lending carried out through consortia and third parties. Other commenters, particularly from the industry, urged a return to the provisions of the 1993 proposal that would have treated direct and indirect lending as interchangeable. The final rule clarifies that loans originated or purchased by third parties and consortia in which an institution participates or invests may only be considered if they qualify as community development loans and may only be considered under the community development lending criterion. Indirect loans will not affect an institution's performance under the other four lending test criteria. Under the final rule, direct lending performance is an essential element of an institution's CRA performance.

Some commenters requested clarification whether an institution is required to participate directly in making or funding each loan that is made through a consortium or third party in order for the loan to be considered under the community development lending criterion of the lending test. An institution need not directly participate in the making or funding of consortia- and third party-loans for the loans to be considered (subject to the constraints set out in the rule) under the community development lending criterion, provided the loans meet the definition of community development loan. Loans originated directly on the books of the institution or purchased by the institution are considered to have been made directly by the institution, even if the institution originated or purchased the loans as a result of its participation in a loan consortium.

Investment Test

The 1994 proposal would have focused on the dollar amount of an institution's qualified investments, the innovativeness and complexity of the qualified investments and their responsiveness to the credit and economic development needs of the community. The 1994 proposal also would have clarified that the investment test considers all qualified investments benefitting a broader statewide or regional area that included an institution's assessment area. Most of the comments on the investment test concerned the definition of qualified investment and have been discussed earlier in the preamble.

Limited investment authority. One group of commenters representing institutions with statutory constraints on their authority to make this type of investment maintained that reliance on an investment test in assigning a CRA rating could unfairly stigmatize their CRA performance. As previously discussed, the final rule has modified the performance context for CRA evaluations to account for financial institutions with limited investment authority. These modifications would permit an institution with limited authority to make investments to receive a low satisfactory rating under the investment test, although it has made few or no qualified investments, if the institution has a strong lending record, thereby preventing potential anomalies in the CRA performance ratings.

Disposition of branch premises. To implement the statutory requirement in 12 U.S.C. 2907(a), the final rule specifies that a donation, sale on favorable terms or rent-free occupancy of a branch (in whole or in part) in a predominantly minority neighborhood to any minority- or women-owned depository institution is a qualifying investment. Similar disposition of branch premises to a financial institution with a primary mission of promoting community development is also a qualified investment.

Service Test

Compared to the 1993 proposal, the service test in the 1994 proposal would have reduced the significance in the CRA performance evaluation of an institution's full service, "brick and mortar" branch structure by elevating the consideration given to alternative systems for delivering retail banking services (*e.g.*, ATMs, mobile branches, loan production offices, or banking-by-telephone or banking-by-computer). In this regard, the provision of retail banking services would have been evaluated on the basis of an institution's: (1) Distribution of branches and ATMs among low-, moderate-, middle-, and upper-income areas; (2) record of opening and closing branches and ATMs; (3) range of services to low-, moderate-, middle-, and upper-income areas; and (4) efforts to make alternative delivery systems responsive to the needs of low- and moderate-income areas and individuals. In addition, the extent to which an institution provided innovative and responsive community development services would also have been considered under the service test. The final rule retains the essential structure and elements of the test as proposed but makes some modifications.

Relative weight of branches and alternative delivery systems. The overwhelming majority of community and consumer group commenters stated that the 1994 proposal placed too little emphasis on the location of an institution's full service branches in evaluating performance under the service test. Many of those commenters also were concerned that the proposed service test would have erroneously equated ATMs with full service branches. On the other hand, several industry commenters commended the proposal's recognition that full service branches should not be the determining factor under the service test as consistent with the trend in the industry toward the use of alternative service delivery systems.

The final rule responds to these issues by adjusting the balance of the service performance evaluation in favor of full-service branches while still considering alternative systems. In this regard, references to ATMs in the criteria for evaluating the distribution of an institution's branches have been removed, and conforming changes have been made in the ratings appendix. These changes signify a recognition that convenient access to full-service branches within a community is an important factor in determining the availability of credit and non-credit services. The focus of the service test, however, remains on an institution's current distribution of branches, and the test does not require an institution to expand its branch network or operate unprofitable branches.

The final rule emphasizes that alternative systems for delivering retail banking services, such as ATMs, are to be considered only to the extent that they are effective alternatives in providing needed services to low- and moderate-income areas and individuals. Furthermore, network ATMs owned by other institutions do not receive the same consideration in an institution's evaluation as ATMs owned by or operated exclusively for that institution.

An institution's branches and other service delivery systems need not be accessible to every part of an institution's assessment area. However, the service delivery systems should not exhibit conspicuous gaps in accessibility, particularly to low- or moderate-income areas or individuals, unless the gaps are adequately explained by the performance context.

Other issues. The final rule conforms the community development services component of the service test to that of the investment test by giving consideration to community development services that benefit a broader statewide or regional area encompassing an institution's assessment area.

Some of the specific suggestions in the comments were not implemented in the final rule. For example, the rule does not require institutions to provide basic banking services or low-cost checking accounts, because the CRA permits institutions substantial leeway to determine the specific policies and programs that help meet credit needs in their communities. In addition, the final rule does not evaluate the effectiveness of service performance on the basis of deposit growth. This measurement is not clearly related to helping to meet the credit needs of the community and could necessitate burdensome coding of deposit accounts on a geographic basis. Finally, debit cards are not a retail credit delivery system, and therefore the agencies have not included debit cards in the list of examples of alternative delivery systems for retail services.

Community Development Test

The performance of wholesale and limited purpose institutions would have been evaluated in the 1994 proposal separately under the community development test. This test would have focused on the record of these institutions in helping to meet credit needs through community development lending, qualified investments, and community development services. The 1994 proposal also would have required wholesale or limited purpose institutions to serve a designated local area and would have placed limits on consideration of activities outside this designated area. The final rule maintains the community development test with some changes.

Request for designation as a wholesale or limited purpose institution. In response to comments on the 1994 proposal, the final rule provides more detail on the process by which an institution is designated wholesale or limited purpose. An institution that seeks designation as wholesale or limited purpose must file a request in writing at least three months prior to the proposed effective date of the designation. If the designation is approved, it remains in effect until the institution requests revocation of the designation or until one year after the agency notifies the institution that the agency has revoked the designation on its own initiative. Thus, once an institution has received a designation, the institution need not reapply before each CRA examination.

Benefit to assessment area. Many commenters, including both industry and some community group commenters, maintained that the limitations placed on considering out-of-assessment area activities were too restrictive and did not account for the broader business strategies and operations of wholesale and limited purpose institutions, which often serve communities on a nationwide basis.

The final rule removes the specific limitation that community development activities outside an institution's assessment area be considered only up to the amount of activities within the institution's assessment area. Under the final rule, the agencies consider all activities that benefit the institution's assessment area(s) or a broader statewide or regional area that includes the assessment area(s). In addition, other activities receive full consideration as long as the institution has adequately addressed the needs of its assessment area.

Technical changes and clarifications. The final rule clarifies that investments in third party community development organizations may be treated either as qualified investments or as community development loans (with the institution receiving credit for a pro rata share of the loans made by the third party, at the institution's option). In addition, the agencies note that a wholesale or limited purpose institution need not engage in all three categories of activities considered under the community development test but can perform well under the test by engaging in one or more of these categories. Technical changes have also been made to conform with the modifications, previously discussed, to the definition of community development loans, the definitions of wholesale and limited purpose institutions, and the focus of lending performance assessments on originations and purchases rather than loans outstanding.

Small Institution Performance Standards

The small institution performance standards have been retained in the final rule essentially as proposed in 1994, except for the change in the eligibility threshold described earlier. As a technical matter, the final rule has been changed to clarify that an institution that was a small institution as of the end of the prior calendar year is examined as a small institution.

Many commenters, predominantly representing community organizations but also including some larger institutions, stated that the streamlined approach would amount to a *de facto* exemption from CRA for small institutions. Other commenters, predominantly representing the industry, supported the proposal for streamlined examinations and an exemption from new data collection and

VOL
60
ISS
86
MY
4
1995
UMI

reporting. Many commenters representing the industry stated that data collection may place a greater relative burden on smaller institutions than larger institutions due to limitations in staff and financial resources. After considering the comments, the agencies have decided not to change materially the smaller institution performance standards. Examinations of small banks and thrifts will be streamlined and will not require the periodic reporting of new data. Examinations will be meaningful and will not be implemented as *de facto* exemptions.

Performance criteria. The 1994 proposal provided that to determine whether a small institution's CRA record is satisfactory, the agencies would consider the institution's loan-to-deposit ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans or qualified investments. This provision of the 1994 proposal responded to concerns following the 1993 proposal that institutions that package and sell their loans would be disadvantaged when compared to portfolio lenders by a strict loan-to-deposit ratio test. This provision of the 1994 proposal has been retained in the final rule. Evaluations will also take into account the institution's size, financial condition, and the credit needs of its assessment area.

The final rule also requires consideration of the proportion of the institution's total lending made to borrowers in its assessment area. The agencies will take into account local lending and investment opportunities in assessing this criterion.

In addition, the agencies will evaluate the distribution of loans and lending-related activities among individuals of different income levels and businesses and farms of different sizes. Where appropriate, the agencies will also evaluate the geographic distribution of loans in the institution's assessment area, including low- and moderate-income geographies. Contrary to the concerns expressed by some commenters, however, a small institution is not expected to lend evenly throughout its service area; rather, loan distribution will be evaluated within the context of an institution's capacity to lend, local economic conditions, and lending opportunities in the assessment area.

The agencies also will evaluate whether an institution has taken appropriate action, as warranted, in response to written complaints about the institution's performance in helping to meet the credit needs of its assessment area(s). Some commenters suggested that complaints resolved satisfactorily for the complainant not be considered in the evaluation. The agencies will consider those complaints, but their satisfactory resolution will be a favorable element in an evaluation. Other commenters expressed concern that the agencies might not adequately consider bona fide complaints from community members. However, the agencies intend to consider all CRA complaints in the course of an examination. Therefore, this criterion is retained in the final rule as proposed.

Elements of outstanding performance. Some commenters requested a clarification of the circumstances under which a small institution could earn an "outstanding" rating. Others urged that some flexibility be provided to consider a range of activities that enhance credit availability and promote community development. Under the final rule, in addition to determining whether an institution has exceeded some or all of the standards for a satisfactory rating, the agencies will consider a small institution's investment and service performance based on the broad range of investment and service activities discussed in the rule for other institutions.

Strategic Plan

The provisions of the strategic plan in the 1994 proposal have been adopted largely as proposed, with some changes.

The 1994 proposal provided that, as an alternative to being rated under the lending, service, and investment tests, or the small institution performance standards, a bank or thrift could submit to its supervisory agency for approval a strategic plan developed with community input detailing how the institution proposed to meet its CRA obligation. The 1994 proposal made clear that an institution would not be assessed under a plan unless the plan had been approved by its supervisory agency. To facilitate examinations of institutions with approved plans, the final rule clarifies that an institution is only evaluated under a plan if the plan is in effect and if the institution has operated under an approved plan (although not necessarily the particular plan currently in effect) for at least one year. Affiliates may prepare joint plans. The final rule permits activities to be allocated among affiliated institutions at the institutions' option, provided that the same activities are not considered for more than one institution. This change was made in response to comments requesting greater flexibility and increased opportunities for affiliated institutions sharing the same assessment area(s) to work together to help meet the credit needs of their communities and, in particular, in low- and moderate-income areas.

Public participation. The final rule retains the public participation provisions in the 1994 proposal. The final rule requires an institution informally to seek suggestions from the public while developing a plan. Once the institution has developed a plan, it must publish notice of the plan and solicit written public comment for at least 30 days. In order to avoid unduly lengthening the plan approval process, the final rule does not extend the minimum comment period. After the comment period, the institution shall submit the plan to its regulator, along with any written comments received. If the plan was revised in light of the comments received, the institution shall also submit the plan in the form released for public comment. The agencies have added in the final rule a requirement that an institution submit with its plan a description of its informal efforts to seek suggestions from members of the public. As under the 1994 proposal, the final rule states that a plan will be approved if the agency fails to act on it within 60 days after submission, unless the agency extends the review period for good cause.

Because of the importance of constructive community involvement in the plan process, the agencies have not changed in the final rule the amount of public participation required. Requiring an institution to seek informal suggestions in formulating a plan, and then to solicit formal comment before submitting a plan to the agency, encourages consultation between an institution and its community, including local government, community leaders, the public and tribal governments. There is no need for a further comment period after the institution submits its proposed plan to the agency because such a comment period could undermine the direct communication and consultation between an institution and its community that is most beneficial to the process.

Several comments appeared to misunderstand why the strategic plan provides for comment from the public. The strategic plan option provides institutions an opportunity to tailor their CRA objectives to the needs of their community and their capacity and expertise. Several industry comments were concerned that under the strategic plan option, community organizations would play an inappropriate role in an

institution's operations. However, the purpose of the consultation is for the institution to develop the fullest possible information about the needs of its community and how these needs might be met. The institution nevertheless makes all decisions regarding how it plans to help meet those needs. In reviewing the public participation, the agencies will not consider whether community organizations unanimously support the plan, but whether the institution made an appropriate investigation to determine the needs of its community, and whether the goals of the plan serve those needs.

As a technical clarification, the final rule provides that an institution may impose a reasonable charge for copying or mailing a plan but may not charge for reviewing the plan.

Assessment of performance under the plan. Under the final rule, as under the 1994 proposal, the agencies will generally rate an institution's performance under an approved plan solely in relation to goals set out in the plan. An institution has the option, however, to elect in its plan to be subject to the standard tests should it fail to meet substantially its "satisfactory" goals under the plan. The final rule makes this election clear. An institution operating under an approved plan would, during the period of the plan, not be subject to assessment under the standard tests, unless the institution so chose. In considering whether an institution has substantially met plan goals, an agency will give consideration to circumstances beyond the institution's control, such as economic conditions, that have affected its ability to perform.

Confidential information. A number of industry commenters indicated that the possibility of public disclosure of confidential information presented a major disincentive to their use of the strategic plan alternative. In response to similar comments on the 1993 proposal, the 1994 proposal would have permitted institutions to submit additional information to the relevant agency on a confidential basis. The final rule includes this provision, which adequately addresses confidentiality concerns.

Data collection and reporting responsibilities. Despite industry comments to the contrary, the final rule provides that approval of a plan does not affect an institution's data collection responsibilities. These data are useful to the agencies in assessing overall lending in communities, and would also be of value to the public. Since the institution's plan will be in its public file, the public will have the appropriate context in which to evaluate the lending data.

Assigned Ratings

In the final rule, as under the 1994 proposal, an institution will be assigned one of the four assigned ratings required by the statute: "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance." (12 U.S.C. 2906(b)(2)) For institutions that are evaluated under the community development test for wholesale or limited purpose institutions, the small institution performance standards, or an approved strategic plan, the rating on these tests will be the institution's assigned rating with adjustment for any evidence of discrimination. Retail institutions that are evaluated under the lending, investment and service tests will be assigned a rating based upon the assigned rating principles and the matrix that implements these principles, also with adjustment for any evidence of discrimination.

Ratings principles and matrix. A number of comments discussed the principles and methodology by which an assigned rating would be given to retail institutions evaluated under the lending, investment and service tests. The 1994 proposal set forth five principles that governed the assignment of this rating. The methodology for calculating the assigned rating was described in Appendix A. The proposal would have required that an institution's rating on the lending test count for at least 50 percent of its assigned rating. Furthermore, an institution would have been required to achieve a "satisfactory" rating on the lending test in order to receive an assigned rating of "satisfactory." In addition, the 1994 proposal would have allowed investment and service performance to raise a institution's assigned rating if it had earned at least a "satisfactory" rating on the lending test. Poor performance on either the investment or service test also could have negatively affected an institution's assigned rating. The proposal would have required the agencies to adjust ratings for all institutions, regardless of which test the agencies used to evaluate their performance, to take into consideration evidence of discriminatory or other illegal credit practices. Finally, an institution that otherwise would have received a "needs to improve" rating would have been rated as "substantial noncompliance" if it received no better than a "needs to improve" rating on each of its two previous examinations.

Commenters generally supported the 1994 proposal's emphasis on lending performance, but a number were concerned about several apparently anomalous ratings that would have resulted from applying the rating principles and the matrix in the appendix. Several commenters, particularly community groups, were concerned that an institution could receive an assigned rating of "satisfactory" even if it received a rating of "substantial noncompliance" on both the investment and service tests, if its rating on the lending test was at least a "high satisfactory." In addition, an institution with a rating of "substantial noncompliance" on either the service or investment test could get an "outstanding" composite rating if its rating on the lending and the third test was "outstanding." These commenters suggested revising the rating principles and matrix to avoid these anomalous results.

After considering the comments, the agencies have revised the final rule to eliminate these anomalies. The agencies eliminated the principle that an "outstanding" rating on the lending test and either the service or investment test would mean an "outstanding" assigned rating even if the rating on the third test was "substantial noncompliance." The agencies also eliminated the principle that an institution's rating on the lending test would count for at least 50 percent of its assigned rating. This change does not alter the agencies' emphasis on the primacy of lending when evaluating CRA performance, because no institution may receive an assigned rating of "satisfactory" unless it receives a rating of at least "low satisfactory" on the lending test.

In light of the comments, the matrix that sets forth the methodology for aggregating an institution's scores on the lending, service and investment tests to arrive at an assigned rating has also been revised. The number of points to be given for each rating on the lending, service and investment tests remains unchanged as shown in the following table.

VOL 60 ISS 86 MY 4 1995 UMI

Component test ratings	Lending	Service	Investment
Outstanding	12	6	6
High Satisfactory	9	4	4
Low Satisfactory	6	3	3
Needs to Improve	3	1	1
Substantial Noncompliance	0	0	0

The number of points needed to achieve each of the four composite assigned ratings has been modified slightly, as shown in the following table, to remove the anomalies discussed earlier.

Points	Composite assigned rating
20 or over	Outstanding.
11 through 19	Satisfactory.
5 through 10	Needs to Improve.
0 through 4	Substantial Noncompliance.

To ensure that an institution does not receive an assigned rating of "satisfactory" unless it receives a rating of at least "low satisfactory" on the lending test, an institution's assigned rating will be calculated using three times the lending test score if the institution's point total exceeds three times the lending test score.

The agencies have removed the matrix from Appendix A. This change will allow the agencies some flexibility in adjusting the matrix to prevent any other unintended anomalies that may be found during the examination process. If the agencies change the matrix in the future, the new matrix will be published for information, but not necessarily for comment, in the **Federal Register**.

Automatic downgrade of third "needs to improve" rating. The agencies have also removed the requirement that an institution's CRA rating be downgraded automatically from "needs to improve" to "substantial noncompliance" if it received no better than a "needs to improve" rating on each of its two previous examinations. Even though the automatic downgrading has been eliminated in the final rule, the agencies will consider an institution's past performance in its overall evaluation. If the poor performance continues, an institution could be rated "substantial noncompliance" if prior ratings were "needs to improve" and the institution has not made efforts to improve its performance.

Weight of service test. Some consumer groups urged that an institution be required to get at least a "low satisfactory" on the service test in order to get an assigned rating of "satisfactory" or better. The agencies considered this suggestion, but decided that because the CRA's focus is on helping to meet a community's credit needs, it would be inappropriate to impose this requirement. However, the changes to the ratings principles and matrix increase the weight of both the service and investment tests.

High satisfactory and low satisfactory ratings. Some commenters found confusing the use of a "high" and "low" satisfactory rating on the lending, service and investment tests and only a "satisfactory" on the assigned rating. Because a wide range of performance may be rated as satisfactory, the agencies decided to keep the five ratings on the underlying tests, even though the assigned ratings are limited to the four statutory ratings. This will permit the agencies, banks and thrifts, and their customers to recognize the stronger performances on the lending, investment, and service tests of those institutions that are doing a very good, but not quite outstanding, job of helping to meet the credit needs of their communities.

Effect of CRA Performance on Applications

The CRA requires the agencies to consider an institution's CRA performance record when considering an application by the institution to establish a deposit facility. The statute defines applications for a deposit facility as including applications for a Federal financial institution charter or FDIC deposit insurance, applications to establish or relocate a branch or home office, and applications for mergers, consolidations, or the purchase of assets or assumption of liabilities of a regulated financial institution. The 1994 proposal provided that in considering an institution's application for a deposit facility, the agencies would consider the institution's CRA performance and take into account any views expressed by interested parties submitted in accordance with the applicable agency's rules and procedures. The proposal also stated that an institution's record of CRA performance could provide a basis for approving, denying, or conditioning approval of an application.

A number of comments from financial institutions asked the agencies to create a "safe harbor" from CRA protests for banks with good CRA ratings that apply to establish a deposit facility. Some commenters suggested that a "safe harbor" would provide an incentive to achieve an outstanding rating. Community and consumer groups, on the other hand, opposed any sort of safe harbor from CRA protests.

The agencies have consistently recognized that materials relating to CRA performance received during the applications process can and do provide relevant and valuable information. The agencies also continue to believe, as provided in the Interagency Policy Statement Regarding the Community Reinvestment Act, that information from an examination is a particularly important consideration in the applications process because it represents the on-site evaluation of an institution's CRA performance by its primary Federal regulator. The final rule implements without change the balance given in the 1994 proposal between CRA performance ratings and material information presented through public comment in the applications process.

The agencies noted in the preamble to the 1993 proposal that the frequency with which the agencies will examine an institution will depend in part on its record of performance. A similar discussion was inadvertently omitted from the 1994 proposal. Examination frequency will be based, in part, on an institution's record of performance. This policy combines an efficient use of agency resources with an incentive for good performance.

Assessment Area Delineation

As a result of numerous comments received on this issue, the final rule makes several changes to the definition of service area in the 1994 proposal.

Assessment area. The CRA requires the agencies to assess an institution's record of helping to meet the credit needs of its local community. The assessment area as defined in the final rule represents the community within which the agencies assess an institution's record of CRA performance.

As noted earlier in the preamble, in the final rule, the term "assessment area" replaces the term "service area," which was used in the 1993 and 1994 proposals. The agencies believe the term "assessment area" more accurately

describes the geographic area within which the specific performance criteria in the rule will be assessed. Based on the continuing criticisms of the "delineated community" in the current regulation and the "service area" in both the 1993 and 1994 proposals, the agencies have decided to place a different emphasis on the institution's specific delineation and the methods used by the institution to establish that delineation. The agencies do not expect that, simply because a census tract or block numbering area is within an institution's assessment area, the institution must lend to that census tract or block numbering area. The capacity and constraints of the institution, its business decisions about how it can best help to meet the needs of its assessment area, including those of low- and moderate-income neighborhoods, and other aspects of the performance context, would be relevant to explain why the institution is not serving portions of the assessment area(s).

The rule also clarifies that an institution's delineation of its assessment area(s) is not separately evaluated as an aspect of CRA performance, although the delineation will be reviewed for compliance with the assessment area requirements of the rule. If, for example, an institution delineated the entire county in which it is located as its assessment area but could have delineated its assessment area as only a portion of the county, it will not be penalized for lending only in that portion of the county, so long as that portion does not reflect illegal discrimination or arbitrarily exclude low- or moderate-income geographies.

Assessment area boundaries. The 1994 proposal would have prohibited a financial institution, other than a wholesale or limited purpose institution, from delineating a service area that extends substantially across boundaries of a metropolitan statistical area (MSA) or state boundaries, unless the service area was located in a multistate MSA. Further, the proposal would have prohibited an institution's service area from reflecting illegal discrimination or arbitrarily excluding low- and moderate-income geographies (taking into account the institution's size and financial condition).

The final rule states that an institution shall not delineate an assessment area extending substantially across the boundaries of a consolidated metropolitan statistical area (CMSA). An institution shall delineate separate assessment areas for the areas inside and outside the CMSA and for different CMSAs. The 1994 proposal expressed these limitations in terms of MSAs rather than CMSAs. The change in the final rule has been made to address a technical shortcoming in the 1994 proposal, but does not change its substance. The final rule retains the provision from both the 1993 and 1994 proposals that an assessment area not extend substantially across state boundaries unless the assessment area is located in a multistate MSA. The final rule applies these limitations to wholesale and limited purpose institutions as well as other institutions because of changes made to the community development test.

To simplify the process of delineating an assessment area, the final rule encourages institutions to establish assessment area boundaries that coincide with the boundaries of one or more MSAs or one or more contiguous political subdivisions, such as counties, cities, or towns. An institution is permitted, but is not required, to adjust the boundaries of its assessment area(s) so as to include only the portion of a political subdivision it reasonably can be expected to serve. This provision gives institutions some flexibility in their delineations, particularly in the case of an area that would otherwise be extremely large, of unusual configuration, or divided by significant geographic barriers. As with the 1994 proposal, however, such adjustments may not arbitrarily exclude low- and moderate-income geographies from the institution's assessment area(s). For purposes of assessment area delineation, an institution should use the MSA and CMSA boundaries in effect on January 1 of the calendar year in which the institution is making the delineation.

Equidistance principle. The 1994 proposal would have adopted the effective lending territory principle from the current regulations in slightly modified form. The 1994 proposal would have explicitly linked an institution's CRA obligations to the areas around its branches and deposit-taking ATMs, rather than its other non-deposit taking offices. The service area delineated by the institution would have had to include all geographies around its branches in which the institution originated or had outstanding during the previous year a significant number and amount of home mortgage, small business and small farm, and consumer loans and any other geographies equidistant from its branches and deposit-taking ATMs.

The final rule eliminates the equidistance principle as a required part of the delineation of an assessment area. This change provides institutions greater flexibility in their delineations. Several commenters suggested that, in certain circumstances, the equidistance requirement could be inappropriate, because institutions do not routinely serve areas that are uniformly equidistant from their deposit-taking offices. The final rule retains the requirement that an assessment area not arbitrarily exclude low- or moderate-income geographies.

Wholesale and limited purpose institutions. The final rule requires that the assessment area(s) for a wholesale or limited purpose institution must generally consist of one or more MSAs or one or more contiguous political subdivisions in which the institution has its main office, branches, and deposit-taking ATMs. This requirement is substantively consistent with the 1994 proposed delineation of service area for wholesale and limited purpose institutions, but the final rule differs from the 1994 proposal in two ways. First, the final rule specifies that the assessment area must generally consist of one or more MSAs or contiguous political subdivisions; the 1994 proposal would have required the institution to delineate "an area or areas around its offices." Second, the assessment area has been modified to conform to changes made to the scope of the community development test. The community development test permits consideration of community development activities that are outside of an institution's assessment area, but that are in a broader statewide or regional area that includes the institution's assessment area. As a result, an institution need not delineate a statewide or regional, rather than local, assessment area in order to receive consideration for these activities.

Use of assessment area. In response to comments indicating concern that examiners might modify the area delineated by the institution, the final rule explicitly provides that the agencies will use the assessment area delineated by the institution, unless they determine that the assessment area does not comply with the requirements for assessment areas set forth in the final rule. If the assessment area fails to comply with the rule's requirements, the examiner will designate an area that does comply and will use that area in evaluating the institution's performance.

Technical changes and clarifications. The final rule includes other technical changes to provide clarification. For example, some commenters interpreted the use of the phrase "significant number and amount of loans" in the 1994 proposal to have a different meaning than the phrase "substantial portion of its loans" in the current

VOL
60
ISS
86
MY
4
1995
UMI

regulations. The agencies did not intend a different meaning and have used the wording from the current regulations in the final rule. In addition, changes in the final rule reflect the rule's shift in focus from loans outstanding to originations and the different circumstances under which the lending test considers consumer loans.

Data Collection and Reporting

In the final rule, the agencies continued their efforts to streamline data collection and reporting requirements in response to comments concerning potential burden. The final rule simplifies data requirements and eliminates Appendix C.

Application of data collection provisions to small institutions and wholesale and limited purpose institutions. The 1994 proposal would not have applied small business and farm loan and community development loan data requirements to small institutions. Some commenters criticized the exemption from data collection and reporting requirements for small institutions because only a subset of data would actually be collected, restricting the regulators' ability accurately to assess the overall performance of institutions in helping to meet credit needs. These commenters stated that the benefits of collecting the data across the industry outweighed the associated burden. However, the burden on small institutions would be significant and the benefit less than the commenters assert. Therefore, the final rule does not subject a small institution to additional data collection and reporting requirements. The volume of originations of loans other than home mortgage loans in a small institution will generally be small enough that an examiner can view a substantial sampling of loans without advance collection and reporting of information by the institution. In addition, although small institutions are large in number, they have a relatively small percentage of the total assets of the industry.

An institution that was a small institution during the prior calendar year but is no longer a small institution would be subject to data collection and maintenance requirements but not data reporting requirements. The data reporting requirements do not apply because the institution would not have collected the data to report. The institution would be subject to data reporting requirements in the year following the first year for which it was required to collect data, provided the institution does not qualify as a small institution at the time the data must be reported.

The 1994 proposal would have required large wholesale and limited purpose institutions to collect and report data. Some commenters urged that wholesale and limited purpose institutions be exempt from data collection and reporting. The final rule does not include an exemption. The data are necessary for the agencies to determine whether the institutions initially qualify and continue to remain qualified for treatment as wholesale or limited purpose institutions. The data also will be helpful in understanding the context in which the performance of other institutions should be evaluated.

Collection and reporting of originations and purchases rather than loans outstanding. For the reasons stated in the discussion of the lending test earlier in the preamble, the final rule requires reporting of and evaluation based on originations and purchases for all categories of loans. Institutions still have the option to provide data on loans outstanding, which examiners would consider to round out the picture of lending performance.

Community development loan reporting. The community development loan reporting provisions in the final rule have been modified to reflect the decision to rely on originations and purchases. Institutions, except small institutions and institutions that were small institutions during the prior calendar year, are required to report to their primary regulator annually on March 1 the aggregate number and aggregate amount of community development loans originated and purchased during the prior calendar year. The agencies will include this information in the CRA Disclosure Statements that they prepare for each institution, and which an institution shall place in its public file within three days of receipt.

Some commenters requested reporting and disclosure of more detailed information on community development loans, including a breakdown by location and purpose of the loan. The agencies did not adopt these suggestions because the additional burden would outweigh the potential usefulness of more specific data. In assessing an institution's performance under the lending or community development test, examiners will review actual community development loan files to determine the complexity and innovativeness of the loans and their responsiveness to credit and community development needs. Examiners will discuss the community development loans reviewed in the public portion of the institution's CRA performance evaluation. The discussion will include the nature and location (if relevant) of the activities supported by the loans reviewed.

Consumer loan collection and maintenance. In the final rule, as in the 1994 proposal, data collection and maintenance are optional for consumer loans, and there are no reporting requirements. As described in the discussion of the lending test earlier in the preamble, an institution may provide data on one or more categories of consumer loans, such as motor vehicle loans, and not on others. However, if an institution provides data for any loan in a category, it is required to provide data for all loans in the category. For each loan category for which an institution elects to provide data, the data must include for each loan in the category originated or purchased since the last CRA examination: (1) the amount at origination or purchase, (2) the loan location, and (3) the gross annual income of the borrower that the institution considered in making the credit decision. If the institution does not consider income in making an underwriting decision, it need not collect income information. Further, if the institution routinely collects, but does not verify, a borrower's income when making a credit decision, it need not verify the income for purposes of data maintenance. The location of the loan must be maintained by census tract or block numbering area.

Reporting of loan information outside assessment areas and outside MSAs. Some commenters asked that institutions not be required to report small business and small farm loans located outside their assessment areas or outside MSAs. The agencies have not made this change in the final rule. The data on lending in rural areas provide important information on how well institutions are serving rural communities where they have branches. The data are also necessary for the lending test assessment criterion that evaluates the degree to which an institution's lending is inside its assessment area. Finally, the lending data provide information that assists examiners in understanding the context in which the performance of other institutions should be evaluated. The commenters that opposed reporting of small business and small farm loans outside their assessment areas or outside MSAs also generally opposed the proposed change to require institutions that are not small institutions and are subject to HMDA to report the location of applications and originations of home mortgage loans outside the MSAs in which the

institutions have offices. The agencies have adopted the proposed change despite these objections for the same reasons that the agencies did not change the final rule for collecting of small business and small farm loans outside MSAs or assessment areas. Conforming amendments to Regulation C (HMDA) have been adopted by the Board.

Race and gender information on small business borrower not required. The 1994 proposal would have required each institution, other than a small institution, to collect and report data on the race and gender of small business and small farm borrowers. This provision, which was the most frequently addressed issue in the comments, was proposed in order to support the fair lending component of the CRA assessment. The agencies have removed this proposed requirement from the final rule.

Many commenters, including virtually every community or consumer group that addressed the issue, supported the provision. These commenters believed that the information was critical to determine whether discrimination was occurring in small business and small farm lending. The commenters noted the value of HMDA data on race and gender in monitoring home mortgage lending. Nearly every industry comment opposed the collection as proposed. These commenters stated that the requirement was burdensome and the data, as proposed to be collected and reported, would be of limited utility. They asserted that reporting institutions would be at a competitive disadvantage because small institutions and non-financial institution lenders not only would not be required to collect and report the information but actually would be prohibited from doing so (because of the Board's Regulation B, implementing the Equal Credit Opportunity Act). Some commenters also questioned the relevance of the race and gender data to CRA. A few industry commenters endorsed collection of race and gender data, provided it was done through Regulation B. A larger number opposed collection, but believed that, if the agencies concluded the data were necessary, collection should be required under Regulation B.

The agencies have removed the proposed requirement from the final rule. Although the agencies believe that fair lending performance is directly relevant to CRA performance, they recognize the anomaly of requiring some institutions to collect and report information that other lenders are prohibited from collecting. Therefore, they believe that it is more appropriate to address the issue of race and gender data in fair lending regulations that apply equally to all lenders.

Small business data collection, maintenance, and reporting generally. In response to industry comments regarding the burden associated with the small business and small farm loan data requirements, the final rule streamlines the data collection, maintenance and reporting. The agencies have replaced loan-by-loan reporting using loan registers with aggregate reporting by census tract.

The 1994 proposal would have required lenders to indicate whether small business borrowers had gross annual revenues $1 million or less. Some commenters suggested that the requirement be eliminated because they believed it was burdensome and unnecessary. The final rule retains the requirement. The burden of collecting this information is minimal, because $1 million is already used in the Board's Regulation B as a threshold for certain requirements related to adverse action notifications and record retention. Therefore, many institutions already have a reason to track business and farm loans based on this revenue figure.

The information on the revenue size of business and farm borrowers is useful because, in combination with loan amount information, it will enable the agencies to make accurate judgments about the size of businesses and farms receiving reported loans. Some commenters questioned whether an institution should report the revenue of the entity to which the loan is actually extended or of its parent corporation if the entity is a subsidiary. An institution should report the revenues that the institution considered in making its credit decision.

Some commenters asked that the agencies require collection and reporting of data on applications and denials. The agencies did not adopt this suggestion. The small business lending process is generally far less formal than the consumer or home mortgage lending process. Sometimes institutions do not require written applications for small business loans; when they do, applications often come after potential problems have been addressed in informal discussions. Because the agencies do not believe information on applications and denials would be particularly helpful, the final rule does not require collection or reporting of information on small business and small farm applications and denials. Instead, institutions are required to report all small business and small farm loans that they originate or purchase.

Under the final rule, each covered institution is required to collect and maintain in a standardized, machine readable format the following information on each small business loan originated or purchased since the prior CRA examination: (1) amount at origination; (2) location; and (3) an indicator whether the loan was to a business with $1 million or less in gross annual revenues. The location of the loan must be maintained by census tract or block numbering area.

Each covered institution is required to report in machine-readable form annually on March 1 the following information, aggregated for each census tract/block numbering area in which the institution made at least one small business or small farm loan during the prior calendar year: (1) number and amount of loans with original amounts of $100,000 or less; (2) number and amount of loans with original amounts of more than $100,000 but less than or equal to $250,000; (3) number and amount of loans with original amounts of more than $250,000; and (4) number and amount of loans to businesses and farms with gross annual revenues of $1 million or less (using the revenues the institution considered in making its credit decision).

Need for data collection and reporting. Some commenters continued to question the validity and propriety of any data collection and reporting for larger institutions. As discussed earlier, the agencies have significantly reduced the data collection and reporting from that originally proposed, and where feasible the rule relies on existing data collections. However, the rule continues to provide for some additional data collection and reporting by larger institutions. In a performance-based CRA process, these requirements are necessary to permit the agencies to carry out their statutory obligation to examine and assess institutions' CRA records and to prepare the public sections of CRA performance evaluations. The emphasis on actual performance responds to the nearly universal criticism that current CRA examinations rely too heavily on documentation of an institution's policies, procedures and community contacts rather than lending. While the agencies recognize that the collection of data regarding lending activity will impose burden on many institutions, the final rule has been tailored to rely primarily on data readily available to or already collected by institutions in order to minimize the collection burden. In addition, the burden of collecting actual loan performance data will be offset somewhat by the elimination of requirements under the current CRA

VOL
60
ISS
86
MY
4
1995
UMI

evaluation scheme that institutions document policies, procedures, and CRA contacts. Finally, the agencies will prescribe a standardized format for data maintenance and reporting and make available software to facilitate data maintenance and reporting.

Disclosure of small business and small farm loan data. Under the 1994 proposal, every large institution would have been required to include in its public file the following information on small business loans: (1) the number and amount of loans in low-, moderate-, middle- and upper-income census tracts; (2) a list of each census tract with at least one loan; (3) the number and amount of loans inside the institution's service areas and outside the institution's service areas; (4) the number and amount of loans to businesses with gross annual revenues of $1 million or less; (5) the number and amount of loans to minority-owned businesses; and (6) the number and amount of loans to women-owned businesses. The proposal did not provide that the agencies would make any aggregate data available to the public.

The vast majority of consumer and community group commenters maintained that the public disclosure provisions of the 1994 proposal were not sufficient. They asked that small business loan data be made available to the public in a HMDA-like format for individual institutions and in aggregated form. They asked that, at a minimum, data be available to the public on an aggregate and institution-by-institution basis by individual census tract, including for each census tract the number and volume of loans. Otherwise, the public would not be able to judge how an institution is performing in one low-income neighborhood as compared to another and, without incurring unreasonable cost, would not be able to compare the performance of one institution with the performance of another. The commenters also expressed concern about the agencies' using certain data to evaluate institutions but not making the data available to the public. Industry commenters generally opposed detailed data collection and reporting requirements as burdensome.

Census tract-by-census tract information provides the most detailed information to the public. However, some commenters were concerned that disclosure at this level for each institution might invade the privacy of small business and small farm borrowers, could reveal protected business information, might erroneously signal an expectation that an institution lend in each census tract in its assessment area(s), and might lead to misinterpretation of the data.

Based on these considerations, under the final rule, the agencies, rather than the institutions, will prepare disclosure statements in order to reduce burden on the industry. The agencies will prepare annually individual CRA Disclosure Statements for each reporting institution and aggregate disclosure statements for each MSA and the non-MSA portion of each state. The agencies will make both the individual and the aggregate disclosure statements available to the public at central depositories.

The aggregate disclosure statements will indicate, for each geography, the number and amount of small business and small farm loans originated or purchased by all reporting institutions, except that the agencies may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

The disclosure statements for the individual institutions will be prepared on a state-by-state basis and will contain for each county (and each assessment area smaller than a county) with a population of 500,000 or fewer in which the institution reported a small business or small farm loan: (1) The number and amount of small business and small farm loans located in low-, moderate-, middle-, and upper-income census tracts or block numbering areas; (2) a list of each census tract or block numbering area in the county or assessment area grouped according to whether the geography is low-, moderate-, middle-, or upper income; (3) a list of each census tract or block numbering area in which the institution reported a small business or small farm loan; and (4) the number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less. For each county (and each assessment area smaller than a county) with a population greater than 500,000, the number and amount of small business and small farm loans will be provided for geographies grouped according to whether the median income of the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, or 120 percent or more.

The disclosure statements will also contain information on the number and amount of loans inside each and outside any assessment area of the institution and the institution's community development loan information. The disclosure statements will include affiliate lending if the institution reported the affiliate lending for consideration in its assessment.

An institution itself no longer has to prepare information on small business and small farm lending or community development lending to place in its public file. Instead, each institution is required to put its CRA Disclosure Statement in its public file within three days of receipt of the statement from its regulator.

List of geographies in assessment area and map of each assessment area. The 1994 proposal also would have required each institution to report (and include in its public file) a list of the geographies the institution considers to be within its assessment area and a map of each assessment area showing its geographies. Several industry comments suggested that this requirement was overly burdensome and that either a map or a list of the geographies in the assessment area(s) be reported but not both. Under the final rule, institutions would only report the list of geographies in each assessment area, and small institutions or institutions that were small during the prior calendar year would not have to report at all. In addition, the agencies have changed the reporting date to March 1 to provide a uniform date for reporting of information required under the final rule.

All institutions would still have to include a map of each assessment area in the public file because the agencies believe a list of census tract numbers is likely not to be useful to many members of the public. To reduce burden, the final rule clarifies that the map itself need not show the geographies. The geographies may be identified on the map; alternatively, if the institution provides a separate list of the geographies contained in the area, the map may need to show only the boundaries of the area.

Public File

Other aspects of the public file requirements have also been amended to provide more clarity and to respond to the criticism that the requirements in the 1994 proposal were burdensome.

List of branches, ATMs, and services. The 1994 proposal would have required the public file to include a list of the institution's branches and ATMs, their street addresses, and geographies; a list of branches and ATMs opened or closed by the institution during the current and each of the prior two calendar years, their street addresses, and geographies; and a list of services offered at the institution's branches and ATMs. Many industry commenters stated that these requirements were extremely burdensome, particularly the list of services offered at the branches. Much of this information is central to the institution's performance under the service test, and the public should have access to it. The final rule therefore retains the requirement that the public file include a list of services offered at the branches as well as the requirement that the file include a list of the branches, their street addresses, and geographies and a list of branches opened and closed during the current and prior two calendar years.

However, the final rule does not require institutions to list ATMs by street address or geography. Nor does the final rule require that institutions provide a list of ATMs that have been opened or closed in the current or prior two years. This change reduces burden on an institution in trying to keep the public file current because ATMs may be opened and closed more frequently than branches. This change is also consistent with other changes that clarify that the agencies do not consider ATMs as equivalent to branches in providing services to the community.

Small business, small farm, consumer, and community development loan data. The 1994 proposal would have required institutions that were not small institutions (and small institutions that elected to be evaluated under the lending, investment, and service tests) to include data collected or reported to the agencies for each of the prior two calendar years in their public file. The 1994 proposal would not have required public disclosure of data if it might reasonably be expected to disclose the identity of the borrower because of the small number of loans made in particular geographies or to particular groups of borrowers.

Institutions will no longer have to compile information on small business, small farm, and community development loans for inclusion in their public files. As described earlier, the information regarding these loans that continues to be relevant under the final rule will be contained in the institution's CRA Disclosure Statement prepared by the agencies.

Institutions that elect to have any portion of their consumer lending portfolios considered under the lending test will be required to provide in the public file information on the number and amount of consumer loans to low-, moderate-, middle- and upper-income borrowers and census tracts, as well as information on the number and amount of consumer loans located both inside and outside of the institution's assessment area.

The final rule also removes the exception to providing data in the public file that might reasonably be expected to disclose the identity of the borrower. Because of changes to data disclosure in the final rule, the agencies believe that a privacy exception is not necessary for the individual CRA Disclosure Statements. As described earlier, the agencies will take privacy concerns into account in preparing aggregate disclosure statements.

Inclusion of comments received. The 1994 proposal would have required an institution to include in the public file all signed, written comments that it received from the public for the past two years. A few industry commenters did not perceive a need to keep correspondence related to complaints that have been satisfactorily resolved. The agencies have not made a change in response to these comments because, as discussed earlier, satisfactorily resolved comments are relevant to assessment of the institution's performance. The final rule removes the requirement that written comments be signed in order to be included in the public file, because all written comments should be considered even if the commenter wishes to remain anonymous. Of course, the response appropriate to a comment may well vary depending on whether the commenter has provided his or her name.

Loan-to-deposit ratio for small institutions. The 1994 proposal would have required small institutions to include in the public file their loan-to-deposit ratios computed at the end of the most recent calendar year. Many small institutions requested that the public file requirement for loan-to-deposit ratio information be expanded to include loan-to-deposit ratios for each quarter, or alternatively, that an annual average loan-to-deposit ratio be placed in the file in order to better convey seasonal fluctuations in lending to the public. In accordance with the comments, the final rule requires a small institution to place annually in the public file the loan-to-deposit ratio at the end of each quarter of the prior calendar year.

Public file location and number of copies. The 1994 proposal would have required that institutions maintain a complete copy of the public file at the home office. At least one branch office in each assessment area would have been required to have the HMDA Disclosure Statement and any materials from the public file relating to that assessment area available to the public. In addition, if a request for the public file was made at a branch office that did not maintain the file, the institution would have been required to make a complete copy of the file for that assessment area available for review at the branch within five days at no cost. An institution could have imposed reasonable copying and mailing charges if a member of the public requested copies of information in the file.

Industry commenters maintained that the requirement to keep multiple copies of the public file was extremely burdensome, particularly given the large amount of information in the file. These commenters suggested that only one public file should be required.

Under the final rule, an institution need maintain only one copy of its public file in each state in which it has its main office or a branch. The final rule provides that each institution shall make available to the public for inspection upon request and at no cost the information in the file at the main office and, if the institution is an interstate institution, at one branch office in each state. At each branch, an institution shall provide its public evaluation and a list of services provided at the branch. The institution shall also make all information in the public file relating to the assessment area in which the branch is located available for review at the branch within five calendar days of a request to review the file. These changes reduce the burden associated with the maintenance of public files at a branch in each assessment area while making it easier for the public to access the file at any branch. They also reflect the statutory provisions of the IBEA requiring separate written evaluations for each state in which an interstate institution operates.

Additional clarifications. Some commenters requested the agencies to specify a date on which the public file information should be updated. The final rule provides that the public file be updated as of April 1 of each year unless the rule specifies another time for a particular element, such as the CRA Disclosure Statement. The final rule also clarifies that contents of the public file can be supplemented with any other information the institution deems appropriate. The final rule further clarifies that lending data contained in the public file relate to lending not only by the institution, but

VOL
60
ISS
86
MY
4
1995
UMI

also its affiliates, if the lending by affiliates is considered in the assessment of the institution.

Transition

The 1994 proposal would have established a transition period from July 1, 1995, to July 1, 1996. Institutions subject to data collection and reporting requirements would have been required to begin collecting home mortgage, small business, and consumer loan data on July 1, 1995. Assessments under the proposed standards would have begun July 1, 1996. However, small institutions would have had the opportunity to be examined, at their option, under the small institution assessment method anytime after July 1, 1995. Anytime on or after July 1, 1995, an institution could have elected to submit for approval a strategic plan, and examinations under approved strategic plans would have begun July 1, 1996.

Many industry commenters requested that the transition period be lengthened to provide institutions with more time to develop procedures for satisfying the data collection requirements. Also, some of these commenters recommended against implementing the data collection requirements on July 1, because they believed that data collected for a half year would not be useful. Moreover, some industry commenters asked that data collection begin on January 1, to fall in line with other materials that are maintained on a calendar-year basis.

In light of these comments and the fact that the implementation dates set forth in the 1994 proposal reflected anticipated publication of the final rule in January 1995, the data collection requirements set forth in the final rule will become effective January 1, 1996. The reporting requirements will become effective January 1, 1997. Evaluations under the lending, investment, service, and community development tests will begin July 1, 1997, in order to allow the agencies to use the newly reported data. However, evaluations under the small bank performance standards, which do not utilize new data, will begin January 1, 1996. In addition, beginning January 1, 1996, any institution may submit a strategic plan for approval or elect to be examined under the revised performance tests, if the institution provides the necessary data.

An institution that elects evaluation under the lending, investment, and service tests before July 1, 1997, must provide, in machine readable form, data on small business and small farm loans and community development loans for the twelve month period preceding the examination. The institution must also provide, in machine readable form, the location of home mortgage loans located outside MSAs in which the institution has an office (or outside any MSA) for that period. If the institution elects evaluation of any category of consumer loans, the institution must also provide consumer loan data, in machine readable form, for that category for that period. An institution that seeks evaluation under the community development test must apply for designation as a wholesale or limited purpose bank three months prior to its examination and must provide data on community development loans for the twelve months prior to the examination. All institutions evaluated under the revised tests and standards or under an approved strategic plan before July 1, 1997, must delineate their assessment areas in accordance with the provisions of the final rule.

CRA Notice

The 1994 proposal would have made minor changes to the notice requirements set forth in the 1993 proposal. The term "head office" was changed to "main office" for clarity. Within the notice, the statement of what is included in the CRA performance file would have been expanded to describe more accurately the contents of the file. The final rule makes additional changes to reflect changes in the public file provisions.

Multiple Assessment Areas

The 1994 proposal did not address how institutions with multiple assessment areas would be examined or how performance in different assessment areas would affect the overall rating. The agencies received comments expressing a broad range of opinions regarding the examination treatment and assessment of institutions with multiple assessment areas. Several community group commenters stated that "sampling" among assessment areas was unacceptable, while an industry organization suggested an elaborate sampling procedure. Other commenters proposed that certain assessment area characteristics, such as the percentage of the institution's deposits or assets in the assessment area, should determine the weight that performance in that assessment area should have on the overall rating of the institution. Other commenters were concerned that such proposals could mean that rural assessment areas would not be given appropriate consideration in the examination process.

The agencies continue to believe that the examination treatment of multiple assessment areas is best left for examination procedures, rather than stated in regulatory text. Whether an institution has one assessment area or several, the examiner must have an adequate factual basis on which to assess an institution's record of performance, and the overall rating must be fair and appropriate. These objectives do not necessarily require that an agency examine an institution's performance in every assessment area in the same way or that the rule state how performance in different assessment areas is aggregated. Just as a single mathematical calculation cannot determine performance in an assessment area, so the appropriate treatment of multiple assessment areas cannot be reduced to a formula.

The agencies note that the IBEA amended the provisions of the CRA regarding written evaluations, and the examination procedures will be consistent with those requirements.

Written Evaluations

Although the 1994 proposal did not directly address the content of the written performance evaluations required by the CRA statute, some commenters did. These commenters focused on whether the agencies would disclose an institution's ratings on the lending, investment, and service tests to the institution and to the public.

The agencies jointly will issue guidelines for the contents and disclosure of written evaluations prepared under the final rule, and these guidelines will implement the IBEA amendments regarding written evaluations. To address the issue raised in the comments, the agencies envision that these guidelines will provide that an institution's ratings on the different tests in the rule be disclosed both to the institution and, as part of the public section of the written evaluation, to the public. A guiding principle of the CRA reform effort has been to clarify for all concerned the basis for an institution's rating, and the disclosure of ratings will provide essential information regarding the assessment of an institution's performance. Contrary to the claim raised in some comments, neither the use of five ratings, nor the disclosure of those ratings to the public, conflicts with the statutory mandate that the agencies use four ratings in assessing the overall performance of an institution.

Appeals

Many commenters requested that the agencies establish an interagency appeals process. The final rule does not adopt this suggestion. Each agency has a process under which an institution can appeal its CRA rating. The agencies have recently reviewed and modified, as necessary, their appeals processes pursuant to the Community Development and Regulatory Improvement Act of 1994. In light of the recent review, the agencies do not believe that it is necessary to adopt an interagency appeals process in the final rule.

Additional Interagency Initiatives

In addition to this rulemaking, the agencies will work together to improve training for examiners, to increase interagency efforts to apply standards consistently and reliably, and to minimize unnecessary compliance burden. These efforts will focus on producing a CRA assessment process that imposes fewer burdens on institutions yet yields better results for the local communities in which they are chartered to do business.

The agencies have also agreed to conduct a full review of the final rule in the year 2002, five years after the rule is fully implemented. This review will be conducted to determine whether the rule has been effective in achieving the goals of the final rule, including emphasizing performance rather than process, promoting consistency in evaluations, and eliminating unnecessary burden. Any regulatory changes that are determined to be necessary to improve the rule's effectiveness will be made at that time.

Paperwork Reduction Act

OCC: The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1557–0160.

The estimated annual burden per respondent varies, depending on individual circumstances, from 2 hours for a small bank required to perform only recordkeeping, to 280 hours for a large bank required to perform all elements in part 25, with an estimated average burden of 18.5 hours.

The collections of information in this final rule are in 12 CFR 25.25, 25.27, 25.29, 25.41, 25.42, and 25.43.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Legislative and Regulatory Activities Division, Attention: 1557–0160, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219, and to the Office of Management and Budget, Paperwork Reduction Project (1557–0160), Washington, DC 20503.

Board: In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35; 5 CFR 1320.13), the proposed information collection was reviewed by the Board under the authority delegated to the Board by the Office of Management and Budget after consideration of the comments received during the public comment period.

The collections of information in this rule are in 12 CFR 228.25, 228.27, 228.41, 228.42, and 228.43. This information is required to evidence the efforts of State member banks in helping to meet the credit needs of their entire communities, including low- and moderate-income areas. This information will be used to assess State member bank performance in satisfying the credit needs of their communities and in evaluating certain applications.

The estimated annual burden per respondent/recordkeeper varies from 2 to 280 hours, depending on individual circumstances, with an estimated average of 17 hours. There will be an estimated 969 recordkeepers, averaging 16 hours. Among those will be an estimated 274 respondents, responsible for an additional average of 4 hours of reporting burden. These estimates include a prediction that five percent of respondents/recordkeepers will keep or submit optional data.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0247), Washington, DC 20503.

FDIC: The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 3064–0092.

The estimated annual burden per respondent varies, depending on individual circumstances, from 2 hours for a small bank required to perform only recordkeeping, to 280 hours for a large bank required to perform all elements in part 345, with an estimated average burden of 12 hours.

The collections of information in this final rule are in 12 CFR 345.25, 345.27, 345.29, 345.41, 345.42, and 345.43.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Paperwork Reduction Project (3604–0092), Washington, DC 20503, with copies of such comments to be sent to Steven F. Hanft, Office of the Executive Secretary, room F–453, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: The collections of information contained in this final rule have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1550–0012.

The estimated annual burden per respondent varies, depending on individual circumstances, from 2 hours for a small savings association required to perform only recordkeeping, to 214 hours for a large savings association required to perform all elements in part 563e, with an estimated average burden of 16 hours.

The collections of information in this final rule are in 12 CFR 563e.25, 563e.27, 563e.29, 563e.41, 563e.42, and 563e.43.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Paperwork Reduction Project (1550–0012), Washington, DC 20503, with copies to the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

Regulatory Flexibility Act

The agencies concluded that the 1994 proposal, if adopted as a final rule, would not have a significant economic impact on a substantial number of small banks and thrifts and invited comment on this determination. In response to comments received, the agencies have conducted an analysis under The Regulatory Flexibility Act (5 U.S.C. 601–612, the "Act").

The Act requires an agency to take certain considerations into account when a rule will have a significant economic impact on a substantial number of small entities. Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604)—(1) a succinct statement of the need for and the objectives of the rule, and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments—are discussed earlier in the preamble. The third requirement is for a description of the alternatives the agency considered to the rule being adopted that were designed to minimize the effect on small entities subject to the rule and why, if applicable, they were rejected.

VOL
60
ISS
86
MY
4
1995
UMI

The agencies have carefully considered the effects of the final rule on small entities and the alternatives available to mitigate its potential burdens. The final rule provides separate, less burdensome treatment for small institutions, which are defined as institutions with total assets of $250 million or less that are either independent or are affiliates of a holding company with banking and thrift assets of less than $1 billion. The rule contains a specific small institution performance evaluation that relies on simplified criteria, to account for the operational differences between large and small institutions. Small institutions are also not subject to the data collection and reporting provisions in the rule for large institutions.

The agencies believe that the rule has minimized the burden on small institutions, while still enabling the agencies to fulfill their statutory mandate to examine the CRA record of these institutions. Although exempting small institutions from evaluation under the CRA would eliminate any possible burden imposed by the final rule, the CRA does not provide an exemption for small institutions.

Some small institutions would continue to be subject to the same potential burdens imposed on large institutions if they were affiliates in a holding company with banking and thrift assets of more than $1 billion. The agencies have rejected the alternative of eliminating the holding company limitation altogether in order to prevent holding companies from manipulating the asset size of their institutions to qualify for the small institution treatment.

However, by raising the holding company asset limit from $250 million in the 1994 proposal to $1 billion in the final rule, the agencies have sought to mitigate any unfairness and unnecessary burden resulting from the holding company limitation. The agencies selected a higher asset level for the holding company limitation in recognition that smaller holding companies may be unable to provide the necessary support for the CRA activities of their small institution subsidiaries. The agencies anticipate that larger holding companies under the final rule would be capable of supporting the CRA activities of their subsidiary small institutions.

Executive Order 12866

OCC and OTS: The OCC and OTS have determined that this document is a significant regulatory action because of the legal and policy issues it raises. Because of the significance of the rule, the OCC and OTS will review its effectiveness in achieving the goals of the CRA prior to and in preparation for the full CRA regulatory review in the year 2002, discussed earlier.

Unfunded Mandates Reform Act of 1995

OCC and OTS: Section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, provides that before promulgating certain rulemakings, covered agencies must prepare a written statement containing a cost/benefit analysis. Under section 205, before promulgating any rule for which a written statement is required under section 202, covered agencies must identify and consider a reasonable number of regulatory alternatives, and from those alternatives, select the least costly, most cost-effective, or least burdensome one that achieves the objective of the rulemaking.

In promulgating this rulemaking, the Federal financial supervisory agencies considered a wide range of alternatives described in notices of proposed rulemaking published in 1993 and 1994. In addition to the comments that the agencies received in response to the notices of proposed rulemaking, the agencies conducted a series of seven public hearings across the country in 1993, at which hundreds of witnesses commented and others provided written statements. Although the OCC and OTS have determined that they are not required to prepare a written statement under section 202 or to make a finding under section 205, they conclude that, on balance, this final rule provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule, consistent with statutory requirements.

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 228

Banks, Banking, Community development, Credit, Federal Reserve System, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 563e

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

Office of the Comptroller of the Currency

12 CFR Chapter I

For the reasons outlined in the joint preamble, the Office of the Comptroller of the Currency amends 12 CFR chapter I as set forth below:

PART 25—COMMUNITY REINVESTMENT ACT REGULATIONS

1. The authority citation for part 25 is revised to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), and 2901 through 2907.

2. Part 25 is amended by adding Subparts A through D and Appendices A and B to read as follows:

Subpart A—General

Sec.
25.11 Authority, purposes, and scope.
25.12 Definitions.

Subpart B—Standards for Assessing Performance

25.21 Performance tests, standards, and ratings, in general.
25.22 Lending test.
25.23 Investment test.
25.24 Service test.
25.25 Community development test for wholesale or limited purpose banks.
25.26 Small bank performance standards.
25.27 Strategic plan.
25.28 Assigned ratings.
25.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

25.41 Assessment area delineation.
25.42 Data collection, reporting, and disclosure.
25.43 Content and availability of public file.
25.44 Public notice by banks.
25.45 Publication of planned examination schedule.

Subpart D—Transition Rules

25.51 Transition rules.

Appendix A to Part 25—Ratings

Appendix B to Part 25—CRA Notice

Subpart A—General

§ 25.11 Authority, purposes, and scope.

(a) *Authority and OMB control number*—(1) *Authority.* The authority for this part is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), and 2901 through 2907.

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 1557–0160.

(b) *Purposes.* In enacting the Community Reinvestment Act (CRA), the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Office of the Comptroller of the Currency (OCC) assesses a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the OCC takes that record into account in considering certain applications.

(c) *Scope*—(1)*General.* This part applies to all banks except as provided in paragraphs (c)(2) and (c)(3) of this section.

(2) *Federal branches and agencies.* (i) This part applies to all insured Federal branches and to any Federal branch that is uninsured that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

(ii) Except as provided in paragraph (c)(2)(i) of this section, this part does not apply to Federal branches that are uninsured, limited Federal branches, or Federal agencies, as those terms are defined in part 28 of this chapter.

(3) *Certain special purpose banks.* This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include banker's banks, as defined in 12 U.S.C. 24 (Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

§ 25.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 25.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash dispersed, or money lent.

(e) *Bank* means a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits, except as provided in § 25.11(c).

(f) *Branch* means a staffed banking facility authorized as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

(g) *CMSA* means a consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(h) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a)(2) or have gross annual revenues of $1 million or less; or

(4) Activities that revitalize or stabilize low- or moderate-income geographies.

(i) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose bank:

(i) Has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in Appendix A to Part 203 of this title); and

(ii) Benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(j) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

(3) Has not been considered in the evaluation of the bank's retail banking services under § 25.24(d).

(k) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan,* which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan,* which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in § 226.2 of this title;

(3) *Home equity loan,* which is a consumer loan secured by a residence of the borrower;

(4) *Other secured consumer loan,* which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(5) *Other unsecured consumer loan,* which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(l) *Geography* means a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

(m) *Home mortgage loan* means a "home improvement loan" or a "home purchase loan" as defined in § 203.2 of this title.

(n) *Income level* includes:

(1) *Low-income,* which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.

(2) *Moderate-income,* which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.

(3) *Middle-income,* which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.

(4) *Upper-income,* which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120

VOL
60
ISS
86
MY
4
1995
UMI

percent or more, in the case of a geography.

(o) *Limited purpose bank* means a bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with § 25.25(b).

(p) *Loan location.* A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(q) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(r) *MSA* means a metropolitan statistical area or a primary metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(s) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(t) *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

(u) *Small business loan* means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(v) *Small farm loan* means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(w) *Wholesale bank* means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with § 25.25(b).

Subpart B—Standards for Assessing Performance

§ 25.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The OCC assesses the CRA performance of a bank in an examination as follows:

(1) *Lending, investment, and service tests.* The OCC applies the lending, investment, and service tests, as provided in §§ 25.22 through 25.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose banks.* The OCC applies the community development test for a wholesale or limited purpose bank, as provided in § 25.25, except as provided in paragraph (a)(4) of this section.

(3) *Small bank performance standards.* The OCC applies the small bank performance standards as provided in § 25.26 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 25.42.

(4) *Strategic plan.* The OCC evaluates the performance of a bank under a strategic plan if the bank submits, and the OCC approves, a strategic plan as provided in § 25.27.

(b) *Performance context.* The OCC applies the tests and standards in paragraph (a) of this section and also considers whether to approve a proposed strategic plan in the context of:

(1) Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a bank's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the bank's assessment area(s) maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The bank's product offerings and business strategy as determined from data provided by the bank;

(4) Institutional capacity and constraints, including the size and financial condition of the bank, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, or services in its assessment area(s);

(5) The bank's past performance and the performance of similarly situated lenders;

(6) The bank's public file, as described in § 25.43, and any written comments about the bank's CRA performance submitted to the bank or the OCC; and

(7) Any other information deemed relevant by the OCC.

(c) *Assigned ratings.* The OCC assigns to a bank one of the following four ratings pursuant to § 25.28 and Appendix A of this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the OCC reflects the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(d) *Safe and sound operations.* This part and the CRA do not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the OCC anticipates banks can meet the standards of this part with safe and sound loans, investments, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.

§ 25.22 Lending test.

(a) *Scope of test.* (1) The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's business, the OCC will evaluate the bank's consumer lending in one or more of the following categories: motor vehicle, credit card, home equity, other secured, and other unsecured loans. In addition, at a bank's option, the OCC will evaluate one or more categories of consumer lending, if the bank has collected and maintained, as required in § 25.42(c)(1), the data for each category that the bank elects to have the OCC evaluate.

(2) The OCC considers originations and purchases of loans. The OCC will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments and letters of credit.

(3) A bank may ask the OCC to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The OCC will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria.* The OCC evaluates a bank's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and amount of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:

(i) The proportion of the bank's lending in the bank's assessment area(s);

(ii) The dispersion of lending in the bank's assessment area(s); and

(iii) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s);

(3) *Borrower characteristics.* The distribution, particularly in the bank's assessment area(s), of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(iii) Small business and small farm loans by loan amount at origination; and

(iv) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending.* The bank's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices.* The bank's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

(c) *Affiliate lending.* (1) At a bank's option, the OCC will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to § 25.42.

(2) The OCC considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank elects to have the OCC consider loans within a particular lending category made by one or more of the bank's affiliates in a particular assessment area, the bank shall elect to have the OCC consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.

(3) The OCC does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested:

(1) Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under § 25.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The OCC rates a bank's lending performance as provided in Appendix A of this part.

§ 25.23 Investment test.

(a) *Scope of test.* The investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's option, the OCC will consider, in its assessment of a bank's investment performance, a qualified investment made by an affiliate of the bank, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a qualified investment.

(e) *Performance criteria.* The OCC evaluates the investment performance of a bank pursuant to the following criteria:

(1) The dollar amount of qualified investments;

(2) The innovativeness or complexity of qualified investments;

(3) The responsiveness of qualified investments to credit and community development needs; and

(4) The degree to which the qualified investments are not routinely provided by private investors.

(f) *Investment performance rating.* The OCC rates a bank's investment performance as provided in Appendix A of this part.

§ 25.24 Service test.

(a) *Scope of test.* The service test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank's systems for delivering retail banking services and the extent and innovativeness of its community development services.

(b) *Area(s) benefitted.* Community development services must benefit a bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(c) *Affiliate service.* At a bank's option, the OCC will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The OCC evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income geographies;

(2) In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering

VOL
60
ISS
86
MY
4
1995
UMI

retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and

(4) The range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The OCC evaluates community development services pursuant to the following criteria:

(1) The extent to which the bank provides community development services; and

(2) The innovativeness and responsiveness of community development services.

(f) *Service performance rating.* The OCC rates a bank's service performance as provided in Appendix A of this part.

§ 25.25 Community development test for wholesale or limited purpose banks.

(a) *Scope of test.* The OCC assesses a wholesale or limited purpose bank's record of helping to meet the credit needs of its assessment area(s) under the community development test through its community development lending, qualified investments, or community development services.

(b) *Designation as a wholesale or limited purpose bank.* In order to receive a designation as a wholesale or limited purpose bank, a bank shall file a request, in writing, with the OCC, at least three months prior to the proposed effective date of the designation. If the OCC approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the OCC notifies the bank that the OCC has revoked the designation on its own initiative.

(c) *Performance criteria.* The OCC evaluates the community development performance of a wholesale or limited purpose bank pursuant to the following criteria:

(1) The number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;

(2) The use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and

(3) The bank's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a bank's option, the OCC will consider in its community development performance assessment:

(1) Qualified investments or community development services provided by an affiliate of the bank, if the investments or services are not claimed by any other institution; and

(2) Community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in § 25.22(c) and (d).

(e) *Benefit to assessment area(s)—(1) Benefit inside assessment area(s).* The OCC considers all qualified investments, community development loans, and community development services that benefit areas within the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(2) *Benefit outside assessment area(s).* The OCC considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's assessment area(s), if the bank has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating.* The OCC rates a bank's community development performance as provided in Appendix A of this part.

§ 25.26 Small bank performance standards.

(a) *Performance criteria.* The OCC evaluates the record of a small bank, or a bank that was a small bank during the prior calendar year, of helping to meet the credit needs of its assessment area(s) pursuant to the following criteria:

(1) The bank's loan-to-deposit ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;

(2) The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s);

(3) The bank's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(4) The geographic distribution of the bank's loans; and

(5) The bank's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

(b) *Small bank performance rating.* The OCC rates the performance of a bank evaluated under this section as provided in Appendix A of this part.

§ 25.27 Strategic plan.

(a) *Alternative election.* The OCC will assess a bank's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

(1) The bank has submitted the plan to the OCC as provided for in this section;

(2) The OCC has approved the plan;

(3) The plan is in effect; and

(4) The bank has been operating under an approved plan for at least one year.

(b) *Data reporting.* The OCC's approval of a plan does not affect the bank's obligation, if any, to report data as required by § 25.42.

(c) *Plans in general.—(1) Term.* A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the OCC will evaluate the bank's performance.

(2) *Multiple assessment areas.* A bank with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(d) *Public participation in plan development.* Before submitting a plan to the OCC for approval, a bank shall:

(1) Informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;

(2) Once the bank has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and

(3) During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank in any assessment area covered by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(e) *Submission of plan.* The bank shall submit its plan to the OCC at least three months prior to the proposed effective date of the plan. The bank shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

(f) *Plan content.—(1) Measurable goals.* (i) A bank shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.

(ii) A bank shall address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited purpose bank, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A bank may submit additional information to the OCC on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the OCC to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A bank shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a bank submits, and the OCC approves, both "satisfactory" and "outstanding" performance goals, the OCC will consider the bank eligible for an "outstanding" performance rating.

(4) *Election if satisfactory goals not substantially met.* A bank may elect in its plan that, if the bank fails to meet substantially its plan goals for a satisfactory rating, the OCC will evaluate the bank's performance under the lending, investment, and service tests, the community development test, or the small bank performance standards, as appropriate.

(g) *Plan approval.—(1) Timing.* The OCC will act upon a plan within 60 calendar days after the OCC receives the complete plan and other material required under paragraph (d) of this section. If the OCC fails to act within this time period, the plan shall be deemed approved unless the OCC extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the OCC considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank to public comment on the plan.

(3) *Criteria for evaluating plan.* The OCC evaluates a plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;

(ii) The amount and innovativeness, complexity, and responsiveness of the bank's qualified investments; and

(iii) The availability and effectiveness of the bank's systems for delivering retail banking services and the extent and innovativeness of the bank's community development services.

(h) *Plan amendment.* During the term of a plan, a bank may request the OCC to approve an amendment to the plan on grounds that there has been a material change in circumstances. The bank shall develop an amendment to a previously approved plan in accordance with the public participation requirements of paragraph (c) of this section.

(i) *Plan assessment.* The OCC approves the goals and assesses performance under a plan as provided for in Appendix A of this part.

§ 25.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the OCC assigns to a bank a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the bank's performance under the lending, investment and service tests, the community development test, the small bank performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The OCC assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A bank that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and

(3) No bank may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* Evidence of discriminatory or other illegal credit practices adversely affects the OCC's evaluation of a bank's performance. In determining the effect on the bank's assigned rating, the OCC considers the nature and extent of the evidence, the policies and procedures that the bank has in place to prevent discriminatory or other illegal credit practices, any corrective action that the bank has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, and other relevant information.

§ 25.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the OCC takes into account the record of performance under the CRA of each applicant bank in considering an application for:

(1) The establishment of a domestic branch;

(2) The relocation of the main office or a branch;

(3) Under the Bank Merger Act (12 U.S.C. 1828(c)), the merger or consolidation with or the acquisition of assets or assumption of liabilities of an insured depository institution; and

(4) The conversion of an insured depository institution to a national bank charter.

(b) *Charter application.* An applicant (other than an insured depository institution) for a national bank charter shall submit with its application a description of how it will meet its CRA objectives. The OCC takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The OCC takes into account any views expressed by interested parties that are submitted in accordance with the OCC's procedures set forth in part 5 of this chapter in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(e) *Insured depository institution.* For purposes of this section, the term "insured depository institution" has the

VOL 60 ISS 86 MY 4 1995 UMI

meaning given to that term in 12 U.S.C. 1813.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 25.41 Assessment area delineation.

(a) *In general.* A bank shall delineate one or more assessment areas within which the OCC evaluates the bank's record of helping to meet the credit needs of its community. The OCC does not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the OCC reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks.* The assessment area(s) for a wholesale or limited purpose bank must consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking ATMs.

(c) *Geographic area(s) for other banks.* The assessment area(s) for a bank other than a wholesale or limited purpose bank must:

(1) Consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the geographies in which the bank has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank's assessment area(s):

(1) Must consist only of whole geographies;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's size and financial condition; and

(4) May not extend substantially beyond a CMSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary, the bank shall delineate separate assessment areas for the areas in each state. If a bank serves a geographic area that extends substantially beyond a CMSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the CMSA.

(f) *Banks serving military personnel.* Notwithstanding the requirements of this section, a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.

(g) *Use of assessment area(s).* The OCC uses the assessment area(s) delineated by a bank in its evaluation of the bank's CRA performance unless the OCC determines that the assessment area(s) do not comply with the requirements of this section.

§ 25.42 Data collection, reporting, and disclosure.

(a) *Loan information required to be collected and maintained.* A bank, except a small bank, shall collect, and maintain in machine readable form (as prescribed by the OCC) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank:

(1) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(2) The loan amount at origination;

(3) The loan location; and

(4) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(b) *Loan information required to be reported.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall report annually by March 1 to the OCC in machine readable form (as prescribed by the OCC) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the bank originated or purchased a small business or small farm loan, the aggregate number and amount of loans:

(i) With an amount at origination of $100,000 or less;

(ii) With amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With an amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank considered in making its credit decision);

(2) *Community development loan data.* The aggregate number and aggregate amount of community development loans originated or purchased; and

(3) *Home mortgage loans.* If the bank is subject to reporting under part 203 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of part 203 of this title.

(c) *Optional data collection and maintenance.*—(1) *Consumer loans.* A bank may collect and maintain in machine readable form (as prescribed by the OCC) data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank shall maintain data separately for each category, including for each loan:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The loan amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank considered in making its credit decision.

(2) *Other loan data.* At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank that elects to have the OCC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under part 203 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank that elects to have the OCC consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank.

(f) *Small banks electing evaluation under the lending, investment, and service tests.* A bank that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall collect and report to the OCC by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA Disclosure Statement.* The OCC prepares annually for each bank that reports data pursuant to this section a CRA Disclosure Statement that contains, on a state-by-state basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;

(ii) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and amount of small business and small farm loans located inside each assessment area reported by the bank and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the bank; and

(4) The number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The OCC, in conjunction with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, prepares annually, for each MSA (including an MSA that crosses a state boundary) and the non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 228, 345, or 563e of this title. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the OCC may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(j) *Central data depositories.* The OCC makes the aggregate disclosure statements, described in paragraph (i) of this section, and the individual bank CRA Disclosure Statements, described in paragraph (h) of this section, available to the public at central data depositories. The OCC publishes a list of the depositories at which the statements are available.

§ 25.43 Content and availability of public file.

(a) *Information available to the public.* A bank shall maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's most recent CRA Performance Evaluation prepared by the OCC. The bank shall place this copy in the public file within 30 business days after its receipt from the OCC;

(3) A list of the bank's branches, their street addresses, and geographies;

(4) A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and geographies;

(5) A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and

(7) Any other information the bank chooses.

(b) *Additional information available to the public.*—(1) *Banks other than small banks.* A bank, except a small bank or a bank that was a small bank

VOL 60 ISS 86 MY 4 1995 UMI

during the prior calendar year, shall include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

(ii) The bank's CRA Disclosure Statement. The bank shall place the statement in the public file within three business days of its receipt from the OCC.

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 203 of this title shall include in its public file a copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the bank for each of the prior two calendar years. In addition, a bank that elected to have the OCC consider the mortgage lending of an affiliate for any of these years shall include in its public file the affiliate's HMDA Disclosure Statement for those years. The bank shall place the statement(s) in the public file within three business days after its receipt.

(3) *Small banks.* A small bank or a bank that was a small bank during the prior calendar year shall include in its public file:

(i) The bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks by paragraph (b)(1) of this section, if the bank has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks with strategic plans.* A bank that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank need not include information submitted to the OCC on a confidential basis in conjunction with the plan.

(5) *Banks with less than satisfactory ratings.* A bank that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank shall update the description quarterly.

(c) *Location of public information.* A bank shall make available to the public for inspection upon request and at no cost the information required in this section as follows:

(1) At the main office and, if an interstate bank, at one branch office in each state, all information in the public file; and

(2) At each branch:

(i) A copy of the public section of the bank's most recent CRA Performance Evaluation and a list of services provided by the branch; and

(ii) Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

(d) *Copies.* Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

(e) *Updating.* Except as otherwise provided in this section, a bank shall ensure that the information required by this section is current as of April 1 of each year.

§ 25.44 Public notice by banks.

A bank shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in Appendix B of this part. Only a branch of a bank having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. A bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.

§ 25.45 Publication of planned examination schedule.

The OCC publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

Subpart D—Transition Rules

§ 25.51 Transition rules.

(a) *Effective date.* Sections of this part become applicable over a period of time in accordance with the schedule set forth in paragraph (c) of this section.

(b) *Data collection and reporting; strategic plan; performance tests and standards.* (1) *Data collection and reporting.* (i) On January 1, 1996, the data collection requirements set forth in § 25.42 (except § 25.42 (b) and (g)) become applicable.

(ii) On January 1, 1997, the data reporting requirements set forth in § 25.42 (b) and (g) become applicable.

(2) *Small banks.* Beginning January 1, 1996, the OCC evaluates banks that qualify for the small bank performance standards described in § 25.26 under that section.

(3) *Strategic plan.* Beginning January 1, 1996, a bank that elects to be evaluated under an approved strategic plan pursuant to § 25.27 may submit its strategic plan to the OCC for approval.

(4) *Other performance tests.* (i) Beginning January 1, 1996, a bank may elect to be evaluated under the pertinent revised performance tests described in §§ 25.22, 25.23, 25.24, and 25.25, if the bank provides the necessary data to permit evaluation.

(ii) Beginning July 1, 1997, the OCC evaluates all banks under the pertinent revised performance tests.

(c) *Schedule.* (1) On July 1, 1995, §§ 25.11, 25.12, 25.29, and 25.51 become applicable, and §§ 25.1, 25.2, 25.8 and 25.101 expire.

(2) On January 1, 1996, § 25.41 and the pertinent provisions of Subpart B of this part will apply to banks that elect to be evaluated under §§ 25.22 through 25.25, banks that submit for approval strategic plans under § 25.27, and banks that qualify for the small bank performance standards described in § 25.26.

(3) On January 1, 1996, §§ 25.42 (except § 25.42 (b) and (g)) and 25.45 become applicable.

(4) On January 1, 1997, §§ 25.41 and 25.42 (b) and (g) become applicable.

(5) On July 1, 1997, §§ 25.21 through 25.28, 25.43, and 25.44 become applicable, and §§ 25.3 through 25.7, and 25.51 expire.

Appendix A to Part 25—Ratings

(a) *Ratings in general.* (1) In assigning a rating, the OCC evaluates a bank's performance under the applicable performance criteria in this part, in accordance with § 25.21, and § 25.28, which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests.* (1) *Lending performance rating.* The OCC assigns each bank's lending performance one of the five following ratings.

(i) *Outstanding.* The OCC rates a bank's lending performance "outstanding" if, in general, it demonstrates:

(A) Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A substantial majority of its loans are made in its assessment area(s);

(C) An excellent geographic distribution of loans in its assessment area(s);

(D) An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(ii) *High satisfactory.* The OCC rates a bank's lending performance "high satisfactory" if, in general, it demonstrates:

(A) Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A high percentage of its loans are made in its assessment area(s);

(C) A good geographic distribution of loans in its assessment area(s);

(D) A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The OCC rates a bank's lending performance "needs to improve" if, in general, it demonstrates:

(A) Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A small percentage of its loans are made in its assessment area(s);

(C) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The OCC rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A very small percentage of its loans are made in its assessment area(s);

(C) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made few, if any, community development loans.

(2) *Investment performance rating.* The OCC assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding.* The OCC rates a bank's investment performance "outstanding" if, in general, it demonstrates:

(A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) Extensive use of innovative or complex qualified investments; and

(C) Excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The OCC rates a bank's investment performance "high satisfactory" if, in general, it demonstrates:

(A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) Significant use of innovative or complex qualified investments; and

(C) Good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The OCC rates a bank's investment performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) Occasional use of innovative or complex qualified investments; and

(C) Adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The OCC rates a bank's investment performance "needs to improve" if, in general, it demonstrates:

(A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) Rare use of innovative or complex qualified investments; and

(C) Poor responsiveness to credit and community development needs.

(v) *Substantial noncompliance.* The OCC rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;

(B) No use of innovative or complex qualified investments; and

(C) Very poor responsiveness to credit and community development needs.

(3) *Service performance rating.* The OCC assigns each bank's service performance one of the five following ratings.

(i) *Outstanding.* The OCC rates a bank's service performance "outstanding" if, in general, the bank demonstrates:

(A) Its service delivery systems are readily accessible to geographies and individuals of

VOL 60 ISS 86 MY 4 1995 UMI

different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It is a leader in providing community development services.

(ii) *High satisfactory.* The OCC rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides a relatively high level of community development services.

(iii) *Low satisfactory.* The OCC rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides an adequate level of community development services.

(iv) *Needs to improve.* The OCC rates a bank's service performance "needs to improve" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides a limited level of community development services.

(v) *Substantial noncompliance.* The OCC rates a bank's service performance as being in "substantial noncompliance" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides few, if any, community development services.

(c) *Wholesale or limited purpose banks.* The OCC assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.

(1) *Outstanding.* The OCC rates a wholesale or limited purpose bank's community development performance "outstanding" if, in general, it demonstrates:

(i) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The OCC rates a wholesale or limited purpose bank's community development performance "satisfactory" if, in general, it demonstrates:

(i) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The OCC rates a wholesale or limited purpose bank's community development performance as "needs to improve" if, in general, it demonstrates:

(i) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The OCC rates a wholesale or limited purpose bank's community development performance in "substantial noncompliance" if, in general, it demonstrates:

(i) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) No use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Banks evaluated under the small bank performance standards.* The OCC rates the performance of each bank evaluated under the small bank performance standards as follows:

(1) *Eligibility for a satisfactory rating.* The OCC rates a bank's performance "satisfactory" if, in general, the bank demonstrates:

(i) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(ii) A majority of its loans and, as appropriate, other lending-related activities are in its assessment area(s);

(iii) A distribution of loans to and, as appropriate, other lending related-activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's assessment area(s);

(iv) A record of taking appropriate action, as warranted, in response to written complaints, if any, about the bank's performance in helping to meet the credit needs of its assessment area(s); and

(v) A reasonable geographic distribution of loans given the bank's assessment area(s).

(2) *Eligibility for an outstanding rating.* A bank that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's performance is "outstanding," the OCC considers the extent to which the bank exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(3) *Needs to improve or substantial noncompliance ratings.* A bank also may receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(e) *Strategic plan assessment and rating—*(1) *Satisfactory goals.* The OCC approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the bank's assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the OCC will approve those goals as "outstanding."

(3) *Rating.* The OCC assesses the performance of a bank operating under an approved plan to determine if the bank has met its plan goals:

(i) If the bank substantially achieves its plan goals for a satisfactory rating, the OCC will rate the bank's performance under the plan as "satisfactory."

(ii) If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the OCC will rate the bank's performance under the plan as "outstanding."

(iii) If the bank fails to meet substantially its plan goals for a satisfactory rating, the OCC will rate the bank as either "needs to improve" or "substantial noncompliance," depending on the extent to which it falls short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in § 25.27(f)(4).

Appendix B to Part 25—CRA Notice

(a) *Notice for main offices and, if an interstate bank, one branch office in each state.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Comptroller of the Currency evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Comptroller also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the Comptroller; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Comptroller publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Deputy Comptroller (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and Deputy Comptroller (address). Your letter, together with any response by us, will be considered by the Comptroller in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Deputy Comptroller. You may also request from the Deputy Comptroller an announcement of our applications covered by the CRA filed with the Comptroller. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

(b) *Notice for branch offices.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Comptroller of the Currency evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Comptroller also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the Comptroller, and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) A map showing the assessment area containing this branch, which is the area in which the Comptroller evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the Comptroller publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Deputy Comptroller (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and Deputy Comptroller (address). Your letter, together with any response by us, will be considered by the Comptroller in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Deputy Comptroller. You may also request from the Deputy Comptroller an announcement of our applications covered by the CRA filed with the Comptroller. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

§§ 25.1, 25.2, 25.8, and 25.101, and the undesignated center heading preceding § 25.101 [Removed]

3. Sections 25.1, 25.2, 25.8 and 25.101 and the undesignated center heading preceding § 25.101 are removed effective July 1, 1995.

§§ 25.3, 25.4, 25.5, 25.6, 25.7, and Subpart D [Removed]

4. Sections 25.3, 25.4, 25.5, 25.6, and 25.7 and subpart D, consisting of § 25.51, are removed effective July 1, 1997.

Dated: April 19, 1995.

Eugene A. Ludwig,

Comptroller of the Currency.

Federal Reserve System

12 CFR CHAPTER II

For the reasons outlined in the joint preamble, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as set forth below:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

1. The authority citation for part 228 is revised to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

2. Part 228 is amended by adding Subparts A through D and Appendices A and B to read as follows:

Subpart A—General

Sec.
228.11 Authority, purposes, and scope.
228.12 Definitions.

Subpart B—Standards for Assessing Performance

228.21 Performance tests, standards, and ratings, in general.
228.22 Lending test.
228.23 Investment test.
228.24 Service test.
228.25 Community development test for wholesale or limited purpose banks.
228.26 Small bank performance standards.
228.27 Strategic plan.
228.28 Assigned ratings.
228.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

228.41 Assessment area delineation.
228.42 Data collection, reporting, and disclosure.
228.43 Content and availability of public file.

VOL
60
ISS
86
MY
4
1995
UMI

228.44 Public notice by banks.
228.45 Publication of planned examination schedule.

Subpart D—Transition Rules

228.51 Transition rules.

Appendix A to Part 228—Ratings

Appendix B to Part 228—CRA Notice

Subpart A—General

§ 228.11 Authority, purposes, and scope.

(a) *Authority.* The Board of Governors of the Federal Reserve System (the Board) issues this part to implement the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) (CRA). The regulations comprising this part are issued under the authority of the CRA and under the provisions of the United States Code authorizing the Board:

(1) To conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. 325);

(2) To conduct examinations of bank holding companies and their subsidiaries (12 U.S.C. 1844); and

(3) To consider applications for:

(i) Domestic branches by State member banks (12 U.S.C. 321);

(ii) Mergers in which the resulting bank would be a State member bank (12 U.S.C. 1828(c));

(iii) Formations of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. 1842); and

(iv) The acquisition of savings associations by bank holding companies (12 U.S.C. 1843).

(b) *Purposes.* In enacting the CRA, the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Board assesses a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the Board takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* This part applies to all banks except as provided in paragraph (c)(3) of this section.

(2) *Foreign bank acquisitions.* This part also applies to an uninsured State branch (other than a limited branch) of a foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)). The terms "State branch" and "foreign bank" have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*); the term "uninsured State branch" means a State branch the deposits of which are not insured by the Federal Deposit Insurance Corporation; the term "limited branch" means a State branch that accepts only deposits that are permissible for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*).

(3) *Certain special purpose banks.* This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include banker's banks, as defined in 12 U.S.C. 24 (Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

§ 228.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 228.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash dispersed, or money lent.

(e) *Bank* means a State member bank as that term is defined in section 3(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(d)(2)), except as provided in § 228.11(c)(3), and includes an uninsured State branch (other than a limited branch) of a foreign bank described in § 228.11(c)(2).

(f) *Branch* means a staffed banking facility approved as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

(g) *CMSA* means a consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(h) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a)(2) or have gross annual revenues of $1 million or less; or

(4) Activities that revitalize or stabilize low- or moderate-income geographies.

(i) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose bank:

(i) Has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in Appendix A to Part 203 of this chapter); and

(ii) Benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(j) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

(3) Has not been considered in the evaluation of the bank's retail banking services under § 228.24(d).

(k) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan,* which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan,* which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in § 226.2 of this chapter;

(3) *Home equity loan,* which is a consumer loan secured by a residence of the borrower;

(4) *Other secured consumer loan,* which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(5) *Other unsecured consumer loan,* which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(l) *Geography* means a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

(m) *Home mortgage loan* means a "home improvement loan" or a "home purchase loan" as defined in § 203.2 of this chapter.

(n) *Income level* includes:

(1) *Low-income,* which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.

(2) *Moderate-income,* which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.

(3) *Middle-income,* which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.

(4) *Upper-income,* which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a geography.

(o) *Limited purpose bank* means a bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with § 228.25(b).

(p) *Loan location.* A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(q) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(r) *MSA* means a metropolitan statistical area or a primary metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(s) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(t) *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

(u) *Small business loan* means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(v) *Small farm loan* means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(w) *Wholesale bank* means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with § 228.25(b).

Subpart B—Standards for Assessing Performance

§ 228.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The Board assesses the CRA performance of a bank in an examination as follows:

(1) *Lending, investment, and service tests.* The Board applies the lending, investment, and service tests, as provided in §§ 228.22 through 228.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose banks.* The Board applies the community development test for a wholesale or limited purpose bank, as provided in § 228.25, except as provided in paragraph (a)(4) of this section.

(3) *Small bank performance standards.* The Board applies the small bank performance standards as provided in § 228.26 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 228.42.

(4) *Strategic plan.* The Board evaluates the performance of a bank under a strategic plan if the bank submits, and the Board approves, a strategic plan as provided in § 228.27.

(b) *Performance context.* The Board applies the tests and standards in paragraph (a) of this section and also considers whether to approve a proposed strategic plan in the context of:

(1) Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a bank's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the bank's assessment area(s) maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The bank's product offerings and business strategy as determined from data provided by the bank;

(4) Institutional capacity and constraints, including the size and financial condition of the bank, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, or services in its assessment area(s);

(5) The bank's past performance and the performance of similarly situated lenders;

(6) The bank's public file, as described in § 228.43, and any written comments about the bank's CRA performance submitted to the bank or the Board; and

(7) Any other information deemed relevant by the Board.

(c) *Assigned ratings.* The Board assigns to a bank one of the following four ratings pursuant to § 228.28 and Appendix A of this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the Board reflects the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(d) *Safe and sound operations.* This part and the CRA do not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Board anticipates banks can meet the standards of this part with safe and sound loans, investments, and

VOL
60
ISS
86
MY
4
1995
UMI

services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.

§ 228.22 Lending test.

(a) *Scope of test.* (1) The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's business, the Board will evaluate the bank's consumer lending in one or more of the following categories: motor vehicle, credit card, home equity, other secured, and other unsecured loans. In addition, at a bank's option, the Board will evaluate one or more categories of consumer lending, if the bank has collected and maintained, as required in § 228.42(c)(1), the data for each category that the bank elects to have the Board evaluate.

(2) The Board considers originations and purchases of loans. The Board will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments and letters of credit.

(3) A bank may ask the Board to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The Board will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria.* The Board evaluates a bank's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and amount of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:

(i) The proportion of the bank's lending in the bank's assessment area(s);

(ii) The dispersion of lending in the bank's assessment area(s); and

(iii) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s);

(3) *Borrower characteristics.* The distribution, particularly in the bank's assessment area(s), of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(iii) Small business and small farm loans by loan amount at origination; and

(iv) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending.* The bank's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices.* The bank's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

(c) *Affiliate lending.* (1) At a bank's option, the Board will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to § 228.42.

(2) The Board considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank elects to have the Board consider loans within a particular lending category made by one or more of the bank's affiliates in a particular assessment area, the bank shall elect to have the Board consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.

(3) The Board does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested:

(1) Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under § 228.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The Board rates a bank's lending performance as provided in Appendix A of this part.

§ 228.23 Investment test.

(a) *Scope of test.* The investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's option, the Board will consider, in its assessment of a bank's investment performance, a qualified investment made by an affiliate of the bank, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a qualified investment.

(e) *Performance criteria.* The Board evaluates the investment performance of a bank pursuant to the following criteria:

(1) The dollar amount of qualified investments;

(2) The innovativeness or complexity of qualified investments;

(3) The responsiveness of qualified investments to credit and community development needs; and

(4) The degree to which the qualified investments are not routinely provided by private investors.

(f) *Investment performance rating.* The Board rates a bank's investment performance as provided in Appendix A of this part.

§ 228.24 Service test.

(a) *Scope of test.* The service test evaluates a bank's record of helping to

meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank's systems for delivering retail banking services and the extent and innovativeness of its community development services.

(b) *Area(s) benefitted.* Community development services must benefit a bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(c) *Affiliate service.* At a bank's option, the Board will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The Board evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income geographies;

(2) In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and

(4) The range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The Board evaluates community development services pursuant to the following criteria:

(1) The extent to which the bank provides community development services; and

(2) The innovativeness and responsiveness of community development services.

(f) *Service performance rating.* The Board rates a bank's service performance as provided in Appendix A of this part.

§ 228.25 Community development test for wholesale or limited purpose banks.

(a) *Scope of test.* The Board assesses a wholesale or limited purpose bank's record of helping to meet the credit needs of its assessment area(s) under the community development test through its community development lending, qualified investments, or community development services.

(b) *Designation as a wholesale or limited purpose bank.* In order to receive a designation as a wholesale or limited purpose bank, a bank shall file a request, in writing, with the Board, at least three months prior to the proposed effective date of the designation. If the Board approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the Board notifies the bank that the Board has revoked the designation on its own initiative.

(c) *Performance criteria.* The Board evaluates the community development performance of a wholesale or limited purpose bank pursuant to the following criteria:

(1) The number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;

(2) The use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and

(3) The bank's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a bank's option, the Board will consider in its community development performance assessment:

(1) Qualified investments or community development services provided by an affiliate of the bank, if the investments or services are not claimed by any other institution; and

(2) Community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in § 228.22(c) and (d).

(e) *Benefit to assessment area(s).*—(1) *Benefit inside assessment area(s).* The Board considers all qualified investments, community development loans, and community development services that benefit areas within the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(2) *Benefit outside assessment area(s).* The Board considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's assessment area(s), if the bank has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating.* The Board rates a bank's community development performance as provided in Appendix A of this part.

§ 228.26 Small bank performance standards.

(a) *Performance criteria.* The Board evaluates the record of a small bank, or a bank that was a small bank during the prior calendar year, of helping to meet the credit needs of its assessment area(s) pursuant to the following criteria:

(1) The bank's loan-to-deposit ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;

(2) The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s);

(3) The bank's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(4) The geographic distribution of the bank's loans; and

(5) The bank's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

(b) *Small bank performance rating.* The Board rates the performance of a bank evaluated under this section as provided in Appendix A of this part.

§ 228.27 Strategic plan.

(a) *Alternative election.* The Board will assess a bank's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

(1) The bank has submitted the plan to the Board as provided for in this section;

(2) The Board has approved the plan;

(3) The plan is in effect; and

(4) The bank has been operating under an approved plan for at least one year.

(b) *Data reporting.* The Board's approval of a plan does not affect the bank's obligation, if any, to report data as required by § 228.42.

(c) *Plans in general.*—(1) *Term.* A plan may have a term of no more than five years, and any multi-year plan must

VOL
60
ISS
86
MY
4
1995
UMI

include annual interim measurable goals under which the Board will evaluate the bank's performance.

(2) *Multiple assessment areas.* A bank with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(d) *Public participation in plan development.* Before submitting a plan to the Board for approval, a bank shall:

(1) Informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;

(2) Once the bank has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and

(3) During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank in any assessment area covered by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(e) *Submission of plan.* The bank shall submit its plan to the Board at least three months prior to the proposed effective date of the plan. The bank shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

(f) *Plan content*—(1) *Measurable goals.* (i) A bank shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.

(ii) A bank shall address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited purpose bank, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A bank may submit additional information to the Board on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the Board to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A bank shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a bank submits, and the Board approves, both "satisfactory" and "outstanding" performance goals, the Board will consider the bank eligible for an "outstanding" performance rating.

(4) *Election if satisfactory goals not substantially met.* A bank may elect in its plan that, if the bank fails to meet substantially its plan goals for a satisfactory rating, the Board will evaluate the bank's performance under the lending, investment, and service tests, the community development test, or the small bank performance standards, as appropriate.

(g) *Plan approval*—(1) *Timing.* The Board will act upon a plan within 60 calendar days after the Board receives the complete plan and other material required under paragraph (d) of this section. If the Board fails to act within this time period, the plan shall be deemed approved unless the Board extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the Board considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank to public comment on the plan.

(3) *Criteria for evaluating plan.* The Board evaluates a plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;

(ii) The amount and innovativeness, complexity, and responsiveness of the bank's qualified investments; and

(iii) The availability and effectiveness of the bank's systems for delivering retail banking services and the extent and innovativeness of the bank's community development services.

(h) *Plan amendment.* During the term of a plan, a bank may request the Board to approve an amendment to the plan on grounds that there has been a material change in circumstances. The bank shall develop an amendment to a previously approved plan in accordance with the public participation requirements of paragraph (c) of this section.

(i) *Plan assessment.* The Board approves the goals and assesses performance under a plan as provided for in Appendix A of this part.

§ 228.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the Board assigns to a bank a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the bank's performance under the lending, investment and service tests, the community development test, the small bank performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The Board assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A bank that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and

(3) No bank may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* Evidence of discriminatory or other illegal credit practices adversely affects the Board's evaluation of a bank's performance. In determining the effect on the bank's assigned rating, the Board considers the nature and extent of the evidence, the policies and procedures that the bank has in place to prevent discriminatory or other illegal credit practices, any corrective action that the bank has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, and other relevant information.

§ 228.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the Board takes into account the record of performance under the CRA of:

(1) Each applicant bank for the:

(i) Establishment of a domestic branch by a State member bank; and

(ii) Merger, consolidation, acquisition of assets, or assumption of liabilities requiring approval under the Bank Merger Act (12 U.S.C. 1828(c)) if the acquiring, assuming, or resulting bank is to be a State member bank; and

(2) Each insured depository institution (as defined in 12 U.S.C. 1813) controlled by an applicant and subsidiary bank or savings association proposed to be controlled by an applicant:

(i) To become a bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);

(ii) To acquire ownership or control of shares or all or substantially all of the assets of a bank, to cause a bank to become a subsidiary of a bank holding company, or to merge or consolidate a bank holding company with any other bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842); and

(iii) To own, control or operate a savings association in a transaction that requires approval under section 4 of the Bank Holding Company Act (12 U.S.C. 1843).

(b) *Interested parties.* In considering CRA performance in an application described in paragraph (a) of this section, the Board takes into account any views expressed by interested parties that are submitted in accordance with the Board's Rules of Procedure set forth in part 262 of this chapter.

(c) *Denial or conditional approval of application.* A bank's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(d) *Definitions.* For purposes of paragraph (a)(2) of this section, "bank," "bank holding company," "subsidiary," and "savings association" have the meanings given to those terms in section 2 of the Bank Holding Company Act (12 U.S.C. 1841).

Subpart C—Records, Reporting, and Disclosure Requirements

§ 228.41 Assessment area delineation.

(a) *In general.* A bank shall delineate one or more assessment areas within which the Board evaluates the bank's record of helping to meet the credit needs of its community. The Board does not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the Board reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks.* The assessment area(s) for a wholesale or limited purpose bank must consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking ATMs.

(c) *Geographic area(s) for other banks.* The assessment area(s) for a bank other than a wholesale or limited purpose bank must:

(1) Consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the geographies in which the bank has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank's assessment area(s):

(1) Must consist only of whole geographies;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's size and financial condition; and

(4) May not extend substantially beyond a CMSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a CMSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the CMSA.

(f) *Banks serving military personnel.* Notwithstanding the requirements of this section, a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.

(g) *Use of assessment area(s).* The Board uses the assessment area(s) delineated by a bank in its evaluation of the bank's CRA performance unless the Board determines that the assessment area(s) do not comply with the requirements of this section.

§ 228.42 Data collection, reporting, and disclosure.

(a) *Loan information required to be collected and maintained.* A bank, except a small bank, shall collect, and maintain in machine readable form (as prescribed by the Board) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank:

(1) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(2) The loan amount at origination;

(3) The loan location; and

(4) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(b) *Loan information required to be reported.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall report annually by March 1 to the Board in machine readable form (as prescribed by the Board) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the bank originated or purchased a small business or small farm loan, the aggregate number and amount of loans:

(i) With an amount at origination of $100,000 or less;

(ii) With amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With an amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank considered in making its credit decision);

(2) *Community development loan data.* The aggregate number and aggregate amount of community

VOL
60
ISS
86
MY
4
1995
UMI

development loans originated or purchased; and

(3) *Home mortgage loans.* If the bank is subject to reporting under part 203 of this chapter, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of part 203 of this chapter.

(c) *Optional data collection and maintenance*—(1) *Consumer loans.* A bank may collect and maintain in machine readable form (as prescribed by the Board) data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank shall maintain data separately for each category, including for each loan:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The loan amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank considered in making its credit decision.

(2) *Other loan data.* At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank that elects to have the Board consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under part 203 of this chapter by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank that elects to have the Board consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank.

(f) *Small banks electing evaluation under the lending, investment, and service tests.* A bank that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall collect and report to the Board by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA Disclosure Statement.* The Board prepares annually for each bank that reports data pursuant to this section a CRA Disclosure Statement that contains, on a state-by-state basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;

(ii) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and amount of small business and small farm loans located inside each assessment area reported by the bank and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the bank; and

(4) The number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The Board, in conjunction with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision, prepares annually, for each MSA (including an MSA that crosses a state boundary) and the non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 25, 345, or 563e of this title. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the Board may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(j) *Central data depositories.* The Board makes the aggregate disclosure statements, described in paragraph (i) of this section, and the individual bank CRA Disclosure Statements, described in paragraph (h) of this section, available to the public at central data depositories. The Board publishes a list of the depositories at which the statements are available.

§ 228.43 Content and availability of public file.

(a) *Information available to the public.* A bank shall maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's most recent CRA Performance Evaluation prepared by the Board. The bank shall place this copy in the public file within 30 business days after its receipt from the Board;

(3) A list of the bank's branches, their street addresses, and geographies;

(4) A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and geographies;

(5) A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and

(7) Any other information the bank chooses.

(b) *Additional information available to the public*—(1) *Banks other than small banks.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

(ii) The bank's CRA Disclosure Statement. The bank shall place the statement in the public file within three business days of its receipt from the Board.

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant to part 203 of this chapter shall include in its public file a copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the bank for each of the prior two calendar years. In addition, a bank that elected to have the Board consider the mortgage lending of an affiliate for any of these years shall include in its public file the affiliate's HMDA Disclosure Statement for those years. The bank shall place the statement(s) in the public file within three business days after its receipt.

(3) *Small banks.* A small bank or a bank that was a small bank during the prior calendar year shall include in its public file:

(i) The bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks by paragraph (b)(1) of this section, if the bank has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks with strategic plans.* A bank that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank need not include information submitted to the Board on a confidential basis in conjunction with the plan.

(5) *Banks with less than satisfactory ratings.* A bank that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank shall update the description quarterly.

(c) *Location of public information.* A bank shall make available to the public for inspection upon request and at no cost the information required in this section as follows:

(1) At the main office and, if an interstate bank, at one branch office in each state, all information in the public file; and

(2) At each branch:

(i) A copy of the public section of the bank's most recent CRA Performance Evaluation and a list of services provided by the branch; and

(ii) Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

(d) *Copies.* Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

(e) *Updating.* Except as otherwise provided in this section, a bank shall ensure that the information required by this section is current as of April 1 of each year.

§ 228.44 Public notice by banks.

A bank shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in Appendix B of this part. Only a branch of a bank having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. A bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.

§ 228.45 Publication of planned examination schedule.

The Board publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

Subpart D—Transition Rules

§ 228.51 Transition rules.

(a) *Effective date.* Sections of this part become applicable over a period of time in accordance with the schedule set forth in paragraph (c) of this section.

(b) *Data collection and reporting; strategic plan; performance tests and standards.* (i) On January 1, 1996, the data collection requirements set forth in § 228.42 (except § 228.42(b) and (g)) become applicable.

(ii) On January 1, 1997, the data reporting requirements set forth in § 228.42(b) and (g) become applicable.

(2) *Small banks.* Beginning January 1, 1996, the Board evaluates banks that qualify for the small bank performance standards described in § 228.26 under that section.

(3) *Strategic plan.* Beginning January 1, 1996, a bank that elects to be

VOL
60
ISS
86
MY
4
1995
UMI

evaluated under an approved strategic plan pursuant to § 228.27 may submit its strategic plan to the Board for approval.

(4) *Other performance tests.* (i) Beginning January 1, 1996, a bank may elect to be evaluated under the pertinent revised performance tests described in §§ 228.22, 228.23, 228.24, and 228.25, if the bank provides the necessary data to permit evaluation.

(ii) Beginning July 1, 1997, the Board evaluates all banks under the pertinent revised performance tests.

(c) *Schedule.* (1) On July 1, 1995, §§ 228.11, 228.12, 228.29, and 228.51 become applicable, and §§ 228.1, 228.2, 228.8, and 228.100 expire.

(2) On January 1, 1996, § 228.41 and the pertinent provisions of Subpart B of this part will apply to banks that elect to be evaluated under §§ 228.22 through 228.25, banks that submit for approval strategic plans under § 228.27, and banks that qualify for the small bank performance standards described in § 228.26.

(3) On January 1, 1996, §§ 228.42 (except § 228.42(b) and (g)) and 228.45 become applicable.

(4) On January 1, 1997, §§ 228.41 and 228.42(b) and (g) become applicable.

(5) On July 1, 1997, §§ 228.21 through 228.28, 228.43, and 228.44 become applicable, and §§ 228.3 through 228.7, and 228.51 expire.

Appendix A to Part 228—Ratings

(a) *Ratings in general.* (1) In assigning a rating, the Board evaluates a bank's performance under the applicable performance criteria in this part, in accordance with § 228.21, and § 228.28, which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests*—(1) *Lending performance rating.* The Board assigns each bank's lending performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's lending performance "outstanding" if, in general, it demonstrates:

(A) Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A substantial majority of its loans are made in its assessment area(s);

(C) An excellent geographic distribution of loans in its assessment area(s);

(D) An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(ii) *High satisfactory.* The Board rates a bank's lending performance "high satisfactory" if, in general, it demonstrates:

(A) Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A high percentage of its loans are made in its assessment area(s);

(C) A good geographic distribution of loans in its assessment area(s);

(D) A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(iii) *Low satisfactory.* The Board rates a bank's lending performance "low satisfactory" if, in general, it demonstrates:

(A) Adequate responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) An adequate percentage of its loans are made in its assessment area(s);

(C) An adequate geographic distribution of loans in its assessment area(s);

(D) An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The Board rates a bank's lending performance "needs to improve" if, in general, it demonstrates:

(A) Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A small percentage of its loans are made in its assessment area(s);

(C) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The Board rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A very small percentage of its loans are made in its assessment area(s);

(C) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made few, if any, community development loans.

(2) *Investment performance rating.* The Board assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's investment performance "outstanding" if, in general, it demonstrates:

(A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) Extensive use of innovative or complex qualified investments; and

(C) Excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The Board rates a bank's investment performance "high satisfactory" if, in general, it demonstrates:

(A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) Significant use of innovative or complex qualified investments; and

(C) Good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The Board rates a bank's investment performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) Occasional use of innovative or complex qualified investments; and

(C) Adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The Board rates a bank's investment performance "needs to improve" if, in general, it demonstrates:

(A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) Rare use of innovative or complex qualified investments; and

(C) Poor responsiveness to credit and community development needs.

(v) *Substantial noncompliance.* The Board rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;

(B) No use of innovative or complex qualified investments; and

(C) Very poor responsiveness to credit and community development needs.

(3) *Service performance rating.* The Board assigns each bank's service performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's service performance "outstanding" if, in general, the bank demonstrates:

(A) Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It is a leader in providing community development services.

(ii) *High satisfactory.* The Board rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides a relatively high level of community development services.

(iii) *Low satisfactory.* The Board rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides an adequate level of community development services.

(iv) *Needs to improve.* The Board rates a bank's service performance "needs to improve" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides few, if any, community development services.

(c) *Wholesale or limited purpose banks.* The Board assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.

(1) *Outstanding.* The Board rates a wholesale or limited purpose bank's community development performance "outstanding" if, in general, it demonstrates:

(i) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The Board rates a wholesale or limited purpose bank's community development performance "satisfactory" if, in general, it demonstrates:

(i) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The Board rates a wholesale or limited purpose bank's community development performance as "needs to improve" if, in general, it demonstrates:

(i) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The Board rates a wholesale or limited purpose bank's

VOL 60 ISS 86 MY 4 1995 UMI

community development performance in "substantial noncompliance" if, in general, it demonstrates:

(i) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) No use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Banks evaluated under the small bank performance standards.* The Board rates the performance of each bank evaluated under the small bank performance standards as follows.

(1) *Eligibility for a satisfactory rating.* The Board rates a bank's performance "satisfactory" if, in general, the bank demonstrates:

(i) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(ii) A majority of its loans and, as appropriate, other lending-related activities are in its assessment area(s);

(iii) A distribution of loans to and, as appropriate, other lending related-activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's assessment area(s);

(iv) A record of taking appropriate action, as warranted, in response to written complaints, if any, about the bank's performance in helping to meet the credit needs of its assessment area(s); and

(v) A reasonable geographic distribution of loans given the bank's assessment area(s).

(2) *Eligibility for an outstanding rating.* A bank that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's performance is "outstanding," the Board considers the extent to which the bank exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(3) *Needs to improve or substantial noncompliance ratings.* A bank also may receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(e) *Strategic plan assessment and rating*—(1) *Satisfactory goals.* The Board approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the bank's assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the Board will approve those goals as "outstanding."

(3) *Rating.* The Board assesses the performance of a bank operating under an approved plan to determine if the bank has met its plan goals:

(i) If the bank substantially achieves its plan goals for a satisfactory rating, the Board will rate the bank's performance under the plan as "satisfactory."

(ii) If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the Board will rate the bank's performance under the plan as "outstanding."

(iii) If the bank fails to meet substantially its plan goals for a satisfactory rating, the Board will rate the bank as either "needs to improve" or "substantial noncompliance," depending on the extent to which it falls short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in § 228.27(f)(4).

Appendix B to Part 228—CRA Notice

(a) Notice for main offices and, if an interstate bank, one branch office in each state.

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the Federal Reserve Bank of _____ (Reserve Bank); and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Federal Reserve System publishes a list of the banks that are scheduled for CRA examination by the Reserve Bank in that quarter. This list is available from (title of responsible official), Federal Reserve Bank of _____ (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of _____ (address). Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

(b) Notice for branch offices.

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the Federal Reserve Bank of _____ (address), and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) a map showing the assessment area containing this branch, which is the area in which the Board evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the Federal Reserve System publishes a list of the banks that are scheduled for CRA examination by the Reserve Bank in that quarter. This list is available from (title of responsible official), Federal Reserve Bank of _____ (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of _____ (address). Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

§§ 228.1, 228.2, 228.8, and 228.100 [Removed]

3. Sections 228.1, 228.2, 228.8, and 228.100 are removed effective July 1, 1995.

§§ 228.3, 228.4, 228.5, 228.6, and 228.7, and Subpart D [Removed]

4. Sections 228.3, 228.4, 228.5, 228.6, and 228.7, and Subpart D, consisting of § 228.51 are removed effective July 1, 1997.

By order of the Board of Governors of the Federal Reserve System, April 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR Chapter III

For the reasons outlined in the joint preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends 12 CFR chapter III as set forth below:

PART 345—COMMUNITY REINVESTMENT

1. The authority citation for part 345 is revised to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2907, 3103–3104, and 3108(a).

2. Part 345 is amended by adding Subparts A through D and Appendices A and B to read as follows:

Subpart A—General

Sec.
345.11 Authority, purposes, and scope.
345.12 Definitions.

Subpart B—Standards for Assessing Performance

345.21 Performance tests, standards, and ratings, in general.
345.22 Lending test.
345.23 Investment test.
345.24 Service test.
345.25 Community development test for wholesale or limited purpose banks.
345.26 Small bank performance standards.
345.27 Strategic plan.
345.28 Assigned ratings.
345.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

345.41 Assessment area delineation.
345.42 Data collection, reporting, and disclosure.
345.43 Content and availability of public file.
345.44 Public notice by banks.
345.45 Publication of planned examination schedule.

Subpart D—Transition Rules

345.51 Transition rules.

Appendix A to Part 345—Ratings

Appendix B to Part 345—CRA Notice

Subpart A—General

§ 345.11 Authority, purposes, and scope.

(a) *Authority and OMB control number*—(1) *Authority.* The authority for this part is 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2907, 3103–3104, and 3108(a).

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 3064–0092.

(b) *Purposes.* In enacting the Community Reinvestment Act (CRA), the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Federal Deposit Insurance Corporation (FDIC) assesses a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the FDIC takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* Except for certain special purpose banks described in paragraph (c)(3) of this section, this part applies to all insured State nonmember banks, including insured State branches as described in paragraph (c)(2) and any uninsured State branch that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

(2) *Insured State branches.* Insured State branches are branches of a foreign bank established and operating under the laws of any State, the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act. In the case of insured State branches, references in this part to "main office" mean the principal branch within the United States and the term "branch" or "branches" refers to any insured State branch or branches located within the United States. The "assessment area" of an insured State branch is the community or communities located within the United States served by the branch as described in § 345.41.

(3) *Certain special purpose banks.* This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include banker's banks, as defined in 12 U.S.C. 24 (Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

§ 345.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 345.41.

(d) *Remote Service Facility (RSF)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispersed, or money lent.

(e) *Bank* means a State nonmember bank, as that term is defined in section 3(e)(2) of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1813(e)(2)), with Federally insured deposits, except as provided in § 345.11(c). The term bank also includes an insured State branch as defined in § 345.11(c).

(f) *Branch* means a staffed banking facility authorized as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local

VOL
60
ISS
86
MY
4
1995
UMI

business or nonprofit organization. The term "branch" only includes a "domestic branch" as that term is defined in section 3(o) of the FDIA (12 U.S.C. 1813(o)).

(g) *CMSA* means a consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(h) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a)(2) or have gross annual revenues of $1 million or less; or

(4) Activities that revitalize or stabilize low- or moderate-income geographies.

(i) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose bank:

(i) Has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in Appendix A to Part 203 of this title); and

(ii) Benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(j) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

(3) Has not been considered in the evaluation of the bank's retail banking services under § 345.24(d).

(k) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan*, which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan*, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in § 226.2 of this title;

(3) *Home equity loan*, which is a consumer loan secured by a residence of the borrower;

(4) *Other secured consumer loan*, which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(5) *Other unsecured consumer loan*, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(l) *Geography* means a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

(m) *Home mortgage loan* means a "home improvement loan" or a "home purchase loan" as defined in § 203.2 of this title.

(n) *Income level* includes:

(1) *Low-income*, which means an individual income that is less than 50 percent of the area median income or a median family income that is less than 50 percent in the case of a geography.

(2) *Moderate-income*, which means an individual income that is at least 50 percent and less than 80 percent of the area median income or a median family income that is at least 50 and less than 80 percent in the case of a geography.

(3) *Middle-income*, which means an individual income that is at least 80 percent and less than 120 percent of the area median income or a median family income that is at least 80 and less than 120 percent in the case of a geography.

(4) *Upper-income*, which means an individual income that is 120 percent or more of the area median income or a median family income that is 120 percent or more in the case of a geography.

(o) *Limited purpose bank* means a bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with § 345.25(b).

(p) *Loan location*. A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(q) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(r) *MSA* means a metropolitan statistical area or a primary metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(s) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(t) *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

(u) *Small business loan* means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(v) *Small farm loan* means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(w) *Wholesale bank* means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with § 345.25(b).

Subpart B—Standards for Assessing Performance

§ 345.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards*. The FDIC assesses the CRA performance of a bank in an examination as follows:

(1) *Lending, investment, and service tests*. The FDIC applies the lending, investment, and service tests, as provided in §§ 345.22 through 345.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose banks*. The FDIC applies the community development test for a wholesale or limited purpose bank, as provided in § 345.25, except as provided in paragraph (a)(4) of this section.

(3) *Small bank performance standards*. The FDIC applies the small bank performance standards as provided in § 345.26 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 345.42.

(4) *Strategic plan*. The FDIC evaluates the performance of a bank under a strategic plan if the bank submits, and the FDIC approves, a strategic plan as provided in § 345.27.

(b) *Performance context*. The FDIC applies the tests and standards in paragraph (a) of this section and also considers whether to approve a proposed strategic plan in the context of:

(1) Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a bank's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the bank's assessment area(s) maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The bank's product offerings and business strategy as determined from data provided by the bank;

(4) Institutional capacity and constraints, including the size and financial condition of the bank, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, or services in its assessment area(s);

(5) The bank's past performance and the performance of similarly situated lenders;

(6) The bank's public file, as described in § 345.43, and any written comments about the bank's CRA performance submitted to the bank or the FDIC; and

(7) Any other information deemed relevant by the FDIC.

(c) *Assigned ratings*. The FDIC assigns to a bank one of the following four ratings pursuant to § 345.28 and Appendix A of this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the FDIC reflects the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(d) *Safe and sound operations*. This part and the CRA do not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the FDIC anticipates banks can meet the standards of this part with safe and sound loans, investments, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.

§ 345.22 Lending test.

(a) *Scope of test*. (1) The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's business, the FDIC will evaluate the bank's consumer lending in one or more of the following categories: motor vehicle, credit card, home equity, other secured, and other unsecured loans. In addition, at a bank's option, the FDIC will evaluate one or more categories of consumer lending, if the bank has collected and maintained, as required in § 345.42(c)(1), the data for each category that the bank elects to have the FDIC evaluate.

(2) The FDIC considers originations and purchases of loans. The FDIC will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments and letters of credit.

(3) A bank may ask the FDIC to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The FDIC will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria*. The FDIC evaluates a bank's lending performance pursuant to the following criteria:

(1) *Lending activity*. The number and amount of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's assessment area(s);

(2) *Geographic distribution*. The geographic distribution of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:

(i) The proportion of the bank's lending in the bank's assessment area(s);

(ii) The dispersion of lending in the bank's assessment area(s); and

(iii) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s);

(3) *Borrower characteristics*. The distribution, particularly in the bank's assessment area(s), of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(iii) Small business and small farm loans by loan amount at origination; and

(iv) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending*. The bank's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices*. The bank's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

(c) *Affiliate lending*. (1) At a bank's option, the FDIC will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to § 345.42.

(2) The FDIC considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank elects to have the FDIC consider loans within a particular lending category made by one or more of the bank's affiliates in a particular assessment area, the bank shall elect to have the FDIC consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.

(3) The FDIC does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party*. Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested:

(1) Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under § 345.42(b)(2); and

(2) May be allocated among participants or investors, as they choose,

VOL
60
ISS
86
MY
4
1995
UMI

for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The FDIC rates a bank's lending performance as provided in Appendix A of this part.

§ 345.23 Investment test.

(a) *Scope of test.* The investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's option, the FDIC will consider, in its assessment of a bank's investment performance, a qualified investment made by an affiliate of the bank, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a qualified investment.

(e) *Performance criteria.* The FDIC evaluates the investment performance of a bank pursuant to the following criteria:

(1) The dollar amount of qualified investments;

(2) The innovativeness or complexity of qualified investments;

(3) The responsiveness of qualified investments to credit and community development needs; and

(4) The degree to which the qualified investments are not routinely provided by private investors.

(f) *Investment performance rating.* The FDIC rates a bank's investment performance as provided in Appendix A of this part.

§ 345.24 Service test.

(a) *Scope of test.* The service test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank's systems for delivering retail banking services and the extent and innovativeness of its community development services.

(b) *Area(s) benefited.* Community development services must benefit a bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(c) *Affiliate service.* At a bank's option, the FDIC will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The FDIC evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income geographies;

(2) In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.*, RSFs, RSFs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and

(4) The range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The FDIC evaluates community development services pursuant to the following criteria:

(1) The extent to which the bank provides community development services; and

(2) The innovativeness and responsiveness of community development services.

(f) *Service performance rating.* The FDIC rates a bank's service performance as provided in Appendix A of this part.

§ 345.25 Community development test for wholesale or limited purpose banks.

(a) *Scope of test.* The FDIC assesses a wholesale or limited purpose bank's record of helping to meet the credit needs of its assessment area(s) under the community development test through its community development lending, qualified investments, or community development services.

(b) *Designation as a wholesale or limited purpose bank.* In order to receive a designation as a wholesale or limited purpose bank, a bank shall file a request, in writing, with the FDIC, at least three months prior to the proposed effective date of the designation. If the FDIC approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the FDIC notifies the bank that the FDIC has revoked the designation on its own initiative.

(c) *Performance criteria.* The FDIC evaluates the community development performance of a wholesale or limited purpose bank pursuant to the following criteria:

(1) The number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;

(2) The use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and

(3) The bank's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a bank's option, the FDIC will consider in its community development performance assessment:

(1) Qualified investments or community development services provided by an affiliate of the bank, if the investments or services are not claimed by any other institution; and

(2) Community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in § 345.22 (c) and (d).

(e) *Benefit to assessment area(s)—(1) Benefit inside assessment area(s).* The FDIC considers all qualified investments, community development loans, and community development services that benefit areas within the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(2) *Benefit outside assessment area(s).* The FDIC considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's assessment area(s), if the bank has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating.* The FDIC rates a bank's community development performance as provided in Appendix A of this part.

§ 345.26 Small bank performance standards.

(a) *Performance criteria.* The FDIC evaluates the record of a small bank, or a bank that was a small bank during the prior calendar year, of helping to meet the credit needs of its assessment area(s) pursuant to the following criteria:

(1) The bank's loan-to-deposit ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;

(2) The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s);

(3) The bank's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(4) The geographic distribution of the bank's loans; and

(5) The bank's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

(b) *Small bank performance rating.* The FDIC rates the performance of a bank evaluated under this section as provided in Appendix A of this part.

§ 345.27 Strategic plan.

(a) *Alternative election.* The FDIC will assess a bank's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

(1) The bank has submitted the plan to the FDIC as provided for in this section;

(2) The FDIC has approved the plan;

(3) The plan is in effect; and

(4) The bank has been operating under an approved plan for at least one year.

(b) *Data reporting.* The FDIC's approval of a plan does not affect the bank's obligation, if any, to report data as required by § 345.42.

(c) *Plans in general—(1) Term.* A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the FDIC will evaluate the bank's performance.

(2) *Multiple assessment areas.* A bank with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(d) *Public participation in plan development.* Before submitting a plan to the FDIC for approval, a bank shall:

(1) Informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;

(2) Once the bank has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and

(3) During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank in any assessment area covered by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(e) *Submission of plan.* The bank shall submit its plan to the FDIC at least three months prior to the proposed effective date of the plan. The bank shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

(f) *Plan content—(1) Measurable goals.* (i) A bank shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.

(ii) A bank shall address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited purpose bank, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A bank may submit additional information to the FDIC on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the FDIC to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A bank shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a bank submits, and the FDIC approves, both "satisfactory" and "outstanding" performance goals, the FDIC will consider the bank eligible for an "outstanding" performance rating.

(4) *Election if satisfactory goals not substantially met.* A bank may elect in its plan that, if the bank fails to meet substantially its plan goals for a satisfactory rating, the FDIC will evaluate the bank's performance under the lending, investment, and service tests, the community development test, or the small bank performance standards, as appropriate.

(g) *Plan approval—(1) Timing.* The FDIC will act upon a plan within 60 calendar days after the FDIC receives the complete plan and other material required under paragraph (d) of this section. If the FDIC fails to act within this time period, the plan shall be deemed approved unless the FDIC extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the FDIC considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank to public comment on the plan.

(3) *Criteria for evaluating plan.* The FDIC evaluates a plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;

(ii) The amount and innovativeness, complexity, and responsiveness of the bank's qualified investments; and

(iii) The availability and effectiveness of the bank's systems for delivering retail banking services and the extent and innovativeness of the bank's community development services.

(h) *Plan amendment.* During the term of a plan, a bank may request the FDIC to approve an amendment to the plan on grounds that there has been a material change in circumstances. The bank shall

VOL
60
ISS
86
MY
4
1995
UMI

develop an amendment to a previously approved plan in accordance with the public participation requirements of paragraph (c) of this section.

(i) *Plan assessment.* The FDIC approves the goals and assesses performance under a plan as provided for in Appendix A of this part.

§ 345.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the FDIC assigns to a bank a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the bank's performance under the lending, investment and service tests, the community development test, the small bank performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The FDIC assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A bank that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and

(3) No bank may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* Evidence of discriminatory or other illegal credit practices adversely affects the FDIC's evaluation of a bank's performance. In determining the effect on the bank's assigned rating, the FDIC considers the nature and extent of the evidence, the policies and procedures that the bank has in place to prevent discriminatory or other illegal credit practices, any corrective action that the bank has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, and other relevant information.

§ 345.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the FDIC takes into account the record of performance under the CRA of each applicant bank in considering an application for approval of:

(1) The establishment of a domestic branch or other facility with the ability to accept deposits;

(2) The relocation of the bank's main office or a branch;

(3) The merger, consolidation, acquisition of assets, or assumption of liabilities; and

(4) Deposit insurance for a newly chartered financial institution.

(b) *New financial institutions.* A newly chartered financial institution shall submit with its application for deposit insurance a description of how it will meet its CRA objectives. The FDIC takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The FDIC takes into account any views expressed by interested parties that are submitted in accordance with the FDIC's procedures set forth in part 303 of this chapter in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 345.41 Assessment area delineation.

(a) *In general.* A bank shall delineate one or more assessment areas within which the FDIC evaluates the bank's record of helping to meet the credit needs of its community. The FDIC does not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the FDIC reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks.* The assessment area(s) for a wholesale or limited purpose bank must consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking RSFs.

(c) *Geographic area(s) for other banks.* The assessment area(s) for a bank other than a wholesale or limited purpose bank must:

(1) Consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the geographies in which the bank has its main office, its branches, and its deposit-taking RSFs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank's assessment area(s):

(1) Must consist only of whole geographies;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's size and financial condition; and

(4) May not extend substantially beyond a CMSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary the bank shall delineate separate assessment areas for the areas in each state. If a bank serves a geographic area that extends substantially beyond a CMSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the CMSA.

(f) *Banks serving military personnel.* Notwithstanding the requirements of this section, a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.

(g) *Use of assessment area(s).* The FDIC uses the assessment area(s) delineated by a bank in its evaluation of the bank's CRA performance unless the FDIC determines that the assessment area(s) do not comply with the requirements of this section.

§ 345.42 Data collection, reporting, and disclosure.

(a) *Loan information required to be collected and maintained.* A bank, except a small bank, shall collect, and maintain in machine readable form (as prescribed by the FDIC) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank:

(1) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(2) The loan amount at origination;

(3) The loan location; and

(4) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(b) *Loan information required to be reported.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall report annually by March 1 to the FDIC in machine readable form (as prescribed by the FDIC) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the bank originated or purchased a small business or small farm loan, the aggregate number and amount of loans:

(i) With an amount at origination of $100,000 or less;

(ii) With an amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With an amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank considered in making its credit decision);

(2) *Community development loan data.* The aggregate number and aggregate amount of community development loans originated or purchased; and

(3) *Home mortgage loans.* If the bank is subject to reporting under part 203 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of part 203 of this title.

(c) *Optional data collection and maintenance.*—(1) *Consumer loans.* A bank may collect and maintain in machine readable form (as prescribed by the FDIC) data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank shall maintain data separately for each category, including for each loan:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The loan amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank considered in making its credit decision.

(2) *Other loan data.* At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank that elects to have the FDIC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under part 203 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank that elects to have the FDIC consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank.

(f) *Small banks electing evaluation under the lending, investment, and service tests.* A bank that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall collect and report to the FDIC by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA Disclosure Statement.* The FDIC prepares annually for each bank that reports data pursuant to this section a CRA Disclosure Statement that contains, on a state-by-state basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;

(ii) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and amount of small business and small farm loans located inside each assessment area reported by the bank and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the bank; and

VOL
60
ISS
86
MY
4
1995
UMI

(4) The number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The FDIC, in conjunction with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision, prepares annually, for each MSA (including an MSA that crosses a state boundary) and the non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 25, 228, or 563e of this title. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the FDIC may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(j) *Central data depositories.* The FDIC makes the aggregate disclosure statements, described in paragraph (i) of this section, and the individual bank CRA Disclosure Statements, described in paragraph (h) of this section, available to the public at central data depositories. The FDIC publishes a list of the depositories at which the statements are available.

§ 345.43 Content and availability of public file.

(a) *Information available to the public.* A bank shall maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's most recent CRA Performance Evaluation prepared by the FDIC. The bank shall place this copy in the public file within 30 business days after its receipt from the FDIC;

(3) A list of the bank's branches, their street addresses, and geographies;

(4) A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and geographies;

(5) A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.*, RSFs, RSFs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and

(7) Any other information the bank chooses.

(b) *Additional information available to the public—(1) Banks other than small banks.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

(ii) The bank's CRA Disclosure Statement. The bank shall place the statement in the public file within three business days of its receipt from the FDIC.

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 203 of this title shall include in its public file a copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the bank for each of the prior two calendar years. In addition, a bank that elected to have the FDIC consider the mortgage lending of an affiliate for any of these years shall include in its public file the affiliate's HMDA Disclosure Statement for those years. The bank shall place the statement(s) in the public file within three business days after receipt.

(3) *Small banks.* A small bank or a bank that was a small bank during the prior calendar year shall include in its public file:

(i) The bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks by paragraph (b)(1) of this section, if the bank has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks with strategic plans.* A bank that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank need not include information submitted to the FDIC on a confidential basis in conjunction with the plan.

(5) *Banks with less than satisfactory ratings.* A bank that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank shall update the description quarterly.

(c) *Location of public information.* A bank shall make available to the public for inspection upon request and at no cost the information required in this section as follows:

(1) At the main office and, if an interstate bank, at one branch office in each state, all information in the public file; and

(2) At each branch:

(i) A copy of the public section of the bank's most recent CRA Performance Evaluation and a list of services provided by the branch; and

(ii) Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

(d) *Copies.* Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

(e) *Updating.* Except as otherwise provided in this section, a bank shall ensure that the information required by this section is current as of April 1 of each year.

§ 345.44 Public notice by banks.

A bank shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in Appendix B of this part. Only a branch of a bank having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. A bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.

§ 345.45 Publication of planned examination schedule.

The FDIC publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

Subpart D—Transition Rules

§ 345.51 Transition rules.

(a) *Effective date.* Sections of this part become applicable over a period of time in accordance with the schedule set forth in paragraph (c) of this section.

(b) *Data collection and reporting; strategic plan; performance tests and standards—(1) Data collection and reporting.* (i) On January 1, 1996, the data collection requirements set forth in § 345.42 (except § 345.42(b) and (g)) become applicable.

(ii) On January 1, 1997, the data reporting requirements set forth in § 345.42(b) and (g) become applicable.

(2) *Small banks.* Beginning January 1, 1996, the FDIC evaluates banks that qualify for the small bank performance standards described in § 345.26 under that section.

(3) *Strategic plan.* Beginning January 1, 1996, a bank that elects to be evaluated under an approved strategic plan pursuant to § 345.27 may submit its strategic plan to the FDIC for approval.

(4) *Other performance tests.* (i) Beginning January 1, 1996, a bank may elect to be evaluated under the pertinent revised performance tests described in §§ 345.22, 345.23, 345.24, and 345.25, if the bank provides the necessary data to permit evaluation.

(ii) Beginning July 1, 1997, the FDIC evaluates all banks under the pertinent revised performance tests.

(c) *Schedule.* (1) On July 1, 1995, §§ 345.11, 345.12, 345.29, and 345.51 become applicable, and §§ 345.1, 345.2, 345.8, 345.101 and 345.102 expire.

(2) On January 1, 1996, § 345.41 and the pertinent provisions of Subpart B of this part will apply to banks that elect to be evaluated under §§ 345.22 through 345.25, banks that submit for approval strategic plans under § 345.27, and banks that qualify for the small bank performance standards described in § 345.26.

(3) On January 1, 1996, §§ 345.42 (except § 345.42(b) and (g)) and 345.45 become applicable.

(4) On January 1, 1997, §§ 345.41 and 345.42(b) and (g) become applicable.

(5) On July 1, 1997, §§ 345.21 through 345.28, 345.43, and 345.44 become applicable, and §§ 345.3 through 345.7, and 345.51 expire.

Appendix A to Part 345—Ratings

(a) *Ratings in general.*—(1) In assigning a rating, the FDIC evaluates a bank's performance under the applicable performance criteria in this part, in accordance with § 345.21, and § 345.28, which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests.*—(1) *Lending performance rating.* The FDIC assigns each bank's lending performance one of the five following ratings.

(i) *Outstanding.* The FDIC rates a bank's lending performance "outstanding" if, in general, it demonstrates:

(A) Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A substantial majority of its loans are made in its assessment area(s);

(C) An excellent geographic distribution of loans in its assessment area(s);

(D) An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(ii) *High satisfactory.* The FDIC rates a bank's lending performance "high satisfactory" if, in general, it demonstrates:

(A) Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A high percentage of its loans are made in its assessment area(s);

(C) A good geographic distribution of loans in its assessment area(s);

(D) A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The FDIC rates a bank's lending performance "low satisfactory" if, in general, it demonstrates:

(A) Adequate responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) An adequate percentage of its loans are made in its assessment area(s);

(C) An adequate geographic distribution of loans in its assessment area(s);

(D) An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The FDIC rates a bank's lending performance "needs to improve" if, in general, it demonstrates:

(A) Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A small percentage of its loans are made in its assessment area(s);

(C) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

VOL 60 ISS 86 MY 4 1995 UMI

(F) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The FDIC rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A very small percentage of its loans are made in its assessment area(s);

(C) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made few, if any, community development loans.

(2) *Investment performance rating.* The FDIC assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding.* The FDIC rates a bank's investment performance "outstanding" if, in general, it demonstrates:

(A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) Extensive use of innovative or complex qualified investments; and

(C) Excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The FDIC rates a bank's investment performance "high satisfactory" if, in general, it demonstrates:

(A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) Significant use of innovative or complex qualified investments; and

(C) Good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The FDIC rates a bank's investment performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) Occasional use of innovative or complex qualified investments; and

(C) Adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The FDIC rates a bank's investment performance "needs to improve" if, in general, it demonstrates:

(A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) Rare use of innovative or complex qualified investments; and

(C) Poor responsiveness to credit and community development needs.

(v) *Substantial noncompliance.* The FDIC rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;

(B) No use of innovative or complex qualified investments; and

(C) Very poor responsiveness to credit and community development needs.

(3) *Service performance rating.* The FDIC assigns each bank's service performance one of the five following ratings.

(i) *Outstanding.* The FDIC rates a bank's service performance "outstanding" if, in general, the bank demonstrates:

(A) Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It is a leader in providing community development services.

(ii) *High satisfactory.* The FDIC rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides a relatively high level of community development services.

(iii) *Low satisfactory.* The FDIC rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides an adequate level of community development services.

(iv) *Needs to improve.* The FDIC rates a bank's service performance "needs to improve" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides a limited level of community development services.

(v) *Substantial noncompliance.* The FDIC rates a bank's service performance as being in "substantial noncompliance" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides few, if any, community development services.

(c) *Wholesale or limited purpose banks.* The FDIC assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.

(1) *Outstanding.* The FDIC rates a wholesale or limited purpose bank's community development performance "outstanding" if, in general, it demonstrates:

(i) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The FDIC rates a wholesale or limited purpose bank's community development performance "satisfactory" if, in general, it demonstrates:

(i) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The FDIC rates a wholesale or limited purpose bank's community development performance as "needs to improve" if, in general, it demonstrates:

(i) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The FDIC rates a wholesale or limited purpose bank's community development performance in "substantial noncompliance" if, in general, it demonstrates:

(i) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) No use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Banks evaluated under the small bank performance standards.* The FDIC rates the performance of each bank evaluated under the small bank performance standards as follows.

(1) *Eligibility for a satisfactory rating.* The FDIC rates a bank's performance "satisfactory" if, in general, the bank demonstrates:

(i) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(ii) A majority of its loans and, as appropriate, other lending-related activities are in its assessment area(s);

(iii) A distribution of loans to and, as appropriate, other lending related-activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's assessment area(s);

(iv) A record of taking appropriate action, as warranted, in response to written complaints, if any, about the bank's performance in helping to meet the credit needs of its assessment area(s); and

(v) A reasonable geographic distribution of loans given the bank's assessment area(s).

(2) *Eligibility for an outstanding rating.* A bank that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's performance is "outstanding," the FDIC considers the extent to which the bank exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(3) *Needs to improve or substantial noncompliance ratings.* A bank also may receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(e) *Strategic plan assessment and rating.*

(1) *Satisfactory goals.* The FDIC approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the bank's assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the FDIC will approve those goals as "outstanding."

(3) *Rating.* The FDIC assesses the performance of a bank operating under an approved plan to determine if the bank has met its plan goals:

(i) If the bank substantially achieves its plan goals for a satisfactory rating, the FDIC will rate the bank's performance under the plan as "satisfactory."

(ii) If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the FDIC will rate the bank's performance under the plan as "outstanding."

(iii) If the bank fails to meet substantially its plan goals for a satisfactory rating, the FDIC will rate the bank as either "needs to improve" or "substantial noncompliance," depending on the extent to which it falls short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in § 345.27(f)(4).

Appendix B to Part 345—CRA Notice

(a) *Notice for main offices and, if an interstate bank, one branch office in each state.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Federal Deposit Insurance Corporation (FDIC) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The FDIC also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the FDIC; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the FDIC publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Regional Manager, Division of Compliance and Consumer Affairs, FDIC (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and FDIC Regional Manager. Your letter, together with any response by us, will be considered by the FDIC in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the FDIC Regional Manager. You may also request from the FDIC Regional Manager an announcement of our applications covered by the CRA filed with the FDIC. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

(b) *Notice for branch offices.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Federal Deposit Insurance Corporation (FDIC) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The FDIC also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the FDIC, and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) a map showing the assessment area containing this branch, which is the area in which the FDIC evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this

VOL
60
ISS
86
MY
4
1995
UMI

assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the FDIC publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Regional Manager, Division of Compliance and Consumer Affairs, FDIC (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and the FDIC Regional Manager. Your letter, together with any response by us, will be considered by the FDIC in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the FDIC Regional Manager. You may also request from the FDIC Regional Manager an announcement of our applications covered by the CRA filed with the FDIC. We are an affiliate of (name of holding company), a bank holding company. You may request from the (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

§§ 345.1, 345.2, 345.8, 345.101, and 345.102, and the undersigned center heading preceding § 345.101 [Removed]

3. Sections 345.1, 345.2, 345.8, 345.101 and 345.102, and the undersigned center heading preceding § 345.101 are removed effective July 1, 1995.

§§ 345.3, 345.4, 345.5, 345.6, 345.7, and subpart D [Removed]

4. Sections 345.3, 345.4, 345.5, 345.6, 345.7, and 345.51 are removed effective July 1, 1997.

By order of the Board of Directors of the Federal Deposit Insurance Corporation:

Dated: April 24, 1995.

Robert E. Feldman,

Acting Executive Secretary.

Office of Thrift Supervision

12 CFR Chapter V

For the reasons outlined in the joint preamble, the Office of Thrift Supervision amends 12 CFR chapter V as set forth below:

PART 563e—COMMUNITY REINVESTMENT

1. The authority citation for part 563e is revised to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1814, 1816, 1828(c), and 2901 through 2907.

2. Part 563e is amended by adding Subparts A through D and Appendices A and B to read as follows:

Subpart A—General

Sec.
563e.11 Authority, purposes, and scope.
563e.12 Definitions.

Subpart B—Standards for Assessing Performance

563e.21 Performance tests, standards, and ratings, in general.
563e.22 Lending test.
563e.23 Investment test.
563e.24 Service test.
563e.25 Community development test for wholesale or limited purpose savings associations.
563e.26 Small savings association performance standards.
563e.27 Strategic plan.
563e.28 Assigned ratings.
563e.29 Effect of CRA performance on applications.

Subpart C—Records, Reporting, and Disclosure Requirements

563e.41 Assessment area delineation.
563e.42 Data collection, reporting, and disclosure.
563e.43 Content and availability of public file.
563e.44 Public notice by savings associations.
563e.45 Publication of planned examination schedule.

Subpart D—Transition Rules

563e.51 Transition rules.

Appendix A to Part 563e—Ratings

Appendix B to Part 563e—CRA Notice

Subpart A—General

§ 563e.11 Authority, purposes, and scope.

(a) *Authority and OMB control number*—(1) *Authority.* This part is issued under the Community Reinvestment Act of 1977 (CRA), as amended (12 U.S.C. 2901 *et seq.*); section 5, as amended, and sections 3, 4, and 10, as added, of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462a, 1463, 1464, and 1467a); and sections 4, 6, and 18(c), as amended of the Federal Deposit Insurance Act (12 U.S.C. 1814, 1816, 1828(c)).

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 1550–0012.

(b) *Purposes.* In enacting the CRA, the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the OTS assesses a savings association's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the savings association; and

(2) Providing that the OTS takes that record into account in considering certain applications.

(c) *Scope.* This part applies to all savings associations as defined in § 561.43 of this subchapter.

§ 563e.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with § 563e.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the savings association at which deposits are received, cash dispersed, or money lent.

(e) *Branch* means a staffed banking facility authorized as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

(f) *CMSA* means a consolidated metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(g) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a)(2) or have gross annual revenues of $1 million or less; or

(4) Activities that revitalize or stabilize low- or moderate-income geographies.

(h) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose savings association:

(i) Has not been reported or collected by the savings association or an affiliate for consideration in the savings association's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in Appendix A to Part 203 of this title); and

(ii) Benefits the savings association's assessment area(s) or a broader statewide or regional area that includes the savings association's assessment area(s).

(i) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

(3) Has not been considered in the evaluation of the savings association's retail banking services under § 563e.24(d).

(j) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan,* which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan,* which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in § 226.2 of this title;

(3) *Home equity loan,* which is a consumer loan secured by a residence of the borrower;

(4) *Other secured consumer loan,* which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(5) *Other unsecured consumer loan,* which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(k) *Geography* means a census tract or a block numbering area delineated by the United States Bureau of the Census in the most recent decennial census.

(l) *Home mortgage loan* means a "home improvement loan" or a "home purchase loan" as defined in § 203.2 of this title.

(m) *Income level* includes:

(1) *Low-income,* which means an individual income that is less than 50 percent of the area median income or a median family income that is less than 50 percent in the case of a geography.

(2) *Moderate-income,* which means an individual income that is at least 50 percent and less than 80 percent of the area median income or a median family income that is at least 50 and less than 80 percent in the case of a geography.

(3) *Middle-income,* which means an individual income that is at least 80 percent and less than 120 percent of the area median income or a median family income that is at least 80 and less than 120 percent in the case of a geography.

(4) *Upper-income,* which means an individual income that is 120 percent or more of the area median income or a median family income that is 120 percent or more in the case of a geography.

(n) *Limited purpose savings association* means a savings association that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose savings association is in effect, in accordance with § 563e.25(b).

(o) *Loan location.* A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(p) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(q) *MSA* means a metropolitan statistical area or a primary metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(r) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(s) *Small savings association* means a savings association that, as of December 31 of either of the prior two calendar years, had total assets of less than $250 million and was independent or an affiliate of a holding company that, as of December 31 of either of the prior two calendar years, had total banking and thrift assets of less than $1 billion.

(t) *Small business loan* means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Thrift Financial Report.

(u) *Small farm loan* means a loan included in "loans to small farms" as defined in the instructions for preparation of the Thrift Financial Report.

(v) *Wholesale savings association* means a savings association that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale savings association is in effect, in accordance with § 563e.25(b).

Subpart B—Standards for Assessing Performance

§ 563e.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The OTS assesses the CRA performance of a savings association in an examination as follows:

(1) *Lending, investment, and service tests.* The OTS applies the lending, investment, and service tests, as provided in §§ 563e.22 through 563e.24, in evaluating the performance of a savings association, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose savings associations.* The OTS applies the community development test for a wholesale or limited purpose savings association, as provided in § 563e.25, except as provided in paragraph (a)(4) of this section.

(3) *Small savings association performance standards.* The OTS applies the small savings association performance standards as provided in § 563e.26 in evaluating the performance of a small savings association or a savings association that was a small savings association during the prior calendar year, unless the savings association elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The savings association may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other savings associations under § 563e.42.

(4) *Strategic plan.* The OTS evaluates the performance of a savings association under a strategic plan if the savings

VOL
60
ISS
86
MY
4
1995
UMI

association submits, and the OTS approves, a strategic plan as provided in § 563e.27.

(b) *Performance context.* The OTS applies the tests and standards in paragraph (a) of this section and also considers whether to approve a proposed strategic plan in the context of:

(1) Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a savings association's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the savings association's assessment area(s) maintained by the savings association or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The savings association's product offerings and business strategy as determined from data provided by the savings association;

(4) Institutional capacity and constraints, including the size and financial condition of the savings association, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the savings association's ability to provide lending, investments, or services in its assessment area(s);

(5) The savings association's past performance and the performance of similarly situated lenders;

(6) The savings association's public file, as described in § 563e.43, and any written comments about the savings association's CRA performance submitted to the savings association or the OTS; and

(7) Any other information deemed relevant by the OTS.

(c) *Assigned ratings.* The OTS assigns to a savings association one of the following four ratings pursuant to § 563e.28 and Appendix A of this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance," as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the OTS reflects the savings association's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the savings association.

(d) *Safe and sound operations.* This part and the CRA do not require a savings association to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the OTS anticipates savings associations can meet the standards of this part with safe and sound loans, investments, and services on which the savings associations expect to make a profit. Savings associations are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.

§ 563e.22 Lending test.

(a) *Scope of test.* (1) The lending test evaluates a savings association's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a savings association's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a savings association's business, the OTS will evaluate the savings association's consumer lending in one or more of the following categories: motor vehicle, credit card, home equity, other secured, and other unsecured loans. In addition, at a savings association's option, the OTS will evaluate one or more categories of consumer lending, if the savings association has collected and maintained, as required in § 563e.42(c)(1), the data for each category that the savings association elects to have the OTS evaluate.

(2) The OTS considers originations and purchases of loans. The OTS will also consider any other loan data the savings association may choose to provide, including data on loans outstanding, commitments and letters of credit.

(3) A savings association may ask the OTS to consider loans originated or purchased by consortia in which the savings association participates or by third parties in which the savings association has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The OTS will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria.* The OTS evaluates a savings association's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and amount of the savings association's home mortgage, small business, small farm, and consumer loans, if applicable, in the savings association's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the savings association's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:

(i) The proportion of the savings association's lending in the savings association's assessment area(s);

(ii) The dispersion of lending in the savings association's assessment area(s); and

(iii) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the savings association's assessment area(s);

(3) *Borrower characteristics.* The distribution, particularly in the savings association's assessment area(s), of the savings association's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(iii) Small business and small farm loans by loan amount at origination; and

(iv) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending.* The savings association's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices.* The savings association's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

(c) *Affiliate lending.* (1) At a savings association's option, the OTS will consider loans by an affiliate of the savings association, if the savings association provides data on the affiliate's loans pursuant to § 563e.42.

(2) The OTS considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a savings association elects to have the OTS consider loans within a particular lending category made by one or more of the savings association's affiliates in a particular assessment area, the savings association shall elect to have the OTS consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the savings association's affiliates.

(3) The OTS does not consider affiliate lending in assessing a savings association's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the savings association participates or by a third party in which the savings association has invested:

(1) Will be considered, at the savings association's option, if the savings association reports the data pertaining to these loans under § 563e.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The OTS rates a savings association's lending performance as provided in Appendix A of this part.

§ 563e.23 Investment test.

(a) *Scope of test.* The investment test evaluates a savings association's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the savings association's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a savings association's option, the OTS will consider, in its assessment of a savings association's investment performance, a qualified investment made by an affiliate of the savings association, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the savings association that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a qualified investment.

(e) *Performance criteria.* The OTS evaluates the investment performance of a savings association pursuant to the following criteria:

(1) The dollar amount of qualified investments;

(2) The innovativeness or complexity of qualified investments;

(3) The responsiveness of qualified investments to credit and community development needs; and

(4) The degree to which the qualified investments are not routinely provided by private investors.

(f) *Investment performance rating.* The OTS rates a savings association's investment performance as provided in Appendix A of this part.

§ 563e.24 Service test.

(a) *Scope of test.* The service test evaluates a savings association's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a savings association's systems for delivering retail banking services and the extent and innovativeness of its community development services.

(b) *Area(s) benefitted.* Community development services must benefit a savings association's assessment area(s) or a broader statewide or regional area that includes the savings association's assessment area(s).

(c) *Affiliate service.* At a savings association's option, the OTS will consider, in its assessment of a savings association's service performance, a community development service provided by an affiliate of the savings association, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The OTS evaluates the availability and effectiveness of a savings association's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the savings association's branches among low-, moderate-, middle-, and upper-income geographies;

(2) In the context of its current distribution of the savings association's branches, the savings association's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the savings association, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and

(4) The range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The OTS evaluates community development services pursuant to the following criteria:

(1) The extent to which the savings association provides community development services; and

(2) The innovativeness and responsiveness of community development services.

(f) *Service performance rating.* The OTS rates a savings association's service performance as provided in Appendix A of this part.

§ 563e.25 Community development test for wholesale or limited purpose savings associations.

(a) *Scope of test.* The OTS assesses a wholesale or limited purpose savings association's record of helping to meet the credit needs of its assessment area(s) under the community development test through its community development lending, qualified investments, or community development services.

(b) *Designation as a wholesale or limited purpose savings association.* In order to receive a designation as a wholesale or limited purpose savings association, a savings association shall file a request, in writing, with the OTS, at least three months prior to the proposed effective date of the designation. If the OTS approves the designation, it remains in effect until the savings association requests revocation of the designation or until one year after the OTS notifies the savings association that the OTS has revoked the designation on its own initiative.

(c) *Performance criteria.* The OTS evaluates the community development performance of a wholesale or limited purpose savings association pursuant to the following criteria:

(1) The number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the savings association, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;

(2) The use of innovative or complex qualified investments, community development loans, or community development services and the extent to

VOL
60
ISS
86
MY
4
1995
UMI

which the investments are not routinely provided by private investors; and

(3) The savings association's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a savings association's option, the OTS will consider in its community development performance assessment:

(1) Qualified investments or community development services provided by an affiliate of the savings association, if the investments or services are not claimed by any other institution; and

(2) Community development lending by affiliates, consortia and third parties, subject to the requirements and limitations in § 563e.22 (c) and (d).

(e) *Benefit to assessment area(s).*—(1) *Benefit inside assessment area(s).* The OTS considers all qualified investments, community development loans, and community development services that benefit areas within the savings association's assessment area(s) or a broader statewide or regional area that includes the savings association's assessment area(s).

(2) *Benefit outside assessment area(s).* The OTS considers the qualified investments, community development loans, and community development services that benefit areas outside the savings association's assessment area(s), if the savings association has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating.* The OTS rates a savings association's community development performance as provided in Appendix A of this part.

§ 563e.26 Small savings association performance standards.

(a) *Performance criteria.* The OTS evaluates the record of a small savings association, or a savings association that was a small savings association during the prior calendar year, of helping to meet the credit needs of its assessment area(s) pursuant to the following criteria:

(1) The savings association's loan-to-deposit ratio, adjusted for seasonal variation and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;

(2) The percentage of loans and, as appropriate, other lending-related activities located in the savings association's assessment area(s);

(3) The savings association's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(4) The geographic distribution of the savings association's loans; and

(5) The savings association's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

(b) *Small savings association performance rating.* The OTS rates the performance of a savings association evaluated under this section as provided in Appendix A of this part.

§ 563e.27 Strategic plan.

(a) *Alternative election.* The OTS will assess a savings association's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

(1) The savings association has submitted the plan to the OTS as provided for in this section;

(2) The OTS has approved the plan;

(3) The plan is in effect; and

(4) The savings association has been operating under an approved plan for at least one year.

(b) *Data reporting.* The OTS's approval of a plan does not affect the savings association's obligation, if any, to report data as required by § 563e.42.

(c) *Plans in general.* (1) *Term.* A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the OTS will evaluate the savings association's performance.

(2) *Multiple assessment areas.* A savings association with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(d) *Public participation in plan development.* Before submitting a plan to the OTS for approval, a savings association shall:

(1) Informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;

(2) Once the savings association has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and

(3) During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the savings association in any assessment area covered by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(e) *Submission of plan.* The savings association shall submit its plan to the OTS at least three months prior to the proposed effective date of the plan. The savings association shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

(f) *Plan content*—(1) *Measurable goals.* (i) A savings association shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.

(ii) A savings association shall address in its plan all three performance categories and, unless the savings association has been designated as a wholesale or limited purpose savings association, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the savings association's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A savings association may submit additional information to the OTS on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the OTS to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A savings association shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a savings association submits, and the OTS approves, both "satisfactory" and "outstanding" performance goals, the OTS will consider the savings association eligible for an "outstanding" performance rating.

(4) *Election if satisfactory goals not substantially met.* A savings association may elect in its plan that, if the savings association fails to meet substantially its plan goals for a satisfactory rating, the OTS will evaluate the savings association's performance under the lending, investment, and service tests, the community development test, or the small savings association performance standards, as appropriate.

(g) *Plan approval*—(1) *Timing.* The OTS will act upon a plan within 60 calendar days after the OTS receives the complete plan and other material required under paragraph (d) of this section. If the OTS fails to act within this time period, the plan shall be deemed approved unless the OTS extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the OTS considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the savings association to public comment on the plan.

(3) *Criteria for evaluating plan.* The OTS evaluates a plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;

(ii) The amount and innovativeness, complexity, and responsiveness of the savings association's qualified investments; and

(iii) The availability and effectiveness of the savings association's systems for delivering retail banking services and the extent and innovativeness of the savings association's community development services.

(h) *Plan amendment.* During the term of a plan, a savings association may request the OTS to approve an amendment to the plan on grounds that there has been a material change in circumstances. The savings association shall develop an amendment to a previously approved plan in accordance with the public participation requirements of paragraph (c) of this section.

(i) *Plan assessment.* The OTS approves the goals and assesses performance under a plan as provided for in Appendix A of this part.

§ 563e.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the OTS assigns to a savings association a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the savings association's performance under the lending, investment and service tests, the community development test, the small savings association performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The OTS assigns a rating for a savings association assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A savings association that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A savings association that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and

(3) No savings association may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* Evidence of discriminatory or other illegal credit practices adversely affects the OTS's evaluation of a savings association's performance. In determining the effect on the savings association's assigned rating, the OTS considers the nature and extent of the evidence, the policies and procedures that the savings association has in place to prevent discriminatory or other illegal credit practices, any corrective action that the savings association has taken or has committed to take, particularly voluntary corrective action resulting from self-assessment, and other relevant information.

§ 563e.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the OTS takes into account the record of performance under the CRA of each applicant savings association, and for applications under section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)), of each proposed subsidiary savings association, in considering an application for:

(1) The establishment of a domestic branch or other facility that would be authorized to take deposits;

(2) The relocation of the main office or a branch;

(3) The merger or consolidation with or the acquisition of the assets or assumption of the liabilities of an insured depository institution requiring OTS approval under the Bank Merger Act (12 U.S.C. 1828(c));

(4) A Federal thrift charter; and

(5) Acquisitions subject to section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)).

(b) *Charter application.* An applicant for a Federal thrift charter shall submit with its application a description of how it will meet its CRA objectives. The OTS takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The OTS takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A savings association's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(e) *Insured depository institution.* For purposes of this section, the term "insured depository institution" has the meaning given to that term in 12 U.S.C. 1813.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 563e.41 Assessment area delineation.

(a) *In general.* A savings association shall delineate one or more assessment areas within which the OTS evaluates the savings association's record of helping to meet the credit needs of its community. The OTS does not evaluate the savings association's delineation of its assessment area(s) as a separate performance criterion, but the OTS reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose savings associations.* The assessment area(s) for a wholesale or limited purpose savings association must consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the savings association has its main office, branches, and deposit-taking ATMs.

(c) *Geographic area(s) for other savings associations.* The assessment area(s) for a savings association other than a wholesale or limited purpose savings association must:

(1) Consist generally of one or more MSAs (using the MSA boundaries that

VOL
60
ISS
86
MY
4
1995
UMI

were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the geographies in which the savings association has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the savings association has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the savings association chooses, such as those consumer loans on which the savings association elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A savings association may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each savings association's assessment area(s):

(1) Must consist only of whole geographies;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income geographies, taking into account the savings association's size and financial condition; and

(4) May not extend substantially beyond a CMSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a savings association serves a geographic area that extends substantially beyond a state boundary, the savings association shall delineate separate assessment areas for the areas in each state. If a savings association serves a geographic area that extends substantially beyond a CMSA boundary, the savings association shall delineate separate assessment areas for the areas inside and outside the CMSA.

(f) *Savings associations serving military personnel.* Notwithstanding the requirements of this section, a savings association whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.

(g) *Use of assessment area(s).* The OTS uses the assessment area(s) delineated by a savings association in its evaluation of the savings association's CRA performance unless the OTS determines that the assessment area(s) do not comply with the requirements of this section.

§ 563e.42 Data collection, reporting, and disclosure.

(a) *Loan information required to be collected and maintained.* A savings association, except a small savings association, shall collect, and maintain in machine readable form (as prescribed by the OTS) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the savings association:

(1) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(2) The loan amount at origination;

(3) The loan location; and

(4) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(b) *Loan information required to be reported.* A savings association, except a small savings association or a savings association that was a small savings association during the prior calendar year, shall report annually by March 1 to the OTS in machine readable form (as prescribed by the OTS) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the savings association originated or purchased a small business or small farm loan, the aggregate number and amount of loans:

(i) With an amount at origination of $100,000 or less;

(ii) With amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With an amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the savings association considered in making its credit decision);

(2) *Community development loan data.* The aggregate number and aggregate amount of community development loans originated or purchased; and

(3) *Home mortgage loans.* If the savings association is subject to reporting under part 203 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the savings association has a home or branch office (or outside any MSA) in accordance with the requirements of part 203 of this title.

(c) *Optional data collection and maintenance*—(1) *Consumer loans.* A savings association may collect and maintain in machine readable form (as prescribed by the OTS) data for consumer loans originated or purchased by the savings association for consideration under the lending test. A savings association may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If the savings association maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The savings association shall maintain data separately for each category, including for each loan:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The loan amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the savings association considered in making its credit decision.

(2) *Other loan data.* At its option, a savings association may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A savings association that elects to have the OTS consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the savings association would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the savings association. For home mortgage loans, the savings association shall also be prepared to identify the home mortgage loans reported under part 203 of this title by the affiliate.

(e) *Data on lending by a consortium or a third-party.* A savings association that elects to have the OTS consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the savings association would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the savings association.

(f) *Small savings associations electing evaluation under the lending, investment, and service tests.* A savings association that qualifies for evaluation under the small savings association performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other savings associations pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A savings association, except a small savings association or a savings association that was a small savings association during the prior calendar year, shall collect and report to the OTS by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA Disclosure Statement.* The OTS prepares annually for each savings association that reports data pursuant to this section a CRA Disclosure Statement that contains, on a state-by-state basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the savings association reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;

(ii) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income;

(iii) A list showing each geography in which the savings association reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the savings association reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each geography in which the savings association reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and amount of small business and small farm loans located inside each assessment area reported by the savings association and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the savings association; and

(4) The number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The OTS, in conjunction with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, prepares annually, for each MSA (including an MSA that crosses a state boundary) and the non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 25, 228, or 345 of this title. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the OTS may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(j) *Central data depositories.* The OTS makes the aggregate disclosure statements, described in paragraph (i) of this section, and the individual savings association CRA Disclosure Statements, described in paragraph (h) of this section, available to the public at central data depositories. The OTS publishes a list of the depositories at which the statements are available.

§ 563e.43 Content and availability of public file.

(a) *Information available to the public.* A savings association shall maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the savings association's performance in helping to meet community credit needs, and any response to the comments by the savings association, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the savings association or publication of which would violate specific provisions of law;

(2) A copy of the public section of the savings association's most recent CRA Performance Evaluation prepared by the OTS. The savings association shall place this copy in the public file within 30 business days after its receipt from the OTS;

(3) A list of the savings association's branches, their street addresses, and geographies;

(4) A list of branches opened or closed by the savings association during the current year and each of the prior two calendar years, their street addresses, and geographies;

(5) A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the savings association's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a savings association may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the savings association, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and

(7) Any other information the savings association chooses.

(b) *Additional information available to the public*—(1) *Savings associations other than small savings associations.* A savings association, except a small savings association or a savings association that was a small savings association during the prior calendar year, shall include in its public file the following information pertaining to the savings association and its affiliates, if

VOL 60 ISS 86 MY 4 1995 UMI

applicable, for each of the prior two calendar years:

(i) If the savings association has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the savings association's assessment area(s) and outside the savings association's assessment area(s); and

(ii) The savings association's CRA Disclosure Statement. The savings association shall place the statement in the public file within three business days of its receipt from the OTS.

(2) *Savings associations required to report Home Mortgage Disclosure Act (HMDA) data.* A savings association required to report home mortgage loan data pursuant to part 203 of this title shall include in its public file a copy of the HMDA Disclosure Statement provided by the Federal Financial Institutions Examination Council pertaining to the savings association for each of the prior two calendar years. In addition, a savings association that elected to have the OTS consider the mortgage lending of an affiliate for any of these years shall include in its public file the affiliate's HMDA Disclosure Statement for those years. The savings association shall place the statement(s) in the public file within three business days after its receipt.

(3) *Small savings associations.* A small savings association or a savings association that was a small savings association during the prior calendar year shall include in its public file:

(i) The savings association's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other savings associations by paragraph (b)(1) of this section, if the savings association has elected to be evaluated under the lending, investment, and service tests.

(4) *Savings associations with strategic plans.* A savings association that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A savings association need not include information submitted to the OTS on a confidential basis in conjunction with the plan.

(5) *Savings associations with less than satisfactory ratings.* A savings association that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The savings association shall update the description quarterly.

(c) *Location of public information.* A savings association shall make available to the public for inspection upon request and at no cost the information required in this section as follows:

(1) At the main office and, if an interstate savings association, at one branch office in each state, all information in the public file; and

(2) At each branch:

(i) A copy of the public section of the savings association's most recent CRA Performance Evaluation and a list of services provided by the branch; and

(ii) Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

(d) *Copies.* Upon request, a savings association shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The savings association may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

(e) *Updating.* Except as otherwise provided in this section, a savings association shall ensure that the information required by this section is current as of April 1 of each year.

§ 563e.44 Public notice by savings associations.

A savings association shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in Appendix B of this part. Only a branch of a savings association having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a savings association that is an affiliate of a holding company shall include the last two sentences of the notices.

§ 563e.45 Publication of planned examination schedule.

The OTS publishes at least 30 days in advance of the beginning of each calendar quarter a list of savings associations scheduled for CRA examinations in that quarter.

Subpart D—Transition Rules

§ 563e.51 Transition rules.

(a) *Effective date.* Sections of this part become applicable over a period of time in accordance with the schedule set forth in paragraph (c) of this section.

(b) *Data collection and reporting; strategic plan; performance tests and standards*—(1) *Data collection and reporting.* (i) On January 1, 1996, the data collection requirements set forth in § 563e.42 (except § 563e.42(b) and (g)) become applicable.

(ii) On January 1, 1997, the data reporting requirements set forth in § 563e.42(b) and (g) become applicable.

(2) *Small savings associations.* Beginning January 1, 1996, the OTS evaluates savings associations that qualify for the small savings association performance standards described in § 563e.26 under that section.

(3) *Strategic plan.* Beginning January 1, 1996, a savings association that elects to be evaluated under an approved strategic plan pursuant to § 563e.27 may submit its strategic plan to the OTS for approval.

(4) *Other performance tests.* (i) Beginning January 1, 1996, a savings association may elect to be evaluated under the pertinent revised performance tests described in §§ 563e.22, 563e.23, 563e.24, and 563e.25, if the savings association provides the necessary data to permit evaluation.

(ii) Beginning July 1, 1997, the OTS evaluates all savings associations under the pertinent revised performance tests.

(c) *Schedule.* (1) On July 1, 1995, §§ 563e.11, 563e.12, 563e.29, and 563e.51 become applicable, and §§ 563e.1, 563e.2, and 563e.8 expire.

(2) On January 1, 1996, § 563e.41 and the pertinent provisions of Subpart B of this part will apply to savings associations that elect to be evaluated under §§ 563e.22 through 563e.25, savings associations that submit for approval strategic plans under § 563e.27, and savings associations that qualify for the small savings association performance standards described in § 563e.26.

(3) On January 1, 1996, §§ 563e.42 (except § 563e.42(b) and (g)) and 563e.45 become applicable.

(4) On January 1, 1997, §§ 563e.41 and 563e.42(b) and (g) become applicable.

(5) On July 1, 1997, §§ 563e.21 through 563e.28, 563e.43, and 563e.44 become applicable, and §§ 563e.3 through 563e.7, and 563e.51 expire.

Appendix A to Part 563e—Ratings

(a) *Ratings in general.* (1) In assigning a rating, the OTS evaluates a savings association's performance under the applicable performance criteria in this part, in accordance with § 563e.21 and § 563e.28, which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A savings association's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The savings association's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Savings associations evaluated under the lending, investment, and service tests.* (1) *Lending performance rating.* The OTS assigns each savings association's lending performance one of the five following ratings.

(i) *Outstanding.* The OTS rates a savings association's lending performance "outstanding" if, in general, it demonstrates:

(A) Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A substantial majority of its loans are made in its assessment area(s);

(C) An excellent geographic distribution of loans in its assessment area(s);

(D) An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the savings association;

(E) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(ii) *High satisfactory.* The OTS rates a savings association's lending performance "high satisfactory" if, in general, it demonstrates:

(A) Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A high percentage of its loans are made in its assessment area(s);

(C) A good geographic distribution of loans in its assessment area(s);

(D) A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the savings association;

(E) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The OTS rates a savings association's lending performance "low satisfactory" if, in general, it demonstrates:

(A) Adequate responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) An adequate percentage of its loans are made in its assessment area(s);

(C) An adequate geographic distribution of loans in its assessment area(s);

(D) An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the savings association;

(E) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The OTS rates a savings association's lending performance "needs to improve" if, in general, it demonstrates:

(A) Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A small percentage of its loans are made in its assessment area(s);

(C) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the savings association;

(E) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The OTS rates a savings association's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A very small percentage of its loans are made in its assessment area(s);

(C) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the savings association;

(E) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;

(F) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made few, if any, community development loans.

(2) *Investment performance rating.* The OTS assigns each savings association's investment performance one of the five following ratings.

(i) *Outstanding.* The OTS rates a savings association's investment performance "outstanding" if, in general, it demonstrates:

(A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) Extensive use of innovative or complex qualified investments; and

(C) Excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The OTS rates a savings association's investment performance "high satisfactory" if, in general, it demonstrates:

(A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) Significant use of innovative or complex qualified investments; and

(C) Good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The OTS rates a savings association's investment performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) Occasional use of innovative or complex qualified investments; and

(C) Adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The OTS rates a savings association's investment performance "needs to improve" if, in general, it demonstrates:

(A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) Rare use of innovative or complex qualified investments; and

(C) Poor responsiveness to credit and community development needs.

VOL 60 ISS 86 MY 4 1995 UMI

(v) *Substantial noncompliance.* The OTS rates a savings association's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;

(B) No use of innovative or complex qualified investments; and

(C) Very poor responsiveness to credit and community development needs.

(3) *Service performance rating.* The OTS assigns each savings association's service performance one of the five following ratings.

(i) *Outstanding.* The OTS rates a savings association's service performance "outstanding" if, in general, the savings association demonstrates:

(A) Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It is a leader in providing community development services.

(ii) *High satisfactory.* The OTS rates a savings association's service performance "high satisfactory" if, in general, the savings association demonstrates:

(A) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides a relatively high level of community development services.

(iii) *Low satisfactory.* The OTS rates a savings association's service performance "low satisfactory" if, in general, the savings association demonstrates:

(A) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides an adequate level of community development services.

(iv) *Needs to improve.* The OTS rates a savings association's service performance "needs to improve" if, in general, the savings association demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or to low- or moderate-income individuals; and

(D) It provides a limited level of community development services.

(v) *Substantial noncompliance.* The OTS rates a savings association's service performance as being in "substantial noncompliance" if, in general, the savings association demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides few, if any, community development services.

(c) *Wholesale or limited purpose savings associations.* The OTS assigns each wholesale or limited purpose savings association's community development performance one of the four following ratings.

(1) *Outstanding.* The OTS rates a wholesale or limited purpose savings association's community development performance "outstanding" if, in general, it demonstrates:

(i) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The OTS rates a wholesale or limited purpose savings association's community development performance "satisfactory" if, in general, it demonstrates:

(i) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The OTS rates a wholesale or limited purpose savings association's community development performance as "needs to improve" if, in general, it demonstrates:

(i) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The OTS rates a wholesale or limited purpose savings association's community development performance in "substantial noncompliance" if, in general, it demonstrates:

(i) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) No use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Savings associations evaluated under the small savings association performance standards.* The OTS rates the performance of each savings association evaluated under the small savings association performance standards as follows:

(1) *Eligibility for a satisfactory rating.* The OTS rates a savings association's performance "satisfactory" if, in general, the savings association demonstrates:

(i) A reasonable loan-to-deposit ratio (considering seasonal variations) given the savings association's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(ii) A majority of its loans and, as appropriate, other lending-related activities are in its assessment area(s);

(iii) A distribution of loans to and, as appropriate, other lending related-activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the savings association's assessment area(s);

(iv) A record of taking appropriate action, as warranted, in response to written complaints, if any, about the savings association's performance in helping to meet the credit needs of its assessment area(s); and

(v) A reasonable geographic distribution of loans given the savings association's assessment area(s).

(2) *Eligibility for an outstanding rating.* A savings association that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a savings association's performance is "outstanding," the OTS considers the extent to which the savings association exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(3) *Needs to improve or substantial noncompliance ratings.* A savings association also may receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(e) *Strategic plan assessment and rating.*

(1) *Satisfactory goals.* The OTS approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the savings association's assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the OTS will approve those goals as "outstanding."

(3) *Rating.* The OTS assesses the performance of a savings association operating under an approved plan to determine if the savings association has met its plan goals:

(i) If the savings association substantially achieves its plan goals for a satisfactory rating, the OTS will rate the savings association's performance under the plan as "satisfactory."

(ii) If the savings association exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the OTS will rate the savings association's performance under the plan as "outstanding."

(iii) If the savings association fails to meet substantially its plan goals for a satisfactory rating, the OTS will rate the savings association as either "needs to improve" or "substantial noncompliance," depending on the extent to which it falls short of its plan goals, unless the savings association elected in its plan to be rated otherwise, as provided in § 25.27(f)(4).

Appendix B to Part 563e—CRA Notice

(a) *Notice for main offices and, if an interstate savings association, one branch office in each state.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Office of Thrift Supervision (OTS) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The OTS also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the OTS; and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the OTS publishes a nationwide list of the savings associations that are scheduled for CRA examination in that quarter. This list is available from the Regional Director (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at savings association) and OTS (address). Your letter, together with any response by us, will be considered by the OTS in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Regional Director. You may also request from the Regional Director an announcement of our applications covered by the CRA filed with the OTS. We are an affiliate of (name of holding company), a savings and loan holding company. You may request from the Regional Director an announcement of applications covered by the CRA filed by savings and loan holding companies.

(b) *Notice for branch offices.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Office of Thrift Supervision (OTS) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The OTS also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the OTS, and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) A map showing the assessment area containing this branch, which is the area in which the OTS evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire savings association is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the OTS publishes a nationwide list of the savings associations that are scheduled for CRA examination in that quarter. This list is available from the Regional Director (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at savings association) and the Regional Director (address). Your letter, together with any response by us, will be considered by the OTS in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Regional Director. You may also request from the Regional Director an announcement of our applications covered by the CRA filed with the OTS. We are an affiliate of (name of holding company), a savings and loan holding company. You may request from the Regional Director an announcement of applications covered by the CRA filed by savings and loan holding companies.

§§ 563e.1, 563e.2, and 563e.8 [Removed]

3. Sections 563e.1; 563e.2, and 563e.8 are removed effective July 1, 1995.

§§ 563e.3, 563e.4, 563e.5, 563e.6, and 563e.7 and Subpart D [Removed]

4. Sections 563e.3, 563e.4, 563e.5, 563e.6 and 563e.7, and subpart D, consisting of 563e.51 are removed effective July 1, 1997.

Dated: April 19, 1995.

By the Office of Thrift Supervision.

Jonathan L Fiechter,

Acting Director.

[FR Doc. 95–10503 Filed 5–3–95; 8:45 am]

BILLING CODES 4810–33–P, 6210–01–P, 6714–01–P, 6720–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–0848]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule to amend Regulation C (Home Mortgage Disclosure) and the instructions that financial institutions

VOL
60
ISS
86
MY
4
1995
UMI

must use to comply with the annual reporting requirements under the regulation. The amendments conform Regulation C to reflect revisions adopted by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision to their regulations implementing the Community Reinvestment Act (CRA). Under the joint CRA rule (published elsewhere in today's **Federal Register**), banks or savings associations that report data about their home mortgage lending pursuant to the Home Mortgage Disclosure Act (HMDA)—and that have assets of $250 million or more, or that are subsidiaries of a holding company with total banking and thrift assets of $1 billion or more—will collect and report geographic information on loans and loan applications relating to property located outside the Metropolitan Statistical Areas (MSAs) in which the institution has a home or branch office, or outside any MSA. Currently, geographic identification is required only within MSAs where these lenders have a home or branch office. Data will be collected and reported in accordance with the instructions in Regulation C. The agencies believe that these data will provide geographic detail on home mortgage lending that will facilitate more complete CRA assessments for institutions that do not qualify as small banks or thrifts.

DATES: This final rule is effective May 1, 1995. Compliance is mandatory for loan and application data collected beginning January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jane Jensen Gell or W. Kurt Schumacher, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or (202) 452–3667. For the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

I. Background

The Board's Regulation C (12 CFR Part 203) implements the Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801 *et seq*). HMDA requires most mortgage lenders located in metropolitan areas to collect data about their housing-related lending activity. Annually, lenders must report that data to their federal supervisory agencies and disclose the data to the public. The reports and disclosures cover loan originations, applications that do not result in originations (for example, applications that are denied or withdrawn), and loan purchases. Information reported includes the location of the property to which the loan or application relates; the race or national origin, gender, and gross annual income of the borrower or applicant; and the type of purchaser for loans sold in the secondary market.

II. Summary of Amendment

In October 1994 (59 FR 51232, October 7, 1994), the federal financial regulatory agencies proposed amendments to their CRA regulations requiring banks or savings associations that report data about their home mortgage lending pursuant to HMDA—and that have assets of $250 million or more, or that are subsidiaries of a holding company with total banking and thrift assets of $250 million or more—to collect and report geographic information on loans and applications relating to property located in metropolitan areas whether or not the institution has a home or branch office there. They also would report geographic information for property located outside any MSA. (This proposal did not affect the current exemption in § 203.3 of Regulation C for banks and savings associations; institutions whose assets are $10 million or less remain exempt.) Currently, lenders have the option of collecting this information but are not required to do so. The agencies believed that these data would provide geographic detail on home mortgage lending that would facilitate more complete CRA assessments for institutions that do not qualify as small banks or thrifts.

Commenters were divided on the proposal. Several commenters expressed concern about the administrative burden and costs of complying with the expanded reporting requirements. Many of those commenters asserted that comprehensive, accurate geographic information often is difficult to obtain. Other commenters indicated that the regulatory burden of the expanded reporting requirements would not be significant and noted that the additional data would facilitate a more precise and quantifiable CRA assessment process. Several commenters believed that it would be difficult to comply with the proposed amendment by July 1995 and that half-year data would be of limited usefulness. These commenters suggested that expanded data collection requirements should go into effect on January 1, 1996. A number of commenters addressed the reporting exemption for small banks, with some suggesting that assets should be measured at the level of the financial institution, not the bank holding company.

The Board believes that the expanded reporting requirements will provide information about lenders' overall mortgage lending activity that will assist in developing a more accurate CRA assessment. The final amendments address concerns expressed by commenters. As required by agency regulations implementing CRA, bank and savings associations that are subsidiaries of a holding company with total banking and thrift assets of $1 billion or more are covered by the reporting rules; the proposal would have covered such subsidiaries of a holding company with total assets of $250 million or more. Institutions must collect these data if the bank or savings association had assets of $250 million or more (or are subsidiaries of a holding company with total banking and thrift assets of $1 billion or more) for the prior two consecutive years (as of December 31). The data collection requirements go into effect for calendar year 1996, with institutions required to report the data in 1997.

The Board believes that the benefits of this additional information outweigh any additional compliance burdens. Based on the comments received and further analysis, the Board is adopting final amendments to Regulation C. Set forth below is a discussion of the final rule.

Section 203.4—Compilation of Loan Data

Paragraph (e)—Data Reporting Under CRA

The final rule adds a new paragraph to implement revisions to the agencies' CRA regulations. Under the joint CRA rule, banks or savings associations that report data about their home mortgage lending pursuant to HMDA—and have assets of $250 million or more, or are subsidiaries of a holding company with total banking and thrift assets of $1 billion or more—will collect and report geographic information for all loans and applications, not just for loans and applications relating to property in MSAs where the institution has a home or branch office. The requirement also applies to property located outside any MSA. The agencies believe that incorporating these reporting requirements in Regulation C will facilitate compliance for lenders.

Appendix A—Form and Instructions for Completion of HMDA Loan/Application Register

V. Instructions for Completion of Loan/Application Register

C. Property Location

The Board is adding a new paragraph to conform Regulation C to the CRA reporting requirements for banks and savings associations with assets of $250 million or more and banks and savings associations that are subsidiaries of a holding company with total banking and thrift assets of $1 billion or more.

III. Regulatory Flexibility Analysis

The Board's Office of the Secretary has prepared an economic impact analysis of the amendments to Regulation C. A copy of the analysis may be obtained from Publications Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or by telephone at (202) 452–3245.

IV. Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35; 5 CFR 1320.13), the amended information collection has been reviewed by the Board under the authority delegated to the Board by the Office of Management and Budget after consideration of comments received during the public comment period.

The collection of information in this rule is in 12 CFR 203.4. This additional information will provide geographic detail on home mortgage lending that will facilitate more complete CRA assessments for institutions that do not qualify as small banks or thrifts.

The estimated annual burden per respondent varies from 10 to 10,000 hours, depending on individual circumstances, with an estimated average of 200 hours. The revision is expected to affect about 5 percent of the loans reported by large state members banks, adding approximately 5 minutes, on average, to the time required to complete the report. There will be an estimated 507 state member bank reporters, averaging 202 hours and an estimated 84 mortgage banking subsidiaries, averaging 160 hours.

List of Subjects in 12 CFR Part 203

Banks, banking, Consumer protection, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 203 to read as set forth below:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. Section 203.4 is amended by adding a new paragraph (e) to read as follows:

§ 203.4 Compilation of loan data.

* * * * *

(e) *Data reporting under CRA for banks and savings associations with total assets of $250 million or more and banks and savings associations that are subsidiaries of a holding company whose total banking and thrift assets are $1 billion or more.* As required by agency regulations that implement the Community Reinvestment Act, banks and savings associations that had total assets of $250 million or more (or are subsidiaries of a holding company with total banking and thrift assets of $1 billion or more) as of December 31 for each of the immediately preceding two years, shall also collect the location of property located outside the MSAs in which the institution has a home or branch office, or outside any MSAs.

3. Appendix A to Part 203 is amended by revising the introductory text of paragraph V.C. and by adding a new paragraph V.C.7. to read as follows:

Appendix A to Part 203—Form and Instructions for Completion of HMDA Loan/Application Register

* * * * *

V. * * *

C. Property Location

In these columns enter the applicable codes for the MSA, state, county, and census tract for the property to which a loan relates. For home purchase loans secured by one dwelling, but made for the purpose of purchasing another dwelling, report the property location for the property in which the security interest is to be taken. If the home purchase loan is secured by more than one property, report the location data for the property being purchased. (See paragraphs 5., 6., and 7. of paragraph V.C. of this appendix for treatment of loans on property outside the MSAs in which you have offices.)

* * * * *

7. Data Reporting Under CRA for Banks and Savings Associations With Total Assets of $250 Million or More and Banks and Savings Associations That Are Subsidiaries of a Holding Company Whose Total Banking and Thrift Assets Are $1 Billion or More

If you are a bank or savings association with total assets of $250 million or more as of December 31 for each of the immediately preceding two years, you must also enter the location of property located outside the MSAs in which you have a home or branch office, or outside any MSA. You must also enter this information if you are a bank or savings association that is a subsidiary of a holding company with total banking and thrift assets of $1 billion or more as of December 31 for each of the immediately preceding two years.

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 24, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–10475 Filed 5–3–95; 8:45 am]

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VOL
60

ISS
86

MY
4

1995

UMI

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Thursday
May 4, 1995

Part IV

Environmental Protection Agency

40 CFR Part 131

Stay of Federal Water Quality Criteria for Metals; Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance—Revision of Metals Criteria; Final Rules

VOL 60 ISS 86 MY 4 1995 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–5196–2]

Stay of Federal Water Quality Criteria for Metals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Administrative stay.

SUMMARY: In December 1992, EPA promulgated water quality criteria for toxic pollutants in order to protect human health and aquatic life in fourteen states that had not adopted the necessary toxics criteria as required by the Clean Water Act. Some of the criteria are for protection of aquatic life from the effects of metals in the water. After EPA promulgated the rule, EPA issued a new policy for setting water quality criteria for metals. In order to allow permitting authorities in the states covered by the rule the flexibility to follow EPA's new policy, the Agency is staying the effectiveness of specific metals criteria promulgated in the rule. The stay will remain in effect until EPA promulgates new metals criteria for the states covered by the rule.

EFFECTIVE DATE: This stay is effective April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Tim Kasten, Office of Science and Technology, Office of Water (4304), USEPA, 401 M Street SW., Washington, D.C. 20460, (202) 260–5994.

SUPPLEMENTARY INFORMATION:

Background

In the National Toxics Rule ("NTR"), EPA promulgated numeric water quality criteria for toxic pollutants for fourteen states and jurisdictions that had not adopted sufficient criteria ("NTR states"). 57 FR 60848 (December 22, 1992). That action brought those states into compliance with section 303(c)(2)(B) of the Clean Water Act ("CWA") which requires states to adopt criteria for all toxic pollutants the discharge or presence of which could interfere with state designated uses of waters, and for which EPA had published criteria.

Among the criteria that EPA promulgated for the NTR states were aquatic life water quality criteria for metals ("metals criteria"). Aquatic life water quality criteria are estimates of the highest concentration of a substance that may be present in water while maintaining the protection of aquatic life from acute or chronic effects. A central issue in establishing and implementing metals criteria is how to accurately determine the fraction of the total metal that is biologically available and toxic.

At the time that EPA promulgated the NTR, the Agency's policy was to express metals criteria using total recoverable metal concentrations ("total recoverable metal"). While metals criteria could be implemented by measuring either total recoverable metal or dissolved metal, total recoverable metal measurement, being more conservative, provided a greater level of protection than dissolved metal measurement. Because the NTR was to cover a substantial number of water bodies, EPA chose the simplest, most protective approach, and the one reflected in its criteria documents to implement the metals criteria, and promulgated metals criteria based on total recoverable metal.

After promulgation of the NTR, the Agency continued to address the issue of how best to express metals criteria. EPA held a meeting with invited experts in January 1993 in Annapolis, Maryland to further elicit comment on the use of total recoverable metal versus dissolved metal in developing national metals criteria. The Agency solicited comments on the recommendations made by presenters at the meeting in the **Federal Register** on July 9, 1993 (58 FR 32131). Subsequently, EPA determined that dissolved metal approximates the biologically available fraction of waterborne metals for aquatic organisms better than total recoverable metal. On October 1, 1993, the Agency issued guidance on the interpretation and implementation of metals criteria providing that "[i]t is now the policy of the Office of Water that the use of dissolved metal to set and measure compliance with water quality standards is the recommended approach * * *". *Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria.*

A number of parties brought lawsuits challenging the NTR metals criteria. The Plaintiffs in those lawsuits wanted the permitting authorities in the NTR states to use criteria based on dissolved metal. EPA has concluded that it is in the public interest to revise the metals criteria promulgated in the NTR to reflect the new metals policy. In settlement of the litigation, EPA has agreed to stay the numeric aquatic life water quality criteria (expressed as total recoverable metal) for: arsenic, cadmium, chromium (III), chromium (VI), copper, lead, mercury (acute only), nickel, selenium (saltwater only), silver, and zinc. This stay will be in effect until EPA takes action to amend the NTR by promulgating new metals criteria based on dissolved metal.

Effective Date of the Stay

Pursuant to section 705 of the Administrative Procedure Act (APA) (5 U.S.C. 705), "when an agency finds that justice so requires, it may postpone the effective date of actions taken by it, pending judicial review." EPA has determined that this stay is necessary pending resolution of the litigation. Consequently, EPA finds issuance of this stay is in the interests of justice.

In addition, under section 553 of the APA (5 U.S.C. 553), when an Agency finds good cause to exist, it may issue a rule without first providing notice and comment and make the rule immediately effective. EPA believes that it has good cause both to issue this stay without notice and comment and to make the stay immediately effective.

A stay of the metals criteria is central to the settlement of the pending litigation, and it is in the public interest to avoid costly and potentially protracted litigation by issuing a stay. Further, the stay relieves a burden on the regulated community. The stay will avoid potential harm to dischargers in the NTR states for which National Pollutant Discharge Elimination System permits are being issued pursuant to section 402 of the Clean Water Act by allowing permitting authorities to establish permit limits based on dissolved metal concentrations consistent with current Agency policy. It is not in the public interest to require permitting authorities in the NTR states to impose effluent limitations based on total recoverable metal ambient water quality criteria which EPA now considers to be more stringent than may be necessary to protect designated uses.

EPA considers staying the metals criteria to be in the public interest as noted above, and therefore good cause exists to issue the stay without notice and comment and to make the stay immediately effective.

Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866 (56 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis and review by the Office of Management and Budget). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this order. Pursuant to the terms of this order, EPA has determined that this stay would not be "significant".

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is certifying that a stay of these criteria would not have a significant impact on a substantial number of small businesses.

C. Paperwork Reduction Act

There are no information collection requirements associated with this administrative stay covered under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 131

Environmental protection, Water pollution control, Water quality standards, Toxic pollutants.

Dated: April 14, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 131 of title 40 of the Code of Federal Regulations is amended as follows:

PART 131—[AMENDED]

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 et seq.

2. Part 131 is amended by adding at the end of § 131.36(b)(1) the following "Note to paragraph (b)(1)":

§ 131.36 Toxics criteria for those States not complying with Clean Water Act Section 303(c)(2)(B).

* * * * *

(b)(1) * * *

Note to paragraph (b)(1): On April 14, 1995, the Environmental Protection Agency issued a stay of certain criteria in paragraph (b)(1) of this section as follows: the criteria in columns B and C for arsenic, cadmium, chromium (VI), copper, lead, nickel, silver, and zinc; the criteria in B1 and C1 for mercury; the criteria in column B for chromium (III); and the criteria in column C for selenium. The stay remains in effect until further notice.

[FR Doc. 95–10147 Filed 5–3–95; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[WH–FRL–5196–1]

Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance—Revision of Metals Criteria

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule, notice of data availability and request for comments.

SUMMARY: EPA is promulgating new aquatic life metals criteria for nine States, Puerto Rico, and the District of Columbia, that are subject to EPA's 1992 National Toxics Rule ("NTR"). These new metals criteria reflect EPA's current policy for setting water quality criteria for metals. This interim final rule establishes metals criteria that are protective of aquatic life and approximate, better than the 1992 criteria, the biologically available fraction of water borne metals to aquatic organisms. Use of the new metals criteria will allow permitting authorities in the nine States, Puerto Rico and the District of Columbia, to establish effluent limitations based on the new metals criteria rather than the 1992 criteria which EPA now considers to be more stringent than may be necessary to protect designated uses for aquatic life. The interim final rule will be in effect while EPA considers public comments and develops a final rule. This rule terminates the Administrative Stay published elsewhere in this issue of the **Federal Register**.

DATES: This interim final rule is effective April 15, 1995. Comments on the interim final rule and other data noticed in this preamble will be accepted until July 3, 1995.

ADDRESSES: An original and 3 copies of all comments and references on the interim final rule and data should be addressed to: Revision of the National Toxics Rule-Dissolved Metals Criteria, Comment Clerk; Water Docket (MC–4101), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The administrative record for this rulemaking is available for review and copying at the Environmental Protection Agency, Office of Water Docket, 401 M Street SW, Washington DC, 20460, Room L102, on weekdays during EPA's normal business hours of 8 a.m. until 4:30 p.m. For access to the Docket materials, call (202) 260–3027 between 9:00a.m.–3:30p.m., for an appointment. A reasonable fee will be charged for photocopies.

FOR FURTHER INFORMATION CONTACT: Timothy J. Kasten, telephone 202–260–5994.

SUPPLEMENTARY INFORMATION:

A. General Background

1. Regulatory Background

In the NTR, EPA promulgated numeric water quality criteria for 12 States, Puerto Rico, and the District of Columbia, that failed to comply fully with Section 303(c)(2)(B) of the Clean Water Act. (57 FR 60848, December 22, 1992 codified in the Code of Federal Regulations at 40 CFR 131.36).[1] Those criteria became the legally enforceable water quality standards in the named States, Puerto Rico, and the District of Columbia, for all purposes and programs under the Clean Water Act on February 5, 1993. Included among the water quality criteria promulgated in the NTR were numeric criteria for the protection of aquatic life for 11 metals: arsenic, cadmium, chromium (III), chromium (VI), copper, lead, mercury, nickel, selenium, silver, and zinc.

The Agency received extensive public comment during the development of the NTR regarding the most appropriate approach for expressing the metals criteria. The principal issue was the correlation between metals that are measured and metals that are bioavailable and toxic to aquatic life.

2. Policy on Aquatic Life Metals Criteria

At the time of the NTR promulgation, Agency policy was to express metals criteria, as recommended in its Section 304(a) criteria documents, as total recoverable metal measurements. Agency guidance prior to the NTR promulgation indicated that metals criteria may be expressed either as total recoverable metal or dissolved metal.[2]

[1] In the NTR, EPA determined compliance with Section 303(c)(2)(B) based on the status of State compliance as of 1991, the date of the proposed rulemaking, and then took into account EPA approval actions between the proposed and final rulemaking for those States included in the proposed rule. EPA acknowledges that, due to subsequent State actions to delete or otherwise modify toxics criteria (*e.g.*, see Table 1, 57 FR 60856, December 22, 1992), all States and Territories currently may not be in full compliance with Section 303(c)(2)(B).

[2] Interim Guidance on Interpretation and Implementation of Aquatic Life Criteria for Metals,

Continued

VOL 60 ISS 86 MY 4 1995 UMI

Because the NTR was to cover a substantial number of water bodies of varying water quality, EPA selected what it considered the simplest, more conservative approach and the approach reflected in its criteria documents, to implement the metals criteria, namely the total recoverable method. Accordingly, the metals criteria promulgated in the NTR were expressed as total recoverable metals, although EPA also provided for site-specific criteria development.[3]

Thereafter, EPA continued to work with States and other interested parties on the issue of metals bioavailability and toxicity. EPA held a workshop of invited experts on this issue; the results of the consultations were published at 58 FR 32131, June 8, 1993. As a result of these consultations, the Agency issued a policy memorandum on October 1, 1993, entitled: *Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria* ("Metals Policy"). (The complete October 1, 1993 memorandum can be obtained from EPA's Office of Water Resource Center (202) 260–7786 or the Office of Water Docket.) The Metals Policy states:

> It is now the policy of the Office of Water that the use of dissolved metal to set and measure compliance with water quality standards is the recommended approach, because dissolved metal more closely approximates the bioavailable fraction of metal in the water column than does total recoverable metal.
>
> It further states:
>
> Until the scientific uncertainties are better resolved, a range of different risk management decisions can be justified. EPA recommends that State water quality standards be based on dissolved metal. EPA will also approve a State risk management decision to adopt standards based on total recoverable metal, if those standards are otherwise approvable as a matter of law. (See Section 510, Federal Water Pollution Control Act, Public Law 100–4, 33 U.S.C. 466 et seq.)

The adoption of the Metals Policy did not change the Agency's position that the existing total recoverable criteria published under Section 304(a) of the Clean Water Act continue to be scientifically defensible. EPA developed the total recoverable criteria using high-quality analytical data and are still scientifically defensible criteria. When developing and adopting its own standards, a State, in making its risk management decision, may wish to consider sediment, food chain effects and other fate-related issues and decide to adopt total recoverable or dissolved metals criteria.

In general, EPA continues to conduct research on metals toxicity to further refine the criteria and their implementation. However, the aim of both the Clean Water Act and EPA policy is that a more effective way of incorporating new science into the water quality program is for the States to promulgate their own standards and implementation policies. The States can then make appropriate updates, rather than relying on Federal promulgations such as today's rule.

3. Litigation and Settlement of NTR Metals Issues

A number of parties brought lawsuits challenging the NTR metals criteria. See *American Forest and Paper Ass'n, Inc. et al.* v. *EPA*, Consolidated case No. 93–0694 RMU (D.D.C.) The Plaintiffs in those lawsuits wanted the permitting authorities in the NTR States to use criteria based on dissolved metal rather than total recoverable. After careful consideration of the issue, EPA concluded that it was in the public interest to revise the metals criteria promulgated in the NTR to reflect the Office of Water's new metals policy. On February 15, 1995, EPA and the Plaintiffs filed a partial settlement agreement with the court. Pursuant to the terms of the partial settlement agreement, EPA agreed to issue an administrative stay of the numeric aquatic life water quality criteria (expressed as total recoverable metal) for: arsenic, cadmium, chromium (III), chromium (VI), copper, lead, mercury (acute only), nickel, selenium (saltwater only), silver, and zinc. That stay is published in a separate notice in today's **Federal Register**. The stay is intended to be in effect only until EPA takes action to amend the NTR by promulgating new metals criteria based on dissolved metal. With today's interim final rule, EPA is promulgating new metals criteria for those metals listed in the stay based on dissolved metal and therefore this action will supersede the administrative stay.

B. Today's Interim Final Rule

EPA's action today revises the NTR that established numeric aquatic life metals criteria for 9 States, Puerto Rico and the District of Columbia (Table 1). (Of the 12 NTR States, aquatic life metals criteria were only promulgated for nine.) The numeric criteria in today's rule reflect the Office of Water's current policy with respect to metals. This action promulgates dissolved metals criteria for those total recoverable metals criteria subject to the Agency's administrative stay.

TABLE 1.—STATES SUBJECT TO THE REVISED METALS CRITERIA [1]

Alaska
Arkansas
California
Idaho
Kansas
Michigan
New Jersey
Vermont
Washington
District of Columbia
Puerto Rico

[1] Today's interim final rule may have differing applicability for each of the States in this table depending on the State's individual compliance with Section 303(c)(2)(B) of the Clean Water Act. See 40 CFR 131.36(d) for State applicability.

C. Conversion Factors: Total Recoverable to Dissolved Metal

Because EPA's Section 304(a) criteria are expressed as total recoverable metal, to express the criteria as dissolved, application of a conversion factor is necessary to account for the particulate metal present in the laboratory toxicity tests used to develop the total recoverable criteria. Initially, EPA included a set of recommended freshwater conversion factors with the Metals Policy. Based on additional laboratory evaluations that simulated the original toxicity tests, EPA has refined the procedures used to develop freshwater conversion factors for aquatic life criteria. EPA made new conversion factors available for public comment in the context of EPA's Proposed Guidance for the Great Lakes System on August 30, 1994, at 59 FR 44678.

EPA has also conducted saltwater laboratory simulation tests for the development of conversion factors for saltwater metals criteria. The saltwater simulation tests were conducted using the same methodology as the freshwater tests with minor modifications, necessary to account for saltwater. The saltwater test results are being made available with today's rule. The conversion factors in this rule and other technical reports referenced herein, supersede the conversion factors presented in Attachment #2 of the Metals Policy.

Total recoverable to dissolved metal conversion factors were attached to the partial settlement agreement in the form of a draft guidance entitled, *Guidance to States Subject to the National Toxics Rule For Setting NPDES Limits During the Stay of the Metals Criteria.* (The partial settlement agreement is available from the Water Docket.) The draft guidance used data that were available through December 21, 1994. The conversion factors presented in today's rule reflect the best science available to EPA at the time of promulgation and contain minor modifications from those in the attachment to the February 15 partial settlement agreement. For each metal specific conversion factor, the changes between the draft guidance and today's rule are less than 10%. EPA has determined these changes to be minor.

1. Freshwater Criteria Conversion Factors

The final freshwater conversion factors used in today's rule are contained in: "Derivation of Conversion Factors for the Calculation of Dissolved Freshwater Aquatic Life Criteria for Metals" (U.S. EPA, 1995), available from the Water Docket and are presented in Table 2 below. This study did not include laboratory simulation tests for mercury or silver, therefore, the freshwater conversion factors for mercury and silver used today are from the Metals Policy.

The conversion factors for most freshwater metals were established as constant values. For cadmium and lead however, EPA found that water hardness mediated the conversion factor and should be taken into account when converting total recoverable cadmium and lead criteria to dissolved. Table 2 presents the hardness-dependent conversion factors for cadmium and lead. The hardness-dependent conversion factor for lead was included in the August 30, 1994 Notice of Availability (59 FR 44678). In today's action, EPA is specifically requesting comment on the use of hardness-dependent conversion factor for cadmium.

TABLE 2.—FRESHWATER CRITERIA CONVERSION FACTORS FOR DISSOLVED METALS

Metal	Conversion factors [a]	
	Acute	Chronic
Arsenic	1.000	1.000
Cadmium [b]	0.944	0.909
Chromium (III)	0.316	0.860
Chromium(VI)	0.982	0.962
Copper	0.960	0.960
Lead [b]	0.791	0.791
Mercury	[c] 0.85	[d] N/A
Nickel	0.998	0.997
Silver	[c] 0.85	[e] N/A
Zinc	0.978	0.986

[a] The conversion factors are given to three decimal places because they are intermediate values in the calculation of dissolved criteria.

[b] Conversion factors are hardness-dependent. The values shown are with a hardness of 100 mg/L as calcium carbonate ($CaCO_3$). Conversion factors (CF) for any hardness can be calculated using the following equations:

Cadmium
Acute: CF=1.136672-[(ln hardness)(0.041838)]
Chronic: CF=1.101672-[(ln hardness)(0.041838)]
Lead (Acute and Chronic): CF=1.46203-[(ln hardness)(0.145712)]

[c] Conversion factor from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

[d] CCC for mercury cannot be converted to dissolved, because it is based on mercury residues in aquatic organisms rather than toxicity.

[e] Not applicable, EPA has not published final chronic criteria values for silver.

2. Saltwater Criteria Conversion Factors

Acute saltwater conversion factors are being made available through today's rule. The data and the acute criteria conversion factors for saltwater are contained in: "Derivation of Conversion Factors for the Calculation of Dissolved Saltwater Aquatic Life Criteria for Metals" (U.S. EPA 1995). This summary report and its supporting data are available from the Water Docket. Saltwater chronic conversion factors have not been developed separately and therefore are not available for today's rule. Based on close similarities between the freshwater acute and chronic conversion factors, EPA believes that, if calculated, the chronic saltwater conversion factors would be nearly the same as the acute saltwater factors. In the absence of these chronic conversion factors, the saltwater acute conversion factors will apply. The saltwater conversion factors are presented in Table 3 below. Saltwater simulation tests were not completed for mercury or silver, therefore the conversion factors from the Metals Policy will continue to apply.

TABLE 3.—SALTWATER CRITERIA CONVERSION FACTORS FOR DISSOLVED METALS

Metal	Conversion factors [a]
Arsenic	1.000
Cadmium	0.994
Chromium (III)	[d]
Chromium (VI)	0.993
Copper	0.83
Lead	0.951
Mercury	[b c] 0.85
Nickel	0.990
Selenium	0.998
Silver	[b] 0.85
Zinc	0.946

[a] Conversion factors on this table were calculated for acute criteria only. Conversion factors for chronic criteria are not currently available. In the absence of chronic conversion factors saltwater acute conversion factors are used.

[b] Conversion factor from: Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria, October 1, 1993. Factors were expressed to two decimal places.

[c] CCC for mercury cannot be converted to dissolved, because it is based on mercury residues in aquatic organisms rather than toxicity.

[d] No saltwater criteria.

D. Applicability Requirements for Metals Criteria

Through today's action, EPA is also requesting comments on the applicability requirements in 40 CFR 131.36(c) as they apply to the metals criteria. In particular, EPA is requesting comments on § 131.36(c)(4)(i) regarding the calculation of hardness-dependent freshwater metals criteria. Section 131.36(c)(4)(i) describes the minimum and maximum hardness values (25 mg/L and 400 mg/L as $CaCO_3$, respectively) to be used when calculating hardness-dependent freshwater metals criteria. This requirement is not changed by today's interim final rule, however EPA is requesting comment on an alternative approach. Most of the data used to develop these hardness formulas were in the hardness range of 25 mg/L to 400 mg/L as $CaCO_3$. The formulas are therefore most accurate in this range. Using a hardness of 25 mg/L for calculating criteria, when the actual ambient hardness is less than 25 mg/L, could result in criteria that are under-protective of aquatic life. EPA is therefore requesting comments on the use of the actual ambient hardness for calculating criteria when the hardness is below 25 mg/L as $CaCO_3$.

Most freshwaters of the U.S. have an ambient hardness of less than 400 mg/L as $CaCO_3$. Using 400 mg/L to calculate criteria, for waters with an ambient hardness of greater than 400 mg/L, may result in over-protective criteria because at a hardness above 400 mg/L, other confounding factors, which may cause this hardness, can also affect the toxicity. EPA is requesting comment on an approach that would make two options available for calculating metals criteria for waters with a hardness of greater than 400 mg/L as $CaCO_3$: *Option 1*—use 400 mg/L as $CaCO_3$ for the criteria calculation or, *Option 2*—use the actual hardness and require the use of the water-effect ratio to modify the final criteria value to more accurately reflect ambient conditions. (EPA notes that in the NTR States, the use of the water-effect ratio is assigned a value of 1.0, unless otherwise specified by the permitting authority. See 40 CFR 131.36(c)(4)(iii).)

U.S. EPA, May 1992. (Notice of availability published at 57 FR 24041, June 5, 1992.)

[3] See Interim Guidance on the Determination and Use of Water-Effect Ratios for Metals, February 1994, EPA 823–B–94–001.

VOL
60
ISS
86
MY
4
1995
UMI

E. Calculation of Dissolved Metals Criteria

Metals criteria values in 40 CFR 131.36(b)(1), as amended today, are now shown as dissolved metal. These criteria have been calculated in one of two ways. For freshwater metals criteria that are hardness-dependent (denoted by footnote "e" in the matrix), the dissolved metal criteria value must be calculated separately for each hardness using the table at § 131.36(b)(2), as amended today. The hardness-dependent freshwater criteria values presented in the matrix at § 131.36(b)(1) have been calculated using a hardness of 100 mg/L $CaCO_3$ for comparative purposes only. Saltwater metals criteria and freshwater criteria that are not hardness-dependent (criteria denoted by footnote "m" in the matrix) are calculated by taking the total recoverable criteria values (from EPA National Ambient Water Quality Criteria Documents) before rounding, and multiplying them by the appropriate conversion factors from Table 2 or 3 of Section C of this preamble. (The total recoverable criteria values are shown to four figures, where available, because they are intermediate values in the calculation of dissolved metals criteria.) The final dissolved metals criteria values, as they appear in the matrix at § 131.36(b)(1), are rounded to two significant figures. Tables 4a and 4b below, summarize the conversions for saltwater criteria and freshwater criteria that are not hardness-dependent.

EPA notes that if a non-NTR State adopts standards, or an NTR State adopts its own standards (for subsequent withdrawal from the NTR), it may prefer a more conservative approach and adopt total recoverable metals criteria. In doing so, the State may use EPA's total recoverable criteria from Tables 4a and 4b (rounded to two significant figures) or, for hardness-dependent freshwater criteria, omit the conversion factor from the formula presented in § 131.36(b)(2).

Tables 4a and 4b use the following abbreviations and formulas for calculating dissolved metals criteria (CMC and CCC are defined in 40 CFR 131.36(b)(1), footnote d):

CMC—Criterion Maximum Concentration

CCC—Criterion Continuous Concentration

CF—Conversion Factor

Formulas for Calculating Dissolved Metals Criteria:

$CMC_{dissolved} = CMC_{total\ recoverable} \times$ Acute CF

$CCC_{dissolved} = CCC_{total\ recoverable} \times$ Chronic CF

TABLE 4a.—CALCULATION OF FRESHWATER DISSOLVED METALS CRITERIA THAT ARE NOT HARDNESS-DEPENDENT

METAL	Total Recoverable Metals Criteria [1] (µg/L)		Conversion factors [2]		Dissolved metals criteria [3]	
	CMC	CCC	Acute	Chronic	CMC	CCC
Arsenic	359.1	188.9	1.000	1.000	360	190
Chromium(VI)	15.74	10.80	0.982	0.962	15	10
Mercury	2.428	0.0122	0.85	N/A	2.1	N/A

[1] From EPA National Ambient Water Quality Criteria Documents.
[2] From Table 2.
[3] Final dissolved metals criteria have been rounded to two significant figures.

TABLE 4b.—CALCULATION OF SALTWATER DISSOLVED METALS CRITERIA

Metal	Total recoverable metals criteria [1] (µg/L)		Conversion factors [2]		Dissolved metals criteria [3]	
	CMC	CCC	Acute	Chronic	CMC	CCC
Arsenic	68.55	36.05	1.000	1.000	69	36
Cadmium	42.54	9.345	0.994	0.994	42	9.3
Chromium (III)	N/A [4]	N/A [4]	N/A [4]	N/A [4]	N/A [4]	N/A [4]
Chromium (VI)	1079	49.86	0.993	0.993	1100	50
Copper	2.916	2.916	0.83	0.83	2.4	2.4
Lead	217.16	8.468	0.951	0.951	210	8.1
Mercury	2.062	.0250	0.85	N/A [5]	1.8	N/A [5]
Nickel	74.60	8.293	0.990	0.990	74	8.2
Selenium	293.8	70.69	0.998	0.998	290	71
Silver	2.3	N/A [4]	0.85	N/A [4]	1.9	N/A [4]
Zinc	95.10	86.14	0.946	0.946	90	81

[1] From EPA National Ambient Water Quality Criteria Documents.
[2] From Table 3.
[3] Final dissolved metals criteria have been rounded to two significant figures.
[4] Not applicable, national criteria not available.
[5] The CCC for mercury is expressed as total recoverable.

F. Site-Specific Criteria Modifications

EPA has issued guidance (Water Quality Standards Handbook, Second Edition-1993, EPA–823–B–93–002 and update #1, EPA–823–B–94–006, August 1994, at page 3–38 and Appendix L), describing three site-specific criteria development methodologies: recalculation procedure, indicator species procedure (also known as the water-effect ratio (WER)) and resident species procedure. Only the first two of these have been widely used.

In the NTR, EPA identified the WER as the method for optional site-specific criteria development for certain metals. On February 22, 1994, EPA issued *Interim Guidance on the Determination and Use of Water-Effect Ratios for Metals*, EPA 823–B–94–001, now incorporated into the updated Second Edition of the Water Quality Standards Handbook, Appendix L. In accordance with the WER guidance and where application of the WER is deemed appropriate, EPA strongly encourages the application of the WER on a watershed or waterbody basis as opposed to application on a discharger-by-discharger basis. This approach is technically sound, an efficient use of resources, and allowable for permitting authorities under the NTR.

EPA's endorsement of the use of the WER is not affected by today's rule. As noted in the NTR at 57 FR 60879, the WER is a more comprehensive mechanism for addressing bioavailability issues than simply expressing the criteria in terms of dissolved metal. Consequently, expressing the criteria in terms of dissolved metal, as done in today's rule, does not completely eliminate the utility of the WER. This is particularly true for copper, a metal that forms reduced-toxicity complexes with dissolved organic matter.

The *Interim Guidance on Determination and Use of Water-Effect Ratios for Metals*, Appendix D, explains the relationship between WERs for dissolved criteria, and WERs for total recoverable criteria. Dissolved measurements are to be used in the site-specific toxicity testing underlying the WERs for dissolved criteria. Because WERs for dissolved criteria generally are little affected by elevated particulate concentrations, EPA expects those WERs to be somewhat less than WERs for total recoverable criteria in such situations. Nevertheless, after the site-specific ratio of dissolved to total metal has been taken into account, EPA expects a permit limit derived using a WER for a dissolved criterion to be similar to the permit limit that would be derived from the WER for the corresponding total recoverable criterion.

Because WERs for dissolved criteria generally are little affected by particulate concentrations, those WERS also may often exhibit less time variability than WERs for total recoverable criteria. Consequently, WER-adjusted dissolved criteria may have somewhat greater certainty than WER-adjusted total recoverable criteria.

EPA expects the use of WERs for dissolved criteria to provide the same level of protection as the use of WERs for total recoverable criteria in the NTR. However, the increased reliability of the dissolved criteria prior to WER adjustment (compared to the total recoverable criteria unadjusted) will reduce the need for site-specific WER determinations.

G. Technical Guidance

EPA continues to urge the States affected by this rule to adopt their own standards and negate the need for Federal action. Should a State choose to adopt dissolved criteria, EPA recommends use of the Metals Policy, its attachments (as updated herein) and other guidance referenced in this preamble for implementation of dissolved metals criteria. Attachments to the Metals Policy include: guidance on dynamic modeling and translators (Attachment #3), and clean analytical techniques and monitoring (Attachment #4). Additional guidance on clean and ultra-clean techniques is available and under development (see discussion below). EPA will continue to update implementation guidance as needed in the future.

1. Total Maximum Daily Loads (TMDLs) and National Pollutant Discharge Elimination System (NPDES) Permits

EPA's NPDES regulations require that limits for metals in permits be stated as total recoverable in most cases (see 40 CFR § 122.45(c)) except when an effluent guideline specifies the limitation in another form of the metal, the approved analytical methods measure only dissolved metal, or the permit writer expresses a metal's limit in another form (e.g., dissolved, specific valence, or total) when required to carry out provisions of the Clean Water Act. This is because the chemical conditions in ambient waters frequently differ substantially from those in the effluent and there is no assurance that effluent particulate metal would not dissolve after discharge. The NPDES permit regulations do not require that State water quality standards be expressed as total recoverable; rather, the regulations require permit writers to develop permit limits that are expressed in terms of metals concentrations and loadings that are measured using the total recoverable method. Expressing criteria as dissolved metal requires translation between different metal forms in the calculation of the permit limit so that a total recoverable permit limit can be established that will achieve water quality standards. Both the TMDL and NPDES permit use of water quality criteria in NTR States now require the ability to translate between dissolved metal in ambient waters and total recoverable metal in effluents. In addition to the guidance on dynamic modeling and translators attached to the Metals Policy, EPA's *Interim Guidance on the Determination and Use of Water-Effect Ratios for Metals*, February 1994, EPA 823–B–94–001 (pages 116 and 128–130), presents an effluent-specific approach for calculating a total recoverable metal permit limit from a dissolved metal criterion. EPA is expecting to complete additional guidance on translators in 1995.

2. Monitoring

a. Use of Clean Sampling and Analytical Techniques

In assessing waterbodies to determine the potential for toxicity problems due to metals, the quality of the data used is an important issue. Depending on the concentration of metal present, the use of "clean" and "ultra-clean" techniques for sampling and analysis may be critical to accurate data for implementation of aquatic life criteria for metals.

"Clean" techniques refer to those requirements (or practices for sample collection and handling) necessary to produce reliable analytical data in the microgram per liter (µg/L) or part per billion (ppb) range. "Ultra-clean" techniques refer to those requirements or practices necessary to produce reliable analytical data in the nanogram per liter (ng/L) or part per trillion (ppt) range. Because typical concentrations of metals in surface waters and effluents vary from one metal to another, the effect of contamination on the quality of metals monitoring data varies appreciably.

EPA has developed protocols on the use of clean techniques in coordination with the United States Geological Survey (USGS). The guidance, entitled *Method 1669: Sampling Ambient Water for Determination of Trace Metals at EPA Water Quality Criteria Levels* is available from the Office of Water Resource Center as part of the Trace Metals Package. Draft protocols for ultra-clean techniques will be available in late calendar year 1995.

H. Saltwater Copper Criteria

The saltwater copper criteria in today's interim final rule are 2.4 µg/L dissolved copper for both CMC and CCC based on conversion of 2.9 µg/L for both the CMC and CCC from total recoverable to dissolved metal. New data collected from a study for the New York/New Jersey Harbor indicate the potential need to revise the copper criteria document to reflect a change in the saltwater CMC and CCC aquatic life values. A comprehensive literature search was conducted and toxicity test data for seven new species were added to the database for the saltwater copper criteria. EPA believes these new data have national implications and indicate the national criteria may be more accurate at a CMC of 4.8 µg/L dissolved and a CCC of 3.1 µg/L dissolved. In today's rulemaking, EPA is noticing the availability of data to support these

VOL 60 ISS 86 MY 4 1995 UMI

potential changes in the national saltwater copper criteria and solicits comments. The data can be found in the draft document entitled, *Ambient Water Quality Criteria—Copper, Addendum 1995*. This document is available from the Office of Water Resource Center or Water Docket. Based on those comments, the saltwater copper criteria in this interim final rule may be revised in the final rule to reflect these new data.

I. Procedural Requirements

Section 553 of the Administrative Procedure Act provides that when an agency, for good cause, finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, it may first issue a rule without providing notice and an opportunity to comment. EPA has concluded that there is good cause to issue this interim final rule without notice and comment and to make the rule effective immediately.

In 1987, Congress amended the Clean Water Act to provide that States must adopt numeric criteria to control the discharge of toxic pollutants. Before this requirement was enacted, few States had adopted numeric criteria for toxic pollutants and had to rely on "narrative" criteria (*e.g.*, "free from toxics in toxic amounts") to set discharge limits for such pollutants. Congress, expressing concern over the calculation of discharge limitations for toxics without numeric criteria, required States to adopt numeric, pollutant-specific criteria for toxic pollutants (56 FR 58423–58424, Nov. 19, 1991).

Following promulgation of the NTR, EPA continued to evaluate available information on metals. EPA held a public meeting of experts in which a recommendation was made to express the ambient water criteria as dissolved metal. This recommendation and others, were noticed for public comment at 58 FR 32131, June 8, 1993. It is EPA's judgment that aquatic life criteria for metals, when expressed as dissolved metal provide a more accurate measurement of metals bioavailability to organisms in the water column than when expressed as total recoverable metal. Thus, in some situations, the total recoverable metals criteria in the NTR may result in permit limits that are more stringent than if the criteria were expressed in a dissolved form. As a result, in these situations, permitting authorities in the NTR States may be imposing more stringent (and potentially more costly) effluent limitations on their dischargers than will be required to meet the new dissolved metals aquatic life criteria put in place today.

EPA considered the impacts of a stay of the current metals criteria while it undertook a standard rulemaking (*i.e.*, proposed rule followed by a final) to revise the aquatic life metals criteria to express them in a dissolved form. However, during the effective period of the stay (the interim between proposal and final rule), permitting authorities for the NTR States would generally need to use the States' narrative criteria (*e.g.*, free from toxics in toxic amounts) to develop permit limits for the discharge of toxics. Because the Congressional directive is clear that States must have numeric criteria for toxic pollutants, EPA rejected this approach in favor of an interim final rule.

By today's action the Agency upholds the intent of § 303(c)(2)(B) of the Clean Water Act and avoids the need for permitting authorities to rely on narrative criteria to develop permit limits. Further, this interim final rule is a temporary measure. The Agency notes that considerable public comment has already been obtained on the Metals Policy and the specific criteria being issued in this interim final rule. EPA held a meeting with invited experts in January 1993 in Annapolis, Maryland to further elicit comment on the use of dissolved metals for developing national metals criteria. The Agency solicited comments on the recommendations made by presenters at that meeting in the Federal Register on July 9, 1993 (58 FR 32131). The Metals Policy issued in October 1993 has received wide-spread distribution and informal response from many interested parties. In August 1994, EPA issued a **Federal Register** notice indicating that the Agency was considering the use of the Metals Policy to develop metals criteria in the Great Lakes Initiative (59 FR 44678, August 30, 1994) and comments were received on this issue. Today's action has the additional benefit of the comments received from the August 1994 notice on the Great Lakes Initiative.

EPA therefore concludes that public comment on this interim measure is unnecessary because ample comment has already been received on the numeric dissolved metals criteria and additional comment is being solicited and will be considered before a final rule is issued. Further, a public comment process before adopting the new metals criteria is contrary to the public interest because: 1) the current metals criteria place a potentially unnecessary regulatory burden on dischargers in the States covered by this rule, without necessarily providing additional protection to aquatic life in the water column and 2) it is in the public interest for the States to have numeric criteria protective of aquatic life.

Because of the potential adverse effect on public interest noted above, the Agency has determined there is good cause for making this regulation effective immediately.

J. Regulatory Assessment Requirements

1. Unfunded Mandates Reform Act of 1995

Section 201 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, requires each Agency, unless prohibited by law, to assess the effects of Federal regulation on State, local and tribal governments and the private sector under section 202 of the Act. EPA must prepare a written statement to accompany any rules where the estimated costs to State, local and tribal governments, in the aggregate, or to the private sector will be $100 million or more in any one year. Under section 205, for rules that require a written statement under section 202, EPA must select the most cost-effective and least burdensome alternative that achieves the objective of such a rule and that is consistent with statutory requirements. Also, for such rules, section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly and uniquely affected by the rule.

EPA estimates that the costs to State, local, and tribal governments, or to the private sector, from today's interim final rule will not be $100 million or more. EPA has determined that this rule should reduce current regulatory requirements imposed by the NTR. By promulgating the metals criteria in the NTR as dissolved metals, rather than total recoverable, EPA is reducing potential costs to discharge permittees and other parties subject to the water quality criteria. Therefore, an unfunded mandates statement pursuant to section 202 is not necessary.

While an unfunded mandates statement is not necessary for this rule, EPA notes that it has previously considered the costs and benefits of promulgating Federal water quality criteria when the Agency issued the NTR in 1992. See 57 FR 60903–60909 (December 22, 1992). That analysis would continue to be relevant with respect to this issue of costs and benefits arising from Federal promulgation of criteria for states. Of course, to the extent today's interim final rule is putting in place less burdensome requirements than the 1992 rule, the Agency is reducing any potential costs. It is important to note that the Federal criteria in today's rule, as the Federal criteria in the 1992 rule, only impose requirements until the States adopt, and EPA approves, criteria meeting the requirements of section 303(c)(2)(B) of the Clean Water Act. EPA continues to work with the States to assist them in adopting their own criteria thereby enabling EPA to withdraw the Federal criteria.

While section 205 of the Unfunded Mandates Act is not applicable to today's rule because the rule does not require a written statement under section 202, the Agency does believe that today's rule is consistent with the intent of section 205. Section 205 directs agencies to consider regulatory alternatives and to select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA's decision to promulgate metals criteria expressed as dissolved rather than total recoverable represents the Agency's selection of the least costly, most cost-effective and least burdensome alternative for setting metals criteria. The Agency addressed this issue in detail in the development of the Great Lakes Water Quality Guidance, promulgated on March 13, 1995 (60 FR 15366, March 23, 1995). For today's rule the Agency was obligated pursuant to section 303 to promulgate water quality criteria for states not in compliance with section 303(c)(2)(B). Today's rule achieves that objective consistent with the intent of section 205.

Finally, because today's rule relieves a regulatory requirement, EPA does not believe that the rule will establish requirements that might significantly or uniquely affect small governments within the meaning of section 203. However, the Agency is committed to working with affected small governments by providing notice of requirements that might potentially affect them, enable them to provide meaningful and timely input, and to inform, educate and advise small governments on compliance with any requirements. With respect to today's interim final rule, representatives of State and local governments participated in the development of, and provided comments to the Office of Water's current metals policy. The Agency recognizes the importance of soliciting the input of small governments and will be available to work with them to address any issues related to compliance with today's rule.

2. Executive Order 12866

Under Executive Order 12866 (56 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis and review by the Office of Management and Budget). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlements, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this order. Pursuant to the terms of this order, EPA has determined that this interim final rule would not be "significant".

3. Presidential Review of the Code of Federal Regulations

On February 22, 1995, President Clinton announced a review of the Code of Federal Regulations by all Federal agencies. The objective of the review is to: eliminate obsolete regulations, withdraw outdated or superseded regulations, propose modifications to simplify or reduce burden, and to identify legislation for needed change. Today's rule, revising the NTR, is consistent with the review announced by the President. EPA has reviewed the NTR (40 CFR 131.36) and determined that the use of dissolved metals criteria in the NTR States, for the metals listed in this rule, should reduce potential regulatory burden.

4. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*, Pub. L. 96–354) requires EPA to assess whether its regulations create a disproportionate effect on small entities. EPA discussed in the NTR rulemaking (December 22, 1992, 57 FR 60909), the potential effects of the rulemaking on small entities. The Agency concluded that the rulemaking would not result in a significant impact on small entities and a final regulatory flexibility analysis was not required.

Because the potential impact on small entities as a result of this interim final rule revision will be less burdensome on small entities than the original rule, EPA, based on the same factors discussed in the previous final rulemaking, continues to conclude this action will not result in a significant impact on small entities.

5. Paperwork Reduction Act

This interim final rule places no information collection activities on the affected States and therefore no information collection requirement will be submitted to the Office of Management and Budget for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 131

Environmental Protection, Water pollution control, Water quality standards, Toxic pollutants.

Dated: April 14, 1995.

Carol Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I part 131 of the Code of Federal Regulations is amended as follows:

PART 131–WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 et seq.

2. Section 131.36 is amended by revising entries 2, 4, 5a,5b,6,7,8,9,10,11, and 13 of the table at paragraph (b)(1), revising footnotes "e" and "l" adding footnotes "o" and "p" to the table in paragraph (b)(1), removing the "Note to paragraph (b)(1)", revising paragraph (b)(2) and by revising the first two sentences of paragraph (c)(4)(iii) to read as follows:

§ 131.36 Toxics criteria for those States not complying with Clean Water Act Section 303(c)(2)(B).

* * * * *

VOL 60 ISS 86 MY 4 1995 UMI

(b)(1) *EPA's Section 304(a) Criteria for Priority Toxic Pollutants.*

A		B		C		D	
		Freshwater		Saltwater		Human health (10^{-6} risk for carcinogens)	
(#) Compound	CAS N.	Criteria Maximum Conc.[d] (ug/L) B1	Criteria Continuous Conc.[d] (ug/L) B2	Criteria Maximum Conc.[d] (ug/L) C1	Criteria Continuous Conc.[d] (ug/L) C2	For consumption of: Water & Organisms (ug/L) D1	For consumption of: Organisms only (ug/L) D2
2 Arsenic	7440382	=360	=190	=69	=36	[a,b,c]0.018 a,b,c	[a,b,c]0.14
4 Cadmium	7440439	[e]3.7	[e]1.0	=42	=9.3	(*)	(*)
5a Chromium (III)	16065831	[e]550	[e]180			(*)	(*)
b Chromium (VI)	18540299	=15	=10	=1100	=50	(*)	(*)
6 Copper	7440508	17[e]	11[e]	=2.4	=2.4		
7 Lead	7439921	[e]65	[e]2.5	=210	=8.1	(*)	(*)
8 Mercury	7439976	=2.1	[i,p]0.012	=1.8	[i,p]0.025	0.14	0.15
9 Nickel	7440020	[e]1400	[e]160	=74	=8.2	[e]610	[e]4600
10 Selenium	7782492	[p]20	[p]5.0	=290	=71	(*)	(*)
11 Silver	7440224	[e]3.4	=1.9				
13 Zinc	7440666	[e]110	[e]100	=90	=81		

Footnotes:

a. Criteria revised to reflect current agency q_1^* or RfD, as contained in the Integrated Risk Information System (IRIS). The fish tissue bioconcentration factor (BCF) from the 1980 criteria documents was retained in all cases.

b. The criteria refers to the inorganic form only.

c. Criteria in the matrix based on carcinogenicity (10^{-6} risk). For a risk level of 10^{-5}, move the decimal point in the matrix value one place to the right.

d. Criteria Maximum Concentration (CMC) = the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time (1-hour average) without deleterious effects. Criteria Continuous Concentration (CCC) = the highest concentration of a pollutant to which aquatic life can be exposed for an extended period of time (4 days) without deleterious effects. ug/L = micrograms per liter

e. Freshwater aquatic life criteria for these metals are expressed as a function of total hardness (mg/L as $CaCO_3$), the pollutant's water effect ratio (WER) as defined in § 131.36(c) and multiplied by an appropriate dissolved conversion factor as defined in § 131.36(b)(2). For comparative purposes, the values displayed in this matrix are shown as dissolved metal and correspond to a total hardness of 100 mg/L and a water effect ratio of 1.0.

* * * * * * *

i. If the CCC for total mercury exceeds 0.012 ug/l more than once in a 3-year period in the ambient water, the edible portion of aquatic species of concern must be analyzed to determine whether the concentration of methyl mercury exceeds the FDA action level (1.0 mg/kg). If the FDA action level is exceeded, the State must notify the appropriate EPA Regional Administrator, initiate a revision of its mercury criterion in its water quality standards so as to protect designated uses, and take other appropriate action such as issuance of a fish consumption advisory for the affected area.

* * * * * * *

l. [Reserved: this letter not used as a footnote].

m. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in 40 CFR 131.36 (c).

CMC=column B1 or C1 value x WER

CCC=column B2 or C2 value x WER

n. EPA is not promulgating human health criteria for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the State's existing narrative criteria for toxics.

o. [Reserved: This letter not used as a footnote].

p. Criterion expressed as total recoverable.

* * * * * * *

(2) Factors for Calculating Hardness-Dependent, Freshwater Metals Criteria

CMC=WER exp $\{m_A[\ln(\text{hardness})]+b_A\}$ x Acute Conversion Factor

CCC=WER exp $\{m_C[\ln(\text{hardness})]+b_C\}$ x Chronic Conversion Factor

Final CMC and CCC values should be rounded to two significant figures.

Metal	m_A	b_A	m_C	b_C	Freshwater conversion factors: Acute	Freshwater conversion factors: Chronic
Cadmium	1.128	−3.828	0.7852	−3.490	[a]0.944	[a]0.909
Chromium (III)	0.8190	3.688	0.8190	1.561	0.316	0.860
Copper	0.9422	−1.464	0.8545	−1.465	0.960	0.960
Lead	1.273	-1.460	1.273	−4.705	[a]0.791	[a]0.791
Nickel	0.8460	3.3612	0.8460	1.1645	0.998	0.997
Silver	1.72	−6.52	[b]N/A	[b]N/A	0.85	[b]N/A
Zinc	0.8473	0.8604	0.8473	0.7614	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

[a] The freshwater conversion factors (CF) for cadmium and lead are hardness-dependent and can be calculated for any hardness [see limitations in § 131.36(c)(4)] using the following equations:

Cadmium

Acute: CF=1.136672—[(ln hardness)(0.041838)]

Chronic: CF=1.101672—[(ln hardness)(0.041838)]

Lead (Acute and Chronic): CF = 1.46203—[(ln hardness)(0.145712)]

[b] No chronic criteria are available for silver.

(c) * * *

(4) * * *

(iii) Except where otherwise noted, the criteria for metals (compounds #2, #4–# 11, and #13, in paragraph (b) of this section) are expressed as dissolved metal. For purposes of calculating aquatic life criteria for metals from the equations in footnote m. in the criteria matrix in paragraph (b)(1) of this section and the equations in paragraphs (b)(2) of this section, the water-effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. * * *

* * * * * *

[FR Doc. 95–10148 Filed 5–3–95; 8:45 am]

BILLING CODE 6560–50–P

VOL
60

ISS
86

MY
4

1995

UMI

federal register

Thursday
May 4, 1995

Part V

Environmental Protection Agency

40 CFR Part 52
Approval and Promulgation of Implementation Plans; Indiana; Final Rules

VOL
60
ISS
86
MY
4
1995
UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN42-2-6678; FRL-5184-1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On January 10, 1995, the USEPA proposed to conditionally approve a State Implementation Plan (SIP) revision request submitted by the State of Indiana, governing the control of Volatile Organic Compound (VOC) emissions from graphic arts facilities with the potential to emit 25 tons per year or more of VOC, as part of the Reasonably Available Control Technology (RACT) Catch-Up requirements for the Indiana severe ozone nonattainment area (Lake and Porter Counties). Public comments were solicited on the proposed SIP revision, and on USEPA's proposed rulemaking action. The public comment period ended on February 10, 1995, and no public comments were received. This rulemaking action conditionally approves, in final, this SIP revision request for Indiana.

EFFECTIVE DATE: This final rulemaking becomes effective on June 5, 1995.

ADDRESSES: Copies of the State's submittal, and other materials relating to this rulemaking are available at the following address for review: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The docket may be inspected between the hours of 8:30 a.m. and 12 noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by the USEPA for copying docket material.

A copy of this SIP revision is available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), room 1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Branch, Regulation Development Section (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6082.

Anyone wishing to visit the Region 5 offices should first contact Mark J. Palermo.

SUPPLEMENTARY INFORMATION:

Background

The State of Indiana submitted a revision request for its ozone SIP on February 25, 1994, amending the graphic arts rule. The amendments for graphic arts (326 IAC 8-5-5) function to reduce the source size applicability cut-off for graphic arts facilities located in the severe ozone nonattainment area (Lake and Porter Counties) from 100 to 25 tons of VOC per year (potential to emit) as required by the Clean Air Act (the Act), as amended in 1990. The USEPA's preliminary analysis of this submittal found that although the revision was generally acceptable, the recordkeeping and reporting requirements, contained in 326 IAC 8-1-2, do not provide for adequate enforcement of the graphic arts rule. USEPA has provided the Indiana Department of Environmental Management with a copy of the June 1992 Model VOC Rules, on which USEPA based its analysis. Indiana submitted to USEPA a letter dated December 14, 1994, committing to the necessary rule revision. In accordance with an attached schedule, Indiana expects a final rule to be adopted and submitted to USEPA by January 31, 1996.

Final Rulemaking Action

The USEPA conditionally approves the Indiana requested ozone SIP revision, rule 326 IAC 8-5-5, governing the control of VOC emissions from graphic arts facilities located in the Indiana severe ozone nonattainment area (Lake and Porter Counties) which have the potential to emit 25 tons per year or more of VOC, submitted on February 25, 1994. The conditional approval is based on the State's commitment, submitted in a letter on December 14, 1994, to correct deficiencies to Indiana's recordkeeping and reporting requirements, contained in 326 IAC 8-1-2, by January 31, 1996.

In order to correct the necessary deficiencies, the State must meet three requirements. The first requirement is for the monitoring, recordkeeping and reporting (MRR) requirements in the Indiana rules to be made more comprehensive to include more than: (1) Daily volume-weighted averages of all coatings applied in a coating or printing line; and (2) records of daily usage of gallons of solids coating and VOC content for each coating or ink solvent. Alternatively, when a source complies by using control devices, then records of monitoring parameters and other information must also be kept. The MRR requirements should also specify a period of time (i.e., 5 years) during which records shall be maintained at the facility (See June 1992 Model VOC Rules).

The second requirement is for the Indiana rules to be revised to require maintenance of records and reports of new or existing control devices. Records and reports that should be maintained include monitoring data, calibration and maintenance logs, and logs of operating time (See Model VOC Rules).

The third requirement is for the Indiana rules to be revised to require the maintenance of records and reports for exempt sources such as: Information pertaining to the initial certification, calculations demonstrating that total potential emissions of VOC from all flexographic and rotogravure printing presses at the facility will be less than the required limits for each year, the maintenance of record for a period of 5 years, and the requirement that any exceedances will be reported to the Administrator within 30 days after the exceedance occurs. Exempt sources should calculate: (1) Yearly potential emissions, (2) yearly actual emissions, and (3) the name, identification, VOC content, and yearly volume of coatings/inks (see Model VOC Rules). If the State ultimately fails to meet its commitment to meet these requirements within one year of final conditional approval, then USEPA's action for the State's requested SIP revision will automatically convert to a final disapproval.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Volatile organic compounds.

Dated: March 22, 1995.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to reads as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart P—Indiana

2. Section 52.769 is amended by revising the introductory text and adding paragraph (b) to read as follows:

§ 52.769 Identification of plan—conditional approval.

The plan revision commitment listed in paragraphs (a) and (b) of this section were submitted on the dates specified.

* * * * *

(b) On February 25, 1994, Indiana submitted an amendment to Title 326 of the Indiana Administrative Code (326 IAC) 8-5-5 to add Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) requirements for graphic arts facilities in the Indiana severe ozone nonattainment area (Lake and Porter Counties) which have the potential to emit 25 tons per year or more of VOC. The United States Environmental Protection Agency (USEPA) is conditionally approving the State's graphic arts facilities VOC RACT rule, contingent on fulfillment of the State's commitment to adopt and submit a State Implementation Plan (SIP) revision that would correct deficiencies in the State's recordkeeping and reporting requirements, contained in 326 IAC 8-1-2, by May 6, 1996. In order to correct the deficiencies, the State must meet three requirements.

The first requirement is for the monitoring, recordkeeping and reporting (MRR) requirements in the Indiana rules to be made more comprehensive to include more than: Daily volume-weighted averages of all coatings applied in a coating or printing line; and records of daily usage of gallons of solids coating and VOC content for each coating or ink solvent. Alternatively, when a source complies by using control devices, then records of monitoring parameters and other information must also be kept. The MRR requirements should also specify a period of time (i.e., 5 years) during which records shall be maintained at the facility. The second requirement is for the Indiana rules to be revised to require maintenance of records and reports of new or existing control devices. Records and reports that should be maintained include monitoring data, calibration and maintenance logs, and logs of operating time. The third requirement is for the Indiana rules to be revised to require the maintenance of records and reports for exempt sources such as: Information pertaining to the initial certification, calculations demonstrating that total potential emissions of VOC from all flexographic and rotogravure printing presses at the facility will be less than the required limits for each year, the maintenance of record for a period of 5 years, and the requirement that any exceedance will be reported to the Administrator within 30 days after the exceedance occurs. Exempt sources should calculate: Yearly potential emissions, yearly actual emissions, and the name, identification, VOC content, and yearly volume of coatings/inks. If the State ultimately fails to meet its commitment to meet these requirements by the date listed above, then USEPA's action for the State's requested SIP revision will automatically convert to a final disapproval without further regulatory action.

(1) Incorporation by reference.

(i) (A) 326 IAC 8-5-5 Graphic arts operations. Filed with the Secretary of State, August 9, 1993, effective September 8, 1993, Published at Indiana Register, Volume 16, Number 12, September 1, 1993.

[FR Doc. 95-10974 Filed 5-3-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[IN45-2-6877; FRL-5184-2]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: On January 11, 1995, the USEPA proposed to conditionally approve a State Implementation Plan (SIP) revision request submitted by the State of Indiana for the purpose of remaining consistent with Federal Volatile Organic Compound (VOC) definition requirements. The public comment period ended on February 10, 1995, and no public comments were received. This rulemaking action conditionally approves, in final, this SIP revision request for Indiana.

EFFECTIVE DATE: This final rulemaking becomes effective on June 5, 1995.

ADDRESSES: Copies of the State's submittal, and other materials relating to this rulemaking are available at the following address for review: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The docket may be inspected between the hours of 8:30 a.m. and 12 noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by the USEPA for copying docket material.

A copy of this SIP revision is available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6102), Room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Branch, Regulation Development Section (AR-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-6082.

Anyone wishing to visit the Region 5 offices should first contact Mark J. Palermo.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1992, USEPA promulgated a revised Federal definition for VOC (57 FR 3945). 40 CFR 51.100(s). For purposes of meeting the requirements of this revised Federal definition of VOC, the State of Indiana submitted on February 25, 1994, a revision to the SIP which consists of a two-part revised VOC definition, located under Title 326 Indiana Administrative Code (IAC) 1-2-48 (for "nonphotochemically reactive hydrocarbon") and 326 IAC 1-2-90 (for "VOC"). The nonphotochemically reactive hydrocarbon definition at 326 IAC 1-2-48 is amended to add five halocarbon compounds and four classes of perfluorocarbons determined by USEPA to have negligible photochemical reactivity. In 326 IAC 1-2-90, Indiana amends the definition of VOC by excluding five carbon compounds determined by USEPA to

VOL
60
ISS
86
MY
4
1995
UMI

have negligible photochemical reactivity as well as excluding the organic compounds listed in 326 IAC 1-2-48. The amendments, as described, comport with the Federal requirements.

However, Indiana also added an exclusion of vegetable oils to the VOC definition, which USEPA has not determined to have negligible photochemical reactivity and is not listed for exclusion in the February 3, 1992 final rule. This exclusion of vegetable oils makes the Indiana VOC definition inconsistent with Federal requirements. Vegetable processing sources cannot be exempted from the VOC definition rule, as proposed by the State of Indiana. Subject sources, however, may be able to seek source category exemptions under the generic non-Control Technology Guideline (non-CTG sources) RACT rule, if supported by documentation acceptable to the USEPA.

Based on USEPA's preliminary analysis that the State's submittal was unapprovable because the exclusion of vegetable oil from the definition of VOC is inconsistent with the February 3, 1992, Federal VOC definition, Indiana submitted to USEPA, a letter dated December 14, 1994, committing to the necessary rule revision to correct the deficiency. In accordance with an attached schedule, Indiana expects a final rule to be adopted and submitted to USEPA by January, 1996.

Final Rulemaking Action

The USEPA conditionally approves the two-part VOC definition located under 326 IAC 1-2-48 and 326 IAC 1-2-90 because Indiana has committed to correct the rule so that it fully comports with USEPA requirements as established in the February 3, 1992 final rule. If the State ultimately fails to meet its commitment within one year of final conditional approval, then USEPA's action for the State's requested SIP revision will automatically convert to a final disapproval.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 3, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Volatile organic compounds.

Dated: March 22, 1995.

David A. Ullrich,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart P—Indiana

2. Section 52.769 is added to read as follows:

§ 52.769 Identification of plan—conditional approval.

The plan revision commitment listed in paragraph (a) of this section was submitted on the date specified.

(a) On February 25, 1994, Indiana submitted a revision to the definition of Volatile Organic Compound (VOC) in two parts as amendments to Title 326 of the Indiana Administrative Code (326 IAC) 1-2-48 (for nonphotochemically reactive hydrocarbon) and 1-2-90 (for VOC). The United States Environmental Protection Agency (USEPA) is conditionally approving the State's VOC definition, contingent on fulfillment of the State's commitment to adopt and submit a State Implementation Plan revision that would eliminate provisions which exclude vegetable oil from the State's definition of VOC by May 6, 1996. If the State fails to meet its commitment by the date listed above, the USEPA's conditional approval will automatically become a disapproval without further regulatory action.

(1) Incorporation by reference.

(i) (A) 326 IAC 1-2-48 Nonphotochemically reactive hydrocarbon definition and 1-2-90 Volatile Organic Compound definition. Filed with the Secretary of State, August 9, 1993, effective September 8, 1993, Published at Indiana Register, Volume 16, Number 12, September 1, 1993.

(b) (Reserved)

[FR Doc. 95-10975 Filed 5-3-95; 8:45 am]

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federal register

Thursday
May 4, 1995

Part VI

The President

Presidential Determination No. 95-20—Suspending Prohibitions on Certain Sales and Leases Under the Anti-Economic Discrimination Act of 1994

VOL
60
ISS
86
MY
4
1995
UMI

Federal Register
Vol. 60, No. 86
Thursday, May 4, 1995

Presidential Documents

Title 3—

The President

Presidential Determination No. 95–20 of May 1, 1995

Suspending Prohibitions on Certain Sales and Leases Under the Anti-Economic Discrimination Act of 1994

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 564 of the Foreign Relations Authorization Act ("the Act"), Fiscal Years 1994 and 1995, Public Law 103–236, as amended, I hereby:

(1) determine and certify that the following countries do not currently maintain a policy or practice of sending letters to United States firms requesting compliance with, or soliciting information regarding compliance with, the Arab League secondary or tertiary boycott of Israel:

Djibouti, Egypt, Morocco, Nigeria, Pakistan, Somalia, Sri Lanka, Tanzania, Tunisia, and Uganda.

(2) determine that suspension of the application of section 564(a) of the Act to the following countries until May 1, 1996, is in the national interest of the United States, and will promote the objectives of section 564 to eliminate the Arab boycott:

Algeria, Bahrain, Bangladesh, Jordan, Kuwait, Mauritania, Oman, Qatar, Saudi Arabia, and the United Arab Emirates.

(3) determine that it is in the national security interest of the United States to suspend until May 1, 1996, the application of subsection (a) of section 564 of the Act with respect to Lebanon.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, May 1, 1995.

[FR Doc. 95–11195
[Filed 5–3–95; 9:37 am]
Billing code 4710–10–M

VOL
60
ISS
86
MY
4
1995
UMI

Reader Aids

Federal Register
Vol. 60, No. 86
Thursday, May 4, 1995

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	202–523–5227
Public inspection announcement line	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–4534
Code of Federal Regulations	
Index, finding aids & general information	523–5227
Printing schedules	523–3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230
Presidential Documents	
Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230
The United States Government Manual	
General information	523–5230
Other Services	
Data base and machine readable specifications	523–4534
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, MAY

21033–21424.....1
21425–21698.....2
21699–21972.....3
21973–22246.....4

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR
Proclamations:
6792.....21423
6793.....21696
6794.....21971
Administrative Orders:
Presidential Determinations:
No. 95–20 of May 1, 1995.....22245

5 CFR
890.....21590
Proposed Rules:
870.....21759
871.....21759
872.....21759
873.....21759
874.....21759

7 CFR
6.....21425
28.....21033
75.....21034
400.....21035
1464.....21036
1494.....21037
Proposed Rules:
1205.....21999

8 CFR
103.....21979
208.....21973
210.....21973
214.....21979
240.....21973
242.....21973
245a.....21039, 21973
247a.....21973

9 CFR
94.....21428

10 CFR
Proposed Rules:
50.....22010

12 CFR
25.....22156
203.....22156, 22223
228.....22156
345.....22156
563e.....22156
707.....21699

14 CFR
39.....21041, 21429, 21976, 21977, 21979
71.....21433, 21434, 21700
1245.....21042
Proposed Rules:
39.....21053, 21054, 21056, 21470, 21471, 21772, 21774, 22011, 22013
71.....21473, 21776

19 CFR
7.....21043
11.....21043
12.....21043
18.....21043
19.....21043
24.....21043
54.....21043
101.....21043
102.....21043
111.....21043
114.....21043
123.....21043
128.....21043
132.....21043
134.....21043
141.....21043
145.....21043
146.....21043
148.....21043
151.....21043
152.....21043
177.....21043
181.....21043
191.....21043
Proposed Rules:
162.....21778

20 CFR
217.....21982
344.....21981

21 CFR
172.....21700
Proposed Rules:
173.....21474
310.....21590

24 CFR
200.....21936
203.....21936
Proposed Rules:
Ch. IX.....21058

25 CFR
1.....21435
Proposed Rules:
1.....21475, 21482, 21779

29 CFR
Proposed Rules:
2200.....21058

30 CFR
944.....21435
Proposed Rules:
934.....21484

VOL
60
ISS
86
MY
4
1995
UMI

33 CFR

100 21982
110 21983
Proposed Rules:
117 22014
322 21061

34 CFR

690 21438
Proposed Rules:
200 21400
201 21400
203 21400
205 21400
212 21400

37 CFR

1 ..... 21043, 21438
202 21983
10 21438

38 CFR

Proposed Rules:
3 22016
21 21486

39 CFR

Proposed Rules:
3001 22017

40 CFR

52 ..... 21440, 21442, 21445, 21447, 21451, 21453, 21455, 21456, 21702, 21703, 21706, 21707, 21713, 21717, 22240, 22241
70 21720
80 21724
81 21456
82 21682
131 ..... 22226, 22229
Proposed Rules:
52 ..... 21487, 21488, 21489, 21490, 21780, 21781, 21783
81 21490
82 21490
156 21965
170 ..... 21944, 21948, 21953, 21955, 21960
180 ..... 21725, 21728, 21731, 21733, 21734, 21736, 21784
185 ..... 21736, 21786
300 ..... 21491, 21786
439 21592

41 CFR

201–23 22019
201–24 22019

42 CFR

421 21048

43 CFR

Public Land Order:
7138 21984

44 CFR

64 21739

45 CFR

96 21332

47 CFR

2 21048
15 21984
76 21464
90 ..... 21984, 21987
Proposed Rules:
73 ..... 22021, 22022
90 22023

48 CFR

502 21467
506 21467
513 21467
552 21467
1503 21993
1505 21993
1513 21993
1514 21993
1515 21993
1522 21993
1525 21993
1542 21993
1552 21993
1852 22095
5452 21992
Proposed Rules:
219 22035

49 CFR

Proposed Rules:
1121 22035

50 CFR

217 21741
227 21741
649 21994
651 21994
661 21746
678 21468
Proposed Rules:
625 21491
640 21493

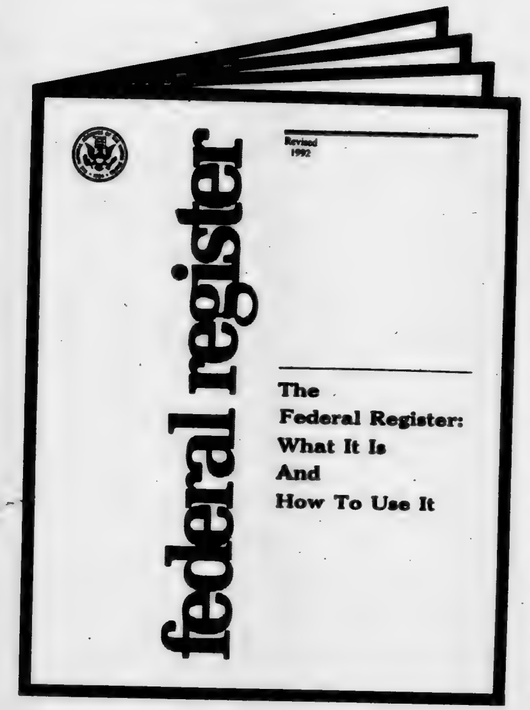

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VOL
60
ISS
86
MY
4
1995
UMI

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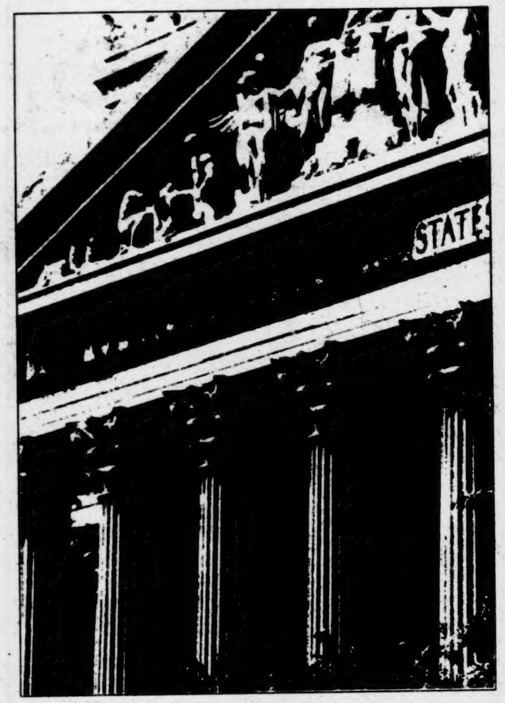

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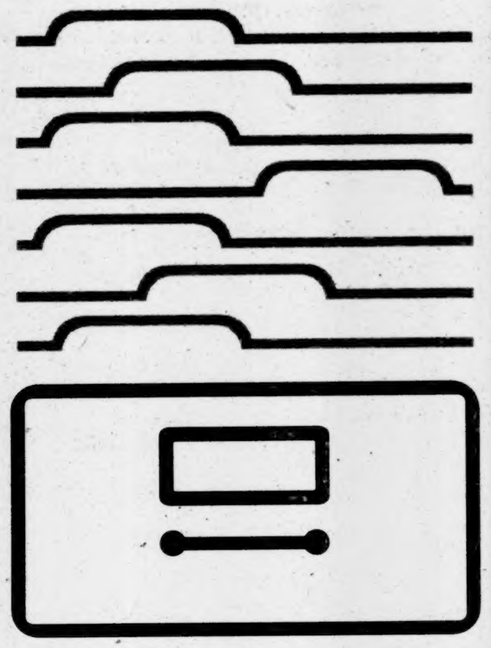

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